

12/4/99

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
WILLIAM A. AND MARY H. KRAFT, LEGAL *		COUNTY BOARD OF APPEALS
OWNERS (FERDINAND H. ONNEN, JR, CP)	*	
FOR SPECIAL HEARING ON THE PROPERTY*		OF
LOCATED ON THE N/S OLD PADONIA RD,		
1900' +/- W OF INTERSECTION OF OLD *		BALTIMORE COUNTY
PADONIA ROAD (228 OLD PADONIA RD)	*	
8TH ELECTION DISTRICT	*	CASE NO. 99-492-SPH
3RD COUNCILMANIC DISTRICT		
* * * * *		

ORDER OF DISMISSAL OF PETITION

This case comes to the Board on appeal filed by John C. Murphy, Esquire, on behalf of Baltimore County Historical Trust, Inc., and Paul F. McKean, Appellants /Protestants, from the August 20, 1999 decision of the Zoning Commissioner in which the subject Petition for Special Hearing was approved and the requested relief granted.

The Board is in receipt of a withdrawal of Petition dated November 30, 1999 filed by Edward C. Covahey, Jr., Esquire, on behalf of William A. Kraft and Mary H. Kraft, Petitioners (a copy of which is attached hereto and made a part hereof) in which said Counsel for Petitioners requests that the Petition filed in this matter be withdrawn and dismissed.

The Board convened as scheduled on December 2, 1999 to dismiss the subject Petition on the record. Edward C. Covahey, Jr., Esquire, appeared on behalf of the Petitioners; John C. Murphy, Esquire, appeared on behalf of Protestants /Appellants.

At the outset of the hearing, and on the record, Counsel for Petitioner withdrew the Petition for Special Hearing filed in Case No. 99-492-SPH and requested that this matter be dismissed.

ACCORDINGLY, it is this 9th day of December, 1999 by

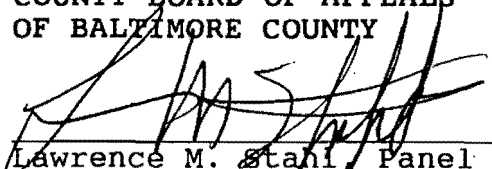
Case No. 99-492-SPH /William A. Kraft, et ux, Owners;
Ferdinand H. Onnen, Jr., Contract Purchaser

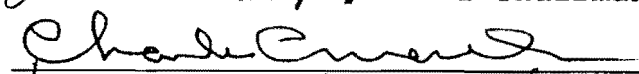
2

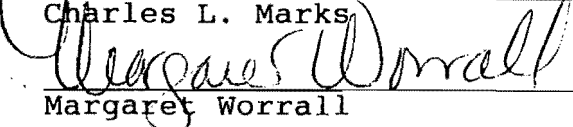
the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing filed in Case No. 99-492-SPH is WITHDRAWN AND DISMISSED, and that the Zoning Commissioner's Order of August 20, 1999, including the relief granted therein, is rendered null and void.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Lawrence M. Stahl, Panel Chairman

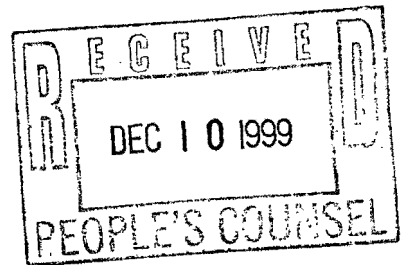

Charles L. Marks


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



December 9, 1999

Edward C. Covahey, Jr., Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

John C. Murphy, Esquire
516 N. Charles Street
Baltimore, MD 21201

RE: In the Matter of William A. and
Mary H. Kraft /Case No. CBA-99-142 and
Case No. 99-492-SPH

Dear Counsel:

Enclosed please find a copy of the Order of Dismissal of
Petition issued this date by the County Board of Appeals of
Baltimore County in Case No. 99-492-SPH. Also enclosed is a copy
of the Order of Dismissal issued this date by the Board in Case No.
CBA-99-142.

Very truly yours,

Charlotte E. Redcliffe for

Kathleen C. Bianco
Administrator

Enclosure

cc: Mr. and Mrs. William A. Kraft
Ferdinand H. Onnen, Jr.
Baltimore Co Historical Trust
/Marcia M. Miller
Paul F. McKean
Mr. and Mrs. Harry Langrehr
Ms. Edith M. Smock
Dean C. Struben
Pati Shaffer
Judith S. Kreman
✓ People's Counsel for Baltimore County
Pat Keller, Director /Planning
John McGrain /County Historian
Lawrence E. Schmidt /Z.C.
John R. Reisinger, P.D. /PDM
Arnold Jablon, Director /PDM
Nancy C. West, Assistant County Attorney
Virginia W. Barnhart, County Attorney



12/a/99

IN THE MATTER OF
WILLIAM A. AND MARY H. KRAFT
PERMIT TO RAZE IMPROVEMENTS
AT 228 OLD PADONIA ROAD

RE: DENIAL OF BUILDING
(RAZING) PERMIT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. CBA-99-142

* * * * *

ORDER OF DISMISSAL

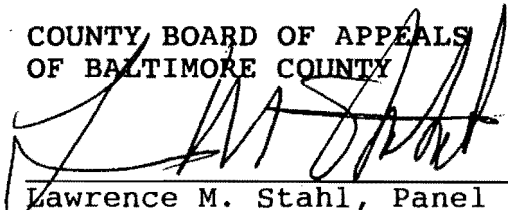
This case comes before the Board on appeal by the Applicants, William A. and Mary H. Kraft, from the denial of a building (razing) permit by John R. Reisinger, P.E., Buildings Engineer, Department of Permits & Development Management.

WHEREAS, the Board is in receipt of a Motion to Dismiss dated November 22, 1999 filed by Edward C. Covahey, Jr., Esquire, on behalf of William A. Kraft and Mary H. Kraft, Applicants /Appellants, (a copy of which is attached hereto and made a part hereof); and

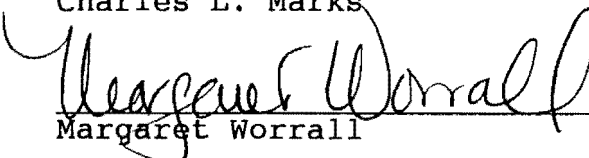
WHEREAS, said Counsel for Appellants requests that the appeal filed in this matter be withdrawn and dismissed as of November 22, 1999 pursuant to the attached Motion to Dismiss;

IT IS HEREBY ORDERED this 9th day of December, 1999 by the County Board of Appeals of Baltimore County that said appeal be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Lawrence M. Stahl, Panel Chairman


Charles L. Marks


Margaret Worrall

11/22/99

IN RE: PERMIT B375516
FOR THE RAZING OF
228 OLD PADONIA ROAD
WILLIAM A. KRAFT
and
MARY H. KRAFT

* BEFORE THE
* BALTIMORE COUNTY
* BOARD OF APPEALS
* CASE NO. CBA-99-142

Petitioners

*
* * * * *

MOTION TO DISMISS

Please dismiss the above-captioned Petition to Review Denial of Building Permit which involved a permit to raze the improvements situate at 228 Old Padonia Road in that the improvements have been razed, and the legal owners of the property; that is, William A. Kraft and Mary H. Kraft, have paid a fine in the amount of Three Thousand Dollars (\$3,000.00), all in accordance with Office of Budget & Finance Miscellaneous Receipt No. 040503, a copy of which is attached.



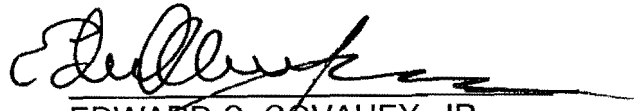
EDWARD C. COVAHEY, JR.
614 Bosley Avenue
Towson, Maryland 21204
410-828-9441
Attorney for Petitioners

RECEIVED
COUNTY BOARD OF APPEALS
99 NOV 22 AM 11:01

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22 day of November, 1999, a copy of the foregoing Motion to Dismiss was mailed, first class, postage prepaid, to:

Virginia W. Barnhart, Baltimore County Attorney
Office of Law,
400 Washington Avenue
Towson, Maryland 21204


EDWARD C. COVAHEY, JR.

ldr991127

11/29/96
IN RE: PETITION FOR SPECIAL HEARINGS

N/S Old Padonia Rd.,
1900' W of York Road
(228 Old Padonia Road)
8th Election District
3rd Councilmanic District

William A. Kraft, et ux, Owners
Ferdinand H. Onnen, Jr.,
Contract Purchaser

BEFORE THE

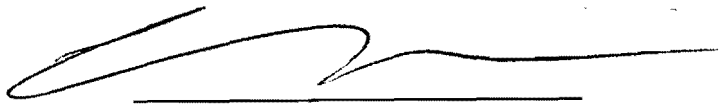
ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 99-492-SPH

* * * * *
MOTION TO DISMISS

Please dismiss the Petition for Administrative Special Hearing to raze the building at 228 Old Padonia Road in that the improvements have been razed, and the legal owners of the property; that is, William A. Kraft and Mary H. Kraft, have paid a fine in the amount of Three Thousand Dollars (\$3,000.00), all in accordance with Office of Budget & Finance Miscellaneous Receipt No. 040503, a copy of which is attached.

