

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
 AND VARIANCE - S/S Rockfields Road,
 136' E of the c/l Rolling Road * ZONING COMMISSIONER
 (6975 Rockfields Road)
 2nd Election District * OF BALTIMORE COUNTY
 2nd Council District * Case No. 01-229-XA
 Debra Michelle Hackett
 Petitioner *

* * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

This matter came before this Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owner of the subject property, Debra Michelle Hackett, through her attorney, Bryan T. Bookhard, Esquire. The Petitioner sought approval of special exception and variance relief for a Class B Group Child Care Center for a maximum of 40 children on the subject property. The matter was scheduled for a public hearing with the required public notice given, and the proceedings conducted in their entirety on February 27, 2001.

Appearing at the requisite public hearing in support of the request were (Debra) Michelle Hackett, property owner, her father, Stanley Hackett, and her attorney, Francis X. Borgerding, Jr., Esquire. Also appearing was William A. Pope, a nearby property owner. It is to be noted that Mr. Pope initially appeared at the hearing to oppose the request. However, during the proceedings, he was afforded the opportunity to review the Petitioner's plan and offer testimony. At the hearing, Mr. Pope indicated that his community needed the child care services offered by Ms. Hackett's facility and that he supported the proposed use at this site. He expressed concern, however, about the number of children who would be served at this site. Mr. Pope stated that a reduction in the number of children served to between 20 and 30 would be more appropriate and that he would support such a proposal. This point is to be emphasized in that it appears that the immediate neighbors who live and own property in the vicinity of the subject site are not opposed to the requested relief, if the number of children served is limited.

ORDER RECEIVED FOR FILING

Date

By

5/21/01
 Pope

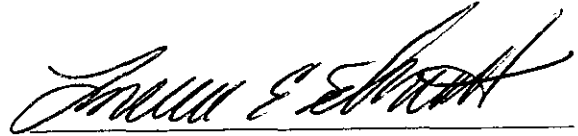
In any event, the undersigned Zoning Commissioner issued a Findings of Fact and Conclusions of Law and Order on March 12, 2001, granting the special exception and variance relief; however, limiting the facility to 20 children. Following the issuance of that Order, a Motion for Reconsideration was received from Louis W. Miller, on behalf of the Greater Timonium Community Council. In order to entertain Mr. Miller's Motion, and the objections thereto by the Petitioner, the matter was reconvened for further proceedings on April 19, 2001. At that time, oral argument was entertained by the undersigned Zoning Commissioner. Based on the arguments presented, I determined in open hearing that Mr. Miller, the Greater Timonium Community Council, and other residents of that locale who appeared, did not have the requisite standing to participate in the hearing.

It is clear that neither Mr. Miller nor any of the other Protestants who attended the reconvened matter do not own property nor reside anywhere near the subject property. The sign-in sheet reflects addresses in the Lutherville/Timonium community. Thus, these Protestants have no greater interest in the matter than members of the public at large. Although proceedings before the Zoning Commissioner are of an administrative nature and members of the public are encouraged to attend and participate, there must be some reasonable nexus between the matter considered and the opposition generated. The Protestants could articulate no such reasonable basis. In that the Motion for Reconsideration was filed by individuals who neither own property nearby nor reside in the community surrounding the subject site, they are without standing and their Motion should be properly denied. Moreover, it is clear that no interested person with standing (i.e., nearby resident or property owner, Office of People's Counsel) appeared or requested a reconsideration. Thus, I shall deny the Motion for Reconsideration and reincorporate herein the Findings of Fact and Conclusions of Law and Order issued on March 12, 2001. Such a ruling is entirely consistent with the notion of fairness and the case law. (See e.g., MNCPPC vs. Smith, 333 Md. 3 (1993); Bryniaski vs. Montgomery Co., 247 Md. 137 (1969).

ORDER RECEIVED FOR FILING
Date 5/21/01
By [Signature]

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of May, 2001 that the Motion for Reconsideration filed in the above-captioned matter be and the same is hereby DENIED; and,

IT IS FURTHER ORDERED that the Order issued March 12, 2001 is incorporated herein and shall remain in full force and effect.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 5/21/01
By [Signature]



**Baltimore County
Zoning Commissioner**

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

May 17, 2001

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: MOTION FOR RECONSIDERATION
(6975 Rockfields Road)
Debra Michelle Hackett - Petitioner
Case No. 01-229-XA

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Motion for Reconsideration filed by Mr. Louis W. Miller has been denied 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,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Ms. Debra M. Hackett
6975 Rockfields Road, Baltimore, Md. 21244
Mr. Louis W. Miller, 44 E. Timonium Road, Timonium, Md. 21093
Dr. Hector P. DiNardo, 2215 Dalewood Road, Timonium, Md. 21093
Mr. Larry Townsend, 1111 Longbrook Road, Timonium, Md. 21093
Mr. Stewart Davis, 112 Springside Drive, Timonium, Md. 21093
Office of Planning; Peter Max Zimmerman, Office of People's Counsel; Case File



APR 19

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE (6975 ROCK FIELDS ZONING COMMISSIONER
ROAD) SECOND ELECTION DISTRICT-*
SECOND COUNCILMANIC DISTRICT
DEBORAH MICHELLE HACKETT, * FOR
PETITIONER *
BALTIMORE COUNTY
Case No.: 01-229-XA

* * * * *

MOTION TO DISMISS MOTION FOR RECONSIDERATION

Deborah Michelle Hackett, Petitioner, by and through her counsel, Francis X. Borgerding, Jr., and files this Motion to Dismiss the Motion for Reconsideration filed by the Greater Timonium Community Council, Inc., in the above-captioned case, and says:

1. After conducting a hearing with regard to this matter, the Zoning Commissioner for Baltimore County issued an Opinion and Order dated March 12, 2001 granting Petitioner's request for Special Exception and Variance. On March 22, 2001, the Greater Timonium Community Council, Inc. sent a letter to the Zoning Commissioner for Baltimore County requesting a rehearing of the above-captioned case and further that the Zoning Commissioner rescind his previous Order of March 12, 2001.

2. On April 6, 2001, the Zoning Commissioner for Baltimore County issued correspondence indicating that the Greater Timonium Community Council, Inc.'s correspondence of March 22, 2001 be treated as a "Motion for Reconsideration" and scheduled a continued hearing on the matter for Thursday, April 19, 2001, at 11:00 a.m.

3. The March 22, 2001 which is the letter being treated as a Motion for Reconsideration should be dismissed and accordingly any stay of appellate period or continued hearing stemming therefrom should be rescinded as the Greater Timonium Community Council, Inc. does not have

standing in this matter. The Greater Timonium Community Council, Inc. or even its president, individually, fails to meet the test of "an aggrieved person" as indicated under Bryniarski v. Montgomery County Bd. of Appeals, 247 Md. 137, 143-48, 230 A.2d 289, 293-96 (1967). See Bryniarski v. Montgomery County Bd. of Appeals, 247 Md. 137, 143-48, 230 A.2d 289, 293-96 (1967)

"Generally speaking, the decisions indicate that a person aggrieved by the decision of a board of a zoning appeals is one whose personal or property rights are adversely affected by the decision of the board. The decision must not only affect a matter in which the protestant has a specific interest or property right but his interest therein must be such that he is personally and specially affected in a way different from that suffered by the public generally. DuBay v. Crane, 240 Md. 280, 185, 213 A.2d 487 (1965).

Further, see Hedin v. Board of County Comm'rs of Prince George's County, 209 Md. 224, 120 A.2d 663 (1956)

A representative, or representatives, of a civic association may be heard by a zoning board in proceedings affecting the neighborhood in which their members reside or conduct business.

Largo Civic Ass'n v. Prince George's County, 21 Md. App. 76, 318 A.2d 834 (1974).

In the instant case the civic association had no standing to appeal a zoning decision where the record before the Court of Appeals did not demonstrate that the civic association was either a taxpayer or an aggrieved party.

The Greater Timonium Community Council, Inc. was not affected by the decision of the Opinion and Order rendered by the Zoning Commissioner for Baltimore County on March 12, 2001 "in any way different from that suffered by the public generally". The above-captioned matter involves property outside of the land area which the Greater Timonium Community Council, Inc. represents and is geographically far removed therefrom.

The Greater Timonium Community Council, Inc. did not have proper standing to file "the

Motion for Reconsideration" presently at issue with regard to this matter or to participate in any further proceedings stemming therefrom. Accordingly, the Petitioner requests that the Zoning Commissioner for Baltimore County to dismiss the "Motion for Reconsideration" and any further proceedings stemming therefrom, including rescission of the appellate stay.

WHEREFORE, Petitioner, Deborah Michelle Hackett, respectfully requests the Zoning Commissioner for Baltimore County to:

- A. Dismiss the Motion for Reconsideration filed by the Greater Timonium Community Council, Inc. dated March 22, 2001 and any further proceedings stemming therefrom and rescind the granting of a stay of the appellate period of the Commissioner's March 12, 2001 Order imposed by letter dated April 6, 2001; and
- B. For such other and further relief as the nature of Petitioner's cause may require.


FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR PETITIONER

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 19th day of April, 2001, a copy of the foregoing was hand-delivered to:

Louis W. Miller, President
Greater Timonium Community Council, Inc.
9-B Ridgely Road, Box 276
Timonium, Maryland 21093


FRANCIS X. BORGERDING, JR.

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE - S/S Rockfields Road,
136' E of the c/l Rolling Road * ZONING COMMISSIONER
(6975 Rockfields Road)
2nd Election District * OF BALTIMORE COUNTY
2nd Council District * Case No. 01-229-XA
Debra Michelle Hackett
Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owner of the subject property, Debra Michelle Hackett, through her attorney, Bryan T. Bookhard, Esquire. The Petitioner requests a special exception for a Class B Group Child Care Center for a maximum of 40 children on the subject property. In addition, the Petitioner requests variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 424.7.A, B C and E to permit a minimum lot size of .31 acres in lieu of the required 1.0 acre; to permit a front average setback of 36 feet in lieu of the required 49 feet; side yard setbacks of 40 feet and 32 feet, and a rear yard setback of 46 feet, all in lieu of the required 50 feet; and side and rear buffers of 0 feet in lieu of the required 20 feet; to permit drop-off and delivery area to be partially in the front yard in lieu of the required side or rear yard; and, to permit a maximum impervious surface area of 44% in lieu of the maximum allowed 25%; from Section 409.12 to approve a modified parking plan in accordance with the site plan submitted; from Section 424.1.B to permit a play area panel or stockade fence to be set back 0 feet from the property line in lieu of the required 20 feet; and, from Section 1B01.1.B.1.e to approve Residential Transition Area (RTA) setbacks and buffers of 0 feet each, in lieu of the required 75 feet and 50 feet, respectively.

Appearing at the requisite public hearing in support of the request were (Debra) Michelle Hackett, property owner, her father, Stanley Hackett, and her attorney, Francis X.

ORDER RECEIVED FOR FILING
Date 3/12/91
By [Signature]

Borgerding, Jr., Esquire. Appearing as a Protestant in the matter was William A. Pope, a nearby property owner.

Testimony and evidence offered revealed that the subject property is a square shaped parcel, located on the south side of Rockfields Road, just east of its intersection with Rolling Road in Woodlawn. The property consists of a gross area of 0.319 acres, more or less, zoned D.R.5.5, and is improved with a building approximately 2,700 sq.ft. in area, which serves as both a residence for the property owner and as a Child Care Center. Testimony indicated that the building was constructed in the late 1800s and was apparently the centerpiece for a large tract, which included many of the adjacent and nearby lots. However, the tract was subdivided over the years and the building now sits on a lot of approximately 1/3 of an acre. It is of note that the building faces Rolling Road, notwithstanding the fact that a house/lot known as 6977 Rockfields Road is located between the subject property and Rolling Road.

Ms. Hackett testified that she owns and resides on the subject property with her brother. Apparently, Ms. Hackett has been a licensed day care provider for many years and has been using the subject property as a day care center for some time. Presently, she provides day care for up to 8 children; however, would like to expand her operation so as to be able to provide day care services for up to 40 children.

