

IN RE: PETITION FOR SPECIAL HEARING *

(3013 Third Avenue)

11th Election District *

5th Council District *

Cheryl Frederick *

Legal Owner

Petitioner *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2015-0277-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Cheryl Frederick, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a home based business for the assembly (manufacturing) of firearms.

Appearing at the public hearing in support of the request was Kevin Frederick, a nephew of the owner, who resides at the subject premises. Bruce E. Doak, a licensed surveyor, assisted the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC) comments received. Several community members attended the hearing and submitted letters to express opposition to the special hearing request.

Mr. Frederick testified he is a firearms enthusiast, and has a federal license as a firearms dealer. He would like to begin a business in his home, where he would assemble and customize firearms. He advised that he needed zoning approval before applying for federal and state licensure that would enable him to conduct such a business. Mr. Frederick appeared to be a trustworthy and upstanding individual, and it is apparent that he is knowledgeable and passionate about this line of

ORDER RECEIVED FOR FILING

Date 7/28/15

By Sen

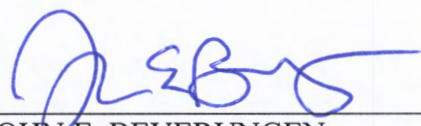
work. Unfortunately, the manufacture or customization of firearms is simply not a genre of "home based business" permitted under the B.C.Z.R.

Ruth Baisden, president of the Greater Parkville Community Coalition (GPCC), provided copies of a circuit court opinion in a case known as Kravitz (Case No. 96-112-SPH). In that matter, the owner sought permission to reload ammunition and sell firearms from a residential property in Baltimore County as a "home occupation." The court denied the request, and held that only uses of a domestic nature (i.e., cooking or sewing) are permitted as "home occupations" under the B.C.Z.R. For similar reasons, I believe that Mr. Frederick's proposed business would not constitute a "home occupation," and the request must therefore be denied.

THEREFORE, IT IS ORDERED this 28th day of **July, 2015** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to allow a home based business for the assembly (manufacturing) of firearms, be and is hereby DENIED.

Any appeal of this decision must be filed 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 7/28/15

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 3013 3RD AVENUE BALTIMORE MD 21234 which is presently zoned DR55

Deed References: JM 23399/1 10 Digit Tax Account # 1122000125

Property Owner(s) Printed Name(s) CHERYL FREDERICK

(SELECT THE HEARING(S) BY MARKING ☒ 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

SEE ATTACHED SHEET

- TO ALLOW A HOME BASED BUSINESS FOR THE ASSEMBLY (MANUFACTURING) OF FIREARMS
2. ☐ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for

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)

TO BE PRESENTED AT THE HEARING

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

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

CHERYL FREDERICK

Name #1 - Type or Print

Name #2 - Type or Print

Cheryl Frederick

Signature #1

Signature #2

2316 Killoran Rd, Timonium, MD

Mailing Address

City

State

21093 443-622-6119 Cheryl@LNF.com

Zip Code

Telephone #

Email Address

Representative to be contacted:

BRUCE DANK

BRUCE E. DANK CONSULTING

Name - Type or Print

B E D

Signature

3801 BAKER SCHOOLHOUSE ROAD FREDERICK MD

Mailing Address

City

State

21053 410-419-9906 BDANK@

Zip Code

Telephone #

Email Address

BRUCE@DANKCONSULTING.COM

CASE NUMBER 2015-0277-SPH Filing Date 6/2/15

Do Not Schedule Dates: Reviewer JS

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

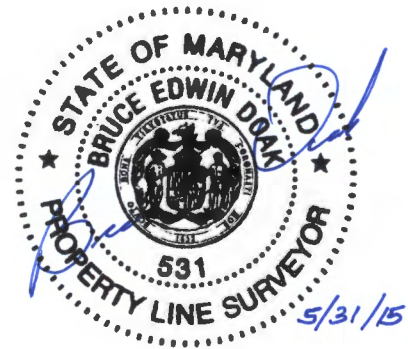
Zoning Description

3013 Third Avenue
Eleventh Election District Fifth Councilmanic District
Baltimore County, Maryland

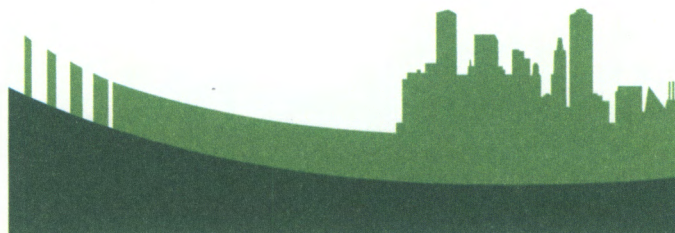
Beginning at a point on the southwest side of Third Avenue, approximately 405 feet +- southeasterly of the southeast side of Harford Road, thence leaving the southwest side of Third Avenue and running the three following courses and distances, viz. 1) South 44 degrees 08 minutes West 100.00 feet, 2) South 45 degrees 52 minutes East 40.00 feet, and 3) North 44 degrees 08 minutes East 100.00 feet to the southwest side of Third Avenue, thence running and binding on the southwest side of Third Avenue 4) North 45 degrees 52 minutes West 40.00 feet to the place of beginning.

Containing 4,000 square feet of land, more or less.

This description is part of a zoning hearing petition and is not intended for any conveyance purposes.



2015-0277-SPH



Land Use Expert and Surveyor

**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/neighbor 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: 2015-0277-SPH

Property Address: 3013 THIRD AVENUE

Property Description: SOUTHWEST SIDE OF THIRD AVENUE, 405'± SOUTHEAST
OF HARFORD ROAD

Legal Owners (Petitioners): CHERYL FREDERICK

Contract Purchaser/Lessee: NA

PLEASE FORWARD ADVERTISING BILL TO:

Name: KEVIN FREDERICK

Company/Firm (if applicable): NA

Address: 3013 THIRD AVENUE
BALTIMORE MD 21234

Telephone Number: 410-361-0168

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 2, 2015 Issue - Jeffersonian

Please forward billing to:
Kevin Frederick
3013 Third Avenue
Baltimore, MD 21234

410-361-0168

NOTICE OF ZONING HEARING

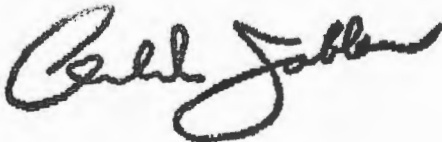
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2015-0227-SPH

3013 Third Avenue
SW/s Third Avenue, 435 ft. SE of the centerline of intersection with Harford Road
11th Election District – 5th Councilmanic District
Legal Owners: Cheryl Frederick

Special Hearing to allow a home based business for the assembly (manufacturing) of firearms.

Hearing: Thursday, July 23, 2015 at 11:00 a.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 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 HEARING * BEFORE THE OFFICE
3013 Third Avenue; SW/S Third Avenue, *
435' SE of c/line of intersection Harford Road * OF ADMINISTRATIVE
11th Election & 5th Councilmanic Districts *
Legal Owner(s): Cheryl Frederick * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2015-277-SPH

* * * * *

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

JUN 11 2015

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 11th day of June, 2015, a copy of the foregoing Entry of Appearance was mailed to Bruce Doak, 3801 Baker Schoolhouse Road, Freeland, Maryland 21053, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

July 5, 2015

Re:

Zoning Case No. 2015-0277-SPH

Petitioner / Owner: Cheryl Frederick

Date of Hearing: July 23, 2015

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 **3013 Third Avenue**.

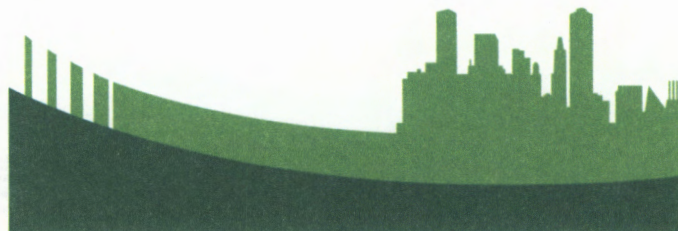
The signs were posted on **July 02, 2015**.

Sincerely,

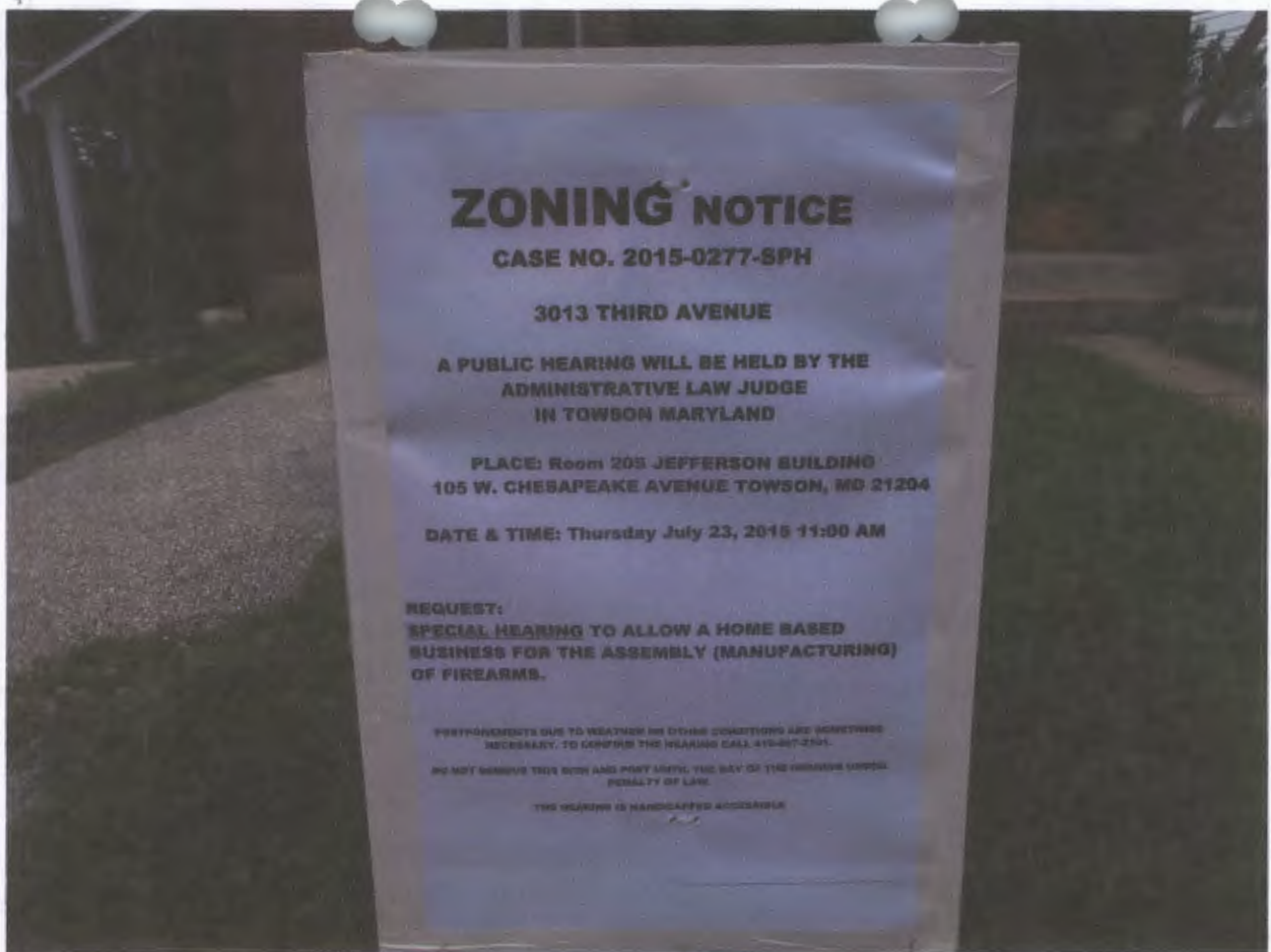


Bruce E. Doak
MD Property Line Surveyor #531

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



Land Use Expert and Surveyor





501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 3389996

Sold To:

Kevin Frederick - CU00453764
3013 3rd Ave
Parkville, MD 21234-3205

Bill To:

Kevin Frederick - CU00453764
3013 3rd Ave
Parkville, MD 21234-3205

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Jul 02, 2015

The Baltimore Sun Media Group

By

S. Wilkinson

Legal Advertising

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: # 2015-0227-SPH

3013 Third Avenue
SW/s Third Avenue, 435 ft. SE of the centerline of
intersection with Harford Road
11th Election District - 5th Councilmanic District
Legal Owner(s) Cheryl Frederick

Special Hearing: to allow a home based business for the
assembly (manufacturing) of firearms.

**Hearing: Thursday, July 23, 2015 at 11:00 a.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.

7/002 July 2

3389996



KEVIN KAMENETZ
County Executive

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

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: 2015-0277-SPH

3013 Third Avenue

SW/s Third Avenue, 435 ft. SE of the centerline of intersection with Harford Road

11th Election District – 5th Councilmanic District

Legal Owners: Cheryl Frederick

Special Hearing to allow a home based business for the assembly (manufacturing) of firearms.

Hearing: Thursday, July 23, 2015 at 11:00 a.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: Cheryl Frederick, 2316 Killoray Road, Timonium 21093
Bruce Doak, 3801 Baker Schoolhouse Road, Freeland 21053

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, JULY 3, 2015.**
- (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.

Case No.:

2015-0277-SPH

Exhibit Sheet

Petitioner/Developer

DW
9-8-15

Protestants

Sen
7-28-15

No. 1	Plan	internet advertisement
No. 2	Aerial Photo	photos
No. 3	Deed to Prop.	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



This data
inaccurate
warrant t
regard to
implied, c
County, M
but not li
attorneys
from or in connection with the use of or reliance upon

PETITIONER'S

EXHIBIT NO.

2

This data may be
does not
as with
or
more
iding
sing

①

0023349 001

WHEN RECORDED RETURN TO:

3840-06-00295

Cheryl Frederick
2316 Killoran Road
Baltimore, MD 21234

11-22-000425

THIS DEED, Made this 7th day of February, 2006, by and between Patricia Ann Reinsfelder, party of the first part, Grantor, and Cheryl Frederick, party of the second part, Grantee.

WITNESSETH, that in consideration of the sum of **Two Hundred Thirty Thousand and 00/100 DOLLARS (\$230,000.00)** and other good and valuable consideration, the receipt whereof is hereby acknowledged, the said party of the first part does grant and convey unto the said party of the second part, her heirs, Personal Representatives and assigns, in fee simple, all that lot or parcel of ground situate in Baltimore County, State of Maryland, and described as follows:

BEING KNOWN AND DESIGNATED as Lots Nos. 269 and 270 on the Plat of the tract of land known as Carney Heights, which Plat is recorded among the Plat Records of Baltimore County in Plat Book 6, folio 158.

The improvements thereon being known as 3013 Third Avenue.

BEING the same property which by Deed dated May 9, 2002 and recorded among the Land Records of Baltimore County in Liber No. 16495, folio 121, was granted and conveyed by Francis Joseph Reinsfelder and Patricia Ann Reinsfelder unto Patricia Ann Reinsfelder, the Grantor herein.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said lots of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said party of the second part, her heirs, Personal Representatives and assigns, in fee simple.

AND the said party of the first part hereby covenants that she has not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed; that she will warrant specially the property granted and that she will execute such further assurances of the same as may be requisite.

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland Attorney.

Carol Ann Wildesen

Carol Ann Wildesen, Attorney

PETITIONER' S

EXHIBIT NO.

3

0023399 002

CERTIFICATE OF EXEMPTION FROM WITHHOLDING
Upon Disposition of Maryland Real Property

AFFIDAVIT OF RESIDENCE OR PRINCIPAL RESIDENCE

TRANSFEROR CLAIMS EXEMPTION, based on the certifications below, from the tax withholding requirements of the Annotated Code of Maryland, Tax General Article, Section 10-912 which requires that tax payments are required to be withheld when a deed or other instrument is recorded and affects a change of ownership. The requirements of withholding DO NOT apply when a transferor of real property executes a certification of Maryland residence OR a certification that the property transferred is the principal residence of the transferor.

A.**TRANSFEROR INFORMATION****NAME OF TRANSFEROR:**

Patricia Ann Reinsfelder

B.**REASON FOR EXEMPTION****RESIDENT STATUS**

☒ I, the Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity under Section 10-912(A)(4) of the Tax General Article of the Annotated Code of Maryland, I am an agent of the Transferor, and I have the authority to sign this document on behalf of the Transferor.

PRINCIPAL RESIDENCE

☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in the Internal Revenue Code, Section 121 and recorded as such with the State Department of Assessments & Taxation.

The undersigned transferor, under the penalties of perjury, certifies that I have examined this declaration and to the best of my knowledge, that it is true, correct and complete.

C.**INDIVIDUAL TRANSFEROR**

Witness

Name (Printed)

Signature

D.**ENTITY TRANSFEROR**

Witness/Attest

Name of Entity (Printed)

By:

Name

Title

NRT File No. 3840-06-00295
 Property: 3013 Third Avenue, Baltimore, MD 21234

X County: Baltimore County

0023399 004

1	Type(s) of Instruments	(X) Check Box if Addendum Intake Form is Attached																							
		1 Deed ☐ Mortgage ☐ Other ☐ Other ☐		2 Deed of Trust ☐ Lease ☐ 3 Deed of Trust ☐																					
2	Conveyance Type Check Box	[X] Improved Sale ☐ Unimproved Sale ☐ Multiple Accounts ☐ Not an Arms-Length Sale [9] Arms-Length[1] Arms-Length[2] Arms-Length[3]																							
3	Tax Exempt (If Applicable) Cite or Explain Authority	Recordation: _____ State Transfer: _____ County Transfer: _____																							
4	Consideration And Tax Calculations	Consideration Amount Purchase Price/Consideration \$ 230,000.00 Any New Mortgage \$ 184,000.00 Balance of Existing Mortgage \$ _____ Other: DOT \$ 23,000.00 Other: \$ _____ Full Cash Value \$ _____				Finance Office Use Only Transfer and Recordation Tax Consideration Transfer Tax Consideration \$ _____ X ()% = \$ _____ Less Exemption Amount - \$ _____ Total Transfer Tax = \$ _____ Recordation Tax Consideration \$ _____ X () per \$500 = \$ _____ TOTAL DUE \$ _____																			
5	Fees	Amount of Fees Recording Charge \$20.00 Surcharge \$20.00 State Recordation Tax \$1,150.00 State Transfer Tax \$1,150.00 County Transfer Tax \$3,450.00 Other \$ _____ Total Fees \$ _____				Doc. 1 Doc. 2 Agent: _____ Tax Bill: _____ C.B. Credit _____ Ag. Tax/Other: _____																			
6	Description of Property	SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i). District _____ Property Tax ID No. (1) 11 1122000425 Grantor Liber/Folio 16495 / 121 Map _____ Parcel No. _____ Var. LOG ☐ (s) Subdivision Name _____ Lot (3a) _____ Block (3b) _____ Sect/AR(3c) _____ Plat Ref. _____ Sq.Ft./Acreage(4) _____ Carney Heights _____ Location/Address of Property Being Conveyed (2) 3013 Third Avenue, Baltimore, MD 21234 Other Property Identifiers (If applicable) _____ Water Meter Account No. _____ Residential ☒ or Non-Residential ☐ Fee Simple ☒ or Ground Rent ☐ Amount: _____ Partial Conveyance? ☐ Yes ☒ No Description/Amt. of SqFt/Acreage Transferred: _____ If Partial Conveyance, List Improvements Conveyed: _____ Doc. 1 - Grantor(s) Name(s) _____ Doc. 2 - Grantor(s) Name(s) _____ Patricia Ann Reinsfelder _____ Cheryl Frederick _____ Doc. 1 - Owner(s) of Record, if different from Grantor(s) _____ Doc. 2 - Owner(s) of Record, if Different from Grantor(s) _____ Doc. 1 - Grantee(s) Name(s) _____ Doc. 2 - Grantee(s) Name(s) _____ Cheryl Frederick _____ First Horizon Home Loan Corporation _____ New Owner's (Grantee) Mailing Address 2316 Killoran Rd Timonium MD 21083 Doc. 1 - Additional Names to be Indexed (Optional) _____ Doc. 2 - Additional Names to be Indexed (Optional) _____																							
7	Transferred From																								
8	Transferred To																								
9	Other Names to Be Indexed																								
10	Contact/Mail Information	Instrument Submitted By or Contact Person ☐ Return to Contact Person Name: LINDA DENTON NRT File #3840-06-00295 Firm: NRT Mid-Atlantic Title Services, LLC ☐ Hold for Pickup Address: 11350 McCormick Road, #200, Executive Plaza III Hunt Valley, MD 21031 ☒ Return Address Provided Phone: (410-252-1208) Date Sent: 2/9/2006																							
11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER	Assessment Yes X No Will the property being conveyed be the grantee's principal residence? Information Yes X No Does transfer include personal property? If yes, identify: Yes X No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required). Assessment Use Only - Do Not Write Below This Line ☐ Terminal Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification Transfer Number: _____ Date Received: _____ Deed Reference _____ Assigned Property No. _____ <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>Geo.</td> <td>Map</td> <td>Sub</td> <td>Block</td> </tr> <tr> <td>Zoning</td> <td>Grid</td> <td>Plat</td> <td>Lot</td> </tr> <tr> <td>Use</td> <td>Parcel</td> <td>Section</td> <td>Occ Cd.</td> </tr> <tr> <td>Town Co.</td> <td>Ex. St.</td> <td>Ex. Cd.</td> <td></td> </tr> </table>								Geo.	Map	Sub	Block	Zoning	Grid	Plat	Lot	Use	Parcel	Section	Occ Cd.	Town Co.	Ex. St.	Ex. Cd.	
Geo.	Map	Sub	Block																						
Zoning	Grid	Plat	Lot																						
Use	Parcel	Section	Occ Cd.																						
Town Co.	Ex. St.	Ex. Cd.																							

