IN RE: PETITION FOR SPECIAL HEARING
N/S of Ivy Mill Road, 700 ft. S
centerline of Green Hill Farm Road
4th Election District
4th Councilmanic District
(12620 Ivy Mill Road)

John Shawn Raymond Prescott Petitioner BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 04-555-SPHX

* * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Special Exception filed by the legal owner of the subject property, John Shawn Raymond Prescott. The Petitioner is requesting special hearing and special exception for property he owns at 12620 Ivy Mill Road in the Reisterstown area of Baltimore County. The special hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the occupation of "fish biologist" as a "professional person" who may use the property pursuant to a special exception where the use will not occupy more than 25% of the total floor area and does not involve the employment of two other non-resident employees. The special exception request is filed pursuant to Section 1A03.3.B (12) of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a "fish biologist" to operate a consultant business and the off-premises sale of materials relating to the business but where the clients do not go to the dwelling.

The property was posted with Notice of Hearing on July 29, 2004, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 3, 2004 to notify any interested persons of the scheduled hearing date.

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Applicable Law

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Section 502.1 of the B.C.Z.R. - Special Exceptions

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

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

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing relief were Sharon and John Prescott, Petitioners, Sarah Fondelier, Richard and Kerry McNamara, Nancy Mauler, and Michael Scally. Michael Freilich, Esquire represented the Petitioners. Norman Miller

appeared in opposition to the requests at the hearing and Josephine Feustle appeared as an interested citizen in the matter. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

In a petition for special hearing, the Petitioner is asking this commission to determine that a "fish biologist" is a "professional person", given his educational background and experience. If found to be a professional person, the Petitioner would be able to conduct professional services from his home in this RC 4 zone as a matter of right pursuant to Section 1A03.A 9 d of the B.C.Z.R. In this case, the floor area of the business is limited to 25% of the floor area of his home and he may have one non-resident employee.

Again, if he is found to be a professional person, he would be able to conduct professional services from his home in this RC 4 zone by special exception pursuant to Section 1A03.B 12. In this instance, while the floor area of the business is limited to the same 25% of the floor area of his home, he could have one professional associate as well as two non-resident employees.

Mr. Freilich proffered that this property is 1.68 acres and is zoned RC 4. It is served by a long driveway from Ivy Mill Road and is Lot No. 2 of the "Miller" subdivision. See Petitioner's Exhibit No. 1. The lot is improved by a 5,500 sq. ft. home which has an office on the first floor and one half the basement devoted to the Petitioner's business. He indicated that the Petitioner had one non-resident employee.

Mr. Prescott testified that he was born in England and graduated in the public schools and the university in Ireland. He indicated that he was licensed to practice veterinary medicine in Ireland, but that his father died and he took over the family optical company for several years. Once his obligations were complete to the family business, he became interested in fish farming and in 1965 he purchased a business which raised oysters in England. After acquiring expertise

in this endeavor, he began to consult with various fish and shellfish operations in Israel's Red Sea where he worked for eight years. He had a consulting contract with the Monsanto Corporation to enable the corporation to enter the fish farming business and consulted with Saudi Arabia, France, the United Kingdom, and Greece all in regard to fish farming.

He testified that he wrote Chapter 15 in the published book entitled "World Fish Farming", Chapter 4 in the World Encyclopedia of Tropical Fish, and is a member of the World Mariculture Society and World Aquiculture Society. He has an honorary doctorate from New York Academy of Sciences and has a degree in Marine Biology from the Rosenstall School of Marine Biology.

He then became interested in the problems of raising fish in aquariums and it is this area in which he presently works from his home. He testified that he developed singly, or with others, software known as "Fish Vet for Microsoft Windows", "Aquarium Hobby Vet", "Fish Vet 2.0" and an advanced version of Fish Vet 2.0 which he sells from his home on the Internet. He testified that he is about to publish a new book known as "Aquarium Landscaping".

His business is conducted through the Internet where he maintains a website on aquarium fish and plants. Customers contact him for aquarium supplies which he used to have shipped to his home via the airport and in turn shipped to customers using UPS and Fed/Ex services. However, once the zoning complaint was filed, he takes orders at home and ships to customers without having the material shipped to him at the subject property. This causes him time and money. In addition to buying and selling supplies, he also uses the pool house on the subject property to grow various flora and sell supplies to customers from his stock. He indicated that at he time do customers come to his home for business purposes. He has no sign indicating his business location. He testified that he continues his consulting business on the fields of fish farming and aquiculture. He is a resident alien in the United States since 1960.

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Mr. Prescott testified that he purchased the subject property several years ago from a contractor who purchased the property from Mr. Miller. He indicated that the home is his primary residence and that the business, which he operates from the basement, office and pool house occupies less than 25% of the floor area of the home.

Nancy Mauler, a neighbor who lives along the long driveway from the Petitioner's home to Ivy Mill Road, came in support of the Petitioner and indicated that the business had no adverse impact on the neighborhood. Josephine Feustle testified that she supported the Petition. Kerry and Richard McNamara, whose property is adjacent to the long driveway going to the Petitioner's home, testified that they purchased their property in 1996 and had seen no adverse effect on the neighborhood by having a business in the Petitioner's home. They indicated that they receive UPS and Fed/Ex deliveries at their home without a problem and have no objection to Mr. Prescott returning to his prior business methods of shipping material to the business and then to customers via these same shipping services. They admitted that Mr. McNamara has an office in his home and that they put up a sign at the entrance to the driveway "Children Go Slow" to protect their six children. They noted that the long driveway was the only paved road for their children to play on and they did so for some years with the Petitioner's blessing. However, they are no longer concerned about pick-up and deliveries at the Petitioner's home.

Sarah Fondelier is the sole employee of the Petitioner who works 35 hours per week in the Petitioner's aquarium supply business. She testified that they still receive occasional deliveries for office supplies and personal purchases.

The only protestant was Norman Miller. He testified that he subdivided his 15-acre property a few years ago into three lots, one of which (Lot 2) the Petitioner owns. See Protestant's Exhibit No. 5. Mr. Miller owns the remaining lots and would like to sell Lot 1, which lies at the beginning of the long common driveway leading to Ivy Mill Road. He is

concerned that the business conducted by the Petitioner on the subject property will reduce the value of the lot he would like to sell. In particular, he was concerned with the traffic generated by the business, primarily delivery truck traffic. He indicated that he regularly observed delivery trucks three times a day making stops at the Petitioner's home. He testified that he was worried about the children playing in the driveway and that he had already lost one potential purchaser of Lot 1 who saw the zoning sign associated with this case.

He admitted that he had problems in the past with the Petitioner starting with the settlement of the sale of Lot 2. Apparently their relationship worsened when the Petitioner sued Mr. Miller over paving the common driveway which Mr. Miller eventually installed. However, Mr. Miller contended that the Petitioner's delivery trucks were degrading and damaging the paving on the now paved driveway.

In closing, Mr. Freilich summarized the Petitioner's arguments and also noted that the Petitioner did not occupy more than 25% of the home if one did not count the area in the pool house in which the Petitioner had his plant material that he uses to support the aquarium business. He requested that I find the Petitioner a "professional person" and grant the Special Exception rather than simply allow the business as of right because this would allow the Petitioner more employees and an associate. In every case the Petitioner would like to continue the aquarium business.

Findings of Fact and Conclusions of Law

In regard to the question of whether someone with the Petitioner's background qualifies as a "professional person' entitled to have an office in his home, there is no definition of the term "professional person" in the zoning regulations. I reviewed past cases in which this issue has arisen. The following represent a review of the cases readily available and are by no means an exhaustive list.

Esclante, Case No. 03-C-02-1391 This was an appeal to the Circuit Court from denial by the Zoning Commissioner and Board of Appeals for designation of a real estate broker as a "professional person". The broker was licensed by the State, had completed required educational course work and was subject to State code of ethics and regulation as a profession. In spite of these credentials, the Circuit Court upheld the lower rulings denying the designation, citing the universal denial of real estate brokers for such designation, and that while there were professional aspects to the real estate broker business, these were not dominant. The court cited with approval the definition of "professional" adopted by the Supreme Court of Nebraska when it declared that a profession,

"is a calling requiring specialized knowledge and of the long and intensive preparation including instruction in skills and methods as well as in the scientific, historical or scholarly principles underlying such skills and methods, maintained by force of organization or concerted opinion high standards of achievement and conduct and committing its members to continuing study and to a kind of work which has for its prime purpose the rendering of a public service".

Abosch, Case No. 03-532-X. In this case, the Zoning Commissioner determined that a Certified Clinical Social Worker was a "professional person" as she had a masters degree in social work, was Board Certified, had qualified as an expert witness, was licensed by the State and provided services to persons seeking political asylum in this country. She proposed to provide a part time private social work practice in her home.

Rodriguez, Case No. 02-288-SPH. In this case, the Zoning Commissioner found that Dr. Rodriguez was a "professional person" as he was a licensed chiropractor.

Moore, Case No. 01-045-SPHA The Zoning Commissioner found that Mr. Moore, who asked to be recognized as a tax accountant, was not a "professional person" within the meaning of the zoning regulations. He found that a person who prepares tax returns for others does not meet the licensing and educational requirements for such a designation whereas a Certified Public Accountant may meet those requirements.

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Maltseva, Case No. 99 – 370. The Zoning Commissioner found that an Acupuncturist who was a physician in her native country and who was licensed and regulated by the State as an acupuncturist is a "professional person" within the meaning of the zoning regulations.

Coleman, Case No. 99-54-SPHXA In this case, the Zoning Commissioner found that a medical equipment repairman was not a "professional person" within the meaning of the zoning regulations. Although the Petitioner exhibited some expertise in repairing complicated medical equipment, he did not have the requite professional expertise to so qualify.

Korotki/Small, Case No. 96-442-SPHX. In this case, the Deputy Zoning Commissioner found that an economist qualifies as a "professional person" under the zoning regulations. Mr. Small was a graduate of the Wharton School of Finance of the University of Pennsylvania, with a BS in economics, is a financial consultant specializing in structured settlements working with attorneys in personal injury cases.

