



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

December 18, 2014

Michelle J. Dickinson, Esq.
10440 Little Patuxent Pkwy.
Suite 300
Columbia, Maryland 21044

RE: Petition for Special Exception
Case No.: 2015-0092-X
Property: 2012 Far Out Lane

Dear Mrs. Dickinson:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", followed by a long horizontal flourish.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slm
Enclosure

c: Andrew and Noreen Krause, 1940 Akehurst Road, Sparks, Maryland 21152

IN RE: PETITION FOR SPECIAL EXCEPTION *

BEFORE THE

(2012 Far Out Lane)

5th Election District *

OFFICE OF

3rd Councilman District

Catherine H. Robinson *

ADMINISTRATIVE HEARINGS

Legal Owner

Petitioner *

FOR BALTIMORE COUNTY

* Case No. 2015-0092-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Exception filed for property located at 2012 Far Out Lane. The Petition was filed on behalf of the legal owner of the subject property, Catherine H. Robinson. The Petition seeks approval for a private kennel (not commercial) in an R.C. 2 zone. 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 No. 1.

Appearing at the hearing in support of the requests was Catherine H. Robinson. Michelle J. Dickinson, Esquire represented the Petitioner. Andrew and Noreen Krause (neighbors) attended the hearing and opposed the petition. The Petition was advertised and posted as required by the B.C.Z.R.

Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The only substantive comment was from the Department of Planning (DOP), dated November 12, 2014. That agency did not oppose the relief, and opined that the kennel use would not be detrimental to the surrounding community.

The subject property is approximately 5.4 acres and is zoned R.C.2. The property is improved with a large single family dwelling (approximately 2,700 square feet) constructed in 1921,

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Date 12/18/14

By Sen

and is located in a rural setting in northern Baltimore County. The Petitioner is a horse trainer who also operates what under the B.C.Z.R. is a "private kennel," which essentially means that "more than three dogs" are kept on the premises. A private kennel is permitted in an R.C. 2 zone (B.C.Z.R. §1A01.2.C.2) by special exception, hence the petition filed in the above case.

Petitioner appears to concede she is operating a kennel, although a credible argument could be made she is not. The definition of "private kennel" includes a structure where more than three dogs are kept "for the purposes of show, hunting, practice tracking, field or obedience trials, or as pets." As noted below, Petitioner considers only three of the dogs to be her "pets"; the remainder are being fostered or kept for adoption, and it could be argued they are therefore not "pets."

Ms. Robinson testified that she owns 3-4 dogs that she considers her pets, 2-3 elderly dogs that are too old and/or infirm for adoption (she indicated these dogs would likely die in the near future while living with her, and in that sense she equated it to an animal hospice) as well as several other dogs that she keeps or fosters awaiting adoption. Though she initially stated that she would like to keep as many as 12 dogs on the property, she later testified that while she enjoys good health, she is getting older and "does not really want 12 dogs."

Ms. Robinson works at Pimlico race track, and is gone from home between the hours of 5:30 a.m.-10:00 a.m. Kawana Swank and her son also reside with the Petitioner, and Ms. Swank works in a hospital E.R. three days a week from 7 a.m.-7 p.m. Ms. Robinson testified she considers her operation to be a rescue-type organization, and she said her adoptions (for which no fee is charged) are done by word-of-mouth, and that she does not have any signs or advertisements in connection with the kennel. The Petitioner testified she has been operating the "kennel" at the subject property for several years, and counsel introduced a recent edition of Mid-Atlantic Thoroughbred magazine,

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featuring Ms. Robinson on the cover in recognition of (among other things) her animal rescue service.

Ms. Robinson acknowledged she has received complaints from one neighbor regarding barking, and on those occasions she planted vegetative buffers and relocated the "invisible dog fence" to minimize the impact upon the Krauses. Mr. and Mrs. Krause both indicated they are extremely fond of the Petitioner, and stated she has always been responsive to their concerns. Even so, the Krauses identified four potential problems with the kennel: noise, sanitation, safety and negative impact upon property values.

Following the hearing, both parties submitted lengthy papers outlining various arguments and counter-arguments regarding the case. It is apparent that things have deteriorated since the date of the hearing, and there is a great deal of mistrust and animosity between the parties. I am of course required to decide this case based on the law and the evidence, although it is unfortunate to see neighbors at odds with each other.

The Krauses have raised in their post-hearing submission several issues that are not germane to the resolution of this case. There is some dispute concerning the location of a septic system, a portion of which is allegedly on the Krause's property. This is a private civil matter, and the OAH has no authority to resolve issues of title or boundary disputes. The Krauses also seek to compel the production of certain documents, but the only mechanism for doing so would be a subpoena, which would have been required to be served at least five business days prior to the hearing. Zoning Commissioner's Rules, Rule 4C. Likewise, issues pertaining to construction without permits, or violations of County environmental regulations, cannot be resolved in a zoning hearing. Instead, the Departments of Environmental Protection and Sustainability and Permits, Approvals and Inspections both have code enforcement officials who will, upon receiving a complaint, conduct a

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site visit and inspection to determine if violations exist. Hearings concerning such alleged violations are conducted before a different ALJ, outside of the zoning context.

The neighbors also contend that B.C.Z.R. § 421.1 applies in this case, and I concur. That regulation concerns "...kennels in residential zones." Under the B.C.Z.R. (§101.1), a "residential zone" includes a "zone classified as R.C." While an applicant can seek variance relief with respect to the requirements set forth in B.C.Z.R. § 421, such a petition was not filed in this case. As such, that regulation is applicable, and imposes certain setback requirements that will be discussed in the Order which follows. Most significantly, a "private kennel" is defined to include a "dwelling," and it does not appear based on the scaled site plan (Petitioner's Ex. No. 1) that Petitioner's dwelling can satisfy the necessary setback. As such a garage or other structure would need to be constructed for housing the dogs, or at least any dogs in excess of three which can be kept in the home.

Special Exception Law in Maryland

A use permitted by special exception (here, a private kennel) is presumed under the law to be in the public interest, and to defeat such a petition an opponent must establish that the inherent adverse effects associated with the use would be greater at the proposed location than at other similar zones throughout the County. People's Counsel for Baltimore County v. Loyola College, 406 Md. 54 (2008). Stated more eloquently, the court in Schultz stated the applicable test in this fashion:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

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Schultz v. Pritts, 291 Md. 1, 22-23 (1981).

The neighbors expressed concern with noise, sanitation, safety and property values. These are the types of inherent adverse effects that the legislature anticipated when it allowed kennels (even commercial kennels) in the R.C.2 zone by special exception. Indeed, most uses for which a special exception is required are regarded as “potentially troublesome because of noise, traffic, congestion....” Montgomery County v. Butler, 417 Md. 271, 297 (2010). Any kennel with ten or more dogs will raise concerns for noise, sanitation, safety and property values, regardless of where that kennel is located in the R.C.2 zone.

In the case of commercial kennels (and unlike the private kennel requested herein) many more dogs are kept on site and their owners will come and go dropping off and retrieving their pets. Such businesses, which are also permitted by special exception in the R.C.2 zone, would generate a large volume of traffic and much more noise than would the modest operation proposed by the Petitioner. In any event, I believe--and no evidence to the contrary was presented--that a private kennel with twelve or fewer dogs would generate the exact same noise, sanitation, safety and property value impacts at any R.C.2-zoned property as it would at the present site. As shown in the photographs admitted as Petitioner’s Ex. No. 4, the subject property is located in a rural, wooded, sparsely populated setting. This site provides at least as much seclusion as would other five acre parcels in the R.C.2 zone.

In my opinion, the concerns identified by the Protestants are inherent in the operation of a private kennel, and are of the sort which were contemplated by the County Council when it permitted the use by special exception. Dogs will bark, and there was no evidence presented which would indicate that Petitioner’s dogs bark more frequently or louder than typical dogs. There was no testimony presented that the dogs bark “continuously” or late at night. As explained at the hearing,

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12/18/14

[Signature]

Baltimore County law defines as a "nuisance animal" any animal that "excessively make disturbing noises." Baltimore County Code (B.C.C.) § 12-3-109(a)(3). This prohibition is enforced by the Baltimore County Department of Health and the Animal Hearing Board, not the Office of Administrative Hearings (OAH).

As such, a distinction must be drawn between dogs that bark (i.e., all dogs) and those that bark so much they become a "nuisance." Courts that have considered similarly worded statutes recognize that it is impossible to define with precision what is "excessive barking," as well as the impracticality of requiring animal control officers to carry decibel meters to "scientifically test the loudness of a yip, yowl or bark." City of Belfield v. Kilkenny, 729 N.W.2d 120 (N.D. 2007).

Without in any way diminishing the concerns expressed by the neighbors, it is at the same time true that life in a rural, bucolic area like this brings with it certain inconveniences that must be borne by homeowners. In Baltimore County, R.C.2 is the only zone expressly declared to be "Agricultural." B.C.Z.R. §1A01. Large and loud farm equipment, fertilizers, manure and chemicals being sprayed on fields, and noisy roosters and other farm animals are all facts of life in a rural, agricultural setting. Based on the testimony and evidence in this case, I do not believe that it could be reasonably argued Petitioner's dogs "excessively make disturbing noises." While the Krauses have complained about Petitioner's dogs, there was no testimony or evidence presented at the hearing indicating that other neighbors have made similar complaints, and there is no evidence that excessive barking complaints have been made to the County Department of Health. Comparing the facts in this case with those from other cases in sister states is instructive on this point.

In Van Deusen v. Seavey, 53 P.3rd 596, 599 (Alaska 2002), the property owner conducted a tour business with 75 sled dogs that barked incessantly, which the court found to be in violation of the applicable ordinance. In Broadcom West Co. v. Best, 889 N.Y.S.2d 881 (2009), the court held

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12/18/14

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a tenant could be evicted based on "constant dog barking." In Dobbs v. Wiggins, 929 N.E.2d 30 (Ill. 2010), the court found a kennel with "69 barking dogs" to be a private nuisance. In that case, neighbors testified that "the barking was constant, day and night" and "there was never any extended period of time in which they completely quit barking." Id. In Patterson v. City of Richmond, 576 S.E.2d 759, 761 (Va. 2003), the court found that "excessive barking" was established by testimony that the owner's five dogs were outside on many occasions barking constantly "for three or four hours." While dog barking can no doubt be disruptive and impacts one's ability to enjoy her home, the level of disturbance experienced by the neighbors here falls well short of that identified in the above cases.

With regard to sanitation, the Petitioner testified she installed on her property a "doggie septic" system, and she employs a groundskeeper who routinely removes the dog waste. Thus, there is no reason to believe that unsanitary conditions will prevail, much less that the potential for such an impact would be greater here than at other R.C.2 parcels. Mr. Krause indicated his dogs were attacked some time ago by another dog which may have belonged to the Petitioner, but no other evidence was presented to establish that the kennel would present a safety concern for the community. In addition, the Petitioner testified she will not keep as a pet or for adoption any dog that is aggressive. Similarly, though the Krauses stated they feared their property value would decline, no cognizable evidence was presented on this point.

After reviewing the evidence and testimony, I do not believe the Protestants have presented sufficient evidence to rebut the presumption under Maryland law, and the petition will be granted. I will impose conditions in the Order which follows, as permitted under B.C.Z.R. §502.2, for the "protection of surrounding and neighboring properties."

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Date

12/18/14

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THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 18th day of December, 2014, that the Petition for Special Exception to use the herein described property for a private kennel (not commercial) in an R.C. 2 zone, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at her own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner may keep on the premises at any one time no more than ten (10) dogs. To the extent Petitioner now has more than 10 dogs, she shall be permitted to keep such dogs until such time as they are adopted or die, but must thereafter have no more than 10 dogs on the property.
3. The special exception granted herein will terminate automatically if and when Ms. Robinson and/or Kawana Swank no longer own or reside at the subject premises.
4. Petitioner shall on or before June 30, 2015 secure necessary permits and commence construction of any building to be used for housing the dogs in compliance with B.C.Z.R. § 421.1, which structure must be completed on or before August 30, 2015. The outside areas used for exercise and/or dog runs may not be located within 200 feet of the nearest property line, as required by B.C.Z.R. §421.1. This outside area must also be fully enclosed by a fence or underground electric fence to contain the dogs on Petitioner's property.

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

JEB/sln



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 12/18/14
By sln



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 2012 Far Out Lane, Sparks, MD 21152 which is presently zoned RC-2

Deed References: S.M. No. 1014; folio 155 10 Digit Tax Account # 05-14-010230

Property Owner(s) Printed Name(s) Catherine H. Robinson

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

2. X a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for a private kennel (not commercial) in an RC 2 Zone

3. a **Variance** from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

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

I, or we, agree to pay expenses of above petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address

Zip Code

BY Telephone #

Email Address

Attorney for Petitioner:

Michelle J. Dickinson, Esq.

Name- Type or Print

Signature

10440 Little Patuxent Pkwy, Ste 300, Columbia, Maryland

Mailing Address City State

21044 / 410-740-5630

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

Catherine H. Robinson /

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

2012 Far Out Lane, Sparks, Maryland

Mailing Address

City

State

21152

Zip Code

410-979-7539

Telephone #

catherinestoley@aol.com

Email Address

Representative to be contacted:

Michelle J. Dickinson, Esq.

Name - Type or Print

Signature

10440 Little Patuxent Pkwy, Ste 300, Columbia, Maryland

Mailing Address

City

State

21044 / 410-740-5630

Zip Code

Telephone #

michelle@dickinson-law.com

Email Address

CASE NUMBER 2015-0092-X

Filing Date 10/20/14

Do Not Schedule Dates: _____

Reviewer BK



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towson Town Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

August 28, 2014

ZONING PROPERTY DESCRIPTION FOR 2012 FAR OUT LANE

Beginning at a point on the east side of Far Out Lane, which is 20 feet wide, at the distance of 1,475 feet, more or less, southwest of the centerline of Akehurst Road, and running in or near the paving of Far Out Lane, the six following courses and distances, (1) South 13 degrees 25 minutes 25 seconds West 345.41 feet, (2) South 25 degrees 42 minutes 55 seconds West 59.14 feet, (3) South 43 degrees 47 minutes 05 seconds West 27.77 feet, (4) South 62 degrees 10 minutes 45 seconds West 70.02 feet, (5) South 69 degrees 39 minutes 55 seconds West 82.63 feet, and, (6) South 58 degrees 27 minutes 45 seconds West 85.25 feet, thence leaving Far Out Lane and running, (7) North 36 degrees 06 minutes 35 seconds West 256.45 feet, (8) North 19 degrees 39 minutes 35 seconds West 221.27 feet, (9) North 46 degrees 56 minutes 46 seconds East 282.03 feet, (10) North 47 degrees 27 minutes 44 seconds East 94.67 feet, (11) South 61 degrees 20 minutes 01 seconds East 309.06 feet, and, (12) South 61 degrees 22 minutes 45 seconds East 17.86 feet to the place of beginning, 5.415 acres of land, more or less, located in the 5th Election District and 3rd Council District.



License expires/renews 2/26/15



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

November 6, 2014

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on November 6, 2014

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: # 2015-0092-X

2012 Far Out Lane

E/s Far Out Lane, 1475 ft. s/w of centerline of Akehurst Road

5th Election District - 3rd Councilmanic District

Legal Owner(s) Catherine Robinson

Special Exception: to permit a private kennel (not commercial) in an RC 2 zone.

Hearing: Monday, December 1, 2014 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

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

11/085 November 6

2815418

Bruce E. Doak Consulting, LLC

3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

CERTIFICATE OF POSTING

November 11, 2014

Re:

Case #2015-0092-X

Petitioner / Owner: Catherine Robinson

Date of Hearing: December 1, 2014

Baltimore County Department of Permits, Approvals & Inspections
County Office Building
111 West Chesapeake Avenue, Room 111
111 West Chesapeake Avenue Towson, MD 21204

Attention: Kristen Lewis

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 **2012 Far Out Lane**.

The sign(s) were posted on **November 11, 2014**.

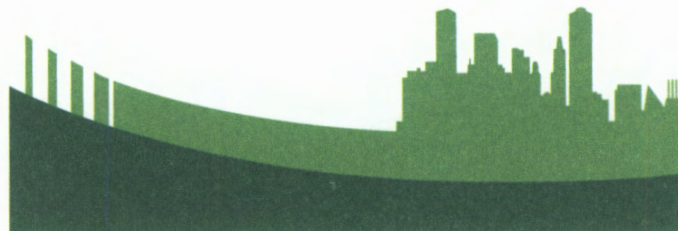
Sincerely,



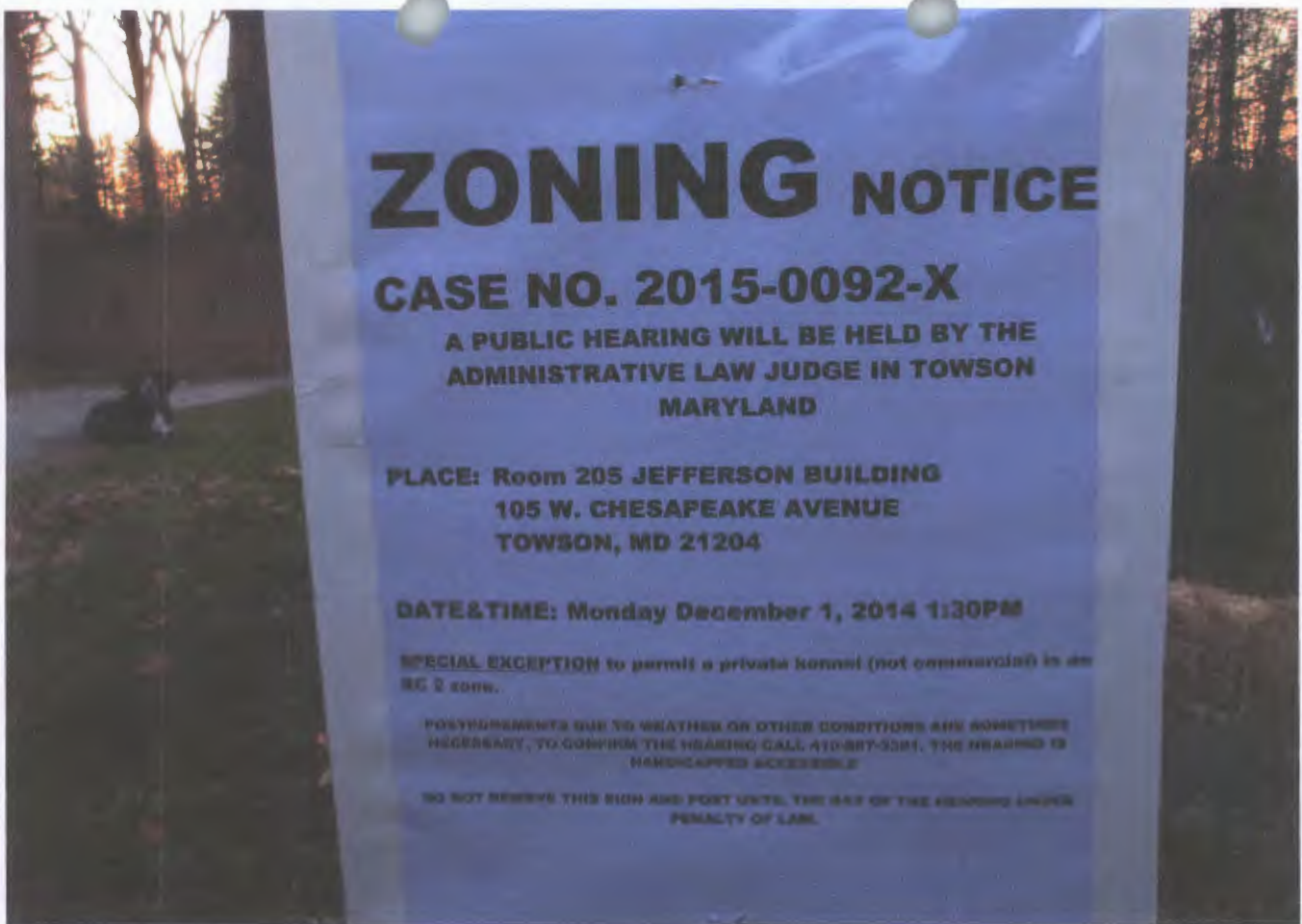
Bruce E. Doak

MD Property Line Surveyor #531

See the attached sheet(s) for the photos of the posted sign(s)



Land Use Expert and Surveyor





KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

October 28, 2014

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: 2015-0092-X

2012 Far Out Lane

E/s Far Out Lane, 1475 ft. s/w of centerline of Akehurst Road

5th Election District – 3rd Councilmanic District

Legal Owners: Catherine Robinson

Special Exception to permit a private kennel (not commercial) in an RC 2 zone.

