IN THE MATTER OF THE \* BEFORE THE

THE APPLICATION OF

DAVID MICHAEL COLEMAN -Owner; \* COUNTY BOARD OF APPEALS

FRANCIS L. HONEYWELL -Lessee

FOR SPECIAL HEARING, SPECIAL \*

EXCEPTION AND VARIANCE ON

PROPERTY LOCATED ON THE WEST \* BALTIMORE COUNTY

SIDE KENWOOD AVENUE, 140.8' N

OF C/L OGLETHORPE ROAD

(304 KENWOOD AVENUE)

1ST ELECTION DISTRICT

1ST COUNCILMANIC DISTRICT

OF

\* CASE NO. 99-54-SPHXA

#### MAJORITY OPINION

This case comes to the Board of Appeals for Baltimore County based on an appeal from a decision of the Deputy Zoning Commissioner in which a Petition for Special Hearing, as well as a Special Exception with a Variance was denied. A public hearing was conducted by the Board on June 9, 1999. The Appellant /Petitioner was represented by Thomas J. Gisriel, Esquire. Carole S. Demilio, Deputy People's Counsel for Baltimore County, appeared on behalf of that office.

Mr. Gisriel submitted a "Hearing Memorandum" at the commencement of the proceedings. The Board provided the opportunity for Ms. Demilio to submit a Brief following the hearing, and for Mr. Gisriel to submit a follow-up Brief, both due simultaneously in mid-July 1999. Brief opening statements were tendered by both counsel.

Mr. David Coleman, a resident of Summit Point, West Virginia, was the first witness for the Petitioner. He opined that he grew up on the subject property, had relocated to West Virginia, and Mr. Honeywell subsequently moved into the property. The subject site is currently rented to Mr. Honeywell and his wife. He stated that Mr. Honeywell had made significant and substantial improvements to the property and, in particular, the basement area which had been

damp, wet and only used for excess storage during his occupancy. He indicated that the Honeywells had been extremely good tenants, he had had no complaints from neighbors about the property during their tenancy, and would like them to remain.

Mr. Francis Honeywell, the present tenant of 304 Kenwood Avenue, also testified. He explained that the property is close to the Baltimore Beltway, and a short distance to the Western Vocational High School. The house is a single-family dwelling and has a large driveway capable of handling several cars. He described himself as a self-employed professional who maintains, repairs, and services sensitive medical equipment. There are presently three employees, one of whom is part-time. These all park in the driveway. He receives no clients or customers on the premises, and there is no excess traffic generated on the street except for the United Parcel Services truck that occasionally makes deliveries /packages to the home. He described these as normal deliveries. There are no outside signs advertising his services, nor are there any commercial vehicles employed in the business.

Mr. Honeywell opined that difficulties with his small operation initially began in early 1998. A Code violation was issued to Mr. Coleman (#106389) dated March 30, 1998 by Inspector Hope Jacobson in which Mr. Coleman was advised by Baltimore County to "stop operating a business from a residence...,DBA Allied Medical" (Appellant's Exhibit #2). Mr. Honeywell requested the Board to review a letter to Pam Reese dated March 2, 1998, R.N. Manager, GI Unit, York Hospital, York, PA attached to the exhibit. That letter speaks for itself; and the Board, in reaching its

conclusion, gave appropriate weight to it. On March 26, 1998, a Code Enforcement Report was completed (Case No. 98-1167) (Appellant's Exhibit #1). The Complainant is specified as Gerald R. Patnode, 308 Allegheny Avenue, Towson MD 21204. That report indicates no exterior of a business on the property. On April 1, 1998 the Chief Code Enforcement Officer met with Mr. Honeywell, who, according to the report, acknowledged running a medical supply business performing repairs. The Code Enforcement Officer suggested that he apply for a special hearing. On April 2, 1998, a FAX copy of the violation was forwarded to Mr. Patnode at his specific request (see copies attached to Appellant's Exhibit #1). On April 30, 1998, Mr. Gisriel was called into the picture by Mr. Coleman for legal advice, and events set in motion for application for zoning relief from the office of the Baltimore County Zoning Commissioner.

At this time, the Board believes significance must attach to Mr. Patnode's Baltimore County business card being attached to the Code Enforcement Report, and Mr. Patnode's involvement as sales and marketing manager for Precision Endoscopic Associates, Inc. - which is a competitor of the Petitioner. While Mr. Patnode has every right to complain about an illegal zoning use, it is highly inappropriate to use any Baltimore County official status in reporting violations. He may do so as a private citizen, but no weight should attach thereto as Chairman of the Personnel and Salary Advisory Board to influence Code enforcement actions.

While the Code citation suggests that "materials may be biohazardous," there was no evidence presented at the Board hearing to

suggest that this was the case. A number of medical exhibits were offered for review by the Board, each described in detail as to function, usage, and the need for precision in employment by the medical profession. The endoscope, when requested for analysis and inspection by medical authorities, is picked up by Mr. Honeywell's firm, taken to the subject site for repair, and subsequently returned to the doctor's office or hospital. Mr. Honeywell referenced a number of glass-enclosed cases in which significant parts of the endoscope were focused and frequently needed for repairs, and the precision required in its utilization. He suggested the parts and repair work are subject to Federal Technological Regulations and materials used are regulated, and he works closely with companies that manufacture parts - striving for improvements. He opined that his firm has performed considerable testing and made innovative approaches and enhancements to the equipment.

A current photograph of the basement lab was introduced and reviewed by the Board (Appellant's #3). Mr. Honeywell's involvement with two professional associates was introduced as Appellant's Exhibits No. 4 and No. 5 (Virginia Biomedical Association and Baltimore Medical Engineers and Technicians Society). Mr. Honeywell opined that he frequently provides educational sessions to new sales people of firms selling the endoscope and the proper handling and storage of the instrument. What he considered differences in his work and that of a VCR repairman were pursued, the main focus being that his work involves equipment dealing with visual inspections of the human body. The

regular VCR repair work does not. He then described his efforts to maintain the residential integrity of the property, with no previous neighbors complaining; and, in fact, neighbors in proximity were supportive of his activities (Appellant's #6 /letter from Carol & Bill O'Brien, 306 Kenwood Avenue, Catonsville MD). He indicated that he resides on the property with his wife, the basement alone was used for the business, and if the special exception was granted with no variance, the facility could be segregated appropriately; and no extra or additional expansion had taken place since his occupancy.

On cross-examination, Mr. Honeywell explained that the bulk of income comes from the repair services which are offered, that most of the manufacturers have repair parts on hand, and that the UPS services frequently bring the parts to his operation. He acknowledged that no exam was required for entry into any professional organization to which he belonged; he pays only a fee for membership, and the sessions he conducts every three or four months are all conducted at the hospital, the client's place of business, or hotel and essentially deal with equipment handling and maintenance. He described the equipment used for repair work, much of which was small, similar to that a jeweler would utilize in his or her work activities. He indicated he did have proprietary rights to certain equipment. He described his delivery radius from his home to be about two hours, that he would relocate if he were financially able to do so, but if he was required to vacate the premises, he would have to go out of business. He did acknowledge that the nature of his work was somewhat "portable," that he had

been in the business for 22 years repairing endoscopes, and before that he had been associated with Allied Medical. At one time during his self-employment, he had been doing \$6 to \$8 million annually. The present business consisted of him, his wife, two full-time employees, and one part-time employee, and that he works roughly five days a week.

Jean Dressler, 302 Kenwood Avenue, testified that Mr. Honeywell was a good neighbor and that she had no difficulties with the business being conducted by the Petitioner. There were no particular traffic or delivery problems.

Mrs. Jerry Cugle, 331 Stafford Drive, Catonsville, MD 21228, one block down from the site, testified as to a community meeting in which some members of the local community expressed concern about the business. She stated that about four people attended the meeting.

Mr. Steve Boettinger, 13 Kenwood Avenue, President of the Catonsville /Knoll Improvement Association, submitted Rule 8 papers and testified that, at the September 8, 1998 meeting (12 members in attendance), there had been some concern expressed over the business operating in a residential zone. The business was apparently the subject of a news article in the community paper. He stated a concern that approval by this Board would lead to excess commercialization in the area and establish a bad precedent. There was considerable discussion over the resolution and the accuracy of the information contained therein.

People's Counsel submitted several documents as exhibits which the Board has considered in individual review and open

#### deliberation:

People's Counsel (PC) Exhibit #1 - A zoning map of the relative district in which the subject site is located;

PC Exhibit #2 - Rule 8 papers for the Catonsville Knolls Community Association dated 6/06/99;

PC Exhibit #3(A, B, C, D, and E) - Copies of the community newsletter, "The Kenwood Station";

PC Exhibit #4 - Letter from James H. Bailey, President, Paradise Community Association, dated 6/08/99; and

PC Exhibit #5 - Baltimore County correspondence from Jeff Long re: "Summary of Recommendations" 304 Kenwood Avenue.

At the conclusion of the case, the Board requested that People's Counsel submit a Brief in response to the "Hearing Memorandum" submitted by Mr. Gisriel, and Mr. Gisriel would be given an opportunity to also submit a supplemental hearing memorandum, both to be submitted to the Board simultaneously. Subsequent to receipt of the Briefs and examination by the individual Board members of their notes, the Briefs and the applicable law, the Board would schedule a date for public deliberation.

The Petitioner is essentially seeking approval by this Board of a "home occupation" with three (3) non-resident employees in lieu of the maximum allowed of one (1) non-resident employee (BCZR 1B01.1A.14.d). Alternatively, they seek a special exception for a professional office, and a variance from BCZR 1B01.1C.9.b to allow 36 percent of the total floor area ratio to be dedicated to office use in lieu of the maximum permitted 25 percent. It is uncontroverted that the one /one-half single-family dwelling consists of approximately 0.326 acre (more or less), is zoned D.R. 5.5, and has a one-story garage and an accessory shed on the

premises. Mr. and Mrs. Honeywell reside on the property. Mr. Honeywell acknowledges that there are three other employees (one part-time), that work on the site in addition to himself and his wife. He also acknowledged that the entire basement of roughly 923 feet is used for business purposes, and that the basement area constitutes 36 percent of the total floor area of the entire house.

In essence, if the facility is a "professional" office, the maximum area usage is 25 percent. There are, therefore, two questions that must be addressed by this Board:

- The home occupation factor with three non-resident employees; and
- The question of whether or not this is a "professional" office; and, if so, should a special exception be granted with a variance to allow 36 percent usage instead of the mandated 25 percent.

While this Board has authority to grant variances under Section 307 of the BCZR, such variances may be granted only in cases where special circumstances or conditions exist that are peculiar to the land or the structure which is the subject of the variance, and where strict compliance...would result in practical difficulty or unreasonable hardship. As Cromwell v. Ward has stated: "It is only when the uniqueness is first established that we concern ourselves with the practical difficulties." [Cromwell v. Ward, 102 Md.App. 691 (1995)]

While the Petitioner is correct in asserting that Section 500.7 of the BCZR grants the Zoning Commissioner the authority to "pass such orders...as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations," and in Section 500.6, the Zoning Commissioner can interpret and pass orders upon

all alleged zoning violations, what counsel would suggest that the Board do, in expanding the role of variances to provide for an increase in the number of non-resident employees, is to have the Board become a legislative body, preempting the County Council authority, and that we cannot and will not do.

Succinctly stated, variances do not cover situations where an increase in the number of non-resident employees is concerned; and even if it were, no evidence or testimony was submitted that would satisfy the first prong of <a href="Months:Cromwell">Cromwell</a> as to any uniqueness or unusual features of the property to even consider a variance. The Board clearly lacks the authority to expand the specific bounds established by the County Council in limiting but one non-resident employee working at any home occupation site. There are three (3) other employees working at this site, in addition to Mr. Coleman and his wife. Only one other beside himself and his wife is permitted. The Board cannot change the requirements of Section 1801.1A.14.d unilaterally.

A home occupation is defined in the BCZR, Section 101, as follows:

Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, as stated in Section 450.4, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person per dwelling is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment, other than computers, printers, fax machines, modems, standard office copy machines and similar office equipment, is used except such as may be used for domestic purposes. A "home occupation" does not include fortune-telling.

Based upon the testimony and evidence submitted, there is no

exterior signage on the premises; and there are no commodities which are kept for sale. Clearly, while one passing by the site would not have any indication of a business occupation being conducted, nevertheless, the clear intent of the County Council was to permit very limited usage of a residence for home occupations.

While the Board, in its observations taken during the public hearing and independent analysis of the use of the basement area by the Petitioner, does not find anything personally objectionable, since again there is no external signage, no sales occurring on the premises, and there is no parking problem, with no client calls to the site, nevertheless, the very long and detailed history of home occupation law clearly differentiates commercial and residential functions. References made to the <u>Euclid v. Ambler Realty Co.</u> case decided by the U.S. Supreme Court [227 US 365 (1926)], the general thrust of prevailing law recites that legislators, such as the local County Council, can permit some limited occupations existing in personal residences providing the occupation does not disturb or interfere with local zoning plans.

The Board is well aware of a recent case decided by this Board concerning construction of local home occupation legislation (In the Matter of Neil Kravitz, Case No. 96-112-SPH). As recited in the brief submitted by People's Counsel, the Board stated:

In deciding the case, the Board has given careful consideration to what it considers to be the intent of the County Council in formulating the definition of a "home occupation." The residents of the County must be reasonably assured that the proper function of zoning is to guarantee the general health, safety and welfare of the community in which they reside. Therefore, the definition of a "home occupation" must be narrowly construed to insure that such activity is in conformity with the expectations of the neighborhood. Caution must

be exercised to strictly interpret the BCZR to protect the integrity of zoning restrictions as regulated by the County Council. The nature of the finished product and inherent danger associated with the entire ammunition reloading activities cause concern to the Board if classified as a "home occupation.

In that case, the Petitioner was manufacturing bullets using gunpowder as a hobby in which he was an acknowledged expert, and sought out by many individuals desiring precision in the type of ammunition for their various weapons. The Appellant had no employees, worked independently, and had no signage. However, he did receive payment — but that was secondary to the pursuit of his hobby, and no protestants appeared at the various hearing stages. The Board determined that the activity was not a hobby, but a commercial activity not permitted in a residential zone. On appeal, the decision of the Board was upheld by the Circuit Court for Baltimore County. This Board is obligated to continue its practice of construing "home occupations" in a very narrow and restrictive manner.

In its analysis, the Board, based on the testimony and evidence produced at the hearing, concludes the following.

The use is not "incidental" to the main use of the building for dwelling purposes. The basement area itself encompasses over 1/3 of the main house, with three parking spaces for employees. The mechanical equipment used is not standard hand tooling and the equipment is not of that type or nature generally used for "domestic" purposes. This Board gave considerable weight to the excessive space dedicated to the repair and servicing aspect of the occupation in determining that the Petitioner was not engaged in a "home occupation." Even had the Board so construed the occupation

as a home occupation, via the special exception they would have been held to one non-resident employee. At the present time, there are three non-resident employees engaged in the Petitioner's activity.

Turning to the special exception and variance request, BCZR 1B01.1C.9.b permits:

Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence; and does not occupy more than twenty-five (25%) percent of the total floor area of such residence; and does not involve the employment of more than one (1) non-resident professional associate nor two (2) other non-resident employees.

The first question to which the Board must respond is whether or not the Appellant is a "professional person." The majority of the Board has determined that the Appellant's background in repair /servicing of the medical equipment, i.e., endoscopes, is deemed acceptable to qualify Mr. Coleman as a professional within the meaning of the statute. The undersigned majority of the Board believes that the County Council, in defining the "office or studio of various professionals," purposely included "other professional persons" to allow for professionals who could meet the other restrictions of the BCZR to have a professional office or studio in their home. Of course, one would need to be considered "professional" to qualify under this portion of the regulations. In defining professional, The American Heritage Dictionary, Second College Edition, Houghton Miffilin Company, Boston 1976, cites the following:

professional: 1. Of, relating to, engaged in, or suitable

for a profession. 2. Engaged in a specific activity as a source of livelihood; a professional actor. 3. Performed by persons receiving pay: professional football. 4. Having great skill or experience in a particular field or activity. -n. 1. A person following a profession. 2. One who earns his livelihood as an athlete. 3. One who has an assured competence in a particular field or occupation.

In considering the Appellant's occupational activities, it was determined by the majority of the Board that the Appellant was engaged in specialized learning and knowledge. He needed education in the medical field, FDA knowledge, and materials management for instrumentation used in the human body. Certainly, microbiological knowledge would apply as well as industrial design when considering the design and composition of the replacement parts utilized in the repair and servicing of this highly specialized equipment. In Teaque v. Graves, 27 N.N.S.2D 762 91941), the court determined an industrial designer to be a professional. The court relied on the intellectual and varied nature of the designer's work, stating:

The profession of industrial design...has developed a technique for analyzing the function of a product, and set up standards for judging functional fitness. It has applied these methods and standards to innumerable objects...." Teague v. Graves, supra, 27 N.Y.W.2D at 764.

As well, the Board of Appeals, in <u>In Re: O'Toole</u>, 78-65-SPH, determined that a microbiologist is a professional able to maintain an office as a special exception in a residential zone.

In consideration of the <u>American Heritage</u> definition of professional and the cases supporting similar occupational activities as professionals, as well as testimony supporting membership in professional associations, the Board finds that the Petitioner qualifies for consideration as "other professional persons" as defined in the BCZR Section 1B01.1C.9.b.

Having determined that the Appellant is a "professional" within the meaning and intent of the statute, the Board is called upon to determine the question of the special exception. Counsel for the Appellant has very appropriately cited the leading Maryland cases relative to the special exception application:

Schultz v. Pritts, 291 Md. 1, 21-22 (1981):

When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses.

