IN THE MATTER OF
THE APPLICATION OF
IOHN STEPHEN PODLES, JR. – LEGAL
OWNER /PETITIONER FOR A VARIANCE
ON PROPERTY LOCATED ON THE S/S OF
HADDAWAY RD, E/S BRANNAN AVENUE
(2621-2623 HADDAWAY ROAD)

\* BEFORE THE

COUNTY BOARD OF APPEALS

\* OF

BALTIMORE COUNTY

\* CASE NO. 04-567-SPHA

15TH ELECTION DISTRICT 7<sup>TH</sup> COUNCILMANIC DISTRICT

#### ORDER OF DISMISSAL

This matter comes to the Board of Appeals by way of an appeal filed by John S. Podles, Jr., Legal Owner /Petitioner, from a decision of the Deputy Zoning Commissioner dated October 6, 2004 in which the requested relief was granted in part and denied in part.

WHEREAS, the Board is in receipt of a letter of withdrawal of appeal filed on May 26, 2005 by Arnold Jablon, Esquire, Counsel for Appellant /Petitioner (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Appellant requests that the appeal taken in this matter be withdrawn and dismissed as of May 26, 2005,

Board of Appeals of Baltimore County that the appeal taken in Case No. 04-567-SPHA be and the same is hereby **DISMISSED**, whereby the Order of the Deputy Zoning Commissioner issued on October 6, 2004 becomes the final Order in this matter.

OF BALTIMORE COUNTY |

COUNTY BOARD OF APPEALS

awrence M. Stahl, Chairman

Lawrence S. Wescott

Margaret Brassil, Ph.D.

Case No. 04-567-SPHA

In the Matter of: John Stephen Podles, Jr. – Petitioner /Legal Owner 2621-2623 Haddaway Road

SPH – To approve confirmation of nonconforming use for multi-family dwelling and expansion thereof and to approve third unit and to determine that the third unit will not negate the nonconforming use; VAR – to allow side yd setback of 3' ilo minimum required 10'

10/06/04 - D.Z.C.'s Order in which special hearing to approve confirmation of nonconforming use / two apts side by side / was GRANTED; expansion of existing apartments by addition of third bedroom each was GRANTED; request for third apt and variance relief was DENIED.

1/03/05 - Letter from Alfred L. Brennan, Jr., Esquire and BRENNAN and BRENNAN - no longer striking appearance as counsel for Mr. Podles in this matter; all future correspondence to be mailed directly to Mr. Podles. File so noted 1/04/05.

1/04/05 - Letter to Mr. Brennan acknowledging receipt of his withdrawal of appearance; copy to Mr. Podles and also to People's Counsel.

2/14/05 -Notice of Assignment sent to following; assigned for hearing on Wednesday, June 1, 2005 at 10 a.m.:

John Stephen Podles, Jr.
J. Scott Dallas /J.S. Dallas, Inc.
Christopher Podles
Mary Pyles
Jean Grove
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

- 4/13/05 Request for postponement filed by Arnold Jablon recently retained to represent the Appellant /Petitioner; requires time to prepare case; also will be out of town on the scheduled date of 6/01/05. No protestants before the ZC. Attempting to clarify availability of parties on either 6/07 or 7/07/05; notice to be sent upon clarification.
  - Mr. Zimmerman available either 6/07 or 7/07/05, preferring the June date. T/C from Mr. Jablon his witness is not available on 6/07/05. Will reassign to July 7 and send notice.
- 4/22/05 Notice of PP and Reassignment sent to parties; case reassigned to Thursday, July 7, 2005 at 10:00 a.m.
- 5/26/05 Letter of dismissal of appeal filed by Arnold Jablon, Esquire, on behalf of Appellant /Petitioner, John Stephen Podles, Jr. Order of Dismissal to be issued; order of the DZC dated October 6, 2004 will then become the final Order in this matter (relief granted in part and denied in part).

IN RE: PETITIONS FOR SPECIAL HEARING

AND VARIANCE

S/S of Haddaway Road,

E/S of Brannan Avenue

15th Election District

7th Councilmanic District

(2621-2623 Haddaway Road)

\* BEFORE THE

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

CASE NO. 04-567-SPHA

John Stephen Podles, Jr.

Petitioner

OCT\*1 2 2004 \* \* \* RECELVED \* \*

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### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Variance and Petition for Special Hearing for the properties located at 2621-2623 Haddaway Road in the eastern area of Baltimore County. The Petition was filed by John Stephen Podles, Jr., the Petitioner and legal owner of the property. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. In addition, variance relief is requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft.

The property was posted with Notice of Hearing on July 27, 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.

\*\*RECEIVED\*\*

OCT - 8 2004

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 nonconforming 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 307 of the B.C.Z.R. – Variances.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

### Section 104, Nonconforming Uses [BCZR 1955]

<u>Definition</u>: <u>Nonconforming Use</u> — A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 18-1976]

Section 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

Section 104.3 No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures or uses restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 124-1991]

Section 104.4 Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any

extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. [Bill Nos. 167-1980; 124-1991]

### Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were submitted by the Department of Environmental Protection & Resource Management (DEPRM) dated July 1, 2004, a copy of which is attached hereto and made a part hereto. In addition, a ZAC comment was received from the Bureau of Development Plans Review dated July 2, 2004, a copy of which is attached hereto and made a part hereof.

### Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were John S. Podles, Jr., the Petitioner, Christopher Podles, Mary Pyles and Jean Grovu. J. Scott Dallas appeared on behalf of J.S. Dallas, Inc., the survey and engineer company that prepared the site plan of the property on behalf of the Petitioner. Alfred L. Brennan, Jr., Esquire represented the Petitioner. No protestants or citizens attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

### Testimony and Evidence

Mr. Brennan proffered that the subject property is located at the intersection of Brannan Avenue and Haddaway Road. Brannan Avenue continues to the south of the property as Brannan Circle. The Department of Public Works requested that the plan to accompany show a full 40-ft. right-of-way for both Haddaway Road and Brannan Avenue to which the Petitioner agreed as set forth on Petitioner's Exhibit No. 1. Mr. Brennan noted the odd configuration of the lot that has streets on three sides and the new rights-of-way requested by the County. In addition, the building is not square on the lot so that one side is closer to the boundary than the

other. The subject property is 0.175 acre in size and is Lot 11 of the Estate of Thomas Brannan, which was recorded in the Land Records of Baltimore County in 1948. The zoning is DR 5.5, which was imposed on the property in 1955. The lot is apparently within the Chesapeake Bay Critical Area.

The property is improved by a duplex (side by side) apartment house, one half of which Mary Pyles testified that she rented in 1948 and 1949 when she worked for Bethlehem Steel Corporation. She noted that there were two apartments at that time and that the building was old when she moved in. Mr. Brennan presented a series of aerial photographs (Petitioner's Exhibit Nos. 2 through 5) which show the duplex apartment in 1938, 1954, 1961 and 1977 basically unchanged.

Mr. Podles testified that he bought the property in 1992 in horrible shape. Since that time, he has rehabilitated and remodeled it so that he can rent it as two side by side apartments. He noted that each apartment contained its own bath, kitchen and bedrooms. However, each apartment had only two bedrooms and in order to make each apartment more attractive to tenants, he constructed a third bedroom over each of the apartments in 1992 for which Baltimore County issued a permit. Finally, he constructed a third apartment on the side of the existing duplex building in 2000 without a permit, which is now the source of the violation notice. See Petitioner's photographs marked Exhibit Nos. 7 through 14.

Finally, Mr. Dallas, who prepared the plan to accompany, noted that the additional apartment increased the footprint by approximately 18% and that the County's request to show parking for each apartment for a total of six spaces is shown on Petitioner's Exhibit No. 1. He also noted that the third apartment falls within 3 ft. of the boundary of the lot and that the

Petitioner did not own the lot next door which he could use to expand the lot and thus comply with the regulations by lot line adjustment.

### Findings of Fact and Conclusions of Law

From the testimony and evidence, I find that the Petitioner has a legal use of two apartments side by side, which do not conform to the use regulation for the DR 5.5 zone in which it is located. Ms. Pyles indicated that she rented one side of the duplex in 1948 and I have no reason to believe that a multi-family use was not legal at that time. In addition, I find that there has been no abandonment of the apartment use since the time the DR regulations were imposed in 1970.

Much more troubling is the question of whether the addition of the second floor to the duplex apartments should be considered in calculating the percentage increase, as well as the third apartment. Mr. Dallas testified that the third apartment added only 18% to the footprint of the building and thus meets the 25% expansion requirement of nonconforming uses. The Petitioner notes that the statute specifically states that the footprint is the basis of the nonconforming use. The statute (Section 104.3 of the B.C.Z.R.) specifies that a nonconforming use may not be extended more that 25% of "the ground floor area of the building so used".

Consequently, Mr. Brennan argues that I am not to consider the second story added to the duplex in calculating the extension. He cites the case of *Feldstein v LaVale Zoning Board*, 246 MD 204 (1967) which involved an increase in the volume and height of stored scrap metal in a nonconforming junkyard. In this case, the Court of Appeals ruled that this was an intensification and not an extension of the nonconforming use. In addition he cites *Green v Garrett et al.*, 63 A2d 326 which involves the nonconforming use of a stadium which before the zoning ordinance, held football and baseball games. The zoning ordinance then restricted the property to

residential uses. The Court of Appeals found that playing regularly scheduled league play was not an extension of the nonconforming use.

In regard to the contention that the basis of a nonconforming use is simply the foot print of the building, this makes no logical sense to me, although at first glance the statute seems to say so. If I consider only the first floor footprint, an addition that adds ten floors to a nonconforming use would have no extension at all by this way of calculation. Obviously, the nonconforming use has intensified tenfold but this would not register on the statute's Richter Scale and be counted.

In regard to the cases cited, I understand that more frequent use of or conducting more business from a nonconforming use is an intensification and not an extension. However, the subject case is about putting another room onto each apartment and then adding a third apartment to the building. In my view, these are extensions and not intensifications. The statute specifically mentions physical area as the basis of the 25% rule.

It seems to me that the Council's intention is to regulate the size of land extensions by finding the area of the nonconforming use and then determine if that area has been extended more than 25%. Area works well here. However, I interpret the legislative intent for extension of nonconforming structures to apply to volumetric increases and not simply footprint of the first floor. In this sense, I find the words "of the ground floor area" in the statute does not indicate a precise mathematical formula (such as width times length for a rectangle) but rather that it means the first story of the building. Otherwise, we could have the absurd result of a one story nonconforming building been extended to multi-story heights without any extension. Clearly, this is not the intent of the legislation.

As I understand the situation, each nonconforming apartment had a kitchen, bath and two bedrooms, which were approximately the same size. If a third bedroom is added to each apartment again, of about the same size, there would be an increase in number of rooms from four to five rooms or a 25% increase in the nonconforming use. This would use up the maximum extension under the regulations. I cannot, therefore, approve the additional apartment. As a further result, I cannot approve a variance for the side yard setback, which is the distance of the third apartment to the property line.

