IN THE MATTER OF THE APPLICATION OF ABRAHAM P. KOROTKI -Petitioner FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE ON PROPERTY LOCATED ON THE N/S ALLEGHENY AVE., 600' WEST OF C/L HIGHLAND AVENUE (516 ALLEGHENY AVENUE) 9TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 98-468-SPHXA

* * * * * * * * * *

ORDER OF DISMISSAL OF PETITION

This case comes to the Board on appeal filed by Francis X. Borgerding, Jr., Esquire on behalf of West Towson Neighborhood Association, Inc., Richard Parsons and John Pyle, Appellants /Protestants, from the September 21, 1998 Order of the Zoning Commissioner in which the subject Petitions were granted in part, denied in part, and dismissed in part as moot.

WHEREAS, the Board is in receipt of a Withdrawal of Petitions Without Prejudice filed July 20, 1999 by Howard L. Alderman, Jr., Esquire, Counsel for Abraham P. Korotki, Petitioner (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Petitioner requests that the Petition for Special Exception, Petition for Special Hearing, and Petition for Variance filed in the above-referenced matter be withdrawn as of July 19, 1999,

IT IS THEREFORE, this 29th day of July, 1999 by the County Board of Appeals of Baltimore County

ORDERED that said Petitions filed in Case No. 98-468-SPHXA are **WITHDRAWN AND DISMISSED, without prejudice**, and that the Zoning Commissioner's Order of September 21, 1998, including any and all relief granted therein, is rendered null and void.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Chairman

Lawrence M. Stahl

Thomas P. Melvin

County Board of Appeals of Baltimore County

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

July 29, 1999

Francis X. Borgerding, Jr., Esquire
Suite 600
Mercantile-Towson Building
409 Washington Avenue
Towson, MD 21204

RE: In the Matter of Abraham P, Korotki -Petitioner
Case No. 98-468-SPHXA /Withdrawal of Petitions

Dear Mr. Borgerding:

Pursuant to Petitioner's withdrawal of Petitions in the subject matter filed on July 20, 1999, enclosed please find a copy of the Order of Dismissal of Petition issued this date by the County Board of Appeals of Baltimore County.

Inasmuch as the Petitioner has withdrawn his Petitions in accordance with the Board's rules and policy regarding such withdrawal, the Board has ordered the dismissal of the instant petitions without prejudice.

Very truly yours,

Kathleen C. Bianco
Administrator

encl.

cc: West Towson Neighborhood Assn;
Richard Parsons; and John Pyle
Howard L. Alderman, Jr., Esquire
Abraham Korotki, Esquire
David S. Thaler /D.S. Thaler & Assoc., Inc.
C. Richard Moore
J. Donald Gerding /Greater Towson Comm. Assn.
Michael Faulkner /West Towson Neighborhood Assn
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Printed with Soybean Ink

IN RE:	IN THE MATTER OF PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCE 516 Allegheny Avenue 9th Election District 4th Councilmanic District	*	COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case No.: CBA-998-468-SPHXA
	ABRAHAM P. KOROTKI, Appellee/Appellant/ Owner	*	

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COUNTY BOARD OF APPEALS
99 JUL 23 AM 11:33

* *

RESPONSE TO PETITION TO WITHDRAW WITHOUT PREJUDICE

West Towson Neighborhood Association, Inc., by and through its attorney, Francis X. Borgerding, Jr., hereby responds to the Withdrawal of Petitions Without Prejudice filed by the Petitioner, Abraham P. Korotki, and says:

1. On July 19, 1999, Petitioner, Abraham P. Korotki, filed Withdrawal of Petitions Without Prejudice in relation to the above-captioned matter pursuant to Rule 3.b of the Rules of Procedure adopted by the County Board of Appeals.

2. The Petitioner previously withdrew without prejudice a Petition for Special Exception with regard to the above-referenced property pursuant to case number 96-442-SPHX.

3. Appellants have expended a great deal of time and effort in preparation for the hearing in the above-captioned case.

4. Upon information and belief Petitioner no longer owns 516 Allegheny Avenue, Towson, Maryland 21204, the property at issue in the above-captioned hearing.

5. Appellants believe, in light of the above, it is just and

proper that this Honorable Board issue an order dismissing the petitions regarding this matter with prejudice.

WHEREFORE, the West Towson Community Association, prays that this Honorable Court:

A. Order the dismissal of the petitions with regard to the above-captioned case with prejudice; and

B. For such other and further relief as the nature of Appellant's cause may require.

Respectfully submitted,

FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820 FAX 410-296-6884
ATTORNEY FOR WEST TOWN NEIGHBORHOOD ASSOCIATION, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July, 1999, a copy of the aforegoing was mailed, postage prepaid, to:

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

FRANCIS X. BORGERDING, JR.

IN RE:	**IN THE MATTER OF PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCE** **516 Allegheny Avenue** **9th Election District** **4th *Councilmanic District*** **Abraham P. Korotki,** **Appellee/Appellant/Owner**	**COUNTY BOARD** **OF APPEALS** **FOR** **BALTIMORE COUNTY** **Case No.: CBA-98-468-SPHXA**

ORDER

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

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

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

ORDERED that all of the appeals filed in the above-captioned case, be and the same are 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

_____

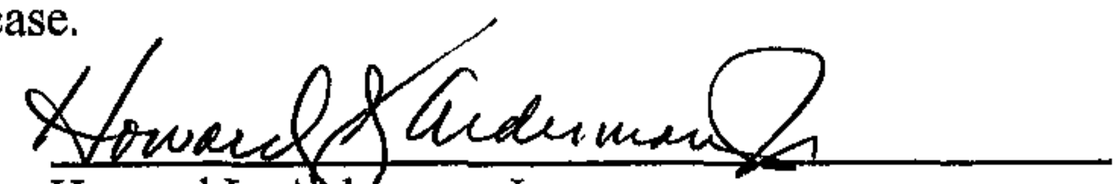
_____

_____

IN RE:	**IN THE MATTER OF PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCE** **516 Allegheny Avenue** **9th Election District** **4th Councilmanic District** **Abraham P. Korotki,** **Appellee/Appellant/Owner**	**COUNTY BOARD** **OF APPEALS** **FOR** **BALTIMORE COUNTY** **Case No.: CBA-98-468-SPHXA**

WITHDRAWAL OF PETITIONS WITHOUT PREJUDICE

Abraham P. Korotki, the Petitioner and property owner of the property which is the subject of the above-captioned case, has authorized his undersigned legal counsel, pursuant to Rule 3.b of the Rules of Procedure adopted by this Board, to prepare and file this paper and hereby withdraws without prejudice, the Petition for Special Exception, Petition For Special Hearing and the Petition for Variance filed in the above-captioned case.



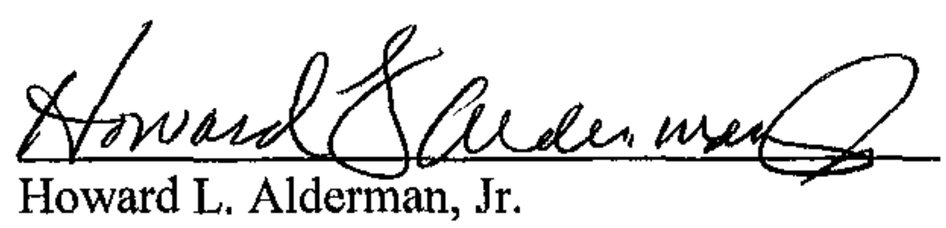
Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204
(410) 321-0600

Attorneys for the Appellant/Appellee/Owner

Date: 19 July 1999

CERTIFICATE OF SERVICE

I HEREBY CERTIFIY that on this 19th day of July, 1999, a copy of the foregoing Withdrawal of Petitions Without Prejudice and proosed Order was sent via telefax and was mailed, via First-Class, United States Mail, to Francis X. Borgerding, Jr., Esquire, 409 Washington Avenue, Suite 600, Towson, Maryland 21204.



Howard L. Alderman, Jr.

IN THE MATTER OF THE APPLICATION OF ABRAHAM KOROTKI-PETITIONER 516 ALLEGHENY AVENUE 9TH ELECTION DISTRICT 4TH COUNCILMANIC	* * * * * * *	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No.: 98-468-SPHXA

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

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COUNTY BOARD OF APPEALS
RECEIVED

APPELLANTS' MOTION TO QUASH SUBPOENAS

West Towson Community Association, Inc., Richard Parsons and John Pyle, Appellants herein, by and through their attorney, Francis X. Borgerding, Jr., moves to quash the subpoenas served upon them, incorporated by reference herein and attached hereto, by Abraham Paul Korotki, the Appellee, for the following reasons:

1. The subpoenas were not properly served under the Board's Rules. See Rule 5, attached hereto as Exhibit A and incorporated by reference herein. The subpoenas do not comply with the provisions of Rule 5, "a general statement as to purpose."

2. The materials requested are not relevant to the above-captioned special exception, variance and special hearing case involving the Korotki property.

3. The subpoenas seek from the West Towson Community Association the documents on the document list attached hereto marked as Exhibit B which include: minutes of all meetings from the calendar year 1980 to present and continuing, all bank records of the West Towson Neighborhood

Association, Inc. From 1980 to the present, including the names and addresses for all banks doing business with said Association, the source of all funds collected by the Association to include dates of receipt, disbursement of such funds, specifying the name and address of all disbursements made by the Association, a list of all members of the West Towson Neighborhood Association, Inc. From 1980 to the present and continuing, including the name of the member, the date of membership, the address, amount of dues paid, and date of payment of dues, copies of all correspondence sent out by the West Towson Neighborhood Association, Inc. And communications received with reference to this specific litigation. This shall include all memoranda, telephone messages, faxes, e-mails, and notes of each and every kind, a copy of any and all retainer agreements, contracts, and memoranda pertaining to the engagement of any experts, lawyers, or other professional or lay people from calendar 1980 to present and continuing, checks and other documentation, including its Retainer Agreement or contract with undersigned counsel.

4. The subpoenas seek from Richard Parsons and John Pyle seek the documentation listed on the document lists attached as Exhibits C and D hereto, including checks and a copy of any Retainer Agreement or contract for professional services to be rendered by undersigned counsel.

5. The inquiry in these cases centers upon the above-referenced properties suitability for a special exception

for a professional office, as well as the accompanying variance and special hearing requests and not upon the details of the West Towson Community Association, Inc. and/or Richard Parsons or John Pyle's financial records, business records or their employment of counsel, hence the Appellee should be confined to materials and matters germane to the case under appeal.

Accordingly, until the Board rules on these Motions to Quash and until properly served, the Appellee, West Towson Community Association, Inc., Richard Parsons and John Pyle, will not answer or respond further to the subpoenas.

WHEREFORE, the West Towson Community Association, Inc., Richard Parsons and John Pyle pray that this Honorable Board:

A. Quash the subpoenas served upon them by Appellee, Abraham Paul Korotki; and

B. For such other and further relief as the nature of Appellants' cause may require.

FRANCIS X. BORGERDING, JR.
409 Washington Avenue
Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR APPELLANTS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May, 1999, a copy of the foregoing was mailed, first-class postage prepaid, to:

Howard Alderman, Esquire
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204

FRANCIS X. BORGERDING, JR.
409 Washington Avenue
Suite 600
Towson, Maryland 21204
410-296-682
ATTORNEY FOR

d. All records and dockets of the board shall be open to the public during normal business hours.

e. In appeals from decisions of the zoning commissioner, formal notice of hearings, continuances and decisions of the board will be provided only to those persons entitled to receive same in accordance with section 500.11 of the Baltimore County Zoning Regulations.

Rule 3. Appeals.

a. No appeal shall be entertained by the board of appeals unless the notice of appeal shall state the names and addresses of the persons taking such appeal.

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

c. Unless otherwise provided for by statute, all appeals to the board of appeals, subject to and limited by statutory authority to hear appeals, shall be made within thirty (30) days from the date of the final action appealed. [Bill No. 141-1989]

Rule 4. Conduct of hearings.

a. All hearings held by the county board of appeals shall be open to the public. No hearing shall be private even though all parties agree. The county board of appeals shall have the power to administer oaths, and all witnesses shall testify under oath.

b. The chairman shall regulate the course of the hearing and shall rule upon procedural matters, applications, modifications and objections made during the course of the hearing, subject to the concurrence of a majority of the board conducting the hearing.

c. A hearing may be adjourned from time to time for good cause shown and if the time and place of reconvening the hearing is announced at adjournment, no further notice of reconvening shall be required. If the time and place of reconvening is not announced at adjournment, notice of time and place of reconvening shall be given as required in rule 2a.

d. Depositions shall not be allowed unless by agreement of all parties or their counsel of record.

Rule 5. Subpoenas

a. The county board of appeals shall have the power to compel the attendance of witnesses and to require the production of records and documentary or other tangible evidence.

b. The board may cause subpoenas and subpoenas duces tecum to be issued upon its own motion, or upon the application of any party to any hearing; but subpoenas will not be issued upon application unless such application is in writing and sets forth the persons, records, books, papers or other documents to be produced and a general statement as to the purpose.

EXHIBIT A

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & ZONING VARIANCE **N/S Allegheny Avenue, 600 ft. West of c/l Highland Avenue** **9th Election District** **4th Councilmanic District** **Abraham P. Korotki, Petitioner/Owner**	**BEFORE THE** **ZONING COMMISSIONER** **OF** **BALTIMORE COUNTY** **Case No.: 98-468-SPHXA**

NOTICE OF LIMITED APPEALS TO COUNTY BOARD OF APPEALS

Abraham P. Korotki, Owner of the above-referenced property and Petitioner in the above-captioned case, pursuant to Baltimore County Code §§ 26-132 and 16-117 and Section 500.10 of the Baltimore County Zoning Regulations, hereby notes limited appeals to the County Board of Appeals for Baltimore County of those portions of the *Findings of Fact and Conclusions of Law* of the Zoning Commissioner for Baltimore County, rendered on September 21, 1998: i) denying the requested variance relief for an illuminated, free-standing sign; and ii) limiting the approved special exception use of the subject property to one attorney and one non-professional employee and restricting a professional associate from the property as otherwise authorized by the Baltimore County Zoning Regulations.

ABRAHAM P. KOROTKI
11931 Park Heights Avenue
Owings Mills, Maryland 21117
410-581-2320

DATED: 20 October, 1998

ABRAHAM P. KOROTKI
11931 Park Heights Avenue
Owings Mills, Maryland 21117-1517

October 20, 1998

HAND DELIVERED

Arnold Jablon, Director
Department of Permits and Development Management
111 West Chesapeake Avenue
Room 109
Towson, Maryland 21204

RE: Notice of Limited Appeals
Case No. 98-468-SPHXA

Dear Mr. Jablon:

Enclosed, please find my original Notice of Limited Appeals to the County Board of Appeals relative to the above-referenced case. Based upon information obtained from Ms. Charlotte Radcliffe of the County Board of Appeals for Baltimore County, I am also enclosing a check in the amount of $425.00 to cover the cost of the limited appeal of the Special Exception relief ($250.00) and of the denial of the requested Variance relief ($175.00). It is my understanding that this represents the total amount due in connection with the limited appeal noted hereby, given that other appellants have already filed an appeal of the entire decision. Should there be any additional charges, please do not hesitate to contact me immediately.

I would appreciate it if you would transmit promptly to the County Board of Appeals the entire case file in the above-referenced matter.

Sincerely

Abraham P. Korotki

Enclosures (2)

RECEIVED
OCT 21 1998
PDM

IN RE: PETITIONS FOR SPECIAL HEARING SPECIAL EXCEPTION & ZONING VARIANCE N/S Allegheny Avenue, 600 ft. W of c/1 Highland Avenue 516 Allegheny Avenue 9th Election District 4th Councilmanic District Abraham P. Korotki, Petitioner	* * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No.: 98-468-SPHXA

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

NOTICE OF APPEAL TO COUNTY BOARD OF APPEALS

The West Towson Neighborhood Association, Inc., Richard Parsons and John Pyle, Protestants, pursuant to Section 26-132 of the Baltimore County Code, by and through undersigned counsel, hereby file an appeal to the County Board of Appeals from the decision rendered by the Zoning Commissioner in the above-captioned matter on September 21, 1998.

FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of October, 1998, a copy of the aforegoing was mailed, postage prepaid, to:

Baltimore County Board of Appeals
Basement
Old Court House
Towson, Maryland 21204

Howard L. Alderman, Jr., Esquire
Levin and Gann, P.A.
305 West Chesapeake Avenue, Suite 113
Towson, Maryland 21204

Peter Max Zimmerman
People's Counsel for
Baltimore County
Room 47, Court House
400 Washington Avenue
Towson, Maryland 21204

FRANCIS X. BORGERDING, JR.

FRANCIS X. BORGERDING, JR.
Attorney at Law
MERCANTILE BUILDING - SUITE 600
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 296-6820
FAX (410) 296-6884

Member of Maryland and District of Columbia Bar

October 16, 1998

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

RE: Petitions for Special Hearing, Special Exception and Zoning Variance
Property: 516 Allegheny Avenue
Petitioner: Abraham P. Korotki
Case No.: 98-468-SPHXA
Before the Zoning Commissioner of Baltimore County

Dear Mr. Jablon:

Enclosed please find a Notice of Appeal of the Decision of the Zoning Commissioner for Baltimore County entered in relation to the above-referenced case on September 21, 1998. This appeal is filed to the County Board of Appeals pursuant to Baltimore County Code pursuant to Section 26-132.

Please also find a check in the amount of $635.00 to cover the cost of the filing fee for same.

Thank you very much for your cooperation with regard to this matter.

Very truly yours,

FRANCIS X. BORGERDING, JR.

FXBJr:bjk
Enclosure

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OCT 19 1998
PDM

IN RE: PETITIONS FOR SPECIAL HEARING SPECIAL EXCEPTION & ZONING VARIANCE N/S Allegheny Avenue, 600 ft. W of c/l Highland Avenue 516 Allegheny Avenue 9th Election District 4th Councilmanic District Abraham P. Korotki, Petitioner	* * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 98-468-SPHXA

****

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a combined public hearing, on Petitions for Special Hearing, Special Exception and Zoning Variance, all for the property located at 516 Allegheny Avenue in west Towson. The Petitions were filed by Abraham P. Korotki, property owner. Special Exception relief is requested to approve a lawyer's office in a dwelling, pursuant to Section 1B01.1C.9(b) of the Baltimore County Zoning Regulations (BCZR). Special Hearing relief is requested, pursuant to Sections 409.12B and 409.8B.1 of the BCZR, for a modified parking plan and modified parking arrangements to allow the existing stone based unstriped parking area to remain. Variance relief is requested to permit a free standing identification sign in lieu of the wall mounted name plate sign permitted as of right by Section 450 of the BCZR. Additionally, as an alternative to the relief requested within the Petition for Special Hearing, variance relief is requested from Section 409.8 of the BCZR to allow an existing gravel base unstriped parking area in lieu of the required paved striped area; from Section 409.4.C to permit an existing 8 ft. wide driveway in lieu of the 22 ft. driveway required; to permit a setback of 3 ft. from a right of way line in lieu of the required 10 ft.; and to permit a 1 ft. setback from the side property line in lieu of the required 10 ft. The subject property and requested relief are more particularly shown on the plat to accompany the Petitions for Special Exception, Special Hearing and Variance, received as Petitioner's Exhibit No. 2.

ORDER RECEIVED FOR FILING
Date 9/15/98
By

Appearing in support of the Petitions was the Petitioner, Abraham P. Korotki, property owner. Mr. Korotki was represented by Howard L. Alderman, Jr., Esquire. Also appearing and testifying in support of the request was Richard Moore, a traffic expert, David S. Thaler, a professional engineer and land planner and Norman E. Gerber, a land planner. A number of citizens from the surrounding locale appeared in opposition to the request. They included two gentlemen who served as spokespersons for that group, namely, Richard Parsons and J. Donald Gerding. Other individuals who appeared were Michael Faulkner, John and Pamela H. Wallace, Frederick Heiser, James Frahe r, Mary Ginn and Venetia Holland.

In view of the complexity of the issues presented and relief requested, a summary of the evidence offered is appropriate. The Petitioner produced the testimony of David Thaler, the principal of D.S. Thaler and Associates and a civil engineer/land planner. Mr. Thaler's firm produced the site plan (Petitioner's Exhibit No. 2). That plan shows that the subject property is a roughly rectangular shaped lot, .41 acres in area, zoned D.R.3.5. The property was once part of a larger parcel which has been subdivided through the County minor process subdivision in matter No. 85178M. The subject property is improved with an existing two story framed building which has been used as a dwelling. Additionally, the front of the lot was at one time covered by gravel in order to provide a parking area. However, a site inspection and review of the photographs shows that much of that area has been overgrown by grass/weeds.

Mr. Thaler testified extensively about the issues surrounding the Petition for Special Exception. As noted above, the property is zoned D.R.3.5. That zoning classification permits certain uses by special exception, including, "Office or studio of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other professional persons, provid-

ed that any such office or studio is established within the same building as that serving as the professional persons primary residence; does not occupy more than 25% of the total floor area of the residence; and does not involve the employment of more than one non-resident professional associate, nor two other non-resident employees." These criteria cannot be varianced and any property owner must comply with same in order to obtain special exception relief.

Mr. Thaler offered testimony concerning about the proposed use of the existing dwelling and the 25% area requirement which is allowed for the office use. In this regard, he testified that he had personally visited the site and taken measurements to determine the total floor area of the building. In his opinion, the total floor area is 3293 sq. ft. Additionally, he produced a floor plan for the first floor of the building (Petitioner's Exhibit No. 3) which indicates that the office will occupy 809 sq. ft. Based on these measurements and calculations, Mr. Thaler opined that the proposal was in accordance with that requirement contained in Section 9B, that the office not occupy more than 25% of the total floor area of the building. Mr. Thaler also testified extensively about his methodology in determining the floor area of the structure at issue. He referred to Section 101 of the BCZR which defines the term, "floor area, gross". That definition is, "The sum of the gross horizontal areas of all floors of the building, measured from the exterior faces of exterior walls and from the centerline of walls separating two or more buildings, but not including floor space used for off-street parking, or any space where the floor to ceiling height is less than 6 ft. This term does not include any floor space in a basement or a cellar which is used exclusively for storage or upon which is situated accessary heating or air conditioning equipment or other accessory mechanical or electrical utility equipment, nor does it

ORDER RECEIVED FOR FILING
Date 4/15/98
By Mr. Smith

include any floor space in an atrium or lobby which is not leasable to or occupied by individual tenants." Mr. Thaler stated that he applied this definition to determine the square footage of the building and proposed office. Although acknowledging that the basement ceiling was lower than might be otherwise considered standard, he indicated that the floor to ceiling height of the basement was at least 6 ft., thus, the square footage of that area was properly included within the gross floor area. He also noted the deduction which he made for the area of the heating and/or air conditioning equipment. Lastly, although acknowledging that certain areas of the premises could be used for storage, he stated that they were not "exclusively" so used and, therefore, were part of the total floor area computation.