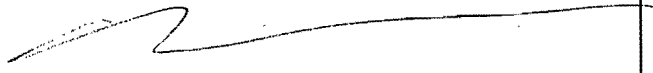

EDWARD C. COVAHEY, JR.
614 Bosley Avenue
Towson, Maryland 21204
410-828-9441
Attorney for Petitioners

RECEIVED
COUNTY BOARD OF APPEALS
99 NOV 29 PM 4: 22

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of November, 1999, a copy of the foregoing Motion to Dismiss was mailed, first class, postage prepaid, to:

John C. Murphy, Esq.
516 N. Charles St., Suite 206
Baltimore, Maryland 21201-5052


EDWARD C. COVAHEY, JR.

ldr991143

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410

828-9441

FAX 410-823-7530

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
ANTHONY J. DiPAULA *
THOMAS P. DORE
ROGER J. SULLIVAN
MICHAEL T. PATE

ANNEX OFFICE
SUITE 320
606 BALTIMORE AVE.
TOWSON, MD. 21204

* ALSO ADMITTED TO D. C. BAR

November 30, 1999

HAND-DELIVERED

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

Re: Case No. 99-492-SPH
228 Old Padonia Road

Dear Mr. Marks:

Please treat the Motion to Dismiss filed in the above-captioned and this letter as a withdrawal of the Petition as was filed in the above-captioned case.

Very truly yours,



Edward C. Covahey, Jr.

ECC,Jr./ldr
1130ldr02

cc: John C. Murphy, Esq.

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

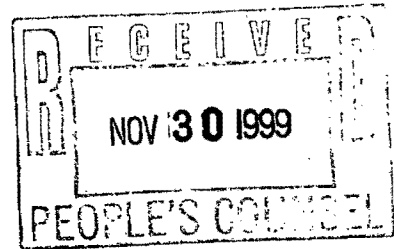
EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
ANTHONY J. DiPAULA *
THOMAS P. DORE
ROGER J. SULLIVAN
MICHAEL T. PATE

FAX 410-823-7530

ANNEX OFFICE
SUITE 320
606 BALTIMORE AVE.
TOWSON, MD. 21204

November 30, 1999

* ALSO ADMITTED TO D. C. BAR



HAND-DELIVERED

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

Re: Case No. 99-492-SPH
228 Old Padonia Road

Dear Mr. Marks:

Please treat the Motion to Dismiss filed in the above-captioned and this letter as a withdrawal of the Petition as was filed in the above-captioned case.

Very truly yours,

Edward C. Covahey, Jr.

ECC,Jr./ldr
1130ldr02

cc: John C. Murphy, Esq.

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
ANTHONY J. DIPAULA *
THOMAS P. DORE
ROGER J. SULLIVAN
MICHAEL T. PATE

* ALSO ADMITTED TO D. C. BAR

FAX 410-823-7530

ANNEX OFFICE
SUITE 320
606 BALTIMORE AVE.
TOWSON, MD. 21204

November 29, 1999

RECEIVED
COUNTY BOARD OF APPEALS
99 NOV 29 PM 4: 22

HAND-DELIVERED

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

Re: Case No. 99-492-SPH
228 Old Padonia Road

Dear Mr. Marks:

Enclosed please find Motion to Dismiss the above Petition. This case involves a Petition filed by the Petitioners before the Zoning Commissioner to raze the building which was, in fact, razed, and fines were paid to the Office of Budget and Finance. In view of the fact that the case before the County Board is de novo, this would dispose of the issues. Accordingly, it would appear appropriate to cause same to be removed from the docket scheduled to be heard on Thursday, December 2, 1999.

Very truly yours,



Edward C. Covahey, Jr.

ECC,Jr./ldr
Enclosure
1129ldr08

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
ANTHONY J. DiPAULA *
THOMAS P. DORE
ROGER J. SULLIVAN
MICHAEL T. PATE

FAX 410-823-7530

ANNEX OFFICE
SUITE 320
606 BALTIMORE AVE.
TOWSON, MD. 21204

November 29, 1999

* ALSO ADMITTED TO D. C. BAR

RECEIVED
COUNTY BOARD OF APPEALS
99 NOV 29 PM 4: 22

HAND-DELIVERED

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

Re: Case No. 99-492-SPH
228 Old Padonia Road

Dear Mr. Marks:

Enclosed please find Motion to Dismiss the above Petition. This case involves a Petition filed by the Petitioners before the Zoning Commissioner to raze the building which was, in fact, razed, and fines were paid to the Office of Budget and Finance. In view of the fact that the case before the County Board is de novo, this would dispose of the issues. Accordingly, it would appear appropriate to cause same to be removed from the docket scheduled to be heard on Thursday, December 2, 1999.

Very truly yours,



Edward C. Covahey, Jr.

ECC,Jr./ldr
Enclosure
1129ldr08

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
ANTHONY J. DIPAULA *
THOMAS P. DORE
ROGER J. SULLIVAN
MICHAEL T. PATE

ANNEX OFFICE
SUITE 320
606 BALTIMORE AVE.
TOWSON, MD. 21204

November 22, 1999

* ALSO ADMITTED TO D. C. BAR

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

Re: Case No. CBA-99-142
Permit No. B375516
for the Razing of 228 Old Padonia Road
William A. Kraft and Mary H. Kraft, Petitioners

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COUNTY BOARD OF APPEALS
99 NOV 22 AM 11:01

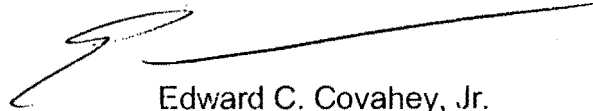
Dear Chairman Marks:

Enclosed please find Motion to Dismiss the appeal filed by William H. Kraft and Mary H. Kraft in Case No. CBA-99-142.

In addition, the appeal in Case No. 99-492-SPH from the decision of the Zoning Commissioner dated August 20, 1999 granting Petitioner's application to apply for a building permit and raze the improvements at 228 Old Padonia Road is now moot in that the improvements have been razed and fines paid in accordance with Office of Budget & Finance Miscellaneous Receipt No. 040503, a copy of which are attached.

In view of the foregoing, there is no issue before the Board for the December 2, 1999, 1:00 p.m. hearing, and accordingly, it would appear appropriate to remove same from the docket.

Very truly yours,



Edward C. Covahey, Jr.

ECC,Jr./ldr
Enclosure
1122ldr01
cc: John C. Murphy, Esq.

9/24/99

IN RE: PETITION FOR SPECIAL * BOARD OF APPEALS
HEARING, N/S OLD PADONIA RD. * OF
CASE NO. 99-492-SPH, * BALTIMORE COUNTY, MARYLAND

* * *

PETITION

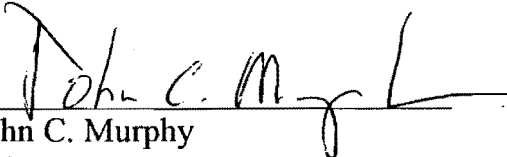
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COUNTY BOARD OF APPEALS
99 SEP 27 PM 12:06

Pursuant to Baltimore County Code 26-209, Appellants set forth the grounds for appeal as follows:

1. It was error to rule that the Appellants did not have standing to request the hearing or to testify and otherwise participate in the appeal;
2. It was error to rule that there was sufficient basis to grant a waiver pursuant to Sections 26-171 and 26-172(b) of the Baltimore County Code, or pursuant to any other provision of the Code or Zoning Regulations;
3. There exists no law authorizing the waiver procedures employed and the waiver was, therefore, illegal;
4. There exists no authority to allow the demolition of buildings listed on the Maryland Historical Trust Inventory of Historic Properties because Baltimore County Code, 26-278, states that such structures must be preserved, or if there is authority to allow demolition, the subject application did qualify under relevant standards.
5. It was error to refuse to allow the request for special hearing or to allow the Appellants to testify because they were not represented by an attorney since an attorney is not required under the procedures employed in this hearing.

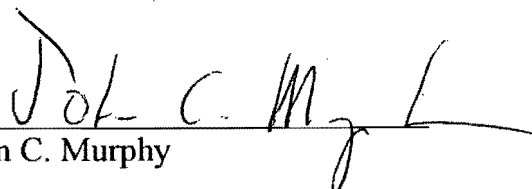
6. The action taken was not supported by any basis in fact, is contrary to law, and is otherwise arbitrary, capricious and illegal.

7. The relief requested is to hold a hearing, receive testimony on the merits, reverse the decision granting the waiver, declare that the subject property may not be demolished, and grant Appellants such other and further relief as the nature of their case may require.


John C. Murphy
Suite 206
516 N. Charles St.
Baltimore, Md. 21201
410-625-4828
Attorney for the Appellants

CERTIFICATE OF MAILING

I hereby certify that on this 24 day of Sept., 1999, I mailed a copy of the foregoing notice to Edward C. Cohavey, Esq., 614 Bosley Avenue, Towson, Md. 21204, and to Lawrence E. Schmidt, Zoning Commissioner, Suite 405 County Courts Building, Towson, Md. 21204.


