

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
<u>BRYAN NELSON & CHARLES BECKER</u> -	*	COUNTY BOARD OF APPEALS
LEGAL OWNERS /PETITIONERS FOR A		
SPECIAL HEARING ON PROPERTY	*	OF
LOCATED ON THE NW/COR DETROIT		
AVENUE AND WILLOW SPRING ROAD	*	BALTIMORE COUNTY
(200 DETROIT AVENUE)		
12 TH ELECTION DISTRICT	*	Case No. 01-051-SPH
7 TH COUNCILMANIC DISTRICT		
* * * * *		

OPINION

This case comes before the Board of Appeals of Baltimore County based on an appeal by Protestants, St. Helena Neighborhood Association, Inc., of an order of the Zoning Commissioner dated October 5, 2000, granting the Petition for Special Hearing to permit the operation of a boarding or rooming house for up to six persons at 200 Detroit Avenue in the Dundalk area of Baltimore County, Maryland, subject to certain restrictions.

The case was heard by the Board *de novo* on August 23, 2001, and public deliberation in accordance with Maryland's Open Meetings Law was held on October 24, 2001. Representing the Petitioners /Appellees was Deborah C. Dopkin, Esquire and DEBORAH C. DOPKIN, P.A. The Protestants /Appellants appeared *pro se*. Four individuals appeared to testify on behalf of the Petitioners. Specifically, they were Bryan Nelson and Charles Becker, owners of the subject property at issue, and Bruce Doak, a representative of the engineering firm which prepared the site plan for the property, and who testified as an expert in land use and land planning; and, lastly, Michael Gimbel, Director of the Baltimore County Department of Health, Division of Substance Abuse, who testified as an expert in substance abuse and rehabilitation. Appearing to testify on behalf of the Protestants were also four individuals; namely, Joseph and Suzanne Stadler residing at 226 Detroit Avenue, Theresa Peterka residing at 203 Cleveland Avenue, and George Wischhusen, 210 St. Helena Avenue.

Prior to any testimony being heard, Ms. Dopkin, on behalf of the Petitioner, made a motion to dismiss the appeal based on the Appellant's noncompliance with Rule 8 of the Board's Rules of Practice and Procedure; more specifically, that the Rule 8 papers were not filed as required. After duly noting the Motion to Dismiss, the Board denied same and permitted the President of the Association to testify on his own behalf and in his capacity as a property owner. The hearing then continued with live testimony and evidence submitted by both sides, at the end of which the Board requested memorandum to be submitted.

Mr. Doak provided the plat and the maps as well as photographs depicting the house and its location and testified as to the area in which the house is located as being one of mixed use. There are businesses and services throughout, and the location can essentially be described as one that is both residential and commercial with more commercial being at the corner of Willow Spring Road and Dundalk Avenue.

The underlying physical facts of the case are clear. The site is a single-family dwelling of some 5,394 square feet (approximately .1 acre), zoned D.R. 5.5 and situated on a corner lot where Detroit Avenue dead-ends at Willow Spring Road, one block from the intersection of Willow Spring Road and Dundalk Avenue. There is a McDonald's restaurant located directly opposite the property on Willow Spring Road, which is, in fact, the only property separating the site from Dundalk Avenue. To the west of Willow Spring, there are single-family residences, while Willow Spring Road is decidedly more commercial in character. At the corners of the residential streets are many businesses ranging from automotive shops to carry-out restaurants, a large church (St. Timothy's) is located at the intersection of Willow Spring Road and Dundalk Avenue, and Willow Spring Road is fairly heavily traveled. Public transportation is also available on Dundalk Avenue. He testified that, as an existing house which would not be

physically different from other structures in a residential neighborhood, it would not create the conditions listed in § 502.1, i.e., overcrowding of land, congestion in roads, interference with public facilities, interference with light and air or impervious areas. The limited number of cars and reliance on public transportation would tend to reduce congestion.

Through their testimony, Messrs. Nelson and Becker described the house as a two-story frame dwelling with four bedrooms on the second floor, and two bedrooms, an eat-in kitchen and family room on the first floor. A washer /dryer and half-bath are located on the first floor. There is a basement used for storage. The house is served by a driveway and has a fenced rear yard. They contend that the property is well maintained and is indistinguishable from other residences on the street. Both owners testified that the property had been vacant for some time when they acquired and made a number of improvements on it in 1999, and that both Petitioners are in recovery from substance abuse and bought the property as an investment and to provide a stable transitional environment for recovering male addicts. They stated that the house provides facilities for four to six residents, who are also allowed periodic overnight family guests.

The witness reasoned that the property was a good location because of its proximity to the bus line, as well as carry-outs, the shopping center, beauty shops, etc., and particularly because of its proximity to St. Timothy's Church which houses the largest Narcotics Anonymous (NA) program in the area. They related that they used the Oxford House Model for Recovery Facilities in establishing the house rules and procedures for its residents. Over the 2 years that the Petitioners have owned the house, occupancy has varied from four to six individuals, with the average term of residency varying as well, the ideal term being 6 months. A resident Manager is on the premises and is responsible for screening applicants, record keeping, random and regular drug testing and enforcing the various house rules. There is also an Assistant Manager who has

been living at the property for nearly a year. The residents agree, in writing before being accepted, to rules including having a job, abiding by curfews, attending group meetings, participating in a buddy system and sharing chores within the home. They function mainly as a family, and use public transportation available on Dundalk Avenue and attend the NA meetings at St. Timothy's Church. The house maintains a "zero tolerance" policy, meaning if a resident relapses into drug or alcohol use he is immediately expelled from the house and ordinarily escorted to another facility. The first 30 days are very intense for the residents. They are allowed no visitors and must attend meetings every night with random urine tests occurring frequently and, after 90 days, the residents are allowed visitors.

Mr. Becker noted that the make-up of residents for the past 2 years appears to be almost 90 percent from the Dundalk area. As a recovering addict of more than 12 years, he believes that the Dundalk area is in fact in need of a safe recovery house given that the house has a positive influence on the community. He also testified that, in addition to the moneys spent in improvements to the home at purchase, they continue to incur expenses to maintain the property's appearance and landscaping, and assure that it is a safe, clean, and structured environment for its residents.

The owners testified that, at present, there are six people residing in the home; that is, the Manager and Assistant Manager plus four other residents. All six are in recovery. Records, which include each individual's social security number and track each resident from day one until they leave, as well as occupancy records, are maintained by the Manager and are kept on-site and available for inspection by anyone who chooses to review them. Rules are enforced by the Manager as well as the owners, and include such requirements as attendance at a house meeting every Thursday night, which all must attend. Residents are required to turn in Court

slips and income stubs; submit to random urinalysis; and, if found positive for controlled, dangerous substances, must leave the house immediately. All have daily chores and are expected to leave after a 6-month period which has been found to be a significant enough time for self-sufficiency.

They stated that people may be refused entry after being screened by the Operator, with his decision based upon observation and his personal determination, given his 12 years experience with sobriety. Although one resident required a call to the Police by the Manager because of drunkenness, to date, there has been no Police contact for any criminal activity on the part of any of the residents.

Michael Gimbel was received as an expert witness on drug rehabilitation issues and was presented by Petitioners. The witness has been Director of the Baltimore County Department of Health, Division of Substance Abuse for 21 years. He testified as to the appropriateness and actually the need for a recovery house at precisely the location of the subject facility. He stated that he visited the house and, in his opinion, presented itself in likeness with what they call the "Oxford model," a model used for recovery houses to certainly provide the community with a level of security, and that in the recovery house the rules are always the same, that being the maintaining of sobriety, and the appropriate behavioral expectations of the residents; abiding by curfews, going to NA meetings, and maintaining the house itself. He testified that it is important to note that a halfway house is not a treatment center. He stated that a recovery house is more akin to a boarding house, that provides a support mechanism for treatment "conclusion," that is, the integration of the residents back into society with the skills necessary to combat their drug addiction.