Mr. Thaler also testified extensively about the parking arrangements. As noted above, at one time Mr. Korotki apparently spread gravel on a portion of the front yard of the property to create a parking pad. Photographs of the site submitted, as well as my site visit, were persuasive that the parking area is relatively undefined and surely not in accordance with the requirements for parking lots as set forth in the BCZR. Mr. Thaler, however, opined that a modification of the parking standards was appropriate. He cited, as factors, the residential character of the building and the neighborhood. In his judgment, the lot should continue to be of a gravel material, the driveway narrower than required and setback relief warranted so as to allow for a reasonable area of parking in the front of the premises. In his view, such a parking area would be consistent with the surrounding residential locale.

Lastly, Mr. Thaler testified about the proposed signage. In his judgment, a sign larger than permitted will be appropriate for this area and would properly identify the proposed law office.

Also testifying was C. Richard Moore, a traffic expert. Mr. Moore produced testimony regarding traffic counts which had been made near the property and his studies and evaluation of the area. In sum, he concluded that a proposed law office for a resident of the subject dwelling would be appropriate and would not adversely impact traffic patterns in the area. He noted that the site was a short distance from Towson and the heavy volumes of traffic which exist on nearby Bosley Avenue. He also testified about the significant traffic generated by the Towson YMCA; the entrance to which is located immediately across Allegheny Avenue from the site. Also, Mr. Moore indicated that the proposed sign was appropriate and would provide the necessary warning and direction for vehicular traffic on Allegheny Avenue. In sum, he believes that the proposed special exception should be granted.

Also testifying was Norman Gerber, an expert land planner and former Director of the Office of Planning for Baltimore County. Mr. Gerber testified extensively about the neighborhood in which the site is located and the standards which must be applied to the Petition for Special Exception as set out in Section 502.1. He opined that the residential transition area requirements need not be satisfied, in that the subject office is accessory and subordinate to the primary use of the structure as a dwelling. Mr. Gerber's testimony supported the relief sought within the Petitions.

In addition to the testimony from these witnesses, testimony was also received from many of the neighbors who appeared. Mr. Parsons and Mr. Gerding acted as spokespersons for that group and questioned the Petitioner's witnesses. They also submitted written summations of their positions which have been incorporated into the file. Those summations raise a number of issues which challenge the propriety of the zoning relief which is requested. As part of the written file, this evidence need not be repeated herein.

ORDER RECEIVED FOR FILING
Date 9/2/93
By

Testimony was also received from Mr. Crawford, who resides immediately next door. He expressed concerns over the potential change in character of the subject property from residential to business/commercial. Other Protestants who appeared offered similar testimony and also raised concerns over increased traffic.

The zoning history of this property is of note. It is to be observed that Mr. Korotki has apparently owned the property for a number of years and has resided thereon. Mr. Korotki is an attorney by education and training. Although irrelevant to the issues before me, Mr. Korotki's reputation is that he is not favored by many members of the legal establishment and, in any event, he personally does not practice law from the site at this time. He continues to own the property, however and, at one time, did operate his law office from these premises. In fact, the operation of his law office was the subject of a case previously before the Circuit Court of Maryland for Baltimore County (87-CG-4880). In that case, the County's Office of Law commenced an action in Circuit Court to force the closure of Mr. Korotki's law office. He defended this action by claiming that his law office was legally grandfathered as a nonconforming use. A nonconforming use, as defined and regulated by the Baltimore County Zoning Regulations, is essentially a mechanism which grandfathers otherwise illegal uses. That is, if the property owner can establish that the use existed prior to the date of the regulation which prohibits the use, the use may remain. In a brief written opinion by Judge William M. Nickerson of the Circuit Court of Baltimore County, it was held that Mr. Korotki's office was nonconforming and that he, ". . . has established a use of right prior to 1982 . . .".

In addition to that case, litigation involving this property was also the subject of case No. 96-442-SPHX. That matter came before Deputy Zoning Commissioner, Timothy M. Kotroco, on Petitions for Special Hearing and

ORDER RECEIVED FOR FILING
Date 12/18/96
By

Special Exception. The special hearing request sought designation of an economist as a "professional person" as contemplated in Section 1B01.1C.9b. The special exception sought approval of an economist's office on the subject site. Following an evidentiary hearing, Zoning Commissioner Kotroco granted, in part, and denied, in part, the relief requested. Specifically, Deputy Commissioner Kotroco held that an economist was a professional person within the gambit of Section 1B01.1C.9b, however, the Petition for Special Exception was denied.

A timely appeal followed by Mr. Korotki. Apparently, following an evidentiary hearing and open deliberation by the Board of Appeals, but prior to the issuance of its decision, Mr. Korotki withdrew his Petition for Special Exception. Pursuant to the Board's Order of April 25, 1997, it was held that the Petition for Special Hearing had been properly denied at the conclusion of the Petitioner's presentation of its case in chief. Additionally, on the issue of the special exception, the Board noted that said Petition had been withdrawn and, therefore, the Board did not have subject matter jurisdiction of that matter. The Office of the People's Counsel filed a Motion for Reconsideration; arguing that withdrawal of the Petition for Special Exception should not have been permitted. The Board denied that Motion for Reconsideration and no appeal followed.

ORDER RECEIVED FOR FILING
Date 9/21/98
By

The sequence of those events is significant as far as the subject case is concerned. Section 500.12 of the BCZR states that if a Petition for Special Exception has been denied, the Zoning Commissioner may not accept for filing any other such Petition until at least 18 months have elapsed from the date of the final Order relating to the previous Petition. As a preliminary matter in the hearing before me, the Protestants argued that the prior hearing before Deputy Commissioner Kotroco and, on appeal, the Board of Appeals prohibit the consideration of the instant Petition for Special

Exception. However, in that the prior Petition for Special Exception had been withdrawn before a ruling regarding same before the Board, the date of Mr. Kotroco's original Order controls. His Order was issued on August 8, 1996. The instant Petition for Special Exception was filed more than 18 months later, thus, it is not prohibited by Section 500.12 of the BCZR.

Turning to the substantive issues of the case before me, the major consideration relates to the precise wording of Section 1B01.1C.9(b) and whether that section requires that the identity of the person who will occupy the premises and use same as his/her dwelling and his/her office need be known. As was noted at the hearing, the vast majority of Petitions for Special Exception which seek relief for a professional office in a dwelling come before me with a clear identification/designation of the professional person. In the prior case relating to this property, the identity of the economist (Thomas Small) was known and this Zoning Commissioner cannot recall of any case where the individual was not identified by name. The reason for this approach is manifest. In that the Zoning Commissioner must determine whether the proposed use will be detrimental to the health, safety and general welfare of the locale and whether the use complies with Section 502.1, substantive testimony about the nature of the proposed use must be offered. If the resident/professional is not known, it is no doubt difficult to reach a finding that the proposed use satisfies the criteria of Section 502.1. The neighbors and Protestants vehemently argue that such a lack of identification in this case mandates a denial of the Petitions. The Petitioner, through his expert witnesses, however, argues that the knowledge of the identity of the resident/professional is not an absolute requirement. Mr. Thaler, in particular, testified that <u>any</u> lawyer's office at the proposed location would satisfy the criteria set forth in Section 502.1. Mr. Gerber offered similar expert testimony, as did Mr. Moore from a

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By Mr. Nomark

traffic perspective. That is, these experts believe that the nature and character of the subject property, as well as the surrounding neighborhood, is such that any lawyer's office could be conducted, within the parameters of Section 9(b), so as to not be detrimental to the health, safety or general welfare of the locale. To emphasize, no matter the nature of the law practice, these expert witnesses testified that any lawyer who resided on this site, used less than 25% of the gross area of the dwelling for office purposes and employed no more than one professional associate and two non-professional employees could conduct a business operation from this structure without adverse impact to the neighborhood.

At first blush, the Protestants' position that the identity of the professional person/resident must be known seems meritorious. However, based upon both the testimony offered by the Petitioner's witnesses and pursuant to the legal analysis which follows, same might not be the case.

It is an often stated proposition that "zoning runs with the land." This adage is consistent with the overriding perception that zoning law constitutes a regulation of property and uses thereof, as opposed to people. Unlike liquor laws or criminal statutes, zoning ordinances are not dependent on the individual actions of persons. For example, approval of a service station on a given property is not contingent upon whether that station will be operated by Exxon, Shell or Amoco Oil Company. Just as a rose by any other name is still a rose, a service station is a service station; it carries with it certain land use impacts regardless of the individual proprietor who operates the business. Thus, the adage that "zoning runs with the land" is an appropriate summary of the intent and rational for zoning laws.

The case law agrees. In Mayor and City Council of Baltimore v. Poe, 224 Md. 428 (1961), the Court of Appeals considered the propriety of a

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By Mark

fraternity house in Baltimore City. The property in question was located in a residential area, and needless to say, adjoining neighbors were not happy about the prospects of a number of college age men residing immediately next door. In discussing the purpose of zoning regulation and scheme, the Court stated, "It is settled law in this State that the zoning ordinance is concerned with the use of the property and not with the ownership thereof nor with the purpose of the owners or occupants." pg.433

This proposition was endorsed in Anderson v. Associated Professors of Loyola College, 39 Md. App 345 (1978). In that case, Loyola College utilized two residential dwellings for the office/residence of the college president and his administrative offices. The Court embraced the language in Poe, infra, as set out hereinabove.

Based upon this well settled law, it is my judgment that the Petitioner is, therefore, not required to identify a specific person when seeking special exception relief pursuant to Section 1B01.1.C.9(b) That is, the failure to designate the specific individual resident/professional does not automatically render the Petition fatally flawed.

However, if the person is not identified, relief under that section renders the Petitioner's burden much more difficult. If this specific individual is known, detailed information can be provided to the Zoning Commissioner about the specifics of that persons professional practice and occupation. Information can be offered, for example, about expected hours of operation, expected traffic generation, etc. In such a case, the Zoning Commissioner can grant relief and/or restrict the special exception approval to a specific individual or otherwise condition the relief by limiting hours of operation, number of employees, limitations on business traffic, etc.

Having not elected to pursue relief through that route, this Petitioner must, therefore, demonstrate that any lawyer's office can be operated from

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Date 9/21/98
By M. Nowak

this site (for so long as the requirements of Section 9(b) are satisfied) without detrimental impact on the surrounding locale. That is, this Petitioner must show that any lawyer who resides in the subject property, uses less than 25% of the area of the building for office space and employs not more than one professional associate or two non-professional employees can conduct a law office here without detrimental impact on the community. In thoroughly reviewing the record of this case, it must be concluded that the Protestants offered little testimony on this point. The Petitioner's experts, on the other hand, testified exactly to that.

A comment was also received from the Office of Planning regarding the merits of the Petition. The comment states, in part, that this request for Special Exception is highly undesirable at this particular location and the use would be detrimental to the health, safety and welfare of the neighborhood. The comment notes that the site is more than 500 ft. west of the Towson office transition area and is across the street from the Towson YMCA.

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Date 9/21/98
By M. Yonate

As noted above, the criteria for adjudging the merits of the Petition for Special Exception are those standards set forth in Section 502.1. Additionally, an examination of the case law, which has construed same, is appropriate. As it has been repeatedly stated in previous opinions of the office the use of the words "special exception" to describe this zoning tool are unfortunate and misleading. In other jurisdictions, special exception uses (as they are known in Baltimore County) are known as conditional uses. The Courts of this State have continually emphasized the presumptive permissibility of special exception uses. Special exceptions have been considered by the higher courts as part of the comprehensive zoning plan, sharing a presumption that same are in the interest of the general welfare and are, therefore, valid. See People's Counsel v. Mangione, 85 Md. App 738 (1991). In the seminal case of Schultz v. Pritts, 291 Md. 1 (1981), the

Court of Appeals found that in order for a special use to be denied it must be shown that the impacts associated with that special exception must have an adverse effect upon adjoining and surrounding property owners unique and different from the impact that would, otherwise, result from the development of the property with a special exception. As stated otherwise in Mossberg v. Montgomery County, 107 Md. App 1 (1995). "The question in the case sub judice, therefore, is not whether a {special exception use} has adverse effects. It inherently has them. The question is also not whether the {special exception use} at issue here will have adverse effects at this proposed location. Certainly, it will and those adverse effects are contemplated by the statute. The proper question is whether those adverse effects are above and beyond i.e., greater here then they would generally be elsewhere within the areas of the County where they may be established. . ." (emphasis in original) (pg.9).

With all due respect to the comment from the Office of Planning, I believe that its conclusions are entirely incorrect here. The Office of Planning apparently bases its position that a residential law office should not be permitted on the fact that the proposed use is just outside the Towson business community and across the street from a major traffic generator; to wit, the Towson YMCA. Apparently, the Planning office construes these factors to support its conclusion that the special exception should be denied.

I view these factors in an entirely opposite light. In my judgment, the office of a professional person in a dwelling which is nestled within a purely residential community might very well be objectionable to the residents therein and may cause detriment to the surrounding community. For example, a lawyer's office located on an interior residential street, far away from arterial streets; surrounded on all sides by residences may very

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Date 9/21/98
By M. Tomek

well be incompatible with adjacent land uses. Certainly, it could be argued that an office, even one within a dwelling, should not be allowed within the interior of many of the residential subdivisions which exist throughout Baltimore County.

This site, however, seems nearly perfect for a residential law office. It is located within walking distance of the County's legal center, i.e., the Court House complex. Additionally, it is across the street from a large institutional use (The Towson YMCA). The anticipated traffic which would be generated by this law office is insignificant compared to the volumes which is produced daily by the Towson YMCA. Additionally, within blocks of the site, the County has placed R.O. and R.O.A. zoning which has allowed a conversion of numerous structures previously used dwelling to an exclusive office use. This setting, it would seem, is perfect for a residential law office. The adverse effects generated by a law office here (as allowed by Section 9(b)) would certainly not be greater than other locations within the D.R. zone and will probably be significantly less.

This is not to say that the property should be rezoned or that the site should be converted to exclusive office use. This is, apparently, what the Office of Planning fears. That concern is rightful but is not the issue before me. I am not entertaining a request to convert this property to a pure office use; rather, whether this site is a proper place for an office <u>as an accessory use</u> to a dwelling. A rezoning of the property to permit a sole office use is only within the purview of the Baltimore County Council through its quadrennial zoning process. The Council has retained the D.R. zoning for this property, which seems altogether appropriate for the neighborhood. In sum, the Protestants and the Office of Planning seemingly confuse the nature of the Petitioner's request. There is no request before me and, in fact, no such request could be granted, which would allow the

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Date 9/21/91
By M. Nowak

conversion of this property to a law office exclusively. What is being requested, on the other hand, is quite a different use; i.e., the allowance to use 25% of a dwelling for the office of the owner/resident. In adjudging this narrow issue, I accept, with limitations, the uncontradicted testimony offered by the Petitioner's expert witnesses. In my judgment, this is an appropriate location for a law office in a dwelling. Thus, the Petition for Special Exception, with restrictions, shall be granted.

Obviously, those restrictions shall incorporate the requirements of Section 9(b). In order for the property to be used as a professional office by a lawyer, the attorney must actually reside thereat as his principal place of residence. Moreover, no more than 25% of the total floor area of the residence can be used for office purposes. Moreover, to assure that there shall be no adverse impact, I will require that no professional associate may be employed on the premises and only one non-professional employee can be employed. That is, I will add to the limitations imposed by the statute. Until the zoning authority can evaluate the identity of the attorney and the nature of his/her practice, the use of the property shall be restricted to permit only one attorney and one non-professional employee. This restriction may be modified based on a Petition for Special Hearing once an attorney is designated.

As to the Petition for Special Hearing, a modified parking plan shall be allowed. As I stated in open hearing, the appropriate disposition of this issue would be to allow for the construction of a driveway leading from Allegheny Avenue to the side of the house. Other houses in this block and on this street have driveways; so should this one. The construction of a driveway of single car width will be sufficient to allow off-street parking. Additionally, there is public parking on the street and a prohibition on same which limits non-residents' cars to no more than two hours. In that

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Date
By

typical clients do not visit their attorneys for more than two hours, sufficient off-street parking exists. Thus, the Petitioner shall be required to construct a driveway on the site to provide a reasonable amount of off-street parking as provided hereinabove. Having permitted a modified parking plan set forth above, variance relief for the parking requirements is not needed.

As to the sign, the variance relief shall be denied. As justification for the sign, the Petitioner's witnesses indicated that potential clients would need a larger sign than that allowed by right. The Petitioner's witnesses, however, have neglected to consider that they have the best landmark to provide directions immediately across the street. In my judgment, it seems more appropriate to advise potential clients and visitors that the office is "located immediately across the street from the entrance to the Towson YMCA." Such instruction will allow visitors to easily identify the site and eliminates a necessity for signage and the variance. Thus, the variance relief, in this respect, shall be denied.

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.

IT IS THEREFORE ORDERED, by the Zoning Commissioner for Baltimore County, this 21st day of September 1998, that, pursuant to the Petition for Special Exception, approval to allow a lawyer's office in a dwelling, under Section 1B01.1C.9(b) of the BCZR, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Special Hearing from Sections 409.12B and 409.8B.1 of the BCZR, approval to permit a modified parking plan and modified parking arrangements to allow the existing stone based unstriped parking area to remain, as more particularly set forth above, be and is hereby GRANTED; and,

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By

IT IS FURTHER ORDERED that a variance from Section 409.8 of the BCZR to allow the existing gravel base unstriped parking area in lieu of the required paved striped area; from Section 409.4.C to permit the existing 8 ft. wide driveway, in lieu of the 22 ft. driveway required; to permit a setback of 3 ft. from a right of way line, in lieu of the required 10 ft.; and to permit a 1 ft. setback from the side property line, in lieu of the required 10 ft., be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that a variance to permit a free standing identification sign, in lieu of the wall mounted name plate sign, permitted as of right by Section 450 of the BCZR, be and is hereby DENIED, subject, however to the following restrictions:

> 1. In order for the property to be used as a professional office by a lawyer, the attorney must reside thereat as his principal place of residence. No more than 25% of the total floor area of the residence can be used for office purposes. I will require that no professional associate may be employed on the premises and only one non-professional employee can be employed. The use of the property shall be restricted to permit only one attorney and one non-professional employee.

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Date 9/25/95
By

Any appeal from this decision must be taken in accordance with the applicable provisions set forth in Section 26-132 of the Baltimore County Code.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

Baltimore County
Zoning Commissioner
Office of Planning

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

September 21, 1998

Howard L. Alderman, Jr., Esquire
Levin and Gann
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Petitions for Special Exception, Special Hearing & Variance
Case No. 98-468-SPHXA
Property: 516 Allegheny Avenue
Abraham Korotki, Petitioner

Dear Mr. Alderman:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Exception, Special Hearing and Variance have been granted, in part, and denied, in part, with restrictions, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
att.
c: Abraham Korotki, Esquire, 11931 Park Heights Ave., Owings Mill 21117
c: David S. Thaler, D.S. Thaler & Assoc. Inc., 7115 Ambassador Rd. 21207
c: C. Richard Moore, 420 Virginia Avenue, 21286
c: J. Donald Gerding, Greater Towson Comm. Assn., 335 Old Trail, 21212
c: Richard Parsons,West Towson Neighborhood Assn., 412 Woodbine Ave 21204
c: Michael Faulkner, West Towson Neighborhood Assn., 520 Allegheny Ave

Printed with Soybean Ink
on Recycled Paper

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 516 Allegheny Avenue

which is presently zoned D.R. 3.5

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

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:

N/A
(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner
Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
(Type or Print Name)
305 W. Chesapeake Avenue, Suite 113
Towson, MD 21204
Howard L. Alderman
Signature

410-321-0600
Address Phone No.

City State Zipcode

Legal Owner(s):

Abraham P. Korotki
(Type or Print Name)

Signature

(Type or Print Name)

Signature

11931 Park Heights Ave. 410-581-2320
Address Phone No

Owings Mills, MD 21117-1517
City State Zipcode

Name, Address and phone number of representative to be contacted
Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
Name 305 W. Chesapeake Avenue Suite 113
Towson, MD 21204 410-321-0600
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____
unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

Zoning Administration & Development Management

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98-468-SPHXA

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HXH9C·2 JV·4P

Attachment 1

PETITION FOR VARIANCE

Address: 516 Allegheny Avenue

Legal Owner: Abraham P. Korotki

Contract Purchaser: N/A

Present Zoning: D.R. 3.5

VARIANCE RELIEF REQUESTED:

If the modified parking plan and parking requirements are not approved as part of the Special Hearing Petition filed herewith,

- from BCZR § 409.8 to allow the existing gravel-base, unstriped parking area;
- from BCZR § 409.4C to permit the existing eight (8) foot wide driveway in lieu of the 22 foot driveway width required;
- from BCZR and any other applicable County requirements to permit a setback of three (3) feet from the ultimate right-of-way in lieu of the 10 feet required;
- from BCZR and any other applicable County requirements to permit a setback of one (1) foot from the side lot line in lieu of the 10 feet required; and

From BCZR § 450 to permit a free-standing identification sign in lieu of the wall-mounted nameplate permitted as of right, all as shown more particularly on the plat to accompany this Petition.

JUSTIFICATION:

1. Irregular shape and pre-existing configuration of lot;
2. For such further reasons as will be presented at the time of the hearing on this Petition.

FOR ADDITIONAL INFORMATION CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
305 W. Chesapeake Avenue
Suite 113
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderma@counsel.com

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 516 Allegheny Avenue

which is presently zoned D.R. 3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning 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 to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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

Contract Purchaser/Lessee:

N/A
(Type or Print Name)

Signature

Address

City State Zipcode

Legal Owner(s):

Abraham P. Korotki
(Type or Print Name)

Signature

(Type or Print Name)

Signature

11931 Park Heights Ave. 410-581-2320
Address Phone No.

Owings Mills, MD 21117-1517
City State Zipcode

Attorney for Petitioner:

Howard L. Alderman, Jr., Esq.
(Type or Print Name) Levin & Gann, P.A.

