

3/29/05

IN THE MATTER OF:

ELLEN KONSTANTINOS, et al.

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IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

CASE NO. 03-C-03-006955

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ORDER

02-265-SPHA

In accordance with the dictates of the Opinion of the Court of Special Appeals

filed on November 23, 2004, the Decision of the County Board of Appeals filed on May

27, 2003 is AFFIRMED.

It is so ORDERED this 29th day of March, 2005 by the Circuit Court for

Baltimore County.


J. NORRIS BYRNES

True Copy To:
CLERK OF THE COURT


MARY A. BREEN

RECORDED

FILED APR 1 2005

11/23/04

UNREPORTED

IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2422

September Term, 2003

PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY

V.

ELLEN PAPANIKOS, et al.

Kenney,
Barbera,
Sharer,

JJ.

Opinion by Barbera, J.

Filed: November 23, 2004

Section 101 of the Baltimore County Zoning Regulations ("BCZR") addresses the maximum number of children who may be cared for in a Family Child Care Home in Baltimore County. This appeal arises from the ruling of the County Board of Appeals of Baltimore County ("the Board") that the term "children," as it is used in § 101, "must be construed as meaning children in the ordinary sense; that is those who have not reached their majority." The Board's decision required appellees, Ellen Papanikos, et al., who operate a Family Child Care Home in their Baltimore County residence, to include all five of their biological children, who are under the age of eighteen and reside with them, as children for purposes of the eight-child limit restriction imposed on anyone operating a Family Child Care Home in Baltimore County.

Appellees petitioned for judicial review in the Circuit Court for Baltimore County and appellant, the People's Counsel for Baltimore County, participated in the petition. The court reversed the Board's decision without setting an age limit and held that appellees had to account only for the number of "children who are actually in the daycare" without exceeding eight, "includ[ing] any of [the appellees'] own children who are, in fact, involved in the daycare program." Under the circuit court's order, appellees do not have to take into account any of their biological children.

From that order, the People's Counsel noted a timely appeal and asks the following questions:

I. Whether the [Board's] interpretation of "children" was at least reasonable and entitled to deference?

II. Whether the Circuit Court reversal usurped the administrative function and undermined the legislative intent?

For the reasons that follow, we reverse the circuit court's order and remand with instructions to affirm the Board's decision.

FACTS AND LEGAL PROCEEDINGS

Appellees have not participated in the appeal before this Court. Even if they had, the relevant facts of this case would not be in dispute. What is in dispute is the correctness of the Board's interpretation of the BCZR.

Since 1995, appellees have owned the property at 3702 Old Milford Mill Road in Baltimore County ("the property"). The property consists of approximately 0.36 acres or 15,681 square feet in a D.R.5.5 Zone.¹ The following year, appellees began operating a Family Child Care Home on the property.²

On December 20, 2001, appellees filed two petitions with the Baltimore County Department of Permits and Development Management. They filed a petition requesting a special hearing for the approval of a Group Child Care Center, Class A, from the Office of the

¹ Under BCZR § 1B02.2 (A), a D.R.5.5 Zone refers to the "Density Residential" zone which allows 5.5 dwelling units per acre.

² BCZR § 424.3 permits the operation of a Family Child Care Home in the D.R.5.5 zone as a matter of right.

Zoning Commissioner of Baltimore County.³ Then, they sought approval of a variance to permit them to build a wooden, six-foot fence on the property with no setback from adjacent property lines.

After a hearing in which several neighbors of appellees testified in opposition, the Deputy Zoning Commissioner ("Deputy Commissioner") denied appellees' petitions. The Deputy Commissioner also identified the issue that is at the center of this appeal. The Deputy Commissioner determined that appellees have six children. As of the date of the Deputy Commissioner's decision, one of the children had reached the age of eighteen and would "not be counted when taking into account the number of children that [appellees] may lawfully care for on [their] property by virtue of operating a Family Child Care Home." The Deputy Commissioner then ordered that appellees "be permitted to provide care, protection and supervision for 3 additional children over and above the 5 biological children that currently reside on the property."

On April 4, 2002, appellees appealed the Deputy Commissioner's decision to the Board. Almost one year later, the Board held a hearing at which counsel for appellees conceded that, under the

³ A Group Child Care Center, Class A, is defined in BCZR § 101 as "[a] group child care center wherein group child care is provided for no more than 12 children at one time."

A Group Child Care Center is defined in BCZR § 101 as "[a] building or structure wherein care, protection and supervision is provided for part or all of a day, on a regular schedule, at least twice a week to at least nine children, including children of the adult provider."

BCZR, appellees would not qualify for a Group Child Care Center, Class A. Each of the parties agreed that the crux of the appeal involved the Deputy Commissioner's direction to include all five of appellees' biological children who are under eighteen years of age in calculating the eight-child limit restriction on operating a Family Child Care Home in Baltimore County. Appellees asked the Board to rule that their biological children over the age of six should not be counted as "children" for purposes of inclusion in the child limit restriction. Appellant argued that the Board should affirm the Deputy Commissioner's ruling and decide that the term "children" should be defined according to its ordinary meaning, i.e., anyone under the age of majority (eighteen).

Following the hearing, the parties submitted written memoranda. Appellees argued that because the term "children" is not defined in the BCZR, the Board should refer to Maryland statutes and case law for guidance in interpreting the term. Appellees adopted a slightly different position than they had at the hearing. They requested that the Board find that "the age of a child of the adult care provider to be counted in the number of allowed children for care in" a Family Child Care Home should be either under six or under eight.

The BCZR contains a provision directing that "[a]ny word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's

Third New International Dictionary of the English Language, Unabridged." See § 101. Appellant noted in its memorandum that, in this case, resort to the dictionary was of no assistance because of the expansive list of dictionary definitions of the word "child." Appellant therefore argued that, in the absence of a legislative definition of "children," the term should be construed in its "ordinary sense," i.e., "those who have not reached the age of majority."

The Board held a public deliberation on appellees' petitions, focusing on the interpretation of the term "children" in the BCZR. The Board unanimously voted to dismiss both petitions as moot; and to hold that all minor children under the age of eighteen, including appellees' minor children, are included as "children" for purposes of the BCZR's Family Child Care Home provisions.

On May 27, 2003, the Board issued a written opinion embodying that vote. The Board agreed with appellant that the definition of "children" in Webster's Third New International Dictionary "is so various and expansive as to be useless." The Board then examined various legal definitions of the terms "child" and "children" as used in certain sections of the Maryland Code and the Code of Maryland Regulations ("COMAR").

The Board stated that it had reviewed legislative history in connection with the appropriate sections of the BCZR as well as the "Final Report of the Baltimore County Planning Board" and concluded

"that the term 'child' or 'children' must reference the legal age of majority in this State" Adhering to the rationale of the Court of Appeals' decision in *Borchert v. Borchert*, 185 Md. 586 (1946), the Board further stated:

This Board must assume that the Baltimore County Council in not specifically defining the term "child" or "children" under § 101 or in any of the child care center definitions anticipated that the term "must be construed as meaning children in the ordinary sense; that is those who have not reached their majority." [*Borchert*, 185 Md. at 593.] This Board will not stretch any interpretation that would apparently thwart the intention of the County Council which, as the legislative body in Baltimore County, establishes the law. Such change and a more definitive interpretation of the terms must come from the legislative body that is ultimately responsible to the electorate of the County. Where the Council in this circumstance specifically chose not to do so, this Board will not expand the definition of the terms as suggested by the [appellees]. To do so would [be] a usurpation of the legislative process.

The Board then ordered that appellees' petitions be dismissed as moot, and further

ORDERED that, pursuant to this Board's finding that any minor under the age of 18, including the owner/operator's minor children under the age of 18, is included in the allowed numbers, the [appellees] shall be prohibited from providing care, protection and supervision for more than 8 children at [the property]. These eight (8) children, pursuant to the definition contained within the *Baltimore County Zoning Regulations*, shall include the [appellees'] five (5) natural children that currently reside within this residence. Therefore, the [appellees] shall only be permitted to provide care, protection

and supervision for three (3) additional children over and above the five (5) biological children that currently reside on the property.

On June 25, 2003, appellees petitioned for judicial review in the Circuit Court for Baltimore County. Appellant participated in the judicial review and both parties filed memoranda. After a hearing, the court issued a written order reversing the Board's decision and determining that "the simple answer to the problem is that the [appellees] must account for those children who are actually in the daycare, and that number may not exceed eight, and it would include any of their own children who are, in fact, involved in the daycare program."

From entry of that order on the docket, this timely appeal followed.

DISCUSSION

We begin by disposing of appellant's second question, because it involves the manner by which the appellate courts review decisions of an administrative agency. Appellant argues that the circuit court "usurped" the Board's function in ruling that appellees must account for only those children actually participating in the day care program. Appellant specifies that the court exceeded the scope of its judicial function and placed itself in the legislature's shoes.

We shall discuss below the Board's role in cases involving interpretation of terms that are not defined in the BCZR. For now,

it is sufficient to say that we need not address the circuit court's analysis, because we "'do not evaluate the . . . conclusions of law made by the circuit court; instead, "we review the administrative decision itself.'" *Solomon v. State Bd. of Physician Quality Assurance*, 155 Md. App. 687, 697 (2003), cert. denied, 381 Md. 676 (2004) (quoting *Gabaldoni v. Bd. of Physician Quality Assurance*, 141 Md. App. 259, 273 (2001)).

Turning, then, to the first question before us, we must decide whether the Board correctly interpreted the term "children" as it is used in the definition of a Family Child Care Home in BCZR § 101. We note, incidentally, that appellant argued before the Board that the issue presented before it was "arguably a mixed question of fact and law." Appellant asserts before us, however, that the Board made a "legal interpretation." We agree that whether the Board properly defined the term "children" under the BCZR is purely a question of law. See *Capital Commercial Props., Inc. v. Montgomery County Planning Bd. of the Maryland-National Capital Park and Planning Comm'n*, 158 Md. App. 88, 96 (2004) (noting that "[a] challenge as to a regulatory interpretation is, of course, a legal issue"); *Kerpelman v. Disability Review Bd. of Prince George's County Police Pension Plan*, 155 Md. App. 513, 521 (2004) (same).

Our "'role in reviewing an administrative agency adjudicatory decision is narrow.'" *Blakehurst Life Care Comty./The Chestnut*

Real Estate P'ship v. Baltimore County, 146 Md. App. 509, 517 (2002) (quoting *Bd. of Physician Quality Assurance v. Banks*, 354 Md. 59, 67 (1999)). When, as here, we are reviewing the Board's legal conclusion, we determine whether the Board ""interpreted and applied the correct principles of law governing the case and no deference is given to a decision based solely on an error of law."" *Lucas v. People's Counsel for Baltimore County*, 147 Md. App. 209, 225 (2002) (quoting *Eastern Outdoor Adver. Co. v. Mayor & City Council of Baltimore*, 128 Md. App. 494, 514 (1999), cert. denied, 358 Md. 163 (2000)).

Yet, "[e]ven with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts." *Banks*, 354 Md. at 69. In *Marzullo v. Kahl*, 366 Md. 158, 173 n.11 (2001), the Court of Appeals observed that "since at least 1978, the Board . . . has been charged with 'all the functions and duties relating to zoning [appeals] described in Article 25A of the Annotated Code of Maryland'"; thus, the deference we owe the Board is premised upon its "presumed expertise in interpreting the BCZR" over the years.

In the case *sub judice*, neither the Deputy Commissioner nor the Board interpreted a regulation which either promulgated.

Instead, they interpreted the meaning of a term that appears in the BCZR, which both the Deputy Commissioner and the Board have the authority to interpret. See Baltimore County Code, 2003 ("BCC"), §§ 32-3-301(a)(2), 32-3-401(a); *Blakehurst Life Care*, 146 Md. App. at 520 (noting that the Board is vested with appellate jurisdiction in matters related to zoning orders). We bear all of this in mind as we consider the Board's construction of BCZR § 101.

A Family Child Care Home is defined in BCZR § 101 as:

A private residence wherein care, protection and supervision is provided for a fee for part or all of a day at least twice a week to no more than eight children at one time, including children of the adult provider. The operator of a family childcare home shall hold at least one fire drill each week for the benefit of the children.

By its very terms, § 101 requires appellees, as the adult providers operating a Family Child Care Home, to include their own children when calculating the maximum number of children whom they are allowed to serve when operating a Family Child Care Home.

The Board interpreted "children" to mean "children in the ordinary sense; that is those who have not reached their majority." Appellant argues that we should defer to the Board's interpretation of "children" because it is reasonable in light of the lack of an explicit definition.

When we review the interpretation of a local zoning regulation, we do so "under the same canons of construction that apply to the interpretation of statutes." *O'Connor v. Baltimore*

County, 382 Md. 102, 113 (2004). "[T]he cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the [legislative body]." *Motor Vehicle Admin. v. Jones*, 380 Md. 164, 175 (2004) (quoting *Holbrook v. State*, 364 Md. 354, 364 (2001)). We assign words in a statute their ordinary and natural meaning when interpreting a statute. *O'Connor*, 382 Md. at 113. When the plain language of a statute "is clear and unambiguous, our inquiry ordinarily ends." *Christopher v. Montgomery County Dep't of Health and Human Servs.*, 381 Md. 188, 209 (2004) (quotation and citation omitted). "We will look 'beyond the statute's plain language in discerning the legislative intent' only where the statutory language is ambiguous." *Jones*, 380 Md. at 176 (citation omitted).

Neither the term "child" nor the term "children" is defined in the BCZR. As we have mentioned, § 101 of the BCZR states that "[a]ny word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged" ("Webster's"). According to Webster's, "children" is defined simply as the plural of "child." "Child" is defined as follows:

1 a : an unborn or recently born human being :
FETUS, INFANT, BABY b now dial : a female infant
2 a : a young person of either sex esp.
between infancy and youth <a play for both
children and adults> <a ~ bride> <these ~

authors — Louis Auchincloss> **b** : one who exhibits the characteristics of a very young person (as innocence or lack of restraint) <she would stay what she was—a placid grownup ~ until she died—Ida A. R. Wylie><I am a ~ in most matters of practical business—O. W. Holmes †1935> **c** : a person who has not yet come of age—compare AGE 1d(2), AGE OF CONSENT, AGE OF DISCRETION 3 usu **childe** \ 'chi(ə)ld\, usu cap, archaic : a child or youth wellborn or of noble birth

Given the number and variation of definitions of the singular form of "children," we conclude, as did the Board, that resort to Webster's is of no assistance in deciding the word's meaning in the context of § 101. Because, in this context, "children" is "reasonably capable of more than one meaning," the word is ambiguous. See *Liverpool v. Baltimore Diamond Exch., Inc.*, 369 Md. 304, 318 (2002). We therefore look beyond the plain language of the statute to discern what the County Council of Baltimore County ("County Council") intended by its use of the term "children" in the context of Family Child Care Homes.

A reading of the relevant legislative history of the County Council provides little assistance in ascertaining the legislative intent. See Bill Nos. 47-85 (1985), 200-90 (1990), and 7-91 (1991). Before 1991, the operator of a Family Child Care Home could provide care for no more than six children at one time. Bill No. 7-91 was enacted initially to amend the definition of Family Child Care Home to state that "the number of children for whom care is provided [in a Family Child Care Home] may not exceed the number

of children permitted by the State at a registered family day care home." That sentence, however, was stricken from the bill. The County Council instead opted to limit the number of children cared for in a Family Child Care Home to eight, and the definition has not been altered since that time. Although the history sheds some light on the County Council's intention regarding the number of children who may be cared for at one time, it provides no guidance on who is a child for purposes of the statute.

We therefore look to the regulatory scheme as a whole. See *Anne Arundel County v. Muir*, 149 Md. App. 617, 630 (2003). The purpose of the BCZR is to promote the "health, safety, morals, and general welfare of the community." Baltimore County Code § 32-3-101(a) ("BCC"). The BCZR also serves to regulate the density of population. BCC § 32-3-101(a)(5). In conjunction with zoning maps, the BCZR must be made in accordance with the comprehensive plan to, *inter alia*, promote safety and the health and general welfare, and mitigate congestion and overcrowding. BCC § 32-3-101(b)(2).

The Board specifically rejected the use of the various definitions of "children" set forth in both the Family Law Article of the Maryland Code ("FL") and COMAR. The Board reasoned that the General Assembly has more specifically defined "children" and that the County Council could, likewise, have done so.

The Board found persuasive the "analysis" section of the Final Report of the Baltimore County Planning Board. This report stated that while residential zones are more ideal for child care facilities, the BCZR must be concerned with adverse effects of such centers on the "surrounding residential properties" because a child care center "is not a residential use."

The Board also found persuasive a statement from the Court of Appeals' decision in *Borchert v. Borchert*, 185 Md. 586, 593 (1946), that the term "children" be construed in its ordinary sense, i.e., those who have not reached the age of majority. *Borchert* dealt with whether there was a parental duty to support an adult incompetent child. Former Maryland Code (1939), Article 16. § 41, authorized a court of equity "'to order and direct who shall have the guardianship and custody of the children, and be charged with their support and maintenance.'" *Borchert*, 185 Md. at 593. The Court noted that appellant conceded that a parental duty to support one's adult incompetent children existed, but held that it would not expand the common law duty to support one's children to include adult incompetent children in the absence of a legislative enactment to that effect. *Id.* at 592-95. The Court stated that "unless we attempt judicial legislation[, the term 'children'] must be construed as meaning children in the ordinary sense; that is those who have not reached their majority." *Id.* at 593.

In the case *sub judice*, the Board determined that for purposes of the definition of Family Child Care Home in the BCZR, "children" should mean those who have not yet reached the age of majority, and left it for the County Council to define the term more precisely. We conclude that this interpretation is a reasonable one, as there exist in Family Child Care Home environments concerns for such issues as overcrowding, noise, traffic, and traffic safety regardless of the age of the children being cared for in those homes. Although certain of these concerns might diminish with the increased age of the children in such an environment, others would not.

We note that the definition of "child" adopted by the Board is not atypical in the law. See, e.g. *Borchert*, 185 Md. at 593; Md. Code (2002), § 3-102(a)(2) of the Election Law Article (voting requirement); Md. Code (1977, 2002 Repl. Vol.), § 16-103(a), (b) of the Transportation Article (driver's licenses); Md. Code (1974, 2001 Repl. Vol.), §§ 4-101, 4-503(a), 9-109(a) of the Estates & Trusts Article (respectively, making a will, gifts, and distribution to a minor); Md. Code (1973, 2002 Repl. Vol., 2004 Supp.), §§ 3-801(e), 3-8A-01(d) of the Courts & Judicial Proceedings Article (respectively, CINA cases and juvenile causes).

Moreover, we cannot overlook the imperative that a statute not be given "a strained interpretation or one that reaches an absurd result.'" *Muir*, 149 Md. App. at 630-31 (citation omitted). The

Board's interpretation is not strained and does not reach an absurd result. Indeed, the zoning ordinance of at least one other county defines the term "child" as anyone seventeen years old or younger, and explicitly provides that the adult provider's children who are under six years old be counted against the maximum number of children that may properly be cared for in a Family Child Care Home. See Montgomery County Code Zoning Ordinance § 59-A-2.1 (2004). Thus, at least one county has determined that the age of seventeen is not too restrictive a definition of "children" in the context of child care center zoning regulations.

In sum, granting the Board the deference it is due in interpreting statutes and ordinances it administers, we affirm the construction it gave to § 101. The circuit court erred in disturbing that decision, requiring that we reverse that judgment and remand with instructions to affirm the decision of the Board. We exercise our discretion to assess the costs of this appeal against Baltimore County.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY REVERSED.
CASE REMANDED TO THAT COURT
WITH INSTRUCTIONS TO AFFIRM THE
DECISION OF THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY.**

**COSTS TO BE PAID BY BALTIMORE
COUNTY.**

1/22/04

12/262

PETITION OF **ELLEN, KONSTANTINOS & HARLAMBROS PAPANIKOS** FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

* IN THE
*
* CIRCUIT COURT

IN THE CASE OF **ELLEN PAPANIKOS, ET AL.**, LEGAL OWNERS/PETITION FOR VARIANCE ON PROPERTY LOCATED AT 3702 OLD MILFORD MILL ROAD; E/S OLD MILFORD MILL ROAD, 230' N OF C/L EULER AVENUE

*
* FOR

2ND Election District, 2ND Councilmanic District

* BALTIMORE COUNTY

Case No. 02-265-SPHA
Before the County Board of Appeals.

* Case No. 03-C-03-006955AE

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NOTICE OF APPEAL

Dear Madam Clerk:

Please enter an appeal to the Court of Special Appeals of Maryland on behalf of the PEOPLE'S COUNSEL FOR BALTIMORE COUNTY from the Opinion and Order of this Court dated December 24, 2003 (docketed January 8, 2004) in the above-captioned case.

RECEIVED

JAN 28 2004

BALTIMORE COUNTY
BOARD OF APPEALS

Peter Max Zimmerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

RECEIVED AND FILED

2004 JAN 22 P 2: 26

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Carole S. Demilio / RMA

CAROLE S. DEMILIO

Deputy People's Counsel

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

4/2/04

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of January, 2004, a copy of the foregoing Notice of Appeal was mailed to David F. Mister, Esquire, Law Offices of Mister, Winter & Bartlett, 30 E Padonia Road, Suite 404, Timonium, MD 21093, Attorney for Konstantinos, Ellen, and Harlambros Papanikos.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

12/24/03

IN THE MATTER OF:

ELLEN KONSTANTINOS, et al.

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*

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IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

CASE NO. 03-C-03-006955

* * * * *

ORDER

Ellen Konstantinos and Harlambros Papanikos (Petitioners) live at 3702 Milford Mill Road in Baltimore County. The property is zoned D.R. 5.5. In addition to being the family home, Petitioners operate a Family Child Care Center providing care for eight children.¹ In addition to the eight children in the program, Petitioners have five children of their own ranging in age from seven to seventeen.

They sought approval for a Group Child Care Center, Class A and on March 7, 2002, their request was denied by the Deputy Zoning Commissioner. The ruling also required that Petitioners include their own five children in counting the eight children in the daycare program. This meant that Petitioners could add only three children to their program.

From that order, Petitioners appealed to the Board of Appeals. A hearing was held on February 25, 2003. At that hearing, Petitioners withdrew their request for a Group Child Care Center, Class A, leaving as the only issue before the Board, the Deputy Zoning Commissioner's ruling on his interpretation of the word "children." He had found that the term included any child residing in the home who had not reached his or her eighteenth birthday. On May 27, 2003, the Board affirmed the decision of the Deputy Zoning Commissioner. From that decision, Petitioners have appealed to this Court.

¹ It should be noted that a Family Child Care Center providing care for eight children is permitted as a matter of right in a D.R. 5.5 zone.

See. Mister, Zimmerman, County Board of Appeals of Baltimore

FILED JAN 08 2004

THE LAW

The Order of a county zoning authority must be upheld if its action is "fairly debatable" and if it is based on substantial evidence. *The Bd. of County Comm'rs v. Holbrook*, 314 Md. 210, 550 A.2d 664 (1988). In other words, whether a reasoning mind reasonably could have reached the factual conclusion the Agency reached, there should not be either judicial fact finding or a substitution of judicial judgment for that of the Agency. *Ocean Headway Condominium Ass'n. v. Boardwalk Plaza Venture*, 68 Md. App. 650, 515 A.2d 485 (1968). This requires a three-step process which was set forth in *Comptroller v. World Book Childcraft Int'l., Inc.*, 67 Md. App. 424, 508 A.2d 148 (1986). First of all, the reviewing Court must determine whether the Agency recognized and applied the correct principles of law. Second, once having determined that the Agency applied the correct law, the Court examines the factual findings to determine if they are supported by substantial evidence, that is to say, by such relevant evidence as a reasonable mind might accept as adequate to support the conclusion. Third, the reviewing Court must examine how the Agency applied the law to the facts. *Id.* at 438-39. (other citations omitted). It should also be noted that this Court should only uphold the decision of the Agency on the Agency's reasons and findings.

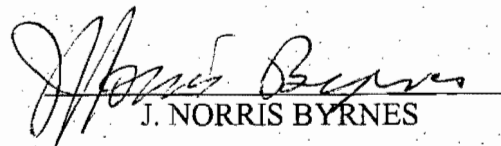
The term child or children is not specifically defined in Section 101 of the Baltimore County Zoning Regulations. Under the common law, one who had not attained the age of fourteen was considered a "child." The definition of child and children has varied over the years and Petitioners introduced several exhibits before the Board, which reflect different definitions. For instance, in the Family Law Section of the Md. Code Ann. § 5-501 defines "Family Day Care" to mean the care given to a child under the age of thirteen years. Again in Family Law, Subtitle 8, "Unattended Children" permits "a reliable person at least 13 years old" to, in essence, babysit a child eight years old or younger.

This Court believes that both the Deputy Zoning Commissioner and the Board missed the mark. In its opinion, the Board "assumed" that the Baltimore County Council did not specifically define the term child or children and, therefore, the Board concluded that the term "must be construed as meaning children in the ordinary sense; that is, those who have not reached their majority". Citing *Borchert v. Borchert*, 185 Md. 586, 45 A.2d 463 (1946). That case dealt with the obligation of a parent to continue paying child support for a child under a disability after reaching the age of twenty-one.

It is more reasonable to assume that the Council did not define the word "child" or "children" because there was no need to do so on the ground that the term would include only those children who were participating in the daycare program. (Emphasis added.) So that if a "child" is seventeen years old, but has some cognitive deficiency requiring constant supervision, and he or she is involved in the daycare program, the child should be counted against the eight. Conversely, if a child of the provider is seven years old, lives in the home but does not participate in the daycare center, that child should not be counted. It would be absurd to suggest that a seventeen year old, who is living in the home and who may be caring for children under the age of eight, would be counted against the eight children permitted in the Petitioners' program. So the simple answer to the problem is that the Petitioners must account for those children who are actually in the daycare, and that number may not exceed eight, and it would include any of their own children who are, in fact, involved in the daycare program.

Accordingly, the decision of the Board of Appeals is REVERSED.

It is so ORDERED this 24th day of December, 2003 by the Circuit Court for Baltimore County.


J. NORRIS BYRNES

9/8/03

PETITION OF ELLEN, KONSTANTINOS &
HARLAMBROS PAPANIKOS
3702 OLD MILFORD MILL ROAD

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

IN THE CASE OF SPECIAL HEARING
AND VARIANCE
CASE NO. 02-265-SPHA

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CIVIL ACTION NO.: 03-C-0306955

* * * * *

MEMORANDUM IN SUPPORT OF PETITION FOR JUDICIAL REVIEW

Ellen, Konstantinos & Haralambros Papanikos, by and through their attorneys, David F. Mister, Mister, Winter & Bartlett, L.L.C., pursuant to MD. Rule 7-207, file this memorandum of law in the above-captioned matter.

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I. Statement of the Case/Statement of Facts

This is an appeal filed by Appellants, Ellen, Konstantinos, and Haralambros Papanikos (hereinafter collectively referred to as Appellants) in response to the decision by the County

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BALTIMORE COUNTY
BOARD OF APPEALS

Board of Appeals for Baltimore County (hereinafter referred to as the "Board"). In that decision, the Board defines "children" to include all minors, those under the age of 18, including those "children" of legal age to provide independent care to children under the age of 8. Thus, the Board's decision prohibits Appellants from providing care, protection and supervision for more than 8 children total, including their own children ages 7 years, 9 years, 11 years, 16 years and 17 years, at their private residence.

The Appellants sought a special hearing for a use permit for a Group Child Care Center, Class A facility in a D.R 5.5 zone at 3702 Old Milford Mill Road, for up to 12 children in a single-family residential dwelling.

On March 7, 2002, Deputy Commissioner Kotroco denied Appellants' requests and ordered that Appellants be prohibited from providing care, protection and supervision for no more than eight (8) children at their private residence. Deputy Commissioner Kotroco determined that, pursuant to Baltimore County Zoning Regulations, Appellants had to include their five (5) natural children, currently residing within the family home, in calculating those eight (8) children.

In defining a "child," Deputy Commissioner Kotroco applied age 18, the legal age of majority, to calculate the permissible number of "children" in Appellants' family child care home. This definition unreasonably included Appellants' own children who may otherwise remain at home without supervision. The purpose of Appellants' appeal to the Board of Appeals for Baltimore County was to more reasonably define a "child" in accordance with the legislative intent of the Baltimore County Zoning Regulations. The Board found that Appellants' own children shall be included in the eight (8) -child limit of those allowed care, protection and

supervision in Appellants' private residence. Accordingly, Appellant may only provide a care facility for three (3) children outside of her own natural children to comply with the Baltimore County Zoning Regulations.

II. Issue Presented

WHETHER THE BOARD ACTED PROPERLY IN APPLYING DEPUTY COMMISSIONER KOTROCO'S DEFINITION OF "CHILD," THOSE UNDER AGE 18, TO DETERMINE THE LEGISLATIVE INTENT OF THE BALTIMORE COUNTY ZONING REGULATIONS?

III. Statement of Law of Standard and Scope of Review

It is a well-settled rule that administrative agencies are experts in their fields, should be treated with deference, and may be reversed only where they act arbitrarily, capriciously, or abuse their discretion. Brashers v. Lindenbaum, 189 Md. 619, 56 A.2d 844 (1948). *See also*: Social Workers v. Chertkov, 121 Md. App. 574, 710 A.2d 391 (1998). When courts review administrative agency decisions, the substantial evidence test applies. *See* Hurl v. Board of Educ., 107 Md. App. 286, 667 A.2d 970 (1995). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support an agency's conclusion. Eastern Outdoor Advertising Co. v. Mayor and City Council of Baltimore, 146 Md. App. 283, 807 A. 2d 49 (2002).

However, a reviewing court should not give deference to an agency's decision on matters of law. Consequently, when an error of law is alleged, a reviewing court is at liberty to substitute its judgment for that of the agency. Regan v. Board of Chiropractic Examiners, 120 Md. App. 494, 707 A.2d 891 (1998).

In the case before the Court, the Board agreed with Commissioner Kotroco, who arbitrarily picked the age of majority as the defining age in the child care setting. The record is void of substantial evidence supporting the age of majority as required to support the agency's decision. Furthermore, providing an appropriate definition for the term "child" is a matter of law, for which this Court can substitute its judgment for that of the Board below.

IV. Argument

THE BOARD ACTED IMPROPERLY IN APPLYING DEPUTY COMMISSIONER KOTROCO'S DEFINITION OF "CHILD," THOSE UNDER 18, TO DETERMINE THE LEGISLATIVE INTENT OF THE BALTIMORE COUNTY ZONING REGULATIONS.

Deputy Commissioner Kotroco defined children of the family child care home adult provider as someone under the age of 18. Commissioner Kotroco's definition was unreasonable given the purposes and goals of the protection of children in a child care setting and the protection of the health, safety and general welfare of the public. Therefore, the Board acted improperly in supporting Deputy Commissioner Kotroco's opinion and decision because Deputy Commissioner Kotroco was arbitrary in defining the word "child" in the context of land use regulation of child care.

The Baltimore County Zoning Regulations define a "Family Child Care Home" as:

"A private residence wherein care, protection and supervision is provided for a fee for part or all of the day at least twice a week to no more than 8 children at one time, including children of the adult provider. The operator of a family child care home shall hold at least one fire drill each week for the benefit of the children."(emphasis added)
BCZR §101 at 1-15.

Commissioner Kotroco and the Board both reasoned that the definition in the zoning regulations makes clear that the number of children permitted on the Appellants' property must take into account all biological children of the care provider under age 18. Appellants have five (5) children of their own in the home, varying in age from seven to seventeen years (17 years, 16 years, 11 years, 9 years, and 7 years, respectively). According to Commissioner Kotroco's definition, as adopted by the Board, the Appellants would only be permitted to provide care for a fee for 3 additional children, as all 5 biological children are under the age of 18.