Group Child Care Centers are regulated in Section 424 of the B.C.Z.R. Section 101 of the B.C.Z.R. defines a Group Child Care Center as a "Building or structure wherein care, protection, and supervision is provided for part or all of the day, on a regular schedule, at least twice a week, for at least 9 children, including children of the adult provider." A Class A Group Child Care Center is defined as a center where care is provided for no more than 12 children; a Class B Group Child Care Center is where care is provided for more than 12 children. Thus, the relief requested is necessary to permit expansion of the existing use on the subject property.

Testimony and evidence was offered by both Ms. Hackett and her father regarding the subject property and its use. Mr. Hackett described the property, its historic use, and the subject neighborhood. Mr. Hackett indicated that although the property is surrounded by residential uses,

it is located within close proximity of business and industrial uses on Rolling Road. In effect, the property is located near the gateway to the residential community that extends from Rolling Road to the east along those residential streets known as Rockfields Road, Kenway Court, and Cloverhill Road.

As noted above, Ms. Hackett presently cares for 8 children on her property on a full-time basis, Monday to Friday, from 7:00 AM to 6:00 PM. The children range in age from 2 to 5 years. She indicated that she runs an efficient center, which benefits both the children and their parents, and that she offers educational programs for the children. She indicated that the use serves many families in the adjacent community. Many of the individuals who reside in the community drop off their children at this neighborhood site as they travel to their places of employment. Ms. Hackett indicated that the use is needed in this community and that there is a waiting list for people to enroll their children in the facility. She also indicated that she is licensed by the State of Maryland and would increase the number of employees on site, as required by the State, if the number of children proposed is allowed under the subject zoning Petitions.

Mr. Pope testified and expressed a concern, which is shared by the undersigned. He is concerned about the additional traffic that will be generated by the proposed use, and the pattern under which children will be dropped off and picked up at the site. Presently, the property features only a small concrete pad to accommodate off-site parking. As shown on the site plan, the Petitioner proposes expanding that parking pad to a parking area, 43' x 75' in dimension, which will provide parking for up to 8 motor vehicles and an area for individuals to drop-off/pick-up their children on the site.

Although no one other than Mr. Pope appeared in opposition to the request, an adverse Zoning Advisory Committee (ZAC) comment, dated January 22, 2001, was received from the Office of Planning. That agency opines that the subject proposal would result in an over-development of the site which could be detrimental to adjacent residential properties. Their comment also addresses the lack of an adequate delivery/pick-up area and parking area, which could be disruptive to nearby residents and the stability of the residential community.

ORDER RECEIVED FOR FILING

Date

By

This is indeed a difficult case. I have no doubt that Ms. Hackett runs an appropriate and needed day care center in the community. Properly regulated, the use could be beneficial to the locale. However, the site is small and the opportunity for expansion, in my judgment, limited. Under the circumstances, I will grant the relief requested, however will restrict same to insure that the proposed use will not be detrimental to the health, safety and general welfare of the participants of the day care center as well as residents of the surrounding locale. Specifically, I will limit the number of children to be cared for at the center to 20. This is half the number sought by the Petitioner, but more than double the number she currently cares for. The Petitioner may, in the future, file a Petition for Special Hearing to increase that amount, should it be shown that she can accommodate 20 children on this site without a problem. However, at this time I will limit the use to 20 children to reduce the volume of traffic coming to and from the site. Additionally, as noted by the Office of Planning in their ZAC comment, the outside play area is rather limited and might not be able to comfortably accommodate more than 20 children.

As a second restriction, I will require the Petitioner to proceed with the proposed improvements to the parking area, as shown on the site plan. Although fewer spaces will be required under law with only 20 children attending the center, I believe the proposed 43' x 75' parking area as shown on the plan should be constructed. This will enable employees to park towards the rear of the site, and provide a large area for dropping off and picking up children. In addition, the large parking area, as proposed, will insure that parents dropping off their children at the site will drive onto the property and not disrupt traffic on Rockfields Road.

Third, the plan shows that the perimeter of the property will be enclosed with a board-on-board fence. Indeed, this is appropriate and necessary to provide security for the children and privacy for the neighbors. Additionally, board-on-board screening through the perimeter of the property, as shown on the plan, will prevent spillage of lights, noise and other impacts associated with the use and cars on the site from disrupting neighboring properties. In this regard, the Petitioner shall submit a landscape plan for review and approval by the County's Landscape

ORDER RECEIVED FOR FILING
Date 3/12/11
By [Signature]

Architect, Mr. Avery Harden. Although a board-on-board fence appears appropriate, additional landscaping may be warranted to further screen the site from adjacent residential uses.

Finally, I will require that the Petitioner take whatever steps as are necessary to insure that all patrons of the Child Care Center drop off their children from the driveway area. The Petitioner indicated that her clients would abide by any reasonable rules and regulations and I believe that requiring traffic to enter onto the site before dropping off their children is appropriate. Mr. Pope's testimony regarding heavy traffic volumes at the nearby intersection of Rockfields Road and Rolling Road supports the imposition of this restriction.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth above, the Petitions for Special Exception and Variance, as modified herein, shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 12th day of March, 2001 that a special exception for a Class B Group Child Care Center for no more than 20 children, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 424.7.A, B C and E to permit a minimum lot size of .31 acres in lieu of the required 1.0 acre; to permit a front average setback of 36 feet in lieu of the required 49 feet; side yard setbacks of 40 feet and 32 feet, and a rear yard setback of 46 feet, all in lieu of the required 50 feet; and side and rear buffers of 0 feet in lieu of the required 20 feet; to permit drop-off and delivery area to be partially in the front yard in lieu of the required side or rear yard; and, to permit a maximum impervious surface area of 44% in lieu of the maximum allowed 25%; from Section 409.12 to approve a modified parking plan in accordance with the site plan submitted; from Section 424.1.B to permit a play area panel or stockade fence to be set back 0 feet from the property line in lieu of the required 20 feet; and, from Section 1B01.1.B.1.e to approve Residential Transition Area (RTA) setbacks and buffers of 0 feet each, in lieu of the required 75 feet and 50 feet, respectively, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

ORDER RECEIVED FOR FILING

Date 3/21/01

By [Signature]

- 1) The Petitioners may apply for their building and use permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The special exception relief granted herein is limited to 20 children. In the future, the Petitioner may file a Petition for Special Hearing to increase that amount should it be shown that 20 children can be accommodated on this site without problem.
- 3) The Petitioner shall be required to improve the site with a parking lot in accordance with the 43' x 75' dimension shown on the site plan.
- 4) The Petitioner shall submit a landscape plan for review and approval by the County's Landscape Architect, Mr. Avery Harden. Although a board-on-board fence appears appropriate, additional landscaping may be warranted to further screen the site from neighboring residential properties.
- 5) The Petitioner shall take whatever steps as are necessary to insure that all patrons of the Child Care Center drop off their children from the driveway area and not from Rockfields Road.
- 6) When applying for a building and/or use permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Special Exception for approval of a Class B Group Child Care Center for a maximum of 40 children, be and is hereby DENIED.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING

Date

By



Baltimore County
Zoning Commissioner

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

March 9, 2001

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION & VARIANCE
S/S Rockfields Road, 136' E of the c/l Rolling Road
(6975 Rockfields Road)
2nd Election District – 2nd Council District
Debra Michelle Hackett - Petitioner
Case No. 01-229-XA

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance, as modified, 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,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Ms. Debra M. Hackett
6975 Rockfields Road, Baltimore, Md. 21244
Mr. & Mrs. Stanley A. Hackett
12 Cedar Hill Road, Randallstown, Md. 21133
Mr. William A. Pope
6963 Rockfields Road, Baltimore, Md. 21244
Office of Planning; People's Counsel; Case File

✓





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 6975 Rockfields Road Balt. Md
which is presently zoned IR5.5 2122

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and, made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHMENT

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

TO BE DETERMINED AT HEARING

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

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Bryan T. Bookherd

Name - Type or Print

Signature

Company

3614 Elmcrest Lane

301/809-1490

Address

Telephone No.

City

MD

20716

State

Zip Code

Legal Owner(s):

Debora Michelle Hackett

Name - Type or Print

Signature

Name - Type or Print

Signature

6975 Rockfields Rd

410 298 2002

Address

Telephone No.

Baltimore, Md

21244

City

State

Zip Code

Representative to be Contacted:

Mary L. Hackett

Name

12 Cedar Hill Rd

410 922 1761

Address

Telephone No.

Randallstown, Md

21133

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

JNP

Date

12/1/00

ORDER RECEIVED FOR FILING
Date 9/15/98
By

Attachment A

424.7. A, B, C, and E; 409.12; 424.1B; 1B01.1. B.1e to permit a minimum lot size of .31 acres in lieu of 1 acre, to permit a front average setback of 36 feet in lieu of 49 feet, side yard setback of 40 feet and 32 feet and a rear yard setback of 46 feet all in lieu of 50 feet, 0 feet side and rear buffers in lieu of 20 feet, to permit drop off and delivery area partiality in front yard in lieu of side or rear yard, to permit a maximum impervious surface area of 44 % in lieu of 25% maximum, to approve a modified parking plan as shown on the hearing plan, to permit a play area with panel or stockade fence with 0 feet setback in lieu of 20 feet, and to approve 0 feet RTA setback and buffers in lieu of the required 75 feet and 50 feet respectively.

3/20/20
Brockman



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 10975 Rockfields Road Balt Md

which is presently zoned DE 5.5 2124

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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

Class B Group Child Care Center for a maximum of 40 children

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

I, or we, agree to pay expenses of above Special Exception, 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:

Bryan T. Bookhart

Name - Type or Print

Bryan T. Bookhart

Signature

Company

3214 Ancrest Lane

301/809-1490

Address

Telephone No.

City

MD

20716

State

Zip Code

Legal Owner(s):

Debra Michelle Hackett

Name - Type or Print

Debra Michelle Hackett

Signature

Name - Type or Print

Signature

10975 Rockfields Road 410 298 3002

Address

Telephone No.

Baltimore, Md 21244

City

State

Zip Code

Representative to be Contacted:

Mary Hackett

Name

12 Cedar Hill Road 410 922 1761

Address

Telephone No.

Randallstown, Md 21133

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By JNP

Date 12/1/00

ORDER RECEIVED FOR
3/12/01
Date 09/15/98
By

Case No. 01-229-XA

Property Description

6975 Rockfields Rd.
Baltimore, MD 21244

BEGINNING for the same at a point on the south right-of-way line of Rockfields Road North 88 degrees 16 minutes 23 seconds East, 186.74 feet from point No. 857 and the Northwest corner of Lot 24 and Parcel "A" as shown on a Plat entitled First Amended Plat One WATERFORD PLACE recorded among the Land Records of Baltimore County, Maryland on April 15, 1986 in Plat Book E.H.K. Jr. 54 folio 90; thence running with and binding on the division line of Lot 24 and Parcel "A" as now surveyed;

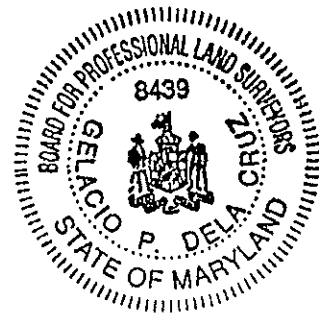
(1) South 01 degrees 43 minutes 37 seconds East, 107.00 feet to a point at the Northeast corner of Lot 25 and the Southeast corner of Parcel "A" as shown on said Plat, thence running with and binding on the north line of Lot 25 and the Lands of J.C. Gilbert for Two (2) new courses and distances;

(2) South 88 degrees 16 minutes 23 seconds West, 129.68 feet to a point, thence by a new line of division;

(3) North 01 degrees 43 minutes 37 seconds West, 107.00 feet to a point on the South right-of-way line of Rockfields Road, thence running a binding on said right-of-way line;

(4) North 88 degrees 16 minutes 23 seconds, East 129.68 feet to the place of beginning. Being known as #6975 Rockfields Road and containing 13875.46 square feet or 0.319 Acres of Land more or less.