Hearing: Monday, December 1, 2014 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Michelle Dickinson, 10440 Little Patuxent Pkwy., Ste. 300, Columbia 21044
Catherine Robinson, 2012 Far Out Lane, Sparks 21152

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, NOVEMBER 11, 2014.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, November 6, 2014 Issue - Jeffersonian

Please forward billing to:
Catherine Robinson
2012 Far Out Lane
Sparks, MD 21152

410-979-7539

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2015-0092-X

2012 Far Out Lane

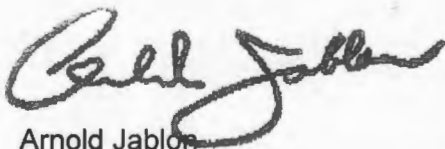
E/s Far Out Lane, 1475 ft. s/w of centerline of Akehurst Road

5th Election District – 3rd Councilmanic District

Legal Owners: Catherine Robinson

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Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE OFFICE
2012 Far Out Lane; E/S Far Out Lane, * OF ADMINISTRATIVE
1475' SW of c/line Akehurst Road * HEARINGS FOR
5th Election & 3rd Councilmanic Districts * BALTIMORE COUNTY
Legal Owner(s): Catherine H. Robinson *
Petitioner(s) *
* 2015-092-X

* * * * *

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.

RECEIVED

OCT 31 2014

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of October, 2014, a copy of the foregoing Entry of Appearance was mailed to Michelle Dickinson, Esquire, 10440 Little Patuxent Parkway, Suite 300, Columbia, Maryland 21044, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

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 legal owner/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 legal owner/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:

Case Number: 2015-0092-X

Property Address: 2012 Far Out Lane, Sparks, Maryland 21152

Property Description: _____

Legal Owners (Petitioners): Catherine H. Robinson

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Catherine H. Robinson

Company/Firm (if applicable): _____

Address: 2012 Far Out Lane

Sparks, Maryland 21152

Telephone Number: 410-979-7539

Revised 5/20/2014



Gerhold, Cross & Etzel, Ltd.

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Suite 100 • 320 East Towson Town Boulevard • Towson, Maryland 21286
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August 28, 2014

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License expires/renews 2/26/15

PETITIONER'S

EXHIBIT NO. 2

1814
wcr

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE



TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: November 12, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 2012 Far Out Lane

INFORMATION:

Item Number: 15-092

Petitioner: Catherine H. Robinson

Zoning: RC 2

Requested Action: Special Exception

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The subject request is for a special exception for a private kennel in an RC-2 zone. The petitioner is seeking relief to allow up to twelve dogs on the property.

Upon review of the petition and site plan and subsequent to a site visit the following comment and recommendation are offered:

- The property is 5 acres in size and wooded. The nearest neighboring residence appears to be at least 500 feet away. The dogs are kept in the dwelling with limited access to the out-of-doors. There are 3 permanently kept dogs and the others are rescue dogs that are kept until homes can be found. The two concerns that have been raised include noise and disposal of waste. According to the petitioner's attorney there have not been any complaints about noise and the waste is picked up regularly.

It is the recommendation of this department that the requested relief should be granted with the following limitations:

- The kennel is limited to a maximum of 12 dogs.
- In the event that there is a problem with barking, the petitioner will remove those particular dogs.

If these conditions are agreed upon then it is not anticipated that granting this request will be detrimental to the health, safety, or general welfare of the surrounding community and would not be detrimental to agricultural uses in the area.

For further information concerning the matters stated here in, please contact Wallace S. Lippincott, Jr. at 410-887-3480.

Division Chief:
AVA/LL

A handwritten signature in blue ink, appearing to read "Lynn Lippincott", written over a horizontal line.

PETITIONER'S

EXHIBIT NO.

3



PETITIONER'S

EXHIBIT NO. _____

4





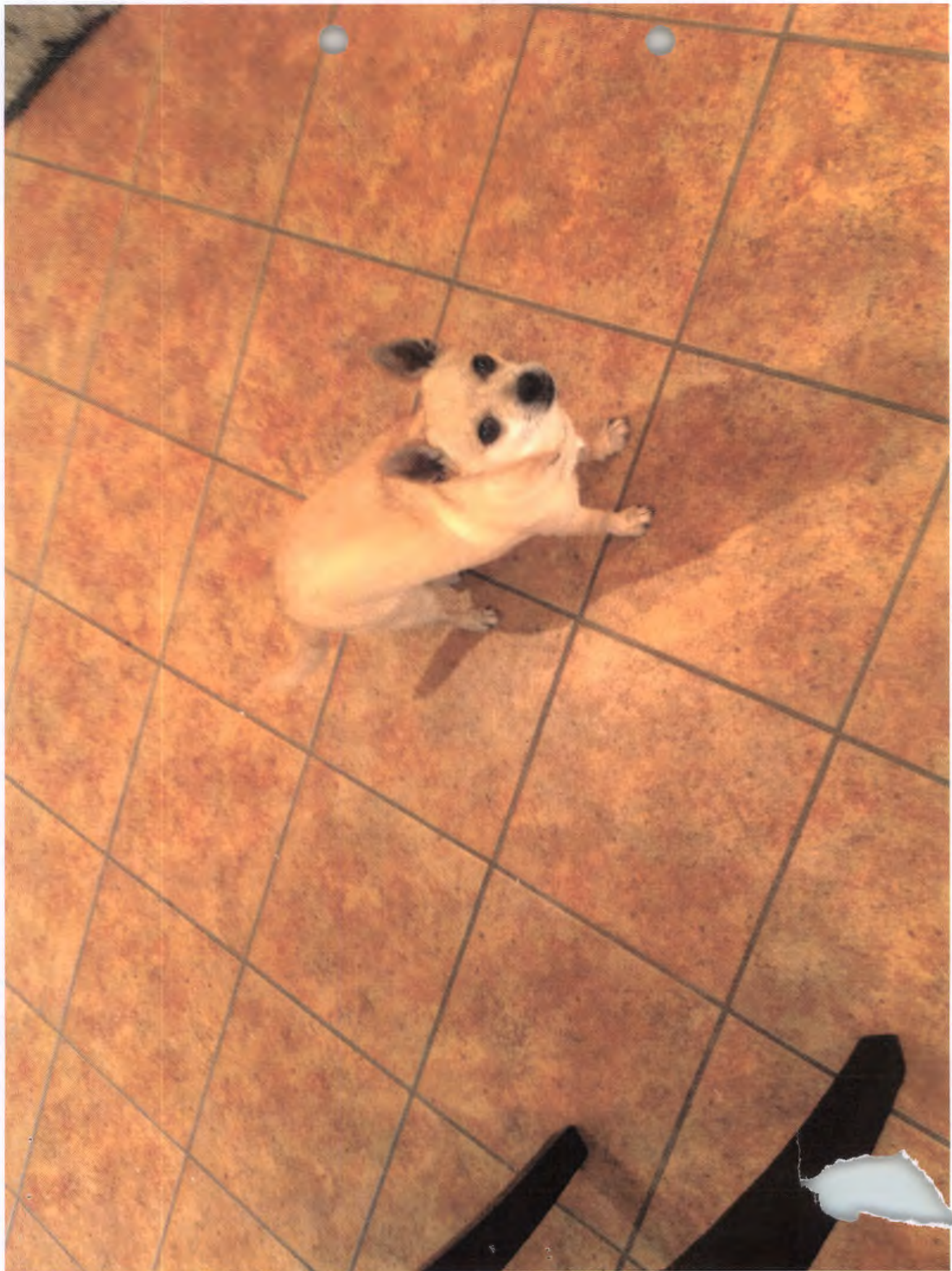


PETITIONER'S
EXHIBIT NO. 5









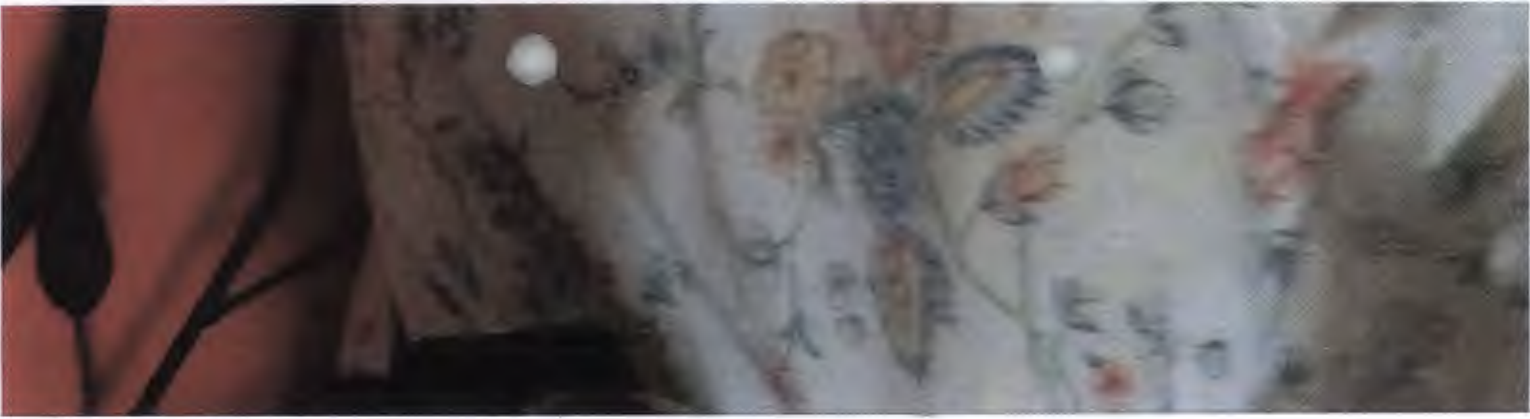




















PETITIONER'S
EXHIBIT NO. 6









2013/12/28

November 10, 2014

To Whom It May Concern,

We would like to say that Catherine H. Robinson (Holly) has made our lives much happier since the addition of our dog Baxter. Holly found him wandering on Reisterstown Road with no identification. When the attempts to find his owners proved futile she had him neutered and fully vetted. After she kept him for a few months, she convinced us that it was time for a dog. He came to us fully house trained and use to an invisible fence. He has quite a fan club, everywhere we take him people stop and tell us we have such a cute dog!

Holly has made such a difference in so many dog's lives and we are grateful to know her. She has a talent for placing dogs with an owner that has the same personality and behavior qualities. Holly has always been devoted to rescues because she believes they should all have a chance in a good home.

Kind Regards,

Dave & Kathryn

Dave & Kathryn Scheing



PETITIONER'S

EXHIBIT NO. 7

Andy Krause

EXHIBIT NO. 1

To: Michelle Dickinson
Subject: RE: Robinson Special Exception

On Sun, Nov 30, 2014 at 5:25 PM, Andy Krause <akrause@comcast.net> wrote:

Hi Ms. Dickinson

Thank you for your responses and please accept our apologies for getting back to you so late. My wife and I had guests and then various things came up that prevented us from getting to this until now. As you probably know, Holly, Noreen and I met on Friday and had an excellent meeting. We're confident we can work this all out and I think your letter gets us 95% of the way there.

I still plan to go to the hearing and have certain things entered in the record and possibly ask questions. For example, in correction to the DP recommendation letter, as you now know there have been complaints about noise before but actions were taken by Holly to address them and based on our recent complaints – she told us she will be working out plans to prevent future problems that we believe have a good chance to work. It's also possible I may be helpful in this regard should Holly be surprised by any other neighbors who show up to complain. I would want to tell such neighbors (who probably haven't complained to Holly themselves) that I'm the most affected neighbor and she has always been responsive to our concerns – when she is told about them.

Anyway, I want to address each item of your email to assure that we are in agreement and make additional concerns clear where warranted.

1. We would like you to add something to the effect that the exception would terminate if both Holly and Kawana were no longer living on their property as their main residence. For example, we don't want renters or guests to be able to have the kennel rights unless they are living with Holly and Kawana at the property.

2. I have some questions and comments. First, we are going to email Holly when we are disturbed by barking but we may also email her to tell her when we hear a lot of barking and ARE NOT disturbed for the purposes of helping Holly better figure out which dogs are the barkers. For example, at 6:30 AM today (Sunday) there was a good bit of barking as our guests went out to pack their car. However, this did not disturb us as we were not trying to enjoy the tranquility of our property and they weren't loud enough to awaken those in our family who were inside asleep. Plus, there is simply a certain amount of barking that should be tolerated. We don't expect a no-barking zone and certainly Holly's dogs are not the only ones that bark in the neighborhood (ours do too without any provocation from Holly's sometimes).

Next, though there may be certain "ringleaders" it is clear that when there is a barking problem it usually involves more than one dog. So I presume, if there is a problem, Holly is prepared to remove more than one dog. Correct? We realize we might not be able to figure out which dogs are the culprits overnight. We would like to stipulate some time from and/or process by which this would be done. We don't want it to take 3 months to get rid of problem barkers but we want to be reasonable about it. Perhaps you can suggest something workable. One major concern for us is we know that the dogs rotate so there are always about 12 dogs. We need to have an understanding that if dogs are rotated such that one problem dog gets replaced by another or other dogs that had not previously been "ringleaders" somehow decide to take over at some point this rollercoaster would have to stop. I can envision a situation where Holly is great about repeatedly getting rid of the ringleaders and problem chorus dogs but the cycle never ends – so we end up with only a few months of peace a year. So we would like to have some sort of plan that we can all reasonably feel comfortable implementing.

Also, I'd like to stipulate that this clause should apply not just the Krause family but our tenants as well. We don't want them to have to complain which is uncomfortable for them. Sometimes, they complain Holly's dogs directly or about our dogs or they are "set off" by them. Frankly, I'm wondering why it should be restricted to anybody since you told me that all the neighbors could still complain and they wouldn't lose any rights or leverage to stop the special exception should this occur. So I would like clarification to this why this clause somehow gives me added protection over other neighbors

Follow-up Question: Let's say we hit a worst case scenario and the problem is such we wish to exercise our rights to foreclose on Holly's exception for the kennel. Let's assume in this worst case scenario that Holly/Kawana are no longer cooperative. How would we exercise this right, i.e., get the County to rescind/terminate the exception and force the dogs out – ASSUMING Holly/Kawana fight and resist the process every step of the way. How long could the process take, e.g., how many hearing, appeals, etc.? Would we need to hire a lawyer to expedite it in a worst-case scenario or would it be very cut-and-dried?

3. Excellent

4. We would like to have the water from Holly's stream that enters our pond tested periodically for contamination at the border of our properties (my dogs cannot get there due to our electric fence so we can know it's not their poop) – particularly in the summer when we swim in the pond. I don't think this is a very expensive test (about \$50 - \$100 last time I had it done about 6 years ago) but I think it is fair that Holly pay for it. I know the stream emerges from a spring on her property so there is no concern about "upstream" contamination not caused by Holly's dogs. Once per Summer – perhaps June should be sufficient unless problems arise.

Finally, assuming we conclude a letter-agreement like this, how or will it become ensconced officially as part of the Hearing Outcome in writing and how do I insure that at the Hearing or otherwise? When we had our hearing years ago (on another matter) the "order" was not issued until weeks after the hearing and there was a process I believe, but do not recall, to dispute or amend it for 30 days thereafter. Could you please fill us in on how this works in THIS case?

I hope you and Holly will find this email reasonable and Noreen and I both want to extend our appreciation again to both of you for helping to resolve these issues.

Best Regards,

Andy

From: Michelle Dickinson [mailto:michelle@dickinson-law.com]

Sent: Friday, November 28, 2014 6:37 PM

To: akrause@comcast.net

Cc: Catherine Robinson

Subject: Robinson Special Exception

Mr. and Mrs. Krause,

It was a pleasure speaking with you this afternoon. I write to confirm that, pursuant to your conversation with Holly Robinson today, she has agreed to the following items:

1) The special exception for a private kennel will not convey with the property. To the extent that Kawana Swank inherits the property pursuant to Ms. Robinson's Last Will and Testament, the special exception will convey to Ms. Swank only and will terminate upon any conveyance to anyone thereafter. More specifically, if Ms. Robinson were to convey the property to anyone other than Ms. Swank or if Ms. Swank acquired the property and then conveyed it (by gift, sale, bequest, or otherwise), the special exception would terminate. Ms.

Robinson will stipulate and demand that this be made a part of any order granting a special exception for a private kennel.

2) In the event that the Krause family is disturbed by barking by Ms. Robinson's dogs, you will email Ms. Robinson and she promptly will address the situation if someone is at home and the email is sent when the dogs are barking. If the email is sent after the incident occurs, Ms. Robinson will attempt to determine which of the dogs is causing the barking problem and work to prevent it from reoccurring. Further, the Baltimore County Department of Planning has recommended that the special exception be subject to a requirement that Ms. Robinson remove any dog that causes a barking problem. Ms. Robinson will abide by any and all such limitations.

3) In order to further reduce any unnecessary disturbance to your family, Ms. Robinson will arrange to have the electric dog fence relocated to cover more of the front area of her property and less of the back area to minimize any barking noise from traveling down to your property.

4) Ms. Robinson will continue to have the dog waste picked up and removed from her property on a regular basis to address any potential environmental concerns.

Of course, as we discussed, the granting of a special exception for a dog kennel will only allow Ms. Robinson to have more than three dogs on her property (a maximum of 12 dogs, per Ms. Robinson's request and the Department of Planning's requirement). It will not affect your right to the quiet enjoyment of your property or in any way minimize your right to complain about noise or environmental concerns. I do hope that the items identified above address all of your concerns so that we may proceed with the hearing on Monday without any opposition from your family. If necessary, I can make myself available on Sunday to meet at Ms. Robinson's home to further discuss any issues.

Best,

Michelle

Michelle J. Dickinson

410.740.5630 Office

443.280.4257 Cell

866.211.2673 Fax

michelle@dickinson-law.com

12/1/2014

Case No.: 2015-0092-X

Exhibit Sheet

Petitioner/Developer

Protestants

12/18/14
Sen

No. 1	Site plan	E-mails
No. 2	Property description	
No. 3	DOP ZAC comment	
No. 4	Photos	
No. 5	Photos	
No. 6	Photos	
No. 7	Letter from ¹¹⁻¹⁰⁻¹⁴ Mr. + Mrs. Scheing	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

M E M O R A N D U M

DATE: January 26, 2015
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2015-0092-X - Appeal Period Expired

The appeal period for the above-referenced case expired on January 19, 2015. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: Case File
Office of Administrative Hearings

PLEASE PRINT CLEARLY

CASE NAME

CASE NUMBER

DATE _____

2015-0092-X
-2014

CITIZEN'S SIGN - IN SHEET

NAME _____

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

CASE NO. 2015- 0092-X

CHECKLIST

Support/Oppose/
Conditions/
Comments/
No Comment

Comment
Received

Department

11/3

DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)

N/C

DEPS
(if not received, date e-mail sent _____)

FIRE DEPARTMENT

11/12

PLANNING
(if not received, date e-mail sent _____)

C

10/27

STATE HIGHWAY ADMINISTRATION

no Obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 11/6

SIGN POSTING Date: 11/11 by Reck

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Real Property Data Search (w3)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 05 Account Number - 0514010230			
Owner Information					
Owner Name:		ROBINSON CATHERINE H		Use: RESIDENTIAL YES	
Mailing Address:		2012 FAR OUT LN SPARKS MD 21152-8694		Principal Residence: YES	
				Deed Reference: /10141/ 00153	
Location & Structure Information					
Premises Address:		2012 FAROUT LN 0-0000		Legal Description: 5.416 AC WS AKEHURST RD 3600 W STRINGTOWN RD	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot:
0027	0015	0182		0000	
Assessment Year:				Plat No: Plat Ref:	
2014					
Special Tax Areas:			Town: NONE		
			Ad Valorem: Tax Class:		
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area	
1921		2,696 SF			
Property Land Area		County Use			
5.4100 AC		04			
Stories	Basement	Type	Exterior	Full/Half Bath	Garage Last Major Renovation
1	YES	STANDARD UNIT	WOOD SHINGLE	3 full	1Att/1Det
Value Information					
Base Value		Value As of 01/01/2014		Phase-in Assessments As of 07/01/2014 As of 07/01/2015	
Land: 149,100		134,200			
Improvements: 174,500		173,000			
Total: 323,600		307,200		307,200	
Preferential Land: 0				0	
Transfer Information					
Seller: NELSON EVELYN J		Date: 11/15/1993		Price: \$122,500	
Type: ARMS LENGTH IMPROVED		Deed1: /10141/ 00153		Deed2:	
Seller: POHMER ALBERT E		Date: 06/08/1962		Price: \$10,000	
Type: ARMS LENGTH IMPROVED		Deed1: /03999/ 00309		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:		Class		07/01/2014 07/01/2015	
County:		000		0.00	
State:		000		0.00	
Municipal:		000		0.00 0.00	
Tax Exempt:		Special Tax Recapture:			
Exempt Class:		NONE			
Homestead Application Information					
Homestead Application Status: Approved 08/07/2009					

Baltimore County

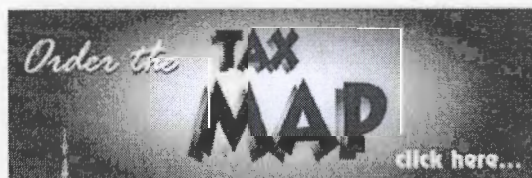
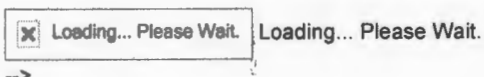
[New Search \(http://sdat.resiusa.org/RealProperty\)](http://sdat.resiusa.org/RealProperty)District: **05** Account Number: **0514010230****A map was not found for this property.**

The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (<http://www.plats.net>).