The word "child" is not defined in the Baltimore County Zoning Regulations. While it is within an agency's discretion to interpret meanings in areas where the agency is deemed expert, the Zoning Commissioner is not an expert in matters regarding the care, protection and supervision of children, and as such should have referred to Maryland statutes and case law for guidance. Thereby, the Board was erroneous in supporting the Zoning Commissioner's opinion and decision in this regard.

The Code of Maryland Regulations provides the appropriate definition of a "child" of a home care provider. COMAR 07.04.01.23 (4) provides that one should **"Count as children served the provider's own children who are younger than 6 years old."**

In addressing whether additional children, regardless of paternity, can and should be counted as children served by the provider, the State defines those children in COMAR 07.04.01.23 (E), which reads:

The Office may count as children in care children visiting the home for whom payment is not received only if all of the following conditions are met:

- (1) The child is younger than 8 years old;**

(2) The child is unaccompanied by an adult; and

(3) The child cannot be sent home immediately. (Emphasis Added)

In both regulations, the age established to constitute a “child” is at least ten years below the age used by Deputy Commissioner Kotroco and supported by the Board. Both regulations contemplate a situation where there are older children present in the day care facility who should not be counted in the number of children receiving care by the child care provider, regardless of their status as members of the family or visitors to the care facility.¹

These specific child care definitions provided by COMAR reflect a more contemporary view of children and provide a more sensible age for defining them.

In the context of child care, and in addition to various regulations defining children, the State of Maryland has also provided threshold ages in statutes regulating the age at which a person can be conferred with the responsibility to care for another, and the age at which they must be in the care of an adult or older child. Md. Code Ann., Fam.Law § 5-801(a) grants care, protection and supervisory power to persons as young as 13 providing that:

A person who is charged with the care of a child **under the age of 8 years** may not allow the child to be locked or confined in a dwelling, building, enclosure, or motor vehicle which is out of sight of the person charged unless the person charged provides a reliable person at least 13 years old to remain with the child to protect the child. (Emphasis added)

¹ Interestingly, the State contemplates that a provider may have a greater care responsibility to a visiting child (8 years as the demarcation) than a member of the family (6 years as the demarcation).

By this statute, the violation of which is punishable as a criminal act, the State has indicated that a person as young as 13 is capable of caring for a child under the age of 8. Such a finding renders Commissioner Kotroco's, and the Board's, definition of children unreasonable and too strict in the context of a day care provider. Perhaps more probative to the issue *sub judice* is the age eight (8) threshold in the statute at which the Maryland General Assembly believes a child may legally be without supervision of an adult, or even the supervision of a thirteen year old.

The various definitions of the word "child" provided by Maryland agency regulations and public general laws demonstrate the legislature's intent to allow a more lenient definition of children in the child care context; specifically in areas concerning their child care, supervision and safety. As previously indicated, there are various ages used to define or regulate a "child" in varying situations; which creates some ambiguity as to the precise definition. However, there is no indication in any of the regulatory language that the traditional age of majority, 18, is the standard used to define "child" either generally or in the "family day care" setting. Deputy Commissioner Kotroco, and the Board, erroneously defined "child" to incorporate all children under the age of 18, and failed to recognize statutes and regulations throughout the State that define a more appropriate age, or a more commonsensical definition in the context of child care and supervision. Despite a total absence of definition from the Baltimore County Council, the administrative agencies call to create a definition, applied the most restrictive definition short of including adult children of the child care provider.

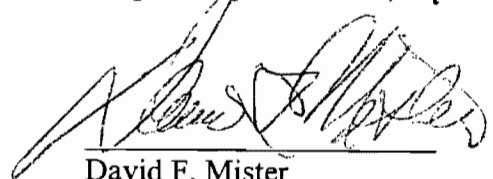
This Court could reasonably rule the operative provision of BCZR § 101 unenforceable for lack of a specific and unambiguous definition of "child".

V. Conclusion

Appellants respectfully request that this Court hold the regulation of the number of children of an adult provider to be unenforceable in the context of BCZR § 101 until such time as the Baltimore County Council adopts a specific definition of the age of such children.

In the alternative, Appellants respectfully request that this Court give an appropriate definition of the age of the children of a family care provider that must be counted under the Baltimore County Zoning Regulations limiting the number of children in a family child care home. Appellants suggest that, absent express language to the contrary adopted by the Baltimore County Council, the age of a child of the adult care provider to be counted in the number of allowed children for care in the home should be **"children who are younger than 6 years old"**, pursuant to COMAR 07.04.01.23(4), or **"under the age of 8 years"**, pursuant to Md. Code Ann., Fam. Law § 5-801(a). Such age demarcation would be consistent with the paramount reason to regulate the number of children in a child care setting, even in the context of land use regulations: protection of children in the child care setting while protecting the health, safety and general welfare of the public.

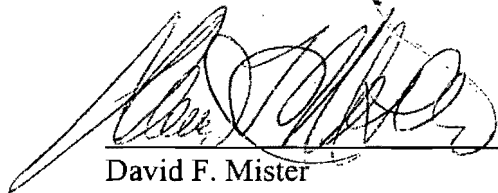
Respectfully Submitted,



David F. Mister
Mister, Winter & Bartlett
Attorneys for Appellants
30 E. Padonia Rd. Suite 404
Timonium, MD 21039
410-561-3000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5TH day of September, 2003, a copy of the foregoing Memorandum in Support of Petition for Judicial Review was mailed first class, postage prepaid to Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204 and County Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, MD 21204.



David F. Mister

8/7/03
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
HARLAMBROS PAPANIKOS
3702 OLD MILFORD MILL ROAD

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

CIVIL ACTION
NO.: 03-C-03-6955

IN THE MATTER OF:
ELLEN, KONSTANTINOS &
HARLAMBROS PAPANIKOS
3702 OLD MILFORD MILL ROAD

2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

CASE NO.: 02-265-SPHA

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the
Petition for Judicial Review directed against it in this case, herewith transmits the record of
proceedings had in the above-entitled matter, consisting of the following certified copies or original
papers on file in the Department of Permits and Development Management and the Board of
Appeals of Baltimore County:

RECEIVED AND FILED
2003 AUG -7 A 10:55
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

**ENTRIES FROM THE DOCKET OF THE BOARD APPEALS
AND DEPARTMENT OF PERMITS & LICENSES OF BALTIMORE COUNTY**

02-265-SPHA

December 20, 2001	Petition for Special Hearing Request filed by Konstantinos and Ellen Papanikos and Haralambros Papanikos to determine whether or not the Zoning Commissioner should approve a class "A" day care facility for twelve (12) children in a single family occupied dwelling.
	Petition for Variance filed by Konstantinos and Ellen Papanikos and Haralambros Papanikos to permit a six foot wood stockade fence with zero ft. setback ilo the req'd 20 feet.
January 30, 2002	Notice of Zoning Hearing
January 30	Entry of Appearance filed by People's Counsel for Baltimore County
February 17	Certificate of Posting
February 19	Publication in newspaper
March 1	ZAC Summary of Comments
March 5	Hearing Held before the Zoning Commissioner
March 7	Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner. Petition for Special Hearing Request DENIED. Petition for Variance DENIED.
April 4	Notice of Appeal from David F. Mister, Esquire, Mister, Winter & Barlett, LLC, Suite 404 – Padonia Centre, 30 E. Padonia Road, Timonium, MD 21093, on behalf of Konstantinos and Ellen Papanikos and Haralambros Papanikos.

February 25, 2003

Hearing by Board of Appeals.

Appellant Exhibits

- 1 West's Annotated Code of Maryland Family Law § 5-501.
Definitions – 4 pages
- 2 Code of Maryland Regulations Title 07 Department of
Human Resources Subtitle 04 Child Care Administration
Chapter 01 Family Day Care, pages 11, 12, 13
- 3 Code of Maryland Regulations Title 07 Department of
Human Resources Subtitle 04 Child Care Administration
Chapter 01 Family Day Care, pages 14, 15
- 4 West's Annotated Code of Maryland Family Law Title 5.
Children Subtitle 8 – Unattended Children - 2 pages

**People's Counsel
Exhibits**

- PC 1 Board of Appeals Opinion; Case No.: 95-280-XA; 3 pages
- PC2 Board of Appeals Opinion; Case No.: 94-271-XA; 10 pages
- PC3 Site Plan – Old Milford Mill Road
- PC4 Definitions (B.C.Z.R. 101) CHILD CARE CENTERS
Identification Only
- PC4 Zoning Map – Adopted October 10, 2000
- PC6 Aerial Map – Old Milford Mill Road
- PC7 ADC Road Map – joins Map 33
- PC8 Maryland Department of Assessments and Taxation –
Baltimore County – Real Property Search – 3 pages
- PC9 Hand written letter dated 3-2-02 to Timothy M. Kotroco from
a list of 13 neighbors

PC10	Division of Code Inspections and Enforcement Violation Case Documents – Violation Case Documents: 01-1164 3702 Old Milford Mill Road
PC11	Dictionary page number 388 with child and children highlighted
PC12	Case Law – <u>Board v. Harker</u> – 561 A.2d 219
PC13	County Council of Baltimore County, Maryland <u>Bill No. 47-85</u> ; 9 pages
PC14	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
PC15	County Council of Baltimore County, Maryland <u>Bill No. 200-90</u> ; 4 pages
PC16	County Council of Baltimore County, Maryland <u>Bill No. 7-91</u> ; 2 pages
April 11	People's Counsel Memorandum filed Appellant's/Petitioner's Memorandum of Law filed via facsimile by David F. Mister, Esquire, attorney for Appellant's/Petitioner's; original hand delivered on April 14, 2003
April 23	Board convened and concluded Deliberation
May 27	Opinion issued by the Board of Appeals.
June 25	Petition for Judicial Review filed in the Circuit Court for Baltimore County by David F. Mister, Esquire, on behalf of by Konstantinos and Ellen Papanikos and Haralambros Papanikos
June 30	Certificate of Notice sent to interested parties.

August 6

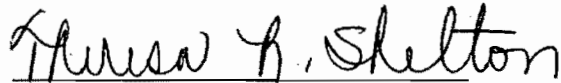
Transcript of Proceedings filed.

August 7

Record of Proceedings filed in the Circuit Court for
Baltimore County.

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

Respectfully submitted,



Theresa R. Shelton, Legal Secretary
County Board of Appeals of Baltimore County
400 Washington Avenue, Room 49
Towson, MD 21204 (410) 887-3180

c: David F. Mister, Esquire
Peter Max Zimmerman
People's Counsel for Baltimore County

7/2/03

PETITION OF **ELLEN, KONSTANTINOS & HARLAMBROS PAPANIKOS** FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

* IN THE
*
* CIRCUIT COURT

IN THE CASE OF **ELLEN PAPANIKOS, ET AL.**, LEGAL OWNERS/PETITION FOR VARIANCE ON PROPERTY LOCATED AT 3702 OLD MILFORD MILL ROAD; E/S OLD MILFORD MILL ROAD, 230' N OF C/L EULER AVENUE

*
* FOR

2ND Election District, 2ND Councilmanic District

* BALTIMORE COUNTY

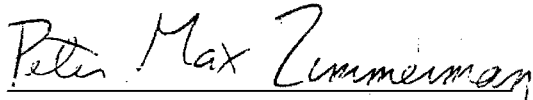
Case No: 02-265-SPHA
Before the County Board of Appeals

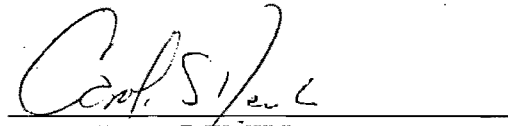
* Case No. 03-C-03-006955AE

* * * * *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, in accordance with Maryland Rule 7-204, submits this response to the Petition for Judicial Review filed ELLEN, KONSTANTINOS & HARLAMBROS PAPANIKOS, and states that it intends to participate in this action for Judicial Review. The undersigned participated in the proceeding before the County Board of Appeals.


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of July, 2003, a copy of the foregoing

Response to Petition for Judicial Review was mailed to:

David F. Mister, Esquire
Mister, Winter & Bartlett, LLC
30 E. Padonia Road, Suite 404
Timonium, Maryland 21093

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



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

July 2, 2003

CAROLE S. DEMILIO
Deputy People's Counsel

Chief Clerk, Civil Division
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Hand-delivered

RECEIVED

JUL 02 2003

BALTIMORE COUNTY
BOARD OF APPEALS

Re: Petition for Judicial Review of the Decision
of the County Board of Appeals
In the Matter of Ellen Papanikos, et al.
Case Number: 3-C-03-006955AE

Dear Sir or Madam:

Please file the enclosed the Response to Petition for Judicial Review. If you have any questions or concerns, please contact my office.

Thank you for your consideration.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosures

cc: David Mister, Esquire
Kathleen Bianco, CBA Administrator

6/25/03

PETITION OF ELLEN, KONSTANTINOS &
HARLAMBROS PAPANIKOS
3702 OLD MILFORD MILL ROAD

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

IN THE CASE OF SPECIAL HEARING
AND VARIANCE
CASE NO. 02-265-SPHA

* IN THE
*
* CIRCUIT COURT
*
* FOR
*
* BALTIMORE COUNTY
*
* CIVIL ACTION NO.: 6955
02-265-SPHA

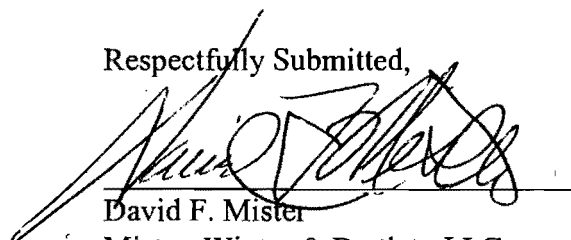
* * * * *

PETITION FOR JUDICIAL REVIEW

Ellen, Konstantinos, and Harlambros Papanikos, by and through their undersigned counsel, David F. Mister and Mister, Winter & Bartlett, LLC respectfully request Judicial Review, pursuant to MD Rule 7-202, of the Order entered in the above captioned matter by the County Board of Appeals for Baltimore County, Case Number 02-265-SPHA on May 27, 2003.

Pursuant to MD Rule 7-202(d), Petitioner hereby delivers to the clerk a copy of the petition for the agency whose decision is sought to be reviewed.

Respectfully Submitted,



David F. Mister
Mister, Winter & Bartlett, LLC
30 E. Padonia Road, Suite 404
Timonium, MD 21093
(410) 561-3000
Counsel for Petitioners

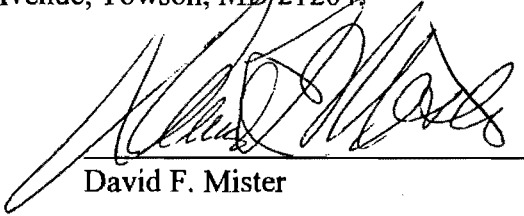
RECEIVED

JUN 26 2003

BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25TH day of June, 2003, a copy of the foregoing Petition for Judicial Review was mailed first class, postage prepaid to Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204 and County Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, MD 21204.



David F. Mister

5/27/03

IN THE MATTER OF
THE APPLICATION OF
ELLEN, KONSTANTINOS & HARALAMBROS
PAPANIKOS – PETITIONERS FOR SPECIAL
HEARING AND VARIANCE ON PROPERTY
LOCATED ON THE E/S MILFORD MILL ROAD,
230' N C/L OF EULER AVENUE
(3702 OLD MILFORD MILL ROAD)
2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 02-265-SPHA
* * *

OPINION

This case comes to the Baltimore County Board of Appeals from a decision of the Deputy Zoning Commissioner dated March 7, 2002 in which the Petitioner's request for special hearing to approve a Child Care Center, Class A, was denied. Additionally, Petitioner's request for variance to allow a 6-foot wood stockade fence with a "0"-foot setback in lieu of the required 20 feet was also denied. The Petitioner was also prohibited from providing care, protection and supervision for more than eight children at the Petitioner's private residence. The eight children were required to include the Petitioner's five natural children, currently residing within the Petitioner's residence. This ruling would permit only the care, protection and supervision for three additional children over and above the Petitioner's five biological children currently residing on the property. The order further included a provision to allow the Petitioner until June 15, 2002 to reduce the number of children at her private residence to the permitted eight children, five of which are her biological children.

The Board held a public hearing on Tuesday, February 25, 2003 at 10:00 a.m. The Petitioner was represented by David F. Mister, Esquire. Peter Max Zimmerman, People's Counsel for Baltimore County, participated on behalf of that office.

At the "de novo" hearing before the Board of Appeals, Counsel for the Petitioner withdrew the special hearing request for the Group Child Care Center, Class A. Hence the

Petition for the Variance was also withdrawn at that time. The only issue in this case essentially is how the Deputy Zoning Commissioner ruled on the interpretation of the word "children." The Deputy Zoning Commissioner held that the term included anyone up to the age of 18. The Family Child Care Home in this instance is located in a D.R. 5.5 zone, and is permitted as a matter of right therein.

The facts of the case are relatively simple. The subject property is a single-family dwelling with an accessory garage located at 3702 Milford Mill Road. The property is zoned D.R. 5.5, and consists of 0.36 acre, 52 feet by 7 inches in width and 293 feet in depth. The premises are presently used as a day care facility that provides care for eight children. In addition to the eight children for whom the Petitioner provides day care, there are five of her own children on the premises. Since 1996, the Petitioner has been operating a Family Child Care Home on the premises. The Board takes note of the fact that this use is permitted as a matter of right in a D.R. 5.5 zone. Clearly, in the instant case, the Petitioner has five (5) children of her own in the home with ages varying from seven to seventeen of age (17 years, 16 years, 11 years, 9 years, and 7 years). Under Commissioner Kotroco's definition, the Petitioner would only be able to collect a fee for three (3) additional children, as all of the children are under the age of 18.

Unfortunately, the term "child" or "children" is not specifically defined in § 101 of the *Baltimore County Zoning Regulations*. Under that section where no specific definition is provided, reference is directed to *Webster's Third New International Dictionary*. Having examined People's Counsel Exhibit No. 11, the *Webster's* definition of "child" and "children," the Board agrees with People's Counsel that the definition is so "various and expansive as to be useless."

Under the common law, one who had not attained the age of 14 years was considered a "child." Through the years, the meaning now varies in different statutes. To that end, the

Petitioner supplied the Board with a variety of documents to support their contention that the word "children" is frequently qualified.

- | | |
|-------------------------|---|
| Petitioner's Exhibit #1 | <i>West's Annotated Code of Maryland
Family Law
Title 5 – Children
Subtitle 5, Child Care; Foster Care
Part I: Definitions; General Provisions</i> |
| Petitioner's Exhibit #2 | <i>Code of Maryland Regulations
Title 07 Department of Human Resources
Subtitle 04 Child Care Administration
Chapter 01 Family Day Care
.02 Definitions</i> |
| Petitioner's Exhibit #3 | <i>Code of Maryland Regulations
Title 07 Department of Human Resources
Subtitle 04 Child Care Administration
Chapter 01 Family Day Care
.23 Capacity</i> |
| Petitioner's Exhibit #4 | <i>West's Annotated Code of Maryland
Family Law
Title 5 – Children
Subtitle 8—Unattended Children</i> |

These are, as People's Counsel recites, State regulations which involve the care or protection of children in varying age groups. People's Counsel also submitted a substantial number of exhibits, which are all referenced in the Board's file.

The position of the Petitioner is that the Deputy Zoning Commissioner is not an expert in matters regarding the care, protection and supervision of children. That being the case, this Board should look to the Maryland Statutes and case law for guidance. *COMAR*, for example, under § 07.04.01.23(4), specifies that one should "count as children served the provider's own children who are younger than 6 years old." *COMAR* 07.04.01.23(E) also defines "children" as those visiting the home for whom payment is not received only if all of the following conditions are met:

1. the child is younger than 8 years old;
2. The child is unaccompanied by an adult; and
3. The child cannot be sent home immediately.

To apply the Petitioner's rationale, a child would have to be either 6 years old or 8 years old to be considered under the BCZR definition. The Deputy Zoning Commissioner's extension of the age to 18, Petitioner argues, goes too far, and the Board should adopt a more reasoned and sensible approach in defining its meaning.

It is further argued that this Board should consider the factor of responsibility in determining its interpretation. At what age, for example, can someone under the majority age of 18 be permitted to care for, provide protection, and have supervisory power over a "child"? The *Maryland Annotated Code, Family Law*, § 5-801(a) is quoted and provides that:

A person who is charged with the care of a child **under the age of 8 years** may not allow the child to be locked or confined in a dwelling, building, enclosure, or motor vehicle which is out of sight of the person charged unless the person charged provides a reliable person at least 13 years old to remain with the child to protect the child. (emphasis added)

In essence, the General Assembly has determined that a person as young as 13 is perfectly capable of caring for a child under the age of 8. That being the case, Petitioner argues that from a probative value standpoint the age of 8 is the threshold age which, at least, the General Assembly believes a child may legally be without supervision of an adult, or even the supervision of a 13-year-old.

In essence, Petitioner argues that the Board should discount the Deputy Zoning Commissioner's interpretation as the age of majority, or 18 years of age, and should adopt a more reasoned approach that the definition of the number of allowed children for care in the home should be "children who are younger than 6 years old" or "under the age of 8 years," which would be in concert with State law.

People's Counsel offers a different viewpoint and supports the Deputy Zoning Commissioner's interpretation that "the age of majority is the dividing line under the BCZR. Mr. Zimmerman has provided the Board with relevant definitions under § 101 of the BCZR. Each definition includes the word "child" or "children" with no stated definition of the words.

The Board recognizes the importance of this case and its far-reaching consequences that will affect all care and child care facilities and the elasticity of the word "children" as referenced in the Brief suggested by People's Counsel. It is obvious to the Board that the County Council could have very easily defined the term "child" or "children" if not necessarily in § 101 of the BCZR, at least in each of the "Care" provisions of § 101. The General Assembly in enacting State law has been more specific. the Council certainly did so when considering group child care centers and the zoning requirements imposed via special exceptions and residential transitional area requirements. The Board has reviewed Bill 47-85 (effective 6/03/1885); Bill 200-96 (effective 1/13/1991); Bill 7-91 (effective 4/15/1991); and the Final Report of the Baltimore County Planning Board (11/16/89). What constitutes a "child" or "children" is referenced nowhere in the definitions, and yet such care is allowed relative to Residential Transitional Areas and special exceptions, etc. The Board particularly notes that, under "Analysis," the Planning Board recited that:

To achieve quality child care in Baltimore County the Zoning Regulations must permit child care facilities to be located in quality environments. Clearly, a residential zone provides a more ideal environment for children than a business or manufacturing zone, with the additional benefit of being near the family residence. Proximity to the residence provides convenience for the parents. However, because this activity center is not a residential use, additional standards are necessary to ensure that it does not adversely affect the surrounding residential properties.

This Board, while recognizing the salient points raised by the Petitioner, must conclude, however, that the points raised by People's Counsel in his Brief are entitled to support his

contention that the term "child" or "children" must reference the legal age of majority in this State and, accordingly, support the opinion and decision of the Deputy Zoning Commissioner.

The Board concludes, as referenced by People's Counsel, that "local zoning is independent of State law and serves different objectives." *Board of Child Care v. Harker*, 316 Md. 683 (1989). This Board finds itself in agreement with Chief Judge Marbury who wrote in the case of *Borchert v. Borchert*, 185 Md. 586 (1946) that the term "children" applied only to minors. In that case, Chief Judge Marbury wrote:

This statute is quite similar to the general equity statute, Article 16, § 85, where the several chancellors are given original jurisdiction over children and are authorized to direct who shall be charged with their support. Neither of these statutes attempts any definition or enlargement of the word "children" and unless we attempt judicial legislation that word must be construed as meaning children in the ordinary sense; that is those who have not reached their majority.

This Board must assume that the Baltimore County Council in not specifically defining the term "child" or "children" under § 101 or in any of the child care center definitions anticipated that the term "must be construed as meaning children in the ordinary sense; that is those who have not reached their majority." This Board will not stretch any interpretation that would apparently thwart the intention of the County Council which, as the legislative body in Baltimore County, establishes the law. Such change and a more definitive interpretation of the terms must come from the legislative body that is ultimately responsible to the electorate of the County. Where the Council in this circumstance specifically chose not to do so, this Board will not expand the definition of the terms as suggested by the Petitioner. To do so would a usurpation of the legislative process.

ORDER

THEREFORE, IT IS THIS 27th day of May, 2003 by the
County Board of Appeals of Baltimore County

ORDERED that Petitioner's request for a Class A child care facility and request for variance to permit a 6-foot wood stockade fence to be situated 0 feet from the property line in lieu of the required 20 feet, having been withdrawn by Petitioner, be and the same are hereby **DISMISSED as moot**; and it is further

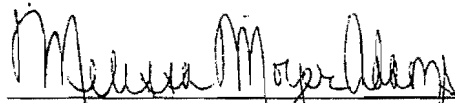
ORDERED that, pursuant to this Board's finding that any minor under the age of 18, including the owner /operator's minor children under the age of 18, is included in the allowed numbers, the Petitioner shall be prohibited from providing care, protection and supervision for more than 8 children at her private residence. These eight (8) children, pursuant to the definition contained within the *Baltimore County Zoning Regulations*, shall include the Petitioner's five (5) natural children that currently reside within this residence. Therefore, the Petitioner shall only be permitted to provide care, protection and supervision for three (3) additional children over and above the five (5) biological children that currently reside on the property.

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

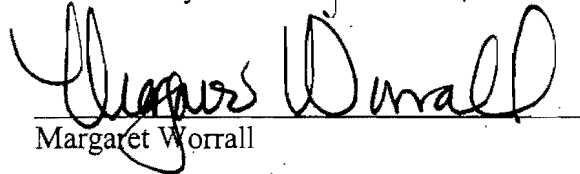
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Charles L. Marks, Panel Chair



Melissa Moyer Adams



Margaret Worrall



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
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May 27, 2003

David F. Mister, Esquire
MISTER, WINTER & BARTLETT, LLC
Suite 404 – Padonia Centre
30 E. Padonia Road
Timonium, MD 21093

RE: *In the Matter of: Ellen, Konstantinos & Haralambros*
Papanikos - Legal Owners /Petitioners Case No. 02-265-SPHA

Dear Mr. Mister:

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

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

Very truly yours,

Kathleen C. Bianco
Kathleen C. Bianco
Administrator

Enclosure

c: Ellen Papanikos, Konstantinos Papanikos and
Haralambros Papanikos
Roy Levins
Trinidad Porter
Robert Young
James and Shirley Dixon
Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement [Enforcement Case #01-1164]
Arnold Jablon, Director /PDM

MAY 27 2003

4/4/03

**RE: PETITION FOR SPECIAL
HEARING AND VARIANCE
3702 Old Milford Mill Road; E/S Old
Milford Mill Road, 230' N of c/l Euler Ave
2nd Election & 2nd Councilmanic Districts**

**Legal Owner(s): Konstantinos, Ellen &
Haralambros Papanikos
Petitioners**

* * * * *

**BEFORE THE
COUNTY BOARD OF APPEALS
FOR**

BALTIMORE COUNTY

Case No.02-265-SPHA

* * * * *

RECEIVED
APR 1 2003

PEOPLE'S COUNSEL'S MEMORANDUM

**BALTIMORE COUNTY
BOARD OF APPEALS**

People's Counsel for Baltimore County files this memorandum and states as follows:

Statement of the Case

Petitioners filed a petition for special hearing for a Group Child Care Center, Class A in a D.R. 5.5 zone at 3702 Old Milford Mill Road, along with a request for a fence variance. Upon its denial by the Deputy Zoning Commissioner (DZC) on March 7, 2002, Petitioners appealed to the County Board of Appeals (CBA).

Petitioners' objective was to expand from a "Family Child Care Home," which is limited to no more than eight (8) children, to the "Group Child Care Center, Class A," which authorizes up to 12 children. During the course of discussions between Petitioners' counsel and People's Counsel, People's Counsel observed that a group child care center is subject to special exception and residential transition area (RTA) standards under BCZR 424.5 and 1B01.1B1.e and to bulk standards under BCZR 424.7. The proposed center does not meet these standards and would require significant variances along with the special exception and exception to RTA

standards. The CBA has denied such petitions in the past. See Application of Gordon L Harrison. Case No. 95-280-XA, attached.

Under these circumstances, Petitioners decided to withdraw their request for a group child care center. This also would moot the fence variance. They still wished to maintain their family child care home.

In the course of the DZC proceedings, however, an additional issue came to light. Petitioners have six children of their own. The DZC found that these count toward the number allowed, and that the word "children" includes anyone who has not reached eighteen (18) years of age, the age of majority. At the time of the decision, this meant that five of their six children would count, allowing for only three others.

Petitioners believe the determinative age should be six (6) years old, or possibly twelve (12), and rely on several state regulations. People's Counsel disagrees, and believes that the age of majority is the dividing line under the BCZR.

At the *de novo* County Board of Appeals Hearing on February 25, therefore, Petitioners' counsel withdrew the special hearing request for the Group Child Care Center, Class A. The petition for variance fell with it. He also explained Petitioners' concern that the DZC had wrongly decided that "children" included anyone up to the age of 18. He requested a ruling on this issue of law.

In addition to People's Counsel, several neighbors appeared; Roy Lovins, of 3700 Old Milford Mill Road; and Trinidad Porter and Robert Young of 3706 Old Milford Mill Road. They wished to testify to the adverse impacts caused by all of the

children, including teenagers. Upon objection, the Board declined to hear this testimony. People's Counsel, therefore, made a proffer that the concerns over overcrowding, noise, and disturbance had to do with children of various ages, so the purpose of the BCZR would not be served by unlimited allowance of children over six (6) years old, or over twelve (12) years old. People's Counsel considers the issue as arguably a mixed question of fact and law.

There have been many cases involving childcare centers. This is the first time, however, that a party has questioned the definition of "children." Accordingly, the CBA has requested legal memoranda.

The Relevant Definitions

BCZR 101

Family Child Care Home: A private residence wherein care, protection and supervision is provided for a fee for part or all of a day at least twice a week to no more than eight children at one time, including children of the adult provider. The operator of a family childcare home shall hold at least one fire drill each week for the benefit of the children.

Group Child Care Center: A building or structure wherein care, protection and supervision is provided for part of all of day, on a regular schedule, at least twice a week to at least nine children, including children of the adult provider.

Group Child Care Center, Class A: A group child care center wherein group child care is provided for no more than 12 children at one time.

Group Child Care Center, Class B: A group child care center wherein group child care is provided for more than 12 children.

We also attach BCZR 424 in its entirety.

Argument

There has been zoning law to address child care homes and centers for almost twenty years. The original legislation was Bill 47-85. Later, the County Council enacted a comprehensive revision with Bill 200-90. The law defines and provides for family child care homes and group child care centers, with the centers divided between Class A and Class B.

The definitions refer to the number of children, including children of the adult provider. The Family Child Care Home is limited to eight children, and the Group Child Care Center, Class A, to 12. The Group Child Care Center, Class B, is unlimited. There have been many cases involving use permits, special exceptions, and/or variances for different types of facilities in different zones.

The assumption has always been that the term "children" embraces anyone under 18 years of age. To be clear, there is no distinction in the definition between children of the providers and of customers. If the word "children" is interpreted as having the age limits suggested by Petitioners, it has the effect that the Family Child Care Home limit of eight children automatically implies the addition of an unlimited number of children over the age of six, or over twelve, depending on the interpretation. Similarly, the Class A group child care center would expand from a 12-child limit to some indefinite number above that. Numerical conditions in orders would likewise become elastic.

These implications deny common sense and experience. Yet, this is what Petitioners claim. It is tempting to dismiss this out of hand as absurd. Nevertheless, we will address it with sober reflection.

I. In The Absence of Further Statutory Definition, the Word "Children" means Children in the Ordinary Sense: Those Who Have Not Reached the Age of Majority

A

There is no definition of "child" or "children" in BCZR 101. That section then directs us to Webster's Third New International Dictionary, which Petitioners have kindly supplied. But this definition, or more accurately, group of definitions, is so various and expansive as to be useless. A "child" could be an infant, a young person, an adult who acts immaturely, or an offspring of any age. In common usage, we also know that the word "children" is often specifically qualified. For example, children under a specified age may fly for free, go to the movies or sporting events at reduced prices, play at certain levels in recreational leagues, and so on. Petitioners introduced several state regulations involving care or protection of children which are of this variety (children under six, children under twelve) and attempt to engraft this to the local zoning regulations. Yet, as Petitioners must concede, local zoning is independent of state law and serves different objectives. Board of Child Care v. Harker. 316 Md. 683 (1989).

