MANDATE

Court of Special Appeals

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BALTIMORE COUNTY
BOARD OF APPEALS

No. 01059, September Term, 2009

Pullen Tour Service, Inc.
vs.
Baltimore County, Maryland et al.

JUDGMENT: January 14, 2010: Notice of Dismissal of appeal filed by counsel for the appellant. Appeal dismissed. MD Rule 8-601.

January 14, 2010: Mandate issued.

From the Circuit Court: for **BALTIMORE COUNTY**
03C070010143

STATEMENT OF COSTS:

Appellant(s):

Lower Court Costs-	60.00
Steno Costs of Appellant-	212.00
Filing Fee of Appellant-	50.00

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this **fourteenth** *day of* **January** **2010**

Leslie D. Gradet
Clerk of the Court of Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE.

6/30/09

RECEIVED
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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE	*	IN THE
MATTER OF	*	CIRCUIT COURT
PULLEN TOUR SERVICE, INC.	*	FOR
	*	BALTIMORE COUNTY
	*	Case No. 03-C-07-10143

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

OPINION AND ORDER

On September 3, 2008, a hearing on Petitioner's Administrative Appeal was held before the Honorable Judith C. Ensor. After a thorough review of the entire record, the memoranda filed by the parties, the arguments presented by counsel and the relevant case law, the decision of the County Board of Appeals for Baltimore County ("the Board") to deny the Petitioner's request for five variances is hereby AFFIRMED.

I. FACTUAL BACKGROUND

Pullen Tour Service, Inc. (sometimes "Pullen" or "Petitioner") owns the property located at 3118 Hammonds Ferry Road in Baltimore County, Maryland. Petitioner's Memorandum of Law, p. 2. The property is approximately .65 acre and is essentially rectangular in nature with an L shape towards the rear. Transcript ("Tr.") pp. 21, 30. The Pullen property is zoned as Manufacturing-Light, with an Industrial-Major overlay. Tr. p. 20. It adjoins residential properties immediately to the north and west. Tr. pp. 24-35. Some of these residential properties are zoned Industrial while others are zoned Density Residential. *Id.* Across Hammonds Ferry Road and Virginia Avenue, respectively to the east and south, there are larger properties, which, like the Pullen property at issue, are used for trucking facilities. Tr. pp. 25-26. These properties, however, unlike that

belonging to Pullen, are not in close proximity to the surrounding residences. Tr. pp. 88-89.

Pullen is a tour bus service company that owns approximately four busses. Tr. p. 51.[1] Petitioner parks, repairs, and washes the busses on the subject premises.[2] Tr. p. 21. Tr. pp. 22-23. At this point, there are no restrictions on the hours of Petitioner's business. Tr. pp. 55, 117. Indeed, it is virtually a 24/7 operation. *Id.* Petitioner also has a permit for a waste dumping station on the property, where it empties waste from the busses. Tr. pp. 94, 97. Also on the property, Petitioner maintains a large storage facility trailer (in which it parks the busses), and a smaller trailer, which Petitioner uses as an office. Tr. pp. 24, 66, 103.

The instant issues arose when Petitioner proposed to construct a bus maintenance building on the L-shaped portion of the property, which is surrounded by residences on three sides. Memorandum of People's Counsel, p. 2. Due to the proposed location of the building and its close proximity to the surrounding residences, Pullen petitioned the Deputy Zoning Commissioner ("D.Z.C.") for five variances, four of which were granted. Specifically, the D.Z.C. granted the following variances to four setback requirements:

1. From §243.3, to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet;
2. From §243.2, to permit a side yard set back of 1.5 feet in lieu of the required 50 feet;

[1] The testimony presented at the hearing before the Board indicated, however, that there have been as many as six busses on the property. Tr. pp. 122, 158.

[2] It is now undisputed that the Pullen property qualifies as a transit storage and repair yard. Tr. 22-23. People's Counsel for Baltimore County originally contended that the Pullen property should be characterized as a service garage. That said, after the Board issued its opinion that the Pullen property qualified as a transit storage and repair yard, People's Counsel chose not to contest the issue. Memorandum of People's Counsel, p. 2. Therefore, the classification of the Pullen property as a transit storage and repair yard is not an issue on appeal.

3. From §243.4, to construct a building 1.5 feet from the nearest boundary line of a residential zone in lieu of the required 125 feet; and
4. From §243.1, to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

The D.Z.C, however, imposed special conditions on these variances.[3] The D.Z.C. denied the requested variance to the durable and dustless surface requirement and directed Pullen to resubmit its proposal to use gravel in lieu of the storm water management plan to the Department of Environmental Protection and Resource Management ("DEPRM") for re-evaluation. Tr. pp. 34-35. Pullen followed the recommendation of the D.Z.C. and resubmitted its proposal, which DEPRM approved on June 15, 2006. Tr. p. 35.

In response to the decision of the D.Z.C., People's Counsel for Baltimore County ("People's Counsel") and many of the residents in the vicinity of the Pullen property appealed to the Board. Following a full *de novo* hearing, on May 8, 2007, the Board denied all of the variances requested by Petitioner, including the four variances that were previously granted by the D.Z.C., as well as the variance to the durable and dustless surface requirement. Dissatisfied with the Board's decision, Petitioner filed the instant appeal.

II. DISCUSSION

A variance constitutes an authorization for that which is otherwise prohibited by an applicable zoning ordinance. *Cromwell v. Ward*, 102 Md. App. 691, 699, 651 A.2d

[3] The D.Z.C. directed Pullen to submit landscape and lighting plans to the Baltimore County Landscape Architect for approval in order to ensure that the new building would be properly screened from adjoining residential uses and to buffer those residential properties from the visual impact of the building. Additionally, the D.Z.C. instructed that lighting be directed onto the Pullen property only and not onto adjacent properties. Lastly, the D.Z.C instructed Pullen to perform the washing of busses, waste removal, and maintenance within the enclosed building.

424, 428 (1995). Variances are to be granted sparingly, only in rare instances and under peculiar and exceptional circumstances. *Trinity Assembly of God of Balt. City, Inc. v. People's Counsel for Balt. County, et al.*, 407 Md. 53, 79, 962 A. 2d 404, 419 (2008)(quoting *Cromwell*, 102 Md. App. at 703, 651 A.2d at 430). Indeed, "[t]o do otherwise would decimate zonal restrictions and eventually destroy all zoning regulations." *North v. St. Mary's County*, 99 Md. App. 502, 518, 638 A.2d 1175 (1994) (quoting *Marino v. Mayor and City Council*, 215 Md. 206, 216, 137 A.2d 198, 202 (1957)).

A. STANDARD OF REVIEW

"The scope of judicial review of administrative fact-finding is a narrow and highly deferential one." *Trinity*, 407 Md. at 78, 962 A. 2d at 418. The decision of an administrative agency will not be set aside unless it is arbitrary, illegal, or capricious. *Becker v. Anne Arundel County*, 174 Md. App. 114, 138, 920 A.2d 1118, 1132 (2007) (citing *Mortimer v. Howard Research & Dev. Corp.*, 83 Md. App. 432, 441, 575 A.2d 750, 754 (1990)). When faced with making that determination, it is the responsibility of the reviewing court to consider all of the evidence properly before the zoning authority and then "decide whether the question before the agency was fairly debatable. An issue is fairly debatable if reasonable minds could have reached a different conclusion on the evidence, and if the conclusion is supported by substantial evidence in the record." *Id.* Substantial evidence is "defined as 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" *Becker*, 174 Md. App. at 138, 920 A.2d at 1132 (2007) (quoting *Snowden v. City of Baltimore*, 224 Md. 443, 448, 168 A.2d 390,

392 (1961)). The fairly debatable test is analogous to the clearly erroneous standard. *Mortimer*, 83 Md. App. at 441, 575 A.2d at 755.

As pointed out by the Court of Special Appeals in *Enviro-Gro Technologies v. Bockelmann*, 88 Md. App. 323, 594 A.2d 1190 (1991), the underlying reason for the fairly debatable rule is that "zoning matters are, first of all, legislative functions and, absent arbitrary and capricious actions, are presumptively correct if based on substantial evidence; even if substantial evidence to the contrary exists." *Id.* at 335, 594 A.2d at 1196. Thus, if the decision rendered by the zoning authority is fairly debatable, the reviewing court must affirm it. *Red Roof Inns, Inc. v. People's Counsel for Baltimore County*, 96 Md. App. 219, 223, 624 A.2d 1281, 1283 (1993). Simply put, as long as the issue is fairly debatable, "the courts will not substitute their judgment for that of the administrative body." *Eger v. Stone*, 253 Md. 533, 542, 253 A.2d 372, 377 (1969). While the Court must correct decisions that are arbitrary and not based on substantial evidence, "...it will not substitute its own independent examination of or its own judgment on the facts for those of the agency to which the carrying out of state policy has been delegated." *Snowden*, 224 Md. at 445, 168 A.2d at 391.

B. THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD TO SUPPORT THE BOARD'S DECISION TO DENY PETITIONER'S REQUEST FOR VARIANCES.

Baltimore County Zoning Regulations ("BCZR") Section 307.1 governs the granting of variances. Section 307.1 makes clear that a variance may be granted only "where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship." The determination of whether the variances should be granted in this case is a

"two-step inquiry." *Umerley v. People's Counsel*, 108 Md. App. 497, 506, 672 A.2d 173, 177 (1996). The Court must determine (1) whether there is substantial evidence on the record to show that the Pullen property is "unique," thereby causing the zoning ordinance to have a disproportionate impact on the property and, only if the property is determined to be unique, (2) whether an unreasonable hardship results from the disproportionate impact of the ordinance. *Id.*

1. PETITIONER'S PROPERTY IS NOT UNIQUE.

In *Cromwell*, the Court of Special Appeals set forth the standard for determining whether a property is "unique."

> "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, *i.e.*, its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

Id. at 710, 651 A.2d at 434. Applying this standard to the case at bar, there is substantial evidence in the record to support the Board's finding that Petitioner's land is not unique.

Petitioner argued before the Board and maintains on appeal that the property is unique because of its L-shape and its location vis-à-vis various zoning classifications. While Mr. Richardson, who was called by Pullen and accepted as an expert, did not specifically indicate that the property is unique, he did testify that it is "kind of turned, it's irregular, kind of narrow with this little odd protrusion out the back...to the north side." Tr. p. 30. The Board found, however, when it reviewed the site plan submitted by Petitioner, that other properties in the area had similar configurations. *See* Board's Opinion, p. 10. Additionally, Mr. Dennis Wertz ("Mr. Wertz"), who was called by People's Counsel and, like Mr. Richardson, accepted as an expert, testified that the

"parcel itself isn't peculiar." Tr. p. 112. In fact, according to Mr. Wertz, the property "isn't really exceptional in any way.... It is L-shaped but it's basically rectangular. It has a width of about 110 feet and a depth of 190 to 200 feet." *Id.* Mr. Wertz opined that the Pullen property is neither an odd shaped lot, nor the type of lot that would necessarily require such extensive variances. Tr. p. 140.

In terms of the actual location of the Pullen property, an industrial property is not unique simply because it is surrounded by residential properties. As pointed out by People's Counsel, the primary purpose of zoning laws is to address the situation where an industrial business finds itself surrounded by residences and, therefore, must adjust its plan to the area standards. Memorandum of People's Counsel, pp. 21-22.

Mr. Wertz's testimony, at a minimum, rendered the uniqueness issue fairly debatable. There exists substantial evidence in the record to support the Board's conclusion that Pullen failed to establish that the subject property is unique, either by virtue of its configuration, location, or both.[4]

2. NO PRACTICAL DIFFICULTY EXISTS SO AS TO JUSTIFY THE REQUESTED VARIANCES.

A landowner must address three factors in order to establish the existence of "practical difficulty," including:

1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner

[4] Given this Court's determination that there is substantial evidence in the record to support the Board's decision with respect to the lack of uniqueness of the Pullen property, it is not necessary to consider the issue of whether there is sufficient evidence in the record to support the Board's finding that a practical difficulty did not exist. "Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship." *Trinity*, 407 Md. at 80, 962 A.2d at 420 (quoting *Cromwell*, 102 Md. App. at 703, 651 A.2d at 430). In light of the fact that the issue of practical difficulty was addressed by the Board, in the interest of completeness, and with the intent to provide a full record, the Court will go on to consider whether there is substantial evidence in the record to support the Board's finding as to this issue.

from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

McLean v. Soley, 270 Md. 208, 214-15, 310 A.2d 78, 7873 (1973). A review of the record makes clear that there is substantial evidence to support the Board's decision that Petitioner is not faced with a "practical difficulty" so as to justify the requested variances.

i. PETITIONER'S COMPLIANCE WITH ZONING RESTRICTIONS WILL NEITHER PREVENT IT FROM USING THE PROPERTY FOR A PERMITTED PURPOSE NOR WILL PETITIONER'S CONFORMITY BE UNECESSARILY BURDENSOME.

With regard to the first factor set forth in *McLean*, the Board found that Petitioner's compliance with the zoning restrictions will neither prevent it from using the property for a permitted purpose, nor be unnecessarily burdensome. *Id.* at 214-15, 310 A.3d at 787. Mr. Richardson suggested that Petitioner's use of the property as a transit storage and repair yard is the "highest and best use" of that property. Tr. p. 79. According to *McClean*, however, the "highest and best use" of land is not a factor to be considered in determining the existence of a "practical difficulty." *Id.* In fact, upon further questioning by People's Counsel, Mr. Richardson conceded that he was not aware of any zoning regulations that use a "highest and best use" of land as a standard for variances. Tr. p. 79.

Additionally, there was ample testimony from both experts that there are many other uses for the Pullen property. Specifically, Mr. Wertz stated that the zone allows "...a wide range of uses. It allows a variety of light manufacturing uses. It allows office uses. It allows a rental operation, it allows warehousing." Tr. pp. 112-13. Even Mr. Richardson admitted that there are various uses allowed in this type of zone, including office and warehouse uses. Tr. p. 78.

There is substantial evidence in the record to support the Board's conclusion that Petitioner's compliance with the zoning restrictions is not "unnecessarily burdensome," and conformity with said restrictions does not prevent Petitioner from using its property for a permitted purpose. Simply put, notwithstanding the zoning limitations in place, many uses can be made of the property.

ii. THE REQUESTED VARIANCES WOULD NOT DO SUBSTANTIAL JUSTICE TO OTHER PROPERTY OWNERS IN THE SURROUNDING AREA AND LESSER VARIANCES WOULD BE MORE APPROPRIATE. PUBLIC SAFETY AND WELFARE WILL NOT BE SECURED IF THESE VARIANCES ARE GRANTED.

The second factor in determining whether a "practical difficulty" exists as delineated in *McLean* is whether the variances requested by Petitioner would do substantial justice to Petitioner as well as other property owners in the surrounding area, or whether lesser variances would be more appropriate. *McLean,* 270 Md. at 214-15, 310 A.3d at 787. The final consideration is whether relief can be granted in such a fashion that the public safety and welfare will be secured. *Id.* Even if Petitioner had been able to muster sufficient evidence as to the first factor, it did not and could not overcome the substantial justice, public safety and welfare burden.

At the very outset, Petitioner conceded that its requested variances are extreme. Specifically, the first two variances requested by Pullen sought a setback of 1.5 feet in lieu of the required 50 feet, a difference of 48.5 feet. The third variance requested by Petitioner sought a setback of 1.5 feet in lieu of the required 125 feet, a difference of over 120 feet. Petitioner also asked the Board to permit a front yard setback of 1.5 feet in lieu of the required 75 feet. Again, this request calls for a very substantial variance.

Mr. Wertz testified that, if Petitioner constructed the building at a location other than on the L-shaped portion of the property, which, as already mentioned, is surrounded by residences on three sides, Petitioner would require lesser variances. Tr. p. 120. Mr. Wertz specifically stated, "[w]ell, the setback variances are extreme.... And I don't see any reason given the size and shape of the property that the proposed building has to be where the plan shows it." Tr. p. 114.

Again, there is substantial evidence in the record to support the Board's decision that the variances requested by Petitioner were extreme, and that lesser variances would be needed if the Petitioner placed the building on another part of its property. Accordingly, the decision of the Board in this regard must be affirmed.

In addition, at the hearing before the Board, there was significant testimony from the experts and the residents surrounding the subject property regarding the noise, fumes, dust, and water run-off caused by the current operations on the Pullen property. Petitioner argued that the granting of the requested variances and resulting construction of the building would alleviate these concerns. The Board, however, reasonably found that the requested variances would not do justice to the other property owners and would not result in securing public safety and welfare.

First, the proposed building clearly presents an issue in terms of its close proximity to surrounding residences. Mr. Wertz stated that Petitioner is "...tucking it into that L part of the property, but [Petitioner is] putting it at a location that is closest to the adjacent residences and closest to the residential boundary line." Tr. p. 114. In fact, Mr. Wertz testified that the proposed building site is extremely problematic because "[t]he closer you get to the residences, the [worse] it becomes." Tr. p. 125. Additionally, Ms. Lorraine Young ("Ms. Young"), a resident owning land adjacent to the Pullen property, indicated that the proposed building would be only one and a half [feet] from her fence. Tr. p. 144.

The Pullen operation is a 24/7 business. Both Mr. Richardson and Mr. Wertz indicated that there are currently no restrictions in place limiting the hours of operation. Tr. pp. 55, 117. As a result, according to the residents, they are forced to deal with noise at all hours of the day and night. Ms. Young, in particular, said that she often is awakened between 2:00 a.m. and 4:00 a.m. when Petitioner's employees are performing maintenance on the busses. Tr. p. 143. She testified that "...the noise from that building and from them working is ridiculous. I can hear them – they might as well be in my house. And I'm talking all hours of the night. It's not just during the day, which wouldn't be a problem. But it's when I'm trying to get some sleep. They are very loud." Tr. p. 146. Heather Hall, another resident owning land in close proximity to Petitioner's property, expressed a similar concern with the noise not only from the engines, but also from the workers themselves. Tr. p. 180.

In addition, numerous neighbors testified that the fumes from the Pullen property are so intense that they cannot open the windows to their homes or enjoy their yards.

According to Ms. Young, "...when they turn the busses on, you can smell the fumes," and "we cannot use the patio portion of our yard when the busses are running." Tr. p. 149. Furthermore, the neighbors are adversely impacted by water runoff. Ms. Young testified that, when there is severe rain, there is substantial runoff. Tr. p. 154. Mr. Nelson Seiler, another neighbor, echoed Ms. Young's testimony in this regard, stating that, every time a heavy rain occurs, there are six to eight inches of water runoff that ends up in his driveway. Tr. pp. 173-74.

As already mentioned, it is Petitioner's position that the proposed building will, in fact, alleviate many of the concerns about which the surrounding residents now complain. Indeed, the testimony presented to the Board shows that Petitioner intended to work with the neighbors to mitigate the effects of Pullen's operations. Mr. Arnett Pullen ("Mr. Pullen") testified that he was aware of his neighbors' concerns and attempted, in every way, to address the issues. Tr. p. 97. In fact, Mr. Pullen testified regarding the specific steps he took to address the complaints raised by residents, including continually renewing his permit for the waste dumping station and ensuring that the lights were pointed directly onto his property.[5] Tr. pp. 97-100.

The evidence before the Board demonstrated that Petitioner's effort to address the neighbors' concerns is negated by the fact that there remain many uncertainties regarding the proposed plan for the building. For example, Mr. Richardson admitted that, in his plan, there is no limit on the height of the building:

Q: So at this point there's no limit on the height of the building?

[5]The transcript from the May 8, 2007 hearing before the Board is incomplete as it does not contain the entire testimony of Mr. Pullen. According to the transcript of the proceedings, "TAPE 2 IS BLANK ON BOTH SIDES TESTIMONY APPEARS TO BE OMITTED." Tr. p. 100, ll. 5-6. It appears, however, based on the testimony that was recorded, that Mr. Pullen was willing to work with residents in the surrounding community in order to alleviate their concerns regarding the proposed building.

A: I don't believe I put one on the plan other than labeling it as a one story structure.

Tr. p. 53. Similarly, Mr. Richardson conceded that he failed to give much consideration to the size and shape of the building:

Q: You actually haven't given any detailed thought to the size and shape [sic] of the building.

A: [Mr. Pullen] hasn't hired an architect to do a design of the building itself. Not that I'm aware of.

Tr. p. 54. Further, Mr. Richardson candidly admitted that he was not certain about the specifics of the Pullen operation. Tr. p. 58. He stated, "I really don't know the operation that [Mr. Pullen's] doing at this point in time, all of the specifics of it." Tr. p. 58. In fact, Mr. Richardson was not able to state with any degree of certainty exactly how Petitioner would use the property after the proposed building was constructed:

Q: [L]et's assume for the sake of argument that all of the neighbor's objections were overcome and the Board were to grant this. Is it part of the proposal that we're dealing with a maximum of four busses on this site at any one time?

A: That's what our plan shows. I can't get into the operation that Mr. Pullen would want to propose on the site. But the plan shows basically that there's room to park four busses on here adequately.

Tr. p. 51.

Mr. Wertz indicated that the plan does not reflect any details with respect to the design of the building. His testimony was as follows:

Well, the other thing, it's not clear how that building is going to be designed. There's going to be a lot of noise happening inside that building. It's not clear

> whether there are going to be openings in those walls that adjoin the residences. So the rear of that building, for example, are there going to be windows? Is there going to be a doorway? If you have a window, first of all, noise is going to -- you are going to hear noise greater than without the window. If you have a window and the window is open, whatever noise is generated is more easily going to be heard outside that building.

Tr. pp. 125-26. Importantly, Mr. Wertz also pointed out that "...there weren't any restrictions put on any openings on the exterior of the building that would help mitigate the noise.....none of that was –it looked like no thought was given to it at all." Tr. p. 126. Mr. Wertz concluded that, if the various requested variances were granted, "there [would] be a severe impact on the neighboring residential uses." Tr. p. 133. He made clear that, in his expert opinion, the "setback and paving variances [would] result in adverse impacts on the adjacent residential uses, for example, noise, fumes and dust. Tr. p. 133. He went on to say "that the variances that are requested...aren't the minimum that would afford relief." Tr. p. 133. He suggested "that somebody needs to take another look at the site and see how things can be relocated on the site so they would be less objectionable, no serious impact on the adjoining residential uses." Tr. p. 133.

According to the residents, the noise, fumes, and water runoff currently prevent them from adequately using and enjoying their properties. Additionally, based on the testimony before the Board, significant details regarding the proposed building were simply not considered by Petitioner's engineer. Thus, there is no way of knowing with any degree of certainty whether the proposed building will alleviate or, for that matter, exacerbate the concerns of the surrounding residents.

Petitioner also desires to have a paving surface comprised of compacted stone instead of the required durable and dustless surface. Tr. p. 34. The Board found that the crushed stone would not be a proper surface for the operations carried out by Petitioner

since it would tend to generate dust and also would be inadequate for handling water runoff.

Specifically, Mr. Wertz explained the difficulty with allowing a stone surface, testifying that "...any time you have stone or gravel, there's the problem with dust. Driving on a stone surface can be noisy in and of itself. So you know, there are problems with dust and noise can also be a problem." Tr. pp. 113-14. Furthermore, Ms. Hall stated, "I have a real problem with the dust that's kicked up any time any of the busses move on that property. There's a cloud of dust that rolls over my house." Tr. p. 180.[6]

Therefore, there is substantial evidence in the record to support the Board's finding that granting any of the variances requested by Petitioner would neither do substantial justice to the other property owners nor promote the public welfare.

In sum, even if Petitioner was able to sustain its burden with respect to the "uniqueness" of the property, there is substantial evidence in the record to support the Board's finding that Pullen failed to meet the *McClean* standard.

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[6] Incidentally, Petitioner maintains that the Board erred in denying its request to use compacted stone as a paving surface because Pullen submitted its original storm water plans to DEPRM pursuant to the D.Z.C.'s order, and DEPRM approved the stone surface. According to Petitioner, the Board substituted its own opinion on this issue for that of DEPRM, instead of deferring to DEPRM. Petitioner's Memorandum of Law, pp. 18-19. The Board's review of the D.Z.C.'s decision, however, was *de novo*. Thus, the Board was in no way constrained by the rulings of the D.Z.C. *Boehm v. Anne Arundel* County, 54 Md. App. 497, 506, 459 A.2d 590, 596 (1983).

C. THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD TO SUPPORT THE BOARD'S FINDING THAT PETITIONER'S OPERATIONS CONFLICT WITH THE M.L. ZONE LAND USE CONTROLS WITHIN 100 FEET OF A RESIDENTIAL ZONE.

Half of the Pullen property is located within 100 feet of the surrounding residential properties. Tr. p. 61. Therefore, Petitioner's operations must abide by BCZR Section 253.4, which states:

> Within 100 feet of any residential zone, boundary, or the right of way of any street abutting such a boundary, only passenger automobile accessory parking and those uses permitted in M.R. zones, as limited by the use regulations in section 241, are permitted.

Additionally, BCZR Section 241.1 provides:

> The following uses are permitted, provided that their operations are entirely within enclosed buildings, except where approval of the development plan indicates otherwise.

Thus, based on BCZR Sections 253.4 and 241.1, the only permitted uses within 100 feet of the surrounding residential properties, apart from passenger automobile parking, must be within enclosed buildings.

Mr. Richardson agreed with this recitation of the zoning regulations, adding that the proposed building is permitted "as a right in the zone provided that no building or commercial vehicle storage parking is located [within] 100 feet of any residential zone boundary or within 100 feet of the right of way of an existing interstate highway." Tr. p. 23. Mr. Richardson further testified, however, that the only access onto the Pullen property is within that 100-foot boundary. Tr. p. 61. He explained that "...any movement of the busses in and out of [the Pullen Property] is going to require them to cross into that 100 foot section." Tr. pp. 62-63. According to Mr. Richardson, "maneuvering busses around on the site is absolutely required...as part of the operation."

Tr. p. 64. Stating the obvious, Mr. Richardson opined "[y]ou can't store [the busses] there if you can't drive them there." Tr. p. 64. Therefore, the information before the Board, from Petitioner's own expert, is that there is no way for Pullen to run its operation without cutting into the 100-foot buffer zone.

Petitioner attempts to make a definitional distinction between the terms "operations" and "uses" as set forth in Sections 253.4 and 241.1. Specifically, Petitioner asserts that it is not the "use" that must be contained within an enclosed building, but the use's "operations." Petitioner's Memorandum of Law, p. 20. Based on this argument, Petitioner concedes that activities such as maintenance, mechanical repairs, and the cleaning and the emptying of waste must be performed within enclosed buildings. Petitioner's Memorandum of Law, p. 21. Petitioner argues, however, that the parking and maneuvering of busses do not have to be within enclosed buildings because "neither is inclusive within the term 'operations.'" *Id.*

First, even when using the definition of "operations" as provided in the Webster's Dictionary, it is clear that "operations" is a broad term, including the "doing or performing esp. of action: work, deed." Clearly, the parking and maneuvering of busses qualifies as an "action" or "deed." More importantly, however, the expert for Petitioner admitted that "moving busses around on the site is absolutely required ...as part of the *operation.*" Tr. p. 64 (emphasis added).

Therefore, there is substantial evidence in the record to support the Board's finding that the dumping station, the cleaning of the busses, the maneuvering of the busses, the parking of the flatbed trailer, and the use of a dump truck within that 100-foot area are all prohibited.

III. CONCLUSION

Upon consideration of all the evidence before the Court, it is this 30th day of June, 2009 by the Circuit Court for Baltimore County, ORDERED that the decision of the County Board of Appeals for Baltimore County, denying the five variances requested by Petitioner, is hereby AFFIRMED.

JUDITH C. ENSOR
JUDGE

11/5/07

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF:
PULLEN TOUR SERVICE, INC. *
5608 KALEN COURT
BALTIMORE, MD 21227 *

FOR JUDICIAL REVIEW OF THE OPINION * CIVIL ACTION
OF THE COUNTY BOARD OF APPEALS No. **3-C-07-10143**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204
*
IN THE CASE OF:
PULLEN TOUR SERVICE, INC. *
*
13TH ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT *

CASE NO.: 06-389-A *

RECEIVED AND FILED
2007 NOV -5 AM 9:52
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

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

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

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

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

06-389-A

April 25, 2002 Petition for Variance filed by Pullen Tour Service, Inc. for the following reasons:

1. Variance of §§409.8.A.2.6. Baltimore County Zoning Regulation (BCZR), to permit a paving surface of compacted stone without paint striping in lieu of the required durable and dustless paving surface.

2. Variance of §243.3 (BCZR), to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet.

3. Variance of §243.2. (BCZR), to permit a side yard setback of 1.5 feet in lieu of the required 50 feet.

4. Variance of §243.4 (BCZR), to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone.

5. Variance of §243.1 (BCZR), to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

Mar. 2, 2006 Entry of Appearance by People's Counsel.

Mar. 22, 2006 E-mail from Brenda Harney to Pat Keller, which includes hand written notes.

Mar. 27, 2006 New Notice of Zoning Hearing.

Apr. 12, 2006 Certificate of Posting.

Apr. 13, 2006 Certificate of Publication

Apr. 20, 2006 Zoning Advisory Committee comments.

Apr. 26, 2006 Hearing held by Deputy Zoning Commissioner – Sign In Sheets.

May 17, 2006 Deputy Zoning Commissioner's decision.

ORDERED that the variances requested from the Baltimore County Zoning Regulations (BCZR) as follows:

1. Variance of §§409.8.A.2.6. Baltimore County Zoning Regulation (BCZR), to permit a paving surface of

compacted stone without paint striping in lieu of the required durable and dustless paving surface.

3. Variance of §243.2. (BCZR), to permit a side yard setback of 1.5 feet in lieu of the required 50 feet.

4. Variance of §243.4 (BCZR), to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone.

5. Variance of §243.1 (BCZR), to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

be GRANTED subject to the following conditions:

1. The Petitioner shall submit landscape and lighting plans to the Baltimore County Landscape Architect for review and approval to insure that the new building is properly screened from the adjoining residential uses including those in the ML zone and to buffer adjacent properties from the visual impact of the new building.

2. Lighting will be directed on the subject and not on adjacent properties.

3. All washing of buses, waste removal and maintenance will be performed within the enclosed building.

IT WAS FURTHER ORDERED that the variance from Sections 409.8.A.2 and 409.8.A.2.6, to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface is hereby DENIED and that the Petitioner is directed to resubmit its storm water plans to DEPRM for reevaluation and approval.

May 31, 2006 Letter of Appeal filed by People's Counsel.

June 9, 2006 Letter of appeal filed by the Maryland Citizens for the Environment and the residents in the area.

June 28, 2006	Letter from the Director of Permits and Dev. Mgmt. To Timothy Fitts, Esq. notifying him that two appeals have been taken in the case.
June 29, 2006	File received in the Board of Appeals.
Aug. 23, 2006	Certificate of Appeal Sign Posting.
Apr. 9, 2007	Notice of Assignment sent from the Board to pertinent parties.
May 9, 2007	Hearing before the Board.

Petitioner's Exhibits

1. Letter to Mr. Vidmar – 6/14/2006
2. Plat to accompany Petition for Zoning Variance
3. Landscape Plat
4. Wastewater Discharge Permit
5. Wastewater Discharge Permit

People's Counsel Exhibits

1. Sign-In Sheet.
2. Pictures of subject property A – M.
3. Arial Photos – A- C
4. Letter from Arnold F. "Pat" Keller, III, Dir. of Planning
5. Photos taken by Mrs. Young – A – E
6. Photos from Mr. Nelson Seiler – A – D
7. Photos from Mrs. Hall – A – H
8. Photos from Mr. Bowers – A – O

May 16, 2007	Letter, with attachments, from People's Counsel outlining the legislative sources they intend to discuss in their memorandum.
May 16, 2007	Notice of Deliberation.
June 4, 2007	Board Fax Cover Sheet to Timothy L. Fitts, Esq.
June 12, 2007	Memorandums from Timothy Fitts, Esq. and People's Counsel.
	In House Notes from Apr. 9, 2007 thru June 12, 2007.

June 26, 2007 — Board held a public deliberation.

July 9, 2007 — Board issued its Opinion and Order.

ORDERED that the variance requested from the Baltimore County Zoning Regulations as follows:

1. Variance of §§409.8.A.2.6. Baltimore County Zoning Regulation (BCZR), to permit a paving surface of compacted stone without paint striping in lieu of the required durable and dustless paving surface;

2. Variance of §243.3 (BCZR), to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet;

3. Variance of §243.2. (BCZR), to permit a side yard setback of 1.5 feet in lieu of the required 50 feet;

4. Variance of §243.4 (BCZR), to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone; and

5. Variance of §243.1 (BCZR), to permit a front yard setback of 1.5 feet in lieu of the required 75 feet be and are hereby DENIED.

Sept. 12, 2007 — Board received a copy of the Petition for Judicial Review, which as dated stamped Sept. 6, 2007, from the Clerk of the Circuit Court.

Sept. 18, 2007 — Certificate of Notice filed with the Circuit Court and copies mailed to pertinent parties.

Sept. 25, 2007 — Received payment for tape of hearing for transcription by a court reporter.

Nov. 5, 2007 — Transcript received.

Nov. 5, 2007 — Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered

and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Rm 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

c: People's Counsel for
Baltimore County, Maryland
Jennifer R. Busse, Esquire

9/18/07

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY

*

PETITION OF:
PULLEN TOUR SERVICE, INC. *
5608 KALEN COURT
BALTIMORE, MD 21227 *

FOR JUDICIAL REVIEW OF THE OPINION * CIVIL ACTION
OF THE COUNTY BOARD OF APPEALS No. **3-C-07-10143**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204

*

IN THE CASE OF:
PULLEN TOUR SERVICE, INC. *

*

13TH ELECTION DISTRICT
1st COUNCILMANIC DISTRICT *

CASE NO.: 06-389-A *

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

CERTIFICATE OF NOTICE

Madam Clerk:

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

Jennifer R. Busse, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 West Pennsylvania Avenue
Towson, MD 21204-4515

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

RECEIVED AND FILED
2007 SEP 18 AM 11:31
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

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

Linda B. Fliegel

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

I HEREBY CERTIFY that on this 18th day of September, 2007, a copy of the foregoing Certificate of Notice has been mailed to: Jennifer R. Busse, Esquire, Whiteford, Taylor & Preston, L.L.P., 210 West Pennsylvania Avenue, Towson, MD 21204-4515 and to Peter M. Zimmerman, People's Counsel for Baltimore County, Room 47, Old Courthouse, 400 Washington Avenue, Towson, MD 21204.

Linda B. Fliegel

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

County Board of Appeals of Baltimore County

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

September 18, 2007

Jennifer R. Busse, Esquire
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: Circuit Court Civil Action No. 03-C-07-10143
Petition for Judicial Review
Pullen Tour Service, Inc.
Case No.: 06-389-A

Dear Ms. Busse

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

The hearing in this case, which was held on May 9, 2007, was recorded on tape. In order to obtain a copy of this tape for transcribing, by a court reporter of your choice and at your expense, please remit a check in the amount of $25.00, ***payable to Baltimore County, Maryland***, at the address shown above.

Once the transcription of this tape has been completed, *the court reporter must then forward the original transcript to the Board of Appeals*, no later than October 29, 2007, so an extract of this case can be timely filed with the Circuit Court for Baltimore County.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel
Legal Secretary

/lbf
Enc.
c: Peter M. Zimmerman/
People's Counsel for Baltimore County

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County Board of Appeals of Baltimore County

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

September 18, 2007

Peter M. Zimmerman
People's Counsel for Baltimore County
Courthouse – Room 47
400 Washington Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-07-10143
Petition for Judicial Review
Pullen Tour Service, Inc.
Board of Appeals Case No.: 06-389-A

Dear Mr. Zimmerman:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed September 6, 2007 in the Circuit Court for Baltimore County, from the decision of the County Board of Appeals rendered in the above matter. The Board received a copy of the Petition for Judicial Review from the Circuit Court on September 12, 2007. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No. 3-C-07-10143.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure
c: Hornett Pullen/Pullen Tour Service, Inc.
Jennifer R. Busse, Esq.
Brenda Harney
Shirley Arrington
Heather Hall
Dawn & Derrick Horsey
Susan & Patrick Gilbride
Erik Bowers
Lynn & Jim Good
Nelson Seiler
Lorraine Young
Rick Richardson
William J. Wiseman, III, Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director/PDM

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9/6/07

IN THE CIRCUIT COURT FOR *
BALTIMORE COUNTY
PETITION OF PULLEN TOUR SERVICE, *
INC.
5608 KALEN COURT *
BALTIMORE, MARYLAND 21227
*
FOR JUDICIAL REVIEW OF THE
DECISION OF THE *
COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49 *
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204 *
Case No.: C-07-10143
IN THE CASE OF: *
PULLEN TOUR SERVICE, INC. *
FOR A VARIANCE ON PROPERTY
LOCATED ON THE W/S OF *
HAMMONDS FERRY ROAD, 175' S OF
RESEARCH AVE (3118 HAMMONDS *
FERRY RD)
13th ELECTION DISTRICT *
1st COUNCILMANIC DISTRICT
*
BOA CASE NO. CBA 06-389-A
*

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2007 SEP -6 PM 3:43
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

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SEP 12 2007
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

Petitioner, Pullen Tour Service, Inc., by and through its attorneys, Jennifer R. Busse and Whiteford, Taylor & Preston, L.L.P, pursuant to Maryland Rule 7-202 *et seq.*, file this petition for judicial review of the decision of the County Board of Appeals for Baltimore County dated August 9, 2007, attached hereto. Petitioner was a party to the proceedings below, participated in those proceedings, and is aggrieved by the Board's decision.

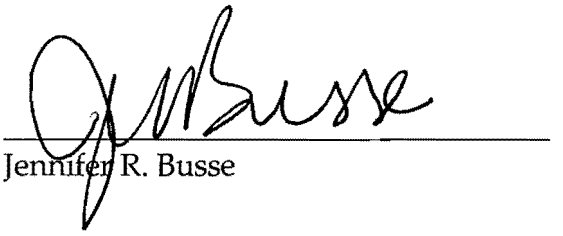
Jennifer R. Busse
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2000
Attorneys for Pullen Tour Service, Inc.

Dated: September 6, 2007

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of September, 2007, a copy of the foregoing petition for judicial review was sent by first class mail, postage prepaid, to:

Peter M. Zimmerman, Esquire
People's Counsel
400 Washington Avenue, Room 47
Towson, Maryland 21204



Jennifer R. Busse

389316

9/6/07

WHITEFORD, TAYLOR & PRESTON
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1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

9-10-07

September 6, 2007

VIA HAND DELIVERY

Clerk of the Circuit Court of
Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition for Judicial Review of Decision of the County Board of Appeals for Baltimore County, In the Matter of: Pullen Tour Service, Inc., BOA Case No. CBA 06-389-A

Dear Madam/Sir:

Enclosed please find a copy of Petitioner, Pullen Tour Service, Inc.'s Petition for Judicial Review to be filed in the above-referenced case. I have also enclosed an extra copy to be sent to the Board of Appeals for Baltimore County.