As recorded in Liber (11502) Folio (0507) Lot (1)



01-229-XA

BALTIMORE COUNTY, MARYL D
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 35624

DATE 12/1/00 ACCOUNT R-001-6150

AMOUNT \$ 550.00

RECEIVED FROM: Debraal Hockett (01-229-XA)

FOR: Special Exception / Voucher
Group Child Care Center

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

DATE 12/01/00 12/01/2000 14:00:00
BY MS02 CASHIER DEB. H. HAWK
RECEIPT # 362927
CR NO. 025624

Receipt Tot 550.00
550.00 OK 10 00
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #01-229-XA

6975 Rockfields Road

S/S Rockfields Road, 136' E of Rolling Road

2nd Election District - 2nd Councilmanic District

Legal Owner(s): Debra Michelle Hackett

Special Exception: for a Class B group child care center.
Variance: to permit a minimum lot size of .31-acre in lieu of 1 acre; to permit a front average setback of 36 feet in lieu of 49 feet, side yard setback of 40 feet and 32 feet and a rear yard setback of 46 feet all in lieu of 50 feet; zero foot side and rear buffers in lieu of 20 feet; to permit drop off and delivery area partially in front yard in lieu of side or rear yard, to permit a maximum impervious surface of 44% in lieu of 25% maximum, to approve a modified parking plan; to permit a play area with panel or stockade fence with zero foot setback in lieu of 20 feet, and to approve zero foot RTA setback and buffers in lieu of the required 75 feet and 50 feet respectively.

Hearing: Tuesday, January 23, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

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

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

1/011 Jan. 4

C442486

CERTIFICATE OF PUBLICATION

TOWSON, MD, 1/4/, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/4/, 2001.

S. Wilkinson
THE JEFFERSONIAN,

LEGAL ADVERTISING

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

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Hearing: Tuesday, February 27, 2001 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

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

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

JT/2/847 Feb. 13

C450120

CERTIFICATE OF PUBLICATION

TOWSON, MD, 2/15/, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/13/, 2001.

THE JEFFERSONIAN,
S. Wilkinson

LEGAL ADVERTISING

[illegible]

CERTIFICATE OF POSTING

RE: Case No.: 01-229-XA

Petitioner/Developer: Debora Hackett

Date of Hearing/Closing: 2-27-01 @ 2:00pm

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

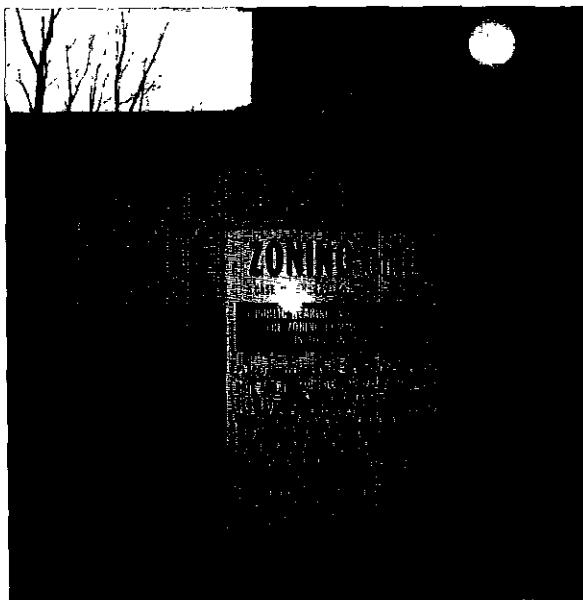
Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 6975 Rockfields Rd.

Gwynn Oak, MD 21244

The sign(s) were posted on February 8, 2001
(Month, Day, Year)



Sincerely,

Stacy Gardner 2/8/01
(Signature of Sign Poster and Date)

Stacy Gardner
(Printed Name)

SHANNON-BAUM SIGNS INC.
105 COMPETITIVE GOALS DR.
ELDERSBURG, MD. 21784

(City, State, Zip Code)

410-781-4000

(Telephone Number)

RE: PETITION FOR SPECIAL EXCEPTION
PETITION FOR VARIANCE

6975 Rockfields Road, S/S Rockfields Rd,
136' E of Rolling Rd
2nd Election District, 2nd Councilmanic

Legal Owner: Debora Michelle Hackett
Petitioner(s)

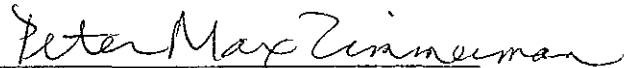
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 01-229-XA

* * * * *

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 19th day of December, 2000 a copy of the foregoing Entry of Appearance was mailed to Bryan T. Bookhard, Esq., 3614 Elmcrest Lane, Bowie, MD 20716, attorney for Petitioner(s).



PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

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

December 8, 2000

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 01-229-XA
6975 Rockfields Road
S/S Rockfields Road, 136' E of Rolling Road
2nd Election District – 2nd Councilmanic District
Legal Owner: Debra Michelle Hackett

Special Exception for a Class B group child care center. Variance to permit a minimum lot size of .31 acre in lieu of 1 acre; to permit a front average setback of 36 feet in lieu of 49 feet, side yard setback of 40 feet and 32 feet and a rear yard setback of 46 feet all in lieu of 50 feet; zero foot side and rear buffers in lieu of 20 feet; to permit drop off and delivery area partially in front yard in lieu of side or rear yard, to permit a maximum impervious surface of 44% in lieu of 25% maximum, to approve a modified parking plan; to permit a play area with panel or stockade fence with zero foot setback in lieu of 20 feet, and to approve zero foot RTA setback and buffers in lieu of the required 75 feet and 50 feet, respectively.

HEARING: Tuesday, January 23, 2001 at 2:00 p.m. at Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

C: Bryan T. Bookhard, 3614 Elmerest Lane, Bowie 20716
Debra M. Hackett, 6975 Rockfields Road, Baltimore 21244
Mary L. Hackett, 12 Cedarhill Road, Randallstown 21133

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, JANUARY 5, 2001.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.





Baltimore County
Department of Permits and
Development Management

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

January 29, 2001

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 01-229-XA
6975 Rockfields Road
S/S Rockfields Road, 136' E of Rolling Road
2nd Election District – 2nd Councilmanic District
Legal Owner: Debra Michelle Hackett

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HEARING: Tuesday, February 27, 2001 at 2:00 p.m. at Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon", with the initials "GJZ" written below it.

Arnold Jablon
Director

C: Bryan T. Bookhard, 3614 Elmerest Lane, Bowie 20716
Debra M. Hackett, 6975 Rockfields Road, Baltimore 21244
Mary L. Hackett, 12 Cedarhill Road, Randallstown 21133

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY FEBRUARY 12, 2001.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



TO: PATUXENT PUBLISHING COMPANY
Thursday, January 4, 2001 Issue – Jeffersonian

Please forward billing to:
Mary L. Hackett
12 Cedarhill Road
Randallstown, MD 21133

410 922-1761

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

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HEARING: Tuesday, January 23, 2001 at 2:00 p.m. at Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
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TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 13, 2001 Issue – Jeffersonian

Please forward billing to:

Mary L. Hackett
12 Cedarhill Road
Randallstown, MD 21133

410 922-1761

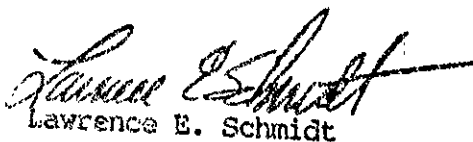
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HEARING: Tuesday, February 27, 2001 at 2:00 p.m. at Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

GDZ

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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TO: PATUXENT PUBLISHING COMPANY
Thursday, January 4, 2001 Issue – Jeffersonian

Please forward billing to:

Mary L. Hackett
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Randallstown, MD 21133

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HEARING: Tuesday, January 23, 2001 at 2:00 p.m. at Room 407, County Courts Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 01-229-XA
Petitioner: Debora Michelle Hackett
Address or Location: 6975 Rockfield Road, Baltimore, MD 21244

PLEASE FORWARD ADVERTISING BILL TO:

Name: MARY L HACKETT
Address: 12 CEDARNILL ROAD
RANDALLSTOWN, MD 21133
Telephone Number: 410-922-1761

Revised 2/20/98 - SCJ



Baltimore County
Department of Permits and
Development Management

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

January 19, 2001

Bryan T. Bookhard
3614 Elmerest Lane
Bowie MD 20716

Dear Mr. Bookhard:

RE: Case Number: 01-229-XA, 6975 Rockfields Road

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

WCR: gdz

Enclosures

c: Debora Michelle Hackett, 6975 Rockfields Road, Baltimore 21244
Mary L. Hackett, 12 Cedar Hill Road, Randallstown 21133
People's Counsel





Baltimore County
Department of Permits and
Development Management

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

February 23, 2001

Bryan T Bookhard
3614 Elmerest Lane
Bowie MD 20716

Dear Mr. Bookhard:

RE: Case Number: 01-229-XA, 6975 Rockfields Road

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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. GDZ
Supervisor, Zoning Review

WCR: gdz

Enclosures

C: Debora M Hackett, 6075 Rockfields Road, Baltimore 21244
Mary L Hackett, 12 Cedarhill Road, Randallstown 21133
People's Counsel



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: January 9, 2001

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

SUBJECT: Zoning Advisory Committee Meeting
For December 18, 2000
Item No. 229

The Bureau of Development Plans Review has reviewed the subject zoning item.

The entrance locations are subject to approval by the Bureau.

Entrances shall be a minimum of 24 feet and a maximum of 35 feet wide, shall have 10-foot minimum radii curb returns, shall be located a minimum of 15 feet from any property line, and shall be constructed in accordance with Baltimore County standards as the developer's total responsibility.

Prior to removal of any existing curb for entrances, the developer shall obtain a permit from the Bureau of Highways of the Department of Public Works.

RWB:HJO:jrb

cc: File



Baltimore County
Fire Department

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

December 20, 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:
Judith E. & Gordon L. Smith, Jr. and David G. Smith -224
Debra Michelle Hackett - 229

Location: DISTRIBUTION MEETING OF DECEMBER 11, 2000

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.

Comment below pertains to Item #'s 224 and 229:

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

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



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley *AC/RBS*

DATE: January 18, 2001

SUBJECT: Zoning Petitions
Zoning Advisory Committee Meeting of December 11, 2000

DEPRM has no comments for the following zoning petitions:

Item #	Address
222	3019 Ohio Avenue
223	3017 Ohio Avenue
224	607 Stoney Lane
225	3023 Ohio Avenue
226	3021 Ohio Avenue
227	3507 Hiss Avenue
228	7464 Bradshaw Road
229	6975 Rockfields Road
230	3012A Hernwood Road
232	1807 Suttan Avenue



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 12.8.06

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

RE: Baltimore County
Item No. 229

JWP

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,

to

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



Baltimore County
Zoning Commissioner

April 6, 2001

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

Mr. Louis W. Miller
Greater Timonium Community Council, Inc.
9-B Ridgely Road, Box 276
Timonium, Maryland 21093

RE: PETITIONS FOR SPECIAL EXCEPTION & VARIANCE
(6975 Rockfields Road)
2nd Election District – 2nd Council District
Debra Michelle Hackett – Petitioner
Case No. 01-229-XA

Dear Mr. Miller:

In response to your letter dated March 22, 2001 and its accompanying correspondence concerning the above-captioned matter, the following comments are offered.

Your request to re-open the case shall be considered a Motion for Reconsideration of the decision rendered by me in the above-captioned matter, by Order dated March 12, 2001. Pursuant to Rule 2K of the Zoning Commissioner's Rules of Practice and Procedure, the appeal period from the date of that Order is stayed until such time as an Order on your Motion is rendered. In view of the issues raised in your correspondence, I find it appropriate to re-open the case for further proceedings. Therefore, I have scheduled a continued hearing on the matter for Thursday, April 19, 2001 at 11:00 AM in Room 407 of the County Courts Building. At the continued hearing, I will consider any and all issues the parties may wish to raise, including the standing of the Greater Timonium Community Council in this matter, as well as issues surrounding the merits of the Petitions for Special Exception and Variance filed in this case.

