

IN THE MATTER OF:

JOYCE GRAY

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No. 01-C-3898
* 01-C-3682

* * * * *

RECEIVED
COUNTY BOARD OF APPEALS
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OPINION

On April 15, 1980, the Zoning Commission approved a non-conforming use of 335 Back River Neck Road for storing four (4) garbage trucks used in sanitary waste removal and for operating a piggery. The owners of 335 Back River Neck Road, Ella and John Brown, filed a Petition for a Special Hearing to modify their site plan to reflect changes to their property. Appellant Gray, the Browns's neighbor, opposed that Petition. On December 9, 1999, the Zoning Commission granted the Browns's Petition. On March 9, 2001, the Baltimore County Board of Appeals affirmed the Zoning Commission. Ms. Gray appealed the matter to the Circuit Court as an appeal pursuant to the Maryland Rules. This court has thoroughly reviewed the transcript of the proceedings below and all Memoranda submitted by counsel, and affirms the judgment.

The standard of review for an administrative appeal is whether a reasoning mind could have reached the same conclusion as the agency. State Ins. Comm'r v. National Bureau of Casualty Underwriter, 248 Md. 292 (1967). It is not this Court's responsibility to substitute its judgment for that of the agency.

This Court finds that the following recitation of this case is supported by the record. At

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Alon: Hookin, Vance. BOA

the time that the Zoning Commission initially approved the non-conforming use in 1980, the property was 9.4 acres. Since 1980, portions of the property have been conveyed to other people, and the size of the property has been reduced from 9.4 acres to .95 acres. In 1997, Appellant built a residential home on the lot next to the Browns. Appellant claimed that she was disturbed by the operation of the waste removal business on the Brown property. Subsequently, the Browns petitioned the Zoning Commissioner for a special hearing to modify their site plan to reflect the changes in the property. The piggery operation has since been abandoned.

Appellant's primary argument is that the reduction in the size of the Brown property constitutes an improper extension of the non-conforming use. In support of her argument, Appellant cites the case of County Commissioners of Carroll County v. Zent, 86 Md. App. 745 (1991), which lists the factors to be considered in determining whether an activity is within the scope of a non-conforming use:

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

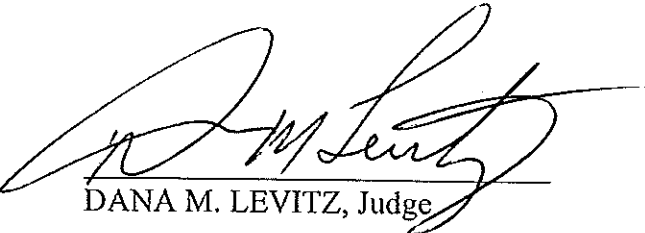
Id. at 753.

This Court concludes that these four (4) elements do not apply to the present case. As to the first element, the nature and purpose of the original non-conforming use is exactly the same as it was in 1980. The site was originally approved for a waste removal business, and the site continues to operate for that purpose today. As to the second element, the character, nature, and

kind of use is also exactly the same as it was in 1980. There are still only four (4) garbage trucks used and stored on the property, and the waste removal operation has not expanded or grown since 1980. The third element does not apply, because while the property surrounding the site has changed, the current use of the Brown property has remained the same. As to the fourth element, the size of the waste removal business has remained the same; just the size of the property upon which it is conducted has been reduced. Therefore, the fourth element does not apply.

In conclusion, this Court is convinced that there is substantial evidence supporting the findings and judgment below, and therefore, the decision is AFFIRMED.

10/5/01
DATE


DANA M. LEVITZ, Judge

Cc: Thomas Gisriel, Esq.
Deborah Dopkin, Esq.

9/21/01

cd/pmr

PETITION OF
JOYCE GRAY
337 BACK RIVER NECK ROAD
BALTIMORE, MARYLAND 21221

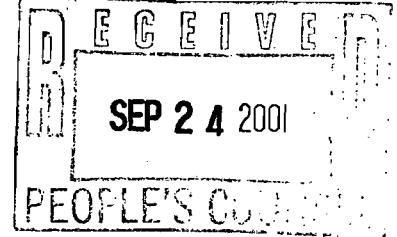
Protestant

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY

IN THE MATTER OF THE APPLICATION OF
ELLA L. & JOHN E. BROWN - LEGAL OWNERS
/PETITIONERS FOR A SPECIAL HEARING
ON PROPERTY LOCATED ON THE NE/SIDE
BACK RIVER NECK ROAD, 247' NW OF C/L
BROWNS ROAD (335 BACK RIVER NECK
ROAD) 15TH ELECTION DISTRICT, 5TH
COUNCILMANIC DISTRICT

* IN THE
* CIRCUIT COURT
* OF
* MARYLAND
* FOR
* BALTIMORE COUNTY

Civil Action No.:
03-C-01- 003682 AE



00-157-SPH

* * * * *

APPELLANT'S POST-HEARING MEMORANDUM

Joyce Gray, Appellant, respectfully submits this Post-Hearing Memorandum.

At the argument of this matter on September 20, 2001, counsel for Appellee, Deborah C. Dopkin, cited two cases, *Pierce v. Montgomery County*, 116 Md.App. 522 (1997) and *Wilson v. Mayor and Commissioners of Town of Elkton*, 35 Md.App. 417 (1977), which she claimed stood for the proposition that determination of whether a nonconforming use has been extended or intensified is a question of fact, which is, therefore, subject to the "fairly debatable" test. Counsel for Appellee had not previously cited these cases in her memorandum.

Having now had an opportunity to review those cases, Appellant submits this Post-Hearing Memorandum to address those cases and that issue.

The most noteworthy characteristic of the two cases cited by the Appellee is that neither one

of them deals with extension or intensification of a nonconforming use. *Wilson v. Mayor and Commissioners of Town of Elkton, supra*, addresses the granting of a zoning variance. *Pierce v. Montgomery County, supra*, addressed the modification of a special exception.

The Court of Appeals has directly addressed the diacotomy of issues of fact and issues of law in considering whether certain acts constitute an extension or intensification of a nonconforming use.

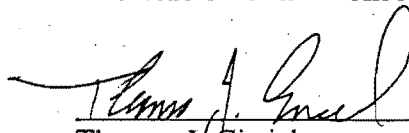
The Court stated:

It is apparent that these appeals relate to different aspects of the same question. One, as to whether the use of the western most part of the junkyard for storage purposes was casual or deliberate is primarily a question of fact. The other, as to whether the increase in height and quantity of scrap metal was an extension or an intensification of a vested nonconforming use, is primarily a question of law.

Feldstein v. LeVale Zoning Board, 246 Md. 204, 209 (1967).

Clearly, the Court of Appeals contemplates, that a determination of whether certain facts constitute an extension or intensification of a nonconforming use is a question of law. In this case, the facts regarding the change in the size of the property are undisputed. Determining whether those facts constitute and intensification or expansion of a nonconforming use is a question of law.

Certainly, the opinion of the Board of Appeals in this matter made no findings of fact that the 90% reduction of the land upon which the nonconforming use has taken place in this matter constituted merely an intensification, and not an extension of this nonconforming use.

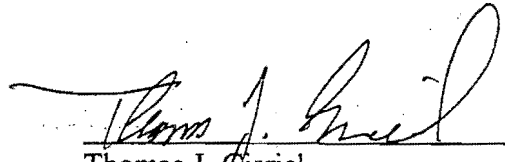


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410-938-8800

Attorney for Joyce Gray, Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of September 2001 a copy of the foregoing Appellant's Post Hearing Memorandum was mailed, postage prepaid, to Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, Maryland 21204 and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.



Thomas J. Gisriel

9/4/01

PETITION OF
JOYCE GRAY
337 BACK RIVER NECK ROAD
BALTIMORE, MARYLAND 21221

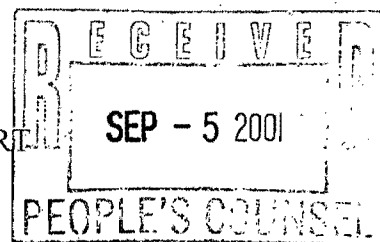
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Civil Action No.:
03-C-01- 003682 AE



* * * * *

APPELLANT'S REPLY MEMORANDUM

Joyce Gray, Appellant, respectfully files this Reply Memorandum pursuant to Rule 7-207 of the Maryland Rules of Procedure.

1. The Appellees Advocate the Wrong Standard of Review

In their Memorandum, the Appellees argue that the decision of the Board of Appeals should be affirmed if it is "fairly debatable." Appellees are wrong regarding the standard of review in this case.

The source of the Appellees' error is apparent from the first sentence of this section of their Memorandum. They state "Judicial review of factual issues is very narrow." Appellant's agrees with this general statement and further agrees that the appropriate standard for a review of a factual

issue is whether the finding is fairly debatable. This case, however, does not present a dispute regarding a factual issue.

As Appellant stated in her initial Memorandum, "the facts in this case are largely undisputed." (Appellant's Memorandum at p. 2). Both parties agree that the non-conforming use in this matter, parking commercial vehicles, was approved for a specific area within a 9.4 acre property. (See Appellees' Memorandum at p. 3). The July 3, 1979 site plan that accompanied the original Petition for a non-conforming use. (Petitioner's Exhibit 2 before the Board of Appeals, T. Day 1, p. 36. attached hereto as Exhibit 1) shows the property consisting of 9.4 acres and specifically shows the area for the truck parking.

It is undisputed that the Appellees' current property is only 0.95 acres and it contains the area originally designated for the truck parking. This is shown on Exhibit 2, (Petitioner's Exhibit 3 from the hearing before the Board of Appeals, T. Day 1, pp. 36-37). For clarity, the location of the property of Appellant, Ms. Gray, is highlighted in yellow.

There is no dispute regarding these facts. There is no necessity to determine whether the factual conclusions of the Board of Appeals are correct. The question is whether the law has been applied properly.

Article 25A, §5(U) of the Maryland Code grants Circuit Courts the power to reverse a decision of the Board of Appeals if the Board's decision is "not in accordance with law." Where, as the case here, the question presented to a reviewing court is a question of law, the court's review is expansive and the court may substitute its judgment for that of the administrative agency. *Harford County v. McDonough*, 74 Md.App. 119 (1988); *Gray v. Anne Arundel County*, 73 Md.App. 301, 309 (1987).

The "fairly debatable" standard advocated by the Appellees in this matter is not the proper standard to apply in this matter. Rather, in this case which raises only an issue of law, the Court's review is expansive and the Court may substitute its judgment for that of the administrative agency.

**2. The Question of Whether the Reduction of Land
Constituted an Enlargement or Expansion of the
Non-Confirming Use Was Raised in the Hearing Below**

The question of whether the Petitioner could continue the non-conforming use in light of the reduction of acreage of the property was the entire purpose of the application for the special hearing in this matter. Indeed, the Board's opinion notes that the request is for "a special hearing on a request for modification to previously approved development plan." (Opinion at p.1).

The Petitioner specifically raised the question of whether the non-conforming use had been enlarged or expanded in the case below. (T. Day 1, pp. 43, 63-64, 75). Throughout this proceeding, the question of whether the reduction of the size of the property upon which the non-conforming use takes place was apparent to the Appellees.

Appellant's argument is based upon the facts that were developed before the Board of Appeals. It concerns issues addressed in the hearing before the Board of Appeals. This argument is appropriate before the Circuit Court for Baltimore County.

**3. Maintaining the Same Non-Conforming Use, But Reducing
The Size of the Property By 90% Constitutes An Impermissible
Enlargement or Extension of the Non-Conforming Use**

In light of the undisputed facts, there can be little question that there has been a substantial change in the property from the time when the non-conforming use was approved. When the non-conforming use was approved, it took place on property consisting of 9.4 acres. The non-conforming use covered only a very small proportion of the property. (See Exhibit 1).

Now, the Petitioner seeks approval to conduct the same non-conforming use after 90% of the property has been removed. The property of the Appellant, Ms. Gray, was a part of the 9.4 acre property for which the non-conforming use was approved. (See Exhibits 1 and 2).

This case must be considered in the context of the policy of zoning regulations regarding non-conforming uses. "The basic premise underlying zoning regulations is to restrict, rather than expand non-conforming uses." *Jahnigen v. Staley*, 245 Md. 130, 137 (1967). "This is so because the spirit underlying zoning regulations is to restrict rather than increase non-conforming uses." *Phillips v. Zoning Commissioner of Howard County*, 225 Md. 102, 109 (1961).

The courts have recognized four factors to be considered in determining whether a non-conforming use has been improperly extended or merely intensified:

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

McKemy v. Baltimore County, 39 Md.App. 257, 269-170 (1978); *County Commissioners of Carroll County v. Zent*, 86 Md.App. 745, 753-754 (1991).

A review of these factors shows this 90% reduction of the size of the property constitutes an illegal extension of the non-conforming use.