### Mossburg v. Montgomery County, 107 Md.App. 1, 8-9 (1995)

Thus, it is not whether a special exception/conditional use is compatible with permitted uses that is relevant in the administrative proceeding. The legislative body, by designating the special exception, has deemed it to be generally compatible with the other uses. In a special exception case, therefore, general compatibility is not normally a proper issue for the agency to consider. That issue has already been addressed and legislatively resolved. Moreover, it is not whether a use permitted by way of a special exception will have adverse effects (adverse effects are implied in the first instance by making such uses conditional uses or special exceptions rather than permitted uses), it is whether the adverse effects in that particular location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered by the agency.

The Board concurs with Mr. Gisriel that the standard to be applied by this Board as an administrative body is as follows:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, supra at 291 Md. at 22-23.

It is the responsibility of the Board to determine whether the impact of the proposed special exception is greater at the proposed site than anywhere else within the zone. Additionally, the standard provided by BCZR 502.1(A)(8) must be established by the Appellant. The burden clearly rests with the Appellant to show that "impact" factor has been satisfied as well as the requirements of the BCZR. Unfortunately, Appellant's case was lacking in satisfying both the requirements. While the Board may have been satisfied based on the nature of the Appellant's operation as to impact in the BCZR, there must be substantive testimony and evidence produced to meet muster and justify any Board action. Unfortunately, none was offered, nor was the traffic issue relative to Kenwood Avenue countered.

Lacking these elements, the Board is required to deny the special exception request, even with the conclusion of "professional" status. The variance issue is much similar. Based upon the testimony and evidence, the property does not satisfy the first prong of Cromwell v. Ward as to any uniqueness or unusual features. It is a single-family dwelling, similar to others in the immediate area. There are no striking dissimilar features. Economic relief is not a factor. Easter v. Mayor & City Council of Baltimore, 195 Md. 395 (1950)

The Appellant did not make any significant attempt to satisfy either the special exception request or that imposed by the BCZR or case law. In reaching its conclusion, the Board also takes note of the "spirit and intent" requirement of the law. When comprehensive zoning was introduced, many individuals worked in their homes.

When legislative bodies created different zones for residences and commercial uses, an attempt was made to terminate home occupations. To that end, certain restrictions were passed which permitted customary practices that did not take away from the character of the residential neighborhood. Comprehensive zoning was designed to accommodate home occupations, but the previously allowed uses became less in number under the new definition of a "home occupation." Through the years, the Maryland courts have attempted to maintain the spirit and intent of the law by construing, in a very narrow basis, the interpretation of home occupations and those uses permitted at such a site. Additionally, BCZR regulations are exclusionary. Those uses not enumerated in a zone are simply not permitted. Kowalski v. Lamar, 25 Md.App. 493 (1975)

In reaching its decision, the Board was mindful of community concerns expressed at the hearing. Based on existing laws, the Board is mindful that a homeowner and community must be reasonably assured that any type of activity in permitted by law in the neighborhood. In summary, the Board must conclude that the Petitioner has failed to satisfy the requirements of Section 1B01.1A.14.d of the zoning regulations; and the Petition for Special Exception under Section 1B01.1C.9.b.

#### ORDER

IT IS THEREFORE this 13th day of September, 1999 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing for a "home occupation" pursuant to Section 1801.1A.14.d of the <u>Baltimore</u> County Zoning Regulations (BCZR) be and the same is **DENIED**; and it

is further

ORDERED that the Petition for Special Exception for a professional office be and is hereby DENIED; and it is further

ORDERED that the Petition for Variance from Section 1B01.1C.9.b of the BCZR be and is hereby DENIED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Donna M. Felling

Thomas P. Melvin

IN THE MATTER OF THE \* BEFORE THE

THE APPLICATION OF

DAVID MICHAEL COLEMAN -Owner; \* COUNTY BOARD OF APPEALS

FRANCIS L. HONEYWELL -Lessee

FOR SPECIAL HEARING, SPECIAL \*

EXCEPTION AND VARIANCE ON

PROPERTY LOCATED ON THE WEST \*

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(304 KENWOOD AVENUE)

1ST ELECTION DISTRICT

1ST COUNCILMANIC DISTRICT

OF

BALTIMORE COUNTY

\* CASE NO. 99-54-SPHXA

### CONCURRING OPINION

This Board member concurs with the majority Opinion of the Board in its entirety but expresses dissent as to the majority opinion that construes the occupation of the Appellant as that of "professional" under BCZR Section 1B01.1C.12. While counsel for Appellant has provided the Board with an excellent Brief providing reasons why the Board should construe the activities of Mr. Honeywell as that of a professional, the dissenter is not totally convinced.

The BCZR specifically references "offices or studios of physicians, dentists, lawyers, engineers, artists, musicians, or other professional persons." Significantly, the first four groups are individuals who have attained a higher degree of education and even post-graduate work to obtain the State licenses or certifications to display to the public. The term "offices" obviously references these professionals. "Studios" references creative places where artists or musicians engage in their "creative" activities. There is significant Maryland case law to suggest that Maryland follows a path that narrowly construes the definition of what is and what is not a "professional."

# Case No. 99-54-SPHXA /David Michael Coleman -Owner; Francis L. Honeywell - Petitioner /Concurring Opinion

"Profession" is defined as "an occupation that involves a higher education or its equivalent, and mental, rather than manual, labor, such as law, medicine, teaching, etc." While the Appellant is indeed skillful and talented in his acknowledged field of expertise, there is no stated requirement for the valuable function he performs. The associations to which he belongs may be joined by payment of a membership fee. He picks up the endoscopes and entroscopes from various medical facilities and makes the necessary repairs and returns them. He is acknowledged as an excellent technician; however, to a great extent, the other non-resident employees also accompany him in his activities. There is no usage by him of the instrument in question in physical contact with the patients for whom it is ultimately used.

In considering what the Appellant does, one must view the implications that the Board undertakes when it construes the "technician" status of Mr. Honeywell. How will the activities of highly skilled computer specialists be viewed in the future, or dental technicians, jewelers, or other innumerable "medical" personnel. The writer accepts the rationale that areas such as that engaged in by the Appellant certainly require a relatively high degree of skill. However, "a professional must have professional education, a code of ethics, and a professional license." Keifer v District of Columbia, 409 A2d 624 (1979)

The writer also places considerable significance on the fact that the County Council has created specific zones for the type of activity in which the Appellant is engaged. Reference Office

Technology Zone (O.T.) (BCZR 209); Service Employe Zone (SE) (BCZR 210); and manufacturing zones, all of which are adequately covered by the Memorandum submitted by People's Counsel. The Board must be very cautious in the expansion of interpretations that threaten the intent of the County Council. To permit the interpretation of a "professional" to include the acts of a technician, even one as skillful as the Petitioner, is in effect expanding the D.R. 5.5 zone into an O.T. or S.E. zone. In so doing, the Board enters the prohibitive field of legislating by non-elected officials.

It is therefore the conclusion of the undersigned that, while I concur with the denial of the Special Exception, as well as the denial of the Special Hearing and Variance requests as concluded and ordered by the majority of this Board in its Opinion and Order dated <a href="September 13">September 13</a>, 1999, I do not find that the Petitioner has met the definition of a "professional" as defined in Section 101 of the <a href="Baltimore County Zoning Regulations">Baltimore County Zoning Regulations</a>.

Charles L. Marks, Chairman County Board of Appeals

Date: September 13, 1999



### County Board of Appeals of Baltimore County

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

September 13, 1999

Thomas J. Gisriel, Esquire HODES, ULMAN, PESSIN & KATZ, P.A. 901 Dulaney Valley Road, Suite 400 Towson, MD 21204-2600

RE: In the Matter of Francis L. Honeywell -Petitioner (David Michael Coleman /Owner) Case No. 99-54-SPHXA

Dear Mr. Gisriel:

Enclosed please find a copy of the Majority Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. Also enclosed is a copy of the dissenting opinion written by Mr. Marks.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Redchiffe for Kathleen C. Bianco

Administrator

### Enclosure

C: Mr. Francis Honeywell
Mr. David M. Coleman
Mr. Stephen Boettinger
Ms. Dinae Preisinger
Mr. Eugene Crawford
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Karin Brown /Planning
Lawrence Schmidt /Zoning Commissioner
Arnold Jablon, Director /PDM

Virginia W. Barnhart, County Attorney

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Petitioners		Case Number: 99-54-SPHX		APPEA
Contract Purchaser: FRANCIS HONEYWELL			<u> </u>	S.S.
Legal Owner: DAVID M. COLEMAN			<b>-</b>	\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\
	*	BALTIMORE COUNTY		OAF OAF
1st Election District, 1st Councilmanic			$\equiv$	-≺ ∞
140.8' N from c/l Oglethorpe Rd,	*	FOR		₹
304 Kenwood Avenue, W/S Kenwood Ave.,			100	S
PETITION FOR VARIANCE	*	COUNTY BOARD OF APPEALS		
PETITION FOR SPECIAL EXCEPTION	N			
RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE		

### PEOPLE'S COUNSEL'S MEMORANDUM

### **Table of Contents**

Statement of the Case	1	
Questions for the County Board of Appeals		
Posture of the Case	2	
Home Occupation Special Exception and Variance	2 3	
Critique of the Facts	4	
Opposition of the Community Association	7	
History of Home Occupations in Zoning Law	8	
History of Professional Occupations	11	
BCZR Provides Appropriate Zone for Petitioner's Occupation		
Petitioners' Requested Relief Is a Disguised Rezoning		

### STATEMENT OF THE CASE

This is a <u>de novo</u> appeal from the Deputy Zoning Commissioner's denial of Petitions for Variance, Special Hearing for a Home Occupation and Special Exception for Professional Office.

The site is zoned D.R. 5.5, consists of .326 acre, and is improved with a detached single family dwelling.

Petitioners are Mr. Honeywell, the tenant and Mr. Coleman, the owner.

The tenants operate a medical instrument repair business solely from the site at Kenwood Avenue. Mr. Honeywell repairs endoscopes, used in colon examinations by physicians. He receives and sends daily packages via UPS. Mr. & Mrs. Honeywell are employed in the business in addition to three nonresident employees.

The site lies within the boundaries of the Catonsville Knolls Community Association. Its president, Mr. Steve Boettinger, testified on behalf of the Association's opposition to the Petitions.

Mr. Honeywell testified and presented three other witnesses: Mr. Coleman, the owner of the site, and two neighbors, Mrs. Dressler and Mrs. Cugle.

### **OUESTIONS FOR THE COUNTY BOARD OF APPEALS**

- 1. Does the CBA have authority to change the restrictions in the home occupation statute?

  Did Petitioner cite the authority? If a variance applies, was a Petition filed and did the Petitioner meet his burden of proof of uniqueness and practical difficulty?
- 2. Does the CBA have authority to change the restriction pertaining to the number of employees in the professional office statute? Did the Petitioner cite the authority? If a variance applies, was a Petition for Variance filed and did Petitioner meet his burden of proof of uniqueness and practical difficulty?
- 3. Did the Petitioner satisfy the special exception standards under BCZR 502.1 for a professional office?

- 4. Did Petitioner meet the burden of proof to obtain a variance for 36% office space in lieu of 25% for a professional office?
- 5. Is the business use of the site "incidental" to its use as a residence under the home occupation statute?

### **POSTURE OF THE CASE**

Petitioner has failed to cite authority for the relief requested, and failed to produce evidence to support his Petitions. For these preliminary reasons alone, the Petitions should be denied.

### **Home Occupation**

The Density Residential (D.R.) zones permit a "home occupation" as an accessory, but not a primary use. (BCZR 1B00.1C.12). A "home occupation" is defined in BCZR 101:

Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, as stated in Section 450.4, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person per dwelling is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment, other than computers, printers fax machines, modems, standard office copy machines and similar office equipment, is used except such as may be used for domestic purposes. A "home occupation" does not include fortune-telling. [Bill Nos. 124-1978;27-1981;68-1998] (emphasis added)

Petitioner admits to 5 employees: himself, his wife and 3 non-residents. There is no provision in BCZR, to alter this restriction; not surprisingly, Petitioner cited none.

A variance cannot increase the number of non-resident employees. A variance pertains to "height and area regulations", "off street parking regulations" and "sign regulations", none of which apply to the number of employees for a home occupation. Recently, this Board recognized that not all zoning regulations can be varied. <u>In The Matter of Horodowicz</u>, 98-342 A, the CBA

ruled the Petitioner could not increase the dwelling from single family to multi-family unless minimum lot size existed. See <u>In The Matter of Chacko</u> 97-388-A, where this Board determined a variance was not available for the requested relief.

Simply stated, it is undisputed that Petitioner here fails to comply with the limit on the number of employees for a home occupation, and there is no authority to waive or vary this requirement.

Even if a variance applies, Petitioner failed to present evidence that the site is unique, and the uniqueness causes practical difficulty or undue hardship.

### **Special Exception and Variance**

The Petitioner for Special Exception for a professional office must be denied on its face.

A professional may maintain an office in his or her residence provided certain requirements in the statute itself are satisfied. BCZR provides:

"Office or studios of physicians, dentists, lawyers, architects, engineers, artist, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence; does not occupy more than 25% of the total floor area of such residence; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees. [Bill No. 105-1982]. (emphasis added).

In addition, the Petitioner must satisfy the requirements under BCZR 502.1 for a special exception.

Again, Petitioner exceeds the number of employees. He presented no evidence whatsoever that any of his three non-resident employees is a "professional associate". No did any employee testify to his qualifications. The result is three "other nonresident employees" in lieu of the two permitted.

There is no authority in BCZR to exceed the maximum. Likewise, as stated above, a variance does not apply, nor did Petitioner present evidence to support a variance.

Secondly, Petitioner failed to offer a scintilla of evidence to support a special exception under BCZR 502.1. The Petitioner has the burden of proof in a <u>de novo</u> hearing before the CBA. He failed to produce a witness qualified to discuss the special exception standards, nor did the witnesses who appeared ever refer to the list of standards enumerated in BCZR 502.1 A.- H. A failure to meet the burden requires denial of the relief. <u>Turner v. Hammond</u> 270 Md. 41.

Additionally, Petitioner failed to satisfy the requirements of Schultz v. Pritts, 291 Md. 1 (1981). There was not even a hint of testimony in Petitioner's case that the adverse effects of a special exception here are no greater here than at any other location in the zone. On the contrary, there was evidence in People's Counsel's case that the traffic hazard is particularly dangerous. Because of the 90 degree curve on the two-lane portion of Kenwood Road near the site, delivery trucks going to the site block a lane, obstruct motorists' view, and force traffic in both directions into a single lane.

As a final preliminary argument, the **Petition for Variance** for 36% of floor space for office use in lieu of 25 % must be denied.

Petitioner produced no evidence of the uniqueness and practical difficulty required under BCZR 307 and Cromwell v. Ward, 102 Md. App. 691 (1995). Petitioner requests relief solely because it is more economic to operate from his home. Zoning would be meaningless if financial advantage is the basis for relief. Easter v. Mayor and City Council of Baltimore, 195 Md. 395 (1950).

Moreover, the CBA must rule the site is not unique under variance standards, since there is no evidence to that effect.

Finally, Petitioner's disregard for the burden of proof is evident by his failure to even refer to BCZR 307 or <u>Cromwell</u> in his Memorandum submitted at trial.

#### **CRITIQUE OF THE FACTS**

Francis Honeywell and his wife have rented 304 Kenwood Avenue for 4 years. It is in the southwestern portion of Baltimore County. The neighborhood is stable and settled. It consists primarily of detached single-family dwellings and has apparently maintained its D.R. 5.5 zoning for many years. The 200 scale zoning map, offered as People's Counsel's 1, shows the extent of the residential zone.

In the business, Mr. Honeywell does the repair work and his wife does the bookkeeping.

They have no other employment. Mr. Honeywell is paid solely for his repair work. He claims to "design" repair parts but does not charge nor receive compensation for this.

He testified the manufacturer does not provide replacement parts, but acknowledged other companies do. In fact, Mr. Honeywell sends for these replacement components and stores them in his home. (See Petitioner's photograph, Exhibit # 3).

Mr. Honeywell does not engage in manufacturing. He only makes repairs and performs maintenance.

He is not employed by, nor has any contact with, the manufacturer of the endoscope. He has no role in the design of the instrument itself.

He has no inventions, patents or copyrights.

Furthermore, the Food and Drug Administration issues comprehensive guidelines for medical instruments. It is apparent Mr. Honeywell, who referred to himself as a "technician" operates as a repairman in an area with little, if any, room to change the status quo.

In the light most favorable to the Petitioner, he is an adept and worthy repairman. Zoning laws do no permit every person so qualified to operate their business from their residence.

It must be pointed out that much of Mr. Honeywell's testimony was contradictory and irrelevant:

 He claims to use only non-toxic cleaning chemicals, but later admitted he has no knowledge of EPA standards.

- 2. He claims to be a "professional" by his membership in various organizations. But these organizations require no level of expertise or competency. Anyone who can pay the dues becomes a member.
- He displayed the framed boxes of component parts with a flare. A closer examination reveals nuts, bolts screws, wires often found in the average toolbox and used with many small instruments.
- 4. He claimed to "instruct" the physicians who use an endoscope. On further examination, he admitted the "instruction" concerns maintenance and wear and tear, not unlike similar instructions from office equipment and car repairmen.

Furthermore, the photograph submitted as Petitioner's #3 supports denial of the Petitions. It represents only a portion of an elaborate business setup. It is goes beyond the intention of a home occupation as "incidental" to the residential use.

Moreover, the office zones can accommodate the equipment depicted in the photograph. The CBA noted as much for the tow truck operator In The Matter of Reitterer, 98-406 A. There the Board disregarded Petitioner's claims of convenience and economics to park his commercial vehicle at his residence. Other commercial vehicle owners were similarly denied relief by the CBA.