In addition, the American Law of Zoning, Chapter 13, Home Occupations, para. 13.03 indicates that where the term "other professional persons" is used in a zoning ordinance personas who practice accounting, veterinary medicine, etc. among other professions. Para. 13.06 specifically recognizes person doctors of veterinary medicine as "professional persons".

Applying these principles to the subject case, I find that a person with the qualifications indicated by Mr. Freilich and Mr. Prescott clearly qualify as a "professional person" within the meaning of the zoning regulations. That person graduated from the university in Ireland, and from the Rosenstall School of Marine Biology. He has consulted on marine farming operations worldwide. He has been recognized by his peers with a Honorary Doctorate from the New York Academy of Sciences. He has authored chapters of recognized books on aquiculture and aquariums. He has written his own book, which is about to be published.

In addition, the Protestant in the case did not challenge any of his qualifications. Yet, I am left with a hollow feeling about this case which likely stems from my poor note taking ability. For example, my notes indicated he either attended or graduated from the prestigious school of marine science known as the Rosenstall School of Marine Science. I was not sure how to spell Rosenstall and so looked at the file to see the exhibits to clarify this matter. To my surprise, there was no document in the file which would not only tell me how to spell the school's name but no document as to exactly when he graduated and in what subject. I then notice that there was no written resume or curriculum vitae so that I could verify my notes as to his professional qualifications. There is no written evidence of his education, no written evidence of his worldwide consulting, or of his fish farming experience. In fact, there is no written evidence at all in the file for the Petitioner save the Plat to Accompany. I recall being shown original books that the Petitioner authored but never copies of the chapters referred to in the oral testimony. I find this odd.

In mentioning this matter of proof, I am not criticizing the Petitioner or his attorney. Perhaps these documents were lost long ago and far away or were simply not available. The Protestant did not challenge the Petitioner's qualifications in any way. Whatever doubts this complete lack of written evidence raises in my mind in regard to the Petitioner's qualifications, I resolve in favor of the Petitioner as I am sure that Mr. Freilich reviewed this matter and would not present a false and fraudulent case. Consequently, I find that the Petitioner is a "professional person" within the meaning of the zoning regulations.

That said, I have to point out to the Petitioner that what he is entitled to have by this designation is a professional office and not a retail business involving buying, processing or selling supplies form his home from inventory stored in his home. The zoning regulations define "Office" as,

"A building or portion of a building used for conducting the affairs of a business, profession, service, industry or government, including a medical office. The term "office" does not include a bank, a post office, a veterinarian's office or an establishment where merchandise is stored on or sold from the premises." (emphasis supplied)

Similarly, the Zoning Commissioner's Policy Manual specifies at section 1B01.1.C.9B.a, that all trader's license requirements are met which further describe in Section 101 "Traders License" subsection c that no equipment, inventory stock or commodity will be delivered or stored on the premises (emphasis supplied).

I cannot emphasize too strongly that the business the Petitioner described involving purchasing, storing, and selling inventory is not allowed in a professional office. Referring to the provisions in the regulations regarding offices of professional persons, the regulations note that physicians, dentists, etc. may have such offices in their homes. However, physicians do not sell medical supplies from their offices in their homes. Nor do dentists sell dental supplies from these offices. These professions provide personal services, which the Petitioner also has in his portfolio. These are clearly allowed. He may consult with any of his clients. He may give advice, write books, negotiate contracts and the like but he cannot distribute or grow inventory for sale.

In regard to the special exception, I will deny this request. Having found the Petitioner to be a "professional person", he can by right operate a professional office in his home. However, I am not convinced that given the larger scope of professional office provided by the special exception, there will not be a detrimental effect on the community in regard to traffic, congestion and uses of the property which are inconsistent with the purposes of the properties RC 4 zoning classification.

I do find that the Petitioner has met his burden of proof regarding the use of the office on the first floor and one half the basement of his home being less than 25% of the floor area of the home. I say this because of Mr. Freilich's statement that the home contains 5,500 sq. ft., which

is contrary to the note on Petitioner's Exhibit No. 1, which states the dwelling area, is 2,888 sq.

ft. In concluding this, I note again that the Petitioner may not grow inventory on the premises

such as is now being done in the pool house. Consequently, the area of the pool house is not

relevant.

Pursuant to the advertisement, posting of the property, and public hearing on these

petitions held, and for the reasons given above, the special hearing and special exception requests

shall be as follows:

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore

County, this 10 day of September, 2004, that the Special Hearing request filed pursuant

Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine that the

Petitioner is a "professional person" who is entitled to operate a professional office in his home

where the use will not occupy more than 25% of the total floor area, be and is hereby

GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request for Special Exception pursuant

to Section 1A03.3.B (12) of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a

"fish biologist" to operate a consultant business and the off-premises sale of materials relating to

the business but where the clients do not go to the dwelling is hereby DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

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IN THE MATTER OF THE APPLICATION OF IOHN SHAWN RAYMOND PRESCOTT * COUNTY BOARD OF APPEALS -LEGAL OWNER FOR SPECIAL HEARING AND SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE N/S OF IVY MILL ROAD, 700' S OF C/L OF * BALTIMORE COUNTY GREEN HILL FARM ROAD (12620 IVY MILL ROAD) TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT

* BEFORE THE

* OF

* Case No. 04-555-SPHX

ORDER OF DISMISSAL OF PETITIONS WITH PREJUDICE

This matter comes to the Board by way of an appeal filed by Counsel for Petitioner from the denial of the requested special exception in the subject matter; and an appeal filed by the Office of People's Counsel from the granting of the special hearing relief, all as set forth in the decision of the Deputy Zoning Commissioner dated September 10, 2004.

A hearing was scheduled to be held before this Board on Tuesday, May 17, 2005, for which proper notice was given on February 7, 2005. On May 16, 2005, one day prior to the scheduled hearing date, a withdrawal of the Petitions was filed by the Petitioner, Shawn Prescott, (a copy of which is attached hereto and made a part hereof).

On Tuesday, May 17, 2005, the Board convened at the scheduled hearing time of 10 a.m., at which time Carole S. Demilio, Deputy People's Counsel for Baltimore County and an Appellant to this matter, moved that the Petitions be dismissed with prejudice.

Upon review of Petitioner's request for withdrawal and Ms. Demilio's Motion, this Board will grant said Motion, and the Petitions filed in Case No. 04-555-SPHX shall be dismissed with prejudice.

IN RE:

PETITION FOR SPECIAL EXCEPTION

N/S of Ivy Mill Road, 700 ft. S

Centerline of Green Hill Farm Road-

(12620 Ivy Mill Road)

* BEFORE THE

COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

4th Election District

4th Councilmanic District

NOTICE OF APPEAL

*

Petitioner, JOHN SHAWN RAYMOND PRESCOTT, by and through his undersigned counsel, files this Notice of Appeal of the decision by the Deputy Zoning Commissioner of Baltimore County on September 10, 2004 denying the Petitioner a special exception to operate a consultant business and the off-premises sale of materials relating to the business by where the clients do not go to the dwelling.

RECEIVED

Per.

Respectfully Submitted,

Michael L. Freilich

Freilich Law Group, L.L.C.

305 W. Chesapeake Avenue

Suite 117

Towson, Maryland 21204

(410) 321-0040



REV 9/15/98

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

12620 Ivy Mill Road

for the property located at <u>Reisterstown</u>, MD 21136 which is presently zoned <u>RC4</u>

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

the occupation of "fish biologist" as a "professional person" who may use the property pursuant to a special exception under BCZR 1A03.3B(12), where the use will not occupy more than 25% of the total floor area and does not involve the employment of two other non-resident employees.

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

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Contract Purchaser/Lessee:		Legal Owner(s):
Name - Type or Print	Name	John Shawn Raymond Prescott
Signature	· · · · · · · · · · · · · · · · · · ·	SOUTH ON N S HAWN HAYMOUD PRESON
Address	Telephone No.	Name - Type or Print
City	Zip Code	Signature
Attorney For Petitioner:		<u>12620 Tvy Mill Rd. (410) 526-0573</u> Address Telephone No.
Name - Type Print Frailich,	Esq. City	Reisterstown, MD 21136 Zip Code
Signature		Representative to be Contacted:
Freilich Law Group. 1	L.L.C.	Michael L. Freilich, Esq.
305 W. Chesapeake Ave	Telephone No.	<u>Freilich Law Group, 305 W. Chesa</u> peake Ave Address
City MD State	21204 Zip Code	Ste. 117, Towson, MD 21204 City State Zip Code
(301) 321-0	0040	OFFICE USE ONLY
	•	ESTIMATED LENGTH OF HEARING SCL 50. EX
Case No. <u>04-555 SP</u>		UNAVAILABLE FOR HEARING
	Reviews	ed By 3 1 1 - Nove 5-28-04



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

12620 Ivy Mill Road

for the property located at __Reisterstown, MD 21136

which is presently zoned ___RC4 This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

to permit a "fish biologist" to operate a consultant business and the off-premises sale of materials relating to the business but where the clients do not go to the dwelling.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:	<u>Legal Owner(s):</u>
Name - Type or Print Name	John Shawn Raymond Prescott
Signature	SCORPAGNA WALLAND HONOR TO
Address Telephone No. State Zip Code	Signature of the Control of the Cont
Attorney For Petitioner:	12620 Ivy Mill Rd., (410) 526-0573 Address Telephone No.
city	Reisterstown, MD 21136 State Zip Code
Signature	Representative to be Contacted:
Freilich Law Group, L.L.C.	Michael L. Freilich, Esq.
305 W. Chesapeake Ave., Ste. 117 Address Telephone No.	Freilich Law Group, 305 W. Chesapeake Ave Address
Tovisor, MD 21204 State Zip Code	Ste. 117, Towson, MD 21204 City State Zip Code
(301) 321-0040	OFFICE USE ONLY
ase No. 04-555 SPHX	ESTIMATED LENGTH OF HEARING 2. 2000 UNAVAILABLE FOR HEARING
	Reviewed By 31/2 Date 5-28-04

BPS/land technology, inc.