1. Although the current non-conforming use is similar to the original non-conforming use, in that the parking area is the same and the purpose, parking trash removal trucks, is the same, the current use is drastically changed from the non-conforming use that was originally approved because it takes place on property which is 10 times smaller than the property on which the non-conforming use was originally approved.

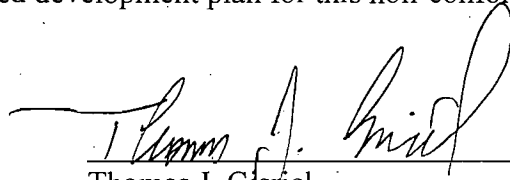
2. The current use constitutes a use different in character, nature and kind from the original non-conforming use because it takes place on a much smaller piece of land. When the non-conforming use was approved, the land which the Appellant now occupies was a part of the parcel. Now, it is no longer part of the parcel. Rather, it now contains a residence which is immediately adjacent to the non-conforming use. The much smaller size of the lot upon which the non-conforming use takes place, and the use of the land which previously had been part of the non-conforming parcel, constitute a significantly different character, nature and kind of use.

3. The non-conforming use has a substantially different effect upon the neighborhood now than it did when it was approved in 1980. The construction of a residence upon land which had previously been a part of the non-conforming use significantly changed the neighborhood. This residence is much closer to the non-conforming use than at the time the non-conforming use was approved. Because the residence is much closer to the non-conforming use it has a much greater negative effect on the neighborhood.

4. The current use is a drastic enlargement of the original non-conforming use. The size of the parcel upon which the non-conforming use has been reduced by 90%. Thus, the effect of the non-conforming use upon the parcel on is proportionately much greater. Certainly, the growth is far

greater than the maximum of 25% which is permitted by §104.1 of the Baltimore County Zoning Regulations.

Applying the undisputed facts in this case, the conclusion that this non-conforming use has expanded by more than 25% is inescapable. The land upon which the non-conforming use takes place has been reduced by 90%. This substantial reduction of the land upon which the non-conforming use takes place has the effect of substantially enlarging this non-conforming use and substantially increasing its negative effect upon the surrounding neighborhood. In light of these circumstances, this Court should reverse the Board of Appeals and disapprove of the request for modification of the previously approved development plan for this non-conforming use.

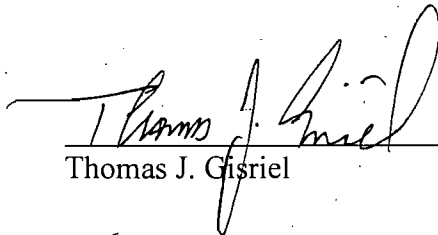


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CERTIFICATE OF SERVICE

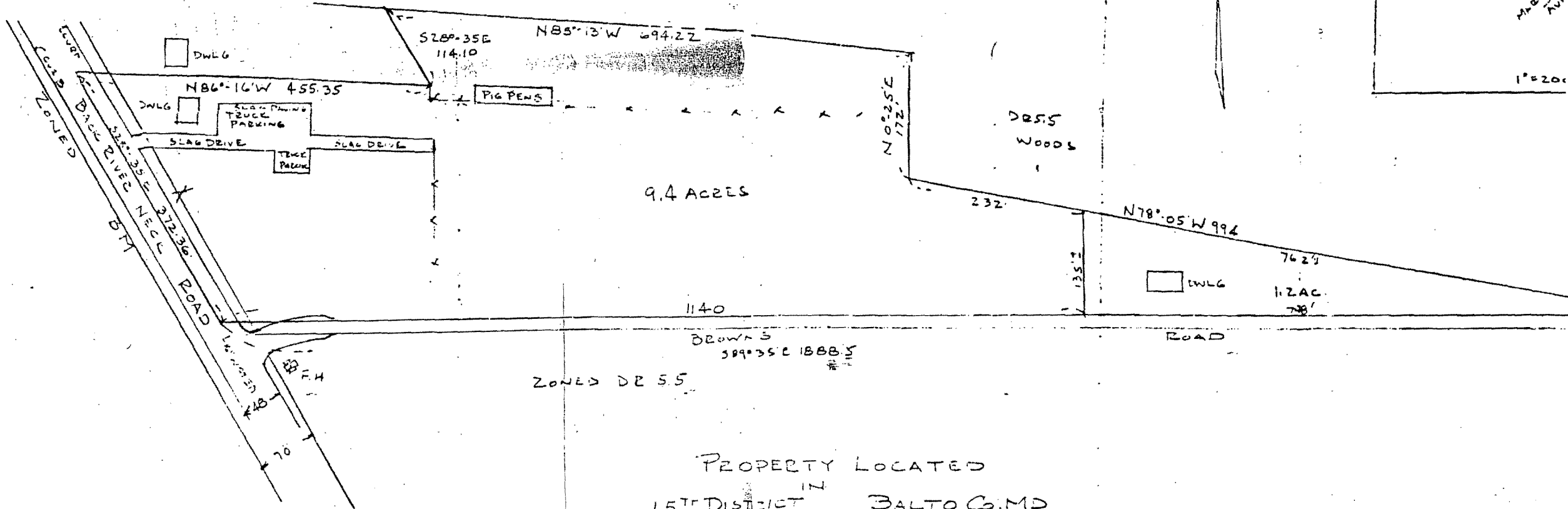
I HEREBY CERTIFY that on this 4th day of September 2001 a copy of the foregoing Appellant's Reply Memorandum was mailed, postage prepaid, to Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, Maryland 21204 and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.



Thomas J. Gisriel

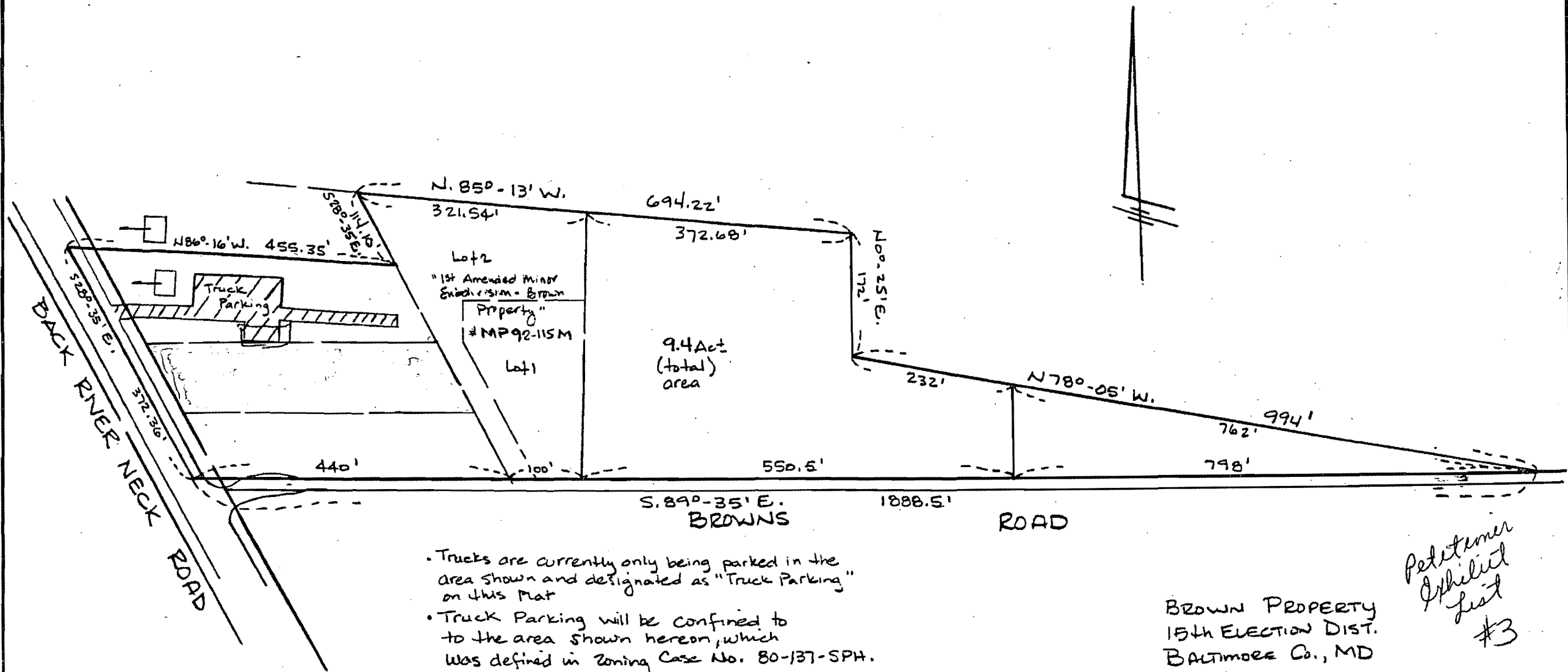
ZONED DE 5.5

UNIMPROVED



Petitioner
Shiloh
#2

EXISTING ZONING DE 5.5



- Trucks are currently only being parked in the area shown and designated as "Truck Parking" on this plat
- Truck Parking will be confined to the area shown hereon, which was defined in Zoning Case No. 80-137-SPH.
- Piggery has been abandoned on the entire 9.4 Ac.±
- This plat has been prepared pursuant to a request by the Office of Zoning upon the submittal of the "First Amended Minor Subdivision Plan - Brown Property" for approval.

BROWN PROPERTY
15th ELECTION DIST.
BALTIMORE CO., MD

*Petitioner
Applicant
List
#3*

GERHOLD, CROSS & ETZEL
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
PH: (410)823-4470 FAX: (410)823-4473

DATE: 1-27-95 SCALE: Not to Scale

File 654A

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

ATTORNEYS AT LAW

SUITE 400

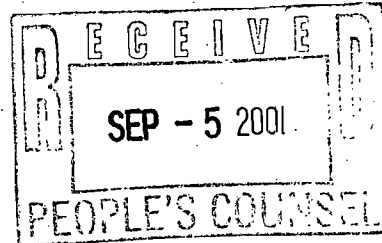
901 DULANEY VALLEY ROAD
TOWSON, MARYLAND 21204-2600

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John Carroll Broderick
James A. List
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* Also Admitted in DC

† Also Admitted in DC and VA

September 4, 2001

BY HAND

Clerk

Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: Petition of Joyce Gray *00-157-SPH*
Civil Action No.: 03-C-01-003682 AE

Dear Clerk:

Please find enclosed Appellant's Reply Memorandum to be filed in the above- referenced matter.

Thank you for your assistance.

Very truly yours,

Thomas J. Gisriel
Thomas J. Gisriel /lg

TJG/lg

Enclosure

cc: Deborah C. Dopkin, Esq.
Peter Zimmerman, Esq.

7/18/01

PETITION OF
JOYCE GRAY
337 BACK RIVER NECK ROAD
BALTIMORE, MARYLAND 21221

Protestant

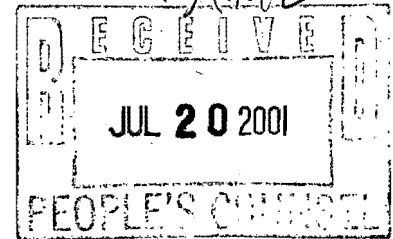
FOR JUDICIAL REVIEW OF THE
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/PETITIONERS FOR A SPECIAL HEARING
ON PROPERTY LOCATED ON THE NE/SIDE
BACK RIVER NECK ROAD, 247' NW OF C/L
BROWNS ROAD (335 BACK RIVER NECK
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COUNCILMANIC DISTRICT

* IN THE
* CIRCUIT COURT
* OF
* MARYLAND
* FOR
* BALTIMORE COUNTY

Civil Action No.:
03-C-01- 003682 AE

00-157-SPH



Now THIS
IS HOW TO DO
A MEMO!
C. ☺

* * * * *

APPELLANT'S MEMORANDUM

Joyce Gray, Appellant, respectfully files this Memorandum pursuant to Rule 7-207 of the Maryland Rules of Procedure.

Question Presented For Review

1. Did the reduction from 9.4 acres to 0.95 acres of the size of the land upon which a non-conforming use for the storage of four trucks had been granted constitute an impermissible extension of a non-conforming use in light of the fact that the area of the non-conforming use was not reduced proportionately to the size of the parcel?

Statement of Facts

On April 15, 1980, in Case No. 80-137-SPH, Deputy Zoning Commissioner Jean Jung approved a site plan for a non-conforming use of 335 Back River Neck Road, which then consisted

of 9.4 acres, to store no more than four trucks in a specified portion of the property. Since that time, several portions of the property were conveyed to other persons, thereby reducing the size of the property containing the non-conforming use from 9.4 acres to 0.95 acres. Ella and John E. Brown, the owners of the property, filed a special hearing requesting a modification of the previously approved site plan to reflect the reduction of the acreage of the property.

The Deputy Zoning Commissioner approved the special hearing on the request for modification of the previously approved development plan with conditions. The County Board of Appeals, in Case No. 00-157-SPH approved the modification to the previously approved site plan subject to certain conditions.