Mr. Gimbel also testified that the house would not have a detrimental effect on the community; that the property is in fact ideal for a recovery house in location as well as a need in any community, particularly Dundalk. He testified that the County has received funds for recovery /transitional living, with approximately 35,000 addicts presently seeking treatment. He noted that Baltimore County does not, itself, operate any recovery homes and turns to the private sector for meetings, recovery houses, and other facets of recovery structure. He opined that that the effect of the proximity of such housing is to increase the success of rehabilitation and reduce crime; clearly results that are beneficial to the health, safety and general welfare of the locality. He believes that the proposed use provides a needed service which is not provided by the government.

The Protestants presented four witnesses and submitted a petition stating disapproval of the use of the property as a recovery facility.

The Protestants /Appellants generally acknowledged that there really is no argument as to the issue of the site's use as a boarding house since such use was grandfathered in some 50 years ago (i.e., a boarding house is allowed in the neighborhood at its location as long as it meets the standards or requirements for a rooming house). The Protestants repeated their concerns for children and young people in the neighborhood with a recovery house located within a short distance of residential dwellings and to what they believed are problems that recovery houses in general have when placed within a neighborhood. While all agreed that the site is attractive in appearance and apparently well-maintained, they questioned whether or not the property can be considered residential property given that there are unrelated men living in the house and that there is no indication that the men drive or go to work somewhere, although there are trucks with commercial logos and cars around the house.

Each witness presented by Protestants believed that the proposed use would diminish property values and discourage new prospective homeowners from considering a move to the area. However, no expert testimony or specific examples of such detriment was presented to the Board.

A major theme of the Protestants' testimony revolved around the nature of the individual residents themselves, particularly their background, their level of recovery when they come to the facility, and the repercussions that are possible from any particular resident having a relapse. Essentially their fears are based upon having drug addicts who possibly have criminal backgrounds staying at the house and there being little monitoring of their whereabouts, *per se*, and that there are not enough checks in place to prevent any of the residents from becoming what they believed would be a threat to their persons and their property.

The Protestants presented two items of anecdotal testimony, the first concerning an unknown male who was seen walking in the neighborhood at night, and who was allegedly a former resident of the property. However, no harm was either alleged or proven, and, in fact, the Protestants' witnesses could not unequivocally state that it was an individual living at the recovery house.

The second concern involved an alleged child sexual molester who was residing at the property. No allegation of any claim of harm or incident in connection with this individual or with any other occupant of the property was presented. In rebuttal, Mr. Becker testified that he had been unaware of the prospective resident's background because he used a different name and social security number. Apparently, the individual in question is no longer an occupant at the subject facility.

Lastly the witnesses expressed their concern with the "check program" which is in place for the residents; in particular, the policy on drug testing and the question of who monitors the results, as well as the reasons for which a resident would be expelled from the house and/or if there are certain allowances made at any time before a resident is evicted.

Petitioners responded through rebuttal testimony as to the concerns of the Association and indicated that, in fact, there were already policies in place concerning drug testing; they are done on-site on a regular basis; they are conducted by the Manager as well as the Operator. There is a zero tolerance policy for residents who violate any of the rules which are in effect at the house and available for review by the Association. There is screening by the Operator as far as who can come to the house. There is no policy in place for screening backgrounds in order to determine previous criminal conduct (including convictions for crimes such as child abuse). The owners testified that they are certainly open to suggestions regarding a procedure that would, in fact, take care of this concern. They further stated that all residents are at a higher level of recovery than that of which the neighborhood is aware. In fact, residents come to the house after detoxification and have been in recovery for a specified period of time before they come to the house, and that the house is actually for transitional purposes, i.e., for integrating the residents back into society. They confirmed that there has been little communication between the community and the operators of the recovery facility as to entering qualifications of the residents, testing, supervision regimens, or the anecdotal events related by the Protestants.

Rooming /boarding houses are permitted in the D.R. zones with a use permit pursuant to the *Baltimore County Zoning Regulations* (BCZR). The procedure set forth in § 408B of the BCZR requires that a property owner submit an application for a use permit, post the property, and, if requested by an interested person, a public hearing is held. If no request is made, the

permit is issued. At the public hearing, the Zoning Commissioner may grant or deny the use permit. The special exception standards set forth in § 502.1 of the BCZR are utilized as the standard which must be met, and the Zoning Commissioner must consider the character of the community and the anticipated impact of the proposed use on that community. Section 502.1 of the BCZR states that it must appear that the requested use will not:

- A. Be detrimental to the health, safety, or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other dangers;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- F. Interfere with adequate light and air; **[Bill No. 45-1982]**
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; **[Bill No. 45-1982]**
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor **[Bill No. 45-1982]**
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C. 2, R.C. 4, R.C. 5 or R.C. 7 Zone. **[Bill No. 74-2000]**

In addition to these standards, special exception uses have been the subject of numerous and recent decisions by the appellate courts of Maryland. In the seminal case of *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981) and more recently in *Mossberg v. Montgomery County*, 107 Md.App. 1, 666 A.2d 1253 (1995), the Court has made it clear that a special exception is a use which is presumptively permitted. The standard enunciated states that a special exception use will be permitted if the detrimental effect, if any, of the requested special exception is no greater at the

location requested than at any other similar site in the same zone. It is a use that has been legislatively predetermined to be desirable, although attendant with detrimental effects which require certain conditions be met. Compatibility is presumed by legislative intent where a use is permitted by special exception. The legislative body has made the policy decision and the use is permitted. Further, as stated in *Turner v. Hammond*, 270 Md. 41, 54-55, 310 A.2d 543, (1973):

While the Applicant...has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements of the zoning code, he does not have the burden of showing affirmatively that his proposed use accords with the general welfare. If he shows to the satisfaction of the board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely effect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material; but if there is no probative evidence of harm or disturbance in light of the nature of the zoning involved or of factors causing disharmony to the functioning of the comprehensive plan, a denial of an application for special exception is arbitrary, capricious, and illegal.

Petitioners have proven compliance with each and every requirement of § 408B of the BCZR. All information required to be submitted, i.e., number of tenants, site plan, parking, floor plan, etc., have been submitted. The house is a single-family detached residence and is not located next to an existing boarding or rooming house. The Applicant maintains occupancy records, including the detailed information required by the regulations, and those records are available at the property for inspection by appropriate government agencies. Off-street parking was proposed in the side and rear of the property but was waived by the Zoning Commissioner.

Using both lay and expert testimony as well as photographs, the Petitioners have satisfied this Board that the site is in character with the surrounding community and that there is no negative impact on that community, nor is such impact anticipated. Testimony was offered from both sides regarding the operation of the site since the Petitioners acquired the property in August 1999, and in general it appears that the property has been operated as a boarding house without incident since

that time. The Protestants, by their own admission, for many months did not know that the property was being used, in fact, as a boarding house. Protestants produced no evidence, either historically or prospectively, to show any harm to the locality as a result of the property's use as a rooming /boarding house.

Turning to the requirements of § 502.1, testimony and evidence presented persuades this Board that Petitioners have in fact met those requirements in that, if properly monitored and operated, the proposed use of the subject property will not be detrimental to the health, safety or general welfare of the locale. The limited number of cars regularly at the site and reliance on public transportation by the residents mitigates against congestion in the local road system, and the effect, as testified by Mr. Gimbel, of such housing is to increase the success of rehabilitation and to reduce crime which would clearly benefit the health, safety and general welfare of the community.