Engineers & Surveyors

P. O. Box 5614 • Baltimore, MD 21210 • (410) 435-0800

ZONING DESCRIPTION

Beginning at a point on the north side of Ivy Mill Road which is 80 feet wide at the distance of 700 feet south of the centerline of Green Hill Farm Road which is 50 feet wide. Thence the following courses and distances:

N.89*22'40"W. 401.05', S.33*32'35"W. 221.80', N.68*39'50"W. 233.48', S.33*32'35"W. 225.00', S.24*27'32"E. 92.62', S.87*29'44"E. 198.00', N.33*32'35"E. 441.81', S.89*22'40"E. 378.67', N.28*25'04"E. 13.57' to the place of beginning as recorded in Deed Liber 11166, folio 193.

Being Lot No. 2 in the "Subdivision of Norman T. and Dorothea O. Miller Property" as recorded in Liber 10910, Folio 127, containing 1.680 acres. Also known as 12620 Ivy Mill Road and located in the 4th Election District.



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The Zoning County Stoner of Balemore 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:

12620 by Mill Road N/side of by Mill Road, 700 ft s/of centerline of

Green Hill Farm Road

Ath Plection District — 4th Councilmanic District
Legal Owner(s): John Shawn Raymond Prescott
Special Hearing: to permit the occupation of Tish
biologist as a professional person who may use the
property pursuant to a Special Exception where the use
will not occupy more than 25% of the total floor area and does not involve the employment of two other non-resident employees. Special Execution: to permit a fish biologist to operate a consultant business and the off-premises sale of material relating to the business but where the clients do not go to the dwelling.

Hearing: Tuesday, August 17, 2004 at 9:00 a.m. in Roces 487, County Courts Building, 481 Bosley

LAWRENCE E SCHMIDT:

CERTIFICATE OF PUBLICATION

<u>8</u> 5,20 <u>04</u>
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
$\frac{83}{3}$,2004.
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
☐ Owings Mills Times
□ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

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APPEAL SIGN POSTING REQUEST

CASE NO.: 04-555-SPHX

JOHN SHAWN RAYMOND PRESCOTT- LEGAL OWNER

12620 IVY MILL ROAD, REISTERSTOWN

4TH ELECTION DISTRICT

APPEALED: 10/7/2004

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

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals

400 Washington Avenue, Room 49

Towson, Maryland 21204

Attention: Kathleen Bianco

Administrator

CASE NO.: 04-555-SPHX

Petitioner/Developer:

JOHN SHAWN RAYMOND PRESCOTT – LEGAL OWNER

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

12620 IVY MILL ROAD, REISTERSTOWN

The sign was posted on			15	4	, 2004	· · · · · · · · · · · · · · · · · · ·
By: (Signature of Si	gn Poster)	 	Je	11	<u> </u>	
(Printed Name)						

APPEAL SIGN POSTING REQUEST

CASE NO.: 04-555-SPHX

JOHN SHAWN RAYMOND PRESCOTT- LEGAL OWNER

12620 IVY MILL ROAD, REISTERSTOWN

4TH ELECTION DISTRICT

APPEALED: 10/7/2004

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



RE: CASE NO. 04-555-SPHX
PETITIONER/DEVELOPER:
John Shawn Raymond Prescott
DATE OF HEARING: August 17, 2004

BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT COUNTY OFFICE BUILDING, ROOM 111 111 WEST CHESAPEAKE AVE. TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

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

July

NO O

POSTED



LOCATION:

12620 Ivy Mill Road Reisterstown, MD 21136

DATE:

July 29, 2004

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

Department of Permits and Development Management

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



Baltimore County

James T. Smith, Jr., County Executive Timothy M. Kotroco, Director

June 14, 2004

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: 04-555-SPHX

12620 Ivy Mill Road

N/side of Ivy Mill Road, 700 ft. s/of centerline of Green Hill Farm Road

4th Election District – 4th Councilmanic District

Legal Owners: John Shawn Raymond Prescott

Special Hearing to permit the occupation of "fish biologist" as a "professional person" who may use the property pursuant to a Special Exception where the use will not occupy more than 25% of the total floor area and does not involve the employment of two other non-resident employees. Special Exception to permit a "fish biologist" to operate a consultant business and the off-premises sale of materials relating to the business but where the clients do not go to the dwelling.

Hearing: Tuesday, August 17, 2004, at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco

Director

TK:klm

C: Michael Freilich, Freilich Law Group, 305 W. Chesapeake Ave., Ste. 117, Towson 21204 John Shawn Raymond Prescott, 12620 Ivy Mill Road, Reisterstown 21136

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, AUGUST 2, 2004.

(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.



Visit the County's Website at www.baltimorecountyonline.info

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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.

	TO AIL PAID.
For Newspaper Advertising:	
Item Number or Case Number: 04-555 SP Petitioner: Tohn Phescott Address or Location: 12620 Tvy Mill Rd-	
PLEASE FORWARD ADVERTISING BILL TO: Name:	
Telephone Number: 410 - 526 - 0573	



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48 Old Courthouse, 400 Washington Avenue

February 7, 2005

NOTICE OF ASSIGNMENT

CASE #: 04-555-SPHX IN THE MATTER OF: JOHN SHAWN RAYMOND PRESCOTT

- Legal Owner /Petitioner

12620 Ivy Mill Road 4th Election District; 4th Councilmanic District

9/10/04 - D.Z.C.'s Order in which requested special hearing relief was GRANTED; and special exception relief was DENIED.

ASSIGNED FOR: TUESDAY, MAY 17, 2005 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the

advisability of retaining an attorney.

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

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

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

Kathleen C. Bianco Administrator

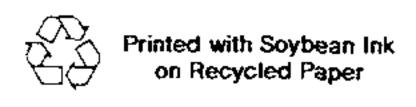
-Counsel for Appellant /Petitioner Generance stricken: Michael Freilich, Esquire

Appellant /Petitioner [appealed denial of special exception] : John Shawn Raymond Prescott

Appellant [appealed grant of special hearing request] : Office of People's Counsel

Sarah Fondelier Richard and Kerry McNamara Nancy Mauler Michael Scally Norman Miller Josephine Feustle

William J. Wiseman III /Zoning Commissioner Pat Keller, Planning Director Timothy M. Kotroco, Director /PDM



c:

Department of Permits Development Management

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





James T. Smith, Jr, County Executive Timothy M Kotroco, Director

August 10, 2004

Michael L. Freilich, Esquire Freilich Law Group, LLC. 305 W. Chesapeake Avenue, Ste. 117 Towson, Maryland 21204

Dear Mr. Freilich:

RE: Case Number:04-555-SPHX, 12620 Ivy Mill Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 28, 2004.

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,

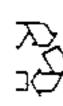
U. Calladal S.

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

People's Counsel C: John Shawn Raymond Prescott 12620 Ivy Mill Road Reisterstown 21136



Visit the County's Website at www.baltimorecountyonline.info

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: June 29, 2004

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

Zoning Advisory Petition(s): Case 4-555 and 4-564

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:

Division Chief:

MAC/LL

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Tim Kotroco

FROM:

John D. Oltman, Jr

DATE:

July 2, 2004

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of June 14, 2004

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-554 04-555

04-557

04-559

04-562

04-564 04-565

04-568

04-571

Reviewers:

Sue Farinetti, Dave Lykens

S-\Devcoord\ZAC SHELL 11-20-03.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: July 2, 2004

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For June 21, 2004 Item Nos. 550, 554, 555, 556, 557, 559, 560, 561, 562, 563, 564, 565, 566, 568,

and 569

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

RWB:CEN:jrb

cc: File



700 East Joppa Road Towson, Maryland 21286-5500 410-887-4500

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

June 17, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: June 14, 2004

Item No.:

3550, 554 = 557, 559 - 571

Dear Ms. Hart:

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.

6. The Fire Marshal's Office has no comments at this time.

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

cc: File



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6.15.04

Baltimore County

Item No. 555 JJS

RE:

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

Dear. Ms.Matthews:

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

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

Very truly yours,

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

f. f. thread h



RE: PETITION FOR SPECIAL HEARING * BEFORE THE

AND SPECIAL EXCEPTION

RECEIVED

The state of the s

12620 Ivy Mill Road; N/side Ivy Mill Rd, * ZONING COMMISSIONER

700' S c/line Green Hill Farm Road

4th Election & 4th Councilmanic Districts * FOR

Legal Owner(s): John Shawn Raymond Prescott

Petitioner(s) * BALTIMORE COUNTY

* 04-555-SPHX

* * * * * * * * *

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

People's Counsel for Baltimore County

dimmerman

anole S. Denille

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 23rd day of June, 2004, a copy of the foregoing Entry of Appearance was mailed to Michael L Freilich, Esquire, 305 W Chesapeake Avenue, St 117, Towson, MD 21204, Attorney for Petitioner(s).

TETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel CAROLE S. DEMILIO
Deputy People's Counsel

October 8, 2004

Timothy Kotroco, Director Department of Permits and Development Management 111 W. Chesapeake Avenue Towson, MD 21204

Hand-delivered

Re:

NOTICE OF LIMITED CROSS APPEAL

Petition for Special Hearing and Special Exception

N/S Of Ivy Mill Road, 700' S c/line of Green Hill Farm Road

(12620 Ivy Mill Road)

4th Election District; 4th Council District John Shawn Raymond Prescott-Petitioner

Case No.: 04-555-SPHX

Dear Mr. Kotroco:

Please enter a limited appeal by the People's Counsel for Baltimore County to the County Board of Appeals of the granting of the Special Hearing request from the Findings of Fact and Conclusions of Law dated September 10, 2004 by the Baltimore County Zoning Commissioner in the above-entitled case. We are not appealing the denial of the request for special exception.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

RECEIVED

Per Lux

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

(a) CLE Demillo And

HIM MULLINGE MON ENW

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/rmw

cc: Michael Freilich, Esquire

Department of Permits and Development Management

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



Baltimore County

James T Smith, Jr, County Executive Timothy M Kotroco, Director

October 28, 2004

John Shawn Raymond Prescott 12620 Ivy Mill Road Reisterstown, MD 21136

Dear Mr. Prescott:

RE: Case: 04-555-SPHX, 12620 Ivy Mill Road

Please be advised that an appeal of the above-referenced case was filed in this office on October 7, 2004 on your behalf by your attorney Michael Freilich in regards to denial of the Special Exception. Please note that a separate appeal was also made by People's Counsel of Baltimore County on October 8, 2004 in regards to the granting of the Special Hearing. 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, Kotroco

