RE: PETITION FOR SPH
10132 Liberty Road, NE/S Liberty Rd,
55' SE from c/l Windy Hill Rd
2ndElection District, 2ndCouncilmanic

\* BEFORE THE

\* COUNTY BOARD OF APPEALS

\* FOR BALTIMORE COUNTY

DAHL M. AND DOROTHY B. MILLER, SR. Petitioners

Case No. 99-60-SPH

\* \* \* \* \* \* \* \* \* \* \*

### OPINION AND ORDER

\*

Petitioners DAHL M. MILLER, SR. AND DOROTHY B. MILLER own property in the Harrisonville area of western Baltimore County. The property consists of 4.7 acres and fronts on the north side of Liberty Road. It is split-zoned, with the front 1.2 acres, classified B.L. (Business-Local) and the rear 3.5 acres R.C. 5 (Rural Residential).

Petitioners operate a beauty salon out of a house on the front B.L. zoned portion of the property. The remainder of the property is vacant.

Petitioners now desire to subdivide the property, and establish two residential lots in part of the area zoned R.C. 5, along with the front commercial lot. Their proposal shows the rear residential lots as Lot 1 (1.05 acres) and Lot 2 (2.2 acres). The commercial lot, Lot 3, is 1.49 acres. It includes the B.L. zoned area, as well as a part of the R.C. 5 area.

Petitioners have had occasion to file this special hearing request because the well which serves the commercial use is in the R.C. 5 zone. This raises the question as to legality of a commercially used well in a zone which does not permit commercial uses.

The Zoning Commissioner heard this case, and on October 9, 1998 approved the commercial well in the R.C. 5 area. People's Counsel for Baltimore County then appealed to this Board.

As explained in People's Counsel's subsequent December 14, 1998 letter, the reason for the appeal is that commercial wells are not enumerated among the permitted uses in the R.C. 5 zone. BCZR 1A04. The letter referred to the analogous Circuit Court for Baltimore County decision in Petition of Shawn Rohrbaugh, No. 94-CV-10257, which held that commercial septic systems are not permitted on land zoned R.C. 2 (agricultural).

At the same time, upon review with Petitioners, it was determined here that the commercial well dates from 1981-82, before the County Council rezoned the front 1.5 acres to B.L. in 1984. On this basis, it appears that the Council must have considered the pre-existing R.C. 5 well as a legal use, which became nonconforming upon the 1984 commercial rezoning of the frontage.

On February 24, 1999, this Board held a *de novo* hearing. There were submitted in evidence the documentary history of the well construction in 1981-82, and the log and maps of the 1984 comprehensive rezoning. Mr. Miller testified and corroborated the history.

The site plan shows that the proposed minor subdivision does not involve any expansion of the commercial use, or any change in the use of the well. Moreover, the two residential lots meet the 1-acre minimum lot area for the R.C. 5 zone.

Under these circumstances, the Petitioners have been willing to amend their Petition so that the approval is of a legally nonconforming well, in the nature of a nonconforming commercial use in the R.C. 5 zone. It has existed since before 1984, and the present proposal does not involve any expansion or material change.

Petitioners understand that, under the current zoning, any new well would have to be drilled in the B.L. zoned area. They also understand that future expansion of the commercial use may require another hearing.

Subject to all of the above, it is, this \_\_5th\_ day of \_May, 1999, by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Hearing, as amended, be and is hereby APPROVED, subject to the following conditions:

- 1. The approval is based on the legal nonconforming use of the commercial well in the R.C. 5 zone, along with the existing business use of the B.L. frontage.
- 2. Petitioners shall modify their site plan to reflect the amended request for nonconforming use approval.
- 3. The proposed minor subdivision shall comply generally with applicable development regulations.
- 4. Any requests for development approval or building permits shall refer to this Opinion and Order.
- 5. The approval is further subject to compliance with DEPRM comments dated August 24, 1998 and attached hereto.

CHARLES L. MARKS, Panel Chairman

LAWRENCE S. WESCOTT, Panel Member

THOMAS P. MELVIN, Panel Member



# County Board of Appeals of Baltimore County

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

May 5, 1999

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Case No. 99-60-SPH
Dahl M. and Dorothy B. Miller, Sr.

Dear Mr. Zimmerman:

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

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

Very truly yours,

Kathleen C. Bianco Legal Administrator

Charlotte & Radelyfe for

encl.

cc: Lawrence Hammond, Esquire
 Mr. and Mrs. Dahl M. Miller, Sr.
 Pat Keller, Director /Planning
 Lawrence E. Schmidt /ZC
 Arnold Jablon, Director /PDM
 Virginia W. Barnhart, County Attorney

IN RE: PETITION FOR SPECIAL HEARING
NE/S Liberty Road, 55 ft. SE
from the c/l Windy Hill Road
10132 Liberty Road
2nd Election District
2nd Councilmanic District
Dahl M. Miller, Sr., et ux
Petitioners

\* BEFORE THE

\* ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case No. 99-60-SPH

\* \* \* \* \* \* \* \* \*

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for the property located at 10132 Liberty Road in northwest Baltimore County. The Petition was filed by Dahl M. Miller, Sr. and Dorothy B. Miller, his wife, property owners. Special Hearing relief is requested to allow the residential portion of a lot (zoned R.C.5), along with the operation and maintenance of the well thereon, to support a commercial use in the B.L. zoned portion of the lot. The subject property and requested relief are more particularly shown on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Special Hearing.

Appearing at the requisite public hearing held for this case was Dahl H. Miller, Sr., property owner. The Petitioners were represented by Lawrence M. Hammond, Esquire. There were no Protestants or other interested persons present.

Testimony and evidence offered was that the subject property in its entirety is approximately 4.73 acres in area, split zoned B.L. and R.C.5. The property is an irregularly shaped tract with frontage on Liberty Road in northwestern Baltimore County. The front portion of the property, encompassing 1.18 acres, is zoned B.L. The rear portion of the property, encompassing 3.55 acres, is zoned R.C.5. The front portion of the property is improved with a structure known as 10134 Liberty Road. That structure is located immediately adjacent to Liberty Road and is used as a beauty shop. The rear portion of the property, zoned R.C.2 is improved

with an existing two story framed dwelling. The Petitioners propose razing that structure.

The Petitioners have proposed a minor subdivision of the property. The property is to be divided into three lots. Lot No. 1 is located at the rear of the property and is entirely zoned R.C.5. It is 1.0522 acres in area. The Petitioners propose improving that lot with a dwelling to be known as 10130 Liberty Road. Lot No. 1 is not the subject of the special hearing relief. Lot No. 2 also occupies the rear portion of the tract and is zoned R.C.5. Lot No. 2 is 2.1835 acres. The existing dwelling is situated on lot No. 2. As noted above, that dwelling will be razed and a dwelling constructed in its place. The new dwelling will be known as 10132 Liberty Road. Lot No. 2 is also not the subject of the special hearing relief. The special hearing relief relates to lot No. 3. Lot No. 3 occupies the entire front portion of the property including all of the B.L. zoned area and a part of the R.C.5 zoned land. Lot 3 is 1.4946 acres in area and the building thereon is known as 10134 Liberty Road. Lot 3 contains the beauty shop building.

Mr. Miller testified that he has owned the property for approximately five years. He leases the structure in the front of the property to the proprietors of the beauty shop operation. He further testified that that structure has been used commercially for many years. Apparently, the well serving that structure is on the R.C.5 zoned acreage. As shown on the site plan, the well is located a significant distance to the interior of the site and beyond the B.L./R.C.5 zone line. In that the well and structure being served by same must be in the same zone, special hearing relief is requested to legitimize the configuration of lot No. 3. As more particularly shown on the plan, lot No. 3 includes not only the entire B.L. acreage, but also a sufficient portion of the R.C.5 acreage to include the well's location. A grant of the Petition for Special Hearing will allow

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the well to be located on the same lot as the structure which its serves, irrespective of the different zoning.

A Zoning Plans Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Resource Management (DEPRM). That agency supervises the installation and operation of wells on properties not served by public water. The department's comment indicates support for the use of the existing well for the commercial building.

Based upon the testimony and evidence presented, I am persuaded to grant the relief requested. In my judgment, the grant of the relief will not cause any detriment to the surrounding locale. Moreover, a grant of the relief will legitimize the long standing use of the structure on the front portion of the property and the well serving same.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

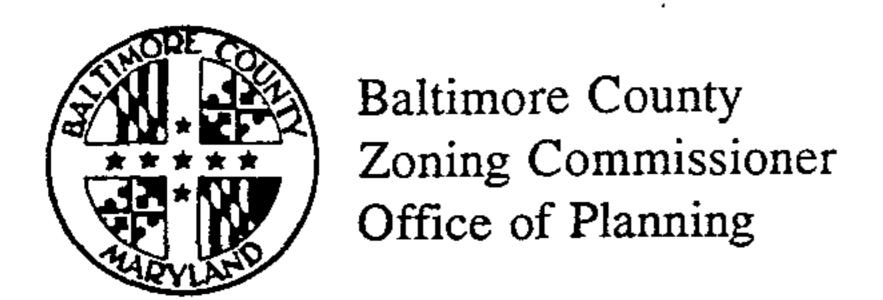
THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 4 day of October 1998 that, pursuant to the Petition for Special Hearing, approval for a nonresidential portion of a lot (zoned R.C.5), along with the operation and maintenance of the well thereon, to support a commercial use in a B.L. zoned portion of the lot, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired.
- 2. Compliance with the ZAC comments submitted by DEPRM, dated August 24, 1998, are adopted in their entirety and made a part of this Order (copy attached hereto).

LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

LES:mmn

SOUTH STATE OF THE STATE OF THE



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

October 6, 1998

Larry Hammond, Esquire P.O. Box 465 Main Street P.O. Box 569 Reisterstown, Maryland 21136

RE: Petition for Special Hearing

Case No. 99-60-SPH

Property: 10132 Liberty Road

Petitioner: Dahl M. Miller, Sr., et ux

Dear Mr. Hammond:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted, with restrictions, in accordance with the attached Order.

In the event any party finds the decision rendered 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 Appeals Clerk at 887-3391.

ery truly yours

LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

LES:mmn encl.

c: Mr. and Mrs. Dahl M. Miller, Sr. 5833 Woodbine Road Woodbine, Maryland 21797



# Petition for Special Hearing

# to the Zoning Commissioner of Baltimore County

for the property located at

10132 Liberty Road

which is presently zoned

BL/RC 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 Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED SHEET

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

	I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition		
Contract Purchaser/Lessee	Legal Owner(s)		
<del></del>	Dahl M. Miller, Sr.		
(Type or Print Name)	(Type or Print Name)		
•	210 mm/11 6		
Signature	Signature Signature		
	Dorothy B. Miller		
Address	(Type or Print Name)		
	Double B. M.M.		
Crty State Zipcode	Signature / / / / / / / / / / / / / / / / / / /		
	5922 Woodbine Dead (470)705 0000		
Attorney for Petitioner	5833 Woodbine Road (410)795-2933		
	Address Phone No		
Larry Hammond (Type or Print Name)	Woodbine, Maryland 21797		
1, 1, 1, contraine)	City State Zipcode Name, Address and phone number of representative to be contacted.		
Lumps 1	to be contacted.		
Signature 465-Main STREET	Peter L. Podolak, P. E.		
P. O. Box 569 (410)833-7576	Name  P O Bosz 266 Mostminster MD 07750		
Address Phone No.	P. O. Box 266, Westminster, MD 21158		
Reisterstown, Maryland 21136	410-876-1226  OFFICE USE ONLY		
State Zipcode	ESTIMATED LENGTH OF HEARING		
	unavailable for Hearing		
	the following dates Next Two Months		
	ALLOTHER		
	REVIEWED BY: 15 / DATE 8-4-98		
Revised 9/5/95			
Revised 9/5/95	ITEM# 60		
77-100397	11tm. 60		
	<b>7</b>		

The proposed subdivision layout for the property is shown on the enclosed "Plat to Accompany Petition for Special Hearing for the Miller Property." Two lots are proposed in the RC-5 zoning district, with Lot #3 comprising all the improvements in the BL zoning district and the existing well in the RC-5 zoning district. In total, approximately 0.435 acres in the RC-5 zoning district are included with 1.06 acres in the BL zoning district. A special hearing to allow a non-residential portion of a lot, along with the operation and maintenance of well, in the RC-5 zoning district is respectfully requested.

The property, located at 10132 Liberty Road, consistis of 4.73 acres of land with a split zoning. The 1.18 acre portion abutting Liberty Road is zoned BL (Business-Local), while the remaining 3.55 acres located in the rear of the property is zoned RC-5 (Resource Conservation). Improvements on the property include a 2-story, wooden frame house and gravel parking area, which is currently being used as a beauty salon. The building appears to be at least fifty years of age and is located entirely in the BL zoning district. The well for the existing building, however, is located entirely within the RC-5 zoning district, and from Health Department records was apparently placed there because several dry holes were drilled near the existing house.

LEON A. PODOLAK AND ASSOCIATES
Surveying and Civil Engineering
63 E. Main Street
Westminster, Maryland 21157
(410) 848-2229

APR ASSOCIATES, INC. Engineers and Surveyors 7427 Harford Road Baltimore, Maryland 21234 (410) 444-4312

### DESCRIPTION FOR SPECIAL HEARING

### FOR MILLER PROPERTY, 10132 LIBERTY ROAD

Beginning for the same on the Northeastern Right-of Way line of Liberty Road (Maryland Route 26), 66 feet wide, at a distance of 55 feet measured in the Southeasterly direction along said Liberty Road from the centerline intersection with the Right-of-Way for Windy Hill Road, thence leaving said place of beginning and running the following eight courses and distances, viz.:

1) North 30 degrees 08 minutes 24 seconds East 180.00 feet, thence 2) North 56 degrees 23 minutes 43 seconds West 112.00 feet, thence 3) North 30 degrees 08 minutes 24 seconds East 167.41 feet, thence 4) South 59 degrees 51 minutes 36 seconds East 120.00 feet, thence 5) South 05 degrees 41 minutes 16 seconds West 146.02 feet, thence 6) South 56 degrees 23 minutes 43 seconds East 116.00 feet, thence 7) South 31 degrees 20 minutes 07 seconds West 225.18 feet, thence 8) North 56 degrees 23 minutes 43 seconds West 180.07 feet to the place of beginning.

Containing 1.4946 Acres of land, more or less, in the 2nd Election District of Baltimore County, Maryland.

Being shown and designated as Lot #3 on "Plat to Accompany Petition for Special Hearing for the Miller Property (Proposed Lot 3)," prepared jointly by APR Associates, Incorporated and Leon A. Podolak and Associates.

This 10th day of June, 1998

Alexander P. Ratych, Prof. L.S. #3633

17EM#60

Alleun J. Nature 6-10-1998

LEON A. PODOLAK AND ASSOCIATES Surveying and Civil Engineering 63 E. Main Street Westminster, Maryland 21157 (410) 848-2229

APR ASSOCIATES, INC. Engineers and Surveyors 7427 Harford Road Baltimore, Maryland 21234 (410) 444-4312

### **DESCRIPTION FOR SPECIAL HEARING**

### FOR MILLER PROPERTY, 10132 LIBERTY ROAD

Beginning at the end of the forth or North 30 degrees 08 minutes 24 seconds East 167.41 foot line of Lot #3 as described in a "Description for Special Hearing for Miller Property, 10132 Liberty Road," dated March 24,1998, thence leaving said place of beginning and running the following four courses and distances, viz.: 1) South 59 degrees 51 minutes 36 seconds East 120.00 feet, thence 2) South 05 degrees 41 minutes 16 seconds West 146.02 feet, thence along the common zoning boundary, 3) North 56 degrees 23 minutes 43 seconds West 180.77 feet, thence 4) North 30 degrees 08 minutes 24 seconds East 122.00 feet to the place of beginning.

Containing 0.43577 Acres of land, more or less, in the 2nd Election District of Baltimore County.

Being shown as that portion of Lot #3 in the RC-5 zoning district, on "Plat to Accompany Petition for Special Hearing for the Miller Property," prepared jointly by APR Associates, Incorporated and Leon A. Podolak and Associates.

This 24-th day of March, 1998

Alexander P. Ratych, Prof. L.S. #3633

/Tem#60

### NOTICE OF ZOUNG

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: #99-60-SPH
10132 Liberty Road
NE/S Liberty Road; 55' SE
from centerline Windy Hill
Road
2nd Election District
2nd Councilmanic District

Legal Owner(s):
Dorothy and Dahl Miller, Sr.
Special Hearing: to allow a non-residential portion of a lot, along with the operation and maintenance of a well, in the R.G. 5 zoning district, to support commercial use in the B.L. portion of the lot.
Hearing: Monday, September 21, 1998 at 2:00 p.m., in Room 407, County Courts Bidg., 461 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County
NOTES: (1) Hearings are
Handicapped Accessible; for
special accommodations
Please Call (410) 887-3353.
(2) For information concerning the File and/or Hearing,

9/019 Sept. 3 C255574

Piease Call (410) 887-3391.

### CERTIFICATE OF PUBLICATION

TOWSON, MD.,
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 ofsuccessive
weeks, the first publication appearing on $3eff.3$ , 19 $98$

THE JEFFERSONIAN,

M. Henrelson

LEGAL AD. - TOWSON

BALTIMORE COUNTY, M. LAND- OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	17EM# 60 No. 05610>	PAID RECEIPT
DATE S-4-98 ACCOUNT		PROCESS ACTUAL TIME B/05/1998 8/04/1998 13:23:02 HSO1 CASHIER CLUM CAL DRAMER MISCELLANDUS CASH RECEIPT
RECEIVED Hamus &	250 — Kec	Pipt # 061566 W. 056109 250.00 CHECK: FM Baltimore County, Haryland
FOR: <u>5PH</u> #10132	berty Di	1.60-SPH
DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTO		CASHIER'S VALIDATION

