IN RE: PETITION FOR SPECIAL HEARING NE/Corner Dogwood Road and Oak Road ***(Penwood Mobile Home Park)*** 15th Election District 7th Council District	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Penwood Mobile Home Park, Inc. Petitioner	*	Case No. 03-207-SPH
	*	

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owner of the subject property, Penwood Mobile Home Park, Inc., by Carol A. Lyons, Secretary, through their attorney, Howard L. Alderman, Jr., Esquire. As precisely stated in the Petition, relief is requested for a finding as to "Why the Zoning Commissioner should 1) approve the size, type, kind and quality of residential living units on the subject property as meeting the requirements of the applicable Baltimore County Zoning Regulations (B.C.Z.R.) and the facts considered and decisions rendered in Zoning Case Nos. 2621-S and 77-161-SPH; and 2) for such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require within the spirit and intent of the B.C.Z.R." Stated otherwise, the Petitioners seek approval that the size, type, kind and quality of residential living units on the subject property meet the requirements of the applicable B.C.Z.R., and comply with the terms and conditions of the Orders issued in prior Zoning Cases Nos. 2621-S and 77-161-SPH. The subject property and uses thereon are more particularly shown on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Carol A. Lyons and F. L. Newberger, Sr., on behalf of Penwood Mobile Home Park, Inc., property owners, and Howard L. Alderman, Jr., Esquire, attorney for the Petitioners. Also present was John Mildenberg, the Surveyor who prepared the site plan. Numerous citizens appeared at the hearing, many of who

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reside within the subject mobile home park, known as the community of Sleepy Hollow, which is owned and operated by Penwood Mobile Home Park, Inc.

Testimony and evidence presented revealed that the subject property is a rectangular shaped parcel located on the northeast corner of Dogwood Road and Oak Road, just south of the intersection of North Point Boulevard and Millers Island Road in Edgemere. The property contains a gross area of 1.6565 acres, more or less, zoned D.R.5.5 and as noted above, is the site of the Sleepy Hollow Mobile Home Park. The operation has apparently existed on the property since 1953 and was originally approved for occupancy by 27 mobile home units. However, at the present time, only 25 of these spaces are occupied. Most of the lots are occupied by attractive structures of a permanent nature; however, there are some recreational vehicle type units that are more mobile.

The zoning history of this property is of note. The site was originally approved for use as a mobile home park in 1953 under Case No. 2621-S. By his Order of July 8, 1953, Charles H. Doring, then Zoning Commissioner of Baltimore County, granted a Petition for Special Permit for the operation of a trailer park. At that time, Baltimore County operated under the zoning regulations that were established on January 2, 1945. These are among the earliest regulations in Baltimore County and were rudimentary when compared to the current regulations. The 1945 regulations defined a number of the words used therein. For example, a trailer was defined as "A vehicle used, or intended for use, as a conveyance upon a public street, or highway, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a movable dwelling or sleeping place." A trailer camp was defined as "Any land upon which, habitually or infrequently, one or more trailer or house cars, when detached from its automobile, or means of locomotion, or a combined car and house trailer, are placed or located, and whether or not used for occupancy as dwelling or otherwise, and shall include any structure or building used as a service building for such camp or intended for use as a part of the equipment of such camp." It is clear that the element of mobility was integral to a trailer or trailer camp use.

Further, Section 13 of that early version of the B.C.Z.R. set out the Zoning Commissioner's authority to approve special exceptions and special permits. In sub-section "H" thereof, it was provided that a special permit was required for a trailer camp in any zone. The prerequisites for the grant of a special permit are more fully set forth and defined within that sub-section. In any event, Commissioner Doring approved the trailer camp, pursuant to the special permit process, and the use at this location began.

The second case relating to the subject operation was filed in 1977 as a Petition for Special Hearing in Case No. 77-161-SPH. That Petition was filed to correct an error that occurred in the first case. Specifically, the Petition for Special Hearing filed in 1977 alleged that the relief granted in Case No. 2621-S on June 8, 1953 had mistakenly been designated for an adjacent parcel. An amended site plan was submitted in Case No. 77-161-SPH correctly identifying the parcel that was occupied by the existing trailer park established in 1953. By Order of then Zoning Commissioner S. Eric DiNenna, dated March 7, 1977, the special hearing was granted to allow the previously approved trailer park to operate on the correctly identified property.

The trailer park has continued to operate over the years without interruption. Many of the residents of Sleepy Hollow appeared and testified at the hearing to describe the community. Additionally, photographs of the property and a community calendar with additional photographs were submitted at the hearing. Those photographs show that Sleepy Hollow is an attractively maintained residential community. As noted above, many of the homes appear to have been installed for occupancy on a permanent basis. The community features mature landscaping and the trailers are similar to stick built and modular dwelling units.

Testimony was also offered by Carol Lyons, Secretary for Penwood Mobile Home Park, Inc. As noted above, 27 pad sites are available and 25 are currently occupied. She described the trend in the mobile home industry. Such homes have become "manufactured units". Additional testimony was received from Thomas Karcher, President of the Baltimore County Mobile Homeowners' Association which represents 32 mobile home parks in Baltimore County.

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He described the regulation of these facilities under the Annotated Code of Maryland, specifically, Real Property Article, Title 8A.

The current B.C.Z.R. were adopted in 1955. These regulations have been comprehensively amended over the years. The regulations that were established in 1955 replaced the rudimentary regulations that were enacted in 1945 and existed at the time the initial special permit was issued in 1953. Section 101 of the current regulations defines words and phrases used throughout the regulations. A "trailer park" is defined as "A tract of land specifically planned and equipped to accommodate residential trailers for temporary or continuing occupancy, including all buildings, structures, tents, vehicles, utilities, and accessories used or intended as equipment for such trailer park." A "trailer" (or mobile home) is defined as "Any of the various types of vehicles or mobile homes, with or without mode of power, including small structures transportable by a pick-up truck or similar vehicles, which are used for human habitation or for business purposes, but excluding vehicles used only for transportation of materials, products, or animals. A trailer or mobile home shall still be regarded as such, even though its mobility may have been eliminated by removing its wheels or otherwise, and placing it on a stable foundation or rigid supports." It is also significant to note that unlike the 1945 regulations, recreational vehicles are separately identified and uses listed under the current regulations. The trailer definition specifically excludes recreational vehicles from being considered trailers. Recreational vehicles are defined in Section 101 as boats, camping trailers, fifth wheel trailers, motor homes, travel trailers, and truck campers. The definition goes on to provide that a recreational vehicle is "A vehicular type unit which is primarily designed for recreation, camping or travel use, which either has its own mode of power as mounted on or drawn by another vehicle..."

Through the testimony, evidence and argument offered in this case, a number of sub-issues were identified relative to consideration of the issue as stated in the Petition. First, a question was presented as to whether the regulations that existed in 1953 are binding on this property or whether the current regulations are applicable. Based upon the testimony and evidence presented, I am persuaded that the subject property is bound by the current regulations. This

conclusion is based upon a number of factors. First, it is to be noted that the operation of a trailer park requires obtaining an annual permit. Annual approval and registration is dispositive to a finding that the use must continue to be in compliance with all zoning regulations and other laws as they exist each and every year, when the license is renewed and extended. Second, there is no language within the B.C.Z.R. that provides any sunset provision regarding the 1945 regulations as they relate to trailer parks. Third, it is recognized that an argument might be made that once lawfully established under the prior regulations, those regulations continue to control. However, that argument ignores the circumstances unique to a trailer park that although the use of the entire tract as a trailer park was established years ago, the individual units that occupy the spaces in the park come and go. The character of these residences is at the core of the issue presented in the instant case. That is, the trailers/residences that exist on the property today are not the same as those that existed in 1953. Most of the current units were placed on the property in recent years and certainly since the effective date of the current B.C.Z.R. enacted in 1955. Thus, for these reasons, although the park is permitted and operates as an entity based upon the approval granted in 1953 (and as amended in 1977), a determination of the propriety of individual units within the park is governed by the current regulations.

A final issue presented was of great concern to the residents and relates to the use of the property by recreational vehicles (RVs). As noted above, there was no definition of recreational vehicles in 1953. Under the current regulations, recreational vehicles are distinguished from mobile homes and trailers.

The testimony and evidence offered in this case established that the primary focus of the Sleepy Hollow mobile home park is to provide a place for long-term residents by way of the placement of trailers and mobile homes on the subject property. Moreover, it appears that long-term residents and mobile homes occupy a majority of the 27 spaces available. I find that he permanent-type trailers/mobile homes that many long-term residents occupy are permitted. Thus, the "size, type, kind and quality of residential living units" on the subject site are appropriate.

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Additionally, it likewise appears that it is the business of most mobile home park operators to reserve a certain number of spaces for short-term occupancy. Short-term residents may reside in mobile homes or recreational vehicles. Providing this service to the public appears to be an appropriate *accessory use* to the operation of a mobile home park.

This conclusion begs the question as to what is permitted on this property. Section 101 of the B.C.Z.R. defines accessory uses as those customarily incidental and subordinate to the primary use. Obviously, the short-term leasing of spaces for recreational vehicles on the subject property need be incidental and subordinate to the long-term lease of space for mobile homes. Upon due consideration of the site plan and property at issue, it appears that no more than five of the spaces should be available for recreational vehicle occupancy and on a short-term basis. Such a use would be consistent with the practice in the industry and consistent with the sprit and intent of the legislation as set forth in the B.C.Z.R. Thus, the long-term type units presently in the park are permitted (irrespective of their lack of mobility and permanent nature) and a limited amount of spaces (no more than five) may be permitted for more temporary occupancy by recreational vehicles.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of April, 2003 that the size, type, kind and quality of residential living units on the subject property meet the requirements of the applicable Baltimore County Zoning Regulations (B.C.Z.R.) and the facts considered and decisions rendered in prior Zoning Cases Nos. 2621-S and 77-161-SPH and as such, the Petition for Special Hearing be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their use permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) No more than five of the spaces can be leased for occupancy by recreational vehicles and on a short-term basis.

3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

Date _____
By _____

IN THE MATTER OF THE APPLICATION OF PENWOOD MOBILE HOME PARK, INC. - LEGAL OWNER FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE NE/COR DOGWOOD AND OAK ROADS 8000 DOGWOOD ROAD 15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT (Case No. 03-207-SPH)	* ON REMAND * FROM THE * CIRCUIT COURT FOR * BALTIMORE COUNTY * Civil Action No.: 03-C-04-000090

* * * * * * * * * * *

OPINION OF THE BOARD OF APPEALS ON REMAND
FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY

This matter was remanded to the Board by the Circuit Court for Baltimore County by Order dated July 15, 2004.

Background

Penwood Mobile Home Park, Inc., hereinafter referred to as "Penwood" or "Petitioner," filed a Petition for Special Hearing. The Petition requested relief and a finding that the Zoning Commissioner should (1) approve the size, type, kind and quality of residential living units on the subject property as meeting the requirements of the applicable Baltimore County Zoning Regulations (BCZR) and the facts considered and decisions rendered in zoning Cases No. 26121-S and No. 77-161-SPH; and (2) for such additional relief as the nature of this key as presented at the time of the hearing on this Petition may require within the spirit and intent of the BCZR.

The Petitioner was represented by Howard L. Alderman, Jr., Esquire. Counsel had entered his written appearance before the Zoning Commissioner. The Commissioner issued his opinion and Order and found that the current law applied. With respect to the controversial issue of allowing recreational vehicles on the mobile home site, he recognized that these are "distinguished from mobile homes and trailers" and defined differently. Nevertheless, he decided that a small number – 5 – were allowed as accessory short-term uses to the primary

mobile home use.

People's Counsel appealed the decision of the Zoning Commissioner to the Board of Appeals and a de novo hearing was held before the Board on October 28, 2003. The Board held a public deliberation on December 10, 2003. By a unanimous decision, the three-member panel denied the special exception finding that the current regulations concerning trailer parks are exclusively for trailers only and do not include recreational vehicles. Subsequent to the deliberation but prior to a decision being rendered in writing by the Board, the Petitioner filed a Motion to withdraw the Petition without prejudice. In accordance with the current Board rules which provide no limitation with respect to the withdrawal of petitions, the Board granted the Motion to withdraw the Petition without prejudice.

People's Counsel appealed the granting of the withdrawal of petition without prejudice to the Circuit Court for Baltimore County. As indicated above, the Court reversed the Board and remanded the matter for a full decision by the Board. [1]

Facts

The property in question occupies 1.67 acres located at the southwest corner of Oak and Dogwood Roads in the Edgemere /North Point Boulevard section and is zoned D.R. 5.5. The site plan shows that the property is in the Chesapeake Bay Critical Area. The park is known as "Sleepy Hollow Mobile Home Park" and is operated by Penwood Mobile Home Park, Inc. The operation has apparently existed on the property since 1953 and was originally approved for occupancy by 27 mobile home units. At the present time, only 25of the spaces are occupied and most of the lots are

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[1] *The original panel in this matter consisted of Lawrence S. Wescott, panel chair; Charles L. Marks; and Melissa Moyer Adams, members, who publicly deliberated and unanimously reached the decision as set forth in this Opinion and Order.. Since the original decision in this matter, members Marks and Moyer Adams have left the Board. Therefore, this written decision is being rendered by the remaining Board member, Wescott.*

occupied by structures of a permanent nature.

The site was originally approved for use as a mobile home park in 1953 under Case No. 2621-S. (During the hearing before the Board, there was a discussion as to whether this case was docketed as 2621-S or 2626-S. Counsel for the owner and the Office of People's Counsel agreed that all references would be to Case No. 2626-S.) By Order dated July 8, 1953, Charles H. Doring, then Zoning Commissioner of

Baltimore County granted a Petition for Special Permit for the operation of a trailer park. At that time, Baltimore County operated under the zoning regulations that were established on January 2, 1945. The 1945 regulations defined a number of words used therein. For example, trailer was defined as "a vehicle used, or intended for use, as a conveyance upon a public street, or highway, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a movable dwelling or sleeping place." A trailer camp was defined as "any land upon which habitually or infrequently one or more trailer or house cars, when detached from its automobile, or means of locomotion, or a combined car and house trailer, are placed or located, and whether or not used for occupancy as dwelling or otherwise, and shall include any structure or building used as a service building for such camp or intended for use as a part of the equipment of such camp."

Section 13 of the early version of the BCZR set out the Zoning Commissioner's authority to approve special exceptions and special permits. In subsection "H" thereof, it was provided that a special permit was required for a trailer camp in any zone. Commissioner Doring approved the trailer camp pursuant to the special permit process and the use at this location began.

The second case relating to the subject property was filed in 1977 as a Petition for Special

Hearing in Case No. 77-161-SPH. That petition was filed to correct an error that occurred in the first case, specifically, it was alleged that the relief granted in Case No. 2626-S on June 8, 1953 had mistakenly been designated for an adjacent parcel. An amended site plan was submitted in Case No. 77-161-SPH correctly identifying the parcel that was occupied by the existing trailer park established in 1953. The Zoning Commissioner at the time, S. Eric DiNenna, issued an Order dated March 7, 1977 granting the special hearing to allow the previously approved trailer park to operate on the correctly identified property.

There is no evidence that any trailer camp actually operated on the site in question under the 1945 BCZR. The layout in evidence is the current site plan. According to Carol Lyons, secretary for Penwood Mobile Homes Park, Inc., there are 27 pad sites available and 25 are currently occupied. The layout reflects the more modern trailer park operation with fixed mobile home units.

The current BCZR were adopted in 1955. These regulations have been comprehensively amended over the years. The definition of trailer has been revised over the years and the current definition integrated the new fixed mobile home concept into BCZR § 101, stating:

> Trailer (or mobile home): Any of the various types of vehicles or mobile homes, with or without mode of power, including small structures transportable by a pick-up truck or similar vehicles, which are used for human habitation or for business purposes but excluding vehicles used only for transportation, material, products, or animals. A trailer (or mobile home) shall still be regarded as such even though its mobility may have been eliminated by taking off its wheels or otherwise and placing it on a stable foundation, or rigid supports.

In 1974 the Council passed Bill 29, which defined "recreational vehicle" for the first time and established residential zone location and area restrictions. In addition to the new and detailed definition of "recreational vehicle," it added this sentence to the BCZR 101 definition of "trailer":

> Recreational vehicles as defined herein are excepted from this definition.

Petitioner presented surveyor John Mildenberg in an attempt to justify a special exception amendment to allow recreational vehicles in the trailer park. Mr. Mildenberg was asked to respond to the elements of § 502.1. His answers were merely yes or no answers, without any substantiating testimony to support his position with respect to the answers.

Petitioner also presented manager Carol A. Lyons who was based off-site and managed several mobile homes for the family run enterprise. She stated that various County agencies inspected the site but did not provide any details or documentation and did not present any evidence with respect to the special exception requirements.

People's Counsel presented Robert Larr, a homeowner at the site and Thomas Karcher of the Baltimore County Mobile Homeowners Association, to testify with respect to the adverse impacts of recreational vehicles in a mobile home park. They cited safety, quality of life, aesthetic and property value effects as several factors. They stated that RVs are not being anchored during a storm and wind. The RVs have outside electrical wires and exterior battery compartments. They said that wheels, axles, and chassis are without the protection of skirting or skirt around areas and that outside steps could freeze in the winter. They also enumerated other aesthetic matters and stated that the impact of transient occupants in a relatively stable mobile home community was detrimental to the appearance and quality of life of that community.

Decision

The Board is of the opinion that the current *Baltimore County Zoning Regulations* applied to this matter. In addition, it is clear that the Petitioner has failed to show that the trailer park in question is a nonconforming use since there was no proof of compliance with the 1945 BCZR which were in effect until March 30, 1955. People's Counsel correctly points out that BCZR 103.1

states, "these regulations shall apply as of the date of their adoption." There is no grandfather clause or other section of the BCZR to perpetuate the utilization of the 1945 BCZR.

The definition of "trailer" in BCZR § 101 specifically excepts recreational vehicles as defined in that section. Recreational vehicles, in the definition, include boats, camping trailers, 5th wheel trailers, motor homes, travel trailers, and truck campers. Section 414 of the BCZR allows for the establishment of trailer parks and sets forth the criteria therein. There is no question that the trailer park in question would not meet the current criteria of § 414; however, the Board is not calling for the dissolution of the trailer park. It is specifically concerned with the request for recreational vehicles as provided for in the special hearing request. It is the position of the Board that § 414 does not provide for a special exception to allow recreational vehicles to be parked in the mobile home park or to allow them to lease sites in the mobile home park.

In addition, the Board does not find that allowing recreational vehicles in the park is an accessory use incidental and subordinate to the primary use. There is no evidence of a nonconforming use which might allow recreational vehicles into the mobile home park. The Board is of the opinion that the new law applies and the trailer parks are exclusively for trailers and mobile homes, not recreational vehicles.

In addition, the Petition for Special Hearing should be denied because it fails to address the specific zoning requirements applicable to all Chesapeake Bay Critical Area petitions provided for in BCZR 500.14.

ORDER

IT IS THEREFORE this 5th day of January, 2005, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing requesting approval of the use of recreational vehicles as meeting the requirements of the applicable Baltimore County Zoning Regulations and the facts considered and decisions rendered in zoning case #2621-S (2626-S) and Case No. 77-161-SPH and for such additional relief as the nature of this case presented at the time of the hearing on this Petition may require within the spirit and intent of the BCZR, is hereby **DENIED**.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

9/11/07

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	FOR
	*	
IN THE MATTER OF THE APPLICATION OF **Penwood Mobile Home Park** FOR A SPECIAL HEARING for property located on the N/E corner of Dogwood and Oak Roads (8000 Dogwood Road) 15th Election District, 7th Councilmanic District	*	BALTIMORE COUNTY
	*	
	*	Civil No. 03-C-04-90
Case No. 03-207-SPH before the County Board of Appeals of Baltimore County	*	

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PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S ANSWER TO MOTION TO ALTER/AMEND ORDER

People's Counsel answers Penwood's Motion to Alter/Amend Order:

I. Penwood's Objection to the "Background Findings"

1. Penwood alleges in Paragraph 2 of its Motion that:

"Contrary to the 'Background' findings of the Court, the Board has never issued a final zoning decision that could be appealed wherein it 'reversed their findings of the zoning commissioner and denied Penwood's request for a special hearing.

This objection is technical, immaterial, insubstantial, and misleading. While the Circuit Court referred there inadvertently to the zoning appeal as being "from" the CBA decision "that reversed findings of the Zoning Commissioner", it is clear from the Circuit Court's entire opinion and its Order on Page 7 that the Circuit Court addressed and reversed the CBA's final decision "granting the Order of Withdrawal without prejudice."

2. In the body of its opinion, the Circuit Court recognized that the County Board of Appeals, in its required public deliberation on the merits of the special hearing, both reversed the findings of the zoning commissioner and denied Penwood's request for special hearing to legitimize its mobile home park use, including the use of recreational vehicles. The Court clearly and correctly recognized that the final decision under judicial review was the CBA's ensuing Order dismissing the petition without prejudice as moot. The Court explained thoughtfully and correctly why this case is not moot and why it is of public importance.

3. As explained in People's Counsel's main Memorandum, the Circuit Court has inherent jurisdiction and authority to review every final administrative decision to determine whether it is arbitrary, capricious, and illegal. Bucktail v. County Council for Talbot County 352 Md. 530, 541-42 (1999). The Express Powers Act Article 25A, Sec. 5(U) and County Charter Sec. 604 provide an explicit statutory and charter avenue for appeals and judicial review of Baltimore County CBA decisions, subject also to Rules 7-201, *et seq.*

4. Penwood has never challenged the authority of the Circuit Court to review the final decision of the CBA and cannot properly challenge it in this case.

5. To the extent the Motion implies there is no CBA decision subject to judicial review, it is a foolish and petty exercise in evasion and obfuscation.

II. Penwood's Observation that the Decision Under Review is Not a State Agency Decision Subject to the Maryland Administrative Procedure Act.

6. Penwood's other objection, beginning in Motion Paragraph 3, is that:

"The Court relied upon the Administrative Procedure Act ('APA') codified as Section 10-101 *et seq.* State Government Article, Annotated Code of Maryland in analyzing the issue it determined was properly before it. (Court Order at 4-5)."

7. While the County Board of Appeals is not a state agency governed by the Administrative Procedure Act, the Court's reference to the APA and its provisions does not affect the substance of the case because judicial review under the APA is functionally equivalent to review of CBA decisions under the Express Powers Act, the County Charter and prevailing principles of administrative law. One of the primary objectives of judicial review is to determine whether the agency has acted arbitrarily, capriciously, or illegally. This applies alike to judicial review of state and county agency decisions. The same can be said with respect to the law of mootness, especially where public interests are involved. It does not matter whether the case involves state or local law, or, for that matter, federal law.

8. The appellate courts have cited interchangeably cases involving judicial review of state and county agency decisions. For example, in People's Counsel v. Mangione 85 Md. App. 738, 750-51 (1991), a Baltimore County zoning special exception case involving a CBA decision, the Court cited both state and local administrative law cases in its discussion of the standard of review. Judge Cathell also rejected as immaterial an argument that the Circuit Court relied erroneously on State APA provisions with respect to the finality of the agency decision. See footnote 1 at 741.

Another example is Marzullo v. Kahl 366 Md. 158, 171-73 (2002), where, in reviewing a CBA decision, Judge Cathell's discussion of standard of review relied heavily on state cases involving the APA, most prominently Board of Physician Quality

Assurance v. Banks 354 Md. 59 (1999). Indeed, virtually any significant administrative law decision involving a local agency will include citations to state as well as county cases. See, e.g. Jordan Towing v. Hebbville Auto Repair 369 Md. 439,449-52 (2002); People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491, 496-97 (1989). There are also parallels and equivalencies between state and local zoning statutes. See Cromwell v. Ward 102 Md. App. 691, 697-98 (1995).

Meanwhile, perusal of the Banks case reveals that in a state agency case subject to the APA, the Court cited both state and local administrative law decisions in its extensive discussion of the scope of review at 354 Md. 67-69. Indeed, Judge Eldridge there emphasized and quoted a Baltimore County case, United Parcel Service v. People's Counsel 336 Md. 569 (1994).

9. Moreover, the decisional options available to the Court under the APA, cited on Page 5 of its opinion, are equivalent to, or not materially different from, those available on review of local agency decisions under the Express Powers Act, County Charter and Rule 7-209. Both the Maryland Annotated Code Art. 25A, Sec.5(U) and Charter Section 604 provide:

> "Within thirty days after any decision by the county board of appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the circuit court for Baltimore County, which shall have power to affirm the decision or the board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require."

Rule 7-209 states:

> "Unless otherwise provided by law, the court may dismiss the action for judicial review or may affirm, reverse, or modify the agency's order or action,

remand the action to the agency for further proceedings, or an appropriate combination of the above."

The Court's Order here to reverse and remand for further action not inconsistent with its opinion is thus appropriate and well within its lawful authority to exercise judicial review.

10. Penwood's objection with respect to citation of the APA thus does not affect or go the merits of the standard of review and is another exercise in obfuscation and gamesmanship.

III. Penwood's Objections Do Not Go to the Merits

11. The Court should note that Penwood does not challenge the Court's key discussion of mootness at pages 5-6 and the citation of Carroll County Ethics Comm'n v. Lennon 119 Md. App. 49, 61 (1998).

12. To put the case in perspective, Penwood's only real argument for dismissal without prejudice has been that the case is moot. This is the argument which the CBA precipitously and erroneously accepted, without allowing a response, and upon which it based its erroneous order.

13. People's Counsel submitted an extensive memorandum to demonstrate the illegality of the Board's Order and the necessity of remanding the case for the Board to issue a written opinion consistent with its decision at public deliberation.

14. Penwood's only response with respect to judicial review was that the case is moot, and this argument has been unmasked as hollow and manipulative.

15. The Supreme Court and Maryland decisions show the case is not moot and, moreover, that the public interest often requires, in any event, that moot cases be decided.

16. For all of the above reasons, a close examination of Penwood's Motion reveals it to be picayune and disrespectful of the Circuit Court's excellent decision on the merits. It also appears to be another ploy to avoid a binding legal decision or to delay it.

Wherefore, the Circuit Court should deny Penwood's Motion to Alter/Amend Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. DeMilio

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 4th day of August, 2004, a copy of the foregoing People's Counsel for Baltimore County's Answer to Motion to Alter/Amend Order was mailed to Howard L Alderman, Jr., Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioners and to Lawrence S. Wescott, Chairman, County Board of Appeals, Old Courthouse, 400 Washington Avenue, Towson, MD 21204.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

7/22/04

IN RE: **IN THE MATTER OF PENWOOD MOBILE HOME PARK** ***PENWOOD MOBILE HOME PARK, INC.,*** **Owner/Appellee/Respondent** **[CBA-03-207-SPH]**	**IN THE** **CIRCUIT COURT** **FOR** **BALTIMORE COUNTY** **Case No.: 03-C-04-000090**

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BALTIMORE COUNTY
BOARD OF APPEALS

MOTION TO ALTER/AMEND ORDER

Penwood Mobile Home Park, Inc., a Maryland corporation ("Penwood"), by and through its undersigned legal counsel, in accordance with Maryland Rule 2-534 hereby moves that the *Memorandum and Order of Court*, dated July 12, 2004 and filed on July 15, 2004 (the "Court Order"), be reconsidered, altered and/or amended. In support of its request, Penwood states as follows:

1. The Court conducted a hearing on June 16, 2004 of the purported appeal by the Baltimore County Office of People's Counsel of the Order of Withdrawal approved by the Baltimore County Board of Appeals ("Board").

2. Contrary to the "Background" findings of the Court, the Board has never issued a final zoning decision that could be appealed wherein it "reversed the findings of the zoning commissioner and denied Penwood's request for a Special Hearing."

3. The Court relied upon the Administrative Procedure Act ("APA") codified as Section 10-101 *et seq.*, State Government Article, Annotated Code of Maryland in analyzing the issue it determined was properly before it. (Court Order at 4-5.)

4. The Baltimore County Board of Appeals is not an "agency" as defined by the APA. (SG § 10-202(b)) Therefore the decision of that Board can not be deemed to be a "contested case" under the APA. (SG § 10-202(d)) While Baltimore County may have the right to participate

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BALTIMORE COUNTY

in an actual, contested case [the instant case is not a "contested case" as defined] as an interested person, party or petitioner, such right does not render county agency decisions reviewable under the Act. (SG § 10-204) The Maryland Court of Appeals, over twenty years ago, determined that county agency decisions are not "reviewable under the Administrative Procedure Act since county agencies are not included within its provisions." *Urbana Civic Assoc. v. Urbana Mobile Village, Inc.*, 260 Md. 458, 462 (1971)(Citations omitted.)

5. The allegations of the Baltimore County Office of People's Counsel ("Petitioner")cannot be sustained as an "error of law" under the APA (Court Order at 5), and there is no other basis cited by the Court authorizing the Petitioner's brining of this action.

6. The decision of the Court cannot be sustained based under the law relied upon and cited by it and should, therefore, be reconsidered, amended and reversed, thereby affirming the correct action of the Board in this matter.

FOR ALL OF THE FOREGOING REASONS, Penwood respectfully requests that this Honorable Court:

A. Reconsider the Court Order; and

B. Revise the Court Order, applying applicable law and AFFIRM the December 11, 2003 Order of the Board.

Howard L. Alderman, Jr.
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410.296.2801 [fax]
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July, 2004, a copy of the foregoing Motion to Alter/Amend Order and the proposed Order attached thereto was mailed via First-Class, United States Mail to the following:

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

Howard L. Alderman, Jr.

IN RE:	**IN THE MATTER OF PENWOOD MOBILE HOME PARK** ***PENWOOD MOBILE HOME PARK, INC.,*** **Owner/Appellee/Respondent** **[CBA-03-207-SPH]**	**IN THE** **CIRCUIT COURT** **FOR** **BALTIMORE COUNTY** **Case No.: 03-C-04-000090**

ORDER

Upon consideration of the Motion to Alter/Amend Order filed by Penwood Mobile Home Park, Inc., Respondent in this case and any and all responses thereto, it is this _____ day of _____, 2004,

ORDERED, that the July 12, 2004 Order of this Court is hereby stricken; and it is

FURTHER ORDERED, that the decision of the Baltimore County Board of Appeals granting the Order of Withdrawal without prejudice in this case is hereby **AFFIRMED.**

_____
Judge Michael J. Finifter

PETITION OF :	*	**IN THE CIRCUIT COURT**
	*	
People's Counsel for Baltimore County	*	**FOR**
Old Courthouse, Room 47, 400 Washington Avenue	*	
Towson, MD 21204	*	
	*	**BALTIMORE COUNTY**
IN THE CASE OF:	*	
The Application of Penwood Mobile Home Park for	*	
a special hearing for property located on the N/E	*	
corner of Dogwood and Oak Roads	*	**Case No.: 03-C-04-000090**
(8000 Dogwood Road)	*	
	*	
15th Election District, 7th Councilmanic District	*	
CBA NO. CBA-03-207-SPH	*	
	*	
	*	

****

MEMORANDUM AND ORDER OF COURT

This matter came before this court regarding the Petition of People's Counsel for Baltimore County for judicial review of the administrative decision of the Baltimore County Board of Appeals ("CBA" "Board"). A hearing before this court was held on June 16, 2004, at which time both parties presented arguments.

FILED JUL 15 2004

cc: Gold, Lazaro

Background

This is a zoning appeal from a decision of the Baltimore County Board of Appeals that reversed the findings of the zoning commissioner and denied Penwood's request for a Special Hearing.

Issue Presented for Review

The Petitioner presents an issue for the court's review:

1. Was the CBA's action on 12/11/03 in which it granted Penwood's Order of Withdrawal without prejudice an error of law?

Scope of Review

The court's scope of review of a final decision of an administrative agency such as a county zoning board is narrow. The Court must affirm the zoning board decision where it is fairly debatable with respect to the agency's findings of facts and inferences drawn therefrom. *Board of Physicians Quality Assurance v Banks*, 354 Md. 59, 67-69 (1999). The scope of review is likewise narrow with respect to the application of the law to the facts and/or to mixed questions of law and fact. *Stover v. Prince George's County*, 132 Md. App. 373, 380-382 (2000). The court reviewing a final decision of an administrative agency determines only the legality of the decision and whether there was "substantial evidence" from the record as a whole to support the decision. *Board of Education, Montgomery County v. Paynter*, 303 Md. 22 (1985). In determining whether an agency decision is supported by the record, substantial evidence is defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Caucus Distributors, Inc. v. Maryland Securities Commissioner*, 320 Md. 313, 323-24 (1990).

reach the same holdings based on the record. *Friends of the Ridge v Baltimore Gas and Electric Co.*, 120 Md. App. 444, 465, 707 A.2d 866 (1998), *vacated in part*, 352 Md. 645, 724 A.2d 34 (1999).

Substantial evidence has also been characterized as more than a "scintilla of evidence" such that a reasonable person could come to more than one conclusion. In such a situation, the issue to be considered is "fairly debatable" and the reviewing court may not substitute its judgment for that of the agency. *Realty Improvement Association v. Sycamore Realty Co., Inc.*, 105 Md. App. 701, 714, 661 A.2d 182 (1995). In administrative proceedings concerning the grant of a variance or special exception, the substantial evidence and fairly debatable standard is applicable. *Schultz v. Pritz*, 291 Md. 1 (1981).

Discussion

A party who is aggrieved by a final decision in a contested case presented to an agency is entitled to judicial review of the agency's determination. In order to be "aggrieved" for purposes of standing to bring an action for judicial review under the Administrative Procedure Act (APA), a person ordinarily must have an interest such that he or she is personally and specifically affected in a way different from the public generally. *Sugarloaf Citizens' Association v. Department of Environment*, 344 Md. 271, 288, 686 A.2d 605 (1996). Under Baltimore County, Md., Charter § 524.1, the People's Counsel was legislatively defined as one who could occupy the status of an "aggrieved" party entitled to appeal the Board's rezoning decision. *People's Counsel for Baltimore County v. Williams*, 45 Md. App. 617, 619 (1980).

The APA is codified at Md. Code Ann., State Government § 10-101 et seq. (1984, 1999 Repl. Vol.). Under the APA, the decisional options available to the Circuit Court include remanding the case for further proceedings as well as reversing or modifying the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision (i) is unconstitutional; (ii) exceeds the statutory authority or jurisdiction of the final decision maker; (iii) results from unlawful procedure; (iv) is affected by any other error of law; (v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or (vi) is arbitrary or capricious. Md. Code Ann., State Government § 10-222 (h) (1984, 1999 Repl. Vol.). In the case at bar, the petitioner brings this action under the fourth category, as an error of law.

At a hearing that commenced on October 28, 2003, the Board of Appeals had an open meeting of deliberation pursuant to State Government Article §10-503(b). The findings of the zoning commissioner and Penwood's request for Special Hearing were reversed and denied. After the denial of Penwood's petition for special hearing on 12/10/03, Penwood submitted a proposed Order of Withdrawal without prejudice claiming that the matter was moot. On 12/11/03, the CBA issued the order as proposed.

People's Counsel argues that the case at bar is not moot and that therefore, the CBA erred as a matter of law. This court agrees. In *Carroll County Ethics Commission v. Lennon*, 119 Md. App. 49, 61 (1998) the court declared that voluntary cessation of challenged activity does not make a case moot. The Maryland Court of Special Appeals went on to say "the Supreme Court has consistently held that 'voluntary cessation of a challenged practice does not deprive a [court] of its power to determine the legality of the

practice.'" *Id.* at 61. Additionally, the public interest dictates that the case at bar should be decided since Penwood's actions may recur.

Indeed, the issues involving recreational vehicles are very much alive, and do in fact concern the public interest. Penwood has not in fact abandoned its claim that its operations are legal as it has submitted a withdrawal without prejudice. This fact implies that Penwood may in the future engage in similar activities or bring this case again in the future to determine its legality. Additionally, Penwood may in fact own one or more other mobile home parks. The court can render an effective remedy that will deter the repetition of similar actions such as those taken by Penwood. As this case involves major issues concerning the interpretation and application of zoning laws governing mobile home parks, especially the issue of permissibility of recreational vehicles, major issues throughout Baltimore County are affected. Therefore, the CBA was erroneous as a matter of law when it determined, upon granting the Order of Withdrawal without prejudice, that this matter was moot.

The Circuit Court can only consider issues that have been raised and decided at the administrative level. See *Maryland State Retirement and Pension Systems v. Martin*, 75 Md. App 240, 248, 840 A.2d 488 (1988). A Circuit Court cannot raise, develop, or rule upon issues not presented by the parties or considered by the agency because a reviewing court is restricted to the record made before the administrative agency. *Prince George's County Health Department v. Briscoe*, 79 Md. App. 325, 341, 556 A.2d 742 (1989) affirmed in part and remanded in part, 323 Md. 439, 593 A.2d 1109 (1991). Penwood's argument that the People's Counsel did not have standing was not raised at

the administrative level, and as such, this court can not and will not consider this argument.

Conclusion

For the reasons set forth herein, it is this 12 day of July, 2004,

ORDERED that the decision of the Baltimore County Board of Appeals granting the Order of Withdrawal without prejudice is hereby **REVERSED AND REMANDED** for further action not inconsistent with this opinion.

Judge Michael J. Finifter

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204 *

* IN THE

* CIRCUIT COURT

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204 *

* FOR

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BOARD OF APPEALS

*

IN THE MATTER OF THE APPLICATION OF **Penwood Mobile Home Park** FOR A SPECIAL HEARING for property located on the N/E corner of Dogwood and Oak Roads (8000 Dogwood Road) 15th Election District, 7th Councilmanic District *

* BALTIMORE COUNTY

* Civil No. 03-C-04-90

Case No. 03-207-SPH before the County Board of Appeals of Baltimore County *

* * * * * * * * * * * * *

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PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S REPLY MEMORANDUM

Introduction

People's Counsel disagrees with Penwood's argument that the case is moot. Voluntary cessation of conduct the legality of which is in litigation does not render a case moot. The controversy is live because the conduct may be repeated as soon as the case is over without a resolution on the merits. This is especially true where the case involves what amounts to a declaration of legal rights, but may also be true in injunction cases. Here, moreover, the timing of Penwood's "withdrawal without prejudice" undermines the credibility of any claim that the conduct will not be repeated.

Even if the case were moot, the issues are of sufficient public importance that the court should exercise its discretion to decide the merits. The present case, involves major issues concerning the interpretation and application of zoning law governing mobile home parks, especially the issue of permissibility of recreational vehicles. It is a case of first impression and affects the entire county.

People's Counsel also disagrees with Penwood's position with respect to the State Open Meetings Law. It is not necessary to file an enforcement action under SG Art. Sec. 10-510 in order to have substantive Open Meetings Law issues considered on a petition for judicial review. In any event, the petition for judicial review, as amended, does not depend on the Open Meetings Law. The Open Meetings Law issues are aggravating factors incidental to the arbitrary, capricious, and illegal administrative action.

In sum, the case is not moot. The Circuit Court should review the case according to the established law applicable to judicial review of administrative action. The reasons are set forth below.

The Case Is Not Moot

It is to be remembered that after being cited for a violation, Penwood brought the Petition for Special Hearing to confirm and declare the legality of its operations, including the use of recreational vehicles. It pursued that petition in Zoning Commissioner proceedings, and upon *de novo* appeal, at a trial at the County Board of Appeals. Only when the CBA held a public deliberation and declared against its petition did Penwood precipitously enter its "Withdrawal without prejudice."

While Penwood claims that it has ceased the questioned operations, especially the recreational vehicles, this claim does not survive scrutiny. First of all, Penwood has not abandoned its claim that its operations are legal. That is the effect of a withdrawal without prejudice. If we assume that Penwood has eliminated its recreational vehicles, we nevertheless have no assurance or guarantee that the vehicles will not reappear when the spotlight of the case is removed. The timing of its withdrawal gives rise to a reasonable inference that the activities found illegal will recur. There is also a heightened concern because the principals of Penwood own one or more other mobile home parks. Secondly, there were other issues raised by People's Counsel as to the legality of Penwood's operation. The CBA appeared to resolve these by ruling that current law applies (not the 1945 law under which Penwood claimed protection). While Penwood does not want to face these issues, they were in the case and are alive. Penwood may not sweep them under the rug with a withdrawal timed to avoid an adverse written opinion.

Even if Penwood has innocent intentions, its attempted withdrawal does not make the case moot. The Supreme Court and the Maryland courts have in comparable settings consistently rejected claims that voluntary cessation of illegal conduct moot the controversy.

In United States v. Trans-Missouri Freight Ass'n 166 U.S. 290 (1896), the Court addressed mootness in the context of action to enforce the antitrust law against a combination of railroads who made an agreement to form an association to maintain freight rates, rules and regulations. In the course of the proceedings, the Defendants

dissolved the association and asked that the case be dismissed. In rejecting this claim, Justice Peckham wrote, at 166 U.S. 307-09:

> As to the first ground, we think the fact of the dissolution of the association does not prevent this court from taking cognizance of the appeal and deciding the case upon its merits. ... The mere dissolution of the association is not the most important object of this litigation. The judgment of the court is sought upon the question of the legality agreement itself for the carrying out of which the association was formed, and, if such agreement be declared to be illegal, the court is asked, not only to dissolve the association named in the bill, but that defendant should be enjoined in the future.
>
> * * *
>
> If the mere dissolution of the association worked an abatement of the suit as to all the defendants, as it's the claim made on their part, it is plain that they have thus discovered an effectual means to prevent the judgment of this court being given upon the question really involved in the case. The defendants having succeeded in the court below, it would only be necessary thereafter to dissolve their association and instantly form another of a similar kind, and the facto of the dissolution would prevent an appeal to this court or procure its dismissal if taken. This result does not and ought not to follow.
>
> * * *
>
> Private parties may settle their controversies at any time, and rights which a plaintiff may have had at the time of the commencement of the action may terminate before judgment is obtained or while the case is on appeal, and in any such case the court, being informed of the facts, will proceed no further in the action. **Here, however, there has been no extinguishment of the rights (whatever they are) of the public, the enforcement of which the government has endeavored to procure by a judgment of a court under the provisions of the act of congress above cited. The defendants cannot foreclose those rights, nor prevent the assertion thereof by the government as a substantial trustee for the public under the act of congress, by any such action as has been taken in this case.** Emphasis supplied.

In Walling v. Helmerich & Payne 323 U.S. 37 (1944), an action by the Administrator of the Department of Labor to enjoin a "split-day" wage plan as in violation of the overtime provisions of the Fair Labor Standards Act, the Court held the plan was illegal and also emphasized that the company's discontinuance of the

questioned wage plan two months after the complaint was filed did not render the controversy moot. Justice Murphy wrote:

> Despite Respondent's voluntary cessation of the challenged conduct, a controversy between the parties over the legality of the split-day plan still remains. Voluntary discontinuance of an alleged illegal activity does not operate to remove a case from the ambit of judicial power. ... **Respondent has consistently urged the validity of the split-day plan and would presumably be free to resume the use of this illegal plan were not some effective restraint made. There is thus 'an actual controversy, and adverse interests..' .. with a subject-matter on which the judgment of the court can operate.'** 337 U.S. at 43. Citations omitted. Emphasis supplied.

In the same vein, United States v. W.T. Grant Co. 345 U.S. 629 (1953) addressed a government antitrust action for injunction against two interlocking corporate directorates. Soon after the action was filed, the director in question resigned from three of the four companies, and the corporate defendants obtained a dismissal of the case. The Supreme Court disagreed. It found the case was not moot, but left injunctive relief to the discretion of the lower court. Justice Clark wrote, at 345 U.S. 632:

> Both sides agree to the abstract proposition that voluntary cessation of allegedly illegal conduct does not deprive the tribunal of power to hear and determine the case *i.e.,* does not make the case moot. ... A controversy may remain to be settled in such circumstances, ... *e.g.,* a dispute over the legality of the challenged practices. ... **The defendant is free to return to his old ways. This, together with a public interest in having the legality of the practices settled, militates against a mootness conclusion.** ... For to say that the case has become moot means that the defendant is entitled to a dismissal as a matter of right. ... The courts have rightly refused to grant defendants such a powerful weapon against public law enforcement. Emphasis supplied.

The Court also ruled that the power to grant injunctive relief "survives discontinuance of the illegal conduct, ..." but affirmed the lower court's discretionary decision to decline injunctive relief.

In City of Mesquite v. Aladdin's Castle 455 U.S. 283 (1983), an amusement center operator brought an action for declaratory and injunctive relief against a city licensing ordinance. After the operator succeeded in the U.S, Court of Appeals, the government appealed to the Supreme Court. Meanwhile, the City had repealed the challenged language. In finding that the case not moot, Justice Stevens wrote, at 455 U.S. 289:

> It is well settled that a defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice. Such abandonment is an important factor bearing on the question whether a court should exercise its power to enjoin the defendant from renewing the practice, but that is a matter relating to the exercise rather than the existence of judicial power. In this case the city's repeal of the objectionable language would not preclude it from reenacting precisely the same provision if the District Court's judgment were vacated.

To the same effect is Jacksonville v. ILA 457 U.S. 702, 704-05 n.1 (1982), where the Court determined the legality of a work stoppage under a collective bargaining agreement even after the stoppage had ended.

The Maryland courts have taken a similar approach. In Carroll County Ethics Comm'n v. Lennon 119 Md. App. 49 (1998), Lennon, a private attorney who served on the planning and zoning commission, brought an action for declaratory and injunctive relief against the Ethics Commission and the County Commissioners. He challenged the EC's finding that he violated the Ethics Law by representing clients

who had business before the planning and zoning commission. He also challenged the Commissioners' determination of misfeasance in office and his removal from the P & Z commission. The trial court granted Lennon's declaratory relief and enjoined the County Commissioners from interfering with Lennon's duties on the P & Z Commission. Lennon subsequently resigned from the P & Z Commission. The Ethics Commission, however, noted an appeal. Lennon claimed it was moot.

The Court of Special Appeals held the case was not moot. The controversy as to the merits of the conflict of interest issue was very much alive and a matter of public interest. The Ethics Commission still had a concrete interest in appellate resolution of the issue so that it could carry out its statutory obligations. With respect to the voluntary cessation of conduct, Judge Sonner followed the Supreme Court cases, saying at 119 Md. App. 61-62:

> Finally, we cannot accept Lennon's argument that his voluntary cessation of the challenged conduct serves to moot the case. If that were so, appellate review could consistently be foreclosed in cases like this as long as the putative violator resigns from his position or even simply promises to refrain from the challenged conduct. Indeed, the Supreme Court has consistently held that 'voluntary cessation of a challenged practice does not deprive a [court] of its power to determine the legality of the practice.

The present case is as compelling, if not more compelling, for resolution of the controversy. People's Counsel has secured a County Board of Appeals decision after trial and public deliberation which decides a significant zoning issue of first impression. There is a public interest in an administrative and judicial conclusion. Penwood must respect the CBA's decision on the merits or follow the appeal process,

not evade and subvert by a "withdrawal without prejudice." The CBA acted improperly when it allowed Penwood to short-circuit the case.

If the Case Were Moot, the Public Interest Would Still Compel its Resolution

The Lennon opinion also cited the prudential Maryland rule that the court may decide a case which has become moot where it "... involves matters of public importance that are likely to recur if not decided now." 119 Md. App. at 60. Citing Reyes v. Prince George's County 281 Md. 279, 296-97 (1977) and Attorney General v. Anne Arundel County School Bus Contractors Ass'n 286 Md. 324, 327-28 (1979), among other cases, the Court of Special Appeals found that it would be appropriate, in any event, to resolve an important issue of ethics law affecting local government officials. The opinion also emphasized that a decision on the merits is particularly important where the issues involve declaratory relief, irrespective of any conclusion as to injunctive relief, citing and discussing Super Tire Engineering Co. v. McCorkle 416 U.S. 115 (1974). 119 Md. App. at 58-59.

The present case is similar to Lennon both procedurally substantively for the purpose of considering mootness issues. The petition for special hearing is the administrative version of a petition for declaratory relief. It requests an interpretation of the zoning law under BCZR 500.7. There is no injunctive relief involved in the present proceeding. It also involves issues of public importance dealing with the relationship of citizens with their government. It affects the application of zoning law to all mobile home parks in Baltimore County. The issues may recur with respect to

this mobile home park as well as others, especially with respect to the permissibility of recreational vehicles.

So, even if this case were moot, it should be decided on the merits. However, it must be repeated that there is still a live controversy to the extent that Penwood has not conceded the issue. In withdrawing without prejudice, Penwood can maintain its position that recreational vehicles are permissible and hope to argue it another day. People's Counsel disputes that position. By withdrawing without prejudice, Penwood refused to accept the Board's deliberative decision that recreational vehicles are illegal and sought to preempt the Board's official written opinion on the merits. Unfortunately, the Board accepted Penwood's invitation to preempt its own decision.

The Petition for Judicial Review Does Not Depend On the Open Meetings Law Issues; However, These Issues Are Justiciable Upon a Petition for Judicial Review; The Board's Action Severely Undermined the Law

It is not necessary to file an enforcement action under the State Open Meetings Law, SG Art. Sec. 10-510 in this case. First of all, this case is mainly a petition for judicial review from a County Board of Appeals decision. It is authorized under the Express Powers Act, Md. Ann. Code Art. 25A, Sec. 5(U), County Charter Sec. 604, and Title 7, Subtitle 2 of the Maryland Rules. It also has the status of an original action, equivalent to mandamus or certiorari and thus stands independently. Bucktail v. County Council of Talbot County 352 Md. 530 (1999). Upon such a petition, the Circuit Court has the authority to review the legality of the entire proceeding.

In this case, it so happens that failure to comply with the State Open Meetings Law is an aggravating factor which compounds the illegality of the Board's decision.

The petition for judicial review, however, does not depend on resolution of the Open Meetings Law issue. Moreover, as noted, all of the relief requested is the type of relief requested upon judicial review, and not the type of specific relief available in an Open Meetings Law enforcement action under SG Sec. 10-510. For these reasons, even if the Open Meetings Law did not exist, the Board's decision would still be arbitrary, capricious, and illegal for reasons stated in People's Counsel main memorandum.

In any event, the enforcement action provided by SG Sec. 10-510 is not the exclusive way to raise State Open Meetings Law issues. The Sec. 10-510(d) provides:

> (d) Authority of court: A court may:
> (1) consolidate a proceeding under this section with another proceeding under this section or an appeal from the action of the public body.

Our point here is not to request a consolidation, but rather that the Open Meetings Law contemplates issues may arise under it in actions such as a petition for judicial review from a county agency. Enforcement under Sec. 10-510 is not, in other words, the exclusive avenue for resolution of substantive issues arising in administrative proceedings.

Here, we must again clarify the two ways in which the Board's action was not only were arbitrary, capricious, and illegal, but also inconsistent with the Open Meetings Law. First of all, the Board negated its own public deliberative decision on the merits by allowing the withdrawal without prejudice. Secondly, it failed to deliberate (or even give People's Counsel an opportunity to respond to) the withdrawal without prejudice. Penwood's contention that it had an absolute right to

withdraw without prejudice, so that there was no longer any zoning case "pending," is both absurd and arrogant.

To be sure, SG 10-510 enforcement proceedings do make available the award of an injunction, attorneys' fees, a bond, and other remedies under subsection 10-510(d)(2)-(6). However, for a variety of reasons, including the simplification of this proceeding, People's Counsel has chosen not to request counsel fees or other relief under that section, and has amended its original petition by interlineation to delete the initial request for counsel fees. Penwood has not objected to that deletion.

It has become, therefore, unnecessary for People's Counsel to pursue a consolidated petition for judicial review combined with petition for enforcement. This also makes it unnecessary to address the question whether new service of process is required to parties who already are parties to the administrative proceeding and have received notice of the petition. However, People's Counsel would have maintained that service by mail to existing parties would be sufficient for consideration of the entire matter.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

C. S. DeMilio

CAROLE S. DEMILIO
Deputy People's Counsel
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(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of May, 2004, a copy of the foregoing People's Counsel for Baltimore County's Reply Memorandum was mailed to Howard L Alderman, Jr., Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioners and to Lawrence S. Wescott, Chairman, County Board of Appeals, Old Courthouse, 400 Washington Avenue, Towson, MD 21204.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

3/24/04

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	RECEIVED MAR 24 2004 FOR BALTIMORE COUNTY BOARD OF APPEALS
	*	
IN THE MATTER OF THE APPLICATION OF **Penwood Mobile Home Park** FOR A SPECIAL HEARING for property located on the N/E corner of Dogwood and Oak Roads (8000 Dogwood Road) 15th Election District, 7th Councilmanic District	*	BALTIMORE COUNTY
Case No. 03-207-SPH before the County Board of Appeals of Baltimore County	*	Civil No. 03-C-04-90

* * * * * * * * * * * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

Statement of the Case

a. Overview

An extraordinary event precipitated this petition for judicial review. The County Board of Appeals of Baltimore County (CBA) had conducted a zoning trial, reviewed memoranda, and on December 10, 2003 made a unanimous decision in public deliberation to deny the zoning petition filed by Penwood Mobile Home Park, Inc. Penwood, having lost the case, filed by hand-delivery a dismissal without prejudice on that afternoon just after the decision! The very next morning, December 11, before undersigned People's Counsel had even received the copy mailed to its office (not hand-delivered), the CBA

approved and entered the dismissal without prejudice! As a result, the CBA closed its file and never issued the written opinion which normally would have been published subsequent to the public decision.

The present petition for judicial review is principally an action to challenge the arbitrariness and capriciousness of the administrative action. It shall discuss principles of administrative law, procedural due process of law, the CBA's rules, and applicable case law. As a secondary matter, the CBA action also undermined the State's Open Meetings Law.

All of the requested relief, however, pertains to and is available under the petition for judicial review. The purpose of the petition is to reverse the order entering the dismissal without prejudice and to require the CBA to issue a written opinion consistent with its decision upon public deliberation. To the extent the petition refers to enforcement of the Open Meetings Law, it is subsidiary to judicial review. In that connection, to simplify matters, we filed an amendment by interlineation to delete a request for counsel fees and costs against Penwood for subverting the Open Meetings Law.

We mailed a copy of the Petition to counsel for Penwood and to the County Board of Appeals. There is no requirement to have the sheriff serve Penwood or to take additional steps to make the CBA a party. Penwood has, in any event, filed a response. The CBA could file a response if it so desires.

b. Background

This zoning case involves the Penwood Mobile Home Park (MHP) in Edgemere. The property is zoned D.R. 5.5 and is in the Chesapeake Bay Critical Area. The case began with a petition for special hearing styled as a request that the Zoning Commissioner:

> [1] approve the size, type, kind, and quality of residential living units on the subject property as meeting the requirements of the applicable *Baltimore County Zoning Regulations* and the facts considered and decisions rendered in Zoning Case 2621-S and 77-161-SPH; and [2] for such additional relief as the nature of this case presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR."

There arose issues of first impression concerning the application of zoning law governing trailer parks and recreational vehicles and the permissibility of existing and proposed uses. The case has countywide significance.

There were also traditional special exception issues. The petition requested, in effect, an amendment to the special exception granted in 1977. This entailed review of the scope of that approval, and compliance with it.

c. The Zoning Commissioner Proceedings

On April 11, 2003, the Zoning Commissioner (ZC) issued his opinion and order. He found that current law applies. In rejecting Petitioner's argument that 1945 Regulations are applicable, he wrote, among other things, on page 5:

> However, that argument ignores the circumstances unique to a trailer park that although the use of the entire tract as a trailer park was established years ago, the individual units that occupy the spaces in the park come and go. The character of these residences is at the core of the issue presented in the instant case. That is, the trailers/residences that exist on the property today are not the same as those that existed in 1953. Most of the current units were placed on the property in recent years and certainly since the effective date of the current B.C.Z.R. enacted in 1955. Thus, for these reasons, although the park is permitted and operates as an entity

based upon the approval granted in 1953 (and as amended in 1977), a determination of the propriety of individual units within the park is governed by the current regulations.

He then turned to the controversial issue of allowance of recreational vehicles. He recognized these are "distinguished from mobile homes and trailers" and defined differently. Nevertheless, he decided that a small number – five – are allowed as accessory short-term uses to the primary mobile home use.

The ZC opinion did not address the apparent noncompliance of current units with the area and setback regulations of BCZR 414. Nor did he examine whether the current layout complies with the 1945 regulations in Section XIII. He assumed, and did not question, whether the Trailer Park was approved and operating in 1953, although the only evidence was an approval of a special permit (special exception) for a trailer camp on the adjacent property in Case No. 2626-S, and a new petition and approval in 1977 for a special exception for a trailer park on the correctly described subject property in Case No. 77-161-SPH. There was nothing in the 1977 petition or approval to show that the park was yet in operation.

d. The County Board of Appeals *De Novo* Appeal Hearing

People's Counsel, the Baltimore County Mobile Home Owners Association, and Mr. & Mrs. Robert Laro all appealed. The County Board of Appeals (CBA) conducted a trial-type hearing on October 28, 2003.

The appeal was tried *de novo* under Section 603 of the County Charter. Judge Moylan explained the scope of the *de novo* hearing in Pollard's Towing v. Berman's Body Frame & Mechanical 137 Md. App. 277, 288 (2001):

Boehm v. Anne Arundel County 54 Md. App. 497, 511 (1983) elaborated on a *de novo* hearing:

> A trial or hearing '*de novo*' means trying the matter anew as if it had not been heard before and as if no decision had been previously rendered.
>
> * * *
>
> As such, unless otherwise limited by statute or court rule, a *de novo* hearing is an entirely new hearing at which time all aspects of the case should be heard anew as if no decision had been previously rendered.

In Lohrmann v. Arundel Corp. 65 Md. App. 309, 319 ... (1985), we further observed:

> In effect, then, in this case the Board was exercising what amounts to original jurisdiction. It was as though the zoning officer had made no decision.

The case was well and fairly tried. For Penwood, surveyor John Mildenberg and owner's representative and park manager, Carol Lyons testified. T. 13-79. Robert Laro, a Penwood resident, testified in opposition. T. 85-119. Thomas Karcher, President of the Baltimore County Mobile Homeowners Association, followed. T. 120-173. The case concluded with testimony from other interested mobile home owners, Vincent Martin and William Carter. T. 174-89.

e. The County Board of Appeals' Decision-Making Process; The Public Deliberation

The Express Powers Act, Md. Ann. Code Art. 25A, Sec. 5(U) governs the CBA's decision-making process and call for a decision "after notice and opportunity for hearing and on the basis of the record before the board ...". The statute also provides that "... upon any decision by the county board of appeals it shall file an opinion which shall include a statement of the facts found and the grounds for its decision." See, Hope v. Baltimore County 280 Md. 656 (1980); Halle Cos. V. Crofton Civic Ass'n 339 Mf 131 (1995).

Baltimore County Charter Sec.603 elaborates that: "All decisions of the county board of appeals shall be made after notice and opportunity of hearing upon the issues before said board."

The State Open Meetings law added another step to this process. Before the CBA issues its written opinion and order, it must deliberate a zoning case in public under SG Art. Sec. 10-501, et seq., particularly Sec. 10-503(b). See Wesley Chapel Bluemount Assoc. v. Baltimore County 347 Md. 125 (1997).

Accordingly, after the trial-type hearing concluded October 28, 2003, the CBA requested memoranda by November 18, 2003 and scheduled the public deliberation for 9:30 A.M. on December 10, 2003. The filing of memos and public deliberation took place as scheduled. People's Counsel's memorandum showed, based on language and legislative history, that recreational vehicles are not permitted uses in mobile home parks and that Penwood does not meet various area and setback standards under BCZR 414.

The CBA unanimously denied the zoning petition. Pursuant to the State Open Meetings Law, the CBA had written minutes recorded. These reflect its findings and conclusions that recreational vehicles are not permitted in mobile home parks and that the current Baltimore County Zoning Law applies to Penwood Mobile Home Park. These are the Minutes:

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Penwood Mobile Home Park
Case No: 03-207-SPH

DATE: December 10, 2003

BOARD/PANEL: Charles L. Marks CLM
Lawrence S. Wescott LSW
Melissa Moyer Adams MMA

RECORDED BY : Theresa S. Shelton/Legal Secretary

"PURPOSE: To deliberate the Petition for Special Hearing filed by Carol A. Lyons, secretary to Penwood Mobile Home Park, Inc., requesting [1] approve the size, type, type, kind and quality of residential living units on the subject property as meeting the requirements of the applicable BCZR and decision rendered in Case No.: 2621 S and 77-161 SPH.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- ✓ No evidence to prove non-conforming use
- ✓ No evidence that park was operating as a recreational vehicle park
- ✓ Recreational vehicles are not allowed in park
- ✓ No accessory use; had not had recreational vehicles since 1950's
- ✓ Recreational vehicle not allowed by special exception
- ✓ When County Council changed the definition, new law applies
- ✓ New regulations apply; trailer parks are exclusive for trailers only and not recreational vehicles

DECISIONS BY BOARD MEMBERS: Unanimous decision by the panel that under current regulation trailer parks are exclusive for trailers only and not recreational vehicles.

FINAL DECISION: That the Order dated April 10, 2003 by the Zoning Commissioner's Order Granting the Special Hearing with restrictions is REVERSED and the Board of Appeals DENIES the Petitioner's Request for Special Hearing."

Note: These minutes, which will become part of the case file, are intended to indicate 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

f. The Dismissal Without Prejudice

After the 9:30 A.M. deliberation concluded, there occurred the bizarre sequence of events outlined above in the Statement of Case. Penwood gave no reasons for its voluntary

dismissal without prejudice. The CBA gave no reasons for its acceptance of the dismissal. Clearly, the thrust of the dismissal was to avoid an adverse judgment.

Questions Presented

1. Are administrative decisions on voluntary dismissals in quasi-judicial zoning cases subject to review for arbitrariness, capriciousness, and/or illegality?

2. Was it arbitrary, capricious, or illegal for the CBA to approve Petitioner's voluntary dismissal without prejudice after the conclusion of the trial and an adverse decision on the merits made in public deliberation?

3. Did the voluntary dismissal without prejudice violate the Express Powers Act requirement of a written opinion after a decision and, correlatively, the County Charter requirement of a decision after a hearing?

4. Did the CBA undermine the State Open Meetings Law arbitrarily and capriciously by allowing the Petitioner to avoid the consequences of the public deliberation required by that law?

Relevant Statutes, Charter Provisions, and Rules

The Express Powers Act. Md. Ann. Code Art. 25A, Sec. 5(U). (Appendix, Exhibit 1).

Baltimore County Charter Article VI. (Appendix Exhibit 2).

Maryland Rule 2-506. (Appendix Exhibit 3).

County Board of Appeals Rules 3b, 4b, and 7d. (Appendix Exhibit 4).

State Open Meetings Law. Md.Ann.Code SG Art. Sec.10-501, et seq. (Appendix Exhibit 5).

ARGUMENT

The Nature of Judicial Review of Administrative Action

This petition for judicial review is authorized by statute under the Express Powers Act, Md. Ann. Code Art. 25A, Sec. 5(U), Baltimore County Charter Sec. 604, and Maryland Rules 7-201, et seq. But it also partakes of the original jurisdiction of the court to review administrative actions.

The Court exercises a form of original jurisdiction and inherent right to review the action of an administrative agency. Bucktail v. Talbot County 352 Md. 530, 542 (1999). Judge Rodowsky there cited Criminal Injuries Compensation Board v. Gould 273 Md. 486 (1975). This includes a comprehensive discussion of the function of judicial review:

> ....this Court, in a long line of cases, has consistently held that the Legislature cannot divest the courts of the inherent power they possess to review and correct actions by an administrative agency which are arbitrary, illegal, capricious, or unreasonable. [citations omitted]
>
> Chief Judge Hammond, who delivered the majority opinion in Insurance Comm'r v. National Bureau of Casualty, *supra*, stated:
>
> > The courts have been alert to exercise their residual power to restrain improper exercises of administrative powers whether judicial or legislative in nature. If the legislature has not expressly provided for judicial review, a court will ordinarily utilize its inherent powers to prevent illegal, unreasonable, arbitrary, or capricious administrative action. .... 273 Md. At 501-02.

Procedural Due Process and Irregularities

This petition does not raise the usual kind of question presented to the court upon review of a zoning decision. Ordinarily, the Court must review the facts to determine whether there is substantial evidence to support the agency's mixed factual and legal

judgment or, less frequently, to determine if there has been a clear error of law on the merits.

The present case is different because it is, as a practical matter, a case destroyed after it had reached fruition. A trial began and ended. The Board decided. The same Board then immediately allowed the case to be withdrawn without prejudice.

There is, therefore, the additional principle that agencies must provide procedural due process of law to parties who appear before them. In Maryland Aggregates v. State 337 Md. 658, 686 (1995), Judge Eldridge quoted from Maryland State Police v. Ziegler 330 Md. 540 (1993):

> Procedural due process, guaranteed to persons in this State by Article 24 of the Maryland Declaration of Rights, requires that administrative agencies performing adjudicatory or quasi-judicial functions observe the basic principles of fairness to parties appearing before them.

The Function of People's Counsel for Baltimore County: Defense of the Comprehensive Maps; Density Issues

The Charter

Under Baltimore County Charter Sec. 524.1(b), People's Counsel is responsible to defend the comprehensive zoning maps and master plan in land use cases on behalf of the public interest. This section states, *inter alia*:

> ***Powers and Duties*: The people's counsel shall have the following powers and duties:**
>
> **A. He shall appear as a party before the zoning commissioner of Baltimore County, his deputy, the county board of appeals, the planning board, and the courts on behalf of the interests of the public in general, to defend any duly enacted master plan and/or comprehensive zoning maps as adopted by the county council, and in any matter or proceeding now pending or hereafter brought involving zoning reclassification and/or variance from or special exception under the Baltimore**

County Zoning Regulations, as now or hereafter in force and effect, in which he may deem the public interest to be involved. ... He shall have in such appearance, all the rights of counsel for a party in interest, ..." (Emphasis supplied).

The Courts have applied the broad language underlined above to approve the participation of People's Counsel in all sorts of land use cases, including reclassifications, special exceptions, variances, special hearings and cases involving the master plan. People's Counsel v. A.V. Williams 45 Md. App. 617 (1980); People's Counsel v. Webster 65 Md. App. 694 (1986); People's Counsel v. Mockard 73 Md. App. 340 (1987); People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683 (1989); People's Counsel v. Mangione 85 Md. App. 738 (1991); Red Roof Inns v. People's Counsel 96 Md. App. 219 (1993); United Parcel Service v. People's Counsel 336 Md. 569 (1994); Security Management Co. v. Baltimore County 104 Md. App. 234 (1995), cert. denied; People's Counsel v. Beachwood 107 Md. App. 627 (1995), cert. denied; Umerley v. People's Counsel 108 Md. App. 496 (1996), cert. denied; People's Counsel v. Prosser 119 Md. App. 150 (1998); Riffin v. People's Counsel 137 Md. App. 90 (2001), cert. denied; Marzullo v. Kahl 366 Md. 158 (2001); People's Counsel v. Country Ridge Shopping Center 144 Md. App. 580 (2002); and Lucas v. People's Counsel 147 Md. App. 209 (2002). These have included reclassifications (Williams, Mockard, Beachwood, Prosser), special exceptions (Webster, Mangione, Umerley, Country Ridge, Lucas), variances (Red Roof Inns, Riffin), and the master plan or historic district identified in the plan (Webster and Lucas).

> The Court of Appeals cases has often found that special hearing cases involving legal interpretation of the applicable zoning regulations and maps are of great public interest. (Maryland Marine, Harker, United Parcel Service, Marzullo)

The present case involves a special hearing to determine the appropriateness of an amendment to a special exception and an interpretation as to compliance with zoning law, with particular emphasis on the permissibility of recreational vehicles in mobile home parks.

I. The County Board of Appeals Decision to Approve Voluntary Dismissal Without Prejudice Is Subject to Review for Arbitrariness, Capricious, and Illegality

Clearly, the CBA decision is subject to the inherent right of the courts to review administrative action for arbitrariness, capriciousness, and illegality. It is not immune. Because it involves a procedural issue, the court must also consider the fairness of the proceedings.

Ordinarily, the Rules of the forum provide guidance on procedural fairness. Therefore, we begin with an examination of the CBA Rules. There is no specific rule concerning voluntary dismissal of petitions. Rules 3b, 4b, and 7d, however, provide helpful clues to the solution of this problem.

Rule 3b states: "An appeal may be withdrawn or dismissed at any time prior to the conclusion of the hearing on said appeal." This rule does not refer to petitions. There is good reason for the distinction. The withdrawal of an appeal leaves intact the decision appealed. It leaves the prevailing party conclusively with the benefit of the earlier decision, ends the case, and thus does not cause prejudice, other than the effort to oppose the appeal. In contrast, the withdrawal of the petition leaves open the potential to file the same petition again, correct perceived omissions, change strategy and tactics, and cause the opposing party who was successful on the merits great aggravation and effort. This cycle can be repeated again and again.

It is also significant that Rule 3b is silent as to the terms of the withdrawal or dismissal. This reinforces the idea that it applies to appeals but not petitions. If it applied to petitions, the fundamental principles of administrative law would require the Board to exercise reasonable discretion to decide whether it should be with or without prejudice. We submit, therefore, based on plain language and the consequences for fairness, that the Rule 3b allowance for withdrawal of an appeal does not intend a petition to be withdrawn without prejudice at any time prior to the conclusion of the hearing.

More important, Rule 3b does not contemplate any sort of voluntary dismissal after the conclusion of the hearing. It is horribly unfair to allow a party to try the case in its entirety and then decide to abandon it without consequences.

Rule 4b delegates to the Board chairman the responsibility to regulate the course of the hearing and rule upon procedural matters, subject to the concurrence of the Board majority. This responsibility is necessarily subject to the aforesaid principles that administrative action be reasonable, not arbitrary or capricious, and consistent with procedural due process of law.

Rule 7d reinforces our point. It states, "... the proponent of the action to be taken shall have the burden of proof.". The reasonableness of the Board's action must also be evaluated in light of this burden.

It is only fair and logical to conclude that voluntary dismissals, like other administrative actions, are subject to these fundamental principles of administrative law. The County Board of Appeals erred, therefore, in deciding that Petitioners were entitled, as a matter of law, to dismiss without prejudice after not only the conclusion of trial, but also

the decision on the merits. The CBA failed to recognize that it must exercise discretion and consider the justification, if any, for the dismissal and the prejudice to the opposing party.

II. The CBA Abused Its Discretion in Granting to Penwood a Dismissal Without Prejudice After the Trial and Announcement in Public of a Decision to Deny Penwood's Zoning Petition

To gain insight, we examined how the Maryland and Federal Courts handle voluntary dismissals. Maryland Rule 2-506(b) provides that after a defendant files an answer or motion for summary judgment, "... a plaintiff may dismiss an action only by order of court and upon such terms and conditions as the court deems proper." The Rule dates from 1984 and states its source to be prior Rule 541b and the 1968 version of Federal Civil Rule 41(a)(2). The contemporary 1984 Maryland Rules Commentary states, at page 269:

> Under former Rule 541, the plaintiff to a law action could dismiss an action voluntarily at any time before the introduction of evidence at trial. This often resulted in abuse, giving the plaintiff control over the court's trial docket and over the judge and jury before whom he was submitting the case. If the plaintiff was dissatisfied with the appearance of the jury panel or with the judge to whom the case was assigned, he simply filed a notice of dismissal without prejudice. The lawsuit would be filed again shortly thereafter, commencing the case once again from the beginning. This obviously operated to the prejudice of the parties and the court.

Consistent with the historic derivation from the federal rule, the Commentary observed that "... the decisional law under F.R. Civ. P. 41 serves as a guide to the circumstances under which dismissal will not be allowed." See, e.g. Owens-Corning Fiberglas Corp v. Fibreboard Corp. 95 Md. App. 345, 348-51 (1993)

Even under former Rule 541, a plaintiff could not unilaterally dismiss an action after the introduction of evidence. Under new Maryland Rule 2-506(b), Scheve v.

Schudder 328 Md. 363, 376-78 (1992) and Owens-Corning, *supra*, are particularly helpful. In Scheve, a tax sale purchaser with a change of heart sought voluntary dismissal of orders of redemption which had been entered in their favor in two cases. The Circuit Court first struck the orders at their request, but then reentered them as a matter of law upon motions for judgment by defendants. Upon appeal, the Court of Appeals held that Rule 2-506(b) gave the Circuit Court discretion with respect to the dismissal and ordered limited remand for that purpose. In Owens-Corning, a complex asbestos case, two of the cross-claimants requested dismissal without prejudice after jury selection, pretrial and evidentiary rulings, and opening statements by plaintiffs and non-settling defendants, (but before opening statements on the cross-claims). The Circuit Court rather dismissed with prejudice, and the Court of Special Appeals affirmed. Judge Rosalyn B. Bell wrote:

> In the instant case, the trial judge was ready to proceed with the trial, the jury had been empanelled and sworn, and some of the parties had given their opening statements. The judge, wanting to move the case forward, offered Owings-Corning and Keene a choice of dismissing their cross-claims with prejudice or going forward with their cross-claims at trial. This was not the choice they wanted, but the trial judge made it clear that this was what was available to them. When they continued to balk, the trial judge merely did what he told them he would do, namely, grant their motion to dismiss, but with the condition of prejudice. We cannot say that he abused the discretion given to him by the rules. 95 Md. App. at 364.

The federal courts have developed detailed standards to govern the exercise of discretion in handling pretrial voluntary dismissals. In Zagano v. Fordham University 900 F.2d 12 (2d Cir. 1990), the plaintiff moved for voluntary dismissal less than ten days before trial and then refused to proceed with trial after denial of her motion. The trial judge dismissed with prejudice, and the appellate court affirmed. The Second Circuit articulated the following criteria to govern the exercise of discretion at 900 F.2d, at 14:

> Factors relevant to the consideration of a motion to dismiss without prejudice include the plaintiff's diligence in bringing the motion; any 'undue vexatiousness' on plaintiff's part; the extent to which the suit has progressed, including the defendant's effort and expense in preparation for trial; the duplicative expense of relitigation; and the adequacy of plaintiff's explanation for the need to dismiss.

Minnesota Mining v. Barr Laboratories 289 F.3d 775 (8th Cir. 2002) dealt with plaintiff 3M's motion to dismiss without prejudice, which was filed after information disclosed in discovery cast doubt on the main claim. The Court identified these "... factors to consider in exercising this discretion ... : whether the party has presented a proper explanation for its desire to dismiss; whether a dismissal would prejudice the defendant; whether a dismissal would result in a waste of judicial time and effort; whether a dismissal would prejudice the defendant; and whether the dismissal was designed to avoid an adverse judgment." In affirming a dismissal with prejudice, the Court wrote:

> The district court here considered appellant's claimed entitlement to a dismissal without prejudice under Rule 41(a)(2), but found no legitimate justification for the appellants to dismiss the action without prejudice. The district court concluded that the appellants were seeking to avoid a judgment that would be adverse to their interest ... and that this was not a legitimate justification for their desire to dismiss without prejudice. ... Because the district court properly found that 3M had not offered a sufficient justification for a dismissal without prejudice, we hold that the district court did not abuse its discretion in denying 3M's motion. Indeed, under the circumstances, a dismissal without prejudice might well have constituted an abuse of discretion since 3M was plainly seeking to avoid an adverse judgment.

Similarly, Phillips USA v. Allflex USA 77 F.3d 354, 358 (7th Cir. 1996), affirmed the lower court's denial of a motion to dismiss without prejudice which was made after the opposing party filed a motion for summary judgment. The appellate court reinforced its adoption of the following factors: "the opposing party's effort and expense in preparing for trial ...; excessive delay and lack of diligence on the part of the movant ...; and

insufficient explanation of the need for dismissal ..." The court may also "... consider the present stage of litigation." Ibid. Ultimately, the opinion concluded:

> We agree with the district court that a party should not be permitted to avoid an adverse decision on a dispositive motion by dismissing a claim without prejudice.

Subsequently, in Jones v. Simek 193 F.3d 485 (7th Cir. 1999) the Seventh Circuit affirmed a refusal to dismiss without prejudice where a motion was filed thirteen days prior to trial. The Court wrote:

> Similarly, there was no abuse of discretion in the court's refusal to dismiss without prejudice. ... The case was well advanced, the defendants had invested considerable time and resources in trial preparation, as had the court, and Jones' reason for the request (a scheduling conflict) was weak.

The Sixth Circuit decision in Grover by Grover v. Eli Lilly and Co. 33 F.3d 716 (6th Cir. 1994) is even more to the point. There, the plaintiff sought a voluntary dismissal without prejudice after the State Supreme Court responded to a certified question of law with the conclusion that certain types of claims asserted by the Plaintiff were not viable under state law. In reversing the lower court's allowance of the dismissal, the Court identified essentially the same factors utilized by the other federal courts. In applying these factors, the Court wrote:

> Under the circumstances of this case, these factors weigh in on the defendant's side of the controversy. This, coupled with the certification of a dispositive question of Ohio law to the Ohio Supreme Court and then virtual disregard of the answer received, convinces us that the district court abused its discretion in dismissing the lawsuits without prejudice. 33 F.2d at 718.
>
> At the point when the law clearly dictates a result for the defendant, it is unfair to subject him to continued exposure to potential liability by dismissing the case without prejudice. [citation omitted] 33 F. 2d at 719.

* * *

In the present case, let us apply these standards. There was no explanation given for the voluntary dismissal. It is apparent, however, that the reason was to avoid an adverse decision, a decision that had just been made. That explanation would obviously have been inappropriate, so Petitioner took the brazen position that no explanation was necessary.

It was in the public interest to have a decision, not only for this case but also as guidance for mobile home park owners and residents all across Baltimore County. Moreover, the citizens who testified, the office of People's Counsel, and the County Board of Appeals itself had all spent considerable time and resources trying this to its conclusion, with only the written opinion left to complete the process.

Once the opinion was issued, Penwood could have taken an appeal or filed a motion for reconsideration. Instead, it chose to short-circuit the case. Unfortunately, CBA allowed it, and in a very precipitous way, without giving other parties an opportunity to comment or respond.

The fact situation here is more extreme than in the Maryland and federal cases where the courts found dismissal without prejudice inappropriate or an abuse of discretion. This is not a close case.

III. The Voluntary Dismissal Without Prejudice Also Violated the Express Powers Act and the Baltimore County Charter

The Express Powers Act, Md. Code Article 25A, Sec. 5(U), is the enabling legislation for county boards of appeals in charter counties. It provides, among other

things, for "...(4) for decision by the board on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board [of various matters, including zoning proceedings]; ...." This subsection also states:

> Provided, that upon any decision by a county board of appeals it shall file an opinion which shall include a statement of the facts found and the grounds for the decision. Any person aggrieved by the decision of the board and a party to the proceeding before it may appeal to the circuit court ....