If you have any questions or need further assistance, please do not hesitate to contact me.

Sincerely,

Jennifer R. Busse

Enclosures
cc: Peter M. Zimmerman, Esquire
Kathleen C. Bianco
Mr. Hornett Pullen

RECEIVED
SEP 07 2007
BALTIMORE COUNTY
BOARD OF APPEALS

389386

8/9/07

IN THE MATTER OF THE APPLICATION OF PULLEN TOUR SERVICE, INC. FOR A VARIANCE ON PROPERTY LOCATED ON THE W/S HAMMONDS FERRY ROAD, 175' S OF RESEARCH AVE (3118 HAMMONDS FERRY RD)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
13TH ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	*	CASE NO. 06-389-A

* * * * * * * * *

OPINION

This matter comes before the Board on an appeal by People's Counsel for Baltimore County, and Maryland Citizens for the Environment and citizens and residents in the surrounding area of the property in question, including Shirley Arrington, Heather Hall, Dawn and Darrick Horsey, Danielle and Erik Bowers, Susan and Patrick Gilbride, and Lynn and Jim Good. The appeal is from a decision of the Deputy Zoning Commissioner (D.Z.C.) granting the variances in question subject to certain conditions. A hearing was held before the Board on May 9, 2007. Petitioner, Pullen Tour Service, Inc., was represented by Timothy L. Fitts, Esquire. People's Counsel, Peter M. Zimmerman, and various members of the Maryland Citizens for the Environment were present and participated. Briefs were submitted on June 5, 2007, and public deliberation was held on June 26, 2007.

Facts

Pullen Tour Service, Inc., (Petitioner) owns the property located at 3118 Hammonds Ferry Road in the western area of Baltimore County. The property is approximately .65 gross acre in size and is essentially rectangular with an L shape towards the rear.

The neighborhood is a mix of industrial and residential uses. The Pullen property is zoned Industrial (M.L.-I.M.); however, it adjoins residential properties immediately to the north and west.

Some of these properties are zoned Industrial and others are zoned D.R. 5.5. Across Hammonds Ferry Road and Virginia Avenue, respectively to the east and south, there are larger properties used for trucking facilities.

Petitioner seeks the following variances:

1. From § 409.A2 and 409.A2.6 to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface;
2. From § 243.3 to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet;
3. From § 243.2 to permit a side yard setback of 1.5 feet in lieu of the required 50 feet;
4. From § 243.4 to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone; and
5. From § 243.1 to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

The Deputy Zoning Commissioner granted variances as follows:

1. From § 243.3 to permit a rear yard setback of 10 feet in lieu of the required 50 feet;
2. From § 243.2 to permit a side yard setback of 5 feet in lieu of the required 50 feet;
3. From § 243.4 to construct a building 5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone; and
4. From § 243.1 to permit a front yard setback of 5 feet in lieu of the required 75 feet.

He also set the following conditions:

1. That the Petitioner shall submit landscape and lighting plans to the Baltimore County Landscape Architect for review and approval to insure that the new building is properly screened from the adjoining residential uses, including those in the M.L. zone and to buffer adjacent properties from the visual impact of the building.
2. Lighting will be directed on the subject property and not on adjacent properties.
3. All washing of buses, waste removal and maintenance will be perform within the enclosed building.

The D.Z.C. further ordered that the variance from § 409.8A.2 and 409.8A.2.6 to permit a

paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless surface be denied and that the Petitioner be directed to resubmit its stormwater plans to the County's Department of Environmental Protection and Resource Management (DEPRM)for re-evaluation and approval.

Before the Board, the Petitioner had accepted the D.Z.C.'s variances, and had submitted a letter to DEPRM dated June 14, 2006 citing the D.Z.C.'s Order and requesting that DEPRM grant relief for the durable and dustless area to allow the Petitioner to grade the lot and use gravel on the lot in lieu of the stormwater management plan. This was approved by the Deputy Director of DEPRM on June 15, 2006 with a signature on the letter submitted to them by Patrick C. Richardson, engineer for the Petitioner.

It appears that, upon purchasing the property in question, the Petitioner sought an opinion letter from the Baltimore County zoning office as to the classification of Petitioner's business. By letter dated November 15, 2001, Donna Thompson, a Planner II in the Zoning Review Office with the Department of Permits and Development Management (PDM), stated:

> The property shown on the zoning map is designated M.L.-I.M. (Manufacturing, Light –Industrial, Major). The use as described in your letter being a small charter bus business would fall under the definition of a transit storage and repair yard. Enclosed please find a copy of this definition found in the Baltimore County Zoning Regulations. Per Section 253.1.B.19 (BCZR), this use is permitted as a right in the zone provided that no building or commercial vehicle, storage /parking is located within 100 feet of any residential zone, boundary, or within 100 feet of the right-of-way of an existing or proposed interstate highway....

The Petitioner relied on the zoning opinion letter and obtained permits for fencing and sewer and placed a trailer on the property and began operating the business in December 2004. On October 21, 2005, the Baltimore County Code Enforcement Office issued Petitioner a citation # 05-5498 for the operation of a "transit storage and repair yard" without benefit of a use permit and

illegal use of trailers. The case was still active pending the outcome of the Board of Appeals decision.

Petitioner is aware of the 100-foot requirement which does not allow him to park buses within 100 feet of the residential zone to the north of his property. He parks the buses on the southeast corner of the property and is proposing to build a large building which extends into the L portion of his property to use for repairs of the buses, cleaning, and waste disposal. At the present time, the waste-dumping station for which Petitioner has a permit is within the 100-foot area from the D.R. 5.5 zone. In addition, Petitioner has a trailer parked within that 100-foot zone, and at the southernmost end of the property, he has a house trailer which is being used as an office. Petitioner proposes to put a foundation under the house trailer to make it more of a permanent type of modular building.

The Petitioner presented Patrick C. Richardson, Jr., its engineer, as its first witness. Mr. Richardson outlined the proposed use of the property and stated that the location for the proposed one-story building to house the office and repair functions of the business could only be placed in the L section of the property. Mr. Richardson contended that, because of the shape of the property, with the L section at the end, it was a unique piece of property. He stated that it was necessary for the buses to turn around and maneuver within the 100-foot area from the D.R. 5.5 property and stated that it was his opinion that this would be allowed within the 100-foot area. He stated that they had received a letter from the zoning office indicating that the business was considered a transit storage and repair facility, and was allowed by right within the M.L.-I.M. zone, although no washing of buses or repairs would be allowed within the 100-foot area from the D.R. 5.5 zone north of the property.

It was Mr. Richardson's contention that the variances requested were necessary in order for the Petitioner to utilize the property and that he did not feel that the proposed building could be put on the property in any other place. He stated that landscaping would be placed within the 10-foot strips on the north side of the property to shield the property from the residential areas and that the runoff from the property would be channeled into Virginia Avenue after grading and using the crushed stone on the parking lot in lieu of the non-dust related surface.

The second witness presented by Petitioner was Mr. Hornett Pullen, owner of the Petitioner's business. He stated that he was aware of complaints that had been filed against the property and allegations of spilling effluent from the buses and wastewater discharge. He stated that he has to reapply for a permit for wastewater discharge every 6 months and that he currently has a permit. He also felt that there was no other way for him to operate his business other than to park the four buses on the southeast side of the property and to construct a building in order to repair and clean the buses. He stated that it was a 24-hour a day, seven-day a week operation and that buses would be coming in at various times during the night or leaving early in the morning. He stated that he has eight bus drivers and that the drivers come to the property and park their cars and pick up the bus. He has two people cleaning buses and two part-time employees working at the site 5 hours a day in the morning and 5 hours in the evening. He has a 42-foot trailer on the property used for storage, which is located 4 to 5 feet from the property of Heather Hall, resident just north of the property. Ms. Hall's property is zoned M.L.-I.M. The property north of her is zoned D.R. 5.5.

People's Counsel presented Dennis Wertz, Senior Planner with the Office of Planning. Mr. Wertz stated that he has visited the property, which is located in the 1st Councilmanic District.

Mr. Wertz stated that the office trailer on the property would not be allowed, even if a foundation was placed underneath the trailer to make it more permanent. Section 415 of the Baltimore County Zoning Regulations does not allow for trailers to be parked on this particular type of property. In his opinion, the Petitioner would need variances no matter where the building was placed on the property. Mr. Wertz felt that the property was not unique and his office recommended against the granting of the variances. Various photographs were shown with respect to the placement of trailers and the dumping station within the 100-foot reserve area, and pictures of the various homes surrounding the property were also admitted into evidence. People's Counsel also submitted a memorandum from Arnold F. "Pat" Keller III, Director of the Office of Planning to Timothy M. Kotroco, Director of PDM, dated March 3, 2006 in which the Office of Planning recommended that the requested variances be denied since they were inadequate and would adversely impact the residential properties. The letter went on to state, "Furthermore, the Petitioner has not demonstrated, nor can the Office of Planning determine, any practical difficulty or non-self-imposed hardship wherein compliance with the Baltimore County Zoning Regulations cannot be met."

Protestants presented Lorraine Young, daughter of Nelson and Vivian Seiler, who live to the west of the property. The Seiler property is zoned M.L.-I.M., but the Seilers live on the property and it is used as a residence. Ms. Young testified that buses parked close to the Seiler property emit diesel fumes and noise at all times of the day and night. She stated that they could not open the windows because of the dust and the smell of the fumes. She also stated that lights were so bright at night that they did not need to put lights on in the home, and for the past 2 years they have suffered from light and noise. In addition, when it rains, water flows off the Petitioner's

property onto the Seiler property and causes flooding of the property.

Ms. Young also stated that she has seen dumping of wastewater at the waste station spill on the ground and the smell is offensive to her. Her mother, Mrs. Seiler, also testified and affirmed her daughter's statements.

Heather Hall testified. She lives at 3114 Hammonds Ferry Road, just north of the Pullen property, and her property is zoned M.L.-I.M. She also complained of engine noises and noise from the workers cleaning and servicing the buses at all times of the day and night. She complained of the odor from the dump tank and did not feel that any of the recommended conditions would shield her property.

Eric Bowers of 2363 Research Avenue testified on behalf of the Protestants and stated that his property is directly north of the proposed office building. He stated that he is concerned about the noise and the large building being proposed to be constructed right next to his property. He feels that it will lower the value of the property, and that the planting of trees would not alleviate his concerns. The noise and fumes were also offensive to him.

Brenda Harney, a community leader in the area, felt that allowing the Petitioner to utilize the property as proposed would be detrimental to the residents of the area, confirming the testimony of the other residents who testified.

Issues

The issues involved herein were as follows:

1. Is the Pullen operation considered to be a transit storage and repair yard?

2. Pursuant to § 253.4, what is the scope of permitted uses in an M.L. zone within 100 feet of the residential zone? Specifically, is it permissible for Pullen to use this area for access,

maneuvering and cleaning of buses and for a dump station?

3. Pursuant to § BCZR 101 and 415.2, is Pullen's existing and proposed trailer use near Virginia Avenue permissible?

4. Pursuant to BCZR § 307.1, does the property meet the standard of "uniqueness" which results in "practical difficulty" so as to justify the requested variances? Moreover, are the proposed variances consistent with the intent of the relevant zoning regulations and the public safety, health and welfare?

Decision

The Board has reviewed the testimony, evidence, briefs, and the law in this matter and has determined that the requested variances should be denied.

Issues No. 1 – What is the classification of the Pullen operation?

BCZR § 101 defines transit storage and repair yard as "a site used primarily for the storage and maintenance of common carriers and for the repair of equipment associated with vehicles."

People's Counsel contends that the Pullen operation should also be classified as a service garage. A service garage is defined as "a garage, other than a residential garage, where motor driven vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale."

While the Pullen operation could possibly fit into that definition, it is the opinion of the Board that the Petitioner should not be classified as a garage but as a transit storage and repair yard. Section 101 of the BCZR defines transit center and transit facility. In both of those definitions, there is reference to operation by the State Mass Transit Administration. In the definition of transit storage and repair yard, there is not reference to the Mass Transit Administration. The Board is aware that there are other bus operations within the County and the State in addition to the Pullen

operation. There is no reference given to any other definition in the law other than the one found in § 101 of the BCZR that would cover such operations. Therefore, it is the opinion of the Board that the Pullen operation and similar operations are properly classified as transit storage and repair yards.

Issue No. 2 – What is the scope of permitted uses by Petitioner within the M.L. zone within 100 feet of a residential zone?

The site plan submitted by Petitioner shows that more than half of Petitioner's property is within 100 feet of the D.R. 5.5 zoned boundary which traverses the rear of the residential properties facing Research Avenue on the north. Although permitted by right in an M.L. zone, the operations of Petitioner must abide by the controls of BCZR § 253.4 which states:

> Within 100 feet of any residential zone, boundary, or the right of way of any street abutting such a boundary, only passenger automobile accessory parking and those uses permitted in M.R. zones, as limited by the use regulations in section 241, are permitted.

Section 241.1 of the BCZR includes transit storage and repair yards, but states: "The following uses are permitted, provided that their operations are entirely within closed buildings, except where approval of a development plan indicates otherwise." The Pullen plan was not submitted for review under BCZR 240; therefore, the only permitted uses within 100 feet of the D.R. 5.5 zoned boundary must be enclosed within buildings, apart from passenger automobile parking. Therefore, the Board finds that the dumping station, the cleaning of the buses, the maneuvering of the buses, the parking of the flatbed trailer, and the use of a dump truck within that 100-foot area is prohibited.

Issue No. 3 – Is the Pullen existing and proposed trailer use near Virginia Avenue permissible?

Section 415.2b of the BCZR sets forth the allowable uses of trailers in a business or

industrial zone. Utilization of a trailer for an office for a transit facility or storage yard is not encompassed within the allowed uses of § 415.2b.

The engineer for Petitioner, Mr. Richardson, contended that the permanent foundation for the trailer would be permissible and converted to a modular building. However, as pointed out by People's Counsel's witness, Dennis Wertz, the definition of trailer set forth in BCZR § 101 applies whether or not there is a permanent foundation. It states:

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

Therefore, the Board finds that the parking of the trailer on the Petitioner's property is in violation of § 415.2B and must be removed.

Issue No. 4 – Is the property so unique that it results in practical difficulty for the Petitioner, thereby justifying the requested variances?

While Petitioner's engineer contended that the property was unique because of the L-shaped portion extending from the rear of the property, there was no evidence that this property was unique when compared with other properties in the area. A review of Petitioner's site plan shows other properties in the area that have similar type formations, thereby not making this property unique. The word "unique" as set forth by the Court in *Cromwell v. Ward*, 102 Md.App. at 710 (1995) states:

> Uniqueness of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance,

access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions), or other similar restrictions. With respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

Even if the property is considered to be unique, the Board finds that the Petitioner has failed to establish the criteria to determine "practical difficulty." In *McLean v. Soley*, 270 Md. 208, 214-215 (1973), the Court established the criteria for practical difficulty, stating:

1) Whether compliance with the strict letter of the restrictions governing various variances would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Petitioner contends that the use as a transit storage and repair yard is the "highest and best use" that can be utilized by the Petitioner on this property. The highest and best use is not the criteria which has been established to determine practical difficulty. There are many uses that could be utilized on the property which are allowed in M.L.-I.M. zones. Unfortunately, Petitioners have chosen a use that is not suitable for the property. In the opinion of the Board, the construction of the building on the property and the conducting of the business on a ½-acre piece of property is overcrowding the land. It also intrudes on the utilization of the property by the residents in the area west and north of the property. The fumes, noise and lights during all hours of the day and night prevent the residents from adequately using and enjoying their properties. Granting the variance would not do substantial justice to other property owners in the area and therefore this is a second

reason for the failure to grant the variance. In addition, the crush stone proposed to be utilized on the property would not be a proper surface for a parking facility for buses and other automobiles since it would tend to generate dust and also would not be adequate for handling runoff of the water in the area.

It is unfortunate that the Petitioner relied on the letter from zoning staff member Donna Thompson and the countersigned approval of DEPRM's Thomas Vidmar to Mr. Robertson's 2006 letter relating to stormwater management, as well as wastewater discharge permits issued by PDM, in proceeding to begin its operation. While County offices attempt to be helpful to Developers and the general public, their letters should clarify the fact that those issues are subject to public review and, in many instances, the full legal development process. Such opinions, where they conflict with the law, are not binding on the public. See *Cromwell v. Ward*, 102 Md.App. 691, 722 (1995); *Marzullo v. Kahl*, 366 Md. 158, 194-199 (2001); and *River Walk Apartments v. Twigg*, 396 Md. 527, 543 (2007).

ORDER

THEREFORE, IT IS THIS 9th day of August, 2007 by the County Board of Appeals of Baltimore County

ORDERED that the variance requested from the Baltimore County Zoning Regulations as follows:

1. From § 409.A2 and 409.A2.6 to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface;
2. From § 243.3 to permit a rear yard setback of 5 feet in lieu of the required 50 feet;
3. From § 243.2 to permit a side yard setback of 5 feet in lieu of the required 50 feet;
4. From § 243.4 to construct a building 5 feet in lieu of the required 125 feet to the nearest

boundary line of a residential zone; and

5. From § 243.1 to permit a front yard setback of 1.5 feet in lieu of the required 75 feet

be and the are hereby **DENIED.**

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Wendell H. Grier

Edward W. Crizer, Jr.

County Board of Appeals of Baltimore County

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

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

July 9, 2007

RE: *In the Matter of:* PULLEN TOUR SERVICE, INC.
Case No. 06-389-A

Dear Mr. Zimmerman:

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

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

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Timothy L. Fitts, Esquire
Hornett Pullen
Rick Richardson /Richardson Engineering, LLC
Maryland Citizens for the Environment
Brenda Harney, Chairperson
Shirley Arrington
Heather Hall
Dawn Horsey /Darrick Horsey
Danielle Bowers /Erik Bowers
Susan Gilbride /Patrick Gilbride c/o Ms. Harney
Lynn Good /Jim Good c/o Ms. Harney
Vivian Seiler /Nelson Seiler
Lorraine Young
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Pullen Tour Services, Inc.
Case No. 06-389-A

DATE : Tuesday, June 26, 2007

BOARD /PANEL : Lawrence S. Wescott (LSW)
Wendell H. Grier (WHG)
Edward W. Crizer, Jr. (EWC)

RECORDED BY : Kathleen C Bianco /Administrator

PURPOSE: To deliberate Case No. 06-389-A / Petition for Variance

- Reviewed and discussed each of 4 issues to be considered

  ✓ Issue #1 – What is the correct characteristic of Pullen use

  - By right or by special exception
  - Site use – maintenance and storage of vehicles and equipment for maintenance of same
  - Comes under that – but also under Garage –service
  - Transit-repair/storage yard – related to MTA legislation passed in 1989 – re: light rail and stations /subway, etc.
  - Legislation talks about transit facility – is set forth separately
  - Nothing cited in any other legislation in the County for operation such as Pullen's
  - Pullen's use – Transit storage and repair yard

  ✓ Second issue – Per BCZR – scope of permitted uses in M.L. zone within 100 feet of residential zone

  - Access, maneuvering, and cleaning of buses and for dump station
  - Very specific re within 100 feet of residential zone /autos of employees
  - Dumping and cleaning within 100 feet is prohibited
  - Reviewed Exhibit 2 – regarding dumping location, etc.
  - Neither dumping station or clean up can be located within 100 feet

  ✓ Third issue – Location of trailer use to Virginia Avenue

  - It is a trailer – even though a foundation will be provided
  - Trailers are not allowed
  - Still a trailer under the law, even if the wheels, etc. are removed

  ✓ Fourth issue – 307.1 – Does it meet uniqueness – to allow for requested variance? Also – does it meet requirements for public safety, health and welfare?

  - Property is not unique
  - The L-shape does not make it unique
  - The zoning does not make it unique

- Attorney and Engineer for the Petitioner argue it's the best use of property for Petitioner
- That's not the test
- As to practical difficulty - property can be sold; building can be built on it, etc.; other uses are permitted
- Requested variance relief is extreme; will crowd land
- M.L. against D.R. is major consideration; requesting large variances
- Transit storage facility is allowed, but the property is not large enough
- Other aspects of granting the requested relief to be considered
- D.R. 5.5 against M.L. is unusual – but does not meet the law
- Unanimous decision that it does not meet the test for granting a variance

- **Final decision:**

Unanimous decision of the Board – variance relief as requested by Petitioner in this matter is **DENIED;** does not meet the requirements of the law

Petition for Variance is DENIED; written Opinion and Order to be issued as outlined above; appellate period to run from date of written Order and not today's date.

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

Respectfully submitted

Kathleen C. Bianco, Administrator
County Board of Appeals

CASE #: 06-389-A

IN THE MATTER OF: PULLEN TOUR SERVICE, INC. -
Legal Owner /Petitioner 3118 Hammonds Ferry Road
13th Election District; 1st Councilmanic District

VAR – paving surface; rear, side and front yard setbacks; 1.5' ilo req'd 125' to nearest boundary line of residential zone; to permit paving surface of compacted stone w/o paint striping ilo req'd paint striped durable /dustless paving surface

5/17/2006 – D.Z.C.'s decision in which requested variance relief was GRANTED in part with restrictions; and DENIED in part

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4/09/2007 -Notice of Assignment sent to following; assigned for hearing on Wednesday, May 9, 2007 at 10:30 a.m.:

Office of People's Counsel
Maryland Citizens for the Environment
Brenda Harney, Chairperson
Shirley Arrington
Heather Hall
Dawn Horsey /Darrick Horsey
Danielle Bowers /Erik Bowers
Susan Gilbride /Patrick Gilbride c/o Ms. Harney
Lynn Good /Jim Good c/o Ms. Harney
Vivian Seiler /Nelson Seiler
Lorraine Young
Hornett Pullen
Rick Richardson /Richardson Engineering, LLC
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

5/10/07 – Board convened for hearing on 5/09/07 (Wescott, Grier, Crizer); concluded case this date (utilized tapes – hearing on 3 cassette tapes); memos due from parties on 6/05/07; deliberation to be assigned (possible 6/26; awaiting confirmation of panel members).

5/16/07 – Notice of Deliberation sent to parties; assigned for Tuesday, June 26, 2007 at 9:00 a.m. FYI copy to 3-4-7.

5/16/07 – Letter from P. Zimmerman – with enclosed "legislative sources" to be discussed in People's Counsel's Memo to be submitted on 6/05/07 – for the Board's review /information.
(NOTE: Copy of cover letter will be provided to each panel member with copy of Memo when filed. Attachments will remain in the file for individual review.)

6/04/07 – T/C from Timothy L. Fitts, Esquire – Counsel for Petitioner – requesting extension of time for filing memos (originally due 6/05/06; requesting one week extension to 6/12/07); no objection by People's Counsel.
-- Confirmed with People's Counsel. Letter to counsel this date extending time for filing memos to close of business on Tuesday, June 12, 2007; deliberation to remain as scheduled for June 26, 2007 at 9:00 a.m. Copy of letter to Mr. Fitts via FAX (301-952-9223); also hard copies to Mr. Zimmerman and Mr. Fitts this date.

6/12/07 – People's Counsel for Baltimore County's Memorandum filed by Peter M. Zimmerman.
-- Memorandum in Support of Requested Variance Relief filed by Timothy L. Fitts and HARVEY AND FITTS LLC on behalf of Pullen Tour Service, Inc.
-- Copies of memos mailed to 3-4-7 this date.

6/12/07

RE:	PETITION FOR VARIANCE 3118 Hammonds Ferry Road; W/S Hammonds Ferry Rd. 175' S Research Ave 13th Election & 1st Councilmanic Districts Legal Owner(s): Pullen Tour Service, Inc Petitioner(s)	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 06-389-A

RECEIVED
JUN 12 2007
BALTIMORE COUNTY
BOARD OF APPEALS

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

Background

Petitioner Pullen Tour Service, Inc. ("Pullen") acquired the subject property in 2001 for its expanding tour service business. Pullen uses the property to store, repair, service, and dispatch buses for local and interstate use. It is a "24/7" operation.

The property is .65 gross acres in size, essentially rectangular but with an "L" leg towards the rear. It is located at the northwest corner of Hammonds Ferry Road and Virginia Avenue in Lansdowne, with its single access on Hammonds Ferry.

The neighborhood has a mix of industrial and residential uses. While the Pullen property is zoned industrial (ML-IM), it adjoins residential properties immediately to the north and west. Some of these are zoned industrial and others residential (D.R. 5-5). Across Hammond Ferry Road and Virginia Avenue respectively, to the east and south, there are larger properties used for trucking facilities.

Pullen's intense use of its property has caused problems for the neighboring residents. The relatively small size of the property is an aggravating factor. It also brings into play several issues and conflicts with respect to Baltimore County zoning law.

Procedural Context

As a result of various complaints by neighbors, county zoning enforcement officials issued a citation and began enforcement action. This led to Pullen's filing of a petition for variances to four setback requirements and to the requirement for a durable and dustless surface. The setback variances relate to construction of a building in which to do repair work. The proposed location of the building is in what amounts to the short side of the "L," surrounded on three sides by residences.

On May 17, 2006, Deputy Zoning Commissioner John V. Murphy granted the setback variances, with conditions, but denied the variance to the durable and dustless surface requirement. People's Counsel for Baltimore County and a number of area residents then filed timely appeals. Pursuant to Charter Sec. 603, the case came before the County Board of Appeals (CBA) for a *de novo* hearing on May 9, 2007.

Pullen's witnesses were Patrick Richardson, the civil engineer who prepared the site plan, and Hornett Pullen, the owner of the business. People's Counsel presented Dennis Wertz, the area planner, several of the immediate neighbors – Lorraine Young, Nelson Seiler, Heather Hall, and Erik Bowers – and community activist Brenda Harney.

It came to light in the course of the hearing that, in addition to the variance issues framed in the petition, there are core zoning issues concerning the essential use of the property. Accordingly, we raise a number of questions for the CBA's consideration.

Questions Presented

1. What is the correct characterization of Pullen's use: "Transit storage and repair yard; "Garage, service; or both? Is the use permitted by right or by special exception?

2. Pursuant to BCZR 253.4, what is the scope of permitted uses in an M.L. zone within 100 feet of a residential zone. Specifically, is it permissible for Pullen to use this area for access, maneuvering, and cleaning of buses, and for a dump station?

3. Pursuant to BCZR 101 and 415.2, is Pullen's existing and proposed trailer use near Virginia Avenue permissible?

4. Pursuant to BCZR 307.1, does the proposed building meet the standard of "uniqueness" which results in "practical" difficulty so as to justify the requested variances? Moreover, are the proposed variances consistent with the intent of the relevant zoning regulations and the public safety, health, and welfare?

I. The classification of Pullen's use: "Transit Storage and Repair Yard;" "Garage, Service;" or both; permitted by right or special exception

Pullen has presented its use as a "transit storage and repair yard," a permitted use in the M.L. Zone under BCZR 253.1.A.19. On the surface, the use would appear to fit the literal language of the BCZR 101 definition:

> "Transit Storage and Repair Yard - A site used primarily for the storage and maintenance of common carrier vehicles and for the repair of equipment associated with such vehicles."

On the other hand, the legislative history and language of Bill 91-90, the comprehensive enactment to address zoning concerns about transit facilities, reveals that the County Council focused entirely on public MTA facilities, and not on private facilities such as Pullen's Tour Service.

The attached July 10, 1989 Planning Board Report was the basis for the legislation. It refers entirely to the need for public MTA facilities. Bill 91-90, also attached, includes this preamble of the motivation for the legislation,

> "WHEREAS, the Baltimore County Council recognizes that public transportation facilities are essential to alleviate traffic congestion, increase labor force accessibility, promote air quality and the efficient use of resources in Baltimore County; and
>
> WHEREAS, the State of Maryland Mass Transit Administration, is planning to construct certain transit projects in Baltimore County, including the proposed Towson Transit Center and the Central Corridor light rail line; and
>
> WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and has held a public hearing on September 12, 1989; now therefore"

It is telling that the BCZR 101 definitions of "Transit Center," and "Transit Facility," both specifically refer to Mass Transit Administration uses. While the "Transit Storage and Repair Yard" definition omits any mention of the MTA, we believe nevertheless that this literal omission should not obscure the essential purpose, spirit and intent of the law to cover MTA facilities. It is elementary that all parts of a statute must be read together, including the statement of legislative purpose. Moreover, it is reasonable to infer that the locations of MTA facilities tend to be subject to greater public input and on larger properties than private facilities such as the one here. In other words, it makes sense that MTA uses be permitted by right, while private uses should be subject to greater scrutiny.

Clearly, before the enactment of Bill 91-90, private tour bus storage and repair uses would fit within the BCZR 101 definition of "Garage, service,"

> "Garage, Service- A garage, other than a residential garage, where motor-driven vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale."

This requires a special exception under BCZR 253.2.B.3 and 502.1. Analogously, the M.L. Zone permits trucking facilities only by special exception. BCZR 253.2.A.12.

Accordingly, we believe the Pullen use still may reasonably be described as a "garage, service" instead of, or as much as, a "transit storage and repair yard." Under these circumstances, the CBA should consider BCZR 600, relating to "Interpretation." The first sentence states,

> "In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and general welfare."

We believe, therefore, that the "garage, service" special exception constitutes the minimum requirement and should apply, whether or not the Pullen use also fits the "transit storage and repair yard" definition.

Petitioner has emphasized its correspondence with the zoning office, particularly Donna Thompson's November 15, 2001 letter indicating the bus use is a transit storage and repair yard use, subject to residential zone boundary and area regulations. But such a letter -- issued without examination in depth, public notice, opportunity to be heard, or hearing – is not binding on the public. Where it conflicts with the law, it stands in no better stead than a permit or contract issued or approved in violation of applicable zoning or other public law. Lipsitz v. Parr 164 Md. 222, 227-28 (1933); City of Hagerstown v. Long Meadow Shopping Center 264 Md. 481, 493-98 (1972); Cromwell v. Ward 102

Md. App. 691, 722 (1995); Marzullo v. Kahl 366 Md. 158, 194-99 (2001); River Walk Apartments v. Twigg 396 Md. 527, 548 (2007).

While informal communication may sometimes have value, there is the danger that such streamlined review may lead to error and incompleteness. It is to be remembered that the public special hearing process under BCZR 500.7 is available to evaluate, clarify, and determine the legality of specific uses.

Unfortunately, Petitioner went ahead with its use without requesting a public hearing to examine, identify, and determine the relevant legal issues. Now, after the fact, our office must evaluate for the first time in a public forum the zoning law relevant to this use. The record reveals and uncovers issues not identified in the correspondence or even in the variance petition. The characterization of the use is the first of these issues.

II. BCZR 253.A. The scope of permitted M.L. Zone uses within 100 feet of a residential zone.

As shown on the site plan, more than half of the Pullen property is within 100 feet of the D.R. 5.5 zone boundary, which traverses the rear of the residential properties facing Research Avenue to the north. Whether permitted by right or special exception, an M.L. Zone use in such proximity to a residential zone is subject to the controls of BCZR 253.4. The crucial first sentence states,

> "Within 100 feet of any residential zone boundary or the right-of-way of any street abutting such a boundary, only passenger automobile accessory parking and those uses permitted in M.R. Zones, as limited by the use regulations in Section 241, are permitted."

This brings into play the use limitations of the M.R. Zone. While BCZR 241.1 includes "transit storage repair yards," it begins with the preface,

"241.1 The following uses are permitted, provided that their operations are entirely within enclosed buildings, except where approval of the development plan indicates otherwise:"

The reference to "approval of the development plan" relates back to a development plan process described in BCZR 240, including review by the Planning Board. It is subject, among other things, to the legislative purpose of BCZR 240.1 "... to protect the uses in neighboring residential zones." It is akin to a special exception review. See Huff v. Board of Zoning Appeals 214 Md. 48 (1955).

Pullen has not submitted its plan for review under the BCZR 240 process. Therefore, the only uses permitted within 100 feet of the D.R. 5.5 zone boundary must be within enclosed buildings (apart from passenger automobile parking, allowed by BCZR 253.4). Pullen acknowledges that outside bus repair work and bus parking must stay outside the stated limit. That is why it proposes a building for the repair work and shows the bus parking spaces more than 100 feet from the residential zone boundary.

But this is not enough. It is inescapable that essential aspects of the Pullen use, by whatever name, are bus access to and from the site, bus maneuvering to and from the proposed building, bus cleaning, dumpster station, dump truck and flatbed trailer use. All of these uses involve areas well within the restricted area within 100 feet of the D.R. 5.5 zone boundary. Dennis Wertz noted this problem, and he was correct to say so.

Pullen's engineering consultant, Patrick Richardson, tried to justify these uses of the restricted area. He resorted to the idea that Pullen cannot use the property for his desired use unless these things are allowed across that line. He reinforces his assertion with the statement that the bus use is Pullen's "highest and best use." But Mr.

Richardson's reasoning is backward or circular. The gist of it is that the law must be interpreted in such a way as to allow the property owner to do what he wants to do. If that approach were legitimized, then zoning laws would collapse. All zoning laws restrict owners from using their properties from uses which owners may find desirable. Moreover, there is no exception for a "highest and best use." This is a standard employed for valuation in condemnation law, but which has no bearing in zoning law. Indeed, one of the purposes of zoning law is to prohibit certain "higher and better uses" which an owner may desire.

BCZR 253.4 thus imposes serious restrictions on M.L. Zone uses within 100 feet of residential zone boundaries. These restrictions effectively prohibit the Pullen use on this site. It is noteworthy that other permitted uses within the M.R. zone could probably satisfy the limits without such difficulty. An office or warehouse building of moderate size, with accessory passenger automobile parking, could potentially fit on this small industrial site without running afoul of BCZR 253.4. But the tour service use does not fit.

III. The Trailer Use

The site plan shows a proposed "modular building" on the property near and parallel to Virginia Avenue. This refers to a trailer on wheels which Pullen proposes to place on a permanent foundation.

Permanent trailers are not permitted in connection with the Pullen bus use. BCZR 415.2.B provides, with respect to the use of trailers in a business or industrial zone,

"415.2B - In a business or industrial zone:

1. As a temporary use for living, business or industrial purposes during a construction period, subject to the same minimum yard requirements as are applicable to permanent structures in that zone
2. As a continuing use for a sales office in connection with the following types of outdoor retail sales areas, subject to the requirements of the zone where located and to the provisions of Section 415.6:

   Farm Products
   Garden supplies and Plants
   Trailer Sales and Storage
   Used motor vehicles, separated from sales agency buildings"

Once again, Patrick Richardson attempted to justify the use. He contended that placement of the trailer on a permanent foundation would transform it into a permissible "modular building." But this purported translation conflicts with the definition of "trailer." As Dennis Wertz pointed out, the BCZR 101 definition of "trailer" applies whether or not there is a permanent foundation,

> "TRAILER (or MOBILE HOME) -- Any of the various types of vehicles or mobile homes, with or without motive power, including small structures transportable by a pickup truck or similar vehicle, which are used for human habitation or for business purposes, but excluding vehicles used only for transportation of materials, products or animals. A trailer (or mobile home) shall still be regarded as such even though its mobility may have been eliminated by removing its wheels, or otherwise, and placing it on a stable foundation or rigid supports. Recreational vehicles, as defined herein, are excepted from this definition."

The net result is that the trailer is another impermissible element of Pullen's use.

IV. The variances; the issue of "uniqueness" resulting in "practical difficulty;" legislative intent; the public safety, health, and welfare.

This brings us to the zoning variance petition, which involves mainly setback variances for the proposed repair building to be located in the short side of the "L," a kind of alcove surrounded by residential properties on three sides. Because the alcove straddles the residential zone and other boundary lines, the variances to the incorporated M.R. zone BCZR 243 area regulations are numerous and extreme. They are as follows:

"1. Variance of § 409.8.A.2 and 409.8.A.2.6, BCZR to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface.
2. Variance of § 243.3 BCZR, to permit a rear yard setback of 1.5 feet in lieu of required 50 feet.
3. Variance of § 243.2 BCZR, to permit a side yard setback of 1.5 feet in lieu of the required 50 feet.
4. Variance of § 243.4 BCZR, to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone.
5. Variance of § 243.1 BCZR, to permit a front yard setback of 1.5 feet in lieu of the required 75 feet."

Petitioner's tacit position is that its tour service use is permitted by right as a transit storage and repair yard, and not subject to special exception review as a service garage. Pullen also assumes that its access, maneuvering, cleaning and dump station usage within 100 feet of the residential zone is acceptable. If, as we have argued, these positions are not correct, then the petition is defective for failure to include a special exception request and, more important, fatally flawed because of the impermissible usage of the restricted area in proximity to the residential zone. Because of these threshold objections, the CBA does not need to reach the merits of the variances. For the sake of completeness, however, we will address them here.

The key language of BCZR 307.1 authorizes variances "... only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship." In shorthand, an applicant must prove some unique aspect of the property causing practical difficulty. Cromwell v. Ward 102 Md. App. 691 (1995); Montgomery County v. Rotwein 169 Md. App. 716 (2006); McLan v. Soley 270 Md. 208 (1973).

The word "unique" is defined strictly. Otherwise, anyone could make some sort of claim. In Cromwell, 102 Md.App. at 710 (1995), the Court stated:

> "In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.
>
> 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

In McLean, 270 Md. 208, 214-15 (1973), the Court established the criteria to determine "practical difficulty":

> "1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
>
> 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
>
> 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

These criteria are interrelated and must be analyzed together.

In the present case, as Dennis Wertz explained, there is nothing truly unique about the property which poses difficulties generally. It is essentially rectangular, with a kind of alcove forming an "L." The topography has a gentle slope, enough to create drainage and

flooding problems for neighbors Lorraine Young and Nelson Seiler, but not posing any problems for Pullen. The constraints on the use of the property are due to its modest size, .65 gross acres, and its proximity to the residential zone, which triggers the BCZR 253.4 legislative protection.

With respect to practical difficulty, it is noteworthy that the M.L. Zone affords the opportunity for a number of industrial uses, even with the restricted area subject to M.R. Zone standards. Office and warehouse uses are permitted in the M.L. and M.R. Zones, and could be placed on the Virginia Avenue side of the property with lesser variances or perhaps with no variances needed. Such uses would not have to intrude into the BCZR 253.4 D.R. Zone buffer area. Moreover, the setbacks near the Virginia Avenue boundary, away from the buffer area, are less restrictive. BCZR 255.1, 238.

