

IN RE: PETITION FOR VARIANCE
SW/S Kenwood Avenue, 1,450' W of the
c/I Wilkens Avenue
(311 W. Kenwood Avenue)
1st Election District
1st Councilmanic District

Whalen Properties L.P. and
Nextel Communications - Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 00-100-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Whalen Properties Limited Partnership, and the Contract Lessee, Nextel Communications, through their attorney, Stanley S. Fine, Esquire. The Petitioners seek relief from Section 206.4.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an equipment shelter to be located 4.5 feet from the street (right-of-way) line in lieu of the minimum required 35 feet. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petition were Sean Hughes, a representative of Nextel Communications, Contract Lessee, William P. Monk, Land Planning and Zoning consultant who prepared the site plan for this property, and Stanley S. Fine, Esquire, attorney for the Petitioners. Joe Getzendanner, a representative of the Kenwood-Paradise Community Association, appeared as an interested person.

Testimony and evidence presented revealed that the subject property consists of a gross area of 8.53 acres, more or less, zoned OR-2, and is unimproved but for a 125' wireless communications tower. The property is a large, irregular shaped parcel, located immediately adjacent to the Baltimore Beltway (I-695) in southwestern Baltimore County, which contains a number of unique natural features. A large portion of the site is wooded, much of the site contains

ORDER RECEIVED FOR FILING

Date 10/25/99

By [Signature]

steep slopes, and there is a stream system with associated wetlands which transect the property. As noted above, a small area of the property (0.059 acres) is improved with a 125-foot monopole wireless communications tower, located immediately adjacent to the right-of-way of I-695. This tower was erected in 1996 by the Cellular One Communications Company and features a series of antenna at the top thereof. Obviously, the tower was constructed as a part of Cellular One's installation of a communications network throughout the Baltimore Metropolitan area. At the base of the tower is a 12' x 26' equipment storage building. As is encouraged by the B.C.Z.R., Nextel Communications proposes co-locating its antennae on the existing tower. Nextel proposes to attach 12 of its antennae to the structure at a height of 110 feet. It was indicated that the subject tower could accommodate this additional usage.

The subject variance request relates to a 12' x 20' electric/communications equipment building which is proposed to be constructed at the base of the tower as shown on the site plan. Due to the location of the existing tower on the property, the proposed building will be located approximately 4.5 feet from the right-of-way line of the Baltimore Beltway.

The underlying use (wireless communications equipment) is permitted by right on this property, pursuant to Section 426 of the B.C.Z.R. Moreover, as noted above, the zoning regulations encourage multiple users to utilize the same site. Clearly, this is an altogether appropriate use and site for a wireless communications facility. There are no residential properties which will be impacted by the use proposed.

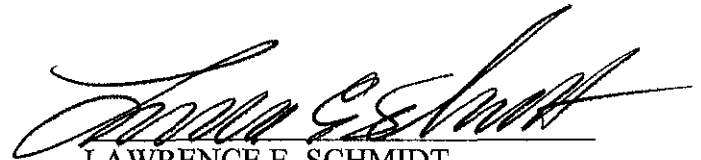
Mr. Monk presented expert testimony in support of the variance. He discussed the uniqueness of the property, the practical difficulty which would be sustained if relief were denied, and the fact that relief can be granted without detrimental impact to surrounding properties. Based upon the uncontradicted testimony presented, I am persuaded to grant the variance. In my judgment the Petitioner has met its burden as set out in Section 307 of the B.C.Z.R. It is also to be noted that Mr. Getzendanner does not oppose the request, but merely appeared at the hearing out of interest. Additionally, there were no adverse Zoning Advisory Committee comments.

ORDER FILED FOR FILING
Date 10/25/99
By [Signature]

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of October, 1999 that the Petition for Variance seeking relief from Section 206.4.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an equipment shelter to be located 4.5 feet from the street line in lieu of the minimum required 35 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 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.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 10/25/99
BY [Signature]



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 311 W. Kenwood Avenue

which is presently zoned OR-2

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 Variance from Section(s)

206.4C2 - to permit an equipment shelter to be located 4.5 feet from the street line in lieu of the minimum required 35 feet

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

Colocation of antennae on an existing monopole requires an equipment shelter, which can only be located within the minimum required setback from the street line because of the shape of the property and location of the existing improvements on the property, resulting in hardship or practical difficulty.

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

I, or we, agree to pay expenses of above Variance, 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:

Nextel Communications

Name - Type or Print

By: John P. In

Signature

4340 East-West Highway, Suite 800 301-951-2800

Address

Telephone No.

Bethesda

MD

20814

City

State

Zip Code

Attorney For Petitioner:

Stanley S. Fine

Name - Type or Print

Stanley S. Fine

Signature

Rosenberg Proutt Funk & Greenberg, LLP

Company

25 S. Charles Street, Suite 2115 410-727-6600

Address

Telephone No.

Baltimore

MD

21201

City

State

Zip Code

Legal Owner(s):

STEVE WHALEN

Whalen Properties Limited Partnership

Name - Type or Print

Steve Whalen

Signature

Name - Type or Print

Signature

2 West Rolling Crossroads

410-747-2900

Address

Telephone No.

Baltimore

MD

21228

City

State

Zip Code

Representative to be Contacted:

William Monk, Inc.