In the meantime, should anyone have any questions concerning this matter, please do not hesitate to call my office.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Francis X. Borgerding, Jr., Esquire, 409 Washington Ave., Suite 600, Towson, Md. 21204
Ms. Debra M. Hackett, 6975 Rockfields Road, Baltimore, Md. 21244
Mr. & Mrs. Stanley A. Hackett, 12 Cedar Hill Road, Randallstown, Md. 21133
Mr. William A. Pope, 6963 Rockfields Road, Baltimore, Md. 21244
Office of Planning; Peter Max Zimmerman, Esquire, Office of People's Counsel; Case File

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



Subj: Case No. 01-229-XA
Date: 3/23/01 2:00:44 PM Eastern Standard Time
From: lschmidt@co.ba.md.us (Larry Schmidt)
To: Leabo@aol.com
CC: fxbakbmf@aol.com

Mr. Miller: I received a telephone call from George Zahner in the zoning division of the Dept. of Permits and Development Management regarding notification of the hearing for the above matter and told him that I would contact you about this case. A couple of points/questions.

1. The matter was originally scheduled for hearing on Jan. 23, 2001. Notice of that hearing was appropriately given as required by law by the posting of a sign on the property and notice in a newspaper of general circulation. The case was then postponed until Feb. 27, 2001. Again, notice was given of this new date in accordance with law by the posting of second sign and insertion of a second notice in the newspaper (Jeffersonian). The hearing occurred on February 27, 2001, as scheduled. Present was the Petitioner (Debra A. Hackett), her father and attorney (Francis X. Borgerding, Jr.). Also present was William A. Pope, a neighbor.

2. Although it is arguable that Baltimore County should have provided notice (by mail) to you of the second hearing date, since you had submitted a letter, the legal requirements for notice were clearly met. The Code requires only the posting of the property with a sign and the insertion of an advertisement in a newspaper. As noted above, a sign was posted twice on this property and an advertisement was twice published. Indeed, if you were able to discover the case by sign or advertisement the first time (Jan. 23, 2001), one wonders why you were unaware of the second hearing.

3. As I was preparing the above, I just received, by mail, your Motion to Reconsider my decision. I will take it under advisement and issue a formal written decision shortly. I will note, however, in all candor, the following. (If you wish to respond to these points in further correspondence or by e-mail, I will review whatever you wish to submit before I issue my decision.)

The law requires that parties to a particular proceeding have "standing" to participate in that matter. Generally, standing is defined to be that basis upon which a party can participate in a case, over and above the general interest that any member of the public would have in that matter. The County Zoning Regulations recognize the doctrine of standing by stating, for example, that those individuals who own property and/or reside within 1000 feet of the property under consideration in an administrative variance case may demand a public hearing in that matter. Given that the subject property is in Woodlawn, what is GTCC's standing in this case? What legal interest does GTCC have in the proposed use of 6975 Rockfields Road? The question is particularly relevant in that decisions of the Zoning Commissioner do not establish legal precedent. This is due, in part, to the de novo nature of appeals from the Zoning Commissioner to the County Board of Appeals. As importantly, since each case rests on its' own merits relative to the unique nature of the property at issue, a decision on this case about a parcel in Woodlawn would have no legal effect on a similar question presented for a property in Timonium.

With all due and sincere respect, I am at a loss to understand GTCC's interest and "standing" in this matter. I will certainly provide you with the opportunity to address this primary concern before I issue a formal ruling on your Motion to Reconsider. Thank you. Larry Schmidt P.S. I have copied Mr. Borgerding with this and will allow both of you to submit whatever follow up you desire before I issue my formal decision on your Motion. Please have whatever you wish for me to consider into my office by Monday, April 2, 2001.

----- Headers -----

Return-Path: <lschmidt@co.ba.md.us>

Received: from rly-yd03.mx.aol.com (rly-yd03.mail.aol.com [172.18.150.3]) by air-yd05.mail.aol.com (v77_r1.36) with ESMTP; Fri, 23 Mar 2001 14:00:44 -0500

Received: from co.ba.md.us (smtpgw.co.ba.md.us [207.114.31.131]) by rly-yd03.mx.aol.com (v77_r1.36) with ESMTP; Fri, 23 Mar 2001 14:00:19 -0500

Received: from INET_DOM-Message_Server by bcg_gw.co.ba.md.us
with Novell_GroupWise; Fri, 23 Mar 2001 14:01:15 -0500

Message-ID: <sabb572b.009@co.ba.md.us>

X-Mailer: Novell GroupWise Internet Agent 5.5.4.1

Date: Fri, 23 Mar 2001 14:00:41 -0500

From: "Larry Schmidt" <lschmidt@co.ba.md.us>

To: <Leabo@aol.com>

Cc: <fxbakbmf@aol.com>

Subject: Case No. 01-229-XA

Mime-Version: 1.0

Content-Type: text/plain; charset=US-ASCII

Content-Transfer-Encoding: quoted-printable

Subj: **Case 01-229-xa**
Date: 3/23/01 5:42:29 PM Eastern Standard Time
From: LeaBo
To: LSchmidt@co.ba.md.us

Dear Commissioner Schmitd:
I received your Email today and will answer your "questions/points" shortly.
Thank you for your prompt reply.

Louis W. Miller
Leabo@aol.com
410-252-3444

GREATER TIMONIUM COMMUNITY COUNCIL, INC.
9B RIDGELY RD, TIMONIUM, MD. 21093
PHONE: 410-252-3444 EMAIL: LEABO@AOL.COM

3/23/01
Y
TO WGR

March 22, 2001

Arnold E. Jablon, Director
Department of Permits and Development
111 W. Chesapeake Ave.
Towson, Md. 21204

Re: Case #01-229-XA-Special Exception for Class B Child Care with eleven Variances

Dear Mr. Jablon:

Enclosed are two letters relating to the above case. One prepared for the initial scheduled hearing date of January 23, 2001 with attachments, postponed and finally heard on February 27, 2001, The second prepared this date for requesting rescinding the order dated March 12, 2001 and for a rehearing of the case.

Both letters are self explanatory. We are forwarding the letters to you for necessary action(s).

As you know, we have been working with Child Care cases in Baltimore County since 1994 and more recently revised regulations are pending before the County Council. These revisions simply continue the present regulations in force and add language to update the zoning codes now in existence, and allow Child Care centers in Apartment buildings by right with plans submitted to you.

The Board of Appeals has turned down those cases which do not *maintain* the requirements of Section 424.1B and 424.7 A, B, C, and E. The order in this case does not meet nor maintain those requirements.

We request you support rescinding the order and have a rehearing in this case. Such rehearing may save both the County and citizens the expense and effort to Appeal this order.

Sincerely yours,


Louis W. Miller, President
Leabo@aol.com
410-252-3444

Encl. Letters (2)

File: Child Care-Jablon 01-229-XA

HAND DELIVER

**GREATER TIMONIUM COMMUNITY COUNCIL, INC.
C/O 44 E. TIMONIUM RD., TIMONIUM, MD. 21093
PHONE: 410-252-3444 EMAIL: LEABO@AOL.COM**

March 22, 2001

**Lawrence Schmidt
Zoning Commissioner, Baltimore County
401 Bosley Ave.
Towson, Md 21204**

Re: Case #01-229-XA-Special Exception for Class B Child Care with eleven variances.

Dear Commissioner Schmidt:

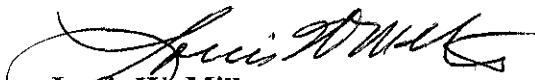
In making an inquiry to your office for a rescheduled hearing date for this case, we were informed by Robin of your office that the rescheduled hearing was held on February 27, 2001, your order was dated March 12, 2001. A copy of your order was mailed to me, received March 21, 2001, for review.

A telephone conversation with George Zahner of the Zoning Office revealed a mistake on his part in not informing opponents appearing for the January 23, 2001 hearing. A copy of my letter was presented for the file listing reasons for denial of the petition. Mr. Zahner stated it was his mistake in not notifying opponents. Mr. Pope noticed the posted sign and attended the hearing.

No place in your order do you address the Cases noted in my letter to you and their results. Your order is not satisfactory, nor within the zoning laws of Baltimore County.

We therefor request, pending a rehearing, you rescind your order, and reschedule a new hearing on the facts of this case under the Zoning Commissioner's rules noted as 2K. We were not given the opportunity to appear at the hearing conducted on February 27, 2001 to present evidence opposing this petition. Mr. Zahner is forwarding a letter acknowledging his mistake as evidence to request a rehearing.

Sincerely yours,


**Louis W. Miller
President**

File: Child Care 01-229-XA

**Arnold Jablon, Director, PDM
Pete Zimmerman, Peoples Counsel
Francis X. Borgerding, Jr., Esq.,-Petitioner**

MAR 23

GREATER TIMONIUM COMMUNITY COUNCIL, INC.

9B RIDGELY RD., BOX 276, TIMONIUM, MD. 21093

PHONE: 410-252-3444 EMAIL: LEABO@AOL.COM WEB: HTTP://GTCC.HYPERMART.NET/GTCC.HTML

March 27, 2001

Lawrence Schmidt
Zoning Commissioner, Baltimore County
401 Bosley Ave.
Towson, 21204

Re: Case #01-229-XA--Special Exception for Class B Child Care with Variances.

Dear Commissioner Schmidt:

The following is in reply to your email of March 23, 2001 concerning your order on the above case on March 12, 2001. I, an individual citizen and as President of GTCC, present the following:

1. My letter, dated March 22, 2001, hand delivered by me to your office, stated how we were not aware of the scheduled second hearing on February 27, 2001. I appeared for the scheduled January 23, 2001 hearing. At the hearing time, 11:00am, I and Mr. Pope were told by Robin of your office, the hearing was postponed by the petitioner the day before. I reviewed the file, left my letter for the file, and asked to be notified when the rescheduled hearing will be set. I received no notice of the rescheduled hearing.
2. Your assumption in #2 of your email that we knew about the original scheduled date of January 23, 2001 by looking at signs or a newspaper (Jeffersonian) **is incorrect**. We receive, in advance, from the the zoning division of the Department of Permits and Development Management, the monthly zoning case schedules for the County as a whole, and revisions thereto as occurs. Thus, that is how we knew of this case. In that this case was requested for postponement the day before the hearing scheduled, we did not receive thereafter any revisions of the advance schedule for the new hearing date. We did receive revisions during that period but this case was not listed for the reschedule date. Probably a people problem, however, we were and are interested in zoning cases within the County.
3. This subject, Child Care Centers, not family day care operations which are allowed by "right" under the zoning laws of the County, affects all residential zoned properties in the Baltimore County, not just by area, region, district, or any other criteria that may be determined. Therefore, when you assume we have no "standing" to participate in zoning decisions not within 1000 feet of the property under consideration in an administrative variance case, denies the citizen the right to express his opinion on the merits of the case, pro or con, that come before your office.

GREATER TIMONIUM COMMUNITY COUNCIL, INC.

9B RIDGELY RD., BOX 276, TIMONIUM, MD. 21093

PHONE: 410-252-3444 EMAIL: LEABO@AOL.COM WEB: HTTP://GTCC.HYPERMART.NET/GTCC.HTML

You ask "What is GTCC standing in this case?" Your description of "standing" includes the phrase, "over and above the general interest that any members of the public would have in that matter." GTCC certainly has general interest in this case.

The "standing" rule you cite, for example, "that those individuals who own property and/or reside within 1000 feet of the property under consideration in an administrative variance case may demand a public hearing in that matter." While that may be factual for the original scheduled hearing, GTCC did not petition for the hearing, the Petitioner filed for a hearing under the zoning laws. The proposed use of the property was not residential, did not meet the requirement of the zoning laws, did not meet the RTA regulations, thus, requiring eleven variances.