In Harker, Chief Judge Robert Murphy wrote:

"In this regard, we recognized in *Ad + Soil, supra*, 307 Md. at 334, 513 A.2d 893, that under Article 25A, § 5(X) of the Code, one of the cornerstones of Maryland's system of land use in home rule counties is

that zoning controls be implemented by local government. Specifically, we there said that "[i]n view of such a clearly established legislative policy, evidence of a countervailing legislative purpose to prohibit local zoning control . . . must be strong indeed." *Id.* at 334, 513 A.2d 893. In *Ad + Soil*, we found no implied preemption of local zoning ordinances governing the location of sewage sludge facilities, despite the existence of pervasive statewide legislation requiring permits for sewage sludge facilities and extensively governing the storage and distribution of sewage sludge.

We conclude that there is no comprehensive regulatory scheme governing child care facilities under the public general laws of the State legally sufficient to imply a legislative purpose to totally occupy the field, and thereby preclude all local zoning regulations pertaining to the location of these facilities. Nothing in the statewide statutes mentions preexisting local zoning ordinances, a clear indication that the General Assembly did not intend to preempt these local laws. *See Ad + Soil, supra*, 307 Md. at 333, 513 A.2d 893; *National Asphalt, supra*, 292 Md. at 79, 437 A.2d 651; *Baltimore v. Sitnick & Firey*, 254 Md. 303, 322, 255 A.2d 376 (1969).

As earlier observed, the legislative authority vested in the Administration to promulgate rules and regulations governing child care facilities, § 5-506 FAM. LAW.(b) of the Family Law Article, resulted in COMAR 07.02.13.07, which explicitly requires a licensed child care facility to comply with the zoning ordinances of political subdivisions. The validity of this provision is presumed when, as here, it is "consistent with the letter and spirit of the statute under which the agency acts." 316 Md. at 698.

Analogously, the Court of Special Appeals differentiated municipal licensing and zoning in Mayor and City Council v. Dembo. 123 Md. App. 527, 534-537 (1998). In Dembo, the court stated:

The difference between zoning and licensing has also been explained by characterizing a zoning ordinance as one which involves "a comprehensive or master plan for dividing the community into zones where specified uses are permitted, " as compared with licensing law which "is directed at one particular activity no matter where in the town it is carried out." *Maybee v. Town of Newfield*, 789 F.Supp. 86, 89-90 (N.D.N.Y. 1992). Put more simply, licensing "regulates establishments based on the type of business they conduct," and zoning regulates them

"based on their location." *City of Batavia v. Allen*, 218 Ill.App.3d. 545, 161 Ill.Dec. 239, 578 N.E.2d 597, 599 (1991)." 123 Md.App. at 525.

B

In this context, because the BCZR 101 definitions, unlike the cited state regulations, have no specific age limitation, it is logical to deduce that the County Council intentionally took a different approach. The question then boils down to the meaning of "child" or "children" when the legislature declines to specify an age limit. The answer, fortunately, is in the case law, and it accords with common sense.

In Borchert v. Borchert, 185 Md. 586 (1946), the issue presented was whether a parent had a duty to provide necessities for an son over the age of 21 years who was unable to care for himself and was thus disabled. The Court had to interpret the statute which empowered equity courts in divorce cases to order guardianship and custody of "children," as well as their "support and maintenance." While sympathetic to the situation, the Court found that "children" applied only to minors. Chief Judge Marbury wrote:

"This statute is quite similar to the general equity statute, Article 16, § 85, where the several chancellors are given original jurisdiction over children and are authorized to direct who shall be charged with their support. Neither of these statutes attempts any definition or enlargement of the word "children" and unless we attempt judicial legislation that word must be construed as meaning children in the ordinary sense; that is those who have not reached their majority."

The Court of Special Appeals quoted this in Colburn v.Colburn. 45 Md. App. 313 (1980). As might be expected, the appellate courts have never overruled or modified this doctrine. It is still good law.

Consistent with Borchert, the meaning of “children” in the child care home and child care center definitions extends to all those who have not reached the age of majority. In recent years, that age has been in common usage been lowered from 21 to 18 for most purposes. See Md. Ann. Code Election Art. Sec. 3-4(b)(2), voting qualifications; Transportation Art. Sec. 16-103(b), drivers licenses; Estates and Trust Art. Sec. 4-101, making a will; Sec. 4-503, anatomical gifts; Sec. 9-109, distribution to minors; Sec. 13-101(l), protection of minors and disabled persons; Sec. 13-401, recovery by minor in tort.

The statutory purpose and structure of Baltimore County’s zoning laws regulating child care facilities compel the same conclusion. It makes no sense to provide a structure and gradation of levels of child care facilities with numerical limits as to children, and yet leave an indefinite gap or loophole for an unlimited number of a subgroup of children over a certain age.

The proffer of citizen testimony as to the disruptive impact of children of various ages, including teenagers, also reinforces the conclusion that the age of majority is the dividing line. It may be that many, or most, of the children at these facilities are not teenagers. But surely, they are included. When they are present, they count.

Afterword and Conclusion

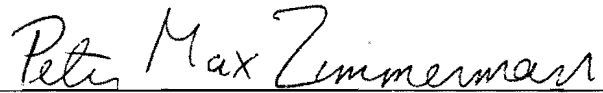
There was a recent reference in a newspaper article to the television soap opera named “All My Children.” With it came the reminder that the children on the show are adults. It is another example of the elasticity of the word “children.”

The meaning of the word depends on the context. Because it is elastic, it is often used with a qualifier, that is to say, a reference to children of a specified age or age range.

The courts have recognized that the meaning may vary. The Court of Appeals, therefore, has provided additional direction. Unless the age is specified, the word "children" includes all those who have not reached the age of majority. That is the situation here, and it accords with the purpose, structure, and impact of county zoning law.

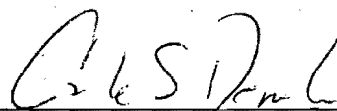
The ruling in this case will affect all cases and all child care facilities. There should not be a change in the understanding of the word "children" without good cause.

For all of the above reasons, the County Board of Appeals should find that the age of majority is the age limit for children under the Baltimore County Zoning Regulations governing child care facilities. The Deputy Zoning Commissioner so found, and he is correct.



PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

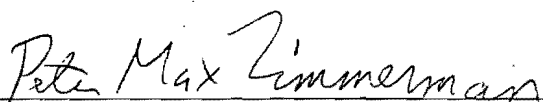


CAROLE S. DEMILIO

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 11th day of April, 2003 a copy of the foregoing People's Counsel's Memorandum was mailed to David Mister, Esquire, Law Offices of Mister, Winter & Bartlett, LLC, 30 E. Padonia Road, Suite 404, Timonium, MD 21093, Attorney for the Petitioner, and to Roy Lovins, 3700 Old Milford Mill Road, Baltimore, MD 21244, and to Trinidad Porter and Robert Young, 3706 Old Milford Mill Road, Baltimore, MD 21244.


PETER MAX ZIMMERMAN

4/11/03

IN THE MATTER OF
ELLEN, KONSTANTINOS &
HARALAMBOS PAPANIKOS
LEGAL OWNERS/ PETITIONERS

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY

* CASE NO.: 02-265-SPHA

RECEIVED
APR 14 2003
Filed via FAX 4-11-2003
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * *
APPELLANTS/PETITIONERS MEMORANDUM OF LAW

STATEMENT OF CASE

This is an appeal filed by Petitioners, Ellen, Konstantinos, and Haralambros Papanikos (hereinafter collectively referred to as "Petitioners") from a hearing before the Zoning Commissioner wherein the Petitioners requested a use permit and zoning variance for their property located at 3702 Milford Mill Road. The Petitioners sought a special hearing for a use permit for a Group Child Care Center, Class A facility, for up to 12 children in a single-family residential dwelling. Petitioners were also requesting setback variance to permit a 6 foot wood stockade fence with a 0 foot set back in lieu of the required 20 foot setback required for a Class A Group Child Care Center.

On March 7, 2002, Deputy Commissioner Kotroco denied the Petitioners' request for the use permit to increase their intensity of use to a Class A, Group Child Care Center, from their existing Family Child Care Home¹. The Deputy Commissioner also denied the request for variance from the setback for the stockade fence. Lastly, Deputy Commissioner Kotroco ordered that the Petitioners be prohibited from providing care, protection and supervision for more than eight children at their private residence. In his Order, Deputy Commissioner Kotroco held that, pursuant to Baltimore County Zoning Regulations, the Petitioners had to include their five natural children currently residing within the family home in counting the eight children permitted for child care. The Deputy Commissioner further held that the appropriate age for

Footnote 1: The original use was permitted as a matter of right in a DR 5.5 zone

defining a child of the adult care provider under the applicable zoning regulations is the age of majority, 18 years of age. As a result, the Petitioners were limited to care for only three (3) children in their family child care home in addition to their five minor biological children residing there, regardless of age.

At a subsequent hearing before the Board of Appeals, the parties stipulated that the only issue remaining for the Board to consider was the appropriate definition of the age of children of a family child care home provider as used in the context of the Baltimore County Zoning Regulations.

LEGAL ARGUMENT

Deputy Commissioner Kotroco defined children of the family child care home adult provider as someone under the age of 18. Commissioner Kotroco's definition is unreasonable given the purposes and goals of the protection of children in a child care setting and the protection of the health, safety and general welfare of the public.

The Baltimore County Zoning Regulations define a "Family Child Care Home" as:

"A private residence wherein care, protection and supervision is provided for a fee for part or all of the day at least twice a week to no more than 8 children at one time, including children of the adult provider. The operator of a family child care home shall hold at least one fire drill each week for the benefit of the children."(emphasis added) BCZR §101 at 1-15.

Commissioner Kotroco reasoned that the definition in the zoning regulations makes clear that the number of children permitted on the Petitioners' property must take into account the biological children of the care provider. Petitioners have five (5) children of their own in the home, varying in age from seven to seventeen (17 years, 16 years, 11 years, 9 years, and 7 years, respectively). According to Commissioner Kotroco's definition, the Petitioners would only be permitted to provide care for a fee for 3 additional children, as all 5 children are under the age of 18.

The word "child" is not defined in the Baltimore County Zoning Regulations. **While it is within an agency's discretion to interpret meanings in areas where the agency is deemed expert, the Zoning Commissioner is not an expert in matters regarding the care, protection and supervision of children, and as such should have referred to Maryland statutes and case law for guidance.**

The Code of Maryland Regulations provide the appropriate definition of the age of children of a home care provider. COMAR 07.04.01.23 (4) provides that one should **"Count as children served the provider's own children who are younger than 6 years old."**

In addressing whether additional children, regardless of paternity, can and should be counted as children served by the provider, the State defines those children in COMAR 07.04.01.23 (E), which reads:

The Office may count as children in care children visiting the home for whom payment is not received only if all of the following conditions are met:

- (1) The child is younger than 8 years old;**
- (2) The child is unaccompanied by an adult; and**
- (3) The child cannot be sent home immediately. (Emphasis added)**

In both regulations, the age provided for a child is at least ten years below the age used by Deputy Commissioner Kotroco. Both regulations contemplate a situation where there are older children present in the day care facility who should not be counted in the number of children receiving care by the child care provider, regardless of their status as members of the family or visitors to the care facility. Interestingly the State contemplates that a provider may have a greater care responsibility to a visiting child (8 years as the demarcation) than a member of the family (6 years as the demarcation).

These child care specific definitions provided by COMAR reflect a more contemporary view of children and provide a more sensible age for defining them.

In the context of child care, in addition to various regulations defining children, the State of Maryland has also provided threshold ages in statutes regulating the age at which a person can be conferred with the responsibility to care for another, and the age at which they must be in the care of an adult or older child. Md. Code Ann., Fam.Law § 5-801(a) grants care, protection and supervisory power to persons as young as 13 providing that:

A person who is charged with the care of a child **under the age of 8 years** may not allow the child to be locked or confined in a dwelling, building, enclosure, or motor vehicle which is out of sight of the person charged unless the person charged provides a reliable person at least 13 years old to remain with the child to protect the child. (emphasis added)

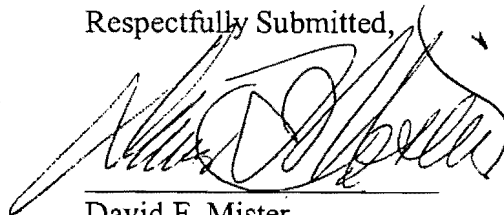
By this statute, the violation of which is punishable as a criminal act, the State has indicated that a person as young as 13 is capable of caring for a child under the age of 8. Such a finding renders Commissioner Kotroco's definition of children unreasonable and too strict in the context of a day care provider. Perhaps, more probative to the issue sub judice is the age eight (8) threshold in the statute at which the Maryland General Assembly believes a child may legally be without supervision on an adult, or even the supervision of a thirteen year old.

The various definitions of the word "child" provided by Maryland agency regulations and public general laws demonstrate the legislature's intent to allow a more lenient definition of children specifically in the child care context, in areas concerning their care, supervision and safety. As previously indicated, there are various numbers used to define "child" in varying situations which creates some ambiguity as to the precise definition. However, there is **no** indication in any of the language that the traditional age of majority, 18, is the standard used to define "child" either generally or in the "family day care" setting. Deputy Commissioner Kotroco erroneously defined "child" to incorporate all children under the age of 18, and failed to recognize statutes and regulations throughout the State that define a more appropriate age, or a more commonsensical definition in the context of child care and supervision.

CONCLUSION

Petitioners respectfully request that this Board give an appropriate definition of the age of the children of a family care provider that must be counted under the Baltimore County Zoning Regulations limiting the number of children in a family child care home. Petitioners suggest that, absent express language to the contrary adopted by the Baltimore County Council, the age of a child of the adult care provider to be counted in the number of allowed children for care in the home should be "**children who are younger than 6 years old**", pursuant to COMAR 07.04.01.23(4), or "**under the age of 8 years**", pursuant to Md. Code Ann., Fam. Law § 5-801(a). Such age demarcation would be consistent with the paramount reason to regulate the number of children in a child care setting, even in the context of land use regulations: protection of children in the child care setting while protecting the health, safety and general welfare of the public.

Respectfully Submitted,



David F. Mister
Mister, Winter & Bartlett
Attorneys for
Appellants/Petitioners
30 E. Padonia Rd. Suite 404
Timonium, MD 21039
410-561-3000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of April,
2003 a copy of the forgoing Appellants/Petitioners Memorandum of Law was mailed first class,
postage prepaid to Peter Max Zimmerman, People's Counsel for Baltimore County, Room 47
Old Court House, 400 Washington Ave, Towson, MD 21204.



David F. Mister

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DAVID F. MISTER
LESLIE A. WINTER
ANTHONY T. BARTLETT

AMY K. FINNERAN

OF COUNSEL:
ROBERT L. FRANK
ELIZABETH C. YAREMA

April 14, 2003

County Board of Appeals
Of Baltimore County
Old Courthouse, Room 49
400 Washington Ave.
Towson, MD 21204
Attn.: Kathleen C. Bianco

HAND DELIVERED

Re: Appeal of Petition for Special Hearing & Variance
Case No.: 02-265-SPHA

Dear Ms. Bianco:

Enclosed please find One (1) original, and Three (3) copies of the Appellants/ Petitioners Memorandum of Law to be filed for the above referenced case.

Please be advised that the Appellants/ Petitioners Memorandum of Law was faxed on Friday, April 11, 2003 to the County Board of Appeals of Baltimore County, and mailed first class postage prepaid to the Peter Max Zimmerman, People's Counsel for Baltimore County.

If you have any questions concerning this matter, please do not hesitate to contact me.

Very truly yours,

David F. Mister

David F. Mister

DMF

DFM/hmf

Enclosures

cc: Ellen, Konstantinos, & Haralambos Papanikos
Peter Max Zimmerman

\\Mwb_server\mister\Wpwin60\CLIENTS\PAPANIKOS\board of appeals 0414.wpd

RECEIVED

APR 14 2003
BALTIMORE COUNTY
BOARD OF APPEALS

4/11/03

RE: PETITION FOR SPECIAL *
HEARING AND VARIANCE *
3702 Old Milford Mill Road; E/S Old *
Milford Mill Road, 230' N of c/I Euler Ave *
2nd Election & 2nd Councilmanic Districts *

Legal Owner(s): Konstantinos, Ellen & *
Haralambros Papanikos *
Petitioners *

BEFORE THE
COUNTY BOARD OF APPEALS
FOR

BALTIMORE COUNTY

Case No.02-265-SPH

RECEIVED

APR 11 2003

* * * * *

* * *

PEOPLE'S COUNSEL'S MEMORANDUM

BALTIMORE COUNTY
BOARD OF APPEALS

People's Counsel for Baltimore County files this memorandum and states as follows:

Statement of the Case

Petitioners filed a petition for special hearing for a Group Child Care Center, Class A in a D.R. 5.5 zone at 3702 Old Milford Mill Road, along with a request for a fence variance. Upon its denial by the Deputy Zoning Commissioner (DZC) on March 7, 2002, Petitioners appealed to the County Board of Appeals (CBA).

Petitioners' objective was to expand from a "Family Child Care Home," which is limited to no more than eight (8) children, to the "Group Child Care Center, Class A," which authorizes up to 12 children. During the course of discussions between Petitioners' counsel and People's Counsel, People's Counsel observed that a group child care center is subject to special exception and residential transition area (RTA) standards under BCZR 424.5 and 1B01.1B1.e and to bulk standards under BCZR 424.7. The proposed center does not meet these standards and would require significant variances along with the special exception and exception to RTA

standards. The CBA has denied such petitions in the past. See Application of Gordon L Harrison. Case No. 95-280-XA, attached.

Under these circumstances, Petitioners decided to withdraw their request for a group child care center. This also would moot the fence variance. They still wished to maintain their family child care home.

In the course of the DZC proceedings, however, an additional issue came to light. Petitioners have six children of their own. The DZC found that these count toward the number allowed, and that the word "children" includes anyone who has not reached eighteen (18) years of age, the age of majority. At the time of the decision, this meant that five of their six children would count, allowing for only three others.

Petitioners believe the determinative age should be six (6) years old, or possibly twelve (12), and rely on several state regulations. People's Counsel disagrees, and believes that the age of majority is the dividing line under the BCZR.

At the *de novo* County Board of Appeals Hearing on February 25, therefore, Petitioners' counsel withdrew the special hearing request for the Group Child Care Center, Class A. The petition for variance fell with it. He also explained Petitioners' concern that the DZC had wrongly decided that "children" included anyone up to the age of 18. He requested a ruling on this issue of law.

In addition to People's Counsel, several neighbors appeared; Roy Lovins, of 3700 Old Milford Mill Road; and Trinidad Porter and Robert Young of 3706 Old Milford Mill Road. They wished to testify to the adverse impacts caused by all of the

children, including teenagers. Upon objection, the Board declined to hear this testimony. People's Counsel, therefore, made a proffer that the concerns over overcrowding, noise, and disturbance had to do with children of various ages, so the purpose of the BCZR would not be served by unlimited allowance of children over six (6) years old, or over twelve (12) years old. People's Counsel considers the issue as arguably a mixed question of fact and law.

There have been many cases involving childcare centers. This is the first time, however, that a party has questioned the definition of "children." Accordingly, the CBA has requested legal memoranda.

The Relevant Definitions

BCZR 101

Family Child Care Home: A private residence wherein care, protection and supervision is provided for a fee for part or all of a day at least twice a week to no more than eight children at one time, including children of the adult provider. The operator of a family childcare home shall hold at least one fire drill each week for the benefit of the children.

Group Child Care Center: A building or structure wherein care, protection and supervision is provided for part of all of day, on a regular schedule, at least twice a week to at least nine children, including children of the adult provider.

Group Child Care Center, Class A: A group child care center wherein group child care is provided for no more than 12 children at one time.

Group Child Care Center, Class B: A group child care center wherein group child care is provided for more than 12 children.

We also attach BCZR 424 in its entirety.

Argument

There has been zoning law to address child care homes and centers for almost twenty years. The original legislation was Bill 47-85. Later, the County Council enacted a comprehensive revision with Bill 200-90. The law defines and provides for family child care homes and group child care centers, with the centers divided between Class A and Class B.

The definitions refer to the number of children, including children of the adult provider. The Family Child Care Home is limited to eight children, and the Group Child Care Center, Class A, to 12. The Group Child Care Center, Class B, is unlimited. There have been many cases involving use permits, special exceptions, and/or variances for different types of facilities in different zones.

The assumption has always been that the term "children" embraces anyone under 18 years of age. To be clear, there is no distinction in the definition between children of the providers and of customers. If the word "children" is interpreted as having the age limits suggested by Petitioners, it has the effect that the Family Child Care Home limit of eight children automatically implies the addition of an unlimited number of children over the age of six, or over twelve, depending on the interpretation. Similarly, the Class A group child care center would expand from a 12-child limit to some indefinite number above that. Numerical conditions in orders would likewise become elastic.

These implications deny common sense and experience. Yet, this is what Petitioners claim. It is tempting to dismiss this out of hand as absurd. Nevertheless, we will address it with sober reflection.

I. In The Absence of Further Statutory Definition, the Word “Children” means Children in the Ordinary Sense: Those Who Have Not Reached the Age of Majority

A

There is no definition of “child” or “children” in BCZR 101. That section then directs us to Webster’s Third New International Dictionary, which Petitioners have kindly supplied. But this definition, or more accurately, group of definitions, is so various and expansive as to be useless. A “child” could be an infant, a young person, an adult who acts immaturely, or an offspring of any age. In common usage, we also know that the word “children” is often specifically qualified. For example, children under a specified age may fly for free, go to the movies or sporting events at reduced prices, play at certain levels in recreational leagues, and so on. Petitioners introduced several state regulations involving care or protection of children which are of this variety (children under six, children under twelve) and attempt to engraft this to the local zoning regulations. Yet, as Petitioners must concede, local zoning is independent of state law and serves different objectives. Board of Child Care v. Harker. 316 Md. 683 (1989).

In Harker, Chief Judge Robert Murphy wrote:

“In this regard, we recognized in *Ad + Soil, supra*, 307 Md. at 334, 513 A.2d 893, that under Article 25A, § 5(X) of the Code, one of the cornerstones of Maryland’s system of land use in home rule counties is

that zoning controls be implemented by local government. Specifically, we there said that "[i]n view of such a clearly established legislative policy, evidence of a countervailing legislative purpose to prohibit local zoning control . . . must be strong indeed." *Id.* at 334, 513 A.2d 893. In *Ad + Soil*, we found no implied preemption of local zoning ordinances governing the location of sewage sludge facilities, despite the existence of pervasive statewide legislation requiring permits for sewage sludge facilities and extensively governing the storage and distribution of sewage sludge.

We conclude that there is no comprehensive regulatory scheme governing child care facilities under the public general laws of the State legally sufficient to imply a legislative purpose to totally occupy the field, and thereby preclude all local zoning regulations pertaining to the location of these facilities. Nothing in the statewide statutes mentions preexisting local zoning ordinances, a clear indication that the General Assembly did not intend to preempt these local laws. *See Ad + Soil, supra*, 307 Md. at 333, 513 A.2d 893; *National Asphalt, supra*, 292 Md. at 79, 437 A.2d 651; *Baltimore v. Sitnick & Firey*, 254 Md. 303, 322, 255 A.2d 376 (1969).

As earlier observed, the legislative authority vested in the Administration to promulgate rules and regulations governing child care facilities, § 5-506 FAM. LAW.(b) of the Family Law Article, resulted in COMAR 07.02.13.07, which explicitly requires a licensed child care facility to comply with the zoning ordinances of political subdivisions. The validity of this provision is presumed when, as here, it is "consistent with the letter and spirit of the statute under which the agency acts." 316 Md. at 698.

Analogously, the Court of Special Appeals differentiated municipal licensing and zoning in Mayor and City Council v. Dembo, 123 Md. App. 527, 534-537 (1998). In Dembo, the court stated:

The difference between zoning and licensing has also been explained by characterizing a zoning ordinance as one which involves "a comprehensive or master plan for dividing the community into zones where specified uses are permitted, " as compared with licensing law which "is directed at one particular activity no matter where in the town it is carried out." *Maybee v. Town of Newfield*, 789 F.Supp. 86, 89-90 (N.D.N.Y. 1992). Put more simply, licensing "regulates establishments based on the type of business they conduct," and zoning regulates them

"based on their location." *City of Batavia v. Allen*, 218 Ill.App.3d. 545, 161 Ill.Dec. 239, 578 N.E.2d 597, 599 (1991)." 123 Md.App. at 525.

B.

In this context, because the BCZR 101 definitions, unlike the cited state regulations, have no specific age limitation, it is logical to deduce that the County Council intentionally took a different approach. The question then boils down to the meaning of "child" or "children" when the legislature declines to specify an age limit. The answer, fortunately, is in the case law, and it accords with common sense.

In Borchert v. Borchert, 185 Md. 586 (1946), the issue presented was whether a parent had a duty to provide necessities for an son over the age of 21 years who was unable to care for himself and was thus disabled. The Court had to interpret the statute which empowered equity courts in divorce cases to order guardianship and custody of "children," as well as their "support and maintenance." While sympathetic to the situation, the Court found that "children" applied only to minors. Chief Judge Marbury wrote:

"This statute is quite similar to the general equity statute, Article 16, § 85, where the several chancellors are given original jurisdiction over children and are authorized to direct who shall be charged with their support. Neither of these statutes attempts any definition or enlargement of the word "children" and unless we attempt judicial legislation that word must be construed as meaning children in the ordinary sense; that is those who have not reached their majority."

The Court of Special Appeals quoted this in Colburn v.Colburn, 45 Md. App. 313 (1980). As might be expected, the appellate courts have never overruled or modified this doctrine. It is still good law.

Consistent with Borchert, the meaning of “children” in the child care home and child care center definitions extends to all those who have not reached the age of majority. In recent years, that age has been in common usage been lowered from 21 to 18 for most purposes. See Md. Ann. Code Election Art. Sec. 3-4(b)(2), voting qualifications; Transportation Art. Sec. 16-103(b), drivers licenses; Estates and Trust Art. Sec. 4-101, making a will; Sec. 4-503, anatomical gifts; Sec. 9-109, distribution to minors; Sec. 13-101(l), protection of minors and disabled persons; Sec. 13-401, recovery by minor in tort.

The statutory purpose and structure of Baltimore County’s zoning laws regulating child care facilities compel the same conclusion. It makes no sense to provide a structure and gradation of levels of child care facilities with numerical limits as to children, and yet leave an indefinite gap or loophole for an unlimited number of a subgroup of children over a certain age.

The proffer of citizen testimony as to the disruptive impact of children of various ages, including teenagers, also reinforces the conclusion that the age of majority is the dividing line. It may be that many, or most, of the children at these facilities are not teenagers. But surely, they are included. When they are present, they count.

Afterword and Conclusion

There was a recent reference in a newspaper article to the television soap opera named “All My Children.” With it came the reminder that the children on the show are adults. It is another example of the elasticity of the word “children.”

The meaning of the word depends on the context. Because it is elastic, it is often used with a qualifier, that is to say, a reference to children of a specified age or age range.

The courts have recognized that the meaning may vary. The Court of Appeals, therefore, has provided additional direction. Unless the age is specified, the word "children" includes all those who have not reached the age of majority. That is the situation here, and it accords with the purpose, structure, and impact of county zoning law.

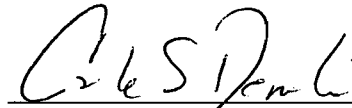
The ruling in this case will affect all cases and all child care facilities. There should not be a change in the understanding of the word "children" without good cause.

For all of the above reasons, the County Board of Appeals should find that the age of majority is the age limit for children under the Baltimore County Zoning Regulations governing child care facilities. The Deputy Zoning Commissioner so found, and he is correct.



PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



CAROLE S. DEMILIO

Deputy People's Counsel

Old Courthouse, Room 47

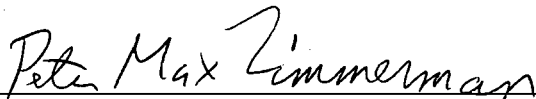
400 Washington Avenue

Towson, MD 21204

(410) 887-2188

Certificate of Service

I HEREBY CERTIFY that on this 11th day of April, 2003 a copy of the foregoing People's Counsel's Memorandum was mailed to David Mister, Esquire, Law Offices of Mister, Winter & Bartlett, LLC, 30 E. Padonia Road, Suite 404, Timonium, MD 21093, Attorney for the Petitioner, and to Roy Lovins, 3700 Old Milford Mill Road, Baltimore, MD 21244, and to Trinidad Porter and Robert Young, 3706 Old Milford Mill Road, Baltimore, MD 21244.



PETER MAX ZIMMERMAN

3/7/02

IN RE: PETITIONS FOR VARIANCE AND
SPECIAL HEARING

E/S Milford Mill Road, 230' N
centerline of Euler Avenue
2nd Election District
2nd Councilmanic District
(3702 Old Milford Mill Road)

Ellen & Konstantinos Papanikos
and Haralambros Papanikos
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 02-265-SPHA

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owners of the subject property Ellen and Konstantinos Papanikos and Haralambros Papanikos. The Petitioners are requesting zoning relief for property they own at 3702 Old Milford Mill Road, located in the Milford Mill area of Baltimore County. Specifically, the Petitioners are requesting special hearing relief to approve a Group Child Care Center, Class A facility for up to 12 children in a single-family residential dwelling. In addition, variance relief is requested from Section 424.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a 6 ft. wood stockade fence with a 0 ft. setback in lieu of the required 20 ft.

Appearing at the hearing on behalf of the requests were Ellen Papanikos, one of the owners of the property and Lisa McConnell, one of her employees. Appearing in opposition to the Petitioners' request were nearby neighbors, Roy Levins, Trinidad Porter and Robert Young.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.36 acres, more or less, zoned D.R.5.5. The subject property is improved with a 2-story, single-family residential dwelling and accessory garage. The property is 52 ft. 7 in. in width and approximately 293 ft. in depth. The Petitioner currently operates a day care facility on

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Date

3/7/02

By

R. Jameson

the subject property, providing care for 8 children at this time. In addition to the 8 children that are currently being cared for by the Petitioner, she also has 6 children of her own.

Testimony offered by Mrs. Papanikos indicated that she purchased the subject property in 1995. In 1996, she started operating her Family Child Care Home on the subject property. She is requesting permission, pursuant to this zoning request, to increase the number of children cared for on the property from 8 to 12. The children who come to the property vary in age from 9 months to 13 years.

In addition to her request to increase the number of children on the property, she also is requesting permission to approve the 6 ft. stockade fence which was installed on the property line by her husband this past summer. The Petitioner testified that no permit was obtained from Baltimore County prior to the installation of this fence. The regulations applicable to this use require that the fence have a setback of 20 ft. from the nearest property line. The fence in question was constructed on the property line and, therefore, does not meet this setback requirement. The Petitioner is requesting permission to keep the fence as it exists today.

As stated previously, several residents from the surrounding community appeared in strong opposition to the Petitioner's request. These neighbors offered many complaints and objections to the day care operation that exists on the property today. The cumulative testimony of these neighbors was that the Petitioner provides little supervision to the many children who are under her care at this facility. The neighbors stated that there are many occasions when the children from this facility wander the surrounding neighborhood without adult supervision. According to their testimony this occurs with children as young as 3 years of age. In addition, the neighbors complained that the property in question has become a focal point for many of the other children in the surrounding neighborhood and apartment complexes. Apparently, these

outside children come to the subject property to play with the children who are enrolled in this day care facility.