Property maps provided courtesy of the Maryland Department of Planning ©2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).

[\(http://ims1web05.mdp.state.md.us/website/mosp/\)](http://ims1web05.mdp.state.md.us/website/mosp/)



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

November 26, 2014

Catherine H Robinson
2012 Far Out Lane
Sparks MD 21152

RE: Case Number: 2015-0092 X, Address: 2012 Far Out Lane

Dear Ms. Robinson:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 20, 2014. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Michelle J. Dickinson, Esquire, 10440 Little Patuxent Parkway, Suite 300, Columbia MD 21044

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



James T. Smith, Jr., *Secretary*
Melinda B. Peters, *Administrator*

Date: 10/27/14

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

RE: Baltimore County
Item No. 2015-0092-X
Special Exception -
Catherine H. Robinson
2012 For Out Lane

Dear Ms. Lewis:

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. 2015-0092-X

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-545-5598 or 1-800-876-4742 (in Maryland only) extension 5598, or by email at (rzeller@sha.state.md.us).

Sincerely,

Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

12-1-14
1:30

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: November 12, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED

SUBJECT: 2012 Far Out Lane

NOV 13 2014

INFORMATION:

OFFICE OF ADMINISTRATIVE HEARINGS

Item Number: 15-092

Petitioner: Catherine H. Robinson

Zoning: RC 2

Requested Action: Special Exception

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The subject request is for a special exception for a private kennel in an RC-2 zone. The petitioner is seeking relief to allow up to twelve dogs on the property.

Upon review of the petition and site plan and subsequent to a site visit the following comment and recommendation are offered:

- The property is 5 acres in size and wooded. The nearest neighboring residence appears to be at least 500 feet away. The dogs are kept in the dwelling with limited access to the out-of-doors. There are 3 permanently kept dogs and the others are rescue dogs that are kept until homes can be found. The two concerns that have been raised include noise and disposal of waste. According to the petitioner's attorney there have not been any complaints about noise and the waste is picked up regularly.

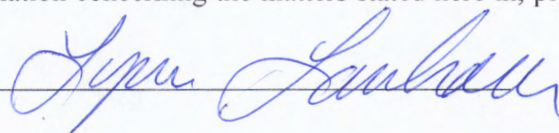
It is the recommendation of this department that the requested relief should be granted with the following limitations:

- The kennel is limited to a maximum of 12 dogs.
- In the event that there is a problem with barking, the petitioner will remove those particular dogs.

If these conditions are agreed upon then it is not anticipated that granting this request will be detrimental to the health, safety, or general welfare of the surrounding community and would not be detrimental to agricultural uses in the area.

For further information concerning the matters stated here in, please contact Wallace S. Lippincott, Jr. at 410-887-3480.

Division Chief:
AVA/LL



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: November 3, 2014

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

SUBJECT: Zoning Advisory Committee Meeting
For November 03, 2014
Item No. 2015-0089, 0091, 0092, 0093, 0094, 0095, 0096 and 0099

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

DAK:CEN
cc:file

G:\DevPlanRev\ZAC -No Comments\ZAC11032014 -.doc

John E. Beverungen

From: John E. Beverungen
Sent: Wednesday, December 03, 2014 2:22 PM
To: 'akrause@comcast.net'
Cc: Michelle Dickinson; Debra Wiley; Sherry Nuffer
Subject: RE: Case# 2015-0092X (AKA 15-092) Petitioner: Catherine H. Robinson for Special Exception for Private Kennel under RC-2 Zoning

If you choose to submit a letter with additional argument (but additional evidence will not be considered, as the hearing has concluded), you must do so on or before December 11, 2014.

The County charges a fee of \$50 for a copy (on a compact disc) of the audio recording of the hearing. Please call 410-887-3868 if you are interested in obtaining a copy.

John Beverungen

ALJ

From: Andy Krause [mailto:akrause@comcast.net]
Sent: Wednesday, December 03, 2014 2:09 PM
To: John E. Beverungen
Cc: Michelle Dickinson
Subject: Case# 2015-0092X (AKA 15-092) Petitioner: Catherine H. Robinson for Special Exception for Private Kennel under RC-2 Zoning

Andrew and Noreen Krause
1940 Akehurst Rd.
Sparks, MD 21152

The Honorable John E. Beverungen (jbeverungen@baltimorecountymd.gov)
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Case# 2015-0092X (AKA 15-092) Petitioner: Catherine H. Robinson for Special Exception for Private Kennel under RC-2 Zoning

Dear Judge Beverungen:

We are working under the advice of our attorneys to complete the letter you requested from us within the 10 days from the December 1. Could you please provide the exact date and time of the deadline for clarification? We presume this means 10 business days but are not certain and we don't want to miss the deadline.

As you requested, we are trying to stick to evidence already presented at trial but we cannot remember all the testimony. This was exacerbated by the fact that we discovered about 2/3 through the Hearing that the petitioner's attorney had deliberately misled us (as I intend to prove from the exhibits and testimony at the hearing) and this flustered us terribly (as you may recall I had my wife take over the discussion when she moved to the mike and I moved to the audience seating as I feared I would have an angry outburst and get into trouble). Can you please authorize and provide or tell me how to obtain the Hearing recordings in an expeditious manner given that we don't have much time?

Thank you for your consideration.

Respectfully,

Andrew Krause

Sonja Aleksic
8751 Lackawanna Avenue
Parkville, MD 21234
Ph: (301) 326-8415
Email: ssonjaa83@yahoo.com

November 18th, 2014

To Whom it May Concern,

My family adopted Red, a handsome 3 legged redbone coonhound, from Catherine Robinson 6 years ago in the September of 2008. At that time I had 2 other dogs, but as Catherine had assured me before we brought Red home, they all shortly became best friends. He has a huge and adorable personality so, of course, we all fell in love with him immediately. Red gives the best hugs. He also howls at other dogs when they do something wrong, as if to alert me that I need to come and look. Furthermore, In June of 2011 I gave a birth to my first child, a beautiful little girl we named Nadja. From the minute we brought my daughter home, Red has been the best dog ever to my daughter. He is always so gentle with her all the time, even when she pulls on his ears and sits on top of him in his bed. Nadja is 3 now and growing up with her best friend, Red. She is cooking for him, painting his nails, covering him with her toys all the time and they are both loving every minute of it, and my heart melts every time I see them playing together. I am so grateful to Catherine for connecting me and my family with Red. He is the best dog ever and a perfect match for my family.

Sincerely,

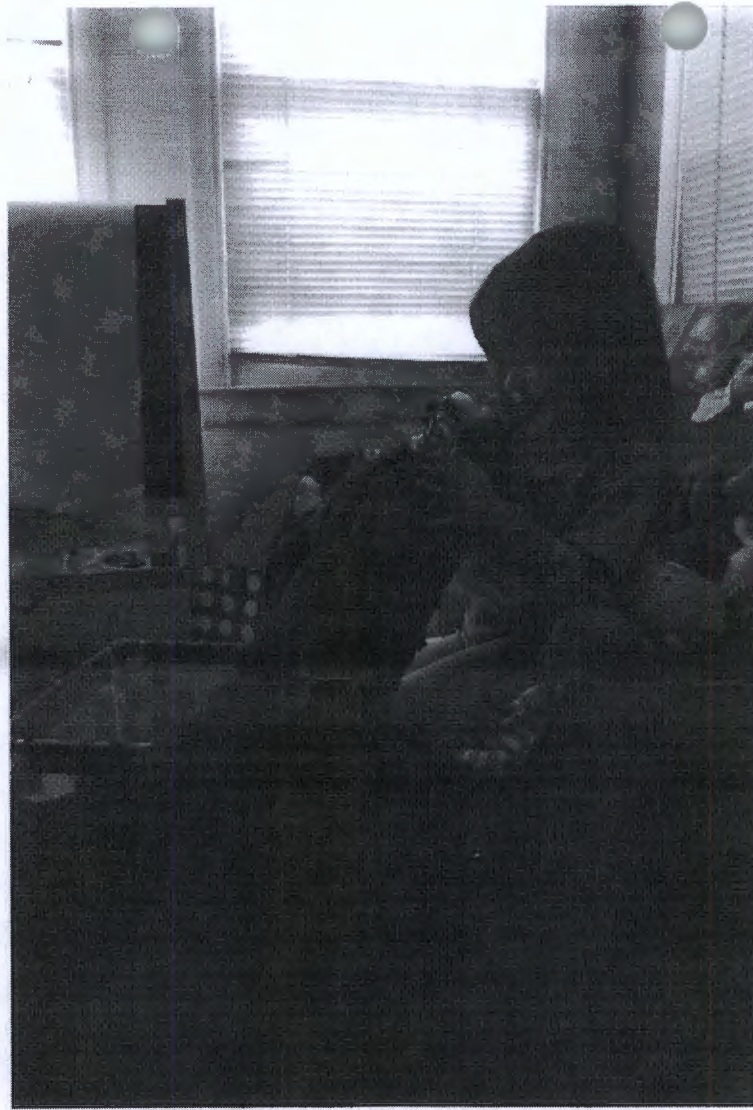
A handwritten signature in cursive script that reads "Sonja Aleksic".

Sonja Aleksic

Date: November 18, 2014









Sherry Nuffer

From: John E. Beverungen
Sent: Tuesday, December 02, 2014 2:33 PM
To: Debra Wiley; Sherry Nuffer
Subject: 2015-0092-X

FYI. This case concluded yesterday afternoon. The Petitioner's neighbors (Krause) opposed the request, and I gave them 10 days (on or before 12-11-2014) in which to submit a memorandum or additional argument (but not additional evidence). I will issue the order after I review the submission(s), assuming any are sent.

Andrew and Noreen Krause
1940 Akehurst Rd.
Sparks, MD 21152

Date: 12/11/2014

The Honorable John E. Beverungen (jbeverungen@baltimorecountymd.gov)
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Case# 2015-0092X (AKA 15-092) Petitioner: Catherine H. Robinson for Special Exception for Private
Kennel under RC-2 Zoning

Dear Judge Beverungen:

We want to thank you again for granting us the 10 day follow-up before you consider your decision. Based on what we have since learned from our family, tenants, neighbors, attorneys and several experts in real-estate and environmental engineering we've consulted we now EMPHATICALLY OPPOSE the request for an exception. To use the words of one of our attorneys we "would be nuts if (we) didn't oppose the exception, especially since the noise and continual damage to the stream feeding our pond have been and continue to be serious problems that have never been adequately addressed" – nor may they ever be fixable with 12 dogs who can all travel outside at will. In consideration of the arguments to be presented in this letter we so move:

Motion 1.

We move that the Petitioner's request for the private kennel zoning exception be denied in its entirety without further delay due to the fact that it clearly and irredeemably violates code § 421.1, poses great risks to the health, safety, and general welfare of the surrounding area, and has been an ongoing general public noise and sanitation nuisance to us and many of our neighbors in the valley comprising Far Out Ln., Akehurst Rd, Abell Ln., and Yeoho Rd. in at least a ¼ - ½ mile radius as well as posing significant environmental damage to nearby streams and ponds.

I (Mr. Krause, the one writing most of this letter) wish to make a few qualifying points here at the outset, so I don't look too foolish or inadvertently make my attorney's look foolish. I am an AI /neuroscientist, inventor, and entrepreneur with 2 sons – not a lawyer. Ten days is not a lot of time to prepare a detailed response if you want to be as thorough as possible. I have literally worked at least 18-20 hours per day without a break since we met with you working on this and my wife helped too, taking 2 vacation days, but she currently has a very demanding full-time job and I don't. I did some consultation on general matters with my regular business and family attorneys, Mr. David Sellman Esq. and Mr. Charles Hehmeyer, Esq. However, most of the help I've had on this so far comes from less than a total of 1.5 hours of free advice, generously provided by three attorneys:

- Mr. Stuart Kaplow, Esq. our previous real-estate lawyer who informed me he doesn't handle zoning issues anymore but did offer much advice and recommended these next two peers:
- Mr. G. Macy Nelson, Esq. and
- Mr. J. Carroll Holzer, Esq.

They explained the process to me, aspects of the law, and due to their already busy schedules, the fact that laying everything out and expecting much action within the 10 day window was not practical. So they advised me to do my best to handle the current hearing and make certain requests or motions as you will see noted by such prefaces as "Our attorneys advised/insisted/suggested/etc" until selecting full representation for the *de novo* hearing and beyond, if it comes to that. None of them were able to make time to review this letter even as a draft. I wanted to point all this out because:

- I still feel this is a very lopsided situation for us to face when the Petitioner has prepared for many months with an attorney.
- If some legal codes I researched and cite without the preface are contextually wrong or misapplied I don't want you to think I was given bad legal advice. That will simply be my own ignorance and stupidity showing. I'm just doing the best I can.

Having said that, all these men insisted I disregard your instruction that I not introduce new evidence for reasons that perhaps will be more understandable to you than they are to me. I didn't completely understand why and I don't feel respectful doing it to a judge so, therefore, I chose a different path that references the availability of new evidence but does not present it - particularly when there was at least a tangential mention to it at the Hearing. For example, we discussed knowing many other neighbors who had many serious problems with the Petitioner's dogs including noise, being accosted by escaped dogs, and concern over fishing and swimming in a pond whose secondary stream is born from an area where 12 dogs defecate, urinate, and tear up the stream bed. We now have signed affidavits from 7 other nearby families to support this and expect more.

I will be making arguments and motions why you should seek and accept this and other evidence referenced herein before rendering your decision – unless you are prepared to deny the zoning exception without it, as we hope. Therefore we move:

Motion 2.

In the event your Honor does not grant Motion 1 to deny the Petitioner's exception after review of this letter we move that you reconsider granting Motion 1 again after accepting additional evidence in the form of:

- at least 15 (and counting) signed affidavits from our tenants (3), former tenants (2), neighbors (3), sons (2), real-estate expert (1), friends (2) and co-worker/supervisor (2)
- water quality tests of Petitioner's stream feeding our pond
- pictures of Petitioner's property showing stream damage, septic violation, and electric dog fence problems,
- pictures of our (Krause) home, farm, pond, and environs that demonstrate the unique secluded beauty of an area that looks supremely tranquil – but isn't due to dog noise.
- any other evidence referenced herein
- your Honor may decide to request only certain additional evidence at your discretion.
- [Note, Petitioner has objected to our taking video with sound of her property but pending positive legal review we may be able to provide that in the future]

We can supply this information in an addendum email attachment within 48 hours of your request for review containing scanned copies of all these documents (or originals that you can certify for copy within 3 business days).

Motion 3.

In the event your Honor does not grant Motion 1 or 2 to deny the Petitioner's exception we move that your honor grant our request for a *Special Hearing* to enable us to present all the relevant evidence referenced herein and as may additionally be gathered by that time and via your granting of other motions requiring the Petitioner to supply evidence requested herein.

To support Motions 2 and 3, our attorneys advised us to tell you that we received insufficient notice - improperly placed, (e.g., the Petitioner offered no evidence that any 15-day newspaper advertising was made as required by BCZR nor could we find same) and more importantly, I'm also sorry to say that we have discovered that a systematic effort was made to keep us and many other neighbors in the dark about the zoning exception request. After we found out about it, we were deliberately misled and lied to, and so were you at the Hearing, as we will seek to prove based on evidence presented at the Hearing and evidence we seek to submit with your approval as referenced herein.

We want to begin by showing how we were misled and lied to, particularly by the Petitioner's attorney, Ms. Dickinson and how it affected our position and testimony. That is why we came to court wanting to help Ms. Robinson get her exception and left feeling completely blindsided - like deer caught in headlights, as we think you noticed - hence the 10-day extension. Thank you!

I don't think I am capable of writing about this as simply and eloquently as my wife Noreen did [in blue] when she wrote the following letter in response to Ms. Dickinson's 12/5/14 request that Ms. Robinson, Ms. Swank, Ms. Dickinson, Ms. Krause, and the Krause attorney (which we do not yet have for this purpose) meet together excluding me [I have added additional relevant or clarifying information in this same font color and type]:

"Holly [Ms. Robinson] and Kawana [Ms. Swank] and Ms. Dickinson,

I am not willing to meet with you without Andy. This problem affects us both. Also, I do not express myself well during verbal confrontations and I don't want to put myself in that situation. I suspect you know you could win any debate with me far easier than with Andy.

I want to make sure you clearly understand my personal position. I hate this situation. I have a sick feeling in my heart now most of the time. Our peaceful small neighborhood will never feel the same to me.

My whole life it has been very important to me to positively impact people that I interact with - family, friends, neighbors, co-workers. I have always tried my best to be a good person; be kind, helpful, honest, non-judgmental, not get upset by minor life annoyances, give everyone the benefit of the doubt unless they give me reason not to. If Andy and Holly and Kawana and I were working together as friends and neighbors to work out some arrangement I would have been very comfortable working in that vein together.

However, that is not the situation now. This a legal matter. Holly wants us to agree to this kennel simply on faith that there will be no problems, despite our experience. She can't guarantee the dogs won't bark, won't run through the electric fence, won't foul the stream and our pond (which I'm now learning is a more serious concern than we ever imagined). Yet, I am faced with being legally forced to accept living next door to a 12 dog kennel for as long as I live in this home, regardless of all the difficulties it will cause us. I don't want that. Why would I?

I am disturbed by several issues....