John C. Murphy

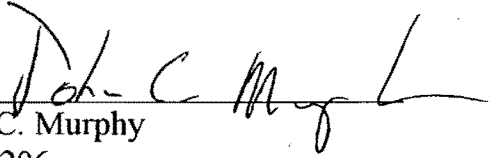
9/21/99

IN RE: PETITION FOR SPECIAL * BOARD OF APPEALS
HEARING, N/S OLD PADONIA RD. * OF
CASE NO. 99-492-SPH, * BALTIMORE COUNTY, MARYLAND
* * *

PARTIAL DISMISSAL OF APPEAL

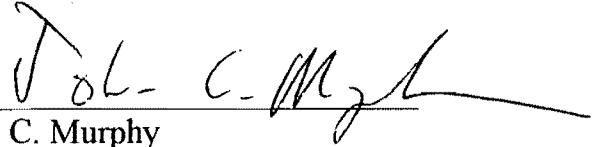
Please dismiss the appeal of Judith S. Kremen. Otherwise, the appeal remains in full force and effect.

RECEIVED
COUNTY BOARD OF APPEALS
99 SEP 22 PM 2:16


John C. Murphy
Suite 206
516 N. Charles St.
Baltimore, Md. 21201
410-625-4828
Attorney for the Appellants

CERTIFICATE OF MAILING

I hereby certify that on this 21 day of Sept, 1999, I mailed a copy of the foregoing notice to Edward C. Cohavey, Esq., 614 Bosley Avenue, Towson, Md. 21204.


John C. Murphy

7/16/99

IN RE: PETITION FOR SPECIAL * BOARD OF APPEALS
HEARING, N/S OLD PADONIA RD. * OF
CASE NO. 99-492-SPH, * BALTIMORE COUNTY, MARYLAND
* * *

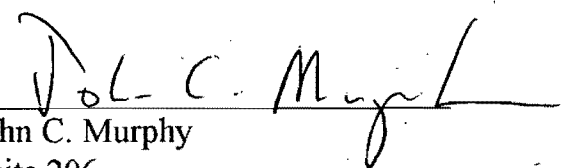
NOTICE OF APPEAL

Please note an appeal to the Board of Appeals from the decision of the Zoning
Commissioner dated August 20, 1999 in Case No. 99-492-SPH, N/S Old Padonia Road
(228 Old Padonia Road) on behalf of the following:

Baltimore County Historical Trust, Inc.
P.O. Box 10067
Towson, Md. 21285

~~Judith S. Kremen~~ w/d from
~~1015 Rolandvue Avenue~~ appeal 9-22-99
~~Baltimore, Md. 21204~~

Paul F. McKean
17092 Fairfield Road
Stewartstown, PA 17363


John C. Murphy
Suite 206
516 N. Charles St.
Baltimore, Md. 21201
410-625-4828
Attorney for the Appellants

CERTIFICATE OF MAILING

I hereby certify that on this 16 day of Sept, 1999, I mailed a copy of the foregoing notice to Edward C. Cohavey, Esq., 614 Bosley Avenue, Towson, Md. 21204.

John C. Murphy
John C. Murphy

5/20/99

IN RE: PETITION FOR SPECIAL HEARING
N/S Old Padonia Road, 1900' W of
York Road
(228 Old Padonia Road)
8th Election District
3rd Councilmanic District

William A. Kraft, et ux, Owners;
Ferdinand H. Onnen, Jr., Contract Purchaser*

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 99-492-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on a Petition for Administrative Special Hearing filed by the owners of the subject property, William A. and Mary H. Kraft, and the Contract Purchaser, Ferdinand H. Onnen, Jr., through their attorney, Edward C. Covahey, Jr., Esquire. The Petitioners seek approval of a waiver, pursuant to Sections 26-171 and 26-172(b) of the Baltimore County Code, of Sections 26-203(c)(8) and 26-278 thereof to raze the existing building, known as 228 Old Padonia Road, which is listed on the Maryland Historical Trust Inventory as "BA 1791 Thomas Fortune House". The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

As noted above, the Petitioners filed the instant request through a Petition for Administrative Special Hearing. The Administrative Special Hearing process is similar to the Administrative Variance process set out in Section 26-127 of the Baltimore County Code, whereby the Zoning Commissioner is permitted to grant variance relief without a public hearing in certain cases. Specifically, that Section provides that upon request for an administrative variance from an owner/occupant of a residential property, the property in question is posted with notice of the variance relief sought for a period of at least 15 days. During that time, any interested party who owns/occupies property within 1,000 feet of the lot in question, may request that a public hearing be held before the Zoning Commissioner to determine the appropriateness of the requested relief. If such a request is filed, the matter is then scheduled for a public hearing at which testimony and evidence are received from all parties present and a decision is rendered thereafter.

A similar process has been developed by the Director of the Department of Permits and Development Management (DPDM) for special hearing requests. Administrative special hearing relief is available to the owner/occupant of lots zoned residential. The administrative special hearing process is not found in Section 26-127 of the Baltimore County Code; however, its features are similar. The authority for the administrative special hearing process is set out in Section 26-171 and 26-172 of the Baltimore County Code. Those Sections actually regulate the development review process in Baltimore County. Section 26-171 of the Code sets out limited exemptions from certain requirements of the development review process (i.e., Divisions 3, 4 and 5). Section 26-172 sets out waivers which might be granted by the Hearing Officer (i.e., Zoning Commissioner) or the Director of DPDM. Section 26-172(b) allows the Director of DPDM to waive the requirements of Section 26-203 (i.e., the development plan) and from the Hearing Officer's Hearing, under certain conditions. The Director of DPDM has designated the Hearing Officer to grant waivers and exemptions from Section 26-203 and 26-278. Section 26-203(C)(8) requires that the development plan contain the identification of any building, property or site which is included on the Maryland Historical Trust Inventory of Historic Properties, the County Preliminary or Final Landmarks List, the National Register of Historic Places, the Maryland Archaeological Survey, or, identification in any County Historic District or National Register District. Section 26-278 states that historic sites or structures identified on any of the lists referred to in Section 26-203(C)(8) must be preserved.

In this case, the Petitioners, Mr. & Mrs. Kraft, filed a Petition for Administrative Special Hearing seeking approval to raze the historic structure located on the subject property. In accordance with the administrative special hearing process, the property was posted with a notice of the Petitioners' request. Within the 15-day posting period, a letter was received from the Baltimore County Historical Trust, Inc., a private corporation, requesting a public hearing. In addition to their letter of June 15, 1999, a representative of the Baltimore County Historical Trust, Inc. also completed a document entitled "Formal Demand for Hearing" seeking that this matter be scheduled for public hearing.

Subsequently, the matter was scheduled for a public hearing before me on July 29, 1999. Appearing at that hearing on behalf of the property owners/Petitioners were William A. and Mary H. Kraft, legal owners of the property, and Joshua F. Cockey of B. The Petitioners were represented by Edward C. Covahey, Jr., Esquire. Also appearing at the hearing was John McGrain, a Historian with the Office of Planning. Others present included Paul F. McKean and Judith Kremens, on behalf of the Baltimore County Historical Trust, Inc., Marcia M. Miller, with the Maryland Historical Trust, Mr. & Mrs. Harry Langrehr, Edith M. Smock, Pati Shaffer and Dean C. Struben.

At that hearing, Counsel for the Petitioners raised a preliminary objection to the request for hearing by the Baltimore County Historical Trust, Inc. Citing Section 10-206 of Business Occupations and Professions Article of the Annotated Code of Maryland, Counsel indicated that the Baltimore County Historical Trust, Inc.'s request for a public hearing constituted the unauthorized practice of law, and should therefore be dismissed. Moreover, Mr. Covahey argued that the Baltimore County Historical Trust, Inc. was not represented by a lawyer at the public hearing, as required, and therefore, could not participate in the proceedings.¹

Section 10-101 of the Business Occupations and Professions Article defines terms used within Title 10, which regulates attorneys. The definition of the phrase "to practice law" includes "a representation of another person, including corporations, before a unit of the State government, or of a political subdivision." Clearly, proceedings before the Baltimore County Zoning Commissioner are encompassed within that definition. Section 10-206 requires that before any individual may practice law in Maryland, the individual must be admitted to the Bar of this State and meet any requirement the Court of Appeals may set by rule. The individuals who made demand for the hearing and appeared thereat (Paul F. McKean, Judith Kremens, and Marcia Miller) are not members of the Bar. Clearly, they must be so licensed in order to represent the Baltimore County Historical Trust, Inc. Additionally, evidence was submitted at the hearing that this entity is a duly authorized and valid corporation existing in the State of Maryland.

¹ It is also clear that the Baltimore County Historical Trust, Inc. owns no property within 1,000 feet of the subject lot; therefore, it has no standing to request a public hearing on that basis.