4. You state in your email that "the question is particularly relevant in that decisions of the Zoning commissioner do not establish legal precedent." "This is due, in part, to the de novo nature of appeals from the Zoning Commissioner to the County Board of Appeals." While legal precedent may or may not inure from your decisions, the cost, effort, and time, on such a case as this one, does require either rescinding your order, schedule a new hearing, or forcing an appeal. Following are the legal precedents given by the Board of Appeals in such cases.

5. Reference to County Council Resolution #48-88, Legislative Project 89-1, PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS REGARDING DENSITY BONUSES FOR CHILD CARE CENTERS, A Final Report of the Baltimore County Planning Board, November 16, 1989. This report resulted in Bill 200-90 which established the current zoning regulations for Child Care Centers in Baltimore County. Attached as Exhibit A is an example of a site plan # 1 from that report.

6. Bill 200-90 amended the Baltimore County Zoning regulations in Section 424.1.B for Group child care centers abutting residential property shall be fenced. Fences shall be solid wood stockade or panel, a minimum height of five (5) feet, and ***no closer to the property line than twenty (20) feet.***

7. Case No. 94-271-XA, Petitioners - Fatemeh Falahi and Mohannad Haerian was denied by the Deputy Zoning Commissioner and appealed to the Baltimore County Board of Appeals. This case was one of the first in a series of combination special exception and variances for principal use Class B Group Child Care Centers in D.R. (density residential) zones involving Residential Transition Areas.

GREATER TIMONIUM COMMUNITY COUNCIL, INC.

9B RIDGELY RD., BOX 276, TIMONIUM, MD. 21093

PHONE: 410-252-3444 EMAIL: LEABO@AOL.COM WEB: HTTP://GTCC.HYPERMART.NET/GTCC.HTML

8. Bill 200-90 amended the child care center law. As a result, BCZR 1B01.1B1g (10a) allows such special exceptions, "**provided...that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained...**" BCZR 424.7 provides the specific bulk standards for minimum lot size, setbacks, parking, height, and impervious surface area for group child care centers in all D.R. zones. (See Exhibit A attached)

9. The present special exception in this case presents multiple variances of BCZR 424.7. Even were there no special exception, it does not appear that the requested variances meet the "uniqueness" standard of BCZR 307.1 and *Cromwell v. Ward*, 102 Md. App. 691 (1995) (Exhibit B attached). The presence of the combination special exception/variance is **the second bar** to approval in this case. See *Chester Haven Beach partnership v. Board of appeals for Queen Anne's County*, 103 Md. App. 324, (1995) (Exhibit C attached).

10. The specific statutory prerequisite under BCZR 1B01.1B1g (10a) of BCZR 424.7 compliance for group child care centers in the RTA is yet a **third layer of preclusions**.

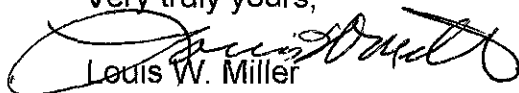
11. I enclose excerpts from the Board of Appeals decisions on Case 95-280-XA, pages 2 and 3, of the Gordon L. Harrison, et ux, (Exhibit D attached) Essex region of Baltimore County, and Case 94-271-XA, pages 9 and 10, of the Fatemeh Falahi, et al, (Exhibit E attached) Timonium region of Baltimore County. There are other cases heard by the Board of appeals with similar variance requests, all have been denied.

I, personally, have appeared in cases before the Zoning Office, and the Board of Appeals in cases over this County. Those which were not withdrawn, were denied.

12. To allow these type of operations in the residential zones is allowing a commercial business to operate. Such need should be directed to the commercial zones, office buildings, and employer buildings. The consumer prefers family day care.

13. With all due respect to your position as Zoning Commissioner, I would suggest you rescind your order of March 12, 2001, and hold a rehearing on this matter. To not do so will cause the citizens more cost, time and effort to file an appeal to reverse your prior decision, based on the facts in the Baltimore County Zoning Regulations, and case law supporting those regulations. I shall await your reply,

Very truly yours,


Louis W. Miller

Encl: A, B, C, D, E

File: GTCC-Schmidt 2--01-229-XA.wps

Page 3

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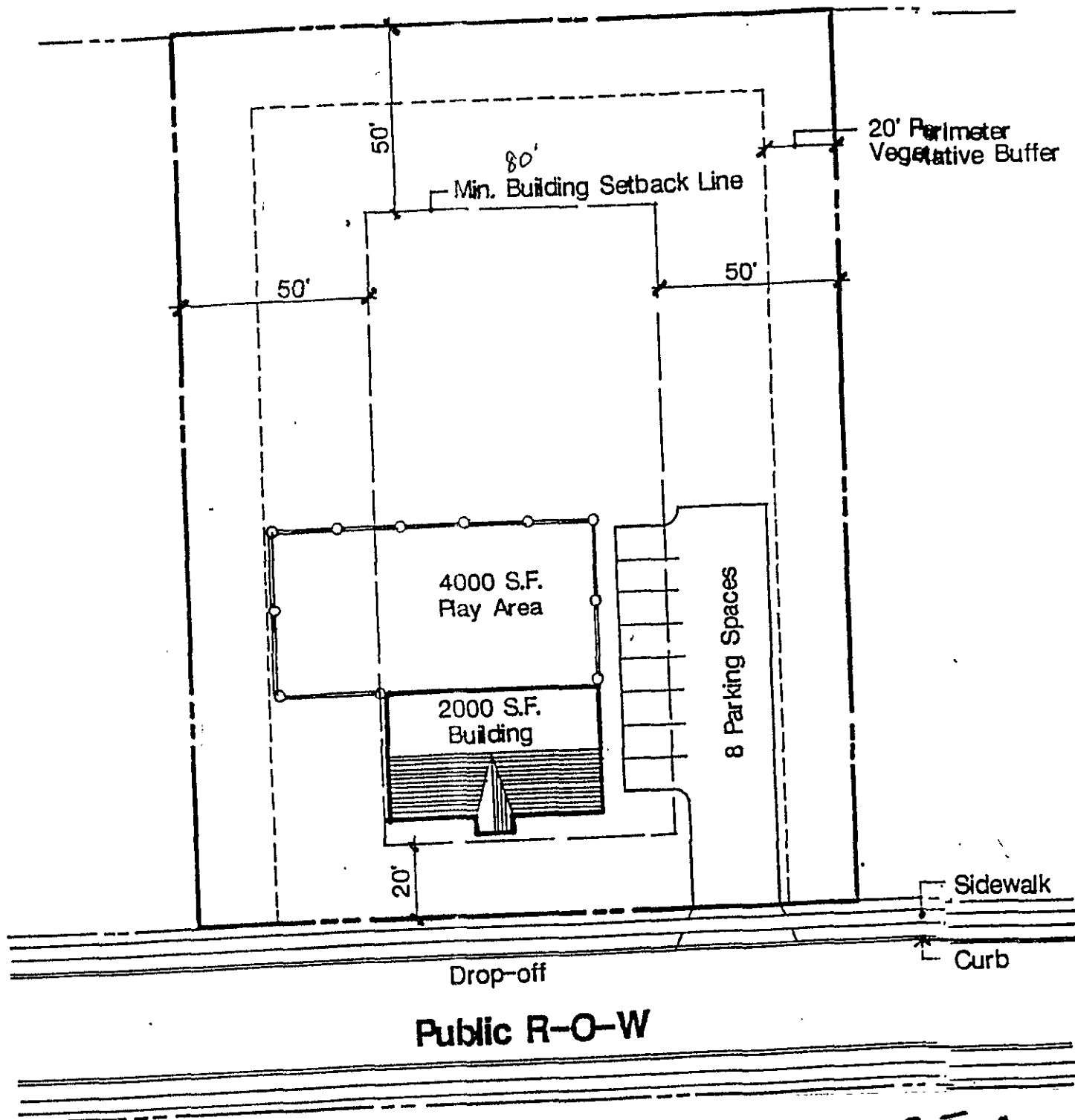


EXHIBIT A

EXAMPLE SITE PLAN # 1

One Acre Lot (min.)/40 Children
Scale: 1"=40'

Variance Standards

Cromwell v. Ward: 651 A.2d 424

Quoting 2 Rathkopf, The Law of Zoning and Planning,

"Where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions...hardship arises...The restrictions of the ordinance taken in conjunction with the unique circumstances *affecting the property* must be the proximate cause of hardship...[T]he hardship, arising as a result of the act of the owner... will be regarded as having been self-created, barring relief." Page 431-32

Quoting Bowman v. City of York:

"[A] variance [may be granted] ... only if strict application of the regulation, because of the unusual physical characteristics of the property existing at the time of the enactment, [of the zoning ordinance] 'would result in peculiar and exceptional practical difficulties.'" Page 434-35 1990

Quoting Shafer v. Board of Appeals:

"There was no evidence...regarding 'soil conditions, shape or topography of [the property] but not affecting generally the zoning district in which it is located'....The ...argument that the insufficient width ...constitutes a special circumstance of "shape" is unpersuasive, particularly as the deficiency is one which they themselves produced through subdivision of the land they originally owned at a time when the 125 foot width requirement pertained." Page 435.

Quoting St. Clair v. Skagit County:

"The court added that 'the 75-foot width and aggregation requirements do not put a burden on [appellant's] property which does not apply to other properties in the vicinity..."

Continuing in Cromwell: "In the case sub judice, the Baltimore County fifteen foot height limitation for accessory buildings does not affect Ward's property alone; it applies to all of the properties in the neighborhood." Page 435

EXHIBIT B
11 of (3)

Variance: Self-Created Hardship

Cromwell v. Ward:

Quoting Ad + Soil, Inc. v. County Comm'rs:

"The essence of AD + Soil's argument .. is that the setback requirements ...would cause...unwarranted hardship because it had obtained its first state permit and constructed its transfer station before it learned of these local requirements... The Board declined to grant the variances, concluding that Ad + Soil's 'hardship' was self-inflicted...and therefore not the kind of hardship cognizable under the Zoning Ordinance." Page 439

Quoting Pollard v. Board of Zoning Appeals:

"Self-inflicted or self-created hardship ...is never considered proper grounds for a variance....[W]here the applicant creates a nonconformity, the board lacks power to grant a variance." Page 439

Judge Cathell concludes:

"Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively not only generate a plethora of such hardships, but we would also emasculate zoning ordinances. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted." 439-40.

Xanthos v. Board of Adjustment:

"...although the dwelling itself prior to the construction of the duplexes was a nonconforming use and was therefore entitled to be maintained as it was absent new construction, city ordinances and policy did not allow the structure to be made illegal or more nonconforming by additional construction."

In the Matter of Umerley Circuit Court for Baltimore County (Byrnes, J.)

"Uniqueness cannot be created by the owner." Page 6

"There is nothing unusual about the shapes of lots 2 and 5. They are rectangles." Page 9

EXHIBIT B
(2) OF (3)

Variance Standards: Cromwell v. Ward (Continued)

Quoting Xanthos v. Board of Adjustment:

"...in order to justify a variance...the applicant [must] show...that there are special conditions with regard to the property...:

'What must be shown...is that the property itself contains some special circumstance that relates to the hardship complained of....

'...The property is neither unusual topographically or by shape, nor is there anything extraordinary about the piece of property itself. Simply having an old building on land upon which a new building has been constructed does not constitute special circumstances." Page 436

Quoting Prince William County Board of Zoning Appeals v. Bond:

"...the hardship allegedly created by the ordinance must "not [be] shared generally by other properties in the same zoning district and the same vicinity.'...[It then held] "The limitation imposed by the zoning ordinance is one shared by all property owners in the A-1 district." Page 437.

