

|                                  |   |                         |
|----------------------------------|---|-------------------------|
| IN THE MATTER OF THE             | * | BEFORE THE              |
| THE APPLICATION OF               |   |                         |
| SCHOOLDEN'S AUTOMOTIVE REPAIR, * |   | COUNTY BOARD OF APPEALS |
| INC. FOR SPECIAL ON PROPERTY     |   |                         |
| LOCATED ON THE N/S INGLESIDE *   |   | OF                      |
| AVENUE AND W/S CENTRAL AVENUE    |   |                         |
| (1316 INGLESIDE AVENUE)          | * | BALTIMORE COUNTY        |
| 1ST ELECTION DISTRICT            |   |                         |
| 1ST COUNCILMANIC DISTRICT        | * | CASE NO. 99-291-SPH     |

\* \* \* \* \*

### O P I N I O N

This matter comes before the Board of Appeals on an appeal of a decision of the Deputy Zoning Commissioner on a Petition for Special Hearing filed by the owners of the subject property, Schoolden's Automotive Repair, Inc., by Joseph Boyd, President. Schoolden's Automotive Repair, Inc. (hereinafter referred to as "Schoolden's" or "Petitioner") was represented by Michael E. Marino, Esquire. The Appellant /Protestants, Raymond Hughes and Catherine Nash, appeared without legal representation. The Deputy Zoning Commissioner granted the Petition for Special Hearing approving the existing automotive repair facility, storage area and parking area on the subject property as a nonconforming use with certain restrictions. The Appellant /Protestants appealed the decision of the Deputy Zoning Commissioner in all respects.

### BACKGROUND

The property in question consists of a gross area of 1.28 acres more or less zoned D.R. 5.5 and is located on the north side of Ingleside Avenue at the intersection of Central Avenue in the community known as Edmondson Heights. The property is improved with an automotive service garage known as Schoolden's Automotive Repair with an accessory storage area and parking on both sides of Central Avenue. A single-family dwelling is also positioned on the lot facing Ingleside Avenue. The Petitioners purchased the subject

property in February of 1998 and commenced a general clean up of the site, including clearing and grading of a portion of the property. Petitioners were cited with a zoning violation for failure to obtain a grading permit as well as for utilizing the property as an automotive service facility. This prompted the Petitioners to file the instant Petition to rectify the problem and to legitimize the conditions that have existed on the property for a number of years.

Mr. Ray Schoolden, former owner of the property, testified that he ran Schoolden's Garage until he retired and sold the business to Mr. Boyd in 1998. The garage was started by his father in 1936 as a family business, and Mr. Schoolden, himself, entered the business in 1945-46 after returning from the Army. Referring to the site plan in evidence as Petitioner's Exhibit #1, Mr. Schoolden indicated that Lots 46-52 were used for the garage for the purpose of repairing automobiles. There was a screened-in portion on the property for damaged or disabled cars. Lots 53-57 which face Ingleside Avenue were used from time to time to sell used cars, although Mr. Schoolden was not in the used car business. He would park usually no more than three cars at a time on these lots, and the cars were sold as a convenience to customers or because certain customers had not paid their bills and the cars were sold to meet that obligation. Mr. Schoolden testified that there was an existing dwelling on Lots 53-57 which had been built in 1936. He also indicated that the sign for the garage was located on or about Lot 53 and had been there for many years.

Mr. Schoolden stated that Lots 27-33 across the street on Central Avenue were used to park cars of customers that were

awaiting service or which had been fully repaired and were awaiting pick up by a customer. He stated that he never used the full property but used half of the property for parking cars, and when he withdrew from the used car business, he did not use the property as much. He generally parked from two to three cars deep on the property. Mr. Schoolden testified that Lots 41-47 had been used by his father off and on to store junked cars for steel during World War II. Since that time, the property had not been used for that purpose and grass and trees grew up within the last 20 years.

Petitioners also presented Paul Lee, Vice President of Century Engineering, who was accepted as an expert witness in civil engineering. Mr. Lee prepared the Petitioner's Exhibit #1, the site plan presented to the Board. He indicated that he had researched the history of the property and that Mr. Boyd, the buyer, was performing the same type of work which had been performed previously by Mr. Schoolden. He testified with respect to the grading which was being performed on Lots 41-43 and indicated that a stop work order had been issued to stop any work on the property. At that point, Mr. Boyd was advised to file a Petition for Special Hearing to obtain a nonconforming use for the property.

Mr. Lee testified that when he visited the property there was no congestion on Central Avenue, getting in and out of the property, and no overflow of parking. He did indicate that there is probably more of a proliferation of the deliveries today than there had been when Mr. Schoolden operated the garage over the years. Mr. Lee indicated that the garage conforms with all of the items set forth in Section 502.1 of the Baltimore County Zoning

Regulations (hereinafter "BCZR") and that it was not a detriment to the health, safety and welfare of the community.

Mr. Joseph Boyd, the current owner of the property, testified that he purchased the garage on February 28, 1998. He stated that there has been no expansion of the physical properties, neither the building, the paving nor the existing dwelling. The storage area and the sign are still the same. He indicated that he still sells used cars from the Ingleside Avenue lots on occasion but has limited his sales to three cars and would accept the limitation by the Deputy Zoning Commissioner. Boyd testified that the parking on Lots 27-33 is for customer vehicles to be repaired or picked up and is limited to two to three rows deep. Generally, he has more customers in the summertime because of the repairing of air conditioners.

The Protestants presented Dolores Knabe, a resident who has lived in the area for 13 years. She testified that her home is across the street from the garage on Central Avenue next to the parking lot. She stated that Mr. Schoolden had never parked untagged cars on the lots and had never allowed the cars to stay on the lots overnight. She stated that Lots 46 and 47 were always wooded and that they were now cleared and cars were parked there. She indicated that the congestion was "unbelievable." Knabe presented several photos indicating an untagged car on Lots 30-34 and congestion around the garage with vehicles parked on Central Avenue. She stated that Mr. Schoolden told her that Lots 26-34 would always be empty and that Mr. Boyd has put fill dirt in and chopped down the trees across the road.

Another resident who lives at the corner of Central Avenue and

Dorchester Road, Carolyn Schwindt, testified that she had purchased her home 1-1/2 years ago and that she had back surgery and was bedridden for 6 months. On two occasions, an ambulance could not get through Central Avenue to reach her home because the road was blocked by tow trucks. She indicated that she had seen numerous untagged cars on the Central Avenue lot.

Mr. Schoolden, in rebuttal, testified that on occasion he had parked cars on Lots 27-34 overnight or on weekends.

#### DISCUSSION

Section 101 of the BCZR defines a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a specific regulation applicable to such a use. As stated by the Deputy Zoning Commissioner, a legal nonconforming use designation can operate to "grandfather" an otherwise prohibited use in a specific location. The Petitioner must adduce testimony and evidence that the nonconforming use existed prior to the effective date of the prohibiting legislation and that the use has not changed, been abandoned or discontinued for a period of one year or more since the use began.

Section 104.1 of the BCZR states:

104.1--A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [BCZR 1955; Bill No. 18, 1976; Bill No. 124, 1991.]

Section 104.3 prohibits a nonconforming building or structure from being extended more than 25 percent of the ground floor area

of the building be so used.

The testimony and evidence indicated that only Lots 48-52 as shown on Petitioner's Exhibit #1 have been used continuously as an automotive garage and storage area for damaged or disabled cars since 1936. While the amount of business which is now being generated by the garage may have increased since Mr. Schoolden owned the garage, the testimony indicated that the garage was being substantially utilized as it had been by Mr. Schoolden and his family since 1936. The Board finds that these lots have been used in conjunction with Schoolden's Automotive Repair since its inception in 1936 and shall be considered a nonconforming use.

Lots 30, 31, 32, and 33 located on the southwest side of Central Avenue directly across from the service garage had been used as a parking area by Mr. Schoolden during the entire time he owned the garage. He limited the parking associated with the service garage to the front portion of Lots 30-33 as shown on the plan. The testimony from Mr. Schoolden indicated that he parked cars on those lots for customers awaiting service and customer pickup and that the cars were parked two to three deep at times. We find that the use of Lots 30-33 is legal and nonconforming and will order that the cars be allowed to be parked only two deep on the front half of the lot. In addition, we will order that no damaged or untagged cars are to be parked on these lots.