In addition, even accepting the Petitioner's argument about foot print, which I do not, I have great difficulty with this request. Mr. Dallas testified, that by using the footprint method the Petitioner suggests the addition increases the nonconforming use 18%. However, the footprint dimension of the duplex is approximately 28.5 ft. x 55 ft., which I calculate to be 1,567.5 sq. ft. The addition is approximately 10.6 ft. x 43.3 ft., which I calculate is 459 sq. ft. This gives me a percentage increase of 29.3% increase, which exceeds the statutory limit just for the addition alone, much less for the third bedroom.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this \_\_\_\_\_ day of October, 2004, that the Petitioner's request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the confirmation of a nonconforming use for a multi-family dwelling consisting of two apartments side by side, be and is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request to approve the expansion of the two existing apartments by the addition to each of a third bedroom is hereby GRANTED;

IT IS FURTHER ORDERED, that the Petitioner's request for a third apartment, be and is hereby DENIED;

IT IS FURTHER ORDERED, that the Petitioner's request to determine that the third unit will not negate the nonconforming use, be and is hereby DENIED as moot; and

IT IS FURTHER ORDERED, that the variance relief requested from Section 1B02.3.C.1 of the B.C.Z.R., to allow a side yard setback of 3 ft. in lieu of the minimum required 10 ft., be and is hereby DENIED.

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

JOHNV. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

| for the property located at 2621-2623 HADDAWAY RD. |  |
|--|--|
| which is presently zoned D.R.5.5                   |  |

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

the confirmation of a non-conforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the non-conforming use.

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.

|                                |              |                                       | •                         |                | •                                      |  |
|--------------------------------|--------------|---------------------------------------|---------------------------|----------------|--|--|
|                                |              |                                       |                           | we are the leg | nd affirm, under<br>jal owner(s) of th | the penalties of<br>ne property which    |
| Contract Purchaser/Less        | ee:          |                                       | Legal Own                 | er(s):         |  |  |
|                                |              |                                       | John                      | 5.3            | odles                                  | JR.                                      |
| Name - Type or Print           |              | · · · · · · · · · · · · · · · · · · · | Name Type or              |                | 207 (100)                              | <u></u>                                  |
| Signature                      |              | <u> </u>                              | Signature                 | <u> </u>       | V                                      |  |
| Address                        | T            | elephone No.                          | Name - Type or            | Print          |  |  |
| City                           | State        | Zip Code                              | Signature                 | <u></u>        | •                                      | <u> </u>                                 |
| Attorney For Petitioner:       |              |                                       | 2621 BF<br>Address        | RANNAN F       | WE. N                                  | 10 - <u>388 - 679</u> 4<br>Теlephone No. |
| Alfred L. Brennan, J           | r., Esquire  | ····                                  | BALTO.                    | . <u>.</u>     | mp                                     | 21219                                    |
| Name - Type or Print Signature |              |                                       | City<br><i>Representa</i> | ative to be    | State<br><b>Contacted:</b>             | Zip Code                                 |
| Brennan and Brennan,           | Attorneys at | t Law, P.A.                           |                           |                |  |  |
| Company                        |              |                                       | Name                      | ····           | •                                      |  |
| 825 Eastern Boulevare Address  |              | 9-687-3434<br>elephone No.            | Address                   |                |  | Telephone No.                            |
| Baltimore                      | Maryland     | 21221                                 | Audiess                   |                |  | reiephone No.                            |
| City                           | State        | Zip Code                              | City                      |                | State                                  | Zip Code                                 |
|                                |              |                                       |                           | <u>OFFICE</u>  | USE ONLY                               |  |
|                                |              |                                       | ESTIMATE                  | D LENGTH       | OF HEARING                             | <del></del>                              |
| Case No. 04-567-               | SPHA         |                                       | UNAVAILA                  | BLE FOR H      | EARING                                 | ··· - · · · · · · · · · · · · · · ·      |
|                                | •            | Davi                                  | iewed By DIH              | mpcn1          | Date Lald                              | n+                                       |
| REV 9115198                    |              | KEV                                   | Enec by Dill              | UNIT DUN       | - φ <del>  γ  </del>                   | · · · · · · · · · · · · · · · · · · ·    |



REV 9/15/98

# Petition for Variance

# to the Zoning Commissioner of Baltimore County

for the property located at 2621-2623 HADDAWAY RD.

which is presently zoned \_\_\_\_\_\_ D.R.55

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.6.1 (2022)

To allow a side yard setback of 3-feet in lieu of the minimum required 10-feet.

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

Front side yard exceeds required 10-feet, however unusual irregular lot shape narrows rear side yard to 3-feet. Lot is on a corner of two streets.

