

IN THE MATTER OF
ROBERT AND ELEANOR VANDEVENDER
- APPLICANTS
4402 Leeds Avenue
13th Election District, 1st Councilmanic District

RE: Petition for Special Hearing

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 09-225-SPH

* * * * *

OPINION

The above captioned case stems from the appeal of the May 15, 2009 final decision of the Deputy Zoning Commissioner for Baltimore County, in which the Deputy Commissioner denied the Petition for Special Hearing filed by the owners of the subject property, Robert H. and Eleanor R. VanDevender. The Special Hearing request was to permit the legal nonconforming use of a two apartment detached dwelling on 8,160 square feet in lieu of the required 10,000 square feet.

The hearing was held before the Board on February 4, 2010. Petitioners, Mr. and Mrs. VanDevender, were represented by J. Carroll Holzer, Esquire. Protestant, James V. Landriscina, a neighbor, was present and not represented by Counsel.

The parties gave closing statements and no briefs were filed. A Public Deliberation was held on March 9, 2010.

Testimony and Evidence

The Petitioners presented four (4) witnesses in support of their position. The first witness, Eleanor VanDevender, testified that she owns 4402 Leeds Avenue with her husband. She grew up next door at 4400 Leeds Avenue and her parents lived there until the property was sold to Mr. Landriscina in 1997. Mrs. VanDevender stated that she lived next door to the property in question, and that her uncle converted the house to a two apartment structure in 1945,

after coming back from World War II. Her uncle lived in the apartment until he got married and then her aunt moved in. Since 1945, she stated that it has been constantly used as an apartment building with two (2) separate heating systems. She stated that the first floor had a foyer, formal living room, dining room, kitchen, bedroom and bath. The second floor contains a kitchen, bath, walk-in closet and a bedroom. In 1978, Mrs. VanDevender acquired the property from her Uncle. Her sister and her husband moved into the apartment in 1978 and lived there until her sister's husband died.

Since that time, she stated that she has allowed her son to live in the apartment and also visitors from out of town have used the apartment. She has rented the first or second floor periodically and the second floor is now rented. Her son is now living on the first floor of the building. Mrs. VanDevender has stated that she has never violated Baltimore County laws and has obtained the license that was required by the County in 2008 for apartments be rented. The license is valid through 2011. There has not been a lapse of one (1) year or more for the use of the apartment by some individual(s).

On cross examination, Mrs. VanDevender stated that there were no leases in effect, prior to the current Lease. She continuously used the apartment, with tenants and family members as occupants. She also stated that in 1994, two (2) separate air-conditioning units were installed to air condition both apartments. In addition, there have been two (2) renovations of the apartments in the thirty (30) years that the house was converted to two apartments.

Mary Lou Simmons, a family historian and first cousin to Eleanor VanDevender, also testified and stated that she remembered her grandfather at the 4402 Leeds Avenue address. She remembered that he lived on the first floor and her uncle and two (2) children lived upstairs. She stated that as long as she can remember the family utilized the house as two apartments.

Beverly Ann Chew, a Catonsville resident, testified that she was Eleanor's first cousin. She stated that she had lived at 4402 Leeds Avenue with her father and mother in the upstairs apartment, since her father came back from World War II. She lived there until 1972. Her parents stayed there until 1978 when they sold the house to Eleanor. After her father died, her mother lived on the first floor until she passed away. Chew has been back to 4402 Leeds Avenue many times over the years and to her knowledge it has always been used as a rental or by family members as two apartments. Ms. Chew presented photographs of the upstairs apartment kitchen.

Angela McClasky, of Ellicott City testified that she is also a first cousin to Eleanor VanDevender. She lived at 4402 Leeds Avenue when she was a baby and remembers her uncle in the apartment before he got married. She stated that it has always been a two unit apartment building and has been rented out or used by family members.

Mr. Landriscina presented the Protestant's case, stating that there were no copies of previous leases or rental agreements, prior to the current Lease. He stated that no one could testify as to the rental use, but that there was family use. He contended that the property does not meet the parking requirements in Baltimore County. He stated that he had moved to 4404 Leeds Avenue in 1997 and never saw tenants prior to 1997. After 2008, when licensing became mandatory, a tenant leased the apartment. He stated that the son of Mrs. VanDevender came and went. At the time he bought his house, the son was living on the first floor. Later, he stated, the son moved to the second floor. Mr. Landriscina stated that he had a second floor unit in his house, which is vacant and he chose to stop renting it. Mr. Landriscina did not contest that the house at 4402 Leeds Avenue has always had two (2) apartments.

Decision

Section 101 of the Baltimore County Zoning Regulations (BCZR) defines a nonconforming use as follows:

Article I: "General Provisions" Baltimore County Zoning Regulations, Section 101, Definitions:

"Nonconforming use. A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use. [Bill No. 110, 1993]."

Section 104.1 lists the conditions that would terminate a nonconforming use. Those conditions are here listed:

Section 104.1. "A conforming use [as defined in Section 101] may continue except as otherwise specifically provided in these regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [BCZR 1955; Bill No. 18, 1976; Bill No. 124, 1991]"

Protestant contends that the Petitioners did not meet their obligation to prove that the nonconforming use was not abandoned or discontinued for a year or more; since they had no records to indicate that they had rented the property for any period of time prior to 2008.

Mrs. VanDevender and her cousins testified that from their recollection, the house has been used as a two apartment residence since at least 1945, when their uncle converted the home to two apartments. In that period of time, family members, friends, and renters have utilized the apartment. Mrs. VanDevender has allowed her son to live in the apartment. Two (2) separate air conditioning units for each apartment were installed in 1998.

The Board recognizes that nonconforming uses are not looked upon with favor by the Courts and the County. The burden is very difficult for the Petitioner to prove a continued

nonconforming use by means of leases or other documentary evidence, back to 1955, which was the date of the enactment of zoning regulations in Baltimore County.

The case of *Timothy Leucking*, case number 08-199-SPH, was a similar situation to the present case, except a two unit home was converted to a three unit apartment building. One of the units was occupied by the Petitioner's uncle, who from 1976 until 1998, paid no rent for the apartment. The Board held that this did not constitute abandonment or discontinuance of the apartment as a nonconforming use. The Board did find that the nonconforming use was lost as a result of the expansion of the home to a three (3) apartment unit.

The testimony and evidence in the present case, shows that the home was converted to a two unit apartment house in 1945. It has been utilized on and off as a two unit apartment house since that date. In reviewing the language of §104 of the BCZR, the Board consulted Webster's New Universal Unabridged Dictionary to determine the actual definition of the terms "abandonment" and "discontinuance". Webster defines the term "abandon" as follows:

"1 a : to give up to the control or influence of another person or agent; |

b : to give up with the intent of never again claiming a right or interest in
<abandon property>;

2 : to withdraw from often in the face of danger or encroachment
<abandon ship>;

3 : to withdraw protection, support, or help from
<he abandoned his family>;

4 : to give (oneself) over unrestrainedly;

5 a : to cease from maintaining, practicing, or using
<abandoned their native language>; and

b : to cease intending or attempting to perform

<abandoned the escape>."

The term "discontinue" is defined as follows:

1. Put an end to; stop; terminate;

<to discontinue nuclear testing>; and

2. To cease; to take, use, subscribe to, etc.

<to discontinue a newspaper>; and

3. LAW: to terminate or abandon (a suit, claim or the like).

When one looks at the definitions "abandon" and "discontinue", it seems clear that the Petitioners herein have never abandoned or discontinued use of the house in question as a two unit apartment house. The fact that it has not always been rented is not controlling in this matter. It appears that there has always been the intention of the owners to continue the building as a two unit apartment dwelling. Thus, it has undergone two (2) renovations. It has also had two (2) separate air conditioning units installed in 1998. Although it has not been rented during the entire period, it has been utilized by the owners. It has been used as separate living quarters for the owner's relatives and friends. It has also been rented from time to time.

In *McKemy v. Baltimore County*, 39 Md. App. 257 (1978), the Court of Special Appeals listed four (4) factors to be considered when determining whether or not a nonconforming use should be continued. These factors were:

1. To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

2. Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature and kind;
3. Does the current use have a substantially different effect upon the neighborhood; and
4. Is the current use a "drastic enlargement or extension" of the original nonconforming use.

In examining these four criteria, there can be no question that the nonconforming use of 4402 Leeds Avenue, meets these criteria. The use is a two unit apartment building as reflected in the original nonconforming use. There is no difference in the manner of utilizing the nonconforming use as presently established from the original nonconforming use. The current use does not have a substantially different affect upon the neighborhood, then it has for over twenty-five (25) years. There is no drastic enlargement or extension of the original nonconforming use.

The present owners of the property have not abandoned or discontinued the use of the property as a two unit apartment dwelling. Through the years it has been utilized either by family members, friends, or renters, who have used both apartments.

Therefore, the Board finds that the Special Exception for nonconforming use of the property at 4402 Leeds Avenue should be granted.

ORDER

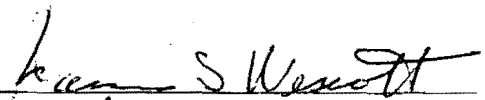
THEREFORE, IT IS THIS 26th day of March, 2010 by the

Board of Appeals of Baltimore County

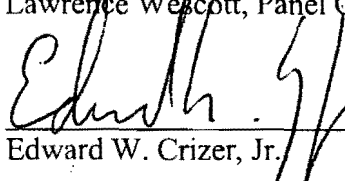
ORDERED that the Petition for Special Hearing seeking approval of an existing two apartment dwelling on the subject property of 4402 Leeds Avenue, Baltimore County as a legal nonconforming use, in case number 09-225-SPH be and the same is hereby **GRANTED**.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence Wezcott, Panel Chair



Edward W. Crizer, Jr.



Wendell H. Grier



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 26, 2010

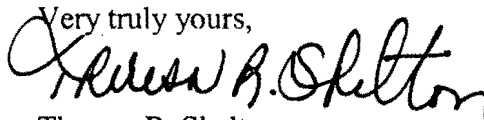
J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *IN THE MATTER OF:* Robert and Eleanor VanDevender
Legal Owners /Petitioners
Case No.: 09-225-SPH

Dear Mr. Holzer:

Enclosed please find a copy of the final Opinion and Order issued this date by the 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 R. Shelton
Administrator

/trs

Enclosure: Opinion

c (w/Encl): Robert H. and Eleanor R. VanDevender
James V. Landriscina

People's Counsel for Baltimore County
William Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Donald E. Brand, Code Enforcement
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

IN RE: PETITION FOR SPECIAL HEARING
N/WS Leeds Ave., 235' SW of
c/line of Knecht Avenue
(4402 Leeds Ave.)

13th Election District
1st Councilmanic District

Robert VanDevender, et ux, Legal Owners;
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY

Case No.: 2009-0225-SPH

* * * * *

NOTICE OF APPEAL

ROBERT H. & ELEANOR R. VANDEVENDER , of 4409 Leeds Ave., Baltimore, MD 21229, Appellants in the above captioned matter, by and through their attorney, J. Carroll Holzer and Holzer and Lee, feeling aggrieved by the decision of the Zoning Commissioner in Case No. 2009-0225-SPH, hereby note an appeal to the County Board of Appeals from Findings of Fact and Conclusions of Law of the Zoning Commissioner of Baltimore County dated May 15, 2009 attached hereto, and incorporated herein as **Exhibit #1**.

Filed concurrently with this Notice of Appeal is Appellants' check made payable to Baltimore County to cover the costs of the appeal. Appellants were parties below and fully participated in the proceedings.

Respectfully submitted,

RECEIVED

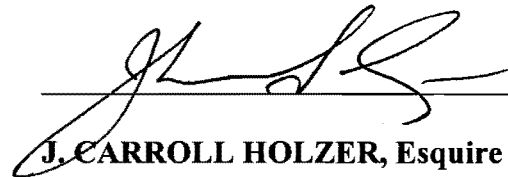
JUN 04 2009

LW
.....|


J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the day of June, 2009, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to: James V. Landriscina, 4400 Leeds Ave., Arbutus, MD 21229; County Board of Appeals, 105 West Chesapeake Ave., Suite 203., Towson, MD 21204; and People's Counsel for Baltimore County, 105 West Chesapeake Ave. Room 204., Towson, M, 21204.



J. CARROLL HOLZER, Esquire

IN RE: **PETITION FOR SPECIAL HEARING**
NW/S Leeds Avenue, 235' SW of c/line of
Knecht Avenue
(4402 Leeds Avenue)

13th Election District
1st Council District

Robert VanDevender, et ux, *Legal Owners*
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* **Case No. 2009-0225-SPH**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Robert H. and Eleanor R. VanDevender. The Petitioners request a special hearing to approve an existing two-apartment detached dwelling on 8,160 square feet in lieu of the required 10,000 square feet, as a legal, nonconforming use. 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 requested nonconforming use was Eleanor VanDevender, property owner. James V. Landriscina, an adjacent property owner, appeared along with his brother as a Protestant in opposition to the requested relief. There were no other interested persons in attendance nor were there any adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agencies.

It should be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management (Civil Citation No. 52968). Specifically, the Petitioners were cited pursuant to Section 402 of the B.C.Z.R. for the illegal conversion of a dwelling on residential property. A hearing before Code Enforcement

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DATE 5-15-09
BY [signature]

Hearing Officer Donald E. Brand was held on January 13, 2009 in which Mr. Brand advised the VanDevenders to file for a Special Hearing determination by February 1, 2009. While the merits of Mr. Brand's Order are not being reviewed in this separate zoning matter, the outcome of this case will affect the responsibilities of the Petitioners pursuant to the January 13th Order of the Code Enforcement Hearing Officer.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel (40' wide x 204' deep) located on the north side of Leeds Avenue, north of Route 1 – Southwest Boulevard near the intersection of I-695 in the Arbutus area of the County. The property contains a gross area of 8,160 square feet, more or less, zoned D.R.5.5 and is improved with a two-story frame dwelling that at the time of the hearing was being used as two (2) apartments. Petitioner submitted a floor plan of the second floor of the existing dwelling, which was marked and accepted into evidence as Petitioners' Exhibit 7. The floor plan, along with a series of photographs that were collectively marked and accepted into evidence as Petitioners' Exhibit 6, shows a 590 square foot one-bedroom apartment with a kitchen, bathroom, living and bedroom area as well as a walk-in closet. According to the Petitioner, her son lives on the lower level of the dwelling with his girlfriend and the second floor apartment is being leased by a young woman named Jessica Bowen. Petitioner submitted a lease for the second floor apartment, which was marked and accepted into evidence as Petitioners' Exhibit 5. The lease reveals that Ms. Bowen is renting the apartment from February 1, 2009 through August 31, 2009.