The testimony indicated that the lots on the south side of Central Avenue, Lots 27, 28, 29 and 34, had not been used for service garage activity. We find that these lots should be limited to residential use only, since the testimony and evidence did not confirm the nonconforming use.

The testimony indicated that large trees had grown on Lots 41 through 47. This indicates that they were not used recently in the operation of the service garage. Therefore, these lots have reverted to residential use and will not be permitted for the service garage use.

Finally, Lots 53-57 continue to be used by the service garage for the sale of used cars. In addition, the house on this lot has existed there since 1936. We will allow the sale of used cars on these lots and also the sign advertising Schoolden's Automotive Service on Lot 53 since the sign has existed since 1936. We will limit the sale of automobiles on these lots to no more than three at any one given time.

We are aware of the concern of the neighbors with respect to the crowded conditions on Central Avenue. While the Board does not feel that it has the authority to limit parking on Central Avenue, since this is a police function, it does feel that it has the authority to instruct the property owner that no cars will be repaired on the street, but all repairs must be on the garage premises, and the Board will so order.

O R D E R

IT IS THEREFORE this 21st day of January, 2000 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing to approve as legal and nonconforming the existing automotive repair facility, storage area, parking area and dwelling, in accordance with Petitioner's Exhibit #1, be and is hereby GRANTED, subject to the following restrictions:

1. The nonconforming use granted herein is limited to Lots

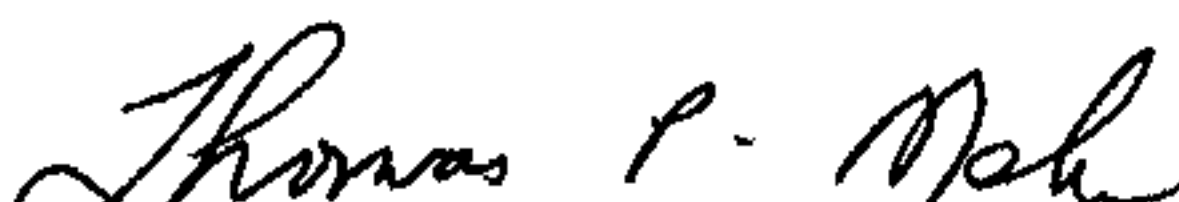
48-52 and the front portions of Lots 30-33. The parking of cars on Lots 30-33 is limited to undamaged cars that are awaiting repairs or have been repaired and have valid license tags attached. The parking shall be limited to two rows of cars at any one time.

2. The business sign on Lot 53 shall be permitted and the dwelling thereon is legal.
3. The sale of used cars will be allowed on Lots 53-57 but will be limited to only three in number at any one time.
4. All repairs must be performed on the garage property. No repairs may be performed on the street on Central Avenue.
5. When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

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

  
Lawrence S. Wescott, Panel Chairman

  
Thomas P. Melvin

  
Margaret Worrall



County Board of Appeals of Baltimore County

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

January 21, 2000

Ms. Dolores Kay Knabe  
5909 Central Avenue  
Baltimore, MD 21207

RE: In the Matter of Schoolden's Automotive  
Repair, Inc. /Case No. 99-291-SPH

Dear Ms. Knabe:

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

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

Very truly yours,

*Charlotte E. Radcliffe*  
Kathleen C. Bianco  
Administrator

encl.

cc: David & Catherine Nash  
David King  
Catonsville Manor Comm Assn  
Michael E. Marino, Esquire  
Schoolden's Automotive Repair, Inc.  
Ray Hughes  
Paul Lee  
Joseph Boyd  
Raymond Sebro  
Lou Weinham, Jr.  
People's Counsel for Baltimore County  
Pat Keller, Director /Planning  
Lawrence E. Schmidt /Z.C.  
Arnold Jablon, Director /PDM  
Virginia W. Barnhart, County Attorney



IN RE: PETITION FOR SPECIAL HEARING

N/S Ingleside Avenue and W/S

Central Avenue

(1316 Ingleside Avenue)

1<sup>st</sup> Election District

1<sup>st</sup> Councilmanic District

Schoolden's Automotive Repair, Inc.

Petitioners

\* BEFORE THE

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case No. 99-291-SPH

\*

\* \* \* \* \*

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Schoolden's Automotive Repair, Inc., by Joseph Boyd, President, through their attorney, Michael E. Marino, Esquire. The Petitioners seek approval of the existing automotive repair facility, storage area, parking area, and dwelling on the subject property, as legal, nonconforming uses. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Joseph Boyd, President of Schoolden's Automotive Repair, Inc., property owner, Raymond Schoolden, Sr., prior owner of the subject property, Paul Lee, Professional Engineer who prepared the site plan for this property, Lou Weinham, Jr., a nearby property owner, and Michael Marino, Esquire, attorney for the Petitioners. Appearing in opposition to the request were Ray Hughes, Kay Knode, David and Catherine Nash, and David King, all nearby residents of the area.

Testimony and evidence offered revealed that the subject property consists of a gross area of 1.28 acres, more or less, zoned D.R.5.5, and is located on the north side of Ingleside Avenue and is bisected by Central Avenue in the community known as Edmondson Heights. The

ORDER RECEIVED FOR FILING

Date

By

property is improved with an automotive service garage, known as Schoolden's Automotive Repair, with accessory storage area, and parking on both sides of Central Avenue, and a single family dwelling. The Petitioners purchased the subject property in February 1998 and commenced a general clean-up of the site, including clearing and grading of a portion of the property in preparation of planting grass and bringing up its elevation. The Petitioners were subsequently cited with a zoning violation notice for failure to obtain a grading permit as well as for utilizing the property as an automotive service facility. Thus, the Petitioners filed the instant Petition to rectify the problem and legitimize conditions that have existed on the property for many years.

In support of the request, Mr. Ray Schoolden testified that certain areas of the subject property have been utilized in conjunction with an automotive service business his father started in 1936. Mr. Schoolden testified that he became personally involved in the business in 1946 when he was 20 years old and that he continued to operate Schoolden's Automotive Service until he sold the business in 1998 to Mr. Boyd. He testified that the service garage activities and the buildings on the property are being used in the same fashion today as he and his father used them for many years. Mr. Schoolden further testified that he and his father would often offer for sale used vehicles. He testified that they would display those vehicles on the front portion of the property facing Ingleside Avenue. He also testified that the business sign located on Ingleside Avenue has existed on the property since 1936.

There was no testimony or evidence to contradict the fact that the subject property has been used continuously and without interruption as a service garage since 1936 and as such, is legal and nonconforming. In addition, there was no dispute as to the residential dwelling or the business sign that exists on the property. At issue, however, is which areas of the property associated with the service garage use are nonconforming.

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

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App.257, 385 A2d. 96 (1978).

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

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

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Date 5/17/94  
By [Signature]

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that portions of the subject property have been used continuously and without interruption as an automotive service garage with accessory parking and storage areas since prior to 1945, and as such, enjoy a legal nonconforming use. However, based upon the testimony and evidence presented, I am persuaded that only those areas identified on the site plan as Lots 46 through 52 have been utilized in conjunction with Schoolden's Automotive Service since its inception in 1936. Those lots contain the existing service garage building and the fenced storage area which holds damaged and disabled vehicles. Furthermore, there are parking areas on those lots for vehicles awaiting service or for accepting deliveries. In addition, the parking area on Lots 30, 31, 32 and 33, which are located on the southwest side of Central Avenue, directly across from the service garage building, is also legal and nonconforming. Thus, the special hearing relief as to parking associated with the service garage use shall be limited to the front portion of Lots 30 through 33 as shown on the plan. No other lots on the southwest side of Central Avenue, those being Lots 27, 28, 29 and 34, shall be used for service garage activity, given that testimony did not establish their nonconforming use as such, and they shall remain limited to residential uses only. Furthermore, Lots 41 through 45, which are located on the north side of Central Avenue shall remain residential in use, in that there was no evidence that those lots were used in conjunction with the service garage activity. Limiting Lots 41 through 45 and Lots 27, 28, 29 and 34 to residential uses only will provide a residential buffer between the existing service garage building and the residences across and further down Central Avenue.