0023999 685

Addendum State of Maryland Land Instrument Intake Sheet
[] Baltimore City [X] County: Baltimore

*The addendum form should be used when one transaction involves more than two instruments.
 Each instrument should be itemized in accordance with Section No. 1 of the Intake Sheet.
 (Type or Print in Black Ink Only—All Copies Must Be Legible)*

5 (Continued) Fees	Amount of Fee	Doc. 3	Doc. 4	Doc. 5	Doc. 6
	Recording Charge	\$ 15.00	\$	\$	\$
	Surcharge	\$ 20.00	\$	\$	\$
	State Recordation Tax	\$	\$	\$	\$
	State Transfer Tax	\$	\$	\$	\$
	County Transfer Tax	\$	\$	\$	\$
	Other	\$	\$	\$	\$
7 (Continued) Transferred From	Doc. 3 - Grantor(s) Name(s)	Cheryl Frederick			
	Doc. 4 - Grantor(s) Name(s)				
	Doc. 5 - Grantor(s) Name(s)				
	Doc. 6 - Grantor(s) Name(s)				
	Doc. 3 - Owner(s) of Record, if Different from Grantor(s)				
	Doc. 4 - Owner(s) of Record, if Different from Grantor(s)				
8 (Continued) Transferred To	Doc. 3 - Grantee(s) Name(s)	First Horizon Home Loans			
	Doc. 4 - Grantee(s) Name(s)				
	Doc. 5 - Grantee(s) Name(s)				
9 (Continued) Other Names to be Indexed	Doc. 3 - Additional Names to be Indexed (Optional)				
	Doc. 4 - Additional Names to be Indexed (Optional)				
	Doc. 5 - Additional Names to be Indexed (Optional)				
Special Instructions	Special Recording Instructions (if any)				

11-22-000425

RECORDATION TAX NOT REQUIRED
 Director of Budget and Finance
 BALTIMORE COUNTY, MARYLAND
 T.P. ART 12-108

DOC # 2 84 4 5 6
 Initial: _____
 Date 2/14/00

NRT Mid-Atlantic Title Services, LLC
 11350 McCormick Road, Suite 200
 Executive Plaza III
 Hunt Valley, MD 21031
 410-252-1208
 File #3840-08-00295
 3013 Third Avenue, Baltimore

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 23399, p. 0005, MSA_CE62_23254, Date available 03/08/2006, Printed 05/24/2015.

Distribution: White - Clerk's Office
 Canary - SDAT
 Pink - Office of Finance
 Goldenrod - Preparer
 AOC-CC-301(6/95)

[Create an Account](#) | [Login](#)

ARMSLIST

FIREARMS MARKETPLACE

[CREATE A LISTING](#)[Power Search](#)[Home](#) [Maryland](#) [Rifles](#) [For Sale: In Stock! Anodized 80% AR-15 lower receivers and milling jigs](#)

FOR SALE: IN STOCK! ANODIZED 80% AR-15 LOWER RECEIVERS AND MILLING JIGS

post id: 1862927

share: [f](#) [e](#) [t](#) [p](#)

Price: \$ 45
Seller: Private Party
Account: Registered on 10/10/2013
[Listings by this user](#)

Listed On: Tuesday, July 21, 2015
Listed In: Rifles
Location: Baltimore, Maryland, United States - [Map](#)
Shipping: Yes

Action: Semi-automatic
Firearm Type: Rifle

[Flag](#) | [Edit](#) | [Favorite](#)[Contact Seller](#)

Raw Forged 80% 7075 AR Lower Receivers \$45 each
 Anodized Forged 80% 7075 AR Lower Receivers \$50 each

Milling Jigs \$75 each
 Milling Jigs w/ tools \$100 each
 Milling tools \$25 each

Sales orders for your records are available.

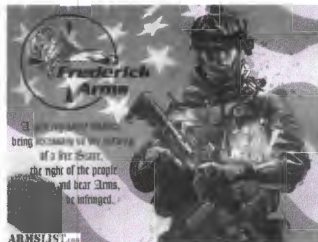
Pick-ups available by appt only. Cash or credit.

Shipping for 1 item is \$12.00 and 20.00 for most others (10-12 items max). If you think you might have shipping issues based on the size of your order, Please contact us prior to sending payment.

Please send check or money order made payable to Frederick Arms Corporation to:

Frederick Arms Corporation
 3013 Third Ave.
 Baltimore, MD 21234

Kevin Frederick
 Frederick Arms Corporation

[Contact Seller](#)

Server Error

404 - File or directory not found.

The resource you are looking for might have been removed, had its name changed, or is temporarily unavailable.

Server Error

404 - File or directory not found.

The resource you are looking for might have been removed, had its name changed, or is temporarily unavailable.

PROTESTANT' S

EXHIBIT NO. 1

Keep up with the latest from the **ARMSLIST** Media Channel!!



PROTESTANT'S

EXHIBIT NO. 2



MEMORANDUM

DATE: September 8, 2015
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2015-0277-SPH - Appeal Period Expired

The appeal period for the above-referenced case expired on August 27, 2014. 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

CASE NAME FRODOXIE PROPERTY
CASE NUMBER 2015-277-SP4
DATE 7/23/15

[illegible]

DATE _____

2015-277-SPH

7/23/2015

CITIZEN'S SIGN - IN SHEET

[illegible]

CASE NO. 2015- 0277-SPH

CHECKLIST

Comment
Received

Department

Support/Oppose/
Conditions/
Comments/
No Comment

6/17

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

n/c

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

FIRE DEPARTMENT

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

6/10

STATE HIGHWAY ADMINISTRATION

no Obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION - letters of opposition

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

~~PRIOR ZONING~~ (Case No. 1994-0176-A)

NEWSPAPER ADVERTISEMENT Date: 7/2/15

SIGN POSTING Date: 7/2/15 by DOCK

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Real Property Data Search (w2)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration			
Account Identifier:		District - 11 Account Number - 1122000425							
Owner Information									
Owner Name:		FREDERICK CHERYL				Use:		RESIDENTIAL	
Mailing Address:		2316 KILLORAN RD LUTHERVILLE TIMONIUM MD 21093-2552				Principal Residence: Deed Reference:		NO /23399/ 00001	
Location & Structure Information									
Premises Address:		3013 THIRD AVE BALTIMORE 21234-				Legal Description:		LTS 269.270 3013 THIRD AVE CARNEY HEIGHTS	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No: Plat Ref:
0071	0015	1098		0000			269	2015	0006/ 0158
Special Tax Areas:					Town: Ad Valorem: Tax Class:		NONE		
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area		Property Land Area		County Use	
1954		1,260 SF		480 SF		4,000 SF		04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
1 1/2	YES	STANDARD UNIT	BRICK	1 full					
Value Information									
			Base Value		Value		Phase-in Assessments		
					As of		As of		As of
					01/01/2015		07/01/2014		07/01/2015
Land:			74,500		74,500				
Improvements			92,000		102,100				
Total:			166,500		176,600		166,500		169,867
Preferential Land:			0						0
Transfer information									
Seller: REINSFELDER PATRICIA ANN					Date: 02/16/2006		Price: \$230,000		
Type: ARMS LENGTH IMPROVED					Deed1: /23399/ 00001		Deed2:		
Seller: REINSFELDER FRANCIS JOSEPH					Date: 06/11/2002		Price: \$0		
Type: NON-ARMS LENGTH OTHER					Deed1: /16495/ 00121		Deed2:		
Seller: REIS MARIE MILB URN MARIE J					Date: 01/12/1990		Price: \$89,900		
Type: ARMS LENGTH IMPROVED					Deed1: /08375/ 00505		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		0.00 0.00	
Tax Exempt:						Special Tax Recapture:			
Exempt Class:						NONE			
Homestead Application Information									
Homestead Application Status: No Application									

Baltimore County

[New Search \(http://sdat.resiusa.org/RealProperty\)](http://sdat.resiusa.org/RealProperty)District: **11** Account Number: **1122000425**

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>).

[\(http://imsweb05.mdp.state.md.us/website/mosp/\)](http://imsweb05.mdp.state.md.us/website/mosp/) Loading... Please Wait.

Loading... Please Wait.

-->

JB 7-23-15
11Am

Debra Wiley

From: carneycia@gmail.com on behalf of Meg O'Hare <mrs.meg.ohare@gmail.com>
Sent: Monday, July 20, 2015 8:29 PM
To: Administrative Hearings
Subject: Testimony from Meg O'Hare, Carney Improvement Association President. in Opposition to granting zoning requested for case # 2015-0277-SPH At 3013 Third Avenue, Carney, MD 21234
Attachments: CIA Opposition to Zoning to Allow Gun Manufacture at 3013 Third Avenue in Carney.doc

Dear Mr. Beverungen:

Attached is a letter in opposition to the zoning requested for case # 2015-0277-SPH. I am the President of the Carney Improvement Association (CIA). I cannot be present at the hearing because I am on vacation. I am trying to see if someone else from the CIA could come in my place to speak in opposition to granting this zoning to manufacture guns in a residential area.

Thank you for your consideration of our opposition granting the requested zoning.

Sincerely,

Mrs. Mary Margaret (Meg) O'Hare

Carney Improvement Association President

3012 Summit Avenue

Baltimore, MD 21234

410.668.5183 (home)

410.409.3136 (cell)

Carney Improvement Association Inc.
P.O. Box 28282
Carney, MD 21234-8282
carneycia@gmail.com

Meg O'Hare	President
Romi Shah	Vice President
JoAnne Krause	Recording Secretary
Marilyn Ryan	Corresponding Secretary
John Ryan	Treasurer
Jim Cousler	Sergeant-at-Arms

July 20, 2015

Mr. John Beverungen
Administrative Law Judge
Jefferson Building, Suite 103
Towson, Maryland 21204

Dear Mr. Beverungen:

The community of Carney is an residential community just north of the Baltimore Beltway exit 31. In my role as President of the Carney Improvement Association (CIA), I am writing in opposition to granting the zoning requested in **case#2015-277-SPH** by Mr. Bruce Doak. I do not think that this is permitted by the zoning regulations and common sense would reinforce what is said in the zoning regulations.