Petitioner submitted several exhibits in an effort to prove that the nonconforming use of the subject property as two apartments in one residential dwelling has existed in a continuous and uninterrupted manner since 1955. The Affidavits of Gloria Minarik and Alyce Dassing were respectively marked and accepted into evidence as Petitioners' Exhibits 3 and 4. Ms. Minarik

ORDER RECEIVED FOR FILING
Date 5-15-09
By [Signature]

declared that her sister Vivian Marino, now deceased, rented the apartment on the second floor of the subject property when her husband was serving overseas in World War II. Ms. Dassing declared that she rented the second floor apartment from 1978-1980. Unfortunately, Ms. VanDevender was not able to offer any additional witnesses to prove the continuous and uninterrupted use of the property since 1955. She did, however, testify that she lived next door to the property and believed that the dwelling had always been used as two apartments since her childhood years. According to her, it was the prior tenant, Vivian Marino, who was involved in getting her parents together and that her grandparents purchased the property in 1978. As far back as she could remember (and she has lived in close proximity to the property for 49 years), she testified the property was used as a two-apartment dwelling.

James Landriscina, an adjacent property owner, appeared and testified as a Protestant in opposition to the requested relief. Mr. Landriscina submitted photographs in furtherance of his argument that there is inadequate parking on Leeds Avenue to support an additional apartment. Those photographs were marked and accepted into evidence as Protestant's Exhibit 1. Mr. Landriscina also submitted photographs of an automobile accident that occurred in front of the subject property and a photograph of debris that has accumulated on the property. These photographs were marked and accepted into evidence as Protestant's Exhibits 2 and 3. In addition to his beliefs that the surrounding neighborhood is not equipped to support an additional apartment, Mr. Landriscina also testified that he has lived in the neighboring home since 1997 and never saw the apartment being rented until approximately one (1) year ago when the Petitioner moved out of the home and allowed her son to live on the lower level.

Section 402.2 of the B.C.Z.R. is the controlling regulation involving conversions of a one-family dwelling to a two-family duplex. That section (Chart) requires a lot width of 80 feet at the

EXHIBIT RECEIVED FOR FILING
Date 5-15-09
By [signature]

front building line and a lot area of 10,000 square feet (1,840 more square footage than the Petitioners have), thus preventing, as a matter of right, a two-apartment use in the D.R.5.5 zone. Instead, Petitioners have attempted to establish a nonconforming use pursuant to Section 104 of the B.C.Z.R., which states as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations; provided that upon any change from such nonconforming use to any other use whatsoever, *or any abandonment or discontinuance of such nonconforming use for a period of one year or more*, the right to continue or resume such nonconforming use shall terminate."

It is well settled law that nonconforming uses are not favored. Nonconforming uses are contrary to the zoning scheme established by the zoning regulations. *See McKemy v. Baltimore County*, 39 Md. App. 257 (1978). Moreover, as I advised Mrs. VanDevender at the outset of the public hearing, it is the burden of the Petitioner to conclusively prove the nonconforming character of the proposed use. Clear and convincing testimony and evidence must be produced to show that the use existed prior to 1955 and that such use has been continuous and uninterrupted since that time.

Considering all of the testimony and evidence presented at the public hearing, I am not persuaded that the Petitioners have met their lofty burden in this case. In my judgment, the credible and reliable testimony offered is persuasive to a finding that the property was used periodically as a two- bedroom apartment. However, understandably, Ms. VanDevender had a difficult time producing witnesses that can corroborate her theory that the use of the property has existed in a continuous and uninterrupted manner for the entire statutory period. Accordingly, the Petition must be denied and the two-apartment use must be discontinued at the expiration of the current lease, which runs until August 31, 2009.

It must be noted that this decision is not a reflection upon the Petitioners in this case. Ms. VanDevender made a reasonable attempt to legalize her use of the subject property by pursuing and

ORIGINAL RECEIVED FOR FILING
Date 5-15-09
By [signature]

obtaining a Rental Housing License from the Department of Permits and Development Management.

The License was marked and accepted into evidence as Petitioners' Exhibit 2. It is hard to imagine that a County citizen is charged with knowing that although he/she has obtained a license to rent an apartment on their property that he/she could still be held in violation of the B.C.Z.R. It also appears that this may not be a problem that is confined to the property at stake in this case. Ms. VanDevender submitted a zoning map of the surrounding area, which was marked and accepted into evidence as Petitioners' Exhibit 8. The map supports Ms. VanDevender's statement that numerous homes in the surrounding area are used as rental homes. Considering that many of the properties in the Arbutus area of Baltimore County do not contain the requisite area square footage and are not 80 feet wide at the front building line so as to maintain two apartments as of right, this case may represent a recurring problem for residents in the surrounding area. In any event, given that the Petitioners went to the trouble of obtaining a Rental Housing License, I would not recommend that she be charged with a civil fine and suggest that she simply be required to cease use of the property as two apartments at the expiration of the current lease.

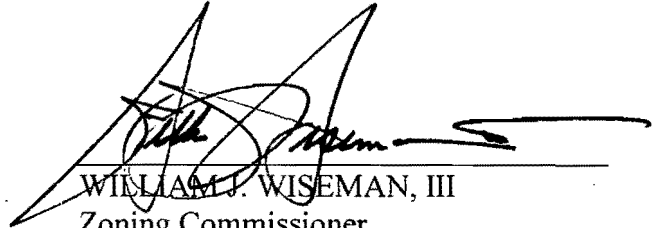
Pursuant to the advertisement, posting of the property, and public held thereon, and for the stated reasons, the Petition for Special Hearing should be denied.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County, this 15th day of May 2009, that the Petition for Special Hearing seeking approval of an existing two apartment dwelling on the subject property, as a legal, nonconforming use, in accordance with Petitioners' Exhibit 1, be and the same is hereby DENIED; and

1. Petitioners shall be required to cease the rental of the property as a two-apartment on August 31, 2009, at the expiration of the current lease, and shall return its use to that of a single-family dwelling.

2. To assure compliance with this Order, the Petitioners shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management (DPDM) reasonable access to the building to insure compliance.

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



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

CAPTION RECEIVED FOR FILING
Date 5-15-09
By 193



JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

May 15, 2009

Robert H. VanDevender
Eleanor R. VanDevender
4409 Leeds Avenue
Baltimore, MD 21229

IN RE: PETITION FOR SPECIAL HEARING

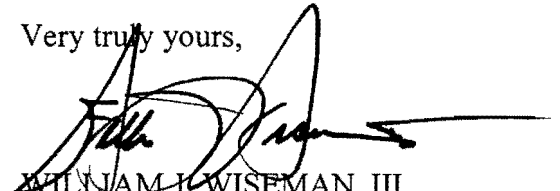
NW/S Leeds Avenue, 235' SW of c/line of Knecht Avenue
(4402 Leeds Avenue)
13th Election District – 1st Council District
Robert VanDevender, et ux, *Legal Owners* - Petitioners
Case No. 2009-0225-SPH

Dear Mr. and Mrs. VanDevender:

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,



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: James V. Landriscina, 4400 Leeds Avenue, Arbutus, MD 21229
People's Counsel; Code Enforcement Division, DPDM; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 4402 Leeds Ave. Balto. MD 21229
which is presently zoned DR 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

Nonconforming use of two apartment detached dwelling on 8160 sf lot instead of required 10,000 sf lot

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:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Robert H. VanDevender

Name - Type or Print

Signature

Eleanor R. VanDevender

Name - Type or Print

Signature

4402 Leeds Ave.

410-206-5644

Address

Telephone No.

Baltimore

MD

21229

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

Date

2/26/09

Case No. 2009-0225-SPH

REV 9/15/98

ORDER RECEIVED FOR FILING

Date 5-15-09

By DW

ZONING DESCRIPTION FOR 4402 LEEDS AVENUE, BALTIMORE, MARYLAND,
21229.

Beginning at a point on the northwest side of Leeds Avenue, which is 235.32 feet southwesterly from Knecht Avenue, then along Leeds Avenue a distance of 40 feet, then westerly 204 feet then northerly 40 feet, then easterly 204 feet back to the point of beginning. Being and comprising house and lot known as 4402 Leeds Avenue and located in the 13th Election District, 1st Councilmanic District, *containing 8160 sf.*

2009-0225-SPH

Date: 2/26/09

PAID RECEIPT

REPORT OF ACTUAL

2009 2010 2011 2012

REC-1501 WALKIN JUNE 1961

RECEIPT # 409351 2/25/2019 00:00

NAME: _____

100-443887-100

Receipt for \$175.00

5/3 06 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

Baltimore County, Maryland

[illegible]

Total: 65.00

Rec From: E. Van Deyender

For 4402 Leeds Ave 2009-0225-SP11
Bethesda, Md 20814

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

**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: # 2009-0225-SPH
4402 Leeds Avenue
N/west side of Leeds Avenue,
235 feet s/west of centerline
of Knecht Avenue

13th Election District
1st Councilmanic District
Legal Owner(s): Robert &
Eleanor VanDevender

Special Hearing: to permit
the nonconforming use of a
two apartment detached
dwelling on 8,160 square
feet lot instead of required
10,000 square foot lot.

Hearing: Wednesday,
April 22, 2009 at 11:00
a.m. in Room 104, Jeffer-
son Building, 105 West
Chesapeake Avenue,
Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible;
for special accommoda-
tions Please Contact the
Zoning Commissioner's Of-
fice at (410) 887-4386.

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

JT/4/614 Apr. 7: 198420

CERTIFICATE OF PUBLICATION

4/9/, 2009

THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each of 1 successive weeks, the first publication appearing
on 4/7/, 2009.

- ☒ 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 2009-0255-A

Petitioner/Developer MICHAEL
ARNOFF

Date Of Hearing/Closing: 4/27/09

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 penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 3605 WOODVALEY DRIVE

This sign(s) were posted on April 4, 2009

Month, Day, Year

Sincerely,

Martin Ogle 4/14/09
Signature of Sign Poster and Date

Martin Ogle
60 Chelmsford Court
Baltimore, Md, 21220
443-629-3411

Martin Ogle 4/14/2009



04/11/2009

Requested: August 20, 2009

APPEAL SIGN POSTING REQUEST

CASE NO.: 09-225-SPH

4402 Leeds Avenue

13th ELECTION DISTRICT

APPEALED: 6/4/09

RECEIVED
AUG 27 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

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

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

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Theresa Shelton
Administrator

CASE NO.: 09-225-SPH

LEGAL OWNER: Robert and Eleanor VanDevender

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

4402 LEEDS AVENUE
N/W SIDE OF LEEDS AVE, 235' S/W OF CENTERLINE OF KNECHT AVE

The sign was posted on 8-27, 2009.

By: M. Stewart Kelly
(Signature of Sign Poster)

M. Stewart Kelly
(Print Name)

PHOTOGRAPHIC RECORD

Facility No.:

Record No.:

09-225-SPH

Date of Photograph(s):

8-27-09

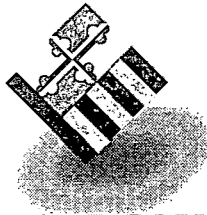
4402 LEEDS Ave



I HEREBY CERTIFY that I took 3 photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above referenced Facility/Record Number on the date set above.

M. Stuart Kelly
(Enforcement Officer)





BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

March 18, 2009
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: 2009-0225-SPH

4402 Leeds Avenue

N/west side of Leeds Avenue, 235 feet s/west of centerline of Knecht Avenue

13th Election District – 1st Councilmanic District

Legal Owners: Robert & Eleanor VanDevender

Special Hearing to permit the nonconforming use of a two apartment detached dwelling on 8,160 square feet lot instead of required 10,000 square foot lot.

Hearing: Wednesday, April 22, 2009 at 11:00 a.m. in Room 104, Jefferson Building.
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in cursive script that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Robert & Eleanor VanDevender, 4402 Leeds Avenue, Baltimore 21229

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 7, 2009.**
- (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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, April 7, 2009 Issue - Jeffersonian

Please forward billing to:
Robert VanDevender
4402 Leeds Avenue
Baltimore, MD 21229

410-206-5644

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: 2009-0225-SPH

4402 Leeds Avenue

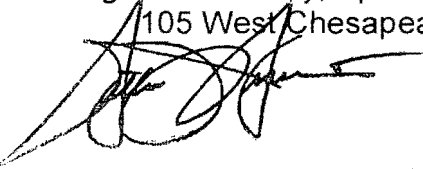
N/west side of Leeds Avenue, 235 feet s/west of centerline of Knecht Avenue

13th Election District – 1st Councilmanic District

Legal Owners: Robert & Eleanor VanDevender

Special Hearing to permit the nonconforming use of a two apartment detached dwelling on 8,160 square feet lot instead of required 10,000 square foot lot.

Hearing: Wednesday, April 22, 2009 at 11:00 a.m. in Room 104, 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 ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 2009-0225 SPH

Petitioner: Robert + Eleanor VanDevender

Address or Location: 4402 Leeds Ave, Balto, MD 21229

PLEASE FORWARD ADVERTISING BILL TO:

Name: Robert VanDevender

Address: 4402 Leeds Ave.

Balto, MD 21229

Telephone Number: 410-206-5644

Revised 7/11/05 - SCJ



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

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

December 2, 2009

NOTICE OF ASSIGNMENT

CASE #: 09-225-SPH **IN THE MATTER OF: Robert and Eleanor VanDevender**
Legal Owners /Petitioners
4402 Leeds Avenue / 13th Election District; 1st Councilmanic District

RE: SPH – to permit the nonconforming use of a two apartment detached dwelling on 8,160 sq. ft.
ilo req'd 10,000 sq. ft.

5/15/09 –DZC decision the Petitioner's Request for Special Hearing relief is DENIED and Petitioner
shall cease the rental of the property.

ASSIGNED FOR: THURSDAY, FEBRUARY 4, 2010, AT 10:00 A.M.

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

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

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

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

Theresa R. Shelton, Administrator

c: Counsel for Appellant/Petitioner
Appellant/Petitioner

: J. Carroll Holzer, Esquire
: Robert H. and Eleanor R. VanDevender

James V. Landriscina

People's Counsel for Baltimore County
William Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Donald E. Brand, Code Enforcement
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



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

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

February 4, 2010

NOTICE OF DELIBERATION

CASE #: 09-225-SPH

IN THE MATTER OF: Robert and Eleanor VanDevender
Legal Owners /Petitioners
4402 Leeds Avenue / 13th Election District; 1st Councilmanic District

Having concluded this matter on February 4, 2010, a public deliberation has been scheduled for the following date /time:

DATE AND TIME: TUESDAY, MARCH 9, 2010 at 9:30 a.m.

LOCATION : Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

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

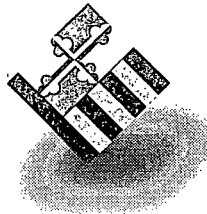
Theresa R. Shelton
Administrator

c: Counsel for Appellant/Petitioner
Appellant/Petitioner

: J. Carroll Holzer, Esquire
: Robert H. and Eleanor R. VanDevender

James V. Landriscina

People's Counsel for Baltimore County
William Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Donald E. Brand, Code Enforcement
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



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
April 16, 2009

Robert & Eleanor VanDevender
4402 Leeds Ave.
Baltimore, MD 21229

Dear: Robert & Eleanor VanDevender

RE: Case Number 2009-0225-SPH, 4402 Leeds Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 26, 2009. 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." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

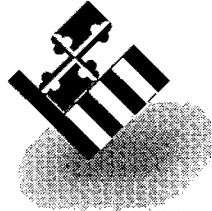
DATE: March 10, 2009

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

SUBJECT: Zoning Advisory Committee Meeting
For March 16, 2009
Item Nos. 2009-0222, 0225, 0226, and
0227

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

DAK:CEN:lrk
cc: File
ZAC- NO COMMENTS-03162009



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

March 9, 2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: March 9, 2009

Item Numbers **0225**, 0226, 0227, 0228 and 0229

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.