Timothy Kotroco

Director

TK:klm

C: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Michael Frielich, 305 W. Chesapeake Avenue, Ste. 117, Towson 21204
Sarah Fondelier, 3442 Hickory Avenue, Baltimore 21211
Richard & Kerry McNamara, 12636 Ivy Mill Rd., Reisterstown 21136
Nancy Mauler, 12634 Ivy Mill Road, Reisterstown 21136
Michael Scally, 3442 Hickory Avenue, Baltimore 21211
Norman Miller, 12514 Ivy Mill Road, Reisterstown 21136
Josephine Feustle, 102 Berryman's Lane, Reisterstown 21136



APPEAL

Petition for Special Hearing and Special Exception
12620 Ivy Mill Road
N/s of Ivy Mill Rd., 700' s/of centerline of Green Hill Farm Rd.
4th Election District – 4th Councilmanic District
Legal Owners: John Shawn Raymond Prescott

Case No.: 04-555-SPHX

Petition for Special Hearing and Special Exception (May 28, 2004)

Zoning Description of Property

Notice of Zoning Hearing (June 14, 2004)

Hearing Held August 17, 2004

Certification of Publication (The Jeffersonian – August 3, 2004)

Certificate of Posting (July 29, 2004) by Bruce Doak

Entry of Appearance by People's Counsel (June 23, 2004)

Petitioner(s) Sign-In Sheet - One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners! Exhibit

Plat to accompany Petitions

- 2. Not in file
- 3. Not in file
- 4. Not in file
- √5. Site Plan

Protestants' Exhibits:

Final Order of the Code Enforcement Hearing Officer

Miscellaneous (Not Marked as Exhibit)

1. BCZR, page 1A-22

2. Section 01 of Zoning Commissioner's Policy Manual

3. General Provisions, page 1-23

4. Section 1B01.1.C of Zoning Commissioner's Policy Manual

5. Violation Case Documents

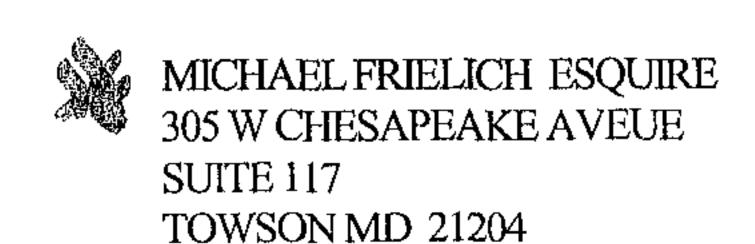
Deputy Zoning Commissioner's Order (Special Exception – DENIED; Special Hearing – GRANTED, --September 10, 2004)

Notice of Appeal on Special Exception received on October 7, 2004 by Michael Freilich for owner.

Notice of Limited Cross Appeal on Special Hearing received on October 8, 2004 by People's Counsel.

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Michael Frielich, 305 W. Chesapeake Ave., Ste. 117, Towson 21204
Mr. and Mrs. John Prescott, 12620 Ivy Mill Road, Reisterstown 21136
Sarah Fondelier, 3442 Hickory Avenue, Baltimore 21211
Richard & Kerry McNamara, 12634 Ivy Mill Rd., Reisterstown 21136
Nancy Mauler, 12634 Ivy Mill Road, Reisterstown 21136
Michael Scally, 3442 Hickory Avenue, Baltimore 21211
Norman Miller, 12514 Ivy Mill Rd., Reisterstown 21136
Josephine Feustle, 102 Berryman's Lane, Reisterstown 21136

date sent 10/28/04 klm



OCT 2 9 2004

BALTIMORE COUNTY

BOARD OF APPEALS

1. BCZR, page 1A-22

2. Section of Zoning Commissioner's Policy Manual

3. General Provisions, page 1-23

54. Section 1B01.1.C of Zoning Commissioner's Policy Manual

5. Violation Case Documents

Deputy Zoning Commissioner's Order (Special Exception – DENIED; Special Hearing – GRANTED, --September 10, 2004)

Notice of Appeal on Special Exception received on October 7, 2004 by Michael Freilich for owner.

Notice of Limited Cross Appeal on Special Hearing received on October 8, 2004 by People's Counsel.

C: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Michael Frielich, 305 W. Chesapeake Ave., Ste. 117, Towson 21204
Mr. and Mrs. John Prescott, 12620 Ivy Mill Road, Reisterstown 21136
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Norman Miller, 12514 Ivy Mill Rd., Reisterstown 21136
Josephine Feustle, 102 Berryman's Lane, Reisterstown 21136

date sent 10/28/04 klm



MICHAEL FRIELICH ESQUIRE
305 W CHESAPEAKE AVEUE
SUITE 117
TOWSON MD 21204
ATTORNEY FOR APPLICANT/APPELLANT



JOHN SHAWN RAYMOND PRESCOTT 12620 IVY MILL ROAD REISTERSTOWN MD 21136 APPLICANT/APPELLANT

SARAH FONDELIER 3442 HICKORY AVENUE BALTIMORE, MD 21211

RICHARD MCNAMARA KERRY MCNAMARA 12636 IVY MILL ROAD REISTERSTOWN MD 21136

NANCY MAULER 12634 IVY MILL ROAD REISTERSTOWN MD 21136

MICHAEL SCALLY
3442 HICKORY AVENUE
BALTIMORE, MD 21211

NORMAN MILLER 12514 IVY MILL ROAD REISTERSTOWN MD 21136

JOSEPHINE FEUSTLE 102 BERRYMAN'S LANE REISTERSTOWN MD 21136 Case No. 04-555-SPHX

In the Matter of: John Shawn Raymond Prescott — Legal Owner/Petitioner 12620 Ivy Mill Road

SPH – To permit the occupation of "fish biologist" as a "professional person" who may use the property pursuant to a SE where use will not occupy more than 25% of total floor area;

SE - To permit a "fish biologist" to operate consultant business and off-premises sale of materials relating to business but where clients do not go to dwelling.

9/10/04 –D.Z.C.'s Order in which requested special hearing relief was GRANTED; and requested special exception was DENIED.

NOTE TO FILE: Call Michael Freilich prior to scheduling due to extremely heavy Circuit Court and upper court docket during the projected time of scheduling for hearing. Call received 11/03/04 regarding date.

2/07/05 - Notice of Assignment sent to following; assigned for hearing on Tuesday, May 17, 2005 at 10:00 a.m. (confirmed Mr. Freilich's court calendar for this date prior to sending notice):

Michael Freilich, Esquire
John Shawn Raymond Prescott
Office of People's Counsel
Sarah Fondelier
Richard and Kerry McNamara
Nancy Mauler
Michael Scally
Norman Miller
Josephine Feustle
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

5/04/05 – Withdrawal of appearance filed by Michael L. Freilich; withdrawing appearance on behalf of John Shawn Raymond Prescott. File noted.

5/05/05 - Letter to Mr. Freilich - appearance stricken on behalf of Petitioner.

5/16/05 – Letter of withdrawal of application filed by Shawn Prescott, Petitioner. Copy provided by this office to Office of People's Counsel this date; Ms. Demilio will appear at 10 a.m. on 5/17/05 as scheduled for dismissal of the Petitions for Special Hearing and Special Exception.

5/17/05 – Board convened for hearing (Wescott, Mohler M, and Brassil; Carole Demilio appeared and, on the record, moved that the Board dismiss these petitions with prejudice; withdrawal of petitions filed by Petitioner just one day prior to scheduled hearing notice; notice for hearing issued in February 2005. Board granted Motion; Petitions to be dismissed with prejudice and Order of Dismissal of Petitions with Prejudice to be issued.

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

DATE:

June 23, 2004

TO:

W. Carl Richards, Jr.

Zoning Review Supervisor

FROM:

James Thompson, Supervisor

Division of Code Inspections & Enforcement

SUBJECT:

Item No.: 04-555-SPHX

Legal Owner/Petitioner: John Shawn Raymond Prescott

Property Address: 12620 lvy Mill Road

Location Description: N/side of Ivy Mill Rd, 700 ft. s/of centerline of Green Hill Farm Rd

INFORMATION: Case No.: 04-0078

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

Norman Milton 12514 Ivy Mill Road Baltimoreo, MD 21136

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

Code Enforcement Complaint

Tax Assesment Inquiry

Baltimore County Correction Notice

Baltimore County Citation

Letter from Attorney to Inspector Woods Letter from Attorney to Inspector Woods

Hearing Officers Order

Case Record

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

JHT/Irs

c: Kimberly Woods, Code Enforcement Inspector, MS 1105

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DATE; 06/23/2004

ANDARD ASSESSMENT INQUIRY

NO

TIME: 14:48:07

PROPERTY NO. DIST GROUP CLASS OCC. HISTORIC 22 00 022225 04 1-0 04-00

DEL LOAD DATE

06/15/04

PRESCOTT JOHN SHAWN RAYMOND

DESC-1.. IMPS1.680 AC

DESC-2.. 1900FT NE COCKEYS ML RD

12620 IVY MILL RD

PREMISE. 12620 IVY MILL

00000-0000

RD

MD 21136-0000 FORMER OWNER: LAND ACQUISITION AND REISTERSTOWN

Ħ

	FCV			PHASED	IN	
	PRIOR	PROPOSED		CURR	CURR	PRIOR
LAND:	64,080	85,440		FCV	ASSESS	ASSESS
IMPV:	197,230	210,960	TOTAL	273,006	273,006	261,310
TOTL:	261,310	296,400	PREF	0	0	0
PREF:	0	0	CURT	273,006	273,006	261,310
CURT:	261,310	296,400	EXEMPT.		0	. 0
DATE:	07/00	09/03				-

TAXABLE BASIS ----FM DATE

> 273,006 ASSESS: 261,310 ASSESS: ASSESS:

ENTER-INQUIRY2 PA1-PRINT PF4-MENU PF5-QUIT PF7-CROSS REF

11/22/03



Ba' re County

Department of Permits and

Development Management

Code Inspections and Enforcement
County Office F ing
111 West Chesapeane Avenue
Towson, MD 21204