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Date

By

As to Lots 53 through 57 which front on Ingleside Avenue, those lots are improved with a single family dwelling which was built in approximately 1934. There is also a sign advertising Schoolden's Automotive Service on Lot 53. Inasmuch as the sign has existed on the property since 1936, it is legal and nonconforming and should be permitted to remain. Furthermore, the house on the property has been used for residential purposes for many years and shall be permitted to remain as a residential dwelling.

Lastly, Mr. Schoolden testified that his family would often display and offer for sale two or three vehicles on the front portion of those lots which face Ingleside Avenue. Mr. Boyd continues this practice today. Thus, I find that this activity is also nonconforming and should be permitted to continue; however, it shall be restricted to no more than three (3) automobiles being offered for sale at any given time. Mr. Boyd indicated that he does not intend to regularly sell automobiles; however, he shall be permitted to periodically offer up to three (3) vehicles for sale.

As noted above, several residents from the surrounding community appeared in opposition to the request. Those residents did not contest the nonconforming status of the service garage activity itself. However, they did raise several concerns about the future operation of the business, now that Mr. Schoolden is no longer involved. These residents are concerned over the expansion of the service garage use into areas where no service garage activity previously took place. They were also concerned that the new owner would operate the business at different hours than his predecessor. Additionally, they were concerned about the clearing and grading that has taken place on some of the lots that have not been approved as being part of the nonconforming use.

I do not believe it is appropriate to restrict Mr. Boyd to the same hours of operation that Mr. Schoolden adhered to. However, I have taken into consideration the neighbors' concerns when restricting and limiting the service garage activity to the lots previously mentioned above.

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Date

By

All other lots shall remain residential and shall not be used in any manner for business purposes. Those lots shall provide a buffer between the existing service garage use and the surrounding residences. The Petitioners shall be permitted to utilize those lots in any manner that conforms to their residential zoning classification. That is, if Mr. Boyd chooses to build houses on the residential lots, he should be permitted to do so, assuming he meets all zoning and building code regulations. Furthermore, in the event the Department of Environmental Protection and Resource Management (DEPRM) allows him to clear the property, he would be permitted to do so, provided that he follows all regulations when doing so. However, it is important to note that there will be no service garage activities taking place on Lots 41 through 45, or Lots 27, 28, 29 and 34. All service garage activity is being restricted to Lots 46 through 52 and the front portion of Lots 30, 31, 32 and 33 may be used to park vehicles awaiting service or pick up by customers. Furthermore, the existing identification sign located on Lot 53 and the dwelling thereon shall be permitted to remain and the Petitioners shall be permitted to display up to three (3) vehicles for sale on the front portion of that property fronting Ingleside Avenue.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17<sup>th</sup> day of May, 1999 that the Petition for Special Hearing to approve as legal and nonconforming the existing automotive repair facility, storage area, parking area, and dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this

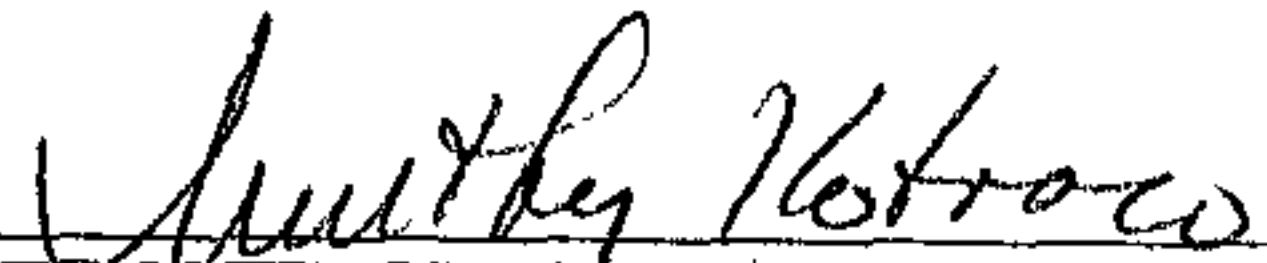
ORDER RECEIVED  
Date 5/17/99  
By [Signature]

Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

- 2) The nonconforming use granted herein is limited to Lots 46 through 52 and the front portions of Lots 30 through 33 as stated in the body of this Order. In addition, the business sign on Lot 53 and the dwelling thereon are legal and nonconforming uses and shall be permitted to remain.
- 3) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petitioners shall be permitted to periodically offer for sale up to three (3) vehicles on the front portion of Lots 30 through 33 which face Ingleside Avenue.

IT IS FURTHER ORDERED that all other portions of the subject property shall be limited to residential uses.

  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING  
Date 5/19/99  
By [Signature]



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1316 Ingleside Avenue

which is presently zoned RR.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 Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the existing automotive repair facility, storage area, parking area, and existing dwelling all as shown on the attached plan as non-conforming uses.

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.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

Michael E. Marino, Esquire

(Type or Print Name)

Signature

609 Bosley Avenue 410-821-6633

Address

Phone No.

Towson, MD 21204

City

State

Zipcode

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

Legal Owner(s):

JOSEPH BOYD  
SCHOOLDEN'S AUTOMOTIVE REPAIR, INC.

(Type or Print Name)

Signature

JOSEPH BOYD

(Type or Print Name)

Signature

1316 Ingleside Avenue 410-747-2698

Address

Phone No.

Baltimore, MD 21207

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Michael E. Marino, Esquire

Name

609 Bosley Avenue 410-821-6633

Address

Phone No.

Towson, MD 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY: JRF

DATE

2-1-99

Case # 99-291-SPH



Revised 9/5/95

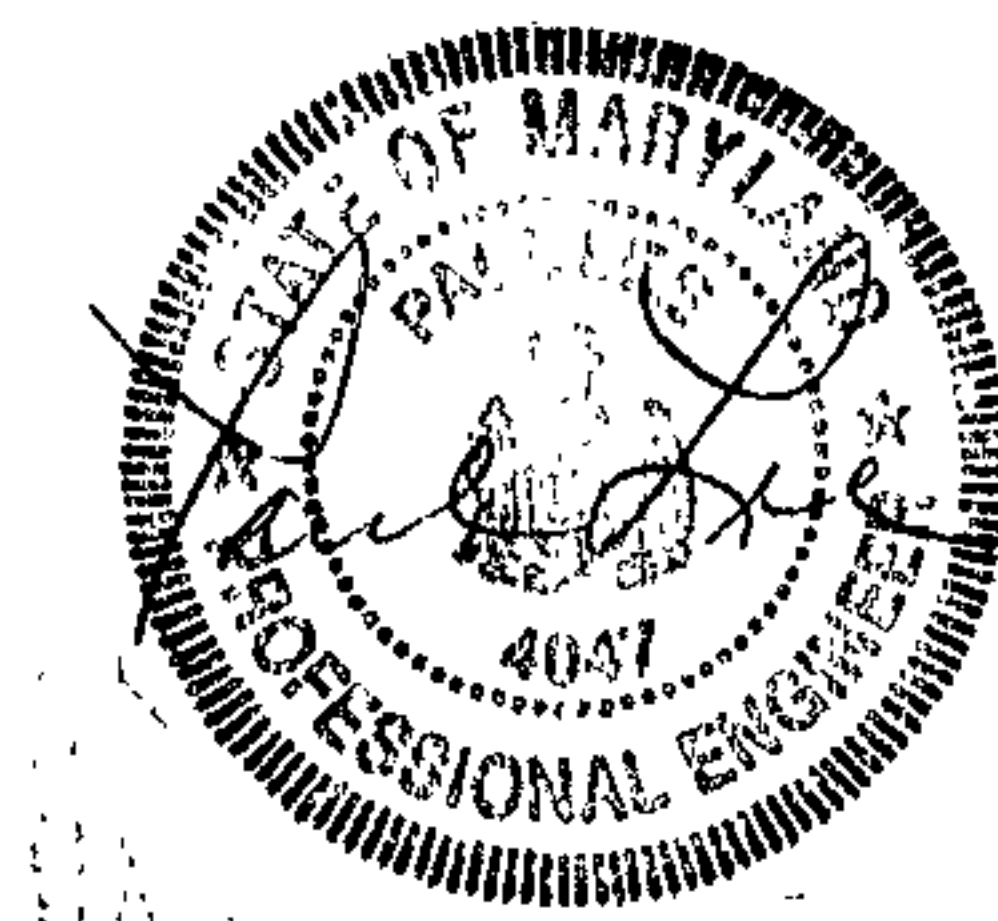
32 West Road  
Towson, Maryland 21204  
(410) 823-8070

**SCHOOLDEN'S GARAGE  
1316 INGLESIDE AVENUE  
ELECTION DISTRICT 1C1, BALTIMORE COUNTY, MARYLAND**

BEGINNING for the same at a point located at the intersection of the north side of Ingleside Avenue with the east side of Central Avenue, said point also being located 30 feet northwesterly from the center of Ingleside Avenue, thence running with and binding on the east side of Central Avenue.