Howard L. Alderman
Signature

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

Towson, MD 21204
City State Zipcode

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

Howard L. Alderman, Jr., Esq.
Levin & Gann, P.A.
Name 305 W. Chesapeake Ave., Suite 113
Towson, MD 21204 410-321-0600
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

Zoning Administration

98-468-SPHXA

468

Attachment 1

PETITION FOR SPECIAL EXCEPTION

Address: 516 Allegheny Avenue

Legal Owner: Abraham P. Korotki

Contract Purchaser: N/A

Present Zoning: D.R. 3.5

REQUESTED RELIEF:

Special Exception approval, pursuant to BCZR § 1B01.1C.9b, for a Lawyers' Office.

FOR ADDITIONAL INFORMATION CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
305 W. Chesapeake Avenue
Suite 113
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderma@counsel.com

May 18, 1998

ZONING DESCRIPTION

Description of Lot 1, "Korotki Property"
Minor Subdivision No. 95178M, #516 Allegheny Avenue
Containing a Total Gross Area of 0.3626 acres of land, more or less
Ninth Election District, Baltimore County, Maryland

Beginning for Lot 1 of the Minor Subdivision 95178M at a point on the north side of Allegheny Avenue, 50 foot wide, approximately 600 feet westerly of the center of the intersection of Allegheny Avenue and Highland Avenue said point of beginning also being at the end of the 2nd or North 64 ¾ degree West 206.5 foot line of that parcel of land described in a Deed dated November 13, 1972, between E. Scott Moore and Abraham Paul Korotki, recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 5317 folio 113. running thence leaving said point of beginning and said Allegheny Avenue, binding on all of the 3rd line of said Deed,

1. North 24 degrees 42 minutes 35 seconds East 199.32 feet to a point running thence binding on part of the 4th line of said Deed,
2. South 78 degrees 14 minutes 54 seconds East 67.20 feet to a point, thence leaving said 4th line of said Deed, running for a new line of division through that parcel of land described in said Deed and binding on the line of division between said Lot 1 and Lot 2 of the Minor Subdivision No. 95178M,
3. South 18 degrees 01 minutes 32 seconds West 205.96 feet to the north side of said Allegheny Avenue to intersect said 2nd line of said Deed, running thence binding on the north side of said Allegheny Avenue, 50 foot wide,
4. North 71 degrees 33 minutes 29 seconds West 90.00 feet to the point of beginning.

Containing a Gross Area of 0.3626 acres of land, more or less.

Korotki/BL/gf/D#1-98/Zoning/5/18/98

STATE OF MARYLAND
RICHARD E. LINE
No. 503
PROPERTY LINE SURVEYOR

98-468-SPHXA

TOTAL P.02

468

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 0506 .8

DATE 10/20/98 ACCOUNT R-001-6150

AMOUNT $ 635.00

RECEIVED FROM: Francis X. Borgerding, Jr., Esq.

FOR: Appeal - Case # 98-468-SPHXA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

R4E

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTUAL TIME
10/21/1998 10/20/1998 15:34:10
REF U506 CASHIER MARI MRW DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 040562 UPLI
CR NO. 050848
635.00 CHECK
Baltimore County, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 0506 .8

DATE 10/20/98 ACCOUNT R-001-6150

AMOUNT $ 635.00

RECEIVED FROM: Francis X. Borgerding, Jr., Esq.

FOR: Appeal - Case # 98-468-SPHXA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

R4E

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTUAL TIME
10/21/1998 10/20/1998 15:34:10
REF U506 CASHIER MARI MRW DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 040562 UPLI
CR NO. 050848
635.00 CHECK
Baltimore County, Maryland

BALTIMORE COUNTY, MAR \ND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 65376

DATE 3 June 98 ACCOUNT R-001-6150

468 AMOUNT $ 650.00

RECEIVED FROM: APK Homes for Abraham P. Koeotki

FOR: 516 Allegheny Ave.

SPHXA

98-468-SPHXA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT
PROCESS ACTION TIME
6/03/1998 6/03/1998 09:54:31
MISC 0302 CASHIER JOYC JAR DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 002502
CR NO. 065376
650.00 CHECK
Baltimore County, Maryland

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: #98-468-SPHXA
516 Allegheny Avenue
N/S Allegheny Avenue, 600' W of centerline Highland Avenue
9th Election District
4th Councilmanic District
Legal Owner(s): Abraham P. Korotki

Special Hearing: to approve a modified parking plan and modified parking requirements to allow the existing stone-based unstriped parking area to remain. **Special Exception:** for a lawyer's office. **Variance:** to allow the existing gravel-based, unstriped parking area; to permit the existing 8-foot wide driveway in lieu of the 22-foot driveway width required; to permit a setback of 3 feet from the ultimate right-of-way in lieu of the 10 feet required; to permit a setback of 1 foot from the side lot line in lieu of the 10 feet required; and to permit a free-standing indentification sign in lieu of the wall-mounted nameplate permitted as of right.
Hearing: Monday, July 13, 1998 at 11:00 a.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.*

6/478 June 25 C239200

CERTIFICATE OF PUBLICATION

TOWSON, MD., 6/25/, 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 6/25/, 1998.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

X

CERTIFICATE OF POSTING

RE: Case No. 98-468 SPHXA

Petitioner/Developer: A.P. KOROTKI, ETAL

HOWARD ALDERMAN

Date of Hearing/Closing: 7/13/98

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 #516 ALLEGHENY AVE

The sign(s) were posted on 6/25/98
(Month, Day, Year)

Sincerely,

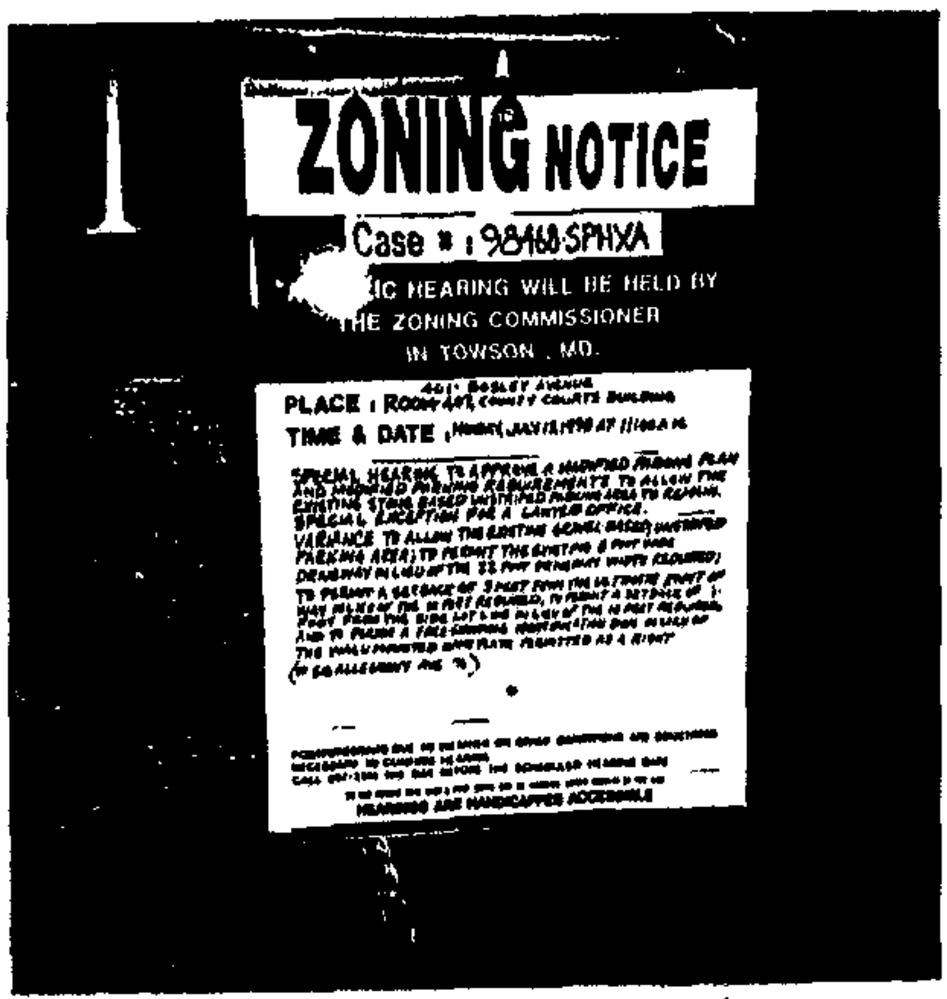
Patrick M O'Keefe 6/26/98
(Signature of Sign Poster and Date)

PATRICK M. O'KEEFE
(Printed Name)

523 PENNY LANE
(Address)

HUNT VALLEY, MD. 21030
(City, State, Zip Code)

410-666-5366 ; CELL 410 905-8571
(Telephone Number)



98-468-SPHXA
516 ALLEGHENY
A.P. KOROTKI - H. ALDERMAN
7/13/98

P.

CERTIFICATE OF POSTING

RE: Case No.: 98-468-SPHXA

Petitioner/Developer: _____

ABRAHAM KOROTKI

Date of Hearing/Closing: _____

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

[redacted]

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 516 ALLEGHENY AVE.

The sign(s) were posted on 12/9/98
(Month, Day, Year)

Sincerely,

Gary C Freund 12/9/98
(Signature of Sign Poster and Date)

GARY C. FREUND
(Printed Name)

_____
(Address)

_____
(City, State, Zip Code)

_____
(Telephone Number)

9/96
cert.doc

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 98-468-SPHXA

Petitioner: Abraham P. Korotki

Address or Location: 516 Allegheny Avenue, Towson, Maryland 21204

PLEASE FORWARD ADVERTISING BILL TO:

Name: Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.

Address: 305 West Chesapeake Avenue, Suite 113
Towson, Maryland 21204

Telephone Number: (410) 321-0600

Revised 2/20/98 - SCJ

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.: 98-468-SPHXA

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

PLACE: _____

DATE AND TIME: _____

REQUEST: Special Hearing to approve a modified parking plan and modified parking requirements to allow the existing stone-based, unstriped parking area to remain; Special Exception for a Lawyer's Office; Variances to allow non durable dustless unstriped parking area in lieu of the required durable dustless → back

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

Sheet 1 of 2

468

Striped parking area; to permit a 8' drive in lieu of the required 22' driveway; to permit parking as close as 3' from R/w in lieu of the required 10'; to permit parking with a setback of 1' in lieu of the Required 10.

TO: PATUXENT PUBLISHING COMPANY
June 25, 1998 Issue - Jeffersonian

Please forward billing to:
Howard L. Alderman, Jr., Esquire 410-321-0600
Levin & Gann, PA
305 W. Chesapeake Avenue
Suite 113
Towson, MD 21204

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: 98-468-SPHXA
516 Allegheny Avenue
N/S Allegheny Avenue, 600' W of centerline Highland Avenue
9th Election District - 4th Councilmanic District
Legal Owner: Abraham P. Korotki

Special Hearing to approve a modified parking plan and modified parking requirements to allow the existing stone-based unstriped parking area to remain. Special Exception for a lawyers' office. Variance to allow the existing gravel-based, unstriped parking area; to permit the existing 8-foot wide driveway in lieu of the 22-foot driveway width required; to permit a setback of 3 feet from the ultimate right-of-way in lieu of the 10 feet required; to permit a setback of 1 foot from the side lot line in lieu of the 10 feet required; and to permit a free-standing identification sign in lieu of the wall-mounted nameplate permitted as of right.

HEARING: Monday, July 13, 1998 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

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.

Baltimore County
Department of Permits and
Development Management

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

June 15, 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: 98-468-SPHXA
516 Allegheny Avenue
N/S Allegheny Avenue, 600' W of centerline Highland Avenue
9th Election District - 4th Councilmanic District
Legal Owner: Abraham P. Korotki

Special Hearing to approve a modified parking plan and modified parking requirements to allow the existing stone-based unstriped parking area to remain. Special Exception for a lawyers' office. Variance to allow the existing gravel-based, unstriped parking area; to permit the existing 8-foot wide driveway in lieu of the 22-foot driveway width required; to permit a setback of 3 feet from the ultimate right-of-way in lieu of the 10 feet required; to permit a setback of 1 foot from the side lot line in lieu of the 10 feet required; and to permit a free-standing identification sign in lieu of the wall-mounted nameplate permitted as of right.

HEARING: Monday, July 13, 1998 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon
Director

c: Howard L. Alderman, Jr., Esquire
Abraham P. Korotki

NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY JUNE 28, 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

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

March 15, 1999

NOTICE OF ASSIGNMENT

CASE #: 98-468-SPHXA

IN THE MATTER OF: ABRAHAM KOROTKI -Petitioner
(516 Allegheny Avenue)
9th Election District; 4th Councilmanic

(VAR -DENIED; SPH -GRANTED in part and DISMISSED in part as moot; SE -GRANTED with restriction)

ASSIGNED FOR: WEDNESDAY, MAY 19, 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).

8/17/99
ppd to ~~[illegible]~~ @ attorneys request.

Kathleen C. Bianco
Administrator

---

cc: Counsel for Appellants /Protestants : Francis X. Borgerding, Jr., Esq.
Appellants /Protestants : West Towson Neighborhood Assn; Richard Parsons; and John Pyle

Appellant /Petitioner (SE/VAR) : Abraham Korotki, Esquire

Howard L. Alderman, Jr., Esquire
David S. Thaler /D.S. Thaler & Assoc., Inc.
C. Richard Moore

J. Donald Gerding /Greater Towson Comm. Assn.
Michael Faulkner /West Towson Neighborhood Assn

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

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County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

May 14, 1999

Petitions W/D. Cup Petitioner 7/30/99; Order to be issued

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 98-468-SPHXA **IN THE MATTER OF: ABRAHAM KOROTKI -Petitioner**
(516 Allegheny Avenue)
9th Election District; 4th Councilmanic

(VAR -DENIED; SPH -GRANTED in part and DISMISSED in part as moot; SE -GRANTED with restriction)

which was scheduled for hearing on 5/19/99 has been **POSTPONED** at the request of Counsel for Petitioner, without objection by Counsel for Protestants; and has been

REASSIGNED FOR: **TUESDAY, AUGUST 17, 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 : Francis X. Borgerding, Jr., Esq.
Appellants /Protestants : West Towson Neighborhood Assn; Richard Parsons; and John Pyle

Counsel for Appellant /Petitioner : Howard L. Alderman, Jr., Esquire
Appellant /Petitioner (SE/VAR) : Abraham Korotki, Esquire

David S. Thaler /D.S. Thaler & Assoc., Inc.
C. Richard Moore

J. Donald Gerding /Greater Towson Comm. Assn.
Michael Faulkner /West Towson Neighborhood Assn

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

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Baltimore County
Department of Permits and
Development Management

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

July 7, 1998

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

RE: Item No.: 468
Case No.: 98-468-SPHXA
Petitioner: Abraham P. Korotki
Location: 516 Allegheny Avenue

Dear Mr. Alderman:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on June 2, 1998.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) aremade aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments 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.

Very truly yours,

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:ggs
Attachment(s)

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 6/16/98

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: 6/15/98

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

Item #'s: 466
467
468
469
470
471

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: June 23, 1998

FROM: Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for June 22, 1998
Item Nos. 466, 467, 468, 469, 470,
and 471

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE0622.NOC

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams
Administrator

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

RE: Baltimore County 6.12.98
Item No. 468 CAM

Dear Ms. Stephens:

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 or by E-mail at (lgredlein@sha.state.md.us).

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

Cert'd 7/27/98

Baltimore County
Fire Department

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

7/13 at 11

July 10, 1998

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

RE: Property Owner: ABRAHAM P. KOROTKI

Location: DISTRIBUTION MEETING OF JUNE 15, 1998

Item No.: 468

Gentlemen:

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

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

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

cc: File

RECEIVED
JUL 15 1998
PDM

Printed with Soybean Ink
on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 10, 1998

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

SUBJECT: 516 Allegheny Avenue

INFORMATION:

RECEIVED
JUL 10
ZONING COMMISSIONER

Item Number: 468
Petitioner: Abraham P. Korotki
Property Size: 0.41± acre
Zoning: DR 3.5
Requested Action: Special Exception
Hearing Date: Monday, July 13, 1998, 11:00 am

SUMMARY OF RECOMMENDATIONS:

The property in question, 516 W. Allegheny Avenue, is the subject of a request for a Special Exception for a lawyer's office in the home, a Special Hearing and numerous variances in conjunction with the modified parking plan and a sign variance. Floor plans, showing the office area and residential area were not received by this office for review.

As indicated in prior comments made in conjunction with Case No. 96-442 SPHX, the property is located within the Towson Community Plan area, adopted by the County Council as an amendment to the Baltimore County Master Plan, February 3, 1992. The property is within a Community Conservation area (Inner Neighborhood). The plan states that Special Exception office uses impact Towson's Inner Neighborhoods very heavily, bringing in more traffic and large parking lots which create an ambiance more suited to a business community than to a residential community. The zoning patterns established in the west Towson area establish RO, Residential Office, zoning along Bosley Avenue and ROA, Residential Office Class A, zoning to the west to the centerline of Highland Avenue. This office transition area from the BM-CT, Business Major, Town Center District in the Towson Urban Center, to the residential neighborhood is the appropriate place for office uses.

This request for Special Exception is highly undesirable at this particular location and the use would be detrimental to the health, safety and welfare of the neighborhood. It is more than 500 feet west of the west Towson office transition area. The property is across from the entrance to the YMCA of Towson, which operates a day care center as well as a community building with a total membership of 2,931 serving 6,100 members. There are approximately 3,000-3,500 ADT's on Allegheny Avenue in the vicinity of the property. A 4-way stop sign was placed at the intersection of Allegheny Avenue and Highland Avenue in 1996. It is anticipated that left turn movements into and from the parking lot of the property in question will be difficult and would result in traffic congestion.

Furthermore the large gravel parking lot located in the front yard, is non-residential in character and the variances requested are undesirable and reflect self-created hardship. The free standing sign is not warranted as well.

In conclusion, this office recommends denial of the Special Exception, Special Hearing and Variances.

Section Chief: Gary Kerns

AFK:DI:lsn

RE: PETITION FOR SPECIAL HEARING PETITION FOR SPECIAL EXCEPTION PETITION FOR VARIANCE 516 Allegheny Avenue, N/S Allegheny Ave., 600' W of c/l Highland Ave, 9th Election District, 4th Councilmanic Legal Owners: Abraham P. Korotki Petitioner(s)	* * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY Case Number: 98-468-SPHXA

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

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 of other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of July, 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 Petitioner(s).

PETER MAX ZIMMERMAN

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 17, 1999

Charles L. Marks, Panel Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

99 MAY 18 PM 3:35

Hand-delivered

Re: Petition for Special Exception
516 Allegheny Avenue,
9th Election District, 4th Councilmanic
ABRAHAM P. KOROTKI, Petitioner
Case No.: 98-468-SPHXA

Dear Chairman Marks:

Our office participated in proceedings on the same Petitioner's zoning petition for professional office use for an economist at 516 Allegheny Avenue. Case No. 96-442-SPHX. These concluded in 1997. The Board dismissed that petition, and then, upon reconsideration, allowed its withdrawal.

We also entered our appearance here, where he requests residential law office use at the same site. To help identify, clarify, and resolve the questions presented, we write this letter.

Outline

The new petition, filed June 3, 1998, requests:

I. Law Office

(1) A special exception for a law office in a D.R. 3.5 residential zone. BCZR 1B01.1C9.b.

II. Deviations from Parking Standards

(2) A special hearing for a "modified parking plan". BCZR 409.12B, 409.8B1.

(3) Alternatively, variances to access, area, and design standards, including: minimum setbacks from the adjoining side lot line and ultimate right-of-way, driveway width, and parking base. BCZR 409.4, 409.8A2, 4, and 6.

III. Sign Variance

(4) A variance for a freestanding office identification sign instead of the permitted 1 square foot wall-mounted, projecting, or integral nameplate. BCZR 450, 450.4 (Table Paragraph 9, page 4-139)

Analysis

To simplify analysis, we take sign and parking issues first. If these are not legally acceptable, the special exception is academic.

* * *

Petitioner's sign request does not qualify for variance consideration because BCZR 450.8A2 states:

> "No special exception or variance may be granted if it will result in the authorization of a sign class which is not otherwise permitted for a particular zone or use by section 450.4."

A freestanding sign is not allowed in a residential zone.

Even were there eligibility for a sign variance, it is difficult to imagine any argument here which could satisfy BCZR 307.1, and either the "uniqueness" or "practical difficulty" standards of Cromwell v. Ward, 102 Md. App. 691 (1995), and McLean v. Soley, 270 Md. 208 (1973).

* * *

Petitioner's request under BCZR 409.12B for a "modified parking plan" is equivalent to a request for variance because it is available only when BCZR 409 parking standards "... would create an undue hardship..." This is an even stricter standard than under BCZR 307.1 because the "hardship" criterion involves a higher level of scrutiny. See McLean, *supra*; Green v. Bair, 77 Md. App. 144 (1988), medical office parking setback variance.

Whether viewed as a "modified parking plan" or, alternatively, as variances, there is no justification for the requested deviation from normal parking standards. There is nothing unique or peculiar about the property. Cromwell shows that the status of existing improvements cannot make a property "unique." 102 Md.App., at 710. Furthermore, there is no practical difficulty or unique hardship. The property is available for residential use.

That the property may in the past have had nonconforming use status, now gone, does not influence the analysis. The law intends cessation of nonconforming uses. County Council of Prince George's County v. E.L. Gardner, 293 Md. 259 (1982).

Moreover, Petitioner owns adjoining vacant residential lots. He has room to use the lots together and meet minimum parking area standards. Indeed, deviations here could lead to deviations on other lots. The grant of one variance could then become justification for another, leading to collapse of the standards in the area. See Easter v. Mayor & City Council, 195 Md. 395 (1950).

In sum, under any scenario, Petitioner's lot at 516 Allegheny Avenue is undersized in relation to parking standards. It does not satisfy requisite legal elements for approval of a modified parking plan or variances.

BCZR 409.12B also requires satisfaction of the use permit/special exception criteria of BCZR 409.8B1. But there is no need to make that additional inquiry.

* * *

The law office special exception depends on approval of deviations from parking standards. Because of the failure of the petitions for modified parking plan, or alternatively, for variances, it is unnecessary to decide the special exception. In the event, however, that the Board reaches it, the Board should focus on the special exception

concept as a "conditional use." Schultz v. Pritts, 291 Md. 1, 20-21 (1991). The necessity for variances shows a failure to satisfy applicable legal conditions.

Under these circumstances, the Court of Special Appeals found that the ordinary "presumption" in favor of a special exception use may well disappear or "fall by the wayside." Chester Haven L.P. v. Queen Anne's County Board of Appeals, 103 Md. App. 324, 336 (1995). The Court repeated this point in a Baltimore County case involving trucking facility and parking setback variances. Umerley v. People's Counsel, 108 Md. App. 497, 511 (1996). This casts grave doubt on whether a petition entwined with multiple variances can satisfy special exception standards.