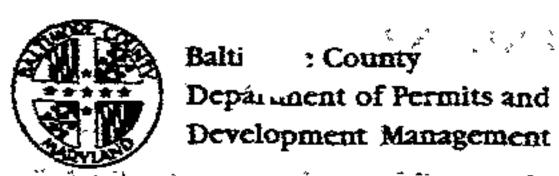
Code Enforcement: Building Inspection: 410-887-3351 410-887-3953

Plumbing Inspection: Electrical Inspection:

410-887-3620 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case	0078	Property No.)-OZ,	2225	Zoning:	204
Name(s):	Joi	on Sha	unk	Paymono	Pre	sco++
Address: Violation	1262	O-IVY/	mill	Rd.	lerst.	M
Location:	UNLAWFULI	LY VIOLATE TH	E FOLLO	OWING BALTIM		2/136 Y LAWS:
BCZ	R - 10	1/, 102.1	. 1 A	03.3A	1403.	38
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EACH VIOL	O COMPLY W	TH THE DEADLECTS YOU TO PO	OTENTIAL	ED IS A MISDEM L FINES OF \$200, LYS IN JAIL, OR BO	EANOR. A CO \$500, OR \$100	
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INSPECTOR				NOTICE		
UNTIL THE RESUME W	E VIOLATION TITH THE APP	TON OF THE FO	REGOING TED AND, DIVISION	G VIOLATIONS, OR PROPER PER OF CODE INSPE	RMITS OBTAIS	JED WORK CA
Not Later Than	n-			Date Issued.	<u>. </u>	<u>, </u>
INSPECTOR	R:					~ ENIOW
					AC AC	BENCY



Code Inspection- and Enforcement
County Office ling
111 West Chesapeake Avenue
Towson, MD 21204

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

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

AGENCY

BALTIMORE COUNTY UNIFORM CODE ENFORGEMENT CITATION SERVE ON RESIDENT AGENT, CORPORATE OFFICER OWNER TENANT, AS APPLICABLE

	SEKÁF ON KEZIT	ENT AGENT, CORPOR	CATE OFFICER, O	WNER, TEN	ANI, AS APPLICABLE	
Citation/Ca	<i>378</i>	Property No.	03223	<u>ර</u>	Zoning: PC4	
Name(s):	Ja	n Shaw	n Ray	mon	d Presco	#
Address:	1262	OIVYI	Mill K	d. K	Perst. MI	>
Violation Location:	12620	DVV 1	nillR	<u> </u>	21136	
Violation Dates:	1-9-1	14 Aproc				<u></u>
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Case Entry/Update Format . . . :

CASREC

Mode . . . : CHANGE File . . . : PDLV0001

Notes: 1/9/04 VISITED PROPERTY, NO ANSWER @ DOOR. DRIVEWAY ON BAD SHAPE. ADVERT IZING ON PHONE BOOK STATES FISH VET, W/SOME ADDRESS & NO# OF RESIDENCE. COMPL. W ILL TESTIFY TO UPS & FED-EX TRUCHS COMING & GOING ALL DAY. & AT LEASE 2-3 EMPLOY EES. MAILED NOTICE GIVING 30 DAYS TO CEASE ILLEGAL BUSINESS FROM RESIDENCE. P/U ON 2/9/04. COMPL. UPDATED (K.W/SS)** 01/27/04 SPOKE W/ OWNER, MR PRESCOTT, HE IS APPLYING FOR A SPECIAL HEARING - HIS MEETING IS SET W/ ZONING FOR 02/23/04. HE WILL KEEP ME INFORMED. EXTEND P/U 02/28/04 TO SEE IF THERE HAS BEEN AN ITEM NUMBER ISSUED KW***

3/1/04 OWNER & ATTY-MICHAEL FRELICH CAME IN FOR ZONING APPT. THEY WERE ADVISED BY (C.RICHARDS) TO SUBMIT AZONING VERIFICATION LETTER TO DETERMINE IF THIS USE IS A LEGAL "HOME OCCUP". THEY WILL THEN OBTAIN AN ENGINEERS SURVEY & APPLY FOR A SPECIAL HEARING. EXTEND FOR ZONING DETERMINATION. COMPL. UPDATED (K.W/SS)*

3/22/04 NO VERIFICATION LETTER HAS BEEN SUBMITTED. NO HEARINGS HAVE BEEN APPLIED FOR. ISSUED A CITATION. HEARING SET FOR 5/12/04. P/U 4/7/04 FOR SERVICE. COMPL. UPDATED (K.W/SS)

****3/23/04, CITATION SENT CERT & REG MAIL TO JOHN SHAWN RAYMOND PRESCOTT, 12620
IVY MILL RD, P/U 4/7/04 >>

F3=Exit

F5≔Refresh

F6=Select format

F9=Insert

F10=Entry

F11=Change

Case Entry/Update
Format . . . : <u>CASREC</u>

Mode . : CHANGE
File . : PDLV0001

Notes 2: TO CHECK FOR SERVICE, KW/CP**** **03/25/04 GREEN CARD RETURNED.GAVE TO KW.LRS*** **3/26/04 ON DOCKET FOR 5/12/04 FILE TO K WOOD. /JF**. **P/U 05/10/04 FOR PRE HEARING INSPECTION - KW*** ***5/11/04 CONTINUE W/HEARING, ASK FOR POSTPONEMENT DUE TO FILING W/ZONING. P/ <u>U ON 6/11/04 (K.W/SS)**</u> FINAL ORDER SENT TO PRESCOTT, JOHN. FILE TO K WOOD. **05/19/04 ORDER RECD, CEASE OPERATION OF FISH VET BUSINESS OR RELOCATE BY 07/0 1/04 OR \$4000. PENALTY BE IMPOSED, UNLESS USE IS PERMITTED BY THE ZONING COMM. P/U 07/01/04 KW**

***05/28/04 REC'D NOTICE OF APPEAL FROM MICHAEL L FREILICH, ESQ 410-321-0040...

DATE STAMPED 05/28/04. ***** HOWEVER ATTORNEY FAILED TO POST APPEAL FEE (150.0

O) OR CIVIL PENALTY IMPOSED. CALLED ATTORNEY TO ADVISE \$\$ NEEDS TO BE POSTED ASA

P. LRS***

F3=Exit F9=Insert F5=Refresh F10=Entry

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Case Entry/Update
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Notes 3: CONT'D...APPEAL TIME HAS EXPIRED. P/U 07/01/04 FOR POST HEARING INSPEC TION. LRS***

06/16/04 REC'D NOTICE OF ZONING HEARING SCHEDULED FOR 08/17/04 9AM. SPEC EXCE P HEARING TO PERMIT A "FISH BIOLOGIST" TO OPERATE A CONSULTANT BUSINESS. GAVE TO KW. COPY OF ENFORCE FILE TO ZONING. 04-55-SPHX. LRS*

F3=Exit F9=Insert

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response

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er Rule 417 f liv. P. 33 (c). aer Rule 417

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on a motion for summary judgment. Vanhook v. Merchants Mut. Ins. Co., 22 Md. App. 22, 321 A.2d 540 (1974).

Unanswered interrogatories as basis for postponement. — The presence of unanswered interrogatories having an obvious bearing on a proceeding might well have been a basis for postponement of a hearing on a motion for summary judgment if such hearing had been pressed for immediately. Basiliko v. Royal Nat'l Bank, 263 Md. 545, 284 A.2d 227 (1971).

Use of delayed answers not barred. --Where docket entries indicated that no certificate of discovery was filed, but where the opposing party conceded he received interrogatories, to which he was asked to respond "when you deem it appropriate," where no protective order was filed or steps taken to obtain delayed answers, and where no complaint was made about the untimeliness until a motion for summary judgment was made, the court did not abuse its discretion by declining to bar the use of the answers due to lack of prejudice resulting from the delay. Faith v. Keefer, 127 Md. App. 706, 736 A.2d 422 (1999).

Judge may impose sanctions on own motion. — There is nothing to prevent the trial court from dealing with the apparent inadequacy of answers to interrogatories by imposing sanctions sua sponte within the framework of the discovery rules. Broadwater v. Arch, 267 Md. 329, 297 A.2d 671 (1972).

Statement of facts showing contributory negligence. — An interrogatory asking, "If you contend that the plaintiff acted in such a manner as to cause or contribute to the occurrence, give a concise statement of the facts upon which you rely," is a proper one. Baltimore Transit Co. v. Mezzanotti, 227 Md. 8, 174 A.2d 768 (1961).

Statement of facts showing negligence of third person. -- An interrogatory asking, "If you contend that a person not a party to this action acted in such a manner as to cause or contribute to the occurrence, give a concise statement of the facts upon which you rely," is a proper one. Baltimore Transit Co. v. Mezzanotti, 227 Md. 8, 174 A.2d 768 (1961).

Applied in Mitchell v. Montgomery County, 88 Md. App. 542, 596 A.2d 93 (1991); Union Mem. Hosp. v. Dorsey, 125 Md. App. 275, 724

A.2d 1272 (1999).

Quoted in Montgomery County v. Herlihy, 83 Md. App. 502, 575 A.2d 784, cert. denied, 321 Md. 164, 582 A.2d 499 (1990); Lone v. Montgomery County, 85 Md. App. 477, 584 A.2d 142 (1991); Warehime v. Dell, 124 Md. App. 31, 720 A.2d 1196 (1998).

Cited in Adams v. Mallory, 308 Md. 453, 520 A.2d 371 (1987); Kramer v. Levitt, 79 Md. App. 575, 558 A.2d 760 (1989); Attorney Grievance Comm'n v. Pearson, 322 Md. 154, 586 A.2d 25 (1991); Berrain v. Katzen, 331 Md. 693, 629 A.2d 707 (1993); Heineman v. Bright, 124 Md. App. 1, 720 A.2d 1182 (1998); Dorsey v. Nold, 362 Md. 241, 765 A.2d 79 (2001).

Rule 2-422. Discovery of documents and property.

(a) Scope. Any party may serve one or more requests to any other party (1) as to items that are in the possession, custody, or control of the party upon whom the request is served, to produce and permit the party making the request, or someone acting on the party's behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, recordings, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form) or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of Rule 2-402 (a); or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying, photographing, testing, or sampling the property or any designated object or operation on the property, within the scope of Rule 2-402 (a).

