

DATE**COURT MINUTES**

September 11, 2009. Hon. Sherrie R. Bailey. Hearing had in re:
Administrative Appeal. The Court affirms the boards decision.

RECEIVED

SEP 16 2009

BALTIMORE COUNTY
BOARD OF APPEALS

9/16/09

No written
Opinion to be
Issued

~ Carole Demilio
called Judge &
was told above.

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
KENNETH AND ROBIN MORRISON

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
NO. : 03-C-08-009331

IN THE MATTER OF :
KENNETH AND ROBIN MORRISON
– LEGAL OWNERS
FOR SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE S/SIDE OF
RIVERSIDE DRIVE, 60' W/OF FAIRWAY RD
(16 RIVERSIDE ROAD)

15TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT

BOARD OF APPEALS CASE NO.S: 07-512-A
AND 08-525-SPH

* * * * *

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:

Francis X. Borgerding, Esquire
409 Washington Ave, Suite 600
Towson, MD 21204

Kenneth and Robin Morrison
16 Riverside Drive
Baltimore, MD 21221

William and Charlotte Atkins
11 Riverside Road
Baltimore, MD 21221

Becky and Joseph Roggio
24 Strabane Court
Parkville, MD 21234

Brian and Chris Dennis
14 Riverside Road
Baltimore, MD 21221

Susan Schoenian
Sheep and Goat Specialist
Maryland Cooperative Extension
18330 Keedysville Road
Keedysville, MD 21756

Jack Dillon
207 Courtland Avenue
Towson, MD 21204

Stanley and Anna Almony
302 Gemmill Road
Delta, PA 17314

Paul and Betty Marks
4 Wagner Lane
Baltimore, MD 21221

Herman Rohrman
22 Riverside Road
Baltimore, MD 21221

Natural Resource Planner
State of Maryland
Critical Area Commission
Chesapeake & Atlantic Coastal Bays
1804 West Street, Suite 100
Annapolis, MD 21401

Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

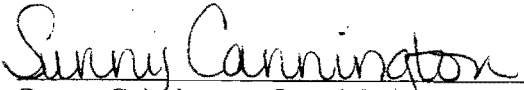
William J. Wiseman III, Zoning
Commissioner
The Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, MD 21204

Arnold "Pat" Keller, Director
Office of Planning
The Jefferson Building, Suite 101
105 W. Chesapeake Avenue
Towson, MD 21204

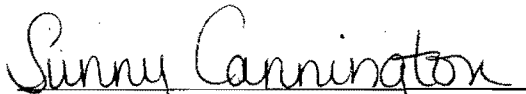
Timothy M. Kotroco, Director
Department of Permits and Development
Management
Baltimore County Office Building
111 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

John Beverungen, County Attorney
Office of Law
400 Washington Avenue
Towson, MD 21204

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


Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180

I HEREBY CERTIFY that on this 30th day of March, 2009, a copy of the foregoing Certificate of Notice has been mailed to: Francis X. Borgerding, Esquire, 409 Washington Ave, Suite 600, Towson, MD 21204, Attorney for Petitioners; Kenneth and Robin Morrison, 16 Riverside Drive, Baltimore, MD 21221; William and Charlotte Atkins, 11 Riverside Road, Baltimore, MD 21221; Becky and Joseph Roggio, 24 Strabane Court, Parkville, MD 21234; Brian and Chris Dennis, 14 Riverside Road, Baltimore, MD 21221; Susan Schoenian, Sheep and Goat Specialist, Maryland Cooperative Extension, 18330 Keedysville Road, Keedysville, MD 21756; Jack Dillon, 207 Courtland Avenue, Towson, MD 21204; Stanley and Anna Almony, 302 Gemmill Road, Delta, PA 17314; Paul and Betty Marks, 4 Wagner Lane, Baltimore, MD 21221; Herman Rohrman, 22 Riverside Road, Baltimore, MD 21221; Natural Resource Planner, State of Maryland, Critical Area Commission Chesapeake & Atlantic Coastal Bays, 1804 West Street, Suite 100, Annapolis, MD 21401; Office of People's Counsel, The Jefferson Building, Suite 204, 105 W. Chesapeake Avenue, Towson, MD 21204; William J. Wiseman III, Zoning Commissioner, The Jefferson Building, Suite 103, 105 W. Chesapeake Avenue, Towson, MD 21204; Arnold "Pat" Keller, Director, Office of Planning, The Jefferson Building, Suite 101, 105 W. Chesapeake Avenue, Towson, MD 21204; and Timothy M. Kotroco, Director, Department of Permits and Development Management, Baltimore County Office Building, 111 W. Chesapeake Avenue, Suite 105, Towson, MD 21204; John Beverungen, County Attorney, Office of Law, 400 Washington Avenue, Towson, MD 21204.


Sunny Cannington, Legal Secretary
County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180

IN THE MATTER OF
KENNETH AND ROBIN MORRISON-APPLICANTS

16 Riverside Drive,
Essex, MD 21221
15th Election District, 7th Councilmanic District
For Judicial Review of the Decision of the
County Board of Appeals of Baltimore County
Jefferson Building
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204
Case Nos.: 07-512-A and 08-525-SPH

Petition for Variance and Petition for
Special Hearing

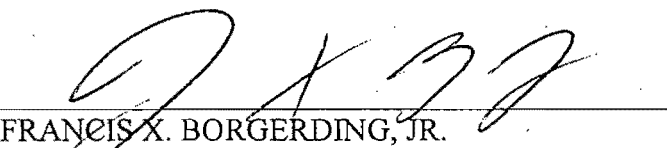
* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No.: 03C093356
*
*
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* * * * *

PETITION FOR JUDICIAL REVIEW

Kenneth and Robin Morrison, Petitioners before the County Board of Appeals for Baltimore County, by and through their attorney, Francis X. Borgerding, Jr., herein file their Petition for Judicial Review pursuant to Rule 7-202 from the Opinion of the County Board of Appeals for Baltimore County in the above-referenced matter rendered on February 25, 2009 from the Board's Ruling on the Petition for Variance and Special Hearing which is attached hereto.

Petitioners were parties below and fully participated in the hearing.


FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR PETITIONERS

RECEIVED AND FILED

2009 MAR 23 PM 12: 25

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

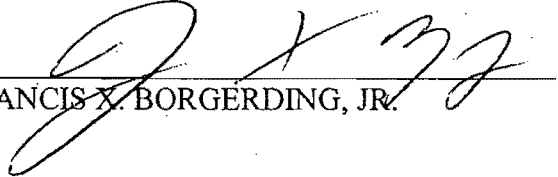
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MAR 27 2009

BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23 day of March, 2009, a copy of the foregoing was mailed, first-class postage prepaid, to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204


FRANCIS X. BORGERDING, JR.

IN THE MATTER OF
KENNETH AND ROBIN MORRISON - APPLICANTS
16 Riverside Drive,
Essex, MD 21221
15th Election District, 7th Councilmanic District

RE: Petition for Variance and Petition for
Special Hearing

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case Nos. 07-512-A and
* 08-525-SPH

* * * * *

OPINION

The above captioned cases stem from final decisions of the Zoning Commissioner for Baltimore County which cases were consolidated before this Board on appeal.

In Case No. 07-512-A, Kenneth and Robin Morrison (the "Petitioners") requested variances under Baltimore County Zoning Regulations ("B.C.Z.R.") 307.1 to permit two (2) dwarf, pygmy goats on a lot less than 3 acres with less than the 1/2 acre of pastureland. BCZR §100.6 entitled "Land used for stabling and pasturing of animals" requires a 3 acre minimum lot size and 1.0 acre of grazing or pastureland for each goat. On August 9, 2007, the Zoning Commissioner denied the Variances finding that the Petitioners' property was not unique and that there were no special circumstances or conditions existing that are peculiar to the land or to the structure.

After the Zoning Commissioner denied the variance request, the Petitioners filed a Petition for Special Hearing in Case No. 08-525-SPH on or about May 7, 2008. In that request, they requested a determination that dwarf, pygmy goats do not meet the definition of "small livestock" under §100.6 but rather should be classified as domestic pets. On August 28, 2008, the Zoning Commissioner denied the special hearing request finding that the Petitioners' goats were "livestock" and not pets.

A public hearing was held before the Board on January 8, 2009. The Petitioners were represented by Francis X. Borgerding, Jr. The Protestants, William and Charlotte Adkins, neighbors of the Petitioners, were pro se. Public Deliberation was held on February 4, 2009.

Factual Background

The Petitioners' property is roughly rectangular in shape, approximately 0.14 acres in area (5,187 square feet), zoned D.R. 5.5 and is located between Riverside Road (front) and Wagner Avenue (rear)

nearly 500 feet from Back River in Essex (the "Property"). The Property has a 1½ story dwelling with a carport and rear patio. In the rear of the Property is a shed which houses the Petitioners' goats. In addition to the goats, the Petitioners live at the Property along with their daughter, her husband, two (2) grandchildren and fifteen (15) cats.

Mrs. Morrison testified that the goats are about the size of medium dogs and that she cares for them as if they were her pets. The goats sleep on blankets inside the shed and that they are brushed and cleaned. The back yard is entirely fenced with gates that lock so that the goats can not be let out. The goats do not eat the vegetation in her backyard but are fed grain out of bowls, snacks (such as goldfish crackers) and hay/straw at night. The grain is stored in sealed containers. The goats come in and out of the Petitioners' house. Many photographs of the goats were accepted into evidence, including a photograph of one of the goats with Santa Claus. (CBA Exh. 2F).

Mrs. Morrison also submitted veterinary bills and records of the animal health history showing that she pays for their health care and keeps their vaccinations current and their hooves maintained. (CBA Ex. 5). She further testified that she cleans up all the droppings and food with a wet vacuum and this eliminates rodent infestation. She also cleans their shed each night. She and her family as well as neighbors play with the goats.

In support of the Petitions, Jack Dillon was admitted as an expert in the areas of planning and zoning. He testified that §100.6 does not apply to the Petitioners' goats because dwarf, pygmy goats - unlike horses - do not need the requisite acreage of pastureland. He explained that the acreage requirement for having pastureland in that Section was based on the need for the animal to graze. He concluded therefore, that since dwarf, pygmy goats are "browsers" not "grazers", that §100.6 was never intended to cover this type of goat. Explaining further, he noted that the Petitioners fenced off their trees in the back yard so that the goats would not browse on those leaves.

Mr. Dillon personally made 3 inspections of the property and confirmed much of what Mrs. Morrison testified about including the cleanliness and proper care of the goats by the Petitioners. He confirmed the lot size and the orientation of the improvements on the lot.

Also testifying for the Petitioners was Susan Schoenian, who was accepted as an expert in sheep and goats. She identified different types of goats namely: (1) meat goats; (2) dairy goats; (3) fiber goats' and (4) miniature goats. The Petitioners' goats fall within the category of miniature goats which, she explained, were originally imported into the United States for research and for petting zoos. Biologically, the dwarf pygmy goats "browse" which means that they eat shrubs. These miniature goats do not "graze" which means the animal has its head on the ground while eating vegetation. The miniature goat species do not make noise unless they are in distress.

Ms. Schoenian also observed the Petitioners' property and related that the goats were kept clean, were bathed, ate grain out of bowls as well as hay and cookies. She did not observe any food or droppings on the ground. She did not observe any rodents. The hay in their shed was not offensive and the size of the shed was more than adequate for the goats to express their natural behavior. She testified that the goats would enhance the neighborhood and would not cause fear as dogs might do. In her opinion, these goats have more characteristics of pets than livestock. Indeed, she opined that "livestock" are animals kept for use, production or product and not as pets.

Testifying in opposition to the goats were William and Charlotte Atkins who reside at 11 Riverside Road, Baltimore, MD 21201. Their complaints went to infestation of rats and squirrels which the Protestants claim was caused by Mrs. Morrison feeding the ducks, the squirrels and the birds. They further complained that the Petitioners burn the hay/straw used for the goats and submitted photographs of smoke near the Morrison home. The Protestants admitted that they did not witness the burning of hay/straw but made an assumption that it was hay and straw that was burning. The Protestants did mention the negative impact on property values if the goats were permitted to stay.

Decision

I. The Variance.

In regard to the Petitioners' request for variances from BCZR §100.6 to allow a ½ acre of pastureland in lieu of the required 1 acre of pastureland per goat and to allow a minimum lot size of 0.14 of an acre in lieu of the required 3 acres to keep these goats, the Board has considered all of the evidence presented as it applies to law on variance.

Section 307.1 of the BCZR, in pertinent part, reads as follows:

"The County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variance 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....Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area...regulations, and only if in such manner as to grant relief without injury to public health, safety and general welfare.

This Board is required to follow the holding in *Cromwell v. Ward*, 102 Md. App. 691 (1995)

wherein the Court writes:

...The Baltimore County ordinance requires "conditions...peculiar to the land...and...practical difficulty..." Both must exist.However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties....

Id. at 698. In requiring a pre-requisite finding of "uniqueness," the Court defined the term and 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 has 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.

Applying the holding in *Cromwell* to the instant case, this Board observes that only when the prerequisite "uniqueness" has been established will an area variance be granted and only where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his/her property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must produce evidence to allow the following questions to be answered affirmatively:

1. Whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. Whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. MD Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

The law is also clear that self-inflicted hardship cannot form the basis for a claim of practical difficulty. Speaking for the Court in *Cromwell*, supra, Judge Cathell noted:

Were we to hold that self-inflicted hardships in and of themselves justified variance, we would, effectively, not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

The Board finds unanimously that the Petitioners have not met their burden as required for a variance under BCZR §307.1 and the standard in *Cromwell*, supra.

The testimony and evidence presented by both the fact and expert witnesses was that the property was not unique from other properties in the neighborhood. Indeed, this is a roughly rectangle lot which is similar to other lots in the Essex neighborhood. There was no evidence presented that the property had any unique characteristics not shared by other properties in the area as to its shape, topography, subsurface conditions, environmental factors, historical significance, etc. as delineated in *Cromwell*.

Since the prerequisite of the "uniqueness" prong has not been established here, this Board need not go any further in denying the variance request. However, in the interest of judicial economy, we find that the Petitioners' personal desire to raise goats – as opposed to animals which are permitted in this area – is self inflicted. Denying the variance does not deny them of the reasonable use or enjoyment of their property or structure. Rather, the evidence made clear that the Petitioners conformed and adapted their property to suit the needs of the goats. This variance request relates to the Petitioners themselves and not

to the land. *Cromwell*, supra, at 713 (citing *St. Clair v. Skagirt County*, 43 Wash. App. 122, 715 P.2d 165, 168 (1986)).

2. Goats as Livestock or Pets under BCZR, §100.6.

BCZR, §100.6 defines "goats" (along with sheep and pigs) as small livestock that require 1 acre of grazing or pasture land for each animal as well as 3 acre minimum lot size. The only 3 exceptions under the category of "small livestock" are: (1) asian potbellied pigs; (2) ponies; and (3) miniature horses. The Board takes note that the Petitioners, after being denied the variance by the Zoning Commissioner, filed the request for special hearing before the Zoning Commissioner to exempt their dwarf, pygmy goats from this Section.

The testimony and evidence by the experts hired by the Petitioners was that the dwarf, pygmy goats should have been listed as one of the exceptions from the category of small livestock. This is due in large part because these goats do not need 2 acres of grazing or pastureland. According to the experts, the 3 exceptions were added to that Section by amendment. The County Council was very specific to exempt these 3 types of animals from the acreage requirements. The Board finds that while the Petitioners presented a very compelling case for why dwarf, pygmy goats should be the fourth exception, this Board is a creature of statute and has no authority to rewrite the BCZR or to interject a fourth exception in §100.6. To do so, the Board would be legislating the BCZR and thereby overstepping its function as a quasi-judicial body whose function is to interpret the BCZR. If the Board were to find that dwarf, pygmy goats are exempt, then other types of goats, sheep and pigs may also be exempt. Therefore, it is the function of the County Council, not this Board, to amend the statute as they should determine.