Quoting McQuillin, Municipal Corporations:

"It is *fundamental* that the difficulties or hardships must be unique to justify a variance; they must be peculiar to the application of zoning restrictions *to particular property* and not general in character...[I]t is not uniqueness of the plight of the owner, but uniqueness of the land causing the plight, which is the criterion...." Page 438 (Excerpt of quotation)

Judge Cathell concludes:

"We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it always has been - a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists." Page 439

EXHIBIT B

(3) OF (3)

**The Chester Haven Case: Prohibition of Special Exceptions with Variances
Discussion of Grandfathered Development**

Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County

"All of its variance requests concern what it perceives to be a necessary to meet the requirements of a change in its development plan from single family to group or cluster living necessitated by the current demand, not of zoning codes, but of environmental regulations (and economic conditions), especially the requirements of complying with the Chesapeake Bay Critical Area regulations. We are not unsympathetic to the plight of a property owner caught between local zoning codes and environmental regulations. We later herein suggest the correct method of addressing this issue. But, an offer to build below density, if a conditional use acceptable to environmental regulators changing the character of the use of the property is granted does not satisfy the requirement of variance law that the land itself be inherently unique and different from the remainder of the land in the area." Page 7

"The Board noted that, in addition to the conditional use [special exception] - or really, in order to qualify to apply for the conditional use - the applicants had to get a variance from the six unit per cluster conditions and from the provisions of the density percentages, and additional variances from the conditions for which the ordinance required satisfaction in order to be entitled to a conditional use. In other words, the Board perceived, correctly, that the subject project could not meet the requirements the ordinance established for the granting of the conditional use. Therefore, the applicants were attempting to eliminate the conditions by obtaining variances therefrom."

SEE *

"The attempt to follow this procedure creates fundamental and conceptional problems with the generally accepted proposition that if the express conditions necessary to obtain a conditional use are met, it is a permitted use because the legislative body has made that policy decision. Does the legislative intent that the use be permitted remain if the conditions are not met but are eliminated by an administrative body granting a variance? Upon such an occurrence, the application for a conditional use becomes dependent upon the granting of the variances. Under those circumstances, the presumption that a conditional use is permitted may well fall by the wayside. The policy that establishes certain uses as permitted is predicated upon the satisfaction, not avoidance, of conditions. Conditions the legislative body attaches to the granting of a conditional use normally must be met in accordance with the statute - not avoided. In any event, even if such a procedure would pass muster, if the variance process fails, the entire application fails." Page 11-12 (Emphasis supplied)

EXHIBIT C

given the limited square footage of the building. The subject lot is substantially less than 1 acre in size and located in a heavily trafficked area. It is very similar in size and shape to most neighboring lots which sit on 1/4 to 1/3 of an acre.

Class B Group Child Care Centers as a whole are not permissive uses in a D.R. zone absent statute. In RTA's such as this, petitioners must proceed by special exception. Baltimore County Zoning Regulations (BCZR) Section 1B01.1B.1.g.(10a), while allowing special exceptions, nonetheless requires compliance with the bulk standards of Section 424.7. Class B Group Child Care Centers are permitted therein by special exception "provided that the Zoning Commissioner determines, during the special exception process, that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained...." (Emphasis added.) The fact that compliance with the bulk standards will not be maintained precludes the Board from granting the special exception.

Variances may be granted under Cromwell v. Ward, 102 Md.App. 691, 651 A.2d 424 (1995) only if strict application of the regulation, due to unique circumstances affecting the property, would result in peculiar and exceptional practical difficulties. The subject property is a parcel similar in shape, size and appearance to many other parcels in the area. Were this Board permitted, therefore, to consider the variance requests on their merits, it does not believe that Petitioners have demonstrated the requisite uniqueness sufficient for the granting of a variance. Further, Section 307.1 of the BCZR permits variances for unique sites where strict compliance with the zoning regulations would

EXHIBIT D
(1) & (2)

result in practical difficulty or undue hardship. This property does have a use. Denying the variance thus does not result in practical difficulty or undue hardship within the contemplation of Section 307.1.

The Board, having so ruled, is not unmindful of the plight of citizens in need of day care. Rather, it does not believe it is at liberty to ignore what is clearly set forth in the law, even to further a noble end. If this ruling disserves the needs of the citizens in the Essex region, however, change must come from the legislative body.

O R D E R

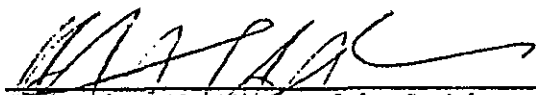
THEREFORE, IT IS this 28th day of September, 1995 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Exception to permit a Class B Group Child Care Center on the subject property where there is an RTA be and is hereby DENIED; and it is further

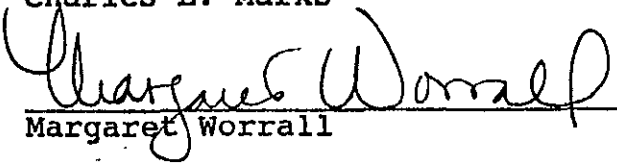
ORDERED that the requested variances seeking relief from the Baltimore County Zoning Regulations pertaining to setback, lot size and buffer requirements be and are hereby DENIED.

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


Kristine K. Howanski, Acting Chairman


Charles L. Marks


Margaret Worrall

In Cromwell v. Ward, 102 Md.App. 691 (1995), it is clarified that a variance may be granted because of the unusual physical characteristics of a property existing at the time of the zoning ordinance and which would result in peculiar and exceptional practical difficulties. The hardship in this case now arises because Appellant has to apply the requirements of the law to an undersized lot. On this issue, the Board feels, even if there was uniqueness to the property itself, the hardships to Appellant were incurred when she purchased the small property in 1992, after the enactment of Bill 200-90, and thereby the hardship was self-created.

The Board is appreciative of the negative effects of the shopping and auto service center on the Falahi's residential property, but as cited by Protestants, the property itself is similar to others in the vicinity and there is nothing unusual about the land. Section 307.1 (BCZR) permits variances for unique sites where strict compliance with the zoning regulations would result in practical difficulty. It has always been occupied by a resident and today has a worthwhile use as a family day care center. Denial of the variances does not result in an undue hardship.

From all the testimony, the Board is persuaded that the inadequate setbacks and buffering of the day care center, and the community concerns over traffic hazards are of such dimensions and difficulty that the enlarged day care center will be detrimental to the health, safety and welfare of the community.

In consideration of variances for the subject property, the Board feels that the property existing in an RTA must meet the bulk

EXHIBIT E
(1 & 2)

standards of Section 424.7 and cannot be varianced. This precludes the Board from granting the special exception.

O R D E R

THEREFORE, IT IS this 14th day of December, 1995 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Exception to permit a Class B Group Child Care Center on the subject property where there is an RTA be and, is hereby DENIED; and it is further

ORDERED that the requested variances seeking relief from the Baltimore County Zoning Regulations pertaining to setbacks, lot size and impervious surface area requirements be and are hereby DENIED.

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

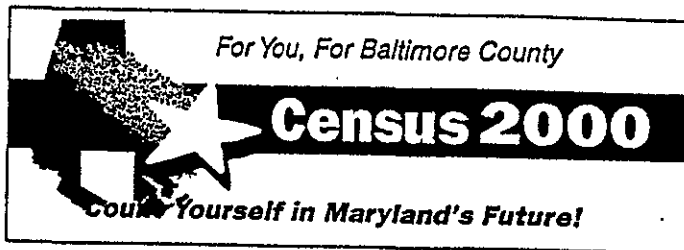

Kristine K. Howanski, Acting Chairman


S. Diane Levero


Harry E. Buchheister, Jr.



FAX COVER SHEET



Date:

4/2

Number of Pages including cover sheet:

To:

FRANK Borgending

Phone:

Fax #

c:

From:

LARRY SCHMIDT

Phone:

Fax #

REMARKS:

☐ Urgent

☒ For your review

☐ Reply ASAP

☐ Please comment

Louis W. Miller, President

Greater Timonium Community Council, Inc.

9B Ridgely Rd., Timonium, Md. 21093

Leabo @aol.com Web Page: [Http://gtcc.hypermart.net/gtcc.html](http://gtcc.hypermart.net/gtcc.html) Phone: 410-252-3444

Zoning Commissioner, Baltimore County

401 Bosley Ave.

Towson, Md. 21204

JAN 23

Re: Case # 01-229-XA-Special Exception for Class B Group Child Care

Dear Commissioner:

As President of the Greater Timonium Community Council, Inc., representing over 20,000 homes and 50,000 citizens, we respectfully oppose the granting of variances requested in this case.

The current zoning regulations of Baltimore County have been tested by both case law and the Board of Appeals of Baltimore County.

We recite Case # 94-271-XA Falahi and Case # 95-280-XA Harrison which upheld the law in 424.7 that provides for specific bulk standards which *must be* maintained. The standards for minimum lot size, setbacks, fencing locations, parking, height, and impervious surface area are enumerated in this section.

In addition, this petition does not meet the "uniqueness" standard of BCZR 307.1 and *Cromwell v. Ward*, 102 Md. App. 691 (1995). The presence of the combination special exception/variance is a second bar to approval. See *Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County*, 103 Md. App. 324 (1995).

A third layer of preclusion's is the statutory prerequisite under BCZR 1B01.1Bg (10a) that compliance with the bulk standards of 424.7 must be maintained for group child care centers in an RTA area.

A fourth layer to consider for this Petition is the 502 Section of BCZR relating to the general welfare of the residents of the area.

Given the fact that four cases have been rejected by the Baltimore County Board of Appeals under the aforementioned regulations, this Petition should be denied.

Page 1 of 2

Louis W. Miller, President

Greater Timonium Community Council, Inc.

9B Ridgely Rd., Timonium, Md. 21093

Leabo @aol.com Web Page: [Http://gtcc.hypermart.net/gtcc.html](http://gtcc.hypermart.net/gtcc.html) Phone: 410-252-3444

Attached are copies of Cromwell V. Ward, "Variance: Self-Created Hardship", and "the Chester Haven Case: Prohibition of Special Exception with Variances, Discussion of Grandfathered Development."

Subsequent to these case results, one of the losing lawyers made a request to the County Council to change the current regulations which were developed in 1989-1990 Bill 200. A Resolution was made, sent to the Planning Department, studied, reported to the Planning Board, and to the Council for adoption. The report is still pending for Council Action.

I, representing the Greater Timonium Community Council, Inc. participated on the Advisory Committee of the Planning Department to promulgate any changes required. The report submitted to the Council updated the current languages, added new zoning codes as needed since 1990, added that apartment buildings could, by right, have Day Care Centers.

All of the previous regulations of BCZR were retained, thus the Petition before you 01-229-XA should be denied.

Very truly yours,



Louis W. Miller

Encl: (2)

File: Child Care 01-229-XA.wps

Louis W. Miller
44. E. Timonium Rd.
Timonium, Md. 21093
Phone: 410-252-3444 Email: Leabo@aol.com

April 21, 2001

Lawrence Schmidt, Zoning Commissioner
Baltimore County
4th Floor
401 Bosley Ave.
Towson, Maryland 21204

Re: Reconsideration Hearing, Case 01-229XA, 4/19/01

Dear Commissioner Schmidt:

While I do not agree with your determination that I, nor GTCC representatives, have no "standing" to have testified in this case, however, I do agree you have the power to "call the shots" when you believe you are right. The fact that no one knowledgeable about the facts relating to this case appeared in opposition, leaves important facts out of your decision on the merits of the case.

My purpose in this communication is to thank you for your kind remarks on my activities relating to citizen participation in the governmental actions within our area. Additionally, I respect your decision to call for a reconsideration of this case due to fairness to all concerned. Such decision allows those wishing to file an appeal on the merits of the case with the Baltimore County Board of Appeals contesting your order now exists. I thank you for that consideration.

Very truly yours,


Louis W. Miller

File Child Care Case 01-229-XA3

APR 25

April 11, 2001

APR 17

Mr. Lawrence E. Schmidt, Zoning Commissioner
County Courts Building
401 Bosley Av., 4th Floor
Towson, MD 21204

Re: Case # 01-229XA

Dear Mr. Schmidt:

As a concerned citizen I wish to voice my objection to the zoning variance for expanded day care operations at the property on Rolling Road and Rockfield Road. I see no benefit to the county and the citizenry in allowing such a large commercial operation in a residential area.