- (1) North 36 degrees 10 minutes West 365.00 feet, thence leaving said east side of Central Avenue,
- (2) North 53 degrees 50 minutes East 125.00 feet,
- (3) South 36 degrees 10 minutes East 240.00 feet,
- (4) South 53 degrees 50 minutes West 20.00 feet, and
- (5) South 36 degrees 10 minutes East 125.00 feet to intersect the north side of Ingleside Road, thence running with and binding on said north side of Ingleside Avenue,
- (6) South 53 degrees 50 minutes West 105.00 feet to the point of beginning.

CONTAINING 43,125 square feet (0.99 Ac.± ) of land, more or less.



291

**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: #99-281-SPH  
1318 Ingleside Avenue  
Intersection of N/S Ingleside Avenue and E/S Central Avenue

1st Election District  
1st Councilmanic District

Legal Owner(s):  
Schoolden's Automotive Repair, Inc.

**Special Hearing:** to approve the existing automotive repair facility, storage area, parking area, and existing dwelling as non-conforming uses.

**Hearing:** Tuesday, March 23, 1999 at 2:00 p.m. in Room 106, County Office Bldg., 111 West Chesapeake Avenue.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

3/017 March 4 c294585

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., 3/4/, 1999

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3/4/, 1999.

**THE JEFFERSONIAN,**

*S. Wilkinson*

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: CASE # 99-291-SPH

PETITIONER/DEVELOPER:

(Schooldens Auto Repair)

DATE OF Hearing

(Mar 23 1999)

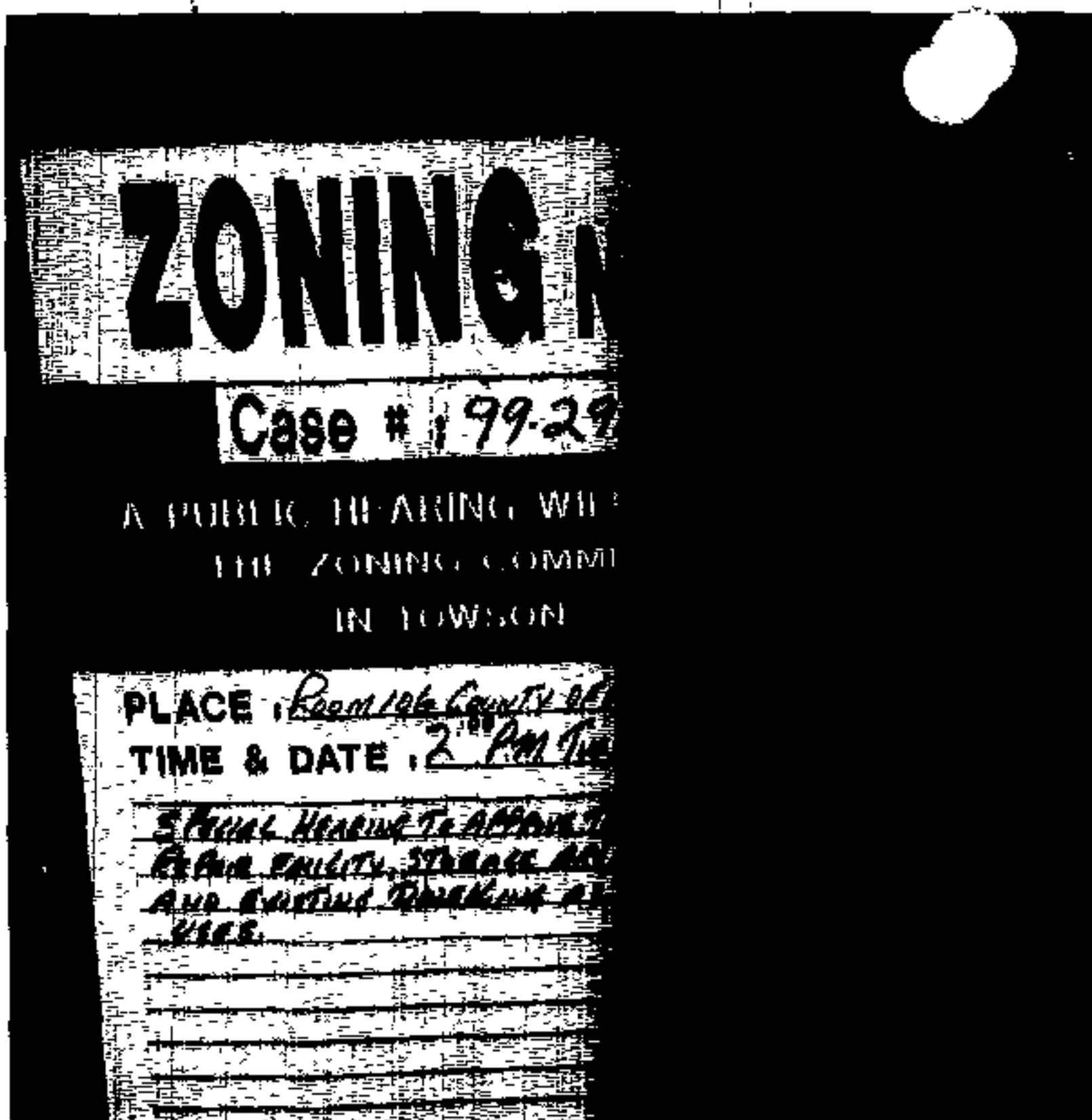
Baltimore County Department of  
Permits and Development Management  
County Office Building, Room 111  
111 West Chesapeake Ave.  
Towson, Maryland 21204

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  
1316 Ingleside Ave. Baltimore, Maryland 21207 \_\_\_\_\_

The sign(s) were posted on \_\_\_\_\_ 3-8-99 \_\_\_\_\_  
Month, Day, Year]



Sincerely,

*Thomas P. Ogle, Sr.* 3/8/99  
[Signature of Sign Poster & Date]

\_\_\_\_ Thomas P. Ogle, Sr. \_\_\_\_

\_\_\_\_ 325 Nicholson Road \_\_\_\_

\_\_\_\_ Baltimore, Maryland 21221 \_\_\_\_

\_\_\_\_ (410) 687-8405 \_\_\_\_  
[Telephone Number]

# CERTIFICATE OF POSTING

RE: Case No.: 99-291 SPH

Petitioner/Developer: \_\_\_\_\_

SCHOOLDEN'S AUTO REPAIR

Date of Hearing/Closing: \_\_\_\_\_

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

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 1316 INGLETSIDE AVE.