* * *

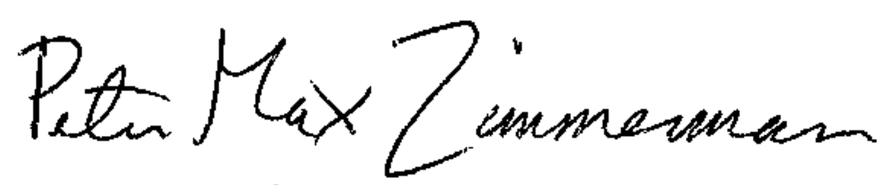
If all of the above hurdles are overcome, then the Board may also examine generally the special exception for law office use. This involves standards discussed and applied in cases such as Schultz, Board of County Comm'rs. v. Holbrook, 314 Md. 210 (1986), and People's Counsel v. Mangione, 85 Md.App. 738 (1991).

Here, we respect the concerns of a number of community associations that the petition might involve commercial rather than residential office use. Petitioner's request for a commercial type of sign validates this concern. The parking variances also suggest commercial use. The same can be said for the challenge to limits on the number of employees.

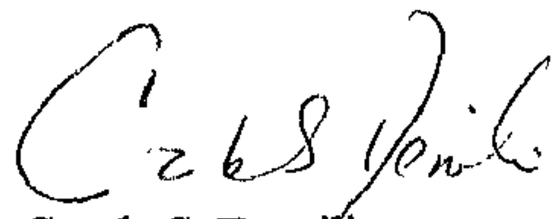
Under these circumstances, Petitioner must convince the Board by satisfactory proof that the request is for an actual residential office use.

We hope the Board finds this discussion useful in its review of this matter.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: Howard L. Alderman, Jr., Esq.
Attorney for Petitioner

Francis X. Borgerding, Jr., Esq.
Attorney for Protestants West Towson Neighborhood Assn., et al.

Mr. J. Donald Gerding
Rodgers Forge Community Assn.

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us
410-887-3391

October 20, 1998

Howard L. Alderman, Jr., Esquire
Levin and Gann, P.A.
305 West Chesapeake Avenue, Suite 113
Towson, MD 21204

Dear Mr. Alderman:

RE: Petitions for Special Exception, Special Hearing, and Variance, Case No.: 98-468-SPHXA, 516 Allegheny Ave., District: 9c4, Abraham P. Korotki - Petitioner

Please be advised that an appeal of the above referenced case was filed in this office on October 19, 1998 by Francis X. Borgerding, Jr., Esquire on behalf of the West Towson Neighborhood Association, Inc., Richard Parsons and John Pyle. 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 the Board of Appeals at 410-887-3180.

Sincerely,

Arnold Jablon
Director

AJ:rye

c: Mr. David S. Thaler
Mr. C. Richard Moore
Mr. J. Donald Gerding
People's Counsel

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on Recycled Paper

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us
410-887-3391

October 23, 1998

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

Dear Mr. Borgerding:

RE: Petitions for Special Hearing, Special Exception, and Variance, Case No.: 98-468-SPHXA, 516 Allegheny Ave., District: 9c4, Abraham P. Korotki - Petitioner

Please be advised that an appeal of the above referenced case was filed in this office on October 21, 1998 by Abraham P. Korotki. 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 the Board of Appeals at 410-887-3180.

Sincerely,

Arnold Jablon
Director

AJ:rye

c: People's Counsel

RECEIVED
COUNTY BOARD OF APPEALS
98 OCT 23 PM 3:06

Printed with Soybean Ink
on Recycled Paper

APPEAL

Petitions for Special Hearing, Special Exception, and Variance
N/S Allegheny Avenue, 600 feet W of centerline Highland Avenue
(516 Allegheny Avenue)
9th Election District - 4th Councilmanic District
Abraham P. Korotki - Petitioner
Case Number: 98-468-SPHXA

RECEIVED
COUNTY BOARD OF APPEALS
98 OCT 23 PM 3:02

Petitions for Special Hearing, Special Exception, and Variance

Description of Property

Certificate of Posting

Certification of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:
1 - No Exhibit Found
2 - Plat to Accompany Zoning Petition
3 - First Floor Plan
4A-0 - 15 Photographs
5 - Letter from John R. Bashaar and Sally D. Bashaar to Howard L. Alderman, Jr., Esquire dated July 28, 1998

Protestants' Exhibits:
1 - One Photograph
2 - One Photograph
3 - Letter from Paula A. Sotir to Michael Faulkner dated July 28, 1998
4 - One Photograph

Letter to the zoning commissioner

Circuit Court's Memorandum Opinion and Ruling on Defendant's Motion for Judgment in case #87CG4880 dated August 18, 1988 (Granted)

Deputy Zoning Commissioner's Order in Case #90-353-A dated March 19, 1990 (Granted)

Letter from Greater Towson Council of Community Associations, Inc. dated June 23, 1998

Letter from the Greater Towson Council of Community Associations dated July 16, 1998

Summation Notes in Case #98-468-SPHXA dated July 28, 1998

Zoning Commissioner's Order dated September 21, 1998 (Granted in Part, Denied in Part, and Part Dismissed as Moot

Notice of Appeal received on October 19, 1998 from Francis X. Borgerding, Jr., Esquire on behalf of the West Towson Neighborhood Association, Inc., Richard Parsons and John Pyle

Notice of Appeal of Special Exception and Variance only received on October 21, 1998 from Abraham P. Korotki

Francis X. Borgerding, Jr., Esq., 409 Washington Ave., Suite 600, Towson, MD 21204
c: Howard L. Alderman, Jr., Esq., Levin and Gann, 305 W. Chesapeake Ave., Towson, MD 21204
Abraham Korotki, Esquire, 111931 Park Heights Avenue, Owings Mills, MD 21117
Mr. David S. Thaler, D.S. Thaler & Assoc. Inc., 7115 Ambassador Road, Baltimore, MD 21207
Mr. C. Richard Moore, 420 Virginia Avenue, Baltimore, MD 21286
Mr. J. Donald Gerding, Greater Towson Comm. Assn., 335 Old Trail, Baltimore, MD 21212
Mr. Richard Parsons, West Towson Neighborhood Assn., 412 Woodbine Ave., Baltimore, MD 21204
Mr. Michael Faulkner, West Towson Neighborhood Assn., 520 Allegheny Ave., Baltimore, MD 21204
People's Counsel of Baltimore County, MS #2010
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM

Peggy Squitieri, Ruxton Riderwood-Lake Roland Area Improvement Association, PO Box 204, Riderwood MD 21139
Frank Kaufmann, Stoneridge Improvement Association, 1021 Winsford Road

Copy of Decision sent to Squitieri and Kaufmann 11/29/99

Case No. 99-468-SPHXA

SE -To approve lawyer's office in dwelling per 1B01.1C.9(b) BCZR; SPH -modified parking plan; modified parking arrangements to allow existing stone based unstriped parking area to remain; VAR - free-standing ID sign ilo wall-mounted name plate sign. ALTERNATIVE to SPH request: VAR -to allow exstng gravel base unstriped parking area; exstng 8; wide driveway ilo 22' required; setbacks

9/21/98 -Z.C.'s Order in which Petition for SPH - GRANTED in part; DISMISSED in part; VAR -DENIED: SE -GRANTED with restrictions.

3/15/99 -Notice of Assignment for hearing scheduled for Wednesday, May 19, 1999 at 10:00 a.m. sent to following:

Francis X. Borgerding, Jr., Esq.
West Towson Neighborhood Assn;
Richard Parsons; and John Pyle
Abraham Korotki, Esquire
Howard L. Alderman, Jr., Esquire
David S. Thaler /D.S. Thaler & Assoc., Inc.
C. Richard Moore
J. Donald Gerding /Greater Towson Comm. Assn.
Michael Faulkner /West Towson Neighborhood Assn
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

5/12/99 -T/C from H. Alderman; has been retained to represent Mr. Korotki; will be entering appearance and also requesting postponement of 5/19/99 hearing date. Has spoken with F. Borgerding, who has no objection to this postponement request.

5/13/99 -Entry of Appearance filed by Howard Alderman, Jr., Esquire; representing A. Korotki. Also, request for postponement filed; no objection by F. Borgerding.
- T/C to Counsel; confirmed availability on 8/10/99. Notice of PP and Reassignment sent to parties; postponement granted and case reassigned to Tuesday, August 17, 1999 at 10:00 a.m. CBF notified.

5/18/99 -Entry of Appearance filed by P. Zimmerman and C. Demilio; letter from P. Zimmerman and C. Demilio as clarification and comment.

5/19/99 -Appellants' Motion to Quash Subpoenas filed by Francis X. Borgerding, Jr., Esquire, on behalf of West Towson Community Association, Inc., Richard Parsons and John Pyle, Appellants, further indicating that, until the Board rules on the Motions as filed, West Towson, Richard Parsons and John Pyle will not "answer or respond further to the subpoenas." Copy was certified to Howard Alderman, Jr., Esquire, Counsel for Petitioner.

RE: PETITION FOR SPECIAL HEARING PETITION FOR SPECIAL EXCEPTION PETITION FOR VARIANCE 516 Allegheny Avenue, N/S Allegheny Ave., 600' W of c/l Highland Ave, 9th Election District, 4th Councilmanic Legal Owners: ABRAHAM P. KOROTKI Petitioner(s)	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case Number: 98-468- SPHXA

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

99 MAY 18 PM 3:36

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 of other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 1999, 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 Petitioner, to Francis X. Borgerding, Jr., Esq., DiNenna & Breschi, 409 Washington Avenue, Suite 600, Towson, MD 21204, attorney for Protestants West Towson Neighborhood Assn., et al., and to Mr. J. Donald Gerding, Rodgers Forge Community Assn., 335 Old Trail, Baltimore, MD 21212.

PETER MAX ZIMMERMAN

5A

IN THE MATTER OF THE APPLICATION OF ABRAHAM KOROTKI - PETITIONER 516 ALLEGHENY AVENUE 9TH ELECTION DISTRICT 4TH COUNCILMANIC	* * * * *	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 98-468-SPHXA

0439873

SUBPOENA DUCES TECUM

... issue a Subpoena to the following named witness to appear and bring the documents and materials as attached hereto before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on May 19, 1999, at 10:00 a.m. in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, MD 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Designee of the West Towson Neighborhood Association, Inc.
Address: Serve upon Francis X. Borgerding, Jr.
409 Washington Avenue, Suite 600
Towson, MD 21204

Requested by:

Name: Abraham Paul Korotki
Address: 11931 Park Heights Avenue
Owings Mills, MD 21117

99 MAY -5 PM 12:38

The witness named above is hereby ordered to so appear and to bring the attached request for documents before the County Board of Appeals. (The Board requests the Sheriff to issue the summons set forth herein.)

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

Anne K. Strasdauskas #1068
Anne K. Strasdauskas
Sheriff of Baltimore Co.

Served 5/14/99

5A

IN THE MATTER OF THE APPLICATION OF ABRAHAM KOROTKI - PETITIONER 516 ALLEGHENY AVENUE 9TH ELECTION DISTRICT 4TH COUNCILMANIC	* * * * *	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 98-468-SPHXA

0439872

SUBPOENA DUCES TECUM

To the following named witness to appear and bring the documents and materials as attached hereto before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on May 19, 1999, at 10:00 a.m. in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, MD 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

2785

Witness: John Pyle
Address: 609 Debaugh Avenue
Towson, MD 21204

Requested by:

Name: Abraham Paul Korotki
Address: 11931 Park Heights Avenue
Owings Mills, MD 21117

99 MAY -6 PM 12:39

The witness named above is hereby ordered to so appear and to bring the attached request for documents before the County Board of Appeals. (The Board requests the Sheriff to issue the summons set forth herein.)

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

Anne K. Strasdauskas
Anne K. Strasdauskas
Sheriff of Baltimore Co.

#10 of

served 5/11/99

30.00

99 MAY 20 PM 3:10

IN THE MATTER OF THE APPLICATION OF ABRAHAM KOROTKI - PETITIONER 516 ALLEGHENY AVENUE 9TH ELECTION DISTRICT 4TH COUNCILMANIC	* * * * *	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 98-468-SPHXA

SUBPOENA DUCES TECUM

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Witness: Designee of the West Towson Neighborhood Association, Inc.
Address: Serve upon Francis X. Borgerding, Jr.
409 Washington Avenue, Suite 600
Towson, MD 21204

Requested by:
Name: Abraham Paul Korotki
Address: 11931 Park Heights Avenue
Owings Mills, MD 21117

99 MAY -6 PM 12:39

The witness named above is hereby ordered to so appear and to bring the attached request for documents before the County Board of Appeals. (The Board requests the Sheriff to issue the summons set forth herein.)

Kathleen C. Bianco
County Board of Appeals of
Baltimore County

EXHIBIT B

COPY

ATTACHMENT TO SUBPOENA DUCES TECUM
CASE NO. 98-468-SPHXA

1. Minutes of all meetings from the calendar year 1980 to present and continuing.

2. All bank records of the West Towson Neighborhood Association, Inc. from 1980 to the present, including the names and addresses for all banks doing business with said Association.

3. The source of all funds collected by the Association to include dates of receipt, disbursements of such funds, specifying the name and address of all disbursements made by the Association.

4. A list of all members of the West Towson Neighborhood Association, Inc. from 1980 to the present and continuing, including the name of the member, the date of membership, the address, amount of dues paid, and date of payment of dues.

5. Copies of all contracts entered into by the West Towson Neighborhood Association, Inc. with any professional person, institution or lay party.

6. A list of all zoning matters of each and every type, nature and kind that the West Towson Neighborhood Association, Inc. has been involved in since 1980 to the present, including all documents of every type pertaining to these litigations, whether as a Party or Witness.

7. The names and addresses of each board member of the West Towson Neighborhood Association, Inc., and their title, from 1980 to the present and continuing.

8. Copies of all correspondence sent out by the West Towson Neighborhood Association, Inc. and communications received with reference to this specific litigation. This shall include all memoranda, telephone messages, faxes, e-mails, and notes of each and every kind.

9. A copy of any and all retainer agreements, contracts, and memoranda pertaining to the engagement of any experts, lawyers or other professional or lay people with reference to the above captioned matter.

10. A copy of any and all retainer agreements, contracts, and memoranda pertaining to the engagement of any experts, lawyers or other professional or lay people from calendar year 1980 to the present and continuing.

11. All bulletins and pamphlets of each and every type disseminated to the membership of the West Towson Neighborhood Association, Inc. or any other entity from the calendar year 1980 to the present and continuing.

12. A list of all members of the West Towson Neighborhood Association, Inc. from the calendar year 1980 to the present and continuing.

13. A list of all current member of the West Towson Neighborhood Association, Inc.

14. A list of all members of the West Towson Neighborhood Association, Inc. whose dues have been paid and are current.

15. Attach a copy of the retainer agreement or contract for professional services rendered between the West Towson Neighborhood Association, Inc. and Francis X. Borgerding, Jr., Esq.

IN THE MATTER OF THE APPLICATION OF ABRAHAM KOROTKI - PETITIONER 516 ALLEGHENY AVENUE 9TH ELECTION DISTRICT 4TH COUNCILMANIC	* * * * *	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 98-468-SPHXA

SUBPOENA DUCES TECUM

Please issue a Subpoena to the following named witness to appear and bring the documents and materials as attached hereto before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on May 19, 1999, at 10:00 a.m. in Room 48, Basement, Old Courthouse, located at 400 Washington Avenue, Towson, MD 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: Richard Parsons
Address: 412 Woodbine Avenue
Towson, MD 21204

Requested by:
Name: Abraham Paul Korotki
Address: 11931 Park Heights Avenue
Owings Mills, MD 21117

99 MAY -6 PM 12:39
COUNTY BOARD OF APPEALS

The witness named above is hereby ordered to so appear and to bring the attached request for documents before the County Board of Appeals. (The Board requests the Sheriff to issue the summons set forth herein.)

County Board of Appeals of
Baltimore County

EXHIBIT C

ATTACHMENT TO SUBPOENA DUCES TECUM
CASE NO. 98-468-SPHXA

1. Copies of all checks paid to the West Towson Neighborhood Association, Inc. for the past five years.

2. Copies of all checks written on behalf of the West Towson Neighborhood Association, Inc. for the past five years.

3. Copies of all checks written by you or any family member to promote any and all zoning matters during the past five years.

4. Attach a copy of the retainer agreement or contract for professional services rendered between yourself and Francis X. Borgerding, Jr., with reference to the above captioned matter.

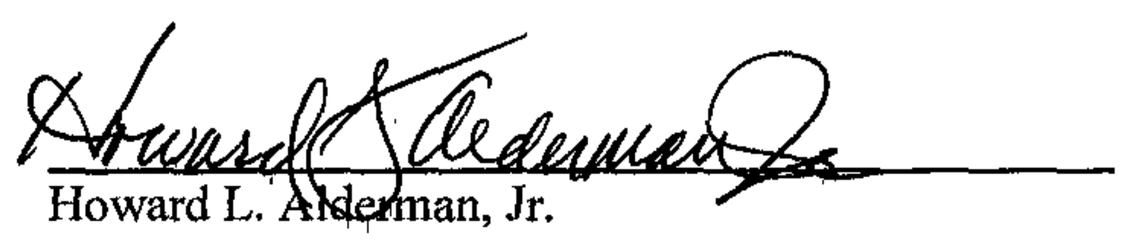
5. All documents of each and every kind and nature which you have either authored or received with reference to the above captioned matter.

IN RE:	**IN THE MATTER OF PETITIONS FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCE** **516 Allegheny Avenue** **9th Election District** **4th Councilmanic District** **Abraham P. Korotki,** **Appellee/Appellant/Owner**	**COUNTY BOARD** **OF APPEALS** **FOR** **BALTIMORE COUNTY** **Case No.: CBA-98-468-SPHXA**

ENTRY OF APPEARANCE

Madame Clerk:

In accordance with Rule 6.d of the Board's Rules of Practice and Procedure, please enter the appearance of the undersigned counsel on behalf of Abraham P. Korotki, 11931 Park Heights Avenue, Owings Mills, MD 21117, the Appellee/Appellant/Owner in the above-captioned case.



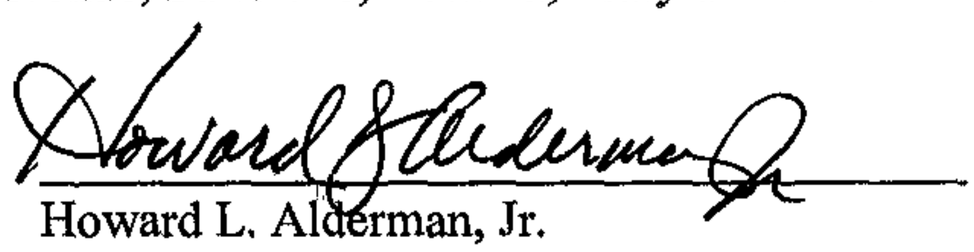
Howard L. Alderman, Jr.
LEVIN & GANN, P.A.
305 West Chesapeake Avenue
Suite 113
Towson, Maryland 21204
(410) 321-0600

Attorneys for the Appeallant/Appellee/Owner

Date: 13 May 1999

CERTIFICATE OF SERVICE

I HEREBY CERTIFIY that on this 13th day of May, 1999, a copy of the foregoing Entry of Appearance was sent via telefax and was mailed, via First-Class, United States Mail, to Francis X. Borgerding, Jr., Esquire, 409 Washington Avenue, Suite 600, Towson, Maryland 21204.



Howard L. Alderman, Jr.

Baltimore County
Zoning Commissioner
Office of Planning

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

July 14, 1998

Howard L. Alderman, Jr., Esquire
Levin and Gann
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 98-468-SPHXA
Abraham P. Korotki, Petitioner

Dear Mr. Alderman:

This letter will serve to confirm that the above captioned case has been continued for hearing on July 27, 1998 at 1:00 P.M., in Room 407 of the County Courts Building and, if necessary, we will continue same on July 28 at 1:00 P.M.

By a copy of this letter, all of the persons on the Sign-In Sheet have been notified.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn

c: Mr. Richard Parsons, 412 Woodbine Avenue, Towson, Md. 21204
Ms. Venetia Holland, 526 Allegheny Avenue, Towson, Md. 21204
Mr. Donald Gerding, 335 Old Trail, Baltimore, Md. 21212
Mr. and Mrs. John Wallace, 509 Park Avenue, Towson, Md. 21204
Mr. Frederick A. Heiser, 523 Park Avenue, Towson, Md. 21204
Mr. James Fraher, 540 Allegheny Avenue, Towson, Md. 21204
Mr. Michael Faulkner, 520 Allegheny Avenue, Towson, Md. 21204
Mr. David S. Thaler, David S. Thaler, P.E., 7115 Ambassador Road, Baltimore, Md. 21207

Printed with Soybean Ink
on Recycled Paper

App-98 # 39

FILE#: 98-468-SPHXA
NAME: Korotki, Abraham P.
STREET: Allegheny Ave., N/S, 600' W of c/l Highland Ave.
TYPE: SE /Law Office; SPH /modfd parkng; VAR /i.d. sign
DISTRICT: 9;4
DATE APPEALED: 10/19/98
HRG. DATE: 6/23/99
ORDER DATE:
DECISION:
CLOSED:
UP:

Kathi

Have we rec'd anything from the parties relative to w/d or dismissal? I ask this because the "new owner" (a lady) called and said she settled on this property on Friday, and that she now wants the appeal sign removed because she is only using 516 Allegheny for residential purposes.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits & Development Management

DATE: March 15, 2000

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed Files /Case Nos.:
98-468-SPHXA /Abraham P. Korotki
99-72-A /Joseph F. Evering, Jr. & Alban Tractor Co.
98-490-A /Patrick Lynch, et ux
98-445-SPHA /Blackhorse Run Jt. Venture

Since no appeals were taken from the Board's Orders in the above captioned cases, we are hereby closing the files and returning same to you herewith.

Attachment (Nos. 98-468-SPHXA; 99-72-A; 98-490-A & 98-445-SPHA)

MEMORANDUM

TO: Arnold Jablon, Esquire
Director, PADM

CC: Kate Milton

FROM: Bob Porter

DATE: May 22, 1998

RE: 516 Allegheny Avenue
Final Order

As per your discussion with Howard L. Alderman, Jr., Esquire, I submit the following information in support of the Petition for Special Exception of Abraham P. Korotki, Esquire.