RE: Case No.:	99-60-SPH
	· · · · · · · · · · · · · · · · · · ·

Petitioner/Developer: DAHL MILLER, ETAL

C/O HAMMOND & HAMMOND

Date of Hearing/Closing:  $\frac{9}{21}$ 

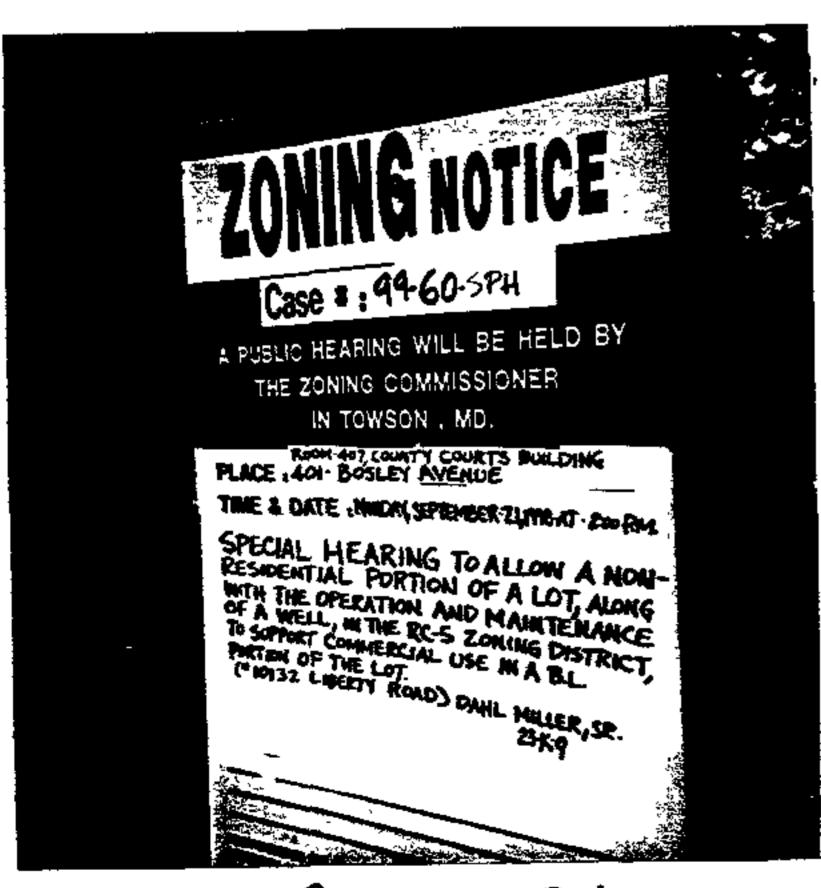
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at \_\_\_#10132-L/BERTY

The sign(s) were posted on (Month, Day, Year)



99-60-SPH #10132 LIBERTY ROAD 9/2198 DAHL MILLER H. 9/21/98 9/2198 5/0 HAMMOND H. 9/21/98

Sincerely, (Signature of Sign Poster and Date)

PATRICK M. O'KEEFE

(Printed Name)

PENNY LANE

(Address)

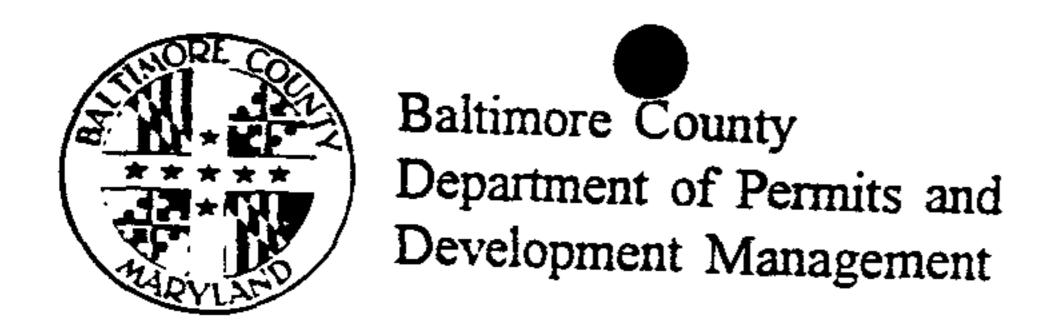
(City, State, Zip Code)

410-666-5366 ; CELL-410-905-8571

(Telephone Number)

## CERTIFICATE F POSTING

•	RE: Case No.: 99-60-5PA
	Petitioner/Developer:
	DAHL M. MILLER
	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:	
were posted conspicuously on the property  10132 LIBERTY RD.  The sign(s) were posted on	y located at
	Sincerely,
	(Signature of Sign Poster and Date)  GARY C. FREUND  (Printed Name)
	(Address)
•	(City, State, Zip Code)
	(Teiephone Number)



Development Processing County Office Building 111 West Chesapeake Avent 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.

ADMOTO TARTON DEPRESE
ARNOLD JABLON, DIRECTOR
For newspaper advertising:
Item No.: 60
Petitioner: Dahl M. Mille Se., & Dorothy B. Miller
Location: 10/32 Liberty Road
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Lawrence M. Jammono, ESP
ADDRESS: 465 Muis Street PABN (79
Reistenstonn, mis 21136
PHONE NUMBER (410) 833.7576
AJ:ggs

Printed with Soybean Int

(Revised 09/24/96)

Request for Zoning: Variance, Special Exception, or Special Hearing			
Date to be Posted: Anytime before but no later than			
Format for Sign Printing, Black Letters on White Background:			
ZONING NOTICE			
Case No. 99-60 SPH			
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD			
PLACE:			
DATE AND TIME:			
REQUEST: SPECIAL HEARING TO ALLOW AN			
EXISTING WELL IN RC-5 ZOIL TO			
SERVE THE BL ZONE CHAIR SALON			
use.			
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY. TO CONFIRM HEARING CALL 887-3391.			
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW			
HANDICAPPED ACCESSIBLE			
•			

TO: PATUXENT PUBLISHING COMPANY

September 3, 1998 Issue - Jeffersonian

Please forward billing to:

Lawrence M. Hammond, Esquire

410-833-7576

465 Main Street P.O. Box 569

Reisterstown, MD 21136

#### **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: 99-60-SPH

10132 Liberty Road

NE/S Liberty Road, 55' SE from centerline Windy Hill Road

2nd Election District - 2nd Councilmanic District

<u>Special Hearing</u> to allow a non-residential portion of a lot, along with the operation and maintenance of a well, in the R.C.-5 zoning district, to support commercial use in the B.L. portion of the lot.

**HEARING:** 

Monday, September 21, 1998 at 2:00 p.m. in Room 407, County Courts Building,

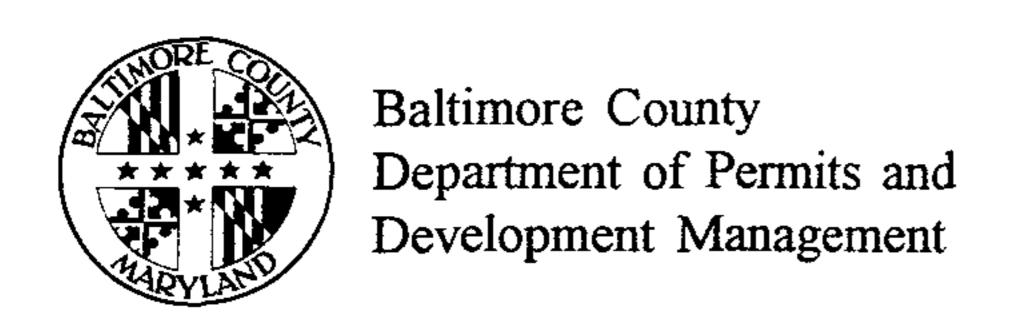
401 Bosley Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-887-3391.



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

August 14, 1998

### **NOTICE OF ZONING HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-60-SPH

10132 Liberty Road

NE/S Liberty Road, 55' SE from centerline Windy Hill Road

2nd Election District - 2nd Councilmanic District

<u>Special Hearing</u> to allow a non-residential portion of a lot, along with the operation and maintenance of a well, in the R.C.-5 zoning district, to support commercial use in the B.L. portion of the lot.

**HEARING:** 

Monday, September 21, 1998 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon Director

c: Larry Hammond, Esquire Dorothy & Dahl Miller, Sr.

Call Sollar

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY SEPTEMBER 6, 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

€.

January 15, 1999

NOTICE OF ASSIGNMENT /SPECIALLY ASSIGNED PER REQUEST OF PARTIES

CASE #: 99-60\SPH

IN THE MATTER OF: DAHL M. MILLER, ET UX - Petitioners 10132 Liberty Road 2nd E; 2nd C

(Petition for Special Hearing GRANTED)

ASSIGNED FOR:

WEDNESDAY, FEBRUARY 10, 1999 at 11:00 a.m.

NOTICE:

This matter has been scheduled for the purpose of receiving oral argument only on Appellant /Petitioner's Motion for Remand.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco Administrator

cc: Appellant

: Peter Max Zimmerman, People's Counsel for Baltimore County Carole S. Demilio, Deputy People's Counsel

Counsel for Petitioners : Lawrence Hammond, Esquire

Petitioners : Mr. and Mrs. Dahl M. Miller

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

January 29, 1999

J.P .

NOTICE OF POSTPONEMENT & REASSIGNMENT /SPECIALLY ASSIGNED PER REQUEST OF PARTIES

CASE #: 99-60-SPH

IN THE MATTER OF: DAHL M. MILLER, ET UX Petitioners 10132 Liberty Road 2nd E; 2nd C

(Petition for Special Hearing GRANTED)

which was scheduled for 2/10/99 has been POSTPONED at request of Counsel for Petitioner, and with agreement of People's Counsel; and has been

REASSIGNED FOR:

WEDNESDAY, REBRUARY 24, 1999 At 1:00 p.m.