ORDER

THEREFORE, IT IS THIS 25th day of February, 2009 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from §100.6 of the Baltimore County Zoning Regulations as to both the 1 acre of grazing or pastureland per goat and the 3 acre minimum lot size be and the same is hereby **DENIED**; and it is furthered

ORDERED that the Petition for Special Hearing from §100.6 of the Baltimore County Zoning Regulations requesting a determination that dwarf, pygmy goats should be exempt from the category of "small livestock" be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Maureen E. Murphy, Panel Chair

LaVronce Wescott

Lawrence M. Stahl



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

February 25, 2009

Francis X. Borgerding, Jr., Esquire
409 Washington Ave., STE 600
Towson, MD 21204

RE: *In the Matter of: Kenneth and Robin Morrison, Petitioners/Legal Owners*
Case No.s: 07-512-A and 08-525-SPH

Dear Mr. Borgerding:

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 above 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 Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** 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,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

c: Kenneth and Robin Morrison
Stanley and Anna Almony
Herman Rohrman
Becky and Joseph Roggio
Susan Schoenian
Chesapeake Bay Critical Area Commission
Office of People's Counsel
Arnold F. "Pat" Keller, Director/Planning

Paul and Betty Marks
William and Charlotte Atkins
Brian and Chris Dennis
Jack Dillon

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

IN RE: PETITION FOR VARIANCE
S/S Riverside Drive, 600' SW
Fairway Road
(16 Riverside Road)
15th Election District
7th Council District

Kenneth Morrison, et ux
Petitioners

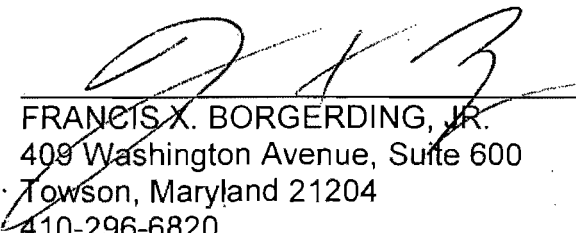
* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No.: 2008-0525-SPH

* * * * *

NOTICE OF APPEAL

Appellants, Kenneth Morrison and Robin C. Morrison, his wife, by and through their attorney, Francis X. Borgerding, Jr., feeling aggrieved by the Zoning Commissioner's decision in the above-captioned case hereby appeal to the County Board of Appeals for Baltimore County from the Zoning Commissioner's Findings of Fact and Conclusions of Law dated August 28, 2008 in the above-captioned case, a copy of which is attached hereto and incorporated herein as Exhibit A.

The address of Kenneth Morrison and Robin C. Morrison is 16 Riverside Road, Baltimore, Maryland 21221. Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County to cover the cost of the appeal noted herein.



FRANCIS X. BORGERDING, JR.
409 Washington Avenue, Suite 600
Towson, Maryland 21204
410-296-6820
ATTORNEY FOR APPELLANTS

RECEIVED

SEP 26 2008



IN RE: **PETITION FOR SPECIAL HEARING**

S/S Riverside Drive, 600' SW of
Fairway Road

(16 Riverside Road)

15th Election District

7th Council District

Kenneth Morrison, et ux

Petitioners

*

*

*

*

*

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 2008-0525-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing filed by Francis X. Borgerding, Jr., Esquire on behalf of the legal owners of the subject property, Kenneth and Robin C. Morrison. The Petitioners request a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for a determination that pygmy, miniature and dwarf goats are not embodied as livestock as defined under Section 100.6 of the B.C.Z.R. and instead should more appropriately be classified as pets. The subject property and requested relief are more particularly described on the site plan, which was marked and accepted into evidence as Petitioners' Exhibit 5.

This case represents the Morrison family's second attempt to legitimize their actions in keeping two pygmy goats on their property in the Essex area of Baltimore County. In Case No. 07-512-A, the Morrisons requested a variance from the lot size restrictions in Section 100.6 of the B.C.Z.R., which require a minimum of 3 acres of total land with at least 1 acre of pastureland in order to raise two small livestock animals such as sheep, goats, or pigs. When this Commission denied the requested variance, the Petitioners retained counsel and filed the instant case, this time requesting special hearing relief in a further attempt to obtain authorization to continue their desire to maintain the two pygmy goats on the property.

RECEIVED FOR FILING
Date 8-28-08
By [Signature]

Appearing at the requisite public hearing in support of the requested relief were Kenneth and Robin Morrison, along with their daughter Becky and her husband Joseph Roggio, and neighbors Brian and Chris Dennis. Susan Schoenian and Jack Dillon testified as expert witnesses on behalf of the Petitioners, who were represented by Francis X. Borgerding, Jr. Appearing in opposition to the request were William and Charlotte Atkins, who reside on the opposite side of Riverside Road from the subject property.

Testimony and evidence offered revealed that the subject property is roughly rectangular in shape, approximately 0.14 acres in area (5,187 square feet), zoned D.R.5.5, and located between Riverside Road (front) and Wagner Avenue (rear) not far from Back River in Essex. The property is improved with a 1-½ story dwelling featuring an enclosed front porch, carport and rear patio. Other improvements include a shed at the rear property used to provide shelter for two pygmy goats named Nanny and Samuel who the Petitioners have owned and are the subject of the instant request.

The majority of the Petitioners' case was geared towards supporting their contention that pygmy goats should be considered "pets" such as family dogs or cats rather than "livestock." The Petitioners first called Susan Schoenian as an expert witness to explain the general characteristics of a pygmy goat.¹ Ms. Schoenian is a "regional specialist" in sheep and goats with a Masters Degree in Animal Science. She works as a professor for the Agriculture and Resources School in the University of Maryland and is a certified Professional Animal Scientist. Ms. Schoenian testified that while certain types of goats are primarily used for meat, dairy, or fiber production, pygmy goats were brought to the United States for the sole purpose of acting as

¹ Petitioners failed to bring Ms. Schoenian's curriculum vitae to the public hearing so the record was kept open to allow the Petitioners to submit the document. On the afternoon following the public hearing, the Petitioners submitted the curriculum vitae, which is contained in the case file and made a part of the record.

ORDER RECEIVED FOR FILING
Date 8-28-08
By 1907

pets. According to Ms. Schoenian, the animals are approximately the size of a medium dog and are no more disruptive than the average family pet.

With regard to the Petitioners' goats, Ms. Shoenian testified that they live in the cleanest environments that she has ever seen, and that the goats themselves are probably "cleaner than I am." According to Ms. Shoenian, the goats have plenty of space in the Petitioners' yard to express their natural behavior (such as climbing on an outdoor table, standing on their hind legs, and playing together), and do not require a full acre of pastureland because they are more accurately defined as "browsers" rather than "grazers." In her opinion, 25 square feet per pygmy goat provides adequate space. The goats have beautiful coats and are in perfect health, as evidenced by several pages of records of veterinarian care, which the Petitioners had marked and introduced as Petitioners' Exhibit 1. Given the lack of odor and noise, Ms. Shoenian stated that in her expert opinion, the goats would not have any detrimental effect on the surrounding neighborhood. Mr. Borgerding then presented Ms. Shoenian with a copy of Section 100.6 of the B.C.Z.R. (Petitioners' Exhibit 2) and asked her whether she believed that pygmy goats fall within the definition of livestock. In her expert opinion, Ms. Shoenian stated that given her knowledge of their general characteristics, she did not believe that pygmy goats should be classified as livestock.

In further support of this notion, the Petitioners submitted a zoning Ordinance from Seattle, Washington that essentially declares that miniature goats are to be treated as pets rather than farm animals. The Ordinance was marked and accepted into evidence as Petitioners' Exhibit 3. While the Ordinance was not given a formal number and the final page was unsigned, Ms. Shoenian stated that this document provides further evidence that Baltimore County should treat pygmy goats as pets rather than livestock.

RECEIVED FOR FILING
Date 8-28-08
By [signature]

After the Petitioners finished their examination of Ms. Shoenian, and the Protestants conducted a brief cross-examination, I took the opportunity to ask her a few questions. I explained that since "livestock" is not defined in the B.C.Z.R., I am required to look to the definition in Webster's Third New International Dictionary, which defines the term as: "animals of any kind used for any purpose." When questioned point blank about whether she still contends that pygmy goats do not fall within that definition, Ms. Shoenian conceded that she would have to base her assertion on common sense rather than an actual reading of the overbroad Webster's definition.

The Petitioners proceeded to call Jack Dillon, an expert in planning and zoning, as their next witness. Mr. Dillon's curriculum vitae was marked and accepted into evidence as Petitioners' Exhibit 4, and Mr. Dillon also drafted the site plan for the Petitioners, which was accepted as Petitioners' Exhibit 5. Mr. Dillon testified that he was personally involved in the development of the R.C. zones in Baltimore County. In his opinion, the area limitations in Section 100.6 were primarily geared towards regulating horses and ponies and did not intend to monitor pygmy goats. According to Mr. Dillon, the Council's decision to later exclude potbelly pigs from Section 100.6 served as further evidence that the restrictions should not be universally applied to all farm animals. Additionally, Mr. Dillon referenced the comment from the Office of Planning, which was marked and accepted into evidence as Petitioners' Exhibit 6, and noted for the record that the Petitioners had no objection to extending a privacy fence throughout their yard if the requested relief is granted. Mr. Dillon did concede that he worked primarily with R.C. regulations and the property in question is zoned D.R.5.5. Additionally, on cross-examination conducted by William Atkins, the concerned neighbor, Mr. Dillon admitted that he was not aware if the Seattle regulation included a minimum area limitation for the keeping of a

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Date 8-28-08
By [signature]

pygmy goat on residential property.

The third witness that testified in support of the requested relief was Petitioner Robin Morrison. Mrs. Morrison testified that she has lived on the subject property for 8 years and has owned the pygmy goats for the past 2 years. She submitted a number of photographs of the animals that were grouped as follows: Petitioners' Exhibit 7 was a photo of the two goats, Petitioners' Exhibits 8A-F attempted to depict the goats as "pets" rather than livestock, Petitioners' Exhibit 9A-I contained photographs of the surrounding yard and fence, and Petitioners' Exhibit 10A-C depicted the shed where the goats are housed along with their bedding. All of the photographs were admitted and made a part of the record. Mrs. Morrison's testimony revealed an honest and true love for her animals, a feeling that many pet owners can relate to. The goats play "Hide and Go Seek" with Mrs. Morrison, are fed goldfish crackers and popcorn, and, much like family dogs or cats, are put on a leash and taken in the car to various places such as the veterinarian. According to Mrs. Morrison, she religiously cleans up after the goats and finds the goats to be fun and educational for her grandchildren and children throughout the surrounding neighborhood.

In support of her request, Mrs. Morrison submitted two Petitions, which were marked and accepted into evidence as Petitioners' Exhibits 11 and 12. The first Petition contains approximately 370 signatures that were collected by the Morrison's daughter. However, Mrs. Morrison conceded that a number of the citizens who signed the Petition did not reside in the surrounding locale. Therefore, I gave more credence to Petitioners' Exhibit 12, which is a Petition containing approximately 70 signatures of citizens that primarily reside in the general

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Date 8-28-08
By [signature]

area of the subject property.²

The fourth witness that testified for the Petitioners was Brian Dennis, the next-door neighbor of the Petitioners residing at 14 Riverside Road. Mr. Dennis testified that while he was at first confused and a little shocked by the fact that his neighbor had goats, he has come to enjoy their presence and has not noticed any negative effect on the surrounding neighborhood. This notion was seconded by the Morrison's daughter, Becky Roggio, who briefly testified that her family loves the goats as much as any family loves their pets, and she would do anything to help them keep the animals. At this point the Petitioners rested their case.

Protestants, William and Charlotte Atkins, presented evidence and testimony in opposition to the Petitioners' request for a special hearing determination. Mr. Atkins, who has lived on his property since 1995, submitted a series of photographs showing the Petitioners burning straw used for bedding containing animal waste and feed that he believes adds to the already existing rat, bird, and pest problem in the neighborhood. These photographs were collectively marked and accepted into evidence as Protestants' Exhibit 1. According to Mr. Atkins, the neighborhood pest problem has become so great that his wife was forced to obtain a permit to set cage traps to catch and control the population of gray squirrels that have on occasion entered their home. The Protestants submitted a copy of the permit, which was marked and accepted into evidence as Protestants' Exhibit 2. The Protestants simply argued that they live in a residential neighborhood, and that the Petitioners should not be entitled to keep farm animals on their property, especially in light of the fact that their prior request for variance had previously been denied by this Zoning Commissioner.

² There was a brief exchange at the hearing over the fact that Mr. Atkins, who appeared as a Protestant, signed the Petition marked as Petitioners' Exhibit 11. However, Mr. Atkins maintained that the purpose of the Petition was misrepresented to him when he signed and that he does not support the Morrison family's request to keep goats on their property.

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Date 8-28-08
By [signature]

The Zoning Advisory Committee (ZAC) comment received from the Office of Planning, dated June 3, 2008, states that there are two existing goats on the well-maintained property. There is an existing privacy fence that separates the rear yard from the alley. Should the Zoning Commissioner grant the Petitioners' request, the entire rear yard should be fenced with a privacy fence similar to that which already exists. The comment received from the Department of Environmental Protection and Resource Management (DEPRM), dated June 4, 2008, indicated that development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-6-1004), and other sections of the Baltimore County Code.

After careful consideration, I am convinced that the Petitioners' request for special hearing should be denied. Section 100.6 of the B.C.Z.R. requires a minimum of 3 acres of total land with at least 1 acre of pastureland in order to raise two small "livestock" animals such as sheep, goats, or pigs. While the regulation specifically references goats as livestock, the term livestock is not formally defined in the B.C.Z.R.³ Thus, as required by the regulations, I am required to look to the definition contained in the Webster's Third New International Dictionary. That definition of livestock is as follows: "animals of any kind kept or raised for use or pleasure." Given the extremely broad definition of livestock, along with the fact that Section 100.6 directly names goats as a type of small livestock, I am convinced that the Petitioners' goats fall within the realm of animals intended to be governed by Section 100.6.

While I greatly sympathize with Mrs. Morrison's love for her pygmy goats, the Zoning

³ It is noted that the word livestock is defined in the Baltimore County Code (B.C.C.) as: (1) meaning domestic animals generally collected, used, or raised on a farm or ranch, including cattle, sheep, swine, goats, or horses; and (2) "Livestock" does not include Asian pot-bellied pigs. See B.C.C. Section 12-1-101(v).

RECEIVED FOR FILING
Date 8-28-08
By P-17

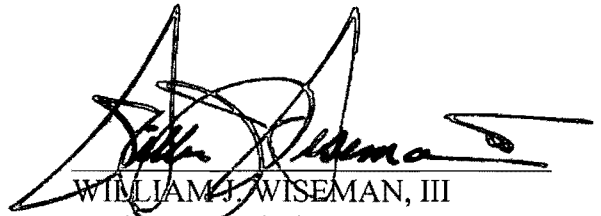
Commissioner is a creature of statute charged with carrying out the purpose and intent of the B.C.Z.R. Under existing regulations, I cannot find that pygmy goats are exempt from the definition of "livestock" as contained in Section 100.6 of the B.C.Z.R. If the definition is to be changed to exempt specific animals such as pygmy goats, it is a job for the legislature, not the Zoning Commissioner.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 28th day of August 2008 that the Petition for Special Hearing filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) requesting a determination that pygmy, miniature and dwarf goats do not qualify as livestock as defined under Section 100.6 of the B.C.Z.R. and instead should rightfully be classified as pets is hereby DENIED.

Any appeal of this decision must be made taken in accordance with Section 32-3-401 of the Baltimore County Code (B.C.C.).