Clearly, in failing to file a written opinion after its publicly announced decision, the CBA here failed to adhere to this State law.

Article VI of the Baltimore County Charter implements the Express Powers Act. Sec. 603 states:

> All decisions of the county board of appeals shall be made after notice of opportunity for hearing upon the issues before said Board.

This recognizes the importance of procedural due process of law and fair play. One of the elements of due process is that after a case is fairly tried and decided, after notice and opportunity for hearing, it may not be withdrawn arbitrarily. That would make a mockery of the proceeding. Sadly, that is what happened here.

The Express Powers Act and Baltimore County Charter thus reinforce the conclusion that the CBA acted arbitrarily and capriciously in allowing a voluntarily dismissal without prejudice after the case was decided in public. To paraphrase Shakespeare, "... the time was out of joint ..." for a voluntarily dismissal.

IV. The Voluntary Dismissal Undermined the State Open Meetings Law

a. Substance

There is yet another reason that the voluntarily dismissal was arbitrary and capricious. It eviscerated the CBA decision called for by the State Open Meetings Law. Md. Ann. Code SG Art. 10-501, et seq. See Wesley Chapel Bluemount Assoc. v. Baltimore County 347 Md. 125 (1997). Having scheduled and accomplished the required public deliberation, the CBA precipitously negated it. This is worse than having no deliberation at all.

What happened here is incompatible with the affirmative legislative purpose to foster open decisions. The result is that a zoning petitioner can see whether it finds the decision acceptable, nullify any decision it doesn't like, and potentially come back with a similar request. It subverts the law.

b. Procedural Note

This is part of our argument in the petition for judicial review. Our original petition requested counsel fees under the enforcement provisions in the State Open Meetings Law, SG Art. Sec. 10-510 and thus sought in combination to enforce the Open Meetings Law under that section. However, we subsequently filed a notice of amendment by interlineation to delete this request. All of the other relief requested is available under the petition for judicial review.

Therefore, this case is now simplified and should be viewed as a petition for judicial review. It focuses on the arbitrariness and capriciousness of the CBA decision. The Open Meetings Law conflict just adds another dimension. The order to allow a voluntary

dismissal without prejudice would be arbitrary and capricious even if there were no Open Meetings Law.

In its response to the petition, Penwood objected to the part of the petition relating to enforcement of the Open Meetings Law because it was not served and the Board of Appeals was not made a party. This objection is now academic because all of the relief requested under the amended petition is within the purview of the petition for judicial review.

In any event, People's Counsel served copies of the Petition for Judicial Review by first class mail to counsel for Penwood and to the CBA. As the case arose from a Board proceeding in which Penwood was a party, this was sufficient. The record shows that both Penwood and the Board have had actual notice. Penwood has filed a response. The Board has sent out a notice and transmitted the record to the Circuit Court as provided in the Maryland Rules. Rule 7-201, et seq. If the CBA wished to participate in any other manner, it could have done so.

In sum, there is no procedural problem. All of the parties have notice. All of the parties who wish to participate are before the court.

Conclusion

For all of these reasons, the Court should reverse the CBA decision to allow Penwood to dismiss without prejudice. As amended, our petition requests that the Circuit Court reverse and vacate the County Board of Appeals Order dated December 11, 2003; that it validate the CBA decision publicly arrived at on December 10, 2003; and that it enter an Order to remand the case to the County Board of Appeals for the issuance of a

written opinion and order, stating findings of the facts and grounds for decision, consistent with its December 10, 2003 decision upon public deliberation and consistent with Section 604 of the Baltimore County Charter and Article 25A, Sec 5(U) of the Maryland Code.

We ask the Circuit Court also to advise that the County Board of Appeals December 11, 2003 Order conflicts with and undermines the State Open Meetings Law. As noted, we have deleted the separate request for relief under that statute, the original paragraph E which requested counsel fees under the Open Meetings Law.

Finally, we ask the Court to grant such other relief as is necessary and appropriate under all of the circumstances.

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 24th day of March, 2004, a copy of the foregoing Memorandum was mailed to Howard L Alderman, Jr., Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioners and to Lawrence S. Wescott, Chairman, County Board of Appeals, Old Courthouse, 400 Washington Avenue, Towson, MD 21204.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

Annotated Code of Maryland

modifications, ordinances and amendments thereof for the protection and promotion of public safety, health, morals, comfort and welfare, relating to any of the following: the location, construction, repair, and use of streets and highways; the disposal of wastes; the control of problems of soil erosion and of the preservation of the natural topography in newly developed and other areas; and the erection, construction, repair and use of buildings and other structures; and to enact local laws providing appropriate administrative and judicial proceedings, remedies, and sanctions for the administration and enforcement of such ordinances and amendments.

(U) *County Board of Appeals*

To enact local laws providing (1) for the establishment of a county board of appeals whose members shall be appointed by the county council; (2) for the number, qualifications, terms, and compensation of the members; (3) for the adoption by the board of rules of practice governing its proceedings; and (4) for the decision by the board on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board, of such of the following matters arising (either originally or on review of the action of an administrative officer or agency) under any law, ordinance, or regulation of, or subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection: An application for a zoning variation or exception or amendment of a zoning ordinance map; the issuance, renewal, denial, revocation, suspension, annulment, or modification of any license, permit, approval, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order; and the assessment of any special benefit tax: Provided, that upon any decision by a county board of appeals it shall file an opinion which shall include a statement of the facts found and the grounds for its decision. Any person aggrieved by the decision of the board and a party to the proceeding before it may appeal to the circuit court for the county which shall have power to affirm the decision of the board, or if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require. Any party to the proceeding in the circuit court aggrieved by the decision of the court may appeal from the decision to the Court of Special Appeals in the same manner as provided for in civil cases.

(V) *Recreation*

To enact local laws providing for the development and administration of a comprehensive recreational program including the construction, equipment and use of park, community center, and recreational buildings and facilities, the acquisition of sites therefor, including financial support for artistic, musical, and cultural public and private nonprofit organizations and activities, and the furnishing of recreational and other municipal services in connection therewith; and to exercise any power or authority conferred by the provisions of Article 25 of this Code, in the subtitle "Public Recreation and Parks".

Appendix Exhibit 1

DIVISION 5. [RESERVED]*

ARTICLE VI. COUNTY BOARD OF APPEALS†

Sec. 601. Appointment; terms; compensation.

There is hereby created and established a county board of appeals consisting of seven members who shall be appointed by the county council. Each member of the county council shall have the right to nominate one person to serve on the board of appeals. The first board of appeals appointed after this amendment shall consist of two members appointed for a term of one year, two members appointed for a term of two years and three members appointed for a term of three years. Thereafter, all appointments or reappointments shall be for three-year terms except that an appointment to fill a vacancy occurring before the expiration of a term shall be for the remainder of the unexpired term. All members of the board shall be residents of Baltimore County, and appointments shall be made so no more than five (5) of the members of the board shall be members of the same political party. The county council shall by legislative act set the compensation of the county board of appeals; provided, however, that no reduction in salary shall affect the compensation of a member of the county board of appeals during his current term. The board of appeals as constituted at the time of this amendment shall remain in effect until changed as provided in this section of the Charter.
(Bill No. 85, 1978, § 1; approved by voters Nov. 7, 1978; effective Dec. 8, 1978; Bill No. 53, 1982, § 1; approved by voters Nov. 2, 1982; effective Dec. 2, 1982)

Sec. 601.1. [Repealed.]

Repealed by Bill No. 85, 1978, § 2. (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

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*Editor's note–Division 5, consisting of section 544, was repealed by Bill No. 132, 1990, § 1, which was approved by the voters on Nov. 6, 1990; effective Dec. 7, 1990.

†Editor's note–The title of this article was changed by Bill No. 85, 1978. Approved by voters Nov. 7, 1978; effective Dec. 8, 1978.

Sec. 602. Powers and functions of county board of appeals.

The county board of appeals shall have and may exercise the following functions and powers:

(a) *Appeals from orders relating to zoning.* The county board of appeals shall have and exercise all the functions and duties relating to zoning described in Article 25A of the Annotated Code of Maryland [Ann. Code of Md., art. 25A] as such functions and powers may be prescribed by legislative act of the County Council. All references in law to the board of zoning appeals shall be construed to refer to the county board of appeals. In all cases, except those excluded by this Charter or by legislative act of the county council, the order of the county board of appeals shall be final unless an appeal is taken therefrom in the manner provided in section 604 of this article. (Bill No. 85, 1978, § 1) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

(b) *Appeals from orders relating to licenses.* The county board of appeals shall have and exercise all the functions and powers of the board of license appeals as such functions and powers are prescribed in the public local laws of the county in effect at the time of the adoption of this Charter. All references in said laws to the board of license appeals shall be construed to refer to the county board of appeals created by this article. As soon as the county board of appeals has been duly constituted by the appointment and qualifications of its members as herein provided, the board of license appeals shall cease to exist.

(c) *Appeals from orders relating to building.* The county board of appeals shall hear and decide all appeals from orders relating to building. (Bill No. 85, 1978, § 1) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

(d) *Appeals from executive, administrative and adjudicatory orders.* The county board of appeals shall hear and decide appeals from all other administrative and adjudicatory orders as may from time to time be pro-

vided by Article 25A of the Annotated Code of Maryland (1957 Edition), as amended, or by legislative act of the county council not inconsistent therewith.

(e) The county board of appeals shall have original and exclusive jurisdiction over all petitions for reclassification. (Bill No. 85, 1978, § 3) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

Sec. 603. Rules of practice and procedure.

Subject to the approval of the county council, the county board of appeals shall have authority to adopt and amend rules of practice and procedure to cover the conduct of its proceedings. Such rules may include matters relating to filing fees, meetings and hearings conducted by the board, the manner in which the chairman of the board shall be selected and the term for which he shall serve as chairman, and all other matters deemed appropriate or necessary for the board to conduct its proceedings. Said rules and regulations when approved by the county council shall have the force and effect of law. All decisions of the county board of appeals shall be made after notice and opportunity of hearing upon the issues before said board. All hearings held by the board shall be heard de novo, unless otherwise provided by legislative act of the County Council, and shall be open to the public. The board shall cause to be maintained complete public records of its proceedings, with a suitable index.
(Bill No. 85, 1978, § 1) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

Sec. 604. Appeals from decisions of the board.

Within thirty days after any decision by the county board of appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the circuit court of Baltimore County, which shall have power to affirm the decision of the board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require. Whenever such appeal is taken, a copy of the notice of appeal shall be served on the board by the clerk of said court, and the board shall promptly give notice of the appeal to all parties to the proceeding before it. The board shall, within fifteen days after the filing of the appeal, file with the court the originals or certified copies of all papers and evidence presented to the board in the proceeding before it, together with a copy of its opinion which shall include a statement of the facts found and the grounds for its decision. Within thirty days after the decision of the circuit court is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the court of appeals of this state. The review proceedings provided by this section shall be exclusive.

Annotation—One must be a taxpayer or a "party aggrieved" to seek review by the circuit court of a decision of the board of zoning appeals and to appeal from the circuit court to the court of appeals. Southland Hills Improvement Assn. v. Raine, 220 Md. 213, 151 A.2d 735 (1959).

Cited in Prince George's County v. Donohue, 220 Md. 372, 152 A.2d 560 (1959).

Referred to in Renz v. Bonfield Holding Co., 223 Md. 34, 158 A.2d 615 (1960); and in Jobar Corp. v. Rodgers Forge, 236 Md. 106, 202 A.2d 612 (1964).

Certain persons owning property near property proposed for rezoning constitute "parties aggrieved" within the meaning of this section. Wier v. Witney Land Company, 257 Md. 600, 263 A.2d 833 (1970).

Sec. 605. Employees of the board.

The board may appoint such employees, and the county executive shall make available to the board such services and facilities of the county as are necessary or appropriate for the proper performance of its duties. The county attorney or some member of the legal staff whom the county attorney designates shall serve as counsel to the board.
(Bill No. 172, 1981, § 1) (Approved by voters Nov. 2, 1982; effective Dec. 3, 1982)

Sec. 606. Furthering legislation.

The county council shall have the power to enact furthering legislation not inconsistent with the provisions of this article to implement and define the powers and functions of the county board of appeals as herein specified. To the extent permitted by the public general laws of this state, the county council shall also have the power, by legislative act, to prescribe other appeals to be heard

by the county board of appeals in addition to those specified in this article.
(Bill No. 85, 1978, § 1)

Sec. 607. [Repealed.]

Repealed by Bill No. 85, 1978, § 2.

ARTICLE VII. BUDGETARY AND FISCAL PROCEDURES

Sec. 701. Fiscal year.

The fiscal year of the county government shall begin on the first day of July and shall end on the last day of June unless the council shall adopt a different fiscal year in conformity with the general laws of this state.
(Bill No. 86, 1978, § 1) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

Sec. 702. Definition of terms used in this article.

(a) The term "county government" shall include:

(1) All offices, departments, institutions, boards, commissions, and agencies and their officers, agents and employees established by this Charter or the public local laws and ordinances of Baltimore County; and

(2) All offices, departments, institutions, boards, commissions, and agencies and their officers, agents, and employees which receive or disburse county funds and are established by the Constitution or general statutes of this state. (Bill No. 86, 1978, § 1) (Approved by voters Nov. 7, 1978; effective Dec. 8, 1978)

(b) The term "capital project" shall mean any physical public betterment or improvement and the acquisition of property of a permanent nature for public use.

(c) The term "capital budget" shall mean the plan of the county to receive and expend funds for capital projects during the first fiscal year included in the capital program.

(d) The term "capital program" shall mean the plan of the county to receive and expend funds for capital projects during the fiscal year covered by the capital budget and the next succeeding five fiscal years thereafter.

Sec. 703. Comprehensive scope of budget.

The county budget shall consist of the current expense budget, the capital budget and capital program and the budget message, which shall be combined as one document. It shall represent a complete financial plan for the county reflecting all receipts and disbursements from all sources, including all revenues, all expenditures, and the surplus or deficit in all general and all special funds of the county government.

Sec. 704. Formulation of current expense budget.

Not less than one hundred twenty days prior to the end of each fiscal year, the head of each office, department, institution, board, commission and other agency of the county government shall furnish to the director of the budget estimates of the revenues and expenditures of their several operations for the ensuing fiscal year. Estimated revenues shall be detailed as to source, and estimated expenditures as to program or project. All such estimates shall be submitted with such other supporting data as the director of the budget may request. The data so submitted shall thereupon be reviewed by the county administrative officer and the current expense budget compiled therefrom for transmission to the county executive for his approval.

Sec. 705. Formulation of capital budget and capital program.

(a) *Submission of data for referendum.* In each year of a general election in the county, the county executive shall cause to be placed on the ballot for referendum all questions relating to the issuance of bonds or evidences of indebtedness as may require the approval of the voters of the county as provided in section 718 of this article. Such questions shall be determined as follows:

(1) At such time or times as the county administrative officer may direct, the director of

Source. — This Rule is derived as follows
Section (a) is derived from former Rule 542 a 1 and 2
Section (b) is derived from former Rule 542 c 1 and 4
Section (c) is derived from former Rule 542 d 1
Section (d) is derived from former Rule 542 g
Section (e) is derived from former Rule 542 i

Effect of amendments. — The 1996 amendment inserted "that is subject to removal" in the first sentence of (a)(1), added "or, if the action is not removable, the right to have a judge of a court of another county preside in the action" to the end of (a)(2), and added the cross reference

The 2001 amendment, in (b), substituted "Designation of court and transmittal" for "Transmittal" in the section designation and added the present first sentence

Maryland Law Review. — For article, "Right of Removal Where Third Party Impleaded," see 15 Md. L. Rev. 76 (1955).

University of Baltimore Law Review. — For article, "State Constitutional Law for Maryland Lawyers Individual Civil Rights," see 7 U. Balt. L. Rev. 299 (1978).

For article "The Maryland Rules — A Time of Overhaul," see 9 U. Balt. L. Rev. 1 (1979).

For article, "Merger of Law and Equity Under the Revised Maryland Rules Does It Threaten Trial by Jury?," see 14 U. Balt. L. Rev. 1 (1984).

Constitutionality of this Rule. — Despite the unenforceability of the automatic, absolute right of removal provided by the State Constitution, as construed by Davidson v. Miller, 276 Md. 54, 344 A.2d 422 (1975), a party, having made proper suggestion that he cannot have a fair and impartial trial in the court in which the action is pending, is entitled to the opportunity to make it satisfactorily appear to that court that such suggestion is true, or that there is a reasonable ground that it is true. If he succeeds in making it so appear, the case should be removed in the sound exercise of judicial discretion. Firstman v. Atlantic Constr. & Supply Co., 28 Md. App. 285, 345 A.2d 118 (1975).

Evil to which removal is addressed is the undue influence of local passion, prejudice, or interest, to which jurors as a class are peculiarly subject and responsive and which are often reflected in their verdicts to the injury of a litigant. Greenberg v. Dunn, 245 Md. 651, 227 A.2d 242 (1967).

Removal provisions are liberally construed. — The constitutional provisions, the implementing statute and the implementing rule are to be liberally construed in favor of the right of removal. Greenberg v. Dunn, 245 Md. 651, 227 A.2d 242 (1967).

Showing required. — Removal is only available upon a showing that otherwise a fair and impartial trial cannot be had. Ezersky v. Ezersky, 40 Md. App. 713, 394 A.2d 1225 (1978).

Removal must be made before trial or any part of it is commenced in the court ordering the removal. Anne Arundel County v. Lichtenberg, 263 Md. 398, 283 A.2d 782 (1971).

Suggestion for removal filed after case was remanded to trial court, without affirmance or reversal, for the purpose of taking additional testimony and not for the purpose of a new trial, came too late. Anne Arundel County v. Lichtenberg, 263 Md. 398, 283 A.2d 782 (1971).

Suggestion of removal as dilatory tactic disapproved. — With the noticeable increase in litigation in Maryland since 1875, when the right of removal was last placed in the Constitution, it has become a common practice for attorneys to use the suggestion of removal as an unimpeachable and uncontrollable dilatory tactic. While it is still correctly used to avoid the possible impact of local prejudice in those cases in which it can be exercised, its use as an eleventh-hour maneuver to avoid trial both harasses the opposition and disrupts the constitutional rights of others to have their day in court. Smith v. Fredericktown Bank & Trust Co., 258 Md. 141, 265 A.2d 236 (1970).

Divorce. — In case where husband challenged the action of the Circuit Court of Baltimore City in granting the petition of wife as to removing the child custody portion of the pending divorce case to the Circuit Court for Baltimore County the lower court did not have the power to remove any portion of the pending case to the Circuit Court for Baltimore County. Ezersky v. Ezersky, 40 Md. App. 713, 394 A.2d 1225 (1978).

Rule 2-506. Voluntary dismissal.

(a) **By notice of dismissal or stipulation.** Except as otherwise provided in these rules or by statute, a plaintiff may dismiss an action without leave of court (1) by filing a notice of dismissal at any time before the adverse party files

an answer or a motion for summary judgment or (2) by filing a stipulation of dismissal signed by all parties who have appeared in the action.

(b) **By order of court.** Except as provided in section (a) of this Rule, a plaintiff may dismiss an action only by order of court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded prior to the filing of plaintiff's motion for voluntary dismissal, the action shall not be dismissed over the objection of the party who pleaded the counterclaim unless the counterclaim can remain pending for independent adjudication by the court.

(c) **Effect.** Unless otherwise specified in the notice of dismissal, stipulation, or order of court, a dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a party who has previously dismissed in any court of any state or in any court of the United States an action based on or including the same claim.

(d) **Costs.** Unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action or the part dismissed.

Cross references. — Code, Courts Art. § 7-202.

(e) **Dismissal of counterclaims, cross-claims, or third-party claims.** The provisions of this Rule apply to the dismissal of any counterclaim, cross-claim, or third-party claim, except that a notice of dismissal filed by a claimant pursuant to section (a) of this Rule shall be filed before the filing of an answer. (Amended Nov. 12, 2003, effective Jan. 1, 2004.)

Source. — This Rule is derived as follows
Section (a) is derived from the 1968 version of Fed. R. Civ. P. 41 (a)(1).
Section (b) is derived from former Rule 541 b and the 1968 version of Fed. R. Civ. P. 41 (a)(2).
Section (c) is derived from former Rule 541 c.
Section (d) is derived from former Rules 541 d and 582 b.
Section (e) is derived from the 1968 version of Fed. R. Civ. P. 41 (c).

Effect of amendments. — The 2003 amendment changed the Source note to reflect the corresponding federal rule as of the date of adoption of the Maryland Rule. The amendment substituted "the 1968 version of Fed. R. Civ. P. 41 (a)(1)" for "FRCP 41 (a)(1)" with reference to (a); "the 1968 version of Fed. R. Civ. P. 41 (a)(2)" for "FRCP 41 (a)(2)" with reference to (b); and "the 1968 version of Fed. R. Civ. P. 41 (c)" for "FRCP 41 (c)" with reference to (c).

Maryland Law Review. — For article, "Survey of Developments in Maryland Law, 1984-85," see 45 Md. L. Rev. 501 (1986).

University of Baltimore Law Review. — For discussion, "Property Disposition upon Divorce in Maryland: An Analysis of the New Statute," see 8 U. Balt. L. Rev. 377 (1979).

For article, "The Maryland Rules — A Time for Overhaul," see 9 U. Balt. L. Rev. 1 (1979).

For article, "Merger of Law and Equity Under the Revised Maryland Rules. Does It Threaten Trial by Jury?," see 14 U. Balt. L. Rev. 1 (1984).

Section (b) of this Rule is virtually identical to Federal Rule 41 (a) (2). Plater v. Kane Whse. Co., 241 Md. 462, 217 A.2d 102 (1966); Colonial Carpets, Inc. v. Carpet Fair, Inc., 36 Md. App. 583, 374 A.2d 419 (1977).

Dismissal of "an action" under section (b) includes dismissal of separate claim in action. Orolan v. Allstate Ins. Co., 62 Md. App. 654, 490 A.2d 1321 (1985).

Applicability of Rule 2-535(b). — Rule 2-535(b), concerning the power of the court to revise orders, applies to a voluntary dismissal with prejudice of a civil action signed by all the parties pursuant to this Rule. Claibourne v. Willis, 347 Md. 684, 702 A.2d 293 (1997).

There is no Maryland authority denying plaintiff right to dismiss. Great S.W. Fire Ins. Co. v. S.M.A., Inc., 59 Md. App. 136,

Appendix Exhibit 3

APPENDIX H
RULES OF PRACTICE AND PROCEDURE OF THE BALTIMORE COUNTY BOARD OF APPEALS[1]

Rule 1. General

a. The county board of appeals shall select one of its members to be the chairman of the board, and he shall serve as chairman at the pleasure of the board. The chairman shall preside at all meetings of the county board of appeals, and in his absence he shall designate another member of the board to sit in his place as acting chairman.

b. Meetings of the county board of appeals shall be held as determined by the chairman, but never less than weekly; and the board shall meet at such other times as the board may determine.

c. Three (3) members of the board of appeals, as designated by the chairman, shall sit for the purpose of conducting the business of the board; and a majority vote of two (2) members shall be necessary to render a decision, except that, in the event of illness or death of a sitting member, upon agreement of counsel of record or parties or record, two (2) members may continue to sit for purposes of concluding any matter before the board of appeals.

d. All appeals to the board from decisions of the zoning commissioner or deputy zoning commissioner shall be in conformance with the rules of the zoning commissioner of Baltimore County with respect to the form of appeal, and the filing fees shall be as established either by said rules of the zoning commissioner or by the Zoning Regulations of Baltimore County.

Rule 2. Notice.

a. No hearing shall be conducted without at least ten (10) days' notice to all parties of record or their counsel of record, unless otherwise agreed to by all such parties or their counsel of record.

b. Postponements and continuances will be granted at the discretion of the board only upon request in writing by an attorney of record, addressed to the board and with a copy to every other attorney of record, or party of record (if not represented by counsel) entitled to receive notice, in accordance with section 500.11 of the Baltimore County Zoning Regulations, setting forth good and sufficient reasons for the requested postponement.

c. No postponement shall be granted within fifteen (15) days prior to the hearing date except in extraordinary circumstances and for a reason satisfactory to the board, given by the party requesting such postponement indicating that the circumstances requiring the postponement are of an unusual and ordinary nature.

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[1] **Editor's Note: These rules are included here as they appeared in Appendix G of the 1987 Edition of the Baltimore County Zoning Regulations, as amended.**

d. All records and dockets of the board shall be open to the public during normal business hours.

e. In appeals from decisions of the zoning commissioner, formal notice of hearings, continuances and decisions of the board will be provided only to those persons entitled to receive same in accordance with section 500.11 of the Baltimore County Zoning Regulations.

Rule 3. Appeals.

a. No appeal shall be entertained by the board of appeals unless the notice of appeal shall state the names and addresses of the persons taking such appeal.

b. An appeal may be withdrawn or dismissed at any time prior to the conclusion of the hearing on said appeal.

c. Unless otherwise provided for by statute, all appeals to the board of appeals, subject to and limited by statutory authority to hear appeals, shall be made within thirty (30) days from the date of the final action appealed. [Bill No. 141-1989]

Rule 4. Conduct of hearings.

a. All hearings held by the county board of appeals shall be open to the public. No hearing shall be private even though all parties agree. The county board of appeals shall have the power to administer oaths, and all witnesses shall testify under oath.

b. The chairman shall regulate the course of the hearing and shall rule upon procedural matters, applications, modifications and objections made during the course of the hearing, subject to the concurrence of a majority of the board conducting the hearing.

c. A hearing may be adjourned from time to time for good cause shown and if the time and place of reconvening the hearing is announced at adjournment, no further notice of reconvening shall be required. If the time and place of reconvening is not announced at adjournment, notice of time and place of reconvening shall be given as required in rule 2a.

d. Depositions shall not be allowed unless by agreement of all parties or their counsel of record.

Rule 5. Subpoenas

a. The county board of appeals shall have the power to compel the attendance of witnesses and to require the production of records and documentary or other tangible evidence.

b. The board may cause subpoenas and subpoenas duces tecum to be issued upon its own motion, or upon the application of any party to any hearing; but subpoenas will not be issued upon application unless such application is in writing and sets forth the persons, records, books, papers or other documents to be produced and a general statement as to the purpose.

Rule 6. Appearances and practice before the board of appeals.

a. Any individual who is a party to a proceeding before the board may appear in his own behalf; any member of a partnership may appear as representing said partnership if it is a party; a duly authorized officer of a corporation, trust or an association may appear as representing said body if it is a party to the proceedings; and a duly authorized officer or an employee of any political subdivision or body or department may represent the same in any proceeding before the board.

b. Any party may be represented in any proceeding by an attorney-at-law admitted to practice before the Court of Appeals of Maryland.

c. No person shall appear before the board in a representative capacity, engage in practice, examine witnesses or otherwise act in a representative capacity except as provided in sections a. and b. above.

d. When an attorney wishes to appear in any proceeding in a representative capacity which involves a hearing before the county board of appeals, he shall file with the board a written notice of such appearance, which shall state his name, address, telephone number, and the names and addresses of the persons on whose behalf he has entered his appearance.

Rule 7. Evidence.

a. Any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the county board of appeals. Proceedings before the board being administrative in nature, the board will not be bound by the technical rules of evidence but will apply such rules to the end that needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties. Any oral or documentary evidence may be received: but the board reserves the right as a matter of policy to provide for the exclusion of immaterial or unduly repetitious evidence, and the number of witnesses may be limited if it appears that their testimony may be merely cumulative.

b. All evidence, including records and documents in the possession of the agency, of which it desires to avail itself, shall be offered and made part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

c. Prepared statements may be read by participants in the hearing if they include factual material and do not include argument, provided copies of said statements have been delivered to the board and opposing counsel at least five (5) days prior to hearing, and their admissibility ruled upon, the same as if the factual content were presented in the usual manner. "Prepared statements" within the meaning of this section shall not include factual reports, written summations, letters, expert opinions of professional expert witnesses and other such similar documents.

d. Except as may otherwise be provided by statute or regulation, the proponent of action to be taken by the board shall have the burden of proof.

e. Any official record or entries therein when admissible for any purpose may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, and the appearance of the officer will not be required unless demanded by a party to the case for good cause shown to the board. This rule does not prevent any party from summoning any proper witness to attend any hearing before the board.

f. Records of other proceedings before the board may be offered in evidence by the production of the files containing said records of such other proceedings.

g. In such cases as the board may determine, it may by order require that the direct testimony of all "expert" witnesses be submitted in writing, accompanied by copies of all exhibits to which reference is therein made, unless such are of a voluminous nature or within the files of, or readily available to, the board of appeals, in which case adequate reference shall be made thereto, which testimony shall be submitted by the parties required so to do and under the time and service provisions as contained in said order. Thereafter, said "expert" witnesses shall be personally present at the hearing for affirmation of their written statement and exhibits previously submitted and for cross-examination..

Rule 8. Special rule pertaining to persons appearing before the board as representatives of civic or improvement associations.

a. Before any person shall testify on behalf of any civic or improvement association, it shall be shown that he has accurate knowledge of the number of members in the association and the geographical limits of the association.

b. Before any such person shall testify it shall also be shown that he is authorized to speak for and present the views of the civic or improvement association.

c. Such authorization shall consist of presenting at the hearing or prior thereto a resolution in duplicate duly adopted by the association at its annual meeting or first meeting of each year, signed by the president and attested by the secretary, providing that the responsibility for review and action on all zoning matters be placed on its board of directors or a duly elected zoning committee.

d. Before any such authorized person shall testify, it shall be shown by written affidavit in duplicate, signed by the president of the association and attested by the secretary, that he is currently a duly elected member of the board of directors or zoning committee of that association, or is an attorney appointed to represent the board of directors or zoning committee.

e. Before any such authorized person shall testify, a resolution stating the position of the association as adopted by the board of directors or zoning committee, signed by the president and attested by the secretary, shall also be produced in duplicate at the hearing.

Rule 9. Special rule pertaining to original petitions for reclassification, special exception and/or variance.

a. Application of Rule. This rule shall apply only to petitions for reclassification, special exception and/or variance filed with the board pursuant to Section 2-58.1 of Article V, "Boards and Commissions," Division 4, "Board of Appeals," Title 2, "Administration," of the Baltimore County Code, as now in force and effect or as hereafter amended. It applies to the filing, processing, advertising and scheduling of hearings on such petitions and is supplemental to such other rules of the board and section 2-58.1 of the Baltimore County Code as now in force and effect or as are hereafter amended or adopted. Once filed and scheduled for hearing under the provisions of this special rule, such petitions shall be heard and decided in accordance with all other rules of the board.

b. Definition of Petition. As used herein the term "petition" shall mean:

1. Request for reclassifications of property including all material filed with said request.

2. Request for special exceptions and/or variances, the granting of which are dependent upon a reclassification of the property, including all material filed therewith.

c. Filing.

1. Petitions may be filed in the office of the board of appeals throughout the year, except during the period from April 16, 1979, through October, 1980, and all like periods beginning on April 16, 1983, and every fourth year thereafter.

2. Petitions accepted for filing, no later than 45 days prior to April 16 will be processed during the April – October cycle, and petitions accepted for filing no later than 45 days prior to October 16 will be processed during the October – April cycle. [Bill No. 141-1989]

3. Notwithstanding paragraphs 1. and 2. above, petitions exempted from the regular cyclical procedure due to public interest or because of emergency may be filed and processed at any time.

d. Processing and File Maintenance Procedure.

1. Upon receipt of a petition, the board shall establish a file and promptly transmit it to the zoning commissioner's office for processing and preparation of a written report. Said report shall be prepared by the zoning staff; shall reflect the comments of the zoning plans advisory committee; and shall indicate the petition's compliance, or degree of compliance, with regard to the zoning laws and regulations, and each reviewing agency's adopted standards or policies.

2. Petitions may be amended prior to the hearing only if said amendment takes place prior to the first public advertisement of the petition.

3. The zoning staff shall maintain possession of said file throughout the zoning review and report processing procedure.

4. Upon completion of the zoning review and report process, including distribution of copies of pertinent material to the planning staff, and the necessary advertising and posting, the file, complete with the zoning report and planning board recommendations, shall be returned to the board for the hearing.

5. The board shall maintain possession of the file until such time as the case has been completed with all pending appeals satisfied. Thereafter, said file shall be returned to the zoning office for microfilming and retention on behalf of the board.

e. Scheduling, Posting and Advertising for Public Hearings.

1. The zoning staff shall schedule and otherwise prepare the necessary newspaper advertisements and arrange for the posting of property in accordance with section 2-58.1 of the Baltimore County Code. However, all hearing dates and times shall be established by the board.

2. All postponed hearings shall be readvertised and the properties posted in accordance with the requirements for final advertising and posting pursuant to section 2.58.1(g) of the Baltimore County Code. The cost of such advertising and posting shall be borne by the party requesting the postponement.

f. Guide for Preparation of Reclassification Petitions. Each petition request shall be filed on forms provided by the county board of appeals. As a matter of convenience, the board will make available a guide containing information for use in the preparation of petitions for reclassification.

Rule 10. Revisory power of the board.

Within thirty (30) days after the entry of an order, the board shall have revisory power and control over the order in the event of fraud, mistake or irregularity.

Rule 11. Amendment rules.

These rules may be amended from time to time in accordance with section 603 of the Baltimore County Charter.

Subtitle 4 Compliance with Workers' Compensation Act

§ 10-401. Compliance with Workers' Compensation Act required.

Before a State agency issues a license or permit to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the State agency:

(1) a certificate of compliance with the Maryland Workers' Compensation Act; or

(2) the number of a workers' compensation insurance policy or binder. (An. Code 1957, art. 41, § 1-402, 1997, ch. 31, § 1.)

REVISOR'S NOTE

This section formerly was Art. 31 § 1-402. The only changes are in style.

Editor's note. — Former §§ 10-401 through 10-405, which followed the heading "Subtitle 4. Administrative Procedure Act — Licensing", were repealed by § 1, ch. 59, Acts 1993, effective June 1, 1994.

Subtitle 5 Meetings

§ 10-501. Legislative policy.

(a) *In general.* — It is essential to the maintenance of a democratic society that, except in special and appropriate circumstances:

(1) public business be performed in an open and public manner; and

(2) citizens be allowed to observe

(i) the performance of public officials; and

(ii) the deliberations and decisions that the making of public policy involves.

(b) *Accountability, faith; effectiveness.* — (1) The ability of the public, its representatives, and the media to attend, report on, and broadcast meetings of public bodies and to witness the phases of the deliberation, policy formation, and decision making of public bodies ensures the accountability of government to the citizens of the State.

(2) The conduct of public business in open meetings increases the faith of the public in government and enhances the effectiveness of the public in fulfilling its role in a democratic society.

(c) *Public policy.* — Except in special and appropriate circumstances when meetings of public bodies may be closed under this subtitle, it is the public policy of the State that the public be provided with adequate notice of the time and location of meetings of public bodies, which shall be held in places reasonably accessible to individuals who would like to attend these meetings. (1991, ch. 655.)

Editor's note. — Section 1, ch. 655, Acts 1991, effective July 1, 1992, transferred former § 10-501 of this article to be present § 10-502 of this article and enacted present § 10-501.

Maryland Law Review. — For article, "Of Men and Laws: Murphy, Comfort, Arnold, Potter, Parkinson, Peter, Maccoby, and Gall," see 38 Md. L. Rev. 37 (1978).

Public right to observe deliberative process. — While the public is not afforded any right to participate in meetings setting public policy, the public is assured right to observe the deliberative process and the making of decisions by the public body at open meetings. City of New Carrollton v. Rogers, 287 Md. 56, 410 A.2d 1070 (1980).

No constitutional right to privacy in the hiring process. — County commissioners have the discretion to deal with personnel matters, including applications for employment, in open session; a job applicant has no constitutional right to privacy in the hiring process. 80 Op. Att'y Gen. — (Dec. 20, 1995).

Provisions requiring open meetings make no distinction between formal and informal meetings of the public body. City of New Carrollton v. Rogers, 287 Md. 56, 410 A.2d 1070 (1980).

Gross violation of open meeting provisions. — To give notice of a meeting of the public body and then intentionally prevent the public from attending, would constitute a gross violation of the provisions requiring open meetings. City of New Carrollton v. Rogers, 287 Md. 56, 410 A.2d 1070 (1980).

Open sessions for development plans. — A county board of appeals is required to conduct in open session, its deliberations regarding consideration of a development plan, which has a very close nexus to zoning and constitutes in "other zoning matter" under § 10-503 (b)(2). Wesley Chapel Bluemount Assn. v. Baltimore County, 347 Md. 125, 699 A.2d 434 (1997).

County board of education may unilaterally determine to hold open meetings. — A county board of education may determine unilaterally to conduct collective bargaining negotiations at meetings open to the public. Carroll County Educ. Ass'n. v. Board of Educ., 294 Md. 144, 448 A.2d 345 (1982).

Applicability of Open Meetings Act to continuing education conferences. — Neither the State nor the St. Mary's County Open Meetings Acts apply to training sessions aimed at improving interpersonal relations and leadership skills; whether either Act would apply to attendance by a quorum of county commissioners at a continuing education conference depends on the conference's topic and its relation to matters before the county commissioners. 80 Op. Att'y Gen. — (Dec. 20, 1995).

Admission of public to juvenile facility. — The Open Meetings Act does not require the Department of Juvenile Services to admit members of the public to a juvenile facility, if the Department chooses to exercise its discretion to exclude members of the public from a facility the Open Meetings Act would require a legislative committee to hold its open meeting elsewhere. 78 Op. Att'y Gen. — (September 24, 1993).

Quoted in Baltimore County v. Wesley Chapel Bluemount Assn., 110 Md. App. 585, 678 A.2d 100 (1996).

Applied in 2BD Assocs. v. County Comm'rs, 896 F. Supp. 528 (D. Md. 1995); Suburban Hosp. v. Maryland Health Resources Planning Comm'n, 125 Md. App. 379, 726 A.2d 807 (1999).

§ 10-502. Definitions.

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *Advisory function.* — "Advisory function" means the study of a matter of public concern or the making of recommendations on the matter, under a delegation of responsibility by:

(1) law;

(2) the Governor;

(3) the chief executive officer of a political subdivision of the State; or

(4) formal action by or for a public body that exercises an executive, judicial, legislative, quasi-judicial, or quasi-legislative function.

(c) *Board.* — "Board" means the State Open Meetings Law Compliance Board.

(d) *Executive function.* — (1) "Executive function" means the administration of:

(i) a law of the State

Appendix Exhibit 5

(ii) a law of a political subdivision of the State, or

(iii) a rule, regulation, or bylaw of a public body

(2) "Executive function" does not include:

(i) an advisory function,

(ii) a judicial function;

(iii) a legislative function;

(iv) a quasi-judicial function; or

(v) a quasi-legislative function.

(e) *Judicial function.* — (1) "Judicial function" means the exercise of any power of the Judicial Branch of the State government

(2) "Judicial function" includes the exercise of:

(i) a power for which Article IV, § 1 of the Maryland Constitution provides;

(ii) a function of a grand jury,

(iii) a function of a petit jury;

(iv) a function of the Commission on Judicial Disabilities, and

(v) a function of a judicial nominating commission.

(3) "Judicial function" does not include the exercise of rulemaking power by a court

(f) *Legislative function.* — "Legislative function" means the process or act of:

(1) approving, disapproving, enacting, amending, or repealing a law or other measure to set public policy;

(2) approving or disapproving an appointment,

(3) proposing or ratifying a constitution or constitutional amendment; or

(4) proposing or ratifying a charter or charter amendment

(g) *Meet.* — "Meet" means to convene a quorum of a public body for the consideration or transaction of public business

(h) *Public body* — (1) "Public body" means an entity that:

(i) consists of at least 2 individuals, and

(ii) is created by:

1. the Maryland Constitution;

2. a State statute;

3. a county charter,

4. an ordinance;

5. a rule, resolution, or bylaw;

6. an executive order of the Governor, or

7. an executive order of the chief executive authority of a political subdivision of the State

(2) "Public body" includes:

(i) any multimember board, commission, or committee appointed by the Governor or the chief executive authority of a political subdivision of the State, if the entity includes in its membership at least 2 individuals not employed by the State or a political subdivision of the State; and

(ii) The Maryland School for the Blind.

(3) "Public body" does not include:

(i) any single member entity;

(ii) any judicial nominating commission;

(iii) any grand jury,

(iv) any petit jury,

(v) the Appalachian States Low Level Radioactive Waste Commission established in § 7-302 of the Environment Article;

(vi) except when a court is exercising rulemaking power, any court established in accordance with Article IV of the Maryland Constitution;

(vii) the Governor's cabinet, the Governor's Executive Council as provided in Title 8, Subtitle 1 of the State Government Article, or any committee of the Executive Council;

(viii) a local government's counterpart to the Governor's cabinet, Executive Council, or any committee of the counterpart of the Executive Council;

(ix) the governing body of a hospital as defined in § 19-301 (g) of the Health-General Article; and

(x) a self-insurance pool that is established in accordance with Title 19, Subtitle 6 of the Insurance Article or § 9-404 of the Labor and Employment Article by

1. a public entity, as defined in § 19-602 of the Insurance Article, or

2. a county or municipal corporation, as defined in § 9-404 of the Labor and Employment Article

(i) *Quasi-judicial function* — "Quasi-judicial function" means a determination of

(1) a contested case to which Subtitle 2 of this title applies;

(2) a proceeding before an administrative agency for which Title 7, Chapter 200 of the Maryland Rules would govern judicial review, or

(3) a complaint by the Board in accordance with this subtitle.

(j) *Quasi-legislative function.* — "Quasi-legislative function" means the process or act of:

(1) adopting, disapproving, amending, or repealing a rule, regulation, or bylaw that has the force of law, including a rule of a court;

(2) approving, disapproving, or amending a budget; or

(3) approving, disapproving, or amending a contract.

(k) *Quorum.* — "Quorum" means

(1) a majority of the members of a public body, or

(2) any different number that law requires (An. Code 1957, art. 76A, § 8; 1984, ch. 284, § 1; ch. 285, § 8; 1986, ch. 396, § 1; 1991, ch 655; 1993, ch. 5, § 1; 1994, ch. 3, § 1; 1996, ch 10, § 1; 1997, ch. 14, § 20; ch. 70, § 4, 1998, ch. 617; 1999, ch 34, § 7)

Effect of amendments. — Chapter 617, Acts 1998, effective July 1, 1998, divided former (h)(2) into introductory language and (h)(2)(i) and added (h)(2)(ii).

Editor's note. — Section 1, ch 655, Acts 1991, effective July 1, 1992, transferred former § 10-501 of this article to be present § 10-502 of this article and repealed former § 10-502 of this article

Section 7, ch 34, Acts 1999, approved Apr 13, 1999, and effective from date of enactment provides that "any reference in the Annotated Code rendered obsolete by an Act of the General Assembly of 1999 shall be corrected by the publisher of the Annotated Code, in consultation with the Department of Legislative Services, with no further action required by the General Assembly. The publisher shall adequately describe any such correction in an editor's note following the section affected." Pursuant to § 7 of ch 34, appropriate changes have been made in (h)(3)(ix)

Maryland Law Review. — For article, "Survey of Developments in Maryland Law, 1987-88," see 48 Md. L. Rev. 551 (1989).

"Executive function." — The inexact definition of "executive function" does not lend itself to a catalog of activities encompassed by the definition, in general, a public body carries out an executive function whenever (1) it is not carrying out an advisory, legislative, quasi-legislative, or quasi-judicial function and (2) it is engaged in any part of the process of implementing a statute or other form of preexisting law. 78 Op. Att'y Gen. — (July 28, 1993).

The Open Meetings Act does not apply to the Commissioners of Poolesville when they are carrying out an executive function; furthermore, the Open Meetings Act does not require any type of notice if the Commissioners of Poolesville meet to carry out an executive function. 78 Op. Att'y Gen. — (July 28, 1993).

Increase in lottery payout deemed "legislative function." — An increase in the prize payout to daily lottery winners made by the State Lottery Commission is the approval of a measure to set public policy and must be considered the exercise of a legislative, and not an executive, function. 64 Op. Att'y Gen. 208 (1979).

State Lottery Commission is "public body." 64 Op. Att'y Gen. 208 (1979).

University task force relating to academics and student athletes was not created by a rule, resolution, or bylaws of the board of regents, but was an investigatory body wholly under the province of the chancellor, and not subject to the Open Meetings Act. A.S. Abell Publishing Co. v. Board of Regents, 68 Md. App. 500, 514 A.2d 25 (1986).

Applied in City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

Quoted in Walker v. Haywood, 65 Md. App. 1, 498 A.2d 1198 (1985); Ajaman v. Montgomery County, 99 Md. App. 685, 639 A.2d 157, cert. denied, 334 Md. 631, 640 A.2d 1132 (1994).

Cited in Attman/Glazer P.B. Co. v. Mayor of Annapolis, 314 Md. 675, 552 A.2d 1277 (1989); Sugarloaf Citizens Assn. v. Northeast Md. Waste Disposal Auth., 323 Md. 641, 594 A.2d 1113 (1991); Baltimore County v. Wesley Chapel Bluemount Assn., 110 Md. App. 585, 678 A.2d 100 (1996).

§ 10-502.1. State Open Meetings Law Compliance Board.

There is a State Open Meetings Law Compliance Board. (1991, ch. 655.)

§ 10-502.2. Membership.

(a) *Composition; chairman.* — (1) The Board consists of 3 members, at least one of whom shall be an attorney admitted to the Maryland Bar, appointed by the Governor with the advice and consent of the Senate.

(2) From among the members of the Board, the Governor shall appoint a chairman.

(b) *Term; tenure.* — (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1991.

(3) At the end of a term, a member continues to serve until a successor is appointed.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(5) A member may not serve for more than 2 consecutive 3-year terms. (1991, ch. 655.)

§ 10-502.3. Quorum; meetings; compensation.

(a) *Quorum.* — A majority of the full authorized membership of the Board is a quorum.

(b) *Meetings.* — The Board shall meet at a time and place to be determined by the Board.

(c) *Compensation; reimbursement.* — Each member of the Board:

(1) may not receive compensation, and

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) *Staff.* — The Office of the Attorney General shall provide staff for the Board. (1991, ch. 655.)

§ 10-502.4. Duties.

(a) *Complaints; issue a written opinion.* — The Board shall receive, review, and resolve complaints from any person alleging a violation of the provisions of this subtitle and issue a written opinion as to whether a violation has occurred.

(b) *Complaints; review of prospective violations.* — The Board shall receive and review any complaint alleging a prospective violation of the provisions of this subtitle as provided under § 10-502.6 of this subtitle.

(c) *Compliance, recommendations.* — The Board shall study ongoing compliance with the provisions of this subtitle by public bodies and make recommendations to the General Assembly for improvements in this subtitle.

(d) *Educational programs.* — On or before January 1, 1992, the Board, in conjunction with the Office of the Attorney General and other interested organizations or persons, shall develop and conduct educational programs on the requirements of the open meetings law for the staffs and attorneys of:

(1) public bodies,

(2) the Maryland Municipal League, and

(3) the Maryland Association of Counties.

(e) *Annual report.* — (1) On or before July 1 of each year, the Board shall submit an annual report to the Governor and the General Assembly.

(2) The report shall include a description of:

(i) the activities of the Board;

(ii) the opinions of the Board in any cases brought before it;

(iii) the number and nature of complaints filed with the Board, including a discussion of complaints concerning the reasonableness of the notice provided for meetings;

(iv) the impact on State and local governments of the provisions of § 10-502 (h) (2) of this article, including a discussion of how the affected entities have adhered to the requirements of this subtitle; and

(v) any recommendations for improvements to the provisions of this subtitle. (1991, ch. 655.)

§ 10-502.5. Complaint.

(a) *In general.* — Any person may file a written complaint with the Board seeking a written opinion from the Board on the application of the provisions of this subtitle to the action of a public body covered by this subtitle.

(b) *Contents.* — The complaint shall:

(1) be signed by the person making the complaint; and

(2) identify the public body, specify the action of the public body, the date of the action, and the circumstances of the action.

(c) *Receipt of complaint, response.* — (1) On receipt of the written complaint, the Board shall promptly send the complaint to the public body identified in the complaint and request that a response to the complaint be sent to the Board.

(2) The public body shall file a written response to the complaint within 30 days of its receipt of the complaint.

(3) If after 45 days, the public body has not filed a written response, the Board shall decide the case on the facts before it.

(d) *Review; written opinion.* — The Board shall:

(1) review the complaint and any response; and

(2) if the information in the complaint and response is sufficient to permit a determination, issue a written opinion as to whether a violation of the provisions of this subtitle has occurred or will occur not later than 30 days after receiving the response.

(e) *Informal conference, written opinion.* — (1) If the Board is unable to reach a determination based on the written submissions before it, the Board may schedule an informal conference to hear from the complainant, the public body, or any other person with relevant information about the subject of the complaint.

(2) An informal conference scheduled by the Board is not a "contested case" within the meaning of § 10-202 (d) of this article.

(3) The Board shall issue a written opinion not later than 30 days following the informal conference.

(f) *Board unable to render opinion within specified time periods.* — (1) If the Board is unable to render an opinion on a complaint within the time periods specified in subsection (d) or (e) of this section, the Board shall:

(i) state in writing the reason for its inability, and

(ii) issue an opinion as soon as possible but not later than 90 days after the filing of the complaint.

(2) An opinion of the Board may state that the Board is unable to resolve the complaint.

(g) *Who shall receive written opinion.* — The Board shall send a copy of the written opinion to the complainant and to the affected public body.

(h) *Periodic written opinions.* — (1) On a periodic basis, the Board may send to any public body in the State any written opinion that will provide the public body with guidance on compliance with the provisions of this subtitle.

(2) On request, a copy of a written opinion shall be provided to any person.

(i) *Nature of written opinion.* — (1) The opinions of the Board are advisory only.

(2) The Board may not require or compel any specific actions by a public body.

(j) *Admissibility of a written opinion.* — A written opinion issued by the Board may not be introduced as evidence in a proceeding conducted in accordance with § 10-510 of this subtitle. (1991, ch. 655; 1996, ch. 10, § 1.)

§ 10-502.6. Same — Prospective violation.

(a) *In general.* — On receipt of an oral or written complaint by any person that a meeting required to be open under the provisions of this subtitle will be closed in violation of this subtitle, the Board acting through its chairman, a designated Board member, or any authorized staff person available to the Board may contact the public body to determine the nature of the meeting that will be held and the reason for the expected closure of the meeting.

(b) *Notice of potential violation.* — When at least 2 members of the Board conclude that a violation of this subtitle may occur if the closed meeting is held, the person acting for the Board under subsection (a) of this section immediately shall inform the public body of the potential violation and any lawful means that are available for conducting its meeting to achieve the purposes of the public body.

(c) *Notice to complainant.* — The person acting for the Board shall inform the person who filed the complaint under subsection (a) of this section of the result of any effort to achieve compliance with this subtitle under subsection (b) of this section.

(d) *Written report.* — The person acting for the Board shall file a written report with the Board describing the complaint, the effort to achieve compliance, and the results of the effort.

(e) *Effect of complaint and action by Board.* — The filing of a complaint under subsection (a) of this section and action by a person acting for the Board under subsections (b), (c), and (d) of this section may not prevent or bar the Board from considering and acting on a written complaint filed in accordance with § 10-502.5 of this subtitle. (1991, ch. 655, 1992, ch. 22, § 3.)

§ 10-503. Scope of subtitle.

(a) *Not applicable.* — Except as provided in subsection (b) of this section, this subtitle does not apply to:

(1) a public body when it is carrying out:

(i) an executive function;

(ii) a judicial function, or

(iii) a quasi-judicial function, or

(2) a chance encounter, social gathering, or other occasion that is not intended to circumvent this subtitle.

(b) *Applicable.* — The provisions of this subtitle apply to a public body when it is meeting to consider:

(1) granting a license or permit, or

(2) a special exception, variance, conditional use, zoning classification, the enforcement of any zoning law or regulation, or any other zoning matter. (An. Code 1957, art. 76A, §§ 8, 9; 1984, ch. 284, § 1; ch. 285, § 8; 1991, ch. 655.)

Conflict with federal law. — To the extent that the State Open Meetings Act stands as an obstacle to the accomplishment of the full purposes and objectives of the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 et seq., it may not be enforced. Potomac Group Home Corp. v. Montgomery County, 823 F. Supp. 1285 (D. Md. 1993).

Meetings of Thoroughbred Racing Board. — The Thoroughbred Racing Board's award of racing dates is an executive function, subject to the Governor's Executive Order on Opening Meetings, however, a decision to permit Sunday racing is subject to the statutory provisions requiring open public meetings. 65 Op. Att'y Gen. 396 (1980).

Increase in lottery prize not executive function. — An increase in the prize payout to daily lottery winners made by the State Lottery Commission is the approval of a measure to set

public policy and must be considered the exercise of a legislative and not an executive, function 64 Op. Att'y Gen. 208 (1979).

Patuxent Institution Board of Review is not required to open its meetings, since it exercises an executive or quasi-judicial function. 65 Op. Att'y Gen. 341 (1980).

Pending completion of groundwater studies is not a "zoning matter." — Contention that the development could not proceed until completion of certain groundwater studies was not a "zoning matter." Baltimore County v. Wesley Chapel Bluemount Ass'n., 110 Md. App. 585, 678 A.2d 100 (1996).

Power to regulate density is not a "zoning matter." — The fact that the zoning power includes the power to regulate density does not mean that all issues that happen to involve density are necessarily "zoning matters." Density issues may arise in other contexts, when density issues arise in other contexts, those proceedings are not transformed into zoning matters simply because of the presence of the density issues. Baltimore County v. Wesley Chapel Bluemount Ass'n., 110 Md. App. 585, 678 A.2d 100 (1996).

Subdivision development plan is "zoning matter." — A county board of appeals is required to conduct, in open session, its deliberations regarding consideration of a development plan, which has a very close nexus to zoning and constitutes an "other zoning matter" under paragraph (b) (2). Wesley Chapel Bluemount Ass'n v. Baltimore County, 347 Md. 125, 699 A.2d 434 (1997).

Quoted in Ajamian v. Montgomery County, 99 Md. App. 665, 639 A.2d 157, cert. denied, 334 Md. 631, 640 A.2d 1132 (1994).

Cited in Sugarloaf Citizens Ass'n v. Northeast Md. Waste Disposal Auth., 323 Md. 641, 594 A.2d 1115 (1991).

§ 10-504. Conflict of laws.

Whenever this subtitle and another law that relates to meetings of public bodies conflict, this subtitle applies unless the other law is more stringent. (An. Code 1957, art. 76A, § 15; 1984, ch. 284, § 1; 1991, ch. 655.)

Waiver of attorney-client privilege. — This section provides legislative authority for a public body to waive its attorney-client privilege by flatly prohibiting closed meetings in the municipal charter. City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

§ 10-505. Open sessions generally required.

Except as otherwise expressly provided in this subtitle, a public body shall meet in open session. (An. Code 1957, art. 76A, §§ 9, 10; 1984, ch. 284, § 1; 1991, ch. 655.)

Thoroughbred Racing Board's decision to permit Sunday racing is a decision that should be arrived at in an open public meeting. 65 Op. Att'y Gen. 396 (1980).

County board of education may unilaterally determine to hold open meetings. — A county board of education may determine unilaterally to conduct collective bargaining negotiations at meetings open to the public. Carroll County Educ. Ass'n. v. Board of Educ., 294 Md. 144, 448 A.2d 345 (1982).

Open sessions for development plans. — A county board of appeals is required to conduct, in open session, its deliberations regarding consideration of a development plan, which has a very close nexus to zoning and constitutes an "other zoning matter" under § 10-503 (b) (2). Wesley Chapel Bluemount Ass'n v. Baltimore County, 347 Md. 125, 699 A.2d 434 (1997).

A county may allow private groups to hold meetings in public buildings; a group holding such a meeting may bar uninvited members of the public, including members of the press. 80 Op. Att'y Gen. — (August 4, 1995).

The Open Meetings Act does not apply to e-mail communications among members of a public body unless a quorum of a public body is engaged in a simultaneous exchange of e-mail on a matter of public business. 81 Op. Att'y Gen. — (May 22, 1996).

Specific findings regarding open meetings. — If a circuit court voids or vacates an action taken by a county board of appeals, it must make specific findings regarding whether the conditions of the Open Meetings Law were violated when the action was taken by the board. Wesley Chapel Bluemount Ass'n v. Baltimore County, 347 Md. 125, 699 A.2d 434 (1997).

Applied in Malamis v. Stein, 69 Md. App. 221, 516 A.2d 1039 (1986); City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

Quoted in Ajamian v. Montgomery County, 99 Md. App. 665, 639 A.2d 157, cert. denied, 334 Md. 631, 640 A.2d 1132 (1994).

Stated in Broadcast Equities v. Montgomery County, 123 Md. App. 363, 718 A.2d 648 (1998).

Cited in Suburban Hosp. v. Maryland Health Resources Planning Comm'n., 125 Md. App. 579, 726 A.2d 807 (1999).

§ 10-506. Notice of open session.

(a) *Required.* — Before meeting in a closed or open session, a public body shall give reasonable advance notice of the session.

(b) *Form.* — Whenever reasonable, a notice under this section shall:

(1) be in writing;

(2) include the date, time, and place of the session; and

(3) if appropriate, include a statement that a part or all of a meeting may be conducted in closed session.

(c) *Method.* — A public body may give the notice under this section as follows:

(1) if the public body is a unit of the State government, by publication in the Maryland Register;

(2) by delivery to representatives of the news media who regularly report on sessions of the public body or the activities of the government of which the public body is a part;

(3) if the public body previously has given public notice that this method will be used, by posting or depositing the notice at a convenient public location at or near the place of the session; or

(4) by any other reasonable method. (An. Code 1957, art. 76A, § 12; 1984, ch. 284, § 1; ch. 285, § 8; 1991, ch. 655.)

Specific statement of open meeting not required. — Notice of a meeting need not contain a specific statement that the meeting is open to the general public. City of New Carrollton v. Rogers, 287 Md. 56, 410 A.2d 1070 (1980).

Notice held sufficient. — Where information of a levy hearing, although not conveyed by formal notice, was apparently communicated to members of the press and advance notice of the meeting was given to the public, the notice provisions were not violated. 64 Op. Att'y Gen. 20 (1979).

The Open Meetings Act does not apply to e-mail communications among members of a public body unless a quorum of a public body is engaged in a simultaneous exchange of e-mail on a matter of public business. 81 Op. Att'y Gen. — (May 22, 1996).

Applied in Malamis v. Stein, 69 Md. App. 221, 516 A.2d 1039 (1986); City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

Quoted in Ajamian v. Montgomery County, 99 Md. App. 665, 639 A.2d 157, cert. denied, 334 Md. 631, 640 A.2d 1132 (1994).

Stated in Broadcast Equities v. Montgomery County, 123 Md. App. 363, 718 A.2d 648 (1998).

Cited in Suburban Hosp. v. Maryland Health Resources Planning Comm'n., 125 Md. App. 579, 726 A.2d 807 (1999).

§ 10-507. Attendance at open session.

(a) *In general.* — Whenever a public body meets in open session, the general public is entitled to attend.

(b) *Rules.* — A public body shall adopt and enforce reasonable rules regarding the conduct of persons attending its meetings and the videotaping, televising, photographing, broadcasting, or recording of its meetings.

(c) *Removal of individuals.* — (1) If the presiding officer determines that the behavior of an individual is disrupting an open session, the public body may have the individual removed.

(2) Unless the public body or its members or agents acted maliciously, t public body, members, and agents are not liable for having an individu removed under this subsection. (An. Code 1957, art. 76A, § 10; 1984, ch. 28 § 1; 1991, ch. 655.)

Admission of public to juvenile facility. — The Open Meetings Act does not require the Department of Juvenile Services to admit members of the public to a juvenile facility; if the Department chooses to exercise its discretion to exclude members of the public from a facility, the Open Meetings Act would require a legislative committee to hold an open meeting elsewhere. 78 Op. Att'y Gen. — (September 24, 1993).

The Open Meetings Act does not apply to e-mail communications among members of a public body, unless a quorum of a public body engaged in a simultaneous exchange of e-m on a matter of public business. 81 Op. At Gen. — (May 22, 1996).

Applied in City of College Park v. Cotter, 3 Md. 573, 525 A.2d 1059 (1987).

Quoted in Ajamian v. Montgomery Coun 99 Md. App. 665, 639 A.2d 157, cert. denied, 3 Md. 631, 640 A.2d 1132 (1994).

Cited in Suburban Hosp. v. Maryland Healt Resources Planning Comm'n, 125 Md. App 579, 726 A.2d 807 (1999).

§ 10-507.1. Interpreters.

(a) *Scope.* — This section applies only to the Executive and Legislative Branches of State government.

(b) *In general.* — (1) On request and to the extent feasible, a unit that holds a public hearing shall provide a qualified interpreter to assist deaf persons to understand the proceeding.

(2) The request must be submitted in writing or by telecommunication at least 5 days before the proceeding begins.

(3) Whether providing an interpreter is feasible shall be determined, in each instance, by the unit involved. (An. Code 1957, art. 30, § 2, 1997, ch. 31, § 1.)

REVISOR'S NOTE

This section is new language derived without substantive change from former Art. 30, § 2. Subsection (a) of this section is revised to clarify the reference in former Art. 30, § 2 to "any State department or agency or the Maryland General Assembly."

§ 10-508. Closed sessions permitted.

(a) *In general.* — Subject to the provisions of subsection (d) of this section, a public body may meet in closed session or adjourn an open session to a closed session only to:

(1) discuss:

(i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or

(ii) any other personnel matter that affects 1 or more specific individuals;

(2) protect the privacy or reputation of individuals with respect to a matter that is not related to public business;

(3) consider the acquisition of real property for a public purpose and matters directly related thereto;

(4) consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;

(5) consider the investment of public funds;

(6) consider the marketing of public securities;

(7) consult with counsel to obtain legal advice;

(8) consult with staff, consultants, or other individuals about pending or potential litigation;

(9) conduct collective bargaining negotiations or consider matters that relate to the negotiations;

(10) discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including:

(i) the deployment of fire and police services and staff; and

(ii) the development and implementation of emergency plans;

(11) prepare, administer, or grade a scholastic, licensing, or qualifying examination;

(12) conduct or discuss an investigative proceeding on actual or possible criminal conduct;

(13) comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; or

(14) before a contract is awarded or bids are opened, discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

(b) *Limitation.* — A public body that meets in closed session under this section may not discuss or act on any matter not permitted under subsection (a) of this section.

(c) *Construction.* — The exceptions in subsection (a) of this section shall be strictly construed in favor of open meetings of public bodies.

(d) *Vote; written statement.* — (1) Unless a majority of the members of a public body present and voting vote in favor of closing the session, the public body may not meet in closed session.

(2) Before a public body meets in closed session, the presiding officer shall:

(i) conduct a recorded vote on the closing of the session; and

(ii) make a written statement of the reason for closing the meeting, including a citation of the authority under this section, and a listing of the topics to be discussed.

(3) If a person objects to the closing of a session, the public body shall send a copy of the written statement required under paragraph (2) of this subsection to the Board.

(4) The written statement shall be a matter of public record. (An. Code 1957, art. 76A, § 11; 1984, ch. 284, § 1, 1991, ch. 655.)

Conflict of laws. — Contention that this section should be read into a municipal charter provision which flatly prohibited closed meetings was rejected due to the impact of § 10-504 of this article. City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

Waiver of attorney-client privilege. — Section 10-504 of this article provides legislative authority for a public body to waive its attorney-client privilege by flatly prohibiting closed meetings in the municipal charter City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

The Open Meetings Act does not apply to e-mail communications among members of a public body, unless a quorum of a public body is engaged in a simultaneous exchange of e-mail on a matter of public business. 81 Op. Att'y Gen. — (May 22, 1996).

Violation of open meeting requirement. — "Willfully," as used in § 10-510 of this article does not require knowledge that the meeting actually violates the Open Meetings Act, but instead refers only to conduct which is intentional. Suburban Hosp. v. Maryland Health Resources Planning Comm'n, 125 Md. App. 379, 726 A.2d 807 (1999).

Applied in 2BD Assocs. v. County Comm'rs, 896 F. Supp. 528 (D. Md. 1995); Baltimore County v. Wesley Chapel Bluemount Ass'n, 110 Md. App. 585, 678 A.2d 100 (1996); Wesley Chapel Bluemount Ass'n v. Baltimore County, 347 Md. 126, 699 A.2d 434 (1997).

Quoted in Ajamian v. Montgomery County, 99 Md. App. 665, 639 A.2d 157, cert. denied, 334 Md. 631, 640 A.2d 1132 (1994).

§ 10-509. Minutes.

(a) *Scope of section.* — This section does not:

(1) require any change in the form or content of the Journal of the Senate of Maryland or Journal of the House of Delegates of Maryland; or

(2) limit the matters that a public body may include in its minutes.

(b) *Required.* — As soon as practicable after a public body meets, it shall have written minutes of its session prepared.

(c) *Contents.* — (1) The minutes shall reflect:

(i) each item that the public body considered;

(ii) the action that the public body took on each item; and

(iii) each vote that was recorded.

(2) If a public body meets in closed session, the minutes for its next open session shall include:

(i) a statement of the time, place, and purpose of the closed session;

(ii) a record of the vote of each member as to closing the session;

(iii) a citation of the authority under this subtitle for closing the session; and

(iv) a listing of the topics of discussion, persons present, and each action taken during the session.

(3) (i) A closed session may be tape recorded.

(ii) A public body shall provide for the preservation for 1 year of its minutes and any tape recording of its closed meetings.

(iii) Except as otherwise provided in paragraph (4) of this subsection, the minutes and any tape recording of a closed session shall be sealed and may not be open to public inspection.

(4) The minutes and any tape recording shall be unsealed and open to inspection as follows:

(i) for a meeting closed under § 10-508 (a) (5), when the public body invests the funds;

(ii) for a meeting closed under § 10-508 (a) (6), when the public securities being discussed have been marketed; or

(iii) on request of a person or on the public body's own initiative, if a majority of the members of the public body present and voting vote in favor of unsealing the minutes and any tape recording.

(d) *Access.* — Except as provided in subsection (c) of this section, minutes of a public body are public records and shall be open to public inspection during ordinary business hours. (An. Code 1957, art. 76A, §§ 11, 13; 1984, ch. 284, § 1; 1991, ch. 655.)

The Open Meetings Act does not apply to e-mail communications among members of a public body, unless a quorum of a public body is engaged in a simultaneous exchange of e-mail on a matter of public business. 81 Op. Att'y Gen. — (May 22, 1996).

Applied in City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

Cited in Suburban Hosp. v. Maryland Health Resources Planning Comm'n, 125 Md. App. 379, 726 A.2d 807 (1999).

§ 10-510. Enforcement.

(a) *Scope of section.* — (1) This section does not apply to the action of:

(i) appropriating public funds;

(ii) levying a tax; or

(iii) providing for the issuance of bonds, notes, or other evidences of public obligation.

(2) This section does not authorize a court to void an action of a public body because of any violation of this subtitle by another public body.

(3) This section does not affect or prevent the use of any other available remedies.

(b) *Petition authorized.* — (1) If a public body fails to comply with § 10-505, § 10-506, § 10-507, § 10-508, or § 10-509 (c) of this subtitle and a person is affected adversely, the person may file with a circuit court that has venue a petition that asks the court to:

(i) determine the applicability of those sections;

(ii) require the public body to comply with those sections; or

(iii) void the action of the public body.

(2) If a violation of § 10-506, § 10-508, or § 10-509 (c) of this subtitle is alleged, the person shall file the petition within 45 days after the date of the alleged violation.

(3) If a violation of § 10-505 or § 10-507 of this subtitle is alleged, the person shall file the petition within 45 days after the public body includes in the minutes of an open session the information specified in § 10-509 (c) (2) of this subtitle.

(4) If a written complaint is filed with the Board in accordance with § 10-502.5 of this subtitle, the time between the filing of the complaint and the mailing of the written opinion to the complainant and the affected public body under § 10-502.5 (g) of this subtitle may not be included in determining if a claim against a public body is barred by the statute of limitations set forth in paragraphs (2) and (3) of this subsection.

(c) *Presumption.* — In an action under this section, it is presumed that the public body did not violate any provision of this subtitle, and the complainant has the burden of proving the violation.

(d) *Authority of court.* — A court may:

(1) consolidate a proceeding under this section with another proceeding under this section or an appeal from the action of the public body;

(2) issue an injunction,

(3) determine the applicability of this subtitle to the discussions or decisions of public bodies;

(4) if the court finds that a public body willfully failed to comply with § 10-505, § 10-506, § 10-507, or § 10-509 (c) of this subtitle and that no other remedy is adequate, declare void the final action of the public body;

(5) as part of its judgment:

(i) assess against any party reasonable counsel fees and other litigation expenses that the party who prevails in the action incurred; and

(ii) require a reasonable bond to ensure the payment of the assessment; and

(6) grant any other appropriate relief.

(e) *Petition.* — (1) A person may file a petition under this section without seeking an opinion from the State Open Meetings Law Compliance Board.

(2) The failure of a person to file a complaint with the Board is not a ground for the court to either stay or dismiss a petition. (An. Code 1957, art. 76A, § 14; 1984, ch. 284, § 1; 1991, ch. 655.)

"Appropriating public funds." — The deliberations of the Budget Conference Committee in the process of enacting the budget bill into law fall within the "appropriating public funds" exception. Avara v. Baltimore News Am. Div., 292 Md. 543, 440 A.2d 368 (1982).

Budget work session of board of county commissioners is within appropriations exception. Board of County Comm'rs v. Landmark Community Newspapers of Md., Inc., 293 Md. 595, 446 A.2d 63 (1982).

"Willfully." — "Willfully," as used in subsection (d) of this section, does not require knowledge that the meeting actually violates the Open Meetings Act, but instead refers only to conduct which is intentional. Suburban Hosp. v. Maryland Health Resources Planning Comm'n., 125 Md. App. 579, 726 A.2d 807 (1999).

Willful failure to comply. — Subsection (d) (4) of this section applies only to the voiding of public body actions, and not to injunctions, declaratory relief, or attorneys' fees. Suburban Hosp. v. Maryland Health Resources Planning Comm'n, 125 Md. App. 579, 726 A.2d 807 (1999).

Specific findings regarding open meetings. — If a circuit court voids or vacates an action taken by a county board of appeals, it must make specific findings regarding whether the conditions of the Open Meetings Law were violated when the action was taken by the board. Wesley Chapel Bluemount Ass'n v. Baltimore County, 347 Md. 125, 699 A.2d 434 (1997).

Award of attorney's fees. — The General Assembly intended that trial judges determine, in their discretion, whether the circumstances warrant the award of attorney's fees or other expenses of litigation. Malamis v. Stein, 69 Md. App. 221, 516 A.2d 1039 (1986).

An assessment of attorney's fees under paragraph (d) (5) does not depend upon a finding of willfulness, nor are assessments to be automatic upon a finding of a violation of the Open Meetings Law, but courts should take into account the circumstances surrounding a violation. Wesley Chapel Bluemount Ass'n v. Baltimore County, 347 Md. 125, 699 A.2d 434 (1997).

Change in prize payment structure of lottery violated open meeting provisions. — Where at an April 1979 meeting the State Lottery Commission approved an increase in the prize paid to daily lottery winners, effective July 29, 1979, adoption of this change in the prize payment structure violated the open meeting provisions because it occurred at an executive session or closed meeting. 64 Op. Att'y Gen. 208 (1979).

Applied in City of College Park v. Cotter, 309 Md. 573, 525 A.2d 1059 (1987).

Cited in Baltimore County v. Wesley Chapel Bluemount Ass'n., 110 Md. App. 585, 678 A.2d 100 (1996).

§ 10-511. Penalty.

A member of a public body who willfully participates in a meeting of the body with knowledge that the meeting is being held in violation of the provisions of this subtitle is subject to a civil penalty not to exceed $100. (1991, ch. 655.)

Stated in Suburban Hosp. v. Maryland Health Resources Planning Comm'n., 125 Md. App. 579, 726 A.2d 807 (1999).

§ 10-512. Short title.

This subtitle may be cited as the "Open Meetings Act". (1991, ch. 655.)

Cited in Baltimore County v. Wesley Chapel Bluemount Ass'n., 110 Md. App. 585, 678 A.2d 100 (1996).

Subtitle 6. Records

Part I. Definition, General Provision.

§ 10-601. "Political subdivision" defined.

In this subtitle, "political subdivision" means:

(1) a county;

(2) a municipal corporation in the State,

(3) an unincorporated town in the State,

(4) a school district in the State, or

(5) any special district in the State. (1984, ch. 285, § 8.)

§ 10-602. Limitation on records.

The State, a political subdivision, or a unit of the State or of a political subdivision may keep only the information about a person that:

(1) is needed by the State, the political subdivision, or the unit to accomplish a governmental purpose that is authorized or required to be accomplished under:

(i) a statute or other legislative mandate;

(ii) an executive order of the Governor;

(iii) an executive order of the chief executive of a local jurisdiction, or

(iv) a judicial rule; and

(2) is relevant to accomplishment of the purpose. (An. Code 1957, art. 76A, § 1A; 1984, ch. 284, § 1, ch. 285, § 8.)

§ 10-603.

Reserved.

Part II. Forms Management.

§ 10-604. Definitions.

(a) *In general.* — In this Part II of this subtitle the following words have the meanings indicated.

(b) *Department.* — "Department" means a principal department of the Executive Branch of the State government.

IN RE:	**IN THE MATTER OF PENWOOD MOBILE HOME PARK** ***PENWOOD MOBILE HOME PARK, INC.,*** **Owner/Appellee/Respondent** **[CBA-03-207-SPH]**	**IN THE** **CIRCUIT COURT** **FOR** **BALTIMORE COUNTY** **Case No.: 03-C-04-000090**

RESPONSE TO PETITION FOR JUDICIAL REVIEW

Penwood Mobile Home Park, Inc., a Maryland corporation, a party below before the County Board of Appeals for Baltimore County and owner/appellee/respondent, by and through its undersigned legal counsel, in accordance with Maryland Rule 7-204 hereby serves notice that it intends to participate in the above-captioned appeal. In further addressing issues raised in the Petition for Judicial Review, and without waiving any rights pursuant thereto, Penwood Mobile Home Park states that it believes that the portion of the "Petition" seeking compliance with the State Open Meetings Law was not served on it as required by Maryland Rule 2-121 and that it fails to join the Baltimore County Board of Appeals, a necessary party to that separate action.

LEVIN & GANN, P.A.

By: _____

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Attorneys for Penwood Mobile Home Park, Inc.

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BOARD OF APPEALS

[*Certificate of Service on Next Page*]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of February, 2004, a copy of the foregoing Response to Petition for Judicial Review was mailed via First-Class, United States Mail to the following:

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

and

County Board of Appeals for Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Howard L. Alderman, Jr.

IN THE MATTER OF THE APPLICATION OF PENWOOD MOBILE HOME PARK, INC. - LEGAL OWNER FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE NE/COR DOGWOOD AND OAK ROADS 15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 03-207-SPH

* * * * * * * * *

ORDER OF DISMISSAL OF PETITION

Upon the filing of the Withdrawal of Petition Without Prejudice by the Petitioner and property owner in this case on December 10, 2003 (a copy of which is attached hereto and made a part hereof), prior to the issuance of any final Order by this Board on the above-captioned appeal, subject matter jurisdiction is no longer vested in this Board on the Petition. Therefore, the appeal pending before this Board must be dismissed as moot.

THEREFORE, IT IS THIS 11th day of December, 2003, by the County Board of Appeals of Baltimore County:

ORDERED that the Petition for Special Hearing filed in Case No. 03-207-SPH, having been withdrawn without prejudice, be and the same is **DISMISSED** as moot; and it is

FURTHER ORDERED that the appeal filed to this Board in the above-captioned case be and the same is **DISMISSED** as moot; and it is

FURTHER ORDERED that the decision of the Zoning Commissioner in the above-captioned case be and the same is **MOOT,** and, further, that the Zoning Commissioner's Order of April 10, 2003, including any and all relief granted to Petitioner therein, is rendered **NULL AND VOID.**

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott

Charles L. Marks

Melissa Moyer Adams

IN RE: PETITION FOR SPECIAL HEARING **N/E Corner Dogwood & Oak Roads** **15th Election District** **7th Councilmanic District** **Penwood Mobile Home Park, Inc.,** **Owner/Petitioner**	**BEFORE THE** **COUNTY BOARD** **OF APPEALS** **FOR** **BALTIMORE COUNTY** **Case No.: CBA-03-207-SPH**

WITHDRAWAL OF PETITION WITHOUT PREJUDICE

Penwood Mobile Home Park, Inc., the Petitioner and property owner of the property which is the subject of the above-captioned case, by and through their authorized, undersigned legal counsel, hereby withdraws without prejudice, the Petition for Special Hearing in the above-captioned case.

LEVIN & GANN, P.A.

By _____

Howard L. Alderman, Jr.
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halderman@LevinGann.com [e-mail]

Attorneys for Petitioner/Owner

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BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of December, 2003, a copy of the foregoing

Withdrawal of Petition Without Prejudice and the proposed Order included therewith, was mailed via First-Class, United States Mail to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204

Howard L. Alderman, Jr.

11/18/03

RE: PETITION FOR SPECIAL HEARING NE/Corner Dogwood Road And Oak Road (Penwood Mobile Home Park) 15th Election District, 7th Councilmanic	*	BEFORE THE COUNTY BOARD OF APPEALS
	*	FOR
Penwood Mobile Home Park, Inc Petitioner(s)	*	BALTIMORE COUNTY
	*	Case No. 03-207-SPH

* * * * * * * * * * * * * *

Memorandum of People's Counsel for Baltimore County

Statement of the Case

a. Introduction

The petition for special hearing concerns Penwood Mobile Home Park (MHP) in Edgemere. The property is zoned D.R. 5.5 and is in the Chesapeake Bay Critical Area. The petition is styled as a request that the Zoning Commissioner:

> [1] approve the size, type, kind, and quality of residential living units on the subject property as meeting the requirements of the applicable *Baltimore County Zoning Regulations* and the facts considered and decisions rendered in Zoning Case 2621-S and 77-161-SPH; and [2] for such additional relief as the nature of this case presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR."

There have arisen issues of first impression affecting the public interest. These concern the application of zoning law for trailer parks and recreational vehicles and the permissibility of existing and proposed uses. The ruling here will likely have countywide significance.