Argument

This case presents a novel question. The Baltimore County Zoning Regulations at §104.1A forbid the extension of the area of a non-conforming use on a property by more than 25% of the area so used. The question presented in this case is whether the prohibition against increase in the percentage of a property devoted to a non-conforming use prohibits an increase in this percentage arising from a reduction in the size of the parcel upon which the non-conforming use is located as well as an increase in this percentage arising from a larger area being devoted to the non-conforming use itself.

The facts in this case are largely undisputed. The original non-conforming use for storage of four commercial vehicles was specifically limited to a certain area within the context of a 9.4 acre parcel. It is also undisputed that portions of this 9.4 acre parcel have subsequently been subdivided and conveyed to other persons, so that only 0.95 acres remain. The area upon which the non-conforming storage of four commercial vehicles was authorized to be conducted in the 1980

proceeding is on the remaining 0.95 acre parcel.

The parcel upon which the non-conforming use is being conducted has been reduced to approximately 1/10th its previous size. The area upon which the non-conforming use is conducted, however, has not received a proportional reduction. Thus, expressed as a percentage of the area of the parcel devoted to the non-conforming use, the non-conforming use has been extended 10 times, or 1,000%.

The Baltimore County Zoning Regulations, at §104.1A, permit only a 25% extension in the area devoted to a non-conforming use. In light of this regulation, the 1,000% increase in the area of the parcel devoted to the non-conforming use is a clear violation of the Baltimore County Zoning Regulations.

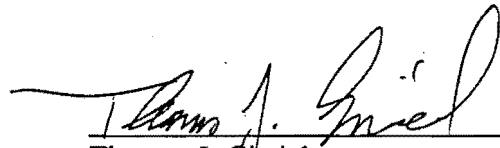
As the opinion of the Board of Appeals noted, at page 2, the noise generated by the garbage trucks on the subject property disturbs the neighbors. The fact that the neighbors are substantially closer to the area where the non-conforming storage of these vehicles is permitted is a direct result of the reduction of the size of the parcel. In effect, the original approval of the non-conforming use for a specific area within a 9.4 acre parcel, contemplated a certain buffer area within the subject parcel to protect the neighbors from the noise generated by the commercial vehicles. By subdividing their property and conveying parcels to others, the owners of the parcel substantially increased the effect of the non-conforming use on their neighbors. This constitutes a substantial expansion of the non-conforming use.

Very simply, the context in which the non-conforming use was approved in 1980 no longer exists. The change in circumstances is entirely the result of the owners of the property. Reducing the parcel upon which the non-conforming use takes place, without reducing the non-conforming

use is a substantial expansion of that non-conforming use.

Approximately 10 times the proportion of the subject parcel is devoted to the non-conforming use than was devoted to the non-conforming use at the time it was approved in 1980. This expansion of the non-conforming use is entirely the result of the actions of the property owner. The result of this substantial expansion of the non-conforming use is that the non-conforming use now has a substantially greater effect on the neighbors of the parcel.

Under these circumstances, it was an error of law, contrary to the terms of the Baltimore County Zoning Regulations, for the Baltimore County Board of Appeals to approve the modification to the site plan for this non-conforming use. Accordingly, the Order of the County Board of Appeals should be reversed.

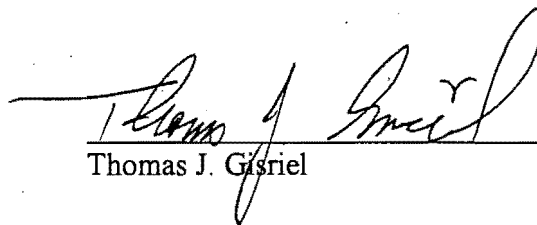


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Attorney for Joyce Gray, Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of July 2001 a copy of the foregoing Appellant's Memorandum was mailed, postage prepaid, to Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, Maryland 21204 and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.



Thomas J. Gisriel

PC
6/15/01

CD
PMZ

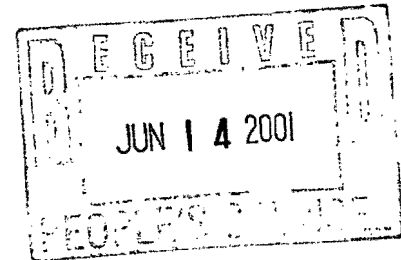
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF: **JOYCE GRAY**

337 Back River Neck Road
Baltimore, Maryland 21221

CIVIL ACTION
No. **3-C-01-3682**

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204



IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF

ELLA L. & JOHN E. BROWN

FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE NORTHEAST SIDE BACK
RIVER NECK ROAD, 247' NORTHWEST OF
CENTERLINE BROWNS ROAD (335 BACK
RIVER NECK ROAD)

15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

CASE NO. 00-157-SPH

* * * * *

**PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Lawrence S. Wescott, Margaret Worrall, and Donna M. Felling,
constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for
Judicial Review directed against them in this case, herewith return the record of proceedings had
in the above-entitled matter, consisting of the following certified copies or original papers on file
in the Department of Permits and Development Management and the Board of Appeals of
Baltimore County:

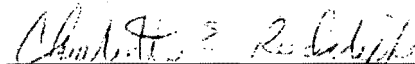
**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
THE DEPARTMENT OF PERMITS AND DEVELOPMENT
MANAGEMENT OF BALTIMORE COUNTY**

No. 00-157-SPH

October 18, 1999	Petition for Special Hearing filed by Deborah C. Dopkin, Esquire, on behalf of John E. and Ella L. Brown; to modify a previously approved site plan which was approved in Case No. 80-137-SPH.
November 12	Publication in newspaper.
November 16	Certificate of Posting.
November 30	ZAC Comments
December 1	Hearing held on Petitions by the Deputy Zoning Commissioner.
December 9	Order issued by the Deputy Zoning Commissioner in which the Petition for Special Hearing was APPROVED with restrictions.
January 4, 2000	Notice of Appeal filed by Richard G. Greene, Sr., Esquire, on behalf of Joyce Gray, Appellant/Protestant.
January 18	Motion to Dismiss filed by Deborah C. Dopkin, Esquire, on behalf of Brown's Refuse and John E. Brown and Ella L. Brown, Petitioners; moves that the appeal filed be dismissed for failure to comply with the Rules of Practice and Procedure of the County Board of Appeals.
January 27	Appellant's Response to Appellee's Motion to Dismiss filed by Richard G. Greene, Sr., Esquire.
June 15	Motion to Strike Appearance filed by Richard G. Greene, Sr., Esquire.
August 10	Entry of Appearance filed by Benjamin Bronstein, Esquire, as counsel on behalf of Ms. Joyce Gray, Appellant/Protestant.
November 16	Hearing day #1 held by the Board of Appeals. Exhibits submitted at 11/16/00 hearing:
Petitioner's Nos.:	1-1999 site plan 10/18/99 2-Mr. Doak's copy of 7/3/79 site plan 3-Brown Prop. site plan "95" - Brown Property 4-Minor Subdivision Plat 5-Deed for property
Protestant's Nos.	1A&B-(photos were never submitted- see the Board's note made on the exhibit list attached to exhibit package) 2 -Plat, 7/3/79, by Gerhold, Cross, Etzel 3-A-K - Photos
November 22, 2000	Letter from Deborah Dopkin, Esquire - enclosing one copy of First Amended Minor Subdivision Plan for the Brown Property (portion was submitted as Petitioner's Exhibit #4)

January 16, 2001	Hearing day #2 concluded by the Board of Appeals.
January 30	Public Deliberation conducted by the Board of Appeals.
March 9	Opinion and Order issued by the Board of Appeals; Petition for Special Hearing is GRANTED subject to restrictions.
April 6	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Andrew H. Vance, Esquire, on behalf of Joyce Gray, Petitioner (Protestant).
April 16	Certificate of Notice sent to interested parties.
June 14	Transcript of testimony filed.
June 14, 2001	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

c: Andrew H. Vance, Esquire
Thomas J. Gisriel, Esquire
Deborah C. Dopkin, Esquire
People's Counsel for Baltimore County

5/7/01

20

PETITION OF: * IN THE
JOYCE GRAY * CIRCUIT COURT
PROTESTANT/PETITIONER * FOR
* BALTIMORE COUNTY
FOR JUDICIAL REVIEW OF THE *
OPINION OF THE COUNTY BOARD *
OF APPEALS OF BALTIMORE COUNTY *
* Case No. 03-C-01-3682
IN THE MATTER OF THE APPLICATION *
OF ELLA L. & JOHN E. BROWN - *
LEGAL OWNERS/PETITIONERS FOR A *
SPECIAL HEARING ON PROPERTY *
LOCATED ON THE NE/SIDE BACK *
RIVER NECK ROAD, 247' NW OF C/L *
BROWNS ROAD (335 BACK RIVER *
NECK ROAD) *
15th ELECTION DISTRICT, *
5TH COUNCILMANIC DISTRICT *
*
Case No. 00-157-SPH *
* * * * *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

Ella L. Brown and John E. Brown, collectively Respondent, and parties before the County Board of Appeals of Baltimore County, in Case No. 00-157-SPH, hereby file this Response to Petition for Judicial Review and state that they intend to participate in the action for judicial review in the above case.

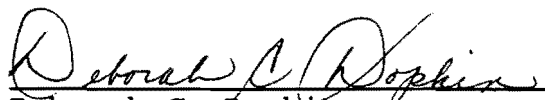
This Response is filed pursuant to Rule 7-204 of the Maryland Rules of Procedure.

Deborah C. Dopkin
Attorney At Law
409 Washington Avenue
Suite 920
Towson, MD 21204
(410) 494-8080


Deborah C. Dopkin
409 Washington Avenue
Suite 920
Towson, Maryland 21204
(410) 494-8080
Attorney for Respondent

CERTIFICATE OF MAILING

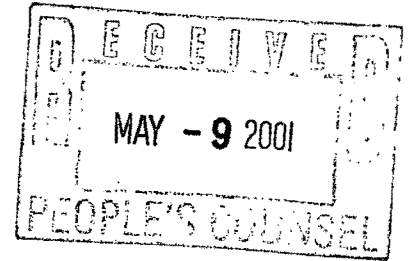
I HEREBY CERTIFY, that on this 7th day of May, 2001 a copy of the foregoing Response to Petition for Judicial Review was mailed, postage prepaid to Andrew H. Vance, Esquire, Hodes, Ulman, Pessin & Katz, P.A., 901 Dulaney Valley Road, Suite 400, Towson, Maryland 21204, attorneys for Protestant; and to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.


Deborah C. Dopkin

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DEBORAH C. DOPKIN, P.A.
ATTORNEY AT LAW
409 WASHINGTON AVENUE, SUITE 920
TOWSON, MARYLAND 21204
TELEPHONE 410-494-8080
FACSIMILE 410-494-8082
e-mail dbdop@erols.com

160
PM2



DEBORAH C. DOPKIN

May 7, 2001

Clerk,
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: In the Matter of the Application of
Ella L. Brown & John E. Brown
Case No. 03-C-01-3682

00-157-SPH

Dear Clerk:

Enclosed please find Response to Petition for Judicial Review
to be filed in the above captioned matter.

Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Deborah C. Dopkin".
Deborah C. Dopkin

DCD/kmc

Enclosure

cc: Andrew H. Vance, Esquire
Peter Max Zimmerman, Esquire
Reverend John Brown

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4/16/01
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF: **JOYCE GRAY**

337 Back River Neck Road
Baltimore, Maryland 21221

CIVIL ACTION
No. 3-C-01-003682

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

IN THE CASE OF: IN THE MATTER OF
THE APPLICATION OF

ELLA L. & JOHN E. BROWN

FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE NORTHEAST SIDE BACK
RIVER NECK ROAD, 247' NORTHWEST OF
CENTERLINE BROWNS ROAD (335 BACK
RIVER NECK ROAD)

15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

CASE NO. 00-157-SPH

* * * * *

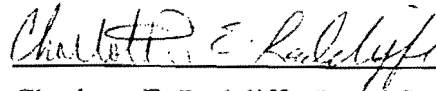
CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Lawrence S. Wescott, Margaret Worrall, and Donna M. Felling, constituting the County Board of Appeals of Baltimore County, has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Andrew H. Vance, Esquire, HODES, ULMAN, PESSIN & KATZ, P.A., 901 Dulaney Valley Road, Suite 400, Towson, Maryland 21204, Counsel for Petitioner; Joyce Gray, 337 Back River Neck Road, Baltimore, Maryland 21221, Petitioner; Ella L. Brown and John E. Brown, Jr., 335 Back River Neck Road, Baltimore, Maryland 21221, Property Owners; Deborah C. Dopkin, Esquire, 409 Washington Avenue, Suite 920, Towson, Maryland 21204, Counsel for Property Owners; and, Peter Max

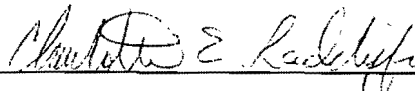
Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400

Washington Avenue, Towson, Maryland 21204;



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Rm. 49-Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to, and Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 16th day of April, 2001.