WJW:dlw


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

RECEIVED FOR FILING
Date 8-28-08
By [signature]



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

August 28, 2008

WILLIAM J. WISEMAN III
Zoning Commissioner

Francis X. Borgerding, Esquire
409 Washington Avenue, Suite 600
Towson, MD 21204

RE: PETITION FOR SPECIAL HEARING
S/S Riverside Drive, 600' SW of Fairway Road
(16 Riverside Road)
15th Election District - 7th Council District
Kenneth Morrison, et ux - Petitioners
Case No. 2008-0525-SPH

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read 'William J. Wiseman III', written over a horizontal line.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Kenneth and Robin C. Morrison, 16 Riverside Road, Essex, MD 21221
Becky and Joseph Roggio, 24 Strabane Court, Parkville, MD 21234
Brian and Chris Dennis, 14 Riverside Road, Essex, MD 21221
Susan Schoenian, 15007 Hicksville Road, Clear Spring, MD 21722
Jack Dillon, 118 West Pennsylvania Avenue, Towson, MD 21204
William and Charlotte Atkins, 11 Riverside Road, Essex, MD 21221
Chesapeake Bay Critical Area Commission, 1804 West Street, Suite 100,
Annapolis, MD 21401
People's Counsel; Office of Planning; DEPRM; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 16 Riverside Dr., Balto. MD 21221
which is presently zoned D.R.5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve to make a determination that pygmy, miniature and dwarf goats do not qualify as livestock as defined under Section 100.6 of the Baltimore County Zoning Regulations and they should be classified as pets

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Francis X. Borgerding, Jr.

Name - Type or Print

Signature

Company

409 Washington Ave., #600 410-296-6820
Address Telephone No.

Towson MD 21204
City State Zip Code

Legal Owner(s):

Kenneth Morrison

Name - Type or Print

Signature

Robin Morrison

Name - Type or Print

Signature

16 Riverside Drive Road
Address Telephone No.

Baltimore MD 21221
City State Zip Code

Representative to be Contacted:

Francis X. Borgerding, Jr.

Name

409 Washington Ave., #600 410-296-6820
Address Telephone No.

Towson MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

Case No. 2008-0525 SPH

UNAVAILABLE FOR HEARING

REV 9/15/98

ORDER RECEIVED FOR PLANS

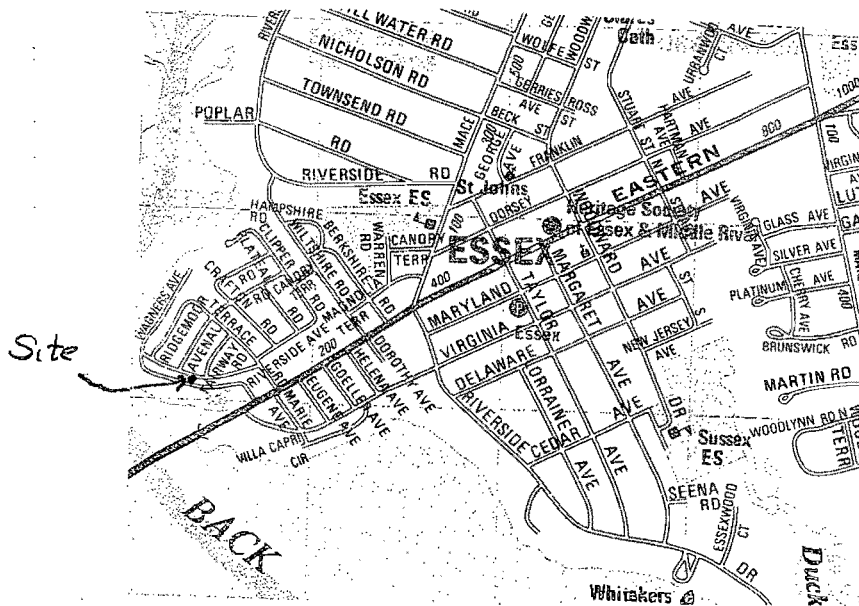
Date 8-28-08

By ISW

Date 5/7/08

Property description for 16 Riverside Road, Essex, Maryland 21221

Beginning at a point on the south side of Riverside Road 600 feet +/- south west of Terrace Road and thence running in a south easterly direction 91.48 feet to a point, and thence running in a north westerly direction 67.07 feet to a point, and thence running in a north easterly direction 94.75 feet to a point on the south side of Riverside Road and thence running in an easterly direction 48.92 feet to the point of beginning. Said property contains 0.119 acres +/- and Being recorded in the Land Records of Baltimore County, Maryland in Liber 15127, Filo 4030 as Lot 14 within the Subdivision of EASTERN TERRACE, 15th. District, Baltimore County, Maryland



2008-0525-SPH

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **14000**

PAID RECEIPT

Date:

5/8/08

BUSINESS ACTUAL TIME
 5/08/2008 5/08/2008 10:46:41
 REG WOOD WALKIN DOOL DMD
 RECEIPT # 443834 TO 443834
 CASH REFUND 260.00
 00 OK 00 CA
 325.00 OT
 260.00 RF
 Receipt Tot 45.00
 1325.00 OT 1260.00
 Baltimore County, Maryland

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				65.00
Total:								65.00

Rec
 From:

Robin Morrison

Item 2008-0525-SPH

For:

16 Riverside Rd.

Baltimore Md 21221

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

REFUND TICKET

ROBIN MORRISON
 16 RIVERSIDE RD
 BALTIMORE, MD 21221

Reason for Refund
 OVERPAYMENT ON MCR #14000.

CR NO. 014000

Amount of Remittance 325.00
 Amount of Bills 45.00
 Amount of Refund 260.00

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: # 2008-0525-SPH

16 Riverside Road
S/side Riverside Road, 600 feet
s/west of Terrace Road
15th Election District
7th Councilmanic District

Legal Owner(s): Kenneth & Robin Morrison

Special Hearing: to make a determination that pygmy, miniature and dwarf goats do not qualify as livestock as defined under Section 100.6 of BCZR and they should be classified as pets.

Hearing: Tuesday, August 19, 2008 at 9:00 a.m. in Hearing Room 1, 2nd Floor, Jefferson Building, 105 West Chesapeake 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) 887-4386.

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

JT. 8/600 Aug. 5 179904

CERTIFICATE OF PUBLICATION

8/7, 2008

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 8/5, 2008.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No: 2008-0525-SPH

Petitioner/Developer: FRANCIS
FORBESDINE JR.

Date Of Hearing/Closing: 8/19/08

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

Attention:

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
at 16 RIVERSIDE RD

This sign(s) were posted on July 30, 2008
(Month, Day, Year)

Sincerely,

Martin Ogle 7/30/08
(nature of sign Poster and Date)

Martin Ogle

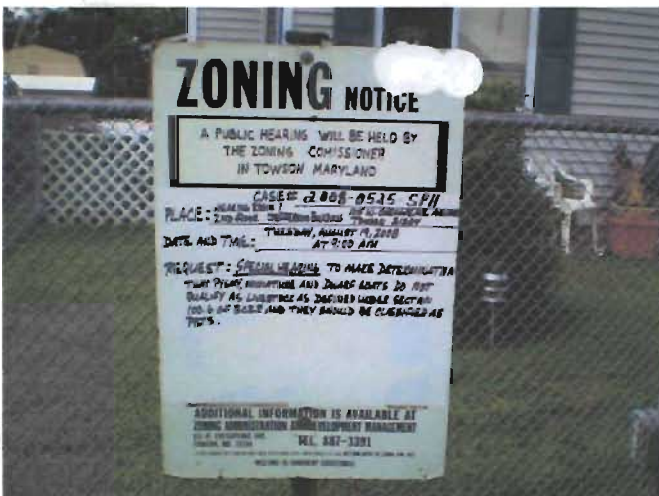
Sign Poster

6 Salix Court

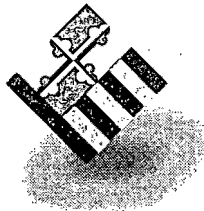
Address

to. Md 21220

(3-629 3411)



Martin Ogle 7/30/08



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

June 19, 2008
TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

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: 2008-0525-SPH

16 Riverside Road

S/side Riverside Road, 600 feet s/west of Terrace Road

15th Election District – 7th Councilmanic District

Legal Owners: Kenneth & Robin Morrison

Special Hearing to make a determination that pygmy, miniature and dwarf goats do not qualify as livestock as defined under Section 100.6 of BCZR and they should be classified as pets.

Hearing: Tuesday, August 19, 2008 at 9:00 a.m. in Hearing Room 1, 2nd Floor,
Jefferson Building, 105 W. Chesapeake Avenue, Towson 21204

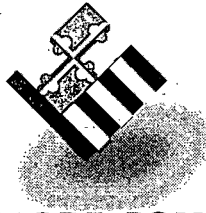
A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Francis Borgerding, Jr., 409 Washington Avenue, #600, Towson 21204
Mr. & Mrs. Morrison, 16 Riverside Road, Baltimore 21221

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, AUGUST 4, 2008.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

August 13, 2008

Francis X. Borgerding
409 Washington Ave.
Towson, MD 21204

Dear: Francis X. Borgerding

RE: Case Number 2008-0525-SPH, 16 Riverside Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 07, 2008. This letter is not an approval, but only a **NOTIFICATION**.

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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Kenneth & Robin Morrison, 16 Riverside Rd., Baltimore, MD 21221

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 3, 2008

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

SUBJECT: 16 Riverside Road.

INFORMATION:

Item Number: 8-525

Petitioner: Kenneth and Robin Morrison

Zoning: DR 5.5

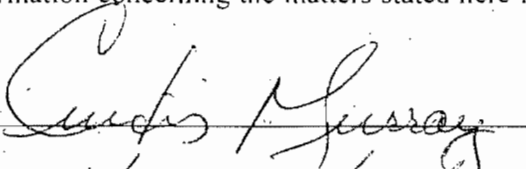
Requested Action: Special Hearing

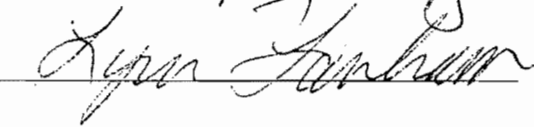
SUMMARY OF RECOMMENDATIONS:

There are 2 existing goats on the well-maintained property. There is an existing privacy fence that separates the rear yard from the alley.

Should the Zoning Commissioner grant the petitioner's request, the entire rear yard should be fenced with a privacy fence similar to that, which exists.

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

Reviewed by: 

Division Chief: 
AFK/LL: CM

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 21, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For May 26, 2008
Item Nos. 08-520, 521, 522, 523, 524,
525, 526, 527, 528, 532, 533, and 534

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

ZAC-05212008-NO COMMENTS

DAK:CEN:lrk

cc: File

BW 8/19
9 AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
JUN 04 2008

BY:

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination *JWL*
DATE: June 4, 2008
SUBJECT: Zoning Item # ZAC 08-525-SPH
Address 16 Riverside Road
(Morrison Property)

Zoning Advisory Committee Meeting of May 19, 2008

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

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

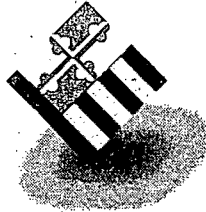
_____ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments: This property is within the Intensely Developed Area and is subject to mitigation requirements for any new impervious surfaces. In addition, a 100-foot tidal buffer may extend on to the site. This buffer would potentially restrict any proposed building or grading within the rear yard of this site.

Reviewer: Paul Dennis

Date: May 30, 2008



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

May 20, 2008

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

ATTENTION: Zoning Review planners

Distribution Meeting of: May 19, 2008

Item No.: 518, 520-528, 530, and 532-534.

525

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.

Don W. Muddiman, Acting Lieutenant
Fire Marshal's Office
(Office) 410-887-4880
MS-1102F

cc: File



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: MAY 20, 2008

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

RE: Baltimore County
Item No. 8-525-SPH
16 RIVERSIDE ROAD
MORRISON PROPERTY
SPECIAL HEARING

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 8-525-SPH.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

for ^ Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
16 Riverside Road; S/S Riverside Road, *
600' SW of Terrace Road * ZONING COMMISSIONER
15th Election & 7th Councilmanic Districts *
Legal Owner(s): Kenneth & Robin Morrison * FOR
Petitioner(s) * BALTIMORE COUNTY
* 08-525-SPH

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

JUN 02 2008

Per

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June, 2008, a copy of the foregoing Entry of Appearance was mailed to Francis X. Borgerding, Jr, Esquire, 409 Washington Avenue, St 600, Towson, MD, 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 30, 2009

Francis X. Borgerding, Esquire
409 Washington Ave, Suite 600
Towson, MD 21204

William and Charlotte Atkins
11 Riverside Road
Baltimore, MD 21221

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-09-003356
In the Matter of: Kenneth and Robin Morrison
Board of Appeals Case No.s: 07-512-A and 08-525-SPH

Dear Mr. Borgerding, and Mr. and Mrs. Atkins:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on March 23, 2009 by the Francis X. Borgerding, Esquire on behalf of Kenneth and Robin Morrison in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

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 filed by People's Counsel within 60 days. T Francis X. Borgerding, Esquire and Kenneth and Robin Morrison, having taken the appeal, are responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

The Court Reporter that must be contacted to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410-828-4160
HEARING DATE: January 8, 2009

Kenneth and Robin Morrison-Legal Owners
Circuit Court Case No.: 03-C-09-003356
Board of Appeals Case No.s: 07-512-A and 08-525-SPH

Page 2

This office has also notified Ms. Peatt that a transcript on the above matter is due for filing in the Circuit Court. A copy of the Petition for Judicial Review has been provided to the Court Reporter, which will enable her to contact the responsible parties.

A copy of the Certificate of Notice has been enclosed for your convenience.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Sunny Cannington
Legal Secretary

Enclosure

c: Kenneth and Robin Morrison
Becky and Joseph Roggio
Brian and Chris Dennis
Susan Schoenian
Jack Dillon
Stanley and Anna Almony
Paul and Betty Marks
Herman Rohrman
Chesapeake Bay Critical Area Commission
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM
John Beverungen, County Attorney

CIRCUIT COURT FOR BALTIMORE COUNTY

Suzanne Mensh

Clerk of the Circuit Court

County Courts Building

401 Bosley Avenue

P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258

Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-09-003356

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
105 West Chesapeake Avenue
Suite 203
Towson, MD 21204

Behavior Bonuses

Goats

I believe this is why the Morrisons try to keep other animals + wildlife around

- are social animals and enjoy the company of other goats or farm animals.
- are notorious for undoing simple gate closures.
- tend to respect electric fencing.
- investigate everything in their environment with their mouths(!) including paperwork, clothing, jewelry, etc.
- can be trained to lead, come when called, stand for shearing & milking.
- are avid climbers!
- may chew off the bark around trees.

Bucks may exhibit active fighting behavior - watch out!

Just For Fun

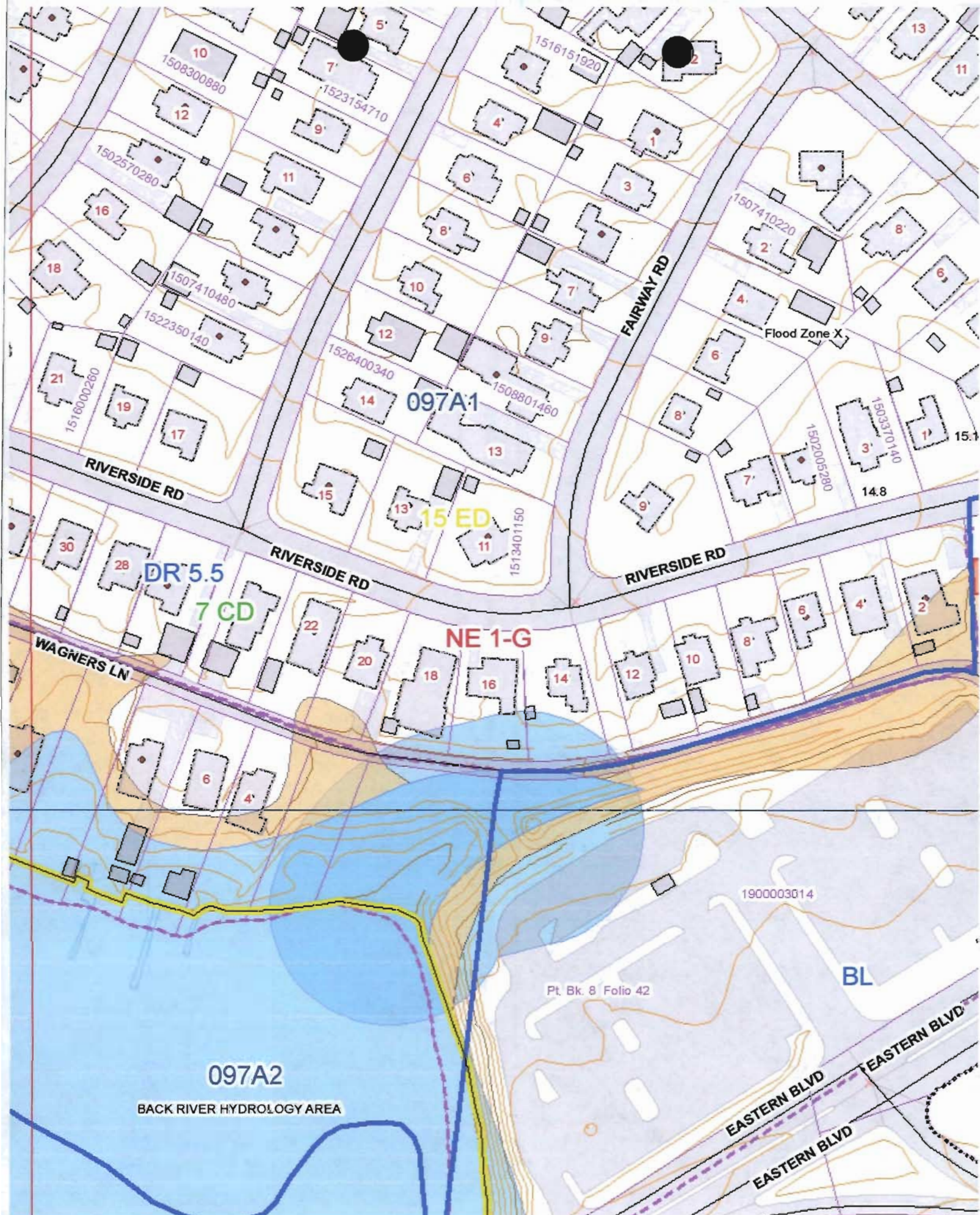
The all-time favorite goat toy: a wooden spool that once held electrical cable.