NOTICE:

This matter has been scheduled for the purpose of receiving oral argument only on Appellant /Petitioner's Motion for Remand.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco Administrator

cc: Appellant

: Peter Max Zimmerman, People's Counsel for Baltimore County

Carole S. Demilio, Deputy People's Counsel

Counsel for Petitioners : Lawrence Hammond, Esquire

Petitioners : Mr. and Mrs. Dahl M. Miller

Pat Keller, Director /Planning Lawrence E. Schmidt /Z.C. Arnold Jablon, Director /PDM Virginia W. Barnhart, County Attorney



TIME: 02/03/1999 18:51 NAME: BOARD OF APPEALS FAX: 4108873182 TEL: 4108873180

DATE, TIME FAX NO./NAME DURAȚION PAGE(S) RESULT MODE

02/03 18:50 94108334744 00:00:35 01 OK STANDARD ECM



### 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

February 3, 1999

# AMENDED NOTICE OF POSTPONEMENT & REASSIGNMENT /as to time \*\* /SPECIALLY ASSIGNED PER REQUEST OF PARTIES

CASE #: 99-60-SPH

IN THE MATTER OF: DAHL M. MILLER, ET UX - Petitioners 10132 Liberty Road 2nd E; 2nd C

(Petition for Special Hearing GRANTED)

which was scheduled for 2/10/99 was POSTPONED at request of Counsel for Petitioner, and with agreement of People's Counsel, reassigned to 2/24/99. THIS AMENDED NOTICE CORRECTS THE TIME OF THIS HEARING TO READ 9:30 A.M.; and has been

### AMENDED TO READ:

WEDNESDAY, FEBRUARY 24, 1999 at 9:30 a.m. \*\*

NOTICE:

This matter has been scheduled for the purpose of receiving oral argument only on Appellant /Petitioner's Motion for Remand.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco Administrator

cc: Appellant

: Peter Max Zimmerman, People's Counsel

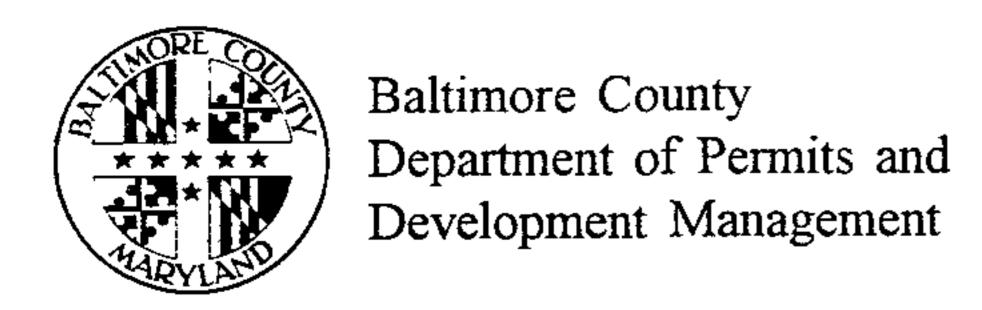
for Baltimore County
Carole S. Demilio, Deputy People's Counsel

Counsel for Petitioners : Lawrence Hammond, Esquire

Petitioners : Mr. and Mrs. Dahl M. Miller

Pat Keller, Director /Planning Lawrence E. Schmidt /Z.C. Arnold Jablon, Director /PDM Virginia W. Barnhart, County Attorney





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

September 17, 1998

Peter L. Podolak, P.E. P.O. Box 266
Westminster, MD 21158

RE: Item No.: 60

Case No.: 99-60-SPH

Location: 10132 Liberty Road

Dear Mr. Podolak:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on August 4, 1998.

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

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency.

Very truly yours,

Carl Richards, Jr

Zoning Supervisor Zoning Review

WCR:ggs

Enclosures

### BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

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

DATE: September 4, 1998

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

SUBJECT: Zoning Advisory Petitions

- 8 1998

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

Item No. 60

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at (401) 887-3495.

Section Chief:

AFK/JL

Due Date: August 24, 1998

TO:

Arnold Jablon

FROM:

R. Bruce Seeley Red/9

SUBJECT:

Zoning Item #60

### Miller Property (Dahl)-10132 Liberty Road

Zoning Advisory Committee Meeting of August 17, 1998

	Louing raw tooly committee into the gust 17, 1990
	The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.
<b></b>	The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.
X	The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
	Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).
	X Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).
	Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).
	X The signed letter of permission from the retention bank owner has still not been returned to this office; therefore, the requirements for Forest Conservation are not complete and the minor subdivision cannot be approved.
	X GWM: The Department supports the use of the existing well for the Commercial Property.

BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: August 21, 1998

Department of Permits & Development

Management

Robert W. Bowling, Chief Development Plans Review Division

SUBJECT:

Zoning Advisory Committee Meeting

for August 24, 1998

Item Nos. 057, 059 (060) 062, 063,

064, 065, 066, and 067

Revised plans (with no review) for

Case #99-24-SPHXA (6350 Frederick Road)

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

RWB:HJO:jrb

cc: File



Pamis N. Glendening Governor David L. Winstead Secretary Parker F. Williams

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

Baltimore County 8.14.5 V RE:

Administrator

Item No. 060

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,

P. J. L. L.

Ronald Burns, Chief

**Engineering Access Permits** 

Division

LG

Ap)

### BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director

Department of Permits

and Development Management

DATE: September 4, 1998

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

SUBJECT: Zoning Advisory Petitions

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

Item No. 60

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at (401) 887-3495.

Section Chief:\_\_\_

AFK/JL

RE: PETITION FOR SPECIAL HEARING 10132 Liberty Road, NE/S Liberty Rd, 55' SE	*	BEFORE THE
from c/l Windy Hill Rd, 2nd Election District, 2nd Councilmanic	*	ZONING COMMISSIONER
	*	FOR
Legal Owners: Dahl M. and Dorothy B. Miller	*	BALTIMORE COUNTY
Petitioner(s)	*	Case Number: 99-60-SPH

### ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO

Deputy People's Counsel

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this \_\_\_\_\_ day of August, 1998, a copy of the foregoing Entry of Appearance was mailed to Lawrence Hammond, Esq., , 465 Main Street, Reisterstown, MD 21136, attorney for Petitioner(s).

PETER MAX ZIMMERMAN

#### BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director TO:

**DATE:** October 14, 1999

Permits & Development Management

Charlotte E. Radcliffe O FROM:

SUBJECT: Closed Files /Case Nos.:

98-050-M /Lawrence C. Post Property

99-60-SPH /Dahl M. and Dorothy B. Miller, Sr.

99-43-A /Esco, Ltd.

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

Attachment (Case No. 98-050-M; 99-60-SPH; & 99-43-A)

#### BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

\*AMENDED - as to date (prior memo showed 10/14/99)

TO: Arnold Jablon, Director DATE: \*February 8, 2000

Permits & Development Management

FROM: Charlotte E. Radcliffe

County Board of Appeals

SUBJECT: Closed Files /Case Nos.:

98-050-M /Lawrence C. Post Property

99-60-SPH /Dahl M. and Dorothy B. Miller, Sr.

99-43-A /Esco, Ltd.

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

Attachment (Case No. 98-050-M; 99-60-SPH; & 99-43-A)

### **APPEAL**

Petition for Special Hearing
NE/S Liberty Road, 55' SE from centerline Windy Hill Road
(10132 Liberty Road)
2<sup>nd</sup> Election District - 2<sup>nd</sup> Councilmanic District
Dahl M. Miller, Sr., et ux - Petitioners
Case Number: 99-60-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certification of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners Sign-In Sheet

Petitioners' Exhibits: 1 - Plat to Accompany Petition for Special Hearing

Zoning Commissioner's Order dated October 9, 1998 (Granted)

Notice of Appeal received on October 29, 1998 from Peter Max Zimmerman and Carole S. Demilio on behalf of People's Counsel

c: Lawrence Hammond, Esquire, 465 Main Street, Reisterstown, MD 21136
Mr. and Mrs. Dahl M. Miller, Sr., 5833 Woodbine Road, Woodbine, MD 21797
People's Counsel of Baltimore County, MS #2010
Lawrence Schmidt, Zoning Commissioner

Arnold Jablon, Director of PDM

Case No. 99-60-SPH

SPH -To allow use of residential portion (R.C. 5) of property to support commercial portion (B.L.) /operation and maintenance of well.

10/09/98 -Z.C.'s Order in which Petition for Special Hearing was GRANTED.

- 12/14/98 -Letter from P. Zimmerman -- requesting brief hearing at earliest convenience; Petitioners willing to modify request; People's Counsel filed appeal.
- 1/04/99 -Letter from L. Hammond, Esquire -- Counsel for Petitioner; PMZ's letter of 12/14 is accurate reflection of facts; requests brief hearing at earliest convenience. To be assigned and notice sent.
- 1/15/99 Notice of Assignment for hearing scheduled for Wednesday, February 10, 1999 at 11:00 a.m. sent to following:

Peter Max Zimmerman, People's Counsel for Baltimore County
Carole S. Demilio, Deputy People's Counsel
Lawrence Hammond, Esquire
Mr. and Mrs. Dahl M. Miller
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

- 1/29/99 -T/C and follow-up letter by FAX from Donna J. Evans, Secretary to Lawrence M. Hammond, Esquire -- requesting and confirming change of hearing date from 2/10/99 to Wednesday, February 24, 1999 at 9:30 a.m. (date and time agreed to by both Petitioner's counsel and People's Counsel). Notice of PP and Reassignment sent this date to all parties.
- 2/03/99 -Amended Notice of PP and Reassignment to reflect correct hearing time of 9:30 a.m. in lieu of time shown on notice mailed 1/29/99.
- 2/24/99 -Hearing concluded before Board and final decision reached as to Petitioner's nonconforming use pursuant to 1/04/99 letter from L. Hammond. Proposed Order to be submitted by P. Zimmerman for review by CBA. (C.S.M.)





OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel October 28, 1998

Deputy People's Counsel

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING

10132 Liberty Road, NE/S Liberty Rd,

55' SE from c/l Windy Hill Rd,

2nd Election Dist., 2nd Councilmanic

Dahl M. and Dorothy B. Miller, Sr., Petitioners

Case No.: 99-60-SPH

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated October 9, 1998 of the Baltimore County Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

PDM

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf

cc: Lawrence Hammond, Esq., 465 Main Street, Reisterstown, MD 21136, Attorney for Petitioners



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel

CAROLE S. DEMILIO Deputy People's Counsel

December 14, 1998

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

Hand-delivered

Re: Petition for Special Hearing 10132 Liberty Road, NE/S Liberty Rd,

55' SE from c/l Windy Hill Rd,

2nd Election District, 2nd Councilmanic

Dahl M. and Dorothy B. Miller, Sr., Petitioners

Case No.: 99-60-SPH

Dear Mr. Marks:

Upon review with Petitioners' attorney, Lawrence Hammond, Esq., and subject to the Board's approval, we have tentatively agreed to proceed in a way which will allow an expedited hearing.