This large accumulation of children on the subject property has caused great concern of these surrounding neighbors. Many complaints have been filed with the Code Enforcement Section of Baltimore County, as well as the Baltimore County Police and Social Services Departments. These neighbors object at this time to the 8 children that are currently kept on the property. They cannot fathom an increase in the number of children to 12, which would be a 50% increase over the number currently kept on the property. They, therefore, ask that the special hearing relief and variance be denied.

The Petitioner is requesting permission, by way of the special hearing relief, to operate a "Class-A Group Child Care Center" on her property for up to 12 children. The use requested by the Petitioner in her special hearing petition is defined as follows,

"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 to at least nine children, including children of the adult provider."

The Class A designation is applicable when the Petitioner chooses to increase the number of children to no more than 12 at one time. As it stands now, based on the testimony offered by the Petitioner, she believes that she is operating a "Family Child Care Home". This classification applies when a property owner provides care for no more than 8 children at one time. However, the definition must be reviewed more closely. The Baltimore County Zoning Regulations defines a "Family Child Care Home" as,

"A private residence wherein care, protection and supervision is provided for a fee for part or all of the day at least twice a week to no more than 8 children at one time, including children of the adult provider. The operator of a family child care home shall hold at least one fire drill each week for the benefit of the children."

It is clear from these definitions, that the number of children permitted on the Petitioner's property must take into account the biological children of the care provider. The testimony offered at the hearing demonstrated that the Petitioner has 6 children of her own. According to the definition, these children must be counted in order to determine the number of overall children permitted. Therefore, the Petitioner would only be permitted to provide care for 2 additional children, given that she already provides care for 6 of her own children. Based on the testimony offered at the hearing and the definitions contained within the Baltimore County Zoning Regulations, the Petitioner has exceeded the number of children permitted to be cared for on her property.

As a result of these findings and taking into consideration the testimony and evidence offered at the hearing, I find that the Petitioner's special hearing request to increase the number of children from 8 to 12 shall be denied. Furthermore, the variance request to permit the 6 ft. wood stockade fence to be situated 0 ft. from the property line in lieu of the required 20 ft. shall also be denied.

It is clear from the testimony offered at the hearing, that the Petitioner currently exceeds the number of children that are permitted to be cared for on the property. Mrs. Papanikos testified that she currently has 6 children of her own. However, one of those children is 18 years of age. Therefore, the 18 year old child shall not be counted when taking into account the number of children that she may lawfully care for on her property by virtue of operating a Family Child Care Home. Giving her this benefit, the Petitioner shall be permitted to provide care and supervision for only 3 additional children, over and above the 5 children that are her biological children.

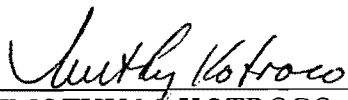
THEREFORE, IT IS ORDERED this 7th day of March, 2002, by this Deputy Zoning Commissioner, that the Petitioner's request for special hearing to approve a Group Child Care Center, Class A, be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Petitioner's request for variance to allow a 6 ft. wood stockade fence with a 0 ft. setback in lieu of the required 20 ft., be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Petitioner shall be prohibited from providing care, protection and supervision for more than 8 children at her private residence. These 8 children, pursuant to the definition contained within the Baltimore County Zoning Regulations, shall include the Petitioner's 5 natural children that currently reside within this residence. Therefore, the Petitioner shall only be permitted to provide care, protection and supervision for 3 additional children over and above the 5 biological children that currently reside on the property.

IT IS FURTHER ORDERED, that the Petitioner shall have until June 15, 2002, which should coincide with the end of the school year, within which to reduce the number of children receiving care, protection and supervision at her private residence to the permitted 8 children. This number shall include her 5 biological children. This extension of time within which to comply with the definition of a Family Child Care Home is afforded to this Petitioner so as not to disrupt the daily routines of the children currently in her day care program.

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


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 3702 Old Milford Mill Rd.
which is presently zoned O.R.-S.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

a class "A" day care
facility for 12 children in a single family occupied dwelling.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

KONSTANTINOS & ELLEN PAPANIKOS
Name - Type or Print

Signature

HARALAMBROS PAPANIKOS
Name - Type or Print

Signature

3702 OLD MILFORD MILL RD.
Address

BALTO
City

MD
State

21244
Zip Code

Representative to be Contacted:

Name

Address

City

Telephone No.

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Case No. 02-265-SPHA

Reviewed By BR Date 12/20/01



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 3702 Old Milford Mill Rd.

which is presently zoned D.R.S.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 424.1.B to permit a six-foot

wood stockade fence with zero ft. setback in lieu of the required 20 ft.

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

State

Zip Code

Legal Owner(s):

KONSTANTINOS & ELLEN PAPANIKOS
Name - Type or Print

Signature

HARALAMBOS PAPANIKOS
Name - Type or Print

Signature

410-655-8957

3702 OLD MILFORD MILL RD.
Address

BALTO
City

MD
State

21244
Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By BK Date 7/22/01

ORDER RECEIVED FOR FILING

Date 3/7/02

Case No. 02-265-SBHA

By J. J. J. J. 9/15/98

ZONING DESCRIPTION FOR #3702 OLD MILFORD MILL ROAD

BEGINNING at a point on the northwest side of Old Milford Mill Road which is an ultimate 60' right-of-way at the distance of 66 feet northeast of the centerline of Euler Avenue which is an ultimate 40' right-of-way. As recorded in Deed Liber 11341, folio 742 and thence running along the centerline of Old Milford Mill Road N 48 degrees 36 minutes E, 52'-7"; thence N 32 degrees 28 minutes W, 293'-9" more or less; thence S 48 degrees 36 minutes W 52'-7"; and thence S 32 degrees 28 minutes E, 293'-9" more or less to the place of beginning. Containing 0.36 acres of land, more or less. Also known as #3702 Old Milford Mill Road and located in the 2nd. Election District, 2nd. Councilmanic District.

J. Tilghman Downey, Jr.



*Site Rite Surveying, Inc.
200 E. Joppa Road
Shell Building, Room 101
Towson, MD 21286
(410)828-9060*

**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: #02-265-SPHA
3702 Old Milford Mill Road
E/S Milford Mill Road, 230'
N centerline Euler Avenue
2nd Election District

2nd Councilmanic District
Legal Owner(s): Ellen &
Konstantinos Papanikos

Variance: to permit a 6 foot
wood stockade fence with
zero foot setback in lieu of
the required 20 foot. **Spe-**
cial Hearing: to approve a
class "A" day care facility
for 12 children in a single
family occupied dwelling.

Hearing: Tuesday, March
5, 2002 at 9:00 a.m. in
Room 407, County Courts
Building, 401 Bosley Ave-
nue.

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 con-
cerning the File and/or
Hearing, Contact the Zoning
Review Office at (410) 887-
3391.

JT/2/720 C521511

CERTIFICATE OF PUBLICATION

2/21, 2002

THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each of 1 successive weeks, the first publication appearing
on 2/19, 2002.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News



LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 02-265-SPHA

Petitioner/Developer: ELLEN +

KONSTANTINOS PAPANIKOS

Date of Hearing/Closing: 3/5/02
2/17/02

MARCH 5/2002

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 3702 OLD MILFORD

MILL RD

The sign(s) were posted on 2/17/02
(Month, Day, Year)

Sincerely,

[Signature] 2/17/02
(Signature of Sign Poster and Date)

SSG ROBERT BLACK

(Printed Name)

1508 Leslie Rd

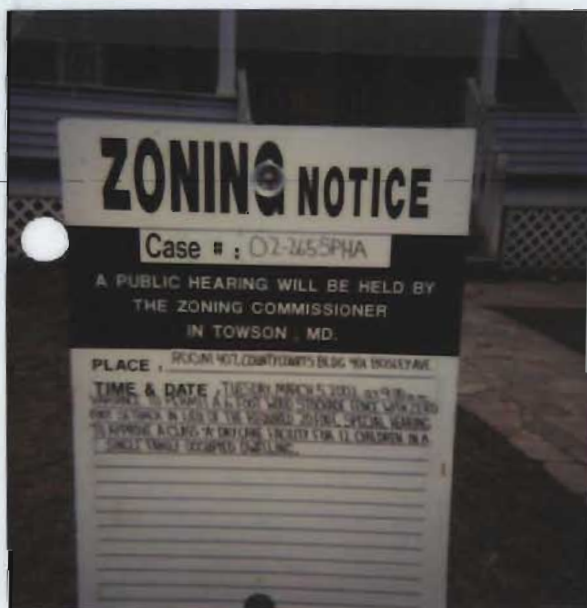
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)





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 30, 2002

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: 02-265-SPHA
3702 Old Milford Mill Road
E/S Milford Mill Road, 230' N centerline Euler Avenue
2nd Election District – 2nd Councilmanic District
Legal Owners: Ellen & Konstantinos Papanikos

Variance to permit a 6 foot wood stockade fence with zero foot setback in lieu of the required 20 foot. Special Hearing to approve a class "A" day care facility for 12 children in a single family occupied dwelling.

HEARING: Tuesday, March 5, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

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

Arnold Jablon G.D.Z.
Director

C: Ellen & Konstantinos Papanikos, 3702 Old Milford Mill Road, Baltimore 21244

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, FEBRUARY 18, 2002.**
- (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.

LAW OFFICES
MISTER, WINTER & BARTLETT, LLC
SUITE 404-PADONIA CENTRE
30 E. PADONIA ROAD
TIMONIUM, MD 21093

Email: mwblaw@flash.net
(410) 561-3000
FACSIMILE
(410) 560-0588

DAVID F. MISTER
LESLIE A. WINTER
ANTHONY T. BARTLETT

OF COUNSEL:
ROBERT L. FRANK
ELIZABETH C. YAREMA

April 4, 2002

Mr. Arnold Jablon
Director, PDM
Baltimore County Office of Planning
111 W. Chesapeake Avenue
Room 111
Towson, MD 21204

Re: Appeal of Petition for Special Hearing & Variance
Case No.: 02-265-SPHA
Property: 3702 Old Milford Mill Road

Dear Mr. Jablon:

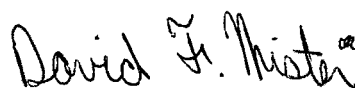
Please be advised that I represent Ellen, Konstantinos and Haralambros Papanikos, Petitioners in the above-referenced matter.

Please note that we are appealing the decision of the Zoning Commissioner of March 7, 2002. Petitioners contest the Commissioners' findings regarding the number of children that will be cared for on the property at issue; that the zoning commissioner erred as a matter of law in denial of the requested variances, and that the decision of the zoning commissioner was unsupported by substantial evidence.

Enclosed is a check in the amount of \$385.00 for the cost of the appeal.

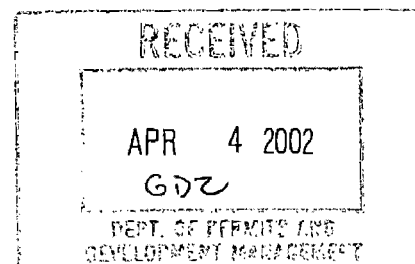
If you have any questions concerning this matter, please do not hesitate to contact me.

Very truly yours,



David F. Mister

DFM:alk
Enclosure
cc: Ellen Papanikos
M:\Wpwin60\CLIENTS\PAPANIKOS\appeal.ltr



25613

APPEAL SIGN POSTING REQUEST

CASE NO.: 02-265-SPHA

PAPANIKOS, ET AL - LEGAL OWNERS

3702 OLD MILFORD MILL ROAD

2ND ELECTION DISTRICT

APPEALED: 4/4/2002

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*******COMPLETE AND RETURN BELOW INFORMATION*******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Kathleen Bianco
Administrator

RE: Case No.: 02-265-SPHA

Petitioner/Developer:

PAPANIKOS

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

The sign was posted on 4/23, 2002

By: Gary C. Freund
(Signature of Sign Poster)

GARY C. FREUND
(Printed Name)

NOTE TO FILE: Case No. 02-265-SPHA

5/17/02 - Letter from Trinidad Porter, Protestant; will be out of town 9/09/02 through 9/15/02;
requests that hearing **NOT BE SCHEDULED BETWEEN THESE DATES.**

CASE 02-265-SPHA

To The Board of Appeal:

I was at the hearing in opposition to the expansion of the Family Daycare called a PLACE Called Home at 3702 Old Milford Mill Rd. Balto. MD. 21244. The owners are appealing the decision made by the Deputy Commissioners.

I called the Appeal Board today. I was told that a date has not been set yet, but it would probably be Aug. or Sept. 02.

I must be out of town Sept 9-15-02. To help represent my neighbors and for the safety of the children I would like to be there. Can you not schedule the hearing appeal during that week.

Thank You,
Ms. Trinidad Porter
3706 Old Milford Mill Rd.
Baltimore, Md

21244

RECEIVED
COUNTY BOARD OF APPEALS
02 MAY 17 AM 11:36



County Board of Appeals of Baltimore County

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

*pp'd to 2/25/02
reg. of lawrence for
petitioner - U.S.
dist. ct. appeal.*

Hearing Room – Room 48

Old Courthouse, 400 Washington Avenue

September 6, 2002

NOTICE OF ASSIGNMENT

CASE #: 02-265-SPHA

IN THE MATTER OF: Ellen, Konstantinos & Haralambros Papanikos

- Legal Owners Petitioners 3702 Old Milford Mill Road
2nd Election District; 2nd Councilmanic District

3/07/2002– Petition for Special Hearing and Petition or Variance DENIED by
Deputy Zoning Commissioner.

ASSIGNED FOR:

WEDNESDAY, DECEMBER 11, 2002 at 10:00 a.m.

NOTICE:

This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners : David F. Mister, Esquire
Appellants /Petitioners : Ellen Papanikos, Konstantinos Papanikos and
Haralambros Papanikos

Protestants: : Roy Levins
Trinidad Porter
Robert Young
James and Shirley Dixon

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement [Enforcement Case #01-1164]
Arnold Jablon, Director /PDM



LAW OFFICES
MISTER, WINTER & BARTLETT, LLC
SUITE 404-PADONIA CENTRE
30 E. PADONIA ROAD
TIMONIUM, MD 21093

Email: mwblaw@qwest.net
(410) 561-3000
FACSIMILE
(410) 560-0588

DAVID F. MISTER
LESLIE A. WINTER
ANTHONY T. BARTLETT

OF COUNSEL:
ROBERT L. FRANK
ELIZABETH C. YAREMA

September 12, 2002

Ms. Kathleen C. Bianco
Administrator
Board of Appeals of Baltimore County
Old Courthouse
Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the Matter of Ellen, Konstantinos & Haralambros Papanikos
Case No.: 02-265-SPHA

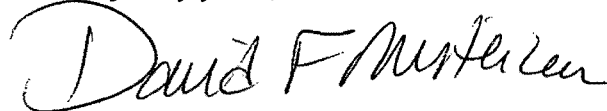
Dear Ms. Bianco:

I would like to request a postponement of the above-referenced matter scheduled for an appeal hearing on Wednesday, December 11, 2002 at 10:00 a.m.

I am scheduled to appear in the United States District Court for the District of Maryland for a two week jury trial in the case of United State of America v. Adrian Boone, et al, Case No.: MWN-98-0210 beginning December 2, 2002. Enclosed please find a copy of the Amended Scheduling Order for this case.

If this request is granted, you may contact my office to obtain an agreed date for the rescheduled hearing.

Very truly yours,



David F. Mister

DFM/lhb
Enclosure
cc: Office of People's Counsel
Mrs. Ellen Papanikos
M:\Wpwin60\CLIENTS\PAPANIKOS\bian911.ltr

RECEIVED

SEP 13 2002

BALTIMORE COUNTY
BOARD OF APPEALS



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48

Old Courthouse, 400 Washington Avenue

September 13, 2002

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 02-265-SPHA

IN THE MATTER OF: *Ellen, Konstantinos & Haralambros Papanikos*

- Legal Owners Petitioners 3702 Old Milford Mill Road
2nd Election District; 2nd Councilmanic District

3/07/2002– Petition for Special Hearing and Petition or Variance DENIED by
Deputy Zoning Commissioner.

which was assigned to be heard on 12/11/02 has been **POSTPONED** at the request of Counsel for Petitioners due to
U.S. District Court /jury trial conflict; and has been

REASSIGNED FOR:

TUESDAY, FEBRUARY 25, 2003 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the
advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County
Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests
must be in writing and in compliance with Rule 2(b) of the Board's Rules. No
postponements will be granted within 15 days of scheduled hearing date unless in full
compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to
hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners : David F. Mister, Esquire
Appellants /Petitioners : Ellen Papanikos, Konstantinos Papanikos and
Haralambros Papanikos

Protestants: : Roy Levins
Trinidad Porter
Robert Young
James and Shirley Dixon

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement [Enforcement Case #01-1164]
Arnold Jablon, Director /PDM



LAW OFFICES
MISTER, WINTER & BARTLETT, LLC
SUITE 404-PADONIA CENTRE
30 E. PADONIA ROAD
TIMONIUM, MD 21093

Email: mwbllaw@qwest.net
(410) 561-3000
FACSIMILE
(410) 560-0588

DAVID F. MISTER
LESLIE A. WINTER
ANTHONY T. BARTLETT

OF COUNSEL:
ROBERT L. FRANK
ELIZABETH C. YAREMA

September 12, 2002

Ms. Kathleen C. Bianco
Administrator
Board of Appeals of Baltimore County
Old Courthouse
Room 49
400 Washington Avenue
Towson, MD 21204

Re: In the Matter of Ellen, Konstantinos & Haralambros Papanikos
Case No.: 02-265-SPHA

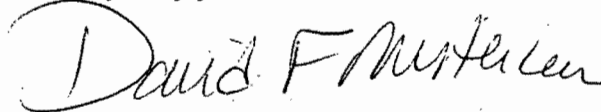
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If this request is granted, you may contact my office to obtain an agreed date for the rescheduled hearing.

Very truly yours,



David F. Mister

DFM/lhb
Enclosure

cc: Office of People's Counsel
Mrs. Ellen Papanikos

M:\Wpwin60\CLIENTS\PAPANIKOS\bian911.ltr

RECEIVED

SEP 13 2002

BALTIMORE COUNTY
BOARD OF APPEALS



County Board of Appeals of Baltimore County

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

March 3, 2003

NOTICE OF DELIBERATION

IN THE MATTER OF:

ELLEN, KONSTANTINOS & HARALAMBROS PAPANIKOS
- Legal Owners; Case No. 02-265-SPHA

Having heard this matter on 2/25/03, public deliberation has been reassigned as follows:

DATE AND TIME : WEDNESDAY, APRIL 23, 2003 at 9:30 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse
extended to April 11, 2003

**NOTE: Closing briefs are due on Friday, ~~March 28, 2003~~ --
Original and three (3) copies.**

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners : David F. Mister, Esquire
Appellants /Petitioners : Ellen Papanikos, Konstantinos Papanikos and
Haralambros Papanikos

Protestants: : Roy Levins
Trinidad Porter
Robert Young
James and Shirley Dixon

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement [Enforcement Case #01-1164]
Arnold Jablon, Director /PDM

FYI: C.W.M.





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

March 19, 2003

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

Ms. Kathleen C. Bianco
Legal Administrator
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

Hand-delivered

Re: Petitions for Special Hearing and Variance
3702 Old Milford Mill Road
E/S Milford Mill Road, 230' N c/line Euler Avenue
2nd Election District, 2nd Councilmanic
Ellen, Konstantinos & Hamalambros Papanikos, Petitioner
Case No.: 02-265-SPHA

Dear Ms. Bianco:

We hereby respectfully request an extension of time of two week for filing of the briefs in the above case. We have spoken with David Mister, Esq., counsel for Petitioners, who has stated that he has no objection to our request. Therefore, we would appreciate your extending the due date to Friday, April 11, 2003, for the briefs to be filed by all counsel.

Thank you for your cooperation.

Very truly yours,

A handwritten signature in cursive script that reads "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/mmw

cc: David Mister, Esquire

RECEIVED

MAR 19 2003

BALTIMORE COUNTY
BOARD OF APPEALS



County Board of Appeals of Baltimore County

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

March 21, 2003

Peter Max Zimmerman, People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

Dear Mr. Zimmerman:

RE: *In the Matter of: Ellen, Konstantinos &
Haralambros Papanikos* – Legal Owners /Petitioners
Case No. 02-265-SPHA

In response to your letter of March 19, 2003, your request for a two-week extension for filing of briefs in the subject matter has been granted. Briefs are now due from all counsel on Friday, April 11, 2003.

Should you have any questions, please call me.

Very truly yours,

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

Kathleen C. Bianco
Administrator

c: David Mister, Esquire





Baltimore County
Department of Permits and
Development Management

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

March 1, 2002

Ellen & Konstantinos Papanikos
3702 Old Milford Mill Road
Baltimore MD 21244

Dear Mr. & Mrs. Papanikos:

RE: Case Number: 02-265-SPHA, 3702 Old Milford Mill Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 20, 2001.

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. GDZ
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: People's Counsel

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





Baltimore County
Fire Department

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

January 31, 2002

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

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF January 28, 2002

Item No.: 265, 266, 272, 277, 281, 286, 288, 291, & 292

Dear Ms. Stephens:

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

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

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

cc: File

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



Printed with Soybean Ink
on Recycled Paper

June
3/5

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 28, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
for February 4, 2002
Item Nos. 263, 264, 265, 267, 268, 269,
270, 271, 272, 273, 274, 275, 276, 278,
279, 280, 281, 282, 283, 284, 285, 286,
287, 288, 290 and 292

MAR 5 2002

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

RWB:HJO:cab

cc: File

ZAC-2-4-2002-NO COMMENT-02282002.doc



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 1.23.02

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 265 BR

Dear Mr. Zahner:

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,

Ken 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

Ja
315

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: Todd Taylor

DATE: March 1, 2002

Zoning Advisory Committee Meeting of January 28, 2002

SUBJECT: NO COMMENTS for the FOLLOWING ZONING ITEMS:

263 - 265, 268, 271, 272, 275 - 277, 279 - 281, 283, 284, 286, 287, 290 - 292

Agricultural Preservation is still reviewing Zoning Items: 270, 273, 278, and 288.

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
3702 Old Milford Mill Road, E/S Old Milford
Mill Rd, 230' N of c/l Euler Ave
2nd Election District, 2nd Councilmanic

Legal Owner: Konstantinos, Ellen &
Haralambros Papanikos
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-265-SPHA

* * * * *

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 30th day of January, 2002 a copy of the foregoing Entry of Appearance was mailed to Konstantinos, Ellen & Haralambros Papanikos, 3702 Old Milford Mill Road, Baltimore, MD 21244, Petitioners.



PETER MAX ZIMMERMAN

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: January 30, 2002

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 265
Legal Owner/Petitioner: Konstantinos & Ellen Papanikos
Property Address: 3702 Old Milford Mill Road
Location Description: E/side Old Milford Road 230 feet North centerline Euler Avenue

VIOLATION INFORMATION: **Case No.: 01-1164**
Defendants: Konstantinos & Ellen Papanikos

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

NAME	ADDRESS
Roy Lovins	3700 Milford Mill Road

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Complaint Intake Form/Code Enforcement Officer's report and notes
State Tax Assessment printout
Correction Notice

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/lrs

c: Code Enforcement Officer Robert Moorefield

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

VIOLATION CASE DOCUMENTS

VIOLATION CASE: 01-1164

3702 Old Milford Mill Road

ZONING CASE: 02-265-SPHA

3702 Old Milford Mill Road

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: January 30, 2002

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

MAILED
2-4-02

SUBJECT: Item No.: 265
Legal Owner/Petitioner: Konstantinos & Ellen Papanikos
Property Address: 3702 Old Milford Mill Road
Location Description: E/side Old Milford Road 230 feet North centerline Euler Avenue

VIOLATION INFORMATION: **Case No.: 01-1164**
Defendants: Konstantinos & Ellen Papanikos

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Correction Notice

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RSW/lrs

c: Code Enforcement Officer Robert Moorefield

Case Entry/Update

Format : CASREC

Mode : CHANGE

File : PDLV0001

Dt Rec: 3132001 Intake: UNDERWOOD, H Act: Case #: 01-1164

Insp: Insp Grp: ENF Insp Area: 8 Tax Acct: 203473750

Address: 3702 OLD MILFORD MILL RD Apt #: Zip: 21244

Problem Descript.: OPEN DUMP 8 OPEN DUMP CONDITIONS WERE CLOSED ON*****8 CASE
REOPENED ON 3/22/01 FOR NTAGGED VEHICLES;

MAP: 33 A 1

Complainant Name (Last): LOVINS (First): ROY

Complainant Addr: 3700 OLD MILFORD MILL RD

Complainant City: BALT MD State: MD Zip: 21244

Complainant Phone (H): 4106556853 (W):

Date of Reinspection: 5032001 Date Closed: 5042001 Delete Code (P): X

F3=Exit

F9=Insert

F5=Refresh

F10=Entry

F6=Select format

F11=Change

Case Entry/Update

Format : CASREC

Mode : CHANGE

File : PDLV0001

Notes: 2/14/01 MET W/PROPERTY OWNER(GUS). WE WALKED THE PROPERTY & OTHER THEN A
METAL RACK & SOME OTHER MINOR DEBRIS, THE YARD IS IN COMPLIANCE. AS I ARIVED HE
, HAD JUST TAKEN THE BACK SEAT OUT OF HIS VAN, SO HE COULD LOAD THESE ITEMS UP /
& TAKE ALL TO DUMP.I DID NOT WRITE A NOTICE AT THIS TIME. P/U 3/21/01 FOR COMPLA
INCE. NOTIFIED MR.LOVING & HE IS STILL VERY CONCERNED ABOUT THIS PROPERTY(H.F)**
***** 3/22/01 4 UNTAGGED VEHICLES IN DRIVEWAY. DODGE-VAN 716643M, RED SEDA
N DZTI84, WHITE SEDAN- UNLICENSED, BROWN/BRONZE-UNLICENSED. NO TRASH, JUK OR DEB
RIS, NO JUNK YARD OR OPEN DUMP. COMPL. WILL BE UPDATED MONDAY, 3/26. CORRECTION
NOTICE ISSUED. P/U 4/11/01(R.M)
5/4/01 OK . WILL NOTIFY COMPLAINANT.CLOSE(R.M)

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

E ENFORCEMENT REPORT

NCF

DATE: 03/13/01 INTAKE BY: HU CASE #: 01-1164 INSPEC: 8

COMPLAINT LOCATION: 3702 OLD MILFORD MILL RD.

ZIP CODE: 21244 DIST: _____

COMPLAINANT NAME: ROY LOVINS PHONE #: (H) 410-655-6853 (W) _____

ADDRESS: 3700 OLD MILFORD MILL RD. ZIP CODE: 21244

PROBLEM: OPEN DUMP

IS THIS A RENTAL UNIT? YES _____ NO _____

IF YES, IS THIS SECTION 8? YES _____ NO _____

OWNER/TENANT INFORMATION: _____

TAX ACCOUNT #: 0203473750 ZONING: _____

INSPECTION: 03-14-01 met w/property owner (Gus)
We Walked The property and other than a
Metal Rack & some other minor Debris This
yard is in Compliance. As I arrived He

REINSPECTION: was taking The Back Seat out of His
Van So He Could Load it and go to The
Dump. I did not write a Correction
notice at This Time. Re Check in one

REINSPECTION: Week & take Appropriate Action Then.
Notified Complainant & He is still very
Concerned about This Address. I explained
our task from a county viewpoint.

REINSPECTION: P. U. 03-21-01

[Signature]



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No. 01-1164	Property No. 02-03-473750	Zoning: DR
-------------------------------------	-------------------------------------	----------------------

Name(s): **Konstantinos H. Papanikos
Harlambros / Ellen M. Papanikos**

Address: **3702 Old Milford Mill Rd. 21244-3728**

Violation Location: **3702 Old Milford Mill Rd.**

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

**Cease storage of unlicensed
or inoperative motor vehicles.**

Balto. Co. Zoning Reg: 101, 1B01-1A, 102-1, 428

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: 4/11/01	Date Issued: 3-22-1
------------------------------	----------------------------

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name **R. T. Moorefield, R.S.**

INSPECTOR: **R. T. Moorefield**
STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:	Date Issued:
-----------------	--------------

INSPECTOR: _____ VIOLATION SITE _____

Case Entry/Update
Format : CASREC

Mode : CHANGE
File : PDLV0001

Dt Rec: 3132001 Intake: UNDERWOOD, H Act: Case #: 01-1164
Insp: Insp Grp: ENF Insp Area: 8 Tax Acct: 203473750
Address: 3702 OLD MILFORD MILL RD Apt #: Zip: 21244
Problem Descript.: OPEN DUMP 8 OPEN DUMP CONDITIONS WERE CLOSED ON*****8 CASE
REOPENED ON 3/22/01 FOR NTAGGED VEHICLES;

MAP: 33 A 1

Complainant Name (Last): LOVINS (First): ROY
Complainant Addr: 3700 OLD MILFORD MILL RD
Complainant City: BALT MD State: MD Zip: 21244
Complainant Phone (H): 4106556853 (W):
Date of Reinspection: 5032001 Date Closed: 5042001 Delete Code (P): X

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

Case Entry/Update
Format : CASREC

Mode : CHANGE
File : PDLV0001

Notes: 2/14/01 MET W/PROPERTY OWNER(GUS). WE WALKED THE PROPERTY & OTHER THEN A
METAL RACK & SOME OTHER MINOR DEBRIS, THE YARD IS IN COMPLIANCE. AS I ARIVED HE
, HAD JUST TAKEN THE BACK SEAT OUT OF HIS VAN, SO HE COULD LOAD THESE ITEMS UP /
& TAKE ALL TO DUMP.I DID NOT WRITE A NOTICE AT THIS TIME. P/U 3/21/01 FOR COMPLA
INCE. NOTIFIED MR.LOVING & HE IS STILL VERY CONCERNED ABOUT THIS PROPERTY(H.F)**
***** 3/22/01 4 UNTAGGED VEHICLES IN DRIVEWAY. DODGE-VAN 716643M, RED SEDA
N DZTI84, WHITE SEDAN~ UNLICENSED, BROWN/BRONZE-UNLICENSED. NO TRASH, JUK OR DEB
RIS, NO JUNK YARD OR OPEN DUMP. COMPL. WILL BE UPDATED MONDAY, 3/26. CORRECTION
NOTICE ISSUED. P/U 4/11/01(R.M)
5/4/01 OK . WILL NOTIFY COMPLAINANT.CLOSE(R.M)

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: January 30, 2002

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 265
Legal Owner/Petitioner: Konstantinos & Ellen Papanikos
Property Address: 3702 Old Milford Mill Road
Location Description: E/side Old Milford Road 230 feet North centerline Euler Avenue

VIOLATION INFORMATION: **Case No.: 01-1164**
Defendants: Konstantinos & Ellen Papanikos

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

NAME	ADDRESS
Roy Lovins	3700 Milford Mill Road

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Complaint Intake Form/Code Enforcement Officer's report and notes
State Tax Assessment printout
Correction Notice

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/lrs

c: Code Enforcement Officer Robert Moorefield

Code Enforcement - Closing Report

Inspector -	Activity	Date Closed	5/04/2001
Area Case #	Location	Apt Zip	Date Rec Reinsp Dt
008 01-1164	3702 OLD MILFORD MILL RD	21244	3/13/2001 5/03/2001
Tax Acct #: 0203473750			

Complainant Name: (Last) LOVINS (First) ROY
 Addr: 3700 OLD MILFORD MILL RD
 Str # Dir Street Name Type Apt
 BALT MD MD 21244
 City ST Zip
 Phone: (Home) 410/655-6853 (Work)

Problem: OPEN DUMP 8 OPEN DUMP CONDITIONS WERE CLOSED ON*****8 CASE
 REOPENED ON 3/22/01 FOR NTAGGED VEHICLES;

MAP: 33 A 1

Notes:

2/14/01 MET W/PROPERTY OWNER(GUS). WE WALKED THE PROPERTY &
 OTHER THEN A METAL RACK & SOME OTHER MINOR DEBRIS, THE YARD
 IS IN COMPLIANCE. AS I ARIVED HE, HAD JUST TAKEN THE BACK SE
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 , WHITE SEDAN- UNLICENSED, BROWN/BRONZE-UNLICENSED. NO TRASH
 , JUK OR DEBRIS, NO JUNK YARD OR OPEN DUMP. COMPL. WILL BE U
 PDATED MONDAY, 3/26. CORRECTION NOTICE ISSUED. P/U 4/11/01(R
 .M) 5/4/0
 1 OK . WILL NOTIFY COMPLAINANT.CLOSE(R.M)



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

April 10, 2002

Mr. Roy Levins
3700 Old Milford Mill Road
Baltimore MD 21244

Dear Mr. Levins:

RE: Case No. 02-265-SPHA, 3702 Old Milford Mill Road

Please be advised that an appeal of the above-referenced case was filed in this office on April 4, 2002 by David F Mister Attorney on behalf of Ellen, Konstantinos and Haralambros Papanikos. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Arnold Jablon
Director

AJ: gdz

c: Ms. Trinidad Porter, 3706 Old Milford Mill Road, Baltimore 21244
Mr. Robert Young, 3706 Old Milford Mill Road, Baltimore 21244
People's Counsel

RECEIVED
COUNTY BOARD OF APPEALS
02 APR 11 PM 12:29



APPEAL

Petition For Special Hearing & Variance

3702 Old Milford Mill Road

E/S Milford Mill Road, 230' N centerline of Euler Avenue

2nd Election District – 2nd Councilmanic District

Ellen, Konstantinos & Haralambros Papanikos - Legal Owner

Case No.: 02-265-SPHA

- ✓ Petition for Special Hearing (dated 12/20/01)
- ✓ Petition for Variance (dated 12/20/01)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (dated 01/30/02)
- ✓ Certification of Publication (The Jeffersonian issue dated 02/19/02)
- ✓ Certificate of Posting (dated 02/17/02 posted SSG Robert Black)
- ✓ Entry of Appearance by People's Counsel (dated 01/30/02)
- ✓ Petitioner(s) Sign-In Sheet (none)
- ✓ Protestant(s) Sign-In Sheet (1 page)
- ✓ Citizen(s) Sign-In Sheet (none)
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibits: ~~none~~ #1
- ✓ Protestants' Exhibits: (none)
- ✓ Miscellaneous (Not Marked as Exhibits):
 - ✓ Plat To Accompany Petition for Special Hearing and Variance
 - ✓ Letter to Timothy M Kotroco from Roy H Levins dated 03/02/02
 - ✓ Division of Code Inspections and Enforcement Violation Case Documents
Violation Case: 01-1164
- ✓ Deputy Zoning Commissioner's (03/07/02 - DENIED)
- ✓ Notice of Appeal received on 04/04/02 from David F Mister Attorney on behalf of Ellen, Konstantinos and Haralambros Papanikos

c: James H. Thompson, Code Enforcement (Enforcement Case No. 01-1164)
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

** Ellen Papanikos *Petitioners
** Konstantinos Papanikos *** Appellants
** Haralambros Papanikos
3702 Old Milford Mill Road
Baltimore, MD 21244

** David F. Miser, Esquire -ATTN/APPL
Mister, Winter & Bartlett, LLC
Suite 404 – Padonia Centre
30 E. Padonia Road
Timonium, MD 21093

Mr. Roy Levins, 3700 Old Milford Mill Road, Baltimore, MD 21244
Ms. Trinidad Portor, 3706 Old Milford Mill Road, Baltimore, MD 21244
Mr. Robert Young, 3706 Old Milford Mill Road, Baltimore, MD 21244
James and Shirley Dixon, 3708 Old Milford Mill Road, Baltimore, MD 21244

Case No. 02-265-SPHA

SPH – To approve a Group Child Care Center, Class A facility for up to 12 children in SF residential dwelling;
VAR –to permit 6' wood stockade fence with 0' setback ilo required 20'.