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

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

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

| Contract Purchase    | r/Lessee:              |                                       | Legal Owner(s):            |                                       | •                             |
|----------------------|------------------------|---------------------------------------|----------------------------|---------------------------------------|-------------------------------|
| Name - Type or Print | ····                   | <u></u>                               | John Stephen Po            | 100                                   | <u> </u>                      |
| Signature            | ·· <del>········</del> |                                       | Signature                  | odles                                 | · <del></del>                 |
| Address              |                        | Telephone No.                         | Name - Type or Print       |                                       |                               |
| City                 | State                  | Zip Code                              | Signature                  | · · · · · · · · · · · · · · · · · · · |                               |
| Attorney For Petitic | oner:                  |                                       | 2621 Brannan Av<br>Address | renue                                 | 410-388-6794<br>Telephone No. |
| Alfred L. Bren       | man, Jr., Esqui        | re                                    | Baltimore                  | MD                                    | 21219                         |
| Name Type or Print   | > /                    | · · · · · · · · · · · · · · · · · · · | City                       | State                                 | Zip Code                      |
| Signa re             | <u></u>                |                                       | Representative to          | be Contacted:                         |                               |
| <b>=</b> / <b>!</b>  | ennan, Attorney        | re at Law. P.A.                       |                            |                                       |                               |
| Company              | Cilitain, McCollicy    | S at Daws I .II.                      | Name                       |                                       |                               |
| 325 Eastern Bo       | ulevard 4              | 10-687-3434                           | <del></del>                |                                       |                               |
| Address              | MD                     | Telephone No. 21221                   | Address                    |                                       | Telephone No.                 |
| City City            | MD<br>State            | Zip Code                              | City                       | State                                 | Zip Code                      |
|                      | FAX                    | 3-291-4963                            |                            | ICE USE ONLY                          |                               |
| Care No 0거           | 567-SPHA               |                                       | ESTIMATED LENGT            | TH OF HEARING                         | <u></u>                       |
|                      |                        | Reviewed B                            | UNAVAILABLE FOR            | R HEARING                             | <del></del>                   |

# J. S. DALLAS, DC.

SURVEYING & ENGINEERING

13523 LONG GREEN PIKE P.O. BOX 26 BALDWIN, MD 21013 (410) 817-4600 FAX (410) 817-4602

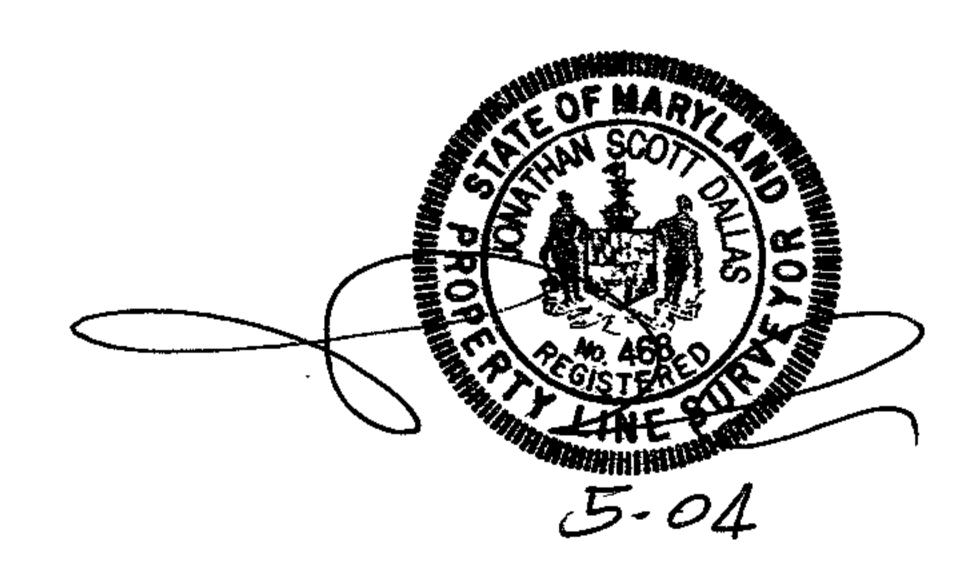
### ZONING DESCRIPTION OF # 2621-2623 HADDAWAY ROAD

BEGINNING at the intersection of the south side of Haddaway Road, 25 feet wide with the east side of a 10' right of way known as Brannan Avenue

BEING Lots # 11on the plat entitled "Esatate of Thomas R. Brannan" as recoded among the Land Records of Baltimore County in Plat Book 14 folio 89.

CONTAINING 7628 square feet or 0.175 acres of land, more or less.

ALSO known as # 2621-2623 HADDAWAY ROAD and located in the 15th Election District, 7th Councilmanic District.



The Zeroing Commissioner of Baltimore County, by and thority 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 #04-567-SPHA

12621-2623 Haddaway Road

S/side of Haddaway Road at E/side of Brannan Avenue

15th Election District — 7th Councilmanic District

Legal Owner(s): John Stephen Podleg, Jr.

Special Hearing: to permit the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. Variance: to allow a side yard setback of 3 feet in lieu of the minimum required 10 feet.

minimum required 10 feet.
Hearing: Wednesday, August 18, 2004 at 11:00 a.m. in
Room 407, County Courts Building, 401 Bosley

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.

3T 8/608 August 3

## CERTIFICATE OF PUBLICATION

LEGAL ADVERTISING

# APPEAL SIGN POSTING REQUEST

CASE NO.: 04-567-SPHA

# JOHN STEPHEN PODLES, JR- LEGAL OWNER

2621-2623 HADDAWAY ROAD

15<sup>TH</sup> ELECTION DISTRICT

APPEALED: 11/4/2004

RECEIVED: 12/17/04

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

### APPEAL SIGN POSTING REQUEST

CASE NO.: 04-567-SPHA

### JOHN STEPHEN PODLES, JR- LEGAL OWNER

2621-2623 HADDAWAY ROAD

15<sup>TH</sup> ELECTION DISTRICT

APPEALED: 11/4/2004 RECEIVED: 12/17/04

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.: 04-567-SPHA

Petitioner/Developer:

J9HN STEPHEN POOLES, JR - LEGAL OWNER

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

### 2621-2623 HADDAWAY ROAD

| The sign was posted on 12/2/1 | , 2004 |
|-------------------------------|--------|
| By:                           |        |
| (Signature of Sign Poster)    | ÁNO AN |
| (Printed Name)                |        |

# CERTICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS Date July 29, 2004

RE: Case Number 04-567-SPHA

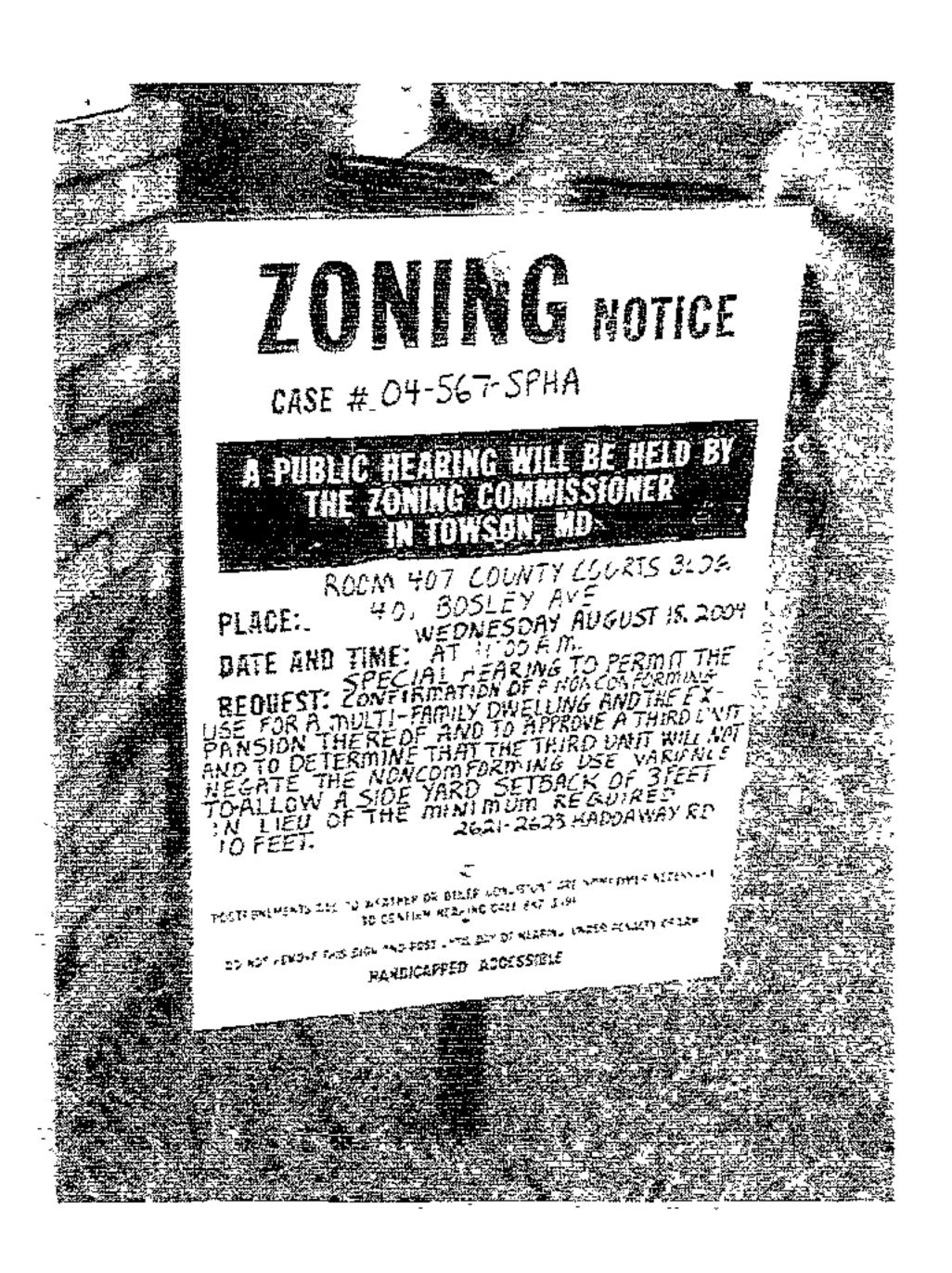
Petitioner/Developer POOLES/ALFRED BRENNANJR. / J.S. DALLAS

Date of Hearing/Closing AUGUST 18, 2004

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 2621– 2623 HADDAWAY RD,

The sign(s) were posted on

July 27, 2004



(Signature of Sign Poster)

Linda O'Keefe (Printed Name of Sign Poster)

523 Penny Lane (Street Address of Sign Poster)

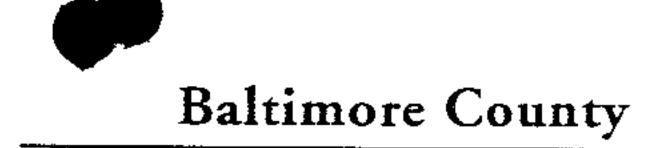
Hunt Valley Maryland 21030 (City. State, Zip Code of Sign Poster)

410-666-5366 (Telephone Number of Sign Poster)

# Department of Permits a Development Management

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





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

June 15, 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: 04-567-SPHA

2621-2623 Haddaway Road S/side of Haddaway Road at E/side of Brannan Avenue 15<sup>th</sup> Election District – 7<sup>th</sup> Councilmanic District Legal Owner: John Stephen Podleg, Jr.

Special Hearing to permit the confirmation of a nonconforming use for a multi-family dwelling and the expansion thereof and to approve a third unit and to determine that the third unit will not negate the nonconforming use. Variance to allow a side yard setback of 3 feet in lieu of the minimum required 10 feet.

Hearing: Wednesday, August 18, 2004 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco Director

Justy Kotroco

TK:kim

C: Alfred Brennan, Jr., Esq., 825 Eastern Blvd., Baltimore 21221 John S. Podleg, Jr., 2621 Brannan Avenue, Baltimore 21219

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, AUGUST 3, 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.