Based upon the clear import of the Sections referenced above, I find that the request/formal demand for hearing filed by the Baltimore County Historical Trust, Inc. is illegal and must therefore be considered null and void. The formal request for hearing is in the nature of a pleading filed with the Clerk of any Court. The request was filed with the Zoning Commissioner's Office, through the Department of Permits and Development Management (DPDM). As such, the person filing that document must lawfully represent the corporation requesting the action. No such attorney filed the request for hearing. Moreover, Baltimore County Historical Trust, Inc. could not participate at the hearing before me in that they were not represented by legal Counsel at that hearing.

Finally, it is to be noted that an entry of appearance was filed in this case by the Office of People's Counsel. Although that entry was filed, no one appeared from that agency to participate at the hearing. Moreover, the entry of appearance filed was not in a representative capacity as to the Baltimore County Historical Trust, Inc. That is, People's Counsel apparently entered its appearance on behalf of its office and no one else. The entry of appearance by People's Counsel does not save the otherwise illegal filing by the Baltimore County Historical Trust, Inc., which was done without benefit of legal counsel.

Based on these factors, I will dismiss the request for formal hearing by the Baltimore County Historical Trust, Inc. Having dismissed that request, attention is next given to the merits of the Petition for Administrative Special Hearing.

At the hearing held on July 29, 1999, the evidence presented by the Petitioners disclosed that the subject property is roughly triangular in shape, and consists of a gross area of .31 acres in area, zoned B.M. The property is located immediately adjacent to Old Padonia Road in Cockeysville and abuts the MTA Light Rail which runs from Baltimore City to Hunt Valley. Apparently, the Krafts have owned the property for a number of years and reside in the dwelling thereon. That two and one-half story stone dwelling is known as the Thomas Fortune House, as described above. Although the area surrounding this property was originally residential, it has significantly changed over the years. Photographs submitted show that the property is literally surrounded by commercial/retail/industrial uses. As noted above, the property immediately abuts the bed of the MTA Light Rail line.

Construction is currently under way on the other side of that line of a Lowes Home Improvement store. As the zoning of the property suggests, the entire area is business or manufacture in character. Mr. & Mrs. Kraft are under contract to sell their property to Mr. Onnen, who intends to raze the existing dwelling. However, the contract is contingent upon the Petitioners obtaining approval to raze this structure. Thus, the administrative special hearing relief as outlined above is necessary in order to proceed.

The historic value of the dwelling is somewhat dubious. As noted above, the property is listed on the Maryland Historical Trust Inventory. It was apparently so listed in December 1978 upon the application of Marion S. Anderson, a then student at Goucher College. Apparently, Ms. Anderson made application for the property to be listed as a result of certain research undertaken by her of the subject property in furtherance of her studies at Goucher. Mr. & Mrs. Kraft were not informed at the time that their property was being listed. Indeed, the process by which properties are listed with the Maryland Historic Trust Inventory raises significant questions as to due process. Nonetheless, it is clear that the property is indeed listed, thus, subject to the requirements of Sections 26-203 and 26-278 of the Baltimore County Code.

The Petitioners' request for administrative special hearing relief was reviewed by the Landmarks Preservation Committee of Baltimore County (LPC). The LPC conducted several meetings during which it considered this issue on June 10, 1999 and August 12, 1999. Ultimately, the LPC issued the following recommendation:

"The LPC stated that they recognized the historical significance of this structure, but given the particular circumstances of the subject case, they would not take a position on demolition. If demolition is approved, the LPC recommends that it be conditioned on the submittal of National Register-level photographic documentation as approved by the County Historian. In addition, the LPC recommends that demolition approval be limited solely to the subject property's current owners, (William and Mary Kraft), and prospective contract purchaser (Ferdinand H. Onnen, Jr.)."

Based upon the testimony and evidence presented, and arguments offered by the Petitioners in open hearing, I am inclined to grant the Petition for Administrative Special Hearing and will adopt the recommendations of the Landmarks Preservation Commission (LPC) as set forth above. In my

judgment, the LPC recommendations are entirely appropriate and represent a proper disposition of this case. The nature of the surrounding locale and unusual circumstances surrounding this property justify the razing of the existing dwelling. Thus, the relief requested by the Petitioners shall be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the Petition for Administrative Special Hearing shall be granted, and the request for formal hearing filed by the Baltimore County Historical Trust, Inc. shall be dismissed.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of August, 1999 that the Petition for Administrative Special Hearing seeking approval of a waiver, pursuant to Sections 26-171 and 26-172(b) of the Baltimore County Code, of Sections 26-203(c)(8) and 26-278 thereof to raze the existing building, known as 228 Old Padonia Road, which is listed on the Maryland Historical Trust Inventory as "BA 1791 Thomas Fortune House", in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit 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 has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with the Zoning Plans Advisory Committee (ZAC) comment submitted by the Office of Planning dated June 25, 1999, a copy of which is attached hereto and made a part hereof.
- 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 demand for formal hearing filed by the Baltimore County Historical Trust, Inc., be and is hereby DISMISSED AS MOOT.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

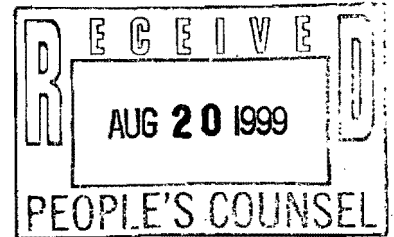


Baltimore County
Zoning Commissioner

August 20, 1999

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

Edward C. Covahey, Jr., Esquire
Covahey & Boozer
614 Bosley Avenue
Towson, Maryland 21204



RE: PETITION FOR ADMINISTRATIVE SPECIAL HEARING
N/S Old Padonia Road, 1900' W of the c/l York Road
(228 Old Padonia Road))
8th Election District - 3rd Councilmanic District
William A. Kraft, et ux, Owners/ Ferdinand H. Onnen, Jr., Contr. Purchaser - Petitioners
Case No. 99-492-SPH

Dear Mr. Covahey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Special Hearing has been granted, in accordance with the attached Order.

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

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

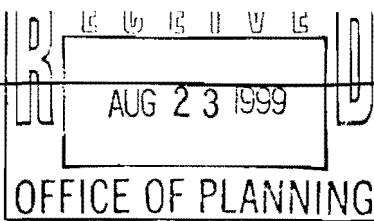
cc: Mr. & Mrs. William A. Kraft, 228 Old Padonia Road, Cockeysville, Md. 21030
Mr. Ferdinand H. Onnen, Jr., 926 York Road, Towson, Md. 21204
Mr. Paul F. McKean & Ms. Judith Kremens
C/O Baltimore County Historical Trust, Inc., P.O. Box 10067, Towson, Md. 21285-0067
Ms. Marcia Miller, Maryland Historical Trust, 100 Community Pl., Crownsville, Md. 21032
Mr. & Mrs. Harry Langrehr, 4948 Sweet Air Road, Baldwin, Md. 21013
Ms. Edith M. Smock, 3503 Linbelle Terrace, Baltimore, Md. 21234
Ms. Jean C. Struben, 11120 Pulaski Highway, White Marsh, Md. 21162
Ms. Pati Shaffer, 2505 Benton Court, Churchville, Md. 21028
Mr. John McGrain, OP; People's Counsel; Case File

Come visit the County's Website at www.co.ba.md.us





Baltimore County
Zoning Commissioner



August 20, 1999

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

Edward C. Covahey, Jr., Esquire
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614 Bosley Avenue
Towson, Maryland 21204

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Case No. 99-492-SPH

Dear Mr. Covahey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Special Hearing has been granted, in accordance with the attached Order.

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

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. & Mrs. William A. Kraft, 228 Old Padonia Road, Cockeysville, Md. 21030
Mr. Ferdinand H. Onnen, Jr., 926 York Road, Towson, Md. 21204
Mr. Paul F. McKean & Ms. Judith Kremens
C/O Baltimore County Historical Trust, Inc., P.O. Box 10067, Towson, Md. 21285-0067
Ms. Marcia Miller, Maryland Historical Trust, 100 Community Pl., Crownsville, Md. 21032
Mr. & Mrs. Harry Langrehr, 4948 Sweet Air Road, Baldwin, Md. 21013
Ms. Edith M. Smock, 3503 Linbelle Terrace, Baltimore, Md. 21234
Ms. Jean C. Struben, 11120 Pulaski Highway, White Marsh, Md. 21162
Ms. Pati Shaffer, 2505 Benton Court, Churchville, Md. 21028
✓ Mr. John McGrain, OP; People's Counsel; Case File

Come visit the County's Website at www.co.ba.md.us



Petition for Administrative Special Hearing

to the Zoning Commissioner of Baltimore County



for the property located at 228 Old Padonia Rd., Cockeysville
which is presently zoned BM (Business Major)

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing to approve a waiver pursuant to Sections 26-171, 26-172(b), Baltimore County Code of Sections 26-203(C)(8) and Section 26-278 to raze the building at #228 Old Padonia Road. This building is designated as "BA 1791 Thomas Fortune House" on the list of national register eligible sites.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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:

Ferdinand H. Onnen, Jr.

Name - Type or Print

Signature

926 York Road

410-823-3131

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Attorney For Petitioner:

Edward C. Covahey, Jr.

Name - Type or Print

Signature

Covahey & Boozer, P.A.