PETITION FOR SPECIAL HEARING RE:

AND SPECIAL EXCEPTION

12620 Ivy Mill Road; N/side Ivy Mill Rd,

700' S c/line Green Hill Farm Road 4th Election & 4th Councilmanic Districts

Legal Owner(s): John Shawn Raymond Prescott

Petitioner(s)

BEFORE THE

cesed 5/02/05

cesed Sheets:

SEADDEALS COUNTY BOARD OF APPEALS

FOR

BALTIMORE COUNTY

CASE NO.: 04-555-SPHX

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

JOHN SHAWN RAYMOND PRESCOTT TO: 12620 IVY MILL ROAD REISTERSTOWN, MARYLAND 21136

BALTIMORE COUNTY BOARD OF APPEALS

YOU ARE HEREBY COMMANDED TO: () Personally appear; () Produce documents and/or objects only; (X) Personally appear and produce documents or objects; in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on May 17, 2005 at 10 a.m.

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated):

- a copy of book "World Fish Farming" and documents relating to and confirming your authorship of all or any part of the book.
- A copy of Chapter 4 in the World Agriculture Society and documents relating to and confirming your authorship or all or any part of the book.
- Documents relating to your membership in World Mariculture Society.
- Documents relating to your membership in World Aquiculture Society.
- Documents relating to and confirming your honorary doctorate from New York Academy of Sciences.
- Documents relating to and confirming your degree in Marine Biology from "Rosenstall" (Rosensteil) School of Marine Biology or any institution from which you hold a degree, or your attendance at said School or institution.
- Documents relating to and confirming your authorship of "Aquarium Landscaping".
- Documents relating to and confirming your development of the following software: "Fish Vet for Microsoft Windows", "Aquarium Hobby Vet", "Fish Vet 2.0" and advanced version of "Fish Vet 2.0".

- A copy of your employment contracts and consulting contracts with Monsanto Corporation and all
 documents relating to your position.
- A copy of your employment contracts and consulting contracts with the following countries: Saudi
 Arabia, France, the United Kingdom, Greece and all documents relating to your position.
- All documents relating to and confirming your degree from the University in Ireland.
- All documents relating to and confirming your license to practice veterinary medicine in Ireland.
- All documents relating to your consulting contract during your 8 year stay in "Israel's Red Sea".
- Federal and State income tax returns for 2003 and 2004 for Fish-Vet.com, its predecessors and successors.
- Personal federal and state income tax returns for 2003 and 2004.
- Inventory and Sales Records and Receipts for Fish-Vet.com, its predecessor and successor, for 2003 and 2004.

** For purpose of this subpoena "documents" shall mean all documents described in MD Rule 422(a) attached.

The purpose of this subpoena is to obtain information relative to the relief requested in the Petition for Special Hearing and Petition for Special Exception, and the issues raised in the hearing before the Deputy Zoning Commissioner for Baltimore County.

SUBPOENA REQUESTED BY:

Peter Max Zimmerman, People's Counsel for Baltimore County Carole S. Demilio, Deputy People's Counsel for Baltimore County 400 Washington Avenue, Room 47 Towson, Maryland 21204 410-887-2188

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (\times) the Sheriff, (___) Private Process Server, to issue the summons set forth herein.

Level Bluegel
County Board of Appeals for Baltimore County

FREILICH LAW GROUP, L.L.C.

ATTORNEYS AT LAW

SUITE 117

305 West Chesapeake Avenue Towson, Maryland 21204

(410) 321-0040

Fax: (410) 337-8855

eighil: freilich@freilichlawgroup.com

www.freilichlawgroup.com

MICHAEL LEWIS FREILICH*

JAMES W. HAYS

*ADMITTED MD & FL

Kimberly Woods Code Inspections and Enforcement 111 West Chesapeake Avenue Towson, Maryland 21204

May 3, 2004

Re:

Citation Number 04-0078

John Shawn Raymond Prescott

Dear Ms. Woods:

This Firm represents Mr. Prescott in the above captioned matter. We received the sealed documents from our surveyor and have made an appointment with the Zoning Office to review the documents with the planner prior to filing the petitions. The earliest appointment the Zoning Office could provide is May 10, 2004 at 2:00 PM. We anticipate filing the Petitions shortly thereafter.

We will keep you abreast of our progress. In the interim, please continue the hearing set for May 12, 2004. If you have questions or would prefer to have more information, please feel free to contact me at 410-321-0040.

Respectfully yours,

James W. Hays

Y'\Prescott, Shaun\Zoning Appeal\Woods0503.wpd

FREILICH LAW GROUP, L.L.C. ATTORNEYS AT LAW SUITE 117 305 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204

(410) 321-0040

Fax: (410) 337-8855

www.freilichlawgroup.com

email: freilich@freilichlawgroup.com

Michael Lewis Freilich*

James W. Hays

*ADMITTED MD & FL

May 2, 2005

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

Re:

In The Matter Of: John Shawn Raymond Prescott, Legal Owner/Petitioner

Case #: 04-555-SPHX

Dear Ms. Bianco:

Please withdraw my appearance on behalf of John Shawn Raymond Prescott in this matter.

Sincerely

Michael L. Freiligh

MLF/pis cc: S

Shawn Prescott

Z:\Prescott, Shawn\Zoning Appeal\correspondence\County Board of Appeals for Baltimore County 050205.wpd

BALTIMORE COUNTY BOARD OF APPEALS



12620 Ivy Mill Rd.
Reisterstown
MD 21136
Tel. 410 526.0573
Fax.410.526.0574

E-Mail fishvet@fishvet.com

Web. http://www.fishvet.com

http://www.aquariumlandscapes.net

http://aquaculture.bz

To:- State of Maryland
Baltimore County
Court of Appeals
Case no. 04-555-SPHX

Date 5/12/05

Ref SRP

Dear Sirs.

In respect of the case number above, for May 17th inst. I wish to withdraw my application for the following reasons

- 1) Failing health, and the need in the near future to have 2 operations, with no certainty to the outcome.
- 2) The need for economic reasons, to find a partner or another, who will take over the business, and relocate somewhere else.
- 3) The possibility, that both of the above will necessitate a move by myself to another residence.

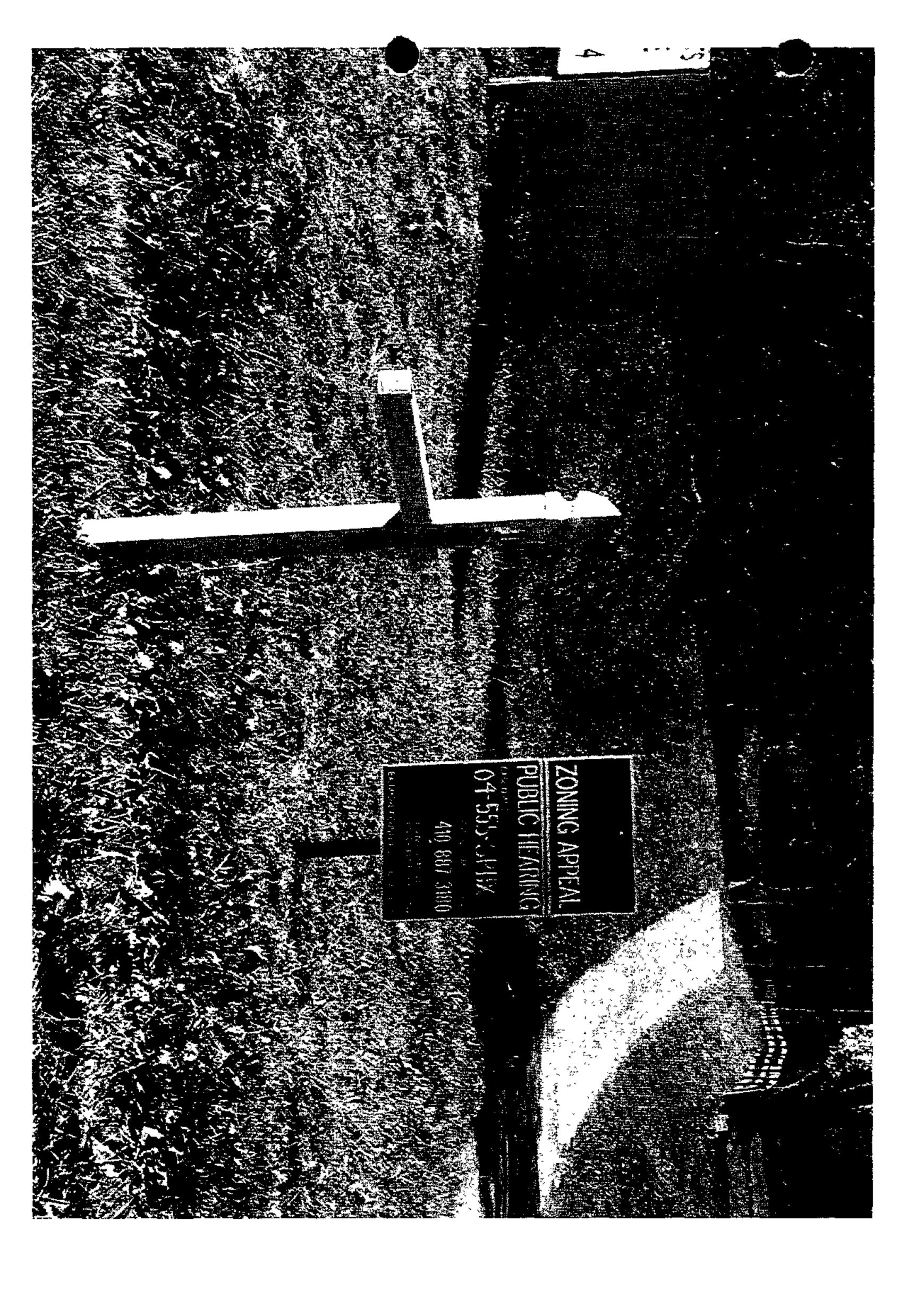
I am in the process of making the arrangements for the above, and believe it will be completed within 5-6 weeks or earlier. Meanwhile very little activity is taking place, and no delivery trucks etc are coming to the above address.