The description of the facility by Petitioners' witnesses satisfies the Board that there is no potential hazard from fire, panic or other dangers. The limited population and staff presented alleviates any concern regarding the overcrowding of land or undue concentration of population, and clearly will not interfere with adequate provisions for schools, parks, water, sewerage, transportation, other public requirements, conveniences or improvements. This single building in the community does not interfere with adequate light and air and is agreed by all parties to have been legitimately used for years as a boarding house and is not, therefore, inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these zoning regulations. Testimony clearly established that there is no problem regarding impermeable surfaces or vegetative retention as this is a residential neighborhood, nor is it detrimental to the environmental and natural resources of the site and vicinity, including any forests, streams, wetlands, aquifers, and flood plains in an R.C. 2, R.C. 4, R. C. 5 or R.C. 7 zone. There was

no convincing testimony or evidence presented by the Protestants which would lead this Board to conclude otherwise as to the 502.1 standards.

Therefore, in conclusion, this Board finds that the Petitioners have met their burden as set forth in § 408B and § 502.1 of the *Baltimore County Zoning Regulations*. Moreover, we are satisfied by the testimony presented as set forth above, that any detrimental effect resulting from the requested use at the subject site would be no greater than that experienced regarding that use at any other location within the zone.

Accordingly, the Petition for Special Hearing to approve the subject property as a boarding or rooming house for up to six (6) residents, in accordance with Petitioners' Exhibit #1, shall be granted subject to restrictions to be imposed by this Board, and we will so order.

Lastly, Petitioner's Motion for Reconsideration submitted prior to public deliberation is dismissed as moot, given the Board's findings on the merits.

ORDER

THEREFORE, IT IS THIS 8th day of March, 2002 by the
County Board of Appeals of Baltimore County

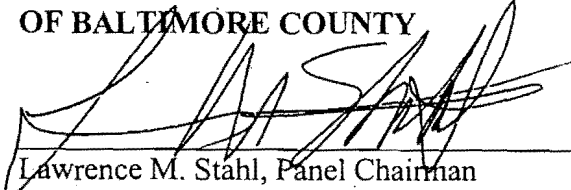
ORDERED that the Petition for Special Hearing to approve the subject property as a boarding or rooming house for up to six (6) residents, in accordance with Petitioners' Exhibit #1, be and hereby is **GRANTED**, subject to the following restrictions:

1. The relief granted herein is limited to a boarding house for no more than six (6) individuals;
2. The Petitioners shall continue to conduct random urinalysis and drug testing on all residents and any resident found in violation will be immediately evicted. There will continue to be a curfew for residents of 10:00 p.m. Monday through Thursday, and 12 Midnight on Friday and Saturday. Moreover, all other rules developed by the owners and currently in effect for the operation of the boarding house shall continue;

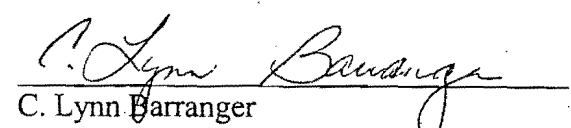
3. The rear yard shall not be converted for use as a parking lot; and
4. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

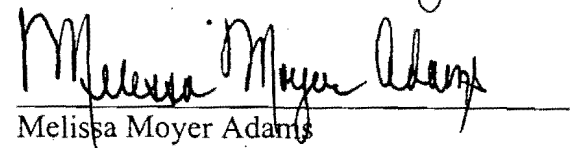
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence M. Stahl, Panel Chairman



C. Lynn Barranger



Melissa Moyer Adams



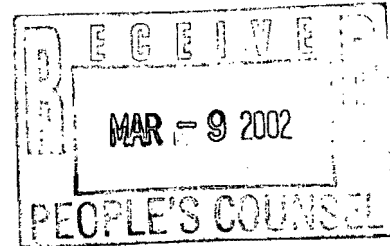
County Board of Appeals of Baltimore County

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PM2

March 8, 2002

Mr. George Wischhusen
210 St. Helena Avenue
Baltimore, MD 21224



RE: *In the Matter of: Bryan Nelson & Charles Becker*
- Petitioners / Case No. 01-051-SPH

Dear Mr. Wischhusen:

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,

Kathleen C. Bianco
Kathleen C. Bianco
Administrator

Enclosure

c: Deborah C. Dopkin, Esquire
Bryan Nelson
Charles Becker
Joe Stadler
Gladys L. Cimaglia
Lois Dofflemier
Alvin Cottrill
Phil Rhudy
Donald Gerding
Mr. & Mrs. Thomas Szarek
Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM

10/5/00

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW/Corner Detroit Avenue and *
Willow Spring Road * ZONING COMMISSIONER
(200 Detroit Avenue) *
12th Election District * OF BALTIMORE COUNTY
7th Council District *
Case No. 01-051-SPH
Bryan A. Nelson and *
Charles M. Becker, Owners/Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Bryan A. Nelson and Charles M. Becker, through their attorney, Deborah C. Dopkin, Esquire. The Petitioners request a special hearing to approve the subject property as a boarding or rooming house for up to six (6) residents. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing held for this case were Bryan Nelson and Charles Becker, owners of the subject property, Bruce E. Doak and Brian Dietz, representatives of Gerhold, Cross & Etzel, the engineering firm which prepared the site plan for this property, and Deborah C. Dopkin, Esquire, attorney for the Petitioners. Numerous residents from the surrounding neighborhood appeared in opposition to the request, all of whom signed the Protestants sign in sheet which is contained in the case file.

Testimony and evidence offered revealed that the subject property is located on the northeast corner of the intersection of Detroit Avenue and Willow Spring Road in the old community of St. Helena in Dundalk, not far from the Baltimore County/Baltimore City line. The property contains a gross area of 5,394 sq.ft., (60' x 80' in dimension), zoned D.R.5.5, and is improved with a two-story dwelling. The property also features a driveway that can accommodate one vehicle. Messrs. Nelson and Becker acquired the subject property in August 1999 with the

intention of converting same as a residential facility for recovering addicts. They both testified and characterized the use of the property as a recovery house. Both men are residents of the area and have personally experienced problems with addictions in the past. During their recovery, they endeavor to help other individuals who are dealing with drug and alcohol abuse.

As to the subject property, the Petitioners have undertaken interior renovations to the house. A new bathroom was created on the second floor, new carpeting installed, and painting has been completed. The house now contains 6 bedrooms, 2½ baths, a large eat-in kitchen and living room.

Presently, there are six (6) individuals residing in the home. One of the individuals, who is further along in his recovery, serves as House Manager and a second individual serves as Assistant House Manager. For these services, these individuals are given a credit towards rent. It is important to emphasize that the property is not used for treatment of those suffering from addiction. That is, there is no doctor on the premises and the residents are not visited by social workers, addiction counselors, physicians, etc. It is the aim of the facility to provide a living place for those who have been discharged from in-patient treatment programs. The Petitioners indicated that frequently such individuals do not have a place to live and this house serves as a temporary residence until they are able to locate employment and ultimately seek other living arrangements. Most individuals stay for a period of at least 90 days.

The facility also is run with a series of strictly enforced rules. All residents are governed by a curfew and there is random urinalysis and drug testing. No visitors are permitted for residents during their first thirty (30) days of occupancy. The residents are also given specific responsibilities regarding the upkeep and maintenance of the house.