In Clarke v. Greenwell, 73 Md.App. 446, 534 A.2d 1344 (1988), the Court of Special Appeals reiterated the general rule with regard to the finality of an administrative agency's decision:

> [O]rdinarily the action of an administrative agency, like the order of a court, is final if it determines or concludes the rights of the parties, or if it denies the parties means of further prosecuting or defending their rights and interests in the subject matter before the agency, thus leaving nothing further for the agency to do. 73 Md.App. 446 at 449. *Citing* Maryland Commission on Human Relations v. Baltimore Gas & Electric Co., 296 Md. 46, 459 A.2d 205 (1983).

As the Court of Special Appeals noted in Clarke, *supra*, the actions of an administrative agency such as the Board may be compared to actions of a court. In B&O R.R. v. Equitable Bank, 77 Md.App. 320, 550 A.2d 407 (1988), the court held that "[a] voluntary dismissal without prejudice, under Rule 2-506 is an abandonment of the action; it settles no rights and is not a final disposition on the merits." (Citations omitted.)

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

May 13, 1999

99 MAY 14 AM 10:39

VIA TELEFAX & REGULAR MAIL

Charles L. Marks, Chairman
County Board of Appeal for Baltimore County
400 Washington Avenue - Old Courthouse
Suite 49
Towson, Maryland 21204

RE: Entry of Appearance - Petitions for Special Exception, Special Hearing and Variance - 516 Allegheny Avenue
Request for Postponement: Hearing Date May 19, 1999
Case No.: CBA-98-468-SPHXA

Dear Mr. Marks.

As required by Rule 6.d of the Board's Rules of Practice and Procedure, I enclose herewith the original of my entry of appearance in the above-referenced case on behalf of the Appellee/ Appellant/Owner, Abraham P. Korotki. Although I represented Mr. Korotki before the Zoning Commissioner, I have only been retained recently to represent Mr. Korotki on the pending appeals to this Board. Accordingly, after having discussed my recent entry in this case and the issues on appeal with Frank Borgerding, Esquire who represents all of the appellants in this case, except the limited appeal filed by Mr. Korotki in his own behalf, I respectfully request that this matter be postponed from the currently scheduled hearing date, until the next available date on the Board's docket, for the following reasons:

1. Given my pre-existing schedule and late entry into this matter, I will be unable to prepare completely, my case, Mr. Korotki and the witnesses that he has selected if the hearing is held on May 19, 1999 as presently scheduled;

2. After being retained, I discussed yesterday with Mr. Borgerding, alternative approaches for exploring potential resolution of differences among the parties to this appeal. The requested postponement will enable Mr. Borgerding and me to determine if any such resolution is possible.

3. After consulting with his clients, Mr. Borgerding indicated that neither he nor his clients has any objection to the requested postponement.

No fee

I am aware of the Board's reluctance to postpone cases so close to the scheduled hearing date, however, in this case the requested postponement may further judicial economy and the time of this Board. Further, it is Mr. Korotki that can not move forward with the relief petitioned until final resolution of the pending appeals.

I would appreciate every consideration that the Board would afford this request. Should you or any member of the Board desire any additional information in this regard, please do not hesitate to contact me.

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

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
Enclosure
c (w/encl.): Abraham P. Korotki, Esquire
Francis X. Borgerding, Jr., Esquire

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

July 19, 1999

99 JUL 20 PM 12:1
RECEIVED
COUNTY BOARD OF APPEALS

VIA TELEFAX & U.S. MAIL

Charles L. Marks, Chairman
County Board of Appeals for Baltimore County
400 Washington Avenue
Towson, Maryland 21204

RE: Withdrawal of Petitions
Korotki Property
Case No. 98-468-SPHXA/Hearing Date - August 17, 1999

Dear Chairman Marks:

This morning, I received a telephone call from my client, Mr. Abraham P. Korotki rearding the above-referenced case. In that conversation, Mr. Korotki authorized me to withdrawal the three (3) zoning petitions without prejudice.

I am filing herewith the *Withdrawal of Petitions Without Prejudice*, together with a proposed Order. This concludes this matter before the Board and the scheduled hearing can be canceled. Should you or any member of the Board desire any additional information in this regard, please do not hesitate to contact me. I wish to thank the Board and Mr. Borgerding for their respective cooperation in this matter.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
Enclosures (2)
c (w/encl): Abraham P. Korotki (via mail)
Francis X. Borgerding, Jr., Esquire (via telefax and mail)
c: Frederick N. Chadsey, PE (via telefax)
Norman E. Gerber, AICP (via telefax)
C. Richard Moore (via telefax)

The Ruxton-Riderwood-Lake Roland Area
Improvement Association, Inc.
Post Office Box 204
Riderwood, Maryland 21139
Telephone/FAX: 410-377-4700

RECEIVED
POST-APPEAL

June 9, 1999

RECEIVED
COUNTY BOARD OF APPEALS
99 JUN 10 AM 11:52

Mr. Charles L. Marks, Chairman
Baltimore County Board of Appeals
Room 49
400 Washington Avenue
Towson, MD 21204

Dear Mr. Marks:

RECEIVED
POST-APPEAL

Re: Case #98-468-SPHXA
(516 Allegheny Avenue)

This Association would like to express its vigorous support for the position put forward by the West Towson Association. The Ruxton-Riderwood-Lake Roland Area Improvement Association feels strongly that Zoning Commissioner Lawrence Schmidt erred and is setting a troubling precedent in granting a home occupation special exception at 516 Allegheny Avenue to the vacant house of landlord Abe Korotki, who has as of this date, not named the *resident* of the house.

Home occupation legislation intended that a resident who wishes to work from the home (and meets specific professional requirements) can apply for this special exception. The *resident* (Mr. Korotki is not) must apply. Normally, with extended vacancy the special exception lapses. 516 Allegheny Avenue has been vacant for some time. The five variances Mr. Korotki has applied for (one being an illuminated sign on the front lawn -- not permitted with home occupation) suggest that this address is not being seen as anyone's primary residence. Rather this is a backdoor way to create commercial property in a neighborhood, which rightfully seeks to keep commercialism at bay.

It is exceedingly important that Mr. Schmidt's decision be overturned. His granting of a home occupation special exception to an *address* rather than to a *resident* sets a precedent which will prove to be a major headache for Baltimore County neighborhoods trying to maintain their quality of life.

RECEIVED
POST-APPEAL

Sincerely,

Barry Truax
President

Abraham Paul Korotki
Attorney at Law
11931 Park Heights Avenue
Owings Mills, Maryland 21117-1517
(410) 581-2320

May 5, 1999

Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the matter of the application of Abraham Korotki - Petitioner
516 Allegheny Avenue
9th Election District - 4th Councilmanic
Case No. 98-468-SPHXA

Dear Ms. Bianco:

Enclosed please find an original and two copies of Subpoenas Duces Tecum for the following:

The West Towson Neighborhood Association, Inc.
Richard Parsons
John Pyle

I would appreciate your forwarding the original and copy through interoffice mail to the Sheriff's department for service as described by your assistant Charlotte Radcliffe.

Thank you for your kind attention to this matter as I remain,

Very truly yours,

Abraham Paul Korotki
pls

Abraham Paul Korotki

apk/sls

Enc.

99 MAY -6 PM 12:38
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COUNTY BOARD OF APPEALS

The Greater Arbutus Community Alliance

P. O. Box 18223
Halethorpe, MD 21227

May 3, 1999

Mr. Charles L. Marks
Chairman
Baltimore County Board of Appeals
Room 49
400 Washington Avenue
Towson, MD 21204

Re: Case #98-468-SPHXA
Abraham Korotki/516 Allegheny Ave.

Dear Mr. Marks;

Through our participation in the County's Community Conservation Action Group, the Greater Arbutus Community Alliance has become aware of a case coming before your body on May 19, 1999. We wish to express our concern about this matter, which we believe may have significance beyond the immediate Towson area.

In requesting the Special Exception, petitioner Korotki was permitted to apply without specifying the user of the exception. Without stipulating a proposed use, there is no way for the community to assess the impact of the use on the surrounding properties in the D.R. zone. Furthermore, the test of the parameters of the proposed business cannot be adequately determined per County Council bill #82-105. In addition, bill #82-105 indicates that the property should be primarily a residence, in the present case, the property is vacant.

We are concerned that the type of decision rendered in this instance could lead to significant disruption to residential neighborhoods and pave the way for speculative property sales.

Thank you for giving us the opportunity to be heard on this matter.

Very truly yours,

Paula W. Wolf
President

/pww

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Post. Appeal
rcb

99 MAY -5 AM 11:47
COUNTY BOARD OF APPEALS
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POST-APPEAL

William M. Libercci, Sr
19 Shawn Court
Baltimore, Maryland 21236-1931
(410) 256 0675

99 APR 16 PM 1:24

Mr. Charles Marks, Chairman
Baltimore County Board of Appeals
Room 49
400 Washington Avenue
Towson,. Maryland 21204

Case# 98-468-SPHXA

Dear Mr. Marks:

Unfortunately I do not have the number of the appeal which I am writing to you about but, it concerns a decision made by Zoning Commissioner Scmitd pertaining to the property located at 516 Allegheney Ave. This property is owned by Mr. Abraham P. Korotki and the hearing is scheduled for May 19, 1999 at 10 A.M. I will not be able to attend, as I will be out of town at this time. Therefore, I would like to note for the record my strong opposition to this ruling .

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My understanding of the decision made by Commissioner Schmidt is that he granted a special exception in order for the property at 516 Allegheney Ave, to be used as an attorney's office. The problem that I have with this decision is, at the time of the request for the special exception the property was vacant, and as far as I know, remains vacant.

This decision if left in not reversed will serve to gut any protections the communities have in trying to maintain the residential character of their neighborhoods. Council Bill 82-105 makes it clear that this type of use can only exist in a D.R. zone if ... "such office or studio, is established within the same building as that serving as the professional person's primary residence..."This legislation was enacted to make reasonable accommodations for certain types of commercial activities within residential communities. Granting the exception without knowing what type of business will actually be at a particular site is not reasonable or necessary to accommodate home based businesses.

To allow an exception based on what may occur some time in the future is not only not supported by the law but, will place an enormous burden on communities to try and reverse the decision, if the business does not arrive fails to comply with the restrictions that are there to protect the communities from excessive commercialization.

The community will have to police the property to make sure that it is being used in accordance with the exception. If it isn't, then the community will have to file a complaint, etc. This could take a very long time during which the community suffers from a commercial enterprise that could be very intrusive in nature.

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I cannot urge you strongly enough to reverse this decision.

Thank you for taking the time to consider this matter.

Sincerely yours,

Wm Libercci

William M. Libercci

cc; Honorable Vincent Gardina, Councilman 5th District
David Marks, President, Perry Hall Improvement Association
Richard W. Parsons

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POST-APPEAL

Greater Towson Council of Community Associations, Inc.

334 Ridge Avenue, Towson, Maryland 21286

April 28, 1999

Correspondence to file received "post appeal"

Mr. Charles L. Marks, Chairman
Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Dear Mr. Marks,

I am writing to you in regard to the West Towson Neighborhood Association's appeal of Commissioner Schmidt's ruling on the case involving 516 Allegheny Avenue, owned by Abraham P. Korotki. (Case No. 98-468-SPHXA)

The main goal of the Greater Towson Council of Community Associations (GTCCA), of which West Towson is a member community, is to preserve the integrity of our residential neighborhoods. The ruling in this case not only runs counter to that goal, but also violates the main intent of County Council Bill #82-105 in that the residence in question should already be serving as the professional's primary residence. In that this property is currently unoccupied, it is difficult to comprehend how an unknown user could be granted a Special Exception for a heretofore unidentified profession.

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POST-APPEAL

To allow this ruling to stand will set a dangerous precedent for the county at large. Therefore, GTCCA recommends that the Board of Appeals overturn Commissioner Schmidt's decision.

Thank you for your attention to this matter.

Sincerely,

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POST-APPEAL

Susan Hughes Gray

Susan Hughes Gray
President, Greater Towson Council of Community Associations
410/828-1474

cc: Mr. Richard Parsons, West Towson Neighborhood Association

99 APR 30 PM 2:47

Southland Hills Improvement Association
Vincent P. Nesline, President
406 Alabama Road
Towson, MD 21204

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POST-APPEAL

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POST-APPEAL

May 4, 1999

Mr. Charles L. Marks, Chairman
Baltimore County Board of Appeals
Room 49
400 Washington Avenue
Towson, MD 21204

Re: Case # 98-468-SPHXA
Property: 516 Allegheny Avenue

Dear Mr. Marks:

On behalf of the Southland Hills Improvement Association, I want to express the Board's concern with the decision made by Zoning Commissioner Lawrence Schmidt regarding Case # 98-468-SPHXA. Specifically, our Board disagrees with his judgement the Petitioner was not required to identify a specific person when seeking the special exception relief.

Our interpretation of the Code on this matter is that certain professionals may establish an office within the same building that is serving as the professional person's primary residence. However the law does not authorize offices in the professional's primary residence as a matter of right if the residence is in a D. R. Zone of Baltimore County. The use of the residence as an office is a use that must be granted by special exception.

The subject property is in a D. R. Zone of Baltimore County. An owner of this property may apply for a special exception to use the primary residence as an office, provided that the owner's profession is a qualified profession. In this case, Zoning Commissioner Schmidt's decision has granted the Petitioner a special exception for use of the property as an attorney's office. However, the property is not the Petitioner's primary residence. Indeed, Zoning Commissioner Schmidt has granted the special exception to any attorney who may buy and use the property as their residence and office.

We disagree with this decision. We do not believe that the law permits the conclusion that a special exception can be granted prospectively on a property for any qualified professional use. We believe that the intent of the law is to have the professional seek the special exception after the professional has established the property as his or her primary residence.

We respectfully request that you overturn this part of the decision, and revoke the special exception that has been granted to the property owner.

Very truly yours,

Vincent P. Nesline

Vincent P. Nesline, President

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POST-APPEAL

99 MAY 10 PM 1:47
COUNTY BOARD OF APPEALS

Filename: SHIA letter re 516 Allegheny

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POST-APPEAL

Fellowship Forest Community Association

Howard C. Heiss, Jr.
President
1206 Stevenson Lane
Towson, Maryland 21286

Telephone 410-823-0628

May 12, 1999

99 MAY 17 PM 3:22
COUNTY BOARD OF APPEALS

Mr. Charles L. Marks, Chairman
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Dear Chairman Marks,

I respect Commissioner Lawrence Schmidts's ability and manner in conducting hearings having been present at a previous hearing he conducted. However his recent ruling in regard to case number 98-SPHXA is most difficult to understand. First his decision to grant a Specific Exception without naming the professional person who would use the concerned office in the residential dwelling is in direct conflict with said bill 82-105. Then too, if the professional was named it would mean the first "opening of the door" effect to a residential avenue, at this time totally residential. I believe Commissioner Schmidt's ruling would have a very probable domino effect on increased commercialization of the residential avenue, thus a likely example. Assume your decision would support Commissioner's Schmidt's, another resident would decide to sell his property, applying for the same Special Exception just granted for 98-SPHXA, he could list the property for a greater list price because of the Special Exemption advantage. A precedent is established by 98-SPHXA. I am sure you are aware of the tremendous inroads by commercial offices throughout the Towson area in residential locations. When will the home owners receive the security due from continued commercial invasion?

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POST-APPEAL

Secondly, this ruling could effect the entire Baltimore County. Any resident could take advantage of this decision, requesting the same type of exemption from the Zoning Board, placing a higher value on their property offering same as residential and potential office use as well.

Finally, is the individual being granted the exemption to be more favorably considered than the other residents on Allegheny Avenue, The West Towson Neighborhood Association and the surrounding community associations who oppose 98-SPHXA? Prayerfully, I request your support for all we opponents of 98-SPHXA.

Very truly yours,

Howard C. Heiss, Jr.

Howard C. Heiss, Jr.
President

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POST-APPEAL

THE GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS, INC.
61 BURKSHIRE ROAD, TOWSON, MD 21286

The Greater Towson Council of Community Associations' membership took action at its June 17, 1998 meeting to continue its support of the West Towson Neighborhood Association regarding the property located at 516 Allegheny Avenue, known as the "Korotki Property".

The Council voted to oppose the request for a special exception for a lawyers office at 516 Allegheny Avenue and to oppose all of the variances to be requested at the Special Hearing that has been petitioned by the owner, Abraham P. Korotki.

The GTCCA also approved Mr. Donald Gerding as its spokesman to testify on behalf of the GTCCA at any zoning hearing scheduled to consider this matter.

AS WITNESS OUR HANDS AND SEAL THIS 23rd day of June, 1998.

ATTEST:

Secretary

GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS, INC.

President

SEND COPY OF DECISION PLEASE TO:
J. DONALD GERDING
335 OLD TRAIL
BALTIMORE MD 21212

THE GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS WILL CONSIDER THE FOLLOWING RESOLUTION AT ITS JULY MEETING:

RESOLVED: That the Greater Towson Council of Community Associations, Inc. shall, for the remainder of the Year 1998, assign responsibility for review and action on all zoning and development matters to the Executive Committee and the Chair of the Zoning Committee consisting of the following members:

Elizabeth Z. Kahl, President
John Keenan, Vice President
Ron Porterfield, Recording Secretary
Robin Bruck, Treasurer
Frank Kaufmann, Corresponding Secretary
J. Donald Gerding, Zoning Committee Chair

AS WITNESS: OUR HANDS AND SEAL THIS 16 th DAY OF JULY, 1998.

ATTEST

Secretary

GREATER TOWSON COUNCIL OF COMMUNITY ASSOCIATIONS, INC.

President

:

MR. COMMISSIONER: THE KEY QUESTION IN THE SPECIAL EXCEPTION PETITION IS THE INTERPRETATION PLACED ON THE INTENT OF SECTION 1B01.1C.9B ~~B01.~~9.B THIS SECTION STATES THAT CERTAIN PROFESSIONS, AS A RIGHT, MAY ESTABLISH A PROFESSIONAL OFFICE IN A D.R. 3.5 RESIDENTIAL ZONE **PROVIDED THAT ANY SUCH OFFICE OR STUDIO IS ESTABLISHED WITHIN THE SAME BUILDING AS THAT SERVING AS THE PROFESSIONAL PERSON'S PRIVATE RESIDENCE.**

THE LANGUAGE USED, AND THE TENSE USED CLEARLY IMPLIES THAT THE BUILDING IN QUESTION IS ALREADY A PRIMARY RESIDENCE, AND THAT THE EXCEPTION IS BEING ASKED FOR AS A SUPPLEMENT TO A KNOWN USE. NOTE THE USE OF THE WORD '**SERVING**'. THE REGULATION DOES NOT SAY '**WHICH WILL ALSO SERVE AS**'. SERVING IMPLIES AN EXISTING STATE, NOT SOME FUTURE POTENTIAL ACTION. THE INTENT WHICH MAY BE READ FROM THE LANGUAGE OF THE REGULATION IS THAT THE USE PETITIONED IS PERMITTED IF (1) A PROFESSIONAL PERSON RESIDENT IN A PROPERTY PETITIONS TO USE PART OF IT FOR AN OFFICE, OR, (2) AN INTENDED RESIDENT PROFESSIONAL PERSON WHO FITS THE A- OF-RIGHT DEFINITION- (NOT AN ABSENTEE OWNER). SUCH PETITIONS FOR PROFESSIONAL OFFICE USE COULD BEGIN AS EARLY AS THE DAY THE INTENDED PROFESSIONAL MOVES IN TO HIS OR HER PRIMARY RESIDENCE.

WHAT THE COMMISSIONER IS BEING ASKED TO SIGN OFF ON IS BASICALLY A PIG IN A POKE. THE PETITIONER SAYS ' GIVE ME THE SPECIAL EXCEPTION AND I WILL FIND A LAWYER' . WHAT THIS DOES IS PUT THE ONUS ON ARNOLD JABLON'S DEPARTMENT AND ON THE NEIGHBORS IN THE IMMEDIATE VICINITYOF PROVING WHETHER INDEED A RESIDENT HAS MOVED IN ANYTHING MORE THAN AN UPSTAIRS COT AND INDEED LIVES THERE, OR WHETHER IT IS A FULL BLOWN OFFICE WHICH BECOMES DARK AFYTER 5.00 PM, LIKE ALL THE BUILDINGS IN THE ROA AREA EAST OF HIGHLAND AVENUE. THIS CASTS THE NEIGHBORS IN THE TAWDRY ROLE OF PEEPING TOMS, WATCHING FROM BEHIND CURTAINS, KEEPING LOGS, AND CHECKING LICENSE PLATES. IT GIVES MR. JABLON'S DEPARTMENT A

DIFFICULT AND UNNECCESSARY TASK WHICH COULD BE AVOIDED WITH UPFRONT HONESTY. THIS HONESTY COULD COME WHEN THE PETITIONER WOULD SAY I DON'T HAVE A PURCHASER YET; WHEN I FIND ONE I WILL TELL HIM OR HER THAT I WILL PETITION FOR THE SPECIAL EXCEPTION FOR HIM/HER, AND SHE. HE CAN INDEED TELL THE COMMISSIONER HIMSELF OR HERSELF **AT THAT TIME** THAT THE BUILDING WILL BE USED IN THAT WAY IF THE EXCEPTION IS GRANTED. OR, HONESTY AGAIN, THE PETITIONER CAN SELL THE BUILDING FOR WHAT THE GOING' MARKET PRICE IN A RESIDENTIAL COMMUNITY, AND THE PURCHASER CAN PETITION FOR THE SPECIAL EXCEPTION ON HIS OR HER OWN, DEMONSTRATING VISIBLE MERITSI TO THE COMMISIONER TO SUBSTANTIATE THE CASE--THAT IS, A RESIDENT PROFESSIONAL PERSON, A GIVEN NUMBER OF EMPLOYEES NOW WORKING AT ANOTHER SITE, AND A KNOWN TYPE OF PRACTICE WHERE THE HOURS ARE PREDICTABLE--DAY CLIENTS AS OPPOSED TO NIGHT CLIENTS, TYPE OF LAW PRACTICED, AND A TRACK RECORD BASED ON THE IDENTIFIED PROFESSIONAL PERSONS TESTIMONY OF THE NUMBER OF ADT'S THE OFFICE GENERATES.

IN SUCH A CASE THE COMMISSIONER MIGHT GRANT THE SPECIAL EXCEPTION PETITIONED BECAUSE ALL THE BASIC ELEMENTS WOULD HAVE BEEN IN PLACE--KNOWLEDGE AS TO WHO WOULD MAKE USE OF THE BUILDING, AWARENESS THAT THE USER WAS USING IT AS A PRIMARY RESIDENCE, AND THAT TESTIMONY ABOUT EMPLOYEES AND THEIR VEHICLES WOULD BE REAL EVIDENCE NOT HEARSAY OR SPECULATION BECAUSE SUCH MATTERS WOULD BE KNOWN AND PROVABLE.