This office appealed the Zoning Commissioner's decision because of the allowance of a well in an RC-5 (rural residential) zone, which serves an adjacent commercially zoned business. We have taken the position in the past that septic systems, wells, and the like may not be placed in Resource Conservation zones to support commercial uses. See Petition of Sharon Rohrbaugh, et al., Circuit Court for Baltimore County No. 94-CV-10257 (Smith, J.).

It appears, however, in the present case that the relevant well was approved in 1982, before the 1984 commercial rezoning of the portion of the property which fronts Liberty Road. Under these circumstances, we would not oppose a request to designate the well as a legal non-conforming use.

We understand that the Petitioners are willing to modify their request on that basis and to present the case for a non-conforming use. If Mr. Hammond confirms that this letter is consistent with his understanding, we suggest that the Board set this matter in for a relatively brief hearing at its earliest convenience. At that time, the Petitioners would produce the relevant evidence regarding the history of the site and the zoning upon which it appears a non-conforming use may be found.

Charles L. Marks, Esq., Chairman County Board of Appeals December 14, 1998 Page Two

Thank you in advance for your cooperation.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel

PMZ/caf

cc: Lawrence Hammond, Esq.





OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

December 14, 1998

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

Hand-delivered

Re: Petition for Special Hearing
10132 Liberty Road, NE/S Liberty Rd,
55' SE from c/l Windy Hill Rd,
2nd Election District, 2nd Councilmanic

Dahl M. and Dorothy B. Miller, Sr., Petitioners

Case No.: 99-60-SPH

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It appears, however, in the present case that the relevant well was approved in 1982, before the 1984 commercial rezoning of the portion of the property which fronts Liberty Road. Under these circumstances, we would not oppose a request to designate the well as a legal non-conforming use.

We understand that the Petitioners are willing to modify their request on that basis and to present the case for a non-conforming use. If Mr. Hammond confirms that this letter is consistent with his understanding, we suggest that the Board set this matter in for a relatively brief hearing at its earliest convenience. At that time, the Petitioners would produce the relevant evidence regarding the history of the site and the zoning upon which it appears a non-conforming use may be found.

98 DEC 14 PM 2: 29

Charles L. Marks, Esq., Chairman County Board of Appeals December 14, 1998 Page Two

Thank you in advance for your cooperation.

Very truly yours,

Peter Max Zimmerman

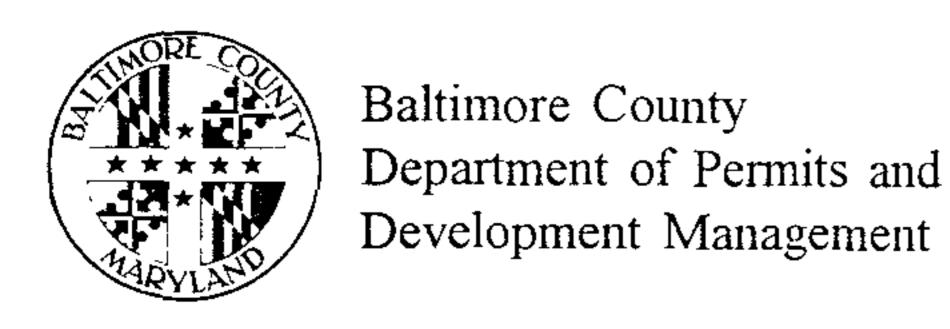
People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel

PMZ/caf

cc: Lawrence Hammond, Esq.



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

November 5, 1998

Larry Hammond, Esquire 465 Main Street P.O. Box 569 Reisterstown, MD 21136

Dear Mr. Hammond:

RE: Petition for Special Hearing, Case No.: 99-60-SPH, 10132 Liberty Road, District: 2c2, Dahl M. and Dorothy B. Miller, Sr. - Petitioners

Please be advised that an appeal of the above referenced case was filed in this office on October 29, 1998 by Peter Max Zimmerman and Carole S. Demilio on behalf of People's Counsel. 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 Jablen

Director

AJ:rye

c: People's Counsel

## Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel

April 19, 1999

CAROLE S. DEMILIO
Deputy People's Counsel

99 APR

 $\bigcirc$ 

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

Hand-delivered

Re: Petition for Special Hearing

10132 Liberty Road,

NE/S Liberty Rd, 55' SE from c/I Windy Hill Rd,

2nd Election District, 2nd Councilmanic

DAHL AND DOROTHY MILLER, Petitioners

Case No.: 99-60-SPH

Dear Chairman Marks:

Enclosed for the Board's review and consideration is proposed Opinion and Order the above case. Lawrence Hammond, Esq. has reviewed it and has advised by the enclosed facsimile dated April 15, 1999 that it is acceptable to his client as drawn.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf Enclosure

cc: Lawrence Hammond, Esq.
Attorney for Petitioners

## Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

October 28, 1998

CAROLE S. DEMILIO
Deputy People's Counsel

Amold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING

10132 Liberty Road, NE/S Liberty Rd,

55' SE from c/l Windy Hill Rd,

2nd Election Dist., 2nd Councilmanic

Dahl M. and Dorothy B. Miller, Sr., Petitioners

Case No.: 99-60-SPH

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Finding of Fact and Conclusions of Law dated October 9, 1998 of the Baltimore County Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Please forward copie

2 9 1998

PDM

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf

cc: Lawrence Hammond, Esq., 465 Main Street, Reisterstown, MD 21136, Attorney for Petitioners

HAMMOND & HAMMOND, L.L.C.

ATTORNEYS AT LAW

465 MAIN STREET

P 0. BOX 569
REISTERSTOWN, MARYLAND 21136-0569
(410) 833-7576

LLOYD J HAMMOND LAWRENCE M. HAMMOND TELECOPIER (410) 833-4744

DOUGLAS S. CURTIS

December 22, 1998

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

RE: Petition for Special Hearing
10132 Liberty Road, NE/S Liberty Road
55 feet SE from c/l Windy Hill Road,
Second Election District,
Second Councilmanic District
Dahl M. & Dorothy B. Miller, Petitioners
Case No. 99-60-SPH

Dear Mr. Marks:

I am in receipt of Mr. Zimmerman's letter dated December 14, 1998. The contents of said letter is an accurate reflection of the facts in this matter. I request that the Board set this matter in for a brief hearing at its earliest convenience. I do not anticipate a lengthy hearing at all, and at that time, the Petitioner will produce the relative evidence regarding the history of the site and the zoning upon which a non-conforming use may be found.

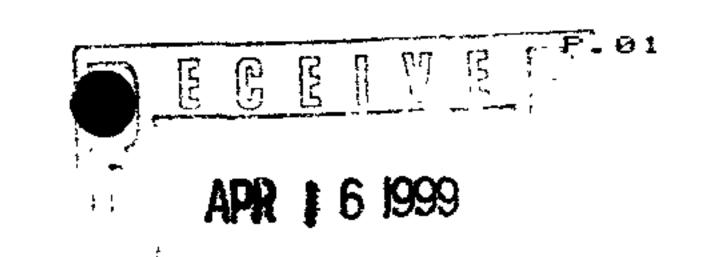
Thank you for your anticipated cooperation in this matter. Please do not hesitate to contact me with any questions or concerns you may have.

Sincerely yours,

Lawrence M. Hammond

LMH:dje

cc: Peter Max Zimmerman, Esquire



#### CONFIDENTIALITY NOTICE

This facsimile transmission contains confidential information belonging to the sender, which may be legally privileged information. The information is intended only for the use of the individual or entity named below. If you are not the intended recipient or an employee or agent for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of the facsimile documents is strictly prohibited. If you have received this transmission in error, please notify us immediately telephone to arrange for return of the original facsimile documents to us

### FAX TRANSMISSION

HAMMOND & HAMMOND, L.L.C.

465 MAIN STREET
P. O. Box 569
REISTERSTOWN, MARYLAND 21136
(410) 833-7576
FAX (410) 833-4744

Te:

Peter Max Zimmerman, Esquire

Date:

April 15, 1999

Fax #:

410-887-3282

Pages:

One (1)

From:

Lawrence M. Hammond, Esquire

Subject:

Dahl Miller property

#### **COMMENTS:**

Dear Mr. Zimmerman:

Confirming my secretary's conversation with you today, please be advised that the Order in the above matter is acceptable to my client as drawn. Thank you for your cooperation in this matter.

#### **CONFIDENTIALITY NOTICE**

This facsimile transmission contains confidential information belonging to the sender, whichmay be legally privileged information. The information is intended only for the use of the individual or entity named below. If you are not the intended recipient or an employee or agent for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of the facsimile documents is strictly prohibited. If you have received this transmission in error, please notify us immediately telephone to arrange for return of the original facsimile documents to us

## FAX TRANSMISSION

HAMMOND & HAMMOND, L.L.C.

465 MAIN STREET P. C. Box 569 REISTERSTOWN, MARYLAND 21136 (4:0) 833-7578 FAX: (410) 833-4744

To:

Ms. Kathleen Bianca

Date:

Janusry 29, 1999

Board of Zoning Appeals

Fax#:

410-887-3182

Pages:

2

From:

Lawrence M. Hammond, Esquire

Subject:

Case No. 99-60-SPH 10132 Liberty Road Dahl & Dorothy Miller

#### COMMENTS:

Attached is letter dated January 29, 1999.