The Petitioners indicated that they consider the subject site ideal for such a use. They noted that the property is located within walking distance of St. Timothy's Church, which has an intensive Narcotics Anonymous program. Additionally, the site is near public transportation so that individuals who do not own a car can get to work. Finally, the character of the area is of note. Although the residential community of St. Helena is immediately west of the subject lot, the

eastern portion of the property abuts Willow Spring Road. On the other side of Willow Spring Road there is a McDonalds fast-food restaurant and several automobile repair businesses. Other commercial businesses are located on both sides of Willow Spring Road within close proximity of the site. The major commercial corridor of Dundalk Avenue is located nearby. Clearly, this property is not nestled in a strictly residential community.

The Protestants who appeared all expressed concerns which one would expect to hear regarding such a facility in a residential neighborhood. These individuals are concerned about the impacts of the use on their homes and property values. They are also concerned about the potential increase of criminal activity and a perceived intrusion into their residential community. It is of note, however, that the subject property has been used in its current fashion for approximately one year. Testimony was offered from both sides regarding the operation of the site since the Petitioners acquired the property in August 1999. In general, it appears that the property has been operated as a boarding house without incident since that time. That is, there is no evidence before me that the operation of the boarding house has resulted in increased criminal activity in the area nor have there been any specific negative impacts on the locale.

Section 408.B of the Baltimore County Zoning Regulations (B.C.Z.R.) governs the operation of boarding houses in the D.R. zone. It is to be noted that Section 101 of the B.C.Z.R. defines boarding house as a dwelling, "which is not the owner's residence and which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other." Clearly, this definition applies to this use.

Section 408.B indicates that boarding houses are permitted in the D.R.5.5 zone. This Section envisions that an individual intending on establishing a boarding house would apply for a permit from the Director of the Department of Permits and Development Management for a boarding or rooming house at a particular site. Following that application, notice of the request would be given by the posting of a sign in a conspicuous location on the property for a period of 15 days. During that time, any interested person could file a formal request for public hearing before the Zoning Commissioner.

This procedure was not followed in this case. The Petitioners indicated that they believed they had obtained approval through their apparent informal inquiries with Baltimore County. Clearly they had not. Nonetheless, this cannot bear on my decision. On the one hand, I cannot reward the Petitioners or approve the request because the operation is up and running. On the other hand, I should not penalize the Petitioners because the property has operated for the past year without the requisite use permit. Rather, the merits of the application should be considered based upon the testimony and evidence offered at the hearing. It is to be noted, however, that the fact that the use has continued for one year is instructive from the standpoint that testimony was received about the impacts of the use over the past 12 months.

In reviewing the request, consideration must be given to the character of the surrounding community and the anticipated impacts of the proposed use thereon. I must also consider the requirements of Section 502.1 of the B.C.Z.R. which generally require the Zoning Commissioner to consider the impact of the use on the health, safety or general welfare of the locale. On the one hand, one can scarcely imagine a site better for a boarding house than the subject property. This property is not located within the interior of a residential community and surrounded on all sides by other homes. To the contrary, the property abuts a commercial site, immediately across Willow Spring Road. As noted above, there are other characteristics which make the site desirable as a boarding house, including the location of St. Timothy's Church nearby, the other commercial uses in the immediate vicinity, the easy access to public transportation, and the proximity of the site to Dundalk Avenue. On the other hand, I appreciate the Protestants' concerns.

Based on the testimony and evidence offered, I am persuaded to grant the Petition for Special Hearing. I particularly observe that this case must be decided based on the facts relating to this individual property. That is, the fact that there are other uses in the area which are seen as undesirable do not impact my consideration in this case. I must restrict my inquiry to the subject property in its potential impacts on the surrounding locale. The fact that the property has been used in this manner for one year without incident is of note. I also have confidence that the

operators will continue to run the facility with strict controls. That is, they should continue to have on-site supervision of the activities at the house and should continue with the rules and procedures that have been established. Properly monitored and operated, I believe that the proposed use will not be detrimental to the health, safety or general welfare of the locale.

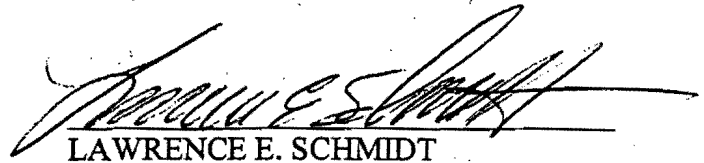
One issue raised relates to potential parking problems. As noted above, there is a driveway serving the site which provides parking for one car. Public parking is available on Detroit Avenue but not on Willow Spring Road. The site plan shows the potential conversion of the rear yard of the property to provide parking. I am not inclined to require the Petitioners to convert that yard to a parking lot. To do so would cause the property to lose its residential feel. I believe it important that the property continue to serve as a residence and maintain that appearance. Thus, the proposal shall be approved with the restrictions set forth hereinafter.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 5th day of October, 2000 that the Petition for Special Hearing to approve the subject property as a boarding or rooming house for up to six (6) residents, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their use permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The relief granted herein is limited to a boarding house for no more than six (6) individuals.
- 3) The Petitioners shall continue to conduct random urinalysis and drug testing on all residents and any resident found in violation will be immediately evicted. There will continue to be a curfew for residents of 10:00 PM Monday to Thursday, and 12 Midnight on Friday and Saturday. Moreover, all other rules developed by the owners and currently in effect for the operation of the boarding house shall continue.

- 4) The rear yard shall not be converted for use as a parking lot.
- 5) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs



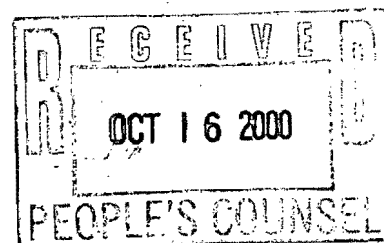
Baltimore County
Zoning Commissioner

October 5, 2000

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

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

RE: PETITION FOR SPECIAL HEARING
NW/Corner Detroit Avenue and Willow Spring Road
(200 Detroit Avenue)
12th Election District - 7th Council District
Bryan A. Nelson & Charles M. Becker - Petitioners
Case No. 01-051-SPH



Dear Ms. Dopkin:

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

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

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Bryan A. Nelson, 87 Wise Avenue, Baltimore, Md. 21222
Mr. Charles M. Becker, 3308 Cornwall Road, Baltimore, Md. 21222
Mr. George Wischhusen, 210 St. Helena Avenue, Baltimore, Md. 21224
Mr. Joe Stadler, 226 Detroit Avenue, Baltimore, Md. 21224
Ms. Gladys L. Cimaglia, 6554 St. Helena Avenue, Baltimore, Md. 21224
Ms. Lois Dofflemier, 211 Detroit Avenue, Baltimore, Md. 21224
Mr. Alvin Cottrill, 302 Riverview Avenue, Baltimore, Md. 21224
Mr. Phil Rhudy, 202 Detroit Avenue, Baltimore, Md. 21224
Mr. & Mrs. Thomas Szarek, 201 Maple Avenue, Baltimore, Md. 21224
People's Counsel; Case File



Census 2000



For You, For Baltimore County



Census 2000





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

200 Detroit Avenue
for the property located at Dundalk, Maryland 21222
which is presently zoned D.R. 5.5

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 boarding or rooming house for up to six (6) residents.