Mr. Doak's petition asks for the allowance of a "home based business for the assembly (manufacturing) of firearms" in a residential zone. Presumably, Petitioner is attempting to qualify as a "home occupation" in a Density Residential Zone under BCZR Section 1B01.1.a.18.c. Mr. Doak is asking for a license from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and that this requires proof of zoning approval or compliance. This apparently sparked the filing of the petition. Home Occupations according to Baltimore County, MD Definitions is:

*Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, as stated in Section 450.4, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person per dwelling is employed on the premises other than domestic servants or members of the immediate family, **and no mechanical equipment, other than computers, printers, fax machines, modems, standard office copy machines and similar office equipment, is used** except such as may be used for domestic purposes. A "home occupation" does not include fortune-telling.*

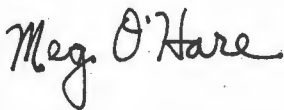
[Bill Nos. 124-1978; 27-1981; 68-1998]

The Zoning Commissioner's Policy Manual on Section 101-Home Occupation (2) in the last sentence of paragraph one states: ***The use must therefore be of a domestic nature.*** I do not see how gun manufacture in a residence at 3013 Third Avenue in Carney can, in any stretch of the imagination, be considered "of a domestic nature" in a suburban residential neighborhood.

As I said earlier, the Carney Improvement Association, asks that you deny zoning that would enable Mr. Doak of 3013 Third Avenue to obtain an ATF license that would permit him to manufacture firearms in a residential neighborhood in Baltimore County, MD.

I am very sorry that I cannot attend this hearing. I will be on my family vacation. I appreciate that you will consider the concerns of the Carney community in your deliberations.

Sincerely,

A handwritten signature in cursive script that reads "Meg O'Hare".

Mrs. Mary Margaret (Meg) O'Hare
Carney Improvement Association President

3012 Summit Avenue
Baltimore, MD 21234
410.668.5183 (home)
410.409.3136 (cell)

Debra Wiley

From: Irene and Romi <irene.romi@gmail.com>
Sent: Tuesday, July 21, 2015 9:06 PM
To: Administrative Hearings
Subject: HEARING-Meg O'Hare unable to go. 3013 Third Ave-SSpecial Hearing, 2015-277-SPH-
Hearing July 23, 2015 in Room 205 Jefferson Building

Mr. John Beverungen,

I support the opposition to granting zoning that would allow Mr. Doak to obtain an ATF license and manufacture firearms in his home at 3013 Third Avenue.

Sorry I could not attend the hearing.

Romi Shah
Carney Improvement Assn. Board member
410-668-0359

Debra Wiley

From: jec127@comcast.net
Sent: Tuesday, July 21, 2015 8:23 AM
To: Administrative Hearings
Subject: Zoning case # 2015-277-SPH

Mr. John Beverungen
Administrative Law Judge
Jefferson Building, Suite 103
Towson, Maryland 21204

Dear Mr. Beverungen:

I am asking that you deny zoning (case # 2015-277-SPH), that would enable Mr. Doak of 3013 Third Avenue to obtain an ATF license that would permit him to manufacture firearms in a residential neighborhood in Baltimore County, MD. No one should be making guns, or selling them in a residential neighborhood.

James E. Cousler
9732 Denrob Ct.
Carney, Maryland 21234
410-665-7485

JB 7-23 11 AM
2015-0277-SPH

Debra Wiley

From: Ruth <carneyrr@comcast.net>
Sent: Tuesday, July 21, 2015 1:35 PM
To: Administrative Hearings
Subject: ATF license for 3013 Third Avenue

John Beverungen, Administrative Law Judge:

As a neighbor of Third Avenue, we would ask that the petition for making guns not be allowed in our neighborhood. There is already a zoning regulations against this and we shudder to think it would be circumvented. We are already fighting drug dealing on Second Avenue and it is scary to think more such people would be drawn within a couple blocks of our home and the many families around in order to get guns.

Ruth Reimschissel (Mrs. Mink)

Leonard Mink

9309 Carney Rd.

Balto., MD 21234

124

IN RE:	PETITION FOR ZONING VARIANCE	*	BEFORE THE
	S/S Third Avenue, 400' +/-		
	SE of c/l Harford Road	*	ZONING COMMISSIONER
	3013 Third Avenue		
	11th Election District	*	OF BALTIMORE COUNTY
	6th Councilmanic District		
		*	Case No. 94-176-A
	Francis J. Reinsfelder		
	Petitioner	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property located at 3013 Third Avenue in the Carney Heights subdivision of Baltimore County. The Petitioner/property owner, Francis J. Reinsfelder, requests relief from Section 431 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit one commercial vehicle to be parked in the front yard of a residential lot in lieu of the required side or rear yard. The relief requested is more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Variance.

Appearing at the public hearing held for this case was Francis J. Reinsfelder, the Petitioner/property owner. Appearing in opposition to the Petition were several neighbors of the subject locale. These included Gloria L. Marken, Catherine M. Tracey, Emma Evans and Beverly Browning.

Testimony and evidence offered by the Petitioner is that the subject property is known as 3013 Third Avenue. The subject lot is approximately .09 acres in area and is zoned D.R.5.5. It is improved by an existing single family house. The house and subject property are more clearly shown in a number of the photographs which were offered by both the Petitioner and Protestants.

Consideration of zoning variances in Baltimore County is governed by Section 307 of the B.C.Z.R. Therein, it is provided that a variance can be granted only where strict application of the zoning regulation would cause practical difficulty to the Petitioner and his property. See McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

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

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

Further, in addition to the practical difficulty standard, the Petitioner must show that the granting of the variance will be without detriment to the surrounding locale. Thus, a variance can only be granted if both tests are met.

In this case, the testimony and evidence offered was overwhelming that a granting of the variance would, indeed, be detrimental to the surrounding locale. Clearly, the parking of this commercial vehicle, where proposed, causes a potential safety/traffic hazard to vehicular and pedestrian traffic on this roadway. The truck is of such size so as to block the sight distance from the Tracey property. Moreover, I am also persuaded that a granting of the variance would be out of character to the uses



KEVIN KAMENETZ
County Executive

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

July 20, 2015

Cheryl Frederick
2316 Killoran Road
Timonium MD 21093

RE: Case Number: 2015-0277 SPH, Address: 3013 3rd Avenue

Dear Ms. Frederick:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 2, 2015. 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
Bruce E Doak, Bruce E Doak Consulting, 3801 Baker Schoolhouse Road, Freeland MD 21053

Larry Hogan, Governor
Boyd Rutherford, Lt. Governor



Pete K. Rahn, Secretary

Date: 6/10/15

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

RE: Baltimore County
Item No 2015-0277-SPH

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the above 2015-0277-SPH 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.

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,

A handwritten signature in cursive script, appearing to read "David W. Peake".

(or) David W. Peake
Metropolitan District Engineer
Baltimore & Harford Counties

DWP/RAZ

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: June 17, 2015

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 15, 2015
Item No. 2015-0269, 0270, 0271, 0275, 0276, 0277, 0278, 0279, 0280,
0281, 0282 and 0283

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\ZAC06152015.doc

**3015 Third Avenue
Baltimore, MD 21234
July 22, 2015**

To:

**Administrative Law Judge
Room 205 Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204**

My letter is about the request to allow a home-based business for the assembly (manufacturing of firearms at 3013 Third Avenue Baltimore, MD 21234. Case No. 2015-0277-SPH

I have lived at 3015 Third Avenue for 58 years. I am opposed to this zoning variance/permit being granted. This street is a residential area and I request that it will remain a residential area.

Sincerely,

Catherine Tracey

Catherine Tracey

(I am unable to attend the hearing due to health issues.)

3012 Third Avenue
Baltimore, MD 21234
July 23, 2015

To:

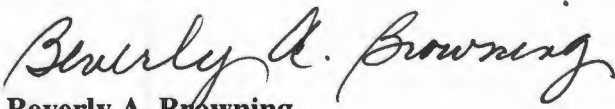
Administrative Law Judge
Room 205 Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

My letter is concerning the request to allow a home-based business for the assembly (manufacturing) of firearms at 3013 Third Avenue Baltimore, MD 21234. Case No. 2015-0277-SPH

I have lived at 3012 Third Avenue for 46 years. This street is a residential area and I request that it will continue as a residential area only. Many residents on Third Avenue are Seniors, (one with health issues) and with parking being restricted to one side, allowing this business could cause parking problems for them.

I am opposed to this zoning variance/permit being granted.

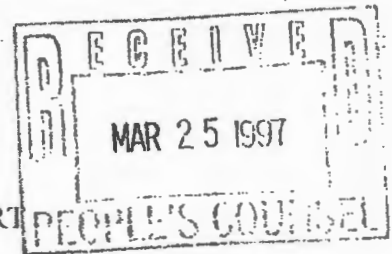
Sincerely.


Beverly A. Browning

(I am unable to attend the hearing due to an emergency dental appointment.)

IN THE MATTER OF THE
APPLICATION OF NEIL
KRAVITZ
FOR A SPECIAL HEARING
ON PROPERTY LOCATED
ON THE EAST SIDE
LONGNECKER ROAD, 400'
N. OF THE C/L OF PINEY
GROVE RD (14207 LONG-
NECKER ROAD)
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
CASE NO.: 3-C-96-9060



MEMORANDUM OPINION

This matter comes before this Court as an appeal by the property owner from the County Board of Appeals' denial of a Petition for Special Hearing requesting the sale of firearms and the manufacture of ammunition on residentially zoned property as a home occupation.

Petitioner resides at 14207 Longnecker Road near Glyndon in northern Baltimore County, which is located in an R.C.2 zone. This lot is improved with two buildings connected by a walkway with an overhang from the smaller building to the rear uncovered back patio of the larger building. It is undisputed that there is no internal access between the two buildings.

From this location Petitioner engages in the reloading of "custom" ammunition for sale to others, as well as the sale of firearms. Petitioner utilizes a reloading machine press that has the ability to manufacture different types of cartridges for various models of guns. It is undisputed that this machine has no other purpose than to manufacture ammunition. Due to the specific requirements of Petitioner's assorted customers, they must often leave their firearms at Petitioner's residence overnight.

The Federal Government requires that any person desiring to engage in business as a firearms or ammunition importer, manufacturer, or dealer must first obtain a license to do so in

accordance with the Federal Violent Crime Control and Law Enforcement Act of 1994. 18

U.S.C.S § 923 (d)(1)(F)(i). Additionally, the Act specifically requires that:

“(F) The applicant certifies that the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located;”

See 18 U.S.C.S. § 923 (d)(1)(F)(i). This requirement includes compliance with local zoning and fire regulations. In accordance with this section Baltimore County Police Department sent each holder of an ammunition sales license residing in a residential zone a letter advising the holder that compliance with the local zoning law was required. At this time Petitioner filed for a Special Hearing to determine that he was properly operating a “home occupation” at his residence. This Petition was denied. Subsequently, Petitioner appealed this denial to the Baltimore County Board of Appeals, which in a written opinion, also denied Petitioner’s request. The instant appeal was then filed.