CASE NAME Therman
CASE NUMBER 2008-0525-SFH
DATE 8-19-08

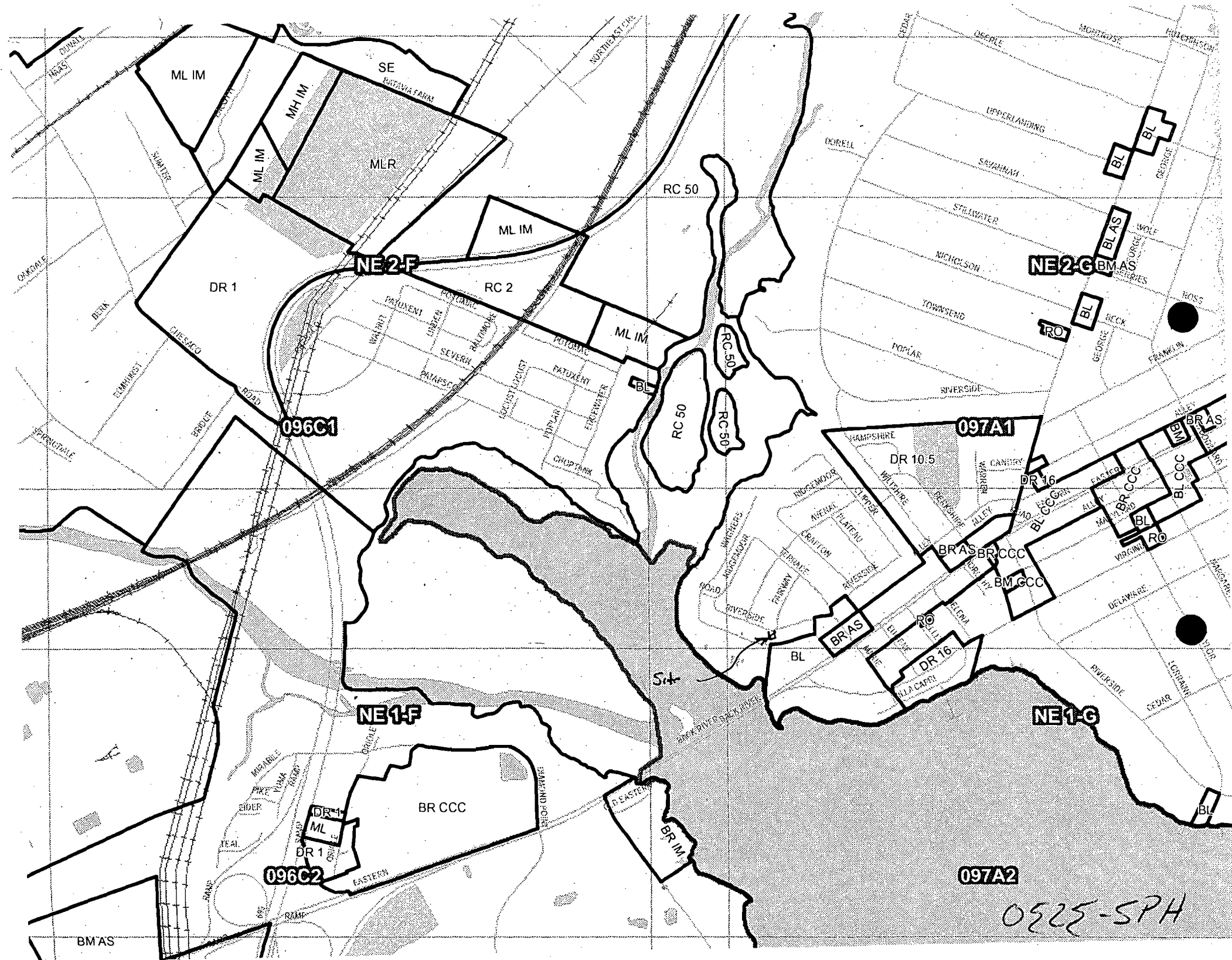
[illegible]

CASE NAME Merion
CASE NUMBER 2008-0525-SPH
DATE 8-19-08

[illegible]



2008-0525-SPH



ML IM

MH IM

MLR

ML IM

NE 2-F

RC 2

ML IM

RC 50

RC 50

RC 50

096C1

097A1

DR 10.5

DR 16

NE 1-F

BR CCC

096C2

DR 1

ML

SE

SE

SE

SE

SE

SE

SE

BRAS

BRAS

BR CCC

BR CCC

BR CCC

BR CCC

BR CCC

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BR CCC

BR CCC

BR CCC

BR CCC

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BR CCC

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BR CCC

BR CCC

BR CCC

BR CCC

BR CCC

BR CCC

NE 1-G

097A2

0525-SPH

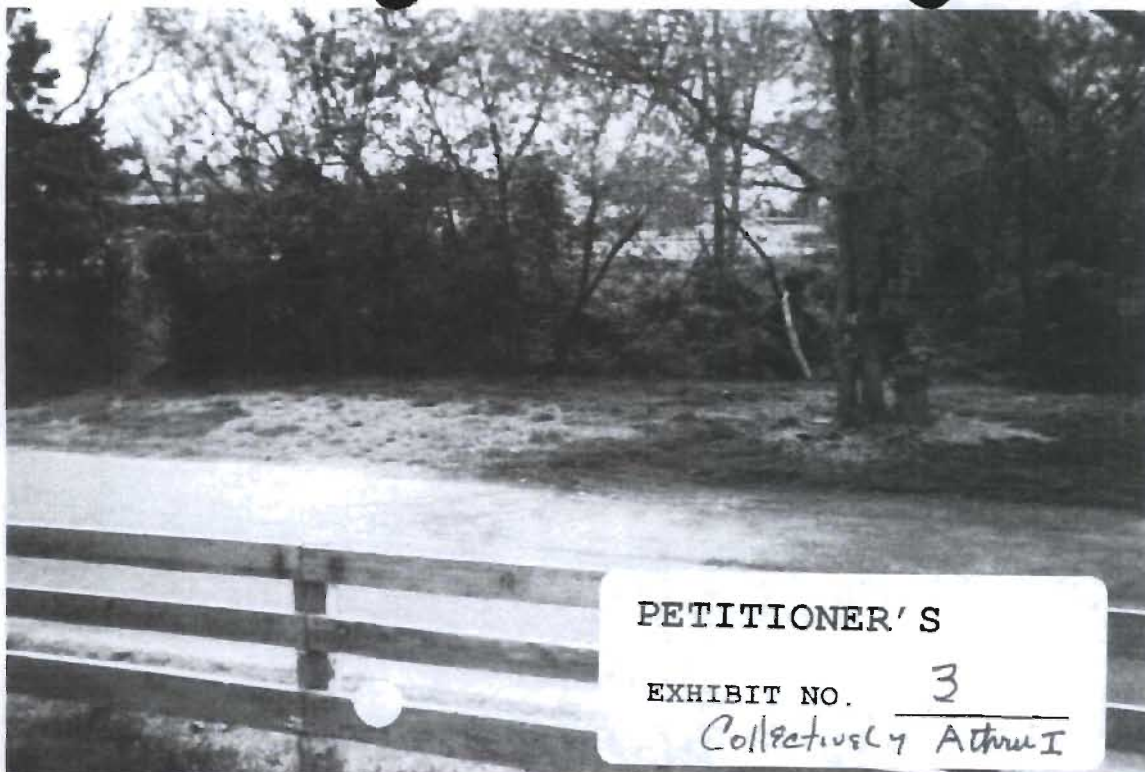
BM'S

Wesley
1/8/09
HS

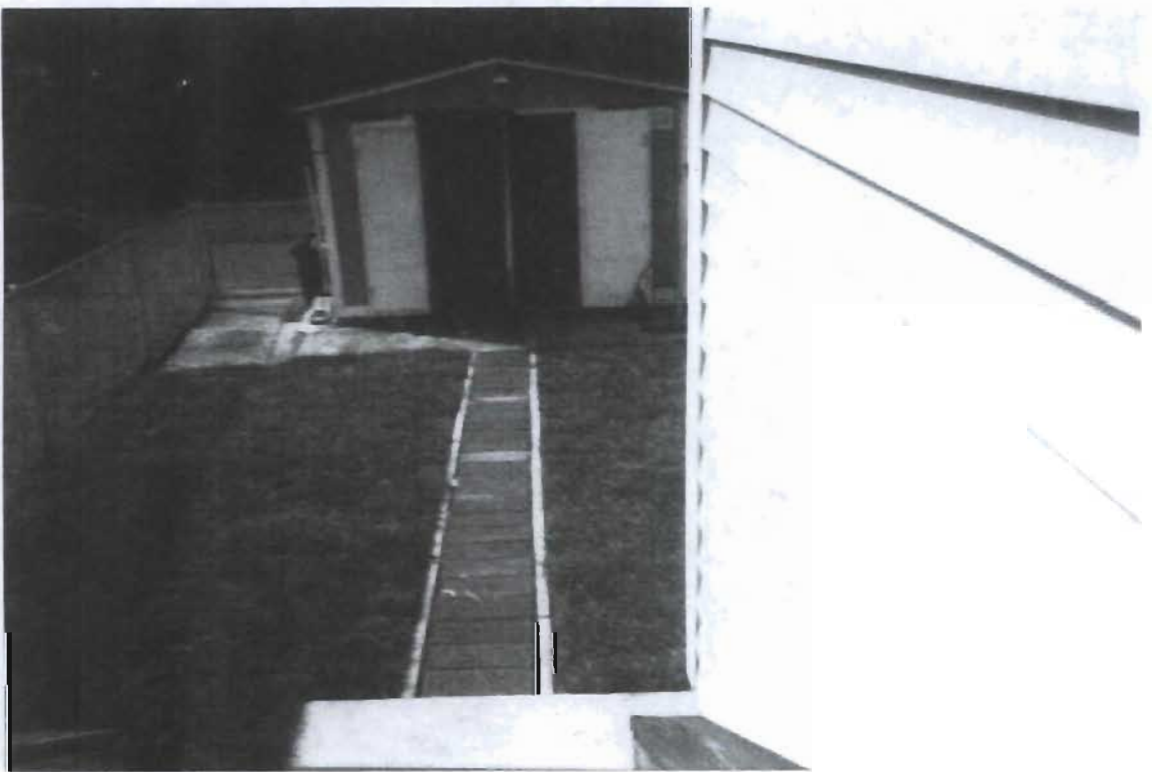
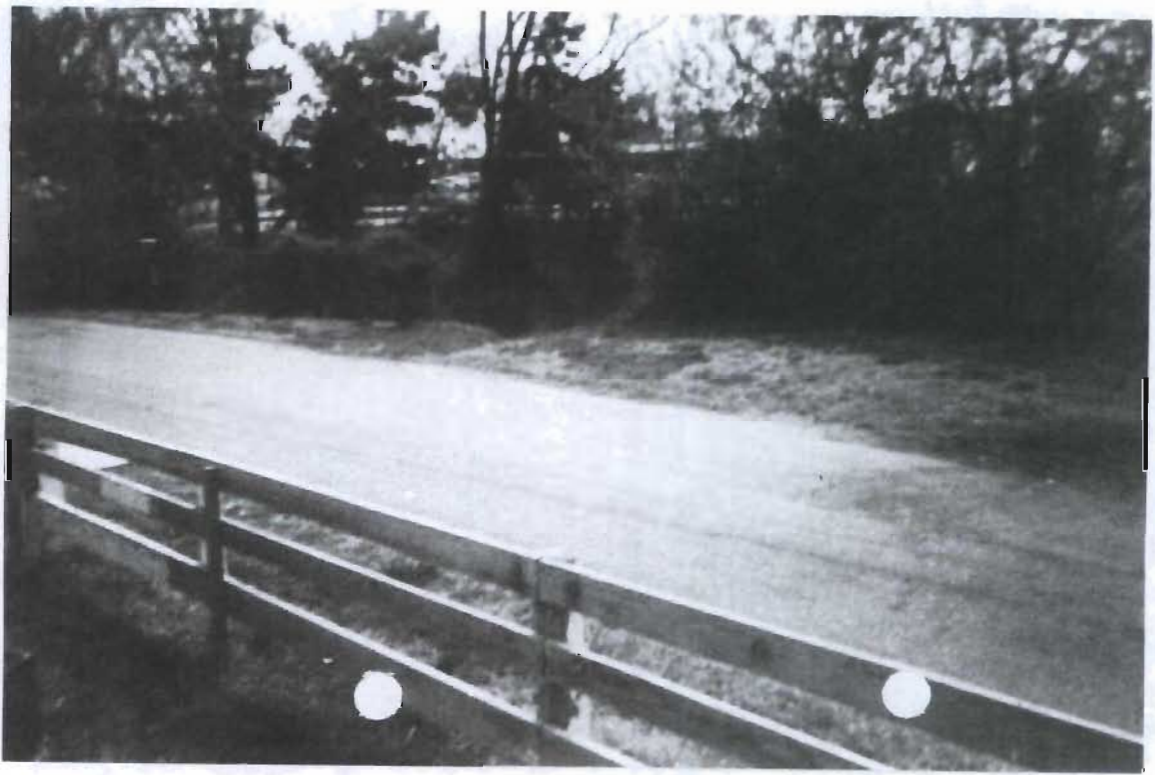
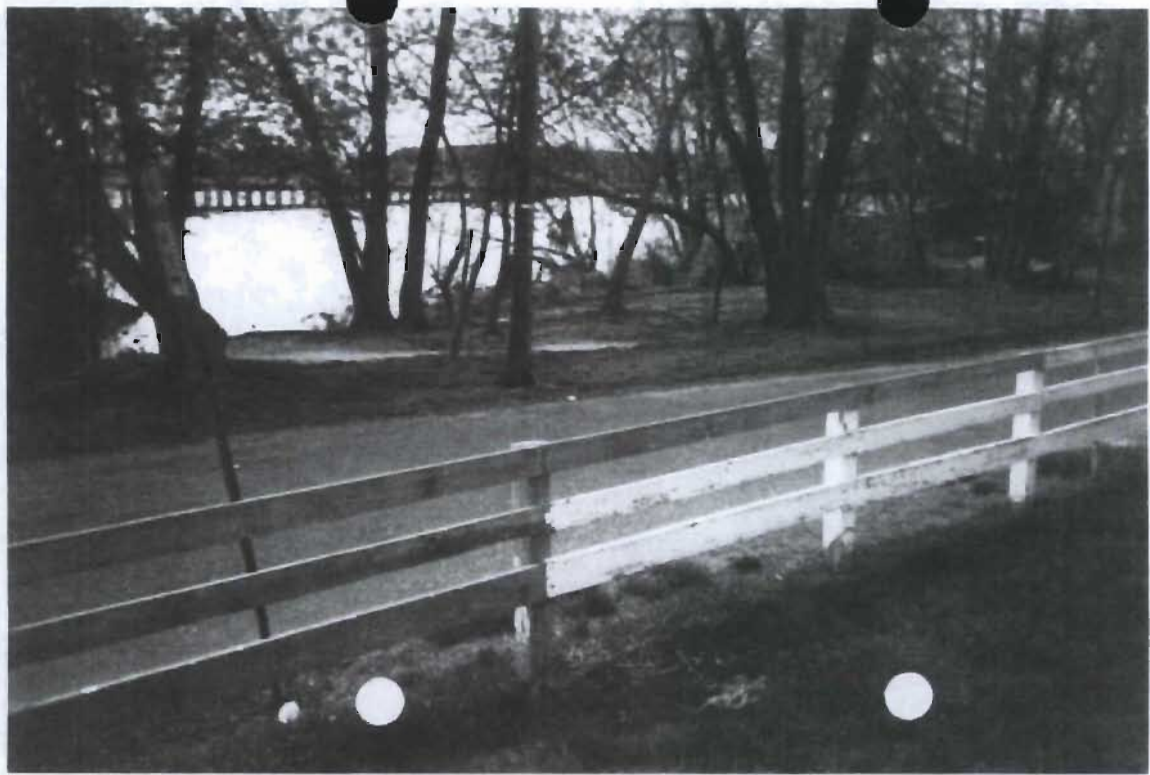
EXHIBITS

