6/29/11

IN THE MATTER OF DENNIS AND ELIZABETH AGBOH - APPLICANTS 6411 LIBERTY ROAD BALTIMORE, MD 21222 2nd Election District, 2nd Councilmanic District	*	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY
RE: SPECIAL EXCEPTION, REQUEST FOR VARIANCE AND SPECIAL HEARING FOR CLASS B CHILD CARE CENTER	*	Case No.: 10-314 SPHXA

* * * * * * * * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Deputy Zoning Commissioner of Baltimore County denying a Petition for Special Exception and Special Hearing request and dismissing as moot the Variance requests filed by Dennis and Elizabeth Agboh, the legal owners of 6411 Liberty Road, Baltimore, MD 21222 and the lessee of the property, Kim Walters d/b/a Enigma Learning. Petitioners seek the following relief:

1. A Special Exception pursuant to Section 1B01.1.C.6 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve a Class B, Group Child Care Center for up to thirty-eight (38) children.

2. Special Hearing relief pursuant to Section 500.7 of the B.C.Z.R. to:

> A. Find that Section 1B01.1.B.1.g(11) of the B.C.Z.R. is applicable and has been complied with;
>
> and
>
> B. Find that in the event a Special Exception is not granted for a "Principal Use Group Child Care Center, Class B" then an "Accessory Use Group Child Care for more than 12 children but less than 40" is permitted in this existing facility in keeping with the continuation of the current use and without designating the name of a specific individual(s) and further, that a lessee is permitted to be the occupant.

3. Eight (8) different requests for Variance relief as set forth in the Application.

A public hearing was held on May 24, 2011. One of the Petitioners, Kim Walters, the lessee, was present at the hearing *pro se*. People's Counsel for Baltimore County, represented by Peter Max

Zimmerman opposed the requests and participated in the hearing. There were no Protestants who appeared. After the hearing, the Board publically deliberated the case.

Decision

The subject property is located in a Residential Transition Area ("RTA") and is zoned D.R. 5.5. It is approximately 10, 510 square feet or 0.241 acres in gross area. It is located at the southwest intersection of Liberty Road and Forest Hill Avenue in the Lochern area of Baltimore County to the east of Interstate 695. The property is improved with a 2 ½ story frame dwelling which was converted for use as a day care center.

This property and the request for a Class B license, special exception and variances are not new to this Board as the same requests were previously made and denied by the Board in the past. On March 1, 1995 the Zoning Commissioner granted the Agbohs' petition for special exception and variance for a Class B Group Child Care Center for up to 39 children in case number 95-248-XA. However, that decision was appealed to the Board by the Office of People's Counsel. The Agbohs subsequently withdrew the petition and the Board issued an Order of Dismissal in case number 95-248-XA on January 21, 1997.

After reviewing all of the testimony and evidence presented, the Board has determined that the Petitioners' Petition for Special Exception, Special Hearing request and Variances should be denied.

Ms. Walters's case consisted of her testimony that when she entered into a lease of the property to operate the day care, she was told by Dennis and Elizabeth Agboh that they already were approved for a Class B license permitting more than 12 but less than 40 children at the daycare center. Ms. Walters explained that, prior to the hearing, she met with People's Counsel and learned that there was no Class B license approved for the property. Ms. Walters testified that she needed the Class B license because she was not making enough money having only 12 children at the center. Although she did not present a copy of her lease, she stated that the lease does not end for 3 years

and she is obligated to pay $2,500.00 per month in rent. She desires to have 22 kids at the center which will translate into more income. Ms. Walters also explained that she is now living at the property because she understands the requirement that to have a day care license, the operator needs to reside at the property.

On cross examination, People's Counsel entered into evidence 12 exhibits including the prior cases before this Board regarding the same request for a Class B Day Care license. These requests were denied by this Board because the bulk standards required by the Residential Transition Area ("RTA") for Class B license such as lot size, setbacks and impervious surface requirements went far beyond the dimensions of the property. The Board in Case No. 94-271-XA also denied the variance requests because the evidence did not show that the property was unique under *Cromwell v. Ward*, 102 Md. App. 671 (1995).

This Board is also aware of its most recent decision dated May 19, 2011 in Case No.: 10-004 SPH filed by Petitioners Dennis and Elizabeth Agboh to request the removal of the restriction #1 in Case No.: 86-493-SPH that states that a Class A Group Childcare Center may only be operated on the site so long as "Francis E. Feagin" the former owner/operator, is a resident at the center. In that case Mr. Agboh testified that when he purchased the property he was not aware of restriction #1 from the 1986 case. This Board granted the request to remove restriction #1 subject to the condition that the owner/operator of the day care center also reside there. Section BCZR Section 424.4A states:

> "A. Group child-care centers, Class A, are permitted as an accessory use within single-family detached dwellings in all residential zones except R.C.4, in all industrial zones and in R-O and O.T. Zones if the Zoning Commissioner grants a use permit under the following procedure:..."

In the instant case, People's Counsel offered the testimony of David Green from Office of Planning but the Board found it unnecessary to hear from Mr. Green based on the limited evidence presented by the Petitioners. People's Counsel argued that the property is only a ¼ acre, with converted dwelling and can not meet the bulk standard requirements in the RTA. It is

the position of People's Counsel that the property is substantially undersized to have more than 12 children attend the center. The numerous requests for variances in this case only highlight that this was not the property size envisioned by the County Council when it enacted Bill 200-90 in October of 1990 (PC. Ex. 5) for Class B centers.

In this case, there was no evidence presented by Ms. Walters to meet the burden of proof for either a Special Exception under B.C.Z.R. §502.1 or a Variance B.C.Z.R. §307. The property has not changed since the prior requests were made and denied by this Board. There was no evidence presented as to the criteria required in B.C.Z.R. §502.1 or the 'uniqueness' of the property under B.C.Z.R. §307 and *Cromwell, supra.* Accordingly, the Board must deny the request for Special Exception, Special Hearing and for Variances.

ORDER

THEREFORE, IT IS THIS 29th day of June, 2011, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception, Special Hearing and for Variances, be, and the same are hereby **DENIED.**

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

BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Panel Chairman

Edward W. Crizer, Jr.

Maureen E. Murphy

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

June 29, 2011

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

Kimberly Walters
3 Marian Court
Owings Mills, MD 21117-1024

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Ste 204
105 W. Chesapeake Avenue
Towson, MD 21204

RE: *In the Matter of: Dennis & Elizabeth Agboh – Legal Owners/Petitioners*
Kim Walters dba Enigma Learning – Lessee
Case No.: 10-314-SPHXA

Dear Counsel and Ms. Walters:

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 Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure
Duplicate Original Cover Letter

c. Dennis & Elizabeth Agboh
James Patton, P.E.
Lawrence M. Stahl, Managing Administrative Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Dennis and Elizabeth Agboh 11-081-SPHA
Legal Owners /Petitioners
Kimberly Walters, Lessee d/b/a Egnima Learning

DATE: May 24, 2011

BOARD/PANEL: Lawrence S. Wescott
Maureen Murphy
Edward W. Crizer, Jr.

RECORDED BY: Theresa R. Shelton, Administrator

PURPOSE: To deliberate the Special Exception for Class B Child Care Center, Variance and Special Hearing requests

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board was sympathetic to Ms. Walters, in that she was given erroneous information with regard to the Class B childcare center; however, the Board can not bypass the regulations and allow a childcare to operate.
- There was no evidence as to the specifics presented by the Petitioner
- There never was a Class B issued on the site
- Under the regulations the property has to have one (1) acre
- The property is located on a busy street and a center is not the proper use for the property

DECISION BY BOARD MEMBERS: Under the current zoning regulations, this matter does not meet the requirements to allow a Class B childcare facility and the Board has no choice but to deny the Petitioner's requests.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY the request for the Special Exception for Class B Child Care Center.

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,

Theresa R. Shelton

Theresa R. Shelton

10-314-SPHXA

Dennis and Elizabeth Agboh /Legal Owners/Petitioners
Kimberly Walters, Lessee d/b/a Egnima Learning
6411 Liberty Road / 2nd Election District; 2nd Councilmanic District

Re: SPHXA – Special Exception for Class B Child Care Center, Variance and Special Hearing requests

8/26/10 Findings of Fact and Conclusion of Law issued by Deputy Zoning Commissioner DENYING Special Exception request, DISMISSING AS MOOT the Variance requests, and DENYING the Special Hearing requests.

2/14/11 Spoke to Chairman/ PP / Will review notice from surgeon if provided.,
Spoke to Ms. Waters, she said UM would not give due to HIPPA; told her to get as much information as possible from surgeon; i.e., date of surgery, prognosis, etc and return to work. She said that her surgeon told her to follow up with her regular doctor. I told her that it would appear that she was mobile. Gave her fax number and told her if the surgeon send a fax it will be reviewed by the Chair. As of now the hearing is going forward as scheduled.

2/15/11 Received fax from Surgical Specialists of New Jersey. Does not release Ms. Waters until 3/25/11. Chair determined that case will be PP. Case Postponed.
Notified all parties that 1:00 case PP; 9:00 AM hearing as scheduled.
Board Notified.

Telephoned Ms. Waters and left a message that the case has been postponed and will be rescheduled after the 3/25/11 medical release date.

Peoples Counsel advised that they are active in this case.

Received letter to Chairman, from People's Counsel that they are an interested party in this matter.

Notice of PP sent to all parties

TRS HAS FILE. HOLD UNTIL APRIL; THEN RE-ASSIGN; BE SURE TO CHECK WITH PETE ON DATE

5/18
5/24
5/25

HOLZER & LEE

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
E-MAIL: JCHOLZER@CAVTEL.NET

January 11, 2011
#7917

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

RE: Case No.: 2010-0314-SPHXA
6411 Liberty Road

Dear Ms. Shelton:

Please be advised that I received Notice from Department of Permits and Development Management that Ms. Kimberly Walters has filed an appeal in the above-captioned matter.

While I represented her before the Zoning Commissioner, please be advised that I did not file the appeal on her behalf. She filed it *pro se* and that I am not representing her before the County Board of Appeals.

If there are any questions, please feel free to contact me.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

12/22/10

T –

The Legal Owners of this property have a pending appeal on the same property in case no: 10-004-SPH. In that case, they requested the removal of a condition in a 1989 case which stated that a Class A Child care center could only be operated by the previous owner. The hearing in this matter was postponed and you have the file for follow up in January.

In the current case, 10-314-SPHXA, the main request is to allow a Class B child care center on the same property with variance and special hearing requests to allow the center on the property as it currently sits with the current facilities, buildings, etc. Carroll Holzer represents the Owners/Lessee in this matter. Tom Bostwick Denied all requested relief in this matter and the Lessee appealed. This is Pete's case and Rebecca indicated that she's not sure but he'll probably be active in this matter.

I'm not sure if these cases can be set together or if they must be heard separately. (Thus the reason for this summary)

S.

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 21, 2010

J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

Dear Mr. Holzer:

RE: Case: 2010-0314-SPHXA, 6411 Liberty Road

Please be advised that an appeal of the above-referenced case was filed in this office on September 21, 2010 by your client Kimberly Walters. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:kl

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Kimberly Walters, 20 Gwynnswood Road, Owings Mills 21117
Dennis & Elizabeth Agboh, 116 Nob Hill Park Dr., Reisterstown 21136
James Patton, 780 Elkridge Landing Road, Linthicum 21090

APPEAL

Petition for Special Exception, Variance, Special Hearing
6411 Liberty Road
S/s of Liberty Rd, 15' w/of c/l of Forest Hill Ave.
2nd Election District – 4th Councilmanic District
Legal Owners: Dennis & Elizabeth Agboh
Lessee: Kim Walters dba Enigma Learning

Case No.: 2010-0314-SPHXA

✓ Petition for Special Hearing, Variance, Special Exception (May 13, 2010)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (June 2, 2010)

✓ Certification of Publication (The Jeffersonian – July 27, 2010)

✓ Certificate of Posting (July 26, 2010) by Martin Ogle

✓ Entry of Appearance by People's Counsel (May 28, 2010)

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

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet - None

✓ Zoning Advisory Committee Comments

Petitioners' Exhibit
- ✓1. Site Plan
- ✓2. Floor plan of dwelling
- ✓3. MD Dept of Education Child Development License

Protestants' Exhibits - None

Miscellaneous (Not Marked as Exhibit)
- ✓1. Order of Dismissal for Case 95-248-XA
- ✓2. Findings of Facts and Conclusion of Law for Case 2010-0004-SPH
- ✓3. Order of Motion for Reconsideration for 2010-0004-SPH

✓ Zoning Commissioner's Order (DENIED – August 26, 2010)

✓ Notice of Appeal received on September 21, 2010 by Kimberly Walters

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See cover letter

date sent December 21, 2010 kl

APPEAL

Petition for Special Exception, Variance, Special Hearing
6411 Liberty Road
S/s of Liberty Rd, 15' w/of c/l of Forest Hill Ave.
2nd Election District – 4th Councilmanic District
Legal Owners: Dennis & Elizabeth Agboh
Lessee: Kim Walters dba Enigma Learning

Case No.: 2010-0314-SPHXA

Petition for Special Hearing, Variance, Special Exception (May 13, 2010)

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Petitioner(s) Sign-In Sheet – One Sheet

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Citizen(s) Sign-In Sheet - None

Zoning Advisory Committee Comments

Petitioners' Exhibit
1. Site Plan
2. Floor plan of dwelling
3. MD Dept of Education Child Development License

Protestants' Exhibits – None

Miscellaneous (Not Marked as Exhibit)
1. Order of Dismissal for Case 95-248-XA
2. Findings of Facts and Conclusion of Law for Case 2010-0004-SPH
3. Order of Motion for Reconsideration for 2010-0004-SPH

Zoning Commissioner's Order (DENIED – August 26, 2010)

Notice of Appeal received on September 21, 2010 by Kimberly Walters

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See cover letter

date sent December 21, 2010 kl

RECEIVED
SEP 2 1 2010

9/21/2010

I Kimberly Marie Walters want to appeal # case # 2010-0314-SpHXA issued on August 26, 2010.

Kimberly Walters

Kimberly Walters
20 Gwynnswood road
Owings Mills. MD 21117
410-504-3713

1

RECEIVED
SEP 2 1 2010

8/26/10

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE S side of Liberty Road; 15 feet W of the c/l of Forest Hill Avenue 2nd Election District 4th Councilmanic District (6411 Liberty Road)	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY
Dennis and Elizabeth Agboh *Legal Owner*	*	
Kim Walters dba Enigma Learning *Lessee*	*	**Case No. 2010-0314-SPHXA**

* *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Exception, Special Hearing, and Variance, filed by the legal owner of the subject property, Dennis and Elizabeth Agboh, and the lessee of the property, Kim Walters d/b/a Enigma Learning.

Special Exception relief is requested pursuant to Section 1B01.1.C.6 of the Baltimore County Zoning Regulation ("B.C.Z.R.") to approve a Class B, Group Child Care Center for up to thirty-eight (38) children.

Special Hearing relief is requested pursuant to Section 500.7 of the B.C.Z.R. to:

- Find that Section 1B01.1.B.1.g(11) of the B.C.Z.R. is applicable and has been complied with; and
- Find that in the event a Special Exception is not granted for a "Principal use Group Child Care Center, Class B" then an "Accessory use Group Child Care for more than 12 children but less than 40" is permitted in this existing facility in keeping with the

ORDER RECEIVED FOR FILING
Date 8-26-10
By DJ

continuation of the current use and without designating the name of a specific individual(s), and further, that a "lessee" is permitted to be the occupant.

Variance relief is also requested as follows:

- From Section 1B01.1.B.1.e(3) and (5) of the B.C.Z.R. to permit existing parking, structures, and fenced play yard to remain within an RTA buffer in their existing locations and at their current heights in lieu of providing a 50 foot buffer area, a 75 foot setback, and a height not to exceed 35 feet within the required 100 foot Residential Transition Area required for a Class "B" Group Child Care Facility for up to 40 children in a D.R.5.5 Zone; and

- From Section 400.1 of the B.C.Z.R. to permit the existing garage to remain in the current location in lieu of being located in the third of the lot farthest removed from any street as required; and

- From Section 409.8.A.1 and A.4 to permit the existing paved parking area to remain as is in lieu of design, screening and landscaping in accordance with the landscape manual and all other manuals adopted pursuant to Section 32-4-404 of the Baltimore County Code ("B.C.C."), and a 0 foot setback in lieu of the required setback of 10 feet to the right-of-way line to a public street; and

- From Section 424.7.A to permit a Class "B" Group Child Care Center on a 0.35 gross acre lot in lieu of the required minimum lot size of one acre for the first 40 children; and

- From Section 424.7.B of the B.C.Z.R. to permit an 18 foot front setback of the existing structure (full width front porch) in lieu of the required 25 foot setback from the street right-of-way line or the average setback of the adjacent residential dwellings whichever is less; and to permit an 11 foot side yard setback and a 20 foot side yard setback in lieu of the required 50 feet from a property line; and to permit the rear and side yards to have a 5 foot high wooden stockade fence (existing) in lieu of the required 20 foot perimeter vegetative buffer; and

- From Section 424.7.C of the B.C.Z.R. to permit parking, drop-off and delivery area to be located in the front yard in lieu of the required side yards; and

- From Section 424.7.E of the B.C.Z.R. to permit a maximum impervious surface area of 34% in lieu of the maximum impervious surface area of 25% of the gross area; and

- From Section 427.1.B.2 to permit a wooden stockade solid fence of 60 inches in lieu of the required maximum height of 42 inches in residential zones; and

- Such other variance(s) which may be identified at the time of the hearing.

Details of the subject property and the requested relief are depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requested Special Hearing, Special Exception, and Variance petitions was Petitioner Kim Walters, tenant/lessee and proprietor of Enigma Learning, and J. Carroll Holzer, Esquire, counsel for Petitioner. There were no Protestants or other interested citizens in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is a rectangular shaped property consisting of approximately 10,510 square feet or 0.241 acre, more or less, zoned D.R.5.5 and situated in a residential transition area. The property is located at the southwest corner of Liberty Road and Forest Hill Road, approximately 1½ to 2 miles east of the Interstate 695 Beltway in the Lochearn Area of Baltimore County. Ingress/egress for the property is via Liberty Road (MD Route 26).

Before a review of the facts of this case and consideration of the Petitioner's requests may be discussed, it is necessary to state the prior zoning history for the subject property. In Case No. 86-493-SPH, a Class A Group Childcare Center was granted to the then resident operator, Francis E. Feagin. Eight years later in Case No. CACC-94-2, the current legal owners, Dennis and Elizabeth Agboh, were granted a Use Permit to operate a Class A Child-Care Center on the subject property by the then-Zoning Commissioner Lawrence E. Schmidt. Thereafter, in Case No. 95-248-XA, the current legal owners, Mr. and Mrs. Agboh, were granted a Special Exception, again by then-Zoning Commissioner Lawrence E. Schmidt, in order to expand their existing child-care operation to allow a Class B Group Child Care Center for up to 39 children and several variances. However, following an appeal of that decision by the Office of People's Counsel, an Order of Dismissal was issued on January 21, 1997 by the Baltimore County Board

of Appeals, pursuant to a letter of withdrawal filed by Petitioners requesting that the zoning relief granted in Case No. 95-248-XA be withdrawn and dismissed. Moving forward to this past year, the current legal owners, Mr. and Mrs. Agboh, again filed for relief in Case No. 2010-0004-SPH requesting the removal of the restriction in the original 86-493-SPH case, which stated that operation of a Class A Group Childcare Center on the site was personal to Francis E. Feagin. Petitioners at that time indicated they were unaware of the prior 1986 zoning case. They also indicated that relief had been granted by Mr. Schmidt in the prior 95-248-XA case, but did not inform the undersigned that an appeal had been filed and that Petitioners had expressly withdrawn the request for relief. Nonetheless, the undersigned heard that case and granted the requested relief in an Order issued September 22, 2009. On a Motion for Reconsideration filed by Peter Max Zimmerman, People's Counsel for Baltimore County, the undersigned issued an Order dated December 16, 2009 affirming the relief granted to Petitioners in Case No. 2010-0004-SPH.[1]

In the instant matter and in support of the requested relief, testimony and evidence revealed that the subject property is improved with an existing 2½-story framed dwelling that is used as a daycare center, with a drop off/pick up area and handicapped parking space to the rear of the property, along with a one-story framed garage also to the rear of the property. Ms. Walters testified that she rents the subject property from the legal owners for use as a child-care center, known as Enigma Learning. Ms. Walter stated that she has been running this center since July 2009, and has 12 children -- between the ages of six months and twelve-years old -- under her care and supervision. Ms Walters testified that she has been working in child-care services

[1] On information and belief, that case is currently pending on appeal before the Board of Appeals.

since 1999 and in 2002 received a degree in Early Childhood Education from Rutgers-Camden University.

At this juncture, Petitioner Ms. Walters proposes to expand the existing Class A, Child-Care Center to a Class B, Child-Care Center. This expansion would mean going from 12 children to upwards of 38 children, under her care and supervision. Ms. Walters explained that according to the Maryland State Department of Education, Child Development License issued to Enigma Learning Center, the first floor capacity for purposes of child-care is 18. Further, upon inspection by the Maryland State Department of Education, the second-floor provides additional space for 22 children. These documents were marked and accepted into evidence as Petitioner's Exhibits 3 and 2, respectively. Ms. Walters stated that she initially leased the subject property under the impression that it was already a Class B, Child-Care Center, however, later became aware that the property only had a Use Permit for a Class A center, which allows a maximum of 12 children.

In support of the special exception request, Ms. Walters testified as to the subject property's compliance with the criteria enumerated in Section 502.1 of the B.C.Z.R. Ms. Walters offered her opinion that granting of the special exception would not be detrimental to the health, safety, and general welfare of the community, stating that most of the children at her center are neighborhood residents. Further, that expansion of the center would not create congestion in roads, streets or alleys, explaining that parking at the site has proven adequate considering that pick-up/drop off is in the rear of the property. She also indicated in response to questioning by her attorney, Mr. Holzer, that the proposed use would not be detrimental to the other criteria set forth in Section 502.1 of the B.C.Z.R.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Comments received from the Office of Planning dated June 22, 2010, state that an inspection of the site, subsequent discussions with the property owners' engineer, and a review of the history of zoning activity at this site revealed that the request to occupy the site with 12 to 40 children as a Class B Child Care Facility would be too intense for a property of this size. Operating a childcare facility with more than 12 children at this location could be intrusive for adjacent residential uses. The Planning Office therefore recommends denial of the requested special exception and special hearing.

In regard to the requested Special Exception to increase the use of the subject property to a Group Child-Care Center, Class B, I am compelled to deny the request relief on procedural grounds and on the merits. Section 101 of the B.C.Z.R. defines a "Group Child Care Center, Class B" as, "[a] group child care center wherein group child care is provided for more than 12 children." In a D.R. Zone, Section 1B01.1.C.6 of the B.C.Z.R. permits by special exception:

> Class B group child care centers for more than 40 children subject to the standards set forth in Section 424 (family child care homes, group child care centers and nursery schools) and *principal use* Class A and *Class B group child care centers providing for up to 40 children, if located in a residential transition area.* (emphasis added).

The chart enumerating treatment of child-care centers as principal uses in Section 424.5 of the B.C.Z.R. reiterates the aforementioned section by requiring a Special Exception for a Group Child-Care Center, Class B in all D.R. zones where there will be 40 or fewer children and where the Residential Transition Area (RTA) is applicable. Here, Petitioner desires thirty-eight children in a property zoned D.R.5.5 and located in a Residential Transition Area. Thus, in addition to the Section 502.1 Special Exception criteria, the subject property must abide by the regulations relating to RTA's; however, Petitioner is unable to comply with the RTA requirements.

Moreover, the testimony and evidence presented do not convince me that a Special Exception is warranted in this location on the merits. Liberty Road is an extremely busy state road that renders an increase in the number of people parking and using the ingress/egress for the property extremely dangerous. The fact that this property is in a RTA seems to warrant a presumption that a commercial enterprise of the magnitude proposed here is not well suited for the subject property. Notwithstanding Ms. Walters' testimony regarding the 502.1 criteria, these considerations persuade me to deny the Special Exception as inconsistent with the spirit and intent of the Zoning Regulations.

However, notwithstanding my ruling on the merits, pursuant to Section 1B01.1.B.1.g(11) of the B.C.Z.R., special exception relief would still be inappropriate procedurally. This section states that the use restrictions related to RTA's do not apply to the following:

> Principal use Class A and Class B group child care centers, provided that the Zoning Commissioner determines, during the special exception process that the proposed improvements are planned in such a way that *compliance with the bulk standards of Section 424.7 will be maintained* and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises. (emphasis added).

Thus, not only must the subject property comply with Section 502.1 of the B.C.Z.R. and the regulations for a Residential Transition Area, but also with the bulk regulations of Section 424.7 requiring specific standards for minimum lot size, setbacks, fencing, parking, height and impervious surface area for group child care centers in D.R. Zones. Again, Section 1B01.1.B.1.g(11) states that the bulk standards will be maintained. Accordingly, since this subject property cannot comply with bulk standards promulgated by the County Council in Section 424.7 of the B.C.Z.R., the undersigned is precluded from approving a Special Exception for the proposed use. As a result of these considerations the requested Special Exception for a Group Child-Care Center, Class B must be denied.

Due to the fact that the special exception request fuels the plethora of variance requests, denial of the Special Exception makes consideration of these variance requests inappropriate at this juncture and thereby should be dismissed as moot.

In regards to the Special Hearing requests as described herein, Section 1B01.1.B.1.g(11) is applicable to this case and the subject property does not comply therewith due to an inability to comply with Section 424.7 of the B.C.Z.R. Hence, that aspect of the relief is denied. In addition, based on the aforegoing reasons, Petitioner's Special Hearing request to permit an "Accessory use Group Child Care Center for more than 12 children but less than 40" in the existing facility in keeping with the continuation of the current use and without designating the name of a specific individual(s), and further permitting a "lessee" to be the occupant is not appropriate and shall also be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, the special exception and special hearing requests shall be denied. The variance requests shall be dismissed as moot.