As is well known, the Circuit Court, sitting in its appellate capacity, is quite limited in its scope of review of a decision of the Baltimore County Board of Appeals. The concept of appellate review is discussed in the cases of People’s Counsel v. Mangione, 85 Md.App. 738 (1991), and Red Roof Inns v. People’s Counsel, 96 Md.App 219 (1993). These decisions reaffirm the language of prior cases in which the general standard is defined as “whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment.” Mangione, 85 Md.App at 750, and cases cited therein. The case law establishes that a reversal of an agency decision is only proper where the reviewing court demonstrates specific examples of illegality, unreasonableness, or a total disregard of the

evidence.

In the instant case, the central issue for this Court to determine is whether Petitioner's activity of manufacturing and selling "reloaded" ammunition constitutes a permitted "home occupation" as defined in the Baltimore County Zoning Regulations. A "home occupation" is a permitted accessory use in an R.C.2 zone, provided it complies with the definitions in BCZR § 101. A "home occupation" is defined as follows:

Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes. A home occupation does not include fortune telling. [B.C.Z.R., 1955, Bills No. 124, 1978; No. 27, 1981.]

For the reasons set forth below this Court holds that the Board of Appeals was correct in determining that Petitioner's activity of manufacturing bullets for sale in his home does not fall within the definition of a "home occupation," and is thus barred by the applicable zoning regulations cited above.

Initially, this Court finds that Petitioner's activity goes beyond that which could reasonably be considered "incidental" to the main use of the dwelling. Petitioner asserts, both in his written memorandum and at oral argument, that this activity is a mere hobby, and should therefore fall under the "domestic use" umbrella of permitted activities. Petitioner's Transcript at 10. In fact, Petitioner contends that the Board of Appeals has, by the denial of this Request, "discriminated against thousands of hobbyists who reload their own ammunition." *Id.* at 11.

However, Petitioner's testimony at the hearing below clearly indicates that this activity far surpasses that which could reasonably be considered a "hobby." Specifically, Petitioner acknowledged that he has manufactured approximately 10,000 rounds of ammunition for sale to his customers in the past year. Transcript at 81. He has also assembled and sold over 40 firearms in the past two years. Both the commercial nature and sheer magnitude of this activity preclude this Court from agreeing with Petitioner that his activity is merely a hobby.

With respect to that part of the "home occupation" definition of the Baltimore County Zoning Regulations involving that "which is incidental to the main use of a building for dwelling purposes" the Zoning Commissioner's Policy Manual states:

(2) This statement is interpreted based upon the common definition of the word 'incidental'; i.e., that a 'home occupation' is a use that happens as a result of and in connection with the principal use as a dwelling. The use must therefore be of a domestic nature.

Uses that easily fall within this definition would be a person who takes in ironing or washing of clothes, sewing or dressmaking, and/or cooking. Other more modern days uses such as computers used to keep track of home finances and related matters can be considered as domestic equipment. As a home occupation use, a computer must be used in a manner that is secondary or minor and can be associated in some way with the normal domestic functions of the dwelling.

After a thorough review of the entire record made below, the written briefs, and the arguments presented at the hearing of this matter, this Court agrees with the Board of Appeals that the extent to which Petitioner engages in the manufacturing of ammunition happens "as a result of and in connection with the principal use as a dwelling." Simply put, the manufacturing and sale to others of "custom" ammunition, at a rate of approximately 10,000 units per year is not customarily considered to be a domestic function. Appellant here argues that ammunition

reloading is a domestic usage that can be traced back to colonial times. However, as times have changed, so also have domestic practices that once were considered as standard functions in every household. The Board of Appeals was not unreasonable in concluding that Petitioner's activity is not akin to those domestic functions contemplated by the Zoning Commissioner, such as sewing and cooking.

Additionally, the definition of "home occupation" as set out above prohibits the use of mechanical equipment that would not ordinarily be utilized for domestic purposes. There is no doubt that the machine press in question here has but one function - the manufacture of ammunition. It does not perform any other task within or about the dwelling. It logically follows from the above analysis, then, that the machine itself is not incidental to the main use of the building for dwelling purposes.

As stated above, a reviewing court is restricted to the record made before the administrative agency, and is confined to whether, based on the record, a reasoning mind reasonably could have reached the factual conclusion reached by the agency. The decision of the Board in this case was supported by competent, material and substantive evidence.

For the foregoing reasons, the decisions of the Baltimore County Board of Appeals is hereby AFFIRMED, with costs of this Appeal to be paid by Appellant.

151
Christian M. Kahl

3-24-97
Date

cc: Peter Max Zimmerman, Esq.
Jay Fred Cohen, Esq.

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
<u>NEIL S. KRAVITZ</u>	*	
FOR A SPECIAL HEARING ON	*	OF
PROPERTY LOCATED ON THE EAST	*	BALTIMORE COUNTY
SIDE LONGNECKER ROAD, 400' N	*	
OF THE C/L OF PINEY GROVE RD	*	CASE NO. 96-112-SPH
(14207 LONGNECKER ROAD)	*	
4TH ELECTION DISTRICT	*	
3RD COUNCILMANIC DISTRICT	*	
* * * *	*	

O P I N I O N

This case comes to the County Board of Appeals based on an appeal from the Zoning Commissioner's Order of October 17, 1995, in which a Petition for Special Hearing to approve a firearms license in a residential zone as a home occupation was denied. A public hearing was held by the Board on Thursday, May 2, 1996 at 10:00 a.m. Jay Fred Cohen, Esquire, represented the Petitioner /Appellant. Carole S. Demilio, Deputy People's Counsel, represented the Office of People's Counsel for Baltimore County.

Mr. Herbert Malmud testified on behalf of the Appellant. He is a licensed Maryland surveyor, and prepared the survey and zoning plat (Appellant's Exhibit 5). Mr. Malmud stated that the subject property was essentially in an isolated rural area of Baltimore County in proximity to Glyndon. He testified that the property consisted of 0.5 acre on which there were two attached buildings. The nearest residence was about 200 ft. to 300 ft. away from Appellant's property.

On cross-examination, Mr. Malmud indicated that he had been licensed for 25 years, and had visited the site on two separate occasions; that the closest farm building was probably about 100 ft. (more or less) away, and that the two buildings on the subject property were separate and unconnected by passageway. He stated that he had never been inside either building and did not know the

contents or interiors of each. He also stated that he had not taken the photographs offered as Appellant's Exhibits 2, 3 and 4.

Neil S. Kravitz, the Petitioner /Appellant, testified at considerable length. He resides in the subject property at 14207 Longnecker Road. Appellant described in great detail his advocacy which was the subject of the appeal. He stated that these activities take place in the smaller building which consists of a small bedroom (converted into an office), kitchen, and another bedroom. The larger building consisted of three bedrooms, a living room, kitchen, sun porch, and wine cellar. He stated that there was no exterior visibility relative to his hobby of reloading ammunition starters, and that no commodities are for sale on the premises, and that he carries no ammunition for sale. He indicated that there are no employees, and the equipment utilized for an ammunition reloading hobby is extremely small and takes up no more space than would possibly a computer or sewing machine.

Appellant's Exhibit 1 was admitted into evidence and was described by Mr. Kravitz as the latest Dillon reloading catalogue in which the Appellant identified the type of equipment used in his hobby (Dillon's RL 1050 reloading machinery -page 30). This equipment, it was stated, is mounted on a 2" x 12" x 24" board, and performs the mechanical functions required in ammunition reloading activities. Mr. Kravitz stated that he has been shooting since he was 14 years of age, and has been in this type of activity for 25 years, and is considered to be an expert in this field with his shells being sought out by individuals who seek perfection in ammunition requirements. He does not advertise or seek out any business. All business comes to him via word of mouth, and he

limits his client base due to time constraints and the professionalism required in this activity. He stated that his clients normally bring their weapons, cases and bullets that they wish to use to him and exactly what they wish to accomplish. He in turn makes cartridges out of these various components, using purchased powder, only limited amounts of which are kept on the premises. He indicated that his entire work area is about 3' x 3' and that, at most, he has only 15 to 20 clients.

He also testified that he has a hobby of putting golf clubs together and described the machinery used. Mr. Kravitz stated that he was a full-time electrical engineer by profession, and that his ammunition reloading activity was just that, and that he spends far more time in this hobby than the compensation received, and that the law requires various licenses to perform this function for other people if compensation is received. He emphatically stated that he was not in this field to make money, but only for the love of perfection in ammunition reloading.

On cross-examination, the Appellant stated that the work performed was done in the smaller house, and that less than 5 lbs. of gunpowder and 5 lbs. of propellant were actually stored on the premises. He again stated that he was a custom maker of bullets, and that his customers bring in the casings. He stated that he was not in the gun business, and that he was solely an assembler of cartridges. He indicated that the State requires him to sell at least 10 guns per year to maintain his license, and if that were not the case, he would refer his friends to purchase firearms at a commercial gun store. He further stated that he had resided at the subject property since 1975 and presently lived there with his

girlfriend. The nearest firehall was in Boring, about 3 miles away, with the closest pond being 1-7/8 miles away, and his well had a 50-gallon per minute recovery. He also works out of his house in his regular engineering duties.

On re-direct testimony, the Appellant restated: (1) that he does not sell out of catalogues, advertise or have any external signs on his property; (2) has a limited and select customer base; and (3) maintains no inventory except for his personal use.

On redirect cross-examination, Mr. Kravitz testified that (1) only a finished specialized cartridge leaves his premises, having come in by the pound; (2) he produces about 10,000 cartridges, again for only 15 to 20 clients, with the average customer taking 1,000 rounds; (3) his customers supply him with the casings; (4) 85 percent supplied him with the rest of the components; (5) UPS delivered the limited number of guns he sells; and (6) he is not allowed to have more than 5 lbs. of propellant on the premises.

Captain William Kalista, with the Baltimore County Police Department, testified on behalf of Baltimore County. He stated that he has been a member of the Police Department for 25-1/2 years, and had graduated from Towson State University in 1971, and holds a Masters Degree from the University of Baltimore in legal and ethical studies. He had served in various precincts, and was currently assigned in the Property Crimes Division, Investigative Unit dealing with auto theft, arson, bombs, firearms, and fugitive extradition. He stated that a Firearms Unit was established due to enactment of the Federal Crime Control Act of 1994 (County Exhibit 1). That legislation placed a responsibility on State and local authorities to enforce local laws and fire ordinances relative to

the licensing of firearms (reference County Exhibit 1 - subsection C, "Licensure"). To that end, a list of 440 present licensees having a firearms license was received by his department, 135 of which lived in residential areas. Captain Kalista stated that a letter had been sent to the 135 licensees residing in residential areas (Appellant's Exhibit 7). The letter repeated the Federal requirements and related that "if you expect to continue to operate as a licensee, please take the appropriate steps to comply with Baltimore County zoning laws and regulations within the next 60 days. Please forward any requests for a zoning exception or variance to the below address. Failure to comply with Baltimore County zoning law will result in the Bureau of Alcohol, Tobacco and Firearms denying you your Federal Firearms License."

