IN RE: PETITION FOR SPECIAL HEARING
N/S of Bowleys Quarters Road,
380 ft. W of Chestnut Road
15th Election District
6th Councilmanic District
(1047 Bowleys Quarters Road)

Isabel C. & Robert T. Baynes, Sr.,

Legal Owners and

Barbara & Robert Baynes, Jr., Lessees

Petitioners

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 04-602-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, Isabel C. and Robert T. Baynes, Sr. and the lessees of the property, Barbara and Robert Baynes, Jr. The Petitioners are requesting special hearing relief for property located at 1047 Bowleys Quarter Road in the eastern 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 parking of six commercial vehicles with a weight exceeding 10,000 pounds each in lieu of the permitted one 10,000 pounds or under for each vehicle per Section 431 of the B.C.Z.R.

The property was posted with Notice of Hearing on August 19, 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 26, 2004 to notify any interested persons of the scheduled hearing date.

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

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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.

TRUCKING FACILITY -- A structure or land used or intended to be used primarily (a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or (b) for truck or truck-trailer parking or storage. A trucking facility may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles, or necessary space for the transitory storage of goods or chattels. The term "trucking facilities" includes facilities for the storage of freight-shipping containers designed to be mounted on chassis for part or all of their transport, but does not include a warehouse, moving and storage establishment or truck stop. Land used for the parking, storage or repair of trucks used as an accessory to a lawful business or industrial use of the land that such parking or storage area forms a part of shall not be considered a trucking facility within the meaning of this definition. As used in this definition, the terms "trucks," "truck-trailers" and "truck tractors" do not include any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the State Motor Vehicle Administration.

TRUCKING FACILITY, CLASS I (TRUCK TERMINAL) -- A trucking facility whose primary purpose is to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels.

TRUCKING FACILITY, CLASS II -- A trucking facility other than a Class I trucking facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks, truck trailers or truck tractors.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Zoning Review Office dated July 13, 2003 and also from the Office of Planning dated July 14, 2014 recommending the denial of Petitioners' special hearing request. A copy of these ZAC comments are attached hereto and made a part hereof.

Interested Persons

A CONTRACTOR

Appearing at the hearing on behalf of the special hearing request were Barbara Baynes, Robert Baynes, Jr. and Robert Baynes, Sr., Petitioners. Bruce Doak of Gerhold, Cross & Etz-1, the surveying firm that prepared the plan to accompany the request, was also in attendance.

number of citizens appeared at the hearing in opposition to the Petitioners' request, namely Anthony Sersen, Michael Vivirito and Clara Hash. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Code Enforcement Comments

This matter is currently the subject of an active violation case (Case No. 04-1631) in the Division of Code Inspections and Enforcement. A citation for code violation has been issued in this matter for failure to cease use of property as an illegal service garage and parking commercial vehicles on a residentially zoned property.

It should be noted, for the record, that the fact that a zoning violation is issued is simply ignored in this zoning case. This means that the Petitioners cannot use the fact that they have stored trucks on the property to set a precedent in order to allow it to continue. Nor does the fact that finding another location for the trucks could be costly come into consideration of the zoning case. Conversely, the fact that something may have been done which could violate the law is not held against the Petitioners as some sort of an additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. This is not the province of this office.

Testimony and Evidence

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Testimony and evidence indicated that the property consists of 3.228 acres, more or less, is zoned BL and RC 5, and is located at the corner of Chestnut Road and Bowleys Quarters Road.

Mr. Doak proffered that the subject property is improved by an existing home, garage, barn and sheds and is surrounded by family owned properties. The Petitioners operate a hauling business which was started in 1976 with one dump truck and has grown to six dump trucks weighing 26,000 pounds empty and 70,000 pounds loaded. The dump trucks are parked overnight at the

subject property. Ms. Baynes testified that she takes orders for the trucks at her home on the premises and directs the trucks to various job sites during the day. Generally, the trucks return to the property in the evening where they are stored until the next work day.

The Petitioners presented extensive photographs of the property which indicate the area where the trucks are stored is enclosed with a high privacy fence and that it is well maintained as a business and the Petitioners' home. See Petitioners' Exhibit Nos. 2A through 2G. In addition, the Petitioners presented letters and petitions in support from the community in Exhibit No. 3. Mr. Baynes testified as to his extensive service to the community in hauling damaged material from nearby properties caused by hurricane Isabel, bringing fill dirt for reconstruction, and opening roads in winter. He also indicated that he had received a permit to store several trucks inside the large garage on the property but that presently the garage was full of damaged material from the storm.

Mr. Doak indicated that this operation does not fit into any of the categories of the zoning code. He argued that since no transfer of goods, fueling or repairing are conducted on the premises it is not a trucking facility as defined by the B.C.Z.R. Trucks are stored on the property.

The Protestants acknowledged that the Petitioners are good neighbors but indicated that their primary concern was the traffic generated by the operation on narrow Bowleys Quarters Road which they noted was the only means of road access to the rapidly developing peninsula. In addition, they were concerned about exhaust fumes and damage to the roads from the heavy trucks. They noted that the community had changed due to the construction of new homes along the waterfront and that what may have been acceptable to the community when the trucking operation began is no longer acceptable.

10,000 pounds or under for each vehicle per Section 431 of the B.C.Z.R., be and is hereby DENIED.

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

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj

IN THE MATTER OF
THE APPLICATION OF
ROBERT & ISABEL BAYNES, SR. - LEGAL
OWNERS; ROBERT & BARBARA BAYNES,
JR. - C.P. FOR SPECIAL HEARING ON
PROPERTY LOCATED ON THE N/S OF
BOWLEY'S QUARTERS ROAD, 380' WEST
OF CHESTNUT ROAD
(1047 BOWLEYS QUARTERS RD)

15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

BEFORE THE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

Case No. 04-602-SPH

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OPINION

This matter is before the Board on an appeal from a decision of the Deputy Zoning Commissioner in which the requested special hearing was denied. The Petition for Special Hearing was filed by the legal owners of the subject property, Isabel C. and Robert T. Baynes, Sr., and the lessees of the Property, Barbara and Robert Baynes, Jr. The Petitioners are requesting special hearing relief for the property located at 1047 Bowley's Quarters Road in the eastern area of Baltimore County. The special hearing request was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (BCZR) to permit the parking of six commercial vehicles with a weight exceeding 10,000 lbs. each in lieu of the permitted one 10,000 lbs. or under for each vehicle per § 431 of the BCZR.

At the hearing before the Board, the Petitioners amended their Petition to request the parking of two commercial vehicles with a weight exceeding 10,000 lbs. each in lieu of the permitted one 10,000 lbs. or under for each vehicle.

At the hearing before the Board, Tammy Eichorn, the daughter of Barbara Baynes and an officer of the company, "Barbie's Recycling and Hauling," represented the company pro se.

Peter M. Zimmerman, People's Counsel for Baltimore County, entered his appearance and

participated fully. A hearing was held on May 26, 2005, and public deliberation was held on July 20, 2005.

Facts

Bruce Doak, land surveyor with the firm of Gerhold, Cross, and Etzel, a surveying firm that prepared the plan to accompany the request, testified before the Board. He stated that a subdivision was created in the mid-1990s on a lot of 1.667 acres and another of 3.228 acres. The 3.228-acre parcel was classified R.C. with a small portion of the southeast corner classified as B.L. The 1.667-acre lot was classified B.L. A trucking facility was in place at the time that the subdivision was created in the 1990s. The Baynes built a dwelling on the 1.667-acre lot, and there was also a dwelling on the 3.228-acre lot.

The property where the trucks are being parked is classified B.L. and is the only blacktop area. It is enclosed. Mr. Doak testified that the trucks that are to be parked weigh 26,000 lbs. empty and up to 70,000 lbs. when they are full.

Robert Baynes, Jr., testified that he had resided at the property for at least 50 years. He has been operating a dump truck business in that area for approximately 29 years. At the present time, the company stores trucks off of the property but they desire to store two trucks in the B.L. zone overnight in the garage which has been built for that purpose.

Mr. Baynes stated that, when he married his wife, she had a trucking business, "Barbie's Recycling and Hauling." They have a rented space at Sullivan's Operation where they store the trucks and do repair work if necessary. He stated that he began working in the business in 1970, and he has two trucks on the property. This is the first time he filed a zoning request for the use of the trucks. In response to a question by the Chairman, Mr. Baynes stated that he had one truck up until 1988 at which time he purchased another truck. He stated that there was no change in

the zoning in the area since he started working in the business. He stated that he thought the zoning has been the same since 1950.

Mrs. Baynes testified that she was in the trucking business prior to marrying her husband. She has lived at 1047 Bowley's Quarters Road for 5 years, since their marriage. When she married Mr. Baynes, she had one truck and bought four more trucks in the ensuing years. Mrs. Baynes and her daughter, Ms. Eichorn, drive the trucks when necessary.

Three neighbors, Melvin Bauerfeind, Marie Fraley, and John Larnantia, testified on behalf of the Petitioners that they live in the area and have for a number of years. They testified that they were not opposed to the trucks being parked on Petitioners' property and that they had Inever been disturbed by the trucks being parked there or utilizing the property as a trucking facility.

People's Counsel presented Mark Cunningham, a development review planner in the Baltimore County Office of Planning. Mr. Cunningham testified that he had reviewed the situation and felt that the request was for a Class II Trucking Facility, which would allow the parking of commercial vehicles over 10,000 lbs. He stated that this was not allowed by right or by special exception in an R.C. 2 or B.L. zone. It was allowed by right in an M.H. zone and by special exception in an M.L. zone. Mr. Cunningham stated that under § 431 of the BCZR no vehicle weighing 10,000 lbs. would be allowed on a residential lot. He stated it was his opinion that, even though the smaller lot was classified in the B.L. zone, there was a residence on the property and it would be considered a residential lot. It was his view that, even though there was only the intention to park two trucks on the property, this would still be considered a Class II Trucking Facility.

Anthony Sersen, a neighbor living 1/2 mile from the property, stated that he was opposed to the parking of the trucks on the property. In his opinion, the neighborhood had changed dramatically since Hurricane Isabel and property values had escalated. He felt that a trucking company was not compatible with the up-scale neighborhood which the area was becoming.

Clare Hash, another neighbor who lives approximately five to six houses down from the Baynes, stated that she was concerned with the trucks being parked there; that the diesel fundes would permeate the air in the Chesapeake Bay Critical Area. She stated that she felt that the trucking facility would cause property values to go down in the vicinity of the property in question.

Michael Vivirito, another neighbor living 1-1/2 miles from the property, testified on behalf of the Bowley's Quarters Improvement Association. He presented "Rule 8" papers which authorized him to testify on behalf of the Association. According to Mr. Vivirito, the [Association's Board of Directors did not object to the parking of two trucks in the residential] Ineighborhood if they were parked in the commercial area (the B.L. zone) and were in the garage.

Warring Justis, a Certified General Appraiser, also testified. He stated that he had lived in the area since 1980. He was concerned with the environmental issues as well as safety. There are no shoulders on the road, and the lanes are very narrow. He testified that the residential areas lin the vicinity of the property in question have homes which are valued from \$350,000 to \$1,000,000. He had no problem with one truck being parked on the property, but he was against parking more than one truck on the property.

Decision

The Baltimore County Zoning Regulations define a trucking facility as follows:

TRUCKING FACILITY - A structure or land used or intended to be used primarily (a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types in order to facilitate

the transportation of such goods or chattels; or (b) for truck or truck-trailer parking or storage. A trucking facility may include as incidental uses only sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles or necessary space for the transitory storage of goods or chattels....