But Pullen acquired the property for its tour bus service, including four buses, a repair building, an office trailer, a dump station, a flatbed trailer and passenger vehicles (eight, on the day Dennis Wertz visited). Pullen considers this to be the "highest and best use." The problem is that this use runs afoul of the legal constraints. It also has been and will continue to be a serious nuisance to respectable neighborhood residents because of its 24/7 intensity; the noise and fumes; the dust; the drainage and flooding (no matter how managed), and the dump station (no matter the permit). Pullen has no good answer to the compelling testimony of Lorraine Young, Nelson Seiler, Heather Hall, and Erik Bowers. Mr. Seiler has been there the longest, but they all have lived there for a number of years. The CBA panel has heard their specific and detailed descriptions, backed up by photos,

of the noxious and offensive impacts of the tour bus service use. The proposed bus use benefits Pullen. It is manifestly unjust to the neighboring property owners.

Moreover, the proposed repair building of undetermined height and architecture virtually straddles three residential zone or use boundaries, even with the few feet leeway proposed in the amendments Pullen suggested on appeal. The multiple setback variances are about as extreme as one can imagine. The building would be a tremendous visual intrusion and an inevitable source of noise regardless of the enclosure. In this connection, Dennis Wertz underlined that the proposed design and locations of the repair building and the bus parking area are particularly offensive to the neighboring residential uses. At the same time, he observed that any outside bus use would present a problem for the adjacent residential uses.

In the end, given the legislative intent to protect residential areas and the public safety, health, and welfare, it is inappropriate to have such an intense 24/7 bus use on this small property next to so many residences, including those in the adjacent residential zone along Research Avenue and those in the adjoining M.L. Zone areas. To be sure, there are trucking facilities across Hammonds Ferry Road and across Virginia Avenue. But these uses do not have such immediate proximity to homes as the Pullen property. Moreover, they occupy much larger properties.

As problematic industrial uses expand, owners must look to larger properties at a distance from residential areas and zones. Pullen chose a property where his use does not fit. This is the classic example of the "right thing in the wrong place." Village of Euclid v. Ambler Realty Co. 272 U.S. 365 (1926). Pullen has been on the subject property for

six years. It appears to be a successful business. The time has come for Pullen to consider alternative industrial sites for his expanding operations.

In sum, the record does not demonstrate any uniqueness or any practical difficulty. There is no legal justification for the proposed variances.

V. Afterword and Critique on the County Opinion Letter and Permits

We have discussed zoning staff member Donna Thompson's informal opinion letter of November 15, 2001, issued without public notice or opportunity to be heard. This letter failed to identify important use classification issues. It did communicate area limitations, but in such a perfunctory way that it did not underline the depth or seriousness of the problems associated with M.L. uses in proximity to the residential zones adjoining this site. Pullen apparently took this letter, with self-serving embellishment, to be a virtual *carte blanche* or stamp of approval for all its operations. Even if it be arguable that the Pullen use is a transit storage and repair yard permitted by right and not at all a service garage subject to special exception review, a serious examination would have disclosed the incursion into the restricted area next to the residential zone and the obvious setback conflicts. In any event, even if the Thompson letter is construed as a kind of approval – however conditional, limited, or ambiguous -- it bears repeating the bureaucratic approvals and permits cannot be relied on to excuse violation of zoning law. Lipsitz, Hagerstown, Cromwell, Marzullo, River Walk Apartments, *supra*.

In much the same way, on June 15, 2006, DEPRM's Thomas Vidmar quickly countersigned his approval to Patrick Richardson's June 14, 2006 letter relating to water

issues. Pet. Exh. 1. Once again, there was no public review. There also was no mention that the zoning case was appealed *de novo* to the County Board of Appeals. Remarkably, the letter referred to the need for a stormwater management variance as if this were no big deal. Mr. Richardson did not send copies of his letter to any of the parties to the case.

Separately, Petitioner produced wastewater discharge permits issued by PDM, the last of which was effective August 1, 2006. Pet. Exh. 4-5. Once again, these were issued unilaterally, without regard to the pending zoning case and without notice to other parties. This relates to the dumpster station which is such a nuisance, right next to Heather Hall's property.

It seems that county departments are in the habit of issuing unilateral approvals with respect to zoning, stormwater management, and discharge permits without regard to the need for public scrutiny, sometimes when the situation calls for a public hearing and sometimes even when cases are pending. The property owner or developer then comes in and parades before the Zoning Commissioner or Board of Appeals a string of approvals or permits. Meanwhile, these piecemeal bureaucratic stamps either miss, avoid, or distract from the appropriate comprehensive review of land use issues. Whether this may be called blowback, unintended mischief, or a weakness in the system, it is corrosive to the rule of law.

This case presents the opportunity for the CBA to critique these practices. Perhaps such a critique would serve the constructive purpose to prevent, minimize, or at least bring to light important land use issues before they explode into neighborhood fiascos.

Conclusion

For all of the above reasons, the County Board of Appeals should find:

1. The proposed use is a service garage. It is not a transit storage and repair yard because it is not an MTA yard. Even if it also may be described as a transit storage and repair yard, it is still a service garage. Therefore, it is subject at a minimum to the special exception review under BCZR 253.2.B.3 and 502.1.

2. Whatever the classification of the use, BCZR 253.4 in combination with BCZR 241 disallow the proposed outside access, maneuvering, cleaning and dump station within 100 feet of the residential zone boundary to the north.

3. The proposed "modular building" is still a trailer and is prohibited under BCZR 415.2.B.

4. The proposed repair and office building does not satisfy the BCZR 307.1 standards for the extreme variances requested and is injurious to the public safety, health, and welfare.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. DeMilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12 day of June, 2007 , a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to, Timothy L. Fitts, Esquire, Harvey & Fitts, LLC, 311 E. 25th Street, Baltimore, MD 21218, Attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Preliminary Report of the
Baltimore County Planning Board
July 10, 1989

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING TRANSIT FACILITIES

pg 6 of Draft

Office of Planning & Zoning
Baltimore County, Maryland

PASSED: 07/16/90 EFFECTIVE: 07/16/90

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1990, Legislative Day No. 10

Bill No. 91-90

Mr. C.A. Dutch Ruppersberger, III, Councilman
By Request of County Executive

By the County Council, May 21, 1990

A BILL
ENTITLED

AN ACT concerning

Public Hearings for Transit Facilities
Zoning Regulations - Transit Facilities

FOR the purpose of amending the Zoning Regulations and The County Code in order to define Transit facility, rail passenger station, transit storage and repair yard, transit center and bus terminal, to permit transit facilities in all zones, transit centers in Business Major and Business Roadside zones and in manufacturing zones, transit storage and repair yards in manufacturing zones; ~~to-permit-rail-passenger stations-in-residential-zones-by-special-exception~~ and to permit rail passenger stations in business and manufacturing zones and by special exception in residential zones; and providing for certain other requirements for transit facilities.

BY Adding

~~Section-101,-alphabetically,-the-definitions-of-"transit-facility";-"rail-passenger-station";-"transit-storage-and-repair-yard";-"transit center";-"bus-terminal";-Section-434~~
~~Baltimore-County-Zoning-Regulations,-as-amended~~
Section 101, alphabetically, the definitions of "bus terminal", "rail passenger station", "transit center", transit facility", "transit storage and repair yard" and Section 434
Baltimore County Zoning Regulations, as amended

Section 22-26(d)
Title "Planning, Zoning & Subdivision Control"
Baltimore County Code, 1978, 1987 Cumulative Supplement

BY Repealing and reenacting, with amendments

Sections ~~101~~, 1A01.2.B, 1A01.2.C, 1A02.2.A, 1A02.2.B, 1A03.3.A, 1A03.3.B, 1A04.2.A, 1A04.2.B, 1A05.2.C, 1B01.1.A, 1B01.1.B.1.c, 1B01.1.C, 200.2A, 201.2A, 207.3A, 230.9, 233.2, 241.1, 253.1B and 409.6A.2
Baltimore County Zoning Regulations, as amended.

WHEREAS, the Baltimore County Council recognizes that public transportation facilities are essential to alleviate traffic congestion, increase labor force accessibility, promote air quality and the efficient use of resources in Baltimore County; and

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

6/12/07

RECEIVED
JUN 12 2007
BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF:	*	**COUNTY BOARD**
	*	
PULLEN TOUR SERVICE, INC.	*	**OF APPEALS**
3118 HAMMONDS FERRY ROAD	*	
	*	**OF**
	*	
	*	**BALTIMORE COUNTY**
	*	
	*	**CASE No. 06-389-A**
	*	

****

MEMORANDUM IN SUPPORT OF REQUESTED VARIANCE RELIEF

Now comes the Petitioner, Pullen Tour Service, Inc. by its' attorneys, Timothy L. Fitts and Harvey and Fitts, L.L.C. in support of this Memorandum seeking variance relief and states the following:

PETITONER HAS ESTABLISHED THAT HIS SITE IS UNIQUE AND WOULD SUFFER A HARDSHIP AND PRACTICAL DIFFICULTY IF THE ZONING VARIANCES ARE NOT GRANTED.

Statement of Facts

Petitioner, Pullen Tour Service, Inc, (hereinafter" Petitioner") upon purchasing property located at 3118 Hammonds Ferry Road sought an opinion letter dated November 15, 2001 from Baltimore County Zoning Office, Exhibit #1. The Zoning Office established that the operation of Petitioner's small charter bus service from its' property falls within the definition of a "Transit Storage and Repair Yard" under the Baltimore Zoning Regulations (hereafter "B.C.Z.R."). The letter further opined that the use of a transit storage and repair yard is permitted as of right on a ML-IM zoned property. The area of Petitioner's property is approximately 0.64 acres and it is zoned ML-IM. The Petitioner in reliance on Zoning's opinion letter and having obtained permits for fencing, sewer, and trailer commenced operating his business in December 2004. On October 21,

2005 Baltimore County Code Enforcement Office issued Petitioner a Citation #05-5498 for the operation of a "Transit Storage and Repair Yard" without benefit of a use permit and illegal use of trailers. The case is still an active case, pending the outcome of the Board of Appeals' decision.

The instant case was heard before the Deputy Zoning Commissioner for Baltimore County on April 11, 2006 as a Petition for the following Variances from the B.C.Z.R.:

1. From Sections 409.8.A.2 and 409.8.A.2.6, to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface;
2. From Section 243.3, to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet;
3. From Section 243.2, to permit a side yard setback of 1.5 feet in lieu of the required 50 feet;
4. From Section 243.4 to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and
5. From Section 243.1, to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

In essence the Deputy Zoning Commissioner on May 17, 2007 granted variances with conditions: for a rear yard setback of 10 feet instead of the requested 1.5 feet; side yard setbacks of 5 feet instead of the requested 1.5 feet; to construct a building 5 feet from the nearest boundary line of a residential zone instead of the requested 1.5 feet; front yard setback of 5 feet instead of the requested 1.5 feet. The conditions are: that the Petitioner shall submit landscape and lighting plans to the Baltimore County Landscape Architect

for review and approval to insure that the new building is properly screened from the adjoining residential uses; lighting will be directed on the subject property and not on adjacent properties; and all washing of busses, waste removal and maintenance will be performed within the enclosed building. The variance to permit a paving surface of compacted stone without paint striping was denied until such time the Petitioner resubmits its storm water plans to the Department of Environmental Protection and Resource Management (hereinafter "DEPRM") for reevaluation and approval.

The People's Counsel noted an appeal on behalf the Maryland Citizens for the Environment and other citizens within the immediate vicinity of Petitioner's property. The hearing before the Board of Appeals was held on May 9, 2007, at which time Respondent and Petitioner were ordered to reduced their closing remarks via written memorandum.

PETITONER HAS ESTABLISHED THAT HIS SITE IS UNIQUE AND WOULD SUFFER A HARDSHIP AND PRACTICAL DIFFICULTY IF THE ZONING VARIANCES ARE NOT GRANTED.

Petitioner's Case

The Zoning Commissioner of Baltimore County and County Board of Appeals, upon appeal are vested with the power per Section 307 of the BCZR, to grant variances from area regulations where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship. Such variance shall be granted only if in strict harmony with the spirit and intent of said area regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare.

The Petitioner's property is unique from a zoning standpoint. The subject property is L shaped and surrounded by industrial uses and zones with the exception of the small portion of property attached to properties zoned D.R. 5.5. located on Research Avenue to the North. Mr. Erick Bowers was the only Protestant from Research Avenue present at the hearing. The Protestants are owners and residents of adjacent homes that are zoned ML-IM and D.R.5.5. Penske Trucking facility (hereafter "Penske") is located across Virginia Avenue to the south and the Form Service Trucking Company is across Hammonds Ferry Road to the east. Mr. Nelson Seiler's Property, which is a residential use in ML-IM zone, is located to the west of Petitioner's Property. Penske surrounds to the south and to the west the property of Mr. Seiler. Ms. Lorraine Young, Protestant and resident of home directly behind Mr. Seiler's property, on cross–examination conceded that Penske was parking a tractor trailer next to Seiler's Property on an aerial photograph. Ms. Young's residence is situated within a ML-IM zone. Ms. Heather Hall, Protestant and resident of property that enjoins the bulk of Petitioner's Property to the North is also situated in a ML-IM Zone. The ML and MR regulations impact this site disproportionally because of its odd shape and proximity to a residential boundary.

The Petitioner would suffer hardship and practical difficulty if the setback regulations were strictly enforced, there would be essentially no area on the site that would allow a building to be erected. The building needs to match the size of a bus at the very minimum. The tiny triangle shaped building envelope on the site plan is wholly impractical. The building will shield noise and most offensive nuisances complained of by Protestants. The Protestants are adverse to the uses of the buses and not so much the variances sought for the property. For every issue raised by the Protestants, there are

viable solutions presented to resolve them. The building will clearly beautify the site and alleviate the nuisances. Again, any building that would be proposed on this site would require a variance due to the unusually small building envelope size. Before the advent of the automobile industrial uses have always been close to residential boundaries, so as employees could reasonable gain access to and from work. In essence industry and residences have always found a way to cooperate with one another. The subject property is located within one of these older neighborhoods with mixed zoning uses.

Per Section 253.1.B.19 B.C.Z.R., The Transit Storage and Repair Yard use is permitted as a right in a ML-IM zone provided that no building or commercial vehicle storage/parking is located within 100 feet of any residential zone boundary. This also severely impacts Petitioner as to what he can do with his property. Again, Petitioner's property borders on very little property that is zoned D.R.5.5. The buses must be parked 100 feet from the nearest boundary line of a residential zone. The building would be less of an intrusion on the residential boundary line than bus parking closer to that boundary. There is no other practical location for the building on the site, due to where the bus parking must be located and the space needed to maneuver the buses into the building.

The Petitioner resubmitted its storm water plans to DEPRM for reevaluation and approval. Mr. Thomas L. Vidmar, PE, Deputy Director of DEPRM signed off on a letter on June 15, 2006, see exhibit #2, stating that the best course of action for the property is to restrict the runoff from the site by installing a pervious cover rather than paving the lot and providing storm water management for the site. Mr. Vidmar concurs that if the variance request to permit a paving surface of compacted stone in lieu of durable and

dustless surface and the paint striping were not granted, this would place a hardship on Mr. Pullen's use of the property.

Petitioner has a current "Wastewater Discharge Permit from the Baltimore County Department of Permits and Development Management Discharge permit, Exhibit #3. This permit covers industrial discharge (waste & sewer)/from discharge from buses and waste waster from washing buses. Petitioner does in fact have a device approved by Baltimore County on his premises that must be utilized in dumping waste from the busses. The method for dumping waste has also been approved. Petitioner also received permission from the Baltimore County Department of Public Works to establish a low berm around the bus washing area so that the water from bus washing are diverted to sanitary sewer and instead of storm drainage. The establishment of a berm will also divert storm water runoff.

Analysis of People's Counsel Case

People's Counsel, Mr. Peter Zimmerman, asserted that the operation of Petitioner's small charter bus service is not the type of use the legislators intended when they drafted the definition of Transit Storage and Repair Yard. Mr. Zimmerman's assertion that a Transit Storage and Repair Yard was intended solely for public mass transit is incorrect as it relates to the Planning Board proposed amendments to Transit Facilities found within the B.C.Z.R., Exhibit #4. The definition of a Transit Facility intends for the support of public mass transit. Upon a further reading of the definition of Transit Facility, it specifically states, "[t] his term does not include a transit storage and repair yard." The definition of a Transit Storage and Repair Yard is separate and distinct, a definition

standing on its own, it intends to address the operations associated with common carrier vehicles, Exhibit #5. Petitioner's provides a common carrier bus service.

Mr. Zimmerman made inferences that the building is excessive in size and setbacks. The building needs to be large enough to accommodate the size of a bus with enough space to maneuver around and under the bus for service and washing. Mr. Zimmerman called Mr. Dennis Weitz, Senior Planner for Baltimore County as a witness. Mr. Weitz testified he believes that there should have been a better plan or design submitted by Petitioner. Mr. Weitz is a Planner and not a Professional Engineer and holds no special certification in design. Mr. Weitz believes that Petitioner can mitigate the affect of the building by moving it closer to Virginia Avenue. That would cut into the parking area of the busses and also the ability of the buses to maneuver into the building.

Mr. Zimmerman inferred that the property is too small for this type of zoning use. The property did not show up as ML-IM zoned property until the 1971 zoning maps prior to that it was zoned residential. Properties to the south and to the east of the subject site were shown on the 1955 zoning maps as industrial zoning classifications. Baltimore County saw in its' own wisdom to change the zoning classification. The changing of zoning classifications from a lower (residential) to a higher (manufacturing) use is integral to Baltimore County's tax-base and economic development. Further, the properties zoned as Industrial far outnumber any other zoning classifications in this immediate area.

Mr. Zimmerman contends that the Deputy Zoning Commissioner was incorrect in his opinion on the parking of the buses. The Deputy Zoning Commissioner was of the opinion that simply parking of the busses on the subject site does not require the busses to

be enclosed within a building. Mr. Zimmerman further contended that the maneuverings of buses is violative of the 100 feet use requirement from residential zoned property. The B.C.Z.R. allows a Transit Storage and Repair Yard as a permitted use in a ML-IM zone provided that no building or commercial vehicle storage/parking is located within 100 feet of any residential zone boundary. This is clearly intended to mean commercial vehicle storage/parking and not maneuverings of commercial vehicles.

Mr. Zimmerman contends that the trailer that is presently on the site is a violation. Petitioner asserts that he has a temporary trailer permit and has plans to transform the trailer into a permanent structure meeting all requirements of Baltimore County Agencies during or after the construction of the primary building. The primary building was reduced in size according to the Deputy Zoning Commissioner's order; it is therefore vital that Petitioner be allowed the use of the trailer to be converted to a structure as an administrative office. The shipping container that is presently on the premises will be removed at the time that the building is erected.

The testimony of the Protestants again centered on the nuisances created by the use and not the area variance itself. The nuisances mentioned by Protestants relate to noise, lights, industrial discharge and storm water runoff. The concerns of the Protestants will be addressed by the erection of the building and complying with the requirements of the Agencies of Baltimore County.

Conclusion:

Whether Petitioner has established that his site is unique and would suffer a hardship and practical difficulty if the zoning variances are not granted?

Yes, Petitioner has established that his site is unique and would suffer a hardship and practical difficulty if the zoning variances are not granted.

The Petitioner respectfully requests that the Board of Appeals follow the Deputy Zoning Commissioner's finding that the site is unique in a zoning sense. The Lot is L shaped. The ML and in turn MR regulations impact this site disproportionally because of its odd shape and proximity to a residential boundary. That if the regulations were strictly enforced, there would be essentially no area on the site, which would allow a building to be erected causing the Petitioner to suffer a hardship and practical difficulty. Additionally, the submittal of landscape and lightning plans, as conditions would further make the variances be within the spirit and intent of the regulations.

Respectfully Submitted,

Timothy L. Fitts
Harvey & Fitts, L.L.C.
311 East 25th Street
Baltimore, Maryland 21218
(410) 467-7301

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of June, 2007 a copy of the foregoing Petitioner's Memorandum in Support of Requested Variance Relief was hand delivered to the Baltimore County Office of People's Counsel to be forwarded to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 47, Old Courthouse, 400 Washington Avenue, Towson, MD 21204.

Timothy L. Fitts, Esquire

Baltimore County
Department of Permits and
Development Management

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

Ex. #1

November 15, 2001

Mr. Hornett W. Pullen
5608 Kallan Court
Baltimore, Maryland 21227

RE: Zoning Verification Letter for
3118 Hammonds Ferry Road
13th Election District

Dear Mr. Pullen:

Your letter to Mr. Arnold Jablon, Director of Permits and Development Management, has been referred to me for reply. Due to the lack of information provided, a response can only be done based on the outline of the property provided on the included copy of a portion of the Baltimore County zoning map SW 6 C.

The property shown on this zoning map is designated as M.L. - I.M. (Manufacturing, Light – Industrial, Major). The use as described in your letter being a small charter bus business would fall under the definition of a Transit Storage and Repair Yard. Enclosed, please find a copy of this definition found in the Baltimore County Zoning Regulations. Per Section 253.1.B.19 (B.C.Z.R.) this use is permitted as a right in this zone provided that no building or commercial vehicle storage/parking is located within 100 feet of any residential zone boundary or within 100 feet of the right-of-way of an existing or proposed interstate highway, other freeway or expressway, which motorway is officially so designated by the State Highway Administration, Maryland Department of Transportation, and/or the county, front, side and rear yards shall be as required in an M.R. Zone (see Sections 243.1, 243.2 and 243.3 of the B.C.Z.R.).

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

Richardson Engineering, LLC

110 Old Padonia Road, Suite LC
Cockeysville, Maryland 21030

Tel: 410-560-1502
Fax. 410-560-0827

Ex #2

June 14, 2006

Mr. Thomas Vidmar, PE
Baltimore County
Department of Environmental Protection
And Resource Management
401 Bosley Avenue, Suite 416
Baltimore, Maryland 21204

Subject: Pullen Property
3118 Hammonds Ferry Road

Dear Mr. Vidmar:

Attached are copies of the recent Zoning Order and the revised site plan that addresses the setback variances granted for this project. In the order, Mr. Murphy has requested that we resubmit information to you for reconsideration of the stormwater management plan before he grants us the variance to the durable and dustless surface requirement for parking lots. We explained to Mr. Murphy that providing management on the site was not feasible do to outfall constraints in the area and that your office had required the limitation of impervious area to mitigate the stormwater runoff issues. We still believe that this is the only solution to the stormwater management issues for this site.

As we discussed previous, we have limited the impervious area of the site to that which existed in the 1986 aerial photograph. That area by our calculation was 4,444 square feet. Our proposed impervious area of the two buildings and macadam entrance is 4,343 square feet, which is within the impervious area permitted. The parking area on the site will be excavated where necessary to remove existing impervious material and stoned using 8" of large aggregate (No. 2 Stone) without no fines that will permit infiltration of water through it.

In the order there is a reference to water issues at the site. I believe that most of the water problems are on Mr. Pullen's lot, but there is also a potential issue with water toward the Seiler house in the rear of the site. Their house is the lowest area in the neighborhood with a stream on the west side of them. All of the drainage from the neighborhood goes through their property to this stream. Mr. Pullen will regrade his lot to drain and construct a berm along the rear of his property to direct water to Virginia Avenue via surface flow to minimize water going onto the Seiler property. The properties on the north and east of Mr. Pullen are uphill of his property.

Once we have satisfied Mr. Murphy that granting of the relief requested for the durable and dustless area is necessary, we will then move forward toward the obtaining a grading permit for the site and bring it into compliance with your office. To that end, we will first go back to the DRC as old business to obtain our Limited Exemption. We will do this as soon as Mr. Murphy writes the revised order. Once the Limited Exemption is granted, we will file for a grading

Exh. 1

MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Kendl P. Philbrick
Secretary

Jonas A. Jacobson
Deputy Secretary

Ex #3

SEP 2 9 2006

HORNETT PULLEN
PULLEN'S TOUR SERVICE, INC.
3118 HAMMONDS FERRY ROAD
HALETHORPE MD 21227

DEAR MR. PULLEN:

The Maryland Department of the Environment has received your Notice of Intent (NOI) and $550.00 NOI fee to register your facility under the General Discharge Permit for Storm Water Associated with Industrial Activities, Permit No. 02-SW. This letter will serve as notification that your NOI has been accepted.

*In signing the NOI and submitting the fee, you have certified your company's agreement to comply with the terms of this permit for its facility located at **3118 HAMMONDS FERRY ROAD, HALETHORPE, MD**. Your facility's permit coverage shall be identified by registration number **02SW1988** and extends until November 30, 2007 or as specified in Part I.H of the permit.*

If you have any questions, please do not hesitate to call me at 410-537-3323.

Sincerely,

Edward Gertler

Edward Gertler, Technical Advisor
Industrial Discharge Permits Division
Wastewater Permits Program

EG/ba

cc: Dave Lyons, Compliance Program, MDE (BALTIMORE)
Bob Daniel, MDE, CSC

Preliminary Report of the
Baltimore County Planning Board
July 10, 1989

Ex #4

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING TRANSIT FACILITIES

pg 6 on Disk

Office of Planning & Zoning
Baltimore County, Maryland

TOWN CENTER — A locality designated and delimited as a town center by the Planning Board to serve as the primary center of commercial (including supporting commercial) and higher-density residential development for an area having a population of approximately 100,000 or more persons, and meeting criteria or guidelines adopted and published by the Planning Board. Industrial, lower-density residential, and institutional uses are not excluded from town centers (when allowed under the regulations for the zone in which they are located). **[Bill No. 40-1967]**

TOWN-CENTER DISTRIBUTOR-BYPASS ROAD — An arterial street which is designed to distribute traffic to a town center as well as to carry traffic around and away from such a center, and which is designated by the Planning Board as a town-center distributor-bypass road. **[Bill No. 40-1967]**

TRAILER (or MOBILE HOME) — Any of the various types of vehicles or mobile homes, with or without motive power, including small structures transportable by a pickup truck or similar vehicle, which are used for human habitation or for business purposes, but excluding vehicles used only for transportation of materials, products or animals. A trailer (or mobile home) shall still be regarded as such even though its mobility may have been eliminated by removing its wheels, or otherwise, and placing it on a stable foundation or rigid supports. Recreational vehicles, as defined herein, are excepted from this definition. **[Bill Nos. 145-1959, Section 415.5; 109-1964; 29-1974]**

TRAILER PARK — A tract of land specifically planned and equipped to accommodate residential trailers for temporary or continuing occupancy, including all buildings, structures, tents, vehicles, utilities and accessories used or intended as equipment for such trailer park.

TRANSIT CENTER — A structure or portion of a structure and bus staging area designed and located to facilitate transfers among bus routes operated by the State Mass Transit Administration. A transit center may also be designed with parking to facilitate transfers between other modes of transportation including taxicabs, automobiles, commuter vanpools, airport limousines and privately owned buses. **[Bill No. 91-1990]**

TRANSIT FACILITY — A structure or any combination of structures, including at-grade, elevated or below-grade fixed guideways, tunnels, electrical substations or fixtures necessary to support public mass transportation operations owned or operated by or on behalf of the Mass Transit Administration. This term shall not include a transit center, a transit storage and repair yard, bus terminal or rail passenger station. **[Bill No. 91-1990]**

TRANSIT STORAGE AND REPAIR YARD — A site used primarily for the storage and maintenance of common carrier vehicles and for the repair of equipment associated with such vehicles. **[Bill No. 91-1990]**

TRUCKING FACILITY — A structure or land used or intended to be used primarily (a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or (b) for truck or truck-trailer parking or storage. A trucking facility may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles, or necessary space for the transitory storage of goods or chattels. The term "trucking facilities" includes facilities for

APPEAL

Petition for Variance
3118 Hammonds Ferry Road
W/side Hammonds Ferry Road, 175 feet south of Research Avenue
13th Election District – 1st Councilmanic District
Legal Owners: Pullen Tour Service, Inc.

Case No.: 06-389-A

✓ Petition for Variance (February 10, 2006)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (March 27, 2006)

✓ Certification of Publication (The Jeffersonian – April 11, 2006)

✓ Certificate of Posting (April 11, 2006) by SSG Robert Black

✓ Entry of Appearance by People's Counsel (March 2, 2006)

✓ Petitioner(s) Sign-In Sheet – 1 Sheet

• Protestant(s) Sign-In Sheet - None

✓ Citizen(s) Sign-In Sheet – 1 Sheet

✓ Zoning Advisory Committee Comments

Petitioners' Exhibit
1. Plat to accompany petition for zoning variance
2. Photographs (A thru C)
3. Wastewater Discharge Permit

Protestants' Exhibits:
1. Photographs 1 - 7 A-1
2. ~~Photographs (A thru I)~~
3. Photographs (A thru C)
4. Photographs (2)
5. Photograph
6. Letter dated April 25, 2006
7. Photographs (A & B)
8. Petition against 06-389-A

Miscellaneous (Not Marked as Exhibit)
1. Email received on March 22, 2006 by Pat Keller

Deputy Zoning Commissioner's Order (GRANTED in accordance w/order – May 17, 2006)

Notice of Appeal received on May 31, 2006 from People's Counsel

2nd Notice of Appeal received on June 12, 2006 from Maryland Citizens for the Environment, Inc

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Hornett Pullen
Rick Richardson - 30 E. Padonia Rd Ste 500 Timonium MD 21093-2314
Dawn Horsey
Shirley Arrington
Heather Hall
Erik Bowers
Nelson Seiler
Brenda Harney
Lorraine Young

date sent June 28, 2006, klm

RECEIVED
JUN 29 2006
BALTIMORE COUNTY
BOARD OF APPEALS

Department of Permits and Development Management

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



Baltimore County

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

June 28, 2006

Timothy Fitts
Harvey & Fitts, LLC
311 E. 25th Street
Baltimore, MD 21218

Dear Mr. Fitts:

RE: Case: 06-389-A, 3118 Hammonds Ferry Road

Please be advised that two appeals of the above-referenced case were filed in this office on May 31, 2006 by People's Counsel and on June 12, 2006 by Maryland Citizens for the Environment. 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

Timothy Kotroco
Director

TK:klm

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JUN 29 2006
BALTIMORE COUNTY
BOARD OF APPEALS

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Hornett Pullen, 5608 Kallen Court, Baltimore 21227
Rick Richardson, 110 Old Padonia Road, Ste. LC, Cockeysville 21030
Dawn Horsey, 2365 Research Avenue, Baltimore 21227
Shirley Arrington, 2365 Research Avenue, Baltimore 21227
Heather Hall, 3114 Hammonds Ferry Avenue, Halethorpe 21227
Erik Bowers, 2363 Research Avenue, Halethorpe 21227
Nelson Seiler, 1-W Virginia Avenue, Halethorpe 21227
Brenda Harney, ~~104~~ 914 Winsap Court, Baltimore 21227
Lorraine Young, 2-W Virginia Avenue, Baltimore 21227

Printed on Recycled Paper

Maryland Citizens for the Environment, Inc.
914 Winsap Court
Halethorpe, MD 21227
(410) 247-9718

June 9, 2006

Timothy Kotroco, Director
Dept. of Permits & Dev Mgmt
111 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED
JUN 12 2006
Per...

Hand-delivered

Re: PETITION FOR VARIANCE
W/S Hammonds Ferry Road, 175'S of Research Avenue
(3118 Hammonds Ferry Road)
13th Election District, 1st Council District
Pullen Tour Service, Inc - Petitioners
Case No: 06-389-A

Dear Mr. Kotroco:

Please enter an appeal by the Maryland Citizens for the Environment and the residents in the area to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated May 17, 2006 by the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

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

Very truly yours,

Brenda Harney
Chairperson

Shirley Arrington
Resident

Heather Hall
Resident

Dawn Horsey
Resident

Darrick Horsey
Resident

Danielle Bowers
Resident

Erik Bowers
Resident

Susan Gilbride
Resident

Patrick Gilbride
Resident

Lynn Good
Resident

Jim Good
Resident

Vivian Seiler
Resident

Nelson Seiler
Resident

Lorraine Young
Resident

AND OTHERS

cc: Peter Max Zimmerman

Baltimore 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

May 31, 2006

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

RECEIVED
MAY 31 2006
By

Hand-delivered

Re: PETITION FOR VARIANCE
W/S Hammonds Ferry Road, 175' S of Research Avenue
(3118 Hammonds Ferry Road)
13th Election District; 1st Council District
Pullen Tour Service, Inc - Petitioners
Case No.: 06-389-A

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated May 17, 2006 by the Baltimore County Deputy Zoning Commissioner in the above-entitled case

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

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: Timothy L. Fitts, Esquire

5/17/06

IN RE: PETITION FOR VARIANCE
West side of Hammonds Ferry Road, 175'
South of Research Avenue
13th Election District
1st Councilmanic District
(3118 Hammonds Ferry Road)

Pullen Tour Service, Inc., *Legal Owner*
Petitioner

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 06-389-A

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by Pullen Tour Service, Inc., Legal Owner of the subject property. The variances requested are for property located at 3118 Hammonds Ferry Road in the western area of Baltimore County. The variances requested are from the Baltimore County Zoning Regulations (B.C.Z.R) as follows:

1. From Sections 409.8.A.2 and 409.8.A.2.6, to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface;
2. From Section 243.3, to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet;
3. From Section 243.2, to permit a side yard setback of 1.5 feet in lieu of the required 50 feet;
4. From Section 243.4, to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and
5. From Section 243.1, to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

The property was posted with a notice of the public hearing date and time on April 11, 2006, and notice given to the general public by publication in the Jeffersonian Newspaper on April 11, 2006.

Interested Persons

Appearing at the hearing on behalf of the variance request were Rick Richardson who prepared the site plan and Hornett Pullen for the corporate Petitioner. Timothy L. Fitts, Esquire represented the Petitioner. Appearing in opposition to the requested relief were Dawn Horsey,

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5-17-06
BY

Shirley Arrington, Heather Hall, Erik Bowers, Welson Seiler, Brenda Harney and Lorraine Young. Peter Max Zimmerman, People's Counsel, entered his appearance in this case.

Zoning Advisory Committee

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 Office of Planning dated March 3, 2006 recommending denial of the request, a copy of which is attached hereto and made a part hereof.

Applicable Law

Section 307 of the B.C.Z.R. – ***Variances***.

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

Code Enforcement Comments

This matter is currently the subject of an active violation case (Case No.05-5498) in the Division of Code Inspections and Enforcement. A citation for code violation has been issued in this matter because of bus parking within 20 feet of a residential home, as well as fumes coming into homes.

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 Petitioner cannot use the fact that a situation

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which presently exists will be seen as a precedent to allow it to continue. Nor does the fact that a structure may be costly to remove or modify come into consideration in the zoning case. The reason for this is that this condition is clearly self-imposed and as such cannot be a basis for the hardship or practical difficulty required by Section 307 of the B.C.Z.R. Conversely, the fact that something may have been done which could violate the law is not held against the Petitioner 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 hearing of this Office.

Testimony and Evidence

The subject property is approximately 0.64 acres zoned ML-IM and located at the intersection of Virginia Avenue with Hammonds Ferry Road. Mr. Fitts proffered that the Petitioner operates a small charter bus service from the property which use falls into a "transit storage and repair yard" under the regulations. He opined that this use is allowed by right in this ML-IM district referring to the November 15, 2001 opinion letter from the Zoning Office which is inserted into the Plat to Accompany, Petitioner's exhibit 1. The Petitioner parks his busses and does minor repair of same on the premises now. Mr. Fitts indicated that the Penske trucking facility is located across Virginia Avenue to the south while the Form Service Trucking Company is across Hammonds Ferry Road to the east.

While there is no permanent structure or building on the property at present (there is an office trailer), the Petitioner would like to build a bus maintenance building in the corner of this L shaped property in the location as shown in Petitioner's exhibit 1. This would require the setback variances given above.

The paving and stripping variance arises from DEPRM's requirement to keep the impervious area the same as when a home (now demolished) was on the property. In addition to an office in

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the new building the Petitioner would perform routine maintenance of the busses in the two bays proposed.

Mr. Richardson, the Petitioner's professional engineer, indicated that if the setback regulations were strictly enforced, because of the odd shape of the property, only the tiny triangle shown on Petitioner's exhibit 1 would be usable for a building which would be wholly impractical. Essentially there is no building area on the property. He noted that the size of the building (45 x 76) was the smallest which would be useful. This results in a requested setback of 1.5 feet as shown for two of the building corners. He noted that the busses now park in the area shown and would likely have to be moved from the indicated parking area to allow busses to turn into the garage. He indicated that the building could be maintained using access from the front portion of the building.

Upon questioning Mr. Richardson indicated that there is perhaps 50 feet and a line of trees between the subject property and the Penske trucks to the south. He further noted that the building would be approximately 20 feet high to accommodate the height of the busses entering the garage doors, and that there could be a maximum of 6 busses on the property at one time. He disputed Ms. Arrington's assertion that the FSI trucking company across Hammonds Ferry Road was benignly quiet for a trucking company noting he saw a tractor trailer on the FSI property at night waiting for the FSI office to open in the morning. He also indicated that trucks on Penske's lot run refrigerator compressor motors 24 hours a day 7 days a week.

He admitted that there were no storm drains or storm water management on the property now nor were any proposed which fact DEPRM has approved based on having the same impervious area as the home previously on the property. He denied that the office trailer would be removed once the office in the new building were operational.

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The protestants are owners and residents of adjacent homes which are zoned ML-IM and DR 5.5. Ms. Young presented protestant's exhibit 1 which shows the very small distance between the fence on the Petitioner's property and the "garage" on the Seiler property which is actually her home. She indicated that it was very difficult to maintain this narrow strip. She also noted that unlike the noise from the Petitioner's busses, there was no appreciable noise from Penske Trucking. Noise from the subject property occurs all night long with music and commotion as the employees maintain the busses. She indicated that the neighborhood suffers from flooding from the subject site as shown on protestants' photographs, exhibit 2. She blamed this on the fact that the Petitioner stripped off the top soil on the subject property and replaced it with rock for the busses to ride on. Finally she noted that the waste water from the busses is dumped on the property which she considered a health hazard.

Mr. Seiler indicated that he objects to the noise and fumes from bus motors idling on the subject site which is so close to his home as shown in protestants' exhibit 3.

Mr. Bowers objected to the lighting from the property which intrudes into his bedroom while the busses are being serviced on the site. He hears the noise all night. He also attributed the flooding in the neighborhood to the Petitioner's grading its property.

Ms. Arrington indicated that the FSI trucking facility across Hammonds Ferry Road was very clean, closed on Sunday and had full blacktop parking areas. She suffers from health problems and complained that since the Petitioner began his bus service she has been unable to use her porch or pool as the result. She wanted the Petitioner to have to pave the parking lot. She presented a petition opposing the variances.

Ms. Hall whose home is zoned ML-IM complained about the lights from the property at night, the drainage problems caused by the Petitioner, and the Petitioner discharging water water from the toilets on the busses into a small sump tank on the ground. He noted the Petitioner's

5-17-06

employees often miss the small opening for the sump. See protestants' exhibit 4 for a photograph of the sump area. He opined that allowing the rock paving instead of blacktop will mean the Petitioner's employees will continue to dump chemicals on the ground.