Captain Kalista stated that the Zoning Office gave his department that interpretation and they believed anyone operating out of a residence would need appropriate zoning. He further stated that it was important for police authorities to be aware of firearm locations so that they could promptly respond to break-ins, thefts, etc. Home activities are more difficult since they do not usually have adequate security measures, such as alarm systems and safes, and special emphasis is placed by his department in regularly patrolling commercial stores selling firearms. There were also safety concerns as to children in private homes where guns or ammunition were being stored.

On cross-examination, Captain Kalista stated that he had not visited the subject property, and that he had composed the letter of May 16th, that the intent was for the letter to serve as a notice of a need to be in compliance with local laws.

This case was heard in a single day of open hearing. There were no other protestants present. Public deliberation took place on Wednesday, June 19, 1996, at 10:00 a.m. prior to which the individual Board members had the opportunity to review their notes relative to the testimony and evidence produced at the hearing, and the applicable statutory and case law, in addition to the briefs submitted by opposing counsel.

This case essentially involves the definition of a "home occupation" which is referenced in the General Provisions of the Baltimore County Zoning Regulations (BCZR), Section 101, which states as follows:

Home Occupation: Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes. A "Home Occupation" does not include fortune-telling.

A home occupation is a permitted accessory use in a R.C. 2 zone provided it complies with the requirements of BCZR Section 101. The function of this Board is to determine from the testimony offered at the hearing and the evidence presented that the Appellant's use is one which falls within the parameters of the law. There is no factual dispute concerning the subject property's being in an area zoned R.C. 2. However, does it meet the criteria required by the BCZR?

- (1) Is the use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes?

Based on the Appellant's testimony and Appellant's Exhibits 2 and 3, there are two separate and distinguishable buildings which lead to the backyard and patio. It does not appear to meet the spirit and intent of the BCZR, Section 400, as to accessory structures and covered passageways. We agree with the comments outlined in the Brief submitted by the Office of People's Counsel that the spirit of the law infers "an enclosed passageway" rather than a "covered" walkway. The implication is that travel between the interior of the buildings is by way of the passageway. Additionally, the Appellant, in his testimony, readily admitted that he actually resided in the two-story dwelling, with the ammunition reloading and firearms taking place in the smaller one-story building. The word "incidental" as defined by Black's Law Dictionary states as a meaning:

Depending upon or appertaining to something else as primary; something necessary, appertaining to, or depending upon another which is termed the principal; something incidental to the main purpose.

And while this causes some concern to the Board, the facts of the case did dictate that the Appellant's activities are not conducted entirely within the building used for dwelling purposes.

- (2) Is any mechanical equipment used except such as may be used for domestic purposes?

The Appellant has argued that ammunition reloading is a domestic usage that can be traced back to the days of the founding of the republic and that is most assuredly true. However, as times have changed, so also have domestic practices that once were considered as standard functions in every household. Few, if any, modern households manufacture candles to light their houses and manufacture their own soap, or make each and every piece of

clothing for individual needs. It is far easier and more practical to purchase such items rather than to manufacture them. So also is it far easier to purchase ammunition than it is to manufacture same. So, therefore, is the mechanical equipment used (the Dillon's RL 1050) one that is used except for domestic purposes? There is no doubt from the Appellant's testimony that the function of the equipment is solely the manufacture of ammunition, that it could not be functional or used for any other domestic purpose.

We concur with People's Counsel's argument that the machinery used by the Appellant does not fall within the scope of "domestic purposes" since its use is limited exclusively to the manufacturing of reloading ammunition. To be considered as used for domestic purposes implies that the equipment may or can be associated in some manner either directly or indirectly in the normal and usual domestic functions of the main dwelling. While the Appellant's activity is one that is proportionately small and limited in scope, the process as was described is clearly proportionately one of manufacturing; that is, the assembling of several components into a single product (ammunition), and, as such, does not fall within the definition of a home occupation as defined by the BCZR.

Furthermore, the activity in which the Petitioner /Appellant is engaged is not one that is customarily considered by the general public, as one whereby the equipment utilized can be categorized, as used "for domestic purposes." It is highly specialized and functional for one purpose, that is, for ammunition reloading purposes. Mr. Kravitz testified that the machine could not be used for any other purpose; and, as such, it is not "incidental to the main use of the building for dwelling purposes."

In deciding the case, the Board has given careful consideration to what it considers to be the intent of the County Council in formulating the definition of a "home occupation." The residents of the County must be reasonably assured that the proper function of zoning is to guarantee the general health, safety and welfare of the community in which they reside. Therefore, the definition of a "home occupation" must be narrowly construed to insure that such activity is in conformity with the expectations of the neighborhood. Caution must be exercised to strictly interpret the BCZR to protect the integrity of zoning restrictions as regulated by the County Council. The nature of the finished product and inherent danger associated with the entire ammunition reloading activities cause concern to the Board if classified as a "home occupation."

However, it would be remiss on the part of the Board not to express some concern over the content of the letter addressed to the Appellant and to the other 135 individuals who hold weapons sales licenses and are operating out of their residences. There are several errors relative to these licenses and the requirements that they be located in a commercially-zoned area. Additionally, the letter states that any request for a zoning exception or variance is to be made to the policing authority. These statements are contrary to existing law, and represent a broad overreach of the police power and authority. Such letters should be appropriately researched and approved by the Office of the County Attorney before dissemination to the public in general.

O R D E R

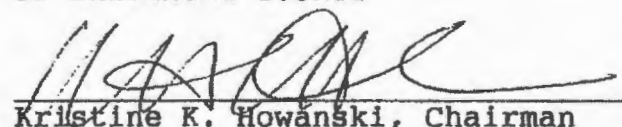
IT IS THEREFORE this 16th day of August, 1996 by the

County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing filed in Case No. 96-112-SPH to approve a firearms license in a residential zone as a home occupation be and is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Kristine K. Howanski, Chairman



Charles L. Marks

IN THE MATTER OF
THE APPLICATION OF
NEIL S. KRAVITZ
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE EAST
SIDE LONGNECKER ROAD, 400' N
OF THE C/L OF PINEY GROVE RD
(14207 LONGNECKER ROAD)
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* * * * *

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 96-112-SPH

CONCURRING /DISSENTING OPINION

I concur with my fellow Board members in denying the Appellant's Petition for Special Hearing to approve a firearms license in a residential zone as a home occupation. However, I cannot concur with them on all of their reasons for denying the Petition.

I would deny the Petitioner's appeal on the basis of one factor only: the fact that he conducts his gun-related activities in an auxiliary building which is not the main dwelling and is not attached to the main dwelling.

In all other aspects, I find that he complies with the requirements for a home occupation:

He has no signs on his property indicating any business.

He keeps no commodity for sale on the premises.

He has no employees on the premises.

And finally, in my opinion, he uses no mechanical equipment except such as may be used for domestic purposes. It is regarding this matter of mechanical equipment that I differ from my fellow Board members.

They state that "To be considered as used for domestic purposes implies that the equipment may or can be associated in some manner either directly or indirectly in the normal and usual domestic functions of the main dwelling." They concur with People's Counsel's argument that the reloading equipment the Appellant uses does not fall within the scope of "domestic purposes" because its use is limited exclusively to the manufacturing of reloading ammunition.

I strongly disagree. Mr. Kravitz, an active member of four or five gun clubs, testified that almost all of the 250 members of the William Penn Pistol League reload their own ammunition, and that 99 percent of the members of the Baltimore County Associated Gun Clubs reload their own ammunition.

Thus, while reloading one's own ammunition may be an unfamiliar operation to non-gun owners, it is, according to the Appellant's uncontroverted testimony, considered by gun owners to be an ordinary auxiliary activity to individual gun ownership.

I would point out that a citizen has the right, protected under the Second Amendment to the Constitution, to keep arms in his home to defend his home, and that millions of citizens lawfully exercise this right. While I agree with my fellow Board members that many domestic activities once performed in homes, such as candlemaking and clothes making, have become uncommon and even obsolete, the defense of one's home and family has not. Would anyone seriously attempt to assert that residential break-ins, involving theft, assault and even murder, no longer occur in today's society? A citizen not only has a right to defend one's home and family against such intrusions; he arguably has a moral duty to do so in whatever lawful way he sees fit.

The reloading of cartridges for firearms would, in my opinion, be incidental to this very worthy and basic domestic function -- that is, the defense of one's home against criminal intrusion. The use of a simple, hand-operated piece of equipment for this purpose is as valid a domestic use as the use of a sewing machine or a personal computer in a home.

In this context, I might mention that magazines aimed at individual gun owners carry advertisements for this type of equipment. The ads urge gun owners, rather than buy manufactured cartridges, to use this equipment to reload their own cartridges and thereby save money.

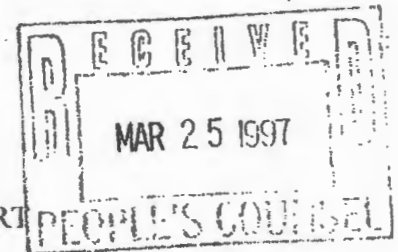
I cannot conclude this dissent without comment on the broader argument of Deputy People's Counsel that the Appellant's petition should be denied because gun dealerships in themselves and of their very nature cannot be permitted as a home occupation. In furtherance of this argument she cited case law showing that a barbershop is not a home occupation, nor is a dance studio or a funeral home.

However, she cited no case law showing that gun dealerships are not permitted home occupations. In addition, I found no convincing evidence in People's Counsel's Memorandum as to why gun dealerships should be singled out and targeted as a prohibited home occupation.

Police Captain Kalista testified that the police would have safety and law enforcement

IN THE MATTER OF THE
APPLICATION OF NEIL
KRAVITZ
FOR A SPECIAL HEARING
ON PROPERTY LOCATED
ON THE EAST SIDE
LONGNECKER ROAD, 400'
N. OF THE C/L OF PINEY
GROVE RD (14207 LONG-
NECKER ROAD)
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
CASE NO.: 3-C-96-9060



MEMORANDUM OPINION

This matter comes before this Court as an appeal by the property owner from the County Board of Appeals' denial of a Petition for Special Hearing requesting the sale of firearms and the manufacture of ammunition on residentially zoned property as a home occupation.

Petitioner resides at 14207 Longnecker Road near Glyndon in northern Baltimore County, which is located in an R.C.2 zone. This lot is improved with two buildings connected by a walkway with an overhang from the smaller building to the rear uncovered back patio of the larger building. It is undisputed that there is no internal access between the two buildings.

From this location Petitioner engages in the reloading of "custom" ammunition for sale to others, as well as the sale of firearms. Petitioner utilizes a reloading machine press that has the ability to manufacture different types of cartridges for various models of guns. It is undisputed that this machine has no other purpose than to manufacture ammunition. Due to the specific requirements of Petitioner's assorted customers, they must often leave their firearms at Petitioner's residence overnight.