3/07/2002 –D.Z.C.'s decision in which SPH and VAR were DENIED.

5/17/02 – Letter from Trinidad Porter, Protestant; will be out of town 9/09/02 through 9/15/02;
requests that hearing **NOT BE SCHEDULED BETWEEN THESE DATES.**

9/06/02 –Notice of Assignment sent to following; assigned for hearing on Wednesday, December 11, 2002 at 10:00 a.m.:

David F. Mister, Esquire
Ellen Papanikos, Konstantinos Papanikos and
Haralambros Papanikos
Roy Levins
Trinidad Porter
Robert Young
James and Shirley Dixon
Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement [**Enforcement Case #01-1164**]
Arnold Jablon, Director /PDM

9/13/02 – Request for postponement received from David Mister, Esquire; conflict with scheduled appearance in U.S. District Court /two-week jury trial beginning 12/02/02.

-- Notice of PP and Reassignment sent to parties; case reassigned to Tuesday, February 25, 2003 at 10:00 a.m.

2/25/03 – Hearing concluded (Marks, Worrall, Adams); memos due from counsel (Zimmerman and Mister) on Friday, 3/28/03; deliberation to be assigned (tentative for 4/23/03 upon confirmation by W). Notice of Deliberation to be sent.

3/03/03 – Notice of Deliberation sent to parties; assigned for Wednesday, April, 23, 2003 at 9:30 a.m. FYI copy to C.W.M.

3/19/03 – Letter from P. Zimmerman - requesting extension of 2 weeks for filing of memos in this matter; indicates no objection by D. Mister – counsel for Petitioners; memos to be due on Friday, April 11, 2003.

3/21/03 – Letter to Counsel – time for filing memos has been extended two weeks to Friday, April 11, 2003; deliberation to take place on the originally scheduled date of 4/23/03.

4/11/03 – People's Counsel's Memorandum filed this date (Original and three copies).

-- Appellants /Petitioners' Memorandum of Law filed via FAX by D. Mister; hard copies to be hand-delivered ton 4/14/03.

4/14/03 – Received hard copy (original and three copies) by hand-delivery this date from David Mister. Copies to C.W.M.

4/23/03 – Board convened for deliberation (Marks, Worrall, Adams); variance request and Class A child care request had been withdrawn; issue to be deliberated was request for determination as to definition of "child" pursuant to the regulations; whether or not any minor under the age of 18 was considered to be a child for the purpose of the BCZR.
Concluded deliberation; variance and Class A child care will be dismissed as moot; withdrawn by Petitioner; as to the definition of a child as envisioned by this section of the BCZR, Board unanimously found that any minor under the age of 18, including the owner /operator's minor children under the age of 18, are included in the allowed numbers.

3-2-02

Timothy M. Kotroco
Deputy zoning Commissioner
401 Bosley Ave.
Garrison, MA. 21204

RE. CASE NO. 02-265-SP4A 3702 Old Milford Mill Rd.
Baltimore Md 21244

Dear Mr. Kotroco:

We the neighbors contend that Baltimore County should not grant both the petition for special hearing and petition for variance as to the Class "A" Group Child Care for 3702 Old Milford Mill Road, Baltimore, Md 21244

It is our belief that in fact this use would be detrimental to the health, safety and general welfare of the community.

① Ms. Trinidad Porter
3706 Old Milford Mill Rd.
Baltimore, Md. 21244

② Robert Young III
3706 Old Milford Mill Rd
Baltimore Md. 21244

③ Shirley Dyer
3708 Old Milford Mill Rd Baltimore 21244

⑤

James G. Dyer
3708 Old Milford Mill Rd.
Baltimore Md 21244

⑥ James A. Dyer Jr.
3708 Old Milford Mill Rd.
Baltimore Md 21244

⑦ Thomas R. Pless
8108 Euler Ave.
Baltimore Md 21244

⑧ Clarence A. Seger.
8108 Euler Ave.
Baltimore Md. 21244

⑨ Darroon Wright
3624 A Old Milford Mill
Baltimore Md, 21244

⑩ Ramon L. Smith
3630 Old Milford Mill Rd.
Baltimore, Md. 21244

10.

Carolyn Williams
8111 Euler Ave
Baltimore, Md 21244

⑪ Fredia Paray

⑫ Marshall Lulka

13. Roy H Louis

3708 OLD MULFORD MURD

Reason 7

While the property is close to the length of a football field (300 feet) it is only 53.7 feet wide

②

The residence @ 3700 Old Milford Mill is only 15 ft. from the side property line of this proposed use.

③ The Residence @ 3704 Old Milford Mill Rd is now a group residential home containing teenage boys and is only 10 ft. of the side property line of this proposed facility. This house is exactly next door (to 3702)

Reason #4

The entire block of this street (even side) fails to have a sufficient lot width to truly support this type of activity.

A. 3700 Old Milford Mill Rd.

53.5 feet wide

B. 3702 Old Milford Mill Rd

52.7 ft wide

C. 3704 Old Milford Mill Rd.

63.3 ft wide

D. 3706 Old Milford Mill Rd

65 ft wide

E. 3708 Old Milford Mill Rd.
55 ft wide

Reason 5

How can Baltimore County look at this proposed use as accessory to a residential dwelling when over 50% of the total lot area is devoted to a child's play area.

Reason 6

The property owners wish to operate this facility 6 days a week. We the neighbors are fearful of the safety of the children that are now already in the care at 3702 Old Milford Mill Rd.

Reason # 7

Within a $\frac{1}{2}$ - $\frac{3}{4}$ mile radius we have 4 day care facilities, 1 residential group home. These facilities bring into our residential neighborhood more buses (for school children) more traffic. 3702 Old Milford Mill Rd. does not have parking facilities for pickup & drop off of the children; this creating a traffic flow problem for the community.

Reason # 8

Section 424.1B of The Baltimore County Zoning Regulations requires that the outdoor play space A butting residential property be fenced. And that the fence be at least 20 feet from the property lines. Without a variance granted, the children's play area would only be 12 feet wide.

Bottom Line: This lot is too narrow to support A "Class A Group Child Care Center."

Reason # 9

Should a house built at least 50 years ago really be used for this type of activity. Does it meet building and fire standards.

What you

Please explain special regulation Section 424 Family Child Care Homes, Group Child Care Centers, Bldg

47-1985; 1985; 200-1990 C (on or after 4-15-85 no family child care home, group child care home or nursery shall be permitted adjoining a residentially used property or dwelling unit in a D.R. or R.C. zone that has an existing family care home or group child care center or nursery adjoining such residentially used property or dwelling unit)

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Ellen, Konstantinos and Haralambros Papanikos
Case No.: 02-265-SPHA

DATE: April 23, 2003

BOARD/PANEL: Charles L. Marks CLM
Margaret Worrall MW
Melissa Moyer Adams MMA

RECORDED BY: Theresa R. Shelton / Legal Secretary

PURPOSE: To deliberate Petition for Special Hearing filed requesting a class "A" daycare facility for 12 children in a single family occupied dwelling and Petition for Variance filed to permit a six foot wood stockade fence with zero ft. setback ilo the req'd 20 ft.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

SPECIAL HEARING ISSUE

- Narrow issue of what constitutes "child/children"
- Stated that Memorandums submitted by the parties were excellent
- Section 101 - FAMILY CHILD CARE HOME -- A private residence wherein care, protection and supervision is provided for a fee for part or all of a day at least twice a week to no more than eight children at one time, including children of the adult provider. The operator of a family child care home shall hold at least one fire drill each week for the benefit of the children (see Section 424). [Bill Nos. 47-1985; 7-1991]
- The definition for child is not set forth by the statute
- Zoning Commisioner placed the age of all children up to the age of 18
- COMAR regulations
- MARYLAND CODE – daycare licensing regulations
- State legislation is more explicite than local law; the definition should be more explicite in the County regulations
- In absence of a specific stature with regard to the age, need to defer to Council's age of 18. The Board's function is to interpret not legislate.
- More study is needed to define "child" in the Code.
- This issue is use of land; not of care
- child care licensing and zoning regulations are different – zoning has to do with use of land/not of care

VARIANCE ISSUE: Since the Petitioners are not applying for a Class A license, the request to permit a six foot wood stockade fence with zero ft. setback ilo the req'd 20 ft is MOOT.

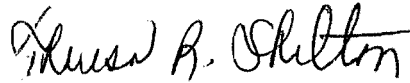
DECISIONS BY BOARD MEMBERS: Unanimous decision by the panel that the Petitioners request for 12 children in a single family occupied dwelling is DENIED.

FINAL DECISION:

That the Petition for Special Hearing filed requesting a class"A" daycare facility for 12 children in a single family occupied dwelling and Petition for Variance filed to permit a six foot wood stockade fence with zero ft. setback ilo the req'd 20 ft is DENIED and the Petition for Variance is MOOT.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,



Theresa R. Shelton
County Board of Appeals

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
HARLAMBROS PAPANIKOS
3702 OLD MILFORD MILL ROAD

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

CIVIL ACTION
NO.: 03-C-03-6955

IN THE MATTER OF:
ELLEN, KONSTANTINOS &
HARLAMBROS PAPANIKOS
3702 OLD MILFORD MILL ROAD

2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

CASE NO.: 02-265-SPHA

RECEIVED AND FILED
JUN 30 A 11:57
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

David F. Mister, Esquire
Mister, Winter & Bartlett, LLC, 30 E. Padonia Road, Suite 404,
Timonium, MD 21093

Ellen Papanikos
Konstantinos Papanikos
Haralambros Papanikos
3702 Old Milford Mill Road, Baltimore, MD 21244

Mr. Roy Levins
3700 Old Milford Mill Road, Baltimore, MD 21244

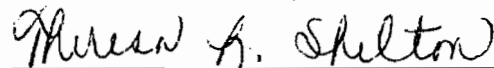
Ms. Trinidad Portor
3706 Old Milford Mill Road, Baltimore, MD 21244

Mr. Robert Young
3706 Old Milford Mill Road, Baltimore, MD 21244

James and Shirley Dixon
3708 Old Milford Mill Road, Baltimore, MD 21244

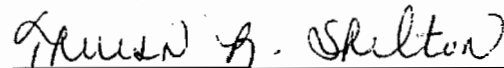
Peter Max Zimmerman
People's Counsel for Baltimore County, Old Courthouse, Room 47,
400 Washington Avenue, Towson, Maryland 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.



Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to: David F. Mister, Esquire, Mister, Winter & Bartlett, LLC, 30 E. Padonia Road, Suite 404, Timonium, MD 21093; Ellen Papanikos, Konstantinos Papanikos, Haralambros Papanikos, 3702 Old Milford Mill Road, Baltimore, MD 21244; Mr. Roy Levins, 3700 Old Milford Mill Road, Baltimore, MD 21244; Ms. Trinidad Portor, 3706 Old Milford Mill Road, Baltimore, MD 21244; Mr. Robert Young, 3706 Old Milford Mill Road, Baltimore, MD 21244; James and Shirley Dixon, 3708 Old Milford Mill Road, Baltimore, MD 21244; and Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, this 30th day of June, 2003.



Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)



County Board of Appeals of Baltimore County

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

June 30, 2003

David F Mister, Esquire
Mister, Winter & Bartlett, LLC
Suite 404 – Padonia Centre
30 E Padonia Road
Timonium Md 21093

RE: Circuit Court Civil Action No. 3-C-03-6955
Petition for Judicial Review
Ellen, Konstantinos & Harlambros Papanikos
3702 Old Milford Mill Road
Case No.: 02-265-SPHA

Dear Mr. Mister:

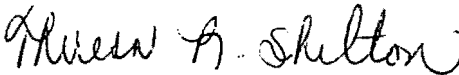
In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with the Maryland Rules.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,


Theresa R. Shelton
Legal Secretary

/trs

Enclosure

c: Ellen, Konstantinos & Harlambros Papanikos
Office of People's Counsel



County Board of Appeals of Baltimore County

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

June 30, 2003

Peter Max Zimmerman
Office of People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-03-6955
Petition for Judicial Review
Ellen, Konstantinos & Harlambros Papanikos
3702 Old Milford Mill Road
Case No.: 02-265-SPHA

Dear Mr. Zimmerman:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on June 25, 2003, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-03-6955.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Theresa R. Shelton".

Theresa R. Shelton
Legal Secretary

/trs
Enclosure

c: David F. Mister, Esquire
Ellen, Konstantinos & Harlambros Papanikos
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement (Enforcement Case #01-1164)
Director/PDM

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

01/23/04

Case Number: 03-C-03-006955 AE
Date Filed: 06/25/2003
Status: Closed/Active
Judge Assigned: To Be Assigned,
Location :

In The Matter of: Ellen Konstantinos, et al

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	02-265-SPHA
Case Folder ID	C03006955V01

INVOLVED PARTIES

Type Num	Name(Last.First.Mid.Title)	Addr Str/End	Disposition Addr Update	Entered
PET 001	Konstantinos, Ellen	Party ID: 0594257	BT DO 01/08/04	06/26/03
	Mail: 3702 Old Milford Mill Road	06/26/03		
	Attorney: 0017978 Mister, David F Law Offices Of Mister, Winter & Bartlett Suite 404 30 E Padonia Rd Timonium, MD 21093 (410)561-3000	Appear: 06/26/2003		06/26/03
PET 002	Papanikos, Harlambros	Party ID: 0594260	BT DO 01/08/04	06/26/03

Mail: 3702 Old Milford Mill Road 06/26/03

Attorney: 0017978 Mister, David F Appear: 06/26/2003 06/26/03
 Law Offices Of Mister, Winter & Bartlett
 Suite 404
 30 E Padonia Rd
 Timonium, MD 21093
 (410)561-3000

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Disposition Addr Update	Entered
ITP 001	County Board Of Appeals Of Baltimore County, The	Party ID: 0594256	BT DO 01/08/04	06/26/03
	Mail: Old Courthouse Room 49 400 Washington Ave Baltimore, MD 21204	06/26/03		
ITP 002	People's Counsel For Baltimore County	Party ID: 0596087	BT DO 01/08/04	07/08/03
	Attorney: 0029075 Zimmerman, Peter M Appear: 07/08/2003 07/08/03 People's Counsel For Baltimore County Room 47 Courthouse 400 Washington Ave Towson, MD 21204 (410)887-2188			
	0804268 Demilio, Carole S Appear: 07/08/2003 07/08/03 Deputy Peoples Counsel Old Courthouse Room 47 400 Washington Ave Towson, MD 21204 (410)887-2188			

CALENDAR EVENTS

Date	Time	Dur	Event Description	Text SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec			
12/01/03	09:30A	02Q	Civil Non-Jury Trial	Y	JNB	01 /01	KLS
	Conclude		12/01/03 E J.Byrnes	Y			
Stenographer(s): Rita M. Taggart							

JUDGE HISTORY

JUDGE ASSIGNED Type Assign Date Removal RSN

TBA To Be Assigned. J 06/26/03**DOCUMENT TRACKING**

Num/Seq Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0001000 Petition for Judicial Review	06/25/03	06/26/03	PET001	TBA	01/08/04	CMS JBJ
0001001 Response To Petition For Judicial Review	07/02/03	07/08/03	ITP002	TBA	01/08/04	NW JBJ
0002000 Notice of Service of Discovery	06/30/03	07/01/03	000	TBA	01/08/04	SAP JBJ
0003000 *Transcript of Record from Adm Agency	08/07/03	08/12/03	000	TBA	01/08/04	MJ JBJ
0004000 Notice of Transcript of Record Sent	08/12/03	08/12/03	ITP001	TBA	08/12/03	MJ MJ
0005000 Notice of Transcript of Record Sent	08/12/03	08/12/03	ITP002	TBA	08/12/03	MJ MJ
0006000 Notice of Transcript of Record Sent	08/12/03	08/12/03	PET001	TBA	08/12/03	MJ MJ
0007000 *Transcript of Record from Adm Agency/ENTERED IN ERROR	08/28/03	08/29/03	000	TBA	01/08/04	MJ JBJ
0008000 Notice of Transcript of Record Sent/SENT IN ERROR	08/29/03	08/29/03	ITP001	TBA	08/29/03	MJ PH
0009000 Notice of Transcript of Record Sent/SENT IN ERROR	08/29/03	08/29/03	ITP002	TBA	08/29/03	MJ PH
0010000 Notice of Transcript of Record Sent/SENT IN ERROR	08/29/03	08/29/03	PET002	TBA	08/29/03	MJ PH
0011000 Scheduling Order	08/29/03	08/29/03	000	TBA	08/29/03	KLS KLS
0012000 Memorandum Filed by PET001-Konstantinos, Ellen, PET002-Papanikos, Harlambros	09/08/03	09/11/03	PET001	TBA	09/11/03	PH PH
0013000 Peoples Counsel's for Baltimore County's Memorandum	09/23/03	09/26/03	000	TBA	09/26/03	PKE PKE
0014000 Open Court Proceeding December 1, 2003. Hon. J. Norris Byrnes. Hearing had re: Petition for Judicial Review. Order to be signed.	12/01/03	12/01/03	000	TBA	01/08/04	GI JBJ

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0015000	Order of Court decision of the Board of Appeals is REVERSED	01/08/04	01/08/04	000	JNB Granted	01/08/04	JBj JBj
0016000	Pre Trial Hearing Letter Issued	01/22/04	01/22/04	000	TBA	01/22/04	JA JA
0017000	*Notice of Appeal to COSA or COA (12/262)	01/22/04	01/22/04	ITP002	TBA		MJ MJ
0018000	Docket entries sent to Board of Appeals for Baltimore County	01/23/04	01/23/04	000	TBA		CVM CVM

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	07/02/03	0	no	no	DANS	D	001	001
1YRT	One Year Tickle (Jud	CLOSED	06/24/04	365	no	no	DAAA	D	001	000
EXPU	Exhibit Pickup Notic	CLOSED	03/08/04	30	no	no			000	000
SLTR	Set List For Trial	Done	07/02/03	0	yes	yes	1ANS	T	001	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp	Dt	Dis	By
Offered By:	ITP	001	County Board Of Appeals Of Ba							
000		B	BOX 377/ZOANING TR			B				

DIFFERENTIATED CASE MANAGEMENT**TRACKS AND MILESTONES**

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 08/29/03 Order Date : 08/29/03
Start Date : 08/29/03 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322	09/13/03	01/08/04	CLOSED	
All Motions (excluding Motions in Limine	10/22/03	01/08/04	CLOSED	
TRIAL DATE is	12/01/03	11/27/03	12/01/03	REACHED

03-C-03-006955

Date: 01/23/04

Time: 09:29

Page: 5

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21285-6754

County Board Of Appeals Of Baltimore County, The Assignment Date: 08/29/03
Old Courthouse Room 49
400 Washington Ave
Baltimore MD 21204

Case Title: In The Matter of: Ellen Konstantinos, et al
Case No: 03-C-03-006955 AE

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: Richard P. Abbott at (410) 887-3233.

You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 09/13/03
2. All Motions (excluding Motions in Limine) are due by..... 10/22/03
3. TRIAL DATE is..... 12/01/03

Civil Non-Jury Trial: Start Time: 09:30AM; To Be Assigned: 1/2 HOUR ADMINISTRATIVE APPEAL

Honorable John Grason Turnbull II
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponement must be submitted in writing with a copy to all counsel/parties involved. All requests for postponement must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410]-887-2920 for more information.)

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Voluntary Dismissal: Per Md. Rule 2-506, after an answer or motion for summary judgment is filed, a plaintiff may dismiss an action without leave of court by filing a stipulation of dismissal signed by all parties who have appeared in the action. The stipulation shall be filed with the Clerk's Office. Also, unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

cc: David F Mister Esq

RECEIVED
SEP - 2 2003

**BALTIMORE COUNTY
BOARD OF APPEALS**

cc: Peter M Zimmerman Esq

cc: Carole, S Demilio Esq

Issue Date 08/29/03

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-03-006955

RECEIVED
AUG 13 2003

BALTIMORE COUNTY
BOARD OF APPEALS

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY, THE
Old Courthouse Room 49
400 Washington Ave
Baltimore, MD 21204

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
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(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

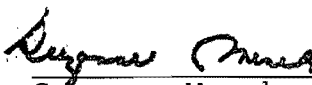
N O T I C E O F R E C O R D

Case Number: 03-C-03-006955
Administrative Agency : 02-265-SPHA
C I V I L

In The Matter of: Ellen Konstantinos, et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 7th day of August, 2003.


Suzanne Mensh
Clerk of the Circuit Court, per 


Date issued: 08/12/03

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY, THE
Old Courthouse Room 49
400 Washington Ave
Baltimore, MD 21204

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-03-006955

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY, THE
Old Courthouse Room 49
400 Washington Ave
Baltimore, MD 21204

RECEIVED

SEP - 2 2003

BALTIMORE COUNTY
BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

N O T I C E O F R E C O R D

Case Number: 03-C-03-006955
Administrative Agency : 02-265-SPHA
C I V I L

In The Matter of: Ellen Konstantinos, et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 28th day of August, 2003.

Suzanne Mensh



Suzanne Mensh
Clerk of the Circuit Court, per *[Signature]*

Date issued: 08/29/03

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY,
Old Courthouse Room 49
400 Washington Ave
Baltimore, MD 21204

RECEIVED

SEP - 4 2003

BALTIMORE COUNTY
BOARD OF APPEALS

Sent in error
Record filed 8/7/03

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

N O T I C E O F R E C O R D

Case Number: 03-C-03-006955
Administrative Agency : 02-265-SPHA
C I V I L

In The Matter of: Ellen Konstantinos, et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 28th day of August, 2003.

Suzanne Mensh



Suzanne Mensh
Clerk of the Circuit Court, per *[Signature]*

Date issued: 08/29/03

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY, THE
Old Courthouse Room 49
400 Washington Ave
Baltimore, MD 21204

7/28/03

Theresa:

Katie O'Hare called from David Mister's office

She was inquiring about the transcript for Papanikos

I reviewed your work – told her Charles Long was the reporter; she asked how she would deliver the transcript to us. I advised her that once she has worked out the transcript payment /preparation with Mr. Long, he will see that we have the original to file in Circuit Court with the balance of the record.

Just in case you need to know prior to the filing date.

kasi

Case Number 02-265-S PHA

PLEASE PRINT LEGIBLY.

PROTESTANT'S SIGN-IN SHEET

[illegible]

Section 424
Family Child Care Homes, Group Child
Care Centers and Nursery Schools
[Bill Nos. 47-1985; 66-1985; 200-1990]

Family child care homes, group child care centers and nursery schools are permitted in all zones in accordance with this section. If a conflict arises between this section and other specific provisions of these Zoning Regulations, this section shall govern.

424.1 General. Family child care homes, group child care centers and nursery schools shall meet the following requirements:

- A. Any such use shall be registered, licensed or certified as required by the applicable state or local agency.
- B. In addition, with respect to group child care centers and nursery schools, outdoor play space abutting residential property shall be fenced. Fences shall be solid wood stockade or panel, a minimum height of five feet, and no closer to the property line than 20 feet.
- C. On or after April 15, 1985, no family child care home, group child care center or nursery school shall be permitted adjoining a residentially used property or dwelling unit in a D.R. or R.C. Zone that has an existing family child care home or group child care center or nursery school adjoining such residentially used property or dwelling unit.

424.2 Group child care centers and nursery schools are permitted by right within the following uses whether such use is permitted by right or by special exception, and in D.R. Zones, group child care centers and nursery schools permitted by this section are not required to meet the provisions of Section 1B01.1.B.1.e (restrictions in residential transition areas):

- A. Churches.
- B. Community buildings.
- C. Hospitals.
- D. School buildings, public or private.
- E. Housing for the elderly.
- F. Office buildings, except in R-O Zones where group day care centers in office buildings shall require a special exception.

424.3 Family child care homes are permitted by right as an accessory use within dwellings in all zones. In D.R. Zones, such use is not required to meet the provisions of Section 1B01.1.B.1.e (restrictions in residential transition areas).

424.4 Group child care center as accessory use.

A. Group child care centers, Class A, are permitted as an accessory use within single-family detached dwellings in all residential zones except R.C.4, in all industrial zones and in R-O and O.T. Zones if the Zoning Commissioner grants a use permit under the following procedure:

1. Upon application for a use permit, the owner or agent shall provide the following information:
 - a. Number of employees,
 - b. Number of children to be enrolled,
 - c. Hours of operation,
 - d. Estimated amount of traffic generated,
 - e. A site plan indicating location and type of structure on the lot in question, location and dimensions of play area(s), parking arrangement and proximity of dwellings on adjacent lots,
 - f. A snapshot of the structure.
2. On the property in question, notice of the application for the use permit shall be conspicuously posted for a period of 30 days following the filing of the application.
3. Within the thirty-day posting period, any occupant or owner within 1,000 feet of the lot in question may file a formal request for a public hearing with the Zoning Commissioner in accordance with Section 500.7.
4. If a formal request for a public hearing is not filed, the Zoning Commissioner, without a public hearing, may grant a use permit for a child care center if the proposed use meets all the requirements of this subsection and any other applicable requirements. Such use permit may be issued with such conditions or restrictions as determined appropriate by the Zoning Commissioner to satisfy the provisions of 424.4.A.6.c below and to ensure that the child care center will not be detrimental to the health, safety or general welfare of the surrounding community.
5. If a formal request for a public hearing is filed, the Zoning Commissioner shall schedule a date for the public hearing, such hearing to be held not less than 15 days following public notice of such hearing in two newspapers of general circulation and not more than 60 days from the date of filing of the requests for public hearing.
6. Following the public hearing, the Zoning Commissioner may either deny or grant a use permit conditioned upon:
 - a. His findings following the public hearing.
 - b. The character of the surrounding community and the anticipated impact of the proposed use on that community.

Group Child Care Centers	Class A	Class B	Nursery Schools
R.C.2	SE	SE	SE
R.C.3	SE	SE	SE
R.C.4	N	N	N
R.C.5	SE	SE	SE
D.R.(all zones) More than 40 children	N/A	SE	SE
40 or fewer children	C	C	C
40 or fewer children and RTA is applicable	SE	SE	SE
R.A.E.1, R.A.E.2 Within apartment buildings of 50 or more units and subject to supplemental regulations of Sections 200.2.B and 201.2.B.	R	R	R
Freestanding	SE	SE	SE

- R = Permitted as of right
 SE = Permitted by special exception
 N = Not permitted
 C = Permitted subject to additional conditions

- B. Group child care centers in business and manufacturing zones are permitted as a noncommercial accessory or principal use in accordance with the following schedule:

Group Child Care Centers	Class A	Class B	Nursery Schools
R-O More than 40 children	N/A	SE	SE
40 or fewer children	C	C	C
OR-1, OR-2	R	R	R
O.T.	R	R	R
Business Zones	R	R	R
M.R., M.H., M.L. and M.L.R. Zones	R	R	R

- R = Permitted as of right
 SE = Permitted by special exception
 N = Not permitted
 C = Permitted subject to additional conditions

- c. The manner in which the requirements of Section 424.1 and other applicable requirements are met; and any additional requirements as deemed necessary by the Zoning Commissioner in order to ensure that the child care center will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives of Section 502.1 of these regulations.
 - d. Section 1B01.1.B notwithstanding, the Zoning Commissioner may modify 1B01.1.B.1.e as it pertains to such use in D.R. Zones.
- B. Group child care centers, Class A, are permitted as an accessory use within single-family detached dwellings in OR-1 and OR-2 Zones and in all business zones, by right.

424.5 Child care center as principal use. [Bill No. 51-1991]

- A. All other principal use group child care centers and nursery schools in residential zones are permitted in accordance with the following schedule:

- 424.6 Sign and display regulations. Signs are permitted, subject to Section 450. [Bill No. 89-1997]
- 424.7 Bulk standards for group centers in D.R. Zones. The following standards apply to group child care centers located in D.R. Zones:
- A. Minimum lot size: one acre for the first 40 children plus 500 square feet per child for every child beyond 40 children.
 - B. Minimum setback requirements.
 - Front: 25 feet from street line or the average setback of the adjacent residential dwellings, whichever is less.
 - Side: 50 feet from property line, with 20 feet of perimeter vegetative buffer.
 - Rear: 50 feet from property line, with 20 feet of perimeter vegetative buffer.
 - C. Parking, drop-off and delivery areas shall be located in the side or rear yards, unless the Zoning Commissioner, upon the recommendation of the Director of Planning, determines that there will be no adverse impact by using the front yard for parking, drop off or delivery purposes. In all cases these areas shall be located outside of the required buffer area.
 - D. Maximum height: 35 feet
 - E. Maximum impervious surface area: 25% of gross area.