Company

614 Bosley Avenue

410-828-9441

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

William A. Kraft

Name - Type or Print

Signature

Mary H. Kraft

Name - Type or Print

Signature

228 Old Padonia Rd.

410-666-0622

Address

Telephone No.

Cockeysville,

MD

21030

City

State

Zip Code

Representative to be Contacted:

Edward C. Covahey, Jr.

Name

614 Bosley Avenue

410-828-9441

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this ___ day of _____, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Case No.

99-492-SPH

REV 9/18/98

Zoning Commissioner of Baltimore County

Reviewed By

WCR

Date

6-4-99

Estimated Posting Date

6-13-99

DROP OFF

No REVIEW

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

040503

DATE 11-9-99 ACCOUNT R001-006-3120AMOUNT \$3,000.⁰⁰/100RECEIVED
FROM:Mr. Jeffrey R. Forman, Esq.
Citation fine for case # 99-713B
228 Bold Padonia Rd.

FOR:

Kraft, Wm A & Mary H.

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

827 P03/03 NOV 15 '99 16:13

PAID RECEIPT

PROCESS ACTION TIME

11/09/1999 11/09/1999 11:20:50

P03 US05 CASHIER MISC MES INQUIRY

000 5 525 ZONING VIOLATION CITATION

Receipt # 130594

CR NO. 040503

Receipt tot

3,000.00 CR

Baltimore County, Maryland

CASHIER'S VALIDATION

827 P03/03 NOV 15 '99 16:13

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

040503

DATE 11-9-99 ACCOUNT R001-006-3120AMOUNT 3,000.⁰⁰/00RECEIVED
FROM:Mr. Jeffrey R. Forman, Esq.
Citation Fined for Case # 99-1713B
FOR: 228 Bold Padonia Rd.

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Kraft, Wm A & Mary H.

PROCESS ACTION TIME

11/09/1999 11/09/1999 11:21:57

CR 14505 CASHIER MSTE MRS DOWD

Dmt 5 525 ZONING VIOLATION CITATION

Receipt # 130594

CR NO. 040503

Receipt Tot 3,000.00

3,000.00 CK

Baltimore County, Maryland

CASHIER'S VALIDATION

Case No. 99-492-SPH

SPH -Approval of waiver to raze existing building known as 228 Padonia Road which is listed on the Maryland Historical Trust Inventory as "BA 1791 Thomas Fortune House."

8/20/99 -Z.C.'s decision in which Petition for Special Hearing to raze building was GRANTED; and further, demand for formal hearing filed by Baltimore County Historical Trust, Inc., was DISMISSED AS MOOT.

and

Case No. CBA-99-142

RE: Denial of Building /Razing Permit by Building Engineer (appeal filed by M/M Kraft)

9/23/99 -Letter from Mary Kraft, Property Owner, requesting consideration for hearing as early as possible due to age of property owners, her husband's health, and loss of contract for smaller home. (Letter was hand-delivered by Jeffrey Forman, Esquire, counsel for the property owners. His name has been added to the file as a result of this conversation with him.)

9/27/99 -Petition (pursuant to 26-209) filed by John C. Murphy, Esquire, Counsel for Appellants /Protestants. (Mr. Murphy advised that this appeal is not a "development plan appeal" pursuant to 26-209 BCC, but rather a de novo zoning appeal from a decision of the Zoning Commissioner. However, it was his intent to file the Petition as included in this file.)

10/06/99 -Attempts to schedule this case to an earlier date which had become available on the Board's docket were unsuccessful (counsel calendar conflict); therefore, the case was scheduled for the afternoon of 12/02/99, and Notice of Assignment for hearing of both Case No. 99-492-SPH and Case No. CBA-99-142 scheduled for Thursday, December 2, 1999 at 1:00 p.m. was sent to the following:

John C. Murphy, Esquire
Baltimore Co Historical Trust
/Marcia M. Miller

Paul F. McKean

Edward C. Covahey, Esquire

Ferdinand H. Onnen, Jr.

Jeffrey L. Forman, Esquire

Mr. and Mrs. William A. Kraft

Mr. and Mrs. Harry Langrehr

Ms. Edith M. Smock

Pati Shaffer

Dean C. Struben

Judith S. Kremen

People's Counsel for Baltimore County

Pat Keller, Director /Planning

Lawrence E. Schmidt /Z.C.

John R. Reisinger, P.E.

Arnold Jablon, Director /PDM

James A. Helfman, Asst. County Attorney

Virginia W. Barnhart, County Attorney

-Petition to Review Denial of Building Permit filed by William and Mary Kraft by Edward C. Covahey, Jr., Esquire.

Case No. 99-492-SPH

SPH -Approval of waiver to raze existing building known as 228 Padonia Road which is listed on the Maryland Historical Trust Inventory as "BA 1791 Thomas Fortune House."

Page 2

11/22/99 -Letter from E. Covahey, Esquire, counsel for M/M Kraft - withdrawing appeal filed by the Krafts in CBA-99-142 (Denial of Building Permit); further referencing 12/02/99 hearing.

11/23/99 -T/C to Mr. Covahey -- confirmed that he is withdrawing appeal filed in CBA-99-142; also inquired as to balance of letter as it relates to zoning hearing scheduled for 12/02/99. He is not withdrawing petition for special hearing; therefore, case will go forward as scheduled on December 2, 1999.

- Letter to Counsel - confirming above and advising that the Board will convene on Thursday, December 2, 1999 at 1:00 p.m. in Case No. 99-492-SPH.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

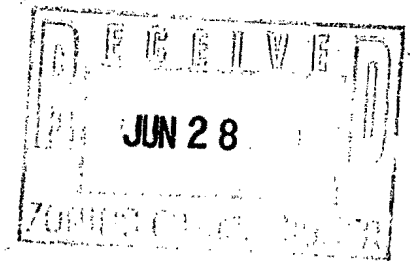
DATE: June 25, 1999

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

SUBJECT: No. 228 Old Padonia Road

INFORMATION

Item Number: 99-492
Petitioner: Bill Kraft (Owner)
Zoning: BM
Requested Action: Special Hearing



RECOMMENDATIONS ON THE PROPOSAL

The "Thomas Fortune House," MHT # BA 1791, is a national register eligible property that was listed in the Maryland Historical Trust Inventory in 1979. It is a cut limestone-marble structure built between 1854 and 1866 by Thomas Fortune, a master stonemason.

At their meeting on June 10, 1999, the LPC reviewed the demolition proposal for the structure and heard testimony from the owners and the contract purchaser's legal representative. The LPC also heard testimony from Paul McKean, a protestant representing the Baltimore County Historic Trust (see attached correspondence).

The Commission first voted to hold a public hearing on August 12, 1999 to consider listing the structure on the preliminary landmarks list. After testimony from Mrs. Kraft, the LPC reconsidered this motion and instead agreed to make the following recommendation to the Hearing Officer in regards to the proposed demolition:

The LPC stated that they recognize the historical significance of this structure, but given the particular circumstances of the subject case, they would not take a position on the demolition. If demolition is approved, the LPC recommends that it be conditioned on the submittal of national register level photographic documentation, as approved by the County Historian. In addition, the LPC recommends that demolition approval be limited solely to the subject property's current owner (William and Mary Kraft) and prospective contract purchaser (Ferdinand H. Onnen, Jr.).

Section Chief:

KA:kra

cc: Mr. and Mrs. Kraft

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 25, 1999

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

SUBJECT: No. 228 Old Padonia Road

INFORMATION

Item Number: 99-492
Petitioner: Bill Kraft (Owner)
Zoning: BM
Requested Action: Special Hearing

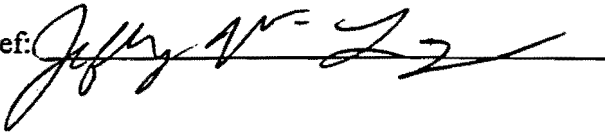
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Section Chief: 

KA:kra

cc: Mr. and Mrs. Kraft

RE: PETITION FOR SPECIAL HEARING
228 Old Padonia Road, N/S Old Padonia Rd, cor NE/S
MTA Light Rail; also 1900' W of York Rd
8th Election District, 3rd Councilmanic

Legal Owner: William A. and Mary H. Kraft
Contract Purchaser: Ferdinand H. Onnen, Jr.
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 99-492-SPH

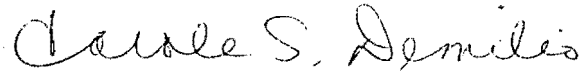
* * * * *

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



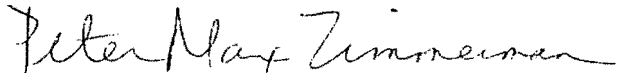
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 2nd day of July, 1999 a copy of the foregoing Entry of Appearance was mailed to Edward C. Covahey, Esq., 614 Bosley Avenue, Towson, MD 21204, attorney for Petitioners.