In rebuttal Mr. Pullen noted that he serves on the Lansdowne Improvement Association board of directors, is active in the community, and is a full time employee of the Post Office. He denied that his employees make objectionable noise while maintaining the busses. He testified that his waste water dump is constructed to County standards, approved for use by the County and is regularly inspected for compliance with all applicable regulations. See Petitioner's exhibit 4. He further noted that DEPRM has approved his procedure for washing the busses. Finally he indicated that he has received rare complaints about the operation and has remedied those complaints which were justified.

Mr. Richardson indicated that the Petitioner would submit both landscape and lighting plans to the County for review and approval if the zoning issues are approved.

Mr. Fitts indicated that his client could reduce the size of the building 10 feet in the rear to allow landscaping and 5 feet on the side to permit maintenance of the building without going onto the adjacent property.

Findings of Fact and Conclusions of Law

The protestants live in a mixed use neighborhood with trucking companies and this bus company intermixed with residences. ML-IM zones adjacent to DR 5.5 zones likely reflect an age old use of land. Understandably the protestants want the Petitioner to cease operation. Noise, lights and storm water flow off the subject site onto the residential zone and residential uses in the ML zone. Consequently the protestants filed complaints with the County zoning enforcement office. According to the file, the Code Enforcement Hearing Officer suspended the enforcement hearing pending the outcome of this hearing. He noted that this hearing would

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determine if the Petitioner's use of the property as a transit storage and repair facility is allowed under the regulations.

The Petitioner contends that the use as a transit storage and repair facility is allowed by right in this zone and never filed a request for special hearing to determine if this use is allowed under the regulations. Instead he filed a request to erect a new building on the property. So even though no special hearing has been filed, I will address the use issue. First the Petitioner operates a charter bus company. Thus the company is a common carrier of passengers and maintains the busses doing minor repair on the property. Consequently the use falls within the definition of "Transit Storage and Repair Yard" as indicated in the definitions of the BCZR.

The subject property is zoned ML-IM. Section 253 of the BCZR lists Transit Storage and Repair Yard as a use allowed by right in this zone under subsection B, transportation, storage and quasi public uses. However uses within 100 feet of a residential zone boundary in the ML zone are severely constrained by the special provisions of Section 253.4. This site is adjacent to and consequently within 100 feet of a residential boundary. Section 253.4 then provides that the uses allowed within 100 feet of a residential boundary are greatly limited to the list of uses in the MR zone as described by Section 241. Transit Storage and Repair Yards are also allowed by right in MR zones under Section 241.1. So far my findings, the Petitioner's position and the Zoning Office letter of November 15. 2001 are entirely consistent.

However we now start to part company. I note that the uses allowed in MR zones under Section 241.1 are predicated on an important and apparently overlooked requirement that the uses listed are permitted "provided that their operations are entirely within enclosed buildings". (Emphasis supplied). Mr. Pullen today does not have his operations entirely within enclosed buildings. In fact those operations are entirely out of any building. Mr. Pullen can not use the

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property as a transit storage and repair facility by right unless the operations are completely enclosed in a building.

Apparently realizing the danger to his business, the Petitioner asks for variances to erect a building which he describes as being able to hold two busses. Said another way the Petitioner may not wash busses, maintain busses, empty waste water from busses and the like outside of an enclosed building. The MR regulations are intended to protect the residential uses over the boundary by insuring that all noise, waste, and maintenance are contained within the building and consequently the impact on the residential uses is greatly reduced. Had the Petitioner performed the operations within an enclosed building, I believe the list of complaints from the community would have been very short indeed.

One question arises as to parking. Does parking have to be within an enclosed building? Asked another way is parking part of the "operations" of the business from a zoning perspective? As strange as it may seem at first, my answer is parking is not part of "operations" which must be enclosed. I come to this conclusion looking at the list of uses allowed in the MR zone. For example banks are allowed. Clearly parking for customers of the bank are not going to be within the enclosed bank building whereas the banking operations themselves would be in the building. Similarly parking for customers and employees of the manufacturing businesses listed is not going to be in an enclosed building. But the noise making, fume generating, etc operations have to be inside a building. Again this greatly reduces the impact of the industrial uses on the residential uses over the boundary. Consequently I find that employee and customer parking do not have to be within an enclosed building. By analogy I further find that simply parking busses on the subject site does not have to be within the enclosed building.

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Date 5-17-06
By 183

In regard to the actual variance requests for a building, I find that the site is unique in a zoning sense. The lot is L shaped. The ML and in turn MR regulations impact this site disproportionally because of its odd shape and proximity to a residential boundary.

I accept Mr. Richardson's observation that if the regulations were strictly enforced, there would be essentially no area on the site which would allow a building to be erected. Therefore I find that the Petitioner would suffer hardship and practical difficulty.

Finally I find that if certain conditions are met the variances would be within the spirit and intent of the regulations. The regulations allow industrial uses close to residential boundaries if they are within enclosed buildings. The spirit and intent of the regulations is to protect those residential uses but then the regulations specify how the protection is to be accomplished. The operations shall be within an enclosed building.

Finally I find that, if the operations are within an enclosed building and certain other conditions are met, there will be no adverse impact on the community. Those conditions are that the Petitioner shall submit landscape and lighting plans to the Baltimore County Landscape Architect for review and approval to insure that the new building is properly screened from the adjoining residential uses including those in the ML zone. Lighting will be directed on the subject and not on adjacent properties. All noise, waste and maintenance will be performed within the enclosed building. In order to maintain the building without going onto neighboring properties, there must be at least 5 feet on each side so that someone on a ladder can maintain the building. In addition the rear setback shall be 10 feet to allow proper landscaping and screening to buffer adjacent properties from the visual impact of the new building.

Finally in regard to the flooding problems described by the neighbors, I do not believe that DEPRM was aware of the neighbors complaints about storm water coming off the property when apparently it waived requirements to manage storm water on site. Had they become aware of

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these problems I believe they would have required on site storm water management. If on site storm water management is provided, the parking area for the busses can be paved as required by the regulations. Therefore I will require the Petitioner to resubmit its storm water management plan once again to DEPRM for further review and approval.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variances should be granted

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 17th day of May 2006, that the variances requested from the Baltimore County Zoning Regulations (B.C.Z.R) as follows:

1. From Section 243.3, to permit a rear yard setback of 10 feet in lieu of the required 50 feet;
3. From Section 243.2, to permit a side yard setback of 5 feet in lieu of the required 50 feet;
4. From Section 243.4, to construct a building 5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and
5. From Section 243.1, to permit a front yard setback of 5 feet in lieu of the required 75 feet.

be and they are hereby GRANTED subject to the following conditions:

1. The Petitioner shall submit landscape and lighting plans to the Baltimore County Landscape Architect for review and approval to insure that the new building is properly screened from the adjoining residential uses including those in the ML zone and to buffer adjacent properties from the visual impact of the new building.
2. Lighting will be directed on the subject and not on adjacent properties.
3. All washing of busses, waste removal and maintenance will be performed within the enclosed building.

ORDER RECEIVED FOR FILING
Date 5-17-06
By

IT IS FURTHER ORDERED that the variance from Sections 409.8.A.2 and 409.8.A.2.6, to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface is hereby DENIED and the Petitioner is directed to resubmit its storm water plans to DEPRM for reevaluation and approval.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

PETITION RECEIVED FOR FILING
5-17-06

BALTIMORE COUNTY
MARYLAND

May 16, 2006

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

TIMOTHY L. FITTS
HARVEY & FITTS, LLC
311 E. 25TH STREET
BALTIMORE MD 21218

Re: Petition for Variance
Case No. 06-389-A
Pullen Tour Service, Inc.
3118 Hammonds Ferry Road

Dear Mr. Fitts:

Enclosed please find the decision rendered in the above-captioned case. The petition for variance has been granted 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 V. Murphy
Deputy Zoning Commissioner

JVM:pz
Enclosure

c: Hornett Pullen, Pullen Tour Service, Inc., 5608 Kallen Court, Baltimore MD 21227
Rick Richardson, 110 Old Padonia Road, Suite LC, Cockeysville MD 21030
Dawn Horsey, 2365 Research Ave., Baltimore MD 21227
Shirley Arrington, 2365 Research Ave., Baltimore MD 21227
Heather Hall, 3114 Hammonds Ferry Road, Halethorpe MD 21227
Erik Bowers, 2363 Research Ave., Halethorpe MD 21227
Nelson Seiler, 1-W, Virginia Ave., Halethorpe MD 21227
Brenda Harney, 194 Winsap Court, Baltimore MD 21227
Lorraine Young, 2-W Virginia Ave., Baltimore MD 21227

ORDER RECEIVED FOR FILING
Date 5/17/06
By

Lynn Lanham - Fwd: Case # 6-389-A

From: Pat Keller
To: Lanham, Lynn; Mayhew, Jeff; Wertz, Dennis
Date: 03/22/06 12:39 PM
Subject: Fwd: Case # 6-389-A

06-389-A

Where should this be sent? Pat

Pat Keller
Director of Planning
pkeller@co.ba.md.us
PH: 410.887.3211
Fax: 410.887.5862
County Courts Bldg.
401 Bosley Ave.
Towson, MD 21204

>>> "Brenda Harney" <bharn@earthlink.net> 3/22/2006 10:09:26 AM >>>

Good morning! Hope all is well with you and your staff.

There is a hearing today at 2-PM for the above case for the Pullen Tour Service asking for variances and setbacks.

Theresa and myself were going to come to the hearing today, but unfortunately we cannot make it. We wanted to inform you of the communities response. Unsure how this process works, so if you are not the one I should be forwarded the written testimony to, please advise.

As the Director of the BLR, we spoke to residents of Lansdowne and Bonnie Asbury, the President of Riverview, and residents are not in favor of the variances and setbacks being requested. The Lansdowne Community Association must stay neutral on the variances and setbacks because the business owner serves on their Board.

The business sits close to the very busy intersection of Hollins and Hammonds Ferry Road. Variance for loose stone instead of the required dustless paving surface could cause additional traffic problems, and the homeowners in this area health problems. Setbacks of 1.5' in the front and rear, and to construct a building close to the residential boundaries instead of the required 75' in these areas is unrealistic.

The BLR supports growth, as long as our residents and other business are not negatively affected.

We would like the Board and the county to carefully review the site plans, location to the residents and busy intersection, and hold true to the county guidelines and not support these requests. We are trying to improve the quality of living for our communities, and greatly appreciate your support.

Enjoy your day!!

We do greatly appreciate your support in the past.

Kristen Matthews - Case No. 06-389-A

From: Bette Schuhmann
To: Matthews, Kristen
Date: 3/22/2006 3:25:30 PM
Subject: Case No. 06-389-A

Hi, Kristen - To follow-up our earlier conversation about this case, please make a note on the file to contact the following individuals when the hearing has been rescheduled. Thanks!

Nelson Seiler (410-247-4619)
Lorraine Young (410-247-8147)

2 W. Virginia Avenue
Baltimore, Maryland 21227

P.S. I did call both people and left messages on their answering machines.

Bette Schuhmann
bschuhmann@co.ba.md.us
410-887-3868

TRANSMISSION VERIFICATION REPORT

TIME : 03/08/2006 08:48
NAME : ZONING
FAX : 4108873048
TEL :
SER.# : BROB4J281084

DATE,TIME	03/08 08:46
FAX NO./NAME	3468
DURATION	00:01:48
PAGE(S)	05
RESULT	OK
MODE	STANDARD ECM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Approved
Please forward on to Zoning File in DEC Murphy's office.
06 3.7.06
TMK

TO: Tim Kotroco, Director
Permits & Development Management

FROM: Joseph Bartenfelder
Councilman, Sixth District

SUBJECT: Appeal relative to constructing driveway and providing utility connections.
Amy Finneran
Mister, Winter, & Barlett, LLC
Suite 404 - Padonia Center
30 E. Padonia RD 21093
DATE: Telephone: 410-561-3000

March 7, 2006

See the accompanying documents. As stated in Ms. Finneran's cover letter, at issue is a proposal "to construct a private driveway and private water and sewer connections on county owned land". Note that related information has already been forwarded to Mr. Adams in Public Works, and your name as well as John Murphy's name are mentioned.

The controversy does not fall within the purview of my office, but I am asking you or someone you designate to contact Ms. Finneran to discuss options and explain procedures

06-389

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

06-389 Appeal Returned by Amy Finneran Please forward on to Zoning File in DZC Murphy's office. TMK

TO: Tim Kotroco, Director
Permits & Development Management

FROM: Joseoh Bartenfelder
Councilman, Sixth District

SUBJECT: Appeal relative to constructing driveway and providing utility connections.
Amy Finneran
Mister, Winter, & Barlett, LLC
Suite 404 - Padonia Center
30 E. Padonia RD 21093
DATE: Telephone: 410-561-3000

March 7, 2006

See the accompanying documents. As stated in Ms. Finneran's cover letter, at issue is a proposal "to construct a private driveway and private water and sewer connections on county owned land". Note that related information has already been forwarded to Mr. Adams in Public Works, and your name as well as John Murphy's name are mentioned.

The controversy does not fall within the purview of my office, but I am asking you or someone you designate to contact Ms. Finnernan to discuss options and explain procedures.

JB:bs

CC: Ms. Finneran

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

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

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

AMY K. FINNERAN

OF COUNSEL:
ANDREW H. VANCE
ROBERT L. FRANK
ELIZABETH C. YAREMA

WRITER'S EMAIL
afinneran@mwblaw.net

February 24, 2006

Councilman Joseph Bartenfelder
400 Washington Avenue
Towson, MD 21204

Re: Thornwood Road

Dear Councilman Bartenfelder:

Please be advised that we represent Melissa Malinowski and other individual Protestants regarding a Petition for Special Hearing filed by James Reilman of 9208 Avondale Road, seeking to construct a private driveway and private water and sewer connections on County owned land known as Thornwood Road. I have enclosed a copy of a Petition signed by twenty-four of your constituents who are in opposition to the Petition filed by James Reilman.

John Murphy, Deputy Zoning Director, denied Mr. Reilman's Petition on January 17, 2006. Since that time, however, Mr. Reilman's attorney has filed for reconsideration of said decision.

Enclosed is a copy of a letter sent to Edward Adams, Director of the Baltimore County Department of Public Works, setting forth the Protestants position in this matter. We hope that if need be, you will lend your support to the Protestants in this matter.

Thank you for your attention to this matter.

Very truly yours,

Amy K. Finneran

Amy K. Finneran

:akf
Enclosure
cc: Melissa Malinowski

PETITION IN OPPOSITION TO ZONING WAIVER FILED BY JAMES P. REILMAN FOR WAIVER TO ALLOW PAVED, PRIVATE DRIVEWAYAND FOR WATER AND SEWER CONNECTION IN THE RIGHT OF WAY OF THORNWOOD ROAD

We the undersigned residents of East Avenue, Avondale Road neighborhoods, being aggrieved thereby, are in opposition to the zoning petition filed by James P. Reilman for a waver to allow a paved, private driveway and for water and sewer connections in the right of way of Thornwood Road and hereby request that the Baltimore County Zoning Commissioner deny the Petition filed by James P. Reilman, as contrary to the interests and desires of the community residents on January 12, 2006.

	Opponent Name	Address
1.	Melissa J Malinowski	3130 East Ave
2.	Michael Malinowski	3127 East Ave
3.	Deborah J. Malinowski	3127 East Ave.
4.	[illegible]	3129 East Avenue
5.	Alice R. Morris	3131 East Ave.
6.	John C. Morris	3131 EAST AVE.
7.	Geoffrey Hooper	9200 AVONDALE ROAD.
8.	Theresa C. Hooper	9200 AVONDALE ROAD.
9.	Frances E. Davidson	9202 Avondale Road
10.	Debra Johnson	9218A Avondale Road
11.	[illegible]	9218 A AVONDALE ROAD
12.	Carol Marion	9216 Avondale Rd
13.	Lewis Marion	9216 AVONDALE RD
14.	Lou Hill	9214 Avondale Rd

	Opponent Name	Address
15.	Hilda Suttard	9202 Avondale Road
16.	Tonya Howell	3132 East Ave
17.	Nancy Jean Dorsey	3045 East Ave
18.		3045 East Ave
19.		3130 EAST AVE.
20.		1 unreadable 3c (town of ?)
21.	Mary Beth Jancyak	3134 East Av
22.	Daniel E Driscoll	3128 East Ave.
23.	Stephanie Driscoll	3128 East Ave.
24.	Milagros Montalvo	3128 East Ave
25.		
26.		
27.		
28.		

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

(410) 561-3000
FACSIMILE
(410) 560-0588

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

AMY K. FINNERAN

OF COUNSEL:
ANDREW H. VANCE
ROBERT L. FRANK
ELIZABETH C. YAREMA

WRITER'S EMAIL
dmister@mwbhlaw.net

February 24, 2006

Edward Adams, Director
Baltimore County Department of Public Works
County Office Building, Suite 307
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Reilman/9208 Avondale Road
Petition for Special Hearing

Dear Mr. Adams:

Please be advised that we represent Melissa Malinowski and other individual Protestants in the above referenced matter. On December 20, 2005 you sent a memo to Timothy Kotroco, Director of Permits and Development Management and indicated that unless there was significant community opposition to the waivers requested by James Reilman to allow paving and private water and sewer connections in the right-of-way of Thornwood Road, that you would support the waiver under several conditions. Enclosed please find a petition signed by twenty-four residents of Avondale Road and East Avenue who oppose the waivers requested by James Reilman.

As you may know, on January 12, 2006 a hearing was held before John Murphy, Deputy Zoning Commissioner. On January 17, 2006, Mr. Murphy submitted his opinion on the matter and denied the waivers requested by the Petitioner. On February 14, 2006 Lawrence E. Schmidt, Esquire submitted a Motion for Reconsideration of the Findings of Fact and Conclusions of Law and Order issued by John Murphy, Deputy Zoning Commissioner. On February 20, 2006, we filed a Protestants' Response to the Motion for Reconsideration of the Findings of Fact and Conclusions of Law and Order.

The following is a summary of the issues presented by the Protestants in opposition to the requested waivers at the January 12, 2006 hearing and raised in my letter of February 20, 2006 to John Murphy.

The testimony presented during the Petitioner's case was such that the roadway was to be a private drive, to be accompanied by a private water and sewer line. The "private" aspect of the proposed construction of an undersized privately maintained roadway was supported by the fact that the road improvements will lead to only one private, residential dwelling without available

public parking, storm water management and public maintenance.

The Protestants assert the position that the Petitioner's request is an inappropriate use of public land. The proposed driveway will not allow parking for anyone else located near it. Several Protestants testified regarding the lack of adequate parking on East Avenue which will be compounded by granting the Petitioner's waiver. Additionally, as the testimony revealed at the hearing, the proposed driveway will not have the appropriate storm water management or other amenities usually associated with a true public road way. Again, testimony at the hearing revealed an existing drainage problem in the right-of-way of Thornwood Road which would not be adequately resolved by the Petitioner's proposed driveway and likely would increase the storm water runoff in that area. While it may be a benefit to the County for the Petitioner to privately maintain this driveway, it will not be beneficial to the nearby residents, because the quality of the maintenance will not be the same as it would be for a publicly maintained road.

Lastly, as reiterated in Mr. Murphy's opinion, there are concerns regarding the destruction of mature oak trees that line the sides of this strip of land, as well as the disruption to the neighbors for the installation of this driveway and water and sewer connections.

While we cannot speak on behalf of all of the residents of the East Avenue, Avondale Road area, the Protestants opinion is that if the County decides that there is to be a right of way on Thornwood Road, then it should be constructed as a full public road with adequate parking available to all the residents and provide for the appropriate storm water management.

While Mr. Murphy was not clear about the reference to "significant community opposition", it is our position that the enclosed Petition signed by twenty-four residents as well as the testimony presented at the January 12, 2006 hearing constitutes such opposition. It should also be noted that no one, other than the Petitioner himself, appeared at the hearing in support of the requested waivers.

Very Truly Yours,

David F. Mister

David F. Mister

Amy K. Finneran

Amy K. Finneran

:akf
Enclosure
cc: David L. Thomas, Assistant to the Director
Timothy Kotroco, Director, Permits & Development
Councilman Joseph Bartenfelder
Lawrence E. Schmidt, Esquire
Melissa Malinowski

ORIGINAL KEEP IN FILE

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 3118 Hammonds Ferry Rd

which is presently zoned ML-IM

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s): 409.8.A.2;409.8.A.2.6;243.3; (SEE ATTACHED) 243.2;243.4 & 243.1 BCZR.

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

See Attached

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Timothy L. Fitts
Name - Type or Print

Timothy L. Fitts
Signature

Harvey & Fitts, LLC
Company

311 E. 25th St. (410)467-7301
Address Telephone No.

Baltimore, MD 21218
City State Zip Code

Legal Owner(s):

Pullen Tour Service, Inc.
Name - Type or Print

Howett Pullen
Signature

HOWETT PULLEN
Name - Type or Print

Signature

5608 Kallen Court (410)365-2714
Address Telephone No.

Baltimore, MD 21227
City State Zip Code

Representative to be Contacted:

Timothy L. Fitts
Name

311 E. 25th St. (410)467-7301
Address Telephone No.

Baltimore, MD 21218
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 HRS

UNAVAILABLE FOR HEARING

Reviewed By DRO 0/7 Date 2/10/06
Filed JLL

Case No. 06-389-A

5-17-06 $35

REV 9/15/98

PETITION FOR VARIANCE

This petition for variance is sought for the following reasons:

1. Variance of §§409.8.A.2 and 409.8.A.2.6., Baltimore County Zoning Regulation (BCZR), to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface.

2. Variance of §243.3 BCZR, to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet.

3. Variance of §243.2 BCZR, to permit a side yard setback of 1.5 feet in lieu of the required 50 feet.

4. Variance of §243.4 BCZR, to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone.

5. Variance of §243.1 BCZR, to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

WILL REPRESENT ZONING HARDSHIPS AND/OR PRACTICAL DIFFICULTIES AT THE ZONING VARIANCE HEARING ITSELF.

Timothy L. Fitts
Law Offices of Harvey & Fitts, LLC
311 E. 25th Street
Baltimore, MD 21218
(410) 467-7301

Attorneys at Law

ORDER RECEIVED FOR FILING
Date 9/27/15
By BB

399

CERTIFICATION OF SEVICE

I HEREBY CERTIFY that on this 7th day of February, 2006 a copy of the foregoing Petition for Variance was hand delivered to the People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204.

Timothy L. Pitts
Harvey & Pitts, LLC
311 E. 25th Street
Baltimore, MD 21218
(410) 467-7301

Attorneys at Law

389

LAW OFFICES
OF
HARVEY & FITTS, L.L.C.

CLOTHILDA G. HARVEY
TIMOTHY L. FITTS

311 E. 25th Street
Baltimore, Maryland 21218
410-467-7301
410-467-4940 (Fax)
Reply to Baltimore Office

14744 Main Street, Ste. 105
Upper Marlboro, Maryland 20774
301-952-9225
301-952-9223 (Fax)
EMAIL: CLOLAWYER4U@PRODIGY.NET

February 6, 2006

Baltimore County Department of Permits
and Development Management
111 W. Chesapeake Ave.
Towson, MD 21204

Re: Pullen's Tour Service, Inc.
3118 Hammonds Ferry Rd

Dear Sir or Madam:

Please be advised that this office is filing a drop off petition for the above referenced property to be accepted as a draft petition. This property has an active zoning enforcement case number 05-5498, which is scheduled for February 8, 2006 at 9:00 am. The site plans that are being filed were reviewed previously reviewed by Donna Thompson of your office.

Your office has scheduled a date of March 10, 2006 at 11:00 am for the zoning variance petition. If the draft petition meets the approval of your office, I would ask that it be accepted as the final petition. Therefore your immediate attention is needed as we are making our best efforts to comply with zoning enforcement's corrective measures.

If there are any further questions or comments regarding this matter feel free to contact us.

Sincerely,
Timothy L. Fitts
Attorney at Law

Richardson Engineering, LLC

110 Old Padonia Road, Suite LC
Cockeysville, Maryland 21030

410-560-1502, fax 410-560-0827

ZONING DESCRIPTION
PULLEN PROPERTY
3118 HAMMONDS FERRY ROAD
13TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME at a point on the West side of Hammonds Ferry Road at the distance of 175'± southerly from the intersection of Research Avenue and Hammonds Ferry Road, running thence binding on the north side of Virginia Avenue, 20' right-of-way (1) South 88 degrees 15 minutes 00 seconds West 227.25 feet, (2) running thence North 01 degrees 45 minutes 00 seconds West 175.28 feet, (3) running thence South 85 degrees 00 minutes 00 seconds East 51.92 feet, (4) running thence South 01 degrees 29 minutes 03 seconds West 49.42 feet (5) running thence South 84 degrees 41 minutes 20 seconds East 143.90 feet to a point on the west side of Hammonds Ferry Road, 45' right-of-way (6) running thence parallel with Hammonds Ferry Road South 21 degrees 00 minutes 00 seconds East 113.95 feet, to the point of beginning.

Containing a net area of 26,726 square feet or 0.613 acres of land, more or less.

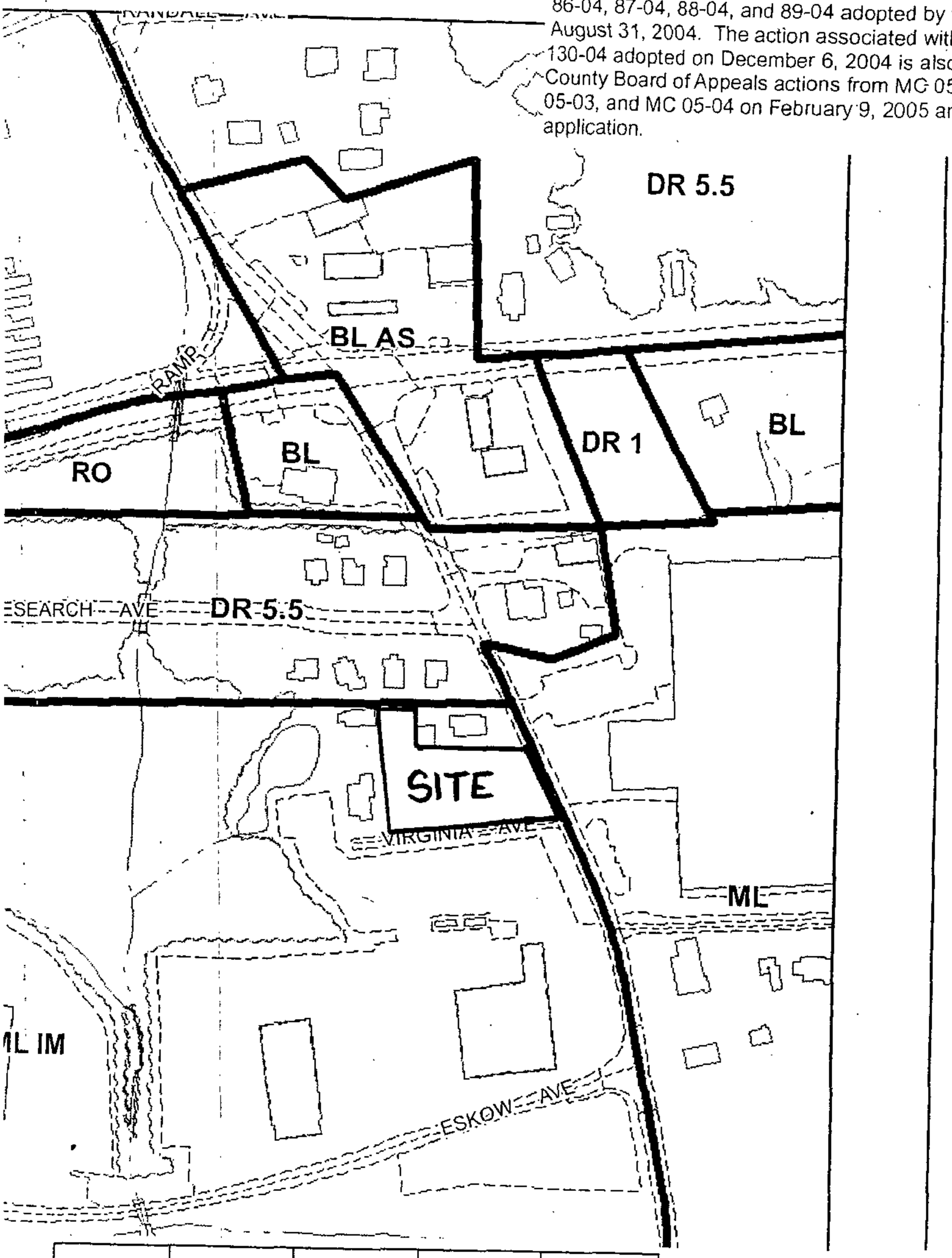
STATE OF MARYLAND
PROFESSIONAL ENGINEER

12/5/06

389

Plan Sheet: *109A2*

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.



108B1	108C1	109A1	109B1	109C1
108B2	108C2	109A2	109B2	109C2
108B3	108C3	109A3	109B3	109C3

Scale

1" = 200'

0 100 200 400

Feet

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 06 389 A

Petitioner: Pullen Tour Services Inc.

Address or Location: 3118 Hammonds Ferry Rd.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Tim L. Fitts (Harvey & Fitts, LLC)

Address: 311 E. 25TH ST

BALTO. MD. 21218

Telephone Number: 410 467 7301

Revised 7/11/05 - SCJ

F TIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

#389 Drop off No. 4245

DATE 2/10/06 ACCOUNT 001 006 6150

AMOUNT $ 325.00

RECEIVED
FROM: _____

FOR: Comm Variance
3118 Hammonds Ferry Rd.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

PAID RECEIPT

2/13/2006 2/10/2006 11:40:[illegible]
[illegible] [illegible]
RECEIPT # 442016 2/10/2006
Dept 5 328 ZONING VERIFICATION
DR NO. 002265
Receipt Tot 325.00
$325.00 CK 0.00 CA
Baltimore County, Maryland

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: #06-389-A
3118 Hammonds Ferry Road
West side of Hammonds Ferry Road, 175 feet south of *Research Avenue*
13th Election District — 1st Councilmanic District
Legal Owner(s): Pullen Tour Service, Inc.

Variance: to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface, and to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet, and construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

Hearing: Wednesday, March 22, 2006 at 2:00 p.m., In Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT 3/624 Mar. 7 86836

CERTIFICATE OF PUBLICATION

3/9/, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3/7/, 2006.

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

S. Wilkinson

LEGAL ADVERTISING

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: #06-389-A
3118 Hammonds Ferry Road
West side of Hammonds Ferry Road, 175 feet south of Research Avenue
13th Election District — 1st Councilmanic District
Legal Owner(s): Pullen Tour Service, Inc.

Variance: to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface, and to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet, and construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

Hearing: Wednesday, April 26, 2006 at 2:00 p.m., in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT 4/645 Apr. 11 91041

CERTIFICATE OF PUBLICATION

4/13/, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/11/, 2006.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 7, 2006 Issue - Jeffersonian

Please forward billing to:
Timothy L. Fitts, Esquire (410-467-7301)
Harvey & Fitts, LLC
311 E. 25th Street
Baltimore, MD 21218

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: 06-389-A
3118 Hammonds Ferry Road
West side of Hammonds Ferry Road, 175 feet south of Research Avenue
13th Election District—1st Councilmanic District
Legal Owner: Pullen Tour Service, Inc.

Variance to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface, and to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet, and to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

Hearing: Wednesday, March 22, 2006 @ 2:00 p.m., Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-3868.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

FREQUENT FLYER ATTORNEYS
DROP OFF ZONING PETITIONS
POLICY PROCEDURES

Keep in Zoning Files
06-389-A

The following zoning policy is related to the filing of zoning petitions and is aimed at expediting the petition filing process with this office:

1. The Director of the Office of Permits and Development Management (PDM) allows zoning attorneys who frequently file for zoning hearings and who are capable of filing petitions that comply with **all** technical aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of an appointment for review by zoning personnel.

2. Any attorney using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. In the event that the petition has not been filed correctly, there is the possibility that another hearing will be required or the zoning commissioner may deny the petition due to errors or incompleteness. All petitions filed in this manner will receive a cursory review and if necessary they will be commented on by zoning personnel prior to the hearing. A corrective memo by zoning review may be placed in the hearing file to be considered by the Hearing Officer.

3. When a petition has been dropped off by the attorney, it will only be reviewed for very basic necessary input, logging, and distribution information.

The requests appear to be accurate, however The section 243 variances should be referenced through the license of sections 253.4 and of 255.2 which are not referenced in the petition requests.

3/22/05
JLL/rjc

CASE NUMBER: 6-389-A
3118 HAMMONDS FERRY ROAD
Location: WEST SIDE HAMMONDS FERRY ROAD 175 FEET SOUTH OF RESEARCH AVENUE
13th Election District, 1st Councilmanic District
Legal Owner: PULLEN TOUR SERVICE, INC
Contract Purchaser:

VARIANCE TO PERMIT A PAVING SURFACE OF COMPACTED STONE WITHOUT PAINT STRIPING IN LIEU OF THE REQUIRED PAINT STRIPED DURABLE AND DUSTLESS PAVING SURFACE, AND TO PERMIT A REAR YARD SETBACK OF 1.5 FEET IN LIEU OF THE REQUIRED 50 FEET, AND TO CONSTRUCT A BUILDING 1.5 FEET IN LIEU OF THE REQUIRED 125 FEET TO THE NEAREST BOUNDARY LINE OF A RESIDENTIAL ZONE, AND TO PERMIT A FRONT YARD SETBACK OF 1.5 FEET IN LIEU OF THE REQUIRED 75 FEET.

Hearing: Wednesday, 03/22/2006 at 2:00:00 PM, Room 407 County Courts Buiding, 401 Bosley Avenue, Towson, MD 21204

CASE NUMBER: 6-391-SPHA
NW/S Sunni Shade Ct E Rexis Ave
Location: S/east side Sunni Shade Ct. , 350 feet east Rexis Ave
11th Election District, 5th Councilmanic District
Legal Owner: Michael, Barbara, Norman, Jr., Cynthia, Douglas, Joyce Norman and Helen Lauenstein
Contract Purchaser: Paul Amirault - MLH Development, LLC

VARIANCE To permit the use of a cul de sac without center landscaping.
SPECIAL HEARING To permit the utilization of density within each zone of the property and approve as a density anomaly the configuration of Lot Numbers: 1, 2, 10, 11, 12 & 13.

Hearing: Friday, 03/31/2006 at 9:00:00 AM, Room 407, County Courts Building, 401 Bosley Avenue, Towson, MD 21204

CERTIFICATE OF POSTING

RE: Case No.: 06-389-A

Petitioner/Developer: PULLEN TOUR SERVICE

Date of Hearing/Closing: APRIL 26, 2006

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

ATTN: Kristen Matthews {(410) 887-3394}

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: 3118 HAMMONDS FERRY RD

The sign(s) were posted on 4-11-06
(Month, Day, Year)

Sincerely,



Robert Black 4-12-06
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

APPEAL SIGN POSTING REQUEST

CASE NO. 06-389-A

3118 HAMMONDS FERRY ROAD

13TH ELECTION DISTRICT APPEALED: 5/31/2006

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

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

CERTIFICATE OF POSTING

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

Attention: Kathleen Bianco
Administrator

CASE NO.: 06-389-A

LEGAL OWNER: PULLEN TOUR SERVICES, INC.

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

3118 HAMMONDS FERRY ROAD

The sign was posted on 8-23-06, 2006.

By: _____
(Signature of Sign Poster)

JASON SEIDELMAN
(Print Name)

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

March 27, 2006

NEW 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: 06-389-A
3118 Hammonds Ferry Road
West side of Hammonds Ferry Road, 175 feet south of Research Avenue
13th Election District—1st Councilmanic District
Legal Owner: Pullen Tour Service, Inc.

Variance to permit a paving surface of compacted stone without paint striping in lieu of the required paint striped durable and dustless paving surface, and to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet, and to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and to permit a front yard setback of 1.5 feet in lieu of the required 75 feet.

Hearing: Wednesday, April 26, 2006 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK: klm

C: Timothy L. Fitts, Esquire, Harvey & Fitts, LLC, 311 E. 25th Street, Baltimore, MD 21218
Pullen Tour Service, Inc., c/o Hornett Pullen, 5608 Kallen Ct., Baltimore, MD 21227
Nelson Seiler, Lorraine Young, 2 W. Virginia Avenue, Baltimore 21227

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 11, 2006.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-3868.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Printed on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 9, 2007

NOTICE OF ASSIGNMENT

CASE #: 06-389-A

IN THE MATTER OF: PULLEN TOUR SERVICE, INC. -
Legal Owner /Petitioner 3118 Hammonds Ferry Road
13th Election District; 1st Councilmanic District

5/17/2006 – D.Z.C.'s decision in which requested variance relief was GRANTED in part with restrictions; and DENIED in part

ASSIGNED FOR: **WEDNESDAY, MAY 9, 2007 at 10:30 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Appellants /Protestants : Maryland Citizens for the Environment
Brenda Harney, Chairperson
Shirley Arrington
Heather Hall
Dawn Horsey /Darrick Horsey
Danielle Bowers /Erik Bowers
Susan Gilbride /Patrick Gilbride c/o Ms. Harney
Lynn Good /Jim Good c/o Ms. Harney
Vivian Seiler /Nelson Seiler
Lorraine Young

Petitioner /Legal Owner : Hornett Pullen
Rick Richardson /Richardson Engineering, LLC

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

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
TIMOTHY L. FITTS ESQUIRE	KATHLEEN BIANCO
FAX NUMBER: 301-952-9223	**DATE:** JUNE 4, 2007
COMPANY:	**TOTAL NO. OF PAGES INCLUDING COVER:** TWO (2)
PHONE NUMBER:	**SENDER'S REFERENCE NUMBER:** 06-389-A
RE: PULLEN TOUR SERVICE, INC.	**YOUR REFERENCE NUMBER:**

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

PERSONAL AND CONFIDENTIAL

ATTACHED FYI IS THE LETTER SENT OUT THIS DATE GRANTING YOUR EXTENSION REQUEST FOR FILING OF BRIEFS IN THE SUBJECT MATTER.

MEMOS ARE NOW DUE BY CLOSE OF BUSINESS ON TUESDAY, 6/12/07.

copy: hand-delivered to P. Zimmerman

FILE

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

County Board of Appeals of Baltimore County

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

June 4, 2007

VIA FACSIMILE 301-952-9223 AND US MAIL.

Timothy L. Fitts, Esquire
LAW OFFICES OF HARVEY
& FITTS, LLC
311 E. 25th Street
Baltimore, MD 21218

RE: *In the Matter of: Pullen Tour Service, Inc.* - Petitioner
Case No. 06-389-A /Extension of Time for Filing Memos

Dear Mr. Fitts:

In response to your telephone request this date, and without opposition by Mr. Zimmerman, your request for an extension for filing of memoranda in the subject matter has been granted. **Briefs are now due from all parties by close of business on Tuesday, June 12, 2007** in lieu of the previously designated June date.