There are also traditional special exception issues. The petition amounts to

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a request to amend the special exception granted in 1977. The scope of that approval, and compliance with it, is one subject of this memorandum.

b. The Zoning Commissioner Proceedings

On April 11, 2003, the Zoning Commissioner (ZC) issued his opinion and order. He found that current law applies. In rejecting Petitioner's argument that 1945 Regulations are applicable, he wrote, among other things, on page 5:

> However, that argument ignores the circumstances unique to a trailer park that although the use of the entire tract as a trailer park was established years ago, the individual units that occupy the spaces in the park come and go. The character of these residences is at the core of the issue presented in the instant case. That is, the trailers/residences that exist on the property today are not the same as those that existed in 1953. Most of the current units were placed on the property in recent years and certainly since the effective date of the current B.C.Z.R. enacted in 1955. Thus, for these reasons, although the park is permitted and operates as an entity based upon the approval granted in 1953 (and as amended in 1977), a determination of the propriety of individual units within the park is governed by the current regulations.

He then turned to the controversial issue of allowance of recreational vehicles. He recognized these are "distinguished from mobile homes and trailers" and defined differently. Nevertheless, he decided that a small number – five – are allowed as accessory short-term uses to the primary mobile home use.

The ZC opinion did not address the apparent noncompliance of current units with the area and setback regulations of BCZR 414. Nor did he examine whether the current layout complies with the 1945 regulations in Section XIII-He assumed, and did not question, whether the Trailer Park was approved and operating in 1953, although the only evidence was an approval of a special permit

(special exception) for a trailer camp on the adjacent property in Case No. 2626-S, and a new petition and approval in 1977 for a special exception for a trailer park on the correctly described subject property in Case No. 77-161-SPH. There was nothing in the 1977 petition or approval to show that the park was yet in operation.

c. The *De Novo* Appeal

People's Counsel, the Baltimore County Mobile Home Owners Association, and Mr. & Mrs. Robert Laro all appealed. The County Board of Appeals (CBA) heard the case anew on October 28, 2003.

The appeal is *de novo* under Section 603 of the County Charter. Judge Moylan explained the scope of the *de novo* hearing in Pollard's Towing v. Berman's Body Frame & Mechanical 137 Md. App. 277, 288 (2001):

> Boehm v. Anne Arundel County 54 Md. App. 497, 511 (1983) elaborated on a *de novo* hearing:
>
> A trial or hearing '*de novo*' means trying the matter anew as if it had not been heard before and as if no decision had been previously rendered.
>
> * * *
>
> As such, unless otherwise limited by statute or court rule, a *de novo* hearing is an entirely new hearing at which time all aspects of the case should be heard anew as if no decision had been previously rendered.
>
> In Lohrmann v. Arundel Corp. 65 Md. App. 309, 319 … (1985), we further observed:
>
> In effect, then, in this case the Board was exercising what amount to original jurisdiction. It was as though the zoning officer had made no decision.

d. The Issues

To evaluate whether Penwood MHP "residential living units" (mobile homes and recreational vehicles) comply with the Baltimore County Zoning Regulations, it is necessary to analyze in depth the history of the site and zoning, and the evolution of relevant zoning legislation. We also must examine the unit layout shown on Petitioner's site plan, Exhibit 1, (hereinafter "the site plan") and the additional request for recreational vehicles. This includes review of the park's history, the impact of the 1953 and 1977 zoning cases, the relevance of the 1945 and 1955 (current) BCZR, the Chesapeake Bay Critical Area law, and the application of all aspects of this to the current site and the petition.

At the October 28, 2003 hearing, Petitioner's counsel asserted the issue is whether recreational vehicles are allowed in an approved trailer park, and that the 1945 regulations apply. He relied ironically on the violation citation (Pet. Exh. 6) upon a complaint about recreational vehicles. There was no complaint about the park itself, and the inspector apparently assumed an approved trailer park. The inspector did not review whether Penwood MHP otherwise complied with the law, as there was no other complaint. The enforcement office reacted rather than acted to identify zoning issues. An inspector's assumptions about approval of the park, unsupported by facts or reasons, carry no weight in the present proceeding.

Petitioner's counsel also elicited that the violation case was dismissed. But he did not tell the CBA that the Hearing Officer dismissed the violation in the attached April 24, 2003 Order, Memo Exhibit A, for the sole reason that the ZC's

April 11, 2003 Order had approved five recreational vehicles. The dismissal was premature and erroneous because it failed to take into account the potential *de novo* appeal and CBA finding that R.V.s are illegal. The dismissal should have no weight in the CBA proceeding, which supersedes the ZC decision. In any event, the petition process has a different function from the enforcement process and is most suited to produce a full record relevant to the issues.

Based on the language of the petition, the evidence presented, and the broad scope of the *de novo* hearing, the issues go way beyond the latest narrow and misleading articulation by Petitioner. We will discuss the extent of approval Penwood MHP, the applicable law, the status of the current site layout, and the permissibility of recreational vehicles. This is necessary so that "all aspects of the case", per Judge Moylan, can properly be considered.

Questions Presented

1. What is the legal status of Penwood Mobile Home Park, and which zoning law is applicable, the 1945 or 1955 (and current) regulations?

2. Under either the 1945 or 1955 regulations, is Penwood MHP currently in compliance?

3. Whether or not Penwood MHP complies with the zoning law, are recreational vehicles allowed in a mobile home park?

4. If recreational vehicles are allowed at all, does the present request satisfy the special exception standards of BCZR 502.1?

5. Does the request satisfy the Chesapeake Bay Critical Area zoning requirements of BCZR 500.14?

6. Will the finding that Penwood MHP fails to comply with current standards result in the displacement of any homeowners?

Postscript: Are MVA or other inspection procedures relevant?

Relevant Zoning Legislation

Charter Section 603.

1945 Zoning Regulations: Sections I, Section 10B, and Section 13H.

1955 (and current) Zoning Regulations: Sections 101, 103.1, 414, 415, 415A, 500.14, and 502.1.

Statement of Facts

a. The Property and Neighborhood

The property occupies 1.67 acres located at the southwest corner of Oak and Dogwood Roads in the Edgemere/North Point Boulevard section and is zoned D.R. 5.5. The site plan shows the property is in the Chesapeake Bay Critical Area, and the December 17, 2002 DEPRM file comment confirms this.

There are single-family homes to the east and south along Oak and Dogwood Roads, also zoned D.R. 5.5. The area to the north is parkland owned by the Maryland Department of Natural Resources, zoned R.C. 20, a low-density Chesapeake Bay Critical Area zone.

The site plan shows twenty units and eight concrete areas, one adjoining Mr. Laro's Unit 15 and two adjoining Unit 8000, described as an office. There has

been a question raised as to whether the "office" is actually an apartment building, and the pictures taken by Thomas Karcher corroborate this contention.

Each trailer space occupies, on average, an area of about 1000 feet. Trailers are near and virtually up against roads and boundary lines. On the east side, most units are less than ten feet from the boundary, units 1 and 2 within two feet. On the west side, several units are within a few feet of Oak Road. On the south side, units 1 and 15 are within 15-30 feet of Dogwood Road. The cluster in the northwest, (Units 21 through 28) is bunched with trailers a few feet apart. The rest are within 10-15 feet of each other. There are trailers and pads close to the central building.

The park rents pads to mobile home owners annually or month-to-month. Robert Laro said a typical length of occupancy is five years. The duration varies. Mobile homes are fixed in place and look like small ranchers. Over time, pad locations change. One reason for this is the addition of double-wide trailers.

b. Zoning History

1. The 1953 Case

Petitioner produced as Exhibit 2 the Order in Case No. 2626-S, July 8, 1953, approving a special permit for a trailer camp under Section XIII-H (1945 BCZR). There are several problems with this approval if applied here. First of all, the property described by metes and bounds in the Order and plat was the 1-acre lot east of the subject property, not the 1.67 acre corner lot before the CBA. On this ground alone, it does not support the present request. Secondly, Petitioner produced no evidence, and there is none, that a trailer park operated on either lot

circa 1953 or for decades thereafter. Thirdly, the Order conditioned the approval on "compliance with the Zoning Regulations and Restrictions governing the operation of Trailer Parks." In this connection, there was no request for variance, although Sec. X-B (page 12) provided for them under the rubric of "... exceptions to area, building, location, and height regulations ..." There is no evidence of operation in compliance with the 1945 Regulations at any time.

In sum, the 1953 approval does not cover the Penwood property, and there is no evidence of proper utilization of the Special Permit. There are, therefore, no facts to support any claim of rights accruing from the 1953 approval.

2. The 1977 Case

Petitioner produced as Exhibit 4 the March 7, 1977 Order in Case No. 77-161-SPH approving a Petition for Special Hearing to approve a "Special Exception for Trailer Park" on the subject property. The Petition states that the 1953 approval was for property adjoining the subject site by mistake." It requested, therefore, ..."an Order approving trailer park on corrected lot ..."

The Special Exception requirement for trailer parks did not come in until the 1955 Regulations. The 1945 Regulations set a "Special Permit" requirement. There is no indication in the Order that the park was yet in operation, or as the property's zoning classification in 1977.

In sum, the evidence shows that in 1977, owners of the property did obtain a special exception for a trailer park on the subject property. The zoning map (P.C. Exh. 6) based on 1986 aerial photography suggests that by then the park was in

operation. According to Ms. Lyon, the park was in operation by 1988, when the current owners purchased the site. The record does not disclose the year when operation actually began.

c. History of Legislation on Trailer Camps, Parks, and Recreational Vehicles

1. The 1945 BCZR – Trailers and Trailer Camps

BCZR Sec. XIIIH governed special permits for trailer camps. The Section I definition addressed camps of mobile trailers – movable dwellings -- or house cars detached from or connected to automobiles. The special permits were subject to a number of regulations: (a) minimum camp lot of 20,000 square feet; (b) minimum 400 square feet for each trailer, and 700 feet for each car and trailer combined; (c) each trailer or house car must abut or face a driveways or unobstructed space at least 20 feet in width; (d) minimum setback of 50 feet from a road or street, and 15 feet from any boundary line for each cabin, trailer, or service building; (e) minimum space of 10 feet between trailers or house cars, and 20 feet between trailers or house cars and service buildings or structures; (f) approval of the Baltimore County Health Department.

As noted, there is no evidence that any trailer camp actually operated on the site under the 1945 BCZR. The only layout in evidence is the current site plan. It reflects the recent, more modern trailer park operation with fixed mobile home units -- not the old readily movable vehicles, which also afforded occupancy. Remarkably, it conflicts not only with current law, but also with the setback and minimum space requirements of Sec. XIII-H(d) and (e).

2. The 1955 BCZR – Trailers and Trailer Parks

In 1955, the County Commissioners adopted comprehensive new zoning regulations. There was a new definition in Section 101 and new Sections 414 and 415 for trailer parks and trailers. P.C. Exh. 1. It required larger and more spacious "parks" rather than "camps". The restrictions included: 414.1, minimum park lot area of 5 acres; 414.2, minimum allocated trailer area of 3000 square feet; 414.3, each trailer space shall abut a driveway or unobstructed space of at least 30 feet; 414.4, minimum trailer or service building setback of 100 feet from a road or street which the park fronts, and 75 feet from any other boundary line; 414.5, minimum space of 25 feet between trailers, and between trailers and service buildings or structures; and 414.6, approval of the Health Department required. The only change to BCZR 414 since 1955 has been new BCZR 414.7, which does not change the standards. Bill 33-2000.

The 1955 BCZR also introduced a key provision on application of the law, BCZR 103.1, which still states, with exceptions not applicable here:

"Section 103 – Application of Zoning Regulations"

"103.1 – These regulations shall apply as of the date of their adoption …"

In this context, there is no grandfather clause or other section of the BCZR to perpetuate the vitality of the 1945 BCZR. As a result, the 1955 BCZR, as amended, apply to Penwood MHP. This is the more fitting because it is named and operating as a mobile home park, with fixed mobile homes. The trailer camp has gone the way of the dinosaur, with the exception of transient campgrounds.

To be sure, the 1955 BCZR maintain protection for legal nonconforming uses under BCZR 104, but that is a different matter. There is no claim or proof of a nonconforming use here. Hypothetically, had there been a legal nonconforming mobile home park existing in 1955, it would have had to come into compliance anyway upon any change in the composition or configuration of the park.

At this juncture, we note that Petitioner has stipulated that the park does not comply with current BCZR 414. Indeed, it does not come anywhere close to meeting any of the standards of BCZR 414.1 to 414.5. Petitioner should also have stipulated that it does not meet the 1945 standards XIIIH(d) and (e), but that is an academic point because the 1955 BCZR apply.

3. The Evolving Definition of "Trailer (or Mobile Home)"

The 1955 BCZR gave this definition of "Trailer":

> **Trailer: Any of the various types of vehicles which depend for mobility on a motor vehicle and which are used for human habitation or for business purposes, but excluding vehicles used only for transportation material, products, or animals.**

In 1959, the Council enacted Bill 145 (P.C. Exh. 2) adding BCZR 415.5, which effectively amended the definition:

> **415.5: For purposes of the Regulations in this section, a trailer shall still be regarded as such even though its mobility may have been eliminated by taking off its wheels, or otherwise, and placing it on a stable foundation, or rigid supports.**

Subsequently, with Bill109-64 (P.C. Exh. 3), the Council both revised the definition and integrated the new fixed mobile home concept into BCZR 101:

> **Trailer (or Mobile Home): Any of the various types of vehicles or mobile homes, with or without motive power, including small structures transportable by a pickup truck or similar vehicles, which are used for human habitation or for business purposes, but excluding vehicles used only for transportation material, products, or animals. A trailer (or mobile home) shall still be regarded as such even though its mobility may have been eliminated by taking off its wheels, or otherwise, and placing it on a stable foundation, or rigid supports.**

The trend was away from campers and toward the more modern and substantial fixed mobile homes. This trend culminated in 1974.

4. The 1974 BCZR Amendments -- Recreational Vehicles

In 1974, the Council passed Bill 29, which defined "Recreational vehicle" for the first time, excluded it from the definition of trailer, and established residential zone location and area restrictions. This completed the process of legal differentiation of mobile homes and recreational vehicles. Memo Exhibit B.

In addition to the new and detailed definition for "Recreational vehicle," it added this sentence to the BCZR 101 definition of "Trailer":

> **"Recreational vehicles, as defined herein, are excepted from this definition."**

There is no ambiguity here. As amended, the BCZR addressed recreational vehicles specifically. The law excludes them from the definition of "Trailer (or Mobile Home") and thereby excludes them from Trailer Parks. The BCZR 101 definition has remained intact since 1974.

It is noteworthy that Bill 29 was in place when Petitioner's predecessors obtained their special exception in 1977. That special exception did not request or include any approval of recreational vehicles.

5. The Current Special Exception

On the assumption (erroneous, in our view) that recreational vehicles are permitted uses in trailer parks, Petitioner tried to elicit facts to justify a special exception amendment to allow these vehicles. It presented two witnesses.

The surveyor, John Mildenberg, gave "yes" answers to leading questions framed by Petitioner's counsel using the words of each BCZR 502.1 subpart. Mildenberg is not a planner. He did not, in any event do any independent zoning study. He did a field survey to prepare an as-built site plan. He received from counsel the 1953 and 1977 cases (without the accompanying plats), and then gave a series of mechanical affirmative answers to counsel's questions.

The manager, Carol A. Lyons, is based offsite and several mobile homes for the family-run enterprise. She stated that various county agencies inspect the site but did not provide any details or documentation. She did not give any hard evidence with respect to the special exception requirements.

On the other hand, Robert Laro, the homeowner, and Thomas Karcher, of the Baltimore County Mobile Homeowners Association, testified in detail on the adverse impacts of recreational vehicles in a mobile home park. They pointed to safety, quality of life, aesthetic, and property value effects based on a number of factors: RVs not being anchored down during storm and wind events; outside electrical wires; exterior battery compartments; wheels, axles, chassies, and steps (frozen) without the protection of "skirting" or "skirtaround" areas; the lack of flowers and gardens; the relaxation or lack of lease restrictions applicable to

mobile homes; the impact of transient occupants in a relatively stable mobile home community; and overall appearance. Their testimony provided insight in depth to the differences between mobile homes and recreational vehicles beyond basic differences of function and looks.

6. Chesapeake Bay Zoning Restrictions

Although Petitioner's site plan refers to the Penwood MHP's location in the Chesapeake Bay Critical Area, it fails to address specific zoning requirements applicable to all CBCA petitions. Baltimore County has enacted legislation to implement Maryland law and establish a CBCA program. As part of this effort, Bill 32-88, as amended in Bill 9-1996, provided for BCZR 500.14:

> **500.14: Within the Chesapeake Bay Critical Area.**
>
> **No decision may be rendered by the Zoning Commissioner on any petition for special exception, variance or special hearing unless the Zoning Commissioner has received from the Director of the Department of Environmental Protection and Resource Management, or his designated representative, written recommendations describing how the proposed request would:**
>
> **A. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;**
>
> **B. Conserve fish, wildlife, and plant habitat; and**
>
> **C. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.**

The CBA has held compliance with BCZR 500.14 is mandatory. Application of Shaneybrook and Basso, Case No. 00-139-X (July 16, 2001). Memo Exhibit C.

Argument

I. The Current BCZR Apply

Clearly, the current BCZR apply. Petitioner failed to show a trailer camp ever operated under the 1953 special permit at all. It follows there was no proof of compliance with the 1945 BCZR which were in effect until March 30, 1955. In a nutshell, there is no proof of proper utilization of the 1953 special permit. In any event, by virtue of BCZR 103.1 (1955), the new Section 414 came into effect in There was no grandfather clause.

Had Petitioner proved operation of a legal trailer camp before passage of the 1955 BCZR, it would not make any difference. A legal trailer camp at this site prior to the 1955 BCZR would then have been nonconforming because undersized and substandard under BCZR 414. Periodic changes in trailer types and layouts thereafter would constitute a "change in use" which terminated the nonconforming use under then BCZR 104, now BCZR 104.1.

Even had there been a nonconforming trailer camp unchanged from 1953 to 2003, the addition of large 21st century recreational vehicles to a camp (now park) of mobile homes would itself be a change sufficient to terminate the nonconforming use.

Conceptually and logically, moreover, it makes no sense to take an aptly named "mobile home park" of twenty-first century mobile homes and attempt to

apply pre-1950 "trailer camp" law. Any way we look at it, Petitioner's attempt to maintain the fiction that the 1945 BCZR apply is just plain silly, a transparent artifice to gain more revenue.

II. There is No Evidence Penwood MHP Has Ever Complied with the 1945 or 1955 BCZR. The Current Site Conflicts with Both.

It appears the site was in operation by the 1980s, some time after approval of the 1977 special exception. There is no specific evidence that the use ever met the 1955 (and current) BCZR. The only detailed description has to do with the current layout, which does not come close to satisfying the BCZR 414 standards.

Remarkably, the current layout also fails to meet the more relaxed BCZRXIIIH standards from the 1945 BCZR. Once again, while the current BCZR apply, there is noncompliance from every point of view.

III. Recreational Vehicles Are Not, In any Event, Permitted in a Mobile Home Park

There was a time when trailers were vehicles which traveled or were conveyed on public streets. The 1945 BCZR definition reflected that reality. Trailer parks were resting places for these vehicles. While the term "recreational vehicle" was not yet used, early trailers were basic forms of recreational vehicles.

In the 1950s, the "mobile home" industry began to produce large, elaborate and sophisticated "homes" which typically were fixed to pads in a relatively permanent and stable way. The Baltimore County Zoning law gradually changed to reflect this reality. In 1955, "trailer camps" became "trailer parks," and the new BCZR 414 set greater minimum trailer park areas, and minimum trailer areas,

setbacks, and interval distances. In 1959 and 1964, the relatively new County Council revised the "trailer" definition to recognize explicitly "mobile homes" without wheels and affixed to a stable foundation or rigid supports.

Then, in 1974, the Council defined and set standards for "recreational vehicles." In this effort, it amended the definition of "trailer" to exclude "recreational vehicles." This completed the process of differentiation of trailers (or mobile homes) from recreational vehicles.

So, a step at a time, the Council classified "trailers" and "recreational vehicles" as different types of uses with separate appropriate locations. Neither is "incidental nor subordinate" to the other, or to a "trailer park."

The "recreational vehicle" is a kind of dinosaur in a modern mobile home park. It does not belong there. The Council's exclusion of the R.V. from the "trailer" definition could not be any plainer as to legislative intent.

The Court of Appeals has recognized and implemented the functional separation of zoning uses. It has rejected efforts to blur, bootstrap, or expand use categories and undermine a deliberate statutory distinction. Smith v. Miller 249 Md. 390 (1968), Memo Exhibit D; Marzullo v. Kahl 366 Md. 158 (2001). In this context, it is impermissible to engraft, under the guise of an "accessory use", a use which the Council clearly decided to exclude.

Judge Singley's discussion in Smith v. Miller is instructive. After a detailed discussion of similar decisions in Kenyon v. Board of Zoning Appeals 235 Md. Md. 388 (1974) and St. Clair v. Colonial Pipeline 235 Md. 578 (1964), he wrote:

> We regard *Kenyon* as both apposite and controlling. The provisions of the Ordinance must considered as an entirety, and we do not think the Board could rely on a conditional use provision to permit in an agricultural district a use which the Ordinance manifestly intended to confine to a general industrial district. It follows that the order of the court below affirming the order of the Board must be reversed because the action of the Board was in a legal sense arbitrary and capricious.

The Zoning Commissioner's decision here to allow five recreational vehicles as "accessory uses" was similarly arbitrary and capricious. It conflicts with the statutory purpose of the law on trailers, trailer parks, and recreational vehicles as evidenced by the language and history. Moreover, a recreational vehicle is not, per the BCZR 101 definition of "Accessory use" an "incidental and subordinate use" in the context of a trailer park. It would function as part of the primary use. But the law disallows it.

Mr. Laro's and Mr. Karcher's testimony about problems caused by recreational vehicles in mobile home parks help explain or reinforce the reasons for a statutory use separation. The bottom line is that the Baltimore County Zoning Regulations do not allow recreational vehicles in mobile home parks.

The resolution of this issue is of great public interest. This case will set the precedent for all other mobile home parks in Baltimore County. That is why the Baltimore County Mobile Homeowners Association and residents of other parks were so concerned. Meanwhile, the owners of Penwood own other parks in the County. News of the decision here will spread quickly and have great impact.

Here, there is the aggravating factor that Penwood MHP does not comply with minimum park and trailer area, setback and distance standards. It is outrageous for Petitioner to sponsor and invasion of R.V.s into a substandard park.

IV. The Petition Fails to Satisfy Special Exception Standards

Surely, a substandard trailer park does not itself meet the spirit and intent of the BCZR. Therefore, the addition of recreational vehicles would be unwarranted even if they were allowed under any circumstances. That aside, Petitioner failed to produce competent evidence to meet the test of BCZR 502.1. Mildenberg's testimony was without basis and conclusory. The testimony here is weaker than the opinion testimony rejected in People's Counsel v. Beachwood 107 Md. App. 627, 650 (1995). As the Court said long ago in City of Baltimore v. Borinsky 289 Md. 611, 624 (1963):

> However, even emphatic opinion testimony does not take the place of the necessary factual support.

Beachwood thus reiterated the learning of many cases. The CBA has applied it recently. See Performance Properties, CBA Case 02-255-X, Memo Exh. E, P. 5-6. Ms. Lyon's lay testimony was no better. She gave vague testimony about government site inspections.

So, there was no specific and substantial testimony to address BCZR 502.1 standards, especially as to public safety, health and welfare, and consistency with the spirit and intent of Zoning Regulations. Petitioner simply did not meet its burden of production. On the other hand, there was specific and detailed evidence

as to adverse impact of recreational vehicles. The Laro and Karcher testimony outlined above was cogent and convincing. It showed that R.V.s do not belong in Penwood MHP on the grounds of safety, quality of life, appearance, and devaluation of property. They are incompatible.

The case is reminiscent of County Comm'rs v. Holbrook 314 Md. 210 (1988). There, the Court of Appeals sustained a zoning board denial of a special exception for a mobile home because it was incompatible with and would devalue a nearby single-family home. Here, the recreational vehicles are in a position comparable to the mobile home in Holbrook, and the mobile homes here are in the position of the single-family home there, only closer together.

In Village of Euclid v. Ambler Realty Co. 272 U.S. 365 (1926), the Supreme Court of the United States held constitutional the establishment of a single family home/duplex residential district which excluded apartments. It described how apartments tended to be parasites, taking advantage of and detracting from quality of life in single-family home neighborhoods. Analogously, recreational vehicles would also act as parasites, gaining advantage from their mobile home park location while eroding quality of life for mobile home owners.

V. The Record Fails to Satisfy Chesapeake Bay Critical Area Zoning Law

There is lacking the detailed recommendations from DEPRM required by BCZR 500.14. This failure in itself is sufficient to deny the petition. The CBA decision in Shaneybrook and Basso is in accord with the law.

In Beachwood, the Court of Special Appeals held that the CBA's failure to consider specific CBCA criteria applicable to a rezoning warranted reversal. 107 Md. App. at 659-64. Not surprisingly, the CBCA factors involved in Beachwood were virtually identical to the factors enumerated in BCZR 500.14.

Where a zoning statute calls for consideration of stated factors, it is mandatory. People's Counsel v. Mockard 73 Md. App. 340, 347-49 (1987). The absence of the required recommendations is fatal to this petition.

VI. Denial of this Petition Will Not Displace Any Homeowners

When we said in opening that Penwood MHP does not comply with BCZR 414 area, setback, and distance standards, Petitioner's counsel called this a threat to displace homeowners. His reply is a canard and a red herring calculated to distract from the real issues and gain undeserved sympathy.

It is undisputed that Pennwood MHP is substandard. It is substandard even if the 1945 BCZR were applied. Penwood MHP has gone about its operation without regard to any standards. The recent complaint about recreational vehicles brought the park into the zoning spotlight for the first time in a generation.

When the CBA finds, as the evidence demands, that the park is not compliant, this will not result in any displacement of current homeowners. Our office is not suggesting that, and it is not required.

It does mean that, over time, as mobile homeowners voluntarily move, the park should come into substantial compliance. This means that, on a gradual basis, there should be a reduced number of homes in the park so that the area, setback,

and distance requirements are substantially met. In the alternative, Penwood MHP may acquire additional property to accommodate the current number of homes and request a special exception for an improved layout. At the present, Penwood MHP has the advantage of obtaining revenue from a number of mobile homes which ordinarily would require a much larger and more expensive property. It is already profiting from its noncompliance, relative to compliant mobile home parks.

The PDM enforcement office has the authority and responsibility to assure compliance with zoning law as necessary and appropriate. At the very least, noncompliance with zoning law is not, and must not, be turned to the advantage of Penwood MHP in this petition.

Postscript: Inspection Procedures Do Not Support Petitioner's Position

At the conclusion of the hearing, Panel Member Charles Marks inquired about inspection procedures. Thomas Karcher had already observed that mobile homes are classified differently from recreational vehicles under MVA regulations. He has supplied MVA classification and Application for Certificate of Title forms which reflect this distinction. Memo Exh. F.

The MVA documents show Class M "Multi-Purpose Vehicles" among the classifications commonly operated motor vehicles. Mr. Karcher observes that recreational vehicles are Class M vehicles, in that they are used for recreation and travel. In contrast, mobile homes are within Class G as "House Trailers." The registration fees for Class M vehicles are greater than for Class G house trailers, as would be expected.

The Application for Title form shows that both vehicle classes are subject to inspection requirements before being titled. Mr. Karcher informs us, however, that, as a practical matter, the MVA does not require inspections of fixed mobile homes. He notes that it would be impractical to get the homes to an inspection station. He also informs us that mobile homes get temporary tags. The manufacturer typically places these on the trailer when it is transferred to or from the park. Mr. Karcher adds that the tags are not permanent.

Separately, under the Pennwood MHP Rental Agreement, Paragraph 18, Page 7, Pennwood reserves the right to inspect under "Park standards" any "mobile home" when it is sold but retained on the site. Mr. Karcher informs us that this is the primary inspection which takes place on mobile homes.

Having provided this information in response to Mr. Marks' inquiry, we turn to their relevance. In our view, the MVA or any other State standards for inspections of R.V.s and mobile homes do not affect interpretation of the zoning law. Inspection laws serve different purposes from zoning laws.

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.

In any event, the MVA distinction in classification between Class G recreational vehicles and Class M mobile homes is not inconsistent with the differentiation of the uses under the Baltimore County Zoning Regulations.

Conclusion

The Petition for Special Hearing, once again, requests that the CBA:

> " approve the size, type, kind, and quality of residential living units on the subject property as meeting the requirements of the applicable *Baltimore County Zoning Regulations* and the facts considered and decisions rendered in Zoning Case 2621-S and 77-161-SPH; and [2] for such additional relief as the nature of this case presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR."

It should be denied.

For the foregoing reasons, the CBA should find:

1. The current BCZR apply.

2. Penwood MHP does not comply with the current BCZR or, (if they were applicable), the 1945 BCZR.

3. Recreational vehicles are not permitted uses in a trailer (mobile home) park.

4. The record does not justify approval of an amendment to the special exception to allow recreational vehicles, even it permitted at all.

5. There is a failure to satisfy Chesapeake Bay Critical Area zoning requirements.

6. Denial of this Petition will not displace any homeowners, but rather will facilitate progress toward satisfaction of modern zoning standards which govern trailer (mobile home) parks.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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 this 18th day of November, that a copy of the foregoing Memorandum of People's Counsel for Baltimore County was mailed first-class, postage pre-paid mail to Howard L. Alderman, Jr, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioners.

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 8000 Dogwood Road

which is presently zoned DR 5.5

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

See Attached

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:

N/A
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire
Name - Type or Print

Signature

Levin & Gann, PA
Company

502 Washington Avenue, Suite 800 410-321-0600
Address Telephone No.

Towson MD 21204
City State Zip Code

Legal Owner(s):

Penwood Mobile Home Park, Inc.
Name - Type or Print

By: Carol A. Lyons Sec & Corp
Signature

CAROL A. LYONS
Name - Type or Print

Signature

10051 North 2nd Street 410-792-2127
Address Telephone No.

Laurel MD 20723
City State Zip Code

Representative to be Contacted:

John B. Mildenberg, PE Mildenberg-Boender Assoc., Inc.
Name

5072 Dorsey Hall Drive, Suite 202 410-997-0296
Address Telephone No.

Ellicott City MD 21042
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By BK **Date** 10/28/02

ORDER RECEIVED FOR FILING
Date 11/8/02
By BK

Case No. 03-207-SPH

REV 9/15/98

Attachment 1

PETITION FOR SPECIAL HEARING

CASE NO: 03-207-SPH

Address: Oak Road at Dogwood Road

Legal Owner: Penwood Mobile Home Park, Inc.

Present Zoning: DR 5.5

REQUESTED RELIEF:

"*why the Zoning Commissioner should*" [1] approve the size, type, kind and quality of residential living units on the subject property as meeting the requirements of the applicable *Baltimore County Zoning Regulations* and the facts considered and decisions rendered in Zoning Case Nos. 2621-S and 77-161-SPH; and [2] for such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

ORDER RECEIVED FOR FILING
Date 4/10/03
By

#207

Zoning Description
Penwood Mobile Home Park

Baltimore County, Maryland

Beginning for the same at a point, said point at the intersection of the center line of Oak Road, twenty (20) feet wide, with the center line of Poplar Road, twenty (20) feet wide, thence binding on the center line of Poplar Road

1. N 87° 44' 55" E 164.83 feet to a point, thence
2. S 01° 18' 05" E 418.16 feet to a point, thence
3. S 87° 08' 42" W 55.42 feet to a point, thence
4. S 82° 15' 55" W 50.33 feet to a point, thence
5. S 66° 44' 55" E 49.91 feet to a point, thence
6. S 48° 23' 00" W 29.12 feet to a point, thence
7. N 00° 10' 05" W 460.15 to the point of beginning as recorded in Deed Liber 7993, Folio 1.

Including the 6,411 square foot parcel to be leased to Fredrick L. Newberger, Sr. and wife

Beginning for the same at the end of the aforementioned second (2^{nd}) or S 01° 18' 05" E 418.16 foot line, thence running reversely with said line

1. N 01° 18' 05" W 418.16 feet to a point, thence
2. N 87° 30' 00" E 30.00' feet to a point, thence
3. S 01° 23' 00" W 231.90 feet to a point, thence
4. S 23° 12' 00" W 32.93 feet to a point, thence
5. S 01° 33' 00" E 154.95 feet to a point, thence
6. S 86° 52' 00" W 5.27 to the point of beginning.

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: #03-207-SPH
8000 Dogwood Road
N/east corner Oak and Dogwood Roads
15th Election District -- 7th Councilmanic District
Legal Owner(s): Penwood Mobile Home Park, Inc.

Special Hearing: to permit the size, type, kind and quality of residential living units as meeting the requirements of the applicable BCZR and the facts considered and decisions rendered in Zoning Case Nos. 2621-S and 77-161 SPH.

Hearing: Monday, January 6, 2003 at 10:00 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.

12/168 Dec. 19 C579320

CERTIFICATE OF PUBLICATION

12/19/, 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 12/19/, 2002.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

P. Wilkinson

LEGAL ADVERTISING

: COUNTY, MARYLAND
JDGET & FINANCE
NEOUS RECEIPT

No. 18922

1/24/02 ACCOUNT K-1-000 623 0

AMOUNT $ 250.00

Redwood Park Home Park Inc

Special Hearing

PINK - AGENCY YELLOW - CUSTOMER

1/am ft 907

CASHIER'S VALID

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 22210

DATE 4/23/03 ACCOUNT 001-006-6150

AMOUNT $ 200.00

RECEIVED FROM: Catherine E. Pieper

FOR: 03-207-SPH

Appeal

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 03-207-SPH

Petitioner/Developer: PENWOOD MOBILE HOME PARK, INC

Date of Hearing/Closing: 1/6/03

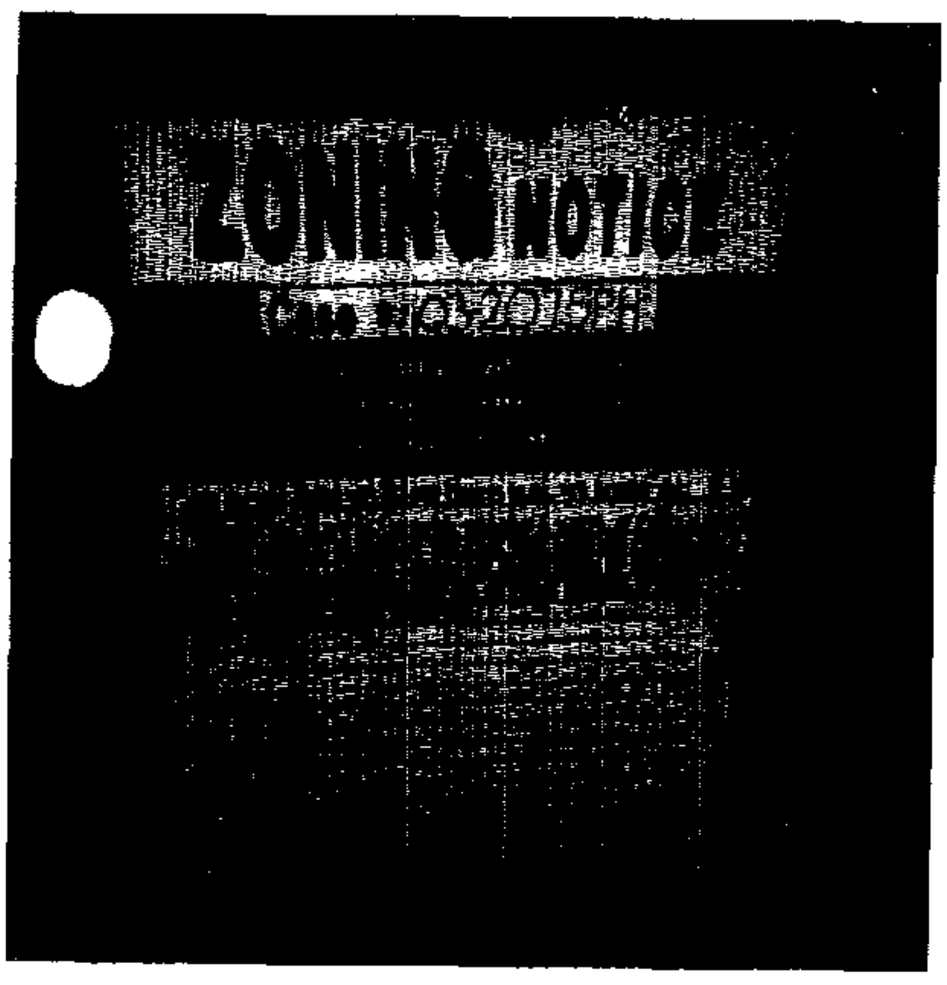
Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

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 8000 DOGWOOD RD

The sign(s) were posted on 12/20/02
(Month, Day, Year)



Sincerely,

12/20/02
(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)

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-207-SPH

Penwood Mobile Home Park - LEGAL OWNERS

8000 Dogwood Road

15th ELECTION DISTRICT APPEALED: 4/21/03

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

APPEAL SIGN POSTING REQUEST

CASE NO.: 03-207-SPH

Penwood Mobile Home Park - LEGAL OWNERS

8000 Dogwood Road

15th ELECTION DISTRICT APPEALED: 4/21/03

ATTACHMENT – (Plan to accompany 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.: 03-207 SPH

Petitioner/Developer:

This is to certify that the necessary appeal sign was posted conspicuously on the property located at: 8000 DOGWOOD RD.

The sign was posted on 5/29, 2003

By: _____
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

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

November 19, 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: 03-207-SPH
8000 Dogwood Road
N/east corner Oak and Dogwood Roads
15th Election District – 7th Councilmanic District
Legal Owner: Penwood Mobile Home Park, Inc.

Special Hearing to permit the size, type, kind and quality of residential living units as meeting the requirements of the applicable BCZR and the facts considered and decisions rendered in Zoning Case Nos. 2621-S and 77-161 SPH.

Hearings: Monday, January 6, 2003 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon
Director

AJ:rlh

C: Howard J. Alderman, Levin & Gann, P.A., 502 Washington Avenue, Suite 800, Towson 21204
Penwood Mobile Home Park, Inc., 10051 North Second Street, Laurel 20723
John B. Mildenberg, Mildenberg-Boender Assoc., Inc., 5072 Dorsey Hall Drive, Suite 202, Ellicott City 21042

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, DECEMBER 20, 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.

Printed with Soybean Ink
on Recycled Paper

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 19, 2002 - Issue - Jeffersonian

Please forward billing to:
Penwood Mobile Home Park, Inc. 410-792-2127
10051 North Second Street
Laurel, MD 20723

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: 03-207-SPH
8000 Dogwood Road
N/east corner Oak and Dogwood Roads
15th Election District – 7th Councilmanic District
Legal Owner: Penwood Mobile Home Park, Inc.

Special Hearing to permit the size, type, kind and quality of residential living units as meeting the requirements of the applicable BCZR and the facts considered and decisions rendered in Zoning Case Nos. 2621-S and 77-161 SPH.

Hearings: Monday, January 6, 2003 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 03--207 --SPH

Petitioner: Penwood Mobile Home Park, Inc.

Address or Location: 8000 Dogwood Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Penwood Mobile Home Park, Inc.

Address: 10051 North Second (2nd) Street
Laurel, MD 20723

Telephone Number: 410-792-2127

Revised 2/20/98 - SCJ

Baltimore County
Department of Permits and
Development Management

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

January 3, 2003

Howard L. Alderman, Jr.
Levin & Gann
502 Washington Avenue, Suite 800
Towson, MD 21204

Dear Mr. Alderman:

RE: Case Number: 03-207-SPH, 8000 Dogwood Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 29, 2002.

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.
Supervisor, Zoning Review

WCR:rlh

Enclosures

c: People's Counsel
Penwood Mobile Home Park, Inc., Carol A. Lyons, 10051 North 2nd Street, Laurel 20723
John Mildenberg, Mildenberg-Boeneder Assoc., 5072 Dorsey Hall Drive,
Ellicott City 21042

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on Recycled Paper

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 11.20.02

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

RE: Baltimore County
Item No. 207 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,

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

My telephone number is _____

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

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

Baltimore County
Fire Department

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

November 20, 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

Property Owner:

Location:

Item No.: ZAC Dist. Meeting of 11/18/2002

Dear Mr. Zahner:

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.

7. The Fire Marshal's Office has no comments at this time, in reference to the following items:
203-209, 211-227

(JO)

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

cc: File

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: December 9, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
For November 25, 2002
Item Nos. 203, 204, 205, 206, 207,
208, 209, 210, 211, 212, and 227

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

RWB:CEN:jrb

cc: File

ZAC-11-25-2002-NO COMMENT ITEMS-1292002

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS/TJT

DATE: December 17, 2002

SUBJECT: Zoning Item 207
Address 8000 Dogwood Road

Zoning Advisory Committee Meeting of 12/13/02

____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

__X__ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

____ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

__X__ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

____ Additional Comments:

Reviewer: Keith Kelley Date: 12/5/02

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 3, 2003

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 03-207**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by: Mark A Cunningham

Section Chief: Lyn Lanham

AFK/LL:MAC

Parris N. Glendening
Governor
Kathleen Kennedy Townsend
Lt. Governor

MDP
Maryland Department of Planning

Roy W. Kienitz
Secretary
Mary Abrams
Deputy Secretary

November 21, 2002

Mr. George Zahner
Baltimore County Department of Permits and Development Management
County Office Building
111 West Chesapeake Avenue, Mail Stop #1105
Towson MD 21204

Re: **Zoning Advisory Committee Agenda, November 25, 2002 re: case numbers 03-2103-A, 03-204-SPHXA, 03-205-A, 03-206-A, 03-207-SPH, 03-208-A, 03-209-A, 03-210-SPHA, 03-211-A, 03-212-A, 03-213-A, 03-227-XA**

Dear Mr. Zahner:

The Maryland Department of Planning has received the above-referenced information on 11/20/02. The information has been submitted to Mike Nortrup.

Thank you for your cooperation in this process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,

James R. Gatto
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: Mike Nortrup

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 23, 2003

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING
N/E Corner Dogwood Road & Oak Road
(Penwood Mobile Home Park)
15th Election District & 7th Councilmanic District
Case No.: 03-207-SPH

Dear Mr. Jablon:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated April 10, 2003 by the Baltimore County Zoning Commissioner in the above-entitled case

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/rmw

cc: Howard L Alderman, Esquire, Levin & Gann, P.A., 502 Washington Avenue,
8th Floor, Towson, MD 21204
John B Mildenberg, Mildenberg-Boender Assoc., Inc,
5072 Dorsey Hall Drive, Suite 202, Ellicott City, MD 21042

RECEIVED
APR 23 2003
Per bh

Mr. Henry Fox, 8000 Dogwood Road, Lot 27, Baltimore, MD 21219
Mr. Byrnell Barton-Goodwin, 20 Shore Road, Baltimore, MD 21219
Ms. Pat Drumm, 24 Shore Road, Baltimore, MD 21219
Mr. Dennis Gray, One Texas Station Court, Timonium, MD 21090
Mr. Thomas Karcher, 517 Tidewater Lane, Baltimore, MD 21220
Mr. & Mrs. Robert Laro, 8000 Dogwood Road, Lot 15, Baltimore, MD 21219
Mr. & Mrs. John Rierson, 10 Dundee Court, Baltimore, MD 21220

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 23, 2003

Mr. Thomas J. Karcher
President, Baltimore County Mobile
Homeowners Association
517 Tidewater Lane
Middle River, MD 21220

Dear Mr. Karcher:

RE: Case No. 03-207-SPH, 8000 Dogwood Road

We acknowledge that the appeal of the above-referenced case was filed in this office on April 21, 2003 by your organization and another appeal made by Peter Max Zimmerman was received on April 23, 2003. 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:rlh

c: Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM
People's Counsel
Mr. and Mrs. Robert Laro, 8000 Dogwood Road, Lot 15, Baltimore 21219

Printed with Soybean Ink
on Recycled Paper

APPEAL

Petition for Special Hearing
8000 Dogwood Road
N/east corner Oak & Dogwood Roads
15th ED – 7th CD
Legal Owner: Penwood Mobile Home Park

Case No.: 03-207-SPH

RECEIVED
BALTIMORE COUNTY
BOARD OF APPEALS

✓ Petition for ~~Variance~~ Special Hearing & (October 29, 2002)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (November 19, 2002)

✓ Certification of Publication (December 19, 2002)

✓ Certificate of Posting (December 20, 2002) on

✓ Entry of Appearance by People's Counsel (November 19, 2002)

✓ Petitioner(s) Sign-In Sheet
One Sheet

✓ Protestant(s) Sign-In Sheet
None

✓ Citizen(s) Sign-In Sheet
Two Sheets

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibits:
- ✓1. Plan to accompany Petition for Special Hearing
- ✓2. A booklet put together by Penwood Mobile Home Park
- ✓3. Disk from Penwood Mobile Home Park

✓ Protestants' Exhibits:
- ✓1. A 2002 Calendar of Sleepy Hollow
- ✓2. Penwood Mobile Home Park Addendum to Rental Agreement
- ✓3a. Distance shot of mobile home
- ✓3b. Picture of sitting area

✓ Miscellaneous (Not Marked as Exhibit
- ✓1. Papers concerning Petition for Special Hearing
- ✓2. Description from Land Surveyor
- ✓3. Plat of Penwood Trailer Park
- ✓4. Papers for Special Permit

✓ Zoning Commissioner's Order (April 10, 2003 – GRANTED subject to the following restrictions)

✓ Notice of Appeal received on April 21, 2003 from Mobile Homeowners Association, Thomas Karcher Pres. Mr. and Mrs. Robert Laro, and Peter M. Zimmerman, People's counsel. on April 23, 2003.

c: ✓ People's Counsel of Baltimore County, MS #2010
Zoning Commissioner
Arnold Jablon, Director of PDM
Penwood Mobile Homeowners Association

CAROL A LYONS
PENWOOD MOBILE HOME PARK
10051 NORTH 2ND STREET
LAUREL MD 20723
Petitioner

✓ ROBERT LARO
MARY LARO
8000 DOGWOOD ROAD LOT 15
BALTIMORE MD 21219
Appellant

✓E

HOWARD L ALDERMAN ESQUIRE
LEVIN & GANN
502 WASHINGTON AVENUE
8TH FLOOR
TOWSON MD 21204
Attorney for Petitioner

✓ THOMAS J. KARCHER PRESIDENT
BALTIMORE COUNTY MOBILE
HOMEOWNERS ASSOCIATION
517 TIDEWATER LANE
MIDDLE RIVER MD 21220
Appellant

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY *
Old Courthouse, Room 47
400 Washington Avenue, Towson, MD 21204 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **3-C-04-000090**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF
PENWOOD MOBILE HOME PARK *
8000 DOGWOOD ROAD
BALTIMORE, MD 21219 *

15th ELECTION DISTRICT *
7th COUNCILMANIC DISTRICT

*

CASE NO.: 03-207-SPH
* * * * * * * * * * * * *

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
2004 FEB 27 I A 11: 47
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

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

03-207-SPH

October 29, 2002	Petition for Special Hearing Request filed by Howard L. Alderman, Jr., Esquire, on behalf of Penwood Mobile Home Park, Inc., requesting [1] approve the size, type, Kind and quality of residential living units on the subject property as meeting the requirements of the applicable BCZR and decision rendered in Case No.: 2621 S and 77-161 SPH.
November 19	Notice of Zoning Hearing
November 19	Entry of Appearance filed by People's Counsel for Baltimore County
December 19	Publication in newspaper
December 20	Certificate of Posting
January 3, 2003	ZAC Summary of Comments
January 6	Hearing Held before the Zoning Commissioner
April 10	Findings of Fact and Conclusions of Law issued by the Zoning Commission. Petition for Special Hearing Request GRANTED, subject to restrictions.
April 21	Notice of Appeal from Baltimore County Mobile Homeowners Association, by and through Thomas J. Karcher, President and Mr. and Mrs. Robert Laro, 8000 Dogwood Road, Lot 15, Baltimore, MD 21219.
April 23	Notice of Appeal from People's Counsel for Baltimore County.
October 28	Hearing by Board of Appeals.
People's Counsel Exhibits	
PC 1	March 30, 1955 Baltimore County Zoning Regulations - 5 pages

PC 2	Bill No. 145 -- County Council of Baltimore County Legislative Session 1959
PC 3	Bill No.109 – County Council of Baltimore County November 2, 1964 – to revise regulations relating to trailer use, etc.
PC 4	Baltimore County Zoning Regulations – 1998 – 12 pages
PC 5	ADC Map – one page
PC 6	Comprehensive Zoning Map 2000
PC 7	Maryland Department of Assessments and Taxation Acct.: 2100008232 -- 3 pages
PC 8	Rule 8 documents – Baltimore County Mobile Home Owner's Association – 4 pages
PC 9	Sign In Sheet dated 100/28/03 – 1 page
PC 10A – 10C	Photographs
PC 11	Addendum – Penwood Mobile Home Park – Rental Agreement -- November 12, 1998 -- 13 pages
PC 5 12A -- 12C	Photographs on 8X10 paper
PC 13	Petition Against Recreational Vehicles in Penwood Mobile Home Park – 4 pages

Petitioner's Exhibits

1	Penwood Mobile Home Park Revised Plan, dated 10/24/02
2	Order dated June 8, 1953 in Case No.: 2626-S
3	Copy of selected portions of Baltimore County Zoning Regulations dated January 2, 1945 – 9 pages
4	Copy of Petition for Special Hearing and Order dated March 7, 1977 in Case No.: 77-161-SPH

	5A – L	Photographs on 8X10 paper
	6	Baltimore County Uniform Code Enforcement Citation Case No.: 02-3814
November 18		Memorandum of People's Counsel filed by the Office of People's Counsel
November 18		Petitioner's Post-Hearing Memorandum filed by Howard Alderman, Jr., Esquire, on behalf of Petitioner.
December 10		Public Deliberation held by Board of Appeals.
December 10		Withdrawal of Petition without prejudice filed by Howard Alderman, Jr., Esquire, on behalf of Petitioner.
December 11		ORDER OF DISMISSAL OF PETITION issued by the Board of Appeals – Appeal filed DISMISSED AS MOOT.
January 5, 2004		Petition for Judicial Review and To Enforce Compliance With The State Open Meetings Law filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County. Civil Action No.: 03-C-04-0090.
January 6		Certificate of Notice sent to interested parties.
February 26		Transcript of Proceedings filed.
February 26		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

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

c. Peter Max Zimmerman / People's Counsel for Baltimore County
Howard L. Alderman, Jr., Esquire

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY *
Old Courthouse, Room 47
400 Washington Avenue, Towson, MD 21204 *

FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **3-C-04-000090**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE MATTER OF
PENWOOD MOBILE HOME PARK *
8000 DOGWOOD ROAD
BALTIMORE, MD 21219 *

15th ELECTION DISTRICT *
7th COUNCILMANIC DISTRICT

*

CASE NO.: 03-207-SPH
* * * * * * * * * * * *

RECEIVED AND FILED
2004 JAN -6 P 1:18
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY, MD

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:

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

Carole S. Demilio
Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47,
400 Washington Avenue, Towson, Maryland 21204

Robert Laro and Mary Laro
8000 Dogwood Road, Lot 15, Baltimore, MD 21219

Thomas J. Karcher, President
Baltimore County Mobile Homeowners Association
517 Tidewater Lane, Middle River, MD 21220

Howard L. Alderman, Esquire
Levin & Gann, 502 Washington Avenue, 8th Floor,
Towson, MD 21204

Carol A. Lyons
Penwood Mobile Home Park, 10051 North 2nd Street, Laurel, MD 20723

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

Theresa R. Shelton

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 Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; Carole S. Demilio, Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; Robert Laro and Mary Laro, 8000 Dogwood Road, Lot 15, Baltimore, MD 21219; Thomas J. Karcher, President, Baltimore County Mobile Homeowners Association, 517 Tidewater Lane, Middle River, MD 21220; Howard L. Alderman, Esquire, Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204; Carol A. Lyons, Penwood Mobile Home Park, 10051 North 2nd Street, Laurel, MD 20723, this 6th day of January, 2004.

Theresa R. Shelton

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

January 6, 2004

Howard L. Alderman, Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-04-000090
Petition for Judicial Review
Penwood Mobile Home Park
Case No.: 03-207-SPH

Dear Mr. Alderman:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on January 5, 2004, 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-04-000090.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Theresa R. Shelton
Legal Secretary

/trs
Enclosure

c: Peter Max Zimmerman / People's Counsel for Baltimore County
Carole S. Demilio / Deputy People's Counsel for Baltimore County
Robert Laro and Mary Laro
Thomas J. Karcher, President, Baltimore County Mobile Homeowners Association
Howard L. Alderman, Esquire
Carol A. Lyons
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director / PDM

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on Recycled Paper

County Board of Appeals of Baltimore County

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

January 6, 2004

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

RE: Circuit Court Civil Action No. 3-C-04-000090
Petition for Judicial Review
Penwood Mobile Home Park
Case No.: 03-207-SPH

Dear Mr. Zimmerman:

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: Carole S. Demilio
Deputy People's Counsel for Baltimore County
Robert Laro and Mary Laro
Thomas J. Karcher, President
Baltimore County Mobile Homeowners Association
Howard L. Alderman, Esquire
Carol A. Lyons

Printed with Soybean Ink
on Recycled Paper

RE:	PETITION FOR SPECIAL HEARING 8000 Dogwood Road, NE corner Oak & Dogwood Road 15th Election District 7th Councilmanic District	*	BEFORE THE ZONING COMMISSIONER FOR
	Legal Owner: Carol A. Lyons, to Corp. Penwood Mobile Home Park, Inc. Petitioner(s)	*	BALTIMORE COUNTY 03-207-SPH

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and 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
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of November , 2002, a copy of the foregoing Entry of Appearance was mailed to John B. Mildenberg, PE, Mildenberg-Boender Assoc., Inc, 5072 Dorsey Hall Dr, Suite 202, Ellicott City, MD 21042 and to, Howard L. Alderman, Jr., Esquire, Levin & Gann, PA, 502 Washington Avenue, Suite 800, Towson, Maryland 21204, Attorney for Petitioner(s).

RECEIVED
By bh

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

PLEASE PRINT CLEARLY

CASE NAME Penwood Mobile
CASE NUMBER 03-207-SPH
DATE 01/06/03

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Carol A Lyons	1005 N. Second St	Laurel Md 20723	
T.L. Newberger Sr	"	"	
Henry Fox	8000 Dogwood Rd Apt 27	Balt Md 21219	
John Mildenberg	5072 Dorsey Hall DR. 2042	Suite 202 Ellicott City 21042	
Howard L Alderman Jr	Levin & Gann PA Suite 800 502 Washington Ave	Towson MD 21204	

PLEASE PRINT CLEARLY

CASE NAME Penwood Mobile
CASE NUMBER 03-207-SPH
DATE 06 Jan 03

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
William Smith	8 Raspberry Court	Baltimore, MD 21220	
James Oates	2 Raspberry Court	Baltimore, MD. 21220	
Edmund Adamczyk	902 Forwood Ct	Baltimore MD 21222	
Pauline Conway	906 Forwood Ct.	Balto. Md. 21222	
Bernie Heill	722 Greenwood Ct.	Baltimore Md. 21222	
R C Davis	125 Lariat Rd.	" " 21220	
Jim Murray	1202 Keywood Ct.	" 21222	
Tom Karcher	517 Tidewater Ln	Balto MD 21220	tkarcher3@comcast.net
Ross B. Colf	1200 Keywood Ct.	Balto md 21222	
Linda W. Hart	7 Raspberry Ct.	Balto. MD 21220	lghart@comcast.net
Joseph A Stasuk	9904 Van Tassel Lane	Balto MD 21220	
Janet Rierson	10 Dundee Ct	Balto MD 21220	
Jack Rierson	10 Dundee Ct	Balto. Md. 21220	
Joseph F. Swann	305 Tidewater Lane	Middle River 21220	JoeSwann4601@AOL.com
Jeffrey D Clough	8000 Dogwood Rd Lot 25	Sparrows Point 21219	
Linda Peszinsk.	8000 Dogwood Rd Lot #2	Sparrows Point 21219	
Mary Wdzieczkowski	8000 Dogwood Rd Lot #1	Sparrows Point 21219	
Deborah Wheeler	8007 Dogwood Road	Sparrows Point, MD 21219	dedwhe@yahoo.com
Robert Lato	8000 Dogwood Rd Lot #15	Balto. Md 21219	
Mary Lato	8000 Dogwood Rd Lot #15	Balto. Md 21219	

(KARCHER)

PLEASE PRINT CLEARLY

CASE NAME Pinewood Mobile
CASE NUMBER 03-207-SPH
DATE 06 Jan 03

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Burnell Barta-Lodwin	20 Shore Rd.	Balto. Md. 21219	
Pat Drumm	24 Shore Rd.	Balto., Md. 21219	
Dennis Gray	One Texas Sta. Court	Tow. M. 21090	dgray@JFKwalt.com

PETITION SIGNATURE LIST
AGAINST
CASE NO. 03-207-SPH, 8000 DOGWOOD ROAD

PRINT NAME	SIGNATURE	ADDRESS	STATE	ZIP CODE	MOBILE HOME PARK RESIDENT
Robert Laro	Robert Laro	8000 Dogwood Rd # 15	MD	21219	Penwood Mobile
Mary Laro	Mary Laro	8000 Dogwood Rd # 15	MD	21219	Penwood Mobile
Casimir Wdzieczkowski	Casimir Wdzieczkowski	8000 Dogwood Rd # 1	MD	21219	Penwood Mobile
Jeff Clark	Jeff O. Clark	8000 Dogwood Rd. Lot 25	MD.	2129	Penwood Mobile Home Park
Patricia Lingenfelter	Patricia Lingenfelter	8000 Dogwood Rd Lot #25	MD	21219	Penwood Mobile Home Park
George Garriott	George Garriott	8000 Dogwood Rd Lot 4	Md	21219	penwood
Michael Gorman	Michael Gorman	8000 DOGWOOD RD LOT 4	MD	21219	PENWOOD MOBIL HOM
Linda Perzynski	Linda Perzynski	8000 Dogwood Rd Lot #2	MD	2121P	PENWOOD mobile Home
Josh Pikna		8600 OAK RD	MD	21219	
Lynda Pikna		8600 OAK RD	MD	21219	
MARY WDZIECZKOWSKI	Mary Wdzieczkowski	8000 DOGWOOD Rd #1	MD.	21219	PENWOOD MOBILE HOME
Deborah Wheeler		8009 Dogwood Rd	MD	21219	no
Linda Hobson	Linda Hobson	8009 Dogwood Rd.	MD	21219	
CARL Hobson		8009 Dogwood RD	MD	21219	
TONY GOOLSBEE		8005 Dogwood RD	MD	21219	
Robyn Goolsbee		8005 Dogwood RD	MD	21219	
Lisa Halstead	Lisa Halstead	8000 Dogwood Rd	MD	21219	Penwood Park

DATE: 10/28/03

PEOPLE'S COUNSEL'S SIGN-IN SHEET

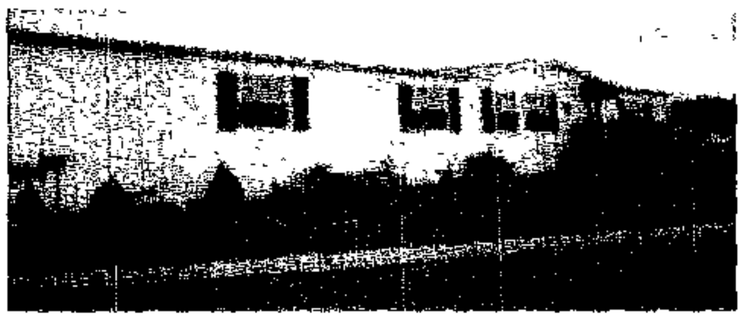
CASE NAME: PENNWOOD MOBILE HOME PARK

CASE NO.: 03-207-SPH

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify	Name / Address Phone Number	Community Group You Represent / Basis of Your Concerns
	2-RASPBERRY COURT. 686. JAMES W. OATES 8952	PEPPERMINT WOODS
	Joseph A STASIK 9904 VANTASSEL-LANE	SLEEPY HOLLOW
	JOHN RIERSON 10 DUNDEE CT. 410 344-0382	BISCAYNE BAY VILLAGE
	Robert Lane 8606 Dogwood Rd Lot #11	Pennwood Mobile
	MARY LANE 8606 Dogwood Rd Lot #15	Pennwood Mobile
	Joseph + Dolores SWANN	BISCAYNE BAY VILLAGE
	BILL + MIRIAM CARTER 303 TIDEWATER LN	BISCAYNE BAY VILLAGE
	Bob + Shirley Hamm 22 - Vista Mobile Dr.	DUNDALK MOBILE HOME PARK
	VINCE MARTIN 77 VISTA MOBILE DR. 21222 288-9111	DUNDALK MOBILE HOME CT.
	Janet Wurble 57A Vista Mobile Drive 21222 285-0413	DUNDALK MOBILE HOME PARK
	JUANITA D. DORNON 26 VISTA MOBILE DR 21222 410-288-4334	DUNDALK MOBILE HOME PARK
	TOM KARCHER 517 TIDEWATER LN 21220	BISCAYNE BAY VILLAGE

BALTIMORE COUNTY MOBILE HOMEOWNERS ASSOCIATION



Officers:
President: Tom Karcher
(410-335-7740) Bus. # 410-682-9772
P.O. Box 5074
Middle River, Maryland 21220
Email: bcmhoa02@comcast.net
WE STRIVE FOR UNITY

Vice President: Bill Smith
Recording Secretary: Ross Cole
Corresponding Secretary: Jim Murray
Treasurer: Jim Oates
Past President: Ross Cole
Board of Directors: Richard Davis, Linda Hart, Stephen Clark, Bernie Heill

Monday, April 21, 2003

Arnold Jablon, Director
Department of Permits and
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
NE/Corner Dogwood Road and Oak Road
(Penwood Mobile Home Park)
15th Election District – 7th Council District
Case No. 03-207-SPH

Dear Mr. Jablon, Director

Please enter an appeal of the Baltimore County Mobile Homeowners Association and Mr. & Mrs. Robert Laro to the Baltimore County Board of Appeals from the Findings of Facts and Conclusions of Law of the Baltimore County Zoning Commissioner dates April 11, 2003 in the above-entitled case.

Enclosed is our check in the amount of $300.00 for the filing fee. Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Robert A Laro Jr.
Mary M. Laro

Mr. & Mrs. Robert Laro
8000 Dogwood Road
Lot 15 Baltimore, MD 21219

Thomas J Karcher

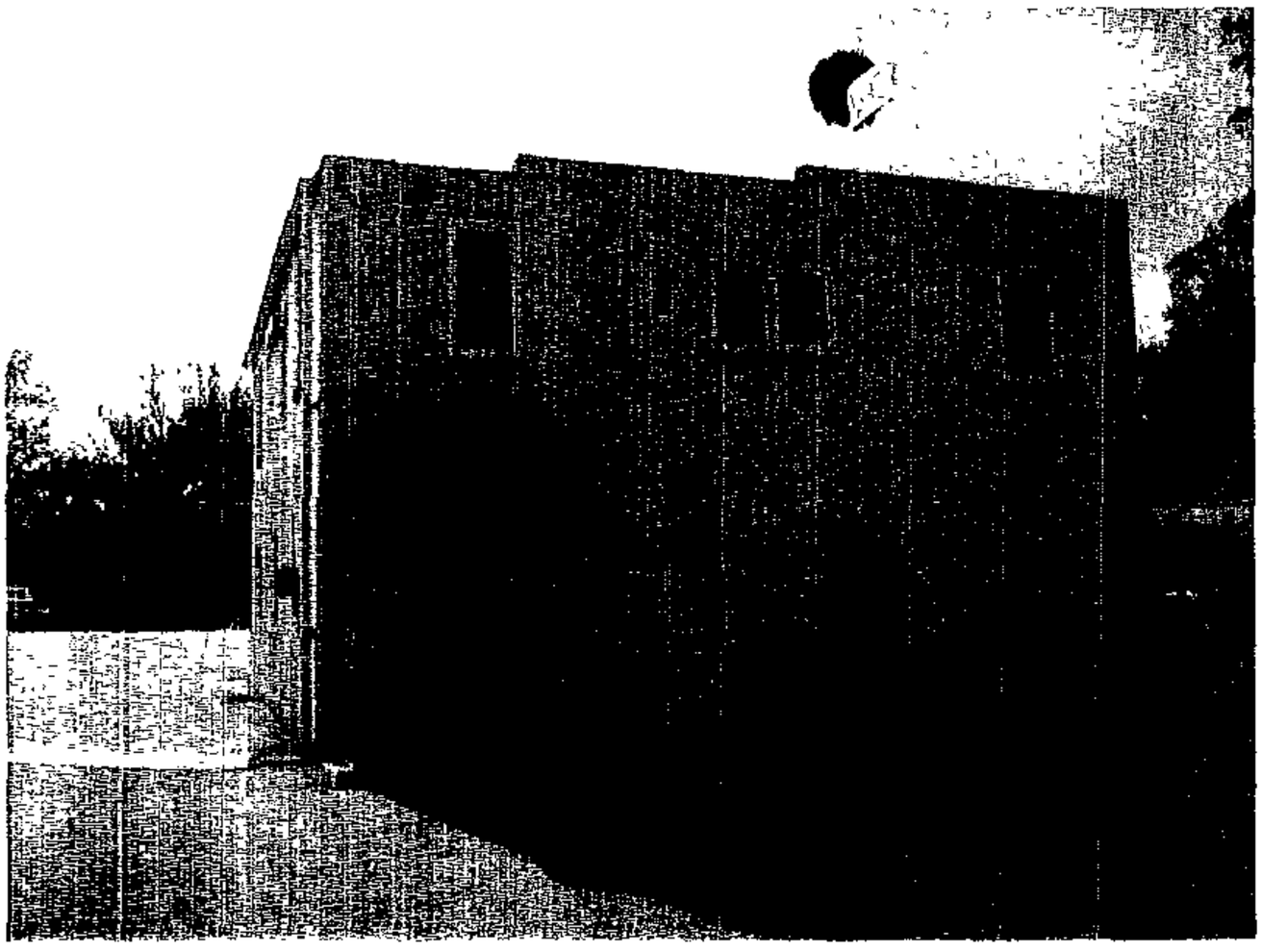
Thomas J. Karcher
President of Baltimore County
Mobile Homeowners Association
517 Tidewater Lane
Middle River, MD 21220

Cc:
Peter M. Zimmerman, Esquire
People's Council for Baltimore County
Mr. & Mrs. Robert Laro

RECEIVED
APR 21 2003
Per...bh.....

RENTAL SIGN
FOR PINK BLDG

PC 12A



RENTAL
APARTMENTS

PC 12B

NOT 10 FT

OFF STREET

PC 12C

BALTIMORE COUNTY MOBILE HOMEOWNERS ASSOCIATION

Officers:
President: Tom Karcher
(410-335-7740)
P.O. Box 5074
Middle River, Maryland 21220
Email: bcmhoa02@comcast.net
WE STRIVE FOR UNITY

Vice President: Bill Smith
Recording Secretary: Ross Cole
Corresponding Secretary: Jim Murray
Treasurer: Jim Oates
Past President: Ross Cole
Board of Directors: Richard Davis, Linda Hart, Stephen Clark, Bernie Heill

PETITION AGAINST RECREATIONAL VEHICLES IN PENWOOD MOBILE HOME PARK

BODY OF PETITION

THIS PETITION IS AGAINST THE ZONING CASE # 03-207-SPH WHICH WOULD ALLOW THE OWNERS OF PENWOOD MOBILE HOME PARK TO CHANGE THE ZONING TO ALLOW RECREATIONAL VEHICLES IN THE PARK.

THE REASONS FOR NOT ALLOWING RV's INTO PENWOOD MOBILE HOME PARK

1. IT WILL REDUCE THE QUALITY OF LIVING FOR PENWOOD PARK OWNERS AND THE SURROUNDING HOME OWNERS BY CREATING AN EYE SORE BECAUSE OF THE HOMES NOT BEING UNIFORM AND UNSAFE CONDITIONS CAUSED BY THE USE OF ELECTRICAL AND SEWAGE LINES ABOVE GROUND, SECTION 415.5
2. IT WILL DECREASE THE PROPERTY VALUE OF HOMES SURROUNDING THE PENWOOD PARK.
3. IT WILL DECREASE THE VALUE OF THE MOBILE HOMES IN THE PENWOOD PARK.
4. IT IS NOT IN CHARACTER AS ASSOCIATED BY SIZE AND SHAPE WITH OTHER MOBILE HOMES.
5. IT IS INCONSISTENT WITH BALTIMORE COUNTY ZONING REGULATIONS SECTION 414 VIOLATIONS
    - 414.1 THE PARK IS LESS THAN FIVE ACRES
    - 414.2 EACH MOBILE HOME SITE HAS LESS THAN 3000 SQUARE FEET

PC
13

- 414.3 RVs DID NOT FACE A DRIVEWAY NOR HAVE ACCESS TO A PUBLIC HIGHWAY HAVING A HARD SURFACED AND ADEQUATELY LIGHTING.
- 414.4 HAVE LESS THAN 75 FEET OF ANY BOUNDARY LINE
- 414.5 RVs ARE LESS THAN 20 FEET APART.
- 414.6 GOES AGAINST BALTIMORE COUNTY BUILDING CODES BY HAVING ELECTRICAL, WATER AND SEWAGE LINES ABOVE GROUND.

6. BALTIMORE COUNTY ZONING REGULATIONS SECTION 415
   - 415.5 NO PERMIT OBTAINED
   - 415A.1 IS BEING LIVED IN AND IS NOT BEING STORED.
7. AGAINST MANY CODES OF REAL PROPERTY TITLE 8A FOR MOBILE HOME PARKS.
   - 8A-101 DEFINITIONS
     (c) (1) (2) Mobile Home
     (g) (1) (2) Premises
     (I) Rental Agreement
     (j) (1) (2) Resident
   - 8A-202 (f) RENTAL AGREEMENT
     Terms to be the same as month–to month resident. Any rental agreement offered under this section shall contain the same terms, including rent, fees and conditions, as a rental agreement offered to a resident or prospective resident on a month-to-month(1980, ch 843 § 3; 1985, ch 583; 1986 ch.5, 1990, ch. 565 1991, ch 668.)
   - 8A-301 RULES
     (a) A park owner shall establish reasonable rules related to the order, peace, health, and safety and qualification standards of mobile homes, residents and the operation of the park.
     (c) Maintenance Standards -- A park owner shall prescribe reasonable, written maintenance standards for any mobile home in the park or immediate area surrounding the mobile home, in accordance with the State or County health laws or regulations. (1991, ch 55, § 1.)
   - 8A-801 DUTIES OF PARK OWNER
     (b) (1) Comply with all applicable building, housing, zoning and health codes;
     (2) Keep in good repair the leased site and all permanent fixtures that the park owner provides.
     (3) Keep in a good state of appearance, repair, safety and cleanliness the common areas and buildings.

- 8A-1502 (b) (c) UNCONSCIONABILITY OF RENTAL AGREEMENT OR PARK RULE

RECIPIENTS:

RESIDENTS OF AND THE SURROUNDING HOMES OF PENWOOD MOBILE HOME PARK, ALL RESIDENTS OF MOBILE HOME PARKS IN BALTIMORE COUNTY AND BALTIMORE COUNTY MOBILE HOMEOWNERS ASSOCIATION.

SPONSORS OF PETITION:

RESIDENTS OF PENWOOD MOBILE HOME PARK
BALTIMORE COUNTY MOBILE HOME OWNERS ASSOCIATION
LOCAL RESIDENTS LIVING AROUND THE PENWOOD MOBILE HOME PARK

GEOGRAPHIC SCOPE OF PETITION:

PENWOOD MOBILE HOME PARK, NE/CORNER DOGWOOD ROAD AND OAK ROAD, 15TH ELECTION DISTRICT – 7TH COUNCIL DISTRICT OF THE STATE OF MARYLAND

LAUNCH DATE:

AUGUST 1ST, 2003

ENDING DATE:

NONE

SE 7 I

R.C. 20

PRIVATE

PRIVATE

ER

WALL

POPLAR

RD.

ROAD

OAK

DELL RD.

ROAD

PRIVATE

DOGWOOD

RD.

D.R. 5.5

DOGWOOD

L OAKS RD.

RD.

ESQUIRE

MAPLE

SHORE

ROAD

PENWOOD CHURCH

PENWOOD

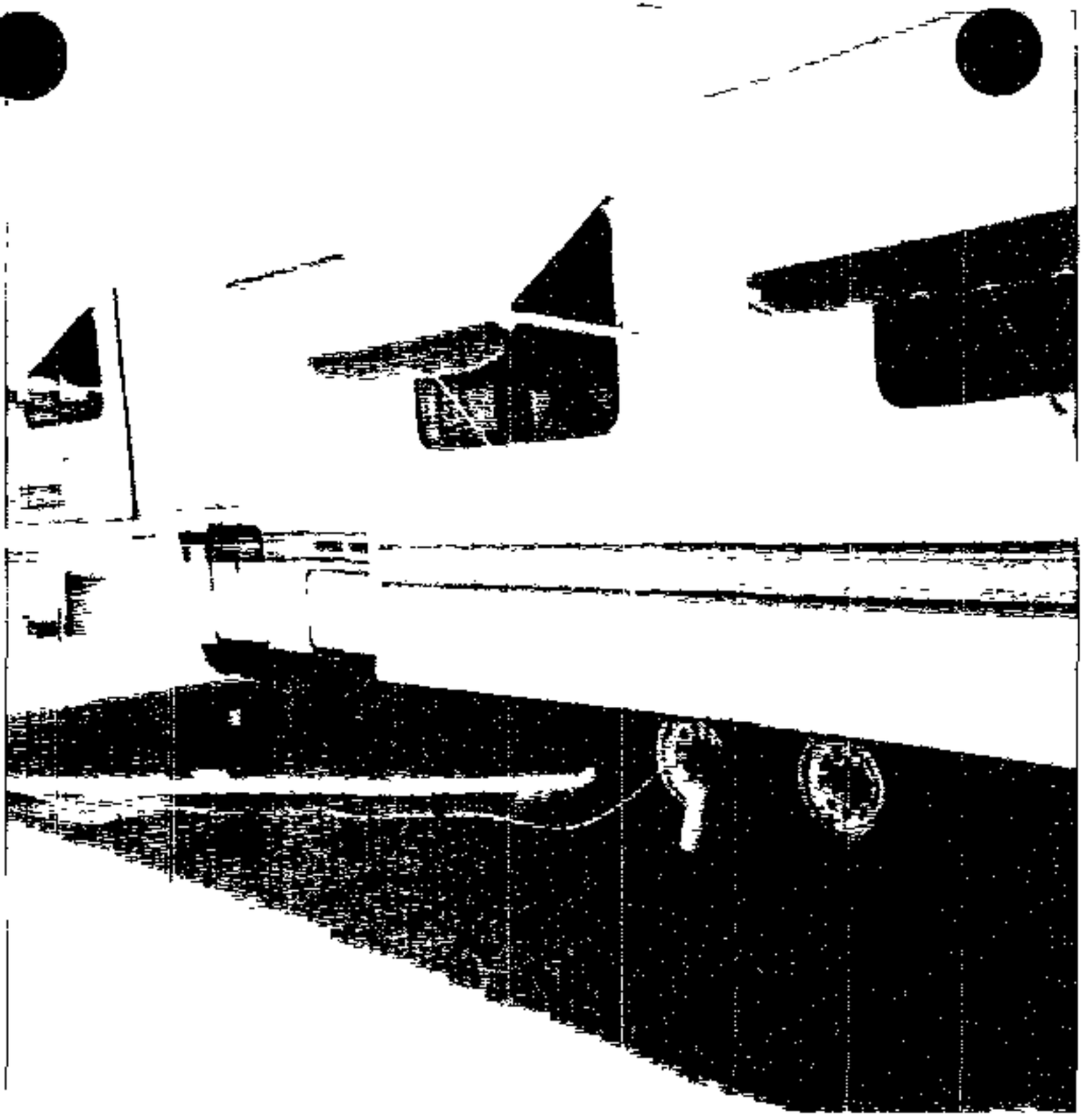
AVENUE

AVENUE

BL

. 3.5

#207



Proof 31

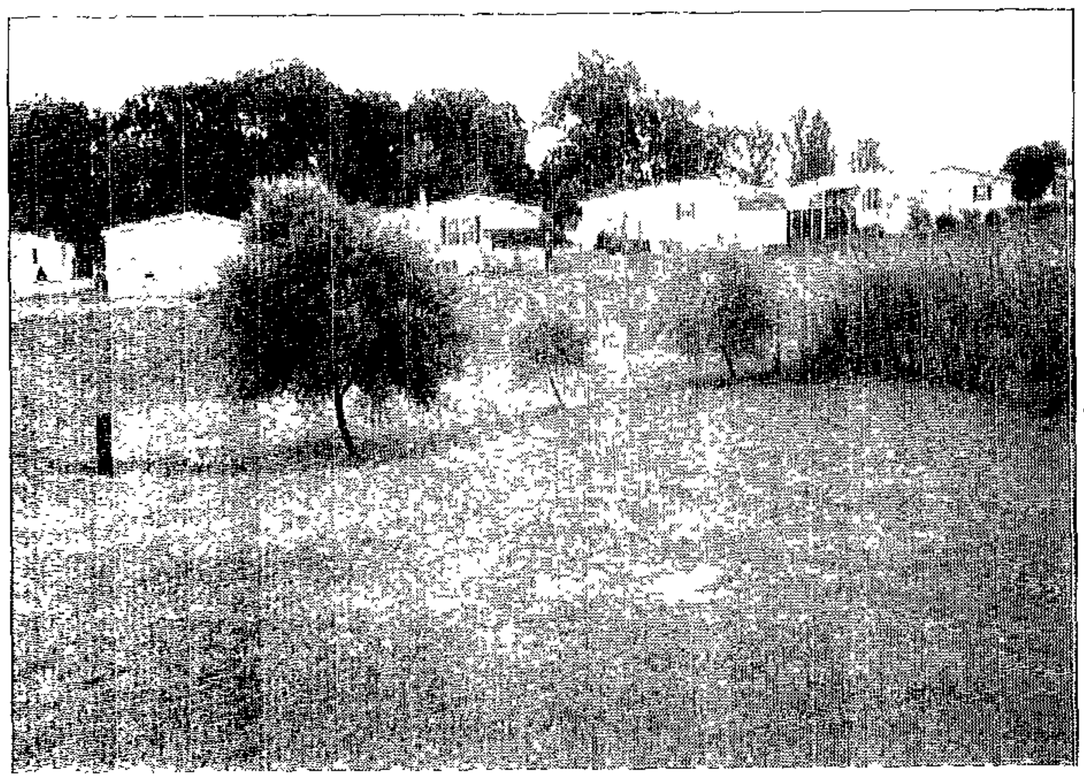
SLEEPY HOLLOW

The First Three Pictures Show Gardens As Seen From The BGE Transmission Line Right-of-Way. They Were Established and Are Maintained By Melvin and Diane Myers, 10047 Icabod Lane; William and Phyllis Bowers, 10049 Icabod Lane; and Robert and Nancy Messenger, 10051 Icabod Lane. The Fourth Picture Shows Memorial Day Decorations In 2001.