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

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

BW 4/22 11am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 16, 2009

RECEIVED

MAR 18 2009

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

ZONING COMMISSIONER

SUBJECT: Zoning Advisory Petition(s): Case(s) 09-225- Special Hearing

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Dennis Wertz in the Office of Planning at 410-887-3480.

Prepared By:

Cecilia Murray

Division Chief:
CM/LL

Thane Larkman



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: MARCH 12, 2009

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

RE: Baltimore County
Item No 2009-0225-SPH
4402 LEEDS AVE
DEVENDER 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. 2009-0225-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



BW
4-22-09
11 AM

BALTIMORE COUNTY, MARYLAND**Inter-Office Correspondence**

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: April 22, 2009
SUBJECT: Zoning Item # 09-225-SPH
Address 4402 Leeds Avenue
(Van Devender Property)

Zoning Advisory Committee Meeting of March 9, 2009

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

Reviewer: JWJ

Date: 4/22/09

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
4402 Leeds Avenue; NW/S Leeds Avenue, * ZONING COMMISSIONER
235' SW of Knecht Avenue *
13th Election & 1st Councilmanic Districts *
Legal Owners: Robert & Eleanor VanDevender* FOR
Petitioner(s) *
* BALTIMORE COUNTY
*
* 09-225-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

MAR 12 2009

[Signature]

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

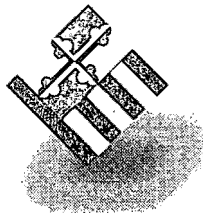
CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of March, 2009, a copy of the foregoing Entry of Appearance was mailed to Robert & Eleanor VanDevender, 4402 Leeds Avenue, Baltimore, MD 21229, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 20, 2009

Robert VanDevender
Eleanor VanDevender
4409 Leeds Avenue
Baltimore, MD 21229

Dear Mr. & Mrs. VanDevender:

RE: Case: 2009-0225-SPH, 4402 Leeds Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on June 4, 2009 by J. Carroll Holzer on your behalf. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

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

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
James Landriscina, 4400 Leeds Avenue, Arbutus 21229
J. Carroll Holzer, 508 Fairmount Avenue, Towson 21286

APPEAL

Petition for Special Hearing
4402 Leeds Avenue
N/west side of Leeds Avenue, 235 feet s/west of centerline of Knecht Avenue
13th Election District – 1st Councilmanic District
Legal Owners: Robert & Eleanor VanDevender

Case No.: 2009-0225-SPH

- ✓ Petition for Special Hearing (February 26, 2009)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (March 18, 2009)
- ✓ Certification of Publication (The Jeffersonian – April 7, 2009)
- ✓ Certificate of Posting (April 4, 2009) by Martin Ogle
- ✓ Entry of Appearance by People's Counsel (March 12, 2009)
- ✓ Petitioner(s) Sign-In Sheet – One Sheet
- Protestant(s) Sign-In Sheet - None
- ✓ Citizen(s) Sign-In Sheet – One Sheet
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibit
As listed on attached Exhibit Sheet
- ✓ Protestants' Exhibits:
As listed on attached Exhibit Sheet
- Miscellaneous (Not Marked as Exhibit)
 - ✓ • Fax of Complaint Report (7 pages)
- ✓ Zoning Commissioner's Order (DENIED – May 15, 2009)
- ✓ Notice of Appeal received on June 4, 2009 from J. Carroll Holzer

RECEIVED

AUG 20 2009

BALTIMORE COUNTY
BOARD OF APPEALS

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Mr. & Mrs. Vandevender
Mr. J. Carroll Holzer
James Landriscina

date sent August 20, 2009, klm

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Robert and Eleanor VanDevender

09-225-SPH

DATE: March 9, 2010

BOARD/PANEL: Lawrence S. Wescott
 Wendell H. Grier
 Edward W. Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing to permit a non-conforming use of a detached two apartment dwelling on 8,160 sq ft in lieu of the required 10,000 sq ft.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed the history of this matter. The Zoning Commissioner denied the Petition for Special hearing stating that the property did not qualify for a "grandfathered" non-conforming use as a 2 apartment dwelling.
- The Board reviewed the regulations and cited that there are three basis to reject a non-conforming use. 1) that the use has changed to any other use, 2) the use has been abandoned or discontinued for one year or more, and 3) if an enlargement occurs which changes the use. The Board determined that the issue in this matter is whether the Petitioners have maintained the property as a non-conforming 2 apartment dwelling since 1955.
- The Board reviewed the evidence and testimony in this matter. The Board discussed that problems arise when records are not kept. In this instance, the Petitioner's son lived in the second floor apartment without a lease for a number of years. In 1994 the Petitioners installed 2 air-conditioning units at the residence. The Protestant doesn't contest that the dwelling consists of 2 apartments; the issue for him is whether the use has been abandoned in the past. The Protestant indicated that his residence was broken into two apartments also but he has made changes to use his dwelling as a single family home.
- The Board discussed two cases in which the issue of an abandoned or discontinued non-conforming use was decided by a panel of this Board. The Leucking case is quite similar to this case, wherein the owner, Mr. Leucking owned a home that was split into two apartments. The apartments were occupied by the owner and an uncle. The owner decided to turn the basement into a third apartment and thus the Board ruled that he had expanded the use beyond the previous non-conforming use. In the 3600 Georgetown case, the property was used as a trucking facility. The owner stopped sending trucks to

the facility but maintained the facility by sending someone to the facility periodically for maintenance of the buildings. In this case, the Board ruled that the owner maintained the non-conforming use.

- The Board discussed that the County Council is trying to get rid of non-conforming uses in the County; however, the Board determined the language of the statute is not strong enough to rid the County of non-conforming uses like this one.
- The Board reviewed hypothetical situations including, if an owner had a 2 apartment non-conforming use and due to health problems, decided not to rent the apartment for two years, would he then be able to rent the apartment? The Board determined that as long as the owner did not use the unrented apartment as part of his home, and as long as he kept the use separate, the use was never abandoned. Additionally, the Board determined that intention plays a role, if the owner intended to incorporate the two apartments into one, the use would expire, the owner kept the uses separate, it shows the intention to keep the use. Another hypothetical was with regard to an amusement park. If the amusement park shut down for two years, would the owner be able to reopen as an amusement park? The Board determined that this is different because the owner stopped business; however, if the owner came in periodically and performed maintenance on the roller coasters and machinery in the amusement park, it is evident that the owner intended to keep the use. If the owner let the property fall into disrepair, that would indicate an abandonment of the non-conforming use.
- In the present case, the Board determined that the installation of two air-conditioning units and the addition of an exterior entrance to the second apartment, indicate the intention of the Petitioner to keep the second apartment. The Board determined that in the current economy, it could be difficult to maintain a renter and it would be unfair to the landlord to have the duty to keep someone in the apartment at all times with no lapse.

DECISION BY BOARD MEMBERS: The Board recognizes the non-conforming two apartment use and determined that the use has not been abandoned or discontinued.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to Grant the Petition for Special Hearing to permit a non-conforming use of a detached two apartment dwelling on 8,160 sq ft in lieu of the required 10,000 sq ft.

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

Respectfully Submitted,


Sunny Cannington

Address List

Petitioners:

Robert & Eleanor VanDevender
4409 Leeds Avenue
Baltimore, MD 21229

4402 - see ltr 6/25

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

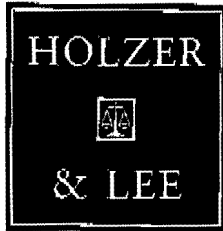
Protestants:

James Landriscina
4400 Leeds Avenue
Baltimore, MD 21229

Interoffice:

Office of People's Counsel
Timothy Kotroco, director/PDM
Arnold F. "Pat" Keller, Director/Planning
William J. Wiseman, III, Zoning Commissioner
John Beverungen, County Attorney

Donald F. Brand - Code Eng.



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER
1907-1989

THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

~~F. M. LEE HOLZER@CMTL.NET~~

jcholzer@cavtel.net

VIA FAX 410-887-3182

Ms. Theresa R. Shelton, Administrator
County Board of Appeals
of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, Maryland 21204

June 25, 2009
#7837

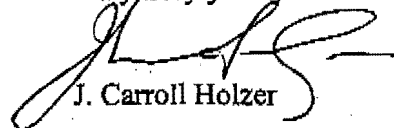
RECEIVED
JUN 25 2009
BALTIMORE COUNTY
BOARD OF APPEALS

RE: Case No.: 2009-225-SPH
Robert Vandevender, et ux./Owners; Petitioners

Dear Ms. Shelton:

On June 4, 2009, in our Notice of Appeal to the Board of Appeals on behalf of my clients, Robert and Eleanor Vandevender, in the above referenced matter, we inadvertently indicated that the address of my clients was 4409 Leeds Ave. Their correct address is 4402 Leeds Ave. We apologize for the error.

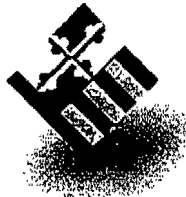
Very truly yours,



J. Carroll Holzer

JCH:mlg

cc: Eleanor Vandevender

887
4/10 3/62**BALTIMORE COUNTY**
MARYLANDJAMES T. SMITH, JR.
*County Executive*WILLIAM J. WISEMAN III
Zoning Commissioner

May 15, 2009

Robert H. VanDevender
Eleanor R. VanDevender
4409 Leeds Avenue
Baltimore, MD 21229**IN RE: PETITION FOR SPECIAL HEARING**NW/S Leeds Avenue, 235' SW of c/line of Knecht Avenue
(4402 Leeds Avenue)
13th Election District – 1st Council District
Robert VanDevender, et ux, *Legal Owners* - Petitioners
Case No. 2009-0225-SPH

Dear Mr. and Mrs. VanDevender:

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 CountyWJW:dlw
Enclosurec: James V. Landriscina, 4400 Leeds Avenue, Arbutus, MD 21229
People's Counsel; Code Enforcement Division, DPDM; File

BALTIMORE COUNTY GOVERNMENT
CODE ENFORCEMENT
111 W CHESAPEAKE AVE
TOWSON, MARYLAND 21204
410-887-3351 FAX # 410-887-2823

BW 4/22
11 AM
2009-0225-
SPH

FACSIMILE TRANSMITTAL SHEET

TO: BILL WISEMAN FROM: DAN O'NEILL 443-414-2236
COMPANY: DATE: 4-21-09
FAX NUMBER: TOTAL NO. OF PAGES INCLUDING COVER: 7
PHONE NUMBER: SENDER'S PHONE NUMBER:
RE: YOUR REFERENCE NUMBER:

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Give me a call with any questions!
Dan O

If you need pictures of house or copies
of correction notice & citation - let me know!

Permits & Development Management
Complaint Report

Report Criteria:

Employee(s): EE0000158 to EE0000158

Scheduled Date(s): 3/4/2009 to 3/4/2009

PE Range: en01 to en04

Record ID	AS/400 Case	Assigned To	Assigned Date	Received By	Received Date	Status	Hearing Date	ADC Grid
CO0052968		Daniel O'Neil	10/29/2008	Claudia Fischer	10/29/2008	Open - Normal	01/13/2009	42A5

Complaint Description: 1. It appears owner has split house into at least 2 rental units, maybe more? There seems to be a lot of people living there. Owner moved out & this is not his "principle residence" as listed in county records. We don't believe this property is licensed for multiple rental units.

2. Rear deck of the home is collapsing. It has been rigged on one end with some temporary braces, but still looks like it's sagging & ready to fall off the house. Residents are still using the deck despite the obvious risks of injury.

3. The owner built a large shed in back yard without a permit and placed it almost right on the property line instead of the 2.5 feet required by Baltimore county.

4. There is what appears to be an inoperable vehicle parked in front of the house. It is a Tan, Ford, 4 door sedan with damage to the rear end & the trunk lid is open. This vehicle has not moved for at least 3 months & is an eyesore to the neighborhood.

Facility: FA0201982 PDM 1303230140 4402 LEEDS AVE BALTIMORE, MD, 21229	Owner: VAN DEVENDER ROBERT H VAN DEVENDER ELEANOR R 4402 LEEDS AV BALTIMORE MD 21229	Complainant: CONTACT_ME_ANYTIME@VERIZON.NET FOLDER MADE
---	---	--

Daily Activity Details

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0004700	Daniel O'Neil	10/29/2008			

Inspector Notes:

Violation Details - No Data

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0004814	Daniel O'Neil	11/05/2008	INITIAL INSPECTION	NOT IN COMPLIANCE	CORRECTION NOTICE ISSUED

Inspector Notes: 11/5/08-per code-due to square footage of property-owner is not allowed to have any other tenants living at the residence-correction notice issued-DJO

Violation Details

Violation Record ID: IV0004631	Comply By: 03/04/2009	Complied On:	Status: NOT IN COMPLIANCE
Program Category/Section Source: BCZR Resource Conservation/RCC		Violation Description	Conversion of Dwellings - Use Not Permitted
Correction Text: Cease Use			
Violation Text: Sec. 402: Not permitted in RCC zone.			
Violation Comment:			

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0005135	Daniel O'Neil	11/05/2008	INITIAL INSPECTION	NOT IN COMPLIANCE	CORRECTION NOTICE ISSUED

Inspector Notes: 11/5/08-according to Zoning-insufficient land for 2 occupants-DJO

Violation Details

Violation Record ID: IV0004868	Comply By: 12/04/2008	Complied On: 02/05/2009	Status: IN COMPLIANCE
Program Category/Section Source: BCZR Density Residential/R		Violation Description	Conversion of Dwellings - Use Not Permitted
Correction Text: Comply with all applicable restrictions according to conversion table in BCZR 402			
Violation Text: Sec. 402: Use Permitted only after compliance with all Restrictions.			
Violation Comment:			

BALTIMORE COUNTY
MARYLANDPermits & Development Management
Complaint Report

Report Criteria:

Employee(s): EE0000158 to EE0000158

Scheduled Date(s): 3/4/2009 to 3/4/2009

PE Range: en01 to en04

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0005463	Daniel O'Neil	11/13/2008			

Inspector Notes:

Violation Details - No Data

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0007538	Daniel O'Neil	12/09/2008	REINSPECTION	NOT IN COMPLIANCE	CITATION ISSUED

Inspector Notes: 12/9/08-upon reinspection, property owner is still not in compliance and a hearing will be scheduled for 1/13/09-DJO

Violation Details - No Data

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0009371	Daniel O'Neil	01/05/2009	REINSPECTION	NOT IN COMPLIANCE	MONITOR

Inspector Notes: 1/5/09-Upon further inspection, additional pictures taken reflect separate entrance for 2nd floor tenant and separate mailbox marked 2nd floor-DJO

Violation Details - No Data

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0009769	Daniel O'Neil	01/08/2009	REINSPECTION	NOT IN COMPLIANCE	MONITOR

Inspector Notes: 1/08/09-Pictures taken of upstairs entrance for records prior to hearing date of tuesday 1/13/09-DJO

Violation Details - No Data

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0009942	Daniel O'Neil	01/12/2009	REINSPECTION	NOT IN COMPLIANCE	MONITOR

Inspector Notes:

Violation Details - No Data

Serial Number	Inspector	Activity Date	Service	Result	Action
DA0011663	Daniel O'Neil	02/05/2009	REINSPECTION	NOT IN COMPLIANCE	MONITOR

Inspector Notes: 2/5/09-Hearing was held. Don Brand sent it to zoning board for review-we are awaiting results-DJO

Violation Details - No Data

Comment Details

Type	Date	Comments
HEARING OFFICER'S COMMENTS	02/08/2009	**1/13/09 FINAL ORDER SENT TO ROBT. & ELEANOR VAN DEVENDER /JF**

Lien Information - None

Mileage:

**GENERAL AFFIDAVIT
BEFORE NOTARY**

I, ALYCE DASSING, ("Declarant"), am a resident of Gettysburg, Pennsylvania, and do hereby certify, swear or affirm, and declare that I am competent to give the following declaration based on my personal knowledge, unless otherwise stated, and that the following facts and things are true and correct to the best of my knowledge:

THAT I rented the apartment at 4402 Leeds Avenue, Baltimore, MD, 21229, from 1978-1980.