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
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):

Bryan A. Nelson
Name - Type or Print _____
Signature Bryan A. Nelson
Charles M. Becker
Name - Type or Print _____
Signature Charles M. Becker
Bryan A. Nelson (410) 285-6039
87 Wise Avenue
Address _____ Telephone No. _____
Baltimore, MD 21222
City _____ State _____ Zip Code _____

Representative to be Contacted: Charles M. Becker
3308 Cornwall Rd
Deborah C. Dopkin, Esquire Balto., MD 21222
(410) 282-9452
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. 01-051-SPH

Reviewed By TAG/PDD Date 8-2-00



Baltimore County
Department of Permits and
Development Management

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

September 15, 2000

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

Dear Ms. Dopkin:

RE: Case Number: 01-051-SPH, 200 Detroit Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 2, 2000.

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

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

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr. *CRZ*
Supervisor, Zoning Review

WCR: gdz

Enclosures

C: Bryan A. Nelson, 87 Wise Avenue, Baltimore 21222
Charles M. Becker, 3308 Cornwall Road, Baltimore 21222
People's Counsel



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: August 30, 2000

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

SUBJECT: Zoning Advisory Committee Meeting
For August 21, 2000
Item No. 051

The Bureau of Development Plans Review has reviewed the subject zoning item. Developer will be responsible for the construction of the driveway entrance on Willow Spring Road per the Department of Public Works' Standard Plate R-15B and R-34.

RWB:HJO:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

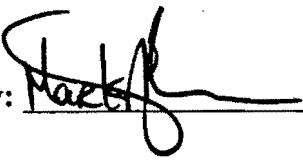
DATE: August 21, 2000

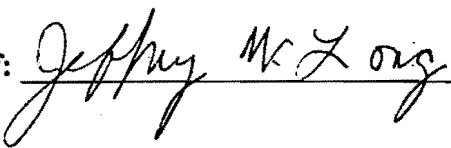
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 01-051

The Office of Planning has reviewed the above referenced case and has no comments to offer.

For any further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:  _____

Section Chief:  _____

AFK/JL:MAC

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

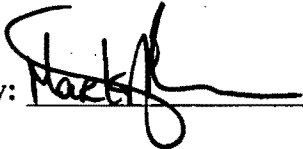
DATE: August 21, 2000

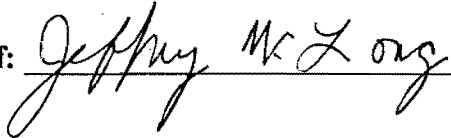
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 01-051

The Office of Planning has reviewed the above referenced case and has no comments to offer.

For any further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:  _____

Section Chief:  _____

AFK/JL:MAC

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley *mc/RBS*

DATE: September 11, 2000

SUBJECT: Zoning Petitions
Zoning Advisory Committee Meeting of August 14, 2000

DEPRM has no comments for the following zoning petitions:

Item #	Address
046	104 Glen Ridge Road
047	19807 York Road
050	34 Dovefield Road
051	200 Detroit Avenue
052	326 South Wind Road
053	4467 Spring Avenue
056	435 Main Street
550 Revised	Phillips Purchase



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

August 22, 2000

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

ATTENTION: Gwen Stephens

RE: Property Owner: HUBERT A. BELLMAN - 047
BRYAN A. NELSON AND CHARLES M. BECKER - 051
TERRY R. DUNKIN AND CHERYL S. DUNKIN - 054

Location: DISTRIBUTION MEETING OF AUGUST 14, 2000

Item No.: 047, 051, 054

Dear Ms. Stephens:

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

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

REVIEWER: LIEUTENANT HERB TAYLOR, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

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



Printed with Soybean Ink
on Recycled Paper



Maryland Department of Transportation
State Highway Administration

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

Date: 8.16.00

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

RE: Baltimore County
Item No. 051 TAG/R

Dear Ms. Jackson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

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

Very truly yours,

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

My telephone number is _____

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

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

RE: PETITION FOR SPECIAL HEARING
200 Detroit Avenue, NW cor Willow Spring Rd
12th Election District, 7th Councilmanic

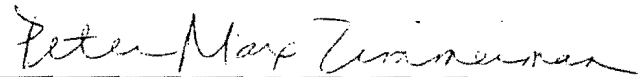
Legal Owner: Bryan A. Nelson and Charles M. Becker
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-51-SPH

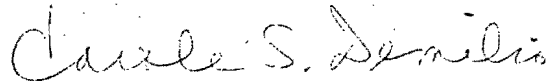
* * * * *

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. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.



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 28th day of August, 2000 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 Petitioner(s).



PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

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

November 14, 2000

Deborah C. Dopkin, Esquire
409 Washington Avenue, Suite 920
Towson, MD 21201

Dear Ms. Dopkin:

RE: Petition for Special Hearing, Case No. 01-051SPH, 200 Detroit Avenue, 12th
District, Bryan Nelson and Charles Becker - Petitioners

Please be advised that an appeal of the above referenced case was filed in this office on 11/06/00 by St. Helena Neighborhood Association. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

NOTE: The subject property will be posted with the date, time, and location of the appeal hearing. If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

Sincerely,

Arnold Jablon
Director

AJ:rsj

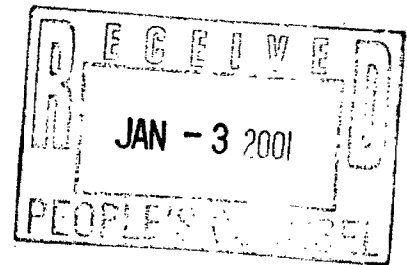
c: St. Helena Neighborhood Association Inc., 210 St. Helena Avenue,
Dundalk, MD 21222
People's Counsel MS 2010
Zoning Commissioner
Arnold Jablon



St. Helena Neighborhood Association Inc.



210 St. Helena Ave.
Dundalk, Md. 21222
Phone: 410-284-3183
Fax: 410-288-4161



October 26, 2000

Mr. Arnold Jablon
Director
Baltimore County Zoning
111 West Chesapeake Avenue
Baltimore, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NW/Corner Detroit Avenue & Willow Spring Road
(200 Detroit Avenue)
12th Election District - 7th Council District
Bryan A. Nelson & Charles M. Becker - Petitioners
Case No. 01-051-SPH

Dear Mr. Jablon:

Enclosed is a check for \$210.00, 175.00 + \$35.00 for one sign to be posted made payable to Baltimore County Government for an appeal to the Petition for Special Hearing.

The St. Helena Neighborhood Association wishes to appeal the decision to grant the Petition for Special Hearing on several counts.

- 1.) The Commissioner stated he could not take into consideration the time the boarding house was being run illegally and then used that in his decision.
- 2.) The Commissioner states that the house is not in the interior of the community, but if that is true now, the house on the side and the two houses front and back are now not in the interior.

St. Helena Neighborhood Association Inc.

3.) The Commissioner failed to give adequate consideration to the voice of the neighborhood and instead only considered how nice it would be for the residents of the recovery house to be near the bus line and their weekly meeting at St. Timothy's

4.) The Commissioner sets up standards for granting the petition, but this house is not licenced so there is nothing set up for monitoring any of the stipulations of the petition or the promises of the owners.

cc: Mr. Bryan A. Nelson, 87 Wise Avenue, Baltimore, Md. 21222
Mr. Charles M. Becker, 3308 Cornwall Road, Baltimore, Md. 21222
People's Counsel, 6 St. Paul Street, Baltimore, Md. 212

I

George B. Wischhusen Sr.

President

Baltimore County Government
Planning Board

REF: _____



401 Bosley Avenue
Towson, MD 21204

(410) 887-3211
Fax (410) 887-5862

October 16, 1992

The Honorable William A. Howard, IV
Chairman, Baltimore County Council
Court House
Towson, MD 21204

Dear Councilman Howard:

Enclosed is a Final Report of the Baltimore County Planning Board, adopted October 15, 1992, which I am submitting to you in accordance with Section 26-123(c) of the Baltimore County Code, 1988.