PETER MAX ZIMMERMAN

IN THE MATTER OF
MARY H. KRAFT AND
WILLIAM A. KRAFT
228 OLD PADONIA ROAD
N/S OLD PADONIA ROAD, CORNER
NE/S MTA LIGHT RAIL
8TH ELECTION DISTRICT
3RD CONCLIMANIC DISTRICT

* BEFORE
* BALTIMORE COUNTY
* BOARD OF APPEALS
*
CASE NO. 99-492-SPH
*

AFFIDAVIT OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES TO BE A COMPETENT PERSON OVER 18 YEARS OF AGE AND NOT A
PARTY TO THE AFORESAID ACTION. THE UNDERSIGNED FURTHER CERTIFIES THAT SERVICE OF PROCESS WAS
MADE UPON THE FOLLOWING INDIVIDUAL AT THE ADDRESS SHOWN BELOW ON OR ABOUT 11/22/99 AT
APPROXIMATELY 2:45 am

**Rodney Little, Director, Authorized agent for
Marsha Miller
Maryland Historic Trust
100 Community Place
Crownsville, MD 21032**

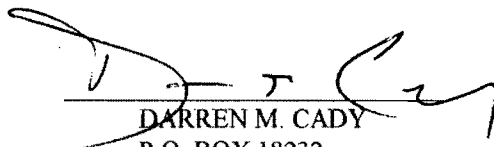
RECEIVED
COUNTY BOARD OF APPEALS
99 NOV 29 PM 1:22

DESCRIPTION: Race: W Sex: M Ht.: 5'8" Wt.: 165 Age: 45

BY DELIVERING AND LEAVING WITH THE PERSON SERVICED THE FOLLOWING: SUBPOENA AND ALL
CORRESPONDING DOCUMENTS.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE MATTERS AND FACTS SET
FORTH HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

11/22/99
DATE


DARREN M. CADY
P.O. BOX 18232
BALTIMORE, MD 21227

IN THE MATTER OF
MARY H. KRAFT AND
WILLIAM A. KRAFT
228 OLD PADONIA ROAD
N/S OLD PADONIA ROAD, CORNER
NE/S MTA LIGHT RAIL
8TH ELECTION DISTRICT
3RD CONCILMANIC DISTRICT

* BEFORE
* BALTIMORE COUNTY
* BOARD OF APPEALS
*
CASE NO. 99-492-SPH
*

* * * * *

SUBPOENA DUCES TECUM

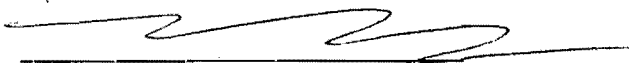
STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

TO: Marsha Miller
Maryland Historic Trust
100 Community Place
Crownsville, Maryland 21032

YOU ARE HEREBY COMMANDED TO: Personally appear and produce documents or objects in Baltimore County Board of Appeals, 400 Washington Ave., Room 49, Towson, Maryland 21204 on Thursday, December 2, 1999 at 1:00 p.m.

YOU ARE COMMANDED TO: Produce the following documents or objects:

Any and all records and documents pertaining to the property at 228 Old Padonia Road, Cockeysville, Baltimore County, Maryland, that in any manner pertain to the property being designated as historic property, or having any historic designation by any governmental entity, and all correspondence pertaining to same, and specifically, all reports, records, correspondence, notes, photographs, and memoranda that relate to the property and any historic designations placed upon it by any governmental or quasi-governmental agency or entity.


EDWARD C. COVAHEY, JR.
614 Bosley Avenue
Towson, Maryland 21204
410-828-9441

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests the Private Process Server to issue the summons set forth herein.


BALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED
COUNTY BOARD OF APPEALS
99 NOV 22 AM 11:05

IN THE MATTER OF
MARY H. KRAFT AND
WILLIAM A. KRAFT
228 OLD PADONIA ROAD
N/S OLD PADONIA ROAD, CORNER
NE/S MTA LIGHT RAIL
8TH ELECTION DISTRICT
3RD CONCLIMANIC DISTRICT

* BEFORE
* BALTIMORE COUNTY
* BOARD OF APPEALS
*
CASE NO. 99-492-SPH
*

AFFIDAVIT OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES TO BE A COMPETENT PERSON OVER 18 YEARS OF AGE AND NOT A PARTY TO THE AFORESAID ACTION. THE UNDERSIGNED FURTHER CERTIFIES THAT SERVICE OF PROCESS WAS MADE UPON THE FOLLOWING INDIVIDUAL AT THE ADDRESS SHOWN BELOW ON OR ABOUT 11/22/99 AT APPROXIMATELY 2:45 am

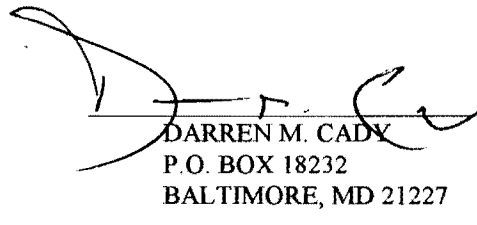
**Rodney Little, Director
Maryland Historic Trust
100 Community Place
Crownsville, MD 21032**

DESCRIPTION: Race: W Sex: M Ht.: 5'8" Wt.: 165 Age: 45

BY DELIVERING AND LEAVING WITH THE PERSON SERVICED THE FOLLOWING: SUBPOENA AND ALL CORRESPONDING DOCUMENTS.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE MATTERS AND FACTS SET FORTH HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

11/22/99
DATE


DARREN M. CADY
P.O. BOX 18232
BALTIMORE, MD 21227

IN THE MATTER OF
MARY H. KRAFT AND
WILLIAM A. KRAFT
228 OLD PADONIA ROAD
N/S OLD PADONIA ROAD, CORNER
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8TH ELECTION DISTRICT
3RD CONCILMANIC DISTRICT

* BEFORE
* BALTIMORE COUNTY
* BOARD OF APPEALS
*
* CASE NO. 99-492-SPH
*

* * * * *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

TO: Rodney Little, Director
Maryland Historic Trust
100 Community Place
Crownsville, Maryland 21032

YOU ARE HEREBY COMMANDED TO: Personally appear and produce documents or objects in Baltimore County Board of Appeals, 400 Washington Ave., Room 49, Towson, Maryland 21204 on Thursday, December 2, 1999 at 1:00 p.m.

YOU ARE COMMANDED TO: Produce the following documents or objects:

Any and all records and documents pertaining to the property at 228 Old Padonia Road, Cockeysville, Baltimore County, Maryland, that in any manner pertain to the property being designated as historic property, or having any historic designation by any governmental entity, and all correspondence pertaining to same, and specifically, all reports, records, correspondence, notes, photographs, and memoranda that relate to the property and any historic designations placed upon it by any governmental or quasi-governmental agency or entity.

RECEIVED
COUNTY BOARD OF APPEALS

99 NOV 22 AM 11:05



EDWARD C. COVAHEY, JR.
614 Bosley Avenue
Towson, Maryland 21204
410-828-9441

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests the Private Process Server to issue the summons set forth herein.



BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF
MARY H. KRAFT AND
WILLIAM A. KRAFT
228 OLD PADONIA ROAD
N/S OLD PADONIA ROAD, CORNER
NE/S MTA LIGHT RAIL
8TH ELECTION DISTRICT
3RD CONCILMANIC DISTRICT

* BEFORE
* BALTIMORE COUNTY
* BOARD OF APPEALS
*
* CASE NO. 99-492-SPH
*

* * * * *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

TO: John W. McGrain
Baltimore County Office of Planning
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

YOU ARE HEREBY COMMANDED TO: Personally appear and produce documents or objects in Baltimore County Board of Appeals, 400 Washington Ave., Room 49, Towson, Maryland 21204 on Thursday, December 2, 1999 at 1:00 p.m.

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RECEIVED
COUNTY BOARD OF APPEALS
99 NOV 22 AM 11:06


EDWARD C. COVAHEY, JR.
614 Bosley Avenue
Towson, Maryland 21204
410-828-9441

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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF
MARY H. KRAFT AND
WILLIAM A. KRAFT
228 OLD PADONIA ROAD
N/S OLD PADONIA ROAD, CORNER
NE/S MTA LIGHT RAIL
8TH ELECTION DISTRICT
3RD CONCILMANIC DISTRICT

* BEFORE
* BALTIMORE COUNTY
* BOARD OF APPEALS
*
* CASE NO. 99-492-SPH
*

* * * * *

SUBPOENA DUCES TECUM

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

TO: Arnold Jablon, Director
Baltimore County Department of
Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

YOU ARE HEREBY COMMANDED TO: Personally appear and produce documents or objects in Baltimore County Board of Appeals, 400 Washington Ave., Room 49, Towson, Maryland 21204 on Thursday, December 2, 1999 at 1:00 p.m.