The Federal Government requires that any person desiring to engage in business as a firearms or ammunition importer, manufacturer, or dealer must first obtain a license to do so in

accordance with the Federal Violent Crime Control and Law Enforcement Act of 1994. 18

U.S.C.S § 923 (d)(1)(F)(i). Additionally, the Act specifically requires that:

- * “(F) The applicant certifies that the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located;”

See 18 U.S.C.S. § 923 (d)(1)(F)(i). This requirement includes compliance with local zoning and fire regulations. In accordance with this section Baltimore County Police Department sent each holder of an ammunition sales license residing in a residential zone a letter advising the holder that compliance with the local zoning law was required. At this time Petitioner filed for a Special Hearing to determine that he was properly operating a “home occupation” at his residence. This Petition was denied. Subsequently, Petitioner appealed this denial to the Baltimore County Board of Appeals, which in a written opinion, also denied Petitioner’s request. The instant appeal was then filed.

As is well known, the Circuit Court, sitting in its appellate capacity, is quite limited in its scope of review of a decision of the Baltimore County Board of Appeals. The concept of appellate review is discussed in the cases of People’s Counsel v. Mangione, 85 Md.App. 738 (1991), and Red Roof Inns v. People’s Counsel, 96 Md.App 219 (1993). These decisions reaffirm the language of prior cases in which the general standard is defined as “whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment.” Mangione, 85 Md.App at 750, and cases cited therein. The case law establishes that a reversal of an agency decision is only proper where the reviewing court demonstrates specific examples of illegality, unreasonableness, or a total disregard of the

evidence.

In the instant case, the central issue for this Court to determine is whether Petitioner's activity of manufacturing and selling "reloaded" ammunition constitutes a permitted "home occupation" as defined in the Baltimore County Zoning Regulations. A "home occupation" is a permitted accessory use in an R.C.2 zone, provided it complies with the definitions in BCZR § 101. A "home occupation" is defined as follows:

Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes. A home occupation does not include fortune telling. [B.C.Z.R., 1955, Bills No. 124, 1978; No. 27, 1981.]

For the reasons set forth below this Court holds that the Board of Appeals was correct in determining that Petitioner's activity of manufacturing bullets for sale in his home does not fall within the definition of a "home occupation," and is thus barred by the applicable zoning regulations cited above.

Initially, this Court finds that Petitioner's activity goes beyond that which could reasonably be considered "incidental" to the main use of the dwelling. Petitioner asserts, both in his written memorandum and at oral argument, that this activity is a mere hobby, and should therefore fall under the "domestic use" umbrella of permitted activities. Petitioner's Transcript at 10. In fact, Petitioner contends that the Board of Appeals has, by the denial of this Request, "discriminated against thousands of hobbyists who reload their own ammunition." *Id.* at 11.

However, Petitioner's testimony at the hearing below clearly indicates that this activity far surpasses that which could reasonably be considered a "hobby." Specifically, Petitioner acknowledged that he has manufactured approximately 10,000 rounds of ammunition for sale to his customers in the past year. Transcript at 81. He has also assembled and sold over 40 firearms in the past two years. Both the commercial nature and sheer magnitude of this activity preclude this Court from agreeing with Petitioner that his activity is merely a hobby.

With respect to that part of the "home occupation" definition of the Baltimore County Zoning Regulations involving that "which is incidental to the main use of a building for dwelling purposes" the Zoning Commissioner's Policy Manual states:

- ✕ (2) This statement is interpreted based upon the common definition of the word 'incidental'; i.e., that a 'home occupation' is a use that happens as a result of and in connection with the principal use as a dwelling. The use must therefore be of a domestic nature.

Uses that easily fall within this definition would be a person who takes in ironing or washing of clothes, sewing or dressmaking, and/or cooking. Other more modern days uses such as computers used to keep track of home finances and related matters can be considered as domestic equipment. As a home occupation use, a computer must be used in a manner that is secondary or minor and can be associated in some way with the normal domestic functions of the dwelling.

After a thorough review of the entire record made below, the written briefs, and the arguments presented at the hearing of this matter, this Court agrees with the Board of Appeals that the extent to which Petitioner engages in the manufacturing of ammunition happens "as a result of and in connection with the principal use as a dwelling." Simply put, the manufacturing and sale to others of "custom" ammunition, at a rate of approximately 10,000 units per year is not customarily considered to be a domestic function. Appellant here argues that ammunition

- reloading is a domestic usage that can be traced back to colonial times. However, as times have changed, so also have domestic practices that once were considered as standard functions in every household. The Board of Appeals was not unreasonable in concluding that Petitioner's activity is not akin to those domestic functions contemplated by the Zoning Commissioner, such as sewing and cooking.

Additionally, the definition of "home occupation" as set out above prohibits the use of mechanical equipment that would not ordinarily be utilized for domestic purposes. There is no doubt that the machine press in question here has but one function - the manufacture of ammunition. It does not perform any other task within or about the dwelling. It logically follows from the above analysis, then, that the machine itself is not incidental to the main use of the building for dwelling purposes.

As stated above, a reviewing court is restricted to the record made before the administrative agency, and is confined to whether, based on the record, a reasoning mind reasonably could have reached the factual conclusion reached by the agency. The decision of the Board in this case was supported by competent, material and substantive evidence.

For the foregoing reasons, the decisions of the Baltimore County Board of Appeals is hereby AFFIRMED, with costs of this Appeal to be paid by Appellant.

151
Christian M. Kahl

3-24-97
Date

cc: Peter Max Zimmerman, Esq.
Jay Fred Cohen, Esq.

dwellings. A group house does not include a duplex or semidetached dwelling. A single-family group house refers to any one dwelling within the attached group.

[Bill Nos. 102-1970; 2-1992]

GROUP HOUSE, BACK-TO-BACK

A group house which is attached to two or more other dwelling units by a side and rear party wall.

[Bill No. 2-1992]

HELICOPTER

Any rotary-wing aircraft which depends principally for its support and motion in the air on the lift generated by one or more power-driven rotors rotating on substantially vertical axes.

[Bill No. 85-1967]

HELICOPTER OPERATION

A landing and takeoff by a helicopter.

[Bill No. 85-1967]

HELIPORT, TYPE I

Any area of land, water or structural surface which meets the design standards of the Federal Aviation Agency and has been authorized by the Maryland Aviation Administration to be used for scheduled operations by helicopter carriers certified by the Civil Aeronautics Board.

[Bill No. 85-1967]

HELIPORT, TYPE II

Any area of land, water or structural surface which has been authorized by the Maryland Aviation Administration to be used for nonscheduled but regular helicopter operations and which does not serve for major support operations. As used herein, the term "major support operations" means "maintenance other than fueling; cargo loading; or any accessory operations using 2,500 square feet or more of floor area."

[Bill No. 85-1967]

HELISTOP

Any area of land, water or structural surface which is located at least 500 feet from any property line, which has been authorized by the Director of Public Safety^[16] to be used for helicopter operations, which is not a heliport, and which does not serve for major support operations (see definition for "heliport, Type II"); or any area of land, water or structural surface which is located closer than 500 feet to a property line, which has been authorized by the Director of Public Safety^[17] to be used for not more than 15 helicopter operations per month, which is not a heliport, and which does not serve for major support operations.

[Bill No. 85-1967]

HEREAFTER

After the effective date of the provision (in which the word occurs).

[Bill No. 98-1975]

HOME OCCUPATION

Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, as stated in Section 450.4, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person per dwelling is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment, other than computers, printers, fax machines, modems, standard office copy machines and similar office equipment, is used except such as may be used for domestic purposes. A "home occupation" does not include fortune-telling.

[Bill Nos. 124-1978; 27-1981; 68-1998]

HOOKAH LOUNGE

Any facility, establishment, or location whose business operation, whether as its primary use or as an ancillary use, includes the smoking of tobacco or other substances through one or more hookah pipes (also commonly referred to as

SECTION 101 - HOME OCCUPATION

"ANY USE CONDUCTED ENTIRELY WITHIN A DWELLING..."

- (1) This statement is interpreted to mean that the use must be within the dwelling and cannot be within a detached garage or elsewhere in the yard area of the property in question.

"WHICH IS INCIDENTAL TO THE MAIN USE OF A BUILDING FOR DWELLING PURPOSES..."

- (2) This statement is interpreted based upon the common definition of the word "incidental"; i.e., that a "home occupation" is a use that happens as a result of and in connection with the principal use as a dwelling. The use must therefore be of a domestic nature.

Uses that easily fall within this definition would be a person who takes in ironing or washing of clothes, sewing or dress making, and/or cooking. Other more modern day uses such as computers used to keep track of home finances and related matters can be considered as domestic equipment. As a home occupation use, the computer must be used in a manner that is secondary or minor and can be associated in some way with the normal domestic functions of the dwelling.

"AND DOES NOT HAVE ANY EXTERIOR EVIDENCE, OTHER THAN A PERMITTED SIGN, TO INDICATE THAT THE BUILDING IS BEING UTILIZED FOR ANY PURPOSE OTHER THAN THAT OF A DWELLING..."

- (3) Section 413.1.A clearly indicates that an accessory use of a dwelling for a home occupation is permitted a 1 square foot sign. Any other exterior evidence that indicates that dwelling is being utilized for purposes other than a dwelling is not permitted. Such evidence would include noise, odors, or deliveries via trucks or heavy pedestrian traffic, or other vehicular traffic that is obviously generated by uses other than those normally associated with the dwelling.

"AND IN CONNECTION WITH WHICH, NO COMMODITY IS KEPT FOR SALE ON THE PREMISES..."

- (4) This statement clearly indicates that a person can, for instance, make dresses for customers. However, they cannot make and stock dresses for sales display on the premises.

"NOT MORE THAN ONE PERSON IS EMPLOYED ON THE PREMISES OTHER THAN DOMESTIC SERVANTS OR MEMBERS OF THE IMMEDIATE FAMILY..."