Name

222 Bosley Ave., Suite B-6 410-494-8931

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By WCR Date 9-3-99

Case No. 00-100-A

REV 9/15/98

DROP-OFF

No REVIEW

DATE RECEIVED FOR FILING
10/25/99
By

**ZONING DESCRIPTION
NEXTEL COMMUNICATIONS (SITE # MD 298)
311 W. KENWOOD AVENUE
1ST ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point at the end of Kenwood Avenue (40 foot right-of-way), a distance of 1,450 feet, more or less, from the Western right-of-way line of Wilkens Avenue, thence running the following courses and distances to the point of beginning; South 74 degrees 56 minutes 30 seconds West, 84.42 feet, North 78 degrees 16 minutes 49 seconds West, 217.91 feet, North 10 degrees 16 minutes 50 seconds East, 234.45 feet, North 39 degrees 27 minutes 35 seconds West, 46.61 feet, North 47 degrees 47 minutes 07 seconds West, 100.50 feet, North 57 degrees 18 minutes 36 seconds West, 150.33 feet, North 67 degrees 31 minutes 55 seconds West, 96.89 feet; and running thence the following courses and distances; (1) North 67 degrees 31 minutes 55 seconds West 6.19 feet, thence (2) North 53 degrees 29 minutes 45 seconds West 38.0 feet, thence (3) South 36 degrees 30 minutes 15 seconds West 74.50 feet, thence (4) South 53 degrees 29 minutes 45 seconds East 13.0 feet, thence (5) North 36 degrees 30 minutes 15 seconds East 23.50 feet, thence (6) South 53 degrees 29 minutes 45 seconds East 31.0 feet, thence (7) North 36 degrees 30 minutes 15 seconds East 51.52 feet to the point of beginning.

Containing 0.059 acres of land, more or less.



00-100-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 072238

DATE 9/3/99 ACCOUNT 001-6150

AMOUNT \$ 350.00

RECEIVED FROM:

Rosenberg, David Funk + Greenburg

FOR:

#00-100-A

311 W Kenwood Ave

Drug-off - Mr. Fournier

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS ACTUAL

TIME

09/01/1999 9/07/1999 16:18:26

REG 10303 CASHIER PAGES FEW DRAFTER 3

09/01 5 528 ZONING VERIFICATION

Receipt # 072238

DEPT

CR NO. 072238

Receipt Tot

250.00

250.00 OK

00 CR

Baltimore County, Maryland

CASHIER'S VALIDATION

A-001-00

CERTIFICATE OF POSTING

RE: CASE # 00-100-A
PETITIONER/DEVELOPER:
(Nextel Communications)
DATE OF Hearing
(Oct. 19, 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
311 West Kenwood Ave. Baltimore, Maryland 21228_____

The sign(s) were posted on _____ 10-4-99 _____
(Month, Day, Year)

Sincerely,

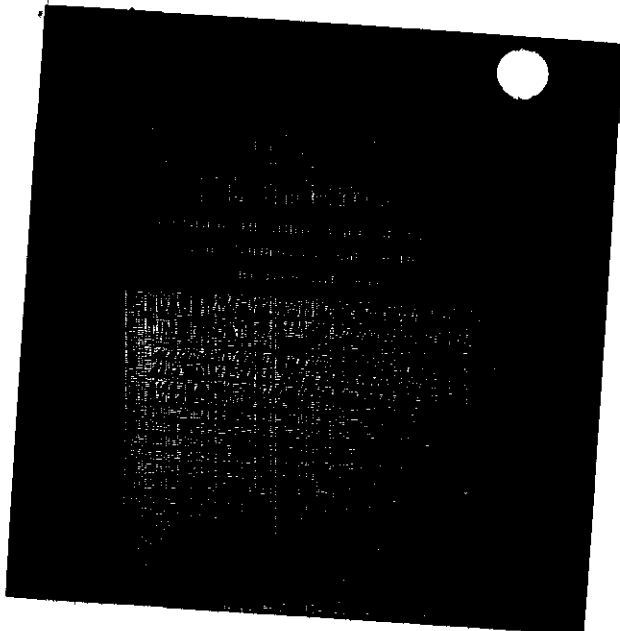

(Signature of Sign Pester & Date)

_____ Thomas P. Ogle, Sr. _____

_____ 325 Nicholson Road _____

_____ Baltimore, Maryland 21221 _____

_____ (410)-687-8405 _____
(Telephone Number)



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 072233

DATE 9/3/99 ACCOUNT 001-6150

AMOUNT \$ 250.00

RECEIVED FROM:

Rosenberg, David Funk + Greenberg

FOR:

#00-100-A

311 W Karwood Ave
Drop-off - Mr. Fenwick

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS ACTUAL TIME

9/08/1999 9/07/1999 16:18:26

RES #003 CASHIER PUES PEN DROPPED 3

Drop 5 028 ZINING VERIFICATION

Receipt # 097478 07/11

CR #11 072233

Receipt Tot

250.00

250.00 CR

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: CASE # 00-100-A
PETITIONER/DEVELOPER:
(Nextel Communications)
DATE OF Hearing
(Oct. 19, 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
311 West Kenwood Ave. Baltimore, Maryland 21228__

The sign(s) were posted on____ 10-11-99 ____
(Month, Day, Year)

Reposted because 1st. sign was removed from site.