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)



County Board of Appeals of Baltimore County

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

April 16, 2001

Deborah C. Dopkin, Esquire
409 Washington Avenue, Suite 920
Towson, MD 21204

RE: Civil Action No. 3-C-01-3682
Ella L. & John E. Brown
(Zoning Case No. 00-157-SPH)

Dear Ms. Dopkin:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on April 6, 2001, in the Circuit Court for Baltimore County for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-01-003682.

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

Enclosure

c: Ella L. Brown & John E. Brown, Jr.
Grace Pullum
Columbus Brown
Rufus and Beatrice Cornish
✓ People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt /ZC
Arnold Jablon, Director /PDM

Conrad Pullen
Henry Wooden



3/9/01

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
<u>ELLA L. & JOHN E. BROWN</u> -	*	COUNTY BOARD OF APPEALS
LEGAL OWNERS /PETITIONERS FOR A		
SPECIAL HEARING ON PROPERTY	*	OF
LOCATED ON THE NE/SIDE BACK RIVER		
NECK ROAD, 247' NW OF C/L BROWNS RD*		BALTIMORE COUNTY
(335 BACK RIVER NECK ROAD)		
15 TH ELECTION DISTRICT	*	Case No. 00-157-SPH
5 TH COUNCILMANIC DISTRICT		
* * *	* * *	* * *

OPINION

This matter is before the Board on appeal from a decision of the Deputy Zoning Commissioner approving a special hearing on a request for a modification to a previously approved development plan in Case No. 80-137-SPH, with conditions. Appellant /Protestant, Joyce Gray, was represented by Benjamin Bronstein, Esquire. Petitioners /Appellees, Ella L. Brown and John E. Brown, Jr., were represented by Deborah Dopkin, Esquire. A hearing was held before the Board on November 16, 2000, and January 16, 2001. Public deliberation was held on January 30, 2001.

Background

Petitioners filed for a special hearing on property which they own at 335 Back River Neck Road, which is zoned D.R. 3.5. The special hearing requested a modification of a previously approved site plan, approved in Case No. 80-137-SPH. That plan, approved by Deputy Zoning Commissioner Jean Jung, gave the Petitioner therein approval for a nonconforming use, granting the owner the right to store no more than four trucks on the subject property and also approved the operation of a "piggery" on the site. At the time of the approval of that plan, the property consisted of 9.4 acres. The decision of Deputy Zoning Commissioner Jung was dated April 15, 1980.

Since the date of Commissioner Jung's decision, there have been several conveyances of portions of the property to other members of the Brown family. The property which is the

subject of this hearing consists of .95 acre and is located on the east side of Back River Neck Road just north of Browns Road. It is approximately 123 feet in width and 415 feet in depth. It is improved with a 1½ -story dwelling which is situated on the front of the property. A wood frame shed exists on the rear of the property. The Appellant, Ms. Gray, and her mother built a single-family dwelling on the lot next to the lot in question. This home was constructed in 1997.

During the hearing below before Deputy Zoning Commissioner Kotroco, Protestants testified with respect to the noise generated by the parking of the Petitioners' garbage trucks on the subject property. This prompted the Deputy Zoning Commissioner to place several restrictions on the Petitioners when granting the special hearing.

At the beginning of the hearing, Petitioners submitted a Motion to Dismiss the appeal based upon the fact that the Appellants had not complied with Rule 6 of the Board's *Rules of Practice and Procedure*, by failing to include the address of the parties taking the appeal. Appellants were represented by attorney, Richard G. Greene, Sr., below. Mr. Greene answered the Motion to Dismiss, stating that the names and addresses of the Protestants were in the file of the Deputy Zoning Commissioner which was in the possession of the Board, and that all parties were served with the appropriate papers; therefore, the Motion to Dismiss was based upon a mere technicality, since it was quite clear who the Protestants and their attorneys were. Subsequent to the filing of the Motion, Mr. Greene withdrew his appearance, and Mr. Bronstein entered his appearance on behalf of the Protestants. Mr. Bronstein renewed his opposition to the Motion, and the Board denied the Motion to Dismiss.

Some question was raised by Mr. Bronstein with respect to whether or not the Petitioners were in violation of the County noise ordinances. At the time of the Petition, no evidence was produced to show that there was any violation. Therefore the Board proceeded with the hearing.

Bruce Doak, professional land surveyor, Towson, Maryland, testified with respect to the property in question. Mr. Doak indicated that the property had consisted originally of 9.4 acres but that various parcels had been conveyed away, and that the present parcel, consisting of .95 acre, was the parcel in question. He traced the history of the land and the matter before the Deputy Zoning Commissioner Jung in 1980. The land had been used for parking trucks which were used in hauling refuse and also as a pig farm up until some time after the death of John Brown, Sr., in 1988. The evidence presented by Mr. Doak indicated that the nonconforming use continued from the time it was granted in 1980 until the present, with the exception of the "piggery."

Reverend John E. Brown, one of the current owners, testified also with respect to the use of the property and the fact that he had been on the property since he was a young boy, with the exception of 2 years in the army when he continuously visited the property. He stated that his father had hauled refuse and sewerage from septic tanks, and that presently he has three commercial vehicles which are stored on the property and are used to collect trash. He has a fourth vehicle which is licensed but is inoperable and is not parked on the property.

Protestants attempted to introduce testimony with respect to the testimony which they gave in the hearing in 1980 before Deputy Zoning Commissioner Jung. The Board ruled that it would not hear any testimony with respect to that hearing as any protest with respect to Jung's decision should have been appealed at that time, and it would not be timely to hear such testimony at the present time. Mr. Bronstein made a proffer that, if his clients were allowed to testify, they would testify that the affidavits which were obtained during that hearing were obtained fraudulently and that the trucks were not used during the 1930s and 1940s to haul garbage and refuse. The Board noted Mr. Bronstein's objection to its decision not to hear the testimony.

There was no further testimony, and the evidence that was offered by Petitioners indicated that the Petitioners had received an order approving a nonconforming use to allow him to park and store four trash trucks on the subject property. The testimony did indicate that the "piggery" had been discontinued some time around 1988, and therefore that nonconforming use has been abandoned. The evidence indicates that the present configuration of the property as indicated on the site plan submitted by Petitioners accurately depicts the property as it exists and today, and consists of approximately .95 acre. The parking area and the driveway appear to be the same as was approved by Deputy Zoning Commissioner Jung in 1980.

Deputy Zoning Commissioner Kotroco, in his decision below, attached certain restrictions to the granting of the special hearing with respect to the noise generated by the trash trucks on the property. Mr. Kotroco recognized that he did not have authority to rule on the noise violation since that was within the province of the Maryland Department of the Environment. However, in his attaching the restrictions, he made certain requirements with respect to the operation of the trucks and where the trucks could be parked on the parking lot. The Board does not consider that it has the authority to regulate when the trucks are started, how long they idle, and where they are parked on the property with respect to any noise violations. That is a matter for the Maryland Department of the Environment and the Protestants to work out with the Petitioners. It is clear that the piggery has been abandoned, and that the Petitioners must be in compliance with the requirements of the Maryland Department of the Environment with respect to any noise violations.

ORDER

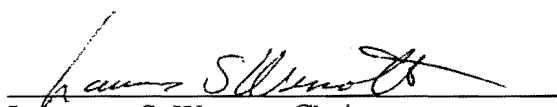
THEREFORE, IT IS THIS 9th day of March, 2001 by the
County Board of Appeals of Baltimore County

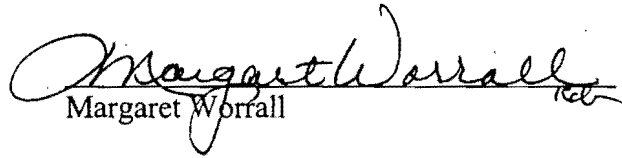
ORDERED that the Petition for Special Hearing requesting a modification to a previously approved plan in Case No. 80-137-SPH be and the same is hereby **GRANTED**, subject, however, to the following restrictions:

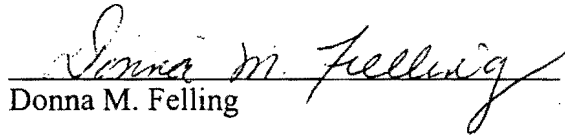
1. The Petitioners shall be required to bring their property and the parking and storage of the four trash trucks into compliance with all noise regulations imposed upon ~~him~~ ^{them} by the Maryland Department of the Environment;
2. The Petitioners shall be prohibited from operating a "piggery" on the property in the future, as that use has terminated.
3. All other conditions and restrictions contained in the Order in Case No. 80-137-SPH shall remain in effect.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Chairman


Margaret Worrall


Donna M. Felling



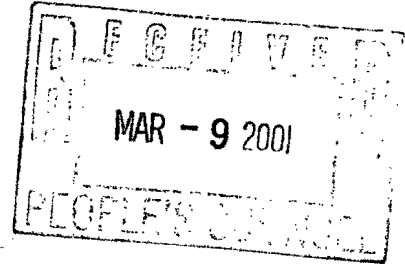
County Board of Appeals of Baltimore County

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

cf/pwz

March 9, 2001

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204



RE: In the Matter of Ella L. & John E. Brown
- Legal Owners /Petitioners /Case No. 00-157-SPH

Dear Mr. Bronstein:

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

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

Very truly yours,

Charlotte E. Redcliffe
Kathleen C. Bianco
Administrator

Enclosure

c: Joyce Gray
Deborah Dopkin, Esquire
Ella L. Brown and John E. Brown, Jr.
Bruce Doak /Gerhold Cross & Etzel
Grace Pullum
Rufus and Beatrice Cornish
Columbus Brown
Henry Wooden
Conrad Pullum
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Jeff Perlow, Code Inspection /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



12/9/99

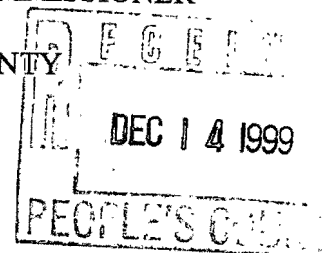
12/9/99

IN RE: PETITION FOR SPECIAL HEARING
NE/S back River Neck Road, 247' NW
of centerline of Browns Road
15th Election District
5th Councilmanic District
(335 Back River Neck Road)

John E. Brown & Ella L. Brown
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 00-157-SPH

*



* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner/Hearing Officer as a petition for special hearing filed by the legal owners of the subject property, John E. Brown & Ella L. Brown, his mother. The Petitioners are requesting a special hearing for property they own at 335 Back River Neck Road, which property is zoned D.R.3.5. The special hearing request is to modify a previously approved site plan which was approved in Case No. 80-137-SPH.

Appearing at the hearing on behalf of the special hearing request were: John E. Brown, Jr., part owner of the property, Bruce Doak, on behalf of Gerhold Cross and Etzel, Ltd., who prepared the site plan of the property and Deborah Dopkin, attorney at law, representing the Petitioner. Also in attendance were Rufus and Beatrice Cornish, Columbus Brown and Henry Wooden. Appearing in opposition to the Petitioners' request were Joyce Gray and her mother, Grace Pullum. Also in attendance was Conrad Pullum. The protestants were represented by Richard Greene, attorney at law.

Testimony and evidence indicated that the property, which is the subject of this special hearing request, consists of 0.95 acres of land, more or less, and is zoned D.R.3.5. The subject property is improved with a 1 ½ story dwelling which is situated on the front of the property close to Back River Neck Road. To the rear of the property exists a wood frame shed. The

subject property is further improved with a gravel driveway and parking area, whereupon the Petitioner parks 4 trash trucks. In addition, to parking the trash trucks on the property, the Petitioner also parks personal vehicles on the subject driveway.

As stated previously, the subject property consists of 0.95 acres, more or less, and is located on the east side of Back River Neck Road just north of Browns Road. The subject property is 123 ft. in width and 415 ft. in depth. It was the subject of a previous zoning hearing which was held in Case No. 80-137-SPH. Therein, the Petitioner received approval for non-conforming use by the then Deputy Zoning Commissioner, Jean Jung. Deputy Commissioner Jung, after hearing testimony and evidence put forward by the Petitioner, granted the property owner the right to store no more than 4 trucks on the subject property. In addition, the subject property was also approved for the operation of a "Piggery". The site plan submitted into evidence in the hearing before Deputy Commissioner Jung showed that the property comprised 9.4 acres at that time. However, several things have occurred since the case was before Deputy Commissioner Jung.

There have been several out conveyances of portions of the property to other members of the Brown family. Therefore, the property no longer comprises 9.4 acres, given these out conveyances. In addition, at the time of the approval of the non-conforming use by Deputy Commissioner Jung, some of the land which comprised the 9.4 acres was owned by other family members other than the Petitioners in that case.