Section 425
Alcoholic Beverages License
[Bill No. 66-1983]

Any entertainment, leisure or recreation oriented principal use provided for in Section 422.A which holds a valid on-sale alcoholic beverages license of any class, except a special or temporary license, may have amusement devices on its premises as long as the alcoholic beverages license remains effective. All of the conditions and limitations set forth in Sections 422 and 423 are applicable to such uses, except that Sections 422.C.4 and 423.C.5 do not apply to such uses.

02-265-SPHA

~~12/11/02 @ 10 am~~ PPd

2/25/03 @ 10 am

4/28/03 @ 9³⁰ a.m. Deliberation

EXHIBITS

May 27, 2003

(20020265)

add "A"

02-265-SPHA

2 of 2

02-265-SPHA

02-265-SP4A
2-25-2003

Papanikos

EXH

- PC
- #1 Case Law 2 Copy By Bd ^{fulfilling}
 - #2 Site Plan
 - #3 BZC 101 ID only
 - #4 Zoning Map
 - #5 Aerial Photo
 - #6 ADC Road Map
 - #7 Jay Road
 - #8 Letter - IS
 - #9 Zoning - Dev Code Enforcement
 - #10 Planning Bd
 - #11 Case - Bay Child Care of Bath Annual Conf of the Methodist Church of Maine
 - #12 Bill 47-85
 - #13 Planning Bd - final rpt
 - #14 Bill 200-90
 - #15 Bill 191

Verified
2-25-03

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
<u>GORDON L. HARRISON, ET UX</u>	*	
FOR A SPECIAL EXCEPTION AND	*	OF
VARIANCES ON PROPERTY LOCATED	*	
ON THE NORTH SIDE OLD EASTERN	*	BALTIMORE COUNTY
AVENUE, 25' E OF CENTERLINE	*	
OF EYRING AVENUE	*	
(1300 OLD EASTERN AVENUE)	*	CASE NO. 95-280-XA
15TH ELECTION DISTRICT	*	
5TH COUNCILMANIC DISTRICT	*	
* * * *	*	* * * *

O P I N I O N

This matter comes to the Board on appeal by People's Counsel from the March 20, 1995 decision of the Deputy Zoning Commissioner wherein Petitioners' special exception and variances were granted. Petitioners presently own a Class A Group Child Care Center on the subject property which is located in a Residential Transition Area (RTA). They sought a special exception to operate a Class B Group Child Care Center and variances for various setback, buffer and lot size requirements.

John B. Gontrum appeared on behalf of the Petitioners, and Peter Max Zimmerman, People's Counsel for Baltimore County, participated in the proceedings. Gordon L. Harrison, Petitioner; and Donna Copp, a neighbor, testified on behalf of Petitioners. Neighbors Carville Lauenstein, Ferdinand R. Hock, Mary Hock and Pearl Puchalski testified as Protestants.

From the testimony and exhibits, the Board finds that Petitioners operate a child care center at the subject property and live directly across the street therefrom. Mr. Harrison intended to and has, in fact, maintained the property as a residence for his mother-in-law. Petitioners are seeking to expand to a Class B facility and thus be able to accept more children at the center. They are willing to limit the permissible amount of children to 24

PC #

IN THE MATTER OF THE
THE APPLICATION OF
FATEMEH FALAH AND MOHAMMAD
HAERIAN -PETITIONERS
FOR SPECIAL EXCEPTION AND
VARIANCES ON PROPERTY LOCATED
ON THE NORTHWEST SIDE
TIMONIUM ROAD, 90' SOUTHWEST
OF CENTERLINE OF EDGEMOOR RD
(42 EAST TIMONIUM ROAD)
8TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
*
* CASE NO. 94-271-XA
*
* * * * *

O P I N I O N

This matter comes before the Board on appeal of an Order in which a Petition for Special Exception and Petition for Variances were DENIED by the Deputy Zoning Commissioner on September 30, 1994.

This case was initially scheduled for hearing on February 28, 1995, but was postponed due to the retirement of a member of the Board of Appeals. The case was re-scheduled and the hearing commenced on Wednesday, July 5; Wednesday, July 12; and was continued and concluded on October 4, 1995. A public deliberation by the Board was then scheduled and conducted on Thursday, October 26, 1995.

The Appellant, Fatemeh Falahi, appeared and testified, represented by Michael P. Tanczyn, Esquire. Representing the Protestants was J. Carroll Holzer, Esquire. Peter M. Zimmerman, People's Counsel for Baltimore County, also participated in these proceedings.

Protestants' objections to an expanded child care center were primarily based on concerns for increased traffic difficulties and dangers at the location of the children's drop-off, and an undersized property requiring too many variances to comply with the zoning standards.

PC #2

CHILD CARE CENTERS

1. Definitions (B.C.Z.R. 101)

A. Family Child Care Home-

Residence
Supervision for fee up to eight (8) children
Includes children of adult provider

B. Group Child Care Center

Need not be residence
Supervision of at least nine (9) children
Includes children of adult provider

a. G.C.C.C., Class A
No more than 12 children

b. G.C.C.C., Class B
More than 12 children

2. Child Care Center Standards, B.C.Z.R. 424

A. Family child care homes permitted by right as accessory uses in D.R. zones - need not meet RTA restrictions. B.C.Z.R. 424.3

B. Group child care centers, Class A, permitted as accessory use in single-family dwellings, subject to detailed standards, including special exception standards and impact on surrounding community. B.C.Z.R. 424.4

3. Other principal use child care centers governed by schedule and charts in B.C.Z.R. 424.5.

4. All group centers in D.R. zones subject to bulk standards. B.C.Z.R. 424.7

5. Residential transition area standards apply to group child care centers, Class A and B, subject to exceptions, compliance with special exception and bulk standards. B.C.Z.R. 1B01.1.B.1.e

6. Meaning of "Children of Adult Provider"

D.Z.C. states anyone up to age 17.
Websters Dictionary
Other sources.

PC
4
ID only



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 02 **Account Number -** 0203473750

Owner Information

Owner Name: PAPANIKOS KONSTANTINOS H
PAPANIKOS HARALAMBROS/ELLEN M
Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 3702 OLD MILFORD MILL RD
BALTIMORE MD 21244-3726
Deed Reference: 1) /11341/ 742
2)

Location & Structure Information

Premises Address 3702 OLD MILFORD MILL RD
Zoning
Legal Description .36 AC SWS
3702 OLD MILFORD MILL RD
2640 N LIBERTY RD

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:
77	24	1052					80	Plat Ref:

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1937	1,086 SF	15,184.00 SF	04
Stories 1 1/2	Basement YES	Type STANDARD UNIT	Exterior WOOD SHINGLE

Value Information

	Base Value	Value As Of	Phase-in Assessments As Of	As Of
		01/01/2001	07/01/2002	07/01/2003
Land:	31,540	31,540		
Improvements:	44,770	47,110		
Total:	76,310	78,650	77,870	78,650
Preferential Land:	0	0	0	0

Transfer Information

Seller: ESCOL DAVID A	Date: 12/11/1995	Price: \$95,900
Type: IMPROVED ARMS-LENGTH	Deed1: /11341/ 742	Deed2:
Seller: FREDERICK FRANKLIN N,SR	Date: 07/20/1982	Price: \$52,900
Type: IMPROVED ARMS-LENGTH	Deed1: / 6414/ 477	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Handwritten signature/initials

3-2-07

Danahy M. Kotroco
Deputy zoning Commissioner
401 Bassey Ave.
Yowson, MD. 21204

RE. CASE NO. 02-265-SP4A 3702 Old Milford Mill Rd.
Baltimore MD 21244

Dear Mr. Kotroco:

We the neighbors contend that Baltimore County should not grant both the petition for special hearing and petition for variance as to the Class "A" Group Child Care for 3702 Old Milford Mill Road. Baltimore, MD 21244

It is our belief that in fact this use would be detrimental to the health, safety and general welfare of the community.

① Ms. Trinidad Porter
3706 Old Milford Mill Rd.
Baltimore, MD. 21244

② Robert Young #11
3706 Old Milford Mill Rd
Baltimore Md. 21244

③ Shirley Dyer
3708 Old Milford Mill Rd

R #9
Balt. 21244

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

VIOLATION CASE DOCUMENTS

VIOLATION CASE: 01-1164

3702 Old Milford Mill Road

ZONING CASE: 02-265-SPHA

3702 Old Milford Mill Road

PC 10

[illegible]

(1834). Primarily on authority of Coke and Blackstone, early text authorities on the common law accepted the "born alive" rule enunciated by these commentators. See 2 *Bishop on Criminal Law* §§ 632-633 (7th ed. 1882); 3 Chitty, *Criminal Law* 800 (1978); *Clark's Criminal Law* §§ 61-62 (3rd ed. 1915); 1 East, *Pleas of the Crown* 227-229 (1803); 1 Hawkins, *Pleas of the Crown* 121 (6th ed. 1777); Hochheimer, *Criminal Law* § 338 (2nd ed. 1904); 1 *Russell on Crimes* 484 (5th ed. 1845); Wharton, *American Criminal Law*, § 942 (4th ed. 1857).

Hale's statement of the common law—that it is neither murder nor manslaughter if an infant, born alive, later dies as a result of injuries criminally inflicted upon the mother during pregnancy—has also been rejected by later text authorities on the common law. See Clark & Marshall, *Crimes* § 10.00 (7th ed. 1967); Perkins, *Perkins on Criminal Law* 27 (1957); LaFave & Scott, *Criminal Law*, 532 (1972).

State courts which have applied the common law in situations similar to that now before us have uniformly applied the Coke-Blackstone "born alive" rule. They have concluded, consistent with the opinion of the Court of Special Appeals, that criminal infliction upon a pregnant woman of prenatal injuries resulting in the death of her child after live birth may constitute manslaughter. See *Clarke v. State*, 117 Ala. 1, 23 So. 671 (1898); *Ranger v. State*, 249 Ga. 315, 290 S.E.2d 63 (1982); *People v. Greer*, 79 Ill.2d 103, 37 Ill.Dec. 313, 402 N.E.2d 203 (1980); *People v. Bolar*, 109 Ill.App.3d 384, 64 Ill.Dec. 919, 440 N.E.2d 639, cert. denied, 109 Ill.App.3d 384, 64 Ill.Dec. 919, 440 N.E.2d 639 (1982); *State v. Soto*, 378 N.W.2d 625 (1985); *State v. Anderson*, 135 N.J.Super. 423, 343 A.2d 505 (1975), rev'd on other grounds, 173 N.J.Super. 75, 413 A.2d 611 (1980); *United States v. Spencer*, 839 F.2d 1341 (9th Cir.), cert. denied, — U.S. —, 108 S.Ct. 2908, 101 L.Ed.2d 939 (1988) (applied common law rule in interpretation of federal homicide statute).

So extensive is the acceptance of this common law rule that we conclude that it was indeed the law of Maryland in 1776. We are unpersuaded by the appellant's fleeting reference to other authorities allegedly articulating a contrary view of the common law. Consequently, we find no merit in Williams's argument that should Lord Coke's version of the common law be adopted in Maryland, it should be afforded only a prospective application and not applied to his manslaughter conviction for the death of the Lyles baby.

JUDGMENT AFFIRMED, WITH COSTS.

561 A.2d 219

BOARD OF CHILD CARE OF the BALTIMORE ANNUAL
CONFERENCE OF THE METHODIST CHURCH,
INC. et al.

v.

Hubert H. HARKER et al.

No. 120, Sept. Term, 1988.

Court of Appeals of Maryland.

July 28, 1989.

Nonprofit corporation appealed decision of county zoning board holding ordinances applicable to child care facilities. The Circuit Court, Baltimore County, William M. Nickerson, J., affirmed application of ordinances to facilities. Corporation appealed, and certiorari was granted. The Court of Appeals, Murphy, C.J., held that: (1) corporation was not entitled to state's immunity from municipal zoning ordinances, and (2) statutes governing child care facilities did not impliedly preempt zoning ordinances on location of facilities.

Affirmed.

fc #12

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1985, LEGISLATIVE DAY NO. 7
BILL NO. 47-85

Ms. Barbara F. Bachur, Councilwoman

By the County Council, April 1, 1985

A BILL

ENTITLED

AN ACT concerning

Child Care Programs

FOR the purpose of amending the Baltimore County Zoning Regulations
in order to permit certain types of child care programs in
certain zones in the County; defining terms; specifying
certain requirements for child care homes or programs; and
generally relating to child care programs in Baltimore County.

BY repealing and re-enacting, with amendments,

Sections 1A01.2.B.3A, 1A02.2.A.6, 1A03.3.A.3A, 1A04.2.A.7,
1B01.1.A.12, 1B01.1.C.11, and 230.7

Baltimore County Zoning Regulations, as amended

BY repealing

Sections 1B01.1.B.1.c.12, 200.2.A.3.14A, 201.2.A.3.19A, and
207.3.C.6

Baltimore County Zoning Regulations, as amended

BY adding

Section 101 - Definitions, by adding new Definitions of
"Family Child Care Home" and "Group Child Care Center"

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 424

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

R# 13

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

PROJECT DESCRIPTION

County Council Resolution #48-88 (See Attachment #1) requests the Baltimore County Planning Board to consider proposing amendments to the Zoning Regulations "in order to facilitate the placement of day care centers in Baltimore County by providing a density allocation to developers."

BACKGROUND

Density bonus incentives have been considered for elderly housing and historic preservation. For the elderly, increased density is considered necessary to meet the unique needs of the expanding elderly population and appropriate because elderly households have less impact on County facilities than the general population. The Planning Board recommended that a density bonus be permitted for elderly housing facilities at hospital, institutional and historic sites through a special exception process if certain conditions are met. The Planning Board also recommended that density be calculated by "density unit" rather than "dwelling unit" for elderly housing facilities which provides a density increment for projects containing efficiency and one bedroom units. The County Council implemented the Planning Board recommendations through Bill No. 36-88.

The Planning Board also considered density bonuses to encourage historic preservation in response to Resolution #38-87. Except for elderly housing facilities, the application of density bonuses to historic properties as an incentive for historic preservation was determined to be infeasible. The Resource Conservation zones, lacking public water and sewer, cannot support high densities. In the other zones, maximum office and business zone floor area ratios and residential densities are rarely developed.

The Planning Board recommended that new definitions and regulations be adopted for child care centers in 1984. The recommendations were adopted by the County Council. The text amendments eliminated most of the zoning problems associated with small child care operations in homes and made it easier for larger child care facilities to open in schools, churches and hospitals.

The child care issue was last addressed by the Planning Board in November, 1987, in response to County Council Resolution #35-87. The Planning Board recommended that child care centers be exempt from RTA restrictions, subject to Zoning Commissioner approval. The Planning Board also recommended the exemption of space used for child care centers in office buildings from the calculation of the adjusted

PC #14

MR. WILLIAM R. EVANS, COUNCILMAN

BY THE COUNTY COUNCIL, October 15, 1990

A BILL ENTITLED

AN ACT concerning

Child Care Centers

FOR the purpose of amending the Baltimore County Zoning Regulations in order to permit Child Care Centers in D.R. Zones as a matter of right or by Special Exception depending upon the number of children provided for at the center and subject to certain standards and requirements; providing exceptions to residential transition area requirements in certain cases; and generally relating to the regulation of child care centers in Baltimore County.

BY repealing

Section 424.5A. and B.

Baltimore County Zoning Regulations, as amended

BY adding

Sections 1B01.1.A.10B, 1B01.1.B.1.c.10.A, 1B01.1.C.6.B.,

424.5.A. and B. and 424.7

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 424.1.B.

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final report, dated November 16, 1989, from the Planning Board and has held a public hearing thereon on January 30, 1990, now, therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2. COUNTY, MARYLAND, that Section 424.5A. and B. of the Baltimore County
3. Zoning Regulations, as amended, be and it is hereby repealed.

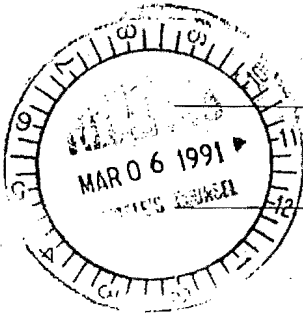
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

PC
#15

2-19-91-P
4-15-91 eff

MR. DOUGLAS B. RILEY, COUNCILMAN

BY REQUEST OF COUNTY EXECUTIVE



BY THE COUNTY COUNCIL, FEBRUARY 4, 1991

A BILL

ENTITLED

AN ACT concerning

Zoning Regulations - Definitions

FOR the purpose of amending the definition of Family Child Care Home and Group Child Care Center to be consistent with State law and licensing regulations.

By repealing and reenacting, with amendments

Section 101 - Definitions.

"Family Child Care Home" and "Group Child Care Center"

Baltimore County Zoning Regulations, as amended.

WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning Family Child Care Homes and has held a public hearing thereon on November 13, 1990; now therefore

SECTION I. Be it enacted by the County Council of Baltimore County, Maryland, that Section 101, Definitions, the definitions of "Family Child Care Home" and "Group Child Care Center", of the Baltimore County Zoning Regulations, as amended, be and are hereby repealed and reenacted, to read as follows:

Section 101-Definitions.

Family Child Care Home: A private residence wherein care, protection and supervision is provided for a fee for part or all of a day at least twice a week {to no more than ~~six--(6)~~ EIGHT (8) children at one time including children of the adult provider.}- THE- NUMBER- OF- CHILDREN- FOR- WHOM- CARE- IS- PROVIDED- MAY NOT- EXCEED- THE- NUMBER- OF- CHILDREN- PERMITTED- BY- THE- STATE- AT- A REGISTERED- FAMILY- DAY- CARE- HOME THE OPERATOR OF A FAMILY CHILD

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

PC
#16

02-265-SPHA

Papanikos

2-25-2003

- ✓ Pet #1 - West Ave Code Letter 5 - Child Care 5-5012
- ✓ #2 Corner Reg = Child Care
- ✓ #3 Corner Reg = Family Day Care
- ✓ #4 Family Day Care 5-5011

Verified
2/25/03

Citation
MD FAMILY S 5-501
MD Code, Family Law, § 5-501

Found Document

Rank 1 of 1

Database
MD-ST-ANN

C

TEXT

WEST'S ANNOTATED CODE OF MARYLAND
FAMILY LAW
TITLE 5. CHILDREN
SUBTITLE 5--CHILD CARE; FOSTER CARE
PART I. DEFINITIONS; GENERAL PROVISIONS
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Current through end of 2002 Regular Session.

§ 5-501. Definitions

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Administration" means the Social Services Administration of the Department.
- (c) "Child placement agency" has the meaning stated in § 5-301 of this title.
- (d) "Day care provider" means the adult who has primary responsibility for the operation of a family day care home.
- (e) "Family day care" means the care given to a child under the age of 13 years or to any developmentally disabled person under the age of 21 years, in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the day care provider is paid.
- (f) "Family day care home" means a residence in which family day care is provided.
- (g) "Foster care" means continuous 24-hour care and supportive services provided for a minor child placed by a child placement agency in an approved family home.
- (h) "Group care" means continuous 24-hour care and supportive services provided for a minor child placed in a licensed group facility.
- (i) "Kinship care" means continuous 24-hour care and supportive services provided for a minor child placed by a child placement agency in the home of a relative related by blood or marriage within the 5th degree of consanguinity or affinity under the civil law rule.
- (j) (1) "License" means a license issued by the Administration under this subtitle.
- (2) "License" includes:
- (i) A child placement agency license;
 - (ii) A child care home license;
 - (iii) A child care institution license; and
 - (iv) A residential educational facility license.
- (k) "Local board" means a local citizen board of review of foster care for children.
- (l) "Local department" means a local department of social services for a county.
- (m) "Out-of-home placement" means placement of a child into foster care,

Citation
MD ADC 07.04.01.02
COMAR 07.04.01.02
MD Hum. Res. 07.04.01.02

Found Document

Rank 1 of 1

Database
MD-ADC

CODE OF MARYLAND REGULATIONS
TITLE 07 DEPARTMENT OF HUMAN RESOURCES
SUBTITLE 04 CHILD CARE ADMINISTRATION
CHAPTER 01 FAMILY DAY CARE

Complete through Maryland Register Vol. 30, Issue 2, dated January 14, 2003

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Abuse" means:

(a) The physical or mental injury of a child, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed, by:

(i) A parent;

(ii) An individual who has permanent or temporary care or custody or responsibility for supervision of a child; or

(iii) A household or family member; or

(b) Sexual abuse of a child, whether physical injuries are sustained or not.

(2) "Acute illness" means an abnormal condition of the body with rapid onset that has a short course of duration, as opposed to a chronic illness of long duration.

(3) "Agency" means the Child Care Administration in the Department of Human Resources.

(4) "Agency representative" means an individual designated by the Agency to determine compliance with these regulations.

(5) "Applicant" means a person who has submitted to the Office all of the required forms and documentation to request approval for registration, either for initial registration or for renewal of a registration certificate.

(6) "Approved training" means course work or a workshop provided by:

(a) A regionally accredited or approved college or university;

(b) A State-approved private career school;

(c) The Child Development Associate National Credentialing Program;

(d) A professional association providing training exclusively for its membership;

(e) Other organizations approved by the Office with concurrence from the Maryland Higher Education Commission; or

(f) The Agency.

(7) "Child" means an individual who is younger than:

(a) 13 years old; or

(b) 21 years old who has a developmental disability or other emotional, physical, educational, or medical need necessitating day care beyond 13 years old.

(8) "Department" means the Maryland Department of Human Resources.

(9) "Employee" means a person who for compensation is employed to work in a

Citation
MD ADC 07.04.01.23
COMAR 07.04.01.23
MD Hum. Res. 07.04.01.23

Found Document

Rank 1 of 1

Database
MD-ADC

CODE OF MARYLAND REGULATIONS
TITLE 07 DEPARTMENT OF HUMAN RESOURCES
SUBTITLE 04 CHILD CARE ADMINISTRATION
CHAPTER 01 FAMILY DAY CARE

Complete through Maryland Register Vol. 30, Issue 2, dated January 14, 2003

.23 Capacity.

A. A provider may not care for more day care children than the number which appears on the certificate of registration.

B. At any one time, a provider shall:

- (1) Care for not more than eight children, of whom not more than four may be younger than 24 months old;
- (2) Maintain an adult-to-child ratio of at least one adult to every two children younger than 24 months old;
- (3) Have present an additional adult, who has met the requirements of §C of this regulation, whenever more than two children younger than 24 months old are present in care at the home; and
- ~~X~~(4) Count as children served the provider's own children who are younger than 6 years old.

C. Additional Adult. Before assisting a provider in caring for more than two children younger than 24 months old, an individual shall:

- (1) Be 18 years old or older;
- (2) Attend an information session offered by the Office concerning the requirements of this chapter for the care of children younger than 24 months old;
- (3) File with the Office a completed additional adult application form and all documentation required by the Office, which includes but is not limited to:
 - (a) Signed and, if required by the Office, notarized release forms giving the Office permission to examine records of abuse and neglect of children and adults for information about the applicant;
 - (b) Completed information, on a form supplied by the Office, for each of the applicant's substitutes;
 - (c) A medical report on the applicant based on a medical evaluation conducted within the previous 12 months by a practicing physician, certified nurse practitioner, or registered physician's assistant, and signed by the individual who conducted the evaluation;
 - (d) The names and addresses of three individuals, not relatives, who will supply character references for the applicant; and
 - (e) Documentation of compliance with the training requirements set forth in Regulation .14 of this chapter;
- (4) If the individual will be paid, apply for a federal and State criminal background check at a designated office in the State; and
- (5) Receive the approval of the Office to serve as an additional adult.

D. The Office may restrict the number and ages of children who may be in care

File 3

Citation
MD FAMILY S 5-801
MD Code, Family Law, § 5-801

Found Document

Rank 1 of 1

Database
MD-ST-ANN

TEXT

WEST'S ANNOTATED CODE OF MARYLAND
FAMILY LAW
TITLE 5. CHILDREN

SUBTITLE 8--UNATTENDED CHILDREN

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Current through end of 2002 Regular Session.

§ 5-801. Child locked in building

(a) A person who is charged with the care of a child under the age of 8 years may not allow the child to be locked or confined in a dwelling, building, enclosure, or motor vehicle while the person charged is absent and the dwelling, building, enclosure, or motor vehicle is out of the sight of the person charged unless the person charged provides a reliable person at least 13 years old to remain with the child to protect the child.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 30 days, or both.

CREDIT

CREDIT(S)

2002 Main Volume

Acts 1984, c. 296, § 2; Acts 1986, c. 462.

PRIOR COMPILATIONS

2002 Main Volume

Formerly Art. 27, § 399A.

<General Materials (GM) - References, Annotations, or Tables>

LIBRARY REFERENCES

Key Numbers

Infants 13.

Westlaw Key Number Search: 211k13.

*Per
#4*

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE MATTER OF:

ELLEN, KONSTANTINOS AND
HARALAMBROS PAPANIKOS,
OWNERS,
3702 OLD MILFORD MILL ROAD

FEBRUARY 25, 2003

CASE NO.

CBA 02-265-SPHA

BEFORE:

CHARLES L. MARKS, Chairman

MARGARET T. WORRALL, Board Member

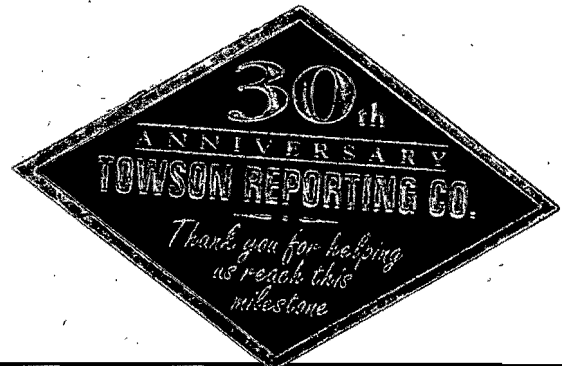
MELISSA MOYER ADAMS, Board Member

APPEARANCES:

DAVID F. MISTER, ESQUIRE
On behalf of Petitioners

PETER MAX ZIMMERMAN, ESQUIRE
Peoples' Counsel for Baltimore County

Reported by: Charles H. Long



IN RE: PETITIONS FOR VARIANCE AND
SPECIAL HEARING

E/S Milford Mill Road, 230' N
centerline of Euler Avenue
2nd Election District
2nd Councilmanic District
(3702 Old Milford Mill Road)

Ellen & Konstantinos Papanikos
and Haralambros Papanikos
Petitioners

*

BEFORE THE

*

DEPUTY ZONING COMMISSIONER

*

OF BALTIMORE COUNTY

*

CASE NO. 02-265-SPHA

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owners of the subject property Ellen and Konstantinos Papanikos and Haralambros Papanikos. The Petitioners are requesting zoning relief for property they own at 3702 Old Milford Mill Road, located in the Milford Mill area of Baltimore County. Specifically, the Petitioners are requesting special hearing relief to approve a Group Child Care Center, Class A facility for up to 12 children in a single-family residential dwelling. In addition, variance relief is requested from Section 424.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a 6 ft. wood stockade fence with a 0 ft. setback in lieu of the required 20 ft.

Appearing at the hearing on behalf of the requests were Ellen Papanikos, one of the owners of the property and Lisa McConnell, one of her employees. Appearing in opposition to the Petitioners' request were nearby neighbors, Roy Levins, Trinidad Porter and Robert Young.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.36 acres, more or less, zoned D.R.5.5. The subject property is improved with a 2-story, single-family residential dwelling and accessory garage. The property is 52 ft. 7 in. in width and approximately 293 ft. in depth. The Petitioner currently operates a day care facility on

3/7/04
H. Papanikos

the subject property, providing care for 8 children at this time. In addition to the 8 children that are currently being cared for by the Petitioner, she also has 6 children of her own.

Testimony offered by Mrs. Papanikos indicated that she purchased the subject property in 1995. In 1996, she started operating her Family Child Care Home on the subject property. She is requesting permission, pursuant to this zoning request, to increase the number of children cared for on the property from 8 to 12. The children who come to the property vary in age from 9 months to 13 years.

In addition to her request to increase the number of children on the property, she also is requesting permission to approve the 6 ft. stockade fence which was installed on the property line by her husband this past summer. The Petitioner testified that no permit was obtained from Baltimore County prior to the installation of this fence. The regulations applicable to this use require that the fence have a setback of 20 ft. from the nearest property line. The fence in question was constructed on the property line and, therefore, does not meet this setback requirement. The Petitioner is requesting permission to keep the fence as it exists today.

As stated previously, several residents from the surrounding community appeared in strong opposition to the Petitioner's request. These neighbors offered many complaints and objections to the day care operation that exists on the property today. The cumulative testimony of these neighbors was that the Petitioner provides little supervision to the many children who are under her care at this facility. The neighbors stated that there are many occasions when the children from this facility wander the surrounding neighborhood without adult supervision. According to their testimony this occurs with children as young as 3 years of age. In addition, the neighbors complained that the property in question has become a focal point for many of the other children in the surrounding neighborhood and apartment complexes. Apparently, these

3/7/02
D. J. Papanikos

outside children come to the subject property to play with the children who are enrolled in this day care facility.

This large accumulation of children on the subject property has caused great concern of these surrounding neighbors. Many complaints have been filed with the Code Enforcement Section of Baltimore County, as well as the Baltimore County Police and Social Services Departments. These neighbors object at this time to the 8 children that are currently kept on the property. They cannot fathom an increase in the number of children to 12, which would be a 50% increase over the number currently kept on the property. They, therefore, ask that the special hearing relief and variance be denied.

The Petitioner is requesting permission, by way of the special hearing relief, to operate a "Class-A Group Child Care Center" on her property for up to 12 children. The use requested by the Petitioner in her special hearing petition is defined as follows,

"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 to at least nine children, including children of the adult provider."

The Class A designation is applicable when the Petitioner chooses to increase the number of children to no more than 12 at one time. As it stands now, based on the testimony offered by the Petitioner, she believes that she is operating a "Family Child Care Home". This classification applies when a property owner provides care for no more than 8 children at one time. However, the definition must be reviewed more closely. The Baltimore County Zoning Regulations defines a "Family Child Care Home" as,

"A private residence wherein care, protection and supervision is provided for a fee for part or all of the day at least twice a week to no more than 8 children at one time, including children of the adult provider. The operator of a family child care home shall hold at least one fire drill each week for the benefit of the children."

It is clear from these definitions, that the number of children permitted on the Petitioner's property must take into account the biological children of the care provider. The testimony offered at the hearing demonstrated that the Petitioner has 6 children of her own. According to the definition, these children must be counted in order to determine the number of overall children permitted. Therefore, the Petitioner would only be permitted to provide care for 2 additional children, given that she already provides care for 6 of her own children. Based on the testimony offered at the hearing and the definitions contained within the Baltimore County Zoning Regulations, the Petitioner has exceeded the number of children permitted to be cared for on her property.

As a result of these findings and taking into consideration the testimony and evidence offered at the hearing, I find that the Petitioner's special hearing request to increase the number of children from 8 to 12 shall be denied. Furthermore, the variance request to permit the 6 ft. wood stockade fence to be situated 0 ft. from the property line in lieu of the required 20 ft. shall also be denied.

It is clear from the testimony offered at the hearing, that the Petitioner currently exceeds the number of children that are permitted to be cared for on the property. Mrs. Papanikos testified that she currently has 6 children of her own. However, one of those children is 18 years of age. Therefore, the 18 year old child shall not be counted when taking into account the number of children that she may lawfully care for on her property by virtue of operating a Family Child Care Home. Giving her this benefit, the Petitioner shall be permitted to provide care and supervision for only 3 additional children, over and above the 5 children that are her biological children.