Please reconsider the granting of such a variance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert D. Moore", with a long horizontal flourish extending to the right.

Robert D. Moore
12310 Michaelsford Road
Cockeysville, MD 21030
410-628-7047

1111 Longbrook Road
Lutherville, Maryland 21093
April 12, 20001

APR 18

Lawrence W. Schmidt, Zoning Commissioner
County Courts Building
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Dear Commissioner Schmidt:

Please refer to case number 01-229XA.

We are very concerned that your ruling will allow an oversized family day care center in a residential area. Using a residential property for this purpose does nothing but undermine the value of the residential property in the area. This is a commercial use of the zoning process to devalue and denigrate property values.

We understand that the decision that was rendered may ultimately be appealed to the Court of Appeals if not reversed. We also note that that this court has routinely reversed cases of this nature if that do not meet the standards set by the Zoning Rules. We hope that you will consider this and reverse your decision and deny the variance granted that would allow the operation of a Child Care facility that does not meet the standards set by the Zoning Board for such a facility.

We plan to attend the hearing on April 19th to see if you will are able to see the impact that permitting such a variance will have on this neighborhood and hope that you will reverse your earlier decision in favor of the neighbors that will have to live with this facility next door to their residential property.

Very truly yours,



Larry and Jean Townsend

APR 16

2215 Dalewood Road
Timonium, Maryland 21093
April 12, 2001

Mr. Lawrence E. Schmidt
Zoning Commissioner
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Re: Zoning Case - 01-229XA (Child Care Center)

Dear Sir:

I am the immediate Past-President of the Pot Spring Community Association and again I wish to vigorously oppose the Variances granted in this case.

Case law does not support the granting of these Variances.

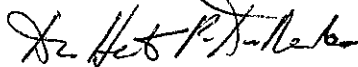
The need for granting such Variances does not exist.

Lastly, these Variances will eventually affect zoning laws in Baltimore County in general.

What is done in one part of the County eventually affects all other areas of Baltimore County.

Thank you.

Respectfully,



Dr. Hector P. DiNardo

3801 Lochearn Drive
Baltimore, MD 21207-6363
April 16, 2001

Mr. Lawrence Schmidt
Zoning Commissioner, Baltimore County
Room 405 County Court Building
401 Bosley Avenue
Towson, MD 21204

APR 18

Re: Case 01-229 XA
6975 Rockfield Avenue
Baltimore, MD 21244

Dear Mr. Schmidt,

I am interested in Case 01-229 XA because of the inordinate number of variances needed ^{ed} to conform to the various zoning regulations, ie: setbacks, buffers, undersized lot, etc., requested by the petitioner, Debra Hackett for a Class B childcare facility, in a presently constituted Family daycare home.

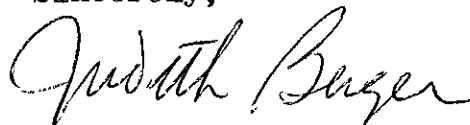
In the recent past, we have seen a proliferation of requests in our area of Liberty Road, Woodlawn, to convert Family Daycare to free-standing businesses accomodating twenty to forty children. The past proposals have been from carpetbaggers who do not live in the area, and represent themselves as residents, and then ask to up the ante to a full-fledged forty child ^{facility}, at a subsequent hearing. This precedent setting practice must stop, it destroys neighborhoods, that are presently being upgraded under the guidelines of ~~the~~ Baltimore County Community Conservation.

Your rulings ~~do~~ degrade neighborhoods which are supposed to be entirely residential with Daycare BUSINESSES; these are not and never were family daycare.

Please enter my opinion into your hearing of April 19, 2001.

We do not want Twenty to Forty Child Facilities in Neighborhood Homes, masquerading as Family Daycare!!!

Sincerely,


Judith Berger

Mr. Lawrence E. Schmidt
Zoning Commissioner,
401 Bosley Avenue, 4th Floor.
Towson, Maryland 21204.

APR 19

April 16, 2001.

Dear Sir: Ref: Zoning Case- 01-229XA.[Child Care Center].

As an active board member, director and past V.P. Civic Improvements of the Pot Spring Community Association I am extremely offended by your decision granting eleven variances to the zoning laws of Baltimore county regarding the above..

Have you the slightest idea what can of worms will be opened if such variances are approved especially if they go contrary to a communities Deed and Agreement Covenants that specifically protect against such child care variances in a community of single family properties that do not want and will not approve even the semblance of an "in home business" such as a "child care center".

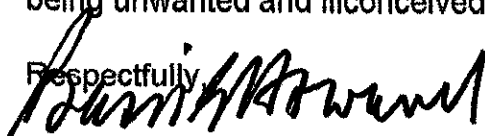
The subject of "child care center variances" reared its inflammatory head some few years ago and after considerable debate and in our communities case and that of others, included serious legal expense before the issue was resolved and a communities taxpayers rights to a quality of life free from such intrusion prevailed.

Case law does not support the arbitrary granting of such variances. There exists no formal need for the granting of such variances. Public and community opinion is violently opposed to such draconian means of your office to change existing zoning laws in Baltimore County that negatively impact and intrude upon the quality of a property owners lifestyle.

I am sure the Honorable Dutch Rupersberger, a strong supporter of communities rights to be heard, before such variance legislation is enacted, must therefore be aware of such opposition and certainly aware of its eventual endemic effect on all areas of Baltimore County.

These "variances" should be reconsidered by community input and recinded as being unwanted and illconceived, putting it mildly.

Respectfully



Basil G. Howard, 304 E. Timonium Road,
Timonium, Md 21093.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

Michelle Hackett

STANLEY R HACKETT

ADDRESS

6975 Rockfields Road
Baltimore, Md 21244

12 CEDARNILL RD
RANDOLLS Town, MD 21133



4/19/01

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME
Deborah Hackett
Debra Hackett
STANLEY D HACKETT

ADDRESS
6975 Rockfields Rd
BALTIMORE, MD 21244
12 CEDARHILL RD
RANDALLSTOWN, MD 21133

Francis X Bergding



PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

1/23/01
LOUIS W. MILLER

44 E TIMONUM RD 21043
TIM, MD.
410 252 3444

William A. Pope
(interested party)

6963 Rockfields Rd,
Baltimore, md 21244
410-944-4906



4/19/01

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

LOUIS WIMMER

44 E. TIMOTHY RD

TIMOTHY RD 21093

Walter DeHaven

2010 W. WOOD ST

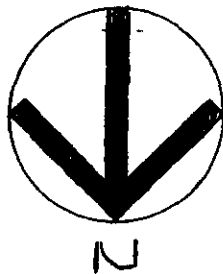
LARRY TOWNSEND

1111 LONG BROOK RD 21093

STEWART DAVIS

112 SPRINGSIDE DR 21093





EXIST. RESIDENCE FRAME-
CUNNINGHAM DEED NO.
8589/450 SOUTH SIDE/
ROCKFIELDS RD.
LOT NO. 24

6973

PROPERTY ZONED
D.R. 5.5

2 ND. ELECTION DISTRICT,
2 ND COUNCILMANIC DISTRICT
PARKING DATA:

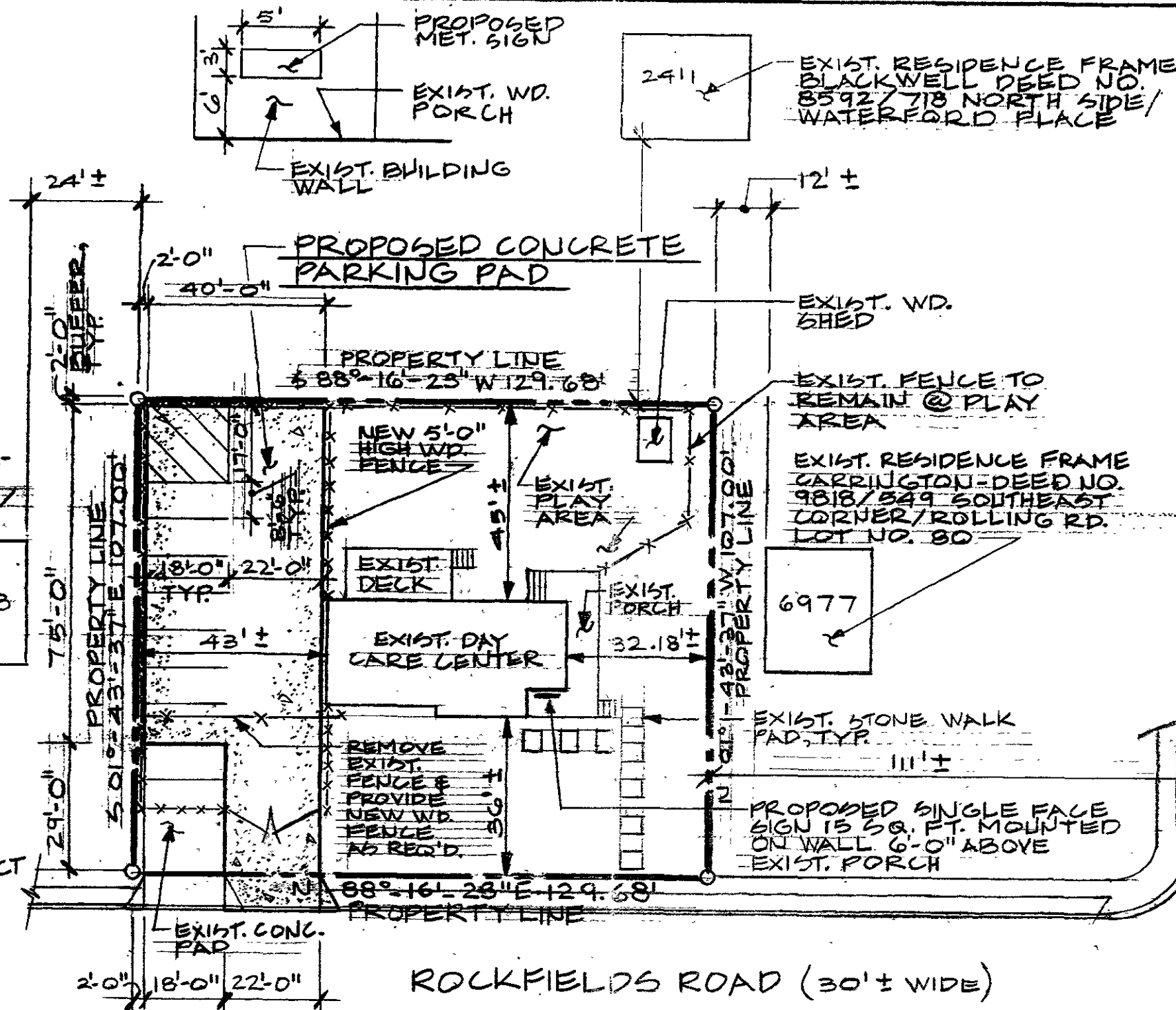
8 ADDITIONAL PARKING
SPACES FOR DAY CARE
BASED ON 8 EMPLOYEES
TYPICAL PARKING SPACE
SIZE: 8'-6" x 18'-0"
PAVING TYPE: REINFORCED
CONCRETE
PARKING SPACES
PERMANENTLY STRIPED

BUILDING DATA:

BUILDING: 2,700 SQ. FT.
DAY CARE FOR 35 TO
40 CHILDREN

DEED NO.
SE CORNER ROLLING ROAD
LOT NO. 1

THE ENTIRE SITE IS LOCATED
IN A RESIDENTIAL TRANSITION
AREA



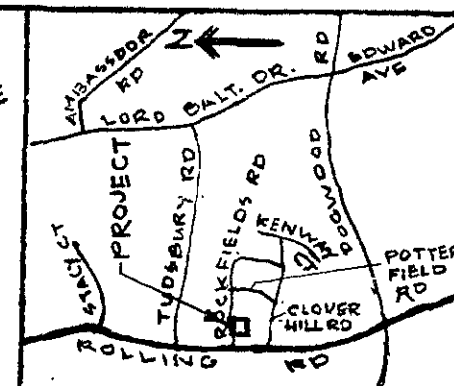
IMPERVIOUS COVERAGE PER CENT

$13,875.46 \text{ SQ. FT.} \div (\text{EXIST. } 3,222 \text{ SQ. FT.}) = 23.32\%$
 $13,875.46 \text{ SQ. FT.} \div (\text{PROPOSED } 3,638 \text{ SQ. FT.}) = 26.22\%$
TOTAL 49.54%

ZONING PLAN

SCALE: 1" = 30'-0"

SPECIAL EXCEPTIONS AND VARIANCE
IN ZONING PLAN



VICINITY MAP

R & B DRAFTING

3411 MARYVALE ROAD
BALTIMORE, MD 21244
PHONE NO. (410) 521-0345

DAY CARE CENTER

6975 ROCKFIELDS ROAD
BALTIMORE, MD 21244
PHONE NO. (410) 922-6103

DRAWN BY:
R. V. DAVIS, JR.