- In past years Holly told Andy to make sure to let her know if he planned any changes to the lot we own next to her and stated she would always tell him of her plans. We missed an opportunity to work with a builder several years ago waiting for Holly to get back to Andy about buying the parcel. We did not get angry, it just didn't work out, though it did hurt us financially to miss the window with the builder at a time when we needed it. Recent events make us wonder about that. Now she applied for an exception to have a 12 dog kennel next to that property and our home and did not tell us, even though she was at our home in late October. This is just wrong.
[we have recent verbal and older written evidence that Ms. Robinson knew our 6ac parcel that she "tried" to buy in 2011 would be coming out of BC forest management program soon and that we planned to develop it.]
- Our property borders Holly's on 3 sides [actually 2 – she was mistaken], yet as I mentioned neither Holly nor Kawana told us about their plans or the hearing. They of course know their sign at their driveway would most likely only be seen by residents of the 2 houses past them on their dead-end road. This sign posting may have met the technicalities of the law but certainly not the intent, to advise those who would be most affected. None of this was handled in good faith. We found out by accident the day before Thanksgiving just days before the 12/1 hearing and were not able to contact our attorney due to the holiday. That is not an oversight, we were clearly kept in the dark for a reason. That really hurts.
- The original filing stated there had never been any noise complaints, this was not true. Then after you realized we were aware of the hearing it was stated that there was a complaint but after Holly took measures there were no further complaints, this was also not true. We appreciated her efforts and it did improve but we did complain of noise problems after that. [both to Ms. Robinson but mostly to Ms. Swank for which we also have very powerful evidence by affidavit witnessed by one of our former tenants]
- We were led to believe if the exception was granted and despite Holly's best efforts the noise problem was not resolved or other serious issues arose the exception would be removed. This is not true.
 - *Holly and Kawana:*
 - *Were you aware of how fully we were misled by Ms. Dickinson before the hearing? Did you carefully read the emails between Ms. Dickinson and Andy before the hearing? Did you tell her to use whatever tactics she needed to win? If you read Andy's last email sent the day before the hearing, it is clear what our understanding was before we walked into the courtroom and when Andy later reiterated it at the hearing, Ms. Dickinson acted like she'd never heard it before and then tried to confuse the issue with another concern we had also discussed regarding whether having a kennel meant having a different standard of complaint vs. a regular homeowner with less than 3 dogs. The earlier emails show our understanding came directly from communication with Ms. Dickinson who, at a minimum, lied by omission when she reinforced rather than corrected them when we last spoke to her before the hearing on Monday (which she told us earlier we didn't need to bother attending given our mutual understanding). If Ms. Dickinson truthfully told you what she told us before the hearing then you must realize she went far beyond just lying by omission. She sent us the Zoning Recommendation letter (your Hearing Exhibit 3) whose poor wording (as we now understand it) she exploited to create and nurture our (mis)understanding in all of the 3 calls with her before the hearing. Andy can't abide liars. So maybe you can better understand his outburst toward your attorney as we left the courtroom after you accused US OF BETRAYING YOU! When you made that accusation we hoped you didn't know the real truth – at least that would give you some excuse. Now I fear this all might just have been an act on your part - crocodile tears??? Andy already believes that. I'd still like to think it's all your lawyer's fault. Now do you see what you've allowed your lawyer to do to destroy our trust and friendship?*

- *Basically, the same deception described above also applied to the stipulation that the kennel exception run with only you both and NOT the land. As can be seen in Andy's last email to Ms. Dickinson before the hearing, Ms. Dickinson had led us to also believe other concerns like sanitation could also be addressed in the same manner and in her last conversation with us, she said we could ask for that at the hearing but she was not our lawyer and was not going to go further since her client was not prepared to make such guarantees.*

[Your Honor, please take care in reading the only Exhibit we submitted. That Exhibit includes most, but not all, of the written exchange we had with Ms. Dickinson - submitted literally as an afterthought at the very end of the Hearing. We did not bring it intending to submit it in evidence but just to remind us of our talking points and concerns that we wanted to make sure got answered/confirmed by you. Before refusing our request to deny the Petitioner or consider our motions to come we ask that you first grant us the ability to present this additional evidence. I think if you saw it and got our complete testimony about what Ms. Dickinson told us, in context with the email exchange discussed above, you would completely agree not only that we were lied to but you were as well when Ms. Dickinson, in Court, denied she had ever indicated any of this to us (directed at Mr. Krause) and then tried to obfuscate with what she claimed at Hearing that Mr. Krause had conflated the issue with, despite the fact that those issues are well delineated in her emails (and even more so in our earlier conversations) and thereby obviously not conflated by him - but by her at the Hearing, deliberately to mislead both Mr. Krause and you.]

- Over the last several years Andy and I have dealt with a house fire and rebuild, are still caregivers for his sister who suffers from a traumatic brain injury and multiple medical issues, helped his father from the time of his terrible car accident until his death, our own health issues (which are exacerbated by stress), and all the regular daily problems of life. We have had daily stresses that could overwhelm the strongest people, but we have handled things. And yet you seem to want to blame us for not complaining enough about the dog noise when we were daily dealing with life and death issues.

[Note: As we alluded to at the Hearing, after Ms. Robinson kept repeating we never complained (untrue), we can provide verbal testimony and written evidence that Ms. Robinson was made fully well aware through the years of most if not all of the above - especially the issues related to the fire and Ms. Anita Krause's (Mr. Krause's only sibling) near-fatal car accident, her traumatic brain injury, paralysis, and Mr. Krause's ceaseless caregiving in the hospital that was almost around the clock with her for at least the first 3 months following her emergence from coma and then daily with us in our cramped 1250sq. ft apartment after she was released with our two sons, three dogs, and Anita's 3 cats]

- Even though I am not home as much as Andy, I have experienced several instances when the dogs on Holly's property have barked for hours - so either no one was home and they had full access to the outdoors (not exactly the impression given in court) or someone was home and didn't care.
- I now am more aware than ever how the barking has bothered our tenants - good people who work hard, take care of their families, and deserve to enjoy their homes in peace and quiet also.
[We mentioned this at the hearing and we have since learned the problem was worse than we ever knew. Our tenants were too embarrassed to complain to us much given our 4 years of calamity just as we were too timid to complain to the Petitioner due, in part, to our friendship, trust, and support for their rescue dog mission then. We have 3 affidavits from our current tenants covering three apartments, 3 families,

and 8 people plus we have affidavits from another 2 former tenants who left, one breaking his lease, due primarily to the noise and being chased from fishing our pond by the Petitioner's escaped dogs. We didn't know what the Petitioner was costing us and many others until now in so many ways]

I saw the email Ms. Dickinson sent Friday evening. You are not happy with Andy's statements. I don't express myself as Andy does but I understand it. I don't like seeing my husband like this, he's not been sleeping well or spending time on anything except this problem and I am resentful of this additional stress this matter had added to both of our lives. When he feels wronged or that he needs to defend his family he goes all out and does not give up. This kennel threatens our family well-being, health, and our beloved home and farm— the things we value the most in the world.

We both feel betrayed. We did not go to court prepared to question testimony or present evidence because we did not have a chance to seek legal counsel, we trusted what you told us, and did not want to hurt Holly or Kawana. We were misled and it was not clear until we were in court - we left that building feeling completely blindsided. Just so you know, Andy and I had originally planned to send you a proposal that we think would have helped you to keep your dogs, but it required that we have trust and good faith in you, but that has been destroyed.

I won't be a doormat as I think was expected. Now we have to protect our interests and well-being. I have full faith in Andy's ability to do this.

Noreen"

Since the Hearing, we have made some other disturbing discoveries that both support the arguments for Motions 1 - 3 as well as beg other Motions that would be needed to properly prepare for the Special Hearing, if granted. Therefore we make the following motions

Motion 4.

We move that that the court direct the Petitioner to also furnish any and all plats, surveys, permits, designs, invoices, and pictures, if any, that concern the construction, repair, or relocation of their septic system(s) as discussed in the Hearing. We were shocked to discover after the Hearing that, as shown on their submitted Plat (our copy does not give an Exhibit #), that their septic system (see "septic cleanout") is located on OUR property by over 25-30 feet and there was supposed to have been, under code, an additional offset from our boundary for the buried septic field which is not shown on the Plat, no longer visible on land surface, and which, under code, must comprise at least 10000 sq. ft. We have no solid documentary evidence as to the extent the septic field lies on our property and thereby also what legal offsets are required given other things such as our well location and the fact that the septic system is on a steep slope with loamy soil only about 100 ft from our pond!

We need to make this motion because when Ms. Dickinson was first notified of this problem as well as evidence her clients were dumping garbage on our property near the septic system (for which we shall seek to submit additional evidence via our motions), she refused to comment other than to claim adverse possession covering both the septic and garbage area. After our attorney Mr. Sellman intervened to demand certain documents, she relented on adverse possession, blamed the County, and still refuses his demands to provide the documents which would enable us to assess the potential threat to our property and pond. We believe we, the community, and the Court also need access to these documents given the Petitioner's professed dedication, care, competence, and credibility in protecting our property and a sanitary

environment. Clearly something went very wrong here and the Petitioner is not sufficiently forthcoming.

Motion 5.

We move that that the court direct the Petitioner to also furnish any and all permits, designs, licenses as required by code of § 12-6-104, and construction documents concerning the building of the kennel structures that they claimed at hearing not to use except when quarantining new dogs. We found it suspicious that the Petitioner and her counsel went out of their way to insist on this when we have evidence we will seek under another motion to present that this has not been true – beyond one picture already in Petitioner's exhibits (I have no Exhibit # on our copy) showing 2 dogs in the kennel already. We fear there may be a pattern of reckless code violation, an unlicensed kennel and/or compliance issues under of § 12-6-104, or shoddy work that go beyond the many years the Petitioner maintained an illegal kennel that may include the septic above, the kennel building, and other developments to be addressed elsewhere in this letter.

The effect of Ms. Dickinson's unethical deception was cunningly magnified by the measure and order by she introduced evidence (not itself unethical but shrewd). If she had begun the case saying we seek X, Y, and Z with restrictions A, B, and C and then spent the rest of the Hearing justifying same, there was a much higher chance we would have objected much earlier because we would have seen right away that the "termination" stipulations we expected had absolutely no basis or force in law and could not be practically implemented or enforced. As it was, it didn't fully dawn on us what had happened until after the hearing was over.

What she did instead was ask for the basic exception and stopped there. Then she began presenting all her evidence – starting about how wonderful her client is, posturing against possible pitfalls, while we were still 100% on board in support. I'm hoping you might have seen my wife and I give each other puzzled looks during this period. This was where we heard all sorts of ultra-carefully parsed answers, vague uncertainties, half-truths, and some downright lies yet kept our mouths shut. We didn't want to hurt Ms. Robinson and assumed some benign legal justification or technicality was involved.

We now wish to correct some of these half-truths and lies consistent with your instructions as well as give you the arguments we would have come with evidence to support, in contrast to the evidence provided by the Petitioner.

Arguments Concerning Code § 421.1.

It is clear from the Plat Exhibit that almost the entire area of the kennel lies with 200 feet of the property boundary (including all structures but the Spring House). We could not understand how this exception could even be considered given this code so we spoke to Mr. Wally Lippincott who, as we wish to present evidence to support, handled this directly and verbally with Ms. Dickenson rather than getting her to put her specific requests in writing (which I now have a copy of and as the evidence will show – it's blank except for the basic application) before issuing *Petitioner's Exhibit 3 – The Recommendation to Approve*. We can provide evidence that Ms. Dickinson also misled Mr. Lippincott and that he believes now likewise (if not out of line, we would move that your honor speak to him).

Some of that evidence is clear in the document itself if Mr. Lippincott is correct in his statement, which we would also seek to supply in testimony or affidavit, that (from Petitioner's Exhibit 3):

- "The nearest neighboring residence appears to be less than 500 feet (0.096 miles) away."
 - False. The evidence will show it's under 400 feet (0.077 miles) away.
- "The dogs are kept in the dwelling with limited access to the out-of-doors"
 - False. Even the Petitioner's photo exhibits show 2 doggy doors which are, even by the Petitioner's testimony, only closed at night, and we can even dispute that in at least 6 signed affidavits.
- "There are 3 permanently kept dogs and the others are rescue dogs kept until homes can be found"
 - This conflicts with Petitioner testimony where she said only 4 dogs are revolved for adoption at any given time.
- "There have not been any complaints about noise"
 - False. Already conceded by Ms. Dickinson when she found out we were coming .
- "Waste is picked up regularly"
 - As evidence will show, Mr. Lippincott never inspected the premises. No supporting evidence for this has been provided. However, we can provide recent test data showing contamination of the stream from Petitioner's property by coliform and e coli bacteria.

Evidence will show that when Mr. Lippincott was asked why the recommendation passed despite code he said he didn't evaluate that and let Zoning handle code enforcement and gave us Zoning's number to call.

Evidence will show Zoning couldn't understand it either and considers it an oversight because they do consider our RC-2 area a "residential" area (as well as rural). How did Ms. Dickinson pull this off we wondered? Then we reviewed the testimony and exhibits again, particular all that testimony we did not challenge before we realized we'd been deceived. Here is what stood out to us:

- Ms. Dickinson provided no detailed vicinity maps – only maps showing direct neighboring properties or bare roads.
- Ms. Dickinson repeatedly made it sound like we live in the middle of nowhere.
- Ms. Dickinson misrepresented the distances to the nearest house (ours) by over 25%
- Perhaps the most disturbing example was the exchange at about 1:55:30 in the Hearing where Ms. Dickinson clearly leads her witness Ms. Robinson to say that the nearest house to her on Far Out Ln. was ½ miles away.
 - As evidence will show, the intersection of Far Out Ln and Akehurst Rd is only 0.28 miles away and there are four (4) homes in-between – the closest being about 650 feet away.
 - Evidence will show there are 14 residences within a ¼ mile radius, of the Petitioner, and 42 within a ½ mile radius.
 - Ms. Robinson is regarded as a prominent horse trainer at Pimlico by all the evidence. Her work output is largely measured in increments of furlongs (10 furlongs = 1 ¼ miles), ¼ miles, etc. Is this credible testimony?

- As written and attested evidence will show, Ms. Robinson knew the Krauses planned to develop and potentially subdivide their 6 ac property in 2014-15. That means at least one house can be put as close to 75 feet of her property. Moreover, this suggests that her sworn testimony that she just wanted to finally, after so many years, make her illegal kennel legal now for no particular reason appear at least a little suspect. We have additional evidence to provide that she did not tell the whole story given a recent property listed for sale only two houses down from her –based on our meeting with her before the Hearing.

So the above argument and evidence would lead one to conclude that Ms. Dickinson thinks that perhaps the word “residential”, as used in code § 421.1, might somehow be dependent on density. We can only guess that she intended to argue that our area was not truly residential such that § 421.1 didn’t apply, if it came up. Nevertheless, we could find no zoning official to agree with that. They all maintained that our RC-2 neighborhood is considered “residential” for the purposes of the code. Nevertheless, we remain concerned given our mistrust of Ms. Dickinson and the fact we aren’t lawyers and don’t know what we don’t know. We leave further speculation to your Honor as to what she is up to.

The Noise Problem and Complaints

The most distressing concern our family and tenants face is the noise problem, which we have noticed at almost any time of day or night, but primarily between 4am – 6am when Petitioner (or others) leaves for work or school, and during the day when the People at Petitioner’s residence are gone and many evenings even when they are home. The main driver of the noise, as the Petitioner admitted at Hearing, is any disturbance, whether it be squirrel, deer, cars, trucks, people walking or talking near my home and property, etc., and the outside presence of our dogs, whether they initiate barking themselves or not (not usual but it happens and when they do we bring them inside promptly). We believe the Petitioner that she locks the doggy doors at night – but not all the time. Otherwise, the dogs are free to go at their will though their 2 doggy doors which we can evidence by pictures and video when they heard me walking on my property.

Frankly, due to our absence from our home for 4 years and preoccupation with a series of other family disasters, we were too distracted to do anything about this since our last major complaint in 2009 – 2010. This event has forced us to realize how bad this problem has been for our youngest son, our tenants, and many neighbors. We can support this with 3 signed affidavits from our current tenants and 2 additional former tenants who left mostly or largely due to the noise which has gone on for over 6 years. Our grown sons, who nagged us for years to take a harder line, also signed affidavits to that effect. We also have or expect at least 4 affidavits from neighbors (not including our tenants) concerning the noise problem as well as at least 8 from friends, co-workers/supervisors, and other family who have experience this problem over the years up to today when visiting us. In fact, this whole episode has enabled us to realize we wronged loved ones and tenants by not taking action sooner.

One of our tenants we mentioned at the Hearing, whose affidavit is very touching, has a daughter with a debilitating genetic disorder called RETTS who needs constant care. Because of our family's difficulties and the fact that she is often late on rent due to her difficult financial circumstances (a condition shared by other tenants we have had - we try to help wonderful people like her that nobody else want to rent to), she refrained from complaining since her tenancy began in April 2013. We did not realize how badly she and her daughter were affected until we got her affidavit and we apologized. As this evidence will show, despite limited finances, she was forced to buy a "white noise machine" to drown out the dog noise so that her daughter can sleep. This was heartbreaking for us to hear.

The Petitioner made many misleading statements about our lack of complaining but it is definitely true, we did not complain harshly or frequently enough and now we are paying the price for this mistake. The main driver for this mistake was friendship with too much sympathy, a love for dogs and her rescue efforts, timidity, and a basic reticence and embarrassment in complaining and it happened to our tenants vs. us and in us vs. the Petitioner. We never had a sense of urgency because we always knew her kennel was illegal so we could put a stop to it quickly. Now we know better and regret this.

I do not know the legal definition of complaint. We are the type of people that when we go to a restaurant and get bad service we say something like, "they must be running you ragged today," instead of something like, "listen honey, we're sick and tired of waiting for our coffee - NOW MOVE IT". The latter approach leads to boogers in one's food. Such was the case in most complaints to the Petitioner over the years, e.g., "You guys must have had a hard time with the dogs last night", "Boy your dogs were loud last night", "Any chance you could keep your dogs inside more", etc., etc., etc.. If these are complaints then they were tendered countless times over the years. We had to reach our breaking point to finally complain *harshly* (but we never threatened to report her once!). Both of us handled the first two lesser yet harsh complaints prior to 2009 and Ms. Krause went to Petitioner's home to handle the third in 2009 because I (Mr. Krause) had reached my breaking point and was afraid I'd blow my stack. My wife is much nicer and sedate in such matters (and overall too). The Petitioner did make dramatic improvements after that and for a while we were all very optimistic, but to quote one of my former tenants in their affidavit, "it went from absolutely nightmare horrible to really, really, awful. It was still much worse than I or any reasonable person should have to live with"

At the Hearing, the Petitioner claimed that she did not get any complaints from us after that. That was untrue, there were several and one was witnessed by one of our former tenants fishing nearby as evidenced in his affidavit. It must be said however, that most of our complaints were made to Ms. Swank, not Ms. Robinson who we saw much more often in those days (she used to regularly cut my hair at our home or hers). On repeated occasions - at least 3 before our fire (every time I got a haircut), I complained to her and she even witnessed the problem twice herself from our home and said she'd discuss it with Ms. Robinson. Please be aware, your Honor, that until the Hearing we and the community knew all these dogs as "our/their" dogs, meaning belonging to the Petitioner, Ms. Swank, and her son Kaden, *together*. We did not assume it was solely the Petitioner's responsibility, especially since we knew it was not Ms. Robinson but Ms. Swank and her son who had the physical ability to control the animals and usually were seen taking care of them back then (we can no longer see since

they put up large trees). Then the fire happened, we moved out for over 3 years, and only recently have our lives begun to settle back to normal. As we stated in the Hearing, however, we were planning to complain harshly again due to our renewed exposure to it and increasing, though still gentle, complaints from our tenants. I'm sure we'd have complained no later than Spring 2015 if this case had not intervened. The noise gets worse when the weather gets warm and the dogs stay out more and we notice it much more with our windows open.

Arguments on Noise Control and Enforcement.

At the hearing we disputed the effectiveness of Health Dept. Enforcement of dog noise complaints. While we continue to be concerned by this, we wish to present additional argument why relying on such enforcement for a 12 dog kennel in a residential area with a minimum of 4 "revolving" adoptee dogs is neither reasonable in practice nor fair in this case.

- 1) All or almost all the Petitioner's dogs bark excessively, not just a few, and there are often no clear ringleaders or at least more than two or three at a time. Ringleaders, when they exist, can change over time and with changes in the dog pack hierarchy which changes as dogs grow, age, and revolve in and out of the pack.
- 2) #1 above conflicts with the nature of how the problem was framed by the Petitioner and discussed in practice. The Petitioner is given primary responsibility to identify ringleaders (or "individual barkers") for removal even though:
 - a. She is hard of hearing
 - b. Not home when the dogs are usually a barking nuisance
 - c. Not motivated to pick her core family dogs if they be the barkers (common sense)Therefore we doubt Petitioner's ability to identify true barkers.
- 3) Since all the dogs bark almost any dog can be identified by Petitioner at any time as a "ringleader", individual barker", or just "barker" as used through the written and verbal testimony.
- 4) There is no guarantee that the number of revolving dogs can't expand to at least 9 dogs or more (with attrition of core family dogs)
- 5) Given the above, especially #3 and #4, we hope you realize what will happen your Honor. Here is a realistic fear and expectation:
 - a. Krauses complain
 - b. Authorities investigate (days?)
 - c. Authorities can't agree with Petitioner about which dogs are main barkers (weeks?)
 - d. Authorities continue to pressure finally forcing petitioner to act – but with some time for more stalling (weeks?, months?).
 - e. Finally, a dog is adopted.
 - f. Adopted dog is identified as barker.
 - g. Authorities are happy and close case.
 - h. New dog comes in, might be worse barker. Barking problem never went away anyway.
 - i. Go back to a).