YOU ARE COMMANDED TO: Produce the following documents or objects:

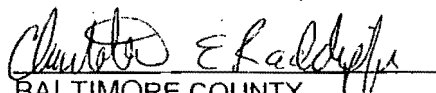
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99 NOV 22 AM 11:06



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614 Bosley Avenue
Towson, Maryland 21204
410-828-9441

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BALTIMORE COUNTY
BOARD OF APPEALS

Rule 5. Subpoenas

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

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

Rule 6. Appearances and practice before the board of appeals.

a. Any individual who is a party to a proceeding before the board may appear in his own behalf; any member of a partnership may appear as representing said partnership if it is a party; a duly authorized officer of a corporation, trust or an association may appear as representing said body if it is a party to the proceedings; and a duly authorized officer or an employee of any political subdivision or body or department may represent the same in any proceeding before the board.

b. Any party may be represented in any proceeding by an attorney-at-law admitted to practice before the Court of Appeals of Maryland.

c. No person shall appear before the board in a representative capacity, engage in practice, examine witnesses or otherwise act in a representative capacity except as provided in sections a. and b. above.

d. When an attorney wishes to appear in any proceeding in a representative capacity which involves a hearing before the county board of appeals, he shall file with the board a written notice of such appearance, which shall state his name, address, telephone number, and the names and addresses of the persons on whose behalf he has entered his appearance.

Rule 7. Evidence.

a. Any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the county board of appeals. Proceedings before the board being administrative in nature, the board will not be bound by the technical rules of evidence but will apply such rules to the end that needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties. Any oral or documentary evidence may



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 23, 1999

Edward C. Covahey, Jr., Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

John C. Murphy, Esquire
516 N. Charles Street
Baltimore, MD 21201

RE: In the Matter of William A. and
Mary H. Kraft /Case No. 99-492-SPH
(and CBA-99-142)

Dear Counsel:

The Board is in receipt of Mr. Covahey's letter dated November 22, 1999 regarding the subject matter.

Relative to the Motion to Dismiss the appeal of Mr. and Mrs. Kraft from the denial of a building permit, this Motion will be granted inasmuch as the Appellants (Mr. and Mrs. Kraft) are withdrawing their appeal.

Relative to Case No. 99-492-SPH, the Board will convene on Thursday, December 2, 1999 as scheduled for hearing in this matter on the appeal filed by Mr. Murphy on behalf of the Baltimore County Historical Trust, Inc. and Paul F. McKean (as to the special hearing relief granted by the Zoning Commissioner).

Please call me at 410-887-3180 if you require additional information regarding this matter.

Very truly yours,

A handwritten signature in cursive script, reading "Kathleen C. Bianco".

Kathleen C. Bianco
Administrator

cc: Jeffrey L. Forman, Esquire



COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

9/21/99
TO File

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
ANTHONY J. DiPAULA *
THOMAS P. DORE
ROGER J. SULLIVAN
MICHAEL T. PATE

FAX 410-823-7530

ANNEX OFFICE
SUITE 320
606 BALTIMORE AVE.
TOWSON, MD. 21204

September 21, 1999

* ALSO ADMITTED TO D. C. BAR

HAND-DELIVERED

Arnold Jablon, Esq., Director
Permits and Development Management
County Office Building
111 W. Cheapeake Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
Case No. 99-492-SPH

Dear Mr. Jablon:

I am in receipt of letter directed to you dated September 20, 1999 from John C. Murphy, Esq., re: the above-captioned.

It is clear that Section 26-209 of the Baltimore County Code does not apply to the subject special hearing. Section 26-209 pertains to a development plan that is subject to the entire development review and approval process. This would include, but not be limited to, preparation of the concept plan pursuant to Section 26-202, a community input meeting, a County review as prescribed by Section 26-205 of the Code, and referral to the Planning Board as set forth in Section 26-207.

The instant matter was a request for a waiver pursuant to Section 26-171, 26-172(b), and a waiver of the submission of a developmental plan pursuant to Section 203(c)(8), and lastly, Section 26-278. This was all pointed out in the Findings of Fact as submitted by the Zoning Commissioner who conducted a hearing on the Petition for Administrative Special Hearing.

Arnold Jablon, Esq., Director
Permits and Development Management
September 21, 1999
Page 2

The instant matter does not involve a developmental plan, but rather is a special hearing to permit the razing of a building. It is important to bear in mind that the only historical designation the subject property has received was the result of an application by a Goucher College student in 1978. This is not a property that was subject to the provisions of Section 26-539 whereby the property would be designated a historical property after there was notice to the affected land owner.

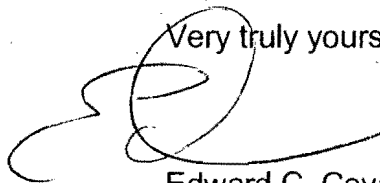
In light of the foregoing, it is respectfully requested that within the mandate of the Zoning Commissioner's Order, that the appropriate permit be issued.

It is important to bear in mind that the Zoning Commissioner's decision simply provided that the Petitioners were at liberty to proceed at their own risk during the thirty (30) day appeal period.

I believe you are aware of the fact that the owners, William and Mary Kraft, were compelled to sell this property incident to the deteriorating health of William Kraft. Again, it is important to consider that the Krafts stand to lose a valuable property right without having been notified that their property was placed on the State historic inventory list, and further, that that list, by State law, is not to impair any property rights.

Your attention to this matter is appreciated.

Very truly yours,

A handwritten signature in dark ink, consisting of a large, stylized 'E' followed by a horizontal line and a small flourish.

Edward C. Covahey, Jr.

ECC,Jr./ldr
921ldr02

cc: John C. Murphy, Esq.
Mr. Ferdinand H. Onnen, Jr.

99 SEP 23 PM 2:00

Mr. & Mrs. William A. Kraft
228 Old Padonia Road
Cockeysville, Maryland 21030

September 23, 1999

Ms. Kathleen Bianco
Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Re: Case # 99-492SPH

Dear Ms. Bianco,

Due to immediate and severe health issues, we are requesting that the above referenced case be heard as soon as possible as an emergency case.

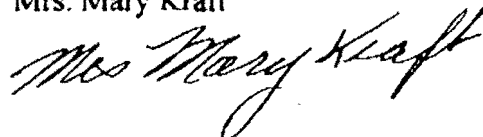
Our property at 228 Old Padonia Road was sold and purchased in good faith. The purchase is contingent upon the buyer being able to demolish the home. Before the sale, and unknown to us, our property had been placed on a historic registry or index which meant that we had to go to a preservation society hearing and then a zoning hearing in order to obtain a razing permit. One of the protestants at the zoning hearing was Baltimore County Historical, Inc., which had no standing to even protest and was unrepresented by counsel. The zoning commissioner threw out their objection and granted the request to raze the house.

The day of settlement, the Baltimore County Historical, Inc. filed an appeal and we cannot now settle until this appeal is heard. We are elderly and Bill Kraft has suffered two heart attacks and has a near zero lung capacity. We have already signed a contract to purchase a smaller home which will be easier to take care of and which will make it easier for us to care for each other and my over 90 year old father, who lives with us. We cannot sustain any further delays and we are in jeopardy of losing the house we bought.

Time is of the essence because of the health issue and I am very concerned for my husband and my father. We are requesting an immediate appeal hearing on this issue because the Historical company has interjected itself into our lives without any accountability and they have already been told that they have no business doing so. But if they can just delay us and cause the property not to get sold, then they will win anyway. Please don't let this happen to us.

Sincerely,

Mrs. Mary Kraft



Cc: T. Bryan McIntyre

Melanie Anson

1007 Windsor Road
Baltimore, Maryland 21208
(410) 486-6814

July 29, 1999

By Fax to: 410-887-3468

Zoning Commissioner Lawrence E. Schmidt
County Courts Building, Room 405
401 Bosley Avenue
Towson, Maryland 21204

Re: Thomas Fortune House, MHT #BA 1791, Balto. Co. Case No. 99-492

Dear Commissioner Schmidt:

As an advocate of preserving Baltimore County's vanishing heritage and history, I was disappointed that the Baltimore County Landmarks Preservation Commission (LPC) failed to follow through on its obligation to fully evaluate, via public hearing, the historic merit of the above-referenced property and, if appropriate, nominate it for inclusion on the County Landmarks List. Instead, while claiming to "recognize the historical significance" of this National Register eligible property built between 1854 and 1866 by master stonemason Thomas Fortune, the LPC "would not take a position on demolition." The LPC's inaction leaves you to weigh the issues and determine whether Baltimore County laws and regulations require this historic house to be preserved. I believe they do.

Citing "the particular circumstances of the subject case," the LPC evaded its duty to hold a public hearing. Such a hearing would have been the most appropriate forum to consider all facts and issues and is the primary system our County sets up for such determinations. Apparently, the "particular circumstances" alluded to were the current owners' claims of (a) lack of notice and due process, and (b) personal hardship. These raise recurring larger issues independent of this particular case, and need to be addressed.

Due process requires notice and an opportunity to be heard in a timely fashion by an objective fact finder, along with any appeal rights that may attach. Property owners who discover, while seeking a demolition permit, that their property has been assigned a Maryland Historic Trust inventory number are NOT deprived of due process when they are notified of this and must go through established processes (an LPC or zoning hearing) to obtain a waiver. They HAVE RECEIVED appropriate notice, and they are then entitled to the full spectrum of hearing and appeal rights, which together constitute the essence of due process. While some delay may result, delay with an opportunity to be heard does not constitute an unfair deprivation of property rights. (A comparable system exists and works quite well in Montgomery County. Properties identified as "possibly having architectural and/or historical significance but not yet evaluated for listing on the Master Plan" are tagged for Permitting Services review when an owner wants to make any unsubstantial exterior change; for substantial changes, including demolition, the property must be evaluated by Montgomery County's Historic Preservation Commission,

July 29, 1999

Page Two

Planning Board, County Executive and County Council for possible inclusion on the "Master Plan for Historic Preservation." The County has 195 days to make this evaluation, and the permit can be withheld for that time period only.)