IT IS THEREFORE ORDERED this 26th day of August, 2010 by the Deputy Zoning Commissioner that Petitioner's request for Special Exception pursuant to Section 1B01.1.C.6 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve a Class B, Group Child Care Center (for up to 38 children) be and is hereby **DENIED**; and

IT IS FURTHER ORDERED that Petitioner's aforementioned requests for Variance relief be and are hereby **DISMISSED** as **MOOT**; and

IT IS FURTHER ORDERED that Petitioner's requests for Special Hearing relief pursuant to Section 500.7 of the B.C.Z.R. as follows:

ORDER RECEIVED FOR FILING
Date 8-26-10
By

- To find that Section 1B01.1.B.1.g(11) of the B.C.Z.R. has been complied with; and
- To find that an "Accessory use Group Child Care for more than 12 children but less than 40" is permitted in this existing facility in keeping with the continuation of the current use and without designating the name of a specific individual(s), and further, that a "lessee" is permitted as the occupant,

be and are hereby **DENIED.**

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

ORDER RECEIVED FOR FILING
Date 8-26-10
By DEJ

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

August 26, 2010

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

Re: Petitions for Special Hearing, Special Exception & Variance
Case No. 2010-0314-SPHXA
Property: 6411 Liberty Road

Dear Mr.Holzer:

Enclosed please find the decision rendered in the above-captioned case.

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

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

Enclosure

c: Dennis and Elizabeth Agboh, 116 Nob Hill Park Drive, Reisterstown, MD 21136
Kim Walters, dba Egnima Learning, 6411 Liberty Road, Baltimore, MD 21207
James S. Patton, P.E., 780 Elkridge Landing Road, Linthicum, MD 21090
People's Counsel; Office of Planning; File

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 6411 Liberty Road, Baltimore, MD

which is presently zoned D.R. 5.5

*(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)*

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

(This box to be completed by planner)

PLEASE SEE ATTACHED ITEMS TO BE DETERMINED

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:

Kim Walters, dba Egnima Learning
Name - Type or Print

Kim M Walters
Signature

6411 Liberty Road
Address — Telephone No.

Baltimore — MD — 21207
City — State — Zip Code

Attorney For Petitioner:

J. Carroll Holzer, Esq.
Name - Type or Print

Signature

Holzer & Lee
Company

508 Fairmont Avenue — 410-825-6961
Address — Telephone No.

Towson — MD — 21286
City — State — Zip Code

ORDER RECEIVED FOR FILING
Date 8-26-10
By

Legal Owner(s):

Dennis Agboh
Name - Type or Print

Dennis Agboh
Signature

Elizabeth Agboh
Name - Type or Print

Elizabeth Agboh
Signature

116 Nob Hill Park Drive
Address — Telephone No.

Reisterstown — MD — 21136
City — State — Zip Code

Representative to be Contacted:

James S. Patton, P.E.
Name

780 Elkridge Landing Road — 410-691-0205
Address — Telephone No.

Linthicum — MD — 21090
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 5/13/10

Case No. 2010-0314-SPHXA

REV 9/15/98

SPECIAL HEARING ITEMS TO BE DETERMINED

RELATIVE TO A GROUP CHILD CARE CENTER

AT

6411 LIBERTY ROAD

1. Find that BCZR Section 1B01.1.B.1.g.(11) is applicable and has been complied with.

2. Find that if a Special Exception is not granted for a "Principal use Group Child Care Center, Class B" then an "Accessory use Group Child Care for more than 12 children but less than 40" is permitted in this existing facility in keeping with the continuation of the current use and without designating the name of a specific individual(s) and, further, that a "leasee" is permitted to be the occupant.

2010-0314-SPHXA

Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property

located at 6411 Liberty Road, Baltimore, MD

which is presently zoned D.R. 5.5

Deed Reference: 10589 / 696 Tax Account # 0220660170

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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

TO PERMIT A CLASS "B" CHILD CARE FACILITY

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Exception, 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:

Kim Walters, dba Egnima Learning
Name - Type or Print

Kim M Walters
Signature

6411 Liberty Road
Address

Baltimore MD 21207
City State Zip Code Telephone No.

Attorney For Petitioner:

J. Carroll Holzer, Esq.
Name - Type or Print

Signature

Holzer & Lee
Company

508 Fairmount Ave. 410-825-6961
Address Telephone No.

Towson MD 21286
City State Zip Code

ORDER RECEIVED FOR FILING
Date 8-26-10
By

Legal Owner(s):

Dennis Agboh
Name - Type or Print

Dennis Agboh
Signature

Elizabeth Agboh
Name - Type or Print

Elizabeth Agboh
Signature

116 Nob Hill Park Drive
Address

Reisterstown MD 21136
City State Zip Code Telephone No.

Representative to be Contacted:

James S. Patton, P.E.
Name

780 Elkridge Landing Road 410-691-0205
Address Telephone No.

Linthicum MD 21090
City State Zip Code

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING _____
UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 5/13/10

Case No. 2010-0314-SPHXA

REV 07/27/2007

Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 6411 Liberty Road, Baltimore, MD

which is presently zoned D.R. 5.5

Deed Reference: 10589 / 696 Tax Account # 0220660170

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

PLEASE SEE ATTACHED LIST OF VARIANCES REQUESTED

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

PLEASE SEE ATTACHED

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

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

Contract Purchaser/Lessee:

Kim Walters, dba Egnima Learning Center
Name - Type or Print

Kim M Walters
Signature

6411 Liberty Road
Address — Telephone No.

Baltimore — MD — 21207
City — State — Zip Code

Attorney For Petitioner:

J. Carroll Holzer, Esq.
Name - Type or Print

Signature

Holzer & Lee
Company

508 Fairmont Ave. — 410-825-6961
Address — Telephone No.

Towson — MD — 21286
City — State — Zip Code

Legal Owner(s):

Dennis Agboh
Name - Type or Print

Dennis Agboh
Signature

Elizabeth Agboh
Name - Type or Print

Elizabeth Agboh
Signature

118 Nob Hill Park Drive
Address — Telephone No.

Reisterstown — MD — 21136
City — State — Zip Code

Representative to be Contacted:

James S. Patton, P.E.
Name

780 Elkridge Landing Road — 410-691-0205
Address — Telephone No.

Linthicum — MD — 21090
City — State — Zip Code

RECEIVED FOR FILING
8-Jun-10
By: WW

Case No. 2010-0314-SPHXA

Office Use Only
Estimated Length of Hearing
Unavailable For Hearing
Reviewed by D.T. Date 5/13/10

REV 8/20/07

VARIANCES BEING REQUESTED GROUP CHILD CARE CENTER CLASS "B" AT 6411 LIBERTY ROAD:

1. From Section 1B01.1.B.1.e (3) & (5) of the Baltimore County Zoning Regulations (BCZR), to permit existing parking, structures, and fenced play yard to remain within an RTA buffer in their existing locations and at their current heights in lieu of providing a 50 foot buffer area, a 75 foot setback, and a height not to exceed 35 feet within the required 100 foot Residential Transition Area (RTA) required for a Class "B" Group Child Care Center for up to 40 children in a D.R. 5.5 zone.

2. From Section 400.1 of the BCZR to permit the existing garage to remain in the current location in lieu of being located in the third of the lot farthest removed from any street as required.

3. From Section 409.8.A.1 and A.4 to permit the existing paved parking area to remain as is in lieu of design, screening and landscaping, in accordance with the landscape manual and all other manuals adopted pursuant to Section 32-4-404 of the Baltimore County Code, and a zero foot setback in lieu of the required setback of 10 feet to the right of way line to a public street.

4. From Section 424.7.A to permit a Class "B" Group Child Care Center on a 0.35 gross acre lot in lieu of the required minimum lot size of one (1) acre for the first 40 children.

5. From Section 424.7.B of the BCZR to permit an 18 foot front setback of the existing structure (full width front porch) in lieu of the required 25 foot front setback from the street right-of-way line or the average setback of the adjacent residential dwellings whichever is less; to permit an 11 foot side yard setback and a 20 foot side yard setback in lieu of the required 50 feet from a property line; to permit the rear and side yards to have a five (5) foot high wooden stockade fence (existing) in lieu of the required twenty (20) foot perimeter vegetative buffer.

6. From Section 424.7.C to permit parking , drop-off and delivery area to be located in the front yard in lieu of the required side yards.

7. From Section 424.7.E to permit a maximum impervious surface area of 34% in lieu of the permitted maximum impervious surface area of 25% of the gross area.

8. From Section 427.1.B.2 to permit a wooden stockade solid fence of 60" in lieu of the required maximum height of 42 inches in residential zones.

9. Such other variance(s) which may be identified at the time of the hearing.

Reasons for the Variances are to continue the use of the existing facility as presently configured. The hardship and practical difficulty will be detailed at the hearing.

2010-0314-SPHXA

BALTIMORE COUNTY, MARYLAND
Interoffice Memorandum

DATE: May 20, 2010

TO: Zoning Commissioner and File

FROM: Donna Thompson, Planner II, Zoning Review

SUBJECT: Petition for Special Hearing, Special Exception & Variance
Case No. 2010-0314-SPHXA
6411 Liberty Road

The above referenced petition was filed by James S. Patton, P.E. along with Kim Walters with Egnima Learning. Due to the multiple requests made in the zoning variance, Mr. Patton included shortened verbage (see attached). Both were made aware of the fact that besides the signs needed for each type of hearing additional signs may be needed due to their extensive requests.

Please call me if you have any questions.

dt

SIGN VERBAGE

VARIANCES GROUP CHILD CARE CENTER CLASS "B" AT 6411 LIBERTY ROAD

1. **To waive the RTA to permit existing parking, existing structures, and existing fenced play yard to remain in lieu of the required 50 foot buffer area & 75 foot setback within the required 100 foot RTA for a Class "B" Group Child Care Center**

2. **To permit the existing paved parking area to remain in lieu of design, screening and landscaping, in accordance with current regulations.**

3. **To permit a Class "B" Group Child Care Center on a 0.35 gross acre lot in lieu of the required minimum lot size of one (1) acre.**

4. **To permit an 18 foot front setback in lieu of the required 25 feet; to permit an 11 foot side yard setback and a 20 foot side yard setback in lieu of the required 50 feet from a property line; to permit the rear and side yards to have a five (5) foot high wooden stockade fence (existing) in lieu of the required twenty (20) foot perimeter vegetative buffer.**

5. **To permit parking, drop-off and delivery area to be located in the front yard in lieu of the required side yards.**

6. **To permit a maximum impervious surface area of 34% in lieu of 25% of the gross area.**

7. **Such other variance(s) identified at the time of the hearing.**

PATTON

Patton Consultants Ltd. Engineering & Site Planning

ZONING DESCRIPTION FOR 6411 LIBERTY ROAD

Beginning at a point on the south side of Liberty Road (MD Rte. 26) which is eighty (80) feet wide at the distance of 15 feet +/- west of the centerline of the nearest improved intersecting street, Forest Hill Avenue (formerly Smith Avenue), which is thirty (30) feet wide. Being Lot #10 and a portion of Lot #9 in the subdivision (Record Plat) of "Luther Smith Plat" as recorded in Baltimore County Plat Book #7, Folio #194, containing 0.35 acres +/-. Also known as 6411 Liberty Road and located in the 2nd Election District, 4th Councilmanic District.

Prepared by Patton Consultants, Ltd. April 13, 2010

780 Elkridge Landing Road, Suite 104, Linthicum, MD 21090
410-691-0205 Fax 410-691-0207

2010-0314-SPHXA

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: 2010-0314-SPHXA

Petitioner: Kim M Walters (ENIGMA LEARNING CENTER)

Address or Location: 6411 Liberty road Baltimor MD 21207

PLEASE FORWARD ADVERTISING BILL TO:

Name: Enigma Learning Center

Address: 6411 Liberty road
Baltimore MD 21207

Telephone Number: 410-944-3154

Revised 7/11/05 - SCJ

BALTIMORE COUNTY, MARYLAND
Interoffice Memorandum

DATE: May 26, 2010

TO: Zoning Commissioner and File

FROM: Donna Thompson, Planner II, Zoning Review

SUBJECT: Petition for Special Exception, Special Hearing & Variance
Case No. 2010-0314-SPHXA
6411 Liberty Road

On May 26, 2010 this office was notified by the Budget office that the check for $800.00 for filing all the above petitions bounced. A message was left for their attorney, Carroll Holzer and James Patton, Patton Consultants.

dt

5/28/10 - Spoke w/Kim Walters + explained our office will not proceed until check issue is resolved! DT

5/28/10 - Fee was paid w/ cash at cashier's office by Petitioner, case to be set for hearing - KL.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 55049

Date: 5/28/10

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				$800.00
001	806	0000		3080				$ 35.00

Total: $835.00

Rec From: Enigma Learning Center

For: Returned check (#217 5/13/10)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

Baltimore County, Maryland
Office of Budget & Finance
Customer Service Division

BUSINESS ACTUAL TIME DRW
5/28/2010 5/28/2010 11:30:35 2

REG WS02 WALKIN JEVA JEE
>>RECEIPT # 685407 5/28/2010 OFLN
5 MISCELLANOUS CASH RECEIPT
CR NO. 055049
528 ZONING VERIFICATION
001-806-0000-6150 $800.00
1
523 RETURN CHK FEE
001-806-0000-3080 $35.00
1
Receipt total $35.00
All receipts $835.00
CASH $850.00
1
Change $15.00-
1
Total remitted $850.00

Thank you for your payment.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 53932

Date: 5/12/10

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	306	2000						

Total:

Rec From:

For:

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

CASHIER'S VALIDATION

+-CERTIFICATE OF POSTING

2010-0314-SPHXA

RE: Case No.: _____

Petitioner/Developer: _____

Dennis and Elizabeth Agboh

July 1 2010

Date of Hearing/Closing: _____

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

Attn: Kristin Matthews

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____
6411 Liberty Road

June 14 2010

The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,

Robert Black **June 16 2010**

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

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: # 2010-0314-SPHXA
6411 Liberty Road
S/side of Liberty Road, 15 feet west of the centerline of Forest Hill Avenue (s/west corner)
2nd Election District-4th Councilmanic District
Legal Owner(s): Dennis & Elizabeth Agboh

Special Exeption: to permit a Class "B" child care facility. **Special Hearing**: to find that BCZR section 1B01.1.B.g(11) is applicable and has been complied with; to find that if a special exception is not granted for "Principal use Group Child Care Center, Class B" then an "Accessory Use Group Child Care for more than 12 children but less than 40" is permited in this existing facility in keeping with the continuation of the current use and without designating the name of a specific individual(s) and further, that a "lessee" is permitted to be the occupant. **Variance:** to waive the RTA to permit existing parking, existing structures, and existing fenced play yard to remain in lieu of the required 50 ft. buffer area and 75 ft. setback within the required 100 ft. RTA for a "Class B" Group Child Care Center; to permit the existing paved parking area to remain in lieu of design, screening & landscaping, in accordance with current regulations; to permit a Class "B" Group Child Care Center on a 0.35 gross acre lot in lieu of the required minimum lot size (1) acre; to permit an 18 ft. front setback in lieu of the required 25 ft; to permit an 11 ft. side yard setback and a 20 ft. side yard setback in lieu of the required 50 ft. from a property line; to permit the rear & side yards to have a 5 ft. high wooden stockage fence (existing) in lieu of the required 20 ft. perimeter vegetative buffer; to permit parking, drop-off and delivery area to be located in the front yard in lieu of the required side yards; to permit a maximum impervious surface area of 34% in lieu of the 25% of the gross area, Such other variance(s) identified at the time of the hearing.

Hearing: Thursday, July 1, 2010 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

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

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

JT/6/788 June 15 244112

CERTIFICATE OF PUBLICATION

6/17/, 2010

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 6/15/, 2010.

- [X] 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 2010-0314-SPHXA

Petitioner/Developer KIM WALTERS

Date Of Hearing/Closing: 8/10/10

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 6411 LIBERTY ROAD

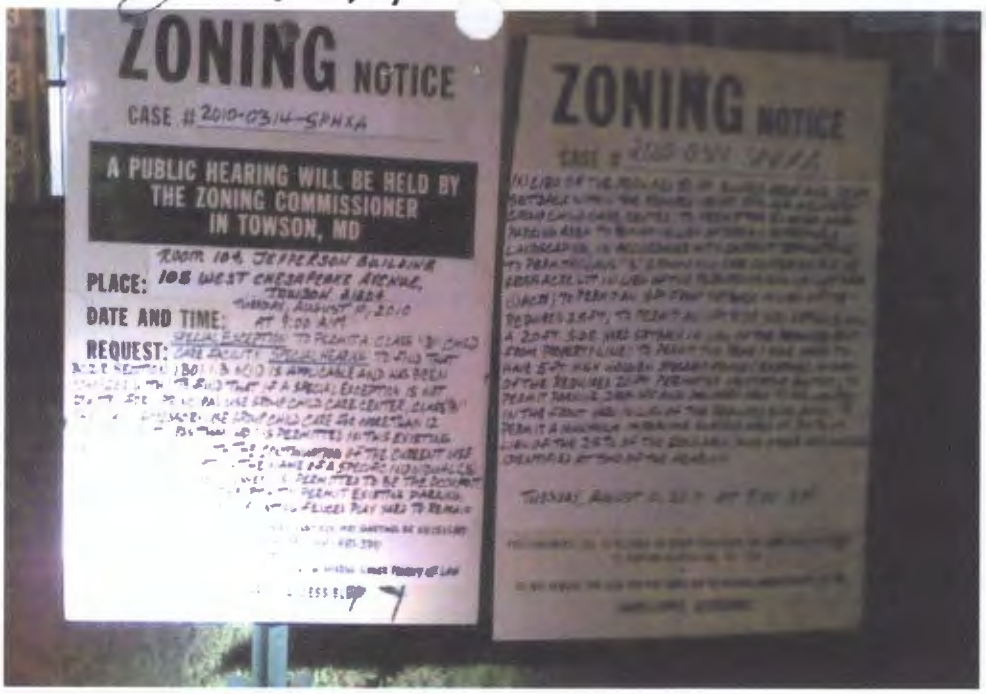
This sign(s) were posted on July 24, 2010
Month,Day,Year

Sincerely,

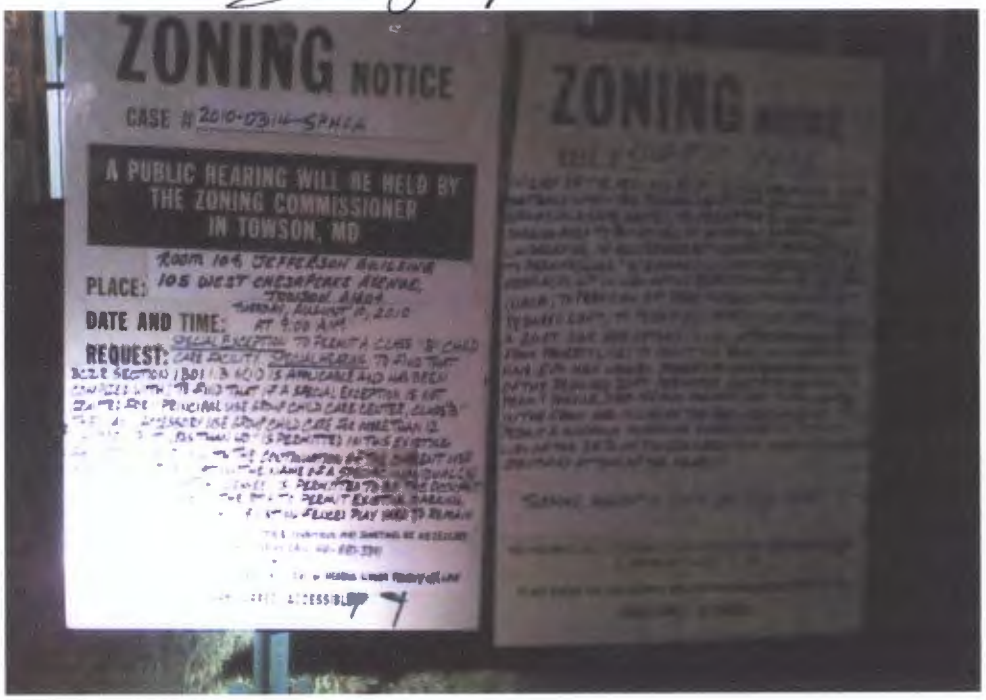
7/24/10
Signature of Sign Poster and Date

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

Martin Ogle 7/26/10



Martin Ogle 7/26/10



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: # 2010-0314-SPHXA
6411 Liberty Road
S/side of Liberty Road, 15 feet west of the centerline of Forest Hill Avenue (s/west corner)
2nd Election District — 4th Councilmanic District
Legal Owner(s): Dennis & Elizabeth Agboh

Special Exception: to permit a Class "B" child care facility. **Special Hearing:** to find that BCZR section 1B01.1.B.1.g(11) is applicable and has been complied with; to find that if a special exception is not granted for "Principal use Group Child Care Center, Class B" then an "Accessory Use Group Child Care for more than 12 children but less than 40" is permitted in this existing facility in keeping with the continuation of the current use and without designating the name of a specific individual(s) and further, that a "lessee" is permitted to be the occupant. **Variance:** to waive the RTA to permit existing parking, existing structures, and existing fenced play yard to remain in lieu of the required 50 ft. buffer area and 75 ft. setback within the required 100 ft. RTA for a "Class B" Group Child Care Center; to permit the existing paved parking area to remain in lieu of design, screening & landscaping, in accordance with current regulations; to permit a Class "B" Group Child Care Center on a 0.35 gross acre lot in lieu of the required minimum lot size (1) acre; to permit an 18 ft. front setback in lieu of the required 25 ft; to permit an 11 ft. side yard setback and a 20 ft. side yard setback in lieu of the required 50 ft. from a property line; to permit the rear & side yards to have a 5 ft. high wooden stockage fence (existing) in lieu of the required 20 ft. perimeter vegetative buffer; to permit parking, drop-off and delivery area to be located in the front yard in lieu of the required side yards; to permit a maximum impervious surface area of 34% in lieu of the 25% of the gross area, Such other variance(s) identified at the time of the hearing.

Hearing: Tuesday, August 10, 2010, at 9:00 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 accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

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

JT 7/846 July 27 248571

CERTIFICATE OF PUBLICATION

7/29/, 2010

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 7/27/, 2010.

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

S. Wilkinson

LEGAL ADVERTISING

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 27, 2010 Issue - Jeffersonian

Please forward billing to:
Egnima Learning Center 410-944-3154
6411 Liberty Road
Baltimore, MD 21207

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: 2010-0314-SPHXA
6411 Liberty Road
S/side of Liberty Road, 15 feet west of the centerline of Forest Hill Avenue (s/west corner)
2nd Election District – 4th Councilmanic District
Legal Owners: Dennis & Elizabeth Agboh

Special Exception to permit a Class "B" child care facility. Special Hearing to find that BCZR section 1B01.1.B.1.g(11) is applicable and has been complied with; to find that if a special exception is not granted for "Principal use Group Child Care Center, Class B" then an "Accessory Use Group Child Care for more than 12 children but less than 40" is permitted in this existing facility in keeping with the continuation of the current use and without designating the name of a specific individual(s) and further, that a "lessee" is permitted to be the occupant. Variance to waive the RTA to permit existing parking, existing structures, and existing fenced play yard to remain in lieu of the required 50 ft. buffer area and 75 ft. setback within the required 100 ft. RTA for a "Class B" Group Child Care Center; to permit the existing paved parking area to remain in lieu of design, screening & landscaping, in accordance with current regulations; to permit a Class "B" Group Child Care Center on a 0.35 gross acre lot in lieu of the required minimum lot size (1) acre; to permit an 18 ft. front setback in lieu of the required 25 ft; to permit an 11 ft. side yard setback and a 20 ft. side yard setback in lieu of the required 50 ft. from a property line; to permit the rear & side yards to have a 5 ft. high wooden stockage fence (existing) in lieu of the required 20 ft. perimeter vegetative buffer; to permit parking, drop-off and delivery area to be located in the front yard in lieu of the required side yards; to permit a maximum impervious surface area of 34% in lieu of the 25% of the gross area, Such other variance(s) identified at the time of the hearing.

Hearing: Tuesday, August 10, 2010 at 9:00 a.m. in Room 104, County Courts 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.

BALTIMORE COUNTY
MARYLAND

June 2, 2010

JAMES T. SMITH, JR.
County Executive

NOTICE OF ZONING HEARING

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

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CASE NUMBER: 2010-0314-SPHXA
6411 Liberty Road
S/side of Liberty Road, 15 feet west of the centerline of Forest Hill Avenue (s/west corner)
2nd Election District – 4th Councilmanic District
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Special Exception to permit a Class "B" child care facility. Special Hearing to find that BCZR section 1B01.1.B.1.g(11) is applicable and has been complied with; to find that if a special exception is not granted for "Principal use Group Child Care Center, Class B" then an "Accessory Use Group Child Care for more than 12 children but less than 40" is permitted in this existing facility in keeping with the continuation of the current use and without designating the name of a specific individual(s) and further, that a "lessee" is permitted to be the occupant. Variance to waive the RTA to permit existing parking, existing structures, and existing fenced play yard to remain in lieu of the required 50 ft. buffer area and 75 ft. setback within the required 100 ft. RTA for a "Class B" Group Child Care Center; to permit the existing paved parking area to remain in lieu of design, screening & landscaping, in accordance with current regulations; to permit a Class "B" Group Child Care Center on a 0.35 gross acre lot in lieu of the required minimum lot size (1) acre; to permit an 18 ft. front setback in lieu of the required 25 ft; to permit an 11 ft. side yard setback and a 20 ft. side yard setback in lieu of the required 50 ft. from a property line; to permit the rear & side yards to have a 5 ft. high wooden stockage fence (existing) in lieu of the required 20 ft. perimeter vegetative buffer; to permit parking, drop-off and delivery area to be located in the front yard in lieu of the required side yards; to permit a maximum impervious surface area of 34% in lieu of the 25% of the gross area, Such other variance(s) identified at the time of the hearing.

Hearing: Tuesday, August 10, 2010 at 9:00 a.m. in Room 104, County Courts Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:kl

C: J. Carroll Holzer, 508 Fairmount Ave., Towson 21286
Mr. & Mrs. Agboh, 116 Nob Hill Park Dr., Reisterstown 21136
Kim Walters, Egnima Learning, 6411 Liberty Road, Baltimore 21207
James Patton, 780 Elkridge Landing Road, Linthicum 21090

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 26, 2010.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

County Board of Appeals of Baltimore County

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

PP
Appeal - Medical
to be Assigned

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

January 25, 2011

NOTICE OF ASSIGNMENT

CASE #: 10-314-SPHXA **IN THE MATTER OF:** Dennis and Elizabeth Agboh
Legal Owners /Petitioners
Kimberly Walters, Lessee d/b/a Egnima Learning
6411 Liberty Road / 2nd Election District; 2nd Councilmanic District

Re: SPHXA – Special Exception for Class B Child Care Center, Variance and Special Hearing requests

8/26/10 Findings of Fact and Conclusion of Law issued by Deputy Zoning Commissioner DENYING Special Exception request, DISMISSING AS MOOT the Variance requests, and DENYING the Special Hearing requests.