WITNESS my signature this 9 day of January, 2009.

Alyce Dassing
Alyce Dassing

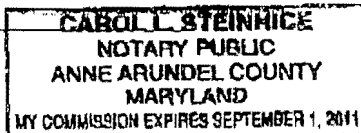
State of Maryland;
County of Anne Arundel;

On Jan 9, 2009, Alyce Dassing personally came before me and, being duly sworn, did state that he or she is the person described in the above document and that he or she signed the above document in my presence.

[Signature]
Signature of Notary Public

Notary Public, in and for the County of Anne Arundel
State of Maryland

My commission expires:



Notary Seal

**GENERAL AFFIDAVIT
BEFORE NOTARY**

I, GLORIA MINARIK ("Declarant"), am a resident of Hanover, Pennsylvania, and do hereby certify, swear or affirm, and declare that I am competent to give the following declaration based on my personal knowledge, unless otherwise stated, and that the following facts and things are true and correct to the best of my knowledge:

THAT my sister Vivian Marino, now deceased, rented the apartment at 4402 Leeds Avenue, Baltimore, MD 21229, during World War II, while her husband served in the United States military.

WITNESS my signature this 12 day of January, 2009.

Gloria Minarik
Gloria Minarik

State of PENNSYLVANIA)
County of YORK)

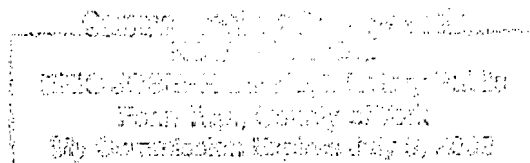
On JANUARY 12, 2009, Gloria Minarik, personally came before me and, being duly sworn, did state that he or she is the person described in the above document and that he or she signed the above document in my presence.

E. J. W.
Signature of Notary Public

Notary Public, In and for the County of YORK
State of PA

My commission expires: JULY 5, 2009

Notary Seal



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

Item #
2009-02255PH

In the Matter of

Civil Citation No. 52968

Robert Van Devender
Eleanor R. Van Devender

4402 Leeds Avenue

Respondent

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

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on January 13, 2009, for a hearing on a citation for violations under the Baltimore County Zoning Regulations section 402, illegal conversion of dwelling on residential property known as 4402 Leeds Avenue, 2129.

On December 9, 2008, pursuant to §3-6-205, Baltimore County Code, Code Enforcement Officer, issued a code enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$6,800.00 (six thousand eight hundred dollars)

The following persons appeared and testified: Eleanor Van Devender, owner and Respondent along with her husband, and Daniel O'Neil, Baltimore County Code Enforcement Officer.

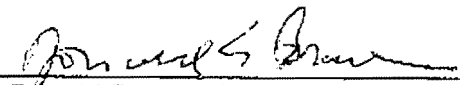
Mr. O'Neil testified that the dwelling on the property had two dwelling units as evidenced by a second mailbox and second floor entrance and that the size of the lot was 8,100 sq. ft., not the 10,000 sq. ft. required by the zoning regulations allowing two dwelling units. Eleanor Van Devender testified that the property had been in her family for 83 years, that she and her husband purchased the property in 1978 when a separate entrance was installed, that to her knowledge the house had been divided into two separate dwelling units for as long as she could remember and she produced two affidavits, one showing that an apartment at the subject address, 4402 Leeds Avenue, had been rented during World

Robert Van Devender
Eleanor R. Van Devender

Page 2

War II by a sister of the affiant and another by a person who rented the apartment from 1978 to the present, it appearing that the house may have contained two separate dwelling units since prior to the elimination of the two-family dwelling provision on March 30, 1955. The Respondents should have been directed to make application for a special hearing to establish a legal non-conforming use. If a complaint had not been filed, approval may have been obtained through a conditional use permit using the two affidavits as proof. A conditional use permit allows two occupancies unless challenged or a complaint filed such as is the case here.

IT IS ORDERED by the Code Enforcement Hearing Officer this 13th day of January 2009 that the Respondents make an appointment with the Zoning Review Office (telephone number 410-887-3391) by February 1, 2009 and follow through and file a Petition for a Special Hearing to Establish a Legal Non-conforming Use by March 15, 2009 or remove the second dwelling unit, including cooking facilities (1) by March 31, 2009, if the tenancy is month to month or (2) at the end of the term of any existing lease if that date is 3 months or more from the date of this order or December 31, 2009, which ever date is earlier. If the Respondents are unable to establish a non-conforming use at the Special Hearing, the second dwelling shall be removed (1) within three months of the date of the final order if the tenancy is month to month or (2) at the end of the term of any existing lease if that date is 3 months or more beyond the date of the final order or by December 31, 2009, which ever is earlier.

Signed: 

Donald E. Brand
Baltimore County Hearing Officer

NOTICE TO VIOLATOR: The violator is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Violator may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Violator may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order. Any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

DEW/jat

5/4 - Kountz wcb

- CP called to find out

A) if transcript is
still needed

b) Appeal filed?

5/4 - No Appeal no
transcript.

Van Devender ~~E~~

Charles Kountz, Esq
~~Kountz~~ atty for
242-0100 Petitioner

transcript

2/4/10 Hrg

09-225-SP4



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
 Real Property Data Search (2007 vw5.1)

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 13 **Account Number -** 1303230140

Owner Information

Owner Name:	VAN DEVENDER ROBERT H VAN DEVENDER ELEANOR R	Use:	RESIDENTIAL
Mailing Address:	4402 LEEDS AV BALTIMORE MD 21229	Principal Residence:	YES
		Deed Reference:	1) / 5907/ 443 2)

Location & Structure Information

Premises Address	Legal Description
4402 LEEDS AVE	LT NWS LEEDS AV 235 SW OF KNECHT AVE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
101	18	772						1	Plat Ref:

Special Tax Areas

Town	
Ad Valorem	
Tax Class	

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1930	1,902 SF	8,160.00 SF	04

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2007	07/01/2008	07/01/2009
Land	32,290	72,290		
Improvements:	102,130	152,690		
Total:	134,420	224,980	194,792	224,980
Preferential Land:	0	0	0	0

Transfer Information

Seller: CHEW ELNORA	Date: 07/07/1978	Price: \$41,900
Type: IMPROVED ARMS-LENGTH	Deed1: / 5907/ 443	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

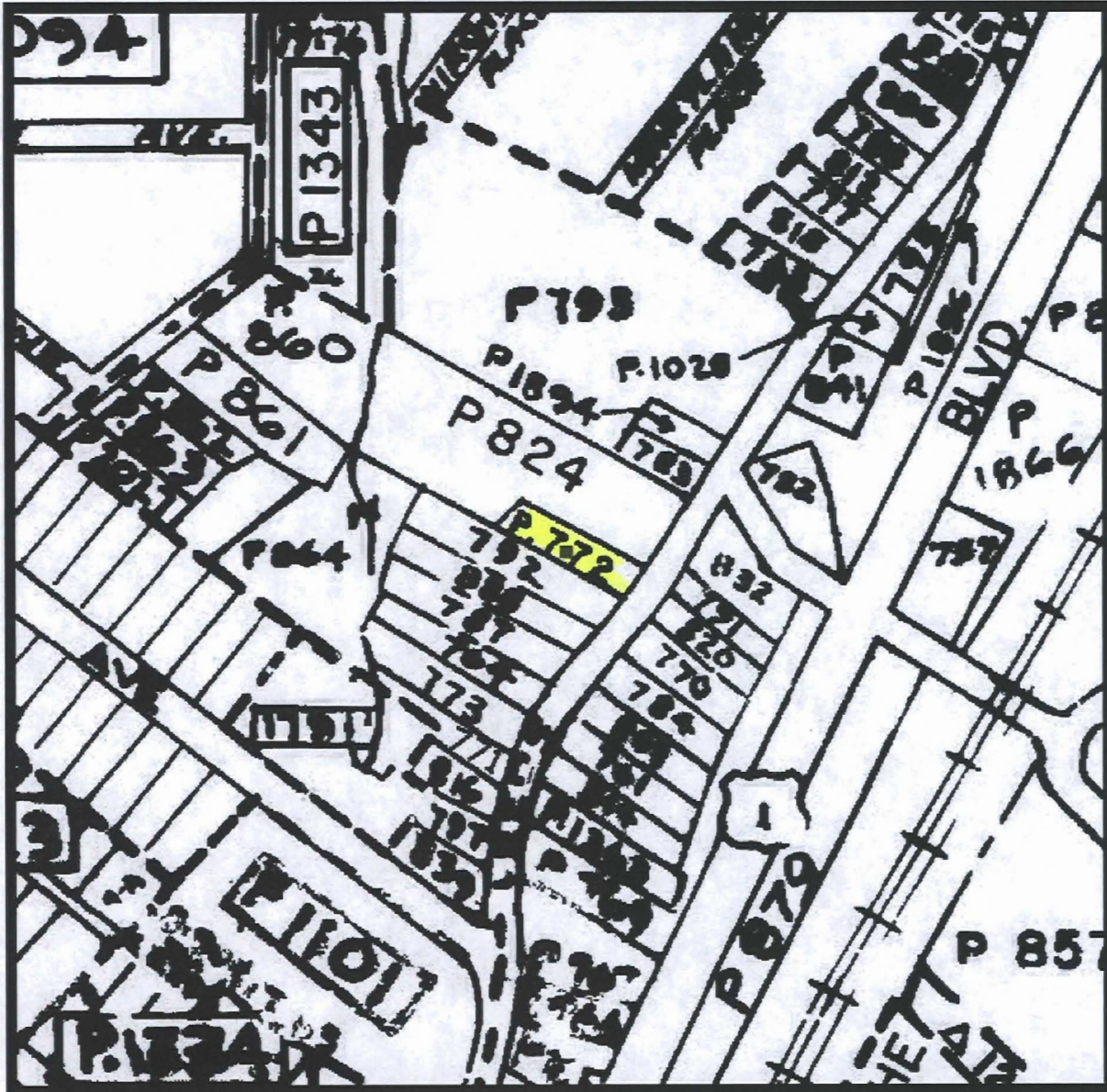
Special Tax Recapture:
 * NONE *



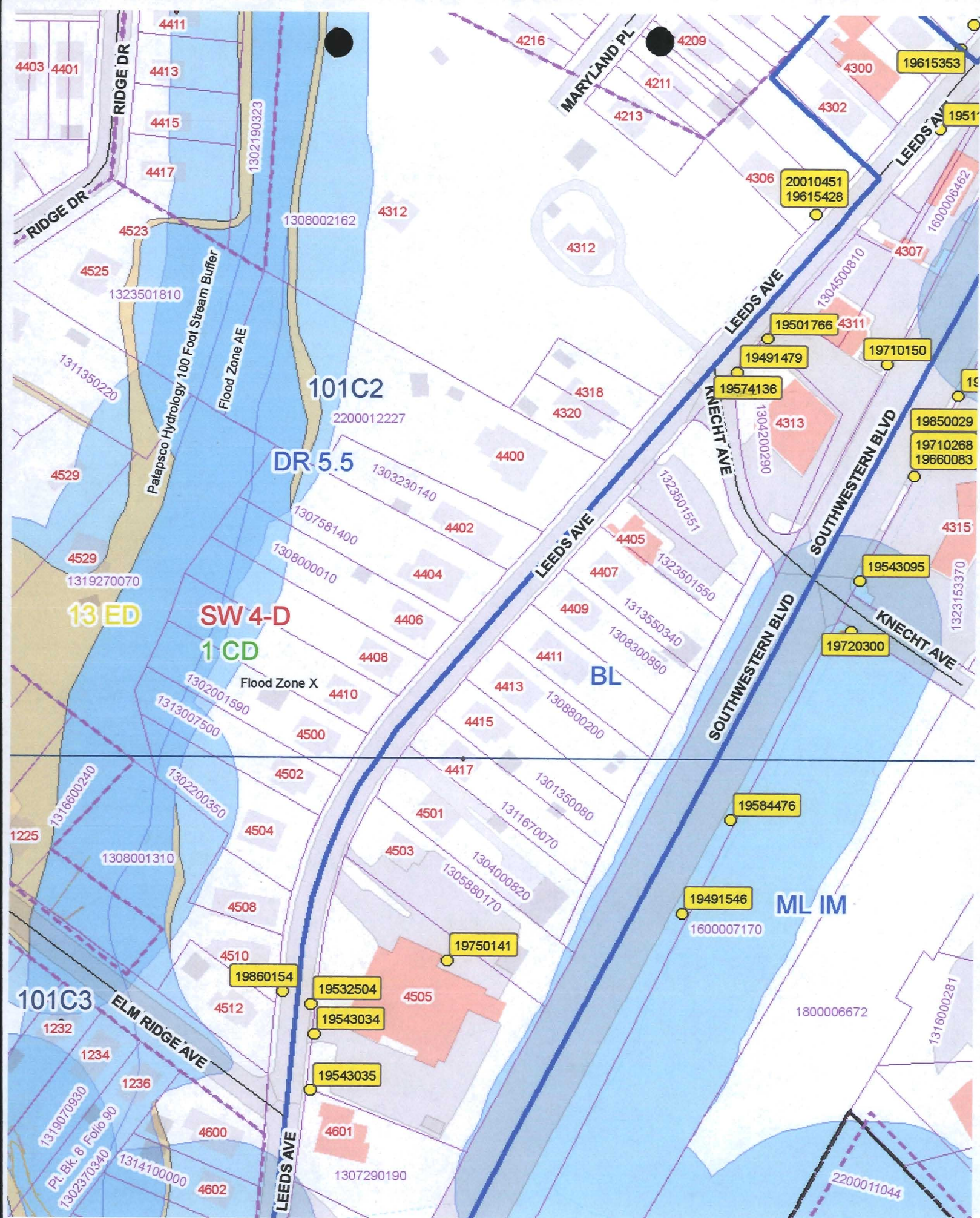
**Maryland Department of Assessments
and Taxation
BALTIMORE COUNTY
Real Property Data Search**