The Petitioner claims a special skill, but his familiarity with the endoscope and its components is no different from that of repairmen for automobiles, airplanes, heating and air conditioning equipment, other medical and dental equipment, factory machinery, radar equipment. The list is endless. Many such repairmen receive on the job training as Mr. Honeywell did. No special status exists because this case involves medical instruments.

The testimony of the neighbors must be viewed skeptically. It is not necessary for the Board to find a "nuisance" to deny the home occupation.

Clearly, Mrs. Dressler was just thankful the prior homeowner, who was ill and elderly and unable to care for her home, no longer resided there. Mrs. Dressler never attended the community meetings in support of Mr. Honeywell.

Mrs.Cugle, testified in support of her friend, Mrs. Dressler who took her to the site.

Mrs.Cugle, an officer in the Catonsville Knolls Community Association, did not notify the

Petitioners nor claim they should be present at community association meetings.

Finally, the facts do not support granting the Petitions with restrictions. Five automobiles, including the Honeywells' two Porsches, must park on one-third of an acre. Mr. Boettinger observed on his twice daily drives past the site that these automobiles take all available space in the driveway. The UPS trucks make at least two stops a day. The CBA has no control over these drivers who routinely park on the street. Any restrictions for the UPS trucks would be unenforceable. Here, there will always be a blocked lane, causing a significant traffic hazard.

#### OPPOSITION OF THE COMMUNITY ASSOCIATION

The Catonsville Knolls Community Association opposes the Petitions. The Association fears a precedent and with good reason. Although each zoning case is unique, the home occupation statute includes standards which do not differentiate particular sites. In other words, the statute's restrictions (number of employees, equipment used, incidental nature of the use conducted entirely within the dwelling, and prohibition of exterior evidence and inventory) are not related to the size or location of the site. To waive or relax the standards here, means they cannot be denied elsewhere; there is no variance standard to differentiate sites and thus no discretion with the Board.

The Petitioner's challenge to the community association's vote because Mr. Honeywell was not present is a red herring. Catonsville Knolls existed before these Petitions were filed. It holds regular advertised monthly meetings in a convenient location. It routinely distributes a comprehensive and attractive newsletter to the entire neighborhood. It conspicuously posted on the first page of the newsletter the updated information on Mr. Honeywell's zoning petitions.

Every newsletter provides a form for membership. Meetings of the Association are also advertised in the <u>Catonsville Times</u>. We daresay few community organizations have demonstrated such widespread efforts at communication.

Mr. Honeywell elected not to join the organization, nor attend a single meeting. He favored a low profile. Even after meeting Mr. Boettinger at the Zoning Commissioner hearing, he made no attempt, nor requested to attend a community meeting. He never testified that had he known of the association or its meetings he would have participated.

It is not the Association's practice to give personal notices of meetings to any resident. .

Nor does Rule 8 require specific notification to zoning Petitioners. Mr. Boettinger's opinion that each Petitioner must decide his level of participation, conforms to the practice of the numerous community groups who appear before this Board.

Petitioner's attack on the community association's process is irrelevant and distracts from the case. More importantly, there was no credible challenge to the Association's position on the issues.

#### HISTORY OF HOME OCCUPATIONS IN ZONING LAW

The home occupation law is deeply rooted in zoning history. It is helpful to understand this history in applying the current law.

The separation of commercial and residential uses into different zones in an Ohio jurisdiction, was sanctioned by the Supreme Court of the U.S. in 1926 in <u>Euclid vs. Ambler</u>

Realty Co., 272 U.S. 365 (1926). The famous line describing incompatibility of use and location is "A nuisance may be merely a right thing in the wrong place, like a pig in the parlor instead of the barnyard."

It aptly describes the current case – the Honeywells' business is in the wrong place.

At the same time such zoning laws were enacted, the legislatures recognized that some occupations traditionally operating in the home would not disturb the zoning scheme, if properly

restricted. The types of occupations and restrictions were fairly uniform nationwide. As a result, "home occupation" laws and cases in other jurisdictions are relevant.

Since the intent of zoning is to locate businesses in the commercial and office zones, home occupation statutes are narrowly construed. Maryland has maintained this practice for over 50 years.

The Court of Appeals held in <u>Mauer v. Snyder.</u> 199 Md. 551 (1952), that occasional seasonal fishing expeditions from a waterfront residence in Anne Arundel County, along with the sporadic sales of the catch, is not a "home occupation". The Court determined the operation was a commercial business even though profits were marginal. The Court stated the statute must be narrowly construed:

The proviso . . . does not include as a "home occupation" any commercial enterprise which can be conducted on a lot 565 deep without "usurping" the primary use of the dwelling. If it could be so construed, the residential character of a "cottage residence" district would have little meaning or legal protection.

See also <u>Dampman v. City of Baltimore</u>, 231 Md. 280 (1963), where the court defined "incidental" as "appertaining, subordinate or casual thereto."

The most recent review of the statute builds on these past decisions. In 1997, the Planning Board and the Planning Office reviewed home occupations under direction from the County Council (See Resolution attached). The legislature had the opportunity to expand home occupations. Instead, the only change added computers, fax machines and copiers to acceptable domestic equipment. (See attached Bill 68-98).

Recently, this Board narrowly construed the home occupation statute In The Matter of

Neil Kravitz, Case No. 3-C-96-9060. There, the homeowner manufactured gunpowder as a
hobby. Later, he made the powder for other gun collectors. Mr. Kravitz had no employees and no
external evidence of the activity. He worked elsewhere. He brought to the CBA hearing the single
small piece of equipment used to make the powder. There were no protestants at the hearing.

The CBA ruled the activity was not a home occupation, but a commercial venture prohibited in the residential zone. The Board stated:

"In deciding the case, the Board has given careful consideration to what it considers to be the intent of the County Council in formulating the definition of a "home occupation.". The residents of the County must be reasonably assured that the proper function of zoning is to guarantee the general health, safety and welfare of the community in which they reside.

Therefore, the definition of a "home occupation" must be narrowly construed to insure that such activity is in conformity with the expectations for the neighborhood. Caution must be exercised to strictly interpret the BCZR to protect the integrity zoning restrictions as regulated by the County Council."

The decision was upheld by the Circuit Court of Baltimore County.

On the contrary, the Honeywell's activity is more than an "incidental" use of the residence. Over  $1/3^{rd}$  of the house, and outside parking for 3 employees, is devoted to the business.

He admitted his "hand tools" were not domestic equipment.

Young, American Law of Zoning, 4<sup>th</sup> Ed., Section 13.01 describes the activities that may or may not qualify as home occupations in other states. It notes the music teacher and studio artist are traditional home occupations. But a dance studio or art classes are prohibited. Baker v. Polsinelli, 177 AD2d 844 (1991). Barber shops and beauty parlors are not generally viewed as home occupations. Cassidy v. Zoning Bd. Of Adjustment, 559 A2d 610 (1989). An electrical contractor cannot conduct his business as a home occupation. Board of Adjustment v. Brandi, 387 A2d 1016. "A plumbing, heating and air conditioning business operating from a dwelling in a residential district is not a home occupation." Hill v. Hamilton Township Zoning Hearing Bd., 45 Pa D & C 3<sup>rd</sup> 390 (1986).

Unlike the historical basis to permit a home office for a doctor, dentist, dressmaker, music teacher, the Honeywell's business provides no service to the immediate community. Mr.

Honeywell admits most of his customers are from Pennsylvania or Baltimore City. He does no work for a single medical provider or institution within the boundaries of his neighborhood.

An early New York case aptly sums up the position of many jurisdictions: "The primary purpose of a residential district is safe, healthful and comfortable family life rather than the development of commercial instincts and the pursuit of pecuniary profits." People v. Gold, 6 NYS2d 264 (1938).

### HISTORY OF PROFESSIONAL OCCUPATIONS

Professional occupations have a similar zoning history. Under early laws in Baltimore County, certain professions such as doctors, dentists and lawyers were permitted by right as home occupations as a service to the community. In describing a "country doctor" as a typical illustration of a home occupation, the Court of Appeals noted in Mauer v. Snyder, 199Md. 551, 561 (1952) that "a community such as Magothy Beach could never have a resident practising physician." Later, to prevent commercial intrusion into residential zones, such professions were restricted to a special exception use.

BCZR Section 1 B01.1.A. 18.c.permits professional offices and studios provided certain restrictions are met: (i) location within the residence. (ii) no more than 25% of floor area of residence is used for business, (iii) employ no more than 1 nonresident professional nor 2 other nonresident employees. In addition, the general special exception standards apply.

The statute also names the professionals permitted. This comports with the statutes in other jurisdictions. All jurisdictions list doctors, dentists and lawyers. Many, like Baltimore County, permit engineers and architects. Few, if any, include accountants. See generally Young, <a href="Many.tike-Baltimore">American Law of Zoning 4Ed.</a>, Section 1303.

The term doctor or dentist does not include an optometrist. St. Ann v. Elam, 661 SW2d 632 (1983). Real estate and insurance sales are considered businesses, not customary home

occupations, nor professionals, regardless of licensing requirements. <u>See</u> Young, Supra, Sections 13.10,13.11.

Studios of artists and musicians, like doctors, dentists, and lawyers, were traditional home occupations permitted by right as accessory uses. Under BCZR, they are now in the more restrictive special exception use category. On the contrary, equipment repair was never a home occupation. In fact, separation of commercial and residential uses into different zones foreshadowed the widespread use of mechanical equipment and precision instruments and the concomitant need for repairmen.

Petitioner interchanges a "professional office" and a "business office". This is unauthorized and misleading. As noted in <u>American Law of Zoning</u>, <u>Section 13.20</u>, "Where no mention is made of home business uses, [in the statute] a business office is not authorized by a provision for professional offices."

Moreover, the use of the phrase "other professional persons" in the statute does not broaden the interpretation beyond the narrow list preceding it. This is a standard rule of statutory construction.

Under the doctrine of *ejusdem generis*, when general words in a statute follow the designation of particular things, classes, or subjects, general words will usually be construed to include only those things, classes, or subjects in same general natures as those specifically mentioned. <u>Linkus v. Md. St. Bd. Of Heating etc.</u>, 114 Md. App. 262 (1997).

"Specific terms of statute covering a given subject matter prevail over general language of same or another statute which might otherwise prove controlling." Geramifar v. Geramifar, 113 Md.App. 495.

"The term "similar professional person" does not include a consulting firm and lobbyist

. . . a professional must have professional education, a code of ethics and professional
licensing." Keefe Co. v. District of Columbia Board of Zoning Adjustment, 409 A2d 624 (1979).

The cases cited in Petitioner's Memorandum are inapplicable. Both cases predate the enactment of zoning for Baltimore County in 1945. Neither is a zoning case. <u>Aulen</u> involves an employee's exclusion of coverage as a professional under the Fair Labor Standards Act. <u>Aulin</u> actually supports People's Counsel's position that the term must be interpreted in the context of its use. The "Administrator's definition must be applied rather than the common or popular understanding of the term." <u>Teague</u> involved New York's tax laws and the exemption of a professional from the levy of the tax on unincorporated businesses.

In Re: O'Toole, decided by this Board in 1978 and cited by Petitioner is attached hereto. The CBA regarded the Petitioner as a "doctor" and referred to him as such in the Opinion. A doctor has been permitted to maintain a home office, either by right or special exception. The CBA's decision did not expand the use of the term 'professional' as applied to a home office.

The undersigned has been unable to locate the 1985 CBA case cited by Petitioner. The current People's Counsel was Deputy at the time and has no recollection of it. The Board's Administrator searched every known record and was unable to locate In Re: Richard A. Dalla Tezza.

To prevail, Petitioner's argument would require the Board to expand the medical and dental professions to anything tangentially related to the medical field. The Court of Special Appeals rebuked a similar position in <a href="Levinson v. Montgomery County">Levinson v. Montgomery County</a>, 95 Md. App. 307 (1993). The homeowner was an opthalmologist who moved his medical practice and optical dispensary from an office zone to the basement of his home. The Appellate Court ruled the statute permitting a professional home office for a doctor or health practitioner did not include the doctor's sale of eyeglasses and contact lenses. The technical expertise to fit eyeglasses and contact lenses did not fit the definition of "professional".

### BCZR PROVIDES APPROPRIATE ZONE FOR PETITIONER'S OCCUPATION

The law of statutory construction requires the agency or court to carry out the legislative intent. A statute must be construed so as to "ascertain and carry out the intent of the legislature". In considering the language of a statute, courts will give that language its natural and ordinary meaning. Montgomery Co. v. Buckman 333 Md. 516, 523 (1994).

That charge requires this Board to deny the Petitions for Special Exception and Special Hearing. "Courts have duty when construing a statute to restrict meaning of general words, whenever it is found necessary to do so, in order to carry out legislative intention" State v. Gharji, 346 Md.101 (1997).(emphasis added).

Here the legislative intent is clear. The Petitioner's occupation is specifically listed as a permitted use in the manufacturing and office zones.

The Office Technology Zone (OT) (BCZR 209) provides by right, "establishments for manufacture, assembly, service and/or repair of the products listed below . . . i. Surgical, medical and dental instrumenets and supplies." (emphasis added). The OT zone requires a minimum lot size of 30,000 sq. ft., minimum front yard width of 150 ft. and 50 ft. setback from a DR zone.

The Service Employment Zone (SE) (BCZR 210) provides by right for "uses engaged in service industries... as opposed to the manufacturing of, specific products such as the repair and maintenance of appliances or components parts, tooling,...small machine shops and shops engaged in the repair, maintenance and servicing of such items... (emphasis added). The OT zone requires a 2 acre minimum lot size and a 150ft. lot width.

The manufacturing zones, MR, MLR, ML, (BCZR 240,247,253) permit by right the manufacture of precision instruments. (emphasis added).

### PETITIONERS' REQUESTED RELIEF IS A DISGUISED REZONING

Petitioner does not qualify for relief as a home occupation or professional's office. Other zones exist to accommodate his business. To permit him to operate in his home, in effect, rezones the site to O.T. or S.E.

Zoning is a legislative function. In Baltimore County, the CBA is given limited authority to rezone by Petition. (See BCC 2-356 et.al.) The Board cannot rezone *de facto* what it cannot do by law. "Rezoning by comprehensive plan is a legislative function and cannot be delegated except upon express authority." <u>Bd. Of County Commissioners for Prince George's Co. v. Edmonds</u>, 240 Md. 680 (1965).

See <u>West Montgomery County Citizens Ass'n. v. Md. Nat. Capital Park & Planning</u>

<u>Com'n.</u>, 309 Md. 183 (1987), where the Court ruled the zoning board's administration of a program to transfer development rights usurped the legislative authority to zone property.

### **CONCLUSION**

For failure to state the authority for the relief requested, failure to meet his burden of proof, and failure meet the standards for special exception and variance relief, and for all the reasons stated in this Memorandum, the Petitions for Special Hearing, Special Exception and Variance must be denied.

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 day of July, 1999, a copy of the foregoing
eople's Counsel's Memorandum was mailed to Thomas J. Gisriel, Esq., Hodes, Ulman, Pessin
01 Dulaney Valley Road, Towson, MD 21204, attorney for Petitioners.
ColeSip. C
CAROLE S. DEMILIO

2 XA 70

RE: PETITION FOR SPECIAL HEARING
for the use of an office-laboratory
of a professional person in a

residential zone N/S Dunwich Road 315'

SE of Pickett Road 8th District

Edward T. O'Toole, Petitioner

**BEFORE** 

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

No. 78-65-SPH

### OPINION

The issues before the Board in this instance are twofold: (a) May the occupation of Dr. O'Toole be classified as "other professional persons" as said language appears in Section 1801.1A.14e of the Baltimore County Zoning Regulations, and (b) is the planned use of a portion of the doctor's residence an office within the scope of Section 1801.1A.14e or a laboratory as defined on page 101: 8 of the Zoning Regulations?

During the course of the hearing, after reviewing the exhibits presented by the Petitioner that pertain to his qualifications as a microbiologist, the Board ruled that it was satisfied that this occupation of Dr. O'Toole did fall within the scope, spirit and intent as "a professional person" under the previously cited regulation.

After carefully considering the testimony and evidence presented and reviewing the zoning regulations as same define laboratory and refer to office use, the Board is satisfied that the use planned by Dr. O'Toole is that of an office use and not that Dr. O'Toole's description of his planned use of this area of his home of a laboratory. satisfied the Board that same was office-like in nature and not the use of a "laboratory" as Only several small pieces of equipment will be in this is described in our regulations. A couple of pieces of this equipment will be office and used in the doctor's work. connected to his household electric, and the doctor stated that their electric requirements The doctor told the Board that no other will be about the same as that of a light bulb. special requirements for his work would be necessary; i.e., no special plumbing, lighting An order summarizing or other particular finishings to the walls, ceilings or floors. these findings follows hereafter.

Edward T. O'Toole - #78-65-SPH

#### ORDER

For the reasons briefly summarized in the above Opinion, the Board finds that the occupation of this Petitioner falls within Section IBO1.1A.14e of the Baltimore County Zoning Regulations as "other professional persons".

Secondly, the Board finds that the planned use of this Petitioner for the designated area in his residence is office-like in nature and not a laboratory, as defined in the Zoning Regulations.

Therefore, for the above reasons, the Board ORDERS that the planned use as presented by the Petitioner be allowed as a matter of right within the existing regulations.

Any appeal from this decision must be in accordance with Rules B-1 thru B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

Walter A. Reiter, Jr., Chairman

John A. Miller

Dated: November 27, 1978 William T. Hackett

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1/9/01

RE: PETITION FOR SPECIAL HEARING PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE	<b>60</b>
PETITION FOR VARIANCE	*	COUNTY BOARD OF APPEALS	70 TIN 66
304 Kenwood Avenue,	*		
W/S Kenwood Ave, 140.8'		FOR	
N from c/l Oglethorpe Rd,	*		3 9
1st Election District, 1st Coucilmanic		BALTIMORE COUNTY	APPEALS
	*		2 Ş
Owner: David M. Coleman		Case No. 99-54-SPHXA	÷
Lessee: Francis Honeywell	*		•

### POST-HEARING MEMORANDUM OF PETITIONER

Francis Honeywell, Petitioner, by his attorney, Thomas J. Gisriel of Hodes, Ulman, Pessin & Katz, P.A., respectfully submits this Post-Hearing Memorandum as directed by the Board of Appeals at the hearing in this matter on June 7, 1999.