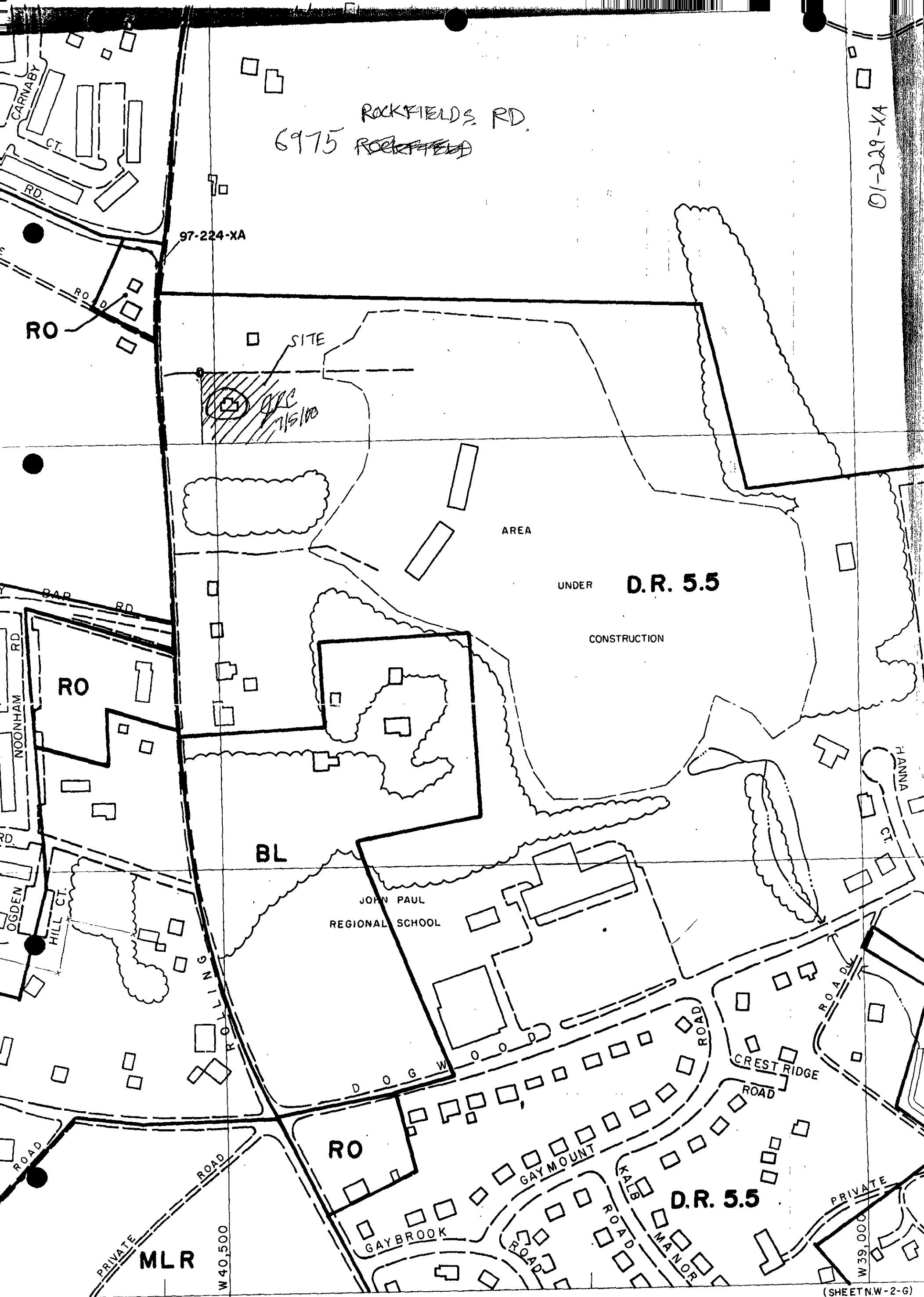
DATE:
11-10-2000



ROLLING ROAD
(50' ± WIDE)

Per No. 2

1-229-KA



1996 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996

Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

NW 36

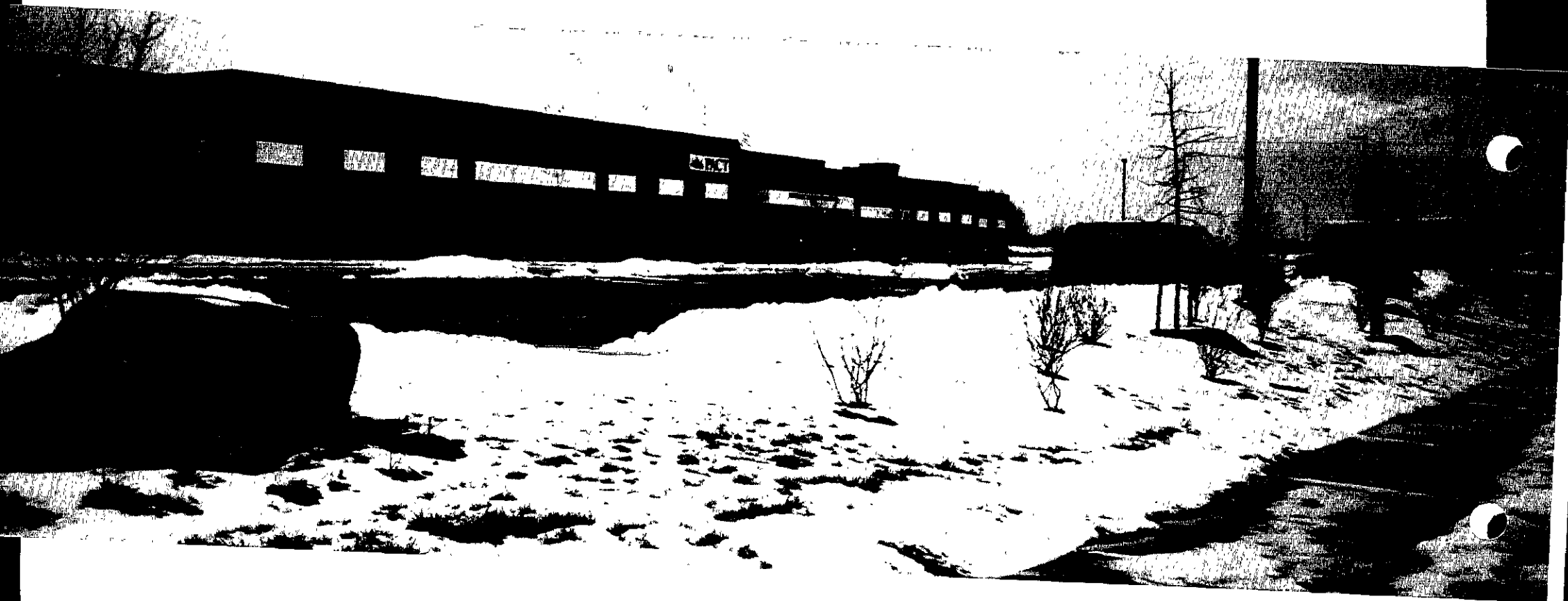
BALTIMORE
OFFICE OF PLANNING

Kevin Kamenech





















(6973)
House on Left
↓



← 6975
Rockfields

24 ft from property line

24 ft from 6975

Feb 2 A

01-229-2A

6975 Rockfields Road
Baltimore, Md 21244

(P3)

Play Area



Deck of
6975

(↑ No longer there)
Picnic Table

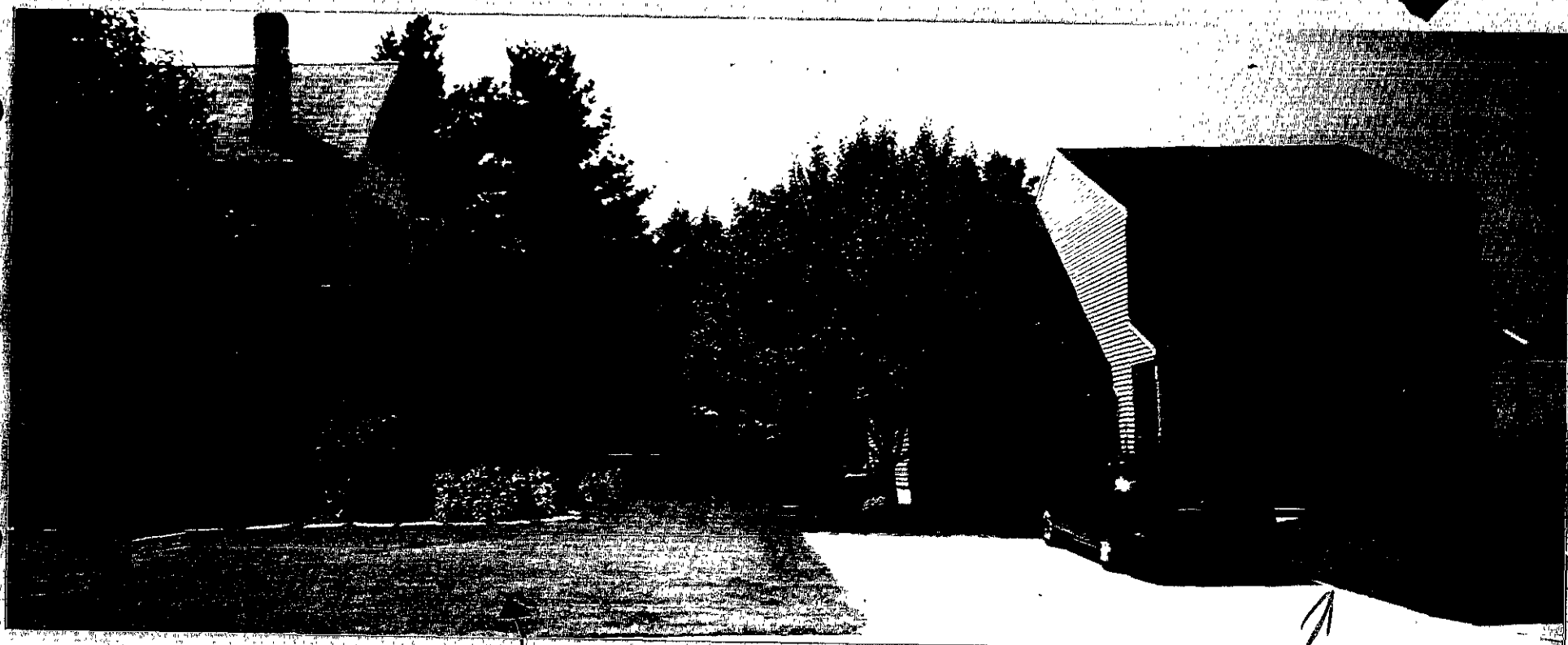
Red is

01-229-XA

6975 Rockfields Road



6977
House on Right



12 ft from Property Line

Ref 2C

01-229-XA