The sign(s) were posted on 7/8/99  
(Month, Day, Year)

Sincerely,

Gary Freund 7/8/99  
(Signature of Sign Poster and Date)

GARY FREUND  
(Printed Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Telephone Number)



**County Board of Appeals of Baltimore County**

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

Hearing Room - Room 48 FAX: 410-887-3182  
Old Courthouse, 400 Washington Avenue

October 12, 1999

**NOTICE OF ASSIGNMENT**

**CASE #: 99-291-SPH**

**IN THE MATTER OF: SCHOOLDEN'S AUTOMOTIVE REPAIR,  
INC. -Legal Owner 1316 Ingleside Avenue  
1st Election District; 1st Councilmanic**

**(5/17/99 -Decision of the D.Z.C. in which Petition  
for Special Hearing was GRANTED with restrictions.)**

**ASSIGNED FOR:**

**TUESDAY, NOVEMBER 16, 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: Appellants /Protestants**

**: Dolores Kay Knabe  
David & Catherine Nash  
David King  
Catonsville Manor Comm Assn**

**Counsel for Petitioner  
Petitioner**

**: Michael E. Marino, Esquire  
: Schoolden's Automotive Repair, Inc.**

**Ray Hughes  
Paul Lee**

**Raymond Sebro  
Lou Weinham, Jr.**

**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

November 19, 1999

NOTICE OF DELIBERATION

IN THE MATTER OF:

SCHOOLDEN'S AUTOMOTIVE REPAIR, INC.  
CASE NO. 99-291-SPH

Having concluded this matter on November 16, 1999, the following date/time has been scheduled for deliberation:

DATE AND TIME : THURSDAY, DECEMBER 16, 1999 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

Kathleen C. Bianco  
Administrator

---

|                                      |                                                                                            |
|--------------------------------------|--------------------------------------------------------------------------------------------|
| c: Appellants /Protestants           | : Dolores Kay Knabe<br>David & Catherine Nash<br>David King<br>Catonsville Manor Comm Assn |
| Counsel for Petitioner<br>Petitioner | : Michael E. Marino, Esquire<br>: Schoolden's Automotive Repair, Inc.                      |

Ray Hughes  
Paul Lee  
Joseph Boyd  
Raymond Sebro  
Lou Weinham, Jr.

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 to: S.W.M.





Baltimore County  
Department of Permits and  
Development Management

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

March 18, 1999

Michael E. Marino, Esq.  
609 Bosley Avenue  
Towson, MD 21204

RE: Case No.: 99-291-SPH  
Petitioner: Schoolden's Automotive  
Location: 1316 Ingleside Avenue

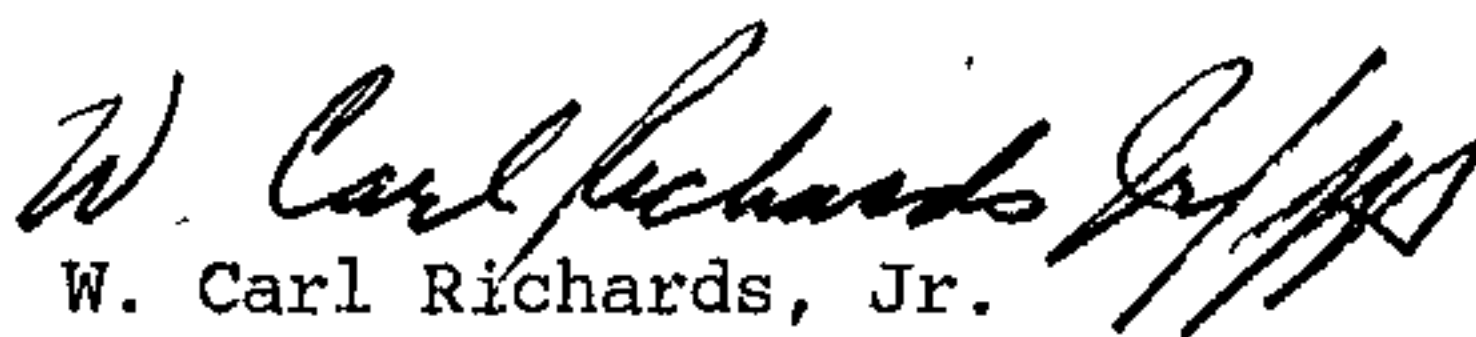
Dear Mr. Marino:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on February 1, 1999.

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,

  
W. Carl Richards, Jr.  
Zoning Supervisor  
Zoning Review

WCR:ggs

Enclosures



BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Permits and Development Management

DATE: 2/25/99

FROM: R. Bruce Seeley, Project Manager *RSB/JP*  
Development Coordination  
DEPRM

SUBJECT: Zoning Advisory Committee

Distribution Meeting Date: 2/15/99

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

|           |                |     |
|-----------|----------------|-----|
| Item #'s: | 290            | 300 |
|           | <del>291</del> | 301 |
|           | 292            | 302 |
|           | 293            | 303 |
|           | 294            |     |
|           | <u>295</u>     |     |
|           | 296            |     |



**Baltimore County  
Fire Department**

700 East Joppa Road  
Towson, Maryland 21286-5500  
410-887-4500

Arnold Jablon, Director  
Training Administration and Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL RT05-1105

Re: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF FEBRUARY 15, 1999

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

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

2. The Fire Marshal's Office has no comments at this time in reference to the following item numbers:

291, 292, 293, 294, 295, 296, 297, 299, 300, AND 303

REVIEWED: LT. ROBERT P. SAUERWALD

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

cc: File

Come visit the County's Website at [www.co.ba.md.us](http://www.co.ba.md.us)



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on Recycled Paper

**BALTIMORE COUNTY, MARYLAND**

**INTER-OFFICE CORRESPONDENCE**

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

**Date:** February 23, 1999

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

**SUBJECT:** Zoning Advisory Petitions

The Office of Planning has no comment on the following petition (s):  
Item No (s): 289, 290, 291, 294, and 297

If there should be any questions or this office can provide additional information, please  
contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:



AFK/JL



**Maryland Department of Transportation**  
**State Highway Administration**

Parris N. Glendening  
Governor

John D. Porcari  
Secretary

Parker F. Williams  
Administrator

Date: 2.16.99

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

RE: Baltimore County  
Item No. 291 JRF

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

  
for

Michael M. Lenhart, Acting Chief  
Engineering Access Permits Division

My telephone number is \_\_\_\_\_

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

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

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

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

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

Date:   February 23, 1999

FROM: *RWB* Robert W. Bowling, Supervisor  
              Bureau of Developer's Plans Review

SUBJECT:   Zoning Advisory Committee Meeting  
              for February 22, 1999  
              Items Nos. 291, 292, 293, 294, 295, 296,  
                          300, 301, 303 and Case No. 99-280-X

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

RWB:HJO:cab

cc:   File

ZONE0222.NOC

RE: PETITION FOR SPECIAL HEARING  
1316 Ingleside Avenue, Intersection of N/S of  
Ingleside Ave and the E/S of Central Ave,  
1st Election District, 1st Councilmanic

Legal Owners: Schoolden's Automotive Repair, Inc.

Petitioner(s)

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR  
\* BALTIMORE COUNTY  
\* Case Number: 99-291-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  
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

Carole S. Demilio  
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 22<sup>nd</sup> day of February, 1999, a copy of the foregoing Entry of Appearance was mailed to Michael E. Marino, Esq., 609 Bosley Avenue, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman  
PETER MAX ZIMMERMAN

Sept  
3/23

RE: PETITION FOR SPECIAL HEARING  
1316 Ingleside Avenue, Intersection of N/S of  
Ingleside Ave. and the E/S of Central Ave.,  
1<sup>st</sup> Election District, 1<sup>st</sup> Councilmanic

Legal Owners: Schoolden's Automotive Repair, Inc.