The report is in response to County Council Resolution 45-91. The Planning Board recommends that the Zoning Regulations be amended by providing new requirements for boarding and rooming houses.

Sincerely,

A handwritten signature in cursive script that reads "Dave Fields".

P. David Fields, Secretary
Baltimore County Planning Board

PDF/HSR/mjm
FINAL.HSE/TXTMJM

Enclosures

cc: The Honorable Roger B. Hayden, County Executive
Members, Baltimore County Council
Merreen E. Kelly, Administrative Officer
Thomas Peddicord, Legislative Counsel/Secretary
Lawrence Schmidt, Zoning Commissioner
H. Emslie Parks, County Attorney
Harold G. Reid, Chairman of the Planning Board
Louis Waidner, Executive Assistant
Patrick Roddy, Director, Legislative Relations
Arnold Jablon, Director, ZADM
Phyllis Cole Friedman, People's Counsel

Proposed Amendments To
The Baltimore County
Zoning Regulations
Regarding



BOARDING AND ROOMING HOUSES

A Final Report Of
The Baltimore County
Planning Board

October 15, 1992

Staff Report Submitted July 16, 1992
Public Hearing September 10, 1992
Addenda September 18 and October 8, 1992

PROPOSED AMENDMENTS TO THE
BALTIMORE COUNTY ZONING REGULATIONS
REGARDING BOARDING AND ROOMING HOUSES

A Final Report of the
Baltimore County Planning Board
Adopted October 15, 1992

PROJECT DESCRIPTION

Council Resolution 45-91 requests the Planning Board to consider amendments to the Zoning Regulations in order to strengthen the standards governing Boarding and Rooming Houses.

DISCUSSION

The Baltimore County Zoning Regulations presently provide separate definitions for boarding houses and rooming houses.

Boarding House: A building which is the primary residence of the owner and in which rooms and meals are provided by the owner for compensation, to three or more adult persons not related by blood, marriage or adoption to the owner. The term does not include a hotel, or a facility for foster care (as defined in Article 84, Section 114 of the Annotated Code of Maryland and COMAR 07.02.17). The term does include a care home (as defined in Article 43, Section 556 of the Annotated Code of Maryland).

and

Rooming House: A building: a) which is the primary residence of the owner and in which rooms are provided, for compensation, to three or more adult persons not related by blood, marriage or adoption to the owner; or b) which is not the owner's residence and which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other. The term does not include a hotel, motel or apartment building.

Boarding and rooming houses are presently permitted by special exception in all D.R. zones. The special exception is subject to renewal every three years. That particular provision was added in 1982, when the regulations concerning boarding and rooming houses were amended. A further stipulation was added at that time requiring that the petitioner "make, keep, and preserve accurate occupancy records and information, including the names, social security numbers, and dates of occupancy of roomers and boarders, and shall make such records and information available to the fire department, police department and other appropriate governmental agencies."

Review of zoning records revealed that during the past five years only one special exception petition for a rooming house was granted in the greater Towson area. During the same time period, only two petitions for rooming houses were granted County-wide. Considering the volume of complaints, it appears that most boarding and rooming houses in Baltimore County operate in violation of the Zoning Regulations.

As a rule, people who live in boarding and rooming houses are single, unrelated individuals. Tenants are frequently young, but elderly and physically impaired people also utilize this type of housing. Among the young, many tenants are students, which is why boarding and rooming houses often proliferate in neighborhoods surrounding institutions of higher learning.

According to zoning enforcement officials, boarding and rooming house conflicts in Baltimore County are basically limited to the neighborhoods surrounding Towson State University (T.S.U.). Complaints concerning the behavior of T.S.U. students have been voiced for many years. The issue was brought up again during discussions concerning the Community Conservation District - Towson Inner Neighborhoods, as described in the Towson Community Plan. In response to these complaints, Councilman Douglas Riley recently formed a "Town-and-Gown" Committee charged with improving community and university relations.

The request to amend the regulations for boarding and rooming houses stems from perennial friction between T.S.U. students residing in such housing and other residents who live in surrounding areas. The most frequently heard complaints relate to the incessant playing of loud music; parties at any day of the week; the lack of adequate parking on the street because boarding and rooming house tenants and their guests take up all the available spaces; the damage of property and vehicles - either as acts of vandalism or because of callous disregard for property; littering and improper trash disposal; frequent fighting and the use of foul language.

Problems with students residing in boarding and rooming houses are not unique to T.S.U. Other municipalities with a large student population housed in residential neighborhoods have similar difficulties. Examination of how other jurisdictions mitigate the impact of students on residential neighborhoods offers a variety of solutions. The creation of university districts in which boarding and

rooming houses are permitted, subject to certain standards and regulations, appears to be the most prevalent zoning tool. Another regulating mechanism is to require that rooming and boarding house owners obtain a permit for that use. The City of College Park for example, requires rooming house operators to acquire an annually renewable occupancy permit and holds landlords accountable for tenant behavior. That is, owners of boarding and rooming houses whose tenants repeatedly violate the City's noise and litter ordinances will not have their permits renewed. The City of Newark, where the University of Delaware is located, requires rooming house operators: "to ensure that boarders and roomers comply with Chapter 20A Noise, and Chapter 22 Article IX Disorderly Conduct and Offenses Against the Public". Also in frequent use are written agreements between institutions of higher learning and surrounding communities. Such agreements are often preceded by "Town and Gown Committees" in which community, business government, student and university representatives discuss their needs and concerns.

Proposed Amendments Concerning Boarding and Rooming Houses.

The Planning Board recommends incorporating several of the zoning mechanisms that were discussed above into the proposed amendments concerning boarding and rooming houses. The Board initially considered a university district. That is, designing special standards and regulations for boarding and rooming houses located in the Community Conservation District of the Towson Inner Neighborhoods as proposed in the Towson Community Plan. Further deliberation, however, led to the conclusion that the proposed legislation has Countywide application. In addition to T.S.U., Baltimore County is home to the University of Maryland Baltimore County and several community colleges. Also, during these difficult economic times, more property owners all over the County may supplement their income by providing room and board.

The legislation recommended below is intended to minimize the negative impact of boarding and rooming houses on residential neighborhoods. A change in the wording of the definition for boarding house would have the effect that all regulations that apply to rooming houses would also apply to boarding houses. Petitioners who apply for special exception would be required to inform the Zoning Commissioner about the anticipated number of tenants and would have to provide a site plan describing the physical characteristics of the potential rooming house and its proximity to adjacent residential structures. Tenants residing in rooming houses would be permitted to park their vehicles only at the offstreet parking spaces designated for that purpose and such parking spaces would have to be located to the side or the rear of the property and would have to be screened in accordance with the Class A requirements of the Landscape Manual.

Also recommended is an increase in the number of required off-street parking spaces from one per guest room to one per tenant bed, plus two parking spaces if the owner resides in the rooming house. Another recommendation is that boarding and rooming house operators obtain an annual permit from the Department of Permits and Licenses which would assure that boarding and rooming house owners comply with other Noise, Litter, Fire and Health laws and the Livability Code. The County is currently in the process of strengthening its Noise Ordinance, which may mitigate some of the noise related issues associated with boarding and rooming houses.

Comments Following the September 10 Public Hearing

It was decided, based on comments at the public hearing, that rooming and boarding houses should be restricted to single-family detached dwellings. The condition which requires rooming house operators to keep records concerning their tenants would be retained, but in addition to the Fire and the Police Department, the information would also have to be made available to Zoning Administration and Development Management.