Baltimore County's current system as to the preservation of important historic resources does not deprive property owners of their due process rights. Nor does Montgomery County's similar system. The problem is that Baltimore County set up a legitimate system and now is failing to follow it. Ideally, by now the County would have surveyed all existing MHT inventory sites and either listed them or determined them not eligible. Despite much fanfare about doing this long-overdue survey, it remains undone. But that does not absolve the County from following the legislative mandate to identify and preserve historic resources, which our County Council has deemed to be of enduring value to the citizens of Baltimore County and worth protecting for future generations. These legislative goals and policies were intended to supersede the individual desires of a particular owner to demolish a property that is an important part of the region's heritage.

While claims of personal hardship must always be evaluated, it would be a slippery slope indeed to establish a precedent whereby an owner of an historically meritorious property need only claim great personal inconvenience and hardship to circumvent preservation mandates. If preservation - or any - laws can be ignored or shunted aside whenever someone will be personally inconvenienced by upholding them, then our laws are a sham and the system a mockery.

Baltimore County has in place laws and regulations which mandate that legitimate historic resources be preserved. I urge you to uphold these laws either by refusing to grant a demolition permit for the subject property, or by returning this matter to the LPC with instructions that it hold a public hearing solely to determine whether the Thomas Fortune house meets regulatory criteria for nomination to the Landmarks List. If the property is listed, the LPC should offer assistance to the owners in finding an appropriate purchaser who would want to take advantage of the substantial tax credits to rehab and preserve the property. Thank you for considering my comments.

Sincerely,



Melanie Anson

cc: Ms. Kimberly Abe, Admin. Secretary, BCLPC

Lucy Merrill, Chair, and Judith Kremen, Exec. Director, BCHT

Bayard Hochberg, Esq., Chair, Sudbrook Park Landmarks Committee

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME

ADDRESS

Mr. & Mrs. Harry Langrehr

EDITH M SMOCK

Rati Shaffer

LEAN C. STRUBEN

Marcia M. Miller ^{in Maryland} Historical Trust

Paul F. McKean

4948 Sweet Air Rd

Baldwin Md 21013

3503 LINBELL TERRACE

BALTIMORE MD 21234

2505 Benton Ct

Churchville, Md 21028

11120 Purnsley Hwy WHITE MARSH ²¹¹⁶²

MD Historical Trust

100 Community Pl., Churchville, MD ²¹⁰³²

403 Gun Road Reby, MD 21227



PETITIONER(S) SIGN-IN SHEET

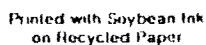
ADDRESS

228 Q/D / ADON 14

11 11 11

Box 123 COCKEYSVILLE 2100

OFFICE OF PLANNING



Historical Trust Historic Sites Inventory Form

Survey No. BA 1791

Magi No. 0317915404

DOE yes xno

1. Name (indicate preferred name)

historic THOMAS FORTUNE HOUSE

and/or common KRAFT-BUSSEY HOUSE

2. Location

street & number 228 Old Padonia Road not for publicationcity, town Texas x vicinity of Councilmanic District No. 3
congressional district 2nd

state Maryland county Baltimore Co.

3. Classification

Category	Ownership	Status	Present Use
<u> </u> district	<u> </u> public	<u>✓</u> occupied	<u> </u> agriculture
<u>✓</u> building(s)	<u>✓</u> private	<u> </u> unoccupied	<u> </u> commercial
<u> </u> structure	<u> </u> both	<u> </u> work in progress	<u> </u> educational
<u> </u> site	Public Acquisition	Accessible	<u> </u> entertainment
<u> </u> object	<u> </u> In process	<u>✓</u> yes: restricted	<u> </u> government
	<u> </u> being considered	<u> </u> yes: unrestricted	<u> </u> industrial
	<u>✓</u> not applicable	<u> </u> no	<u> </u> military
			<u> </u> museum
			<u> </u> park
			<u>✓</u> private residence
			<u> </u> religious
			<u> </u> scientific
			<u> </u> transportation
			<u> </u> other:

4. Owner of Property (give names and mailing addresses of all owners)

name William A. & Marie H. Kraft

street & number 228 Old Padonia Road telephone no.: 410-666-0622

city, town Cockeysville state and zip code MD 21030

5. Location of Legal Description

courthouse, registry of deeds, etc. County Courts Building liber WJR 3949

street & number 401 Bosley Avenue folio 70

city, town Towson state MD 21204

6. Representation in Existing Historical Surveys

title Maryland Historical Trust Inventory

date July 17, 1979 federal x state x county local

depository for survey records 100 Community Place

city, town Crownsville state MD 21032

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
for a wireless transmitting and :
receiving structure, etc. : COUNTY BOARD OF APPEALS
NE corner of Powers Land :
and Nuwood Drive : OF
1st District :
The Hoffman Family Limited : BALTIMORE-COUNTY
Partnership, Petitioner : Na. 81-179-X

OPINION

The Petitioner's attorney in this case filed a Motion with the Board to dismiss the appeal taken by the Protestants, Westerlee Community, Inc., on the grounds that said Appellant had no standing to maintain this appeal. The Board held a hearing on the Motion only on August 25, 1981.

The attorney for the Petitioner argued in his Motion that Westerlee Community, Inc. was not the proper party to appeal because the property that they own is only a strip 50 feet wide by 2,600 feet long lying between the back yards of two adjacent developments, deeded to them to be used only for recreational purposes with the provision that if any other use is contemplated the property will revert to the original owners. It is his contention that this land has no actual market value and, therefore, the Westerlee Community, Inc. cannot be an aggrieved party and cannot, therefore, take an appeal.

Section 22-32 of the Baltimore County Code identifies those parties who shall have the right to appeal to the County Board of Appeals. In Section 1-2 of the Baltimore County Code the definition of the word "person" means any individual, partnership, corporation, etc. Since the definition of a person clearly includes a corporation and since Westerlee Community, Inc. is a corporation, and since its property is in close proximity to the proposed tower, the Board is of the opinion that they can be an aggrieved party and can legitimately take an appeal.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 9th day of September, 1981, by the County Board of Appeals, ORDERED that the Motion for Dismissal be DENIED.

(contents of pleading must "show the pleader's entitlement to relief").

JUDGMENT REVERSED.

COSTS TO BE PAID BY APPELLEE.

666 A.2d 904

TURKEY POINT PROPERTY OWNERS' ASSOCIATION, INC.

v.

Mildred P. ANDERSON, et al.

No. 2064, Sept. Term, 1994.

Court of Special Appeals of Maryland.

Decided Nov. 2, 1995.

County board of appeals granted property owners' request to rezone .74 acres from open space to residential, and property owners' association petitioned for review. The Circuit Court for Anne Arundel County, Warren B. Duckett, Jr., J., affirmed. Association appealed. The Court of Special Appeals, Rosalyn B. Bell, J., retired, Specially Assigned, held that nonlawyer's filing of the petition and representation of association at trial rendered the petition, as well as the trial proceedings, a nullity.

Judgment vacated; remanded with instructions.

1. Corporations ⇨508

A Maryland corporation must be represented by an attorney in civil proceedings in circuit court. Md.Rules 1-202(q), 2-131(a)(2).

2. Attorney and Client ⇨11(2.1)

President of property owners' association, a layperson, engaged in the "practice of law" where she filed a petition for

judicial review of a county board of appeals decision granting property owners' rezoning request, then represented the association in the trial court.

3. Attorney and Client ⇨11(1)

Goal of Maryland's prohibition against unauthorized practice of law is to protect the public from being preyed upon by those not competent to practice law, i.e., to protect public from incompetent, unethical, or irresponsible representation. Code, Business Occupations and Professions, §§ 10-206(a), 10-601(a).

4. Attorney and Client ⇨11(2.1)

Prohibition against practice of law by nonlawyers applied to situation in which president of property owners' association, a layperson, filed petition for review of zoning decision, then represented association at trial, though nothing in the record suggested that she in any way tricked or coerced association into accepting her representation, though there was no indication that she intended to violate the law, and though her actions were expressly permitted by trial judge, where property owners' association was a corporation and as such required representation by counsel. Code, Business Occupations and Professions, §§ 10-206(a), 10-601(a); Md.Rules 1-202(q), 2-131(a)(2).

5. Attorney and Client ⇨32(1)

Conditions for practicing law in Maryland are mandatory. Code, Business Occupations and Professions, §§ 10-206(a), 10-601(a).

6. Statutes ⇨227

Ordinarily, the word "shall," unless the context within which it is used indicates otherwise, is mandatory when used in a statute, and thus denotes an imperative obligation inconsistent with the idea of discretion.

7. Attorney and Client ⇨11(12)

Proper sanction for a nonlawyer's filing of a petition for review of board of appeals decision granting property owners'