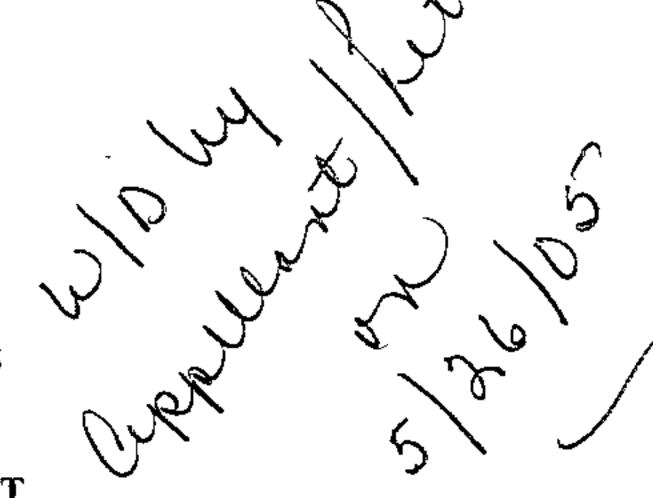


### County Board of Appeals of Baltimore County

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

April 22, 2005



### NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 04-567-SPHA

IN THE MATTER OF: JOHN STEPHEN PODLES, JR. –Legal Owner 2621-2623 Haddaway Road 15<sup>th</sup> E; 7<sup>th</sup> C

10/06/04 – D.Z.C.'s Order in which special hearing to approve confirmation of nonconforming use / two apts side by side / was GRANTED; expansion of existing apartments by addition of third bedroom each was GRANTED; request for third apt and variance relief was DENIED.

which was scheduled to be heard on 6/01/05 has been **POSTPONED** at the request of Counsel for Appellant /Petitioner due to scheduling conflict; and has been

**REASSIGNED FOR:** 

### THURSDAY, JULY 7, 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 must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

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

Kathleen C. Bianco Administrator

c:

Counsel for Appellant /Petitioner
Appellant /Petitioner

: Arnold Jablon, Esquire: John Stephen Podles, Jr.

J. Scott Dallas /J.S. Dallas, Inc. Christopher Podles Mary Pyles Jean Grove Ronald & Bonnie Cushing Al Lawson

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM





County Board of Appeals of Baltimore County

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

FAX: 410-887-3182

Hearing Room – Room 48 Old Courthouse, 400 Washington Avenue

February 14, 2005

NOTICE OF ASSIGNMENT

CASE #: 04-567-SPHA

IN THE MATTER OF: JOHN STEPHEN PODLES, JR. -Legal Owner 15<sup>th</sup> E; 7<sup>th</sup> C 2621-2623 Naddaway Road

10/06/04 – D.Z.C.'s Order in which special hearing to approve confirmation of nonconforming use / two apts side by side / was GRANTED; expansion of existing apartments by addition of third bedroom each was GRANTED; request for third apt and variance relief was DENIED.

ASSIGNED FOR:

WEDNESDAY, JUNE 1, 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 must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

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

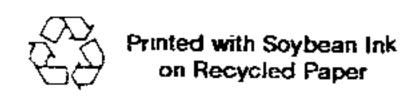
> Kathleen C. Bianco Administrator

Appellant /Petitioner ¢:

: John Stephen Podles, Jr.

J. Scott Dallas /J.S. Dallas, Inc. Christopher Podles Mary Pyles Jean Grove

Office of People's Counsel William J. Wiseman III /Zoning Commissioner Pat Keller, Planning Director Timothy M. Kotroco, Director /PDM



# Department of Permits Development Management

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





### **Baltimore County**

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

August 10, 2004

Alfred L. Brennan, Jr., Esquire Brennan & Brennan, Attorneys at Law 825 Eastern Boulevard Baltimore, Maryland 21221

Dear Mr. Brennan:

RE: Case Number:04-567-SPHA, 2621-2623 Haddaway Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 4, 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.

W. Calliball

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel John Stephen Podles, Jr. 2621 Brannan Avenue Baltimore 21219

# BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

| TO:   |               | Tim Kotroco   |   |  |  |  |  |
|-------|---------------|---|---|--|--|--|--|
| FROM  | [:            | John D. Oltma   | ohn D. Oltman, Jr   |  |  |  |  |
| DATE  | :             | July 1, 2004  |   |  |  |  |  |
| SUBJE | ECT:          | Zoning Item<br>Address  | # 04- 567<br>2621-2623 Haddaway Rd. ( Podles Property)  |  |  |  |  |
|       | Zoning        | g Advisory Con  | nmittee Meeting of June 14, 2004.   |  |  |  |  |
|       |               | •   | nvironmental Protection and Resource Management has no ve-referenced zoning item.   |  |  |  |  |
| X     | •             | e Department of Environmental Protection and Resource Management offers following comments on the above-referenced zoning item: |   |  |  |  |  |
|       |               | Protection of   | of the property must comply with the Regulations for the Water Quality, Streams, Wetlands and Floodplains (Sections the 14-350 of the Baltimore County Code). |  |  |  |  |
|       |               | -   | of this property must comply with the Forest Regulations (Section 14-401 through 14-422 of the unty Code).  |  |  |  |  |
|       | <u>X</u>      | Critical Area   | of this property must comply with the Chesapeake Bay<br>Regulations (Sections 26-436 through 26-461, and other<br>the Baltimore County Code).                 |  |  |  |  |
|       | <u>Additi</u> | onal Comments   | <u>s:</u>   |  |  |  |  |

Reviewer: Keith Kelley Date: July 1, 2004

### 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 No. 567

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

The ultimate right-of-way of 40 feet shall be shown for both Haddoway Road and Brannan Avenue.