The **public deliberation will take place as originally assigned on Tuesday, June 26, 2007** at 9:00 a.m.

Should you have any questions, please call me.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Peter M. Zimmerman, People's Counsel
for Baltimore County

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on Recycled Paper

County Board of Appeals of Baltimore County

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

May 16, 2007

NOTICE OF DELIBERATION

IN THE MATTER OF:
PULLEN TOUR SERVICE, INC. – Legal Owners /Petitioners
Case No-06-397-SPH

Having heard this matter on 5/09/07, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, JUNE 26, 2007 at 9:00 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: Closing briefs are due on TUESDAY, JUNE 5, 2007
(Original and three [3] copies)

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

c: Appellant : Office of People's Counsel

Appellants /Protestants : Maryland Citizens for the Environment
Brenda Harney, Chairperson
Shirley Arrington
Heather Hall
Dawn Horsey /Darrick Horsey
Danielle Bowers /Erik Bowers
Susan Gilbride /Patrick Gilbride c/o Ms. Harney
Lynn Good /Jim Good c/o Ms. Harney
Vivian Seiler /Nelson Seiler
Lorraine Young

Petitioner /Legal Owner : Hornett Pullen
Rick Richardson /Richardson Engineering, LLC

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

Copy to: 3-4-7

Printed with Soybean Ink on Recycled Paper

Department of Permits and Development Management

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

Baltimore County

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

April 20, 2006

Timothy L. Fitts
Harvey & Fitts, LLC
311 E. 25th Street
Baltimore, MD 21227

Dear Mr. Fitts:

RE: Case Number: 06-389-A, 3118 Hammonds Ferry Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 10, 2006.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Pullen Tour Service, Inc. Hornett Pullen 5608 Kallen Court Baltimore, MD 21227

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

4/22

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: March 3, 2006

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 3188 Hammonds Ferry Road

INFORMATION:

Item Number: 6-389

Petitioner: Pullen Tour Services, Inc.

Zoning: ML-IM

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:
The Office of Planning has reviewed the petitioner's request and offers the following: The proposed building will be adjacent to four residential properties, and the tract boundary of the subject property has residential uses on all sides. The proposed 1.5-foot setbacks are inadequate and will adversely impact all of the above-referenced residential properties. Furthermore, the petitioner has not demonstrated, nor can the Office of Planning determine any practical difficulty or non-self imposed hardship wherein compliance with the Baltimore County Zoning Regulations cannot be met. As such, the Office of Planning recommends **denial** of the petitioner's request.

For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by: Curtis M Murray

Division Chief: Lyn Lanham
AFK/LL: CM

W:\DEVREV\ZAC\6-389.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development Management

DATE: March 7, 2006

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For March 6, 2006
Item Nos. 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 398, 399, 401, 402, 403 404, 405, and 406

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

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-03072006

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

SHA State Highway Administration — Driven to Excel

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

Maryland Department of Transportation

Date: 2-28-06

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

RE: Baltimore County
Item No. 389 JLL

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,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

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

3-22

County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

February 28,2006

ATTENTION: Zoning Review planners

Distribution Meeting of: February 27,2006

Item No.: 387, 388, 389, 390, 391, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405 and 406

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

Acting Lieutenant Don W. Muddiman
Fire Marshal's Office
Phone(O)410-887-4881
Mail Stop - 1102F

cc: File

Printed on Recycled Paper

RE:	PETITION FOR VARIANCE 3118 Hammonds Ferry Road; W/S Hammonds Ferry Rd. 175' S Research Ave 13th Election & 1st Councilmanic Districts Legal Owner(s): Pullen Tour Service, Inc Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 06-389-A

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of March, 2006, a copy of the foregoing Entry of Appearance was mailed to, Timothy L. Fitts, Esquire, Harvey & Fitts, LLC, 311 E. 25th Street, Baltimore, MD 21218, Attorney for Petitioner(s).

RECEIVED
MAR 02 2006
Per

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

WHITEFORD, TAYLOR & PRESTON L.L.P.

SUITE 1500
SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

50 CORPORATE CENTER
SUITE 750
10500 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3585
TELEPHONE 410 884-0700
FAX 410 884-0719

JENNIFER R. BUSSE
DIRECT NUMBER
410 832-2077
jbusse@wtplaw.com

SUITE 400
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
DIRECT FAX 410 339-4027
www.wtplaw.com

SUITE 400
1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

SUITE 300
3190 FAIRVIEW PARK DRIVE
FALLS CHURCH, VIRGINIA 22042-4510
TELEPHONE 703 836-5742
FAX 703 573-1287

September 25, 2007

Linda
Please
deposit check
and exclude
this with
our file.

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

Re: Circuit Court Civil Action No.: 03-C-07-10143
Petition for Judicial Review
Hammonds Ferry Road Property
Zoning Matters- 06-389-A
Our File No.: 082850/00001

Dear Ms. Bianco:

Enclosed please find our firm's check in the amount of $25.00 representing payment for the tape from the hearings matter. Thank you for your attention to this matter.

Sincerely,

Jennifer R. Busse

JRB/kml
Enclosure
cc: Mr. Hornett Pullen
390455

RECEIVED
SEP 28 2007
BALTIMORE COUNTY
BOARD OF APPEALS

82850/1

County Board of Appeals of Baltimore County

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

September 18, 2007

Jennifer R. Busse, Esquire
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: Circuit Court Civil Action No. 03-C-07-10143
Petition for Judicial Review
Pullen Tour Service, Inc.
Case No.: 06-389-A

Dear Ms. Busse

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

The hearing in this case, which was held on May 9, 2007, was recorded on tape. In order to obtain a copy of this tape for transcribing, by a court reporter of your choice and at your expense, please remit a check in the amount of $25.00, ***payable to Baltimore County, Maryland***, at the address shown above.

Once the transcription of this tape has been completed, *the court reporter must then forward the original transcript to the Board of Appeals*, no later than October 29, 2007, so an extract of this case can be timely filed with the Circuit Court for Baltimore County.

WHITEFORD, TAYLOR & PRESTON L.L.P.
LAW OFFICES - BALTIMORE - TOWSON - WASHINGTON - VIRGINIA
7 SAINT PAUL STREET • SUITE 1400
BALTIMORE, MD 21202-1626
(410) 347-8700

PROVIDENT BANK OF MARYLAND

No. 27894

DATE 9/25/07

7-7301
2520

Twenty-Five ---------- and 00/100 -- DOLLARS

PAY TO THE ORDER OF Baltimore County, MD $ 25.00

VOID AFTER 90 DAYS
WHITEFORD, TAYLOR & PRESTON L.L.P.

By _____

⑈027894⑈ ⑆252073018⑆ 005⑉369568⑈

Baltimore 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

May 16, 2007

Lawrence S. Wescott, Panel Chair
County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

RECEIVED
MAY 16 2007
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Pullen Tour Services, Inc
Case No.: 06-389-A

Dear Mr. Wescott,

Enclosed for the Board's review, with a copy to Petitioner's counsel, are the following legislative sources which we intend to discuss in our memorandum:

1. Preliminary Report of the Planning Board dated July 10, 1989 – Proposed Amendments to the Baltimore County Zoning Regulations concerning Transit Facilities;
2. Baltimore County Council Bill 91-90 –An Act concerning Public Hearing for Transit Facilities; Zoning Regulations – Transit Facilities;
3. Baltimore County Zoning Regulations, Section 101 – Definitions of Transit Storage Repair Yard and Trailer
4. Baltimore County Zoning Regulations, Section 240-243 - Manufacturing, Restricted (M.R.) Zone: Purpose, Size Limitation, Procedure and Use;
5. Baltimore County Zoning Regulations, Section 253 -255 – Manufacturing, Light (M.L.) Zone Use Regulations; See especially BCZR 253.4, 255.1;
6. Baltimore County Zoning Regulations, Section 238 – B.R. Zone Area Regulations; and
7. Baltimore County Zoning Regulations, Section 415 – Trailers, see especially BCZR 415.2B

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
cc: Timothy Fitts, Esquire

Preliminary Report of the
Baltimore County Planning Board
July 10, 1989

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING TRANSIT FACILITIES

pg 6 of Draft

Office of Planning & Zoning
Baltimore County, Maryland

PASSED: 6/18/90 Effective: 6/13/90

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1990, Legislative Day No. 10

Bill No. 91-90

Mr. C.A. Dutch Ruppersberger, III, Councilman
By Request of County Executive

By the County Council, May 21, 1990

A BILL
ENTITLED

AN ACT concerning

Public Hearings for Transit Facilities
Zoning Regulations - Transit Facilities

FOR the purpose of amending the Zoning Regulations and The County Code in order to define Transit facility, rail passenger station, transit storage and repair yard, transit center and bus terminal, to permit transit facilities in all zones, transit centers in Business Major and Business Roadside zones and in manufacturing zones, transit storage and repair yards in manufacturing zones; ~~to permit rail passenger stations in residential zones by special exception~~ and to permit rail passenger stations in business and manufacturing zones and by special exception in residential zones; and providing for certain other requirements for transit facilities.

BY Adding

~~Section 101, alphabetically, the definitions of "transit facility", "rail passenger station", "transit storage and repair yard", "transit center", "bus terminal"; Section 434~~
~~Baltimore County Zoning Regulations, as amended~~
Section 101, alphabetically, the definitions of "bus terminal", "rail passenger station", "transit center", transit facility", "transit storage and repair yard" and Section 434
Baltimore County Zoning Regulations, as amended

Section 22-26(d)
Title "Planning, Zoning & Subdivision Control"
Baltimore County Code, 1978, 1987 Cumulative Supplement

BY Repealing and reenacting, with amendments

Sections ~~101~~, 1A01.2.B, 1A01.2.C, 1A02.2.A, 1A02.2.B, 1A03.3.A, 1A03.3.B, 1A04.2.A, 1A04.2.B, 1A05.2.C, 1B01.1.A, 1B01.1.B.1.c, 1B01.1.C, 200.2A, 201.2A, 207.3A, 230.9, 233.2, 241.1, 253.1B and 409.6A.2
Baltimore County Zoning Regulations, as amended.

WHEREAS, the Baltimore County Council recognizes that public transportation facilities are essential to alleviate traffic congestion, increase labor force accessibility, promote air quality and the efficient use of resources in Baltimore County; and

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

TOWN CENTER — A locality designated and delimited as a town center by the Planning Board to serve as the primary center of commercial (including supporting commercial) and higher-density residential development for an area having a population of approximately 100,000 or more persons, and meeting criteria or guidelines adopted and published by the Planning Board. Industrial, lower-density residential, and institutional uses are not excluded from town centers (when allowed under the regulations for the zone in which they are located). **[Bill No. 40-1967]**

TOWN-CENTER DISTRIBUTOR-BYPASS ROAD — An arterial street which is designed to distribute traffic to a town center as well as to carry traffic around and away from such a center, and which is designated by the Planning Board as a town-center distributor-bypass road. **[Bill No. 40-1967]**

TRAILER (or MOBILE HOME) — Any of the various types of vehicles or mobile homes, with or without motive power, including small structures transportable by a pickup truck or similar vehicle, which are used for human habitation or for business purposes, but excluding vehicles used only for transportation of materials, products or animals. A trailer (or mobile home) shall still be regarded as such even though its mobility may have been eliminated by removing its wheels, or otherwise, and placing it on a stable foundation or rigid supports. Recreational vehicles, as defined herein, are excepted from this definition. **[Bill Nos. 145-1959, Section 415.5; 109-1964; 29-1974]**

TRAILER PARK — A tract of land specifically planned and equipped to accommodate residential trailers for temporary or continuing occupancy, including all buildings, structures, tents, vehicles, utilities and accessories used or intended as equipment for such trailer park.

TRANSIT CENTER — A structure or portion of a structure and bus staging area designed and located to facilitate transfers among bus routes operated by the State Mass Transit Administration. A transit center may also be designed with parking to facilitate transfers between other modes of transportation including taxicabs, automobiles, commuter vanpools, airport limousines and privately owned buses. **[Bill No. 91-1990]**

TRANSIT FACILITY — A structure or any combination of structures, including at-grade, elevated or below-grade fixed guideways, tunnels, electrical substations or fixtures necessary to support public mass transportation operations owned or operated by or on behalf of the Mass Transit Administration. This term shall not include a transit center, a transit storage and repair yard, bus terminal or rail passenger station. **[Bill No. 91-1990]**

TRANSIT STORAGE AND REPAIR YARD — A site used primarily for the storage and maintenance of common carrier vehicles and for the repair of equipment associated with such vehicles. **[Bill No. 91-1990]**

TRUCKING FACILITY — A structure or land used or intended to be used primarily (a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or (b) for truck or truck-trailer parking or storage. A trucking facility may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles, or necessary space for the transitory storage of goods or chattels. The term "trucking facilities" includes facilities for

Section 240
Manufacturing, Restricted (M.R.) Zone: Purpose, Size Limitation, Procedure and Use
[BCZR 1955; Bill No. 56-1961]

240.1 Purpose. In order to provide greater flexibility in the selection of industrial areas, to assure effective control over the location, type and arrangement of industrial uses, so as to protect the uses in neighboring residential zones, M.R. Zones may only be created by petition in accordance with the procedure outlined in the following sections. Nothing herein shall be construed to have any effect on a zone established as M.R. prior to the enactment hereof.

240.2 Minimum size. If an M.R. Zone does not adjoin an M.L., M.H. or M.L.R. Zone, it must comprise at least five acres. An individual tract within an M.R. Zone may be less than five acres. A tract which adjoins an M.L., M.H. or M.L.R. Zone may be reclassified as an M.R. Zone even if such tract contains less than five acres in area, provided that it conforms in all other respects to the use and area regulations of an M.R. Zone.

240.3 Procedure for use of an existing M.R. Zone. When the owner of property located within an M.R. Zone proposes to develop such property, or any part thereof, he shall file with the Director of Planning five copies of a proposed development plan. Such plan shall show (a) existing topography and proposed changes in grade; (b) proposed streets within the planned area and their relation to adjacent streets; (c) approximate location, size and general character, including but not limited to materials, of proposed structures; (d) proposed use; (e) location and size of parking lots, and loading and unloading areas based on anticipated number of employees and trucks; and (f) proposed screening and planting. The Planning Board shall, within thirty days after receipt of such plan by the Director of Planning make its recommendations in writing to the Zoning Commissioner. The Zoning Commissioner, after due notice, shall proceed to hold a public hearing on such proposed development plan and shall thereafter pass an order approving or disapproving such plan. If approved with conditions, the conditions shall be incorporated in said order. An appeal may be taken from such order to the County Board of Appeals.

240.4 Procedure for petitioning for a new M.R. Zone. A petition for creating an M.R. Zone shall be filed with the Zoning Commissioner. There shall be filed with such petition five copies of a proposed development plan. Such plan shall contain the same information as is required for the proposed development plan under Section 240.3. A copy of such plan shall be transmitted forthwith to the Planning Board. The Planning Board shall, within 30 days after receipt of such plan, make its recommendations in writing to the Zoning Commissioner concerning the petition for creation of an M.R. Zone and the proposed development plan. The Zoning Commissioner, after due notice, shall proceed to hold a public hearing on such petition and proposed development plan, and shall thereafter pass an order either creating the requested M.R. Zone or denying the request for such zone. The order creating the requested M.R. Zone shall also either approve or disapprove the proposed development plan. If the proposed development plan is approved with conditions, the said conditions shall

Section 253
Manufacturing, Light (M.L.) Zone Use Regulations
[Bill No. 100-1970[57]]

253.1. Uses permitted as of right. The uses listed in this section, only, shall be permitted as of right in M.L. Zones, subject to any conditions hereinafter prescribed.

A. The following industrial uses:[58]

1. Airplane assembly.
2. Automobile assembly.
3. Boatyards (including marinas or marine railways).
4. Bottling establishments, soft-drink.
5. Brewery, Class 5B, if within the urban rural demarcation line **[Bill No. 185-1995]**
6. Candy manufacture, packaging or treatment.
7. Carpet or rug cleaning.
8. Cellophane-products manufacture or processing-restricted production (see Section 253.3).
9. Cleaning or dyeing.
10. Concrete products manufacture, including manufacture of concrete blocks or cinder blocks.
11. Cork products manufacture or processing-restricted production (see Section 253.3).
12. Cosmetics manufacture, compounding, packaging or treatment.
13. Drug manufacture, compounding, packaging or treatment.
14. Electrical appliance assembly.
15. Enameling, japanning or lacquering.
16. Excavations, controlled, except those involving the use of explosives.
17. Fiber products manufacture or processing, including the manufacture or processing of articles made of felt or yarn, or of textiles, canvas or other cloth-restricted production (see Section 253.3).
18. Food products manufacture, compounding, packaging or treatment, including but not limited to wholesale bakeries; canning plants or packing

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57 **Editor's Note: This bill also repealed former Subsections 253.1 through 253.5, derived from part of BCZR 1955, as amended by County Commissioners' Resolution of November 21, 1956, and County Council Bill Nos. 64-1960; 56-1061; 64-1963; 40-1967; 61-1967; and 85-1967.**

58 **Editor's Note: All provisions of this subsection are originally from Bill No. 100-1970, except as otherwise noted.**

Wireless telecommunications towers, subject to Section 426 **[Bill Nos. 61-1967; 85-1967; 64-1986; 30-1998]**

Section 237
B.R. Zone Height Regulations
[BCZR 1955]

Same as in B.L. Zones.

Section 238
B.R. Zone Area Regulations
[BCZR 1955]

Minimum requirements, except as provided in Article 3, shall be as follows:

238.1 Front yard for residences, as in Sections 302 and 303.1; for commercial buildings the front building line shall be not less than 50 feet from the front property line if on a dual highway; and not less than 25 feet from the front property line and not less than 50 feet from the center line of any other street, except as specified in Section 303.2.

238.2 Side and rear yards for residences, as in Section 302; for other buildings, 30 feet.

238.3 Parking areas and loading space in accordance with the provisions of Section 409.

238.4 Storage and display of materials, vehicles and equipment are permitted in the front yard, but not more than 15 feet in front of the required front building line.

238.5 Floor area ratio. The maximum permitted floor area ratio for any site in a B.R. Zone, except in C.C.C. and C.T. Districts, shall be 2.0. **[Bill Nos. 7-1962; 111-1968; 100-1970]**

Section 238A
Special Regulations for C.C.C. Districts
[Bill Nos. 111-1968; 100-1970;[5] 26-1988; 36-1988]

Contrary provisions of these zoning regulations notwithstanding, the regulations of this section shall apply in C.C.C. Districts superimposed upon B.R. Zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these zoning regulations.)

238A.1 Apartments shall be permitted, but only above the first story of a building. Elderly housing facilities shall be permitted in any story of a building.

238A.2 No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet.

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5 **Editor's Note: This bill redesignated former Section 238A as Section 238B.**

Section 414
Trailer Parks
[BCZR 1955]

414.1 The area of the lot on which such park is to be located shall be not less than five acres.

414.2 An area of not less than 3,000 square feet shall be allocated to each trailer, which must be connected to sewer, water and electricity.

414.3 Each trailer space shall abut or face on a driveway or unobstructed space of not less than 30 feet in width, which space shall have unobstructed access to a public highway. It shall be hard-surfaced and adequately lighted.

414.4 No trailer or service building or structure used in connection therewith shall be placed or permitted within 100 feet of the road or street upon which the lot or area so used for such park fronts or within 75 feet of any other boundary line of such lot or area.

414.5 There shall be a space of not less than 20 feet between each trailer and also a space of not less than 25 feet between any trailer and any service building or structure used in connection with such park. **[Bill No. 33-2000]**

414.6 No such trailer park nor any service building or structure used in connection therewith shall be established or operated without the approval of and subject to the regulations and requirements of the Baltimore County Health Department. Written approval shall be a required condition prior to issuance of a permit.

414.7 Revisions to a site plan to be approved under 414.5 may show typical site dimensions rather than the exact layout of every site, in order to give the management flexibility to replace obsolete units with new ones of different sizes and shapes. All revisions must be approved as stated in Section 502.10. **[Bill No. 33-2000]**

Section 415
Trailers
[Bill No. 109-1964 [5]]

415.1 Residential use of trailers. No person shall occupy a trailer for residential use except as follows and subject to the provisions of Section 415.6:

A. In an approved trailer park, in those zones where permitted as a special exception.

B. On a farm comprising 25 acres or more, in those zones where permitted and subject to Section 415.4.

C. On a tract comprising 25 acres or more, outside the Metropolitan District of Baltimore County, but any trailer so used must be located not less than 1,000 feet from any other trailer used for residence.

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[5] **Editor's Note: This bill also repealed former Section 415. That section was part of BCZR 1955 as amended by Bill No. 145-1959. The provision added as Section 415.5 by Bill No. 145-1965 was substantially reenacted as part of the definition of "Trailer (or Mobile Home)" in Section 101 by Bill No. 109-1964.**

88-1-5768

Brenda Harney

From: Brenda Harney [bharn@earthlink.net]
Sent: Wednesday, March 22, 2006 10:09 AM
To: ~~'pkeller@co.ba.md.us'~~
Subject: Case # 6-389-A

Please Place in Zoning file.

Good morning! Hope all is well with you and your staff.

There is a hearing today at 2-PM for the above case for the Pullen Tour Service asking for variances and setbacks.

I was planning on being at the hearing today, but unfortunately I can not get away from the office. I wanted to inform you of the communities response.

As the Director of the BLR which supports the communities of Baltimore Highlands, Lansdowne and Riverview, I spoke to residents of Lansdowne and Bonnie Asbury, the President of Riverview, and residents are not in favor of the variances and setbacks being requested. The Lansdowne Community Association must stay neutral on the variances and setbacks because the business owner serves on their Board.

The business sits close to the very busy intersection of Hollins and Hammonds Ferry Road. Variance for loose stone instead of the required dustless paving surface could cause additional traffic problems, and the homeowners in this area health problems. Setbacks of 1.5' in the front and rear, and to construct a building close to the residential boundaries instead of the required 75' in these areas is unrealistic.

The BLR supports growth, as long as our residents and other business are not negatively affected.

We would like the Board to carefully review the site plans, location to the residents and busy intersection, and hold true to the county guidelines and not support these requests. We are trying to improve the quality of living for our communities, and greatly appreciate your support. Enjoy your day!!

Greater BLR / Baltimore Highlands

To: William Wiseman
Zoning

From: Brenda Harney (BH)
410-925-9902

Please review. I was under the impression this was for Planning and recently learned it was Zoning. I am a new community leader unfamiliar with all of the county logistics, but learning. Hope for support

THE DAILY RECORD

Law

Bus company's owner vows to keep fighting

DANNY JACOBS
Daily Record Legal Affairs Writer
July 9, 2009 7:33 PM



A Lansdowne tour bus company cannot build a service facility that would be as close as 18 inches from its residential neighbors, a Baltimore County Circuit Court judge has ruled.

Hornett Pullen, owner of Pullen's Tour Service Inc., said he intends to appeal the ruling.

"I'm going to the end with this," Pullen said of his construction plans.

The company seeks to put a 3,300-square-foot service bay on its Hammonds Ferry Road property, which marks the dividing line between residential and manufacturing zones.

The plan requires a number of zoning variances, which the county's Board of Appeals denied two years ago after finding the proposed structure would be incompatible with adjacent homes.

The company challenged the denials in court, but Judge Judith C. Ensor affirmed the board on June 30.

There was substantial evidence to support the board's finding that the variances "would neither do substantial justice to the other property owners nor promote the public welfare," Ensor wrote.

She found the board properly considered the residential neighbors' concerns in denying the variances.

Neighbors have complained about flooding caused by runoff as well as fumes and constant noise from the business that operates 24 hours a day, seven days a week. Pullen has offered to buy several of the surrounding properties, but neighbors have said his offers were too low.

Vivian Seiler, who lives directly behind Pullen's with her husband, Nelson, was pleased with the court ruling but said the couple is still trying to sell their property, owned by the Seilers for nearly 100 years. Directly behind the Seilers is part of another trucking facility.

"We have to stay until we sell," she said.

Arnold E. Jablon, Pullen's lawyer, declined to comment on the decision. Jablon, currently of counsel to Venable LLP in Towson, is a former zoning commissioner and county attorney.

Buffer zone

Pullen's plans call for a bay to wash and maintain buses on the northwest corner of his L-shaped, 0.6-acre property, the north side of which marks the line between manufacturing and residential zones.

The zoning laws require setbacks of between 50 feet and 125 feet. Pullen's plans would reduce that distance to less than an arm's length on three sides, a configuration Pullen said is necessary to leave enough open space on the long end of the "L" to maneuver the buses.

Peter Max Zimmerman, the county's people's counsel, said the case is the first to address a zoning requirement that, within 100 feet of residential property, all commercial uses must be enclosed except for the parking of

passenger vehicles.

Even if the enclosed bay would be permitted within the 100-foot buffer zone, Pullen's plan called for the buses to park, maneuver and drive through the buffer zone to access the bay.

Jablon argued those acts should not be considered part of the company's operations. Ensor agreed with the board, based on the company's own expert witness, that moving the buses around on the property is part of the company's business.

Ensor also found Pullen's failed a "two-step inquiry" for getting a variance. The property is not "unique" compared to surrounding properties as defined in Cromwell v. Ward, a 1995 Court of Special Appeals decision, she wrote. Pullen's also did not prove a "practical difficulty" justifying the variance, she wrote, as defined by McLean v. Soley, a 1973 Court of Appeals decision that allows public welfare and safety to be considered.

Zimmerman said the McLean opinion is just as important as the more well-known Cromwell opinion in variance cases.

"Cromwell doesn't articulate in a categorical way the standards for practical difficulty," he said.

PLEASE PRINT CLEARLY

CASE NAME 3118 HAMMONDS FERRY RD
CASE NUMBER 06-389-A
DATE 4/26/06

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
RICK RICHARDSON	110 OLD PADONIA RD SUITE LC	COCKEYSVILLE MD 21030	RICK@RICHARDSONENGINEERING.NET
HORNETT PULLEN	3608 KELLAM CT	BALTIMORE MD 21227	

PLEASE PRINT CLEARLY

CASE NAME Puller Tour Service
CASE NUMBER 06-389-A
DATE 4-26-06

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
DAWN Horsey	2365 Research AVE		
*Shirley Arrington	Baltimore MD 21227		
*[redacted]ther Hall	3114 Hammonds Ferry Rd	Halethorpe MD 21227	
*ERIK BOWERS	2363 RESEARCH AVE	HALETHORPE MD 21227	
*WILLIAM G SEILER	1-W- VIRGINIA AVE	HALETHORPE MD 21227	
*BRENDA HARNEY	914 WINSAP CT	BALTO, MD 21227	
*Lorraine Young	2 W Virginia Ave	Baltimore Md 21227	lorri123@Hotmail.com
[redacted]			

EXHIBITS

3118 HAMMONDS FERRY ROAD
CASE NO. 06-389-A
PROTESTANT'S PHOTOS



Pro #1



Page 29



Pro

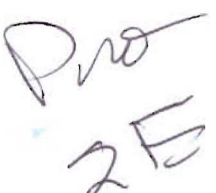
2B



Pro 26






P10
2E



DCO # 1A 2SH-PROJ C/C ONE HOUR

Pro 3B


PULLEN'S

$2^{\omega_1 \cdot \omega_2}$



Pro 3D



Proof



Pet #4





$\frac{1}{2}$ of 6



END

(7)



Pro 2F



Pro 26



Pro 24



Rio 21

SETON MEDICAL GROUP

A Division of St. Agnes HealthCare, Inc

3421 Benton Avenue, Suite 230 • Baltimore, Maryland 21227

Douglas L. Pinto, M.D.

Phone (410) 368-8460
Fax (410) 368-8463

4/25/06

Re: Shirley Arrington (DOB: 2/27/39)

To whom it may concern:

Mrs. Arrington is under my care. She has asked me to write a note listing her medical problems. These include emphysema with resultant chronic shortness of breath with exertion, hyperlipidemia, atrial fibrillation, hypothyroidism, and dilated cardiomyopathy.

Sincerely yours,

Douglas Pinto, MD

Pt #6

Petition against Case 6-389-A

We the surrounding residents and property owners in the Lansdowne Community surrounding Pullen Tour Service located at 3118 Hammonds Ferry Road are apposed of the approval of Case 6-389-A.

Giving Mr. Pullen variance to permit a paving surface of compacted stone without paint stripping in lieu of the required paint striped durable and dustless paving surface, and to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet, and to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and to permit a front yard setback of 1.5 feet in lieu of the required 75 feet

Print Name	Address	Phone Number	Date
Ester Lorraine Young	2 W Virginia Ave	410-247-8174	3/13/06
Ester Lorraine Young			
MR. & MRS NELSON SEILER			3-13-06
Mrs. Nelson G Seiler	1-W-VIRGINIA AVE	410-247-4619	
HEATHER HALL	3114 HAMMONDS FERRY ROAD	410-242-6386	3/13/06
Heather Hall			
Shirley Arrington	2365 Research Ave	410-247-6524	3/13/06
Shirley Arrington			
John JERRY Hock	2359 Research AVE	410 247-4705	3/20/06
for Mr. & Mrs. Good	2362 Research Ave.	410-536-4712	3/21/06
Mr. & Mrs. Good			
Mr. & Mrs. BOWERS	2363 Research Ave.	410-242-5547	3/21/06
Mr & Mrs. Bowers			
Mr+Mrs Horsey	2365 Research AVE	410-247-6524	3/21/06
Mr Mrs Horsey			

P.no # 8

3118 HAMMONDS FERRY ROAD
CASE NO. 06-389-A
PETITIONER'S PHOTOS



Det 2

Pet
2C



3735 20051002 Ritz #1086







PAGE 01
UTILITIES E & R
04/26/2006 08:10 14108875412

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS
AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

WASTEWATER DISCHARGE PERMIT

LICENSING YEAR: AUGUST 1, 2005 THROUGH JULY 31, 2006

EFFECTIVE DATE: AUGUST 1, 2005

FACILITY NO. 120944

Category 3

PULLEN'S TOUR SERVICE
3118 HAMMONDS FERRY RD
BALTIMORE MD 21227

120944 1 4/26/2006

PULLEN'S TOUR SERVICE
5608 KALLAN COURT
BALTIMORE MD 21227

PERMISSION IS HEREBY GRANTED FOR THE DISCHARGE OF INDUSTRIAL WASTEWATER IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE BALTIMORE COUNTY CODE, ARTICLE 20 TITLE 5, SECTIONS 20-5-101 TO 20-5-132 ET SEQ, INTO THE BALTIMORE COUNTY SEWER LINES.

PLEASE POST WHERE VISIBLE

AGENCY COPY

Pet #3

06-389-A Kullen

Verified 5-10-07

Petitioners Exhibits

1. Letter to Mr. Vidmar 6-14-06
2. Plat to Accompany Petition for Zoning Variance
3. Landscape Plan
4. Wastewater Discharge Permit
5. Wastewater Discharge Permit

Richardson Engineering, LLC

110 Old Padonia Road, Suite LC
Cockeysville, Maryland 21030

Tel: 410-560-1502
Fax: 410-560-0827

June 14, 2006

Mr. Thomas Vidmar, PE
Baltimore County
Department of Environmental Protection
And Resource Management
401 Bosley Avenue, Suite 416
Baltimore, Maryland 21204

Subject: Pullen Property
3118 Hammonds Ferry Road

Dear Mr. Vidmar:

Attached are copies of the recent Zoning Order and the revised site plan that addresses the setback variances granted for this project. In the order, Mr. Murphy has requested that we resubmit information to you for reconsideration of the stormwater management plan before he grants us the variance to the durable and dustless surface requirement for parking lots. We explained to Mr. Murphy that providing management on the site was not feasible do to outfall constraints in the area and that your office had required the limitation of impervious area to mitigate the stormwater runoff issues. We still believe that this is the only solution to the stormwater management issues for this site.

As we discussed previous, we have limited the impervious area of the site to that which existed in the 1986 aerial photograph. That area by our calculation was 4,444 square feet. Our proposed impervious area of the two buildings and macadam entrance is 4,343 square feet, which is within the impervious area permitted. The parking area on the site will be excavated where necessary to remove existing impervious material and stoned using 8" of large aggregate (No. 2 Stone) without no fines that will permit infiltration of water through it.

In the order there is a reference to water issues at the site. I believe that most of the water problems are on Mr. Pullen's lot, but there is also a potential issue with water toward the Seiler house in the rear of the site. Their house is the lowest area in the neighborhood with a stream on the west side of them. All of the drainage from the neighborhood goes through their property to this stream. Mr. Pullen will regrade his lot to drain and construct a berm along the rear of his property to direct water to Virginia Avenue via surface flow to minimize water going onto the Seiler property. The properties on the north and east of Mr. Pullen are uphill of his property.

Once we have satisfied Mr. Murphy that granting of the relief requested for the durable and dustless area is necessary, we will then move forward toward the obtaining a grading permit for the site and bring it into compliance with your office. To that end, we will first go back to the DRC as old business to obtain our Limited Exemption. We will do this as soon as Mr. Murphy writes the revised order. Once the Limited Exemption is granted, we will file for a grading

~~Protestants~~ Ex #1
Petitioners

Baltimore County
Department of Permits and
Development Management

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

November 15, 2001

Mr. Hornett W. Pullen
5608 Kallian Court
Baltimore, Maryland 21227

RE: Zoning Verification Letter for
3118 Hammonds Ferry Road
13th Election District

Dear Mr. Pullen:

Your letter to Mr. Arnold Jablon, Director of Permits and Development Management, has been referred to me for reply. Due to the lack of information provided a response can only be done based on the outline of the property provided on the included copy of a portion of the Baltimore County zoning map SW 6 C.

This property shown on this zoning map is designated as M.L. - I.M. (Manufacturing, Light – Industrial, Major). The use as described in your letter being a small charter bus business would fall under the definition of a Transit Storage and Repair Yard. Enclosed, please find a copy of this definition found in the Baltimore County Zoning Regulations. Per Section 253.1.B.19 (B.C.Z.R.) this use is permitted as a right in this zone provided that no building or commercial vehicle storage/parking is located within 100 feet of any residential zone boundary or within 100 feet of the right-of-way of an existing or proposed interstate highway, other freeway or expressway, which motorway is officially so designated by the State Highway Administration, Maryland Department of Transportation, and/or the county, front, side and rear yards shall be as required in an M.R. Zone (see Sections 243.1, 243.2 and 243.3 of the B.C.Z.R.).