Sincerely,

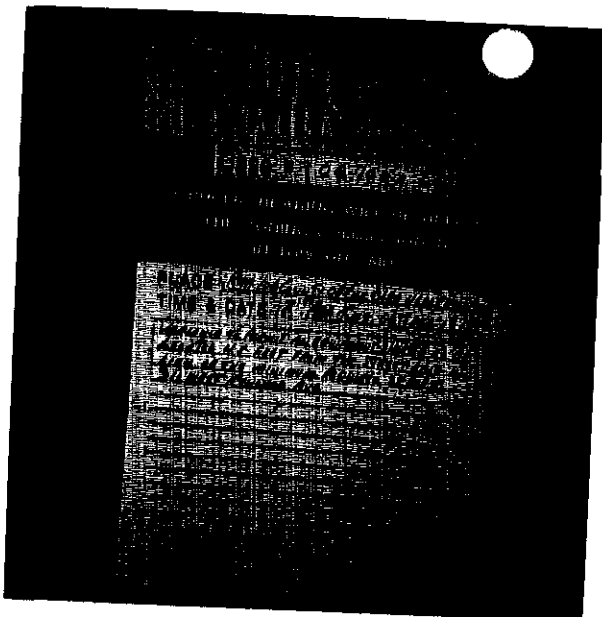

(Signature of Sign Poster & Date)

____ Thomas P. Ogle, Sr. ____

____ 325 Nicholson Road ____

____ Baltimore, Maryland 21221 ____

____ [410]-687-8405 ____
(Telephone Number)



**NOTICE OF ZONING
VARIANCE**

The Zoning Commission 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 #00-100-A
311 West Kenwood Avenue
NW/land Kenwood Avenue,
NW off Wilkens Avenue at the
beltway (I-685)
1st Election District
1st Councilmanic District
Legal Owner(s): Whalen Properties Limited Partnership
Contract Purchaser: Nexel Communications

Variance: to permit an equipment shelter to be located 4.5 feet from the street line in lieu of the minimum required 35 feet.

Hearing: Tuesday, October 19, 1999 at 2:00 p.m. in Room 106, County Office Bldg., 111 West Chesapeake Avenue.

LAWRENCE 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) 887-4391.
9/30/99 Sept 30 C342727

CERTIFICATE OF PUBLICATION

TOWSON, MD., 9/30, 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 9/30, 1999.

THE JEFFERSONIAN,

J. Wilkins

LEGAL ADVERTISING

RE: PETITION FOR VARIANCE
311 W. Kenwood Avenue, NW/end Kenwood Ave,
NW off Wilkens Ave at the Beltway (I-695)
1st Election District, 1st Councilmanic

Legal Owner: Whalen Properties LP
Contract Purchaser: Nextel Communications
Petitioner(s)

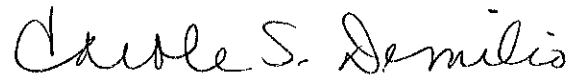
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 00-100-A

* * * * *

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 16th day of September, 1999 a copy of the foregoing Entry of Appearance was mailed to Stanley S. Fine, Esq., Rosenberg, Proutt, Funk, 25 S. Charles Street, Suite 2115, Baltimore, MD 21201, attorney for Petitioners.


PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

September 21, 1999

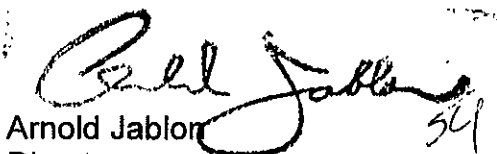
NOTICE OF ZONING HEARING

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CASE NUMBER: 00-100-A
311 West Kenwood Avenue
NW/end Kenwood Avenue, NW off Wilkens Avenue at the beltway (I-695)
1st Election District – 1st Councilmanic District
Legal Owner: Whalen Properties Limited Partnership
Contract Purchaser: Nextel Communications

Variance to permit an equipment shelter to be located 4.5 feet from the street line in lieu of the minimum required 35 feet.

HEARING: Tuesday, October 19, 1999 at 2:00 p.m. in Room 106, County Office Building, 111 West Chesapeake Avenue


Arnold Jablon
Director

c: Stanley Fine, Esquire, 25 S. Charles Street, Suite 2115, Baltimore 21201
Whalen Properties Ltd. Partner., 2 W. Rolling Road Crossroads, Baltimore 21228
Nextel Communications, 4340 East-West Highway, Suite 800, Bethesda 20814
William Monk, Inc., 222 Bosley Avenue, Suite B-6, Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY OCTOBER 4, 1999.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



TO: PATUXENT PUBLISHING COMPANY
Thursday, September 30, 1999 Issue – Jeffersonian

Please forward billing to:

Stanley S. Fine, Esquire
Rosenberg Proutt Funk & Greenberg, LLP
25 South Charles Street
Suite 2115
Baltimore, MD 21201

410-727-6600

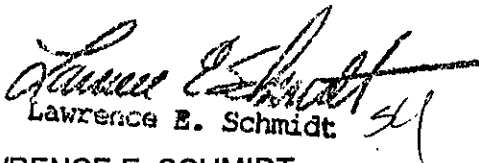
NOTICE OF ZONING HEARING

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CASE NUMBER: 00-100-A
311 West Kenwood Avenue
NW/end Kenwood Avenue, NW off Wilkens Avenue at the beltway (I-695)
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Variance to permit an equipment shelter to be located 4.5 feet from the street line in lieu of the minimum required 35 feet.