ASSIGNED FOR: THURSDAY, FEBRUARY 17, 2011, AT 1:00 P.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: Appellant : Kimberly Walters, Lessee
d.b.a Enigma Learning

Counsel for Petitioner/Legal Owner : Francis X. Borgerding, Jr., Esquire
Petitioner/Legal Owner : Dennis and Elizabeth Agboh

James S. Patton

Peter Max Zimmerman
People's Counsel for Baltimore County
Lawrence M. Stahl, Managing Administrative Judge
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Jeff Mayhew, Deputy Director/Office of Planning
Michael Field, County Attorney, Office of Law

Attn: Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson MD 21204

My case number is 10-314-sphxa the hearing is schedule for February 17, 2011. I need to reschedule the hearing due to emergency surgery. I am under doctor care until February 28, 2011. Any questions please contact me at (410)504-3713.

Sincerely,
Kim M Walters

Kim M Walters

9:30 2/11

Kim Walters

- She says she called Bergerding and he's aware of her situation

- Wants to confirm postponement -

Re: Agboh 10-314-SPHXA

RECEIVED
FEB 10 2011
BALTIMORE COUNTY
BOARD OF APPEALS

PATIENT FIRST

10210 REISTERSTOWN ROAD
OWINGS MILLS MD 21117
410/902-6776

KIM WALTERS 140818+1 02.10.11 11:35

Activity Excuse

Please excuse from work starting 02/10.

Reason-illness.

Resume regular activity 02/28.

Signature

message

For
From Kim Walters
Time 1:15p Date 2/10
Phone 410-504-3713
☐ URGENT! 10-314-SPHXA
Has to have emergency surgery

Wants postpone of 2/17

I told her to advise her attorney of her request.
-Rep by Borgerding

Call to ~~advise~~ advise if postpone granted

Post-it Super Sticky

message

For
From Frank Borgerding
Time 11:30am Date 2/10
Phone
☐ URGENT!
Please call - wants to know when the Board will be in to sign

Post-it Super Sticky

L. S. RUVOLO, M.D.
A. M. BASKIES, M.D.
W. J. HOLADAY, M.D.
S. H. WASSER, M.D.
D. F. GREENBAUM, M.D.

SURGICAL SPECIALISTS OF NEW JERSEY, LLC
RANCOCAS DIVISION
RANCOCAS MEDICAL CENTER - SUITE A
1000 SALEM ROAD
WILLINGBORO, NEW JERSEY 08046

****
609-877-1787
FAX 609/877-1689
www.infosheet.com/surgery

February 14, 2011

Name: Kim Walters

To Whom It May Concern:

The above mentioned patient has been under my care since January 28, 2011, due to a Hysterectomy surgery. She may return to active duty on March 25, 2011.

If you have any further questions, please feel free to contact us.

Sincerely,

Fredrick Greenbaum, M.D.

Surgical Specialists of New Jersey, LLC
Rancocas Division
1000 Salem Road - Suite A
Willingboro, New Jersey 08046

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 15, 2011

NOTICE OF POSTPONEMENT

CASE #: 10-314-SPHXA **IN THE MATTER OF:** Dennis and Elizabeth Agboh
Legal Owners /Petitioners
Kimberly Walters, Lessee d/b/a Egnima Learning
6411 Liberty Road / 2nd Election District; 2nd Councilmanic District

Re: SPHXA – Special Exception for Class B Child Care Center, Variance and Special Hearing requests

8/26/10 Findings of Fact and Conclusion of Law issued by Deputy Zoning Commissioner DENYING Special Exception request, DISMISSING AS MOOT the Variance requests, and DENYING the Special Hearing requests.

This matter was assigned for Thursday, February 17, 2011 at 1:00 PM and has been postponed at the request of the appellant for medical reasons. The matter will be re-assigned to a date after March 25, 201. ***TO BE RE-ASSIGNED.***

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: Appellant : Kimberly Walters, Lessee
d.b.a Enigma Learning

Counsel for Petitioner/Legal Owner : Francis X. Borgerding, Jr., Esquire
Petitioner/Legal Owner : Dennis and Elizabeth Agboh

James S. Patton

Peter Max Zimmerman
People's Counsel for Baltimore County
Lawrence M. Stahl, Managing Administrative Judge
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Jeff Mayhew, Deputy Director/Office of Planning
Michael Field, County Attorney, Office of Law

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

April 18, 2011

NOTICE OF RE-ASSIGNMENT

CASE #: 10-314-SPHXA **IN THE MATTER OF:** Dennis and Elizabeth Agboh
Legal Owners /Petitioners
Kimberly Walters, Lessee d/b/a Egnima Learning
6411 Liberty Road / 2nd Election District; 2nd Councilmanic District

Re: SPHXA – Special Exception for Class B Child Care Center, Variance and Special Hearing requests

8/26/10 Findings of Fact and Conclusion of Law issued by Deputy Zoning Commissioner DENYING Special Exception request, DISMISSING AS MOOT the Variance requests, and DENYING the Special Hearing requests.

This matter was assigned for 2/17/2011 and was postponed at the request of the Appellant, the matter has been re-assigned as follows:

RE-ASSIGNED FOR: TUESDAY, MAY 24, 2011, AT 10:00 A.M.

No further postponements will be granted in this matter, for any reason; for any party, except under extreme/extraordinary circumstances and upon review by the Board.

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: Appellant : Kimberly Walters, Lessee
d.b.a Enigma Learning

Counsel for Petitioner/Legal Owner : Francis X. Borgerding, Jr., Esquire
Petitioner/Legal Owner : Dennis and Elizabeth Agboh

James S. Patton

Peter Max Zimmerman / People's Counsel for Baltimore County
Lawrence M. Stahl, Managing Administrative Judge
Arnold Jablon, Director/PAI
Jeff Mayhew, Deputy Director/Office of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

August 4, 2010

J. Carroll Holzer
Holzer & Lee
508 Fairmount Ave.
Towon, MD 21286

Dear: J. Carroll Holzer

RE: Case Number 2010-0314-SPHXA, 6411 Liberty Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 13, 2010. 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Dennis & Elizabeth Agboh; 116 Nob Hill Park Dr.; Reisterstown, MD 21136
Kim Walters, dba Egnima Learning; 6411 Liberty Rd.; Baltimore, MD 21207
James S. Patton, P.E.; 780 Elkridge Landing Rd.; Linthicum, MD 21090

TB 8/10
9am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 22, 2010

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

SUBJECT: 6411 Liberty Road

INFORMATION:

Item Number: 10-314

Petitioner: Kim Walters d/b/a Egnima Learning

Zoning: **DR 5.5**

Requested Action: **Special Hearing and Special Exception**

RECEIVED
JUN 29 2010
ZONING COMMISSIONER

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan. This Office offers the following:

An inspection of the site, subsequent discussions with the property owner's engineer, a review of the history of zoning activity at this site revealed that the request to occupy the site with 12 to 40 children as a Class B Child Care Facility would be too intense for a property of this size. The petitioners engineer has indicated that he will amend the request to allow a maximum of 20 children on the site. Operating a childcare facility with more than 12 Children at this location could be intrusive for adjacent residential uses. All of the requested variances alone lead one to believe that the site is too small.

The Office of Planning recommends **denial** of the requested Special Exception and Special Hearing to operate a Class B Child Care Facility.

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

Prepared by: Curtis Murray

Division Chief: Lynn Lanham

AFK/LL: CM

W:\DEVREV\ZAC\ZACs 2010\10-314.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 22, 2010

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

SUBJECT: 6411 Liberty Road

INFORMATION:

Item Number: 10-314

Petitioner: Kim Walters d/b/a Egnima Learning

Zoning: **DR 5.5**

Requested Action: **Special Hearing and Special Exception**

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan. This Office offers the following:

An inspection of the site, subsequent discussions with the property owner's engineer, a review of the history of zoning activity at this site revealed that the request to occupy the site with 12 to 40 children as a Class B Child Care Facility would be too intense for a property of this size. The petitioners engineer has indicated that he will amend the request to allow a maximum of 20 children on the site. Operating a childcare facility with more than 12 Children at this location could be intrusive for adjacent residential uses. All of the requested variances alone lead one to believe that the site is too small.

The Office of Planning recommends **denial** of the requested Special Exception and Special Hearing to operate a Class B Child Care Facility.

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

Prepared by: Curtis Murray

Division Chief: Lynn Lanham
AFK/LL: CM

P.C. Ex 12 Kim Walters CBA 10-314 SPHXA 5-24-11

TB 8-10-10 9am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JUN 15 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: June 14, 2010

SUBJECT: Zoning Item # 10-314-SPHXA
Address 6411 Liberty Road
(Agboh Property)

Zoning Advisory Committee Meeting of May 24, 2010

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

Reviewer: JWL Date: 6/14/2010

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 27, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For June 7, 2010
Item Nos. 2010- 302, 305, 309, 313, 314, 315, 316, 317, 318, 319, 320 & 321

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

DAK:CEN:elm
cc: File
G:\DevPlanRev\ZAC -No Comments\ZAC-006072010 -NO COMMENTS.doc

BALTIMORE COUNTY
MARYLAND

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

May 27,2010

ATTENTION: Zoning Review Planners

Distribution Meeting Of: May 24th, 2010

Item Numbers: 0302,0314,0319

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.

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

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

cc: File

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

SHA State Highway Administration

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6-03-2010

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

RE: Baltimore County
Item No. 2010-0314-SPHXA
MD 26 (LIBERTY RD)
6411 LIBERTY ROAD
AGROH PROPERTY
SPECIAL HEARING -
VARIANCE -

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. 2010-0314-SPHXA.

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

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

RE: PETITION FOR SPECIAL HEARING
SPECIAL EXCEPTION AND VARIANCE*
6411 Liberty Road; SW corner of Liberty
Road & Forest Hill Road *
2nd Election & 2nd Councilmanic Districts
Legal Owner(s): Dennis & Elizabeth Agboh *
Contract Purchaser(s): Kim Walters d/b/a
Egnima Learning *
Petitioner(s)
*

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

10-314-SPHXA

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

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
MAY 28 2010

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 28th day of May, 2010, a copy of the foregoing Entry of Appearance was mailed to James Patton, P.E.., 780 Elkridge Landing Road, Linthicum, MD 21090 and J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286 , Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 27, 2011

Lawrence S. Wescott, Chairman
County Board of Appeals
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Dennis Agboh and Elizabeth Agboh
Case No. 10-004-SPH (Related Case No.: 10-314-SPHXA)

Dear Chairman Wescott:

Please accept this letter as a motion for reconsideration, clarification, and correction of the Board's May 19, 2011 opinion. In connection with the Board's Opinion and Order limiting the Class A Group Child Care center, for up to 12 children, to a resident operator, we need to ask for correction and clarification of the opinion.

On page 3, the Board's opinion describes favorably Zoning Commissioner Lawrence Schmidt's grant of the Agbohs' petition for special exception and variance for a Class B Group Child Care Center for up to 39 children on March 1, 1995. As People's Counsel's Exhibit 4 shows, however, our office appealed that decision to the Board. The Agbohs subsequently withdrew the petition. The Board issued an order of dismissal on January 21, 1997. The appeal, withdrawal, and dismissal are not mentioned in the Board's opinion here. This omission might give the misleading impression that a Class B Child Care center was approved and is acceptable.

Separately, on May 24, 2011, the Board heard the related current case, No. 10-314-SPHXA, in which the Agbohs, along with Kim Walters, as lessee, filed a new petition for a Class B Child Care Center at this property, for more than 12 children but less than 40. This involved again a special exception, special hearing, and numerous variances. Deputy Zoning Commissioner Thomas Bostwick denied this petition on August 26, 2010. Kim Walters appealed that denial, and our office, with the support of the Planning Office, again opposed the expansion to a Class B center.

At the May 24, 2011 hearing in Case No. 10-314-SPH, the zoning history of the property again came into focus. Ms. Walters testified that she assumed or understood, before she signed her lease with the Agbohs, that there was county approval for a Class B Group Child Care Center. The Agbohs did not appear. Ms. Walters said she later found out there was no final approval. This is shown, of course, by the documentary history.

The Board then deliberated publicly and found Ms. Walters did not produce evidence to satisfy the legal standards. The Board denied the petitions for special exception, special hearing and variance and will issue its opinion in due course.

There has thus been much confusion about the history. The Agbohs have focused on the 1995 approval by Zoning Commissioner Schmidt, but not on the appeal by our office to the Board, their subsequent withdrawal of the Petition, and the Board's ensuing dismissal. This is reflected in Deputy Zoning Commissioner Thomas Bostwick's decision in the present case, 10-004-SPH, which also omits the appeal history. (It would therefore be helpful if the complete history is recited not only here, buy also upon reconsideration in the upcoming opinion in Case No. 10-314-SPHXA).

On page 4, the Board correctly observes that the restriction to a resident operator helps prevent the dwelling from being a solely commercial enterprise. It would be helpful and appropriate to point out that this is because BCZR Section 424.4.A allows Class A Group Child Care Centers by use permit as accessory uses within single-family dwellings. This salutary purpose is thus achieved by a legal prerequisite that the operator reside there.

We believe these clarifications could be incorporated in a supplemental opinion. This is important not only for the present context, but also for future reference.

Thank you in advance for your attention and consideration.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Francis X. Borgerding, Esquire, attorney for Dennis & Elizabeth Agboh
Kim Walters

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

February 15, 2011

Lawrence S. Wescott, Chairman
County Board of Appeals
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Dennis Agboh and Elizabeth Agboh, property owners; Kimberly Walters, contract purchaser and/or lessee
6411 Liberty Road
Case Nos. 10-314-SPH

Dear Chairman Wescott:

As the record shows, our office entered its appearance before the Zoning Commissioner. The Deputy Zoning Commissioner denied the petition for special exception and variances on August 26, 2010. Kimberly Walters appealed on September 21, 2010. The Agbohs did not sign the appeal, but are on the Petition as property owners, along with Ms. Walters as contract purchaser/lessee.

This case was set for February 17, 2011 at 1 PM. Companion case 10-004-SPH was set at 9 AM, with the Agbohs the only listed Petitioners, now represented by Francis X. Borgerding, Esquire. Our office filed the appeal in that case.

Our office is still an interested party in this case, 10-314-SPHXA, as well as Case 10-004-SPH. Here, our position is that, for various reasons, the petition for special exception and variances must be denied. We just learned that Ms. Walters has requested a postponement of her appeal for medical reasons, and that the Board has granted it. So far as the record shows, she is not represented by counsel at this time. Please maintain us on your notice list as an interested party for rescheduling of this case and other matters.

Sincerely,

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Kimberly Walters
Francis X. Borgerding, Esquire

HOLZER & LEE

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
E-MAIL: JCHOLZER@CAVTEL.NET

June 9, 2010
#7917

OK to Postpone DTR

Mr. Timothy Kotroco, Director
Permits & Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

William Wiseman, Esquire
Zoning Commissioner
105 West Chesapeake Avenue
Suite 103
Towson, Maryland 21204

RE: Case No. 2010-0314-SPHXA; 6411 Liberty Road

Dear Director Kotroco and Zoning Commissioner Wiseman:

I received a letter from Timothy Kotroco dated June 2, 2010 in reference to the hearing in the above captioned matter scheduled for July 1, 2010 at 9:00 a.m. Unfortunately, on the same day and time I have an argument in the Circuit Court for Baltimore County in the matter of Bowleys Quarters Community Association and Galloway Creek PUD, Case No. 03-C-09-11257. I have attached a copy of the Case and Court Scheduling Information.

Therefore, I respectfully request a postponement of the hearing until a mutually convenient time. I would be glad to coordinate calendars with counsel and the County's docket clerk to put this matter in at a date agreeable to the parties.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Cc: Kim Walters
James Patton, PE
People's Counsel for Baltimore County

RECEIVED
JUN 11 2010
DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

Circuit Court of Maryland

Go Back

Case Information

Court System: **Circuit Court for Baltimore County - Civil System**
Case Number: **03C09011257**
Title: **In the Matter of Bowleys Quarters Community Assn L L C, et al**
Case Type: **Administrative Agency Appeal** Filing Date: **09/16/2009**
Case Status: **Open/Active**
Case Disposition: Disposition Date:

Plaintiff/Petitioner Information

(Each Plaintiff/Petitioner is displayed below)

Party Type: **Petitioner** Party No.: **2**
Name: **Lagna, William**
Address: **221 Bowleys Quarters Rd**
City: **Middle River** State: **MD** Zip Code: **21220**

Attorney(s) for the Plaintiff/Petitioner

Name: **Holzer, Esq, J Carroll**
Practice Name: **Holzer & Lee**
Address: **508 Fairmount Avenue**
City: **Towson** State: **MD** Zip Code: **21286-5448**

Party Type: **Petitioner** Party No.: **10**
Name: **Wood, Malcolm**
Address: **1402 Burke Rd**
City: **Middle River** State: **MD** Zip Code: **21220**

Attorney(s) for the Plaintiff/Petitioner

Name: **Holzer, Esq, J Carroll**
Practice Name: **Holzer & Lee**
Address: **508 Fairmount Avenue**
City: **Towson** State: **MD** Zip Code: **21286-5448**

Party Type: **Petitioner** Party No.: **12**
Name: **Hession, Rose**
Address: **1127 Cold Spring Rd**
City: **Middle River** State: **MD** Zip Code: **21220**

Attorney(s) for the Plaintiff/Petitioner

Name: **Holzer, Esq, J Carroll**
Practice Name: **Holzer & Lee**
Address: **508 Fairmount Avenue**
City: **Towson** State: **MD** Zip Code: **21286-5448**

Party Type: **Petitioner** Party No.: **13**
Name: **Reiner, Mildred**
Address: **1602 Holly Tree Rd**
City: **Middle River** State: **MD** Zip Code: **21220**

Attorney(s) for the Plaintiff/Petitioner

Party Type: **Petitioner** Party No.: **11**
Name: **Hession, Joseph**
Address: **1127 Cold Spring Rd**
City: **Middle River** State: **MD** Zip Code: **21220**

Attorney(s) for the Plaintiff/Petitioner

Name: **Holzer, Esq, J Carroll**
Practice Name: **Holzer & Lee**
Address: **508 Fairmount Avenue**
City: **Towson** State: **MD** Zip Code: **21286-5448**

Party Type: **Petitioner** Party No.: **16**
Name: **Zinn, Harlan**
Address: **809 Cold Spring Rd**
City: **Middle River** State: **MD** Zip Code: **21220**

Attorney(s) for the Plaintiff/Petitioner

Name: **Holzer, Esq, J Carroll**
Practice Name: **Holzer & Lee**
Address: **508 Fairmount Avenue**
City: **Towson** State: **MD** Zip Code: **21286-5448**

Court Scheduling Information

Event Type: **Civil Non-Jury Trial** Notice Date:
Event Date: **07/01/2010** Event Time: **09:30 AM**
Result: Result Date:

Related Persons Information

(Each Related person is displayed below)

Party Type: **Administrative Agency** Party No.: **1**
Business or Organization Name: **County Board Of Appeals Of Baltimore County**
Address: **Jefferson Building**
City: **Towson** State: **MD** Zip Code: **21204**

Party Type: **Interested Party** Party No.: **1**
Business or Organization Name: **Galloway Creek L L C**

Attorney(s) for the Related Persons

Name: **Gontrum, Esq, John B**
Practice Name: **Whiteford, Taylor & Preston L.L.P.**
Address: **One West Pennsylvania Ave**
Towson Commons Suite 300
City: **Towson** State: **MD** Zip Code: **21204-4515**
Name: **Baker, Esq, Adam D**
Practice Name: **Whiteford, Taylor & Preston LLP**
Address: **1 West Pennsylvania Ave**
City: **Towson** State: **MD** Zip Code: **21204-4515**

From: Theresa Shelton
To: Zimmerman, Peter
Date: 4/11/2011 11:56 AM
Subject: Agboh / Waters Class B request - 10-314-SPHXA

Pete:

I have used Wednesday, May 18 for another matter; however the following dates still remain open.

Tuesday, May 24; or
Wednesday, May 25.

Schedule

Just let me know if any of these work for you.

Thanks.

T
Semper Fi

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
tshelton@baltimorecountymd.gov

"I took the Green @ Work Energy Challenge Pledge."

From: Theresa Shelton
To: Zimmerman, Peter
Date: 4/5/2011 2:51 PM
Subject: Agboh / Waters Class B request - 10-314-SPHXA

Pete:

Will be setting 10-314-SPHXA on the docket and wanted to check some dates with you.

~~Wednesday, May 18~~
Tuesday, May 24; or
Wednesday, May 25.

Just let me know if any of these work for you.

Thanks.

T
Semper Fi

Theresa R. Shelton, Administrator
Board of Appeals for Baltimore County
Suite 203, The Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

410-887-3180
410-887-3182 (FAX)
tshelton@baltimorecountymd.gov

"I took the Green @ Work Energy Challenge Pledge."

RE: PETITION FOR SPECIAL HEARING
SPECIAL EXCEPTION AND VARIANCE * BEFORE THE COUNTY
6411 Liberty Road; SW corner of Liberty
Road & Forest Hill Road * BOARD OF APPEALS
2nd Election & 2nd Councilmanic Districts
Legal Owner(s): Dennis & Elizabeth Agboh * FOR
Contract Purchaser(s): Kim Walters d/b/a
Enigma Learning * BALTIMORE COUNTY
Petitioner(s)
* 10-314-SPHXA

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

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Rose Marie Hayes, Regional Manager
Division of Early Childhood Development
Office of Child Care, Region 3
409 Washington Avenue, Suite LL8
Towson, Maryland 21204

YOU ARE HEREBY COMMANDED TO: (X) Personally appear; ( ) Produce documents and/or objects only; ( ) Personally appear and produce documents or objects; in Hearing Room 2, Second Floor, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, MD 21204 on **May 24, 2011 at 10:00 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):**

SUBPOENA REQUESTED BY:
Peter Max Zimmerman, People's Counsel
Office of People's Counsel for Baltimore County
105 W. Chesapeake Avenue, Room 204
Towson, Maryland 21204
(410) 887-2188

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (_) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Sunny Cannington
County Board of Appeals for Baltimore County

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

Go Back
View Map
New Search

Account Identifier: **District -** 02 **Account Number -** 0220660170

Owner Information

Owner Name:	AGBOH DENNIS K AGBOH ELIZABETH J	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	116 NOB HILL PARK DR REISTERSTOWN MD 21136-4609	**Deed Reference:**	1) /10589/ 696 2)

Location & Structure Information

Premises Address
6411 LIBERTY RD

Legal Description
PT LT 9-10
6411 LIBERTY RD SW
LUTHER SMITH PLAT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
88	9	71					9	1	Plat Ref: 7/ 194

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1920	1,683 SF	10,510.00 SF	04

Stories	Basement	Type	Exterior
1 1/2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2010	Phase-in Assessments As Of 07/01/2009	As Of 07/01/2010
Land	52,870	60,300		
Improvements:	129,080	112,000		
Total:	181,950	172,300	181,950	172,300
Preferential Land:	0	0	0	0

Transfer Information

Seller: SMITH WILLIAM M	**Date:** 06/15/1994	**Price:** $72,500
Type: NOT ARMS-LENGTH	**Deed1:** /10589/ 696	**Deed2:**
Seller: SECRETARY OF HOU SING AND	**Date:** 06/19/1990	**Price:** $63,000
Type: IMPROVED ARMS-LENGTH	**Deed1:** / 8512/ 590	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

CASE NO. 2010-0314-SPHXA

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ No Comment
5-27-10	DEVELOPMENT PLANS REVIEW	NC
6-14-10	DEPRM (if not received, date e-mail sent _____)	NC
5-27-10	FIRE DEPARTMENT	NC
6-22-10	PLANNING (if not received, date e-mail sent _____)	oppose
6-3-10	STATE HIGHWAY ADMINISTRATION	NC
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	-
_____	ADJACENT PROPERTY OWNERS	-

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. 2010-0004-SPH)

NEWSPAPER ADVERTISEMENT Date: 6-15-10

SIGN POSTING Date: 6-14-10

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: premises 2 orders included in file

PLEASE PRINT CLEARLY

CASE NAME 6411 Liberty Rd.
CASE NUMBER 2010-0314-SPHXA
DATE 8-10-10

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
J. Carroll Holzer	508 Fairmount Ave	Towson Md 21286	
Kim Walters	6411 Liberty Rd		

To File: 8/26 12:30 pm

Kim Walters picked up her Order + cover ltr., rather than it being mailed

Deb Wiley
Z.C.O.

IN RE: PETITION FOR SPECIAL HEARING SW corner of Liberty Road and Forest Hill Road 2nd Election District 2nd Councilmanic District (6411 Liberty Road)	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY
Dennis K. and Elizabeth J. Agboh *Petitioners*	*	**CASE NO. 2010-0004-SPH**

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

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner for consideration of a Motion for Reconsideration filed by Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County. The Motion for Reconsideration was filed pursuant to Rule 4(k) of Appendix G of the Baltimore County Zoning Regulations (B.C.Z.R.) wherein the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer for Baltimore County are provided. Rule 4(k) permits a party to file a Motion for Reconsideration of an Order issued by the Zoning Commissioner. This Motion must be filed within 30 days of the date the Order was issued, and must state with specificity the grounds and reasons for their request.

In the instant matter, Petitioners requested Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for the removal of restriction #1 in Case No. 86-493-SPH that states that a Class A Group Childcare Center may only be operated on the site so long as Francis E. Feagin is the resident operator of the center. In an Order dated September 22, 2009, the undersigned granted the Special Hearing request, finding that Petitioner was not aware of the prior 1986 case or restriction #1 that limited the daycare operation on that property so long as Frances Feagin was the resident operator. I also found that Petitioner had proceeded through the necessary step of obtaining a Use Permit, and even obtained permission

to expand that use to a Class B Group Childcare Center in 1995.[1] Finally, I found that the current use of the property had no past or present detrimental impacts on the health, safety, or general welfare of the community and would not result in any negative impacts if restriction #1 in Case No. 86-493-SPH were removed in favor of Petitioner.