[Go Back](#)
[View Map](#)
[New Search](#)

District - 13 Account Number - 1303230140



Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department
of Planning web site at www.mdp.state.md.us/webcom/index.html





CASE NAME Van Dender
CASE NUMBER 2009-0225
DATE 4-22-09 SA-1

[illegible]

CASE NAME Van Devender.
CASE NUMBER 2009-0225-
DATE 4-22-09 .SPIH

CITIZEN'S SIGN-IN SHEET

[illegible]

Exhibits

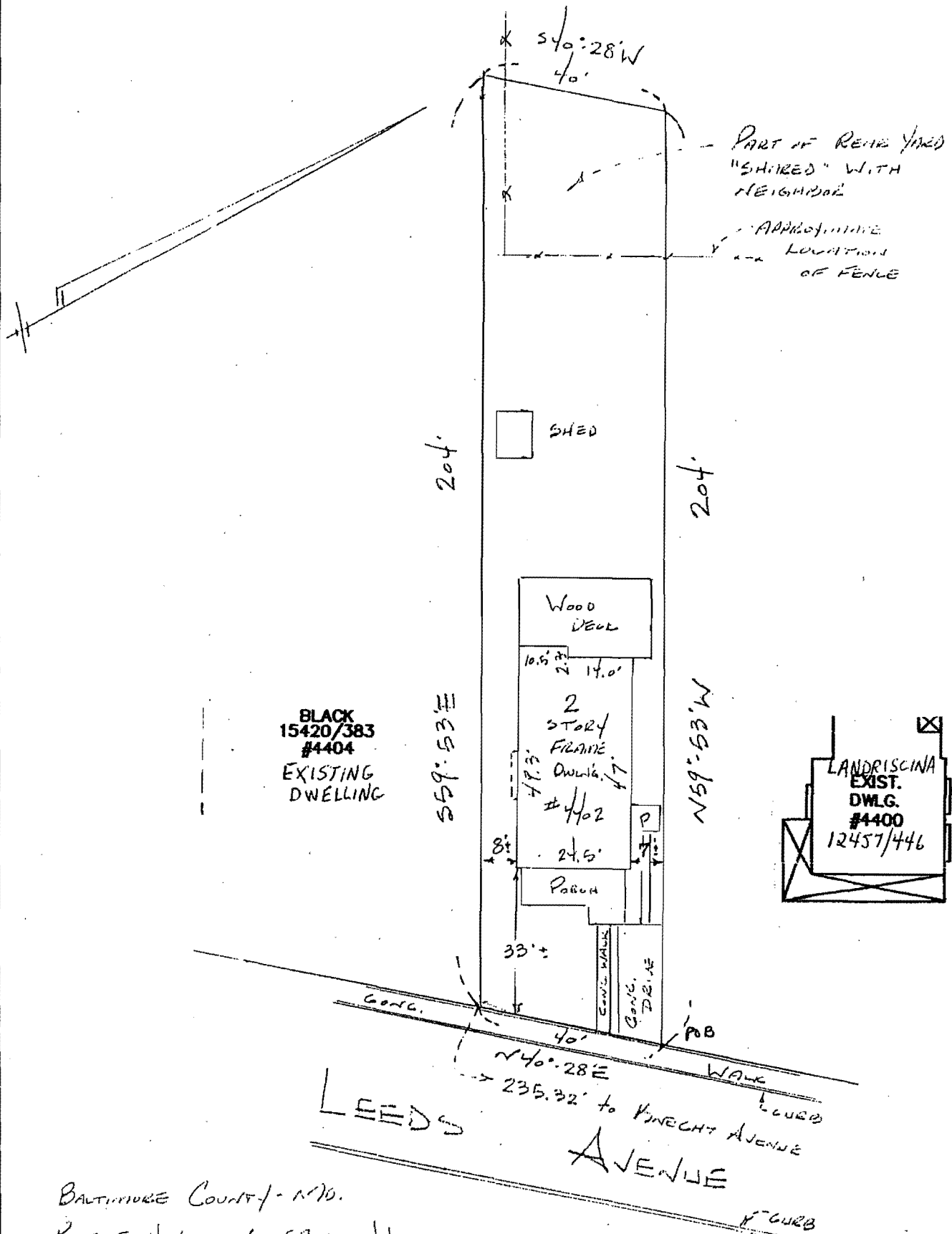
Case No.: 4402 LEEDS AVE - 2009-0225-SPH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN	PHOTO'S - inadequate PARKING
No. 2	Rental Housing License	PHOTO'S OF Accident at subject location
No. 3	Affidavit - VIVIAN MARINO	PHOTOGRAPHS OF DEBRIS ON PROPERTY THAT Accumulate
No. 4	Affidavit - Alyce DASSING	
No. 5	LEASE - 2nd Flr. JESSICA BOWEN	
No. 6	Photographs	
No. 7	Floor PLAN - 2nd Floor	
No. 8	ZONING MAP(S)	
No. 9	PHOTO'S OF NEIGHBORING Community	
No. 10		
No. 11		
No. 12		

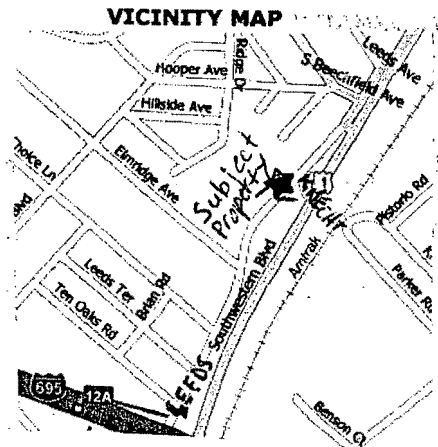


BALTIMORE COUNTY - MD.
 REF: E. H. K. J. No. 5907-443

LOCATION INFORMATION
 ELECTION DISTRICT: 13
 COUNCILMANIC DISTRICT: 1
 1" = 30'
 ZONING: DR 5.5
 LOT SIZE: 0.19 AC 8160 SF
 PUBLIC SEWER & WATER
 CHESAPEAKE BAY CRITICAL AREA: NO
 100 YEAR FLOOD PLAIN: NO
 HISTORIC PROPERTY/BLDG: NO
 PRIOR ZONING HEARING: NONE

PETITIONER'S

EXHIBIT NO. 1



Prepared By: E. VanDevender
 2/25/09

2009-0225-SPH



RENTAL HOUSING LICENSE

Baltimore County
Department of Permits and Development Management
County Office Building, Room 101
111 West Chesapeake Avenue
Towson, MD 21204

License No.: 08-05800
Date Issued: 07/09/08
Expiration Date: 07/09/11

Name and Address for Mailing:

ROBERT VANDEVENDER
ELEANOR VANDEVENDER
4402 LEEDS AVE

BALTIMORE, MD 21229

Property Owner Name and Address:

(If different than mailing name and address)

Rental Property Information

Rental Property Address:

4402 LEEDS AVENUE 2ND FLOOR
BALTIMORE, MD 21229

Number of Dwelling Units: 2

Property Account: 13-03-230140

Approval Authority

In accordance with Baltimore County Code, 2003, Article 35, Title 6, the above property owner is granted permission to rent the dwelling unit(s) described above.

Cheryl Kotrocc
Director, Department of Permits and Development Management

This license is purely governmental in nature, and may not be construed as providing any warranty or representation concerning the condition of the dwelling unit to the tenant or the public.

PETITIONER'S

EXHIBIT NO.

2

Case #2009-0225-SPH

52968

**GENERAL AFFIDAVIT
BEFORE NOTARY**

I, GLORIA MINARIK ("Declarant"), am a resident of Hanover, Pennsylvania, and do hereby certify, swear or affirm, and declare that I am competent to give the following declaration based on my personal knowledge, unless otherwise stated, and that the following facts and things are true and correct to the best of my knowledge:

THAT my sister Vivian Marino, now deceased, rented the apartment at 4402 Leeds Avenue, Baltimore, MD 21229, during World War II, while her husband served in the United States military.

WITNESS my signature this 12 day of January, 2009,

Gloria Minarik
Gloria Minarik

PETITIONER'S
EXHIBIT NO. 3

State of PENNSYLVANIA)
County of YORK)

On JANUARY 12, 2009, Gloria Minarik, personally came before me and, being duly sworn, did state that he or she is the person described in the above document and that he or she signed the above document in my presence.

Eric Joseph Binner
Signature of Notary Public

Notary Public, In and for the County of YORK
State of PA

My commission expires: JULY 5, 2009

Notary Seal

Commonwealth of Pennsylvania
NOTARIAL SEAL
ERIC JOSEPH BINNER, Notary Public
Penn Twp., County of York
My Commission Expires July 5, 2009

Case #2009-0225-SPH

52966

**GENERAL AFFIDAVIT
BEFORE NOTARY**

I, ALYCE DASSING, ("Declarant"), am a resident of Gettysburg, Pennsylvania, and do hereby certify, swear or affirm, and declare that I am competent to give the following declaration based on my personal knowledge, unless otherwise stated, and that the following facts and things are true and correct to the best of my knowledge:

THAT I rented the apartment at 4402 Leeds Avenue, Baltimore, MD, 21229, from 1978-1980.

WITNESS my signature this 9 day of January, 2009.

Alyce Dassing
Alyce Dassing

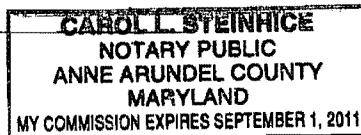
State of Maryland)
County of Anne Arundel)

On Jan 9, 2009, Alyce Dassing personally came before me and, being duly sworn, did state that he or she is the person described in the above document and that he or she signed the above document in my presence.

[Signature]
Signature of Notary Public

Notary Public, In and for the County of Anne Arundel
State of Maryland

My commission expires: _____



Notary Seal

PETITIONER'S

EXHIBIT NO. 4

Case #2009-0225-SPH

MARYLAND RESIDENTIAL LEASE AGREEMENT

This Residential Lease Agreement (hereinafter "Lease") is entered into this the 1ST day of JULY, 2008, by and between the Lessor(s): ROBERT and ELEANOR VanDEVENDER, (hereinafter referred to as "Landlord"), and the Lessee: JESSICA BOWEN. Lessees (hereinafter referred to collectively as "Tenant"), are jointly, severally and individually bound by, and liable, under the terms and conditions of this Lease.

For the valuable consideration described below, the sufficiency of which is hereby acknowledged, Landlord and Tenant do hereby covenant, contract and agree as follows:

1. GRANT OF LEASE: Landlord does hereby lease unto Tenant, and Tenant does hereby rent from Landlord, solely for use as a personal residence, excluding all other uses, the personal residence located in Baltimore County, Maryland, with address of:

4402 LEEDS AVENUE, SECOND FLOOR,
BALTIMORE, MD 21229 (hereinafter referred to as "leased premises", including the following items of personal property:

Refrigerator, Range, Microwave, Dishwasher, Built-in Entertainment Center, Ceiling Fans.

2. NATURE OF OCCUPANCY: As a special consideration and inducement for the granting of this Lease by the Landlord to the Tenant, the personal residence described above shall be used and occupied only by the members of the Tenant's family or others whose names and ages are set forth below:

JESSICA BOWEN, 28.

3. TERM OF LEASE: This Lease shall commence on the 1st day of FEBRUARY, 2009, and extend until its expiration on the 31st day of AUGUST, 2009.

4. SECURITY DEPOSIT: Tenant has paid Landlord the sum of \$875.00, to be held by Landlord as a security deposit for reasonable cleaning of, and repair of damages to, the premises upon the expiration or termination of this Lease, or other reasonable damages resulting from a default by Tenant. Tenant shall be liable to Landlord for all damages to the leased premises upon the termination of this Lease, ordinary wear and tear excepted. Tenant may not apply the security deposit to any rent due under this Lease. If Landlord sells or assigns the leased premises, Landlord shall have the right to transfer Tenant's security deposit to the new owner or assignee to hold under this Lease, and upon so doing Landlord shall be released from all liability to Tenant for return of said security deposit.

In compliance with Maryland Code § 8-203:

Within 30 days of the Landlord's receipt thereof, the security deposit accounts shall be maintained in branches of the financial institutions which are located within the State

and the accounts shall be devoted exclusively to security deposits and bear interest at the rate of at least 3 percent per annum.

Within 45 days after the end of the tenancy, the landlord shall return the security deposit to the tenant together with simple interest which has accrued in the amount of 3 percent per annum, less any damages rightfully withheld. Interest is not compound, shall accrue at 6 month intervals, and shall be payable only on security deposits of \$50 or more.

The security deposit, or any portion thereof, may be withheld for unpaid rent, damage due to breach of lease or for damage by the tenant or the tenant's family, agents, employees, guests or invitees in excess of ordinary wear and tear to the leased premises, common areas, major appliances, and furnishings owned by the landlord.

The tenant has the right to be present when the landlord or the landlord's agent inspects the premises in order to determine if any damage was done to the premises, if the tenant notifies the landlord by certified mail of the tenant's intention to move, the date of moving, and the tenant's new address.

The notice to be furnished by the tenant to the landlord shall be mailed at least 15 days prior to the date of moving. Upon receipt of the notice, the landlord shall notify the tenant by certified mail of the time and date when the premises are to be inspected. The date of inspection shall occur within five days before or five days after the date of moving as designated in the tenant's notice.

If any portion of the security deposit is withheld, the landlord shall present by first-class mail directed to the last known address of the tenant, within 45 days after the termination of the tenancy, a written list of the damages claimed, together with a statement of the cost actually incurred.

5. RENT PAYMENTS: Tenant agrees to pay rent unto the Landlord the sum of \$915.00 per month, payable in two installments during the term of this Lease. The first

PETITIONER'S

EXHIBIT NO.

5

Case #2009-0225-SPH



PETITIONER' S

EXHIBIT NO.