HEARING: Tuesday, October 19, 1999 at 2:00 p.m. in Room 106, County Office Building, 111 West Chesapeake Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, 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.



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

October 15, 1999

Mr. Stanley Fine
Rosenberg Proutt Funk & Greenberg, LLP
25 S. Charles Street, Ste 2115
Baltimore, MD 21201

Dear Mr. Fine:

RE: 00-100-A , 311 W. Kenwood Avenue

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

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, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:rsj

Enclosures





**Baltimore County
Fire Department**

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

September 27, 1999

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: Ann Carol & George G. Cowman - 078
Reister: Lown United Methodist Church, Inc.
099
Whalen Properties Limited Partnership - 100

Location: DISTRIBUTION MEETING OF September 13, 1999

Item No.: 078, 099, and 100

Dear Ms. Stephens:

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

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

REVIEWER: LIEUTENANT HERB TAYLOR, Fire Marshal's Office
PHONE 887-4500, MS-1102F

cc: File

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



Printed with Soybean Ink
on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

Date: September 20, 1999

FROM:  Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for September 20, 1999
Item Nos. 070, 073, 074, 075, 076,
077, 079, 080, 081, 082, 083, 084,
085, 086, 087, 088, 090, 091, 092,
093, 094, 097, 098, 099, and 100

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


RWB:HJO:jrb

cc: File

ZAC09209.NOC

10/19
JES

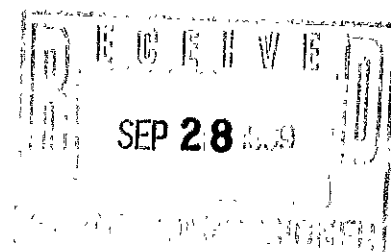
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 28, 1999

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



SUBJECT: 311 W. Kenwood Avenue

INFORMATION:

Item Number: 00-100A
Petitioner: Whalen Properties Limited Partnership/ Nextel Communications
Property Size: .059 acres
Zoning: OR 2
Requested Action: Variance
Hearing Date:

The subject property is located at the terminus of West Kenwood Avenue and adjacent to the Baltimore Beltway, I-695. Existing improvements consist of a 25-foot high, Cell One communication tower. The proposal is to co-locate up to 12 panel type antennas on an approved 125 foot high monopole and construct an additional equipment building necessitated by this co-location. The variance requested is for a 4.5-foot setback from the street property line, which is actually the I-695 property line.

Co-location of antennas is consistent with the Baltimore County Zoning Regulations.

SUMMARY OF RECOMMENDATIONS:

A landscape plan should be submitted to Avery Harden, County Landscape Architect to provide adequate screening for the 1-story equipment building from I-695.

Section Chief:

AFK:DI:lsn



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

September 13, 1999

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

RE: Baltimore County
Item No. 100 (WCR)
311 West Kenwood Avenue
@ I-695

Dear Ms. Stephens:

We have reviewed the referenced item and have no objection to approval, as it does not access a State roadway and will not be permitted access to I-695.

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 Kenneth A. McDonald Jr.
Acting Chief
Engineering Access Permits Division

LG

My telephone number is _____

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

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



Baltimore County
Department of Permits and
Development Management

J.F. CONTACTED + FAXED
PER HIS ROST 1/10/00

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

January 7, 2000

Stanley S. Fine, Esquire
Rosenberg, Proutt, Funk & Greenberg, LLP
25 South Charles Street
Suite 2115
Baltimore, MD 21201

Dear Mr. Fine:

RE: Drop-Off Petition Review, Case Number 00-100-A, 311 West Kenwood Avenue

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

The title indicating authority of Steve Whalen is missing; also the same applies to whoever signed for the contract purchaser. The signature is illegible and the name is not typed or printed as required on the petition form.

The definition in Section 101, BCZR, in part, defines street as "...not a freeway or expressway..." Section 206.4.C.2 refers to street line setbacks of 35 feet. A more appropriate variance would be to any lot line, other than a street line, as stated under Section 206.4.C.1 where a 20-foot or equal to the height of the building setback (whichever is greater) is required. Since the 35-foot street setback is more restrictive than the 20-foot lot line setback, staff does not oppose the request but this should be clarified.