Thereafter, Mr. Zimmerman's office submitted a letter dated October 14, 2009 to be treated as a Motion for Reconsideration. In his Motion, Mr. Zimmerman reiterates the current request to alter the 1986 Order allowing Frances Feagin to be the resident operator of a Class A group child care center. He then points out that Section 424.4.A of the B.C.Z.R. permits a group child care center, Class A, as an accessory use in a single-family detached dwelling, and also explains that the Petition filed in this matter lists Petitioners' address as 116 Nob Hill Park Drive in Reisterstown, and that an SDAT Data Search printout reveals the same information. As a result, Petitioners do not qualify for the relief requested because it does not appear that Petitioners would be resident operators on the subject property -- that the change is not merely in ownership (from Frances Feagin to Mr. and Mrs. Agboh) but also of use (from an accessory use to a principle use).

Mr. Zimmerman also points out that there are a number of bulk limitations in Section 424.7 of the B.C.Z.R., including minimum lot size and various setback and other requirements, which Petitioners' property does not meet. He also contends that residential transition area restrictions for Class A and Class B group child care centers in D.R. Zones would also apply to the present situation. In light of the incompleteness and concerns about the zoning history of the subject property, Mr. Zimmerman requests that the Petition for Special Hearing be denied.

---

[1] It is noteworthy, however, and as pointed out by Mr. Zimmerman in his Motion for Reconsideration, that the special exception Petitioner was granted in Case No. 95-248-XA to expand from the previous use as a Class A Childcare Center to a Class B Group Childcare Center was appealed by Mr. Zimmerman, and that prior to a hearing before the County Board of Appeals, Petitioner withdrew the Special Hearing request. It is also noteworthy that Petitioner failed to mention this fact at the hearing on September 10, 2009.

In response, the undersigned received a letter dated October 29, 2009 from Petitioners Mr. and Mrs. Agboh. In their view, Mr. Zimmerman's reconsideration request raises "considerable extraneous allegations that are materially inconsequential to the main issue(s) in this matter." They point out, among other things, that they did obtain a valid Use Permit for a Class A child care center, which was approved in 1994 by then-Zoning Commissioner Lawrence E. Schmidt, and also add that they have been operating a daycare center at the location since that time with no adverse impacts or problems. They also indicate there "has never been any community or individual objections or presentations to this extremely beneficial community service by way of a Child daycare center being rendered by the Petitioners," and believe the call for reconsideration is unwarranted.

In considering the Motion for Reconsideration, the undersigned reviewed the file and the Findings of Fact and Conclusions of Law dated September 22, 2009, as well as the respective positions of the parties outlined in People's Counsel's Motion and Petitioners' response. After reviewing these items, I am persuaded to deny the motion for reconsideration. In doing so, I recognize People's Counsel's position that takes issue with the undersigned's findings and refers to several potential problems with Petitioners' use of the subject property as a Class A group chilcare center -- not as resident operators and not as an accessory use -- as well as potential issues with the bulk limitations associated with group childcare centers.

However, in my view, what is controlling in this case is the Use Permit that was issued by then-Zoning Commissioner Schmidt in 1994. The evidence is uncontradicted that Petitioners were applicants for a Use Permit for a Class A Child Care Center at the subject property, 6411 Liberty Road. They submitted their application along with supporting affidavits, additional information, and photographs. In an Order issued on August 2, 1994 by Commissioner Schmidt, he found that

the provisions of the Baltimore County Code and B.C.Z.R. had been met and that the relief requested should be granted. It is also interesting to note that Commissioner Schmidt granted the Use Permit for a Class A Child Care Center likely knowing that Petitioners were not resident operators and that this would not be an accessory use because at the bottom of the Order indicating a copy is being sent to Mr. and Mrs. Agboh, their address is list as 3127 Ripple Road in Baltimore -- certainly not the same as 6411 Liberty Road. Since the Use Permit was issued in 1994, Petitioners have operated the Class group childcare center at the subject property without incident. The only reason for the instant hearing was to remove a condition in a prior Order issued in 1986 that has proven over time to be outdated and wholly unnecessary in this instance. In my view, Commissioner Schmidt's previous Order should be credited and given deference, and I shall therefore deny the Motion for Reconsideration.

WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 16th day of December, 2009 that the aforementioned Motion for Reconsideration be and is hereby DENIED.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

IN RE: PETITION FOR SPECIAL HEARING SW corner of Liberty Road and Forest Hill Road 2nd Election District 2nd Councilmanic District (6411 Liberty Road) **Dennis K. and Elizabeth J. Agboh** *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY **CASE NO. 2010-0004-SPH**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by the legal property owners, Dennis K. and Elizabeth J. Agboh. Petitioners request Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for the removal of restriction #1 in Case No. 86-493-SPH that states that a Class A Group Childcare Center may only be operated on the site so long as Francis E. Feagin is the resident operator of the center. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing relief was Petitioner Elizabeth Agboh. There were no Protestants or other interested person in attendance.

Testimony and evidence offered revealed that the subject property is an irregular-shaped property consisting of approximately 10,510 square feet or 0.241 acre, more or less, zoned D.R.5.5. The property is located at the southwest corner of Liberty Road and Forest Hill Road, approximately 1½ to 2 miles east of the Interstate 695 Beltway, in the Lochearn area of Baltimore County. A copy of the zoning map showing the location of the property was marked and accepted into evidence as Petitioner's Exhibit 2. The property is improved with an existing

2½-story framed dwelling that is used as a daycare center, with a drop off/pick up area and handicapped parking space to the rear of the property, along with a one-story framed garage also to the rear of the property.

Petitioner Elizabeth Agboh has been in the daycare business sine 1991. She attended college at Southern University in Baton Rouge, LA and received a degree in accounting in 1982. From there, she moved with her husband to Alabama and then to Maryland when her husband was hired as a professor at Morgan State University in 1988. Petitioner worked as an accounting clerk and also worked for Katz Insurance. By 1991, Petitioner had several small children of her own and decided to open a childcare center. She enrolled in classes at the Community College of Baltimore County in order to qualify for the designation of "Director" of a childcare center. Since then, she has been operating the "Randallstown Child Daycare Center" located at 9019 Liberty Road in Randallstown as a Class B Group Childcare Center. She began with about 20 children, progressed to 40, and now has 63 children at the 9019 Liberty Road location.

Because of the expansion of her business, Petitioner began looking for other locations for a childcare center. She testified that in 1994, she became aware that the subject property was for sale and thought the property would be an ideal location for an additional childcare center. She also indicated that when she purchased the property at auction in 1994, she was not aware the property had a prior zoning hearing in 1986 in which a special hearing to approve a Class A Childcare Center was granted in Case No. 86-493-SPH. A copy of that prior zoning case was marked and accepted into evidence as Petitioner's Exhibit 3. The property owners at that time were Charles and Frances Feagin. In granting the requested special hearing, then-Deputy Zoning Commissioner Jean M.H. Jung imposed restriction #1 which stated that "[a] Group Child Care Center, Class "A" may be operated on the site only so long as Frances Feagin is the resident

operator of the center." It is this restriction that is the subject of the instant request for special hearing.

By way of further background, according to Petitioner -- not being aware of the prior zoning hearing or the restriction imposed on the property -- she requested in 1994 a Use Permit for a Class A Childcare Center on the subject property. In an Order dated August 2, 1994 in Case No. CACC-94-2, a copy of which was marked and accepted into evidence as Petitioner's Exhibit 4, then-Zoning Commissioner Lawrence E. Schmidt granted the Use Permit. Thereafter in 1995, Mr. and Mrs. Agboh filed a Petition for Special Exception in order to permit the use of the subject property as a Class B Group Childcare Center for up to 39 children in a D.R.5.5 Zone. Several related variances were also requested. In his Order dated March 1, 1995 in Case No. 95-248-XA, then-Zoning Commissioner Lawrence E. Schmidt thoroughly described the use of the property at that time, the nature and scope of Petitioner's daycare operation, and the significant efforts and expenditures made to renovate and upgrade the interior and exterior building; he also considered the applicable special exception criteria set forth in Section 502.1 of the B.C.Z.R., as well as the applicable standard for variances, and granted Petitioners' relief. A copy of the Order was marked and accepted into evidence as Petitioner's Exhibit 5.

It is apparent from reviewing the 1994 Order for the Use Permit and the 1995 Order for the Special Exception and Variance that the prior 1986 Order and restriction #1 was not known to Petitioners nor the Zoning Commissioner. Those Orders make no mention of the 1986 case or restriction #1. Having become aware of the 1986 Order and the restriction that was imposed in that case, Petitioner now desires to "clean up" the discrepancy and legitimize the existing use of

the property. Hence, Petitioner requests special hearing relief to have restriction #1 removed so as to continue her use of the property for a Group Childcare Center.[1]

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. The comments generally indicate no opposition or other recommendations concerning the requested relief.

Based on the testimony and evidence, I am persuaded to grant the special hearing relief and approve the removal of restriction #1 in Case No. 86-493-SPH. Petitioner purchased the subject property in 1994 and testified that she was not aware of the prior 1986 case or restriction #1 that limited the daycare operation on that property so long as Frances Feagin was the resident operator. It appears based on a review of the SDAT Real Property Data Search printout that the property has changed hands several times since 1986, culminating in Petitioner's purchase of the property in 1994. Since that time, Petitioner has taken a parallel path and operated a Class A Group Childcare Center on the property, has gone through the necessary step of obtaining a Use Permit, and even obtained permission to expand that use to a Class B Group Childcare Center in 1995. In my view, the current use of the property has had no past or present detrimental impacts on the health, safety, or general welfare of the community; on the contrary, it appears that Petitioner's operation has served to fill a significant need in the local community for close and reliable daycare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's request for special hearing should be granted.

---

[1] Although Petitioner was granted a special exception in 1995 for a Class B Group Childcare Center for up to 39 children in a D.R.5.5 Zone, Petitioner indicated that the subject property has not at any time expanded beyond the 12 children permitted for a Class A Group Childcare Center. In order to expand that use to a Class B, due to the passage of time, it is likely that Petitioner would need to again file for a special exception, though that issue is not before the undersigned.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 22nd day of September, 2009, that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for the removal of the restriction #1 in Case No. 86-493-SPH that states that a Class A Group Childcare Center may only be operated on the site so long as Francis E. Feagin is the resident operator of the center be and is hereby GRANTED, subject to the following conditions:

1. Petitioners may apply for permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

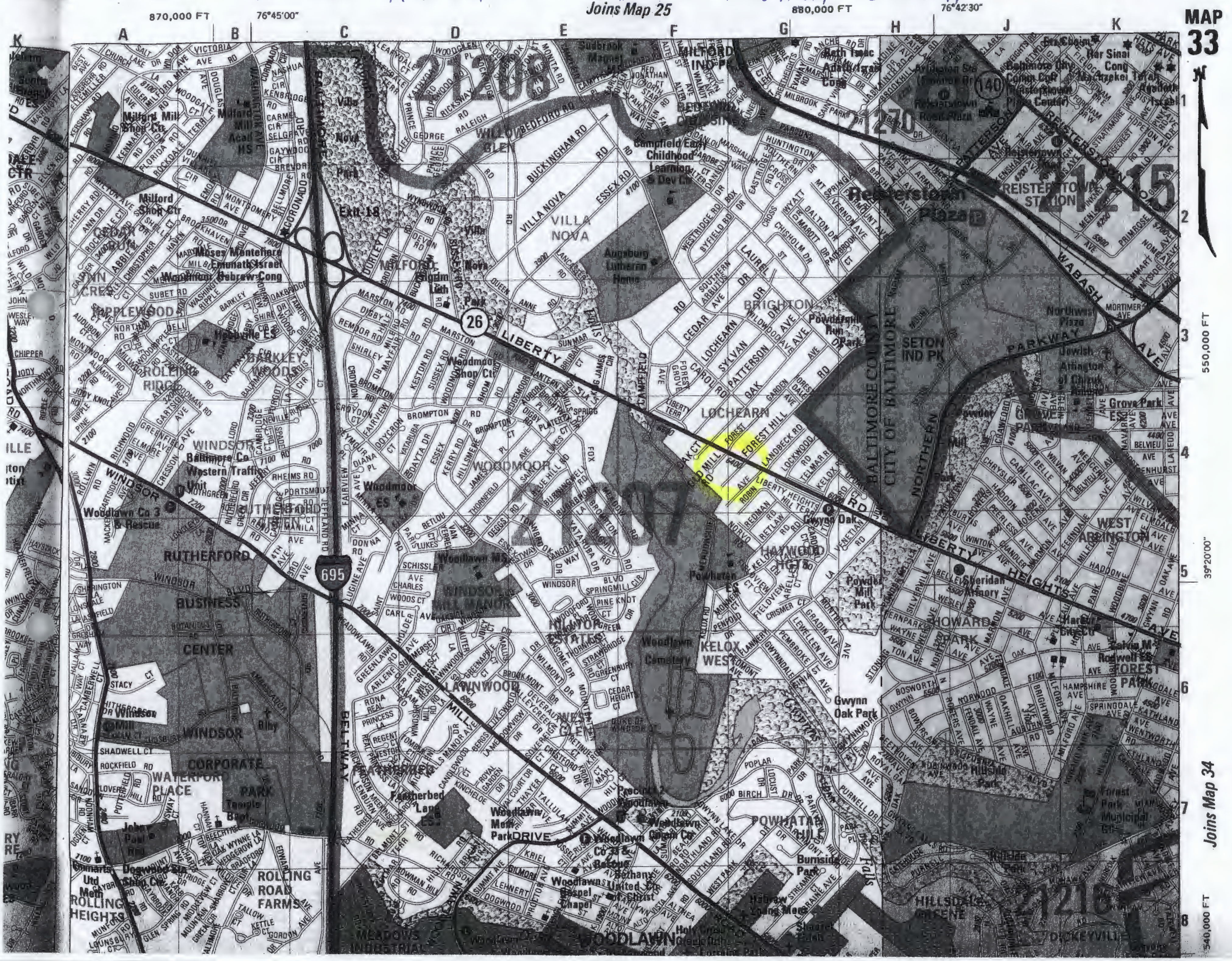
Case No: 10-314-98XA Case Name: Kim Walters

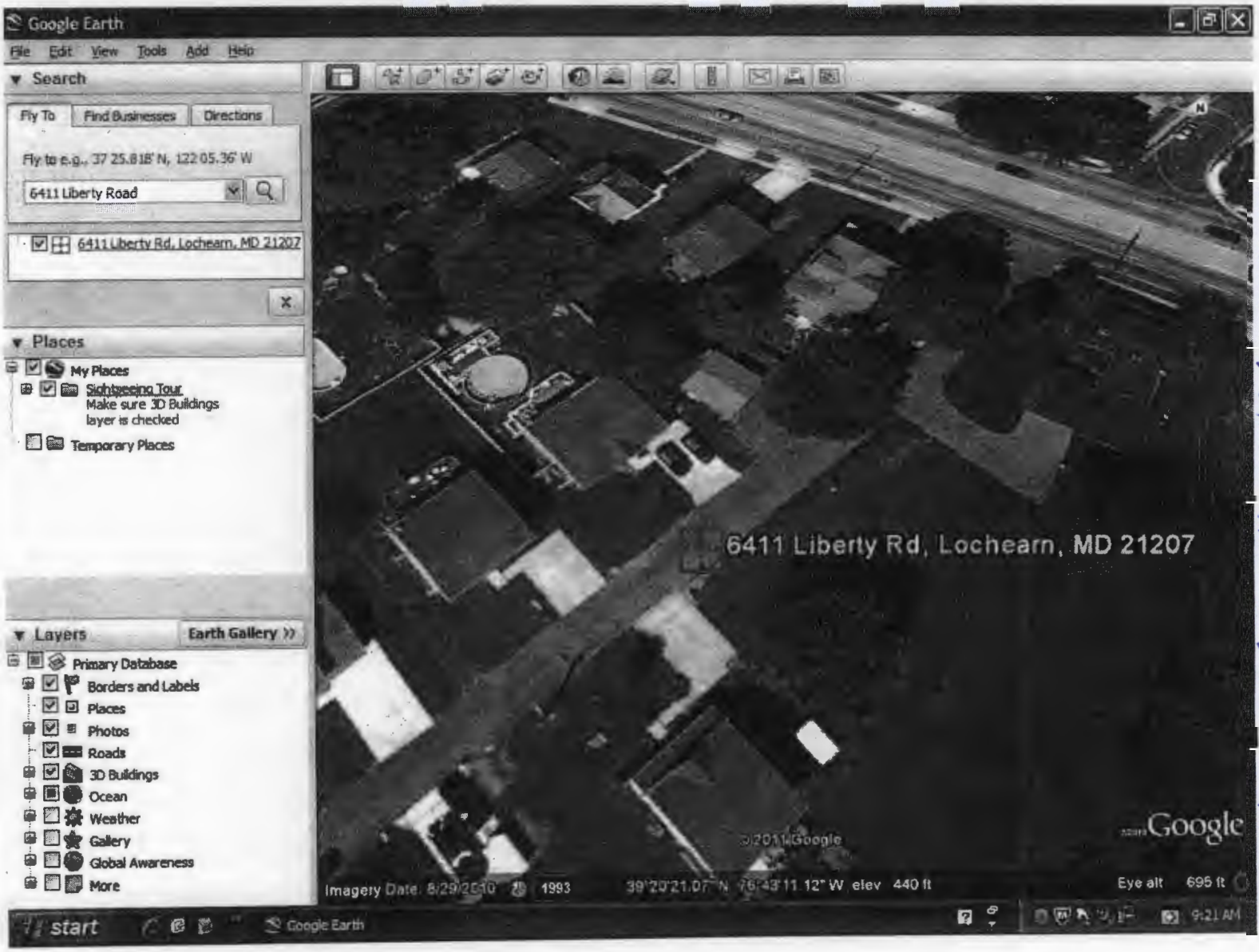
Exhibit List

Party: People's Counsel Date: 5-24-11

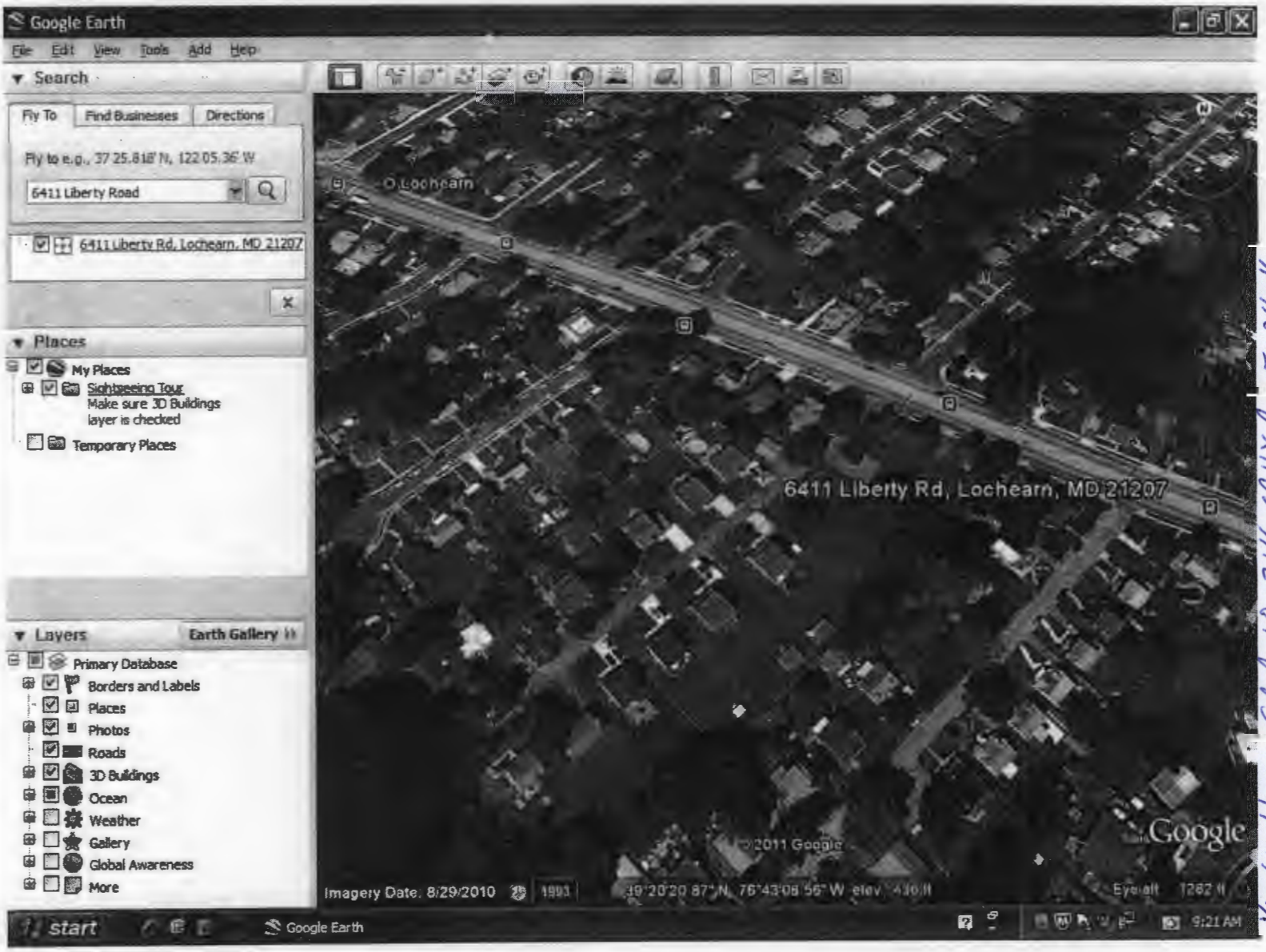
Exhibit No:	Description:
1	Map
2 A+B	Google Earth Maps
3	BCZR 424.5A
4	General use regulations in DR. Zones
5	Bill No. 200-90
6	Regarding childcare
7	Case No. 94-271-XA
8	Case No. 95-280-XA
9	Case No. 95-248-XA
10	Peoples Counsel entrance on 95-248-XA
11	Case No. 95-248-XA Dismissal
12	Inter-off. Corr. to Kotroco from Keller
	VERIFIED BY TA DATE: 6/23/11

P.C. Ex 1 Kim Valters CBA 10-314 SPHXA 5-24-11





Tuesday, May 24, 2011 09:21 AM



Kim Walter CBA 10-314 SOHXA 5-24-11

P.C. Ex 2B

Tuesday, May 24, 2011 09:21 AM

SECTION 424

Family Child-Care Homes, Group Child-Care Centers and Nursery Schools
[Bill Nos. 47-1985; 66-1985; 200-1990]

Family child-care homes, group child-care centers and nursery schools are permitted in all zones in accordance with this section. If a conflict arises between this section and other specific provisions of these Zoning Regulations, this section shall govern.

§ 424.1. General.

Family child-care homes, group child-care centers and nursery schools shall meet the following requirements:

A. Any such use shall be registered, licensed or certified as required by the applicable state or local agency.

B. In addition, with respect to group child-care centers and nursery schools, outdoor play space abutting residential property shall be fenced. Fences shall be solid wood stockade or panel, a minimum height of five feet, and no closer to the property line than 20 feet.

C. On or after April 15, 1985, no family child-care home, group child-care center or nursery school shall be permitted adjoining a residentially used property or dwelling unit in a D.R. or R.C. Zone that has an existing family child-care home or group child-care center or nursery school adjoining such residentially used property or dwelling unit.

§ 424.2. Group child-care centers and nursery schools.

Group child-care centers and nursery schools are permitted by right within the following uses whether such use is permitted by right or by special exception, and in D.R. Zones, group child-care centers and nursery schools permitted by this section are not required to meet the provisions of Section 1B01.1.B.1.e (restrictions in residential transition areas):

A. Churches.

B. Community buildings.

C. Hospitals.

D. School buildings, public or private.

E. Housing for the elderly.

F. Office buildings, except in R-O Zones where group day care centers in office buildings shall require a special exception.

§ 424.3. Family child-care homes.

Family child-care homes are permitted by right as an accessory use within dwellings in all zones. In D.R. Zones, such use is not required to meet the provisions of Section 1B01.1.B.1.e (restrictions in residential transition areas).

§ 424.4. Group child-care centers as accessory use.

A. Group child-care centers, Class A, are permitted as an accessory use within single-family detached dwellings in all residential zones except R.C.4, in all industrial zones and in R-O and O.T. Zones if the Zoning Commissioner grants a use permit under the following procedure:

1. Upon application for a use permit, the owner or agent shall provide the following information:

   a. Number of employees,

   b. Number of children to be enrolled,

   c. Hours of operation,

   d. Estimated amount of traffic generated,

   e. A site plan indicating location and type of structure on the lot in question, location and dimensions of play area(s), parking arrangement and proximity of dwellings on adjacent lots,

   f. A snapshot of the structure.

2. On the property in question, notice of the application for the use permit shall be conspicuously posted for a period of 30 days following the filing of the application.

3. Within the thirty-day posting period, any occupant or owner within 1,000 feet of the lot in question may file a formal request for a public hearing with the Zoning Commissioner in accordance with Section 500.7.

4. If a formal request for a public hearing is not filed, the Zoning Commissioner, without a public hearing, may grant a use permit for a child-care center if the proposed use meets all the requirements of this subsection and any other applicable requirements. Such use permit may be issued with such conditions or restrictions as determined appropriate by the Zoning Commissioner to satisfy the provisions of 424.4.A.6.c below and to ensure that the child-care center will not be detrimental to the health, safety or general welfare of the surrounding community.

5. If a formal request for a public hearing is filed, the Zoning Commissioner shall schedule a date for the public hearing, such hearing to be held not less than 15 days following public notice of such hearing in two newspapers of general circulation and not more than 60 days from the date of filing of the requests for public hearing.

6. Following the public hearing, the Zoning Commissioner may either deny or grant a use permit conditioned upon:

   a. His findings following the public hearing.

   b. The character of the surrounding community and the anticipated impact of the proposed use on that community.

   c. The manner in which the requirements of Section 424.1 and other applicable requirements are met; and any additional requirements as deemed necessary by the Zoning Commissioner in order to ensure that the child-care center will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives of Section 502.1 of these regulations.

   d. Section IB01.1.B notwithstanding, the Zoning Commissioner may modify 1B01.1.B.1.e as it pertains to such use in D.R. Zones.