RECOMMENDATION

The Baltimore County Zoning Regulations, 1955, as amended should be further amended as shown below. {Brackets} indicate text to be deleted and bold indicates text to be added.

1. In Section 101, amend the definition of Board House and Rooming House:

Boarding House: {A building:} **A rooming house** which is the primary residence of the owner and in which rooms and meals are provided by the owner for compensation, to three or more adult persons not related by blood, marriage or adoption to the owner. The term does not include a hotel, or a facility for foster care (as defined in Article 84, Section 114 of the Annotated Code of Maryland and COMAR 07.02.17). The term does include a care home (as defined in Article 43, Section 556 of the Annotated Code of Maryland.

Rooming House: {A building:} **A single-family detached, dwelling:**

- (a) which is the primary residence of the owner and in which rooms are provided, for compensation, to three or more adult persons not related by blood, marriage or adoption to the owner: or
- (b) which is not the owner's residence and which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other. The term does not include a hotel, motel or apartment building.

2. In Section 409.6 - (Required Number of Spaces), amend:

Tourist Home, {Rooming Boarding House}	1 per guest room
Boarding House, Rooming House	1 per tenant bed plus 2 if owner resides on property

3. Delete Subsection 502.5, Paragraph 2 (Bill No. 44, 1982):

{Any special exception or renewal thereof granted for a boarding house or rooming house under the authority of these regulations shall be for the limited duration of three years and shall thereafter be of no further force and effect, unless, no later than three months prior to the expiration of such special exception, application is filed for renewal. As a condition to utilization of said special exception, or renewal thereof, the petitioner shall make, keep, and preserve accurate occupancy records and information, including the names, social security numbers, and dates of occupancy of roomers and boarders, and shall make such records and information available to the fire department, police department and other appropriate governmental agencies.}

4. Add a new Paragraph 2 to Subsection 502.5:

Boarding or rooming houses in single family detached dwellings only, are permitted by special exception in all residential zones. In addition to the requirements generally imposed in the issuance of special exceptions by 502.1, boarding or rooming houses shall be subject to the following requirements:

- A. After (date of passage of bill) a new boarding or rooming house shall not be permitted next to an existing boarding or rooming house.
- B. The petitioner shall provide the following information:
 - 1. Maximum number of rooming house tenants expected to live on the property;
 - 2. A site plan indicating location and type of structure and proximity of dwellings on adjacent lots;
 - 3. The location of the required offstreet parking spaces;
 - 4. A floor plan indicating number of bedrooms and bathrooms.
- C. The petitioner shall keep, and preserve accurate occupancy records and information, including the names, social security numbers, and dates of occupancy of roomers and boarders, and shall make such records and information available to the fire department, police department, Zoning Administration and Development Management and other appropriate governmental agencies.

- D. Tenants residing in a boarding or rooming house shall park vehicles only at the offstreet parking spaces designated for that purpose. Such parking spaces shall be located in the side or rear only, unless otherwise approved by the Zoning Commissioner, and shall be landscaped in accordance with the Class A requirements of the Landscape Manual.
- E. A boarding or rooming house operator shall obtain an annual permit from the Department of Licenses which requires boarding and rooming houses to comply with the applicable Zoning Regulations as well as the Noise, Litter, Fire, Livability Code and Health laws of Baltimore County.
- F. Any structure established as a rooming or boarding house and in operation as of the date of enactment of this bill shall be considered a lawful existing use provided the owner of such a use applies for and is granted a special exception.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1991, LEGISLATIVE DAY NO. 14

RESOLUTION NO. 45-91

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, JULY 1, 1991

A RESOLUTION to the Baltimore County Planning Board requesting the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to strengthen the standards governing Boarding Houses and Rooming Houses.

WHEREAS, the Zoning Regulations currently authorize Boarding Houses and Rooming Houses to be located in D.R. Zones by special exception, subject to the limitations contained in Section 502 regarding the duration of such special exceptions; and

WHEREAS, the Baltimore County Council last considered the issue of Boarding Houses and Rooming Houses in 1982 and at that time determined that the existence of Boarding Houses and Rooming Houses in Residential Zones may have an impact on adjacent residential properties due to the increased number of residents and automobiles and other factors which may adversely affect adjacent properties; and

WHEREAS, the County Council stated its intention that the Zoning Commissioner, in granting a special exception or renewal of a special exception for a Boarding House or a Rooming House, shall consider the existence of any activity or factor which may adversely affect adjacent properties so as to constitute a nuisance; and

WHEREAS, since 1982 the number of university students residing in Boarding Houses and Rooming Houses in neighborhoods surrounding college and university campuses has increased significantly; and

WHEREAS, the problems attendant upon the location of Boarding Houses and Rooming Houses in such neighborhoods have increased significantly, particularly in those neighborhoods surrounding the campus of Towson State University; and

WHEREAS, some of the problems which are particularly acute in the Towson area are the limited parking available and the conduct of the residents of Boarding Houses and Rooming Houses which affects the peace and tranquility of the neighborhoods; and



Baltimore County Government
Office of Planning and Zoning
Towson, MD 21204
887-3211

FAX to George Wacker
 410 288-461
 408B & 502.1

WHILE YOU WERE OUT

FOR Pete DATE 9/9 TIME 7:59 P.M.
 M George Wacker
 OF St. Helena Neighborhood Center
 PHONE ☐ MOBILE ☐ FAX ☐
 MESSAGE 375-1674 call
 WILL CALL again
 CAME TO see you
 WANTS TO see you
 SIGNED George Wacker FORM 4008



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

FAX COVER LETTER

TO: GEORGE WISCHUSEN 410 288-4161

FROM: PETER ZIMMERMAN

DATE: 9/5/01

PAGES (INCLUDING THIS COVER PAGE): 6

If all pages are not received, please call CAROL FISHER
at (410) 887-2188.

COMMENTS: BALTIMORE COUNTY ZONING REGULATIONS
(BCZR) SECTIONS 408B AND 502.1

parking space requirement to businesses which may require additional spaces; if the church seeks to construct additional spaces to meet or exceed the parking space requirement, the Director shall require the church to seek the use of available space before approving the use permit.

3. The required distance for off-street parking spaces in Section 409.7 of these regulations may be exceeded for the purposes of this section.

**Section 408
Junkyards¹¹
[BCZR 1955]**

- 408.1 The area of land so to be used shall be not less than 1 acre or more than 5 acres.
- 408.2 No automobile or vehicle not in running condition, nor machinery or other junk or scrap shall be located, either for storage or dismantling, within 300 feet of any other zone, within 50 feet of the front street line nor within 30 feet of any other adjoining property.
- 408.3 The Zoning Commissioner or County Board of Appeals, upon appeal, shall require the location and erection of such walls or fences or require the planting of such shrubbery, trees or vines, as may be reasonable and proper, to afford adequate screening of such junkyard.

**Section 408A
Ambulatory Surgical Facility (or Center)
[Bill No. 37-1988]**

Notwithstanding any other provisions of these regulations, an ambulatory surgical facility is permitted by special exception in all zones of the county except D.R., R.O. and R.C. Zones.

**Section 408B
Boarding- or Rooming Houses in D.R. Zones
[Bill No. 124-1993]**

Notwithstanding any provision in these regulations to the contrary, boarding- or rooming houses are permitted in D.R. Zones, subject to the provisions of this section.

- A. Upon application to the Department of Permits and Development Management (PDM), the Director may issue a use permit for a boarding- or rooming house under the following procedure:
 1. Upon application, the applicant shall provide the following information:
 - a. The maximum number of tenants expected to live on the property.
 - b. A site plan indicating the location and type of structure and the proximity of dwellings on adjacent lots.