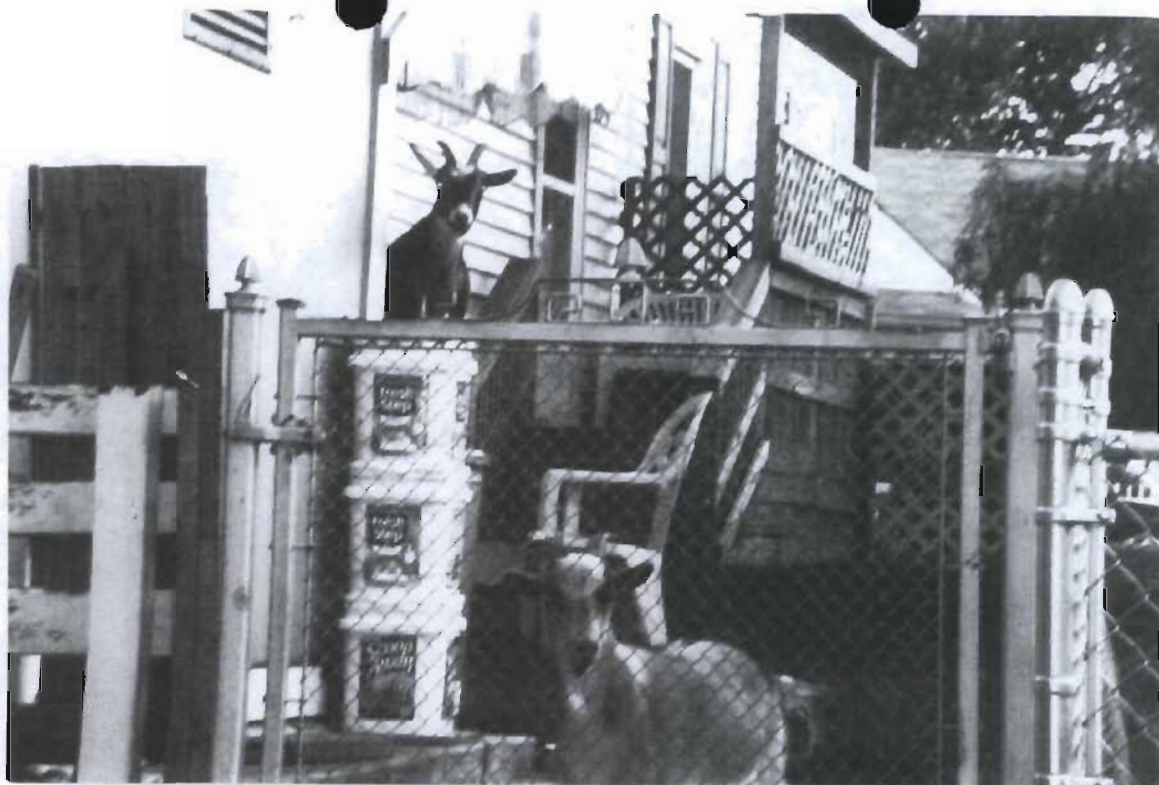
DEFENDERS

- ✓ #1. Samuel & Nancy (Blacks)
- ✓ #2 A photo - claryshts & gemel claryshts p. 1/2 with goats
- ✓ 2B - photo - goats
- ✓ 2C - " goats feeding
- ✓ 2D - " " blue barrels
- ✓ 2E - " goat
- ✓ 2F - " goats & S. Clums
- ✓ 3A ~~2A~~ " goats & area
- ✓ 3B " " & yard & bikes
- ✓ 3C " " & yard
- ✓ 3D " yard
- ✓ 3E " yard & goats
- ✓ 3F " & goats
- ✓ 3G " " & neighbors yard
- ✓ 3H " " "
- ✓ 4A " " & shed
- ✓ 4B " goat in shed
- ✓ 4C " goat " "
- ✓ 4D " privacy fence
- ✓ 5 Belair Veterinary Hospital records - 3 sheets
- ✓ 6 Petition signed at Pet Summit
- ✓ 7 - " " by neighbors
- ✓ 8 - letter from Mr. Dennis Neighbors
- ✓ 9 - Dillon's CV
- ✓ 10 - Plot of Property
- ✓ 11 - Copy of DCZB - 160.6
- ✓ 12 - Seattle Legislation
- ✓ 13 - Planning Office Count - 3 per Aug
- ✓ 14 - CV & CV

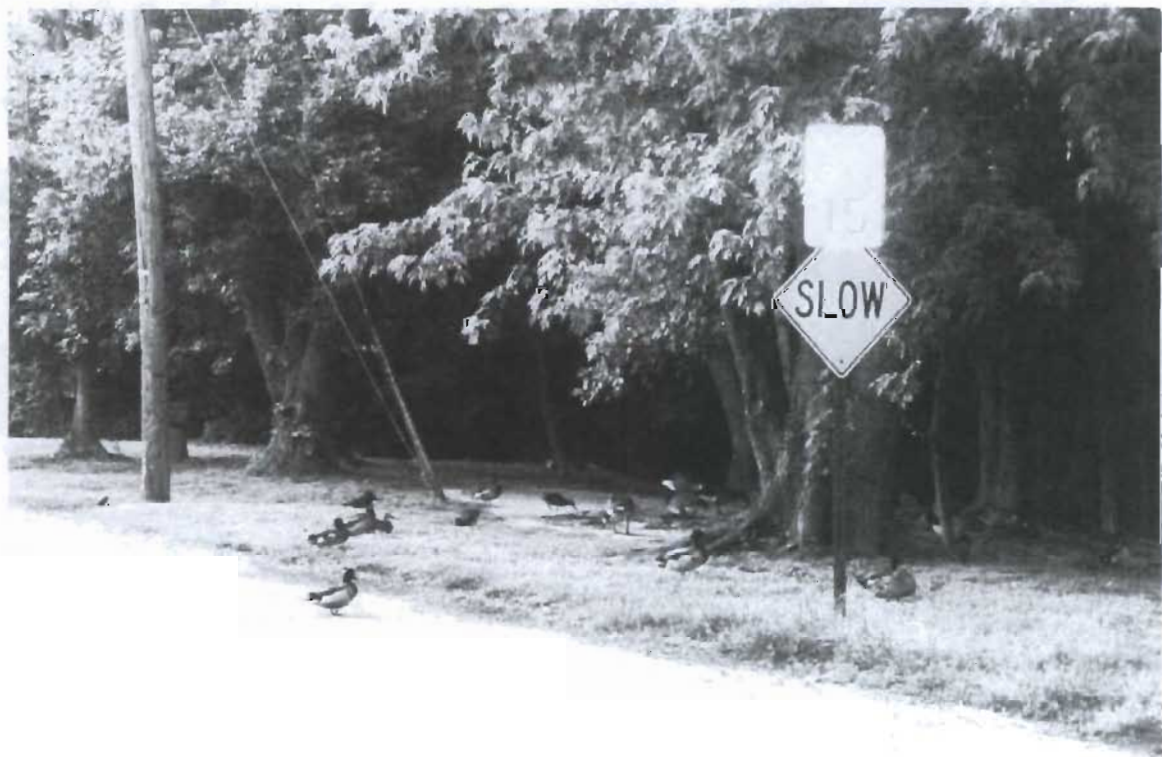
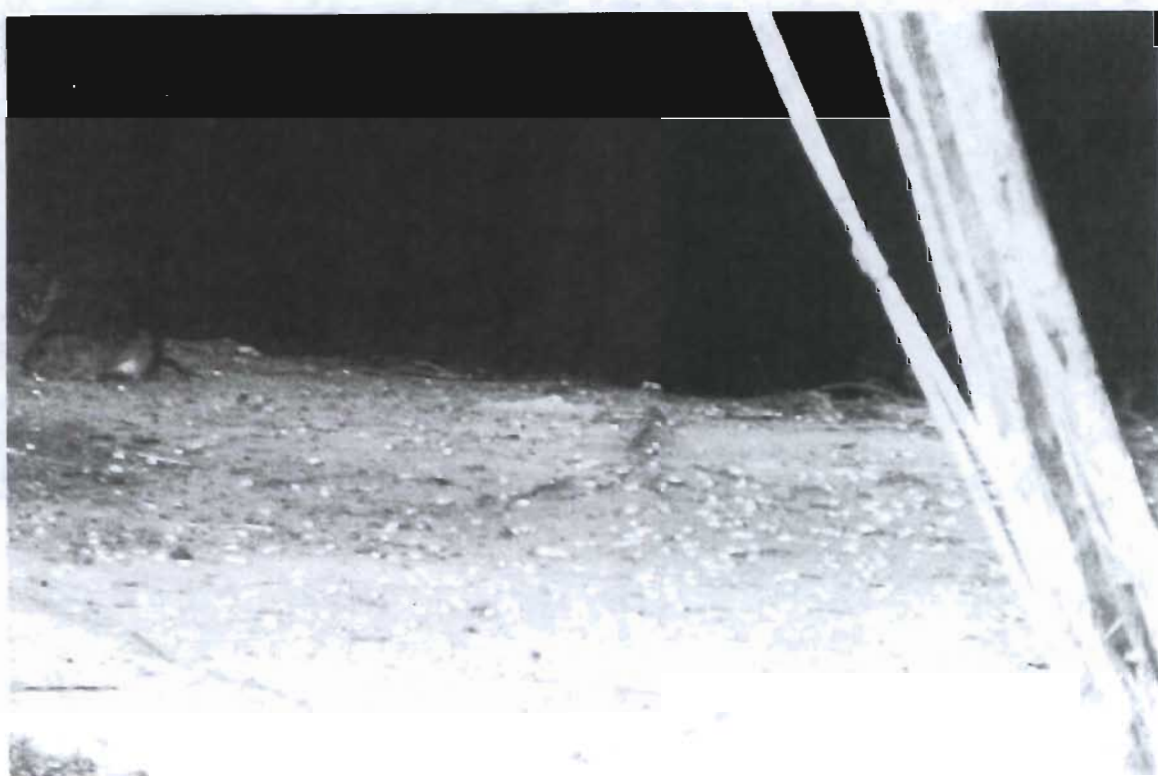






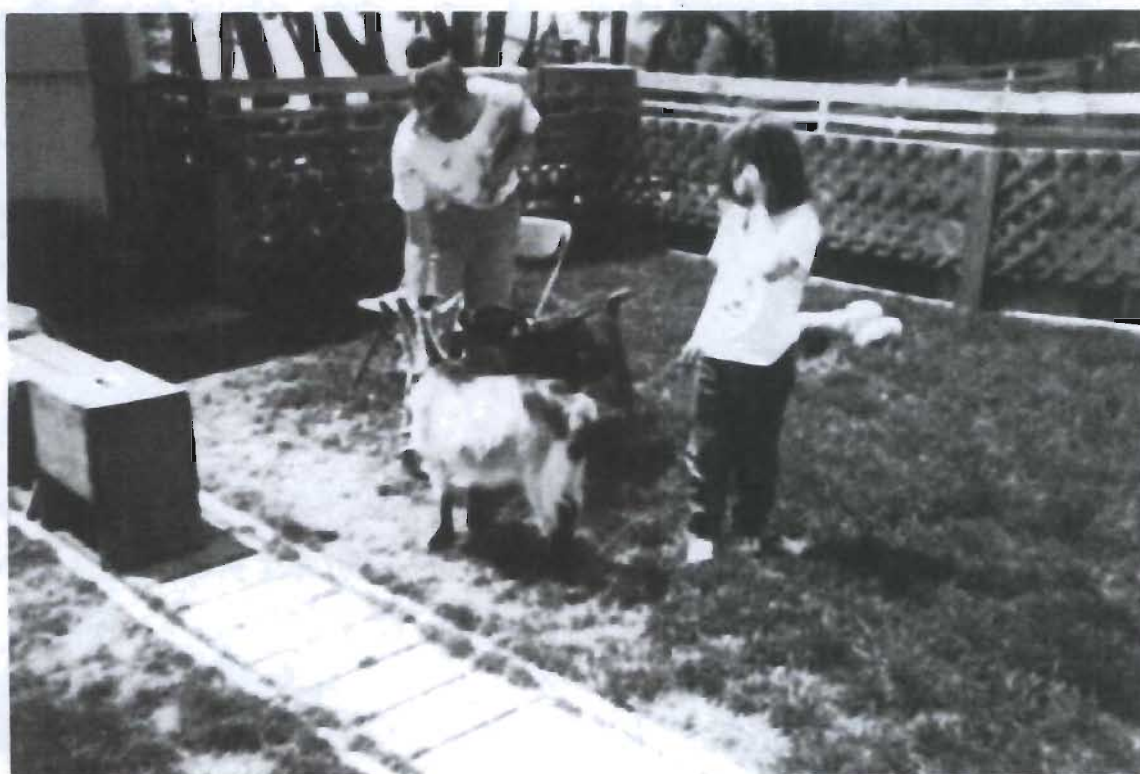








PET Ex #7
(CBA #1)



PET Ex #8a
(CBA #2)



PET Ex 8b
(CBA #2B)



PET Ex #8c
(CBA #2C)



PET Ex #8d
(CBA #2D)



PET Ex #8e
(CBA #2E)



PET Ex #8f
(CBA #2F)



PET Ex #9a
(CBA #3A)



PET Ex #9b
(CBA #3B)



PET Ex #9c
(CBA #3C)