#### HAMMOND & HAMMOND, L.L.C.

ATTORNEYS AT LAW

465 MAIN STREET P.O BOX 559

REISTERSTOWN, MARYLAND 21:36:0569 (410) 833-7576

CHOMMAN L GYOLL LAWRENCE M. HAMMOND

**POUGLAS S CURTIS** 

TELECOPIER 14101 833-4744

January 29, 1999

VIA FACSIMILE TO: 410-887-3182

Ms. Kathleen Bianca Board of Zoning Appeals Room 46, Court House 400 Washington Avenue Towson, MD 21204

> RE: Case No. 99-50-5PH 10132 Liberty Road Dahl and Dorothy Miller

Dear Ms. Bianca:

Thank you for your cooperation in changing the date for the hearing on the above matter from February 10th at 11 a.m. to Wednesday, February 24th, at 9:30 a.m. I have confirmed by telephone with Mr. Zimmerman and Mr. and Mrs. Miller that this new date will be convenient for them.

Your assistance in this matter is very much appreciated.

Very truly yours,

(Mrs.) Donna J. Evans

Denna Cuena

Secretary to

Lawrence M. Hammond

DJE:me

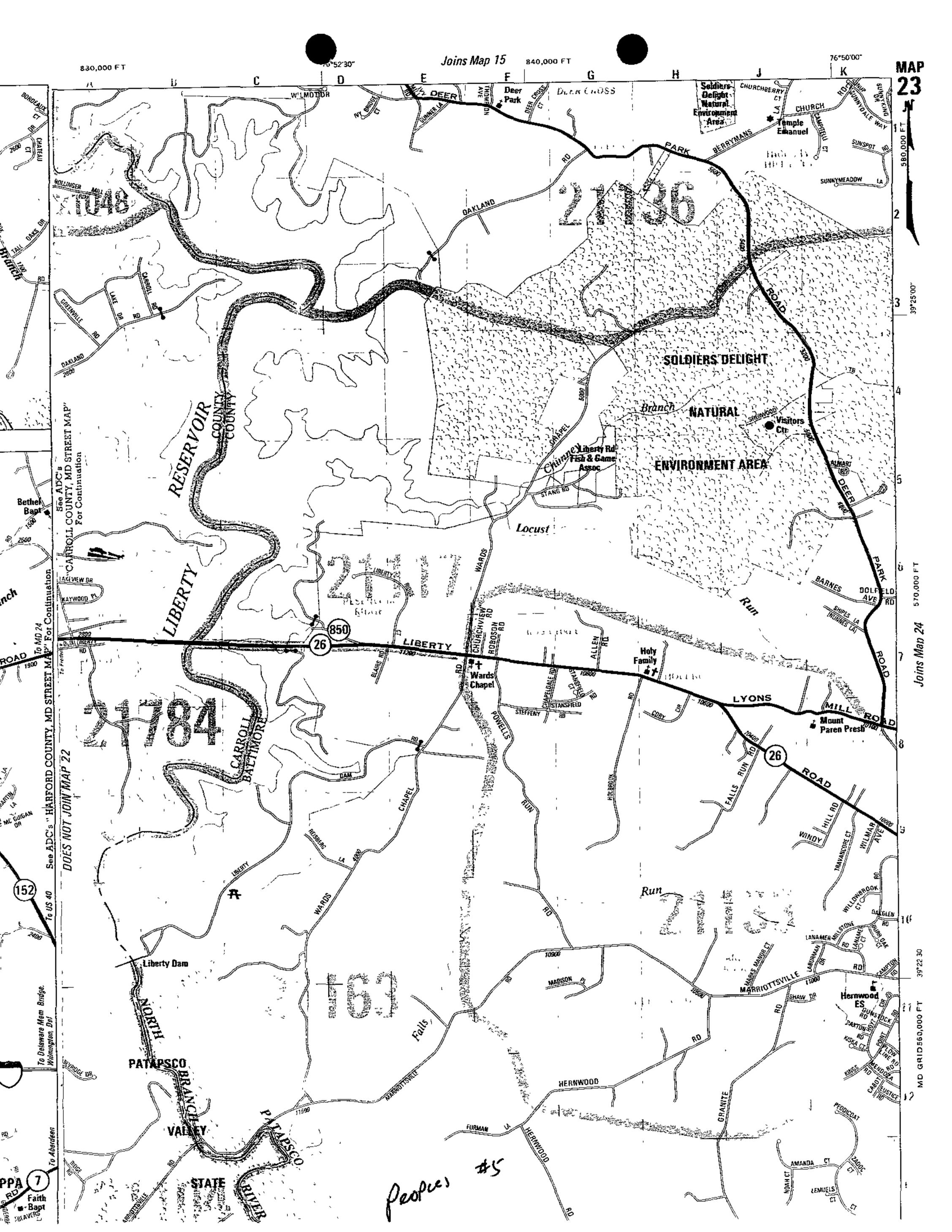
Peter Max Zimmerman, Esquire

Mr. & Mrs. Dahl Miller

99 JAN 29

#### PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Lawrence M. Hammons	465 main 5T
	Reislewien, mo 21136
DAML MILLER	5833WerobinERo
	WOODBINE MO 3179
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# BALTIMORE COUNTY DEPARTMENT OF HEALTH BUREAU OF ENVIRONMENTAL SERVICES Location and Inspection of Private Water Well

Date \_//27/8/

Woll Pormit No. BA 8/-04/4 Bldg. Application No.
Well reiming no. Dr.
LOCATION OF PROPERTY (Road) 10/32 Liberty-150
SUBDIVISION LOT BLOCK PLAT SECTION
DIRECTIONS  DIRECTIONS  DIRECTIONS
Let Hiller to 6 to 1800
OWNER Close Phillips 486-6990
WELL DRILLER Walk Owner ( ) Owner (
PRELIMINARY COMMENTS: Existing duy well in pro- physical
Condition plywood cover with block holding it down with
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
luch walls. Water waren + has dux in it - and to Western
Region. Musy be backfulled. Mrs. Phillips described location.  WILLE DELLE DELLE ADDITIONAL YIELD Fixs.
TIPE OF WEILD: DEIDLY DEDLY CEMENIA DEDLY
IF ADDITIONAL OR REPLACEMENT, HAVE OTHERS BEEN ABANDONED AND PROPERLY BACKFILLED!
PUMP TEST - METHOD: WITNESSED BY
PUMPING COMMENTS: property live and septicioner. Dos 5/5/82.
HAS WELL BEEN PROPERLY GROUTED: YES NONOT WITNESSED
TS WELL PROPERLY LOCATED AS SHOWN ON PLAN?  YES NO
TS WELL LOCATED ON HIGHEST ELEVATION ON LOT?
IS WELL PROTECTED FROM DUMPORABILY CAPPED?  YES NO
TOWNSON SECOND TOWN TOWN TO THE OWNER OF THE DESIGNATION OF THE PROPERTY OF TH
DISTANCE FROM WELL TO EXICITION EXIST ON ADJACENT PROPERTIES?  DO ANY POTENTIAL SOURCES OF POLLUTION EXIST ON ADJACENT PROPERTIES?  TYPE OF PUMP
FINAL INSPECTION COMMENTS:
ETWEE INSCRICTION COMMENTS.
FINAL APPROVAL: YES NO
Sanitarian
Date of Final Inspection
DS16 OI LIUGI INCLES OF CLOR

Dorlan

T. Einst BHD.

March 3, 1982

Mrs. Elsie L. Phillips
20 Dreher Avenue
Baltimore, Maryland 21208

. . . . 1

Dear Mrs. Phillips:

An inspection of the dug well which supplies water to the apartments which you own, located at 10132 Liberty Road was conducted on February 24, 1982 by Mr. Gerard Zitnik, sanitarian.

The report of the investigation indicated that this water source is improperly protected and subject to contamination by surface water intrusion. For these reasons, a sample of water was not collected for laboratory examination.

These conditions are in violation of Article 43, Section 398 of the Maryland State Health Code, 1967 Supplement.

As owner of the subject property, you are hereby notified that the well is rejected as a source of water for human consumption and to advise all tenants to discontinue its use for drinking or cooking purposes. You are further notified to abandon the dug well, disconnect it from the distribution system and replace it with a new deep drilled well. The abandoned well must be backfilled with clean earth.

A reinspection will be scheduled for March 18, 1982 to determine whether the violation has been abated satisfactorily.

Pailure to comply with this notice may make it necessary for us to take legal action against you in the District Court of Maryland.

For further information, contact Mr. Zitnik at 494-2745 between 8:00 - 9:00 A.M.

Very truly yours,

Kenneth A. Schmidl, R.S., Chief Environmental Services Program WESTERN ENVIRONMENTAL SERVICES

KAS: pmh

Mr. Brooks Stafford

Environmental Support Services



FILE MEMO

OK to file \_\_\_\_\_\_
Follow-up date \_\_\_\_\_

Inspection Telephone V

ACTION REPORT

Baltimore County Department of Health Division of Environmental Support Services

Date 3/9/82	Dist
Time 12:10	
LOCATION10/32 Liberty Rd	······································
PERSON CONTACTED: Close Phillips	Owner
PERSON CONTACTED: (name an	d title)  Phone # 542-0400
ADDRESS:	Phone #
REASON FOR I <del>NSPECT</del> ION:	
REASON FOR INDICATION	
<u></u>	
RECORD OF ACTION Mrs. Phillips Call 4	his Office Concerning the
RECORD OF ACTION JAMES AND COMMENTS	a store adding to serve
dulling of a replacement well at the	e work adament
$\mathcal{L}_{\mathcal{L}}}}}}}}}}$	I A - COUL ON TOKONA
were given on 3/5/82. According to	La Til 100 Prastina
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were over on 3/5/82. according to	Mho Falles, the fine
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Ma Phillips stated that inst	act of plenting any mind
in to He MANY She I	rould rather full oc
Distorned Lor of the regula	Visus Commen
JUNEOUNE ACTUAL TO THE	
RECOMMENDATIONS:	
SANITARIAN	
DATE: SANTIAKIANFOR	
REFERRED TO:	
DATE	
COPY TO	

10/32 Laborary Rd Elsie Blillips, ourer reconveyance of property and the well yeld and gests. The stated that she would have the prospecture buyer pay for the well. In the - measterne she may send notices to her knows asking them to vacate the premises: also, the Herands are carrying drinking water (and have ven since november? 1). She said she thinks something in wrong with the pumper the dug well: Thursipes were put into correct the digwell to the houses. I informed Mrs. Phillips that as a landlord, she must provide potable water for her Heronts Mrs. Phillips was undecided whether to continue drilling or sell-the property.