### Summary of the Evidence

Mr. Honeywell resides with his wife at 304 Kenwood Avenue. They also operate a business, known as Allied Medical Corporation, in the basement of their residence.

Allied Medical Corporation is engaged in the business of the repair of and rehabilitation of hi-tech medical equipment, primarily endoscopes and entroscopes, as well as the design of replacement parts for this equipment. Endoscopes and entroscopes are medical instruments which are inserted into the body for diagnostic and minor surgical procedures.

Mr. Honeywell's repair and rehabilitation of endoscopes and entroscopes, and his design of replacement parts necessary for these repairs and rehabilitation, require knowledge of a number of specialized fields. These include knowledge of medicine and anatomy for an understanding of the use of the equipment, and the environment for which it is used; knowledge of current disinfection procedures used by medical personnel so that they are aware of the stresses to which the equipment

is subjected; knowledge of FDA Regulations so that materials and processes used to repair or rehabilitate the equipment comply with regulations governing use of the equipment; knowledge of materials so appropriate choices of materials for repair and rehabilitation can be made; knowledge of metals so that proper metals can be selected for compatibility with other metals, compliance with FDA Regulations and for their ability to withstand the stresses of the environment to which the equipment is subjected; and knowledge of industrial design in order to design replacement parts which are not available from the original equipment manufacturer.

The manufacturers of endoscopes and entroscopes do not make replacement parts for this equipment available in the market. The unavailability of replacement parts is a key distinction between the activities of Mr. Honeywell and the activities of repairmen of general electronic equipment. Repair of electronic equipment requires only knowledge of that particular instrument and its components. Repair of such electronic equipment consists primarily of identifying a malfunctioning component and replacing that component with a replacement component made by the original manufacturers.

Mr. Honeywell cannot simply identify a malfunctioning component and replace it with a component from the original manufacturer. Mr. Honeywell must design many of the replacement parts he uses. This requires specialized knowledge and skill in medical and regulatory areas which is wholly unlike general electronic repairmen.

Mr. Honeywell is a respected professional in his field. He conducts training classes for nurses and doctors in the use and care for endoscopes and entroscopes.

Mr. Honeywell is a member of a number of professional associations in areas related to his professional activities, including the Society of Gastroenterology Nurses and Associates, the

Virginia Biomedical Association and the Baltimore Medical Engineers and Technicians Society.

He both attends educational sessions of these organizations, and conducts educational or training sessions on their behalf.

In addition to Mr. and Mrs. Honeywell, who reside at the property, Allied Medical Corporation employees three (3) individuals, one (1) co-professional and two (2) support employees. The employees park in the off street parking located on the property.

Allied Medical Corporation maintains no signs or other exterior indications that it is operating at 304 Kenwood Avenue. Customers do not visit the location. Other than the traffic of the three (3) employees, no additional traffic is generated, other than a UPS or Federal Express truck.

The immediate neighbors of the property, Mr. and Mrs. Drechsler and Mr. and Mrs. O'Brien, support the continued use of the property by Allied Medical Corporation. Another resident of the community, Gerry Cugel, testified in support of the continued use of the property by Allied Medical Corporation. The immediate neighbors testified that the impact of the operation of Allied Medical is so small that they were unaware of the operation of the business. They favor the presence of Allied Medical during the day, which they believe is a deterrent to crime when many residents are away from home at work.

This matter was initiated as a zoning enforcement action based on a complaint by a competitor who misrepresented himself to the Zoning Enforcement Officer as a County Official. That competitor then sought to use the pending zoning enforcement action to malign Allied Medical to its customers. The complainant has no interest in the immediate neighborhood and did not appear at the hearing.

The only witness who testified against the requested relief was Stephen Boettinger. Mr. Boettinger purported to speak for the community as the president of the Catonsville Knolls Community Association. Mr. Boettinger estimated that there are 210 families in the community. When his association considered the position to take on this issue, however, it had only 18 members.

The procedure of the association in arriving at its position was seriously flawed. No notice was given to Mr. Honeywell or Allied Medical that the association was considering the issue. No officer of the association contacted Mr. Honeywell or Allied Medical to obtain information about their use of the property, and no member or officer visited the property.

Mr. Boettinger testified that the matter was voted upon by the association at its September 1998 meeting. The association's records showed that Ms. Cugel was in attendance. Ms. Cugel testified, however, that no such vote was taken in her presence.

Under these circumstances, there must be serious doubt whether Mr. Boettinger, in fact, speaks for the community.

Allied Medical Corporation operates out of the basement of the property. Confining the professional use to the basement presents a natural division between the residence and the professional use. The basement consists of approximately thirty-six (36%) percent of the entire floor area of the house.

The property is zoned D.R. 5.5.

### Legal Theories of the Case

The Petitioner presents two (2) theories to support the continued use of the basement of 304 Kenwood Avenue by Allied Medical Corporation.

The first is that the use of the property is a special exception permitted by Section 1B01.1.C.9B of the Baltimore County Zoning Regulations ("BCZR"). This provision permits:

Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence; and does not occupy more than twenty-five (25%) percent of the total floor area of such residence; and does not involve the employment of more than one (1) non-resident professional associate nor two (2) other non-resident employees.

Because the basement of the property occupies approximately thirty-six (36%) percent of the total floor area of the residence, a variance of the floor area would be necessary in order to continue use of the entire basement for professional purposes.

The second theory upon which Petitioner proceeds is that the repair of medical equipment, such as endoscopes, is a "home occupation" which is a permitted accessory use of the residence under Section 1.B.01.1.A.14.d of the BCZR. Because "home occupation" is defined in the BCZR as a use with no more than one (1) non-resident person employed on the premises (Section 101 BCZR) permission would need to be granted to continue the "home occupation" with three (3) employees to continue the current level of employment at the property. Absent such approval, the home occupation could continue under the BCZR, but with only one non-resident employee, causing the unemployment of two individuals.

### Petitioner's Activities are "Professional" Within the Meaning of the BCZR

In order to qualify for the Special Exception permitted by Section BCZR Section 1.B.01.1.C.9B, Petitioner's activities must be characterized as "professional." The Ordinance states

that special exceptions may be granted for "offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons . . . . "

While the activities of the Petitioner are not specifically listed among the professional activities listed in the BCZR, the Ordinance expressly permits "other professional persons." Thus professional persons other than those specifically listed are permitted by the Ordinance.

Case law construing the term "professional" supports the characterization of Petitioner's activities as professional. For example, machine designers were determined to be professionals in Aulen v. Triumph Explosive, Inc., 58 F.Supp. 4 (D. Md. 1944). In that case, the court stated:

Formerly theology, law and medicine were known as the 'professions'; but as the applications of science and learning are extended to other departments of affairs, other vocations also receive the name. The word implies professional attainments and special knowledge, as distinguished from mere skill.

Aulen v. Triumph Explosive, Inc., supra, 58 F.Supp. at 8.

Similarly, in <u>Teague v. Graves</u>, 27 N.Y.S.2D 762 (1941), the court determined an industrial designer to be a professional. The court relied on the intellectual and varied nature of the designer's work, stating:

"The profession of industrial design... has developed a technique for analyzing the function of a product, and set up standards for judging functional fitness. It has applied these methods and standards to innumerable objects..."

Teague v. Graves, supra, 27 N.Y.S.2D at 764.

This Board of Appeals, in <u>In Re: O'Toole</u>, 78-65-SPH, determined that a microbiologist is a professional able to maintain an office as a special exception in a residential zone.

Similarly, in the case of <u>In Re: Richard A. Dalla Tezza</u>, 85-78-X the Board noted that a nurse, a rabbi, a chemist, a Christian Science Practitioner, an industrial designer, a dance teacher and a singing teacher had all been deemed to be professional persons. (slip opinion at 3).

Several of the professions specifically listed in the Ordinance, such as artists and musicians require no special educational degree, licensing, or regulation. This is also true of several professions previously recognized by this Board, such as microbiologist, industrial designer, dance teacher and singing teacher. Petitioner's professional activities include aspects of a number of these professions. Mr. Honeywell uses microbiological knowledge in choosing appropriate materials for medical equipment. He uses the knowledge of an industrial designer in designing replacement parts.

The activities of the Petitioner in his profession qualify as a "professional person" within the meaning of the regulation. It is necessary for him to apply specialized learning and knowledge in a number of areas in order to perform his job.

His job requires knowledge of medicine and anatomy. He applies knowledge of FDA Regulations regarding proper materials to be used in medical equipment, such as endoscopes and entroscopes, to be inserted within the human body. He applies specialized knowledge regarding the function, compatibility and characteristics of various materials and metals. He needs to have sufficient knowledge to design replacement parts for his hi-tech medical equipment because the original equipment manufacturer does not make replacement parts available in the market.

Clearly, Mr. Honeywell's profession involves "analyzing the function of a product and setting up standards for judging functional fitness" which was found to be professional in <u>Teague v. Graves</u>, <u>supra</u>. It also involves the application of science and learning, which was found to be professional in <u>Aulen v. Triumph Explosive</u>, <u>Inc.</u>, <u>supra</u>.

In light of the specialized knowledge in medicine, microbiology, materials and design utilized by Mr. Honeywell in his profession, his work is certainly that of a professional person within the meaning of the Baltimore County Zoning Regulation.

### A Special Exception Should be Granted for Petitioner's Use of the Property

The designation of a use as a special exception within a district is a legislative determination that the use is generally compatible with other permitted uses in the district, but that it may have adverse effects which could outweigh the beneficial uses in particular circumstances.

When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses.

Schultz v. Pritts, 291 Md. 1, 21-22 (1981).

Because of the legislative determination that a special exception use is compatible with other uses in the zone, the proper inquiry is whether this use at this location has greater than usual adverse effects.

Thus, it is not whether a special exception/conditional use is compatible with permitted uses that is relevant in the administrative proceeding. The legislative body, by designating the special exception, has deemed it to be generally compatible with the other uses. In a special exception case, therefore, general compatibility is not normally a proper issue for the agency to consider. That issue has already been addressed and legislatively resolved. Moreover, it is not whether a use permitted by way of a special exception will have adverse effects (adverse effects are implied in the first instance by making such uses conditional uses or special exceptions rather than permitted uses), it is whether the adverse effects in that particular

location would be greater than the adverse effects ordinarily associated with a particular use that is to be considered by the agency.

Mossburg v. Montgomery County, supra. 107 Md.App. at 8-9.

The <u>Schultz</u> court expressed the standard to be applied at the administrative hearings as follows:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

Schultz v. Pritts, supra. 291 Md. at 22-23.

Petitioner's use of his residence clearly does not have adverse effects above and beyond those inherently associated with a professional office. Indeed, Petitioner's use will have much smaller effects.

Unlike most professional offices, such as a doctor, a lawyer or a dentist, Petitioner does not have clients or patients visiting his property. Petitioner's use generates less traffic and parking than a conventional professional use. Moreover, this property is conducive to this use because all of the parking generated by the employees is accommodated on the large driveway of the property. The residential character of the neighborhood is affected far less by Petitioner's use of the property than by a conventional professional use.

Similarly, Petitioner maintains no signs or other markings identifying the location of his business. Because he does not have a business that requires customers or patients to visit him, such signage is not necessary.

It is noteworthy that the Petitioner's neighbors were generally unaware of the operation of the business at this location until Petitioner contacted them in connection with this proceeding.

Under these circumstances, Petitioner clearly meets the standards necessary for approval of a special exception.

### Petitioner Should Be Granted A Variance For The Floor Area Ratio

The Baltimore County Zoning Regulation permitting the special exception authorizes up to twenty-five percent (25%) of the floor area of the residence to be used for the professional office. The reason for this regulation is to prevent the professional office use from overwhelming the residential use of the property.

Petitioner uses the basement of the property for their professional office. The remainder of the property is used as a residence. Certainly, the residential use of the property is not overwhelmed by the professional office use of the property.

This particular property is unusual in such a way that this particular zoning provision affects this property disproportionately. In order for Petitioner to meet the twenty-five percent (25%) limitation for the floor area of the property, it would be necessary for Petitioner to artificially segregate a portion of the basement and refrain from using only that portion for his professional office. This result arises from the nature of the building itself, and the application of the floor area ratio limitation to this building.

Petitioner testified that certain areas of the basement could be segregated from professional office use if necessary. Thus, approval of the variances is not necessary in order to approve the special exception.

A requirement that only a portion of the basement be used for the professional office would be artificial, and unnecessarily harsh for Petitioner. Such a requirement would create an unnecessary burden for the Petitioner which would not advance the policy underlying the Regulation. The Regulation presents a practical difficulty for the Petitioner.

The property is unique and unusual in that it has a natural division that permits the use of the basement for a professional office while the remainder of the property is used as a residence. The basement, however, exceeds the twenty-five percent (25%) foot area ratio, which is the maximum for professional offices.

Artificially segregating a portion of the basement and refraining from using it for the professional office would be unnecessarily burdensome upon Petitioner and would create a practical difficulty.

Accordingly, the variance permitting the Petitioner to use the entire basement for the professional office should be granted.

### Petitioner Should Be Permitted To Continue <u>His Home Occupation With Three Employees</u>

Section 500.7 of the BCZR permits the Zoning Commissioner to "pass such orders . . . as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations . . . . " In addition, Section 500.6 of the BCZR permits the zoning commissioner to interpret and pass his order upon all alleged zoning violations. As the body reviewing the action of the Zoning Commissioner, this Board can exercise that authority.

Although regulations governing "home occupations" permit only one (1) employee, Petitioners submit that, in light of the minimal impact this particular "home occupation" has upon the surrounding neighborhood, an order permitting three (3) non-resident employees in his home occupation at this location is appropriate.

As the particular home occupation in this instance involves no visits by any customers or clients, it does not materially increase traffic in this neighborhood. All of the employees park off street on the property. Thus, the additional employees do not adversely impact parking in the neighborhood.

Petitioner maintains no signs on the property that identify his home occupation. Thus, the home occupation has no material impact on the residential character of the neighborhood.

Under these circumstances, it would be appropriate for the Zoning Commissioner to permit this home occupation to continue with three (3) non-resident employees.

Thomas J. Gisriel

HODES, ULMAN, PESSIN & KATZ, P.A. 901 Dulaney Valley Road, Suite 400 Towson, Maryland 21204 (410) 938-8800

Attorney for Petitioners

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of July 1999 a copy of the foregoing Post-Hearing Memorandum of Petitioner was mailed, postage prepaid, to Carole S. Demilio, Deputy People's Counsel, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

Thomas J. Gisriel

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PETITIONS FOR SPECIAL HEARING, IN RE:

SPECIAL EXCEPTION & VARIANCE -

W/S Kenwood Avenue. 140.8' N of \* DEPUTY ZONING COMMISSIONER

the c/l of Oglethorpe Road

(304 Kenwood Avenue) 1st Election District

1st Councilmanic District

\* BEFORE THE

\* OF BALTIMORE COUNTY

\* Case No. 99-54-SPHXA

David M. Coleman, Owner; Francis Honeywell, Contract Lessee

\* \* \* \*

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owner of the subject property, David M. Coleman, and the Contract Lessee, Francis Honeywell, through their attorney, Thomas J. Gisriel, Esquire. The Petitioners seek approval of a Home Occupation with three (3) non-resident employees in lieu of the maximum allowed one (1) non-resident employee, pursuant to Section 1B01.1.A.14.d of the Baltimore County Zoning Regulations (B.C.Z.R.). In the alternative, the Petitioners request a special exception for a Professional Office and a variance from Section 1B01.1.C.9.B to permit 36% of the total floor area ratio to be dedicated to office use in lieu of the maximum allowed 25%. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Fran and Margaret Honeywell, Contract Lessees, and Thomas J. Gisriel, Esquire, attorney for the Petitioners. Appearing as Protestants in the matter were Stephen Boettinger, Diane Preisinger, and Eugene Crawford, all residents of the surrounding community.

Testimony and evidence offered revealed that the subject property consists of 0.326 acres, more or less, zoned D.R.5.5, and is improved with

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a one and one-half story frame dwelling, a one-story garage, and an accessory shed. Mr. & Mrs. Honeywell have resided on the property for the past 3 and 1/2 years. Mr. Honeywell testified that he operates a medical equipment repair business in the basement of his home. Testimony indicated that Mr. Honeywell, his wife, and three other individuals employed by him repair and service endoscopes, which are medical instruments used to examine and diagnose problems in the upper and lower gastro-intestinal Mr. Honeywell testified that endoscopes are costly to purchase and tract. that repairing same has become a viable alternative for medical professionals in lieu of purchasing new endoscopes. Mr. Honeywell indicated that he accounts with several medical facilities and that his service includes pick-up and delivery of those endoscopes repaired by his business. Therefore, none of his customers come to the property and traffic to and from the site is minimal. Mr. Honeywell testified as to the sophistication of this equipment and the knowledge required to repair and service them. Further testimony indicated that the entire basement level, which contains 920 sq.ft. of floor area, is used for business operations and that compared with the remaining square footage of the house as a whole, the basement level constitutes 36% of the total floor area of the building. Thus, if a special exception is granted for a professional office, the requested variance is necessary in that the area used by Mr. Honeywell for his business operation exceeds that permitted by the zoning regulations.