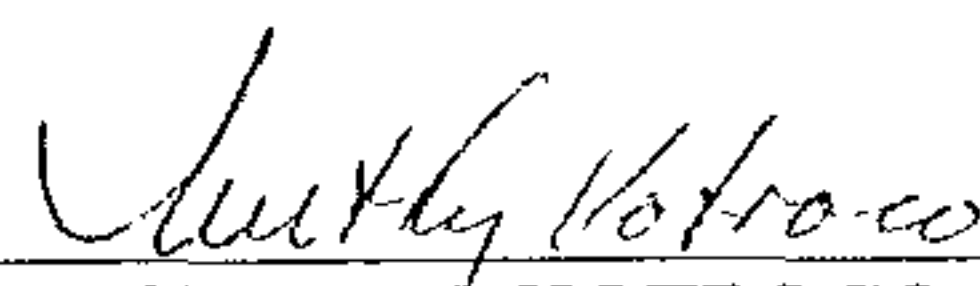
THEREFORE, IT IS ORDERED this 7th day of March, 2002, by this Deputy Zoning Commissioner, that the Petitioner's request for special hearing to approve a Group Child Care Center, Class A, be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Petitioner's request for variance to allow a 6 ft. wood stockade fence with a 0 ft. setback in lieu of the required 20 ft., be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Petitioner shall be prohibited from providing care, protection and supervision for more than 8 children at her private residence. These 8 children, pursuant to the definition contained within the Baltimore County Zoning Regulations, shall include the Petitioner's 5 natural children that currently reside within this residence. Therefore, the Petitioner shall only be permitted to provide care, protection and supervision for 3 additional children over and above the 5 biological children that currently reside on the property.

IT IS FURTHER ORDERED, that the Petitioner shall have until June 15, 2002, which should coincide with the end of the school year, within which to reduce the number of children receiving care, protection and supervision at her private residence to the permitted 8 children. This number shall include her 5 biological children. This extension of time within which to comply with the definition of a Family Child Care Home is afforded to this Petitioner so as not to disrupt the daily routines of the children currently in her day care program.

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


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj



Baltimore County
Zoning Commissioner

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

March 7, 2002

Mr. & Mrs. Konstantinos Papanikos
Mr. Haralambros Papanikos
3702 Old Milford Mill Road
Baltimore, Maryland 21244

Re: Petitions for Special Hearing & Variance
Case No. 02-265-SPHA
Property: 3702 Old Milford Mill Road

Dear Messrs. & Mrs. Papanikos:

Enclosed please find the decision rendered in the above-captioned case. The Petitions for Special Hearing and Variance have been denied in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy M. Kotroco".

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

c: Roy Levins
3700 Old Milford Mill Road
Baltimore, MD 21244

Trinidad Porter
Robert Young
3706 Old Milford Mill Road
Baltimore, MD 21244

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





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 3702 Old Milford Mill Rd.
which is presently zoned D.R.-S.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

a class "A" day care facility for 12 children in a single family occupied dwelling.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print _____

Signature _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____

Signature _____

Company _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Legal Owner(s):

KONSTANTINOS & ELLEN PAPANIKOS
Name - Type or Print

Signature _____

HARALAMBOS PAPANIKOS
Name - Type or Print

Signature _____

410-655-8957
3702 OLD MILFORD MILL RD.
Address Telephone No.

BALTO MD 21244
City State Zip Code

Representative to be Contacted:

Name _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 02-265-SP/HA



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 3702 Old Milford Mill Rd.
which is presently zoned D.R.-5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 424.1.B to permit a six-foot wood stockade fence with zero ft. setback in lieu of the required 20 ft.

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

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Case No. 02-265-SP/HA

REU 9/15/98

Legal Owner(s):

KONSTANTINOS & ELLEN PAPANIKOS
Name - Type or Print

Signature

HARALAMBROS PAPANIKOS
Name - Type or Print

Signature

3702 OLD MILFORD HILL RD
Address

BALTO
City

MD
State

21244
Zip Code

Representative to be Contacted:

Name

Address

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

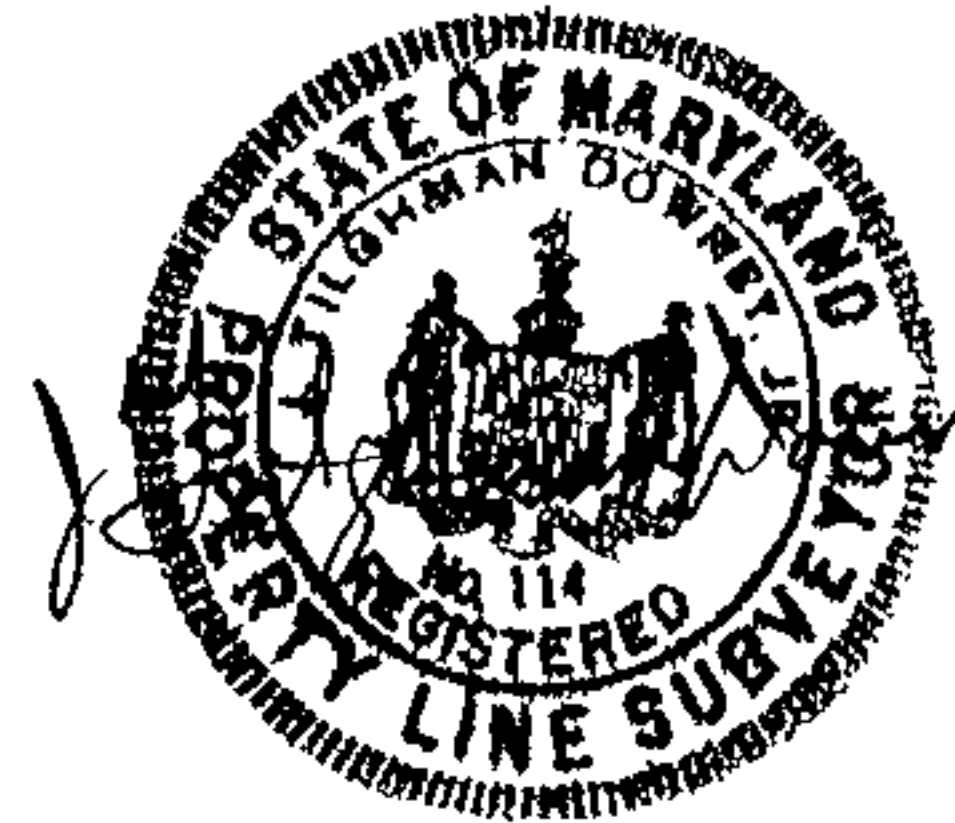
UNAVAILABLE FOR HEARING

Reviewed By BK Date 12/20/01

ZONING DESCRIPTION FOR #3702 OLD MILFORD MILL ROAD

BEGINNING at a point on the northwest side of Old Milford Mill Road which is an ultimate 60' right-of-way at the distance of 66 feet northeast of the centerline of Euler Avenue which is an ultimate 40' right-of-way. As recorded in Deed Liber 11341, folio 742 and thence running along the centerline of Old Milford Mill Road N 48 degrees 36 minutes E, 52'-7"; thence N 32 degrees 28 minutes W, 293'-9" more or less; thence S 48 degrees 36 minutes W 52'-7"; and thence S 32 degrees 28 minutes E, 293'-9" more or less to the place of beginning. Containing 0.36 acres of land, more or less. Also known as #3702 Old Milford Mill Road and located in the 2nd. Election District, 2nd. Councilmanic District.

J. Tilghman Downey, Jr.



*Site Rite Surveying, Inc.
200 E. Joppa Road
Shell Building, Room 101
Towson, MD 21286
(410)828-9060*

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 4126

DATE 12/20/01

ACCOUNT 001-006-6150

AMOUNT \$ 100.00

RECEIVED
FROM:

Ellen Papanikolas

FOR:

Zoning Special Hearings & Variances

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Item # 265

PAID RECEIPT

PAYMENT ACTUAL TIME
12/20/2001 12/20/2001 13:08:40
REG W503 CASHIER R006 LRB DRAWER
RECEIPT # 233174
Dept 5 525 ZONING VERIFICATION
CR NO. 004124

Receipt Tot 100.00
100.00 OK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 12658

DATE 4-4-02 ACCOUNT 001 006 6150

AMOUNT \$ 385.00

RECEIVED FROM: DAVID F MISTER
MISTER WINTER + BARTLETT LLC

FOR: APPEAL 02-265-SPHA
3702 OLD MILFORD MILL ROAD

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

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: #02-265-SPHA
3702 Old Milford Mill Road
E/S Milford Mill Road, 230'
N centerline Euler Avenue
2nd Election District
2nd Councilmanic District

Legal Owner(s): Ellen &
Konstantinos Papanikos

Variance: to permit a 6 foot wood stockade fence with zero foot setback in lieu of the required 20 foot. **Special Hearing:** to approve a class "A" day care facility for 12 children in a single family occupied dwelling.

Hearing: Tuesday, March 5, 2002 at 9:00 a.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/2/720

C521511

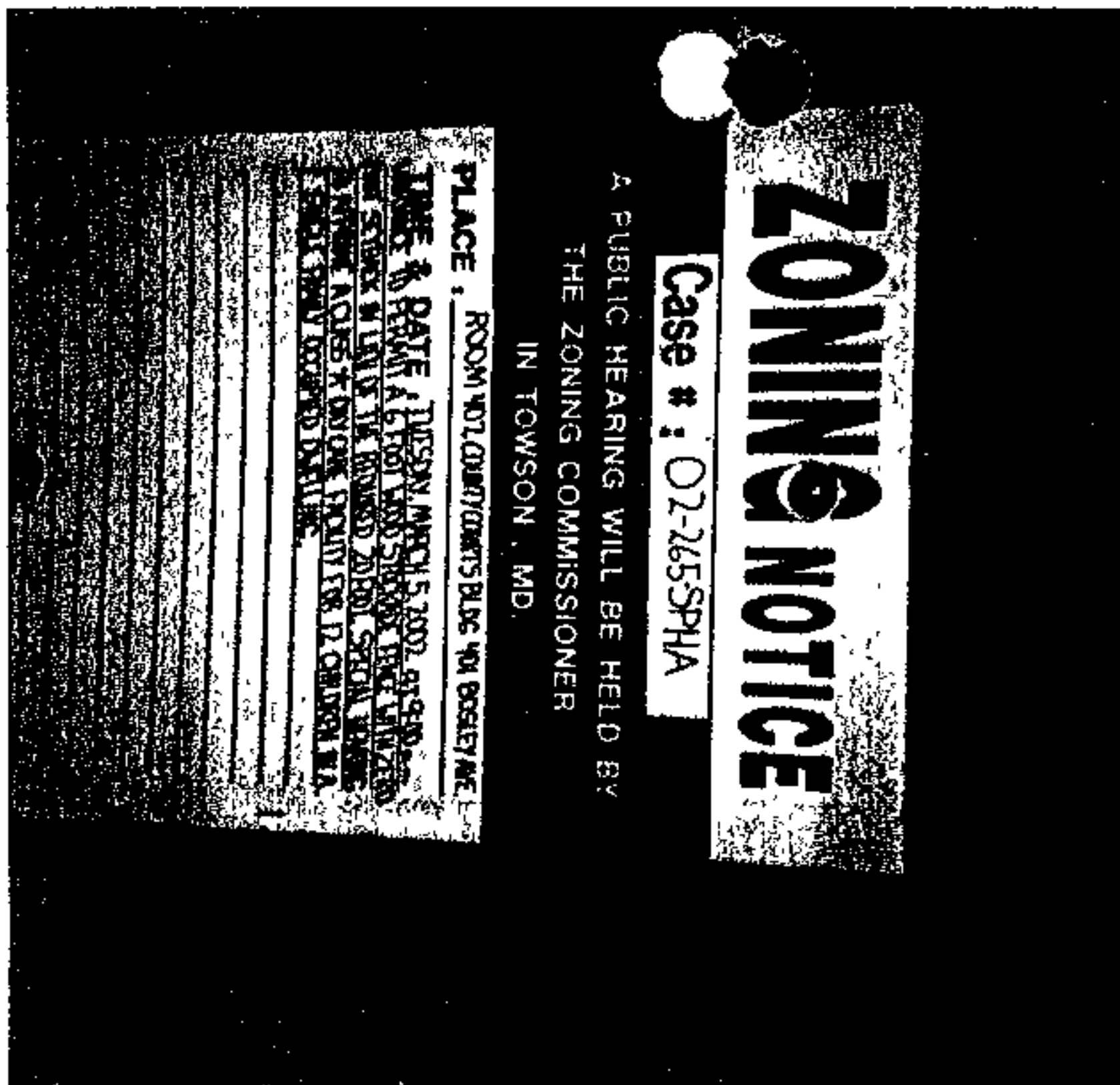
CERTIFICATE OF PUBLICATION

2/21, 2002

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/19, 2002.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News


LEGAL ADVERTISING



NG

RE: Case No.: 02-265-SPHA

Petitioner/Developer: ELLEN

KONSTANTINOS PAPANIKOLAS

Date of Hearing/Closing: 3/5/02
2/17/02

MARCH 5/2002

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 3702 OLD MILFORD

MILL RD

The sign(s) were posted on 2/17/02
(Month, Day, Year)

Sincerely,

[Signature] 2/17/02
(Signature of Sign Poster and Date)

SSG ROBERT BLACK

(Printed Name)

1508 Leslie Rd

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

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: 02-265-SPHA

Petitioner: Ellen Papanikos

Address or Location: 3702 Old Milford Mill Rd.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Ellen Papanikos

Address: 3702 Old Milford Mill Rd.
Baltimore, MD 21244

Telephone Number: 410 - 655 - 8957

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 19, 2002 Issue – Jeffersonian

Please forward billing to:

Ellen Papanikos
3702 Old Milford Mill Road
Baltimore MD 21244

410 655-8957

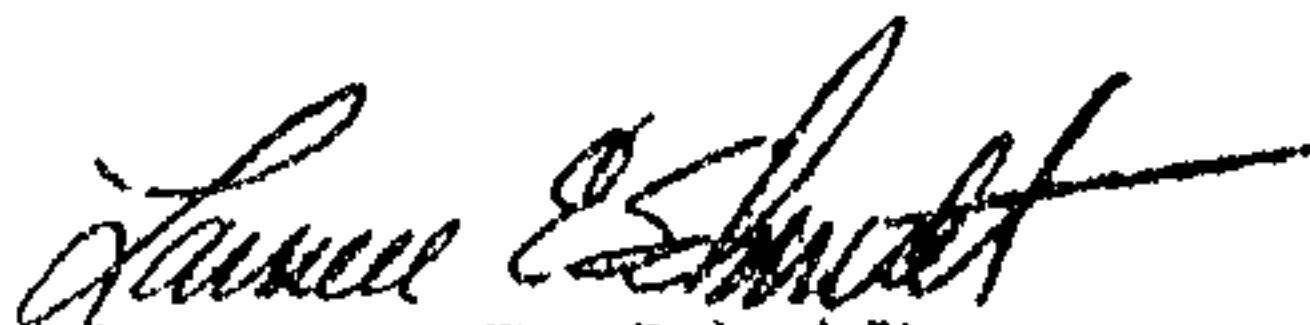
NOTICE OF ZONING HEARING

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: 02-265-SPHA
3702 Old Milford Mill Road
E/S Milford Mill Road, 230' N centerline Euler Avenue
2nd Election District – 2nd Councilmanic District
Legal Owners: Ellen & Konstantinos Papanikos

Variance to permit a 6 foot wood stockade fence with zero foot setback in lieu of the required 20 foot. Special Hearing to approve a class "A" day care facility for 12 children in a single family occupied dwelling.

HEARING: Tuesday, March 5, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GDL
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391



Baltimore County
Department of Permits and
Development Management

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

January 30, 2002

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: 02-265-SPHA
3702 Old Milford Mill Road
E/S Milford Mill Road, 230' N centerline Euler Avenue
2nd Election District – 2nd Councilmanic District
Legal Owners: Ellen & Konstantinos Papanikos

Variance to permit a 6 foot wood stockade fence with zero foot setback in lieu of the required 20 foot. Special Hearing to approve a class "A" day care facility for 12 children in a single family occupied dwelling.

HEARING: Tuesday, March 5, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon GJZ
Director

C: Ellen & Konstantinos Papanikos, 3702 Old Milford Mill Road, Baltimore 21244

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, FEBRUARY 18, 2002.
(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



County Board of Appeals of Baltimore County

WCP

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

Hearing Room – Room 48

Old Courthouse, 400 Washington Avenue

September 6, 2002

NOTICE OF ASSIGNMENT

CASE #: 02-265-SPHA

IN THE MATTER OF: *Ellen, Konstantinos & Haralambros Papanikos*

- Legal Owners Petitioners 3702 Old Milford Mill Road
2nd Election District; 2nd Councilmanic District

3/07/2002– Petition for Special Hearing and Petition for Variance DENIED by
Deputy Zoning Commissioner.

ASSIGNED FOR:

WEDNESDAY, DECEMBER 11, 2002 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners : David F. Mister, Esquire
Appellants /Petitioners : Ellen Papanikos, Konstantinos Papanikos and
Haralambros Papanikos

Protestants: : Roy Levins
Trinidad Porter
Robert Young
James and Shirley Dixon

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement [**Enforcement Case #01-1164**]
Arnold Jablon, Director /PDM



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48

Old Courthouse, 400 Washington Avenue

September 13, 2002

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 02-265-SPHA

IN THE MATTER OF: *Ellen, Konstantinos & Haralambros Papanikos*
- Legal Owners Petitioners 3702 Old Milford Mill Road
2nd Election District; 2nd Councilmanic District

3/07/2002– Petition for Special Hearing and Petition for Variance DENIED by
Deputy Zoning Commissioner.

which was assigned to be heard on 12/11/02 has been **POSTPONED** at the request of Counsel for Petitioners due to
U.S. District Court /jury trial conflict; and has been

REASSIGNED FOR:

TUESDAY, FEBRUARY 25, 2003 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the
advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County
Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests
must be in writing and in compliance with Rule 2(b) of the Board's Rules. No
postponements will be granted within 15 days of scheduled hearing date unless in full
compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to
hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellants /Petitioners : David F. Mister, Esquire
Appellants /Petitioners : Ellen Papanikos, Konstantinos Papanikos and
Haralambros Papanikos

Protestants: : Roy Levins
Trinidad Porter
Robert Young
James and Shirley Dixon

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
James H. Thompson, Code Enforcement [Enforcement Case #01-1164]
Arnold Jablon, Director /PDM





Baltimore County
Department of Permits and
Development Management

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

March 1, 2002

Ellen & Konstantinos Papanikos
3702 Old Milford Mill Road
Baltimore MD 21244

Dear Mr. & Mrs. Papanikos:

RE: Case Number: 02-265-SPHA, 3702 Old Milford Mill Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 20, 2001.

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.
Supervisor, Zoning Review

WCR: gdz

Enclosures 1

c: People's Counsel



Baltimore County
Fire Department

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

January 31, 2002

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

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF January 28, 2002

Item No.: (265) 266, 272, 277, 281, 286, 288, 291, & 292

Dear Ms. Stephens:

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

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

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

cc: File

Jim
3/5

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: February 28, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
for February 4, 2002
Item Nos. 263, 264, (265), 267, 268, 269,
270, 271, 272, 273, 274, 275, 276, 278,
279, 280, 281, 282, 283, 284, 285, 286,
287, 288, 290 and 292

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

RWB HJO.cab

cc: File

ZAC-2-4-2002-NO COMMENT-02282002.doc



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 1.25.02

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 265

BR

Dear Mr. Zahner:

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

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

Very truly yours,

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

My telephone number is _____

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

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

Jk
315

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: Todd Taylor

DATE: March 1, 2002

Zoning Advisory Committee Meeting of January 28, 2002

SUBJECT: NO COMMENTS for the FOLLOWING ZONING ITEMS:

263 - (265) 268, 271, 272, 275 - 277, 279 - 281, 283, 284, 286, 287, 290 - 292

Agricultural Preservation is still reviewing Zoning Items: 270, 273, 278, and 288.

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
3702 Old Milford Mill Road, E/S Old Milford
Mill Rd, 230' N of c/l Euler Ave
2nd Election District, 2nd Councilmanic

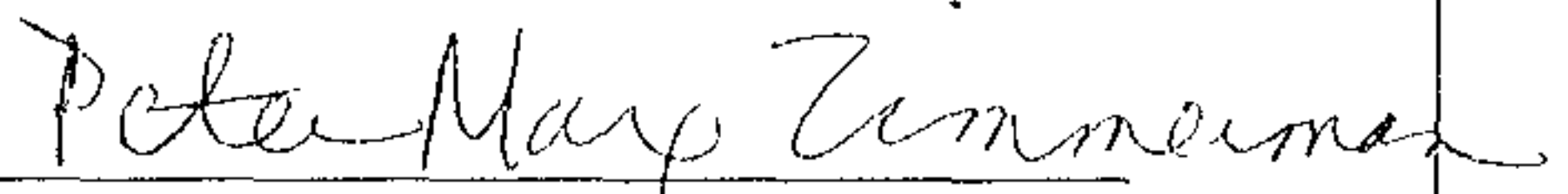
Legal Owner: Konstantinos, Ellen &
Haralambros Papanikos
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-265-SPHA

* * * * *

ENTRY OF APPEARANCE

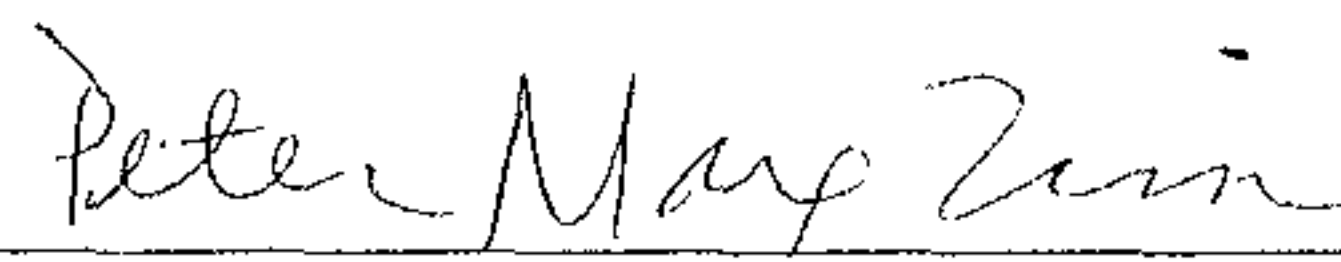
Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. **All parties should copy People's Counsel on all correspondence sent/ documentation 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 30th day of January, 2002 a copy of the foregoing Entry of Appearance was mailed to Konstantinos, Ellen & Haralambros Papanikos, 3702 Old Milford Mill Road, Baltimore, MD 21244, Petitioners.


PETER MAX ZIMMERMAN

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: January 30, 2002

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

MAILED
2-1-02

SUBJECT: Item No.: 265
Legal Owner/Petitioner: Konstantinos & Ellen Papanikos
Property Address: 3702 Old Milford Mill Road
Location Description: E/side Old Milford Road 230 feet North centerline Euler Avenue

VIOLATION INFORMATION: **Case No.: 01-1164**
Defendants: Konstantinos & Ellen Papanikos

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

NAME	ADDRESS
Roy Lovins	3700 Milford Mill Road

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Complaint Intake Form/Code Enforcement Officer's report and notes
State Tax Assessment printout
Correction Notice

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/lrs

c: Code Enforcement Officer Robert Moorefield

Case Entry/Update
Format : CASREC

Mode : CHANGE
File : PDLV0001

Dt Rec: 3132001 Intake: UNDERWOOD, H Act: Case #: 01-1164
Insp: Insp Grp: ENF Insp Area: 8 Tax Acct: 203473750
Address: 3702 OLD MILFORD MILL RD Apt #: Zip: 21244
Problem Descript.: OPEN DUMP 8 OPEN DUMP CONDITIONS WERE CLOSED ON*****8 CASE
REOPENED ON 3/22/01 FOR NTAGGED VEHICLES;
MAP: 33 A 1

Complainant Name (Last): LOVINS (First): ROY
Complainant Addr: 3700 OLD MILFORD MILL RD
Complainant City: BALT MD State: MD Zip: 21244
Complainant Phone (H): 4106556853 (W):
Date of Reinspection: 5032001 Date Closed: 5042001 Delete Code (P): X

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

Case Entry/Update
Format : CASREC

Mode : CHANGE
File : PDLV0001

Notes: 2/14/01 MET W/PROPERTY OWNER(GUS). WE WALKED THE PROPERTY & OTHER THEN A
METAL RACK & SOME OTHER MINOR DEBRIS, THE YARD IS IN COMPLIANCE. AS I ARRIVED HE
, HAD JUST TAKEN THE BACK SEAT OUT OF HIS VAN, SO HE COULD LOAD THESE ITEMS UP /
& TAKE ALL TO DUMP.I DID NOT WRITE A NOTICE AT THIS TIME. P/U 3/21/01 FOR COMPLA
INCE. NOTIFIED MR.LOVING & HE IS STILL VERY CONCERNED ABOUT THIS PROPERTY(H.F)**
***** 3/22/01 4 UNTAGGED VEHICLES IN DRIVEWAY. DODGE-VAN 716643M, RED SEDA
N DZTI84, WHITE SEDAN- UNLICENSED, BROWN/BRONZE-UNLICENSED. NO TRASH, JUK OR DEB
RIS, NO JUNK YARD OR OPEN DUMP. COMPL. WILL BE UPDATED MONDAY, 3/26. CORRECTION
NOTICE ISSUED. P/U 4/11/01(R.M)
5/4/01 OK . WILL NOTIFY COMPLAINANT.CLOSE(R.M)

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

E ENFORCEMENT REPORT

DATE: 03/13/01 INTAKE BY: 116 CASE #: 1164 INSPEC: 1

COMPLAINT LOCATION: 3702 OLD MILITARY RD

ZIP CODE: 22107 DIST: 1

COMPLAINANT NAME: JOY LOVINS PHONE #: (H) 424-555-555 (W)

ADDRESS: 3702 OLD MILITARY RD ZIP CODE: 22107

PROBLEM: OPEN DUMP

IS THIS A RENTAL UNIT? YES ☐ NO ☐
 IF YES, IS THIS SECTION 8? YES ☐ NO ☐
 OWNER/TENANT INFORMATION:

TAX ACCOUNT #: 0203473750 ZONING:

INSPECTION: 03-14-01 Met w/property owner (Gus)
 We Walked The property and other than a Metal Rack + some other minor Debris This yard is in Compliance. As I arrived He

REINSPECTION: was taking The Back Seat out of His Van So He Could Load it and go to The Dump. I did not write a Correctional notice at This Time. Re Check in one

REINSPECTION: week & take Appropriate Action Then. notified Complainant & He is still very Concerned about This Address. I explained our task from a county viewpoint.

REINSPECTION: P.U 03-21-01

[Signature]



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement:
Building Inspection:

410-887-3351
410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No. 01-1164	Property No. 02-03-473750	Zoning: DR
Name(s): Konstantinos H. Papanikos Harlampros / Ellen M. Papanikos		
Address: 3702 Old Milford Mill Rd. 21244-3726		
Violation Location: 3702 Old Milford Mill Rd.		

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

**Cease storage of unlicensed
or inoperative motor vehicles.**

Balto. Co. Zoning Reg: 101, 1B01-1A, 102-1, 428

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: 4/11/01	Date Issued: 3-22-01
---------------------------------	--------------------------------

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name R. T. Moorefield, R/S.

INSPECTOR:

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN

Not Later Than	Date Issued
----------------	-------------

INSPECTOR:

LOCATION SITE

Case Entry/Update

Format : CASREC

Mode : CHANGE

File : PDLV0001

Dt Rec: 3132001 Intake: UNDERWOOD, H Act: Case #: 01-1164

Insp: Insp Grp: ENF Insp Area: 8 Tax Acct: 203473750

Address: 3702 OLD MILFORD MILL RD Apt #: Zip: 21244

Problem Descript.: OPEN DUMP 8 OPEN DUMP CONDITIONS WERE CLOSED ON 3/22/01 CASE
REOPENED ON 3/22/01 FOR NTAGGED VEHICLES;

MAP: 33 A 1

Complainant Name (Last): LOVINS (First): ROY

Complainant Addr: 3700 OLD MILFORD MILL RD

Complainant City: BALT MD State: MD Zip: 21244

Complainant Phone (H): 4106556853 (W):

Date of Reinspection: 5032001 Date Closed: 5042001 Delete Code (P): X

F3=Exit

F9=Insert

F5=Refresh

F10=Entry

F6=Select format

F11=Change

Case Entry/Update

Format : CASREC

Mode : CHANGE

File : PDIV0001

Notes: 2/14/01 MET W/PROPERTY OWNER(GUS). WE WALKED THE PROPERTY & OTHER THEN A METAL RACK & SOME OTHER MINOR DEBRIS, THE YARD IS IN COMPLIANCE. AS I ARIVED HE , HAD JUST TAKEN THE BACK SEAT OUT OF HIS VAN, SO HE COULD LOAD THESE ITEMS UP / & TAKE ALL TO DUMP.I DID NOT WRITE A NOTICE AT THIS TJME. P/U 3/21/01 FOR COMPLA INCE. NOTIFIED MR.LOVING & HE IS STILL VERY CONCERNED ABOUT THIS PROPERTY(H.F) **
***** 3/22/01 4 UNTAGGED VEHICLES IN DRIVEWAY. DODGE-VAN 716643M, RED SEDA N DZT184, WHITE SEDAN- UNLICENSED, BROWN/BRONZE-UNLICENSED. NO TRASH, JUK OR DEB RIS, NO JUNK YARD OR OPEN DUMP. COMPL. WILL BE UPDATED MONDAY, 3/26. CORRECTION NOTICE ISSUED. P/U 4/11/01(R.M)

5/4/01 OK . WILL NOTIFY COMPLAINANT.CLOSE(R.M)

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: January 30, 2002

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 265
Legal Owner/Petitioner: Konstantinos & Ellen Papanikos
Property Address: 3702 Old Milford Mill Road
Location Description: E/side Old Milford Road 230 feet North centerline Euler Avenue

VIOLATION INFORMATION: **Case No.: 01-1164**
Defendants: Konstantinos & Ellen Papanikos

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

NAME	ADDRESS
Roy Lovins	3700 Milford Mill Road

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Complaint Intake Form/Code Enforcement Officer's report and notes
State Tax Assessment printout
Correction Notice

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/lrs

c. Code Enforcement Officer Robert Moorefield

Code Enforcement - Closing Report

Inspector - Activity Date Closed 5/04/2001
 Area Case # Location Apt Zip Date Rec Reinsp Dt
 008 01-1164 3702 OLD MILFORD MILL RD 21244 3/13/2001 5/03/2001

Tax Acct #: 0203473750

Complainant Name: (Last) LOVINS (First) ROY
 Addr: 3700 OLD MILFORD MILL RD
 Str # Dir Street Name Type Apt
 BALT MD MD 21244
 City ST Zip
 Phone: (Home) 410/655-6853 (Work)

Problem: OPEN DUMP 8 OPEN DUMP CONDITIONS WERE CLOSED ON *****8 CASE
 REOPENED ON 3/22/01 FOR UNTAGGED VEHICLES;

MAP: 33 A 1

Notes:

2/14/01 MET W/PROPERTY OWNER(GUS). WE WALKED THE PROPERTY &
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 , WHITE SEDAN- UNLICENSED, BROWN/BRONZE-UNLICENSED. NO TRASH
 , JUK OR DEBRIS, NO JUNK YARD OR OPEN DUMP. COMPL. WILL BE U
 PDATED MONDAY, 3/26. CORRECTION NOTICE ISSUED. P/U 4/11/01(R
 .M) 5/4/0
 1 OK . WILL NOTIFY COMPLAINANT.CLOSE(R.M)

LAW OFFICES
MISTER, WINTER & BARTLETT, LLC
SUITE 404-PADONIA CENTRE
30 E. PADONIA ROAD
TIMONIUM, MD 21093

Email: mwblaw@flash.net
(410) 561-3000
FACSIMILE
(410) 560-0588

DAVID F. MISTER
LESLIE A. WINTER
ANTHONY T. BARTLETT

OF COUNSEL
ROBERT L. FRANK
ELIZABETH C. YAREMA

April 4, 2002

Mr. Arnold Jablon
Director, PDM
Baltimore County Office of Planning
111 W. Chesapeake Avenue
Room 111
Towson, MD 21204

Re: Appeal of Petition for Special Hearing & Variance
Case No.: 02-265-SPHA
Property: 3702 Old Milford Mill Road

Dear Mr. Jablon:

Please be advised that I represent Ellen, Konstantinos and Haralambros Papanikos, Petitioners in the above-referenced matter.