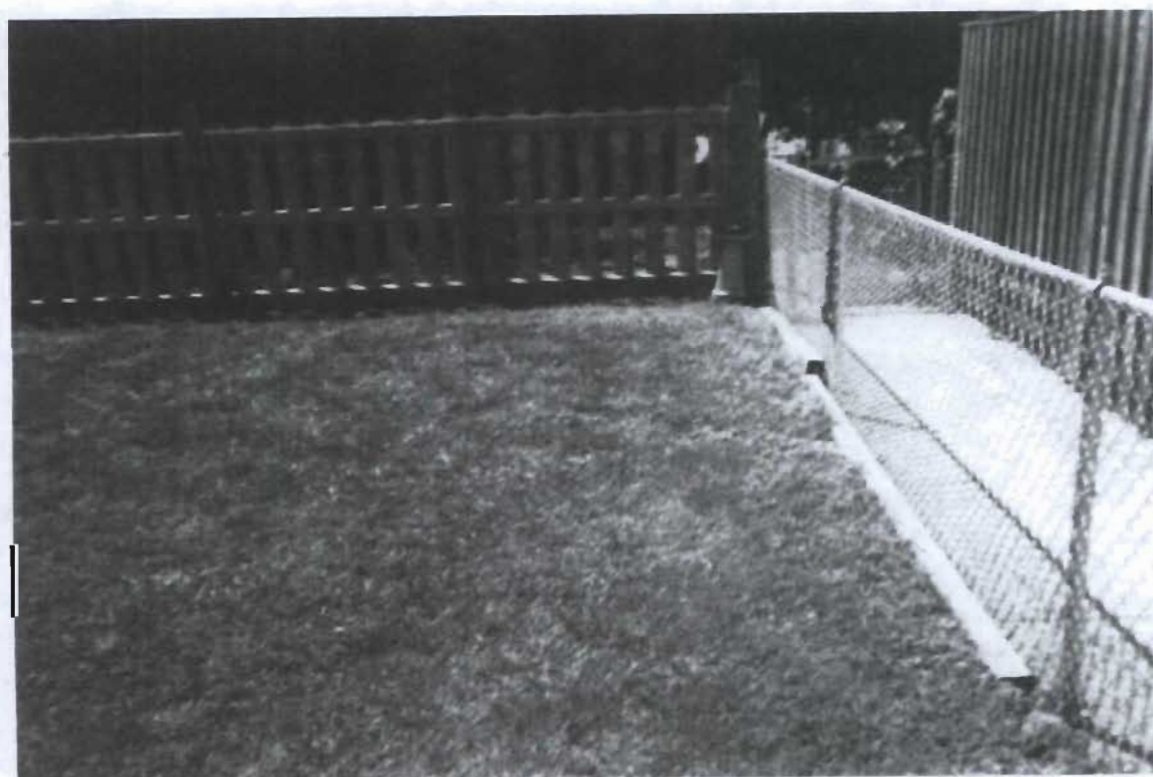
PET Ex #9d
(CBA #3D)



PET Ex #9e
(CBA #3E)



PET Ex #9f
(CBA #3F)

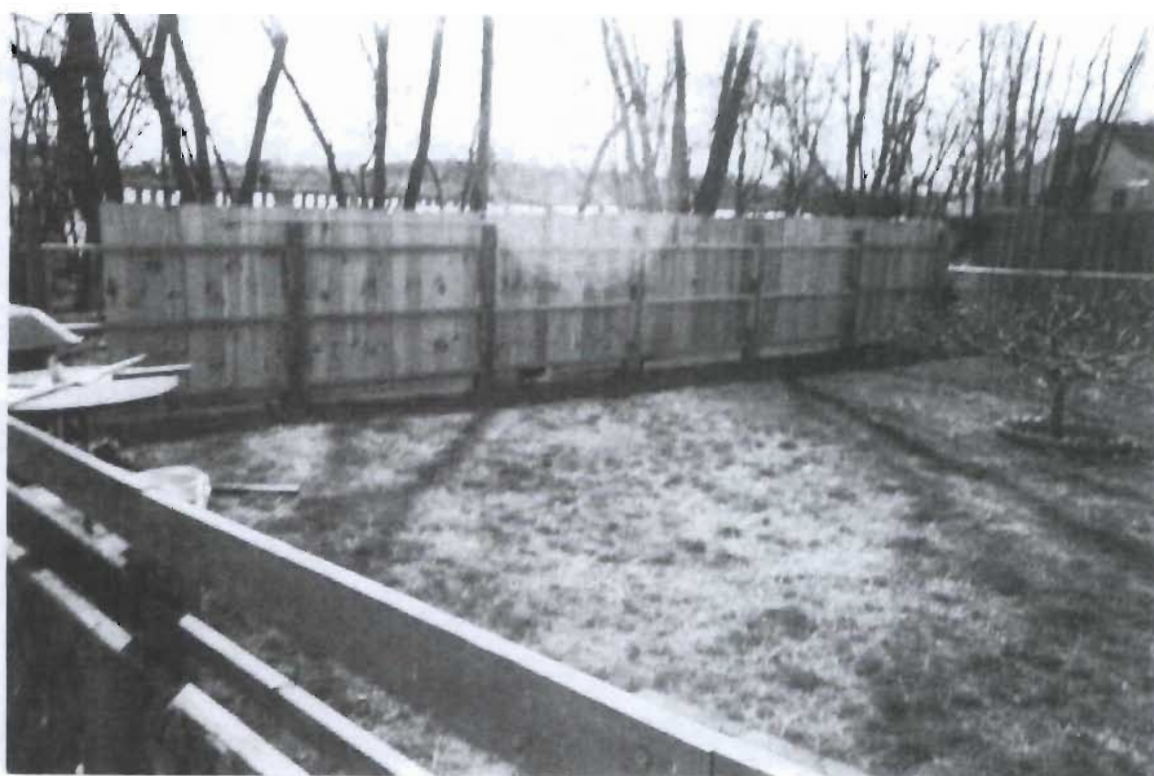


PET Ex #9g
(CBA #3G)



PET Ex #9h

(CBA #3H)



PET Ex #9i

(CBA #4D)



PET Ex #10a

(CBA #4A)



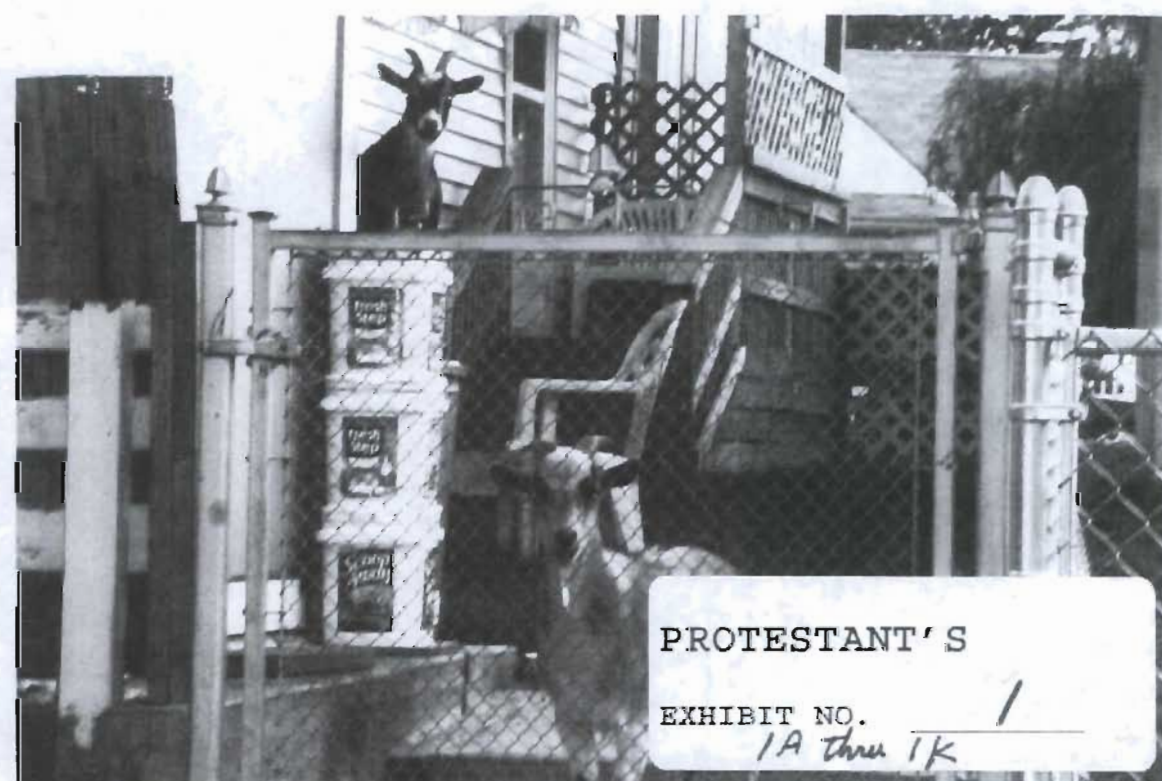
PET Ex #106

(CBA # 4B)



PET Ex #106

(CBA # 4C)



PROTESTANT'S

EXHIBIT NO.

1A thru 1K

1

10/4/08

To Whom It May Concern Baltimore County,

I would appreciate someone taking a few moments to read this letter and see attached photos and permits.

My husband and I have been dealing with a problem of rats and squirrels for some time now and are really at wits end. Someone needs to deal with this situation. We've contacted Baltimore County in regards to these issues for along time and there is never anything done about it! This Saturday October 4th, my husband and I tore apart our crawl space under our kitchen because we notice a very horrible smell. The same smell we had and dealt with last year. We ended up having found a dead decomposed rodent up under the insulation below our bedroom floor. On this day we found a total mess of terds and peanut shells and a partially decomposed rodent in insulation. These peanut shells come from the Morrison's at 16 Riverside. These are the same people who are trying to get a variance for 2 goats. Which we are against and have been to hearings and presented pictures of evidence against the variance being issued. As you can see in the pictures there are quit a bit of peanut shells in our crawl space, which are put out by the Morrison's. Which we have continuously complained about because they are destroying and messing up our landscaping and planters and whatever else they can destroy on our property. Now we have to deal with our home being destroyed. Find attached copies of permits to catch squirrels that we obtain every month from DNR because it is such an issue. We shouldn't have to live like this! We are hard working middle class citizens who have worked very hard to improve our home and keep it well kept and clean. If the Morrison's are people who want to have all this wildlife and farm animals in their life they need to take it where it won't affect others and it is legally allowed. If that's the case then they need to take it to an area where it won't affect other people! I've been in my home since 1995 and until the last 3-4 years never had these issues.

We are asking that someone please assist us in this rotten issue.

Feel free to call our Home 410 391-0128 or Mrs. Cell 443 600-2119 at anytime to discuss these issues. I think pictures are pretty explanatory.

Cordially,
William and Charlotte Atkins

CC: Baltimore County Board of Appeals
RE: CASE # 07-512-A and CASE # 08-525-SPH

RECEIVED
POST-APPEAL

RECEIVED

OCT 14 2008

BALTIMORE COUNTY
BOARD OF APPEALS

Part EX
CBA# 4

①

Peanut Shells



All these pictures are in enclosed
Area.

②



Chunk of wood from foundation of
home gone.



③ peanut shells

④ plant shells





③
peanut shells



peanut shells at Crack of
basement door

⑦ peanut shells



⑧ Peanut shells





8465

DEPARTMENT OF NATURAL RESOURCES
WILDLIFE & HERITAGE SERVICE
PERMIT TO CONTROL NUISANCE WILDLIFE
§§10-902, 10-904, 10-206
ANNOTATED CODE OF MARYLAND

For additional information contact:

US DEPARTMENT OF AGRICULTURE
APHIS, WILDLIFE SERVICES
1568 Whitehall Rd
Annapolis, MD 21409
410-349-8055
1-877-463-6497

Date of Issue: 5/27/08

Name: Charlotte Atkins Telephone: 410-391-0128

Address: 11 Riverside Road

<u>Essex</u>	<u>Baltimore</u>	<u>MD</u>	<u>21221</u>
(City)	(County)	(State)	(Zip Code)

The above described Permittee is hereby authorized to control the following
nuisance wildlife gray squirrel
by means of cage trap
This permit expires thirty (30) days after the date of issue.

The permittee hereby agrees to indemnify and hold harmless the State of Maryland, Department of Natural Resources, its officers, employees, assignees, and agents against all claims, demands, causes of action, and damages to person or property relating to or arising out of any activity authorized by this permit.

Distributed by:

Kevin Sullivan
Kevin Sullivan, State Director
USDA/APHIS Wildlife Services

For Paul A. Peditto
Paul A. Peditto
Director, Wildlife and Heritage Service



8465

8721
New permit #
as of
8/12/08

DEPARTMENT OF NATURAL RESOURCES
WILDLIFE & HERITAGE SERVICE
PERMIT TO CONTROL NUISANCE WILDLIFE
§§10-902, 10-904, 10-206
ANNOTATED CODE OF MARYLAND

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1568 Whitehall Rd
Annapolis, MD 21409
410-349-8055
1-877-463-6497

Date of Issue: 5/27/08 *renew 6/27 JS*

Name: Charlotte Atkins Telephone: 410-391-0128

Address: 11 Riverside Road

<u>Essex</u>	<u>Baltimore</u>	<u>MD</u>	<u>21221</u>
(City)	(County)	(State)	(Zip Code)

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Distributed by:

Kevin Sullivan
Kevin Sullivan, State Director
USDA/APHIS Wildlife Services

For

Paul A. Peditto
Paul A. Peditto
Director, Wildlife and Heritage Service



ENTERED



8721

DEPARTMENT OF NATURAL RESOURCES
WILDLIFE & HERITAGE SERVICE
PERMIT TO CONTROL NUISANCE WILDLIFE
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Essex
(City)

Baltimore
(County)

MD
(State)

21221
(Zip Code)

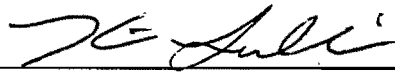
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Distributed by:


Kevin Sullivan, State Director
USDA/APHIS Wildlife Services

For


Paul A. Peditto
Director, Wildlife and Heritage Service



8721

DEPARTMENT OF NATURAL RESOURCES
WILDLIFE & HERITAGE SERVICE
PERMIT TO CONTROL NUISANCE WILDLIFE
§§10-902, 10-904, 10-206
ANNOTATED CODE OF MARYLAND

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US DEPARTMENT OF AGRICULTURE
APHIS, WILDLIFE SERVICES
1568 Whitehall Rd
Annapolis, MD 21409
410-349-8055
1-877-463-6497

Date of Issue: 8/12/08 *renew 9/15/08 JS*
Name: Charlotte Atkins Telephone: 410-391-0128
Address: 11 Riverside Road
Essex Baltimore MD 21221
(City) (County) (State) (Zip Code)

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nuisance wildlife gray squirrel
by means of cage trap

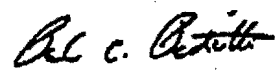
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relating to or arising out of any activity authorized by this permit.

Distributed by:


Kevin Sullivan, State Director
USDA/APHIS Wildlife Services

For


Paul A. Peditto
Director, Wildlife and Heritage Service



Case No.: 2008-0525-SPH 16 RIVERSIDE RD

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Veterinarian Care Records	PHOTO'S - FIRE BURNING - (2008) - DOCKS CONGREGATE where FEED IS DUMPED
No. 2	BCZR SECT 100.6	PERMIT TO TRAP SQUIRREL
No. 3	Legislation from Seattle Washington - "miniature goats"	
No. 4	Resume of Jack Dillon	
No. 5	PLAT OF SUBJECT PROPERTY	
No. 6	PLANNING OFFICE COMMENT	
No. 7	PHOTOS OF GOATS	
No. 8	Photographs A thru E (collectively) (F.)	
No. 8 F	Pet Smart - goats with Santa	
No. 9	A thru I - collectively Goats IN YARD	
No. 10	- Goats in shed A thru C	
No. 11	Petition in Support - 300 signatures	
No. 12	Petition obtained from neighbors	
No. 13	Resume - Susan Schwenian	

(SIGN IN SHEETS - OPPORTUNITY TO SIGN) - (RECORDER)

Good Morning - My name is Bill Wiseman, I am the Zoning Commissioner for Baltimore County and I've been assigned to hear your case pursuant to Art. 32 of the Baltimore County Code. **THESE PROCEEDINGS ARE BEING RECORDED**

FOR THE RECORD, THIS IS A PUBLIC HEARING ON case number 08-525 SPH

This is a Petition for Variance
☒ Special Hearing
☐ Special Exception

filed by LAW OFFICE OF Francis X. Borgersding Jr for property located at 16 RIVERSIDE RD in ESSEX MD and zoned DR 5.5.
on behalf of Kenneth + Robin MORRISON

"Read language from file"

The Code requires that notice of today's hearings be provided to neighbors and interested parties by the posting of a sign on the property for at least 15 days prior to the hearing. The sign was posted 7-30-08 by Martin Cyle, an approved sign poster and shows the time, date, place and subject matter of the hearing.

The Code further requires that notice be placed in a newspaper of general circulation, in this case the Jeffersonian, and the file contains the requisite certification of publication.