Counsel for the protestants, Mr. Richard Greene, argued that Deputy Commissioner Jung's Order should be reversed and rescinded given that there was a misrepresentation as to the ownership of the 9.4 acres at the time of the case before Deputy Commissioner Jung. After considering the arguments of counsel and the testimony and evidence offered at the hearing, as

well as a review of the old case file submitted along with the petition for special hearing in Case No. 80-137-SPH, I find that there was no fraud or misrepresentation involved in Deputy Commissioner Jung's case and her Order dated the 15th day of April, 1980 shall not be reversed or rescinded. The Petitioners proceeded at that time with the support of all the property owners and, therefore, everyone was fully aware of the special hearing request before Deputy Commissioner Jung. Therefore, her Order shall stand.

As to the specific request before me, testimony and evidence revealed that the Petitioners continue to utilize the subject property for the parking of up to 4 commercial vehicles (trash hauling trucks). The piggery operation that was approved in 1980 has since ceased and terminated and, therefore, is no longer an issue before me. As stated previously, there have been several out conveyances to other members of the Brown family on the subject property. Also, a recent development involved the construction of a new single family residence by Ms. Grace Pullum and her daughter, Joyce Gray, two of the protestants herein. Mrs. Pullum and Ms. Gray have constructed their new single family residential dwelling on the lot which Mrs. Pullum has owned since 1949. Mrs. Pullum's lot remained unimproved up until the time of the construction of their single family residential dwelling in 1997. Mrs. Pullum and Ms. Gray are bothered by the noise generated by the trash trucks when they are started up in the morning. Ms. Gray testified that she is unable to sleep due to the noise of these diesel trucks. She testified that the drivers of these trucks will start them up at 5:15 a.m. and leave them idle for some time on the parking lot area of the Petitioners' property which is immediately adjacent to Ms. Gray's bedroom window. She, therefore, is extremely disturbed by this noise and is unable to sleep in the morning. She has requested that the trucks no longer be permitted to be stored on the

property, given the noise they generate. She is also concerned about the unsightliness of the trucks and the unsanitary conditions they present.

Mrs. Pullum, who also testified at the hearing, was not as disturbed with the noise as her daughter. Mrs. Pullum's bedroom is further removed from the side of the property where the trucks are stored. She suggested that the trucks not be parked on the gravel parking area, but rather be parked further back on the property which would be a greater distance from her residence and not as disturbing. The trucks could then only be heard as they traveled past the Pullum/Gray residence for a brief moment in time as they traveled out to Back River Neck Road. This would not be as disturbing as the present situation.

In addition to the complaints by Mrs. Pullum and Ms. Gray as to the noise generated by these diesel trucks, testimony also revealed that the property owner has been cited by the Maryland Department of the Environment for a noise violation. The protestants submitted into evidence documentation of that violation. Mr. Brown, the owner of Browns' Refuse, Inc. has been ordered to comply with all noise regulations within thirty (30) days from the date of the notice of violation, that compliance date being December 22, 1999.

It is clear from the testimony and evidence offered that the Petitioner requested and did receive an Order approving a non-conforming use to allow him to park and store 4 trash trucks on the subject property. As stated previously, that Order will not be overturned and the right to continue the parking and storage of these 4 trash trucks shall remain in effect. That right cannot be taken away from Mr. Brown at this time. Furthermore, there have been changes to the site plan which was submitted in the 1980 case. Therefore, it is warranted that the site plan be modified to accurately depict the configuration of the property as it exists today, given that there have been out conveyances of some of the parcels that originally comprised the 9.4 acres.

Therefore, the new site plan which was submitted into evidence as Petitioner's Exhibit No. 3 shall be approved to clearly depict the property as it exists today. The parking area and gravel driveway have remained consistent and have not changed since it was approved in 1980.

As to the complaints lodged by Ms. Gray and Mrs. Pullum concerning the noise generated by the trash trucks, I find and did state to those in attendance at the hearing that the jurisdiction of whether there is a noise violation on the property rests with the Maryland Department of the Environment. I do not have authority to rule on that issue. Mr. Brown, on behalf of Browns' Refuse, Inc., must continue to work with the MDE to correct that noise violation. He has several options to bring his property into compliance, all of which were discussed at the hearing. Those options are up to Mr. Brown as to how he will bring his property into compliance. I shall only order pursuant to this hearing that he bring his property into compliance with all noise regulations.

The complaints raised by Ms. Gray and Mrs. Pullum certainly were legitimate. Mr. Brown as the adjacent property owner has an obligation to bring his property into compliance with all noise regulations. However, the request to cause Mr. Brown to cease parking his trash trucks on the property is not well founded. Mrs. Pullum and Ms. Gray were well aware that the Browns operated a trash removal business from the subject property and have done so for many decades. Ms. Gray and Mrs. Pullum knew this before their home was constructed on their property. In fact, Mrs. Pullum, as the sister of John Brown, Sr. (the Petitioner in the 1980 case), supported him in his request to park the 4 trash trucks on the property. Ms. Gray who is also a family member, was aware of the situation at the time that her house was constructed. Therefore, given that the trash trucks have been parked on the property for many decades, the protestants were well aware of that situation prior to the construction of their house. The right to park the 4 trash

trucks should not be taken away at this time. They shall be required, however, to remedy the noise violation with the Maryland Department of Environment and also comply with the additional restrictions imposed at the end of this Order.

Mrs. Pullum's request to move the trucks to the rear of the property seemed reasonable. However, the area set aside for truck parking in the 1980 zoning case was specifically identified. I do not have the authority to relocate the parking area given the specificity of the location in Commissioner Jung's Order.

Therefore, having considered the testimony and evidence offered at the hearing, as well as my personal site visit to the property, I find that the Petitioners' special hearing request to approve the modifications to the site plan, which were submitted into evidence as Petitioners' Exhibit No. 3, shall be approved.

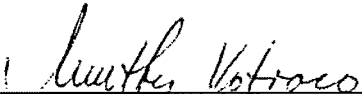
Pursuant to the advertisement, posting of the property and public hearing held on the Petition and for the reasons given above, the special hearing request should be approved.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 9th day of December, 1999 that the Petitioners' Special Hearing request for a modification to a previously approved plan in Case No. 80-137-SPH, be and is hereby APPROVED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioner shall be required to bring his property and the parking and storage of these 4 trash trucks into compliance with all noise regulations imposed upon him by the Maryland Department of the Environment.
- 2) The Petitioner shall not be permitted to allow the trucks to "idle" on the property. The operators of the trucks must drive them off the property immediately after starting them each morning. The Petitioner shall not test the hydraulic equipment on the trucks while the trucks are parked on the property. All testing must be done off premises, so as not to disturb the neighbors.

- 3) The trash trucks must be parked on the north side of the gravel parking lot, directly behind the dwelling located at 335 Back River Neck Road and not on the gravel portion immediately adjacent to Mrs. Pullum's house. Parking the trucks on the gravel parking lot furthest removed from the Pullum/Gray home might help to minimize the adverse effects on them.
- 4) The Petitioner shall be prohibited from operating a "piggery" on the property in the future, as that use has terminated.
- 5) All other conditions and restrictions contained in the Order in Case No. 80-137-SPH shall remain in effect.

IT IS FURTHER ORDERED, that any appeal of this decision must be filed within thirty (30) days from the date of this Order.



TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 335 Back River Neck Road
which is presently zoned DR3.5

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

a modification to a previously approved plan in Case No. 80-137-SPH

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:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Deborah C. Dopkin, Esquire

Name - Type or Print

Signature

Deborah C. Dopkin, P.A.

Company

409 Washington Avenue, #920 410-494-8080

Address

Telephone No.

Towson,

MD

21204

City

State

Zip Code

Legal Owner(s):

John E. Brown & Ella L. Brown

Name - Type or Print

Signature John E. Brown

Name - Type or Print

Ella L. Brown

Signature Ella L. Brown

1604 Browns Road (410) 682-3540

Address

Telephone No.

Baltimore,

MD

21221

City

State

Zip Code

Representative to be Contacted:

Deborah C. Dopkin, Esquire

Name

409 Washington Avenue, #920 (410) 494-8080

Address

Telephone No.

Towson,

MD

21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Case No. 00-157-SPH

Reviewed By LTM/JRF Date 10-18-99

REC 9/15/98

RE: PETITION FOR SPECIAL HEARING
335 Back River Neck Road, NE/S Back River Neck Rd,
247' NW c/l Browns Rd
15th Election District, 5th Councilmanic

Legal Owner: John E. & Ella L. Brown
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 00-157-SPH

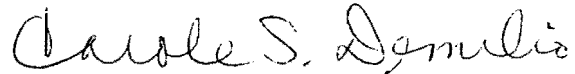
* * * * *

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 9th day of November, 1999 a copy of the foregoing Entry of Appearance was mailed to Deborah C. Dopkin, Esq., 409 Washington Avenue, Suite 920, Towson, MD 21204, attorney for Petitioners.



PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

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

January 10, 2000

Deborah C. Dopkin, Esquire
409 Washington Avenue, #920
Towson, MD 21204

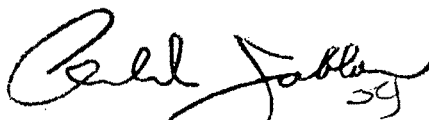
Dear Mrs. Dopkin:

RE: Petition for Special Hearing, Case Number 00-157-SPH, 335 Back River Neck
Road, 15th Election District

Please be advised that an appeal of the above referenced case was filed in this
office on January 4, 2000 by Richard G. Greene, Sr., Esquire on behalf of Ms. Joyce
Gray. All materials relative to the case have been forwarded to the Baltimore County
Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call
the Board of Appeals at 410-887-3180.

Sincerely,



Arnold Jablon
Director

AJ:scj

C: Ella & John Brown, 1604 Browns Road, Baltimore 21221
Richard Greene, Sr., Esquire, Alston & Byrd, 2518 Maryland Ave., Balto. 21218
Joyce Gray, 337 Back River Neck Road, Baltimore 21221
Grace Pullum, 337 Back River Neck Road, Baltimore 21221
Conrad Pullum, 2010 Bryant Avenue, Baltimore 21217
Henry Wooden, 38 Back River Neck Road, Baltimore 21221
Columbus Brown, 1610 Back River Neck Road, Baltimore 21221
Beatrice & Rufus Cornish, 506 Glende Court, Joppa 21085
Bruce Doak, Gerhold Cross & Etzel, 320 E. Towsontown Blvd., Towson 21286
People's Counsel



APPEAL

Petition for Special Hearing
335 Back River Neck Road
NE/S Back River Neck Road, 247' NW of centerline Browns Road
15th Election District – 5th Councilmanic District
Ella L. & John E. Brown - Legal Owner
Case Number: 00-157-SPH

Petition for Special Hearing (filed 10/18/99)

Description of Property (dated 10/14/99)

Notice of Zoning Hearing (dated 11/3/99)

Certification of Publication (The Jeffersonian, 11/9/99 Issue)

Certificate of Posting (Patrick O'Keefe, 11/16/99)

Entry of Appearance by People's Counsel (dated 11/9/99)

Petitioner(s) Sign-In Sheet

Protestant(s) Sign-In Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibits:

1. Plat (dated 7/3/79)
2. Plat (dated 7/3/79)
3. Plat to Accompany Zoning Petition (dated 9/29/99)
4. Plat (2 pages)
5. Plat to Accompany Zoning Petition (dated 9/29/99)

Misc. (Not Marked as Exhibits):

1. Memo from James Thompson, Code Enforcement Supervisor (dated 10/20/99)
2. Entry of Appearance by Richard Greene, Sr. on behalf of Joyce Gray (dated 11/18/99)
3. Notice of Violation from Maryland Department of the Environment (dated 11/22/99)
4. Decisions from the Court of Appeals
5. Copy of Order and Petition Form for Case 80-137-SPH
6. Photographs (17)

Deputy Zoning Commissioner's Order dated 12/9/99 (approved with restrictions)

Notice of Appeal received on 1/4/00 from Richard G. Greene, Sr., Esquire on behalf of Ms. Joyce Gray.

C: Deborah Dopkin, Esquire
Ella & John Brown
Richard Greene, Sr., Esquire
✓ People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

64-1851
337 Back River Neck Road
Baltimore, Maryland 21221
July 5, 1999

To: JUC
C. 5/13
7/14/99
JUC
JUC 7/19
JUC 7/19

Mr. Arnold Jablon
Director of Permits and Development Management
Baltimore County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Jablon:

This is an inquiry regarding the following:
Petition for Special Hearing
NE Corner of Back River Neck Road and Browns Road
15th Election District
No. 80-137-SPH (Item No. 65)

The action taken by the Zoning Commissioner's office in April of 1980 granted Mr. John E. Brown, of 335 Back River Neck Road, a special exception to store commercial vehicles (sanitary waste removal) at this address which is located in zone D.R.5.5.