Petitioner(s)

\* BEFORE THE  
\* ZONING COMMISSISONER  
\* FOR  
\* BALTIMORE COUNTY  
\* Case Number: 99-291-SPH

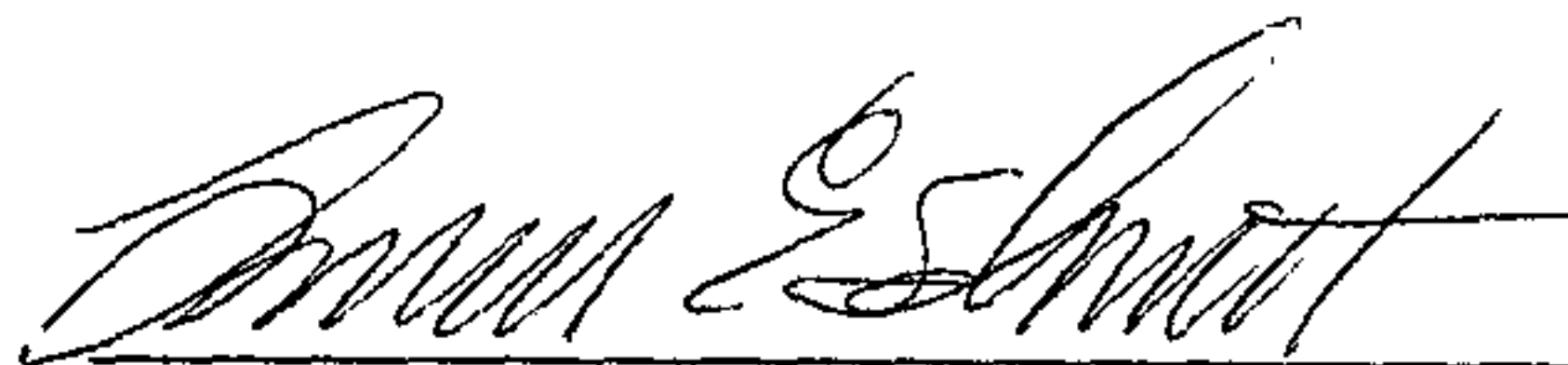
\* \* \* \* \*

**SUBPOENA**

TO: Raymond Schoolden  
c/o Louis Weinkam, Jr., Esquire  
1002 Frederick Road  
Catonsville, MD 21228

At the request of Michael E. Marino, Esquire, Attorney for the Petitioner in the above referenced matter,  
YOU ARE COMMANDED BY THE ZONING COMMISSIONER FOR BALTIMORE COUNTY to appear  
and testify at the following date, time and place:

Date: March 23, 1999  
Time: 2:00 P.M.  
Place: Room 106, County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

  
\_\_\_\_\_

Date: 3/18/99



# Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

November 9, 1999

PETER MAX ZIMMERMAN  
People's Counsel

CAROLE S. DEMILIO  
Deputy People's Counsel

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

Hand-delivered

Re: Petition for Special Hearing  
1316 Ingleside Avenue, Intersection of N/S of Ingleside Ave  
and the E/S of Central Avenue  
1st Election District, 1st Councilmanic  
Schoolden's Automotive Repair, Inc., Petitioner(s)  
Case No.: 99-291-SPH  
CBA Hearing Date: 11/16/99

RECEIVED  
COUNTY BOARD OF APPEALS  
99 NOV -9 PM 3:30

Dear Chairman Marks:

Upon review of the record and inquiry by neighboring citizens, we are writing to give our preliminary view of this case.

The main question appears to be the nature and extent of nonconforming use. The Petitioners assert that their service garage use on Ingleside Avenue predates the 1945 residential zoning. Assuming this to be true, we note the following specific questions:

- 1) What is the precise area of the use before 1945? In other words, which lots were actually part of a service garage use before 1945?
- 2) Was there display of used cars for sale before 1945 as a regular part of the use?
- 3) Even if there is evidence of regular sale of used cars before 1945, has this use continued on a regular basis up to the present time?

BCZR Section 104 does not allow the territorial expansion of nonconforming uses. In addition, it provides that such uses terminate upon change or discontinuance for a period of one year.

The Maryland Court of Appeals has said repeatedly that the spirit of zoning law is against the extension of nonconforming uses. Colati v. Jirout, 180 Md. 652 (1946); Cleland v. Mayor & City Council of Balto., 198 Md. 440 (1951); Phillips v. Zoning Commissioner of Howard Co., 225 Md. 102 (1961); Jahnigen v. Staley, 245 Md.

Charles L. Marks, Chairman  
County Board of Appeals  
November 9, 1999  
Page Two

130 (1967); Prince George's Co. v. E.L. Gardner, 293 Md. 259 (1982). The Cleland case involved an additional parking area. Jahnigen reviewed the expansion of marina facilities.

In McKemy v. Baltimore Co., 39 Md App. 257, 269-70 (1978), the Court of Special Appeals discussed changes in the nature of parking in connection with a nonconforming commercial use. Judge Alan M. Wilner wrote:

"In deciding whether the current activity is within the scope of the nonconforming use, the Board should have considered the following factors:

- (1) to what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;
- (2) is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;
- (3) does the current use have a substantially different effect upon the neighborhood;
- (4) is the current use a 'drastic enlargement or extension' of the original nonconforming use."

These factors may be useful in the Board's consideration of any expansion issue in the present case.

We trust this letter is of assistance to the Board in its decision. Our preliminary review of this matter suggests that a new display of cars for sale on Ingleside Avenue would constitute an expansion of the original nonconforming use, unless contrary facts prove otherwise.

Very truly yours,



Peter Max Zimmerman  
People's Counsel for Baltimore County



Carole S. Demilio  
Deputy People's Counsel

PMZ/CSD/caf

cc: Michael E. Marino, Esq., 609 Bosley Avenue, Towson, MD 21204, Attorney for Petitioners  
Mr. Ray Hughes, 5909 Central Avenue, Baltimore, MD 21207, Protestant

June 15, 1999

Department of Permits and Development Management  
111 W. Chesapeake Ave  
Towson, Md. 21204

Re: PETITION FOR SPECIAL HEARING  
1316 Ingleside Avenue, Intersection of N/S of  
Ingleside Ave and the E/S of Central Ave, 1st  
Election District, 1st Councilmanic  
Schoolen's Automotive Repair, Inc., Petitioner  
**Case No.: 99-291-SPH**

Dear Mr. Jablon,

Please enter an appeal of Dolores Kay Knabe, David Nash, David King and Catonsville Manor Community Association to the County Board of Appeals from the Findings of Fact and Conclusions of Law of the Baltimore County Deputy Zoning Commissioner dated May 17, 1999 in the above entitled case.

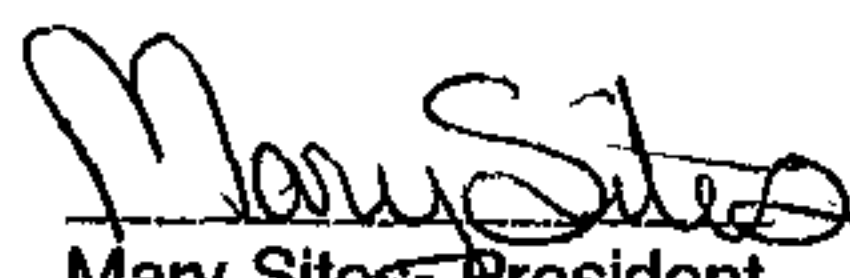
Enclosed is our check in the amount of \$ 210.00 for the filing fee. Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

  
Dolores Kay Knabe  
5909 Central Ave  
Baltimore, Md. 21207  
410-788-4975

  
Mr. David Nash  
5914 Central Ave.  
Baltimore, Md. 21207  
410-744-5365

  
Mr. David King  
5915 Central Ave  
Baltimore, Md. 21207  
410-744-8171

  
Mary Sites- President  
Catonsville Manor Community Association  
1121 McAdoo Ave  
Baltimore, Md. 21207  
410- 719-7591

Rec. 6/15/99

cc: Michael E. Marino, Esq., 609 Bosley Avenue, Towson, Md. 21204, Attorney for Petitioner



Baltimore County  
Department of Permits and  
Development Management

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

June 15, 1999

Michael E. Marino, Esquire  
609 Bosley Avenue  
Towson, MD 21204

Dear Mr. Marino:

RE: Petition for Special Hearing, Case No. 99-291-SPH, 1316 Ingleside Avenue

Please be advised that an appeal of the above referenced case was filed in this office on June 15, 1999 by Dolores Kay Knabe, David Nash, David King, and the Catonsville Manor Community Association. 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,

A handwritten signature in black ink, appearing to read "Arnold Jablon" with a stylized flourish at the end.