I THEREFORE FIND THAT THE POSTING AND NOTICE REQUIREMENTS HAVE BEEN SATISFIED

IF ATTORNEYS PRESENT, HAVE THEM IDENTIFY THEMSELVES; ASK IF THERE ARE ANY PRELIMINARY MATTERS

LOOK AROUND ROOM - AND ASK - IS ANYONE HERE APPEARING IN OPPOSITION TO THE REQUEST?

NO PROTESTANTS: For the record, no one is here in opposition to the request. Mr./Ms. _____, since there is no opposition, if you want to make AN **INFORMAL PROFFER** of the *testimony* and *evidence*, you're welcome to do so.

IF PROTESTANTS: This is your opportunity to come forward and have a seat at the table. You will be able to see and hear better, so come forward and I have a sign-in sheet here for you to sign so that we can mail you a copy of the decision in this case.

EXPLAIN PROCESS:

First the owner of the property will have an opportunity to present testimony and evidence regarding the _____ request for the property at _____.

Listen carefully, if you have any questions that you want to ask of any witness who testifies, I'll give you an opportunity to do so.

Once Petitioner is finished putting forward their testimony, and you've had an opportunity to ask questions, you will be given an opportunity to present testimony and evidence for me to consider in this _____ request. I'll tell you when it's appropriate to ask questions and when it's appropriate to testify – help you along as we proceed.

PRESENT CASE

SWEAR WITNESS – NAME AND ADDRESS – HAVE A SEAT

All right Mr./Ms. _____, please proceed with your case:

TO PROTESTANTS: Do you have any questions about the testimony that Mr./Ms. _____ just gave? I don't want to hear any testimony from you at this point, but if you would like to ask him/her any questions go ahead.

CLOSE OF PETIONERS CASE: This is your opportunity to tell me why you might be opposed to this _____. Where do you live? How long have you lived there? What is it about the _____ that bothers you/or what would you like to tell me about this case.

CONCLUSION: ALRIGHT – THANK YOU. THIS WILL CONCLUDE THE MATTER. THANK YOU FOR ATTENDING

I'm not prepared to make a decision here and now.

I want some time to think about the evidence presented – might want to look at the property

Hopefully, within a few weeks, I'll issue a written decision in the case

If you do not like my decision, **YOU HAVE A RIGHT TO APPEAL TO THE Board of Appeals.** This must be done within 30 days from date of my Order.

Verified
1/8/09 JSD

EXHIBITS - PROTESTANTS

- ✓ #1 - Com # 07-512A - File
- ✓ #2 Com # 08-525 - Sp 11
- ✓ #3A Photo 11/8 ~
- ✓ 3B " 11/9
- ✓ 3C " 12/24
- ✓ #4 - Letter to Board with photo's attached

Prior case
07-512-A

IN RE: PETITION FOR VARIANCE

S/S Riverside Drive, 60' W

Fairway Road

(16 Riverside Road)

15th Election District

7th Council District

Kenneth Morrison, et ux

Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 07-512-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Kenneth Morrison and Robin C. Morrison, his wife. The Petitioners seek a variance from Section 100.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two (2) dwarf pygmy goats on a lot less than 3 acres total with less than the ½ an acre of pastureland required. In other words, the Morrison's require a variance from both the 1.0-acre of grazing or pastureland required for two goats and the 3.0-acre minimum lot size. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Kenneth and Robin C. Morrison, property owners, and Stanley and Anna Almony. Appearing in opposition to the request were Herman Rohrman, and Paul and Betty Marks, nearby residents in the community.

Testimony and evidence offered revealed that the subject property is roughly rectangular in shape, approximately 0.14 acres in area (5,187 square feet), zoned D.R.5.5, and located between Riverside Road (front) and Wagner Avenue (rear) not far from Back River in Essex. The property is improved with a 1-½ story dwelling featuring an enclosed front porch, carport and rear patio. Other improvements include a shed at the rear property used to provide

current case

IN RE: **PETITION FOR SPECIAL HEARING**

S/S Riverside Drive, 600' SW of
Fairway Road

(16 Riverside Road)

15th Election District

7th Council District

Kenneth Morrison, et ux
Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 2008-0525-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing filed by Francis X. Borgerding, Jr., Esquire on behalf of the legal owners of the subject property, Kenneth and Robin C. Morrison. The Petitioners request a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for a determination that pygmy, miniature and dwarf goats are not embodied as livestock as defined under Section 100.6 of the B.C.Z.R. and instead should more appropriately be classified as pets. The subject property and requested relief are more particularly described on the site plan, which was marked and accepted into evidence as Petitioners' Exhibit 5.

This case represents the Morrison family's second attempt to legitimize their actions in keeping two pygmy goats on their property in the Essex area of Baltimore County. In Case No. 07-512-A, the Morrisons requested a variance from the lot size restrictions in Section 100.6 of the B.C.Z.R., which require a minimum of 3 acres of total land with at least 1 acre of pastureland in order to raise two small livestock animals such as sheep, goats, or pigs. When this Commission denied the requested variance, the Petitioners retained counsel and filed the instant case, this time requesting special hearing relief in a further attempt to obtain authorization to continue their desire to maintain the two pygmy goats on the property.

RECEIVED FOR FILING
Date 8-28-08
By [Signature]



11/8

Part 3A



11/9

Part
3B



2008 F123

PRJ
30

Case No.: 2008-0525-SPH 16 RIVERSIDE RD

Exhibit Sheet

Petitioner/Developer

Protestant

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No. 2	BCZR SECT 100.6	PERMIT TO TRAP SQUIRREL
No. 3	Legislation from Seattle Washington - "miniature goats"	
No. 4	Resume of Jack Dillon	
No. 5	PLAT OF SUBJECT PROPERTY	
No. 6	PLANNING OFFICE COMMENT	
No. 7	PHOTOS OF GOATS	
No. 8	Photographs Arthur E (Collectively) (F.)	
No. 8 F	Pet Smart - goats with Santa	
No. 9	Arthur I - Collectively Goats IN YARD	
No. 10	- Goats in Shed Arthur C	
No. 11	Petition in Support - 300 signatures	
No. 12	Petition obtained from neighbors	
No. 13	Resume - Susan Schwenman	



PROTESTANT'S

EXHIBIT NO. 1



































8721

DEPARTMENT OF NATURAL RESOURCES
WILDLIFE & HERITAGE SERVICE
PERMIT TO CONTROL NUISANCE WILDLIFE
§§10-902, 10-904, 10-206
ANNOTATED CODE OF MARYLAND

For additional information contact:

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1-877-463-6497

Date of Issue: 8/12/08

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Telephone: 410-391-0128

Address: 11 Riverside Road

<u>Essex</u>	<u>Baltimore</u>	<u>MD</u>	<u>21221</u>
(City)	(County)	(State)	(Zip Code)

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Distributed by:


Kevin Sullivan, State Director
USDA/APHIS Wildlife Services

For


Paul A. Peditto
Director, Wildlife and Heritage Service



Case No.: 2008-0525-SPH 16 RIVERSIDE RD

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Veterinarian Care Records	PHOTO'S - FIRE BURNING - (2008) - DOCKS CONGRATULATIONS WHEN FEED IS DUMPED
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No. 10	- Goats in Shed A thru C	
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Bel Air Veterinary Hospital Inc.

Richard O Cook, VMD
John Brooks, DVM
David Moore, DVM

Gail O'Connell, DVM
Robert J Johnson, VMD
Nathan Pate, DVM

1501 S Tollgate Road
Bel Air MD 21015-5822

Phone Number: 410 838-4900

Fax Number: 410 569-4353

Email: BAVH1501@aol.com

Fax Transmittal Form

Date Sent: 08/18/2008

TO: Frank Borgending, Attorney at Law

Phone: 410 296-6820

Total Number of Pages: 3

Fax: 410 296-6884

From: Jeanne Schmidt, RVT, Office Manager



Message:

Regarding Robin Morrison, Acct# 14318

As per your request, I am including the Animal Health History for each of the two goats owned by Robin Morrison, NANNY and SAMUAL, that have been seen at this hospital. On the individual sheets, I have included a statement to verify that they were seen according to the information provided.

Should any additional information be needed, please contact me.

PETITIONER' S

EXHIBIT NO. 2

Date of Report 08-18-08

Bel Air Veterinary Hospital, Inc. - Patient Chart

Page 1

14318 Morrison, Robin (A) 410 391-0980 16 Riverside Road Baltimore MD 21221 0.00

- Patient Information and Treatment History -

NANNY Breed: Dwarf Species: Goat Birthday: 09-06-06 Sex: F Color: Age: 24m Allergy: None Wgt: 63.0

ANIMAL HEALTH HISTORY...DETAIL

DATE	DESCRIPTION	TYPE	TIME	DR	CODE	QTY
08-13-08	TRIM HOOVES	SERVICE	1:27p	RC	0718D	1
09-17-08	TRIM HOOVES	SERVICE	12:36p	RC	0718D	1
12-13-07	TRIM HOOVES	SERVICE	11:07a	RC	0718D	1
09-20-07	RABIES: 1 YEAR	SERVICE	11:01a	DC	109A	1
	CD&T VAX	SERVICE	11:00a	DC	MISC	1
08-23-07	CD&T VAX	SERVICE	4:27p	RC	MISC	1
	TRIM HOOVES	SERVICE	3:55p	RC	0718D	1
05-17-07	TRIM HOOVES	SERVICE	2:19p	RC	0718D	1
09-06-06	BACITRACIN/CORT OPHTHAL OINT	ITEM	8:42a	RC	7061	1
	Apply to both eyes three times daily for 10 days. me]			Dr.Cook		
	SYRINGES-3CC	ITEM	8:40a	RC	1404	10
	NEEDLES-20G X 1"	ITEM	8:40a	RC	1400D	10
	PENG/BEN&PRO aML	ITEM	8:39a	RC	7691B	10
	Give 1 cc of medication subcutaneously twice daily every twelve hours.					
	me] Dr.Cook					
	Give 1 cc of medication subcutaneously twice daily every twelve hours.					
	me] Dr.Cook					
	AZIMYCIN INJ. (PENDEXCHLOR)	ITEM	8:39a	RC	7053	1
	OFFICE VISIT OR EXAM	SERVICE	8:39a	RC	100A	1

VITAL SIGNS

Weight: Pulse: Temp: Resp rate: Heart sounds:

DIAGNOSIS AND TREATMENT NOTES

This shall verify that NANNY was seen on the dates detailed above by veterinarians at this hospital.

Bel Air Veterinary Hospital
1501 S. Tollgate Road, Bel Air, MD 21016
Tel: 410-838-4800
www.belairvethospital.myvetonline.com

*Jeanne Schmidt RVT
Office Manager*

Date of Report 08-18-08

Bel Air Veterinary Hospital, Inc. - Patient Chart

Page 1

14318 Morrison, Robin (A) 410 391-0988 16 Riverside Road Baltimore MD 21221 0.00

- - Patient Information and Treatment History - -

SAMUEL Breed: Pygmy Species: Goat Birthday: 05-17-06 Sex: N Color: Age: 2y Allergy: None Wgt: 88.0

ANIMAL HEALTH HISTORY...DETAIL

DATE	DESCRIPTION	TYPE	TIME	DR	CODE	QTY
08-11-08	TRIM HOOVES	SERVICE	1:26p	RC	0718D	1
04-17-08	TRIM HOOVES	SERVICE	12:36p	RC	0718D	1
12-13-07	TRIM HOOVES	SERVICE	11:07a	RC	0718D	1
09-20-07	RABIES: 1 YEAR	SERVICE	11:00a	DC	109A	1
	CD&T VAX	SERVICE	11:00a	DC	MISC	1
08-23-07	CD&T VAX	SERVICE	4:28p	RC	MISC	1
	TRIM HOOVES	SERVICE	3:55p	RC	0718D	1
05-17-07	TRIM HOOVES	SERVICE	2:19p	RC	0718D	1

VITAL SIGNS

Weight: Pulse: Temp: Resp rate: Heart sounds:

DIAGNOSIS AND TREATMENT NOTES

*This shall verify that SAMUEL was
seen on the dates detailed above by
veterinarians at this hospital.*

*Janne Schmidt RVT
Office Manager*

Bel Air Veterinary Hospital
1501 S. Tollgate Road, Bel Air, MD 21015
Tel: 410-838-4900
www.belairvethospital.myvetonline.com

Zones heretofore classified as R.20 are now classified as D.R.2.

Zones heretofore classified as R.10 are now classified as D.R.3.5.

Zones heretofore classified as R.6 are now classified as D.R.5.5.

Zones heretofore classified as R.G. are now classified as D.R.10.5.

Zones heretofore classified as R.A. are now classified as D.R.16.

[Bill No. 100-1970]

- 100.4 The location of any zone boundary, unless indicated by dimensions shown on the Zoning Map, shall be determined by use of the map scale shown thereon and scaled to the nearest foot.
- 100.5 The designation of any historic property, site or historic district on the Zoning Maps does not change the zoning classification or any requirement with respect to that zoning classification, unless specified otherwise in these regulations. However, plans for renovation, reconstruction, alteration or demolition of any structure on the Baltimore County Landmarks Preservation Commission's preliminary or final landmarks list or in a Baltimore County Landmarks Preservation Commission's historic district require special approvals as set forth in Article X of Title 26 of the Baltimore County Code. [Bill No. 112-1988]
- 100.6 A tract of land used for the accessory stabling and pasturing of animals and which is not a commercial agricultural operation is subject to the following provisions:

Type	Limitation	Minimum Acreage
Large Livestock:		
Horses, burros and cattle	1 animal for each acre of grazing or pasture land*	3
Small Livestock:		
Sheep, goats and pigs, except an Asian potbellied pig (see Section 400) ponies and miniature horses	2 animals for each acre of grazing or pasture land*	3
Fowl or Poultry:		
Chickens, ducks, turkeys, geese	No numerical limit, provided that a nuisance is not created or allowed to exist on the property	1

*Sucklings and weanlings under 12 months of age will not be counted.⁴

[Bill No. 51-1993]

PETITIONER'S

EXHIBIT NO. 2

⁴ Editor's Note: See also Section 404.

ORDINANCE

AN ORDINANCE relating to land use and zoning and the keeping of small animals, amending Sections 23.42.052, 9.25.022, 9.25.030, 9.25.050, 9.25.052, 9.25.080, 9.25.084, 9.25.100; and 9.26.020 to allow the keeping of miniature goats and providing for the licensing and licensing fees therefore.

WHEREAS, goats, along with dogs are the earliest animals domesticated by humans, roughly 10,000 years ago; and

WHEREAS, numerous cultures worldwide keep goats and more people worldwide drink goat milk than any other animal's; and

WHEREAS, many immigrants from all over the world are familiar with keeping goats; and

WHEREAS, miniature goats are considered excellent pets due to their good-natured personalities, friendliness, faithfulness, and hardy constitution; and

WHEREAS, miniature goats are no bigger than a number of species of large domestic dogs; miniature goats average around 24" tall and 50-100 pounds, compared to some large dogs that average around 30" tall and can weigh up to 200 pounds; and

WHEREAS, miniature goats can be a sound way to provide milk and cheese to families if the milk is properly pasteurized prior to consumption or cheese production; and

WHEREAS, there are numerous benefits for urban sustainability that goats provide including that their manure is an excellent source of garden compost provided it is properly composted to reach temperatures that will destroy potentially harmful pathogens, their hair is a renewable source of fiber, and goats can provide an alternative to lawn mowers; and

WHEREAS, goats are valuable for controlling noxious weeds and clearing brush and undergrowth; and

WHEREAS, serious illnesses in people due to infections from goats are rare and disease risk can be reduced through proper sanitation and good husbandry; and

WHEREAS, female and neutered male goats do not generate significant odors, and

WHEREAS, municipalities including Portland, Oregon and Everett, Washington have codes that permit miniature goats to be kept; NOW, THEREFORE,

PETITIONER' S

EXHIBIT NO. 3

Jack Dillon & Associates, LLC

410-337-5455 Fax 410-337-5476 410-221-0060

jackdillon1@verizon.net

***Baltimore County
118 W. Pennsylvania Ave.
Towson, Maryland 21204***

***Dorchester County
922 Parson Drive
Madison, Maryland 21648***

RESUME OF JACK DILLON

***Jack Dillon, APA
President, Jack Dillon & Associates, LLC***

EDUCATION

***B.S. in Business Management
University of Baltimore, MD***

***Graduate Program in Urban Planning
Georgia Institute of Technology, Atlanta, GA***

***Graduate Para Legal Program
University of Maryland, University College
Baltimore, MD***

***Graduate Program in Landscape Architecture
Morgan State University, Baltimore, MD
(Did not complete program)***

GENERAL EXPERIENCE

Mr. Dillon, a reputable and dedicated planning professional, has been involved in many aspects of planning including community planning, commercial revitalization, environmental planning, roadway corridor planning, master plans, agricultural, rural and open space planning, waterfront planning and general land use and zoning. He has specialized in local land use and zoning issues and land preservation.