I believe documentation presented at the hearing designates Mr. Brown as owner of 9.4 acres of land (as the petition states), inclusive of the NE corner of Back River Neck Road and Browns Road.

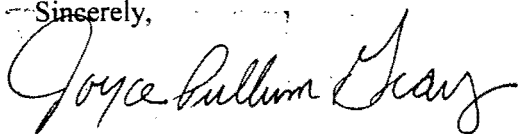
Enclosed please find a copy of the survey and a description of the surveyed property submitted for the purpose of Mr. Brown's petition. The survey was prepared by the office of Gerhold, Cross, and Etzel. Please refer to the enclosed deeds that clearly prove Ethel Boone and Grace Pullum are the two owners of the parcels of land in question.

It is my understanding that decisions rendered by the Zoning Commissioner's office are to be based on accurate information and valid documentation submitted for review by the petitioner. There has been a misrepresentation of land ownership, which I believe was a major factor in granting Mr. Brown this special exception, which permitted him to park his commercial vehicles on residential property.

Please advise me on how to proceed with my concern. I would appreciate the opportunity to meet with you in order to rectify this problem.

Thank you for your consideration.

Sincerely,



Joyce P. Gray

CARL L. GERHOLD
PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
ROON T. LANGDON

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors

41. DELAWARE AVENUE
TOWSON, MARYLAND 21204

823-4470

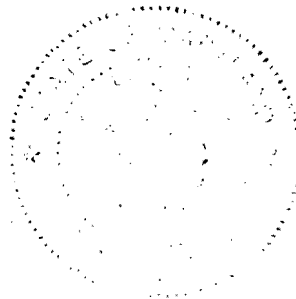
PAUL G. SCHLESINGER
FRED H. SCHLESINGER

July 3, 1979

All that piece or parcel of land situate, lying and being in the Fifteenth Election District of Baltimore County, State of Maryland and described as follows to wit:

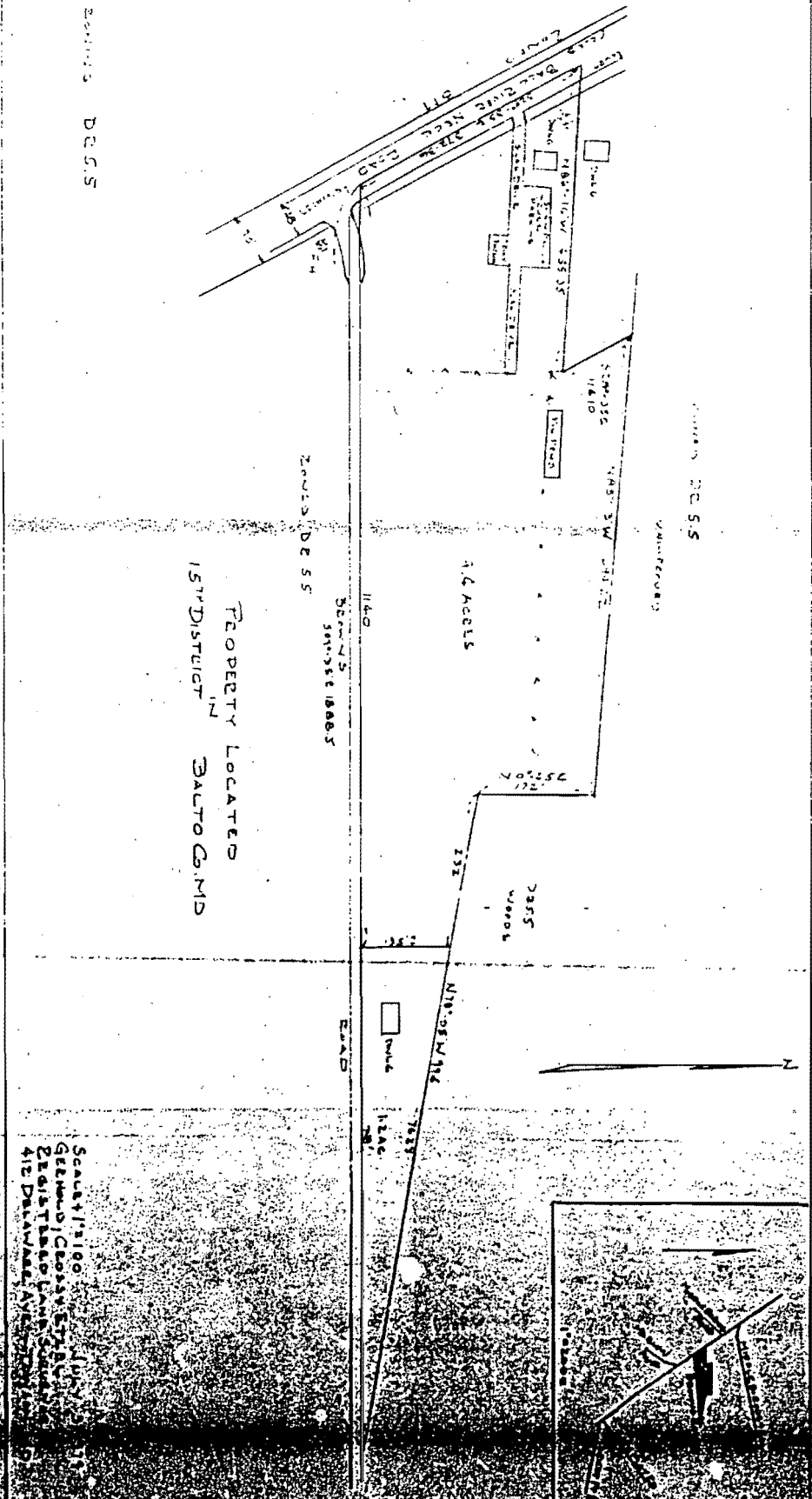
Beginning for the same in the center of Back River Neck Road at a point in line with the north side of Brown's Road and running thence and binding on the north side of Brown's Road, South 89 degrees 35 minutes East 1888.5 feet, thence leaving said road and running the five following courses and distances viz: North 78 degrees 05 minutes West 994 feet, North 0 degrees 25 minutes East 172 feet, North 85 degrees 13 minutes West 694.22 feet, South 28 degrees 35 minutes East 114.10 feet and North 86 degrees 16 minutes West 455.35 feet to the center of Back River Neck Road and thence binding in the center of said road, South 28 degrees 35 minutes East 372.36 feet to the place of beginning.

Containing 10.6 Acres of land more or less.



1570 DISTRICT

Searched + signed _____
GEMERO, CROSA ET AL.
BEAT TROLO AND SUE
412 DELAWARE AVE - TORONTO



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: November 4, 1999

TO: Larry E. Schmidt
Zoning Commissioner

FROM: James H. Thompson - JP
Code Enforcement Supervisor

SUBJECT: ITEM NO.: 157
PETITIONER: John e. Brown & Ella L. Brown

VIOLATION CASE NO.: 99-4764

LOCATION OF VIOLATION: NE/S Back River Neck Road, 247'NW centerline
Browns Road (335 Back River Neck Road)

DEFENDANT(S): John E. Brown & Ella L. Brown

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s):

NAME

ADDRESS

Joyce Gray

337 Back River Neck Road
Baltimore, MD 21221

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Code Enforcement Supervisor, so that the appropriate action may be taken relative to the violation case.

JHT/jp/lmh

In the Matter of

Civil Citation No. 99-4764

Ella L. Brown
Brown's Refuse Service, Inc.

335 Back River Neck Road

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer, for the Department of Permits and Development Management on 9 November 1999, for a hearing on a citation for violations under the Baltimore County Zoning Regulations and Baltimore County Code, for storage of an unlicensed motor vehicle, storage of motor vehicle parts, operation of an open dump and non-compliance with Zoning Commissioner's Order on residential property zoned DR, located at 335 Back River Neck Road.

Jeffrey Perlow, code enforcement inspector, stated that the county received a complaint concerning the use of the property. The property was subject of a special hearing before the Zoning Commissioner in case No. 80-137-SPH, which granted a non-conforming use to certain property some of which, was not owned by the Petitioner. The Petitioner misrepresented the amount of land owned by him, claiming 9.4 acres, when in fact he owned less than 9.4 acres. In addition, an inspection on 5 August 1999, showed unlicensed motor vehicles and parts, used machinery and wood debris on the subject property.

On 9 August 1999, the inspector issued a written correction notice pursuant to §1-7(c), Baltimore County Code, which described with particularity the nature of the violations and the manner of correction. The correction notice was marked in evidence as PEx1 and was served on the Respondents.

On 24 September 1999, pursuant to §1-7(d), Baltimore County Code, a code enforcement citation was issued. The citation was marked in evidence as PEx2 and was legally served on the Respondents.

The citation described the violations as follows: BCC, §26-121(a), BCZR, §500.7; 500.9; ZCPM, §500.9, non-compliance with Zoning Commissioner's Order No. 80-137. BCZR, §101.1; 1B01.1A; 428, outside storage of unlicensed motor vehicles, storage of motor vehicle parts and the operation of an open dump. Further, the citation proposed a civil penalty of \$1600 to be assessed. A code enforcement hearing date was scheduled for 9 November 1999. The Respondent, Brown's Refuse Service, Inc. appeared and testified. Deborah C. Dopkins, Esquire appeared on behalf of the Respondents. The inspector Jeffrey Perlow, testified that items 1, 2, and 3 on the citation have been corrected. The attorney for the Respondents has filed a petition No. 00-157-SPH to correct the original petition in Case No. 80-137-SPH.

Pursuant to the correction notice and subsequent code enforcement citation issued, and hearing held, and for the reasons set forth above, it is found as a matter of law that code violations existed from 5 August 1999, and the violations are continuing.

THEREFORE, IT IS ORDERED by the Code Official, this 16 day of November 1999, that the Respondents have until 1 April 2000, to correct the violation with respect to the Zoning Commissioner's Order No. 80-137-SPH. If the Respondents fail to correct the violation in the time allotted or any extension granted for good cause shown, then the civil penalty imposed shall be \$1600.

IT IS FURTHER ORDERED that the inspector, monitor the property to determine whether the violations have been corrected.

Signed: Stanley J. Schapiro
Stanley J. Schapiro
Code Enforcement Hearing Officer

The violator is advised that pursuant to §1-7(g)(1), Baltimore County Code (effective June 6, 1997), an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing fee of \$150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

DEBORAH C. DOPKIN

October 25, 1999

HAND DELIVER

Stanley J. Schapiro, Esquire
Office of Permits and
Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Brown's Refuse
Citation/Case No. 99-4764
Property located at 335 Back River Neck Road

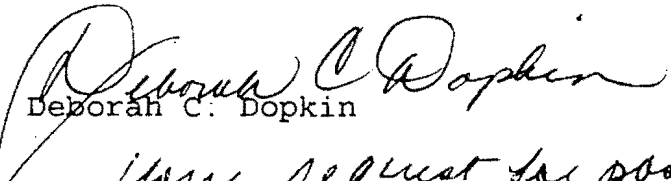
Dear Mr. Schapiro:

This office represents Brown's Refuse in connection with the above captioned zoning matter. I am in receipt of a Notice of Hearing for Tuesday, November 9, 1999 with regard to this property.

This is to advise you that I have filed a Petition for Special Hearing before the Zoning Commissioner of Baltimore County which has been assigned Case No. 00-157-SPH, and the same should be scheduled for a hearing in the immediate future.

Therefore, I am requesting that you postpone the violation hearing now scheduled for November 9th until after the hearing before the Zoning Commissioner and suspend the accrual of any penalties in the interim. It is my hope and belief that this case will be resolved on the merits at the Zoning Commissioner level. I would appreciate hearing from you at your earliest convenience.