Arnold Jablon  
Director

AJ:scj

c: Schoolden's Automotive Repair, Inc.  
People's Counsel  
Dolores Kay Knabe, 5909 Central Avenue, Baltimore 21207  
David & Catherine Nash, 5914 Central Avenue, Baltimore 21207  
David King, 5915 Central Avenue, Baltimore 21207  
Catonsville Manor Community Association, 1121 McAdoo Avenue, Balto. 21207  
Ray Hughes, 5909 Central Avenue, Baltimore 21207  
Kay Knobe, 5909 Central Avenue, Baltimore 21207  
Paul Lee, 32 West Road, Towson 21204  
Joseph Boyd, 1316 Ingleside Avenue, Baltimore 21207  
Raymond Sebro, 8517 Linwood Drive, Ellicott City 21043  
Lou Weinham, Jr., 1002 Frederick Road, Catonsville 21228

Come visit the County's Website at [www.co.ba.md.us](http://www.co.ba.md.us)



# APPEAL

Petition for Special Hearing  
1316 Ingleside Avenue  
N/S Ingleside Avenue and W/S Central Avenue  
1<sup>st</sup> Election District – 1<sup>st</sup> Councilmanic District  
Schoolden's Automotive Repair, Inc. - Legal Owner  
Case Number: 99-291-SPH

- ✓ Petition for Special Hearing
- ✓ Description of Property
- ✓ Certificate of Posting (Thomas P. Ogle, Sr. 3/8/99)
- ✓ Certification of Publication (Jeffersonian 3/4/99)
- ✓ Entry of Appearance by People's Counsel
- ✓ Protestant(s) Sign-In Sheet
- ✓ Baltimore County Representatives Sign-In Sheet
- ✓ Zoning Advisory Committee Comments

## Petitioners' Exhibits:

- ✓ 1. Plat to Accompany Petition for Special Hearing
- ✓ Subpoena to Raymond Schoolden dated March 18, 1999
- ✓ Deputy Zoning Commissioner's Order dated May 17, 1999 (Granted with Restrictions)
- ✓ Notice of Appeal received on June 15, 1999 by Dolores Kay Knabe, David Nash, David King, and the Catonsville Manor Community Association

C: Michael E. Marino, Esquire, 609 Bosley Avenue, Towson, MD 21204  
People's Counsel of Baltimore County, MS #2010  
Timothy Kotroco, Deputy Zoning Commissioner  
Arnold Jablon, Director of PDM

c: Schoolden's Automotive Repair, Inc.

People's Counsel

Dolores Kay Knabe, 5909 Central Avenue, Baltimore 21207

David & Catherine Nash, 5914 Central Avenue, Baltimore 21207

David King, 5915 Central Avenue, Baltimore 21207

Catonsville Manor Community Association, 1121 McAdoo Avenue, Balto. 21207

Ray Hughes, 5909 Central Avenue, Baltimore 21207

~~Kay Knabe, 5909 Central Avenue, Baltimore 21207 Duplicate~~

Paul Lee, 32 West Road, Towson 21204

Joseph Boyd, 1316 Ingleside Avenue, Baltimore 21207

Raymond Sebro, 8517 Linwood Drive, Ellicott City 21043

Lou Weinham, Jr., 1002 Frederick Road, Catonsville 21228

99 JUN 16 PM 4:21  
RECEIVED  
COUNTY BOARD OF APPEALS

Case No. 99-291-SPH

SPH -For approval of existing automotive repair facility, storage area, parking area, and dwelling on subject property as legal nonconforming use.

5/17/99 -D.Z.C.'s decision in which Petition for Special Hearing was GRANTED with restrictions.

---

10/12/99 -Notice of Assignment for hearing scheduled for Tuesday, November 16, 1999 at 10:00 a.m. sent to following:

Dolores Kay Knabe  
David & Catherine Nash  
David King  
Catonsville Manor Comm Assn  
Michael E. Marino, Esquire  
Schoolden's Automotive Repair, Inc.  
Ray Hughes  
Paul Lee  
Raymond Sebro  
Lou Weinham, Jr.  
People's Counsel for Baltimore County  
Pat Keller, Director /Planning  
Lawrence E. Schmidt /Z.C.  
Arnold Jablon, Director /PDM  
Virginia W. Barnhart, County Attorney

---

11/09/99 -Letter from People's Counsel giving that Office's "preliminary view of this case." Copies sent by PC to M. Marino, Esquire, and R. Hughes.

---

11/16/99 -Hearing concluded; Notice to be sent to parties for 12/16/99 deliberation (Wescott, Worrall, Melvin). No memos due in this case.

---

11/19/99 -Notice of Deliberation sent to parties; scheduled for Thursday, December 16, 1999 at 9:30 a.m. (Copy to S.W.M.)

---

12/16/99 -Deliberation concluded; special hearing relief granted; approved as legal nonconforming use /service garage with restrictions as indicated in deliberation. Written Opinion/Order to be issued; appellate period to run from date of written Order. (S.W.M.)

**COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY**  
**MINUTES OF DELIBERATION**

---

**IN THE MATTER OF:** Schoolden's Automotive Repair, Inc.  
Case No. 99-291-SPH

**DATE** : Thursday, December 16, 1999

**BOARD /PANEL** : Lawrence S. Wescott (LSW)  
Margaret Worrall (MW)  
Thomas P. Melvin (TPM)

**SECRETARY** : Kathleen C. Bianco  
Administrator

**PURPOSE:** To deliberate Case No. 99-291-SPH /Petition for Special Hearing /nonconforming use. Appeal taken by Dolores Kay Knabe, David Nash, David King and the Catonsville Manor Community Association.

The Board, having convened for public deliberation as scheduled by notice dated November 19, 1999, and upon public deliberation between panel members, reached a final decision as follows:

Fact that use has been there since 1955, uninterrupted; undisputed and uncontroverted; location is in question.

Previous owner was gearing down as he got older; new owner is now running the business - gets more business. Issue of expansion of no more than 25 percent didn't come up. More activity, but no expansion. Discussed testimony re cars parking across street.

Reviewed testimony and evidence as to those lots used since 1936 for service garage; those areas being used for damaged /disabled cars; concerns of neighbors re untagged vehicles (should be on screened lot).

Testimony as to short-term parking; awaiting repair and/or pick up; limited to lots 30-33 no more than two cars deep.

Per the testimony of Mr. Schoolden, period of 20 years where trees have grown up and vegetation has grown.

That use was not continued; had stopped; reverts to residential use.

Also reviewed lots 53-57 on Ingleside -- and issue of sign; what it is and where it's been were not disputed; located on lot 53; always there; allowed and permitted to remain.

Reviewed those lots used for sale of used cars; Schoolden testified and Boyd agreed - for convenience of customers; Boyd agreed to limit to three cars.

Schoolden's Automotive Repair, Inc. /Petitioner  
Case No. 99-291-SPH /Minutes of Deliberation

Issue of existing dwelling on Central Avenue; Schoolden testified it had always been there; no evidence to contrary. Front yard extends from house to Ingleside; that front yard has always been part of service garage.

Activity in street was concern of Protestants; referred to picture with hood up; no repairs to be done except on service garage property. Trucks reported blocking street; this is legal issue - no jurisdiction by Board. Will state in order that no cars dropped off for repairs are to be left on the street; parked on lot only.

As to areas not utilized where vegetation has grown up -- cannot be cleared; cannot be used for service garage. Whether or not they can be cleared for a house is another issue -- not before the Board. Permit needed for grading. Not part of service garage for parking, etc.

Board then reviewed lot numbers to be covered in opinion and order and limitations to be covered.

Approval of nonconforming use as deliberated:

Wescott: petition to be GRANTED; service garage is nonconforming use, with restrictions as discussed;  
Worrall: Agreed that testimony/evidence supports legal nonconforming use;  
Melvin : Grant Petition - legal nonconforming use as indicated.