B. Group child-care centers, Class A, are permitted as an accessory use within single-family detached dwellings in OR-1 and OR-2 Zones and in all business zones, by right.

§ 424.5. child-care centers as principal use. [Bill Nos. 51-1991; 132-2006]

A. All other principal use group child-care centers and nursery schools in residential zones are permitted in accordance with the following schedule:

Group Child-Care Centers	Class A	Class B	Nursery Schools
R.C.2	SE	SE	SE
R.C.3	SE	SE	SE
R.C.4	N	N	N
R.C.5 and R.C.6	SE	SE	SE
D.R. (all zones)			
More than 40 children	N/A	SE	SE
40 or fewer children	C	C	C
40 or fewer children and RTA is applicable	SE	SE	SE
R.A.E.1, R.A.E.2 Within apartment buildings of 50 or more units and subject to supplemental regulations of Sections 200.2.B and 201.2.B.	R	R	R
Freestanding	SE	SE	SE

R = Permitted as of right
SE = Permitted by special exception
N = Not permitted
C = Permitted subject to additional conditions

B. Group child-care centers in business and manufacturing zones are permitted as a noncommercial accessory or principal use in accordance with the following schedule:

Group Child-Care Centers	Class A	Class B	Nursery Schools
R-O			
More than 40 children	N/A	SE	SE
40 or fewer children	C	C	C
OR-1, OR-2	R	R	R
O.T.	R	R	R
Business Zones	R	R	R
M.R., M.H., M.L. and M.L.R. Zones	R	R	R

R = Permitted as of right
SE = Permitted by special exception
N = Not permitted
C = Permitted subject to additional conditions

§ 424.6. Sign and display regulations. [Bill No. 89-1997]

Signs are permitted, subject to Section 450.

§ 424.7. Bulk standards for group centers in D.R. Zones.

The following standards apply to group child-care centers located in D.R. Zones:

A. Minimum lot size: one acre for the first 40 children plus 500 square feet per child for every child beyond 40 children.

B. Minimum setback requirements.

Front: 25 feet from street line or the average setback of the adjacent residential dwellings, whichever is less.

Side: 50 feet from property line, with 20 feet of perimeter vegetative buffer.

Rear: 50 feet from property line, with 20 feet of perimeter vegetative buffer.

C. Parking, drop-off and delivery areas shall be located in the side or rear yards, unless the Zoning Commissioner, upon the recommendation of the Director of Planning, determines that there will be no adverse impact by using the front yard for parking, drop off or delivery purposes. In all cases these areas shall be located outside of the required buffer area.

D. Maximum height: 35 feet.

E. Maximum impervious surface area: 25% of gross area.

SECTION 425
Alcoholic Beverages License
[Bill No. 66-1983]

§ 425.1. Amusement devices on premises with alcoholic beverages license in effect.

Any entertainment-, leisure- or recreation-oriented principal use provided for in Section 422.A which holds a valid on-sale alcoholic beverages license of any class, except a special or temporary license, may have amusement devices on its premises as long as the alcoholic beverages license remains effective. All of the conditions and limitations set forth in Sections 422 and 423 are applicable to such uses, except that Sections 422.C.4 and 423.C.5 do not apply to such uses.

SECTION 426
Wireless Telecommunications Facilities
[Bill No. 30-1998[31]]

§ 426.1. Definitions. [Bill No. 121-2001]

In this section, the following words have the meanings indicated:

ANTENNA — A wireless telecommunications antenna.

OWNER — The owner, agent, lessee or person in control of a wireless telecommunications tower.

PROVIDER — A wireless telecommunications service provider.

SCENIC VIEWSHED — A scenic route or view as designated in the Baltimore County Master Plan.

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31. **Editor's Note: This bill also repealed former Section 426, Wireless Transmitting or Receiving Structures, added by Bill No. 64-1986. In addition, Section 5 of Bill No. 30-1998 provided that "...this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any person who has had a hearing on a proposed tower before the Zoning Commissioner before the effective date of this Act" (March 30, 1998), and Section 6 of Bill No. 30-1998 provided that "...the provisions of this Act shall be interpreted consistent with the Telecommunications Act of 1996."**

§ 1B01.1 General use regulations in D.R. Zones.

A.
Uses permitted as of right. The following uses only are permitted as of right in D.R. Zones of all classifications, subject to the restrictions hereinafter prescribed.

[Bill No. 2-1992]

1.
Dwellings as provided herein and as provided in Section 430 and subject to Section 402:

a.
In all D.R. Zones: single-family detached, semidetached or duplex dwellings.

b.
In all D.R. Zones: alternative site-design dwellings, subject to findings of compatibility pursuant to § 32-4-402 and the hearing officer's hearing under Article 32, Title 4, Subtitle 2 of the Baltimore County Code, and as provided for in the Comprehensive Manual of Development Policies.

[Bill No. 137-2004]

c.
In D.R.5.5 Zones, subject to findings of compatibility by the hearing officer: group houses and multifamily buildings.

[Bill No. 85-1997]

d.
In D.R.10.5 and D.R.16 Zones: group houses and multifamily buildings.

[Bill No. 85-1997]
Editor's Note: Former Section 1B01.1.A.1.e which followed, regarding elderly housing and assisted-living facilities, was repealed by Bill No. 19-2004.

2.
Trailers (Section 415).

3.
Churches, other buildings for religious worship or other religious institutions.

4.
Aboveground electrical-power, telephone, telegraph lines, except aboveground electrical power lines having a capacity of 35 kilovolts or more; pole-mounted transformers or transformer banks.

5.
Other cables; conduits; gas, water or sewer mains; or storm-drain systems, all underground.

6.
Excavations, uncontrolled (as defined in Section 101).

7.
Farms, produce stand in association with a farm, or limited-acreage wholesale flower farms (see Section 404).

[Bill No. 41-1992]

8.
Garages, community.

9.
Hospitals.

[Bill No. 37-1988]

10.
Local open space tracts or other common amenity open space.

11.
Privately sponsored day care and nursery programs, as an ancillary use, within housing for the elderly projects, as defined in Section 101 of these regulations.

[Bill No. 47-1982]

12.
Class A group child care centers and Class B group child care centers providing for up to 40 children, if not located in a residential transition area, subject to the requirements of Section 424, and family child care homes, group child care centers and nursery schools.

[Bill No. 200-1990]

13.
Research institutes or laboratories in existence at the time of the adoption of Bill No. 122-1984, subject to the zoning regulations in effect at the time of the approval by Baltimore County of the institute or laboratory.

[Bill No. 122-1984]

14.
Schools, except business or trade schools or such schools as are permitted by

special exception (Subsection C, below), but including schools for agricultural training.

[Bill Nos. 63-1980; 47-1982; 47-1985]

15.
Signs, nonaccessory, to the extent permitted under Section 413.

16.
Antennas used by CATV systems operated by companies franchised under Article 25 of the Baltimore County Code, if situated on property owned by the county, state or federal government or by a governmental agency.

[Bill Nos. 220-1981; 137-2004]

17.
Transit facilities.

[Bill No. 91-1990]

18.
Accessory uses or buildings other than those permitted only by special exception, including, but not limited to:

a.
Accessory radio or television receiving antennas.

b.
Wireless transmitting and receiving structures, provided that any such structure: is a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission; if it is an independent structure, shall be subject to the same requirements as are applied to buildings under Section 400; if it is a rigid-structure antenna, shall be no higher than 50 feet above grade level and with no supporting structure thereof closer than 10 feet to any property line; and does not extend closer to the street on which the lot fronts than the front building line.

Editor's Note: Former Item c, which followed this item and permitted automotive-service stations, was repealed by Bill No. 172-1993.

c.
Home occupations, as defined in Section 101.

Editor's Note: Former Item c, which followed this item and permitted offices of certain professional persons as an accessory use to their residences, was repealed by Bill No. 105-1972, effective 8-26-1982.

d.
Parking spaces, including accessory garage spaces.

e.
Offices for the conduct of business incidental to the rental, operation, service or maintenance of apartment buildings.

f.
Signs, subject to Section 450.

[Bill No. 89-1997]

g.
Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (all such accessory structures or uses subject to the height and area provisions for buildings as set forth in Section 400).

[Bill No. 71-1987]

19.
Commercial film production, subject to Section 435.

[Bill No. 57-1990]

B.
Dwelling-type and other supplementary use restrictions based on existing subdivision and development characteristics.

[Bill No. 124-1981]

1.
Residential transition areas and uses permitted therein.

[Bill No. 2-1992]

a.
Definitions and purpose.

[Bill No. 2-1992]

(1)
The residential transition area (RTA) is a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed.

(2)

The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.

b.
Generation of residential transition area. An RTA is generated if the property to be developed is zoned D.R. and lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R.5.5 or R.C. which:

[Bill Nos. 2-1992; 8-2004]

(1)
Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; or

(2)
Is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected.

c.
Variance of RTA.

[Bill No. 2-1992]

(1)
Notwithstanding the provisions of Section 307, the hearing officer, upon the recommendation of Public Works, Planning, Environmental Protection and Resource Management, Permits and Development Management, Recreation and Parks, Community Development or the Economic Development Commission, may determine the amount of RTA in cases where a single tract is more than two acres, is vacant, or contains no more than one single-family detached, semidetached or duplex dwelling.

(2)
The RTA for a tract may be modified as directed by findings pursuant to § 32-4-402 and the hearing officer's hearing under Article 32, Title 4, Subtitle 2 of the Baltimore County Code. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

[Bill No. 137-2004]

d.
A residential transition use is any use:

[Bill No. 2-1992]

(1)
Permitted as of right under Section 1B01.1.A; or

(2)
Any use permitted by special exception under Section 1B01.1.C, except an accessory use permitted only by special exception; or

(3)
Any parking area permitted under Section 409.8.B, subject to the approval of a specific landscape plan for the buffer area which must meet the requirements for a Class A plan.

e.
Conditions in residential transition areas.

[Bill No. 2-1992]

(1)
The RTA may contain single-family detached, semidetached or duplex dwellings.

(2)
Group-house, back-to-back group houses, multifamily building and parking lots shall be set back from the tract boundary 75 feet and provide a fifty-foot RTA buffer.

(3)
The fifty-foot RTA buffer shall remain an upgraded, uncleared, landscaped buffer unless otherwise directed by the hearing officer, based upon recommendations of the county. It shall not contain cleared drainage areas, stormwater management ponds or accessory structures, but it may be bisected by roads, paths and trails that are designed to connect to adjoining developments.

(4)
The maximum height of any lighting fixtures in an RTA buffer area shall be 16 feet, except for public utility uses which must be of reasonable height. The fixtures shall be designed and placed so as to prevent the spillage of light into any adjoining dwelling or lot. The intensity of the fixture shall not exceed 0.2 candle at the tract boundary.

(5)
Parking lots or structures, either as principal or accessory use, whether permitted by right, special exception or pursuant to Section 409.8.B, shall provide a fifty-foot buffer and seventy-five-foot setback, and a height not to exceed 35 feet within the one-hundred-foot transition area.

f.
Any subdivision of land or PUD that has received CRG approval or reclamation

plan approval or has been accepted for filing prior to the date of adoption of Bill No. 2-92 or 3-92 is subject to the laws in effect at the time of the approval or filing.

[Bill No. 2-1992]

g.
Exceptions to residential transition. The restrictions contained in Paragraphs a through e above, of this Subsection B.1, do not apply to:

[Bill Nos. 109-1982; 40-1992]

(1)
A proposed dwelling to be placed in a RTA containing existing dwellings of the same type, or, if two or more types of dwellings exist, a proposed dwelling of the same type as the existing dwelling with the fewest number of dwelling units. Such dwellings shall be governed by the applicable laws, zoning regulations and policies otherwise applicable. As used herein, a "dwelling of the same type" means a dwelling which has the same or lesser number of dwelling units and party walls as the existing dwelling units.

[Bill Nos. 109-1982; 40-1992]

(2)
Public utility uses (except public utility service centers and storage yards). Such uses shall be governed by the provisions of Sections 411 and 502 and such other applicable sections of these regulations.

[Bill 40-1992]

(3)
Notwithstanding the provisions of Section 104, the reconstruction of an existing church, community building or other structure devoted to civic, social, recreational, fraternal or educational activity which is destroyed by fire or other casualty. However, such reconstruction may not increase the size or ground floor area of the structure or alter the location or use of the structure.

[Bill No. 40-1992]

(4)
An addition to an existing church or other building for religious worship, including parking areas and driveways, provided all other applicable zoning regulations including setback, parking and screening requirements, are maintained.

[Bill Nos. 109-1982; 40-1992]

(5)

A new church or other building for religious worship constructed on a parcel of land large enough to provide landscaped but otherwise unimproved yard areas of 100 feet between any improvement and any property line other than street frontages.

[Bill Nos. 109-1982; 40-1992]

(6)
A new church or other building for religious worship, the site plan for which has been approved after a public hearing in accordance with Section 500.7. Any such hearing shall include a finding that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that said plan can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

[Bill Nos. 109-1982; 40-1992]

(7)
Shoreline fishing and shellfish facilities. Such uses shall be governed by the provisions of Sections 500.4, 1A01.2.C.9, 1A02.2.B.10, 1A04.2.B.7 and 1B01.1.C.8.

[Bill Nos. 109-1982; 40-1992]

(8)
An addition to an existing trailer park or mobile home park or contiguous to such park. If the park is lawfully in existence in a D.R. Zone on the effective date of this act.

[Bill Nos. 109-1982; 40-1992]

(9)
An addition to an existing community building, or other structure devoted to civic, social, recreational, fraternal or educational activity, including parking areas and driveways, provided all other applicable zoning regulations, including setback, parking, and screening requirements, are maintained.

[Bill Nos. 109-1982; 40-1992]

(10)
A new community building, or other structures devoted to civic, social, recreational, fraternal or educational activity, if the Zoning Commissioner determines during the special exception process that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

[Bill Nos. 109-1982; 40-1992]

(11)
Principal use Class A and Class B group child care centers, provided that the Zoning Commissioner determines, during the special exception process that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

[Bill Nos. 200-1990; 59-1991; 40-1992]

(12)
The conversion of a dwelling to a bed-and-breakfast home, bed-and-breakfast inn or country inn pursuant to Section 402D or Section 402E.

[Bill Nos. 113-1988; 40-1992]

(13)
Notwithstanding the provisions of Section 104, the reconstruction of an existing nursing home which is destroyed by fire or other casualty. However, such reconstruction may not increase the size or ground floor area of the structure or alter the location or use of the structure.

[Bill Nos. 37-1988; 40-1992]

(14)
Transit facilities and rail passenger stations shall be exempt from the RTA requirements.

[Bill Nos. 91-1990; 40-1992]

(15)
Assisted living facilities, Class A.

[Bill No. 188-1993]

h.
The provisions contained in Paragraphs a through e of Subsection B.1 shall not apply to existing developments as described in Subsection A.1 of Section 1B02.3, nor to subdivision tracts for which tentatively approved plans remain in effect as described in Subsection A.2 of said section.

[Bill No. 40-1992]

2.
Use regulations in existing developments. In existing developments as described

in Subsection A.1 of Section 1B02.3, uses shall be limited to those now lawfully established or to those indicated in the subdivision plans on file with the Department of Permits and Development Management, except as may otherwise be permitted under provisions adopted pursuant to the authority of Section 504.

3.
Use regulations for existing subdivision tracts. On subdivision tracts for which tentatively approved plans remain in effect as described in Subsection A.2 of Section 1B02.3, the uses permitted shall be those indicated in the plan or, where the use is not indicated and if not inconsistent with the plan, the uses shall be those permitted under zoning regulations in effect at the time the tentative approval was granted.

C.
Uses permitted by special exception. The following uses, only, are permitted by special exception in all D.R. Zones, subject to the restrictions hereinafter prescribed:

[Bill Nos. 105-1982; 36-1988]
Editor's Note: Former Item 1 of this subsection, which permitted boarding or rooming houses, was repealed by Bill No. 124-1993, and former item 2, which permitted boat yards, including marinas, was repealed by Bill No. 179-1995. See, however, Section 408B of these regulations, which permits boarding- and rooming houses in D.R. Zones.

1.
Camps, public or quasi-public, including day camps.

2.
Conservatories for music or other arts.

3.
Convalescent homes.

4.
Community buildings, swimming pools, commercial beaches, golf courses, country clubs or other similar civic, social, recreational or educational uses, including tennis facilities, provided that no tennis facility in a D.R.I or D.R.2 Zone shall comprise more than four courts and no tennis facility in a D.R.3.5, D.R.5.5, D.R.16 Zone shall comprise more than six courts (Section 406A).

[Bill No. 62-1978]

5.
Community care centers.

[Bill No. 142-1979]

6.
Class B group child care centers for more than 40 children subject to the standards set forth in Section 424 (family child care homes, group child care centers and nursery schools) and principal use Class A and Class B group child care centers providing for up to 40 children, if located in a residential transition area.

[Bill Nos. 200-1990; 59-1991]

7.
Excavations, controlled (see Section 403).

8.
Fishing and shellfishing facilities, shoreline Class I or Class II, except that a facility existing on July 1, 1977, may continue without a special exception if a use permit has been granted for it, provided that:

a.
The owner (or his legally authorized representative) applies for the use permit within six months hereafter (Section 500.4);

b.
With the application for the use permit is filed a site plan in accordance with the Zoning Commissioner's rules of practice and procedure;

Editor's Note: See Appendix G of this edition.

c.
Any fencing, screening or other change in the site or limitations on the manner of selling the catch necessary to make the facility more compatible with its surroundings that is required by the Zoning Commissioner is completed within the time limits for partial and full compliance with a program of compliance submitted to him; and

d.
No increase in the amount of floor or site area or in the number of boats devoted to the use nor any other change in the site plan is made.

[Bill No. 30-1978]

9.
Funeral establishments.

10.
Helistops.

11.

Home occupations of disabled persons, where the use is established in a structure originally constructed as a dwelling or as accessory to a dwelling or where the use is established in a structure that is situated on the same lot as a dwelling and which the Zoning Commissioner finds to be compatible with its surrounding neighborhood, provided that:

a.
Only three persons including the disabled person and the members of his immediate family who are residents of the dwelling are employed in the use on the premises; and

b.
In any case the use is conducted by a disabled person whose domicile is the dwelling to which the use is accessory and whom the hearing authority finds is so severely disabled as to be unable to engage in this occupation away from the premises of his home.

	Any provision of Subsection 502.2 to the contrary notwithstanding, any special exception granted pursuant to this item shall expire upon the first to occur of the following:

(1)
Five years after the issuance of the permit;

(2)
The death of the disabled person;

(3)
The termination of the disability; or

(4)
The failure of the disabled person to permanently reside at the premises.

	A new special exception for the use may be granted when the previous special exception expires but only upon the completion of the entire application and hearing process in the same manner as if it were the initial application for this special exception. It is the purpose of this provision to prevent the use of residential property for business purposes by an occupant other than a disabled person and to ensure that any occupation permitted pursuant to this item will be conducted in a manner appropriate to its surroundings. [Bill No. 27-1981]

12.
Office or studios of physicians, dentists, lawyers, architects, engineers, artists,

musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of such residence; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees.

[Bill Nos. 105-1982; 65-1999]

13.
Poultry killing, commercial, as an accessory use on farms, only.

14.
Private colleges (not including business or trade schools), dancing schools, dormitories or fraternity or sorority houses.

[Bill No. 47-1985]

15.
Public utility uses other than those permitted as of right, but excluding steam power plants, service centers and storage yards.

16.
Public utility service centers.

17.
Public utility storage yards.

18.
Radio studios.

19.
Rail passenger stations, subject to Section 434.

[Bill No. 91-1990]

20.
Television studios.

21.
Tourist homes.

22.
Veterinarians' offices.

23.
Volunteer fire company stations.

24.
Wireless telecommunications towers, subject to Section 426.

[Bill No. 30-1998]
Editor's Note: Former Sections 1B01.1.C.25, 26, 27 and 28, which followed, regarding continuing-care and assisted-living facilities and housing for the elderly, were repealed by Bill No. 19-2004.

D.
The following provision, which was enacted by Bill No. 140-1962, took effect on November 17, 1962, and was heretofore designated as Subsection 200.16 of these Zoning Regulations, is reenacted without amendment, and nothing in this article shall be construed to abrogate its effect:

	Junkyards and open dumps as defined in Section 101. Any existing junkyards in this (R.40) or any other residential zone, and any existing open dumps in any zone shall be completely eliminated not later than two years after the date of effectuation of this amendment. [Bill No. 140-1962]

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1990, LEGISLATIVE DAY NO. 19

BILL NO. 200-90

MR. WILLIAM R. EVANS, COUNCILMAN

BY THE COUNTY COUNCIL, October 15, 1990

A BILL ENTITLED

AN ACT concerning

Child Care Centers

FOR the purpose of amending the Baltimore County Zoning Regulations in order to permit Child Care Centers in D.R. Zones as a matter of right or by Special Exception depending upon the number of children provided for at the center and subject to certain standards and requirements; providing exceptions to residential transition area requirements in certain cases; and generally relating to the regulation of child care centers in Baltimore County.

BY repealing

Section 424.5A. and B.

Baltimore County Zoning Regulations, as amended

BY adding

Sections 1B01.1.A.10B, 1B01.1.B.1.c.10.A, 1B01.1.C.6.B., 424.5.A. and B. and 424.7

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 424.1.B.

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final report, dated November 16, 1989, from the Planning Board and has held a public hearing thereon on January 30, 1990, now, therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 424.5A. and B. of the Baltimore County Zoning Regulations, as amended, be and it is hereby repealed.

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

5-24-11 Ex 5 Kim Walters CBA 10-314 SPHXA

SECTION 2. AND BE IT FURTHER ENACTED, that Sections 1B01.1.A.10 1B01.1.B.1.c.10.A, 1B01.1.C.6.B., 424.3.A. and B., and 424.7 be and they are hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

1B01.1. - General Use Regulations in D.R. Zones.

A. Uses Permitted as of Right.

10.B. CLASS A GROUP CHILD CARE CENTERS AND CLASS B GROUP CHILD CARE CENTERS PROVIDING FOR UP TO 40 CHILDREN, IF NOT LOCATED IN A RESIDENTIAL TRANSITION AREA, SUBJECT TO THE REQUIREMENTS OF SECTION 424, AND FAMILY CHILD CARE HOMES, GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS.

1B01.1.

B.1. Residential Transition Areas and Uses Permitted Therein.

c. Exceptions to residential transition.

10.A. CLASS A AND CLASS B GROUP CHILD CARE CENTERS, PROVIDED THAT THE ZONING COMMISSIONER DETERMINES, DURING THE SPECIAL EXCEPTION PROCESS THAT THE PROPOSED IMPROVEMENTS ARE PLANNED IN SUCH A WAY THAT COMPLIANCE WITH THE BULK STANDARDS OF SECTION 424.7 WILL BE MAINTAINED AND THAT THE SPECIAL EXCEPTION CAN OTHERWISE BE EXPECTED TO BE COMPATIBLE WITH THE CHARACTER AND GENERAL WELFARE OF THE SURROUNDING RESIDENTIAL PREMISES.

1B01.1.

C. USES PERMITTED BY SPECIAL EXCEPTION.

6B. CLASS B GROUP CHILD CARE CENTERS FOR MORE THAN 40 CHILDREN SUBJECT TO THE STANDARDS SET FORTH IN SECTION 424, AND FAMILY CHILD CARE HOMES, GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS, AND

... GROUP CHILD CARE CENTERS PROVIDING FOR UP TO 40 CHILDREN, IF LOCATED IN A RESIDENTIAL TRANSITION AREA

Section 424 - Family Child Care Homes, Group Child Care Centers, and Nursery Schools

424.5.A. ALL OTHER PRINCIPAL USE GROUP CHILD CARE CENTERS AND NURSERY SCHOOLS IN RESIDENTIAL ZONES ARE PERMITTED IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

GROUP CHILD CARE CENTERS

	CLASS A	CLASS B	NURSERY SCHOOLS
RC 2	SE	SE	SE
RC 3	SE	SE	SE
RC 4	N	N	N
RC 5	SE	SE	SE
D.R.(ALL ZONES):			
MORE THAN 40 CHILDREN	N/A ~~SE~~	SE	SE
40 OR FEWER CHILDREN	C	C	C
40 OR FEWER CHILDREN AND RTA IS APPLICABLE	SE	SE	SE
R.A.E. 1, 2 PERMITTED ONLY WITHIN APARTMENT BUILDINGS OF 50 OR MORE UNITS AND SUBJECT TO SUPPLEMENTAL REGULATIONS OF PARAGRAPHS 200.2.B. and 201.2.B.	C	C	C

B. GROUP CHILD CARE CENTERS IN BUSINESS AND MANUFACTURING ZONES ARE PERMITTED AS A NONCOMMERCIAL ACCESSORY OR PRINCIPAL USE IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

	CLASS A	CLASS B	NURSERY SCHOOLS
R-O:			
MORE THAN 40 CHILDREN	N/A ~~SE~~	SE	SE
40 OR FEWER CHILDREN	C	C	C
O-1, O-2	R	R	R
O.T.	C	C	C
ONLY PERMITTED WITHIN BUILDINGS OF PRINCIPAL USES PERMITTED IN 207.3.A.			
BUSINESS ZONES	R	R	R
M.R., M.H., M.L. & M.L.R. ZONES	R	R	R

R = PERMITTED AS OF RIGHT
SE = PERMITTED BY SPECIAL EXCEPTION
N = NOT PERMITTED
C = PERMITTED SUBJECT TO ADDITIONAL CONDITIONS

The following standards apply to group child care centers located in D.R. Zones:

A. MINIMUM LOT SIZE: 1 ACRE FOR THE FIRST 40 CHILDREN PLUS 500 SQUARE FEET PER CHILD FOR EVERY CHILD BEYOND 40 CHILDREN

B. MINIMUM SETBACK REQUIREMENTS:

FRONT: 25 FEET FROM STREET LINE OR THE AVERAGE SETBACK OF THE ADJACENT RESIDENTIAL DWELLINGS, WHICHEVER IS LESS

SIDE: 50 FEET FROM PROPERTY LINE, WITH 20' PERIMETER VEGETATIVE BUFFER

REAR: 50 FEET FROM PROPERTY LINE, WITH 20' PERIMETER VEGETATIVE BUFFER

C. PARKING, DROP OFF AND DELIVERY AREAS SHALL BE LOCATED IN THE SIDE OR REAR YARDS UNLESS THE ZONING COMMISSIONER, UPON THE RECOMMENDATION OF THE DIRECTOR OF PLANNING, DETERMINES THAT SAFETY ~~OR NEIGHBORHOOD COMPATIBILITY WILL BE IMPROVED~~ THERE WILL BE NO ADVERSE IMPACT BY USING THE FRONT YARD FOR PARKING, DROP OFF OR DELIVERY PURPOSES. IN ALL CASES THESE AREAS SHALL BE LOCATED OUTSIDE OF THE REQUIRED BUFFER AREA.