Mrs. Elsie L. Phillips

Mrs. Elsie L. Phillips 20 Dreher Avenue Baltimore, Maryland 21208

Dear Mrs. Phillipsi

You were notified on March 3, 1982 that the dug well located on property which you own located at 10132 Liberty Road, Randallstown, on property which you own located at 10132 Liberty Road, Randallstown, Maryland, 21133, is rejected as a source of water for domestic use because of its vulnerability to contamination by stormwater, insects because of its vulnerability to contamination by stormwater, insects and small animals. Furthermore you were notified to abandon the well, backfill it properly and provide a new drilled replacement well.

This office was advised that a well driller was engaged and was unable to provide a well with a sufficient yield after reaching a dapth of 300 feet. No other attempts were made to locate a deep will and the drilling permit was surrendered to the Department of Health.

A reinspection of the property by Mr. Kenneth Schmidl.

Supervising Sanitarian and a review of the information available concerning this matter revealed that the dug well is not salvagable because of its this matter revealed that the dug well is not salvagable because of its this matter revealed that the dug well is not salvagable because of its this matter revealed that the dug well is not salvagable because of its this matter revealed that the dug well is not salvagable because of its this matter revealed that the dug well is not salvagable because of its this matter revealed that the dug well is not salvagable because of its poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and its close proximity to the underground sewage disposal poor construction and the construction of a sewage disposal poor construction and the construction of a sewage disposal poor construction and the construction of a sewage disposal poor construction and the construction of a sewage disposal poor construction and the construction of a sewage disposal poor construction of a sewage di

As owner of the subject property, you are hereby notified that unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless the apartments are provided with a potable water supply or are unless than a potable water supply or a potable water supply or are unless than a potable water supply or a potable water supply or are unless than a potable water supply or a potable water suppl

For further information, contact Mr. Schmidl or Mr. Gerard Zitnik at 494-2745.

Very truly yours,

Beorge H. Hummel, Director WESTERN ENVIRONMENTAL SERVICES

GHH somb

/cc:

Mr. Brooks Stafford

Carles Contractions of the Contraction of the Contr

electric Vines ies. Hole X Doc Rest of the Control of th k1 you take 3 sepue Doepie 3 injetse. Paris 1 استعم (A) to Beltway -Liberty Rd

Nies 10:30 womi

# BALTIMORE COUNTY LEPARTMENT OF HEALTH BUREAU OF ENVIRONMENTAL SERVICES Location and Inspection of Private Water Well

Dist 3/10/83

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	Review:	Date	Inspected				
4	Dug Well	· · · · · · · · · · · · · · · · · · ·	· · · · · · · · · · · · · · · · · · ·	Well Permit #BA	9/-/209_Bldg	. App. #	
,	Dry Hole		·	Original	Replacement	Additi	onal
1/	Other	:		Well Driller	Poller	gen	
	File		,	Owner/Agent	we Dill	ار) المرين Phone	486-6980
	Location of	f Proper		10/32	Lelseste 1	Ra .	(10140)
	Subdivision		····	Lot			Section
	Preliminar	y Commen	ts Work	19 Well -	hand du	2 40 C	e
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THIS WELL WILL DEEPEN AN EXISTING WELL PERMIT NUMBER OF WELL TO BE REPLACED OR DEEPENED

(FAVALLABLE) AL Not to be filled in by driller (OEP USE ONLY)

APPROP. PERMIT NUMBER

COUNTYNAME

STATE HEALTH SIGNATURE CRCLE BOX DATE ISSUED

€1-123	93 SEQUENCE NO.	STATE OF MARYLAND WELL COMPLETION REPORT	THIS REPORT MUST BE SUBMITTED WITHIN 30 DAYS AFTER WELL IS COMPLETED
ITHIS BUMBEN IS TO IN COLS. 3-0 ON ALL	DE PURCHED	FILL IN THIS FORM COMPLETELY PLEASE PRINT OR TYPE	COUNTY NUMBER 2
Date Received (WRA use only)	- 17 3-5-82 /	Depth of Well	PERMIT NO. (1997) FROM PERMIT TO DRILL WELL
	DATE WELL COMPLETED	(TO NEAREST FOOT)	BA-81-104/4
<b>0-2-2</b>	3 70 //	F/<	
A	name 7	Ave Town Pl	Kesville 2/208
SUBDIVISION	113132 Liberty	Rd SECTION	LOT
	WELL LOG	WELL HAS BEEN GROUTED	C 3
PENETRATE	CIND OF FORMATIONS	TYPE OF GROUTING MATERIAL	PUMPING TEST
DESCRIPTION ALL		CEMENT CM BENTONITE CLAY B C	HOURS PUMPED (nearest hour)
	FROM TO bearing	NO. OF BAGS WATER NO. OF POUNDS WATER	PUMPING RATE (gal. per min.
	300	DEPTH OF GROUT SEAL (to nearest loot)	METHOD USED TO MEASURE PUMPING RATE L
LRYWE		(enter Oil from surface)	WATER LEVEL (distance from lard surface)
BACKFIC	CES	CASING RECORD	BEFORE PUMPING
		appropriate STEEL CONCRETE	TYPE OF PUMP USED GOLIEST
		PL OTHER	A air P pistop T turbice
		MAIN Nominal diameter Total depth	
		CASING topicasing of main casing TYPE (rearest toch) (nearest tool)	C centratogal R rotary Oddescribe
			S submersuble
		- 40 61 x 62 - 2 04 - 66 70	
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		SCREEN RECORD	MUST BE COMPLETED FOR ALL WELLS  EXCEPT HOME USE:
		or openhole    Simer: String   BR   HO	TYPE OF PUMP IWRITE APPROPRIATE LETTER IN BOX-SEE ABOVE:
		STEEL BRASS CPEN BRONZE HOLE	CAPACITY
		( below: / PII OI	GALLONS:PER MINUTE
		PLASTIC OTHER	PUMP HORSE POWER
		DEPTH (nearest 11.)	PUMP COLUMN LENGTH (marrer tr)
			CASING HEIGHT (circle appropriate box and enter casing beight)
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Not to be filled in by driller (OEP I	USE ONLY)	OEP SIGNATURE		,	STATE HEALT	н <u></u> [§]	
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THIS NUMBER IS TO BE IN COLS. 36 ON ALL CA	SEQUENCE NO. (OEP USE ONLY) PUNCHED RDS)  DATE WELL COMPL	WELL C FILL IN TA	OF MARYLAND OMPLETION REPORT IIS FORM COMPLETELY SE PRINT OR TYPE	45 DAYS	1/1/19/02	
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THICKNESS AND	HEIR COLOR, DEPTH	CEMENT CM	BENTONITE CLAY B	C HOURS PUM	PLMPING TEST	3
Brown Stale	a no	GALLONS OF WAT DEPTH OF GROUP SE from Tor (enter of	IL (to nearest topt)  11 to surface) ** OTTOM	PUMPING HA to nearest gat. METHOD US MEASURE PL WATER LEVEL		7
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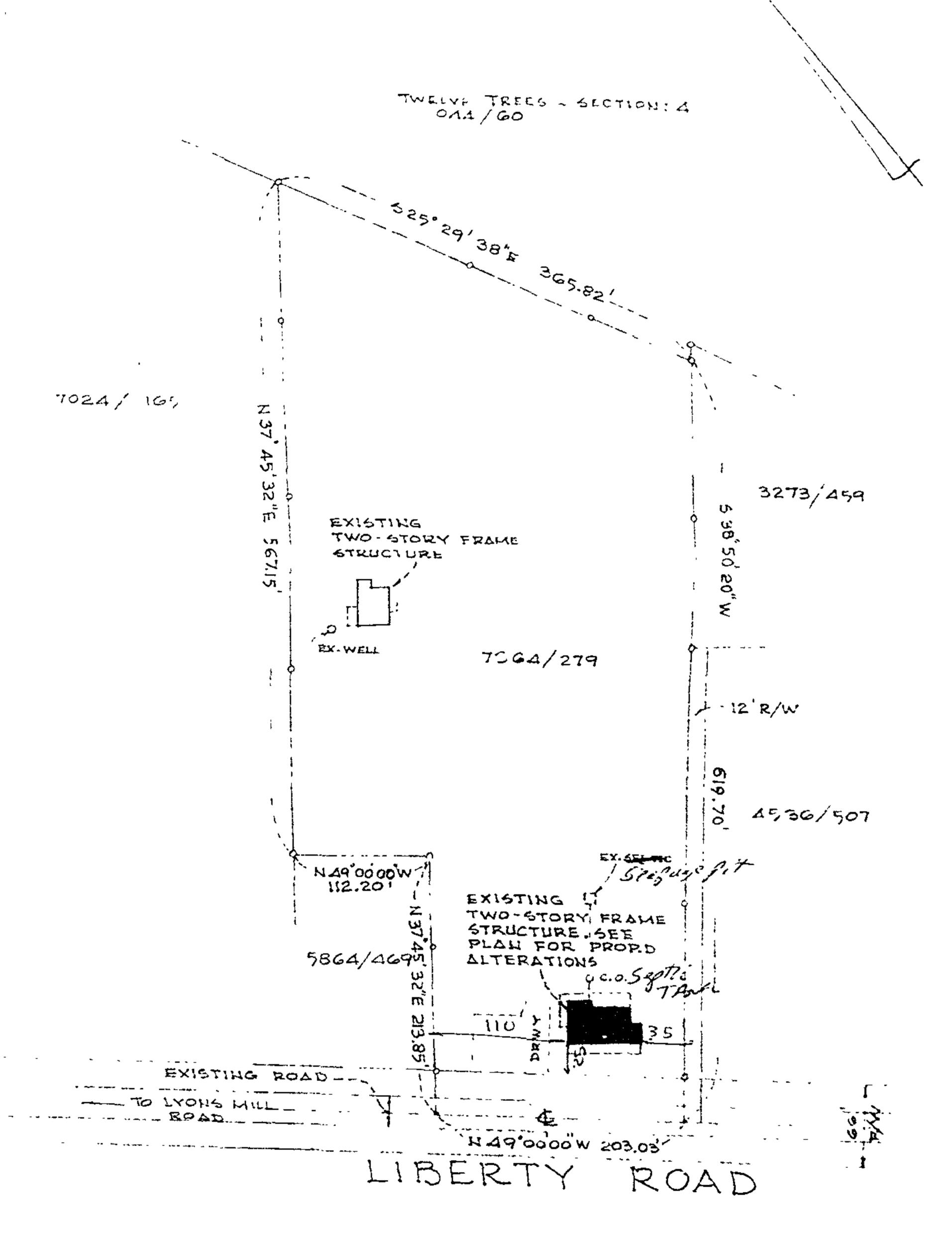
#### ACTION REPORT