If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Very truly yours,

John L. Lewis
Planner II
Zoning Review



WILLIAM MONK, INC.**ENGINEERS • PLANNERS**

COURTHOUSE COMMONS, SUITE B-6
222 BOSLEY AVENUE, TOWSON, MD 21204-4302
410-494-8931 • FAX 410-494-9903

TO: PDM
1st FLOOR
111 W. CHESAPEAKE AVE.
TOWSON, MD 21204

LETTER OF TRANSMITTAL

Date <u>8/31/99</u>	Our Job No. <u>99-0738</u>
Attention <u>SPRUE JENNINGS</u>	
Re: <u>311 W. KENWOOD AVE</u>	
<u>NEXTEL COMMUNICATIONS</u>	

WE ARE SENDING YOU: ☒ Attached ☐ Under separate cover via _____ the following items:

- | | | | |
|---------------------------------|---|---|--|
| ☐ Prints | ☐ Disk | ☐ Specifications | ☐ Shop drawings |
| ☐ Plans | ☐ Copy of letter | ☐ Change order | ☐ Other |

QTY.	DESCRIPTION	ACTION
<u>1</u>	<u>DROP-OFF LETTER</u>	
<u>1</u>	<u>APPLICATION FEE</u>	
<u>3</u>	<u>APPLICATION FORM</u>	
<u>3</u>	<u>ZONING DESCRIPTION</u>	
<u>1</u>	<u>ZONING MAP</u>	
<u>12</u>	<u>SITE PLAN</u>	

THESE ARE TRANSMITTED AS CHECKED BELOW:

- | | | |
|---|---|---|
| ☐ For approval | ☐ As requested | ☐ Prints returned after loan to us |
| ☐ For your use | ☐ For review and comment | ☐ Per _____ |
| ☐ For bids due _____ | ☒ Other <u>DROP-OFF</u> | |

REMARKS:

COPY TO: _____

SIGNED: John Plummer

If enclosures are not as noted, please notify us at once.

00-100-A

\$100

WILLIAM MONK, INC.

ENGINEERS • PLANNERS

August 31, 1999

PDM
1st Floor
111 W. Chesapeake Avenue
Towson, MD 21204

Subject: Zoning application drop-off
311 W. Kenwood Ave.
Nextel Communications
WMI Project No.: 99-073B

Attached please find the application forms, plats and exhibits to accompany our drop-off. There are no outstanding zoning violations for this property. This plan has not been reviewed by PDM staff.

Cordially,



William P. Monk

Encl.

00-100-A

Section 426
Wireless Telecommunications Facilities
[Bill No. 30-1998²⁶]

426.1 Definitions. In this section, the following words have the meanings indicated:

ANTENNA — A wireless telecommunications antenna.

CODE OFFICIAL — The Director of the Department of Permits and Development Management or the Director's designee.

COMMITTEE — The Tower Review Committee established under Section 426.4.

OWNER — The owner, agent, lessee or person in control of a wireless telecommunications tower.

PROVIDER — A wireless telecommunications service provider.

TOWER — A wireless telecommunications tower.

426.2 Legislative policy for siting or wireless telecommunications antennas and towers. It is the intent of Baltimore County that:

- A. Antennas should be placed on existing towers, buildings and structures, including those of public utilities, where feasible; and
- B. If a new tower must be built, the tower should be:
 - 1. Constructed to accommodate at least 3 providers.
 - 2. Erected in a medium or high intensity commercial zone when available; and
 - 3. Located and designed to minimize its visibility from residential and transitional zones.

426.3 Exceptions. The provisions of this section do not apply to:

- A. Antennas or towers serving gas and electric or land-based local telephone public utility locations needs at existing facilities, provided that a public utility that owns any antennas or towers shall establish that the antennas or towers and service meet critical communications needs for public safety; or
- B. Antennas used by cable systems operating in accordance with Title 8 of the Baltimore County Code, 1988, as amended, if located on property owned by the county, state or federal government.

²⁶ Editor's Note: This bill also repealed former Section 426, Wireless Transmitting or Receiving Structures, added by Bill No. 64-1986. In addition, Section 5 of Bill No. 30-1998 provided that "...this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any person who has had a hearing on a proposed tower before the Zoning Commissioner before the effective date of this Act" (March 30, 1998), and Section 6 of Bill No. 30-1998 provided that "...the provisions of this Act shall be interpreted consistent with the Telecommunications Act of 1996."