... And the Krauses look like more unreasonable whining dog-haters who are never satisfied with each cycle.

Escaping Dogs and the Electric Fence

As we've testified and as our affidavits will attest, the Petitioner has had an ongoing problem with dogs escaping their property onto other properties and the road on a regular basis for many years.

- On the road the dogs chase and accost pedestrians and vehicles also.
- On our property, especially near our pond, they disturb us, our dogs, and our guests who hike and fish.
- As we testified, our dogs were attacked recently (though not seriously hurt) and have been previously in the past on at least 4 occasions.
- Petitioner's dogs have also scared and corralled(after escaping electric fence) deer into our frozen pond twice over the last 7 years forcing Mr. Krause to carefully retrieve the injured animals (w/ broken legs) and euthanize them.
- Ms. Robinson is obviously not physically capable of corralling even a few excited dogs and is not even capable of traversing much of her own land much less the steeper slopes of Krause property.
- As our evidence will attest, many times they (usually Ms. Swank or Ms. Robinson with Kaden) show up in their car around the neighborhood looking for one or more of their lost dogs.
- Our evidence will show that Kaden has most of the burden for getting lost dogs and keeping dogs under control.
 - What happens in a few years when Kaden leaves home and goes to college and beyond?
 - Not much Holly can do to control dogs when Kaden is at school.

We have an electric fence ourselves and much experience with them. We can provide evidence to show that electric fences are not secure enough for larger kennels or even single or fewer dogs in many cases. Given your Honor's stated residence on Belfast, I presume you have many neighbors with them and know :

- Electric fences don't work for all dogs or dog breeds and are never 100% effective – especially for very aggressive, excitable, or dangerous dogs
- Electric fences require training that can take weeks or months and requires visual cues – usually flags.
 - We can show pictorial evidence that there are no Flags on Petitioner's property and that we've never seen them. When and who trains new dogs?
- Once a dog escapes it often won't come back lest it gets/fears another shock.
- We can provide evidence that much of Petitioner's electric fence is not buried as recommended for open areas, lays bare on the driveway to be run over and displaced by vehicles and is subject to breakage, kinking and bending that can diminish the effectiveness of operation.
- We can provide evidence that all the dogs often don't have or wear an electric dog collar.

Stream Contamination, Erosion, and Pond Eutrophication

As we mentioned at the Hearing, we have a beautiful 1+ acre pond fed by 2 streams near to our home (one coming from Petitioner's property) that are literally the showplace of our property and the main reason we bought it – and, as will be obvious after you see pictures of it, obviously a major factor in our property's monetary value. We found pictures of our home and pond conspicuously absent from the picture exhibits provided by the Petitioner and we brought none to the Hearing - having been deceived. We would like to produce pictures of it and our home to demonstrate this as well as its use for fishing, swimming and boating, as well as pictures of our 22 foot water trampoline costing over \$3000 and zipline over the pond evidencing the investments we have made in its use and enjoyment for our family, tenants, friends, and neighbors (also evidenced in at least 7 affidavits).

Due to the evidence we've gathered to oppose the Petitioner, we have only now begun to more fully appreciate the dangers and nuisance so many dogs pose to water quality, pond silting, pond eutrophication, and to the simple perception of many of our friends, neighbors, and guests who fear fishing or swimming in our pond regardless of what the actual hazard may be due to obvious presence nearby of largely unrestrained barking dogs that can defecate, urinate, trample and root in and around the stream and its largely denuded eroded banks.

- The Petitioner appears to be very careful to avoid showing her stream and particularly its problems in her picture exhibits. Nevertheless, some evidence of the damage the dogs (and people?) do is evident if you look at the picture of the bridge over the stream, where the edge beyond the east stream bank is clearly trampled and denuded. Another picture shows hay covering a bald spot in the yard near the stream and spring house. It is possible the Petitioner may claim that mitigation was done due to some sort of recent construction or landscaping (for her patio?). If that is the case then we ask why no silt fencing has been installed as required for such projects. Ironically, the Petitioner's own Facebook page, a screen shot of which we copied to submit in evidence, shows a dog standing in their stream drinking surrounded by denuded, eroded, and improperly landscaped stream banks. We would like to submit comprehensive pictorial evidence of the damage the dogs (and people?) have done to the stream, its banks, and its buffer which is almost non-existent in the area of the kennel.
- If necessary, we would like to produce evidence from an expert environmental engineer / landscape architect that we have learned much from recently concerning violations of EPS guidelines and our risks to sanitation, silting, eutrophication, and other problems – some of which result in our pond smelling foul sometimes.
- Fecal contamination – we wish to introduce recent positive water test results for coliform and e coli and seek further independent tests. We also seek to get information on what happens to feces in the yard if it rains, before it is picked up – or trapped in snow to decompose and later melt. As well as producing sanitary contamination, we wish to cite evidence that feces runoff acts as a fertilizer contributing to algae build-ups and pond eutrophication. We would also like to introduce evidence, if necessary, to show the steps we have taken over the years to mitigate and control this damage and recent expert advice that we purchase expensive pond aerators

costing thousands of dollars and significant on-going operating expense in electricity and maintenance.

- **Urine and Eutrophication.** Unlike the feces, which the Petitioner “claims” to pick up regularly, she can’t pick up urine and we’d like to present evidence of how much urine 12 dogs can produce every day. It is likely far more than for the human residents there for whom it is required to have septic systems to collect it. We also wish to introduce evidence to show that urine is effectively a labile nitrogen fertilizer that acts as a nutrient for algae and other deleterious pond flora and fauna that are also responsible for making the pond discolored and foul smelling
- **Turbidity** – we wish to present evidence demonstrating that even though the Petitioner’s stream has perhaps a third of the flow or less of the main stream feeding our pond, the water is much more turbid, indicating the presence of suspended solids – probably silt runoff. We want to present pictures taken after a recent rainstorm, that could barely be called moderate, that clearly shows this on the Petitioner’s stream upstream and as it enters our pond. These pictures can be compared to pictures of our other stream taken within the same hour that are completely clear despite much higher flow.
- If we must continue to fight this zoning exception to a Special Hearing or beyond, we also hope to show pictorial evidence after hard or violent thunderstorms (which have not occurred since the Hearing to date) of the extreme turbidity and silting in our pond that comes from the Petitioner’s stream which literally looks like a chocolate milkshake mixing into our pond water. This silting is also noticeable in the expansion of the stream delta over the years that can also be evidenced.
- We intend to produce expert evidence for your Honor explaining the risks and costs of eventual pond repair (subject to County approval) and loss of property value given that our pond is the showplace of our property.

Property Values

We would like to introduce expert evidence, from perhaps the most prominent realtor and real-estate expert in our area, discussing the severe damage the Zoning exception would do to our property values and the affidavits voicing similar concern by other neighbors. We realized we could both give \$10000/yr to dog rescue charities for the rest of our lives and it would still not equal our loss in property value especially if we should face calamities forcing us to sell quickly. In fact, the biggest risk is the property sitting and not selling at all. The biggest reason we and anyone else wants a property like this is for seclusion, beauty, and tranquility. The kennel zoning exception will have to be disclosed to potential buyers and will destroy that perception on the part of any buyer even if the petitioner could somehow solve every dog problem 100%

Given your Honors familiarity with the area given that you mentioned you live on Belfast, we think common sense will tell you everything you need to know just by seeing pictures of our home, farm and environs in proximity to the Petitioner – pictures she declined to show you for her most affected neighbor.

Hearing Transcript with Further Analysis and Comment

For the purposes of making our case, Ms. Krause endeavored to produce a written transcript of the Hearing CD which is incomplete, partly due to difficulty in hearing garbled sounds. Within this transcript, Ms. Krause has commented, in many cases line-by-line, on incorrect or misleading testimony and/or expanded upon testimony with additional relevant commentary to our case. I did not have sufficient time to adequately utilize, edit and incorporate all of that into this already very long letter. Moreover, she often inserted evidence in her comments contrary to your instructions. Nevertheless, we would be delighted to send it to you upon request as well as any other evidence you may agree to accept based on the arguments herein.

Restrictions Requested in the Event of Granting the Zoning Exception

If your Honor, after full and due consideration of the our arguments and Motions above, should decide to favor granting the Petitioner's request anyway, we request and move that additional conditions and restrictions be placed on the special exception under Code §421.5 as follows:

Restriction 1:

In accordance with Code §421.1 we request that the "kennel", in its entirety, as so described in that code (e.g., including septic systems, parking areas, etc.) be moved 200 feet from all property boundaries. If your Honor is unwilling to grant said Restriction for all boundaries, we seek to at least have the "kennel" moved 200 feet from the southernmost continuous boundary closest to the Krause (Beste Pond Farm, LLC) pond. If 200 feet shall not be granted than we seek the highest footage your honor will allow.

Sub-Restriction 1a:

Since the Petitioner improperly placed her septic system onto Krause property, the Krauses must approve and supervise its removal process and any damage mitigation of same on their land and all work must be completed under all applicable codes to Krause's satisfaction at the expense of the Petitioner.

Sub-Restriction 1b:

The kennel structure that the Petitioner claimed is never used except for rare quarantine will be dismantled and torn down because:

- it lies well within the excluded 200 foot limit at only about 50 feet from the property boundary ,
- was illegally built without a permit as required for any kennel building exceeding 120 sq. ft. (there is no permit on record and it is at least 150 – 160 sq ft. as measured from the Plat Exhibit)
- it is an eyesore within the local environs
- it cannot physically fit with or meet the fencing restrictions requested below if any of those are also granted.

Restriction 2:

The Petitioner shall securely fence the entire kennel area so that dogs cannot escape to other neighboring properties or onto the road. The outer walls of the Petitioner's home can substitute as fenced sides provided they are secure and do not violate other granted

restrictions, i.e., there need be no fencing where the walls of the home both serve as fence and join continuously to other conventional fencing to form a complete, continuous, and unbroken enclosure. The fencing must exclude driveways and the garages, OR, alternatively, driveway gates contiguous with the fenced enclosure must be constructed with sufficient technical sophistication so that the dogs cannot escape when *any* vehicles travel from Far Out Ln. through the driveways and parking areas and/or into any garage (2 on property).

Sub-Restriction 2a:

All fencing shall be sturdy and solid (e.g., no open chain link or picket fencing) to inhibit dog noise traveling beyond said fencing and it must be low enough (or buried) to prevent burrowing under and tall enough to prevent jumping over the fence.

Sub-Restriction 2b:

All fencing shall be at least 25 feet from the closest bank of the spring-fed stream and shall not cross it or allow dogs access to the stream or its vegetative buffer so that it may become trampled or eroded.

Sub-Restriction 2c:

All fencing shall be at least 200 feet from all property boundaries.

Sub-Restriction 2d:

All fencing shall not be eyesores but shall be aesthetically compatible in color, texture, and style to the local structures and environs.

Restriction 3:

Petitioner shall remove or reconfigure all her doggy-doors, or any other types of dog-initiated or dog-controlled transfer doors/gates, so that no more than 3 dogs at any time can roam free outside the home unsupervised or when nobody is home.

Restriction 4:

Petitioner shall mitigate, under Department of Environmental Protection and Sustainability (EPS) rules and guidelines, all damage already done to the spring-fed stream to limit run-off, erosion, and leaching or percolation of urine and decomposed feces from nearby dog enclosures. As part of mitigation, and/or after mitigation is complete, Petitioner shall maintain a healthy vegetative buffer of at least 25 feet on both sides of the stream in accordance with EPS regulations and guidelines.

Restriction 5:

The number of dogs shall be limited to six(6) including the Petitioner's three "main family dogs" and up to three "revolving" dogs, i.e., dogs that either revolve via adoption or those that tend to be older, sicker, and thereby revolve via attrition more rapidly than normal. In no case shall there be more than three (3) revolving dogs at any time.

Sub-Restriction 5a:

If and when ownership of 2012 Far Out Ln. passes to someone other than Ms. Robinson or Ms. Swank, then the maximum number of dogs allowed shall be reduced to three (3) thenceforth.

Restriction 6:

The kennel shall remain non-commercial and not-for-profit and shall never charge adoption fees or take remuneration or donations of any kind.

Restriction 7:

The kennel shall not accept dogs with communicable diseases and will dispose of any dog with a disease that may present dangers to any dogs that might wander nearby. All dogs must be licensed and have all shots and immunizations updated at all times with certifications available for inspection by the General Public.

Restriction 8:

The kennel shall not accept dogs with a known history of biting or aggression and shall dispose of any dog that develops same while at the kennel within sixty (60) days.

Closing Statement

Before closing this overly long letter, we seek to make one last rather irregular request of your Honor. We request that in your public decision that you admonish the Petitioner, and particularly Ms. Dickinson, for their conduct in this matter. We seek this because:

- We believe it serves a public good that unethical behavior in the legal profession be exposed and not tolerated.
- We want something public we can show to those neighbors and other common acquaintances that it is not we who were in the wrong. There is a minority of people here now that could possibly grow by word-of-mouth, unaware of all the facts, with whom we are now considered wannabe dog killers who have sinned against *Saint Robinson*. We don't feel we should have to defend our character and reputation but it comes up. Your public statement in our support could only help in this regard.
- Strangers have been trespassing and spying on us and our property and near our Tenant's apartments and lately we have been getting anonymous phone threats and blackmail (reported to police but haven't had time to have them come over yet). I suspect whoever is behind this (I am not accusing the Petitioner or her attorney) is are trying to intimidate us or fishing for some violation to report. While we are not aware of any violations, our 30ac (in aggregate) property is unusual and complex with 4 buildings, one over 200 years old, many streams, 3 ponds, and I have little doubt that someplace there is something that can be pinned on us. The longer this fight goes on the more hurtful collateral damage will result, not only to us but to other neighbors who feel they need to take sides. We fear a community war of revenge.

And finally, we want this most because:

- We want them to be sent a message, loud and clear, that we can use to discourage their further legal pursuit of the exception and encourage them, instead, to seek our advice as to how to best preserve their ability to keep as many dogs as possible and possibly heal their relationship with us and the rest of our small community. We are not monsters seeking to displace or destroy innocent animals nor do we wish that Kaden, a boy we love, should be shorn from his dogs. If they had only come to us first instead of involving such a lawyer...

Your Honor, through the Hearing and this letter you've been told a fraction of what we've endured since November 2010 – a fire, fighting our insurance company for 3 years, two terribly injured loved ones – one now dead and the other permanently crippled and so many other things if we told you them all you might think we were making it all up. We (especially Mr. Krause) have been dealing with hearings and arbitration meetings, for fire insurance adjusters and umpires, Medicare, Medicaid, private medical insurance, Guardianship, defective POA, real-estate and tax issues from a broken estate and even a

phony sexual harassment case against a friend (he eventually won) for over 4 years straight. Our health has suffered severely (including Mr. Krause's recent diagnosis of diabetes in addition to high blood pressure, high cholesterol, and obesity) in the process as well, mostly due to stress. We were just beginning to recover from that long nightmare when this came along. We ask that you deny the Petitioner's requests in the strongest terms possible so that we might have some PEACE.

Respectfully yours,

Andrew Krause and Noreen Krause



December 14, 2014

VIA EMAIL

The Honorable John E. Beverungen
105 W. Chesapeake Avenue
Towson, Maryland 21204

**Re: Robinson Petition for Special Exception for Private Kennel,
Case No. 2015-0092X**

Dear Judge Beverungen:

As you are aware, my firm represents Ms. Catherine "Holly" Robinson in her petition for a special exception for a private (not commercial) kennel for up to 12 dogs on her property located at 2012 Far Out Lane, Sparks, Maryland (the "Petition"). Ms. Robinson seeks a special exception so that she may continue to rescue dogs that face imminent death. Ms. Robinson has provided a critical service to the community for many years out of the goodness of her heart and in exchange for no remuneration. She rescues starving and injured dogs and dogs set to be killed, pays for their veterinary care, trains them, loves on them, socializes them with children and other dogs and then, when possible, finds them a loving home – at her own expense. Indeed, as the Court noted at the hearing, economically, her work is a losing proposition. Although she has been publicly honored for her selfless activities, she seeks nothing more than to continue to do her life's work – taking care of the underdog – but in compliance with the law. Indeed, she seeks a special exception simply to legitimize the status quo.

By way of background, this Court held a hearing on Ms. Robinson's Petition for a special exception on December 1, 2014. Andy and Noreen Krause, whose home is on the other side of a one-acre pond and a wooded six-acre parcel from Ms. Robinson's home, attended the hearing, purportedly to support Ms. Robinson. No other members of the community attended the hearing. The Krauses learned of the Petition almost a week before the hearing and had discussed thereafter certain concerns with Ms. Robinson regarding noise and sanitation. To address the Krause's concerns about her rescuing loud barkers, Ms. Robinson had agreed to remove offending barkers and had offered to install a privacy fence to buffer any noise and move the electric dog fence to the front of her property to provide the additional sound buffer of her house. Ms. Robinson agreed to stipulate at the hearing that the special exception would end with Ms. Robinson and Ms. Swank, her housemate, so that no future owner could use the special exception. Ms. Robinson also advised the Krauses of her doggy septic system and that a landscaper regularly picked up dog feces to protect the environment.

At the hearing, the Court advised the Krauses that although a special exception typically runs with the land, the restriction the parties had agreed to could be effectuated by the Court expressly limiting the use to Ms. Robinson and Ms. Swank only. The Krauses then sought confirmation that the special exception could be terminated if there was an unmitigated noise or sanitation issue in the future, suggesting that I had confirmed as much, which was not accurate. We had only discussed that a special exception would not affect their right to complain about noise or environmental concerns. When the Court advised the Krauses that special exceptions are not typically terminated but that the Health Department would vigilantly address any complaints, the Krauses claimed to have been misled. Mr. Krause complained that as long as Ms. Robinson's rescue was unlawful, he felt comfortable that he had "leverage" but if she got a special exception that could not be terminated, he feared he would lose control. Ultimately, the Krauses opposed the special exception based on concerns about noise, sanitation, safety, and property values. Certain of these stated concerns were contrary to what they had said before the hearing and thus were suspect at best. Indeed, tellingly, as stated at the hearing, Mr. Krause's motto is to seek forgiveness, not permission, which is contrary to the law and Ms. Robinson's values.

In any event, the Krauses did not introduce testimony or other evidence at the hearing sufficient to prove that a special exception allowing Ms. Robinson to continue to care for up to 12 dogs at her home would injure the health, safety, or welfare of the community. At their request, the Court permitted the Krauses to submit a letter within 10 days of the hearing to further explain their concerns since they felt unprepared for the hearing. Both during the hearing and by email dated December 3, 2014, however, the Court emphasized that additional evidence would not be considered after the hearing. The Court also indicated during the hearing that Ms. Robinson could submit a response to any such letter. We thus write in response to Mr. Krause's December 11, 2014 letter.

As a preliminary matter, despite the Court's order, Mr. Krause's letter is replete with references to evidence that was not introduced at the hearing. We respectfully object to the Court's consideration of this extraneous material or any references thereto. We will address each of Mr. Krause's motions and concerns in turn below.

1. The Petition for Special Exception Should Be Granted.

Mr. Krause contends that the Court should deny Ms. Robinson's Petition on the ground that continuing to have 12 dogs on her property, as has been done for many years, would pose great risks to the health, safety, and welfare of the surrounding area. Specifically, Mr. Krause suggests that Ms. Robinson's dogs have created a noise and sanitation nuisance and may damage nearby streams and ponds. This is incorrect and unsupported by any evidence properly before the Court.

As the Court noted during the hearing, Ms. Robinson seeks a special exception for a use that is permissible under the zoning regulations. There thus is a presumption in favor of granting a special exception, and a petition should only be denied where evidence proves that the use will injure the health, safety or welfare of the surrounding community. No such evidence was introduced at the hearing. Indeed, the evidence properly before the Court shows that the property has been used as a home for as

many as 12 dogs, some pets and others rescued from imminent death, for many years. The special exception would do no more than maintain the status quo.

Ms. Robinson is sensitive to the Krauses' concerns and would not seek to use her property in a way that would harm the community she has enjoyed for over 21 years. Indeed, Ms. Robinson has openly cared for up to 12 dogs for many years with the knowledge and support of her neighbors. She has never received a complaint about the dogs from any neighbor except the Krauses and responded to that one complaint promptly and effectively. When the Krauses complained about barking several years ago, she promptly installed a \$2,000 evergreen tree sound buffer. The buffer solved the problem, as evidenced by the absence of any complaints for years until Ms. Robinson sought a special exception and Mr. Krause feared he would lose his "leverage." Notwithstanding, both before and during the hearing, Ms. Robinson offered to move the dogs to the front of her property so that any barking noise would be further buffered by her house and to install a wooden privacy fence as an additional sound buffer. Indeed, Mr. Krause indicated in the email he introduced into evidence that he felt that moving the dogs would be sufficient to address any possible noise issues.