Exhibit No 1

SLEEPY HOLLOW

Community Birthday Calendar®



Sleepy Hollow's Open Spaces Help Everyone To Feel Freedom From Buildings.
The Above Pictures Show The Pond Grass and Willow Trees In The West Storm Water Management Facility.

PAN PIPER SERVICES, INC.
Mobile Homes – Sales and Improvements
MHIC #48354 MIKE KRUEGER
Baltimore, MD 21220
410/574-5067

CHARLIE'S MOBILE HOME REPAIRS & SERVICE, INC.
MHIC #49321
Skirting, Water Heaters, Plumbing
Roof Coating, Tubs, Doors, Etc.
410/467-6245 3618 Elm Ave., Baltimore, MD 21211

SLEEPY HOLLOW
Community Birthday Calendar

This, our third Birthday Calendar, is presented to the residents of Sleepy Hollow in recognition of each person residing in the Community and in recognition and appreciation for those special efforts by many people to keep the community beautiful. Winners of the 1999 – 2001 Yard Contests are identified. In some cases pictures of small portions of the yard are shown. I also have included random pictures of gardens, other features, and key persons, who keep the community orderly and operating. Certainly, there is no attempt to be all inclusive; however, if some special feature deserves showing next time, let me know in writing. Also, if the birthday of yourself or your family is not listed, let me know in writing.

Have a great year!

Ernest E. Sligh, President

SILVER-TOP MANUFACTURING CO., INC.
Since 1947
Awnings – Carports – Room Enclosures
Lawn & Garden Buildings
11120 Pulaksi Hwy., White Marsh – 410/335-5500

WARFIELD MOBILE HOMES, LLC
(Affiliated with Sleepy Hollow)
Sells Sleepy Hollow Homes only
Experienced with Sales and Financing
Ask for Steven – 410/879-6109

IN THE MATTER OF:	*	BEFORE THE
PENWOOD MOBILE HOME PARK, INC.	*	COUNTY BOARD OF APPEALS
LEGAL OWNER FOR SPECIAL HEARING	*	OF
ON PROPERTY LOCATED ON THE N/E	*	BALTIMORE COUNTY
CORNER DOGWOOD AND OAK ROADS	*	CASE NO.: 03-207-SPH
	*	October 28, 2003

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 o'clock a.m., October 28, 2003.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

BOARD MEMBERS:

LAWRENCE S. WESCOTT, Chairman
CHARLES L. MARKS
MELISSA MOYER ADAMS

APPEARANCES:

HOWARD L. ALDERMAN, JR., Esquire
On behalf of Petitioner

PETER MAX ZIMMERMAN, Esquire
People's Counsel
On behalf of Baltimore County

PROCEEDINGS

* * * * *

THE CHAIRMAN: Good morning, ladies and gentlemen. This is a regular meeting of the County Board of Appeals of Baltimore County in Case No. 03-207-SPH in the matter of Penwood Mobile Home Park, Inc., 8000 Dogwood Road, in the 15th Election District, 7th Councilmanic District.

It is an appeal from an order of the Zoning Commissioner dated April 10, 2003 in which the subject relief was granted with restrictions.

Would counsel please state their appearances, for the record, please.

MR. ALDERMAN: Thank you. Good morning, Mr. Chairman, members of the Board. Howard L. Alderman, Jr., law firm of Levin and Gann, P.A, having an office address at 502 Washington Avenue, here in Towson, Maryland, appearing today on behalf of Penwood Mobile Home Park, Incorporated.

I have Ms. Carol Lyons with me today who will be testifying on behalf of Penwood, and also Mr. John Mildenberg, president of Mildenberg, Boender, and Associates, who prepared the plan to accompany the petition.

THE CHAIRMAN: Thank you, Mr. Alderman.

MR. ZIMMERMAN: Good morning. Peter Max Zimmerman, People's Counsel for Baltimore County. The address is the courthouse, Towson, Maryland.

THE CHAIRMAN: Thank you, Mr. Zimmerman. Anything preliminarily before we wet started?

MR. ALDERMAN: Just very briefly, Mr. Chairman members of the Board, we are here this morning on a very narrow issue, a very narrow issue that arose as a result of a uniform citation that was issued, and that narrow issue is contained in the petition for special hearing as filed, and that is why, originally the Zoning Commissioner, and now this Board, should approve the size, type, kind and quality of residential living units on the subject property as meeting the requirements of the applicable Baltimore County zoning regulations and the facts considered and the decisions rendered in zoning Case Nos. 2626-S, and 77-161-SPH.

So that's why we're here, and it's to address an issue as to whether or not -- I will proffer this and we'll get testimony on it -- whether or not a recreational vehicle is permitted to occupy a leased site in an approved mobile home park when that mobile home park was approved prior to March 30, 1955.

THE CHAIRMAN: Thank you. Mr. Zimmerman?

MR. ZIMMERMAN: Yes. Mr. Chairman, members of the panel, our office took an appeal of the Zoning Commissioner's approval of the request subject to certain conditions including the allowance of five recreational vehicles at this mobile trailer park, mobile home park, the recreational vehicles being approved for short-term use.

There was also an appeal filed by the Baltimore County Mobile Homeowners Association of which Tom Karcher, who is here as president; an appeal also filed by Robert Laro and Mary Laro, who are residents of the trailer park.

There are also a number of other people here who will sign our attendance list who are in support of the Laros, and they may or may not testify, depending on how

the case goes.

This is a case which I think is going to be really important for the Board to keep the eye on the ball, so to speak. There is a long history here.

There is a case from 1953, which is, as I read the original case, it's actually 2621, although later referred to as 2626.

There was a case in 1977 which actually was to correct the 1953 approval because the wrong property was described, and a plat attached in the 1953 case, so it's really more a technical correction in 1977.

Those are the two previous zoning cases that we know about. In the meantime, the original zoning regulations that the Board will undoubtedly get a copy of were from 1945.

Those regulations were in effect until 1955. In 1955 were enacted, in essence, what are the current regulations with very minor modifications. Those are now found in Section 414 of the regulations.

As it stands currently, the park is undersized for the current regulations where there's a minimum of

five acres, and it also does not come close to meeting a number of area requirements such as involving the distance between trailers, distance to street, and, in, general, there's no way this park could be approved as a new park today.

In evaluating whether or not recreational vehicles are allowed, as a matter of law, and/or if allowed as a matter of law are appropriate, that's a question that could be approached from various points of view.

So that there's no misunderstanding and no surprise, in our view, even if this park were perfectly legal and in compliance with all current regulations, we don't think recreational vehicles are allowed.

They are separately defined vehicles. There's a separate section on recreational vehicles and where they can be allowed in the side or rear of homes.

We don't think the current law intends a mix of trailer park and recreational vehicles, and we don't think the law ever allowed that.

So even in the best of circumstances, we would

challenge the request for recreational vehicles.

However, this case does not come before the Board with a trailer park that complies with the current regulations. It comes with a history, and I think in reviewing the case, the Board will have to evaluate the status, the legal status of this park, and there are three possibilities, one of which we think is clearly not an option, and that is that it is compliant with the current regulations.

The other two options are that it is a nonconforming use -- that's probably the best that the petitioners can say about it -- in which case the addition of recreational vehicles in our view would be a change to what it is now.

The other option is that the park is simply not in compliance with the regulations and does not enjoy a nonconforming use, and would amount to being in conflict with the laws entirely.

I think it would be, in our view, among other things, going to be the burden on the petitioner to establish what the legal status is of this park and

whether or not it qualifies even for a nonconforming use.

From our review of the record, we have grave doubts that the park enjoys any sort of protective legal status at this time, but we'll see what the evidence shows.

And in connection, we expect to produce for the Board, if not already produced in the record, the relevant zoning cases that we mentioned, the sequence of legislation relating to trailer parks, and in addition some zoning map describing the property.

We also have a Rule 8 material allowing Mr. Karcher to speak on behalf of his association. We also have a petition which Mr. Karcher has prepared and circulated.

So with that introduction, we'll see how the de novo hearing develops.

THE CHAIRMAN: Thank you.

MR. ALDERMAN: I need to respond, just briefly. It was my understanding that this is a de novo proceeding based on the petition.

The petition did not pray any change in the park

Page 10

whatsoever, nor did we have advanced knowledge that People's Counsel, the Office of People's Counsel, may be asserting that residents of Penwood Mobile Home Park, what we all consider to be what might be called a traditional trailer park, should be displaced and should be left homeless.

I mean, that's what I heard come out of one of the options here of People's Counsel this morning, that they shouldn't be allowed to live there. That's not before the Board today.

The issue before the Board is whether or not recreational vehicles are permitted to be located in Penwood Mobile Home Park as a mobile home park approved before 1955, and there's been no suggestion that it even attempts to comply with current regulations.

It was legally established well before the current regulations. There was a modification, as Mr. Zimmerman noted, in 1977, and, in fact, I believe that was before Mr. Zimmerman's participation, but the Office of People's Counsel even entered its appearance in that case.

Nothing came of it. There was no challenge made

Page 11

by the Office of People's Counsel, not that that in any way prejudices their right to participate here today, but the only issue here is whether or not recreational vehicles are permitted. It's that narrow of an issue.

MR. ZIMMERMAN: May I respond briefly to that?

THE CHAIRMAN: Yes.

MR ZIMMERMAN: Obviously, we don't agree with Mr. Alderman. I did not say that any resident should be displaced.

If the Board should find at the end -- well, let me step back. I think in order to determine whether recreational vehicles may be placed in this park, legally, one of the things the Board has to do is decide on the legal status of the park.

If the Board should decide, which I think is a possibility, that the park simply does not comply with the law, that doesn't necessarily mean anyone gets displaced, and this Board is not the enforcement authority, that's up to someone else.

But these homes are basically rented. And, you know, the law is what the law is. If it's necessary to

Page 12

determine the status in order to determine the request in the petition, then it's necessary to do that.

Whether or not it means that, over time, gradually, the park has to come into compliance as people decide to leave or as things happen over time, that's a possibility.

But I'm not here -- and I think it's a red herring for Mr. Alderman to suggest that I'm saying anyone should be displaced from this park.

What we are talking about here is whether the petitioner should be allowed to add recreational vehicles to a park that already doesn't comply with, at least, the current regulations.

And we don't see it, so far, unless there is some evidence that, you know, comes out that's new, we haven't seen any evidence that indicates that it's definitely in compliance, generally.

If that happens, you know, we'll acknowledge it. But I think it's relevant for the Board to decide what the status of park is, because it's a necessary premise in deciding whether or not they can have the added benefit of

Page 13

recreational vehicles.

THE CHAIRMAN: Is one issue what is a recreational vehicle?

MR. ZIMMERMAN: Well, the regulations define recreational vehicle separately from trailers, so I would think there's not going to be any dispute as to the difference between a recreational vehicle and a trailer.

Essentially, we have the regulations here, and rather than me paraphrase them, they're both in Section 101, and we'll submit that.

But I think, without taking more time up in what is becoming argument rather than opening statements, I think, you know, we are prepared to listen to the evidence, and we do think that the issue that I pointed out is among the relevant issues, and we'll take it from there.

THE CHAIRMAN: Okay. Mr. Alderman.

MR. ALDERMAN: I call Mr. Mildenberg.

JOHN MILDENBERG,

having been called as a witness, was duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MR. ALDERMAN:

Q Mr. Mildenberg, state your name and address, for the record, please.

A. My name is John Mildenberg. I'm president of Mildenberg, Boender and Associates, 5072 Dorsey Hall Drive, Ellicott City.

Q. Mr. Mildenberg --

MR. ALDERMAN: Might I have the plat from the hearing below, Petitioner's 1? I have obtained from the file transmitted to this Board in connection with the appeal filed what was marked below as Petitioner's Exhibit 1, and I have also shown this to Mr. Zimmerman of the Office of People's Counsel,

Q. Mr. Mildenberg, I have affixed to the board a drawing entitled, Plan to Accompany Petition for Zoning Special Hearing, identified as Penwood Mobile Home Park, 15th Election District for Baltimore County, bearing the latest revision date of October 24, 2002. Are you familiar with that plan?

A. Yes, I am.

Q. Was that plan prepared under your direction and control?

A. Yes, it was.

Q. Mr. Mildenberg, would you describe briefly for the members of the Board here your educational experience and your professional experience in zoning and land development?

A. I have a Bachelor's degree in civil engineering. I have a Master's degree in civil engineering. I have owned and operated a civil engineering and land surveying firm since 1987 in various counties in Maryland.

Q. Do you hold any professional licenses or registrations?

A. I hold a professional engineer's license in Maryland, Virginia and New Jersey, and I have a surveyor's license in Maryland.

Q. You indicated that your employer is Mildenberg, Boender and Associates?

A. Yes.

Q. What position do you hold with that company?

A. I am the president and owner.

Q. What are your duties and responsibilities with Mildenberg, Boender and Associates?

A. Various duties. Of course, I supervise all activities of the firm. I am directly responsible for boundary surveys, anything related to land surveying.

Q. Do your duties and responsibilities with Mildenberg, Boender and Associates require you to be familiar with development and the zoning regulations in Baltimore County?

A. Yes, it does.

Q. Based on your experience and the period of time with which you have been practicing, have you ever been qualified and accepted as an expert to testify as an expert engineer and/or surveyor with expertise in zoning matters?

A. Yes, I have.

MR. ALDERMAN: I would offer Mr. Mildenberg as an expert engineer and surveyor.

MR. ZIMMERMAN: Mr. Chairman, we have no objection to Mr. Mildenberg as an expert engineer or surveyor.

I think his comments on zoning and/or opinions are subject to review by the Board as to their weight.

THE CHAIRMAN: As they usually are.

MR. ZIMMERMAN: Thank you.

Q. Mr. Mildenberg, what was marked below as Petitioner's Exhibit 1, that bears your professional seal and signature, is that correct?

A. Yes, it does.

Q. Was that drawing identified below as Petitioner's Exhibit 1 prepared based on one or more in-field visits to the subject property?

A. Yes, it was.

Q. Is the information shown thereon true and accurate with respect to the subject property?

A. Yes, it is.

Q. And does the plan depict accurately lot lines, existing and proposed locations available for proposed residences?

A. Yes.

MR. ALDERMAN: I would offer the drawing from below which was marked as Petitioner's Exhibit 1, which

Mr. Mildenberg has just identified, as Petitioner's Exhibit 1 these proceedings.

MR. ZIMMERMAN: No objection.

THE CHAIRMAN: Accepted.

MR. ALDERMAN: With the Board's concurrence, I'd add a petitioner's exhibit sticker and mark it CBA-1.

THE CHAIRMAN: Very good.

Q. Mr. Mildenberg, in your professional experience, do you have any, or in your professional expertise, do you have any experience in obtaining approvals for trailer camps, mobile home parks, or mobile home subdivisions?

A. Yes, I have.

Q. Now, if you would, would you please describe the subject property for the Board members.

A. It's an approximately 1.7 acres in size. Relatively long and narrow. It's currently zoned D.R. 5.5, and I think it's for twenty-seven sites, and there were twenty-five on it when we did the survey.

Q. Those are twenty-five concrete pads?

A. Correct.

Q. Do you know if a petition was filed in response

to an alleged violation of the zoning regulations of Baltimore County?

A. Yes.

Q. Is that citation listed accurately on Exhibit No. 1?

A. Yes.

Q. Based on your review, has the subject property been considered in any prior zoning hearings you may have reviewed?

A. At least two, that I remember.

MR. ALDERMAN: Members, of the Board, I prepared, just for convenience to the Board, a listing of the exhibits that we propose to introduce, and I've also added at the bottom, in the event that Mr. Zimmerman or the other appellants have any exhibits, I had space there, and I would offer that just for the Board's use so I can keep track of the exhibits, unless Mr. Zimmerman has an objection?

MR. ZIMMERMAN: No. I have no problem with that.

MR. ALDERMAN: Thank you.

Q. Now, in preparation of what has been marked and

accepted as Petitioner's No. 1 in preparation for your testimony before the Zoning Commissioner, and certainly this Board today, did you have occasion to review a 1953 decision in what was originally identified as Case No. 2626 and later referred to as 2621-S?

A. Yes, I did

MR. ZIMMERMAN: May I review it for a moment?

THE CHAIRMAN: Sure.

MR. ZIMMERMAN: The only concern is this is incomplete. There's a third page that we found.

MR. ALDERMAN: I will proffer that I obtained this from James Thompson, who's the chief zoning inspector, and he gave me this as the decision, so if you have a third page, it was not intentional.

MR. ZIMMERMAN: I was not making any accusations. For the record, our had our assistant go to the microfilm records, and I believe the first two pages that we got are the same as Mr. Alderman produced. But we also --

MR. ALDERMAN: That was not part of the order. I mean, that was the plat that was in evidence. I was introducing the order.

MR. ZIMMERMAN: Well, we can either introduce the plat now or later. It's in the microfilm, and I think it would be easier for the Board to have the plat as well.

MR. ALDERMAN: I don't have extra copies of the plat.

MR. ZIMMERMAN: I do.

MR. ALDERMAN I was going to put the order in, and then if the Board would accept the supplement of the plat from Mr. Zimmerman as page three of that, I have no objection.

MR. ZIMMERMAN: The Board can see the third page is the plat.

MS. ADAMS: This is Exhibit 2, Petitioner's No. 2.

THE CHAIRMAN: The plat will be added as a third page to Petitioner's 2.

Q. Mr. Mildenberg, let me show you what has been offered as Petitioner's No. 2 with an amendment being a plat as provided by the Office of People's Counsel, and ask you if that is the zoning decision from 1953 that you reviewed?

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A. Yes, I think it is.
MR. ZIMMERMAN: For future reference, can we all concur the number seems to be 2621-S?
MR. ALDERMAN: Except for the fact the 1977 case refers to it as 2626.
MR. ZIMMERMAN: Yes. I agree with you.
THE CHAIRMAN: Does anybody have idea what the correct number is?
MR. ZIMMERMAN: I don't know if this is Mr. Alderman's handwriting or not?
MR. ALDERMAN: It is not. If you look on the tab, Mr. Chairman --
THE CHAIRMAN: It says 2626. I don't know that makes any difference, but it will be 2626-S.
MR. ALDERMAN: I think you're right.
MR. ZIMMERMAN: We'll stick to that number.
MR. ALDERMAN: Thank you. I would offer the June 8, 1953 decision in Case No. 2626-S, together with the plat which Mr. Zimmerman applied, collectively as Petitioner's Exhibit 2.
THE CHAIRMAN: Accepted.

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Q. Mr. Mildenberg, based on your review of what's been marked and accepted as Petitioner's No. 2, is that the order which approved the subject property for operation as a trailer camp?
A. Yes.
Q. Do you kow how a trailer camp was defined in 1953 pursuant to the Baltimore County zoning regulations adopted eight years prior, in 1945?
A. I can read the definition.
THE CHAIRMAN: Why don't we just put the definition in, if you've got it.
MS. ADAMS: No. 3.
MR. ALDERMAN: I have here a copy of selected portions of the 1945 code.
Q. I ask you to identify, if you will, Mr. Mildenberg, the package of pages I just delivered to you having a cover page of Zoning Regulations and Restrictions for Baltimore County, bearing an effective date of, as defined on the front, of January 2, 1945, and ask you to turn to page five thereof, specifically section Roman numeral one, definition thirty-two, and ask you if that's

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the definition of trailer to which you were about to refer?
A. Yes, it is.
Q. The definition immediately below that, thirty-three, is a definition of how a trailer camp was identified at the time the subject property was approved for operation as such, correct?
A. Yes.
MR. ALDERMAN: I would offer the zoning regulations, or at least that portion we have provided and which Mr. Mildenberg has identified, as Petitioner's Exhibit No. 3.
THE CHAIRMAN: Accepted.
MR. ZIMMERMAN: Later, I might ask, do we have page three in there?
THE CHAIRMAN: We've got pages four, five, twelve, thirteen, fourteen, fifteen.
MR. ZIMMERMAN: I might ask leave to add page three which just shows the beginning of the definition section.
MR. ALDERMAN: We would have no objection to

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that.
THE CHAIRMAN: Do you want to do that now?
MR. ALDERMAN: No objection.
Q. Mr. Mildenberg, in preparation of what has now been accepted as Petitioner's Exhibit 1, and your testimony before the Deputy Zoning Commissioner, and certainly here today, did you have occasion to review the 1977 zoning decision in Case No. 77-161-SPH?
A. Yes.
MR. ALDERMAN: Mr. Chairman, for the record, what I was proposing to introduce is the actual decision.
People's Counsel has requested that, much like we did in the prior zoning case 2626-S, that the exhibit be appended with a copy of the metes and bounds description submitted as well as the plat which accompanied the petition in 1977. We would have no objection to that.
MR. ZIMMERMAN: Off the record.
(Discussion held off the record.)
MR. ALDERMAN: This would be on the list I gave you. He's adding page three.
MR. ZIMMERMAN: Page three and four. And the

surveyor's metes and bounds description and the plat that went with the case.

MR. ALDERMAN: That was Petitioner's No. 4, I believe?

THE CHAIRMAN: That is correct.

Q. Mr. Mildenberg, I'm showing you a copy of the decision in that case, and then also showing you a copy of the metes and bounds and the drawing appended thereto by the Office of People's Counsel, collectively being introduced as Petitioner's No. 4, and ask you if that is the petition that you reviewed as testified?

A. Yes, it is.

Q. In preparation of Petitioner's Exhibit 1, was that plat prepared based upoon a boundary survey prepared by Mildenberg, Boender and Associates?

A. Yes, it was.

MR. ALDERMAN: I would offer the Petition for Special Hearing decision in Case No. 77-161-SPH, being two pages in length, together with page three, the metes and bounds description by Frank S. Lee, and the drawing indicates a plat of the property of Penwood Trailer Park

provided by the Office of People's Counsel collectively as Petitioner's 4.

THE CHAIRMAN: I assume there's no objection?

MS. ADAMS: That's five, isn't it?

MR. ALDERMAN: No, ma'am. it's four.

MR. ZIMMERMAN: No objection.

THE CHAIRMAN: Accepted.

Q. Are you generally familiar with the subject property, sir

A. Yes, I am.

Q. Are you aware of any factor that would suggest that the continued use of any portion of the subject property for the placement and/or location of vehicles used or intended for use for conveyance on public streets and highways, designed, constructed, or reconstructed, to permit the occupancy as a sleeping place or dwelling would be detrimental to the health, safety or general welfare of the community?

A. I'm not aware of any of those factors.

Q. Would the continued use of the property for those purposes, based on your experience and knowledge of the

subject property, create congestion in roads, streets or alleys?

A. Not in my opinion.

Q. In your opinion, would the use of the property for those purposes create a potential hazard from fire, panic, or other dangers, or otherwise overcrowd the land or cause undue concentration of population?

A. No.

Q. In your opinion, would the use of the subject property for those stated purposes interfere with adequate provisions for schools, parks, water, sewerage, or other public conveniences?

A. No.

Q. Having been to the subject property, being familiar with the subject property, would the use of that property for the uses as stated interfere, in your professional opinion, with adequate light and air, or be inconsistent with the impermeable surface and vegetative retention requirements of the zoning regulations or any that apply?

A. No.

Q. With respect to the uses stated, are you aware of any reason that those uses on the subject property would be inconsistent with the purposes of the property's zoning classification or inconsistent with the spirit and intent of the applicable zoning regulations as you understand our application?

A. No.

MR. ALDERMAN: That's all I would have for Mr. Mildenberg at this time. I would reserve the right to recall him on rebuttal.

THE CHAIRMAN: Mr. Zimmerman.

CROSS EXAMINATION

BY MR. ZIMMERMAN:

Q. Mr. Mildenberg, when did you become certified as a surveyor and an engineer?

A My engineering license was 1976. My surveyor's license was 1980, my first license.

Q. Your offices are in Ellicott City?

A. Correct.

Q. What percentage of your work is in Baltimore County?

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A. Probably fifteen to twenty percent.
Q. Have you ever testified before the County Board of Appeals before?
A. I think so. I have to go back and check, but yes, sir.
Q. How many times?
A. Three or four.
Q. Before this Board right here?
A. Yes.
Q. When did you first visit the Penwood Mobile Home Park?
A. At the beginning of the original survey for this property. The last time I visited was just prior to the day of the previous hearing.
Q. What year did you first visit the property?
A. I think it was 2002.
Q. Was that shortly after you were retained?
A. Correct.
Q. Did you have any knowledge of this property prior to 2002?
A. No, sir.

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Q. Your Petitioner's Exhibit 1 reflects what you found as built?
A. Correct. Condition?
Q. Condition.
A. Correct.
Q. Then did you research the zoning history?
A. I read over the cases that were previously mentioned.
Q. Did you research the zoning history?
A. Only the cases that we just previously mentioned.
Q. How did you come across the Petitioner's Exhibit 2? Did you go to the zoning office and research it, or was it provided?
A. It was provided to me.
Q. By counsel?
A. Yes, sir.
Q. Had you ever seen the plat that accompanied the 1953 case before today?
A. The 1953 case, if I remember right, is the incorrect property?
Q. We can call it that. Case 2626-S.

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A. We did.
Q. Petitioner's Exhibit 2?
A. We had both of those cases when we were doing the boundary survey of this.
Q. My question is, before today, had you seen the plat which I submitted and became then part --
A. The one that was amended to this?
Q. I'm speaking of Case 2626-S, which you have in front of you.
A. This one?
MR. ZIMMERMAN: Let the record show I offered, in addition to the order which Mr. Alderman submitted, a plat showing lot number six.
A. I have not seen this drawing before.
Q. Does that drawing show any layout of trailers?
A. It does not.
Q. This shows the one-acre property at that point?
A. Correct.
Q. Do you have any knowledge, either personally or from research, as to when the -- we'll call it the trailer camp that was approved in 1953 -- actually began

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operation?
A. I do not know.
Q. With reference to Petitioner's Exhibit 3, have you reviewed that? I believe that's the 1945 regulations?
A. Yes. Is that Exhibit 3?
Q. Yes.
A. Exhibit 3 was the 1953 case, yes.
Q. Excuse me. Exhibit 3 is a copy of selected portions of the Baltimore County zoning regulations dated January 2, 1945.
A. I have that down as No. 3.
Q. I think I just said that.
A. Oh, yes. I'm sorry.
Q. I'm just trying to make sure we are on the same page. In your review, can you tell me what Subsection F, paragraph fourteen, states on page fifteen?
A. I did not memorize the regulations.
Q. Well, in your research, have you come across any evidence that between 1953 and 1955, March 30, specifically, 1955, there was ever any approval by the Baltimore County Health Department of this trailer camp?

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A. I do not know of approval by the Health Department.
Q. Isn't that required under the exhibit that you submitted?
A. Under this exhibit?
Q. No. Exhibit 3, Paragraph F, section --
A. Again, I don't --
Q. Excuse me. Section II.
A. I don't have those memorized. I don't have it in front of me.
Q. Well, pages fourteen and fifteen, do you have that in front of you?
THE CHAIRMAN: What section are you referring to?
MR. ZIMMERMAN: It's actually under Section 13, which begins on page twelve, subsection H, which is towards the bottom of page fourteen, and then subsection F, which is on page fifteen, so, really, on page fifteen, it's the second paragraph from the top.
THE CHAIRMAN: Okay.
Q. Mr. Mildenberg, did you ever look at that section?

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A. I have reviewed it before, yes.
Q. Doesn't that require approval by the Baltimore County Health Department?
A. Yes, it does.
Q. Before the trailer camp can be established or operated?
A. Correct.
Q. Do we have any evidence that --
A. I do not.
Q. -- that this particular camp was ever approved by the Health Department back in 1955?
A. I do not.
Q. Did you have a chance to review some of the areas restrictions that were established under the 1945 regulations for trailer camps?
A. I don't remember them, no.
Q. Would you take a look at page fourteen again, Section thirteen, Subsection H.
If we go to Subsection B, there is an area requirement for each house trailer or car, is there not?
A. 400 square feet each, correct.

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Q. 700 square feet for each car and house trailer combined?
A. Correct.
Q. I presume you have no knowledge as to where any of the trailers were laid out or whether they met --
A. From 1953, no.
Q. Did you also review the requirements for abutting or facing a driveway or an unobstructed face not less than twenty feet in width, which face shall have unobstructed access to a public highway? Page fourteen.
A. Yes.
Q. Obviously, you wouldn't know --
A. Again, I wouldn't know.
Q. -- whether any of the trailers met that requirement? The same would be true for the next Subsection D, requiring setback -- I'm paraphrasing -- a setback of fifty feet from the road or street for each trailer -- or I should say cabin trailer -- or surface building or structure, correct?
A. Again, I would not have any knowledge.
Q. Now, was there any variance requested in the --

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you're familiar with variances?
A. Yes.
Q. What are they, basically?
A. Minor changes to the regulations to allow a particular activity to exist.
Q. What type regulations in Baltimore County?
A. The zoning regulations.
Q. What type of zoning regulations, if you know?
A. Typically to setbacks and such.
Q. Do you know whether variances were available under the 1945 regulations?
A. I do not.
Q. Do you know whether any variance was requested in the 1953 case?
A. I do not know.
Q. Is any information --
MR. ALDERMAN: Mr. Chairman, the 1953 case speaks for itself. Come on.
THE CHAIRMAN: I think it's clear he doesn't know anything about what went on in 1953, except the case.
Q. So, Mr. Mildenberg, from your review, you

actually don't have any evidence whether this trailer camp operated before March 30 of 1955, or was set up in such a way to comply with the regulations that we just reviewed?

A. Correct, I do not know.

Q. Do you know what happened in 1955, if anything, with respect to the Baltimore County zoning regulations?

A. As I remember, that's when the current regulations were started?

Q. Yes.

A. Came into effect.

Q. Have you -- did you actually go back and take a look at the 1955 regulations?

A I did not.

Q. But you could tell, could you not, from the current zoning regulations, that there's a reference back to 1955 under Section 414?

A. I don't remember Section 414.

Q. But you have looked at the current regulations relating to trailer parks?

A. Correct.

Q. If I may show you Section 414, is that the

regulation you're referring to?

A. Yes.

Q. And that has the reference back to be BCZR in 1955?

A. Yes, it does.

Q. From that, you gathered the information that the current regulations essentially date back to 1955, correct?

A. Correct.

Q. Now, as far as the current layout goes on Petitioner's Exhibit 1, clearly, the site doesn't meet the current standard minimum of five acres, correct?

A. Correct.

Q. With respect to the minimum 3000 square feet allocated to each trailer under 414.2, would you agree that none of the trailers have 3000 square feet allocated?

A. I haven't actually measured them, but I would assume that's true.

Q. That would be your educated observation?

A. Yes.

Q. Without scaling each one?

A. Exactly.

Q. Can you give the approximate -- I mean, you are a surveyor and engineer -- can you tell the Board the approximate area on the average that each trailer occupied?

A. I'd rather have a scale than just make a guess.

Q. Could you scale a sample trailer? I have a ruler, if that would help.

A. If the units are twenty-five feet long, roughly -- is that what they are? They are fifty-five feet by twelve feet?

Q. I'm asking you.

A. Yes, fifty-five feet by twelve feet are the individual trailers.

Q. Six or 700 square feet?

A. The trailers are approximately ten feet apart, slit the difference, makes it five feet on each side of the trailer.

Q. What do you come up with for the trailer and the area around it? A thousand square feet or so?

A. Approximately, yes.

Q. So it's nowhere near the current requirements, you'd agree with that?

A. Correct.

Q. Similarly, without going into any length, do any or all of the trailers face on a driveway of not less than thirty feet in width which have unobstructed access to a public highway?

A. I think the driveways are less than thirty feet in width.

Q. Some of those trailers don't even face on a driveway, do they?

A. How do you define "facing"? They all have access to a driveway.

Q. Eventually. All right.

MR. ALDERMAN: Objection as to the characterization.

THE CHAIRMAN: Sustained.

Q. Mr. Mildenberg, with respect to Section 414.4, the requirement -- paraphrasing -- that says no trailer or service building or structure shall be placed or permitted within 100 feet of the road or street upon which the lot

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or area is so used for such parking front --

MR. ALDERMAN: Objection. Section 414 is not even applicable to these proceedings. Section 414 is the current regulations which were adopted as early as 1955, by Mr. Mildenberg's testimony.

The regulations as submitted were those in effect in 1945. It was those regulations under which this trailer camp was approved, and under those regulations which are applicable.

MR. ZIMMERMAN: We disagree.

THE CHAIRMAN: Well, can we cut through it all and stipulate that the trailer park does not meet the regulations, today's regulations? I mean, isn't that pretty clear?

MR. ALDERMAN: That is true, and we've never made any assertion that it did.

MR. ZIMMERMAN: I wonder if we could also stipulated based on the evidence so far that the trailer camp, so far as the evidence shows, did not comply, or at least there's no evidence that it complied with even the 1945 regulations after Case 2626-S.

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THE CHAIRMAN: I don't know that we can agree with that.

MR. ALDERMAN: I won't agree with that.

THE CHAIRMAN: You've got testimony that as far as he knows, there was no compliance by the Health Department.

MR. ZIMMERMAN: We'll see how the evidence ends up. But, for the record, obviously, we'll argue in memorandum or whatever, that Section 414 does apply.

Q. Mr. Mildenberg, in the course of your review, you had interaction with the owner, have you not?

A. Yes.

Q. Ms. Lyons?

A. Yes.

MR. ALDERMAN: Objection. Ms. Lyons is not the owner. It's Penwood Mobile Home Park, Incorporated. As I stated in my opening, she's a representative.

Q. Have you had contact with the owner's representative?

A. Yes.

Q. Do you know whether or not Penwood Mobile Home Park operates as a rental?

A. I do not know.

Q. Do you know whether or not from time to time over the last five or ten years, trailers have moved in or moved out?

A. I do not know.

Q. Do you know whether or not, even within the last five or ten years, there have been changes in the locations of pads?

A. I assume so, but I do not know that.

Q. You didn't undertake that sort of historical review?

A. Correct, I did not.

Q. Did you undertake to research one way or another whether or not the trailer camp approved in 1953 had any particular layout or what sort of trailers were there?

A. I have no knowledge of the '53 layout.

Q. Clearly, you didn't inquire of Ms. Lyons whether she had any knowledge of that?

A. Correct, I did not.

Q. Other than surveying the site, doing the site plan, and looking at the exhibits supplied by Mr. Alderman, is there anything else that you did in the course of your work?

A. You mean other than the boundary survey and the location drawings?

Q. Right.

A. Our job was the boundary survey and location of the existing buildings and the review of the cases presented to me.

Q. With reference to Exhibit 4, the 1977 case, No. 77-161-SPH, you reviewed the order supplied by Mr. Alderman, did you not?

A. Yes.

Q. But not until today did you look or see the drawing and metes and bounds description which I provided, or did you?

A. The drawing we did have is part of the boundary survey records that we did.

Q. Frank Lee's drawing?

A. Yes.

Q. Does that drawing show any layout of the

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trailers?
A. I don't think so.
Q. Can you check?
A. I don't have a copy of that.
THE CHAIRMAN: I believe he stated it didn't before.
MR. ZIMMERMAN: That was in reference to Case to 2626-S.
Q. Clearly, that does not -- that shows the lot outline, presumably?
A. Correct.
Q. Does that show a correct lot outline, do you know? Does that jibe with your --
A. Yes, more or less. Every surveyor gets slightly different numbers. Ten different people will get ten different answers.
Q. Obviously, there's no attempt to describe structures?
A. Correct.
Q. Does that imply there was no operation before 1977?

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A. It does not. It just implies that that was the boundary survey in effect at the time.
MR. ZIMMERMAN: Thank you. That's all I have, Mr. Chairman.
MR. ALDERMAN: Just a couple real quick ones.

REDIRECT EXAMINATION

BY MR. ALDERMAN.

Q. Mr. Mildenberg, in your professional opinion, the layout as depicted of mobile homes or trailers, whatever definition, as depicted on Petitioner's Exhibit 1 in this case, this layout does not conflict with the drawing attached to Case No. 2626-S, or 77-161-SPH, with respect to layout, does it?
MR. ZIMMERMAN: Objection. May I object, because I think that layout clearly doesn't comply with the law in effect in 1953.
MR. ALDERMAN: That wasn't the question.
THE CHAIRMAN: Won't they speak for themselves?
MR. ALDERMAN: He was asked about the layout. And the fact is that both prior zoning cases did not show a layout. Rather, it approved the trailer camp and it

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approved the area on which the trailer camp could be located.
THE CHAIRMAN: He said the area was basically what he surveyed.
MR. ALDERMAN: That's correct.
MR. ZIMMERMAN: The rest is argument.
A. As I remember, the question was, does this drawing conflict with the layout of the 1953 drawing.
There was no layout in the 1953 drawing. Therefore, there is no conflict.
Q. Mr. Zimmerman asked you if you had any evidence that the camp was approved by the Health Development. Do you recall that?
A. I do.
Q. Do you have any evidence to suggest that it was never approved by the Health Department?
A. I have no evidence one way or the other.
Q. Now, the 1945 regulations that Mr. Zimmerman referred you to had a 400 square foot requirement and/or a 700 square foot requirement if a vehicle was still attached to the trailer, correct?

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A. I remember that.
Q. And you did some quick calculations and you came up with the approximate land area associated with each of the trailers shown on Petitioner's 1 as being a thousand square feet?
A. Correct.
Q. Is that more or less than 300 or 700?
A. That is more than that.
Q. So there's more land area available here than what was required in 1945, is that correct?
A. Correct.
MR. ALDERMAN: Nothing further of Mr. Mildenberg.
THE CHAIRMAN: Thank you, sir.
MR. ALDERMAN: Call Carol Lyons.

C A R O L L Y O N S,

having been called as a witness, was duly sworn and testified as follows.

DIRECT EXAMINATION

BY MR. ALDERMAN

Q. Ms. Lyons, good morning. Would you please state your name and business address, for the record?

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A. Carol Lyons, 10051 Norris Second Street, Laurel, Maryland 20723.
Q. Ms. Lyons, are you affiliated with Penwood Mobile Home Park, Incorporated, the petitioner in these proceedings?
A. Yes. I'm secretary to the corporation, and manager.
Q. Have you been authorized by the corporation to appear here today and offer testimony on behalf of the owner?
A. Yes.
Q. Penwood Mobile Home Park, Incorporated, is the owner the subject property,correct?
A. Correct.
Q. How long have you been in the mobile home trailer business, Ms. Lyons?
A. Well, 1980. Over twenty years.
Q. Is it fair to say that the residential units depicted on Petitioner's Exhibit 1 used to be referred to as trailers, and are now very often referred to as mobile homes?

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A. That is correct.
Q. And, in fact, in some cases, they are referred to as manufactured dwellings?
A. Correct.
Q. Did Penwood receive a copy of a Baltimore County uniform code enforcement citation alleging a violation described as use of recreational vehicles within an approved trailer park for living purposes?
A. Yes.
Q. Was a Notice of Intention to Defend filed with respect to that citation?
A. Yes, it was.
Q. And as a result of receiving that citation, did Penwood authorize the filing of the petition for special hearing which led to the hearing before the Zoning Commissioner and on appeal to this hearing here today?
A. Yes.
Q. When did Penwood acquire the subject property improved with a trailer camp?
A. September of 1988.
Q. And prior to Penwood's purchase, did it

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investigate the history and operation of the trailer camp?
A. Yes. We bought it as a mobile home trailer park.
Q. And based on the investigation conducted by and on behalf of Penwood, did anything come to the knowledge of the owner that Penwood Mobile Home Park was not an approved mobile home park?
MR. ZIMMERMAN: Objection. Leading question. And a number of them at this point. I am going to object.
THE CHAIRMAN: Well, in order to get through, I'm going to allow it Go ahead.
A. We wouldn't have bought it if it wasn't an approved mobile home park.
Q. Based on your knowledge and investigation, has the Penwood trailer camp, now known as a manufactured housing park or mobile home park, continued in operation without interruption?
A. Yes.
Q. Has Penwood taken any action to alter or otherwise abrogate the approval obtained for the trailer camp in 1953, as later amended in 1977?
A. No.

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Q. How many pads exist in the Penwood Mobile Home Park for occupancy by a mobile home or a trailer as defined in the 1945 zoning regulations?
A. I believe it was approved for twenty-seven, but we have twenty-six sites right now.
Q. If you would, describe the various types of homes or sleeping places or dwellings that exist at any point in time in the Penwood Mobile Home Park?
A. Well, we have single wide, double wide. RV's. Motor RV's. Pull-along RV's.
Q. Now, you referred to single or double wide. Those are what many in the room would consider traditional mobile homes?
A. Yes.
Q. Are all of those homes dwellings used solely for residential purposes?
A. Yes.
Q. Ms. Lyons, does Penwood permit someone with a recreational vehicle or camper to locate in the trailer park for a week or two while on vacation or visiting local attractions?

A. We do not.
Q. Do all the trailers or other residential dwelling units that are permitted to be located in Penwood Mobile Home Park connect to utilities?
A. Yes.
Q. Do they all connect in essentially the same manner?
A. Yes, they do.
Q. Are all electrical connections required to be made in accordance with all applicable county codes?
A. Yes.
Q. Are there separate connections at each pad or each site available for sewer, water, electricity, and telephone?
A. Yes, there is.
Q. Do all of the occupants of any of the trailers or dwelling places, including trailers as defined in 1945, pay a monthly fee for the lease of the pad side?
A. Yes, they do.
Q. With respect to the trailers for which Penwood was cited by the county, what is the approximate length of

residency in a trailer park?
A. That would range anywhere from six months to a year.
Q. Do you know why the owners of such trailers or what the county calls recreational vehicles, do you know they were living in the county at that time?
A. Job-related.
Q. After receiving the county citation, did Penwood renew or execute new leases for the types of trailers which were the subject of the citation?
A. No.
Q. Has the code enforcement officer for Baltimore County, pursuant to a final order, dismissed that citation?
A. Yes.
MR. ZIMMERMAN: Objection. I think it's irrelevant to what we are here for.
MR. ALDERMAN: We're here as a result of the citation, Mr. Zimmerman.
THE CHAIRMAN: I'm going to overrule. Go ahead.
Q. Did you receive an appeal of that final order?

A. Yes.
Q. No, not of the Zoning Commissioner's order, but did you receive an appeal of the final order dismissing the citation?
A. No.
Q. Since receiving the non-appealable final order, has Penwood renewed or executed new leases for the types of trailers which were the subject of that citation?
A. No.
Q. Does the Penwood Mobile Home Park have all required licenses and permits?
A. Yes, we do.
Q. Is Penwood Mobile Home Park required to obtain annually a license from Baltimore County?
A. Yes.
Q. And as part of that licensing procedure, do you know if the license, or the trailer park permit as it's called, has to be inspected by the building engineer, the fire department, and the Department of Environmental Protection and Resource Management?
A. It's on the application.

Q. Do you know if they come out and make those inspections?
A. I believe they do. I know the fire department does.
Q. Do the leases in Penwood permit the storage of boats, uninhabited recreational vehicles, junk cars and the like, within the trailer park?
A. No, we don't.
Q. Do you think it's acceptable to have what the current law classifies as a recreational vehicle in a mobile home park?
A. I think it's acceptable.
Q. Why is that? Is it any recreational vehicle?
A. We are pretty particular. The recreational vehicles that are today are fifty, sixty, a hundred thousand dollar recreational vehicles.
I mean, they have full size washers, dryers, refrigerators, stove. They are on a smaller scale, but they have everything that a mobile home has.
Q. Do you require any level of what you would consider to be suitability or compatibility of either

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trailers, mobile homes, or recreational vehicles, within the Penwood Mobile Home Park?

A. We have qualifications, specifications, that homes would have to meet to come in the park.

We wouldn't let a junker or something that was an eyesore come into the park.

MR. ALDERMAN: Mr. Chairman, if I might have just a moment to show something to Mr. Zimmerman, I don't have copies.

Mr. Chairman, I'm going to show to Ms. Lyons a copy of the Baltimore County Uniform Code Enforcement Citation, Case No. 023814, issued by Inspector Gary Husick --

Q -- and ask you if you can identify that citation?

A. Yes.

Q. Is that the citation you received?

A. Yes, it is.

Q. That's where the county cited Penwood for use of recreational vehicles within an approved trailer park for living purposes?

A. Correct.

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MR. ALDERMAN: I would offer the citation as Petitioner's Exhibit 6, and I will, as I explained to Mr. Zimmerman on behalf of the People's Counsel, I will obtain a copy of that and provide it to his office after today's hearing, if that's acceptable.

MR. ZIMMERMAN: No problem.

MR. ALDERMAN: Thank you, Mr. Zimmerman.

THE CHAIRMAN: No. 6.

Q. Now, Ms. Lyons --

THE CHAIRMAN: Are you -- we have not gotten Petitioner's Exhibit 5. Are those the collection of photographs --

MR. ALDERMAN: You're right. Let me just mark that as six for identification purposes at this point, if that's all right. That's what happens when I pre-mark exhibits.

THE CHAIRMAN: It always happens.

MR. ALDERMAN: I try to be so organized.

Q. Ms. Lyons, in your experience, is there a wide variety of what constitutes a trailer mobile home and/or manufactured home?

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A. Yes.

Q. Ms. Lyons I am going to provide to you a collection of photographs which I have pre-marked on the bottom right-hand side as A through and including O, and I have also provided copies to Mr. Zimmerman and to each member of the Board.

The first photograph, which is labeled A, that's the entrance sign to the Penwood Mobile Home Park, is that correct?

A. Correct.

Q. And that represents a fair and accurate representation of the sign as it exists today?

A. Correct.

Q. The next, marked B, is a shot of Penwood Mobile Home Park looking down the street with the administration building on the left?

A. That is correct.

Q. And on C, that is another image of other mobile homes, trailers, within the Penwood Mobile Home Park, correct?

A. Correct.

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MR. ALDERMAN: Mr. Chairman, I would proffer that before the Zoning Commissioner, these photographs were included in what is commonly known as a power point presentation, so when we printed them, some of the titles are also contained on them, such as D, where it's labeled Penwood empty pads.

Q. And at the time that photograph was taken, those pads were empty, correct?

A. Correct.

Q. That's within Penwood Mobile Home Park?

A. Yes, it is.

Q. Are there any empty pads out there today?

A. Yes, there are.

Q. Now, photograph E, that is another type of trailer that has been not only Penwood, but elsewhere in Baltimore County, based on your special?

A. Correct.

Q. And photograph F, the same thing, there's a trailer with a number of 497 on its body, and that same type of trailer has been at Penwood as well as other trailer parks, in your experience in Baltimore County,

correct?
A. Yes, there are.
Q. Photograph G, same type of trailer located in other home parks as well as Penwood in Baltimore County, in your experience, correct?
A. That is correct.
Q. And the same with respect to H, correct?
A. That's true.
Q. And with I, the Dutchman trailer, that's typical what's known as the fifth wheel type of trailer, correct
A. That is correct.
Q. Have they been located in Penwood Mobile Home Park?
A. Yes.
Q. And they've also been located in other trailer parks in Baltimore County?
A. Yes.
Q. And this is yet another shot in J, correct?
A. That's correct.
Q. And photograph K, there's a connection of some of the utility boxes for connection to mobile homes, correct?

A. That's correct.
Q. And that one single family detached home is not part of Penwood, correct?
A. No, it's not.
Q. And photograph L, is yet another indication of some free-standing connections as well as metered boxes, correct?
A. That is correct.
Q. And your offices are in Howard County?
A. Yes.
Q. Are you familiar with the New Colony Village Mobile Home community?
A. A little.
Q. Photograph F, in fact, depicts several of the mobile homes that are approved in New Colony Village?
A. Correct.
MR. ZIMMERMAN: Objection. That has nothing to do with this case, other mobile home parks. We are here on this mobile home park and the law related to it.
Other parks, whether in Howard County or Baltimore County are not material.

MR. ALDERMAN: Well, we are here on, Mr. Chairman, with all due respect to People's Counsel, is what constitutes a mobile home or a trailer.
THE CHAIRMAN: Are these New Colony homes, are these mobile homes?
MR. ALDERMAN: They most certainly are. They are trailers as defined by the Department of Housing and Urban Development as well as the Maryland Real Property Article, Title 8A.
MR. ZIMMERMAN: We are doing the Baltimore County zoning regulations. MR.
THE CHAIRMAN: Where are they located?
MR. ALDERMAN: These are in Howard County.
THE CHAIRMAN: Well --
MR. ALDERMAN If it causes the Board a problem, I'll remove photographs M through L.
THE CHAIRMAN: Anything to do with Howard County, let's take it out.
MR. ALDERMAN: Take it out. We will now have photographs A through and including L, as identified by Ms. Lyons. This is to be 5A and through including L as

identified by Ms. Lyons.
Mr. Zimmerman, any objection?
MR. ZIMMERMAN: No objection to A through L.
MR. ALDERMAN: Thank you.
THE CHAIRMAN: Accepted.
MR. ALDERMAN: I would then offer as Petitioner's 6, the Uniform Code citation which Ms. Lyons has identified.
I have nothing further of Ms. Lyons at this point.
THE CHAIRMAN: Mr. Zimmerman?

CROSS EXAMINATION

BY MR. ZIMMERMAN:
Q. Ms. Lyons, what is your educational background?
A. High school graduation.
Q. When did you first have any involvement with Penwood Mobile Home Park?
A. Probably since the beginning, 1988.
Q. Who is the principle owner of the corporation which owns Penwood Mobile Home?
A. The president?

Q. President, chief shareholder of the corporation?
A. Frederick Newberger.
Q. Is he here today?
A. Yes, he is.
Q. Do you know if he was president in 1988?
A. Yes.
Q. Do you have any knowledge of the operation at this site prior to 1985?
A. No.
Q. In your direct testimony, did you state that this mobile home park has been approved for twenty-five or twenty-seven pads?
A. I believe so.
Q. What document do you have to support that?
A. I am sure I have something. It's been so long, I don't remember specifically, but I am sure there is something in our records that show that when we purchased the property.
Q. You don't have anything with you?
A. I don't believe so, unless Howard has something.
Q. Do you have anything that shows there's any

zoning approval for twenty-five pads, any documents?
A. Not with me, no.
Q. If you could produce zoning approval for twenty-five pads and get it in within three days, I wouldn't object.
Do you know of any other zoning documents aside from what was produced during Mr. Mildenberg's testimony?
A. No.
Q. Were you involved in the 1988 purchase of the park?
A. Not so much the purchase. I starting managing the park, but really wasn't involved with the purchase.
Q. So you don't really have any direct knowledge as to what occurred with respect to investigation at the time of the purchase?
A. No. That would be between the real estate agent, if there were any, and the attorneys that handled the settlement of the property.
Q. I assume you have been fortunate enough not to have any fires at the park?
A. To my recollection, no, we haven't had any fires.

Q. If you are allowed to have recreational vehicles, could they be placed on any of the pads that become available?
A. I wouldn't see why not.
Q. Excuse me?
A. I wouldn't see why not.
Q. Has it ever crossed your mind that -- well, let me ask this. Are many of the units within five to ten feet of other units?
MR. ALDERMAN: Objection. Beyond the scope of direct examination. She testified she manages the park.
MR. ZIMMERMAN: That's right. So she should know something about the management.
THE CHAIRMAN: What was the question?
MR. ZIMMERMAN: Are any of the units less than ten feet from other units.
THE CHAIRMAN: Doesn't the plat speak for itself?
MR. ZIMMERMAN: Yes.
Q. Ms. Lyons, I would suggest -- you would agree -- that some of the units have under ten feet distance between them, and other units have ten to twelve feet, as

shown on the site plan?
A. If that's what it shows.
Q. Has it ever crossed your mind that that could be a concern in the event of fire?
A. The county comes through every year. The fire department comes through every year. They never cited me for any violation of any fire code.
Q. But my question is, has it crossed your mind that that could be a concern in the event of a fire occurring and wind blowing the fire from one unit to another?
MR. ALDERMAN: Objection. Asked and answered.
THE CHAIRMAN: I'm going to sustain that.
Q. Do you have any personal knowledge of where the pads were located exactly prior to the purchase in 1988 by the current owner?
A. No, I don't.
Q. Do you know how many mobile homes were there in 1987 and 1986?
A. (Shaking head.)
Q. You're shaking your head?
A. I'm sorry. I'm thinking. No, I don't know if I

had records that I can go back and look, but off the top of my head, no. The park was full, I believe. It should have whatever it has now, the twenty-six units, the twenty-seven units.

Q. You're saying to your knowledge, personal knowledge, it had twenty-seven units in 1988?

A. The park was full, and if it had twenty-seven units, then it would have twenty-seven units.

Q. You don't know at what point in time previously, assuming it had twenty-seven or twenty-six units, whatever, the same number as now, in 1988, nevertheless, you don't know at what point in time --

THE CHAIRMAN: Mr. Zimmerman, I think it's pretty clear she doesn't know what happened before 1988.

Q. The park has always been rental since you have been involved?

A. Yes.

Q. And occupants come and go?

A. That's correct.

Q What is the average tenure, in your experience? In other words, three years? Five years? What's the

average stay of an occupant?

A. It varies. We've had some people that have been there probably since we purchased the park, and then we have other people that come and go.

It varies. I can't really -- probably three, five years, average. Some more, some less.

Q. Have you ever considered, or has it ever crossed your mind to attempt to come into compliance with the current zoning regulations or attempt to, as residents leave from time to time --

MR. ALDERMAN: Objection. Irrelevant.

THE CHAIRMAN: I will sustain that objection.

MR. ZIMMERMAN: With all due respect, we will brief the point.

THE CHAIRMAN: Isn't that part of why we're here, whether or not they are in compliance?

MR. ZIMMERMAN: I think it is. I think it is part of the reason in that they're requesting an additional benefit in a sense in a park which does not currently comply. I do think it's relevant, and we'll brief it.

THE CHAIRMAN: Well, I'm saying, whether she knows whether or not it's in compliance, their contention is it's in compliance. Your contention is it is not.

MR. ZIMMERMAN: I understand the Chairman's point, and I will move on, if I may.

Q. What is your understanding, Ms. Lyons, of the major differences between a mobile home or trailer and a recreational vehicle under the Baltimore County zoning regulations?

MR. ALDERMAN: Objection. Outside the scope. She's not even qualified. She didn't even testify she has any knowledge of what the current Baltimore County zoning regulations are.

THE CHAIRMAN: I am going to sustain that one.

MR. ZIMMERMAN: Let me modify my question.

Q. As a manager, in your direct testimony, you commented or answered various questions in relation to mobile homes and recreational vehicles, did you not?

A. Yes.

Q. Do you recall giving any testimony describing mobile holes or recreational vehicles, or both?

A. That they vary in size, starting from a recreational vehicle on up to multi-sectional sizes.

Q. From a managerial point of view, do you perceive any difference between mobile homes and recreational vehicles?

A. The RV or the recreational vehicle is actually just a smaller version of the mobile home.

Q. So you don't see any significance difference?

A. Not any significance difference, no.

Q. And you have worked for Penwood since 1988, or have you worked for them longer than that?

A. No. '88.

Q. Do you manage other parks for Penwood, or just this one?

A. Penwood is Penwood. Penwood only has Penwood.

MR. ZIMMERMAN: Thank you. I have no further questions, Mr. Chairman.

MR. ALDERMAN: Just two.

REDIRECT EXAMINATION.

BY MR. ALDERMAN:

Q. Ms. Lyons, do you manage other trailer parks for

other entities?
A. Yes, I do.
Q. With respect to the subject property, has Penwood ever subdivded the subject property into individual lots on which each trailer is located?
A. No.
MR. ALDERMAN: Thank you. Nothing further of Ms. Lyons.
RECROSS EXAMINATION
BY MR. ZIMMERMAN:
Q. Ms. Lyons, you're not an employee of Penwood?
A. I manage it.
Q. I mean, do you work for various owners of mobile home parks.
THE CHAIRMAN: Is she an independent contractor?
Q. (MR. ALDERMAN) Is Penwood one of a number of family-owned businesses?
A. Yes.
Q. In the family-owned businesses --
MR. ALDERMAN: If you don't mind, Mr. Zimmerman --

Q. -- in the various businesses owned by the family, among their investments, are there other mobile home or trailer parks?
A. Yes.
Q. Do you manage those trailer parks?
A. Yes, I do.
Q. On behalf of the individual entities that are family-controlled?
A. Yes.
THE CHAIRMAN: Is she an employee of Penwood?
MR. ALDERMAN: She's secretary of the corporation, as she testified to.
THE CHAIRMAN: But your question, or somebody's question, was whether she managed other trailer parks, and the trailer parks which she manages are part of the operations of Penwood, or whatever their umbrella corporation is, is correct?
MR. ALDERMAN: Let me just proffer, if I might, Mr. Chairman.
Ms. Lyons and Mr. Newberry are family members. They have various corporations established that are

controlled by the family, each corporation owning a separate mobile home park or other investment.
With respect to those investments that are mobile home or trailer parks, Ms. Lyons takes over and manages those mobile home or trailer parks.
Q. (MR. ALDERMAN) Is that correct, Ms. Lyons?
A. Yes.
Q. (MR. ZIMMERMAN) Just to clarify, you are related to Mr. Newberger?
A. Yes.
Q. What is the relationship?
A. He's my father.
MR. ZIMMERMAN: Thank you. That helps clarify it.
MR. ALDERMAN: Nothing further of Ms. Lyons.
MR. MARKS: I have a question. Ms. Lyons, there's a building which I think you had said had something to with the management of the park, is that right?
THE WITNESS: yes.
MR. MARKS: Is that where you operate out of?

You operate out of Laurel?
THE WITNESS: I operate out of Laurel. There is an office there that's available to us. But the main operation I manage is out of Laurel.
MR. MARKS: If somebody came in and wanted to rent space in the park, would they go to this building first?
THE WITNESS: No. They would contact us and I would either meet them there -- sometimes I meet them out there or at their home, mobile home, or they could come to Laurel, whichever would be more convenient for them.
MR. MARKS: The second question is, does the corporation actually own any of these units that are currently in the park?
THE WITNESS: No. We just lease the site.
MR. MARKS: Thank you.
MR. ZIMMERMAN: May I follow up Mr. Marks' questions?
FURTHER CROSS EXAMINATION
BY MR. ZIMMERMAN:
Q. Are the leases basically year-to-year?

A. There is month-to-month, and year-to-year.
Q. Monty-to-month, even for mobile homes?
A. Yes.
Q. When you had any RV's in there, what was the duration of those leases?
A. I believe I might have had one or two that was a year, and the rest were month-to-month.
Q. Are the rest of the mobile home leases year-to-year?
A. I'd have to go and take a count, but probably half and half.
Q. Is there any difference in the rental charge between mobile homes and RV's?
A. I think the RV's may have been a little more than the mobile homes.
Q. Because they are more short-term, or any other reason?
A. Short-term, I guess, shorter term.
MR. ZIMMERMAN: Thank you. That's all I have.
MR. ALDERMAN: Just one follow-up with respect to Mr. Marks' questions.

FURTHER REDIRECT EXAMINATION
BY MR. ALDERMAN:
Q. If you've answered, I apologize, but with respect to the building on site which is depicted on Petitioner's 1 as the office, do you ocassionally meet potential residents at that building if Penwood has been contacted?
A. If they require that we come there.
MR. ALDERMAN: Thank you. Nothing further of Ms. Lyons.
THE CHAIRMAN: Thank you, Ms. Lyons.
MR. ALDERMAN: Mr. Chairman, that would be the petitioner's case in chief on the issue presented. We would reserve the right to call and recall on rebuttal.
THE CHAIRMAN: Okay. Let's take a ten-minute break.
MR. ZIMMERMAN: Mr. Chairman, what we plan to do to in our case is do submit a number of exhibits. I would respectfully request, subject to the Board's discretion, that our first witness could take some time, perhaps a half hour to forty-five minutes, including cross.
That might be a good time to break for lunch, but

that would be up to the Chairman.
THE CHAIRMAN: Let's see what we've got.
MR. ZIMMERMAN: We had also prepared a list, a partial list, I guess, of most of our exhibits, subject to a few others Mr. Karcher may have with him and provide this to the Board as an aide.
I already provided it to Mr. Alderman. Several of the exhibits match exhibits put in the petitioner's case which I have checked off, but the remaining exhibits at this time would be People's Counsel Exhibit 1 which is a copy of the 1955 Baltimore County zoning regulations with particular attention to Section 414 on trailer parks and Section 415 on trailers. This was apparently adopted March 30, 1955.
THE CHAIRMAN: Okay.
MR. ZIMMERMAN: Exhibit 2 would be Bill No. 145 of 1959, which is an amendment to Section 415.5.
Exhibit 3 would be Bill No. 109 of 1964, and that is a relatively comprehensive amendment of Section 415 on trailers. It does not amend Section 414.
THE CHAIRMAN: People's Counsel 4.

MR. ZIMMERMAN: Four.
THE CHAIRMAN: Wait a minute.
THE CHAIRMAN: I think we are actually up to three. To follow-up on that sequence, we have excerpts of our copy of the current regulations which is the 1998 addition, but supplemented through 2003.
This includes excerpts of Section 101, definitions, including recreational vehicles and boats, including trailer and trailer park, as well as motor home travel trailer and truck camper.
We also have the current Section 414 and 415, which is --
THE CHAIRMAN: Well, they speak for themselves.
MR. ZIMMERMAN: As well as 415A on recreational vehicles and boats.
THE CHAIRMAN: People's Counsel No. 4.
MR. ZIMMERMAN: Exhibit 5 is an excerpt of the ADC highway map with be location of the park approximately marked in yellow.
THE CHAIRMAN: Exhibit 5.
MR. ZIMMERMAN: Exhibit 6 is a copy of the zoning

map, Lodge Forest North Point, one inch to 200 feet, the official 2000 comprehensive zoning map, again with the approximate location of the trailer park shown in yellow. The date of photography is indicated as January of 1986, and that map will speak for itself.

THE CHAIRMAN: People's Counsel Exhibit No. 6.

MR. ZIMMERMAN: Exhibit No. 7 -- and I would suggest A and B -- are the Department of Assessment and Taxation computer printouts which appear to relate to the subject property as well as possibly a nearby property, or perhaps they combine to form the subject property. Mr. Alderman, correct me if --

MR. ALDERMAN: They are not. They are separate.

MR. ZIMMERMAN: They are separate properties. The mobile home property would be Exhibit 7A.

THE CHAIRMAN: Do we need 7B?

MR. ZIMMERMAN: You don't see any relation?

MR. ALDERMAN: I'll proffer that it is off site. It is down Dogwood Road.

MR. ZIMMERMAN: Then we'll simply make it Exhibit 7.

Exhibit 8 would be the Rule 8 papers that Mr. Karcher supplied to authorize him to speak for the Baltimore County Mobile Homeowners Association.

Exhibit nine is the petition which Mr. Karcher has prepared and will discuss relating to this case.

MR. ALDERMAN: Mr. Chairman, on behalf of the petitioner, I have no objection to People's Counsel Exhibit 1 through and including 8, including the Rule 8 materials.

I have reviewed those and found them to be in compliance with the Board's rules.

I will object to People's Counsel Exhibit 9 which is this purported petition.

THE CHAIRMAN: Why don't we hold the introduction of this?

MR. ZIMMERMAN: I will say it's my understanding in the past that the Board has accepted petitions and given them the weight they deserve.

THE CHAIRMAN: That's true, but let's bring it in through the witness.

MR. ZIMMERMAN: And we may have some other

photographs and a couple of other exhibits through Mr. Karcher.

I am prepared to call Mr. Karcher. On the other hand, I will leave it to the Board as to whether they prefer to take a lunch break now.

It's hard to predict exactly how long he's going to be.

THE CHAIRMAN: Well, okay, why don't we take a lunch break now.

MR. ZIMMERMAN: I think that may expedite the testimony as well.

(A luncheon recess was taken.)

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AFTERNOON SESSION

* * * * *

THE CHAIRMAN: The hearing will be in order.

MR. ZIMMERMAN: I'm going to call Mr. Robert Laro. Mr. Laro is a resident of Kenwood Mobile Home Park.

Before we begin, however, as customary, we circulated a sign-in sheet for citizens who are supporting

the protestants, basically, and I've provided a copy to Mr. Alderman.

THE CHAIRMAN: People's Counsel No. 9.

MR. ALDERMAN: No objection.

R O B E R T L A R O,

having been called as a witness, was duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MR. ZIMMERMAN:

Q. Mr. Laro, your full name and address?

A Robert A. Laro, Jr., 8000 Dogwood Road, Lot 15.

THE CHAIRMAN: Could you spell your last name?

THE WITNESS: L-a-r-o. I have been a resident for twenty years. Lot 15.

Q. You own a home --

A. A double wide.

Q. -- in the Penwood Mobile Home Park?

A. Penwood Mobile Home Par.

Q. You've lived there twenty years?

A. I've lived in the park twenty years.

Q. Your occupation?

A. I'm a glue pressman operator.
Q. Unit 15 is shown on Petitioner's 1, is it not,
A. Yes.
Q. I'm pointing to it, near the corner of Dogwood Road and Oak Road?
A. Correct.
Q. That is your double wide?
A. Yes, it is.
Q. You've had a chance to briefly look at the site plan?
A. Yes, just a little bit.
Q. To the best of your knowledge, does it reflect the approximate layout of mobile homes, or are there some differences as far as what is there now?
A. There's a lot of vacant lots there.
Q. Do you know how many units there are now that are either occupied or unoccupied?
A. Well, when I moved in, I believe it was twenty-eight lots, and it's probably, I would say, maybe around twenty right now, because I live in fifteen. Fourteen is a dead lot.

Number sixteen has nothing on it. Number seventeen, eighteen and nineteen, there's nothing there. There was cement pads there. They tore them all up, and the manager told us they were going to put two double wides in there.
Q. Are you saying that some of the areas which originally had more than one mobile home now have a double wide?
A. Where my double wide is right now, when I first moved into the park, I live in number seven for eleven years, and they had three, single wides up there.
They removed them. I bought my double wide through the park, and they put me on that corner and took them three single wides out.
Q. Where's that?
A. That would be where fifteen is, and then where fourteen is right behind it, and there was a lot in between that. It was three little single wides up there.
Q. Here's number fourteen?
A. It's that spot right behind my fifteen.
Q. It's not numbered on this exhibit?

A. No, but that's supposed to be lot fourteen. They're sewers and all that on there, but there's no home.
Q. Did you try to count up the number of units represented on the site plan?
A. No, I didn't.
Q. It's not twenty-five or twenty-six, is it?
A. No.
THE CHAIRMAN: Excuse me, Mr. Laro. You said you purchased your lot?
THE WITNESS: Not my lot. My mobile home, I had purchased it through Chesapeake.
THE CHAIRMAN: That's all right. I thought you said you purchased the lot.
Q. Do you rent from year to year?
A. Yes, I do.
Q. And each year, you get a lease, or an addendum?
A. Well, you have to request a lease, or they automatically put you on a month-to-month.
Q. I'd like to ask you a few questions about the neighborhood. In that connection, let me have People's Counsel Exhibit -- the comprehensive zoning map -- No. 6.

Q. Mr. Laro, do you see the location marked in yellow, approximately, of the mobile home park?
A. Yes.
Q. What is the name of the general neighborhood? Is it Lodge Forest? Edgemere? How do you call it?
A. We call it Edgemere, Ft. Howard area.
Q. Now, this exhibit is just to help in terms of location. The date of the photograph was actually January 1986, but with reference to what is in the neighborhood now, can you tell the Board as you go each direction, whether along Dogwood Road, along Oak Road, and in other directions, what the Board would find if they took a drive down there?
A. Okay. On Oak Road, coming off of Shore on Oak Road is all homes all the way down.
Q. Single family homes?
A. Single family homes. On Dogwood Road, directly across from the park, is five or six family homes.
Q. What park are you talking about?
A. Penwood.
Q. The mobile home park? Excuse me.

A. On Dogwood Road, on both sides, is individual homes all the way up and around Dogwood, all the way around back to North Point Boulevard.

Q. To the west across Oak Road, are there any homes there now?

A. There is one home on Oak Road, and then it goes down to a woods, and there used to be some homes down in the back there which Park and Rec owns now.

Q. Are there any wetlands approaching North Point Creek?

MR. ALDERMAN: Objection. I don't know how this witness is going to say whether or not the land is classified as a wetlands or not. He hasn't been qualified as an environmental expert.

THE CHAIRMAN: Why don't you restate it?

Q. As a citizen, do you know whether there are any marshes near the creek?

A. I don't know.

Q. Is there a creek to the west? North Point Creek?

A. Yes.

Q. To the north of the site, as Oak Road goes

towards a dead end, is there any development back there?

A. No. That's where that land that Park and Rec owns that they said they were going to build some kind of park or something back in there, which everybody in the area keeps hearing about, but nothing --

Q. That's the area I'm pointing to marked R.C. 20 on the map?

A. I believe so.

Q. I want to make sure we have the same thing.

A. It comes down Oak Road and dead ends and make a left on some road down there.

Q. Other than the Penwood Mobile Home Park, are there any other mobile home parks within a few blocks?

A. Yes, there is.

Q. Where else is there?

A. That would be off Shore Road. If you come down Shore Road, you can make right onto Oak, come down to Dogwood, or you can go straight into the other trailer park.

Q. Would that be shown at the southern edge of our map here?

A. I believe so.

Q. Just the edge of that park, if you know? Near Tall Oaks Road?

A. I don't know.

Q. You're not sure?

A. I'm not sure.

Q. You know that Shore Road is here?

A. Yes.

Q. Can you see that?

A. Uh-huh.

Q. What about to the south of Shore Road some distance?

A. Shore Road goes straight back into the other mobile home park.

Q. I'm not going to prolong this too much. Mr. Laro, come on up here for a moment. It's hard for you to see the map from the witness stand.

There appears to be an area of a mobile home park at the edge of the map with Shore Road running both parallel above it and then perhaps towards it. Is that what you're referring to?

A. Shore Road runs right into the other mobile home.

Q. Is that near the edge of map?

A. I believe so.

MR. ZIMMERMAN: Can the Board see what we're referring to?

Q. If I may mark, in magenta, is this the area we have been referring to, Mr. Laro that I'm marking in a magenta color?

A. Uh-huh.

Q. At the southern edge of the map?

A. (No response.)

Q. Mr. Laro, you took an appeal in this case, correct?

A. Uh-huh.

Q. You have concerns about the addition of recreational vehicles to this park?

A. Yes, I do.

Q. What, if any, concerns do you have with respect to whether or not recreational vehicles are anchored down, as compared to mobile homes?

A. They are not anchored down.

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Q. What, if anything, could you tell the Board about what parts of the property they may be located on whether or not grass, asphalt, footings?
A. Some of them, they did put on cement pads. Some of them, they did put on grass lots.
Q. Why, if at all, is it a problem that RV's are not anchored down in the same way as mobile homes?
A. Well, in a windstorm, they put them ten feet away from your mobile home, they get a windstorm, they can blow it right into your mobile home.
The sewerage runs across the top of the ground. The electrical wires run across the top of the ground.
Q. Let's take them one at a time. The sewer, you say, sometimes runs on top of the ground with respect to recreational vehicles?
A. Yes.
Q. how do you know that?
A. Because they had one right in back of my house, ten feet away, and the sewerage pipe is the big round PVC pipe, and it was seventeen foot across the top of the ground before it went down from the trailer to the sewage

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down in the ground.
Q. What's wrong with that?
A. I have a three and four-year old grandson, and they don't know what that is. They could trip over it, fall and break their legs.
Electrical wires laying on the ground. They can't read. They grab that electrical wire laying on the ground, eighteen, twenty foot long, they don't understand this kind of stuff.
Q. Electric wires as well?
A. The sewerage pipe.
Q. How is that -- does that make the property look better?
A. I wouldn't think so.
Q. What concerns, if any, do you have about hot water heaters from some of the recreational vehicles?
A. Some of the recreational vehicles have hot water tanks mounted right on the side of the trailer, and it's against the trailer, and if you walk up, put your hand against it, it's actually hot.
Q. Doesn't everyone know not to put their hand

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against it?
A. Would a three-year old or four-year old know that? No.
Q. As to the exhaust, do you have any concern there?
A. Yeah. They had one of the RV's, the one you drive on the street, was parked right out on the other pad behind my house, and they would come out at least every other day, and it was only ten foot away from my house, and they would start it up, let it run for a couple hours.
I would have to actually close my windows because all the gas fumes was coming right in my home.
Q. Carbon monoxide?
A. I had to breathe that kind of stuff. It's just not a place for RV's.
Q. Is there some concern about children being exposed to that as well?
A. Sure.
Q. What about the situation with generators, is there any problem there that differentiates recreational vehicles from mobile homes?
A. Well, some of them would use generators on the

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ground for different things. I don't know if they was working on them, or what, but some would be hooked to electric.
Q. Some recreational vehicles?
A. Yes.
Q. Mobile homes don't to that?
A. No.
Q. What about propane storage, is there any problem there that differentiates --
A. Wel, the RV's that come in, they have propane tanks that just sit on a hitch of their vehicle. They are not chained down.
We have to have ours against the house on a pipe with a chain around it to keep it from falling over, or anybody knocking it over.
Q. What's worse about having it on the hitch of a recreational vehicle?
A. If somebody hit it, hit the top of that bottle, I mean, it would go off like a bomb.
Q. Do those propane storage tanks sometimes end up somewhere else on the property, or do they stay on the

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hitch?
A. Most of the time, they stay on the hitch. Some of them had extra ones, and they were on the ground, underneath, or in a little storage compartment where they just lifted up the top and had another bottle inside there.
Q. Do you object to them being on the ground, around the premises?
A. Sure.
Q. What about the exterior battery compartment of an RV? Is that something that you want to tell the Board about your concern?
A. Well, I mean, I don't know much about batteries on them. I know they have extra batteries to run their -- some of their units at night.
Q. What about the wheels on RV's? Do mobile homes have wheels, generally?
A. They all come in with wheels.
Q. What happens to those wheels?
A. Some of them, the wheels are taken off so they can lower them to the ground. Some of them do have the

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wheels on them, but they are all anchored down, regardless of whether they have wheels or not.
Q. What about RV's, do they have wheels?
A. The wheels stay on them at all times.
Q. Are they anchored down, in your experience?
A. No, they are not anchored down?
Q. How do you compare -- is one better than the other from a safety or aesthetic point of view?
MR. ALDERMAN: Objection as to safety.
Q. What do you think about the safety of that situation with RV's?
A. Sure, if it was anchored down, it would be more safe.
Q. Would that be particularly a concern in storms?
A. Oh, definitely.
Q. What about the axles and chassis of RV's, do you have my observation on that?
A. No.
Q. Is there something called skirting around? Are you familiar with that concept?
A. Yes.

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Q. What is that?
A. All mobile homes in this particular park have to have shirting around them.
Q. What does that mean? Explain to the Board.
A. Well, they put them on cinder blocks and they have skirting attached to the home that goes down to the ground, and they're like twelve-inch sheets, you can pull up to go underneath.
All the sewer pipes are covered up with them. All electrical wires are covered up with them. And it's all underneath.
Q. What does that help with, the skirting around?
A. Well, it keeps animals out, keeps kids from going underneath of them and getting hurt.
Q. Does this make the homes look better or worse?
A. It makes the home more apparent.
Q. Do RV's have skirting around?
A. No, they do not.
Q. Of course, I'm speaking how you have observed them when they were in the mobile home park.
A. A lot of them never had them around.

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Q. What is the problem? Does that create in your mind an increased risk of accidents?
A. Sure. I mean, if little kids are out there running and a ball goes underneath one of them, they could run -- try to run underneath, get the ball, and hit their head, or cut their head off on the axles, or get caught under the wheels, anything.
Q. What about any steps on RV's, does that concern you?
A Yeah. All mobile homes in the back have wooden decks, type of decks, or wooden steps. All the RV's in there all have metal steps.
Q. What's wrong with that?
A. Well, metal steps ice up, for one. Two, if kids are out there running and they fall on metal, they are going to get hurt more falling, hitting metal, than a piece of wood.
Q. In general, how would you compare the appearance of RV's with mobile homes, based on your own observations?
A. Some of them are nice-looking vehicles. Some are them are expensive vehicles.

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But, you know, then again, even with the most expensive ones, they have on the front, they have this big nose that hangs out, and then this thing that sits underneath them called a tripod, and it's a piece of metal that comes down with three metal legs on it, sticks out in the open, nothing caging it in, nothing around it.

If a kid runs underneath of there, it's got a big axle thing that hangs down to where it hooks onto a fifth wheel, and if they run underneath there, it will take the top of their head right off, right off.

Q. You said some RV's are nice looking. Are they all up to that standard of fifty or a hundred thousand dollar vehicle?

A. No. They have tag-alongs in there, that they put in there. All different kinds.

Q. With respect to the lease restrictions, based on your experience or knowledge, are the same type of lease restrictions applied in Penwood to mobile homeowners versus recreational vehicles?

A. No.

A. What, if any, difference there concerns you?

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A. Well, three of four of them have rented from behind us, RV's and they are all nice people. We all sat out and talked in the evenings and all, and they told us they pay more --

MR. ALDERMAN: Objection.

THE CHAIRMAN: Sustained.

THE WITNESS: They could have --

MR. ALDERMAN: Objection.

THE CHAIRMAN: When he objects, you have to stop.

Q. Have you made any personal observations as to whether some of the RV owners have pets, dogs, et cetera, cats, that you are not, as a mobile homeowner, allowed to have on your lease?

A. Yes.

Q. What is it?

A. Well, in our lease, they allow us to have a ten-pound dog, and a lot of these people who come in with these RV's have come in fifty pound dogs, sixty pound dogs.

Q. To your knowledge, do you know if management has told them to leave or get rid of these large dogs?

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A. They were always there with them.

Q. In general, what is your opinion as to the effect of RV's, if they are allowed, on your enjoyment of your mobile home?