THE COMMISSIONER CAN, ALSO, LIMIT THE SPECIAL EXCEPTION GRANTED TO THE USE OF THAT NAMED PROFESSIONAL , AND HEDGE IT SO THAT THE SPECIAL EXCEPTION EXPIRES AFTER THE PROFESSIONAL RETIRES THOUGH STILL CONTINUES TO LIVE IN THE PROPERTY. AN OPEN ENDED SPECIAL EXCEPTION, SUCH AS IS BEING REQUESTED COULD OPEN THE PROPERTY TO BEING SOLD BY A SUPPOSEDLY RESIDENT BUT AS-OF-NOW-UNKNOWN LAWYER VERY QUCKLY TO A DOCTOR OR DENTIST OR ANY OTHER EQUALLY UNKNOWN PROFESSIONAL, A PERSON WHOSE INTENTIONS, USAGES, CLIENTELE OR EMPLOYEE QUOTAS AND POTENTIAL TO GENMERATE TRAFFIC WILL HAVE NEVER BEEN PROBED BY THE

COMMISSIONER. THE PETITIONER'S UNKNOWN LAWYER IS UNDER NO OBLIGATION TO TRY TO SELL TO ANOTHER LAWYER; IF THE PETITION STANDS HE COULD SELL TO ANY UNKNOWN PROFESSIONAL

THE PETITIONER IS HIMSELF AN ATTORNEY. HOWEVER, BY THE LOGIC THAT MR. ALDERMAN IS APPLYING, I, WHO AM NOT AN ATTORNEY, COULD ASK YOU FOR A SPECIAL EXCEPTION FOR A LAWYER'S OFFICE BECAUSE I HAVE FRIENDS WHO ARE LAWYERS WHO MIGHT LIKE LESS EXPENSIVE OFFICE SPACE, . MY 19TH CENTURY HOUSE IS BIGGER THAN 516 ALLEGHENY AVENUE AND I HAVE NEARLY 3.4 OF AN ACRE. I CAN PARK TWO CARS BEHIND MY HOUSE AND COULD PARK MORE. I HAVE A HUNDRED FOOT DRIVEWAY. NEED I SAY MORE? ANYBODY WHO HAS ANY PROPERTY COULD, BY THE LOGIC BEING OFFERED IN THIS CASE, APPLY FOR A SPECIAL EXCEPTION FOR AN-AS-OF-RIGHT-UNNAMED AND UNIDENTIFIED PROFESSIONAL PERSON AND TURN EVERY HOUSE ON EVERY STREET INTO A PROFESSIONAL OFFICE. NO APPLLICANT FOR A SPECIAL EXCEPTION WOULD EVER AGAIN HAVE TO NAME OR PRODUCE AN INTENDED USER AFTER SUCH A PRECEDENTE . WHO WOULD MONITOR THE TRUTHFULNESS OF SUCH JOHNNY-COME-LATELY PROFESSIONAL OFFICES AS TO WHETHER THEY WERE INDEED PRIMARY RESIDENCES. YOUR CURRENT PETITIONER OFFERS THE COMMISSIONER NO GUARANTEE THAT HE WILL ENSURE THAT THE PURCHASER, SHOULD HE FIND ONE, WILL INDEED LIVE AT 516 ALLEGHENY AVENUE.

WITHOUT THE COMMISSIONER'S PERSONAL KNOWLEDGE THAT A PURCHASER OR LEASEE IS COMMITTED TO LIVING ON SITE, AND THE KNOWN CIRCUMSTANCES OF THAT INTENDED USER'S PROFESSIONAL USE THE COMMISIONER IS CONFRONTED WITH THE POTENTIAL OF TURNING EVERY D.R. PROPERTY IN BALTIMORE COUNTY PETITIONED BY A RESIDENT OR ABSENTEE (AND NOT NECCESSARILY PROFESSIONAL PERSON) OWNER INTO A PROFESSIONAL OFFICE AND EVERY RESIDENTIAL DISTRICT INTO A ROA OR RO ZONE. THE COUNTY COUNCIL INTENDED THAT ONLY **THEY** COULD CREATE ROA'S, OR RO'S, A MATTER WHICH THEY MAY CONSIDER EVERY FOUR YEARS WITH THE ZONING MAP CYCLE.

MR. FAULKNER GAVE TESTIMONY THAT THE PROFESSIONAL PERSON WHO HAS A CONTRACT ON HIS HOUSE IS DISTURBED BY THE PROPOSALS FOR 516 ALLEGHENY AVENUE AS SHE SEES THE FAULKNER PROPERTY AS A NICE RESDIENTIAL PLACE IN A NICE RESIDENTIAL AREA TO RAISE A FAMILY. MR. FAULKNER HIMSELF LIKES THE AREA SO MUCH THAT HE IS GOING TO STAY AND BUILD HIS OWN OWN NEW HOUSE ON HIS MINOR SUBDIVISION.

NONE OF THE PETITIONER'S WITNESSES COULD AGREE ON A DEFINTION OF UNIQUE, RANGING FROM MR. THALER'S INTERESTING PROPOSITION THAT EVERY PROPERTY IS UNIQUE TO MR. GERBER'S WHICH FOUND A MUCH NARROWER THOUGH EQUALLY NEBULOUS UNIQUENESS ABOUT THE SUBJECT PROPERTY. THERE IS NOTHING UNUSUAL OR UNIQUE ABOUT THIS PROPERTY, EITHER IN CONFIGURATION OF THE LAND, OR IN THE SOMEWHAT COMMONPLACE BUNGALOW APPEARANCE OF THE STRUCTURE. PERHAPS ITS SMALLNESS, IN COMPARISON WITH MANY OF THE OTHER PROPERTIES ON ALLEGHENY AVENUE MIGHT QUALIFY IT AS UNIQUE--BUT THIS KIND OF UNIQUENESS MIGHT TRIGGER IN THE COMMISSIONER'S MIND WHETHER SUCH A SMALL BUILDING COULD IN REALITY HOUSE A COMFORTABLE LIVING SPACE **AND** A REASONABLE OFFICE.

IT IS INTERESTING THAT THE PETITIONER REFUSED WHEN ASKED TO SHOW THE COMMISSIONER THE FLOOR PLANS FOR THE SECOND FLOOR.AT THE SAME TIME HE ASKS THE COMMSSIONER TO ACCEPT **ON FAITH** THE TOTAL FLOOR AREA FIGURES FOR THE WHOLE BUILDING AND THE 25% PROFESSIONAL USE. IT IS CURIOUS,THAT MR. THALER, AN EXCELLENT AND *THOROUGH ENGINEER, COULDN'T BE SURE ABOUT THE HEIGHT OF THE* BASEMENT. MR. THALER TOOK SOME OF HIS MEASUREMENTS FROM AN OUTSIDE WALL--THIS HARDLY CONSTITUTES A FLOOR AREA AS MOST FLOORS I HAVE EXPERIENCED ARE WITHIN INSIDE WALLS. MR. HISER, THE ARCHITECT, EXPLAINED THE CIRCUMSTANCES UNDER WHICH HE ENTERED 516 ALLEGHENYAVENUE, AND HOW, WITH AN ENGINEER, HE MEASURED THE ENTIRE INTERIOR. HIS FIGURES SPEAK FOR THEMSELVES. FAILURE OF THE PETITIONER TO SUPPLY THE ENTIRE MEASURED FLOOR PLAN OF THE BUILDING UNDERMINES THE CREDIBILITY OF THE FIGURES OFFERED IN EVIDENCE.

MR. HISER'S TESTIMONY HAS SHOWN THAT THE SECOND FLOOR IS WHAT BEST COULD BE DESCRIBED AS A BACHELOR PAD. IT IS UNLIKELY TO ATTRACT A MARRIED ATTORNEY--AND CERTAINLY NOT ONE WITH CHILDREN. EVEN A LADY ATTORNEY WORKING SOLO WOULD HAVE DIFFICULTY FINDING THE PROPERTY ATTRACTIVE TO SERVE AS BOTH HER OFFICE AND AN APPEALING ENOUGH PLACE TO BRING FRIENDS TO FOR A PARTY. A BEGINNING, UNMARRIED ATTORNEY, ASSUMING HE HADN'T BEEN PICKED UP BY A LARGE FIRM, MIGHT LOOK AT IT AS INVESTMENT TO AVOID PAYING A HIGHER RENT IN CENTRAL TOWSON BUT THE ASKING PRICE WOULD BE HIGH FOR A PERSON NEWLY IN PRACTICE, AND OUT OF SYNCH WITH RESIDENTIAL PRICES IN THE AREA FOR SIMILARLY SIZED HOUSES. AN OLDER, WIDOWED OR DIVORCED ,ATTORNEY WOULD BY THAT TIME IN LIFE BE SUFFICIENTLY AFFLUENT TO BE ABLE TO DO MUCH BETTER FOR HIMSELF OR HERSELF SPACE WISE, AND NOT HAVE TO LIVE ON A COT ABOVE THE SHOP LIKE A KID JUST OUT OF COLLEGE. MRS. HOLLAND'S TESTIMONY HAS SHOWN WHAT THE PRICES ARE FOR PROPERTIES IN THE AREA AND HAVING WHAT TYPE OF STRUCTURES ON THEM . MRS. HOLLAND'S PROFESSIONAL EXPERIENCE WITH COLDWELL BANKER HELPS HER SEPARATE WHEAT FROM CHAFF IN DETERMINING UNQUENESS IN PROPERTIES OFFERED FOR SALE. SHE FOUND NOTHING UNIQUE IN 516 ALLEGHENY AVENUE.

NONE OF THE PETITIONER'S WITNESSES COULD REMEMBER ANY SPECIAL EXCEPTIONS GRANTED PROFESSIONAL OFFICES IN A D.R.3.5 ZONS WHERE THE INTENDED USER WAS UNKNOWN, AND NONE OF THE PETITIONER'S WITNESSES COULD RECALL A FREE STANDING SIGN VARIANCE BEING GRANTED FOR A PROFESSIONAL OFFICE IN A D.R. 3.5. ZONE. AN ILLUMINATED STAND ALONE SIGN IS AN AGGRESSIVE INTRUSION INTO THE RESIDENTIAL APPEARANCE OF THE NEIGHBORHOOD.

MR. MOORE REPORTED A TRAFFIC STUDY BASED ON ONE DAY IN APRIL 1997. MISS PUGSLEY, A RESIDENT OF ALLEGHENY AVENUE AND THE OWNER OF TWO ATTRACTIVE WELL MAINTAINED PROPERTIES, OFFERED ADMITTEDLY ANECDOTAL INFORMATION ABOUT THE INCREASE IN YMCA TRAFFIC OVER THE YEARS, AND THE MANNER IN WHICH PEOPLE INGRESS

AND EGRESS THE Y. MISS PUGSLEY ALSO REPORTED ON THE VALUE TO THE COMMUNITY OF THE 4 WAY STOP SIGNS AT HIGHLAND AND ALLEGHENEY AVENUE. THESE SIGNS HAD BEEN OPPOSED BY MOORE WHEN TRAFFIC ENGINEER FOR BALTIMORE COUNTY AND ONLY PUT IN AT THE INSISTENCE OF THE COUNTY EXECUTIVE. MISS PUGSLAY AND MR. FAULKNER ALSO NOTED THAT WHILE ALLEGHENY AVENUE HAS SIDWALKS MOST OF THE REST OF WEST TOWSON DOES NOT, A FACTOR WHICH HAS TO BE BORN IN MIND WHEN DIGESTING TRAFFIC FIGURES ABOUT YMCA USAGE OF ANY KIND.

MR. MOORE FAILED, WHEN COMMENTING ABOUT THE HEALTH, SAFETY AND GENERAL WELFARE, OF THE AREA, TO NOTE THAT NON-RESIDENT DAYTIME PARKING IN THE WEST TOWSON AREA HAS REACHED SUCH A LEVEL THAT PERMIT PARKING IS NEEDED ON SOME STREETS, AND THAT TWO HOUR PARKING IS REQUIRED ON THE SOUTH SIDE OF ALLEGHENY AVENUE. HE FAILED TO NOTE TOO, THE YMCA JOGGERS WHO GENERALLY USE THE STREETS FOR THEIR RUNS, OR POWER WALKS. THEY ARE TO BE SEEN EVERY DAY, AND IN MASSIVE GROUPS ON SOME WEEEKENDS. THE AREA, UNTIL ONE RECENTLY MOSTLY AGING OR ELDERLY PEOPLE, HAS HAD AN AMAZING INFLUX OF FAMILIES WITH CHILDREN OF ALL AGES.

MR. GERBER RANGED SOMEWHAT DISINGENUOUSLY OVER THE ENTIRE AREA BETWEEN BOSLEY AND CHESTNUT AVENUE. A PAVED LOT BEHIND THE OLD ELEMENTARY SCHOOL, NOW DEPARTMENT OF THE AGING, HAS NO RELEVANCE TO A DECISION ABOUT THE 500 BLOCK OF ALEGHENEY AVENUE. SIMILARLY THE PETITIONER'S PHOTO OF THE SEIPP PROPERTY AT THE CORNER OF HIGHLAND AVENUE AND ALLEGHENY AVENUE, IN THE ROA ZONE, HAS NO RELEVANCE TO THE MATTER IN HAND. MR. GERBER ARBITRARILY ASSIGNED BOUNDARIES TO THE AREA OF HIS OWN MAKING.

ON THE OTHER HAND, OTHER TESTIMONY INDICATED THAT THE WEST TOWSON COMMUNITY PROTESTING THESE PETITIONS IDEFINES ITSELF AS BEING BOUNDED ON THE NORTH BY JOPPA ROAD, THE SOUTH BY CHESAPEAKE AVENUE, THE EAST BY HIGHLAND AVENUE AND THE WEST BY CHARLES STREET AVENUE. NONE OF THE WITNESSES WERE ABLE TO EXPLAIN WHY THEY FELT A CRUSHER RUN FRONT YARD AND AN

ILLUMINATED STAND ALONE SIGN WERE IN KEEPING WITH THE RESIDENTIAL CHARACTER OF THE NEIGHBORHOOD-- ON THAT ONE THEY ALL RETREATED UNDER THE TENT OF PROFESSIONAL JUDGEMENT. THEY COULD NOT RECALL OTHER FRONT YARDS IN THE AREA BEING CRUSHER RUNNED.

MR. FAULKNER HAS DISCUSSED THE EFFECT OF THE PROPOSED PARKING ON THE INGRESS AND EGRESS TO HIS OWN PROPERTY, AND HIS VIEWS ABOUT THE SIGN. MISS PUGSLEY WHO WOULD HAVE TO LOOK AT IT DAILY ALSO COMMENTED ON IT. MR. FAULKNER AND MISS PUGSLEY COMMENTED ABOUT THE LACK OF SIDEWALKS IN MOST OF WEST TOWSON, AND THE HEAVY USE OF THE TWO TWO-WAY NARROW ACCESS ROADS TO ALLEGHENY AVENUE AS THE MAIN ROUTES TO THE YMCA FROM TOWSONTOWN BOULEVARD.

FINALLY, IN THE MATTER OF THE OTHER VARIANCES BEING PETITIONED, I WOULD ASK THAT THE TESTS CALLED FOR IN CROMWELL VERSUS WARD BE APPLIED. THE PETITIONER SUBDIVIDED HIS OWN PROPERTY, ACCORDING TO HIS PLAT, IN FEBRUARY 1996. THIS ACREAGE WAS ONCE AN ORCHARD AND HAS NEVER BEEN DEVELOPED. SELF IMPOSED HARDSHIP IS NOT REALLY A HARDSHIP AT ALL. IF A PERSON SELLS OFF LAND, OR SUBDIVIDES IT WITH THE INTENT TO SELL, AND BY SO DOING LEAVES HIMSELF TOO LITTLE LAND ON WHICH TO BUILD (**OR PARK**) HE HAS CREATED BY HIS OWN CHOICE HIS OWN HARDSHIP. HE IS NOT ENTITLED TO RELIEF FROM THIS SELF CREATED HARDSHIP WHICH WOULD BE TO THE DETRIMENT OF THE RESIDENTIAL CHARACTER OF THE COMMUNITY, THE TOTALITY OF THE HEALTH, SAFETY AND GENERAL WELFARE CHARACTER-, WHICH WAS A PRIME REASON WHY THE PEOPLE IN THIS NEIGHBORHOOD BOUGHT THEIR PROPERTY.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
D.S. THALER	2115 AMBASSADOR RD BALT MD 21214
Howard L. Alderman Jr	305 W. Chesapeake Ave #113 21204
RICHARD MOORE	420 VIRGINIA AVE 21286
NORMAN E GERBER	35 PICKBURN CT 21030

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on Recycled Paper

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Abraham Paul Korotki	11931 Park Heights Ave. Owings Mills, Md. 21117
Richard Moore	Wells & Associates 420 Virginia Ave 21286
Howard L. Alderman, Jr Esq Levin & Gann, PA	305 W. Chesapeake Ave #113 Towson MD 21204
David S. Thaler, PE D.S. Thaler & Assoc., Inc.	7115 Ambassador Road Baltimore MD 21207

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98-468 SPHXA
7-13-98

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

	NAME	ADDRESS
Speak	• Richard Parsons *copy of decision	412 Woodbine Ave. 21204
Speak	Venetia Holland	526 Allegheny Av. 21204
Speak	• Donald Gerding *copy of decision	335 Old Trail 21212
Speak	Michael L. Faulkner (Faulkner)	520 Allegheny Ave 21204
	John C. Wallace	509 Park Ave 21204
	Pamela S. Wallace	509 Park Ave 21204
Speak.	Frederick A. Heyn Heiser	523 Park Ave 21204
	James Fisher	540 Allegheny 21204

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

98-468 SPHXA 7/27/98

NAME		ADDRESS
Copy of Decision plan → * J. DONALD GERDING	Greater Towson Council of Community Assoc.	335 Old Trail 21212
" → * Richard Parsons	West Towson Neighborhood Assn	412 Woodbine Ave Towson 21204
Michael K. Tanbert	West Towson Neighborhood Assn	520 Allegheny Ave Tow 21204
Venetia Holland		526 Allegheny, Towson 21204
Mary Ginn		606 Woodbine, Towson 21204
Adele Buhel Reidy		502 GROOM DR. TOWSON, 21204
PATRICK NOLAN		513 PARK AVE TOWSON MD 21204
JOHN C WALLACE		509 Park Ave Towson MD 21204
PAMELA H. WALLACE		509 PARK AVE TOWSON, MD 21204

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

98-468 SPHXA

7/28/98

NAME	ADDRESS
Copy of Decision Plan * J. DONALD GERDING Greater Towson Council/Comm Assoc.	335 Old Trail 21212
* Richard Parsons	412 Woodbine Towson 21204
Venetia Holland	526 Allegheny, Towson 21204
Beverly Pugsley	513 Allegheny Ave.
Michael Faulkner	520 Allegheny Ave. Towson 21204
FREDERICK HISER	523 PARK AVE TOWSON 21204
John Wallace	509 Park Ave Towson 21204
Mrs Mary E. Gunn	606 Hornchest Rd. 21204
JIM FRAHER	540 Allegheny Av

Summation Notes #98-468SPHXA 7/28/98

1/2

has petitioner proved

(1) that a special exception is appropriate due to the property/site being unusual or unique from neighboring properties in this residential zone

has petitioner proved

(2) that there are unusual circumstances relating only to this property in this residential zone

has petitioner proved

(3) practical difficulty or unnecessary hardship will develop if the various petitions requested are denied

The requests for various relief are being sought to enhance the sale of the property as an attorney office - which on this property could most likely be marketed as a pure residence within a residential zone. It is the position of the greater Towson area community groups that I represent - that the proposed use is not compatible with the West Towson Community. Better than 10 years ago the agreed boundary the communities and business/professional users agreed upon was Highland Ave. There are enough

property/site opportunities inside the agreed to Area to meet the needs for small office space. Where does the push into residential zones stop? Community organizations have grave concern with ever shifting boundries — the constant push to allow special business interests to invade the residential areas. The precedents that these actions establish erode the residential values and if continued — will lead to the downfall of the residential zone — and our communities will become the Calvert + St Paul Streets of Baltimore County. Our homes can have an "office at home" by regulation — and any more than that should settle within established commercial style zones. The public purchases "residential" for a reason — not to have business as next door neighbors. If special exceptions continue to be granted in these zones then the petitioned property becomes a very practical difficulty and a very unnecessary hardship for the genuine residential homeowner.

It is for this rationale that we strongly urge the various petitions in Case # 98-468SPHXA be denied.

H.O.

I noticed this hearing may be within the 18 month time as stated in Sec 500.12; Arnold said it was ok to accept with the memorandum.

Kate

Attached to SPX petition

ARNOLD JABLON, ZONING COMMISSIONER	)	IN THE
	)	CIRCUIT COURT
Plaintiff	)	FOR
vs.	)	BALTIMORE COUNTY
ABRAHAM PAUL KOROTKI	)	
Defendant	)	CASE NO. 87CG4880

MEMORANDUM OPINION AND RULING ON DEFENDANT'S MOTION FOR JUDGMENT

Defendant, Abraham Paul Korotki, filed this appeal from a judgment entered on October 28, 1987 following hearing in the District Court for Baltimore County on a citation issued to Defendant charging a civil zoning violation for "use of residence as a professional office without benefit of a special exception."

Evidence was presented in open court on June 6 and June 7, 1988. This Court reserved ruling on Defendant's Motion for Judgment at the end of the County's case. Defendant renewed the Motion for Judgment at the conclusion of all of the evidence and the ruling was held sub curia. Post trial memoranda were submitted by both the County and Defendant.

The issue presented on Defendant's Motion for Judgment concerned the relatively narrow legal question

FILED AUG 22 '88

of whether a property owner who operated a law office from a residence as a use of right is subject to citation for a zoning violation, and the penalties incident thereto, solely by reason of the owner's failure to make application for a special exception to continue the prior use after the enactment of a County Council ordinance. Such an ordinance was made effective on August 26, 1982, requiring that uses such as that at issue in this case be allowed only by a special exception.

After considering the testimony presented, the arguments of counsel and memoranda filed, this Court is satisfied that there is no existing statutory authority to support a citation for a zoning violation charging only the failure of a property owner who has established a use of right prior to 1982, to apply to the Department of Zoning for a special exception to continue the use.