Appearing in opposition to the request were several residents from the surrounding community, all of whom signed the Protestants' Sign In Sheet. These residents are very much concerned that allowing the proposed home occupation or professional office in their residential neighborhood will set an unfortunate precedent for other residents in the area. While

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they admitted that outside evidence of the subject business is limited, they are concerned about supporting such an endeavor. They believe this area should remain residential in use and character and are therefore opposed to the granting of any of the relief requested.

By virtue of the alternative relief requested, the Petitioner is attempting to gain approval of a business in the basement of his home in two fashions. The Petitioner has requested a special hearing to approve the use as a home occupation, or a special exception and variance relief for a professional office in his home. Professional offices are permitted by special exception in residential zones, as long as the business satisfies the definition of a "professional" and that such use does not constitute more than 25% of the total floor area of the residence in question. As noted in the Petition filed, and attested to by Mr. Honeywell, the entire basement level of the home which is used to conduct the business, exceeds the 25% ratio in that the size of the basement level, which is used entirely for the business operation, constitutes 36% of the total floor area of his home. Therefore, a variance is required if the special exception is granted.

Before I can decide whether the special exception should be granted, I must first determine that the use proposed is that of a "professional". Section 1B01.1.C.12 of the B.C.Z.R. permits, by special exception, the office or studios, of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's 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 associate, nor two

other non-resident employees. The testimony was clear that in addition to himself and his wife, Mr. Honeywell employs three (3) other individuals who do not reside on the subject property. The Petitioner is attempting to classify Mr. Honeywell's occupation as that of a professional, similar to a physician, dentist, lawyer, architect, engineer, artist, or musician. While it was clear from the testimony that Mr. Honeywell does possess the expertise and knowledge needed to repair and service endoscopes, I do not believe that his expertise rises to that of a professional, as that term is defined in the B.C.Z.R. While endoscopes are considered technical medical instruments, so, too, are VCRs, television sets, camcorders, computers and other similar electronic equipment. The individuals who service these types of sophisticated electronic equipment are equally skilled and knowledgeable in their field. Were I to broaden the definition of a professional to include Mr. Honeywell's occupation, I would have to include those other individuals as professionals also. However, I do not believe that Mr. Honeywell's profession as a service and repair technician of endoscopes categorizes him as a professional as that term is defined in Section 101 of the B.C.Z.R. For this reason, I am persuaded to deny the Petitions for Special Exception and Variance.

In the alternative relief, the Petitioners have requested a special hearing to allow Mr. Honeywell to operate the subject business as a home occupation, as that term is defined in Section 1B01.1.A.14.d of the B.C.Z.R. (Section 1B01.1.A.18.c of the new regulations). In addition, the Petitioner seeks approval to employ three non-resident individuals in lieu of the maximum allowed one non-resident employee. Section 101 of the B.C.Z.R. defines Home Occupation as follows: "Any use conducted entirely within a dwelling which is incidental to the main use of the building for

dwelling purposes and does not have any exterior evidence, other than a permitted sign, as stated in Section 450.4, to indicate that the building is being utilized for any purpose other than that of a dwelling, and in connection with which no commodity is kept for sale on the premises, not more than one person per dwelling is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment other than computers, printers, fax machines, modems, standard office copy machines, and similar office equipment is used, except such as may be used for domestic purposes."

Based on the testimony and evidence offered at the hearing, it would appear that Mr. Honeywell satisfies all of the provisions of a Home Occupation, except for the fact that he employs more individuals than is permitted by that provision. The County Council, while defining permissible home occupations, was careful to limit the number of employees working at any one particular residence. The definition specifically states that not more than one person per dwelling may be employed on the premises. As noted above, Mr. Honeywell employs three other individuals in addition to himself and his wife. Thus, he fails to satisfy the requirements of Section 1B01.1.A.14.d of the B.C.Z.R., and as such, the Petition for Special Hearing must also be denied.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, all of the relief requested must and shall be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this // day of November, 1998 that the Petition for Special Hearing seeking approval of a Home Occupation, pursuant to Section 1801.1.A.14.d of the Baltimore County Zoning Regulations (B.C.Z.R.) with

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three (3) non-resident employees in lieu of the maximum allowed one (1) non-resident employee, be and is hereby DENIED; and,

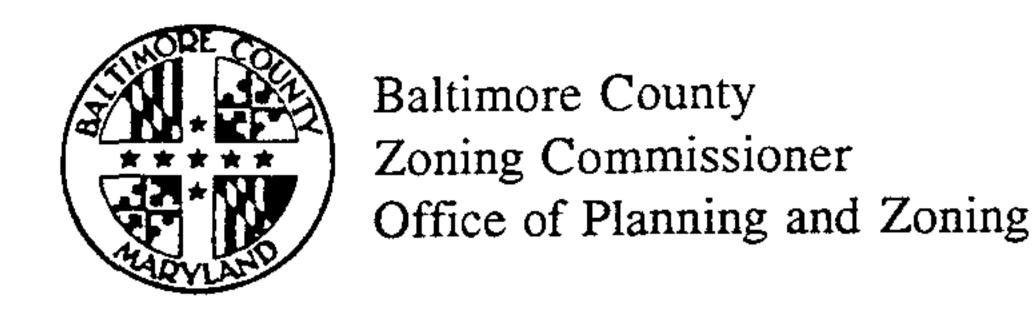
IT IS FURTHER ORDERED that the alternative Petition for Special Exception for a Professional Office. and Petition for Variance seeking relief from Section 1B01.1.C.9.B to permit 36% of the total floor area ratio to be dedicated to office use in lieu of the maximum allowed 25%, be and are hereby DENIED.

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



Suite 112, Courthouse 400 Washington Avenue Towson, Maryland 21204 (410) 887-4386

November 19, 1998

Thomas J. Gisriel, Esquire Hodes, Ulman, Pessin & Katz 901 Dulaney Valley Road Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE W/S Kenwood Avenue, 140.8' N of the c/l of Oglethorpe Road (304 Kenwood Avenue)

1st Election District - 1st Councilmanic District
David M. Coleman, Owner; Francis Honeywell, Contract Lessee Case No. 99-54-SPHXA

Dear Mr. Gisriel:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception and Variance have been denied in accordance with the attached Order.

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

Very truly yours,

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

cc: Mr. David M. Coleman Route 1, Box 94, Summit Point, West Virginia 25446

Mr. & Mrs. Francis Honeywell
304 Kenwood Avenue, Baltimore, Md. 21228

People's Counsel; Case Files



## Petition for Special Exception

### to the Zoning Commissioner of Baltimore County

for the property located at

304 Kenwood Avenue

which is presently zoned

D.R. 5.5

This Petition shall be filed with the Department of Permits & Development Management

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for Professional Office, pursuant to Section 1801.1.C.9B of BCZR.

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 legal owner(s) of the property which is the sub-	· • • -
	Contract Purchaser/Lessee:	Legal Owner(s):	
	Fran Honeywell (Type or Print Name)	David Michael Coleman	1
	Signature Signature	David Muha Signature	Wollner
	304 Kenwood Avenue	(Type or Print Name)	
	Baltimore Maryland 21228 City State Zipcode	Signature	<u></u>
		R.R.1 Box 94	(304) 725-8333
	Attorney for Petitioner	Address	Phone No
CTS 1	Thomas J. Gisriel	Summit Point	WV 25446-9418
FILING	(Type or Print Name)  Signature  Signature	City Name, Address and phone number of represen	State Zipcode ntative to be contacted.
E 22	Hodes, Ulman, Pessin & Katz, P.A. 901 Dulaney Valley Road (410) 938-8800	Name	
	Address Phone No. Towson Maryland 21204	Address	Phone No
	City State Zipcode	OFFICE US: ESTIMATED LENGTH OF HEARING Unavailable for	
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99.54-5PHXA

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FOR: 99-54-5PHYA		

YELLOW - CUSTOMER

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

# 99.54.5PHKA

**CASHIER'S VALIDATION** 

#### 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: #99-54-SPHXA
304 Kenwood Avenue
W/S Kenwood Avenue, 140.8'
N from centerline Oglethorpe
Road
1st Election District
1st Councilmanic District
Legal Owner(s):
David Michael Coleman
Contract Purchaser:
Francis Honeywell

Special Hearing: to approve a home occupation with 3 non-resident employees in lieu of the required 1 non-resident employee. Special Exception: for a professional office. Variance: to permit 36% in lieu of the required 25% of the total floor area ratio. Hearing: Tuesday, September 15, 1998 at 2:00 p.m., in Room 407, County Courts Bidg., 401 Bosiey 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.

8/389 Aug. 27 - C253852

### CERTIFICATE OF PUBLICATION

TOWSON, MD., 8,27, 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 successive
weeks, the first publication appearing on $899$ , 1998
THE JEFFERSONIAN,
a. Henrelson
LEGAL AD TOWSON

### CERTIFICATE OF POSTING

	RE: Case No.: 99-545PHXA
	Petitioner/Developer:
	COLEMAN, HONEYWELL
	Date of Hearing/Closing:
Baitimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Ladies and Gentlemen:	
	s of perjury that the necessary sign(s) required by law ty located at 304 KENWOOD AVE.
The sign(s) were posted on $2$	//9/99 (Month, Day, Year)
	Sincerely,
	Jay C Seel 2/19/99 (Signature of Sign Poster and Date)
	(Printed Name)
•	(Address)
	(City, State, Zip Code)
	(Telephone Number)



# Baltimore County Department of Permits and Development Management

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

### ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

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

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

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

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

	ARNOLD	JABLON,	DIRECTOR
For newspaper advertising:			
Item No.: 54			
Petitioner: Fran Honeywell	· · · · · · · · · · · · · · · · · · ·		
Location: 304 Kenwood Avenue			
PLEASE FORWARD ADVERTISING BILL TO:			
NAME:Thomas J. Gisriel	<u> </u>		
Hodes, Ulman, Pessin & Katz, P. ADDRESS: 901 Dulaney Valley Road	Α.		
Towson, Maryland 21204	···	<u> </u>	· · · · · · · · · · · · · · · · · · ·
PHONE NUMBER: (410) 938-8800			· · · · · · · · · · · · · · · · · · ·
AJ:ggs			

(Revised 09/24/96)

Date to be Posted: Anytime before but no later than  Format for Sign Printing, Black Letters on White Background:  ZONING NOTICE  Case No.: 99-54 SPHXA
ZONING NOTICE
■ * 1 - * * * 1 - 1 - 1 - 1 - 1 - 1 - 1 -
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
PLACE:  DATE AND TIME:  REQUEST: SPECIAL HEARING TO ALLOW HOME ACCUPATION  ON THE PROPERTY WITH 3 NON-RESIDENT EMPLOYEES  IN LIEU OF THE REQUIRED ONE EMPLOYEE,  SPECIAL EXCEPTION TO ALLOW PROFESSIONAL  OFFICE AND VARIANCE TO PERMIT 36 % FLR.  POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.  TO CONFIRM HEARING CALL 887-3391.  AREA RATIO IN LIEU OF THE REQUIRED 25%,  DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW  HANDICAPPED ACCESSIBLE

TO: PATUXENT PUBLISHING COMPANY

August 27, 1998 Issue - Jeffersonian

Please forward billing to:

Thomas J. Gisriel, Esquire Hodes, Ulman, Pessin & Katz, PA 901 Dulaney Valley Road Towson, MD 21204 410-938-8800

### 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: 99-54-SPHXA

304 Kenwood Avenue

W/S Kenwood Avenue, 140.8' N from centerline Oglethorpe Road

1st Election District - 1st Councilmanic District

Legal Owner: David Michael Coleman Contract Purchaser: Francis Honeywell

<u>Special Hearing</u> to approve a home occupation with 3 non-resident employees in lieu of the required 1 non-resident employee. <u>Special Exception</u> for a professional office. <u>Variance</u> to permit 36% in lieu of the required 25% of the total floor area ratio.

**HEARING:** 

Tuesday, September 15, 1998 at 2:00 p.m. in Room 407, County Courts

Building, 401 Bosley Avenue

carrence p. 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

August 10, 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:

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W/S Kenwood Avenue, 140.8' N from centerline Oglethorpe Road

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<u>Special Hearing</u> to approve a home occupation with 3 non-resident employees in lieu of the required 1 non-resident employee. <u>Special Exception</u> for a professional office. <u>Variance</u> to permit 36% in lieu of the required 25% of the total floor area ratio.

**HEARING:** 

Tuesday, September 15, 1998 at 2:00 p.m. in Room 407, County Courts

Building, 401 Bosley Avenue

Arnold Jablon

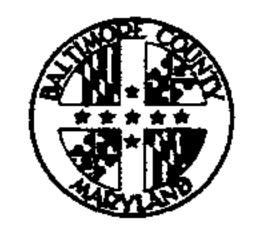
Director

c: Thomas J. Gisriel, Esquire David Michael Coleman Francis Honeywell

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY AUGUST 31, 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.



### County Board of Appeals of Baltimore County

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

Hearing Room - Room 48 Old Courthouse, 400 Washington Avenue

April 12, 1999

#### NOTICE OF ASSIGNMENT

CASE #: 99-54-SPHXA

IN THE MATTER OF: DAVID MICHAEL COLEMAN -Owner; FRANCIS L. HONEYWELL -Lessee/Petitioner 304 Kenwood Avenue 1st E; 1st C

(11/19/98 decision of D.Z.C. in which Petition for Special Hearing, as well as special exception and variance, is DENIED.)

### ASSIGNED FOR:

WEDNESDAY, JUNE 9, 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 Appellant /Petitioner: Thomas J. Gisriel, Esquire

Appellant /Petitioner: Francis Honeywell Property Owner : David M. Coleman

Stephen Boettinger Diane Preisinger Eugene Crawford

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





### 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 15, 1999

#### NOTICE OF DELIBERATION

IN THE MATTER OF:

DAVID MICHAEL COLEMAN -Owner; FRANCIS L. HONEYWELL -Lessee Case No. 99-54-SPHXA

Having heard this matter on 6/09/99, public deliberation has been scheduled as follows:

DATE AND TIME: THURSDAY, AUGUST 19, 1999 at 1:00 p.m.

LOCATION: Room 48, Basement, Old Courthouse

(OTE: Memos filed by Counsel on July 9, 1999.)

Kathleen C. Bianco Administrator

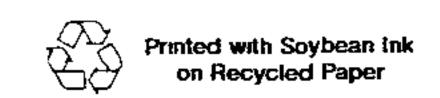
c: Counsel for Appellant /Petitioner: Thomas J. Gisriel, Esquire Appellant /Petitioner: Francis Honeywell

Property Owner : David M. Coleman

Stephen Boettinger Diane Preisinger Eugene Crawford

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

copies: C.F.M.





**DATE:** August 21, 1998

### BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

**SUBJECT:** 

304 Kenwood Avenue

**INFORMATION:** 

**Item Number:** 

54

Petitioner:

Francis Honeywell

**Property Size:** 

 $0.326\pm$  acres

Zoning:

DR 5.5

Requested Action: Special Exception

**Hearing Date:** 

#### SUMMARY OF RECOMMENDATIONS:

The owner of the property, located at 304 Kenwood Avenue, is requesting a Special Exception for a professional office in the home, a variance to allow the office to occupy 36% of the total floor area in lieu of 25%, and a special hearing to allow three non-resident employees in lieu of one non-resident employee. (Note the Baltimore County Zoning Regulation appears to allow one non-resident professional associate and two non-resident employees.)

The subject property is located within a Community Conservation Area, as designated in the Baltimore County Master Plan 1989-2000. The type of professional office is not specifically stated on either the plan or on the petition form, therefore it is not clear that Allied Medical Corporation meets the definition of professional office.

Secondly, the area variance to allow 36% of the floor area to be utilized for professional office use is the concern to this office as having the potential to set a precedent with countywide implications.

Lastly, the Special Hearing to allow three non-resident employees is of concern. If it is necessary to utilize a larger percentage of the total floor area of the home and to exceed the number of employees allowed, perhaps the use is more suitable for a ROA (Residential Office Class A) zoned location than a DR location.

Section Chief: W-Long

AFK:DI:lsn

I ac	gal Owners: David M. Coleman		
I ao	eal Owners: David M. Coleman		
Lan	ral Owners: David M. Coleman	*	BALTIMORE COUNTY
	rom c/l Oglethorpe Rd, 1st Election District, Councilmanic	*	FOR
	Kenwood Avenue, W/S Kenwood Ave, 140.8'		
	PETITION FOR SPECIAL EXCEPTION PETITION FOR VARIANCE	*	ZONING COMMISSIONER
	: PETITION FOR SPECIAL HEARING	*	BEFORE THE

### **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.

Poter Mars Zimmerman Clarale S. Demilio

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 \_\_\_\_\_ day of August, 1998, a copy of the foregoing Entry of Appearance was mailed to Thomas J. Gisriel, Esq., Hodes, Ulman, Pessin, 901 Dulaney Valley Road, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Immerman
PETER MAX ZIMMERMAN

### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: August 18, 1998

Department of Permits & Development

Management

Robert W. Bowling, Chief Development Plans Review Division

SUBJECT:

Zoning Advisory Committee Meeting

for August 17, 1998

Item Nos. 044, 045, 046, 047, 048,

049, 050, 051, 052, 053, 054

Revised Plats for Reclassification

Case #CR-98-367-A

(7218 Windsor Mill Road)

Revised Petition; Environmental Impact Statement, Description, and

Plats for Reclassification

Case #R-97-465

(1856 Reisterstown Road)

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

RWB:HJO:jrb

cc: File



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

AUG. 12, 1998

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

RE: Property Owner: DAVID MICHAEL COLEMAN

Location: W/S KENWOOD AVE. 108' N FORM CENTER LINE OGLETHORPE RD.

(304 KENWOOD AVE.)