In other words, by having RV's in your mobile home park, do you enjoy life more or less?

A. Less.

Q. Because?

A. Well, because of the appearance, and because of how close they put them.

And the main concern, the way they are not anchored down, you don't never know, you know, if one is going to blow over.

Q. What is it about mobile homes that give them a better appearance in general than RV's?

A. Well, they are longer, they are wider, they are skirted. They are anchored down. They all have siding on them.

Q. In other words, they have architectural features that RV's do not have?

A. Right.

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Q. What concerns, if any, do you have about the aspect that RV owners tend to be more short-term occupants of the park than mobile homeowners?

A. What concerns?

Q. Yes, that you have more people that are there for a few months at a time, or six months, instead of for a few years like yourself?

A. Well, I mean, I think it's a mobile home park and they're putting up mobile homes, you're going to have people like me, twenty years or longer.

When they started bringing these things in, we've had a bigger turn-around in that park since I've been there that I've ever seen.

Q. Is that good or bad for the park, from your viewpoint?

A. That's bad, because you don't know what's coming in or what's leaving when they come in with these RV's. When they leave, people are missing things.

Q. Mr. Laro, you actually took a few photographs, did you not?

A. Yes, I did.

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MR. ZIMMERMAN: Can I identify these photos as People's Counsel 10A through C.

MS. ADAMS: 10A, B and C.

Q. Mr. Laro, I'm going to show you People's Counsel 10A. Could you make an observation -- you took that picture?

A. Yes.

Q. What does that show?

A. This is one of the RV's they brought in a few months ago. And see where they parked? We are not allowed to park like that.

Like I said, no skirting around it. The wheels are shown. There's the tripod that I'm talking about with the big nose hanging out. A kid runs through there is going to get hurt.

Q. What, if anything, did you observe about any bottles in the area.

A. There was a mobile home here that they moved out of the park, and the gas bottle sat right there on the cement pad for probably close to a month before anybody come and picked it up, or removed it, or done anything

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with it.

Q. Was that bottle associated with a home or the RV?

A. That was from a mobile home.

Q. With respect to Exhibit 10B, what did you wish to tell the Board?

A. Okay. This is the one, this is the bigger one they had out back from me. And, as you can see, I was sitting right here, and with this pull-out on here, it was eight-foot, eleven inches from my house.

Q. You're in the picture?

A. Yes.

Q. Who took the picture?

A. My wife took the picture.

Q. Now, I'm going to show you Exhibit 10C. Who took this one, you or wife?

A. I don't know if I snapped it or she did, but we were both there.

Q. What does that show?

A. This shows the tripod, and where I used to be allowed to park on that pad, and I'm no longer allowed to park there.

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They told me I can't park there no more. And that's that ditch, and this goes back to the mobile home behind me.

Q. That shows part of an RV, does it not?

A. Yeah, one of them. Pull along.

Q. When was that picture taken? Do you know, approximately?

A. Back in '99. I know it was back in '99.

Q. Are all those photos several years old?

A. Yes.

MR. ALDERMAN: I'm going to have to ask, is there going to be any qualifications as to whether they represent a fair and accurate representation of the park as it exists today?

MR. ZIMMERMAN: The photos were taken several years ago and they show what was there when the pictures were taken.

MR. ALDERMAN: I will bring it up on cross examination.

Q. Are those illustrations of what occurs when RV's are in the park?

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A. Yes.

Q. It's been stated this morning that after, or during the petitioner's case, that after they were cited for the violation, the petitioner stopped allowing RV's in the park for the time being. Did you hear that testimony?

A. Yes.

Q. In your observation for the last six months or year, is it true that there have been no new RV's?

A. There have not been none, no.

Q. Previous to that when RV's were in the park, what is the largest number of RV's you have observed at any one time?

A. Six to seven.

Q. What has your experience been with respect to noise from activities involving the RV's or operation of the RV's?

A. As far as noise, a lot of drinking, cussing, carrying on.

Q. More than from people who occupy the mobile homes?

A. Yeah, way more.

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Q. What about the operation of the RV's themselves, the engines or generators, or anything like that?
A. As far as the RV's that you drive, those get started up every day or so, running for a couple hours.
Q. Do you have any opinion as to whether the presence of RV's would reduce the value of your mobile home?
MR. ALDERMAN: Objection. He's not an appraiser.
MR. ZIMMERMAN: He's a citizen.
MR. ALDERMAN: I don't dispute that. He's not an appraiser.
MR. ZIMMERMAN: But he can express an opinion, I would suggest, Mr. Chairman, with respect to his own mobile home.
THE CHAIRMAN: Well, suppose he moves the mobile home out of the park? I'm going to sustain the objection.
MR. ZIMMERMAN: Well, I will make proffer that he would testify, in his view, the presence of RV's does reduce the value of his mobile home.
He has lived there for twenty years, and I don't think he should be given a choice of moving out or having

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a reduction of value.
MR. ALDERMAN: Maybe we can swear Mr. Zimmerman in next time.
MR. ZIMMERMAN: That's my view.
THE CHAIRMAN: So noted.
Q. Mr. Laro, you're here with your wife today?
A. Yes, I am.
Q. Is there anything else you wish to tell the Board that you think is important about your concerns over the RV issue?
A. Well, like I said, the main thing is the safety and the wires and all that on the ground.
And I do feel it depreciates the value of my home. I don't think I would be able to sell my home as easy with one of them sitting right next to it.
MR. ZIMMERMAN: Thank you, Mr. Laro. I have no further questions.
THE CHAIRMAN: Mr. Alderman.
MR. ALDERMAN: Yes, sir. Thank you.
CROSS EXAMINATION
BY MR. ALDERMAN:

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Q. Mr. Laro, good afternoon. Howard Alderman, on behalf of Penwood Mobile Home. Do you ever drink, Mr. Laro?
A Sure.
Q. Do you ever cuss?
A. Sure.
Q. Do you ever carry on?
A. When I was younger, sure.
Q. So those are the same things you complained about of some people who live in RV's, correct?
A. Yes. But I mean, late at night with kids around?
Q. Did you ever call the police?
A. Did I call the police?
Q. About those activities?
A. No.
Q. You indicated -- you recall those photos shown to you, People's Counsel 10A, B and C?
A. Yes.
Q. Do those photos represent fairly and accurately the condition of Penwood Mobile Home Park as it exists today?

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MR. ZIMMERMAN: Objection. They were taken several years ago.
MR. ALDERMAN: That's when they were taken, Mr. Zimmerman. I'm trying to establish whether or not they purport to depict the park as it exists today.
THE CHAIRMAN: I will allow him to answer.
A. No, they are not in there today.
Q So that's what existed at the time when those pictures were taken several years ago, is that fair?
A. That particular one, Yes.
Q. You indicated the one pad -- I believe it was Petitioner's 10C -- used to park on that concrete pad, and you can no longer do that?
A. Yes.
Q. Is that the concrete paid adjacent to the site you lease? Do you lease that pad site?
A. No, I don't lease it, no.
Q. Have you inquired about leasing that pad site for your parking purpose?
A. No. But when I first moved in, we was allowed to park there for eight years. We parked there for eight

years, and nothing was ever said to us.
Q. The propane tank that is pictured in People's Counsel 10A, do you know whose tank that is?
A. No, I do not.
Q. Do you know if it's owned by Penwood?
A. No, I do not know that either.
Q. Have you ever complained to the management about dogs that you considered to be too large?
A. Yes.
Q. You said there were dogs, fifty to sixty pounds?
A. Sure.
Q. You weighed them?
A. No. But I mean, I had a dog that was seventy pounds, so I was comparing it to a dog that I used to have.
Q. Did you have him while at the park?
A. Yes, I did.
Q. You object to propane tanks used by recreational vehicles because they are not enclosed as such or up against the unit, such as in your situation?
A. Right.

Q. What about portable gas tanks, do they have propane tanks?
A. Yes.
Q. Are they required to be kept up against your unit, or can you move them elsewhere on the site?
A. Well, you can move it out to cook with it, but you don't leave it stored out there.
Q. Is there any prohibition in your lease that would prohibit you from obtaining a portable generator to supply electricity to your unit?
MR. ZIMMERMAN: Objection.
THE CHAIRMAN: Overruled.
A. What was the question?
Q. Are you aware of any prohibition in your lease for your site in Penwood that would prohibit your obtaining a portable generator to supply, even on a temporary basis, electricity to your mobile home?
A. Not in my lease, no, I know of, no.
Q. You talked about above ground sewerage and electrical lines, correct?
A. Correct.

Q. Do you know if those lines as located comply with the applicable codes and regulations?
MR. ZIMMERMAN: Objection.
THE CHAIRMAN: Sustained.
Q. Are you aware of anything that would prevent anyone from anchoring an RV to a pad site?
A. Am I --
Q. Are you aware of anything that would prevent anyone from anchoring a recreational vehicle as presently defined by you to a mobile home pad site?
A. No.
Q. You talked about your concern with respect to your grandson.
Do you allow your grandson to play on other leased sites in the Penwood Mobile Home Park?
A. No.
Q. So are the conditions about which you complained on your pad site?
A. Well, you can't -- I mean, you can't have your hands on him all the time.
Q. Okay. And you have lived there how long?

A. I have been in the park twenty years.
Q. I believe you testified that you purchased your unit from Penwood?
A. Well, Chesapeake Mobile Homes, and Gary Newberger.
Q. So you purchased from Chesapeake Mobile Home, not Penwood Mobile Home Park?
A. Correct.
Q. And you've seen as many as twenty-eight mobile homes in the Penwood Mobile Home Park, correct?
A Twenty-six or twenty-eight.
Q. Now, I believe you also testified affirmatively that there have been no recreational vehicles present since, at least, since January, in Penwood?
A. Correct.
Q. Is it true you had your recreational vehicle for sale? I mean your mobile home for sale?
A. Yes, my mobile home is up for sale.
Q. Has it sold?
A. No.
Q. And there have been no recreational vehicles in

the park, correct?
A. No.
MR. ALDERMAN: Mr. Laro, thank you. Nothing further.
REDIRECT EXAMINATION
BY MR. ZIMMERMAN:
Q. With respect to the problem of selling your mobile home, could you tell the Board the reason, as far as you know, that you have been unable to sell your mobile home recently?
A. I was told by --
MR. ALDERMAN: Objection.
Q. It's by Penwood, correct? It's not hearsay, is it, because it's by you. You had conversation with management of Penwood about the sale of your mobile home?
A. No.
Q. Who were the conversations with?
A. A lawyer.
MR. ALDERMAN: I definitely can't allow that.
THE CHAIRMAN: I'll sustain the objection.
Q. Have you listed your mobile home with Multiple

List?
A. Yes, listed it through Caldwell Bankers.
MR. ZIMMERMAN: Thank you. I don't have anything further.
MR. ALDERMAN: Nothing further.
MR. MARKS: Let me get a clarification on something.
There are RV vehicles that are pulled by either a truck or passenger car, and once it's in the park, it becomes detached, and it's permanently on the ground.
I would assume that the occupants of the RV vehicle would have a car or a truck to go back and forth to work and shopping and stuff like that?
THE WITNESS: Right.
MR. MARKS: Are there any recreational vehicles in the park that are self-contained that are actually motorized and drive?
THE WITNESS: Yes.
MR. MARKS: Those types of cars, do people that occupy the space use those big vehicles on a daily basis to come and go, to and from work?

THE WITNESS: No. They tow a car behind them.
MR. MARKS: So those are there, once they're hooked up, they stay there?
THE WITNESS: They stay there, connected.
MR. MARKS: Thank you.
THE CHAIRMAN: Does that raise any questions?
MR. ALDERMAN: No, sir.
THE CHAIRMAN: Thank you, sir.
MR. ZIMMERMAN: I think Mr. Laro has to leave, shortly. May he be excused?
THE CHAIRMAN: As far as I'm concerned.
MR. ALDERMAN: No questions.
MR. ZIMMERMAN: Mr. Karcher.
THOMAS KARCHER,
having been called as a witness, was duly sworn and testified as follows.
DIRECT EXAMINATION
BY MR. ZIMMERMAN:
Q. Please state your full name and address.
A. Thomas Joseph Karcher, 517 Tidewater Lane, Biscayne Bay Mobile Home Park.

Q. Where is that mobile home park in relation to the subject property?
A. It's in the lower end of Middle River, lower end of zip code 21220.
Q. That's several miles away?
A. Yes.
Q. A number of miles?
A. Ten, fifteen.
Q. Have you had some experience with the mobile home industry?
A. Yes, sir, I do. In 1980, we moved into a mobile home park in Harford County. I lived in that for five years, and at that time I performed a lot of maintenance, applied skirting for a Loyd's Mobile Home Park, and then three years ago, purchased another mobile home, and reside now in Biscayne Bay.
And I'm also president of the Baltimore County Mobile Homeowners Association which has thirty-two parks in Baltimore County.
Q. How did you become active in the Mobile Homeowners Association?

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A. Well, a short story, when we moved into the mobile home park I referred to, a couple neighbors, in asking them who runs the association in the park, got a little chuckle out of that, and the answer was there is no association.

So at that point in time, I founded the Biscayne Bay Community Association that is existence now, and doing that investigation brought me across to the Baltimore County Mobile Homeowners Association, and I was elected to the president of that in January 2002.

Q. What are the functions of the association?

A. Basically, to provide knowledge and our experience with mobile home parks as associated with problems associated with management.

Some of our goals is to work along with management, become a team, association, and to treat problems, resolve cosmetically streets, speed bumps, particular problems in parks, and get those resolved as a team effort.

Q. How long have you been president?

A. Since January 2002.

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Q. Before that, were you active in the association?

A. For several years on and off, but not holding any position.

Q. Did you prepare these so-called Rule 8 papers that were submitted to the Board as People's Counsel Exhibit No. 8 to allow you to speak on behalf of the association?

A. Yes, I did.

Q. Are you also speaking on your own behalf?

A. I am actually speaking on behalf of five other mobile homes parks that are present as well as mine.

Q. As well as on your own behalf as a citizen?

A. As well as on my own behalf.

Q. How did it come about that you became concerned about this case?

A. Mr. Laro and his wife came to one of our general meetings that we hold monthly, and it was a lot of other concerns, but the main concern that they had on their agenda at that time was the RV's being pulled in and out of the park.

And as I look back through Maryland State law,

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Real Property 8A, there is nothing in there that says RV's are allowed in mobile home parks.

And that was the reason for calling the county inspector down and getting the citation issued.

Q. Is part of your duties as president to familiarize yourself with Maryland law relating to mobile home parks?

A. As much as my memory told me to do these days, yes.

Q. You're not an attorney?

A. No, sir, not by any means.

Q. What is your occupation?

A. I'm a maintenance planner/scheduler for Constellation Power Source Generation, the old BG&E.

Q. And you heard Mr. Laro's testimony a few minutes ago?

A. Correct.

Q. Without being unduly repetitive, what are your observations with respect to the problems arising from having RV's in mobile home parks?

What would be the greatest, in your view, the

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highest priority problems you would identify?

A. My highest priority for today's knowledge that I have of a mobile home park is my mobile home is a home.

It's a permanent residence on a fixed foundation with footers.

And it's a place I call home 365 days a year. It's my house. It's where I make my residence. It's where my family grows and lives.

It's the community I choose to live in, which is no different than any other housing development, community.

I have all the rights as a resident, just as anybody else does in Baltimore County. And one of our jobs is to perform and make sure those rights are upheld through 8A.

You know, it's also, in my park, it's all pretty much -- we have two phases, an old section that was put back in there in the eighties, and there's no RV's in there, and the new section that I'm in now, which is all double wide, which is all consistent looking.

When you look down the street, you see all the

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mobile homes in line. They're all in proportion off the street. They are in proportion between each other, twenty foot safety factor, ten foot off the main road. They are all the consistency of -- flower and bushes are all mainly the same size.

You know, there is architectural forms and permits that have to be filled out, and the majority of the parks in Baltimore County, in order to put a bush in, a deck, or anything, any architectural difference that you want to add to a mobile home, it has to be approved by the park before any construction can start.

So it keeps the park uniformly and making pretty much the whole park look the same.

I mean, there's different colors and different sizes, that kind of stuff, but it makes it all look the same.

Q. Is there something good about that?

A. It's a community that I would want to live in, and I do live in, because it's a home, it's a community.

It's not people running in and out six months, eight months, two months, whatever. The people that --

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the majority of the people that live in the park that I live in, the majority of the people that live in all the parks are retired citizens, and that's their, more or less -- I hate to say their resting place -- but that's the last home they will probably live in before they --

THE CHAIRMAN: There isn't a cemetery there, is there?

THE WITNESS: Well, some of the residents I visited, they are close to it.

THE CHAIRMAN: You don't have to answer that.

A. But it's almost like a retirement community, yes. And, you know, the elderly people are set in their ways.

They like the quiet and they like the peace of mind, and they like the cleanliness of the parks and how they are run, and they're all one level, so they don't have to deal with stairs.

Q. Have you come to know many of them in your work as president?

A. Yes, sir.

Q. You heard Mr. Laro comment on a number of safety features, and I wonder if you could comment on some or all

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of them.

To go quickly, I'll mention the issues of RV's not being anchored down, RV's having hot water heaters outside, having the exhaust, the generators, the electrical, the sewage, the exterior batteries, can you comment on those safety issues?

A. There's a lot of safety concerns there when you pull an RV into a park that I witnessed for myself in this park.

It's just the uncleanliness of it, the un-uniformity of it, the safety factors of all the electric lines, and everything else. And, also,it's not permanent living.

As a mobile home park, it's supposed to be established as permanent living, but three months, six months -- most of the majority of the residents in a mobile home park, like I referred to before, they are there to stay, and you don't have that.

It's a concern for the elderly. They have their safety concern there, of people coming in and out, people that they don't know, people that not holding a valid

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lease, people that don't have criminal backgrounds done on them.

You know, these are all associated with coming into a mobile home park, getting approved as an application into a mobile home park.

All these backgrounds, credit applications, and everything. The other safety concern is the actual safety for the person, not knowing the caliber of the people that are driving in these RV's.

Q. What about the electrical wire, the generators, the physical things mentioned by Mr. Laro? The exhaust, the batteries?

A. I've observed that, and it's a lot of tripping hazards. It's a lot of uncoded, Baltimore County uncoded approved way of laying electrical and water lines.

When my mobile home was put in, it had to be inspected by the county inspectors as far as the footers being put down, as far as my gas line being pressurized and tested in forty-eight hours, no leakage, you know.

A certified electrician has to do the wiring, and the county inspector comes out and checks that. Also with

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the plumbing. You know, all that has to be stamped by a county inspector before BG&E will come out and put the meter in or the gas service into the home.

Q. When you used the term "uncoded approved" for the RV's, what do you mean by that?

A. As far as my knowledge and concern, there's not a permit requested through the county inspector's office to get these electrical and water lines hooked up, to make sure they are permitted and hooked properly by licensed people, and abide by the county code.

Q. What if the mobile home park owners said, well, it may not be required, or no county official has cited them for any violation, does that alleviate your concern?

A. No, it does not, because -- I'm not sure what section it is -- but in 8A law, it says that any permanent -- you know, any mobile home in a park has to be approved with the codes, and it's in the Baltimore County code that these things have to be inspected.

Q. You mean electrical codes?

Q. Electrical codes, right.

Q. You've mentioned 8A a few times as a short-hand.

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What are you referring to when you talk about 8A?

A. 8A is, from my understanding years ago, it's Maryland State Real Property 8A laws that was put together by owners of mobile home parks.

And it's a documentation that protects the resident, laws that protects the residents, and also the mobile home park owner itself from liability, and all the general statements in there knowing this is how to do things.

Q. That's 8A being the section of the Maryland Real Property law?

A. Yes.

Q. With reference to Mr. Laro's issues concerning -- and I'll just list five of them that may be relevant -- wheels, axles, chassis, turnarounds, steps -- could you add anything or say whether you agree with him or not?

A. When I purchased our mobile home, we were not allowed to go near it, on that site, or even obtain occupancy of that mobile home, not even to walk in the front door to take a sneak preview, until all the final hook-ups, skirting, steps, porches, wooden, the decks and

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everything were constructed, and the manager of the park had walked through, done his walk-through to make sure everything was in safe condition.

Then we were allowed to go in behind them. And that was the only point we were allowed to go in and sign on the lease, when everything was put up to code per his standards and per Baltimore County standards.

Q. How does that compare with an RV?

A. From what I can see, an RV is pulled onto the lot. They might chock the wheels, a temporary electric line, temporary sewage discharge line, temporary water line through a garden hose, on the ground, that lays there unprotected from citizens and children around it, which causes unsafe conditions, tripping hazards, especially at nighttime, and everything else.

Q. With respect to the appearance or aesthetics of qualities of an RV, did you hear some testimony during the petitioner's case about how some RV's are quite expensive and modern vehicles, if I can paraphrase.

Given all that, would you agree with the petitioner, to the extent they are stated or implying RV's

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are pleasing aesthetically as mobile homes?

MR. ALDERMAN: Objection as to the form of the question.

MR. ZIMMERMAN: I will withdraw it and rephrase.

Q. How would you, from your own personal observation, how would you compare the current environment in 2003, the aesthetic qualities of mobile homes versus RV's?

A. Well, aesthetically, it's two different types of vehicles, one in appearance and also in classification.

The Department of Motor Vehicles classifies a recreational vehicle as a Class C, and it has to have tags in order to be transported. And a mobile home has to have a permit, because of its length an width, to be traveling on the road, and once it meets it destination, it becomes a permanent part on that site. And Motor Vehicles classifies a mobile home, I think it's a Class M, and RV's are classed as a G.

So Maryland State government classifies both vehicles as something different. Even though I get a title for my mobile home, they get a title for their

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vehicle, and it's classified as a vehicle, and there's two different classifications.

Q. What about the difference in appearance?

A. The appearance is totally different. Mine, the way I have decorated my steps, you know, I have the decorator stones, my sidewalk, my skirting, my bushes.

You know, I wash my home once a year. You know, all these are contingent in my lease, my site manager comes around once year and does a walk-through on my site and tells me I need to clean up, clean up that, if there's anything, my grass is too high.

I am responsible for the site itself. Even this, I'm renting the site, I'm responsible for this site's appearance, even my home's appearance.

Q. So from your observation, do you see or not see the same kind of attention or appearance with respect to RV's?

A. No, I don't because, you know, my whole bottom of my home is enclosed in skirting. You can't see my wheels. It's all protected from animals, from the human environment.

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You know, I've actually crawled underneath my home several times. There is very little crawl space under there, but to run some wires or something like that.

Mine sits on a stone and on plastic, so there's no growth underneath there. There's no mildew can attract. There is nothing stored under. We are not allowed to store anything under there, especially combustibles. Like gasoline, lawnmowers, everything else, they provide a shed for those things.

Just the unsightly appearance of all the, I guess, amenities that come with an RV are stored outside the RV, and we don't have that situation with a mobile home.

Q. Do you have any concerns with respect to any differences in lease restrictions based on your experience comparing mobile homes with RV's?

A. My understanding is that there are no separate types of leases or rental agreements in Penwood Mobile Home Park from a mobile home versus an RV, and I am told that --

MR. ALDERMAN: Objection.

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THE CHAIRMAN: I'll sustain that objection.

Q. Do you have any information from the Penwood mobile homeowners about their leases?

A. From the management?

Q. From the management of Penwood?

A. No. All I have is the witness that I have seen a rental agreement for the mobile homes, the residents themselves. I have never seen a rental agreement for the RV's.

Q. Actually, at the Zoning Commissioner hearing below, you submitted a Penwood Mobile Home Park rental agreement, did you not?

A. Yes.

MR. ZIMMERMAN: That was marked below as No. 2, Protestant --

MR. ALDERMAN: I never got a copy of it.

MR. ZIMMERMAN: We'll submit as People's Counsel's 11.

Q. Mr. Karcher, if you would identify this as a sample of the agreement that you obtained?

A. Yes.

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Q. Used by Penwood?

A. Yes. The front is an addendum put on in 1998, and the rest of the body is the actual site rental agreement.

Q. Actually, there's a 2002 date, is there not, on the sample?

A. Yes.

Q. Page twenty-one, the last page. You have yet to locate a sample of an RV lease agreement from Penwood?

A. As far as my knowledge, there is none that exist.

Q. Mr. Karcher, there's been some comment in questioning in the petitioner's case concerning a building on Petitioner's Exhibit 1. It's marked Unit 8000, Office. Do you see what I'm pointing to?

A. Yes, sir.

Q. Have you been down to the Penwood site?

A. Recently as last Saturday.

Q. Do you have any observations as to what that building is used for?

A. To my knowledge and from what I could see from personal observation, that is a rental property, two

apartments in there.
Q. Did you take any photographs of that building?
A. Right at the corner of Dogwood, right behind Mr. Laro's property, there's a For Rent sign there, and from the resident in the park, I was told that the rent sign --
MR ALDERMAN: Objection.
THE CHAIRMAN: Sustained.
MR. ZIMMERMAN: I'm going to show Mr. Alderman photographs taken by Mr. Karcher, three photographs.
MR. ALDERMAN: Thank you, Mr. Zimmerman.
MR ZIMMERMAN: We are going to identify these in a moment as People's Counsel 12A, B and c.
Q. Mr. Karcher, did you take these photographs?
A. Yes, I did.
Q. When?
A. Saturday, the 25th, I guess it was. This past Saturday.
Q. Where were you when you took the pictures?
A. Standing in Penwood Mobile Home Park on the corner of Dogwood.
Q. What does the first picture show, People's

Counsel 12A?
A. It shows a For Rent sign.
Q. You have marked it as rental sign for pink building, haven't you?
A. Yes, sir.
MR. ZIMMERMAN: I will show it to the Board.
Q. What is your basis for saying the rent sign relates to the pink building, other than what somebody may have told you?
A. The observation from the pink building from I can see, it looks like a residence because of the condition of the outside and some personal items and all that stuff. It doesn't look anywhere to be an office complex.
Q. You took a picture of that building, did you not?
A. Yes. There's decorations hanging in the doorway. It would tend to me it's a personal decoration.
Q. Is there any sign that says "office"?
A. No, sir.
Q. People's Counsel 12C, what were you looking by that photo?
A. This is according to 8A laws that all mobile

homes have to be off the path of -- off the main road by ten foot, and all these mobile homes are sitting there actually less than four feet off the main street.
Q. Actually, did you listen to the testimony that there are zoning regulations which require greater distances?
A. Yes. Also, I think it specifies they need to be twenty feet apart, the different homes. And measuring, most of them were four to six feet apart.
Q. You heard Mr. Laro's testimony about the neighborhood, did you not?
A. Yes.
Q. What, if anything, would you add by way of highlight about the neighborhood in which the Penwood Mobile Home Park is located?
A. Coming down North Point Boulevard on the left-hand side, right cross almost, directly across from Dogwood Road, the entrance into the park, there's a North Point waterfront park there owned by the county. I guess it's start park.
Q. Would you show the Board where you're talking

about? I'll take People's Counsel 6 back, if I may.
You can come up to the easel, Mr. Karcher, if you just want to show the Board where that waterfront park is that you're referring to. You can stand to the side and use the ruler.
A. Let me get my bearings here. I don't think this map is an overview to show that.
THE CHAIRMAN: What's the relevance of the waterfront park?
MR. ZIMMERMAN: It's the immediate neighborhood.
THE CHAIRMAN: Haven't you pretty well covered the immediate neighborhood?
MR. ZIMMERMAN: I have, unless Mr. Karcher has something to add.
A. Well, just in driving through there, it's all, in my estimate, very nice looking homes, major property valued there because of the North Point Creek.
And bringing RV's into this park would lower the value of the homes.
MR. ALDERMAN: Objection.
THE CHAIRMAN: Sustained.

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MR. ZIMMERMAN: If I may say, the relevance of the surrounding neighborhood is, in our view, is that not only is there a relationship between placing RV's in a mobile home park on the effect of the mobile homes, but also the question of the effect upon the neighborhood.

THE CHAIRMAN: Well, I mean, you've already, I think, covered the neighborhood, single family homes, the recreation and parks.

MR. ZIMMERMAN: I just wanted to see if he had anything to add, but we'll move on.

Q. Mr. Karcher, you heard the testimony this morning or even the stipulation that the Penwood Mobile Home Park does not meet current Baltimore County zoning requirements with respect to distance between homes, with respect to setbacks to the street, and with respect to minimum area of five acres, you heard that, did you not?

A. Yes, I did.

Q. My question is, with respect to the problems you described resulting from the presence of RV's in mobile home parks, generally, are those problems greater or lesser in a park such as this which does not come up to

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the current standard?

MR. ALDERMAN: Objection as to the form of the question.

MR. ZIMMERMAN: I think it's a legitimate question.

THE CHAIRMAN: Well, I'll let him give his opinion.

A. Bringing in RV's into a small mobile home park such as Penwood, or any other mobile homes park, definitely ruins the uniformity, the safety, and everything else of a mobile home park by today's standards.

Especially traveling in other mobile home parks I have visited over my years of experience, there's a lot of small rural, narrow roads that enter these parks, and to travel a forty, fifty-foot, thirty-foot RV down these small county roads, for one, I don't think the roads were made to handle that kind of stuff, that weight, just it's my opinion, and bringing those into the small roads with other vehicles parked on the side, I mean, it's just opening up to a lot of undue accidents, property damage,

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personal damage and personal safety.

Q. What do Dogwood Road and Oak Road look like? Are they four-lane roads? Eight-lane roads?

A. Small, two-lane roads, no curbing, and drainage ditches on each side that are unprotected. They are open drainage ditches.

Q. Do you have any concerns, or what concern, if any, do you have that a ruling in this case, should it allow RV's, will have an impact on other local home parks around the county?

A. There is other mobile home parks that I have visited at the present time that have RV's in them now. And, hopefully, with this ruling, it would limit coming into Penwood, and would also limit all the other RV's in all the other parks, and not be able to zone those mobile homes parks to allow that.

Q. As far as you know, is this the first zoning case in Baltimore County that has given rise to this issue?

A. To my knowledge, yes.

Q. Do you have anything else to add that you would like to tell the Board that you think might be helpful?

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A. I'd just like to reiterate one thing. My mobile home is my home, and it's where I hang my hat, and for a long-term basis, and it's a permanent place that I reside.

It's a community where I live on a permanent basis, and I feel that bringing RV's into parks like this would jeopardize that and jeopoardise a lot of the residents that live there, especially the elderly ones.

MR. ZIMMERMAN: Thank you very much.

THE CHAIRMAN: Let's take five minutes.

(A recess was taken.)

THE CHAIRMAN: Okay. Mr. Zimmerman?

MR. ZIMMERMAN: Mr. Chairman, with the Board's indulgence, I omitted to submit again the exhibit the Board reserved on, the petition against recreational vehicles in Penwood Mobile Home Park.

Q. Mr. Karcher, you prepared this petition, did you not?

A. Yes, sir.

MS. ADAMS: No. 13.

MR. ALDERMAN: I'll object.

THE CHAIRMAN: I think the Board will take it in

its usual manner for what it's worth.

MR. ALDERMAN: That's what number?

MS. ADAMS: Thirteen.

MR. ZIMMERMAN: Thank you. No further questions, Mr. Chairman.

THE CHAIRMAN: MR. ALDERMAN:

CROSS EXAMINATION

BY MR. ALDERMAN:.

Q. Mr. Karcher, good afternoon, again. Howard Alderman, Jr., on behalf of Penwood Mobile Home Park. You're familiar with the relief being sought here today, is that correct?

A. Yes, sir.

Q. And are you familiar with how the property is zoned on which the Penwood Mobile Home Park is located?

A. My understanding of the zoning is from way back prior to 1955. I'm not sure what the actual code is.

Q. Let me show you People's Counsel No. 6, which is still hanging here to my right, your left, in yellow. Do you see the D.R. 5.5 below it?

A. Yes, sir.

Q. You understand that that's the current zoning on the property?

A. Yes, but I don't know what that classification means.

Q. That's fine, but you understand that's the classification?

A. Yes.

Q. Do you understand that none of the relief being sought here today is to change that classification?

We're not seeking to change it to another D.R. zone? We are not asking it be anything other than D.R. 5.5. Are you aware of that?

A. Yes.

Q. Being aware of that, sir, People's Counsel Exhibit 13, the petition you presented individuals, it says that this petition is against the Zoning Case 03-207-SPH which would allow the owners of Penwood Mobile Home Park to change the zoning to allow recreational vehicles in the park. There is no request to change the zoning, by your own admission?

MR. ZIMMERMAN: Objection.

A. But you're asking for a variance.

Q. We are not asking for a variance, Mr. Karcher. There's no variance relief being requested here.

MR. ZIMMERMAN: May I be heard?

THE CHAIRMAN: Hold on.

MR. ZIMMERMAN: I object, because the petition doesn't say that the -- Mr. Karcher's petition doesn't say that Mr. Alderman is trying to change the classification.

All it says, it's trying to change the zoning. In other words, trying to change the law in some fashion to allow something that's not allowed.

THE CHAIRMAN: We'll let it speak for itself.

MR. ALDERMAN: My objection, and since I wasn't given the opportunity to put the objection on the record, as it is with all of these types of petitions, people put things on petitions and go out and explain them when they are patently wrong on the face of them, and the Board lets them in, and, hopefully the Board will assign the weight once it reviews the issues thereon.

MR. ZIMMERMAN: I don't agree, but I won't belabor the point.

MR. ALDERMAN: Thank you, Mr. Zimmerman.

A. Mr. Karcher, you indicated that you're familiar with the neighborhood in which the Penwood Mobile Home Park is located?

A. I have driven through there several occasions.

Q. How many times have you been to the Penwood Mobile Home Park, sir?

A. Four to five.

Q. Do you know if, generally speaking -- you kow what a single family detached home is? A stick built home?

A. Yes.

Q. How many homes of those homes in the general neighborhood have RV's or boats in their yard?

A. I would say maybe between twenty,thirty percent of them, maybe. Only because it's -- those homes are waterfront properties back there.

THE CHAIRMAN: Where is this?

MR. ALDERMAN: In the general neighborhood.

THE CHAIRMAN: Homes other than in the park?

MR. ALDERMAN: Yes, sir.

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Q. Now, you indicated that you know, based on your personal experience, that other mobile home parks in Baltimore County allow RV's in their parks at present, correct?
A. I didn't say they allow them. They're in there.
Q. They don't allow them to be there?
A. They shouldn't be. As far as our standards, they should not be in there, that's correct.
Q. Does the park owner allow those RV's to be in there?
A. Yes. All those associated parks that we are talking about are all owned by Mr. Newberger.
Q. What about the Liberty Mobile Home Park down on Eastern Boulevard, are you familiar with that?
A. I visited this park.
Q. Now, you testified with respect to setbacks from the street of ten feet, I think, as set out in Rule 8A of the Real Property Article?
A. Ten or twelve feet.
Q. You also testified as to the minimum separation set forth in Article 8A of the Real Property Article?

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A. Correct.
Q. Mr. Karcher, I'm going to show you Article 8A and ask you to find any of those standards in Article 8A of the Real Property Article. Either one of them.
MR. ZIMMERMAN: I have an objection to putting a book in front of a witness and asking him to immediately find a section.
THE CHAIRMAN: We're giving him the opportunity to look through there.
MR. ALDERMAN: He testified extensively about what Article 8A states and doesn't state on direct examination, Mr. Zimmerman. I'm just asking --
MR. ZIMMERMAN: Please address the Board, Mr. Alderman.
MR. ALDERMAN: Pardon me. You're right. I apologize.
A. In article 8A, it refers back to a lot of the county code, and I'm looking for that. There is reference in here that it has to go back and meet county standards and county codes.
Q. Mr. Karcher, can we agree that there are no

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distance separation standards specifically set forth in Article 8A?
A. No, I can't agree with that, because I haven't had that much time to review it, and I don't know what all these codes and everything from the county mean. No, I can't agree with that.
Q. Is the distance the same in every jurisdiction in the State of Maryland?
A. In mobile home parks, it should be twenty feet.
Q. Well, I'm going to have to ask you to show me that, Mr. karcher. I'm sorry. I can't find it.
MR ZIMMERMAN: I think he's answered the question to the best of his ability. I don't see where we are going with this.
THE CHAIRMAN: Let --
MR. ALDERMAN: I have the right to impeach a witness if he's giving improper testimony.
THE CHAIRMAN: You do. How long is 8A?
MR. ALDERMAN: I believe it's 8A through sixteen, right?
THE CHAIRMAN: How many pages is it?

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MR. ALDERMAN: Ninety-one to 212.
THE CHAIRMAN: Well, we're not going to sit here and wait for him to go through the whole thing.
MR. ALDERMAN: I'd ask the Board to take judicial notice.
THE CHAIRMAN: We'll take judicial notice.
MR. ALDERMAN: Thank you.
Q. You indicate you live in Biscayne Bay. That's the James Khot?
A. Yes, sir.
Q. When was that approved?
A. The --
Q. When was the mobile home park approved?
A. This was a Phase One approved back, I think -- I'm not quoting on this -- but I think in the early eighties.
And the Phase Two was approved around '98 with accordance with county codes, and because that was county property back there, I don't know what the actual deal was.
Q. How long have you lived there?

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A. Coming up on three years.
Q. You said you did maintenance work for Loyd's Mobile Home Park in Harford County?
A. Yes. Installation of homes, putting the homes on site, blocking them off, skirting them in. And --
Q. I'm sorry. I didn't mean to cut you off.
A. My brother was a subcontractor for Lloyd.
Q. And you're presently the president of the Baltimore County Mobile Homeowners Association, correct?
A. Correct.
Q. How many members are there of your association?
A. At present time, there's about 140 members.
Q. Those members live in how many different trailer parks in Baltimore County?
A. Six.
Q. Which are they, sir?
A. Penwood. Baywood. Bay Front -- I'm not sure what it is -- in Dundalk. Bryerwood. Sleepy Hollow. Mobile Manor.
Q. Do those parks which you just enumerated, do they comprise all the mobile home parks in Baltimore County?

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A. No, sir.
Q. Are there more than those in Baltimore County?
A. There is thirty-two mobile home parks associated in Baltimore County.
Q. And the Baltimore County Mobile Homeowners Association represents six?
A. We represent all of the parks. Those six parks have active members on our board, but our charter represents the whole Baltimore County.
So if anybody in any of those other parks I haven't mentioned would come to us, we would represent them.
Q. You have dues-paying members from all those other parks?
A. Yes, sir.
Q. Am I correct that you and your association are requesting this Board to apply the currently adopted zoning regulations to permit only trailers to be located in mobile home parks as trailers are presently defined?
A. Trailers presently defined as mobile homes?
Q. Yes.

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A. Yes. I use those terms interchangeably, Mr. Karcher, believe me. In other jurisdictions, I refer to them as manufactured homes.
There's no connotation associated with whatever label I put on them.
Are all the mobile home parks in Baltimore County of which you are a aware comprised of five acres of land or more? All thirty-two of them?
A. No.
Q. Have you discussed with the members of your association the potential effect of applying the current zoning regulations on all mobile home parks in Baltimore County, including without limitation the five acre minimum lot size requirement?
MR. ZIMMERMAN: Objection. Calls for a legal conclusion.
MR. ALDERMAN: I asked if he discussed with his association.
MR. ZIMMERMAN: Some may be legitimate nonconforming uses.
THE CHAIRMAN: I will overrule the objection.

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A. It has come up in our general meeting, I don't remember how many times, but that there are very small parks with twenty to thirty homes in them, and from that association, I would say probably maybe some of them are not five acres in size.
Q. You indicated your mobile home park at Biscayne Bay is a permanent residence?
A. Yes.
Q. Can it be moved?
A. Actually, my mobile home cannot be moved. My tires and axles were sold out from underneath me by the owner of the park.
Q. If the axles and tires -- can they be reinstalled, do you know?
A. I would have to purchase new axles and new tires.
Q. Could it then be moved?
A. At an expense of seven or $8000 out of my own pocket, and the condition of my home, probably being that it's only two years old, it might make the trip.
But normally, it's a one-time shot when a mobile home comes on site and stays.

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Q. Does your home bear the steel HUD certification affixed to it -- Housing Urban Development -- indicating it's a certified mobile home?
A. Yes.
Q. Do you know if the HUD certification requirements require that unit continue to be capable of being moved in the future?
A. I'm not aware of that rule at all.
Q. You indicated that living in Biscayne Bay, which you have described as a permanent residence, you have all the rights under Baltimore County the same as non-mobile home residents such as those that live in stick built homes?
A. In referring to that, if I may explain that, that I am a tax paying citizen, and I have the same rights, my civil rights and duties are the same.
Some of the codes and laws and stuff could be different, depending on the zoning, but I am a human being, yes.
Q. And you pay taxes on the site that you lease?
A. Yes, I do.

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Q. You get a separate tax bill?
A. Yes, I do, and that's required by 8A.
Q. Is your site in Biscayne Bay a separately deeded lot, or is it just a leased site? Strike that.
Do you know if Biscayne Bay has been officially subdivided into individual lots?
A. I have no knowledge of that.
Q. Do you know the difference between a mobile home park that has been subdivided into lots versus just identifying areas available for lease for mobile homes?
A. My understanding of that would be if it's subsectioned out in separate lots, then the resident or mobile homeowner can actually purchase that lot.
Q. Are you able to purchase your lot?
A. No, sir.
Q. Are you able to obtain a mortgage on your lot or site?
MR. ZIMMERMAN: Objection. I think we've gotten in an area that's far afield.
MR. ALDERMAN: Mr. Zimmerman, you went so far afield in some of these areas --

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THE CHAIRMAN: Well, if you can't purchase it, how can you get a mortgage on the site?
MR. ALDERMAN: The assignment of the mortgage. I do it in Howard County all the time. It's like ground rent.
I'm asking him if he can obtain a mortgage on it with an assignment of the lease.
THE CHAIRMAN: On his site?
MR. ALDERMAN: On his site, yes, sir. As equivalent to ground rent.
THE CHAIRMAN: You mean a trailer site?
MR. ALDERMAN: Yes.
Q. Can you obtain a mortgage on the site which you lease from Biscayne Bay?
A. I haven't heard --
THE CHAIRMAN: You can answer.
A. What was the question, again?
Q. Can you obtain a mortgage or deed of trust on the site you lease from Biscayne Bay?
A. No.
Q. In your experience as the president of the

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Baltimore County Mobile Homeowners Association, does each individual park, mobile home park, have its own particular rules and regulations applicable to that park?
A. The majority of the parks have lease agreements that are written out from -- most of the wording is the same as written out from 8A, but there are certain amendments and everything to the lease, as what they call park rules.
Q. Do you know if any of the parks in Baltimore County, mobile home parks of which you're familiar, have separately adopted and written rules and regulations applicable to those mobile home parks?
A. Only the classification of the park rules.
Q. And do you know if those park rules are permitted by Section 8A, given your familiarity with it?
A. No. They're more based on the site itself, of the condition or whatever of the park.
It might be no pets. It might be $5 per month rental fee. It might be if you have additional occupancy, thirty day's notice. It's different little rules. Most of those park rules differ from park to park.

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Q. Are they required to adopt the rules and regulations governing that park?
A. Whose --
Q. Is a mobile home park owner required to adopt rules which pertain to the operation of its park? If you know.
A. I don't understand the question.
Q. Let me try again. A mobile home park such as Penwood is owned by an entity, be it an individual or a corporation, correct?
A. Right.
Q. Do you know if there's any requirement upon that entity or individual to adopt rules pertaining to what goes on inside the park which it owns?
A. To my knowledge, the only rules, et cetera, out there, the only rules we have protecting us is 8A.
Q. But the question is, if you know, is a park owner required to adopt rules governing what goes on inside of their park?
A. By Maryland State law? No. It's their own listing of rules, the way I understand.

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Q. Are you familiar with the government regulations and standards pertaining to the construction of manufactured housing or mobile homes?
A. Minimal.
Q. Are you familiar with government regulations and standards for the construction of recreational vehicle as that term is defined in the Baltimore County zoning regulations?
A. Minimal.
Q. How are they different, sir, if you know?
A. From my understanding, the different classification that MVA has put on, one being a Class C and one being a Class M.
Q. Are you familiar with Section 8A, 301 of the Real Property Article that says a park owner shall establish rules related to the order, peace, safety, health and qualification standards for the operation of the park?
A. That's in there. That could be also considered a lease, or rental agreement. That doesn't necessarily mean it have to be park rules.
Q. Does 8A have a separate section on leases as

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well?
A. I'm not sure about that.
Q. You indicated you didn't know the caliber of people that come in in recreational vehicles. Do you recall giving that testimony?
A. I'm not aware of the caliber of people or their background.
Q. But you personally are aware then of the caliber of people and their backgrounds coming in mobile homes?
A. According to my knowledge, the park owners submit credit reports, criminal background, and the past rental or purchasing agreement that they have had, contracts that they have had.
Q. And that's in Biscayne Bay?
A. To my knowledge, that's in the majority of the parks.
Q. Does that policy or that requirement exist in all thirty-two mobile home parks that you've described?
A. I would make the assumption and say yes.
Q. The answer is, do you know or not? I don't want you to assume anything. Tell me whether you know or not.

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MR. ZIMMERMAN: Objection. Argumentative.
THE CHAIRMAN: Overruled. If you know, just tell us. If you don't know, you don't know.
A. To my knowledge, no, I don't.
THE CHAIRMAN: Don't make any assumptions. It's perfectly all right if you don't know something.
MR. ALDERMAN: It's the best answer out there, I don't know.
A. I have to get back to you.
Q. And the check is in the mail. Mr. Karcher, are you familiar with the electrical codes of Baltimore County as they apply to recreational vehicles and how they have to be attached to an electrical supply source?
A. No.
Q. Mr. Karcher, are you aware of the sanitary and potable water supply codes of Baltimore County pertaining to the connection of recreational vehicles as defined in the zoning regulations both as to a sanitary sewer system and a potable water system?
MR. ZIMMERMAN: Objection. Assumes facts not in evidence. The question is a statement in part. It's not

really a question, what do you know about.

THE CHAIRMAN: He's asking if he's aware of those rules. I don't think there is anything wrong with that. I will overrule the objection.

A. No. I'm not up on those codes. But I do know an unsafe condition when I see one, from my thirty years of experience being on the safety board at work.

Q. In your opinion?

A. In my experience.

Q. If you were coming into Baltimore County from out of state, in your experience in other places, or perhaps you've lived here before, could you go into a mobile home park and buy a mobile home in place?

A. Sure. I couldn't do that with an RV.

Q. Well, depending on the terms of the deal that you strike, what assurances do you have that that mobile home in place meets all code requirements that apply to it?

A. It's in the 8A, and also in a lot of leases that I have seen that when there is rules and regulations that an owner or resident has to have his home inspected to make sure it's up to code, present codes and conditions,

and livable and safe conditions and all that stuff before permission of a sale can begin.

Q. That's throughout all the thirty-two mobile home parks, correct?

A. It's state 8A law.

Q. What section is that, sir?

A. I don't know off the top of my head. I don't know all the sections by numbers.

Q. You talked about water lines being garden hoses connected to recreational vehicles. Do you remember that testimony?

A. Yes.

Q. Are all RV's connected by water hoses, or are there other, more what I call rigid or permanent connections available?

A. I guess there could be more rigid, a PVC pipe or something that's a connection, but the ones I witnessed in Penwood were garden hoses.

Q. You indicated that you have a title filed with the Department of Motor Vehicles, correct?

A. Yes, I do.

Q. Motor Vehicle Administration, whatever that place is down there. And would you agree that recreational vehicles, you also have a similar title filed in the same department, although a different class?

A. With a different class, I would agree to that.

Q. Now, you indicated that you don't see the same attention to home maintenance and upkeep of RV's as you see in mobile homes, is that correct?

A. Correct.

Q. What RV's are you referring to when you say that, sir?

A. The ones I witnessed in Penwood.

Q. Is it only Penwood, or any of the other mobile homes?

A. It's the other mobile home parks also. See, when I drive in my mobile home park and I look at my home, it looks like a home.

It looks like a little rancher sitting there, and it looks like a home. It doesn't look like an RV, something that I would hitch to a pickup and drive down the road whenever the time, you know, allowed me to.

I understand that back in the day when trailer parks were established, you know, it was a trailer park. That's how this whole thing in 8A and everything started, how these RV parks, your KOA's and all that stuff in the beginning, and as the years went through, you know, now these are mobile home parks. These are not RV parks anymore. They are not KOA campgrounds.

Q. Now, you've talked about Biscayne Bay and your rancher-type dealing. Do you live in the new section of Biscayne Bay?

A. Yes.

Q. That was approved in 1990,correct?

A. Late nineties, yes.

Q. So the current zoning regulations apply to the operation and design and types of residences that can exist in Biscayne Bay?

MR. ZIMMERMAN: Objection to the extent the question implies that's why they don't in Penwood.

MR. ALDERMAN: I wasn't asking about Penwood. I was merely asking about Biscayne Bay.

THE CHAIRMAN: Overruled.

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A. The question. I'm sorry.
Q. The current zoning regulations apply to what I will refer to as dwelling units that can be established in Biscayne Bay, the section in which you live, is that correct?
A. Yes. And I know all the codes and everything are enforced because inspectors would call on a couple of homes that were being installed, and it wasn't footers put in or tie-downs, and the owner had to pull those back off the lots until the footers met the codes of Baltimore County were met, and they were fined also until the codes were met, and then they were put back on.
Q. That was in Biscayne Bay?
A. Yes.
Q. Are you suggesting or testifying here today that the James Knott Corporation was fined because it didn't have footers under a mobile home?
A. It was my understanding that they were fined by the county.
Q. That would be 1 Mango Trail?
A. No.

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Q. Are you familiar with the property 1 Mango Trail?
A. I am very familiar --
THE CHAIRMAN: What does this have to do with it, Mr. Alderman?
MR. ALDERMAN: I represent the owner of his park. I have been involved in those cases. He's made some statements here --
THE CHAIRMAN: You know, he's not criticizing you.
MR. ALDERMAN. I understand. He's made some statements here that are not correct.
THE WITNESS: I suggest you go to the county code office, inspector's office, and query them.
THE CHAIRMAN: What does this have to do with Penwood Park?
MR. ALDERMAN: He's drawing a corollary between Biscayne Bay and Penwoodk, and how the new standards apply throughout the park. And clearly, at least in terms of 1 Mango Trail, they do not.
MR. ZIMMERMAN: I will object.
MR. ALDERMAN: I'll withdraw it.

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Q. You've talked about the Penwood Mobile Home lease agreement you have seen, correct?
A. Yes.
Q. You said that you've never seen one for recreational vehicles?
A. I've never seen a written agreement for a recreational vehicle in that park, yes, sir.
Q. Is there any reason why that lease agreement couldn't be used to lease to a recreational vehicle? You don't lease a recreational vehicle, you lease a site, correct?
A. Yes, you lease a site.
Q. So it pertains to a lease of the ground, correct?
A. Also what you're putting on that piece of ground.
Q. But there's no reason why that lease agreement for ground couldn't also be used if they were going to lease to a recreational vehicle owner, isn't that correct?
MR. ZIMMERMAN: Objection. That's not the way the exhibit reads.
THE CHAIRMAN: I'm going to overrule it.
A. From my understanding of reading the lease,

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there's a lot of things in this lease that don't associate to an RV, or wouldn't associate to an RV, and there is nothing in this lease that references a recreational vehicle.
Q. You talked about a concern about existing roadways not being equipped to handle the weight and size of RV's, correct?
A. Uh-huh.
Q. Are those roads equipped to handle the weight and size of mobile homes brought into the mobile home park?
A. I would think not.
Q. With respect to the other mobile home parks you testified to of which you are aware RV's do exist, have you, either in your own capacity or as president of the Baltimore County Mobile Homeowners Association, filed a complaint with Baltimore County?
MR. ZIMMERMAN: Objection. Two wrongs don't make a right.
THE CHAIRMAN: Overruled.
A. No, I haven't filed any formal complaint. As a result of this hearing, if this hearing, depending on the

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way it's ruled, there will be other zoning hearings or cases submitted for the other parks that do exist.

Q. Have you, in you individual capacity or in your capacity as president, encouraged any park residents in the park where you have observed RV's, have you encouraged those residents to file a complaint?

MR. ZIMMERMAN: Objection.

THE CHAIRMAN: Overruled. Go ahead.

A. We have talked about that situation in those other parks, and have kind of put a hold on it until the outcome of this, the result of this hearing.

MR. ALDERMAN: Thank you, Mr. Karcher. Nothing further.

MR. ZIMMERMAN: Thank you, Mr. Chairman. Nothing further. Mr. Martin.

VINCENT MARTIN,

having been called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION

BY MR. ZIMMERMAN:

Q. State your full name and address.

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A. Vincent Martin, 77 Vista Mobile Drive, Baltimore, Maryland 21222.

Q. Where do you live?

A. Dundalk Mobile Home Park, or Court.

Q. You own your mobile home?

A. Yes.

Q. How long have you lived there?

A. Five and a half years.

Q. Do you have any experience with respect to the mobile home park industry or the RV industry?

A. The recreational vehicle industry, yes, since 1969. I have been employed in the industry, ran dealerships for Fleetwood Enterprise, the manufacturer also of the home I own.

They have two divisions. They have the RV side and have a manufactured home side. So I am very familiar with them, yes.

Q. Any additional description of the kind of work you've done?

A. Yeah. I've traveled for Fleetwood, go into dealerships and teach them how to set up a dealership, how

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to run it, how maximize the profits for each department, and productivity, et cetera, et cetera. We talk at conventions.

Q. Now, you've heard the testimony of Mr. Laro as well as Mr. Karcher here today?

A. Yes, sir.

Q. Without being repetitious or cumulative, in general, would you concur with their observation as to the problems associated with RV's in mobile home parks?

A. Those problems do exist, and I agree with them. They're talking about cords going across, and you have sewage hoses.

It even goes further. You have sewage problems sometimes. They tear, they rip. They're very thin.

Q. With respect to the RV's?

A. To the sewage, yes, to the RV's. And what I'd like to add, what no one has ever thought about is, I used to travel when I was able to before I became sick, and when I was traveling, I wouldn't want to go into a mobile home park.

I would want to go into an RV park and associate

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with the people that are doing the same thing that I'm doing, that I have some common ground with.

And when you asked the question of these other gentlemen -- I've got to hurry up because I get my hair cut in three minutes. I want to save time. I'm telling you, it's crazy. It's crazy.

Q. What is crazy, Mr. Martin?

A. What was your question? What was the question?

Q. I think the question was, what would you want, based on your experience, what would you want to add or highlight with respect to the problems of having RV's in mobile home parks as described by Mr. Laro and Mr. Karcher?

A. As an RV owner, I want to go into an RV park and associate with other RV people. If I had a mobile home, I want to be in a mobile home park and associate with people that have mobile homes.

There is commonality there. That's what I say. And in the respect of some of the questions that were asked by both attorneys today -- I forgot again what I was going to say. That's why I asked you what the question

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was. You didn't prompt me.
Q. With respect to the aesthetic or safety concerns that Mr. Laro --
A. No It was after that. What I'm trying to say, when you're in that park, you're in there -- okay -- with people that don't have the same ideas, the same lifestyle you have, and it's different.
It's different as an RV owner and a mobile homeowner. And now I'm a mobile homeowner, and I wouldn't want an RV owner next to me for some of the reasons that these people talked about, safety features.
But things just as important to me as an owner of one type of vehicle over another is the people that own them. That would be just as important to me. That's just another way, another wrinkle, to look at.
Q. But you're not criticizing one type of owner or another?
A. No, sir. I sold them both, both of them, and they both have their place.
I'm just saying they both have their place, not at the same place. That's all I'm saying.

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Q. In the same way you wouldn't necessarily put a single family home next to a thirty-story building?
A That's correct. That's a good analogy, yes.
Q. In terms of appearance, is there anything you want to highlight that hasn't been said about the appearance of an RV?
A. The RV's today, some of them are over $200,000, some of them are over half a million dollars, but a lot of the mobiles that you find there, the fifth wheels or travel trailers, you have triple wide, slide-out rooms, my goodness, they're seventy, $80,000, and has no appearance, no same appearance of that mobile home in there.
So, again, you have no commonality as to the look, as to the aesthetics. You see them and you'll have a slide-out here, a slide-out here, and a slid-out there. So, again, you don't have the same look. You don't have the feel of a mobile home park.
When you walk down, you open up a page and read a story to Joey, and you're talking about a mobile home park that his grandparents lived in. You went to visit them. And you turn a page, you see these mobile homes and

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everything, and you get three-quarters through the book, and, Oh, what's that, Joey? That's an RV. What in the world is an RV? I thought we was in a mobile home park. Same principle.
Q. In Dundalk mobile home parks, are there currently any RV's?
A. Not that I know of. I think Isabelle took care of that. I don't know if there are or not.
Q. Are you living there now?
A. Yes.
Q. If a number of RV's suddenly showed up in your park, and you knew they would be allowed to stay there, would you consider moving?
A. No. I have a sick mother that would not allow me. I have more allegiance to my family than that park or that home.
Q. If you didn't have those issues?
A. Yes, I would. I would do all I could to keep is separated for the reasons that I designated earlier, for those reasons, but they both have their place.
Q. What would be the place currently of RV's? Are

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there RV parks?
A. Yes, there are RV parks. KOA. Someone mentioned KOA. That's Campgrounds of American, like 3000 sites throughout the country.
You have a book this thick that tells you where they are and what they have.
Q. Some owners have RV's in the back of their houses?
A. Yes. Some do, yes.
Q. Mr. Martin, is there anything else you want to add?
A. The only thing is, they both have their place. It's a free county. It's a great country. We can do what we want.
And if I wanted to have an RV, I should be able to have it, and I want to be with RV people.
And if I want to live in a mobile home, regardless what the reason is -- mine is being close to mom, to take care of her -- I want to be able to do that.
But there's no place for both of them to be for the reasons I noted.

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MR. ZIMMERMAN: Thank you, sir.

CROSS EXAMINATION

BY MR. ALDERMAN:

Q. Mr. Martin?

A. Yes, sir.

Q. Good afternoon. Howard Alderman, on behalf of Penwood Mobile Home Park.

A. Pleasure.

Q. You work for Fleetwood, right?

A. No. I work for Charlie's Camping Center. I travel for Fleetwood because we did a good job at our dealership, and they always ask me to travel for them.

Q. Are they the Cadillac of the RV industry?

A. Yes.

Q. I thought so. You talk about those RV's having their place. Those are the drinking and cussing and carrying on kind of people that live in RV's?

A. No, sir. If a person wants to drink and cuss, that's their prerogative. I don't engage in that activity.

But they can. No, I'm not referring to that. I

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am referring to the home, sir, not the activity.

Q. Now, your mobile home acts more or less as your primary residence?

A. Yes.

Q. Great word, your primary residence. You talked about your familiarity with RV owners.

Do RV owners with whom you're familiar generally use them for vacation or traveling purposes?

A. There's two groups, and it's -- you're the one or the other. There's no in between. You either use it two weeks a year, or you're in it full-time. There's two classes.

Q. If you're in it two weeks a year, are they the type that would go to the KOA camps that you're talking about?

A. A lot of them do, yes, because they have the directory. If they want to go from Maryland to California, they could plot all the way through and they would use the same system, the reservation system.

Q. And the people that live in them on an annual basis, or each year, do they travel a lot?

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A. Most definitely. They visit their children throughout the country, war buddies, and things of that nature.

Q. Are you aware of any RV owners that use their RV's for a permanent residence in connection with a job that may cause them to be located every six or twelve months?

A. I sold them to people in that category, yes.

Q. You indicated you live in a Dundalk Mobile Home Park. When was that approved?

A. The park approved?

Q. Yes, sir.

A. I don't have the foggiest idea.

MR. ALDERMAN: Mr. Martin, thank you. Nothing further.

MR. ZIMMERMAN: We have one final brief witness.

W I L L I A M C A R T E R,

having been called as a witness, was duly sworn and testified as follows:

THE WITNESS: You have to speak up, because I use hearing aids.

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DIRECT EXAMINATION

BY MR. ZIMMERMAN:

Q. Mr. Carter, what is your full name and address?

A. William Sheckett Carter. My address is 303 Tidewater Lane, Biscayne Bay Village.

Q. You own a mobile home in that park?

A. Yes.

Q. You've listened to the testimony all day today?

A. Yes.

Q. You are retired from United States Navy, Mr. Carter?

A. Yes.

Q. What observations would you like to make? What would you like to tell the Board about the issue of RV's in mobile home parks?

A. Well, I lived in the city many years. In fact, over fifty years. My friend who's here, Joe Swan and his dear wife, lived in Biscayne Village.

I had no idea of moving there, but when I went out to visit him, and I liked what I saw. So my wife Miriam and I made a second visit, and I thought it was

real nice.

You know, I would be able to get a new unit, an excellent location, and I saw that two Navy veterans were on one side and another Navy veteran on the other.

So I thought, Well, this is a nice place to call home. And after I received the papers in which the floor plans were put down, we made some changes on the floor plans, and we moved there in May of 2001.

And I have been very content with it ever since, mainly because of the good neighbors, the location, the beauty of the surroundings, and the fact also that I was on the Board of Directors there with the community association.

We have monthly meetings with Knott management, and things seem to run reasonably well.

I underscore the word "a nice home," and that's what I found it.

Q. What, if anything, about the insertion of recreational vehicles into the community would concern you?

A. I don't know much about recreational vehicles,

other than the fact that it's called recreation.

When my wife and I traveled to Arizona twice in the late eighties and early nineties, we stayed in their -- I think it was a mobile home or recreational vehicle, and it was all right.

You know, over night. You got to make some changes when you get ready for bed, got to make other changes when you get up in the morning to have breakfast.

And for recreational purposes on a temporary basis, it's all right.

Of course, I'm sure the people who live in those vehicles are quite content in their status, but I don't think I would -- what I know about them -- I would consider it on a permanent basis. I think the manufactured mobile home is more of a permanent basis.

Q. Would you like to see a bunch of RV's in your mobile home park?

A. Well, for one thing --

MR. ALDERMAN: objection. Not an issue before this Board.

The testimony was Biscayne Bay was approved

pursuant to the current zoning regulations. There's a material difference. And nothing that this Board would rule in this case would have any impact on whether or not an RV is to be placed in Biscayne Bay.

MR. ZIMMERMAN: I don't agree with Mr. Alderman's point of view.

The reason for the question was to get this witness's observation with the compatibility of RV's and mobile homes.

MR. ALDERMAN: If Mr. Zimmerman can show how under the current regulations that can happen, it's one thing.

But he's asking the witness to opine about an impossibility, or an illegality.

THE CHAIRMAN: I'm going to sustain the objection. We've got the idea.

MR. ZIMMERMAN: I will take the clue, Mr. Chairman. I have no further questions.

CROSS EXAMINATION

BY MR. ALDERMAN:

Q. Mr. Carter, Howard Alderman, on behalf of Penwood

Mobile Home Park. Good afternoon.

A. Hi.

Q. Have you heard the testimony here today of recreational vehicles retailing between 200 and $500,000?

A. I heard that, but --

THE CHAIRMAN: Mr. Alderman, you objected to the recreational vehicle. Why are you asking that now?

MR. ALDERMAN: I objected to the RV in Biscayne Bay. A different issue. I will withdraw the question.

Mr. Carter, thank you for coming out. How's that?

THE CHAIRMAN: Thank you, Mr. Carter. Mr. Zimmerman?

MR. ZIMMERMAN: That's all the witnesses, Mr. Chairman. I want to thank everyone for coming out.

THE CHAIRMAN: Mr. Alderman?

MR. ALDERMAN: Nothing in rebuttal, no, sir.

THE CHAIRMAN: I assume you will want to file briefs?

MR. ZIMMERMAN: I think we have to.

MR. ALDERMAN: On what issue? There's no reason

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for a brief. It's a very narrow issue. Is a recreational vehicle a trailer as defined in 1945 or not? That's the issue.

MR. ZIMMERMAN: That's not a fair statement of the issue. We don't think the RV's are permitted as a matter of law for a number of reasons.

We think the trailer park, based on the evidence, does not comply. There's no evidence it complies with any of the regulations, whether from 1945 or 1955.

We do think the current regulations apply to this park because when you're dealing with trailer parks, you're dealing with occupants who come and go.

We are not dealing with a particular use that has not changed. We have no evidence as to what the use actually was between 1953 and 1955.

The plat that accompanied both the 1953 incorrect petition -- and if we give them the benefit of the 1977 correction -- it does not show a layout of trailers, does not show --

THE CHAIRMAN: Okay.

MR. ALDERMAN: If I may be heard, People's

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Counsel has missed the point here.

MR. ZIMMERMAN: We are going to end up in the Court of Appeals on this case, quite possibly.

MR. ALDERMAN: I'm not sure that was a veiled threat or a direct threat.

MR. ZIMMERMAN: No. I'm not saying --

MR. ALDERMAN: We are not seeking to modify any previous approvals. The approvals are in place, one of which People's Counsel participated in, and didn't take an appeal.

What the issue presented here today is, are recreational vehicles permitted in a trailer camp approved before 1955.

That's the sole issue. There is no other issue presented for a decision by this Board.

The Office of People's Counsel has tried to put the spin on it that it wants to. None of those issues are here.

We're not here to say we're going to modify a previously plan. There was nothing in the petition for that.

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We are here to find out whether or not a recreational vehicle, as presently defined, or that type vehicle, fits what a trailer was in 1945 when the zoning regulations which apply to this park were adopted.

MR. MARKS: Offhand, from what I heard today, I am inclined to agree with Mr. Alderman, but I do have one wish I am very confused on, and I need to tell you what it is.

When I buy a new house in Baltimore County, a fully constructed house, before I can occupy those premises, there has got to be an occupancy permit that basically says I pass plumbing, electricity. Okay?

And my family and I cannot move into that dwelling before that. Can we agree on that?

MR. ALDERMAN: A newly constructed dwelling?

Yes, that's correct.

MR. MARKS: If I were to go and buy a mobile home that's been in the park for several years, it's been occupied maybe one or two times, these folks decide to sell it, are there any regulations in Baltimore County that say that mobile home has got to be inspected, much

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like a new home, the resale of a mobile home.

Are there any regulations in Baltimore County that site specifically that, as opposed to a resale of a townhouse anywhere, which only involves a home inspection if that is opted to buy the purchaser, if I buy retail in Baltimore County, there are no inspections required in Baltimore County.

MR. ALDERMAN: That's correct.

MR. MARKS: If I want to have a home inspection, as a buyer, I can, Blah-Blah-blah, but there's no formal inspection.

My question is, on a resale of a mobile home, are there any inspections required by Baltimore County on that type of thing?

And one other process, as far as hookups are concerned relative to a recreational vehicle, are there any inspections that are on site made by Baltimore County officials relative to those inspections as they apply to the RV's., recreational vehicles?

MR. ALDERMAN: May I take those in order?

MR. MARKS: Yes.

MR. ALDERMAN: Just like when you're buying, be it a townhouse or a single family detached -- what I refer to as a stick built house -- there are no code inspection requirements. You can contract for those rights.

That same posture applies to the resale of trailers existing in mobile home parks.

MR. MARKS: So there are no inspections required as to the resale of a mobile home, if I understand you correctly, on a resale of a mobile home?

It's strictly between the buyer and the seller as to the inspection, and if there are any defects, the buyer objects, the buyer can renounce the contract?

MR. ALDERMAN: Yes, sir.

MR. MARKS: Now, as to hookups on RV vehicles, is there any requirement in Baltimore County that says specifically if I enter into a park such as the one we have here, are there any on-site inspections by a Baltimore County inspector relative to hookups, sewer, water connections required?

MR. ALDERMAN: There are no -- you do not have to call for an inspection, that is correct.

But the connections -- and I'll proffer what Ms. Lyons would tell you -- the connections do have to meet the applicable codes, yes.

But just like when you buy a replacement townhouse, or just like when you purchase a replacement stick built house, absent some contractual right of inspection, you don't have to call Baltimore County to come out and certify that it is connected properly. It's not required.

MR. MARKS: As to RV's, nobody goes out on site and checks the water, the plumbing, the hookups?

MR. ALDERMAN: No, sir.

MR. MARKS: That's strictly the responsibility of the park owner?

MR. ALDERMAN: But, overall, it has to comply with all applicable codes, yes, sir.

MR. MARKS: Who determines that?

MR. ALDERMAN: The applicable code?

MR. MARKS: It is hooked up relative to the code, who determines that that is done properly on RV vehicles?

MR. ALDERMAN: The park owner would oversee the

connection, correct?

MR. ZIMMERMAN: I object. This is Mr. Alderman's comments. This is not evidence. This is a one-sided view.

MR. ALDERMAN: Under the Foxshire case, I will raise my hand and I'll be sworn and I will testify as an expert witness on behalf of my client. How's that, Mr. Zimmerman?

MR. ZIMMERMAN: I don't think that's permissible.

THE CHAIRMAN: Let's put it in briefs. I'm sorry, Mr. Alderman.

MR. ALDERMAN: That's all right. I don't have anything else to do. I'm sure the Board has nothing else to read.

MR. ZIMMERMAN: I have to say I disagree with the implication of Mr. Alderman that this is a sort of a casual narrow case. I think it is a serious case.

THE CHAIRMAN: You can certainly argue that, Mr. Zimmerman. There's no question about that. Nobody is saying we are taking it as a casual case. We are open to hearing all argument.

MR. MARKS: As I read the Board's rules, the Board's rules indicate that any party who desires to file a brief may do so.

And if it your intention to file a brief, you can so state it now, and Mr. Alderman is placed on notice. And if you're going to file a brief, he may not opt to file a brief.

MR. ALDERMAN: If we are going to file briefs, I ask for simultaneous submissions.

MR. MARKS: You're not obligated.

MR. ALDERMAN: I understand.

MR. MARKS: I would like to have my question answered in the form of a brief.

THE CHAIRMAN: How about three weeks? Is that good enough?

MR. ALDERMAN: That will put us right in Thanksgiving.

MR. ZIMMERMAN: Whatever the Board decides.

THE CHAIRMAN: Off the record.

(Discussion held off the record.)

THE CHAIRMAN: Okay. Make it the close of

business on the 18th.

MR. ALDERMAN: Very well.

THE CHAIRMAN: I thank both counsel for their presentation. I thank everyone for appearing here today.

Briefs will be submitted by November 18th. The matter will then be set for public deliberation and the Board will deliberate in public, followed by a written opinion.

Any party having or desiring to appeal that opinion may to so within thirty days in accordance with the Maryland Rules.

There being nothing further, this hearing is adjourned. Thank you very much.

(Hearing concluded.)

* * * * *

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PENWOOD MOBILE HOME PARK, INC.
CASE NO. CBA 03-207-SPH

BALTIMORE COUNTY BOARD OF APPEALS
HEARING DATE: 28 OCTOBER 2003

Petitioner's Exhibit No.	Description	Offered	Accepted
1	Penwood Mobile Home Park Revised Plan, Dated 10/24/02		
2	June 8, 1953 Order in Case No. 2626-S		
3	Copy of Selected Portions of BCZR, dated January 2, 1945		
4	March 7, 1977 Order in Case No. 77-161-SPH		
5 [A-O]	Collection of Photographs of Penwood, Mobile Homes, etc.		
6			

People's Counsel/ Opposition	Description	Offered	Accepted

FILED JUN 18 1954

262-S

PETITION FOR SPECIAL PERMIT

IN THE MATTER OF
THE PETITION OF
RUDOLPH O. KESSLER, Jr. &
JENNIE KESSLER, his wife

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

For a Special Permit

To The Zoning Commissioner of Baltimore County

RUDOLPH O. KESSLER, Jr. & JENNIE KESSLER Legal Owners,

Contract
Purchaser

hereby petition for a Special Permit, Under the Zoning Regulations and Restrictions passed by the County Commissioners of Baltimore County, agreeable to Chapter 677 of the Acts of the General Assembly of Maryland of 1943, for a certain permit and use, as provided under said Regulations and Act, as follows:

A Special Permit to use the land (and improvements now or be erected thereon) hereinafter described for

TRAILER CAMP

FOR DESCRIPTION SEE ATTACHED SHEET

All that parcel of ald in the Fifteenth District of Baltimore County, beginning for the same on the north side of Dogwood Road, beginning 184 feet east of Oak Road thence easterly and bind ng on the north side of Dogwood Road 104.42 feet, thence north 1 degree 33 feet west 417 feet to the south side of Popular Road thence westerly and binding on the south of Popular Rd. 104.42', thence S. 1° 33min. E. 418.16' to place of beginning as shown on plot plan filed with the Zoning Department.

Contract Purchaser

Address

Legal Owner
R.F.D. #10,BOX-265
PENWOOD TERRACE
BALTIMORE 19, MARYLAND
Address

Mr. C. Wm. Hamilton
Towson, Md.

6/29
10 A.M.

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
2

262-S

ORDERED by the Zoning Commissioner of Baltimore County this 5th day of June, 1953, that the subject matter of this petition be advertised in a newspaper of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing thereon be had in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 19th day of June, 1953, at 10:00 o'clock A.M.

Zoning Commissioner
of Baltimore County

Upon hearing on petition for a Special Permit to use the property described therein for the operation of a Trailer Camp, and it appearing that by reason of location, the safety, morals and general welfare of the community not being detrimentally affected and no traffic hazard being created, the said petition should be granted, therefore:

It is this 8th day of July, 1953, ORDERED by the Zoning Commissioner of Baltimore County, that the aforesaid petition for a special permit be and the same is hereby granted for the operation of a Trailer Camp, subject, however, to compliance with the Zoning Regulations and Restrictions governing the operation of Trailer Camps.

Zoning Commissioner
of Baltimore County

20263 ... HERMAN G. KESSLER ET UX ... [illegible] ... [illegible] ... [illegible]

FILED JUN 8 1953 2621-S

PETITION FOR SPECIAL PERMIT

IN THE MATTER OF THE PETITION OF RUDOLPH G. KESSLER, Jr. & JENNIE KESSLER, his wife

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

For a Special Permit

To The Zoning Commissioner of Baltimore County

RUDOLPH G. KESSLER, Jr. & JENNIE KESSLER Legal Owners

NONE Contract Purchaser

hereby petition for a Special Permit, Under the Zoning Regulations and Restrictions passed by the County Commissioners of Baltimore County, agreeable to Chapter 877 of the Acts of the General Assembly of Maryland of 1943, for a certain permit and use, as provided under said Regulations and Act, as follows:

A Special Permit to use the land (and improvements now or be erected thereon) hereinafter described for

TRAILER CAMP

All that parcel of land in the Fifteenth District of Baltimore County, beginning for the same on the north side of Dogwood Road, beginning 184 feet east of Oak Road thence easterly and binding on the north side of Dogwood Road 104.42 feet, thence north 1 degree 33 feet west 417 feet to the south side of Popular Road thence westerly and binding on the south of Popular Rd. 104.42', thence S. 1° 33min. E. 418.16' to place of beginning as shown on plat plan filed with the Zoning Department.

Rudolph G. Kessler

Contract Purchaser

Jennie Kessler

Legal Owner

R.F.D. 1, Box

Phone

ORDERED by the Zoning Commissioner of Baltimore County this 8th day of June, 1953, that the subject matter of this petition be advertised in a newspaper of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing thereon be had in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 29th day of June, 1953, at 10:00 o'clock A.M.

Zoning Commissioner
of Baltimore County

Upon hearing on petition for a Special Permit to use the property described therein for the operation of a Trailer Camp, and it appearing that by reason of location, the safety, morals and general welfare of the community not being detrimentally affected and no traffic hazard being created, the said petition should be granted, therefore it

It is this 8th day of July, 1953, ORDERED by the Zoning Commissioner of Baltimore County, that the aforesaid petition for a special permit be and the same is hereby granted for the operation of a trailer camp, subject, however, to compliance with the Zoning Regulations and Restrictions governing the operation of Trailer Camps.

Zoning Commissioner
of Baltimore County

LOT N° 6
1 ACRE

N

N. 1°- 33' W
418.16'

LOT N° 7

S. 1°- 33' E
417.00'

LOT N° 5

TRUE MERIDIAN
MARYLAND GRID

S 86°- 52' W
104.42'

ROAD

TOWSON PEAKS P.I.

JIM DYER
ZONING OFFICE
111 CHES. AVE
TOWSON 4

Effective Date
Jan 2, 1945

ZONING REGULATIONS AND RESTRICTIONS

FOR

BALTIMORE COUNTY

62/422
4/29
18744 6-2
Plat by Chandler Realty Co
Lot 147
12 EC
Rec'd Dec 6 1945

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PETITIONER'S EXHIBIT
3

Sec 10 A 2

BY THE COUNTY COMMISSIONERS
OF BALTIMORE COUNTY,
under Acts of the General Assembly of Maryland:

Session of 1941, Chapter 247

" " 1943, Chapter 877

" " 1945, Chapter 502

" " 1947, Chapter 915

CHRISTIAN H. KAHL,
President

JOHN R. HAUT

BREMEN A. TRAIL
County Commissioners
of Baltimore County

Codified Sept. 1, 1945 by

CHAS. H. DOING
Zoning Commissioner of Baltimore County.

15. Garage, Private: An accessory building used only for storage of not more than three motor driven vehicles, only one of which may be a commercial vehicle.

16. Garage, Public-Storage: Garage other than a private garage in which the repair facilities are incidental to its primary use for storage.

17. Garage, Public Service: A garage other than a private or public storage garage where motor driven vehicles are stored, equipped for operation, repaired, or kept for remuneration, hire or sale.

18. Height of Building: The vertical distance measured from the average ground level at the front of the building to the highest point of the building.

19. Home Occupation: An occupation in connection with which there is used no display, (other than signs otherwise herein permitted), that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; in connection with which there is kept no stock in trade or commodity sold upon the premises, no person employed other than servants or a member of the immediate family residing on the premises, and no mechanical equipment except such as is used for purely domestic or household purposes.

20. Junk Yard: Any land or area used, in whole or in part, for storage of paper, rags, scrap metal or other junk or for the storage of automobiles not in running condition or for the dismantling of automobiles or other vehicles or machinery.

21. Lot: Land occupied, or to be occupied, by a building and its accessory buildings, together with such open spaces as may be required under these regulations, having its frontage upon a public street.

22. Lot, Corner: A lot fronting on and at the intersection of two or more streets intersecting at an angle or not more than one hundred thirty-five (135)degrees.

23. Lot Lines: Lines bounding a lot. Provided, however, that the lot lines shall conclusively be presumed to be the lines separating the lot from streets and highways.

24. Non-conforming Use: A building or land occupied by a use that does not conform to the provisions of the regulations for the zone in which it is located.