Yours truly

Shawn Prescott

DECE:

BALTIMORE COUNTY BOARD OF APPEALS



CASE NAME 1262 ING MILL RD CASE NUMBER 04-555-SPHX DATE 8/17/04

PETITIONER'S SIGN-IN SHEET

E- MAIL													
CITY, STATE, ZIP	21211 21211	Caulan, MD 21136	Resslettown, mD 21136	Xelsterstewn MD 21156	ROISTERSTOWN ND.	95112							
ADDRESS	305 W. Changelle 3442 Hickory And	36 EVY 1M	TW Mill R	3442 18 mm Aug	O WU HIERD		•						
NAME	Michael Facilich	RICHARD MCN rman	Kerry McNamara	Michael Scally	Marin March	John Bracoll							

CASE NAME 126 20 My M.11 Rd CASE NUMBER 04-555-5PHX DATE 8/17/04

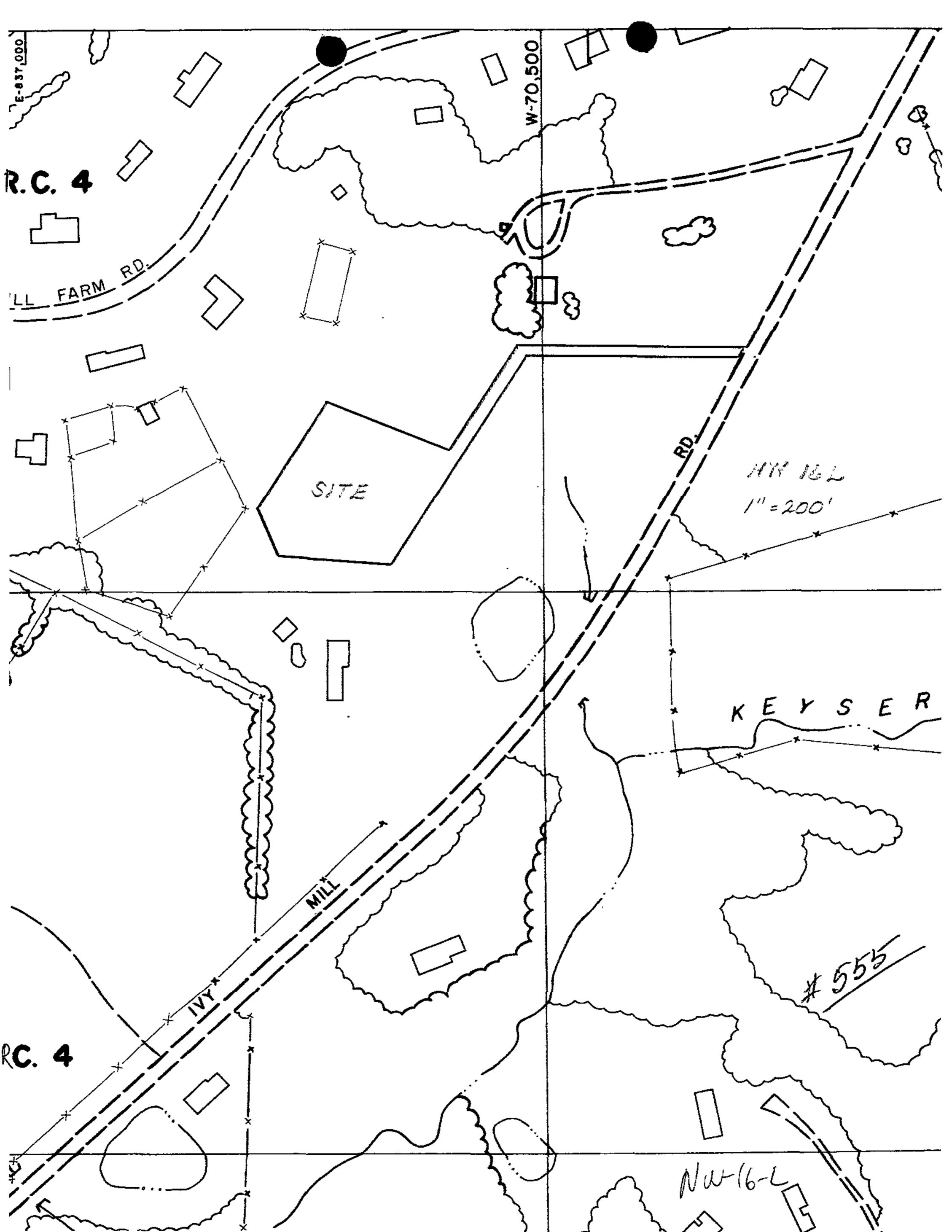
CITIZEN'S SIGN-IN SHEET

E-MAIL	21/26	į								
CITY, STATE, ZIP	ERSTOWN MARYCHAR	Reliense								
ADDRESS	125/4 11/4/11/11/20/ 102 BEFRANKOS LA.	æ1 m								
NAME	Me Sephine Frishe									

Descrip Mation - W/prij.

Ch w/ Lang w on 5/24

Ch w/ Lang w on 5/24



- 11. Landscape service operations, subject to provisions of Sections 404.1 and 404.3. [Bill No. 41-1992]
- 12. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons as an accessory use, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of that residence; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees. [Bill Nos. 105-1982; 65-1999]
- 13. Public utility uses not permitted as of right, including underground interstate and intercontinental pipelines.
- 14. Rail passenger station, subject to Section 434. [Bill No. 91-1990]
- 15. Riding stables.
- 16. Shooting preserves, including hunting and fishing preserves.
- 17. Shooting ranges, including, but not limited to, archery, pistol, skeet, trap, target (small-bore rifle only) except that any such use existing at the time of date of enactment of this subsection may continue at the same level, provided that, within 365 days of the enactment date of this legislation, they shall file for a use permit as prescribed under the now existing zoning regulation Section 500.4, and turkey shoots.
- 18. Trailers, subject to the provisions of Section 415.1.D.
- 19. Volunteer fire company or ambulance-rescue facilities.
- 20. Wireless telecommunications towers, subject to Section 426. [Bill No. 30-1998]
- 21. Farm market, subject to the provisions of Section 404.4. [Bill No. 41-1992]
- 22. Winery as an agricultural support use, including accessory retail and wholesale distribution of wine produced on-premises. Temporary promotional events, such as wine tasting or public gatherings associated with the winery, are permitted, within any limits set by the special exception. [Bill No. 51-1993]
- 1A03.4 Height and area regulations.
 - A. Height. No structure hereafter erected in an R.C.4 Zone shall exceed a height of 35 feet, except as otherwise provided under Section 300.
 - B. Area regulations. [Bill Nos. 178-1979; 113-1992]

production. Horticultural nurseries may engage in accessory uses such as storage of plant materials, sale of products necessary for the health of the nursery stock, and provision of limited landscape services. A nursery which sells plant materials grown exclusively on-site and which does not offer any of the accessory services permitted at horticultural nurseries shall be considered a farm. [Bill No. 41-1992]

NURSERY SCHOOL — A school or a level within a school providing educational instruction for children between two and four years old. [Bill No. 47-1985]

NURSING HOME (formerly "convalescent home") — A facility which provides board, shelter and nursing care to chronic or convalescent patients. This term also includes facilities which provide domiciliary care within a nursing home. [Bill No. 37-1988]

OFFICE — A building or portion of a building used for conducting the affairs of a business, profession, service, industry or government, including a medical office. The term "office" does not include a bank, a post office, a veterinarian's office or an establishment where merchandise is stored on or sold from the premises. [Bill Nos. 13-1980; 167-1980; 37-1988; 186-1994]

OFFICE BUILDING, CLASS A — A principal building that was originally constructed as a one-family or two-family detached dwelling and that is converted by proper permit to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purposes of this definition, enclosure of a porch of a house or the addition of an exterior stairway at the side or rear of the building does not constitute external enlargement. [Bill Nos. 13-1980; 170-1991]

OFFICE BUILDING, CLASS B — A principal building used for offices and which is not a Class A office building. [Bill Nos. 151-1988; 186-1994]

OPEN DUMP — Any land publicly or privately owned, other than a sanitary landfill, on which there is deposit and accumulation, either temporary or permanent, of any kind of organic or inorganic refuse, including but not limited to waste materials, waste products, wastepaper, garbage, empty cans, broken glass, rags and all other kinds of organic or inorganic refuse, but excluding scrap for use in manufacturing processes on the premises, or waste materials resulting from such processes, or resulting from the construction or elimination of facilities for such processes. [Bill No. 140-1962]

OPEN SPACE, COMMON — Local open space, public parks or other parklike open space reserved for the public use and enjoyment, whether privately owned or owned by the county, state or federal government or other agencies. Space that lies within the boundaries of an area designated as common open space and is devoted to such recreational facilities as are customarily found in public parks is considered part of the common open space. Amenity open space (as defined elsewhere in this section) is not common open space unless it is so designated by the developer of the tract on which the space is located. Upon the adoption of appropriate standards pursuant to the authority of Section 504, nontidal streams and lakes and other nontidal watercourses or bodies of water lying within, lying partially within or abutting common-open-space land areas are to be considered part of the common open space to the extent permitted under those standards. Storm-drainage-reservation strips and floodplains may be designated common open space, but fenced

1B01.1.C SPECIAL EXCEPTION USES

- 9B. OFFICES OF PROFESSIONAL PERSONS are permitted by Special Exception subject to the following:
 - a. All Trader's License requirements are met (See Section 101 Home Occupation Z.C.P.M., Page 1-18.1)
 - b. All professional offices in the home are considered as an accessory use to the principal dwelling and not subject to R.T.A. requirements.
 - c. If the office is to be established in the garage attached to the dwelling with a breezeway, the square footage of the breezeway should be included in the allowable 25% office area.
 - d. The following are considered professional persons:
 - (1) Optometrist; (see Case #
 - (2) Opthamalogist; (see Case #
 - (3) Real Estate Agent (see Case #85-78)
 - e. The following are not considered professional persons:
 - (1) Private Detective (see Case #
 - (2) Pastoral Counseling; (see Case #84-339)
 - (3) Hair Weave (see Case #90-291)

12. 35,000 - 68,999 volt power transmission lines are the only ones requiring a special exception; all others are exempt (Howard County, Md. Vs Potomac Electric Power Co. et al, 319 Md. 511, 573 A2d. 821 (1990)).