Item No.: 054 Zoning Agenda: SPECIAL EXCEPTION

#### 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.

- 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- 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", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



## COUNTY, MARYLAND

# DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

To:

MC9

DATE:

FROM:

R. Bruce Seeley . A 135/4 Permits and Development Review

DEPRM

SUBJECT:

Zoning Advisory Committee

Meeting Date:

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

Item #'s:

50

RBS:sp

BRUCE2/DEPRM/TXTSBP



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

Baltimore County 8.11.51 RE:

Item No. 054

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,

1. J. Hardle

I wo Ronald Burns, Chief

**Engineering Access Permits** 

Division

LG

#### BALTIMORE COUNTY, MARYLAND Inter-Office Correspondence

March 11, 1999 DATE:

Charles L. Marks, Chairman **TO**:

**Board of Appeals** 

FROM: James H. Thompson

Code Inspections and Enforcement

RE: Case No. 99-54-SPHXA

304 Kenwood Avenue

Honeywell/Coleman - Petitioner

When the above-referenced case is scheduled for a public hearing please notify:

Stephen Boettinger, Pres. Catonsville Knolls Community Association 13 Kenwood Avenue Baltimore, MD 21228

JHT/hek

#### BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County Interoffice Correspondence

DATE:

June 5, 2000

TO:

Arnold Jablon, Director

Permits & Development Management

FROM:

Charlotte E. Radcliffe

Board of Appeals

SUBJECT: CLOSED FILES:

99-11-SPH -Robert F. Webbert, et ux

99-54-SPHXA -David M. Coleman-LO; Francis Honeywell-CP

99-57-A - Stamatios Papastefanou, et ux

99-73-SPHXA -Donald E. Warrener, Jr.

99-113-A - Emil A. Budnitz, Jr. -LO; Jeff Budnitz-CP

99-215-SPH – Ida A & Benjamin A. Petrilli

99-242-XA -Ernest Diegert-LO; Eller Media Co.-CP

99-279-A – Ruth Phillips & Andrew Erdman

99-291-SPH -Schoolden's Automotive Repair, Inc.

99-310-X - Eastern Boulevard Center, Inc. (Famous Pawn, Inc.)

99-318 -Roddick Realty Partnership I-LO;

and Cloverland Farms Dairy, Inc.-CP

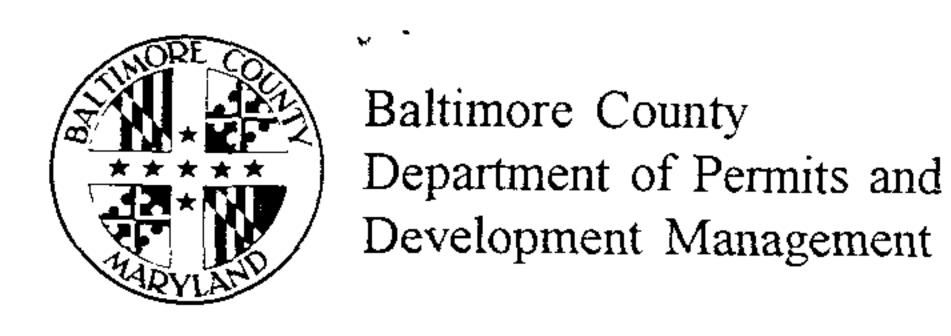
99-359-A - Shirley & David Morrison-LO; David Waldhauser-CP

99-492-SPH -William A. and Mary H. Kraft

99-504-SPHXA -Estate of Sol Goldman-LO; Eller Media-CP

Since the above captioned cases have been finalized and no further appeals were taken, we are hereby closing the files and returning same to your office herewith.

Attachments: Case File Nos.: 99-11-SPH; 99-54-SPHXA; 99-57-A; 99-73-SPHXA w/ large exhibit box; 99-113-A; 99-215-SPH w/ large exhibit; 99-242-XA; 99-279-A; 99-291-SPH; 99-310-X; 99-318-X; 99-359-A; 99-492-SPH; and 99-504-SPHXA



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

December 23, 1998

Mr. Stephen Boettinger 13 Kenwood Avenue Baltimore, Maryland 21228

98 DEC 23

Dear Mr. Boettinger:

RE: Petitions for Variance, Special Hearing and Special Exception, Case No. 99-54-SPHXA, 304 Kenwood Avenue, District: 1c1

Please be advised that an appeal of the above referenced case was filed in this office on December 18, 1998 by Thomas J. Gisriel, Esquire on behalf of Francis Honeywell. 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:cjs

c: People's Counsel
Ms. Diane Preisinger, 14 University Avenue, Baltimore, MD. 21228
Mr. Eugene Crawford, 3 Kenwood Avenue, Baltimore, MD. 21228

#### **APPEAL**

Petitions for Variance, Special Hearing, Special Exception W/S Kenwood Avenue, 140.8' N of the c/l of Oglethorpe Road (304 Kenwood Avenue)

1st Election District - 1st Councilmanic District
David Michael Coleman - Owner
Francis L. Honeywell - Lessee-Petitioner
Case Number: 99-54-SPHXA

Petitions for Variance, Special Hearing and Special Exception

Description of Property

Certificate of Posting - Not found in file

Certification of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioner(s) Sign-in Sheet

Protestant(s) Sign-in Sheet

Petitioners' Exhibits:	1.	Plat to accompany Petitions for Variance,
	•	Special Hearing and Special Exception

2.	Photographs
/3	Letter from Fred H. Drechsler and Jean

<b>/</b> 4.	Letter from Bill O'Brien and Carol O'Brien
	dated May 23, 1998

Claire Drechsler dated June 11, 1998

<b>5</b> .	Code Enforcement Report dated March 26,
	1998

6.	Fax request from Gerry Patnode to Hope
	Jacobson, Code Enforcement

<b>/</b> 7.	Fax to Gerry Patnode from Hope Jacobson,
	Code Enforcement

8.	Letter from Gerald Patnode to Ms. Pam Reese
•	dated March 2, 1998

/a	Allied Medical Corporation advertisement
<b>3</b> .	Willen Medical Colbolation advertisement

10.	Baltimore Medical Engineers and Technicians
	Society certificate to Fran Honeywell

11. Fran Honeywell business cards

18

98 DEC 23 PM 2:54

Appeal - Case #99-54=\$PHXA 304 Kenwood Avenue Page 2

Protestants' Exhibits:

-1

The Kenwood Station Newsletter dated

September

2.

Catonsville Knolls Community Association

Agenda

Deputy Zoning Commissioner's Order dated November 19, 1998 (Denied)

Notice of Appeal received on December 18, 1998 from Thomas J. Gisriel on behalf of Francis Honeywell

c: Thomas J. Gisriel, Esquire,, Hodes, Ulman, Pessin & Katz, P.A., Suite 400, 901 Dulaney Valley Road, Towson, Maryland 21204-2600 Ms. Francis Honeywell, 304 Kenwood Avenue, Baltimore, Maryland 21228 Mr. David M. Coleman,, Route 1, Box 94, Summit Point, WV 25446 People's Counsel of Baltimore County, MS #2010 Lawrence Schmidt, Zoning Commissioner

Mr. Stephen Boettinger, 13 Kenwood Ave., Balto., MD 21228 Ms. Diane Preisinger, 14 University Ave., Balto., MD 21228 Mr. Eugene Crawford, 3 Kenwood Ave., Balto., MD 21228 Case No. 99-54-SPHXA

SPH -Home occupation with 3 non-resident employees ilo maximum allowed 1; In the alternative SE -Professional Office and VAR to permit 36% of TFA ratio to be dedicated to office use ilo maximum allowed 25%.

11/19/98 -D.Z.C.'s decision in which Petitions for Special Hearing and, in the alternative, special exception and variance, are DENIED.

4/12/99 -Notice of Assignment for hearing scheduled for Wednesday, June 9, 1999 at 10:00 a.m. sent to following:

Thomas J. Gisriel, Esquire
Appellant /Petitioner: Francis Honeywell
David M. Coleman
Stephen Boettinger
Diane Preisinger
Eugene Crawford
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

- 6/09/99 -Hearing concluded as to testimony and evidence; memos due from counsel by Friday, July 9, 1999; deliberation to be scheduled and notice sent. (C.F.M.)
- 7/09/99 -Post-Hearing Memorandum filed by T. Gisriel on behalf of Petitioner. -People's Counsel's Memorandum filed this date.

#### DELIBERATION TO BE SCHEDULED (C.F.M.)

- 7/15/99 -Notice of Deliberation sent to parties, CFM and posted; scheduled for Thursday, August 19, 1999 at 1:00 p.m. (Copy of counsel memos to C and F on 7/14/99; mailed to M with copy of deliberation notice this date.)
- 8/19/99 -Deliberation concluded; special exception granted by majority (Felling and Melvin); dissent by Marks; special hearing and variance denied by unanimous decision. Majority Order and dissent to be issued as indicated above.

## Rogni

## COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY MINUTES OF DELIBERATION

IN THE MATTER OF: David Michael Coleman -Owner;

Francis L. Honeywell -Lessee

Case No. 99-54-SPHXA

DATE: Thursday, August 19, 1999

BOARD / PANEL : Charles L. Marks (CLM)

Donna M. Felling (DMF)
Thomas P. Melvin (TPM)

SECRETARY : Charlotte E. Radcliffe

Legal Secretary

PURPOSE: To deliberate Case No. 99-54-SPHXA.

The Board discussed and deliberated issues as to this matter and testimony and evidence produced.

Upon conclusion of deliberation among panel members, the following decisions were reached by each Board member:

As to Petition for Special Hearing /home occupation with 3 non-resident employees ilo maximum allowed 1; CLM -No; DMF -No; TPM -No. (Unanimous - to deny SPH)

As to Petition for Special Exception / Professional Office: CLM - No; DMF - Yes; TPM - Yes. (Majority to Grant SE; CLM dissents)

As to Petition for Variance /permit 36% of TFA ratio to be dedicated to office use ilo maximum allowed 25%: CLM -No; DMF -No; TPM -No. (Unanimous to deny VAR)

The Board's majority decision: to grant the Petition for Special Exception (the dissenting member, CLM, concurs with all other decisions) The Board's unanimous decision: to deny Petition for Special Hearing and Petition for Variance.

Written Opinion and Order to be issued by the Board as required by statute. Appellate period to run from date of written Order; anyone feeling aggrieved by the Board's decision may appeal to Circuit Court.

These minutes indicate public deliberation in this matter was held this date in the subject matter and a final decision rendered by the Board of Appeals.

Respectfully submitted,

Charlotte E. Radcliffe

Legal Secretary

#### HODES, ULMAN, PESSIN & KATZ, P.A.

ATTORNEYS AT LAW
SUITE 400
901 DULANEY VALLEY ROAD
TOWSON, MARYLAND 21204-2600

410-938-8800 Facsimile 410-938-8806 E-mail: Hupk@Hupk.com David A. Cagle††
Seema Reznick
Una M. Perez
Timothy J. Pursel
Lynn K. Edwards
Stuart A. Schadt
Barry C. Goldstein
John T. Bathon \*
Natalie Paige Drinkard
Lynn E. Ricciardella
Cynthia R. Krips
Robert D. Porter
Destiny A. Brown
Sheri N. Green

Of Counsel
Thomas I. Zagami

Of Counsel
Thomas J. Zagami
Michael J. Schwarz
Bert N. Bisgyer \*
Alien D. Greif
Alan M. Foreman
Charles F. Morgan

July 9, 1999

#### **VIA HAND DELIVERY**

Michael C. Hodes

Louis Jay Ulman

David N. Pessin

Gerald M. Katz †

Drake C. Zaharris \*

Carl S. Silverman +

Steven A. Allen

Randall M. Lutz

Michael P. Donnelly

Stanley J. Neuhauser

Thomas J. Gisriel

Joseph P. Kempler

Harry M. Rifkin \*

Kevin F. Bress

Patricia McHugh Lambert

Steven B. Schwartzman \*

\* Also Admitted in DC

†† Admitted only in TX

Christopher W. Poverman ‡

† Also Admitted in DC and VA

‡ Also Admitted in DC, DE & PA

Barry Bach

Kathleen C. Biano, Administrator County Board of Appeals of Baltimore County Old Courthouse, Room 49 400 Washington Avenue Towson, Maryland 21204

Re: Case#99-54-SPHXA

In the Matter of: David Michael Coleman, Owner

Francis L. Honeywell, Lessee/Petitioner

304 Kenwood Avenue

COUNTY BOARD OF AFPEAL

Dear Ms. Biano:

Enclosed please find Post-Hearing Memorandum of Petitioner to be filed in the above-captioned matter.

Thank you for your assistance.

Very truly yours,

Thomas/J. Gisriel

TJG/slk Enclosure HODES, ULMAN, PESSIN & KATZ, P.A.

HODES, ULMAN, PESSIN & KATZ ATTORNEYS AT LAW SUITE 400

> 901 DULANEY VALLEY ROAD TOWSON, MARYLAND 21204-2600

> > 410-938-8800 Facsimile 410-938-8806 E-mail: Hupk@Hupk.com

10500 LITTLE PATUXENT PARKWAY SUITE 420 COLUMBIA, MARYLAND 21044

To: Come 12/18/98

1025 THOMAS JEFFERSON ST, N W SUITE 525 East WASHINGTON, D C. 20007

131 SOUTH UNION AVENUE SECOND FLOOR HAVRE DE GRACE, MARYLAND 21078

Of Counsel
Michael J. Schwarz
Bert N. Bisgyer \*
Allen D. Greif
Alan M. Foreman
Charles F. Morgan

David N Pessin Gerald M. Katz Drake C. Zaharris \* Carl S Silverman † Steven A. Allen Barry Bach Randall M. Lutz Michael P. Donnelly Stanley J. Neuhauser Patricia McHugh Lambert Thomas J. Gisriel Joseph P. Kempler Kevin F. Bress Thomas J. Zagamı K. Houston Matney Steven B. Schwartzman \* Seema Reznick Carol L Hopkins Una M. Perez Timothy J. Pursel Michael J. Gentile Lynn K. Edwards Stuart A. Schadt John T. Bathon \* Natalie Paige Drinkard Lynn E. Ricciardella Cynthia R. Krips

Jeffrey D Katz

\* Also Admitted in DC

† Also Admitted in DC and VA

Michael C. Hodes

Louis Jay Ulman

December 17, 1998

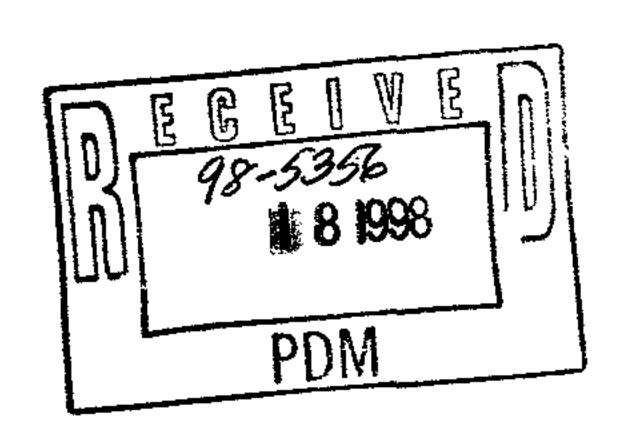
#### HAND-DELIVERED

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

Re: Petition for Special Hearing, Special Exception and Variance w/s Kenwood Avenue, 140.8' N of the c/1 of Oglethorpe Road (304 Kenwood Avenue)
1st Election District - 1st Councilmanic District David M. Coleman, Owner; Francis Honeywell, Contract Lessee
Case No. 99-54-SPHXA

Dear Sir:

On behalf of Francis Honeywell, 304 Kenwood Avenue, Baltimore, Maryland 21228, I hereby note an appeal of the above-referenced decision of the Deputy Zoning Commissioner to the Board of Appeals of Baltimore County. Enclosed please find a check in the amount of \$435.00 for the filing and posting fee.



December 17, 1998 Page 2

If you have any questions please contact me.

Very truly yours,

Thomas J. Gi

TJG/dji

Enclosure

cc: Zoning Commissioner

Board of Appeals

TJG\Allied\12-17-98.001

## COUNT F COUNCIL OF BALTIMORE COUNTY, MARYLAND Legislative Session 1998, Legislative Day No. 13

### Bill No. 68-98

## Councilmembers Riley, Moxley & McIntire

## By the County Council, June 15, 1998

#### A BILL ENTITLED

### AN ACT concerning

Home Occupations

FOR the purpose of amending the Baltimore County Zoning Regulations concerning home occupations; amending the definition of home occupation; permitting the use of certain machinery; and generally relating to the regulation of home occupations.

BY repealing and re-enacting, with amendments

Sections 101, the definition of "Home Occupation" Baltimore County Zoning Regulations, as amended

- SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
- 2 COUNTY, MARYLAND that Sections 101, the definition of "Home Occupation" of the
- Baltimore County Zoning Regulations, as amended, he and it is hereby repealed and re-enacted
- 4 to read as follows:

EXPLANATION: C. PITALS INDICATE MATTER ADDED TO EXILTING LAW.

[Brackets] indicate matter stricken from existing law

Suike out indicates matter stricken from bill.

Underlining INDICATES AMENDMENTS TO BILL.

#### Section 101—Definition

2	Home Occupation: Any use conducted entirely within a dwelling which is incidental to
3	the main use of the building for dwelling purposes and does not have any exterior evidence, oth
4	than a permitted sign, AS STATED IN SECTION 450.4, to indicate that the building is being
5	utilized for any purpose other than that of a dwelling; and in connection with which no
6	commodity is kept for sale on the premises, not more than one person PER DWELLING is
7	employed on the premises other than domestic servants or members of the immediate family, an
8	no mechanical equipment, OTHER THAN COMPUTERS, PRINTERS, FAX MACHINES,
9	MODEMS, STANDARD OFFICE COPY MACHINES, AND SIMILAR OFFICE
10	EQUIPMENT, is used except such as may be used for domestic purposes. A "home occupation"
11	does not include fortune-telling.
12	SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-
13	five days after its enactment.