D. MAXIMUM HEIGHT: 35 FEET

E. MAXIMUM IMPERVIOUS SURFACE AREA: 25% OF GROSS AREA

SECTION 3. AND BE IT FURTHER ENACTED, that Section 424.1.B. of the Baltimore County Zoning Regulations, as amended, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

424.1 - General. Family child care homes, group child care centers, and nursery schools shall meet the following requirements:

B. In addition, with respect to group child care centers and nursery schools, outdoor play space abutting residential property shall be fenced {, if required by the Zoning Commissioner}. FENCES SHALL BE SOLID WOOD STOCKADE OR PANEL, A MINIMUM HEIGHT OF 5 FEET, AND NO CLOSER TO THE PROPERTY LINE THAN TWENTY (20) FEET.

SECTION 4. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-five days after its enactment.

Proposed Amendments to
the Baltimore County
Zoning Regulations

REGARDING

CHILD CARE

A Final Report of
The Baltimore County
Planning Board

November 16, 1989

R.C. Ex 6 Kim Walters CBA 10-314 SP HXA 5-24-11

Legislative Project 89-1

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS REGARDING DENSITY BONUSES FOR CHILD CARE CENTERS

A Final Report of the Baltimore County Planning Board
November 16, 1989

PROJECT DESCRIPTION

County Council Resolution #48-88 (See Attachment #1) requests the Baltimore County Planning Board to consider proposing amendments to the Zoning Regulations "in order to facilitate the placement of day care centers in Baltimore County by providing a density allocation to developers."

BACKGROUND

Density bonus incentives have been considered for elderly housing and historic preservation. For the elderly, increased density is considered necessary to meet the unique needs of the expanding elderly population and appropriate because elderly households have less impact on County facilities than the general population. The Planning Board recommended that a density bonus be permitted for elderly housing facilities at hospital, institutional and historic sites through a special exception process if certain conditions are met. The Planning Board also recommended that density be calculated by "density unit" rather than "dwelling unit" for elderly housing facilities which provides a density increment for projects containing efficiency and one bedroom units. The County Council implemented the Planning Board recommendations through Bill No. 36-88.

The Planning Board also considered density bonuses to encourage historic preservation in response to Resolution #38-87. Except for elderly housing facilities, the application of density bonuses to historic properties as an incentive for historic preservation was determined to be infeasible. The Resource Conservation zones, lacking public water and sewer, cannot support high densities. In the other zones, maximum office and business zone floor area ratios and residential densities are rarely developed.

The Planning Board recommended that new definitions and regulations be adopted for child care centers in 1984. The recommendations were adopted by the County Council. The text amendments eliminated most of the zoning problems associated with small child care operations in homes and made it easier for larger child care facilities to open in schools, churches and hospitals.

The child care issue was last addressed by the Planning Board in November, 1987, in response to County Council Resolution #35-87. The Planning Board recommended that child care centers be exempt from RTA restrictions, subject to Zoning Commissioner approval. The Planning Board also recommended the exemption of space used for child care centers in office buildings from the calculation of the adjusted

gross floor area of the building where the office building has a minimum gross floor area of 100,000 square feet and the child care center a maximum area of 4,000 square feet. The County Council held a hearing on these amendments, but has not introduced legislation.

DISCUSSION

It is still difficult to establish freestanding commercial child care centers in Baltimore County although developers and potential operators find that there is a demand for such facilities. Plans for child care centers are not routinely included in large residential subdivisions or at adjacent commercial developments. This is not the case in neighboring jurisdictions, such as Harford, Carroll and Howard Counties where a number of new child care centers have been built.

Zoning regulations are related to the gap in child care facilities in several ways:

1. As stated in the 1987 Final Report of the Planning Board, the residential transition area (RTA) buffer applies to child care centers, although it does not apply to schools or community facilities. This buffer often makes it infeasible to develop sites which would otherwise be suitable for child care. While the full RTA buffer may not be available, an adequate buffer to protect neighboring homes can be provided in many cases.

2. The County does not have a neighborhood-type commercial zone which permits only a limited range of uses. Land costs in commercial zones are high and child care must compete with uses which are more profitable.

3. Child care centers require special exception approval to operate in residential zones. Uncertainty of approval and an inability to carry additional costs over an extended period of time because of limited profits discourages providers from scheduling a special exception hearing.

The high cost of land throughout the County in general also discourages the development of child care centers. A density bonus, if child care centers are provided, could offset the cost of land. However, as discussed in the Final Report regarding historic preservation, a density bonus is not feasible in most parts of the County. The issue of density bonuses has been raised in the proposed 1989 Master Plan. The Master Plan also stresses the need to make major revisions in the Density-Residential (D.R.) Zones, business zones and planned unit development (PUD) provisions.

RELATION TO COUNTY EXECUTIVE INITIATIVES

Expanding the supply of accessible, affordable, quality, child care is an initiative of this Administration. As stated in Closest to the People (Children and Youth Executive Initiatives), "Priority attention will be given to child care needs".

The lack of child care is a factor which encourages homebuyers to move to neighboring jurisdictions where such facilities are being developed. This movement can lead to changes in the location of the County's labor force with negative ramifications for the economic development and tax base of the County.

The County Executive has established an inter-agency steering committee to deal with problems involving the establishment of child care facilities. The Chamber of Commerce has also established a Committee to facilitate child care. The Office for Children in the Department of Community Development has the primary responsibility for implementing Child Care initiatives.

ANALYSIS

To achieve quality child care in Baltimore County the Zoning Regulations must permit child care facilities to be located in quality environments. Clearly, a residential zone provides a more ideal environment for children than a business or manufacturing zone, with the additional benefit of being near the family residence. Proximity to the residence provides convenience for the parents. However, because this activity center is not a residential use, additional standards are necessary to ensure that it does not adversely affect the surrounding residential properties.

Zoning requirements in local Maryland jurisdictions typically require day care centers to have a minimum lot area of 20,000 square feet plus 500 square feet per child, a minimum lot width of 100-200 feet and setbacks of 25 feet. Minimum interior and exterior area requirements have been established by the State in COMAR 10.05.01 and the Annotated Code of Maryland in SS14-101-14-114, governing group day care centers. The required minimum of useable interior floor space is 35 square feet per child. Procedural Guidance for the Inspection of COMAR 10.05.01 Regulation .16, Playgrounds, establishes an exterior play area of 75 square feet per child for 50% of the licensed capacity or 75 square feet per child for the total number of children to use the play area at one time, but not less than 50% of the licensed capacity.

The Planning Board's recommended amendments are based on State requirements, traffic circulation and the protection of adjacent residential property owners from excessive sounds or visual intrusions. Specific statements of justification are presented below.

MAXIMUM NUMBER OF CHILDREN

The base standard of 40 children to be permitted in group day care centers in D.R., (Density Residential), Zones was chosen because it is the highest number of children permitted in an intermediate size center under the State's licensing requirements. A center for forty children provides the most financially feasible operating size for day care providers serving less than 100 children.

Moreover, a capacity restriction reduces the transportation impacts resulting from the center. When the number of child pick-up and drop-off, employee and delivery trips are counted, a center for forty (40) children could generate approximately one hundred (100) vehicle trips per day. This level of traffic approximates the amount of traffic which would be generated by ten (10) single family dwellings, or one cul-de-sac. The use should be compatible with surrounding residential uses, from a transportation perspective, provided that access points afford good sight distance and safe ingress and egress according to the County Bureau of Traffic Engineering.

AREA STANDARDS

The State's combined minimum area requirements for interior and exterior space per child totals 110 square feet. This standard is based on "useable area". Each requirement was increased to adjust for gross area. 35 square feet of interior useable area was assumed to be 50 square feet of gross area, while the 75 square feet exterior requirement was adjusted to 100 square feet. The combined minimum gross area per child, for the determination of the minimum lot size standard, was 150 square feet. The maximum capacity of the center was used for determining the minimum lot area. There is potential for reduction of the exterior play area to accommodate shift play periods but this is a matter for the State Office of Child Care Licensing and the Zoning Commissioner to consider upon a request for a modification or variance.

PARKING, DELIVERY AND TRAFFIC CIRCULATION

Parking, delivery and traffic circulation area requirements were based on Section 409.3 and Section 409.4C of the Zoning Regulations pertaining to parking space and aisle dimensions and Section 409.6.4, governing the required number of parking spaces to be provided at group child care centers.

The Zoning Regulations require that there be at least one (1) parking space per employee on the largest shift but in no case less than two (2) spaces. Based on the State's maximum staff to child ratio of 1 staff member per 6 children (where all children are two (2) years old), a center for forty (40) children would require seven (7) parking spaces to accommodate employee parking. One space for delivery vehicles should also be provided at a strict minimum.

These requirements assume that a sufficient number of staff parking spaces will be available for use by clients. All children should be met at the car and escorted into the center to minimize the parking period per client, in order for this shared parking to be effective. If only the minimum amount of parking is provided, a loop driveway should be seriously considered.

Parking areas should be located in the side or rear yards to be consistent with the residential character and design of the neighborhood. However, the front yard may be used for parking or circulation when the Zoning Commissioner, upon the recommendation of the Director of Planning, or any reviewing agency, determines that safety or neighborhood compatibility will be improved.

BUFFER AND SETBACK REQUIREMENTS

The buffer and setback requirements were based on the RTA (Residential Transition Area) requirements specified in Article 1B regulating the DR (Density Residential) Zones; particularly, Section 1B01.1.B.3(b), which establishes buffer areas of 50 or 75 feet, depending on the orientation of the building and its relationship to adjoining properties. Also, Table 504 under Section V.B.2 of the CMDP (Comprehensive Manual of Development Policies), Setback Standards for Principal Buildings Permitted in any D.R. zone for Nonresidential Uses, was considered along with the requirements of other jurisdictions.

No minimum lot width is proposed. Instead, minimum buffer and maximum impervious surface area standards are recommended. A front yard setback has been suggested to be a minimum of twenty-five (25) feet. Also, a vegetative buffer twenty (20) feet wide along the perimeter of the side and rear yards, would be required. A solid fence five feet in height would be required along the perimeter of the play area. This security fence would also provide a sound barrier and visual screen to adjoining property owners. To enhance the noise reduction capabilities of the fence it may not be closer than twenty feet (20') from the property line. The required vegetative buffer will minimize the intrusive effects of the fence on surrounding properties. In addition, a maximum impervious surface area (including buildings and parking areas) of twenty-five percent (25%) is proposed. These requirements are intended to provide design flexibility while ensuring that the center will be in harmony with the surrounding residential uses when the RTA (Residential Transition Area) requirements cannot be met, or when a center providing for more than forty (40) children is proposed. Within an RTA, the bulk standards are to be applied as part of the special exceptions

provided in Section 502 of the Baltimore County Zoning Regulations. In DR (Density Residential) Zones not within an RTA, centers for up to forty (40) children will be permitted by right, subject to compliance with the bulk standards in Section 424.7.

RECOMMENDATIONS

The provision of facilities for the supervision, care and education of the children is a matter of great concern to the County and to the general public. The Staff recommends amendments to Section 424, "Family Child Care Homes, Group Child Care Centers and Nursery Schools" only. Under the general provision of Section 424, where any conflicts arise between this section and any other Section of the Zoning Regulations, this section shall govern. Additional amendments providing for density bonuses and implementing other Master Plan recommendations should be considered following the adoption of the Master Plan by the County Council.

These amendments will promote the expansion of the supply of Child Care Centers in the County.

The Baltimore County Planning Board recommends that the Baltimore County Zoning Regulations, 1955, as amended, be further amended as set forth below. Wherever utilized, dashes indicate text to be deleted, and underlining indicates text to be added.

1. Add new paragraphs to 1B01.1.A (uses permitted as of right in D.R. zones) as follows:

   10B. Class A group child care centers and Class B group child care centers providing for up to 40 children, subject to the requirements of Section 424, Family Child Care Homes, Group Child Care Centers and Nursery Schools.

2. Add a new Subparagraph 10 A to Section 1B01.B.1.C (exceptions to residential transition areas) as follows:

   10.A Class A and Class B group child care centers, provided that the Zoning Commissioner determines, during the special exception process that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

3. Add a new Subparagraph 6B to Section 1B01.1.C (uses permitted by Special Exception in DR Zones) as follows:

6B. Class B group child care centers for more than 40 children subject to the standards set forth in Section 424, Family Child Care Homes, Group Child Care Centers and Nursery Schools.

4. Amend Section 424.5.A (Schedule of permitted uses for group child care centers) as shown on Chart 1.

5. Add a new Section 424.7 entitled (Bulk Standards for group centers in DR Zones

a. Minimum Lot Size: 1 acre for the first 40 children plus 500 square feet per child for every child beyond 40 children

b. Minimum setback requirements:

front:	25 feet from street line or the average setback of the adjacent residential dwellings, whichever is less.
side:	50 feet from property line, with 20' perimeter vegetative buffer
rear:	50 feet from property line, with 20' perimeter vegetative buffer

c. Parking, drop off and delivery areas shall be located in the side or rear yards unless the Zoning Commissioner, upon the recommendation of the Director of Planning, determines that safety or neighborhood compatibility will be improved by using the front yard for parking, drop off or delivery purposes. In all cases these areas shall be located outside of the required buffer area.

d. Maximum height: 35 feet

e. Maximum impervious surface area: 25% of gross area

6. Amend Section 424.1.B (general child care center requirements) as follows:

In addition, with respect to group child care centers and nursery schools, outdoor play space, abutting residential property, shall be fenced ~~if required by the Zoning Commissioner~~. Fences shall be solid wood stockade or panel, a minimum height of 5 feet, and no closer to the property line than twenty (20') feet.

424.5 A. All other principal use group child care centers and nursery schools in residential zones are permitted in accordance with the following schedule:

	GROUP CHILD CARE CENTERS		
	CLASS A	CLASS B	NURSERY SCHOOLS
RC 2	SE	SE	SE
3	SE	SE	SE
4	N	N	N
5	SE	SE	SE
D.R.(ALL)	SE	SE	SE
More than 40 children or RTA exemption			
D.R.(ALL)	C	C	C
40 or fewer children subject to RTA if applicable, otherwise, Section 424.7			
R.A.E.1,2 Permitted only within apartment buildings of 50 or more units and subject to supplemental regulations of paragraphs 200.2.B and 201.2.B. {Bill No. 47, 1985.	C	C	C Permitted ~~only within apartment buildings of 50 or more units and subject to supplemental regulations of paragraphs 200.2.B and 201.2.B. {Bill No. 47, 1985.}~~

B. Group child care centers in business and manufacturing zones are permitted as a noncommercial accessory or principal use in accordance with the following schedule:

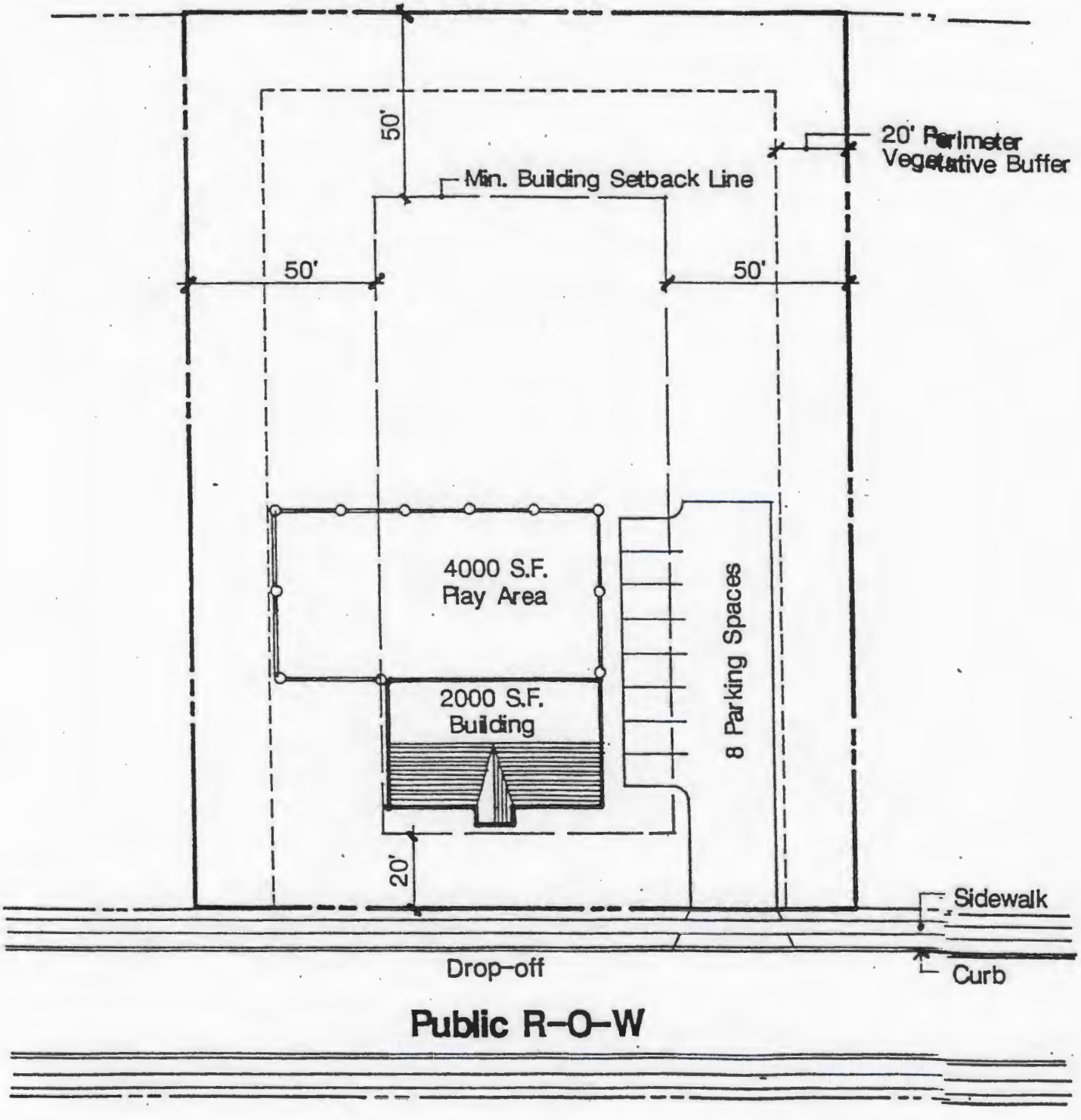
	CLASS A	CLASS B	NURSERY SCHOOLS	
R-O	SE	SE	SE	
More than 40 children				
R-O	C	C	C	
40 or fewer children, subject to Section 424.7				
O-1, O-2	R	R	R	
O.T. Only permitted within buildings of principal uses permitted in 207.3A	C	C	C	~~Only permitted within buildings of principal uses permitted in 207.3A~~
Business Zones	R	R	R	
M.R., M.H. M.L. & M.L.R. Zones	R	R	R	

R = Permitted as of Right

SE= Permitted by Special Exception

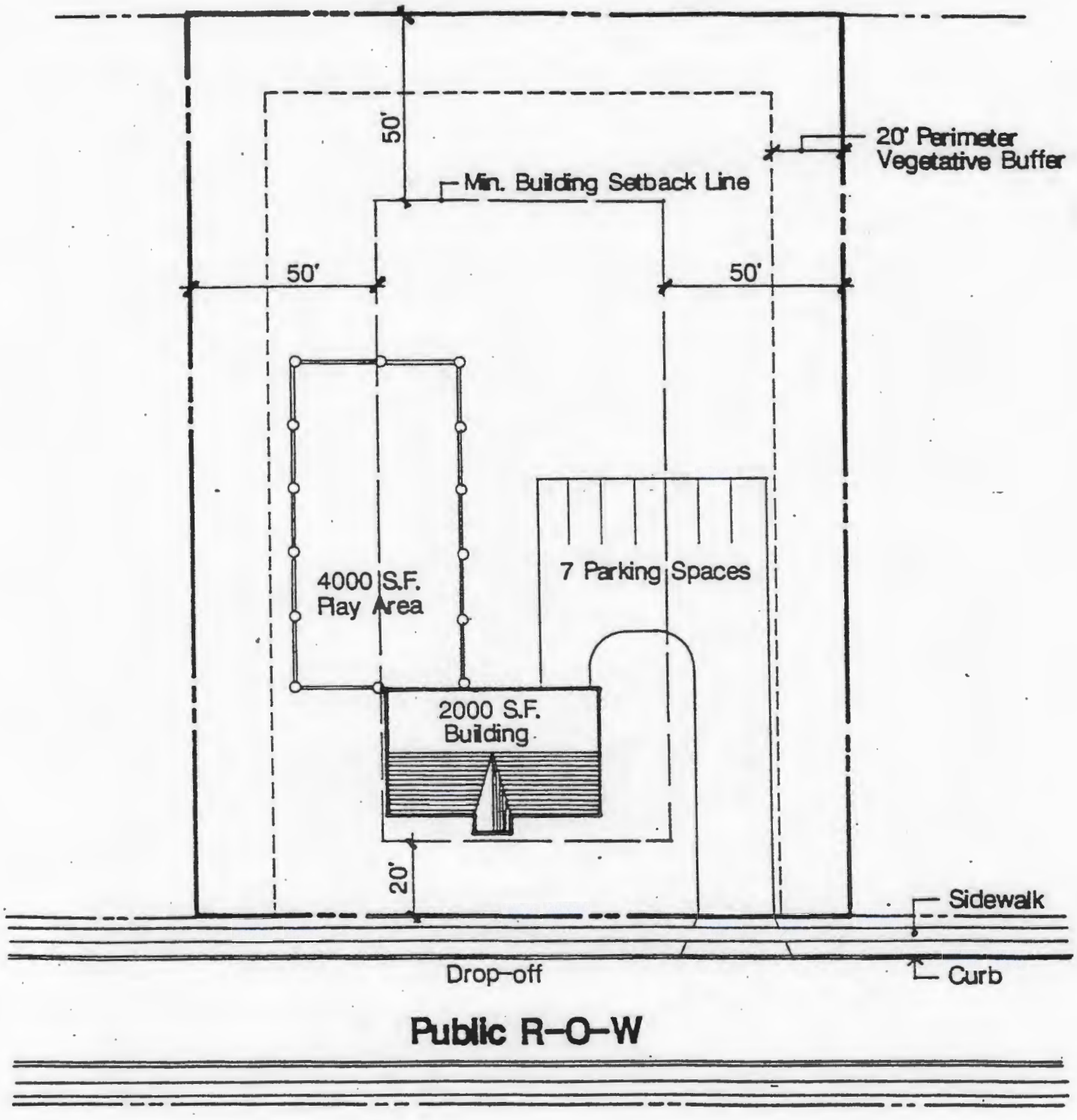
N = Not Permitted

C = Permitted subject to additional conditions
{Bill No. 47, 1985.}



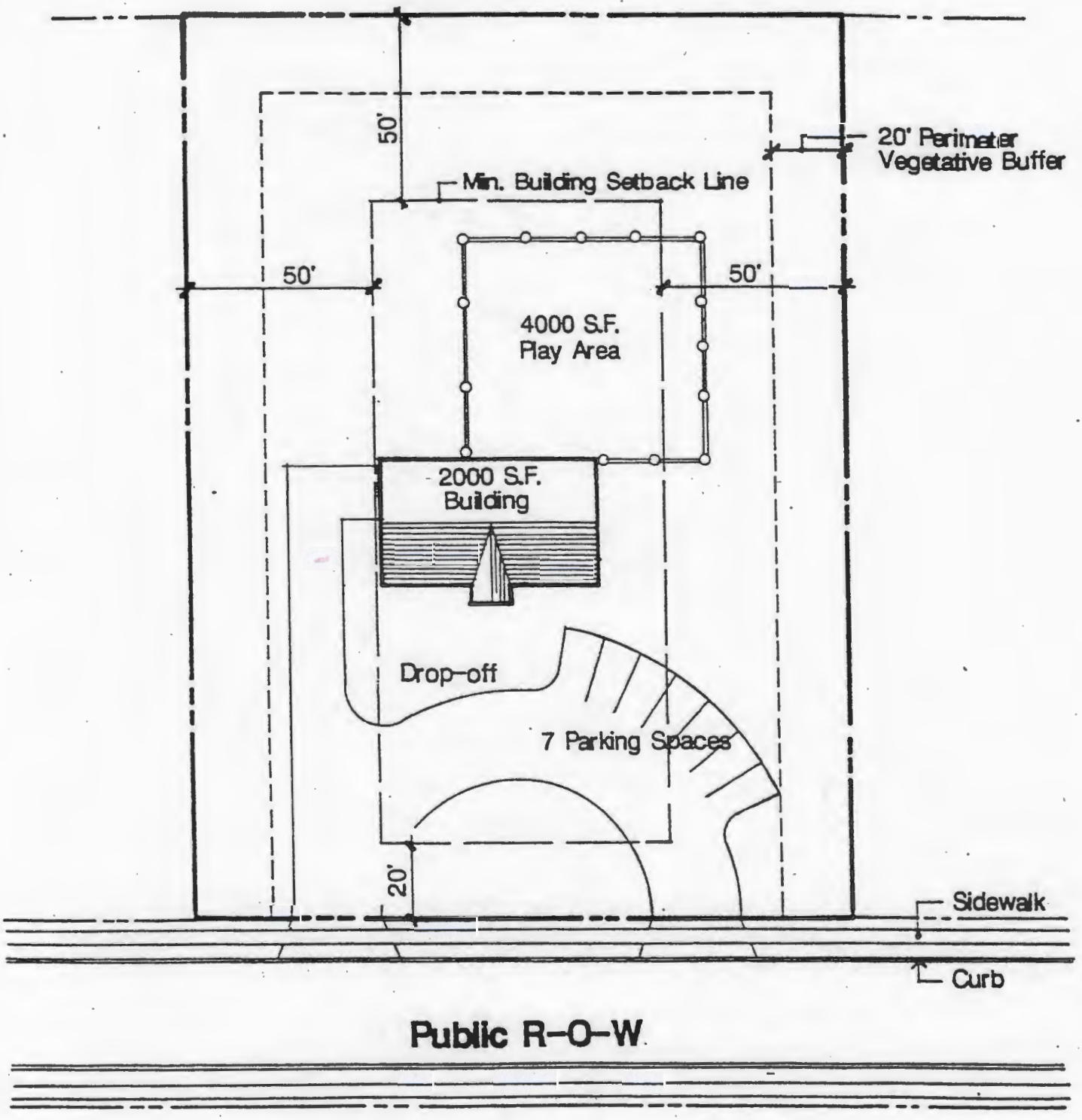
EXAMPLE SITE PLAN # 1

One Acre Lot (min.)/40 Children
Scale: 1"=40'



EXAMPLE SITE PLAN # 2

One Acre Lot (min.)/40 Children
Scale: 1"=40'



EXAMPLE SITE PLAN # 3

One Acre Lot (min.)/40 Children
Scale: 1"=40'

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 24

RESOLUTION NO. 48-88

COUNCILMEMBERS VOLZ & BACHUR

BY THE COUNTY COUNCIL, DECEMBER 19, 1988

A Resolution to request the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to facilitate the placement of day care centers in Baltimore County.

WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, the Baltimore County Zoning Regulations currently authorize day care centers to be located in various zones of the County; and

WHEREAS, the Baltimore County Council recognizes that there are not a sufficient number of day care centers in Baltimore County and that such centers are essential to the economy of Baltimore County; and

WHEREAS, the Baltimore County Council believes that it is possible to encourage the location of additional day care centers in the county by providing an incentive to a developer in the form of a density bonus or other type of density allocation which will encourage a developer to include a day care center in a development project; and

WHEREAS, the Baltimore County Council believes that such density bonus or allocation should be offered to a developer who provides for a day care center in the initial development plan in a manner similar to that approved by the Council for elderly housing facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to facilitate the placement of day care centers in Baltimore County by providing a density bonus or density allocation incentive to developers.

IN THE MATTER OF THE THE APPLICATION OF FATEMEH FALAHI AND MOHAMMAD HAERIAN -PETITIONERS FOR SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST SIDE TIMONIUM ROAD, 90' SOUTHWEST OF CENTERLINE OF EDGEMOOR RD (42 EAST TIMONIUM ROAD) 8TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 94-271-XA

* * * * * * * * *

O P I N I O N

This matter comes before the Board on appeal of an Order in which a Petition for Special Exception and Petition for Variances were DENIED by the Deputy Zoning Commissioner on September 30, 1994.

This case was initially scheduled for hearing on February 28, 1995, but was postponed due to the retirement of a member of the Board of Appeals. The case was re-scheduled and the hearing commenced on Wednesday, July 5; Wednesday, July 12; and was continued and concluded on October 4, 1995. A public deliberation by the Board was then scheduled and conducted on Thursday, October 26, 1995.

The Appellant, Fatemeh Falahi, appeared and testified, represented by Michael P. Tanczyn, Esquire. Representing the Protestants was J. Carroll Holzer, Esquire. Peter M. Zimmerman, People's Counsel for Baltimore County, also participated in these proceedings.

Protestants' objections to an expanded child care center were primarily based on concerns for increased traffic difficulties and dangers at the location of the children's drop-off, and an undersized property requiring too many variances to comply with the zoning standards.

P.C. Ex 7 Kim Winters CBA 10-314 SOHXA 5-24-11

This matter centers on a combination of a special exception and variances for a Class B child care center in a D.R. zone involving a residential transition area (RTA). As defined in Section 1B01.1C.6B of the Baltimore County Zoning Regulations (BCZR), this petition, reduced from an initial request before the Deputy Zoning Commissioner of 40 children to 20 children, is a permitted use if not located in an RTA. As such, however, the property is subject to a special exception under Section 502.1 (BCZR), and also must comply with the bulk standards of Section 424.7.

This regulation requires specific standards for minimum lot size, setbacks, fencing, parking, height and impervious surface area for group child care centers in all D.R. zones. In requesting the special exception, Appellant seeks variances in side and rear yard setbacks, the square foot area of the property, and the extent of the impervious surface on the one-quarter acre property.

Ms. Falahi testified to the facts of her purchase of the subject property at 42 E. Timonium Road in November 1992, a single-family dwelling built in the community of Haverford in the 1950s. She told of the improvements made to a property littered with debris and abandoned materials, and of obtaining the necessary permits to enlarge the house and install a privacy stockade fence in the rear yard.

Appellant reviewed her years of experience in child care programs at Towson State University, and at a local church and her private residence. After completing the improvements to the subject property, she related of her establishing a family child care center at the residence as permitted by right under Section

101 of the BCZR, with her mother and brother in residence. In this Hearing, Counsel for the Appellant made special note that the center for eight children operated with no complaints from anyone until she made application for the Class B facility in January 1994.

The subject property zoned D.R. 5.5 has dimensions comparable to all the platted lots of Haverford, with the exception that it is one of a few constructed on a concrete slab. Also, the 60' x 125' site is bounded by the Timonium Shopping Center along its length, separated by a 15-foot buffer of grass and scrubs. A dilapidated, slatted chain-link fence extended down the middle of the buffer. At the time of purchase, Appellant assumed this parcel was available to her use, as a shed of a previous resident existed there. This misconception was later clarified when the shopping center owner relocated a new fence within one foot of the Falahi property boundary.

Directly across the buffer from the subject site, a large service station (Citgo) and garage facility has operated for many years. Other commercial uses are in the immediate vicinity, and Counsel for Appellant asserts that these commercial activities give a uniqueness to the residential character of the subject property, unlike any other in the community of Haverford.

Norman Gerber, readily recognized as an expert land planner, testified of his familiarity with the property, understanding of documents, County comments, and proposed modifications to the site plan. As an official in the Office of Planning & Zoning in the 1960s, Mr. Gerber told of his opposition to the shopping center and gas station, and foresaw the potential negative effect on the

subject property. All that he projected came to be. The fence on the buffer in 1992 was worthless as a shield to 42 E. Timonium Road. Of all the homes in Haverford, 42 E. Timonium Road is the only house that abuts the shopping center and station, both zoned B.M. With the addition of a cinema, Mr. Gerber opined that a small residential lot adjacent to the entrance to a busy commercial location, and other changes in the vicinity, have created a "unique" property.

Mr. Gerber remarked that the granting of a special exception would not be detrimental, but positive over the long run because a residential use would be continued. The subject property he perceived as under stress because of the traffic from the adjacent shopping center. With a Class B group child care center, the property would still maintain its residential character.

Mr. Gerber agreed that the granting of the special exception would be consistent with the regulations of Section 502.1. In regard to the variances required, he felt that the approval would be within the spirit and intent of the law at the subject location, and help the health and welfare of the community.

Ms. Kathleen Beadell testified on behalf of the Yorkshire-Haverford Community Association and of their resolution (2/17/94) to oppose the petition. Their concern centered on the drop-off and pick-up procedures during times of heavy traffic in the a.m. and p.m. Ms. Beadell referred to the subject location as a "scary place" for child care as parents' cars stack up in the short driveway, back out into Timonium Road, and often drop off and pick up children to and from cars facing the wrong way on Timonium Road.

Dr. Everett C. Carter, Professor of Civil Engineering &

Transportation and an expert in traffic engineering, first looked at the site (12/94) when asked by Mr. Louis Miller, neighbor to the child care location. Dr. Carter observed the gas station and shopping center access and heavy traffic volume as measured by Baltimore County at 25,000 vehicles a day. With a 40 m.p.h. limit on Timonium Road, Dr. Carter commented that it was not a good access road to a day care center. He noted that the gap between vehicles travelling on Timonium Road was negative at peak hours, and for parents discharging children from the driveway, the only way out was to back into Timonium Road. Dr. Carter testified that from traffic-safety considerations, the special exception should not be granted because of the heavy volume and speed of traffic, making drop-off and pick-up very unsafe for children and parents at peak hours.

Mr. Steven Weber, Chief of Traffic Engineering of Baltimore County, testified and related his comments to a greatly reduced traffic count at the location from those of Dr. Carter, and a level of service of "A" at the intersection of Timonium Road and Eastridge. In response to Counsel for Protestants, Mr. Weber explained why special consideration is given for discharge of children. Day care centers should have off-street unloading and turn-around areas where the car can return to the street without backing. The gaps needed for backing out are less numerous than for a vehicle going forward. Mr. Weber observed that the shopping center and gas station drive present a problem with a day care so close by, as parents try to "back out" of the day care at the same time the CITGO and shopping center traffic is trying to enter Timonium Road "going forward." Once out, the "backer" has to shift

gears and change direction, unlike the drivers from Citgo. Mr. Weber remarked that there have been no accidents at the day care center since 1993.

Testifying for Petitioner was James Ransome, a registered land surveyor, who prepared (1/20/95) the amended plat of the Falahi property, which in the original survey showed the fencing setback in the buffer of 15 feet, subsequently corrected to one foot from the Falahi property line. His plan called for an improvement for the driveway, turn around on the site, and parking on an extended drive for three cars. Mr. Ransome assumed that the impervious surface of the property had been there since the 1950s at 30 percent of the gross area. The extended driveway would utilize pervious material such as crusher run, and the impervious area is 39 percent of the site, while Section 424.7E limits it to 25 percent.

Mr. Ransome noted the uniqueness of the site abutting the commercial property and that the RTA didn't exist when Haverford was developed. Other lots abutting the shopping center face the street and not the shopping center, a marked difference. He testified that, if the special exception were granted, the Class B child care center would not be detrimental to the health, safety and general welfare of the community.

Diane Itter of the Office of Planning Community Conservation testified of her opposition to the petition. As one who reviews all plans and plats for special exceptions, she explained her familiarity with the location and of the area designated as a "Community Conservation Area." She felt that a special exception would cause an erosive effect on the community since several other

properties are similarly located next to the shopping center and a precedent could be established. Visiting the property in the a.m. and p.m. at peak traffic times, Ms. Itter concurred with previously mentioned traffic concerns. She took the position that, due to the number of variances requested, the special exception was problematical. Because of the plan's overcrowding of the land, the petition should be denied. The site as a family day care center for eight children is barely appropriate, but Ms. Itter remarked that jurisdiction for a family day care center is not within the authority of Baltimore County.

Louis W. Miller, a resident of the neighboring property at 44 E. Timonium Road for 39 years, described the community and recalled the construction of the shopping center and service station in 1962. He reviewed the occupancy of the subject property over the years, and the changing characteristic of the buffer strip and its general neglect. He acknowledged that he was not aware of the day care center for 6 months from September 1993 to February 1994, until notified of the Petition for a Class B center. Petitioner had informed him of the addition and improvements in the Spring of 1993 for her mother, niece and small children, but he was not told by her of the petition for a child day care center.

Mr. Miller's concerns as next door neighbor are that the expansion will exacerbate noise and congestion, and actual fear of what might happen over traffic problems that cause dangerous conditions now, much less with more children. He expressed concern for present violations of the number of permitted children at any one time for 8 and what it might be if expanded to 20.

Mr. Eric Rockel, President of the Greater Timonium-Lutherville

Community Council, stressed that the community is a conservation area to be protected and enhanced by restricting encroachment and traffic. The Council objects because the use of the property for group child care of up to 20 children is inappropriate for the location.

The Petition for a Special Exception to conduct a Class B child care center at the subject site is very questionable because of the several variances needed to make the undersized property appropriate for an increased enrollment from 8 to 20 young children.

Bill 200-90 amended the existing child care law and established pursuant to Section 1B01.1B.1.g.(10a) (BCZR) that Class B centers may be permitted provided that during the special exception process the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 (BCZR) will be "maintained."

From evidence and testimony heard, the Board has to assume that improvements and additions to the residence were not made in consideration of the requirements to be met for a special exception under the applicable law. In Appellant's plan, the bulk standards are far beyond the dimensions of the property, such as lot size, setbacks and impervious surface requirements.

Appellant asserts that the lot was created in the 1950s as one of hundreds of similar properties (60' x 125'), but in three decades has singularly been harmed by commercial development on adjacent land. She further asserts that the location is thereby unique because the businesses have a negative effect on her residential property and have caused a hardship.

In Cromwell v. Ward, 102 Md.App. 691 (1995), it is clarified that a variance may be granted because of the unusual physical characteristics of a property existing at the time of the zoning ordinance and which would result in peculiar and exceptional practical difficulties. The hardship in this case now arises because Appellant has to apply the requirements of the law to an undersized lot. On this issue, the Board feels, even if there was uniqueness to the property itself, the hardships to Appellant were incurred when she purchased the small property in 1992, after the enactment of Bill 200-90, and thereby the hardship was self-created.

The Board is appreciative of the negative effects of the shopping and auto service center on the Falahi's residential property, but as cited by Protestants, the property itself is similar to others in the vicinity and there is nothing unusual about the land. Section 307.1 (BCZR) permits variances for unique sites where strict compliance with the zoning regulations would result in practical difficulty. It has always been occupied by a resident and today has a worthwhile use as a family day care center. Denial of the variances does not result in an undue hardship.

From all the testimony, the Board is persuaded that the inadequate setbacks and buffering of the day care center, and the community concerns over traffic hazards are of such dimensions and difficulty that the enlarged day care center will be detrimental to the health, safety and welfare of the community.

In consideration of variances for the subject property, the Board feels that the property existing in an RTA must meet the bulk

standards of Section 424.7 and cannot be varianced. This precludes the Board from granting the special exception.

O R D E R

THEREFORE, IT IS this 14th day of December, 1995 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Exception to permit a Class B Group Child Care Center on the subject property where there is an RTA be and is hereby **DENIED**; and it is further

ORDERED that the requested variances seeking relief from the Baltimore County Zoning Regulations pertaining to setbacks, lot size and impervious surface area requirements be and are hereby **DENIED**.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Kristine K. Howanski, Acting Chairman

S. Diane Levero

Harry E. Buchheister, Jr.

IN THE MATTER OF THE THE APPLICATION OF GORDON L. HARRISON, ET UX FOR A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTH SIDE OLD EASTERN AVENUE, 25' E OF CENTERLINE OF EYRING AVENUE (1300 OLD EASTERN AVENUE) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 95-280-XA

* * * * * * * * *

O P I N I O N

This matter comes to the Board on appeal by People's Counsel from the March 20, 1995 decision of the Deputy Zoning Commissioner wherein Petitioners' special exception and variances were granted. Petitioners presently own a Class A Group Child Care Center on the subject property which is located in a Residential Transition Area (RTA). They sought a special exception to operate a Class B Group Child Care Center and variances for various setback, buffer and lot size requirements.

John B. Gontrum appeared on behalf of the Petitioners, and Peter Max Zimmerman, People's Counsel for Baltimore County, participated in the proceedings. Gordon L. Harrison, Petitioner; and Donna Copp, a neighbor, testified on behalf of Petitioners. Neighbors Carville Lauenstein, Ferdinand R. Hock, Mary Hock and Pearl Puchalski testified as Protestants.

From the testimony and exhibits, the Board finds that Petitioners operate a child care center at the subject property and live directly across the street therefrom. Mr. Harrison intended to and has, in fact, maintained the property as a residence for his mother-in-law. Petitioners are seeking to expand to a Class B facility and thus be able to accept more children at the center. They are willing to limit the permissible amount of children to 24

P.C. Ex 8 Hickmans CBA 10-314 SPHXA 5-24-11

given the limited square footage of the building. The subject lot is substantially less than 1 acre in size and located in a heavily trafficked area. It is very similar in size and shape to most neighboring lots which sit on 1/4 to 1/3 of an acre.

Class B Group Child Care Centers as a whole are not permissive uses in a D.R. zone absent statute. In RTA's such as this, petitioners must proceed by special exception. Baltimore County Zoning Regulations (BCZR) Section 1B01.1B.1.g.(10a), while allowing special exceptions, nonetheless requires compliance with the bulk standards of Section 424.7. Class B Group Child Care Centers are permitted therein by special exception "provided that the Zoning Commissioner determines, during the special exception process, that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained...." (Emphasis added.) The fact that compliance with the bulk standards will not be maintained precludes the Board from granting the special exception.

Variances may be granted under Cromwell v. Ward, 102 Md.App. 691, 651 A.2d 424 (1995) only if strict application of the regulation, due to unique circumstances affecting the property, would result in peculiar and exceptional practical difficulties. The subject property is a parcel similar in shape, size and appearance to many other parcels in the area. Were this Board permitted, therefore, to consider the variance requests on their merits, it does not believe that Petitioners have demonstrated the requisite uniqueness sufficient for the granting of a variance. Further, Section 307.1 of the BCZR permits variances for unique sites where strict compliance with the zoning regulations would

result in practical difficulty or undue hardship. This property does have a use. Denying the variance thus does not result in practical difficulty or undue hardship within the contemplation of Section 307.1.

The Board, having so ruled, is not unmindful of the plight of citizens in need of day care. Rather, it does not believe it is at liberty to ignore what is clearly set forth in the law, even to further a noble end. If this ruling disserves the needs of the citizens in the Essex region, however, change must come from the legislative body.

O R D E R

THEREFORE, IT IS this 28th day of September, 1995 by the County Board of Appeals for Baltimore County

ORDERED that the Petition for Special Exception to permit a Class B Group Child Care Center on the subject property where there is an RTA be and is hereby **DENIED**; and it is further

ORDERED that the requested variances seeking relief from the Baltimore County Zoning Regulations pertaining to setback, lot size and buffer requirements be and are hereby **DENIED**.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Kristine K. Howanski, Acting Chairman

Charles L. Marks

Margaret Worrall

P.C. 3/1/95

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE
Cor. SW/S Liberty Road, NW/S of Forest Hill Avenue
6411 Liberty Road
2nd Election District
2nd Councilmanic District
Dennis K. Agboh, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 95-248-XA

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as both a Petition for Special Exception and Petition for Zoning Variance for the property located at 6411 Liberty Road in the Lochearn section of Baltimore County. The Petition is filed by Dennis K. Agboh and Elizabeth J. Agboh, property owners. Special Exception relief is requested so as to allow a Class B Group Child Care Center for up to 39 children in a D.R.5.5 zone. Numerous variances are requested. They are:

From Section 1B01.1.B.1.e (3)&(5) of the Baltimore County Zoning Regulations (BCZR) to permit the existing principle and accessory structures (including the garage and fences) to remain within the RTA buffer; the existing parking lots and structures to remain at their current locations and heights, in lieu of providing a 50-ft. buffer and a 75 ft. setback, and a height not to exceed 35 ft. within the 100 ft. transition area;

From Section 409.8.A.1. and A.4 to permit the existing paved parking area to remain as is, in lieu of design, screening and landscaping, in accordance with the landscape manual and all other manuals adopted pursuant to Section 22-105 of the Baltimore County Code, and the required setback of 10 ft. to the right of way line of a public street.

From Section 424.7.B to permit an 18 ft. front yard setback in lieu of the required 25 ft. front yard setback from street line; side yard setbacks of 11 ft. and 20 ft. in lieu of the required 50 ft. from property line;

P.C. Ex 9 Kim Walters CBA 10-314 SPHXA 5-24-11

side yards without the required 20 ft. perimeter vegetative buffer; rear yard without the required 20 ft. perimeter vegetative buffer;

From Section 400.1 to permit the existing garage to remain in its current location in lieu of being located in the third of the lot farthest removed from any street. All of the relief requested is more particularly shown on Petitioners' Exhibit No. 1, the site plan to accompany the Petitions for Special Exception and Variance.

Appearing at the requisite public hearing held for this case were the property owners/Petitioners, Dennis K. Agboh and Elizabeth J. Agboh. They were represented by John Trueschler, Esquire. There were no Protestants or other interested persons present.

The uncontradicted testimony and evidence presented was that the subject site is approximately .35 acres in gross area and is zoned D.R.5.5. The property is located at the southwest intersection of Liberty Road and Forest Hill Avenue. The property is improved by 2-1/2 story frame building which is used for a day care operation. The rear of the property contains a frame garage as well as a macadam drop off area. The balance of the property contains a lawn which serves as an outdoor play area for the children.

Group Child Care Centers are defined by Section 101 of the BCZR as "a building or structure wherein care, protection and supervision is provided for part, or all, of a day on a regular schedule, at least twice a week, to at least 9 children including children of the adult provider". A Class A child care facility provides care for no more than 12 children; whereas a Class B facility provides care for more than 12 children. Child Care Centers are regulated by Section 424 of the BCZR.

Testimony and evidence offered was that the Petitioners have owned the property for approximately one year and have operated a Class A Child Care

facility since that time. Apparently, they have made great efforts and expenditures to upgrade the property. Although no new building has taken place, the interior and exterior of the existing building has been significantly renovated and upgraded.

Other testimony indicated that the child care facility provides services Monday through Friday from 6:30 A.M. to approximately 6:00 P.M. Although three employees now work on the site, Mrs. Agboh envisions increasing that number to five employees if the special exception is granted. The facility is also licensed and regulated by the State of Maryland.

Testimony was also offered that no exterior improvements to the site are envisioned. The special exception and variance relief is required only because the number of children served on this site will be increased.

Clearly, this use serves a significant need in the area. In this regard, the Petitioners testified that many of the adults in the area are single parents and need close and reliable day care. A public bus stop is located immediately in front of the property at the intersection of Liberty Road and Forest Hill Avenue. Many of the adults and children arrive by bus. Children brought by automobile are dropped off at the drop-off point to the rear of the site located adjacent to Forest Hill Avenue. This prevents children from being dropped off along the busy Liberty Road corridor. It is also to be noted that this site was operated as a Class A Child Care Center by a previous owner in 1986.

As to the Petition for Special Exception, it is clear that same should be granted. As is well settled, a special exception is a use predetermined by the County Council to be presumptively proper in a given zone. See Schultz v. Pritts, 291 Md. 1 (1981). The evidence presented in this case was uncontradicted that the proposed expansion and use will not be detrimen-

tal to the health, safety and general welfare of the locale. The standards enunciated in Section 502.1 of the BCZR are clearly satisfied.

The variances which are requested should also be granted. It need be emphasized that no new construction is proposed on site. Rather, these variances are triggered by the expanded use. Surely, the Petitioner would suffer practical difficulty if the variances were denied. The unusual shape of the lot and its relatively small size would render the special exception use impossible if the variances were not granted. Moreover, the Petitioner indicated that the community actively supports her Petitions. As noted above, this use serves a dire need within the local community. For all of these reasons the variances should and will be granted.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 1st day of June, 1995 that, pursuant to the Petition for Special Exception, approval to allow a Class B Group Child Care Center for up to 39 children in a D.R.5.5 zone, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 1B01.1.B.1.e (3)&(5) of the Baltimore County Zoning Regulations (BCZR) to permit the existing principle and accessory structures (including the garage and fences) to remain within the RTA buffer; the existing parking lots and structures to remain at their current locations and heights, in lieu of providing a 50 ft. buffer and a 75 ft. setback, and a height not to exceed 35 ft. within the 100 ft. transition area, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that a variance from Section 409.8.A.1 and A.4 to permit the existing paved parking area to remain as is, in lieu of design, screening and landscaping, in accordance with the landscape manual

and all other manuals adopted pursuant to Section 22-105 of the Baltimore County Code, and the required setback of 10 ft. to the right of way line of a public street, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 424.7.B to permit an 18 ft. front yard setback in lieu of the required 25 ft. front yard setback from street line; side yard setbacks of 11 ft. and 20 ft. in lieu of the required 50 ft. from property line; side yards without the required 20 ft. perimeter vegetative buffer; rear yard without the required 20 ft. perimeter vegetative buffer, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 400.1 to permit the existing garage to remain in its current location in lieu of being located in the third of the lot farthest removed from any street, subject, however, to the following restriction:

1. The Petitioners is hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmn

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 29, 1995

Arnold Jablon, Director
Zoning Administration and Development
Management Office
111 W. Chesapeake Avenue
Towson, MD 21204

Re: PETITIONS FOR SPECIAL EXCEPTION
AND ZONING VARIANCE
6411 Liberty Road, corner SW/S Liberty
Road, NW/S Forest Hill Avenue, 2nd
Election District, 2nd Councilmanic
DENNIS & ELIZABETH AGBOH, Petitioners
Case No. 95-248-XA

Dear Mr. Jablon:

Please enter an appeal of PEOPLE'S COUNSEL FOR BALTIMORE COUNTY to the County Board of Appeals from the order dated March 1, 1995 of the Baltimore County Zoning Commissioner in the above-entitled case.

In this connection, please forward to this office copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: John Trueschler, Esquire

RECEIVED
MAR 29 1995
ZADM

P.C. Ex 10 Kim Walters CBA 10-314-SPHXA 5-24-11

IN THE MATTER OF THE APPLICATION OF DENNIS K. AGBOH, ET UX FOR SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE CORNER SOUTHWEST SIDE LIBERTY ROAD, NORTHWEST/SIDE OF FOREST HILL AVENUE (6411 LIBERTY ROAD) 2ND ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 95-248-XA

* * * * * * * * *

ORDER OF DISMISSAL

This matter comes to this Board on appeal from a decision of the Zoning Commissioner dated March 1, 1995 in which the Petition for Special Exception and Petition for Variances were GRANTED with restrictions.

WHEREAS, the Board is in receipt of a letter of withdrawal of special exception and variances filed by John B. Gontrum, Esquire, on behalf of Dennis G. Agboh, Petitioner, filed January 6, 1997 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Petitioner requests that the Petition for Special Exception and Petition for Variances filed in this matter be withdrawn and dismissed as of January 6, 1997, pursuant to attached letter of withdrawal;

IT IS HEREBY ORDERED this 21st day of January, 1997 by the County Board of Appeals of Baltimore County that said Petitions for Special Exception and Variances be and the same are hereby **WITHDRAWN AND DISMISSED.**

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert O. Schuetz

Robert O. Schuetz, Chairman

Lawrence M. Stahl

S. Diane Levero

P.C. Ex 11 Kim Watkins CBA 10-314 SPHXA 5-24-11

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

TOWSON OFFICE:
307 W. ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(410) 825-0711

JILL D. LOPER

* Also Admitted In the District of Columbia

January 2, 1997

Board of Appeals
400 Washington Ave., Room 49
Towson, Md 21204

Re: Dennis A. Agboh
Case No.: 95-248-XA

Dear Mr. Chairman:

I am requesting a withdrawal of the special exception and variances from the above referenced case. It is my understanding that if a new special exception or variance is filed, it must be started from the beginning step.