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

BILL MONTG

222 BASLEY AVE

SUITE B-6

TOWSON, MD 21204

Sean Hughes

4340 East-West Hwy

#800

Bethesda, MD 20814

STANLEY S. FINK

25 S. CHARLES ST, SUITE 2115

BALTO, MD 21201

JOE GETZENDAUER

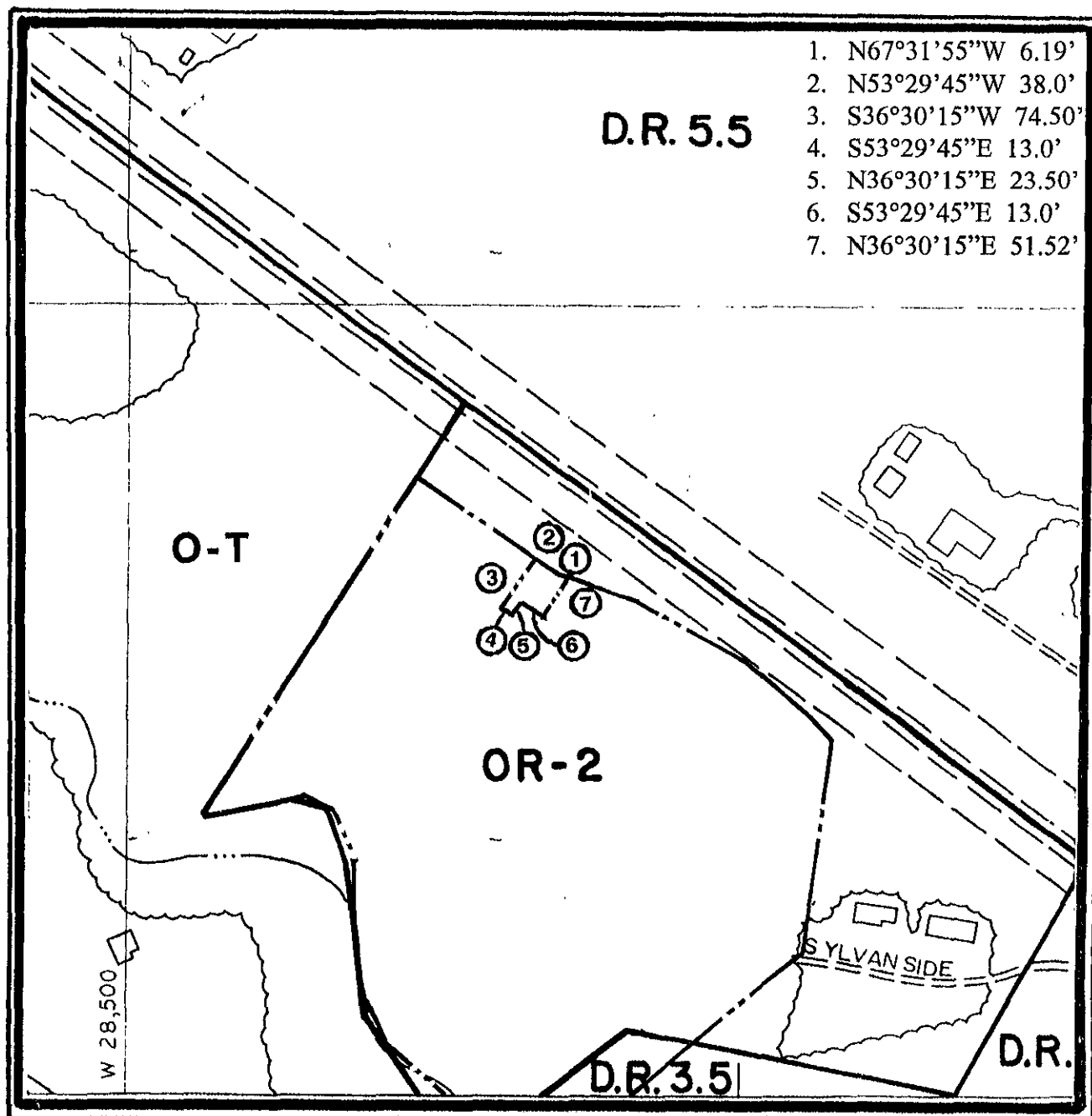
330 W. KENWOOD AVE

4100 KENWOOD PARADISE

CATONSVILLE, MD 21228

CGM ASSN.





ZONING MAP

WILLIAM MONK, INC.
 SITE PLANNING • ENGINEERING
 ZONING • DEVELOPMENT SERVICES
 COURTHOUSE COMMONS
 222 BOSLEY AVENUE, SUITE B-6
 TOWSON, MD 21204
 410-494-8931; fax 410-494-9903