The issue of adequate on-site parking should be addressed.

RWB:CEN:jrb

cc: File

## BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** June 18, 2004

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case 4-567

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



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. 577

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

1. 1. Hedle

### BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Tim Kotroco

FROM:

John D. Oltman, Jr

DATE:

July 1, 2004

SUBJECT:

Zoning Item # 04-567

Address

2621-2623 Haddaway Rd. (Podles Property)

Zoning Advisory Committee Meeting of June 14, 2004.

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

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: July 1, 2004

### 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

December 16, 2004

Alfred Brennan Brennan & Brennan 825 Eastern Boulevard Baltimore, MD 21221

Dear Mr. Brennan:

BALTIMORE COUNTY **BOARD OF APPEALS** 

RE: Case 04-567-SPHA, 2621-2623 Haddaway Road

Please be advised that an appeal of the above-referenced case was filed in this office on November 4, 2004 by John S. Podles, Jr. 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,

Luthy Kotroco

Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner Timothy Kotroco, Director of PDM People's Counsel J. S. Podles, Jr., 2621 Brannan Avenue, Baltimore 21219 J. Scott Dallas, P.O. Box 26, Baldwin 21013 Mary Pyles, 6703 Pine Ave., Baltimore 21222 Christopher Podles, 9 Oaksylvan Way, Baltimore 21236

Jean Grove, 407 Vogts Lane, Baltimore 21221



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

### **BRENNAN AND BRENNAN** ATTORNEYS AT LAW, P.A.

825 EASTERN BOULEVARD ESSEX, BALTIMORE, MD. 21221

JAMES C. BRENNAN ALFRED L. BRENNAN, JR.

DEBORAH M. ENGRAM

**TELEPHONE** (410) 687-3434 TELEFAX (410) 391-4963

December 29, 2004

Baltimore County Board of Appeals Room 49, Old Court House 400 Washington Avenue Towson, Maryland 21204

Case 04-567-SPHA, 2621-2623 Haddaway Road BALTINIOHE COUNTY Re:

BOARD UF APPEALS

Dear Sir/Madam:

Please be advised that this office no longer represents John S. Podles, Jr. with regard to the above mentioned case. Please forward all future correspondence directly to Mr. Podles.

Thank you for your cooperation and assistance with regard to this matter.

Very truly yours,

ALB,JR/beg

cc: Mr. John S. Podles, Jr.

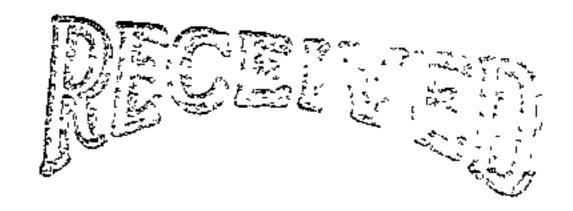
www.venable.com

ARNOLD JABLON (410) 494-6298

aejablon@venable.com

13 April 2005

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



BALTIMORE COUNTY BOARD OF APPEALS

Re: John Podles, Jr.

Case No. 04-567spha Hearing Date: 6/1/05

Dear Ms. Bianco:

I was retained yesterday by the appellant to represent him before the Board of Appeals on this appeal of a denial of a variance by the deputy zoning commissioner.

Unfortunately, I must request a postponement. After having only met my client yesterday, I have only a cursory knowledge of the issues involved. Not only will I need some time to prepare for the case, I will also need to insure the presence of witnesses, lay and expert.

In addition, I will be in New York that day visiting my daughter. I would point out that there were no Protestants before the zoning commissioner and no other parties involved.

Thank you for your consideration.

Sincerely,

Arnold Jablon

6/07007/07

MARYLAND VIRGINIA WASHINGTON, DC

April 13, 2005 Page 2

c: Peter M. Zimmerman, Esq.

appealed 11/4/04

To the zoning broad of Baltimore County

2-7-05

MAR - 4 2005

My name is Al Lawson and I live at 2508 Haddaway Rd. 21219. I am writing to you about the appeal for 04-567-SPHA Haddaway Rd. I am against his appeal to keep the extra apartment that was build. The dulling is connect to the house and not build to code. Since he brought it we have had problems with cars speeding, fights and load music. Are neighborhood is no longer quiet. I have two child who like to play out side and with the cars in and out all day long it is no longer safe for them to play. I was not able to come to the last hearing due to working and was not able to get off, is there any way that I can be informed of hearing coming up in the future, so I can make arrangements to be there if possible. Is it possible to write in to the committee and have are view's known that we against is extra dulling. I like to thank for your time with this matter.

Thank you Al Lawson

DECENED

BALTIMORE COUNTY BOARD OF APPEALS To the zoning broad of Baltimore County

My name is Ronald Cushing Jr. and I live at 2510 Haddaway Rd. 21219. I am writing to you about the appeal for 04-567-SPHA Haddaway Rd. I am against his appeal to keep the extra apartment that was build with out permits. The dulling is connect to the house and not build to code. I have lived here since 1972 and the house was build as a single family home now it has become boarding house. Since he brought it we have had problems with cars speeding, fights and load music. He sets back and collects his money and are quiet neighborhood is becoming a bad one. We were not able to come to the last hearing due to working and was not able to get off, is there any way that we can be informed of hearing coming up in the future, so we can make arrangements to be there if possible. Is it possible to write in to the committee and have are view's known that we against is extra dulling. I like to thank for your time with this matter and if you need to speak to us we can be reach at 410-598-7323 any time and at 410-477-0734 after 5:00pm

Thank you

Ronald and Bonnie Cushing



BALTIMORE COUNTY BOARD OF APPEALS

11-4-04

TO: BALTIMORE COUNTY, MARYLAND OFFICE OF THE DIRECTOR-TIMOTHY KOTROCO

PLEASE CONSIDER LINIS LETTER AS YOUR NOTIFICATION, THAT I WANT TO APPEAL THIS CASE # 04-667-SPHA 2621-23 HADDAWAY ROAD, BACTO MA, 21219

THANK YOU

RECEIVED

Per WW

John S. Polles Ja U2621 BRANNAN AVE BALTO. MO. 21219

410-388-6794

| RE: | PETITION FOR SPECIAL HEARING    | * | BEFORE THE          |
|-----|---------------------------------|---|---------------------|
|     | AND VARIANCE                    |   |                     |
|     | 2621-2623 Haddaway Road; S/side | * | ZONING COMMISSIONER |

Haddaway Road at E/side Brannan Avenue 15<sup>th</sup> Election & 7<sup>th</sup> Councilmanic Districts Legal Owner(s): John Stephen Podles, Jr

\* FOR

Petitioner(s) \* BALTIMORE COUNTY

\* 04-567-SPHA

\* \* \* \* \* \* \* \* \* \*

### **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.

RECEIVED

5,100 3 3 7273

Per.....

PETER MAX ZIMMERMAN

People's Counsel for Politimere

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 23<sup>rd</sup> day of June, 2004, a copy of the foregoing Entry of Appearance was mailed to Alfred L. Brennan, Jr, 825 Eastern Boulevard, Baltimore MD 21221, Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Baltimore County Zoning Commissioner Office of Planning Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204

Matagrand Spring







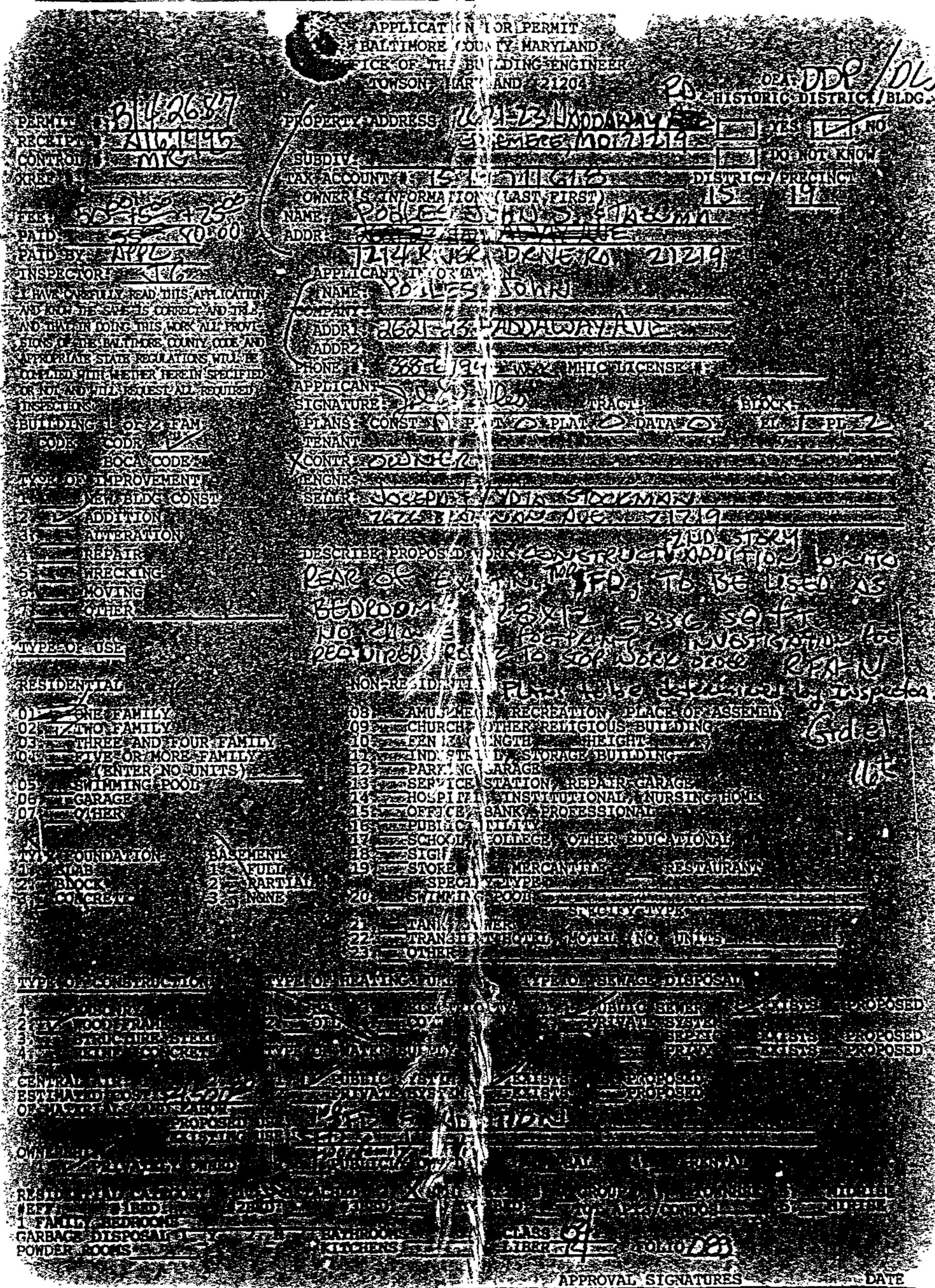












Kel & 2