¹¹ Editor's Note: The right to maintain certain nonconforming junkyards has been terminated. See Section 1B01.1.D.

- c. The location of the required off-street parking spaces.
 - d. A floor plan indicating the number of bedrooms and bathrooms.
 - e. Such other information as the Director may require.
2. Notice and hearing.
- a. On the property in question, notice of the application for the use permit shall be conspicuously posted for a period of 15 days following the filing of the application.
 - b. Within the fifteen-day posting period, any interested person may file a formal request for a public hearing before the Zoning Commissioner in accordance with Section 500.7.
 - c. If a formal request for a public hearing is not filed, the Director, without a public hearing, may grant a use permit for a boarding- or rooming house in a D.R. Zone if the proposed use meets the requirements of this section and Section 502.1. The use permit may be issued with such conditions or restrictions as determined appropriate by the Director to satisfy the provisions of this section and Section 502.1 and to ensure that the boarding- or rooming house will not be detrimental to the health, safety or general welfare of the surrounding community.
 - d. If a formal request for a public hearing is filed, the Director shall schedule a date for the public hearing before the Zoning Commissioner, such hearing to be held not less than 21 days and not more than 90 days from the date of filing of the request for public hearing.
 - e. Following the public hearing, the Zoning Commissioner may either deny or grant a use permit conditioned upon:
 - (1) Findings following the public hearing.
 - (2) The character of the surrounding community and the anticipated impact of the proposed use on that community.
 - (3) The manner in which the requirements of this section and Section 502.1 and other applicable requirements are met and any additional requirements as deemed necessary by the Zoning Commissioner in order to ensure that the use will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives of this section and Section 502.1 of these regulations.
 - f. If a formal request for a public hearing is not filed and notwithstanding any provision herein to the contrary, the Director may, at his or her discretion, require a public hearing whereat the applicant shall be required to satisfy the burden of proof required for such use to be granted.

- g. Notwithstanding the provisions of Section 1B01.1B, the Director, or the Zoning Commissioner if a hearing is requested, or the County Board of Appeals, upon appeal, may modify Section 1B01.1.B.1.b as it pertains to such use in D.R. Zones.
- B. Boarding or rooming houses are permitted only in single-family detached dwellings.
- C. The applicant shall be required to keep and preserve accurate occupancy records, including the name, social security number and dates of occupancy of each tenant and shall make such records available to the Fire Department, Police Department, Department of Permits and Development Management and other appropriate governmental agencies.
- D. Off-street parking spaces shall be located in the side or rear only, unless otherwise approved by the Zoning Commissioner, and shall be landscaped in accordance with the Class A requirements of the Landscape Manual.
- E. After the effective date of Bill No. 124-93, a new boarding- or rooming house is not permitted next to an existing boarding- or rooming house unless permitted after a public hearing pursuant to Section 408.B.
- F. Upon approval of the initial use permit, the applicant, operator, owner or lessee of the property or premises at issue shall be required to renew the use permit annually, to be dated from the month of the initial approval. Such renewal shall not be subject to Section 408B.A.2 above.
- G. The Director may suspend, revoke or refuse to renew the use permit for the following reasons:
 - 1. The applicant has made any false or misleading statement in any application or other document required to be filed under this section.
 - 2. The applicant has failed to comply with the Livability Code; the applicable zoning regulations; or the noise, litter, fire, health or sanitation ordinances of Baltimore County.
 - 3. The applicant has failed to comply with the terms and conditions of the initial approval.
- H. The applicant, as a condition precedent to the approval of the initial use permit, shall be required to permit the county to enter and inspect the premises upon twenty-four-hour notice to the applicant, operator, owner or lessee of the property or premises.
- I. Appeals from any decision or order of the Director or Zoning Commissioner may be taken to the Board of Appeals in accordance with Section 26-132 of the Baltimore County Code, 1988 Edition, as revised.

- 501.6 Appeals from the Zoning Commissioner shall be heard by the board of zoning appeals de novo. At such hearing, all parties, including the Zoning Commissioner, shall have the right to be represented by counsel, to produce witnesses and to file and submit all proper oral or written evidence.
- 501.7 The decision and order of the board of zoning appeals may affirm or reverse in whole, or in part, any decision or order of the Zoning Commissioner, or may modify the order appealed from and direct the issuance of a permit for such modified use as it may deem proper, subject, however, to zoning regulations and restrictions.
- 501.8 The charges and fees for procedures before the Zoning Commissioner to be paid by petitioner and before the board of appeals by the appellant or petitioner, shall be as follows. [Bill Nos. 64-1960; 57-1982; 36-1984]
- A. Cost of procedure before Zoning Commissioner.,
 - (1) Petition for special exception: \$100.
 - (2) Petition for special hearing pertaining to a one-family residence: \$35.
 - (3) Petition for variance pertaining to a one-family residence: \$35.
 - (4) All other petitions for variance or special hearing: \$100.
 - (5) Maximum charge for petitions filed together: \$250.
 - B. Cost of proceedings before the County Board of Appeals.
 - (1) Appeals from granting or refusing to grant a special exception: \$100.
 - (2) Petition for reclassification: \$100.
 - (3) All other hearings or appeals: \$75.
 - C. The fees established herein may be changed by the County Administrative Officer from time to time and shall be in addition to advertising and posting expenses as established by the County Administrative Officer. In addition, the County Administrative Officer shall waive any or all of the fees or expenses established herein for the filing of a petition for special exception or variance when such petition is filed by a Baltimore County volunteer fire, ambulance or rescue company.

Section 502
Special Exceptions
[BCZR 1955]

(See Section 270, Schedule of Special Exceptions.)

NOTE: Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few uses, such as dumps and junkyards, are inherently so objectionable as to make extra regulations and controls advisable even in the M.H. Zone, to which they are restricted. Others, like a cemetery, do not fit into any of the zone categories, that is, residential,

business and industrial, and therefore must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety or general welfare of the public, the uses listed as special exceptions are permitted only if granted by the Zoning Commissioner, and subject to an appeal to the County Board of Appeals.

In granting any special exception, the Zoning Commissioner and the County Board of Appeals, upon appeal, shall be governed by the following principles and conditions.

- 502.1 Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
- A. Be detrimental to the health, safety or general welfare of the locality involved;
 - B. Tend to create congestion in roads, streets or alleys therein;
 - C. Create a potential hazard from fire, panic or other danger;
 - D. Tend to overcrowd land and cause undue concentration of population;
 - E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
 - F. Interfere with adequate light and air; [Bill No. 45-1982]
 - G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor [Bill No. 45-1982]
 - H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations. [Bill No. 45-1982]
- 502.2 In granting any special exception, the Zoning Commissioner or the Board of Appeals, upon appeal, shall impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a special exception is granted, if required by the Zoning Commissioner, or Board of Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County,¹⁸ stipulating the conditions, restrictions or regulations governing such special exception, the same to be recorded among the land records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such special exception. When so recorded, said agreement shall govern the exercise of the special exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.
- 502.3 A special exception which has not been utilized within a period of two years from the date of the final order granting same, or such longer period not exceeding five years, as may have been specified therein, shall thereafter be void. The Zoning

¹⁸ Editor's Note: Under Section 1107 of the Baltimore County Charter, the County Council and County Executive have succeeded "to all powers heretofore vested in the county commissioners by the constitution and laws of this state."

TRANSMISSION VERIFICATION REPORT

TIME: 09/05/2001 00:27
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DATE, TIME	09/05 00:25
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RESULT	ERROR
MODE	STANDARD

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