With respect to the alleged sanitation and environmental concerns, Ms. Robinson testified that dog feces are regularly picked up by her landscaper and deposited into a doggy septic system to minimize the environmental impact. Ms. Robinson is aware of no environmental damage, and the Krauses introduced no evidence of environmental or sanitation hazards at the hearing.

The evidence introduced at the hearing shows that Ms. Robinson responsibly cares for 12 dogs on her property, she has promptly and effectively responded to neighbors' concerns regarding noise, she has instituted sanitation measures to safeguard the environment, and her continued use of her property in this manner will not injure the health, safety or welfare of this rural community. Accordingly, Ms. Robinson's Petition should be granted.

2. The Court Should Not Consider Additional Evidence.

Mr. Krause contends that the Court should consider additional evidence not introduced at the hearing. Specifically, Mr. Krause suggests that the Court consider unidentified affidavits, water quality tests, photographs, and video presumably from the elaborate audio and video surveillance of Ms. Robinson's home that Mr. Krause has been threatening to conduct if she does not withdraw the Petition. While we submit that no such evidence, to the extent it exists, would show that the special exception would injure the health, safety, or welfare of the community, Mr. Krause provides no basis for the Court to re-open the case for the purpose of considering additional evidence that was not presented at the hearing. As the Court acknowledged at the hearing and in its December 3, 2014 email, the hearing has ended and no new evidence should be submitted or considered at this stage. Accordingly, Mr. Krause's motion to introduce additional evidence should be denied.

3. The Court Should Deny The Request for A "Special Hearing."

A. The Public Was Properly Notified of the Hearing.

Mr. Krause contends that if this Court is not inclined to consider additional evidence, the Court should hold a "special hearing" so that the Krauses can introduce new evidence. Essentially, Mr. Krause is asking for a new hearing – a mulligan. Mr. Krause suggests that a special hearing is necessary because he received insufficient notice of the December 1, 2014 hearing. This is incorrect. The hearing was properly posted on Far Out Lane by the sign poster recommended by the County. Indeed, Mr. Krause learned of the hearing on November 26, 2014, five days before, *when he saw the sign posted on Far Out Lane*. Further, the evidence in the record was that the hearing was properly advertised. Accordingly, Mr. Krause received sufficient notice of the hearing. Further, Ms. Robinson did not try to conceal her efforts to get a special exception, as Mr. Krause contends. As Ms. Robinson testified, the only reason she did not personally notify neighbors of her intent to seek a special exception was because she was only attempting to legitimize with the County what she had openly been doing for many years with her neighbors' knowledge and support. Accordingly, the public, including the Krauses, were properly notified of the hearing, and Mr. Krause's motion for a special hearing should be denied.

B. The Krauses and The Court Were Not Misled.

Mr. Krause further contends that the Court should hold a special hearing because the Court and the Krauses were misled. This is patently false. Mr. Krause contends that Ms. Robinson's original filing falsely indicated that there had been no noise complaints. The evidence at the hearing, which included the November 12, 2014 Recommendation from the Department of Planning and Ms. Robinson's testimony under oath, showed that I advised the Department of Planning that the Petition was not the result of any complaints about noise. Ms. Robinson testified that there had not been any complaints in several years and her Petition was not prompted by any complaints. Indeed, Mr. Krause made one complaint about the dogs barking several years ago, and Ms. Robinson promptly addressed his complaint. Neither Ms. Robinson nor Ms. Swank ever received a complaint from the Krauses or anyone else regarding noise again until Ms. Robinson sought to legitimize her use with the County. At the time the Petition was filed, there were no noise complaints and had not been any in several years. The statement to the Department of Planning thus was accurate.

Mr. Krause further contends that they were misled to believe that the special exception would not run with the land and that they could have the special exception terminated if an issue arose in the future. This is incorrect. As explained at the hearing, the special exception can be limited to the use of Ms. Robinson and Ms. Swank, which would have the same effect as the special exception running with the person, not the land. Further, I never told the Krauses that the special exception could be terminated. I advised them only that while the special exception would change the number of dogs Ms. Robinson could have on the property, it would not affect their right to complain about noise or environmental concerns. The laws would still apply to Ms. Robinson. It may be that the Krauses misinterpreted my explanation, but they were not misled intentionally or

otherwise. Indeed, I repeatedly reminded the Krauses that I was not their attorney and suggested that they consult with one.

In support of his argument for a special hearing, Mr. Krause copies a lengthy email Mrs. Krause sent to Ms. Robinson, Ms. Swank, and I on December 5, 2014. The email, however, references evidence not introduced at the hearing, the consideration of which would be contrary to the Court's order. Specifically, the email references an affidavit from the Krauses' former tenant regarding a complaint allegedly made by Mr. Krause to Ms. Swank several years ago regarding the dogs barking. This is false. The email also references unidentified affidavits regarding noise caused by the dogs, which are suspect at best. Mrs. Krause's email, supplemented by Mr. Krause's parenthetical comments, also references their alleged missed opportunity to work with a builder on the six-acre parcel in 2011 because of Ms. Robinson. This is false and irrelevant. None of this new evidence should be considered.

Indeed, if this Court were inclined to consider Mrs. Krause's email in its entirety, some context is necessary. The email was in response to a series of emails between the parties regarding a proposed meeting to resolve the Krauses' concerns after the hearing. In those emails, Ms. Robinson declined to meet with Mr. Krause because of his hostile, threatening, and aberrant behavior since the hearing and instead offered to meet with Mrs. Krause and their attorney. Ms. Robinson is prepared to submit those emails if necessary. Neither the Court nor the Krauses were misled, however, and the Court thus should deny the Krauses' request for a new/special hearing.

4. The Court Should Deny Mr. Krause's Motion to Compel.

Mr. Krause contends that the Court should compel Ms. Robinson to produce documents related to the location of her septic system and the construction of the dog kennel because she refuses to do so. This is absolutely untrue, and Mr. Krause's motion should be denied. Indeed, the hearing has ended and all evidence that may properly be considered by the Court was submitted therein. Accordingly, to the extent a motion to compel would ever be appropriate in this forum, the time for producing evidence has passed and Mr. Krause's motion to compel is untimely.

The septic system has nothing to do with the special exception. For that reason alone, the Court should not order production of any documents. Further, Ms. Robinson has cooperated from day one with Mr. Sellman, Mr. Krause's attorney on the septic issue, and has never refused to provide documents. The septic tank, which was installed long before Ms. Robinson purchased the property 21 years ago, is located on her property. Ms. Robinson learned earlier this week, however, that a small portion of the 45-foot absorption trench installed in January 2007 on her property is located beneath Mr. Krause's six-acre parcel. Although the trench was properly permitted and installed in accordance with the County's approval, the County has confirmed that its GIS survey upon which the septic installer and the County relied likely was off by many feet. Accordingly, the septic company inadvertently installed several feet of the trench and a white observation pipe on Mr. Krause's property. The trench is two feet wide by six feet deep. It was filled with four and a half feet of stone and then backfilled. The only portion of the system that is noticeable on Mr. Krause's property is the observation

pipe, which is white and stands a few feet high. Ms. Robinson has offered to pay to have a new trench installed on her property and have the observation pipe removed from the Krause's property but has received no response as of yet. She has not refused to provide documentation in response to a request, lawful subpoena, or otherwise. Accordingly, this Court should not order Ms. Robinson to produce documents in this case.

Further, Mr. Krause's reference to Ms. Robinson dumping on his property is another fabrication – indeed, a desperate attempt to regain a sense of control over his neighborhood. As Mr. Krause knows, there are several old trees that were either cut down or fell down on their own over the years and some branches at the base of a hill below Ms. Robinson's property, but Ms. Robinson did not put them there. There is no trash or other debris there, as Mr. Krause claims. The only thing ever placed on Mr. Krause's property are a few pumpkins that were left for the animals this Fall without Ms. Robinson's knowledge. Ms. Robinson's landscaper promptly removed the pumpkins after Mr. Krause complained this week.

Finally, Mr. Krause contends that he is entitled to all documents related to the kennel structure on Ms. Robinson's property because she may have lied when she testified that the kennel was only used to quarantine new dogs. Mr. Krause's only evidence in support of this wild accusation is that he believes one of the photographs introduced into evidence shows two dogs in the kennel. That is incorrect. The photograph shows a garbage can and two shovels. The Court should deny Mr. Krause's motion to compel.

5. Mr. Krause's "Other Reasons" For Denying the Special Exception Are Meritless.

A. Ms. Robinson's Use Would Comply With Baltimore County Zoning Code Section 421.1, If Required.

Mr. Krause contends that a private kennel on Ms. Robinson's property in its current condition would violate Section 421.1 of the Baltimore County Zoning Code. This is incorrect. Section 421.1 provides, in pertinent part, that if a "private kennel is allowed in a residential zone, either as a special exception or as a permitted use, any part of the use, including but not limited to exercise areas, septic systems, dog runs and parking areas, may not be located within 200 feet of the nearest property line." Ms. Robinson's five and a half acre property is zoned Agricultural (RC2). Further, Ms. Robinson does not run a commercial kennel or veterinary business out of her home; she simply rescues dogs that sleep on her bed and in her kitchen and live in her home like any family pet. She has no dog runs. Her dogs spend most of the day inside, and Ms. Robinson has committed to moving the electric fence to the front of her property, which will be more than 200 feet from the property line. Further, Ms. Robinson does not operate a business, so she does not have a parking area, just a private driveway. Her septic system, which is within 200 feet of the property line is used for herself and her housemate and child, not a business. While it could be moved at great cost to Ms. Robinson, such a measure is unnecessary, as the private kennel has no impact at all on the septic system. Further, Ms. Robinson testified that the kennel structure has not been used in two years and had only been used on rare occasions in the past to

temporarily quarantine new dogs. If it had to be moved to be in compliance with Section 421.1 and to obtain a special exception, Ms. Robinson could do so at her own expense.

Mr. Krause contends that the Court should consider new evidence in the form of statements allegedly made by the County to Mr. Krause at some unidentified time that the Planning Department's Recommendation was based on false information and that Ms. Robinson's property does not comply with Section 421.1. Even if the Court were inclined to consider such new hearsay evidence, it is inaccurate. Indeed, the Department of Planning issued its Recommendation after "review of the petition and site plan and subsequent site visit". As such, the size and wooded nature of the lot and the location of the nearest neighbor and septic system came from the Department's own observations. The other information in the Recommendation provided by Ms. Robinson and I is supported by Ms. Robinson's testimony. Specifically, the dogs have access to the outdoors through two doggy doors, which she can close and does so at night and at various times during the day. Ms. Robinson has three dogs who sleep on her bed and whom she considers her own pets, as indicated in the Recommendation. While five of the nine rescue dogs are likely unadoptable because of their age and/or infirmity, this statement was truthful and not intended to mislead. Further, Ms. Robinson's Petition was not prompted by complaints about noise or otherwise, as there have been no complaints for several years. And, dog feces are picked up regularly and deposited in a doggy septic system to protect the environment. Although Mr. Krause suggests that he can produce evidence of contamination of Ms. Robinson's "stream", we are aware of no such evidence. Indeed, no such evidence was admitted at the hearing.

Mr. Krause further contends that the Department of Zoning and the Court were misled regarding the nature and location of the property. All of Mr. Krause's examples are inaccurate. Ms. Robinson submitted the required plat with the requisite detail with her Petition. The neighborhood is rural, as described, and the neighboring homes are not close by. If Ms. Robinson's estimate of the distance to the next house was not exact, it would have been unintentional and of no consequence. Indeed, the Krauses actively participated in the hearing and certainly would have objected to any misrepresentation of fact. They did not.

If this Court were to decide that Section 421.1 required some aspect of Ms. Robinson's property to be altered to comply with its requirements, Ms. Robinson could readily make those alterations as necessary. There is, however, no evidence before the Court showing any such violation.

B. Ms. Robinson's Dogs Are Not A Nuisance.

Mr. Krause contends that this Court should deny the Petition for a special exception on the ground that the dog barking is a nuisance. Mr. Krause incredibly claims that the barking has been a problem for years. Mr. Krause testified that other dogs in the neighborhood bark, which cause Ms. Robinson's dogs to bark, which cause the Krauses dogs to bark, in a chain reaction. Dogs bark, and when Ms. Robinson's dogs bark, she brings them inside because she doesn't like barking any more than the Krauses do. Even if Ms. Robinson had only three dogs, the dogs in the neighborhood likely would bark in chorus. No evidence was presented that limiting Ms. Robinson to three dogs

would solve the purported neighborhood barking problem about which the Krauses were silent until Mr. Krause feared his "leverage" was being threatened. Indeed, Ms. Robinson testified that there is no dog barking problem. Ms. Robinson testified under oath that Mr. Krause only complained to her about the barking once. It is undisputed that Ms. Robinson immediately addressed Mr. Krause's concerns by installing an evergreen buffer between the dogs and Mr. Krause's six-acre wooded parcel, which is across the one-acre pond from the Krause's home. Mr. Krause admitted that the evergreen buffer dramatically improved the problem, but he then claimed that the solution was somehow temporary. That a buffer could block sound at first and then not later is unbelievable. The fact that Mr. Krause never complained to Ms. Robinson again – for a period of several years – is telling. So is the fact that not a single other neighbor has ever complained or felt compelled to attend the hearing – not even the alleged affiants identified by Mr. Krause. Mr. Krause claims that he would have complained more to Ms. Robinson over the years but his "timidity" prevented him from doing so. Mr. Krause's claimed timidity is belied by the nightly barrage of email threats, insults and false accusations lodged from across the pond since the hearing. This is not a timid man. The fact that the Krauses did not complain at all after Ms. Robinson put up the sound buffer supports Ms. Robinson's evidence that the barking has not been a problem since and that the real issue lies in Mr. Krause losing his perceived control of his neighborhood.

Mr. Krause's nuisance argument is based in large part on new evidence purportedly contained in affidavits, which he summarizes for the Court. Summarizing new evidence is no different from introducing new evidence. Mr. Krause should not be permitted to make an end run around this Court's order that no new evidence would be considered at this stage. Accordingly, Mr. Krause's references to hearsay statements allegedly made by his tenants, former tenants, and others must not be considered at this stage. Indeed, the fact that Mr. Krause describes the purported affiants as indebted to him for taking them in at reduced rent, etc. (*i.e.*, against whom he retains "leverage") raises questions regarding credibility and motive that could only be answered on cross-examination, the opportunity for which has passed. There thus is no credible evidence in the record that the dogs are a nuisance.

C. Ms. Robinson Can and Will Identify and Remove Excessively Barking Dogs, If Necessary.

Mr. Krause contends that the special exception should be denied because there is no reliable means of controlling barking if it becomes a problem (*i.e.*, he will lose his "leverage"). Specifically, Mr. Krause claims that the Health Department cannot be relied upon to effectively address dog noise complaints. Mr. Krause further claims that Ms. Robinson cannot be relied upon to identify and remove excessively barking dogs because she is hard of hearing, not at home when the dogs bark, and not inclined to remove her three pets even if they are the offenders. This is incorrect. As a threshold matter, as the Court noted at the hearing, the Health Department does actively investigate dog noise complaints and enforce the laws when there is an actual violation. If this were a valid ground for denying special exceptions for private kennels, this Court would not have granted any in the past, which is not the case. Further, there is no evidence in the record that Ms. Robinson is unable to hear the dogs bark. Indeed, she

testified that when the dogs bark, she brings them inside. And if the dogs are barking so loud that Mr. Krause can hear them across six acres of woods and a one-acre pond, certainly Ms. Robinson can hear them on her property. Further, Ms. Robinson testified that someone typically is home for most of the day except for a few hours in the morning before 11:00 am. Finally, Ms. Robinson testified under oath that she would identify and remove excessively barking dogs.

Mr. Krause now claims, however, that all or almost all of Ms. Robinson's dogs bark excessively. This is another fabrication. Indeed, Mr. Krause lives in a house that is separated from Ms. Robinson's home by a one-acre pond and a wooded six-acre parcel that includes a steep hill. He has rarely been a guest of Ms. Robinson's over the years and thus would not have an intimate knowledge of which dogs bark or that they all bark excessively.

D. Ms. Robinson's Dogs Are Not a Flight Risk.

Mr. Krause contends that the special exception should be denied because Ms. Robinson's dogs are a flight risk; that they escape the property on a regular basis and chase defenseless deer, cars and pedestrians. This is false. While it is true that the dogs have gotten through the electric fence on occasion, the only evidence introduced at the hearing on this issue was that Mr. Krause's dogs were accosted by two unidentified dogs at some point in time. Mr. Krause admitted, however, that he did not know who owned the dogs. Mr. Krause now describes the incident in his letter as a "dog attack" and his dogs as not being "seriously hurt" despite testifying at the hearing that they were not hurt at all. And Mr. Krause now claims to know that the alleged attackers were Ms. Robinson's dogs. This is false and unsupported by the evidence before the Court. Further, this fabricated evidence and the other new "evidence" of dog escapees was not introduced at the hearing and should not be considered by this Court.

Mr. Krause further seeks to introduce new evidence regarding Ms. Robinson's electric fence and the utility of electric fences in general. The undisputed evidence introduced at the hearing was that Ms. Robinson has a working electric fence, and all of the dogs except Poncho the Chihuahua wear collars. Any new "evidence" should not be considered.

E. Ms. Robinson's Dogs Do Not Pose A Hazard to the Environment.

Mr. Krause contends that Ms. Robinson's dogs create an environmental hazard. This is incorrect. Ms. Robinson is an environmentally conscious woman. She would not knowingly allow an environmental hazard to exist on her property. Indeed, her property contains numerous features to protect the environment, including but not limited to a doggy septic system regularly used by her landscaper. While Mr. Krause's concerns appear to be overblown if not completely false, Ms. Robinson would be amenable to making changes to her property if the County deemed it necessary. There is, however, no evidence before the Court that this is so, and Ms. Robinson is aware of no such hazard.

Mr. Krause contends for the first time in the letter that Ms. Robinson's dogs and people

have damaged the "stream" on Ms. Robinson's property, which flows into his pond. What Mr. Krause refers to as a stream is little more than a nicely landscaped, spring-fed drainage ditch that dries up in warm weather and is never a flowing stream as Mr. Krause suggests except after a significant rain. Mr. Krause's pond is an acre and is fed by, among other sources, rain, runoff from his property, springs on his property, as well as the spring on Ms. Robinson's property which must trickle through Mr. Krause's six-acre wooded parcel before entering his pond. Mr. Krause bases his claim that the dogs have damaged the "stream" on two photographs in evidence and a lot of speculation. Specifically, Mr. Krause claims that the photograph of the wooden footbridge over the "stream" shows that the dogs have damaged the ground at the end of the footbridge. There was no evidence at the hearing that the path was caused by dogs; as indeed, it clearly was caused by people stepping off the footbridge. Mr. Krause also points to the photograph showing straw on the grass but does not, because he cannot, explain what this has to do with the dogs. As Ms. Robinson testified, the straw covers an area of grass disturbed during construction of the patio. It has nothing to do with the dogs.

The other purported evidence referred to by Mr. Krause, (e.g., expert testimony, lab results, photographs) was not introduced at the hearing and should not be considered. There is no evidence that the dogs are harming the environment.

6. A Special Exception Will Not Lower Mr. Krause's Property Value.

Mr. Krause contends, without reference to any evidence before the Court, that a special exception will adversely affect his property value. Mr. Krause suggests that the Court permit him to introduce expert evidence on this issue. There is no evidence before the Court that a special exception for a private (not commercial) kennel limited to use by Ms. Robinson and Ms. Swank and for no more than 12 dogs, which is the status quo, would lower anyone's property value. Even if that were the case, that would not constitute a danger to the health, safety and welfare of the community.

7. Ms. Robinson Supports Certain of The Proposed Restrictions.

Mr. Krause requests that the Court place certain restrictions on the special exception if granted. Ms. Robinson would be willing to agree to certain of these restrictions. We will address each proposed restriction in turn.