6

Case #2009-0225- SPH

APT. - ENTRANCE



Case #2009-0225-SPH

APT.-PRIVATE ENTRANCE



Case #2009-0225-SPH

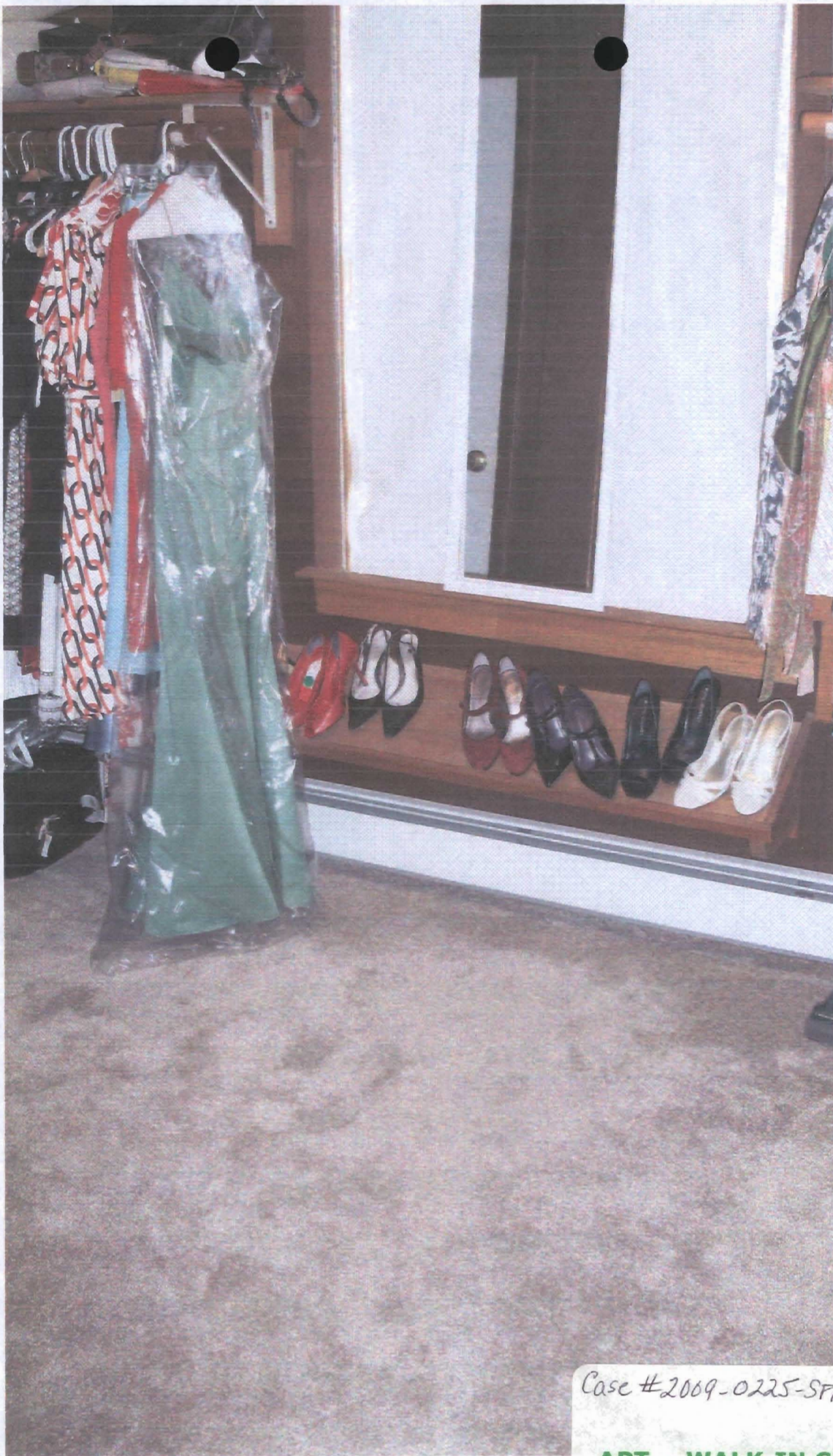
APT. - HALLWAY



Case #2009-0225-SP4

APT. - WALK-IN CLOSET

9x12



Case #2009-0225-SPH

APT. - WALK-IN CLOSET

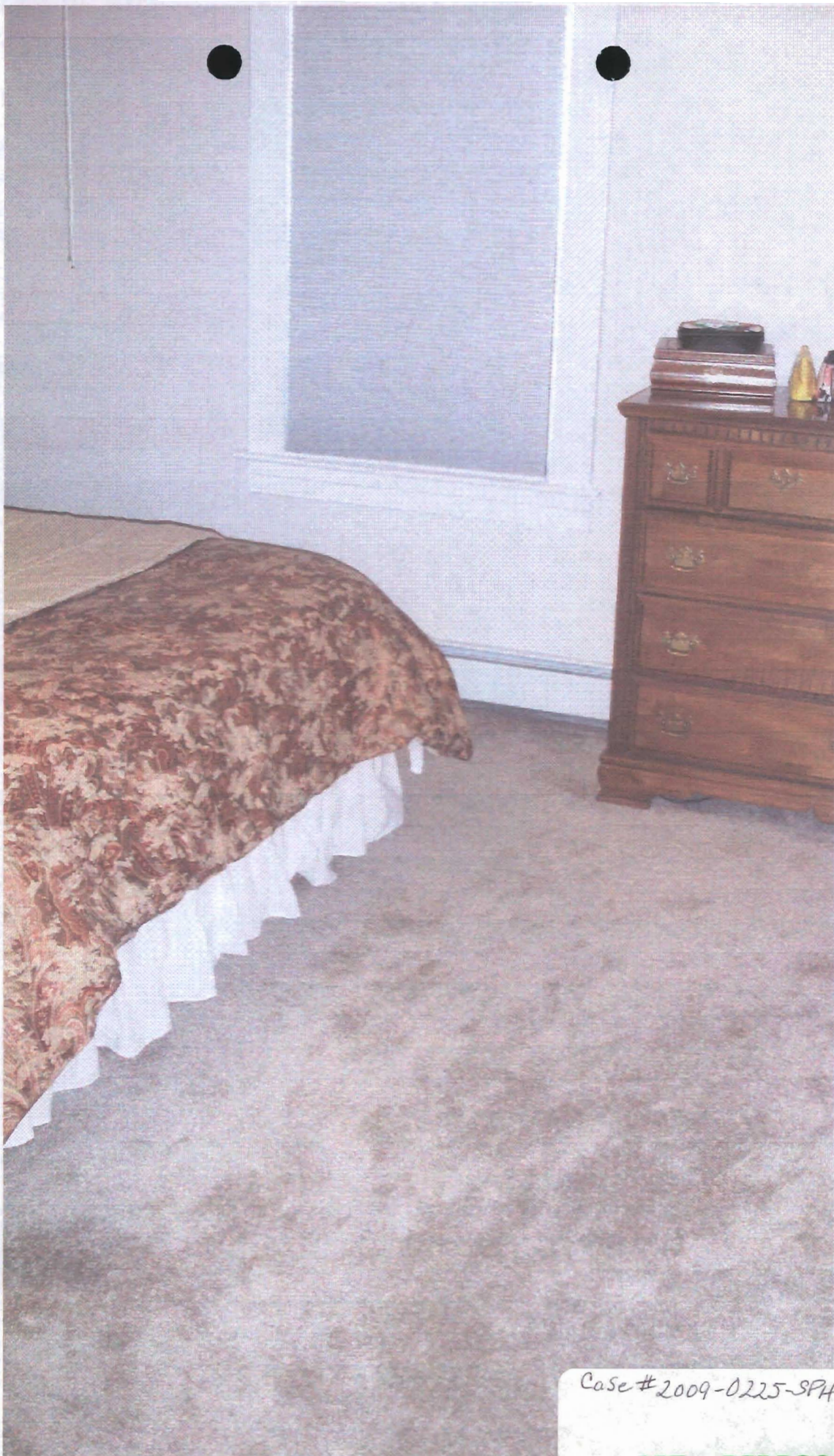
9x12



Case #2009-0219-SPH

APT. - BEDROOM

12x12



Case #2009-0225-SPH

APT. - BEDROOM

12x12



Case #0225-SPH

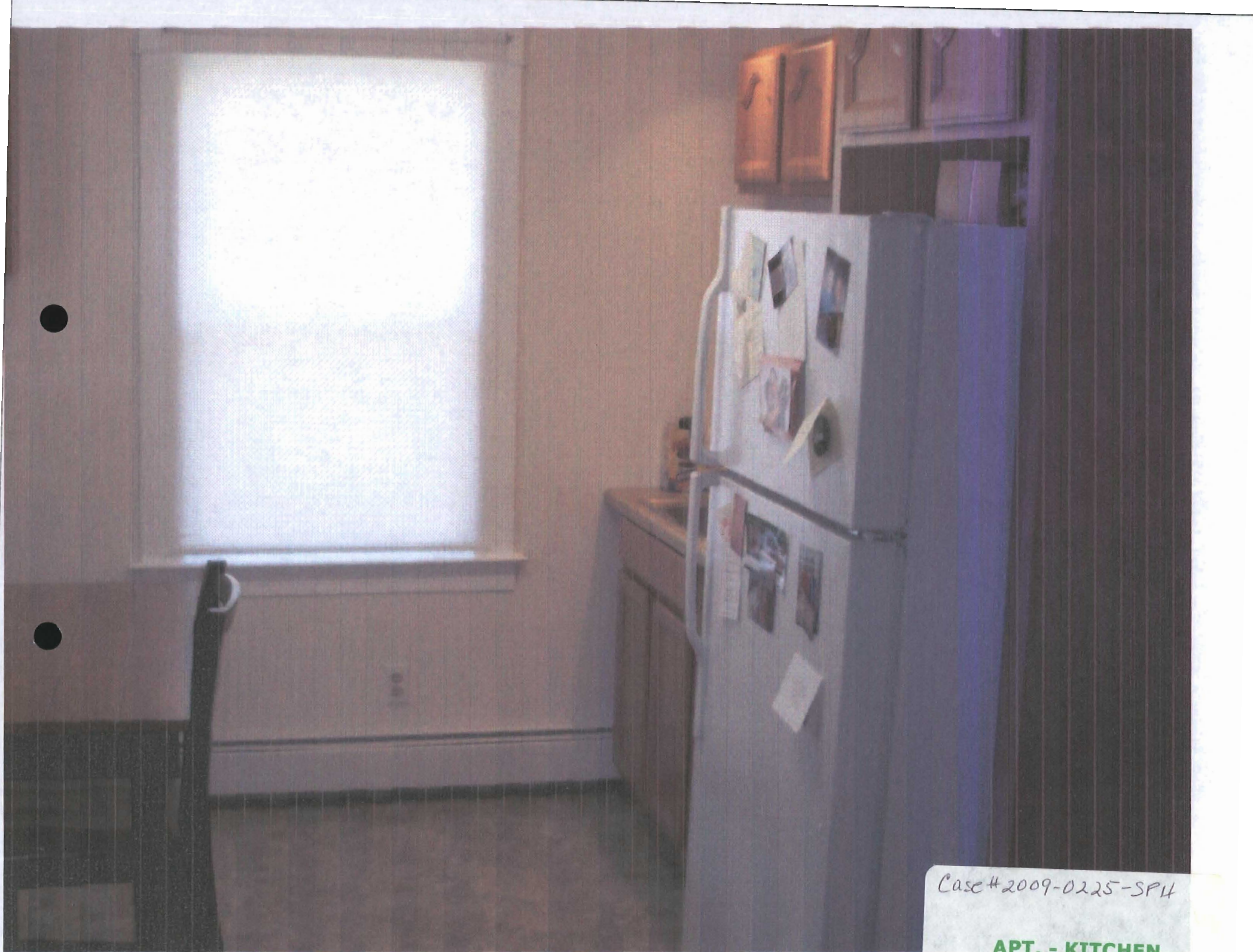
APT. - BEDROOM

12X12



Case #2069-0225-SP4

APT. - BATHROOM
6x9



Case #2009-0225-SP4

APT. - KITCHEN

9x12



Case #2009-0225-SPH

APT. - KITCHEN

9x12



Case #2009-0225-SPH

APT. - LIVING ROOM

13x14



Case #2009-0225-SPH

APT. - LIVING ROOM

13x14



Case #2009-0225-SPH

APT. - LIVING ROOM

13x14

BLUE-LINE GRID

4402 LEEDS Ave.

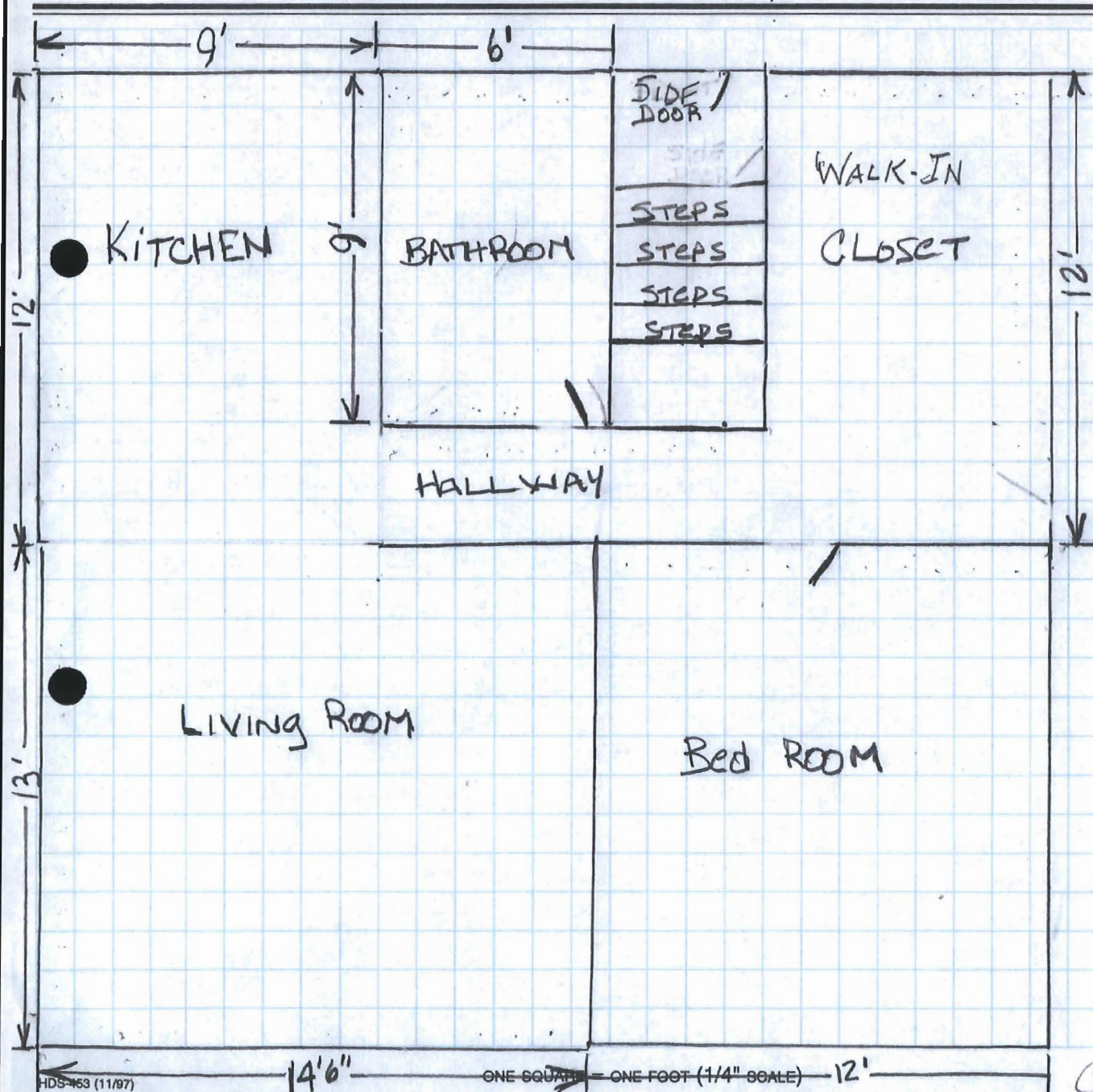
2nd Floor ± 590 sf

Rental License No. 08-05800

Property No. 13-03-230140

4/09

VANDevender



PETITIONER'S

EXHIBIT NO.