25. Setback: The shortest distance between the building line and the street line or lot line.

26. Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the space between such floor and the ceiling above it, provided that a cellar shall not be considered a story.

27. Structural Alterations: Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

28. Stable, Private: An accessory building used only for the stabling or keeping of horses, and/or other animals, (not more than three in number) for private use only and not for livery or hire.

29. Stable, Public: An accessory building and/or other building, other than a private stable where horses and/or other animals are kept for livery or hire.

30. Tourist Cabin Camp: Any land on which there is located or erected one or more cabins, structures, tents or out-buildings, other than trailer or house car or combined trailer and house car, and other than a dwelling on the same premises, which are used or occupied, whether habitually or infrequently, as a dwelling, lodging or sleeping place by one or more persons, and shall include any structure or building used as a service building for such camp or intended for use as part of the equipment of such camp.

31. Tourist Home: A dwelling used exclusively (other than residence of the family) to provide not more than five rooms for rent to transients.

32. Trailer: A vehicle used, or intended for use as a conveyance upon the public street or highways, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a movable dwelling or sleeping place.

33 Trailer Camp: Any land upon which, habitually or infrequently, one or more trailer or house cars, when detached from its automobile, or means of locomotion, or a combined car and house trailer, are placed or located, and whether or not used for occupancy as dwelling or otherwise, and shall include any structure or building used as a service building for such camp or intended for use as a part of the equipment of such camp.

34 Wayside Stand: A temporary structure including tables, or other method for display and sale of farm products or commodities.

35 Yard. An open space on the same lot asthe building and unoccupied and unobstructed from the ground up (except such accessory buildings, or projections as are expressly permitted in these regulations) and not including a court.

36 Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the foundation wall of the building.

37. Yard, Rear. A yard extending across the full width of the lot measured between the rear lot line and the main building.

38. Yard, Side: A yard extending from the front yard to the rear yard and measured from the side lot line to the building.

39 Zone: An area for which the regulations governing the use of buildings and land are identical

SECTION II—ZONES

For the purposes of these regulations, the County is hereby divided into Seven (7) Zones as follows:

"A" Residence Zone - - - (Cottage)
"B" Residence Zone - (Semi-detached)
"C" Residence Zone - - (Apartment)
"D" Residence Zone - - - (Group)
"E" Commercial Zone.
"F" Light Industrial Zone.
"G" Heavy Industrial Zone.

SECTION III—"A" RESIDENCE ZONE

A Use Regulations. In any "A" Residence Zone, except as hereinafter expressly provided, no building or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Church, parochial school, convent or monastery.

2. Dwelling, single family.

3 Dwelling, two-family.

4 Farming and buildings incidental thereto.

5. Home Occupations, provided that no sign or signs shall be displayed on the lot so used exceeding a total of two square feet in area, not projecting more than one foot beyond the building, and not illuminated.

2. Every part of a required yard or court shall be open and unobstructed from its lowest poi to the sky, except that uncovered porches, fire escapes, open stairways and chimneys may b permitted where same are so placed as not to obstruct light and ventilation.

3. Steps and uninclosed porches may extend beyond the front building line not to exceed nir feet and shall not exceed one story in height.

B. The Zoning Commissioner of Baltimore County and the Board of Zoning Appeals, upon appea shall have and they are hereby given the power to grant exceptions to area, building, location and heigl regulations in cases where strict compliance with the Zoning Regulations heretofore adopted for Ba timore County would result in practical difficulty, or unnecessary or unreasonable hardship. Howeve any such exception or exceptions shall only be granted in strict harmony with the spirit and inter of said regulations, and only in such manner as to grant relief without substantial injury to the publ health, safety, morals and general welfare. Before granting any such exception the Zoning Commi sioner shall require public notice to be given and shall hold a public hearing upon any application fc an exception in the same manner as in the case of a petition for reclassification. Any order grantin an exception shall contain a finding of fact setting forth and specifying the reason or reasons for makin such exception, subject, however, to the right of appeal to the Board of Zoning Appeals as heretofor provided by the Zoning Regulations.

SECTION XI—NON-CONFORMING USES

A lawful non-conforming use existing on the effective date of the adoption of these regulatio may continue, provided, however, upon any change from such non-conforming use to a conformin use, or any attempt to change from such non-conforming use to a different non-conforming use or an discontinuance of such non-conforming use for a period of one year, or in case a non-conforming stru ture shall be damaged by fire or otherwise to extent of seventy-five (75%) per cent of its value, th right to continue to resume such non-conforming use shall terminate, provided, however, that any suc lawful non-conforming use may be extended or enlarged to an extent not more than once again th area of the land used in the original non-conforming use.

SECTION XII—BOUNDARIES OF ZONES

Where uncertainty exists with respect to the boundaries of the various Zones shown on the zo ing maps, the following rules shall apply:

1. Unless otherwise shown on the map, the zone boundaries are either streets or alleys, and whe a boundary line on the map is approximately along a street or alley line, said street or alle shall be construed to be the boundary.

2. Unless otherwise shown on the maps, the zone boundary lines are intended to be record l lines, and where a zone boundary line on the map is approximately along a record lot line, sa record lot line is intended to be the boundary.

3. Whenever a portion of any zone is indicated upon the zoning map as a strip parallelling a pu lic or dedicated street, the width of this strip, unless delineated on said map by lot lines, o otherwise, shall be assumed to be 150 feet measured at right angles from the line of the stre to which it is parallel and adjacent.

SECTION XIII—POWERS RELATIVE TO SPECIAL EXCEPTIONS AND SPECIAL PERMITS

It is hereby determined that the inherent character of the hereinafter mentioned uses require th they be carried on in districts or areas to which they do not conform, or such uses have a peculiar ten ency to impair the health, safety and morals of the public, and such uses may be permitted only upo a special permit granted by the Zoning Commissioner, subject to appeal to the Board of Zonir Appeals:

A. In any residential zone a special permit shall be required for the following particular uses:

1. Amusement Park.

2. Antique Shop (operated as a home occupation).

3. Airport.
4. Commercial chicken raising and housing.
5. Commercial greenhouses.
6. Commercial transmitting or broadcasting station.
7. Country club.
8. Dance pavilion.
9. Dog kennels.
10. Horticultural nursery.
11. Hospital.
12. Private club.
13. Private school.
14. Public swimming pool.
15. Riding Academy.
16. Sanitarium.
17. Storage Yard (contractors).
18. Boat Yard and/or Marine Railway for sale, repair and storage of water craft, not exceeding sixty (60) feet in length on tidal waters.
19. Vegetable packing or canning house.
20. Commercial race track or course for contests or exhibitions of any kind.
21. Storage of dynamite or like explosives in lots not exceeding twenty-five (25) tons.
22. Undertaking business or establishment or funeral home.

Provided, however, that the area of such land so to be used and the setbacks of any buildings or structures shall be subject to approval of the Zoning Commissioner or the Board of Zoning Appeals, upon appeal.

B. In any residential zone a special permit shall be required for the following particular uses:

1. Golf driving course (including miniature golf).
2. Rifle range.
3. Rock quarry.
4. Sand, gravel, iron ore or clay pit.
5. Skeet or trap shooting range.

Provided, however, that any such use, (under this paragraph B) shall be a temporary use of vacant land and shall be subject to such restrictions and safeguards which may be deemed necessary by the Zoning Commissioner, or the Board of Zoning Appeals, upon appeal, to protect the respective properties in the vicinity and any such use shall not impair the use of such properties in accordance with the zone plan embodied in these regulations and the zoning maps in connection therewith.

C. In any residential zone a special permit shall be required for use of land for automobile parking, subject to the following regulations:

(a) Land to be used for any such use must be adjoining or across an alley from a lot in a commercial zone.

(b) Parking must be limited to the use of patrons of the building or enterprise on said lot in the commercial zone.

(c) No charge may be made for parking on said lot.

(d) No vehicles other than passenger cars shall be permitted to use such parking space.

(e) No service of any kind be extended to persons occupying such parked vehicles.

(f) The Zoning Commissioner or Board of Zoning Appeals, upon appeal, shall have the right to impose such conditions, limitations or restrictions as to hours of use, mode of lighting, location and height of screening whether wall, fence or shrubbery for the protection, convenience and quiet of the surrounding and neighboring properties.

D. In any residential zone a special permit shall be required for an accessory building to be built to the height of two stories to provide living quarters for servants employed on the lot, provided, such height and purpose are reasonably necessary for the convenience of the family occupying the main building as a dwelling and will not injuriously affect the adjoining properties.

E. In any commercial zone a special permit shall be required for the following uses and such uses shall be subject to setback and area regulations as hereinbefore set forth for such commercial zone:

1. Commercial killing, dressing or storage of poultry

2. *Gasoline service station.*

F. Any use prohibited in Section IX, entitled "G" Heavy Industrial Zone, may be permitted in such zone under special permit.

G. In any zone a special permit shall be required for a cemetery, graveyard or burial ground and any such use shall be subject to the following regulations:

(a) Such use shall not be located so as to permit the drainage of water therefrom to any reservoir, spring, well or stream used for drinking purposes by humans.

(b) Such use shall not be allowed within 300 feet of any school, hospital, sanatorium or orphanage.

(c) Such use shall not be allowed in any location where there are then residing more than 500 persons within a radius of 300 feet of the outside limits thereof

(d) The Zoning Commissioner or the Board of Zoning Appeals, upon appeal, shall have the right to require such setbacks of any buildings or structures and the setbacks of graves or places of temporary or permanent interment, as may be reasonable and proper, however, in no case shall any setback be more than 300 feet.

(e) The Zoning Commissioner or the Board of Zoning Appeals, upon appeal, shall have the right to designate the portion or portions of the burial area that shall be used or limited for lot or grave monuments; however, no such limited portion shall exceed one-half of the burial area.

(f) The Zoning Commissioner or the Board of Zoning Appeals, upon appeal, shall have the right to require the planting of shrubbery, trees, bushes and plants as may be reasonable and proper to afford adequate screening of such cemetery, graveyard or burial ground.

H. In any zone a special permit shall be required for a cabin camp or trailer camp and any such use shall be subject to the following regulations:

a Area of the lot on which such camp is to be located shall not be less than 20,000 square feet.

(b) An area of not less than 400 square feet shall be allocated to each trailer or house car when parked detached from its automobile (or means of locomotion), but such allocated area shall not be less than 700 square feet for each car and house trailer combined.

(c) Each trailer, house car or car and house trailer combined shall abut or face on a driveway or unobstructed space of not less than 20 feet in width, which space shall have unobstructed access to a public highway.

(d) No cabin, trailer or a service building or structure, used in connection therewith, shall be placed or permitted within 50 feet of the road or street, upon which the lot or area so used for such camp fronts or within 15 feet of any other boundary line of such lot or area.

(e) There shall be a space of not less than 10 feet between each cabin trailer or house car and also a space of not less than 20 feet between any cabin trailer or house car and any service building or structure used in connection with such camp.

(f) No such cabin, camp, trailer camp, nor any service building or structure used in connection herewith shall be established or operated without the approval of and subject to the regulations and requirements of the Baltimore County Health Department.

(g) In granting a special permit for a cabin camp or trailer camp under the preceding paragraphs, the Zoning Commissioner, or the Board of Zoning Appeals, upon appeal, may impose such further conditions as may from time to time be required or deemed advisable by said Zoning Commissioner, or the Board of Zoning Appeals, upon appeal, or required or deemed advisable by the Baltimore County Health Department regarding the cabin camp, trailer camp or service building or structure used in connection therewith, either for the protection of the public or of those occupying such camp or for the protection of surrounding and neighboring properties.

I In any zone, a special permit shall be required for a public utility use or structure (except telephone or telegraph lines, electric light and power lines on public highways or carrying less than 5,000 volts on poles, underground conduits, cables, gas, sewer and water mains or pipes) subject to the following regulations.

(a) The use or structure must be needed for the proper rendition of the public utility's service and the location thereof shall not seriously impair the use of the neighboring properties, in accordance with the Zone Plan embodied in these regulations.

(b) The Zoning Commissioner or Board of Zoning Appeals, upon appeal, shall have the right to impose such conditions, restrictions or regulations as may be deemed advisable for the safety and protection of surrounding and neighboring properties.

(c) In the case of an application for a special permit for the construction of electric light and power transmission lines erected on towers or charged with electricity at 5,000 or more volts, the following principles, standards, rules, conditions and safeguards (in addition to the aforegoing) shall apply:

1. For the purpose only of the control of the location and construction of such electric light and power transmission lines, there is hereby created an additional zone which shall conform to the present boundaries of the Metropolitan District of Baltimore County and shall be known as the Metropolitan Zone. Within the said Metropolitan Zone, electric light and power transmission lines charged with electricity at 5,000 or more volts shall be located under ground in cables or conduits, except within areas which by other regulations are designated as light or heavy industrials zones, and except on public highways.

2. The Zoning Commissioner, or the Board of Zoning Appeals, upon appeal, shall have the power to make special exceptions to the regulations contained in the preceding sub-paragraph (c-1) when convinced by affirmative testimony presented by the applicant that such lines or portions thereof may be carried overhead on towers or poles without impairing the public health, safety or general welfare, and in determining any such special exception, the said Commissioner or Board, on appeal, shall consider and be guided by the factors set forth in sub-paragraph 4 below.

3. The portion or portions of such lines located in all other areas may be permitted to be carried overhead on towers or poles under such conditions, restrictions, regulations and safeguards as the Zoning Commissioner, or Board of Zoning Appeals, upon appeal, may deem advisable for the safety and protection of surrounding and neighboring properties.

4. In the case of an application to increase the voltage carried on a pole line along a public highway, the Zoning Commissioner, or Board of Zoning Appeals, upon appeal, shall permit such increase provided a pole line on such highway was in use prior to this amendment and the increased voltage will not exceed 40,000, and provided, further, that the Zoning Commissioner or Board, upon appeal, shall be satisfied that the dangers and hazards to the public will not be substantially increased thereby.

ZONING REGULATIONS AND RESTRICTIONS FOR BALTIMORE COUNTY

SECTION 1—DEFINITIONS

Words used in the present tense includes the future; words in the singular number include the plural number; the word "shall" is mandatory and not directory.

For the purpose of this Resolution certain terms and words are defined as follows:

1. Accessory Building: A subordinate building, except structures used exclusively for farm operation, located entirely in and not occupying more than 35 per cent of a rear yard and whose use is wholly incidental to that of the main building on the same lot and which does not exceed 15 feet in height above the ground level. On any lot upon which is located a dwelling any building which is incidental to the conducting of any agricultural use on the same lot shall be deemed to be an accessory building. A trailer shall not be considered an accessory building.

2. Advertising structures: Any sign, billboard, surface, object or structure used for advertising purposes.

3. Airport: Any area of land or water designed and set aside for landing or taking-off of aircraft and utilized or to be utilized for such purposes.

4. Alley: A public way less than 30 feet in width and designated as an alley on either an unrecorded or recorded plat or dedicated as such by deed.

5. Apartment House: A detached building used and/or arranged for occupancy as dwellings for three or more families as separate housekeeping units. All such housekeeping units shall have unity in use and be supplied, in common, with heat, sewerage and/or other public convenience or utilities.

6. Basement or Cellar: That portion of a building below the first floor joists the floor of which is more than one-half the clear ceiling height below the adjacent ground.

7. Building: A structure having a roof supported by columns or walls for the shelter, support, or inclosure of persons, animals, or chattels. When any portion thereof is completely separated from all other portions by a division wall from the ground up to the roof and without any door or other openings, such portion shall be deemed a separate building.

8. Building Line: A line beyond which the foundation wall of a building shall not project.

9. Courts: An open, unoccupied space, other than a yard, on the same lot with a building, opening upon a street, alley, yard, lot line or setback, and which is bounded on two or more sides by such building.

10. Depth of Lot: The mean horizontal distance between the front line and the rear lot line.

11. Dwelling, Single Family: A detached dwelling arranged or used for occupancy by one family.

12. Dwelling, Two-Family. A detached dwelling arranged or used for occupany by not more than two families as separate housekeeping units, and with not more than one entrance on any side. Such a dwelling shall have one housekeeping unit over the other.

13. Dwelling, Semi-detached: Two (single or two family) dwelling designed and erected, side by side, as a single detached building and with not more than two entrances on any one side, such (single or two-family) dwellings shall be separated by a solid fire-proof partition wall from foundation to roof.

14. Dwelling, Group House: Not less than three or more than seven (single or two-family) dwellings designed and erected as a single detached building and with not more than one entrance for each (single or two family) dwelling on any one side, such (single or two family) dwellings shall be separated by a solid fireproof partition wall from foundation to roof.

PETITION FOR SPECIAL HEARING

77-161-SPH
(Item No. 108)

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

Rudolph G. Kessler and

Ixxxx we, John J. Szumlanski, 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 and/or Deputy Zoning Commissioner should approve granting of Special Exception for trailer park. Zoning Commissioner by previous Case No. 2626 dated June 3, 1953, approved zoning for trailer park on property adjoining subject site by mistake. It is requested, therefore, that the Zoning Commissioner issue an Order approving trailer park on corrected lot as shown on the enclosed plat.

See attached description

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

ORDER RECEIVED FOR FILING
DATE 11/22/76
BY ADMINISTRATIVE ASSISTANT

Contract Purchaser

Address

Petitioner's Attorney
Robert J. Romadka
Address 809 Eastern Boulevard
Baltimore, Maryland 21221

Rudolph G. Kessler
John J. Szumlanski Legal Owner
Address 7007 River Drive Road
Baltimore, Maryland 21219

Protestant's Attorney

ORDERED By the Zoning Commissioner of Baltimore County, this 30th day of November, 1976, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 28th day of February, 1977, at 11:00 o'clock A. M.

NOV 30 '76 AM
Office of Planning & Zoning
By

Zoning Commissioner of Baltimore County

(over)

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT #4

11:00 A
2/28/77

15th
NE/cor. of Dogwood and Oak Roads
ET AL #77-161-SPH

BALTIMORE COUNTY, MARYLAND

77-161-SPH

INTER-OFFICE CORRESPONDENCE

Pursuant to the advertisement, posting of property, and public hearing on the above Petition and it appearing that by reason of the following finding of facts that in accordance with the power granted unto the the Zoning Commissioner by Section 500.7 of the Baltimore County Zoning Regulations, it is hereby determined that the use as herein requested will not be detrimental to the health, safety, and general welfare of the community and would be within the spirit and intent of said Regulations, and therefore, the Special Hearing to approve the granting of the Special Exception for a Trailer Park, Case No. 2626, dated June 8, 1953, on the corrected lot as shown on the plat should be granted.

ORDER RECEIVED FOR FILING
DATE March 21, 1977
BY ADMINISTRATIVE ASSISTANT

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 21st day of March, 1977, that the herein Petition for the Special Hearing to approve the granting of the Special Exception for a Trailer Park, Case No. 2626, dated June 8, 1953, on the corrected lot, as shown on the plat, should be and the same is GRANTED, from and after the date of this Order.

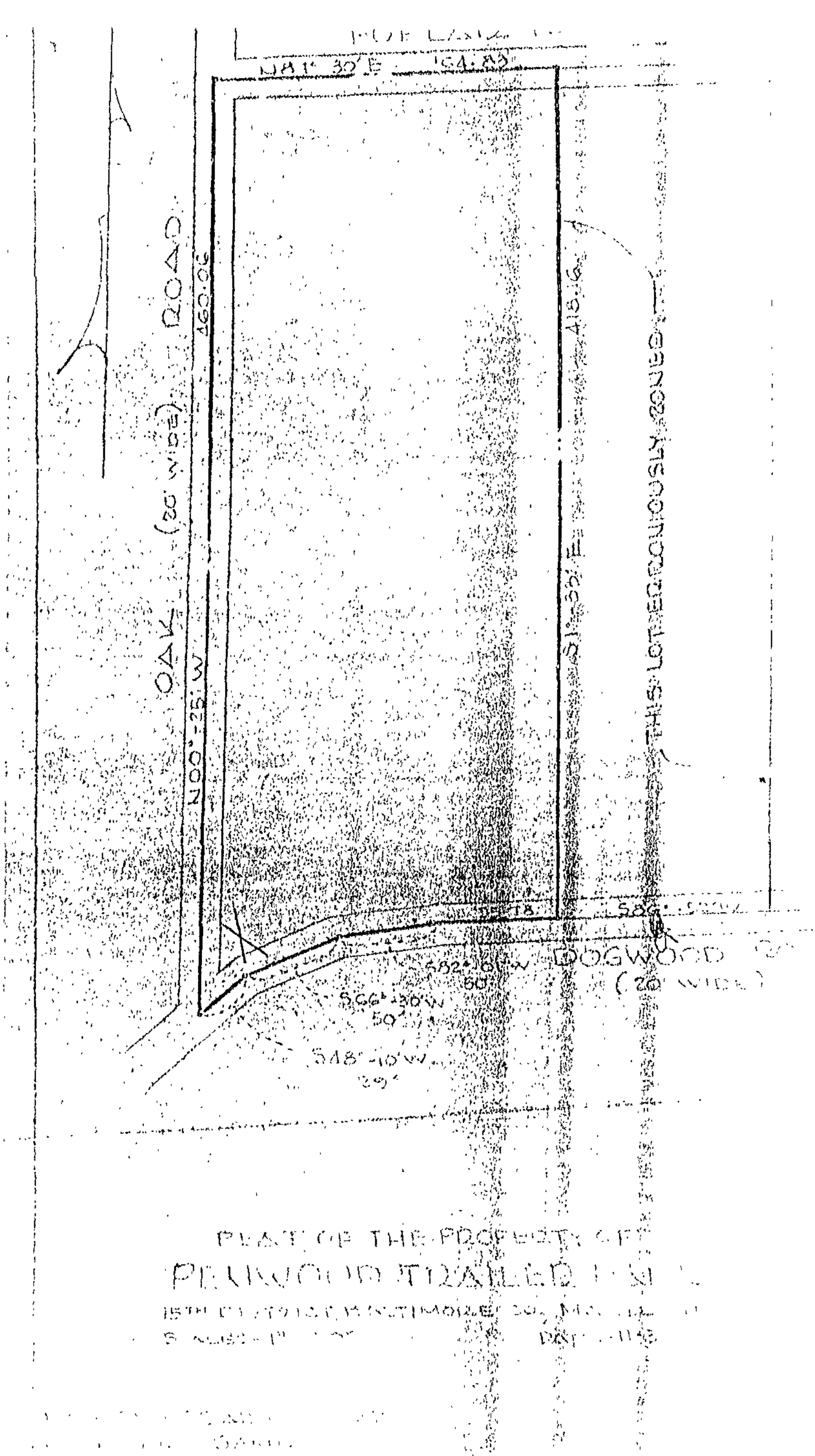
Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

the above Special Hearing should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 196__, that the above Special Hearing be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County


N81° 30' E 164.85'
N00° 25' 30" E 460.04'
(20' WIDE)
DOGWOOD
(20' WIDE)
S66° 30' W
50'
S18° 10' W
20'
S82° 6' W
50'
S86°
PLAT OF THE PROPERTY OF
PERKIOMEN TOWNSHIP

Phone 687-6922

FRANK S. LEE

Registered Land Surveyor

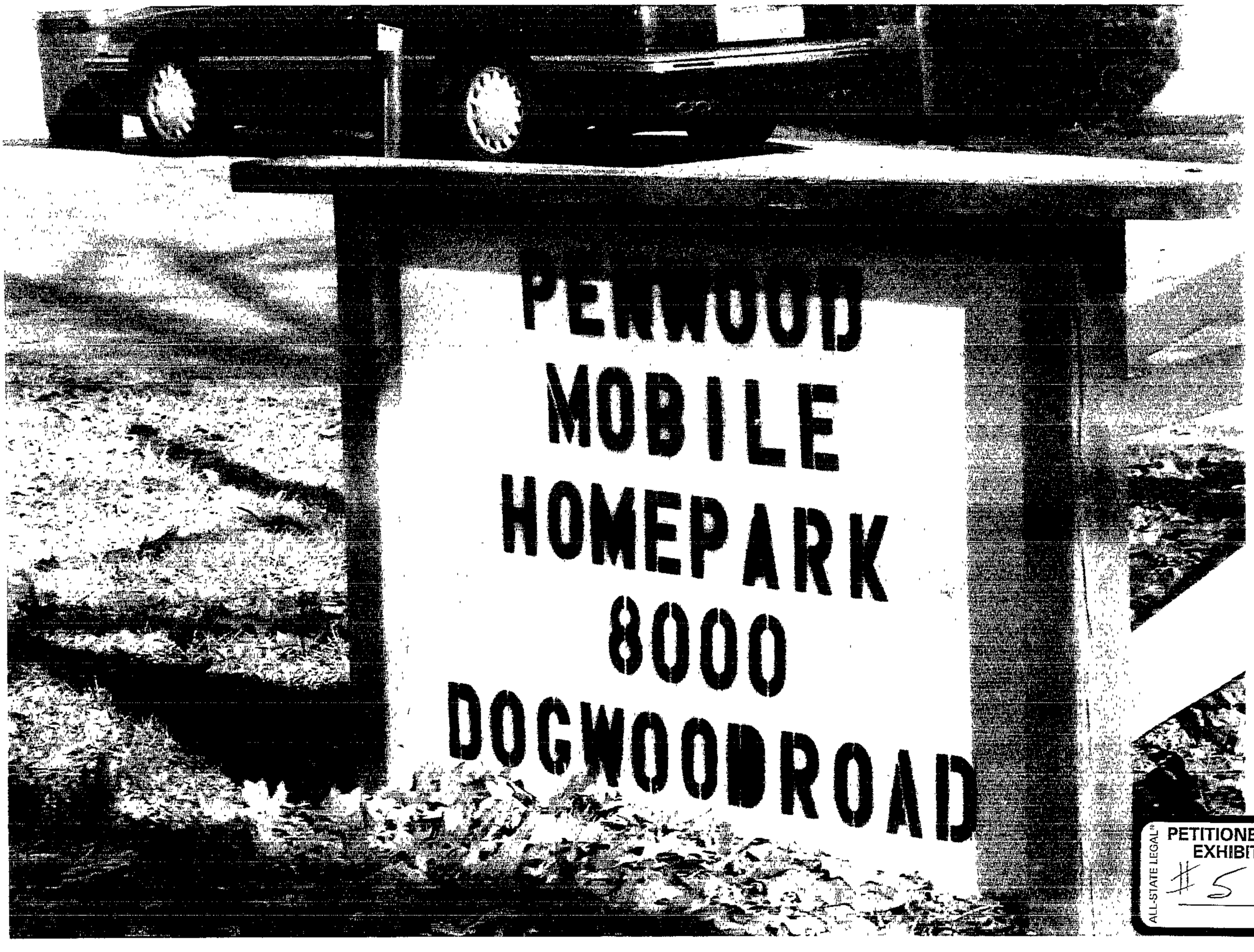
1727 NEIGHBORS AVE -- BALTIMORE, MD. 21237

October 30, 1976

Northeast corner of Dogwood Road and Oak Road.
15th District Baltimore County, Maryland

Beginning for the same at the center line intersection of Dogwood Road (20 feet wide) and Oak Road (20 feet wide) and thence running and binding on the center of Oak Road North 60 degrees 25 minutes East 460.06 feet to the center line of Poplar Road (20 feet wide) thence running and binding on the center line of Oak Road North 87 degrees 30 minutes East 164.83 feet, thence leaving Poplar Road for a line of Division South 1 degree 33 minutes East 418.16 feet to the center line of Dogwood Road, and thence running and binding on the center of Dogwood Road the four following courses and distances viz; (1) South 86 degrees 42 minutes West 55.78 feet, (2) South 82 degrees 01 minute West 50 feet, (3) South 66 degrees 30 minutes West 50 feet, and (4) South 48 degrees 10 minutes West 29 feet to the place of beginning.

Containing 1.66 acres of land more or less.



ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
#5

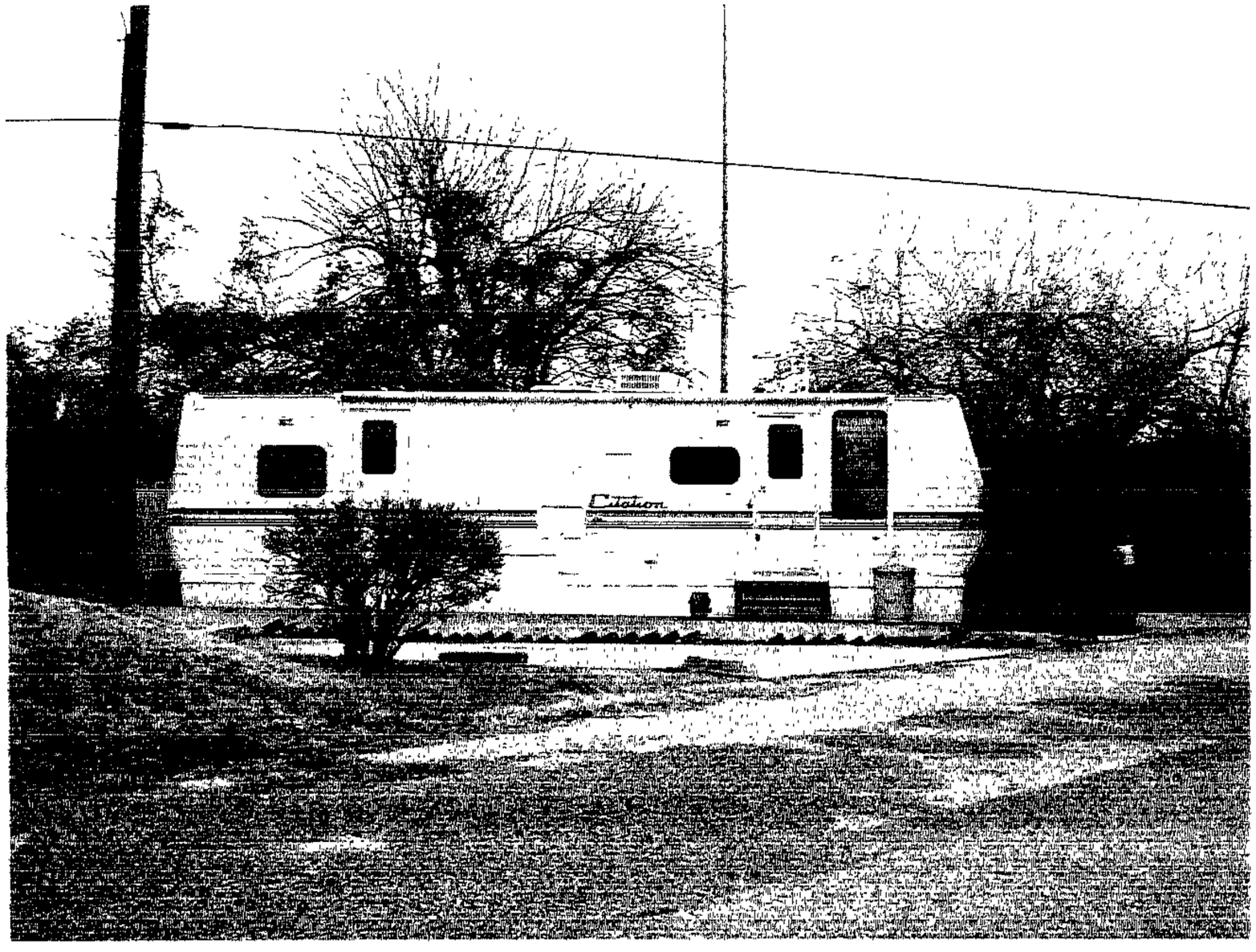
A

B

C

Penwood – Empty Pads

Trailers Used at Penwood & Elsewhere



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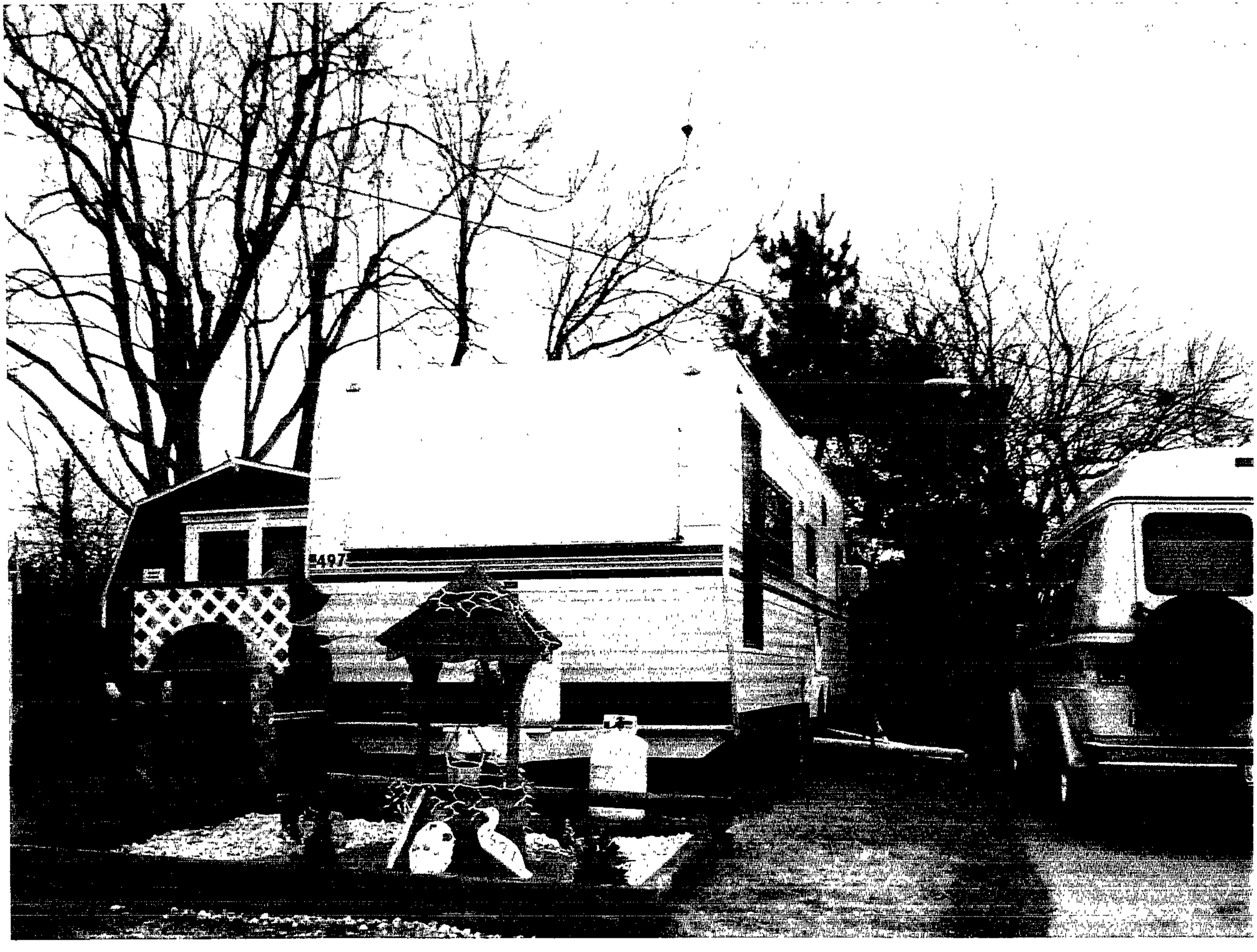

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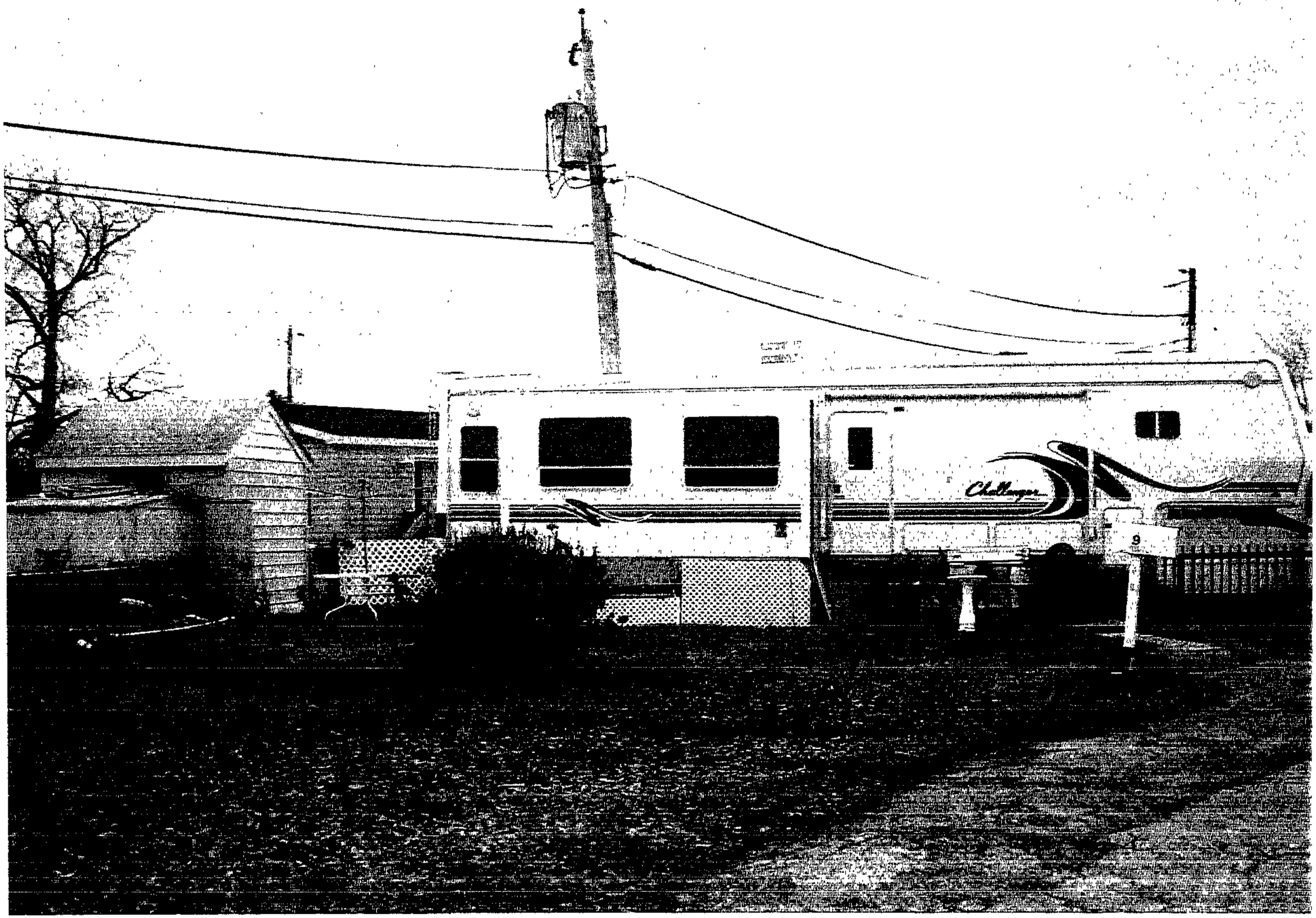

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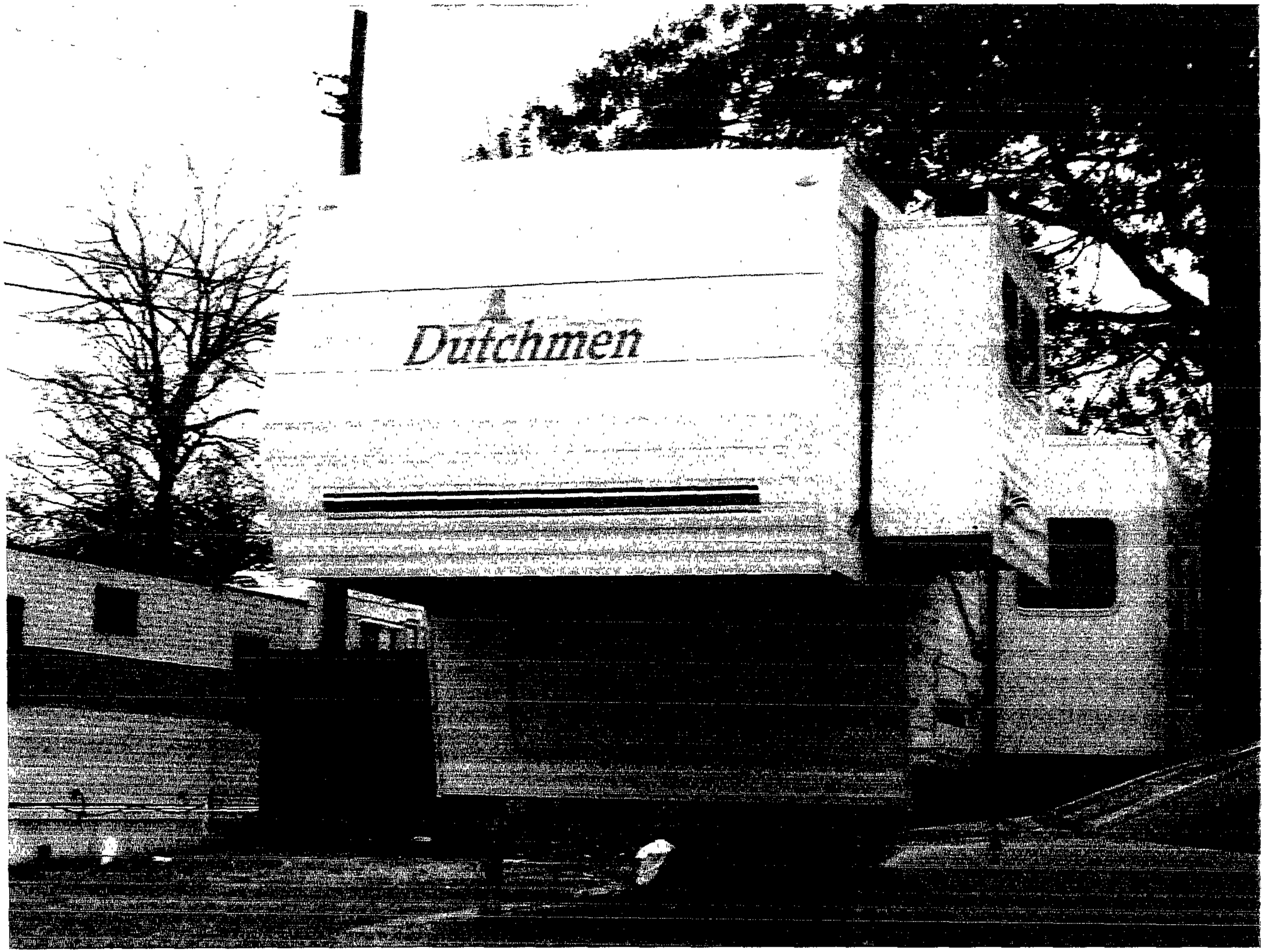

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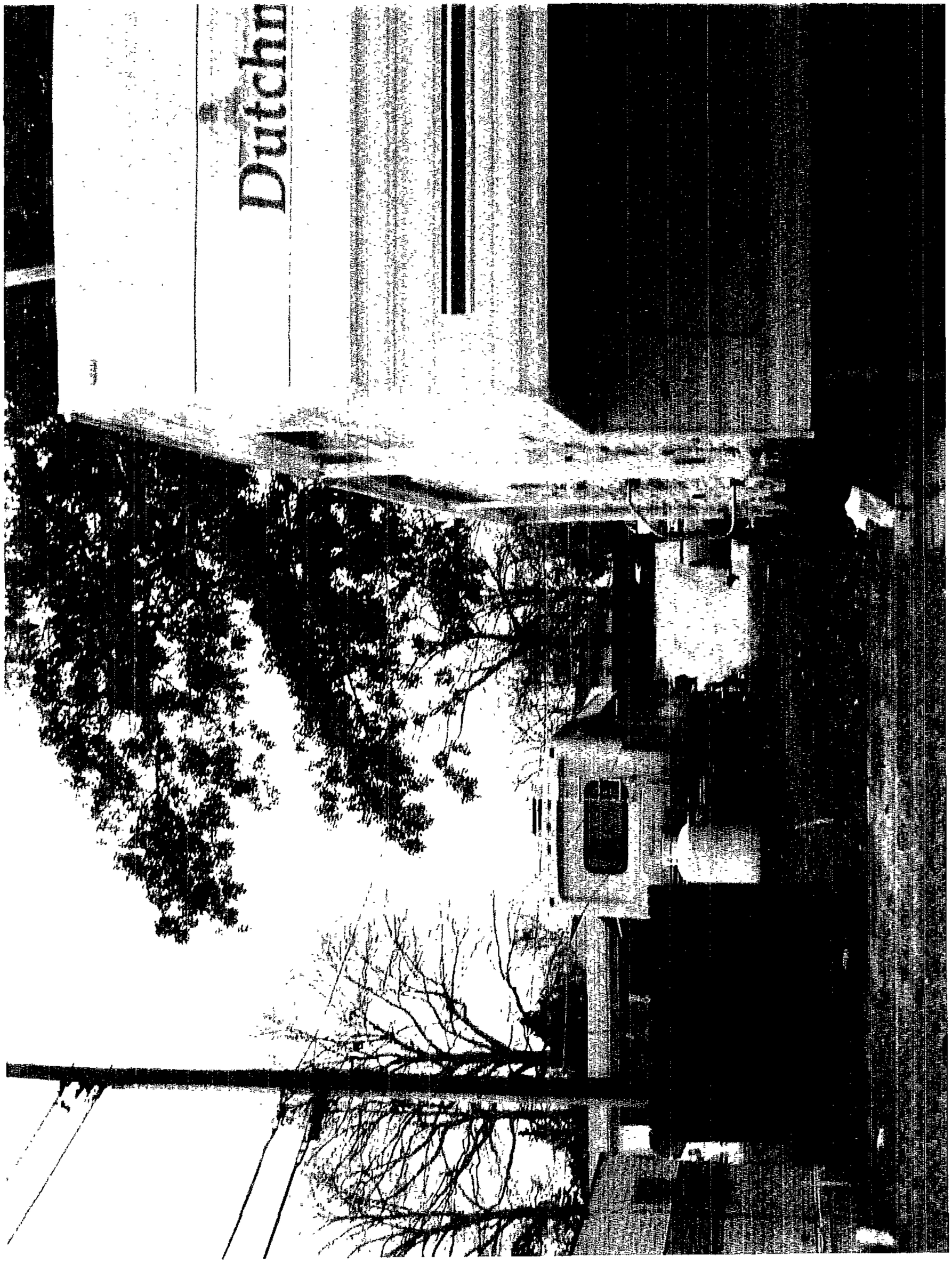

Dutch

Connections to Utilities

K

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 CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
02-3041	21-00 [illegible]	[illegible]

Name(s): [illegible]

Address: 1051 North [illegible] Laurel, MD 20[illegible]

Violation Location: 8400 Dorsey Road

Violation Dates: 5-17-02 to 8-12-02

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

101.1021.1 [illegible] 1115.6, 115.A, Use of [illegible] Vehicles within All Zones Except Properly Zoned for Same (Multiple Vehicles)

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: 80 days x $200 per day — $ 16,000

A [illegible] been pre-scheduled in Room 116, [illegible]ue, Towson, Maryland, for:

Date: 10-8-02

Time: 9:00 AM

Date: 9-4-02

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
#6

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: [illegible]

8-20-02 [illegible]

Date, Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

PETITION FOR SPECIAL HEARING

(Item No. 108)

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:
Rudolph G. Kessler and

I~~xxxx~~ we, John J. Szumlanski 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 and/or Deputy Zoning Commissioner should approve granting of Special Exception for trailer park. Zoning Commissioner, by previous Case No. 2626 dated June 3, 1953, approved zoning for trailer park on property adjoining subject site by mistake. It is requested, therefore, that the Zoning Commissioner issue an Order approving trailer park on corrected lot as shown on the enclosed plat.

See attached description

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

	Rudolph G. Kessler
Contract Purchaser	John J. Szumlanski Legal Owner
Address	Address 7007 River Drive Road Baltimore, Maryland 21219
Petitioner's Attorney Robert J. Romadka	Protestant's Attorney
Address 809 Eastern Boulevard Baltimore, Maryland 21224	

ORDERED By the Zoning Commissioner of Baltimore County, this 30th day of November, 196~~x~~6, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 28th day of February 196~~x~~7, at 11:00 o'clock A. M.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property, and public hearing on the above Petition and it appearing that by reason of the following finding of facts that in accordance with the power granted unto the the Zoning Commissioner by Section 500.7 of the Baltimore County Zoning Regulations, it is hereby determined that the use, as herein requested, will not be detrimental to the health, safety and general welfare of the community and would be within the spirit and intent of said Regulations, and, therefore, the Special Hearing to approve the granting of the Special Exception for a Trailer Park, Case No. 2626, dated June 8, 1953, on the corrected lot, as shown on the plat, should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 7th day of March, 1977, that the herein Petition for the Special Hearing to approve the granting of the Special Exception for a Trailer Park, Case No. 2626, dated June 8, 1953, on the corrected lot, as shown on the plat, should be and the same is GRANTED, from and after the date of this Order.

Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date March 7, 1977
By Helen D. Lasewell
ASSISTANT COUNTY SOLICITOR

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

the above Special Hearing should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____day of_____, 196__, that the above Special Hearing be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

Phone: 687-6922

FRANK S. LEE

Registered Land Surveyor

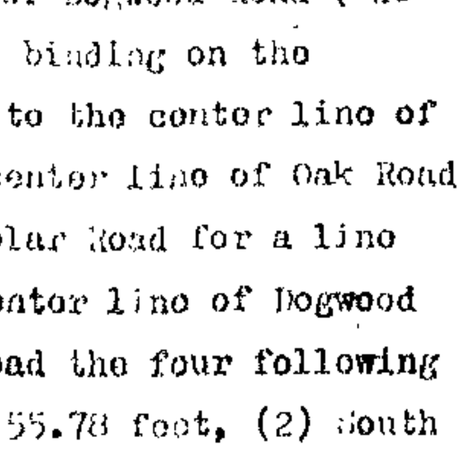
1227 NEIGHBORS AVE - BALTIMORE, MD 21237

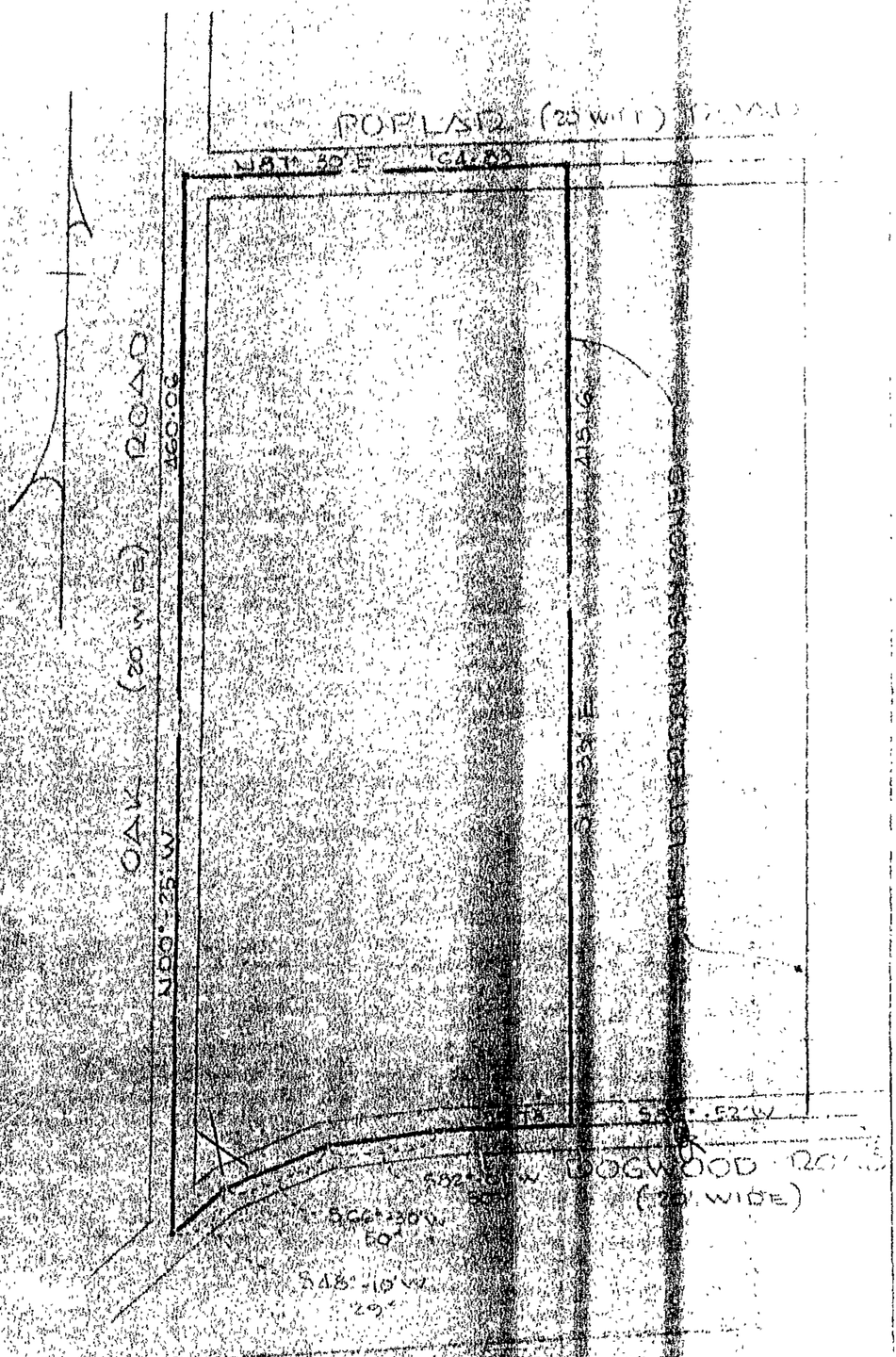
October 30, 1976

Northeast corner of Dogwood Road and Oak Road.
15th District Baltimore County, Maryland

Beginning for the same at the center line intersection of Dogwood Road (20 feet wide) and Oak Road (20 feet wide) and thence running and binding on the center of Oak Road North 00 degrees 25 minutes East 460.06 feet to the center line of Poplar Road (20 feet wide) thence running and binding on the center line of Oak Road North 87 degrees 30 minutes East 164.83 feet, thence leaving Poplar Road for a line of Division South 1 degree 33 minutes East 418.16 feet to the center line of Dogwood Road, and thence running and binding on the center of Dogwood Road the four following courses and distances viz; (1) South 86 degrees 52 minutes West 55.78 feet, (2) South 82 degrees 01 minute West 50 feet, (3) South 66 degrees 30 minutes West 50 feet, and (4) South 48 degrees 10 minutes West 29 feet to the place of beginning.

Containing 1.66 acres of land more or less.





PLAT OF THE PROPERTY OF

PENWOOD TRAILER PARK

18TH DISTRICT, BALTIMORE CO., MARYLAND

SCALE: 1" = 50' DATE: [illegible]

BY USER TO ANNUAL PARK

[illegible] - SAME

[illegible] -0.0 S.S. WITH A [illegible]

Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of
Penwood Mobile Home Park, Inc.
Respondent

Civil Citation No. 02-3814
8000 Dogwood Road

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on 8 October 2002, for a hearing on a citation for violations under the Baltimore County Zoning Regulations for permitting recreational vehicles (mobile homes) in an approved trailer park on property zoned DR5.5 located at 8000 Dogwood Road.

G. Hucik, code enforcement inspector stated that the County received a complaint concerning the use of the property for recreational vehicles in a trailer park. The property was inspected and the inspector found recreational vehicles.

On 20 January 2003, a written correction notice was issued pursuant to §1-7(c), Baltimore County Code, (hereinafter "BCC"), which described with particularity the nature of the violation and the manner of correction. The correction notice was marked in evidence as Plaintiff's Exhibit 1 and was served on the Respondent.

On 20 August 2002, a code enforcement citation was issued pursuant to §1-7(d), BCC. The citation was marked in evidence as Plaintiff's Exhibit 2 and was legally served on the Respondent.

The citation described the violations as follows: Baltimore County Zoning Regulations, §101; 102.1; 1B01.1A; 1B01.1C; 415.6; 415A, use of recreational vehicles for living purposes in a trailer park.

Memo Exh A

Further, the citation proposed a civil penalty of $16,000 to be assessed. A code enforcement hearing date was scheduled for 8 October 2003.

Penwood Mobile Home Park, Inc., Respondent appeared.

Howard L. Alderman, Esquire appeared on behalf of the Respondent.

G. Hucik, code enforcement inspector also testified.

Testimony and evidence presented shows that recreational vehicles were parked on the Respondent's Mobile Home Park. The citation was brought because the definition of trailer in the Baltimore County Zoning Regulations excludes recreational vehicles. The Zoning Commissioner found that providing short term uses of recreational vehicles or mobile homes to be an accessory use to the operation of the mobile homes park. The Zoning Commissioner by Order dated 10 April 2003, in case No. 03-207-SPH granted the Petition for Special Hearing allowing recreational vehicles on the property subject to the restriction that no more than 5 of 27 spaces can be leased for occupancy by recreational vehicles on a short-term basis.

THEREFORE, IT IS ORDERED by the Code Enforcement Hearing Officer, this 24 day of April 2003 that the citation herein, be and the same is dismissed.

Signed: _____
Stanley J. Schapiro
Code Enforcement Hearing Officer

County Council of Baltimore County
Maryland

Legislative Session 1974, Legislative Day No. 5

BILL NO. 29-74

Mr. Wallace A. Williams, Councilman

By the County Council, April 1, 1974.

A BILL

ENTITLED

AN ACT to amend the Baltimore County Zoning Regulations to exempt recreational vehicles from the definition "trailer (or mobile home)", to add the definition of "recreational vehicle" to said regulations and to restrict the storage of same, by adding certain new definitions to said regulations under Section 101 thereof, by adding a sentence to the definition of "trailer (or mobile home)" under said section and by adding new Section 415A to said regulations.

SECTION 1. *Be it enacted by the County Council of Baltimore County, Maryland*, that Section 101 of the Baltimore County Zoning Regulations, be and it is hereby amended by adding the following definition, immediately after the definition of "principal use", to read as follows:

Recreational vehicle: A vehicular type unit which is primarily designed for recreation, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, which is not more than 35 feet in length, and which, in general, is of such size and weight as not to require special highway movement permits when driven, or drawn by a passenger automobile or pick-up truck. The following shall be considered recreational vehicles:

Motorhome: A vehicular unit built on a self-propelled motor vehicle chassis.

MEMO EXH B

Travel Trailer: A vehicular portable unit mounted on wheels, designed to be towed by a passenger automobile or pick-up truck.

Fifth wheel trailer: A vehicular portable unit mounted on wheels, designed and constructed to be towed by a passenger automobile or pick-up truck fitted with a fifth-wheel hitch.

Truck camper: A portable unit designed to be loaded onto, or affixed to, the bed or chassis of a truck or automobile.

Camping Trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold down for towing by another vehicle and unfold at campsite to provide temporary living quarters.

Trailered boat: A recreational boat and trailer in combination normally towed by a vehicle.

SECTION 2. *And be it further enacted*, that the following sentence be and it is hereby added to the definition of "trailer (or mobile home)" under Section 101 of said regulations:

Recreational vehicles, as defined herein, are excepted from this definition.

SECTION 3. *And be it further enacted*, that new Section 415A be and it is hereby added to said regulations, to read as follows:

Section 415A-*RECREATIONAL VEHICLES*

Contrary provisions of these regulations notwithstanding, one recreational vehicle may be stored on a residential lot as set forth below. Such vehicle, except a truck camper, shall have a current license, may not be lived in, or otherwise occupied, when stored on a lot and shall be mechanically ready to be moved at any time. The space occupied by such a vehicle may be counted as a required parking space.

415A1 On a lot occupied by a single-family detached or semi-detached dwelling, one such vehicle may be stored 2½ feet from any rear or side lot line; however, when in a side yard it must be situated at least 8 feet to the rear of a lateral projection of the front foundation line of the dwelling. Such vehicle may be stored in any garage.

415A2 On the lot of any individually owned row or group house, one such vehicle may be stored, provided it is situated entirely in the rear yard, 2½ feet from the side or rear lot lines.

415A3 Such vehicles may be stored on a specially designed parking area of any multi-family rental or condominium. Such

areas must be screened from adjacent off-site residential users, as required by the Zoning Commissioner.

415A4 Exceptions. Where the requirements set forth herein for the storage of recreational vehicles would create an undue hardship, the Zoning Commissioner may approve a modified storage plan upon petition and public hearing thereon.

SECTION 4. *And be it further enacted*, that this Act shall take effect forty-five days after its enactment.

READ AND PASSED this 6th day of May, 1974.

By Order

Herbert E. Hohenberger, Secretary

PRESENTED to the County Executive, for his approval this 7th day of May, 1974.

Herbert E. Hohenberger, Secretary

APPROVED AND ENACTED: May 10, 1974.

Frederick L. Dewberry,

County Executive

I HEREBY CERTIFY THAT BILL NO. 29 IS TRUE AND CORRECT AND WILL TAKE EFFECT ON JUNE 24, 1974.

Harry J. Bartenfelder,

Chairman, County Council

EXPLANATION: *Italics indicate new matter added to existing law.*
[Brackets] indicate matter stricken from existing law.
CAPITALS indicate amendments to bill.
~~Strike-out~~ indicates matter stricken out of bill.

FILE COPY

IN THE MATTER OF THE APPLICATION OF PATRICIA L. SHANEYBROOK AND SUSAN H. BASSO -PETITIONERS FOR SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE W/S BACK RIVER NECK ROAD, 245' N OF C/L LUCIANO DRIVE (720 BACK RIVER NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No 00-139-X

* * * * * * * * * * * * *

RECEIVED
AUG - 7 2001
PEOPLE'S C

OPINION

This matter is before the Board on an appeal of the decision of the Zoning Commissioner for Baltimore County dated May 30, 2000 granting the Petitioners' requested special exception for an adult day care center on the subject property pursuant to § 1A05.2G of the *Baltimore County Zoning Regulations* (BCZR) with conditions. The Protestants, the Back River Neck Peninsula Community Association, Carl Maynard, President, and Leroy Sennott, individually, filed a Notice of Appeal from the Zoning Commissioner's Order on June 29, 2000. The Board conducted hearings on April 3, 2001; April 18, 2001; and May 2, 2001. Briefs were filed in the matter and were due May 10, 2001. The Petitioners were represented by Francis X. Borgerding, Jr., Esquire, and the Protestants were represented by John B. Gontrum, Esquire. Public deliberation was held on May 17, 2001.

The property in question consists of approximately 9.861 acres predominantly zoned R.C. 20 with a small portion of the property zoned D.R. 3.5. There are a number of environmental constraints on the property, including a tidal floodplain, stream, wetlands and forest. Although the parcel is predominantly zoned R.C. 20, many of the adjacent and nearby properties are zoned differently. Specifically, there is a nursery for children located immediately north of the subject

Memo Exh C

site on D.R. 3.5 zoned land and a small strip center immediately south of the property on land zoned B.L.

Petitioners presented Mr. Ertel, the professional engineer with M.J. Consultants, who indicated that he had prepared the site plan for the project. The Petitioners propose to construct a 5,700 square foot one-story building on the R.C. 20 zoned portion of the site for an adult day care center. The building will be constructed nearly 300 feet from the property line. Testimony indicated that the proposed facility will be open as a day care center from 7 a.m. to 7 p.m., five days a week. It is anticipated there will be approximately 8 employees plus the owners, and up to 65 senior clients will be accommodated. There would be no food service preparation on the property, and it was testified that all meals would be catered, using plastic flatware and plates. There will be no overnight accommodations and no requirement to do laundry, although there will be a washer and dryer on the premises in the event that there is a need for washing of any client's clothes during the day. Individuals will be brought to the site in the morning and transported to and from the site by two minibuses which will be parked off the property. Mr. Ertel testified that he did not think that there would be any detrimental impact to the health, safety or general welfare of the locale.

Petitioners contend that, while an adult day care operation is not specifically set forth in § 1A05 of the BCZR, § 1A05.2G of the BCZR allows "other uses substantially similar in character and impact to those uses ordinarily permitted by right or special exception in the zone." Petitioners contend that the use as an adult day care center is similar to the use of a facility as a child day care center. They cite the testimony of Mr. Carl Richards, Zoning Supervisor of the Department of Permits & Development Management, who testified that that was the position of the department based upon the decision of the Deputy Zoning Commissioner in Case No. 89-405-SPHA, a copy of which was introduced into evidence before the Board.

The property is also located within the Chesapeake Bay Critical Area, which places additional restrictions on the Board and the property owners. Section 500.14 of the BCZR states:

Within the Chesapeake Bay Critical Area.

> No decision may be rendered by the Zoning Commissioner on any petition for special exception, variance or special hearing unless the Zoning Commissioner has received from the Director of the Department of Environmental Protection and Resource Management, or his designated representative, written recommendations describing how the proposed request would:
>
> A Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
>
> B. Conserve fish, wildlife and plant habitat; and
>
> C. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The Protestants also cite COMAR regulations 27.01.02.05, the Critical Area Commission guidelines for evaluation of local programs during comprehensive reviews and a letter from John C. North, Chairman of the Chesapeake Bay Critical Area Commission dated April 2, 1993 regarding the approval of a set of guidelines concerning land uses in the resource conservation area. They also submitted a letter from R. Bruce Seeley of the Department of Environmental Protection and Resource Management (DEPRM) to Arnold Jablon, dated November 15, 1999, concerning the subject property in which, among other things, DEPRM recommended denial of the special exception, and stated "if the applicant wishes to pursue the project further, a critical area growth allocation approval will be necessary."

Without going any further into the matter, the Board finds that the written recommendations required from DEPRM in accordance with § 500.14 of the BCZR are lacking in this matter. Therefore, the Board must deny the Petition for Special Exception.

ORDER

THEREFORE, IT IS this 16th day of July, 2001 by the Baltimore County Board of Appeals

ORDERED that the request for special exception for an adult day care center on the subject property is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

Margaret Worrall

C. Lynn Barranger

249 Md. 390

Ernest R. P. SMITH et al.

v.

Charles D. MILLER et al.

No. 160.

Court of Appeals of Maryland.

April 2, 1968.

Zoning case in which parties opposing application appealed from an adverse decision of the Circuit Court, Harford County, Stewart Day, C. J. The Court of Appeals, Singley, J., held that zoning board acted arbitrarily and capriciously in relying on a conditional use provision to permit a sawmill in an agricultural district, which was a use that the zoning ordinance manifestly intended to confine to a general industrial district.

Order reversed.

1. Zoning ⇐231

Provisions of zoning ordinance must be considered as an entirety

2 Zoning ⇐279

Zoning board acted arbitrarily and capriciously in relying on a conditional use provision to permit a sawmill in an agricultural district, which was a use that the zoning ordinance manifestly intended to confine to a general industrial district.

3. Zoning ⇐301

Since principal use should not have been granted by zoning board, granting of accessory uses would also fail.

Cypert O. Whitfill, Bel Air (A. Freeborn Brown and T. Carroll Brown Bel Air, on the brief) for appellants.

J. Wilmer Cronin, Aberdeen, and Stanley Getz, Bel Air, for appellees.

Before HORNEY, MARBURY, McWILLIAMS, FINAN and SINGLEY, JJ.

SINGLEY, Judge.

When the Harford County land use map and zoning ordinance (the Ordinance) became effective on 5 December 1957, the appellee, Charles D. Miller, was operating a sawmill on land owned by Blue Ridge Flooring Company on Hughes Road in the county's fifth election district. As a consequence, the sawmill site was zoned M-2 (general industrial district).

In 1966, Blue Ridge Flooring determined to expand its operations, and gave Miller notice to move. Miller purchased a 33 acre tract of farmland on Smith Road, about 1¼ miles from the Blue Ridge Flooring site and on 14 March 1966 filed with the county's zoning inspector applications to erect a 30 ft. by 88 ft. building on the tract which he had purchased to house the sawmill and other machinery, to build a maintenance shop, to convert the first floor of an existing farm house into office space and to use the second floor as a watchman's apartment. The applications were disapproved on 14 March 1966, because the tract was zoned A-1 (agricultural district). On 16 March 1966 Miller requested that the applications be referred to the county's Board of Appeals (the Board) for consideration as applications for a conditional use under Ordinance § 7.025.[1]

None of the appellants were present at the hearing on 29 April 1966, but 3 days later, the appellant Smith wrote to the Board stating that he and the appellant Clare opposed the applications. On 9 May 1966, the Board directed that a permit for the sawmill and accessory uses be issued to Miller under § 7.025, conditioning the granting of the permit, however, upon an undertaking by Miller that: (1) none of his operations be closer than 300 ft. to Smith Road; (2) a separation of 200 ft. be observed "from any lot in an 'R' District or a lot occupied by a dwelling, school, church, etc."; and (3) "the operation remain substantially in accord with the plans and proposal presented to the Board * * *."

1. § 7.025 Processing of dairy products and farm products, riding stables, kennels for the raising, breeding, and boarding of dogs and other animals, provided that all buildings including runways shall comply with the requirements of subsection 7.011.

On 8 June 1966, Smith and his wife, Clare and 3 other property owners and their wives, residents of the area, appealed from the Board's decision to the Circuit Court for Harford County. At the hearing, the appellees stipulated that one or more of the appellants had the standing required to maintain the appeal. The lower court considered the case on the record made before the Board and on 7 March 1967, affirmed the action of the Board. The present appeal was taken from this order.

The appellees urge us to affirm the lower court (and the Board's issuance of the permit) on the grounds that the action of the Board was neither arbitrary nor capricious, citing City of Baltimore v. Sapero, 230 Md. 291, 186 A.2d 884 (1962); Bosley v. Hospital, 246 Md. 197, 227 A.2d 746 (1967) and that the question before the Board was fairly debatable, citing Agnesiane, Inc. v. Lucas, 247 Md. 612, 233 A.2d 757 (1967).

We take a very different view, however. Kenyon v. Board of Zoning Appeals, 235 Md. 388, 201 A.2d 838 (1964) was an appeal from the same Board and involved the interpretation of the same ordinance. In *Kenyon*, the property owner attempted to extend a non-conforming use by seeking a permit to add 62% of floor area to his place of business. The Ordinance, § 20.462 authorizes the Board to permit an extension of such use not in excess of 35% of existing floor area. Faced with this limitation, the Board authorized the extension on the theory that it was a variance allowed by Ordinance § 20.47. We reversed the lower court and the Board, holding that the Board had acted beyond its power, and that the Board's action, in a legal sense, was arbitrary and capricious.

In the case before us, the Board chose to follow the *Kenyon* route. The Ordinance, § 15.012, includes among uses permitted in an M-2 district, a "Sawmill, the manufacture of excelsior, wood fiber or sawdust products," subject, however, to the proviso that it must not be located less than 300 feet from an R District (residential) or less than 100 feet from any other district except an M-1 District (light industrial). The structure of the Ordinance is the familiar one: the M-2 District, the least restrictive of the ten districts classified by the Act, is the first district in which a sawmill is a permitted use.[2] A sawmill is specifically prohibited in an industrial park district, § 15.611, and prohibited by implication in an M-1 District (light industrial), where uses first permitted in M-2 are excluded by § 14.013.

In an effort to help Mr. Miller relocate his mill, the Board found what it regarded as a solution. § 7.02 of the Ordinance contains a long list of conditional uses, which may be permitted by the Board in an agricultural district by granting a special exception under §§ 4.11 and 20.451 upon a finding by the Board that the use meets specified conditions. Typical of the conditional uses possible in an A-1 District, are sand and gravel pits, contagious disease hospitals; tourist camps, inns,

2 Ordinance § 7.0110 includes among the uses permitted in an A-1 District (agricultural): "Sawmills for cutting timber grown primarily on the premises, provided that any such use shall be located not less than six hundred (600) feet from any dwelling not located on the same premises, school, church, or institution of human care." Neither the Board nor the court felt that Miller's operation came within this provision which, as was explained in argument, was intended to permit a farmer to set up a temporary mill to cut his own timber.

swimming pools, fishing resorts; gun clubs; water tanks; penal institutions; airports; commercial hog and fur farms; garbage disposal. and, in § 7.025, the "Processing of dairy products and farm products, riding stables, kennels * * *." The logic adopted by the Board is simple: timber is a farm product; a sawmill processes it; therefore, Mr. Miller is entitled to build a sawmill in an agricultural district.

The testimony before the Board reveals the character of Mr. Miller's operation: a sawmill with a capacity of from 12,000 to 15,000 board feet a day, or from 3,120,000 to 3,650,000 board feet a year; a barker, to peel the logs; and a chipper to grind up the slabs for wood pulp. This can scarcely be regarded as consistent with the other conditional uses possible under § 7.02. To take any other view would open the county's agricultural district to any industrial development remotely connected with the processing of dairy and farm products without limitation as to size or source of raw material, and would make meaningless the provision of the Ordinance which attempts to confine sawmills, flour and grain mills, grain drying and poultry feed manufacturing, meat packing, pickle, sauerkraut or sausage manufacturing, poultry slaughterhouses and vinegar manufacturing to a general industrial district.

A substantially similar question was considered by this Court in St. Clair v. Colonial Pipeline, 235 Md. 578, 202 A.2d 376 (1964), which also arose under the Ordinance. A products pipe line constructed by Colonial ran through Harford County. Colonial proposed to construct aboveground storage facilities on property in an agricultural district traversed by the line. The pipe line was a permitted use under § 7.0111. Since the storage of petroleum products above ground was a conditional use only in an M-2, or general industrial district, Colonial relied on § 7.027 which permitted "public utility structures and properties" as a conditional use in an agricultural district. The Board accepted this contention and issued the zoning certificate. The Circuit Court for Harford County affirmed the action of the Board. We reversed the order of affirmance. Judge Horney, speaking for this Court, said, 235 Md. at 582–583, 202 A.2d at 379:

> "Here, however, the use of fuel line storage facilities are specifically prohibited as a permissive use in an agricultural district by § 7.0111, supra, and are not permitted in any other zoning district except an M-2 industrial district where above ground storage of petroleum products is allowed by § 15.02, supra, on a restricted conditional basis. The zoning ordinance does not specify the type of buildings classifiable as 'public utility structures,' but whatever the term was intended to embrace, it clearly does not include above ground petroleum storage facilities, and we so hold."

Judge Marbury, speaking for the Court in Kenyon v. Board of Zoning Appeals, supra, after noting that the Board was precluded by the Ordinance from treating the application as a non-conforming use, said, 235 Md. at 394, 201 A.2d at 841:

> "There is a separate section (Section 20.47) which authorizes the Board to grant variances, and upon which the appellee relies. However, we think the Board exceeded its power in authorizing the variance, even though it attached to the variance four conditions which it thought would bring the addition within the standards which are set, found in Section 20.42 of the zoning ordinance, so that it would not adversely affect the public health, safety and welfare. The various powers of the Board enumerated in the ordinance must be read together, and we do not think the Board could do under the variance provision what it manifestly could not do under the non-conforming use section * * *"

[1–3] We regard *Kenyon* as both apposite and controlling. The provisions of the Ordinance must be considered as an entirety, and we do not think the Board could rely on a conditional use provision to permit in an agricultural district a use which the Ordinance manifestly intended to confine to a general industrial district. It follows that the order of the court below affirming the order of the Board must be reversed because the action of the Board was in a legal sense arbitrary and capricious. Kenyon v. Board of Zoning Appeals, supra; Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 323–324, 214 A.2d 146 (1965); Montgomery County v. Merlands Club, 202 Md. 279, 292–293, 96 A.2d 251 (1953); United States ex rel. Bayly v. Reckord, 51 F.Supp. 507, 510 (D.Md.1943). Since the principal use should not have been granted, the granting of the accessory uses must fail also.

Order reversed; costs to be paid by appellee Charles D. Miller.

249 Md. 374

Clara B. GINGELL

v.

BOARD OF COUNTY COMMISSIONERS FOR PRINCE GEORGE'S COUNTY, Md.

No. 146.

Court of Appeals of Maryland.

April 2, 1968.

Proceeding attacking validity of zoning classification placed on part of plaintiff's property. The Circuit Court for Prince George's County, Ralph W. Powers, J., sustained demurrer and dismissed bill of complaint and appeal was taken. The Court of Appeals, Marbury, J., held that, even though property owner failed to avail herself of remedies provided by zoning ordinance, she was entitled to petition zoning authority to have her property reclassified and, in view of her failure to exhaust her administrative remedies, her complaint concerning validity of zoning classification placed on her property was properly dismissed.

Affirmed.

1. Zoning ⇐601

Decision of zoning authority is subject to review of courts which can ultimately rule on constitutionality of action of zoning authority.

2. Administrative Law and Procedure ⇐229

Reasons for requiring exhaustion of administrative remedies before resorting to courts are that it is within expertise of administrative agency involved to hear and consider evidence brought before it and make findings as to propriety of action requested, courts would be performing function that legislature specified be done by administrative agency, courts might be called on to decide issues that would never arise if prescribed administrative remedies were followed and, if statute provides specific form of remedy and specific case, then that remedy must be followed.

3. Administrative Law and Procedure ⇐784

Administrative findings are ordinarily subject to review by the courts.

4. Zoning ⇐562

Even though property owner failed to avail herself of remedies provided by zoning ordinance, she was entitled to petition zoning authority to have her property reclassified and, in view of her failure to exhaust her administrative remedies, her complaint concerning validity of zoning classification placed on her property was properly dismissed. Code 1957, art. 31A, §§ 1 et seq., 6.

John A. Buchanan, Hyattsville (W. Carroll Beatty, David A. McNamee, C. L. Fossett, Jr., Hyattsville, on the brief) for appellant.

IN THE MATTER OF THE APPLICATION OF PERFORMANCE PROPERTIES, LLC FOR SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE W/S BELAIR ROAD, SOUTH OF SOTH AVENUE (9120-9124 BELAIR ROAD) 11th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 02-552-X

* * * * * * * * *

OPINION

This matter is before the Board on an appeal by the People's Counsel for Baltimore County from the decision of the Deputy Zoning Commissioner granting a Petition for Special Exception filed by the Petitioner for property located at 9120-9124 Belair Road. The special exception request was to construct a Class B office building on Lot #2 as shown on the site plan, which was principally located behind 9120 Belair Road.

A hearing was held before the Board on May 14, 2003. Petitioner was represented by Mauricio E. Barreiro, Esquire. People's Counsel was represented by Carole S. Demilio, Deputy People's Counsel. Memoranda were filed with the Board on June 16, 2003, and a public deliberation was held on July 2, 2003.