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

Mr. Hornett W. Pullen
Zoning Verification for 3118 Hammonds Ferry Road
Page 2

As stated in your letter you intend to construct a garage for those buses. Prior to any building placed on the lot you must go through the D.R.C. (Development Review Committee) process. The paperwork for the D.R.C. process can be acquired in Room 123 of the County Office Building. You may also call this office at 410-887-3335 with any questions that you may have.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need any further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Sincerely,

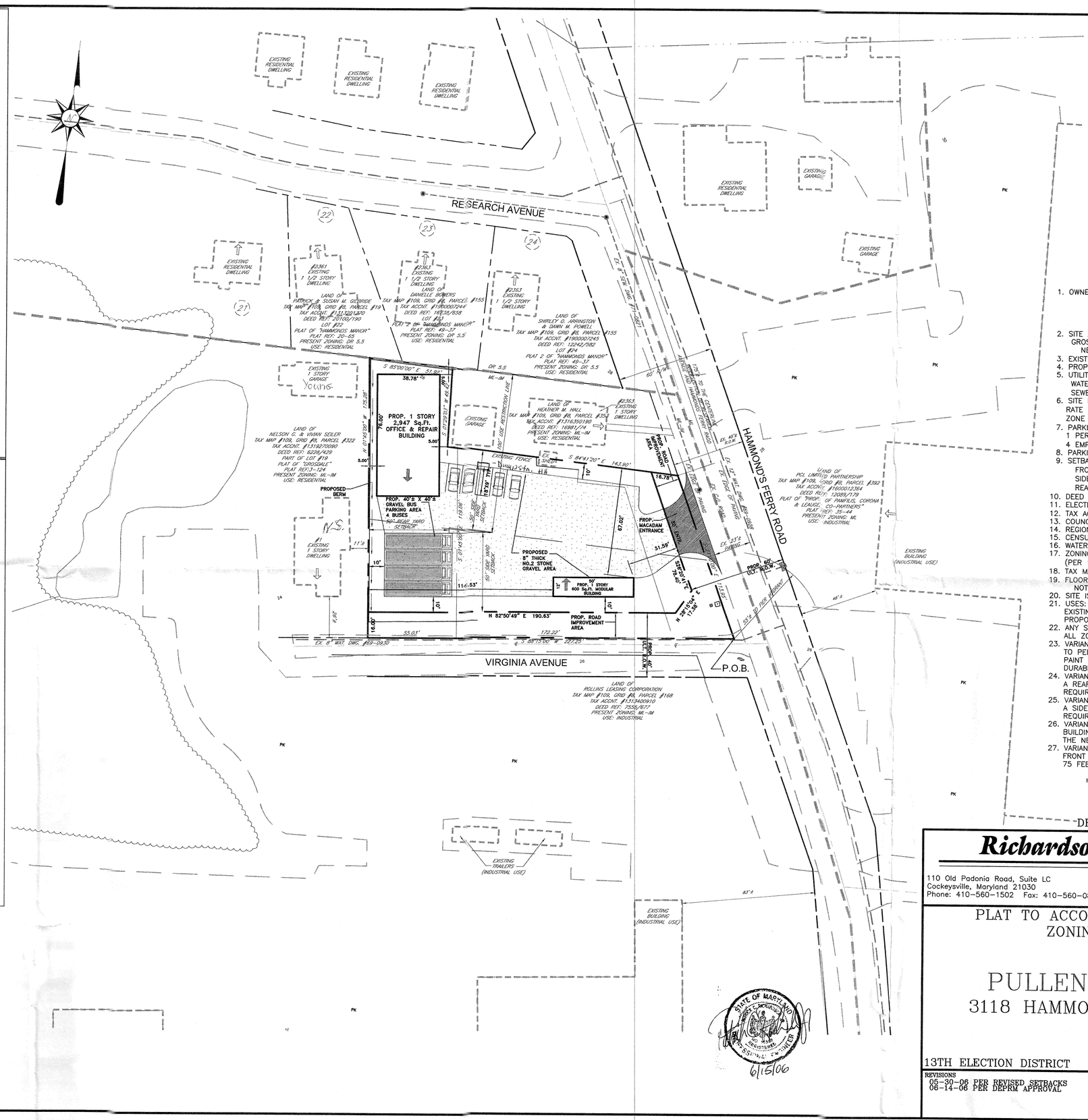
Donna Thompson

Donna Thompson
Planner II
Zoning Review

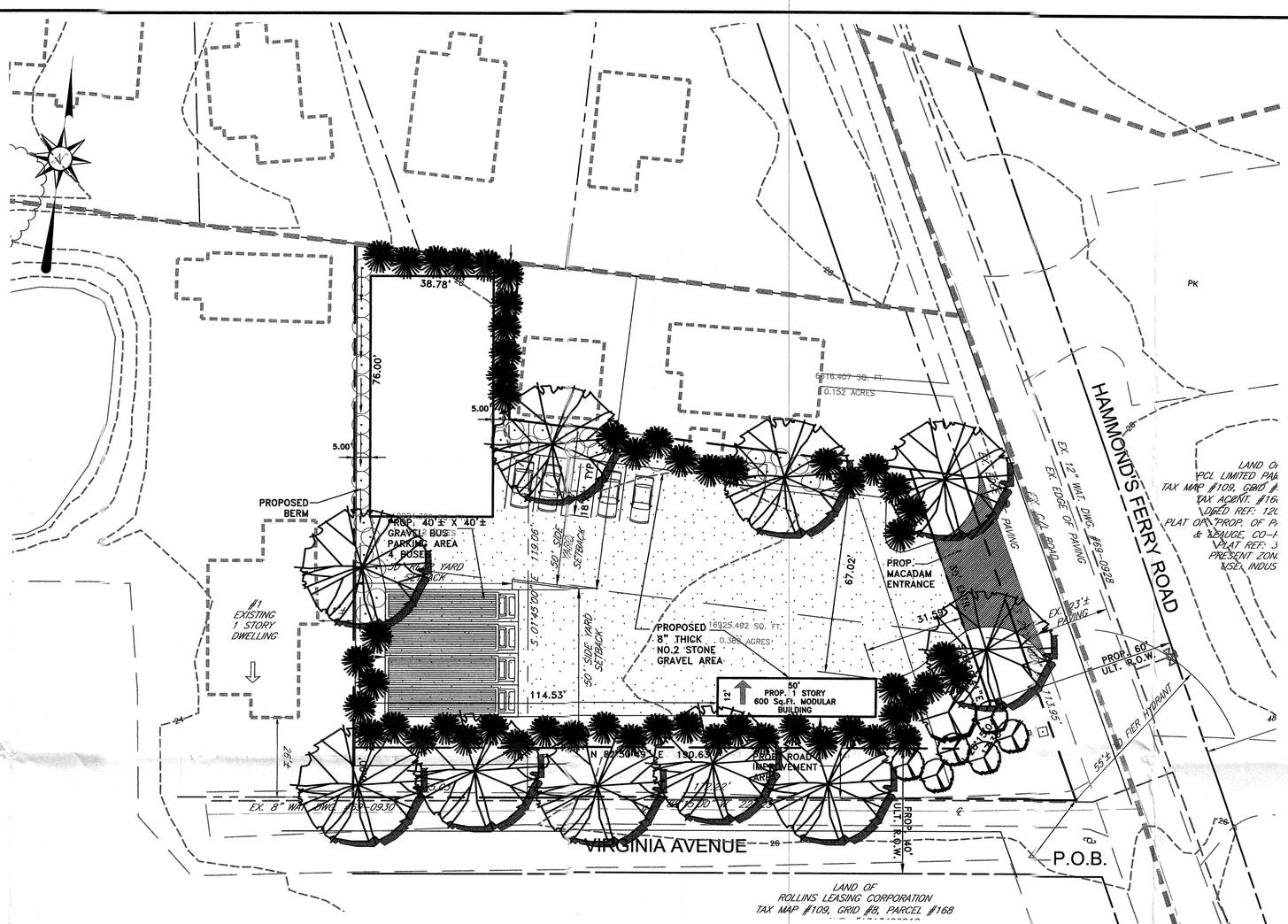
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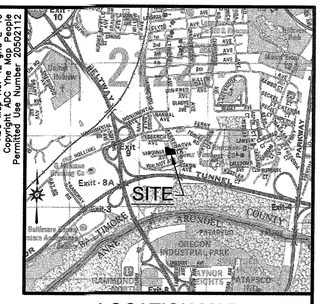
Enclosure

Exh. #2


RESEARCH AVENUE
HAMMONDS FERRY ROAD
VIRGINIA AVENUE
P.O.B.
EXISTING RESIDENTIAL DWELLING
EXISTING GARAGE
EXISTING BUILDING (INDUSTRIAL USE)
EXISTING TRAILERS (INDUSTRIAL USE)
LAND OF PATRICK & SUSAN M. GEORGE TAX MAP #109, GRID #8, PARCEL #191 TAX ACCNT. #131320120 DEED REF: 5710G/190 LOT #22 PLAT OF "HAMMONDS MANOR" PLAT REF: 20-63 PRESENT ZONING: DR 5.5 USE: RESIDENTIAL
#2361 EXISTING 1 1/2 STORY DWELLING
LAND OF DANIELLE BOWERS TAX MAP #109, GRID #8, PARCEL #155 TAX ACCNT. #1900007244 DEED REF: 16726/858 LOT #23 PLAT 2 OF "HAMMONDS MANOR" PLAT REF: 49-37 PRESENT ZONING: DR 5.5 USE: RESIDENTIAL
#2363 EXISTING 1 1/2 STORY DWELLING
LAND OF SHIRLEY O. ARRINGTON & DAWN M. POWELL TAX MAP #109, GRID #8, PARCEL #155 TAX ACCNT. #1900007245 DEED REF: 12242/582 LOT #24 PLAT 2 OF "HAMMONDS MANOR" PLAT REF: 49-37 PRESENT ZONING: DR 5.5 USE: RESIDENTIAL
#2353 EXISTING 1 STORY DWELLING
LAND OF HEATHER M. HALL TAX MAP #109, GRID #8, PARCEL #354 TAX ACCNT. #1716592180 DEED REF: 16981/174 PRESENT ZONING: ML-IM USE: RESIDENTIAL
LAND OF NELSON C. & VIVIAN SEILER TAX MAP #109, GRID #8, PARCEL #322 TAX ACCNT. #131927090 DEED REF: 6228/429 PART OF LOT #19 PLAT OF "GROSDALE" PLAT REF: 7-124 PRESENT ZONING: ML-IM USE: RESIDENTIAL
LAND OF PCL LIMITED PARTNERSHIP TAX MAP #109, GRID #8, PARCEL #392 TAX ACCNT. #1900013264 DEED REF: 12089/179 PLAT OF "PROP. OF PAMFILIS, CORONA & LEAGUE, CO-PARTNERS" PLAT REF: 15-44 PRESENT ZONING: ML USE: INDUSTRIAL
LAND OF ROLLINS LEASING CORPORATION TAX MAP #109, GRID #8, PARCEL #168 TAX ACCNT. #131340910 DEED REF: 7556/677 PRESENT ZONING: ML-IM USE: INDUSTRIAL
PROP. 1 STORY 2,947 Sq.Ft. OFFICE & REPAIR BUILDING
PROP. 40'± X 40'± GRAVEL BUS PARKING AREA 4 BUSES
PROPOSED BERM
PROPOSED 8" THICK NO.2 STONE GRAVEL AREA
PROP. 1 STORY 600 Sq.Ft. MODULAR BUILDING
PROP. ROAD IMPROVEMENT AREA
PROP. MACADAM ENTRANCE
PROP. 60' PLT. R/O.W.
EX. 40' R.O.W.
EX. 24' PAVING
EX. 6" WAT. LINE
EX. 8" WAT. LINE
EX. 8" SAN. SEW.
EX. 12" SAN. SEW.
EX. SHED
EX. FENCE
EX. UTILITY POLE
EX. GAS METER
EX. CATCH BASIN
EX. INLET
EX. MANHOLE
EX. GUY WIRE
EX. SIGN
EX. TREE LINE
EX. CONTOUR
PROP. CONTOUR
PROP. SPOT ELEV.
PROP. SILT FENCE
PROP. INLET PROTECTION
PROP. SEDIMENT TRAP
PROP. SEDIMENT BASIN
PROP. STORM DRAIN
PROP. INLET
PROP. MANHOLE
PROP. SWALE
PROP. RIP-RAP
PROP. SEDIMENT TRAP OUTLET
PROP. SEDIMENT BASIN OUTLET
PROP. STORM DRAIN OUTLET
PROP. SEDIMENT TRAP CLEANOUT
PROP. SEDIMENT BASIN CLEANOUT
PROP. STORM DRAIN CLEANOUT
PROP. INLET CLEANOUT
PROP. MANHOLE CLEANOUT
PROP. SWALE CLEANOUT
PROP. RIP-RAP CLEANOUT
PROP. SEDIMENT TRAP OUTLET CLEANOUT
PROP. SEDIMENT BASIN OUTLET CLEANOUT
PROP. STORM DRAIN OUTLET CLEANOUT

Exh. #3





LOCATION MAP

SCALE: 1" = 2000'

GENERAL NOTES:

1. OWNER/DEVELOPER:
   PULLENS TOUR SERVICE INC.
   #5608 KALLAN COURT
   BALTIMORE, MARYLAND 21227
   (410) 365-2714
2. SITE AREA:
   GROSS: 28,285 Sq.Ft. or 0.649 Ac.±
   NET: 26,726 Sq.Ft. or 0.613 Ac.±
3. EXISTING BUILDINGS: NONE (VACANT SITE)
4. PROPOSED BUILDING: 3,547 Sq.Ft.
5. UTILITIES
   WATER: PUBLIC (DWG #69-0928)
   SEWER: PUBLIC (DWG #71-0821)
6. SITE LIES WITHIN ZONES C OF FLOOD INSURANCE RATE MAP (FIRM) PANEL #240010 0510 B.
   ZONE "C" IS AREAS OF MINIMAL FLOODING.
7. PARKING REQUIRED: (TRANSIT STORAGE OR REPAIR YARD)
   1 PER EMPLOYEE ON LARGEST SHIFT
   4 EMPLOYEE'S ON LARGEST SHIFT = 4 SPACES
8. PARKING PROVIDED: 4 SPACES.
9. SETBACKS:

	REQUIRED	PROVIDED
FRONT	75'	5'
SIDE	50'	5'
REAR	50'	10'

10. DEED REF: 15838/557
11. ELECTION DISTRICT: 13TH
12. TAX ACCOUNT #24000027 9
13. COUNCILMANIC DISTRICT 1st
14. REGIONAL PLANNING DISTRICT 325 B
15. CENSUS TRACT 4303
16. WATERSHED: PATAPSCO
17. ZONING: ML-IM
    (PER 1"=200' ZONING MAP 109A2)
18. TAX MAP #109, GRID #8, PARCEL #324
19. FLOOR AREA RATIO: 3,547/26,726 = 0.13
    NOT MORE THAN 25% OF LAND FOR 1 STORY STRUCTURE.
20. SITE IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
21. USES:
    EXISTING: VACANT LOT
    PROPOSED: TRANSIT STORAGE AND REPAIR YARD
22. ANY SIGNS SHALL COMPLY WITH BCZR SECTION 450 AND ALL ZONING SIGNS POLICIES.
23. VARIANCE REQUESTED PER SECTION 409.8.A.2. AND 6. BCZR TO PERMIT A PAVING SURFACE OF COMPACTED STONE WITHOUT PAINT STRIPING, IN LIEU OF THE REQUIRED PAINT STRIPED DURABLE AND DUSTLESS PAVING SURFACE.
24. VARIANCE REQUESTED PER SECTION 243.3 BCZR TO PERMIT A REAR YARD SETBACK OF 10 FEET IN LIEU OF THE REQUIRED 50 FEET.
25. VARIANCE REQUESTED PER SECTION 243.2 BCZR TO PERMIT A SIDE YARD SETBACK OF 5 FEET IN LIEU OF THE REQUIRED 50 FEET.
26. VARIANCE REQUESTED PER SECTION 243.4 TO CONSTRUCT A BUILDING 10 FEET IN LIEU OF THE REQUIRED 125 FEET TO THE NEAREST BOUNDARY LINE OF A RESIDENTIAL ZONE.
27. VARIANCE REQUESTED PER SECTION 243.1 TO PERMIT A FRONT YARD SETBACK OF 5 FEET IN LIEU OF THE REQUIRED 75 FEET.

ML IM
DR 5.5

⇦ DENOTES THE FRONT FACE OF THE STRUCTURE

DRC 072505A

PLANT LIST

KEY	QUANTITY	PLANTING UNITS	PLANT TYPE
	10	10	MAJOR DECIDUOUS TREE
	7	3.5	FLOWERING TREE
	54	27	EVERGREEN TREE
	35	7	SHRUB

47.5 TOTAL PLANTING UNITS

LANDSCAPE TABULATION

1) 340 LIN. FT. OF ADJACENT ROAD / 40 = 8.5 PLANTING UNITS
2) 180 LF PARKING ADJACENT TO RESIDENTIAL / 15 = 12 PLANTING UNITS
3) 170 LF PARKING ADJACENT TO PUBLIC R.O.W. / 15 = 11.3 PLANTING UNITS
4) NINE (9) PARKING SPACES / 12 = 0.8 PLANTING UNITS
5) 223 LIN. FT. BUILDING FACADE ADJACENT TO RESIDENTIAL / 20 = 14.9 PLANTING UNITS

47.5 PLANTING UNITS REQUIRED
47.5 PLANTING UNITS PROPOSED

SCHEMATIC LANDSCAPE PLAN CERTIFICATION FORM

This Schematic Landscape Plan is sealed by a Landscape Architect and certified by my signature below as being in accordance with all county agency landscape architectural comments.

Applicant Signature Date Print Name

Mailing Address (if not on plan)

Richardson Engineering, LLC

30 E. Padonia Road, Suite 500
Timonium, Maryland 21093
Phone: 410-560-1502 Fax: 443-901-1208

PRELIMINARY LANDSCAPE PLAN FOR

PULLEN PROPERTY
3118 HAMMONDS FERRY ROAD

13TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	CND	PCR	1" = 30'
	DATE: 05-04-07	JOB NO.: 05067	SHEET NO.: 1 OF 1

G:\Jobs\Jobs2005\05067-3118 Hammons Ferry Road\Drawings\landscape.dwg, Layout1, 5/8/2007 11:40:24 PM

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS
AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

WASTEWATER DISCHARGE PERMIT

LICENSING YEAR: AUGUST 1, 2001 **THROUGH JULY 31,** 2002

EFFECTIVE DATE: 08/01/2001

FACILITY NO. 120944

SIC NO.

Facility Address:

PULLEN'S TOUR SERVICE
3118 HAMMONDS FERRY RD
BALTIMORE, MD 21227

Mailing Address:

PERMISSION IS HEREBY GRANTED FOR THE DISCHARGE OF INDUSTRIAL WASTEWATER IN COMPLIANCE WITH TERMS AND CONDITIONS OF THE BALTIMORE COUNTY CODE, ARTICLE III, DIVISION 5, SECTIONS 35-286 to 35-317 ET SEQ, INTO THE BALTIMORE COUNTY SEWER LINES.

PULLEN'S TOUR SERVICE
3608 KALLAN COURT
BALTIMORE, MD 21227

APPROVED: _____

Arnold Jablon, Director
Permits and Development Management

CUSTOMER COPY

Pet. Ex #4

Exh #4

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS
AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

WASTEWATER DISCHARGE PERMIT

LICENSING YEAR: AUGUST 1, 2006 THROUGH JULY 31, 2007
EFFECTIVE DATE: AUGUST 1, 2006

FACILITY NO. 126944

Category 3
PULLEN'S TOUR SERVICE
3119 HAMMONDS FERRY RD
BALTIMORE MD 21227

126944 MAP(S)

PERMISSION IS HEREBY GRANTED FOR THE DISCHARGE OF INDUSTRIAL WASTEWATER IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE BALTIMORE COUNTY CODE, ARTICLE 20 TITLE 5, SECTIONS 20-5-101 TO 20-5-132 ET SEQ, INTO THE BALTIMORE COUNTY SEWER LINES.

PULLEN'S TOUR SERVICE
5608 KALLAN COURT
BALTIMORE MD 21227

CUSTOMER COPY

PLEASE POST WHERE VISIBLE

Pet. Ex #5

06-389-A Pullen

Marked 5-10-07

Peoples Counsel

1. Sign-In Sheet
2. a-M Pictures of subject prop
3. a-c Arial Photos
4. letter from Arnold F. Pat Keller, III
5. a-e photos taken by Mrs Young
6. a-d photos from Nelson Sc-ler
7. a-H photos from Mrs Hall
8. a-o Photos from Mr. Bowers

P.C. Ex #1

People's Counsel Sign-In Sheet

Case Name: Pullen Tours Services

Case No.: 06-389-A

Date: May 9, 2007

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
Yes	Heather Hall	3114 Hammonds Ferry Ld	410 242 0346		resident	
Yes	NELSON SEILER	1-W-VIRGINIA AVE	410-247-1669		Resident	
Yes	Lorraine Young	2 W Virginia Ave	410-247-6174		Resident	
YES	ERIK BOWERS	2363 RESEARCH AVE	410-242-5547		RESIDENT	
YES	BRENDA HARNEY	914 WINSAP CT	410-247-9718		MD CITIZENS FOR ENV	


PULLEN'S
TOUR SERVICE
410-242-4500
410-247-0556
"We go the last mile of the way"
3118

5/2/07

P.C. Ex
2 A



5/2/07 PULLEN PROPERTY

P.C. Ex
2 B



5/2/07 PULLEN PROPERTY

P.C. Ex
2 C



5/2/07 Gate on Virginia Avenue – PULLEN PROPERTY



5/2/07 PULLEN PROPERTY - Side of dwelling at 3114 Hammonds Ferry Road

P.C. Ex

2F



5/2/07 PULLEN PROPERTY ℄ Rear of dwelling at 2363 Research Avenue

P.C. Ex

2 F



5/2/07 PULLEN PROPERTY

P.C. Ex

26



5/2/07 PULLEN PROPERTY

P.C. Ex

2 71



5/2/07 2363 Research Avenue

P.C. Ex

2 I



5/2/07 1 West Virginia Avenue

P.C. Ex
2 J



5/2/07 Penske Truck Rental 3204 Hammonds Ferry Road 11

P.C. Ex
2 K



5/2/07 Form Services Inc. 3119 Hammonds Ferry Road 10

P.C. Ex.

2 L


3119
FSI
form
services
inc.
FORM SERVICES, INC.
"TECHNICAL SUPPORT BEHIND EVERY PRODUCT"
410-247-9500

P.C. Ex

2 M


Research Ave
Hammonds Ferry Rd
DR 5.5
ML
PULLEN PROPERTY
Virginia Ave
ML-IM

3A


RESEARCH AVE
DR 5.5
HAMMONDS FERRY RD
9.6 Feet
2363
ML
PULLEN PROPERTY
ML IM
VIRGINIA AVE
1 inch equals 50 feet
Feet
0
25
50
100
N
W
E
S
2005 Orthophoto

3B


Hammonds Ferry Rd
2361
2363
2365
Farm Service Trucking Co
3114
PULLEN PROPERTY
3118
1
Virginia Ave
Penske Trucking Co.
3204

3C

2361, 2363, 2365

- 2 stories
- Curb, gutter, sidewalks
- Attractive

3114

1 Story

Attractive

#1 Virginia

Good Condition

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: March 3, 2006

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 3188 Hammonds Ferry Road

INFORMATION:

Item Number: 6-389

Petitioner: Pullen Tour Services, Inc.

Zoning: ML-IM

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:
The Office of Planning has reviewed the petitioner's request and offers the following: The proposed building will be adjacent to four residential properties, and the tract boundary of the subject property has residential uses on all sides. The proposed 1.5-foot setbacks are inadequate and will adversely impact all of the above-referenced residential properties. Furthermore, the petitioner has not demonstrated, nor can the Office of Planning determine any practical difficulty or non-self imposed hardship wherein compliance with the Baltimore County Zoning Regulations cannot be met. As such, the Office of Planning recommends **denial** of the petitioner's request.

For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by: Cindy Murray

Division Chief: Lyn Lanham
AFK/LL: CM

W:\DEVREV\ZAC\6-389.doc

P.C. Ex #4

PC #

5 a-e
6 a-d
7 a-h
8 a-d

} 21 photos

Pullen
06-389-A



Lorraine

3 8:45AM

Lorraine Side of house next to Pullen's fence, over growth from his Yard

5 (B)


CLOU
2495023

Lorraine's view from front door.

5 (C)



Lorraine's view 5 (1)



Lorraine à vient.

5 (E)


3 8:47AM

Water in Nelson Seiler Drive Way.
NEXT Putten Fence

6 (7)


3 5'07

Mr. Seiler's basement that floods.

See picture of fence and Mr. Seiler's feet.

6 (B)


3 '5'01

Cullen's fence.
Damp ground from
rain & washing lines.

6 C


MAY 16 2006

Water in Driveway of Nelson Seiler going to house into Basement.

6 D


PULLEN'S
JUN 6 2006

Dump Tank from corner to house

7 8 A


JUN 6 2006

View of Dump Tank
From Back Yard
oil spilled down
of tank

7 B


JUN 8 2006

View from Heather Hall's Back Yard

poss location of bldg.




JUN 8 2006

View from Heather Hall's Back Yard

poss location of Bldg.




PULLEN'S
PULLEN'S
JUN 8 2006

Front view of Pullen's Yard Dust. Pic Taken 5/8/07

E



Heather's view from front yard.



Driver parking area, side of house



Heather Hall's front porch
Dust that has to be
Cleaned all the time

(6) dust visits front porch
due to 3118 driveway +
parking


JUN 8 2006

Heather Hall's front porch

dust issues caused by
driveway + parking area




3 5'07

Eric's view from
front lawn.

8 (7)


3 '07

Cullen white trailer
on edge of property.
Eric's brew from
yard.

8 (B)


POLLEN'S
3 507

Eric's view from porch. Pool close to fence.
Large beds will be up against fence.

8 (5)


PULLEN'S
3 '07

Eric's view from porch to the right.

Cullen's property line.

Mr. Seiler's home.

8 D

BALTIMORE COUNTY BOARD OF APPEALS

ORIGINAL

RE: PULLEN TOURS SERVICE, INC

LEGAL OWNER, 3118 HAMMONDS

FERRY ROAD 06-389-A

Petitioner

The above-entitled matter came on for hearing before the Baltimore County Board of Appeals on May 8, 2007.

APPEARANCES:

TIMOTHY FRITZ, ESQUIRE

On behalf of the Petitioner

PETER MAX ZIMMERMAN, ESQUIRE

People's Counsel

TRANSCRIBED BY: Paula J. Eliopoulos

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SETON MEDICAL GROUP

A Division of St. Agnes HealthCare, Inc

3421 Benton Avenue, Suite 230 • Baltimore, Maryland 21227

Douglas L. Pinto, M.D.

Phone (410) 368-8460
Fax (410) 368-8463

4/25/06

Re: Shirley Arrington (DOB: 2/27/39)

To whom it may concern:

Mrs. Arrington is under my care. She has asked me to write a note listing her medical problems. These include emphysema with resultant chronic shortness of breath with exertion, hyperlipidemia, atrial fibrillation, hypothyroidism, and dilated cardiomyopathy.

Sincerely yours,

Douglas Pinto, MD

P-20 #6

Petition against Case 6-389-A

We the surrounding residents and property owners in the Lansdowne Community surrounding Pullen Tour Service located at 3118 Hammonds Ferry Road are apposed of the approval of Case 6-389-A.

Giving Mr. Pullen variance to permit a paving surface of compacted stone without paint stripping in lieu of the required paint striped durable and dustless paving surface, and to permit a rear yard setback of 1.5 feet in lieu of the required 50 feet, and to construct a building 1.5 feet in lieu of the required 125 feet to the nearest boundary line of a residential zone, and to permit a front yard setback of 1.5 feet in lieu of the required 75 feet

Print Name	Address	Phone Number	Date
ESTER Lorraine Young Ester Lorraine Young	2.W Virginia Ave	410-247-8174	3/13/06
MR. & MRS NELSON SEILER Mrs. Nelson G Seiler	1-W-VIRGINIA AVE	410-247-4619	3-13-06
HEATHER HALL Heather Hall	3114 HAMMONDS FERRY ROAD	410-242-8386	3/13/06
Shirley Attington Shirley Attington	2365 Research Ave	410 247.6524	3/13/06
John JERRY Hock in fam c/o	2359 Research Ave	410 247-4705	3/20/06
Mr. & Mrs. Good Mr & Mrs Good	2362 Research Ave	410-536-4712	3/21/06
Mr. & Mrs. Bowers Mr. & Mrs. Bowers	2363 Research Ave	410-242-5547	3/21/06
Mr & Mrs Horsey Mr & Mrs Horsey	2365 Research Ave	410-247-6524	3/21/06

Pro # 9

88-1-5-468

Brenda Harney

From: Brenda Harney [bharn@earthlink.net]
Sent: Wednesday, March 22, 2006 10:09 AM
To: ~~'pkoller@co.ba.md.us'~~
Subject: Case # 6-389-A

Please Place in Zoning file.

Good morning! Hope all is well with you and your staff.

There is a hearing today at 2-PM for the above case for the Pullen Tour Service asking for variances and setbacks.

I was planning on being at the hearing today, but unfortunately I can not get away from the office. I wanted to inform you of the communities response.

As the Director of the BLR which supports the communities of Baltimore Highlands, Lansdowne and Riverview, I spoke to residents of Lansdowne and Bonnie Asbury, the President of Riverview, and residents are not in favor of the variances and setbacks being requested. The Lansdowne Community Association must stay neutral on the variances and setbacks because the business owner serves on their Board.

The business sits close to the very busy intersection of Hollins and Hammonds Ferry Road. Variance for loose stone instead of the required dustless paving surface could cause additional traffic problems, and the homeowners in this area health problems. Setbacks of 1.5' in the front and rear, and to construct a building close to the residential boundaries instead of the required 75' in these areas is unrealistic.

The BLR supports growth, as long as our residents and other business are not negatively affected.

We would like the Board to carefully review the site plans, location to the residents and busy intersection, and hold true to the county guidelines and not support these requests. We are trying to improve the quality of living for our communities, and greatly appreciate your support. Enjoy your day!!

To: William Wiseman Zoning

Great BLR / Both Hyphens

From: Brenda Harney (BH)
410-925-9902

Please review. It was under the impression this was for Planning and recently learned it was Zoning. I am a new community leader unfamiliar with all of the county logistics, but learning. Hope for support

PAGE 01
UTILITIES E & R
04/26/2006 08:10 14108875412

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS
AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

WASTEWATER DISCHARGE PERMIT

LICENSING YEAR: AUGUST 1, 2005 -THROUGH JULY 31, 2006

EFFECTIVE DATE: AUGUST 1, 2005

FACILITY NO. 120944

Category 3

PULLEN'S TOUR SERVICE
3118 HAMMONDS FERRY RD
BALTIMORE MD 21227

PERMISSION IS HEREBY GRANTED FOR THE DISCHARGE OF INDUSTRIAL WASTEWATER IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE BALTIMORE COUNTY CODE, ARTICLE 20 TITLE 5, SECTIONS 20-5-101 TO 20-5-132 ET SEQ, INTO THE BALTIMORE COUNTY SEWER LINES.

120944 1 4/26/2006

PULLEN'S TOUR SERVICE
5608 KALLAN COURT
BALTIMORE MD 21227

AGENCY COPY

PLEASE POST WHERE VISIBLE

Pet #3

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

VIOLATION CASE DOCUMENTS

VIOLATION CASE: 05-5498

3118 Hammonds Ferry Road

ZONING CASE: 06-389-A
3118 HAMMONDS FERRY ROAD

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: March 6, 2006

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

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

SUBJECT: Item No.: 389
Legal Owner/Petitioner: Pullen Tour Service, Inc.
Contract Purchaser:
Property Address: 3118 Hammonds Ferry Rd
Location Description: West side Hammonds Ferry Road 175 feet south of Research Ave

VIOLATION INFORMATION: **Case No.: 05-5498**
Defendants: Hornett Pullen
Attorney: Timothy Fitts

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

Nelson G. Seiler
1 West Virginia Avenue
Baltimore, MD 21227

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

Complaint letter
Complaint Intake Form
State Tax Assessment printout
Correction Notice/Code Violation Notice
Photographs
Citation
Service Notice/Certified Mail Receipt
Final order from Hearing Officer
Other: copy of trailer permit and various letters

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Lisa Henson in Room 213 in order that the appropriate action may be taken relative to the violation case.

RSW/
c: James Thompson

CODE ENFORCEMENT REPORT

DATE: 6/16/05 INTAKE BY: JHT CASE #: 05-5498 INSPEC:

COMPLAINT LOCATION: 3118 Hammonds Ferry Road

ZIP CODE: 21227 DIST: 13th

COMPLAINANT NAME: Nelson G. Seiler PHONE #: (H) 410-247-4618 (W)

ADDRESS: 1 West Virginia Ave ZIP CODE: 21227

PROBLEM: Bus parking within 20ft. of residential home, fumes coming into home

IS THIS A RENTAL UNIT? YES ___ NO ___

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

OWNER/TENANT INFORMATION: Pullen Tour Service Inc.
Hornett W. Pullen - Resident Agent

TAX ACCOUNT #: 24-00-002749 ZONING: ML-IM

INSPECTION: Note: Correction notice issued based upon photos supplied to our office the ~~week of~~ first week of June, 2005. Per complainant they asked

REINSPECTION: that buses be relocated elsewhere on the lot because of the fume problem, however, individual refused to relocate these vehicles.

REINSPECTION: 6-16-05 Per Walt Smith of Development Management, no record of any filing for a D.R.C. Meeting.

REINSPECTION:

Click here for a plain text ADA compliant screen.

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

Account Identifier: **District -** 13 **Account Number -** 2400002749

Owner Information

Owner Name: PULLENS TOUR SERVICE INC

Mailing Address: 5608 KALLAN CT
BALTIMORE MD 21227-4248

Use: INDUSTRIAL
Principal Residence: NO
Deed Reference: 1) /15838/ 557
2)

Location & Structure Information

Premises Address
3118 HAMMONDS FERRY RD

Legal Description
.6125 AC
WS HAMMONDS FERRY RD
NW COR VIRGINIA AVE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assesment Area	Plat No:
109	8	324						2	Plat Ref:

Special Tax Areas	Town	Ad Valorem	Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		26,680.00 SF	07

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2005	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	85,700	180,100		
Improvements:	8,300	9,100		
Total:	94,000	189,200	85,700	125,733
Preferential Land:	0	0	0	0

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

HORNETT W. PULLEN, RESIDENT AGENT

Baltimore County
Department of Permits and
Development Management

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

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning
05-5498	24-00-002749	ML-IM

Name(s): PULLENS TOUR SERVICE, INC.

Address: 5608 KALLAN COURT Balto MD. 21227

Violation Location: 318 HAMMONDS FERRY RD.

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS: "
101 "TRANSIT STORAGE AND REPAIR YARD"; 102.1; 253 B.19; 415.2 B.1; 415.2B.2; 500.4 - BCZR

TRANSIT STORAGE AND REPAIR YARD ACTIVITIES MUST CEASE UNTIL A USE PERMIT IS OBTAINED.

REMOVE ALL TRAILERS FROM THE PROPERTY, CONDITIONAL APPROVAL GRANTED 3/7/05 HAS BEEN VOIDED.

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

On or Before:	Date Issued:
6-24-05	6-17-05

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

Print Name: JAMES H. THOMPSON

INSPECTOR: J. H. Thompson

STOP WORK NOTICE

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

Not Later Than:	Date Issued:

INSPECTOR NAME: _____
(PRINT NAME)

Copy Distribution: White: Agency Yellow: Violation Site Pink: Defendant Goldenrod: Remains in Book

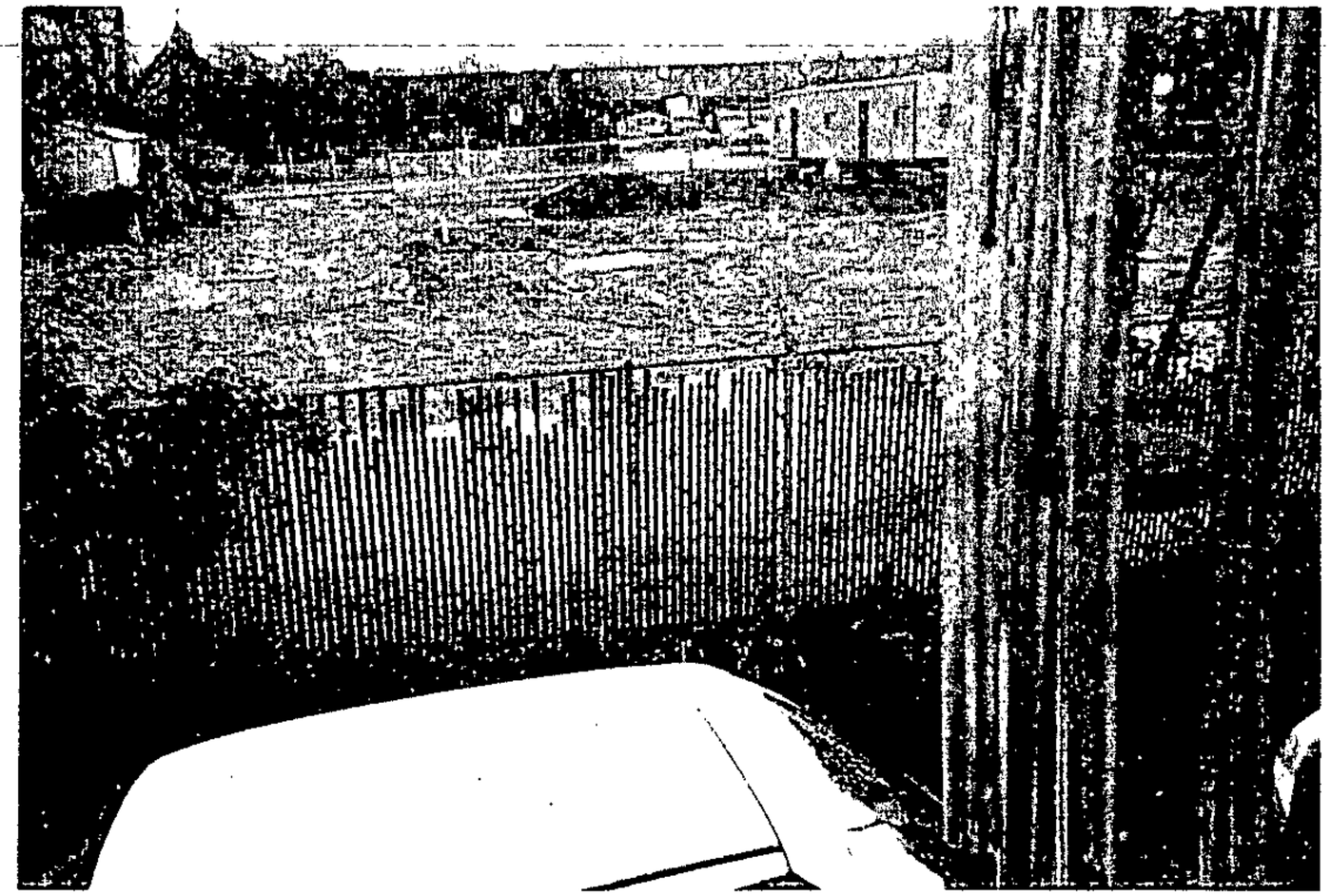
Rev: 5/05

-247-4619

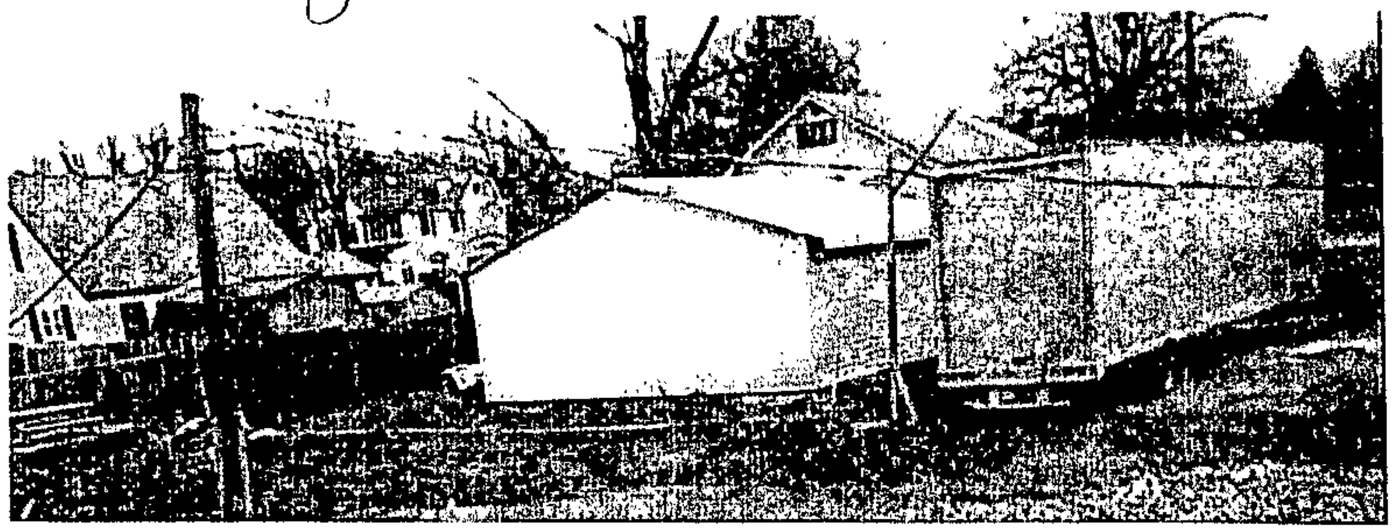
MAILED 410-
SEILER

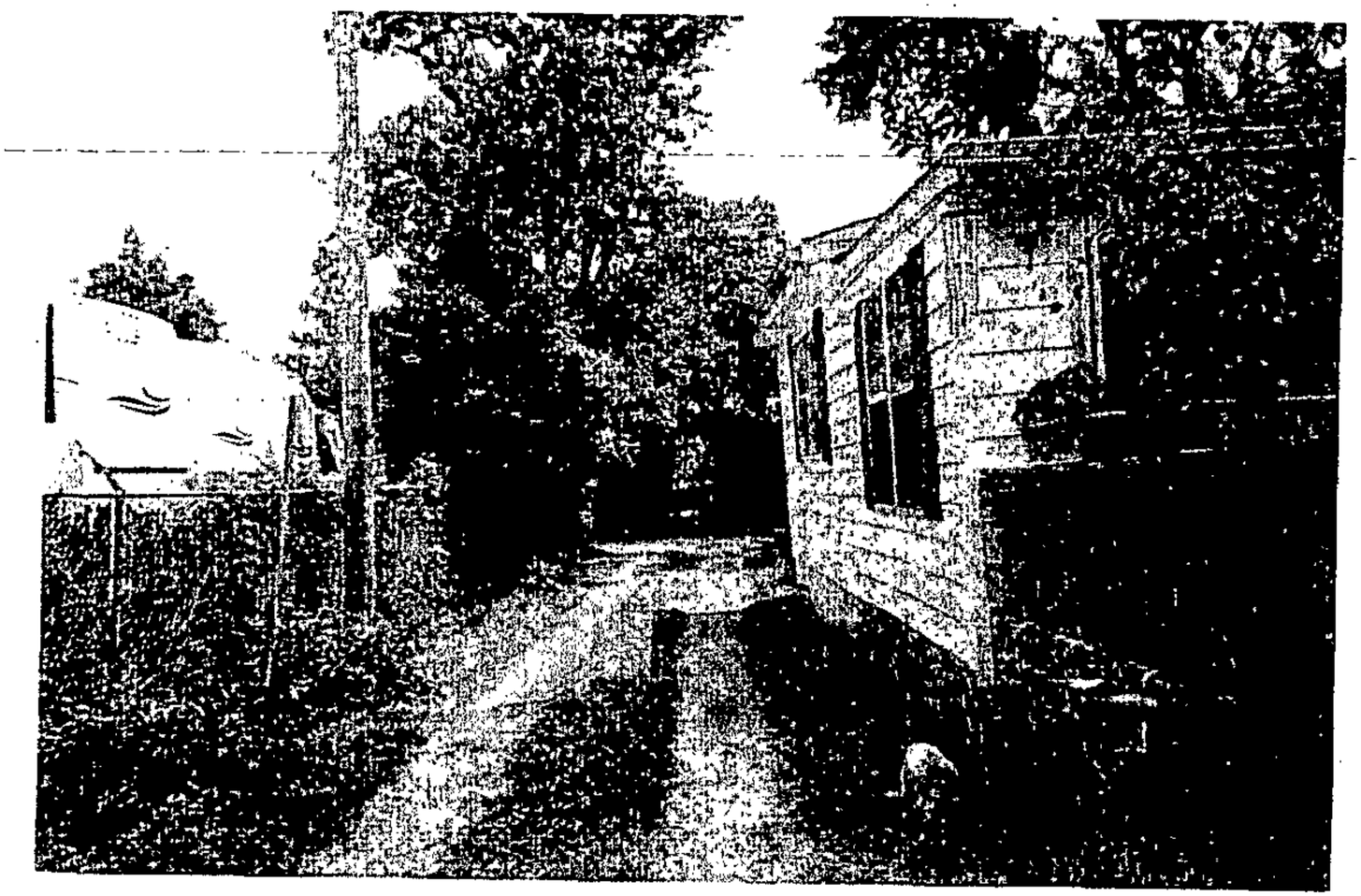
NOTE: GOLD BEING
TO NELSON

TO: BRYAN SHEPPARD
FROM: JIM THOMPSON

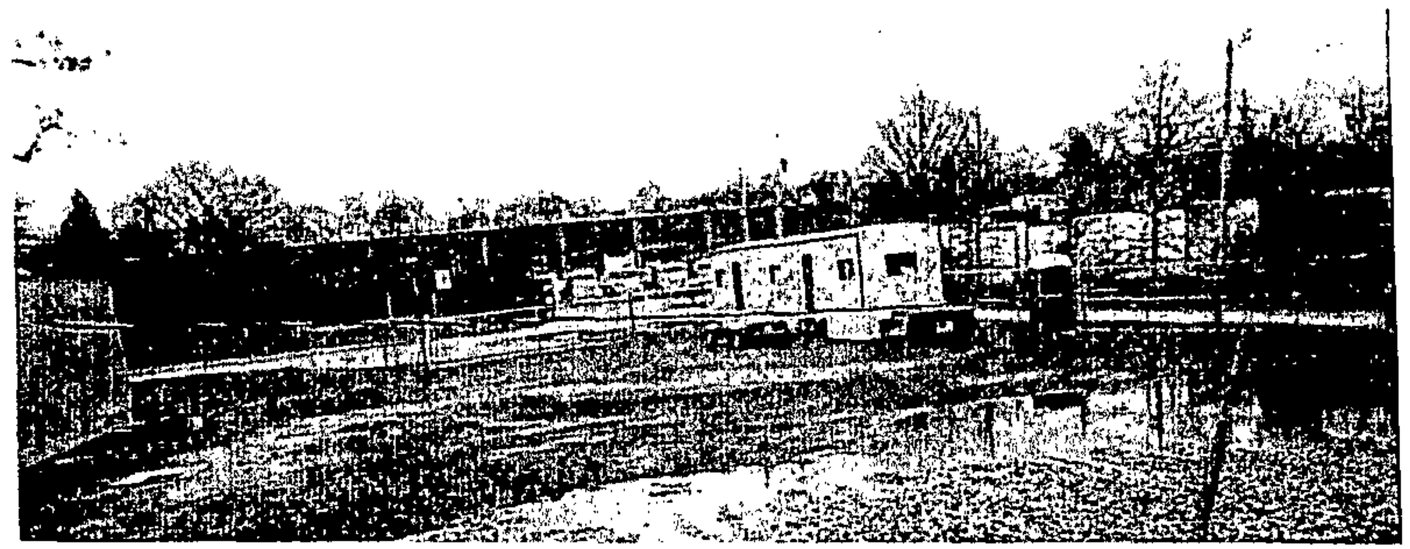


Complainant Photos!