SECTION 101 - HOME OCCUPATION (CONtinued)

Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence; does not occupy more than 25 percent of the total floor area of such residence; and does not involve the employment of more than one non-resident professional associate nor two other non-resident employees. (Sill No. 105, 1982.)

(B) INTERPRETATION:

This determination may be subject to a Special Hearing at the discretion of the Zoning Commissioner on a case by case basis.

(9) The following are the zones where home occupations are allowed by right:

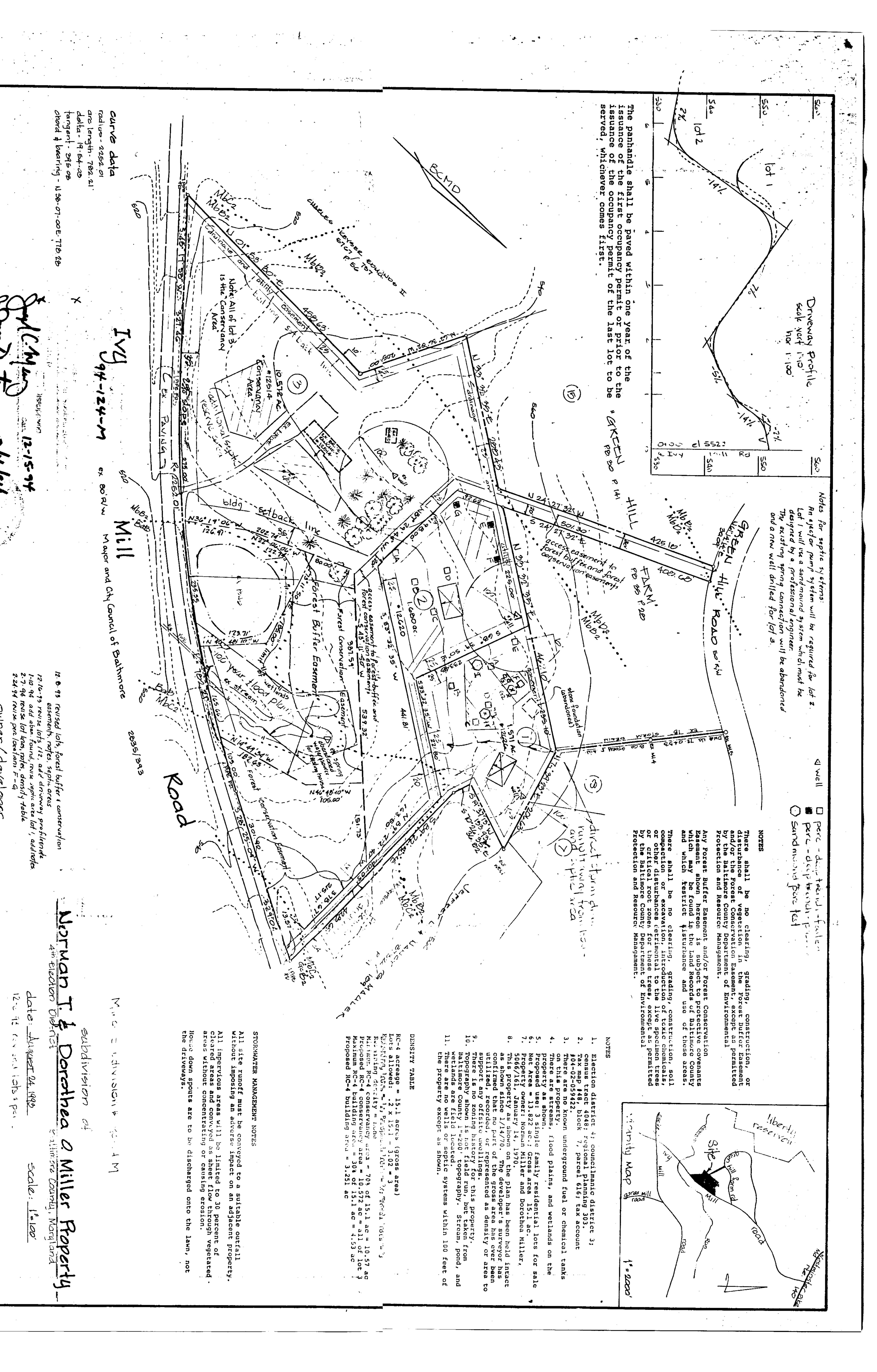
Zone	<u>Section</u>
R.C2	1A01.2.B.7.c
R.C3	1A02.2.A.10.c
R.C4	1A03.3.A.6.c
R.C5	1N04.2.A.11.c
R.C20 & 50	1A05.2.B.4
D.R.'s	1B01.1.A.14.d
R.A.E1	200.2.A.3.5.1
R.A.E2	201.2.A.5.1

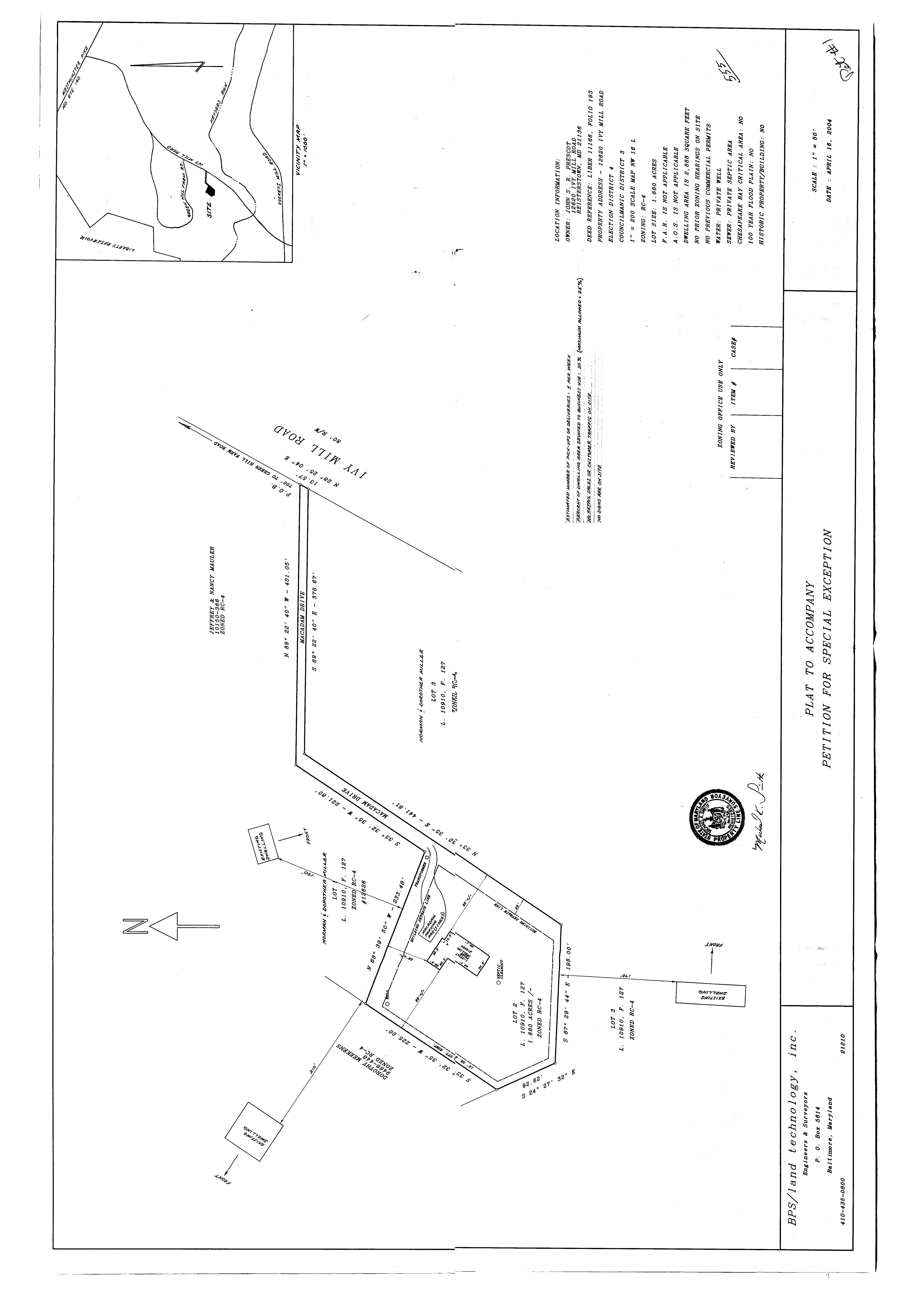
- TRADERS LICENSE: Business addresses may be established in the home provided:
 - a. all other home occupation requirements are met;
 - all business contacts will only be by telephone or correspondence;
 - c. no equipment, inventory, stock, or commodity will be DELIVERED or STORED on the premises; and
 - d. an affidavit is signed by the owner of the business attesting to the above conditions to be kept on file in the zoning office.
- TUTORING SERVICES are permitted as a home occupation in a residential zone subject to the following conditions:
 - a. a maximum of six students per day;
 - b. tutoring is on a one-to-one or two-to-one basis;
 - c. No more than two tutors total (one in addition to the resident):
 - d. there are no commercial sales (wholesale or retail) and no commercial sales or stored on the premises for sale:
 - e. an affidavit is signed by the owner of the business attesting to the above conditions to be kept on file in the zoning office.

Larger tutoring services in D.R. zones are considered a school and would be subject to R.T.A. requirements.

Larger tutoring services in R-O, O-1, O-2, and the commercial and industrial zones are treated as an office.

A small group of children are permitted to be tutored by a teacher in an existing school.





Case No. 04-555-SPHX /John Shawn Raymond Prescott -Petitioner / Dismissal of Petitions

County Board of Appeals of Baltimore County that the Petitions for Special Hearing and Special Exception filed in Case No. 04-555-SPHX be and the same are hereby **DISMISSED** with prejudice.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Margaret Brassil, Ph.D.

Mike Mohler