Background

Petitioner, Performance Properties, LLC, a Maryland builder /contractor, purchased contiguous properties, 9120 and 9124 Belair Road, in 2001. Both lots were improved with a dwelling. The lot known as 9120 Belair Road consists of .714 acre, split-zoned Residential Office (R.O.) and Density Residential 5.5 (D.R. 5.5). The R.O. zone exists on the portion fronting along Belair Road and the D.R. 5.5 zone exists on the triangular-shaped portion to the rear of 9120 Belair Road. The lot known as 9124 Belair Road consists of .287 acre zoned R.O.

Petitioner renovated the principal structures on both lots for non-residential use. Each converted dwelling is a Class A office building. Both buildings are fully leased, and Petitioner maintains its offices at the 9124 Belair Road location.

Memo Exh E

After the purchase and renovation was complete, Petitioner submitted a Plan for a minor subdivision through the Development Review Commission (DRC). The DRC approved the minor subdivision, but did not approve the special exception as contended in the Petitioner's Brief. The second lot to the rear of 9120 consists of .418 acre split zoned R.O. and D.R. 5.5. It does not front on Belair Road but shares a driveway with the front lot access to Belair Road. Portions of land from 9120 and 9124 Belair Road were utilized for the purpose of constructing a driveway to access the property behind 9120 Belair Road. The new property is to be known as 9122 Belair Road.

Evidence Presented at the Hearing

Dan Wooden, one of the owners of Performance Properties, LLC, described how Petitioner upgraded the two buildings located at 9120-9124 Belair Road. He explained that he had contracted with a buyer, Mr. Jeff Markiewicz, to purchase the lot known as 9122 Belair Road, and presented plans for the Class B office building which was to be constructed on the lot.

Mr. Wooden also testified that the current tenants at 9120 were a carpet company and a candle company on the first floor, and an attorney's office on the second floor. He indicated that he owned an insurance company which was located on the first floor of 9124 and that his attorney, Mr. Barreiro, had an office located on the second floor. There was also an American Lock representative located at 9124 Belair Road, who sold locks from that location.

Petitioner also presented its civil engineer, Iwona Rustek Zarska. Ms. Zarska testified as an expert and related how she had met with representatives of the DRC and had gone through the regulations of Baltimore County in order to present the site plan with respect to the property.

Petitioner's Counsel questioned Ms. Zarska as to whether or not the site plan met the specifications of § 502.1 of the *Baltimore County Zoning Regulations* (BCZR). Ms. Zarska, when questioned with respect to each aspect of § 502.1 answered, "No," without elaborating on any of her answers.

Mr. Jeff Markiewicz testified that he had contracted to purchase the building and lot at 9122 Belair Road. He currently has an office at 8449 Belair Road and wishes to move his consulting company into the proposed Class B office building. He proposes to use the first floor for offices and the second floor for storage space.

Petitioner's final witness was Mr. Jeffrey Long, the Supervisor of Development Plan Review in the Office of Planning of Baltimore County. Mr. Long was accepted as an expert in zoning and planning. He testified that he had reviewed the proposed specifications for the special exception request, and Karen Brown of his office conducted a site visit. After the review and site visit, the Office of Planning took a position in support of the Petitioner's request. Once again, Petitioner's attorney questioned Mr. Long with respect to the specific requirements of § 502.1 of the BCZR. Mr. Long answered "No" with respect to each requirement. He did not elaborate on his answers with respect to the requirements of § 502.1. Mr. Long indicated that the DRC did not approve special exceptions. He also indicated that a Class A office building cannot be expanded under the zoning regulations in the R.O. zone. In addition, he indicated that retail use was not permitted in an R.O. zone under § 26-180 of the *Baltimore County Code*. Mr. Long also indicated in his testimony that the R.O. zone was not to be considered primary source of office space in Baltimore County, and that he was not aware of any other property zoned R.O. where the lot had been subdivided in order to build a second office building on the lot behind the first office building.

People's Counsel presented two witnesses. Mr. William Libericci, the President of the Perry Hall Community Association, testified that his group opposed the special exception. He described that part of Belair Road where the property is located as primarily residential, with some office development in converted buildings. He stated that the Association supports long-standing residential neighborhoods but also recognizes that certain dwellings on Belair Road may no longer be suitable for residential use. His Association supported R.O. and R.O.A. zones

on the lots fronting on Belair Road, but not on lots that extend into the residential neighborhoods. He was afraid that if the special exception was approved in this matter a number of R.O. lots could be subdivided and several office buildings constructed to the rear of various lots on Belair Road. He felt that the special exception relief requested was not in the spirit and intent of the R.O. zone, and that the second building on the lot would overcrowd the land contrary to the BCZR 502.1(D).

The second witness presented by People's Counsel was Mr. Dennis Eckard, an active member of the Perry Hall Community Association and former president of that organization. He had participated in the comprehensive zoning map process and was also a member of the Belair Road Beautification Project. He backed Mr. Libericci's testimony in that he felt that there would be an expansion of office space if a lot owner was allowed to subdivide a lot in an R.O. zone. He stated that in the past the Association had supported special exceptions for Class A office buildings in an R.O. zone where there was one building on the lot. He felt that if the special exception was allowed, the Association would have to take a very serious look at each R.O. lot in order to consider whether to support a Petition for Special Exception in each situation. When questioned with respect to the office building built by First Preference Savings and Loan on four lots fronting on Belair Road, Mr. Eckard said that his Association supported that building. First Preference owned four parcels zoned R.O. and could have put up four individual office buildings. His Association was satisfied with the building that was constructed on the four lots fronting Belair Road.

Decision

In her Brief, People's Counsel raises the two issues with respect to the granting of the special exception. First, the special exception should not be granted because the Petitioners are not in compliance with the zoning regulations in that retail sales are being conducted from Petitioner's two Class A office buildings in violation of § 101 of the BCZR. Second, the special

exception should be denied because the construction of the Class B office building overcrowds the land, and does not meet the spirit and intent of the *Baltimore County Zoning Regulations*.

In considering the first issue, the Board does not feel that it has the authority to deny a special exception based upon the fact that an allegation is made that retail sales are being conducted from the two Class A buildings at 9120 and 9124 Belair Road. Other than the testimony of Mr. Wooden, an owner of the property, with respect to his observation as to what business was being conducted by his tenants, there was no other evidence presented to the Board with respect to these retail sales. In addition, this is not an enforcement hearing and no violation of the regulations was charged nor is it before the Board at this time. In addition, BCC 26-180 prohibits the processing of plans or permits for development if an applicant owns property where violations of zoning regulations exist. The development plan in this matter has already been approved by the DRC and permits have not been requested at this time. Therefore, the Board is without any authority to take any action with respect to this special exception based upon BCC 26-180.

However, the Board does agree with People's Counsel that the special exception petition should be denied based upon the fact that it does not meet the spirit and intent of the zoning regulations under § 502.1. The Board recognizes that the expert witnesses presented by Petitioner both indicated that they felt that the special exception should be granted in that it met all of the requirements of § 502.1. However, the answers which both witnesses gave were perfunctory without further explanation. As cited by People's Counsel in its Brief, the Court of Special Appeals in *People's Counsel v. Beachwood*, 107 Md. App. 627, 678 A.2d 484, 495 stated:

> The Court of Appeals and this Court has stated that an opinion, even that of an expert, is not evidence strong or substantial enough to show error in a comprehensive rezoning unless the reasons given by the witness as the basis for his opinion, or other supporting facts relied on by him, are themselves substantial

and strong enough to do so. See also *Mayor and City Council of Rockville v. Henley*, 268 Md. 469, 473-474 (1973)

Witnesses presented by the People's Counsel, although not admitted as experts, opined that the granting of this special exception would be a dangerous precedent for future cases, they contend that the number of Class A and Class B office buildings would proliferate along the Belair Road corridor if lots in the R.O. zone were allowed to be subdivided for the purpose of building additional office buildings to the rear of the allowed Class A and Class B buildings.

The Board is aware that the law does not prohibit the subdividing of lots in the R.O. zone. In addition, there was no evidence presented beyond a mere speculation that the construction of a 1,026 square-foot office building, plus parking spaces, would overcrowd the .714 acre of land at 9120 Belair Road. The Board does feel that People's Counsel's point with respect to the fact that subdividing a lot in an R.O. zone does not meet the spirit and intent of the law is well taken. People's Counsel's points out that if subdivision for additional office buildings is permitted, a 2 acre R.O. site could be divided into six lots and would then be permitted nearly six separate buildings. The Board does not feel that this was the intent of the legislation passed by the Baltimore County Council. The statement of legislative policy in current § BCZR 204.2 with respect to the R.O. zone states that it is:

> ...to accommodate houses converted to office buildings and some small office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavily commercial traffic, or other, similar factors, cannot no longer reasonably be restricted solely to uses allowable in moderate /density residential zones. It is intended that building and uses in R.O. zones shall be highly compatible with the present or perspective uses of nearby residential properties. <u>It is not the R.O. classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these zoning regulations that office space demands should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas.</u> [Emphasis supplied.]

The Board recognizes that the Petitioner is attempting to utilize its property to the greatest extent possible in order to make a profit. This cannot be a consideration of the Board in granting a special exception. The demand for additional office space in the area should not be satisfied by subdividing a lot in the R.O. zone which has already been utilized for the construction or renovation of a Class A office building.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 4th day of August, 2003, that the Petitioner's request for special exception to construct a Class B office building on Lot #2 as shown on the site plan to the rear of 9120 Belair Road be and is hereby **DENIED**.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chair

Margaret Worrall

Richard K. Irish

MVA Motor Vehicle Administration

6601 Ritchie Highway, N.E.
Glen Burnie, MD 21062

APPLICATION FOR CERTIFICATE OF TITLE

READ INSTRUCTIONS ON REVERSE SIDE

APPLICANT'S FIRST NAME	MIDDLE	LAST	CO APPLICANT'S FIRST NAME	MIDDLE	LAST

APPLICANT'S SOUNDEX/MARYLAND DRIVER LICENSE NO	DATE OF BIRTH MONTH / DAY / YEAR	CO-APPLICANT'S SOUNDEX/MARYLAND DRIVER LICENSE NO./ FEIN #	DATE OF BIRTH MONTH / DAY / YEAR

APPLICANT'S STREET ADDRESS	CITY OR TOWN	COUNTY	STATE	ZIP CODE

IS THE VEHICLE TO BE TITLED AS JOINT TENANTS OR TENANTS BY ENTIRETIES? ☐ JOINT TENANTS ☐ TENANTS BY ENTIRETIES

VEHICLE DESCRIPTION

☐ NEW VEHICLE ☐ USED VEHICLE	MODEL YEAR	MAKE OF VEHICLE	MODEL NO.	VEHICLE IDENTIFICATION NUMBER			
☐ TWO STAGE VEHICLE COMPLETE MAKE & YEAR FOR EACH VEHICLE	MODEL YEAR	MAKE OF VEHICLE	BODY STYLE	TYPE OF FUEL	# OF CYLINDERS	MOTOR CARRIER #	UNIT #

☐ TRUCK ☐ TRUCK TRACTOR			☐ BUS	☐ MOTORCYCLE		☐ TRAILER (SPECIFY LENGTH)	
G.V.W.	G.C.W.	AXLES	SEATS	ENGINE NO	ENGINE SIZE (C.C.)	G.V.W.	TYPE OF TRAILER

If this vehicle is subject to any liens or encumbrances, complete the following section(s) Attach form VR-217 for additional Lien Filings. LIEN FILING FEE $20.00 for each Lien filed. IF NOT SUBJECT TO A LIEN, WRITE WORD "NONE" BELOW.

AMOUNT OF LIEN	KIND OF LIEN (DESCRIBE)	DATE OF LIEN	NAME OF SECURED PARTY

STREET ADDRESS OF SECURED PARTY	CITY OR TOWN	STATE	ZIP CODE

PURCHASE INFORMATION FOR TAX PURPOSES - SEE INFORMATION ON REVERSE SIDE

IF VEHICLE RECENTLY PURCHASED

MD. EXCISE

TAX 5% OF $ _____
FULL PURCHASE PRICE

ATTACH A NOTARIZED BILL OF SALE SIGNED BY SELLER(S) AND PURCHASER(S)

MARYLAND DEALER'S CERTIFICATION

I hereby certify, under penalty of perjury, that the purchase price represents the full amount paid for this vehicle

Date of Delivery _____

NAME OF DEALERSHIP _____ DEALER'S NUMBER N U _____

SIGNATURE OF DEALER _____ DATE _____

MARYLAND DEALER'S ONLY

SELLING PRICE

GROSS TAX COLLECTED

COLL. FEE .6% OF GROSS

NET TAX REMITTED

Complete this section in its entirety if you qualify for an Excise Tax Credit in this State.
I/we have been resident(s) in Maryland for approximately _____
I/we last titled/registered this vehicle in _____ STATE and paid _____ % tax (If no tax paid write "NONE")

APPLICATION FOR NEW REGISTRATION PLATES OR TRANSFER OF REGISTRATION PLATES

I/we do hereby make application for: ☐ New Registration Plates ☐ Transfer of Registration Plates. Is your motor vehicle now suspended or revoked in this or any other State? ☐ Yes ☐ No

Is this vehicle to be operated for short term rental? ☐ Yes ☐ No If transferring plates, complete below:

TAG NO. _____ and STICKER NO. _____ The vehicle to which these plates were affixed has been sold, traded or otherwise transferred to: Name _____
Address _____
Name of Insurance Co. _____ Policy or Binder No. _____
Agent or Broker _____ Class of Tags desired _____

Federal and State law require that you state the mileage in connection with this vehicle. Failure to complete or giving a false statement may result in fines and/or imprisonment

I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:

ODOMETER READING _____ (NO TENTHS)

☐ 1. The mileage stated is in excess of its mechanical limits.
☐ 2. The odometer reading is not the actual mileage. **WARNING - ODOMETER DISCREPANCY**

I/we certify that I/we have compared the manufacturer's vehicle identification number on the number on the vehicle and they agree and that this vehicle is subject to the liens or encumbrances indicated herein and none other. For vehicles registered over 10,000 lbs. by signing this application, I/we certify knowledge of the Federal and State Motor Carrier Safety Laws and certify this vehicle is maintained in compliance with the Maryland Preventive Maintenance Program. If making application for new plates or transfer of registration plates I/we certify under Penalty of Law that the vehicle is covered by at least the minimum amounts of insurance required by the Maryland Motor Vehicle Laws, and further certify that this vehicle will be continuously insured throughout its registration period. I/we further certify under Penalty of Perjury that the statements made herein are true and correct to the best of my knowledge, information, and belief.

Signature of Applicant _____ Printed Name of Applicant _____

Signature of Co-Applicant _____ Printed Name of Co-Applicant _____

Witness my/our Hand(s) and Seal(s) this _____ day of _____ year _____

Signature of Co-Signer _____ Relationship _____

Soundex _____ Date of Birth _____

VR-005 (06-02)

Memo Exh F

NEED ASSISTANCE - PLEASE CALL TOLL FREE 1-800-950-1MVA (950-1682) OUT OF STATE 1-301-729-4550, TTY FOR THE DEAF 1-800-492-4575

DOCUMENTS REQUIRED FOR OBTAINING A MARYLAND CERTIFICATE OF TITLE

NEW VEHICLES

NEW VEHICLES PURCHASED OUT-OF-STATE

1. A Manufacturer's Certificate of Origin or other ownership document(s) required by law and original Dealer's Bill of Sale must accompany this application.

NEW VEHICLES PURCHASED IN MARYLAND

1. A Manufacturer's Certificate of Origin for the vehicle must accompany this application.
2. Separate MVA Notarized Bill of Sale required if Maryland Dealer's Certification on the front of this application is not completed.

USED VEHICLES

USED VEHICLES FROM A TITLE STATE

1. An out-of-state Certificate of Title, either in the applicant's name or properly assigned to the applicant must accompany this application.
2. Notarized Bill of Sale - Signed by Buyer(s) and Seller(s).

USED VEHICLES FROM A NON-TITLE STATE OR FOREIGN COUNTRY

1. A notarized Bill of Sale from the seller(s) must accompany this application.
2. The Registration Certification from the non-title state must accompany this application. (If Registration Certification is not available, a verification of registration from the Motor Vehicle Department of the non-title state is acceptable).

ODOMETER MILEAGE STATEMENT

(Federal regulations require the Seller or Transferor to state the odometer mileage upon Transfer of ownership. An inaccurate statement may make seller liable for damages to the Transferee, pursuant to section 409 of the Motor Vehicle Information and Cost Savings Act of 1972, Public Law 92-513)

INSURANCE REQUIREMENTS

ALL MOTOR VEHICLES REGISTERED IN MARYLAND MUST BE INSURED BY A COMPANY LICENSED IN MARYLAND AND MUST HAVE PERSONAL INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE AT LEAST IN THE AMOUNT OF $20,000/$40,000/$15,000, AS REQUIRED BY LAW. COMPANY VAN POOL VEHICLES MUST HAVE 5 TIMES THIS AMOUNT.

MOTOR VEHICLE INSPECTION REQUIREMENTS

USED CLASS "A" PASSENGER VEHICLES, CLASS "B" VEHICLES FOR HIRE, CLASS "D" MOTORCYCLES, CLASS "E" TRUCKS INCLUDING FARM, CLASS "F" TRACTORS, CLASS "G" TRAILERS INCLUDING FARM, CLASS "J" VAN POOL AND CLASS "M" MULTI-PURPOSE PASSENGER VEHICLES BEING TITLED AND REGISTERED IN MARYLAND MUST BE INSPECTED AT AN AUTHORIZED MARYLAND INSPECTION STATION. THE CERTIFICATE OF INSPECTION MUST ACCOMPANY THIS APPLICATION.

The Motor Carrier Safety Act requires the owner of every vehicle with a registered or operating gross vehicle weight greater than 10,000 pounds to have each vehicle inspected, maintained, and repaired at least every 25,000 miles or 12 months, whichever occurs first, and to provide written certification that the vehicle(s) is/are maintained under a preventive maintenance program approved by the Motor Vehicle Administration and Maryland State Police Automotive Safety Enforcement Division.

TITLE FEE

The fee for title will be $23.00

SECURITY INTEREST FILING FEE

Fee for each filing is $20.00

FEE FOR TRANSFER OF REGISTRATION PLATES

If the annual registration fee is the same or less than the previously owned vehicle, the transfer fee is $10.00. If the annual registration fee is more than the previously owned vehicle, the transfer fee is $10.00 plus any difference in the two registration fees.

If you are transferring plates with less than 12 months remaining before your registration expires, the registration will be renewed for an additional year.

JOINT TENANTS

JOINT TENANTS - means that although inheritance tax is due, the vehicle can be transferred directly to the survivor without any liability for any outstanding bills in the Estate of the deceased. Upon transfer to the survivor, the application must be accompanied by the Death Certificate. For Tenants by Entireties application for transfer must be accompanied by Death Certificate.

MARYLAND EXCISE TAX

If the vehicle has been recently purchased and not titled or registered in the applicant's name in any jurisdiction, Maryland Excise Titling Tax is 5% of the greater of the total purchase price or $640, if verified by an MVA Notarized Bill of Sale signed by buyer(s) and seller(s). Without an MVA Notarized Bill of Sale, Maryland Excise tax will be determined, as required by law from the valuation shown in the National Automobile Dealers Association Used Car Guide adopted for use by the Administration.

If vehicle is titled or registered in the name of the applicant at the time of making this application, Maryland Excise Titling Tax is 5% of the Retail Value of the vehicle as shown in the National Automobile Dealers Association Used Car Guide. On passenger cars, station wagons, 1/2 and 3/4 ton pickup trucks, this value is computed by the addition or subtraction for high or low mileage according to the tables included in the National Automobile Dealers Association Used Car Guide. An Excise Titling Tax Credit is applied if applicant has not been a Maryland resident for more than 60 days and has paid a Sales or Excise Tax in another State. The Excise Tax imposed shall apply, but at a rate measured by the difference. Minimum Excise Tax imposed shall be $100.00.

REGISTRATION PLATES FEES (Find your fee under the proper classification)

PRIVATELY OWNED VEHICLES - Classes identified below will be registered for 2 years at the time they are titled or when their registration is renewed. The 2 year registration does not apply to Class E, truck vehicles in excess of 7,000 pounds.

COMPANY OWNED VEHICLES - Registration issued annually at the 1year fee. Half-year rates are effective on or after the first day of the seventh month of the registration year. Quarterly rates are in effect for trucks 27,000 lbs. or more

SURCHARGE - To insure stable funding for Maryland's world-renowned emergency medical services (EMS) system, including med-evac helicopters, ambulances, fire equipment and rescue squads, a "surcharge" of $11.00 per year will be collected with the registration fee. The following fees include the applicable surcharge.

PAYMENT - Check or money order payable to MVA. The check must include (1) Imprinted Name and Address, (2) Drivers License Number (Soundex Number), (3) Home or Work Telephone Number.

		2 YRS.	1 YR.
CLASS A -	Passenger Cars and Station Wagons		
	OR		
CLASS M -	Multi-Purpose Vehicles		
	Shipping weight up to 3700 lbs.	$ 76.00	$ 38.00
	Shipping weight over 3700 lbs.	$103.00	$ 51.50
CLASS B -	Passenger Vehicles operated for Hire	$184.00	$ 92.00
CLASS C -	Funeral Vehicles and Ambulances	$130.00	$ 65.00
CLASS D -	Motorcycle, Motor Scooters and Motor Bicycles	$ 59.00	$ 29.50
CLASS L -	Historic Vehicles	$ 27.00	$13.50
CLASS N -	Street Rod Vehicles	$ 27.00	$13.50

CLASS E - Truck Fee Schedule for a vehicle with manufacturer's rated capacity of 3/4 ton or less, the gross vehicle weight is 7,000 pounds or less.

FEE - 2 YRS. - $89.50 1 YR. - $44.75

GROSS WEIGHT CATEGORIES (in pounds)	FEE (per 1,000 pounds), OR FRACTION THEREOF
(MIN) 10,000 - 18,000	$ 4.75
18,001 - 26,000	$ 7.50
26,001 - 40,000	$ 8.50
40,001 - 60,000	$10.50
60,001 - 80,000 (MAX)	$11.75

This fee schedule is to be used to calculate fees for both the GVW or GCW, whichever is applicable. The maximum weight practical for a GVW registration is 55,000 pounds.

CLASS E - FARM TRUCKS

MAXIMUM GROSS WEIGHT LIMITS (in pounds)	FEE (per 1,000 pounds) OR FRACTION THEREOF
(MIN) 10,000 - 40,000	$2.75
40,001 - 65,000 (MAX)	$3.00

If you intend to operate your farm truck in combination with a trailer, that is in excess of 20,000 pounds gross weight, you must select the gross combination weight in increments of 1,000 pounds, as shown above. When operating as a single unit farm truck you are limited to the gross vehicle weight. When operating in combination, you are limited to the gross combined weight as selected by you and adjusted on your registration.

		2 YEARS	1 YEAR
Class A	Passenger Cars and Station Wagons OR		
Class M	Multi-Purpose Vehicles		
	Shipping weight up to 3700 lbs.	$ 76.00	$ 38.00
	Shipping weight over 3700 lbs.	$103.00	$ 51 50
Class B	Passenger Vehicle Operated for Hire	$184 00	$ 92.00
Class C	Funeral Vehicles and Ambulances	$130.00	$ 65.00
Class D	Motorcycles, Motor Scooters and Motor Bicycles	$ 59.00	$ 29.50
Class L	Historic Vehicles	$ 27.00	$ 13.50
Class N	Street Rod Vehicles	$ 27 00	$ 13.50
Class E	Truck fee, for a vehicle with Manufacturer's Rated Capacity of 3/4 ton or less, the Gross Vehicle Weight is 7,000 pounds or less	$ 89.50	$ 44 75

CLASS E -- TRUCK FEE SCHEDULE

GROSS WEIGHT CATEGORIES (IN POUNDS)	FEE (PER 1,000 POUNDS) OR FRACTION THEREOF
(min) 10,000-18,000	$4.75
18,001-26,000	$7.50
26,001-40,000	$8.50
40,001-60,000	$10.50
60,001-80,000 (max.)	$11.75

This Fee Schedule is to be used to calculate fees for both the GVW or GCW, whichever is applicable The maximum weight practical for a GVW registration is 55,000 pounds A surcharge of $11 00 is added to the registration fee

CLASS E -- FARM TRUCKS

MAXIMUM GROSS WEIGHT LIMITS (IN POUNDS)	FEE (PER 1,000 POUNDS) OR FRACTION THEREOF
(min.) 10,000-40,000 to 40,001-65,000 (max)	$2.75 $3.00

If you intend to operate your farm truck in combination with a trailer that is in excess of 20,000 pounds gross weight, you must select the gross combination weight in increments of 1,000 pounds, as shown above. When operating as a single unit farm truck, you are limited to the gross vehicle weight. When operating in combination, you are limited to the gross combined weight as selected by you and indicated on your registration. A surcharge of $11.00 is added to the registration fee.

CLASS F --TRACTOR/TRAILER COMBINATIONS

The annual registration fee is based on the MAXIMUM GROSS COMBINATION WEIGHT of the tractor and trailer as follows: A surcharge of $11 00 is added to the registration fee.

GROSS WEIGHT CATEGORIES (IN POUNDS)	FEE (PER 1,000 POUNDS) OR FRACTION THEREOF
(min.) 40,000-60,000	$14.50
60,001-80,000 (max.)	$16.00

CLASS F -- FARM TRUCK TRACTORS

The FARM TRUCK TRACTOR annual registration fee is based on the maximum gross weight of the vehicle in combination with a trailer or semi-trailer as follows A surcharge of $11 00 is added to the registration fee

MAXIMUM GROSS WEIGHT LIMITS (IN POUNDS)	FEE (PER 1,000 POUNDS) OR FRACTION THEREOF
40,000 (Minimum) to 80,000 (Maximum)	$3.00

CLASS G -- TRAILERS, SEMI-TRAILERS, HOUSE TRAILERS (Non-freight)

MAXIMUM GROSS WEIGHT LIMITS (IN POUNDS)	FEE
3,000 or Less	$13.50
3,001 to 5,000	$27.00
5,001 to 10,000	$47.25
10,001 to 20,000	$81.00

TRAILER FEE (FREIGHT)
For a freight trailer or semi-trailer used in combination with the trucks or trailers, the registration fee is $20 25 (includes Motor Freight and Farm Trailers over 20,000 pounds)

CLASS G -- FARM TRAILERS & SEMI-TRAILERS, HOUSE TRAILERS (Non-Freight)

MAXIMUM GROSS WEIGHT LIMITS (IN POUNDS)		FEE
Non Freight	3,000	$ 6.75
	5,000	$13.50
	10,000	$23.75
	20,000	$40.50

MOTOR VEHICLE ADMINISTRATION
6601 Ritchie Highway, N E.
Glen Burnie, MD 21062
TOLL FREE 1-800-950-1MVA
TDD for the Hearing Impaired
1-800-492-4575
Out-of-State 1-301-729-4550

Baltimore County Zoning Regulations

1998 Edition

Originally printed as amended through July 6, 1998

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BALTIMORE COUNTY OFFICIALS

County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

2003

Baltimore County Executive

JAMES T. SMITH, JR.

Baltimore County Council

S. G. SAMUEL MOXLEY	**First District**
KEVIN KAMENETZ	**Second District**
T. BRYAN McINTIRE	**Third District**
KENNETH N. OLIVER	**Fourth District**
VINCENT J. GARDINA	**Fifth District**
JOSEPH BARTENFELDER	**Sixth District**
JOHN OLSZEWSKI, SR.	**Seventh District**

TIMOTHY M. KOTROCO
Director, Department of Permits and Development Management

LAWRENCE E. SCHMIDT
Zoning Commissioner

JOHN V. MURPHY
Deputy Zoning Commissioner

Property of: _____

Address: _____

_____

Telephone: _____

7 – 15 – 2003

PRIME AND PRODUCTIVE SOILS — Soil types defined in the USDA soil survey of Baltimore County issued March 1976, and as updated, as agricultural capability Class I, II or III. **[Bill No. 113-1992]**

PRINCIPAL ARTERIAL — A motorway, or portion thereof which:

Is or is intended for travel to or from major activity centers; and

Which is designated as such on the most recently approved federal highway functional classification map for the Baltimore urbanized area. **[Bill No. 151-1988]**

PRINCIPAL USE — A main use of land, as distinguished from an accessory use. **[Bill No. 100-1970]**

PRIVATE KENNEL — Any building, structure, or land, or any portion thereof, including a dwelling, that is used, intended to be used, or arranged for the housing of more than three dogs, not including puppies less than four months old, for the purposes of show, hunting, practice tracking, field or obedience trials, or as pets. A private kennel does not include a pet shop or dogs accessory to a farm use. **[Bill No. 87-2001]**

PRODUCE STAND — An accessory structure or a vehicle temporarily placed on a farm property for the sale of indigenous produce, all of which has been grown or produced on that property or on adjacent land, or on properties farmed by the same agricultural producer. **[Bill No. 41-1992]**

RADIO OPERATOR ANTENNA — A wireless antenna used in conjunction with radio transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission. **[Bill No. 30-1998]**

RAIL PASSENGER STATION — A facility designed as a place for boarding and alighting from rail passenger vehicles. A rail passenger station may include such facilities as bus bays, parking areas or taxicab stands as accessory uses. **[Bill No. 91-1990]**

RECORD LOT — A lot or parcel of land that has been created in accordance with the provisions of Title 26, Sections 201 – 215, of the Baltimore County Code, 1988 Edition, as amended, and recorded among the land records of Baltimore County on or before the effective date of these regulations. **[Bill No. 98-1975]**

RECREATIONAL VEHICLE AND BOAT — A vehicular type unit which is primarily designed for recreation, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which, except for a boat kept in water, is not more than 35 feet in length and which, in general, is of such size and weight as not to require special highway movement permits when driven or drawn by a passenger automobile or pickup truck. The following shall be considered recreational vehicles: **[Bill No. 54-1993]**

BOAT — A recreational boat with or without a trailer. If in combination with a trailer, a boat is normally towed by a vehicle. **[Bill Nos. 29-1974; 54-1993]**

CAMPING TRAILER — A vehicular portable unit mounted on wheels and constructed with collapsible side walls which fold down for towing by another vehicle and unfold at campsite to provide temporary living quarters.

FIFTH-WHEEL TRAILER — A vehicular portable unit mounted on wheels, designed and constructed to be towed by a passenger automobile or pickup truck fitted with a fifth-wheel hitch.

MOTOR HOME — A vehicular unit built on a self-propelled motor vehicle chassis.

TRAVEL TRAILER — A vehicular portable unit mounted on wheels, designed to be towed by a passenger automobile or pickup truck.

TRUCK CAMPER — A portable unit designed to be loaded onto, or affixed to, the bed or chassis of a truck or automobile.

RESEARCH INSTITUTE — A building or group of buildings used primarily for basic and applied research wherein the scientific inquiry process is conducted in a manner similar to that of institutions of higher learning and where all parts of the operation involving the development research process, e.g., product testing, are incidental to the above. **[Bill No. 76-1964]**

RESEARCH PARK [Bill No. 112-1999] — A building or group of buildings:

A. Situated in an integrated park setting on, within, contiguous or adjacent to and affiliated with an institution of higher education as defined in Section 10-101 of the Education Article of the Annotated Code of Maryland;

B. Located in an O.T. Zone; and

C. Used for:

1. Computer and data processing services;

2. Laboratories;

3. The manufacture, assembly, service or repair of any product listed in Section 209.3.A.7;

4. Offices;

5. Research institutes;

6. Warehouses in combination with and physically attached to any of the above uses, if the warehouse accounts for no more than 30% of the total gross floor area;

7. Supporting infrastructure for any of the above uses; or

8. Any combination of such uses.

RESIDENTIAL ART SALON — A portion of a dwelling unit used for the exhibition and sale of original works of art. For the purposes of these regulations, an "original work of art" shall include a numbered reproduction from a series of no more than 50, which reproduction is individually signed by the artist. A "residential art salon" does not include a photographic studio, a tattoo or body piercing establishment, or any place where an indelible mark or figure is placed on a person by needle insertion of pigment under the skin or where the skin is pierced for the purpose of inserting an object. **[Bill Nos. 85-1967; 32-1978; 76-1997]**

TOWN CENTER — A locality designated and delimited as a town center by the Planning Board to serve as the primary center of commercial (including supporting commercial) and higher-density residential development for an area having a population of approximately 100,000 or more persons, and meeting criteria or guidelines adopted and published by the Planning Board. Industrial, lower-density residential, and institutional uses are not excluded from town centers (when allowed under the regulations for the zone in which they are located). **[Bill No. 40-1967]**

TOWN-CENTER DISTRIBUTOR-BYPASS ROAD — An arterial street which is designed to distribute traffic to a town center as well as to carry traffic around and away from such a center, and which is designated by the Planning Board as a town-center distributor-bypass road. **[Bill No. 40-1967]**

TRAILER (or MOBILE HOME) — Any of the various types of vehicles or mobile homes, with or without motive power, including small structures transportable by a pickup truck or similar vehicle, which are used for human habitation or for business purposes, but excluding vehicles used only for transportation of materials, products or animals. A trailer (or mobile home) shall still be regarded as such even though its mobility may have been eliminated by removing its wheels, or otherwise, and placing it on a stable foundation or rigid supports. Recreational vehicles, as defined herein, are excepted from this definition. **[Bill Nos. 145-1959, Section 415.5; 109-1964; 29-1974]**

TRAILER PARK — A tract of land specifically planned and equipped to accommodate residential trailers for temporary or continuing occupancy, including all buildings, structures, tents, vehicles, utilities and accessories used or intended as equipment for such trailer park.

TRANSIT CENTER — A structure or portion of a structure and bus staging area designed and located to facilitate transfers among bus routes operated by the State Mass Transit Administration. A transit center may also be designed with parking to facilitate transfers between other modes of transportation including taxicabs, automobiles, commuter vanpools, airport limousines and privately owned buses. **[Bill No. 91-1990]**

TRANSIT FACILITY — A structure or any combination of structures, including at-grade, elevated or below-grade fixed guideways, tunnels, electrical substations or fixtures necessary to support public mass transportation operations owned or operated by or on behalf of the Mass Transit Administration. This term shall not include a transit center, a transit storage and repair yard, bus terminal or rail passenger station. **[Bill No. 91-1990]**

TRANSIT STORAGE AND REPAIR YARD — A site used primarily for the storage and maintenance of common carrier vehicles and for the repair of equipment associated with such vehicles. **[Bill No. 91-1990]**

TRUCKING FACILITY — A structure or land used or intended to be used primarily (a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or (b) for truck or truck-trailer parking or storage. A trucking facility may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles, or necessary space for the transitory storage of goods or chattels. The term "trucking facilities" includes facilities for

Section 414
Trailer Parks
[BCZR 1955]

414.1 The area of the lot on which such park is to be located shall be not less than five acres.

414.2 An area of not less than 3,000 square feet shall be allocated to each trailer, which must be connected to sewer, water and electricity.

414.3 Each trailer space shall abut or face on a driveway or unobstructed space of not less than 30 feet in width, which space shall have unobstructed access to a public highway. It shall be hard-surfaced and adequately lighted.

414.4 No trailer or service building or structure used in connection therewith shall be placed or permitted within 100 feet of the road or street upon which the lot or area so used for such park fronts or within 75 feet of any other boundary line of such lot or area.

414.5 There shall be a space of not less than 20 feet between each trailer and also a space of not less than 25 feet between any trailer and any service building or structure used in connection with such park. **[Bill No. 33-2000]**

414.6 No such trailer park nor any service building or structure used in connection therewith shall be established or operated without the approval of and subject to the regulations and requirements of the Baltimore County Health Department. Written approval shall be a required condition prior to issuance of a permit.

414.7 Revisions to a site plan to be approved under 414.5 may show typical site dimensions rather than the exact layout of every site, in order to give the management flexibility to replace obsolete units with new ones of different sizes and shapes. All revisions must be approved as stated in Section 502.10. **[Bill No. 33-2000]**

Section 415
Trailers
[Bill No. 109-1964 [5]]

415.1 Residential use of trailers. No person shall occupy a trailer for residential use except as follows and subject to the provisions of Section 415.6:

A. In an approved trailer park, in those zones where permitted as a special exception.

B. On a farm comprising 25 acres or more, in those zones where permitted and subject to Section 415.4.

C. On a tract comprising 25 acres or more, outside the Metropolitan District of Baltimore County, but any trailer so used must be located not less than 1,000 feet from any other trailer used for residence.

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[5] **Editor's Note: This bill also repealed former Section 415. That section was part of BCZR 1955 as amended by Bill No. 145-1959. The provision added as Section 415.5 by Bill No. 145-1965 was substantially reenacted as part of the definition of "Trailer (or Mobile Home)" in Section 101 by Bill No. 109-1964.**

E. On a type or size of site not covered by Section 415.1.B or C, if the trailer was being used as a residence prior to the date of October 26, 1964, and subject to the provisions of Section 415.3.B.

F. By a nonpaying guest of the owner of land using a trailer belonging to the guest for not more than a total of 90 days in any calendar year.

G. For temporary living purposes as provided for in Section 415.2.B.1.

415.2 Business or industrial use of trailers. No person shall occupy, store or park a trailer for business or industrial purposes except as follows and subject to the provisions of Section 415.6:

A. In a residential zone:

1. For temporary office and accessory purposes incidental to construction on or development of the premises on which the trailer(s) is located, and in compliance with Section 415.3.A below, but not closer than 50 feet to any adjoining residential lot if such is occupied by a residence within 50 feet of the joint property line.

2. For purposes noted in Subsection 415.2.A.1, but where too small a lot is involved to permit fifty-foot setbacks from adjoining lots, the Zoning Commissioner may approve issuance of a temporary permit for one trailer for such nonresidential use for a period not to exceed 90 days, subject to the same minimum yard requirements as are applicable to a permanent dwelling in that zone.

B. In a business or industrial zone:

1. As a temporary use for living, business or industrial purposes during a construction period, subject to the same minimum yard requirements as are applicable to permanent structures in that zone.

2. As a continuing use for a sales office in connection with the following types of outdoor retail sales areas, subject to the requirements of the zone where located and to the provisions of Section 415.6:

Farm products
Garden supplies and plants
Trailer sales and storage
Used motor vehicles, separated from sales agency buildings

415.3 General provisions.

A. In any cases covered by Sections 415.1.B, C, D, E and F and 415.2.A.1, the trailer must be located so as to meet all minimum yard requirements for a dwelling, but in no case may the trailer be located closer to a street than any existing dwelling located on an adjoining lot and fronting on such street, except that such setback need not exceed 200 feet.

B. In any cases covered by Subsection 415.1E, the owner must apply for a permit, as required in Section 415.4, within 90 days after adoption of this amended Section 415.[17]

C. Storage or parking of trailers.

1. In a residential zone, a trailer may be stored or parked by the owner in a garage or other accessory building, or in the rear half of a lot, subject to the applicable side and rear setbacks, but in no case less than 25 feet from the property line. In no such case is residential occupancy permitted, nor is more than one trailer permitted to be stored or parked on a residential lot.

2. In a business or industrial zone, trailers for sale in connection with a commercial sales office may be stored or parked in a garage, or in a sales lot area subject to the applicable side and rear yard setbacks and other requirements of the zone where located, but in no case less than 25 feet from a residential zone boundary, and in no such case is residential occupancy permitted.

415.4 Requirements of permits.

A. For any uses of a trailer covered by Section 415 other than Sections 415.1.A and 415.1.F, application must be made to the Department of Permits and Development Management for issuance of a temporary or extended-occupancy permit, as the case may be. The granting of such permit may be subject to the ultimate approval of the Zoning Commissioner, who shall have the power to order the denial of the same if such granting or renewal would be detrimental to the health, safety or general welfare of the locality involved. Where a special exception has been granted for a use under Section 415, it shall be deemed that such use will not be detrimental to the health, safety or general welfare of the locality involved.

B. A temporary permit must be procured from the Department of Permits and Development Management in cases covered by Sections 415.2.A and 415.2.B.1. Temporary permits shall be renewable annually.

C. In cases covered by Sections 415.1.B, C, D and E and 415.2.B.2, extended-occupancy permits shall be subject to renewal every two years.

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17 **Editor's Note: Amended Section 415 was adopted under Bill No. 109-1964, which was passed by the County Council on December 7, 1964, enacted on December 11, 1964, and became effective on January 25, 1965.**

415.5 Application of other laws. All provisions of Section 415 shall be further subject to the provisions of the Baltimore County Building Code and other pertinent sections of the Baltimore County Code, including but not limited to the regulations of the Department of Permits and Development Management, the Department of Health, the Fire Department, the Electrical Board[18] and the Plumbing Board.

415.6 Schedule of uses pertaining to trailers.[19]

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18 Editor's Note: Assumed to be the Electrical Administrative Board established under provisions now codified as Title 7, Article IV, Division 2, of the Baltimore County Code, 1988 Edition, as revised, and made a unit of the Department of Permits and Licenses under Section 530 of the Baltimore County Charter, and transferred to the Department of Permits and Development Management under Section 2-56 of the Baltimore County Code.

19 Editor's Note: The table apparently does not reflect all zoning classifications where trailers appear to be permitted. (See, for example, Section 1A01.2.B.7 where trailers are permitted by right in R.C.2 Zones, with certain conditions.) Although no entry with respect to trailers appears in the lists of uses allowable in R.A.E.1 or R.A.E.2 Zones, it would appear that trailers are permitted in certain cases in any zone under some provisions of Section 415. (Matters relating to regulation of trailers under D.R. classifications are discussed in notes below.)

Schedule of Uses Pertaining To Trailers

	D.R.1[1]	D.R.2[1]	D.R.3.5[1]	D.R.5.5[1]	D.R.10.5[1]	D.R.16[1]	B.L.	B.M.	B.R.	M.R.	M.L.R.	M.L.	M.H.
Trailer park	S.E.	S.E.	S.E.	X	X	X	X	X	S.E.	X	X	S.E.[2]	S.E.
25-acre farm	--	--	--	--	X	X	X	X	X	X	X	--[3]	--
25-acre tract outside Metropolitan District	--	--	X	--	X	X	X	X	X	X	X	--[3]	--[4]
1- to 25-acre tract outside Metropolitan District	S.E.	S.E.	X	S.E.	X	X	X	X	X	X	X	S.E.[3]	S.E.[4]
Prior residence use	--	--	--	--	X[5]	X[5]	X[5]	X[5]	X[5]	X[5]	X[5]	--[3]	--[4]
Guest use	--	--	--	--	X	X	X	X	X	X	X	X	X
Office during construction*	--	--	--	--	--	--	--	--	--	--	--	--	--
Residence during construction*	X	X	X	X	X	X	--[6]	--[7]	--[8]	--[9]	--[10]	--[3]	--[4]
Sales office	X	X	X	X	X	X	X	--	--	X	X	--[3]	--[4]
Trailer sales and storage	X	X	X	X	X	X	X	--[7]	--[8]	X	X	--[3]	--[4]

*Temporary use only

See Section 415.4 as to requirement for permits

S.E. = Special Exception
-- = Use Permitted
X = Use Prohibited

NOTES:

1 The original R.40, R.20, R.10, R.6, R.G. and R.A. Zone classifications have been changed to the corresponding D.R. Zone classifications pursuant to the provisions of Section 100.3A and Article 1B.

2 Trailer parks are not now permitted in the M.L. Zone, under the current provisions of Section 253, as amended after the enactment of this entry. See Section 253.2.C.8.

3 Under Section 253, as amended after the enactment of this entry, trailers are allowable under the M.L. classification only as temporary accessory uses (Subsection 253.1) or, by special exception, as interim principal uses (Section 253.2).

4 This use is not listed in Section 256 among uses allowable under the M.H. classification.

5 See also Section 415.1.E.

6 This use is not listed in Section 230 among uses permitted under the B.L. classification.

7 This use is not listed in Section 233 among uses allowable under the B.M. classification.

8 This use is not listed in Section 236 among uses allowable under the B.R. classification.

9 This use is not listed in Section 241 among uses allowable under the M.R. classification.

10 This use is not listed in Section 248 among uses allowable under the M.L.R. classification.

Section 415A
Recreational Vehicles and Boats
[Bill Nos. 29-1974; 54-1993]

415A.1 Contrary provisions of these regulations notwithstanding, one recreational vehicle may be stored on a residential lot as set forth below. Such vehicle, except a truck camper, shall have a current license, may not be lived in, or otherwise occupied, when stored on a lot and shall be mechanically ready to be moved at any time. A recreational boat, whether mounted on a trailer or stored on land with or without the use of supports, is subject to these provisions. A boat less than 16 feet in length is not subject to these provisions, except when such boat is mounted on a trailer. The space occupied by such a recreational vehicle or boat may be counted as a required parking space.

A. On a lot occupied by a single-family detached or semi-detached dwelling, one such vehicle may be stored 2½ feet from any rear or side lot line; however, when in a side yard it must be situated at least eight feet to the rear of a lateral projection of the front foundation line of the dwelling. Such vehicle may be stored in any garage.

B. On the lot of any individually owned row or group house, one such vehicle may be stored, provided that it is situated entirely in the rear yard, 2½ feet from the side or rear lot lines.

C. Such vehicles may be stored on a specially designed parking area of any multifamily rental or condominium unit. Such areas must be screened from adjacent off-site residential uses, as required by the Director of Permits and Development Management.

415A.2 A residentially used or vacant residentially zoned waterfront lot shall have no more than one pier (whether fixed or floating). As of November 15, 1993, the number of boats, not including those smaller than 16 feet, permitted to be stored at a pier, slip, buoy or any other mooring device in the water at such a lot shall be limited in accordance with the following schedule:

Waterside Lot Line	**Number of Boats Permitted**
0 to 50 feet	4
51 to 100 feet	5
Over 100 feet	6

415A.3 Exceptions.

A. From November 1 through March 31, out-of-water boat storage on residential waterfront lots is permitted, subject to the setback provisions in Section 415A.1.A or B and in accordance with the following schedule:

Waterside Lot Line	Number of Boats Permitted
0 to 75 feet	2 boats, or 1 boat and 1 other recreational vehicle
Over 75 feet	3 boats, or 2 boats and 1 other recreational vehicle

B. Where the requirements set forth herein for the storage of recreational vehicles would create an undue hardship, the Zoning Commissioner may approve a modified storage plan upon petition and public hearing thereon according to the procedure defined in Title 26, Section 26-127(b), except that if no hearing is requested the modified plan may be approved by the Director of Permits and Development Management, subject to appeal to the Baltimore County Board of Appeals.

Section 415B
Collection Trailers
[Bill No. 154-1982]

1. Contrary provisions of these regulations notwithstanding, collection trailers, profit and nonprofit, may be temporarily placed on shopping center properties subject to a use permit being granted by the Zoning Commissioner in accordance with Section 500.4.

2. Prior to issuing a use permit for a collection trailer, the Zoning Commissioner shall approve the location of said trailer which must be shown on an overall functional site plan of the shopping center in question. In addition to other considerations that he may deem necessary, the Zoning Commissioner shall give consideration to the following factors and may impose any appropriate conditions, resulting from such consideration, upon the use permit:

   a. The size and vehicular accessibility of the shopping center.

   b. The available number of parking spaces in the center.

   c. Whether or not an attendant is provided, and/or required for the trailer.

   d. Hours of operation.

   e. The proposed location of the trailer with regard to interior vehicular circulation and adjoining residential premises.

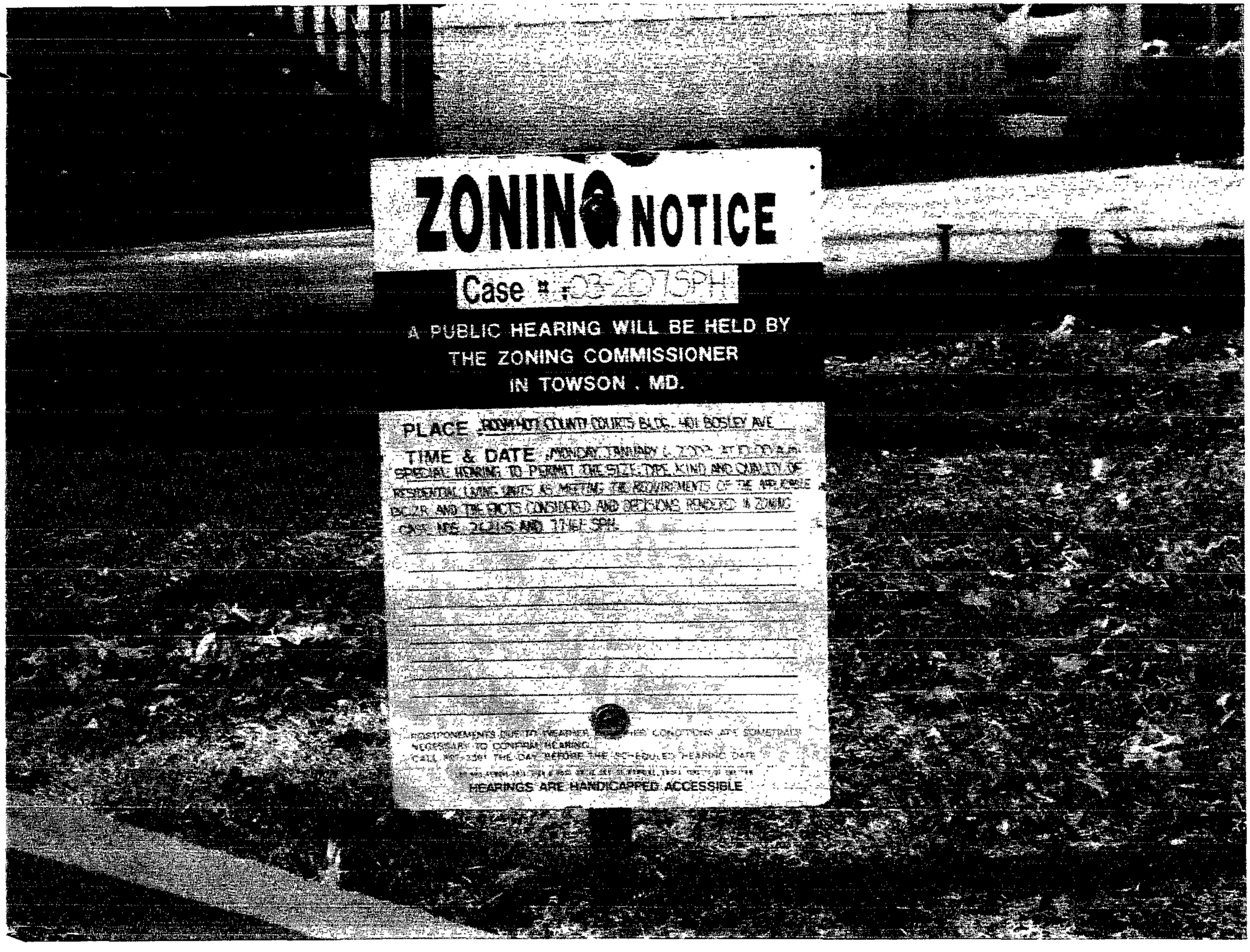
   f. The purpose for the trailer; i.e., to provide a convenient location for the placement of facilities designed to receive from the public household products, including used beverage cans and foil products, to be recycled for reuse.

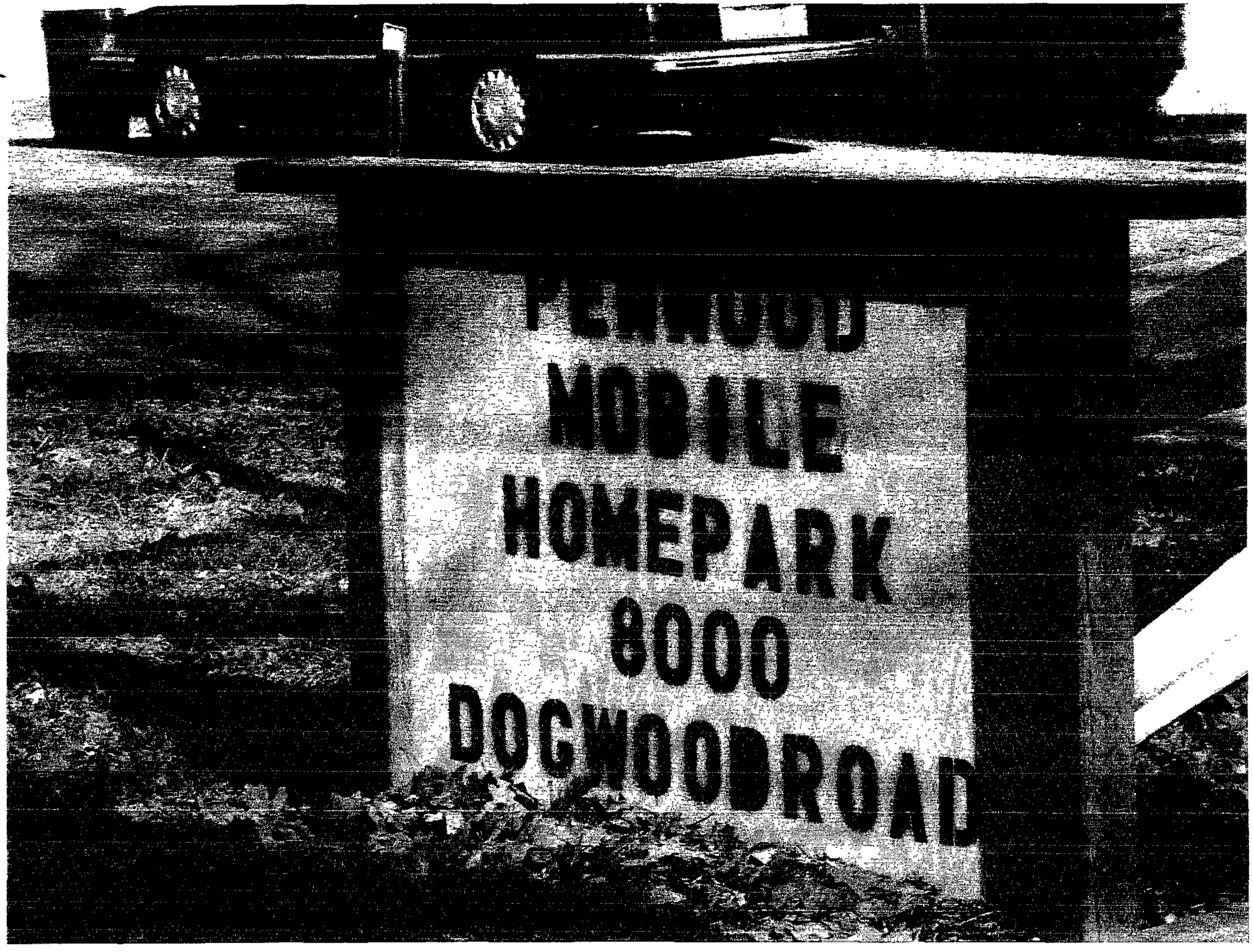
   g. Whether a written authorization has been given by the owner or manager of the shopping center granting permission to locate a collection trailer on the shopping center property.

Penwood Mobile Home Park , Inc.

ZONING COMMISSIONER
FOR BALTIMORE COUNTY
Case No. 03-207-SPH
January 6, 2003

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
Q
31 PAGES


ZONING NOTICE
Case #: 03-207-SPH
A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON , MD.
PLACE
TIME & DATE
SPECIAL HEARING TO PERMIT ONE SIDE-TYPE, KIND AND QUALITY OF
RESIDENTIAL LIVING UNITS AS MEETING THE REQUIREMENTS OF THE APPLICABLE
BCZR AND THE FACTS CONSIDERED AND OPINIONS RENDERED IN ZONING
CASE NOS. 2001-S AND 1114-SPH.
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING
CALL 887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE
HEARINGS ARE HANDICAPPED ACCESSIBLE


HOMEPARK
8000
DOGWOOD ROAD

1953 – Approved as a *Trailer Camp*

ZONING REGULATIONS AND RESTRICTIONS
FOR BALTIMORE COUNTY
SECTION 1 – DEFINITIONS

33.***Trailer Camp***: **Any land upon which**, habitually or infrequently, one or more **trailer or house cars**, when detached from its automobile, or means of locomotion, or a combined car and house trailer, **are placed or located, and whether or not used for occupancy as [a] dwelling or otherwise**, and shall include any structure or building used as a service building for such camp or intended for use as a part of the equipment of such camp.

(Emphases added.)

Baltimore County Zoning Regulations, 1945-1955 [*Appx. K to current BCZR]*

1953 – What is a *Trailer*?

ZONING REGULATIONS AND RESTRICTIONS
FOR BALTIMORE COUNTY
SECTION 1 – DEFINITIONS

32.**Trailer**: A **vehicle used, or intended for use as a conveyance upon the public street or highways**, so **designed, constructed, reconstructed**, or added to by means of portable accessories **in such manner as will permit the occupancy thereof as a *movable dwelling* or *sleeping place***.

(Emphases Added)

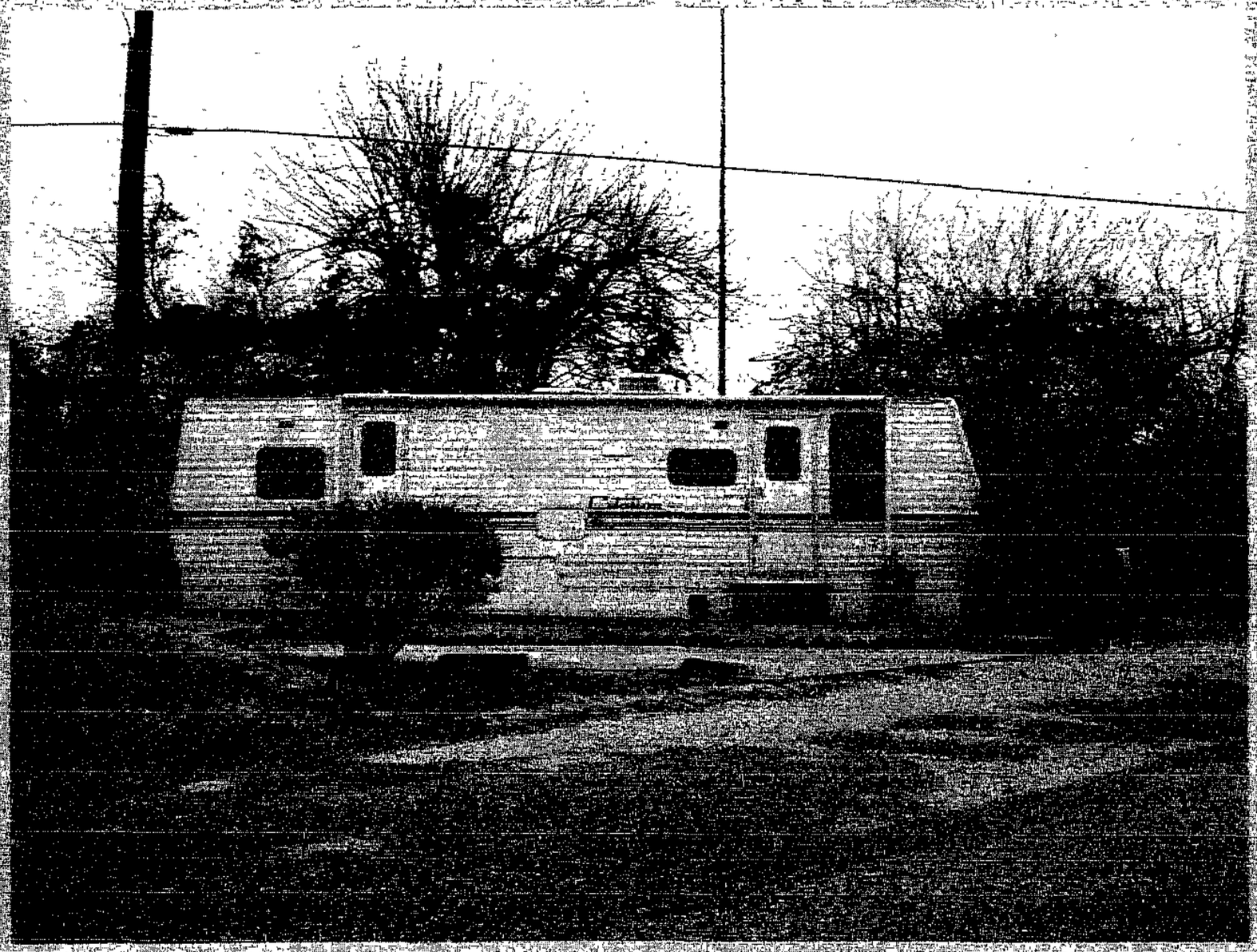
Baltimore County Zoning Regulations, 1945-1955 [*Appx. K to current BCZR]*

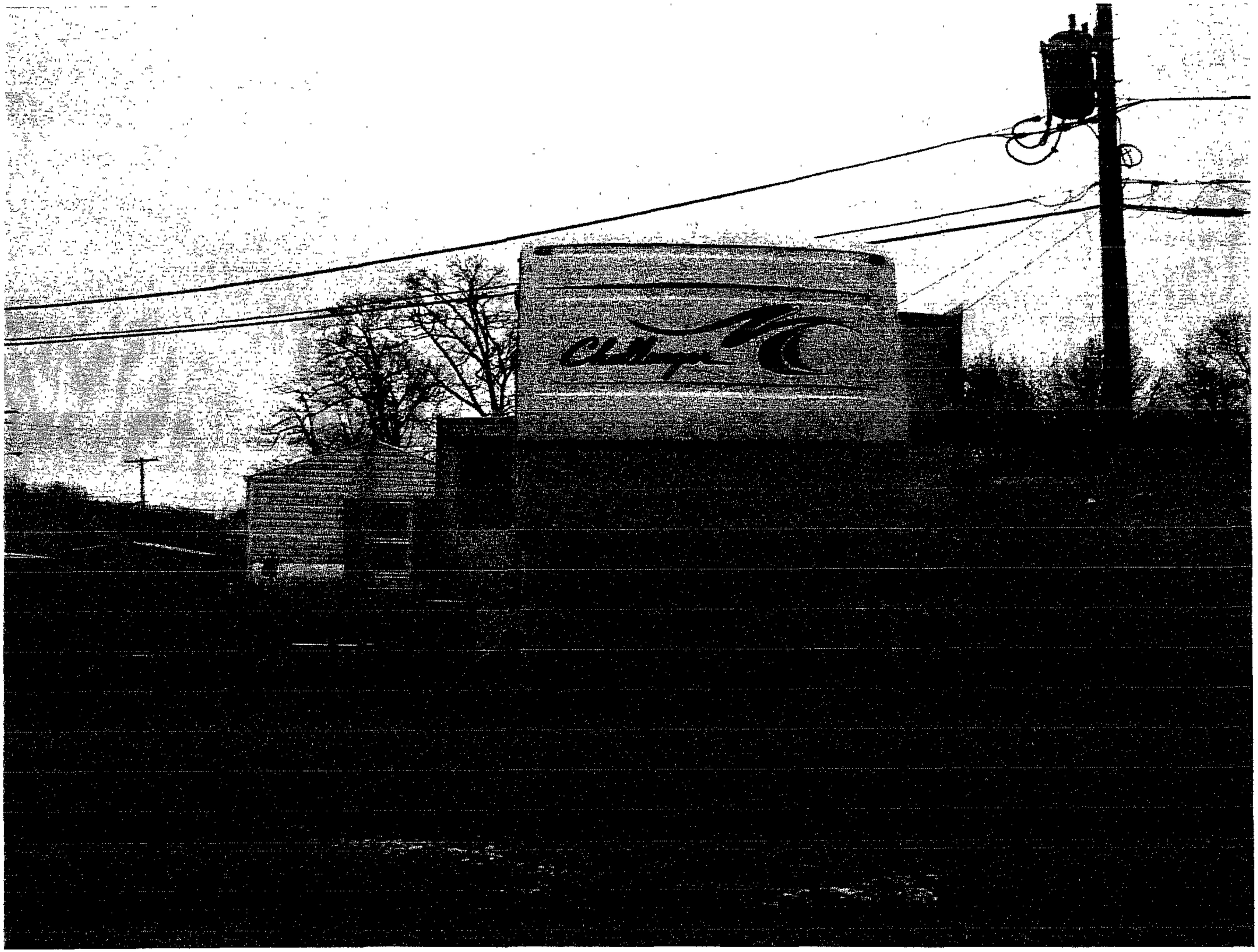
The Traditional Approach To Trailer Camps/Parks

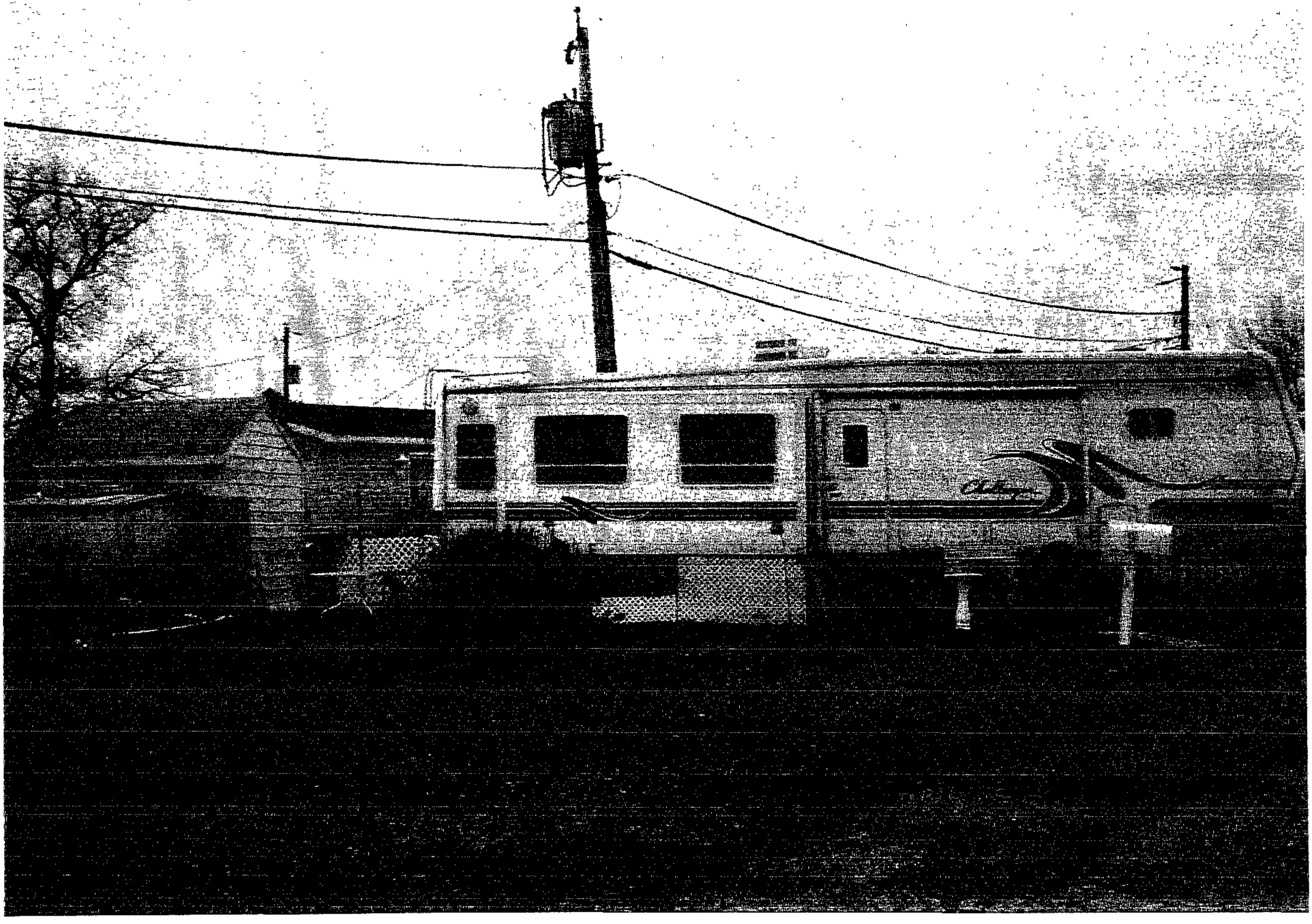
Penwood

Penwood – Empty Pads

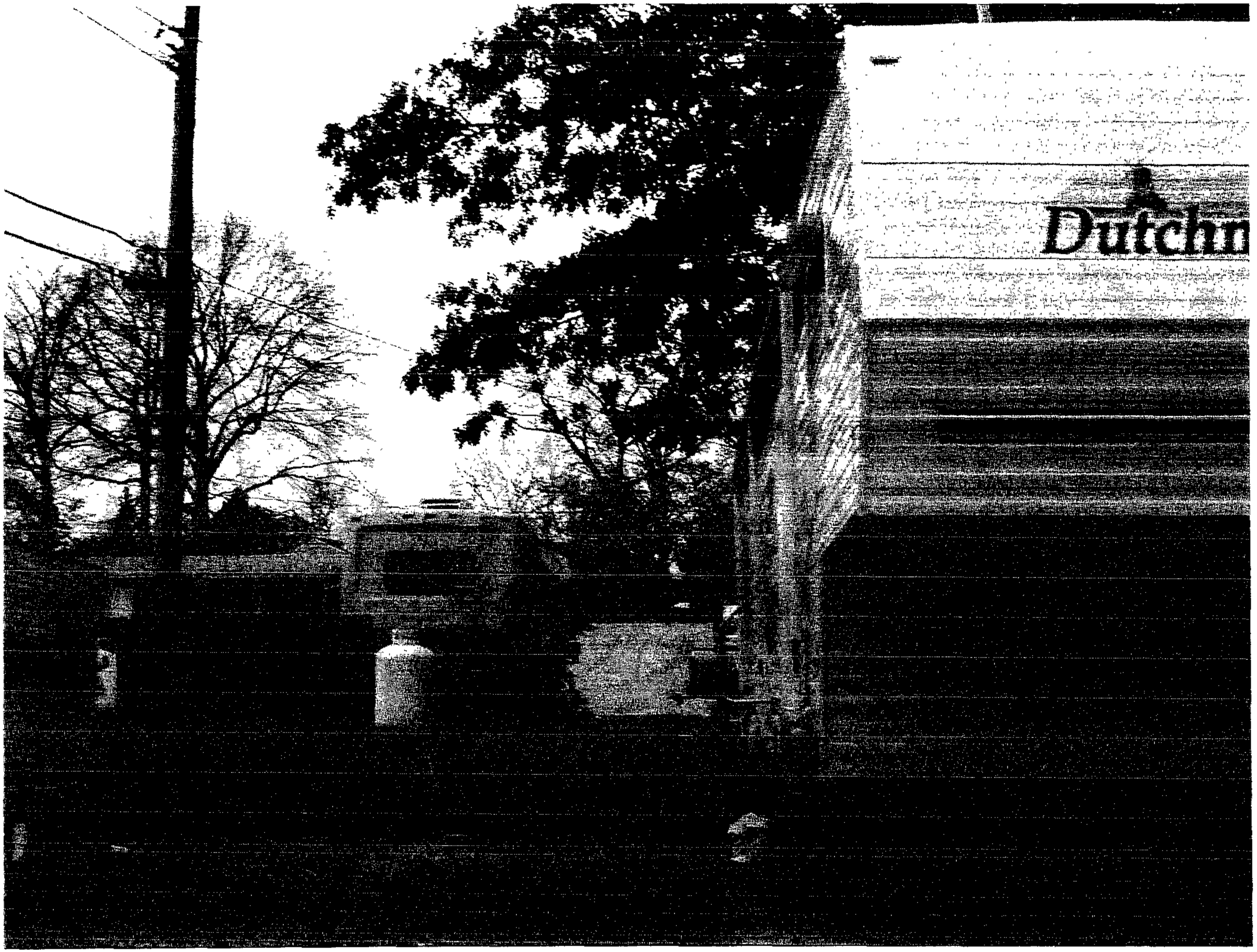
Trailers Used at Penwood & Elsewhere







Dutchmen

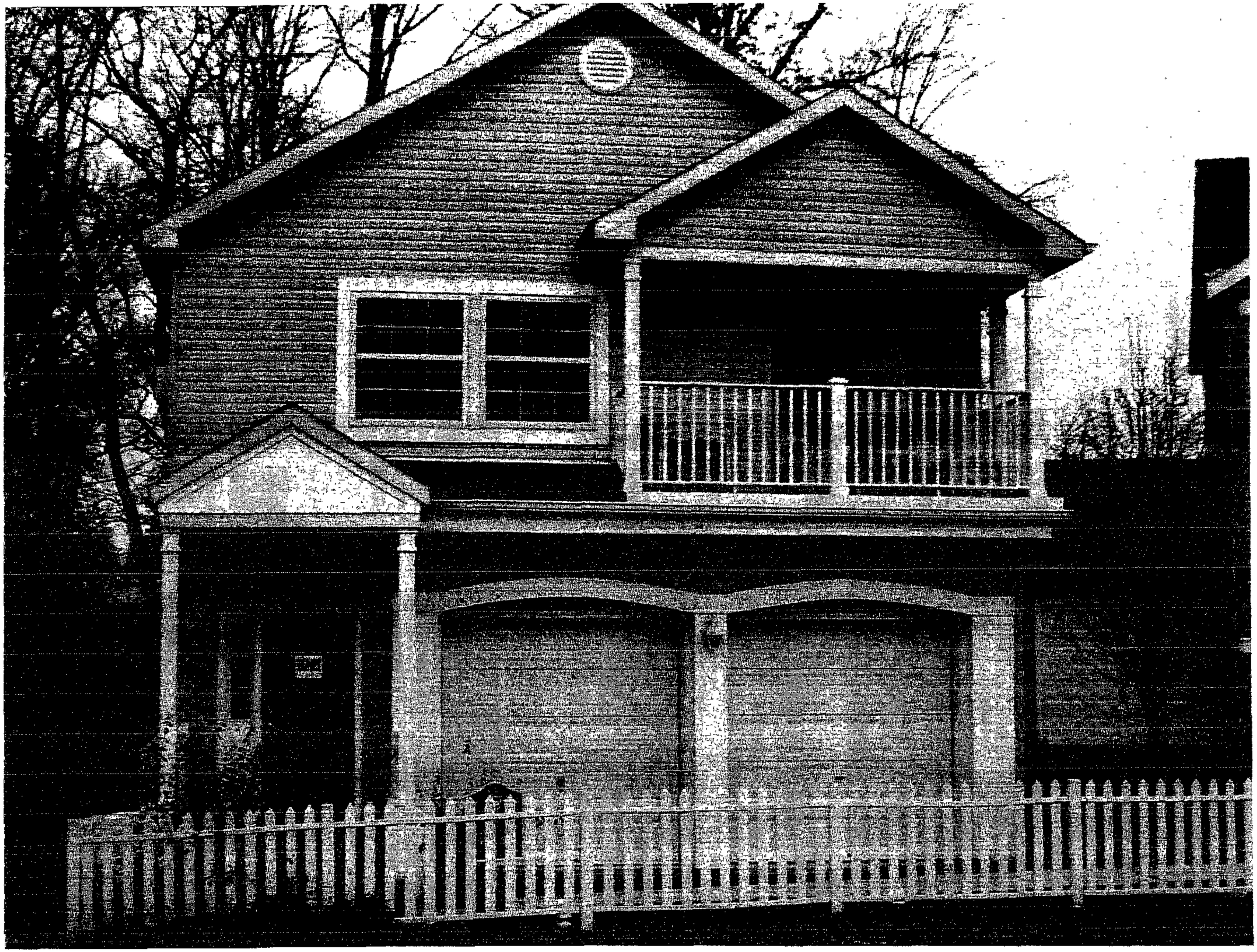

Dutchm

Connections to Utilities

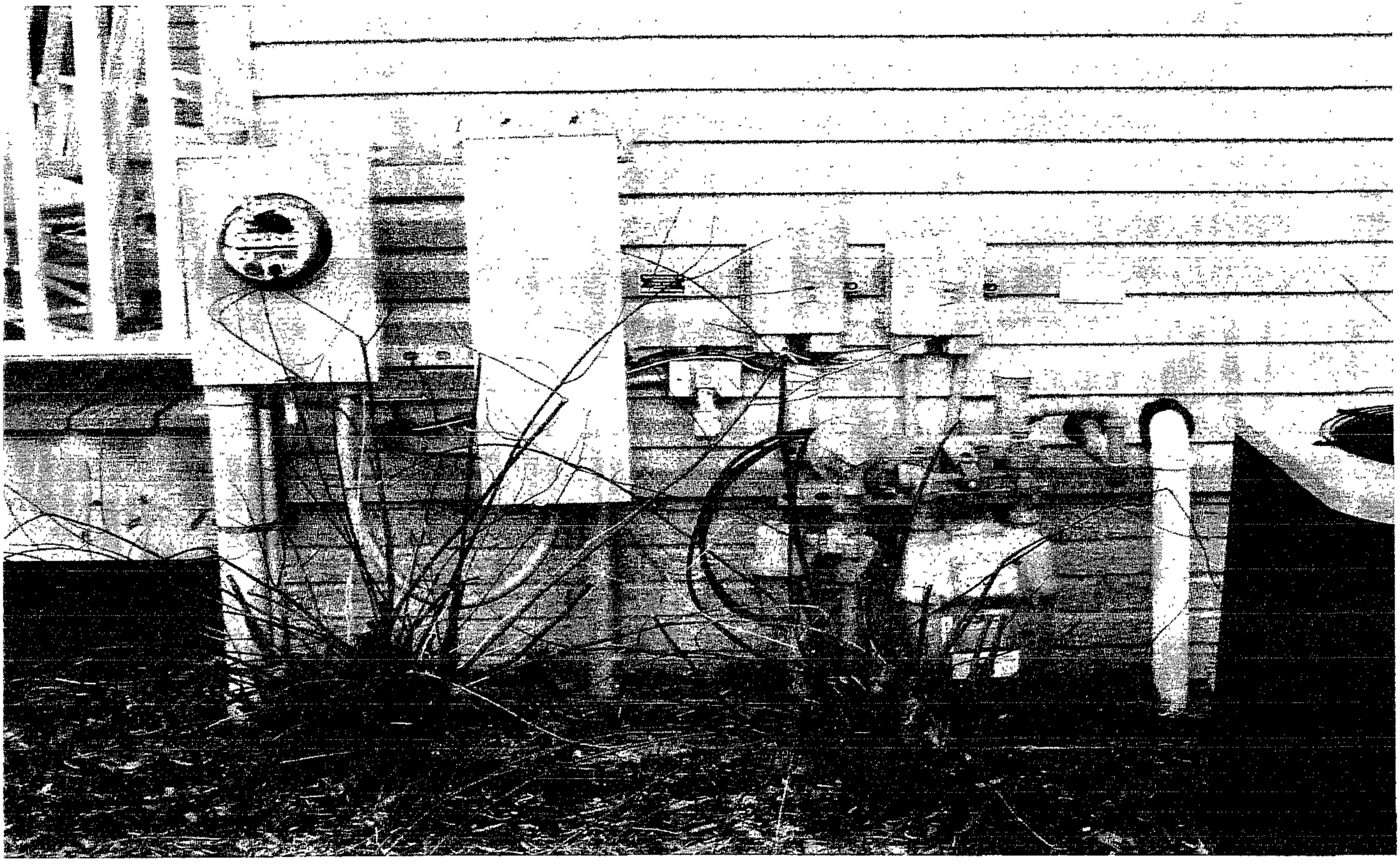
The Neo-Traditional Approach

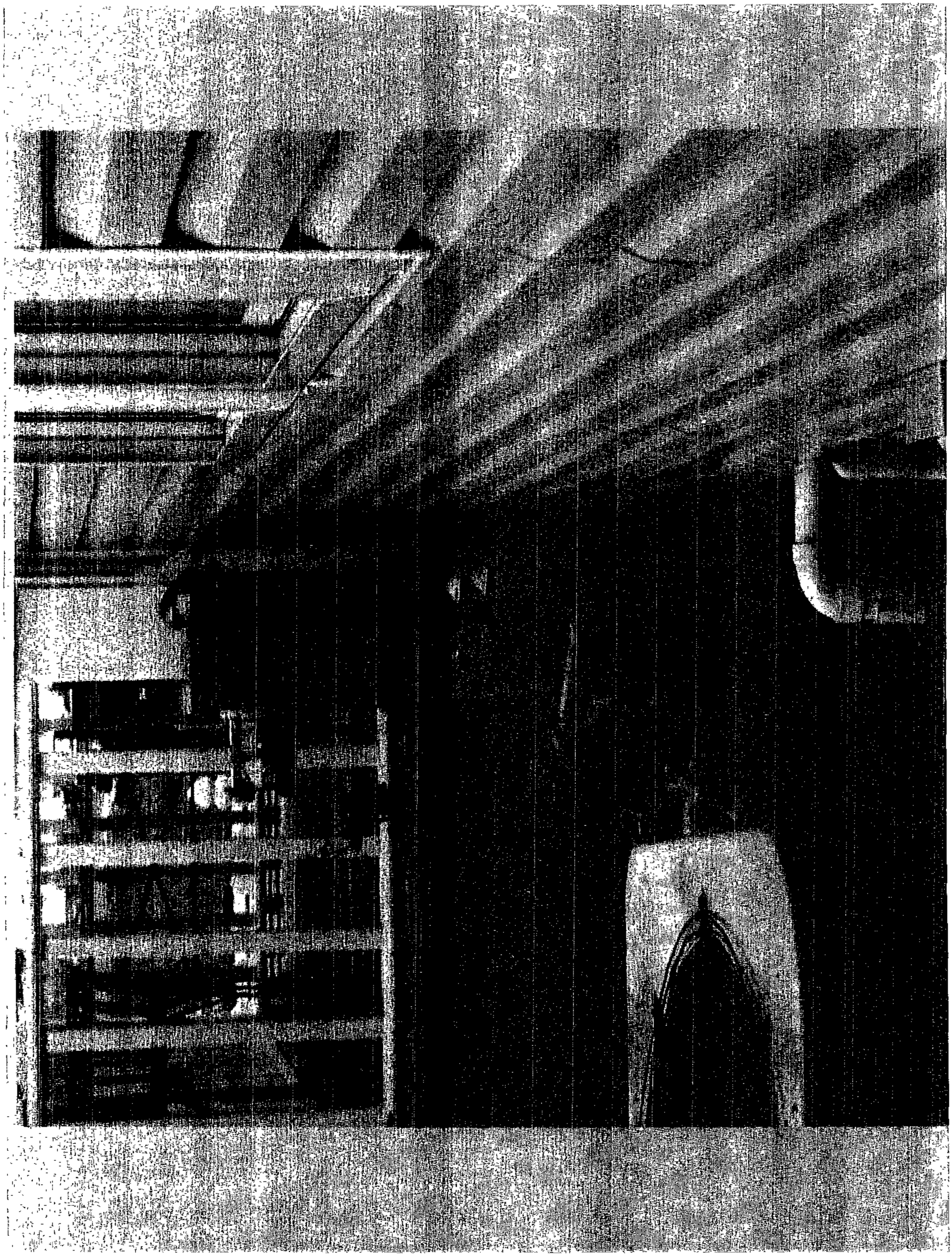
If the "so called" recreational vehicle is not a trailer as defined, would the following quality?