NEXTEL COMMUNICATIONS SITE # M298

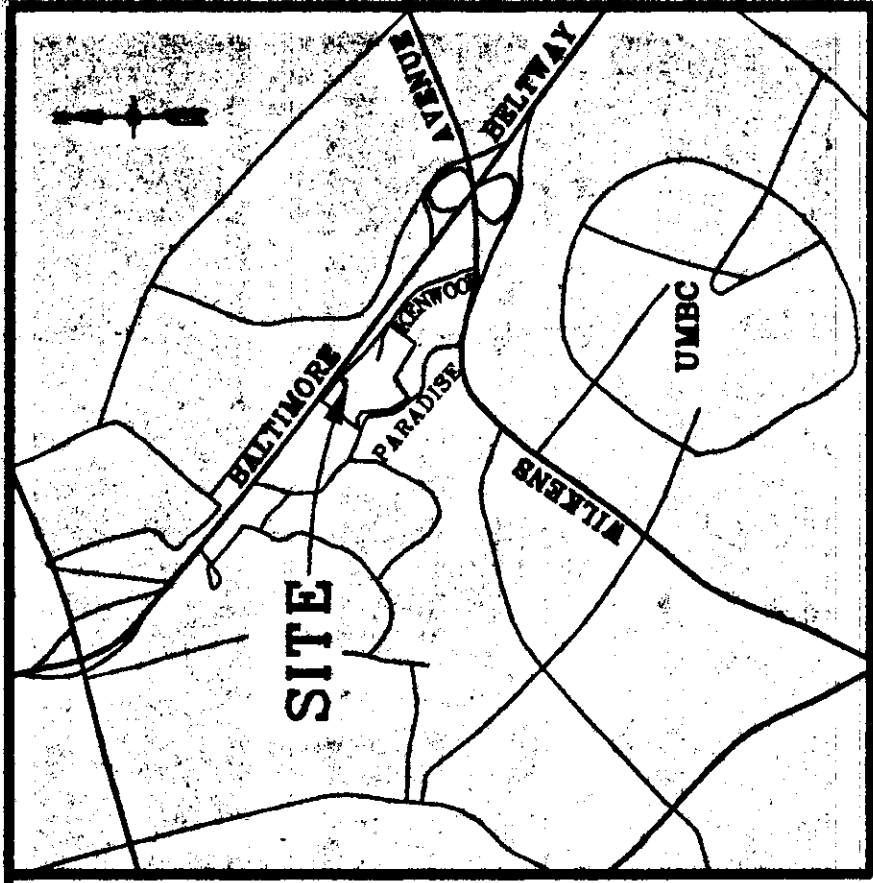
**311 W. KENWOOD AVE.
 BALTIMORE COUNTY, MARYLAND**

**MAP #
 SW 3-E**

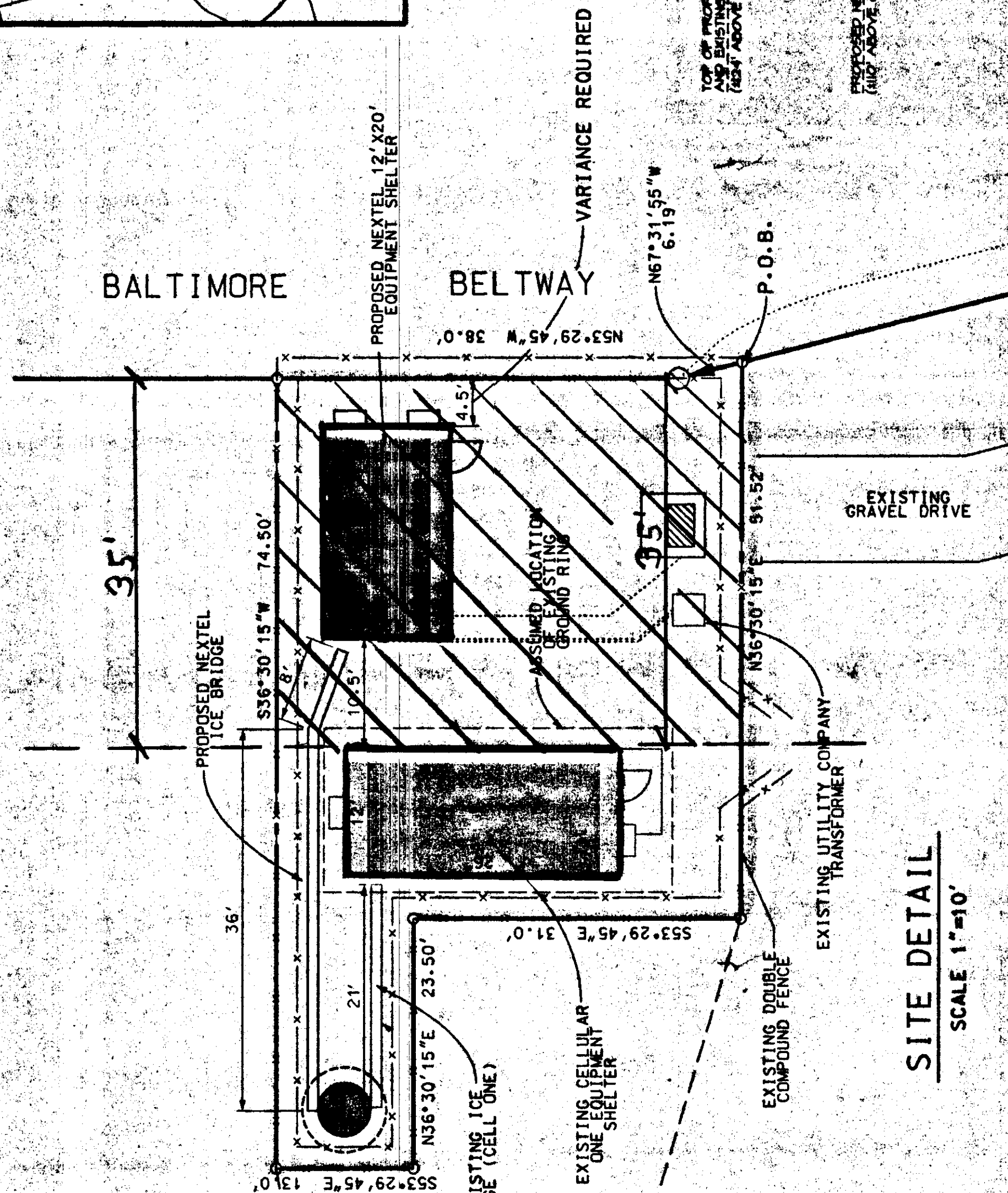
**SCALE
 1"=200'±**

**FILE #
 99-073B**

00-100-A

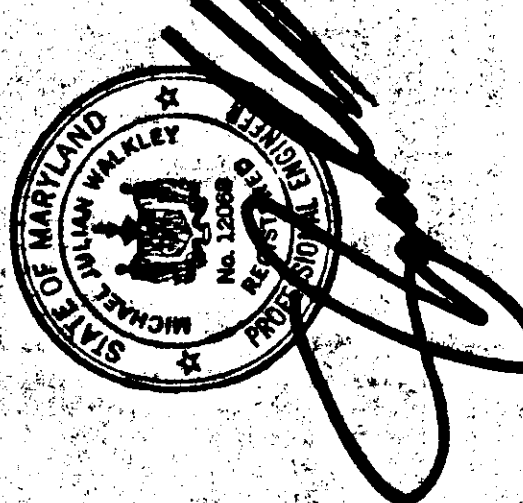


VICINITY MAP
SCALE: 1"=2000'