B06898

## THROWING AWAY BROKEN ACCESSORIES!

## ALLIED MEDICAL CORPORATION

MAY BE ABLE TO SAVE YOU THOUSANDS OF DOLLARS EACH YEAR BY REPAIRING MANY OF THOSE ITEMS YOU THOUGHT COULD NOT BE FIXED.

> FOR YEARS, MANY PEOPLE HAVE BEEN NEEDLESSLY THROWING AWAY BIOPSY FORCEPS, HOT BIOPSY FORCEPS, WATER CAPS, AIR/WATER VALVES, ALL CHANNEL IRRIGATORS, WATER BOTTLES, VIDEO CABLES, S-P CORDS, FOOT SWITCHES, ADAPTERS OF ALL SORTS, GRASPERS, CLEANING TUBES, ETO CAPS,

> > ETC., ETC., ETC.

AT ALLIED MEDICAL CORPORATION WE FIX THESE ITEMS EVERY DAY SO THAT YOU DON'T HAVE TO THROW THEM AWAY. IF YOU HAVE BROKEN ACCESSORIES AND YOU DON'T WANT THEM FIXED, YOU MAY ALSO TRADE THEM IN FOR <u>REPAIR CREDIT</u> TOWARD FUTURE REPAIRS!

CALL FOR DETAILS

## ALLIED MEDICAL CORPORATION

THE INTELLIGENT ALTERNATIVE FOR YOUR EQUIPMENT REPAIR <u>NEEDS</u>

1806-B E. BELT BLVD. RICHMOND, VA 23224

(804) 231-9717

(800) 264-2262

Resident 304 KENWOOD AVE. BALTIMORE, MD 21228

(410) 455-9290

(800) 863-4545

→ PERKASIE, PA 18944.

(215) 997-1056

(800) 449-6545

Time Bub

zun 215-000 215-257 5065

306 Kenwood Ave. Catonsville, MD 21228 June 6, 1999

To whom it may concern:

Fran and Margaret Honeywell, as owners and operators of Allied Medical, have managed their business following the best practices of a good neighbor policy. During all aspects of their business, they have demonstrated their concern for their neighbors. They have maintained and upgraded the dwelling and the grounds on a regular basis. When their employees are entering or leaving the home they are always quiet and courteous. All activities related to the business are run in a low profile manner. It has proved to be a safety factor to have people available to keep an eye on the community during the day.

We have enjoyed having the Honeywells as neighbors, and we respect their right to try and earn a living from their home

Sincerely,

Carol and Bill O'Brien

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## The Kenwood

<u>Station</u>

A publication of the Catonsville Knolls Community Association

September 1998

#### From the President

Hope you all have had a "Safe and Happy " Summer!

We had our "Nights Out against crime on August 4<sup>th</sup>.

It was good to see you out, and I'm sure the kids were surprised when the police drove through the neighborhood - lights flashing - with McGruff the Crime dog giving out candies. At the cookout, our community won 2<sup>nd</sup> place in the poster contest.

I've received a note informing me that the County has been soliciting permission from property owners on the east side of the 400 block of Maiden Choice Lane, to allow construction of a sidewalk to connect the existing run on the Little Sisters of the Poor property. The County also plans to provide drainage improvements along the west side of the 400 block of Maiden Choice Lane. The improvements would be in the from of curbing and gutter. I have been in contact with Councilman Moxley's office on this issue and also the resurfacing of Maiden Choice Lane. Upon more definitive answers and or dates I'll keep you informed.

#### **Announcements:**

East Catonsville Communities are sponsoring a "Political Forum", October 19th @ 7pm - see article below:

"Stream Clean-up" schedule for October 24. Mark your calendars and call me to sign-up. See below

A resident has requested zoning exemptions in order to expand a home run business. The hearing is set for Sept 15<sup>th</sup>, @2pm, Towson Courthouse Room 407.

Elections are coming up. So get those dues in. Also nominations can be given to any of the officers.

Officer Buress of Wilkens precinct has offered to give us a presentation on crime & home safety - more info to come.

Schools are back in session! Be extra careful in driving with the students coming and going to school.

Remember any community news or events for inclusion in the newsletter can be forwarded to 13 Kenwood Avenue, c/o The Kenwood Station. From Councilman S.G. Sam Moxley



Catonsville Streetscape has begun work Sunday, August 16<sup>th</sup>. The work schedule will be 9pm to 6am. "No Parking 9PM to 6am" signs will be posted on Frederick Road around the immediate work area. BGE will request permission from the SHA to close Frederick Road after the latest business closes to help expedite construction.

If you have any other questions or comments about this project, please do not hesitate to contact me at 410-887-0896.

#### CKCA Calendar

Next meeting:

Tuesday, September 8th

Future Meetings:

Tuesday, October 13th

Meeting Time: 7:30 p.m.

Meeting place:

Western School of Technology

Cafeteria\_\_\_

100 Kenwood Avenue

All residents of Catonsville Knolls are invited!

Replied Johnson

The East Catonsville Community Associations present:

#### A Political Forum



Come and hear the incumbents and candidates positions and answers to your questions.

Date: Monday, October 19th

Place: Western School of Technology gymnasium

(100 Kenwood Avenue)

Time: 7pm - 9:30pm

Invitees are: County Executive Dutch Ruppersberger and opponent John Bishop; State Senators Ed Kasemeyer & George Della and their opposition David Maier & William Prohaska; State Delegates Tom Dewberry, Jim Malone, and Don Murphy - their opponents John Hoffman, Lloyd Smith, Steve DeBoy, Councilman Sam Moxley and his opponent Jack Manley; Congressman Elijah Cummings and his opponent Ken Kondner.

#### Refreshments served.



#### Stream Clean-up

As part of the "Save Our Streams" movement, we are organizing a clean-up of the Maiden Choice Run. The date is set for October the 24th, Saturday. Please volunteer if only for a couple of hours. Contact Steve Boettinger 410-744-7673, if you can help.



Please remember, our SPEED LIMIT in this neighborhood is 25 miles per hour. Buckle-up and drive safely.

Catonsville Knolls Community Association: September to September 30, 1999	r 1998
Print the names of the people in your household who are and older.	e 18

**Membership Application** 

Address: \_\_\_\_\_ Phone: Apt.

Name:

Name:

Name:

Dues \$10 per year per household or \$ 5 per person per year

Amount paid:

Please make checks payable to: CKCA, 13 Kenwood Ave., Catonsville, MD 21228

Please help us by providing your signature. We keep signatures of all members on file so that absentee ballots can be submitted..

signature

**Current Officers:** President .....

**Steve Boettinger** 

Vice President ......

Russell Corkrin

Treasurer .....

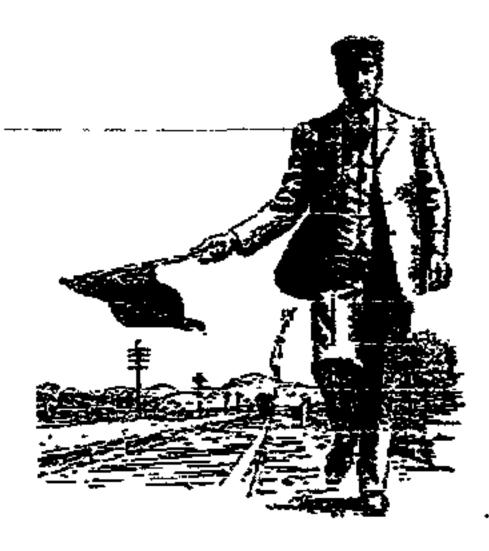
**Ona Corkrin** 

Recording Sect'y ..... Corresponding Sect'y ...

Diane Preisinger

Newsletter Editor ...... Steve Boettinger

410-744-7673



See you at the next meeting! And bring a neighbor.



## The Kenwood Station

A publication of the Catonsville Knolls Community Association

November 1998

#### From the President

The Political Forum was a success even with the small turnout (approximately 65). The attending heard from the race for County Executive, State Senate (12 &47B), State Delegate (12 & 47B), Council District 1, and the Republican candidate for Congressional District 7. The Western School gym is an excellent place and their staff were exceptional with their setup, cleanup, and support during the Forum. See Times article by Patrice Dirican for an excellent summary. Stream Clean-Up Thanks to the many volunteers who made our "Stream Clean-up a success. On Saturday, October 24th, we began bright and early for some, but the yield was tremendous. We removed over (3) tons of litter and debris by volume and close to (6) tons by weight. Items included (24) tires, (4) major appliances, industrial air handling units, many bicycles, pipes and down spouting, chairs, 50 gallon drums and other metal objects. We even caught a landscaping contractor admittedly illegally dumping. The nicest thing about the whole day, in addition to clean-up of the stream was the cooperative efforts of the community, Western Tech School and the UMBC students. And it was contagious, as the day went on some neighborhood residents came to see what we doing and offered words of encouragement and some even brought out refreshments. It was also educational - learning about the environment and our impact on it. The project was sponsored by the Chesapeake Bay Trust.

#### **Announcements:**

#### Home based business - Allied Medical

The hearing for the zoning exemption request was held Sept 15<sup>th</sup>, at this time a decision has not yet been reached

Officer Burres of Wilkens Precinct Community Outreach has offered to give us a presentation on crime & home safety - at our November 10th.

Need a Recording Secretary - contact any officer if interested.

#### From Western Technology School

The school is currently undergoing an evaluation for accreditation from the Mid-Atlantic States Association.



#### **Collecting Food for the Poor**

Some interest has been expressed in collecting food for the poor. We need someone to coordinate. And volunteers to deliver.



#### **Neighborhood Christmas Contest**

A lot of you are very creative as could be seen by the many Halloween decorations throughout the neighborhood. Is their an interest in having a contest for outdoor decorations in the community?



Christmas cookie swap/ Christmas Caroling Interest was expressed - need coordinator



Welcome to the Neighborhood!

Mr. & Mrs. Pierce Bill Murphy & Patti Battagalia

17 Arkla Court

8 Kenwood Avenue

People with

#### CKCA Calendar

Next meeting:

Tuesday, November 10th

Future Meetings:

Tuesday, January 12th

Meeting Time: 7:30 p.m.

Meeting place:

Western School of Technology

Cafeteria

100 Kenwood Avenue

All residents of Catonsville Knolls are invited!

#### **Membership Application**

Catonsville Knolls Community Association: September 1998 to September 30, 1999

Address: Phone:
Dues \$10 per year per household or \$5 per person per year
Amount paid:
Please make checks payable to: CKCA, 13 Kenwood Ave., Catonsville, MD 21228
Please help us by providing your signature. We keep signatures of all members on file so that absentee ballots can be submitted.

Current	Officers:

President .....

**Steve Boettinger** 

Vice President ......

Russell Corkrin

Treasurer .....

George Preisinger

Recording Sect'y ......

Corresponding Sect'y ... Diane Preisinger

Newsletter Editor ...... Steve Boettinger

410-744-7673

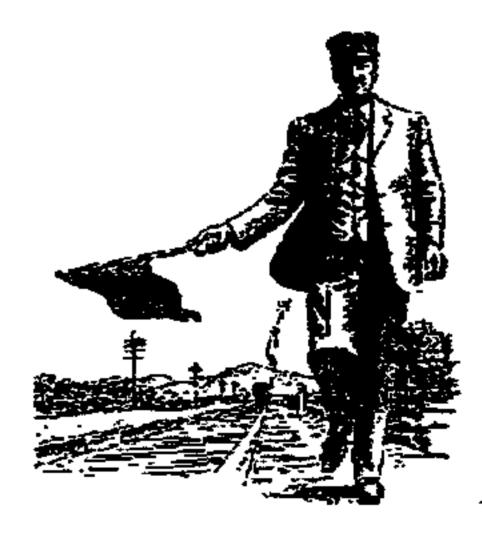


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For Sale/Wanted
For Sale Girls 24" bike, \$15, call Amy 744-7673

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See you at the next meeting! And bring a neighbor.



## The Kenwood S

December 1998

A publication of the Catonsville Knolls Community Association

#### From the President

#### Merry Christmas & Happy Hanukkah

At our November 10<sup>th</sup> meeting, Officer Bury of the Wilkens Precinct Community Outreach gave a very informative presentation on Home Safety and Street Sense (this was in answer to the #1 issues raised in our Community Survey). Those who attended got a chance to voice their concerns and get responses including update on area crimes, and many tips. (Officer Bury left several brochures: "Street Sense", "Cybersafety for kids", Senior citizens protect themselves vs. crime", and "Be Safe". Also discussed was Megan's Law and the Child Sex Offenders moving into the area (available at meeting)

#### **Announcements:**

#### Home based business - Allied Medical

The hearing for the zoning exemption request was held Sept 15<sup>th</sup>, the request for exemption was denied on Nov 19<sup>th</sup>.

#### Catonsville Rails to Trails

A group of local residents has gotten together to form an organization to provide residents with the opportunity to safely bicycle and walk right through the center of Catonsville. The path they intend to use is the old Catonsville Short Line RR (between Arkla Ct. / Tanglewood and Western School of Technology) - for information call Steve Sprecher 410-744-0166.

#### Visit with Santa

The Greater Catonsville Chamber of Commerce sponsors this event at the Village Deli through December 19<sup>th</sup>, hours are Friday 6-8pm & Saturday 2-5pm.

#### **Christmas Concert - Free**

Seton Keough High School on Caton Avenue will hold a Christmas Concert, Sunday, Dec 13<sup>th</sup> at 2pm.

## Historic Photo Display - Milltown "Heritage on the Patapsco" - Free

Through Dec 15<sup>th</sup> at Albin O. Kuhn Library Rotunda. Call for info 410-455-6276

We Need a Recording Secretary - contact any officer if interested.

#### From Western School of Technology

Best wishes for the Holidays from the Principal and staff.

Reward being offered for information leading to the arrest of persons responsible for vandalism to the gym - contact 410-887-0840.

The Lights in the lower school light have been adjusted and shades installed.

#### **Upcoming Dates:**

December 17th - Music Concert - Band

February 12th - Valentine's Dance

February 27th - Vocal & Instrumental Solo & Ensemble

**Festival** 

March 18th - Winter Sports Awards Night



#### **CKCA** Calendar

Next meeting:

Tuesday, January 12th

Future Meetings:

Tuesday, February 9th Tuesday, March 9th

Meeting Time: 7:30 p.m.

Meeting place:

Western School of Technology

Cafeteria

100 Kenwood Avenue

Cookley Sink

**:** 

#### All residents of Catonsville Knolls are invited!

Wambambia Application
Membership Application  Catonsville Knolls Community Association: September 1998
· ·
to September 30, 1999
Print the names of the people in your household who are 18
and older.
Name:
Name:
Name:
Address:
Apt. Phone:
Dues \$10 per year per household or
\$ 5 per person per year
Amount paid:
Disease make shocks amount to CWCA 12 Verywood Ave
Please make checks payable to: CKCA, 13 Kenwood Ave.,
Catonsville, MD 21228
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Please help us by providing your signature. We keep signatures of all members on file so that absentee ballots can
be submitted
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signature
vigitation -
Current Officers:
President Steve Boettinger
Vice President Russell Corkrin
Tragencer Cearge Preisinger



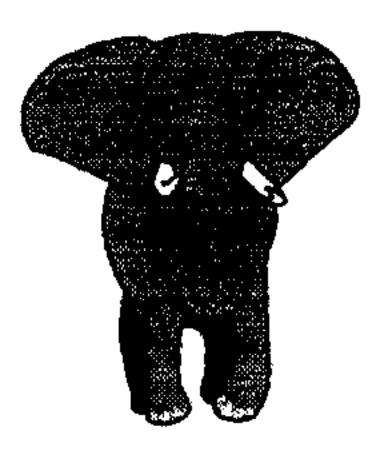
410-744-7673

Corresponding Sect'y ... Diane Preisinger

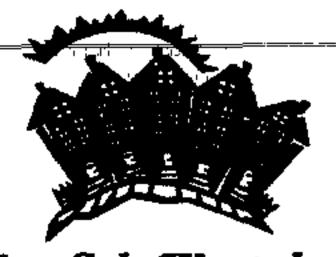
Newsletter Editor ...... Steve Boettinger

Recording Sect'y .....

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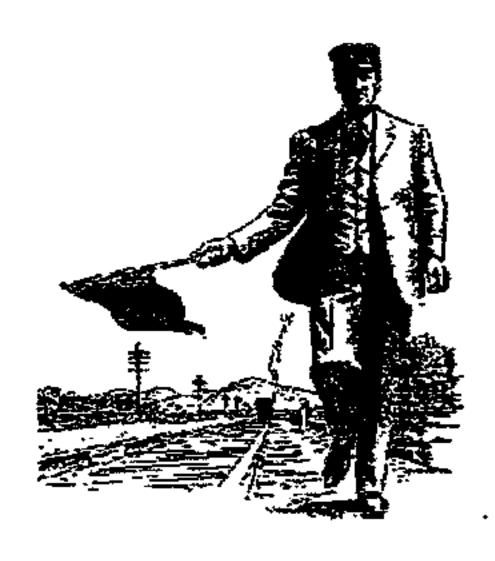


Remember - what may seem as insignificant to you, is a big problem for others. - Please be courteous and curb your dog or bring along a plastic bag to clean up after your dog. We've had several complaints, and the law does require you to. Thanks!



For Sale/Wanted
For Sale Girls 24" bike, \$15, call Amy 744-7673

Remember any community news or events for inclusion in the newsletter can be forwarded to 13 Kenwood Avenue, c/o The Kenwood Station.



See you at the next meeting! And bring a neighbor.

And have a Safe and Happy Holiday!



## The Kenwood Station

A publication of the Catonsville Knolls Community Association

February 1999

#### From the President:

We have some fun events coming up. First Annual Community Yard Sale/Block party headed by Malcolm Fearey – see below.