New Colony Village
Mobile Home Community



Connections at New Colony Village





Summary

ALL of the trailers, vehicles and mobile homes in Penwood, other parks depicted and even New Colony Village meet the applicable definition of Trailer as set forth in the 1945-1955 BCZR:

Trailer: A **vehicle used, or intended for use as a conveyance upon the public street or highways**,. so **designed, constructed, reconstructed**, or added to by means of portable accessories **in such manner as will permit the occupancy thereof as a *movable dwelling* or *sleeping place***.

MERRITT LA
BOULEVARD
151
Antioch Chapel
SMOOTH LA
BEACHWOOD ESTS
BLUECRAB RD
SANDYMOUNT RD
SANDWOOD CIR
GREENCOVE CT
COVE POINT RD
LA
Todd Pt
Porter Pt
BEACHWOOD
BAYSIDE RD
PARK
WILLOWOOD
RIVERVIEW RD
Southworths
WILDWOOD BEACH
RIVER
6
7
8
Exit 42
Cove
Greenhill
LYNCH POINT RD
Lynch Pt
RIVER DRIVE RD
LYNCH RD
ALICE AVE
3300
ELU AVE
MARTHA AVE
GRACE AVE
3100
GREEN HILL RD
WHITEWAY RD
Edgemere Co & Rescue
7000 AVE
DELMAR AVE
SALISBURY AVE
MCCOMAS AVE
RITCHIE AVE
CEDARCREST AVE
ARMISTEAD RD
158
RD
EDGEMERE
ROSS AVE
WELLS AVE
2900
DENNIS LA
MORRISON LA
ORTH RD
STREBOR RD
POINT RD
NEWTON RD
ROGER RD
MAIN AVE
Edgemere ES
Sparrows Point MS & HS
CHESAPEAKE AVE
CHESAPEAKE DR
Shiloh Bapt
SNYDER AVE
SYCAMORE AVE
SYCAMORE LA
POPES
2700
2800
Sparrows Point
North Point-Edgemere Co 260
LORING CT
DORY CT
TURTLE AVE
HEINTZWATER RD
718
OAKWOODLAWN AVE
2700
Saint Luke
Lodge Forest Meth
ELMORE AVE
NANIEL WAY
WILLOW
POINT RD
EDGEMERE AVE
STEEL AVE
MANOR AVE
MARINE AVE
SNYDER AVE
SCHOOL HOUSE LA
LAKEVIEW AVE
PAC LA
MARIE AVE
MANNING AVE
CAROLYNE AVE
WELSH AVE
ESTELLE AVE
MENSER AVE
MASSETH AVE
BRANNAN AVE
JARSEY AVE
MATTHAI TERR
HADDAWAY RD
KETCHUM AVE
WYTHE AVE
COOPER AVE
VERONICA AVE
PECK AVE
ALEXANDRA AVE
RUTH AVE
SHADY GROVE CIR
2500
SPARROWS POINT BLVD
WATERFRONT DR
7800
EAST AVE
BAUERS FARM RD
EDGILES RD
MILLERS ISLAND RD
Creek
WALDMAN AVE
LINWOOD AVE
HUGHES AVE
HAMMOND AVE
MURRAY AVE
GISEL RD
BLEVINS AVE
2300
LODGE AVE
WOODRIDGE RD
NORTH EAST COVE RD
Loves Boat Yard
SOUTH COVE RD
NORTH POINT CREEK RD
POPLAR RD
2600
POPLAR AVE
DOGWOOD RD
8000
ESQUIRE RD
MAPLE RD
GROSS AVE
BUCHER RD
Atlantis
LINCOLN AVE
GEPHARDT AVE
BETZ AVE
NORTH DAKOTA AVE
ELLEN AVE
BAY FRONT RD
ANNA AVE
ALMA AVE
7200
7400
Chesapeake Terr ES
4100
MAPLE LODGE
OAK RD
CREEK RD
North Point Creek
RUSSELL OAKS CT
TALL OAK SHORE RD
SHORT LA
PENWOOD AVE
PENWOOD RD
THOMAS LA
BARBARA LA
WOOD AVE
Markels Boat Yard
North Point
ELMER LA
LOCUST AVE
IROQUOIS AVE
1700
PRATT LA
KROPF LA
VAGABOND LA
Old Bay
CHESAPEAKE TERR
Imans Boatyard
OLD ROAD BAY
#5
AVE A
AVE B
ROSS AVE
MCCOMAS RD
NORTH
POINT
STATE PARK
SHORE RD
BAY
Shallow Creek
9200
8-20500
MD GRID 510,000 FT
9
10
11
12
13

Prot. No 2

ADDENDUM

PENWOOD MOBILE HOME PARK

RENTAL AGREEMENT

November 12, 1998

The attached Site Rental Agreement is amended as follows:

Page 2, Section 2. TERM ACCEPTED. Paragraph (b):

Add the following paragraph:

Tenant accepts a month-to-month term at the current rental rate, and agrees to any applicable increase in the rental rate at the time of the Park's next Anniversary.

Page 20, Appendix B, Section IV. PETS AND ANIMALS;

Delete this Section in it's entirety, and substitute the following:

IV. PETS AND ANIMALS:

(a) One (1) dog not over 10 adult pounds will be permitted per household, with a $10.00 per month Pet Fee charged. No other pets or animals are permitted to be kept in the Park, on the site or in the home of the Resident.

(b) Prior to bringing a dog into the home, Resident must get prior written approval from the Park Owner.

(c) The dog must be registered with the Management Office, along with a picture of the dog.

(d) The dog cannot exceed 10 pounds (adult size), and will be weighed in at the Management office. A written statement from a veterinarian indicating the dog's adult weight is required to be on file in the Park Office.

(e) The dog is restricted to the Resident's home and lot, and cannot be taken beyond the site. When outdoors, the dog must be on a leash with someone in attendance. The dog must never be left alone outdoors.

(f) Pet defecation must be cleaned up immediately.

(g) Dogs not registered with the Park, such as those belonging to relatives, friends, or guests of the Resident, are not permitted in the Resident's home or in the Park at any time.

(h) If the aforementioned procedures are not followed, the Park Owner has the right to request the Resident to remove the pet from the Park.

PENWOOD MOBILE HOME PARK, INC.

(Park Owner)

Carol A Lyons

(Agent for the Park Owner)

January 1, 2002

(Date)

(Resident)

(Resident)

P E N W O O D

M O B I L E

H O M E

P A R K

S I T E R E N T A L A G R E E M E N T

Penwood Mobile Home Park
Edgemere, Maryland 21219

PENWOOD MOBILE HOME PARK
SITE RENTAL AGREEMENT

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PENWOOD MOBILE HOME PARK

SITE RENTAL AGREEMENT

Rental Agreement (hereinafter called "Agreement") made this 1st day of January, 19 2002, between Penwood Mobile Home Park, a Maryland corporation organized and existing under the laws of the State of Maryland (hereinafter called "Owner") and Mary M. Lawrence and Robert Cox (hereinafter called "Resident").

WITNESSETH, In consideration of the rents, mutual covenants and agreements made herein, the parties hereto agree as follows:

1. SITE.

Owner hereby leases to Resident, and the Resident hereby rents from the Owner, the home site described as lot # 15 located on 8000 Dogwood Road, Penwood Mobile Home Park, 8000 Dogwood Road, Edgemere, Baltimore County, Maryland 21219, (hereinafter called "Site") for the following terms and subject to the conditions and convenants, which the parties hereto, for themselves, their family invitees, heirs, personal representatives and assigns, hereby agree to keep and perform to wit:

2. TERM ACCEPTED.

(a) Resident accepts a ONE (1) YEAR (12MONTH) Term, Commencing on the 1st day of January, 19 2002 and ending on the 31st day of December, 19 2002 inclusive, at and for the total amount of an annual rental of Three Thousand Nine Hundred Sixty and 00/100 Dollars ($3960.00) payable in advance, in equal consecutive monthly installments of Three Hundred Thirty and 00/100 Dollars ($330.00 on the 1st day of each and every month during said term, the first month's rent having been paid upon the execution of this Agreement.

Upon the expiration of the one year lease term or any renewal thereof, Park Owner agrees to offer to a Qualified Resident (as herein defined) a Rental Agreement for a one (1) year period.

In the event the Resident is not eligible for renewal or refused to accept an additional one (1) year lease term, said Resident shall by virtue of this Agreement become a Resident from month-to-month, which said monthly tenancy shall be subject to the conditions and covenants of said Agreement as though the same had originally been a monthly instead of a term tenancy. Provided, however, that if the Owner shall give thirty (30) days notice in writing prior to the expiration of said original term, or any monthly renewal hereof, of its intent to change the terms and conditions of this Agreement, including any provision herein relating to the amount and payment of rent, and the Resident shall continue in possession after the expiration of said notice, the tenancy under this Agreement shall thereupon be modified to the extent and in the particulars set forth in said notice relating to the amount and payment of rent, fees or other conditions.

(b) Resident accepts a MONTH-TO-MONTH TERM, Commencing on the _____ day of _____, 19____ and continuing from month-to-month until terminated by either party, by giving the other party at least thirty (30) days written notice prior to the termination date. The monthly rental for the site shall initially be _____ Dollars ($_____) per month and shall continue at that rate until the resident is notified of any change at least thirty (30) days prior to a new rental rate being effective.

3. RESIDENT OPTION OF TERM.

Prior to entering this Agreement, the Resident hereby acknowledges that:

√ (a) I was offered and accepted a one year lease term by the Owner.

1/1/02 Date

OR

_____ (b) I was offered but rejected a one year lease term by the owner and I accepted a month-to-month lease term.

_____ Date

4. QUALIFIED RESIDENT.

Eligibility as a "Qualified Resident" means a year-round resident who:

(a) has made rental payments on the due date or within any grace period commonly permitted in the park during the preceding year;

(b) within the preceding 6-month period has not committed a repeated violation of any rule or provision of the rental agreement and, at the time the term expires, no substantial violation exists; and

(c) Owns a mobile home that qualifies for resale and passes an annual inspection according to the standards of the park.

5. RIGHT NOT TO RENEW AGREEMENT (TERMINATION).

A. RESIDENT.

(1) Resident may terminate this Agreement at the end of any term by giving to the Owner, a minimum of thirty (30) days written notice prior to the termination date.

B. OWNER.

(1) Park Owner may, at the expiration of any term of tenancy under this agreement, terminate this agreement provided the Resident is given prior written notice of such termination as follows:

(a) In cases of tenancies from year to year, notice in writing shall be given three (3) months before the expiration of the current year of tenancy.

(b) In cases of month-to-month, notice in writing shall be given one (1) month before the date to terminate and vacate Site.

(c) Owner may elect not to renew this Agreement at the end of any month-to-month term, by giving, to the Resident a minimum of thirty (30) days written notice prior to the termination date.

(d) Upon the demise of tenant as listed on the Rental Agreement, said demise will automatically terminate this Rental Agreement. At such time, home must be removed from said Site.

(e) Should the Owner desire to discontinue the operation of the entire community, or a portion of the community which contains the Resident's site, and thereafter, change the use of the land, the Owner may terminate this Agreement by giving a minimum of One hundred eighty (180) days written notice prior to the termination date notwithstanding the provisions of a longer term provided for herein.

Resident shall be responsible for rent payment during the notice period.

6. RENT DEFINITION AND PAYMENT.

The term "Rent" referred to in this Agreement includes Basic Site rental, in addition to any and all additional charges from time to time levied against the Resident by Owner for expenses incurred in correcting any Agreement Violation, together with all fees provided for hereunder, which fees are computed and described in accordance with Appendix "A" - Fee Schedule attached hereto and made a part hereof.

7. EXCISE TAX.

Resident agrees to pay to the Owner each month together with the rent payment, the appropriate excise tax assessed by the county in the amount such assessment is established by the County.

8. LATE CHARGE AND COLLECTION FEES.

Five (5) days after the date the rent is due, Resident agrees to pay a late payment charge of five (5%) percent of the rent past due or $ 5.00, whichever is higher. Resident shall pay any expenses including court cost and reasonable attorney's fees whether or not suit is actually instituted, incurred in the collection of overdue rental payments.

9. WAIVER.

The receipt by Park Owner of rent with knowledge of any breach of any covenant or obligation of Resident hereunder shall not be deemed a waiver of such breach, and failure of Park Owner to enforce its rights and the proper performance of any covenant or obligation of Resident hereunder shall not constitute a waiver of any subsequent act or violation of Resident, whether of the same or a different kind.

10. PARTIAL PAYMENT.

No payment by Resident or receipt by Park Owner of an amount less than the monthly rent herein provided or a statement on any check nor on any letter accompanying any check or payment without prejudice to its rights to recover the balance of such rents or pursue any other remedy provided in this agreement or by law.

11. RENT INCREASES.

After the initial term of this Rental Agreement, Park Owner may from time to time upon proper notice, increase rent for the demised site.

12. RENT ADJUSTMENT AND ADDITIONS.

Resident will be subject to possible increase in rent during the lease term due to fees or charges imposed on Park Owner by others during the lease term. In addition to the agreed rent, Resident shall pay at the Park Owner's option, as additional rent during this lease term representing the Resident's proportionate share of any increase in real estate taxes on the Park, environmental, sewer or water fees, license fees, refuse collection, plus any new costs or charges or assessments subsequent to the commencement date of this Rental Agreement imposed upon Park Owner by any governmental agency in the nature of or in lieu of real estate or other taxes. Any new or increased costs or charges which are imposed on a periodic basis shall be charged to Resident, at the Park Owner's option, as additional . . .

on a pro rata basis, after Park Owner has notified Resident in writing of the adjusted monthly rent at least thirty (30) days prior to the effective date such adjusted rent is due and payable.

13. SECURITY DEPOSIT.

Resident shall give Owner a security deposit, upon execution of this Agreement, of $_____, receipt of which is hereby acknowledged (_____initials), to be held by the Owner as security for the full or partial payment as required of unpaid rent, full and faithful performance by the Resident of all the terms and conditions of this Agreement, damages due to breach of Rental Agreement or damage to the Site caused by the Resident, his family, employees, or social guests in excess of ordinary wear and tear. Within thirty (30) days after receipt of aforesaid security deposit, Park Owner shall deposit same in an Escrow Account, devoted exclusively to security deposits, in a banking or savings institution as required by law.

If Resident makes written request to Park Owner within fifteen (15) days of Resident's occupancy, Park Owner shall promptly provide Resident with a written list of all existing damages to the Premises. It is hereby understood, however, that Park Owner shall not be responsible for damage to the site caused by the installation of Resident's mobile home. Within forty-five (45) days after the end of the tenancy, Park Owner shall return the security deposit to Resident together with simple interest which has accrued (at 6 month intervals from the day Resident gives Park Owner the security deposit) in the amount of 4% per annum less any damages rightfully withheld. Interest is not compounded, and shall be payable on security deposits of $ 50.00 or more. If the Park Owner without a reasonable basis, fails to return any part of the security deposit, plus accrued interest, with forty-five (45) days after the termination of the tenancy, the Resident has an action of up to three-fold of the withheld amount, plus reasonable attorney's fees. The security deposit, or any portion thereof, may be withheld for unpaid rent, damage due to breach of the Rental Agreement, or for damage to the leased premises by the Resident, his family agents, employees, or social guests in excess of ordinary wear and tear. The Resident has the right to be present when the Park Owner or his Agent inspects the premises in order to determine if any damage was done to the premises, if the Resident notifies the Park Owner in writing of his intention to move, the date of moving and his new address; said notice to be furnished by Resident to Park Owner shall be mailed at least fifteen (15) days prior to the moving. Upon receipt of the notice, the Park Owner shall notify Resident, in writing, of the time and date when the premises are to be inspected. The date of inspection shall occur within five (5) days after the moving as designated in Resident's notice.

14. REPRESENTATION IN APPLICATION.

Park Owner has tendered this Agreement to the Resident and Resident accepts same on the basis of representation contained in the application submitted by Resident to Park Owner for the purpose of inducing Park Owner to execute this Agreement; and in the event that any of the representations contained in the aforesaid application shall be found by Park Owner to be misleading, incorrect, or untrue, Park Owner shall have the right to forthwith cancel this Agreement and to repossess the site by legal process, reserving all rights and remedies against Resident as if a default hereunder had occurred in accordance with the terms hereof. Resident's rental application is attached hereto and made a part of this Rental Agreement.

15. DISCLOSURE OF UTILITY SERVICES.

Resident acknowledges receipt of a "Site Accommodation Disclosure Statement" from the Park Owner identifying the availability, capacity and connection fee of all utility services at the mobile home site which is the subject of the application and Rental Agreement.

Resident accepts the site as proposed and understands that it is the

Resident's responsibility to insure that the size of the site and the utility services are adequate for the proper installation and functioning of the mobile home as placed on the site.

Resident acknowledges receipt of notification that the basic electrical service available on the site is a maximum of 50 amperes, unless otherwise specified. Resident will be required to increase the amperage, at his cost, in order to furnish the service necessary to accommodate and use his mobile home.

_____ _____ _____

initials initials date

16. SERVICES PROVIDED BY PARK OWNER.

Park Owner shall provide within the basic site rent the following services for the Resident:

(a) Sewer and water;
(b) Trash and garbage collection; except bulk items;
(c) Maintenance of roads and common areas, if available;
(d) Use of recreational and common facilities, if available;
(e) Street lighting.

17. DUTY AND OBLIGATION OF RESIDENT AND HIS GUEST(S).

Resident and his guest(s) agree as follows:

(a) USE OF SITE. The leased premises (hereinafter called "Site") shall be used only for the purpose of a private dwelling, and shall not be used for the practice of any profession, trade, craft, or business, nor shall Resident otherwise make any unlawful, disorderly, improper or objectionable use thereof. The Site may not be used for any purpose contrary to any statute, ordinance, or valid administrative order or regulation or in any manner which unreasonably disturbs or offends any other occupant of the Park.

(b) SUBLEASING PROHIBITED. No home or premises shall be subleased or put in the possession of another party. This Rental Agreement may not be assigned.

(c) OCCUPANCY OF PREMISES. The premises shall not be occupied by any person other than those named and specified in the Site Rental Application. Resident agrees to notify Park Owner of any change in the identity, number or status of persons occupying the premises within fifteen (15) days from the date of such change. The legal age for the head of household shall be at least eighteen (18) years. There will be no more than four (4) people residing in any one mobile home. At no time shall the number of persons sleeping in a mobile home exceed the number permitted by applicable governmental regulations, ordinances, or statutes. Persons living in the Community more than fifteen (15) days consecutive days, or during a year thirty (30) days, will be classified as Residents, not guests, and must register as required herein.

(d) UTILITY PAYMENTS. Resident agrees to pay all utility bills for gas, electricity, fuel and telephone used on the site during the term of this Rental Agreement and any extensions hereof. Resident further agrees to open all accounts with utility companies prior to the date of possession. Water and sewer is furnished at each home site by Owner, charges for which may be passed on to Resident upon the installation of water meters and proper notice. The cost of the initial connection of such facilities to the home shall be borne by the Resident. It is understood and agreed that all facilities, utilities or services referred to herein may be subject to failure, interruption or curtailment as a result of accident, breakage, strike, repair, improvements, inability to obtain proper fuel or any other cause, and that the Owner shall not be liable to the Resident or to anyone else

on account of any such failure, interruption or curtailment or on account of any injury, loss or damage resulting therefrom.

(e) CONDITION OF PREMISES ON COMMENCEMENT AND TERMINATION. Park Owner will deliver the Site in a clean, safe and sanitary condition. Resident hereby acknowledges that he has been given the opportunity to examine the Site and that his acceptance of this Agreement is conclusive evidence that said Site is in good and satisfactory order and repair, unless otherwise specified in writing. The Resident shall quit and surrender the Site at the end of the term in as good condition as when received, reasonable wear and tear excepted. The Resident shall forthwith upon demand by Park Owner pay as additional rent to the Park Owner, the cost of repairing any injury done to the Site by himself, his family, guests, employees, agents or contractors.

(f) TREES AND SHRUBS. Trees and large shrubs planted by Resident or Park Owner, may not be removed without prior written consent of the Park Owner.

(g) THE DUTY OF THE RESIDENT TO MAINTAIN SITE. The Site shall be maintained by the Resident in a neat, clean, good and sanitary condition and free of debris. Resident shall maintain and cut the lawn and maintain the landscape, plants, and trees, except that such plants or trees shall not be removed or disturbed without the prior written consent of the Park Owner. Any mobile home in the Park and immediate area surrounding the mobile home must meet the maintenance standards and all provisions of the State and County building, housing, and health codes or regulations and standards contained herein.

(h) REMOVAL OF HOME. Resident will not remove his home from the Site during the term of this Agreement or any renewal thereof, until all rent and taxes have been paid in full.

(i) PARK OWNER ENTRY.

(1) SITE. Park Owner may erect, use and maintain pipes and conduits in and through the Site, and to enter upon the Site during reasonable hours, (except at any time in the case of any emergency), to examine the same and to make repairs, alterations, improvements or additions as Park Owner may deem necessary or desirable and to take all material into and upon the Site as may be required therefore, without the same constituting an eviction in whole or in part and with no abatement or reduction in rent during the course thereof. Park Owner may enter upon the site to conduct an inspection or survey to assure compliance with the Rental Agreement or applicable codes.

(2) MOBILE HOME. Except in the case of any emergency or to prevent imminent danger to a mobile home or its occupant(s), a Park Owner does not have any right of entry to the mobile home without the prior written consent of the Resident.

(j) COMPLIANCE WITH PARK RULES. Resident will comply and conform to the Rules governing the occupancy in the Park, a copy of which is marked Appendix "B" and is attached hereto and made a part hereof, and to such reasonable alterations, additions and modifications thereof as may from time to time be made by the Park Owner provided the Resident receives a notice in writing at least thirty (30) days before the effective date of the proposed rule change, which Rules shall be considered a part of this Agreement with the same effect as though written herein; and the Resident covenants and agrees that said Rules and all amendments thereto shall be faithfully observed by the Resident and all persons invited by Resident onto said Premises. These Rules are deemed necessary for the order, peace, health, safety and operation of the Park, and for securing and promoting the convenience, safety and welfare of the Residents of the Park.

18. SALE OF MOBILE HOME BY RESIDENT.

The Resident shall have the right to sell his mobile home which will be retained on the site, subject to the following conditions and procedure:

(a) Thirty (30) days prior written notice shall be given to Park Owner by any Resident who intends to sell his home. "For Sale" signs shall be limited to one sign not to exceed 12 X 12 inches in size and shall only be displayed inside the window of home for sale.

(b) The Resident shall permit the Owner to inspect the mobile home for sale, including all structures appurtenant thereto, to determine whether or not the home will meet the current Park standards with respect to size, quality, appearance, material specifications, construction and safety conditions, in order that home may remain in the Park upon resale. Said inspection shall be made within ten (10) days of Owner's receipt of written notice from the Resident and the payment of the inspection fee.

(c) The Owner shall notify the Resident of the results of the inspection, in writing, within five (5) days of the inspection and shall furnish the Resident with: (1). a written list of any necessary repairs, modifications and/or changes which must be completed to the Park Owner's satisfaction, prior to occupancy by any purchaser of the home or (2). a statement that the home does not meet the resale standards and may not remain in the Park after resale.

19. APPROVAL OF PROSPECTIVE RESIDENT.

Park Owner reserves the right to approve a prospective resident and purchaser of a mobile home to be retained in the Park. Such prospective resident must qualify and be acceptable as to credit, job stability and family status, on the same basis as required of all new residents and complete the necessary documents required for a new Resident prior to occupancy of the home or the home will be subject to removal from the Park.

20. MINIMUM STANDARDS.

All homes to be placed in the Park for the first time, or retained after resale in the Park, must meet the following minimum standards with respect to size, quality, appearance, material specification, construction and safety condition.

(a) FIRST TIME PLACEMENT.

1. SIZE: Single-wide - 14 feet width, 44 feet length (excluding hitch)
   Double-wide - 22 feet width, 32 feet length (excluding hitch).
2. QUALITY: Exterior shall be clean; free from dents, breaks, broken parts or windows.
3. APPEARANCE: New home, never titled, never owned, never lived in.
4. MATERIAL SPECIFICATIONS: Removable hitch which must be detached after home is installed.
5. CONSTRUCTION AND SAFETY CONDITIONS:
   (a) Contain the National Mobile Home Construction and Safety Standard Act of 1976 (HUD) Seal.
   (b) Sound and safe conditions, free from any structural defects, county approved anchor tie down system.

(b) HOMES TO BE RETAINED IN PARK AFTER RESALE.

1. SIZE: Single-wide - 12 feet width, 44 feet length (excluding hitch)
   Double-wide - 22 feet width, 32 feet length (exluding hitch).

2. QUALITY: Exterior shall be clean; properly painted; free from dents, breaks, broken parts or windows.
3. APPEARANCE: Good condition and appearance; skirting must be of manufactured vinyl or aluminum and have a top and botton track with interlocking panels.
4. MATERIAL SPECIFICATIONS: Removable hitch which is detached.
5. CONSTRUCTION AND SAFETY CONDITION:
   (a) Must meet the safety standards of the National Mobile Home Construction and Safety Standard Act of 1976 (HUD) Seal.
   (b) Sound and safe conditions, free from any structural defects, county approved anchor tie down system.
   (c) Home must be level and free of insects, rodents, vermir pests, etc.
   (d) All steps must meet park specifications. All porch enclosures must be removed.
   (e) All utility connections shall be carefully examined to determine that they are in good operating conditions, and if not, appropriate modifications shall be made.
   (f) Comply with the resale evaluation program by obtaining a rating of "Good" under the National Mobile Home Appraisal System published by the N.A.D.A.. Owner is granted the consent to inspect the interior of the home in order to dete mine compliance with this paragraph.
6. PRECONDITION TO LEASING: Owner may require as a precondition to leasing a site within the Community, that the Resident repai change or modify any home, or any addition to any home or other building, which in the sole discretion of the Owner, does not comply with the above standards. All home addition decks, porches, utility sheds, fences or other structures, which are unauthorized or not in compliance with the communi standards must be removed at the time of resale of the home if the home is to be retained on the site after resale.

(c) EXCEPTIONS.

A home less than minimum size is permitted on small sites which cannot accomodate the minimum size stated in paragraph 20 (a) and (b) herein.

21. CHANGE OF LOCATION.

Owner reserves the right, upon thirty (30) days prior written notice, to relocate a Resident, at the Park Owner's expense, to another site available in the Park, in the event, in the sole discretion of the management and for good reason, that such change is required for the betterment and improvement of the P

22. CHILDREN.

(a) Resident in this community is restricted to families having not more than two (2) children living in the homes. Resident understands and agrees that any Rental Agreement shall terminate upon the third birthday of any third child born to the Resident during the term of Agreement.

(b) Parents are held responsible for property damages or personal injury caused by their children. All toys etc. are to be picked up each day and placed out of sight. All toys are to be kept out of the roadway. Children are not allowed to play on the Park's streets nor are they allowed to trespass on or play on the neighbor's lot unless having been so invited.

Bicycles are not permitted to be ridden on the streets of the Park.

(c) Children under the age of thirteen (13) years of age, must be under the supervision of an adult. Children are never to be left unsupervised at any time.

23. CURFEW.

All children under the age of eighteen (18) years old, who are Residents or guests of Residents of the Park, must be accompanied by a parent between the of 10:30 p.m. and 6:00 a.m. while outside of their home and in the common or public area of the Park and on the streets of the Park. The Security Patrol an County Police will strictly enforce this curfew restriction. The parents of an violators will be notified and will be responsible for the conduct of their chi

24. RESIDENT NON-PERFORMANCE.

If Resident shall default in the performance of any covenant contained herein, Park Owner may immediately, or at any time thereafter, without notice, perform the same for the account of Resident, in which event, Resident shall, within ten (10) days after notice of such action by Park Owner, reimburse Park Owner for any cost or expense, including reasonable attorney's fees and court cost incurred thereby Owner.

25. NOTICE TO VACATE.

Resident agrees to give Park Owner at least thirty (30) days prior written notice of Resident's intention to vacate at the expiration of the term of this Agreement; otherwise said Resident will be deemed to be holding over. All notices to vacate, whenever required to be given, shall be given in writing no later than the first of the month and shall expire the last date of same month. Resident agrees that a notice of intention to vacate given to the Park Owner by the Resident shall be accompanied by payment of all rent to the end of the term, provided however, the Resident shall not be relieved of any prior default hereunder.

26. RESIDENT'S REFUSAL TO VACATE.

Should Resident give Park Owner notice of his intention to vacate the Site and/or should Park Owner give Resident notice to vacate over and demand the removal of the home from said Site either because of a breach of any of the terms and conditions of this Agreement or upon termination of tenancy, and Resident shall fail to vacate the same on or prior to the time so stated, Resident agrees to pay Park Owner, as rent for said premises, the apportioned rent for the period of holdover at the rate under the Rental Agreement and further to reimburse Park Owner for any damages which may be sustained due to an inability caused by such holdover to deliver possession of said Site to a succeeding Resident. Failure to so remove such home shall constitute abandonment of the mobile home and shall entitle Park Owner to remove, store and sell the mobile home in accordance with the provisions of Subtitle 2 of Title 25 of the Transportation Article of the Annotated Code of Maryland. Nothing contained herein is intended to limit any other remedies which the Park Owner may have against the Resident as a holdover Resident under this Agreement or applicable law.

27. OBLIGATIONS OF PARK OWNER.

Park Owner covenants and agrees with Resident as follows:

(a) That upon Resident's faithful performance under this Rental Agreement, Resident may and shall peaceable and quietly have, hold and enjoy the Site demised for the term and period aforesaid, subject nevertheless to the terms and conditions of this Rental Agreement. Park Owner further covenants to respect the privacy of the Resident.

(b) To allow the Resident complete freedom of choice in the purchase of all goods and supplies, except as provided by law.

28. FURTHER COVENANTS BETWEEN PARK OWNER AND RESIDENT.

Park Owner and Resident further covenant as follows:

(a) HOME PERSONAL PROPERTY - Resident's home shall be deemed to be personal property and not realty, nor a fixture to realty after installation upon the Site.

(b) SUBORDINATION - This Agreement is subject and subordinate to all ground or underlying leases and mortgages which may now or hereafter affect the real property of which the Premises forms a part, and to all renewals, modifications, consolidations, replacements and extensions thereof. In confirmation of such subordination, Resident shall execute promptly any certificate, without compensation, which Park Owner may request and hereby constitutes and appoints Park Owner the Resident's attorney-in-fact, to execute any such certificate or certificates for or on behalf of Resident.

(c) CONDEMNATION - In the event of condemnation of the whole or any part of the Premises by any competent authority for any public or quasi-public use or purpose, the term of this Agreement shall cease and terminate from the date on which the possession of the parts so taken shall be required for such use or purpose and the entire award shall go to the Park Owner.

29. DEATH OF RESIDENT.

The death of the last surviving Resident, who is a signatory to this agreement, will constitute automatic termination of the tenancy. The benefit of this agreement may not be assigned, transferred or assumed by the decedent's estate, his heirs, next of kin or beneficiary named in a will or trust.

30. EVENTS OF DEFAULT AND EVICTIONS.

Park Owner shall have the right to evict the Resident for the following reasons only:

(a) Nonpayment of rent.

(b) Violations:

(1) Making or causing to be made, with knowledge, any false or misleading statement on an application for tenancy;

(2) Violation of a federal, state or local law that is detrimental to the safety and welfare of other Residents in the Park; or

(3) Repeated violation of any rule or provision of the Rental Agreement occurring within a 6-month period.

31. PARK OWNERS LIEN.

Resident hereby grants and gives unto Park Owner a lien upon any and all property of the Resident, including, but not limited to, any mobile home placed upon the hereinbefore described site, said lien to be effective as to the amount of any rent or utility charges due or other sums due and owing by the Resident at any time during or under this Agreement. In the event Resident shall default in the terms of this Agreement, or in the event of abandonment of the mobile home by the Resident after the termination of this Agreement, Park Owner shall be free to pursue its remedies both at law and equity with regard to the enforcement of said lien in order to collect any amounts due and owing to the Park Owner on account of this Agreement.

32. REMEDIES.

Any event of default committed by the Resident, shall constitute a breach of this Agreement and shall entitle the Park Owner at its election, to the following rights and remedies:

(a) To exercise any and all rights it holds hereunder or under applicable law on account thereof at law or in equity (including the right to terminate this Rental Agreement, to reenter and take possession of the Site and eject the Resident therefrom and/or to bring suit against the Resident, to enforce the Resident's compliance with the Rental Agreement or collect any sum due to the Park Owner hereunder or under applicable law), after giving such prior notice thereof to the Resident as required by applicable law. If the Park Owner brings suit against the Resident for any such reason and the court determines that such breach has occurred, the Resident shall pay to the Park Owner (in addition to any judgement awarded to the Park Owner) all expenses incurred by the Park Owner in connection therewith, including a reasonable attorney's fee and court cost.

(b) If the Resident does not vacate the Premises at the end of the term of thirty (30) days after written notice of an event of default and notice of termination and after demand for removal, Resident's home shall be removed pursuant to the remedies provided hereinbefore.

(c) Any and all rights and remedies given by the Park Owner hereunder or at law or in equity shall be cumulative.

33. NOTICES.

Notices or other documents required hereunder shall be deemed given when delivered personally to the parties hereto or their respective authorized agents or within three (3) days after being mailed, postage prepaid, first class mail, as follows: If by Park Owner to Resident, to Resident's home on the Premises, and/or to his permanent address if not a full time Resident on the Premises; if by Resident to Park Owner at Park's Mailing Address of Penwood Mobile Home Park, P.O. Box 1303, Laurel, Maryland 20707.

34. FREEDOM OF PURCHASE. The Resident acknowledges that the Park Owner has not required, as a condition to the Park Owner's entering into this lease, that the Resident purchase the mobile home, accessories, additions, steps, awning or materials necessary for installation of the mobile home, from a specific dealer or dealers or that the mobile home must have been constructed by a specific manufacturer or manufacturers except in connection with the initial leasing or renting of a newly constructed site not previously leased or rented to any other person.

35. LIABILITY.

All persons executing this Agreement shall be jointly and severally liable for performing Resident's obligations hereunder. Except as specifically limited herein, the covenants, conditions, and agreements contained in this Agreement shall bind Owner and Resident and their respective heirs, distributees, executors, administrators, successors and assigns.

36. ENTIRE AGREEMENT.

Subject only to Park Owner's Rules for occupancy of the Park, as same may be amended or supplemented from time to time, this Rental Agreement contains the entire agreement and understanding of the parties. No verbal statemerts, promises, or representations made by Park Owner's agents, employees or representatives shall be imputed to the Park Owner. Nothing shall prevent modification of the terms of this Rental Agreement by mutual agreement through the execution of a written addendum affixed to all copies of this Rental Agreeme·

37. GOVERNING LAW.

This Rental Agreement shall be governed by and construed according to the provision of Title 8A of the Real Property Article of the Annotated Code of Maryland, known as the Mobile Homes Parks Act of 1980. All rights granted to Park Owner are several and cumulative to all statutory and common law remedies permitted by Maryland law..

38. SEPARABILITY.

If any provision of this Rental Agreement or Rules incorporated herein are deemed void and unenforceable by any court of competent jurisdiction or agency, said clause shall be stricken and all other provisions hereof shall remain in full force and effect.

IN WITNESS WHEREOF, Residents hereby acknowledge that they have read this Agreement, understood each and every provision herein contained and the parties hereto have signed and sealed this Rental Agreement the date and year first above written.

Penwood Mobile Home Park(Park Owner)

by: _____ (se
Agent

by: _____ (se
Resident

by: _____ (s
Resident

PENWOOD MOBILE HOME PARK

APPENDIX A - FEE SCHEDULE

I. SITE RENTAL - Monthly Rate

Basic Site Rental $ 310.00

II. ADDITIONAL MONTHLY FEES

Description:

_____ $_____

_____ _____

_____ _____

_____ _____

Total Additional Monthly Fees $_____

III. BALTIMORE COUNTY TAX $ 20.00

TOTAL MONTH PAYMENT $ 330.00

IV. NON-REFUNDABLE FEES

The following non-refundable fees are to be paid to Park Owner prior to placing the mobile home in the Park.

1. Electrical Hook-up Fee

50 amp_____ $_____
100 amp at tenants expense $_____
150 amp at tenants expense $_____
200 amp at tenants expense $_____

2. Installation Fee $_____

3. Water and Sewer Connection $_____

4. Other:

Description Late fees of 5% of rent $ 16.50
Description_____ $_____

Total Non-Refundable Fees $_____

V. OTHER FEES

1. Inspection & Appraisal Fee - Sale of Home $ 60.00

2. Payment Checks Returned by Bank $ 25.00

3. Credit Check $ 45.00

4. Other:

Description Security Deposit $ 198.00

Description _____ $ _____

5. Resident's Non-Performance - Rental Agreement covenants as provided for in Section 24 of said Agreement.

Monthly rent will be subject to change during the term of this Rental Agreement pursuant to the provision of Section 12 of the Agreement.

VI. FEE INCREASE

Park Owner reserves the right to increase any fee or charge contained in Appendix A, provided the Park Owner delivers to every Resident a notice in writing, of the increase or change, at least thirty (30) days before the effective date of the increased park fee.

PENWOOD MOBILE HOME PARK

By: Carol W Lyons
Agent

✓
Resident

Resident.

PENWOOD MOBILE HOME PARK

APPENDIX B - PARK RULES

PURPOSE

These rules have been adopted to protect your investment in your home and to enhance the desirability of residing in the Park. These Rules are designed to prevent nuisances and the impairment of the attractiveness of the community and are deemed necessary for the order, peace, health, safety and operation of the Park, and for securing and promoting the convenience, safety and welfare of the Residents of the Park.

I. BUILDINGS AND APPURTENANCES.

A. Homes

1. All homes shall be maintained in good condition and repair and the exterior of all homes shall be clean, neat and properly painted at all times, and the Park Owner reserves the right to require reasonable repair, maintenance and improvement of any home.

2. Utility services including water, electricity, sewer and others are to be properly connected, insulated, protected and properly maintained during the tenancy. Additional electric circuits in the home are to be installed at the Resident's expense by a licensed electrician.

3. Plumbing is to be kept in good repair and plumbing leaks are to be repaired immediately. The Park Owner reserves the right to shut off the water supply to a home if a water leak exists wherever such action is deemed by the Park Owner to be in the best interest of the Park.

4. The Resident will not, without written permission of Park Owner first obtained, make any alterations or color changes to the home or install any equipment therein which, in the Park Owner's opinion, will necessitate any modification of the utility facilities contained therein or will overburden such facilities. All additions to the home, i.e., patio covers, storage sheds, steps, etc., are required to be commercially manufactured. The plans shall include a description of the proposed change and specification which must be submitted to the Owner for written approval prior to the construction of any addition. The Owner shall review such plans with regard to harmony of exterior architectural design, attractiveness, and location in relation to surrounding structures and topography.
The Park Owner shall respond in writing to such request within fourteen (14) days of the receipt of such plans and request for change and all work on such approved addition must be fully completed within sixty (60) days after commencement thereof.

5. If a home is substantially damaged by fire, windstorm or other cause, the Resident shall repair or remove the damaged home within reasonable time

or[redacted]e Park Owner may do so at the [redacted]esident's expense. If the Resident elects to repair his damaged home, such repairs shall begin as soon as practicable after the damage has occurred. All loose damage and debris shall be removed immediately. Damage visible on the exterior of a home shall be repaired within fifteen (15) days from the date of damage. If the damage cannot be repaired within fifteen (15) days, the Park Owner may require that the home be removed from the park for repairs. All tenants must carry homeowners insurance to cover not only damages to their property, but also liability insurance to cover damages to other's due to fault of said Resident.

6. All Homes:

(a) Are to have heat tapes which are operative and maintained from October 1 to April 1. No one may run water to keep lines from freezing. Heat tapes should be checked periodically to prevent freezeups and costly repairs.

(b) Must display on the street side of the home the site number.

(c) Must be installed in a uniform manner. Prior to the date of delivery, the dealer and/or Resident must obtain a complete list of set-up requirements established by the Park Owner, and will make certain that all materials necessary for a proper set-up accompany the home to the park. Upon arrival, the driver will walk the site with a representative of the Park Owner, who will supervise the placing of the home on the site.

(d) Oil tanks (one per site) must be at least 275 gallons or more and propane gas tanks (no more than two per site) must be at least 100 pounds in capacity. Oil and propane gas tanks must be located at the rear of the home and in no event shall they be located within five (5) feet of any door entrance to the home. Check with office for proper location. All tanks shall be painted with a color that will blend and be in harmony with the home. All tanks must be secured firmly in compliance with County regulations.

(e) Should comply with the smoke detector regulations of the County. Fire extinquishers should be available in each mobile home.

(f) Any type of TV antenna must not be higher than seven (7) feet above the mobile home, using no larger than a 2-inch pipe. TV antennas must be attached to the mobile home, not to vent pipes or fences. Guy wires in the yard will not be permitted. Short wave or ham operator antennas are not permitted. No TV satellite dish or receiving equipment is permitted.

B. <u>Utility Buildings</u>

1. One utility building per home is permitted so long as such building conforms to the county code and is approved by the appropriate local authority.

Resident must acquire written authorization prior to purchase or installation of any type utility building (shed).

2. Utility buildings shall not exceed 8' X 10' in size except with the express written consent of the Park Owner. Proper placement must be preapproved prior to installation.

3. Metal buildings not exceeding the above specifications are permitted if made by a recognized and reputable manufacturer.

4. Each building shall be of a design in harmony with the home which it serves, shall be painted or stained to blend with the home. Such buildings shall be kept in good condition and neat at all times. Park Owner shall be consulted for proper location of the building on the site.

C. Enforcement.

1. No change in exterior color of home, addition thereto, steps, skirts, fences or other buildings in the park shall be made without the prior written consent of the Park Owner. No construction or placing in the Park of any home or other buildings or of any exterior addition to the home or any such other building, shall take place without such consent. Anyone seeking such consent shall submit a description of the proposed change or construction, including adequate plans and specifications where applicable, and the Park Owner shall review such description with regard to harmony of exterior architectural design, attractiveness, and location in relation to surrounding structures and topography, and shall respond in writing to the Resident seeking such consent within 14 days of its receipt of such description.

2. Any violation of a provision of these Rules which is not corrected within thirty (30) days of the delivery in hand or deposit in the mail of notice of such violation from the Park Owner to the Resident shall entitle the Park Owner to evict the Resident after sixty (60) days of such delivery of mailing.

3. In addition to its rights set forth above, the Park Owner may require as a precondition to renting or leasing a site within the park that the Resident repair, change or modify any home, other building, or any addition to any home or other building, which in the discretion of the Park Owner, does not comply with the above standards.

II. MAINTENANCE OF SITE ON WHICH HOME IS LOCATED.

A. Lawns, Trees and Shrubbery.

1. Lawns and grass must be kept cut, neat and free of weeds, articles or objects.

2. Grass and weeds shall be removed from around trees, shrubbery and gardens.

3. Resident shall keep gardens neat and well cared for. No automatic sprinklers or soaking hoses are permitted.

4. In the event a Resident fails to maintain park standards, the work will be done by or through the Park Owner who will charge a fee payable as additional rent, amounting to the actual cost of the service performed.

5. Without prior written approval of Park Owner, no rod, stake, pipe or other object shall be driven into the ground and there shall be no digging anywhere within the park because of the danger therefrom to underground pipes, wires, and conduits. Resident will be liable for any damages caused by any violation of this rule.

6. Lawn furniture, bicycles, garden hoses, lawn mowers, toys, barbeques, and other outdoor articles, when not in use, detract from the appearance of the entire immediate area and therefore should be properly stored.

7. Only one-half (½) of a cord of wood is permitted per site. All wood must be pre-split. Absolutely no chopping of wood is allowed on the site. All wood must be elevated at least 12 inches off the ground, 6 inches off any building, and 5 feet away from any entrance. Wood must be used up during the season and not to be stored on the site over the summer.

8. To maintain safety for himself and family, no Resident shall store or place articles or materials under the home, which are flammable or unsanitary.

B. <u>Driveways, Walks, Porches and Patios</u>.

1. Resident shall remove ice and snow from driveways, walks and patios.

2. Driveway lights shall be kept in good operating conditions at all time.

3. Porches, railings and awnings shall be kept in good repair and painted in harmony with the color of the home. Porches must be made of treated lumber or aluminum only.

C. <u>Fences, Steps and Skirts</u>.

1. Fences are not permitted to be installed in the Park. All existing fences must be maintained in good condition and repair. Existing fences must be removed,at the expense of the Resident, when a Resident removes his mobile home from the Park or resale of the mobile home takes place.

2. Fences, steps and skirts shall be kept neat and in good repair.

3. Steps to the homes, porches or decks shall be of pressure treated wood or aluminum construction. Concrete blocks are not acceptable. Specification sheet must be acquired from the office prior to purchase.

4. Porches, awnings, skirting and screening are the property of the Resident. However, if left on the lot at the time of moving, they shall become the

property of the Park Owner.

5. Within thirty (30) days from installation, the home must be underskirted with material approved by the Park Owner, which underskirting must provide adequate access for inspection or repair of utilities. The material shall be made of manufactured skirting aluminum or vinyl with top and bottom track and shall be of a color harmonious with the color of the home.

D. Trash and Garbage.

1. All trash and garbage must be stored in the rear of the home, until collection, in rodentproof, insectproof and watertight county approved containers securely covered and fastened. The days of pick-up will be designated and posted in the park office.

2. Abandoned, unused or rusting material, or other types of junk, shall not be permitted on any site.

3. There shall be no burning of leaves, trash or other materials within the park. The outdoor cooking of food is permitted within the park only while a responsible adult shall be in attendance.

E. Clothesline and Reels.

1. T-post or permanent clotheslines are not permitted outside of homes.

2. Umbrella type clothes reels are permitted, one per site. Park Owner should be consulted for proper location.

III. Motor Vehicles.

A. Automobiles.

1. Only passenger cars in good repair and appearance shall be kept in the Park. Number of cars shall not exceed two (2) per site.

2. Unregistered or junk cars shall not be permitted in the park. Such cars shall be towed away at the owner's expense.

3. No major repair to, or overhauling, or washing of any motor vehicle shall be made or accomplished anywhere on park property.

4. Damage to paved parking areas caused by leaking gas or oil from motor vehicles shall be the responsibility of the Resident.

5. Reasonable speed limits are essential to safeguard Residents, guests and visitors. A speed limit of 10 mph will be strictly enforced.

6. Legally licensed motorcycles may be used in the community provided they have a moderate to low operating noise level. Unlicensed motor scooters, mini-bikes, mopeds, trail bikes and all-terrain vehicle/ bikes are not permitted in the Park.

7. Vehicle engines shall not be unnecessarily raced or gunned at anytime. All vehicles must maintain muffler system in good repair and working order.

8. Motor vehicles shall be operated in the park in accordance with the laws of the State of Maryland and the county code and the safety, parking and traffic control signs posted within the Park.

B. Vehicles Not Permitted.

1. Commercial vehicles are not permitted to be kept in the park.

2. Trucks or vans, with gross weights in excess of two tons, may not be driven on park streets or parked on any site.

3. Abandoned and/or unlicensed vehicles are not permitted to be parked in the community.

C. Parking.

1. Parking for vehicles is provided for each Resident. All on-street parking will be subject to posted parking and removal restrictions which are imposed for your safety and fire protection. Each home will be limited to two vehicles only.

2. Vehicles shall be parked overnight only in driveways or parking areas.

3. Vehicles parked overnight in the street or in other unauthorized places may be towed away at the Resident's expense.

4. One-way street, no dumping and fire lane signs will be strictly enforced, where applicable.

5. Boats, boat trailers, campers or recreational vehicles may not be parked in the Park.

IV. Pets and Animals.

~~ABSOLUTELY NO NEW DOGS PERMITTED. Current Residents may retain existing dogs but no dog may be replaced by such Resident. ALL PETS MUST BE KEPT INSIDE THE HOME at all times. Any pet found outside will be trapped and taken to the Humane Society.~~

V. Noise.

1. Residents of the park and their guests shall conduct themselves in a reasonable quiet manner so as not to disturb others.

2. Noise levels shall be reduced after 10:00 p.m. for the benefit of all residents.

3. Residents shall keep their radios, record players, televisions, voices and other sound sources at a moderate level.

VI. General.

1. The use of any firecracker, firearm, BB gun, air rifle, bow and arrow, slingshot or other weapon or dangerous device is prohibited within the Park.

2. No alcoholic beverages may be consumed in the public areas of the park. No loud, vulgar or profane language will be permitted.

3. No peddling, soliciting or commercial enterprises are permitted in the park. Signs or advertisement of any type is prohibited.

4. Window air conditioners must be adequately supported by brackets mounted to the exterior of the home and must be placed on the patio door side unless otherwise approved by the Owner. Such units may not be supported by any poles or structures which extend to the ground below. Written authorization is needed for the installation of central air conditioning in regards to placement and electrical connections.

5. Park Owner assumes no responsibility for vehicles and/or mobile homes on Community property for theft, vandalism, or damage, including that caused by outside traffic or persons entering upon the Community.

VII. ENFORCEMENT.

Enforcement of these Rules shall be the responsibility of the Park Owner. Violations should be reported in writing to the Park Owner. Any violation of a provision of these Rules which is not corrected within thirty (30) days of the delivery in hand or deposit in the mail of notice of such violation from the Park Owner to the Resident shall entitle the Park Owner to evict the Resident after thirty (30) days from Resident's receipt of the aforesaid notice.

VIII. ADMENDMENTS.

Amendments to the Rules may be made at any time by the Park Owner, and copies of such amendments shall be distributed to Residents. Such amendments shall become effective the later of: (1) the date specified in the amendment, or (2) sixty (60) days after the Park Owner gives to each Resident written notice of the proposed amendment.

IX. POSTING.

A copy of the Rules will be posted in the management office located in the park and/or at any appropriate location in the park normally used for posting of announcements.

Penwood Mobile Home Park
(Park Owner)

by Carol A Lyons
(Agent)

✓
(Resident)

(Resident)

January 1, 2002
(Date)

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

Go Back
View Map
New Search

Account Identifier: **District -** 15 **Account Number -** 2100008232

Owner Information

Owner Name:	PENWOOD MOBILE HOME PARK INC	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	10051 N 2ND ST LAUREL MD 20723-1927	**Deed Reference:**	1) / 7993/ 1 2)

Location & Structure Information

Premises Address	Zoning	Legal Description
OAK RD	DR5.5	1.6565 AC ES OAK RD SE COR POPLAR RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No: Plat Ref:
111	24	377						82	

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		1.66 AC	19

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	99,300	115,900		
Improvements:	318,900	355,100		
Total:	418,200	471,000	435,800	453,400
Preferential Land:	0	*0*	0	0

Transfer Information

Seller:	SZUMLANSKI JOHN J	**Date:** 10/07/1988	**Price:** $0
Type:	NOT ARMS-LENGTH	**Deed1:** / 7993/ 1	**Deed2:**
Seller:		**Date:**	**Price:**
Type:		**Deed1:**	**Deed2:**
Seller:		**Date:**	**Price:**
Type:		**Deed1:**	**Deed2:**

Exemption Information

RC 1

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO

Exempt Class:

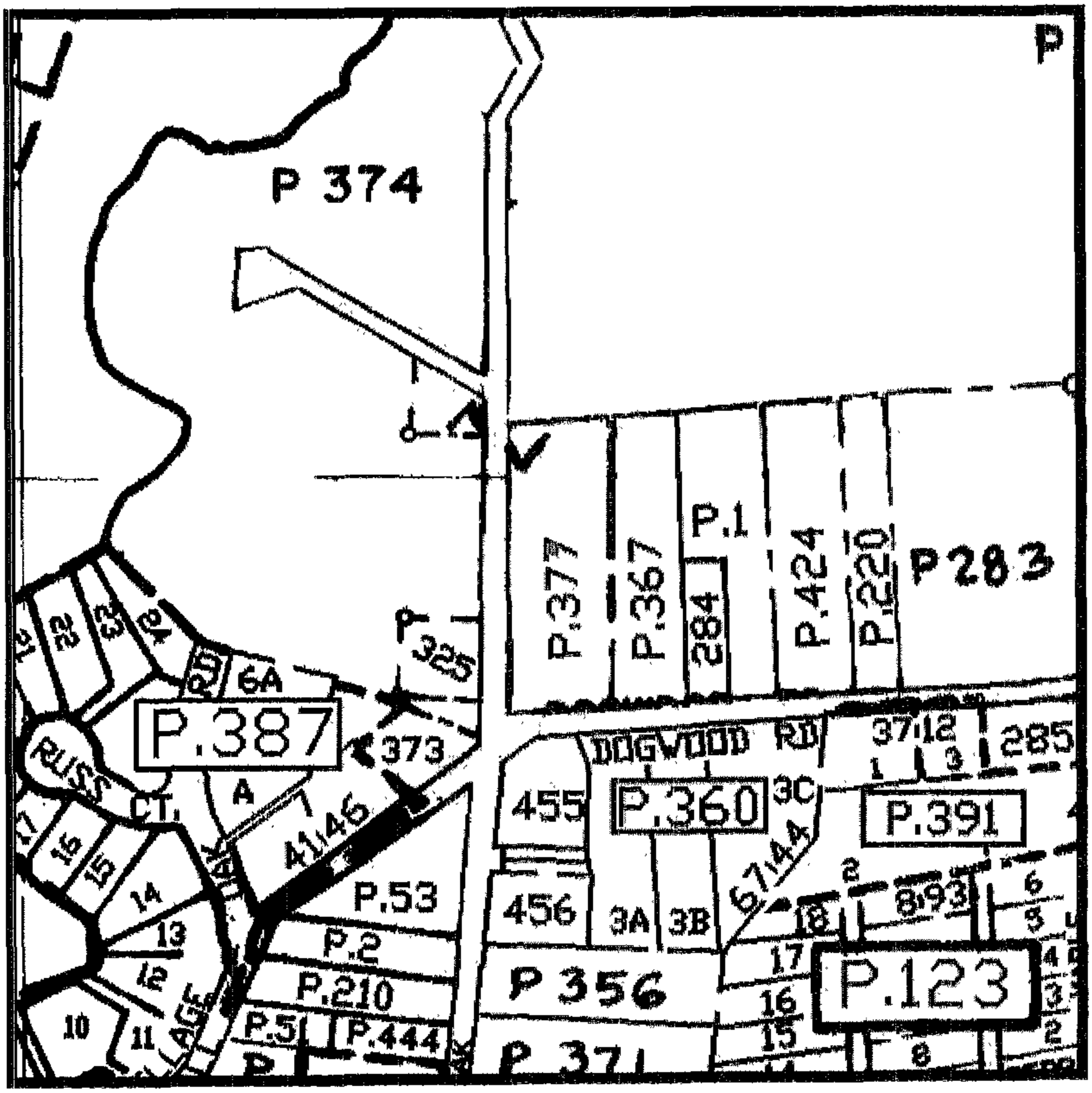
Special Tax Recapture:

* NONE *

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

Go Back
View Map
New Search

District - 15**Account Number** - 2100008232



Property maps provided courtesy of the Maryland Department of Planning ©2001 - 2002.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

BALTIMORE COUNTY MOBILE HOME OWNERS ASSOCIATION

RESOLVED: That at the GENERAL meeting of the BALTIMORE COUNTY MOBILE HOME OWNERS Association held on NOVEMBER 2002 [DATE], it was decided by the Association that responsibility for review and action on all zoning matters for the period JAN 1, 2003 TO DEC 31, 2006 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

BILL SMITH VICE PRESIDENT
ROBERT LARO
MARY LARO
TIM OATES
ROSS COLE

AS WITNESS OUR HANDS AND SEAL THIS 9TH day of JUNE, 2003

ATTEST:

BALTIMORE COUNTY MOBILE HOME OWNERS Association

William A. Smith
~~Secretary~~ Vice President

Thomas J. Kaucher
President

PG 1 8

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the (Board of Directors) (Zoning Committee) of the BALTIMORE COUNTY MOBILE HOME OWNERS Association.

ATTEST:

BALTIMORE COUNTY
MOBILE HOME OWNERS Association

William A. Smith
~~Secretary~~ Vice President

Thomas J. Yaeckel
President

DATE: 6/2/2003

EXCERPT FROM RULES OF PRACTICE AND PROCEDURE OF COUNTY BOARD OF APPEALS

Rule 8. Special rule pertaining to persons appearing before the board as representatives of civic or improvement associations.

a. Before any person shall testify on behalf of any civic or improvement association, it shall be shown that he has accurate knowledge of the number of members in the association and geographical limits of the association.

b. Before any such person shall testify it shall also be shown that he is authorized to speak for and present the views of the civic or improvement association.

c. Such authorization shall consist of presenting at the hearing or prior thereto a resolution in duplicate duly adopted by the association at its annual meeting or first meeting of each year, signed by the president and attested by the secretary, providing that the responsibility for review and action on all zoning matters be placed in its board of directors or a duly elected zoning committee.

d. Before any such authorized person shall testify, it shall be shown by written affidavit in duplicate, signed by the president of the association and attested by the secretary, that he is currently a duly elected member of the board of directors or zoning committee of that association, or is an attorney appointed to represent the board of directors or zoning committee.

e. Before any such authorized person shall testify, a resolution stating the position of the association as adopted by the board of directors or zoning committee, signed by the president and attested by the secretary, shall also be produced in duplicate at the hearing.

R.C. 5 | R.C. 5 | D.R. 5.5 | D.R. 5.5 | R.C. 5 | R.C. 50 | MH-1 | R.C. 5 | R.C. 20

SPARROWS POINT BLVD. | R.R. OVERPASS (UNDER CONSTRUCTION) | R.R. ROADBED (UNDER CONSTRUCTION) | MILLER | FARM ROAD | BAUERS | ISLAND | BL | MILLER ISLAND ROAD

LODGE FOREST | R.C.5 | WHITE AVE. | R.C. 20 | RC 2

D.R. 5.5 | PIERS | WALL | CREEK | ROAD | R.C. 20

SEEKFORD RD. | BEEKAT RD. | MAPLE AVE. | MANOR | OAK | EAST | FOUND | WOODRIDGE | FOREST | TOTON | N. COVE ROAD | D. R. 5.5 | POINT | PRIVATE ROAD | R.C. 20

PIER | WALL | PIERS | SOUTH COVE ROAD | SMB | BM | NORTH POINT ROAD | NORTH | TALL OAKS RD. | S. ESQUIRE RD. | MAPLE ROAD | SHORE | DOGWOOD RD. | DOGWOOD ROAD | PENWOOD AVENUE | PENWOOD CHURCH | WOOD AVENUE | R.C.5 | D.R. 3.5 | R.C. 20 | BLACK MARSH | R.C. 50 | ABANDONED R.R.

S 24,000 | S 25,000 | S 26,000 | S 27,000 | S 28,000 | E 48,000 | E 49,500 | E 51,000 | E 52,500 | E 54,000 | N 809,000 | N 808,000

A-NE

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

James T. Smith, Jr.
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	LODGE FOREST NORTH POINT	S. E. 7-I
DATE OF PHOTOGRAPHY JANUARY 1986		

Pg 6

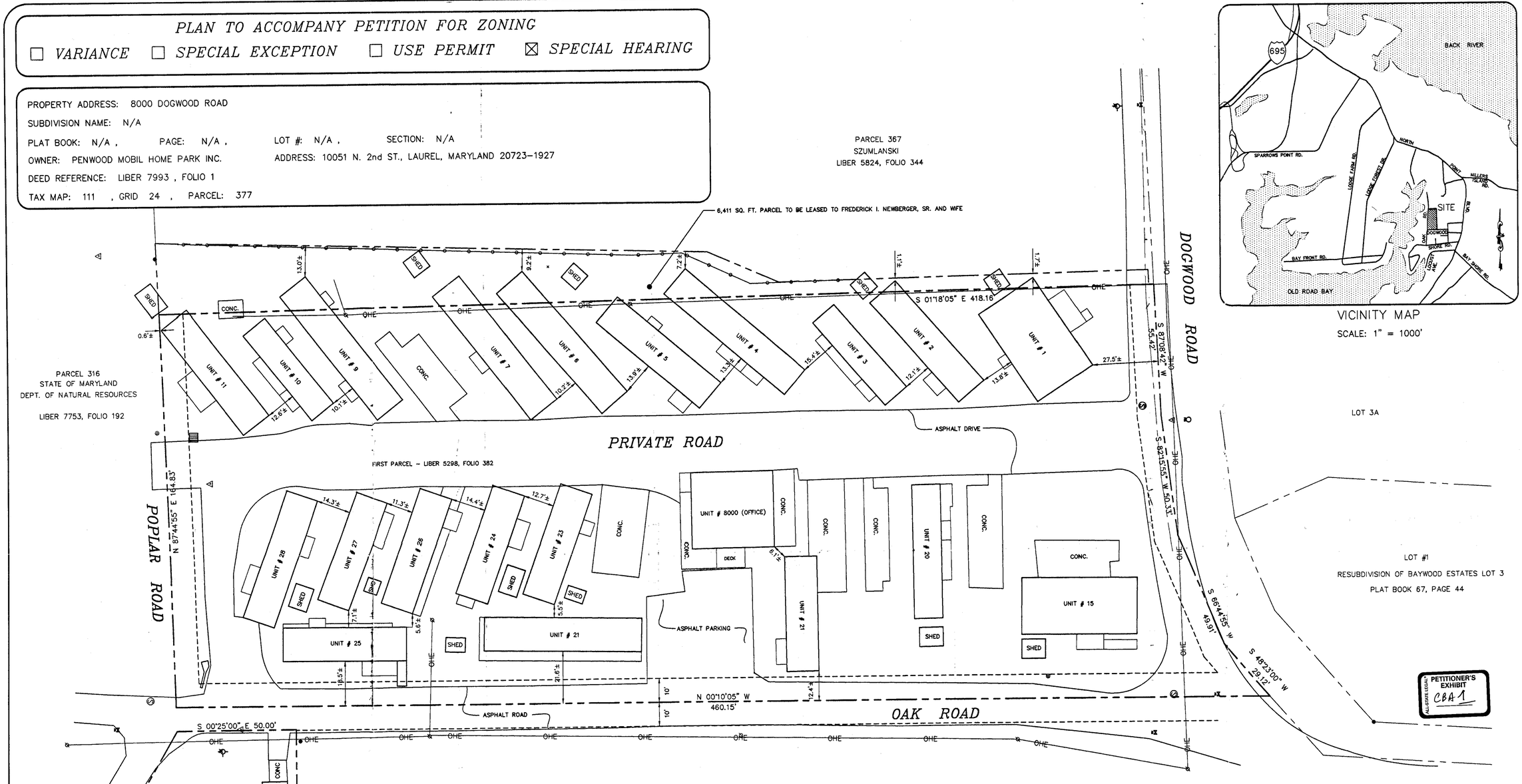
SE 71

03-207

PLAN TO ACCOMPANY PETITION FOR ZONING

☐ VARIANCE ☐ SPECIAL EXCEPTION ☐ USE PERMIT ☒ SPECIAL HEARING

PROPERTY ADDRESS: 8000 DOGWOOD ROAD
SUBDIVISION NAME: N/A
PLAT BOOK: N/A , PAGE: N/A , LOT #: N/A , SECTION: N/A
OWNER: PENWOOD MOBIL HOME PARK INC. ADDRESS: 10051 N. 2nd ST., LAUREL, MARYLAND 20723-1927
DEED REFERENCE: LIBER 7993 , FOLIO 1
TAX MAP: 111 , GRID 24 , PARCEL: 377



VICINITY MAP
SCALE: 1" = 1000'

LEGEND

- FLAG POLE
- POWER POLE
- OHE — OVERHEAD ELEC.
- BUILDING
- SANITARY MH
- WATER VALVE
- WATER METER
- FIRE HYDRANT
- CENTER LINE
- CHAIN LINK FENCE
- TRAVERSE
- STORM DRAIN INLET

PLAT NORTH

GRAPHIC SCALE
20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.

SURVEYOR'S CERTIFICATE

I hereby certify that to the best of my professional knowledge and belief this survey meets the Minimum Standards of Practice adopted by Maryland Board for Professional Land Surveyors. This survey is based on a field survey completed by Mildenberg, Boender and Assoc., Inc. on or about 08/13/02 under my direct supervision.

JOHN B. MILDENBERG
Professional Land Surveyor
Maryland No. 10718

STATE OF MARYLAND JOHN B. MILDENBERG NO. 10718 REGISTERED PROFESSIONAL LAND SURVEYOR

LOCATION INFORMATION

COUNCILMANIC DISTRICT: 7
ELECTION DISTRICT: 15th
1" = 200' SCALE MAP: SE 7-I
ZONING: D.R.5.5
LOT SIZE: 1.6565 ACRES (AS PER MARYLAND DEPT. OF ASSESSMENTS AND TAXATION)
SEWER: ☒ = PUBLIC ☐ = PRIVATE
WATER: ☒ = PUBLIC ☐ = PRIVATE
CHESAPEAKE BAY CRITICAL AREA: ☒ = YES ☐ = NO
PRIOR ZONING HEARINGS: 2626-S & 77-161-SPH
UNIFORM CODE CITATION No. 02 - 3814

Plat No 1

ZONING OFFICE USE ONLY !

REVIEWED BY:	ITEM # :	CASE # :
JR	207	03-207-SPH

project 02-072 | date 08/14/02
illustration TMH | scale 1"=20' | engineering | approval

no.	description revisions	date
1.	REVISED PLAN AT THE REQUEST OF MR. ALDERMAN REVISED PLAN TO MEET ZONING CHECKLIST	10/14/02 9/5/02
2.		

PENWOOD MOBILE HOME PARK

ELECTION DISTRICT 15 BALTIMORE COUNTY

MILDENBERG, BOENDER & ASSOC., INC.
Engineers Planners Surveyors
5072 Dorsey Hall Drive, Suite 202, Ellicott City, Maryland 21042
(410) 997-0296 Balt. (301) 621-5521 Wash. (410) 997-0298 Fax.

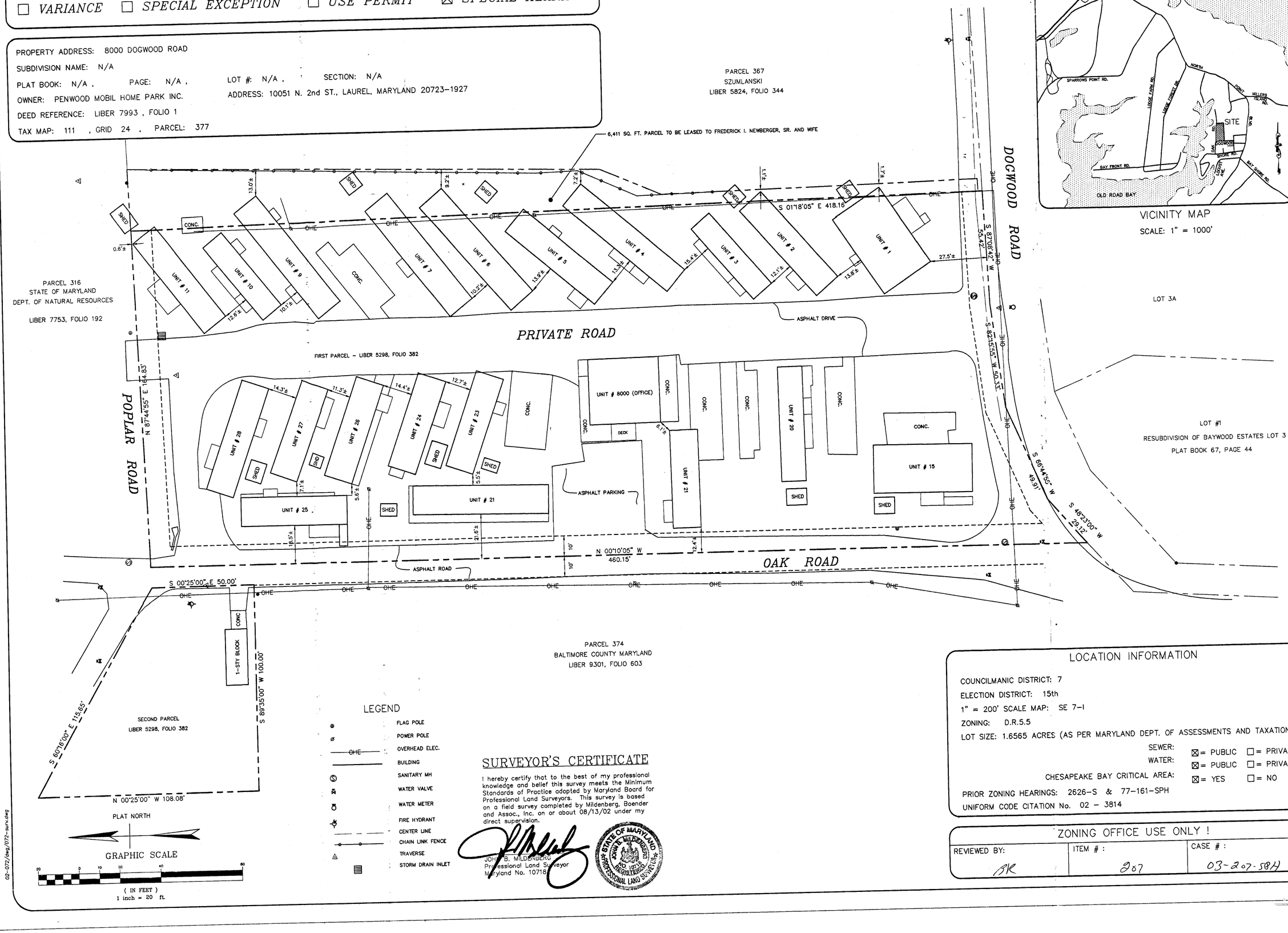
1 OF 1

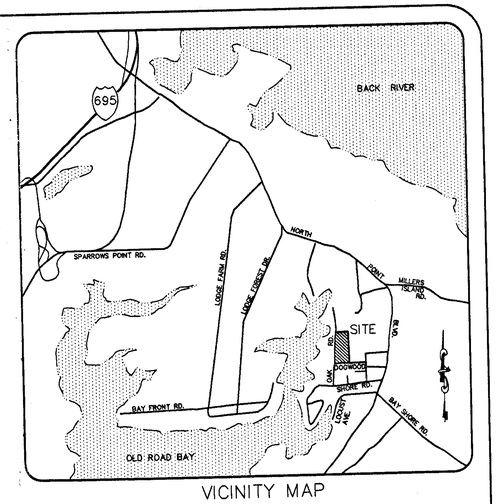
02-072/dwg/02-surveys

PLAN TO ACCOMPANY PETITION FOR ZONING

☐ VARIANCE ☐ SPECIAL EXCEPTION ☐ USE PERMIT ☒ SPECIAL HEARING

PROPERTY ADDRESS: 8000 DOGWOOD ROAD
SUBDIVISION NAME: N/A
PLAT BOOK: N/A , PAGE: N/A , LOT #: N/A , SECTION: N/A
OWNER: PENWOOD MOBIL HOME PARK INC. ADDRESS: 10051 N. 2nd ST., LAUREL, MARYLAND 20723-1927
DEED REFERENCE: LIBER 7993 , FOLIO 1
TAX MAP: 111 , GRID 24 , PARCEL: 377





VICINITY MAP
SCALE: 1" = 1000'

LEGEND

- FLAG POLE
- POWER POLE
- OHE — OVERHEAD ELEC.
- BUILDING
- SANITARY MH
- WATER VALVE
- WATER METER
- FIRE HYDRANT
- CENTER LINE
- CHAIN LINK FENCE
- TRAVERSE
- STORM DRAIN INLET

PLAT NORTH

GRAPHIC SCALE
20 0 10 20 40 80
(IN FEET)
1 inch = 20 ft.

SURVEYOR'S CERTIFICATE

I hereby certify that to the best of my professional knowledge and belief this survey meets the Minimum Standards of Practice adopted by Maryland Board for Professional Land Surveyors. This survey is based on a field survey completed by Mildenberg, Boender and Assoc., Inc. on or about 08/13/02 under my direct supervision.

JOHN B. MILDENBERG
Professional Land Surveyor
Maryland No. 10718

STATE OF MARYLAND · JOHN B. MILDENBERG · NO. 10718 · REGISTERED · PROFESSIONAL LAND SURVEYOR

LOCATION INFORMATION

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CHESAPEAKE BAY CRITICAL AREA: ☒= YES ☐= NO
PRIOR ZONING HEARINGS: 2626-S & 77-161-SPH
UNIFORM CODE CITATION No. 02 - 3814

ZONING OFFICE USE ONLY !

REVIEWED BY:	ITEM # :	CASE # :
BK	207	03-207-SPH

02-072/dwg/072-surv.dwg

project 02-072 | date 08/14/02
illustration TWH | scale 1"=20'
engineering | approval

No.	description	date
1.	REVISED PLAN AT THE REQUEST OF MR. ALDERMAN	9/11/02
2.	REVISED PLAN TO MEET ZONING HEARING CHECKLIST	9/19/02

PENWOOD MOBILE HOME PARK

BALTIMORE COUNTY
ELECTION DISTRICT 15

MILDENBERG, BOENDER & ASSOC., INC.
Engineers Planners Surveyors
5072 Dorsey Hall Drive, Suite 202, Ellicott City, Maryland 21042
(410) 997-0296 Balt. (301) 621-5521 Wash. (410) 997-0296 Fax.

BALTIMORE COUNTY MOBILE HOM ASSOCIATION

RESOLVED: That the position of the BALTIMORE COUNTY MOBILE HOMEOWNERS Association as adopted by the (Board of Directors) (Zoning Committee) on the zoning matter known as:

CASE #

is that:

1. AGAINST ANY SIZE, TYPE OF CLASS M RECREATIONAL VECHILE TO BE USED AS A RESIDENCE IN A MOBILE HOME PARK
2. AGAINST PETITION HEARING CASE NO 03-207-SPH

AS WITNESS OUR HANDS AND SEAL THIS 9TH day of JUNE, 2003.

ATTEST:

BALTIMORE COUNTY MOBILE HOME OWNERS Association

~~Secretary~~ Vice President

President