Very truly yours,

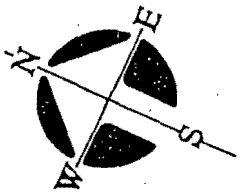

Deborah C. Dopkin

DCD/kmc
cc: Mr. Jeffrey N. Perlow
Brown's Refuse
C:\dopck\KMC\DCD\LETTERS\Schapiro Stanley

*Your request for postponement
is denied this 1st day of November.*

Synopsis

- 1.) For the record, my name is Jeffrey Perlow, Code Enforcement Officer for Baltimore County PDM, 111 West Chesapeake Ave, 21204
- 2.) Citation # 99-4764 for 335 Back River Neck Road
- 3.) Zoning, County Code, and ZCPM violations
- 4.) Joyce Gray, complainant, lives at 337 Back River Neck Rd. (next door neighbor)
- 5.) Details of complaint: Owners misled zoning commissioner in Case # 80-137-SPH as to the amount of property owned by petitioners. Waste Mgt. Co. keeping four trash trucks on property. Also cars, camper, and trash truck without tags.
- 6.) Property owned by: Elba L. Brown
335 Back River Neck Road
Baltimore, MD 21221
Property rented by: Brown's Refuse Services, Inc.
335 Back River Neck Road
Baltimore, MD 21221
(John E. Brown, Resident Agent)
1604 Browns Road
Baltimore, MD 21221
- 7.) First Inspection on 8/5/99 - See 5 Photos
- 8.) Sent Correction Notice to Property Owner on 8/9/99
- 9.) Sent Correction " " Tenant on 8/12/99
- 10.) Both correction notices allege violations of the Baltimore County Code Section 26-121(a); Balto. County Zoning Regs Sections 101; 102.1; 101.1A; 428; 500.2, 500.9; Zoning Commissioner's Policy Manual 500.9
Both notices were delivery first class regular mail
- 11.) Second Inspection on 9/21/99 revealed commercial garbage truck in rear (not per site plan), Black El Camiso without tags (wheel/tire & 2 mufflers) in rear of vehicle; Basket of car parts such as gears, etc., railroad ties; plywood, wood debris, old sofas,



S 33°12'40"E - 118.80'

I-PIN SET

I-PIN SET

N/F JOHN E. BROWN
T.B.S. 1806-251

#335

GRACE J. PULLUM, WIDOW
T.B.S. 1806-241

43,323 ϕ
OR
0.0046 AC. $\pm$

#337

ETHEL P. BOONE
T.B.S. 1806-248

N 85°18'56"E - 408.71'

402.43'

S 84°42'37"W

N 1,941.91
E 49,917.41
121.88'

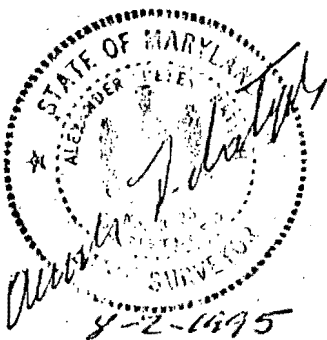
I-PIN SET

N 34°48'39"W - 125.60'

I-PIN SET

BACK RIVER NECK ROAD
(70' WIDE)
SEE H.R.W. 163-23

BROWNS ROAD
(50' WIDE)



APR ASSOCIATES, INC.
ENGINEERS • SURVEYORS

7427 Harford Road • Baltimore, Maryland 21234-7160
(410) 444-4312 • FAX: (410) 444-1647

BOUNDARY SURVEY

337 BACK RIVER NECK ROAD
15TH ELECTION DISTRICT
BALTIMORE COUNTY
MARYLAND

1" = 40'

AUG. / 2 / 1995

SCALE:

DATE

05061

218 they executed the same for the purposes therein contained.

AT the same time also personally appeared FRANK MULLER, JR., the President of the within body corporate, Mortgagee, and made oath in due form of law that the consideration of said mortgage is true and bona fide as therein set forth; and also made oath that he is the agent of the Mortgagee and is duly authorized to make this affidavit.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

Notarial Seal

Mary E.O'Connor

My commission expires May 7, 1951.

Mary E.O'Connor Notary Public

Recorded Jan 19, 1950 at 10:50 A.M. exd per T. Braden Silcott-CLERK RCD-ALA

Exd by T&H

Exh "B"

120242 Ruth S. Garland Admx &c) THIS DEED, Made this 31st day of October in the year one
Deed to Ethel P. Boone etal) thousand nine hundred and forty-nine, by and between RUTH S.
-----) GARLAND, Administratrix of the Estate of John H. Brown,
deceased, of Baltimore City, State of Maryland, of the first part and ETHEL P. BOONE of the
second part.

WHEREAS JOHN H. BROWN, widower, executed an agreement on the 23rd day of October, 1936, with four (4) of his children, namely, Grace Pullum, Ethel Boone, Ruth Garland, and John Emory Brown, in which he agreed to convey to each of said four (4) children a lot of ground as therein described, located on Back River Neck Road in the Fifteenth Election District of Baltimore County, and whereas the said four (4) children have performed and discharged all their duties and obligations as required by the provisions of said agreement, and are entitled to a deed for their respective lots of ground as the said John H. Brown died without having executed the said deeds, and by an Order of the Orphans' Court of Baltimore County passed on the 19th day of October, 1949, the said Ruth S. Garland, Administratrix of the estate of the said John H. Brown, deceased, was authorized and directed to execute a deed to each of the said four (4) children, conveying to them their respective lot as set forth in said agreement, which is duly filed in the office of the Register of Wills of Baltimore County along with the Petition and said Order of Court to make the said conveyances, the deeds for which are now being executed to the respective grantees in the manner they desire in accordance with the provisions and election in said agreement.

WITNESSETH, That in the consideration of the premises and pursuant to the power and authority vested in her as administratrix aforesaid by virtue of the said Order of the Orphans' Court, and the further sum of One Dollar (\$1.00), the said Ruth S. Garland, Administratrix of the estate of John H. Brown, deceased, doth grant and convey unto the said Ethel P. Boone

) THIS DEED, Made this 31st day of October in the year
) one thousand nine hundred and forty-nine, by and between

-----) RUTH S. GARLAND, Administratrix of the estate of
 John H. Brown, deceased, of Baltimore City, State of Maryland, of the first part and Grace
 J. Pullum and Le Roy Pullum, her husband, of the second part.

WHEREAS John H. Brown, widower, executed an agreement on the 23rd day of October, 1936, with four (4) of his children, namely, Grace Pullum, Ethel Boone, Ruth Garland, and John Emory Brown, in which he agreed to convey to each of said four (4) children a lot of ground as therein described, located on Back River Neck Road in the Fifteenth Election District of Baltimore County, and whereas the said four (4) children have performed and discharged all their duties and obligations as required by the provisions of said agreement, and are entitled to a deed for their respective lots of ground as the said John H. Brown died without having executed the said deeds, and by an Order of the Orphans' Court of

242

Baltimore County passed on the 19th day of October, 1949, the said Ruth S. Garland, Administratrix of the estate of the said John H. Brown, deceased, was authorized and directed to execute a deed to each of the said four (4) children, conveying to them their respective lot as set forth in said agreement, which is duly filed in the Office of the Register of Wills of Baltimore County along with the Petition and said Order of Court to make the said conveyances, the deeds for which are now being executed to the respective grantees in the manner they desire in accordance with the provisions and election in said agreement.

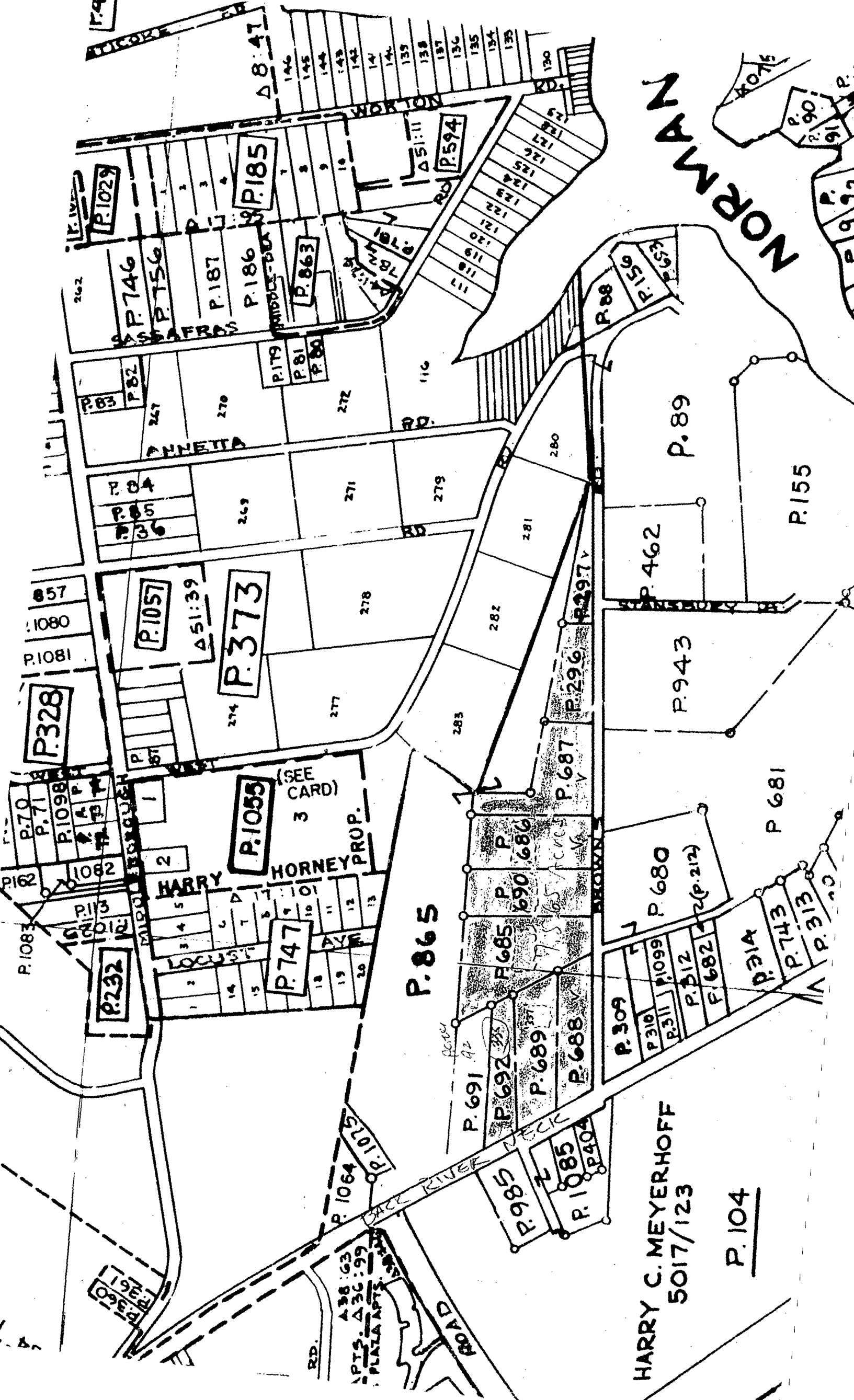
WITNESSETH, That in the consideration of the premises and pursuant to the power and authority vested in her as Administratrix aforesaid by virtue of the said Order of the Orphans' Court and the further sum of One Dollar (\$1.00), the said Ruth S. Garland, Administratrix of the estate of John H. Brown, deceased, doth grant and convey unto the said Grace J. Pullum (referred to as Grace Pullum in the said agreement) and LeRoy Pullum, her husband, as tenants by the entireties, all that lot of ground in fee simple, situate and being in Baltimore County, aforesaid and fully described as follows:

BEGINNING for the same at a point in the centre of the Back River Neck Road and in the last line of a parcel of land which by a Deed dated December 14, 1907 and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 506 folio 556 was conveyed by William Mines and wife to John H. Brown, said point being distant south 28 degrees 35 minutes East 248.24 feet from the beginning of said last line and thence running with and binding on a part of said last line and binding in the center of the Back River Neck Road south 28 degrees 35 minutes East 124.12 feet, thence leaving said road and outline and running for lines of division the three following courses and distances, viz: south 88 degrees 27 minutes east 444.95 feet, north 28 degrees 35 minutes west 114.10 feet and north 87 degrees 21 minutes west 450.07 feet to the place of beginning.

CONTAINING 1.03 acres of land more or less.

BEING a part of the land conveyed in a deed dated December 14, 1907, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 506, folio 556 from William Mines and wife to the said John H. Brown, who departed this life on or about the 14th day of October, 1943, a widower, his wife having predeceased him; and being also the same lot of ground secondly mentioned and partially described in said agreement.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or otherwise appertaining.