Penny Jenkins from the Western School spoke at the meeting about the community participating in the "Greenway Proposal" converting the Catonsville Short-line to a walking path. – see Western School.

I still have some crime prevention/awareness brochures: "Street Sense", Cybersafety for Kids", and "Be Safe".

Come to the meetings, meet your neighbors, let us know your concerns.

Announcements:





1<sup>st</sup> Annual Community Yard Sale/Block party
Saturday, April 10<sup>th</sup>, 1999, Western School lower parking lot
call Malcolm or Vickie Fearey for information 410-4559913.

Home based business - Allied Medical at 304 Kenwood Filed an appeal Dec 20<sup>th</sup> on the Zoning Board decision-denying request for special exemption. This business continues to operate in violation of Baltimore County zoning laws. We will keep you informed.

#### Representatives District Office

Sen. Ed Kasemeyer & Del. Jim Malone open a new district office @5408 East Drive, Arbutus – Kasemeyer 410-242-5699, Malone 410-247-2300.

Free Entertainment



The Fifth Annual Recital will be held Feb. 7<sup>th</sup> and a Piano Recital on Feb. 14<sup>th</sup> all @ 3pm in Our Lady of Angels Chapel, 711 Maiden Choice Lane – Free.

#### Annapolis Invitation

Del. Jim Malone has extended an open invitation to anyone in the community interested in observing a Legislative session. Call Carol Rykiel in Annapolis 410-841-3378.

#### Executive board complete

Judy Schnebelen is our new Recording Secretary - Welcome aboard!

#### CKCA Calendar

Next meeting:

Tuesday, February 9th

Future Meetings:

Tuesday, March 9<sup>th</sup> Tuesday, April 13<sup>th</sup> Tuesday, May 11<sup>th</sup>

Meeting Time: 7:30 p.m.

Meeting place:

Western School of Technology Cafeteria 100 Kenwood Avenue

All residents of Catonsville Knolls are invited!

#### From Western School of Technology:



Registration for the 1999 – 2000 school year will take place in this February.

Some statistics:

Enrollment: grade 9 = 283, grade 10 = 297, grade 11 = 223, and grade 12 = 209 for a total of 1012.

Attendance grades 9 – 12 in 1998 was 96.9%. Excellent! MD Functional Tests grades 9 & 11 earned an Excellent rating in all categories – Reading, Math, Writing, and Citizenship.

Valerie Brennan head of the Environmental Tech program @ Western has proposed a joint project with the School and Community on converting the on Short-Line RR tracks to a walking path. This will be a part of the "Rails to Trails" and would provide a safe walking means from our end of town to the middle of Catonsville. Ms Brennan is interested in starting this spring. Contact Steve 410-744-7673 to volunteer or for further information.

Reward being offered for information leading to the arrest of persons responsible for vandalism to the gym - contact 410-887-0840.

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**Upcoming Dates:** 

February 12th - Valentine's Dance

February 27<sup>th</sup> - Vocal & Instrumental Solo & Ensemble Festival

March 18th - Winter Sports Awards Night

From the Office of Sam Moxley:



Streetscape Work set to begin in March

The contractor will actually begin some preliminary design and planning in February to make sure that everything is ready for the March start date. The project is slated to be completed by the fall of 1999.

#### Friendly's Project Moving Forward

In December 1998, the Hearing Officer reviewed the updated application for a Friendly's Restaurant, a 12,700 square foot retail facility. If approved the work could start as early as March.

**Domestic Violence Bill** passed by the Council. The bill aims to eliminate most delays and protect individuals that file reports.

Steps are being taken for the Beautification of Rt. 40 median strip.

Catonsville Alleys slated for reconstruction this year in the Academy Heights and Paradise areas.

Frederick Road Truck study has been completed. The review included the level of truck traffic, its impact on operations and safety along Frederick Road.

As far as I know the improvements along the 400 block of Maiden Choice (curbing & sidewalk) are still slated for completion May 1999.

Any questions or concerns contact Sam at 410-887-0896.





Spring is around the corner. Those of you who were interested in a plant swap, let's get it together so we can include the whole community. You never know what you might find!

Current Officers:		
President	Steve Boettinger	
Vice President	Russell Corkrin	
Treasurer	George Preisinger	
Recording Sect'y	Judy Schnebelen	
Corresponding Sect'y	. Diane Preisinger	
Newsletter Editor	Steve Boettinger	•
	410-744-7673	

	Membership Application  **Remote Knolls Community Association: September 1998  er 30, 1999
Print the na	ames of the people in your household who are 18
Name:	
Name:	
Name:	
Address:	
Apt.	Phone:
· · · · · · · · · · · · · · · · · · ·	per year per household or per person per year id:
<b>F</b>	e checks payable to: CKCA, 13 Kenwood Ave., e, MD 21228
_	o us by providing your signature. We keep of all members on file so that absentee ballots can ed
	signature

From Wilkens Precinct:



Baltimore County Police Explorers is accepting applications. Young people ages 14 to 21 can learn the role of law enforcement in the community. For information contact Officer Charles Bury 410-744-1584.

#### Crime Stats in Catonsville 1998

Crimic Stats in Causisying 1770					
Offense	1st Otr.	2 <sup>nd</sup> Otr.	3 <sup>rd</sup> Otr.		
Homicide	0	0	0		
Rape	2	8	6		
Robbery	25	12	21		
Aggravated	l				
Assault	28	33	27		
Violent					
Crime	55	53	54		
Breaking &					
Entering	47	79	70		
Theft	204	260	252		
Motor Veh.					
Theft	43	66	74		
Arson	0	1	3		
Property					
Crime	294	406	399		
Stats from Ralto County Police web site					

Stats from Balto County Police web site

Remember, if you see something or someone unusual or outof-place – call the police. Be safe, rather than sorry.

Police Emergency 911

Wilkens Precinct 410-887-8872

**Drug Hotline** 410-887-0869

Community Outreach 410-744-1584

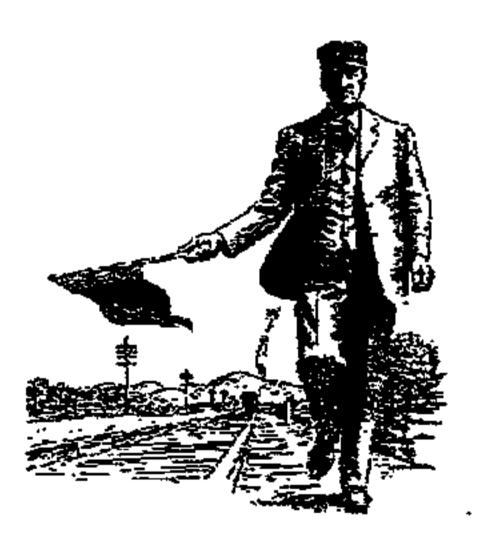


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For Sale/Wanted

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See you at the next meeting! And bring a neighbor.

Remember any community news or events for inclusion in the newsletter can be forwarded to 13 Kenwood Avenue, c/o The Kenwood Station. Mark Your Calendar and Plan Today for the First Annual

GOMMUMIGY

Valle Sale

Saturday

April 10th, 1999

Clean out your basement, attic or both. The weather will be great and we can even turn it into a friendly Block Party. If you plan on joining in the Sale please give Malcolm & Vicki Fearey a call.

(410) 455-9913



## The Kenwood Station

A publication of the Catonsville Knolls Community Association

#### From the President:

Many Thanks to Malcolm Feary for a very successful 1st Annual Community Yard Sale and Block Party. Although a chilly and somewhat windy start, the neighborhood was soon a bustle of activity. The donuts and juice in the morning followed by Russ Corkrin's grilling talents with Hot Dogs made the day a fun time for all. I received several comments about how great the event was and people are looking forward to Next Year's Yard Sale and Block Party.

Roadwork has begun on Maiden Choice Lane. This is the first phase of curbing and addition sidewalks.

Come to the meetings, meet your neighbors, let us know your concerns.

#### Announcements:

New Home Construction – construction is underway on a single family dwelling at 311 Kenwood.

Home based business - Allied Medical at 304 Kenwood Filed an appeal Dec 20<sup>th</sup> on the Zoning Board decision-denying request for special exemption. This business continues to operate in violation of Baltimore County zoning laws. We will keep you informed.

#### Representatives District Office-

Sen. Ed Kasemeyer & Del. Jim Malone open a new district office @5408 East Drive, Arbutus – Kasemeyer 410-242-5699, Malone 410-247-2300.

St. Mark's Spring Fling – May 8<sup>th</sup> Fun and Games for all kids. Located on Melvin Avenue.



#### Free Entertainment

Free State Organ Society - Dick Smith playing. Sunday, April 18<sup>th</sup> @ 3pm, Rice Auditorium, Spring Grove Ctr. Call 410-592-9322.

UMBC presents its 1999 Mindfest, Saturday, April 17<sup>th</sup>. For detail and a schedule call 410-455-2902.

Healthy Kids Day – Saturday April 10<sup>th</sup>, 10am to 1pm @ Western Family YMCA. Fitness, health screenings, tours, fun and games. All ages call 410-747-9622.

Retriever Fever Weekend – Friday, April 16<sup>th</sup>, 7pm Mens Lacrosse UMBC vs. North Carolina – anyone wearing team jersey will get in free. Saturday, April 17<sup>th</sup>, @ 2pm UMBC Women vs. Mt. St. Mary's followed by youth clinic ages 6-12. Bring tennis shoes and a stick. Admission is Free. Sunday – Spring 1999

UMBC Mens vs. Radford @ 2pm. Wear your jersey and get in free.

#### CKCA Calendar

Next meeting:

Tuesday, May 11th

Future Meetings:

Tuesday, September 14th Tuesday, October 12th

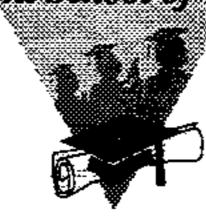
Meeting Time: 7:30 p.m.

Meeting place:

Western School of Technology Cafeteria 100 Kenwood Avenue

All residents of Catonsville Knolls are invited!

#### From Western School of Technology:



#### **Upcoming Dates**:

April 21<sup>st</sup> - Career Fair held in gym

April 22<sup>nd</sup> – Professional Day (School closed)

April 29<sup>th</sup> - Spring Music Concert - Chorus & Orchestra

April 30<sup>th</sup> - Junior Prom

May 6<sup>th</sup> - Spring Music Concert - Band

May 21st - Senior Prom

May 21<sup>st</sup> - Last day for Seniors

May 28<sup>th</sup> - Graduation 5pm

June 17<sup>th</sup> - Last day of school

Donations for Western's After Prom party can be made at the school office – call 410-887-0840.

#### From the Office of Sam Moxley:



Fiscal Year 2000 Balto. County Budget for review. Wednesday, Apr. 28<sup>th</sup> and May 12<sup>th</sup> the District Office will remain open until 7pm. On Saturday, May 8<sup>th</sup> the office will be open 10am to 12pm. Regular office hours M-F 8:30 – 5:00pm.

ents along the 400

Improvements along the 400 block of Maiden Choice (curbing & sidewalk) are underway!

#### Streetscape Work set to begin in March

The contractor will actually begin some preliminary design and planning in February to make sure that everything is ready for the March start date. The project is slated to be completed by the fall of 1999.

#### Friendly's Project Moving Forward

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Catonsville Alleys slated for reconstruction this year in the Academy Heights and Paradise areas.

. Any questions or concerns contact Sam at 410-887-0896.





Spring is here. Those of you who were interested in a plant swap, let's get it together so we can include the whole community. You never know what you might find!



Fall Cleanup – Dumpsters will again be ordered – keep an eye on future newsletters for date and time.



Sports Shorts! - Sharon Ellis (SW Program Coordinator)
Has provided a Rec. & Parks schedule use of Western's gym:
Men's Basketball - Thursdays 8-10pm
Girls Summer Basketball Camp -

M-F 8 to 4 p.m. June 28<sup>th</sup> to Jul. 2<sup>nd</sup>
M-F 8 to 4pm Jul 12<sup>th</sup> to Jul 23<sup>rd</sup>

M & Tu 7:30 - 4pm Jul 26th & 27th

Seton Keough HS lacrosse – The Varsity and JV had both hard fought games vs. River Hill Hawks. Coming up short 9 to 8 for the Varsity and 6 to 4 for the JV. Next home game for both will be Tuesday, Apr 20<sup>th</sup> vs. Roland Park.

Catonsville Lightening LAX – The "Terps" battled the "Catonsville Black" to a 6 to 6 tie.

Current Officers:		
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Vice President Russell Corkrin		
Treasurer George Preisinger		
Recording Sect'y Judy Schnebelen		
Corresponding Sect'y Diane Preisinger		
Newsletter Editor Steve Boettinger		
410-744-7673		
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Remember, if you see something or someone unusual or outof-place – call the police. Be safe, rather than sorry. Police Emergency 911 Wilkens Precinct 410-887-8872

Drug Hotline 410-887-0869 Community Outreach 410-744-1584

A Reminder of some important laws— Remember everyone has rights including your neighbor!



1) Open air burning is against the law without a permit.



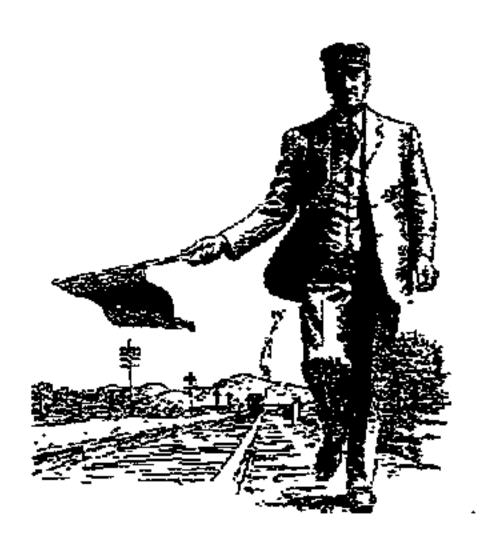
#### Dept of Health - Baltimore County Code

- When off the owner's property, all dogs and cats must be on a leash. If chained outside, chains must have swivels.
- 2) All dogs and cats must be vaccinated vs. rabies once they are over (3) month.
- 3) All dogs and cats must be licensed at (4) months of age.
- Owners of female cats and dogs "in heat" must not leave their pets outside unattended.
- 5) An animal that is allowed to bark excessively, to chase and/or attack people or other animals is considered a public nuisance.
- 6) If an animal bites someone, the owner and the bitten person must report the injury to the Police Dept.
- Owners are responsible for the removal of pet waste on public and private property. Keep your yard and neighborhood clean.
- 8) Improper feeding, unsanitary conditions, animal combat, cruelty and neglect are considered animal abuse.
- 9) All households that shelter (4) or more dogs, private or commercial kennels, or stables, fancier kennels or catteries, grooming parlors, pet shops, etc. should contact Animal Licensing, 410-887-3630

First Offense: \$25 Repeated Offenses: \$100. Criminal penalties up to \$1000 and 90 days in jail.



Please remember, our SPEED LIMIT in this neighborhood is 25-Miles Per Hour. Buckle-up and drive safely.



See you at the next meeting! And bring a neighbor.

Remember any community news or events for inclusion in the newsletter can be forwarded to 13 Kenwood Avenue, c/o The Kenwood Station.

# Cotonsville Knolls Community ASSOCIATION

RESOLVED: That at the JAWVANY meeting of	the
Catausville Knolls Association held	on
/-/3 , 19 $98$ , it was decided by	the
Association that responsibility for review and action on all zon	ning
matters for the period Oct. 98 - Sept 00	_ be
placed in the (Board of Directors) (Zoning Committee) consisting	gof
the following members:	
Stephen Boettings P Russell Corkribe UP	
AS WITNESS OUR HANDS AND SEAL THIS day	of
ATTEST: ASSOCIATI	.on
Judy Alnebeller President	
	()
Parp	James & Course & Cour

# Catonsville Loolls Community ASSOCIATION

	RESOLVED:	That the	position of	the	CKCA	<u>.                                    </u>
			Association	as ado	pted by t	he (Board
	Special	98-1167, efempte	304 Kenwo.	L Ave	enue rej	uest for
is	that: The an execute	communications of busi	my 15 6 to 304 1	Enward the	ed to	grander
	AS WITNESS	OUR HAND	S AND SEAL	THIS	6 fr	day of
$\int_{\mathcal{U}}$	rest:  May American	Allan	President	lle Kn	0//S Asso	ociation

#### **AFFIDAVIT**

STATE OF MARYLAND BALTIMORE COUNTY, SS:

TO WIT:		
I hereby swear upon pe	enalty of perjury that	I am currently a
duly elected member of the ( of the Catonsville Kno	Board of Directors) ( //5 Commenty	Zoning Committee) _Association.
	Stephen F.	Brettinger
ATTEST:	Catonsville Knolls	Association
Judy Landelen		
Secretary  DAME: 6-6-99	President	

To Thom I my Concern He reside at and own the home at 302 Kenwood Ave en Catonsville, MD. It has been brought to our attention that there has been inquiries made regarding a business in operation at 3d4 Kentwood ave. as the next-door neighbors, we would like to give you out views on this matter. The doingt object - in any way - as to the business now being performed there. If it were not for a few extra cakes in the driveway during work hours one would bet totally unaware of a business in operation the property has been maintained regularly and noise is nil. I had an opportunity to see the area in which the work was secomplished and was smayed to see it so spotless and immaculate. I was very much impressed. The would further like to bring to light the fact that with the durrent nieighbors and their employees on the

premisic daily, we look upon it as an extra safety factor, security and added peaker of mind. Basically, with the way the business is now being run, we have no objections to this business at their residence. He welcome the presence of the Honequelle in our neighborhood. They are queel, helpful, thoughtful and gracious neighbors. Het consider it a love if these people were forced out of