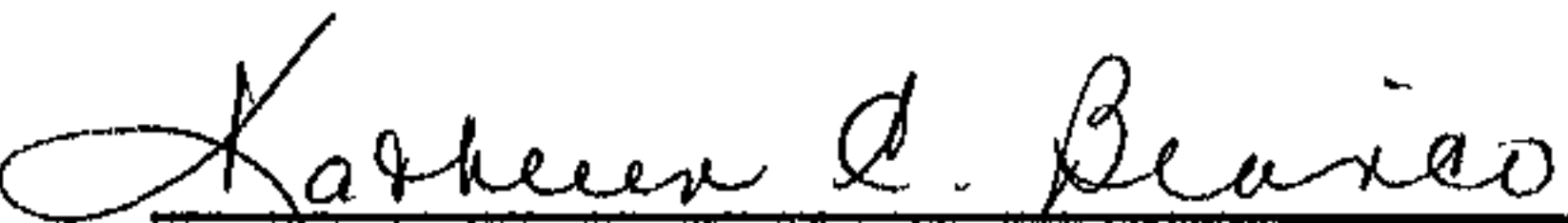
Board's unanimous decision is to grant Petitioner's request for approval of legal nonconforming use with restrictions to be included in Opinion /Order.

~~~~~

NOTE: 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.

This document confirms for the file that public deliberation was held this date in the subject matter and a final decision rendered in which the requested special hearing was granted as determined in public deliberation.

Respectfully submitted,

  
Kathleen C. Bianco  
Administrator

10  
August 25, 2000

Mr. Michael E. Marino, Esq.  
609 Bosley Avenue  
Towson, Maryland 21204

Dear Mr. Marino:

Re: Case No. 99-291-SPH, 1316 Ingleside Avenue,  
Schoolden's Automotive Repair, Inc.

On August 3, 2000, a meeting was held in Councilman Moxley's office to discuss the ruling made by the County Board of Appeals on January 21, 2000, relative to the current activities at Schoolden's garage. After reviewing photographic evidence gathered by members of the community, it is the position of the Bureau of Code Enforcement that violations are indeed taking place. These alleged violations center on:

1. vehicles stored beyond lots 30-33
2. customers driving over lots 28/29 to enter onto lots 30-33
3. inoperative motor vehicles not stored within the stockade fenced in area (lots 48-52)
4. motor vehicles parked on lots 30-33 that are not two deep and on the front half of of these lots
5. unlicensed vehicle(s) being parked on lots 30-33.
6. selling of more than three motor vehicles at a given time from lots 53-57.

Hopefully, after reviewing this letter and discussing the areas of concern with Joseph Boyd, President of Schoolden's Automotive Repair, Inc., immediate steps can be implemented to correct these problems. If this cannot be accomplished by August 25, 2000, and these issues are brought to our attention again, Baltimore County will issue a citation imposing a monetary fine of \$200 per day/per violation.

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

Sincerely,

James H. Thompson  
Code Inspections and  
Enforcement Supervisor

JHT/hek

Bc: Councilman S.G. Samuel Moxley  
Mr. Ray Hughes, 5909 Central Avenue, Baltimore, MD 21207  
Ms. Catherine Nash, 5914 Central Avenue, Baltimore, MD 21207

410-  
585  
3122

## **Neighbor's Concerns**

- 1. Works on cars outside the garage building**
- 2. Works on cars in the street.**
- 3. Parks 2 in a space in front of the garage.**
- 4. Parks Horz and Vert in front of the garage.**
- 5. Uses street as a test track**
- 6. Stores cars on lot for extended periods**
- 7. Cars associated with garage are parked on street**
- 8. Parks cars in driveway of adjacent residential building\**
- 10. Has conX trailer and parked car on lawn behind shop**
- 11. Garage garbage picked up at next door residence**

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

same { RAY HUGHES  
same { KAY KNUDE  
Catherine Lee Nash  
DAVID T. NASH  
DAVID KING

5909 CENTRAL AVE  
5909 Central Ave  
5914 Central Ave  
5914 CENTRAL AVE  
5915 CENTRAL AVE

PLEASE PRINT CLEARLY

BALTIMORE COUNTY REPRESENTATIVES  
SIGN-IN SHEET

NAME

ADDRESS

Michael Marino

PAUL LEE

JOSEPH BOYD

Raymond Schraffen

Lou Weinkam Jr

609 Boston Ave Towson MD 21204

32 WEST RD

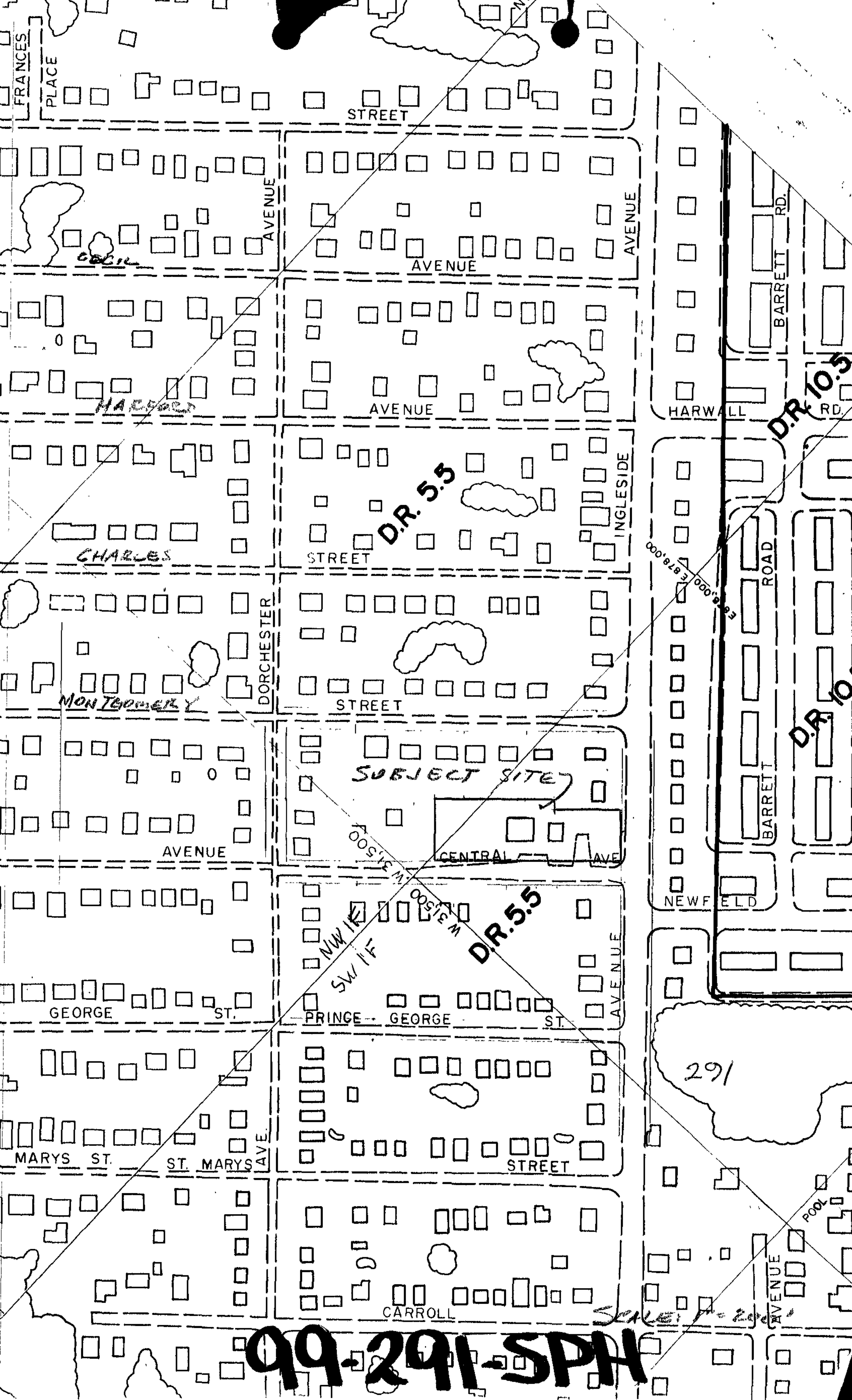
1316 INGLESIDE AVE BALTO. 21207

8517 Sunwood Dr  
Ellicott City, Md 21043

1002 Frederick Rd

Catonville Rd 21228





FRANCES PLACE

STREET

AVENUE

AVENUE

AVENUE

BARRETT RD.

HARWALL

AVENUE

HARWALL

D.R. 10.5

CHARLES

STREET

INGLESIDE

D.R. 5.5

MONTGOMERY

STREET

SUBJECT SITE

AVENUE

CENTRAL AVE

NEW FELD

D.R. 10.5

GEORGE

ST.

PRINCE

GEORGE

ST.

D.R. 5.5

MARYS ST.

ST. MARYS

AVE.

STREET

CARROLL

SCALE 1" = 200'

99-291-SPH

291

POOL