**Real Property
Information**
**Maryland Department of Assessments and Taxation
Real Property System**
[\[Go Back\]](#)

BALTIMORE COUNTY

[\[Start Over\]](#)

DISTRICT: 15 ACCT NO: 1502651130

Owner Information

Owner Name: BROWN ELLA L

Use: RESIDENTIAL

Mailing Address: 335 BACK RIVER NECK RD
BALTIMORE MD 21221-4028

Principal Residence: YES

Transferred

From: WINDER RUTH J

Date: 03/22/1999 Price: \$0

Deed Reference: 1)/13612/ 672
2)

Special Tax Recapture:

* NONE *

Tax Exempt: NO

Location Information [\[View Map\]](#)

Premises Address:

Zoning:

Legal Description:

335 BACK RIVER
NECK RD

.938 AC NES

335 BACK RIVER NECK RD
260 N BROWNS RD

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat No:
97	11	692					82	Plat Ref:

Special Tax Areas

Town:

Ad Valorem:

Primary Structure Data

Year Built:

Enclosed Area:

Property Land Area:

County Use:

1909

1,477 SF

40,859.00 SF

04

Value Information

	Base Value	Current Value	Phase-In Value	Phase-in Assessments	
		As Of	As Of	As Of	As Of
		01/01/1997	07/01/2000	07/01/1999	07/01/2000
Land:	35,460	35,460			
Impts:	43,750	43,750			
Total:	79,210	79,210	NOT AVAIL	31,680	NOT AVAIL
Pref Land:	0	0	NOT AVAIL	0	NOT AVAIL



**Real Property
Information**

**Maryland Department of Assessments and Taxation
Real Property System**

[\[Go Back\]](#)

BALTIMORE COUNTY

[\[Start Over\]](#)

DISTRICT: 15 ACCT NO: 1507000980

Owner Information

Owner Name: GARLAND MURIEL

Use: RESIDENTIAL

Mailing Address: 333 BACK RIVER NECK RD
BALTIMORE MD 21221-4028

Principal Residence: YES

Transferred

From: ELMORE ADELENA

Date: 02/28/1991 **Price:** \$0

Deed Reference: 1) / 8722/ 404
2)

Special Tax Recapture:
HOMEOWNERS TAX CREDIT

Tax Exempt: NO

Location Information [View Map]

Premises Address:

Zoning:

Legal Description:

333 BACK RIVER
NECK RD

ES BACK RIVER NECK R

.473 AC

470 NW BROWNS RD

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat No:
97	11	691					82	Plat Ref:

Special Tax Areas

Town:

Ad Valorem:

Primary Structure Data

Year Built:	Enclosed Area:	Property Land Area:	County Use:
1956	1,365 SF	20,586.00 SF	04

Value Information

	Base Value	Current Value	Phase-In Value	Phase-in Assessments	
		As Of	As Of	As Of	As Of
		01/01/1997	07/01/2000	07/01/1999	07/01/2000
Land:	30,390	30,390			
Impts:	59,750	59,750			
Total:	90,140	90,140	NOT AVAIL	36,050	NOT AVAIL
Pref Land:	0	0	NOT AVAIL	0	NOT AVAIL



**Real Property
Information**

**Maryland Department of Assessments and Taxation
Real Property System**

[\[Go Back\]](#)

BALTIMORE COUNTY

[\[Start Over\]](#)

DISTRICT: 15 ACCT NO: 1516900161

Owner Information

Owner Name: PULLUM GRACE B
GRAY JOYCE PULLUM **Use:** RESIDENTIAL

Mailing Address: 337 BACK RIVER NECK RD
BALTIMORE MD 21221-4028 **Principal Residence:** YES

Transferred

From: PULLUM GRACE J

Date: 10/04/1996 **Price:** \$0

Deed Reference: 1) /11829/ 590
2)

Special Tax Recapture:

* NONE *

Tax Exempt: NO

Location Information [\[View Map\]](#)

Premises Address: 337 BACK RIVER
NECK RD **Zoning:** **Legal Description:** .925 AC
NES BACK RIVER NECK RD
1300FT SE MIDDLEBOROUGH R

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat No:
97	11	689					82	Plat Ref:

Special Tax Areas

Town:

Ad Valorem:

Primary Structure Data

Year Built:	Enclosed Area:	Property Land Area:	County Use:
1997	3,360 SF	40,293.00 SF	04

Value Information

	Base Value	Current Value	Phase-In Value	Phase-in Assessments	
		As Of	As Of	As Of	As Of
		01/01/1997	07/01/2000	07/01/1999	07/01/2000
Land:	35,320	35,320			
Impts:	165,520	165,520			
Total:	200,840	200,840	NOT AVAIL	80,330	NOT AVAIL
Prof Land:	0	0	NOT AVAIL	0	NOT AVAIL

<u>CLOVERLAND FARMS</u>	04151508551560	311 BACK RIVER NECK	N	97	418
<u>GALLAGHER RONALD</u>	04151700013589	313 BACK RIVER NECK	N	97	418
<u>MEYERHOFF HARRY C</u>	04151523155785	328 BACK RIVER NECK	N	97	104
<u>JOHNSON RYAN</u>	04151512200120	329 BACK RIVER NECK	H	97	865
<u>330 BACK RIVER NE</u>	04151523501590	330 BACK RIVER NECK	N	97	985
<u>UMOH THOMSON</u>	04152200011163	331 BACK RIVER NECK	N	97	1108
<u>GARLAND MURIEL</u>	04151507000980	333 BACK RIVER NECK	H	97	691
<u>MEYERHOFF HARRY C</u>	04151523155791	334 BACK RIVER NECK	N	97	104
<u>BROWN ELLA L</u>	04151502651130	335 BACK RIVER NECK	H	97	692
<u>MEYERHOFF ROBERT</u>	04152100006833	336 BACK RIVER NECK	N	97	1085
<u>PULLUM GRACE B</u>	04151516900161	337 BACK RIVER NECK	H	97	689
<u>HARRIS ROBERT F</u>	04151513203610	338 BACK RIVER NECK	H	97	404
<u>HUGHES MILDRED</u>	04151504000931	345 BACK RIVER NECK	H	97	310
<u>DEESE JANICE LYNN</u>	04152200002930	347 BACK RIVER NECK	N	97	311
<u>DEESE JANICE</u>	04152200002929	349 BACK RIVER NECK	N	97	1099
<u>LONG KENNETH M</u>	04151513550970	351 BACK RIVER NECK	H	97	312
<u>PARKER EVELYN S</u>	04151502654190	355 BACK RIVER NECK	H	97	314
<u>MARLIN MARINA YAC</u>	04151513205671	402 BACK RIVER NECK	N	97	103
<u>ANDERSON J O</u>	04151501540740	405 BACK RIVER NECK	H	97	313
<u>BOND CHARLES L3RD</u>	04152200027631	407 BACK RIVER NECK	H	97	320
<u>POZOULAKIS GUS C</u>	04151511570440	412 BACK RIVER NECK	H	97	461
<u>MALLOY CISRO</u>	04151513206180	413 BACK RIVER NECK	H	97	409
<u>WYATT BROOKS</u>	04151523950010	414 BACK RIVER NECK	H	97	300
<u>THOMPSON GERALDIN</u>	04151600014888	427 BACK RIVER NECK	H	97	253
<u>THOMPSON WILBURT</u>	04151503475000	431 BACK RIVER NECK	H	97	317
<u>GOETZINGER HENRY</u>	04151526000246	436 BACK RIVER NECK	N	97	201
<u>PINDERHUGHES WILL</u>	04151516450820	437 BACK RIVER NECK	N	97	318
<u>FINNICK ROBERT WJ</u>	04151506201130	512 BACK RIVER NECK	H	97	201
<u>FERSTERMANN DOROT</u>	04151506100180	513 BACK RIVER NECK	D	97	319
<u>SANDERS WAYNE</u>	04152200021523	514 BACK RIVER NECK	H	97	203
<u>COLE ROBERT M JR</u>	04152200021522	516 BACK RIVER NECK	H	97	1115
<u>OGONOWSKI JOHN AN</u>	04151515220010	518 BACK RIVER NECK	H	97	304
<u>DVORAK ELIZABETH</u>	04151504850060	521 BACK RIVER NECK	D	97	267
<u>COATS WALTERSR</u>	04151503472570	526 BACK RIVER NECK	H	97	199
<u>NADOLNY CARVILLE</u>	04151514000790	529 BACK RIVER NECK	N	97	269
<u>BEIL WILLIAM J</u>	04151514000430	533 BACK RIVER NECK	H	97	999
<u>JARRETT SUE FRANC</u>	04152200004810	536B BACK RIVER NEC	H	97	200



State of Maryland
Department of Assessments and Taxation
Business Services and Finance Division

Entity Filings

[SDAT HOME](#)
[UCC](#)
[FORMS](#)
[NEW SEARCH](#)
[LAST SEARCH](#)

Search Results

Today's search date is 08-12-1999.

Your search was based on Department ID D02744126.

BROWN'S REFUSE SERVICES, INC.

<u>Entity type</u>	Domestic Corporation
<u>Principal Office (Primary)</u>	335 BACK RIVER NECK ROAD
	BALTIMORE MD 212210000
<u>Resident Agent (Primary)</u>	JOHN E. BROWN, JR.
	335 BACK RIVER NECK ROAD
	BALTIMORE MD 212210000
<u>Status</u>	Revived
<u>Latest filing reference: Film</u>	F5004
	<u>Folio</u> 0747
<u>Pages of last filing</u>	4
<u>Date of Formation or Registration</u>	03/02/1989
	<u>Time</u> 09:09 AM
<u>State of Formation</u>	MD
<u>Stock/Nonstock</u>	Stock
<u>Close/Not Close</u>	Close

[SDAT HOME](#)
[UCC](#)
[FORMS](#)
[NEW SEARCH](#)
[LAST SEARCH](#)

State Department of Assessments and Taxation

301 West Preston Street

Baltimore, Maryland 21201

Phone (410) 767-1340

webmaster@dat.state.md.us

```
Display Device . . . . . : DSP297
User . . . . . : ZA020
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RA1001F

ATE: 08/04/1999
IME: 09:21:07

ASSESSMENT TAXPAYER SERVICE

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HIST	DEL	LOAD DATE
5 02 651130	15	3-3	04-00	H	NO		07/27/99

BROWN ELLA L

DESC-1.. IMPS.938 AC NES

DESC-2... 260 N BROWNS RD

335 BACK RIVER NECK RD

PREMISE. 00335 BACK RIVER NECK RD

00000-0000

ALTIMORE MD 21221-4028 FORMER OWNER: WINDER RUTH J

-----FCV-----		-----TRANSFER DATA-----		---PROPERTY ID---	
	PRIOR	PROPOSED	NUMBER.....	160779	
AND:	35,460	35,460	DATE.....	03/22/99	
MPV:	40,540	43,750	PURCHASE PRICE..	0	
OTL:	76,000	79,210	GROUND RENT.....	0	
REF:	0	0	DEED REF LIBR..	13612	
URT:	76,000	79,210	DEED REF FOLIO..	672	
ATE:	10/93	10/96	YEAR BUILT.....	9	
			NEW CONSTR YR...		
TAXABLE BASIS					
				LOT.....	
				BLOCK....	
				SECTION..	
				PLAT.....	
				BOOK.....	0000
				FOLIO....	0000
				MAP.....	0097
				GRID.....	0011
				PARCEL...	0692

TAXABLE BASIS				PARCEL... 0692	
9/00	31,680	LOT WIDTH..	125.60	SB 1986	210.00
8/99	31,250	LOT DEPTH..	.00	WB 1959	.00
7/98	30,820	LAND AREA..	40859.000 S	SS	429.30
ENTER-INOUIRY1 PA1-PRINT PF4-MENU PF5-QUIT				WD	51.75

Browns Refuge, Inc. (John E. Brown, Jr.)

$$\begin{array}{r}
 7560 \text{ A.E. (Pr. 4 years)} \\
 + 202 \text{ (Loss of E.A. for 1 year)} \\
 \hline
 7762
 \end{array}$$

Jeff Long 157 - Subdivision/
Karen Brown/

Monica from the issue

RE: ZONING VIOLATION
335 Back River Neck Road
15th District

John Brown
335 Back River Neck Road
Baltimore, Maryland 21221
Defendant

MAJOR THE
DEPUTY ZONING COMMISSIONER

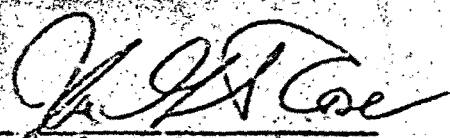
BALTIMORE COUNTY

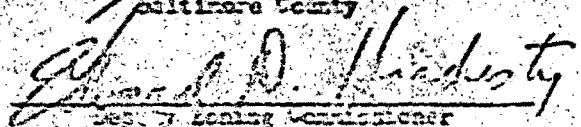
67-27-7

TV-6-365

A complaint having been filed with the Zoning Department concerning an alleged violation of the Baltimore County Zoning Regulations on property at the above location, a hearing was held to determine whether a violation exists. (Piling pigs - has expanded the area)

Testimony indicated that the Defendant is guilty of violating said Regulations and it is this 29 day of August, 1966,
Deputy
ORDERED by the Zoning Council of Baltimore County that such use of the subject property must cease within 15 days from the date of this Order.


Zoning Commissioner of
Baltimore County


Deputy Zoning Commissioner

All pigs shall be confined to an area not less than 150 feet from adjacent residential property lines in compliance with Section 104.4 of the Baltimore County Zoning Regulations.

RE: PETITION FOR SPECIAL HEARING
on nonconforming uses for storage
of commercial vehicles and piggery
NE corner of Back River Neck Road
and Browns Road
15th District

John E. Brown, et ux
Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 80-137-SPH

OPINION

At the outset of this hearing the Appellant moved to dismiss his appeal.
Said Motion was granted by the Board.

ORDER

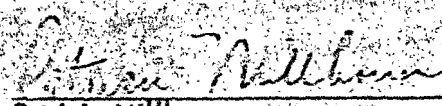
For the reasons set forth in the foregoing Opinion and upon the
Appellant's Motion to Dismiss, it is this 6th day of November, 1980, by the
County Board of Appeals, ORDERED: that the appeal be and the same is hereby
DISMISSED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Walter A. Reiter, Jr., Chairman


William T. Hockett


Patricia Millhouser