Please note that we are appealing the decision of the Zoning Commissioner of March 7, 2002. Petitioners contest the Commissioners' findings regarding the number of children that will be cared for on the property at issue; that the zoning commissioner erred as a matter of law in denial of the requested variances, and that the decision of the zoning commissioner was unsupported by substantial evidence.

Enclosed is a check in the amount of \$385.00 for the cost of the appeal.

If you have any questions concerning this matter, please do not hesitate to contact me.

Very truly yours,



David F. Mister

DFM:alk
Enclosure
cc: Ellen Papanikos
M:\Wpwin60\CLIENTS\PAPANIKOS\appeal ltr

602



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

April 10, 2002

Mr. Roy Levins
3700 Old Milford Mill Road
Baltimore MD 21244

Dear Mr. Levins:

RE: Case No. 02-265-SPHA, 3702 Old Milford Mill Road

Please be advised that an appeal of the above-referenced case was filed in this office on April 4, 2002 by David F Mister Attorney on behalf of Ellen, Konstantinos and Haralambros Papanikos. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ: gdz

c: Ms. Trinidad Porter, 3706 Old Milford Mill Road, Baltimore 21244
Mr. Robert Young, 3706 Old Milford Mill Road, Baltimore 21244
People's Counsel

APPEAL

Petition For Special Hearing & Variance
3702 Old Milford Mill Road
E/S Milford Mill Road, 230' N centerline of Euler Avenue
2nd Election District – 2nd Councilmanic District
Ellen, Konstantinos & Haralambros Papanikos - Legal Owner
Case No.: 02-265-SPHA

Petition for Special Hearing (dated 12/20/01)

Petition for Variance (dated 12/20/01)

Zoning Description of Property

Notice of Zoning Hearing (dated 01/30/02)

Certification of Publication (The Jeffersonian issue dated 02/19/02)

Certificate of Posting (dated 02/17/02 posted SSG Robert Black)

Entry of Appearance by People's Counsel (dated 01/30/02)

Petitioner(s) Sign-In Sheet (none)

Protestant(s) Sign-In Sheet (1 page)

Citizen(s) Sign-In Sheet (none)

Zoning Advisory Committee Comments

Petitioners' Exhibits: (none)

Protestants' Exhibits: (none)

Miscellaneous (Not Marked as Exhibits):

- ❖ Plat To Accompany Petition for Special Hearing and Variance
- ❖ Letter to Timothy M Kotroco from Roy H Levins dated 03/02/02
- ❖ Division of Code Inspections and Enforcement Violation Case Documents
Violation Case: 01-1164

Deputy Zoning Commissioner's (03/07/02 - DENIED)

Notice of Appeal received on 04/04/02 from David F Mister Attorney on behalf of Ellen, Konstantinos and Haralambros Papanikos

c: James H. Thompson, Code Enforcement (Enforcement Case No. 01-1164)
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

3-2-07

Timothy M. Kotroco
Deputy Zoning Commissioner
401 Bosley Ave.
Gowson, MA. 21204

RE CASE NO. 02-265-SP4A 3702 Old Milford Mill Rd.
Baltimore MD 21244

Dear Mr. Kotroco:

We the neighbors contend that Baltimore County should not grant both the petition for special hearing and petition for variance as to the Class "A" Group Child Care for 3702 Old Milford Mill Road. Baltimore, MD 21244

It is our belief that in fact this use would be detrimental to the health, safety and general welfare of the community.

① ① Ms. Trinidad Porter
3706 Old Milford Mill Rd.
Baltimore, Md. 21244

② Robert Young #77
3706 Old Milford Mill Rd
Baltimore Md. 21244

③ Shirley Dyer
3708 Old Milford Mill Rd Baltimore. 21244

⑤

James G. Dixon
3708 Old Millford Mill Rd
Baltimore Md 21244

⑥ James A. Dixon
3208 Old Millford Mill Rd Apt 1A
Baltimore Md 21244

⑦ Thomas G. Pless
8108 Euler Ave
Baltimore Md 21244

⑧ Clarence A. Seger
8108 Euler Ave.
Baltimore Md. 21244

⑨ Doreen Wright
3624 A Old Milford Mill
Baltimore Md, 21244

⑩ Romano L. Smith
3630 Old Milford Mill Rd.
Baltimore, Md. 21244

10.

Carolyn Williams
8111 Euler Ave
Baltimore, Md 21244

① Fredia Perry

② Marshall Lulka

13. Roy H Louis

3700 OLD MUFORD MURD

Reason 1

While the property is close to the length of a football field (300 feet) it is only 53.7 feet wide

②

The residence @ 3700 Old Milford Mill is only 15 ft from the side property line of this proposed use.

③ The Residence @ 3704 Old Milford Mill Rd is now a group residential home containing teenage boys and is only 10 ft. of the side property line of this proposed facility. This house is exactly next door to 3702

Reason #4

The entire block of this street (even side) fails to have a sufficient lot width to truly support this type of activity.

A. 3700 Old Milford Mill Rd.

53.5 feet wide

B. 3702 Old Milford Mill Rd

52.7 ft wide

C. 3704 Old Milford Mill Rd,

63.3 ft wide

D. 3706 Old Milford Mill Rd

65 ft wide

E. 3708 Old Milford Mill Rd.
55 ft wide

Reason 5

How can Baltimore County look at this proposed use as accessory to a residential dwelling when over 50% of the total lot area is devoted to a child's play area.

Reason 6

The property owners wish to operate this facility 6 days a week. We the neighbors are fearful of the safety of the children that are now already in the care at 3702 Old Milford Mill Rd.

Reason # 7

Within a $\frac{1}{2}$ - $\frac{3}{4}$ mile radius we have 4 day care facilities, 1 residential group home. These facilities bring into our residential neighborhood more buses (for school children) more traffic. 3702 Old Milford Mill Rd. does not have parking facilities for pickup & drop off of the children; this creating a traffic flow problem for the community.

Reason #8

Section 424.1B of the Baltimore County zoning regulations requires that the outdoor play space at butting residential property be fenced. And that the fence be at least 20 feet from the property lines. Without a variance granted, the children's play area would only be 12 feet wide.

Balance Line: This lot is too narrow to support a "Class A Group Child Care Center."

Reason #9

Should a house built at least 50 years ago really be used for this type of activity. Does it meet building and fire standards.

What you -

Please explain special regulation Section 424 Family Child Care Homes, Group Child Care Centers, both 47-1985; 1985; 200-1990 C (on or after 4-15-85 no family child care home, group child care home or nursery shall be permitted adjoining a residentially used property or dwelling unit in a D.R. or R.C. zone that has an existing family care home or group child care center or nursery adjoining such residentially used property or dwelling unit)

Case Number 02-265-S PHA

PLEASE PRINT LEGIBLY

PROTESTANT'S SIGN-IN SHEET

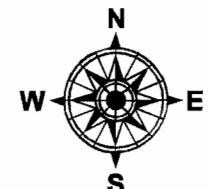
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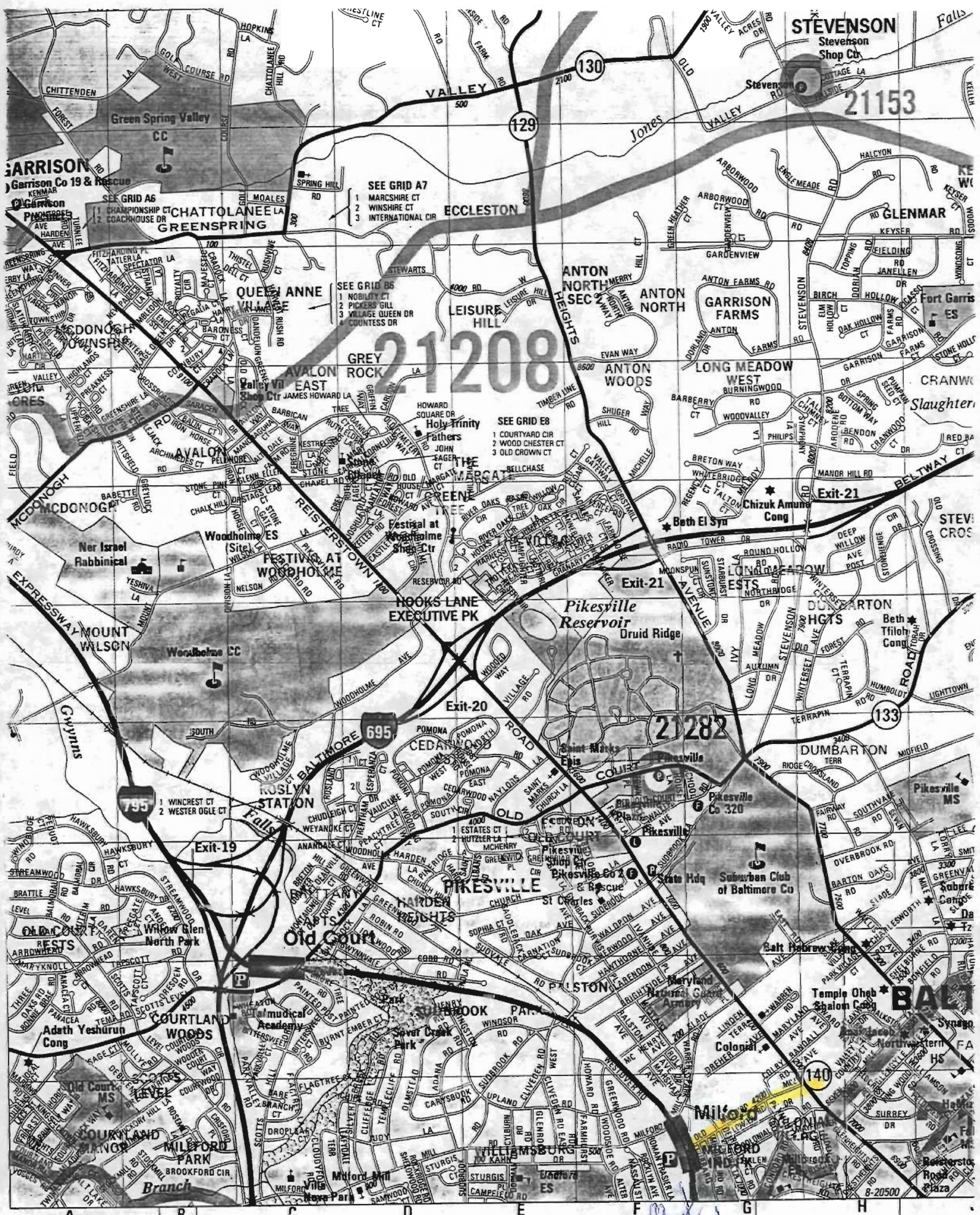
Old Milford Mill Road

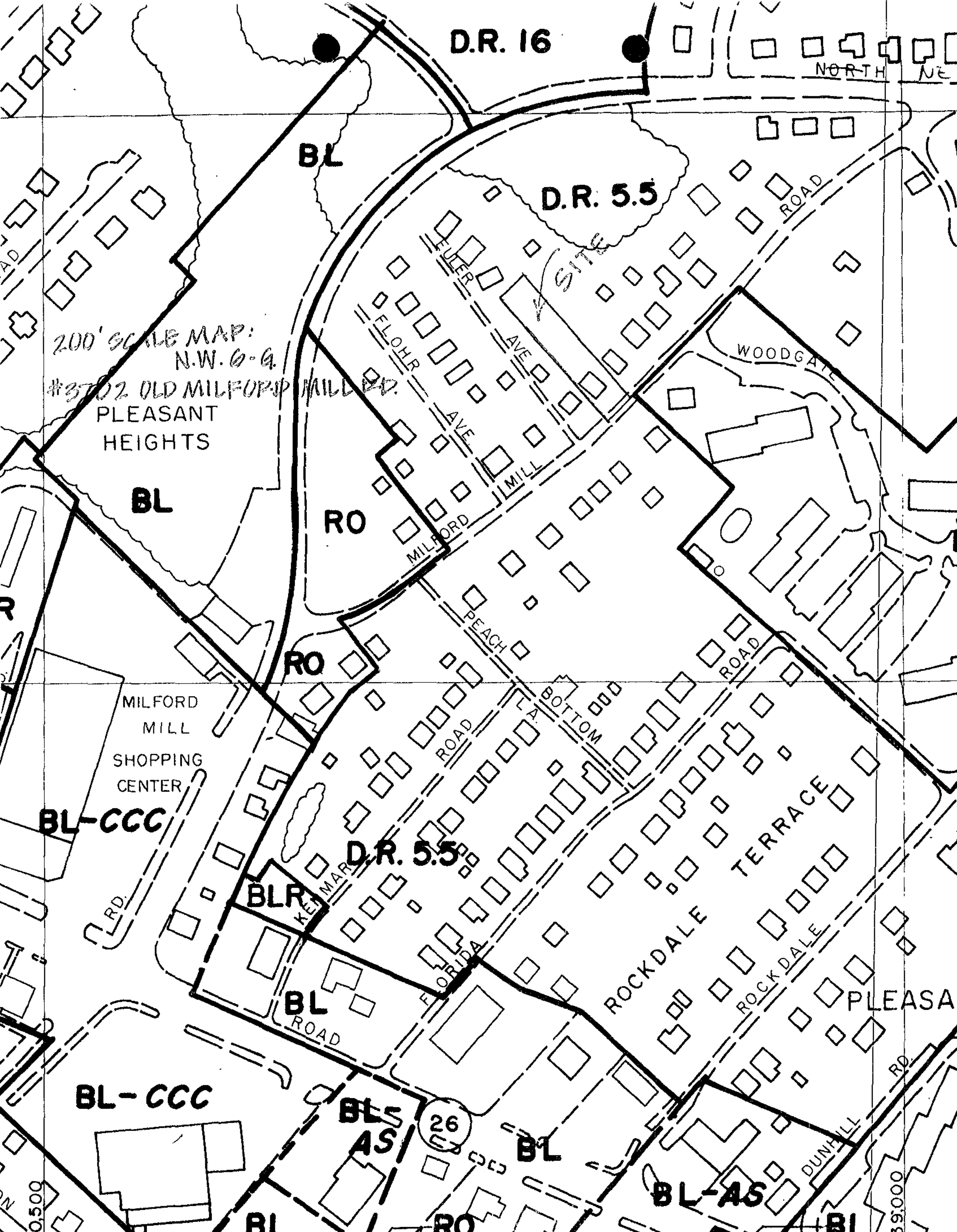


R#6

02-265-SPHA







GENERAL NOTES:

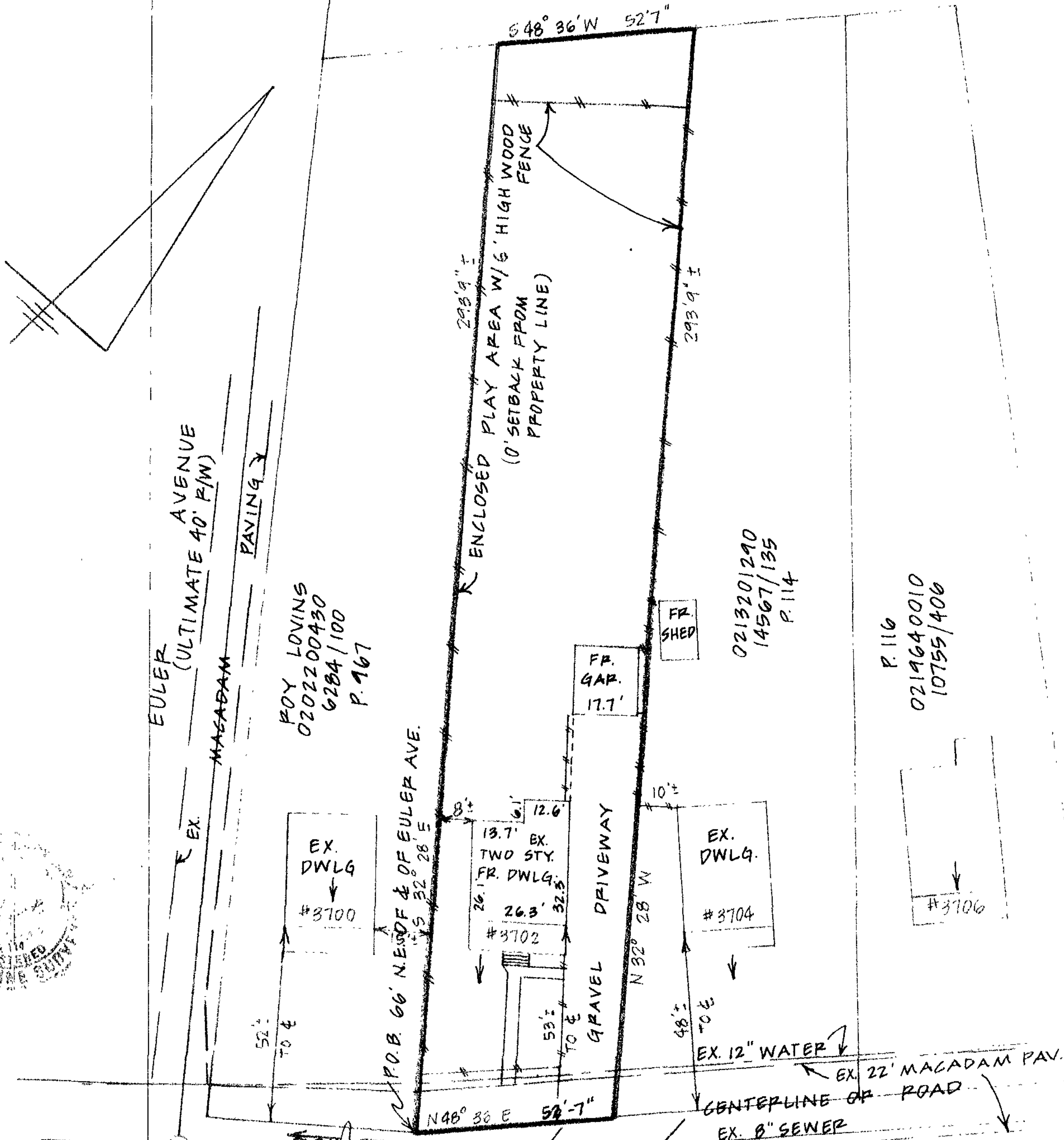
1. 200' SCALE MAP: N.W. 6-G
2. ZONING: D.R. 5.5
3. LOT SIZE: 0.36 ACRES +/- OR 15,681 SQ. FT.
4. NO PRIOR ZONING HISTORY
5. NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA
6. NOT LOCATED IN 100 YEAR FLOODPLAIN AREA
7. COMMUNITY PANEL NO.: 24-110 (1360)3
- ZONE: "C"
8. PUBLIC WATER AND SEWER
9. NUMBER OF EMPLOYEES: 2
10. HOURS OF OPERATION: SUNDAY THROUGH SATURDAY
6 AM TO 12 AM
11. NUMBER OF CHILDREN ENROLLED: 9 - 12

OWNER: KONSTANTINOS, ELLEN & HARALAMBROS
PAPANIKOS
3702 OLD MILFORD MILI. ROAD
BALTIMORE, MD 21244
(410)655-8967
TAX ACCT. NO. 0203473750
DEED REF.: 11341/742
TAX MAP: 77 GRID: 24 PARCEL: 1052

PLAT TO ACCOMPANY PETITION FOR
SPECIAL HEARING AND VARIANCE
FOR CLASS "A" CHILD CARE FACILITY
#3702 OLD MILFORD MILI. ROAD
ELECTION DISTRICT NO. 2 C2
BALTIMORE COUNTY, MD
SCALE: 1" = 30'
NOVEMBER 16, 2001

3108
EX. DWLG.
←

BEVERLY & THOMAS PLESS
1600003443
9655/482



Site Rite Surveying, Inc.
200 E. Joppa Road
Shell Building, Room 101
Towson, MD 21286
(410)828-9060

Item # 265

8598

GENERAL NOTES:

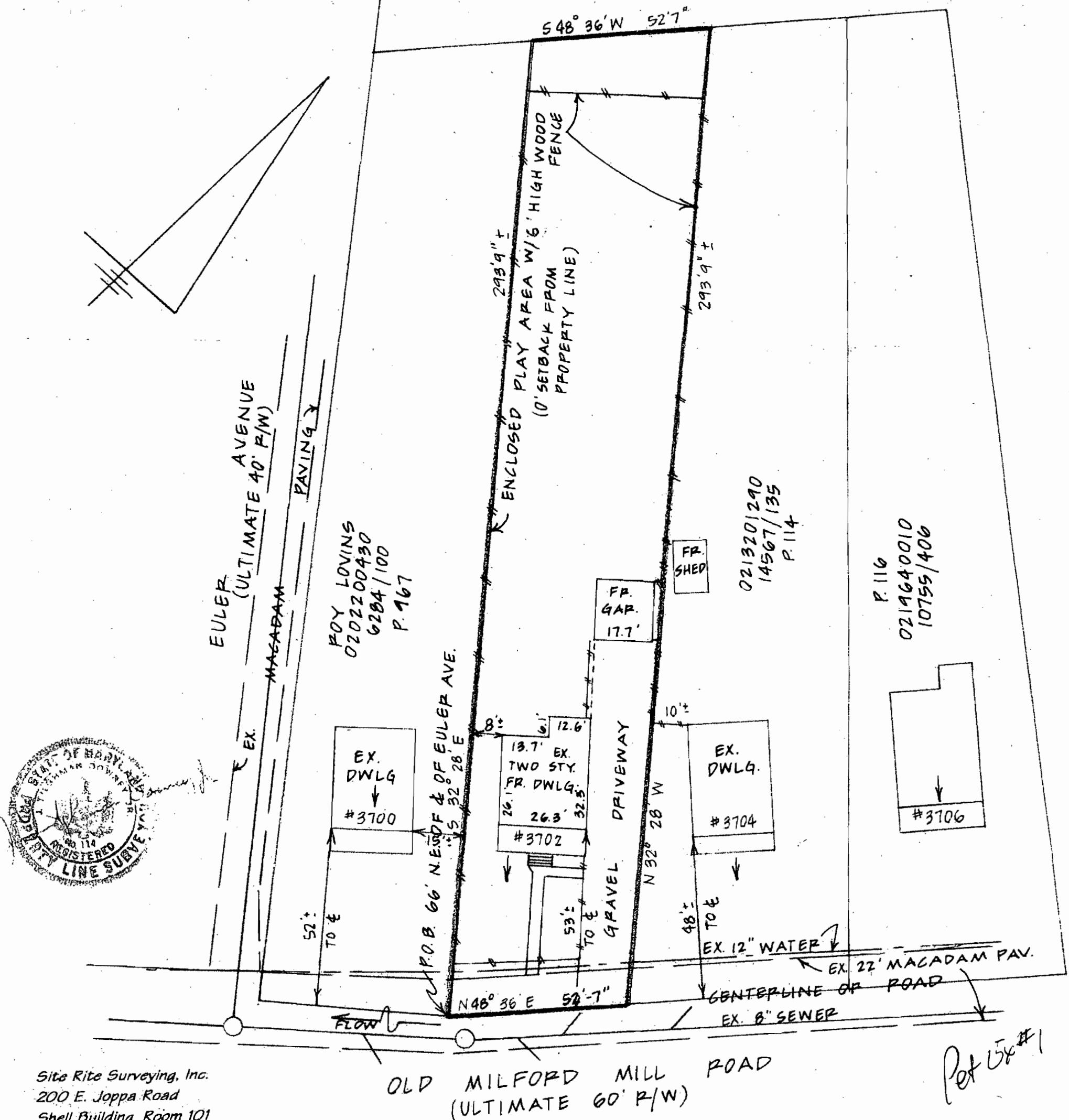
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2. ZONING: D.R. 5.5
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4. NO PRIOR ZONING HISTORY
5. NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA
6. NOT LOCATED IN 100 YEAR FLOODPLAIN AREA
7. COMMUNITY PANEL NO.: 240010 036015
ZONE: "C"
8. PUBLIC WATER AND SEWER
9. NUMBER OF EMPLOYEES: 2
10. HOURS OF OPERATION: SUNDAY THROUGH SATURDAY
6 AM TO 12 AM
11. NUMBER OF CHILDREN ENROLLED: 9 - 12

OWNER: KONSTANTINOS, ELLEN & HARALAMBROS
PAPANIKOS
3702 OLD MILFORD MILL ROAD
BALTIMORE, MD 21244
(410)655-8957
TAX ACCT. NO. 0203473750
DEED REF.: 11341/742
TAX MAP: 77 GRID: 24 PARCEL: 1052

PLAT TO ACCOMPANY PETITION FOR
SPECIAL HEARING AND VARIANCE
FOR CLASS "A" CHILD CARE FACILITY
#3702 OLD MILFORD MILL ROAD
ELECTION DISTRICT NO. 2 C2
BALTIMORE COUNTY, MD
SCALE: 1" = 30'
NOVEMBER 16, 2001

#8108
EX. DWLG.

BEVERLY & THOMAS PLESS
1600003443
9655/482



Site Rite Surveying, Inc.
200 E. Joppa Road
Shell Building, Room 101
Towson, MD 21286
(410)828-9060

OLD MILFORD MILL ROAD
(ULTIMATE 60' P/W)

Pet 58 #1

8598

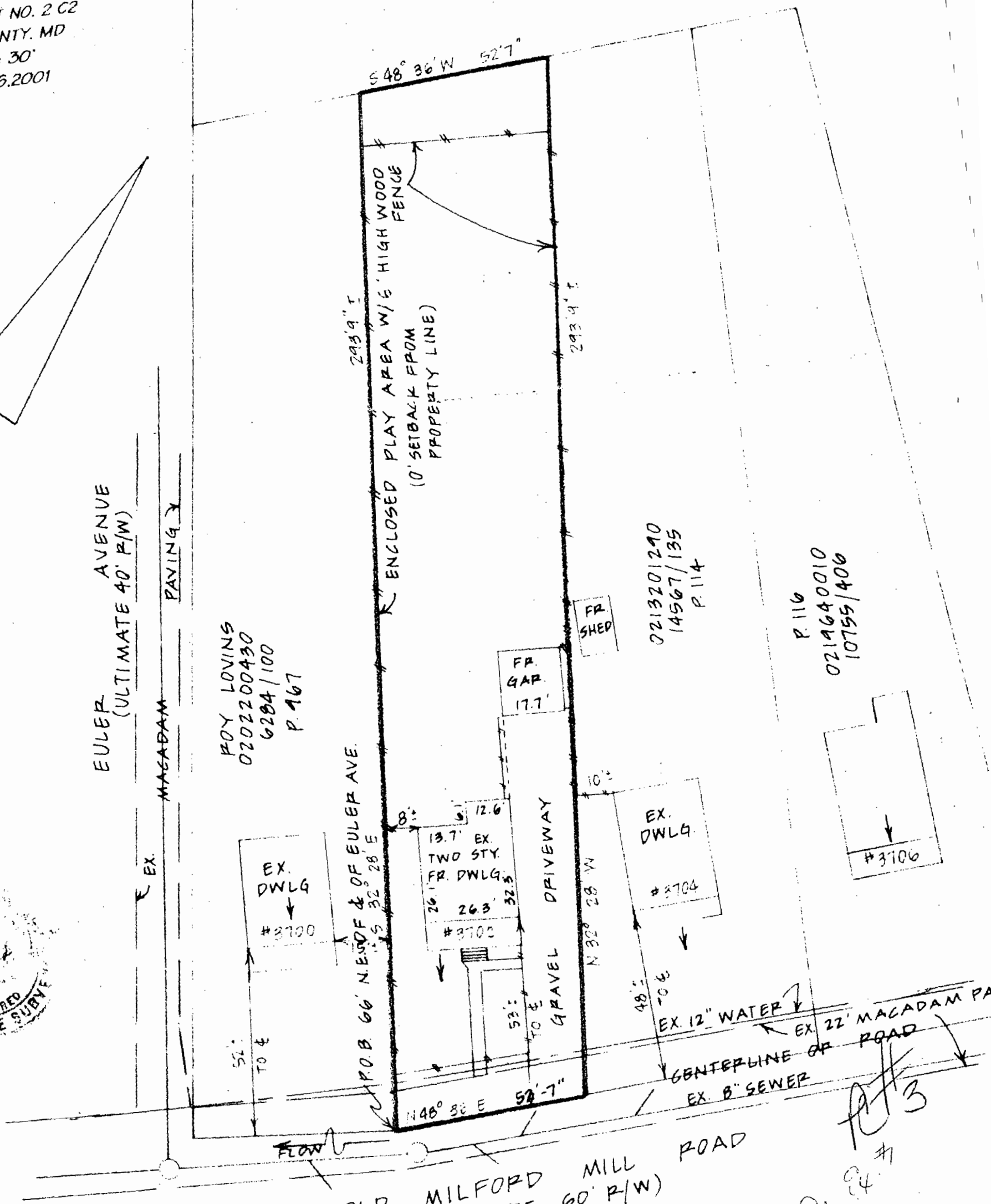
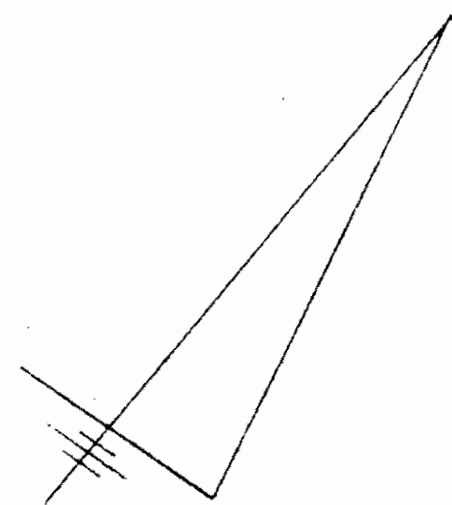
AL NOTES:
 SCALE MAP: N.W. 6-G
 NG: D.R. 5.5
 SIZE: 0.36 ACRES +/- OR 15,681 SQ. FT.
 PRIOR ZONING HISTORY
 LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA
 LOCATED IN 100 YEAR FLOODPLAIN AREA
 COMMUNITY PANEL NO.: 240,210 C3503
 NE: "C"
 PUBLIC WATER AND SEWER
 NUMBER OF EMPLOYEES: 2
 HOURS OF OPERATION: SUNDAY THROUGH SATURDAY
 5 AM TO 12 AM
 NUMBER OF CHILDREN ENROLLED: 9 - 12

OWNER: KONSTANTINOS, ELLEN & HARALAMBROS
 FAPANIKOS
 3702 OLD MILFORD MILL ROAD
 BALTIMORE, MD 21244
 (410) 655-8957
 TAX ACCT. NO. 0203473750
 DEED REF.: 11341/742
 TAX MAP: 77 GRID: 24 PARCEL: 1052

PLAT TO ACCOMPANY PETITION FOR
 SPECIAL HEARING AND VARIANCE
 FOR CLASS "A" CHILD CARE FACILITY
 #3702 OLD MILFORD MILL ROAD
 ELECTION DISTRICT NO. 2 C2
 BALTIMORE COUNTY, MD
 SCALE: 1" = 30'
 NOVEMBER 16, 2001

3108
 EX. DWLG.
 ←

BEVERLY & THOMAS PLESS
 1600003443
 9655/482



Site Rite Surveying, Inc.
 200 E. Joppa Road
 Shell Building, Room 101
 MD 21286

Item # 265

Plat # 3
 8598