Proposed Restriction 1 (Relocation of septic system, dog exercise area, etc. to 200 feet from property line): As explained above, Ms. Robinson has offered to move the electric fence to the front of her property, which would be more than 200 feet from the property line. Also as explained above, the absorption trench issue, which is being handled by Mr. Sellman, the Krauses' attorney, has nothing to do with the special exception and thus would not be properly referred to in the special exception. As the septic system is only used by three residents, its relocation, while possible, is not necessary. With respect to the kennel, as can be seen in the photograph, it is not an eyesore and will be obscured from view by a privacy fence in any event. Ms. Robinson could move the kennel if required, but to do so would be unnecessary since it has not been used in two years and even then only rarely to quarantine a new dog.

Proposed Restriction 2 (Fence): As Ms. Robinson testified, she intends to install a privacy fence along a portion of the property line behind the empty kennel structure to block any noise not already blocked by the evergreen tree buffer. The current electric fence, however, is sufficient to keep the dogs on her property. There is no evidence in the record that the dogs have damaged the "stream" such that the fence needs to be moved away from its bank.

Proposed Restriction 3 (Doggy Doors): Mr. Krause's suggestion that a doggy door be fashioned to only allow three dogs outside at once is ridiculous. We are aware of no such technology.

Proposed Restriction 4 (Environmental Mitigation): There is no evidence that the dogs have damaged any part of the "stream". Indeed, there are no dog enclosures next to the "stream" and the kennel has not been used in two years and even then, rarely. Further, there is no evidence that the dogs have ever used the stream as a bathroom. If it were found that the dogs had damaged the "stream", Ms. Robinson would comply with all environmental regulations as required by law to mitigate the damage.

Proposed Restriction 5 (Dog Number Limit): Ms. Robinson stipulated at the hearing that the Petition was for a special exception that could only be used by Ms. Robinson and Ms. Swank. She thus has no objection to such a restriction. Mr. Krause's proposed restriction of the number of dogs to six and number of revolving dogs to three, however, is arbitrary and unnecessary as there is no evidence that more than six dogs will adversely affect the health, safety, and welfare of the community. Indeed, what if the seventh dog were Poncho the Chihuahua, would his barking, urine and feces, and tiny feet injure the health, safety and welfare of the community? Ms. Robinson seeks a special exception for up to 12 dogs, which should be granted.

Proposed Restriction 6 (Private Kennel): Ms. Robinson's Petition is for a private (not commercial) kennel. She testified that she never charges adoption fees. Indeed, the evidence was that the rescue is a financial loss for Ms. Robinson. Ms. Robinson thus has no objection to such a restriction.

Proposed Restriction 7 (Dog Health): Ms. Robinson testified that she quarantines new dogs and that all dogs are treated by a veterinarian and given necessary immunizations. Ms. Robinson thus has not objection to such a restriction.

Proposed Restriction 8 (Aggressive Dogs): Ms. Robinson testified that she does not accept aggressive dogs. Ms. Robinson thus would not object to a restriction requiring her to reject or remove biting or aggressive dogs.

Conclusion

Neighborhood disputes are never easy. And Ms. Robinson does not seek to engage in the neighborhood war that Mr. Krause has attempted to incite since the hearing. Indeed, other than the Krauses, no one else in the neighborhood appears so inclined or engaged. Ms. Robinson would like nothing more than to go back to the way things were before the hearing, but with the blessing of the County. That is all she seeks, to

maintain the status quo but in compliance with the zoning regulations by virtue of a special exception.

Mr. Krause contends in his letter, as he did at the hearing, that if Ms. Robinson would just abandon her effort to comply with the law, he would help her get around the law (which would restore the leverage he fears he may lose in his neighborhood). Ms. Robinson did not earn the Unsung Heroes Award by breaking the rules. For the reasons stated in the hearing and herein, Ms. Robinson respectfully requests that the Court grant a special exception for Ms. Robinson and Ms. Swank only to continue to use the property as a refuge for up to 12 unwanted dogs, as this ongoing use has not and will not injure the health, safety or welfare of the community.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michelle", followed by a long horizontal line extending to the right.

Michelle J. Dickinson
Counsel for Petitioner, Catherine Robinson

Andrew and Noreen Krause
1940 Akehurst Rd.
Sparks, MD 21152

VIA EMAIL

Date: 12/15/2014

The Honorable John E. Beverungen (jbeverungen@baltimorecountymd.gov)
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Case# 2015-0092X Petitioner: Catherine H. Robinson for Special Exception for RC-2 Private Kennel

Dear Judge Beverungen:

We are responding to the letter dated 12/14/2014 from Ms. Michelle Dickinson, Esq. in response to our letter to you dated 12/11/2014. We object to her introduction of new evidence in the same manner and beyond that she accused us of doing as well as her misleading dismissal of code § 421.1.

In Ms. Dickinson's email she says, "If you have any questions, we can make ourselves available at your convenience." We presume and hope that you would not contact Ms. Dickinson or discuss the matter with her without our direct participation and opportunity to discuss as well at the same time

Again, your Honor, we are not lawyers, but something doesn't add up here. In many places in her recent letter she claims we didn't introduce any evidence at the Hearing for this or that issue, for example, that the noise was bothering our tenants and some other neighbors for many years among the many other claims we made (many twisted by Ms. Dickinson). That's true, if our statements themselves don't count as evidence – perhaps on the basis of hearsay. But somehow, when we said in our letter that we had affidavits or other evidence that we have NOT submitted yet to prove assertions that didn't count as evidence in the first place (says she) that is now somehow "presenting evidence"?

If we did leak some evidence (and we concede there are some gray areas but that we should be given some leeway given the *intent* of the law and Ms. Dickinson's behavior), then it is clear Ms. Dickinson just opened the floodgates. On top of that, she wants her cake and to eat it too. She dismisses all our claims as without evidence or merit yet won't encourage you to accept that evidence or call for a Special Hearing when she has already seen some of it herself and has no reason to doubt its authenticity (we gave her two of the affidavits to evidence our efforts – they were unsigned versions so we didn't have to scan them but we told her we could give her the signed versions). Obviously, we believe fairness demands that you review all the evidence before rendering a decision to allow the special exception.

There are many distortions, misleading particulars, and downright lies we would like the opportunity to rebut in Ms. Dickinson's letter, and intend to do so, but for the time-being we only ask that you review our following counterarguments to Ms. Dickinson's flimsy and simplistic dismissal of our original motion that the exception be denied based code § 421.1.

First, I shall quote code § 421.1 in its entirety:

"§421.1 Animal boarding places and kennels in residential zones. If an animal boarding place or private kennel is allowed in a residential zone, either as a special exception or as a permitted use, any part of the use, including but not limited to exercise areas, septic systems, dog runs and parking areas, may not be located within 200 feet of the nearest property line."

I would like to add Baltimore County's definition of "kennel" that Ms. Dickinson plays fast and loose with in her arguments from (<https://law.resource.org/pub/us/code/city/md/Baltimore.html>):

"PRIVATE KENNEL

Any building, structure, or land, or any portion thereof, including a dwelling, that is used, intended to be used, or arranged for the housing of more than three dogs, not including puppies less than four months old, for the purposes of show, hunting, practice tracking, field or obedience trials, or as pets. A private kennel does not include a pet shop or dogs accessory to a farm use. [Bill No. 87-2001]"

Now, I will break down Ms. Dickinson's "counterargument" to the applicability of this code to your Honor line-by-line after her quote of the "pertinent" code. Ms. Dickinson's writings will be highlighted in yellow.

"Ms. Robinson's five and a half acre property is zoned Agricultural RC-2."

Ms. Robinson appears to believe this sentence alone renders our argument concerning code §421.1 "meritless" without having to provide evidence that an RC-2 zone cannot also be considered a "residential zone". At first glance, she would appear to be right given the word "zone". However, as confirmed by logic and a few calls, the word "zone" is a misnomer for "area" (or the distinction is unnecessary because residential use is permissible in an RC-2 "zone") which is really how Zoning officials interpret the law – and for good reason as I shall argue below. Moreover, we can also demonstrate that Ms. Dickinson's interpretation violates the intended spirit of code §421.1 as required under code §502.1 G.

1. We ask you to speak to Mr. Joseph Merrey, a zoning review official at Baltimore County Zoning at 410-887-3391. Mr. Merrey told us that code §421.1 should apply to our RC-2 neighborhood and to the Petitioner's case number and advised that we bring this to the attention of your Honor in the first place. He could not understand how Ms. Dickinson got her Petition by them.
2. One has to contextually analyze and properly interpret the meaning of this code in light of the published guidelines for implementing it and related codes to realize where it applies in practice with respect to zoning classifications like RC-2,3,4 etc. or DR1,3.5, 5.5, etc. To this end, I direct your Honor to *A Citizens Guide to Planning and Zoning in Baltimore County* at <http://resources.baltimorecountymd.gov/Documents/Planning/citizensguidetozone/citizensguide.pdf> and direct your Honor further to pages 6 and 18 therein. Your Honor will note that while "animal boarding", which includes all types of dog kennels as well as other forms of animal boarding IS a permitted special exception under RC-2, it is neither a permissible use nor permissible as a special exception under ANY residential zoning classification

including RC-3 through -50, DR-1 through -16, or RAE-1 or RAE-2 (those would require a variance, not an exception, that must meet a higher standard). I ask your Honor, why would the County enact a code that restricts a special exception for a kennel, as code §421.1 does for "residential zones", where said special exception is already forbidden anyway? Obviously, the intent and legal force of this code was meant to apply to residential areas, not zoning classifications. This was confirmed by two zoning officials including Mr. Merrey (we misplaced the contact info from the other official I spoke with) and can also be confirmed in other zoning documents found here:

http://www.baltimorecountymd.gov/Agencies/planning/zoning/download_plan_parts.html

- If that isn't enough, please consider, for argument, the "residential zone" with the largest acreage outside RC (Resource Conservation) as Ms. Dickinson would have you do, i.e., DR-1 (1 house/acre, DR-2 is 2 hours/acre, etc.). An acre is 43560sq. ft. or roughly 209 x 209 ft. Doesn't it seem silly to write code §421.1 for a "residential zone" as Ms. Dickinson claims applies here when it obviously would never work in practice anyway for even the largest "residential zone" as she wants you to believe it is limited to? Just to have a tiny 50 x 50 ft "kennel" (including all buildings, septic, parking areas, etc. as defined above) In compliance with code §421.1 at **dead center** of a square property would require an area of at least 5 acres! No typical DR "residential zone" today meets this criteria. Outside RC-2, only RC-5 could arguably meet this criteria but it does not permit such a special exception.

3. Next, we invoke code §502.1 G upon §421.1 to RC-2 to convince your Honor that §421.1 applies according to the following arguments.

- a. RC-2 zoning obviously allows for residential use, otherwise neither the Petitioner nor we would have homes to live in.
- b. We live in what many realtors call "Rural Suburbia" or a "Suburban Island" in that despite the surrounding low density agricultural and rural nature of much of northern Baltimore County, the area we live in has 42 residences within less than ½ mile radius. The corridor (henceforth called the "Corridor") formed by Far Out Ln., Akehurst Rd, Abell Ln., and Yeoho Rd consists of many homes on less than 2 acres, most under 5 acres, and a very few like mine with 10 acres or more – all zoned RC-2. This can be verified by your Honor with tax maps or via this County resource at everyone's disposal: <http://myneighborhood.baltimorecountymd.gov/>
- c. The RC-2 zoning of almost all the properties in the Corridor do not reflect the intent of RC-2 zoning today (to foster Agriculture) but is rather the historical residue of old farms and old loopholes in zoning codes further exacerbated by downzoning over the years such that the lots in the Corridor effectively mimic other zoning with the words "residential" in their titles like RC-5, RC-6, and even DR-1, etc.

i. RC-2 zoning has a long and complex history and was always intended to encourage agricultural use and/or the preservation of larger land tracts. RC-2 subdivision was/is not intended for development but rather to enable growing farm families and tenant farmers to have residences attached to the larger associated farm(s). Today, RC-2 zoning is more strict and intended to prevent more than 1 home per 50 acres. Nevertheless, history, loopholes, and, ironically, downzoning, have resulted in many RC-2 "suburban islands" as exist in our Corridor. These are clearly "residential zones" under every intent of code §421.1.

1. Ms. Dickinson's has made repeated attempts, at the Hearing and in her letter, to call her client's property "Agricultural" or suggest same. This is not true. This can be verified in several ways, via tax records or via Mr. Wally Lipincott who oversees farm liaison in the County. I know this because I believe I have the only land in the Corridor that is so classified (in part). It comes with certain agricultural obligations for use which we have and it offers a lower land property tax rate which is subject to a 5% Agricultural Transfer Tax if it is ever developed or taken out of the agricultural program in which it is registered. Moreover, I know from our research in such programs that a minimum of five acres is required after excluding at least a minimum of 1 acre for each dwelling and major non-farm structure. The Petitioner's property, at less than 6 acres in size, is therefore not even eligible for an agricultural designation or use so her attorney should not leverage this even remotely in her arguments.

ii. I have documentary evidence from the County showing some downzone history for my properties, which used to be RC-4 . I presume a similar history follows the Corridor as well as the Petitioner's land and that your Honor has access to even more distant and comprehensive downzoning histories.

1. RC-4 does not offer a special exception for a kennel according to the documentation cited above or any other I could find.

2. RC-2 offers many "advantages" that other zoning classifications don't, such as offering permissible uses and permissible special exceptions other zoning classifications don't such as the kennel exceptions. One has to ask, did the County intend downzoning for this purpose? Clearly not, the intent being to preserve open space and discourage higher density and the problems that come with

higher density—like noise, environmental damage, loss of scenery, etc. The intent for this should be clear from the logic and history of agricultural zoning, i.e., these were presumed to be large tracts of land among other large tracts that could better support such endeavors which would otherwise tend to be cumbersome nuisances to denser residential area as we now have in the Corridor.

3. I therefore conclude that the intent of codes offering special exceptions under RC-2 were not intended for properties of far less than 50 acres near many (at least 34) other properties of 5 acres or less as we have in our Corridor.

Therefore, your Honor, §421.1 is applicable by several arguments and lines of reasoning based on its intent in context with other codes and guidelines presented herein.

Next, in rebuttal to §421.1 Ms. Dickinson writes:

"Further, Ms. Robinson does not run a commercial kennel or veterinary business out of her home; she simply rescues dogs that sleep in her bed and in her kitchen and live in her home like any family pet. She has no dog runs."

This argument is non sequitur and irrelevant to the applicability of code §421.1. Also, let us again point out that her home and her bed, kitchen, garage, etc. ARE part of the "kennel" as clearly defined above under law.

I would like to also add potentially critical information not presented in our previous letter or at the Hearing, namely, that Ms. Robinson's claims at the Hearing that she does not work with and cooperate with her neighbor across the street, Ms. Judith Levenson, a veterinarian at 2007 Far Out Ln. were false. Ms. Levenson is the person that was alluded to at the Hearing who also operates an illegal kennel and we have heard them discuss plans to rescue dogs together on at least two previous occasions, one at a Christmas party at Ms. Levenson's and another while Mr. Krause was getting a haircut from Ms. Swank at the Petitioner's residence when Ms. Levenson came over to chat with Ms. Robinson about same. They were not trying to conceal it at the time but were proud of it. We are in the process of getting testimony/affidavit from another neighbor who has additional evidence in this regard. We suspect that Ms. Robinson and Ms. Levenson are colluding and concealing their cooperation in anticipation of other restrictions that may apply in the event Ms. Levenson seeks a special exception under 421.3 for a veterinarian office and/or her own private kennel.

"Her dogs spend most of the day inside"

Again, irrelevant to §421.1 applicability. And, as our evidence will support, this has only been true since the Hearing as the Petitioner appears to be taking extraordinary precautions now to reduce noise. At least we have some peace now while this matter goes the distance.

"And Ms. Robinson has committed to moving the electric fence to the front of her property, which will be more than 200 feet from the property line"

Ms. Dickinson is clearly hoping that you don't realize the legal definition of "kennel" again as given above and even more that your Honor will be too busy to take a ruler to the Plat she submitted in evidence. If you do that, you will see that the only area the dogs can be confined to, meeting the code definition of "kennel", will be a small irregular plot of space under 9000 sq ft in area well south of her home encompassing the "Spring House". Please see the 50% reduced copy of the Plat the Petitioner submitted as an exhibit that I have included with this letter and marked to scale showing the area actually permitted for Petitioner's entire kennel operation (home, fenced area, parking areas, septic, etc.). Is Ms. Robinson planning on moving and shrinking her home and driveway into this area to give her dogs room to run? For it is clear that all those things are part of the "kennel" for the purposes of the law.

"Her septic system, which is within 200 feet of the property line is used for herself and her housemate and child, not a business.... ... the private kennel has no impact at all on the septic system."

At the Hearing the Petitioner mentions having had a special septic system for her dogs added to the existing system. Where is that your Honor and how is it integrated with the main system, if at all? They won't tell us and now seem to pretend they never said anything about it. The Plat the Petitioner submitted clearly indicates at least part of her septic system (the "clean out") and potentially much more lay on our property by 25 – 30 feet NOT INCLUDING required setbacks. If you examine the Plat with the placement of her driveway and other structures it simply is not credible that the County-mandated 10000 sq ft septic field (possibly 100 x 100ft or 200 x 50 ft, etc.) could be outside the 200 ft limit of code §421.1 as Ms. Dickinson claims and maintain the required setbacks from buildings, wells, etc. She is not telling the truth when she says that she has provided the information we requested. All she provided was the same statement verbally to our attorney, Mr. Sellman, as she wrote your Honor in writing. That is not satisfactory. Would you accept that? They have not been forthcoming at all. And again, the definition of "kennel" includes the septic system.

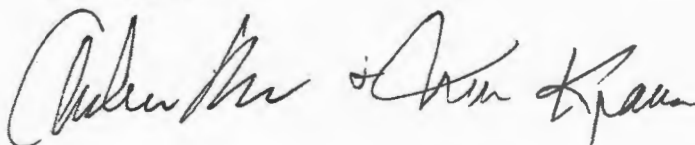
"Even if the Court were inclined to consider such near hearsay evidence, it is inaccurate. Indeed, the Department of Planning issued its Recommendation after "review of the petition and site plan and subsequent site visit"

Yes, it does say that - unfortunately. We would like the opportunity to introduce evidence that this was nonetheless inaccurate. We don't wish to get Mr. Lippincott in trouble – he appears to be a fine public servant, just overworked perhaps. He's the only public official who ever apologized to us for a mistake – in this case for using his general knowledge of the area instead of making an actual site visit. In any

case, given the tree breaks and other measures the Petitioner has put up, a rushed public official could easily have overlooked my property and pond and other relevant pitfalls having relied primarily on verbal descriptions from Ms. Dickinson. Again, this could all be handled by a fair Special Hearing where we could present this evidence. What is the Petitioner afraid of? In any case, I don't think this is a critical argument for our case anyway and can easily be dismissed in favor of all our other arguments – especially for §421.1.