7

Case # 2009-0225-SP4



PETITIONER'S

EXHIBIT NO. 8

Pt. Bk. 64 Folio 17
2200011044
PDM # 130202

2009-0225-SPH



Address: 4374 Leeds Ave
LEEDS AVE. NORTH

Save trees. Go green!

Download Google Maps on your
phone at google.com/gmm



PETITIONER' S

EXHIBIT NO.

9

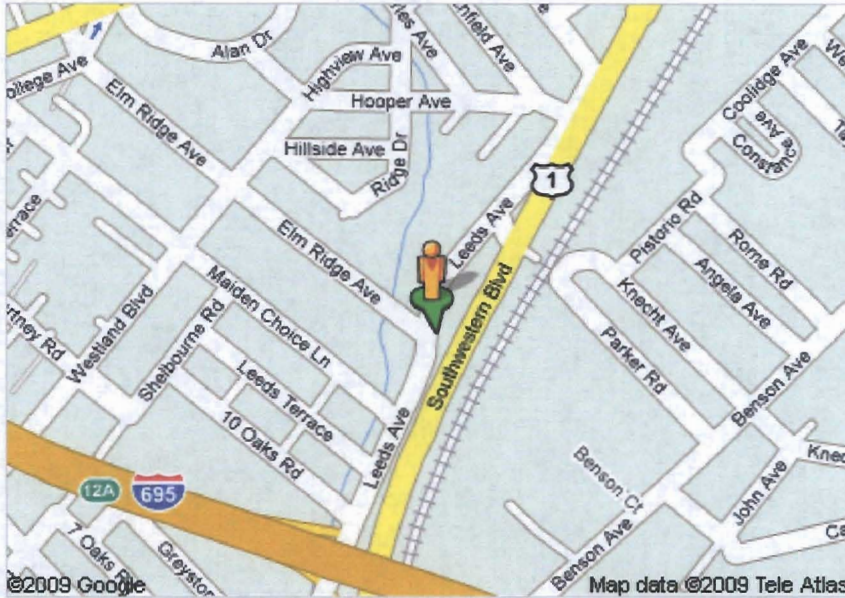


Address: 4506 Leeds Ave

LEEDS AVE. SOUTH

Save trees. Go green!

Download Google Maps on your phone at google.com/gmm



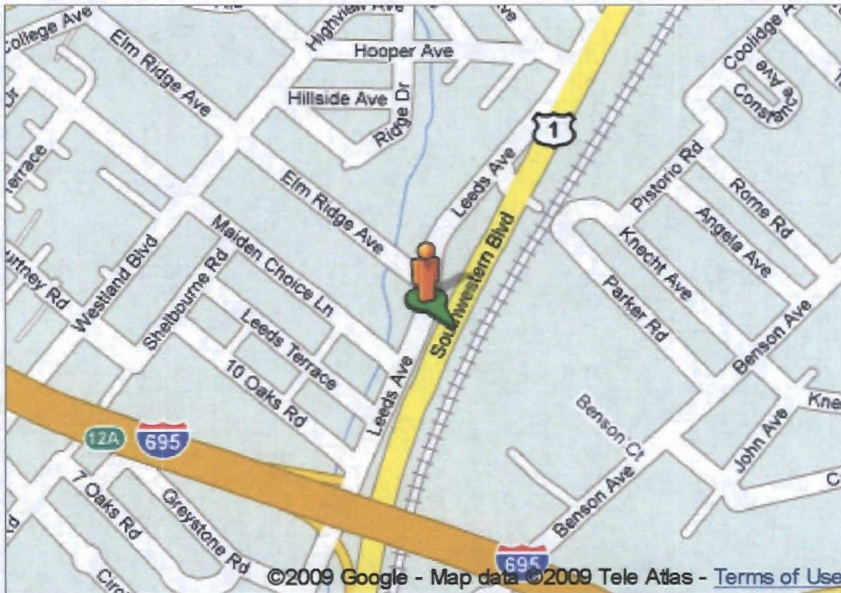


Address: 4604 Leeds Ave

LEEDS AVE. SOUTH

Save trees. Go green!

Download Google Maps on your phone at google.com/gmm





4204 Leeds Ave

4204 Leeds Ave

**SOUTHWESTERN BLVD.
NORTH**

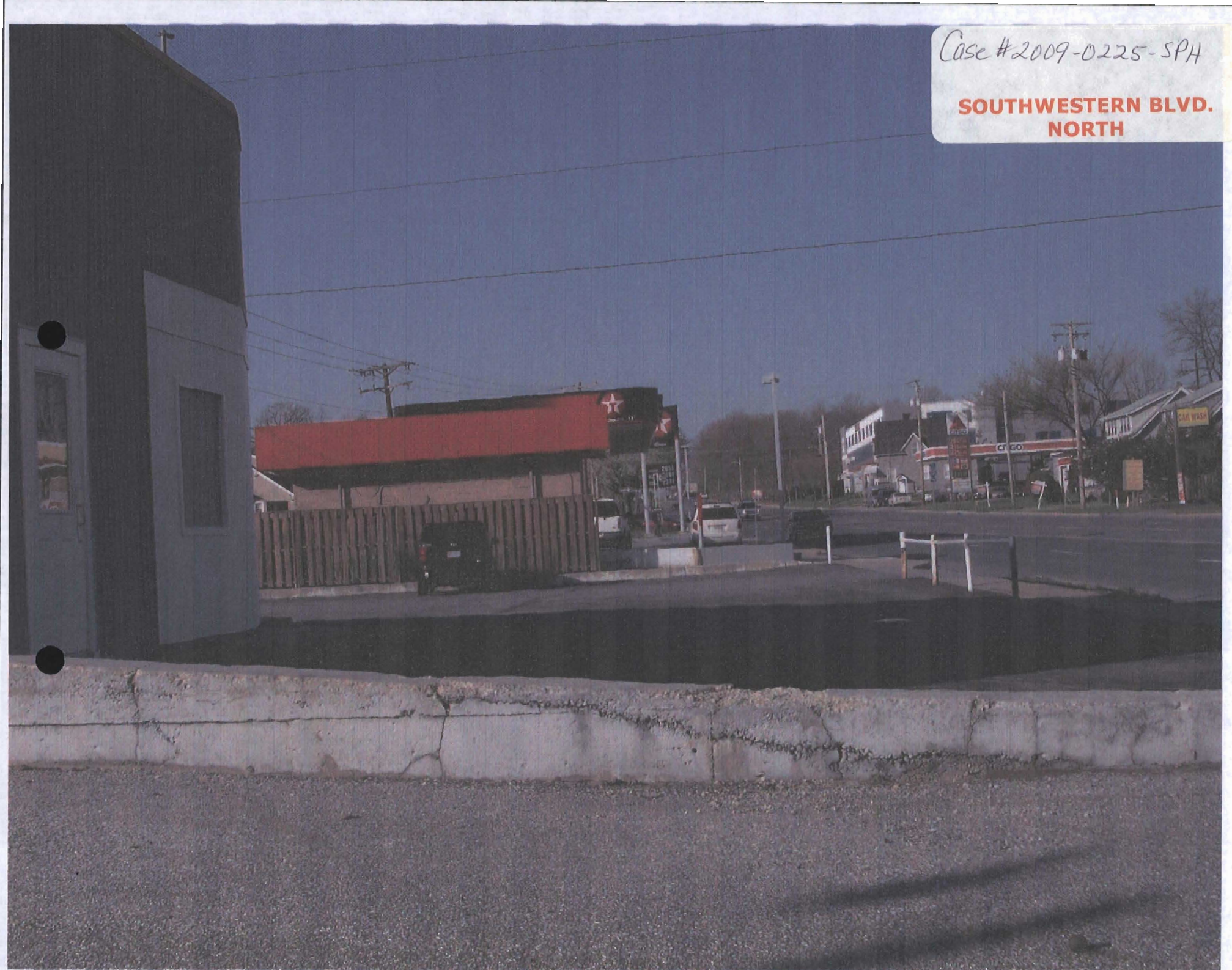
Save trees. Go green!

Download Google Maps on your
phone at google.com/gmm



Case #2009-0225-SPH

**SOUTHWESTERN BLVD.
NORTH**



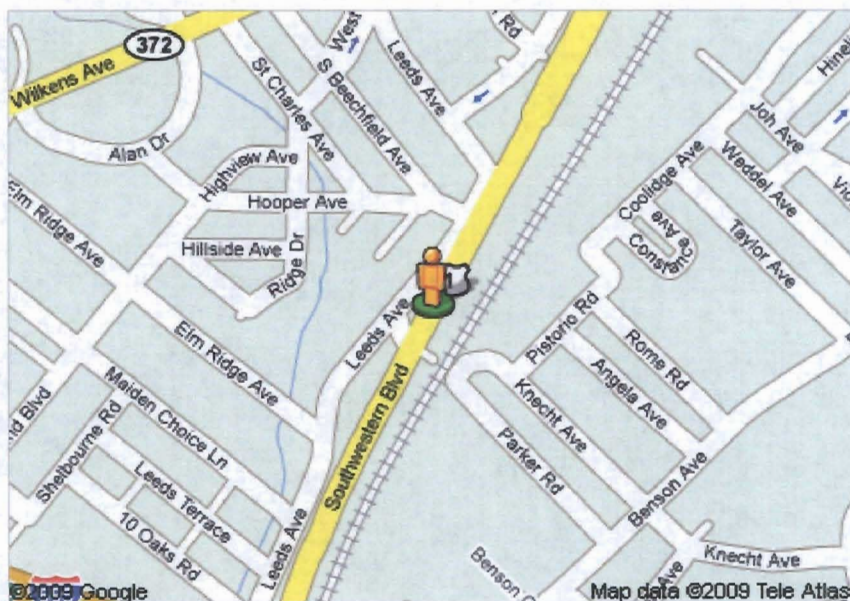
Case #2009-0225-SPH

**SOUTHWESTERN BLVD.
NORTH**





Download Google Maps on your phone at google.com/gmm



IN RE: PETITION FOR SPECIAL HEARING
NW/S Leeds Avenue, 235' SW of c/line of
Knecht Avenue
(4402 Leeds Avenue)

13th Election District
1st Council District

Robert VanDevender, et ux, *Legal Owners*
Petitioners

BEFORE THE
ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 2009-0225-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Robert H. and Eleanor R. VanDevender. The Petitioners request a special hearing to approve an existing two-apartment detached dwelling on 8,160 square feet in lieu of the required 10,000 square feet, as a legal, nonconforming use. 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 requested nonconforming use was Eleanor VanDevender, property owner. James V. Landriscina, an adjacent property owner, appeared along with his brother as a Protestant in opposition to the requested relief. There were no other interested persons in attendance nor were there any adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agencies.

It should be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits and Development Management (Civil Citation No. 52968). Specifically, the Petitioners were cited pursuant to Section 402 of the B.C.Z.R. for the illegal conversion of a dwelling on residential property. A hearing before Code Enforcement

Exh. #1

Case No.: 4402 LEEDS AVE - 2009-0225-SPH

Exhibit Sheet

Petitioner/Developer

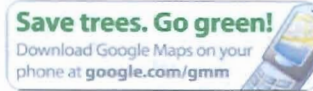
Protestant

No. 1	SITE PLAN	PHOTO'S - inadequate PARKING
No. 2	Rental Housing License	PHOTO'S of Accident at subject Location
No. 3	Affidavit - VIVIAN MARINO	PHOTOGRAPHS OF DEBRIS ON PROPERTY THAT ACCUMULATES
No. 4	Affidavit - Alyce DASSING	
No. 5	LEASE - 2nd Flr. JESSICA BOWEN	
No. 6	Photographs	
No. 7	Floor PLAN - 2nd Floor	
No. 8	ZONING MAP(S)	
No. 9	PHOTO'S OF NEIGHBORING Community	
No. 10		
No. 11		
No. 12		