Accordingly, Defendant's Motion for Judgment is herewith **GRANTED.**

8/18/88
DATE

William M Nickerson
WILLIAM M. NICKERSON, JUDGE

203

Copies Sent To:

Ted Flerlage, Esquire
200 West Pennsylvania Avenue
Towson, Maryland 21204

Mary Welcome, Esquire
Office of the County Attorney
Court House, Room 202
400 Washington Avenue
Towson, Maryland 21204

PAULA A SOTIR

CURATIVE
HEALTH SERVICES
THE LEADER IN WOUND CARE MANAGEMENT

July 28, 1998

Michael Faulkner
520 Allegheny Ave
Baltimore, Maryland 21204

Dear Michael

I recently read the article on a potential zoning change on Allegheny in the Sunday paper yesterday. I was concerned that the residential zoning may change with a house that is next door to the house in which I have recently placed a contract to purchase.

My understanding was that the neighborhood would stay residential. I asked what the "story" was on the house next door. You mentioned that the zoning was residential which is my expectation for the neighborhood.

I strongly oppose changing the zoning for house next door. I want to raise a family in a quiet residential neighborhood.

Sincerely,

Paula A. Sotir

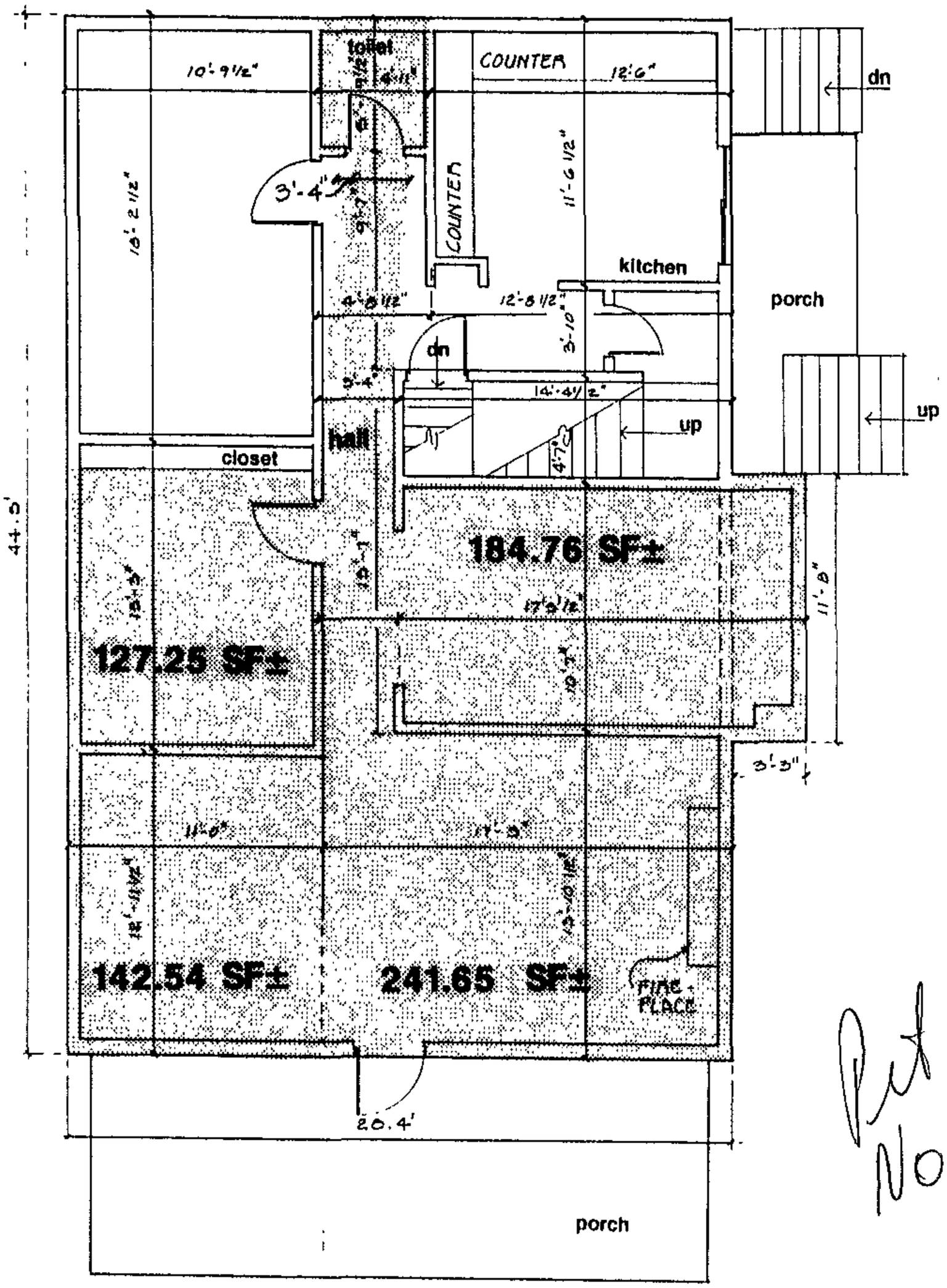
Paula A. Sotir
410-752-8200

Prot No 3 (ID)

301 WARREN AVENUE #422 BALTIMORE MD 21230 PHONE 410 752 8200 FAX 410 [illegible]
VOICE MAIL 516 689 2593 EXT [illegible]

Sidewalk

hall = 97 SF±
toilet = 28.47 SF±



Pet No3

FIRST FLOOR PLAN
SCALE: 1" = 1/8"

Exhibit "D"
(To accompany Special Exception)

PROP. OFFICE AREA = 809 SF±

516 Allegheny Avenue,
Towson, Md. 21204

D.S.THALER & ASSOC., INC.
CIVIL ENGINEERS
LANDSCAPE ARCHITECTS
SURVEYORS
LAND PLANNERS
7115 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21207
(410) 944-ENGR (410) 944 3647

John R. Bashaar
Sally D. Bashaar
502 Allegheny Avenue
Towson, Maryland 21204

July 28, 1998

Pet No 5

Howard L. Alderman, Jr. Esquire
305 West Chesapeake Avenue Suite 113
Towson, Maryland 21204

RE: Variance 516 Allegheny Avenue

Dear Mr. Alderman:

We read the article appearing in the July 26, 1998 Sunday Sun regarding the above referenced case. We view the facts in a somewhat different light.

We have lived at 502 Allegheny Avenue since October 1978 and have maintained a small law office in our home. During that time our three children were born. Our eldest daughter is now a senior at Towson High School. With an investment of well over $200,000.00 in our home we have a huge stake in the stability of our community.

When we moved into our home Mr. Korotki lived at 516 Allegheny Avenue and had a law office there. He conducted himself with decorum and maintained his property in an excellent condition. Over the years he continued to set an excellent example by keeping his property in an attractive condition in sharp contrast to the houses next door and across the street from us which are owned by absentee landlords who lease to college students and other transient persons.

The YMCA is a major business enterprise. Hundreds of cars travel past our home every day of the week to use its facilities. Mr. Korotki's proposal for a small law office in his home at 516 Allegheny Avenue would not create a noticeable difference in automobile traffic nor would it impact negatively on the neighborhood.

In summary we appreciate the fact that Mr. Korotki has set a good example for the community by keeping his property in a clean attractive condition over the past 20 years and any improvements to his home would improve the neighborhood as well.

Very truly yours,

John R. Bashaar

Sally D. Bashaar

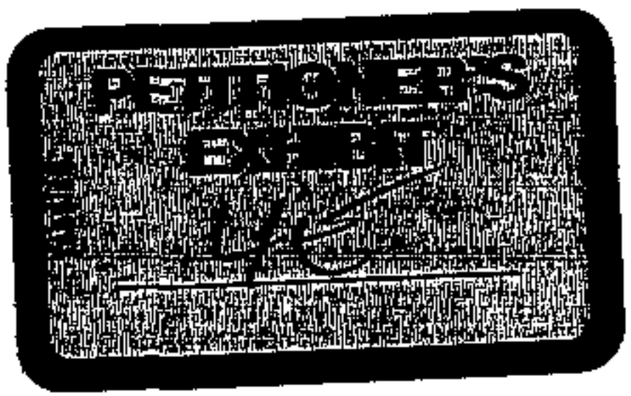
Sally D. Bashaar

Looking North
@ Subject Property

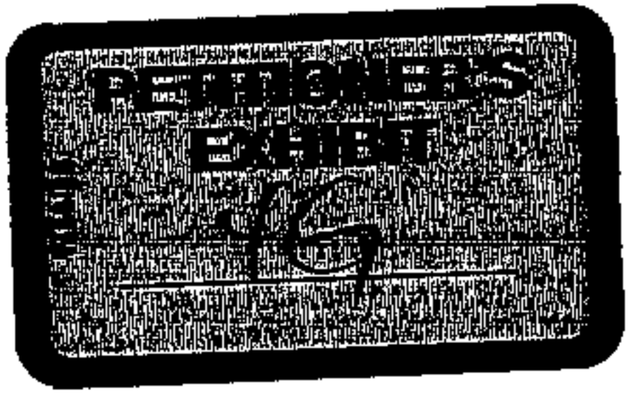
West Elevation of Existing Improvements

PETITIONER'S EXHIBIT 7

East (side) & North (rear) Elevation
of Existing Improvements



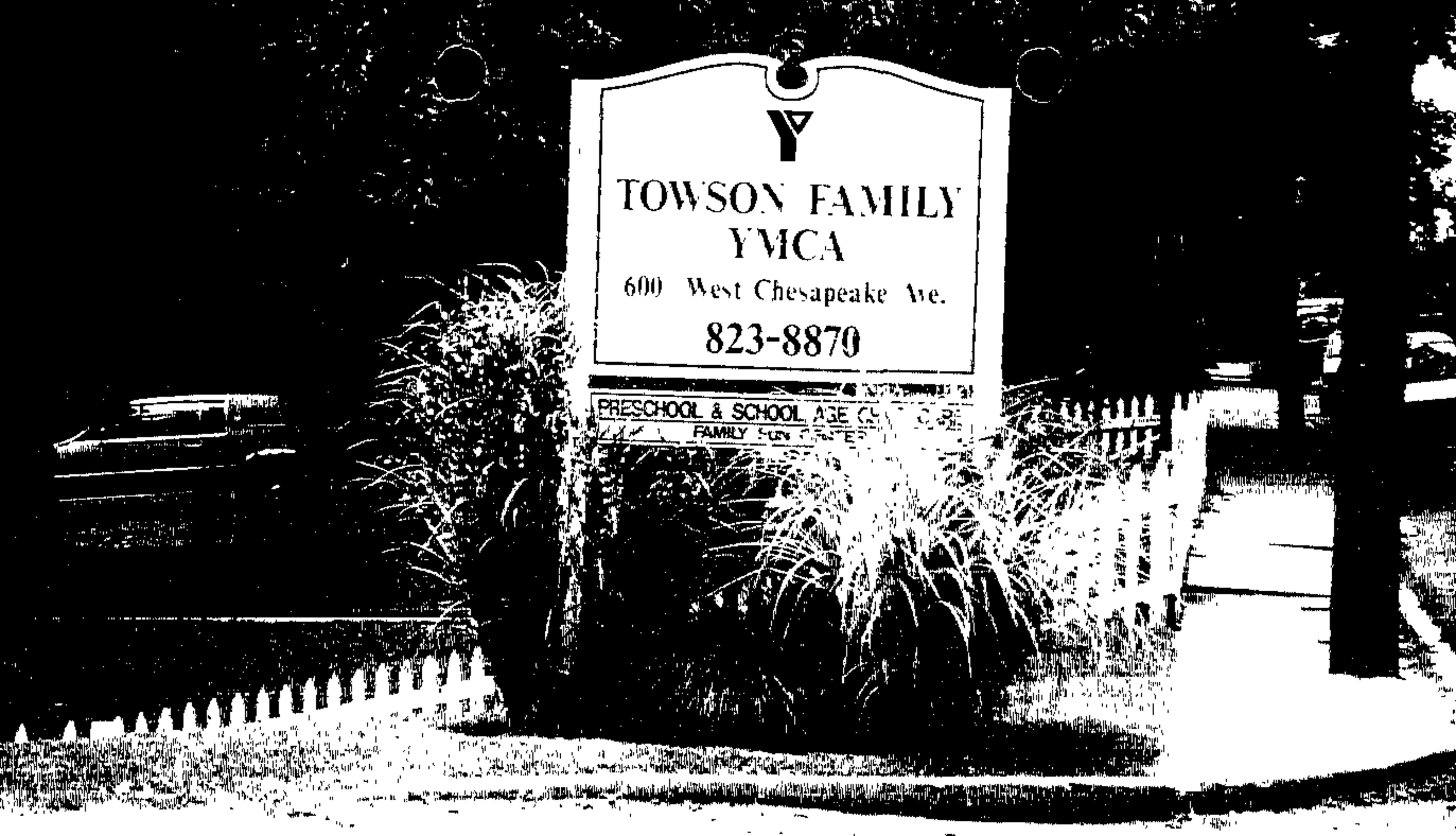
Looking N/W at Subject Property



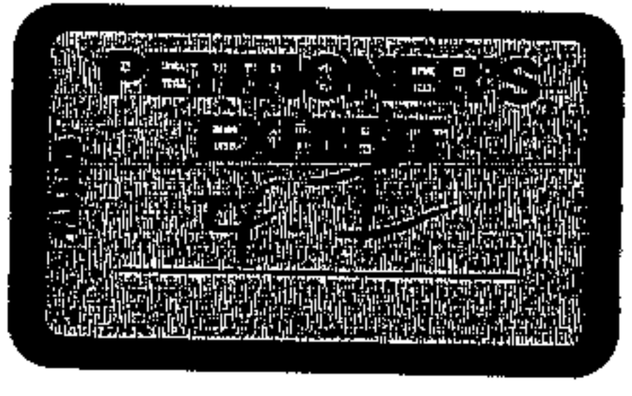
YMCA
SUBJECT PROPERTY

Looking South From Subject Property
into YMCA parking lot

PETITIONER'S
EXHIBIT
7


TOWSON FAMILY
YMCA
600 West Chesapeake Ave.
823-8870
PRESCHOOL & SCHOOL AGE
FAMILY

YMCA Sign Immediately Across
from Subject Property

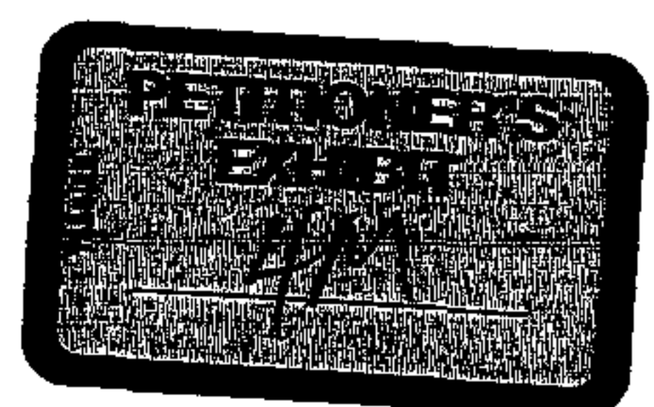


Property Immediately East of
Subject Property

PETITIONER'S
EXHIBIT
#1

Property Immediately East of
Subject Property

Looking N/E @ Basha Residence/
Office
and parking area



East Elevation of Existing Improvements

PETITIONER'S
EXHIBIT

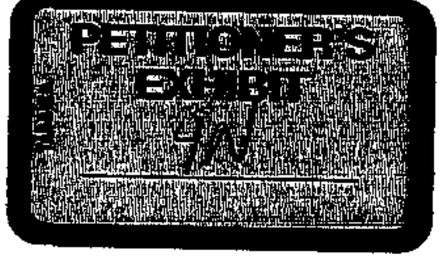
Bashar Residence / Law Office

N/W Corner of Allegheny & Highland

PETITIONER'S EXHIBIT 42

SPEED
LIMIT
25

N/E Corner of Allegheny & Highland



Subject
Property

Looking West on Allegheny Ave

PETITIONER'S EXHIBIT C
44

SUBJECT
PROPERTY

Allegheny Ave - Looking East

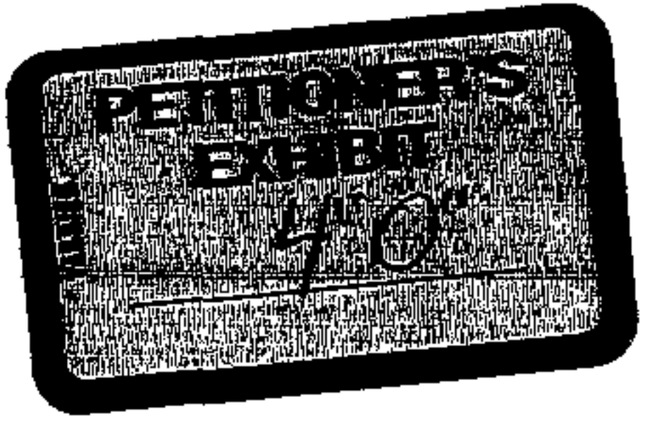
PETITIONERS
EXHIBIT
47

Ind Nov

Vola E Taylor CRS
560-1455
337-9300

Proof No 2

Paved Parking behind bldg at
N/E Corner of Highland and Allegheny



#98-468-SPHXA

ALLEGHENY AVE.
OFFICE CONVERSIONS
EAST OF HIGHLAND AVE

(NOTE ABSENCE OF
FRONT/SIDE YARD
PARKING)

Prot Nos

10 SPHXA

BASHAAR RESIDENCE
ALLEGHENY AVE

RESIDENTIAL CHARACTER
ON ALLEGHENY AVE

VIEW FROM 516 ALLEGHENY
FRONT PORCH TOWARDS
YMCA DRIVEWAY
(NOTE ABSENCE OF GUARD
RAIL ON PORCH)

CASE
98-468
DHVA

516 ALLEGHENY AVE

SOUTH / FRONT ELEVATION

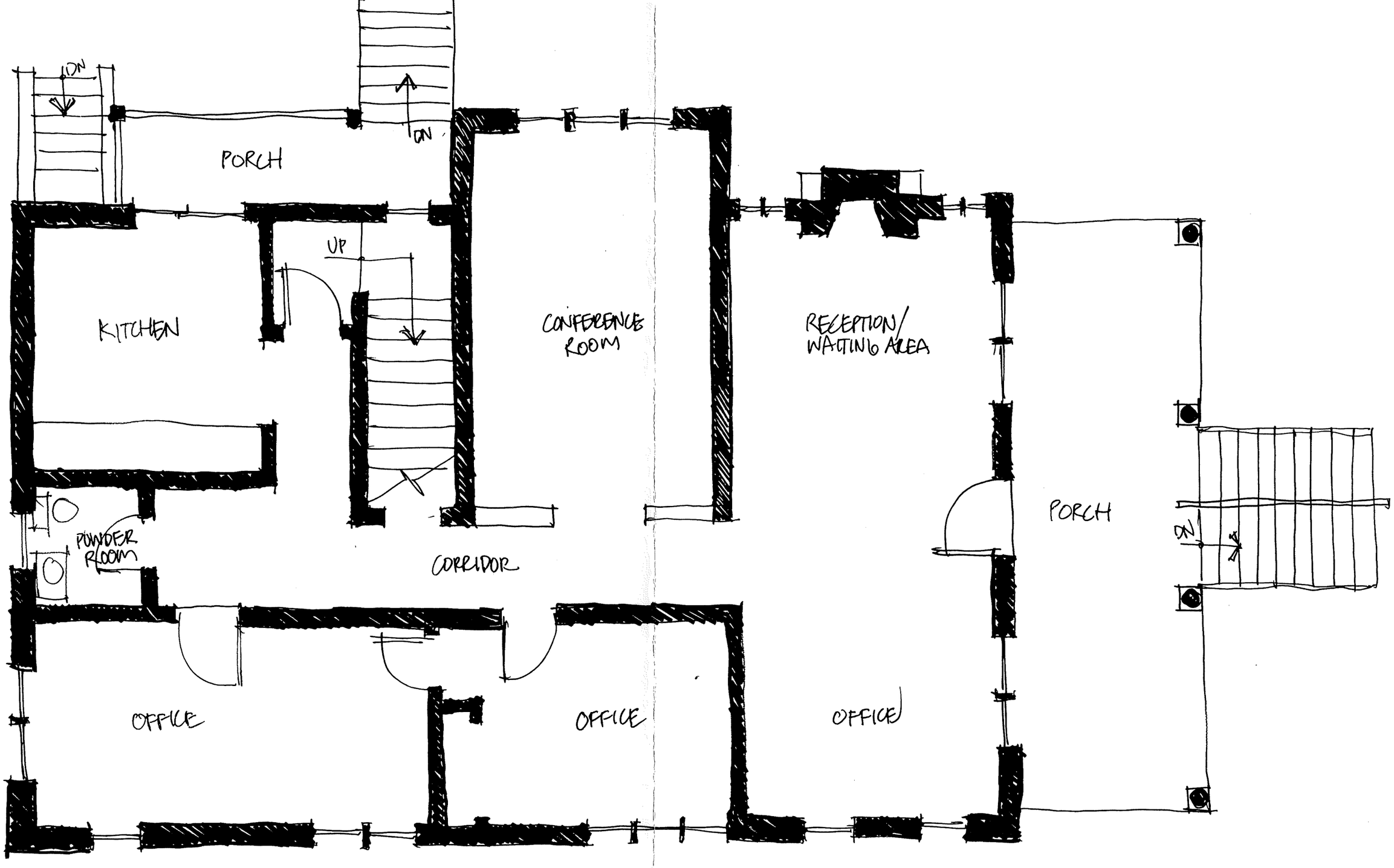
SOUTH / FRONT ELEVATION

NORTH / REAR ELEVATION

SOUTH WEST CORNER

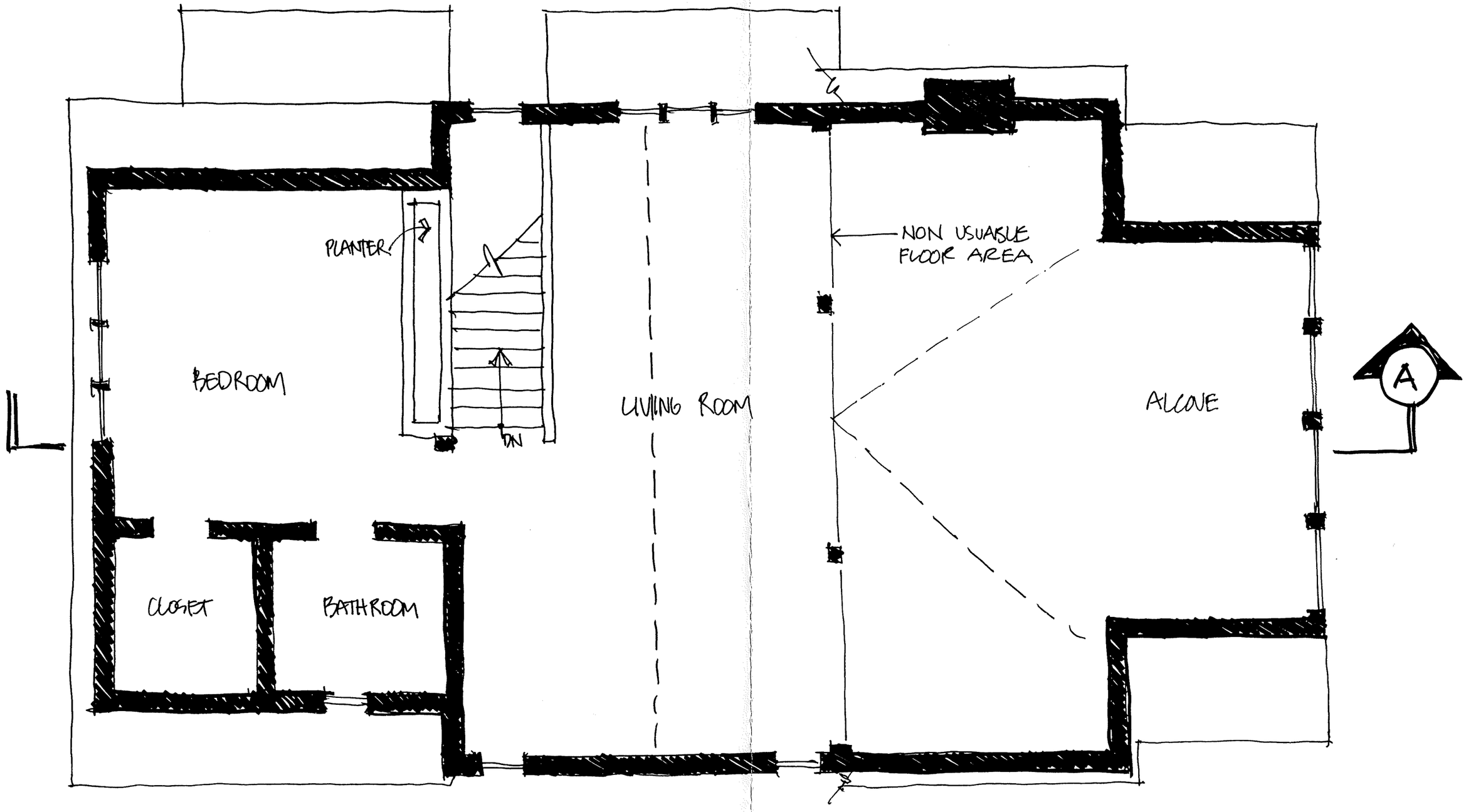
SOUTH EAST CORNER

NORTH EAST CORNER



MAIN LEVEL PLAN
1/4"=1'-0"