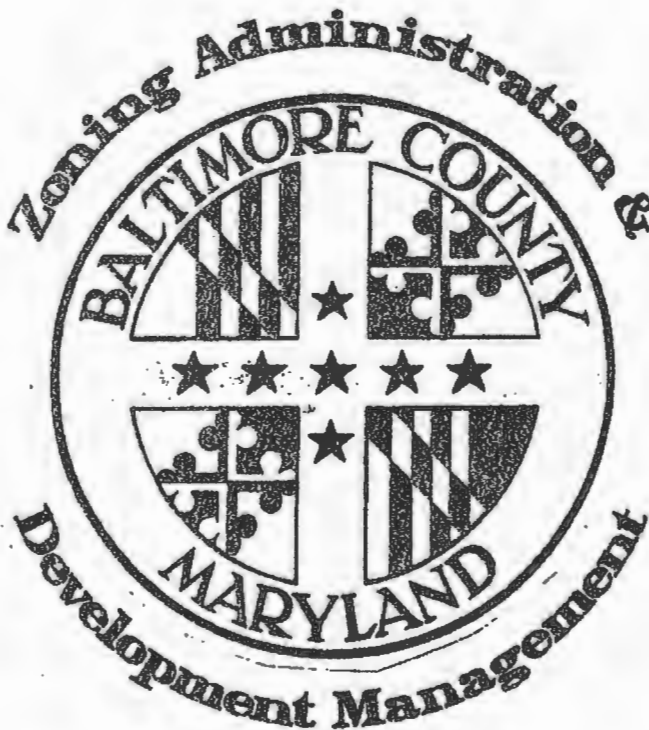
- (5) This statement does not clearly indicate that members of the immediate family and domestic servants must reside on the premises; however, based upon the interpretation above, i.e., a home occupation is something that happens as a result of and in connection with a dwelling. It becomes clear that other than the one employee, all other persons engaged in the home occupation must reside on the premises.

*** "AND NO MECHANICAL EQUIPMENT IS USED EXCEPT SUCH AS MAY BE USED FOR DOMESTIC PURPOSES..."**

- (6) This statement further solidifies the dictionary interpretation of incidental. This requirement is intended to limit the type of equipment used in a home occupation. However, the fact that a sewing machine or circular saw qualifies as domestic does not permit its unlimited use, i.e., the home occupation must be secondary, minor and associated with the principal dwelling use.
- (7) Specifically excluded from a home occupation because they appear as Special Exception uses under Section 1B01.1.C.9B are:

1992 Edition

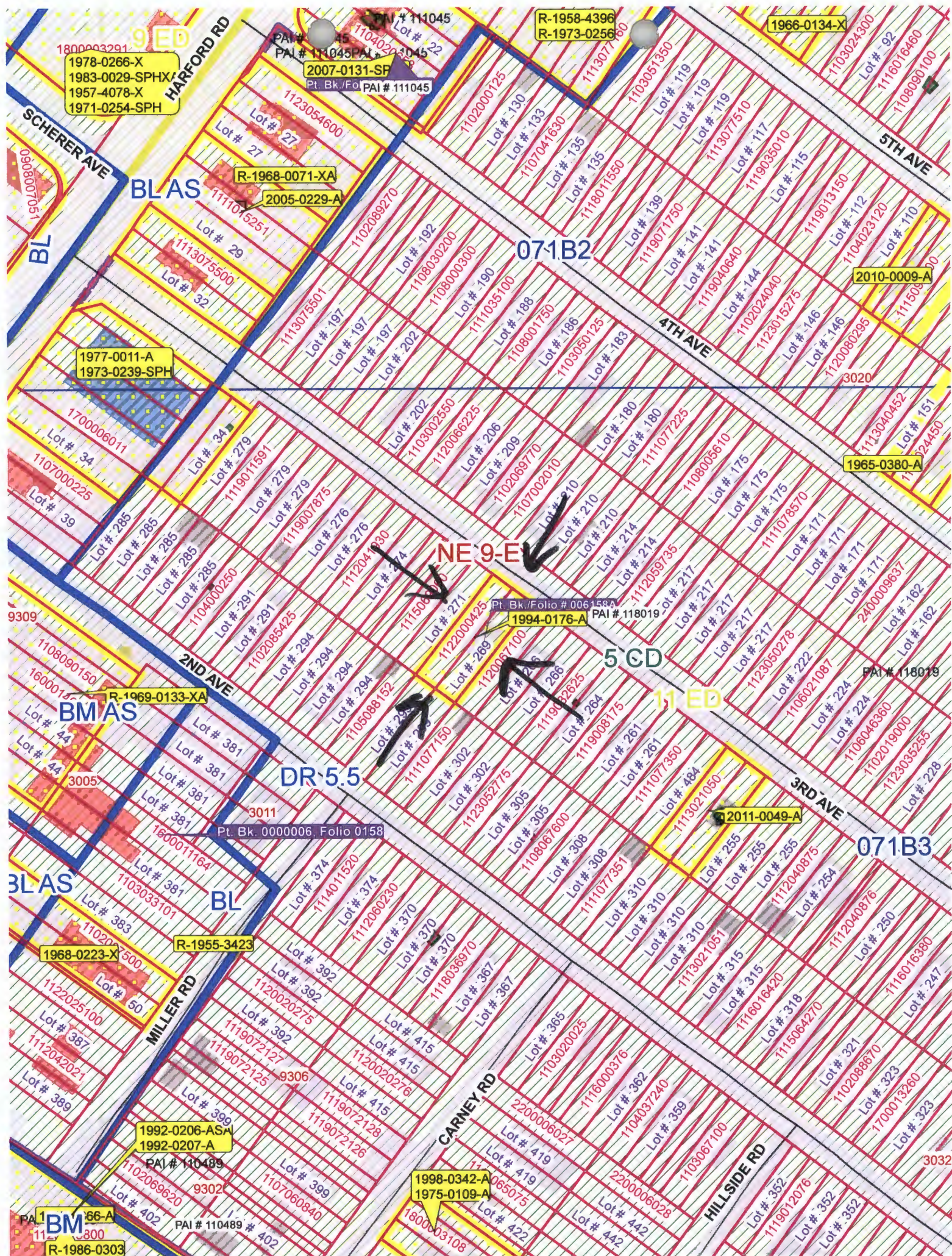
Baltimore County Zoning Commissioner's Policy Manual



amended May 13, 1992

adopted May 21, 1991

Administrative Supplement to the Baltimore County Zoning Regulations





SITE INFORMATION

1. Ownershp: Cheryl Frederick
3013 Third Avenue Baltimore MD 21234
2. Address of Subject Property: 3013 Third Avenue
3. Deed references: SM23399 / 1
4. Lots 269 & 270 Carney Heights PB 6 / 158
5. Area: 4,000 (per PB 6/158 & SDAT)
6. Tax Map / Parcel / Tax account #: 71 / 1098 / 11-22-000425
7. Election District: 11 Councilmanic District: 52
ADC Map: 4580F8 GIS tile: 071B3 Position sheets: 35NE17 & 35NE18
Census tract: 411407 Census block: 240054114071
Schools: Carney ES Pine Grove MS Parkville HS
7. The boundary shown hereon is from the plat of Carney Heights recorded Plat Book 6, page 158 in the Land Records of Baltimore County. All other information shown hereon was taken from Baltimore County GIS tile 071B3 and the information provided by Baltimore County on the Internet.
8. Proposed improvement: None.

ZONING

Zoning: DR 5.5 There are no previous zoning cases on the subject property.

DR 5.5 Setbacks for Residential Buildings

Lot width (at house front): 55' feet
Front: 25' feet from the street right of way
Side: 10' feet from the property line
Rear: 30' feet from the property line

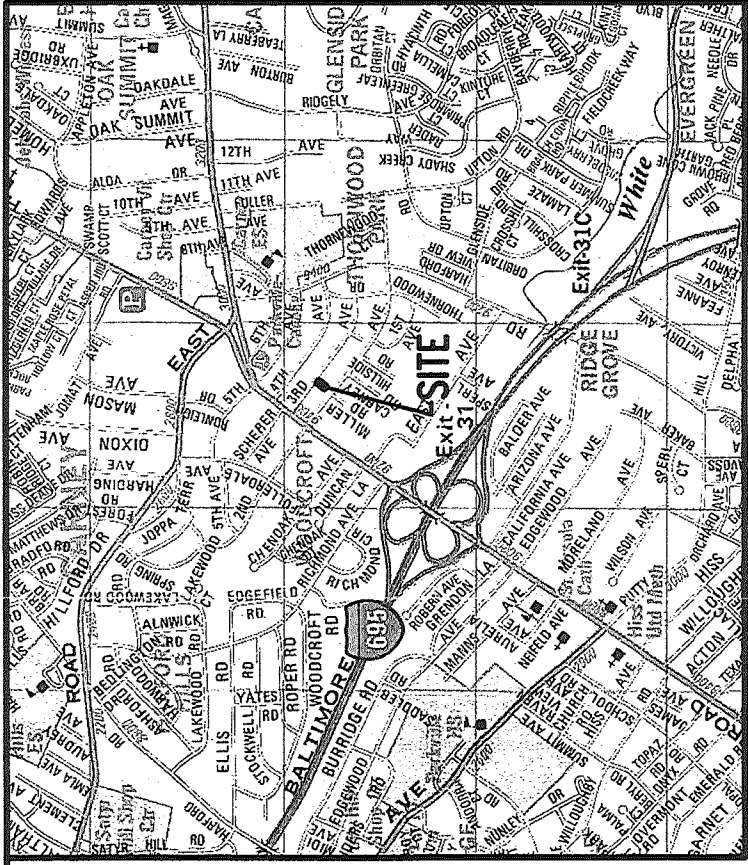
ENVIRONMENTAL / UTILITIES

1. The existing dwelling is serviced by public water and sewer within Third Avenue
2. There are no underground storage tanks on the subject property
3. The subject property is not in the Chesapeake Bay Critical Area
4. The subject property is not located within a 100 year flood plain.

PLANNING

Regional Planning District: Perry Hall / White Marsh District Code: 317

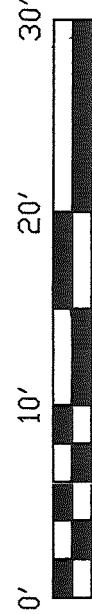
1. The subject property is not in a historic district.



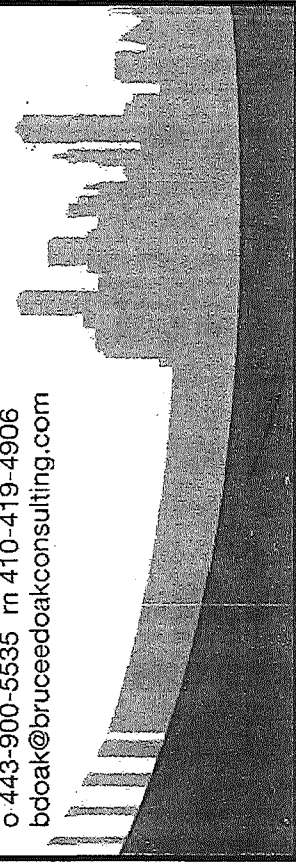
Vicinity Map — Scale: 1' = 2000' 
ADC The Map People — Permitted Use # 20612205

SPECIAL HEARING REQUIRED

To allow a home based business for the assembly (manufacturing) of firearms.



Bruce E. Doak Consulting, LLC
Land Use Expert and Surveyor
3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com



PLAN TO ACCOMPANY A PETITION
PROPERTY OF

CHERYL FREDERICK

#3013 THIRD AVENUE

BALTIMORE COUNTY, MARYLAND
11th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT

Date: 5/27/2015

Scale: 1"=10'



REVISION