Address ~~4374 Leeds Ave~~

Address is approximate



Driveway
4402 Leeds AVE
Vandewender

PROTESTANT'S

EXHIBIT NO. 1



MVC, 4/9/2009

LEEDS AVE, ARBUTUS, MD 21229

PROTESTANT'S

EXHIBIT NO. 2



4/9/2009

MVC / AVFD

LEEDS AVE
Arbutus, MD 21229



4/9/2009
MVC/AVFD Leeds AVE
Arbutus, MD 21229



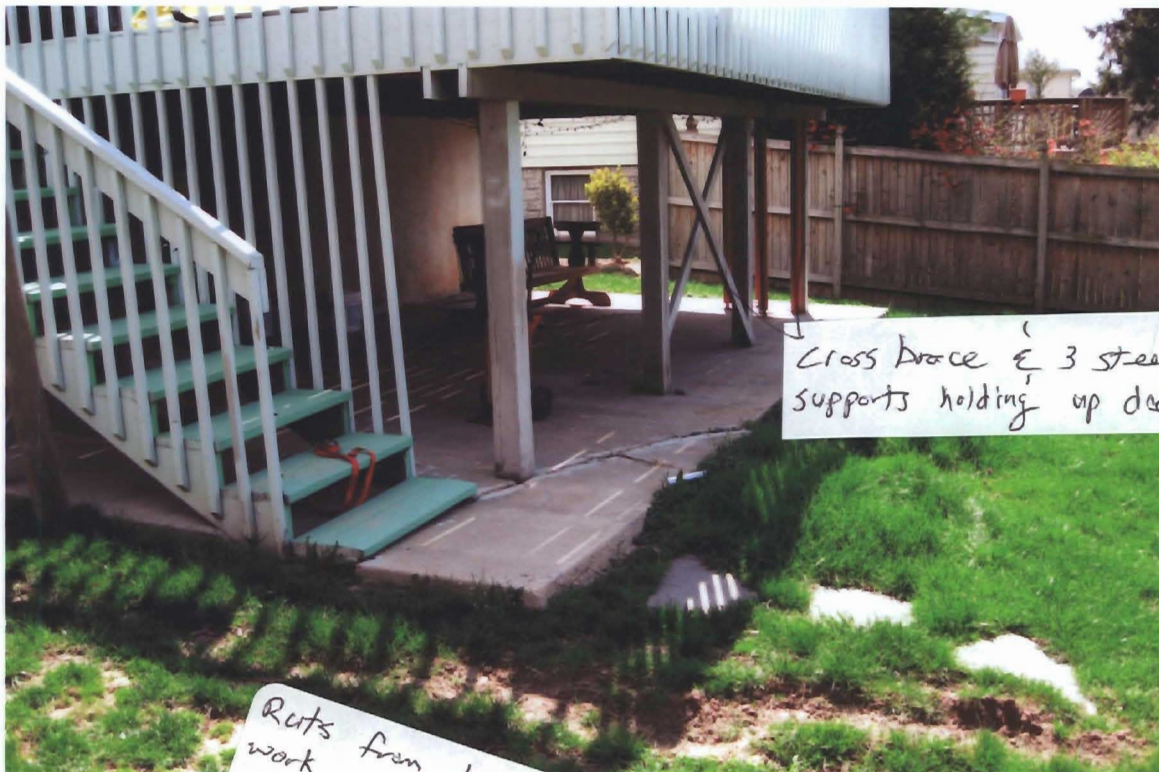
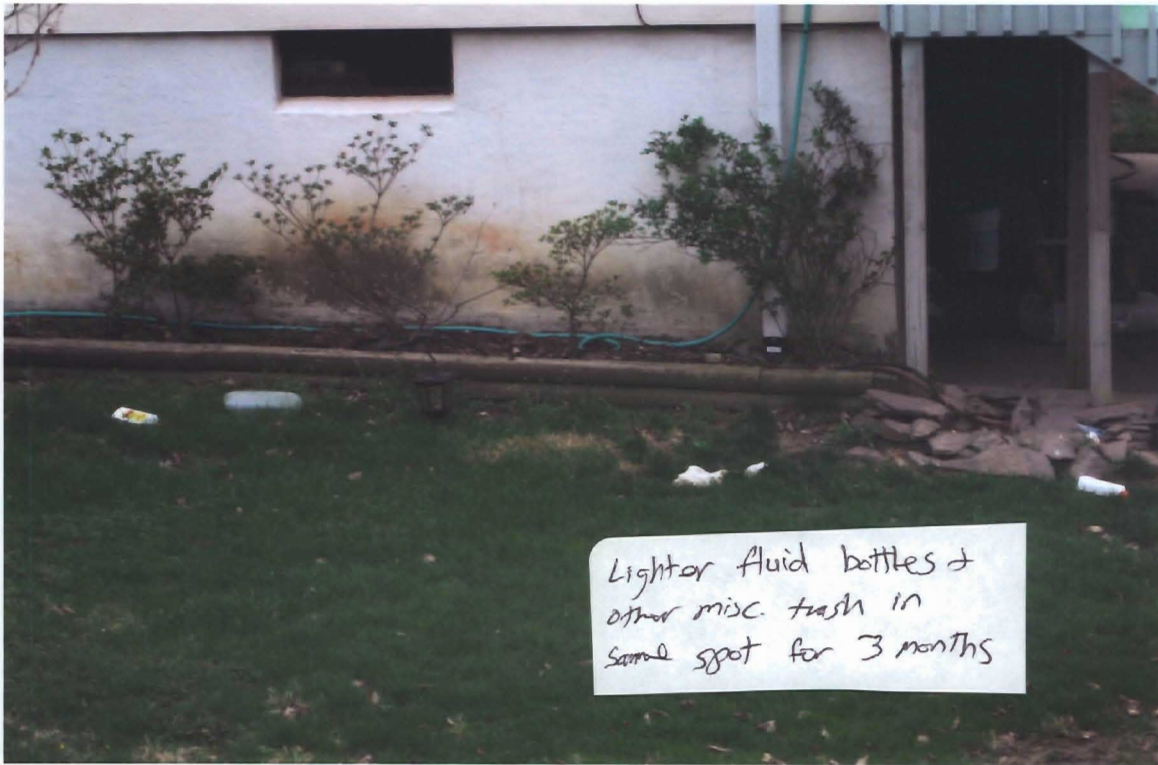
4/9/2009 4402 LEEDS AVE

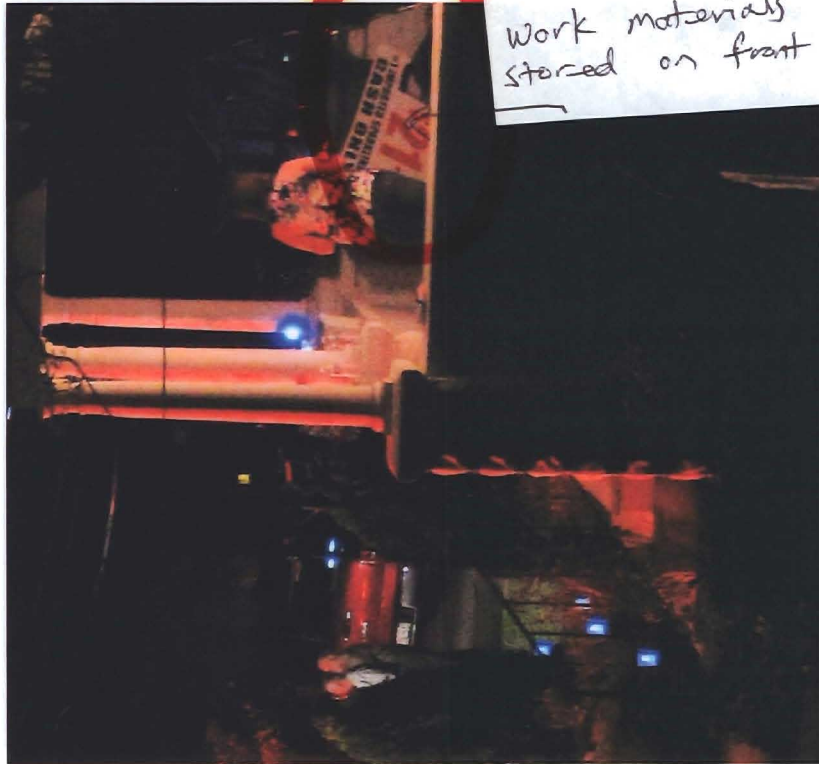
PROTESTANT'S

EXHIBIT NO.

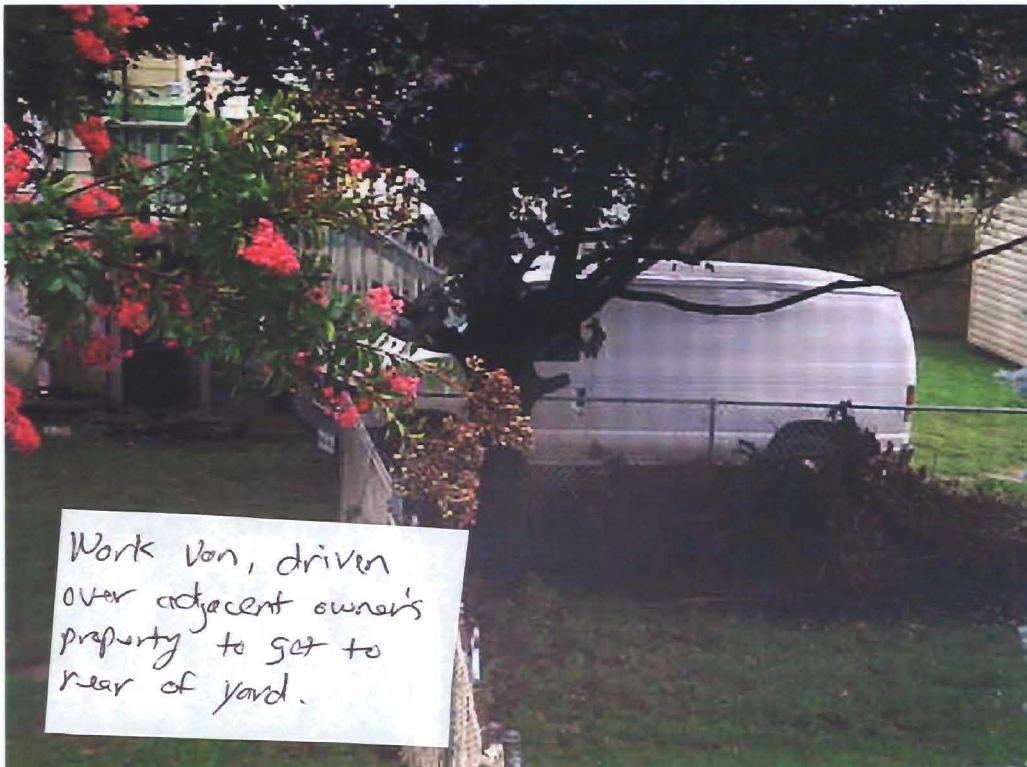
3

4/9/2009 4402 LEEDS AVE





Work materials
stored on front porch



Work Van, driven
over adjacent owner's
property to get to
rear of yard.

4402 LEEDS AVE , Arbutus, MD
21229

IN THE MATTER OF Robert & ~~Mar~~ Eleanor
VanDevender

Exhibit List

- ✓ Petitioners # 1, *in closet - Large* & *gh*
 - Group of pictures on cardboard
- ✓ Petitioners # 2
 - Black & white photo of subject property,
- ✓ Petitioners # 3 A & B
 - A Photo - House Interior.
 - B Photo House Interior.

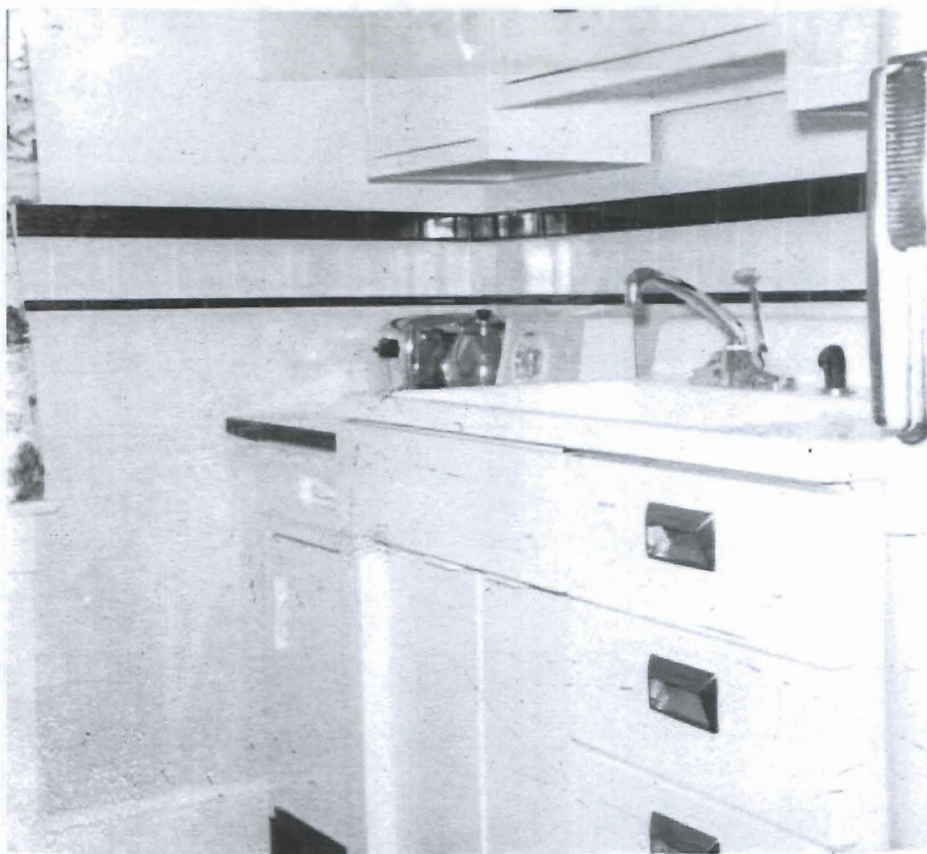
*Verified
trs 2/4/10*

Appellert's Exhibit #2

KITCHEN



GRANDMOTHER'S BACKYARD - 1950



Petitioners #3A



Petitioners #3B

vanDevender

Case #09-225-SPH

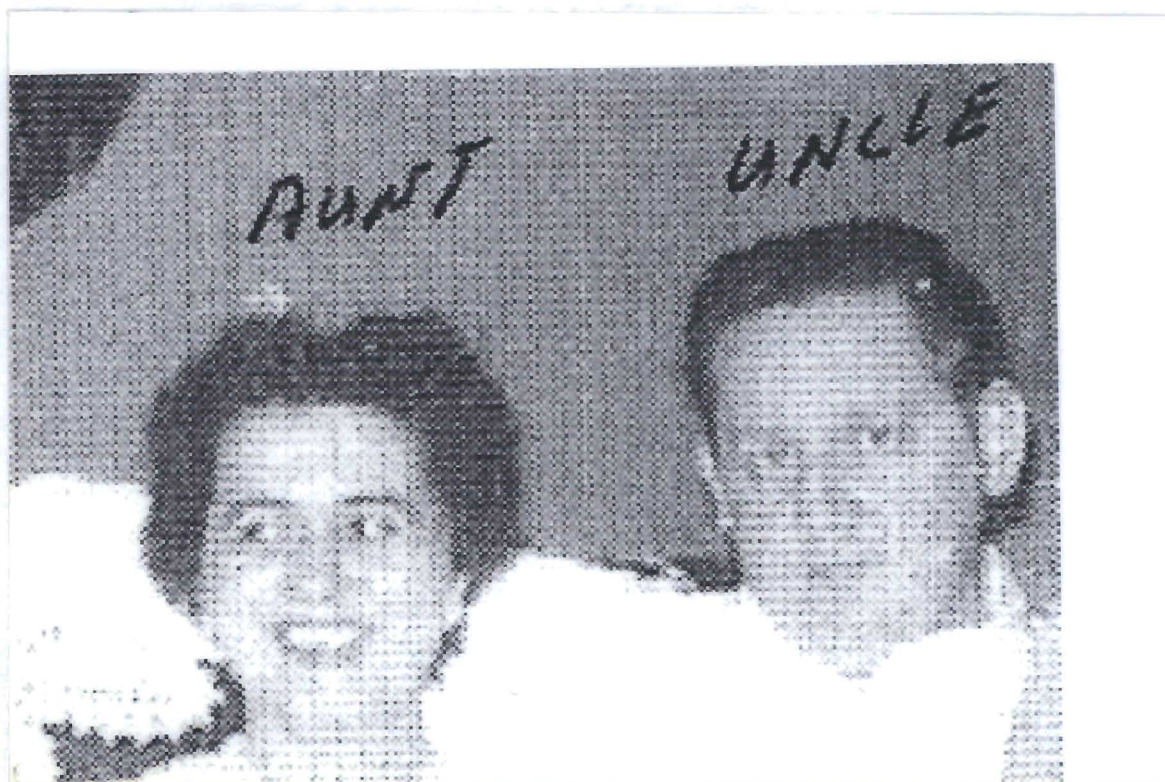
4402 LEEDS AVENUE

EXHIBIT #



Case # 2009-0229-SPH

0225





402 Leeds Ave 21229
06/26/08 1:00 pm
Nikki Marlatt-Young #30395



4402 Leeds Ave 21229
06/26/08 1:00 pm
Nikki Marlatt-Young #30395