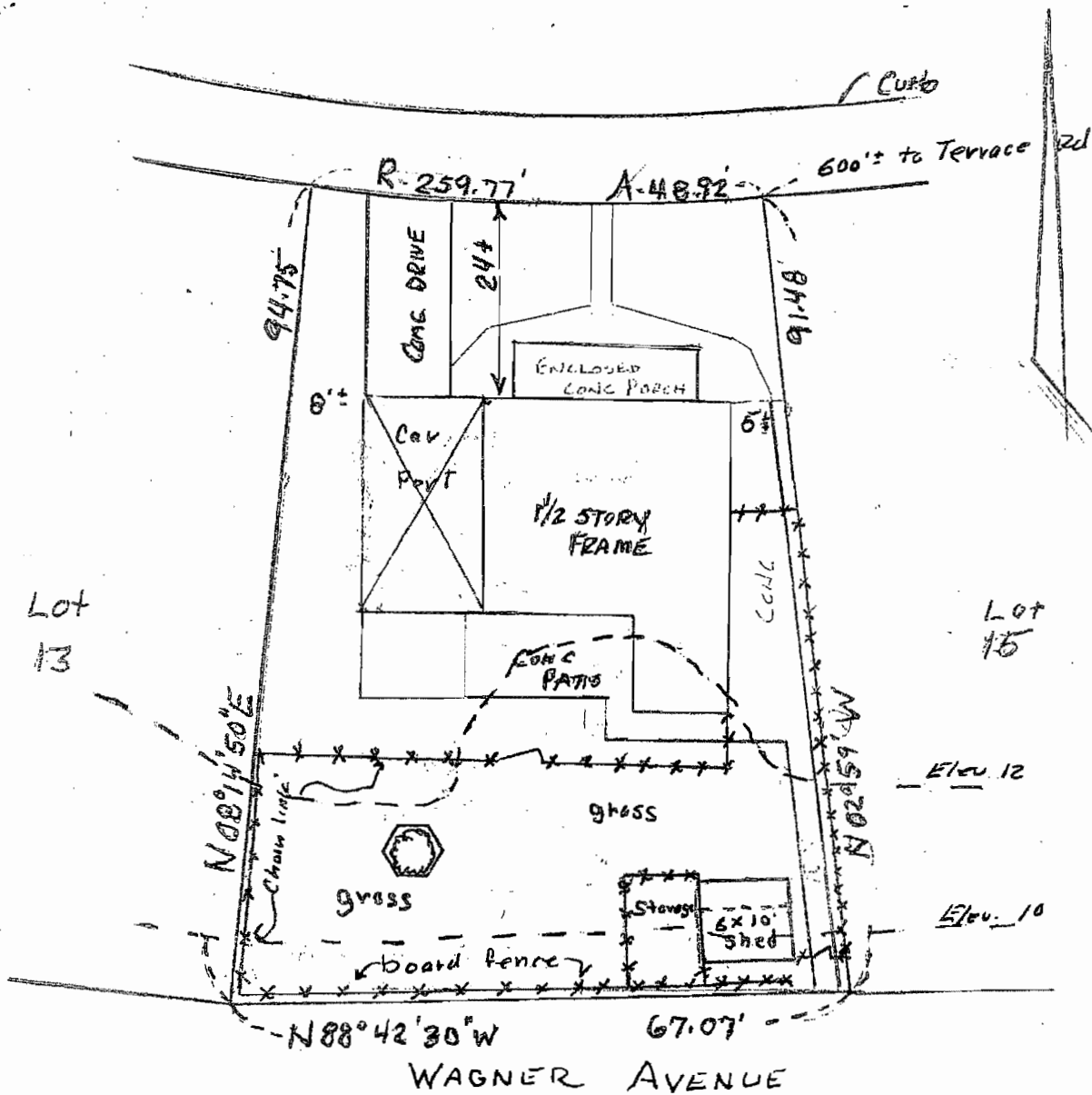
In addition, he has taught planning and zoning related subjects at Catonsville Community College, University of Maryland at Baltimore and Towson University and has lectured classes at Morgan State University. Mr. Dillon has extensive experience in working with citizen groups in the planning process and has been accepted as an expert witness in many zoning and planning cases in Maryland.

PETITIONER' S

EXHIBIT NO.

4

RIVERSIDE ROAD 50' W



Owner

Kenneth & Robin Morrison
16 Riverside Road
Essex, MD 21221
Tax Map 97, Parcel 145
Deed 19581/30
Tax Acct. 151274030

Jack Dillon & Associates, LLC
118 W. Pennsylvania Ave.
Phone 410-337-5455
Fax 410-337-5476
e-mail jackdillon1@verizon.net

PETITIONER' S

EXHIBIT NO. 5

Notes

1. Prior Zoning Case 07-512-A
2. Zoning Map U, NE 1G, NE 2G
3. Current Zoning DR 5.5
4. Lot Size 0.119 Ac.
5. Site not within 100 yr. flood plain
6. Non-Historic Property
7. This site is not within the CBCA

Plan to Accompany Petition For
Special Hearing
16 Riverside Road
Essex, MD 21221

District 15 Baltimore County, MD
Scale 1" = 20' Date: April 29, 2008

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 3, 2008

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

SUBJECT: 16 Riverside Road

INFORMATION:

Item Number: 8-525

Petitioner: Kenneth and Robin Morrison

Zoning: DR 5.5

Requested Action: Special Hearing

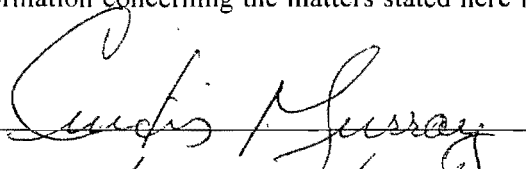
SUMMARY OF RECOMMENDATIONS:

There are 2 existing goats on the well-maintained property. There is an existing privacy fence that separates the rear yard from the alley.

Should the Zoning Commissioner grant the petitioner's request, the entire rear yard should be fenced with a privacy fence similar to that, which exists.

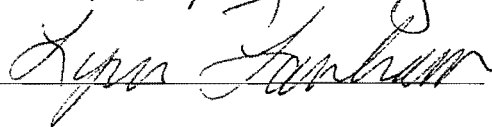
For further information concerning the matters stated here in, please contact John Alexander at 410-887-3480.

Reviewed by:



Division Chief:

AFK/LL: CM



PETITIONER' S

EXHIBIT NO.

6

PETITION to KEEP PIGMY GOATS

Ada Ridgley 814 Silver Ave 21221

Beil Martin 348 UPPERHANDING Rd 21221

David Walls 804 Bayner Rd 21221

Felicia DeWatson 1405 Winter Park Circle Apt G 21221

Melissa McIntosh 1525 N. Caroline Street 21213

Rue ~~Hart~~ 1411 Kert Rd. 21221

Stacy O'Brien 7522 MT Vista Rd 21087

Angie O'Brien 319 Savannah Rd. 21221

Clare E. Brown 3802 EDGEWATER Pl 21222

Jameka Shelton 1207 Handsworth Pl 21221

Taylor Hutchinson 16 Elm Court 21220

Edward Schaubert 12 Bladen Rd 21221

Long Smith 530 Purdick Rd 21212

James J 618 Wampler Rd 21220

Tony Smith 41 Oak Grove Dr APT L 21220

Helen Harris-Stone 1231 Damsel Rd. Essex, 21221

Paul H. Savage 5440 Jougail Ave BA/TC 21215

Janet Demouere 715 Maryland AVE Balt. MD 21221

Clark Emmert 93 BENGIES, RD. BALTO, MD 212

Adlene Shiflett 1113 County Line Rd.

Therese Moore 1806 Thames St Apt. B Balt. MD 212

Pat Harris 2215 Bauernschmidt Dr. 21221

Sherry Craft 849 Middlesex Rd 21221

D VIBBERT 1014 BACK RIVER NECK RD BALT MD 2122

Marcia Andreychuk 308 Hornel St. Balt. Md. 2

Cheryl Miller 7800 St Bridget Ln 21222

PETITIONER'S

EXHIBIT NO. 11

PETITIONER'S

EXHIBIT NO. 2

141 signatures

TO: County Board of Appeals of
Baltimore County
Jefferson Building, Second Floor
Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

PETITIONER'S

EXHIBIT NO. 12

RE: In the matter of Kenneth and Robin Morrison
Case No.: 07-512A
Petition for Variance from Section 100.6 of the
Baltimore County Zoning Regulations to Permit
Two Dwarf Pygmy Goats on a Lot Less than
Three Acres with Less than One Half Acre of
Pasture Land

I am signing my name to this Petition to show my support for Petitioners, Kenneth and Robin Morrison, in case number 07-512A before the County Board of Appeals for Baltimore County requesting the above-referenced variances to allow them to keep their two dwarf pygmy goats on their property at 16 Riverside Road, Essex, Maryland 21221.

NAME

ADDRESS

Stephanie Costin

16 Riverside Rd.

Michael Minutti

15 Riverside Rd

KEITH JACOBS

3 AVENAL ROAD 21221

Peggy Bland

2 AVENAL RD 21221

Nancy Krempel

4 Avenal Rd, 21221

Frances McDowell

38 Wagner La, 21221

Edgar B. Lee

26 Wagner La 21221

Amy Schwab

40 Wagner La, 21221

Valerie Schmitt

40 Wagner Ave 21221

Rachel M. Beckman

17 RIDGEMOOR Rd 21221

Jessie Hays

13 Ridgemoor Rd 21221

CURRICULUM VITAE OF SUSAN SCHOENIAN

1. Personal Information

Susan Schoenian

Regional Specialist, Sheep and Goats
Maryland Cooperative Extension (MCE)
Western Maryland Research & Education Center (WMREC)
18330 Keedysville Road, Keedysville, MD 21756

Appointed July 18, 1988
Principle Agent since July 2007

Affiliated Faculty Member as of July 1, 2006
Department of Animal and Avian Sciences
University of Maryland College Park (UMCP)

a. Educational Background

1988 Montana State University, Bozeman, MT. M.S. Animal Science (breeding option)
Thesis title: "Direct and Correlated Responses to Selection for Reproductive Rate
in Rambouillet Sheep"

1984 Virginia Tech, Blacksburg, VA. B.S. Animal Science (business option)
The Ohio State University, Columbus, OH. Major - Animal Science

b. Professional Certifications

2005 to present, Professional Animal Scientist. Area of Specialization: Sheep and Goats.
American Registry of Professional Animal Scientists (ARPAS).

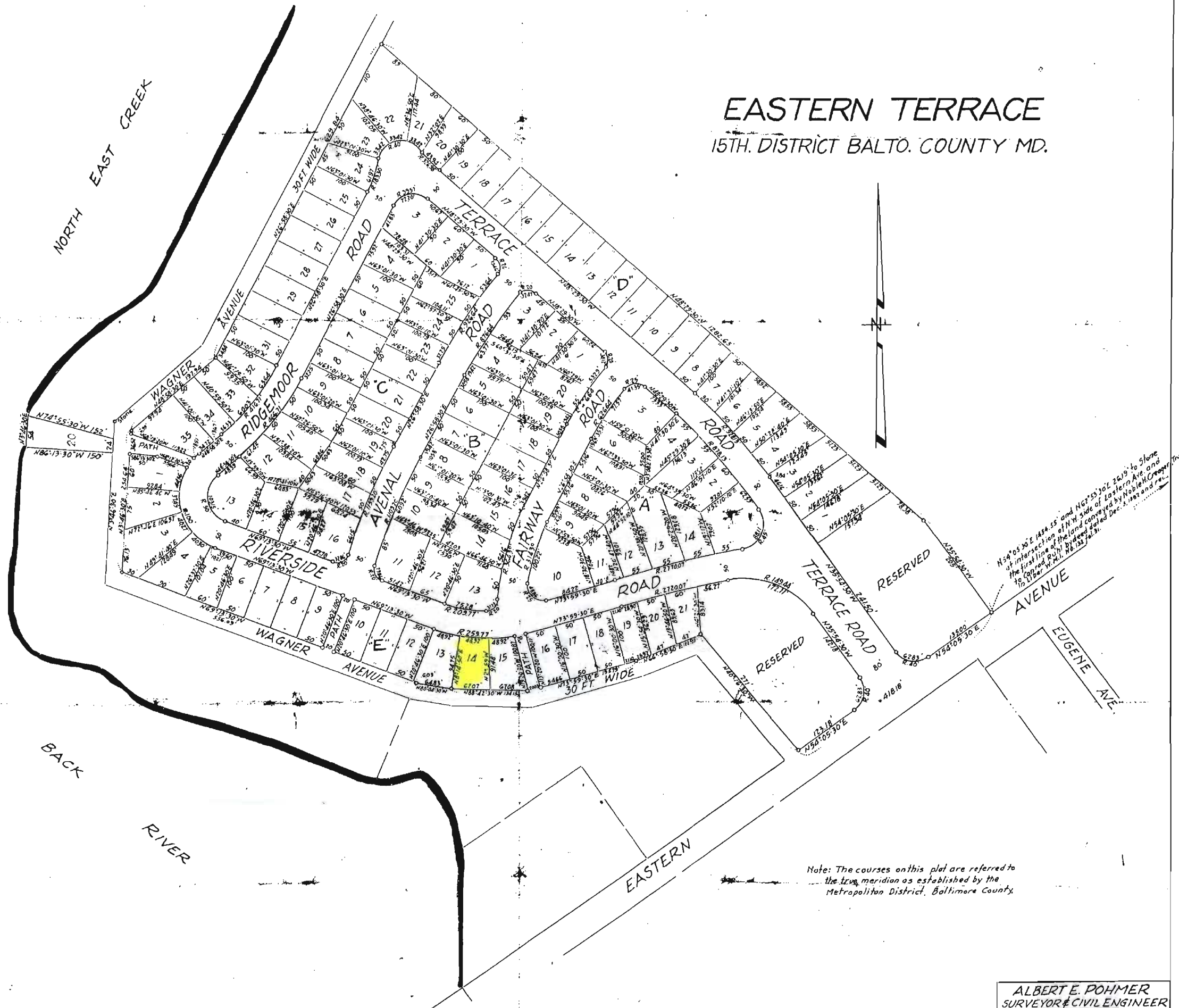
c. Employment History

7/07 to present	Regional Specialist, Sheep/Goats. MCE. WMREC. Keedysville, MD.
1/02 to 6/07	Area Agent, Sheep/Goats. MCE. WMREC. Keedysville, MD.
1/99-12/01 and 7/88-4/95	Extension Agent, Agriculture and Natural Resources (livestock and farm management). MCE, Wicomico County Extension (WCE), Salisbury, MD.
5/95-12/98	Regional Extension Specialist, Farm Management (acting). MCE. Wye Research & Education Center (WREC), Queenstown, MD.
1/93-7/93	Extension Economist. United States Department of Agriculture (USDA), Washington DC and Polish Ministry of Agriculture & Food Economy, Warsaw, Poland, ODR Jelenia Góra.

PETITIONER'S

EXHIBIT NO.

13



EASTERN TERRACE
15TH. DISTRICT BALTO. COUNTY MD.

Note: The courses on this plat are referred to the true meridian as established by the Metropolitan District, Baltimore County.

ALBERT E. POHMER
SURVEYOR & CIVIL ENGINEER
OFFICE: 2 E. LEXINGTON ST., BALTO. MD.
SCALE: 1"=100' ISSUED: 1-8-40

2008-0525-SPH