If there are any questions please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

jaj

cc: People's Counsel
Mr. and Mrs. Agboh

Case No.: 2010-0314-SPHXA

Exhibit Sheet

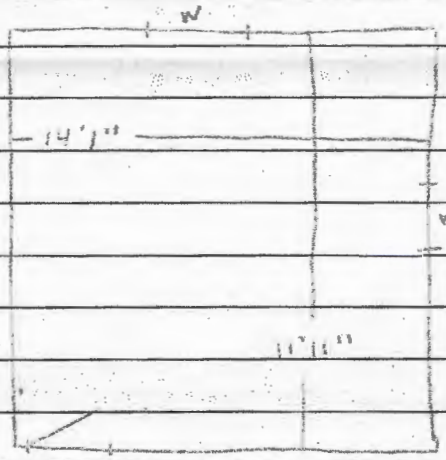
	Petitioner/Developer	Protestant
No. 1	Site Plan	
No. 2	Floor plan of dwelling	
No. 3	MD Dept of Education Child Development Program license	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

ADDITIONAL COMMENTS

NOTE: Failure to correct the violation(s) listed below may result in sanctions being imposed or in the suspension or revocation of your registration, license or letter of compliance.

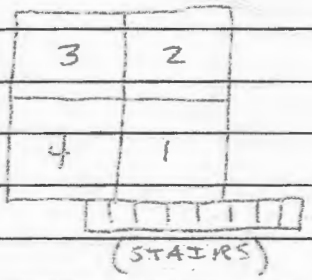
Facility/Provider: Enrigma (Pre-Site) Date: 7/29/10

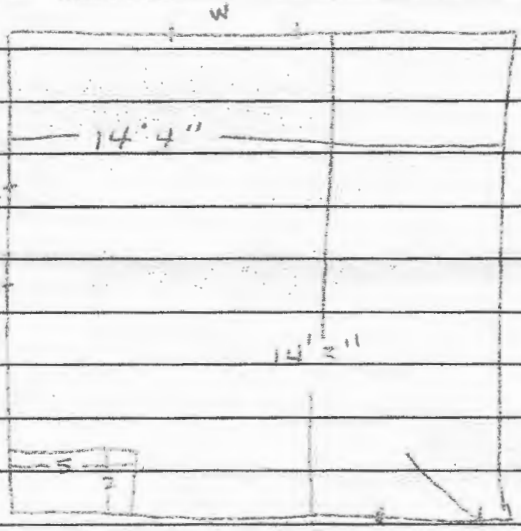
1. Record each violation by regulation section, including agreed upon compliance date, if applicable.
2. Enter each discussed item by its regulation section.
3. Additional comments should also be listed by regulation section.



14.08 x 11.92 = 167.83 ÷ 35 = 4.79 = (5)

Room 1





Room 2

14.33 x 14.25 = 204.20

Deduct 5' x 7' = 10 10.00

194.20 ÷ 35 = 5.54 = (6)

Signature of the Provider/Facility Representative (*if applicable*)

PSA

Signature of the Agency Representative

OCC 1273 (07/05) Previous editions are obsolete.

PETITIONER'S

EXHIBIT NO. 7

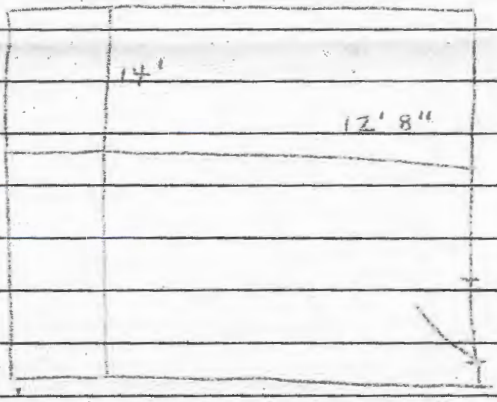
ADDITIONAL COMMENTS

NOTE: Failure to correct the violation(s) listed below may result in sanctions being imposed or in the suspension or revocation of your registration, license or letter of compliance.

Facility/Provider: Empire Date: 7/29/10

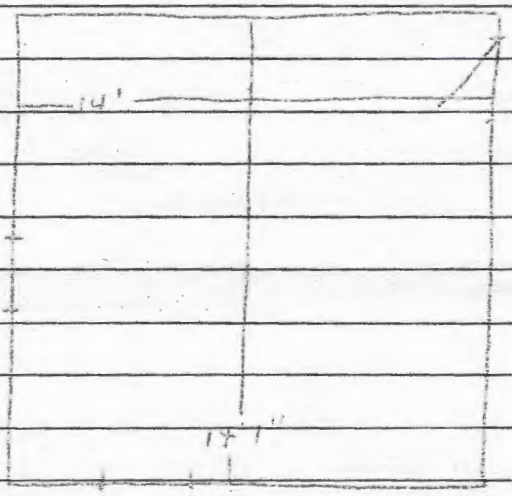
1. Record each violation by regulation section, including agreed upon compliance date, if applicable.
2. Enter each discussed item by its regulation section.
3. Additional comments should also be listed by regulation section.

Room 3



14 x 12.67 = 177.38/35 = 5.06 = (5)

Room 4



14 x 14.08 = 197.12 ÷ 35 = 5.6 = (6)

Total Capacity 27

4 Rooms

1 Toilet 1 Sink

Signature of the Provider/Facility Representative (*if applicable*)

Signature of the Agency Representative

POST IN CONSPICUOUS PLACE - This license or approval is not transferable to another operator, location, or address.

MARYLAND STATE DEPARTMENT OF EDUCATION

Achievement Matters Most

State of Maryland - Department of Education

Office of Child Care

CHILD DEVELOPMENT PROGRAM LICENSE

Region: 3
County: BALTIMORE
License Number: 155852
Licensed Center since: 12/29/2009
School Number:
Approved Since:

Enigma Learning Center

6411 Liberty Road, Baltimore, MD 21207

Operated by **Kim Walters**

The Office of Child Care issues this license pursuant to Family Law Article, Sections 5-570 through 5-585, and COMAR 13A.16.01-.19.
___ In addition, an approval is issued pursuant to Education Article, Section 2-206, Annotated Code of Maryland and COMAR 13A.16.16.

License Status:	
Issued on:	12/29/2009
Revised on:	02/26/2010
Expires on:	11/30/2011
Status:	Initial - Full

Rooms Approved and Capacity:	
Room	**Cap.**
Front	6
Back	6
Infant	6

Key: 1=Child Care, 2=Educational Program, 3=Accredited

Ages:	1	2	3
6 wks through 17 mos	Yes		No
18 mos through 23 mos	Yes		No
2 years	Yes	No	No
3 years	Yes	No	No
4 years	Yes	No	No
5 yrs through 15 yrs	No		No
16 yrs through 20 yrs	No		No

Schedule:	
Months:	January-December
Days:	Monday-Sunday
Hours:	06:00 AM - 12:00 AM
Total Capacity:	12

This Child Care Center License is issued to the licensee named above on condition that the licensee agrees to comply with all applicable child care center licensing laws and regulations. Failure to comply with applicable laws and regulations may result in an enforcement action against this License, including but not limited to suspension or revocation of the License or denial of a new License. The licensee must surrender this License to the Office of Child Care upon suspension, revocation, voluntary closure, or denial of a new License. The licensee must notify the Office of Child Care of a change in ownership of the child care center prior to its effective date.

RESTRICTIONS/COMMENTS: No more than 5 children under 24 months old may be present.

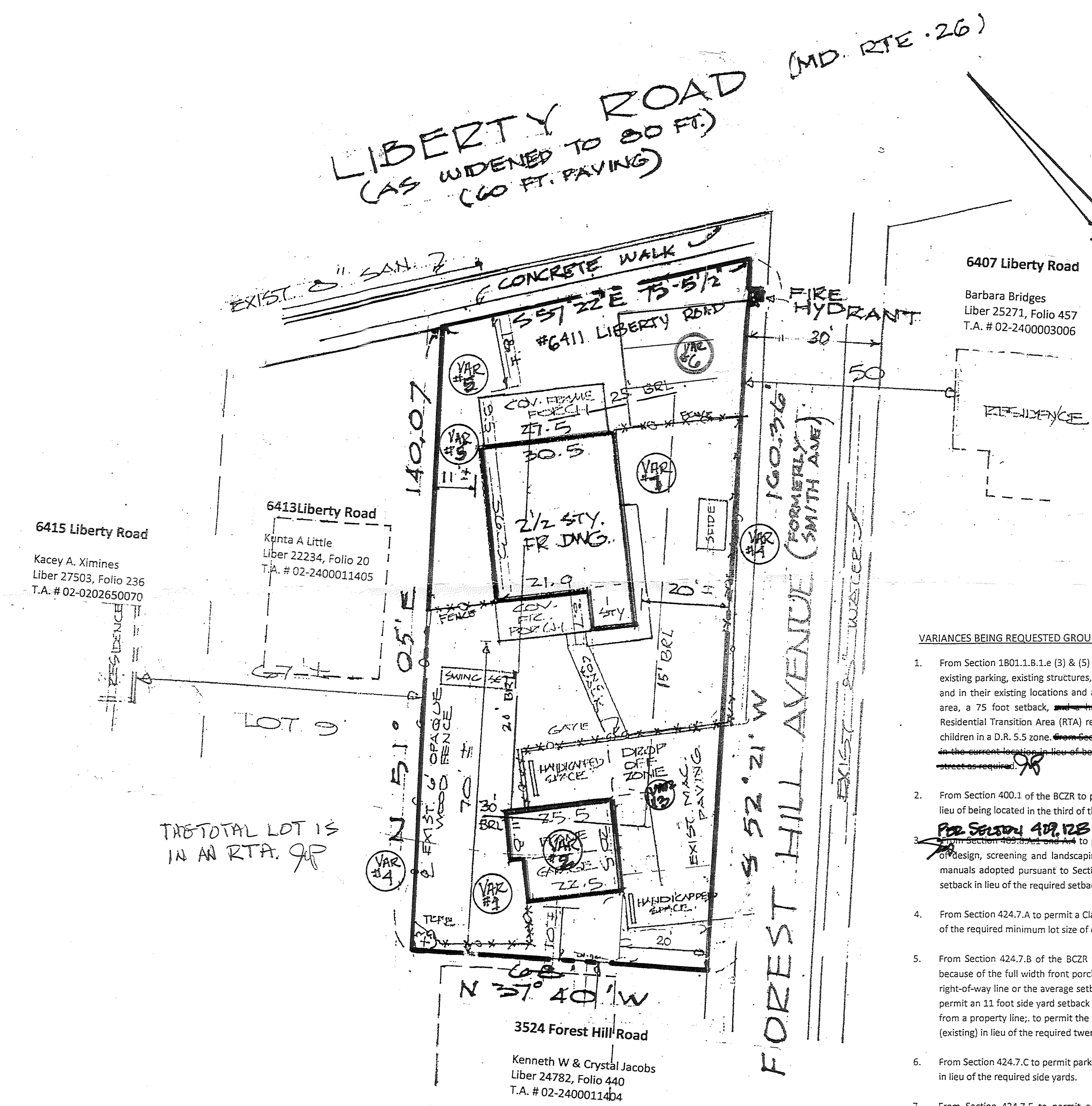
Nancy S. Grasmick

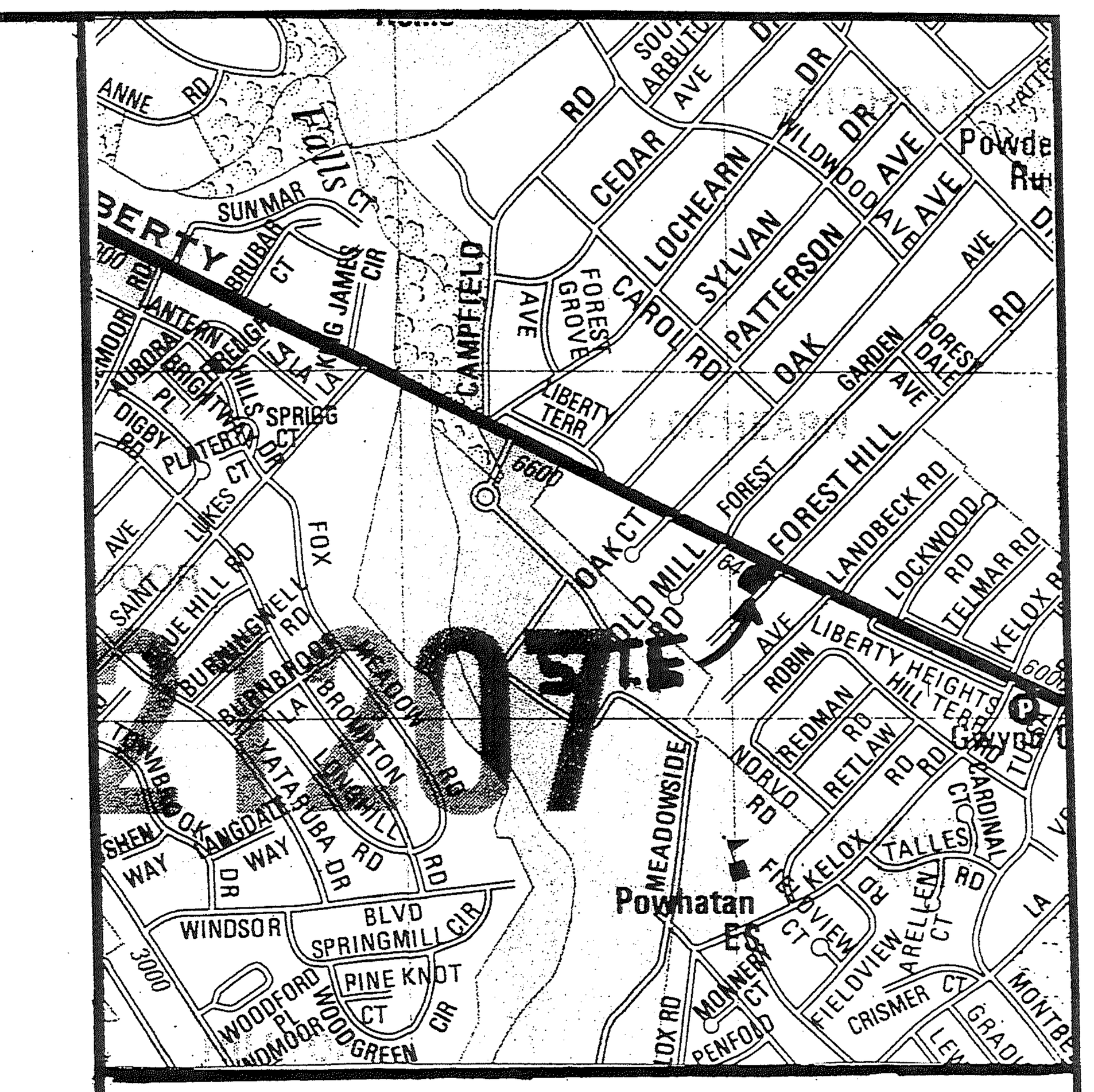
State Superintendent of Schools

Maryland State Department of Education

Pet 3

OCC 276 (Revised 10/08) - *All previous editions are obsolete*





VICINITY MAP 1" = 1,000'

NOTES:

1. **OWNERS :** Dennis and Elizabeth Agboh, 116 Nob Hill Park Drive, Reisterstown, MD 21136
2. **DEED:** Liber 10589, Folio 696
3. **TAX ACCOUNT:** 02-0220660170
4. **COUNCIL DISTRICT:** 4
5. **ELECTION DISTRICT:** 2
6. **ZONING:** DR – 5.5
7. **ZONING MAP:** O88B1
8. **SETBACKS - Required:** Front – 25'; Side – 20'; Rear – 30'; side right of way – 15'
9. **SETBACKS – Existing:** Front – 18'; Side - 11'; Rear - 70'; side right of way - 20'
10. **PERMITS OF RECORD:** Class "A" Child Care Use Permit was granted in 1986 and 1994; A Class "B" Child Care Use Permit was granted in 1995.
11. **ZONING HISTORY:** Case # 86-493-SPH, granted with conditions June 16, 1986;

    Case #CACC-94-2, granted August 2, 1994;

    Case #95-248-XA for Special Exception and Variance, both granted March 1, 1995 by Zoning Commissioner; Appealed to the Board of Appeals with order of dismissal due to withdrawal January 21, 1997;

    Case #2010-0004-SPH granted by Deputy Zoning Commissioner September 22, 2009 with Motion for Reconsideration denied by the Deputy Zoning Commissioner on December 16, 2009.
12. **FEATURES:** No streams, storm water management systems, drainage, or pipe Exist on or within 50' of the property; the property is not within a 100 year flood plain; no archeology or historic structure(s) exist on the site from record; the site is not in the Chesapeake Bay Critical Area.
13. **PARKING:** Required: One (1) per employee on the largest shift, but no less than two (2).

    Provided: Five (5)
14. **IMPERVIOUS AREA:** Twenty four (**24%**) percent exclusive of "modified" play yard surface
15. **FLOOR AREA RATIO:** Floor area : 4,119 s.f. (+/-) / Gross site area : 15,246 s.f. (+/-) = **0.27**
16. **LOT AREA:** Net: 0.23 acres +/- = 10,019 s.f. +/- ; Gross: 0.35 acres +/- = 15,246 s.f.

<u>VARIANCES BEING REQUESTED GROUP CHILD CARE CENTER CLASS "B" AT 6411 LIBERTY ROAD</u>

1. From Section 1B01.1.B.1.e (3) & (5) of the Baltimore County Zoning Regulations (BCZR), to permit existing parking, existing structures, and existing fenced play yard to remain within an RTA buffer and in their existing locations and at their current heights; in lieu of providing a 50 foot buffer area, a 75 foot setback, ~~and a height not to exceed 35 feet~~ within the required 100 foot Residential Transition Area (RTA) required for a Class "B" Group Child Care Center for up to 40 children in a D.R. 5.5 zone. ~~From Section 400.1 of the BCZR to permit the existing garage to remain in the current location in lieu of being located in the third of the lot farthest removed from any street as required.~~ JP
2. From Section 400.1 of the BCZR to permit the existing garage to remain in the current location in lieu of being located in the third of the lot farthest removed from any street as required.
3. ~~From Section 409.8.A.1 and A.4~~ FOR SECTION 409.12B to permit the existing paved parking area to remain as is, in lieu of design, screening and landscaping, in accordance with the landscape manual and all other manuals adopted pursuant to Section 32-4-404 of the Baltimore County Code, and a zero foot setback in lieu of the required setback of 10 feet to the right of way line to a public street.
4. From Section 424.7.A to permit a Class "B" Group Child Care Center on a 0.35 gross acre lot in lieu of the required minimum lot size of one (1) acre for the first 40 children.
5. From Section 424.7.B of the BCZR to permit an 18 foot front setback of the existing structure because of the full width front porch in lieu of the required 25 foot front setback from the street right-of-way line or the average setback of the adjacent residential dwellings whichever is less; to permit an 11 foot side yard setback and a 20 foot side yard setback in lieu of the required 50 feet from a property line;. to permit the rear and side yards to have a five (5) foot high ~~stockade~~ SOLID WOOD fence (existing) in lieu of the required twenty (20) foot perimeter vegetative buffer.
6. From Section 424.7.C to permit parking a drop-off and delivery area to be located in the front yard in lieu of the required side yards.
7. From Section 424.7.E to permit a maximum impervious surface area of 34% in lieu of the permitted maximum impervious surface area of 25% of the gross area.
8. And such other variance(s) which may be identified at the time of the hearing.

PETITIONER'S EXHIBIT NO. 1

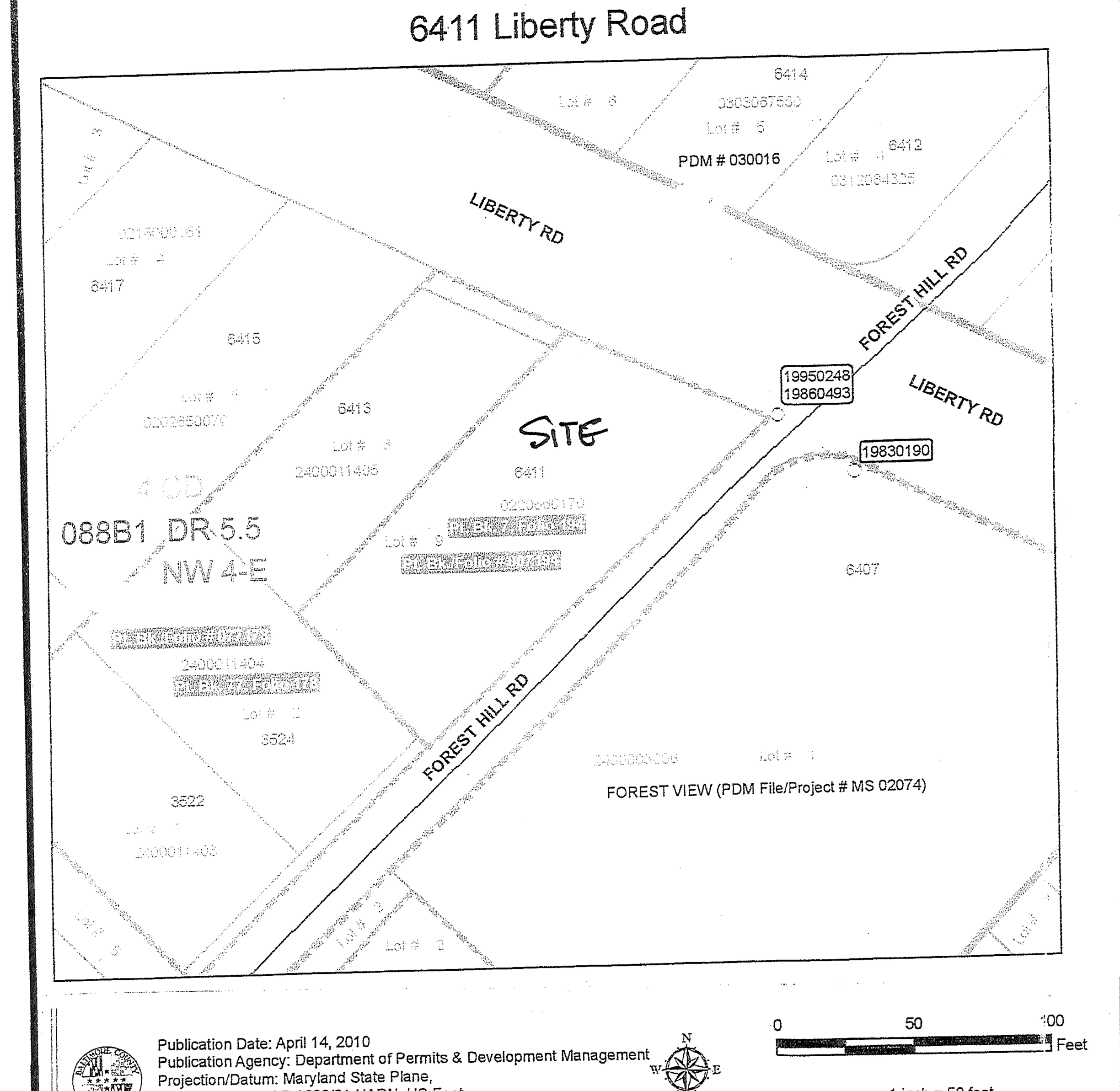
<u>PETITION FOR A SPECIAL EXCEPTION</u> TO PERMIT A CLASS "B" CHILD CARE FACILITY.

<u>PETITION FOR VARIANCES</u> RELATIVE TO THE EXISTING LOT AND STRUCTURES PRESENTLY BEING UTILIZED AS A CLASS "A" CHILD CARE FACILITY RELATIVE TO THE CONVERSION TO A CLASS "B" CHILD CARE FACILITY BY SPECIAL EXCEPTION OR, IN THE ALTERNATIVE, THE CONTINUATION AS A CLASS "A" CHILD CARE FACILITY.

<u>PETITION FOR SPECIAL HEARING</u> RELATIVE TO THE EXISTING LOT AND STRUCTURES PRESENTLY BEING UTILIZED AS A CLASS "A" CHILD CARE FACILITY TO REMOVE SPECIFIC CONDITIONS OF RECORD RELATIVE TO THE EXISTING CLASS "B" CHILD CARE FACILITY SHOULD THE PETITION FOR SPECIAL EXCEPTION BE DENIED. THAT BCZR SECTION 1B01.1.B.1.g. (11) IS APPLICABLE AND HAS BEEN COMPLIED WITH. JP

2010-0314-SPHXA

6411 Liberty Road



ZONING DESCRIPTION FOR <u>6411 LIBERTY ROAD</u>

Beginning at a point on the south side of Liberty Road (MD Rte. 26) which is eighty (80) feet wide at the distance of 15 feet +/- west of the centerline of the nearest improved intersecting street, Forest Hill Avenue (formerly Smith Avenue), which is thirty (30) feet wide. Being Lot #10 and a portion of Lot #9 in the subdivision (Record Plat) of "Luther Smith Plat" as recorded in Baltimore County Plat Book #7, Folio #194, containing 0.35 acres +/-. Also known as 6411 Liberty Road and located in the 2nd Election District, 4th Councilmanic District.

DRAWN BY:	DATE	REVISIONS	BY
DESIGN BY:			
CHECKED BY:			

PATTON
Patton Consultants Ltd. Engineering & Site Planning
780 Elkridge Landing Rd., Suite 104, Linthicum, Maryland 21090, jsp@pattonconsultants.net 410-691-0205 410-691-0207

SEAL: STATE OF MARYLAND — JAMES STEPHEN PATTON — 9403

PROJECT/DEVELOPMENT: **Dennis & Elizabeth Agboh Property**

6411 Liberty Road, Baltimore, MD 21207

DRAWING TITLE: **PLAT TO ACCOMPANY PETITIONS FOR SPECIAL EXCEPTION, VARIANCES, AND SPECIAL HEARING.**

DATE: 3/29/10

SHEET 1 OF 1

COUNTY: BALT. | ELECTION DIST: 2 / 4 | PROJECT #: | SCALE: 1" = 20'

085100