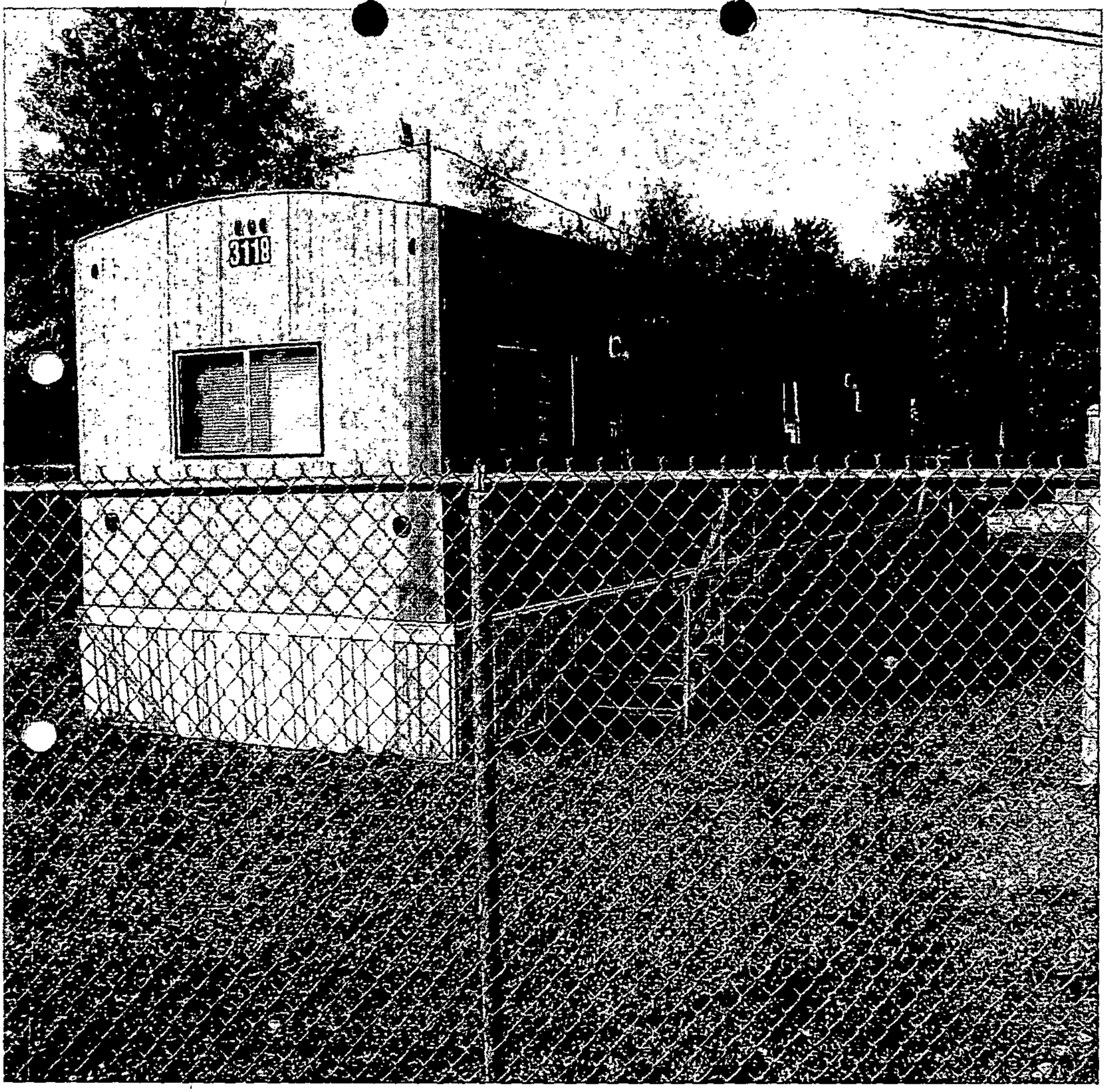


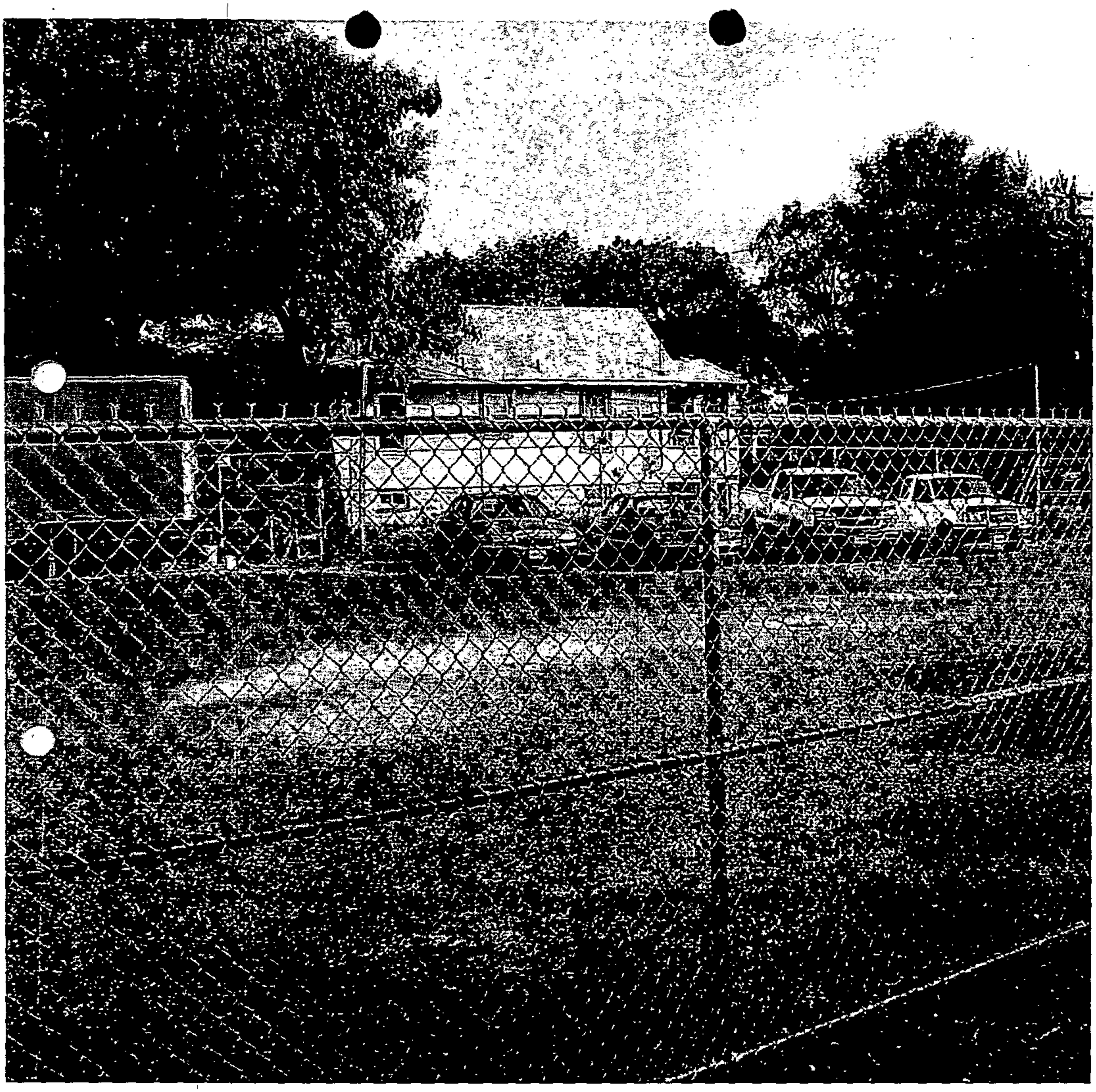


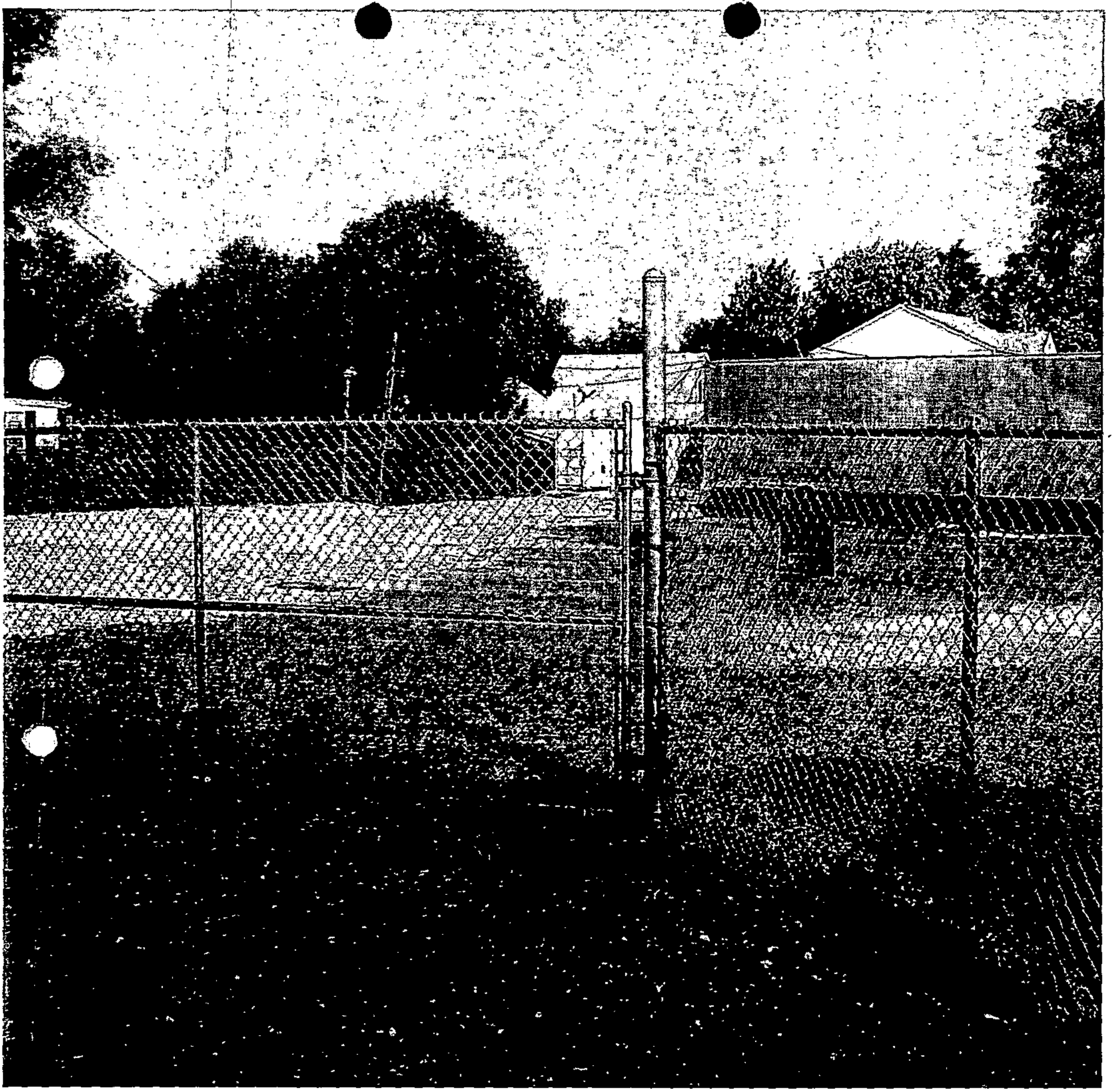
Complainant's Photos.

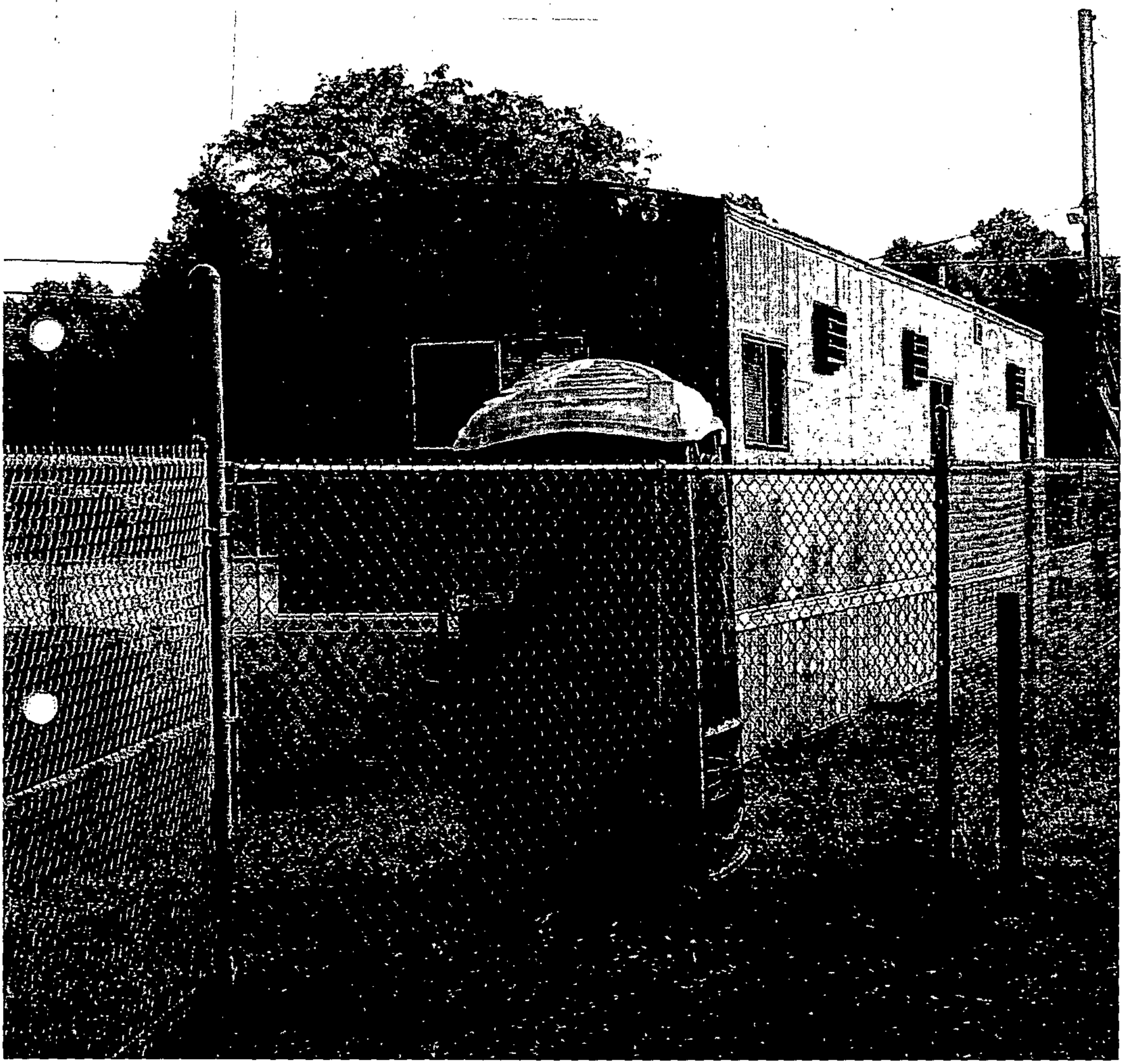


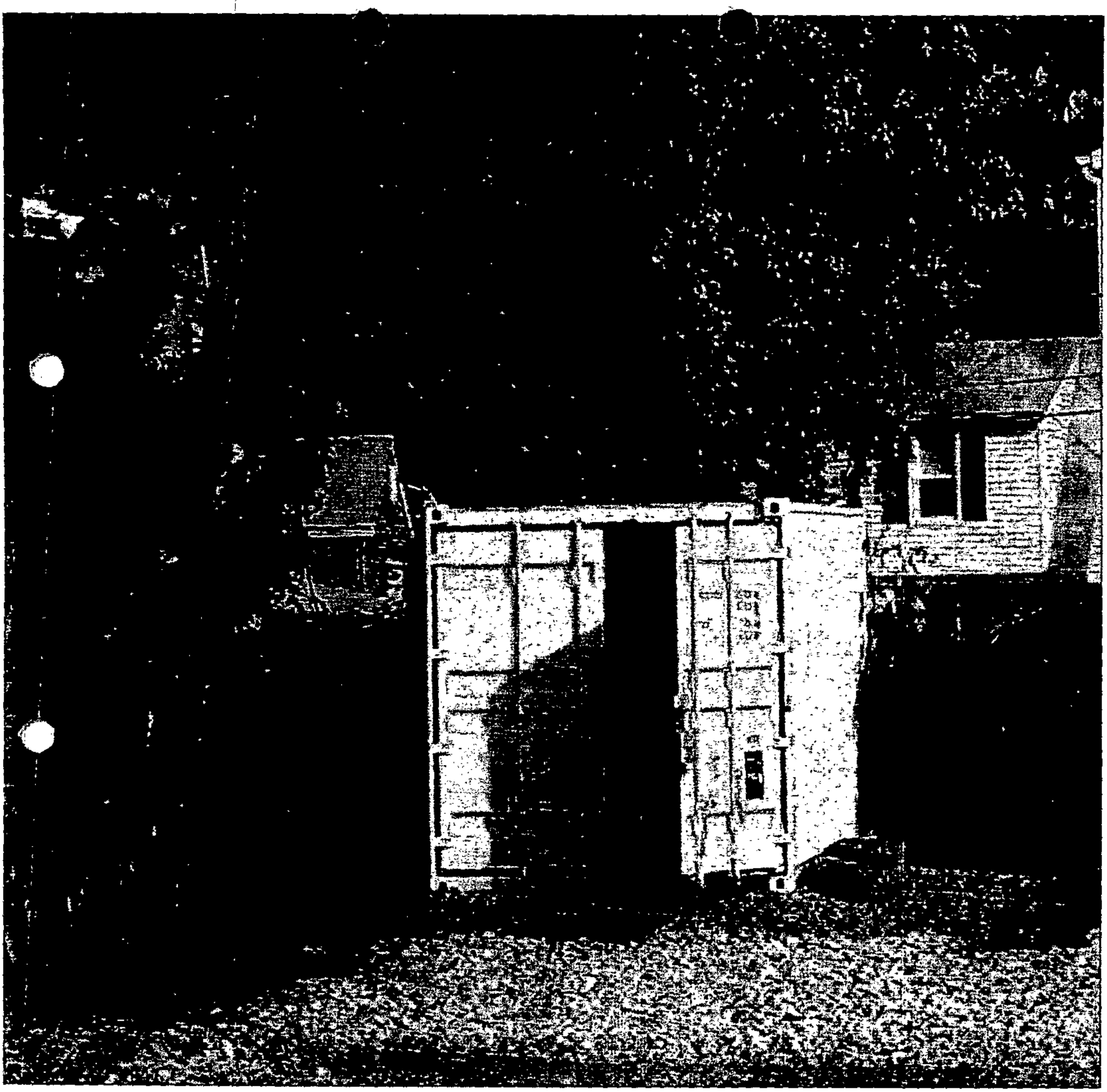


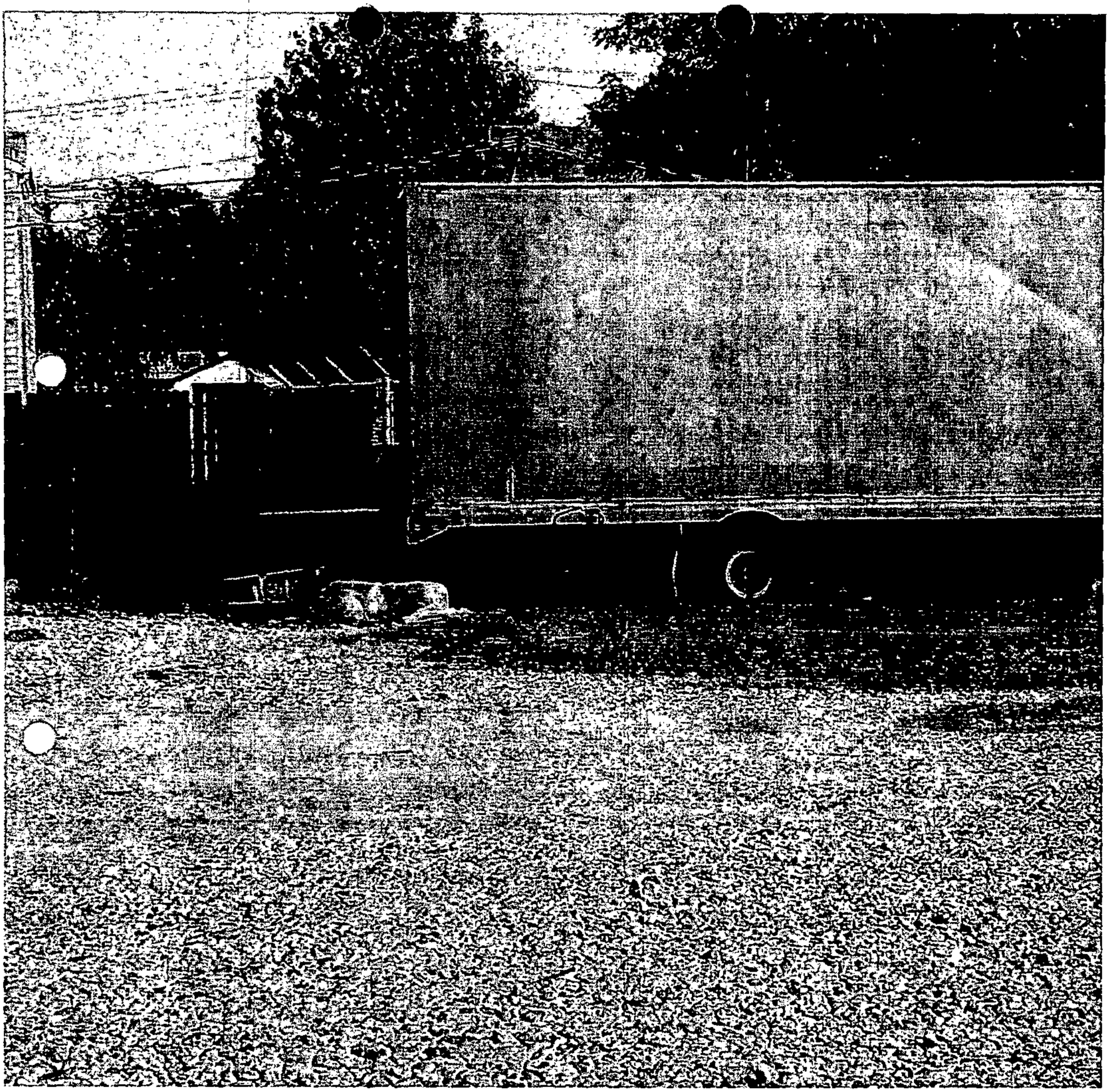

3118



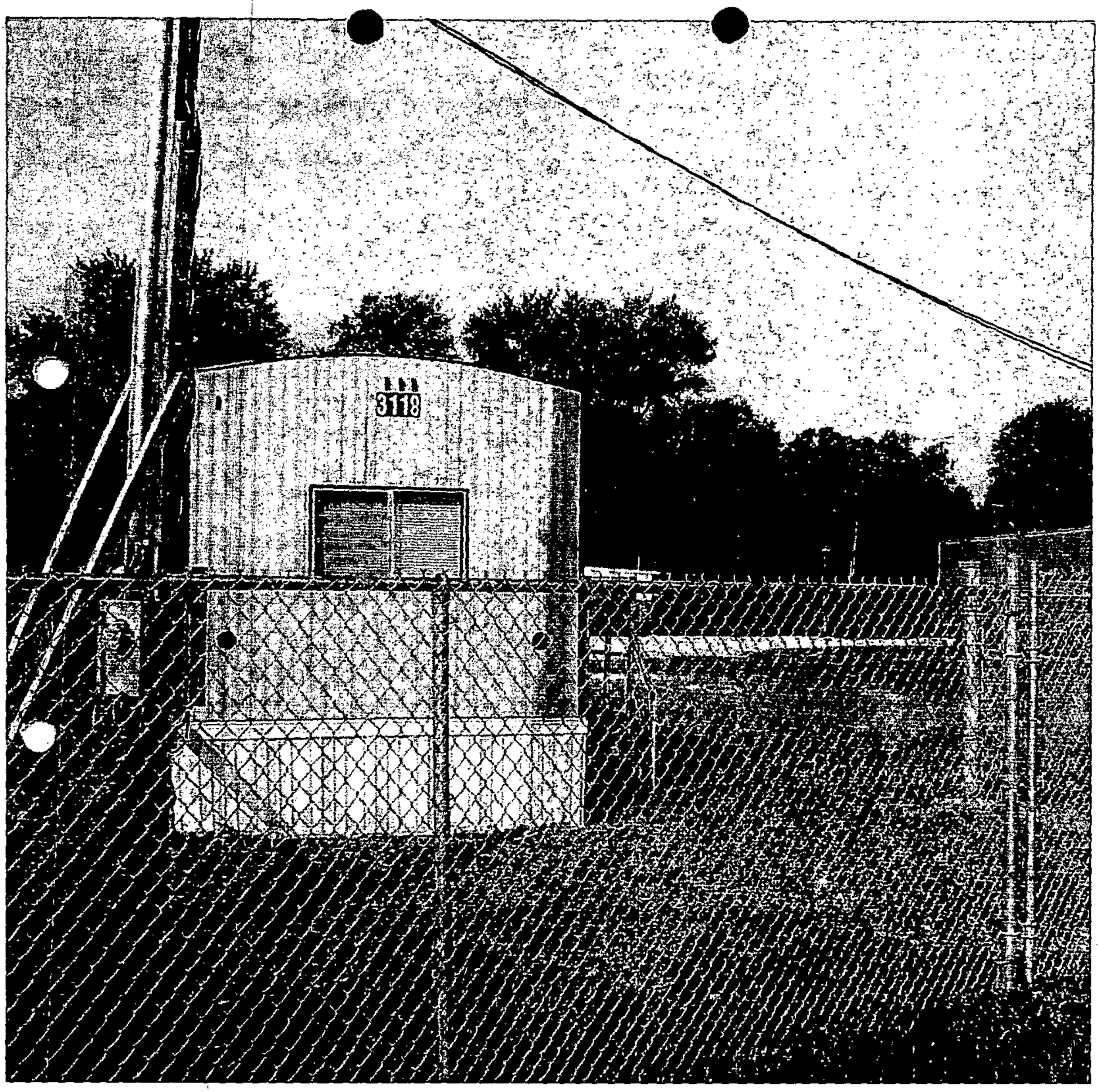






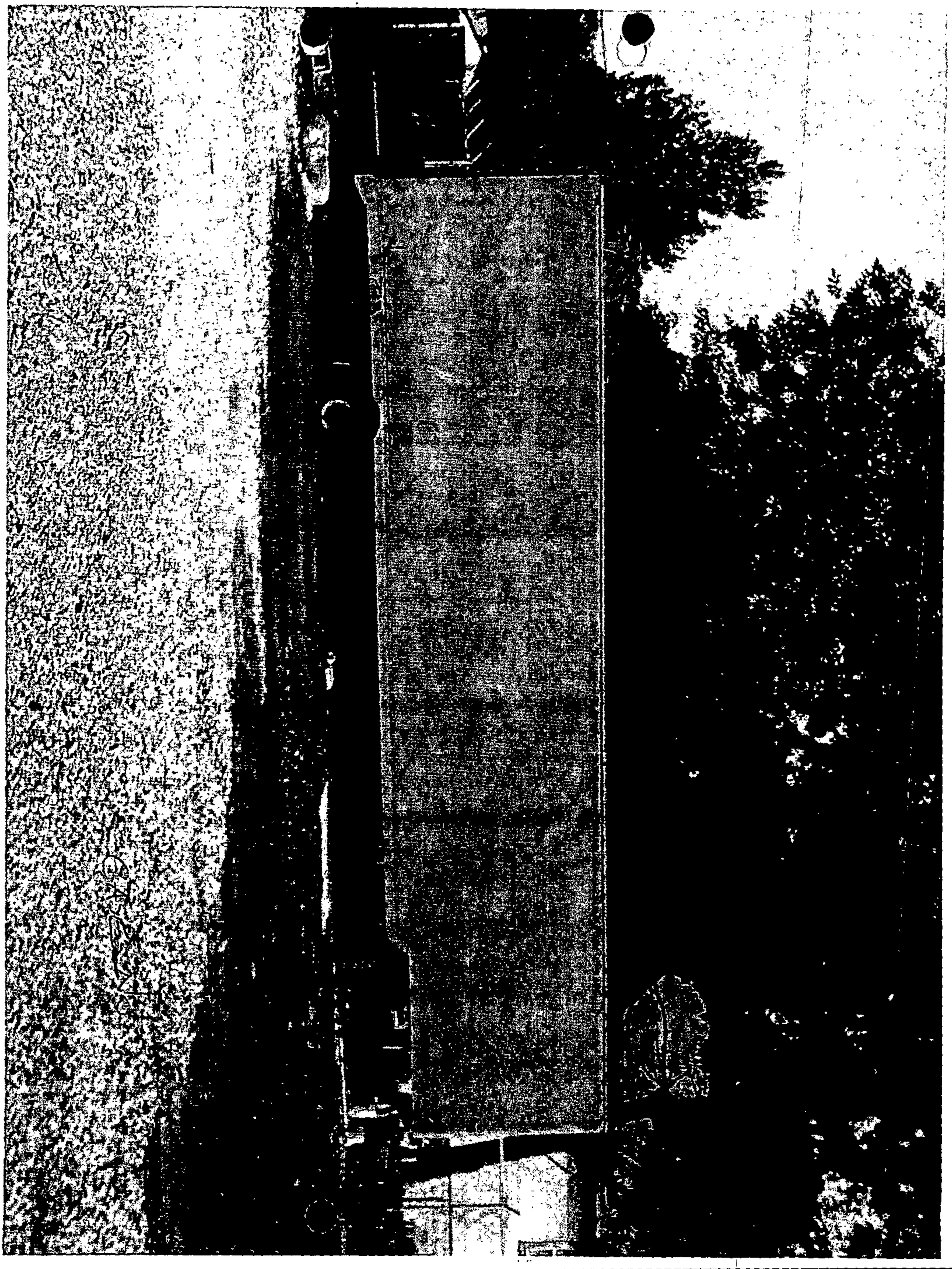





3118

COURT 12/5/05 CASE # 05-5498






PULLEN'S
PULLEN'S
Air Commando Legacy
Case No. 05-5924
Los Angeles


PULLEN'S
TOUR SERVICE, INC.
347
Case No. 05-398
10/25/05
AT

Hammonds Ferry

CASE #
05-5498
10/20/05

PULLEN'S
TOUR SERVICE
410-242-4500
410-247-0556
"We go the last mile of the way"
3118

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

County Office Building, Room 119
111 West Chesapeake Avenue
Towson, Maryland 21204

BALTIMORE COUNTY, Plaintiff, vs. Hornett Pullen, Defendant

Case # 05-5498 Violation Address 3118 Hammonds Ferry Zip 21227

Hearing Date 12/6/05 Issued Date 10/21/05 Expiration Date 11/5/05

Author of Citation Ron Turner

REQUEST FOR SERVICE

Please serve the attached process on the person shown.

ORDER FOR SERVICE

You are hereby commanded to serve the attached process and to make your return promptly on this Order if served, and if you are unable to serve, you are to make your return on this Order and return the original process no later than the last day following the termination of the validity of the process.

PROOF OF SERVICE

I hereby CERTIFY that:

✓ A Citation and all other papers filed with it were served by restricted delivery mail, return card attached.

RT

11/3/05 -

ENTERED IN AS400
BY: SMS

3rd At

I solemnl nowledge, information,
and belief

111 W. Ch

Ron

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Hornett N. Pullen
5608 Kallan Ct
Baltimore MD 21227

RT 05-5498

2. Article Number (Transfer from service label) 7000 1670 0009 5984 2965

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature X Hornett Pullen ☐ Agent ☐ Addressee

B. Received by (Printed Name) Hornett Pullen C. Date of Delivery 10-28-05

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

Initials

Initials

Baltimore County
Department of Permits and
Development Management

SERVE ON: HOCNETT N. PULLEN, AGENT RESIDENT

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

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-5498	24-00-002749	ML-IM

Name(s): PULLENS TOUR SERVICE, INC.

Address: 5608 KALAN COURT Balto MD. 21227

Violation Location: 3118 Hammonds Ferry Rd.

Violation Dates: 10/20/05 To 12-6-05

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

101 TRANSIT STORAGE AND REPAIR YARD; 102.1, 253 B.19, 415.2B.1, 415.2B.2; 500.4 BCZR TRANSIT STORAGE AND REPAIR YARD OPERATION WITHOUT BENEFIT OF A USE PERMIT

ILLEGAL USE OF TRAILERS

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $400 PER DAY X 47 DAYS — $ 18,800

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for:
Date: 12-6-05
Time: 9:00 AM

Citation must be served by: Date: 11-5-05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: RONNIE TURNER

10/21/05 — Date — Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name:

Citation/Case No.: 05-5498

Address:

Date — Defendant's Signature

AGENCY

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

In the Matter of

Pullens Tour Service, Inc.
Hornett Pullen-Resident Agent
5608 Kallan Court, 21227

Respondent

Civil Citation No.05-5498

3118 Hammonds Ferry Road

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 February 8, 2006, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 102.1, 253B.19, 415.2B.1, 415.2B.2, 500.4 for operating a transit storage and repair yard operation without benefit of a use permit, and failure to cease illegal use of trailer on property zoned ML-IM located at 3118 Hammonds Ferry Road, 21227

On October 21, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Ron Turner, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $18,800.00 (eighteen thousand eight hundred dollars) to be assessed. A code enforcement hearing date was scheduled for February 8, 2006.