Inspection	X
Telephone	<b>—</b>

Baltimore County Department of Environmental Protection and Resource Management

Date 4/18/90			Dist.
Time 3700 / 0 / 1	2 2 1 1		
FILE LOCATION:	32 Librat	4 0 - 1	
	<i>f</i>		}
PERSON CONTACTED:	(name and tit	le)	<del></del> -
ADDRESS:		<del></del>	922-4020
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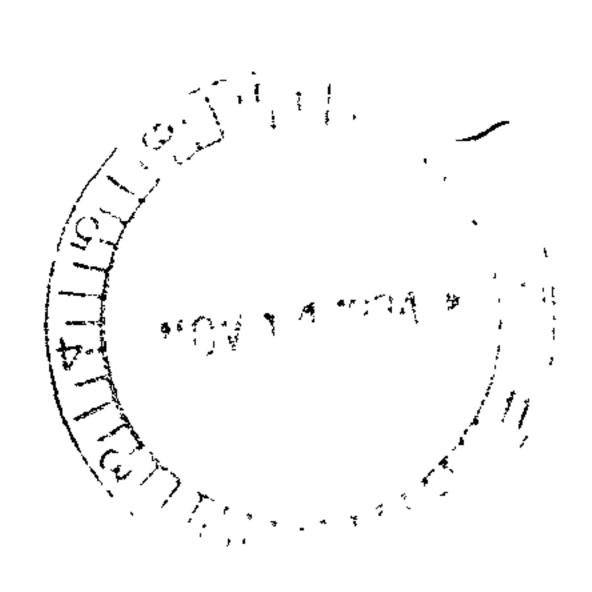
3/5/9/ - I conducted on inspection of the site with the owner the power supply has been run all underground now and a spice well teap has been now and a spice well teap has been affired. It lose inspection of the well is finds the gasket is missing hence affired the cap is not water tight and can be removed from the well head. It advised the owner to have his plumber install the parket to which he agreed the gasket to which he agreed the permit # 8052111 was released.



SITE PLAN SCALE: 1"=100"

MALIMMYLAND

Frial Adoption November 13, 1984



# BALTIMORE COUNTY COUNCIL

1984



REZONING

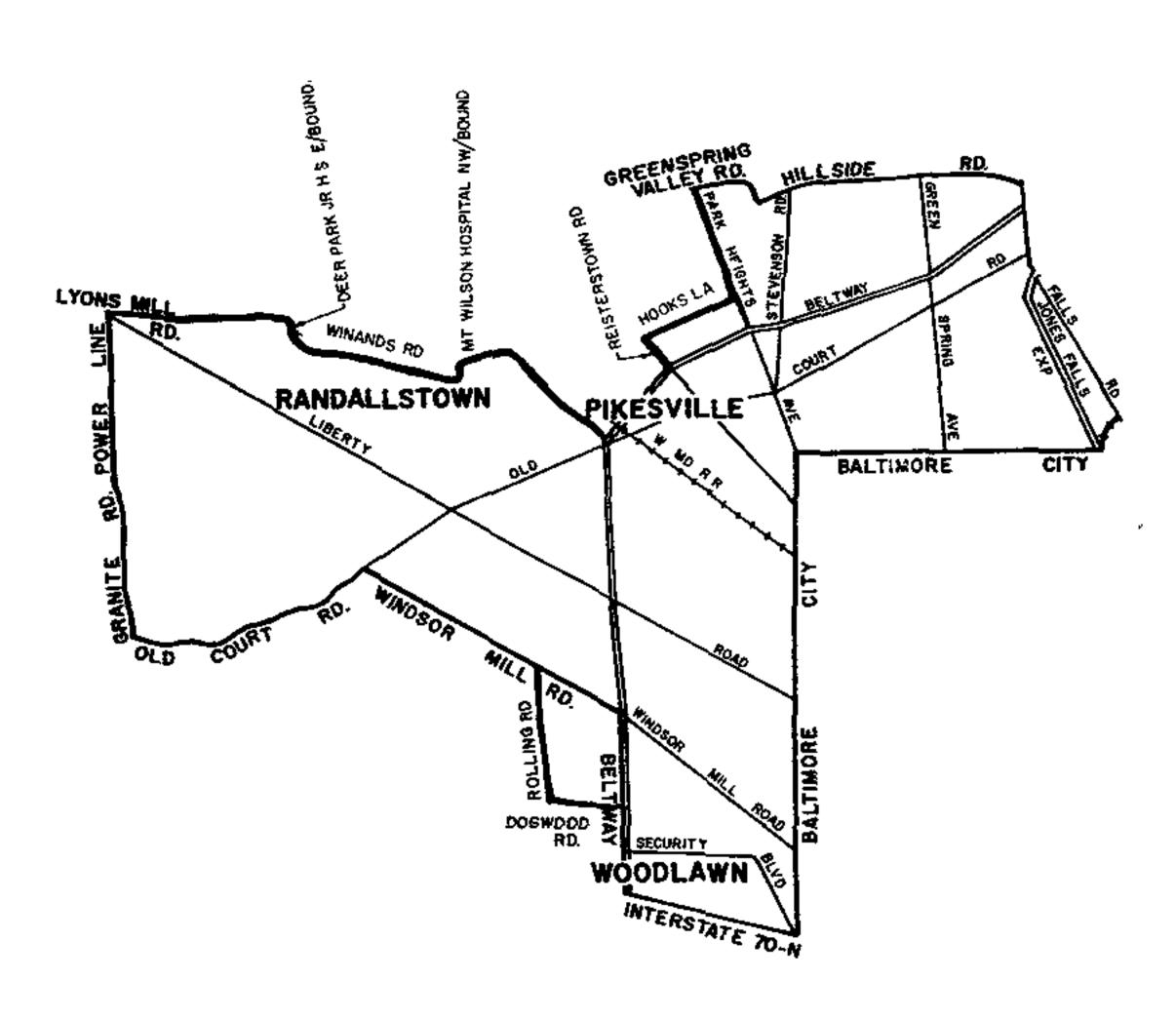
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HON. GARY HUDDLES District Office 821-7757

# SECOND COUNCILMANIC DISTRICT





#### BALTIMORE COUNTY COUNCIL FINAL ISSUES

SHEET 5 OF 10

	SECOND COUNCILMANIC DISTRICT			ISSU	JES		SHEET 5 OF 10	
ITEM NO. & AREA	SPONSOR, OWNER, PETITIONER, ORGANIZATION OR PLACE NAME	LOCATION AND (APPROXIMATE ACRES)	EXISTING	REQUEST	PLANNING	POSSIBLE FINAL ZONING	COMMENTS	
2-84 NG	Gail M. Stern, Esq. for Mildred Merowitz Hecht	N/s Old Court Rd. 150'+ W. of Naylor's Lane (3.8 ac.+)	DR 2	0-1 or 0R 10.5	DR 2	DR 2 0-1 DR 10.5	See issue 2-134 Council Comment Sheets:	
2-85 N#	Michael Chapman	SW/s Liberty Rd. 600' NW of Windy Hill Rd. (1.5 ac.+)	RC 5	BL	RC 5	RC 5 8L		
2-86 NH	Paul Peles	E. & W/s Woodlawn Dr. 150'+ S. of Dogwood Rd. (2.9 ac.+)	ML	DR 5.5	DR 5.5	DR-5.5		
2-87 NW	Morton J. Kaplow (Neighbor Association)	SW/s Liberty Rd. 300' <u>+</u> NW of Live Oak Rd. (17 ac. <u>+</u> )	MLR	DR 3.5	DR 3.5	MLR DR 3.5 DR 5.5	Council Comment Sheets:  3 supported P.B. recommendation	
2-92 NW	Planning Board Mt. Wilson	N & S/s Mt. Wilson Lame 1500'+ N. of Winands Rd. (100 ac.+)	DR 1	DR 3.5	OR 3.5	DR 3.5 DR 1		

SECOND