SITE DETAIL
SCALE 1"=10'

- NOTES:
1. ZONING: OR-2 OFFICE BUILDING-RESIDENTIAL
 2. LOT AREA: 1.00 AC. (13,600 SQ. FT.)
 3. AREA OF VARIANCE PETITION: 2,555 SQ. FT. (0.058 AC.)
 4. EXISTING USE: OFFICE BUILDING
 5. PROPOSED USE: CO-LOCATION OF UP TO 12 PANEL TYPE ANTENNAS ON EXISTING CELL TOWER
 6. BUILDING SETBACKS: 20' FRONT (KENWOOD), 20' INTERIOR SIDE
 7. BUILDING AREA: ACCESSORY BUILDINGS AS NOTED ON THE PLAN. (240 SQ. FT.)
 8. PARKING: NO PARKING SPACES ARE REQUIRED.
 9. UTILITIES: NO WATER OR SANITARY SEWER IS REQUIRED FOR THIS FACILITY.
 10. VARIANCE: NO PERMIT TO BUILD SETBACK OF 5' FROM A LOT LINE IS REQUIRED (SECTION 206.4 C.(2)).
 11. ELECTION DISTRICT: 1ST
 12. CENSUS TRACT: 4016.02
 13. DEED REFERENCE: 7657/730
 14. PROPERTY ACCOUNT NO.: 0112840560
 15. TAX MAP 101, GRID 15, PARCEL 516
 16. HEIGHT OF TOWER: 125'
 17. NO CRITICAL AREAS EXIST ON SITE.
 18. NO HAZARDOUS MATERIALS EXIST ON SITE.
 19. AMENITY OPEN SPACE: NA
 20. OUTDOOR LIGHTING: NO ADDITIONAL SITE OR ANTENNA LIGHTS ARE PROPOSED.
 21. SIGNS: NO SIGNS ARE PROPOSED FOR THIS FACILITY.
 22. ZONING HEARINGS: NONE
 23. ENVIRONMENTAL PROTECTION AGENCY STANDARDS AND GUIDELINES RELATING TO RADIATION EMISSIONS SHALL BE MET AT ALL TIMES.
 24. WHEN USE IS TERMINATED EQUIPMENT AND ANTENNAS WILL BE REMOVED.
 25. DAMAGE TO ADJACENT PROPERTY OR INTERFERENCE WITH SUBSTANTIAL EMISSIONS IN ANY MANNER SHALL BE FILLED WITH THE DEPARTMENT OF ENVIRONMENTAL AND PLANNING RECORDS.
 26. ALL SAFETY REQUIREMENTS, INCLUDING UPGRADING OF MAIN INTERSECTIONS, SHALL BE COMPLETED PRIOR TO THE FILING OF SUCH CERTIFICATION.
 27. THE ACCESSORY BUILDINGS ARE ENCLOSED BY AN 8' HIGH CHAIN LINK FENCE COMPOUND AREA WITH GATES (LOCKED).
 28. PROPERTY OWNER: WHALEN PROPERTIES LIMITED PARTNERSHIP, SUITE 200, 4310 EAST WEST HIGHWAY, SUITE 800, BALTIMORE, MARYLAND 21204
 29. APPLICANT: NEXTEL COMMUNICATIONS, 311 W. KENWOOD AVENUE, SUITE 200, BALTIMORE, MARYLAND 21204



William Monk, Inc.
ENGINEERS - PLANNERS
Court House Commons
200 Realty Avenue, Suite 200
Baltimore, Maryland 21204
Phone: 410-494-5851, FAX 410-494-9603

PLAN TO ACCOMPANY VARIANCE
HEARING

NEXTEL COMMUNICATIONS

311 W. KENWOOD AVENUE
(SITE • MD 298)
BALTIMORE COUNTY, MARYLAND

DATE	BY	REVISION	SCALE
10/1/04	WMM	1	1"=10'



Baltimore County
Zoning Commissioner

October 26, 1999

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

Stanley S. Fine, Esquire
Rosenberg Proutt Funk & Greenberg, LLP
25 S. Charles Street, Suite 2115
Baltimore, Maryland 21201

RE: PETITION FOR VARIANCE
SW/S Kenwood Avenue, 1,450' W of the c/l Wilkens Avenue
(311 W. Kenwood Avenue)
1st Election District – 1st Councilmanic District
Whalen Properties, L.P. and Nextel Communications - Petitioners
Case No. 00-100-A

Dear Mr. Fine:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance 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. Steve Whalen, Whalen Properties L.P.
2 West Rolling Crossroads, Baltimore, Md. 21228
Mr. Sean Hughes, Nextel Communications
4340 East-West Highway, Suite 800, Bethesda, Md. 20814
Mr. William P. Monk
222 Bosley Avenue, Suite B-6, Towson, Md. 21204
Mr. Joe Getzendanner
330 W. Kenwood Avenue, Catonsville, Md. 21228
People's Counsel; Case File

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