As used in this definition, the term "trucks," "truck-trailers," and "truck tractors" do not include any vehicle whose gross maximum gross weight is 10,000 lbs. or less as rated by the State Motor Vehicle Administration.

TRUCKING FACILITY, CLASS I (TRUCK TERMINAL) - A trucking facility whose primary purpose is to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels.

TRUCKING FACILITY, CLASS II - A trucking facility other than a Class I trucking facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks, truck trailers, or truck tractors.

It is clear that the Baltimore County Office of Planning believes that the proposed parking of the trucks on the B.L. portion of the property in question would constitute a Class II Trucking Facility, which is not allowed in either an R.C. or B.L. zone. There is no question that the dump trucks to be parked on the property weigh 26,000 lbs. empty. Section 431 of the BCZR prohibits the parking of any vehicle weighing in excess of 10,000 lbs. on a residential lot for a period exceeding the time essential to the immediate use of the vehicle. In the opinion of Mr. Cunningham, even though the smaller lot was classified B.L., it was still a residential property since there was a residence constructed on the property. It is quite clear that the restrictions of the Baltimore County Zoning Regulations prohibit the parking of trucks in excess' of 10,000 lbs. in the B.L. and R.C. zones even by special exception. The Board is mindful of the service which the Petitioners have performed for the residents in the Bowley's Quarters area; however, the Board is bound by the law and has no authority to allow the parking of the truck's as requested by the special hearing. Therefore, the special hearing must be denied.

ORDER

THEREFORE, IT IS THIS 28th day of Junibul., 2005 by the County Board of Appeals of Baltimore County

ORDERED that the Petitioners' request for special hearing relief pursuant to § 500.7 of the Baltimore County Zoning Regulations (BCZR) to permit the parking of two commercial vehicles with a weight exceeding 10,000 lbs. each in a B.L. zone, or to allow two vehicles in excess of 10,000 lbs. each to be parked in a residential lot in lieu of the permitted one vehicle weighing 10,000 lbs. or less under § 431 of the BCZR be and is hereby DENIED.

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

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence M. Stahl, Chairman

Lawrence S. Wescott

Margaret Brassil, Ph.D.



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

March 10, 2005

MOTICE OF ASSIGNMENT /MOTION ONLY HEARING

CASE #: 04-602-SPH

IN THE MATTER OF: Robert & Isabel Baynes, Sr. – Legal Owners; Robert & Barbara Baynes, Jr., - C.P.

N/s of Bowleys Quarters Road, 380' W of Chestnut Road 15th Election District; 6th Councilmanic District

9/24/04 - D.Z.C.'s Order in which the requested special hearing was DENIED.

A one-hour Motion Only Hearing has been scheduled for the following date and time for the purpose of receiving argument only on People's Counsel's Motion to Dismiss; and has been:

ASSIGNED FOR:

WEDNESDAY, APRIL 6, 2005 at 9:00 a.m.

NOTE: No evidence or testimony as to the merits of this case will be received by the Board on the above

date; argument only on Motion to Dismiss.

NOTICE:

Assigned for argument on Motion to Dismiss only. No testimony or evidence as to the merits of this appeal will be received at this Motion Only Hearing.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, 2003 Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons and in compliance with Board's Rules.

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:

Appellants /Petitioners /CP

Petitioners /Legal Owners

Bruce Doak /Gerhold Cross & Etzel

: Robert and Barbara Baynes, Jr.

: Robert and Isabel Baynes, Sr.

Michael Vivirito
Clare Hash
Anthony Sersen

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timethy M. Ketress, Director (PDM)

Timothy M. Kotroco, Director /PDM

PETITION FOR SPECIAL HEARING RE: 1047 Bowleys Quarters Road; NE/side Bowleys Quarters Rd, 380' W Chestnut Rd 15th Election & 6th Councilmanic Districts Legal Owner(s): Robert Thomas, Sr. & Isabel L Baynes Contract Purchaser(s): Barbara &

Robert Baynes, Jr.

Petitioner(s)

BEFORE THE COUNTY

BOARD OF A

FOR

BALTIMORE COUN

BALTIMORE COUNTY BOARD OF APPEALS 04-602-SPH

Motion to Dismiss Petition for Special Hearing and Request for CBA Hearing

People's Counsel moves to dismiss the Petition for Special Hearing filed in this case, and states the following reasons:

The Petition for Special Hearing requests

"The Parking of Six Commercial Vehicles with a Weight Exceeding 10,000 Pounds Each In Lieu of the Permitted 10,000 Pounds or Under for each Vehicle per Section 431."

- 2. The property is in Bowleys Quarters, in the Chesapeake Bay Critical Area. It is 3.228 acres. The zoning is mostly R.C. 5 (Rural-Residential), with a small section of B.L. (Business-Local).
- 3. The site plan lists as owners Robert T. and Isabel C. Baynes of 1025 Bowleys Quarters Road, near the subject property; as contract purchasers/lessors Robert T. Baynes, Jr. and Barbara Baynes of 1047 Bowleys Quarters Road; and as lessee Barbies Recycling & Hauling of 1047 Bowleys Quarters Road. The site plan shows that the trucks are parked and used in and across both zones.
- 4. The Deputy Zoning Commissioner denied the petition on September 24, 2004, and found that the request amounts to a use variance for a Class II Trucking facility.

- 5. The Planning Office has commented that the use amounts to a trucking facility.
- 6. There is no genuine dispute of material facts, in that the site has been used, and is proposed, for a hauling business with six large dump trucks, which weigh 26,000 pounds empty and 70,000 pounds loaded. This clearly amounts to a trucking facility under the BCZR 101 definitions:

"TRUCKING FACILITY - A structure or land used or intended to be used primarily (a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or (b) for truck or truck-trailer parking or storage. A trucking facility may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles, or necessary space for the transitory storage or goods or chattels. The term "trucking facilities" includes facilities for the storage of freight-shipping containers designed to be mounted on chassis for part or all of their transport, but does not include a warehouse, moving and storage establishment or truck stop. Land used for the parking, storage or repair of trucks used as an accessory to a lawful business or industrial use of the land that such parking or storage area forms a part of shall not be considered a trucking facility within the meaning of this definition. As used in this definition, the terms "trucks," "truck-trailers" and "trucker tractors" do not include any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the State Motor Vehicle Administration.

TRUCKING FACILITY, CLASS I (TRUCK TERMINAL) – A trucking facility whose primary purpose is to accommodate the transfer or goods or chattel from trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels.

TRUCKING FACILITY, CLASS II – A trucking facility other than a Class I trucking facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks, truck trailers or truck tractors."

7. A trucking facility is not a permitted use in the R.C. 5 or B.L. zones. BCZR 1A04, 230. It is a use permitted by special exception in the M.L. (Manufacturing-Light) Zone and by right, subject to standards, in the M.H. (Manufacturing-Heavy) Zone. BCZR 253, 256. All trucking facilities are subject to strict controls under BCZR 410 and BCZR

410A. They are not allowed within 300 feet of a residential zone or within 200 feet of wetlands. BCZR 410.2, 410A.2.

- 8. Even if the facility were not a trucking facility, the parking of trucks in excess of 10,000 pounds in a residential zone is illegal under BCZR 431.
- 9. There is no variance or other allowance for oversized trucks in residential zones. BCZR 307 does refer to "parking" variances, but this logically applies only to the number of vehicles and site layout under BCZR 409. The uniqueness and practical difficulty standards of BCZR 307, as applied, can never realistically justify the use of an oversized truck in a residential zone.
- 10. The County Board of Appeals recently confirmed this point, in essence, in the attached opinion in the case of <u>Gabriel & Melissa Croy</u>, No. 04-470-SPH, decided February 23, 2005. The CBA held, in a case involving a single tractor-trailer in a residential zone:

"The Board finds that the Petitioners' request would violated Section 431A. The vehicle weight of 80,000 pounds would exceed the 10,000-lb. Weight limit. The regulations do not allow any exception to this requirement."

- 11. The Petition for Special Hearing here comes in the wake of a citation for a zoning violation. This is an ongoing operation. It is in the interest of justice that this case be resolved quickly, that the use terminate, and, to the extent necessary and appropriate, that the zoning enforcement office take the necessary steps to enforce the law.
- 12. The Petition and Site Plan show facially that the request is for an illegal use under BCZR 431. It must be denied, as a matter of law. In addition, the Petition, Site

Plan, and undisputed material facts reflect and reveal that this is a trucking facility. It is unnecessary, therefore, to have an evidentiary hearing on the merits.

13. Accordingly, People's Counsel requests that the CBA set the matter in for an expedited hearing and deliberation on this motion.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO

Deputy People's Counsel Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of March, 2005, a copy of the foregoing Motion to Dismiss Petition for Special Hearing and Request for CBA Hearing was mailed to Michael Vivirito, 3619 Bay Drive, Baltimore, MD 21220, Robert, Sr., Isabel, Robert, Jr. & Barbara Baynes, 1025 Bowleys Quarters Road, Baltimore, MD 21220 and to Bruce E. Doak, Gerhold, Cross & Etzel, Ltd, 320 E Towsontown Blvd, Towson, MD 21286, Representative for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



Baltimore County

James T. Smith, Jr., County Executive Lawrence E. Schmidt, Zoning Commissioner

September 24, 2004

Bruce E. Doak Gerhold, Cross & Etzel 320 E. Towsontown Boulevard Towson, Maryland 21286

Re: Petition for Special Hearing
Case No. 04-602-SPH
Property: 1047 Bowleys Quarters Road

Dear Mr. Doak:

Enclosed please find the decision rendered in the above-captioned case. The petition for special hearing has been denied in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John W. Murphy /rj

Deputy Zoning Commissioner

JVM:raj Enclosure

c: Mr. & Mrs. Robert T. Baynes, Sr., 1025 Bowleys Quarters Rd., Middle River, MD 21220 Anthony Sersen, 3800 New Section Rd., Baltimore, MD 21220 Michael Vivirito, 3619 Bay Drive, Middle River, MD 21220 Clare Hash, 3804 Chestnut Rd., Middle River, MD 21220



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



County Board of Appeals of Baltimore County

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

May 26, 2005

NOTICE OF DELIBERATION

IN THE MATTER OF:

ROBERT & ISABEL BAYNES, SR. – Legal Owners; ROBERT & BARBARA BAYNES, JR. – C.P. Case No. 04-602-SPH

Having heard this matter on 5/26/05, public deliberation has been scheduled for the following date /time:

DATE AND TIME

WEDNESDAY, JULY 20, 2005 at 9:30 a.m.

LOCATION

Hearing Room 48, Basement, Old Courthouse

[No written briefs to be filed in this matter.]

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco Administrator

: Robert and Barbara Baynes, Jr.

: Robert and Isabel Baynes, Sr.

¢:

Appellants /Petitioners /CP

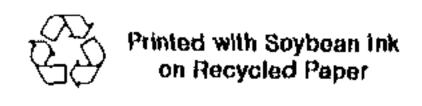
Petitioners /Legal Owners

Bruce Doak /Gerhold Cross & Etzel

Michael Vivirito Clare Hash Anthony Sersen

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

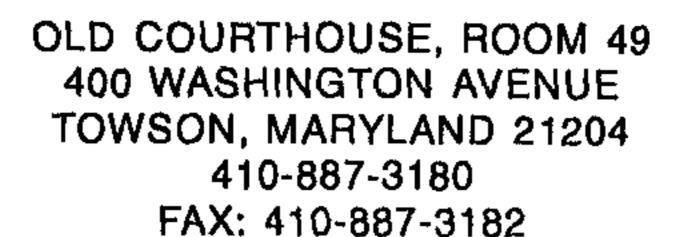
FYI: 2-3-5







County Board of Appeals of Baltimore County



Hearing Room – Room 48 Old Courthouse, 400 Washington Avenue

February 14, 2005

NOTICE OF ASSIGNMENT

CASE #: 04-602-SPH

IN THE MATTER OF: ROBERT & ISABEL BAYNES, SR. –Legal Owners; ROBERT & BARBARA BAYNES, JR., – Contract Purchaser 1047 Bowley's Quarters Road 15th E; 6th C

9/24/04 – D.Z.C.'s Order in which the requested special hearing was DENIED.

ASSIGNED FOR:

THURSDAY, MAY 26, 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 rust 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:

Appellants / Petitioners / CP
Petitioners / Legal Owners
Bruce Doak / Gerhold Cross & Etzel

: Robert and Barbara Baynes, Jr.

: Robert and Isabel Baynes, Sr.

Michael Vivirito Clare Hash Anthony Sersen

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



REV 9115198

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at <u>/o</u>	esently zoned_	QUARTERS	2010
which is pr		BL & RC	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 Zonling Regulations of Baltimore County, to determine whether or not the Zonling Commissioner should approve

THE PARKING OF SIX COMMERCIAL VEHICLES WITH A WEIGHT EXCEEDING 10,000 POUNDS EACH IN LIEU OF THE PERMITTED 10,000 POUNDS OR UNDER FOR EACH VEHICLE PER SECTION 431

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.

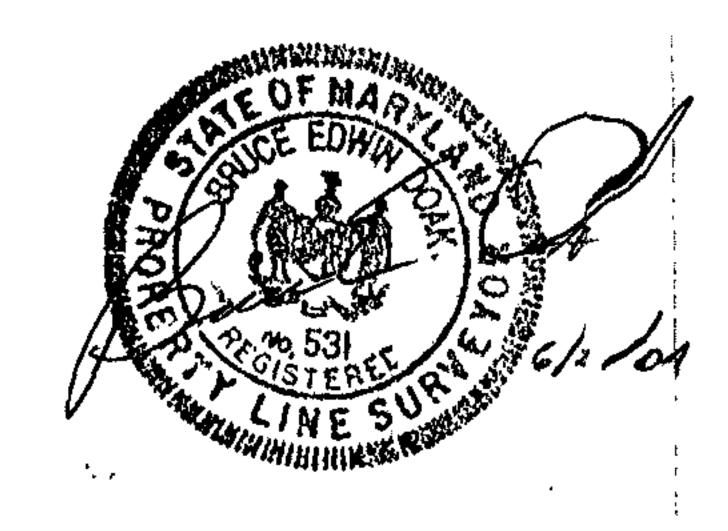
		is the subject of this Petition.	
Contract Purchaser/Lessee:		<u>Legal Owner(s):</u>	ι
BARBARA & ROBERT BAYNES. Name - Type or Print Barbara Baynel Balt Bry Signature 1047 BOWLEYS QUARTERS ROA Address MIDDLE RIVER State	ru	Name-Type or Print Signature Name - Type or Print Name - Type or Print Signature 1025' Bowceys Quarters Rose	
<u>Attorney For Petitioner:</u>		Address Miane Rivere Mo	Telephone No. 2/220 Zip Code
Name - Type or Print		Representative to be Contacted:	Zip Code
Signature		BRUCE E. DOAK GERMOLO CROSS & ETZGE	
Company		Name BEO E. TOWSOUTOWN BLW. 4	/ <i>0- 9</i> 23 - √ √ 70 Telephone No.
Address	Telephone No.	Address Mo Jowson State	2/286 Zip Code
City	Zip Code	City	
		OFFICE USE ONLY	; ; ;
	,	ESTIMATED LENGTH OF HEARING	<u></u>
Case No. 04-1002-SPH	Revie	Wed By DIHOMPSON Date 428	104

ZONING DESCRIPTION 3.228 Acre Parcel

All that piece or parcel of land situate, lying and being in the Fifteenth Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point at the intersection of the northeast side of Bowleys Quarters Road, 40 feet wide, with the west side of Chestnut Road, 30 feet wide, said point of beginning also being the southeast corner of Lot 94 as shown on a plat dated April 16, 1921 entitled "Bowleys Quarter Plat No. 2" and recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 7 folio13, said point of beginning also being the southeast corner of the parcel of land, which by a deed dated June 11, 1957 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 3176 folio 537 was conveyed by Robert M. Thomas, Trustee to Robert T. Baynes and Isabel C. Baynes, his wife, and thence leaving said Chestnut Road and binding on said northeast side of Bowleys Quarters Road and binding on the outlines of said Lot 94, and referring the courses of this description to the Baltimore County Grid Meridian, (1) North 66 degrees 47 minutes 24 seconds West 302.87 feet to an iron bar and cap now set, thence leaving said Bowleys Quarters Road and said outlines of Lot 94, and running for new lines of division now made, the two following courses and distances, viz: (2) North 18 degrees 16 minutes 00 seconds East 273.00 feet to an iron bar and cap, now set, and (3) North 15 degrees 44 minutes 00 seconds West, passing over an iron bar and cap now set at 53.43 feet, in all 66.11 feet to the waters of Seneca Creek, as now existing and to a bulkhead there situate, thence binding on said Seneca Creek and on or near said bulkhead, the 8 following courses and distances, viz: (4) South 63 degrees 42 minutes 52 seconds East 2.36 feet, (5) South 84 degrees 48 minutes 57 seconds East 10.25 feet, (6) North 80 degrees 15 minutes 36 seconds East 10.11 feet, (7) North 73 degrees 19 minutes 07 seconds East 67.68 feet, (8) North 18 degrees 26 minutes 30 seconds West 40.79 feet, (9) North 16 degrees 31 minutes 20 seconds West 119.26 feet, (10) North 14 degrees 40 minutes 17 seconds West 72.46 feet, and (11) North 24 degrees 15 minutes 24 seconds East 25.69 feet, thence leaving the waters of Seneca Creek and binding on the line of Lot 94 and Lot 95, as shown on the aforesaid plat of "Bowleys Quarter Plat No. 2" (12) South 46 degrees 14 minutes 36 seconds East 291.00 feet to an iron bar and cap, now set on the west side of Chestnut Road, 30 feet wide, thence continuing to bind on the outlines of Lot 94 and also binding on the west side of Chestnut Road, the three following courses and distances, viz (13) South 43 degrees 45 minutes 24 seconds West 16.22 feet, (14) South 12 degrees 27 minutes 10 seconds East 266.77 feet, and (15) South 18 degrees 27 minutes 40 seconds West 247.21 feet to the place of beginning.

Containing 3.228 Acres of land, more or less.



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

<u>ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS</u>

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.

For Newspaper Advertising:
Item Number or Case Number: 04-602-SPH
Petitioner: ROBGET T. & ISABEL C. BAYNES
Address or Location: 1047 Bowcers QUARTERS ROSD
PLEASE FORWARD ADVERTISING BILL TO:
Name: BARBIES RECYCLING & HAULING
Address: 1047 BOWLEYS QUARTERS ROAD
BALTIMORE MO 21220
Telephone Number: 410 - 335 - 2112

TO: PATUXENT PUBLISHING COMPANY

Tuesday, August 10, 2004 Issue - Jeffersonian

Please forward billing to:

Barbies Recycling and Hauling 1047 Bowleys Quarters Road Baltimore, MD 21220

410-335-2112

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: 04-602-SPH

1047 Bowleys Quarters Road

N/east side of Bowleys Quarters Road, 380 feet west of Chestnut Road

15th Election District – 6th Councilmanic District

Legal Owners: Robert and Isabel Baynes, Jr.

Contract Purchasers: Barbara & Robert Baynes, Jr.

Special Hearing to permit the parking of six commercial vehicles with a weight exceeding 10,000 pounds each in lieu of the permitted one 10,000 pounds as under for each vehicle.

Hearing: Tuesday, August 24, 2004, at 11:00 a.m. in Room 407, County Courts Building, 401 BoslevAvenue

De la A

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

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

CORRECTED NOTICE OF ZONING HEARING

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

Case: # 04-602-SPH

Case: # 04-602-SPH
1047 Bowleys Quarters Road
N/east side of Bowleys Quarters Road, 380 feet west of Chestnut Road
15th Election District — 6th Councilmanic District Legal Owner(s): Robert and Isabel Baynes, Jr. Contract Purchasers: Barbara & Robert Baynes, Jr. Special Hearing: to permit the parking of six commercial vehicles with a weight exceeding 10,000 pounds each in lieu of the permitted one 10,000 pounds as under for each vehicle.
Hearing: Friday. September 10. 2004 at 9:00 a.m. in

Hearing: Friday, September 10, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

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

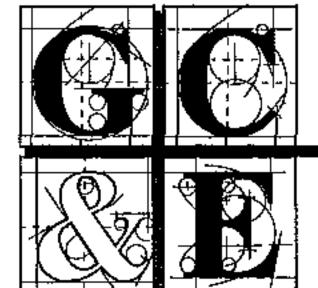
(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

8/308 Aug 26

CERTIFICATE OF PUBLICATION

8/26,2004
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.
once in each ofsuccessive weeks, the first publication and
on 826,2004.
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286

Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE NO. 04-602-SPH

OWNERS: Robert & Isabel Baynes **CONTRACT PURCHASERS: Barbara**

& Robert Baynes, Jr.

DATE OF HEARING: September 10,

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

02 14 2000 22:18

LOCATION: 1047 Bowleys Quarters Road

DATE:

September 3, 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

2004 August 19, O POSTED

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CASHIER'S VALIDATION

TO: PATUXENT PUBLISHING COMPANY

Thursday, August 26, 2004 Issue - Jeffersonian

Please forward billing to:

Barbies Recycling and Hauling 1047 Bowleys Quarters Road Baltimore, MD 21220

410-335-2112

CORRECTED 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: 04-602-SPH

1047 Bowleys Quarters Road

N/east side of Bowleys Quarters Road, 380 feet west of Chestnut Road

15th Election District – 6th Councilmanic District

Legal Owners: Robert and Isabel Baynes, Jr.

Contract Purchasers: Barbara & Robert Baynes, Jr.

Special Hearing to permit the parking of six commercial vehicles with a weight exceeding 10,000 pounds each in lieu of the permitted one 10,000 pounds as under for each vehicle.

Hearing: Friday, September 10, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S

OFFICE AT 410-887-4386.

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

Department of Permits and Development Management

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

July 6, 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: 04-602-SPH

1047 Bowleys Quarters Road

N/east side of Bowleys Quarters Road, 380 feet west of Chestnut Road 15th Election District – 6th Councilmanic District

Legal Owners: Robert and Isabel Baynes, Jr.

Contract Purchasers: Barbara & Robert Baynes, Jr.

Special Hearing to permit the parking of six commercial vehicles with a weight exceeding 10,000 pounds each in lieu of the permitted one 10,000 pounds as under for each vehicle.

Hearing: Tuesday, August 24, 2004, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Muth Kotroco Timothy Kotroco

Director

TK:klm

C: Bruce Doak, Gerhold, Cross, Etzel, 320 E. Towsontown Blvd., Towson 21286 Robert T. & Isabel Baynes, Sr., 1025 Bowleys Quarters Road, Middle River 21220 Barbara & Robert Baynes, Jr., 1047 Bowleys Quarters Rd., Middle River 21220

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, AUGUST 9, 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

March 10, 2005

NOTICE OF ASSIGNMENT /MOTION ONLY HEARING

CASE #: 04-602-SPH

IN THE MATTER OF: Robert & Isabel Baynes, Sr. - Legal Owners; Robert & Barbara Baynes, Jr., - C.P.

> N/s of Bowleys Quarters Road, 380' W of Chestnut Road 15th Election District; 6th Councilmanic District

9/24/04 - D.Z.C.'s Order in which the requested special hearing was DENIED.

A one-hour Motion Only Hearing has been scheduled for the following date and time for the purpose of receiving argument only on People's Counsel's Motion to Dismiss; and has been:

ASSIGNED FOR:

WEDNESDAY, APRIL 6, 2005 at 9:00 a.m.

NOTE: No evidence or testimony as to the merits of this case will be received by the Board on the above date; argument only on Motion to Dismiss.

NOTICE:

Assigned for argument on Motion to Dismiss only. No testimony or evidence as to the merits of this appeal will be received at this Motion Only Hearing.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, 2003 Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons and in compliance with Board's Rules.

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

Kathleen C. Blanco Administrator

Appellants /Petitioners /CP c:

Clare Hash

Anthony Sersen

Petitioners /Legal Owners

Bruce Doak /Gerhold Cross & Etzel

Michael Vivirito

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

: Robert and Barbara Baynes, Jr.

: Robert and Isabel Baynes, Sr.

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 31, 2004

Robert Thomas Baynes Isabel C. Baynes 1025 Bowley's Quarters Road Middle River, Maryland 21220

Dear Mr. and Mrs. Baynes:

RE: Case Number:04-602-SPH, 1047 Bowley's Quarters Road

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

> W. Carl Richards, Jr. Supervisor, Zoning Review

Very truly yours,

WCR: clb

Enclosures

People's Counsel C:

Barbara and Robert Baynes 1047 Bowley's Quarters Road Middle River 21220

Bruce E. Doak 320 E. Towsontown Blvd. Towson 21286



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

Fire Department

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



Baltimore County

James T. Smith, Jr, County Executive John J. Hohman, Chief

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

July 1, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: July 1, 2004

Item No.:

585, 592-596, 598-609 (

(60)

Dear Ms. Mathews:

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 Nell J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date:

7.Z. 04

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

RE:

Baltimore County

Item No. LoZ

4-60Z-SPH

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

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: July 23, 2004

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For July 12, 2004

Item Nos. 585, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 605,

606, 607, 608, and 609

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

1047 Bowleys Quarters

INFORMATION:

Item Number:

4-602

Petitioner:

Robert Baynes

Zoning:

BL/RC 5

Requested Action:

Special Hearing

SUMMARY OF RECOMMENDATIONS:

The petitioner appears to be requesting relief to maintain commercial vehicles exceeding 10,000 pounds in a manner consistent with a Class II Trucking Facility. Class II Trucking Facilities are not permitted in the BL or RC-5 zones. Therefore, it is the opinion of this office that the petitioner's request amounts to a "use variance." In addition, Per Section 409.8.D of the BCZR, the requested operation would require paving standards for trucking facilities.

Therefore, the Office of Planning recommends that the petitioner's request be DENIED.

Prepared by:

Division Chief:

AFK/LL:MAC:

9/10

DATE: July 14, 2004

RECEIVED

JUL 1 5 2004

ZONING COMMISSIONER

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

July 16, 2004

Bruce Doak Gerhold, Cross & Etzel 320 E. Towsontown Blvd., Ste. 100 Towson, MD 21286

Dear Mr. Doak:

RE: Case Number: 04-602-SPH, 1047 Bowley's Quarters Road

The above matter, previously scheduled for Friday, September 10, 2004, has been postponed. The hearing has been rescheduled the new notice is attached.

Please be advised that the responsibility of the appropriate posting of the property is with the Petitioners. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. If the property has been posted with the notice of the original hearing date, as quickly as possible after you have been notified, the new hearing date should be affixed to the sign(s).

ery truly yours

Timothy Kotroco

Director

TK:klm

C: Robert T. & Isabel Baynes, Sr., 1025 Bowley's Quarters Rd., Middle River 21220 Barbara & Robert Baynes, Jr., 1047 Bowley's Quarters Rd., Middle River 21220

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 1, 2004

Bruce Doak Gerhold, Cross & Etzel 320 E. Towsontown Blvd. Towson, MD 21286

Dear Mr. Doak:

RE: Case: 04-602-SPH, 1047 Bowley's Quarters Road

Please be advised that an appeal of the above-referenced case was filed in this office on October 22, 2004 by Mr. and Mrs. Robert Baynes, 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,

Timothy Kotroco

Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner Timothy Kotroco, Director of PDM People's Counsel

Mr. & Mrs. Robert Baynes, Jr., 1047 Bowley's Quarters Rd., Middle River 21220 Mr. & Mrs. Robert Baynes, Sr., 1025 Bowley's Quarters Rd., Middle River 21220 Anthony Sersen, 3800 New Section Rd., Baltimore 21220 Michael Vivirito, 3619 Bay Drive, Middle River 21220

Clare Hash, 3804 Chestnut Rd., Middle River 21220



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

Case No. 04-602-SPH

In the Matter of: Robert & Barbara Baynes, Jr. – Petitioners /C.P.; Robert & Isabel Baynes, Sr., Legal Owners 1047 Bowleys Quarters Road

SPH – To permit parking of 6 conmercial vehicles with weigh exceeding 10,000 lbs each in lieu of permitted one 10,000 lb or under for each vehicle per § 431 BCZR.

9/24/04 - D.Z.C.'s Order in which requested zoning relief was DENIED.

1/10/05 - Letter of opposition from Robert H. Deurer, Bowley's Quarters Property Owner.

2/14/05 -Notice of Assignment sent to following; assigned for hearing on Thursday, May 26, 2005 at 10 a.m.:

Robert and Barbara Baynes, Jr.
Robert and Isabel Baynes, Sr.
Bruce Doak /Gerhold Cross & Etzel
Michael Vivirito
Clare Hash
Anthony Sersen
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

3/03/05 - Motion to Dismiss Petition for Special Hearing and Request for CBA Hearing filed by Office of People's Counsel.

3/10/05 - Notice of Assignment /Motion Only Hearing sent this date; scheduled for argument only on People's Counsel's Motion to Dismiss; assigned for Wednesday, April 6, 2005 at 9:00 a.m. FYI copy to 2-3-5.

4/06/05 – Board convened for hearing – argument on Motion. The Petitioner was not present at 9:00 a.m., nor was a representative on behalf of Petitioners. A telephone call was placed to Mr. Baynes who indicated that they misunderstood the notice and did not believe anyone had to be here. Mrs. Baynes, Jr., appeared for the hearing; the Board then received argument on this matter after the conclusion of the scheduled 10 a.m. appeal hearing.

Summary: This matter to be held sub curia; hearing will proceed on May 26, 2005 at 10 a.m. as scheduled.

4/07/05 – Letter to all parties as listed – confirming that hearing is scheduled for Thursday, May 26, 2005 at 10:00 a.m.; copy of notice attached. FYI copy to 2-3-5.

5/26/05 – Board convened for hearing (Stahl, Wescott, Brassil); concluded hearing this date; no written briefs to be filed; parties presented closing argument at hearing. Deliberation notice prepared and sent; assigned for Wednesday, July 20, 2005 at 9:30 a.m. FYI copy to 2-3-5.

7/20/05 - Board convened for public deliberation; unanimous decision of the Board that the requested special hearing relief is DENIED; written decision to be issued; appellate period to run from date of written Opinion and Order. (S)





Robert and Isabel Baynes, Sr.

1047 Bowleys Quarters Road Case No.: 04-602-SPH

DATE:

July 20, 2005

BOARD/PANEL

IN THE MATTER OF:

Lawrence M. Stahl
Lawrence S. Wescott
Dr. Margaret Brassil

RECORDED BY:

Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate a Petition for Special Hearing filed by the Baynes' requsting

approval of the parking of six commercial vehicles with a weight

exceeding 10,000 pounds each in lieu of the permitted 10,000 pounds or

under as stated in Section 431 BCZR.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

Petitioners started their business in 1976.

B.L. and R.C. zones do not allow for the storage of such vehicles.

Weight is clearly in excess of what would be allowed.

The code does not appear to have a section that addresses a situation such as this.

Murphy, Deputy Zoning Commissioner, Quotes Class 2 "B."

DECISION BY BOARD MEMBERS

FINAL DECISION: After a through review of the facts and law, the Board decided to unanimously *DENY* Petitioners' request to allow for the parking of commercial vehicles on the residential lot.

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

Respectfully Submitted

Linux B Hugel

Linda B. Fliegel

County Board of Appeals



RE: PETITION FOR SPECIAL HEARING

1047 Bowleys Quarters Road; NE/side

Bowleys Quarters Rd, 380' W Chestnut Rd 15th Election & 6th Councilmanic Districts

Legal Owner(s): Robert Thomas, Sr &

Isabel L Baynes

Contract Purchaser(s): Barbara &

Robert Baynes, Jr.

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

04-602-SPH

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence and documentation filed in the case.

FETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO

Deputy People's Counsel Old Courthouse, Room 47

400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of July, 2004, a copy of the foregoing Entry of Appearance was mailed to Bruce E. Doak, Gerhold, Cross & Etzel, Ltd, 320 E Towsontown Blvd, Towson, MD 21286, Representative for Petitioner(s).

RECEIVED

JUL 1 3 2004

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per.....

BALTIMORE COUNTY, MARYLAND Interoffice Memorandum

DATE:

July 13, 2004

TO:

Zoning Commissioner and File

FROM:

Donna Thompson, Planner II, Zoning Review

SUBJECT:

Petition for Special Hearing, Item 604,

Case No. 04-602-SPH

1047 Bowleys Quarters Road

This petition was filed due to an outstanding zoning violation at the above referenced property. The defendant has hired Gerhold, Cross & Etzel, Ltd. to prepare a plan. It is the opinion of this office that such use would be defined as a Trucking Facility or Contractor's Equipment Storage Yard both not permitted in a B.L. or R.C. 5 zone. The petitioner/applicant was insistent on applying for such hearing.

DT

DATE:

July 15, 2004

TO:

W. Carl Richards, Jr.

Zoning Review Supervisor

FROM:

James Thompson, Supervisor

Division of Code Inspections & Enforcement

SUBJECT:

Item No.: 04-602-SPH

Legal Owner/Petitioner: Robert Thomas Sr. & Isabel L.. Baynes

Property Address: 1047 Bowleys Quarters Road

Location Description: Northeast side Bowleys Quarters Rd., 380 ft west of Chestnut Rd.

INFORMATION: Case No.: 04-1631

Please be advised that the aforementioned petition is the subject of an active violation case.

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 Citation

Photo(s) 4

Tax Assesment Inquiry

Outline of facts from inspector

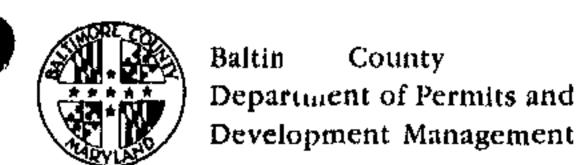
Hearing Officers order Petition from Property

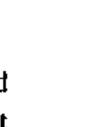
Case Record

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: Clarence Raynor, Code Enforcement Inspector, MS 1105





Code Inspections and Enforcement
County Office 1 ag
111 West Chesapeake 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 CITATION SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

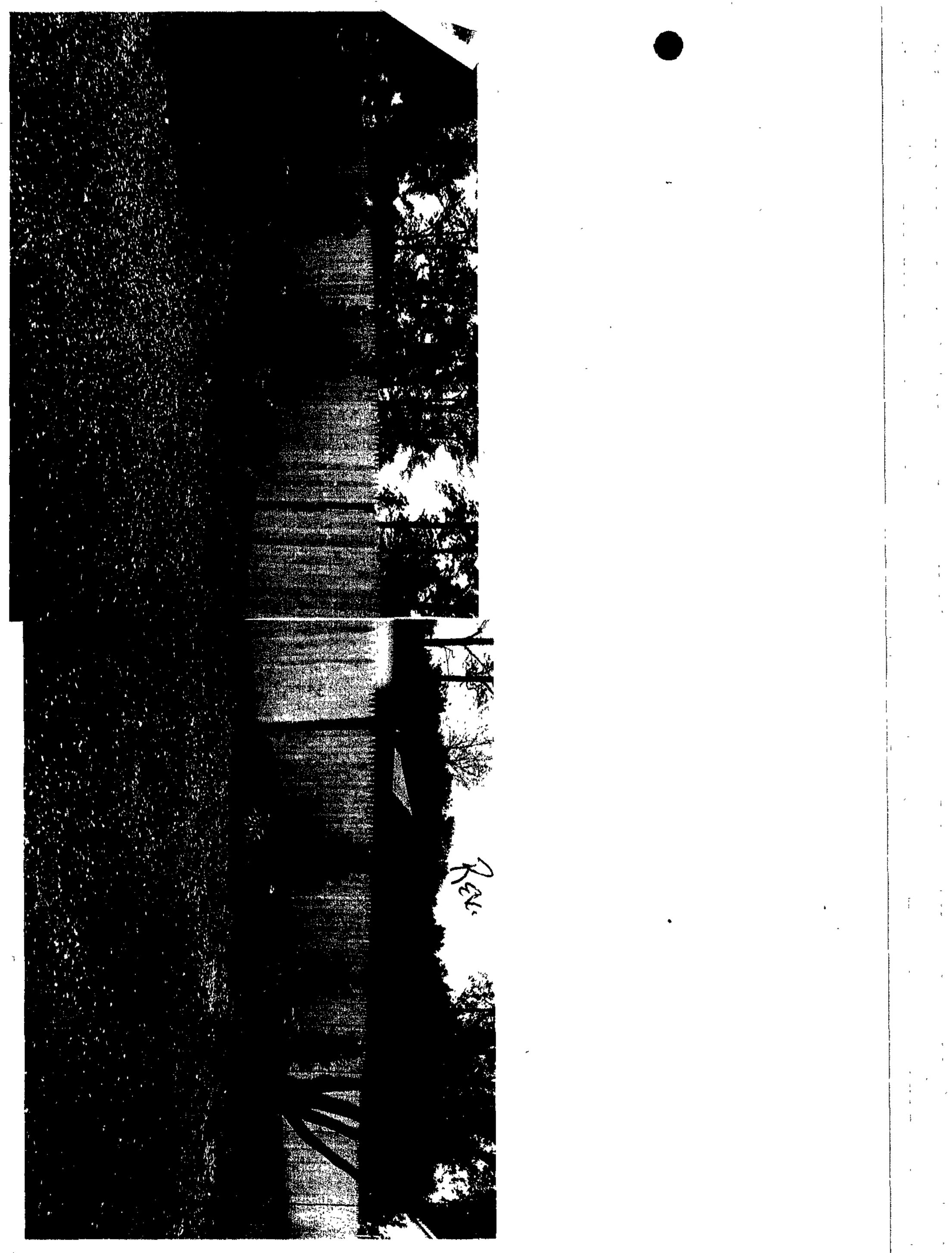
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1631



DATE: 07/15/2004 STANDARD ASSESSMENT INQUIRY (1

TIME: 10:20:10

PROPERTY NO. DIST GROUP CLASS OCC. HISTORIC DEL

DEL LOAD DATE

24 00 000418 15 3-0 04-00 N NO 06/15/04

BAYNES ROBERT T DESC-1.. IMPS3.228 AC PRT LT 94

BAYNES ISABEL C DESC-2.. BOWLEYS QUARTERS

1025 BOWLEYS QUARTERS RD PREMISE. 01047 BOWLEYS QUARTERS RD

00000-0000

BALTIMORE MD 21220-4014 FORMER OWNER: BAYNES ROBERT T/ISABEL C

PRIOR PROPOSED CURR CURR PRIOR LAND: 95,150 135,230 FCV ASSESS ASSESS IMPV: 69,440 81,020 TOTAL.. 199,030 199,030 181,810 TOTL: 164,590 216,250 PREF... PREF: CURT... 0 CURT: 0 EXEMPT.

DATE: 04/02 10/02

---- TAXABLE BASIS ---- FM DATE

ASSESS: 199,030 05/13/03

ASSESS: 181,810
ASSESS: 0

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

ChipRaynor
Code Enforcement officer for Baltimore County Government
Working out of
111-west Chesapeake Ave.
Towson MD 21204

1047 Borley Quiters
Robert & ISALI BAYATS
Balto. mo 21220

3/2/04- received a complaint through the director Kotroco's office for a commercial vehicles and commercial biz. Being ran from a residentially zoned area.

I made an evening inspection @ 6:10pm: noticed 6 dump trucks with commercial writing on the side door, a 30 day notice was written to relocate commercial vehicles and commercial business from a BL zoned area.

3/5/04-issued notice and all paperwork for a sp.hearing, rezoning of land. And other possibility's of keeping the type of business in question.

4/2/04- re-inspection of property showed 1 truck. Having known the intent of the property owner to get something final a citation was issued for violation of a class 2 trucking facility.

At this time please amend violation defined as a class 2 trucking faculty code: $S_{cc} + S_{cc} + S_$

Looking further into this property a new fence was applied for and given to build as a way to provide safety for the trucks and the community. This property as a permit allowing a pole barn structure garage 24x32x15=768 sf, which states to be used for storage, which could hold 2 trucks used in the business at question. As success of this business grew so did the amount of the trucks. Unfortunately, the owners didn't realize that they were violating the use of property in a BL zone.

At this time I would like to add the bayne business has been established in this location sine 19 16. A permit has been given to store 2 automobiles, commercial if need be. A fence has been placed along the roadside for safety.

Baltimore County, Maryland Department of Permits and Development Management 111 West Chesapeake Avenue Towson, Maryland 21204

In the Matter of

Civil Citation No.04-1631

Robert and Isabel Baynes

1047 Bowleys Quarters Road

Respondents

FINDINGS OF FACT AND CONCLUSION OF LAW FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on May 20, 2004 for a hearing on a citation for violations under the Baltimore County Zoning Regulations 102.1, 1801.1A, 405, 410A, the citation is amended to include BCZR §1A04.2 and 230. BCZR §431 is also included in the amended portion of the citation. The Respondent has been cited for operating a business from a residence, operation of a class II Trucking Facility outside storage of six (6) commercial vehicles on residential property and service garage activities and contractors equipment storage yard on residential use property with BL and RC5 zoning located at 1047 Bowleys Quarters Road, 21220.

On April 5, 2004, pursuant to §1-7(d), Baltimore County Code, a code enforcement citation was issued by Clarence Raynor, Code Enforcement Officer. The citation was legally served on the Respondents.

The citation proposed a civil penalty of \$5,000.00 (five thousand dollars) to be assessed. A code enforcement hearing date was scheduled for May 20, 2004.

Robert and Barbara Baynes appeared for the hearing and testified on behalf of Robert and Isabel Baynes.

Clarence Raynor, Code Enforcement Officer also testified.

Testimony and evidence shows that the property appears to be 4.87 acres according to the Tax Assessment file and that Robert and Barbara Baynes are the contract purchasers and Lessor. Barbies Recycling and Hauling operates from subject site employing 5 (five) employees and stores 6 (six) dump trucks on site overnight and weekends. The business has operated from subject site since 1976. The property contains a dwelling and 5 (five) accessory structures. The property lies within 2 (two) zones.

Baynes, Robert Baynes, Isabel #04-1631 Page 2

The dwelling, a playhouse, a small shed and most of a large pole type structure are located in a BL zone. The zoning line cuts through the large pole type structure so that approximately 80% of the structure lies in the BL zone, the remainder falls into a RC5 zone. Bruce Doak of Gerhold, Cross and Etzel, LTD appeared on behalf of Robert Baynes Jr. and Barbara Baynes. He stated that plans were to file for a special hearing before the Zoning Commissioner to consider whether the use of the property could be sustained. Mr. Doak said that documents required to file were almost complete and asked for this hearing to be continued or held in abeyance pending the determination of the Zoning Commissioner. The request seems valid since the property has been used in a like manner since 1976 and the fact that the property is well maintained and neat in appearance.

I find for a continuance to be granted, however will require that a petition for special hearing be filed on or before July 1, 2004. Failure to comply or failure to obtain an extension for just cause will result in a Show Cause Hearing to determine why Baltimore County should not assess a civil penalty in the matter and why Baltimore County should not issue a cease or desist order regarding the business use and storage of commercial vehicles on the property.

Signed

Raymond S. Wisnom, Jr.

Code Enforcement Hearing Officer

The violator is advised that pursuant to §1-7(g)(1), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing with the Director.

RSW/jaf

Let me take a moment to introd e myself, I am Barbara Bayn and reside at 1047 Bowleys Quarters Road. My husband Robert Baynes has lived here 48 years(his entire life). Moreover, I own a small dump truck business and up to this point I have been parking the trucks at my residence for security purpose. I have been doing so for several years in recent the zoning of our property has became an issue. We are trying to have the property zoned so I can keep my five trucks at the property. At this point the property is zoned that I can have a restaurant but I can not park the trucks. We would like if you would please sign below stating that you as a resident of Bowleys Quarters and do not mind the trucks being parked on the property.

Name	Address
Duana Shert	809 Bruleys Ats Rd.
Blehård B Zawerski	
Charles & Mary Bearing	Boundystot Rd.
allen Doch	Bouley Stro Pol
Mehn A. Bon	13 Bowleys Fr. R.D.
Navil Wanan	Bowless Gt Rd.
Mell Jalliburn	919 Suauhmalwe
Mehrn Trans	77/3 Janetson Ad.

Let me take a moment to introduce myself, I am Barbara Bayn and reside at 1047 Bowleys Quarters Road. My husband Robert Baynes has lived here 48 years(his entire life). Moreover, I own a small dump truck business and up to this point I have been parking the trucks at my residence for security purpose. I have been doing so for several years in recent the zoning of our property has became an issue. We are trying to have the property zoned so I can keep my five trucks at the property. At this point the property is zoned that I can have a restaurant but I can not park the trucks. We would like if you would please sign below stating that you as a resident of Bowleys Quarters and do not mind the trucks being parked on the property.

Name	Address
Wm. Bulogypla	Bulto Med. 21220
Bayer Harris	3717 Clarks Rout Per
Roberta R. Price Dobbier Price	518 Nollmern Road Meddle Reug med 21220
James R. P.nice	518 NOLLMEYER RUSO MIDDLE RIVER Md 21220
wayne Mill	26 Waldman Mill of Bry Well, MD 21236
Danke J. Stille.	Huston Md. 21220
Her Thompson In	1700 Bowley Quaters Rd
<i>1</i> /2 .	1101 Dowley Quarters Pd

Let me take a moment to introduce myself, I am Barbara Bayn and reside at 1047 Bowleys Quarters Road. My husband Robert Baynes has lived here 48 years(his entire life). Moreover, I own a small dump truck business and up to this point I have been parking the trucks at my residence for security purpose. I have been doing so for several years in recent the zoning of our property has became an issue. We are trying to have the property zoned so I can keep my five trucks at the property. At this point the property is zoned that I can have a restaurant but I can not park the trucks. We would like if you would please sign below stating that you as a resident of Bowleys Quarters and do not mind the trucks being parked on the property.

Name	Address
Ronal Cally.	4033 ISTACS RUC 91220
Dil Harth	1209 CheASPEALE AVG
Dun Budi	3318 Chop/12/20
Philip W. Price III	3728 Holly Grove RJ
Buddy Howell	1310 Bowber QT. RD.
Marin M. Kahl	1110 Serveea Rd
	3728 Holly Spirkd
Walter Wester	1348 Durk Rd

Let me take a moment to introduce myself, I am Barbara Baynes and reside at 1047 Bowleys Quarters Road. My husband Robert Baynes has lived here 48 years(his entire life). Moreover, I own a small dump truck business and up to this point I have been parking the trucks at my residence for security purpose. I have been doing so for several years in recent the zoning of our property has became an issue. We are trying to have the property zoned so I can keep my five trucks at the property. At this point the property is zoned that I can have a restaurant but I can not park the trucks. We would like if you would please sign below stating that you as a resident of Bowleys Quarters and do not mind the trucks being parked on the property.

Name	Address
Émilie Mosnon	710 Wollmayer Rd 21220
Bob Sum	3802 Chestral 1801
William Lord Weeberker Dr.	3628 Bay Duire 410.335-5449
Melvin Baren A	3737 Bay Drive
The ma Bauern Einel	3737 Bay Drive 410-925-6978
Thoma V. Stul	3735 By On. 410,344,1178
By Sten	4/10-344/-1178
Mayne Blackwar	3641 BAY DR Balto-MD 21220
Jynda J. Blackmon	3841 Bay D1 410/335-7157 Balta and 21220

Case Entry/Update		Mode : CHANGE File : PDLV0001
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Dt Rec: 3042004 Intake	: <u>CR</u> Act:	Case #: 04-1631
		15 Tax Acct: 1502004270
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Complainant Addr:	DIRECTOR OF	PDM
Complainant City:	State:	Zip:
Complainant Phone (H):	(W):	· ······
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F10=Entry

F11=Change

F9=Insert

Mode . . . : CHANGE File . . : PDLV0001

Notes: 3/2/04 @ 6:10PM I OBSERVED 6 DUMP TRUCKS PARKED LINE ALONG IN PROP. THEPROP. OIS ZONED BL, WHICH GARAGE.30 DAY NOTICE SERVICE TO RELOCATE BUSINESS & TRUCKS PROPERTY. P/UON 4/6/04 (C.R/SS) *** ****3/5/04, 30 ISSUED, DELIVERED ALL PAPERWORK FOR A SPECIAL HEARING WHICH THEY PLAN TO FILE FOR, UPDATE NOT NECESSARY/DIRECTOR OF PDM, P/U 4/1/04 CR/CO**** ****4/2/04, CITATION ISSUED FOR ZONING ISSUE, P/U 4/17/04 TO CHECK FOR SERVICE, COMPL UPDATED, CR/CP**** **04/07/04 CITATION SENT CERT & REG MAIL.CHECK FOR SERV 04/20/04. CR/LRS** **04/13/04 GREEN CARD RETURNED. GAVE TO CR.LRS*** **4/15/04 DOCKET FOR 5/20/04 FILE TO C RAYNOR /JF**、 ****4/19/04, P/U 4/30/04 FOR PHOTOS & UPDATE ON PROP, UPDATE NOT NECESSARY/PDM CR/CP**** ****5/3/04, FENCE HAS BEEN INSTALLED, NOTICED TRUCKS & OVERSIZED GARAGE, NO FOR PHOTO, ANONYMOUS COMPL, P/U 5/15/04, CR/ADY/CP**** >>>>>>>>>>>

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

F6=Select format F11=Change Case Entry/Update
Format . . . : CASREC

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

Notes 2: **5/25/04 FINAL ORDER SENT TO ROBT. & ISABEL BAYNES. FILE TO C RAYNOR
/JF**.

****5/26/04, FINAL ORDER, A CONTINUANCE WAS GRANTED ON THE TERMS THAT A SPECIAL
HEARING BE FILED BY 7/1/04, FAILURE TO OBTAIN AN EXTENSION WILL RESULT IN A SHOW
CAUSE HEARING TO DETERMINE WHY BALTO CO WILL IMPOSE A FINE & NOT ALLOW THE
BUSINESS USE & STORAGE OF COMM VEHS ON PROP, P/U 7/1/04, CR/CP****

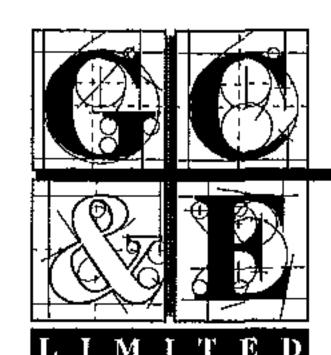
****7/7/04, SPOKE W/OWNER, THEY HAVE APPLIED FOR HEARING, COMPL UPDATED, P/U
9/7/04, CR/CP****

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

F6=Select format F11=Change







Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Kister's those remited Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286 Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcclimited.com

July 15, 2004

Timothy M. Kotroco, Director Department of Permits & Development Management **County Office Building** 111 W. Chesapeake Ave. Towson, MD 21204

Re: Zoning case #04-602-SPH

Dear Mr. Kotroco,

Due a scheduling conflict with both my clients and myself, we will not be able to attend the scheduled hearing for August 24, 2004. All parties would be available on September 9 or 10, 2004. We ask that you reschedule the hearing for one of those two days or one as soon as you can.

Thank you very much,

Bruce E. Doak



Paltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

> 410-887-2188 Fax: 410-823-4236

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

2-3-5

April 5, 2005

Lawrence M. Stahl, Chairman County Board of Appeals Old Courthouse, Room 49 400 Washington Avenue Towson, MD 21204 BALTWORF COUNTY BOARD OF APPEALS

Re: Atkins Family Living Trust (Dennis & Carol Atkins)

Case No. 05-024-A

Dear Chairman Stahl,

This petition for a setback variance for a recreational trailer relates to the standards found in BCZR Section 415A.1.A. This section is within Article 4 of the BCZR, which establishes "Special Regulations" for certain uses.

BCZR A400 provides:

"Certain uses, whether permitted as of right or by special exception, have singular, individual characteristics which make it necessary, in the public interest, to specify regulations in greater detail than would be feasible in the individual use regulations for each or any of the zones or districts. This article, therefore, provides such regulations."

These Special Regulations, therefore, are effectively use regulations. Some of these regulations relate to standards which ordinarily would be classified as area standards, but they are of a different character than general area standards which apply to an entire zone.

While the County Board of Appeals has traditionally entertained petitions under BCZR 307 for variances from Special Regulations, these warrant, at the very least, a higher level of scrutiny for consistency with the intent of the regulations.

In this vein, BCZR 415A.3.B appears to provide an "undue hardship" standard for a modified storage plan for recreational vehicles. This would appear to be a specific additional standard, over and above the BCZR 307 standards. It is settled that "undue hardship" requires proof of elements additional to "practical difficulty." McLean v. Soley 270 Md. 208 (1973). An

Lawrence M. Stahl, Chairman County Board of Appeals April 5, 2005 Page 2

excellent discussion of this standard is found in the enclosed decision in <u>Green v. Bair</u> 77 Md. App. 144 (1988), cert. denied (1989). It should be emphasized that all of these standards, along with the uniqueness standard under BCZR 307, relate to the property and not the applicants.

In light of the above, this office is particularly interested in the implementation of the relevant legal standards. We hope this letter will be helpful upon the hearing.

Sincerely,

Peter Max Zimmerman

People's Counsel for Baltimore County

PMZ\rmw Enclosure

cc: Michael Tancyzn, Esquire (sent via fax & first class mail)

Susan Johnson Diane Kingsury Robert & Barbara Baynes 1047 Bowleys Quarters Road Middle River, Maryland 21220 (410) 335-2112

October 20, 2004

Appeals Board Timothy Kotroco, Director 111 W. Chesapeake Rd Room 111 Towson, Maryland 21204

Reference: Case No: 04-602-SPH

Dear Mr. Kotroco:

We would like to appeal the decision in the above-mentioned case. At the time of the hearing we requested that two of the trucks are to be parked on the residential side of the property and at this time would liketo revisit the idea of only keeping four trucks at 1047 Bowleys Quarters Road on the commercial zoned property portion. I understand that Mr. Murphy did not have the authority according to his denial to rulein favor of a use variance and we respect that however, we are willing to remove two of the trucks. We obtained a permit in 1990 to build a garage to house two dump trucks and at that time there was no dispute but due to the construction in the neighborhood the residents are no longer accepting our trucks we find this inappropriate. We appreciate the neighbors concerns of our trucks damaging or obstructing the road, but we find that slightly ridiculous. There are many business located on or off of Bowleys Quarters Road which requires deliveries to there businesses from large vehicles (i.e. beer trucks, food vendors, fuel tankers and boats to the marinas). Moreover, if this was a valid issue then there should be no business located in Bowleys Quarters that require deliveries from large vehicles. We know the neighbors express concerns of traffic due to the construction in the neighborhood in result of Isabel that it makes it no longer acceptable for our trucks to be there. We are all still suffering from the Isabel storm and are still recovering from Isabel, which when we all have completed rebuilding and the construction has been completed the decision from the above mentioned will remain same. We have tried to aid the residents to the best of our ability. We have hauled and continue to bring in stone and fill dirt to the residences of Bowleys Quarters and we have not charged them for the hauling, only for the material. We would be disappointed if we could b longer offer this service to the resident's. Unfortunately, we will no longer be able to do this because the trucks will be located elsewhere if the decision remains the same. We do not service the vehicles at this address due to respect for our neighbors. We would like to just house the trucks there overnight until the next morning. Enclosed you will fine a copy of the previous decision.

Thank you in advance for your time and consideration in this important matter.

Sincerely,

Robert & Barbara Baynes

C: Mr. & Mrs. Robert T. Baynes Sr., 1025 Bowleys Quarters Road, Middle River MD 21220 Anthony Sersen, 3800 New Section Road, Baltimore MD 21220 Michael Vivirito, 3619 Bay Drive, Middle River, MD 21220 Clare Hash, 3804 Chestnut Road., Middle River, MD 21220

Per C/1

OCL 5 5 5004

BECEINED

Joan & Bob Deurer

3834New Section Road Baltimore, MD 21220-4028 Phone: (410) 335-8888

E-Mail: Bobdeurer@aol.com

Jan. 07, 2005

Zoning Board of Appeals Rm. 49 Old Court House 400 Washington Ave. Towson, MD 21204

Re: Zoning Appeal Case #04-602-SPH

The parking of six heavy-duty commercial vehicles in addition to the operator vehicles on this property is not appropriate in this area.

In addition, no matter what safeguards are proposed the inevitable pollution associated with parking and maintaining these vehicles would find it's way into the <u>adjacent</u> Seneca Creek. This property is in a Chesapeake Bay Critical Area.

Please consider these comments against granting this appeal in your deliberations.

Robert H. Deurer - Bowley's Quarters Property Owner

DECEIVED

JAN 1 0 2005

BALTIMORE COUNTY
BOARD OF APPEALS

Ref; Case # 04-602-SPH

September 7, 2004

Mr. John Murphy,

Hello my name is Anthony E. Sersen and I live at 3800 New Section Rd. 21220 (Bowley's Quarters). I am opposed to the Zoning Exception Request to permit six commercial vehicles EXCEEDING 10,000 pounds each to operate out of 1047 Bowley's Quarters road.

This area has been through some very severe hardships with many people making large investments in rebuilding their properties. I am are adding over \$25,000 debt to my tax bill for sewage and future dredging of our waterways. With investments like these for much needed improvements to our community, any deviation that would detract from its residential status is opposed. Refusal of this exception may discourage future request from others for similar exceptions. I can not see how the requested exception being sought will ADD to the value of our properties. Even more important the roads in this area are not capable of supporting heavily loaded trucks as is presently witnessed by the needs of the construction crews and the damage to the roads that we are presently experiencing. We only have ONE access road for this peninsula and we should be cautious about its use.

The short notice of the hearing date prompted me to contact you by e-mail, but the importance of this issue demands that I rearrange my schedule and attend the Special Hearing and present my concerns directly to you. I am sure that other residents would feel as I do concerning this issue but are either unaware or can not react in this short time frame.

Inthony Sterser

Thank you,

Anthony E. Sersen

3800 New Section Rd.

Balto. Md. 21220

410-335-4487

cc: Mike Vivirito, President BQIA

Do the

Lawrence Smith, Commissioner **Baltimore County Zoning Commission** 407 Bosley Avenue Towson, Md 21204

Subject: Zoning Hearing Matter #04602

September 10, 2004

1047 Bowleys Quarters Road

Baltimore, Md. 21220

Dear Commissioner Smith,

We understand that the owner of the above referenced property, zoned BLRC5, is applying to the Zoning Commission to make legal an existing, unlawful trucking operation. This offensive use, which is causing allergy problems arising from diesel fumes and exhaust, has already been in existence for some months. As residents on Chestnut Road immediately adjacent to the property, we are hereby voicing our objection to both the current use and any application to allow it to continue.

The BL zoning classification in place is not intended to allow such an intensive commercial/industrial use, especially in the context of a rural conservation zone. This use is totally inconsistent with the local neighborhood, which includes farmland and single family dwellings.

The Bowleys Quarters community has been rebuilding itself for the past year since the storm surge of September 18, 2003. Many property owners have invested hundreds of thousands of dollars to upgrade their water-oriented properties, and many of us have had to do this with little or no insurance proceeds. A major trucking operation on this property, fronting Seneca Creek on one side and the Ritter farm on the other, is an insult to the Isabel survivors who are counting on our local government to protect us from incompatible land uses that adversely impact our environment and land values. This one clearly does not belong in our neighborhood and should not be allowed to continue.

We trust the Zoning Commission will promptly reject this application on its total lack of merit, order the current owner to comply with existing zoning requirements, and take any and all measures to protect our community from such unwanted intrusion.

Sincerely,

The undersigned property owners on Chestnut Road, Bowleys Quarters, Middle River, Maryland.

Clave & Dave Hash 5804 Chestnut Rd 9/9/05/35-6. anthony & Lilain Sersen 3800 New Section Bo 9/9/04 335.45 DBABKOWSKI 3515 EDWARDS HANZ 9/71/4410 3738 ON ESTRUTTO 9-9-04 440-335-7623 Joanne Kraft

P.C.Ehz

Baltimore County Board of Appeals Old Courthouse Rm 49 400 Washington Ave. Towson, Md 21204

Subject: Case # 04-602-SPH

May 26, 2005

1047 Bowleys Quarters Road

Baltimore, Md. 21220

Dear Appeals Board,

We are 17-year residents of 3804 Chestnut Road. We understand that the owner of the above referenced property, zoned BLRC5, is appealing to the Appeals Board to make legal an unlawful trucking operation. This offensive use has caused allergy problems arising from diesel fumes and exhaust. We are hereby voicing our objection to the County for not upholding its laws, and our opposition to any appeal to circumvent the laws to accommodate a trucking operating on this property.

The BL zoning classification in place is not intended to allow such an intensive commercial/industrial use, especially in the context of a rural conservation zone. This use is totally inconsistent with the local neighborhood, which includes farmland and single family dwellings.

The Bowleys Quarters community has been rebuilding itself for the past 20 months since the storm surge of September 19, 2003. Many property owners have invested hundreds of thousands of dollars to upgrade their water-oriented properties, and many of us have had to do this with little or no insurance proceeds. A major trucking operation on this property, fronting Seneca Creek on one side and the Ritter farm on the other, is an insult to the Isabel survivors who are counting on our local government to protect us from incompatible land uses that adversely impact our environment and land values. This one clearly does not belong in our neighborhood and should not be allowed to continue.

We trust the Appeals Board will promptly reject this appeal on its total lack of merit, order the current owner to comply with existing zoning requirements, and take any and all measures to protect our community from such unwanted intrusion.

Sincerely,

Clare Riley Sisson Hash

David O. Hash

PLEASE PRINT CLEARLY

CASE NAME 104 1 BOULOUS QUE CASE NUMBER 04-602-500

FEELS OF SICH SHEET

E- MAIL				
Setting My 2120 Mil 2120 Bet mo provo	Towsol Mo 21286			
1047 Same Green St.	320 E. Towssonn Buo.			
Salara Manneth & Sanneth	Beuce E. Dour "Green Cross & Erren			

CASE NAME 1047 Barbars Quarter P CASE NUMBER 04-602-504 DATE 9/10/04

CITIZEN'S SIGN-IN SHEET

E- MAIL	UNTEK & COMCAST. NET BANGLAD ATTONET Chash SYBad. Can	arters Improvement	iti Sid	20 410-335-3371		
CITY, STATE, ZIP	BACTO. MD. 21220 MIDDLE RIVER MD ZIZZO MIGGLE KIVER MD ZIZZO	Bowley's Guar	Associal Michael Presi	3619 Bay Drive Middle River, MD 21220		
ADDRESS	3800 NEW SECTION RD. 3619 BAY DRIVE 5804 Chartnut Rd					
NAME	AUTHONY E. SERSEN MICHAEL VINIRITO CLEUX HASH					

IN RE KRISTIN L.

sively for the judge to determine. legal services and the value of the legal services are exclu-

pretrial motions and pleadings were valuable or necessary in a case is one essentially beyond the competence of a jury assess services in a nonjury case would virtually require a retria For a jury to determine the necessity for and value of lega divorce actions and custody cases, for instance, would be of the case before the jury. prevail, we can imagine a court-appointed criminal defense drawn into chaos if the law were otherwise. arguing to a jury that the fee should have been far greater attorney refusing to accept a fee awarded by the judge and A legally trained judge is far better able than a jury to the quality of legal services. The assessment of legal fees in The issue Were Dr. L. to of what

appoint an attorney to act in the interests of the children, neration for those legal services and the assessment by the the determination by the judge as to the appropriate remurepresent a "civil action" within the remote contemplation judge of the costs for those g, In a case such as this, the initial decision by the judge to 402(e). legal services simply do not

MENT JUDGMENT IN Хã Z DR. L., CASE NO. HH CASE NO. 171 REVERSED; 710 APPELLEE AFFIRMED; 呂 CASE COSTS NO. OT POTUL 171. 盟

Sue 549 GREEN, et al. A.2d 762

Z Scott S. BAIR, Sr. 187, Sept. Term, 1988.

Court of Special Appeals of Maryland. 1988.

Nov. 4,

Certiorari Denied March 8, 1989

within it sought zoning variance from setback requirements Owners Д, medical building and physicians practicing

[77 Md.App. 144 (1988).] GREEN BAIR

設置 in municipal roll County, Donald J. Gilmore, J., reversed. ance undue Collect physicians and building owner wives Appeals from the of Special Appeals, Robert M. hardship which would justify granted the gaing setback requirement. code. variance. The Westminster Board of Zon-The grant failed Bell, Circuit of t 9 ب zoning vari-Court, appeal, lemonstrate held that Carthe

Affirmed.

Zoming and Planning 504

insufficient to space suffered hardship suffered reasonable requirements. undue hardship Under δq difficulties they suffered in medical building were return 탕 Westminster Zoning physicians and their property owner wives due demonstrate and justify variance from $\mathbf{x}_{\mathbf{s}}$ 8 peculiar to property or use either Çţ, Code, an inability their financial property, 핝 zoning setback demonstrate to secure a hardship ရူ that

William B. Scott Dulany on the (David brief), M Westiminster, Bowersox and for Dulany, Parappellants.

minster, Clark R. 101 Shaffer (C. appellee. Rogers Hall, Jr. on the brief), West-

WENNER, Argued before IJ MOYLAN, ROBERT K BELL, and

ROBERT M. BEILL, Judge.

OH CHIE the judgment of the Circuit Court for Carroll isting public hearing, granted, in part, back requirements, thus permitting enlargement of an ex-(hereinafter "appellants"), for Green and This case reaches of, Sr., appellee/cross-appellant, medical office building. Westminster Board of Beulah C. us on an appeal and cross-appeal from Chang, variances from Upon appellants/cross-appellees, the application, of Sue H. Zoning (hereinafter the appeal of Scott S. Appeals, County. the "appellee"), City's set after The ស

the circuit court reversed that decision. The appeal presents two questions, i.e.,

- 1. Was the December 29, 1986 decision of the Westmin-ster Board of Zoning Appeals, granting variances for the petitioners/cross-respondents Green and Chang's property, supported by substantial, probative evidence of record and therefore, fairly debatable, making the circuit court's reversal of the Board's decision an impermissible substitution of the circuit court's judgment?
- Bui ate ster's Board of Zoning Appeals must apply in ruling on applications for variances, in addition to certain ated findings which the Board is directed to make pursuant to § Does the language of the City of Westminster's Zon-Ordinance § 21-3, defining the term "variance" an operative 21-71 of that ordinance? standard which the S S of. Westminenumerere-

The cross-appeal presents only one:

Was the advertised notice of hearing adequate under Maryland law?

Inasmuch as we find no merit in appellants' argument, we will affirm the judgment of the circuit court. It is therefore unnecessary that we address the cross-appeal.

located in Westminster, on which is constructed a medical pediatric practice. The medical office building was office building, out of which their husbands conduct their building building was constructed the City set back requirements prohibit the construction of a building side. were much more liberal, the current set back requirements from the residential property from the right-of-way adjacent to the building's front Appellants are the owners of land, zoned B-Business, See Westminster City since that date. in 1969 and the doctors have Although at Zoning Code § bordering on closer than 30 feet the time that the practiced in that the building's 21-16(e). -E0D S

After their husbands had practiced in the building as originally constructed for some 17 years, appellants filed an application for variances to reduce the set back require-

ments on those sides of the building adjacent to Washington need for the variances and the hardship which Road and bordering on appellees' residential property.1 if they were not granted. also testified building that the there was no the records generated by the practice close at Green, and noted the need to served, store your record[s] and function, and not having access difficult to function." cused on the existence of a malpractice crisis generated the need to keep longer periods could continue the variances can be hearing testified that changes In addition to the records, during her testimony that "it's without a stressful situation in it more would increase the her husband. Was before ಕ feasible morale problem that lack of space was causwere not granted and that 28 his present practice "with gre of. presented by grant of the variances would allow. the the accomodate the convenient time. well as the difficulty of alternatives to the expansion of the variances. Board, testimony in support of the Dr. Green, diminution of property values, your files Both testified to the need to have Each of them testified as to the Dr. Green required, in the one for him to value of the property as well to records. Mrs. not having medical practice and the of the continuing support staff. on the elsewhere, it's greatly that acknow pport staff. She observing well, but ... Gree appellants, Mrs. practice medicine. they be kept for approval of the other hand, foat difficulty" if ledged that he If you have to n additionally hand and that would result the the room to existing Both Ä he

The Board found this testimony persuasive and incorporated it into its decision. The Board was also "impressed that Dr. Green has expressly represented that there is no

[.] The application actually sought variances from the sideline and rear line set back requirements; however, based upon the evidence presented at the hearing and interpreting the City's zoning ordinance, the Board determined that what was actually sought were variances from the front yard set back requirements and a side yard set back variance.

and Dr. intention nor Chang will be changed." expectation that the patient load of he It concluded: Ċ

seeking the The Doctors have considered and explored alternatives space off-site for record keeping, cessful in those compromised if not jeopardized. The medical practice is a services of Drs. Green and Chang will be substantially can be Board is of the is customarily incidental to this use. The inability of Drs. doctors to store and retrieve their patient records on-site permitted use in the B-Business zone, and the ability practitioners. records on-site deprives them of conducting their medical ಕ on-site will enhance the ability of Drs. provide patient care. and Chang granted, as it normally requested variances, including the rental Indeed, collective opinion that unless a variance efforts. the continued operations and to store and retrieve the availability is undertaken by Essentially, but have been unsuc-Greene and Chang in this case, of those other their 'patient records medical patient the of. of. ਠ

H mony of evidence result of the actions of the Applicants, and that a literal contrary to the public interest and that there are conditions peculiar to the subject and Subdivision Ordinance would result in an unnecessary enforcement of the provisions of the Westminster Zoni and undue hardship. Indeed, the Board is of the opinion fied their burden of proof and the requirements that for the foregoing reasons, the Applicants have sa ordinance to justify in this case, limited variances. sum, the Board of record, including but not limited to, the testi-Dr. Green, that limited variances 맖. convinced and persuaded by the property which are not would not the the ţ. Su Бе

would Implicit in the Board's decision is the recognition that, result in "an unnecessary and undue hardshi the variances, it had to find that failure to do ф." OS ੪

hardship was variances. The court agreed with the Board that a showing of undue that it must uphold Nevertheless a necessary prerequisite the Board's and notwithstanding decision දු the grant of H. its reco 4118 not the

> premised upon nodn sions reasonably that 5 A.2d 893 (1986). Md. 383, 395, 396 A finding of "undue hardship" A.2d 858 A.2d 220 (1974), and finding that the evidence failed to meet AndersonSoil, A.2d 73 (1945); test, the Inc. (1979);# Ġ definition concluded: r Board12 may be CountyAnnapolis v. Annap. Waterfront Co., 284 See also. Ginn v.error .2d 1080 of Appeals, of law based upon the facts proven." Comm'rs, Farley, Heaps v. "undue (1979),Was and if the 25 "unreasonable". it found that 43 Md.App. Cobb, hardship" 307 Md.App. Md. Md. 307, 338, 513, 185 Md. 372, 379, agency's conclu-28, 38-9, 322 229, 235, 403 set the Board's Relying out. Ad

more Ŋ "If viewed in a most favorable light, and would allow revealed easily. only that them the ರ conduct variances their Applicants' testimowould do no business much harm,

Westminster City Code defines "variance" as

not the "variance" \rightarrow and undue hardship. enforcement of this chapter where, relaxation owing to conditions peculiar to results will not be contrary of the of the terms actions of this chapters would result in of. to the public the applicant, the property and unnecessary interest and where a literal such

Moreover,

- Todn such variances shall be finding βğ the Board authorized by that the Board only
- same generally to other properties or classes the or conditions applying to the property zone; intended are exceptional or extraordinary use of the property that of uses of the in question or do not apply circumstanc-
- vicinity; enjoyment of substantial property rights other Such variance is necessary for the preproperties and Ħ, the same zone and possessed by servation and in the same
- substantial The authorizing detriment g, 핝 such adjacent variance properties and will ill not be of.

151

GREEN

BAIR

(1988).]

public interest. not materially impair the purpose of this chapter or the

Section 21-71(c)(1). variances are permitted by the Code. Only "area", ខ្លួ opposed to "use See § 21-71(c)(2).

es were not granted is an essential element to be considered by the Board when determining whether to grant or deny a that whether an undue hardship would result if the variancclear indication to the contrary, a statute must be read so venerable precept of statutory construction: "if there is definition. Thus § 21-71(c)(1) cannot be read without reference to that ever the term variance is used throughout the ordinance. variance. ment v. Comptroller, 68 Md.App. 342, 346, 511 A.2d 578 meaningless or nugatory". that no part of it is rendered surplusage, superfluous, ing & Construction Trades Council v. Barnes, 290 Md. do, 295 Md. 55, 63, 453 A.2d 1185 (1982); Baltimore Build-(1986).1126 (1983); Viewing the statutory scheme as a whole makes patent See also Scott v. State, 297 Md. 235, 246, 465 A.2d The definition of variance in § 21-3 applies when-To do otherwise would be to fail to adhere Board of Education, '. Ford Motor Land Develop-Garrett County v. Len-탕 Q

order to

show only that:
"1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restricheight, bulk or density would

tions unnecessarily burdensome. the district, or whether a lesser relaxation than that applied of the ordinance will be observed and public safety and welfare secured. *McLean v. Soley*, 270 Md. 208, 214–15, 310 A.2d 783, 787 (1973). morting 2 Rathkonf. The Law of Zoning Planning, 45–28– would give substantial relief to the owner of the property involved and be and be more consistent with justice to other property owners.

"3) Whether relief can be granted in such fashion that the spirit (1973), quoting 2 Rathkopf, The Law of Zoning Planning, 29 (3d ed. 1972). Whether a grant of the variance applied for would do subst justice to the applicant as well as to other property owner Z 113 287 287 ğ

> ants 8 the that which would permit the Board to make the findings set requirement of "undue hardship" appears only tional section, and not in the substantive provisions of the statute would have the only A.2d 979 the words "undue hardship". 71(c)(1). evidence they (1981).us do. In short, Their argument is that since the But this is precisely they required to urge us That we decline to read out of produce was in the definiwhat appel-

"undue hardship" effect to both the definitional provision and the substantive meet cant, Where ₩e in order to justify the three is, moreover, no logical impediment to our giving considered the showing required standard of undue criteria: standard in grant of the hardship applies, the appli-Andersonand concluded: variance, must to meet the

720 v. reasonable use of his property. ₩. 198, 202 (1957); 258 from the property is not a sufficient reason for grantproperty 2) The difficulties or hardships hardship or an opportunity City, 233 Md. 372, 378, 196 Marino v. City of Baltimore, Baltimore, Bd. v. Bounds, supra, Marino v. Baltimore,a variance. Md. 157, ²999 City of secure complied owners in the in question and contrast 214City of Baltimore, 195 251 Md. supra167, Baltimore, 215 бņ A.2d 810, 815 Md. 395, 400, See Salisbury Bd. v. Bounds, Daihl v.reasonable with the 265 A.2d 227, 232 (1970); 55<u>4</u> 240 Md. at 555, 214 same , 600 600 County Board ਠਾ A.2d 879, ordinance return from district. supra; 248 73 A.2d 491, 492 (1950). supra; Md. 206, 218, 137 A.2d get an increased return (1965).Pemwere peculiar to the A.2dwith 88 28 28 ë C he Easter v.Burns v. 103, 106 (1968); Mere financial those of other would be un-(1964); Mariter v. v. Baltimore A.2d at 814; of Appeals, or to make Salisbury 240 Md. City of City of Balti-

Ordinarily, applicants seeking an area variance need only mee standard of "practical difficulty". That standard was explained Anderson, 22 Md.App. at 39, 322 A.2d 220: justify a grant of an area variance the applicant need

there is an overlap between the two; but to the extent that 22 Md.App. at 38-9, 322 A.2d 220. with the required showings under § required findings can be made in addition to those required quirement, they are not inconsistent. the required showings differ from the undue hardship reunder the undue hardship standard. applicable to area variances, but one that contains elements a variance standard for the City of Westminster that is not of both. recognized, "It is not for the court to decide the wisdom, vel anywise deficient or unenforceable. common council, but rather to enforce it as it is written." of the zoning code, as that That it applicable to use variances nor wholly that does so does not render the adopted by the Comparing this standard 21-71(c)(1) reveals that Thus, the Code creates As the trial court In other words, the Mayor and Code Ħ,

We agree with the trial court that appellants' evidence failed to demonstrate that they met the first two criteria required for showing undue hardship. It follows, therefore, that we also agree with the trial court that the evidence before the Board did not render that issue fairly debatable. Consequently, the trial court's judgment must be affirmed.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANTS.

MONTGOMERY COUNTY v. McDONALD [77 Md.App. 153 (1988).]

549 A.2d 766

MONTGOMERY COUNTY, Maryland, et al.

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James W. McDONALD, Jr.

No. 190, Sept. Term, 1988.

rt of Special Appeals of Maryland.

Nov. 7, 1988.

The the occupational disease. of Special reversed the Commission, and County appealed. heart attacks suffered by officer. imitations two-year Police Circuit Commission held that officer's the disability under Appeals, Gilbert, C.J., was tolled by officer filed claims Court, statute of limitations, an occupational Montgomery County, incurred by County's failure for held that disease officer The Workers' claims were workers' and theory, officer S Irma the result of compensation at Compensastatute The Court barred by Raker, J., appealed. once for two his ф g,

Affirmed.


. Workers' Compensation =1280

pational ease, statute of limitations which requires employer "to at once 1 et seq., disability When disease employer violates notice 26 6 incurred by 9 benefits is tolled. employee 25 to employee's report" to from occupational dis-Code provision 1957, claim for occu-Commission • Ġ, Art statute 101,

2. Workers' Compensation ==2080

failed two-year regard to heart Police officer's ੪ comply statute of limitations for such claims, with statute which claims attacks for occupational disea were not barred by required employer se benefits ıs employer running of

set out in § 21-71(c)(1), appellants would not prevail because "there is no evidence that the difficulties they are encountering are peculiar to the property in question, or contrast with those of any other successful business in the B-Business zone." We agree with that finding as well. Indeed, were appellants showing sufficient to grant a variance under § 21-71(c)(1)'s required findings, we, like appellees, find "it... difficult to imagine a modern business that could not create the same record and obtain the same variance."



Findings of Fact and Conclusions of Law

All agree that the Petitioners keep their home and business in excellent condition. They are also in agreement that the Petitioners are valued neighbors who often perform needed services for the community. However, there is also no place for such a storage facility in either the BL or RC zones. Mr. Doak's inventive arguments to the contrary, this clearly is a Class II trucking Facility as pointed out both by the Planning and Zoning Offices. These are simply not allowed in these zones.

Although the Petitioner has filed a request for Special Hearing, the essence of their request is a use variance. They want to be able to store trucks on property located in BL and RC zones which otherwise forbid such uses. However, I have no jurisdiction (no legal power) to grant use variances in Baltimore County. Other jurisdictions have given zoning authorities such powers but they do not exist in this county.

This does not mean that the Petitioners' business is not valuable or welcome in the county.

I strongly recommend that they contact the Office of Economic Development to help them locate a properly zoned parcel on which their trucks can be stored within the regulations.

Pursuant to the advertisement, posting of the property, and public hearing on this pettion held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be denied.

THEREFORE, IT IS ORDERED, this 24 day of September, 2004, by this Departy Zoning Commissioner, that the Petitioners' request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit the parking of six commercial vehicles with a weight exceeding 10,000 pounds each in lieu of the permitted ne