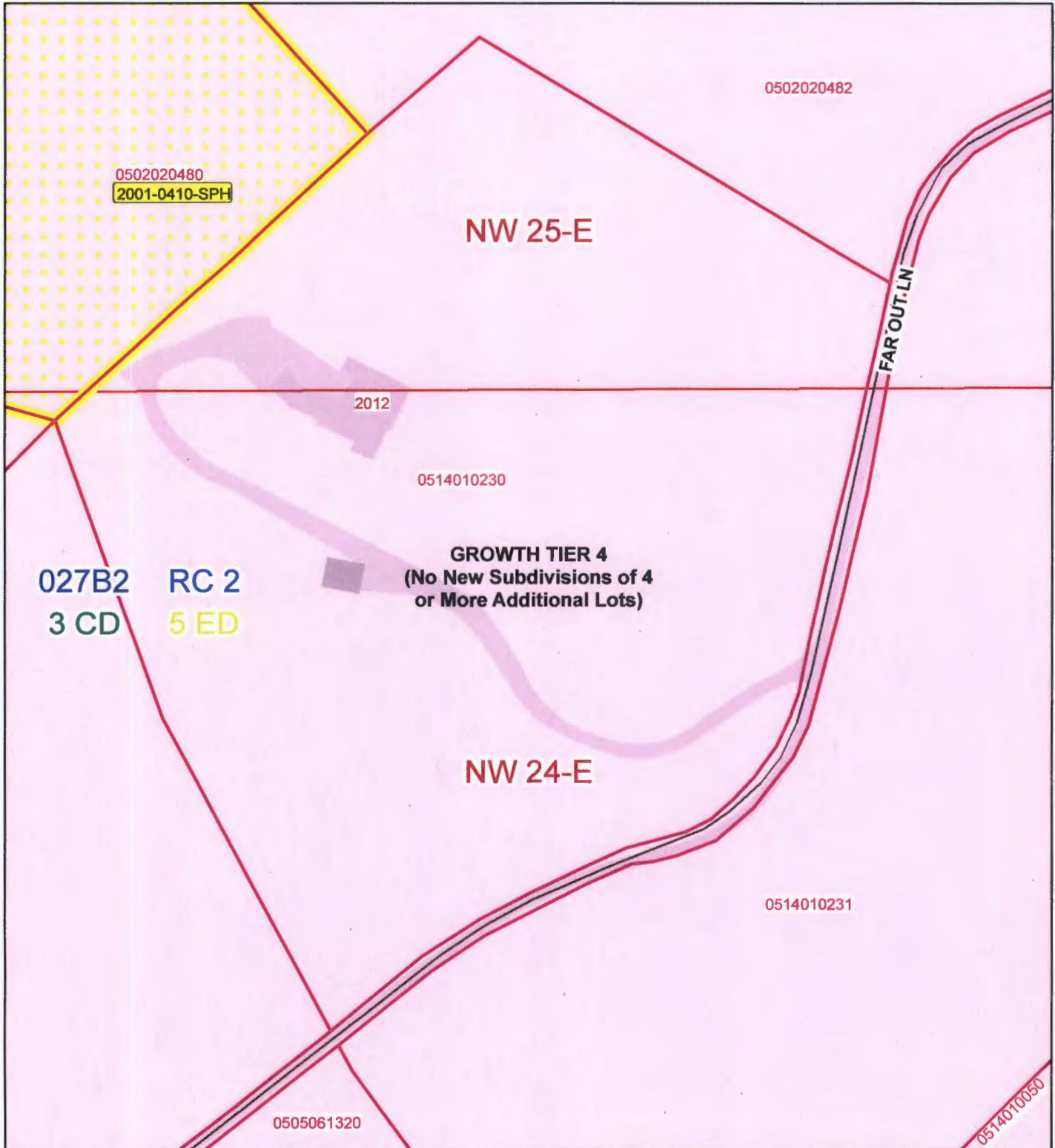
So in conclusion, your Honor, Ms. Dickinson's arguments against the applicability of Code 421.1 are flimsy at best and misleading at worst. We believe she is clearly betting your Honor can be distracted and snowed like the other County officials apparently were in letting this get past them via fast talking and obfuscation, the same tactics she uses in her letter (and to us from the outset). Please don't let her get away with this further as it wastes our time, your Honor's time, and the Countys resources if she is allowed to continue.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Andrew and Noreen Krause". The signature is written in dark ink and is positioned above the printed names.

Andrew and Noreen Krause

2012 Far Out Lane



Publication Date: 10/20/2014



Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 25 50 100 150 200 Feet

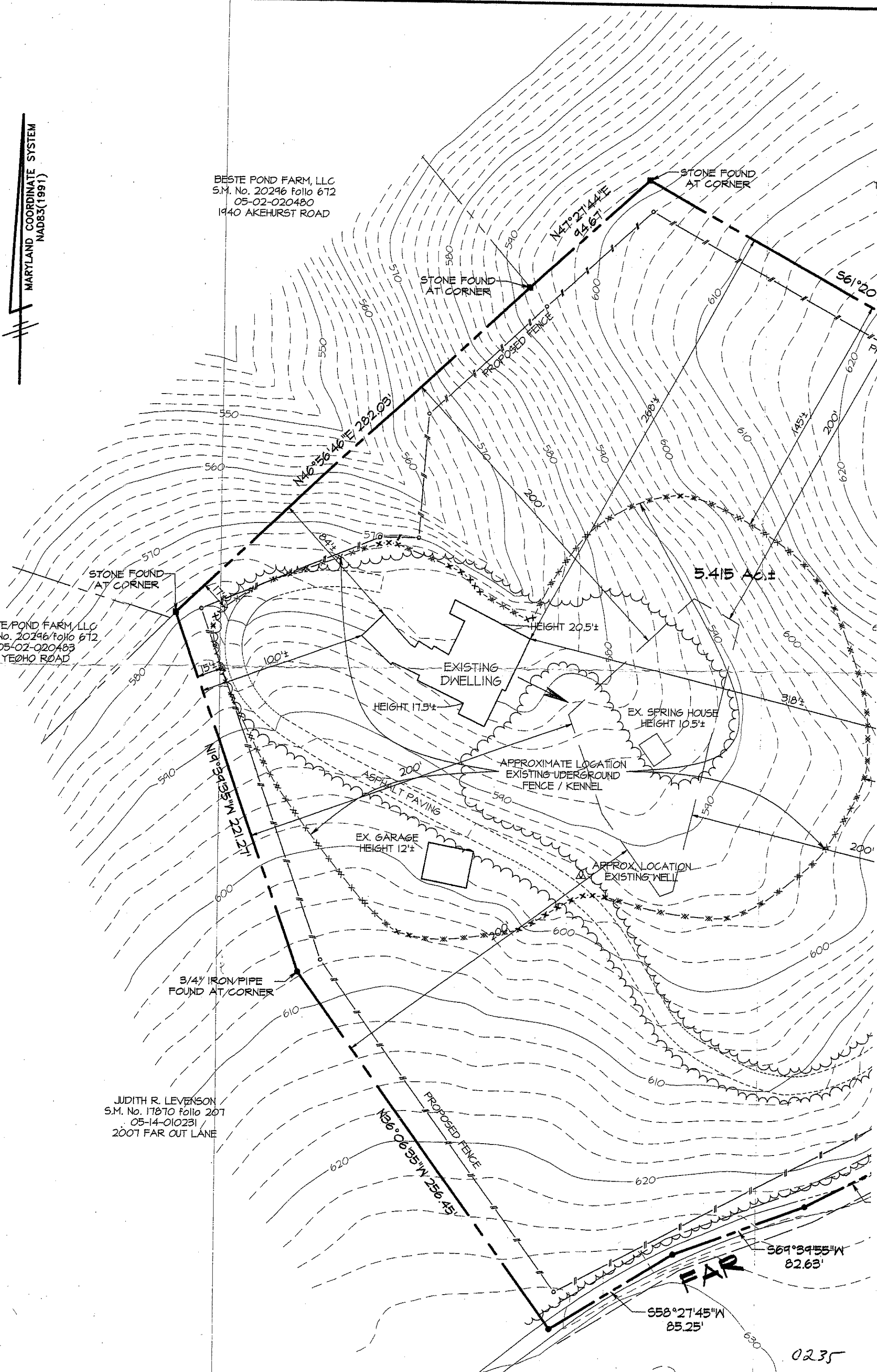
1 inch = 100 feet

MARYLAND COORDINATE SYSTEM
NAD83(1991)

BESTE POND FARM, LLC
S.M. No. 20296 folio 672
05-02-020480
1940 AKEHURST ROAD

BESTE POND FARM, LLC
S.M. No. 20296 folio 672
05-02-020483
YECHO ROAD

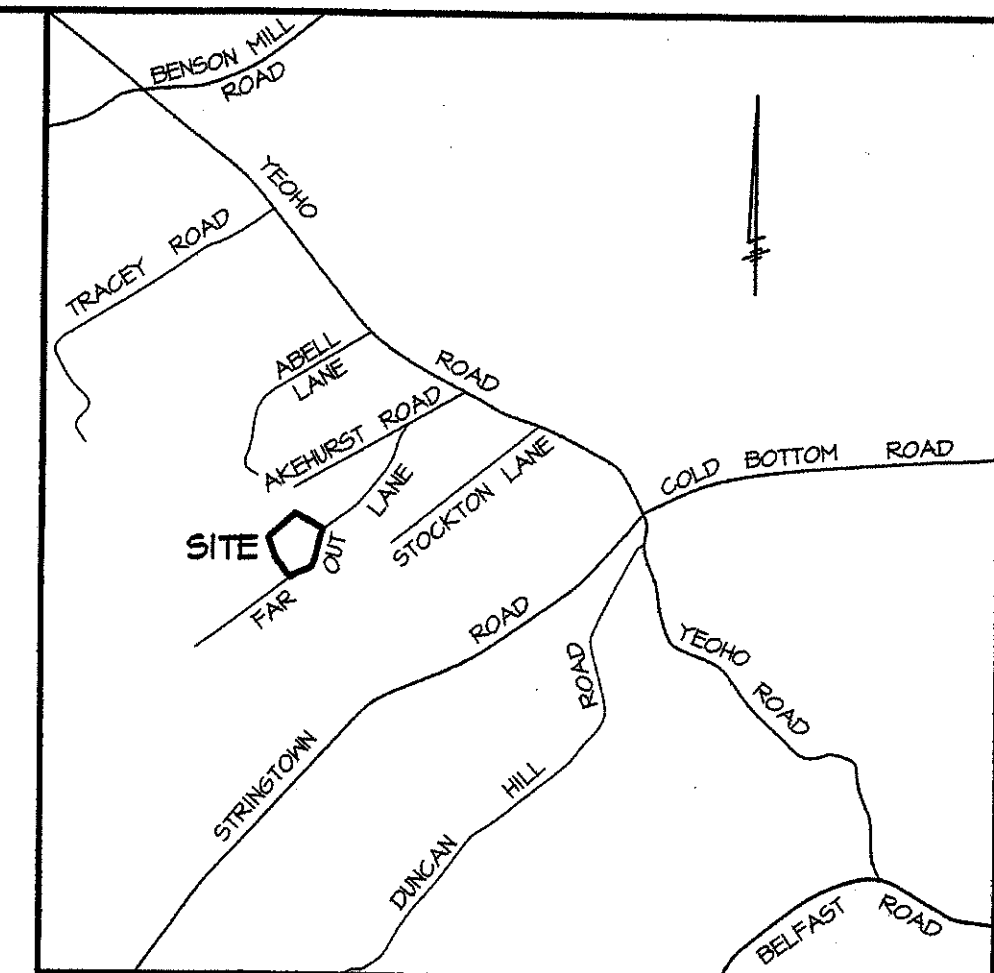
JUDITH R. LEVENSON
S.M. No. 17870 folio 207
05-14-010231
2007 FAR OUT LANE



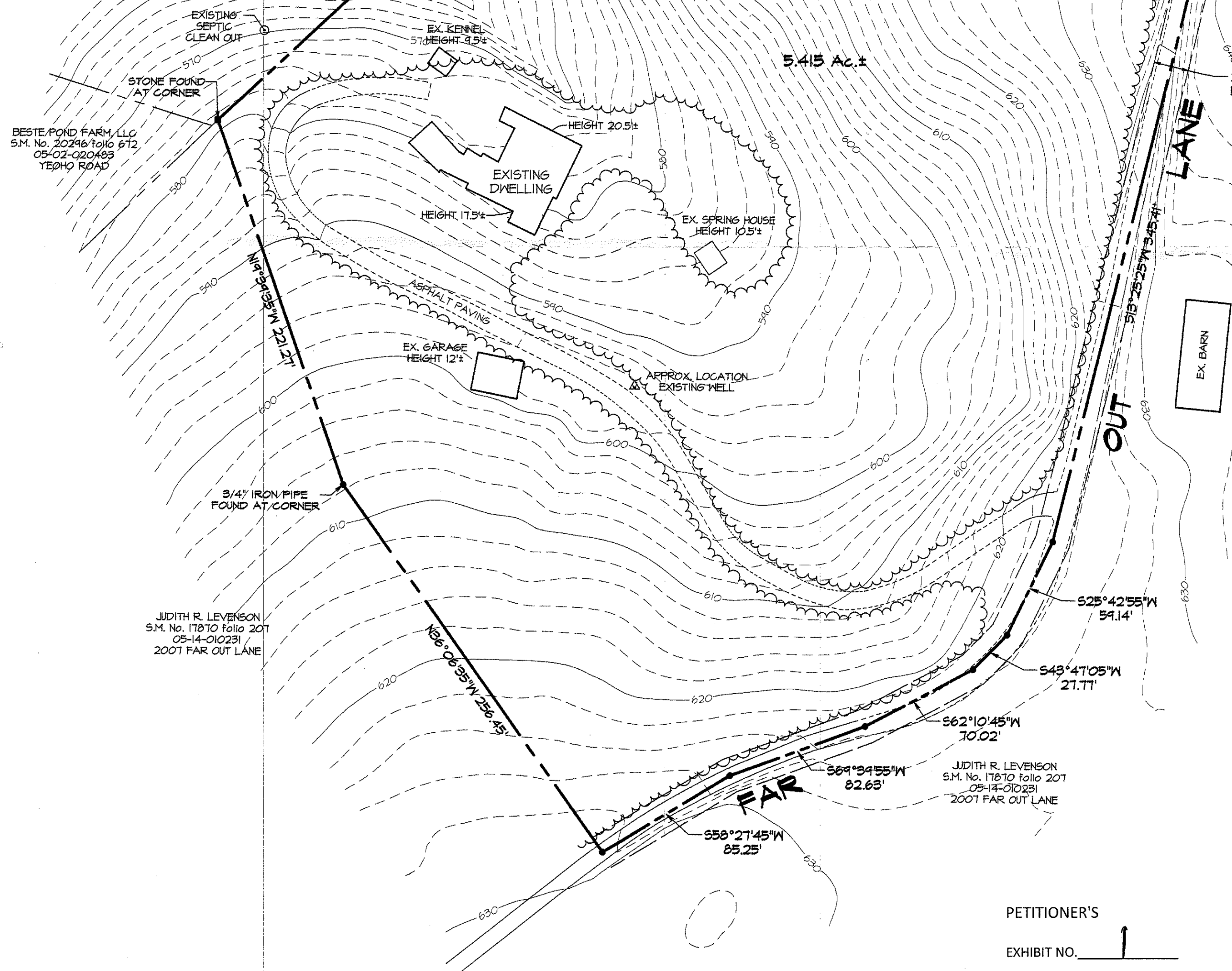
MARYLAND COORDINATE SYSTEM
NAD83(1991)

BESTE POND FARM, LLC
S.M. No. 20296 folio 672
05-02-020480
1440 AKEHURST ROAD

THE FLYING J. RANCH, LLC
S.M. No. 20680 folio 552
05-02-020482
YECHO ROAD



VICINITY MAP
1" = 2000'



GENERAL NOTES

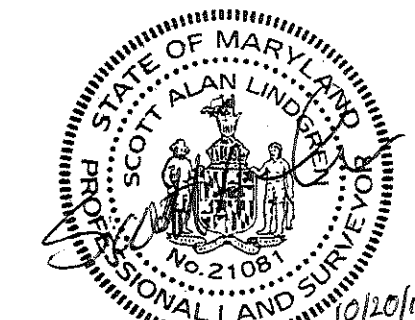
1. THE BOUNDARY SHOWN HEREON IS FROM A SURVEY BY GERHOLD, CROSS & ETZEL, LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 027B2.
3. CENSUS TRACT: 40500 REGIONAL PLANNING DISTRICT: 302
WATERSHED: LOCH RAVEN RESERVOIR SUBSIDED: BLACKROCK RUN
SCHOOL DISTRICT: ELEMENTARY - FIFTH DISTRICT; MIDDLE - HEREFORD; HIGH - HEREFORD
A.D.C. MAP & GRID: 11 G-3
4. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
5. THE SUBJECT PROPERTY IS NOT HISTORIC. THE SUBJECT PROPERTY IS WITHIN THE WESTERN RUN - BELFAST NATIONAL REGISTER HISTORIC DISTRICT.
6. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
7. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
8. THE SUBJECT PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN.
9. THE PROPERTY IS SERVED BY A PRIVATE WELL AND SEPTIC SYSTEM.

SPECIAL EXCEPTION REQUEST:
TO APPROVE A PRIVATE KENNEL

OWNER/DEVELOPER
CATHERINE H. ROBINSON
2012 FAR OUT LANE
SPARKS, MD 21152
410-979-7539

PLAT TO ACCOMPANY A PETITION
FOR A SPECIAL EXCEPTION
FOR THE
ROBINSON RESIDENCE

2012 FAR OUT LANE
Deed Ref: S.M. No. 10141 folio 153
Tax Account No.: 05-14-010230
Zoned: RC 2; GIS Tile 027B2
Tax Map 0027; Grid 0015; Parcel 0182
5th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND



LICENSE EXPIRES/RENEWS 2/26/15

REVISED: 10/20/14

GERHOLD, CROSS & ETZEL, LTD
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
PH: (410)823-4470 FAX: (410)823-4473

DATE: 8/27/14 SCALE: 1" = 50'

PETITIONER'S

EXHIBIT NO. 1

MARYLAND COORDINATE SYSTEM
NAD83 (1981)

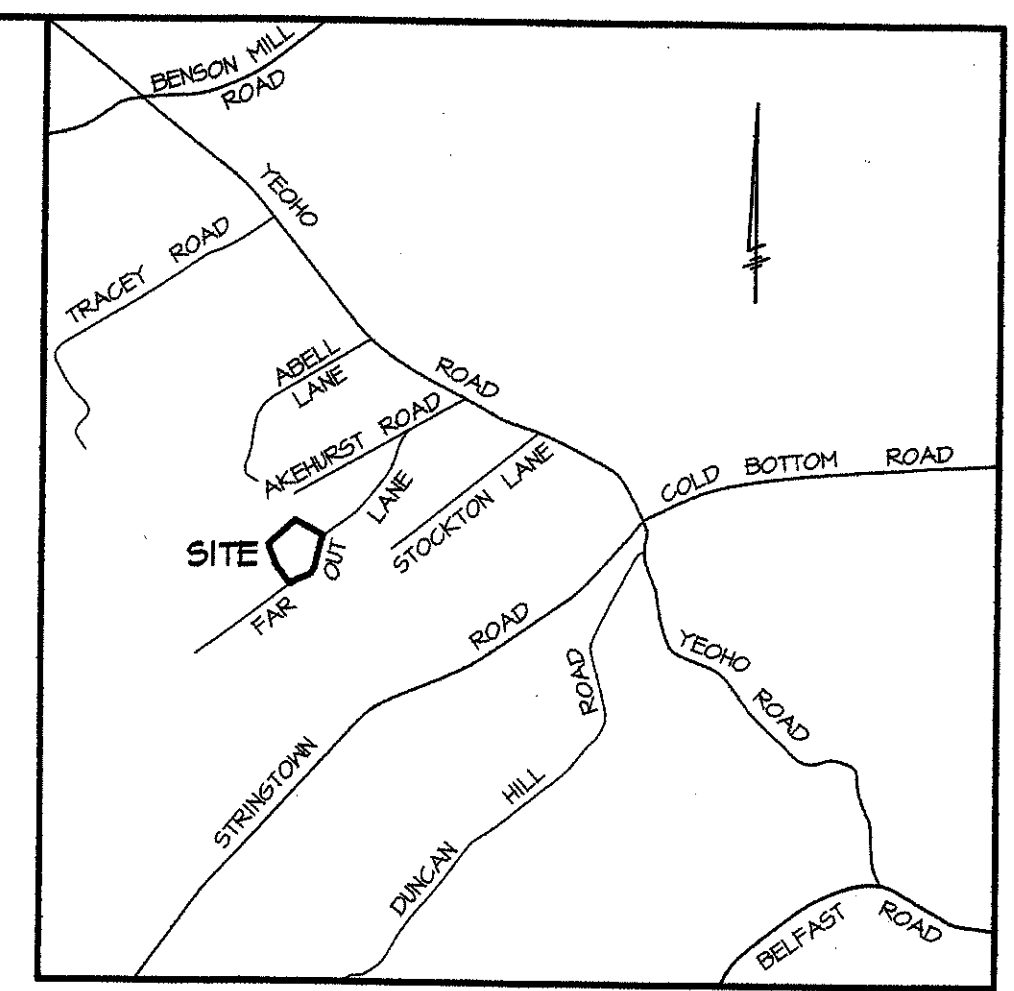
BESTE POND FARM, LLC
S.M. No. 20246 folio 672
05-02-020480
1940 AKEHURST ROAD

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VICINITY MAP
1" = 2000'

GENERAL NOTES

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REVISED: 10/20/14

DATE: 8/21/14

SCALE: 1" = 50'

2015-0092-X

#0092