Timothy L. Fitts, Esquire appeared as Counsel for the Respondent.

Testimony and evidence shows that the Respondent has a scheduled March 10, 2006 meeting with Zoning Officials to submit a petition for a Zoning Variance Hearing. The Respondent is seeking set back requirement relief. Complainants, Donna Yost and Lorraine Young, complained on behalf of their father, Nelson Seiler of noise, fumes and damaging water run off from subject property. The pending Hearing before the Zoning Commissioner will determine if present use is in conformance with existing regulations. Grading without a permit and the water run off problems were not cited in instant case. It appears that transit storage and repair yards are allowed as a matter of right in ML-IM zones. The Respondent was not cited for set back violations. The Respondent was cited for a trailer, which appears to be an office trailer. Previous approvals were granted for the office trailer, although conditional, therefore upon receipt of a complaint, zoning voided the trailer permit.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 13th day of February 2006, that Case # 05-5498 be continued pending the outcome of the variance before the Zoning Commissioner. If the Respondent fails to exercise due diligence by not following through with the Hearing before the Zoning Commissioner then this matter may be reset as a violation case at the inspector's discretion.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), 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. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

Turner

LAW OFFICES
OF
HARVEY & FITTS, L.L.C.

CLOTHILDA G. HARVEY
TIMOTHY L. FITTS

311 E. 25th Street
Baltimore, Maryland 21218
410-467-7301
410-467-4940 (Fax)
Reply to Baltimore Office

14744 Main Street, Ste. 105
Upper Marlboro, Maryland 20774
301-952-9225
301-952-9223 (Fax)
EMAIL: CLOLAWYER4U@PRODIGY.NET

December 1, 2005

Tim M Kotroco
Director of Permit & Development Management
County Office Building
111 West Chesapeake Ave.
Towson, MD 21204

RE: Citation No. 05-5498

Dear Mr. Kotroco,

Please be advised that Pullen's Tour Service, Inc. (hereinafter "our client") has retained the Law Offices of Harvey & Fitts, LLC to represent Pullen's Tour Service in the above referenced Baltimore County Zoning Enforcement Hearing.

We are hereby requesting a postponement of the hearing in order to provide our client an adequate defense in this matter. We request that the hearing date be chosen from the following dates: January 23rd, 24th, 25th, or January 31st, 2006.

Please contact us with any questions or concerns regarding this matter.

Respectfully,

Timothy L. Fitts

Timothy L. Fitts
Attorney at Law

DEC - 5 2005
05-3365

TRAILER PERMIT

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVE, ROOM 101
TOWSON, MD 21204
410-887-3616

PERMIT NO. 35

THIS PERMIT IS ISSUED IN ACCORDANCE WITH BALTIMORE COUNTY ZONING REGULATIONS, ARTICLE 1, SECTION 415, TRAILERS (BILL NO. 109-1964)

NAME AND MAILING ADDRESS

HARNETT PULLEN
5608 KALLAN CT.
BALTIMORE MD 21227

PERMIT TYPE COMMERCIAL

USE OF TRAILER CONSTRUCTION

EXPIRES DECEMBER 31, 2005

A PERMIT IS HEREBY GRANTED TO HARNETT PULLEN (OCCUPANT) TO PARK A TRAILER ON THE PROPERTY OF SAME AS ABOVE (OWNER OF PROPERTY) LOCATED AT 3118 HAMMONDS FERRY RD. LANDSDOWNE MD. 21227 (ADDRESSS OF TRAILER)

3/9/2005
DATE ISSUED

DIRECTOR, PERMITS AND DEVELOPMENT MANAGEMENT

REV 01/03

Owner/Occupant Information

Owner of Property Harnett Pullen **Phone No.** 410 242-9500

Owner Address 5608 Kallan CT **Zip Code** 21227

Mailing Name " **Phone No.** _____
(If different from owner's name.)

Mailing Address _____ **Zip Code** _____
(If different from owner's address.)

Name of Occupant _____ **Phone No.** _____
(If different from owner's name.)

Occupant Address _____ **Zip Code** _____
(If different from owner's address.)

Signature of Occupant _____ **Date** __/__/__

Signature of Property Owner Harnett Pullen **Date** 3/17/05

DEPRM: Groundwater Mngt. (410-887-2762)

APPROVAL/DISAPPROVAL (Circle) M.D. Bryant (Reviewer's Signature) 3/7/05 (Date Signed)

If disapproved, why? _____

PDM: Code Enforcement (410-887-3896)

APPROVAL/DISAPPROVAL (Circle) [illegible] (Reviewer's Signature) 3/7/05 (Date Signed)

If disapproved, why? _____

Office Use Only

Permit No. 35 **Fee:** $10.00 $100.00 ($150.00) $300.00 **Cash Rcpt. No.** B093354 **Cash Rcpt. Date** 3/9/05

Date Received 3/9/05 **Date Issued** 3/9/05 **Date Entered** __/__/__ **Initials** _____ REV 9/03

PDLV0102F Permit & Development - Livability System
View Cases

Case No: 05-5498

Address: 03118 HAMMONDS FERRY RD 21227
Insp Area: 013 Dist: 000 Date Rcv: 6/16/2005 Grp: ENF Intk: JHT
Inspec: TURNER Inspec2: Date Inspec: 1/23/2006
Close: 0/00/0000 Activity: Delete:

Problem: BUS PARKING WITHIN 20FT OF RESIDENTIAL HOME, FUMES COMING INTO HOME

CL Name: SEILER NELSON
CL Address: 00001 WEST VIRGINIA AVE
21227
CL Home Phone: 410-247-4619 CL Work Phone: Tax Acct. 0000000000

Owner:

Enter=Continue F12=Cancel

PDLV0103F Permit Development - Livability System

View Cases

Case No: 05-5498

Notes: CORRECTION NOTICE ISSUED BASED UPON PHOTOS SUPPLIED TO OUT OFFICE THE FIRST WEEK OF JUNE, 2005, PER COMPL THEY ASKED THAT BUSES BE RELOCATED ELSEWHERE ON THE LOT BECAUSE OF THE FUME PROBLEM, HOWEVER, INDIVIDUAL REFUSED T) RELOCATE THESE VEHICLES.
6/16/05, PER WALT SMITH OF DEVELOPMENT MANAGEMENT, NO RECORD OF ANY FILING FO ' A DRC MEETING, JHT/WRKD
6/17/05, CORRECTION NOTICE ISSUED TO CEASE BUSINESS ACTIVITIES AND REMOVE ALL TRAILERS, P/U 6/24/05, JHT/WRKD
9/2/05 FRIDAY REINSPECTION MADE NO TOUR BUSES ON SITE RT/JHT/LMH
10/20/05 SITE INSPECTIONS REVEAL TOUR BUSES PRESENT ALONG WITH TRAILERS RT/JHT/LMH
10/21/05 CHECK WITH DEVELOPMENT MANAGEMENT AGAIN REVEALS NO RECORD OF ANY D.R.C. MEETING. ALSO NO RECORD OF ANY SIGN PERMIT ISSUED. CITATION ISSUED WITH A POSSIBLE HEARING DATE OF 12/6/05. COPY OF CITATION MAILED TO THE COMPLAINANTS POP-UP CASE FOR 11/5/05 TO VERIFY SERVICE OF THE CITATION JHT/LMH
**11/3/05 RETURNED GREEN CARD WITH GOOD SSERVICE. GAVE TO RT. SS
>>>>>>>>>>>>>>

Enter=Continue F12=Cancel

PDLV0104F Permit Development - Livability System

View Cases

Case No: 05-5498

Notes: ***11/4/05, CASE TURNED OVER TO J.F. TO PUT ON DOCKET, HEARING 12/6/05P
U 12/2/05, COMPL UPDATED BY VOICE MESSAGE, RT/CP***
*11/9/05 ON DOCKET FOR 12/6/05 FILE TO R TURNER /JF**. *
*12/5/05, BUSES & TRAILER STILL REMAIN, HEARING TO BE POSTPONED UNTIL 1/25/06,L
TTER WAS SENT TO OWNER, COMPL & LAYWER, P/U 1/23/06, COMPL UPDATED, RT/CP***
***15 DEC 05-RESCHEDULE LETTER SENT TO OWNER AND ATTY.FOR 24 JAN 06. FILE TO I
SPECTOR.(RAKD)*****

Enter=Continue F12=Cancel

Department of Permits and Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmenforce@co.ba.md.us
pdminspect@co.ba.md.us

Baltimore County

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

January 23, 2006

Mr. Timothy L. Fitts, Esquire
311 East 25th Street
Baltimore, Maryland 21218

Re: Case No. 05-5498
3118 Hammonds Ferry Road
Pullen Tour Service, Inc.

Dear Mr. Fitts:

Per our conversation the week of January 16, 2006, this matter has been re-scheduled for February 8, 2006, at 9:00 a.m. in Room 116 of the Baltimore County Office Building at 111 West Chesapeake Avenue, Towson, MD 21204..

It is in your client's best interest that all variance petitions/site plans be submitted to the Office of Zoning Review in an acceptable form prior to the citation hearing.

Sincerely,

James H. Thompson
Supervisor

JHT/lmh
c: Nelson Seiler, 1 West Virginia Avenue, Baltimore, MD 21227

LAW OFFICES
OF
HARVEY & FITTS, L.L.C.

CLOTHILDA G. HARVEY
TIMOTHY L. FITTS

311 E. 25th Street
Baltimore, Maryland 21218
410-467-7301
410-467-4940 (Fax)
Reply to Baltimore Office

14744 Main Street, Ste. 105
Upper Marlboro, Maryland 20774
301-952-9225
301-952-9223 (Fax)
EMAIL: CLOLAWYER4U@PRODIGY.NET

December 1, 2005

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

RE: Citation No. 05-5498

To Whom It May Concern:

Please be advised that Pullen's Tour Service, Inc. (hereinafter "our client") has retained the Law Offices of Harvey & Fitts, LLC to represent Pullen's Tour Service in the above referenced Baltimore County Zoning Enforcement Hearing.

We are hereby requesting a postponement of the hearing in order to provide our client an adequate defense in this matter. We request that the hearing date be chosen from the following dates: January 23rd, 24th, 25th, or January 31st, 2006.

Please contact us with any questions or concerns regarding this matter.

24th

OK rakd

Respectfully,

Timothy L. Fitts

Timothy L. Fitts
Attorney at Law

Baltimore County
Department of Permits and
Development Management

SERVE ON: Hornett N. Pullen, Agent

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

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-3498	27-00-002749	ML-IM

Name(s): PULLENS TOUR SERVICE INC.

Address: 5608 KALLAN COURT BALTO MD. 21227

Violation Location: 3118 HAMMONDS FERRY RD.

Violation Dates: 10/20/05 To 12-6-05

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

101 TRANSIT STORAGE AND REPAIR YARD; 102.1, 253 B.19, 415.2B.1, 415.2B.2; 500.4- BCZR TRANSIT STORAGE AND REPAIR YARD OPERATION WITHOUT BENEFIT OF A USE PERMIT

ILLEGAL USE OF TRAILERS

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $400 PER DAY X 47 DAYS — $ 18,800

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for:

Date: 12-6-05
Time: 9:00 AM

Citation must be served by: Date: 11-5-05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: RONNIE TURNER

10/21/05 — Inspector's Signature
Date

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: HORNETT PULLEN — Citation/Case No.: 05-3498

Address: 5608 KALLAN COURT Baltimore, MD 21227

11/5/05 — Timothy L. Fitts Esq.
Date — Defendant's Signature

VIOLATION SITE

LAW OFFICES
OF
HARVEY & FITTS, L.L.C.

CLOTHILDA G. HARVEY
TIMOTHY L. FITTS

311 E. 25th Street
Baltimore, Maryland 21218
410-467-7301
410-467-4940 (Fax)
Reply to Baltimore Office

14744 Main Street, Ste. 105
Upper Marlboro, Maryland 20774
301-952-9225
301-952-9223 (Fax)
EMAIL: TIMFITTSLAWYER4U@PRODIGY.NET

FAX TRANSMISSION

TO: Hornett Pullen DATE/TIME: _____

FAX: 410 887-2824 PAGE(S)____, including this cover sheet.

TELEPHONE: _____

FROM: Timothy L. Fitts, Esquire

CLAIM/CAUSE OF ACTION #:

Hard Copy To Follow: ____ No ____ Yes

WARNING!

The information contained in or attached to this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity above; if the reader of this message is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us via mail at the above stated address.

THANK YOU FOR YOUR COOPERATION

COMMENTS (if any):

December 16, 2005

Hornett N. Pullen
5608 Kallan Ct.
Baltimore, MD 21227

Dear Mr. Pullen:

Please be advised that a Code Enforcement Hearing has been rescheduled for January 24, 2006 at 9:00 am in Room 116 of the County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204. This hearing is based on a civil citation with respect to certain violations concerning the above property. It is important that you appear for the hearing and state your side of the case. If you have any questions please call Code Enforcement Inspector, Ron Turner at 410-887-3351.

Sincerely,

Rebecca Daniels Copy

Rebecca Daniels
Code Enforcement

TRAILER PERMIT

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVE, ROOM 101
TOWSON, MD 21204
410-887-3616

PERMIT NO. 37

THIS PERMIT IS ISSUED IN ACCORDANCE WITH BALTIMORE COUNTY ZONING REGULATIONS, ARTICLE 4, SECTION 415, TRAILERS [BILL NO. 109-1964]

NAME AND MAILING ADDRESS

HARNETT PULLEN
3118 HAMMONDS FERRY RD
BALTIMORE MD 21227

PERMIT TYPE COMMERCIAL

USE OF TRAILER OFFICE

EXPIRES DECEMBER 31, 2005

A PERMIT IS HEREBY GRANTED TO HARNETT PULLEN (OCCUPANT) TO PARK A TRAILER ON THE PROPERTY OF SAME (OWNER OF PROPERTY)

LOCATED AT 3118 HAMMONDS FERRY RD BALTO. MD. 21227 (ADDRESSS OF TRAILER)

3/9/2005
DATE ISSUED

DIRECTOR, PERMITS AND DEVELOPMENT MANAGEMENT

REV 01/03

Owner of Property Harnett Pullen Phone No. H/C 242 4520

Owner Address 3118 Hammonds Ferry RD Zip Code 21227

Mailing Name " Phone No. _____
(If different from owner's name.)

Mailing Address " Zip Code _____
(If different from owner's address.)

Name of Occupant _____ Phone No. _____
(If different from owner's name.)

Occupant Address _____ Zip Code _____
(If different from owner's address.)

Signature of Occupant Harnett Pullen Date 3/7/05

Signature of Property Owner Harnett Pullen Date 3/7/05

DEPRM: Groundwater Mngt. (410-887-2762)

TRAILER PERMIT APPLICATION

Residential and Commercial

DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 101
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3616

CHECK ONE:

Commercial:

____Temporary Occupancy	$150.00
____Extended Occupancy	$300.00

Residential: Biannual

____New	$ 10.00
____Renewal	$100.00

LICENSE YEAR: JANUARY 1 THROUGH DECEMBER 31

All trailers must comply with the laws and regulations of the Baltimore County Code, Fire Prevention Codes, Plumbing Codes, Electrical Codes, and Building Codes, as well as the laws, rules and regulations of the approval agencies.

CHECKS made PAYABLE TO "BALTIMORE COUNTY, MARYLAND"

All permit applications for commercial use trailers, new residential extended occupancy trailers, and all residential temporary occupancy trailers must include a Plot Plan showing the following information:

-Property line dimensions and easements -Existing well/septic and distance to nearest structure -Property in tidal/riverine areas, indicate elevation of lowest floor of proposed work	-Existing buildings -Proposed work and setback distances to proposed trailer site -Road location and names of alleys -Indicate if the property is historical

Trailer Information

Trailer Location 3118 Hammonds Ferry Rd (Street Address) Lansdowne Baltimore (City) 3/7/05 (Zip Code)

Type of Zoning Commercial **Subdivision** _____ **Building Permit No.** _____

Date Trailer was Parked at this Location 6/6/04 **Size of Trailer** (In feet and Inches) 50 FT

Use of Trailer (Be specific) OFFICE

Sewage Disposal: Metro / Private Existing / Proposed **Water Service:** Metro / Private Existing / Proposed

Owner/Occupant Information

Owner of Property Howard Pullen **Phone No.** H/B 242 4500

Owner Address 3118 Hammonds Ferry Rd **Zip Code** 21227

Mailing Name " (If different from owner's name.) **Phone No.** _____

Mailing Address " (If different from owner's address.) **Zip Code** _____

Name of Occupant _____ (If different from owner's name.) **Phone No.** _____

Occupant Address _____ (If different from owner's address.) **Zip Code** _____

Signature of Occupant Howard Pullen **Date** 3/7/05

Signature of Property Owner Howard Pullen **Date** 3/7/05

DEPRM: Groundwater Mngt. (410-887-2762)

TRAILER PERMIT

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVE, ROOM 101
TOWSON, MD 21204
410-887-3616

PERMIT NO. 36

THIS PERMIT IS ISSUED IN ACCORDANCE WITH BALTIMORE COUNTY ZONING REGULATIONS, ARTICLE 4, SECTION 415, TRAILERS [BILL NO. 109-1964]

NAME AND MAILING ADDRESS

HARNETT PULLEN
5608 ~~PULLEN CT~~ KALLAN CT
BALTIMORE MD 21227

PERMIT TYPE COMMERCIAL

USE OF TRAILER COMMERCIAL

EXPIRES DECEMBER 31, 2005

A PERMIT IS HEREBY GRANTED TO HARNETT PULLEN (OCCUPANT) TO PARK A TRAILER ON THE PROPERTY OF SAME (OWNER OF PROPERTY)

LOCATED AT 3118 HAMMONDS FERRY RD. BALTO. MD. 21227 (ADDRESSS OF TRAILER)

3/9/2005
DATE ISSUED

DIRECTOR, PERMITS AND DEVELOPMENT MANAGEMENT

REV 01/03

Owner/Occupant Information

Owner of Property Harnett Pullen Phone No. 410 242-4500

Owner Address 5608 Kallan CT Zip Code 21227

Mailing Name " Phone No. "
(If different from owner's name.)

Mailing Address _____ Zip Code _____
(If different from owner's address.)

Name of Occupant _____ Phone No. _____
(If different from owner's name.)

Occupant Address _____ Zip Code _____
(If different from owner's address.)

Signature of Occupant _____ Date __/__/__

Signature of Property Owner Harnett Pullen Date 3/7/05

DEPRM: Groundwater Mngt. (410-887-2762)

T ILER PERMIT APPLICA ION

Residential and Commercial

DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 101
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3616

CHECK ONE:

Commercial:

____Temporary Occupancy	$150.00
____Extended Occupancy	$300.00

Residential: Biannual

____New	$ 10.00
____Renewal	$100.00

LICENSE YEAR: JANUARY 1 THROUGH DECEMBER 31

All trailers must comply with the laws and regulations of the Baltimore County Code, Fire Prevention Codes, Plumbing Codes, Electrical Codes, and Building Codes, as well as the laws, rules and regulations of the approval agencies.

CHECKS made PAYABLE TO "BALTIMORE COUNTY, MARYLAND"

All permit applications for commercial use trailers, new residential extended occupancy trailers, and all residential temporary occupancy trailers must include a Plot Plan showing the following information:

-Property line dimensions and easements
-Existing well/septic and distance to nearest structure
-Property in tidal/riverine areas, indicate elevation of lowest floor of proposed work
-Existing buildings
-Proposed work and setback distances to proposed trailer site
-Road location and names of alleys
-Indicate if the property is historical

Trailer Information

Trailer Location 3118 Hammonds Ferry R.d (Street Address) Lansdowne (City) 21227 (Zip Code)

Type of Zoning Commercial **Subdivision** _____ **Building Permit No.** _____

Date Trailer was Parked at this Location 1/10/05 **Size of Trailer** (In feet and Inches) 20'

Use of Trailer (Be specific) Construction Trailer

Sewage Disposal: Metro / Private Existing / Proposed **Water Service:** Metro / Private Existing / Proposed

Owner/Occupant Information

Owner of Property Hornett Pullen **Phone No.** 410 242 4500

Owner Address 5608 Kellam Ct **Zip Code** 21227

Mailing Name " (If different from owner's name.) **Phone No.** "

Mailing Address _____ (If different from owner's address.) **Zip Code** _____

Name of Occupant _____ (If different from owner's name.) **Phone No.** _____

Occupant Address _____ (If different from owner's address.) **Zip Code** _____

Signature of Occupant _____ **Date** __/__/__

Signature of Property Owner Hornett Pullen **Date** 3/7/05

DEPRM: Groundwater Mngt. (410-887-2762)

TRAILER PERMIT

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVE, ROOM 101
TOWSON, MD 21204
410-887-3616

NO. 82

IT IS ISSUED IN ACCORDANCE WITH BALTIMORE COUNTY ZONING REGULATIONS, ARTICLE 4, SECTION 415, TRAILERS [BILL NO. 109-1964]

NAME AND MAILING ADDRESS

EN TOUR SERVICE INC
KALLAN CT
) MD 21227-4248

PERMIT TYPE TEMPORARY OCCUPANCY

USE OF TRAILER OFFICE/STORAGE

EXPIRES DECEMBER 31, 2004

T IS HEREBY GRANTED TO PULLEN TOUR SERVICE INC *TO PARK A*
(OCCUPANT)

ON THE PROPERTY OF PULLEN TOUR SERVICE INC
(OWNER OF PROPERTY)

) AT 3118 HAMMONDS FERRY RD, BALTO MD 21227
(ADDRESSS OF TRAILER)

AUGUST 16, 2004
DATE ISSUED

DIRECTOR, PERMITS AND DEVELOPMENT MANAGEMENT

TRAILER PERMIT APPLICATION

Residential and Commercial

DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 401
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3616

CHECK ONE:
Commercial:
___ Temporary Occupancy $250.00
___ Extended Occupancy $300.00
Residential: Biannual
___ New $ 10.00
___ Renewal $100.00
** 50% Late Fee (renewals after December 31)

LICENSE YEAR: JANUARY 1 THROUGH DECEMBER 31

All trailers must comply with the laws and regulations of the Baltimore County Code, Fire Prevention Codes, Plumbing Codes, Electrical Codes, and Building Codes, as well as the laws, rules and regulations of the approval agencies.

CHECKS made PAYABLE TO "BALTIMORE COUNTY, MARYLAND"

All permit applications for commercial use trailers, new residential extended occupancy trailers, and all residential temporary occupancy trailers must include a Plot Plan showing the following information:

- Property line dimensions and easements
- Existing well/septic and distance to nearest structure
- Property in tidal/riverine areas, indicate elevation of lowest floor of proposed work
- Existing buildings
- Proposed work and setback distances to proposed trailer site
- Road location and names of alleys
- Indicate if the property is historical

Trailer Information

Trailer Location 3115 Fairmount Ave. Fmly Koa 21227
(Street Address) (City) (Zip Code)

Type of Zoning M.L.-I.M. Subdivision ___ Building Permit No. ___

Date Trailer was Parked at this Location 8/2004 Size of Trailer (in feet and Inches) 32ft x 8ft

Use of Trailer (Be specific) Office / Transit Storage / Repairs N/A 253-5379 Alt. Phone

Sewage Disposal: Metro / Private / Existing / Proposed N/A Water Service: Metro / Private / Existing / Proposed

Owner/Occupant Information

Owner of Property Allen Taylor Service Inc. Phone No. ___

Owner Address 5608 Kane Ave Zip Code 21227-4218

Mailing Name ___ (If different from owner's name) Phone No. ___

Mailing Address ___ (If different from owner's address) Zip Code ___

Name of Occupant ___ (If different from owner's name) Phone No. ___

Occupant Address 3115 Fairmount Ave Fmly Koa (If different from owner's address) Zip Code 21227

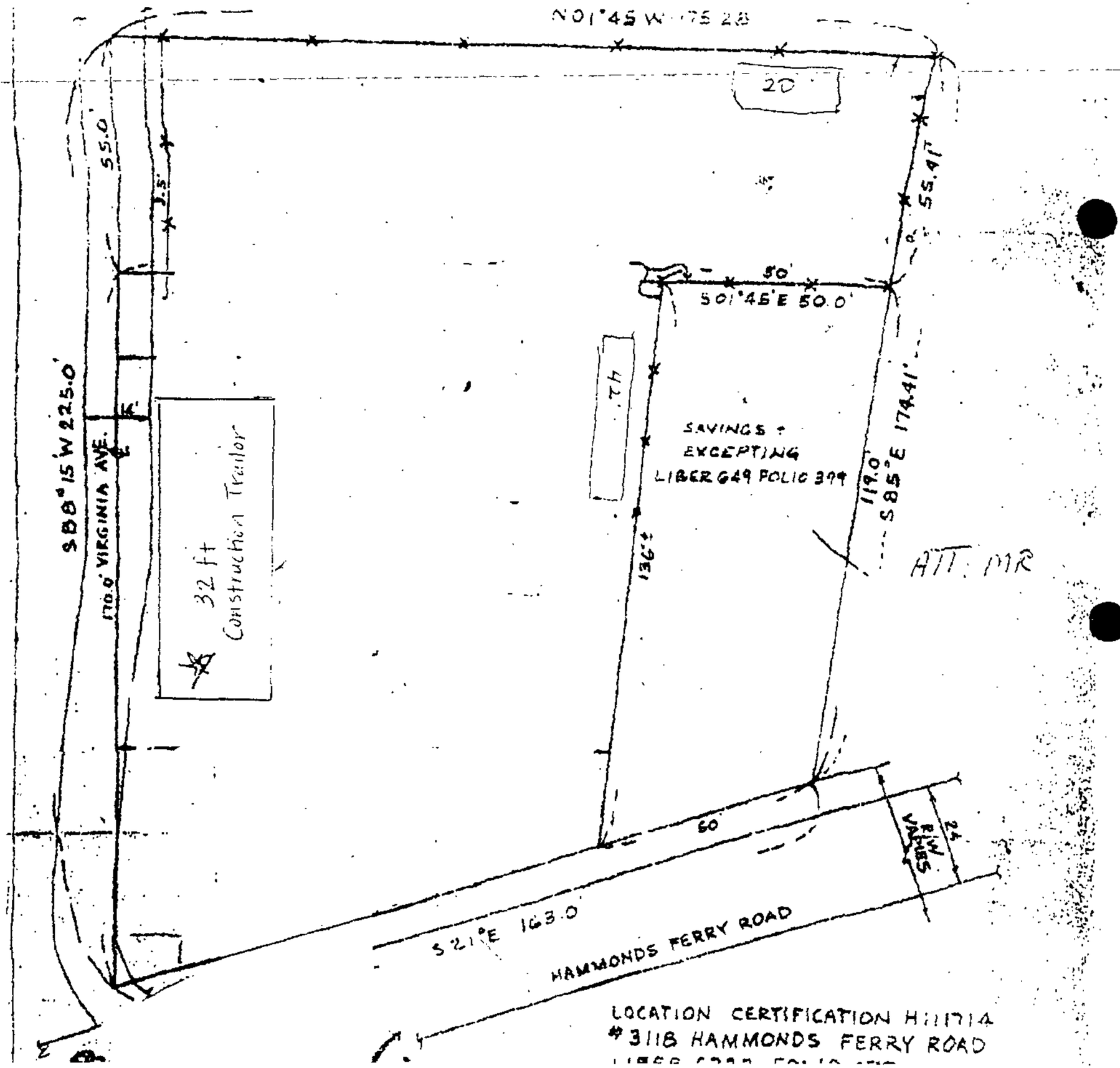
Signature of Occupant Howard Pate Date 8/16/04

Signature of Property Owner Howard Pate Date 8/16/04

Baltimore County
Department of Permits and Development Management
111 West Chesapeake Ave.
Towson, MD 21204
FAX# (410) 887-2824

To Whom It May Concern:

I would like to report a violation concerning the sign for Lauman's Home Furnishings located at 8650 Belair Road, Nottingham, Maryland 21236.


N01°45 W 175.28
20
55.0'
35'
55.41'
S01°45'E 50.0'
50'
42'
SAVINGS +
EXCEPTING
LIBER 649 FOLIO 399
S88°15'W 225.0'
170.0' VIRGINIA AVE.
32 ft
Construction Trailor
136±
119.0'
S85°E 174.41'
ATT. MR
60
24' R/W VARIES
S 21°E 163.0
HAMMONDS FERRY ROAD
LOCATION CERTIFICATION H-11714
#3118 HAMMONDS FERRY ROAD

Baltimore County
Department of Permits and
Development Management

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

November 15, 2001

Mr. Hornett W. Pullen
5608 Kallan Court
Baltimore, Maryland 21227

RE: Zoning Verification Letter for
3118 Hammonds Ferry Road
13th Election District

Dear Mr. Pullen:

Your letter to Mr. Arnold Jablon, Director of Permits and Development Management, has been referred to me for reply. Due to the lack of information provided, a response can only be done based on the outline of the property provided on the included copy of a portion of the Baltimore County zoning map SW 6 C.

The property shown on this zoning map is designated as M.L. - I.M. (Manufacturing, Light – Industrial, Major). The use as described in your letter being a small charter bus business would fall under the definition of a Transit Storage and Repair Yard. Enclosed, please find a copy of this definition found in the Baltimore County Zoning Regulations. Per Section 253.1.B.19 (B.C.Z.R.) this use is permitted as a right in this zone provided that no building or commercial vehicle storage/parking is located within 100 feet of any residential zone boundary or within 100 feet of the right-of-way of an existing or proposed interstate highway, other freeway or expressway, which motorway is officially so designated by the State Highway Administration, Maryland Department of Transportation, and/or the county, front, side and rear yards shall be as required in an M.R. Zone (see Sections 243.1, 243.2 and 243.3 of the B.C.Z.R.).

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

Mr. Hornett W. Pullen
Zoning Verification for 3118 Hammonds Ferry Road
Page 2

As stated in your letter you intend to construct a garage for those buses. Prior to any building placed on the lot you must go through the D.R.C. (Development Review Committee) process. The paperwork for the D.R.C. process can be acquired in Room 123 of the County Office Building. You may also call this office at 410-887-3335 with any questions that you may have.

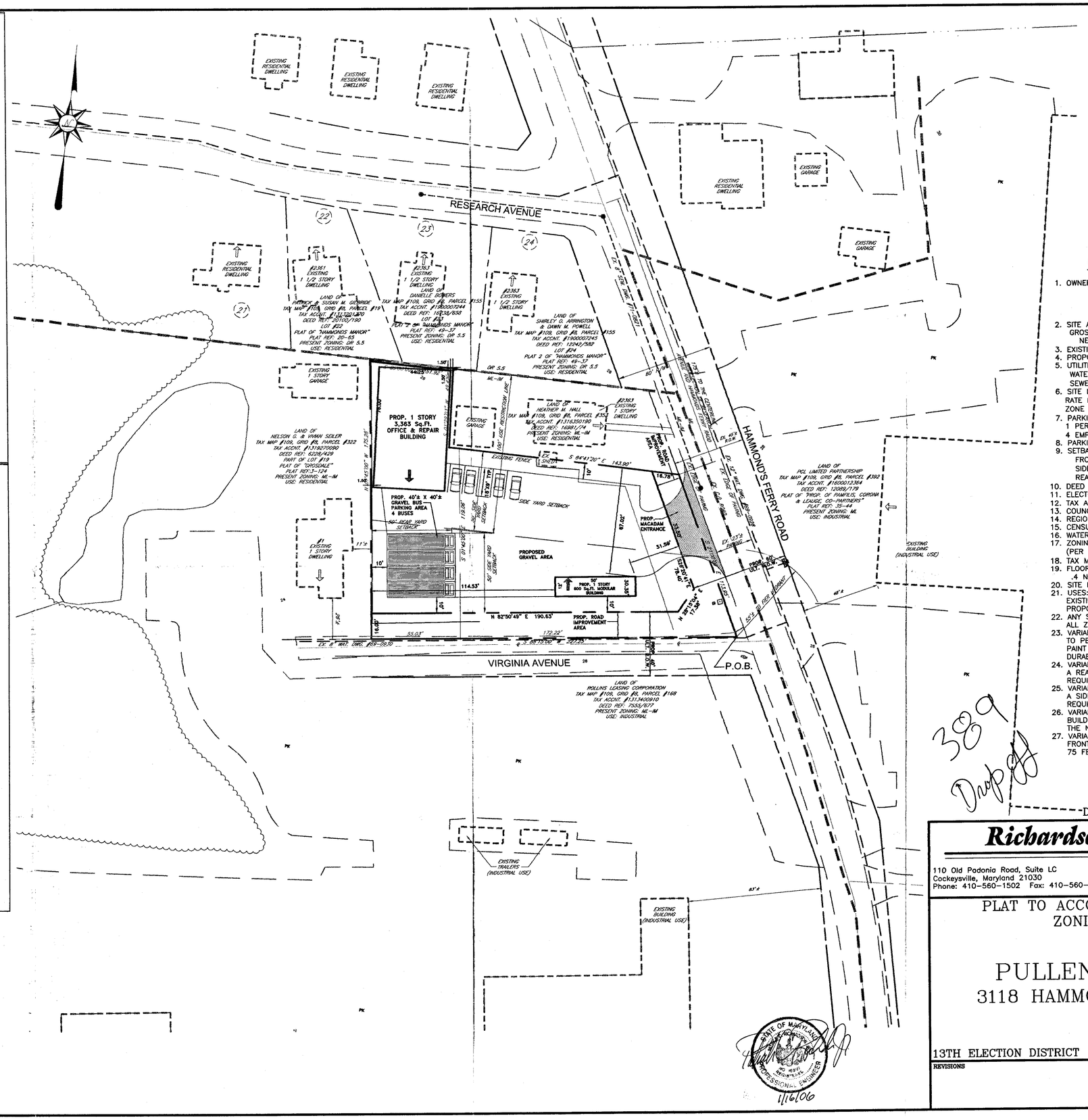
I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need any further information or have any questions, please do not hesitate to contact me at 410-887-3391.

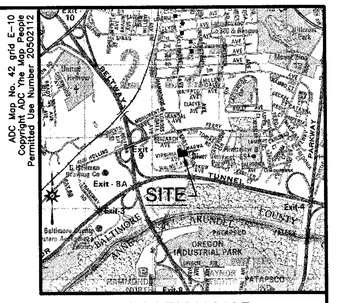
Sincerely,

Donna Thompson
Planner II
Zoning Review

DT

Enclosure





LOCATION MAP
SCALE: 1" = 2000'

GENERAL NOTES:

1. OWNER/DEVELOPER:
   PULLENS TOUR SERVICE INC.
   #5608 KALLAN COURT
   BALTIMORE, MARYLAND 21227
   (410) 365-2714
2. SITE AREA:
   GROSS: 28,285 Sq.Ft. or 0.649 Ac.±
   NET: 26,726 Sq.Ft. or 0.613 Ac.±
3. EXISTING BUILDINGS: NONE (VACANT SITE)
4. PROPOSED BUILDING: 3,363 Sq.Ft. or 0.08 Ac.±
5. UTILITIES
   WATER: PUBLIC (DWG #69-0928)
   SEWER: PUBLIC (DWG #71-0821)
6. SITE LIES WITHIN ZONES C OF FLOOD INSURANCE RATE MAP (FIRM) PANEL #240010 0510 B. ZONE "C" IS AREAS OF MINIMAL FLOODING.
7. PARKING REQUIRED: (TRANSIT STORAGE OR REPAIR YARD)
   1 PER EMPLOYEE ON LARGEST SHIFT
   4 EMPLOYEE'S ON LARGEST SHIFT = 4 SPACES
8. PARKING PROVIDED: 4 SPACES.
9. SETBACKS:

	REQUIRED	PROVIDED
FRONT	75'	1.5'
SIDE	50'	1.5'
REAR	50'	1.5'

10. DEED REF: 15838/557
11. ELECTION DISTRICT: 13TH
12. TAX ACCOUNT #2400002749
13. COUNCILMANIC DISTRICT 1st
14. REGIONAL PLANNING DISTRICT 325 B
15. CENSUS TRACT 4303
16. WATERSHED: PATAPSCO
17. ZONING: ML-IM
    (PER 1"=200' ZONING MAP 109A2)
18. TAX MAP #109, GRID #8, PARCEL #324
19. FLOOR AREA RATIO:
    .4 NOT MORE THAN 25% OF LAND FOR 1 STORY STRUCTURE.
20. SITE IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
21. USES:
    EXISTING: VACANT LOT
    PROPOSED: TRANSIT STORAGE AND REPAIR YARD
22. ANY SIGNS SHALL COMPLY WITH BCZR SECTION 450 AND ALL ZONING SIGNS POLICIES.
23. VARIANCE REQUESTED PER SECTION 409.8.A.2. AND 6. BCZR TO PERMIT A PAVING SURFACE OF COMPACTED STONE WITHOUT PAINT STRIPING, IN LIEU OF THE REQUIRED PAINT STRIPED DURABLE AND DUSTLESS PAVING SURFACE.
24. VARIANCE REQUESTED PER SECTION 243.3 BCZR TO PERMIT A REAR YARD SETBACK OF 1.5 FEET IN LIEU OF THE REQUIRED 50 FEET.
25. VARIANCE REQUESTED PER SECTION 243.2 BCZR TO PERMIT A SIDE YARD SETBACK OF 1.5 FEET IN LIEU OF THE REQUIRED 50 FEET.
26. VARIANCE REQUESTED PER SECTION 243.4 TO CONSTRUCT A BUILDING 1.5 FEET IN LIEU OF THE REQUIRED 125 FEET TO THE NEAREST BOUNDARY LINE OF A RESIDENTIAL ZONE.
27. VARIANCE REQUESTED PER SECTION 243.1 TO PERMIT A FRONT YARD SETBACK OF 1.5 FEET IN LIEU OF THE REQUIRED 75 FEET.

ML IM
DR 5.5

⇦ DENOTES THE FRONT FACE OF THE STRUCTURE

389
Dup

DRC 072505A

Richardson Engineering, LLC

110 Old Padonia Road, Suite LC
Cockeysville, Maryland 21030
Phone: 410-560-1502 Fax: 410-560-0827

PLAT TO ACCOMPANY PETITION FOR
ZONING VARIANCE
FOR

PULLEN PROPERTY
3118 HAMMONDS FERRY ROAD

13TH ELECTION DISTRICT — BALTIMORE COUNTY, MARYLAND

REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	CND	PCR	1" = 30'
	DATE: 01-12-06	JOB NO.: 05067	SHEET NO.: 1 OF 1

STATE OF MARYLAND — PAUL C. RICHARDSON — No. 16911 — REGISTERED PROFESSIONAL ENGINEER
1/16/06

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