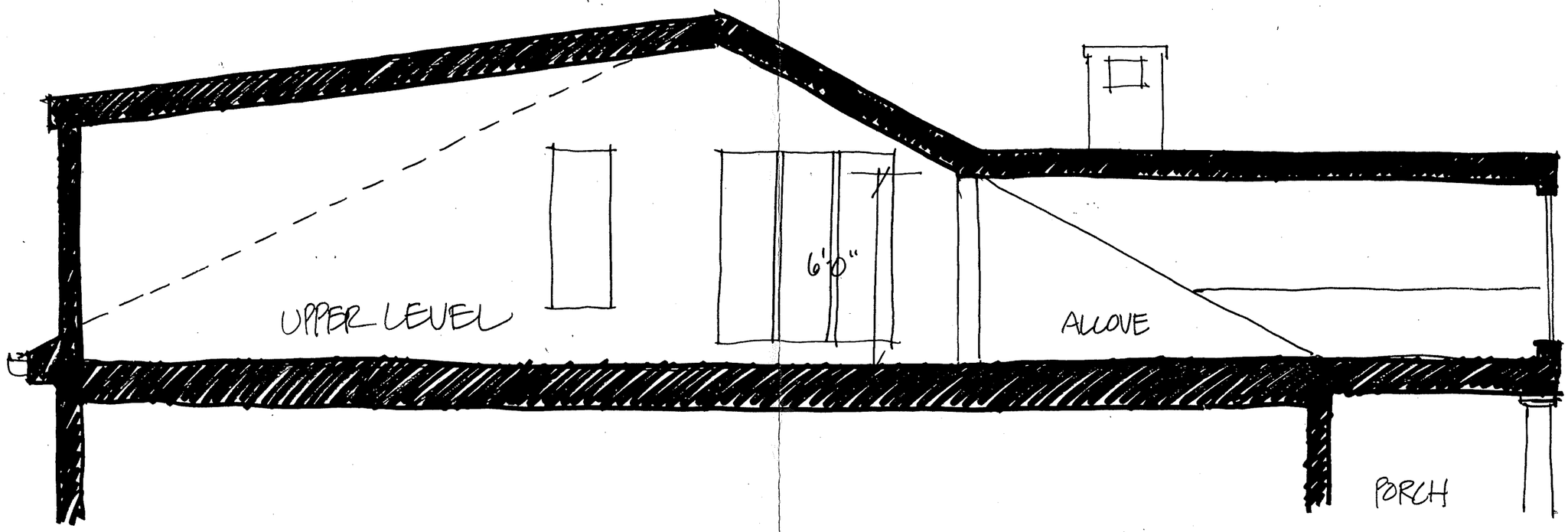
1,300 NET SQ FT USUABLE

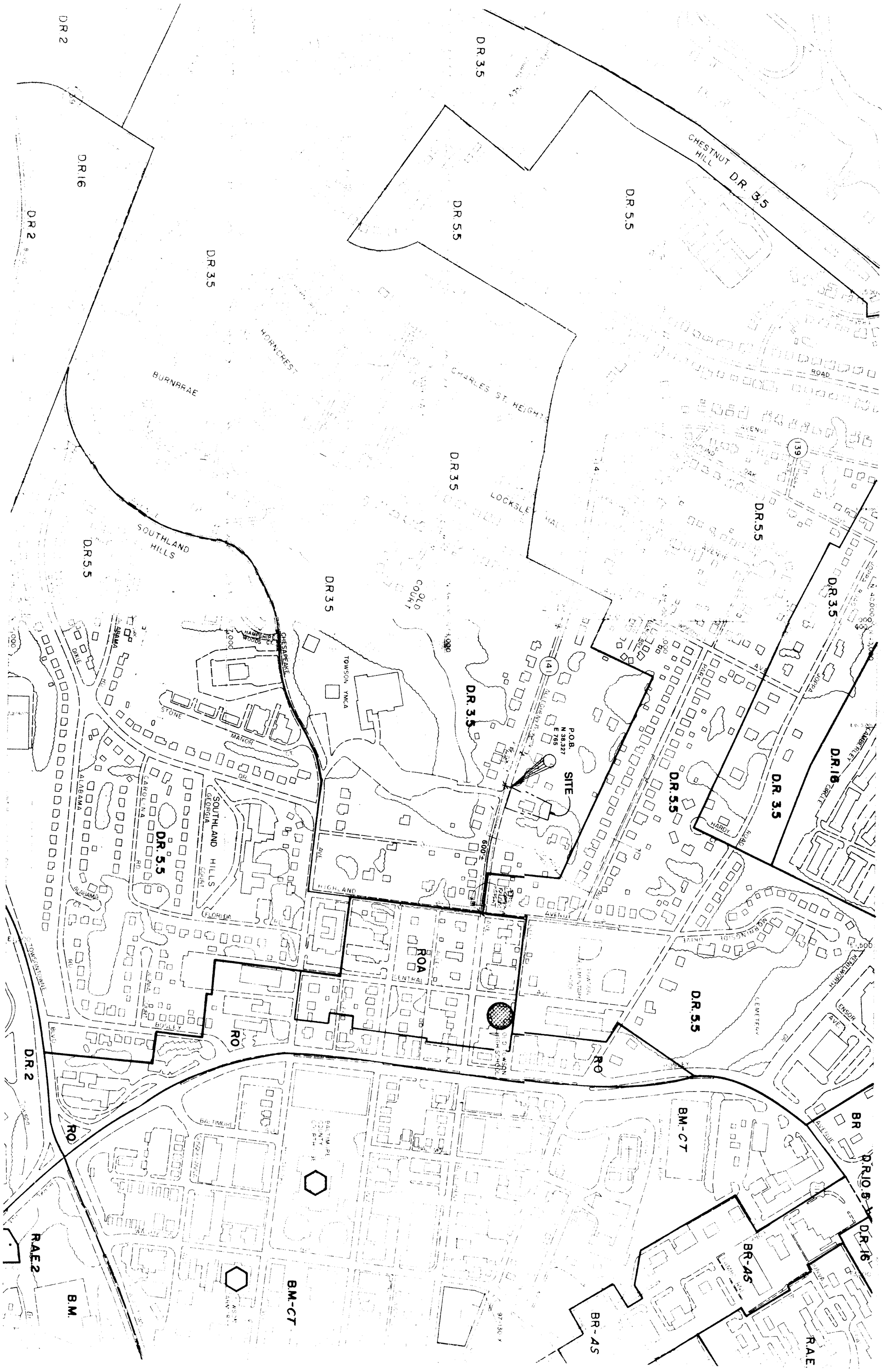


UPPER LEVEL PLAN

1/4" = 1'-0"

693.5 NET SQFT
USUABLE


6'-0"
UPPER LEVEL
ALCOVE
PORCH



1996 BALTIMORE COUNTY 200 SCALE ZONING MAP (NE 10-A) &
1996 BALTIMORE COUNTY 200 SCALE ZONING MAP (NW 10-A)
TO ACCOMPANY ZONING REQUEST

4-9-98

516 ALLEGHENY AVENUE

NORTH

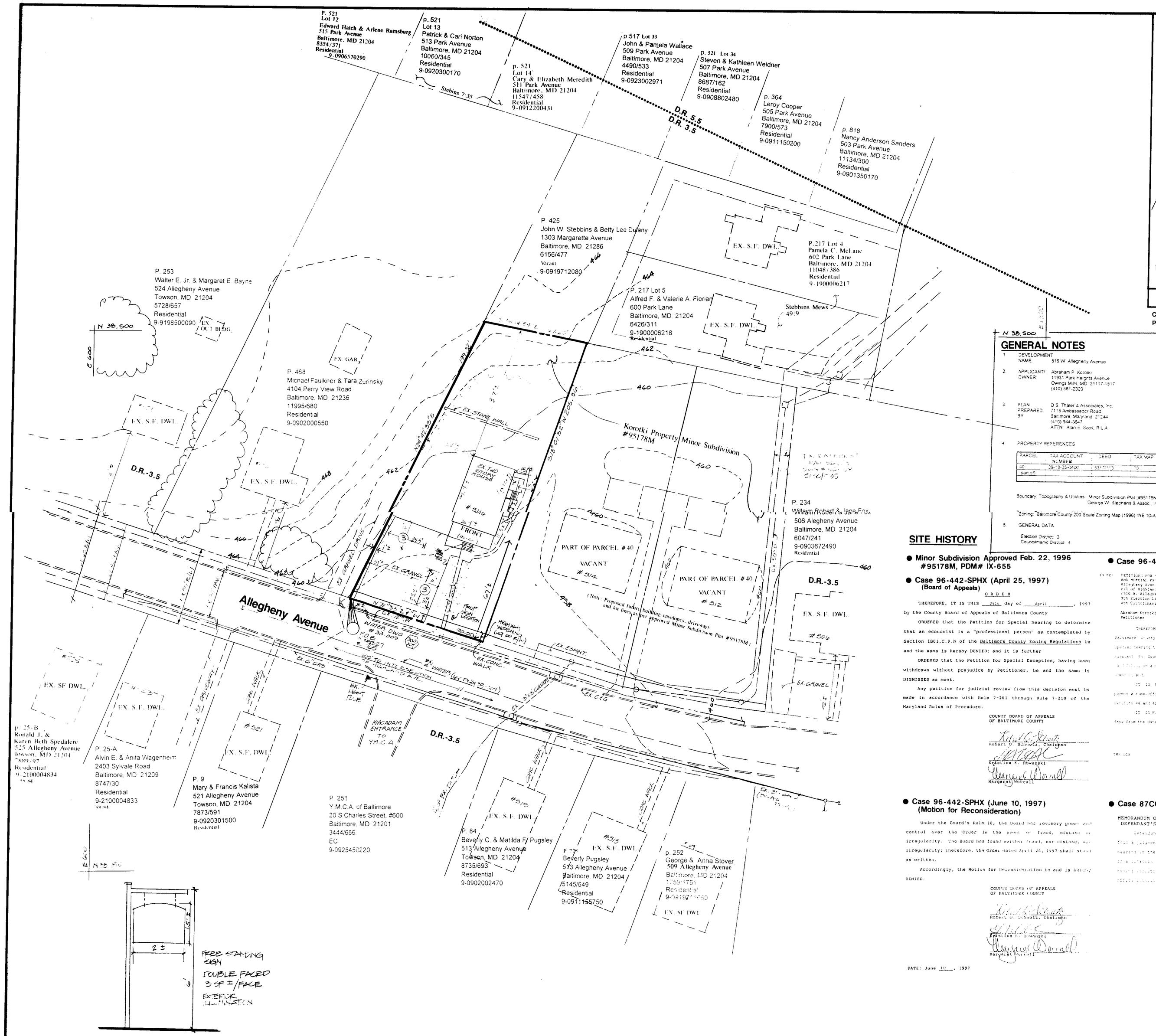
25' 100' 400'
50' 200'
SCALE: 1"=200'

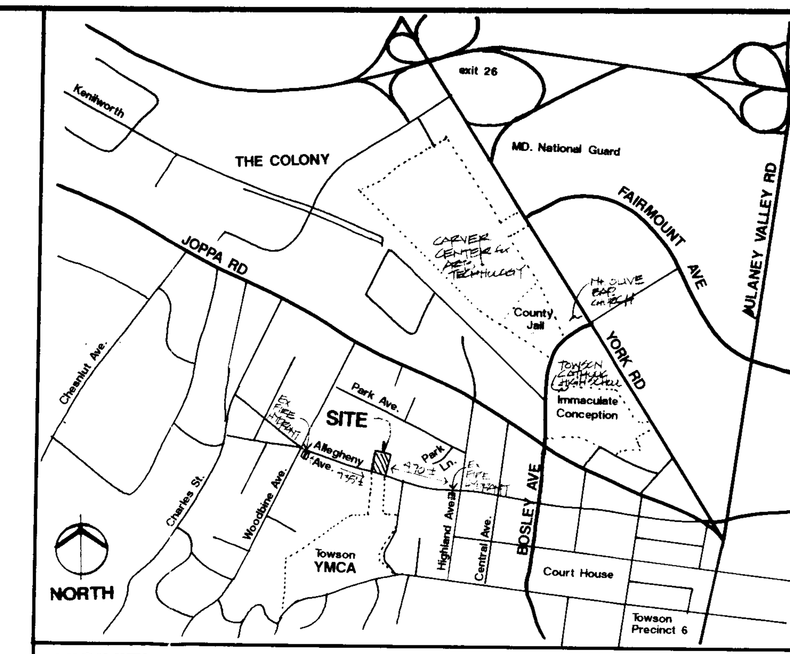
D.S. THALER & ASSOC., INC.
CIVIL ENGINEERS SURVEYORS
LANDSCAPE ARCHITECTS LAND PLANNERS
7115 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21244
(410) 944-ENGR (410) 944-3647

DST&A

98-468-SPHXA

468





VICINITY MAP SCALE:1" = 1000'

Copyright ADC The Map People
Permitted Use No. 20997501

GENERAL NOTES

1. DEVELOPMENT NAME 516 W. Allegheny Avenue
2. APPLICANT/OWNER Abraham P. Korotki, 11931 Park Heights Avenue, Owings Mills, MD 21117-1517, (410) 581-2323
3. PLAN PREPARED BY D.S. Thaler & Associates, Inc., 7115 Ambassador Road, Baltimore, Maryland 21244, (410) 944-3647, ATTN: Alan E. Scott, R.L.A.
4. PROPERTY REFERENCES

PARCEL	TAX ACCOUNT NUMBER	DEED	TAX MAP	GRID	PARCEL	ADC MAP
40	09-18-35-2400	5317/113	73	4	1945	C-3
(part of)						

Boundary, Topography & Utilities: Minor Subdivision Plat (#95178M) prepared by George W. Stephens & Assoc., Inc. (Revised 1996)

Zoning: Baltimore County 200 Scale Zoning Map (1996) (NE 10-A & NW 10-A)

5. GENERAL DATA
   Election District: 3
   Councilmanic District: 4
6. SITE INFORMATION
   A. Acreage
      Gross = 0.41± (90 Linear Feet X 25 Feet Wide)
      Net = 0.36±
   B. Existing Zoning: DR-3.5
      Allowed: 0.41 Acs X DR-3.5 = 1 Lot — Gross Floor Area: 1,361 SF; Allowed Professional Office Area: [illegible]
      Proposed: 1 Lot — Proposed Professional Office Area: 951 SF ±
   C. Parking
      Spaces: Residential Use = 2
      Required = 3.3 spaces/1,000 SF office use = 3
      Proposed = 6 Spaces
7. UTILITIES: Public water and sewer are provided.
8. USE: The existing use is residential. The proposed use is professional office & resident at.
9. ROADS: All roads are public.
10. AVERAGE DAILY TRIPS (ADTS): Average daily trips as calculated from the Baltimore County Comprehensive Manual of the Development Policy
    25/1,000 SF x 38 = ADTS
    10 Single Family Detached Homes = 10 ADT — Total: 48 = ADT
11. STORMWATER MANAGEMENT (SWM): Waiver granted November 1995
12. This property, as shown on the plan has been held intact since 1945 (according to minor subdivision #95178M). No known part of the gross area of the property as shown on the plan has been utilized, recorded or represented as density or area to support any offsite dwellings.
13. Future signage shall conform with Section 450 of B.C.Z.R. and all zoning policies (unless approved by the Zoning Commissioner).

SITE HISTORY

● Minor Subdivision Approved Feb. 22, 1996 #95178M, PDM# IX-655

● Case 96-442-SPHX (April 25, 1997) (Board of Appeals)

ORDER

THEREFORE, IT IS THIS 25th day of April, 1997 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing to determine that an economist is a "professional person" as contemplated by Section 1B01.C.9.b of the Baltimore County Zoning Regulations be and the same is hereby DENIED; and it is further

ORDERED that the Petition for Special Exception, having been withdrawn without prejudice by Petitioner, be and the same is DISMISSED as moot.

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

Robert O. Schwartz, Chairman
Kristine K. Howanski
Margaret Worrell

● Case 96-442-SPHX (June 10, 1997) (Motion for Reconsideration)

Under the Board's Rule 10, the Board has revisory power and control over the Order in the event of fraud, mistake or irregularity. The Board has found neither fraud, nor mistake, nor irregularity; therefore, the Order dated April 25, 1997 shall stand as written.

Accordingly, the Motion for Reconsideration be and is hereby DENIED.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Robert O. Schwartz, Chairman
Kristine K. Howanski
Margaret Worrell

DATE: June 10, 1997

● Case 96-442-SPHX (August 8, 1996)

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION - NE/S of Allegheny Avenue, 560' W of the c/l of Highland Avenue (516 W. Allegheny Avenue) 9th Election District 4th Councilmanic District

Abraham Korotki
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-442-SPHX

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 8th day of August, 1996 that the Petition for Special Hearing to approve that an economist is a "professional person", pursuant to Section 1B01.C.9.b of the Baltimore County Zoning Regulations be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a professional office in a D.R. 3.5 zone in accordance with Petitioner's Exhibits 45 and 46, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petitioners shall have thirty (30) days from the date of this Order to file an appeal of this decision.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

● Case R-93-304 (November 24, 1993)

IT IS THEREFORE this 24th day of November, 1993 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Reclassification from D.R. 1 to D.R. 2 be and is hereby DENIED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett, Chairman
Michael P. Tanczyn
Harry E. Buchheister, Jr.

● Case 91-CSP-1678

Petition for a Permanent Injunction - Did not go to trial

● Case 87CG4880 (August 18,1988)

MEMORANDUM OPINION AND RULING ON DEFENDANT'S MOTION FOR JUDGMENT

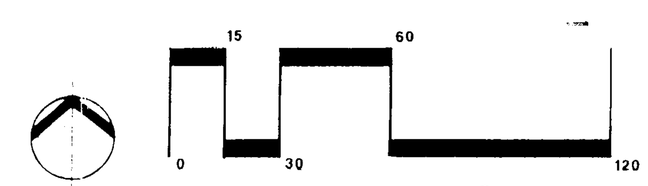
Defendant, [illegible], filed this appeal from a judgment entered on October 28, 1987 finding, inter alia, the Director, Office of Planning and Zoning, Baltimore County, in a contempt proceeding, guilty of a civil violation for failure to comply with an administrative order issued to defendant, [illegible] a [illegible] violation of the Baltimore County Zoning Regulations.

Case 87CG4880 Cont.

Based upon/from the testimony presented, the arguments of counsel, and memoranda filed, this Court is satisfied that there is no existing statutory authority to support a citation for a contempt violation, [illegible] from the failure of a property owner who has outstanding [illegible] to apply to the Department of Zoning for a special exception in violation of the law.

Accordingly, Defendant's Motion for Judgment is hereby GRANTED.

8/18/88



NORTH

SCALE: 1" = 30'

98-468-SPHXA

PLAT TO ACCOMPANY ZONING PETITION

516 W. ALLEGHENY AVENUE

1"= 30'
4-9-98
1 1
2096

468

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 050849

DATE 10/23/98 ACCOUNT R-001-6150

AMOUNT $ 425.00

RECEIVED FROM: Abraham P. Korotki

FOR: Appeal - Case #98-468-SPHXA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

EMP

PAID RECEIPT
PROCESS ACTUAL TIME
10/26/1998 10/27/1998 14:10:59
REG USO1 CASHIER ELLIN CNL DRAWER 1
5 MISCELLANEOUS CASH RECEIPT
Received # 074568
ORIGINAL 050849
425.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 050849

DATE 10/23/98 ACCOUNT R-001-6150

AMOUNT $ 425.00

RECEIVED FROM: Abraham P. Korotki

FOR: Appeal - Case #98-468-SPHXA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

EMP

PAID RECEIPT
PROCESS ACTUAL TIME
10/26/1998 10/27/1998 14:10:59
REG USO1 CASHIER ELLIN CNL DRAWER 1
5 MISCELLANEOUS CASH RECEIPT
Received # 074568
ORIGINAL 050849
425.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION