JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
LAWRENCE M. STAHL
Administrative Law Judge

October 13, 2020

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt
600 Washington Ave, Suite 200
Towson, MD 21204-1301

RE: MOTION FOR RECONSIDERATION – Petition for Special Hearing
Case No. 2019-0437-SPH
Property: 14721 Manor Road

Dear Mr. Schmidt:

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

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

LAWRENCE M. STAHL
Administrative Law Judge
for Baltimore County

LMM:dlw
Enclosure

c: Rebecca Heyman Magaziner, Esq., 3523 Southside Avenue, Phoenix, MD 21131
Steven D. Weinberg, 14714 Manor Road, Phoenix, MD 21131-1719
John C. Raley, 3810 Donerin Way, Phoenix, MD 21131
Peter Max Zimmerman, People's Counsel for Baltimore County

IN RE: **PETITION FOR SPECIAL HEARING** **(14721 Manor Road)** 10th Election District 3rd Council District Jacqueline R. Frank, *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
Petitioner	*	**Case No. 2019-0437-SPH**

* * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before the Office of Administrative Hearings ("OAH") for consideration of a Petition for Special Hearing filed on behalf of Jacqueline R. Frank, legal owner ("Petitioner"). The Special Hearing was filed pursuant to Section 104.1 of the Baltimore County Zoning Regulations ("BCZR") to approve a nonconforming apartment building use (i.e., three-apartment/dwelling units) on the subject property.

By Opinion and Order dated September 3, 2020, the undersigned denied the Petition for Special Hearing.

On October 1, 2020, Lawrence E. Schmidt, Esq., counsel for Petitioner, filed via e-mail a timely Motion for Reconsideration of the September 3, 2020 Opinion and Order.

In addition, Peter Max Zimmerman, People's Counsel for Baltimore County, filed via e-mail an Answer to Petitioner's Motion for Reconsideration on October 9, 2020.

I have reviewed the Motion for Reconsideration filed on behalf of the Petitioner and the response of the People's Counsel for Baltimore County. I find nothing in the Motion to Reconsider that would justify altering my finding that there was a failure to prove to my satisfaction that there

ORDER RECEIVED FOR FILING
Date 10/13/20
By DMignon

had been no discontinuance of the property's use as set out in Section 104.1 of the BCZR. The burden rests upon the Petitioner and she has not met that burden, for the reasons set forth in my Opinion and Order of September 3, 2020.

THEREFORE, IT IS ORDERED, this **13th** day of **October, 2020** by the Administrative Law Judge for Baltimore County, that the Motion for Reconsideration, be and is hereby DENIED.

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

LAWRENCE M. STAHL
Administrative Law Judge
for Baltimore County

LMS:dlw

ORDER RECEIVED FOR FILING
Date 10/13/20
By DMignon

JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
LAWRENCE M. STAHL
Administrative Law Judge

September 3, 2020

Lawrence E. Schmidt, Esq.
Zachary Wilkins, Esq.
Smith, Gildea & Schmidt
600 Washington Ave, Suite 200
Towson, MD 21204-1301

RE: Petition for Special Hearing
Case No. 2019-0437-SPH
Property: 14721 Manor Road

Dear Counsel:

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

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

LAWRENCE M. STAHL
Administrative Law Judge
for Baltimore County

LMM:dlw
Enclosure

c: Rebecca Heyman Magaziner, Esq., 3523 Southside Avenue, Phoenix, MD 21131
Steven D. Weinberg, 14714 Manor Road, Phoenix, MD 21131-1719
John C. Raley, 3810 Donerin Way, Phoenix, MD 21131
Peter Max Zimmerman, People's Counsel for Baltimore County

IN RE: **PETITION FOR SPECIAL HEARING** **(14721 Manor Road)** 10th Election District 3rd Council District Jacqueline R. Frank, *Legal Owner*	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
Petitioner	*	**Case No. 2019-0437-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 Jacqueline R. Frank, legal owner ("Petitioner"). The Special Hearing was filed pursuant to Section 104.1 of the Baltimore County Zoning Regulations ("BCZR") to approve a nonconforming apartment building use (i.e., three-apartment/dwelling units) on the subject property. A site plan was marked and admitted as Petitioner's Exhibit 1.

This matter was heard on two dates, November 15, 2019 and July 21, 2020. Due to the COVID-19 pandemic, a public WebEx hearing was conducted for the second date in lieu of an in-person public hearing. Jacqueline R. Frank appeared in support of the petition. Lawrence E. Schmidt, Esq. represented the Petitioner. A number of neighbors and citizens attended the hearing as protestants, and their names are listed on the sign-in sheet. At the second hearing, Mr. Schmidt continued to represent the Petitioner. Protestants included Rebecca Heyman Magaziner, Esq., Steven Weinberg and John Raley. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning ("DOP") and the Department of Environmental Protection and Sustainability ("DEPS"). Neither agency opposed the request.

ORDER RECEIVED FOR FILING
Date 9-3-2020
By

The subject property is 1.410 acres in size and zoned RC-5. The law as regards non-conforming use is clear and well settled. As stated in Petitioner's Memorandum:

> "A non-conforming use is a 'grandfathered' use. The BCZR recognizes that some uses of land are not permitted under a property's existing zoning classification but that those uses pre-date the date when the zoning classification/regulation prohibiting the use became applicable. A valid and lawful nonconforming use is established if the owner can demonstrate that *before and at the time* of the adoption of a new zoning classification/ordinance, the property was being used in a lawful manner that, by later legislation, became non-permitted. *Trip Assoes., Inc. v. Mayor and City Council of Baltimore*, 392 Md. 563, 569 (2006).
>
> In Baltimore County, the law regarding nonconforming uses is set forth in Section 104.1 of the BCZR, which provides:
>
> A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate." (Emphasis Added)

The burden of proving the existence of a lawful nonconforming use falls upon the party asserting that claim. *County Comm'rs of Carroll County v. Uhler*, 78 Md. App. 140 (1989). Nonconforming uses are disfavored and the goal of zoning is to eliminate nonconforming uses through "economic attrition and physical obsolescence." *Prince George's County v. E.L. Gardner, Inc.*, 293 Md. 259, 268 (1982).

The two questions to be resolved in this matter: (1) Whether or not the use of the subject property existed prior to the inception of a zoning regulation prohibiting that use; and (2) If so, whether that use continued interruptedly and was not abandoned or discontinued for a period of one year or more.

ORDER RECEIVED FOR FILING
Date 9-3-2020
By DW

As to the first issue, People's Counsel makes a concerted effort to establish the date of the applicable zoning regulations which prohibit the Petitioner's use as far back as 1945. He bases his contention primarily on a memorandum supplied by Mr. Perlow of the Baltimore County Office of Zoning Review. I have reviewed Mr. Perlow's memo. I agree with Petitioner's counsel that the map of the sixth zone set out in the 1945 zoning is illegible, and of no probative use. Mr. Perlow notes that there are no maps for the 1955 – 1971 era, when regulations were promulgated. Based on the date of purchase by the Petitioner and testimony as to the creation and use for three apartments; and the requirements of the applicable zoning regulations prior to 1971, I find that the applicable date for this inquiry is in fact 1971, which would "grandfather" the use. Earlier regulations appear to have allowed one-family as well as two-family homes. There was no limitation of only one such structure on the property.

Testimony of all of Petitioner's witnesses and even some of the Protestants, establish that there are two structures on the property; namely one with two apartments and one with an apartment over a separate garage.

Having determined that the zoning regulations of 1971 are operative in this case, Petitioner's greater problem is establishing that the nonconforming use has continued uninterruptedly since before 1971. On the first day of the hearing, Mitchell Kellman, a land planner for Daft, McCune & Walker, appeared on behalf of the Petitioner and was accepted as an expert witness in land planning and the Baltimore County Zoning Regulations. He described the property as, in fact, having two buildings with the primary structure being built in 1898. He stated that he reviewed the land records provided by the State Department of Assessments and Taxation and testified that since 1965 two families, the Lintz's, and since 1983, the Frank's, have owned the property.

ORDER RECEIVED FOR FILING
Date 9-3-2020
By DW

In response to questions from Protestants, the witness acknowledged that Mr. Frank was deceased and that none of the deeds described the residence as a two-family unit, nor that there was a residence over the garage.

Petitioners Counsel proffered testimony on behalf of Mrs. Frank that she would testify that since she had been living on the property, the two apartments in the main house and the apartment over the garage had been rented continuously. She further stated that Mr. Lintz, the previous owner, told her that the three apartments had been continuously rented since 1966 and that he had three separate meters installed by Baltimore Gas and Electric ("BGE") when the barn was built and the third apartment was created. Finally, he proffered that she would also testify that her late husband had managed the property until his death. Unfortunately, she acknowledged that she had "cleaned out his papers" after his demise.

Cynthia Wates-Balog testified that the main house had two separate entrances, separate kitchens and two bedrooms each.

At this point, counsel for the Petitioner requested a continuance of the hearing in order to obtain from BGE any records related to the three meters on the property. He stated for the record that he had been unsuccessful to that time in obtaining a response to his requests. He was granted the continuance. Unfortunately, the continuance was initially granted until February 28, 2020. Thereafter, while arranging a new date acceptable to all parties, matters were significantly delayed as a result of the COVID-19 pandemic. With the partial reopening of County departments, including the establishment of virtual hearings for the OAH, a hearing date was set for July 21, 2020.

A word needs to be said at this point regarding objections raised by some Protestants and People's Counsel as to the presentation not only of BGE records but of additional testimony and

ORDER RECEIVED FOR FILING
Date 9-3-2020
By DW

evidence by counsel for the Petitioner in the July 21, 2020 hearing. The OAH, being administrative in nature, is not bound to the rigid rules of evidence found in the District or Circuit Courts. Rather, I believe that our hearings are a search for the truth and proper determination of matters before us. To that end, I allowed additional evidence and testimony to be presented.

The deed to Mr. Lintz dated in 1958 was presented, to establish clearly the ownership of the Lintz family through Mrs. Frank for some 62 years. A letter to Mrs. Frank from BGE set out that a "PS" meter was installed on the property in 1966. However, no documentation from BGE was presented to establish that three separate meters were installed (one for each apartment); nor were any bills or statements for separate electric service to the three apartments provided.

Howard Lintz, son of the owner previous to the Franks, was presented as a witness by the Petitioner. Counsel also submitted an affidavit signed by the witness, dated July 8, 2020. Mr. Lintz testified that he and his wife moved into one of the two apartments in the main house in 1968. He further stated that they moved out in 1977, but that while they lived there, a second tenant occupied the other apartment. He added that the third apartment over the barn was also continuously occupied while he and his wife resided on the property. He noted that he was still familiar with the property, having moved only a short distance away; and related that he often sees multiple cars in the driveway.

In response to questions posed by Protestants, he acknowledged that he couldn't tell who owned the cars; and that he "assumed" they belonged to residents of the three apartments. He conceded that he has no personal knowledge concerning the site since he moved out. He also stated that he received his own BGE bill while residing on the subject property, but never handled any business records for his father.

ORDER RECEIVED FOR FILING
Date 9-3-2020
By DW

Upon questioning by Mr. Zimmerman, Mr. Lintz stated that "since he was five years old, a 'handyman' or tenant always resided in the apartment over the garage" (the barn). He recalled that his parents always had leases for their tenants (including him); although he doesn't now have a copy of his lease. Finally, he recalled a tenant who lived there from 1970 to 1977, but that after that date, he acknowledged that he had no direct connection with the property.

Kristine Derkach testified that she lived in the upstairs apartment from 1999 to 2016 and for a short period of time in 2017 in the apartment over the garage. She recalls that during that time someone lived in the other apartment and that, when she was in the main house the apartment over the garage was also occupied.

She recalled that there were two BGE meters on the house and one on the barn (or garage?) apartment. She related that she had a signed lease and her own separate BGE bill. Finally, she stated that, throughout her tenancy, she believes all apartments were occupied.

Steven Weinberg, who lives across the street from the subject property, offered a photo which suggests, along with his personal knowledge, that the main house "over the past year" is dark and that there is visible construction debris. He stated that to his knowledge, not all of the three units have been rented for most of the year. In response to a question from Petitioner's counsel, he did acknowledge that there had been a County's zoning violation that was issued on the property in 2019.

Mr. Weinberg's comment of no occupancy for "a year or so" calls for a comment. As Petitioner's counsel points out in his Memorandum, the subject property was cited on July 25, 2019 for "failure to cease illegal conversion of dwelling, failure to convert dwelling back to a single family residence". By an Order dated August 14, 2019, the Petitioner was fined $6,000. A notice of the fine also stated, "Please note that the Administrative Law Judge's Final Order requires

ORDER RECEIVED FOR FILING
Date 9-3-2020
By

you to correct within seven days the violation detailed in the Citation." The Order and notice placed the Petitioner in a true "rock or hard place" position. If she continued to rent the three units, she would be in continuing violation of the Order and subject to further fines. If she ceased renting the apartments pending this special hearing case, the "one-year abandonment" could be tolled against her. It should be noted that the Petitioner, a senior citizen with some cognitive issues, failed to appear at the violation hearing. Therefore, no evidence supporting or contradicting the violation was presented; neither was there a "finding" based on any evidence as to the violation. As the judge who solely hears the code enforcement violation dockets for the past ten years, I must note that, even if I found the Petitioner in violation, I would likely have stayed any further citations or need to remove any tenants pending the result of the special hearing case on the site's nonconforming status. Therefore, I cannot in good conscious count the period from August 14, 2019 to the present against the Petitioner.

Having so stated, the question is whether or not there has been an abandonment or discontinuance of the nonconforming use under Section 104.1 of the BCZR. As set out above, the burden is completely upon the Petitioner to prove that there was no fatal interruption in the nonconforming use. As a nonconforming use is disfavored under the zoning regulations, the burden to establish that a nonconforming use should be allowed to continue must be strictly construed against the Petitioner.

Unfortunately in this case, that burden is problematic for the Petitioner. I believe there is sufficient testimony to support the existence of three apartments on the subject property. I also believe that, based on the testimony of Mr. Lintz and Ms. Derkach there is sufficient testimony to establish that BGE installed meters and sent statements to individual tenants. However, there is little support for the premise that the three tenant nonconforming use has continued without

ORDER RECEIVED FOR FILING
Date 9-3-2020
By DW

interruption since its inception. There is the proffered testimony of the Petitioner and there are "assumptions" and "beliefs" by the Petitioner's witnesses. Even if their testimony is to be believed, Mr. Lintz can only testify as to the period of 1968 to 1977 and Ms. Derkach the period from 1990 to 2018. There are therefore significant caps not addressed by any of the Petitioner's witnesses.

Finally, as each of the Protestants Memoranda point out, there is no supporting documentary evidence presented by the Petitioner in support of her case. Other than the letter from BGE as to the "PS" meters, there are no copies of leases or BGE statements and bills to support Petitioner's claim. Likewise, there are no tax returns showing rental income and expenses. Finally, even though Baltimore County has required rental licenses for a number of years, Petitioner never requested any licenses nor were any licenses ever issued by Baltimore County for any of the three apartments.

I come therefore to the conclusion that the Petitioner has not met her significant burden of establishing that there has been no discontinuance or abandonment of the property's nonconforming use as set out in Section 104.1 of the BCZR.

THEREFORE, IT IS ORDERED this **3rd** day of **September, 2020** by this Administrative Law Judge, that the Petition for Special Hearing to approve a nonconforming apartment building use (i.e., three-apartment/dwelling units) on the subject property, be and is hereby DENIED.

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

LAWRENCE M. STAHL
Administrative Law Judge
for Baltimore County

LMS:dlw

ORDER RECEIVED FOR FILING
Date 9-3-2020
By DW

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 14721 Manor Road **which is presently zoned** RC5

Deed References: 08169/00330 10 Digit Tax Account # 1012040302

Property Owner(s) Printed Name(s) Jacqueline R. Frank

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

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

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

Please see attached.

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)**

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

ORDER RECEIVED FOR FILING
Date 9-3-2020
By

Legal Owners (Petitioners):

Jacqueline R. Frank

Name #1 – Type or Print Name #2 – Type or Print

Jacqueline Frank

Signature #1 Signature # 2

19 Bellclare Circle Sparks Glencoe MD

Mailing Address City State

21152 443-865-8921

Zip Code Telephone # Email Address

Attorney for Petitioner:

Zachary Wilkins

Name- Type or Print

Signature

600 Washington Ave Suite 200 Towson MD

Mailing Address City State

21204 410-821-0070 zwilkins@sgs-law.com

Zip Code Telephone # Email Address

Representative to be contacted:

Zachary Wilkins

Name – Type or Print

Signature

600 Washington Ave Suite 200 Towson MD

Mailing Address City State

21204 410-821-0070 zwilkins@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2019-0437-SPH **Filing Date** 8/22/19 **Do Not Schedule Dates:** ____ **Reviewer** RJ

REV. 10/4/11

ATTACHMENT TO PETITION FOR ZONING HEARING

14721 Manor Road (Property)
10th Election District
3rd Councilmanic District

Special Hearing relief:

1. To approve a nonconforming apartment building use (i.e. 3 apartment/dwelling units) on the subject property, pursuant to BCZR § 104.1;

2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

2019-0437-SPH

Description To Accompany

Petition For a Special Hearing

For Nonconforming Use

14721 Manor Road

10th Election District 3rd Councilmanic District

Baltimore County, Maryland

Beginning for the same at a point on the eastern right of way of Manor Road, 70 feet wide, starting from a point of beginning 330 feet south from the centerline of Stansbury Mill Road and running (1) North 75 degrees 41 minutes 19 seconds East 271.87 feet; thence (2) South 12 degrees 06 minutes 39 seconds East 235.94 feet; thence (3) South 67 degrees 58 minutes 54 seconds West 195.69 feet; thence (4) North 29 degrees 02 minutes 30 seconds West 270.91 feet feet to the point of beginning; having an area of 61,550 square feet or 1.413 acres or land, more or less.

2019-0437-SPH

PL..TION FOR ZONING HEAKING(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 14721 Manor Road **which is presently zoned** RC5

Deed References: 08169/00330 10 Digit Tax Account # 1012040302

Property Owner(s) Printed Name(s) Jacqueline R. Frank

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

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

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

Please see attached.

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)**

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

ORDER RECEIVED FOR FILING
Date 9-3-2019
By DJ

Legal Owners (Petitioners):

Jacqueline R. Frank / Name #1 – Type or Print / Name #2 – Type or Print

Jacqueline Frank / Signature #1 / Signature # 2

19 Bellclare Circle Sparks Glencoe MD
Mailing Address City State

21152 / 443-865-8921 /
Zip Code Telephone # Email Address

Attorney for Petitioner:

Zachary Wilkins
Name- Type or Print

Signature

Suite 200
600 Washington Ave Towson MD
Mailing Address City State

21204 / 410-821-0070 / zwilkins@kgs-law.com
Zip Code Telephone # Email Address

Representative to be contacted:

Zachary Wilkins
Name – Type or Print

Signature

Suite 200
600 Washington Ave Towson MD
Mailing Address City State

21204 / 410-821-0070 / zwilkins@kgs-law.com
Zip Code Telephone # Email Address

CASE NUMBER 2019-0437-SPH **Filing Date** 8/22/19 **Do Not Schedule Dates:** _____ **Reviewer** RJ

REV. 10/4/11

ATTACHMENT TO PETITION FOR ZONING HEARING

14721 Manor Road (Property)
10th Election District
3rd Councilmanic District

Special Hearing relief:

1. To approve a nonconforming apartment building use (i.e. 3 apartment/dwelling units) on the subject property, pursuant to BCZR § 104.1;

2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

2019-0437-SPH

Description To Accompany

Petition For a Special Hearing

For Nonconforming Use

14721 Manor Road

10th Election District 3rd Councilmanic District

Baltimore County, Maryland

Beginning for the same at a point on the eastern right of way of Manor Road, 70 feet wide, starting from a point of beginning 330 feet south from the centerline of Stansbury Mill Road and running (1) North 75 degrees 41 minutes 19 seconds East 271.87 feet; thence (2) South 12 degrees 06 minutes 39 seconds East 235.94 feet; thence (3) South 67 degrees 58 minutes 54 seconds West 195.69 feet; thence (4) North 29 degrees 02 minutes 30 seconds West 270.91 feet feet to the point of beginning; having an area of 61,550 square feet or 1.413 acres or land, more or less.

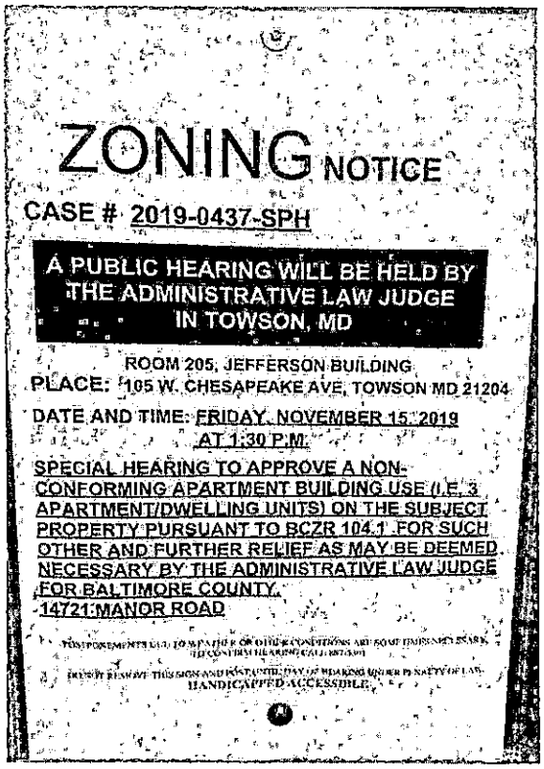
2019-0437-SPH

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS
DATE: 10/25/2019
Case Number: 2019-0437-SPH
Petitioner / Developer: ZACHARY WILKINGS, ESQ. ~ ACQUELINE FRANK
Date of Hearing: NOVEMBER 15, 2019

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
14721 MANOR ROAD

The sign(s) were posted on: OCTOBER 25, 2019



Linda O'Keefe
(Signature of Sign Poster)

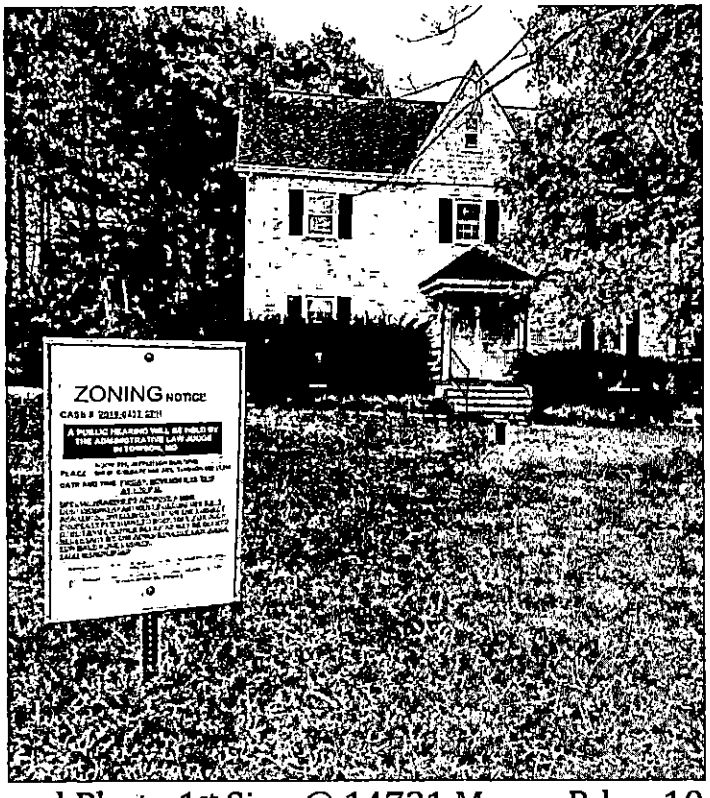
Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

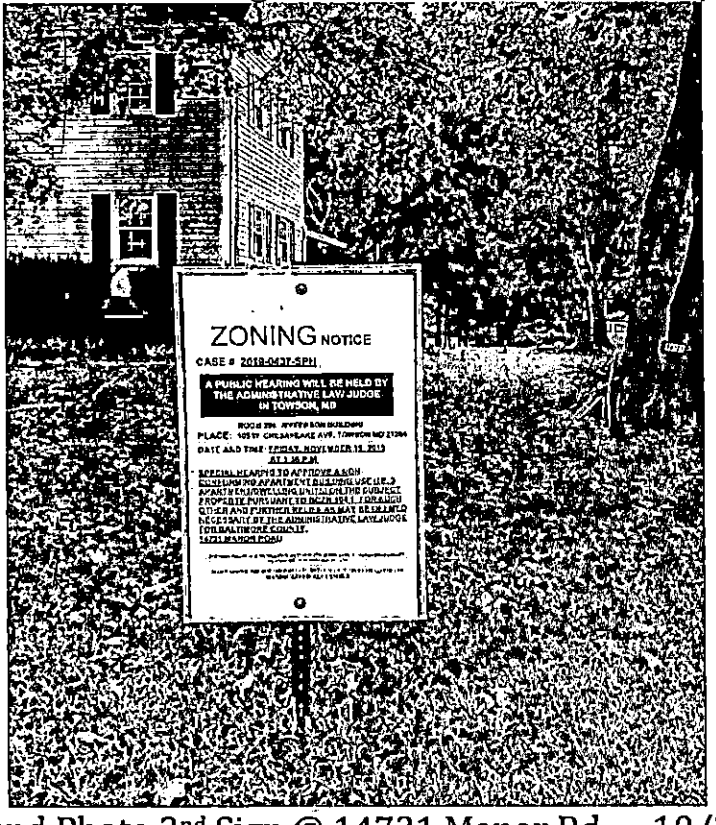
Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 – 666 – 5366
(Telephone Number of Sign Poster)





Background Photo 1st Sign @ 14721 Manor Rd. ~ 10/25/2019



Background Photo 2nd Sign @ 14721 Manor Rd. ~ 10/25/2019

CASE # 2019-0437-SPH

Debra Wiley

From: Debra Wiley
Sent: Wednesday, October 9, 2019 2:39 PM
To: Lawrence Stahl; Paul Mayhew; Sherry Nuffer
Subject: Change to October Calendar - 10/25 @ 11 AM - FW: 14721 Manor Road/2019-0437-SPH

Good Afternoon,

Please see Mr. Malinoff's approval of postponement request and mark your calendars accordingly.

Thank you.

From: Michael Mallinoff <mmallinoff@baltimorecountymd.gov>
Sent: Wednesday, October 9, 2019 2:35 PM
To: Alyssa Moyers <amoyers@sgs-law.com>; Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Sherry Nuffer <snuffer@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Marissa Merrick <mmerrick@baltimorecountymd.gov>
Subject: RE: 14721 Manor Road/2019-0437-SPH

Okay per MDM.

Mike

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Wednesday, October 9, 2019 10:44 AM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Sherry Nuffer <snuffer@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Michael Mallinoff <mmallinoff@baltimorecountymd.gov>; Marissa Merrick <mmerrick@baltimorecountymd.gov>
Subject: 14721 Manor Road/2019-0437-SPH

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Please see the attached.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits, Approvals & Inspections

October 17, 2019

Zachary Wilkins
600 Washington Ave Suite 200
Towson MD 21204

RE: Case Number: 2019-0437-SPH, 14721 Manor Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on August 22, 2019. This letter is not an approval, but only a **NOTIFICATION.**

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR/kl

Enclosures

c: People's Counsel
Jacqueline R. Frank 19 Bellclaire Circle Sparks Glencoe MD 21152

MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: 8/28/19

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

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. 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 Case No. 2019-0437-SPH
Special Hearing
Jacqueline R. Frank
14721 Manor Road

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,

Richard A Zeller

Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

DATE: 9/24/2019

FROM: C. Pete Gutwald
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 19-437

INFORMATION:
Property Address: 14721 Manor Road
Petitioner: Jacqueline R. Frank
Zoning: RC 5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for a special hearing to approve a nonconforming apartment building use (3 apartments/dwelling units) on the subject property, pursuant to the Baltimore County Zoning Regulations (BCZR) section 104.1

Pursuant to the provided site plan the existing three dwellings are situated in two separate stand-alone structures, the larger accommodating two apartments the third apartment being essentially a single family dwelling. Maryland State tax records indicate the primary two and one-half story structure as being built in 1898.

The Department has no objection to granting the petitioned conditioned upon the following:

- The existing structures may not be enlarged beyond 25% of the existing enclosed area.
- No additional bedrooms may be established unless approved by the Department of Environmental Protection and Sustainability.

For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Division Chief:

Jenifer G. Nugent

CPG/JGN/LTM/

c: Joseph Wiley
Zachary Wilkins
Office of the Administrative Hearings
People's Counsel for Baltimore County

RE: PETITION FOR SPECIAL HEARING 14721 Manor Road; SE intersection of Stansbury Mill & Manor Roads, E/S of Manor 10th Election & 3rd Councilmanic Districts Legal Owner(s): Jacqueline R. Frank Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2019-437-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.

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

RECEIVED
AUG 29 2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2019, a copy of the foregoing Entry of Appearance was mailed to Zachary Wilkins, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

TO: THE DAILY RECORD
Friday, October 4, 2019 – Issue

Please forward billing to:
Lawrence Schmidt
Smith, Gildea & Schmidt
600 Washington Avenue, Ste. 200
Towson, MD 21204
410-821-0700

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: 2019-0437-SPH
14721 Manor Road
S/e of intersection of Stansbury Mill Road and Manor Road on east side of Manor Road
10th Election District – 3rd Councilmanic District
Legal Owners: Jacqueline Frank

Special Hearing to approve a non-conforming apartment building use (i.e. 3 apartment/dwelling units) on the subject property pursuant to BCZR 104.1. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Friday, October 25, 2019 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Michael Mallinoff
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.

JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits, Approvals & Inspections

September 24, 2019

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: 2019-0437-SPH
14721 Manor Road
S/e of intersection of Stansbury Mill Road and Manor Road on east side of Manor Road
10th Election District – 3rd Councilmanic District
Legal Owners: Jacqueline Frank

Special Hearing to approve a non-conforming apartment building use (i.e. 3 apartment/dwelling units) on the subject property pursuant to BCZR 104.1. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Friday, October 25, 2019 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Michael Mallinoff
Director

MM:kl

C: Zachary Wilkins, 600 Washington Avenue, Ste. 200, Towson 21204
Jacqueline Frank, 19 Bellclare Circle, Sparks Glencoe 21152

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, OCTOBER 5, 2019.**
(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.

The Daily Record

200 St. Paul Place Suite 2480
Baltimore, Maryland 21202
1 (443) 524-8100
www.thedailyrecord.com

Order #: 11796755
Case #: 2019-0437-SPH
Description:

NOTICE OF ZONING HEARING - CASE NUMBER: 2019-0437-SPH

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in The Daily Record, a daily newspaper published in the State of Maryland 1 times on the following dates:

10/4/2019

Darlene Miller

Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

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: 2019-0437-SPH

14721 Manor Road

S/e of intersection of Stansbury Mill Road and Manor Road on east side of Manor Road

10th Election District - 3rd Councilmanic District

Legal Owners: Jacqueline Frank

Special Hearing to approve a non-conforming apartment building use (i.e. 3 apartment/dwelling units) on the subject property pursuant to BCZR 104.1. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Friday, October 25, 2019 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Michael Mallinoff
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.

o4

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Case Number: 2019-0437-SPH

Property Address: 14721 Manor Road

Property Description: _____

_____

Legal Owners (Petitioners): Jacqueline Frank

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Lawrence E. Schmidt, Esquire

Company/Firm (if applicable): Smith, Gildea & Schmidt, LLC

Address: 600 Washington Avenue, Suite 200

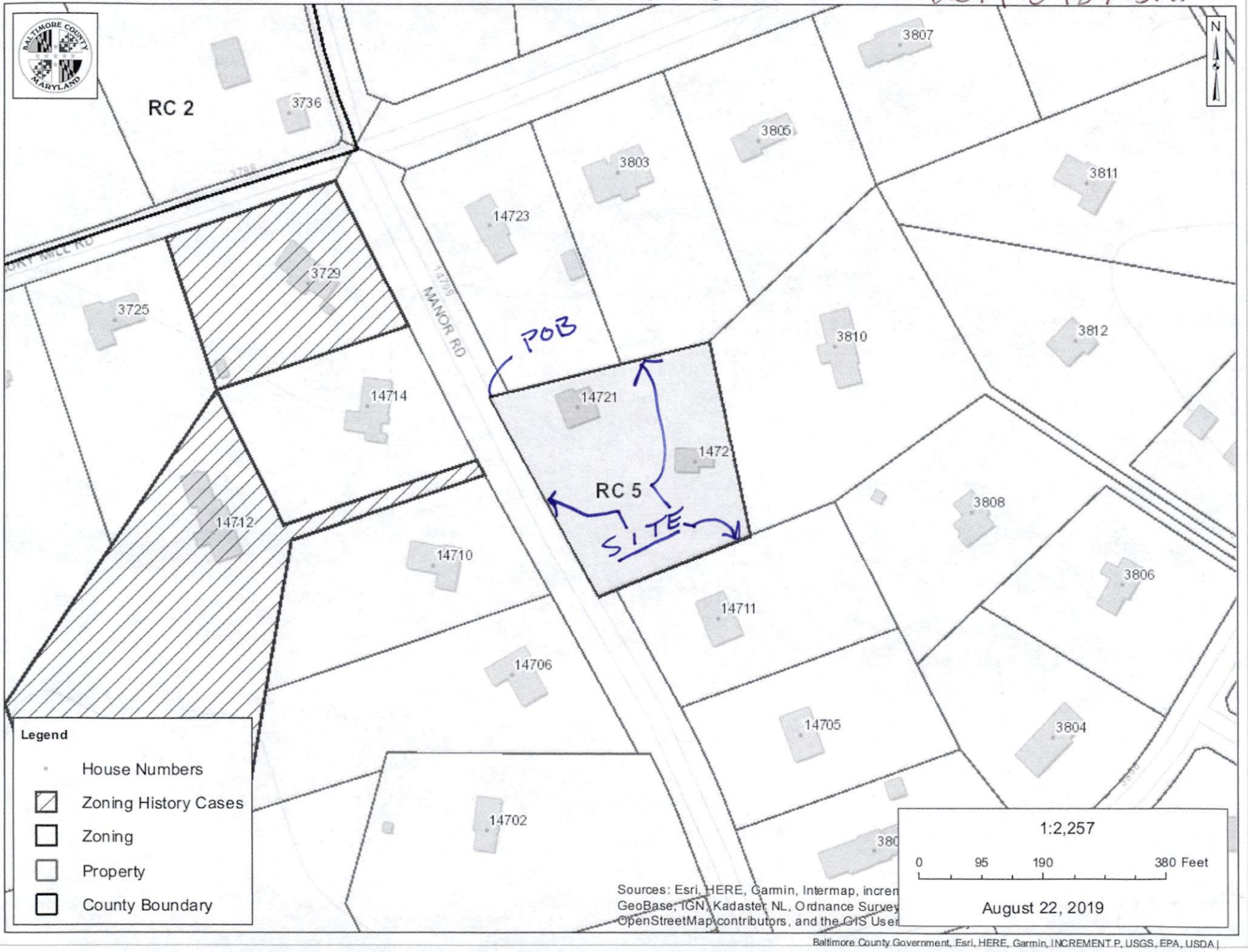
Towson, MD 21204

Telephone Number: 410-821-0070

Revised 5/20/2014

Baltimore County - My Neighborhood

2019-0437-SPH



LS 11-15-19
1:30pm

Debra Wiley

From: Kristen L Lewis
Sent: Thursday, November 7, 2019 8:48 AM
To: Debra Wiley
Subject: Letters of Opposition 2019-0437-SPH
Attachments: 20191107085543955.pdf

Good morning Debbie,

I was just sent these letters of opposition for a file you already for next week. I will forward anymore that may come in. Thank you,

Kristen Lewis
PAI – Zoning Review
410-887-3391

RECEIVED
NOV 07 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

Kristen L Lewis

From: Peoples Counsel
Sent: Thursday, November 07, 2019 8:36 AM
To: Kristen L Lewis
Subject: FW: Zoning in Jacksonville

Kristen,

Per your request, I am forwarding you the email below relating to Case No. 2019-437-SPH.

Rebecca M. Wheatley, Legal Secretary
Office of People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2188 – Office
(410) 823-4236 - Fax

RECEIVED
NOV 07 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

-----Original Message-----
From: Annette <mjmom@verizon.net>
Sent: Thursday, November 7, 2019 8:35 AM
To: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Subject: Zoning in Jacksonville

CAUTION: This message from mjmom@verizon.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

I have been aware of this property for many months. Due to the "apartment " type situation at the Manor Road location police have been called multiple times. It is not a place for multiple family living as it stresses the water supply for others using the well. We all have had to put up with disruptions to our daily lives. Jacksonville is being o we built with many more single family homes. Zoning was put in place because we all have to use wells for water supply. This property is in bad shape. Please enter this into testimony against multiple family rental residential properties in Jacksonville. If we do not hold on to the little bit of urban area Maryland will become very over crowded and our visitors who are expecting to see the rural countryside will Deminish. Our area has multiple scenic locations and it would be a shame to loose them.
Sent from my iPhone

Kristen L Lewis

From: Peoples Counsel
Sent: Thursday, November 07, 2019 8:36 AM
To: Kristen L Lewis
Subject: FW: Vote AGAINST Turning property at 14721 Manor Rd into apartment buildings

Kristen,

Per your request, I am forwarding you the email below relating to Case No. 2019-437-SPH.

Rebecca M. Wheatley, Legal Secretary
Office of People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2188 – Office
(410) 823-4236 - Fax

RECEIVED
NOV 07 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

From: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Sent: Wednesday, November 6, 2019 6:18 PM
To: PAI Zoning <paizoning@baltimorecountymd.gov>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; County Council District 3 <council3@baltimorecountymd.gov>; William Berger <bluewater_sunnybeaches@yahoo.com>
Subject: Vote AGAINST Turning property at 14721 Manor Rd into apartment buildings

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Gentlemen/Ladies

Please accept this e-mail communication as my Vote AGAINST permitting an apartment building being permitted on Manor Road in North Baltimore County

We have well and septic systems in this area - and permitting of apartment buildings would likely have a negative impact on our rural community

In addition, there is already a traffic overload on Jarrettsville Pike We simply cannot accommodate an increase that would be a by-product of permitting apartment buildings to be built in this area

Thank you for accepting the above. Given that the Hearing is being held mid day in the middle of the week, many in this area will be at their place of work and unable to attend. I am available to discuss my concerns if you care to contact me. My contact information is listed below.

Sincerely,

Becky

Kristen L Lewis

From: Peoples Counsel
Sent: Thursday, November 07, 2019 8:36 AM
To: Kristen L Lewis
Subject: FW: Case 2019-0437-sph

Kristen,

Per your request, I am forwarding you the email below relating to Case No. 2019-437-SPH.

Rebecca M. Wheatley, Legal Secretary
Office of People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2188 – Office
(410) 823-4236 - Fax

RECEIVED
NOV 07 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

From: Jon <jrb_0323@yahoo.com>
Sent: Wednesday, November 6, 2019 7:19 PM
To: PAI Zoning <paizoning@baltimorecountymd.gov>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Subject: Case 2019-0437-sph

CAUTION: This message from jrb_0323@yahoo.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Please enter this as testimony against the subject case.

As a resident of phoenix md I ask the ALJ to deny this zoning request.

Allowing such a request will put undue hardship on the health, safety, and general welfare of residents, and the environment in phoenix md. For example, I have concerns about additional traffic, outdoor noise, and stress on wells. This area was not zoned for apartments in order to ensure this unnecessary hardship was not placed on the environment or residents. Additionally this area was not civilly engineered for apartment complexes. Our roads (all two lane) and infrastructure will not support apartment type dwellings. There are plenty of apartments in towson, timonium, and lutherville which are not far away. Their infrastructure is much more conducive to apartment dwellings.

Please deny this zoning change.

Thank you
Jonathan Blanar

Sent from my iPhone

2019-0437-SPH

Permits, Approvals & Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Report Generated On:
8/22/2019

Permit Processing Commerical Permit & Development Report

Property Information

Tax Account Number: 1012040302 **Election District:** 10

Owner Name(s): FRANK CONSTANTINE and FRANK JACQUELINE R
Address: 19 BELLCLARE CIR
SPARKS GLENCO,MD 21152
Premise Address: 14721 MANOR RD

PDM #:
Zoning District(s): RC 5
Elevation Range: 588ft - 600ft

Affected Overlays / Contact Agency	Instructions: Begin review process with Zoning Review, Room 111. Potential Overlay Issues	New Com Bldg.	Interior Alts.	Add / Ext. Alts.	Piers/Pilings	Grading/SW	Tanks	Ret.Walls/Bulk	Razing	Chg. of Occup.	Tower Antenna	Signs	Elect. & Plumb	Agency Acknowledgment Initial & Date
Code Enforcement County Office Building Room 213 Phone: 410-887-8099 Rental Housing: 410-887-6060 Bldg. Inspections: 410-887-3953 Finance: 410-887-4100	**Growth Tier 3:** Large lot developments on septic **Open Code Enforcement Actions: Do NOT Issue Permit** Case# Type Action Status CRH1901614 Rental Registration Correction Notice Mailed CC1908335 Constituent Complaint Hearing Held CRH1901612 Rental Registration Correction Notice Mailed CRH1901613 Rental Registration Correction Notice Mailed													
DEPS-Sed. Control	**Note: All Razing Permits must be sent to Sediment Control for review.**													
PAI-Public Services County Office Building Room 119 Phone: 410-887-3751	**Note: All permits for Grading, New Buildings & Building Additions must be sent to Public Services.**													
Zoning Review County Office Building Room 111 Phone: 410-887-3391	URDL (Outside)											X		

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant.
Form171C

Postponed 11-15-19

Sherry Nuffer

From: Michael Mallinoff
Sent: Wednesday, October 9, 2019 2:35 PM
To: Alyssa Moyers; Administrative Hearings
Cc: Sherry Nuffer; Debra Wiley; Kristen L Lewis; Marissa Merrick
Subject: RE: 14721 Manor Road/2019-0437-SPH

Okay per MDM.

Mike

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Wednesday, October 9, 2019 10:44 AM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Sherry Nuffer <snuffer@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Michael Mallinoff <mmallinoff@baltimorecountymd.gov>; Marissa Merrick <mmerrick@baltimorecountymd.gov>
Subject: 14721 Manor Road/2019-0437-SPH

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Please see the attached.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH**
*Admitted in MD, FL, PA
**Admitted in MD, NC

LAUREN D. BENJAMIN
SARAH A. ZADROZNY
CARMELO D. MORABITO
ZACHARY J. WILKINS
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
STEPHEN J. NOLAN

October 9, 2019

Sent via Email
Honorable Paul M. Mayhew
Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204
administrativehearings@baltimorecountymd.gov

Re: Petition for Special Hearing
Case No. 2019-0437-SPH
14721 Manor Road

Dear Honorable Mayhew:

Currently, a hearing is scheduled for Friday, October 25, 2019 at 11:00 a.m. with regard to the above referenced matter. Please be advised that there was an error in the zoning notice sign posting. As such, I hereby respectfully request a postponement of the above captioned case currently scheduled for October 25th and ask that it be rescheduled as soon as possible.

Thank you for your consideration.

Very truly yours,

Zachary J. Wilkins/am

Zachary J. Wilkins

ZJW/am
Enclosures
cc: Jacqueline Frank, Legal Owner
Michael Mallinoff, Director
Kristen Lewis, Dept. of Permits, Approvals and Inspections
Mitch Kellman, Daft, McCune Walker
Marissa Merrick, Esquire

The Daily Record

200 St. Paul Place Suite 2480
Baltimore, Maryland 21202
1 (443) 524-8100
www.thedailyrecord.com

Order #: 11807790
Case #:
Description: NOTICE OF ZONING HEARING - CASE NUMBER: 2019-0437-SPH

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in **The Daily Record**, a daily newspaper published in the State of Maryland 1 times on the following dates:

10/25/2019

Darlene Miller

Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

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: 2019-0437-SPH

14721 Manor Road

S/e of intersection of Stansbury Mill Road and Manor Road on east side of Manor Road

10th Election District - 3rd Councilmanic District

Legal Owners: Jacqueline Frank

Special Hearing to approve a non-conforming apartment building use (i.e. 3 apartment/dwelling units) on the subject property pursuant to BCZR 104.1. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Friday, November 15, 2019 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Michael Mallinoff
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.

o26

Debra Wiley

From: Peoples Counsel
Sent: Wednesday, November 13, 2019 9:15 AM
To: Debra Wiley
Subject: FW: Case # 2019-0437-SPH; 14721 Manor Road, Phoenix, MD 21131

Ms. Wiley,

Per our conversation, I am forwarding you the email below relating to Case No. 2019-437-SPH.

Rebecca M. Wheatley, Legal Secretary
Office of People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2188 – Office
(410) 823-4236 - Fax

RECEIVED
NOV 13 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

From: SUE SUE <scusick@comcast.net>
Sent: Tuesday, November 12, 2019 4:48 PM
To: PAI Zoning <paizoning@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Cc: scusick@comcast.net
Subject: Case # 2019-0437-SPH; 14721 Manor Road, Phoenix, MD 21131

CAUTION: This message from scusick@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

I am unable to attend the zoning hearing on November 15, but please accept this email as my vote against the proposed zoning variance. I, like most of my neighbors, purchased my property based on the single-family, minimum lot size zoning (RC-5) in this neighborhood. We have private wells and private septic systems. I share my neighbors concerns about the impact a multi-family variance will have on the health and safety of our community - increased traffic on our already busy rural roads, increased noise levels, and overcrowding schools. My property is four lots away from the property subject to this variance request - with both of our properties fronting Manor Road. My primary concern is the impact multi-family units would have on my well. My first well ran dry, and I have had it replaced with a second well that just meets the County's minimum yield requirement of one gallon per minute. It is likely that existing well(s) at 14721 Manor Road would not supply adequate water for multiple-family units for a sustained period of time - requiring additional wells to be drilled. If this variance is approved, it will set a precedent for future variance requests for multi-family units. The private wells and septic systems and the public infrastructure in our community cannot support multi-family units on these limited acre parcels.

Thank you for considering my concerns.

Sue Cusick
3801 Donerin Way
Phoenix, MD 21131

Debra Wiley

From: Stephanie <MafiaPrincess571@comcast.net>
Sent: Wednesday, November 13, 2019 10:55 AM
To: Administrative Hearings
Subject: Case Number is 2019-437-SPH., and the address is 14721 Manor Road.

CAUTION: This message from mafiaprincess571@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

>

> I am very opposed to this zoning variance for many reasons. I feel in protecting one of the last known rural areas in this county, this sets a dangerous precedent to where will this end?? Many people are on wells in this area and sewer systems. You cannot keep building here and stress these systems. Sections in this area are also already heavily trafficked. Further, this land in this area is highly valued monetarily and many worked hard to live here not to have it devalued by non-invested renters who aren't even owners with a personal value or pride or investments with apartments.

Stephanie

RECEIVED
NOV 13 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

25 11-15-19 1:30 PM

Debra Wiley

From: Peoples Counsel
Sent: Thursday, November 14, 2019 7:56 AM
To: Debra Wiley
Cc: Sherry Nuffer
Subject: FW: Case # 2019-0437-SPH; 14721 Manor Road, Phoenix, MD 21131

Ms. Wiley,

Per our conversation, I am forwarding you the email below relating to Case No. 2019-437-SPH.

Rebecca M. Wheatley, Legal Secretary
Office of People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2188 – Office
(410) 823-4236 - Fax

RECEIVED
NOV 14 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

From: Cusick, Steven <scusick08@su.edu>
Sent: Wednesday, November 13, 2019 7:37 PM
To: PAI Zoning <paizoning@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Subject: Re: Case # 2019-0437-SPH; 14721 Manor Road, Phoenix, MD 21131

CAUTION: This message from scusick08@su.edu originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good evening,

I am unable to attend the hearing on the proposed variance at 14721 Manor Road, but I did want to reach out to voice my ardent opposition to this variance.

The rural and residential areas of the county are not equipped to handle high-density housing. Notable overcrowding is already apparent in the middle and high schools that service the area, and traffic congestion is an ongoing concern.

Furthermore, the privately owned and operated well and septic systems in this neighborhood (particularly the wells) could be jeopardized by increased demand caused by a denser housing schematic.

While the county did not enforce the proper use of this parcel in the past, it is critical that no variance be issued to permit apartments on the property. The RC-5 designation should be protected. It is not prudent to set a precedent allowing zoning variances that are clearly outside the zoning intent for the area. Simply put, the schools, water/septic, roads, and other systems cannot support the higher density

All the best,
Steve Cusick, M.S
3801 donerin way
Phoenix, MD 21131
--
Steven D. Cusick
Calvert Hall College '09
B.Mus - Shenandoah University '13
M.S. -Shenandoah University '15

Sent remotely from a mobile device, please excuse the short response.

Debra Wiley

From: Peoples Counsel
Sent: Thursday, November 14, 2019 12:37 PM
To: Debra Wiley
Cc: Sherry Nuffer
Subject: FW: Case # 2019-0437-SPH

RECEIVED
NOV 14 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

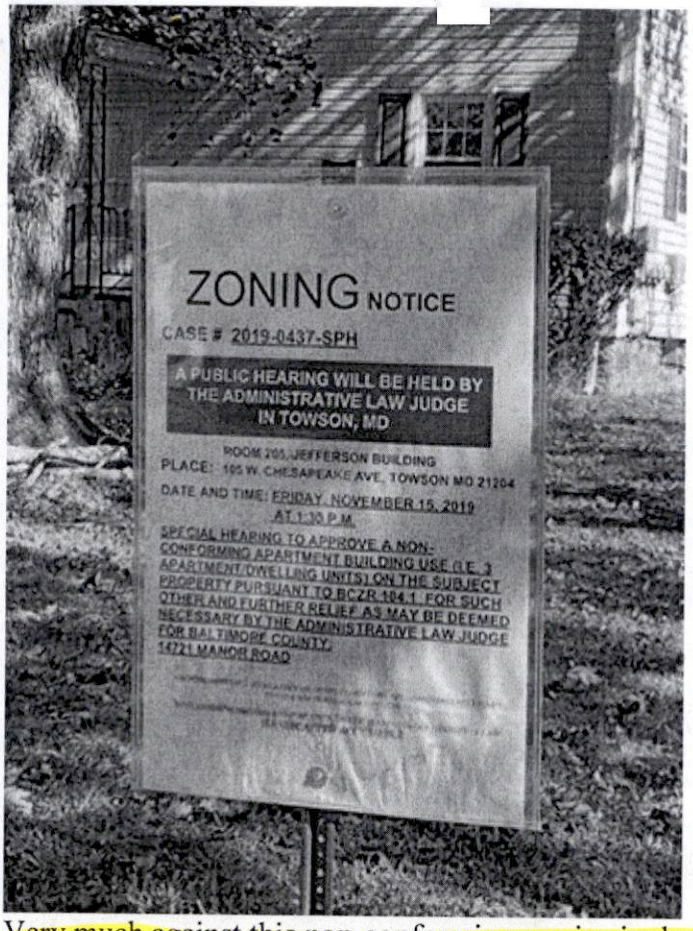
Ms. Wiley,

Per our conversation, I am forwarding you the email below relating to Case No. 2019-437-SPH.

Rebecca M. Wheatley, Legal Secretary
Office of People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2188 – Office
(410) 823-4236 - Fax

From: Elizabeth Lehmann <elizleh@gmail.com>
Sent: Thursday, November 14, 2019 11:40 AM
To: PAI Zoning <paizoning@baltimorecountymd.gov>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Subject: Case # 2019-0437-SPH

CAUTION: This message from elizleh@gmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.



Very much against this non-conforming use in single-family residential neighborhood outside the URDL. Against zoning. No public water makes for safety issue for fire protection, impact on wells and environment. Impact on schools, and public safety.

--

Betsy Lehmann
410-592-8693
elizleh@gmail.com

LS 11-15-19
1:30 PM

Debra Wiley

From: Linda Okeefe <luckylinda1954@yahoo.com>
Sent: Friday, November 15, 2019 1:23 AM
To: Administrative Hearings
Subject: Certification Case # 2019- 0437-SPH @ 14721 Manor Road
Attachments: Manor Rd. Cert..jpeg; Manor Rd. Photos.jpeg

CAUTION: This message from luckylinda1954@yahoo.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Debbie,

I have a Second Certification along with background photos for Case # 2019-0437-SPH @ 14721 Manor Rd.
Have a nice day,

Linda

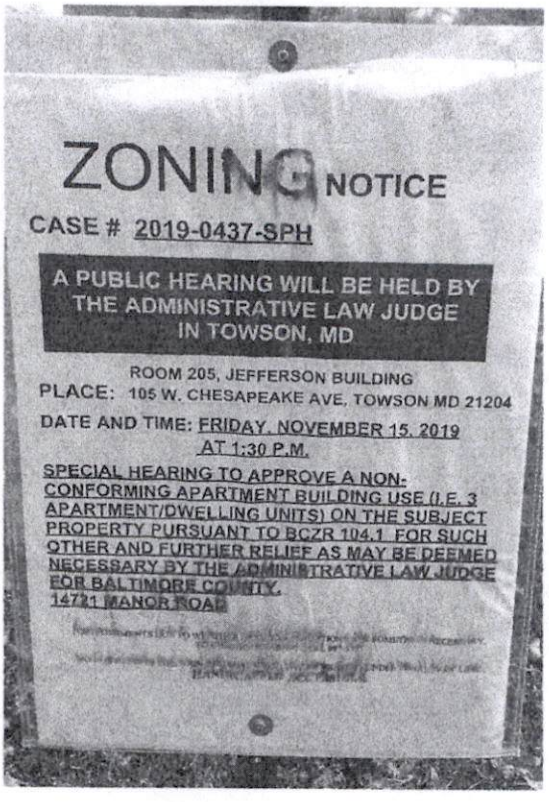
Linda O'Keefe
523 Penny Lane
Hunt Valley MD 21030
Phone # 410-666-5366
Cell# 443-604-6431
Fax# 410-666-0929
luckylinda1954@yahoo.com

SECOND CERTIFICATE OF POSTING

ATTENTION: SHERRY NUFFER
DATE: 11/14/2019
Case Number: 2019-0437-SPH
Petitioner / Developer: ZACHARY WILKINGS, ESQ. ~ JACQUELINE FRANK
Date of Hearing: NOVEMBER 15, 2019

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
14721 MANOR ROAD

The sign(s) were posted on: OCTOBER 25, 2019
The sign(s) were re-photographed on: NOVEMBER 14, 2019



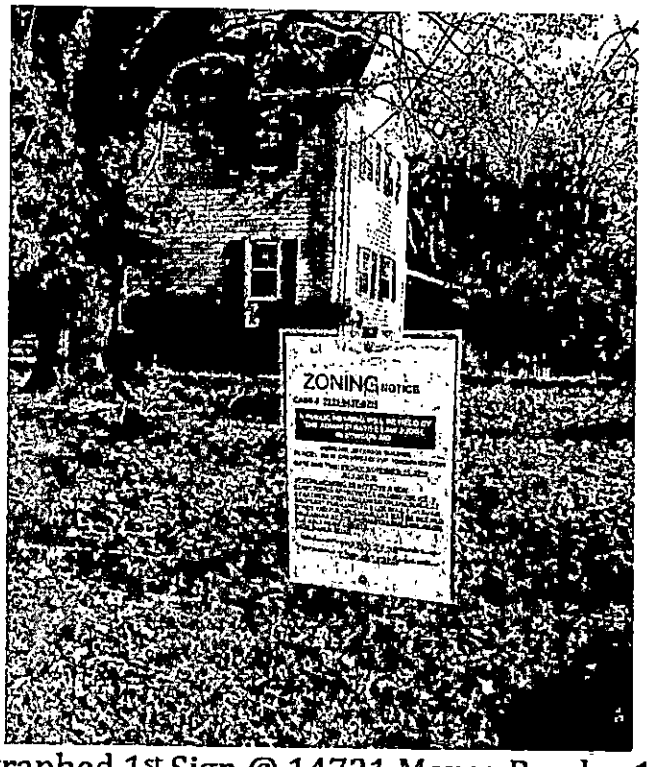
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

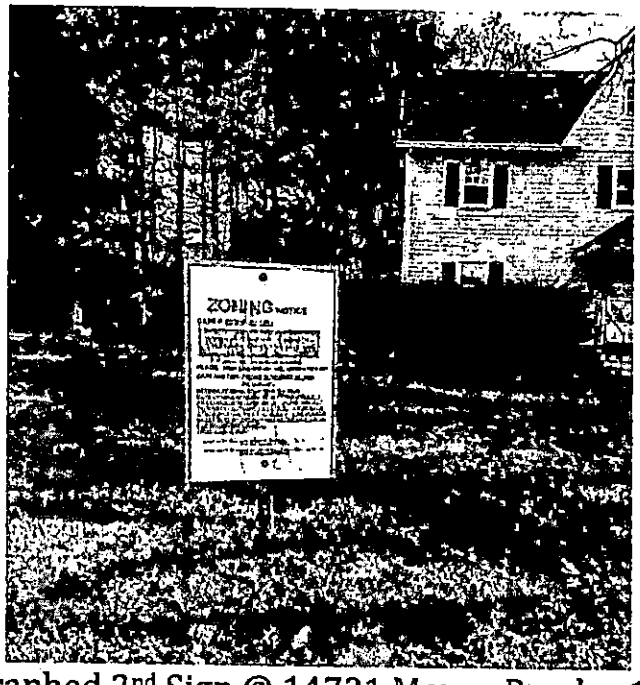
523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 – 666 – 5366
(Telephone Number of Sign Poster)



Re-Photographed 1st Sign @ 14721 Manor Road ~ 11/14/2019



Re-Photographed 2nd Sign @ 14721 Manor Road ~ 11/14/2019

CASE # 2019-0437-SPH

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

November 13, 2019

HAND DELIVERED
Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED
NOV 13 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

Re: Jacqueline R. Frank
14721 Manor Road
Case No: 2019-437-SPH

Dear Judge Stahl,

This follows transmittal of our November 8, 2019 letter. We have since received an email from Lawrence Schmidt, Esquire, one of the attorneys for Petitioner Jacqueline Frank. He provided a series of prior emails. These show an agreement between his office and the Assistant County Attorney to postpone the enforcement hearing scheduled for August 14, 2019.

I did not realize there was this agreement to postpone the enforcement hearing; and no such agreement was mentioned in the August 27, 2019 Final Order of the Administrative Law Judge. That is why we included the *res judicata/collateral estoppel* issue in the November 8, 2019 letter, i.e., based on this Final Order.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Lawrence Schmidt, Esquire, Attorney for Petitioner, sent via email
Zachary Wilkins, Esquire, Attorney for Petitioner, sent via email
John Raley, sent via email to jcr319@hotmail.com
Rebecca Heyman Magaziner, Esquire, sent via email to rlhmlaw@hotmail.com

Jonathan Blanar, sent via email to jrb_0323@yahoo.com
Steven Fischer, sent via email to stevenfischer88@rocketmail.com
Sue Cusick, sent via email to scusick@comcast.net
Michael D. Mallinoff, Director of Permits, Approvals, and Inspections
Marissa L. Merrick, Assistant County Attorney
W. Carl Richards, Zoning Supervisor

Debra Wiley

From: Peoples Counsel
Sent: Thursday, November 7, 2019 9:35 AM
To: Debra Wiley
Subject: FW: Opposing Zoning Notice for 14721 Manor Road

Ms. Wiley,

Per our conversation, I am forwarding you the email below relating to Case No. 2019-437-SPH.

Rebecca M. Wheatley, Legal Secretary
Office of People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2188 – Office
(410) 823-4236 - Fax

RECEIVED
NOV 07 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

From: Steven Fischer <stevenfischer88@rocketmail.com>
Sent: Thursday, November 7, 2019 9:15 AM
To: PAI Zoning <paizoning@baltimorecountymd.gov>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Subject: Opposing Zoning Notice for 14721 Manor Road

CAUTION: This message from stevenfischer88@rocketmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Morning -

I heard about the Zoning Variance Request regarding following property:

14721 Manor Road

Phoenix

and we are not in favor. If this would get approved, I see potential issues with well water usage impacting neighbors, adding more students to already crowded schools, negative impact of our neighborhood homes values... We see a threat to our home, our little piece of heaven to come home to after a busy work day, to enjoy peace and quiet.

We would love to come to the hearing in Towson on November 15th, but unfortunately it coincides with our work schedule. Please add this testimony to your files in this matter.

Thank you.

Steven Fischer

Sparks-Glencoe Community
Planning Council
P.O. Box 937, Sparks, MD 21152

RECEIVED
NOV 14 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

November 13, 2019

Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Ave., Ste. 103
Towson, MD 21204

Re: Jaqueline R. Frank, Case No. 2019-437-SPH

Dear Judge Stahl,

The Sparks-Glencoe Community Planning Council is a nonprofit organization dedicated to preserving the natural resources and rural character of northern Baltimore County. The above-referenced case does not fall within our organization's boundaries, but as the issue is one that could set a precedent for increasing residential density throughout the rural area in Baltimore County, we hope you will consider our position.

The property on which the petitioner seeks to increase the density is zoned RC 5, which allows a single house on the 1.4 acre site. Petitioner requests approval of a nonconforming use, but has not met the legal burden of proving that such use has been going on since before enactment of the zoning which allowed only one dwelling on their lot.

Nor would petitioner's request be compatible with the intent of the law. One of the purposes of the RC 5 zone is to provide an adequate area for functioning of on-lot sewer and water systems. Changing this house from a one-family dwelling to a three-family dwelling would place too much demand on the septic and water systems. In addition, the density of rural residential zoning is restricted in order to limit demand for services, including police, fire and ambulance, trash removal, and schools. Rural roads are not designed to handle the density of multi-unit dwellings. Baltimore County has a longstanding policy of limiting growth outside of the URDL.

For all these reasons, we request that you deny the petitioner's request.

Respectfully submitted,

Lynne Jones

Lynne Jones
President, SGCPC

Lawrence Stahl

From: Lynne Jones <dryad101@hotmail.com>
Sent: Wednesday, November 13, 2019 7:41 PM
To: Lawrence Stahl
Subject: Hearing #2019-437-SPH,
Attachments: Letter to ALJ 2019-437-SPH.jpg; Letter to ALJ 2019-437-SPH.jpg

CAUTION: This message from dryad101@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Judge Stahl,

I'm writing on behalf of the Sparks Glencoe Community Planning Council in regards to this non-conforming use case.
We oppose this use of three apartments on one property for the several reasons outlined in this attached letter.

Unfortunately, I will be out of town this week starting tomorrow and would not be able to submit this letter personally, nor testify.

Please consider accepting this letter via the internet opposing this petition.

Sincerely,
Lynne Jones
President, SGCPC
410.343.1468

"The World is Changed by Your *Example*... Not by Your *Opinion*"

Visit our websites: lynnejonesart.com and jameswvoshell.com

Rm 25

CASE NO. 2019-0437-SPH

CHECKLIST

Attorney

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
_____	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	_____
9/13	DEPS (if not received, date e-mail sent _____)	Comment
_____	FIRE DEPARTMENT	_____
9/24	PLANNING (if not received, date e-mail sent _____)	NO OBJ w/Conditions
8-28	STATE HIGHWAY ADMINISTRATION	No objection
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
11-7	ADJACENT PROPERTY OWNERS	See Ltrs. of Opposition Packet

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 10-25-19

SIGN POSTING (1st) Date: 10-25-19 by O'Keefe

SIGN POSTING (2nd) Date: 11-14-19 by "

PEOPLE'S COUNSEL APPEARANCE Yes ☑ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☑ No ☐ Reid 11-8-19

Comments, if any: ① Rescheduled from 10-25 19 due to error in Sign posting.

② Rental Code Enforcement Issue(s)

③ People's Counsel Comments - 11-8-19

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: None **Special Tax Recapture:** None

Exempt Class: None

Account Identifier: **District** - 10 **Account Number** - 1012040302

Owner Information

Owner Name:	FRANK CONSTANTINE FRANK JACQUELINE R	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	19 BELLCLARE CIR SPARKS GLENCO MD 21152-9114	**Deed Reference:**	/08169/ 00330

Location & Structure Information

Premises Address:	14721 MANOR RD 0-0000	**Legal Description:**	1.413 ACRES ES MANOR ROAD 318 S STANSBURY MILL RO

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0036	0008	0168	10030041.04	0000				2020	Plat Ref:

Special Tax Areas: None **Town:** None

Ad Valorem: None

Tax Class: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1898	4,308 SF		1.4100 AC	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	ASBESTOS SHINGLE/	4	4 full		

Value Information

	Base Value	Value	Phase-in Assessments	
		As of 01/01/2017	As of 07/01/2019	As of 07/01/2020
Land:	140,500	140,500		
Improvements	212,300	212,300		
Total:	352,800	352,800	352,800	
Preferential Land:	0			

Transfer Information

Seller: FRANK CONSTANTINE	**Date:** 05/09/1989	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /08169/ 00330	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2019	07/01/2020
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt: None **Special Tax Recapture:** None

Exempt Class: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

PM 10-25
11 Am

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

DATE: 9/24/2019

FROM: C. Pete Gutwald
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 19-437

RECEIVED
SEP 25 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

INFORMATION:
Property Address: 14721 Manor Road
Petitioner: Jacqueline R. Frank
Zoning: RC 5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for a special hearing to approve a nonconforming apartment building use (3 apartments/dwelling units) on the subject property, pursuant to the Baltimore County Zoning Regulations (BCZR) section 104.1

Pursuant to the provided site plan the existing three dwellings are situated in two separate stand-alone structures, the larger accommodating two apartments the third apartment being essentially a single family dwelling. Maryland State tax records indicate the primary two and one-half story structure as being built in 1898.

The Department has no objection to granting the petitioned conditioned upon the following:

- The existing structures may not be enlarged beyond 25% of the existing enclosed area.
- No additional bedrooms may be established unless approved by the Department of Environmental Protection and Sustainability.

For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Division Chief:

Jenifer G. Nugent

CPG/JGN/LTM/

c: Joseph Wiley
Zachary Wilkins
Office of the Administrative Hearings
People's Counsel for Baltimore County

10-25

RECEIVED
SEP 13 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: September 13, 2019

SUBJECT: DEPS Comment for Zoning Item # 2019-0437-SPH
Address 14721 Manor Road
(Frank Property)

Zoning Advisory Committee Meeting of **August 23, 2019**.

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

1. Ground Water Management will need to review any permits proposed for apartment units – since the property is served by septic and well.

Reviewer: Dan Esser

PS 11-15-19
1:30 PM

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

November 8, 2019

HAND DELIVERED
Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED
NOV 08 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

Re: Jacqueline R. Frank
14721 Manor Road
Case No: 2019-437-SPH

Dear Judge Stahl,

Upon review of this zoning petition, related enforcement proceedings, and citizen concerns, it appears necessary and appropriate to survey the situation and provide some legal perspective. We trust the following analysis will be helpful to your review of this case.

Petitioner Jacqueline Frank filed the petition on August 22, 2019. Her address is 19 Bellclare Circle, Sparks Glencoe, Maryland 21152. The petition relates, however, to her 3-apartment building at 14721 Manor Road. The enclosed SDAT data lists her and Constantine Frank as property owners and provides other basic information.

A petition for a special hearing via BCZR Sec. 500.7 effectively requests a declaratory judgment. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005). This petition requests a determination to approve the 3-apartment building on Manor Road as a nonconforming use.

The property is 1.4 acre in size. The enclosed ADC Street Atlas, Page 34, shows the rural north county location. The current zone is R.C. 5, Rural-Residential. This zone allows at most one dwelling here. Based on BCZR Sec. 1A04.3.A.1.a, the maximum gross residential density is 0.5 dwelling per acre. For properties less than 1.5 acres, a single dwelling is allowed via special hearing. In sum, the maximum allowed for this property under the current zone is just one dwelling.

* * *

The present petition comes in the wake of enforcement proceedings in Case CC1908335. It began with a Correction Notice on June 20, 2019, followed by a July 25. 2019 citation, which gave notice of an August 14, 2019 hearing date. The case concluded with Administrative Law Judge Lawrence M. Stahl's August 27, 2019 Order. This documentary history is enclosed. Each

of the enforcement documents shows they were addressed to Constantine Frank and Jacqueline Frank at the 19 Bellclare Road address.

Judge Stahl determined the existence of a violation and imposed a civil penalty of $6000.00. The Order states the property owners failed to appear for the August 14, 2019 hearing. Therefore, as Judge Stahl observed, the Order was not appealable. Baltimore County Code Sec. 3-6-206(f). His decision is the final decision in the enforcement case.

* * *

We shall first address the substantive legal context of the nonconforming use claim. Petitioner must prove there was a legal 3-apartment use before there came about legislation which made the use impermissible. To explore this further, we obtained from the zoning office the enclosed zoning history.

Baltimore County enacted its first comprehensive zoning map in 1945. See Kahl v. Consolidated Gas, Electric Light, and Power Co. 191 Md. 249 (1948). The zoning history here shows so far that in 1971, the property was legislatively rezoned to R.D.P., Rural Deferred Planning. This zone allowed one dwelling per acre, so a maximum still of one dwelling. BCZR Sec. 1A00.3.B.1; Bill 100, 1970. In 1976, the property was zoned R.C. 2, Agricultural, again with a maximum of one dwelling here per BCZR Sec. 1A01.3.B; Bills 98-75, 178-79. It looks like the current R.C. 5 Zone came about in 2016. We have not ascertained the zoning history before 1971.

Petitioner must thus prove (1) that the property was used for three apartments at least since before the 1971 comprehensive zoning map, perhaps even earlier, and (2) that it has been used as such since then continuously, that is to say, without discontinuity for a year. The burden of proof is on the Petitioner. The law is construed strictly against nonconforming uses, which the law intends to disappear. Prince George's County v. E.L. Gardner 293 Md. 259, 267-70 (1982); Purich v Draper Properties 395 Md. 694, 708-22 (2006); Canada's Tavern v. Town of Glen Echo 260 Md. 206 (1970).

In sum, substantively, resolution of the present nonconforming use issue depends on the aforesaid law as applied to the facts presented at the hearing. That will be a mixed factual/legal determination. In sum, Petitioner must show when, if ever, there was a legal use for 3 apartments, and if so, that such use has continued without interruption after the advent of the legislation which prohibited the use, either in 1971 or perhaps earlier.

* * *

There is another issue. This relates to the impact of Judge Stahl's final order in the enforcement proceedings. Does Judge Stahl's final determination of a violation preclude this special hearing petition? Otherwise stated, is the petition for special hearing barred by *res judicata* or, at the very least, collateral estoppel? See Batson v. Shifflett 325 Md. 684, 701-05; Powell v. Breslin 430 Md. 52, 64-65 (2013); Garrett Park v. Montgomery County Council 257 Md. 250, 256-58 (1970); Fertitta v. Brown 252 Md. 594, 599-600 (1969); and Seminary Galleria v. Dulaney Valley Improvement Association 192 Md. App. 719, 734-42. (2010) as to *res judicata.* The *res*

judicata doctrine may apply so long as the cause of action is effectively the same and the relevant party had the opportunity to adjudicate the issue. FWB v. Richman 354 Md., 472, 491-93 Moreover, where the issue is effectively adjudicated, collateral estoppel comes into play in any event. Leeds Federal Savings & Loan Association v. Metcalf 332 Md. 107, 117-18 (1993).

Property owners served with correction notices and citations may assert legal defenses at the enforcement hearing. This includes the defense of legal nonconforming use as defined in BCZR Sec. 101.1 and stated in Sec. 104.1. To find a violation, it was necessary, as a matter of law, that there be no proof of nonconforming use. If the use were legally nonconforming, there would be no violation. Judge Stahl's Order is thus final and conclusive that there was no such legal use. Consequently, the petition for special hearing appears to be barred by *res judicata* or collateral estoppel. The record reflects, ironically, that Jacqueline Frank's petition for special hearing, filed on August 22, came 8 days after neither she nor Constantine Frank appeared at the August 14 enforcement hearing.

* * *

We appreciate your careful consideration of these matters of public interest..

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Zachary Wilkins, Esquire, Attorney for Petitioner, sent via first class mail & email
John Raley, sent via email to jcr319@hotmail.com
Rebecca Heyman Magaziner, Esquire, sent via email to rlhmlaw@hotmail.com
Jonathan Blanar, sent via email to jrb_0323@yahoo.com
Steven Fischer, sent via email to stevenfischer88@rocketmail.com
Michael D. Mallinoff, Director of Permits, Approvals, and Inspections
W. Carl Richards, Zoning Supervisor

ADC The Map People®
by Kappa Map Group

STREET ATLAS

More Titles
MID-ATLANTIC REGION
Better Selection

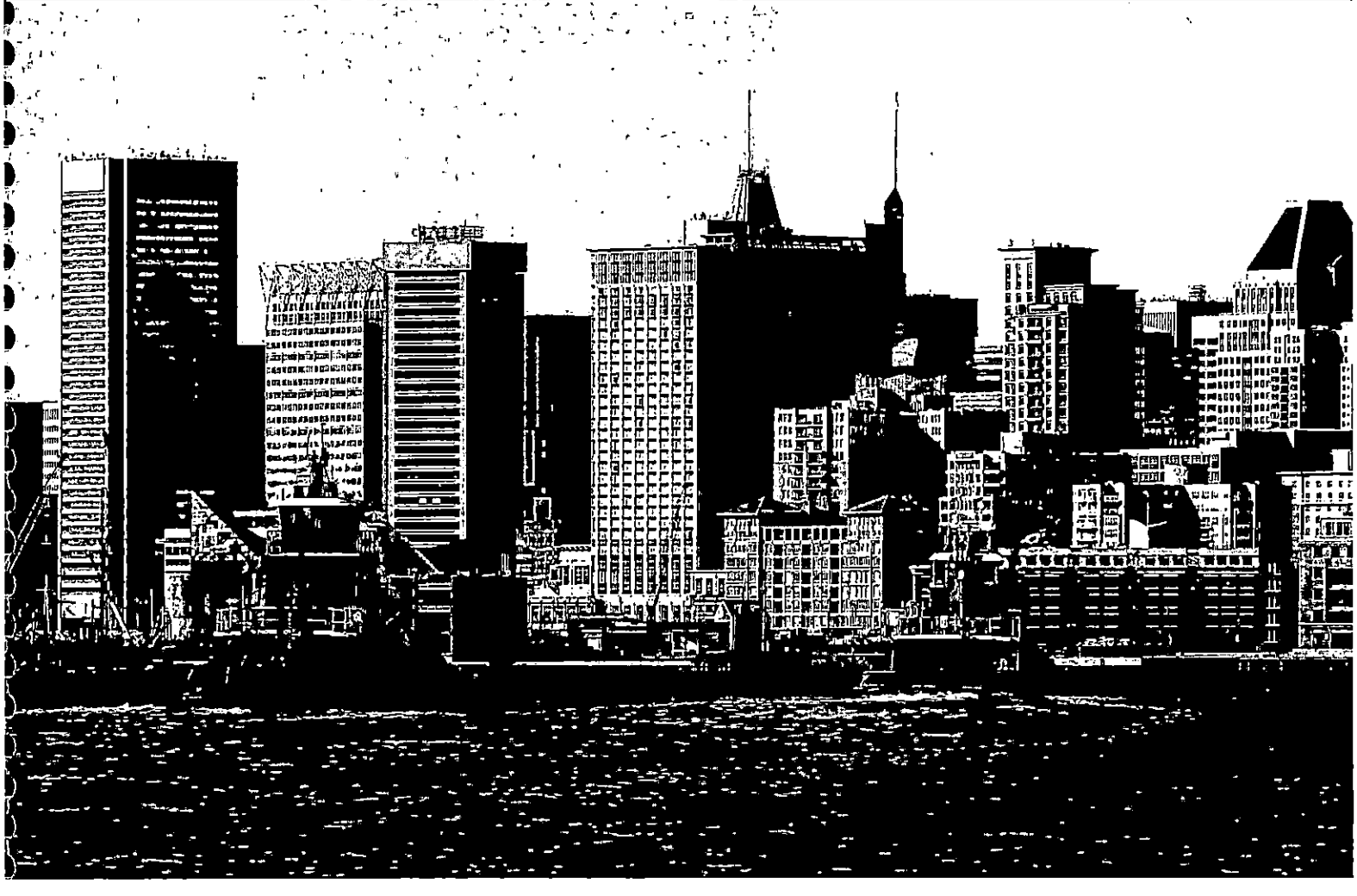
Baltimore City & County Maryland

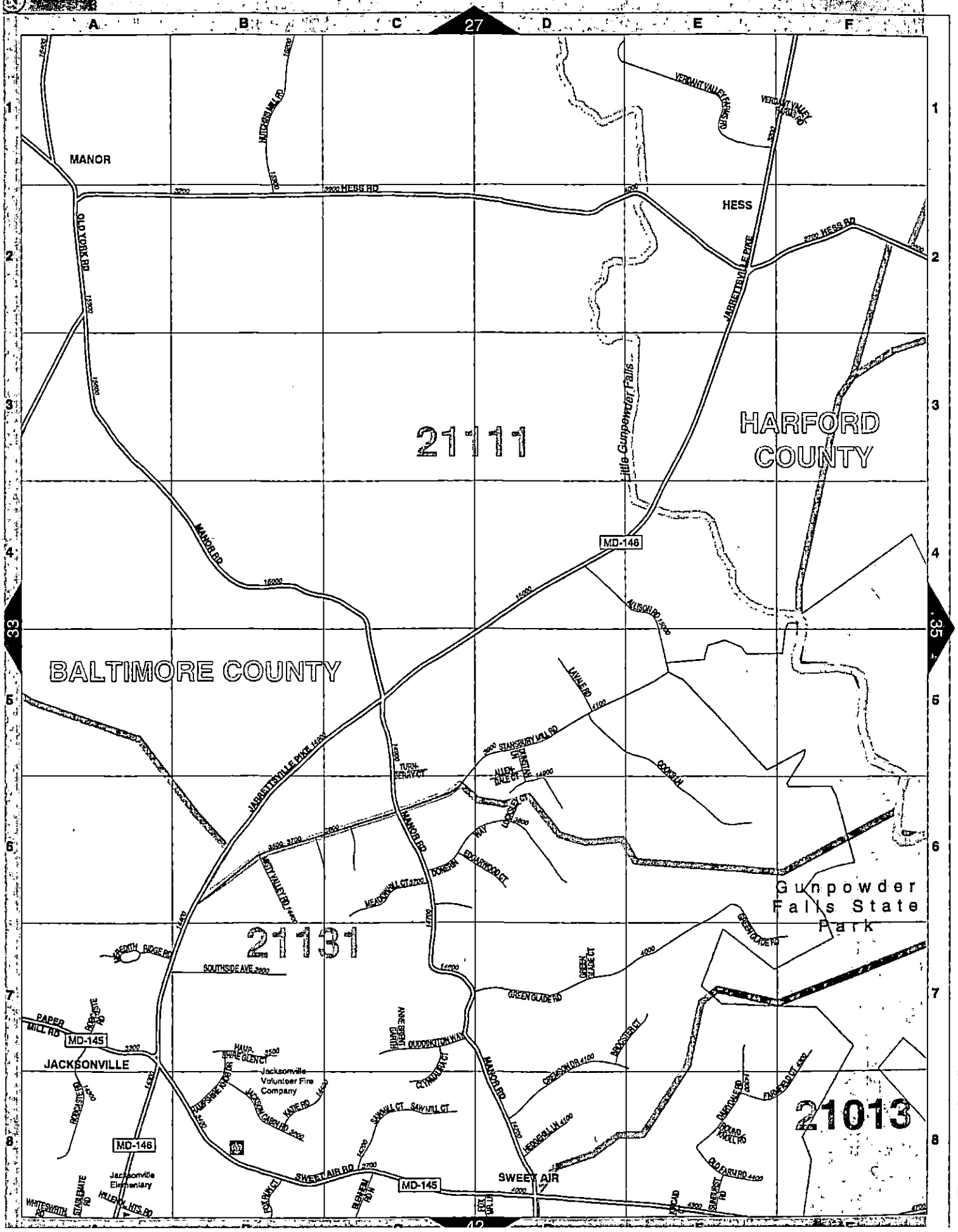
Trusted. Accurate. Everywhere.™

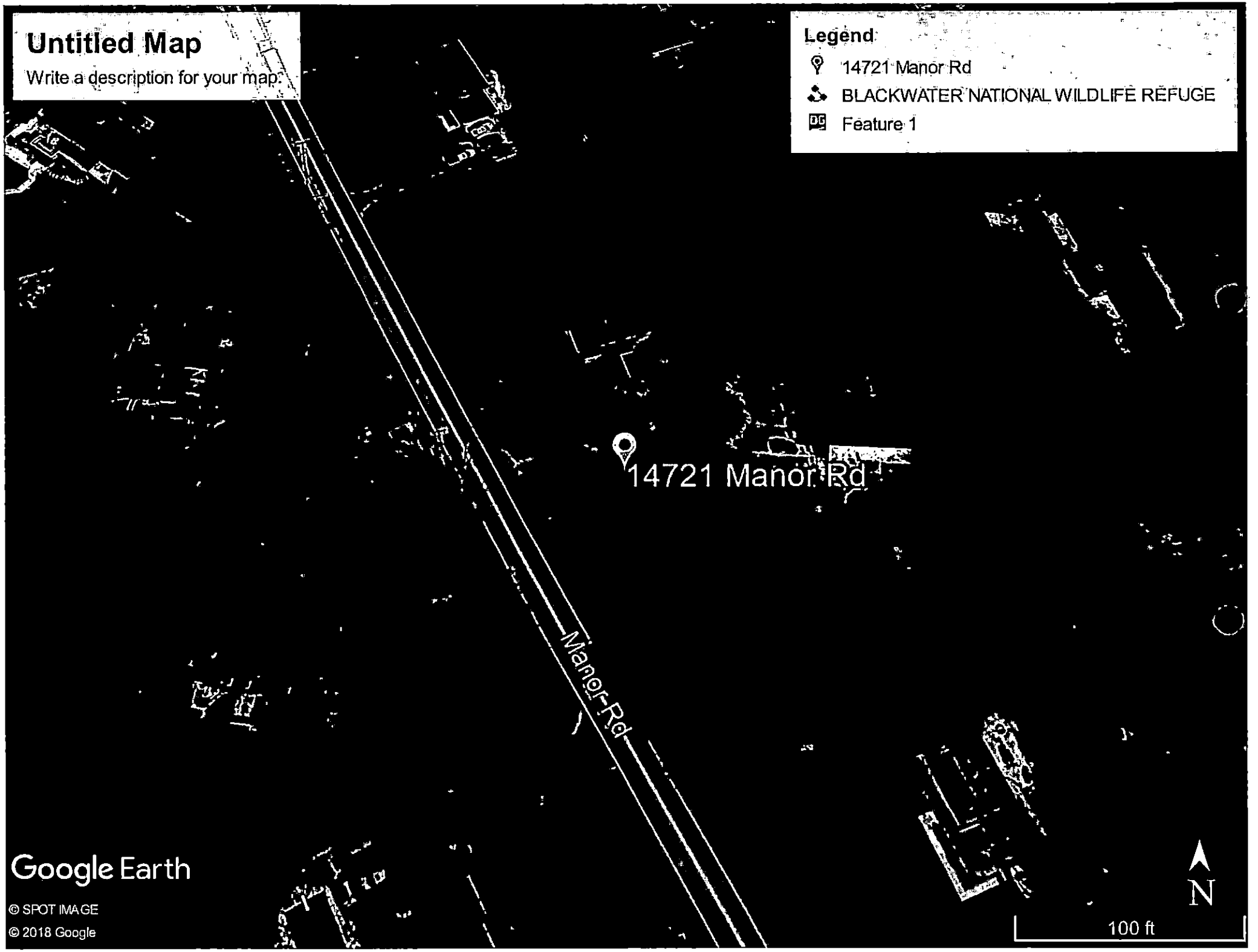


INCLUDING: Complete Baltimore County coverage, Hampstead & Downtown Baltimore (large-scale)

FEATURING: Detail of Baltimore/ Washington International Thurgood Marshall Airport (BWI), Block Numbers, Downtown Baltimore, Colleges & Universities, Baltimore Metro & Central Light Rail, Maryland Rail Commuter System, Parks & Rec Areas, Places of Interest, Schools & ZIP Codes




Scale 1:24,000
1 in = 2,000 ft
0 ft 1,000 2,000 3,000 4,000 5,000 1 mi
0 m 200 400 600 800 1 km
A B C D E F
27
33
35
42
MANOR
HESS
HARFORD COUNTY
BALTIMORE COUNTY
21111
21131
21013
Gunpowder Falls State Park
Little Gunpowder Falls
OLD YORK RD
HUTCHINS MILL RD
HESS RD
VERDANT VALLEY CHURCH RD
VERDANT VALLEY FARM RD
JARRETTSVILLE PIKE
MANOR RD
MD-146
ALLISON RD
JAVINE RD
STANSBURY MILL RD
TURN BERRY CT
ALLENDALE CT
DOGWOOD CT
WAY
DONEGAL
EDGEWOOD CT
MEADOWHILL CT
WESTMINSTER RD
MEREDITH RIDGE RD
SOUTHSIDE AVE
GREEN GLADE CT
GREEN GLADE RD
PAPER MILL RD
MD-145
JACKSONVILLE
ANNE BERRY CT
QUIDDENTON WAY
CLYMBURN CT
ACCESS CIR
CROSSROAD DR
HEDGEHILL LN
FARMER BLVD
DARTMOOR RD
ROUND KNOLL RD
OLD FARM RD
HAUP WHITE GLEN CT
Jacksonville Volunteer Fire Company
HUBBARD RIDGE DR
JACKSON CABIN RD
KATIE RD
SAWMILL CT
SAWMILL CT
MD-148
SWEET AIR RD
SWEET AIR
MD-145
Jacksonville Elementary
WHITESMITH RD
STABLEGATE RD
HILLSIDE HTS RD
FOX RUN CT
FOX RUN
BUSHEY RUN
DEERFIELD RD
DEERFIRST RD


Untitled Map
Write a description for your map.
Legend
14721 Manor Rd
BLACKWATER NATIONAL WILDLIFE REFUGE
Feature 1
14721 Manor Rd
Manor Rd
Google Earth
© SPOT IMAGE
© 2018 Google
N
100 ft

Real Property Data Search

You may experience issues today as SDAT works to restore all services. SDAT apologizes for any inconvenience the last few days, and asks for patience as we continue to work to make the site better.

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Account Identifier: **District** - 10 **Account Number** - 1012040302

Owner Information

Owner Name:	FRANK CONSTANTINE FRANK JACQUELINE R	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	19 BELLCLARE CIR SPARKS GLENCO MD 21152-9114	**Deed Reference:**	/08169/ 00330

Location & Structure Information

Premises Address:	14721 MANOR RD 0-0000	**Legal Description:**	1.413 ACRES ES MANOR ROAD 318 S STANSBURY MILL RO

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0036	0008	0168	10030041.04	0000				2020	Plat Ref:

Special Tax Areas: None
Town: None
Ad Valorem: None
Tax Class: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1898	4,308 SF		1.4100 AC	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	ASBESTOS SHINGLE/	4	4 full		

Value Information

	Base Value	Value As of 01/01/2017	Phase-in Assessments As of 07/01/2019	As of 07/01/2020
Land:	140,500	140,500		
Improvements	212,300	212,300		
Total:	352,800	352,800	352,800	
Preferential Land:	0			

Transfer Information

Seller: FRANK CONSTANTINE	**Date:** 05/09/1989	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /08169/ 00330	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2019	07/01/2020
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Baltimore County

New Search (https://sdat.dat.maryland.gov/RealProperty)

District: 10 **Account Number: 1012040302**



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.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at **http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx (http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx)**.

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROP.TAX ID
CC1908335	10-12-040302

VIOLATION ADDRESS
14721 MANOR RD
PHOENIX, MD 21131

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
B.C.Z.R 402: Illegal conversion of dwelling	Cease illegal conversion of dwelling, convert the dwelling back to a single-family dwelling as a multi family dwelling is not permitted in an RC5 zoned property.
Other Violation(s)	BCZR 1A04.3.B.5 Only one dwelling permitted on an RC5 zoned property, remove the second dwelling from the property.

Failure to comply with this correction notice, may result in a $200.00 fine/penalty per day, per violation pursuant to BCC: 1-2-217; 32-3-602 and/or the County sending a contractor to correct the violation(s) at your expense. Call the Inspector for more information and details.

COMPLIANCE DATE: 07/20/2019	INSPECTOR ID: 79
	ISSUED DATE: 06/20/2019

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. It is important that you read this document carefully, as it charges you with the commission of a crime.
2. If you fail to correct the violations noted by the date dictated, a citation may be issued, and a trial scheduled at which you may be penalized by a fine, imprisonment, or both.
3. If the County is required to bring your property into compliance, all costs and fines shall become a lien and shall be collectible in the manner provided for collection of real estate taxes; or may be collected in the same manner as any civil money judgment or debt collected.
4. A lawyer can give important assistance to you:
   (a) on how to correct the violation(s) in order to avoid trial or
   (b) at trial, if you failed to correct the violation(s) noted. Assistance may be provided to determine whether there are any defenses to the charges against you or any circumstances helpful to you that should be brought to the trial. A lawyer can help you by developing and presenting information, which could effect how you correct the violation(s).
5. A conviction for each violation will subject you to potential fines of $200, $500, $1000 per day per violation, depending on the violation, or 90 days in jail, or both Baltimore County Code section 1-2-217 and 32-3-602.
6. It is your responsibility to obtain any required permit(s) to correct the cited violation(s). All repairs must be in accordance with applicable laws, Code of Baltimore County Regulations, and standards.
7. Upon correction of these violation(s), contact the inspector for re-inspection. If you have any questions contact the inspector promptly.

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204

www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT & INSPECTION CITATION

CASE NUMBER	PROP.TAX ID
CC1908335	10-12-040302

VIOLATION ADDRESS
14721 MANOR RD
PHOENIX, MD 21131

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
B.C.Z.R 402: Illegal conversion of dwelling	Failure to cease illegal conversion of dwelling, failure to convert dwelling back to a single-family residence.

Pursuant to Section 1-2-217, Baltimore County Code, civil penalty has been assessed, as a result of the violation(s) cited herein, in the amount indicated: **$6000**

A quasi-judicial hearing has been pre-scheduled in:
Jefferson Building, 105 W. Chesapeake Ave, Rm 205
Towson, Maryland, 21204

DATE: 08/14/2019 **TIME:** 09:00 **A.M.**

*****IF A VIOLATOR DOES NOT APPEAR AT THE CODE ENFORCEMENT HEARING, THE CITATION AND ANY CIVIL PENALTY ARE DEEMED A NON-APPEALABLE FINAL ORDER OF THE CODE OFFICIAL OR THE DIRECTOR.*****

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Inspector Badge Number		Issued Date
79		07/25/2019

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204

www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT & INSPECTION CITATION

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. If unable to appear on the designated date, the violator may request in writing to the Code Official within fifteen (15) days from the date of this citation for a rescheduled hearing. If you require the assistance of an interpreter because you do not understand or speak the language in which the proceedings are being conducted you must ask for an interpreter within 72 hours of the court date.
2. At this hearing, you are entitled to be represented by an attorney, present witnesses, present evidence, and cross-examine any witnesses against you. An attorney can be helpful to you by (a) explaining the charges in this citation, (b) helping you at the hearing, and (c) helping you challenge the civil penalty, if found in violation.
3. If Administrative Law Judge finds that a violation has occurred, the Final Order may include (a) a civil penalty, (b) reasonable conditions as to time and manner of correction and (c) requirement to reimburse the County for any lien(s) or costs incurred to correct a violation.
4. (a) Civil penalty a lien.
   (1) If a final order assesses a civil penalty or an order of the Board of Appeals affirms or modifies a final order that assesses a civil penalty and the violator does not pay the civil penalty within the time required by the order, the Code Official or the Director shall certify to the Director of Budget and Finance the amount owed.
   (2) If a violator does not pay a civil penalty within the time required as specified in paragraph (1) of this subsection, the amount owed
      (i) Become a lien on the property on which the violation existed and shall be collectible in the manner provided for the collection of real estate taxes; or
      (ii) May be collected in the same manner as any civil money judgment or debt may be collected.

   (b) Code Official may procure performance. If a violator fails to comply with a final order or an order of the Board of Appeals, the Code Official or the Director may procure the performance of the work needed to correct the violation in accordance with the procedure authorized in 3-6-402 of this subtitle.
5. If you are the Owner of the property, failure to pay the assessed penalty shall constitute a lien on the property and shall be collectible in the same manner and to the same extent as real estate taxes. In addition, failure to correct the violation(s) shall result in appropriate judicial action for enforcement, including civil contempt, which could result in imprisonment.
6. Should the Violator disagree with the Final Order rendered by the Office of Administrative Law, an appeal may be taken to the Baltimore County Board of Appeals within fifteen (15) days of the date of the Order.
7. A filing fee of $225.00 and a security in the amount of any civil penalty assessed in the Final Order must accompany the notice of appeal and petition. See Baltimore County Code: 3-6-302.
8. Inclement weather procedure: If Baltimore County Government offices are closed or have a delayed opening, all code enforcement hearings will be rescheduled. Reschedule letters will be mailed to the property owner of record.
9. **If the violator wishes NOT to contest this citation, give up your right to a hearing and wish to pay the fine. Please remit the following: a copy of this citation, and a check or money order payable to: Baltimore County Office of Budget and Finance, 400 Washington Ave, Rm 150, Towson, MD 21204**

Office of Administrative Hearings for Baltimore County
105 West Chesapeake Avenue Suite 103
Towson, Maryland 21204

August 27th, 2019

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114
--

Re: Code Enforcement Case No. 1908335, 14721 Manor Road
Dear Sir/Madam:

Enclosed here within please find a Citation which has become a Final Order entered by Administrative Law Judge in the above captioned matter. Please note that under the Baltimore County Code (B.C.C.) §3-6-206(f), this is a non-appealable Final Order, given that you failed to appear at the **August 14, 2019** Hearing scheduled for the captioned violation case.

The Judge imposed a civil penalty in the amount of **$6,000.** You are required to make payment by cash, check or money order within 30 days of the date of this letter to:

Baltimore County Office of Budget and Finance
400 Washington Avenue, Room 150
Towson, MD 21204

Failure to make the payment as required by the enclosed Order will result in the imposition of a statutory lien against your property and/or the initiation of other collection efforts by Baltimore County. Please note that you have a continuing obligation to maintain your property in compliance with all laws. If you have any questions about this matter please contact your inspector at 410-887-3351.

Please also note that the Administrative Law Judge's Final Order requires you to correct within 7 days the violation detailed in the citation. Should you fail to comply with the Order within that time frame, be advised that Baltimore County may, with County employees or through a private contractor, enter upon your property to correct the violation. The costs and expenses of the property clean-up are the responsibility of the owner, and if not paid may become a tax lien on your property.

Sincerely,

MICHAEL D. MALLINOFF,
Deputy Administrative Officer and Director
Permits, Approvals and Inspections

MM/hmk
Enclosure

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

FINAL ORDER OF THE ADMINISTRATIVE LAW JUDGE

On July 16, 2019, a Code Inspections and Enforcement Citation in the above captioned case was issued in the amount of **$6,000.00** for violation(s) of the Baltimore County Code or Zoning Regulations specified in Civil Citation No. **1908335**. The Citation names the owner(s) of record, as published in the Maryland State Tax Assessment database, as the Respondent(s). The citation was served upon the owner of the property in a manner consistent with Section 3-6-205(c)(2) of the Baltimore County Code ("BCC").

A hearing on the citation was scheduled for 9:00 a.m. on August 14, 2019, at which the Respondent failed to appear. Pursuant to Sections 3-6-205(d) and 206(f) of the BCC, failure to request a hearing, or appear at a scheduled hearing, renders the Citation and any civil fine or other relief, a final non-appealable order.

Therefore, it is this **27th** day of August, 2019, hereby

ORDERED that a civil penalty in the amount of **$6,000.00** be immediately imposed; and it is further

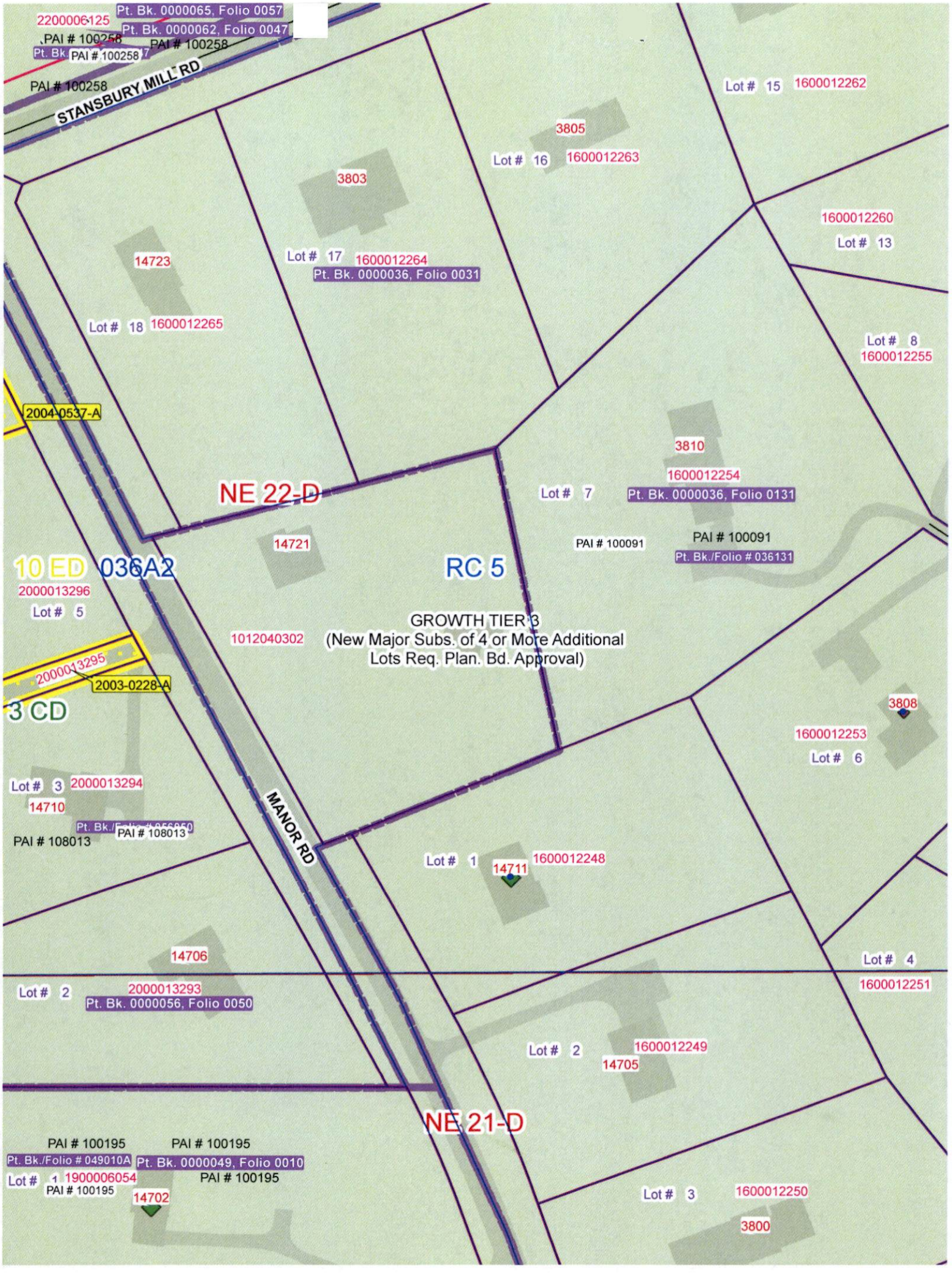
ORDERED that owner shall correct the violation(s) set forth in the attached citation within seven (7) days of the entry of this Order.

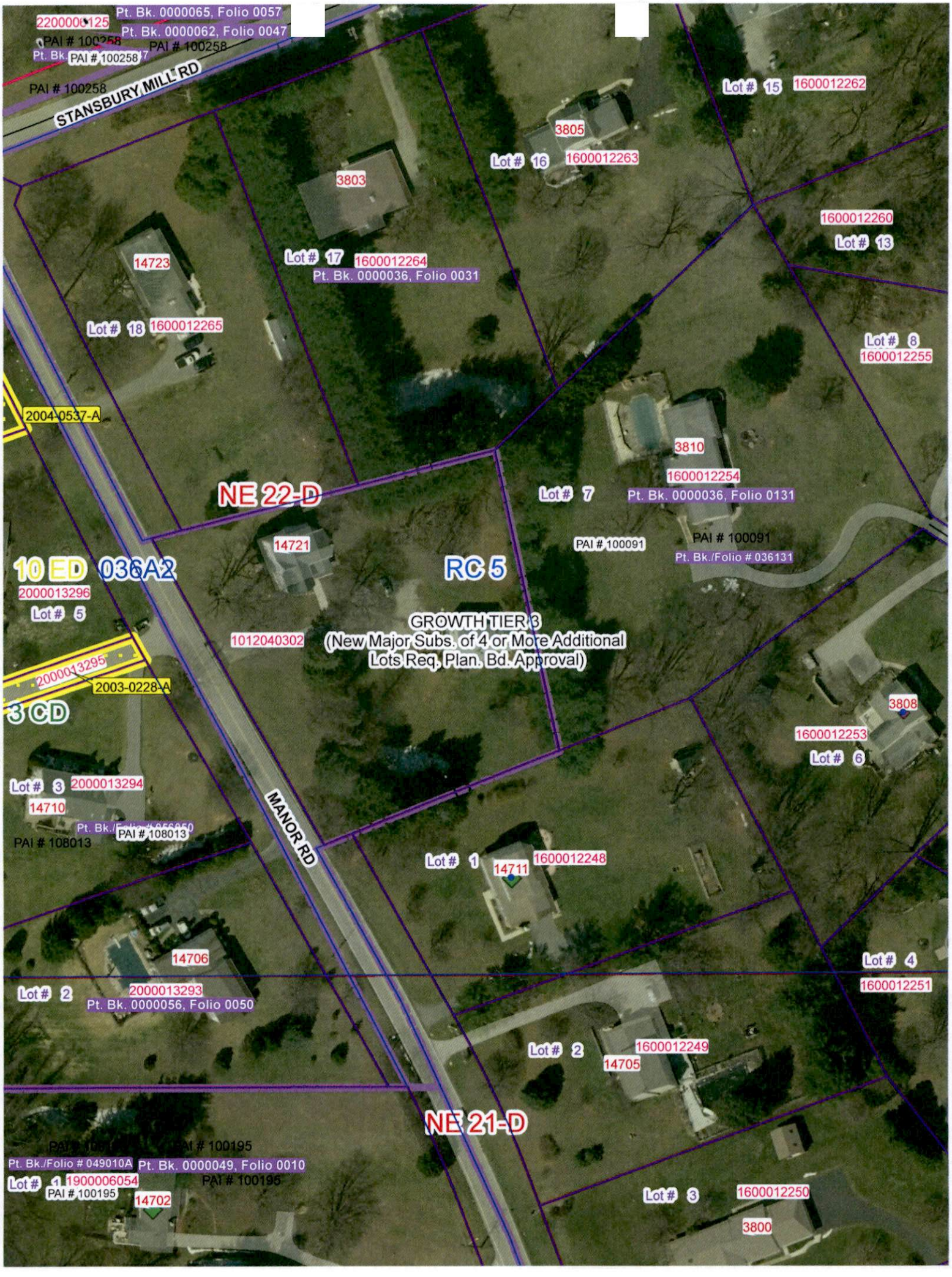
IT IS FURTHER ORDERED THAT Baltimore County shall be authorized to send an employee or authorized contractor to enter the property to correct the violation(s), the costs and expenses of which shall be assessed against Respondents.

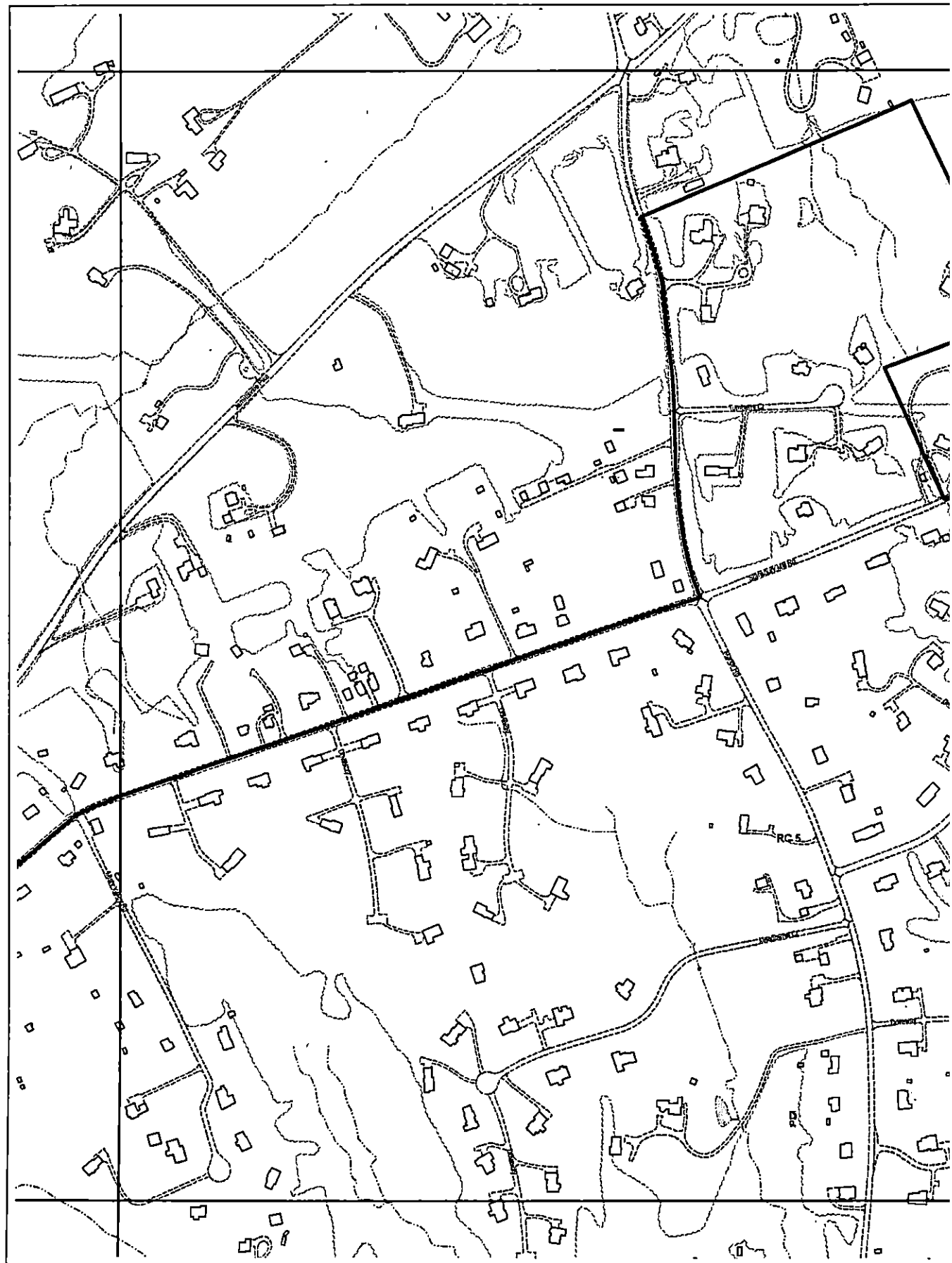
Signed: _____

Lawrence M. Stahl
Managing Administrative Law Judge

LMS/hmk


2200006125
Pt. Bk. 0000065, Folio 0057
Pt. Bk. 0000062, Folio 0047
PAI # 100258
PAI # 100258
PAI # 100258
STANSBURY MILL RD
Lot # 15 1600012262
3805
Lot # 16 1600012263
3803
1600012260
Lot # 13
14723
Lot # 17 1600012264
Pt. Bk. 0000036, Folio 0031
Lot # 18 1600012265
Lot # 8
1600012255
2004-0537-A
3810
1600012254
NE 22-D
Lot # 7
Pt. Bk. 0000036, Folio 0131
14721
PAI # 100091
PAI # 100091
Pt. Bk./Folio # 036131
10 ED
036A2
RC 5
2000013296
Lot # 5
GROWTH TIER 3
(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)
1012040302
2000013295
2003-0228-A
3 CD
3808
1600012253
Lot # 6
Lot # 3 2000013294
14710
Pt. Bk./Folio # 056050
PAI # 108013
PAI # 108013
MANOR RD
Lot # 1 14711 1600012248
14706
Lot # 4
1600012251
Lot # 2
2000013293
Pt. Bk. 0000056, Folio 0050
Lot # 2 1600012249
14705
NE 21-D
PAI # 100195
PAI # 100195
Pt. Bk./Folio # 049010A
Pt. Bk. 0000049, Folio 0010
Lot # 1 1900006054
PAI # 100195
PAI # 100195
14702
Lot # 3 1600012250
3800


Pt. Bk. 0000065, Folio 0057
Pt. Bk. 0000062, Folio 0047
PAI # 100258
PAI # 100258
PAI # 100258
STANSBURY MILL RD
Lot # 15
1600012262
3805
Lot # 16
1600012263
3803
1600012260
Lot # 13
14723
Lot # 17
1600012264
Pt. Bk. 0000036, Folio 0031
Lot # 18
1600012265
Lot # 8
1600012255
2004-0537-A
3810
1600012254
NE 22-D
Lot # 7
Pt. Bk. 0000036, Folio 0131
14721
PAI # 100091
PAI # 100091
Pt. Bk./Folio # 036131
10 ED 036A2
RC 5
2000013296
Lot # 5
GROWTH TIER 3
(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)
1012040302
2000013295
2003-0228-A
3 CD
3808
1600012253
Lot # 6
Lot # 3
2000013294
14710
Pt. Bk./Folio # 056050
PAI # 108013
PAI # 108013
MANOR RD
Lot # 1
14711
1600012248
14706
Lot # 4
1600012251
Lot # 2
2000013293
Pt. Bk. 0000056, Folio 0050
Lot # 2
1600012249
14705
NE 21-D
PAI # 100195
Pt. Bk./Folio # 049010A
Pt. Bk. 0000049, Folio 0010
Lot # 1
1900006054
PAI # 100195
PAI # 100195
14702
Lot # 3
1600012250
3800



Plan Sheet: *036A2*

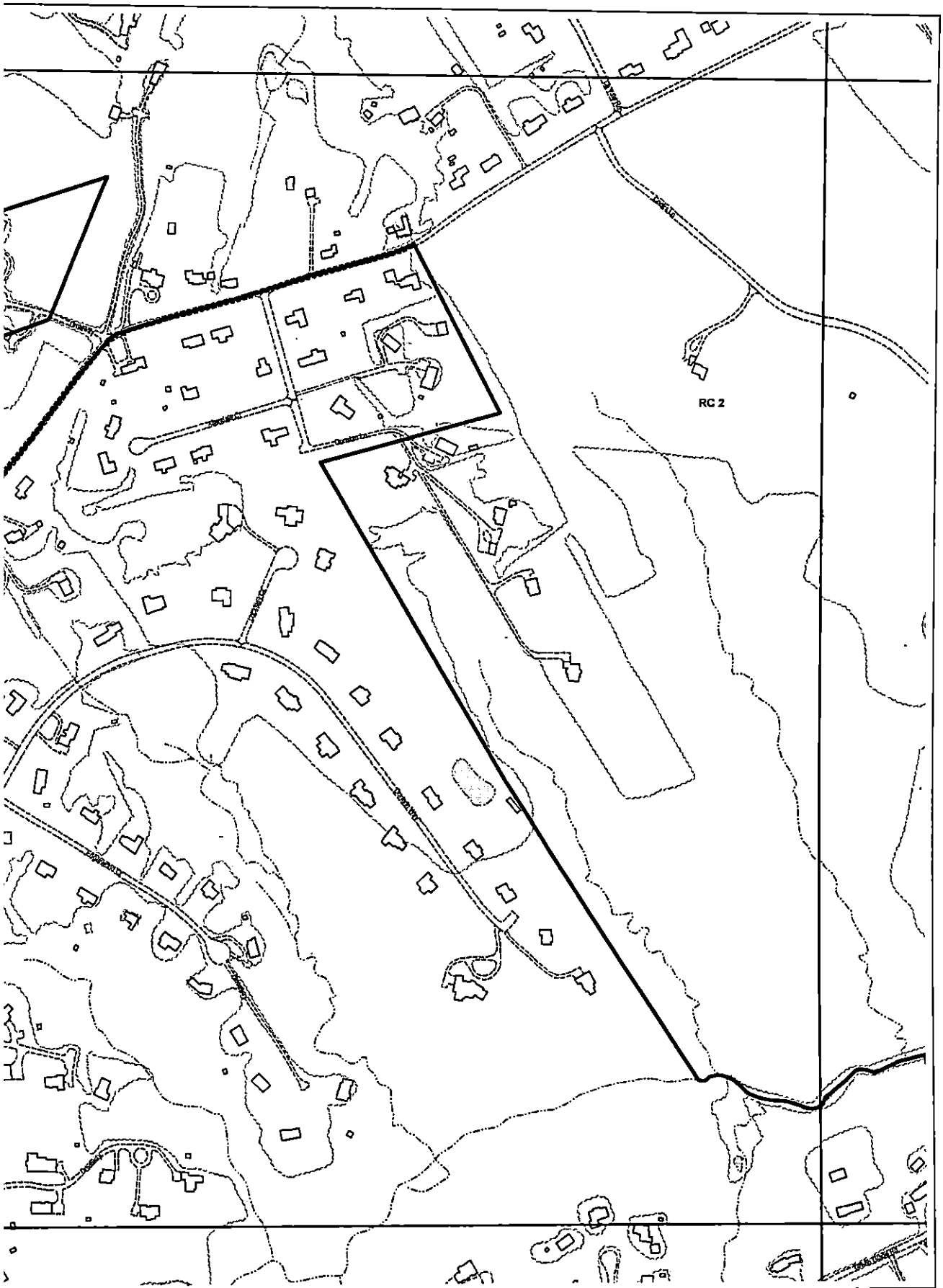
Note:
The zoning depicted in this map incorporates the actions associated with 2016 Comprehensive Zoning Map Process and Baltimore County Board of Appeals actions through November 18, 2016.

Legend

Zoning — Streams — Rail Lines

Buildings — Roads — Vegetation

Baltimor
Department
Official Zo



County
f Planning
ing Map

Scale

1" = 200'

0 100 200 400
Feet

Data Sources:
Buildings/Streams/Roads - Baltimore County
OIT/GIS Services Unit
1:2400, from 2014 photography
Vegetation - Baltimore County
OIT/GIS Services Unit
1:2400, from 2008 photography
Zoning - Baltimore County Dept of Planning
1:2400, 2018

2016

~~2/3/20~~ 2/20/20

Sherry Nuffer

From: Sherry Nuffer
Sent: Friday, November 15, 2019 3:36 PM
To: Kristen L Lewis
Cc: Debra Wiley
Subject: 2019-0437-SPH

Kristen,

Per Larry the record will remain open for at least 60 days. Protestants may get a Lawyer and have new information.

You will hear from Larry or Counsel at the end of 60 days or sooner as to additional scheduling.

I will diary this case for 60 days and the file will remain in our office.

Thank you,

Sherry

Sherry Nuffer
Legal Assistant
Baltimore County Office of Administrative Hearings
410-887-3868

Sherry Nuffer

From: Lawrence Stahl
Sent: Thursday, January 2, 2020 10:06 AM
To: Lawrence Schmidt; jrmfrank0@gmail.com; 'jcr319@hotmail.com'
Cc: Sherry Nuffer; Kelly Benton
Subject: RE: Frank matter, Case No. 2019-437-SPH (14721 Manor Road)

Dear Mr. Schmidt---Once you have received the additional information as to the continued use of the meter (s) in question, there will need to be another hearing date set in order for the Protestants to comment, question, or provide any contradictory evidence they may have. As you have copied Mr. Raley (and I presume you will continue to do so), if the matter is resolved with the Protestants, you will so advise me; otherwise, I will diary for an additional 30 days for an update from the parties.

Lawrence M. Stahl
Administrative Law Judge
Baltimore County Office of Administrative Hearings
410-887-8232

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Monday, December 30, 2019 11:51 AM
To: Lawrence Stahl <lstahl@baltimorecountymd.gov>; jrmfrank0@gmail.com; 'jcr319@hotmail.com' <jcr319@hotmail.com>
Cc: Sherry Nuffer <snuffer@baltimorecountymd.gov>; Kelly Benton <kbenton@sgs-law.com>
Subject: Frank matter, Case No. 2019-437-SPH (14721 Manor Road)

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Judge Stahl: You may recall that this matter came before you for public hearing on November 15, 2019. The case relates to the above property (owned by my client, Jacqueline Frank) and the issue presented concerns her request for approval for the continued use of the property as three apartment units.

You will recall her testimony that the apartments have existed on the property as far back as 1966, which pre-dates the existing zoning classification for the property. The use is thus "non-conforming", as defined and regulated under Baltimore County law.

As evidence thereof, I have obtained written confirmation from BGE that a "PS electric meter" was installed at the property on November 1, 1966. As BGE's letter (attached) is brief and does not describe the purpose of that type electric meter, I have also enclosed literature from BGE's website that identifies a "PS meter/account" as that type meter/account that serves an apartment building and use.

BGE is painfully slow in replying to requests for information and I have followed up with a further request to confirm the continuous use of that meter; notwithstanding that my client would testify that the meter remains in use at the property today and has been so used continuously since her ownership began in 1989 (30 years ago).

I have also copied Mr. Raley on this email. You may recall that he served as spokesperson for the neighbors who appeared at the hearing.

I will follow up upon receipt of additional information from BGE and please advise whether this matter need be scheduled for additional proceedings.

Please contact me should you have any further questions.

Thank you.

Larry Schmidt (attorney for Jacqueline Frank)

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

BGE

NEW BUSINESS CONSTRUCTION
1068 N. Front St, Rm. 501
Baltimore, MD 21202

December 2, 2019

Attn: Jacqueline Frank:

Dear Ms. Frank,
As per your request, this is to inform you that according to BGE records, BGE installed the PS electric meter on 11/1/1966 at the address of 14721 Manor Rd., Phoenix, MD 21121

Sincerely,

Customer Representative
New Business Construction
410-637-8713

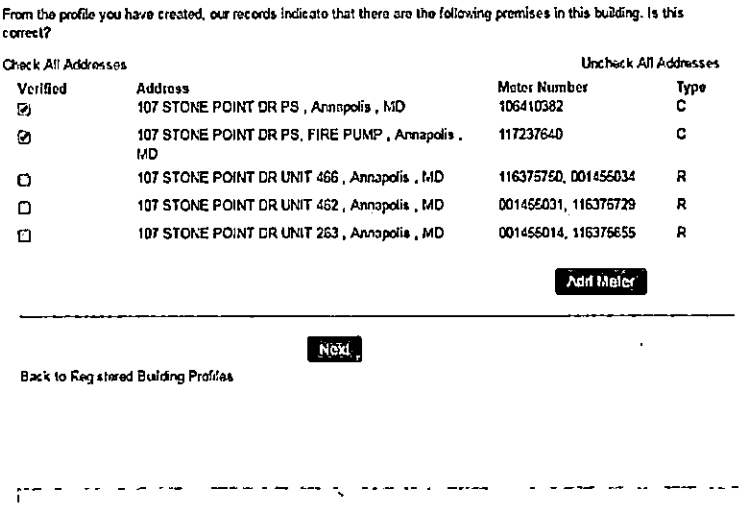
5. Account Confirmation

On this page, select all of the premise account(s) that are associated with your building, and click the *Next* button.

You can also add an Account Number with the *Add Meter* button, which guides you back to the Building Registration page (Step 3 above).

One reason you may need to add another account is if your building is at a cross street that has a different address. For example, if the building is at the intersection of 123 Main Street and 456 Pine Street, the system might only return the accounts associated with 123 Main Street. Please click the *Add Meter* button to add the other account/address associated with this account that needs to be benchmarked.

The Building Type is either "R" for residential or "C" for commercial. The BGE Automated Benchmarking Tool supports commercial building types and multifamily buildings with residential customers who may have their own BGE accounts. Select those residential premises within your multifamily building to ensure inclusion in the benchmarking score.



Account Confirmation

From the profile you have created, our records indicate that there are the following premises in this building. Is this correct?

Check All Addresses — Uncheck All Addresses

Verified	Address	Meter Number	Type
☑	107 STONE POINT DR PS , Annapolis , MD	106410382	C
☑	107 STONE POINT DR PS, FIRE PUMP , Annapolis , MD	117237640	C
☐	107 STONE POINT DR UNIT 466 , Annapolis , MD	116375750, 001455034	R
☐	107 STONE POINT DR UNIT 462 , Annapolis , MD	001455031, 116375729	R
☐	107 STONE POINT DR UNIT 263 , Annapolis , MD	001455014, 116375655	R

Add Meter

Next

Back to Registered Building Profiles

In the BGE Automated Benchmarking Tool, you will need an account number or meter number in the property owner's name to obtain an Electric or Gas Virtual Meter Number (EVM# or GVM#). If you are benchmarking multifamily properties with apartments and townhouses, you will start with the public service (PS) account in the property owner's name. The PS meter/account serves common areas within an apartment building, such as hallway lighting, laundry and elevators. The PS account number will bring in all residential apartments with a shared root address. You will then verify the apartments with the same address as the PS account for inclusion.

If your property has townhomes to include in benchmarking, the utilities are usually paid by the tenant. The on-site property managers should obtain the meter number for each townhouse. To benchmark the townhomes, each meter number must be input individually.

Sherry Nuffer

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Thursday, January 2, 2020 10:29 AM
To: Lawrence Stahl; jrmfrank0@gmail.com; 'jcr319@hotmail.com'
Cc: Sherry Nuffer; Kelly Benton
Subject: RE: Frank matter, Case No. 2019-437-SPH (14721 Manor Road)

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Thank you Judge Stahl. As soon as I hear further from BGE, I will let you know. They are notoriously slow in responding. I have experienced their non responsiveness in not only this case, but others, but will keep trying. At the least, it seems apparent that the apartment use was initially established in 1966 when the "apartment meter" was installed.

Larry Schmidt

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

From: Lawrence Stahl <lstahl@baltimorecountymd.gov>
Sent: Thursday, January 2, 2020 10:06 AM
To: Lawrence Schmidt <lschmidt@sgs-law.com>; jrmfrank0@gmail.com; 'jcr319@hotmail.com' <jcr319@hotmail.com>
Cc: Sherry Nuffer <snuffer@baltimorecountymd.gov>; Kelly Benton <kbenton@sgs-law.com>
Subject: RE: Frank matter, Case No. 2019-437-SPH (14721 Manor Road)

Dear Mr. Schmidt---Once you have received the additional information as to the continued use of the meter (s) in question, there will need to be another hearing date set in order for the Protestants to comment, question, or provide any contradictory evidence they may have. As you have copied Mr. Raley (and I presume you will continue to do so), if the matter is resolved with the Protestants, you will so advise me; otherwise, I will diary for an additional 30 days for an update from the parties.

Lawrence M. Stahl
Administrative Law Judge
Baltimore County Office of Administrative Hearings
410-887-8232

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Monday, December 30, 2019 11:51 AM
To: Lawrence Stahl <lstahl@baltimorecountymd.gov>; jrmfrank0@gmail.com; 'jcr319@hotmail.com' <jcr319@hotmail.com>
Cc: Sherry Nuffer <snuffer@baltimorecountymd.gov>; Kelly Benton <kbenton@sgs-law.com>
Subject: Frank matter, Case No. 2019-437-SPH (14721 Manor Road)

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Judge Stahl: You may recall that this matter came before you for public hearing on November 15, 2019. The case relates to the above property (owned by my client, Jacqueline Frank) and the issue presented concerns her request for approval for the continued use of the property as three apartment units.

You will recall her testimony that the apartments have existed on the property as far back as 1966, which pre-dates the existing zoning classification for the property. The use is thus "non-conforming", as defined and regulated under Baltimore County law.

As evidence thereof, I have obtained written confirmation from BGE that a "PS electric meter" was installed at the property on November 1, 1966. As BGE's letter (attached) is brief and does not describe the purpose of that type electric meter, I have also enclosed literature from BGE's website that identifies a "PS meter/account" as that type meter/account that serves an apartment building and use.

BGE is painfully slow in replying to requests for information and I have followed up with a further request to confirm the continuous use of that meter; notwithstanding that my client would testify that the meter remains in use at the property today and has been so used continuously since her ownership began in 1989 (30 years ago).

I have also copied Mr. Raley on this email. You may recall that he served as spokesperson for the neighbors who appeared at the hearing.

I will follow up upon receipt of additional information from BGE and please advise whether this matter need be scheduled for additional proceedings.

Please contact me should you have any further questions.

Thank you.

Larry Schmidt (attorney for Jacqueline Frank)

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.



CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

Total Control Panel Login

To: lschmidt@sgs-law.com

Message Score: 50
My Spam Blocking Level: Medium

High (60): Pass
Medium (75): Pass

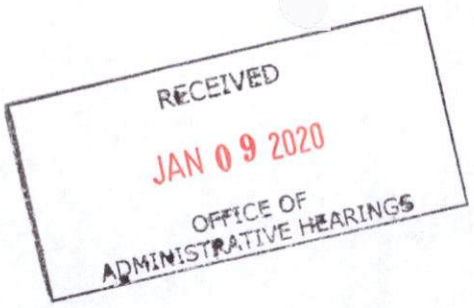
From:
prvs=26380a514=lstahl@baltimorecountymd.gov

Block this sender

Block baltimorecountymd.gov

Low (90): Pass

This message was delivered because the content filter score did not exceed your filter level.



REBECCA HEYMAN MAGAZINER, ESQ.
3523 Southside Ave
Phoenix MD 21131
443.418.7599

January 8, 2020

Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W Chesapeake Ave., Ste 103
Towson, MD 21204

Re Case # 2019-437-SPH
14721 Manor Road
Jacqueline R. Frank

Dear Judge Stahl:

You may recall that I am a Protestant in the above reference matter. Today I had an opportunity to review the various emails between Mr. Schmidt and you contained in the file at your offices. Specifically, I am concerned that Mr. Schmidt may be attempting to meet his client's burden of proof (as set forth in correspondence from Mr. Peter Zimmerman at People's Counsel dated 11/8/2019) by reliance upon the existence of a 'PS electric meter' (which he has renamed an 'apartment meter') on the property.

As is abundantly clear, the very existence of a 2nd meter, and the assertion that same has been continuously utilized since 1989, DOES NOT meet the burden of proof necessary to obtain the nonconforming use Ms. Frank seeks. Ms. Frank and her counsel have the burden of proving that there was a legal 3-apartment use on the property since BEFORE the legislation that made such use impermissible. This means that Ms. Frank must prove that there was a 3-apartment use on the property before, at the very least, the enactment of the 1971 comprehensive zoning map. Additionally, Ms. Frank has the burden of proving that the property has been used as such continuously (without discontinuity) since that time.

Mr. Schmidt assures that Ms. Frank can address continuous use of the PS meter since 1989, however this does not show that there has been continuous 3-apartment use since 1971. In fact, the very existence of a PS meter does not prove that there has been continuous 3-apartment use since 1971. A PS meter is not strictly for use within an apartment building. Such a meter may be used for many reasons including providing power to an outbuilding. Even when utilized for

an apartment, relying upon the exhibit provided by Mr. Schmidt on 12/30/19, it would only account for 'common areas' usage. Accordingly, there should be BGE billings for each of the 3 apartments in addition to the meter for the common area which would evidence continuous use as since at least 1971.

Upon review of the documents in the file at your offices, I noticed that there is a complete lack of real/hard evidence to support the continuous 3-apartment use. For example, I note that Ms. Frank has not supplied copies of signed Leases from 1971 to present and not supplied records of payments received as rent from 1971 to present. Completely lacking from the documents provided by Ms. Frank is any showing that there have been continuous lessees/occupants for the 3 apartments since at least 1971. While Ms. Frank may have testified to the continuous use, I do believe she mentioned her memory was not 100%, or something to that affect. Real/hard evidence would be the best way to meet her burden in this case, of showing continuous use of the property for 3 apartments.

Without reiterating the various caselaw that addresses the issue in this case, I will simply quote Mr. Zimmerman's quoting Prince George's County v E.L.Gardner, 293 Md. 259 (1982):"the law is construed strictly against nonconforming uses, which the law intends to disappear." It is intentionally a difficult burden to prove.

Accordingly, I am requesting that Ms. Frank provide the following documentation in order to meet her burden of proof: Copies of all BGE bills for the occupants/lessees (i.e. separate from those in the property owners names) from 1971 to present, copies of Leases showing continuous use by occupants/lessees since 1971 and copies of all records showing receipt of rents from the occupants/lessees for the 3 apartments being paid/received continuously since 1971.

Once that information is provided, I ask that this matter be set in for a continuing Hearing at a mutually convenient date and time.

Thank you for your consideration.

Sincerely,

Rebecca Heyman Magaziner

cc: Lawrence Schmidt, Esq. via email to lschmidt@sgs-law.com
John Raley via email to jcr319@hotmail.com
Peter M. Zimmerman, Esq. via email to pzimmerman@baltimorecountymd.gov

Debra Wiley

From: Lawrence Stahl
Sent: Wednesday, January 8, 2020 8:58 AM
To: Debra Wiley
Subject: FW: case 2019 437 SPH 14721 Manor Rd

Lawrence M. Stahl
Administrative Law Judge
Baltimore County Office of Administrative Hearings
410-887-8232

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, January 7, 2020 8:18 PM
To: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Cc: Lawrence Stahl <lstahl@baltimorecountymd.gov>; jcr319@hotmail.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Subject: Re: case 2019 437 SPH 14721 Manor Rd

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Judge Stahi:
I am presently out of town and thus cannot reply in detail to Ms. Heyman Maganizer's letter. Actually, her letter is more in the form of closing argument and I will address at the appropriate time.

Thank you.

Larry Schmidt

Sent from my iPhone

> On Jan 7, 2020, at 6:01 PM, Becky Heyman-Magaziner <rlhmlaw@hotmail.com> wrote:
>
> Dear Sirs:
>
> Please see the attached correspondence being sent to Judge Stahl by email this evening, and by USPS tomorrow
>
> Thank you for noting the above
>
> Becky

Debra Wiley

From: Lawrence Stahl
Sent: Wednesday, January 8, 2020 8:58 AM
To: Debra Wiley
Subject: FW: case 2019 437 SPH 14721 Manor Rd
Attachments: ManorRd1472101072020_0001.pdf

Lawrence M. Stahl
Administrative Law Judge
Baltimore County Office of Administrative Hearings
410-887-8232

From: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Sent: Tuesday, January 7, 2020 6:01 PM
To: Lawrence Stahl <lstahl@baltimorecountymd.gov>; lschmidt@sgs-law.com; jcr319@hotmail.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Subject: case 2019 437 SPH 14721 Manor Rd

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Sirs:

Please see the attached correspondence being sent to Judge Stahl by email this evening, and by USPS tomorrow

Thank you for noting the above

Becky

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue
Phoenix, Maryland 21131
1.208.723.4728 E-mail
443.418.7599 Cellphone
e-fax 1 208 723 4728

CONFIDENTIALITY NOTICE
This e-mail is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail is prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail that you received this communication in error, delete this e-mail and destroy all paper and electronic copies of the original message. Any

dissemination or use of this information by a person other than the intended recipient is unauthorized and may be subject to penalties under the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and other applicable laws.
Thank you.

REBECCA HEYMAN MAGAZINER, ESQ.
3523 Southside Ave
Phoenix MD 21131
443.418.7599

January 8, 2020

Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W Chesapeake Ave., Ste 103
Towson, MD 21204

Re Case # 2019-437-SPH
14721 Manor Road
Jacqueline R. Frank

Dear Judge Stahl:

You may recall that I am a Protestant in the above reference matter. Today I had an opportunity to review the various emails between Mr. Schmidt and you contained in the file at your offices. Specifically, I am concerned that Mr. Schmidt may be attempting to meet his client's burden of proof (as set forth in correspondence from Mr. Peter Zimmerman at People's Counsel dated 11/8/2019) by reliance upon the existence of a 'PS electric meter' (which he has renamed an 'apartment meter') on the property.

As is abundantly clear, the very existence of a 2nd meter, and the assertion that same has been continuously utilized since 1989, DOES NOT meet the burden of proof necessary to obtain the nonconforming use Ms. Frank seeks. Ms. Frank and her counsel have the burden of proving that there was a legal 3-apartment use on the property since BEFORE the legislation that made such use impermissible. This means that Ms. Frank must prove that there was a 3-apartment use on the property before, at the very least, the enactment of the 1971 comprehensive zoning map. Additionally, Ms. Frank has the burden of proving that the property has been used as such continuously (without discontinuity) since that time.

Mr. Schmidt assures that Ms. Frank can address continuous use of the PS meter since 1989, however this does not show that there has been continuous 3-apartment use since 1971. In fact, the very existence of a PS meter does not prove that there has been continuous 3-apartment use since 1971. A PS meter is not strictly for use within an apartment building. Such a meter may be used for many reasons including providing power to an outbuilding. Even when utilized for

an apartment, relying upon the exhibit provided by Mr. Schmidt on 12/30/19, it would only account for 'common areas' usage. Accordingly, there should be BGE billings for each of the 3 apartments in addition to the meter for the common area which would evidence continuous use as since at least 1971.

Upon review of the documents in the file at your offices, I noticed that there is a complete lack of real/hard evidence to support the continuous 3-apartment use. For example, I note that Ms. Frank has not supplied copies of signed Leases from 1971 to present and not supplied records of payments received as rent from 1971 to present. Completely lacking from the documents provided by Ms. Frank is any showing that there have been continuous lessees/occupants for the 3 apartments since at least 1971. While Ms. Frank may have testified to the continuous use, I do believe she mentioned her memory was not 100%, or something to that affect. Real/hard evidence would be the best way to meet her burden in this case, of showing continuous use of the property for 3 apartments.

Without reiterating the various caselaw that addresses the issue in this case, I will simply quote Mr. Zimmerman's quoting Prince George's County v E.L.Gardner, 293 Md. 259 (1982):"the law is construed strictly against nonconforming uses, which the law intends to disappear." It is intentionally a difficult burden to prove.

Accordingly, I am requesting that Ms. Frank provide the following documentation in order to meet her burden of proof: Copies of all BGE bills for the occupants/lessees (i.e. separate from those in the property owners names) from 1971 to present, copies of Leases showing continuous use by occupants/lessees since 1971 and copies of all records showing receipt of rents from the occupants/lessees for the 3 apartments being paid/received continuously since 1971.

Once that information is provided, I ask that this matter be set in for a continuing Hearing at a mutually convenient date and time.

Thank you for your consideration.

Sincerely,

Rebecca Heyman Magaziner

cc: Lawrence Schmidt, Esq. via email to lschmidt@sgs-law.com
John Raley via email to jcr319@hotmail.com
Peter M. Zimmerman, Esq. via email to pzimmerman@baltimorecountymd.gov

Sherry Nuffer

From: Lawrence Stahl
Sent: Thursday, January 23, 2020 10:04 AM
To: Sherry Nuffer
Subject: FW: case 2019 437 SPH 14721 Manor Rd (Jacqueline Frank, property owner)

Lawrence M. Stahl
Administrative Law Judge
Baltimore County Office of Administrative Hearings
410-887-8232

From: Lawrence Stahl
Sent: Thursday, January 23, 2020 10:03 AM
To: 'Lawrence Schmidt' <lschmidt@sgs-law.com>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Cc: jcr319@hotmail.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Subject: RE: case 2019 437 SPH 14721 Manor Rd (Jacqueline Frank, property owner)

I appreciate the update.

Lawrence M. Stahl
Administrative Law Judge
Baltimore County Office of Administrative Hearings
410-887-8232

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Wednesday, January 22, 2020 10:39 AM
To: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Cc: Lawrence Stahl <lstahl@baltimorecountymd.gov>; jcr319@hotmail.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Subject: RE: case 2019 437 SPH 14721 Manor Rd (Jacqueline Frank, property owner)

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Judge Stahl: I wanted to provide this update to you regarding the above matter. You may recall that this case (involvin the request for the finding of a non-conforming use for apartments) was heard by you on November 15, 2019 and the was continued so that further information could be obtained from BGE about the historic use of the property and the separate utility meters installed at the property.

Following that hearing, I subsequently forwarded to you a letter from BGE (dated December 2, 2019) confirming that multiple meters were installed in 1966. I have followed up (repeatedly) with BGE for further information about billings this address since 1966. To date, I have not received a substantive reply. It seems that the utility company moves at its own pace!

In any event, they (BGE) have promised me some response on or before February 15, 2020. As soon as I receive that, I will advise.

pi
the
prof
imme

From: La
Sent: Tues
To: Becky H
Cc: lstahl@ba
Subject: Re: ca

Judge Stahi:
I am presently out
in the form of closing

Thank you.

Larry Schmidt

Sent from my iPhone

On Jan 7, 2020, at 6:01 P

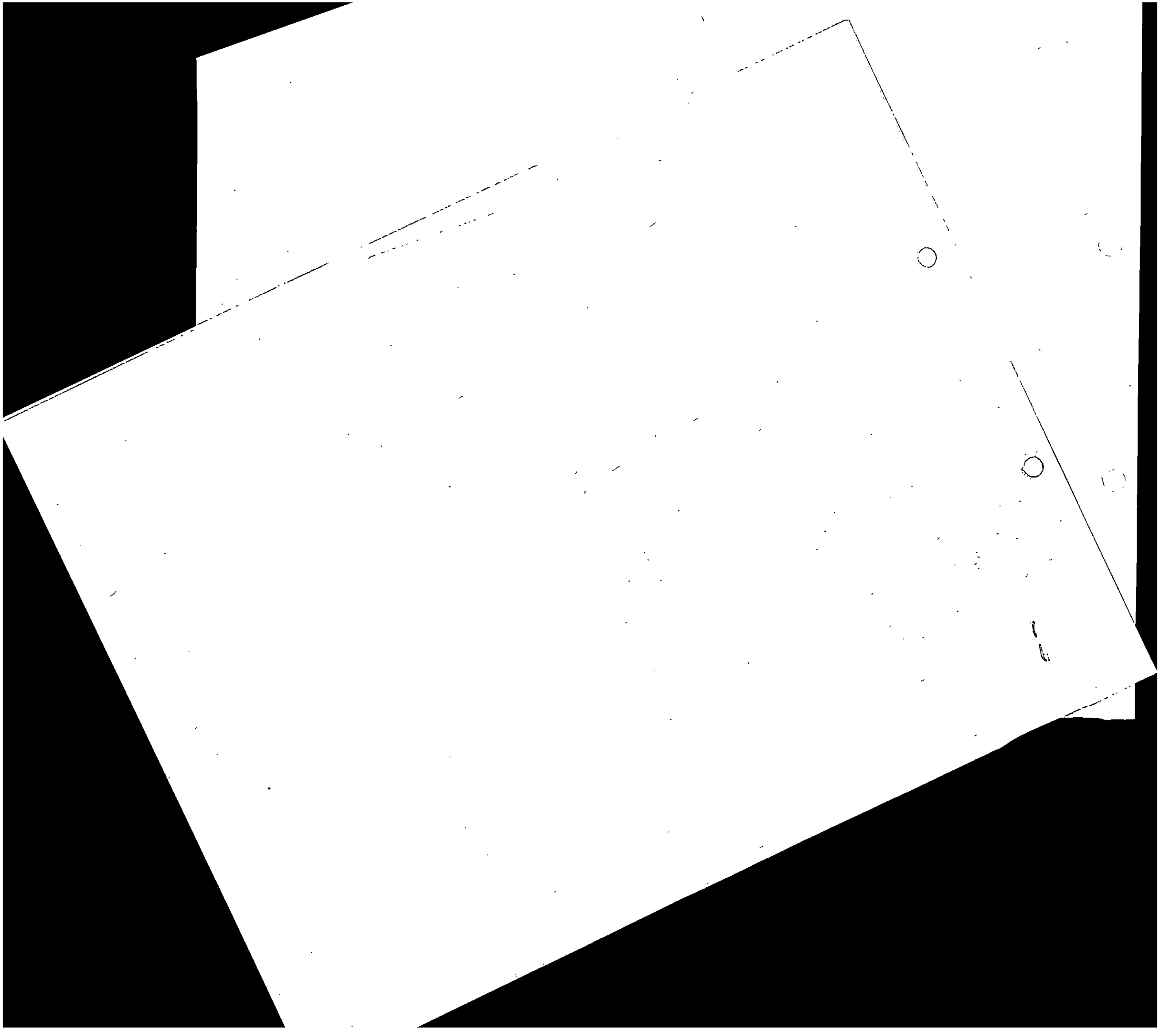
Dear Sirs:

Please see the attached corre
USPS tomorrow

Thank you for noting the above

Becky

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue
Phoenix, Maryland 21131



Lawrence Stahl

From: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Sent: Thursday, January 23, 2020 5:11 PM
To: Lawrence Schmidt
Cc: Lawrence Stahl; jcr319@hotmail.com; Peter Max Zimmerman
Subject: Re: case 2019 437 SPH 14721 Manor Rd (Jacqueline Frank, property owner)

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Evening Mr Schmidt:

Thank you for your update on information from BGE (about the ancillary power meter). My experience is that BGE can be very slow in providing documents

You failed to address the other documents (presumably in your client's possession) that would absolutely establish consistent rental of multiple apartments on the property from 1971 to present.

Rebecca Heyman Magaziner, Esquire
3523 Southside Avenue
Phoenix, Maryland 21131

Sent from my iPhone

> On Jan 22, 2020, at 10:38 AM, Lawrence Schmidt <lschmidt@sgs-law.com> wrote:
>
> Judge Stahl: I wanted to provide this update to you regarding the above matter. You may recall that this case (involving the request for the finding of a non-conforming use for apartments) was heard by you on November 15, 2019 and then was continued so that further information could be obtained from BGE about the historic use of the property and the separate utility meters installed at the property.
>
> Following that hearing, I subsequently forwarded to you a letter from BGE (dated December 2, 2019) confirming that multiple meters were installed in 1966. I have followed up (repeatedly) with BGE for further information about billings at this address since 1966. To date, I have not received a substantive reply. It seems that the utility company moves at its own pace!
>
> In any event, they (BGE) have promised me some response on or before February 15, 2020. As soon as I receive that, I will advise.
>
> Thank you for your patience.
>
> Larry Schmidt
> (Attorney for Jacqueline Frank)

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, January 7, 2020 8:18 PM
To: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Cc: lstahl@baltimorecountymd.gov; jcr319@hotmail.com; pzimmerman@baltimorecountymd.gov
Subject: Re: case 2019 437 SPH 14721 Manor Rd

Judge Stahl:
I am presently out of town and thus cannot reply in detail to Ms. Heyman Maganizer's letter. Actually, her letter is more in the form of closing argument and I will address at the appropriate time.

Thank you.

Larry Schmidt

Sent from my iPhone

On Jan 7, 2020, at 6:01 PM, Becky Heyman-Magaziner <rlhmlaw@hotmail.com> wrote:

Dear Sirs,

Please see the attached correspondence regarding the above matter. A copy will be sent by USPS for your records.

Thank you for noting the above.

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue
Phoenix, Maryland 21131
1.208.723.4728 E-mail
443.418.7599 Cellphone

e-fax 1 208 723 4728

CONFIDENTIALITY NOTICE
This e-mail is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail is prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail that you received this communication in error, delete this e-mail and destroy all paper and electronic copies of the original message. Any dissemination or use of this information by a person other than the intended recipient is unauthorized and may be subject to penalties under the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and other applicable laws.
Thank you.

Total Control Panel

To: [illegible]@sgs-law.com
From: rlhmlaw@hotmail.com

Message Score: 1
My Spam Blocking Level: Medium

Block this sender
Block hotmail.com

High (60):
Medium (75):
Low (90):

This message was delivered because the content filter score did not exceed your filter level.

<ManorRd1472101072020_0001.pdf>

Lawrence Stahl

From: Peter Max Zimmerman
Sent: Monday, January 27, 2020 11:02 AM
To: Lawrence Stahl
Cc: Lawrence Schmidt; rlhmlaw@hotmail.com; John Raley; Marissa Merrick
Subject: Zoning Case 2019-437-SPH, Jacqueline R. Frank; 14721 Manor Road

Dear Judge Stahl,

I have followed and read with interest the post-November 15, 2019 hearing e-mails provided by your office; by Petitioner's attorney Lawrence Schmidt; and by Becky Heyman Magaziner and John Raley, Protestants. Petitioner has been given leave to hunt for BGE meter and billing record documents, after which there will be a second hearing day.

On November 8, 2019, I filed a letter to submit the zoning history and a brief recap of the principal points of nonconforming use law. On November 13, I supplemented this with another letter, recognizing the agreement between his office and the County Office of Law to postpone the separate previously scheduled enforcement hearing.

Please allow me to provide an updated perspective.

Upon review of Petitioner's exhibits submitted at the November 15 hearing, I do not see any documentary proof of the existence of a nonconforming use at any time.

In view of the allowance given Petitioner to hunt for and add BGE documents, I respectfully request that Petitioner also provide the following documents, which may bear on the purported apartment use: Any leases; lease applications; federal income tax records (especially Schedule C); state income and property tax records; SDAT assessment documents; permits; bank statements; bank deposits; business records; correspondence; and other written communications or materials. These should be provided for every single year from 1966 to the present. Some of these should be in Petitioner's possession or readily available if any exist.

I must reiterate that nonconforming use law places the burden of proof on the Petitioner; the zoning history here requires proof of such use at least prior to 1971; the use must have continued thereafter without a break of one year from then to the present; the law is interpreted strictly against the existence and/or continuation of nonconforming uses; and the general intent of the law is that such uses, if they exist, should gradually disappear.

I would appreciate the opportunity to comment further on the case at or after the conclusion of the next hearing. Please include our office in the hearing notice.

Thank you for your diligent and patient attention to this case.

Sincerely, Peter Max Zimmerman, People's Counsel for Baltimore County, 410 887-2188

Peter Max Zimmerman

From: Peter Max Zimmerman
Sent: Monday, January 27, 2020 11:02 AM
To: Lawrence Stahl
Cc: 'Lawrence Schmidt'; 'rlhmlaw@hotmail.com'; 'John Raley'; Marissa Merrick
Subject: Zoning Case 2019-437-SPH, Jacqueline R. Frank; 14721 Manor Road

Dear Judge Stahl,

I have followed and read with interest the post-November 15, 2019 hearing e-mails provided by your office; by Petitioner's attorney Lawrence Schmidt; and by Becky Heyman Magaziner and John Raley, Protestants. Petitioner has been given leave to hunt for BGE meter and billing record documents, after which there will be a second hearing day.

On November 8, 2019, I filed a letter to submit the zoning history and a brief recap of the principal points of nonconforming use law. On November 13, I supplemented this with another letter, recognizing the agreement between his office and the County Office of Law to postpone the separate previously scheduled enforcement hearing.

Please allow me to provide an updated perspective.

Upon review of Petitioner's exhibits submitted at the November 15 hearing, I do not see any documentary proof of the existence of a nonconforming use at any time.

In view of the allowance given Petitioner to hunt for and add BGE documents, I respectfully request that Petitioner also provide the following documents, which may bear on the purported apartment use: Any leases; lease applications; federal income tax records (especially Schedule C); state income and property tax records; SDAT assessment documents; permits; bank statements; bank deposits; business records; correspondence; and other written communications or materials. These should be provided for every single year from 1966 to the present. Some of these should be in Petitioner's possession or readily available if any exist.

I must reiterate that nonconforming use law places the burden of proof on the Petitioner; the zoning history here requires proof of such use at least prior to 1971; the use must have continued thereafter without a break of one year from then to the present; the law is interpreted strictly against the existence and/or continuation of nonconforming uses; and the general intent of the law is that such uses, if they exist, should gradually disappear.

I would appreciate the opportunity to comment further on the case at or after the conclusion of the next hearing. Please include our office in the hearing notice.

Thank you for your diligent and patient attention to this case.

Sincerely, Peter Max Zimmerman, People's Counsel for Baltimore County, 410 887-2188

Peter Max Zimmerman

RECEIVED
JAN 27 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

John C. Raley
3810 Donerin Way
Phoenix, MD 21131

January 24, 2020

Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Ave., Ste. 103
Towson, MD 21204

Re: Case#2019-437-SPH
14721 Manor Road
Jacqueline R. Frank

Dear Judge Stahl:

Thank you for keep me updated with the information that has been shared with you in the above reference matter.

Based on the information shared at the Zoning Hearing on November 15, 2019 and the information that has been shared to date by Mr. Schmidt, it evident that Ms. Frank has not met her burden of proof to substantiate a zoning variance for the subject property. There has been no evidence presented that would substantiate there was ever a legal use for apartments on the subject property and that the apartments have been used continuously and without interruption. We do know there had to be interruption with the apartment use because Ms. Frank admitted to having renovations to the apartments recently and there were pictures posted on Zillow in 2019 showing the apartments were empty and without furniture.

In the email dated January 22, 2020, Mr. Schmidt puts forth that the BGE letter dated December 2, 2019 confirmed that multiple meters were installed in 1966. If you read the BGE letter you will see that the letter states a PS electric meter was installed on 11/1/1966. The letter does not state multiple meters were installed.

Quite frankly I was perplexed at the zoning hearing and I am still perplexed now that no evidence of lease agreements, rental payments, landlord records etc. have been presented if the subject property apartments have been in continuous use without interruption since 1966. . Mr. Schmidt stated that Ms. Franks' husband was deceased and her husband handled the records. Most businesses have records so perhaps the executor of the estate would have the rental records for the years prior to his death. Since her husband's death (2009?) , someone would be keeping the lease agreements, collecting the rent and have any records associated with the property yet no records have been produced.

In addition, it is my understanding that Ms. Frank, her late husband and daughter resided in the main home for a number of years as their main residence. If they were living in the house for their main residence, is it really considered apartment use without interruption? In addition, it is my understanding Ms. Franks' parents also lived in the main home for a number of years. Did Ms. Frank collect rent from her parents? Again, no records have been presented so it cannot be confirmed.

Rental income would be reflected and reported on the Schedule C Federal Tax Return. Although the indication of rental income by itself will not substantiate Ms. Franks' burden of proof, I would like for you to request those records. I realize there may be other rental properties that generated rental income for Ms. Frank and her late husband but we can probe those questions after having a chance to review the information.

The subject property and all of the surrounding property in the adjacent Manor Glen Development is zoned for single residential housing and as an adjacent property owner to the subject property I respectfully request that you allow current zoning stand and reject the approval of the zoning variance.

Sincerely,

John C. Raley

Cc: Lawrence Schmidt< Esq. via email to lschmidt@sgs-law
Peter M. Zimmerman, Esq. via email to
Rebecca Heyman Magaziner, Esq. via email to rlhmlaw@hotmail.com

Lawrence Stahl

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Monday, January 27, 2020 11:59 AM
To: Peter Max Zimmerman; Lawrence Stahl
Cc: rlhmlaw@hotmail.com; John Raley; Marissa Merrick; Zachary J. Wilkins; Kelly Benton; Alyssa Moyers
Subject: RE: Zoning Case 2019-437-SPH, Jacqueline R. Frank; 14721 Manor Road

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Judge Stahl:

I had not responded to the substantive comments in the email correspondence to you from Ms. Heyman Magaziner and Mr. Raley; but now that Mr. Zimmerman has joined into the fray, I offer the following brief response.

The Petitioner and I (as her counsel) sincerely appreciate your courtesy and the opportunity to search for and hopefully provide additional corroboration of this non-conforming apartment use. As I indicated, BGE has advised us to expect a "response" to our inquiry by February 15, 2020 and I will certainly advise you when we hear/receive something.

Substantively, the emails from the Protestants and Mr. Zimmerman are in the nature of "closing argument" and for that reason I was at first reluctant to respond. The case is still "in trial" and to be offering legal argument/theory at this point in time simply seems inappropriate to me. That's why I did not address (as Ms. Heyman Maganziner's second email noted) her comments until now. I expect that you might ask the parties to submit closing memorandum (a practice that I believe you follow when the circumstances warrant) and that seemed to me to be appropriate here. So, to now be arguing about the burden of proof and similar issues seems (in my humble judgement) somewhat premature.

With that said, now that there are three emails from the opposition all offering argument, I submit the following to protect my interest in the "record" of the case.

I appreciate the burden of proof and the nature of non-conforming uses. And I will address that either at closing argument or in a memo. But with that said (and I truly do not mean to be condescending) the last time I checked, evidence can take many forms. It may be in the form of photographs and written documents; but is often solely based on the oral testimony of witnesses. Suffice to say (e.g. criminal cases) often times the only evidence offered is oral testimony and there are no documents (absent a possible written confession) that are presented.

I note this because of the insistence of the Protestants that I present documentary evidence (leases, tax records, etc.) to support my claim. If they are available and I can offer them, I will, but if not, they are not fatal to the claim.

You already have the uncontradicted testimony of my client (Jacqueline Frank) that the three apartments on the property have been in place and continuously occupied since her (and her husband's ownership) in the 1980's. She also testified of a conversation with the prior owner (and as you know, hearsay testimony is admissible in administrative proceedings) that he stated that he "put in the apartments in 1966 and they've always been rented out" when she and her husband purchased.

I find it telling that at the first hearing (and in the correspondence since) no opponent has offered testimony or even the mere suggestion that the apartments have not been there and occupied since 1966, only that "you can't prove it to our satisfaction."

In any event, at the end of the day, you will decide what evidence satisfies you (or doesn't) based upon record of the case (which, as noted above, has still not been fully created).

Nonetheless, in view of the multiple emails submitted, I felt it incumbent upon me to address these comments. Thank you, and as noted above, I will advise when we hear from BGE. And I will reserve further argument to the proper time and venue.

Respectfully,

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

From: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Sent: Monday, January 27, 2020 11:02 AM
To: Lawrence Stahl <lstahl@baltimorecountymd.gov>
Cc: Lawrence Schmidt <lschmidt@sgs-law.com>; rlhmlaw@hotmail.com; John Raley <jcr319@hotmail.com>; Marissa Merrick <mmerrick@baltimorecountymd.gov>
Subject: Zoning Case 2019-437-SPH, Jacqueline R. Frank; 14721 Manor Road

Dear Judge Stahl,

I have followed and read with interest the post-November 15, 2019 hearing e-mails provided by your office; by Petitioner's attorney Lawrence Schmidt; and by Becky Heyman Magaziner and John Raley, Protestants. Petitioner has been given leave to hunt for BGE meter and billing record documents, after which there will be a second hearing day.

On November 8, 2019, I filed a letter to submit the zoning history and a brief recap of the principal points of nonconforming use law. On November 13, I supplemented this with another letter, recognizing the agreement between his office and the County Office of Law to postpone the separate previously scheduled enforcement hearing.

Please allow me to provide an updated perspective.

Upon review of Petitioner's exhibits submitted at the November 15 hearing, I do not see any documentary proof of the existence of a nonconforming use at any time.

In view of the allowance given Petitioner to hunt for and add BGE documents, I respectfully request that Petitioner also provide the following documents, which may bear on the purported apartment use: Any leases; lease applications; federal income tax records (especially Schedule C); state income and property tax records; SDAT assessment documents; permits; bank statements; bank deposits; business records; correspondence; and other written communications or materials. These should be provided for every single year from 1966 to the present. Some of these should be in Petitioner's possession or readily available if any exist.

I must reiterate that nonconforming use law places the burden of proof on the Petitioner; the zoning history here requires proof of such use at least prior to 1971; the use must have continued thereafter without a break of one year from then to the present; the law is interpreted strictly against the existence and/or continuation of nonconforming uses; and the general intent of the law is that such uses, if they exist, should gradually disappear.

I would appreciate the opportunity to comment further on the case at or after the conclusion of the next hearing. Please include our office in the hearing notice.

Thank you for your diligent and patient attention to this case.

Sincerely, Peter Max Zimmerman, People's Counsel for Baltimore County, 410 887-2188



CONNECT WITH BALTIMORE COUNTY



Total Control Panel

To:
From:

Message Score: 1
My Spam Blocking Level: Medium

this sender
baltimorecountymd.gov

High (60):
Medium (75):
Low (90):

This message was delivered because the content filter score did not exceed your filter level.

Debra Wiley

From: Peter Max Zimmerman
Sent: Wednesday, January 29, 2020 11:04 AM
To: Lawrence Stahl
Cc: Debra Wiley; Lawrence Schmidt; Becky Heyman-Magaziner; jcr319@hotmail.com; Marissa Merrick
Subject: RE: 2019-437 SPH, 14721 Manor Road
Attachments: 20200128103253574.pdf

Dear Judge Stahl,

Thank you for your note on the status of this case.

Under the circumstances, I will attend the next hearing day and present closing argument, either oral or written, at your discretion.

Please allow me to comment briefly on Mr. Schmidt's latest e-mail, I agree with his description that the case is still "in trial." Bit I disagree that my last e-mail was in the nature of closing argument.

Given that the case was extended to allow a document search by Petitioner, I identified other documents which I believe would be relevant for Petitioner to produce. In effect, I offered Petitioner an opportunity to supply more proof. When the case comes to closing argument, I will assess and analyze the probative impact of any documents which Petitioner produces, as well as those which are relevant and normally would be in their possession but which they fail to produce.

In this context, I did recapitulate briefly several principles of nonconforming use law, previously mentioned in my November 8, 2019 letter. But I did not at this juncture argue or take a position on the merits of this case, which I reserve until the proper time.

Meanwhile, it came to my attention that consideration should be given to another set of potential documents. In Bill 87-07, the County Council extended countywide a pilot program for rental housing licenses. It is codified in Code Secs. 35-6-101 to 35-6-113. If my reading of the law is correct, a three-dwelling apartment use would require the licenses enumerated in the law. Sec. 35-6-103(a), 35-6-105. Accordingly, I would ask Petitioner to address the following questions: Are rental housing licenses required for any 14721 Manor Road apartments? If so, will Petitioner produce any licenses obtained, or any explicit exemptions? How does the licensing situation affect the nonconforming use zoning issues? Again, I will assess the situation at the time of closing argument.

It is noteworthy that a check of the County website for Rental Registration and its map links indicates that no licenses have been obtained for 14721 Manor Road. These website materials are attached. I look forward to Petitioner's views on this matter.

I trust that Petitioner will provide to the parties and to your Honor, in advance of the next hearing, any documents to be introduced.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

From: Lawrence Stahl <lstahl@baltimorecountymd.gov>
Sent: Tuesday, January 28, 2020 11:50 AM
To: Lawrence Schmidt <lschmidt@sgs-law.com>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>

Debra Wiley

From:	Lawrence Stahl
Sent:	Tuesday, January 28, 2020 11:50 AM
To:	Lawrence Schmidt; Becky Heyman-Magaziner; jcr319@hotmail.com; Peter Max Zimmerman
Cc:	Debra Wiley
Subject:	2019-437 SPH

To All—As you are now aware, Mr. Schmidt expects to hear from BG &E on or about February 15th.

After that date, the matter should be set in by the parties for an additional hearing. Once all evidence and testimony is presented and entered, I will determine if a memo from the parties, in lieu of closing arguments, will be provided, and will determine my decision.
I appreciate the concern of you all in this matter.

Lawrence M. Stahl
Administrative Law Judge
Baltimore County Office of Administrative Hearings
410-887-8232

REBECCA HEYMAN MAGAZINER, ESQ.
3523 Southside Ave
Phoenix MD 21131
443.418.7599

January 28, 2020

Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W Chesapeake Ave., Ste 103
Towson, MD 21204

RECEIVED
JAN 29 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Re: Case # 2019-437-SPH
14721 Manor Road
Jacqueline R. Frank

Dear Judge Stahl:

Once again, you may recall that I am a Protestant in the above reference matter. I had an opportunity to review the various emails between Mr. Schmidt and yourself, an email from Peter Max Zimmerman, Esq. at People's Counsel and an email from another Protestant – Mr. John Raley.

Regarding Petitioner's counsel's email to you dated January 27, 2020: I must specify that I do not believe the correspondence from Mr. Zimmerman, Mr. Raley and myself should be considered "closing argument". Each of us, individually, have addressed evidence that could easily be provided to support the Petitioner's position, assuming she still desires to pursue showing a non-conforming use of the property in question. We all seem to agree (including Mr. Schmidt) that the burden is squarely upon the Petitioner's shoulders in this case. That burden is not on the shoulders of the Protestants. We can simply rely upon the Petitioner's failure to show documentation. Were the apartments registered as rentals with Baltimore County licensing? That proof would be helpful to support Petitioner's claim.

Mr. Schmidt is absolutely free to ignore my correspondence, and he is equally free to present his case as he sees fit. Should that entail not providing documentation that should be available to the Petitioner, that is certainly his prerogative. Just as a 'missing witness' is telling of the truth (or lack thereof) in any litigation, missing documentation will speak volumes in the case before Your Honor.

Now to address the issue of 'hearsay testimony'. True, it is permitted in these proceedings. However, it should "be given the weight it deserves" as I recall Professor Lynn McLain (author of Maryland Rules of Evidence) saying many times. Sometimes a jurist risks that weight being little, if any, even if the testimony is uncontradicted.

Your Honor is authorized to compel the production of documents or other tangible things pursuant to your authority as an Administrative Law Judge. That, I believe, it the real purpose behind Attorney Zimmerman's correspondence and that of Mr. Raley. Speaking for myself, that was clearly my intent. Accordingly, I am requesting you compel Petitioner to produce copies of all BGE bills for the occupants/lessees (i.e. separate from those in the property owners names) from 1971 to present, copies of Leases showing continuous use by occupants/lessees since 1971 and copies of all records showing receipt of rents from the occupants/lessees for the 3 apartments being paid/received continuously since 1971.

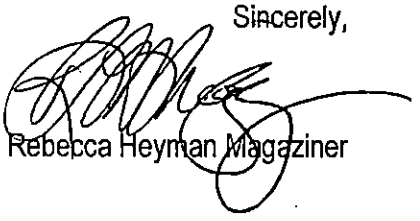
Should Mr. Schmidt and his client be unable to produce the requested documentation, their case should fail. Afterall, the requested documents would logically be in the possession of the Petitioner or her agent(s). Providing same to this forum may even negate the necessity of waiting for BGE to get their documentation to Mr. Schmidt. I do recall from my days of representing Business Owners and Managers Association, that waiting time can be extensive.

Additionally, assuming BGE is unable to affirm separate meters for each apartment/residence on the property, there is very little to be gained from BGE's documentation. The existence of just one additional meter, and the assertion that same has been continuously utilized since 1989, does not meet the burden of proof necessary to obtain the nonconforming use Ms. Frank seeks. We all know Petitioner has the burden of proving that there was a legal 3-apartment use on the property continuously since at least 1971. So, once again, I request Your Honor have Mr. Schmidt's client provide the following documentation in order to meet her burden of proof: Copies of all BGE bills for the occupants/lessees (i.e. separate from those in the property owners names) from 1971 to present, copies of Leases showing continuous use by occupants/lessees since 1971 and copies of all records showing receipt of rents from the occupants/lessees for the 3 apartments being paid/received continuously since 1971. I believe it would also be helpful to this forum for Mr. Schmidt's client to provide the documentation addressed by Attorney Zimmerman and Mr. Raley.

Finally, it does seem rather unjust to ask Mr. Raley to provide a written memorandum for Closing Argument. I am not sure he possesses a legal education or the experience of drafting legal memoranda (or 'memorandums' as used by William Shakespear in *Henry IV* (Act 3, Scene II)). It would not be legally correct for me to write a memorandum for him, or any of the other Protestors in this matter, as I do not represent them. I, however, write memoranda and briefs quite regularly for matters before the Circuit Courts and the Appellate Courts in this State. Attorney Zimmerman has an extensive knowledge of the caselaw on this subject, however I do not know whether his office writes memoranda for Zoning Hearings at this level. Perhaps, that information should be taken into consideration in this case.

Thank you for your consideration. I await further communication regarding this case.

Sincerely,



Rebecca Heyman Magaziner

cc: Lawrence Schmidt, Esq. via email to lschmidt@sgs-law.com
John Raley via email to jcr319@hotmail.com
Peter M. Zimmerman, Esq. via email to pzimmerman@baltimorecountymd.gov

Debra Wiley

From: Debra Wiley
Sent: Tuesday, February 25, 2020 12:33 PM
To: 'Becky Heyman-Magaziner'
Subject: RE: 2019-437 SPH

I certainly will, thanks.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Sent: Tuesday, February 25, 2020 12:24 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Re: 2019-437 SPH

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Afternoon

Please let ALJ Stahl know I appreciate the fast response.

Rebecca Heyman Magaziner, Esquire
3523 Southside Avenue
Phoenix, Maryland 21131

Sent from my iPhone

> On Feb 25, 2020, at 11:30 AM, Debra Wiley <dwiley@baltimorecountymd.gov> wrote:
>
> Good Morning,
>
> ALJ Stahl appreciates your update. However, given the time this case has so far taken, whether or not you have received the information from BG&E by the end of the week, please coordinate with Ms. Magaziner and contact Kristen Lewis to schedule a hearing date.
>
> Thank you.
>
> Debra Wiley, Legal Administrative Secretary
> Baltimore County Office of Administrative Hearings
> 105 West Chesapeake Avenue, Suite 103

Debra Wiley

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, February 25, 2020 11:49 AM
To: Debra Wiley
Cc: Becky Heyman-Magaziner; Lawrence Stahl; jcr319@hotmail.com; Peter Max Zimmerman; Alyssa Moyers; Kristen L Lewis
Subject: Re: 2019-437 SPH

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Will do
I am currently out of the office but will have my paralegal Alyssa coordinate with Ms. Lewis in the Zoning Office to determine the next available date.
Thank you.

Sent from my iPhone

On Feb 25, 2020, at 11:30 AM, Debra Wiley <dwiley@baltimorecountymd.gov> wrote:

Good Morning,

ALJ Stahl appreciates your update. However, given the time this case has so far taken, whether or not you have received the information from BG&E by the end of the week, please coordinate with Ms. Magaziner and contact Kristen Lewis to schedule a hearing date.

Thank you.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, February 25, 2020 8:36 AM
To: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Cc: Lawrence Stahl <lstahl@baltimorecountymd.gov>; jcr319@hotmail.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Alyssa Moyers <amoyers@sgs-law.com>
Subject: Re: 2019-437 SPH

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Ms. Frank advised me last week that BGE's legal department requested a fax from me to release information. I followed up accordingly and am waiting a response. I will advise as soon as I hear. Sorry

Debra Wiley

From: Debra Wiley
Sent: Tuesday, February 25, 2020 11:31 AM
To: 'Lawrence Schmidt'; Becky Heyman-Magaziner
Cc: Lawrence Stahl; jcr319@hotmail.com; Peter Max Zimmerman; Alyssa Moyers; Kristen L Lewis
Subject: RE: 2019-437 SPH

Good Morning,

ALJ Stahl appreciates your update. However, given the time this case has so far taken, whether or not you have received the information from BG&E by the end of the week, please coordinate with Ms. Magaziner and contact Kristen Lewis to schedule a hearing date.

Thank you.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, February 25, 2020 8:36 AM
To: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Cc: Lawrence Stahl <lstahl@baltimorecountymd.gov>; jcr319@hotmail.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Alyssa Moyers <amoyers@sgs-law.com>
Subject: Re: 2019-437 SPH

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Ms. Frank advised me last week that BGE's legal department requested a fax from me to release information. I followed up accordingly and am waiting a response. I will advise as soon as I hear. Sorry for the delay.

Sent from my iPad

On Feb 24, 2020, at 5:18 PM, Becky Heyman-Magaziner <rlhmlaw@hotmail.com> wrote:

> Gentlemen
>
> Just following up on status. I will be leaving town on 3/6 and was hoping to review the additional evidence from the Petitioner before I depart as it was supposed to be available on 2/15/20
>
> Thanks in advance

PLEASE PRINT CLEARLY

CASE NAME Frank
CASE NUMBER 17-V-37-5041
DATE 11/14/19

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Lauren Schmidt	600 Washington Ave,	Towson MD	lschmidt@sgs-law.
Mitch Kellman	501 Fairmount Ave, Ste 300	Towson MD	MKellman@dmv.com COM
Jacqueline Frank	19 Baldary Circle	Parkville MD	jmfrank0@gmail.com
Mary Stuart McKenzie	5445 Patterson Road,	Baltimore, MD	MStMcKenzie@comcast.net

PLEASE PRINT CLEARLY

CASE NAME 14721 Manor Rd.
CASE NUMBER 2019-0437-SPH
DATE 11-15-~~2018~~ 2019

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Carey + Tom Henning	3702 Meadowhill Ct.	Phoenix MD	the4hennings@comcast.net
Mary Martino	3700 Meadowhill Ct	Phoenix MD	marymartino@comcast.net
BRUCE + BOBBIE NELSON	14712 MANOR RD	PHOENIX MD	robertbannnelson@gm
Sue Gerhardt	12040 Tralee Rd #204	Timonium, MD 21093	sgerhardt0620@gmail.com
Barbara + Ronald Rock	3729 Stansbury Mill Rd	Phoenix MD 21131	barbara@fctravel.net
PATTI Schindler	2700 Butler Rd, Reisterstown, MD 21136		PDSZZZ@aol.com
STEVEN D. WEINBERG	14714 MANOR RD., PHOENIX	MD 21131	sdweinberg@yahoo.com
Sherry Weinberg	14714 manor rd, Phoenix	MD 21131	sherry.f.weinberg@gmail.com
Cynthia Balog	3725 Stansbury Mill Rd.	Phoenix, MD 21131	balogcindi@gmail.com
LeeAnn Sugarman	3717 Stansbury Mill Rd	Phoenix MD 21131	leeann@drhms.com
GARY MARINO	3721 Stansbury Mill Rd	Phoenix MD 21131	[illegible]@gmail
Jeff Sheggrud	14711 Manor Rd	Phoenix 21131	jsheggrud@verizon.net
RICH BATTON	14815 MANOR RD.	MONKTON MD	BATTON@VERIZON.NET
Grace Batton	14815 Manor Rd	Monkton 21111	amazingraceann@verizon
[illegible]	3625 [illegible]	[illegible]	[illegible]
Leslie/David Hewbeck	12836 Stone Eagle RD	Phoenix 21131	DJH252@aol.com
Bill McDonough	4000 Green Glade Rd	PHOENIX 21131	mcdonoughlaw@gmail
SUSAN ANTHONY	4000 Green Glade Rd	PHOENIX, 21131	santhony603@gmail.com
Bill ENSOR	3631 Southside Ave	Phoenix 21131	
Victor FILATOV	4209 Green Glade Rd	Phoenix 21131	NATAVICF@AOL.COM
R HEYMAN MAGAZINER	3523 Southside AV	Phoenix 21131	rlhmlaw@hotmail.com
Evelyn Curren	3622 Stansbury	Phoenix 21131	evelynandkris@gmail.com

Bill Smith
Senior Partner
Smith & Associates LLP
1234 Main Street, Suite 500
Anytown, CA 90210
(555) 123-4567
bill.smith@smithassociates.com

PLEASE PRINT CLEARLY

CASE NAME 14721 Manor Rd.
CASE NUMBER 2019-0437-SPH
DATE 11-15-2019

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
John Raley	3810 Donnernway	Phoenix, MD 21131	jcr319@hotmail.com
Laura Benson (Donna)	14723 Manor Rd	Phoenix, MD 21131	lbenson508@gmail.com

Debra Wiley

From: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Sent: Tuesday, March 3, 2020 12:01 PM
To: Debra Wiley
Subject: Re: Case No. 2019-0437-SPH - 14721 Manor Road - Hearing: 11/15/2019

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Ms Wiley

Thanks It does help

Have a great day

Becky

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue
Phoenix, Maryland 21131
1.208.723.4728 E-mail
443.418.7599 Cellphone
e-fax 1 208 723 4728

CONFIDENTIALITY NOTICE
This e-mail is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail is prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail that you received this communication in error, delete this e-mail and destroy all paper and electronic copies of the original message. Any dissemination or use of this information by a person other than the intended recipient is unauthorized and may be subject to penalties under the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and other applicable laws.
Thank you.

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Tuesday, March 3, 2020 11:52 AM
To: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Subject: RE: Case No. 2019-0437-SPH - 14721 Manor Road - Hearing: 11/15/2019

Ms. Heyman-Magaziner,

Debra Wiley

From: Debra Wiley
Sent: Tuesday, March 3, 2020 11:53 AM
To: 'Becky Heyman-Magaziner'
Subject: RE: Case No. 2019-0437-SPH - 14721 Manor Road - Hearing: 11/15/2019

Ms. Heyman-Magaziner,

Kristen Lewis has been advised that the scheduling of this will be in consultation with you first before just setting in. In other words, you must agree to date.

Hope that helps.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Sent: Tuesday, March 3, 2020 11:46 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Subject: Re: Case No. 2019-0437-SPH - 14721 Manor Road - Hearing: 11/15/2019

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Ms Wiley

Thank you

My concern is that I have a Calendar of previously scheduled Court appearances to keep in mind

Is there any way ALJ Stahl can ask for my calendar to be considered when scheduling this case? Otherwise I may be in the same position I was in last time - unable to stay for the Hearing

It is my plan to review the audio tape, however, that is not an ideal situation

Thanks in advance

Becky

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue

OFFICE OF ADMINISTRATIVE HEARINGS

TO: Kristen Lewis, Office of Zoning Review & Case File 2019-0437-SPH

FROM: Debbie Wiley, Office of Administrative Hearings D. Wiley

RE: Case No. 2019-0437-SPH – 14721 Manor Road – Hearing: 11/15/2019

DATE: March 3, 2020

Counsel (Lawrence Schmidt, Esq. and Becky Heyman-Magaziner, Esq.) were notified, via email, on February 25, 2020 to coordinate and contact Kristen Lewis to schedule a hearing before ALJ Stahl. There is no need for sign reposting. We will ask Ms. Heyman-Magaziner to notify the citizens of the new hearing date.

By way of background, Mr. Schmidt was to obtain information from BGE and was given an extension until February 28, 2020. Given the time this case has taken, whether or not the pertinent information was received from BGE, ALJ Stahl indicated that it should now be set in for a hearing.

It is our understanding that Alyssa from Mr. Schmidt's office will coordinate with Kristen Lewis to determine the next available date.

Please notify the following once set in:

- Lawrence M. Schmidt, Esq.
  Smith, Gildea & Schmidt, LLC
  600 Washington Ave., Suite 200
  Towson, MD 21204

- Rebecca Heyman Magaziner, Esq.
  3523 Southside Avenue
  Phoenix, MD 21131

Thank you.

Debra Wiley

From: Debra Wiley
Sent: Tuesday, March 3, 2020 11:41 AM
To: 'Becky Heyman-Magaziner'
Subject: Case No. 2019-0437-SPH - 14721 Manor Road - Hearing: 11/15/2019
Attachments: 20200303113759698.pdf

Good Morning Ms. Heyman-Magaziner,

Please find attached correspondence forwarded to the Zoning Office directing them to set the above in for a hearing once contacted by Mr. Schmidt's office and to notify you once scheduled.

In addition, ALJ Stahl is asking if you would be the lead person to notify the citizens once the hearing has been set in. For your convenience, a copy of the "Citizen Sign-In" Sheets is attached.

Thanks and let me know if you have any questions and/or concerns.

Have a great day !

Debra Wiley, Legal Administrative Secretary Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Tuesday, March 3, 2020 11:38 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 03.03.2020 11:37:59 (-0500)
Queries to: adminhearingscpr@baltimorecountymd.gov

OFFICE OF ADMINISTRATIVE HEARINGS

TO: Kristen Lewis, Office of Zoning Review & Case File 2019-0437-SPH

FROM: Debbie Wiley, Office of Administrative Hearings D. Wiley

RE: Case No. 2019-0437-SPH – 14721 Manor Road – Hearing: 11/15/2019

DATE: March 3, 2020

Counsel (Lawrence Schmidt, Esq. and Becky Heyman-Magaziner, Esq.) were notified, via email, on February 25, 2020 to coordinate and contact Kristen Lewis to schedule a hearing before ALJ Stahl. There is no need for sign reposting. We will ask Ms. Heyman-Magaziner to notify the citizens of the new hearing date.

By way of background, Mr. Schmidt was to obtain information from BGE and was given an extension until February 28, 2020. Given the time this case has taken, whether or not the pertinent information was received from BGE, ALJ Stahl indicated that it should now be set in for a hearing.

It is our understanding that Alyssa from Mr. Schmidt's office will coordinate with Kristen Lewis to determine the next available date.

Please notify the following once set in:

- Lawrence M. Schmidt, Esq.
  Smith, Gildea & Schmidt, LLC
  600 Washington Ave., Suite 200
  Towson, MD 21204

- Rebecca Heyman Magaziner, Esq.
  3523 Southside Avenue
  Phoenix, MD 21131

Thank you.

PLEASE PRINT CLEARLY

CASE NAME 14721 Manor Rd.
CASE NUMBER 2019-0437-SPH
DATE 11-15-~~2019~~ 2019

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Carey + Tom Henning	3702 Meadowhill Ct.	Phoenix MD	the4hennings@comcast.net
Mary Martino	3700 Meadowhill Ct	Phoenix MD	marymartino@comcast.net
BRUCE + BOBBIE NELSON	14712 MANOR RD	PHOENIX MD	robertbrunnelson@gmail.com
Sue Gerhardt	12040 Tralee Rd #204	Timonium, MD 21093	sgerhardt0620@gmail.com
Barbara + Ronald Rock	3729 Stansbury Mill Rd	Phoenix 21131	barbara@fctravel.net
PATTI Schneider	2700 Butler Rd	Reisterstown, MD 21136	PDSZZZ@aol.com
STEVEN D. WEINBERG	14714 MANOR RD, PHOENIX	MD 21131	sdweinberg@yahoo.com
Sherry Weinberg	14714 manor Rd, Phoenix	MD 21131	Sherry.f.weinberg@gmail.com
Cynthia Balog	3725 Stansbury Mill Rd.	Phoenix, MD 21131	balogcindi@gmail.com
LeeAnn Sugarman	3717 Stansbury Mill Rd	Phoenix MD 21131	leeann@drhins.com
GARY MARINO	3721 Stansbury Mill Rd	Phoenix MD 21131	[illegible]@verizon.net
Jeff Sheggrud	14711 Manor Rd	Phoenix 21131	jsheggrud@verizon.net
RICH BATTON	14815 MANOR RD.	MONKTON MD	BATTON@VERIZON.NET
Grace Batton	14815 Manor Rd	Monkton 21111	amazingraceann@verizon.net
Dawn Heffernan	3625 Stansbury Mill Rd	[illegible]	[illegible]
Leslie/David Heubeck	12836 Stone Eagle RD	Phoenix 21131	DJH282@aol.com
Bill McDonough	4000 Green Glade Rd	PHOENIX 21131	mcdonough@verizon.net
SUSAN ANTHONY	4000 Green Glade Rd	PHOENIX, 21131	SANTHONY603@gmail.com
Bill Ensor	3631 Southside Ave	Phoenix 21131	
Victor Filator	4209 Green Glade Rd	Phoenix 21131	NATAVIC@AOL.COM
R HEYMAN MAGAZINER	3523 Southside Av	Phoenix 21131	rlhmlaw@hotmail.com
Evelyn Curren	3622 Stansbury	Phoenix 21131	evelynandkris@gmail.com

PLEASE PRINT CLEARLY

CASE NAME 14721 Manor Rd.
CASE NUMBER 2019-0437-SPH
DATE 11-15-2019

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
John Raley	3810 Donerail Way	Phoenix, MD 21131	jcr319@hotmail.com
Laura Benson (Owner)	14723 Manor Rd	Phoenix, MD 21131	lbenson508@gmail.com

Debra Wiley

From: Debra Wiley
Sent: Thursday, July 2, 2020 9:42 AM
To: Lawrence M. Stahl (lawrence.stahl1@gmail.com); Stahl, Lawrence
Subject: Your Notes from Case No. 2019-0437-SPH scheduled for July 21 @ 1:30 PM
Attachments: 20200702094132788.pdf

Larry,

You should be receiving an invitation shortly.

Debra Wiley, Legal Administrative Secretary Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Thursday, July 2, 2020 9:42 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 07.02.2020 09:41:32 (-0400)
Queries to: adminhearingscpr@baltimorecountymd.gov

Debra Wiley

From: Debra Wiley
Sent: Thursday, July 2, 2020 9:43 AM
To: Lawrence M. Stahl (lawrence.stahl1@gmail.com); Stahl, Lawrence
Subject: Memo re: Case No. 2019-0437-SPH - July 21 @ 1:30 PM
Attachments: 20200702094158088.pdf

Debra Wiley, Legal Administrative Secretary Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Thursday, July 2, 2020 9:42 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 07.02.2020 09:41:58 (-0400)
Queries to: adminhearingscpr@baltimorecountymd.gov

[redacted] 4/17/20 @ [redacted]

OFFICE OF ADMINISTRATIVE HEARINGS

TO: Kristen Lewis, Office of Zoning Review & Case File 2019-0437-SPH

FROM: Debbie Wiley, Office of Administrative Hearings D. Wiley

RE: Case No. 2019-0437-SPH – 14721 Manor Road – Hearing: 11/15/2019

DATE: March 3, 2020

Counsel (Lawrence Schmidt, Esq. and Becky Heyman-Magaziner, Esq.) were notified, via email, on February 25, 2020 to coordinate and contact Kristen Lewis to schedule a hearing before ALJ Stahl. There is no need for sign reposting. We will ask Ms. Heyman-Magaziner to notify the citizens of the new hearing date.

By way of background, Mr. Schmidt was to obtain information from BGE and was given an extension until February 28, 2020. Given the time this case has taken, whether or not the pertinent information was received from BGE, ALJ Stahl indicated that it should now be set in for a hearing.

It is our understanding that Alyssa from Mr. Schmidt's office will coordinate with Kristen Lewis to determine the next available date.

Please notify the following once set in:

- Lawrence M. Schmidt, Esq.
  Smith, Gildea & Schmidt, LLC
  600 Washington Ave., Suite 200
  Towson, MD 21204

- Rebecca Heyman Magaziner, Esq.
  3523 Southside Avenue
  Phoenix, MD 21131

Thank you.

* Kristen- Please make sure Ms. Heyman-Magaziner agrees to date before confirmed. Thx.

Email sent w/ copy of Zoning Notice, Esq. has been notified. 3/30 3:06 pm

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 14721 Manor Road **which is presently zoned** RC5

Deed References: 02169/00330 10 Digit Tax Account # 1012040202

Property Owner(s) Printed Name(s) Jacqueline R. Frank

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

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

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

Please see attached.

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)**

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

Legal Owners (Petitioners):

Jacqueline R. Frank

Name #1 – Type or Print Name #2 – Type or Print

Jacqueline Frank

Signature #1 Signature # 2

19 Bellclare Circle Sparks Glencoe MD

Mailing Address City State

21152 443-865-8921

Zip Code Telephone # Email Address

Attorney for Petitioner:

Zachary Wilkins

Name- Type or Print

Signature

600 Washington Ave Suite 200 Towson MD

Mailing Address City State

21204 410-821-0070 zwilkins@sgs-law.com

Zip Code Telephone # Email Address

Representative to be contacted:

Zachary Wilkins

Name – Type or Print

Signature

600 Washington Ave Suite 200 Towson MD

Mailing Address City State

21204 410-821-0070 zwilkins@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2019-0437-SPH **Filing Date** 8/22/19 **Do Not Schedule Dates:** ___ **Reviewer** RJ

REV. 10/4/11

Deb
4/17 @ 1:30 pm

3/30 2:37 pm.
Sp. to Mr. Wilkins

Follow up email sent 2:30

LS 7-21
1:30 pm

Debra Wiley

From: Debra Wiley
Sent: Thursday, July 9, 2020 11:48 AM
To: 'Alyssa Moyers'
Subject: Subpoena Forms for Case No. 2019-0437-SPH
Attachments: 20200709114837938.pdf

Alyssa,

Attached please find the subpoena forms.

Thanks and have a great day.

Debra Wiley, Legal Administrative Secretary Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Thursday, July 9, 2020 11:49 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 07.09.2020 11:48:37 (-0400)
Queries to: adminhearingscpr@baltimorecountymd.gov

IN RE:	*	BEFORE THE
PETITION FOR SPECIAL HEARING 14721 MANOR ROAD	*	OFFICE OF
Jacqueline R. Frank, Legal Owner	*	ADMINISTRATIVE HEARINGS
10th Election District 3rd Councilmanic District	*	FOR BALTIMORE COUNTY
	*	Case No. 2019-0437-SPH

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

SUBPOENA

TO: Baltimore Gas and Electric
100 Constellation Way
Baltimore, MD 21202

You are hereby summoned and commanded to be and appear personally before the Administrative Law Judge for Baltimore County on Tuesday, the 21st day of July, 2020, ~~2011,~~ at 1:30PM ~~AM/PM in Room~~ via Webex ~~of the ---------- Building, in Towson, Maryland,~~ regarding the above captioned matter. YOU ARE COMMANDED TO PRODUCE any and all documents relating to electric service at the Property known as 14721 Manor Road, including but not limited to the PS electric meter installed by BGE on 11/1/1966 and any and all billing records relating to the providing of electric service at this address.

Private Process Server:

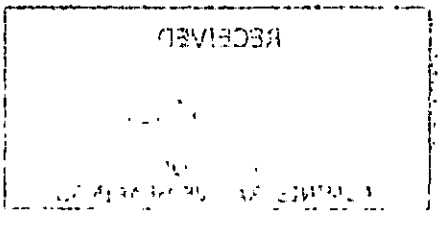
Please process in accordance with Zoning Commissioner's Rule 4(C).

Administrative Law Judge
for Baltimore County

RECEIVED
JUL - 9 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Issued: _____

(Rev. 10/2011)


RECEIVED

IN RE:	*	BEFORE THE
PETITION FOR SPECIAL HEARING 14721 MANOR ROAD	*	OFFICE OF
Jacqueline R. Frank, Legal Owner	*	ADMINISTRATIVE HEARINGS
10th Election District 3rd Councilmanic District	*	FOR BALTIMORE COUNTY
	*	Case No. 2019-0437-SPH

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

SUBPOENA

TO: Howard B. Lintz
14106 Blenheim Road
Phoenix, MD 21131

You are hereby summoned and commanded to be and appear personally before the Administrative Law Judge for Baltimore County on Tuesday, the 21st day of July, 2020, ~~2011,~~ at 1:30PM ~~AM~~/PM ~~in Room~~ via Webex ~~of the ---------- Building, in Towson, Maryland~~, regarding the above captioned matter.

Private Process Server:

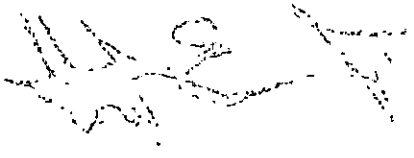
Please process in accordance with Zoning Commissioner's Rule 4(C).

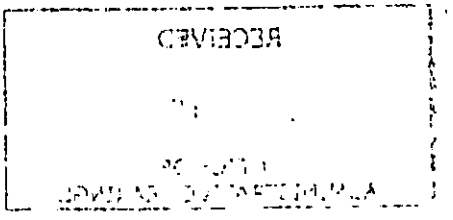
Administrative Law Judge
for Baltimore County

RECEIVED
JUL - 9 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Issued: _____

(Rev. 10/2011)





IN RE:	*	BEFORE THE
PETITION FOR SPECIAL HEARING 14721 MANOR ROAD	*	OFFICE OF
Jacqueline R. Frank, Legal Owner	*	ADMINISTRATIVE HEARINGS
10th Election District 3rd Councilmanic District	*	FOR BALTIMORE COUNTY
	*	Case No. 2019-0437-SPH

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

SUBPOENA

TO: Kristine Derkach
1900b Philips Mill Rd.
Forrest Hill, MD 21050

You are hereby summoned and commanded to be and appear personally before the Administrative Law Judge for Baltimore County on Tuesday, the 21st day of July, 2020, ~~2011,~~ at 1:30PM ~~AM~~/PM ~~in Room~~ via Webex ~~of the ---------- Building, in Towson, Maryland,~~ regarding the above captioned matter.

Private Process Server:

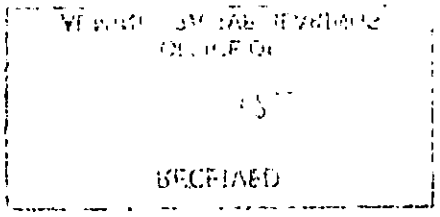
Please process in accordance with Zoning Commissioner's Rule 4(C).

Administrative Law Judge
for Baltimore County

RECEIVED
JUL - 9 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Issued:

(Rev. 10/2011)


RECEIVED

Debra Wiley

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Wednesday, July 8, 2020 3:06 PM
To: Debra Wiley
Subject: RE: ALJ Subpoenas
Attachments: Subpoena for Kristine Derkach.PDF; Subpoena to BGE.PDF; Subpoena for Howard Lintz.PDF

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Deb,

Here are the three subpoenas to be issued when you have a minute. Thank you!

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Tuesday, July 7, 2020 1:20 PM
To: Alyssa Moyers <amoyers@sgs-law.com>
Subject: Re: ALJ Subpoenas

Alyssa,

Do you have our subpoena forms that you can just complete your required info.? If so, just forward to me and I can take are of for you.

Thanks.

From: Debra Wiley
Sent: Tuesday, July 7, 2020 11:19:34 AM

Debra Wiley

From: Kristen L Lewis
Sent: Thursday, July 2, 2020 10:02 AM
To: Becky Heyman-Magaziner; Alyssa Moyers; Peter Max Zimmerman; Lawrence Schmidt; Lawrence Stahl; 'Jacqueline Frank'
Cc: Debra Wiley; jcr319@hotmail.com; Marissa Merrick; Becky Heyman Magaziner
Subject: RE: 2019-437 SPH, 14721 Manor Road

All,

Sorry about the confusion in the typo, the hearing is set for 7/21/20 at 1:30 p.m.

Kristen Lewis
PAI – Zoning Review
410-887-3391

From: Becky Heyman-Magaziner [mailto:rlhmlaw@hotmail.com]
Sent: Thursday, July 02, 2020 9:54 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Alyssa Moyers <amoyers@sgs-law.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; 'Jacqueline Frank' <jrmfrank0@gmail.com>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; jcr319@hotmail.com; Marissa Merrick <mmerrick@baltimorecountymd.gov>; Becky Heyman Magaziner <rlhmlaw@yahoo.com>
Subject: Re: 2019-437 SPH, 14721 Manor Road

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Ms Lewis

I just tried to call but the message says you cannot answer my call
so I'm sending this email

Is the Hearing at 1:30p which is the time everyone confirmed

or is it at 10:30am?

Just a bit confused on the time but 7/21/20 is still the date

Becky

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue

Phoenix, Maryland 21131
443.418.7599 Cellphone
e-fax 1 208 723 4728

CONFIDENTIALITY NOTICE
This e-mail is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail is prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail that you received this communication in error, delete this e-mail and destroy all paper and electronic copies of the original message. Any dissemination or use of this information by a person other than the intended recipient is unauthorized and may be subject to penalties under the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and other applicable laws.
Thank you.

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Thursday, July 2, 2020 9:32 AM
To: Alyssa Moyers <amoyers@sgs-law.com>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; 'Jacqueline Frank' <jrmfrank0@gmail.com>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; jcr319@hotmail.com <jcr319@hotmail.com>; Marissa Merrick <mmerrick@baltimorecountymd.gov>; Becky Heyman Magaziner <rlhmlaw@yahoo.com>
Subject: RE: 2019-437 SPH, 14721 Manor Road

Good morning,

The case will be held 7/21 at 10:30 p.m. Please look out for an webex invite for participation. Thank you,

Kristen Lewis
PAI – Zoning Review
410-887-3391

From: Alyssa Moyers [mailto:amoyers@sgs-law.com]
Sent: Wednesday, July 01, 2020 8:10 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; 'Jacqueline Frank' <jrmfrank0@gmail.com>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; jcr319@hotmail.com; Marissa Merrick <mmerrick@baltimorecountymd.gov>; Becky Heyman Magaziner <rlhmlaw@yahoo.com>
Subject: RE: 2019-437 SPH, 14721 Manor Road

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Kristen, I believe everyone has confirmed their availability for July 21st at 1:30. Please confirm the Webex hearing has been set in for that day.

Thank you.

- *Alyssa*
Alyssa Fiore Moyers | Paralegal

SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Tuesday, June 30, 2020 1:35 PM
To: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; Alyssa Moyers <amoyers@sgs-law.com>; 'Jacqueline Frank' <jrmfrank0@gmail.com>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; jcr319@hotmail.com; Marissa Merrick <mmerrick@baltimorecountymd.gov>; Becky Heyman Magaziner <rlhmlaw@yahoo.com>
Subject: RE: 2019-437 SPH, 14721 Manor Road

Good afternoon,

7/21/20 is available for a virtual hearing at 1:30 p.m. Please reply for confirmation, thank you.

Kristen Lewis
PAI – Zoning Review
410-887-3391

From: Becky Heyman-Magaziner [mailto:rlhmlaw@hotmail.com]
Sent: Tuesday, June 30, 2020 1:22 PM
To: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; Alyssa Moyers <amoyers@sgs-law.com>; 'Jacqueline Frank' <jrmfrank0@gmail.com>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; jcr319@hotmail.com; Marissa Merrick <mmerrick@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Becky Heyman Magaziner <rlhmlaw@yahoo.com>
Subject: Re: 2019-437 SPH, 14721 Manor Road

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

All

I am not available on 7/20/20 as I am already scheduled for Hearings in Baltimore County at 9am and 3pm

Is 7/21/20 anytime available, or the afternoon of 7/27/20, or anytime on 7/28/20?

Becky

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue
Phoenix, Maryland 21131
443.418.7599 Cellphone
e-fax 1 208 723 4728

CONFIDENTIALITY NOTICE
This e-mail is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail is prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail that you received this communication in error, delete this e-mail and destroy all paper and electronic copies of the original message. Any dissemination or use of this information by a person other than the intended recipient is unauthorized and may be subject to penalties under the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and other applicable laws.
Thank you.

From: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Sent: Tuesday, June 30, 2020 12:03 PM
To: Lawrence Schmidt <lschmidt@sgs-law.com>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; Alyssa Moyers <amoyers@sgs-law.com>; 'Jacqueline Frank' <jrmfrank0@gmail.com>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>; jcr319@hotmail.com <jcr319@hotmail.com>; Marissa Merrick <mmerrick@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: Re: 2019-437 SPH, 14721 Manor Road

Good Afternoon,

I have confirmed with Mr. Zimmerman that he is available for July 20th. Please let us know if the date is confirmed.

Rebecca Wheatley, Legal Secretary
Office of People's Counsel
410-887-2188

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, June 30, 2020 11:46:23 AM
To: Peter Max Zimmerman; Lawrence Stahl; Alyssa Moyers; 'Jacqueline Frank'
Cc: Debra Wiley; Becky Heyman-Magaziner; jcr319@hotmail.com; Marissa Merrick; Kristen L Lewis
Subject: RE: 2019-437 SPH, 14721 Manor Road

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Mr. Zimmerman and all.

I received a phone call from the scheduler at the Zoning Office (Kristen Lewis) that she wants to schedule the next day's hearing on this matter to July 20 at 10:00 a.m. The hearing will be held remotely due to the current pandemic and gathering restrictions. This is the process that the County is following at this time to conduct hearings. I had a hearing last week and the process worked well.

Please confirm your availability. We will get further instructions as to how to access and participate in the proceedings as the date approaches. Please confirm so that Kristen can lock this date into the schedule.

Thanks.

Larry Schmidt

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

From: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Sent: Wednesday, January 29, 2020 11:04 AM
To: Lawrence Stahl <lstahl@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs365.onmicrosoft.com>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Marissa Merrick <mmerrick@baltimorecountymd.gov>
Subject: RE: 2019-437 SPH, 14721 Manor Road

Dear Judge Stahl,

Thank you for your note on the status of this case.

Under the circumstances, I will attend the next hearing day and present closing argument, either oral or written, at your discretion.

Please allow me to comment briefly on Mr. Schmidt's latest e-mail, I agree with his description that the case is still "in trial." Bit I disagree that my last e-mail was in the nature of closing argument.

Given that the case was extended to allow a document search by Petitioner, I identified other documents which I believe would be relevant for Petitioner to produce. In effect, I offered Petitioner an opportunity to supply more proof. When the case comes to closing argument, I will assess and analyze the probative impact of any documents which Petitioner produces, as well as those which are relevant and normally would be in their possession but which they fail to produce.

In this context, I did recapitulate briefly several principles of nonconforming use law, previously mentioned in my November 8, 2019 letter. But I did not at this juncture argue or take a position on the merits of this case, which I reserve until the proper time.

Meanwhile, it came to my attention that consideration should be given to another set of potential documents. In Bill 87-07, the County Council extended countywide a pilot program for rental housing licenses. It is codified in Code Secs. 35-6-101 to 35-6-113. If my reading of the law is correct, a three-dwelling apartment use would require the licenses

enumerated in the law. Sec. 35-6-103(a), 35-6-105. Accordingly, I would ask Petitioner to address the following questions: Are rental housing licenses required for any 14721 Manor Road apartments? If so, will Petitioner produce any licenses obtained, or any explicit exemptions? How does the licensing situation affect the nonconforming use zoning issues? Again, I will assess the situation at the time of closing argument.

It is noteworthy that a check of the County website for Rental Registration and its map links indicates that no licenses have been obtained for 14721 Manor Road. These website materials are attached. I look forward to Petitioner's views on this matter.

I trust that Petitioner will provide to the parties and to your Honor, in advance of the next hearing, any documents to be introduced.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

From: Lawrence Stahl <lstahl@baltimorecountymd.gov>
Sent: Tuesday, January 28, 2020 11:50 AM
To: Lawrence Schmidt <lschmidt@sgs-law.com>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: 2019-437 SPH

To All—As you are now aware, Mr. Schmidt expects to hear from BG &E on or about February 15th.

After that date, the matter should be set in by the parties for an additional hearing. Once all evidence and testimony is presented and entered, I will determine if a memo from the parties, in lieu of closing arguments, will be provided, and will determine my decision.
I appreciate the concern of you all in this matter.

Lawrence M. Stahl
Administrative Law Judge
Baltimore County Office of Administrative Hearings
410-887-8232

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

Total Control Panel Login

To: lschmidt@sgs-law.com
From: prvs=290be8904=pzimmerman@baltimorecountymd.gov

Message Score: 1
My Spam Blocking Level: Medium

Block this sender
Block baltimorecountymd.gov

High (60): Pass
Medium (75): Pass
Low (90): Pass

This message was delivered because the content filter score did not exceed your filter level.

Debra Wiley

From: Debra Wiley
Sent: Monday, July 13, 2020 10:24 AM
To: Jenae Johnson
Subject: RE: Case File Needed for 7/21 @ 1:30 PM

Sorry – it is Case No. 2019-0437-SPH.

Thanks.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Jenae Johnson <jnjohnson@baltimorecountymd.gov>
Sent: Monday, July 13, 2020 10:20 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: RE: Case File Needed for 7/21 @ 1:30 PM

Good morning,

What's the case number

Have a great day

From: Debra Wiley
Sent: Monday, July 13, 2020 10:10 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Jenae Johnson <jnjohnson@baltimorecountymd.gov>
Subject: Case File Needed for 7/21 @ 1:30 PM

Good Morning,

Just a reminder that our office is going to need the above file for hearing set on 7/21.

Thanks and have a great day !

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Debra Wiley

From: Debra Wiley
Sent: Thursday, July 9, 2020 11:53 AM
To: Lawrence M. Stahl (lawrence.stahl1@gmail.com); Stahl, Lawrence
Subject: FW: ALJ Subpoenas for July 21 @ 1:30 PM - Case No. 2019-0437-SPH
Attachments: Subpoena for Kristine Derkach.PDF; Subpoena to BGE.PDF; Subpoena for Howard Lintz.PDF

Larry,

FYI

Still waiting for case file. As soon as I receive, I'll forward info. to you.

Have a great vacation and have a nice, cold drink for me !

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Wednesday, July 8, 2020 3:06 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: RE: ALJ Subpoenas

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Deb,

Here are the three subpoenas to be issued when you have a minute. Thank you!

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Tuesday, July 7, 2020 1:20 PM

Debra Wiley

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Friday, July 17, 2020 2:22 PM
To: Administrative Hearings
Subject: Re: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Deb,

Good point. I guess the first 5 should be available for everyone in case anyone needs to refer to one. Do you have them uploaded or should I send?

Alyssa

Sent from my iPhone

> On Jul 17, 2020, at 2:06 PM, Administrative Hearings <administrativehearings@baltimorecountymd.gov> wrote:
>
> Alyssa,
>
> Do we need to share any earlier exhibits or just start with 6 ?
>
> Thanks.
>
> Debra Wiley, Legal Administrative Secretary
> Baltimore County Office of Administrative Hearings
> 105 West Chesapeake Avenue, Suite 103
> Towson, Maryland 21204
> 410-887-3868

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Friday, July 17, 2020 1:57 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Kristen Lewis has been advised that the scheduling of this will be in consultation with you first before just setting in. In other words, you must agree to date.

Hope that helps.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Sent: Tuesday, March 3, 2020 11:46 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Subject: Re: Case No. 2019-0437-SPH - 14721 Manor Road - Hearing: 11/15/2019

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Ms Wiley

Thank you

My concern is that I have a Calendar of previously scheduled Court appearances to keep in mind

Is there any way ALJ Stahl can ask for my calendar to be considered when scheduling this case? Otherwise I may be in the same position I was in last time - unable to stay for the Hearing

It is my plan to review the audio tape, however, that is not an ideal situation

Thanks in advance

Becky

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue
Phoenix, Maryland 21131
1.208.723.4728 E-mail
443.418.7599 Cellphone
e-fax 1 208 723 4728

CONFIDENTIALITY NOTICE
This e-mail is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this e-mail is prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail that you received this communication in error, delete this e-mail and destroy all paper and electronic copies of the original message. Any dissemination or use of this information by a person other than the intended recipient is

4/17/20 @ 1:30

OFFICE OF ADMINISTRATIVE HEARINGS

TO: Kristen Lewis, Office of Zoning Review & Case File 2019-0437-SPH

FROM: Debbie Wiley, Office of Administrative Hearings D. Wiley

RE: Case No. 2019-0437-SPH – 14721 Manor Road – Hearing: 11/15/2019

DATE: March 3, 2020

Counsel (Lawrence Schmidt, Esq. and Becky Heyman-Magaziner, Esq.) were notified, via email, on February 25, 2020 to coordinate and contact Kristen Lewis to schedule a hearing before ALJ Stahl. There is no need for sign reposting. We will ask Ms. Heyman-Magaziner to notify the citizens of the new hearing date.

By way of background, Mr. Schmidt was to obtain information from BGE and was given an extension until February 28, 2020. Given the time this case has taken, whether or not the pertinent information was received from BGE, ALJ Stahl indicated that it should now be set in for a hearing.

It is our understanding that Alyssa from Mr. Schmidt's office will coordinate with Kristen Lewis to determine the next available date.

Please notify the following once set in:

- Lawrence M. Schmidt, Esq.
  Smith, Gildea & Schmidt, LLC
  600 Washington Ave., Suite 200
  Towson, MD 21204

- Rebecca Heyman Magaziner, Esq.
  3523 Southside Avenue
  Phoenix, MD 21131

Thank you.

* Kristen- Please make sure Ms. Heyman-Magaziner agrees to date before confirmed. Thx.

Cont'd 7-21 @ 1:30 pm LS 2019 (LS) ✓ 4-17-20 1:30 pm

CASE NO. ~~2020~~ 2019-0439-SPH

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
_____	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	_____
_____	DEPS (if not received, date e-mail sent _____)	_____
_____	FIRE DEPARTMENT	_____
_____	PLANNING (if not received, date e-mail sent _____)	_____
_____	STATE HIGHWAY ADMINISTRATION	_____
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: _____

SIGN POSTING (1st) Date: _____ by _____

SIGN POSTING (2nd) Date: _____ by _____

PEOPLE'S COUNSEL APPEARANCE Yes ☐ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

_____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Special Tax Recapture: None

Account Identifier: **District - 10 Account Number -** 1012040302

Owner Information

Owner Name:	FRANK CONSTANTINE FRANK JACQUELINE R	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	19 BELLCLARE CIR SPARKS GLENCO MD 21152-9114	**Deed Reference:**	/08169/ 00330

Location & Structure Information

Premises Address:	14721 MANOR RD 0-0000	**Legal Description:**	1.413 ACRES ES MANOR ROAD 318 S STANSBURY MILL RO

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0036	0008	0168	10030041.04	0000				2020	Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1898	4,308 SF		1.4100 AC	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	ASBESTOS SHINGLE/	4	4 full		

Value Information

	Base Value	Value As of 01/01/2020	Phase-in Assessments As of 07/01/2019	Phase-in Assessments As of 07/01/2020
Land:	140,500	140,500		
Improvements	212,300	252,500		
Total:	352,800	393,000	352,800	366,200
Preferential Land:	0			0

Transfer Information

Seller: FRANK CONSTANTINE	**Date:** 05/09/1989	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /08169/ 00330	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2019	07/01/2020
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Debra Wiley

From: Debra Wiley
Sent: Monday, July 13, 2020 9:25 AM
To: Paul Mayhew; Kristen L Lewis; Larry Stahl
Cc: Donna Mignon
Subject: RE: Summer vacation

Paul,

Larry is on vacation this week and should be back next Monday.

Thanks.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Paul Mayhew <pmayhew@baltimorecountymd.gov>
Sent: Monday, July 13, 2020 9:03 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>; Larry Stahl <lawrence.stahl1@gmail.com>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Summer vacation

Larry,
Can you handle these 2 cases on 7/30 and 7/31? Henry will take care of all the WebEx issues. Please advise ASAP.
Thanks

Paul M. Mayhew
Managing Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
pmayhew@baltimorecountymd.gov

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Saturday, July 11, 2020 11:09 PM
To: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: Re: Summer vacation

Paul,

I'm sorry to tell you but there is one (1) hearing scheduled each day on July 30th and July 31st, both at 10 AM -- they were added on July 6th.

Let us know how you'd like us to handle.

Thanks.

From: Paul Mayhew
Sent: Saturday, July 11, 2020 8:34:53 PM
To: Kristen L Lewis
Cc: Debra Wiley; Donna Mignon
Subject: Summer vacation

Kristen
I feel bad even taking any time off but I please block out July 30 thru August 7
Thanks

Sent using OWA for iPhone

Debra Wiley

From: Debra Wiley
Sent: Sunday, July 12, 2020 8:13 PM
To: Kristen L Lewis
Subject: Case No. 2019-0437-SPH

Kristen,

Hope you had a nice weekend.

Please see below. It appears this event was not created for July 21st at 1:30 pm.

Thanks.

From: Debra Wiley
Sent: Sunday, July 12, 2020 8:11 PM
To: Alyssa Moyers
Subject: Re: Subpoena Forms for Case No. 2019-0437-SPH

Hi Alyssa,

That should have been something Kristen set up; you may need to reach out to her about that. Once she sets it in, our office can then take the information for others that want to participate at least 48 hours in advance.

I will email her also about this.

Thanks for bringing this to my attention.

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Sunday, July 12, 2020 7:22:21 PM
To: Debra Wiley
Subject: RE: Subpoena Forms for Case No. 2019-0437-SPH

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Deb,

I don't see this matter on the ALJ's calendar for July 21st at 1:30. Should I circle back with Kristen Lewis or is that something you can take care of? I don't know who is supposed to do what with hearings anymore!

I didn't think the calendar was updated until a few days prior to the hearing but there are webex links for hearings later in the week.

Alyssa

Alyssa Fiore Moyers | Paralegal

SMITH, GILDEA & SCHMIDT, LLC

600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070

amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Thursday, July 9, 2020 11:42 PM
To: Alyssa Moyers <amoyers@sgs-law.com>
Subject: Re: Subpoena Forms for Case No. 2019-0437-SPH

You're more than welcome.

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Thursday, July 9, 2020 8:55:33 PM
To: Debra Wiley
Subject: RE: Subpoena Forms for Case No. 2019-0437-SPH

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Thanks Deb!

- Alyssa
Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.
Π Please consider the environment before printing this email.

-----Original Message-----
From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Thursday, July 9, 2020 11:48 AM

RECEIVED
JUL 21 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Donna Mignon

From: Donna Mignon
Sent: Tuesday, July 21, 2020 8:28 AM
To: 'Alyssa Moyers'
Cc: Debra Wiley
Subject: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Good Morning Alyssa,
I am glad you were able to send attached exhibits and I hope you got some sleep.
I checked the file for you and the original Exhibit 5 in the file is of the Aerial photos.

If you have any further questions, please let us know. Have a great day.

Donna Mignon

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Monday, July 20, 2020 4:36 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Sorry for the delayed upload, ladies! Our computer system has had a serious case of the Monday's today. Add in a sick baby and exhausted mama, and well, this is where we are ☺

Please double check my attached Exhibit 5 with what is in your file. We typically include aerials of the neighborhood but "Exhibit 5 – Photos - Historical Aerials – Various Years" is what was written down for Exhibit 5. I don't have any other photos in our file if this is not what was introduced.

Thanks!

- **Alyssa**

Alyssa Fiore Moyers|Paralegal
Smith, Gildea & Schmidt, llc
600 Washington Avenue|Suite 200|Towson, MD 21204|(410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Debra Wiley
Sent: Monday, July 20, 2020 11:12 AM
To: Alyssa Moyers
Cc: Donna Mignon
Subject: FW: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Hi Alyssa,

Please do not forget to forward Exhibits 1 through 5 to our general mailbox for tomorrow's hearing.

If you've already submitted, please disregard my email.

Thank you.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Administrative Hearings
Sent: Friday, July 17, 2020 3:03 PM
To: 'Alyssa Moyers' <amoyers@sgs-law.com>
Subject: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Hi Alyssa,

They'll need to be resent.

Thanks.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Friday, July 17, 2020 2:22 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Re: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Deb,

Good point. I guess the first 5 should be available for everyone in case anyone needs to refer to one. Do you have them uploaded or should I send?

Alyssa

Sent from my iPhone

> On Jul 17, 2020, at 2:06 PM, Administrative Hearings <administrativehearings@baltimorecountymd.gov> wrote:
>
> Alyssa,
>
> Do we need to share any earlier exhibits or just start with 6 ?
>
> Thanks.
>
> Debra Wiley, Legal Administrative Secretary
> Baltimore County Office of Administrative Hearings
> 105 West Chesapeake Avenue, Suite 103
> Towson, Maryland 21204
> 410-887-3868
>
> ---
>
> **From:** Alyssa Moyers <amoyers@sgs-law.com>
> **Sent:** Friday, July 17, 2020 1:57 PM
> **To:** Administrative Hearings <administrativehearings@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>
> **Cc:** Debra Wiley <dwiley@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
> **Subject:** RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road
>
> **CAUTION:** This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BC email system. Hover over any links before clicking and use caution opening attachments.
>
> Attached please find Petitioner's proposed exhibits for Day 2.
>
> Exhibit 6: Deed – Lintz to Frank (6539/504)
> Exhibit 7: Howard Lintz Affidavit
> Exhibit 8: Letter from BGE dated 12.2.2019
>
> Thank you.
>
> - **Alyssa**
>
> **Alyssa Fiore Moyers | Paralegal**
> **Smith, Gildea & Schmidt, llc**
> 600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
> amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Sent: Friday, July 17, 2020 11:32 AM
To: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Alyssa Moyers <amoyers@sgs-law.com>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

We received the attached. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Sent: Friday, July 17, 2020 11:24 AM
To: Lawrence Stahl <lstahl@baltimorecountymd.gov>; Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; 'Lawrence Schmidt' <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Alyssa Moyers <amoyers@sgs-law.com>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Dear Judge Stahl,

I sent inadvertently an incomplete e-mail with a partial list of exhibits. This is the corrected and complete e-mail.

For the upcoming hearing on July 21, 2020 at 1:30 P.M., our office would like to submit, for review and discussion, the following exhibits:

Zoning History Exhibits

1. E-mail from Jeff Perlow to Peter Max Zimmerman dated July 16, 2020 describing zoning history 1945-71 with attached 1945 Zoning Map.
2. 1945 Zoning Regulations: "A" Residence Zone.
3. 1955 Zoning Regulations: R-6.
4. Letter from Peter Max Zimmerman to Administrative Law Judge Lawrence Stahl dated November 8, 2019.

County Rental Housing License Law Exhibit

5. County Code Article 35, Title 6, Rental Housing Licenses

County Board of Appeals opinion and orders denying petitions to approve apartments as nonconforming uses .

6. County Board of Appeals opinion and order; Case No. 00-404-SPH; Shirley and Paul Reinke, 4 Fourth Avenue, June 27, 2001 (CBA Panel: Wescott, Chair; Felling, Stahl).
7. County Board of Appeals opinion and order; Case No. 99-338-SPHA; Tek Seng Leong; 8719-8721 Wendell Avenue; August 10, 2001; (CBA Panel: Stahl, Chair; Worrall, Barranger).
8. County Board of Appeals opinion and order; Case No. 01-025-SPH; Jeanette and William Clark; 2900 Taylor Avenue; October 31, 2002; (CBA Panel: Stahl, Chair: Marks, Barranger).
9. County Board of Appeals opinion and order; Case No. 08-199-SPH; Timothy Luecking; 301 Reserve Court; January 23, 2009; (CBA panel: Wescott, Chair; Grier, Witt).
10. Circuit Court Memorandum Opinion, affirmance, Case No. 03-C-09-001926; Timothy Luecking; October 5, 2009; (Jakubowski, Circuit Judge).

Court of Special Appeals Opinion on Evidence Law

11. Radin v. Supervisor of Assessments 254 Md. 294 (1969).

I believe these exhibits will be helpful to expedite the resolution of this long-delayed, pandemic-affected case.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

Connect with Baltimore County

Donna Mignon

RECEIVED
JUL 21 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

From: Peter Max Zimmerman
Sent: Monday, July 20, 2020 11:33 AM
To: Lawrence Stahl; Administrative Hearings
Cc: Debra Wiley; Donna Mignon; 'Lawrence Schmidt'; Alyssa Moyers; 'Becky Heyman-Magaziner'; jcr319@hotmail.com; Carl Richards Jr; Jeffrey N Perlow; Rebecca Wheatley
Subject: Continued hearing July 21, 2020; Webex; Case No. 2019-437-SPH; Jacqueline Frank, Petitioner; 14721 Manor Road

Dear Judge Stahl,

Upon receipt of Petitioner's exhibits, and upon review this morning, our office objects to the introduction and admission of the affidavit of Howard Lintz, for the following reasons:

1. The continued hearing was set to afford Petitioner the courtesy of providing BGE utility documents, not for the sponsoring of new witnesses on either side. If the hearing were set to be open-ended, then the citizens would have to be given the opportunity to provide their own witnesses and/or opposing affidavits, as is the situation for summary judgment procedure or trial in court.
2. The Lintz affidavit is anyway defective in form because it avers "that the matters and facts set forth are true and correct to the best of my knowledge, information and belief." To be adequate, the averment must be based on personal knowledge and witness competency. County Comm'rs of Caroline County v. J. Roland Dashiell & Sons 358 Md. 83, 101-04 (2000); Mercier v. O'Neill Associates 249 Md. 286, 287-88 n. 1 (1968).
3. The affidavit is bald, conclusory and thereby inadequate and insufficient in substance. Hill v. Cross Country Settlements 402 Md. 281, 307-09 (2007); Wyand v. Patterson Agency 266 Md. 456, 461 (1972); Champion v. United Virginia Bank 87 Md. App. 439, 441 (1991). It is insufficient that Lintz says he travels up and down Manor Road and is familiar with the property. The Court in Hill quoted Wyand:, saying "We held that a 'general allegation of a legal conclusion without detailed and precise facts to support it erects no foundation upon which a summary judgment can rest ...'" 402 Md. at 308; quoting 266 Md. at 461.
4. The affidavit lacks any pertinent or supporting documentation, such as leases, correspondence, tax records, licenses or anything else, a defect here as in the rest of the case. Hill, *supra*, 402 Md. at 308-09; see Radin v, Supervisor of Assessments 254 Md. 294 (1969).

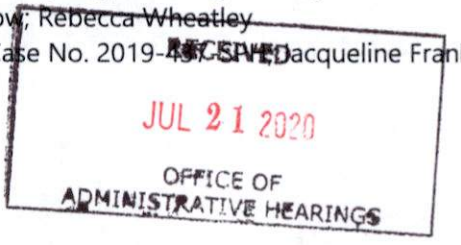
In sum, it is unfair for Petitioner to introduce this last-minute affidavit, at a hearing set for a more limited purpose and not subject to cross-examination. Perhaps even more important, the affidavit is defective in form and legally inadequate and insufficient in substance because bald and conclusory.

Thank you again for your careful attention to this case.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

Donna Mignon

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Monday, July 20, 2020 11:56 AM
To: Peter Max Zimmerman; Lawrence Stahl; Administrative Hearings
Cc: Debra Wiley; Donna Mignon; Alyssa Moyers; 'Becky Heyman-Magaziner'; jcr319 @hotmail.com; Carl Richards Jr; Jeffrey N Perlow; Rebecca Wheatley
Subject: RE: Continued hearing July 21, 2020; Webex; Case No. 2019-457-SPH; Jacqueline Frank, Petitioner; 14721 Manor Road



Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Judge Stahl: Rather than engaging in a pre-hearing skirmish about evidence to be offered in this case, I will be prepared to address Mr. Zimmerman's comments at the hearing tomorrow.

Thank you.

Larry Schmidt

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Dear Judge Stahl,

Upon receipt of Petitioner's exhibits, and upon review this morning, our office objects to the introduction and admission of the affidavit of Howard Lintz, for the following reasons:

1. The continued hearing was set to afford Petitioner the courtesy of providing BGE utility documents, not for the sponsoring of new witnesses on either side. If the hearing were set to be open-ended, then the citizens would have to be given the opportunity to provide their own witnesses and/or opposing affidavits, as is the situation for summary judgment procedure or trial in court.
2. The Lintz affidavit is anyway defective in form because it avers "that the matters and facts set forth are true and correct to the best of my knowledge, information and belief." To be adequate, the averment must be based on personal knowledge and witness competency. County Comm'rs of Caroline County v. J. Roland Dashiell & Sons 358 Md. 83, 101-04 (2000); Mercier v. O'Neill Associates 249 Md. 286, 287-88 n. 1 (1968).
3. The affidavit is bald, conclusory and thereby inadequate and insufficient in substance. Hill v. Cross Country Settlements 402 Md. 281, 307-09 (2007); Wyand v. Patterson Agency 266 Md. 456, 461 (1972); Champion v. United Virginia Bank 87 Md. App. 439, 441 (1991). It is insufficient that Lintz says he travels up and down Manor

Road and is familiar with the property. The Court in Hill quoted Wyand:, saying "We held that a 'general allegation of a legal conclusion without detailed and precise facts to support it erects no foundation upon which a summary judgment can rest ...'" 402 Md. at 308; quoting 266 Md. at 461.

4. The affidavit lacks any pertinent or supporting documentation, such as leases, correspondence, tax records, licenses or anything else, a defect here as in the rest of the case. Hill, *supra*, 402 Md. at 308-09; see Radin v, Supervisor of Assessments 254 Md. 294 (1969).

In sum, it is unfair for Petitioner to introduce this last-minute affidavit, at a hearing set for a more limited purpose and not subject to cross-examination. Perhaps even more important, the affidavit is defective in form and legally inadequate and insufficient in substance because bald and conclusory.

Thank you again for your careful attention to this case.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

Donna Mignon

From: Becky Heyman-Magaziner <rlhmlaw@hotmail.com>
Sent: Monday, July 20, 2020 1:46 PM
To: Peter Max Zimmerman; Lawrence Stahl; Administrative Hearings
Cc: Debra Wiley; Donna Mignon; 'Lawrence Schmidt'; Alyssa Moyers; jcr319@hotmail.com; Carl Richards Jr; Jeffrey N Perlow; Rebecca Wheatley; Becky Heyman-Magaziner
Subject: Re: Continued hearing July 21, 2020; Webex; Case No. 2019-437-SPH; Jacqueline Frank, Petitioner; 14721 Manor Road

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message from rlhmlaw@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Judge Stahl

I have been in Hearings all day (albiet remote) in Baltimore County Circuit Court. Just a few minutes ago I was able to see what Mr. Schmidt and Mr. Zimmerman have filed.

Please accept this communication to the court. I am in complete agreement with Mr. Zimmerman.

I am asking for the Court to reject the last minute Affidavit filed by Mr. Schmidt.

Thank you for noting the above.

RECEIVED
JUL 21 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Debra Wiley

From:	Rebecca Wheatley
Sent:	Tuesday, July 21, 2020 3:54 PM
To:	Debra Wiley; Administrative Hearings
Subject:	List of Participants in Frank Case - 2019-437-SPH

Debbie,

Here is the information I have on the protestants that participated in the hearing today.

Rebecca Heyman Magaziner Esquire
3523 Southside Avenue
Phoenix, Maryland 21131
443.418.7599 Cellphone
rlhmlaw@hotmail.com

Steven Weinberg
14714 Manor Road
Phoenix , MD 21131
410-654-6777
Steven.d.Weinberg@gmail.com

John C. Raley
3810 Donerin Way
Phoenix, MD 21131
410-241-3449
Jcr319@hotmail.com

PLEASE PRINT CLEARLY

Copy + not hole-punched in order to scan. orig. in file.

CASE NAME 14721 Manor Rd.
CASE NUMBER 2019-0437-SPH
DATE 11-15-~~2018~~ 2019

CITIZEN ~~REGISTRATION~~ SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Carey + Tom Henning	3702 Meadowhill Ct.	Phoenix MD	the4hennings@comcast.net
Mary Martino	3700 Meadowhill Ct	Phoenix MD	marymartino@comcast.net
BRUCE + BOBBIE NELSON	14712 MANOR RD	PHOENIX MD	robertbrunnelson@gmail.com
Sue Gerhardt	12040 Tralee Rd #204	Timonium, MD 21093	sgerhardt0620@gmail.com
Barbara + Ronald Rock	3729 Stansbury Mill Rd	Phoenix 21131	barbara@fctravel.com
PATTI SCHWOLER	2700 Butler Rd	Reisterstown, MD 21136	PDSZZZ@aol.com
STEVEN D. WEINBERG	14714 MANOR RD, PHOENIX	MD 21131	sdweinberg@yahoo.com
Sherry Weinberg	14714 manor rd, Phoenix	MD 21131	sherry.f.weinberg@gmail.com
Cynthia Balog	3725 Stansbury Mill Rd.	Phoenix, MD 21131	balogcindi@gmail.com
LeeAnn Sugarman	3717 Stansbury Mill Rd	Phoenix MD 21131	leeann@drhms.com
GARY MARINO	3721 Stansbury Mill Rd	Phoenix MD 21131	coast2cs@gmail.com
Jeff Shreggrud	14711 Manor Rd	Phoenix 21131	jsshreggrud@verizon.net
RICH BATTON	14815 MANOR RD.	MONKTON MD	BATTON@VERIZON.NET
Grace Batton	14815 Manor Rd	Monkton 21111	amazingraceann@verizon.net
David Heffernan	3625 Stansbury Mill Ct	Phoenix 21131	[illegible]
Leslie David Hewbsch	12836 Stone Eagle Rd	Phoenix 21131	DJH262@aol.com
Bill McDonough	4000 Green Glade Rd	PHOENIX 21131	mcdonoughbw@gmail.com
SUSAN ANTHONY	4000 Green Glade Rd	PHOENIX, 21131	santhony603@gmail.com
Bill Ensor	3631 Southside Ave	Phoenix 21131	
Victor Filator	4209 Green Glade Rd	Phoenix, 21131	NATAVIC@AOL.COM
R HEYMAN/MAGAZINER	3523 Southside Av	Phoenix 21131	rlhmlaw@hotmail.com
Evelyn Currer.	3622 Stansbury	Phoenix 21131	evelynandkris@gmail.com

PLEASE PRINT CLEARLY

CASE NAME 14721 Manor Rd.
CASE NUMBER 2019-0437-SPH
DATE 11-15-2019

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
John Raley	3810 Dovernway	Phoenix, MD 21131	jc1319@hotmail.com
Laurie Benson (Owner)	14723 Manor Rd	Phoenix, MD 21131	lbenson508@gmail.com

Debra Wiley

From: Debra Wiley
Sent: Thursday, September 3, 2020 1:31 PM
To: Mike Ruby (mildmanneredcomm@aol.com)
Subject: Case No. 2019-0437-SPH - 14721 Manor Road
Attachments: 20200903125931079.pdf

Mike,

Per your request, please find a copy of the above-referenced Order.

Take care and stay healthy !

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Thursday, September 3, 2020 1:00 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 09.03.2020 12:59:30 (-0400)
Queries to: adminhearingscpr@baltimorecountymd.gov

Debra Wiley

From: Debra Wiley
Sent: Wednesday, August 19, 2020 9:46 AM
To: Donna Mignon
Subject: 2019-0437-SPH - 14721 Manor Rd. - July 21st Hearing

Hi Donna,

In the event I am not here and Larry completes the above-referenced Order, please send a copy to Mike Ruby at the Country Chronicle as follows:

mildmanneredcomm@aol.com

I believe this is the non-conforming case that Larry was needing examples.

Thanks.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Debra Wiley

From: Debra Wiley
Sent: Thursday, September 3, 2020 1:31 PM
To: 'wjwiseman3@gmail.com'
Subject: Case No. 2019-0437-SPH - 14721 Manor Road
Attachments: 20200903125931079.pdf

Hi Bill,

Hope this finds you well.

Per your request, please find a copy of the above-referenced Order.

Take care and stay healthy !

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Thursday, September 3, 2020 1:00 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 09.03.2020 12:59:30 (-0400)
Queries to: adminhearingscpr@baltimorecountymd.gov

40

RECEIVED BY

OCT 16 2009

IN THE MATTER OF:	*	IN THE
TIMOTHY LEUCKING	*	CIRCUIT COURT
Petitioner	*	FOR
v.	*	BALTIMORE COUNTY
HILLCREST RESERVE HOMEOWNERS' ASSOCIATION, INC.	*	CASE NO: 03-C-09-001926
Respondent	*	

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

MEMORANDUM OPINION

This matter comes before this Court regarding the Petition of Timothy Leucking (Petitioner) for judicial review of the decision of the County Board of Appeals, in Appeal No. 08-199-SPH. In an Opinion and Order issued January 23, 2009, the County Board of Appeals affirmed the determination of the Zoning Commissioner, finding that Petitioner had failed to prove the existence of a nonconforming use and denying his petition.

Petitioner filed a Petition for Judicial Review on May 22, 2009 in the Circuit Court for Baltimore County. People's Counsel for Baltimore County filed a response memorandum on June 18, 2009 and the Hillcrest Reserve Homeowners' Association filed a response memorandum on June 22, 2009. A hearing was held before this Court on July 31, 2009, at which time parties presented arguments. For the reasons set forth herein, this Court will AFFIRM the findings of the County Board of Appeals.

Background

The property that is the subject of this case is a plot of 19,952 square feet located at 301 Reserve Court in the Catonsville area of Baltimore County, Maryland. On the

FILED OCT 5 2009

subject property sits a 2-story brick dwelling, built in 1941. Since 1980, this property has been zoned as D.R.2.[1] Although this designation requires a minimum of 25,000 square feet of property for a single home to be divided into two separate family units, the property had been granted a nonconforming use under the zoning restriction. This nonconforming use was granted based on persistent use of the property as two separate units prior to and continuing since the zoning designation of D.R.2. In 1999, Petitioner, Mr. Timothy Leucking, acquired the property with the intent to continue using the home as a two-unit rental property.

Petitioner continued to rent the property as two units until 2002. At that time, Petitioner renovated the basement of the house, creating a third unit to be used as an additional rental unit. In July of 2002, Petitioner began renting the basement apartment as a separate unit, thus totaling 3 rental units on the subject plot of land. Soon after, members of the Hillcrest Reserve community filed a complaint with the Zoning Commissioner. A citation was issued to Petitioner on August 14, 2007. Subsequently, Hearing Officer Raymond Wisnom held a hearing on September 6, 2007. In an opinion dated September 11, 2007, Hearing Officer Wisnom noted a 1999 "use permit" approved for two apartments, but recommended the case be brought before the Zoning Commissioner to determine if a nonconforming use was appropriate.

Mr. Leucking petitioned for a Special Hearing before the Zoning Commissioner. In a January 10, 2008 Findings of Fact and Conclusions of Law issued by the Zoning Commissioner, Petitioner's request for a Special Hearing was denied. Petitioner was

[1] D.R.2 signifies that the Density Residential limit is two units per acre under the Baltimore County Zoning Regulations.

PEOPLE'S COUNSEL

EXHIBIT NO. 10

People's Counsel ALJ Exh. 10

provided with six months to cease rental of the property as a multi-family dwelling and to return the property to a single-family dwelling.

Petitioner next appealed the Findings of Fact and Conclusions of Law of the Zoning Commissioner to the County Board of Appeals. Public deliberations were heard on October 28, 2008. The County Board of Appeals issued a Final Opinion and Order on January 23, 2009, denying Mr. Leucking's petition for Special Hearing relief. Petitioner then filed for Judicial Review in the Circuit Court for Baltimore County.

Question Presented

This Court restates the question presented by Petitioner in his petition for judicial review as follows:

I. Whether the County Board of Appeals drew reasonable factual inferences and interpreted the zoning law fairly to determine that the addition of a third apartment constituted an invalid change of the nonconforming use?

Standard of Review

The Court's scope of review of a decision of an administrative agency is narrow, recognizing that board members have expertise in a particular area and ordinarily should be free to exercise their discretion as such. *Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 395, 396 A.2d 1080 (1979), *citing Finney v. Halle*, 241 Md. 223, 216 A.2d 530 (1966). A Circuit Court's review of an agency decision is governed by the Maryland Administrative Procedure Act (hereinafter "APA"), Md. State Gov't Code Ann. § 10-222, which provides as follows:

> "(a) Review of final decision. – (1) . . . a party who is aggrieved by the final decision in a contested case is entitled to judicial review of the decision as provided in this section.
> . . .

> (h) Decision – In a proceeding under this section, the court may:
> (1) remand the case for further proceedings;
> (2) affirm the final decision; or
> (3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:
> (i) is unconstitutional;
> (ii) exceeds the statutory authority or jurisdiction of the agency;
> (iii) results from an unlawful procedure;
> (iv) is affected by any other error of law;
> (v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
> (vi) is arbitrary or capricious."

The standard of review of the action of an administrative agency is whether a reasoning mind could have determined the conclusion, which the administrative agency reached. *Knoll v. Knoll*, 101 Md. App. 243, 646 A.2d 1021 (1994). An order of an administrative agency must be upheld on judicial review if it is not based upon an erroneous determination of law, and if the agency's conclusions reasonably may be based upon the facts proven; however, a reviewing court is under no constraint in reversing an administrative decision that is premised solely upon an erroneous conclusion of law. *Montgomery County v. Buckman*, 333 Md. 516, 636 A.2d 448 (1994).

A reviewing court may, and should, examine facts found by an agency, to see if there was evidence to support each fact found. This Court's role is "limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law." *Juvenile Servs. v. Miley*, 178 Md. App. 99, 105, 940 A.2d 1137, 1140 (2008) (quoting *Maryland-National Capital Park and Planning Comm'n v. Anderson*, 395 Md. 172, 190-81, 909 A.2d 694 (2006)). If there was evidence of the fact in the record before the agency, no matter how conflicting, or how questionable the credibility of the source of the evidence, the court has no power to

substitute its assessment of credibility for that made by the agency, and by doing so, reject the fact. *Comm'r Baltimore City Police Dep't v. Cason*, 34 Md. App. 487, 368 A.2d 1067 (1977), *cert. denied*, 280 Md. 728 (1977).

A reviewing court may, and should, examine any inference, drawn by an agency, of the existence of a fact not shown by direct proof, to see if that inference reasonably follows from other facts which are shown by direct proof. If it does, even though the agency might reasonably have drawn a different inference, the court has no power to disagree with the fact so inferred. *Id.* at 508, 368 A.2d 1067. A reviewing court may, and should, examine any conclusions reached by an agency, to see whether reasoning minds could reasonably reach that conclusion from facts in the record before the agency, by direct proof, or by permissible inference. If the conclusion could be so reached, then it is based upon substantial evidence and the court has no power to reject that conclusion. *Id.* at 508, 368 A.2d 1067.

Discussion

Whether the County Board of Appeals drew reasonable factual inferences and interpreted the zoning law fairly to determine that the addition of a third apartment constituted an invalid change of the nonconforming use?

Under the General Provisions of the Baltimore County Zoning Regulations § 101, a Nonconforming Use is "a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such use." The property subject of this case is zoned as D.R.2, which stipulates that the lot must have a minimum

area of 25,000 square feet in order to house two family units within the property.[2] Since this property has been consistently used as two separate rental units since before the property was zoned D.R.2 in 1980, the owners were granted a nonconforming use to allow the continuation of two-unit rentals, despite the fact that the property does not have an area of 25,000 square feet.

Under BCZR § 104.1, a nonconforming use (as defined by § 101) may continue except as otherwise specifically noted in the regulations, provided that upon any change from such nonconforming use to any other whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate.[3] The law contemplates the gradual disappearance of nonconforming uses. *See Prince George's County v. E. L. Gardner*, 47 Md. App. 471 (1981). Since the language of the statute determines that a change from the approved nonconforming use to any other unapproved nonconforming use can terminate the owner's rights, a body of law has emerged to distinguish changes that improperly expand the nonconforming use from changes merely intensifying the approved nonconforming use. Any expansion[4] of the nonconforming use is tantamount to a change from the nonconforming use, thus terminating the right to the nonconforming use.

---

[2] As Respondents note in their memorandum, each increase from two units requires an additional 7,500 square feet of lot area. In order to house three families in a D.R.2 zone, the lot would require 32,500 square feet. The subject lot in this case is 19,952 square feet.
[3] It is uncontested that until 2002 Petitioner and prior owners were able to prove an unbroken and continual chain of nonconforming use which preceded the 1981 D.R.2 zoning and allowed the continuation of two rental units on the property.
[4] Throughout the memorandum and various opinions cited by the parties, the terms "expansion," "extension" and "enlargement" are used interchangeably. Each term is synonymously distinguished from the more static "intensification" language.

In *Prince George's County v. E. L. Gardner*, 47 Md. App. 471 (1981), the Court of Special Appeals noted examples of improper enlargements of a nonconforming use, such as an increase in floor space arising from an addition to an existing building, an increase in the area of a lot used for nonconforming uses, and a change in business methods. *Id.* at 476. Conversely, the Court of Special Appeals noted, an increase in the volume of an existing business is usually referred to as intensification and has been permitted under a valid nonconforming use. *Id.* "Maryland recognizes, and our cases have held, that an intensification of a nonconforming use is permissible, so long as the nature and character of that use is unchanged and is substantially the same." *Trip Associates, Inc., et al v. Mayor and City Council of Baltimore*, 392 Md. 563, 579, citing *Feldstein v. LaVale Zoning Board*, 246 Md. 204, 211 (1967). Petitioner argues that the increase of rental units from two to three units is merely an increase in volume of the nonconforming use not straying from the original nature and character of the nonconforming use, and is thus a valid intensification.

In his memorandum, Petitioner's cites numerous Maryland cases discussing the distinction between expansion and intensification. Petitioner compares the facts at hand to the increase in the number of nights a club could provide adult entertainment from two nights a week to five nights a week[5], the increased use of a sports stadium for baseball games[6], the increased use of lot space for the storage of cars from 10 to 60 cars[7], the increase of quantity and height of junk piles stored in a junkyard lot[8], and an increase in

[5] *Trip Associates, Inc., et al v. Mayor and City Council of Baltimore*, 392 Md. 563 (2006).
[6] *Green, et al v. Garret, et al.*, 192 Md. 52 (1949)
[7] *Nyburg v. Solmson*, 205 Md. 150 (1954).
[8] *Feldstein v. LaVale Zoning Board*, 246 Md. 204 (1967).

the number of decommissioned trucks kept on property owned by a trucking company.[9] Petitioner's reliance on these examples is misplaced. Each case cited involves an increase in the frequency of the nonconforming use on the property without expansion of the facilities. The examples cited by Petitioner are not analogous to an increase of rental units within a single home. Petitioner's intensification argument is simply untenable. The addition of a third apartment was not an intensification of the nonconforming use when compared to other valid examples.

It is the opinion of this court that the addition of a third apartment to the dwelling constituted an expansion not contemplated under the original nonconforming use. This was not a mere intensification of the existing nonconforming use. BCZR § 104.3 states that no nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. It is clear that the addition of a third apartment constituted an improper enlargement of more than 25% of the ground floor space. Such an enlargement must be considered a change in nonconforming use of the property and thus violates the right to the original nonconforming use. Consistent with the intent and purpose of BCZR § 104.1, the nonconforming use granted to the subject property must now terminate, and the home must convert to single-family home use allowed in the D.R.2 Zone.

It is the opinion of this court that the County Board of Appeals drew reasonable factual inferences and interpreted the zoning law fairly in reaching their conclusion. The County Board of Appeals fairly determined that the renovation of the basement of the property constituted an invalid change and an improper enlargement of the

[9] *County Commissioners of Carroll County v. Zent*, 86 Md.App. 745 (1991).

nonconforming use, and acted reasonably in terminating the nonconforming use granted to Mr. Leucking.

CONCLUSION

For the reasons set forth herein, the County Board of Appeal's decision is AFFIRMED.

Judge
Ruth A. Jakubowski
Date: 9/17/09

True Copy Test
SUZANNE MENSH, Clerk
Per _____ Assistant Clerk

IN THE MATTER OF:

TIMOTHY LEUCKING

Petitioner

v.

HILLCREST RESERVE HOMEOWNERS' ASSOCIATION, INC.

Respondent

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CASE NO: 03-C-09-001926

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

ORDER

This matter came before the Court as an appeal from a decision of the Baltimore County Board of Appeals. Based upon the Court's review of the record, and for the reasons stated in its memorandum opinion, it is this 17 day of September, 2009, by the Circuit Court for Baltimore County, Maryland,

ORDERED that the decision of the Baltimore County Board of Appeals be **AFFIRMED** and any costs be paid by Petitioner.

Judge
Ruth A. Jakubowski
Date: 9/17/09

True Copy Test
SUZANNE MENSH, Clerk
Per _____ Assistant Clerk

FILED SEP 17 2009

254 Md. 294
Court of Appeals of Maryland.

Abraham RADIN et al.
v.
SUPERVISOR OF ASSESSMENTS
OF MONTGOMERY COUNTY.

No. 323.
|
June 26, 1969.

Synopsis

Proceeding on appeal from judgment of the Circuit Court, Montgomery County, James H. Pugh, J., affirming tax assessment. The Court of Appeals, Hammond, C. J., held that statute relating to valuing and assessing real estate and building improvements thereon, and providing that improvements become assessable if they are substantially completed was intended to apply to something other than final completion of building, implying that there would remain uncompleted work that would require use of labor and materials.

Affirmed.

West Headnotes (2)

[1] Taxation ⚖ Buildings and Other Improvements on Land

Statutes relating to valuing and assessing real estate and building improvements thereon and providing that improvements become assessable if they are substantially completed were intended to apply to something other than final completion of building, implying that there would remain uncompleted work that would require use of labor and materials. Code 1957, art. 81, §§ 8-10, 19(a).

6 Cases that cite this headnote

[2] Taxation ⚖ Persons and Property Subject to Taxation

Evidence supported Tax Court finding that buildings were "substantially completed" at time of tax assessment within statute providing that improvements of property shall become assessable for tax purposes when substantially completed. Code 1957, art. 81, §§ 8-10, 19(a).

3 Cases that cite this headnote

Attorneys and Law Firms

*295 **414 Jerome E. Korpeck, Silver Springs (Wheeler, Korpeck & Nadonley, Silver Spring, on the brief), for appellants.

Joseph R. Raymond, Asst. Atty. Gen. (Francis B. Burch, Atty. Gen., Jon F. Oster and Anthony M. Carey, Asst. Attys. Gen., Baltimore, on the brief) for appellee.

Before HAMMOND, C. J., and MARBURY, BARNES, FINAN and SMITH, JJ.

Opinion

HAMMOND, Chief Judge.

The appellants, development and construction entrepreneurs (the owners), built a complex of high-rise apartment houses in Montgomery County, the names of which all begin with Blair. Involved in this appeal is whether one of these, Blair Plaza, an eighteen-story- *296 actually a seventeen-story since there is no thirteenth floor-building was substantially completed on January 1, 1964, the date of finality.

Code (1965 Repl. Vol.), Art. 81, s 8, provides that all real property in this State (except as in ss 9 and 10 provided) by whomsoever owned shall be subject to assessment and taxation for ordinary taxes in the county 'and/or' city in which it is situated. Section 19(a) provides that:

> 'In valuing and assessing real estate, the land itself and the buildings or other improvements thereon shall be valued and assessed separately; and buildings or improvements not substantially completed on the date of finality, semiannual date of finality or quarterly date of finality shall not be assessed at all.'

Montgomery County Code (1965), Vol. 2, s 84-7(e) (reflecting Montgomery County Council Resolution No. 5-624 (1963)), provides that the date of finality for tax purposes is established as January 1 and the half and quarterly dates of finality as July 1 and October 1, respectively. Any real property completed after September 30 in any year and through January 1 in the next year is made subject to the payment of property taxes for the six months beginning on that January 1 and ending on the next succeeding June 30 by using the assessed valuation at half the current annual tax rate. Section 84-7(f) provides:

> 'Improvements shall become assessable hereunder if they are substantially completed. In the case of buildings under construction, the term 'substantially completed' shall mean when the building is under roof, plastered (or ceiled) and trimmed.'

On December 10, 1963, the supervisor of assessments of Montgomery County notified the owners that Blair Plaza had been tentatively assessed at a named figure for *297 the six months succeeding January 1, 1964, and that the proposed assessment would become final unless protested in writing within twenty days. The owners sent a timely letter of protest to the supervisor, who in turn sent the owners notice of a hearing on their protest to be held on February 11, 1964, at which they could offer testimony as to value. The owners chose not to appear, at the hearing. The supervisor made the assessment final, as the statute permits under the circumstances, and notified the owners that if they desired to 'appeal this amount further' they could do so under Art. 81, s 225 'of the Laws of Maryland (the Code)' to the Appeal Tax Court of Montgomery County within thirty days.

Realizing that the matter had taken an unhappy turn that seemed to lead to prospective financial detriment, the owners at this point retained counsel who did appeal to the Appeal Tax Court. That court after two hearings affirmed the assessment. The Maryland Tax Court dismissed an appeal to it on motion of the supervisor because the owners had not exhausted their administrative remedies (they did not appear at the hearing before the supervisor on February 11, 1964), as it interpreted Code (1965 Repl. Vol.), Art. 81 s 230, to require as a **415 prerequisite to the right to go to the Maryland Tax Court. [1]

Judge Pugh in the Circuit Court reversed and remanded the case to the Maryland Tax Court for trial on the merits. That court, after weighing the evidence, affirmed the assessment saying as to the law that the intent of s 19(a) of Art. 81 of the Code and s 84-7(f) of the Montgomery County Code obviously was that:

'something other than a final completion of the building was intended, otherwise the assessable date could have easily been equated with the time the certificate of final inspection and occupancy *298 * * * was issued. The words 'substantially completed,' even when considered from the standpoint of the acceptance of a building imply 'that there remains uncompleted work that would require use of labor and materials;' Baltimore County Department v. Henry A. Knott, 234 Md. 417, 425, 199 A.2d 369 (1964). The case of Shaughnessy v. Linguistic Society, 198 Md. 446, 451, 84 A.2d 68 (1951) points out that the expression 'substantial part' is not a term of 'mathematical precision.'

[1] The Maryland Tax Court took a twenty-twenty view of the law. Skinner & Sons Ship Bldg. & Dry Dock Co. v. Baltimore City, 96 Md. 32, 41-42, 53 A. 416; Hamburger & Sons v. Baltimore City, 106 Md. 479, 68 A. 23. The statutes (s 19(a) of Art. 81 of the Code and s 84-7(f) of the Montgomery County Code) seem to have adopted the language in the Court's opinions and holdings in those two cases which determined the proposition that a building under construction is substantially completed for purposes of assessment for taxes when it is under roof and its interior plastering and woodwork are substantially, although not entirely, completed. [2]

Code (1968 Cum.Supp.), Art. 81, s 229(1) (Chapter 261 of the Laws of 1966), provides for appeal from the *299 Maryland Tax Court to the Circuit Court of the County wherein the property assessed is situate and then directs that:

> 'the circuit court * * * shall determine the case upon the record of the Maryland Tax Court and may affirm, reverse, remand or modify the order appealed from; provided that, unless such order is erroneous as a matter of law or unsupported by substantial evidence

PEOPLE'S COUNSEL
People's Counsel ALJ Exh. 11
EXHIBIT NO. 11

appearing in the record, it shall be affirmed.'

The Tax Court's order was not erroneous as a matter of law so the case turns on whether Judge Pugh was correct in his finding that 'a review of the testimony **416 convinces this Court that 'such finding (by the Tax Court of substantial completion) is supported by the evidence.''

[2] We think Judge Pugh was right. The owners produced the then resident rental agent and two subcontractors whose testimony was that although a number of apartments on the lower floors-some 10% of the total number-were occupied before the date of finality, the building was not substantially completed and indeed was a construction mess, if not a shambles. The assistant assessor who recommended the assessment testified from notes he made on three visits he made to the building in July and October and on December 31, 1963, that his 'spot-check' inspection of a number of apartments on each of the seventeen floors and his deductions from name plates on doors and in the lobby, and other significant indicia, convinced him the building was substantially complete on the date of his last visit. The Maryland Tax Court said:

'The Court is called upon to assess the degree of weight to be given to the parole evidence. At least two of the Taxpayer's witnesses, the Rental Agent and the Construction Superintendent, were testifying from memory, to the best of their recollection, as to circumstances occurring five *300 years previously. The third witness of the Taxpayer, the Carpentry Subcontractor, stated that he had reviewed his records prior to trial but had no records with him at the trial. The Construction Superintendent testified, in response to questioning as to what records he kept as Construction Superintendent, that he made daily reports to the Taxpayer's construction company listing the trades people on the job and detailing what they were doing and where in the building the various trades were working. He did not have these records with him. An officer of the construction company was in Court but did not testify. These records apparently would have disclosed the precise progress of the building construction as of the date of finality, but were not offered in evidence by the taxpayer to show lack of substantial completion as of the date of finality.

'It is most significant that the best evidence of the case was not produced by the Taxpayer, i.e., the construction records prepared by the Taxpayer's witness, the Construction Superintendent. This evidence was in possession of the organization controlled by the Taxpayer, and therefore available to him.

'In this case it is evident that the taxpayer's failure to produce available evidence, i.e., the daily progress reports of the Construction Superintendent, raises a presumption against him and this is particularly true when an officer of the construction company was in Court, but not called as a witness; 10 M.L.E., Evidence s 29, at page 113. Cf. Safe Deposit (& Trust) Co. v. Turner, 98 Md. 22 (55 A. 1023) (1903). See also an interesting summary as to this presumption in Brooks v. Daley, 242 Md. 185, 194, 195 (218 A.2d 184) (1966), where the Court said:

*301 'We have held that where a party refuses to take the stand to testify as to facts peculiarly within his knowledge, the trial court or jury may infer that the testimony not produced would have been unfavorable. Chalkley v. Chalkley, 236 Md. 329, 203 A.2d 877 (1964); Dawson v. Wallemeyer, 91 Md. 328, 46 Atl. 994 (1900). The unfavorable inference applies, however, only where it would be most natural under the circumstances for a party to speak, call witnesses, or present evidence.

'In Turner's Executor v. Turner, 98 Md. 22, 55 Atl. 1023 (1903), this Court held that where the defendants were the only living parties to an agreement, withholding evidence which it was in their power to produce resulted in the inference that the evidence, if produced, **417 would have been unfavorable. It was held in Keller v. Gill, 92 Md. 190, 48 Atl. 69 (1900) that the defendants' silence and failure to deny 'gross charges of fraud' was little more than evidence of their guilt. Likewise, in Berger v. Bullock, 85 Md. 441, 37 Atl. 368 (1897), our predecessors said that the failure to deny charges of fraud is tantamount to an admission of the truth of those charges.

'Professor Wigmore states the rule in regard to permissible inferences to be drawn from a party's failure to testify as follows:

'It would be generally agreed, to be sure, that the mere fact of the party's failure to testify is not of itself open to inference; it is his failure when he could be a useful and natural witness * * * that is significant.' (2 Wigmore on Evidence (3rd ed.), s 289, page 173).

See also McCormick on Evidence, s 249, pages 533-534.'

*302 'We must therefore, conclude that the written reports of the Construction Superintendent would be adverse to the taxpayer's contention as to the lack of substantial completion of the apartment building.

'It is the Court's responsibility to give weight to the testimony of all witnesses. We conclude that the testimony of the Assessor, taken from notes actually made by him at inspections in July, October and particularly December 31, 1963, describing the condition of the building at that time, is entitled to more weight than the testimony of the Rental Agent and the Construction Superintendent, both of whom endeavored to recall from memory, with no supporting records, events of five years past, and the testimony of the Carpentry Subcontractor, even though he stated he had studied the records before testifying, but did not produce them.

'Thus, in the final analysis the Court does not feel that the Petitioner has introduced sufficient affirmative evidence as required by Art. 81, s 229(h) to show that there had not been a substantial completion in light of the wording of the statute, and the Assessor's testimony, based on three inspections, shows that he had seen an amply sufficient number of the completed apartments, the corridors and the other progress in the construction of the building to give him an adequate foundation for the making of the assessment (half-year levy), and, consequently it must be affirmed.'

The record justifies the conclusion of the Maryland Tax Court and of Judge Pugh.

Judgment affirmed, with costs.

All Citations

254 Md. 294, 255 A.2d 413

Footnotes

1 Section 230 of Art. 81 provides that 'No appeal to the (Maryland Tax) Court shall be allowed until the party seeking to appeal has exhausted his remedies before the Department, the Appeal Tax Court, the county commissioners, the board of municipal and zoning appeals of Baltimore City, or other assessing or taxing authority, as the case may be.'

2 In Hamburger the appellant's architect testified as to the interior condition of the property just prior to the date of finality. His testimony was based on a written report that he had prepared at that time. He found the following plastering was not then completed: the stair hallway from basement to the first floor; the elevator shaft for the entire height of the building; the well shaft for the entire half of the building; the ceilings in the basement; patching around electric fixtures on all floors, a bundle chute from the 8th floor to the 7th floor.
He further testified that the following woodwork was not completed: no floors had been smoothed or joints planed, scraped, or oiled; wood partitions in the basement were not completed; basement doors were not hung; trim in the basement and on all floors around the register faces, etc., were not finished; one-third of the flooring on the first story was not laid; entrance doors and trim were not up; the wood trim of the mezzanine including wood panels under the mezzanine floor enclosure were not up; the floor of the mezzanine was not laid; some of the trim on the 8th floor was not completed; and woodwork in the back part of the show windows on the first floor was not completed.

End of Document © 2020 Thomson Reuters. No claim to original U.S. Government Works.

IN THE MATTER OF THE APPLICATION OF TIMOTHY LUECKING – LEGAL OWNER FOR SPECIAL HEARING ON THE PROPERTY LOCATED AT 301 RESERVE COURT 1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 08-199-SPH

* * * * * * * * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals as an appeal from the January 10, 2008 decision of the Zoning Commissioner in a Special Hearing wherein the Petitioner sought approval for a nonconforming use of certain real estate presently used as an apartment building. The Petitioner, Timothy T. Luecking, was represented by Keith R. Truffer, Esquire. The Protestants, Stephen Shutz, Kranthi Mupparaju, Nicole Maloy, Jamie Rudy and William and Martha Rudy, were represented by Michael P. Tanczyn, Esquire. A hearing was held before the Board on July 30, 2008 and a Public Deliberation was held on October 28, 2008.

BACKGROUND

The Petitioner is the owner of an improved parcel of land in Baltimore County known as 301 Reserve Court. The parcel is a rectangular shaped corner lot (121' wide x 225' deep) in Catonsville with frontage along Reserve Court on the parcel's north side and to the east side is Rolling Road. The parcel contains a gross area of 19,952 square feet (+/-) zoned D.R.2 and is improved with a 2,154 square foot residential dwelling and detached garage. The improvements were built in 1941 and contain two apartments with separate entrances for each unit. The Petitioner purchased the subject property in 1999 at which time the Petitioner was presented with a Conditional Use Permit issued by the Director of Zoning to the Administration and Development Management to the previous owner of the property authorizing the use of the property as a nonconforming two apartment dwelling.

In August of 2007 a Code Enforcement inspection was initiated at the request of neighbors of the subject property based upon an allegation that the subject property had been converted into

a three-unit apartment dwelling in violation of the county zoning laws. Thereafter a violation citation was issued directing compliance with the D.R.2 zoning and thereby challenging the validity of the previously issued conditional Use Permit. A hearing was held before the Baltimore County hearing officer on September 6, 2007 from which a decision was issued finding the Petitioner in violation of County zoning laws by having multiple units on residential property zoned for single-family use based on the size of the lot. A civil penalty was imposed against the Petitioner and suspended, in part, conditioned upon the Petitioner filing for a hearing before the zoning commissioner on or before November 1, 2007.

A hearing was held before the Zoning Commissioner of Baltimore County after which the Zoning Commissioner issued an Order dated January 10, 2008 by which the use of the subject property as a three apartment dwelling was denied and the non-conforming use of the subject property as a two unit apartment dwelling was found to have been forfeited by way of "abandonment" of the Conditional Use Permit by reason of the conversion of the conversion of the dwelling into a three apartment unit dwelling.

ISSUE PRESENTED

Has the subject property lost it status as an apartment dwelling under the previously issued Conditional Use Permit?

TESTIMONY AND EVIDENCE

The Owner/Petitioner, Timothy Lucking, appeared before the Board of Appeals and testified that he acquired the property in June of 1999, by Deed from Mark McDaniel and that there were no tenants in the property at the time he took possession of the property. He testified that the seller of the property presented him with a Conditional Use Permit, which by its terms allowed for the use of the subject dwelling as a two-apartment dwelling. He testified that he moved into the property shortly after the purchase and lived on the first floor of the building and rented out the second floor.

The Petitioner testified that he continued to use the property as a two-apartment building, with only short periods of vacancy, for the next nine (9) years. The Petitioner testified that in January 2001, he separated from his now, ex-wife and moved to another house for (13) months and then moved back into the second floor of the property in the Spring of 2002. Petitioner further testified that he made renovations to the first floor and basement of the house and then

PEOPLE'S COUNSEL

EXHIBIT NO. 9

People's Counsel ALJ Exh. 9

rented the first floor and basement to separate tenants in 2002. Petitioner identified the tenant in the basement of the house as being Jamie Collette who moved there in 2002 while Petitioner was residing in the floor one apartment of the building. The Petitioner further testified that the basement apartment remained rented until 2008.

The Protestants in this case called as a witness Mr. Ray Harmon, of the Baltimore County Code Enforcement Office who testified that in his position as a Code Enforcement Officer he visited the subject property in 2007, in response to complaints from neighbors of the subject property, and noted that the property was served by two (2) utility meters and had three (3) separate mailboxes. The evidence presented by Mr. Harmon did not disclose the names listed on each of the three (3) mailboxes. After Mr. Harmon's initial inspection of the subject property he then returned there and delivered a correction notice to the Petitioner mandating that the use of the building as a three-apartment unit be ceased. Thereafter Mr. Harmon issued the citation, which triggered a Code Enforcement Hearing before the Baltimore County Code Enforcement Hearing Officer.

Several witnesses appeared at the Board of Appeals hearing to place into the controversy the validity of the Conditional Use Permit on the theory that the said permit had been rendered null and void as the result of alleged gaps in tenancy within the two-apartment arrangement of the building as it existed prior to its conversion into a three-apartment dwelling unit. Moreover testimony was received by the Board relative to the length of occupancy of the tenants of the building prior to and after the point, at which the Petitioner purchased the subject property.

The Petitioner called as his first witness, Ms. Casserly, who testified that her grandparents bought the subject property in 1942 and owned it until 1976. As Ms. Casserly was born in 1948, she testified that her first memory of coming to the subject property was in 1954. She testified that her relatives, James Cox and Pearl Cox lived at the property until 1976. She went further to testify that according to her knowledge and information, the subject building had always been used as a two-apartment dwelling. She testified that she was unaware of the occupancy status of the subject property after its purchase by the Petitioner.

A witness for the Petitioner, Mr. Mark McDaniel, previously known as Mark Bohannon, testified that he moved into the property in 1976 and remained there until his sale of the property to the Petitioner in 1999. He testified that from 1976 until 1998 his uncle Mr. Jimmy Cox occupied the second floor apartment and that his uncle paid no rent for the apartment. Mr.

McDaniel testified that after the death of Mr. Cox in 1998 he then rented the second floor apartment to a college student.

The Protestants apparently base one of their arguments on the theory of "Conditional Use". The property was abandoned prior to the 1999 purchase, by reason of the failure of Mr. Cox, the second floor tenant, to pay any rent during his tenancy. The Protestants attempted to support this argument by calling as a witness Mr. Jose Pineda, a Custodian of Records for Baltimore Gas and Electric Company, who testified that he reviewed the electric utility usage records for the subject property for an unspecified period of time prior to the 1999 transfer of ownership and concluded that there was evidence of only minimal usage of the utility service for the second floor apartment.

The testimony was apparently offered to support the proposition that the apartment in question was unoccupied for an extended period of time prior to the Petitioner's purchase of same and that the alleged vacancy thereby created an abandonment of the Conditional Use permit by the prior owners. Moreover, the Protestants urged the Board to conclude that the Conditional Use permit could be considered abandoned upon a showing that there was no continual use of the subject dwelling as a two apartment house.

The Baltimore County Zoning Regulations in section Section 101 defines a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. The Baltimore County Zoning Regulations in Section 104.1 lists the conditions that will terminate a nonconforming use as:

1. A change from the non-conforming use to any other use whatsoever; or
2. Abandonment of the non-conforming use for one year or more; or
3. Discontinuance of the non-conforming use for one year or more.

DECISION

The Board concludes that the evidence presented as to the use of the subject property prior to its 1999 purchase by the Petitioner does not establish that the prior owner(s) abandoned the non-conforming use as contemplated under Maryland law. In the case of McKemy v.

Baltimore County, 39 Md. App. 257, 385 A.2d 96 (1998) the Court of Special Appeals opined that a proper determination of compliance with Section 104.1 of the Baltimore County Zoning Regulations requires consideration of the extent that the current use of a property is in conflict or compliance with the nature and purpose of the original non-conforming use. Based on the foregoing the Board concludes that evidence of a possible abandonment of the non-conforming use predicated upon the pre-1999 use of the subject property does not establish that the present use of the property is invalid based on the historical use of the property.

The Board concludes that the present use of the subject property is that of a three (3) apartment building based upon Petitioner's testimony that he renovated the basement of the subject property and thereafter rented it out along with the other two units existing therein. There is little argument that the subject property has been converted into a three-apartment dwelling. The issue that remains is whether this action resulted in the loss of the non-conforming use status as previously authorized by the County. Under Maryland law the non-conforming use status may be lost where there is an unlawful "expansion" of the non-conforming use or permitted where there is an "intensification" of that use. The test for the foregoing is articulated in the case of County Commissioners of Carroll County v. Zent 86 Md App. 745, 753-754, 587 A.2d 1205, 209 (1991). In Zent, the Court noted the following factors to be considered in determining whether an activity is within the scope of a non-conforming use and among those factors is the issue of whether the current use is a dramatic enlargement or extension of the original nonconforming use. In footnote 5 to the opinion in Zent the Court stated:

> "We said in Prince George's Co. v. E.L. Gardiner, Inc. 47 Md.App. 471, 424 A.2d 392 (1981), rev'd on other grounds, 293 Md. 259, 443 A.2d 114 (1982), that: A distinction is to be drawn between the enlargement or extension of nonconforming uses and an intensification of such lawful uses uses. An increase in floor space ... an increase in the area of a lot used for nonconforming uses; or a change in business methods or the provision of new accessory facilities with the resulting extension of the use involved have been held to be proposals for the enlargement of a nonconforming use. Conversely, an increase in the volume of an existing business is usually referred to as intensification

> rather than an enlargement and such intensification has been permitted under a valid nonconforming use."

The Board believes that the expansion of the use of the subject property from that of a two- apartment dwelling unit into a three-apartment dwelling unit amounts to an illegal enlargement of the nonconforming use.

ORDER

IT IS THEREFORE THIS 23rd day of January, 2009 by the County Board of Appeals of Baltimore County;

ORDERED that the "Conditional Use" permit issued for the subject property herein is determined to be void and that the subject property shall revert to the applicable zoning status of a single family residence; and it is further

ORDERED that the Petition for Special Hearing in Case No. 08-199-SPH to confirm and approve a nonconforming two-apartment use at 301 Reserve Court is **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

Lawrence S. Wescott, Panel Chairman

Wendell H. Grier

Robert W. Witt

IN THE MATTER OF THE APPLICATION OF SHIRLEY J. & PAUL R. REINKE, JR. - LEGAL OWNERS /PETITIONERS FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE N/S FOURTH AVENUE, 400' W OF C/L BALTIMORE AVENUE (4 FOURTH AVENUE) 13TH ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 00-404-SPH

OPINION

This matter comes before the Board of Appeals as an appeal of a denial by the Deputy Zoning Commissioner by Order dated May 24, 2000 in which a Petition for Special Hearing was requested to allow a legal nonconforming use as a four-apartment dwelling in a B.L. zone.

This matter was heard by this Board *de novo* on January 10, 2001. Representing the Appellants /Petitioners was Charles Brooks, Esquire, and appearing for the Protestants, Lansdowne Improvement Association, was John V. Murphy, Esquire. People's Counsel for Baltimore County also participated in these proceedings. Following the hearing, the Board recessed briefly to review the information then reconvened to deliberate the merits of the case. Notice of these activities was provided to those in attendance.

The subject property, #4 Fourth Avenue, in Lansdowne, Baltimore County, consists of 0.11 acre, zoned B.L. and is improved with a 2-½ story frame structure. The Petitioners' initial witness was Joseph Larson, from Spellman, Larson, and Associates, a Civil Engineering and Land Surveying firm. Mr. Larson, who has been accepted as an expert before this Board on previous occasions, was again accepted as an expert in land and zoning matters. Mr. Larson testified to zoning and improvements as noted previously. As well, he presented a plat of the property which included a survey, measurement and layout of the building. He testified to the fact that it was being remodeled and consisted of two identical units on each floor. He stated that the layout of the floor plan had been done earlier that week and did not reflect the previous condition of the dwelling. He noted that modifications had just started; that there had been no embellishment; that these are existing conditions; and floor plan represents a structural layout.

Mr. Larson, on cross-examination, admitted that his testimony reflects the current condition of the residence and testified that he was in the house Monday and Tuesday "of this week" for the first time. He knew no zoning history of the site. Additional testimony by Mr. Larson related to § 402 and side yard setback requirements. He admitted that this property does not meet the requirements and that a multi-family dwelling on property zoned D.R. 5.5 is only through conversion.

Paul Reinke, Appellant /Petitioner, testified that he acquired the property in March of 1994, and that he is working to replace existing plaster walls and to insulate and update electrical wiring. Mr. Reinke did testify to some changes that he made by referencing Appellant's Exhibit No. 2. They are as follows:

- 1st floor – partitioned bathroom in Apartment #2
- 2nd floor – changed second floor; 3 years ago, in Apartment #3, moved bathroom from rear to side. In Apartment #4, he created a bathroom.

These changes are outlined in yellow marker on Petitioners' Exhibit #2. Mr. Reinke stated that he lived in Apartment #3 with his parents and siblings as a child. He lived there for one year when his family brought another dwelling on Fourth Avenue. He also testified to being friends with the daughter of the owner of #4 Fourth Avenue over a number of years and aware of the residence's use as an apartment dwelling. The Petitioner /Appellant bought his business in 1971. This property is located at 2811 Hammonds Ferry Road and is located across the street from the subject property. In his efforts to accommodate parking for his business, Petitioner purchased two lots (#142 and #143) for parking. Mr. Reinke testified that from 1943 to the present, the subject property has always been a four-apartment dwelling. The Appellant then attempted to submit affidavits in which he personally obtained the signatures. Counsel for the Protestants and People's Counsel vigorously objected, stating that this evidence was accepted below and was hearsay evidence. The Board concurred and refused to accept the affidavits.

During cross-examination, the Appellant testified that he began renovations in 1994. He again testified to the changes that he made as outlined above. He stated that there were two bathroom facilities, one upstairs and one downstairs, when he bought the property. He also testified to one kitchen upstairs

PEOPLE'S COUNSEL

People's Counsel ALJ Exh. 6

EXHIBIT NO. 6

and one kitchen downstairs. He stated, at most, the property was being used as two units before he bought the property. He testified that the second floor was not being used and it was in deplorable condition. No one could live up there. He further testified that when he took possession in 1994 the building was only livable on the first floor, and there was one kitchen and one bath. He stated it was already divided and that 2/3 of the building was never being used by anyone. He stated that he was unsure when the previous owner, Tanzella, bought the property. However, he thought it to be around 1963. He testified he had no personal knowledge that anyone ever lived in the apartments. In review of his personal knowledge about the chronological owners, he cited ownership by the Crumbs when he first lived there and believed that was from 1943 to 1963. In 1963, Tanzella bought the property from the Crumbs and held it until it was sold to the Petitioner in 1994. He has no knowledge of ownership before 1943. He stated that his family moved there in 1943 when he was 6 years old and in the first grade. He lived there for 2 to 3 years then moved to the City. He moved back to Lansdowne when he was in the seventh grade. He testified to never being in the property while it was owned by Tanzella, but he knew there was mail for others who lived there during that time. He further testified that the property was uninhabitable for people to live in when he bought the property from Mrs. Tanzella. There were no leases at that time. He stated that there had been one tenant who lived there for one year; however, there was no rent paid. The tenant worked off his rent. Once again, he stated there were no tenants in the building since 1970.

Cross-examination by People's Counsel reconfirmed the dates of ownership and identified the Eichelmans as the party who transferred ownership to the Crumbs.

Counsel for the Protestants concluded with a Motion to Dismiss as the Appellant testified to the subject property not being occupied as apartments and being used as a single-family dwelling.

In conclusion, People's Counsel summarized that, in order for a nonconforming use to be allowed, there must be evidence of a continual and uninterrupted use. Since testimony to interrupted use was provided by the Appellant, People's Counsel also moved for dismissal.

Charles Brooks, Counsel for Petitioner /Appellant, concluded that intention to abandon is the defining consideration for nonconforming use as outlined in *Landay v. Zoning Appeals Board*, No. 93, October Term, 1937. He concludes that the dwelling was retained structurally as four apartments and cessation of use depends on whether it is voluntary or involuntary. In this case, Mr. Brooks concludes that it was an involuntary cessation of use due to the deplorable conditions. Mr. Brooks also cited *McLay, et al. v. MD Assemblies, Inc.*, No. 329, September Term 1972, Court of Appeals of Maryland, 269 Md. 465; 306 A.2d 524, July 6, 1973.

The Protestants also offered cases to support their position, and all the cases were collected and reviewed by the Board prior to rendering its decision.

Upon review of the cases offered by Counsel on both sides of this issue, and in conformance with *Baltimore County Zoning Regulations* (BCZR), § 104.1, which states:

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

The Board concluded that Mr. Reinke used the property as a one-apartment dwelling for many years as evidenced by his own testimony. He also testified to there being no second apartment in the dwelling for somewhere between 1 to 3 years. This testimony supports the position of Protestants and People's Counsel that, pursuant to the requirements of § 104.1 of the BCZR, any change in use or abandonment or discontinuance of such nonconforming use for a period of one year or more terminates the right to continue or resume such nonconforming use.

In addition, the Board finds, through the Appellant's testimony, that the upstairs apartments had been uninhabited for a number of years. Mr. Reinke did not show his intent to continue the nonconforming use and thus the Board unanimously rules to grant the Motion to Dismiss the case, and will so order.

ORDER

THEREFORE, IT IS THIS 27th day of June, 2001 by the County Board of Appeals of Baltimore County

ORDERED that Protestants' /People's Counsel's Motion to Dismiss be and the same is hereby **GRANTED**; and it is further

ORDERED that the Petitioners' request for special hearing to approve a legal nonconforming use as a four-apartment dwelling in a B.L. zone 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

Lawrence S. Wescott, Chairman

Donna M. Felling

Lawrence M. Stahl

IN THE MATTER OF THE APPLICATION OF TEIK SENG LEONG –PETITIONER /OWNER FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S WENDELL AVENUE, 187' S OF C/L PUTTY HILL AVENUE (8719-8721 WENDELL AVENUE) 14TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 99-338-SPHA

* * * * * * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on appeal of a decision of the Deputy Zoning Commissioner dated June 24, 1999 in which Petitions for Special Hearing and Variance were denied in part and granted in part with restrictions. The relief requested by the Petitioner on appeal is for approval of three dwelling units in two buildings on the same lot which do not conform to current setback and lot width requirements as a nonconforming use, with two off-street parking spaces.

A public hearing was held before this Board on October 25, 2000, with closing memorandums filed by December 11, 2000. A public deliberation was held on January 4, 2001. Appearing on behalf of the petition were Teik Seng Leong, Property Owner, and Ruth Eickerson, adjacent property owner. Nancy E. Paige, Esquire, appeared as counsel for Petitioner.

The Protestants were Arthur L. Bell, adjacent property owner; Ruth Baisden, representing Greater Parkville Community Council; and several other members of the community. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel.

Testimony and evidence indicated that the subject property consists of 0.38 acre, more or less, zoned D.R. 5.5. The subject property is improved with a two-story structure containing two

separate apartments. In addition, to the rear of the property exists a one-story dwelling. The subject property is located on Wendell Avenue in the Parkville area of Baltimore County.

Teik Seng Leong testified that there were two buildings when he purchased the property. The main house had two separate apartments with each unit having an occupant. Each unit has separate electric meters. The purchase was contingent upon the property being brought into zoning compliance. Mr. Leong sent a letter to Baltimore County on January 2, 1996 requesting that the property be reviewed for compliance with § 402 of the *Baltimore County Zoning Regulations* (BCZR). [Petitioner's Exhibit No. 15] On January 18, 1996, he received a letter from Baltimore County's Department of Permits & Development Management (DPMD) stating that he needed an as-built site plan to confirm area requirements. He was not sure exactly what this meant and conferred with the real estate agent. The witness asserted that the agent assured him that, once he sent in the site plan, all would be fine. Based on this advice, Mr. Leong stated that he settled on the house on March 11, 1996 and sent in the site plan on March 15, 1996.

On March 18, 1996 he was informed by DPDM that he was not in compliance with the BCZR. He was informed that a special hearing may be requested for a legal nonconforming use of three units in two dwellings on one lot. In the alternative, he was advised that he could request a special hearing to utilize the single-dwelling conversion provisions in § 402 of the BCZR for two existing dwellings on one lot and variances for setback requirements. According to his testimony, the latter option was detrimental to him because he could not afford the mortgage without the income from the two additional units. He went to a lawyer to help him with the situation, who advised him not to do anything. He testified that a code violation citation was issued later by Baltimore County which prompted him to file the subject petition.

PEOPLE'S COUNSEL
EXHIBIT NO. 7
People's Counsel ALJ Exh. 7

Mr. Leong testified that Michael Bush, the cottage tenant, has lived there since November 1993 and referred to a copy of his signed lease that was in evidence. [People's Counsel Exhibit No. 4] He also testified that he has invested over $20,000.00 for improvements to the property. Photographs were submitted to accurately reflect what is there now. He also noted in Petitioner's Exhibit No. 19B that the woodwork was older in the back part of the building with the floors at two different levels and no connection between the two for access.

Ms. Ruth Eickerson, who has resided at 3411 Putty Hill Avenue since 1957, related that two families have lived in the main house and in the cottage since she moved in. She also stated that the Millers, previous owners of the property, lived there prior to her arrival.

Mr. Arthur L. Bell of 8720 Wendell Avenue testified that he has lived in his house across the street from the subject property since May of 1967 and knew the Millers. He stated that the Millers used the whole house with their three sons and two nephews. A photograph was introduced as People's Counsel Exhibit No. 5. Mr. Bell stated that an addition in the back as shown on the photograph was added in 1967.

He further testified that in the 1970s the nephews renovated an old chicken coop on the subject property and moved from the main house to what is now referred to as the cottage. In 1974 or 1975, a new tenant moved into the cottage. After Mr. Miller passed away in 1979 or 1980, Ms. Miller and two sons continued to live in the main house. In conclusion, Mr. Bell asserted that the two sons sold the property following Mrs. Miller's death.

Ruth Baisden, representing the Greater Parkville Community Council (GPCC), produced Rule 8 papers to testify on behalf of the organization. [People's Counsel Exhibit No. 9] The GPCC has taken a position to develop a general policy against increased density. This position was taken during the Comprehensive Zoning Map Process. They object to the subject property's

request because it goes against this policy. She stated that she has not personally been on the site.

Ms. Demilio, Deputy People's Counsel, stated that it was her office's position that, since this was a *de novo* hearing, all issues were before the Board for review. In response to this opinion, the Board defers to the upper courts in *Daihl v. County Bd of Appeals*, 258 Md. at 162. In interpreting § 501.3 (now § 501.6), the Court in *Daihl* found it significant that § 501.3 referred to "issues" and did not use the term "decision." As the Court stated, the term "issue" connotes a matter, which lends itself to a separate finding or separate holding. Based on this differentiation, the Court determined that the term *de novo* as used in § 501.3 meant that on appeal there shall be a *de novo* hearing on those issues which have been appealed and not on every matter covered in the original Petition.

The Appellant in the case before us appealed only the section dealing with the nonconforming use. This was the only appeal taken in this matter. Therefore, this Board has jurisdiction to hear only that portion which was brought before it on appeal.

Those issues before the Board are:

- Is the present use of the subject property a nonconforming use?
- If the subject property is not a conforming use, are all the regulations being met for three dwellings with the variances granted by the Deputy Zoning Commissioner?

The issue of nonconforming use is difficult to prove. BCZR § 101 sets forth the definition:

> NONCONFORMING USE – A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use.

BCZR § 104.1, enacted in 1955, states:

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

The operative word here is "use." It is not enough to prove that "structures" existed on the site for the requisite time period. There was credible evidence that there have been two tenants since 1953 as noted in Mr. Schafer's letter (Petitioner's Exhibit No. 9), which stated that there were two apartments in the house but did not mention a tenant in the cottage. This was supported by the testimony of Mrs. Eickerson, who has lived there since 1957. The Baltimore Metropolitan documents (Petitioner's Exhibits 7 and 8) reflected activity between 1966 and 1972. Petitioner's Exhibit No. 8 reflects that a permit was issued and a new sewer was constructed in October 1966, and as a result there was a new sewer charge for three apartments at $22.00 each. Nothing relates to any activity prior to 1955. The Board concludes that the Petitioner has not met the burden to prove that three units existed prior to 1955. There was no compelling evidence to prove otherwise.

Having so determined, the next issue before us is: since the buildings are not a nonconforming use, does the Petitioner meet the regulations for three dwellings with the variances granted? The Board finds that there is insufficient square footage available in the approximately .38 acre subject parcel to allow three density units. Moreover, the Deputy Zoning Commissioner (DZC) granted the Petitioner any variance necessary to obtain two dwellings on the lot by either converting the main house back to a single-family dwelling and maintaining the cottage created from the former chicken coop; or no longer utilizing the chicken coop and maintaining the two units in the main house. This decision was based on the DZC's calculations

that the Petitioner would need a 6,000 square-foot area for the separate cottage structure (BCZR § 1B02.C.1) and a 10,000 square-foot area for the two-apartment dwelling (BCZR § 402.1). The DZC utilized § 102.2.A which states: "If several uses are proposed as separate structures on one property, each must meet the zoning requirements as if it was a separate parcel." Therefore, the Petitioner does not have enough land area to support three dwelling units when one is located within its own structure.

The Petitioner raised the issue that the County is estopped from denying that there is sufficient area for three dwelling units. The Petitioner utilized the conversion table, which is set forth in § 402.1 of the BCZR and stated that they require 10,000 square feet of lot area to convert an existing dwelling into two units, and an additional 3,000 square feet for a third. The Petitioner feels that the subject lot substantially exceeds this area.

The Petitioner felt that the letter from Mr. Fernando of DPDM (Petitioner's Exhibit No. 16) gave him a clear affirmation that there was sufficient lot area to support three dwellings in two separate buildings. The Petitioner feels that, in Mr. Fernando's letter of March 18, 1996 (Petitioner's Exhibit No. 17) he advised that the property did not conform to BCZR and that either variances or recognition of a legal nonconforming use would be necessary to cure the violations. The Petitioner opined that this case presents an unusual situation in which a municipality is estopped to challenge a use which it now contends is illegal, but which was previously approved by its employee.

The Board reviewed the letters of Mr. Fernando and finds that the letters were very clear that a problem existed. Mr. Fernando's letter states:

> A special hearing may be requested for a legal nonconforming use of 3 units in 2 dwellings on one lot.

In the alternative, you may request a special hearing to utilize the single dwelling conversion provision in Section 402 of the BCZR for two dwellings on one lot and variances for setback requirements.

The Board notes that the letters offered two entirely different potential solutions. The County did nothing to create the problems that the Petitioner feels exist. For the reasons specified, the Board finds that there is no issue of estoppel.

ORDER

THEREFORE, IT IS THIS 10th day of August, 2001 by the County Board of Appeals of Baltimore County

ORDERED that Petitioner's request for Special Hearing to approve three dwelling units in two buildings as a nonconforming use be and is hereby **DENIED**; and it is further

ORDERED that Petitioner's request for a determination that there is sufficient lot area to support three density units on the subject property be and is hereby **DENIED**; and it is further

ORDERED that the Petitioner shall be permitted to maintain two separate dwelling units on the subject property in either of the following instances, and subject to the restrictions as stated below:

1) The Petitioner shall be permitted to continue to utilize the former chicken coop as a dwelling and convert the main house into a single-family residential use, thereby constituting two dwelling units on the subject property; or, in the alternative,

2) The Petitioner may discontinue the use of the chicken coop as a dwelling, utilizing said structure for storage purposes only, and continue to use the main house as a two-dwelling unit structure.

Within thirty (30) days from the date of this Order, the Petitioner shall submit to the Zoning Commissioner's Office a new site plan of the property indicating the manner in which he intends to

convert the use of the subject property back to a two-dwelling use. The Petitioner shall permit a code enforcement inspector to enter his premises in order to determine that only two dwelling units exist on the property. The conversion of the property to two dwelling units shall occur within ninety (90) days from the date of this Order.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Panel Chairman

Margaret Worrall

C. Lynn Barranger

IN THE MATTER OF THE APPLICATION OF JEANNETTE R. AND WILLIAM F. CLARK FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NEC INTERSECTION TAYLOR AVE AND CHESTNUT AVE (2900 TAYLOR AVENUE 9TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* Case No. 01-025-SPH

* * * * * * * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County arising from an appeal of the decision of the Zoning Commissioner dated September 7, 2000 in which a Special Hearing request for the property located at 2900 Taylor Avenue for approval of a 2-unit apartment as a nonconforming use was denied. The matter was heard by the Board on May 22, 2002. Roger Elliott, Esquire, appeared on behalf of the Petitioners, and Ruth Baisden, representing the Greater Parkville Community Council, appeared *pro se* on behalf of the Protestants.

After opening arguments, the Board heard from Jeannette Clark, the property owner. She testified that the property which is the subject of the Special Hearing request consists of .2066 acre, split-zoned R.O. and D.R. 5.5. The property is an improved 2-1/2 story framed house with a one-story block garage in the rear. Mrs. Clark testified that the property was purchased by her and her husband in 1968 and that they have been the owners since that time. She related that the property at purchase had a tenant on the second floor but that the first floor was vacant, her explanation being that the resident on that floor had recently died. She further described various items in the house, including a

description of two kitchens in which there were separate cast iron sinks, stoves, and other accoutrements appropriate to a kitchen, and that it was here opinion that these items dated back to the 1940s.

An affidavit from Tennie Glass was presented, in which the Affiant swore that her husband, Eugene Glass, had worked for the previous owner of the subject property, which she described as a two-family dwelling. The affidavit related that her husband had worked on the property from 1944 through 1968 when the two-family house was sold to the Petitioners. Apparently, Mr. Glass worked at the property for Mr. and Mrs. Clark until he passed away some time later.

Ms. Baisden testified on behalf of the Protestants. After presenting to the Board the appropriate Rule 8 papers authorizing her to speak on behalf of the Greater Parkville Community Council ("Council"), she related that it was the position of the Council that the property was a single-family residence. She believed that there had not been use of the property uninterruptedly as a nonconforming use and that the Council believed that the Petition for Special Hearing should be denied.

In closing argument, counsel drew the Board's attention to the fact that the two sets of plumbing and stoves in the kitchens certainly showed that the premises were set up as two separate residences, and that, based upon the testimony and the affidavit presented, the nonconforming use should be granted.

Nonconforming uses are regulated by § 104 of the *Baltimore County Zoning Regulations* (BCZR) and are specifically defined in § 101 of those regulations as a "legal use that does not conform to a use regulation for the zone in which it is located or to a

People's Counsel ALJ Exh. 8

PEOPLE'S COUNSEL

EXHIBIT NO. 8

special regulation applicable to such a use...." Pursuant to § 104.1 of the BCZR, a nonconforming use is allowed to continue even though it is not in compliance with the current zoning regulations, provided that any material change in the character of the nonconforming use or abandonment or discontinuance of such nonconforming use for a period of one year or more, shall terminate the validity of the use. As a nonconforming use is inconsistent with the land use pattern established by zoning regulations, the nonconforming user is required under the applicable court decisions to prove the essential elements of his or her right to continue the nonconformity. Therefore, a nonconforming user must prove that his or her use existed prior to the enactment of the underlying restricted ordinance, and will not be sustained where evidence in support of the prior use is insufficient or contradictory. *Kastendike v. Baltimore Association for Retarded Children*, 267 Md. 389; 297 A.2d 745. The underlying zoning at this location has been in effect since 1955. Therefore, the use must have been legal as of 1955 and continued without material change, discontinuance, or abandonment for a period of one year or more since that time.

Based upon the testimony presented in support of the Petition for Special Hearing, the Board unanimously finds that the burden of proof which rests upon the property owner pursuant to the requirements set forth in § 104 and the applicable case law have not been met. Although there is certainly some evidence and testimony that the premises may have been set up to include multiple apartments, the burden has not been met to establish that the use of the property for multiple dwellings has continued uninterruptedly

and without discontinuance or abandonment since 1955. Therefore, the Petitioners' request is denied.

ORDER

THEREFORE, IT IS THIS 31st day of October, 2002 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing for the property located at 2900 Taylor Avenue for approval of a 2-unit apartment as a nonconforming use be and the same is hereby **DENIED.**

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Lawrence M. Stahl, Panel Chairman

Charles L. Marks

C. Lynn Barranger

Received this day from Zoning Office

ZONING REGULATIONS AND RESTRICTIONS

FOR

BALTIMORE COUNTY

INDEX

Zones-Permits, etc.	Page	Par.
A	5	
B & C	7	
D & E	8	
F	10	
G	11	
Exceptions	11	
Non-Conforming Use	12	
Special Except.& Permits	12	
Quarry, Sand Pit, etc.	13	B
Auto Parking	13	C
Accessory Bldg.(Over)	14	D
Gas Station & Poultry	14	E
Any Use not Allowed	14	F
Graveyard	14	G
Cabin Camp	14	H
Utility Structure	15	I
Public Stable	15	J
Junk Yard	15	K
Advertising Strucure	16	L
Fuel Oil Storage	17	M
Temporary Permit	17	
Zoning Commissioner	19	
Zoning Board	20	
Prices	21	

People's Counsel ALJ Exh. 2

January 2, 1945

ADOPTED BY THE COUNTY COMMISSIONERS
OF BALTIMORE COUNTY,
Enabling Acts of the General Assembly of Maryland:

Session of 1941, Chapter 247

Session of 1943, Chapter 877

Session of 1945, Chapter 502

Session of 1947, Chapter 915

CHRISTIAN H. KAHL,
President

JOHN R. HAUT

BREMEN A. TRAIL
County Commissioners
of Baltimore County

Codified Sept. 1, 1948 by

CHAS. H. DOING
Zoning Commissioner of Baltimore County.

PEOPLE'S COUNSEL

EXHIBIT NO. 3

32. Trailer: A vehicle used, or intended for use as a conveyance upon the public street or highways, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a movable dwelling or sleeping place.

33. Trailer Camp: Any land upon which, habitually or infrequently, one or more trailer or house cars, when detached from its automobile, or means of locomotion, or a combined car and house trailer, are placed or located, and whether or not used for occupancy as dwelling or otherwise, and shall include any structure or building used as a service building for such camp or intended for use as a part of the equipment of such camp.

34. Wayside Stand: A temporary structure including tables, or other method for display and sale of farm products or commodities.

35. Yard: An open space on the same lot asthe building and unoccupied and unobstructed from the ground up (except such accessory buildings, or projections as are expressly permitted in these regulations) and not including a court.

36. Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the foundation wall of the building.

37. Yard, Rear: A yard extending across the full width of the lot measured between the rear lot line and the main building.

38. Yard, Side: A yard extending from the front yard to the rear yard and measured from the side lot line to the building.

39. Zone: An area for which the regulations governing the use of buildings and land are identical.

SECTION II—ZONES

For the purposes of these regulations, the County is hereby divided into Seven (7) Zones as follows:

"A" Residence Zone - - - (Cottage)
"B" Residence Zone - (Semi-detached)
"C" Residence Zone - - (Apartment)
"D" Residence Zone - - - (Group)
"E" Commercial Zone.
"F" Light Industrial Zone.
"G" Heavy Industrial Zone.

SECTION III—"A" RESIDENCE ZONE

A. Use Regulations: In any "A" Residence Zone, except as hereinafter expressly provided, no building or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Church, parochial school, convent or monastery.

2. Dwelling, single family.

3. Dwelling, two-family.

4. Farming and buildings incidental thereto.

5. Home Occupations, provided that no sign or signs shall be displayed on the lot so used exceeding a total of two square feet in area, not projecting more than one foot beyond the building, and not illuminated.

6. Professional office when situated in the building used by practitioner as his or her private dwelling, provided that no name plate shall be displayed exceeding two square feet in area.

7. Public park or playground.

8. Public building.

9. Public water works reservoir.

10. Trailer, one unoccupied, for storage only.

11. Tourist home.

12. Truck garden.

13. Accessory building and uses incident to any of the above uses when located on the same lot and in the rear yard and not involving the conduct of a retail business, and which may include:

(a) Any accessory building when located not less than 60 feet from front lot line and in case of a corner lot where rear lot line abuts on side line of lot adjoining on rear, no accessory building shall be less than 25 feet from the side street line except when built as a part of the main building, provided, however, that any accessory building which is erected within 60 feet of any side street line shall not be less than 10 feet from the rear lot line. In case of a corner lot where rear line of lot abuts on rear line of lot adjoining on rear, no accessory building shall be less than 15 feet from the side street line and in no case shall an accessory building be located within two feet of any lot line.

(b) Poultry house, provided use is of a private nature only and no poultry or eggs are sold, provided, however, that any poultry yard, run or enclosure, shall be, in its entirety, within the rear yard of such lot.

14. Telephone and telegraph lines, electric light and power lines on public highways or carrying less than 5,000 volts on poles, underground conduits, cables and gas, sewer and water mains and pipes, provided that no building or structure except such poles shall be erected, altered, repaired or used in connection therewith without the issuance of a special permit as provided in Section XIII—Sub-section I.

B. Height Regulations: No building shall exceed a height of forty feet or three stories.

C. Area Regulations: The minimum dimensions of yards, and the minimum lot area, except as provided in Section IX, shall be as follows:

1. Lot Area: Each dwelling hereafter erected shall be located on a lot having an area of not less than five thousand square feet and a width of not less than fifty feet at the front building line. No yard space or minimum area required for a building or use by these regulations shall be considered as any part of the yard space or minimum area for another building or use.

2. Front Yard: The building line shall set back from the front lot line to provide for a front yard not less than twenty-five feet in depth, provided that when the majority of residential buildings on one side of a street between two intersecting streets, have been lawfully built with different front yard depths than the aforesaid twenty-five feet, then no building hereafter erected or altered shall have a less front yard than the average depth of said actual front yards of buildings immediately to either side of said building; and, provided, further that no building shall be required by the regulations to set back more than fifty feet in any case, and provided further that these regulations shall not be construed as to reduce to less than 22 feet the buildable width of a corner lot.

3. Side Yard: There shall be a side yard not less than seven feet in width along each side lot line, except in case of a corner lot the side yard along the side street shall not be less than fifteen feet.

4. Rear Yard: There shall be a rear yard, having a minimum average depth of twenty feet but in no case less than fifteen feet in depth at any one point.

5. No portion of an alley shall be considered as any part of any side or rear yard.

6. No dwelling shall be built on a lot which does not abut upon and front directly on a public street, or adequate rural rights-of-way.

SECTION IV—"B" RESIDENCE ZONE

A. Use Regulations: Except as hereinbefore expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Any use permitted in an "A" Residence Zone, any such use to be subject to the same conditions and limitations set forth as to such use in section III-A of these regulations:

2. Children's Home.

3. Dwelling—semi-detached.

4. Fraternity or Sorority House.

5. Orphanage.

6. Tea Room, when operated as a home occupation.

B. Height Regulations: Same as in an "A" Residence Zone, as set forth in Section III-B.

C. Area Regulations: Same as in an "A" Residence Zone, as set forth in Section III-C, provided, however, that any semi-detached house erected under this Section shall be considered as one building.

SECTION V—"C" RESIDENCE ZONE

A. Use Regulations: Except as hereinafter expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Any use permitted in the "B" Residence Zone; any such use to be subject to the same conditions and limitations as provided in Section IV-A.

2. Apartment house.

3. Public storage garage where no repair facilities are maintained and when located not less than sixty feet from the front lot line and, in the case of a corner lot, thirty feet from the side street line except when contained within the main building and provided further that any accessory building and any detached garage which is erected on a corner lot within sixty feet of any side street line, shall be distant not less than ten feet from the party lot line intersecting such side street line.

B. Height Regulations: Building height unlimited.

C. Area Regulations: The minimum dimension of yards and the minimum lot area per family, except as provided in Section X, shall be as follows:

1. Lot Area Per Dwelling Unit. Same as in "B" Residence Zone, Section IV, except in the case of apartments the minimum gross lot area per dwelling unit shall be six hundred twenty-five square feet.

2. Front Yard: Minimum front yards for single-family or semi-detached dwellings shall be the same as hereinbefore specified in "A" Residence Zone and "B" Residence Zone respectively, except apartment buildings shall set back to provide for a front yard of not less than 55 feet in depth, measured from the center of the front street, in no case less than 25 feet from the front lot line, and when the building is more than 40 feet in height such front yard depth shall be increased 4 inches for each additional foot of height.

BALTIMORE COUNTY

ZONING REGULATIONS

ADOPTED BY

COUNTY COMMISSIONERS

OF

BALTIMORE COUNTY

March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition).

1955

Michael J. Birmingham
President

Robert B. Hamill
Augustine J. Muller
County Commissioners of Baltimore County

Francis T. Peach
County Solicitor

George M. Berry
Deputy Solicitor

Wilsie H. Adams
Zoning Commissioner

People's Counsel ALJ Exh. 3

BALTIMORE COUNTY ZONING REGULATIONS

TABLE OF CONTENTS

RESOLUTION AND ORDER OF THE COUNTY COMMISSIONERS OF BALTIMORE COUNTY

ARTICLE 1—General Provision

Section 100—Zones and Zone Boundaries 1
Section 101—Definitions 1
Section 102—General Requirements 9
Section 103—Application of Zoning Regulations 9
Section 104—Nonconforming Uses 10
Condensed Schedule of Basic Lot Area and Yard Requirements 13

ARTICLE 2—

Zones: Use, Height, and Area Regulations

Section 200—R. 40 Zone—Use Regulations 13
Section 201— —Height Regulations 15
Section 202— —Area Regulations 15
Section 203—R. 20 Zone—Use Regulations 16
Section 204— —Height Regulations 16
Section 205— —Area Regulations 16
Section 206—R. 10 Zone—Use Regulations 17
Section 207— —Height Regulations 17
Section 208— —Area Regulations 17
Section 209—R. 6 Zone—Use Regulations 18
Section 210— —Height Regulations 18
Section 211— —Area Regulations 18
Section 212—R. G. Zone—Use Regulations 21
Section 213— —Height Regulations 21
Section 214— —Area Regulations 21
Section 215—R. A. Zone—Use Regulations 22
Section 216— —Height Regulations 23
Section 217— —Area Regulations 23
Section 230—B. L. Zone—Use Regulations 25
Section 231— —Height Regulations 27
Section 232— —Area Regulations 28
Section 233—B. M. Zone—Use Regulations 28
Section 234— —Height Regulations 30
Section 235— —Area Regulations 30
Section 236—B. R. Zone—Use Regulations 31
Section 237— —Height Regulations 32
Section 238— —Area Regulations 32
Section 250—M. R. Zone—Use Regulations 32
Section 251— —Height Regulations 34
Section 252— —Area Regulations 34

Section 253—M. L. Zone—Use Regulations 37
Section 254— —Height Regulations 38
Section 255— —Area Regulations 38
Section 256—M. H. Zone—Use Regulations 38
Section 257— —Height Regulations 40
Section 258— —Area Regulations 40
Section 270—Schedule of Special Exceptions 41

ARTICLE 3—

Excepton to Height and Area Requirements

Section 300—Height Exceptions 43
Section 301—Projections Into Yards 43
Section 302—Height and Area Requirements for New Residences in Business and Manufacturing Zones 43
Section 303—Front Yard Depths in Residence and Business Zones 44
Section 304—Use of Undersized Single-Family Lots 44
Section 305—Replacement of Destroyed or Damaged Dwellings 45
Section 306—Minor Public Utility Structures 45
Section 307—Variances 45

ARTICLE 4—

Special Regulations

Section 400—Accessory Buildings in Residence Zones 47
Section 401—Cemeteries 47
Section 402—Conversion of Dwellings 47
Section 403—Excavations, Controlled 48
Section 404—Farming 49
Section 405—Filling Stations 49
Section 406—Golf Driving Range, Miniature Golf, and Baseball Batting Range 50
Section 407—Hospitals 50
Section 408—Junk Yards 51
Section 409—Offstreet Parking and Loading 53
Section 410—Open Dumps 56
Section 411—Public Utility Uses 56
Section 412—Sanitary Landfills 58
Section 413—Signs 59
Section 414—Trailer Parks 65
Section 415—Trailers 65

per cent of the lots may have an area less than 10,000 square feet (see Section 304).

208.2—Front Yard—For dwellings, the front building line shall be not less than 30 feet from the front lot line and not less than 55 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—50 feet from the front lot line and not less than 75 feet from the center line of the street, except as specified in Section 303.1.

208.3—Side Yards—For dwellings, 10 feet wide for one side yard and not less than 25 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 30 feet from the side lot line and not less than 55 feet from the center line of the street; for other principal buildings—20 feet wide, except that for a corner lot the building line along the side street shall be not less than 35 feet from the side lot line and not less than 60 feet from the center line of the street.

208.4—Rear Yard—30 feet deep.

R. 6 Zone—Residence, One and Two-Family

Section 209—USE REGULATIONS

The following uses only are permitted:

209.1—Uses permitted and as limited in R. 40 Zone;

209.2—Two family dwellings, as defined in Section 101;

209.3—Special Exceptions—Same as R. 10 Zone, except sanitary landfills and trailer parks which are not permitted (see Sections 270 and 502).

Section 210—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 211—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

211.1 — Lot Area and Width — Each one-family dwelling and each other principal non-residential building hereafter erected shall be located on a lot having an area of not less than 6,000 square feet and a width at the front building line of not less than 55 feet; each two-family dwelling hereafter erected shall be located on a lot(s) having an area of not less than

10,000 square feet and a width at the front building line of not less than 80 feet for a duplex dwelling and 90 feet for the pair of lots occupied by a semi-detached dwelling (see Section 304).

211.2—Front Yard—For dwellings, the front building line shall be not less than 25 feet from the front lot line and not less than 50 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—40 feet from the front lot line and not less than 65 feet from the center line of the street, except as specified in Section 303.1.

211.3 — Side Yards — For one-family dwellings, 8 feet wide for one side yard and not less than 20 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 25 feet from the side lot line and not less than 50 feet from the center line of the side street; for two-family dwellings, side yards shall be as provided in Sections 214.1 and 214.3; for other principal buildings, same as in Section 208.3.

211.4—Rear Yard—30 feet deep.

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

November 8, 2019

HAND DELIVERED
Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED
NOV 08 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

Re: Jacqueline R. Frank
14721 Manor Road
Case No: 2019-437-SPH

Dear Judge Stahl,

Upon review of this zoning petition, related enforcement proceedings, and citizen concerns, it appears necessary and appropriate to survey the situation and provide some legal perspective. We trust the following analysis will be helpful to your review of this case.

Petitioner Jacqueline Frank filed the petition on August 22, 2019. Her address is 19 Bellclare Circle, Sparks Glencoe, Maryland 21152. The petition relates, however, to her 3-apartment building at 14721 Manor Road. The enclosed SDAT data lists her and Constantine Frank as property owners and provides other basic information.

A petition for a special hearing via BCZR Sec. 500.7 effectively requests a declaratory judgment. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005). This petition requests a determination to approve the 3-apartment building on Manor Road as a nonconforming use.

The property is 1.4 acre in size. The enclosed ADC Street Atlas, Page 34, shows the rural north county location. The current zone is R.C. 5, Rural-Residential. This zone allows at most one dwelling here. Based on BCZR Sec. 1A04.3.A.1.a, the maximum gross residential density is 0.5 dwelling per acre. For properties less than 1.5 acres, a single dwelling is allowed via special hearing. In sum, the maximum allowed for this property under the current zone is just one dwelling.

* * *

The present petition comes in the wake of enforcement proceedings in Case CC1908335. It began with a Correction Notice on June 20, 2019, followed by a July 25. 2019 citation, which gave notice of an August 14, 2019 hearing date. The case concluded with Administrative Law Judge Lawrence M. Stahl's August 27, 2019 Order. This documentary history is enclosed. Each

PEOPLE'S COUNSEL People's Counsel ALJ Exh. 4

EXHIBIT NO. 4

of the enforcement documents shows they were addressed to Constantine Frank and Jacqueline Frank at the 19 Bellclare Road address.

Judge Stahl determined the existence of a violation and imposed a civil penalty of $6000.00. The Order states the property owners failed to appear for the August 14, 2019 hearing. Therefore, as Judge Stahl observed, the Order was not appealable. Baltimore County Code Sec. 3-6-206(f). His decision is the final decision in the enforcement case.

* * *

We shall first address the substantive legal context of the nonconforming use claim. Petitioner must prove there was a legal 3-apartment use before there came about legislation which made the use impermissible. To explore this further, we obtained from the zoning office the enclosed zoning history.

Baltimore County enacted its first comprehensive zoning map in 1945. See Kahl v. Consolidated Gas. Electric Light, and Power Co. 191 Md. 249 (1948). The zoning history here shows so far that in 1971, the property was legislatively rezoned to R.D.P., Rural Deferred Planning. This zone allowed one dwelling per acre, so a maximum still of one dwelling. BCZR Sec. 1A00.3.B.1; Bill 100, 1970. In 1976, the property was zoned R.C. 2, Agricultural, again with a maximum of one dwelling here per BCZR Sec. 1A01.3.B; Bills 98-75, 178-79. It looks like the current R.C. 5 Zone came about in 2016. We have not ascertained the zoning history before 1971.

Petitioner must thus prove (1) that the property was used for three apartments at least since before the 1971 comprehensive zoning map, perhaps even earlier, and (2) that it has been used as such since then continuously, that is to say, without discontinuity for a year. The burden of proof is on the Petitioner. The law is construed strictly against nonconforming uses, which the law intends to disappear. Prince George's County v. E.L. Gardner 293 Md. 259, 267-70 (1982); Purich v Draper Properties 395 Md. 694, 708-22 (2006); Canada's Tavern v. Town of Glen Echo 260 Md. 206 (1970).

In sum, substantively, resolution of the present nonconforming use issue depends on the aforesaid law as applied to the facts presented at the hearing. That will be a mixed factual/legal determination. In sum, Petitioner must show when, if ever, there was a legal use for 3 apartments, and if so, that such use has continued without interruption after the advent of the legislation which prohibited the use, either in 1971 or perhaps earlier.

* * *

There is another issue. This relates to the impact of Judge Stahl's final order in the enforcement proceedings. Does Judge Stahl's final determination of a violation preclude this special hearing petition? Otherwise stated, is the petition for special hearing barred by *res judicata* or, at the very least, collateral estoppel? See Batson v. Shifflett 325 Md. 684, 701-05; Powell v. Breslin 430 Md. 52, 64-65 (2013); Garrett Park v. Montgomery County Council 257 Md. 250, 256-58 (1970); Fertitta v. Brown 252 Md. 594, 599-600 (1969); and Seminary Galleria v. Dulaney Valley Improvement Association 192 Md. App. 719, 734-42. (2010) as to *res judicata.* The *res*

judicata doctrine may apply so long as the cause of action is effectively the same and the relevant party had the opportunity to adjudicate the issue. FWB v. Richman 354 Md., 472, 491-93 Moreover, where the issue is effectively adjudicated, collateral estoppel comes into play in any event. Leeds Federal Savings & Loan Association v. Metcalf 332 Md. 107, 117-18 (1993).

Property owners served with correction notices and citations may assert legal defenses at the enforcement hearing. This includes the defense of legal nonconforming use as defined in BCZR Sec. 101.1 and stated in Sec. 104.1. To find a violation, it was necessary, as a matter of law, that there be no proof of nonconforming use. If the use were legally nonconforming, there would be no violation. Judge Stahl's Order is thus final and conclusive that there was no such legal use. Consequently, the petition for special hearing appears to be barred by *res judicata* or collateral estoppel. The record reflects, ironically, that Jacqueline Frank's petition for special hearing, filed on August 22, came 8 days after neither she nor Constantine Frank appeared at the August 14 enforcement hearing.

* * *

We appreciate your careful consideration of these matters of public interest..

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Zachary Wilkins, Esquire, Attorney for Petitioner, sent via first class mail & email
John Raley, sent via email to jcr319@hotmail.com
Rebecca Heyman Magaziner, Esquire, sent via email to rlhmlaw@hotmail.com
Jonathan Blanar, sent via email to jrb_0323@yahoo.com
Steven Fischer, sent via email to stevenfischer88@rocketmail.com
Michael D. Mallinoff, Director of Permits, Approvals, and Inspections
W. Carl Richards, Zoning Supervisor

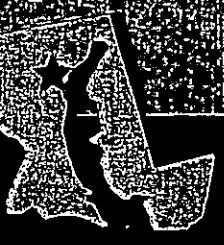
ADC The Map People
by Kappa Map Group

STREET ATLAS

More Titles
MID-ATLANTIC REGION
Better Selection

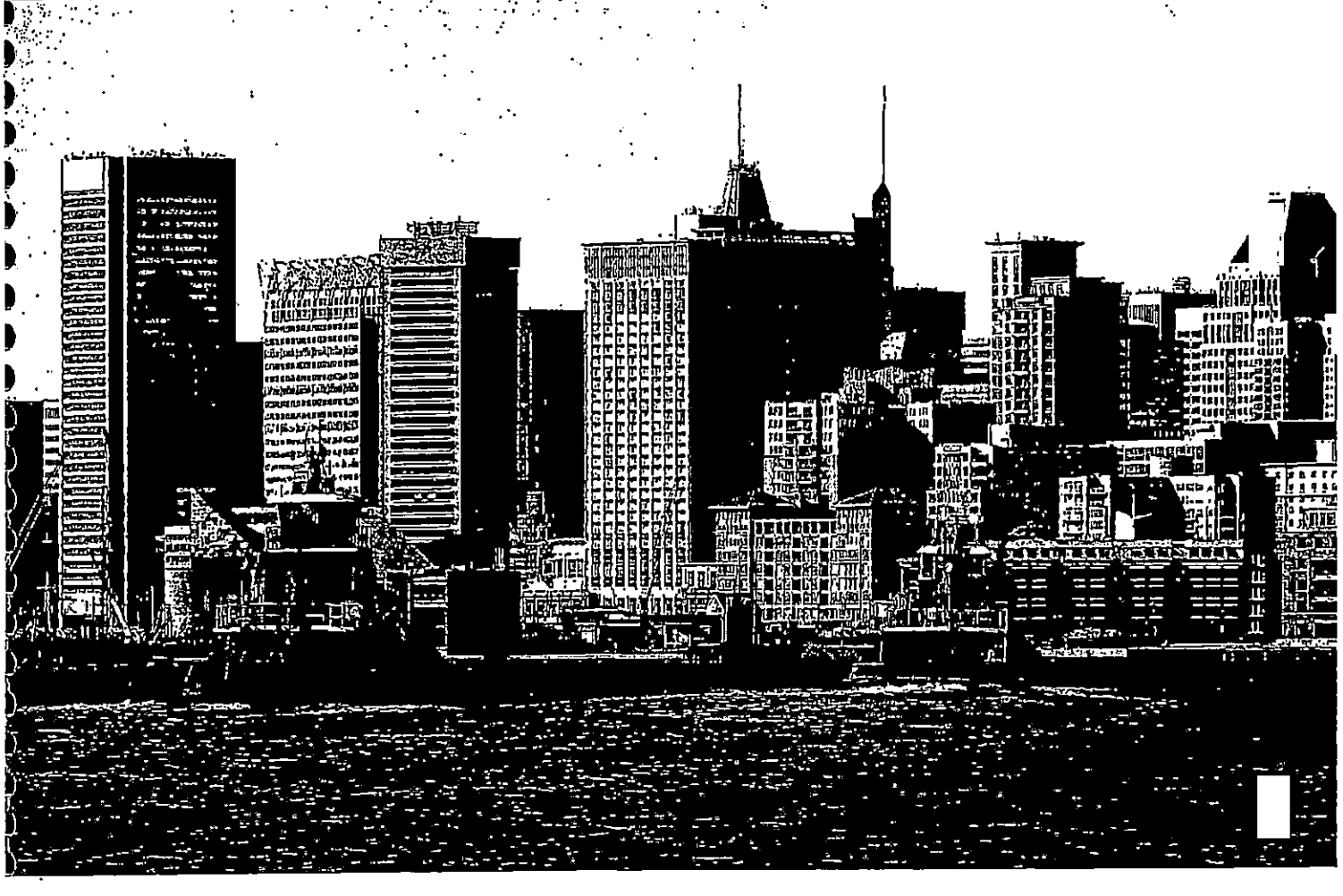
Baltimore City & County Maryland

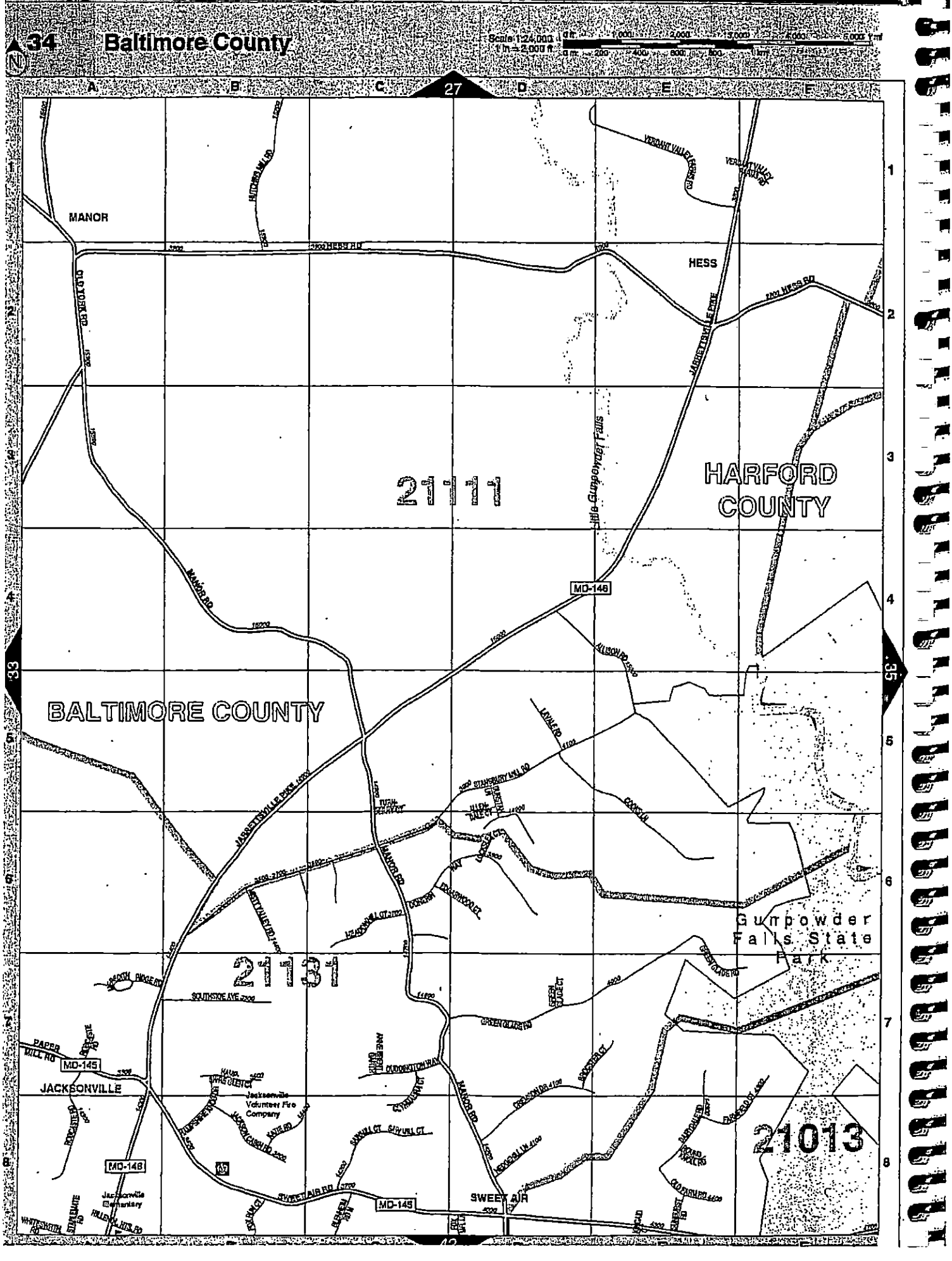
Trusted. Accurate. Everywhere.



INCLUDING: Complete Baltimore County coverage, Hampstead & Downtown Baltimore (large-scale)

FEATURING: Detail of Baltimore/ Washington International Thurgood Marshall Airport (BWI), Block Numbers, Downtown Baltimore, Colleges & Universities, Baltimore Metro & Central Light Rail, Maryland Rail Commuter System, Parks & Rec Areas, Places of Interest, Schools & ZIP Codes




Scale 1:24,000
1 in = 2,000 ft
A
B
C
D
E
F
27
33
35
MANOR
HESS
HARFORD COUNTY
BALTIMORE COUNTY
21111
21131
21013
Little Gunpowder Falls
Gunpowder Falls State Park
MD-146
MD-145
MD-148
JACKSONVILLE
SWEET AIR
Jacksonville Volunteer Fire Company
Jacksonville Elementary
OLD HARFORD RD
HESS RD
MANOR RD
JARRETTSVILLE PIKE
PAPER MILL RD
SWEET AIR RD
SOUTHSIDE AVE
GREENWOOD RD
KILSON RD
LAYHILL RD
CROCKUS LN
VERMONT VALLEY RD
HARKINS RUN RD
KNOLL RD
OLD FARM RD


Untitled Map
Write a description for your map.
Legend
14721 Manor Rd
BLACKWATER NATIONAL WILDLIFE REFUGE
Feature 1
14721 Manor Rd
Manor Rd
Google Earth
© SPOT IMAGE
© 2018 Google
N
100 ft

Real Property Data Search

You may experience issues today as SDAT works to restore all services. SDAT apologizes for any inconvenience the last few days, and asks for patience as we continue to work to make the site better.

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Account Identifier: District - 10 Account Number - 1012040302

Owner Information

Owner Name:	FRANK CONSTANTINE FRANK JACQUELINE R	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	19 BELLCLARE CIR SPARKS GLENCO MD 21152-9114	**Deed Reference:**	/08169/ 00330

Location & Structure Information

Premises Address:	14721 MANOR RD 0-0000.	**Legal Description:**	1.413 ACRES ES MANOR ROAD 318 S STANSBURY MILL RO

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0036	0008	0168	10030041.04	0000				2020	Plat Ref:

Special Tax Areas: None
Town: None
Ad Valorem: None
Tax Class: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1898	4,308 SF		1.4100 AC	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	ASBESTOS SHINGLE/	4	4 full		

Value Information

	Base Value	Value As of 01/01/2017	Phase-In Assessments As of 07/01/2019	As of 07/01/2020
Land:	140,500	140,500		
Improvements	212,300	212,300		
Total:	352,800	352,800	352,800	
Preferential Land:	0			

Transfer Information

Seller: FRANK CONSTANTINE	**Date:** 05/09/1989	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /08169/ 00330	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2019	07/01/2020
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Baltimore County

New Search (https://sdat.dat.maryland.gov/RealProperty)

District: 10 Account Number: 1012040302



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.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx (http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx).

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROP.TAX ID
CC1908335	10-12-040302

VIOLATION ADDRESS
14721 MANOR RD
PHOENIX, MD 21131

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
B.C.Z.R 402: Illegal conversion of dwelling	Cease illegal conversion of dwelling, convert the dwelling back to a single-family dwelling as a multi family dwelling is not permitted in an RC5 zoned property.
Other Violation(s)	BCZR 1A04.3.B.5 Only one dwelling permitted on an RC5 zoned property, remove the second dwelling from the property.

Failure to comply with this correction notice, may result in a $200.00 fine/penalty per day, per violation pursuant to BCC: 1-2-217; 32-3-602 and/or the County sending a contractor to correct the violation(s) at your expense. Call the inspector for more information and details.

COMPLIANCE DATE: 07/20/2019	INSPECTOR ID: 79
	ISSUED DATE: 06/20/2019

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. It is important that you read this document carefully, as it charges you with the commission of a crime.
2. If you fail to correct the violations noted by the date dictated, a citation may be issued, and a trial scheduled at which you may be penalized by a fine, imprisonment, or both.
3. If the County is required to bring your property into compliance, all costs and fines shall become a lien and shall be collectible in the manner provided for collection of real estate taxes; or may be collected in the same manner as any civil money judgment or debt collected.
4. A lawyer can give important assistance to you:
   (a) on how to correct the violation(s) in order to avoid trial or
   (b) at trial, if you failed to correct the violation(s) noted. Assistance may be provided to determine whether there are any defenses to the charges against you or any circumstances helpful to you that should be brought to the trial. A lawyer can help you by developing and presenting information, which could effect how you correct the violation(s).
5. A conviction for each violation will subject you to potential fines of $200, $500, $1000 per day per violation, depending on the violation, or 90 days in jail, or both Baltimore County Code section 1-2-217 and 32-3-602.
6. It is your responsibility to obtain any required permit(s) to correct the cited violation(s). All repairs must be in accordance with applicable laws, Code of Baltimore County Regulations, and standards.
7. Upon correction of these violation(s), contact the inspector for re-inspection. If you have any questions contact the inspector promptly.

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204

www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT & INSPECTION CITATION

CASE NUMBER	PROP.TAX ID
CC1908335	10-12-040302

VIOLATION ADDRESS
14721 MANOR RD
PHOENIX, MD 21131

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
B.C.Z.R 402: Illegal conversion of dwelling	Failure to cease illegal conversion of dwelling, failure to convert dwelling back to a single-family residence.

Pursuant to Section 1-2-217, Baltimore County Code, civil penalty has been assessed, as a result of the violation(s) cited herein, in the amount indicated: $6000

A quasi-judicial hearing has been pre-scheduled in:
Jefferson Building, 105 W. Chesapeake Ave, Rm 205
Towson, Maryland, 21204

DATE: 08/14/2019 **TIME:** 09:00 **A.M.**

*****IF A VIOLATOR DOES NOT APPEAR AT THE CODE ENFORCEMENT HEARING, THE CITATION AND ANY CIVIL PENALTY ARE DEEMED A NON-APPEALABLE FINAL ORDER OF THE CODE OFFICIAL OR THE DIRECTOR.*****

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Inspector Badge Number		Issued Date
79		07/25/2019

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204

www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT & INSPECTION CITATION

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. If unable to appear on the designated date, the violator may request in writing to the Code Official within fifteen (15) days from the date of this citation for a rescheduled hearing. If you require the assistance of an interpreter because you do not understand or speak the language in which the proceedings are being conducted you must ask for an interpreter within 72 hours of the court date.
2. At this hearing, you are entitled to be represented by an attorney, present witnesses, present evidence, and cross-examine any witnesses against you. An attorney can be helpful to you by (a) explaining the charges in this citation, (b) helping you at the hearing, and (c) helping you challenge the civil penalty, if found in violation.
3. If Administrative Law Judge finds that a violation has occurred, the Final Order may include (a) a civil penalty, (b) reasonable conditions as to time and manner of correction and (c) requirement to reimburse the County for any lien(s) or costs incurred to correct a violation.
4. (a) Civil penalty a lien.
   (1) If a final order assesses a civil penalty or an order of the Board of Appeals affirms or modifies a final order that assesses a civil penalty and the violator does not pay the civil penalty within the time required by the order, the Code Official or the Director shall certify to the Director of Budget and Finance the amount owed.
   (2) If a violator does not pay a civil penalty within the time required as specified in paragraph (1) of this subsection, the amount owed
      (i) Become a lien on the property on which the violation existed and shall be collectible in the manner provided for the collection of real estate taxes; or
      (ii) May be collected in the same manner as any civil money judgment or debt may be collected.

   (b) Code Official may procure performance. If a violator fails to comply with a final order or an order of the Board of Appeals, the Code Official or the Director may procure the performance of the work needed to correct the violation in accordance with the procedure authorized in 3-6-402 of this subtitle.
5. If you are the Owner of the property, failure to pay the assessed penalty shall constitute a lien on the property and shall be collectible in the same manner and to the same extent as real estate taxes. In addition, failure to correct the violation(s) shall result in appropriate judicial action for enforcement, including civil contempt, which could result in imprisonment.
6. Should the Violator disagree with the Final Order rendered by the Office of Administrative Law, an appeal may be taken to the Baltimore County Board of Appeals within fifteen (15) days of the date of the Order.
7. A filing fee of $225.00 and a security in the amount of any civil penalty assessed in the Final Order must accompany the notice of appeal and petition. See Baltimore County Code: 3-6-302.
8. Inclement weather procedure: If Baltimore County Government offices are closed or have a delayed opening, all code enforcement hearings will be rescheduled. Reschedule letters will be mailed to the property owner of record.
9. **If the violator wishes NOT to contest this citation, give up your right to a hearing and wish to pay the fine. Please remit the following: a copy of this citation, and a check or money order payable to: Baltimore County Office of Budget and Finance, 400 Washington Ave, Rm 150, Towson, MD 21204**

Office of Administrative Hearings for Baltimore County
105 West Chesapeake Avenue Suite 103
Towson, Maryland 21204

August 27th, 2019

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

--

Re: Code Enforcement Case No. 1908335, 14721 Manor Road
Dear Sir/Madam:

Enclosed here within please find a Citation which has become a Final Order entered by Administrative Law Judge in the above captioned matter. Please note that under the Baltimore County Code (B.C.C.) §3-6-206(f), this is a non-appealable Final Order, given that you failed to appear at the **August 14, 2019** Hearing scheduled for the captioned violation case.

The Judge imposed a civil penalty in the amount of **$6,000.** You are required to make payment by cash, check or money order within 30 days of the date of this letter to:

Baltimore County Office of Budget and Finance
400 Washington Avenue, Room 150
Towson, MD 21204

Failure to make the payment as required by the enclosed Order will result in the imposition of a statutory lien against your property and/or the initiation of other collection efforts by Baltimore County. Please note that you have a continuing obligation to maintain your property in compliance with all laws. If you have any questions about this matter please contact your inspector at 410-887-3351.

Please also note that the Administrative Law Judge's Final Order requires you to correct within 7 days the violation detailed in the citation. Should you fail to comply with the Order within that time frame, be advised that Baltimore County may, with County employees or through a private contractor, enter upon your property to correct the violation. The costs and expenses of the property clean-up are the responsibility of the owner, and if not paid may become a tax lien on your property.

Sincerely,

MICHAEL D. MALLINOFF,
Deputy Administrative Officer and Director
Permits, Approvals and Inspections

MM/hmk
Enclosure

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

FINAL ORDER OF THE ADMINISTRATIVE LAW JUDGE

On July 16, 2019, a Code Inspections and Enforcement Citation in the above captioned case was issued in the amount of **$6,000.00** for violation(s) of the Baltimore County Code or Zoning Regulations specified in Civil Citation No. **1908335**. The Citation names the owner(s) of record, as published in the Maryland State Tax Assessment database, as the Respondent(s). The citation was served upon the owner of the property in a manner consistent with Section.3-6-205(c)(2) of the Baltimore County Code ("BCC").

A hearing on the citation was scheduled for 9:00 a.m. on August 14, 2019, at which the Respondent failed to appear. Pursuant to Sections 3-6-205(d) and 206(f) of the BCC, failure to request a hearing, or appear at a scheduled hearing, renders the Citation and any civil fine or other relief, a final non-appealable order.

Therefore, it is this 27th day of August, 2019, hereby

ORDERED that a civil penalty in the amount of **$6,000.00** be immediately imposed; and it is further

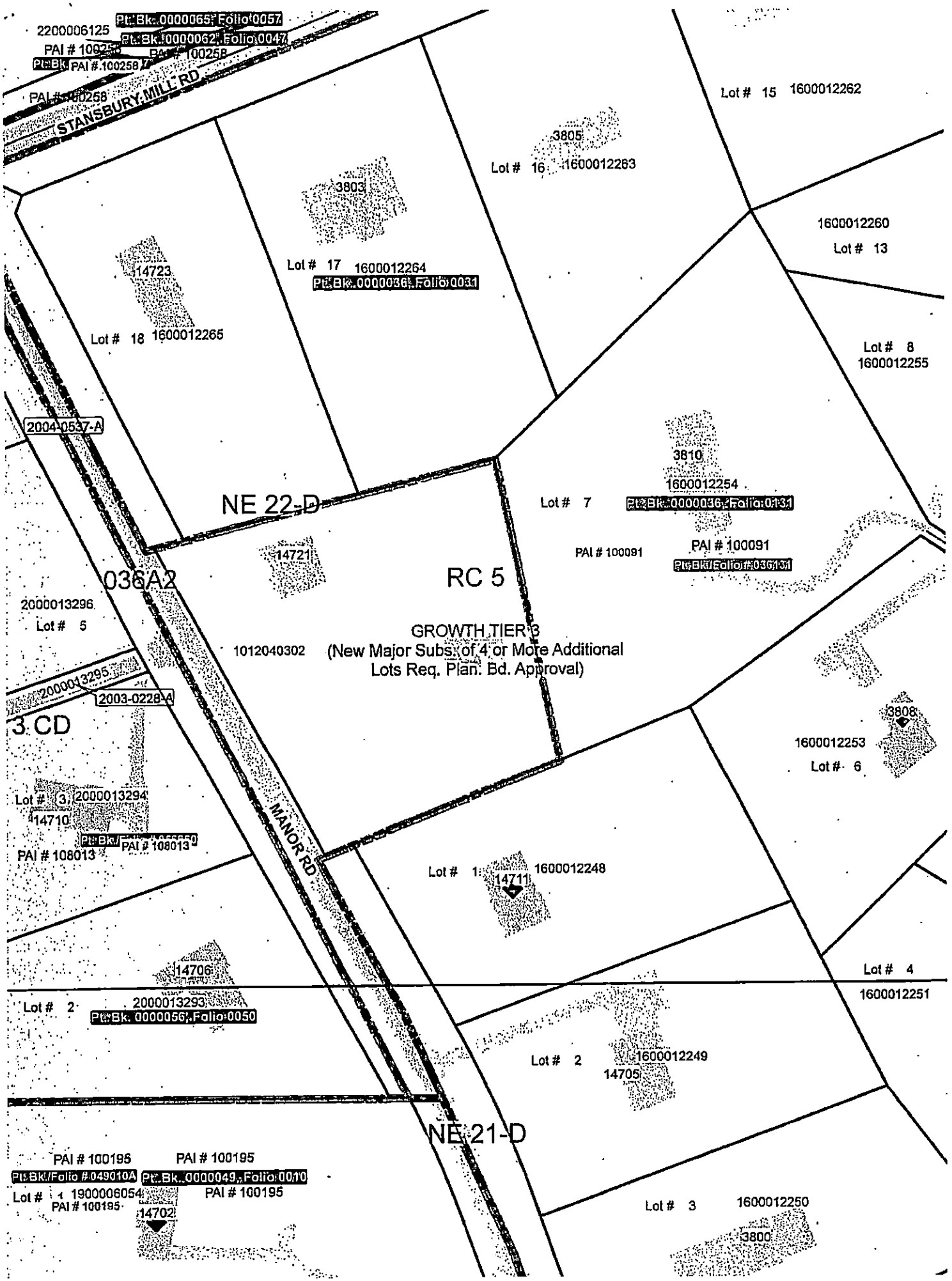
ORDERED that owner shall correct the violation(s) set forth in the attached citation within seven (7) days of the entry of this Order.

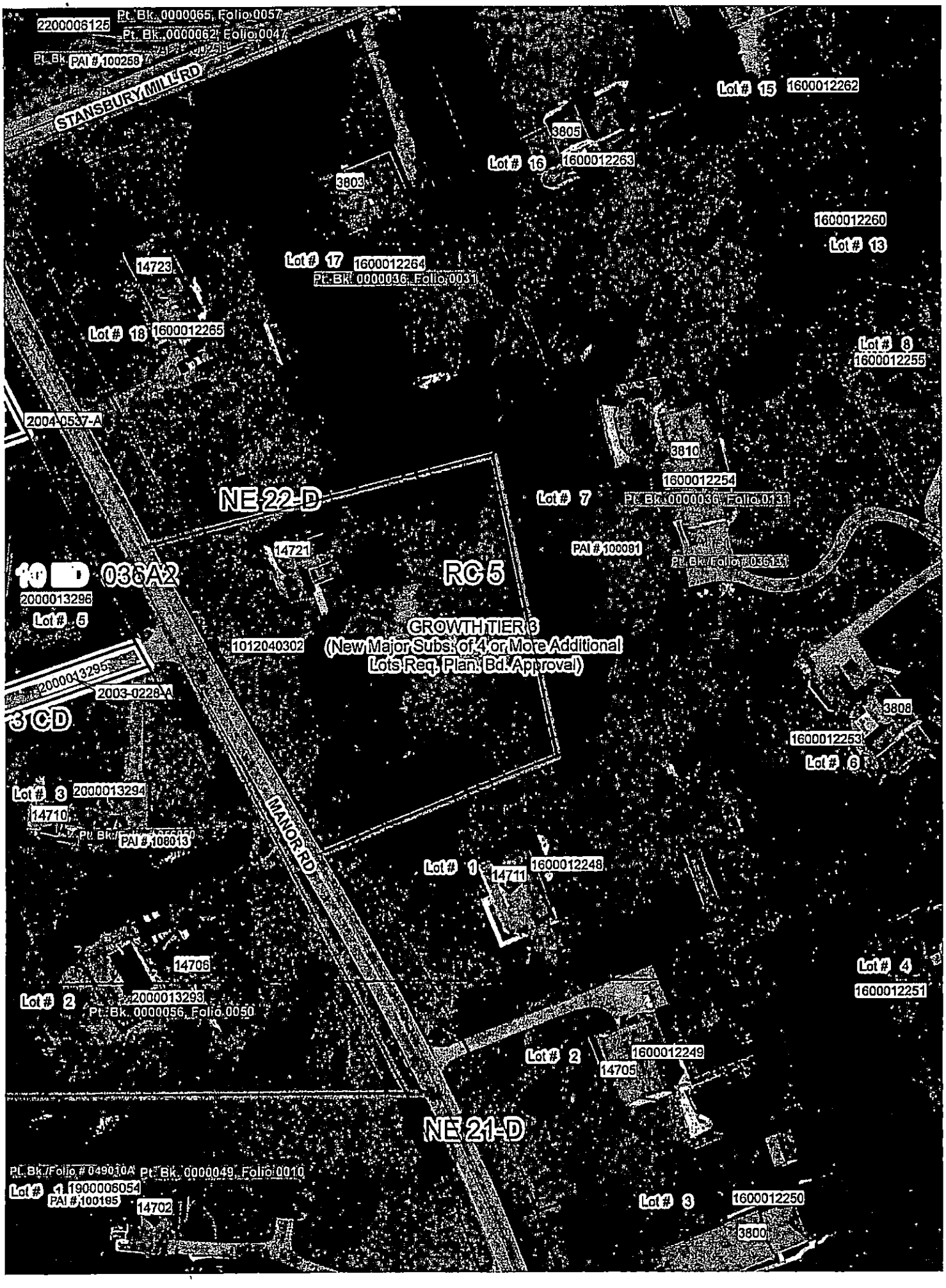
IT IS FURTHER ORDERED THAT Baltimore County shall be authorized to send an employee or authorized contractor to enter the property to correct the violation(s), the costs and expenses of which shall be assessed against Respondents.

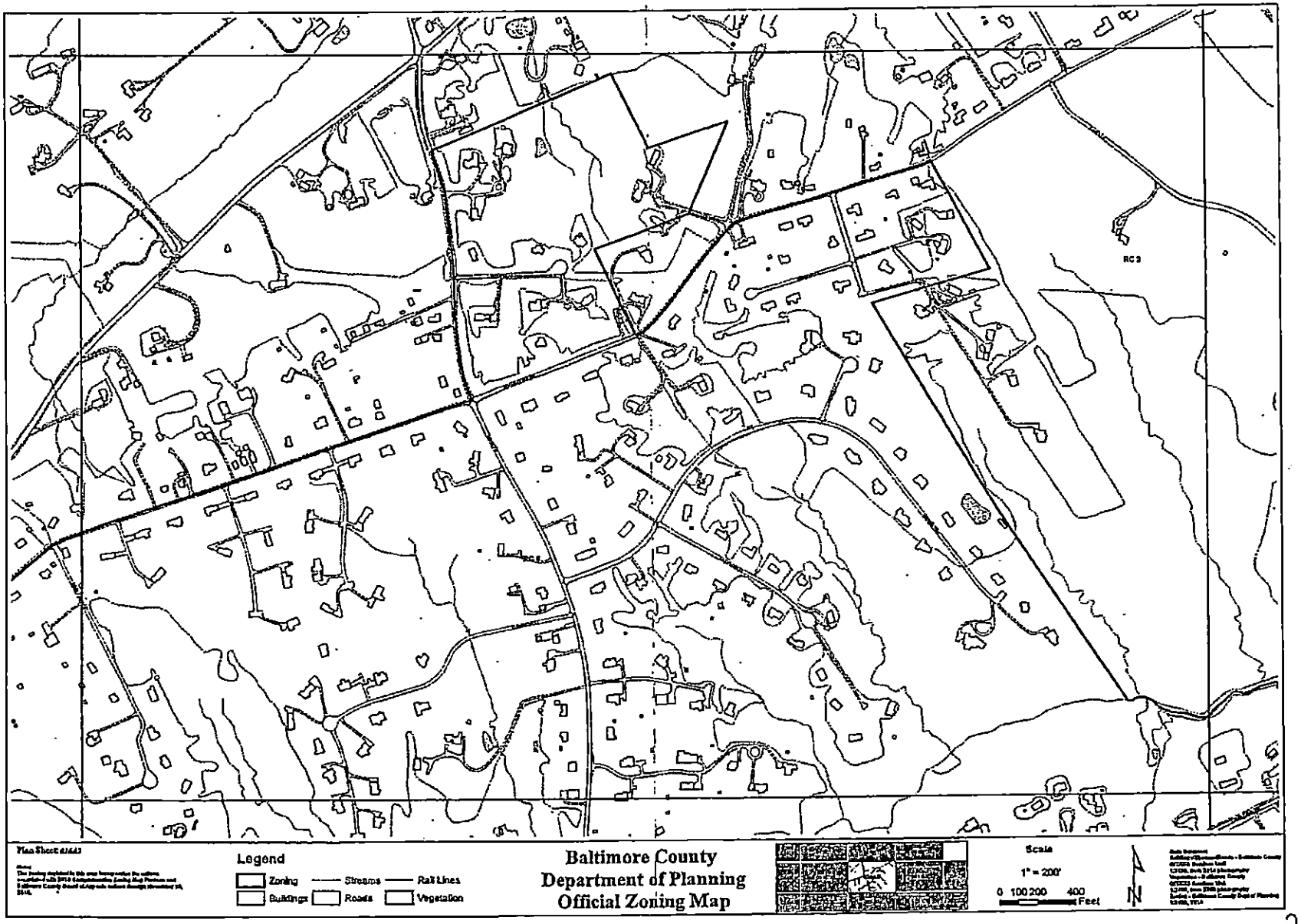
Signed: _____

Lawrence M. Stahl
Managing Administrative Law Judge

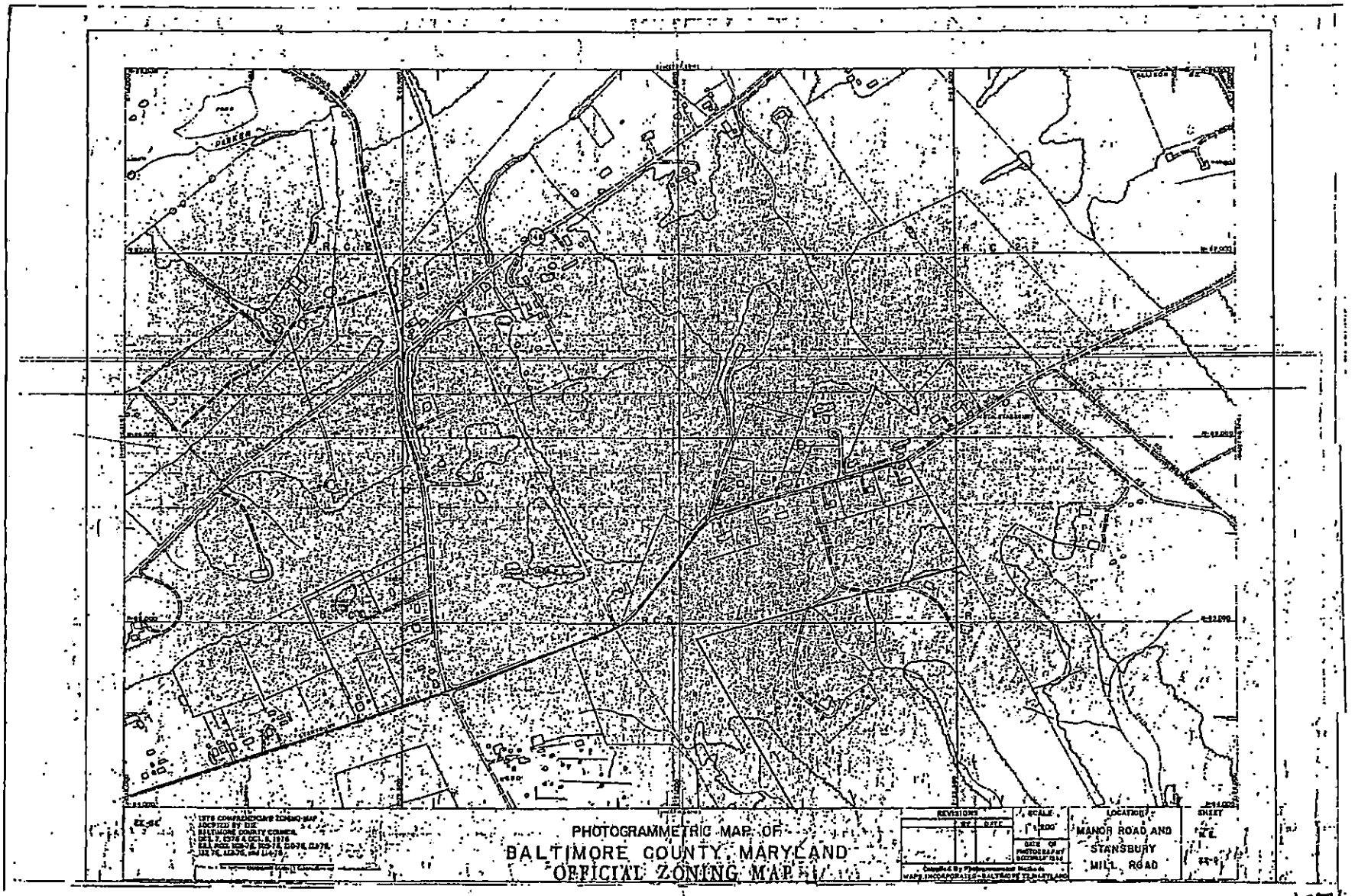
LMS/hmk


2200006125
Pt. Bk. 0000065, Folio 0057
Pt. Bk. 0000062, Folio 0047
PAI # 100258
Pt. Bk. PAI # 100258
PAI # 100258
STANSBURY MILL RD
Lot # 15 1600012262
3805
Lot # 16 1600012263
3803
1600012260
Lot # 13
14723
Lot # 17 1600012264
Pt. Bk. 0000036, Folio 0031
Lot # 18 1600012265
Lot # 8
1600012255
2004-0537-A
3810
1600012254
NE 22-D
Lot # 7
Pt. Bk. 0000036, Folio 0131
14721
PAI # 100091
PAI # 100091
Pt. Bk./Folio # 036131
036A2
RC 5
2000013296
Lot # 5
GROWTH TIER 3
1012040302
(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)
2000013295
2003-0228-A
3808
1600012253
Lot # 6
3 CD
Lot # 3 2000013294
14710
Pt. Bk./
PAI # 108013
PAI # 108013
MANOR RD
Lot # 1
14711
1600012248
14706
Lot # 4
1600012251
Lot # 2
2000013293
Pt. Bk. 0000056, Folio 0050
Lot # 2
1600012249
14705
NE 21-D
PAI # 100195
PAI # 100195
Pt. Bk./Folio # 049010A
Pt. Bk. 0000049, Folio 0010
Lot # 1 1900006054
PAI # 100195
PAI # 100195
14702
Lot # 3
1600012250
3800

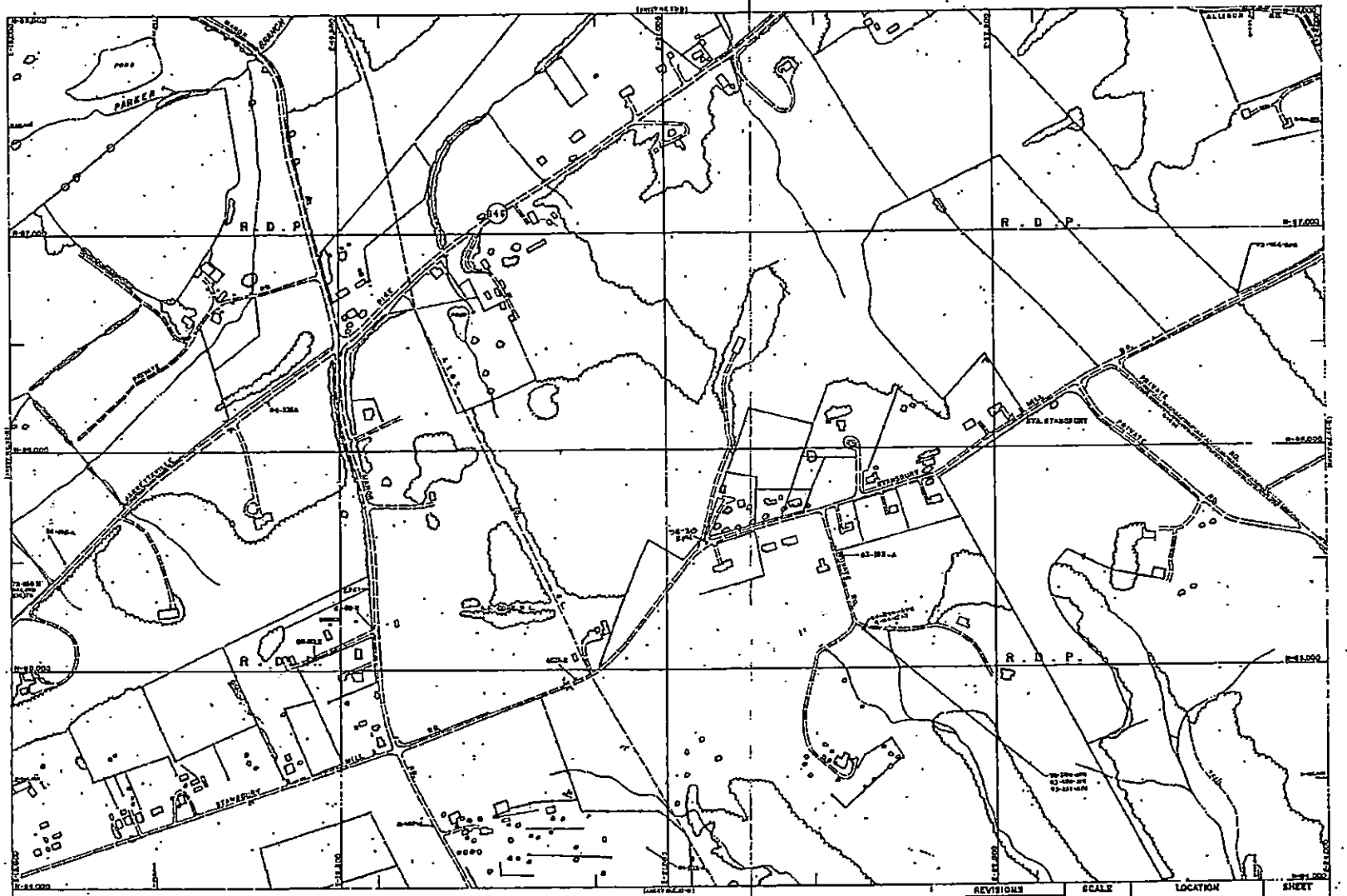

2200006125
Pt. Bk. 0000065, Folio 0057
Pt. Bk. 0000062, Folio 0047
Pt. Bk.
PAI # 100268
STANSBURY MILL RD
Lot # 15
1600012262
3805
Lot # 16
1600012263
3803
1600012260
Lot # 13
14723
Lot # 17
1600012264
Pt. Bk. 0000036, Folio 0031
Lot # 18
1600012265
Lot # 8
1600012255
2004-0537-A
3810
1600012254
NE 22-D
Lot # 7
Pt. Bk. 0000036, Folio 0131
14721
PAI # 100091
Pt. Bk. / Folio # 036131
RC 5
036A2
2000013296
Lot # 5
GROWTH TIER 3
(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)
1012040302
2000013295
2003-0228-A
3808
1600012253
Lot # 6
Lot # 3
2000013294
14710
Pt. Bk.
PAI # 106013
MANOR RD
Lot # 1
1600012248
14711
14706
Lot # 4
1600012251
Lot # 2
2000013293
Pt. Bk. 0000056, Folio 0050
Lot # 2
1600012249
14705
NE 21-D
Pt. Bk. / Folio # 049010A
Pt. Bk. 0000049, Folio 0010
Lot # 1
1900006054
PAI # 100195
14702
Lot # 3
1600012250
3800


RC 2
Legend
Zoning
Streams
Rail Lines
Buildings
Roads
Vegetation
Baltimore County
Department of Planning
Official Zoning Map
Scale
1" = 200'
0 100 200 400
Feet
N

2016


PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY, MARYLAND
OFFICIAL ZONING MAP
REVISIONS
SCALE
1" = 200'
LOCATION
MANOR ROAD AND
STANSBURY
MILL ROAD
SHEET

1976



22-SE

ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
MARCH 24, 1971
BY BILLS NOS. 38, 39, 50, 51, and 52

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY, MARYLAND
OFFICIAL ZONING MAP

REVISIONS			SCALE	LOCATION	SHEET
	BY	DATE	1" = 200'	MANOR ROAD AND STANSBURY MILL ROAD	N.E. 22-D
			DATE OF PHOTOGRAPHY DECEMBER 1969		

Compiled By Photogrammetric Methods
MAPS, INCORPORATED - BALTIMORE 23, MARYLAND

PLAN HOLD

DRAWING NUMBER
NE-22-D

1971

TITLE ... - RENTAL HOUSING LICENSES

§ 35-6-101. - DEFINITIONS.

(a) *In general.* In this title the following words have the meanings indicated.

(b) *Apartment complex.* "Apartment complex" means a group of 2 or more related buildings that:

(1) Have the same owner; and

(2) Contain at least 4 dwelling units in each building that:

(i) Share a common entrance from the outside with other dwelling units in the same building; or

(ii) Are arranged above or below, or next to, another dwelling unit.

(c) *Applicant.*

(1) "Applicant" means the property owner of a dwelling unit.

(2) "Applicant" includes a tenant of a dwelling when the tenant rents a dwelling unit or a portion of a dwelling unit to another tenant.

(d) *Boarding or rooming house.* "Boarding or rooming house" has the meaning stated in § 101 of the Baltimore County Zoning Regulations.

(e) *Code Official.* "Code Official" means the Director or the Director's designee.

(f) *Department.* "Department" means the Department of Permits, Approvals and Inspections.

(g) *Director.* "Director" means the Director of the Department.

(h) *Dwelling.* "Dwelling" means a building or a portion of a building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

(i) *Dwelling unit.* "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons that has permanent provisions for living, sleeping, eating, cooking, or sanitation.

(j) *Group house.*

(1) "Group house" means a group of not less than 3 attached dwelling units which:

(i) Have been constructed together in a lateral row surrounded by yard space;

(ii) Are separated from another by a party wall; and

(iii) Have the same owner.

(2) "Group house" includes townhouse apartment complexes, group house apartment buildings, and back to back group houses.

(3) "Group house" does not include a duplex or semidetached dwelling.

(k) *Hearing Officer.* "Hearing Officer" has the meaning stated in § 3-6-101 of the Code.

(l) *Home inspection.* "Home inspection" means a written evaluation of the compliance of one or more of the components of an existing residential building with the health and safety requirements established by the Director in accordance with § 35-6-107 of this title.

(m) *Home inspector.* "Home inspector" has the meaning stated in § 16-101 of the Business Occupations and Professions Article of the Annotated Code of Maryland.

(n) *Occupant.* "Occupant" means an individual who inhabits a space within a dwelling unit.

(o) *Owner.* "Owner" means a person who:

(1) Has more than a 25% legal or equitable interest in a property; or

(2) Shares in more than 25% of the profits or losses from the rental property.

(p) *Person.* "Person" has the meaning stated in § 1-2-107 of the Code.

(q) *Premises.*

(1) "Premises" means a lot, plot, or parcel of land on which there is a dwelling.

(2) "Premises" includes all dwellings on the lot, plot, or parcel of land.

(r) *Property owner.*

(1) "Property owner" means an owner.

(2) "Property owner" includes a:

(i) Limited liability company; and

(ii) The guardian of an estate or the personal representative of an estate, if ordered to take possession of the premises by a court.

(s) *Tenant.* "Tenant" means an occupant of a rental property who is not an owner of the rental property.

(1988 Code, § 18-101) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004; Bill No. 43-05, § 1, 5-16-2005; Bill No. 117-05, § 1, 11-21-2005; Bill No. 36-06, § 1, 5-15-2006; Bill No. 103-06, § 1, 9-15-2006; Bill No. 87-07, § 1, 2-3-2008; Bill No. 122-10, §§ 15, 30, 1-16-2011)

PEOPLE'S COUNSEL

EXHIBIT NO. 5

People's Counsel ALJ Exh. 5

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

Section 2 of Bill No. 36-06 provides that a property owner subject to the requirements of Title 6 shall obtain the license required by this Act on or before July 14, 2006.

Section 2 of Bill No. 103-06 provides that a property owner subject to the requirements of Title 6 shall obtain the license required by this Act on or before November 16, 2006.

Section 2 of Bill No. 87-07 provides that a person subject to the requirements of Article 35, Title 6 of the Baltimore County Code, 2003 shall obtain the license required by this Act on or before July 1, 2008. This section does not apply to a dwelling unit for which a license was received under Article 35, Title 6 of the Baltimore County Code, 2003 before the effective date of this Act.

Section 2 of Bill No. 76-08 repeals and re-enacts Section 2 of Bill No. 87-07 to change the deadline for obtaining the required license from July 1, 2008 to January 1, 2009.

Section 2 of Bill No. 26-18 provides that a property owner who is no longer exempted from the licensing requirements of Article 25, Title 6 of the County Code as a result of this Act shall obtain the license before September 1, 2018.

§ 35-6-102. - PURPOSE.

The purpose of this title is to establish a licensing program in the county in order to:

(1) Create an additional procedure for the enforcement of county codes and regulations to protect and promote the public safety, health, and welfare; and

(2) Reverse the physical decline of areas of the county that have:

(i) A high number of rental properties;

(ii) Older rental properties;

(iii) High crime rates; or

(iv) Experienced a significant shift from single family owner-occupied homes to multiple family rental properties.

(1988 Code, § 18-102) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004; Bill No. 87-07, § 1, 2-3-2008)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

§ 35-6-103. - SCOPE.

(a) *In general.* This title applies to:

(1) Boarding or rooming houses; and

(2) Dwellings with six or less dwelling units.

(b) *Limitations.* This title does not apply to:

(1) Dwellings that are solely owner-occupied, including:

(i) One additional individual who is not a minor without regard to the relationship of the individual and without regard to the number of minors in the dwelling unit related by blood, marriage or adoption to the additional individual or under the legal custody of the individual; and

(ii) Individuals related as grandparents, parents, children, or grandchildren by blood, marriage, or adoption to or under the legal custody of the owner;

(2) Dwellings with seven or more dwelling units;

(3) Apartment complexes;

(4) Dwelling units exempted by the Department as required by federal or state law or regulation;

(5) Dwelling units occupied by a former owner of the dwelling unit who, after having sold the dwelling unit to a new owner, continues to reside in the dwelling unit and pays rent to the new owner, provided the residency lasts not more than 12 months;

(6) Subject to regulations adopted by the Department, dwellings occupied by an owner and an individual paid directly or indirectly by the owner, including a nurse, nanny, or other household assistant;

(7) Dwelling units solely occupied by a person related as a grandparent, parent, child, or grandchild by blood, marriage, or adoption to or under the legal custody of the owner of the dwelling unit, which may include one additional individual who is not a minor without regard to the relationship of the individual and without regard to the number of minors in the dwelling unit related by blood, marriage or adoption to the additional individual or under the legal custody of the individual; or

(8) Dwellings listed on the National Register of Historic Places, the county inventory established under § 32-7-301 of the Code, the

Baltimore County Preliminary Landmarks List, or the Baltimore County Final Landmarks List.

(c) *Limitation on use of dwelling as boarding or rooming house.* This title does not authorize the use of a dwelling as a boarding or rooming house, except as authorized under the Baltimore County Zoning Regulations.

(1988 Code, § 18-103) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004; Bill No. 87-07, § 1, 2-3-2008; Bill No. 17-09, § 2, 4-19-2009; Bill No. 38-09, § 1, 7-6-2009; Bill No. 26-18, § 1, 5-21-2018)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

§ 35-6-104. - REGULATIONS.

The Department may adopt regulations, in accordance with Article 3, Title 7 of the code, to carry out the provisions of this title.

(1988 Code, § 18-104) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

§ 35-6-105. - LICENSE - REQUIRED.

(a) *In general.*

(1) A property owner may not rent a dwelling unit or a portion of a dwelling unit unless the property owner has been issued a license as provided for in this title.

(2) A tenant may not rent a dwelling unit or a portion of a dwelling unit to another tenant or a sub-tenant unless the tenant has been issued a license as provided for in this title.

(b) *Required licenses.*

(1) A license is required for each dwelling unit.

(2) The Director shall determine at the sole discretion of the Director the number of dwelling units that are contained in a dwelling.

(c) *Issuance.* The Director shall issue a license to each applicant that meets the requirements of this title.

(d) *Scope.* A license authorizes a property owner or a tenant to rent a dwelling unit or a portion of a dwelling unit.

(1988 Code, § 18-105) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004; Bill No. 87-07, § 1, 2-3-2008)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

§ 35-6-106. - SAME - APPLICATIONS.

(a) *In general.* An applicant for a license shall:

(1) Submit to the Director an application on the form the Director provides; and

(2) Pay to the Director the application fee established by the County Administrative Officer in accordance with:

(i) Subsection (b) of this section; and

(ii) § 3-1-202 of the code.

(b) *Fee requirements.*

(1) In establishing the fee for a license for a dwelling unit or boarding or rooming house, the County Administrative Officer shall establish all fees, including:

(i) A fee for a boarding or rooming house that is:

1. Owner-occupied and contains three or more tenants; or

2. Not owner-occupied; and

(ii) A reduced fee for a dwelling that is owner-occupied and contains one or two tenants.

(2) The Director may waive a fee for any dwelling that is owner-occupied if the Director determines that the fee is a financial hardship for the owner.

(c) *Required application information.*

(1) In addition to any other information required on an application form, the application form shall require:

(i) The name of the applicant and the address of the principal place of business of the applicant;

(ii) A description of the dwelling unit and the address of the dwelling unit by house or unit number;

PC Exhibits 1 thru 11

RECEIVED
JUL 17 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Donna Mignon

From: Peoples Counsel
Sent: Friday, July 17, 2020 11:24 AM
To: Lawrence Stahl; Administrative Hearings
Cc: Debra Wiley; Donna Mignon; 'Lawrence Schmidt'; 'Becky Heyman-Magaziner'; jcr319 @hotmail.com; Alyssa Moyers; Jeffrey N Perlow; Carl Richards Jr; Rebecca Wheatley
Subject: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road
Attachments: People's Counsel - ALJ Exhibit 1 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 2 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 3 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 4 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 5 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 6 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 7 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 8 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 9 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 10 - 2019-437-SPH.pdf; People's Counsel - ALJ Exhibit 11 - 2019-437-SPH.pdf

Dear Judge Stahl,

I sent inadvertently an incomplete e-mail with a partial list of exhibits. This is the corrected and complete e-mail.

For the upcoming hearing on July 21, 2020 at 1:30 P.M., our office would like to submit, for review and discussion, the following exhibits:

Zoning History Exhibits

1. E-mail from Jeff Perlow to Peter Max Zimmerman dated July 16, 2020 describing zoning history 1945-71 with attached 1945 Zoning Map.
2. 1945 Zoning Regulations: "A" Residence Zone.
3. 1955 Zoning Regulations: R-6.
4. Letter from Peter Max Zimmerman to Administrative Law Judge Lawrence Stahl dated November 8, 2019.

County Rental Housing License Law Exhibit

5. County Code Article 35, Title 6, Rental Housing Licenses

County Board of Appeals opinion and orders denying petitions to approve apartments as nonconforming uses .

6. County Board of Appeals opinion and order; Case No. 00-404-SPH; Shirley and Paul Reinke, 4 Fourth Avenue, June 27, 2001 (CBA Panel: Wescott, Chair; Felling, Stahl).
7. County Board of Appeals opinion and order; Case No. 99-338-SPHA; Tek Seng Leong; 8719-8721 Wendell Avenue; August 10, 2001; (CBA Panel: Stahl, Chair; Worrall, Barranger).
8. County Board of Appeals opinion and order; Case No. 01-025-SPH; Jeanette and William Clark; 2900 Taylor Avenue; October 31, 2002; (CBA Panel: Stahl, Chair: Marks, Barranger).
9. County Board of Appeals opinion and order; Case No. 08-199-SPH; Timothy Luecking; 301 Reserve Court; January 23, 2009; (CBA panel: Wescott, Chair; Grier, Witt).
10. Circuit Court Memorandum Opinion, affirmance, Case No. 03-C-09-001926; Timothy Luecking; October 5, 2009; (Jakubowski, Circuit

Judge).

Court of Special Appeals Opinion on Evidence Law

11. Radin v. Supervisor of Assessments 254 Md. 294 (1969).

I believe these exhibits will be helpful to expedite the resolution of this long-delayed, pandemic-affected case.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

Rebecca Wheatley

From: Jeffrey N Perlow
Sent: Thursday, July 16, 2020 2:49 PM
To: Peter Max Zimmerman
Cc: Carl Richards Jr
Subject: RE: Zoning history, Pre-1971, 14721 Manor Road
Attachments: 1945 Map 10th Dist.pdf

RECEIVED
JUL 17 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Pete,

Attached is the 1945 map of the 10th election district that indicates the subject property was Zoned "A" Residence in 1945. While there are no maps available from 1955 thru 1970 for Election District 10, Carl is correct that "A" Residence zones in place from 1945-1955 ultimately became Residual "R-6" on March 30, 1955. While the "A" Residence and "R-6" zones did permit both one-family **and** two-family dwellings (i.e. duplexes and semi-detached dwellings) from 1945-1970, those zones never permitted three-family dwellings. For them to establish a non-conforming use for a three-family dwelling, the petitioner's would have to show that all three dwellings existed prior to 1945. And Pete, please don't subpoena me, as I am swamped with County projects that have immediate deadlines from the higher-ups . Thank you!

Jeff Perlow

From: Peter Max Zimmerman
Sent: Thursday, July 16, 2020 11:08 AM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>
Subject: Zoning history, Pre-1971, 14721 Manor Road

Dear Jeff,

We have a nonconforming use case still pending at the ALJ level for an upcoming remote delayed second day of hearing Tuesday before ALJ Lawrence Stahl.
The 1.4 acre rural property is at 14721 Manor Road, and the question is whether they can establish a nonconforming use for 3 apartments on the R.C. 5 Zone property.

Your office provided us with the zoning history back to 1971. It is reviewed in the attached letter dated November 8, 2019. Based on the history back to 1971, we could establish that only one dwelling was permitted under the zoning classifications back that far. We did not pin down the situation prior to 1971. We would now like to do that if possible.

My question is whether there is any record of the zoning in the 1960s, pre-1971?
I have the impression, maybe from talking with Carl, that there was a residual R-6 Zone in this north rural area. If so, what did that permit relating to the number of dwellings on a 1.4 acre property here? If the zone was something other than R-6, what was the situation?

If you could give us an answer, that would be very helpful. Thank you so much.

Peter Max Zimmerman, People's Counsel, 410 887-2188

PEOPLE'S COUNSEL
EXHIBIT NO. 1

People's Counsel ALJ Exh. 1


10TH DISTRICT
HARFORD COUNTY
ELEVENTH DISTRICT
DISTRICT
1
2

BA 4/1


ZONING NOTICE
A PUBLIC HEARING WILL BE HELD BY THE ADMINISTRATIVE LAW JUDGE IN TOWSON, MD

Page 15









§ 104.1. - Continuation of nonconformance; exceptions.

[Bill Nos. 18-1976; 124-1991]

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


+
14721 Manor Road
go
← purchase image and/or print
aerials
1955
topos
atlases
compare
overlay
measure
2015
2013
2011
2009
2008
2007
2006
2005
2002
1994
1981
1971
1964
1957
1955
COPYRIGHTED MATERIAL
© HISTORICAERIALS.COM
30 m
100 ft
39.52973 : -76.54818
© OpenStreetMap, © NETRonlin

1955

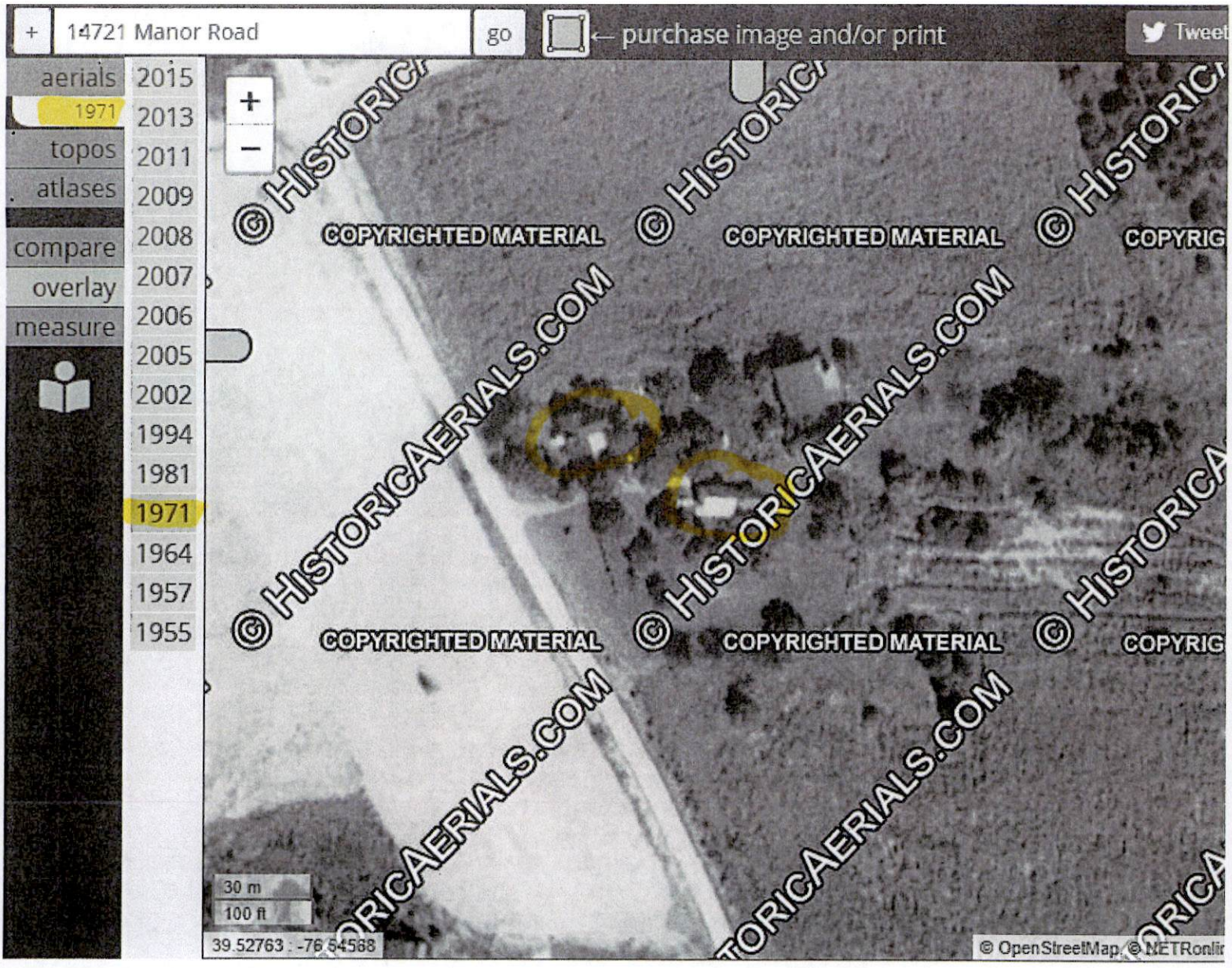
Ref No 5


+
14721 Manor Road
go
← purchase image and/or print
Tweet
aerials
1957
topos
atlases
compare
overlay
measure
2015
2013
2011
2009
2008
2007
2006
2005
2002
1994
1981
1971
1964
1957
1955
© HISTORICAERIALS.COM
COPYRIGHTED MATERIAL
30 m
100 ft
39.52836 : -76.6454
© OpenStreetMap © METRonlir

1957


+
14721 Manor Road
go
← purchase image and/or print
Tweet
aerials
1964
topos
atlases
compare
overlay
measure
2015
2013
2011
2009
2008
2007
2006
2005
2002
1994
1981
1971
1964
1957
1955
+
−
© HISTORICAERIALS.COM
COPYRIGHTED MATERIAL
30 m
100 ft
39.52763 : -76.54585
© OpenStreetMap © NETRonlin

1964


+
14721 Manor Road
go
← purchase image and/or print
Tweet
aerials
1971
topos
atlases
compare
overlay
measure
2015
2013
2011
2009
2008
2007
2006
2005
2002
1994
1981
1971
1964
1957
1955
+
−
© HISTORICAERIALS.COM
COPYRIGHTED MATERIAL
30 m
100 ft
39.52763 : -76.54568
© OpenStreetMap

1971


+
14721 Manor Road
go
← purchase image and/or print
Tweet
aerials
2002
topos
atlases
compare
overlay
measure
2015
2013
2011
2009
2008
2007
2006
2005
2002
1994
1981
1971
1964
1957
1955
+
−
© HISTORICAERIALS.COM
COPYRIGHTED MATERIAL
30 m
100 ft
39.52998 : -76.5453
© OpenStreetMap, © NETRonlin

2002


+
14721 Manor Road
go
← purchase image and/or print
Tweet
aerials
2006
topos
atlases
compare
overlay
measure
2015
2013
2011
2009
2008
2007
2006
2005
2002
1994
1981
1971
1964
1957
1955
+
−
© HISTORICAERIALS.COM
COPYRIGHTED MATERIAL
30 m
100 ft
39.52933 : -76.54592
© OpenStreetMap, © NETRonlin

PETITIONER'S

EXHIBIT NO. 2

Real Property Data Search (w2)

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Account Identifier: **District -** 10 **Account Number -** 1012040302

Owner Information

Owner Name:	FRANK CONSTANTINE FRANK JACQUELINE R	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	19 BELLCLARE CIR SPARKS GLENCO MD 21152-9114	**Deed Reference:**	/08169/ 00330

Location & Structure Information

Premises Address:	14721 MANOR RD 0-0000	**Legal Description:**	1.413 ACRES ES MANOR ROAD 318 S STANSBURY MILL RO

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0036	0008	0168	10030041.04	0000				2020	Plat Ref:

Special Tax Areas: None
Town: None
Ad Valorem: None
Tax Class: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1898	4,308 SF		1.4100 AC	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	ASBESTOS SHINGLE/	4	4 full		

Value Information

	Base Value	Value As of 01/01/2017	Phase-in Assessments As of 07/01/2019	As of 07/01/2020
Land:	140,500	140,500		
Improvements	212,300	212,300		
Total:	352,800	352,800	352,800	
Preferential Land:	0			

Transfer Information

Seller: FRANK CONSTANTINE	**Date:** 05/09/1989	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /08169/ 00330	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2019	07/01/2020
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|	0.00|

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

1. This screen allows you to search the Real Property database and display property records.
2. Click **here** for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

DEED — FEE SIMPLE — INDIVIDUAL GRANTOR — LONG FORM

LIBER 8169 PAGE 330

PETITIONER'S EXHIBIT NO. W

This Deed, MADE THIS 28th day of April

in the year one thousand nine hundred and eighty-nine by and between

CONSTANTINE FRANK

of Baltimore City, State of Maryland of the first part, and

CONSTANTINE FRANK and JACQUELINE R. FRANK, his wife

of the second part.

WITNESSETH, That in consideration of ~~the sum of~~ love and affection, and other valuable considerations, the receipt whereof is hereby acknowledged,

the said party of the first part,

A RC F 13.00
DEED 0
SM CLERK 13.00
#17025 C003 R01 T13:
05/09/8

do es grant and convey to the said parties of the second part, as tenants by the entireties, their

personal representatives/successors and assigns . in fee simple, all

that lot of ground situate in Baltimore County, State of Maryland

and described as follows, that is to say:

BEGINNING for the same at a point in the center of Manor Road, as now located, at the end of the 7th or N21° 24' 40"W 131.77' line of the land which by deed dated March 30, 1962 and recorded among the Land Records of Baltimore County in Liber WJR 3973, folio 505, was conveyed by Louis Valentine Cook, Herbert C. Lintz and Howard P. Lintz to Thirty Four Corporation, thence leaving Manor Road and binding on the 8th, 9th and 10th lines of the land in the aforesaid deed, the three following courses and distances, as now surveyed; (1) N75° 34' 40"E 203.00'; (2) N3° 27' 30"W 236.00', (3) S83° 31' 20"W 279.00' to the center of Manor Road, running thence in the center of Manor Road, as now located, the following courses and distances, viz: (1) S18° 53' 20"E 105.67 (2) S21° 24' 40"E 166.14' to the place of beginning.

CONTAINING 1.393 acres of land more or less.

BEING the same lot of ground as described in a Deed dated May 26, 1983 and recorded among the Land Records of Baltimore County, in Liber EHK No. 6539 Folio 504 which was granted and conveyed by Howard P. Lintz and Marie E. Lintz, his wife, unto Constantine Frank, the grantor herein.

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY, MARYLAND
Per
Authorized Signature
Date 5-9-89 Sec. 11-85A

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
JR 5-9-89
By Date

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE JR 5-9-89

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 8169, p. 0330, MSA_CE62_8024. Date available 03/09/2005. Printed 11/13/2019.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said parties of the second part, as tenants by the entireties, their

personal representatives/~~successors~~ and assigns, in fee simple.

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

WITNESS the hand and seal of said grantor

Test:

Constantine Frank (SEAL)
Constantine Frank

(SEAL)

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I HEREBY CERTIFY, That on this day of April, in the year one thousand nine hundred and eighty-nine, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared CONSTANTINE FRANK known to me (or satisfactorily proven) to be the person whose name is/are subscribed to the within instrument, and acknowledged the foregoing Deed to be he act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

REMAY I. PHILLIPS NOTARY PUBLIC BALTIMORE CITY, MD.

Notary Public

My Commission expires:
July 1, 1990

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 8169, p. 0331, MSA_CE62_8024. Date available 03/09/2005. Printed 11/13/2019.

No Consideration - No Stamps Required
MSA_CE62_5062. Date available 07/03/2003. Printed 11/14/2019.

FEE-SIMPLE DEED—Short—City or County—Form 640

AUG-6-71 217752A *****9.00
AUG-6-71 217752C *****9.00

This Deed, Made this 30th day of June

in the year one thousand nine hundred and seventy-one, by and between HOWARD P. LINTZ and MARIE E. LINTZ, his wife

of Baltimore County in the State of Maryland, of the first part, and

MAURICE W. BALDWIN and EVELYN M. BALDWIN, his wife,

of the second part.

Witnesseth, that in consideration of the sum of five dollars and other good and valuable considerations, the said Grantors

do grant and convey unto the said Maurice W. Baldwin and Evelyn M. Baldwin, his wife, as tenants by the entireties, their

heirs and assigns, in fee simple, all that lot of the ground, situate, lying and being in the Tenth Election District of Baltimore County, aforesaid, and described as follows, that is to say:—

Beginning for the same at a point in the center of Manor Road, as now located, at the end of the 7th or N 21°24'40" W 131.77' line of the land which by deed dated March 30, 1962 and recorded among the Land Records of Baltimore County in Liber W.J.R. 3973, folio 505, was conveyed by Louis Valentine Cook, Herbert C. Lintz and Howard P. Lintz to Thirty Four Corporation, thence leaving Manor Road and binding on the 8th, 9th and 10th lines of the land in the aforesaid deed, the three following courses and distances, as now surveyed; (1) N 75° 34' 40" E 203.00'; (2) N 3° 27' 30" W 338.00; (3) S 83° 31' 20" W 279.00' to the center of Manor Road, running thence in the center of Manor Road, as now located, the two following courses and distances, viz: (1) S 18° 53' 20" E 105.67'; (2) S 21° 24' 40" E 166.14' to the place of beginning.

Containing 1.393 acres of land more or less.

BEING all and the same lot of ground contained in a deed dated March 8, 1965 and recorded among the Land Records of Baltimore County in Liber O.T.G. 4652 folio 227 from Maurice W. Baldwin and Evelyn M. Baldwin, his wife to the Grantors herein.

TRANSFER TAX NOT REQUIRED
8-6-71
Walter R. Richardson
Director of Finance
Per Alma M Baldwin
Authorized Signature

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 anywise appertaining.

To Have and To Hold the said lot 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 Maurice W. Baldwin and Evelyn M. Baldwin, his wife, as tenants by the entireties, their heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

TEST:

Betty J. Cones

Howard P Lintz (SEAL)
HOWARD P. LINTZ

Marie E Lintz (SEAL)
MARIE E. LINTZ

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, That on this 30th day of June in the year one thousand nine hundred and seventy-one, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Howard P. Lintz and Marie E. Lintz

the above named grantors, and they acknowledged the foregoing Deed to be their act.

As Witness my hand and Notarial Seal.

Betty J. Cones
Notary Public.

Rec'd for record AUG 6 1971 at 2:50 P.M.
Per Orville T. Bosnell, Clerk
Mail to Maurice W. Baldwin
Receipt No. V $ 9.00

...) OTG...2...p 0768 MSA t_TS_2052. Date available 01/03/2003. Printed 11/14/2019.

DEED OF ASSIGNMENT

THIS DEED OF ASSIGNMENT, Made this 8th day of March, one thousand nine hundred and sixty-five, by and between MAURICE W. BALDWIN and EVELYN M. BALDWIN, his wife, of Baltimore County, State of Maryland, Assignors, to HOWARD P. LINTZ and MARIE E. LINTZ, as tenants by the entireties of a one-half undivided interest of the hereinafter described property and HERBERT C. LINTZ and MARGARET LINTZ, his wife, as tenants by the entireties, of a one-half undivided interest in the hereinafter described property, it being the intent and purpose of this conveyance that Howard P. Lintz and Marie E. Lintz, his wife, shall hold a one-half undivided interest as tenants by the entireties in common with a one-half undivided interest to be held by Herbert C. Lintz and Margaret Lintz, his wife, as tenants by the entireties.

WITNESSETH: That in consideration of the sum of Five Dollars ($5.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, the Assignors do hereby assign, set over and transfer unto the Assignees as above set forth, a certain indenture and/or mortgage made by the Thirty Four Corporation as mortgagor and dated March 30th, 1962 to Howard P. Lintz and Herbert C. Lintz as mortgagee and recorded among the Land Records of Baltimore County in Liber WJR 3973 folio 509 and assigned by the said mortgagees to the Assignors herein by a deed of assignment of even date herewith and recorded or intended to be recorded among the Land Records of Baltimore County immediately prior hereto, together with all and singular the premises in said mortgage described, and note and/or obligation therein mentioned and monies due and to become due with interest and the covenants and conditions therein set forth, with the end and intent whereof to sever and completely dispose of the joint tenancy of the Mortgagees.

TO HAVE AND TO HOLD, all of the property and benefits inuring from the aforesaid mortgage unto Howard P. Lintz and Marie E. Lintz, his wife, as tenants by the entireties in a one-half undivided interest in common with Herbert C. Lintz and Margaret Lintz, his wife, as tenants by the entireties of a one-half undivided interest.

AS WITNESS the hands and seals of the Assignors the year and day first above written.

WITNESS:

Marie E. Lintz

Maurice W. Baldwin (SEAL)

Marie E. Lintz

Evelyn M. Baldwin (SEAL)

LIBER 4652 PAGE 226

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, That on this 8th day of March, 1965, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Maurice W. Baldwin and Evelyn M. Baldwin, his wife, and they acknowledged the aforegoing Deed of Assignment to be their act.

AS WITNESS my hand and Notarial Seal.



Notary Public

Rec'd for record AUG 1 1966 at 2 31 P M.
Per Orville T. Gosnell, Clerk
Mail to Maurice W. Baldwin
Receipt No. 67653 $ 5.00

TRANSFER TAX NOT REQUIRED
8-1-66
Norman W. Wood
Director of Finance

Per: Louis M. Phillips
Authorized Signature

Re-6 Lic 12 H

DEED

THIS DEED, Made this 8th day of March, one thousand nine hundred and sixty-five, by MAURICE W. BALDWIN and EVELYN M. BALDWIN, his wife, of Baltimore County, State of Maryland, Grantors, to HOWARD P. LINTZ and MARIE E. LINTZ, his wife, of Baltimore County, State of Maryland, Grantees.

WITNESSETH: That in consideration of the sum of Five Dollars ($5.00) and other good and valuable considerations, the Grantors do hereby grant and convey unto the Grantees, their heirs and assigns, forever in fee simple, as tenants by the entireties, the following described property, situation and lying in the Tenth Election District of Baltimore County, Maryland, to wit:

BEGINNING for the same at a point in the center of Manor Road, as now located, at the end of the 7th or N21°24'40"W 131.77' line of the land which by deed dated March 30, 1962 and recorded among the Land Records of Baltimore County in Liber WJR 3973, folio 505, was conveyed by Louis Valentine Cook, Herbert C. Lintz and Howard P. Lintz to Thirty Four Corporation, thence leaving Manor Road and binding on the 8th, 9th and 10th lines of the land in the aforesaid deed, the three following courses and distances, as now surveyed, (1) N75°34'40"E 203.00', (2) N3°27'30"W 236.00', (3) S83°31'20"W 279.00' to the center of Manor Road, running thence in the center of Manor Road, as now located, the two following courses and distances, viz: (1) S18°53'20"E 105.67', (2) S21°24'40"E 166.14' to the place of beginning.

CONTAINING 1.393 acres of land more or less.

BEING all and the same lot of ground contained in a deed of even date herewith and recorded or intended to be recorded immediately prior hereto from Herbert C. Lintz and Howard P. Lintz to the grantors herein, said straw conveyance executed with the intent and purpose to extinguish all of the rights, title and interest in and to the herein described property of Herbert C. Lintz.

TOGETHER with the buildings and improvements thereon and all rights, ways and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the herein described property unto the proper use and benefit of the grantees as tenants by the entireties, their heirs and assigns, forever in fee simple.

AND THE SAID GRANTORS covenant that they have done no act to encumber said land and that they will specially warrant the property hereby conveyed and that they will execute such further assurances of the said land as may be requisite.

THIS DEED prepared without benefit of title search based on survey provided by

Muller, Raphel & Associates, Inc., registered land surveyors, dated March 4th, 1965.

AS WITNESS the hands and seals of the first parties.

WITNESS:

Marie E. Bauer — Maurice W. Baldwin (SEAL)

Marie E. Bauer — Evelyn M. Baldwin (SEAL)

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, That on this 8th day of March, 1965, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Maurice W. Baldwin and Evelyn M. Baldwin, and they acknowledged the aforegoing Deed to be their act.

AS WITNESS my hand and Notarial Seal.

MICHELE PEARRE QUINN
Baltimore Co. Md.

Michele Pearre Quinn
Notary Public

TRANSFER TAX NOT REQUIRED
8-1-66
Norman W. Wood
Director of Finance
Per: Alma M. Gullett
Authorized Signature
Sec. 6 Sec. 12 A

Rec'd for record AUG 1 1966 at 2:32 P.M.
Per Orville T. Gosnell, Clerk
Mail to Maurice Baldwin
Receipt No. 67654 $ 6.50

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Mr. Bartenfelder, Councilman
(Request of County Executive)

By the County Council, July 6, 1970

A BILL
ENTITLED

AN ACT, To amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100.1.A.2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 103.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations" and the subtitle, "R.40 Zone-Residence,

PETITIONER'S EXHIBIT NO. 9

One-Family" and enacting in lieu thereof a new designation and title as follows: "ARTICLE 2-ELEVATOR-APARTMENT RESIDENCE ZONES, BUSINESS AND MANUFACTURING ZONES, AND DISTRICTS"; by repealing Sections 200 to 217 (inclusive) and enacting in lieu thereof new Sections 200, 201 and 202; by repealing and re-enacting Subsection 232.5; by redesignating existing Section 232A as Section 232B; by redesignating existing Subsections 232A.1 to 232A.6 (inclusive) as 232B.1 to 232B.6 (inclusive); by adding new Section 232A; by redesignating existing Section 235A as Section 235B; by redesignating existing Subsections 235A.1 to 235A.6 (inclusive) as 235B.1 to 235B.6 (inclusive); by adding new Section 235A; by adding new Section 238A; by redesignating existing Section 238A as Section 238B; by redesignating existing subsections 238A.1 to 238A.5 (inclusive) as 238B.1 to 238B.5 (inclusive); by deleting Section 253 and enacting in lieu thereof, new Section 253; by repealing and re-enacting with amendments Subparagraph 405.2.A.4 and Paragraph d of Subsection 409.2; by adding new Section 430; by adding new Subsection 502.4 and by adding new Section 504; all being provisions of said Baltimore County Zoning Regulations, 1955, as amended.

WHEREAS, the amendments to the zoning regulations which are contained in this Bill, having been formulated in accordance with the procedure specified in sections 22-20 and 22-21 of the Baltimore County Code, 1968, the said several public hearings required by said sections having been held after the required public notice; now, therefore

SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland, That subsection 100.1.A.2 be and it is hereby repealed and re-enacted with amendments as follows:

2. Zones are as follows:

R.D.P. Zones	Rural: Deferred-Planning
R.S.C. Zones	Rural-Suburban: Conservation
D.R. 1 Zones	Density Residential, 1.0 Dwelling Units Per Acre
D.R. 2 Zones	Density Residential, 2.0 " " " "
D.R. 3.5 Zones	Density Residential, 3.5 " " " "
D.R. 5.5 Zones	Density Residential, 5.5 " " " "
D.R. 10.5 Zones	Density Residential, 10.5 " " " "
D.R. 16 Zones	Density Residential, 16.0 Density " " "
R.A.E. 1 Zones	Residential, 40.0 " " " "
R.A.E. 2 Zones	Residential, 80.0 " " " "
B.L. Zones	Business, Local
B.M. Zones	Business, Major
B. R. Zones	Business, Roadside
M.R. Zones	Manufacturing, Restricted
M.L.R. Zones	Manufacturing, Light Restricted
M.L. Zones	Manufacturing, Light
M.H. Zones	Manufacturing, Heavy

SECTION 2. And be it further enacted, That Article 1 be and it is hereby amended by adding sub-section 100.3A, said new sub-section to read as follows:

100.3A-The residential zones and zoning classifications as previously changed in Subsection 100.3 are further changed; the R.40, R.20, R.10, R.6, R.G., and R.A. zones and zoning classifications established before the effective date of this subsection by the official zoning maps and amendments thereto and by Subsection 100.1 as previously enacted are also changed;

and all of them are redesignated on the effective date of this subsection as set forth below. Any requirement, stipulation, or designation with respect to said classifications in any law, ordinance, regulation, private agreement, or official zoning map shall be applied to or construed as the corresponding D.R. zoning classification, as follows, to the full extent of consistent applicability:

Zones heretofore classified as R.40 are now classified as D.R. 1;
" " " " R.20 " " " " D.R. 2;
" " " " R.10 " " " " D.R. 3.5;
" " " " R. 6 " " " " D.R. 5.5;
" " " " R.G. " " " " D.R.10.5;
" " " " R.A. " " " " D.R.16.

SECTION 3. And be it further enacted, That Section 101 be and it is hereby amended by deleting the following terms and definitions thereof:

"Acreage, Gross Residential
Density, Gross Residential
Density, Net
Dwelling, Duplex
Dwelling, Group House
Dwelling, One-Family
Dwelling, Semi-Detached
Dwelling, Two-Family
Hospital, Class A
Hospital, Class B
Street
Subdivision, Cluster"

and by adding thereto in alphabetical order the following terms and definitions:

Accessory use or structure: A use or structure which-(a) is customarily incident and subordinate to and serves a principal use or structure; (b) is

subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use.

Apartment building: A dwelling containing three or more apartments.

Apartment, group-house: A dwelling unit which differs from a group house only in that it is situated on the same lot as the other dwelling units in the row.

Bedroom: The term "bedroom" includes a bedroom, any other room used principally for sleeping purposes, an "all-purpose room," a study, or a den, provided that no room having less than 100 square feet of floor area shall be considered a bedroom.

Community: A coherent urban area generally comprising three to five neighborhoods and a central concentration of public facilities and commercial uses necessary or appropriate to serve the population of the area as a whole, usually including a middle, junior-high or high school (or school-recreation center) and a variety store.

Density unit: An expression of extent or density of dwelling use as related to number of rooms in, or type of, dwelling unit, so that:

Each	efficiency apartment	is equivalent to	0.50 density unit;
"	1-bedroom dwelling unit	" " "	0.75 " " ;
"	2-bedroom. " "	" " "	1.00 " ";
"	dwelling unit with 3 or more bedrooms	" " "	1.50 " units.

Group house: Any one of a group of not less than three and not more than six attached dwelling units which have been constructed together in a lateral row surrounded by yard space, each dwelling unit separated from another by a party wall and situated on a separate lot.

Lot of record: A parcel of land with boundaries as recorded in the Land Records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof.

Neighborhood: A coherent urban area generally comprising the dwellings for a residential population of approximately 1,000 to 3,000 families and a more-or-less central concentration of the public facilities and business uses serving their everyday or frequent needs, usually including an elementary school (or school-recreation center) and a supermarket or grocery store.

Principal use: A main use of land, as distinguished from an accessory use.

Sewerage system, public: A sewerage system which is operated by the County or a public agency of metropolitan or regional jurisdiction, and which is owned by or meets design and performance standards whereby it is eligible for ownership by the County or such agency, whether or not it is part of or connected with the physical facilities of the metropolitan or regional sewerage system.

Street: A motorway which is not a freeway or expressway, but which has a right of way more than 20 feet in width.

Town: A coherent urban area generally comprising: three to five communities (up to approximately 25 neighborhoods, 100,000-150,000 persons); a central concentration of public facilities, institutions, and commercial uses necessary or appropriate to serve the population of the area as a whole, including a high school and one or more major department stores; and industrial or similar major-employment uses.

Water-supply system, public: A water-supply system which is operated by the County or a public agency of metropolitan or regional jurisdiction, and which is owned by or meets design and performance standards whereby it is eligible for ownership by the County or such agency, whether or not it is part of or connected with the physical facilities of the metropolitan or regional water-supply system.

SECTION 4. And be it further enacted, That Sub-section 103.1 is hereby amended by adding the following:

Provided further, however, that the use and development of land in M. L. zones shall not be affected by the foregoing provision, but development is permitted in accordance with any preliminary development plan approved by the Office of Planning and Zoning before the effective date of this further proviso, even though such development may be counter to then-current regulations for M. L. zones, if, on the fifth anniversay of such effective date, construction either is completed or is substantially commenced and diligently being pursued to completion; otherwise, the regulations generally in effect at the time such use or development is to be established shall control.

SECTION 5. And be it further enacted, That new Articles 1A and 1B be and they are hereby added immediately after Article 1, said new Articles to read as follows:

ARTICLE 1A-RURAL AND RURAL-SUBURBAN LOW-INTENSITY ZONES

Section 1A00-R. D. P. Zones (Rural: Deferred-Planning).

1A00.1-General Provisions.

~~A. Legislative Statement of Findings and Policy.~~

~~1. Declaration of Findings. It is found:~~

~~a. That new development in Baltimore County has occurred to an appreciable degree in the form of urban sprawl;~~

~~b. That there are disadvantages experienced by the residents of prematurely developed outlying areas which are~~

part of the urban-sprawl pattern, namely inefficiencies,
diseconomies, and inconveniences resulting from the
nonscheduled and thus necessarily lagging construction or
installation of various public facilities, from the inadequacy
or lack of choice in retail shopping or service establish-
ments, from a relatively time-consuming journey to work,
and from a prospectively lasting absence or insufficiency
in choice of transportation mode;

c. That, characteristically, commercial as well as
industrial and other major employment activities in such
areas are similarly hampered by the same and related
inefficiencies, diseconomies, and inconveniences;

d. That urban sprawl leads to increasingly excessive
capital outlays for public facilities;

e. That the processes of urban sprawl have typically
been such as to induce qualities of environmental inco-
herence and unsightliness;

f. That conversely, a pattern of urban containment
obviates the deleterious effects of urban sprawl; and
that, notably in the case of a high rate of development
activity, total capital outlays for public facilities
within the context of urban containment can be sub-
stantially lower than the aforementioned excessive
outlays required to support urban sprawl, for an
equivalent or greater level of service, in that user
proximity, system compactness, and other advantages
of containment provide for substantially more efficient
and economical installation;

g. That sound policies to prevent urban sprawl would not inhibit desirable urban growth, but, to the contrary, would result in continuing accommodation of undiminished urban growth within relatively compact, rationally expanding areas of urban development;

h. That, for the foreseeable future, it is in the public interest to reserve suitable rural lands for agricultural purposes and for certain other needed low-intensity uses appropriately located in rural areas;

i. That detailed public planning for future urban development in certain outlying rural areas is not desirable in view of (1) prevailing uncertainties as to long-range demographic trends, (2) the necessarily indefinite or uncertain nature of economic projections as they may affect the selection of alternative development patterns applied to outlying, presently rural areas, (3) the similarly indefinite or uncertain nature of various other data and projections that would be necessary to the preparation of such plans, (4) patterns of land ownership and typical sizes of individual or conglomerate land holdings, particularly as these matters relate to a possible trend or inducement toward a greater employment of unit development systems where desirable, (5) an anticipation that numerous relevant planning studies being undertaken, at the time of the enactment of this Section 1A00, by Baltimore County, by agencies of the governmental jurisdictions at other levels, and by private agencies, as well as certain relevant studies expected to be commenced in a period of several years hereafter, will

produce findings essential to such planning;

(6) the fact that the present urban area and certain limited, adjacent areas suitable for the orderly accommodation of urban growth (including the provision of open spaces of various sizes and functions) together contain land which is vacant or sparsely developed but which has been determined to be suitable and sufficient in extent to accommodate urban development and any probable increment of population growth for a period of more than a decade hereafter;

j. That, in view of the foregoing, further urban sprawl would be inimical to the public interest and, conversely, an affirmative policy to foster a pattern of urban containment is essential to the general welfare of the County;

k. That typical agricultural usage, or other use or development of land at very low intensity, clearly provides for a potential feasibility of development at urban intensity, where desirable, in future stages of the County's growth, while urban development would not be feasible after preemption of rural land for development at typical suburban intensities; and

l. That the promulgation of zoning regulations to prohibit the subdivision of land in outlying rural areas into small tracts is an accepted, valid, appropriate, and otherwise reasonable action to inhibit urban sprawl and to minimize

~~the prospective health hazards brought about by development of moderately sized lots not serviced by public water supply or sewerage systems.~~

~~2.~~ 1. Purpose. The R. D. P. zoning classification is established, pursuant to the legislative findings set forth above, in order to:

a. Prevent untimely urban development of relatively open rural land; and

b. Foster conditions favorable to agriculture and other low-intensity uses appropriate in rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land.

~~3.~~ 2. Intent as to application of R. D. P. zoning classification to property or removal therefrom. It is intended:

a. That rural land shall be classified within R. D. P. zones unless the Capital Budget and Five-Year Capital Program of Baltimore County and duly adopted official Baltimore County master plans, including the "county plan" required under Article 43, Section 387C of the Annotated Code of Maryland, 1957 (1965 Replacement Volume), as amended, all consistently indicate that such land is to be serviced by public sewerage and water-supply systems and, in the case of those said

documents which determine the timing of construction, also consistently provide for the adequacy and availability of service to said land by such systems within a period of six years after the time of consideration with respect to zoning classification; provided further, however, that such nonserviced land as is specifically herein described (in this Subparagraph 3 or other provisions in these regulations) as being appropriately otherwise classified shall also be excepted from the category of land which shall be classified as R.D.P.;

b. That land classified as R.D.P. shall not be reclassified (rezoned) until such time as the documents hereinabove noted have been officially changed or replaced in kind and thereby then indicate possible appropriateness of reclassification under the criteria hereinbefore stated;

c. That reclassification of land as R.D.P. shall not represent a commitment by Baltimore County with respect to type of future development, but only that more particular planning for the use of such land shall be executed in the future; and

d. That certain distinct existing areas of compact development, such as certain approved subdivisions or the immediate environs of typical rural business centers, are not normally to be classified as R.D.P.

-4- 3. Special Policy for Certain Developments. In view of possible overriding public benefits to be derived from

certain large-scale unit developments, the establishment of such developments is hereby excepted from application of the policy hereinbefore stated to the extent indicated under Section 430 ("Unit Developments").

B. Locational Requirement. No. R. D. P. zone shall be established or re-established within the urban-rural demarcation line, but said line may be re-established to include an R. D. P. zone or part thereof existing at the time said line is re-established.

1A00.2-Use Regulations.

A. Uses Permitted as of Right. The following uses, only, are permitted as of right in R. D. P. zones:

1. Farms, or, on existing undersized lots, limited-acreage wholesale flower farms.

2. One-family detached dwellings.

3. Churches or other buildings for religious worship.

4. Trailers (see Section 415).

5. Research institutes, as defined in Section 101 and as permitted and regulated in D. R. 1 zones (see Section 418).

6. Hospitals.

7. Telephone, telegraph, electrical-power or other electrical lines, all underground with the exception of such lines as are permitted above ground in D. R. zones.

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

9. Railroads or other transportation lines.

10. Animal boarding places (regardless of class), kennels, veterinarians' offices or veterinariums, subject to the provisions of Section 421.

11. Excavations, uncontrolled.

12. Schools, except business or trade schools or such schools as are permitted as special exceptions (Paragraph B, below), but including schools for agricultural training.

13. Accessory uses or buildings (not subject to the provisions of Section 400), including, but not limited to:

a. An office or studio of a doctor, dentist, lawyer, architect, engineer, artist, musician, or other professional person, provided that such office or studio is established within the same building as that serving as his bona fide residence; does not occupy more than 25 per cent of the total floor area of such residence as existing on the effective date of this provision; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees; provided, further, that signs relative to such use shall be prohibited except as noted in Section 413.

b. Home occupations as defined in Section 101, also subject to the sign provisions of Section 413.

c. Parking space, including residential-garage space.

B. Uses Permitted by Special Exception. The following uses, only, are permitted as special exceptions:

1. Airports.

2. Antique shops (see Section 402B).

3. Boat yards.

4. Cemeteries.

5. Commercial beaches

6. Community buildings, swimming pools, or other structural or land uses devoted to civic, social, recreational, or educational activities.

7. Conservatories for music or other arts.

8. Dwellings or other buildings converted to tea rooms or restaurants, as provided in Subsection 402.3, or tea rooms or restaurants expressly constructed for such purpose, but otherwise subject to the same such restrictions.

9. Excavations, controlled (see Section 403), provided renovation or appropriate adaptation of the land is assured within a reasonable time, as determined by the Zoning Commissioner.

10. Golf courses, country clubs, or other outdoor recreation clubs; also quasi-public camps, including day camps.

11. Golf driving ranges, miniature-golf ranges, or baseball-batting ranges.

12. Helistops.

13. Marinas.

14. Public-utility uses not permitted as of right.

15. Residential art salons (see Section 402C).

16. Riding stables (commercial or noncommercial).

17. Sanitary landfills (see Section 412).

18. Shooting ranges.

19. Volunteer-fire-company facilities.

20. Wireless transmitting and receiving structures, except that a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission shall be considered an accessory structure or, if attached to another structure, an accessory use, and, as such, is permitted without a special exception, provided: (a) that if it is an accessory structure, it shall be subject to the provisions of Section 400; (b) that

if it is a rigid-structure antenna, it shall be no higher than 100 feet or the horizontal distance to the nearest property line, whichever is less, above grade level, and no supporting structure thereof shall be closer than 50 feet to any property line; and, further, (c) that it does not extend closer to the street on which the lot fronts than the front building line

21. Large-scale unit developments, as provided in Section 430

1A00.3-Height and Area Regulations.

A. Height. No structure in an R.D.P. zone shall exceed a height of 35 feet, except as otherwise specifically provided in these Zoning Regulations (see Section 300).

B. Area Regulations.

1. Lot Area. No lot less than ~~10~~ 1 acres in net area shall be hereafter created in an R.D.P. zone, ~~except as provided in Subparagraph 3, below~~, SUBJECT TO ATTAINING PERCOLATIC TESTS SATISFACTORY TO THE BALTIMORE COUNTY DEPARTMENT OF HEALTH AND CONFORMING TO THE APPLICABLE HEALTH REQUIREMENTS.

2. Minimum Linear Dimension. Except as otherwise provided in Subparagraph 3, below, the minimum linear dimension of any lot hereafter created in an R.D.P. zone shall be ~~300~~ 150 feet. For the purposes of these regulations, the minimum linear dimension of any lot shall be the diameter of the largest circle in a horizontal plane which may be inscribed within the lot boundaries.

~~3. Exception for Lots of Record. A lot of record on the effective date of this section as enacted in its entirety may be subdivided so as to create additional lots of smaller area or dimension than permitted under Subparagraphs 1 and 2, but only in accordance with the provisions below (and subject to applicable provisions of the Subdivision Regulations and~~

subject also to attaining percolation tests satisfactory

to the Baltimore County Department of Health)

a. No lot so created shall be smaller than 3

acres in area.

b. The maximum number of lots created shall be

as follows:

Area of Existing Lot of Record	Maximum Total Number of Lots Created Therefrom
Less than 10 acres, but not less than 6 acres	2
Less than 25 acres, but not less than 10 acres	3
Less than 50 acres, but not less than 25 acres	4
50 acres or more	5

c. Of the total number of lots created from the

original lot of record, only one may be situated so that

all or part thereof is within 300 feet of any street which

exists at the time the subdivision is established, unless

the lot lines of the existing lot are so situated that

compliance with this requirement would preclude

creation of the maximum number of lots permitted under

sub-subparagraph b. In the latter case, more than one

lot or portion thereof may lie within such distance, subject

to approval by the Planning Board.

d. The lot may be so subdivided only by its present

owner, as recorded among the Land Records of Baltimore

County on the effective date of this section, or by his

heirs in successive ownership of the lot.

~~4.~~ 3. The minimum distance between any building in an R. D. P. zone and any lot line other than a street line shall be 50 feet; the minimum distance between the building and the center line of any street shall be 75 feet.

Section 1A01-R.S.C. Zones (Rural-Suburban: Conservation).

1A01.1-Legislative Statement of Findings and Policy.

~~A. Declaration of Findings. It is found:~~

~~1. That certain rural areas of Baltimore County cannot economically be provided with municipal sewerage because of topography, because of the intervention of large public reservations or other large areas which require no sewer service and thus can provide no means of contribution to amortization of capital costs or because of the adjacency of existing low-density residential development for which the provision of water or sewer service would not be economically feasible;~~

~~2. That in subdivisions containing significant numbers of houses, private septic systems, including those on lots with average areas of more than one or two acres, have developed a high incidence of failure, thereby creating health hazards and public inconvenience;~~

~~3. That it has not been demonstrated through engineering technology or otherwise that residential subdivisions with lots averaging less than three acres in area are without a probability of ultimate septic system failure;~~

~~4. That it is therefore reasonable to declare that future residential subdivisions in suburban areas which will not be serviced by a public sewerage system must be designed so that lots are large in size, and it is adjudged that three acres is a reasonable minimum area for any lot in such a subdivision if the~~

~~probability of future health hazard and public inconvenience is to be made acceptably low;~~

~~5. That there is in Baltimore County a demand for houses on lots as large as three acres or more;~~

~~6. That it is in the public interest to allocate land for possible use by low-density institutions;~~

~~7. That it is desirable to provide within Baltimore County a permanent green ring, without development or with only sparse development, and residential development on three acre lots is deemed to be of sufficiently low intensity to constitute appropriate use within such a green ring.~~

~~B.~~ A. General Purpose. The R.S.C. zoning classification is established, ~~pursuant to the legislative findings set forth above;~~ in order to:

1. Provide for residential use without community health hazard within areas which will not be serviced by public sewerage and water-supply systems;

2. Provide for the appropriate zoning of land where low-density institutions may feasibly be established;

~~3. Maintain the integrity of regionally significant green areas; and~~

~~4. Provide for a reasonable and appropriate level of private development in areas where conservation of natural physiographic characteristics is of paramount importance.~~

~~C.~~ B. Application of R.S.C. Zoning Classification to Property or Removal Therefrom. It is intended:

1. That land which is planned to remain unserviced by public sewerage and water-supply systems shall be classified as R.S.C., with the exception of any distinct existing areas of compact development which are to remain unserviced by such facilities;

2. That the fact that land has been duly classified as R.S.C. by the County Council through its adoption of a comprehensive zoning map shall be prima facie evidence that there is no intent by the County to provide the public utility services that would make such land appropriate for classification within another category, and land which has been thus classified as R.S.C. may not be reclassified unless a) both public sewerage and public water-supply systems have been extended thereto prior to the time a petition for such a reclassification is considered, b) such land does not lie within the watershed area of a public water reservoir, and c) such land does not lie within an area designated as a regionally significant green space on a duly adopted official Baltimore County master plan.

1A01.2-Use Regulations.

A. Uses Permitted as of Right. The following uses, only, are permitted as of right in R.S.C. zones:

1. Farms, or; on existing undersized lots, limited-acreage wholesale flower farms

2. One-family detached dwellings

3. Churches or other buildings for religious worship

4. Research institutes, as defined in Section 101 and permitted in D.R. 1 zones (see Section 418)

5. Hospitals

6. Telephone, telegraph, electrical-power, or other electrical lines, all underground with the exception of such lines as are permitted above ground in D.R. zones

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

8. Railroads or other transportation lines

9. Schools, except business or trade schools or such schools as are permitted as special exceptions (Paragraph B, below), but including schools for agricultural training

10. Excavations, uncontrolled

11. Accessory uses or buildings (not subject to the provisions of Section 400), including, but not limited to:

a. An office or studio of a doctor, dentist, lawyer, architect, engineer, artist, musician, or other professional person, provided such office or studio: is established within the same building as that serving as the bona fide residence of such person; does not occupy more than 25 per cent of the total floor area of such residence; and does not involve the employment of more than one nonresident professional associate nor more than two other nonresident employees; provided, further, that signs relative to such use shall be prohibited except as noted in Section 413

b. Home occupations, as defined in Section 101, also subject to the sign provisions of Section 413

c. Parking space, including residential-garage space

B. Uses Permitted by Special Exception. The following uses, only, are permitted as special exceptions:

1. Airports

2. Antique shops (see Section 402B)

3. Cemeteries

4. Colleges (not including business or trade schools)

5. Community buildings, swimming pools, or other structural or land uses devoted to civic, social, recreational, or educational activities

6. Conservatories for music or other arts

7. Dwellings or other buildings converted to tea rooms or restaurants, as provided in Subsection 402.3, or tea rooms or restaurants expressly constructed for such purpose, but otherwise subject to the same such restrictions

8. Excavations, controlled (see Section 403)

9. Animal boarding places (regardless of class), kennels, veterinarians' offices or veterinariums, subject to the provisions of Section 421

10. Golf course, country clubs, or other outdoor recreation clubs; also quasi-public camps, including day camps

11. Helistops

12. Residential art salons (see Section 402C)

13. Riding stables (commercial or noncommercial)

14. Sanitary landfills (see Section 412)

15. Volunteer-fire-company facilities

16. Wireless transmitting and receiving structures, except that a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission shall be considered an accessory structure or an accessory use if attached to another structure, and, as such, is permitted without a special exception, provided: (a) that if it is an accessory structure, it shall be subject to the provisions of Section 400; (b) that if it is a rigid-structure antenna, it shall be no higher than 100 feet or the horizontal distance to the nearest property line, whichever is less, above grade level, and no supporting structure thereof shall be closer

than 50 feet to any property line; and, further, (c) that it does not extend closer to the street on which the lot fronts than the front building line

1A01.3-Height and Area Regulations.

A. Height. No structure in an R.S.C. zone shall exceed a height of 35 feet, except as otherwise specifically provided in these Zoning Regulations (see Section 300).

B. Area Regulations.

1. Lot Area. No lot less than ~~3~~ 1 ~~acre~~ in net area shall be hereafter created in an R.S.C. zone, ~~except as provided below~~ SUBJECT TO ATTAINING PERCOLATION TESTS SATISFACTORY TO THE BALTIMORE COUNTY DEPARTMENT OF HEALTH AND CONFORMING TO THE APPLICABLE HEALTH REQUIREMENTS.

2. The minimum linear dimension for any lot hereafter created in an R.S.C. zone shall be not less than ~~200~~ 150 feet. For the purposes of these regulations, the minimum linear dimension of any lot shall be the diameter of the largest circle within a horizontal plane which may be inscribed therein.

3. The minimum distance between any building in an R.S.C. zone and any lot line other than a street line shall be 50 feet; the minimum distance between the building and the center line of any street shall be 75 feet.

~~4. Subparagraph 1, above, notwithstanding, a lot in a cluster subdivision in an R.S.C. zone may be less than three acres, but not less than one acre, provided that the total of the net area of all lots plus the area of local open space in the subdivision divided by the number of lots therein is not less than three acreas.~~

ARTICLE 1B-DENSITY RESIDENTIAL (D. R.) ZONES

Section 1B00-Legislative Statement of Findings; Policy with Respect to D. R. Zones in General.

1B00.1-Declaration of Findings. It is found:

A. That residential zoning regulations heretofore in effect have not been conducive to the creation of housing diversity in Baltimore County subdivisions;

B. That minimum standards for individual lots, having been derived from maximum overall density standards, have resulted in an excessive spreading of residential development over subdivision tracts; such spreading of development has led to removal or undesirable transformation of natural vegetation and other features more properly left in their natural or previous states, and has led to visual monotony;

C. That zoning reclassifications based on lot sizes and types of housing have, in some situations, prevented the construction of the maximum numbers of housing units intended to be permitted on development tracts, especially in cases of severe topographical variation, or have induced "cramped" layout or other undesirable subdivision-design characteristics as accommodation of maximum density is achieved;

D. That evolving markets for types of housing units not permitted in lower-density zones have created pressures leading to frequent rezoning, ultimately resulting in vastly greater population levels than have been planned for, tending to nullify planning efforts and to overload and overcrowd public facilities;

E. That, as a result of such rezoning, residential zoning classifications at the various density levels have not been applied to a satisfactory degree in proper relation or with sufficient regard to: location or size of commercial or industrial areas or uses; utilities, motorways, schools, or other public facilities; timeliness of development; conservation

and allocation of land resources; and other factors which should be considered in planning for the development of the County on the basis of a comprehensive rationale;

F. That, in light of the above findings, it is in the interest of the general welfare that new zoning classifications, formulated so as to avoid such effects in future residential development, be established as hereinafter provided.

1B00.2-Purpose. The D.R. zoning classifications are established, pursuant to the legislative findings set forth above, in order to:

A. Foster a greater variety in housing types within future residential developments;

B. Allow more feasible preservation of natural features and induce the reservation of ample and more suitably designed open spaces and parks, in order to better satisfy the needs of residents without economic disadvantage to developers;

C. Allow greater flexibility in subdivision-development planning and provide for the inducement of more creative as well as more economic approaches to residential development, with the goal of desirable and distinctive identity and character of individual residential locales;

D. Provide the means to satisfy differing housing-market requirements without rezoning, and thus without disruptive changes in density potential; and

E. Provide for the application of residential zoning classifications in a manner more nearly in accord with comprehensive plans and comprehensive-planning goals.

Section 1B01 - Regulations with Respect to D.R. Zones in General.

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

A. Uses Permitted as of Right. The following uses, only, are permitted as of right in D.R. zones of all classifications, subject

to the restrictions hereinafter prescribed:

1. Dwellings, including, but not limited to, one-family detached houses, one-family semi-detached houses, one-family group houses, patio houses, side-and-back-attached houses, two-family houses, town-house apartment buildings (including group-house apartment buildings), garden apartment buildings, and other apartment buildings

2. Trailers (see Section 415)

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

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

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

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

7. Farms or limited-acreage wholesale flower farms (see Section 404)

8. Garages, community

9. Hospitals (see Section 407)

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

11. Research institutes, provided that no such use permitted hereunder (as of right) shall be established on any site less than 15 acres in net area, and that any such use shall be established in accordance with the provisions of Subsection 418.2

12. Schools, except business or trade schools or such schools as are permitted by special exception (see Paragraph C, below), but including schools for agricultural training

13. Signs, non-accessory, to the extent permitted under Section 413

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

a. Accessory radio or television receiving antennas

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

c. Automotive-service stations, but only within community garages (see Section 405)

d. Home occupations, as defined in Section 101

e. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or

other professional persons, provided that any such office or studio: is established within the same building as that serving as the professional person's bona fide residence; does not occupy more than 25 per cent of the total floor area of such residence; and does not involve the employment of more than one non-resident professional associate nor two other non-resident employees

f. Parking spaces, including accessory garage spaces

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

h. Accessory signs (see Section 413)

B. Dwelling-Type and Other Supplementary Use Restrictions Based on Existing Subdivisions and Development Characteristics.

1. Residential Transition Areas and Uses Permitted Therein.

a. Definitions. For the purposes of this article:

1. A residential transition area is any D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5, or D.R. 10.5 zone or part thereof which lies (a) within 300 feet of any point on a dwelling other than an apartment building, or (b) within 250 feet of any point lying within a vacant lot of record which is itself wholly or partially classified as D.R. and which is two acres or less in area.

2. A residential transition use is any one of the uses listed as such in the following table and hereby classified as set forth therein:

Collective Designation	Residential Transition Uses
Group I uses	One-family detached dwellings Local open space tracts or other common amenity open space Uses and buildings accessory to the uses listed above
Group II uses	One-family semi-detached dwellings Two-family detached dwellings Uses and buildings accessory to the uses listed above Group I uses
Group III uses	Group houses Group-house apartments Uses and buildings accessory to the uses listed above Group II uses
Group IV uses	Dwellings, as set forth in Item "1" of Paragraph A Local open space tracts or other common amenity open space Uses and buildings accessory to the uses listed above

b. Restrictions in Residential Transition Areas.

In any residential transition area situated as described in the following table, only residential transition uses shall be permitted, and only as indicated:

Zone of Residential Transition Area	Portion of Development Tract Lying Within Residential Transition Areas Situated as Described Herein	Type of Existing Adjacent Dwelling or Size of Adjacent Vacant Lot of Record	Zone Within Which Adjacent Dwelling or Lot is Situated	Residential Transition Uses Permitte
	Any portion	Existing one-family detached dwelling; or vacant lot of record 7,500 square feet or more in area, but not more than two acres in area	D.R. 1 D.R. 2 D.R. 3.5 D.R. 5.5	Group I uses
			D.R. 10.5 D.R. 16	Group II uses

Zone of Residential Transition Area	Portion of Development Tract Lying Within Residential Transition areas Situated as Described Herein	Type of Existing Adjacent Dwelling; or Size of Adjacent Vacant Lot of Record	Zone Within Which Adjacent Dwelling or Lot is Situated	Residential Transition Uses Permitted
D. R. 1 D. R. 2 D. R. 3.5 D. R. 5.5	Any portion	Existing one-family semi-detached dwelling or detached two-family dwelling; or vacant lot of record 3,800 square feet or more in area, but less than 7,500 square feet in area	Any D. R. Zone	Group 11 uses
	Any portion	Existing one-family group house; or vacant lot of record less than 3,800 square feet in area	Any D. R. Zone	Group 11 uses
	Less than 1/2	Existing one-family detached dwelling; or vacant lot of record 7,500 square feet or more in area, but not more than two acres in area	Any D. R. Zone	Group 11 uses
	1/2 or more			Group 11 uses
D R. 10.5	Any portion	Existing one-family semi-detached dwelling or detached two-family dwelling; or vacant lot of record 3,800 square feet or more in area, but less than 7,500 square feet in area	D. R. 1 D. R. 2 D. R. 3.5 D. R. 5.5	Group 11 uses
	Less than 1/2		D. R. 10.5	Group 11 uses
	1/2 or more		D. R. 16	Group 1V uses
	Less than 1/2	Existing one-family group house; or vacant lot of record less than 3,800 square feet in area	Any D. R. Zone	Group 11 uses
	1/2 or more			Group 1V uses

c. The provisions of Sub-subparagraphs a and b of this subparagraph shall not apply to existing developments as described in Subparagraph A.1 of Subsection 1B02.3, nor to subdivision tracts for which tentatively approved plans remain in effect as described in Subparagraph A.2 of said subsection.

d. The use and development of land which is classified as D.R. 16 shall not be subject to the provisions of Sub-subparagraphs a and b of this subparagraph if such land was classified as R.A. immediately prior to this article's taking effect (see Section 504).

2. Use Regulations in Existing Developments. In existing developments as described in Subparagraph A.1 of Subsection 1B02.3, uses shall be limited to those now lawfully established or to those indicated in the subdivision plans on file with the Office of Planning and Zoning, except as may otherwise be permitted under provisions adopted pursuant to the authority of Section 504.

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

C. Uses Permitted by Special Exception. The following uses, only, are permitted by special exception in all D.R. Zones:

1. Boarding or rooming houses
2. Boat yards, including marinas
3. Camps, public or quasi-public, including day camps
4. Conservatories for music or other arts
5. Convalescent homes
6. Community buildings, swimming pools, commercial
7. beaches, golf course, country clubs, or other, similar civic,
8. social, recreational, or educational uses
9. Excavations, controlled (see Section 403)
10. Funeral establishments
11. Helistops
12. Poultry killing, commercial, as an accessory use on
13. farms, only
14. Private colleges (not including business or trade schools),
15. nursery or dancing schools, dormitories, or fraternity or sorority
16. houses
17. Public-utility uses other than those permitted as of right,
18. but excluding steam power plants, service centers, and storage yards
19. Public-utility service centers
20. Public-utility storage yards
21. Radio studios
22. Television studios
23. Tourist homes
24. Veterinarians' offices
25. Volunteer-fire-company stations
26. Wireless transmitting and receiving structures, as
27. principal uses or structures, provided that any exterior trans-
28. mitting and receiving antenna greater than 50 feet above grade
29. level shall be considered as a principal use or structure

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

> Junk yards and open dumps as defined in Section 101. Any existing junk yards in this (R.40)or any other residential zone, and any existing open dumps in any zone shall be completely eliminated not later than two years after the date of effectuation of this amendment.

1B01.2-General Density, Bulk, Building-Separation, Open-Space, and other Height and Area Standards and Regulations.

A. Density Controls.

1. Application of Maximum Density Standards to Tract in One Zone. The maximum gross residential density permitted in any one D.R. zone shall control only as applied to the total gross residential acreage within a subdivision tract, and shall not apply to or establish minimum areas of lots created by subdivision within such tract.

2. Application to Tract Divided by Zone Boundary. Wherever a single tract is divided by a zone boundary so that portions of such tract lie within D.R. zones of different classification, the total number of dwelling or density units permitted, as determined by multiplying the gross acreage of each portion by the maximum density permitted under Subsection 1B02.2 in the zone within which that portion lies and totalling the results, shall be permitted without further regard to the zone boundary, and the units may be distributed over the tract as though it were in a single zone.

B. Bulk Regulations.

1. Detached and Attached Buildings. In the application of the provisions of this article, buildings shall be considered as detached if there are no above-grade structural connections between them. Where buildings are, in fact, structurally connected above grade, they shall be considered as mutually attached buildings if divided by lot lines, or as one building if situated on a single lot.

2. Maximum Width of Building Elevation. The maximum width of any elevation of a detached building or group of attached buildings shall be 300 feet, except that a greater width may be authorized under special-exception procedures as provided in Section 502, if such width is in accordance with standards adopted under the authority of Section 504.

3. Maximum Passageway Width. The minimum width of any exterior passageway between attached buildings or between portions of a single building shall be 10 feet.

C. Open-Space, Building-Separation, and Other Area Standards.

1. Distances Between Separate Buildings. Except as otherwise may be provided under standards adopted pursuant to Section 504, the minimum horizontal distance from any point on a building in a D. R. zone to the vertical projection of any point on another building not mutually attached shall be as set forth below:

Above-Grade Elevation of Higher Point	Minimum Horizontal Distance to Vertical Projection of Point on Building Not Mutually Attached
20 feet or less	16 feet
More than 20 feet but not more than 25 feet	25 "
" " 25 " " " " " 30 "	30 "
" " 30 " " " " " 40 "	40 "
" " 40 " " " " " 50 "	60 "

2. Distances Related to Windows.

a. Where any dwelling-unit window within a subdivision faces a property line which is not a street line prior to the time of development but, otherwise, which forms any part of the tract boundary, the window shall not be closer than 35 feet to the boundary.

b. Except as otherwise may be provided under standards adopted pursuant to the authority of Section 504, the minimum distance between the centers of facing widows of different dwelling units on the same subdivision tract shall be 40 feet.

3. Setbacks from Street Centerlines. The minimum distance between any building and the centerline of any street existing prior to the time of development shall be 50 feet or such greater distance as may be prescribed under standards adopted pursuant to the authority of Section 504.

4. Minimum Area Standards in Residential Transition Areas. Dwellings (no other principal buildings permitted) and accessory buildings in residential transition areas, if designated under Subparagraph 1B01.1 as Group 1, Group 11, or Group 111 uses, shall be situated on lots in accordance with the standards set forth in the table below and with the provisions of Section 400, respectively. No more than one principal building shall be situated on any lot in such a residential transition area.

Residential Transition Uses to Which Lot is Limited under Subparagraph B.1 of Subsection 1B01.1	Zone Within Which Adjacent Dwelling or Lot is Situated	Minimum Standards for Dwelling Permitted					
		Minimum Lot Area, in Square Feet	Minimum Lot Width in Feet	Minimum Distance from Building to Centerline of Any Street, in Feet	Minimum Rear Yard Depth in Feet	Minimum Width of Any Side Yard (Except as Otherwise Provided, as on a Corner Lot), in Feet	Minimum Sum of Widths of Side Yards for Any Detached Building
Group 1 uses	D.R. 1	25,000	125	75	50	20	50
" " "	D.R. 2	13,000	90	65	40	15	30
" " "	D.R. 3.5	7,500	70	55	30	10	25
" " "	D.R. 5.5	5,700	55	50	30	8	20
Group 11 or Group 111 uses	D.R. 1 D.R. 2 D.R. 3.5 D.R. 5.5 D.R. 10.5	7,600 Two-Family Detached Dwelling 5,700 One-Family Detached Dwelling 3,800 One-Family Semidetached Dwelling 1,970 Group House 1,970 Group-House Apartment Building per dwelling unit 70 Two-Family Detached Dwelling 55 One-Family Detached Dwelling 35 One-Family Semidetached Dwelling 20 Group House 28 Group-House Apartment Building per dwelling unit	50	30	One- or Two-Family Detached Dwelling One-Family Semidetached Dwelling Group House, or Group-House Apartment Building 8	15	20

Provided, however, that alternative standards of lot or side-yard width may be applied to non-rectangular lots if such standards have been adopted under the authority of Section 504.

5. Local Open Space. Local open space tracts in D.R. zones shall be designed, established, and maintained in accordance with the standards, guidelines, and procedures set forth in the Baltimore County Subdivision Regulations (specifically, Sections 22-51, 22-52, 22-53, 22-54, 22-57, and 22-58, and portions of 22-55 of the Baltimore County Code, 1968), as well as Chapters I, II, IV, V, VII, VIII, and IX of the Local Open Space Manual, June, 1965, as approved by the Planning Board and the Board of Recreation and Parks. Those provisions of said regulations and manual heretofore applicable within residence zoning classifications now rescinded shall be applied to corresponding D. R. zoning classifications to the full extent of consistency with these Zoning Regulations. Provided, however, that upon the effective date of revised subdivision regulations or after adoption of a revised Local Open Space Manual or other applicable policies as provided under Section 504, the location, design, establishment, and maintenance of local open space tracts shall become subject to the provisions thereof.

6. Under provisions adopted pursuant to the authority of Section 504, development in D. R. zones may be made subject to additional standards of lot area, yard space, open-space distribution, building distribution, or other aspects or characteristics of site planning or project design. Such standards shall be based upon specified existing, prospective,

or stipulated conditions or circumstances of development, and shall be designed to further the specific purposes of this article and the purposes of these Zoning Regulations in general.

1B01.3-Plans and Plats.

A. Development Plans.

1. Purpose. This paragraph is intended:

a. To provide for the disclosure of development plans to prospective residents and to protect those who have made decisions based on such plans from inappropriate changes therein; and

b. To provide for review of residential-development plans to determine whether they comply with these regulations and with standards and policies adopted pursuant to the authority of Section 504.

2. Partial Development Plan. For the purposes of this article, a "partial development plan" is a portion of a final development plan, and a partial or final development plan is "applicable" to a given lot if it covers all property in the subdivision within 300 feet of the given lot, in addition to the lot itself.

3. Subdivision Lot Sales, Development, and Use Subject to Partial Development Plan. No interest in any lot which is in a D.R. zone and is hereafter created by subdivision of a record lot of the effective date of this article or created by consolidation of such lots may be sold unless a final or partial development plan applicable to the lot has been approved as required under Subparagraph 5, below; further, no use may be established and no construction may take place on any lot so created except in accordance with such a plan.

4. Notice in Conveyance. Any party who sells an interest in real property within an area covered by an approved partial or final development plan shall attach to the instrument of sale a notice directing the buyer's attention to the plan (including any amendment) and listing the location of the various certified copies which may be publicly inspected (see Subparagraph 6) together with a listing of the recorded plats covering all portions of the subdivision as a whole. The notice shall also generally apprise the buyer of the rights, requirements, and remedies provided under the development plan, those provided under this article and these zoning regulations in general, and those set forth in provisions adopted pursuant to the authority of Section 504, and, to this end, the notice shall be on a form issued by the County and approved by the Office of Law, the Zoning Commissioners, and the Planning Board as being clear and sufficient for the purpose.

5. Forms and Content of Plans.

a. Forms. Each partial development plan must be filed both as a separable document or set of documents and as part of a final development plan which includes all partial development plans as approved for other portions of the subdivision. Upon approval, each final development plan thus filed supersedes previous final development plans of the subdivision.

b. Content. Each partial and final development plan must show: the locations, types, and exterior dimensions of all proposed structures and all existing structures to be retained; generalized floor plans to scale; layout of parking facilities; streets and drives giving access to and lying within the tract; existing

topography and major vegetation; proposed grading, landscaping, and screening; common amenity open space (including local open space); all additional information that may be required under procedures adopted pursuant to the authority of Section 504; and all additional information which is necessary, as determined by the Zoning Commissioner and the Director of Planning, to ascertain whether the project will comply with the zoning and subdivision requirements of Baltimore County.

6. Initial Review and Approval Procedure. Procedural steps and requirements in the submission and review of various preliminary versions of partial and final development plans shall be as established under provisions adopted pursuant to the authority of Section 504 or, in the absence of such provisions, as established by the Office of Planning and Zoning. In formulating such steps and requirements, the Planning Board or the Office of Planning and Zoning shall effect maximum coordination between and integration with similar and related steps and requirements in the submission and review of plans pursuant to the subdivision regulations. If the partial and final development plans for a subdivision are approved by the Zoning Commissioner as complying with the Zoning Regulations, approved by the Director of Planning as being consistent with the subdivision regulations and any subdivision plans filed pursuant thereto, and approved in such other manner as may be prescribed under provisions adopted pursuant to the authority of Section 504, copies of the plans, certified by the Zoning Commissioner and the Director of Planning as having

been so approved, shall be filed with such County or State agencies as they may direct and as may otherwise be required, and shall be retained in the files of the Office of Planning and Zoning, including the files of the Zoning Commissioner.

7. Amendment of Approved Development Plans. After partial or final development plans have been approved as provided under Subparagraph 6, preceding, they may be amended only as provided below.

a. Amendment Prior to Sale of Interest in Nearby Property. The development plans may be amended by simple resubmission, or by the submission of appropriate documents of revision, subject to the same requirements as are applied to original plans, if there is no change with respect to any lot, structure, or use within 300 feet of a lot or structure which has been sold since the original plans were filed.

b. Amendment After Sale of Interest in Nearby Property or Upon Demand for Hearing. In the case of an amendment not allowed under Sub-subparagraph a, by reason of sale of property within the area, or in case of a demand for hearing by an eligible individual or group, the plans may be amended through special-exception procedures, in the manner provided under Section 502 and subject to the following provisions:

i. The amendment must first be approved by the Planning Board as being in accord with provisions adopted under the authority of Section 504.

ii. The amendment must be in accord with the specific standards and requirements of this article, as determined by the Office of Planning and Zoning.

iii. Only an owner of a lot abutting or lying directly across a street or other right of way from the property in question, an owner of a structure on such a lot, or a homes association (as may be defined under the Subdivision Regulations or under provisions adopted pursuant to the authority of Section 504) having members who own or reside on property lying wholly or partially within 300 feet of the lot in question are eligible to file a demand for hearing.

iv. It must be determined in the course of the hearing procedure that the amendment would be consistent with the spirit and intent of the original plan and of this article.

c. Amendment Upon Request by Owner of Lot Within Subdivision. The Zoning Commissioner may, without a public hearing but with the concurrence of the Director of Planning, amend the plans with respect to a structure on an individual lot created under the plans and used according to the purpose stated therein, or with respect to such lot, at the request of the lot owner, under the following requirements and conditions:

i. Reasonable notification, by a standard method established pursuant to the authority of Section 504 and approved by the County Solicitor, must be given to the occupants and owners of all real property which is fully or partially situated within 300 feet of the lot in question.

ii. It must be determined that a formal demand for hearing by an eligible individual or group, as described in Sub-subparagraph b, has not been filed.

iii. It must be determined that standards adopted under the authority of Section 504, in addition to the specific requirements under these regulations, will not be violated by the amendment.

iv. The Zoning Commissioner and the Director of Planning must certify that the amendment is in keeping with the spirit and intent of this article and other Baltimore County land-use and development requirements administered by them, and both must certify that the amendment does not violate the spirit and intent of the original plan.

d. Any amended development plan and any document of amendment of such a plan must be filed with all agencies or officials with whom copies of the original plan have been filed pursuant to Subparagraph c above, and no amendment takes effect otherwise.

B. Final Subdivision Plat.

1. Purpose. Pursuant to the regulations for D.R. zones, a portion of a tract of land may be subdivided for development at a higher residential density than the maximum average density permitted, lessening the permitted density of development on the remainder of the tract; or a portion of the tract may be subdivided for development at less than the maximum average density, thus increasing the density at which the remainder

of the tract may be developed. (See Paragraph 1B01.2.A.) It is the purpose of this paragraph to assure that these factors will be identified in the sale of any portion of a development tract in a D.R. zone, and, in particular, to prevent the unknowing purchase of a tract which, as a result of such prior subdivision, may not itself be developed at the average gross density specified in the regulations.

2. Effect. No subdivision of a tract or a portion of a tract may be created after the effective date of this article, except as otherwise provided under subparagraph 1B02.3A2 unless the final subdivision plat therefor contains a summary showing the total number of dwelling or density units allowed for the entire tract under the applicable D.R. zones (s). The summary shall indicate, as appropriate, the number of dwelling or density units utilized by previous final subdivision plats for portions of the same tract, the number of dwelling or density units contained in the current subdivision plat, and the balance of dwelling or density units allowed for the remainder of the tract under the applicable D.R. zones (s). It is the intent of these Zoning Regulations to prohibit subdivision or resubdivision of portions of a tract in a D.R. zone in a manner so as to exceed the total number of dwelling or density units allowed under the applicable D.R. zones (s) for the entire tract.

Section 1B02-Use, Parking, Bulk, Density, and Open-Space Regulations, Standards, and Controls Applied According to Zoning Classification.

1B02.1-Uses Permitted As of Right or by Special Exception According to Zoning Classification. The following uses are permitted in D.R. zones either as of right or by special exception, in accordance with the schedule below, wherein the abbreviations and symbols shall be interpreted as follows:

S.E. : Use permitted by special exception only;

\+ : Use permitted as of right;

(X) : (Use prohibited).

	D.R. 1	D.R. 2	D.R.3.5	D.R.5.5	D.R. 10.5	D.R.
Airports	S.E.	(x)	(x)	(x)	(x)	(x)
Animal boarding places, Class A (see Section 421)	+	S.E.	S.E.	S.E.	(x)	(x)
Animal boarding places, Class B (see Section 421)	S.E.	S.E.	S.E.	(x)	(x)	(x)
Antique shops (see Section 402B)	S.E.	S.E.	(x)	(x)	(x)	(x)
Cemeteries	S.E.	S.E.	S.E.	S.E.	(x)	(x)
Conversion of dwellings to tea rooms or restaurants (see Section 402)	S.E.	S.E.	(x)	(x)	(x)	(x)
Golf driving ranges, miniature-golf courses, or baseball-batting ranges	S.E.	S.E	(x)	(x)	(x)	(x)
Kennels	+	S.E.	S.E.	S.E.	(x)	(x)
Laboratories (see Section 418)	S.E.	S E.	S.E.	(x)	(x)	(x)
Offices or office buildings	(x)	(x)	(x)	(x)	(x)	S.E.
Race tracks, commercial	S.E.	S E.	(x)	(x)	(x)	(x)
Research institutes on sites individually 15 acres or less in area (see Section 418)	S.E.	S.E.	S.E.	(x)	(x)	(x)
Residential art salons (see Section 402C)	S.E.	S.E.	(x)	(x)	(x)	(x)
Riding stables, commercial	S.E.	S.E.	(x)	(x)	(x)	(x)
Sanitary landfills	S.E.	S.E.	(x)	(x)	(x)	(x)
Shooting ranges	S.E.	S.E.	(x)	(x)	(x)	(x)
Trailers & trailer parks	See	Subsection	415.6			

1B02.2-Regulations, Standards, and Controls for Density, Bulk, Open Space, and Parking.

A. Dwellings. The maximum gross residential densities and height of dwellings, the minimum per cent of gross site area which must be in local open space tracts, and the minimum number of offstreet parking spaces required with respect to residential development in D. R. zones shall be as prescribed in the table below; provided, however, that higher or additional standards for the provision of other amenity open space, standards and methods for the inclusion and equitable apportionment of public amenity open space within the calculations of gross areas of tracts abutting the open space, and standards providing for greater heights of buildings in appropriate circumstances, all as more particularly set forth in Section 504, shall control when adopted pursuant to the authority of said section.

Zoning Classification	Maximum Gross Residential Density, in Dwelling or Density Units per Acre	Maximum Height of Buildings, in Feet	Minimum Per Cent of Gross Site Area as Local Open Space Tracts*	Minimum Number of Offstreet Parking Spaces per Dwelling or Density Unit, Except for Housing for the Elderly	Minimum Number of Offstreet Parking Spaces per Dwelling or Density Unit for Housing for the Elderly
D.R. 1	1.0 dwelling units/acre	50	0	2.0 per dwelling unit	1.5 per dwelling unit
D.R. 2	2.0 " " "	50	0	2.0 " " "	1.5 " " "
D.R. 3.5	3.5 " " "	50	3	2.0 " " "	1.5 " " "
D.R. 5.5	5.5 " " "	50	6	1.75 " " "	1.3 " " "
D.R. 10.5	10.5 " " "	60	12	1.75 " " "	1.3 " " "
D.R. 16	16.0 density " "	60	15	1.53 " density " but not less than 1.0 per dwelling unit	1.15 " density "

*Land within 35 feet of a window or other opening in a residential structure in a D. R. zone is not considered local open space.

B. Other Principal Uses. Density, bulk, open space, and parking regulations, standards, or controls for principal uses other than dwellings within zones of different classification shall be governed by provisions adopted pursuant to the authority of Section 504.

C. In a D.R. 16 zone, no building shall be constructed within 75 feet of land which is in any zone classified as D. R. 1, D. R. 2, D. R. 3.5, D. R. 5.5, or D. R. 10.5 and which is not within the same development tract.

1B02.3-Special Regulations for Certain Existing Developments or Subdivisions and for Small Lots or Tracts in D.R. Zones.

A. In D. R. zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy, and development of, the alteration or expansion of structures upon, and administrative procedures with respect to:

1. Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Baltimore County Planning Commission and which has been used, occupied, or improved in accordance with the approved subdivision plan;

2. Any land in a subdivision tract which was laid out in accordance with the regulations of residence zoning classifications now rescinded, for which a subdivision plan tentatively approved by the Planning Board remains in effect, and which has not been used, occupied, or improved in accordance with such plan;

3. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in Subparagraph 1 or 2 and which is too small in gross area to accommodate six dwelling or density units in accordance with the maximum permitted density in the D.R. zone in which such tract is located; or

4. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in Subparagraph 1 or 2 and which is less than one-half acre in area, regardless of the number of dwelling or density units that would be permitted at the maximum permitted density in the zone in which it is located.

5. Any lot, or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission.

B. Standards Applicable to Existing Developments Etc.

The minimum standards for net lot area, lot width, front-yard depth, single-side-yard width, sum of widths of both side yards, rear-yard depth, and height with respect to each use in a development described in Subparagraph A.1, above, shall be as prescribed by the zoning regulations applicable to such use at the time the plan was approved by the Planning Board or Commission; however, the same or similar standards may be codified and comparable bulk (height or area) standards for different permitted uses may be established and codified under Section 504, and these standards shall thereupon control in such existing developments. Development of any subdivision described in Subparagraph A.2 shall be in accordance with the tentatively approved subdivision plan therefor. Standards for development of lots or tracts described in Subparagraphs A.3, A.4 or A.5 shall be as set forth in Paragraph C, below.

C. Development Standards for Small Lots or Tracts.

1. Any dwelling hereafter constructed on a lot or tract described in Subparagraph A.3 or A.4 shall comply with the requirements of the following table:

Zoning Classification	Minimum Net Lot Area per Dwelling Unit	Minimum Lot Widths, in Feet	Minimum Front-Yard Depth, in Feet	Minimum Width of Individual Side Yard, in Feet	Minimum Sum of Side-Yard Widths, in Feet	Minimum Rear-Yard Depth, in Feet
D.R.1	40,000 square feet	150	50	20	50	50
D.R.2	20,000 square feet	100	40	15	40	40
D.R.3.5	10,000 square feet	70	30	10	25	30
D.R.5.5	6,000 square feet	55	25	10	—	30
D.R.10.5	3,000 square feet	20	10	10	—	50
D.R.16	2,500 square feet	20	10	25	—	30

2. Other standards for development of small lots or tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504.

D. An amendment to any part of a development plan involving only property subject to the provisions of this subsection shall not be subject to the provisions of Paragraph D of Subsection 1B01.3.

Section 6. And be it further enacted, That the title to Article 2 "ZONES: USE, HEIGHT, AND AREA REGULATIONS" and the subtitle, "R.40 Zone-Residence, One-Family" thereunder be and it is hereby repealed and re-enacted with amendments, as follows:

ARTICLE 2.-ELEVATOR-APARTMENT RESIDENCE ZONES, BUSINESS AND MANUFACTURING ZONES, AND DISTRICTS

Section 7. And be it further enacted, That Article 2 is hereby amended by deleting all of Sections 200-217 (inclusive) and any and all interjacent undesignated provisions and titles, and by adding the following new sections in lieu thereof:

Section 200-R.A.E. 1 Zones-Residence, Apartment, Elevator.

200.1-General Provisions.

A. Statement of Legislative Policy. R.A.E. 1 zones provide for development of elevator-apartment buildings at moderate density. These zones may be situated only near adequate community or town-center commercial facilities, particularly within convenient walking distance thereof. It is not intended that any R.A.E. 1 zones shall be established in such proximity or relation to an interchange that undue congestion would occur as a result of development within the zone.

The regulations are intended to encourage the best possible building designs and site planning.

B. Locational Requirement. Any R.A.E. 1 zone must be entirely located within 1000 feet of a C.C.C. district or within a town center as defined in Section 101.

200.2-Use Regulations in R.A.E. 1 Zones.

A. Uses Permitted. The following uses, only, are permitted:

1. Apartment buildings;

2. Offices; business, professional, governmental, or institutional, in any apartment building of 25 or more dwelling units, with no accessory storage of merchandise (goods for sale), and subject to the limitations of Paragraph B;

3. The following retail or service uses, in any apartment building of 50 or more dwelling units, subject to the limitations of Paragraph B:

1. Barbershops

2. Beauty shops

3. Catering establishments, in any apartment building of 150 or more dwelling units

4. Chiropodists' offices

5. Clinics or group medical centers (including the practice of dentistry)

6. Delicatessens

7. Drug stores

8. Florist shops

9. Food stores

10. Health clubs

11. Laundromats, retail laundry and dry-cleaning collection and distribution stations, or dry-cleaning and pressing establishments

12. News stands

13. Opticians' or optometrists' offices

14. Package goods stores for the sale of alcoholic beverages

15. Restaurants, with no dancing or live entertainment permitted

16. Shoe-repair shops

17. Tailor or dressmaking shops, for custom work or repairs

18. Telegraph offices

4. Public-utility uses permitted in D.R. zones;

5. Accessory uses, buildings, or structures, including, but not limited to, the following:

1. Home occupations, but with no signs permitted

2. Service or recreational facilities for the occupants of the buildings and their guests

B. Supplementary Use Regulations.

1. The total floor area devoted to uses permitted under Subparagraphs 2 and 3 of Paragraph A shall not exceed 10 per cent of the gross floor area of any building in which they are located. Further, the total floor area occupied by uses permitted under said Subparagraph 3 shall not exceed five per cent of the gross floor area of such building.

2. No individual use permitted under Subparagraph A.3 shall occupy more than 600 square feet of gross floor area; except, however, that this limitation shall not apply to the following:

Clinics or group medical centers;

Food stores, which shall not, however, occupy more than 5000 square feet of floor area in any building;

Restaurants.

3. Entrances. No exterior entrance shall be permitted for any use permitted under Subparagraph 2 or 3 of Paragraph A. An entrance to a separate commercial or office lobby to serve such uses from within the building shall not be considered an exterior entrance within the meaning of the term as used in this subparagraph.

4. Sign and Display Regulations. No sign or display of any kind visible from outside the building shall be permitted, except such signs as are permitted under Subsection 413.1.

200.3-Bulk Regulations in R.A.E. 1 Zones.

A. No building shall exceed a height of 85 feet above the average grade level of the street line or the building-foundation line, whichever is higher. Further, the minimum height of any apartment building shall be 52 feet above the higher of such average grade levels, except that buildings containing in the aggregate not more than 20 per cent of the total number of dwelling units on a lot may be of lesser height.

B. The average width of any elevation of a building of seven or more stories shall not exceed three times the average height of such elevation.

C. Minimum Yard Requirements and Building-Location Requirements.

1. No building shall be located less than 90 feet from the centerline of any street nor less than 45 feet from any lot line.

2. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 75 feet.

D. Density. Gross residential density shall not exceed 40 density units per acre.

E. Amenity Open Space Ratio. The minimum amenity open space ratio shall be 0.7.

200.4-Access and Off-Street Parking in R.A.E. 1 Zones.

A. Access. No primary vehicle access from any property to a local street shall be permitted.

B. Off-Street Parking. Off-street parking space requirements in R.A.E. 1 zones shall be the same as those in D.R. 16 zones except that up to 50 per cent of the parking spaces to be provided for density units shall be counted in determining the number of spaces which must be provided, under Section 409, for retail, service, or office uses on the same lot.

Section 201-R.A.E. 2 Zones-Residence, Apartment, Elevator.

201.1-General Provisions.

A. Statement of Legislative Policy. R.A.E. 2 zones provide for development of elevator-apartment buildings at relatively high density, in residential settings close to the major commercial and cultural centers of the County, where ample utilities and other public facilities are available.

B. Establishment of Zones Limited to Town Centers. Any R.A.E. 2 zone must be located within a town center, as defined in Section 101.

201.2-Use Regulations in R.A.E. 2 Zones.

A. Uses Permitted. The following uses, only, are permitted:

1. Apartment buildings;

2. Offices: business, professional, governmental, or institutional, in any apartment building of 25 or more dwelling units, with no accessory storage of merchandise (goods for sale), and subject to the limitations of Paragraph B;

3. The following retail or service uses, in any apartment building of 50 or more dwelling units, subject to the limitations of Paragraph B:

1. Bakeries or bakery outlets

2. Banks, building and loan associations, or similar chartered financial institutions

3. Barbershops

4. Beauty shops

5. Book stores

6. Catering establishments, in anyapartment building of 150 or more dwelling units

7. Chiropodists' offices

8. Clinics or group medical centers (including the practice of dentistry)

9. Delicatessens

10. Drug stores

11. Florist shops

12. Food stores

13. Gift shops

14. Health clubs

15. Jewelry stores

16. Laundromats, retail laundry or dry-cleaning collection and distribution stations, or dry-cleaning and pressing establishments

17. News stands

18. Opticians' or optometrists' offices

19. Package-goods stores for the sale of alcoholic beverages

20. Restaurants, with dancing or entertainment permitted

21. Shoe-repair shops

22. Stationery stores

23. Tailor or dressmaking shops, for custom work or repairs

24. Telegraph offices

25. Tobacco shops

26. Travel bureaus

27. Watch-repair shops

28. Wearing-apparel shops, including fur, millinery, shoe, or similar specialty-item shops

4. Public-utility uses permitted in D.R. zones;

5. Accessory uses, buildings, or structures, including, but not limited to, the following:

1. Home occupations, but with no signs permitted

2. Service or recreational facilities for the occupants of the buildings and their guests

6. Special exceptions-the following, when permitted as special exceptions (see Section 502): Office buildings, offices in buildings containing less than 25 dwelling units, or offices totalling more than 25 per cent of the floor area in an apartment building, with any retail or service uses listed under Subparagraph 3 permitted only if specifically allowed under the granted special exception, and with the floor area ratio of the site limited to a maximum of 4.0.

B. Supplementary Use Regulations.

1. Except as otherwise provided in Subparagraph A.6, the floor area devoted to offices, retail uses, and service uses, as permitted under Subparagraphs 2 and 3 of Paragraph A, shall not exceed 25 per cent of the aggregate gross floor area

of the buildings on any lot. Further, the floor area occupied by retail and service uses, as permitted under said Subparagraph 3, shall not exceed five per cent of the aggregate gross floor area of such buildings.

2. No individual use permitted under Subparagraph A.3 shall occupy more than 1000 square feet of gross floor area; except, however, that this limitation shall not apply to the following:

Banks, building and loan associations, and similar chartered financial institutions;

Clinics and group medical centers;

Food stores, which shall not, however, occupy more than 5000 square feet of floor area;

Restaurants.

3. Entrances. Any use permitted under Subparagraph 2 or 3 of Paragraph A shall be permitted no more than one exterior entrance. Further, each such use shall have at least one public entrance located within the building in which such use is established.

4. Sign and Display Regulations. In addition to signs permitted under Subsection 413.1, one stationary outside identification sign at each exterior entrance to an office or to a retail or service use shall also be allowed, provided that such sign: does not exceed three square feet in area; if self-illuminated, is not illuminated by other than an enclosed lamp; is of the non-flashing type; and does not project more than six inches from the building. Further, for each building containing uses permitted under Subparagraphs 2 and 3 of Paragraph A, one directory sign listing such uses and their locations shall be

permitted; such sign shall not have a surface area exceeding in square feet the product of the number of establishments listed times 1-1/2. No other signs or display of any kind visible from outside the building shall be permitted.

201.3-Bulk Regulations in R.A.E. 2 Zones.

A. The maximum height of any point on a building shall be 1-1/2 times the maximum height that would be permitted by application of the height regulations for B.L. zones (see Section 231).

B. The average width of any elevation of a building of seven or more stories shall not exceed 2-1/2 times the average height of such elevation.

C. Minimum Yard Requirements and Building-Location Requirements.

1. No building shall be located less than 60 feet from the centerline of any street nor less than 15 feet from the street line thereof. No part of a building 40 feet or more in height above the average grade level at the building-foundation line shall be located closer than 30 feet to any property line other than a street line; no part of a building less than such height shall be located closer than 15 feet to any property line other than a street line.

2. No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot in an R.A.E. 2 zone shall be 75 feet.

D. Density. Gross residential density shall not exceed 80 density units per acre.

E. The minimum amenity open space ratio shall be 0.2.

201.4-Off-Street Parking. Off-street parking-space requirements in R.A.E. 2 zones shall be the same as those in C.T. Districts (superimposed upon B.L., B.M., or B.R. zones-see Sections 232B, 235B, 238B, and 409).

Section 202-Development Plan.

202.1-Permit Based on Plan. No permit shall be issued for any use or the construction of any building in an R.A.E. zone (R.A.E. 1 or R.A.E. 2 zone) except in accordance with an over-all plan of development (site plan) for the entire lot or tract on which such building or use is to be located, approved by the Planning Board. A plan of development approved in accordance with the regulations of this section shall remain valid for 24 months following the date of its approval. If at the end of that time construction of buildings in accord with the plan has not begun, then the approval and validity of said plan shall lapse unless the plan has been resubmitted to the Director of Planning and re-approved by the Planning Board in the same manner as required for submission and approval of the original plan. Construction shall be deemed to have begun when all necessary excavation and the piers and footings for one or more principal buildings included in the development plan have been completed. All construction and development under any building permit shall be in accordance with the approved site plan. Any material departure from the plan shall be cause for revocation of all applicable permits by the Director of Planning or the Planning Board, who are hereby empowered to revoke such permits under such circumstances, after providing, upon request, an opportunity for hearing parties in interest. Any material changes in an approved plan shall be incorporated within a new plan, which shall be re-submitted for approval in accordance with the requirements set forth in this subsection for approval of the original plans.

202.2-Content of Plan. The site plan for development in an R.A.E. zone shall show: the locations and heights of all proposed structures and existing structures to be retained; the floor area of each building; parking facilities; all streets and drives giving access to and lying within the property; existing topography and major vegetation; proposed grading, landscaping, and screening; recreation, outdoor living, and other amenity open space; and any other information necessary for the evaluation of the plan.

202.3-Processing Requirements. Before submission of a permit application, three prints of a preliminary site plan-or such greater number as may be required by the Director of Planning-shall be submitted to the Office of Planning and Zoning. After the preliminary site plan has been tentatively approved as being suitable for official submission, or after a lapse of thirty days beginning at the time of preliminary site-plan submission, whichever occurs first, the required number of prints of the plan-as first submitted or as revised, as the case may be-shall be transmitted to the Director of Planning, who shall confirm the date of receipt and subsequently present the plan for consideration by the Planning Board. If the Planning Board finds that the proposed plan of development does not fully meet the purposes of these regulations, it shall disapprove the plan and shall submit its findings in writing, together with the reasons therefor, to the applicant within 90 days after receipt of the required number of prints of the site plan by the Director of Planning. If no action has been taken by the Planning Board within that time, the development plan shall be deemed to have been approved by the Board; provided however, that the applicant may waive this time limit and consent to an extension of such period, in which event he shall so notify the Director of Planning in writing.

202.4-Planning Board Review. In reviewing the site plan, the Planning Board shall consider whether the plan would achieve maximum co-ordination between the proposed development and surrounding uses, the conservation of trees, and the protection of watercourses from erosion and siltation; and whether maximum safety, convenience, and amenity for the residents and for the surrounding neighborhood will be achieved. To these ends the Planning Board shall consider: the locations of buildings, parking areas, and other features as related to the topography of the lot and to existing natural features such as streams and large trees; the efficiency, adequacy, and safety of the proposed internal streets and driveways; the adequacy and location of amenity open space, bearing in mind any possible effects of irregularly shaped tracts; the adequacy, location, screening, and landscaping of parking lots; proposed grading and whether there has been an avoidance of cuts or fills which could unfavorably affect abutting properties through erosion, siltation, obstruction of view, etc.; and such other matters as the Planning Board may find to have a material relation to the standards and objectives of the regulations for R.A.E. zones.

Section 8. And be it further enacted, That Subsection 232.5 be and it is hereby repealed and re-enacted with amendments, as follows:

232.5-Floor Area Ratio. The maximum permitted floor area ratio for any site in a B.L. Zone, excepting C.C.C. and C.T. districts, shall be 3.0.

Section 9. And be it further enacted, That Article 2 be and and it is hereby amended by adding new section 232A immediately after Subsection 232.5 and by redesignating existing section 232A as section 232B and redesignating subsections accordingly, said new section 232A to read as follows:

Section 232A-Special Regulations for C. C. C. Districts.

Contrary provisions of these Zoning Regulations notwithstanding, the regulations of this section shall apply in C. C. C. districts superimposed upon B. L. zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these Zoning Regulations.)

232A. 1-Apartments shall be permitted, but only above the first story of a building.

232A. 2-No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet.

232A. 3-The maximum permitted floor area ratio for any site shall be 4. 0; the specific number of dwelling or density units, as such, shall not be directly limited.

232A. 4-The minimum permitted amenity open space ratio shall be 0. 2.

232A. 5-For all buildings containing apartments, there shall be provided at least 1. 25 parking spaces for each dwelling unit. Up to 50 per cent of such spaces on any lot shall be counted in determining the number of spaces provided for commercial and office uses on the same lot. (See also Paragraph 409. 2. d.)

Section 10. And be it further enacted, That Article 2 be and it is hereby amended by adding new section 235A immediately after subsection 235. 5 and by redesignating existing Section 235A as Section 235B and by redesignating subsections accordingly, said new Section 235A to read as follows:

Section 235A-Special Regulations for C. C. C. Districts.

Contrary provisions of these Zoning Regulations notwithstanding, the regulations of this section shall apply in C.C.C. districts superimposed upon B.M. zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these Zoning Regulations.)

235A.1-Apartments shall be permitted, but only above the first story of a building.

235A.2-No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet.

235A.3-The specific number of dwelling or density units, as such, shall not be directly limited.

235A.4-The minimum permitted amenity open space ratio shall be 0.2.

235A.5-For all buildings containing apartments, there shall be provided at least 1.25 parking spaces for each dwelling unit. Up to 50 per cent of such spaces on any lot shall be counted in determining the number of spaces provided for commercial and office uses on the same lot. (See also Paragraph 409.2.d.)

Section 11. And be it further enacted, That subsection 238.5 be and it is hereby repealed and re-enacted with amendments, as follows:

238.5-Floor Area Ratio. The maximum permitted floor area ratio for any site in a B.R. zone, excepting C.C.C. and C.T. districts, shall be 2.0.

Section 12. And be it further enacted, That Article 2 be and it is hereby amended by adding new Section 238A immediately after subsection 238.5 and by redesignating existing Section 238A as Section 238B and by redesignating existing subsections accordingly, said new Section 238A to read as follows:

Section 238A-Special Regulations for C. C. C. Districts.

Contrary provisions of these Zoning Regulations notwithstanding, the regulations of this section shall apply in C. C. C. districts superimposed upon B. R. zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these Zoning Regulations.)

238A. 1-Apartments shall be permitted, but only above the first story of a building.

238A. 2-No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet.

238A. 3-The maximum permitted floor area ratio for any site shall be 4. 0; the specific number of density or dwelling units, as such, shall not be directly limited.

238A. 4-The minimum permitted amenity open space ratio shall be 0. 2. .

238A. 5-For all buildings containing apartments, there shall be provided at least 1. 25 parking spaces for each dwelling unit. Up to 50 per cent of such spaces on any lot shall be counted in determining the number of spaces provided for commercial and office uses on the same lot. (See also Paragraph 409. 2. d.)

Section 13. And be it further enacted, That Article 2 be and it is hereby amended by deleting Section 253 and by adding new Section 253 in lieu thereof, said new Section to read as follows:

Section 253-Use Regulations

253. 1-Uses Permitted as of Right. The uses listed in this subsection, only, shall be permitted as of right in M. L. zones, subject to any conditions hereinafter prescribed.

A. The following industrial uses:

1. Airplane assembly

2. Automobile assembly

3. Boat yards (including marinas or marine railways)

4. Bottling establishments, soft-drink

5. Candy manufacture, packaging, or treatment

6. Carpet or rug cleaning

7. Cellophane-products manufacture or processing-restricted production (See Subsection 253.3).

8. Cleaning or dyeing

9. Concrete-products manufacture, including manufacture of concrete blocks or cinder blocks

10. Cork-products manufacture or processing-restricted production (See Subsection 253.3).

11. Cosmetics manufacture, compounding, packaging, or treatment

12. Drug manufacture, compounding, packaging, or treatment

13. Electrical-appliance assembly

14. Enameling, japanning, or lacquering

15. Excavations, controlled, except those involving the use of explosives

16. Fiber-products manufacture or processing, including the manufacture or processing of articles made of felt or yarn, or of textiles, canvas, or other cloth-restricted production (See Subsection 253.3.).

17. Food-products manufacture, compounding, packaging, or treatment, including but not limited to: wholesale bakeries; canning plants or packing houses

for canning, packing, or processing of vegetables; creameries or milk-pasteurization or-distributing stations; or cold-storage plants

18. Fur-products manufacture or processing-restricted production (See Subsection 253.3.)

19. Glass-products manufacture or processing-restricted production (See Subsection 253.3.)

20. Grain processing, provided equipment is installed for effective precipitation and recovery of dust

21. Greenhousing, wholesale

22. Horn-products manufacture or processing-restricted production (See Subsection 253.3.)

23. Ice manufacture

24. Ink blending etc.-restricted production (See Subsection 253.3.)

25. Instrument manufacture, of precision instruments, including manufacture of watches or clocks

26. Jewelry manufacture or processing, or manufacture or processing of other articles made of precious or semi-precious metals or stones-restricted production (See Subsection 253.3.)

27. Laboratories

28. Leather-products manufacture or processing-restricted production (See Subsection 253.3)

29. Lumber yards

30. Metal-products manufacture or processing, limited to the restricted production (See Subsection 253.3.) of articles made of sheet metal, light metal mesh, pipe, wire, rods, stripe, or other shapes or similar component parts

31. Metal-stamp manufacturing

32. Musical-instruments manufacture

33. Offices or Office Buildings

34. Paint blending etc.-restricted production (See Subsection 253.3.)

35. Paper-and paperboard-products manufacture or processing-restricted production (See Subsection 253.3.)

36. Perfume manufacture, compounding, packaging, or treatment

37. Phonograph assembly

38. Plastic-products manufacture or processing-restricted production (See Subsection 253.3.)

39. Plating, including galvanizing

40. Poultry killing

41. Printing, lithographing, or publishing plants

42. Radio assembly, or assembly of other electronic instruments or devices

43. Research institutes

44. Rubber-stamp manufacture, and manufacture of other small molded rubber products

45. Shell-products manufacture or processing-restricted production (See Subsection 253.3.)

46. Stone or monument works

47. Tire retreading or recapping

48. Tobacco-products manufacture or processing-restricted production (See Subsection 253.3.)

49. Toy manufacture, or manufacture of novelties

50. Trailer assembly, including the assembly of truck trailers or mobile homes

51. Wax-products manufacture or processing-restricted production (See Subsection 253.3.)

52. Wood-products manufacture or processing-restricted production (See Subsection 253.3.)

53. Wrought-iron products manufacture

54. Other manufacture of articles of merchandise made from materials permitted to be used and made by processes permitted to be employed in the production activities more specifically listed above.

B. The following transportation, storage, or quasi-public uses or utilities:

1. Bus terminals

2. Building-materials storage or sales yards, general

3. Construction-equipment storage yards

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

5. Cables and conduits not described under item "4", above; gas, water, or sewer mains; or storm-drain systems-all underground

6. Feed or grain sales or storage

7. Fluid storage and sale, above ground, of flammable liquids or gases

8. Freight storage

9. Fuel storage and sale, of solid or gaseous fuels

10. Heliports, Type I

11. Heliports, Type II

12. Helistops

13. Railroads

14. Steam-power plants

15. Storage, warehousing, or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M. L. zones; public warehousing

16. Utility service centers

17. Utility storage yards

18. Volunteer-fire-company facilities

C. The following auxiliary retail or service uses or semi-industrial uses, provided that any such use is located in a planned industrial park at least 25 acres in net area or in an I. M. district, in neither case with any direct access to an arterial street other than a Class I Commercial Motorway:

1. Automobile-rental agencies

2. Bakeries, retail

3. Barbershops

4. Banks, savings and loan associations, or other, similar chartered financial institutions accepting deposits

5. Beauty shops

6. Business or trade schools

7. Carpentry or cabinet-making shops

8. Drug stores, but the gross floor area devoted to any such store shall not exceed 1500 square feet

9. Electrical-contractors' shops

10. Electroplating shops

11. Food stores, but the gross floor area of any such store shall not exceed 2500 square feet

12. Heating-or air-conditioning-contractors' shops

13. Laundry, dry-cleaning, or clothing-repair or-alteration establishments or stations, including self-service laundry or dry-cleaning facilities

14. Liquor or package stores

15. Machinery-sales or-repair establishments

16. Parking lots or garages

17. Painting shops

18. Plumbing-contractors' shops

19. Restaurants, except drive-in restaurants

20. Sheet-metal shops

21. Shoe-repair shops

22. Stationery or office-supply stores

23. Taverns

24. Truck-rental and truck-trailer-rental agencies.

D. The following temporary use: Carnivals, temporary, provided that no such use shall be established for more than 90 days in any one-year period.

E. Combinations of the uses listed above.

F. Accessory uses or structures, including but not limited to:

1. Incidental sales (wholesale or retail)

2. Living quarters for watchmen or caretakers and their families, and accessory uses or buildings subsidiary thereto

3. Trailers for temporary use, as permitted under Section 415

4. Industrial medical clinics

5. Employees' recreation facilities

6. Excavations, uncontrolled

7. Parking spaces (see Section 409)

8. Signs (see Section 413).

253.2-Uses Permitted by Special Exception. The uses listed in this subsection are permitted by special exception only (see Section 502).

A. The following industrial, quasi-industrial, transportation, storage, or quasi-public uses or utilities:

1. Airstrips or airports, where it is shown that such use will serve primarily the industrial uses in the same area

2. Airports, general aviation, if located in accordance with the master plan

3. Excavations, controlled, involving the use of explosives (see Section 403)

4. Sanitary landfills

5. Storage, warehousing, or distribution not permitted as of right

6. Truck terminals

7. Utilities not permitted under the provisions of Subsection 253.1

B. The following auxiliary service uses, provided that any such use shall be located in a planned industrial park at least 25 acres in net area or in an I.M. district, in neither case with any direct access to an arterial street other than a Class I Commercial Motorway, and, provided further, that it is shown that any such use will serve primarily the industrial uses and related activities in the surrounding industrial area:

1. Automotive-service stations, subject, further, to the provisions of Section 405

2. Car washes, subject, further, to the provisions of Section 419

3. Garages, service, including establishments for the service or repair of trucks or truck trailers

4. Motels, hotels, or apartment hotels, but the number of apartments in any apartment hotel permitted hereunder shall not exceed 10 per cent of the total number of apartments plus rooming units therein, and no more than 10 per cent of the rooming units in any such motel, hotel, or apartment hotel shall be occupied as principal places of residence.

5. Union halls or other places of assembly for employment-related activities.

C. The following interim uses, provided that it is shown by the petitioner and verified by the Director of Public Works that public sewerage and water-supply facilities will not be available to the site of any such use for a period of at least two years after the time the petition is heard, and provided, further, that any such use shall be discontinued and the grant of the special exception shall expire on a date within a year after such time as public sewerage and water-supply facilities do become available to the site, as shall be more particularly stipulated in the order granting the special exception:

1. Amusement parks
2. Baseball-batting ranges
3. Farms, or limited-acreage wholesale flower farms
4. Golf-driving ranges
5. Kennels
6. Miniature-golf courses
7. Radio or television broadcasting studios
8. Racetracks
9. Riding stables, commercial
10. Shooting ranges

11. Trailers, non-accessory, subject to the provisions of Section 415, except that trailer parks are not permitted

12. Used-motor vehicle outdoor sales areas

13. Veterinarians' offices

D. The following miscellaneous uses:

1. Signs, outdoor-advertising (see Subsection 413.3)

2. Wireless transmitting and receiving structures, except as minor accessory uses or structures (which are permitted without a special exception); provided that, for the purposes of this paragraph, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.

E. Combinations of the uses listed in this subsection, or combinations of such uses with uses which are permitted as of right.

253.3-Scope of "Restricted Production." For the purposes of this section, "restricted production" shall include only the assembly, manufacture, or compounding of articles of merchandise from previously prepared materials, or the machining, electroplating, or other, comparable light processing or treatment of such articles; but it shall not include the manufacture of large stampings (such as motor-vehicle fenders or bodies). (However, the exclusion of a use under a particular entry, whether by virtue of a limitation to restricted production or otherwise, does not affect the applicability of any other entry under which they use may be described.)

253.4-Within 100 feet of any residential zone boundary or the right of way of any street abutting such a boundary, or within 100 feet of the right of way of an existing or proposed interstate highway, other freeway, or expressway, which motorway is officially so designated by

the State Roads Commission or the County, there shall be permitted only passenger-automobile accessory parking and those uses permitted in M.R. zones, as limited by the use regulations in Section 241.

253.5-Conflicts with Section 270. Wherever any provision of this section may conflict with a provision of Section 270, the provision in this section shall control.

Section 14. And be it further enacted, That subsection 405.2.A.4 be and it is hereby repealed and re-enacted with amendments, as follows:

4. Within a permitted parking garage in any business or manufacturing zone or any D.R. or R.A.E. zone, provided that no evidence of the service station is visible at any property line and that the number of such service stations does not exceed one for each 300 parking spaces or fraction thereof; provided further, however, that in any business or manufacturing zone, exterior signs may be permitted in accordance with the provisions of Section 413.

Section 15. And be it further enacted, That subsection 409.2.d be and it is hereby repealed and re-enacted with amendments, as follows:

d. Modification of Parking-Space Requirements in C.C.C. Districts or Town Centers. The Planning Board may adopt, and from time to time revise, parking-space standards for C.C.C. districts or town centers, which standards differ from the parking-space requirements otherwise applicable under these Zoning Regulations; but the provisions of the Zoning Regulations shall control unless and until the Zoning Commissioner, upon petition and after public hearing, orders that the Planning Board's standards may be applied to the subject property of the petition.

In formulating such parking-space standards, the Planning Board shall consider: any relevant surveys and studies submitted by the Baltimore County Department of Traffic Engineering; projections of transit usage; any probability of lessened parking demand as a result of integrally housed business establishments with different (complementary) peak hours; trends with respect to patterns of car ownership or usage within the areas of concern; probability of assisted ("attendant") parking, nearby parking facilities developed by the Baltimore County Revenue Authority; and other pertinent factors under which recommended decreases in parking requirements may be effected.

Section 16. And be it further enacted, That Article 4 be and it is hereby amended by adding new section 430, said new section to read as follows:

Section 430-Unit Developments.

430.1-General Provisions.

A. Legislative Statement of Findings and Policy.

1. Declaration of Findings. It is found:

a. That procedures and regulations under which land development is permitted as of right necessarily limit development opportunities, inhibit design flexibility, and, often, preclude optimum land-planning solutions to complex development problems;

b. That such procedures and regulations do not provide for the full range of nonresidential uses that may be desirable to service residential development in optimum relationship thereto; therefore, modern commercial and other nonresidential facilities in Baltimore County have not

typically been well integrated with or most advantageously related to the homes they serve;

c. That the aforementioned problems become manifest only as large areas are developed, and would not be solved or substantially mitigated by regulations providing for a broad range of complementary uses unless such regulations are made applicable to large-scale developments exclusively;

d. That the creation of diversified, well-planned and-designed large integral developments is of such importance to the public interest that establishment of liberal regulations expecially applicable to such developments is justified if the County retains and exercises special discretionary authority to control such developments, or, for cause, to prohibit any such development not found to meet appropriate objectives;

e. That such control can be properly instituted by the establishment of requirements for review and appropriate action by the Planning Board, for review, public hearing, and deciding action by the Zoning Commissioner or the County Council, as the type of case may require, and for assuring the suitable execution of approved development plans; and

f. That large-scale developments of certain types could be so designed and administered as to justify their location in areas where establishment or installation of urban services is not scheduled at the time authorization of such a development is considered.

2. Purpose. The regulations of this section are established, pursuant to the legislative findings set forth above: in order to provide for or foster the development of well-designed neighborhoods, communities, and towns as unit developments, by providing for uses and levels of land-use intensity not otherwise permitted in the zones in which such developments would be situated; to encourage, thereby, the assembly of land into tracts suitably large to accommodate such developments; to foster urban growth patterns which afford optimum levels of economy and efficiency and which afford the greatest variety and abundance of group opportunities, by requiring that large-scale developments permitted hereunder be designed as neighborhoods, communities, or towns, whether based upon prototype development forms designed or recognized by the County or designed in alternative forms affording similar or special benefits. Additional administrative procedures, requirements, and authority prescribed herein are intended to be reciprocal to the authorization of uses and levels of land-use intensity not permitted as of right; they are intended to assure that development allowed under the provisions of this section is, in fact, executed in such a manner as to fulfill the objectives hereof, and that such development is consistent with the principles of comprehensive planning or serves to implement adopted plans in the most beneficial manner.

B. Classes of Unit Developments Which May Be Authorized and Methods of Authorization in General.

1. Classes. Only developments classified as

neighborhoods, communities, or towns, as such terms are defined in Section 101, shall be authorized as unit developments.

2. Administrative Authorization of Unit Developments. Unit developments to be established within the urban-rural demarcation line may be authorized by special exception ordered by the Zoning Commissioner, after consideration of a report by the Planning Board on the proposed authorization plan and subject to the provisions hereinafter set forth.

3. Legislative Authorization of Unit Developments. Unit developments to be established beyond the urban-rural demarcation line may be authorized by special permit issued by act of the County Council, after consideration of a report by the Planning Board on the proposed authorization plan and subject to the provisions hereinafter set forth.

C. Initial Procedural Steps and Requirements.

1. Any petition for authorization of a unit development shall state whether such development is to consist of one or more neighborhoods or communities, or of a town (see Section 101). Further, the petition shall include a proposed authorization plan, as described below in Paragraph F, prepared in accordance with applicable provisions adopted pursuant to the authority of Section 504 and with those of the Baltimore County Subdivision Regulations.

2. Any petition for such authorization shall first be submitted to the Zoning Commissioner, in accordance with the provisions of Article 5 of these regulations and in accordance with such reasonable supplementary requirements as may be made under Section 504 or by the Office of Planning and Zoning. The filing date of the petition shall be the date the petition is accepted by the Zoning Commissioner as provided in Paragraph 500.2a.

3. By the end of the fifth regular business day after the filing date, the Zoning Commissioner shall transmit certified copies of the petition to the Director of Planning, the Planning Board, the County Health Officer and the State Department of Health, the Department of Public Works, the Department of Permits and Licenses, the Department of Recreation and Parks, the Department of Education, the Department of Traffic Engineering, the Fire Department, and such other County or state agencies as he may decide upon.

4. Within 45 days after the filing date, agencies or officials to whom copies of the petition have been transmitted pursuant to Subparagraph 3, except the Director of Planning and the Planning Board, shall, upon complete review of those aspects of the petition related to their respective jurisdictions, submit comments thereon to the Director of Planning, the Zoning Commissioner, and the Planning Board.

5. Not more than 60 days after the filing date, subject to extension upon written consent of the petitioner, the Director of Planning shall submit a complete report on the petition to the Planning Board. After receipt of the Director's report, the Planning Board shall take action with respect to the petition, as provided below, at the time of the Board's next regularly scheduled meeting. Provided, however, that the Planning Board may delay final action with respect to the petition for not more than 35 days after the time of such meeting, if the Board finds that additional time is required for proper consideration.

6. The final actions which may be taken by the Planning Board with respect to the petition shall be limited to a resolution effecting one of the following:

a. Adoption of a favorable report on the proposed authorization plan;

b. Modification of such plan and adoption of a favorable report on the plan as modified; or

c. Adoption of an unfavorable report on the plan.

The report adopted by the Planning Board may be based on the report submitted by the Director of Planning.

7. A favorable report on a proposed authorization plan may be adopted only if the Board makes affirmative findings, supported in detail, that:

a. The development as proposed would, in fact, constitute a neighborhood, or an integral and viable portion thereof, a grouping of neighborhoods, a community, or a town, as the case may be;

b. The tract is situated in an appropriate location according to adopted or formally proposed master plans; and

c. The plan is in accordance with the planning objectives and requirements of this subsection, of relevant Planning Board policies adopted pursuant to the authority of Section 504 or otherwise, and of these Zoning Regulations in general.

8. In adopting an unfavorable report on a proposed authorization plan, the Planning Board shall set forth the reasons for its disapproval and explanations as to why any one of the above findings cannot be made.

9. The next, regular business day after the Planning Board has taken action as prescribed above, the Director of Planning shall transmit to the Zoning Commissioner copies of the Board's report, together with copies of its resolution whereby the action was taken.

10. Upon his receipt from the Planning Board of a resolution which modifies a proposed authorization plan, the Zoning Commissioner shall substitute the modified plan for the original and notify the petitioner of the modification and of the fact that the original proposed authorization plan is no longer part of the petition.

D. Remaining Procedural Steps and Review Requirements in Administrative Authorization of Unit Developments. The following provisions apply only to petitions for unit developments subject to administrative authorization.

1. Upon his receipt of the Planning Board's resolution and report with respect to a petition for authorization of a unit development within the urban-rural demarcation line, the Zoning Commissioner shall promptly schedule a hearing on the petition (as it may have been amended through modification of the proposed authorization plan by the Planning Board). The date of the hearing shall be not less than 20 and not more than 45 days after the Planning Board's action, subject to such postponement or continuation as circumstances may require, and except that the hearing may be scheduled for a later date if any day in the interval specified falls within a period for which hearings on zoning reclassification petitions must be scheduled pursuant to Section 22-22 of the Baltimore County Code, 1968 Edition, as amended; but, in this event, the date of the hearing on the unit-development petition shall be not less than 45 days after the end of such period of zoning-reclassification hearings. In any case, the hearing shall be advertised in the same manner as required for other petitions for special exceptions.

2. Upon hearing and reviewing the petition as required, the Zoning Commissioner may:

a. Grant the petition, with or without certain conditions as provided in Subparagraphs 4 and 5, below;

b. Deny the petition; or

c. Modify, or further modify, the proposed authorization plan and grant the petition with the plan as modified; with or without conditions as provided in Subparagraphs 4 and 5, but only upon first submitting the proposed modifications to review by the Planning Board; in this case, at the time of its next regular meeting after the proposed modifications have been submitted, or not more than 35 days after such time, the Planning Board shall consider the Zoning Commissioner's proposal and re-affirm, modify, or reverse its previous action in light of findings with respect to such proposal. A record of the Board's findings and action shall be returned to the Zoning Commissioner by the Director of Planning on the next regular business day thereafter.

3. The Zoning Commissioner may grant the petition only if he affirmatively finds:

a. That the proposed development would serve the public interest and would have no adverse effect upon the health, safety, or general welfare in the vicinal area, the County, or the area at large;

b. That, in due consideration of the comments or reports submitted by the Planning Board and all other agencies or officials required to submit to him comments on the petition, the proposed development would not create conditions as set forth in Paragraphs b, c, d, e, or f of Subsection 502.1;

c. That there is a reasonable expectation that the proposed neighborhood, community, or town would be developed to the full extent of and fully in accordance with the authorization plan (including development schedules contained therein), in light of: evidence as to the petitioner's or developer's financial responsibility, in general and with respect to the development proposed; pertinent market data submitted by the petitioner, by County agencies or officials, or by others; development costs; general economic conditions which may be anticipated at the time the development or any phase thereof is to be financed; and all other factors which may reasonably be ascertained and have a bearing on the findings; and

d. That the development, as approved, would comply with all applicable provisions of the Zoning Regulations and that the resolution of any conflict between other County laws or technical requirements and the proposed authorization plan is reflected by revisions incorporated within the authorization plan as finally approved.

4. The Zoning Commissioner may attach such requirements or conditions to the grant of the petition as he may deem proper, but no such conditions shall be tantamount to a modification of the authorization plan unless such modification is made or reviewed by the Planning Board as provided hereinbefore.

5. The Zoning Commissioner's order granting the petition shall include:

a. A statement of each of the findings required to be made pursuant to Subparagraph 3, above, supported in detail by an explanation of the finding as related to the particular petition;

b. Any additional statements or documentation needed to adequately set forth the basis of the decision; and

c. Statements and explanations of any requirements or conditions attached to the grant of the petition.

E. Remaining Procedural Steps and Review Requirements in Legislative Authorization of Unit Developments. The following provisions apply only to petitions for unit developments subject to legislative authorization (see Subparagraph B.3).

1. Upon his receipt of the Planning Board's resolution and report with respect to a petition for authorization of a unit development to be situated beyond the urban-rural demarcation line, the Zoning Commissioner shall file such report and resolution with the petition and forward copies of the petition and all other documents in the file to the County Council by the end of the fifth regular business day after the Planning Board's action.

2. The County Council shall advertise and schedule a hearing on the petition, for a date not less than 30 nor more than 60 days after the Planning Board's action, except that the hearing may be scheduled for a later date if any day in the interval specified falls within the time during which a complete, County-wide zoning map is in preparation or is subject to action pursuant to Section 22-20 or 22-21.1 of the Baltimore County Code, 1968 Edition, as amended. In this event, however, the date of the hearing on the unit-development request shall be not less than 60 days after the zoning map is adopted.

3. After hearing and reviewing the petition as required, the County Council may, by legislative act:

a. Grant the petition, with or without certain conditions, and issue a special permit incorporating the authorization plan and any conditions of the grant;

b. Deny the petition; or

c. Amend the petition by modifying the proposed authorization plan as provided in Subparagraph 4, and issue an appropriate special permit.

4. Any modification of the authorization plan pursuant to Subparagraph 3, above, shall be submitted to the Planning Board for comment before action by the County Council. If, in making such comment, the Planning Board proposes and comments upon further modification, the County Council may approve the further modification thus proposed without further review by the Planning Board.

F. Authorization Plan-Effect, Contents, Form, Project Design, and Review.

1. Institution and Effect of Authorization Plan. The grant of a special exception or special permit for a unit development constitutes zoning authorization of the development and, as such, institutes the authorization plan and establishes that the development described therein would be in accordance with zoning policies and criteria for the location in which it is to be situated. No further discretionary zoning action upon the plan shall be required unless the plan is to be amended or to be re-instituted as a result of a lapse of the original authorization. After institution of the plan no use or development within an authorized unit development shall be established except in accordance with the plan, regardless of whether a condition not complying therewith would be permitted under the development and use regulations, standards

and controls of this section or under the regulations for the zone in question, it being the intent of this section and these Zoning Regulations that plans for unit developments may establish higher or more specific standards than are prescribed herein for general application.

2. Contents. The plan shall cover or include, among other things:

a. Existing conditions on, of, and near the site, including: topography; unusual natural formations; water courses, ponds, or lakes; major vegetation; and structures;

b. Zones, lot lines, and overall site boundaries;

c. Proposed major changes in natural conditions (including major grading) and conditions to remain (including preservation of major vegetation);

d. The maximum and minimum numbers of density and dwelling units to be established and the estimated residential and employment populations;

e. The general locations, extent, and forms of proposed: uses and development of the various residential, commercial, institutional, or other sites or areas, including indications of the placement of housing according to major differences in housing type and density; common open spaces; and parking areas;

f. The general layout and classification of proposed major motorways; general indications of proposed walkways, bicycle paths, etc.; and general descriptions of other transportation routes and modes (including public transit) to the extent feasible with public transportation plans or proposals;

g. Service areas and anticipated locations of proposed utilities, public and private;

h. Proposed preliminary construction and site-development schedules;

i. Descriptions, as applicable, of warranties, methods, standards, regulations, deed restrictions, enforcement provisions, funding, organizations, etc. proposed to be established with respect to: open space and maintenance; approaches to the design of signs, other street graphics, street furniture, and comparable elements of urban environment; and, in general, all other aspects of the plan's implementation and continuance of effect;

j. A summary of the plan's objectives;

k. Such other items as may be required by the Office of Planning and Zoning or by provisions adopted pursuant to the authority of Section 504.

3. Form.

a. The plan shall include text exposition, maps, or plats, charts or tables, and, as necessary, other written or diagrammatic forms needed for a full and clear explanation of the development proposal.

b. Forms for proposed authorization plans or parts thereof may be established by the Office of Planning and Zoning or, pursuant to the authority of Section 504, by the Planning Board. Thereafter, all proposed authorization plans filed with the County shall be in accordance with such forms.

4. Project Design. The overall conception of the design of any unit development shall be clearly described

and shown in the authorization plan and shall either be in accordance with a generally applicable prototype form, such as a neighborhood/community/town development model, which may be thus established by the Planning Board pursuant to the authority of Section 504, or in a form which affords the same benefits or overriding different benefits. Where the development is not to be in an approved prototype form, the plan shall contain a comprehensive explanation and justification of the form projected.

5. Review and Modification.

a. Review. In reviewing a proposed authorization plan, the Planning Board shall consider and report upon whether the design of the unit development is in all respects in accordance with the policy set forth in Paragraph A of Subsection 430.1, with the purposes, standards, and requirements specified or clearly implied in other provisions of this section, and with such furthering policies as may be adopted pursuant to the authority of Section 504, and the Board may consider the effect the development would have upon any other matter of or related to the present and future public interest. In subsequent review, such matters shall also be considered by the Zoning Commissioner or the County Council, as the case may be.

b. Modification. Through modification of a proposed authorization plan, the Planning Board may propose and the Zoning Commissioner or County Council may establish regulations or standards for a particular unit development which extend, increase, or augment

the regulations or standards of this section, imposing reasonable restrictions which affect the location, appearance, bulk, use, or any other aspect of the development, and which are greater than provided herein; and greater or additional requirements may be made as to minimum public and private improvements.

G. Final Development Plan. No part or phase of any unit development shall begin until a final development plan, particularizing fixed characteristics of the development, has been approved by the Zoning Commissioner as being in accord with the authorization plan, and by the Planning Board as being in accord with standards and policies adopted pursuant to the authority of Section 504. A final development plan may be approved by the Zoning Commissioner and the Planning Board for portions of a unit development for which an authorization plan covering the entire tract or tracts has been instituted.

430.2-Neighborhood Development and Use Regulations, Standards, and Controls. The provisions of this subsection shall apply to unit developments classified as neighborhoods.

A. Tract Area. The minimum gross area of the development tract shall be 250 acres or the area sufficient to accommodate at least 2000 density units under the standards of Subparagraph 1 of Paragraph C, whichever is the lesser area. The maximum gross area of such tract shall be 600 acres.

B. Location. The development shall be located within the urban-rural demarcation line in any Density Residential (D. R.) or Business (B.) zone.

C. Number of Density Units Permitted; Bulk and Open-Space Regulations.

1. Determination of Permitted Number of Density Units. The maximum number of density units permitted shall

be equal to the product of the gross tract area (including portions to be devoted to non-residential use) times the maximum gross density as prescribed below:

Zone	Maximum Gross Density
D.R. 1	1.5 density units per acre
D.R. 2	3.0 " " " "
D.R. 3.5	5.0 " " " "
D.R. 5.5	8.0 " " " "
D.R. 10.5	16.0 " " " "
D.R. 16	20.0 " " " "
R.A.E. 1	40.0 " " " "
R.A.E. 2	80.0 " " " "

2. Bulk Regulations-Height.

a. The maximum height of any building shall be as set forth in the table in Sub-subparagraph b, below, wherein:

i. The "unrestricted height" is the height to which a building may be constructed, regardless of any lesser height limitation established by the angle of height limitation;

ii. The "angle of height limitation" is the angle of all lines sloping inward and upward from the tract boundary, measured from the horizontal plane at the ground intersection on the tract boundary, and any point on such line shall establish the normal maximum height to which a building is restricted at that point;

iii. The "perpendicular height limitation" is the maximum height to which a building may

be constructed, any greater height established by the angle of height limitation notwithstanding; and

iv. The unrestricted height and the perpendicular height limitation of a given building are determined by measuring from any point along the building wall at the normal grade level to the highest point directly above.

b. Table of Maximum Heights.

Zone	Unrestricted Height	Angle of Height Limitation	Perpendicular Height Limitation
D.R. 1	40 feet	10 degrees	85 feet
D.R. 2	40 "	10 "	85 "
D.R. 3.5	40 "	10 "	85 "
D.R. 5.5	45 "	15 "	85 "
D.R.10.5	50 "	20 "	100 "
D.R.16	60 "	20 "	120 "
R.A.E. 1	85 "	20 "	120 "
R.A.E. 2	No limitation		

3. Open Spaces.

A minimum of 20 per cent of the gross area of a tract or tracts comprising a neighborhood unit development shall be allocated to public park, local open space purposes. The design and distribution of such open spaces shall be in accordance with the policies and standards adopted pursuant to the authority of Section 504.

D. Uses Which May be Permitted. Uses in the development may be permitted as set forth in this paragraph if specified in the authorization plan (as approved), subject to any limitations set forth therein.

1. Residential uses: dwellings permitted in D.R. or R.A.E. zones.

2. Utilities.

3. Public facilities: elementary school-recreation

centers, middle-or junior-high schools, parks, transportation systems; all as may be required under the authorization plan.

4. Institutions: churches; private schools.

5. Retail shops and services-aggregate adjusted gross floor area not to exceed 20 square feet per density unit, based on the number of density units projected:

1. AUTOMOBILE SALESROOM AND ADJACENT OUTDOOR SALES AREA

~~1.~~ 2. Automotive-service stations

~~2.~~ 3. Barbershops

~~3.~~ 4. Banks, savings and loan associations, and other, similar chartered financial institutions accepting deposits

~~4.~~ 5. Beauty shops

~~5.~~ 6. Drug stores

~~6.~~ 7. Food stores, general

7. 8. Food stores, specialty, such as bakeries, candy stores, and dairy-product stores

~~8.~~ 9. Laundry, dry-cleaning or clothing-repair or-alteration establishments or stations, including self-service laundries or dry-cleaning facilities

~~9.~~ 10. Liquor or package stores

~~10.~~ 11. Restaurants, except drive-in restaurants

~~11.~~ 12. Shoe-repair shops

~~12.~~ 13. Stationery or office-supply stores

~~13.~~ 14. Taverns

~~14.~~ 15. Antique shops

~~15.~~ 16. Clothing and clothing-accessory stores, general or specialty, including dress shops, millinery shops, haberdasheries, shoe stores, ~~etc.~~

~~16.~~ 17. Florist shops

~~17~~18. Garden shops

~~18~~19. Hardware stores

~~19~~20. Artists' supply shops

~~20~~21. Hobby shops

~~21~~.22. Jewelry stores

~~22~~23. Pet shops

~~23~~24. Fabrics or dry-goods shops, or upholstery shops

~~24~~.25. Camera shops

~~25~~26. Radio or television sales or repair shops, not to include sales of large appliances, such as refrigerators, washing machines, etc.

~~26~~27. Record shops

~~27~~.28. Book stores

~~28~~29. Sporting-goods stores

6. Low-intensity commercial uses-provided that no such use shall be located on ground-floor shopping frontage:

1. Billiard or pool rooms

2. Photographers' studios

3. Tailor shops

4. Dressmaking shops

7. Offices-maximum of 10 square feet per density unit, based on the number of density units projected;

8. Motels or inns;

9. Signs (non-accessory) sign standards must be specified in the authorization plan;

10. Interim uses (temporary during course of development, but shall be shown on the authorization plan): Class A animal boarding places; farms or limited-acreage

wholesale flower farms; uncontrolled excavations; kennels;

11. Accessory uses, including parking areas or garages, whether or not on the same lot as the principal use served.

430.3-Regulations, Standards, and Controls for Community Developments. The provisions of this subsection shall apply to unit developments classified as communities.

A. Tract Area. The minimum gross area of the development tract shall be 1500 acres or the area sufficient to accommodate at least 7,500 density units under the standards of Subparagraph 1 of Paragraph C, whichever is the lesser area. The maximum gross area of such tract shall be 2,500 acres.

B. Location. The development shall be located within any Rural: Deferred Planning (R.D.P.), Density Residential (D.R.), or Business (B.) zone; but developments located beyond the urban-rural demarcation line shall be subject to requirements for additional financing of public facilities, as provided in standards prepared by the Offices of the Budget and Planning and Zoning and the Department of Public Works and authorized by executive order, and as may be further provided in the authorization plan.

C. Number of Density Units Permitted; Bulk and Open-Space Regulations.

1. Determination of Permitted Number of Density Units. The maximum number of density units permitted shall be equal to the product of the gross tract area (including portions to be devoted to nonresidential use) times the maximum gross density as prescribed below.

Zone	Maximum Gross Density
R.D.P.	8.25
D.R. 1	1.58

Zone	Maximum Gross Density
D.R. 2	3.15
D.R. 3.5	5.52
D.R. 5.5	8.67
D.R.10.5	16.55
D.R.16	25.20
R.A.E. 1	40.00
R.A.E. 2	80.00

2. Bulk Regulations-Height. The maximum height of any building shall be as set forth in the table below, applied in the manner prescribed under Sub-subparagraph 430.2.C.2.a.

Zone	Unrestricted Height	Angle of Height Limitation	Perpendicular Height Limitation
R.D.P.	50 feet	20 degrees	120 feet
D.R. 1	40 "	10 "	85 "
D.R. 2	40 "	10 "	85 "
D.R. 3.5	40 "	10 "	85 "
D.R. 5.5	45 "	15 "	85 "
D.R.10.5	50 "	20 "	100 "
D.R.16	55 "	20 "	120 "
R.A.E. 1	85 "	20 "	120 "
R.A.E. 2	No limitation.		

3. Open Spaces

A minimum of 20 per cent of the gross area of a tract or tracts comprising a community unit development shall be allocated to public park, local open space purposes. The design and distribution of such open spaces shall be in accordance with the policies and standards adopted pursuant to the authority of Section 504.

D. The uses listed and as limited in this paragraph may be permitted as specified under the authorization plan.

1. The following residential uses:

1. Dwellings permitted in D.R. or R.A.E. zones

2. Apartment hotels

2. The following utilities:

1. Electrical-power and telephone lines, underground

2. Telegraph lines and other cables or conduits, underground

3. Gas, water, and sewer mains; storm-drain systems: all underground

4. Other utilities, underground

5. Substations, telephone exchanges, and other structures related to the utilities listed above

3. Other public facilities, as follows, and as may be required under the authorization plan:

1. Motorways

2. Public transportation facilities

3. Schools or school-recreation centers; including facilities for the entire school population of the community

4. Open-space uses (including parks)

5. Fire and police stations; health centers; libraries; traffic signing and signalization

6. Other public facilities, as provided under the authorization plan

4. The following institutional uses:

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

2. Hospitals

3. Private schools or colleges

5. The following retail shops or services, but the aggregate adjusted gross floor area in square feet shall not exceed 40 times the maximum number of density units permitted under Subparagraph 1 of Paragraph C:

1. Antique shops

2. Artists' supply shops

3. AUTOMOBILE SALESROOM AND ADJOINING OUTDOOR SALES AREA

~~3.~~ 4. Automotive-service stations

~~4.~~ 5. Banks, savings and loan associations, and other, similar chartered financial institutions accepting deposits

~~5.~~ 6. Barbershops

~~6.~~ 7. Beauty shops

~~7.~~ 8. Book stores

~~8.~~ 9. Business-or office-machine stores or office-furniture or-equipment stores

~~9.~~ 10. Camera shops

~~10.~~ 11. Carpet, rug, tile, linoleum, or other floor-covering stores

~~11.~~ 12. Clothing and clothing-accessory stores, general or specialty, including dress shops, millinery shops, haberdasheries, shoe stores, etc.

~~12.~~ 13. Department stores, limited-line

~~13.~~ 14. Drug stores

~~14.~~ 15. Electrical-appliance stores, including sales of refrigerators, washing machines, and other large appliances

~~15.~~ 16. Fabrics or dry-goods shops, or upholstery shops

~~16.~~ 17. Florist shops

~~17.~~ 18. Food stores, general

~~18.~~ 19. Food stores, specialty, such as bakeries, candy stores, and dairy-product stores

~~19.~~ 20. Furniture stores

~~20.~~ 21. Garden shops

~~21.~~ 22. Hardware stores

~~22.~~ 23. Hobby shops

-23.24. Jewelry stores

-24.25. Laundry, dry-cleaning or clothing-repair or-alteration establishments or stations, including self-service laundries or dry-cleaning facilities

-25.26. Liquor or package stores

-26.27. Paint stores

-27.28. Pet shops

-28.29. Radio or television-sales or-repair shops, not to include sales of large appliances, such as refrigerators, washing machines, etc.

-29.30. Record shops

-30.31. Restaurants, except drive-in restaurants

-31.32. Shoe-repair shops

-32.33. Sporting-goods stores

-33.34. Stationery or office-supply stores, not including establishments principally devoted to the sale of typewriters, adding machines, calculators, office furniture, or other heavy business or office machines or equipment

-34.35. Taverns

-35.36. Variety stores

6. The following commercial-recreation or related uses, but no such use shall occupy shopping frontage:

1. Billiard or pool rooms

2. Bowling Alleys

3. Theatres or other auditoriums

7. The following service commercial uses:

1. Blueprinting, photostating, or other photo-copying establishments

2. Catering establishments, but the adjusted gross floor area devoted to any such use shall not exceed 7,500 square feet

3. Dressmaking shops

4. Employment agencies

5. Funeral homes

6. Photographers' studios

7. Radio or television broadcasting studios or transmitting facilities

8. Tailor shops

8. Offices, but the aggregate adjusted gross floor area in square feet devoted to office space shall not exceed the product of 40 times the maximum number of density units permissable under Paragraph C.

9. Hotels, motels, or inns.

10. Signs (non-accessory), subject to detailed standards.

11. The following interim uses, permitted and shown on the authorization plan as temporary until the land is developed for the ultimate use indicated on the plan:

1. Air strips

2. Animal boarding places

3. Excavations, uncontrolled

4. Excavations, controlled, precisely described within the authorization plan as to both use (including specific product) and extent, and with provisions to be specified in the authorization plan regarding renovation or appropriate adaptation of the landscape or adaptation of the property to future use

5. Golf driving ranges (not accessory to golf courses) miniature golf ranges, or baseball-batting ranges

6. Sanitary landfills

7. Trailers

8. Utility lines, overhead, but any such lines shall be removed within three years after they are are installed (or by such shorter time as may be established by the authorization plan), and no such lines shall be permitted unless it is clearly infeasible to place the lines underground initially

9. Lawful uses established on the development tract prior to filing of the petition for the unit development and not permitted under other provisions of this section.

12. High-performance industrial uses as permitted in M. R. zones, limited to not more than 2 per cent of the tract, as restricted under the authorization plan.

13. Other principal uses in harmony with the principles and purposes of this section, but any such use, in addition to being identified in the authorization plan, shall be permitted only if authorized under an individual special permit separately identified in the approving ordinance, or separate special-exception order, and only if considered in itself as a subject of the hearing.

14. Accessory uses or buildings, including, but not limited to:

1. Accessory radio or television receiving antennas

2. Home occupations as defined in Section 101

3. Home offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other professional persons

4. Parking spaces, including garage spaces, provided that parking spaces serving any use within the unit development shall be considered as accessory to that use whether or not they are located on the same lot

5. Accessory signs, subject to detailed design standards.

430.4-Regulations, Standards, and Controls for Town Developments. The provisions of this subsection shall apply to unit developments classified as towns.

A. Tract Area. The minimum gross area of the development tract shall be 5,000 acres or an area sufficient to accommodate 25,000 density units under the standards of Paragraph C, below, whichever is the lesser area.

B. Location.

1. The location of the development shall not be limited with respect to the urban-rural demarcation line; but developments located beyond the urban-rural demarcation line shall be subject to requirements for additional financing of public facilities, under the standards as hereinbefore provided.

2. No more than 10 per cent of the tract shall be located in manufacturing zones.

C. Number of Density Units Permitted; Bulk and Open-Space Regulations.

1. Determination of Permitted Number of Density Units. The maximum number of density units permitted shall be the product of that portion of the gross tract area not to be devoted to industrial use (but including all other areas devoted to nonresidential use) times the maximum gross density as prescribed below:

Zone	Maximum Gross Density
R.D.P.	8.25
D.R. 1	1.65
D.R. 2	3.30
D.R. 3.5	5.77
D.R. 5.5	9.07
D.R.10.5	17.32
D.R.16	26.40
R.A.E. 1	40.00
R.A.E. 2	80.00

2. Bulk Regulations-Height. The maximum height of buildings shall be as set forth in the table below, wherein the limitations prescribed shall be applied as set forth under Paragraph C of Subsection 430.2:

Zone	Unrestricted Height, in Feet	Angle of Height Limitation Applicable to any Portion of a Building 125 Feet or Less in Perpendicular Height	Angle of Height Limitation Applicable to any Portion of a Building More Than 125 Feet in Perpendicular Height
R.D.P.	50	20 degrees	10 degrees
D.R. 1	40	10 "	5 "
D.R. 2	40	10 "	5 "
D.R. 3.5	40	10 "	5 "
D.R. 5.5	45	15 "	5 "
D.R.10.5	50	20 "	5 "
D.R.16	55	20 "	10 "
R.A.E. 1	100	40 "	20 "
R.A.E. 2	No limitation		

3. Open Spaces

A minimum of 20 per cent of the gross area of a tract or tracts comprising a ~~town unit~~ development shall be allocated to public park, local open space purposes. The design distribution of such open spaces shall be in accordance with the policies and standards adopted pursuant to the authority of Section 504.

D. Use Regulations. The uses listed in this paragraph, as limited herein, may be permitted under the authorization plan.

1. The following residential uses:

1. Dwellings permitted in D.R. and R.A.E. zones

2. Apartment hotels

2. The following utilities:

1. Electrical-power and telephone lines, underground

2. Telegraph lines and other cables or conduits, underground

3. Gas, water, and sewer mains; storm-drain systems; all underground

4. Other utility lines, underground

5. Substations, telephone exchanges, and other structures related to utility lines, mains, etc., subject to detailed site and landscaping plans, elevation drawings, etc.

3. Other public facilities, as follows, and as may be required under the authorization plan:

1. Motorways

2. Public-transportation facilities

3. Schools or school-recreation centers

4. Public colleges, including community colleges

5. Open-space uses (including public parks)

6. Fire and police stations; health centers; libraries; traffic signing and signalization

7. Other public facilities, as provided under the authorization plan.

4. The following institutional uses:

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

2. Hospitals

3. Private schools or colleges.

5. Retail shops or services permitted in community unit developments, but the aggregated adjusted floor area in square feet shall not exceed sixty times the maximum number of density units permitted under Paragraph C, and the limitations on adjusted gross floor area for department stores (which may be full-line stores), drug stores, and variety stores shall not apply.

6. The following commercial-recreation or related uses, but no such use shall occupy shopping frontage.

1. Billiard or pool rooms

2. Bowling alleys

3. Theaters or other auditoriums

7. The following service commercial uses, but no such use shall occupy shopping frontage:

1. Blueprinting, photostating, or other photocopying establishments

2. Catering establishments

3. Dressmaking shops

4. Employment agencies

5. Funeral homes

6. Photographers' studios

7. Radio or television broadcasting studios or transmitting facilities

8. Tailor shops

8. Offices, but the aggregate adjusted gross floor area in square feet devoted to office space shall not exceed the product of 200 times the maximum number of density units permissable under Paragraph C.

9. Lawful uses established on the development tract prior to filing of the petition for the unit development and not permitted under the other provisions of this section.

10. The following interim uses, permitted and shown on the authorization plan as temporary until the land is developed for the ultimate use indicated on the plan:

1. Air strips

2. Animal boarding places

3. Excavations, uncontrolled

4. Excavations, controlled, precisely described in the authorization plan as to both use (including specific product) and extent, and with provisions to be specified in the authorization plan regarding restoration of the landscape or adaptation of the property to future use

5. Golf driving ranges (not accessory to golf courses), miniature-golf courses, or baseball batting ranges

6. Sanitary landfills

7. Trailers

8. Utility lines, overhead, but any such lines shall be removed within three years after they are installed (or by such shorter time as may be established by the authorization plan), and no such lines shall be permitted unless it is clearly infeasible to place the lines underground initially

9. Lawful temporary uses established on the development tract prior to filing of the petition for the unit development and not permitted under other provisions of this section.

11. Restricted light industrial uses, as permitted in M. L. R. zones and as provided in the authorization plan; provided, further, that any such use must be located within an

area designated on the authorization plan as "industrial site", and the aggregate gross area of industrial sites shall not exceed 20 per cent of the gross area of the tract.

12. Other principal uses in harmony with the principles and purposes of this section, but any such use, in addition to being identified in the authorization plan, shall be permitted only if authorized under an individual special permit separately identified in the approving ordinance or separate special-exception order, and only if considered in itself as a subject of the hearing.

13. Accessory uses or buildings, including but not limited to:

1. Accessory radio or television receiving antennas, or wireless transmitting and receiving structures

2. Home occupations as defined in Section 101

3. Home offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other professional persons, subject to controls which shall be established in the authorization plan

4. Parking spaces, including garage spaces, provided that parking spaces serving any use within the unit development shall be considered as accessory to that use whether or not they are located on the same lot

5. Accessory signs, subject to detailed design standards

Section 17. And be it further enacted, That Article 5 be and it is hereby amended by adding new subsection 502.4 to follow immediately after subsection 502.3, said new subsection to read as follows:

502.4-The building size, shape, and location, the accessory uses, and the number of dwelling units authorized under any special exception for an elevator apartment building or office building granted pursuant to the zoning regulations in effect before [effective date of bill] shall not be affected by the enactment of Bill No. [number], [year of passage].

Section 18. And be it further enacted, That Article 5 be and it is hereby amended by adding new Section 504, said new section to read as follows:

Section 504-Furthering Policies and Procedures.

504.1-Authorization. The Planning Board may adopt and implement administrative, project-design, or planning policies or procedures which are not inconsistent with these regulations and which further the purposes hereof, as specified in the preceding sections of these regulations and as set forth below. However, no such policy or procedure, or amendment thereto, may hereafter be adopted except by a resolution which has been entered on and appended to the advance tentative agenda for a regular meeting of the Planning Board and thereafter approved at such meeting without amendment, all as shall be more particularly prescribed in the bylaws of the Planning Board.

504.2-Comprehensive Manual. The Office of Planning and Zoning shall compile and codify, in an appropriate and practical form, a comprehensive manual of the Planning Board's land-use and development policies and zoning resolutions. The manual shall include the statements of all policies and procedures adopted under Subsection 504.1 and all other formal Planning Board actions taken pursuant to these Zoning Regulations, the Subdivision Regulations, and such other land-use and-development regulations as may hereafter be effected, except actions on subdivision plans or other routine actions in individual cases. The form of the manual may be such as to include, in addition, provisions of these Zoning Regulations, of the Subdivision Regulations, or of other rules,

regulations, or laws, with the sources of all such provisions clearly identified. Such provisions may be printed together as they were promulgated, and placed in separate sections of the manual, or they may be separated and integrally codified with other manual provisions or statements, placed in order according to subject or other logical arrangement. The manual also may include such other matter as the Office of Planning and Zoning or the Planning Board deems relevant.

504.3-OPEN-SPACE MAINTENANCE POLICIES. NO PLAN FOR A UNIT DEVELOPMENT AND NO OTHER PLAN COVERING COMMON OPEN SPACE (INCLUDING LOCAL OPEN SPACE) MAY BE APPROVED UNDER THESE REGULATIONS UNLESS THE COUNTY HAS AGREED TO ACCEPT TITLE TO AND MAINTAIN THE OPEN SPACE OR HAS OTHERWISE AGREED TO PROVIDE CONTINUING MAINTENANCE OF THE OPEN SPACE, OR UNLESS CONTINUING MAINTENANCE IS ASSURED BY OTHER MEANS AS SET FORTH IN POLICIES ADOPTED IN ACCORDANCE WITH SUBSECTION 504.1, ABOVE. TO AFFORD THE LATTER ALTERNATIVE WITHIN A REASONABLE TIME, THE PLANNING BOARD SHALL FORMULATE AND ADOPT POLICIES REGARDING THE CONTINUING MAINTENANCE OF COMMON OPEN SPACE WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION.

~~Section 19. And be it further enacted, That this Act shall take effect March 31, 1971.~~

SECTION 19. AND BE IT FURTHER ENACTED, THAT EVERY PART OF EVERY SECTION AND ZONING REGULATION OF THIS ACT ARE ENACTED INDEPENDENTLY AND ARE, THEREFORE, SEVERABLE; IF ANY PART IS DECLARED INVALID BY A COURT OF COMPETENT JURISDICTION, THE REST OF THIS ACT REMAINS VALID.

SECTION 20. AND BE IT FURTHER ENACTED, THAT ANY

AMENDMENTS HEREIN, OR ANY NEW ZONING CLASSIFICATIONS PROVIDED FOR IN THIS BILL SHALL NOT BE PROMULGATED AS TO ANY EXISTING ZONING MAPS, BUT SHALL BE EFFECTIVE ONLY UPON THE ADOPTION BY THE COUNTY COUNCIL OF ANY NEW ZONING MAPS ON OR BEFORE MARCH 31, 1971.

SECTION 21. AND BE IT FURTHER ENACTED, THAT THIS ACT SHALL TAKE EFFECT FORTY-FIVE DAYS AFTER ITS ENACTMENT.

Debra Wiley

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Friday, July 17, 2020 2:57 PM
To: Administrative Hearings; Peoples Counsel; Lawrence Stahl
Cc: Debra Wiley; Lawrence Schmidt; 'Becky Heyman-Magaziner'; 'jcr319@hotmail.com'; Jeffrey N Perlow; Carl Richards Jr; Rebecca Wheatley
Subject: RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road
Attachments: Exhibit 9 Bill No 100-70.PDF; Exhibit 10 RDP Zoning Historic.PDF

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Additionally, we have added these two potential exhibits:

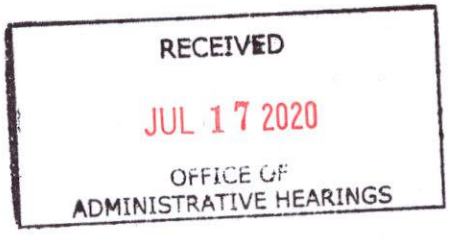


Exhibit 9: Bill No. 100-70
Exhibit 10: RDP Zoning Historic Map

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Alyssa Moyers
Sent: Friday, July 17, 2020 1:57 PM
To: 'Administrative Hearings' <administrativehearings@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Attached please find Petitioner's proposed exhibits for Day 2.

Exhibit 6: Deed – Lintz to Frank (6539/504)
Exhibit 7: Howard Lintz Affidavit
Exhibit 8: Letter from BGE dated 12.2.2019

Thank you.

Pet. Exh. 1 thru 10

RECEIVED
JUL 21 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Donna Mignon

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Monday, July 20, 2020 4:36 PM
To: Administrative Hearings
Subject: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road
Attachments: Petitioner's Exhibit 1- Site Plan.PDF; Petitioner's Exhibit 2 - SDAT (Frank).PDF; Petitioner's Exhibit 3a and b.PDF; Petitioner's Exhibit 4a-i.PDF; Petitioner's Exhibit 5 - Aerials.PDF

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Sorry for the delayed upload, ladies! Our computer system has had a serious case of the Monday's today. Add in a sick baby and exhausted mama, and well, this is where we are ☺

Please double check my attached Exhibit 5 with what is in your file. We typically include aerials of the neighborhood but "Exhibit 5 – Photos - Historical Aerials – Various Years" is what was written down for Exhibit 5. I don't have any other photos in our file if this is not what was introduced.

Thanks!

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Monday, July 20, 2020 11:12 AM
To: Alyssa Moyers <amoyers@sgs-law.com>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: FW: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Hi Alyssa,

Please do not forget to forward Exhibits 1 through 5 to our general mailbox for tomorrow's hearing.

If you've already submitted, please disregard my email.

Thank you.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Administrative Hearings
Sent: Friday, July 17, 2020 3:03 PM
To: 'Alyssa Moyers' <amoyers@sgs-law.com>
Subject: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Hi Alyssa,

They'll need to be resent.

Thanks.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Friday, July 17, 2020 2:22 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Re: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Deb,

Good point. I guess the first 5 should be available for everyone in case anyone needs to refer to one. Do you have them uploaded or should I send?

Alyssa

Sent from my iPhone

> On Jul 17, 2020, at 2:06 PM, Administrative Hearings <administrativehearings@baltimorecountymd.gov> wrote:
>
> Alyssa,
>
> Do we need to share any earlier exhibits or just start with 6 ?
>
> Thanks.

Debra Wiley, Legal Administrative Secretary
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Friday, July 17, 2020 1:57 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Attached please find Petitioner's proposed exhibits for Day 2.

Exhibit 6: Deed – Lintz to Frank (6539/504)
Exhibit 7: Howard Lintz Affidavit
Exhibit 8: Letter from BGE dated 12.2.2019

Thank you.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Sent: Friday, July 17, 2020 11:32 AM
To: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Alyssa Moyers <amoyers@sgs-law.com>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>

Subject: RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

We received the attached. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Sent: Friday, July 17, 2020 11:24 AM
To: Lawrence Stahl <lstahl@baltimorecountymd.gov>; Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; 'Lawrence Schmidt' <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Alyssa Moyers <amoyers@sgs-law.com>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Dear Judge Stahl,

I sent inadvertently an incomplete e-mail with a partial list of exhibits. This is the corrected and complete e-mail.

For the upcoming hearing on July 21, 2020 at 1:30 P.M., our office would like to submit, for review and discussion, the following exhibits:

Zoning History Exhibits

1. E-mail from Jeff Perlow to Peter Max Zimmerman dated July 16, 2020 describing zoning history 1945-71 with attached 1945 Zoning Map.
2. 1945 Zoning Regulations: "A" Residence Zone.
3. 1955 Zoning Regulations: R-6.
4. Letter from Peter Max Zimmerman to Administrative Law Judge Lawrence Stahl dated November 8, 2019.

County Rental Housing License Law Exhibit

5. County Code Article 35, Title 6, Rental Housing Licenses

County Board of Appeals opinion and orders denying petitions to approve apartments as nonconforming uses .

6. County Board of Appeals opinion and order; Case No. 00-404-SPH; Shirley and Paul Reinke, 4 Fourth Avenue, June 27, 2001 (CBA Panel: Wescott, Chair; Feiling, Stahl).

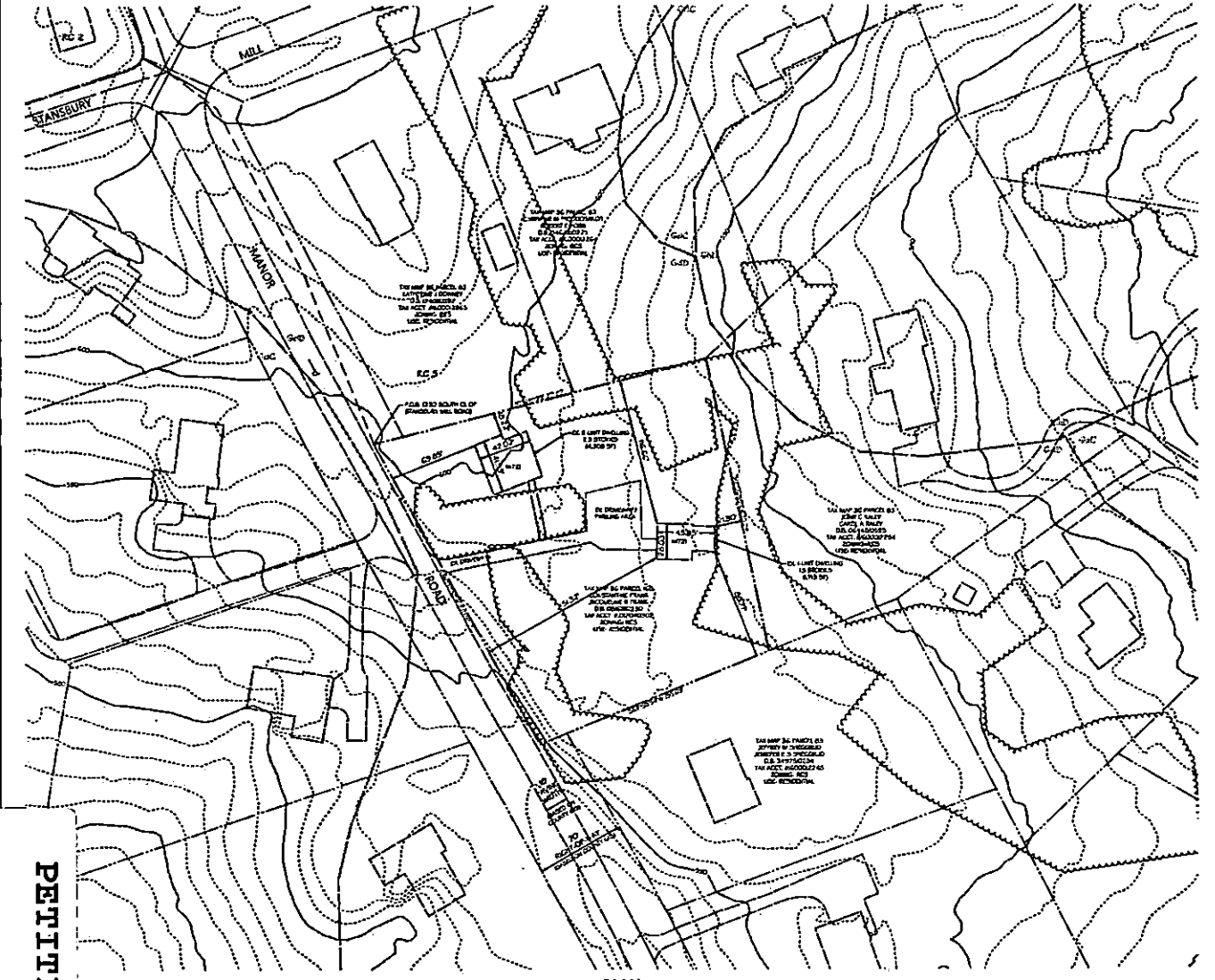
7. County Board of Appeals opinion and order; Case No. 99-338-SPHA; Tek Seng Leong; 8719-8721 Wendell Avenue; August 10, 2001; (CBA Panel: Stahl, Chair; Worrall, Barranger).
8. County Board of Appeals opinion and order; Case No. 01-025-SPH; Jeanette and William Clark; 2900 Taylor Avenue; October 31, 2002; (CBA Panel: Stahl, Chair: Marks, Barranger).
9. County Board of Appeals opinion and order; Case No. 08-199-SPH; Timothy Luecking; 301 Reserve Court; January 23, 2009; (CBA panel: Wescott, Chair; Grier, Witt).
10. Circuit Court Memorandum Opinion, affirmance, Case No. 03-C-09-001926; Timothy Luecking; October 5, 2009; (Jakubowski, Circuit Judge).

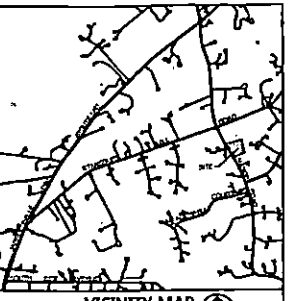
Court of Special Appeals Opinion on Evidence Law

11. Radin v. Supervisor of Assessments 254 Md. 294 (1969).

I believe these exhibits will be helpful to expedite the resolution of this long-delayed, pandemic-affected case.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188





VICINITY MAP
SCALE: 1" = 1000'

LEGEND

GENERAL NOTES

1. OWNER/ADDRESS: CONSTANTINE AND JACQUELINE FRANK, 19 BELCLARE CIRCLE SPARKS GLENCO, MD 21152
2. TAX ACCOUNT NUMBER: 1012040302
3. DEED REFERENCE: 06469 / 0330
4. TAX MAP: 0036
   GRID: 0006
   PARCEL: 068
5. ACREAGE: 1.413 AC (61,550 SF)
6. ZONING CLASSIFICATION: RC5
7. BASED UPON BALTIMORE COUNTY'S "MY NEIGHBORHOOD" WEBSITE, THERE IS NO ZONING CASE HISTORY.
8. BASED UPON BALTIMORE COUNTY'S "MY NEIGHBORHOOD" WEBSITE, THE SITE AND BUILDING IS NOT HISTORIC AND THE PROPERTY IS NOT WITHIN A HISTORIC DISTRICT.
9. THE PROPERTY IS SERVED BY PRIVATE WELL AND SEPTIC.
10. THE SITE IS LOCATED OUTSIDE OF THE URDL.
11. THE SITE IS NOT LOCATED WITHIN A FLOODPLAIN NOR THE CHESAPEAKE BAY CRITICAL AREA.

DATA SOURCE:

A. EXISTING TOPOGRAPHIC, ZONING, STRUCTURE, ROADWAY, AND PROPERTY INFORMATION SHOWN HEREON IS BASED UPON MAPS PROVIDED BY THE BALTIMORE COUNTY OFFICE OF INFORMATION TECHNOLOGY GEOGRAPHIC INFORMATION ON 5/1/2015 AND DATED, 01/2009.

B. THE PROPERTY LINES SHOWN HEREON ARE BASED UPON INFORMATION OBTAINED FROM AVAILABLE GIS SOURCES ONLY, AND DO NOT REFLECT THE RESULT OF A BOUNDARY SURVEY.

DMW
DAFF MCCLURE WALLACE INC
825 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMWINC.COM

PLAN TO ACCOMPANY SPECIAL HEARING FOR NONCONFORMITY

FRANK PROPER
14723 MANOR ROAD
PHOENIX, MD 21131

1ST ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW	/ /	BASE:	JNT
BID:		DRAWN:	JNT
PERMIT:		DESIGNED:	MJK
CONSTRUCTION:		CHECKED BY:	
SCALE:	1" = 40'	DATE CHECKED:	
PROJECT NO:	17073	DRAWING:	1 of 1

EXHIBIT NO. 1

PETITIONER'S

Real Property Data Search (w2)

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Account Identifier: **District -** 10 **Account Number -** 1012040302

Owner Information

Owner Name:	FRANK CONSTANTINE FRANK JACQUELINE R	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	19 BELLCLARE CIR SPARKS GLENCO MD 21152-9114	**Deed Reference:**	/08169/ 00330

Location & Structure Information

Premises Address:	14721 MANOR RD 0-0000	**Legal Description:**	1.413 ACRES ES MANOR ROAD 318 S STANSBURY MILL RO

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0036	0008	0168	10030041.04	0000				2020	Plat Ref:

Special Tax Areas: None
Town: None
Ad Valorem: None
Tax Class: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1898	4,308 SF		1.4100 AC	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	ASBESTOS SHINGLE/	4	4 full		

Value Information

	Base Value	Value As of 01/01/2017	Phase-in Assessments As of 07/01/2019	As of 07/01/2020
Land:	140,500	140,500		
Improvements	212,300	212,300		
Total:	352,800	352,800	352,800	
Preferential Land:	0			

Transfer Information

Seller: FRANK CONSTANTINE	**Date:** 05/09/1989	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /08169/ 00330	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2019	07/01/2020
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

PETITIONER'S

EXHIBIT NO. 2

Homeowners' Tax Credit Application Status: No Application **Date:**

1. This screen allows you to search the Real Property database and display property records.
2. Click here for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

DEED — FEE SIMPLE — INDIVIDUAL GRANTOR — LONG FORM

LIBER 8169 PAGE 330

This Deed, MADE THIS 28th day of April

in the year one thousand nine hundred and eighty-nine by and between

CONSTANTINE FRANK

of Baltimore City, State of Maryland of the first part, and

CONSTANTINE FRANK and JACQUELINE R. FRANK, his wife

of the second part.

WITNESSETH, That in consideration of ~~the sum of~~ love and affection, and other valuable considerations, the receipt whereof is hereby acknowledged,

the said party of the first part,

A RC F 13.00
DEED 0
SM CLERK 13.00
#17025 C003 R01 T13:
05/09/8

do es grant and convey to the said parties of the second part, as tenants by the entireties, their

personal representatives/successors and assigns in fee simple, all

that lot of ground situate in Baltimore County, State of Maryland

and described as follows, that is to say:

BEGINNING for the same at a point in the center of Manor Road, as now located, at the end of the 7th or N21° 24' 40"W 131.77' line of the land which by deed dated March 30, 1962 and recorded among the Land Records of Baltimore County in Liber WJR 3973, folio 505, was conveyed by Louis Valentine Cook, Herbert C. Lintz and Howard P. Lintz to Thirty Four Corporation, thence leaving Manor Road and binding on the 8th, 9th and 10th lines of the land in the aforesaid deed, the three following courses and distances, as now surveyed; (1) N75° 34' 40"E 203.00'; (2) N3° 27' 30"W 236.00', (3) S83° 31' 20"W 279.00' to the center of Manor Road, running thence in the center of Manor Road, as now located, the following courses and distances, viz: (1) S18° 53' 20"E 105.67 (2) S21° 24' 40"E 166.14' to the place of beginning.

CONTAINING 1.393 acres of land more or less.

BEING the same lot of ground as described in a Deed dated May 26, 1983 and recorded among the Land Records of Baltimore County, in Liber EHK No. 6539 Folio 504 which was granted and conveyed by Howard P. Lintz and Marie E. Lintz, his wife, unto Constantine Frank, the grantor herein.

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY, MARYLAND
Per
Authorized Signature
Date 5-9-89 Sec. 11-6A

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
JR 5-9-89
By Date

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE JR 5-9-89

PETITIONER'S
EXHIBIT NO. 3A

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 8169, p. 0330, MSA_CE62_8024. Date available 03/09/2005. Printed 11/13/2019.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said parties of the second part, as tenants by the entireties, their

personal representatives/~~successors~~ and assigns, in fee simple.

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

WITNESS the hand and seal of said grantor

Test:

Constantine Frank (SEAL)
Constantine Frank

(SEAL)

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I HEREBY CERTIFY, That on this 12th day of April, in the year one thousand nine hundred and eighty-nine, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared

CONSTANTINE FRANK

known to me (or satisfactorily proven) to be the person whose name is/are subscribed to the within instrument, and acknowledged the foregoing Deed to be he act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

REMAY PHILLIPS NOTARY BALTIMORE CITY, MD.

Notary Public

My Commission expires:

July 1, 1990

Peter A. Friedman, Esq.
7 Teipat St.
Balto.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) SM 8169, p. 0331, MSA_CE62_8024. Date available 03/09/2005. Printed 11/13/2019.

LIBER 5207 PAGE 768

PRE-PRINTED DEED—Form—City or County—Form 000

AUG -6-71 217752A *****9.00
AUG -6-71 217752C *****9.00

This Deed, Made this 30th day of June

in the year one thousand nine hundred and seventy-one, by and between HOWARD P. LINTZ and MARIE E. LINTZ, his wife

of Baltimore County in the State of Maryland, of the first part, and

MAURICE W. BALDWIN and EVELYN M. BALDWIN, his wife,

of the second part.

Witnesseth, that in consideration of the sum of five dollars and other good and valuable considerations, the said Grantors

do grant and convey unto the said Maurice W. Baldwin and Evelyn M. Baldwin, his wife, as tenants by the entireties, their

heirs and assigns, in fee simple, all that lot of the ground, situate, lying and being in the Tenth Election District of Baltimore County, aforesaid, and described as follows, that is to say:—

Beginning for the same at a point in the center of Manor Road, as now located, at the end of the 7th or N 21°24'40" W 131.77' line of the land which by deed dated March 30, 1962 and recorded among the Land Records of Baltimore County in Liber W. J. R. 3973, folio 505, was conveyed by Louis Valentine Cook, Herbert C. Lintz and Howard P. Lintz to Thirty Four Corporation, thence leaving Manor Road and binding on the 8th, 9th and 10th lines of the land in the aforesaid deed, the three following courses and distances, as now surveyed; (1) N 75° 34' 40" E 203.00'; (2) N 3° 27' 30" W 236.00; (3) S 83° 31' 20" W 279.00' to the center of Manor Road, running thence in the center of Manor Road, as now located, the two following courses and distances, viz: (1) S 18° 53' 20" E 105.87'; (2) S 21° 24' 40" E 166.14' to the place of beginning.

Containing 1.393 acres of land more or less.

BEING all and the same lot of ground contained in a deed dated March 8, 1966 and recorded among the Land Records of Baltimore County in Liber O. T. G. 4852 folio 227 from Maurice W. Baldwin and Evelyn M. Baldwin, his wife to the Grantors herein.

NO CONSIDERATION - NO STAMPS REQUIRED

TRANSFER TAX NOT REQUIRED
8-6-71
Walter R. Richardson
Director of Finance
Per Alma M. Baldwin
Authorized Signature

PETITIONER'S
EXHIBIT NO. 3B

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 anywise appertaining.

To Have and To Hold the said lot 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 Maurice W. Baldwin and Evelyn M. Baldwin, his wife, as tenants by the entireties,

their heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

TEST:

Betty J. Cones

Howard P. Lintz (SEAL)
HOWARD P. LINTZ

Marie E. Lintz (SEAL)
MARIE E. LINTZ

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, That on this 30th day of June in the year one thousand nine hundred and seventy-one, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Howard P. Lintz and Marie E. Lintz

the above named grantors, and they acknowledged the foregoing Deed to be their act.

As Witness my hand and Notarial Seal.

Betty J. Cones
Notary Public.

Rec'd for record AUG 6 1971 at 2 30 P.M.
Per Orville T. Oconnell, Clerk
Mail to Maurice W. Baldwin
Receipt No. 1 8 900

BOA 4/A



PETITIONER'S

EXHIBIT NO. 4a-i





ฉบับที่





Exh 4L



PETITIONER'S

EXHIBIT NO. 9

Baltimore County - My Neighborhood



Baltimore County - My Neighborhood



USDA FSA1

Debra Wiley

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Friday, July 17, 2020 1:57 PM
To: Administrative Hearings; Peoples Counsel; Lawrence Stahl
Cc: Debra Wiley; Lawrence Schmidt; 'Becky Heyman-Magaziner'; jcr319@hotmail.com; Jeffrey N Perlow; Carl Richards Jr; Rebecca Wheatley
Subject: RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road
Attachments: Exhibit 6_ Deed Lintz to Frank (6539_504.PDF; Exhibit 7 Affidavit of Howard Lintz.PDF; Exhibit 8 BGE Letter 12.2.19.PDF

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Attached please find Petitioner's proposed exhibits for Day 2.

Exhibit 6: Deed – Lintz to Frank (6539/504)
Exhibit 7: Howard Lintz Affidavit
Exhibit 8: Letter from BGE dated 12.2.2019

RECEIVED
JUL 17 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Thank you.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

From: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Sent: Friday, July 17, 2020 11:32 AM
To: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Alyssa Moyers <amoyers@sgs-law.com>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

We received the attached. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Sent: Friday, July 17, 2020 11:24 AM
To: Lawrence Stahl <lstahl@baltimorecountymd.gov>; Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; 'Lawrence Schmidt' <lschmidt@sgs-law.com>; 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; jcr319@hotmail.com; Alyssa Moyers <amoyers@sgs-law.com>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Carl Richards Jr <CRichards@baltimorecountymd.gov>; Rebecca Wheatley <rwheatley@baltimorecountymd.gov>
Subject: RE: Continued hearing July 21, 2020;, via Webex; Zoning Case No. 2019-437-SPH, Jacqueline Frank Petitioner; 14721 Manor Road

Dear Judge Stahl,

I sent inadvertently an incomplete e-mail with a partial list of exhibits. This is the corrected and complete e-mail.

For the upcoming hearing on July 21, 2020 at 1:30 P.M., our office would like to submit, for review and discussion, the following exhibits:

Zoning History Exhibits

1. E-mail from Jeff Perlow to Peter Max Zimmerman dated July 16, 2020 describing zoning history 1945-71 with attached 1945 Zoning Map.
2. 1945 Zoning Regulations: "A" Residence Zone.
3. 1955 Zoning Regulations: R-6.
4. Letter from Peter Max Zimmerman to Administrative Law Judge Lawrence Stahl dated November 8, 2019.

County Rental Housing License Law Exhibit

5. County Code Article 35, Title 6, Rental Housing Licenses

County Board of Appeals opinion and orders denying petitions to approve apartments as nonconforming uses .

6. County Board of Appeals opinion and order; Case No. 00-404-SPH; Shirley and Paul Reinke, 4 Fourth Avenue, June 27, 2001 (CBA Panel: Wescott, Chair; Felling, Stahl).
7. County Board of Appeals opinion and order; Case No. 99-338-SPHA; Tek Seng Leong; 8719-8721 Wendell Avenue; August 10, 2001; (CBA Panel: Stahl, Chair; Worrall, Barranger).
8. County Board of Appeals opinion and order; Case No. 01-025-SPH; Jeanette and William Clark; 2900 Taylor Avenue; October 31, 2002; (CBA Panel: Stahl, Chair: Marks, Barranger).
9. County Board of Appeals opinion and order; Case No. 08-199-SPH; Timothy Luecking; 301 Reserve Court; January 23, 2009; (CBA panel: Wescott, Chair; Grier, Witt).
10. Circuit Court Memorandum Opinion, affirmance, Case No. 03-C-09-001926; Timothy Luecking; October 5, 2009; (Jakubowski, Circuit
Judge).

Court of Special Appeals Opinion on Evidence Law

11. Radin v. Supervisor of Assessments 254 Md. 294 (1969).

I believe these exhibits will be helpful to expedite the resolution of this long-delayed, pandemic-affected case.

Sincerely, Peter Max Zimmerman, People's Counsel, 410 887-2188

COVID-19 Stay Home • Wash Your Hands
Avoid Touching Your Face
Disinfect Surfaces Frequently
STOP THE SPREAD • FLATTEN THE CURVE

CONNECT WITH BALTIMORE COUNTY

www.baltimorecountymd.gov

LIBER 6539 PAGE 504

HT-10520
Cash

This Deed, Made this 26th day of MAY, in the year one thousand nine hundred and eighty-three, by and between HOWARD P. LINTZ and MARIE E. LINTZ, his wife, and HOWARD B. LINTZ parties of the first part, Grantors, and CONSTANTINE FRANK, party of the second part, Grantee.

C RC/F 16.00
C T TX 500.00
C DOCS 500.00
RCED 0 #
CHK JR T 1016.00
#54990 C001 R02 T12:36
06/14/83

THE actual consideration paid or to be paid is $ 100,000.00

Witnesseth: that in consideration of the sum of Five Dollars, and other valuable considerations, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey, and assign unto the said party of the second part, her personal representatives and assigns, in fee simple,

all that lot(s) of ground situate in BALTIMORE COUNTY in the State of Maryland, and described as follows, that is to say:

BEGINNING for the same at a point in the center of Manor Road, as now located, at the end of the 7th or N21° 24' 40"W 131.77' line of the land which by deed dated March 30, 1962 and recorded among the Land Records of Baltimore County in Liber WJR 3973, folio 505, was conveyed by Louis Valentine Cook, Herbert C. Lintz and Howard P. Lintz to Thirty Four Corporation, thence leaving Manor Road and binding on the 8th, 9th and 10th lines of the land in the aforesaid deed, the three following courses and distances, as now surveyed; (1) N75° 34' 40"E 203.00'; (2) N3° 27' 30"W 236.00', (3) S83° 31' 20"W 279.00' to the center of Manor Road, running thence in the center of Manor Road, as now located, the two following courses and distances, viz: (1) S18° 53' 20"E 105.67 (2) S21° 24' 40"E 166.14' to the place of beginning.

CONTAINING 1.393 acres of land more or less.

BEING the same lot of ground as described in a Deed dated March 8, 1965 and recorded among the Land Records of Baltimore County, in Liber O.T.G. 5207, Folio 770, which was granted and conveyed by Maurice W. Baldwin and Evelyn M. Baldwin, his wife, unto Howard P. Lintz and Marie E. Lintz, his wife.

STATE DEPARTMENT OF ASSESSMENTS & TAXATION

CLERK DATE

AGRICULTURAL TRANSFER TAX NOT APPLICABLE.

SIGNATURE 6/13/83

PETITIO

EXHIBIT

Together with the buildings and improvements thereupon; and the rights, alleys, ways, wate... legen, appurtenances and advantages to the same belonging or in anywise appertaining.

To have and to hold the said described lot(s) of ground and premises, unto and to the use of the said party of the second part, her personal representatives and assigns, in fee simple.

And the said Grantor covenants to warrant specially the property hereby granted and conveyed, and to execute such further assurances of said land as may be requisite.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Witness the hand(s) and seal(s) of the said grantor(s):

...ESS:

Howard P. Lintz [Seal]
HOWARD P. LINTZ

Howard B. Lintz (SEAL)
HOWARD B. LINTZ

Marie E. Lintz [Seal]
MARIE E. LINTZ

...OUNTY OF BALTIMORE, TO WIT:

...that on this 26th day of May, 1983, ...the State aforesaid, personally appeared HOWARD P. LINTZ

...n) to be the person(s) whose name(s) is/are subscribed to the within ...presence, and acknowledged that they executed the same for the pur-

Loren D. Sauer
Notary Public

My commission expires: July 1, 1986

PETITION FOR SPECIAL HEARING 14721 Manor Road	*	BEFORE THE
	*	OFFICE OF
10th Election District 3rd Councilmanic District	*	ADMINISTRATIVE HEARINGS
Legal Owner: Jacqueline R. Frank Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No.: 2019-437-SPH

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

AFFIDAVIT

I, Howard B. Lintz, am not a party to the above-captioned action, have no financial interest in the same and am over Eighteen (18) years of age. I hereby declare and affirm, under the penalties of perjury, that I am competent to testify concerning the following facts, all of which are based on my personal knowledge and are true:

1. I was born in 1946 to Howard P. Lintz and Marie E. Lintz.

2. I am familiar with the property located at 14721 Manor Road, Phoenix, MD 21131 (referred to hereinafter as "the Subject Property).

3. My Parents, Howard P. Lintz and Marie E. Lintz, acquired the Subject Property by deed dated March 8, 1965 from Maurice and Evelyn Baldwin. (Attached is a copy of the aforesaid deed).

4. I married in 1968 and moved into one of the apartments in the main dwelling house of the Subject Property. There were two apartments in the main dwelling house at that time. My wife and I lived there until 1978 when we moved to our current residence located at 14106 Blenheim Road which is about a mile and a half away from the Subject Property. During the period of my occupancy (1968-1978) there was a second apartment in the main dwelling house that was occupied by another tenant.

5. In addition to the main dwelling house as described above, there was a second building on the property located to the rear of the dwelling and referred to as the "garage" or "barn." I have personal knowledge that even prior to my parent's ownership of the Subject Property, there was a residential apartment over the garage/barn where a tenant lived. This tenant served as a "handyman" and helped the owners (including my parents) maintain the Subject Property. This apartment was likewise occupied while I lived on the Subject Property and while my parents owned it.

6. Constantine Frank, deceased husband of Petitioner Jacqueline Frank, acquired the Subject Property from my parents, Howard P. Lintz and Marie E. Lintz, by deed dated May 26, 1983.(a copy of the Deed is attached)

7. As stated above, I reside in the area of the Subject Property and am very familiar with the area. I travel up and down Manor Road frequently and pass the Subject Property. To the best

PETITIONER'S

EXHIBIT NO. 17

of my knowledge, information and belief, the Subject Property has been used continuously and uninterruptedly as 3 apartments since 1968 to the current time.

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.

Howard B. Lintz

Howard B. Lintz

Dated: 7/8/2020

STATE OF MARYLAND,

COUNTY OF Baltimore ; to wit:

I HEREBY CERTIFY, that on this 8th day of July, 2020, before me, the subscriber, a Notary Public of the State of Maryland, in and for County aforesaid, personally appeared **Howard B. Lintz** and he acknowledged the foregoing Affidavit to be his own act.

AS WITNESS my hand and Notarial Seal.

JENNIFER LYNN BENNETT NOTARY PUBLIC BALTIMORE COUNTY, MD My Commission Expires 12-20-2022

Notary Public
My Commission Expires: 12/20/2022

NEW BUSINESS CONSTRUCTION
1068 N. Front St, Rm. 501
Baltimore, MD 21202

December 2, 2019

Attn: Jacqueline Frank:

Dear Ms. Frank,
As per your request, this is to inform you that according to BGE records, BGE installed the PS electric meter on 11/1/1966 at the address of 14721 Manor Rd., Phoenix, MD 21121

Sincerely,

Customer Representative
New Business Construction
410-637-8713

PETITIONER'S

EXHIBIT NO. 8

RE: PETITION FOR SPECIAL HEARING 14721 Manor Road; SE intersection of Stansbury Mill & Manor Roads, E/S of Manor 10th Election & 3rd Councilmanic Districts Legal Owner(s): Jacqueline R. Frank Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2019-437-SPH

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

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

TABLE OF CONTENTS

Think Global, Act Local 1

1945 1

The Main Legislative Standard 2

Pre-1945 3

1946-68 3

1968-77 3

1977-1999 4

1999-2018 4

2018-2020 4

Cast a Giant Shadow 5

Recap 6

Conclusion 7

RECEIVED

AUG 4 2020

OFFICE OF
ADMINISTRATIVE HEARINGS

RE: PETITION FOR SPECIAL HEARING 14721 Manor Road; SE intersection of Stansbury Mill & Manor Roads, E/S of Manor* 10th Election & 3rd Councilmanic Districts Legal Owner(s): Jacqueline R. Frank Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2019-437-SPH

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

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

Think Global, Act Local

Our office appreciated the opportunity to encounter the technical challenges of Webextopia. We voiced concerns about the expanded scope of the hearing. But the new witnesses did give all sides ample opportunity to try to flesh out the facts. Thank you.

You alluded to War and Peace. Leo Tolstoy published the classic in 1869, spanning the French war with Russia from 1805.[1] We need not retrace two centuries. But we must revisit another era of war and peace, 1945, as the Battle of the Bulge blazed.

1945

On January 2, 1945, pursuant to special Maryland enabling legislation, the Baltimore County Commissioners enacted the first county comprehensive zoning ordinance. Kahl v. Consolidated Gas 191 Md. 249, 254-55 (1948). Section 1 defined "Nonconforming Use: A building or use of land occupied by a use that does not conform to the provisions of the regulations for the zone in which it is located."[2]

Since then, nonconforming use cases have required review back as far as January 2, 1945, depending on the zoning history. See Harris v. County Board of Appeals for

[1] On March 4, 1869, the great Ulysses S. Grant became the 18th President of the United States.

[2] The current BCZR Sec. 101.1 definition is materially the same: "A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective 'nonconforming' is a nonconforming use."

Baltimore County 249 Md. 554 (1968); Calhoun v. County Board of Appeals of Baltimore County 262 Md. 265 (1971).[3]

Honorable Judge Stahl speculated the relevant time duration might be 20 years. Respectfully, this is incorrect, perhaps due to confusion with adverse possession or the statute of repose. These both have 20-year durations. M.L.E. Adverse Possession, Sec. 24; M.L.E. Limitation of Actions Sec. 6; See Md. Code CJ Art. Sec. 5-108.

Here, our November 8, 2019 letter (P.C. Exh. 4, attached) surveyed the zoning history and maps from 1971 to date. We added Jeff Perlow's e-mail, maps, and earlier regulations to show the 1945-71 zoning. (P.C. Exhibits 1-3).[4] These show a three-apartment use did not conform to the applicable 1945 "A" Residence Zone and every zone thereafter: 1955-71: R-6; 1971-76: R.D.P.; and 1976 to date: R.C. 5.[5] Having laid this foundation, our time machine must again travel back to 1945.

The Main Legislative Standard

BCZR Sec. 104.1 addresses continuation of nonconformance,

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

The law weighs against continuation of nonconforming uses. It is intended that they disappear. The burden of proof is on petitioner. The "change" standard is strict and encompasses expansion. The one-year discontinuance is objective, and does not depend on intent. As a County Board of Appeals member, Judge Stahl chaired and/or participated

---

[3] To illustrate, Chief Judge Hammond observed in Calhoun: "We reverse, finding there was no evidence that would support a finding that a nonconforming use existed on January 2, 1945, the day the zoning law of Baltimore County first became effective." 262 Md., at 266.

[4] For convenience, we attach Exhibits 1-10, previously submitted prior to the July 21 hearing.

[5] Indeed, not only is the legal use still limited to one dwelling; but also, the size of the 1.4 acre site is undersized below the current minimum 1.5 acres for creation of a lot for one dwelling in the R.C. 5 Zone. BCZR Sec. 1A04.3.A.1.a.

in three significant multi-faceted cases where the CBA denied petitions for nonconforming apartments Reinke, Leong, and Clark. P.C. Exh. 6-8.

Pre-1945

There is obviously no evidence here to prove a legal use before January 2, 1945. Howard Lintz, born in 1946, was in no position to give that. On this basis alone, the petition must be denied.

1946-68

It is uncertain when Howard Lintz attained sufficient cognitive scope to comprehend apartment use. There was surely some period of early childhood before such awareness. There is no other evidence for this era. In short, there is no proof of any apartment use from 1945 to the early 1950s.

Lintz did say there were apartments as long as he could remember, two in the main house, and one in the barn. He did not live at the property until 1968. He claimed knowledge based on ownership by family members. But he could not provide specifics for his teenage years, and had no documentation. It is one thing to make an assertion, and another to have proof. Lintz's testimony for this period is scanty.

Furthermore, to have a separate dwelling in the barn, a separate structure, there would have to have been a legal subdivision. There is no evidence of this.

1968-77

Lintz's parents acquired the property in 1958. Lintz said he moved to the house when he got married in 1968. He called his dwelling an apartment; said there was another apartment in the house; and a handyman in the barn. He could not say what the arrangements were with the handyman. In the absence of subdivision, the handyman was at most an invited guest worker who slept in the barn. Lintz had no documents.

Even if we credit his residence on his parents' property as a normal apartment, and his assertion of a second apartment in the house, the handyman does not count for apartment use. At most, we can assign two apartments for 1968-77.

1977-1999

After Howard Lintz, moved out, the most he could say was that he drove on Manor Road sometimes and assumed there were still apartments. But he admitted on cross-examination to no specific knowledge for these decades.

Jacqueline Frank testified on the first day of hearing that there were three apartments when her husband (now deceased) acquired the property in 1983 from the Lintzes, and she was added by deed in 1989. But she appeared unable to answer specific questions posed by neighbor Steve Weinberg. She did not discuss whether there was still a handyman. Her testimony was vague. She had a limited memory. She did not provide a single document, an omission we emphasize below.

The proof for this period is insufficient. Lintz lacked any personal knowledge. Frank's vague testimony and documentary void were unsatisfactory.

1999-2018

Christine Derbach said she rented an apartment in the house in 1999. She moved to the barn in 2016 or 2017 when the owner began house renovations. She said there were two apartments in the house and one in the barn. She did not produce any documents.

If Ms. Derbach's testimony is credited, there were then three apartments, but still no subdivision. Anyway, the apartments apparently became a nuisance and led to citizen complaints. There ensued the correction notice dated June 20, 2019; citation August 14, 2019; and the Honorable Judge Stahl's violation Final Order dated August 27, 2019 (Case 1908335), documents attached to P.C. Exh. 4.

2018-2020

Ms. Derbach said she "believed" there were three apartments at the property after she left in late 2018. But she admitted on cross-examination that she had no personal knowledge of the situation. At this juncture, Steve Weinberg testified. He lives across the street. He produced a Zillow "multi-family property" $399,000 sales listing and photograph showing the time on Zillow to be 480 days, with a pending offer.[6] The photo

[6] A July 31, 2020 check of the Zillow website confirms the property was first listed for sale on March 29, 2019, 489 days before, much more than a year ago, with renovations well underway.

shows the home surrounded by construction or renovation debris. Weinberg testified, based on his personal observation, that the house has been unoccupied much more than a year. In cross-examination, Petitioner tried to suggest or argue that maybe the discontinued occupancy resulted from the citation, but did not question Weinberg's facts.

In "rebuttal," Jacqueline Frank actually did not dispute or rebut the discontinued occupancy. Rather, she tried to excuse it on the basis that she was faced with a violation and that one prospective tenant seemed reluctant. Our office objected that this was not rebuttal and anyway the reason for discontinuance is irrelevant.

Honorable Judge Stahl wondered if the violation notice might toll discontinuance. There is, however, no legal basis for the proposition that a violation notice tolls termination by discontinuance under BCZR Sec. 104.1. It was long ago settled that the discontinuance standard is objective, and does not depend on intent to abandon. Canada's Tavern v. Town of Glen Echo 260 Md. 206 (1970).

The only provision akin to tolling would be for damage or destruction by fire or casualty. BCZR Sec. 104.2 allows two years for restoration, but not expansion.

After violation orders, property owners often operate the use throughout the special hearing process until final. This happened in the Lagna nonconforming use case. Lagna v. People's Counsel 226 Md. App. 721, 2016 WL 327029 (2016). See Geddes v. People's Counsel unreported, 232 Md. App. 726, 2017 WL 1193781, cert. denied 455 Md. 443 (2017); MGJ Properties, LLC, CBA 2018-342-SPH. Whatever the situation, discontinuance of a nonconforming use for a year or more terminates the use.

Cast a Giant Shadow

"Explain, please, ability to stay with hunt without glimpse of fox."
Charlie Chan's Murder Cruise (1940)

There are federal, state, and local income taxes on rental income. The Form 1040 Schedule Cs and other records should easily be available. In the early 20th century, there evolved Baltimore County rental housing license legislation, which covers 3-apartment dwellings. Bill 87-07; County Code Article 35, Title 6. P.C. Exh. 5. The approved licenses are posted online. There are none for 14721 Manor Road.

Frank produced no records of income tax or license compliance. She produced no written leases or any bank, accounting, personal financial records, or correspondence. She did not produce a tenant ledger or history. As noted, she remembered little.

She obtained a BGE record of a 1966 PS Meter. But this meter, as Rebecca Heyman-Magaziner showed, is defined for a variety of situations. Anyway, the presence of a structure which could allow apartment use does not prove the actual use. See Leong, P.C. Exh. 7, P.5; Clark, P.C. Exh. 8, P.3-4.

The Court of Appeals held it a confession of untruth where a party fails to produce or withholds records on matters where they would be expected to have it within their power to produce. The Court wrote in Turner's Executor v. Turner 98 Md. 22 (1903),

> "The proposition is applicable with especial force in this case, against the defendant Joseph Turner, because the books of the firm are shown to have been left, upon its dissolution, in his possession, and under his control, and he has failed to respond to the demand for their production.
>
> * * *
>
> Such conduct has been repeatedly held by this court to raise a strong presumption against the party who withholds the evidence which he has it in his power to produce, and has even been held to amount to a confession of the untruth of the allegations which he thus fails to support." Citations omitted.

Radin v. Supervisor of Assessments 254 Md. 294, 300-02 (1969) applied this law against a company whose witnesses failed to produce relevant records. P.C. Exh. 11.

Previously, we e-mailed to underline Petitioner's failure to produce such records. She still failed. The abject absence of crucial records negates and nullifies all credibility.

Recap

Landmark cases on nonconforming use law include Prince George's County v. E.L. Gardner 293 Md. 259 (1982) and Purich v. Draper Properties 395 Md. 694, 711 (2006). Harris and Calhoun are key Baltimore County cases. They recognize 1945, and apply strictly the burden of proof. The Court previously rejected "scanty" evidence in Lapidus v. Mayor & City Council of Baltimore 222 Md. 260, 262 (1960). The Court affirmed another denial in Vogl v. City of Baltimore 228 Md. 283, 288 (1962),

> "There can be little doubt that such claimant must assume the burden of establishing the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance."

Such classics as Chayt v. Board of Zoning Appeals of Baltimore City 177 Md. 426 (1939) and Cleland v. Mayor & City Council 198 Md. 440, 444-45 (1951) review the prohibition of expansion. On the tail end, Canada's Tavern v. Town of Glen Echo 260 Md. 206, 209-11 (1970) explained the objectiveness of the discontinuance standard.

Here, the Frank petition is disqualified from the 1945 false start. The 2018-2020 discontinuance is anyway terminal. The "tolling" play is delusive. There is zero or scant evidence for the 1945-68 period. As for 1968-77, we see at most two apartments, so that expansion to three would be precluded anyway. The 1977-99 period again reverts back to scanty or conclusory evidence. They do better with 1999-2018 based on Ms. Derkach's testimony, but even there it was vague. Ironically, it was Ms. Derkach and Mr. Weinberg, who described the house renovation and discontinuance from late 2018 to the present. Ms. Frank did not dispute their testimony.

In sum, this petition is plainly disqualified at the 1945 starting line, again at the current finish line. It actually fails at every stage in between. Failure at any stage is enough to doom the petition. This one fails everywhere along the line.

Conclusion

"Truth like oil — will in time rise to surface." Charlie Chan's Murder Cruise (1940)

This false promotion of a nonconforming use masks the goal to maximize the sale price. As in United States v. Sineneng-Smith, 140 S. Ct.1575, 2020 WL 2200834 (2020), Ginsburg, J., this petition is "beyond the pale." Time has come to deny this petition.

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 4th day of August, 2020, a copy of the foregoing People's Counsel for Baltimore County's Memorandum was emailed to Rebecca Heyman Magaziner Esquire, 3523 Southside Avenue, Phoenix, Maryland 21131, rlhmlaw@hotmail.com; Steven Weinberg, 14714 Manor Road, Phoenix , MD 21131, Steven.d.Weinberg@gmail.com; John C. Raley; 3810 Donerin Way, Phoenix, MD 21131, jcr319@hotmail.com; and Lawrence Schmidt, Esquire, lschmidt@sgs-law.com & Zachary Wilkins, Esquire, zwilkins@sgs-law.com , 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorneys for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Rebecca Wheatley

From: Jeffrey N Perlow
Sent: Thursday, July 16, 2020 2:49 PM
To: Peter Max Zimmerman
Cc: Carl Richards Jr
Subject: RE: Zoning history, Pre-1971, 14721 Manor Road
Attachments: 1945 Map 10th Dist.pdf

Pete,

Attached is the 1945 map of the 10th election district that indicates the subject property was Zoned "A" Residence in 1945. While there are no maps available from 1955 thru 1970 for Election District 10, Carl is correct that "A" Residence zones in place from 1945-1955 ultimately became Residual "R-6" on March 30, 1955. While the "A" Residence and "R-6" zones did permit both one-family **and** two-family dwellings (i.e. duplexes and semi-detached dwellings) from 1945-1970, those zones never permitted three-family dwellings. For them to establish a non-conforming use for a three-family dwelling, the petitioner's would have to show that all three dwellings existed prior to 1945. And Pete, please don't subpoena me, as I am swamped with County projects that have immediate deadlines from the higher-ups . Thank you!

Jeff Perlow

From: Peter Max Zimmerman
Sent: Thursday, July 16, 2020 11:08 AM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>
Cc: Carl Richards Jr <CRichards@baltimorecountymd.gov>
Subject: Zoning history, Pre-1971, 14721 Manor Road

Dear Jeff,

We have a nonconforming use case still pending at the ALJ level for an upcoming remote delayed second day of hearing Tuesday before ALJ Lawrence Stahl.
The 1.4 acre rural property is at 14721 Manor Road, and the question is whether they can establish a nonconforming use for 3 apartments on the R.C. 5 Zone property.

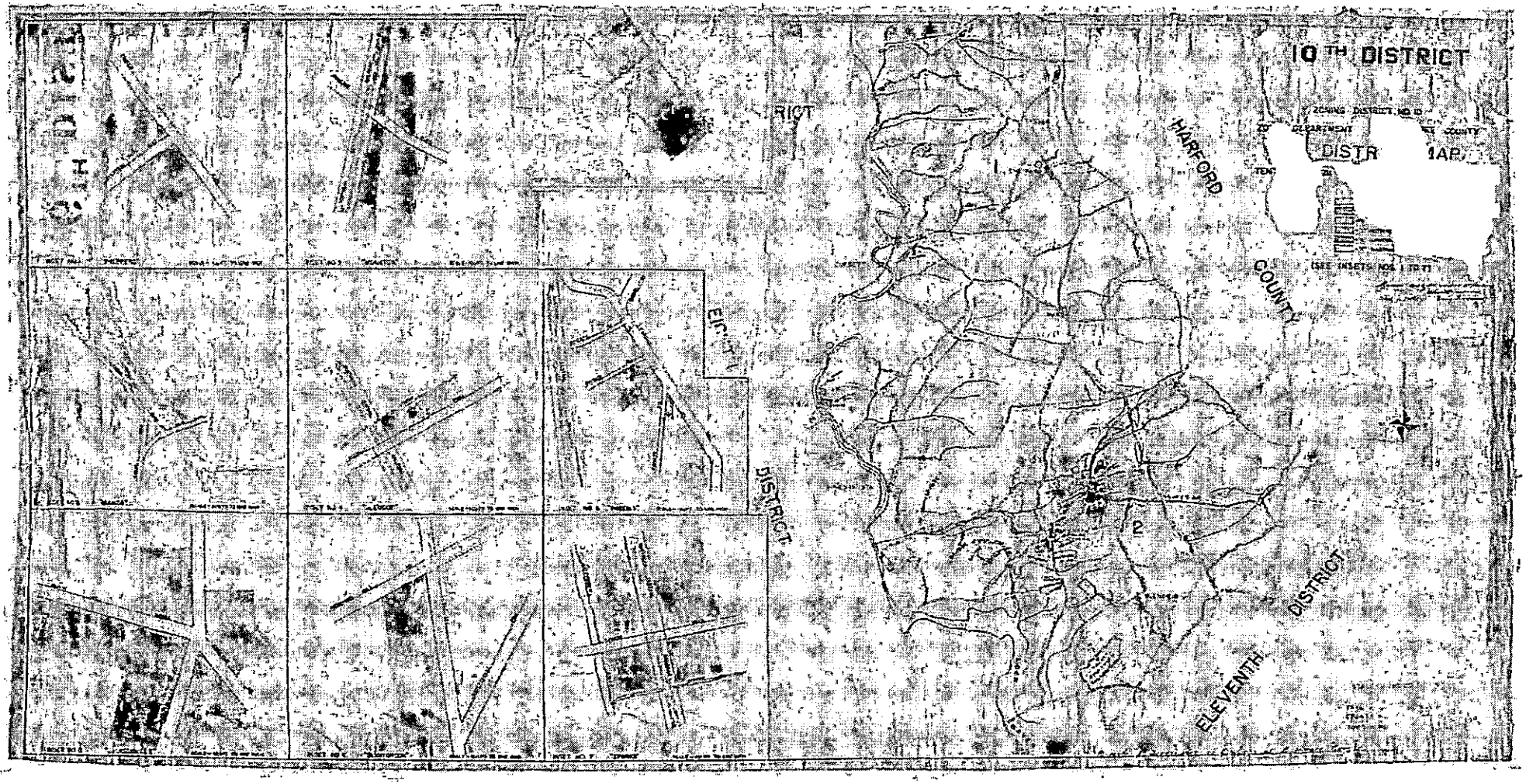
Your office provided us with the zoning history back to 1971. It is reviewed in the attached letter dated November 8, 2019. Based on the history back to 1971, we could establish that only one dwelling was permitted under the zoning classifications back that far. We did not pin down the situation prior to 1971. We would now like to do that if possible.

My question is whether there is any record of the zoning in the 1960s, pre-1971?
I have the impression, maybe from talking with Carl, that there was a residual R-6 Zone in this north rural area. If so, what did that permit relating to the number of dwellings on a 1.4 acre property here? If the zone was something other than R-6, what was the situation?

If you could give us an answer, that would be very helpful. Thank you so much.

Peter Max Zimmerman, People's Counsel, 410 887-2188

People's Counsel ALJ Exh. 1


10TH DISTRICT
DISTR
MAP
HARFORD
COUNTY
ELEVENTH
DISTRICT
DISTRICT

Received this ... from Zoning Office

ZONING REGULATIONS AND RESTRICTIONS

FOR

BALTIMORE COUNTY

INDEX

Zones-Permits, etc.	Page	Par.
A	5	
B & C	7	
D & E	8	
F	10	
G	11	
Exceptions	11	
Non-Conforming Use	12	
Special Except.& Permits	12	
Quarry, Sand Pit, etc.	13	B
Auto Parking	13	C
Accessory Bldg.(Over)	14	D
Gas Station & Poultry	14	E
Any Use not Allowed	14	F
Graveyard	14	G
Cabin Camp	14	H
Utility Structure	15	I
Public Stable	15	J
Junk Yard	15	K
Advertising Strucure	16	L
Fuel Oil Storage	17	M
Temporary Permit	17	
Zoning Commissioner	19	
Zoning Board	20	
Prices	21	

People's Counsel ALJ Exh. 2

January 2, 1945

ADOPTED BY THE COUNTY COMMISSIONERS
OF BALTIMORE COUNTY,
Enabling Acts of the General Assembly of Maryland:

Session of 1941, Chapter 247

Session of 1943, Chapter 877

Session of 1945, Chapter 502

Session of 1947, Chapter 915

CHRISTIAN H. KAHL,
President

JOHN R. HAUT

BREMEN A. TRAIL

County Commissioners
of Baltimore County

Codified Sept. 1, 1948 by

CHAS. H. DOING
Zoning Commissioner of Baltimore County.

32. Trailer: A vehicle used, or intended for use as a conveyance upon the public street or highways, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a movable dwelling or sleeping place.

33. Trailer Camp: Any land upon which, habitually or infrequently, one or more trailer or house cars, when detached from its automobile, or means of locomotion, or a combined car and house trailer, are placed or located, and whether or not used for occupancy as dwelling or otherwise, and shall include any structure or building used as a service building for such camp or intended for use as a part of the equipment of such camp.

34. Wayside Stand: A temporary structure including tables, or other method for display and sale of farm products or commodities.

35. Yard: An open space on the same lot as the building and unoccupied and unobstructed from the ground up (except such accessory buildings, or projections as are expressly permitted in these regulations) and not including a court.

36. Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the foundation wall of the building.

37. Yard, Rear: A yard extending across the full width of the lot measured between the rear lot line and the main building.

38. Yard, Side: A yard extending from the front yard to the rear yard and measured from the side lot line to the building.

39. Zone: An area for which the regulations governing the use of buildings and land are identical.

SECTION II—ZONES

For the purposes of these regulations, the County is hereby divided into Seven (7) Zones as follows:

"A" Residence Zone - - - (Cottage)
"B" Residence Zone - (Semi-detached)
"C" Residence Zone - - (Apartment)
"D" Residence Zone - - - (Group)
"E" Commercial Zone.
"F" Light Industrial Zone.
"G" Heavy Industrial Zone.

SECTION III—"A" RESIDENCE ZONE

A. Use Regulations: In any "A" Residence Zone, except as hereinafter expressly provided, no building or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Church, parochial school, convent or monastery.

2. Dwelling, single family.

3. Dwelling, two-family.

4. Farming and buildings incidental thereto.

5. Home Occupations, provided that no sign or signs shall be displayed on the lot so used exceeding a total of two square feet in area, not projecting more than one foot beyond the building, and not illuminated.

6. Professional office when situated in the building used by practitioner as his or her private dwelling, provided that no name plate shall be displayed exceeding two square feet in area.

7. Public park or playground.

8. Public building.

9. Public water works reservoir.

10. Trailer, one unoccupied, for storage only.

11. Tourist home.

12. Truck garden.

13. Accessory building and uses incident to any of the above uses when located on the same lot and in the rear yard and not involving the conduct of a retail business, and which may include:

(a) Any accessory building when located not less than 60 feet from front lot line and in case of a corner lot where real lot line abuts on side line of lot adjoining on rear, no accessory building shall be less than 25 feet from the side street line except when built as a part of the main building, provided, however, that any accessory building which is erected within 60 feet of any side street line shall not be less than 10 feet from the rear lot line. In case of a corner lot where rear line of lot abuts on rear line of lot adjoining on rear, no accessory building shall be less than 15 feet from the side street line and in no case shall an accessory building be located within two feet of any lot line.

(b) Poultry house, provided use is of a private nature only and no poultry or eggs are sold, provided, however, that any poultry yard, run or enclosure, shall be, in its entirety, within the rear yard of such lot.

14. Telephone and telegraph lines, electric light and power lines on public highways or carrying less than 5,000 volts on poles, underground conduits, cables and gas, sewer and water mains and pipes, provided that no building or structure except such poles shall be erected, altered, repaired or used in connection therewith without the issuance of a special permit as provided in Section XIII—Sub-section I.

B. Height Regulations: No building shall exceed a height of forty feet or three stories.

C. Area Regulations: The minimum dimensions of yards, and the minimum lot area, except as provided in Section IX, shall be as follows:

1. Lot Area: Each dwelling hereafter erected shall be located on a lot having an area of not less than five thousand square feet and a width of not less than fifty feet at the front building line. No yard space or minimum area required for a building or use by these regulations shall be considered as any part of the yard space or minimum area for another building or use.

2. Front Yard: The building line shall set back from the front lot line to provide for a front yard not less than twenty-five feet in depth, provided that when the majority of residential buildings on one side of a street between two intersecting streets, have been lawfully built with different front yard depths than the aforesaid twenty-five feet, then no building hereafter erected or altered shall have a less front yard than the average depth of said actual front yards of buildings immediately to either side of said building; and, provided, further that no building shall be required by the regulations to set back more than fifty feet in any case, and provided further that these regulations shall not be construed as to reduce to less than 22 feet the buildable width of a corner lot.

3. Side Yard: There shall be a side yard not less than seven feet in width along each side lot line, except in case of a corner lot the side yard along the side street shall not be less than fifteen feet.

4. Rear Yard: There shall be a rear yard, having a minimum average depth of twenty feet but in no case less than fifteen feet in depth at any one point.

5. No portion of an alley shall be considered as any part of any side or rear yard.

6. No dwelling shall be built on a lot which does not abut upon and front directly on a public street, or adequate rural right-of-way.

SECTION IV—"B" RESIDENCE ZONE

A. Use Regulations: Except as hereinbefore expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Any use permitted in an "A" Residence Zone, any such use to be subject to the same conditions and limitations set forth as to such use in section III-A of these regulations:

2. Children's Home.

3. Dwellings—semi-detached.

4. Fraternity or Sorority House.

5. Orphanage.

6. Tea Room, when operated as a home occupation.

B. Height Regulations: Same as in an "A" Residence Zone, as set forth in Section III-B.

C. Area Regulations: Same as in an "A" Residence Zone, as set forth in Section III-C, provided, however, that any semi-detached house erected under this Section shall be considered as one building.

SECTION V—"C" RESIDENCE ZONE

A. Use Regulations: Except as hereinafter expressly provided, no building or structure or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:

1. Any use permitted in the "B" Residence Zone; any such use to be subject to the same conditions and limitations as provided in Section IV-A.

2. Apartment house.

3. Public storage garage where no repair facilities are maintained and when located not less than sixty feet from the front lot line and, in the case of a corner lot, thirty feet from the side street line except when contained within the main building and provided further that any accessory building and any detached garage which is erected on a corner lot within sixty feet of any side street line, shall be distant not less than ten feet from the party lot line intersecting such side street line.

B. Height Regulations: Building height unlimited.

C. Area Regulations: The minimum dimension of yards and the minimum lot area per family, except as provided in Section X, shall be as follows:

1. Lot Area Per Dwelling Unit. Same as in "B" Residence Zone, Section IV, except in the case of apartments the minimum gross lot area per dwelling unit shall be six hundred twenty-five square feet.

2. Front Yard: Minimum front yards for single-family or semi-detached dwellings shall be the same as hereinbefore specified in "A" Residence Zone and "B" Residence Zone respectively, except apartment buildings shall set back to provide for a front yard of not less than 55 feet in depth, measured from the center of the front street, in no case less than 25 feet from the front lot line, and when the building is more than 40 feet in height such front yard depth shall be increased 4 inches for each additional foot of height.

BALTIMORE COUNTY

ZONING REGULATIONS

ADOPTED BY

COUNTY COMMISSIONERS

OF

BALTIMORE COUNTY

March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition).

1955

Michael J. Birmingham
President

Robert B. Hamill
Augustine J. Muller
County Commissioners of Baltimore County

Francis T. Peach
County Solicitor

George M. Berry
Deputy Solicitor

Wilsie H. Adams
Zoning Commissioner

People's Counsel ALJ Exh. 3

BALTIMORE COUNTY ZONING REGULATIONS

TABLE OF CONTENTS

RESOLUTION AND ORDER OF THE COUNTY COMMISSIONERS OF BALTIMORE COUNTY

ARTICLE 1—General Provision

Section 100—Zones and Zone Boundaries 1
Section 101—Definitions 1
Section 102—General Requirements 9
Section 103—Application of Zoning Regulations 9
Section 104—Nonconforming Uses 10
Condensed Schedule of Basic Lot Area and Yard Requirements 13

ARTICLE 2—

Zones: Use, Height, and Area Regulations

Section 200—R. 40 Zone—Use Regulations 13
Section 201— —Height Regulations 15
Section 202— —Area Regulations 15
Section 203—R. 20 Zone—Use Regulations 16
Section 204— —Height Regulations 16
Section 205— —Area Regulations 16
Section 206—R. 10 Zone—Use Regulations 17
Section 207— —Height Regulations 17
Section 208— —Area Regulations 17
Section 209—R. 6 Zone—Use Regulations 18
Section 210— —Height Regulations 18
Section 211— —Area Regulations 18
Section 212—R. G. Zone—Use Regulations 21
Section 213— —Height Regulations 21
Section 214— —Area Regulations 21
Section 215—R. A. Zone—Use Regulations 22
Section 216— —Height Regulations 23
Section 217— —Area Regulations 23
Section 230—B. L. Zone—Use Regulations 25
Section 231— —Height Regulations 27
Section 232— —Area Regulations 28
Section 233—B. M. Zone—Use Regulations 28
Section 234— —Height Regulations 30
Section 235— —Area Regulations 30
Section 236—B. R. Zone—Use Regulations 31
Section 237— —Height Regulations 32
Section 238— —Area Regulations 32
Section 250—M. R. Zone—Use Regulations 32
Section 251— —Height Regulations 34
Section 252— —Area Regulations 34

Section 253—M. L. Zone—Use Regulations 37
Section 254— —Height Regulations 38
Section 255— —Area Regulations 38
Section 256—M. H. Zone—Use Regulations 38
Section 257— —Height Regulations 40
Section 258— —Area Regulations 40
Section 270—Schedule of Special Exceptions 41

ARTICLE 3—

Excepton to Height and Area Requirements

Section 300—Height Exceptions 43
Section 301—Projections Into Yards 43
Section 302—Height and Area Requirements for New Residences in Business and Manufacturing Zones 43
Section 303—Front Yard Depths in Residence and Business Zones 44
Section 304—Use of Undersized Single-Family Lots 44
Section 305—Replacement of Destroyed or Damaged Dwellings 45
Section 306—Minor Public Utility Structures 45
Section 307—Variances 45

ARTICLE 4—

Special Regulations

Section 400—Accessory Buildings in Residence Zones 47
Section 401—Cemeteries 47
Section 402—Conversion of Dwellings 47
Section 403—Excavations, Controlled 48
Section 404—Farming 49
Section 405—Filling Stations 49
Section 406—Golf Driving Range, Miniature Golf, and Baseball Batting Range 50
Section 407—Hospitals 50
Section 408—Junk Yards 51
Section 409—Offstreet Parking and Loading 53
Section 410—Open Dumps 56
Section 411—Public Utility Uses 56
Section 412—Sanitary Landfills 58
Section 413—Signs 59
Section 414—Trailer Parks 65
Section 415—Trailers 65

per cent of the lots may have an area less than 10,000 square feet (see Section 304).

208.2—Front Yard—For dwellings, the front building line shall be not less than 30 feet from the front lot line and not less than 55 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—50 feet from the front lot line and not less than 75 feet from the center line of the street, except as specified in Section 303.1.

208.3—Side Yards—For dwellings, 10 feet wide for one side yard and not less than 25 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 30 feet from the side lot line and not less than 55 feet from the center line of the street; for other principal buildings—20 feet wide, except that for a corner lot the building line along the side street shall be not less than 35 feet from the side lot line and not less than 60 feet from the center line of the street.

208.4—Rear Yard—30 feet deep.

R. 6 Zone—Residence, One and Two-Family

Section 209—USE REGULATIONS

The following uses only are permitted:

209.1—Uses permitted and as limited in R. 40 Zone;

209.2—Two family dwellings, as defined in Section 101;

209.3—Special Exceptions—Same as R. 10 Zone, except sanitary landfills and trailer parks which are not permitted (see Sections 270 and 502).

Section 210—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 211—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

211.1 — Lot Area and Width — Each one-family dwelling and each other principal non-residential building hereafter erected shall be located on a lot having an area of not less than 6,000 square feet and a width at the front building line of not less than 55 feet; each two-family dwelling hereafter erected shall be located on a lot(s) having an area of not less than

10,000 square feet and a width at the front building line of not less than 80 feet for a duplex dwelling and 90 feet for the pair of lots occupied by a semi-detached dwelling (see Section 304).

211.2—Front Yard—For dwellings, the front building line shall be not less than 25 feet from the front lot line and not less than 50 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—40 feet from the front lot line and not less than 65 feet from the center line of the street, except as specified in Section 303.1.

211.3 — Side Yards — For one-family dwellings, 8 feet wide for one side yard and not less than 20 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 25 feet from the side lot line and not less than 50 feet from the center line of the side street; for two-family dwellings, side yards shall be as provided in Sections 214.1 and 214.3; for other principal buildings, same as in Section 208.3.

211.4—Rear Yard—30 feet deep.

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

November 8, 2019

HAND DELIVERED
Lawrence M. Stahl, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED
NOV 08 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

Re: Jacqueline R. Frank
14721 Manor Road
Case No: 2019-437-SPH

Dear Judge Stahl,

Upon review of this zoning petition, related enforcement proceedings, and citizen concerns, it appears necessary and appropriate to survey the situation and provide some legal perspective. We trust the following analysis will be helpful to your review of this case.

Petitioner Jacqueline Frank filed the petition on August 22, 2019. Her address is 19 Bellclare Circle, Sparks Glencoe, Maryland 21152. The petition relates, however, to her 3-apartment building at 14721 Manor Road. The enclosed SDAT data lists her and Constantine Frank as property owners and provides other basic information.

A petition for a special hearing via BCZR Sec. 500.7 effectively requests a declaratory judgment. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005). This petition requests a determination to approve the 3-apartment building on Manor Road as a nonconforming use.

The property is 1.4 acre in size. The enclosed ADC Street Atlas, Page 34, shows the rural north county location. The current zone is R.C. 5, Rural-Residential. This zone allows at most one dwelling here. Based on BCZR Sec. 1A04.3.A.1.a, the maximum gross residential density is 0.5 dwelling per acre. For properties less than 1.5 acres, a single dwelling is allowed via special hearing. In sum, the maximum allowed for this property under the current zone is just one dwelling.

* * *

The present petition comes in the wake of enforcement proceedings in Case CC1908335. It began with a Correction Notice on June 20, 2019, followed by a July 25. 2019 citation, which gave notice of an August 14, 2019 hearing date. The case concluded with Administrative Law Judge Lawrence M. Stahl's August 27, 2019 Order. This documentary history is enclosed. Each

of the enforcement documents shows they were addressed to Constantine Frank and Jacqueline Frank at the 19 Bellclare Road address.

Judge Stahl determined the existence of a violation and imposed a civil penalty of $6000.00. The Order states the property owners failed to appear for the August 14, 2019 hearing. Therefore, as Judge Stahl observed, the Order was not appealable. Baltimore County Code Sec. 3-6-206(f). His decision is the final decision in the enforcement case.

* * *

We shall first address the substantive legal context of the nonconforming use claim. Petitioner must prove there was a legal 3-apartment use before there came about legislation which made the use impermissible. To explore this further, we obtained from the zoning office the enclosed zoning history.

Baltimore County enacted its first comprehensive zoning map in 1945. See Kahl v. Consolidated Gas. Electric Light, and Power Co. 191 Md. 249 (1948). The zoning history here shows so far that in 1971, the property was legislatively rezoned to R.D.P., Rural Deferred Planning. This zone allowed one dwelling per acre, so a maximum still of one dwelling. BCZR Sec. 1A00.3.B.1; Bill 100, 1970. In 1976, the property was zoned R.C. 2, Agricultural, again with a maximum of one dwelling here per BCZR Sec. 1A01.3.B; Bills 98-75, 178-79. It looks like the current R.C. 5 Zone came about in 2016. We have not ascertained the zoning history before 1971.

Petitioner must thus prove (1) that the property was used for three apartments at least since before the 1971 comprehensive zoning map, perhaps even earlier, and (2) that it has been used as such since then continuously, that is to say, without discontinuity for a year. The burden of proof is on the Petitioner. The law is construed strictly against nonconforming uses, which the law intends to disappear. Prince George's County v. E.L. Gardner 293 Md. 259, 267-70 (1982); Purich v Draper Properties 395 Md. 694, 708-22 (2006); Canada's Tavern v. Town of Glen Echo 260 Md. 206 (1970).

In sum, substantively, resolution of the present nonconforming use issue depends on the aforesaid law as applied to the facts presented at the hearing. That will be a mixed factual/legal determination. In sum, Petitioner must show when, if ever, there was a legal use for 3 apartments, and if so, that such use has continued without interruption after the advent of the legislation which prohibited the use, either in 1971 or perhaps earlier.

* * *

There is another issue. This relates to the impact of Judge Stahl's final order in the enforcement proceedings. Does Judge Stahl's final determination of a violation preclude this special hearing petition? Otherwise stated, is the petition for special hearing barred by *res judicata* or, at the very least, collateral estoppel? See Batson v. Shifflett 325 Md. 684, 701-05; Powell v. Breslin 430 Md. 52, 64-65 (2013); Garrett Park v. Montgomery County Council 257 Md. 250, 256-58 (1970); Fertitta v. Brown 252 Md. 594, 599-600 (1969); and Seminary Galleria v. Dulaney Valley Improvement Association 192 Md. App. 719, 734-42. (2010) as to *res judicata.* The *res*

judicata doctrine may apply so long as the cause of action is effectively the same and the relevant party had the opportunity to adjudicate the issue. FWB v. Richman 354 Md., 472, 491-93 Moreover, where the issue is effectively adjudicated, collateral estoppel comes into play in any event. Leeds Federal Savings & Loan Association v. Metcalf 332 Md. 107, 117-18 (1993).

Property owners served with correction notices and citations may assert legal defenses at the enforcement hearing. This includes the defense of legal nonconforming use as defined in BCZR Sec. 101.1 and stated in Sec. 104.1. To find a violation, it was necessary, as a matter of law, that there be no proof of nonconforming use. If the use were legally nonconforming, there would be no violation. Judge Stahl's Order is thus final and conclusive that there was no such legal use. Consequently, the petition for special hearing appears to be barred by *res judicata* or collateral estoppel. The record reflects, ironically, that Jacqueline Frank's petition for special hearing, filed on August 22, came 8 days after neither she nor Constantine Frank appeared at the August 14 enforcement hearing.

* * *

We appreciate your careful consideration of these matters of public interest..

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Zachary Wilkins, Esquire, Attorney for Petitioner, sent via first class mail & email
John Raley, sent via email to jcr319@hotmail.com
Rebecca Heyman Magaziner, Esquire, sent via email to rlhmlaw@hotmail.com
Jonathan Blanar, sent via email to jrb_0323@yahoo.com
Steven Fischer, sent via email to stevenfischer88@rocketmail.com
Michael D. Mallinoff, Director of Permits, Approvals, and Inspections
W. Carl Richards, Zoning Supervisor

ADC The Map People
by Kappa Map Group

STREET ATLAS

More Titles
MID-ATLANTIC REGION
Better Selection

Baltimore City & County Maryland

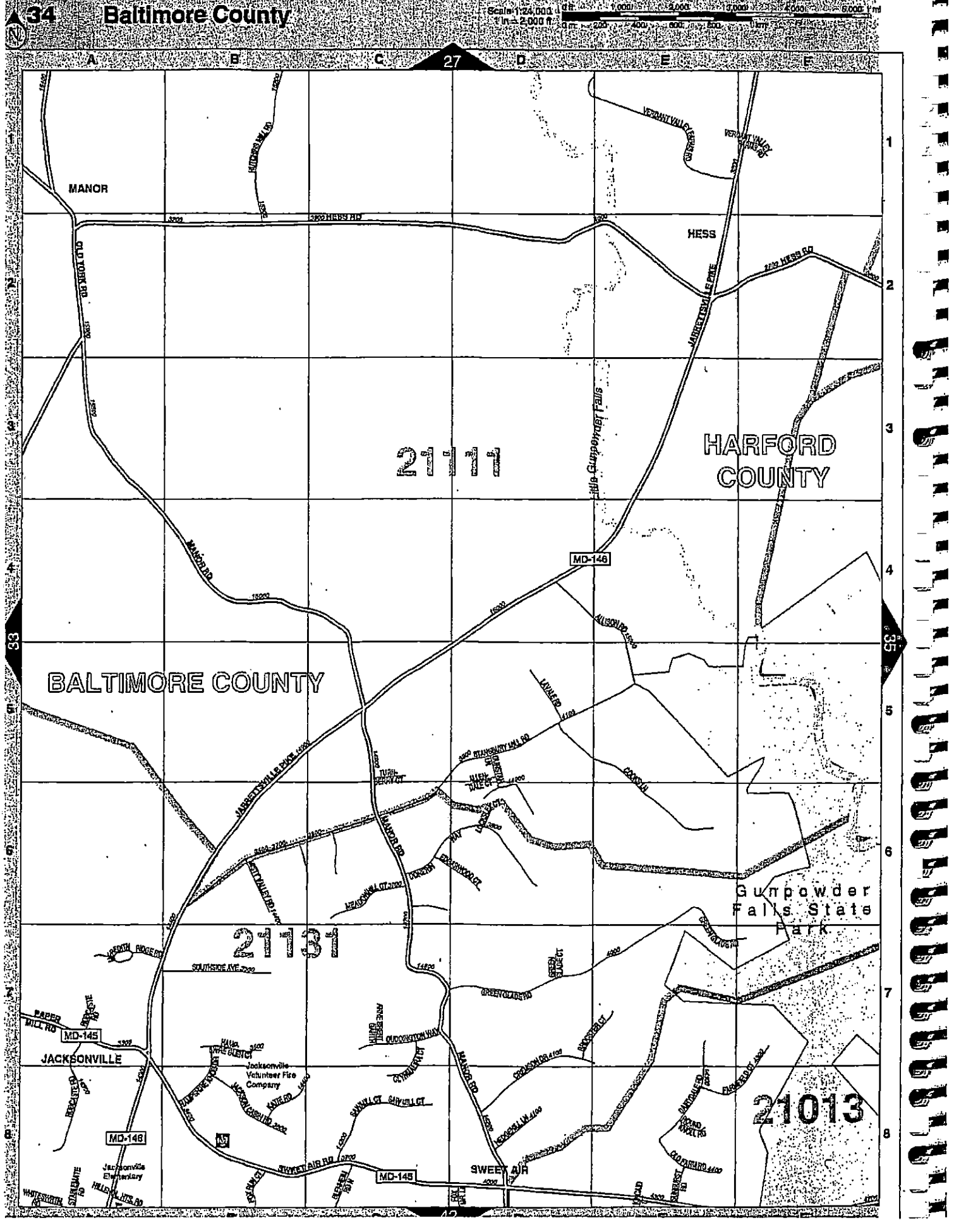
Trusted. Accurate. Everywhere.

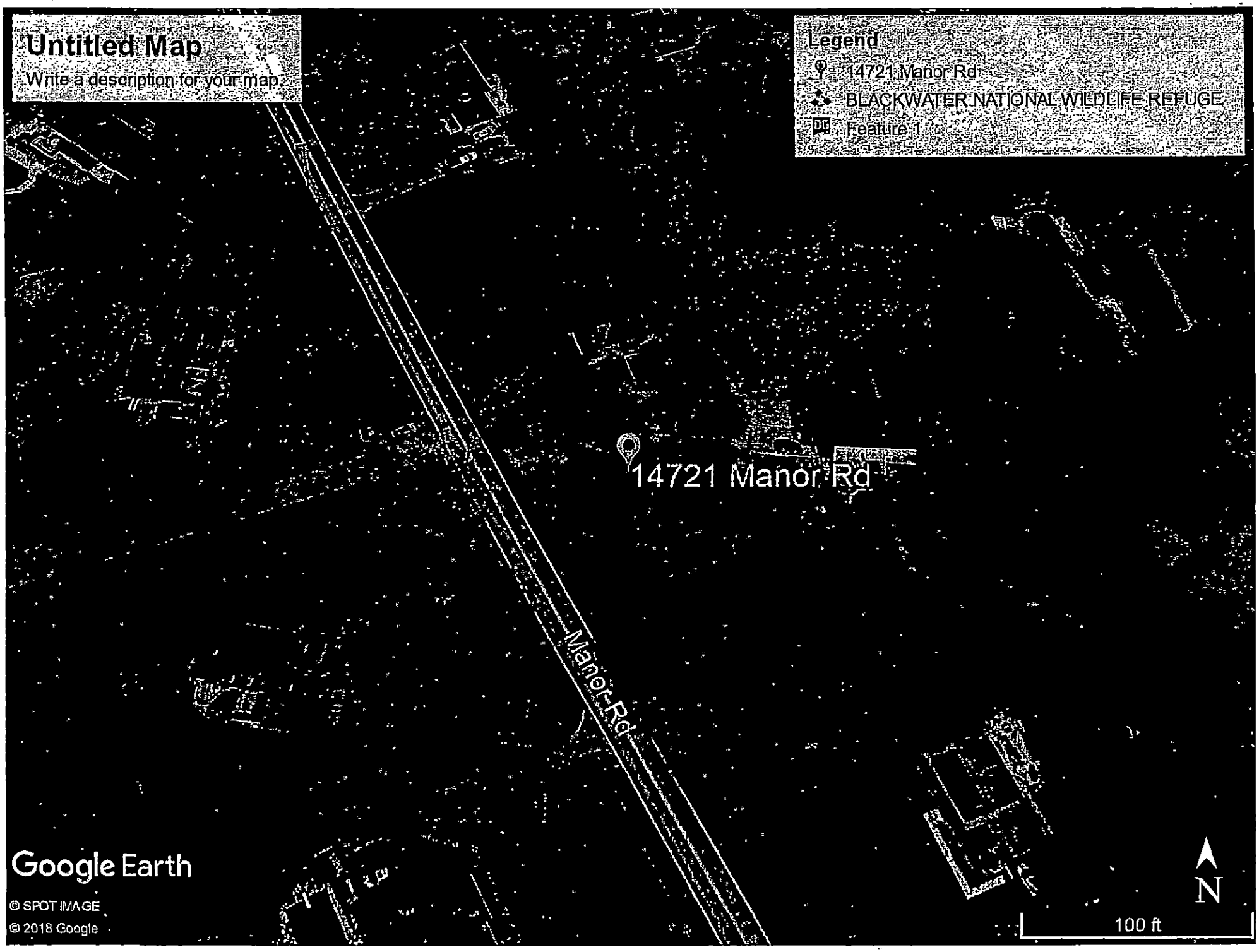


INCLUDING: Complete Baltimore County coverage, Hampstead & Downtown Baltimore (large-scale)

FEATURING: Detail of Baltimore/ Washington International Thurgood Marshall Airport (BWI), Block Numbers, Downtown Baltimore, Colleges & Universities, Baltimore Metro & Central Light Rail, Maryland Rail Commuter System, Parks & Rec Areas, Places of Interest, Schools & ZIP Codes




Scale 1:24,000
1 in = 2,000 ft
A
B
C
D
E
F
27
33
35
42
MANOR
HESS
HARFORD COUNTY
BALTIMORE COUNTY
21111
21131
21013
Gunpowder Falls State Park
Little Gunpowder Falls
MD-146
MD-145
JACKSONVILLE
SWEET AIR
Jacksonville Volunteer Fire Company
Jacksonville Elementary
OLD YORK RD
MANOR RD
HESS RD
JARRETTSVILLE PIKE
PAPER MILL RD
SWEET AIR RD
GREENWOOD RD
HARKINS RD
LAUREL RD
ALLISON RD
VERONA VALLEY RD
SOUTHSIDE AVE
STAGECOACH MILL RD
FOOKSIA
BROOKSIDE CT
GREENWOOD CT
QUIDDICHTEN WAY
CATHALEEN CT
SAWMILL CT
ROUND KNOLL RD
OLD PATAPSCO
ROCKSPRING LN
CRESTVIEW RD
ENGLEMERE RD
KNIGHTS VALLEY RD
1 2 3 4 5 6 7 8


Untitled Map
Write a description for your map
Legend
14721 Manor Rd
BLACKWATER NATIONAL WILDLIFE REFUGE
Feature 1
14721 Manor Rd
Manor Rd
Google Earth
© SPOT IMAGE
© 2018 Google
N
100 ft

Real Property Data Search

You may experience issues today as SDAT works to restore all services. SDAT apologizes for any inconvenience the last few days, and asks for patience as we continue to work to make the site better.

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Account Identifier: District - 10 Account Number - 1012040302

Owner Information

Owner Name:	FRANK CONSTANTINE FRANK JACQUELINE R	**Use:** **Principal Residence:**	RESIDENTIAL NO
Mailing Address:	19 BELLCLARE CIR SPARKS GLENCO MD 21152-9114	**Deed Reference:**	/08169/ 00330

Location & Structure Information

Premises Address:	14721 MANOR RD 0-0000	**Legal Description:**	1.413 ACRES ES MANOR ROAD 318 S STANSBURY MILL RO

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0036	0008	0168	10030041.04	0000				2020	Plat Ref:

Special Tax Areas: None
Town: None
Ad Valorem: None
Tax Class: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1898	4,308 SF		1.4100 AC	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2 1/2	YES	STANDARD UNIT	ASBESTOS SHINGLE/	4	4 full		

Value Information

	Base Value	Value As of 01/01/2017	Phase-in Assessments As of 07/01/2019	As of 07/01/2020
Land:	140,500	140,500		
Improvements	212,300	212,300		
Total:	352,800	352,800	352,800	
Preferential Land:	0			

Transfer Information

Seller: FRANK CONSTANTINE	**Date:** 05/09/1989	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /08169/ 00330	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2019	07/01/2020
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt: None
Special Tax Recapture: None
Exempt Class: None

Homestead Application Information

Homestead Application Status: No Application

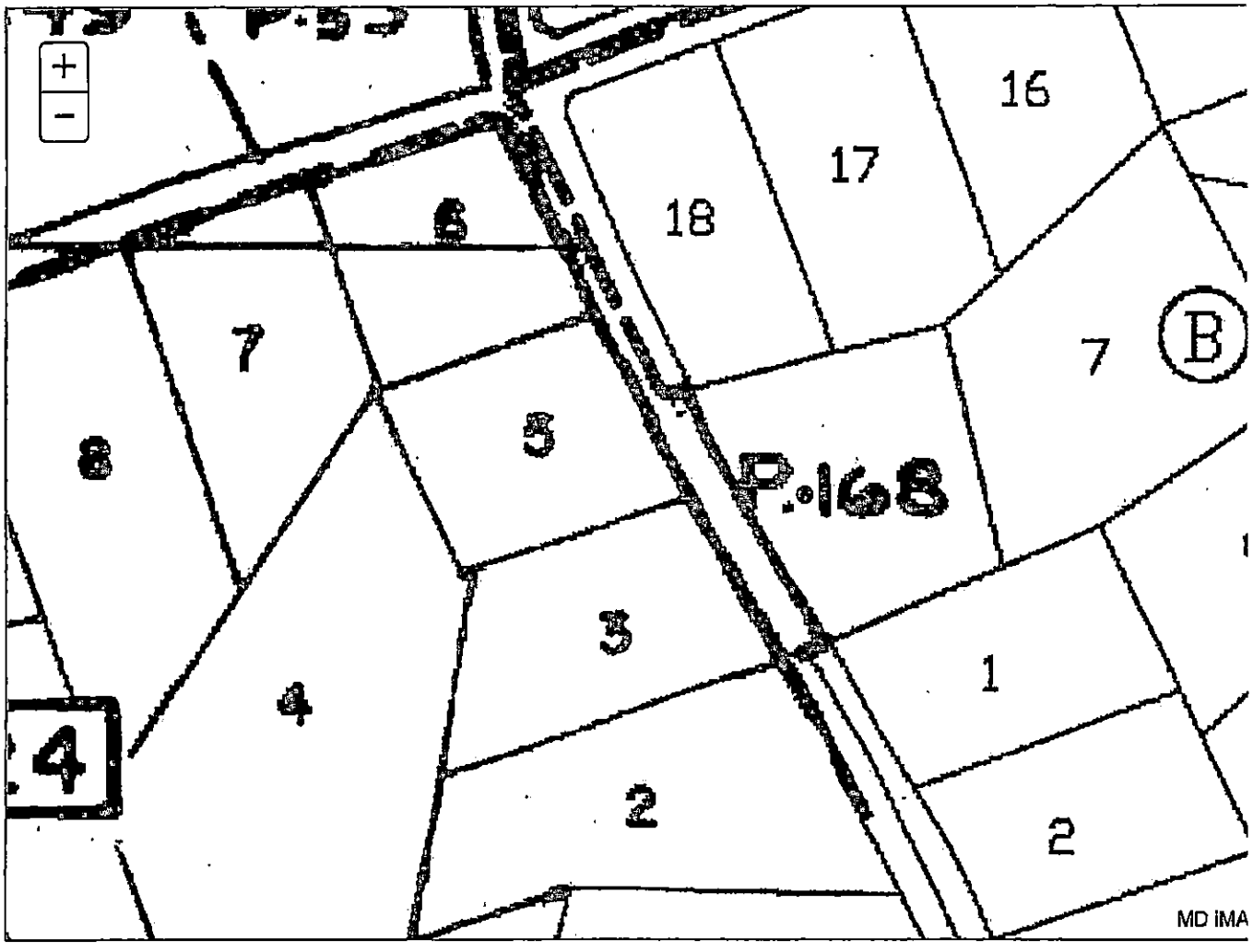
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application
Date:

Baltimore County

New Search (https://sdat.dat.maryland.gov/RealProperty)

District: 10 Account Number: 1012040302



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.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx (http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx).

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204
www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT CORRECTION NOTICE

CASE NUMBER	PROP.TAX ID
CC1908335	10-12-040302

VIOLATION ADDRESS
14721 MANOR RD
PHOENIX, MD 21131

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
B.C.Z.R 402: Illegal conversion of dwelling	Cease illegal conversion of dwelling, convert the dwelling back to a single-family dwelling as a multi family dwelling is not permitted in an RC5 zoned property.
Other Violation(s)	BCZR 1A04.3.B.5 Only one dwelling permitted on an RC5 zoned property, remove the second dwelling from the property.

Failure to comply with this correction notice, may result in a $200.00 fine/penalty per day, per violation pursuant to BCC: 1-2-217; 32-3-602 and/or the County sending a contractor to correct the violation(s) at your expense. Call the inspector for more information and details.

COMPLIANCE DATE: 07/20/2019	INSPECTOR ID: 79
	ISSUED DATE: 06/20/2019

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. It is important that you read this document carefully, as it charges you with the commission of a crime.
2. If you fail to correct the violations noted by the date dictated, a citation may be issued, and a trial scheduled at which you may be penalized by a fine, imprisonment, or both.
3. If the County is required to bring your property into compliance, all costs and fines shall become a lien and shall be collectible in the manner provided for collection of real estate taxes; or may be collected in the same manner as any civil money judgment or debt collected.
4. A lawyer can give important assistance to you:
   (a) on how to correct the violation(s) in order to avoid trial or
   (b) at trial, if you failed to correct the violation(s) noted. Assistance may be provided to determine whether there are any defenses to the charges against you or any circumstances helpful to you that should be brought to the trial. A lawyer can help you by developing and presenting information, which could effect how you correct the violation(s).
5. A conviction for each violation will subject you to potential fines of $200, $500, $1000 per day per violation, depending on the violation, or 90 days in jail, or both Baltimore County Code section 1-2-217 and 32-3-602.
6. It is your responsibility to obtain any required permit(s) to correct the cited violation(s). All repairs must be in accordance with applicable laws, Code of Baltimore County Regulations, and standards.
7. Upon correction of these violation(s), contact the inspector for re-inspection. If you have any questions contact the inspector promptly.

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204

www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT & INSPECTION CITATION

CASE NUMBER	PROP.TAX ID
CC1908335	10-12-040302

VIOLATION ADDRESS
14721 MANOR RD
PHOENIX, MD 21131

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
B.C.Z.R 402: Illegal conversion of dwelling	Failure to cease illegal conversion of dwelling, failure to convert dwelling back to a single-family residence.

Pursuant to Section 1-2-217, Baltimore County Code, civil penalty has been assessed, as a result of the violation(s) cited herein, in the amount indicated: $6000

A quasi-judicial hearing has been pre-scheduled in:
Jefferson Building, 105 W. Chesapeake Ave, Rm 205
Towson, Maryland, 21204

DATE: 08/14/2019 **TIME:** 09:00 **A.M.**

*****IF A VIOLATOR DOES NOT APPEAR AT THE CODE ENFORCEMENT HEARING, THE CITATION AND ANY CIVIL PENALTY ARE DEEMED A NON-APPEALABLE FINAL ORDER OF THE CODE OFFICIAL OR THE DIRECTOR.*****

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Inspector Badge Number		Issued Date
79		07/25/2019

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204

www.baltimorecountymd.gov/Agencies/permits/

Code Enforcement 410-887-3351
Electrical Inspection 410-887-3960
Plumbing Inspection 410-887-3620
Building Inspection 410-887-3953

CODE ENFORCEMENT & INSPECTION CITATION

IMPORTANT INFORMATION TO THE PERSON'S CHARGED

1. If unable to appear on the designated date, the violator may request in writing to the Code Official within fifteen (15) days from the date of this citation for a rescheduled hearing. If you require the assistance of an interpreter because you do not understand or speak the language in which the proceedings are being conducted you must ask for an interpreter within 72 hours of the court date.
2. At this hearing, you are entitled to be represented by an attorney, present witnesses, present evidence, and cross-examine any witnesses against you. An attorney can be helpful to you by (a) explaining the charges in this citation, (b) helping you at the hearing, and (c) helping you challenge the civil penalty, if found in violation.
3. If Administrative Law Judge finds that a violation has occurred, the Final Order may include (a) a civil penalty, (b) reasonable conditions as to time and manner of correction and (c) requirement to reimburse the County for any lien(s) or costs incurred to correct a violation.
4. (a) Civil penalty a lien.
   (1) If a final order assesses a civil penalty or an order of the Board of Appeals affirms or modifies a final order that assesses a civil penalty and the violator does not pay the civil penalty within the time required by the order, the Code Official or the Director shall certify to the Director of Budget and Finance the amount owed.
   (2) If a violator does not pay a civil penalty within the time required as specified in paragraph (1) of this subsection, the amount owed
      (i) Become a lien on the property on which the violation existed and shall be collectible in the manner provided for the collection of real estate taxes; or
      (ii) May be collected in the same manner as any civil money judgment or debt may be collected.
   (b) Code Official may procure performance. If a violator fails to comply with a final order or an order of the Board of Appeals, the Code Official or the Director may procure the performance of the work needed to correct the violation in accordance with the procedure authorized in 3-6-402 of this subtitle.
5. If you are the Owner of the property, failure to pay the assessed penalty shall constitute a lien on the property and shall be collectible in the same manner and to the same extent as real estate taxes. In addition, failure to correct the violation(s) shall result in appropriate judicial action for enforcement, including civil contempt, which could result in imprisonment.
6. Should the Violator disagree with the Final Order rendered by the Office of Administrative Law, an appeal may be taken to the Baltimore County Board of Appeals within fifteen (15) days of the date of the Order.
7. A filing fee of $225.00 and a security in the amount of any civil penalty assessed in the Final Order must accompany the notice of appeal and petition. See Baltimore County Code: 3-8-302.
8. Inclement weather procedure: If Baltimore County Government offices are closed or have a delayed opening, all code enforcement hearings will be rescheduled. Reschedule letters will be mailed to the property owner of record.
9. **If the violator wishes NOT to contest this citation, give up your right to a hearing and wish to pay the fine. Please remit the following: a copy of this citation, and a check or money order payable to: Baltimore County Office of Budget and Finance, 400 Washington Ave, Rm 150, Towson, MD 21204**

Office of Administrative Hearings for Baltimore County
105 West Chesapeake Avenue Suite 103
Towson, Maryland 21204

August 27th, 2019

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

--

Re: Code Enforcement Case No. 1908335, 14721 Manor Road
Dear Sir/Madam:

Enclosed here within please find a Citation which has become a Final Order entered by Administrative Law Judge in the above captioned matter. Please note that under the Baltimore County Code (B.C.C.) §3-6-206(f), this is a non-appealable Final Order, given that you failed to appear at the **August 14, 2019** Hearing scheduled for the captioned violation case.

The Judge imposed a civil penalty in the amount of **$6,000.** You are required to make payment by cash, check or money order within 30 days of the date of this letter to:

Baltimore County Office of Budget and Finance
400 Washington Avenue, Room 150
Towson, MD 21204

Failure to make the payment as required by the enclosed Order will result in the imposition of a statutory lien against your property and/or the initiation of other collection efforts by Baltimore County. Please note that you have a continuing obligation to maintain your property in compliance with all laws. If you have any questions about this matter please contact your inspector at 410-887-3351.

Please also note that the Administrative Law Judge's Final Order requires you to correct within 7 days the violation detailed in the citation. Should you fail to comply with the Order within that time frame, be advised that Baltimore County may, with County employees or through a private contractor, enter upon your property to correct the violation. The costs and expenses of the property clean-up are the responsibility of the owner, and if not paid may become a tax lien on your property.

Sincerely,

MICHAEL D. MALLINOFF,
Deputy Administrative Officer and Director
Permits, Approvals and Inspections

MM/hmk
Enclosure

FRANK CONSTANTINE FRANK JACQUELINE R
19 BELLCLARE CIR
SPARKS GLENCO, MD 21152-9114

FINAL ORDER OF THE ADMINISTRATIVE LAW JUDGE

On July 16, 2019, a Code Inspections and Enforcement Citation in the above captioned case was issued in the amount of **$6,000.00** for violation(s) of the Baltimore County Code or Zoning Regulations specified in Civil Citation No. **1908335**. The Citation names the owner(s) of record, as published in the Maryland State Tax Assessment database, as the Respondent(s). The citation was served upon the owner of the property in a manner consistent with Section 3-6-205(c)(2) of the Baltimore County Code ("BCC").

A hearing on the citation was scheduled for 9:00 a.m. on August 14, 2019, at which the Respondent failed to appear. Pursuant to Sections 3-6-205(d) and 206(f) of the BCC, failure to request a hearing, or appear at a scheduled hearing, renders the Citation and any civil fine or other relief, a final non-appealable order.

Therefore, it is this 27th day of August, 2019, hereby

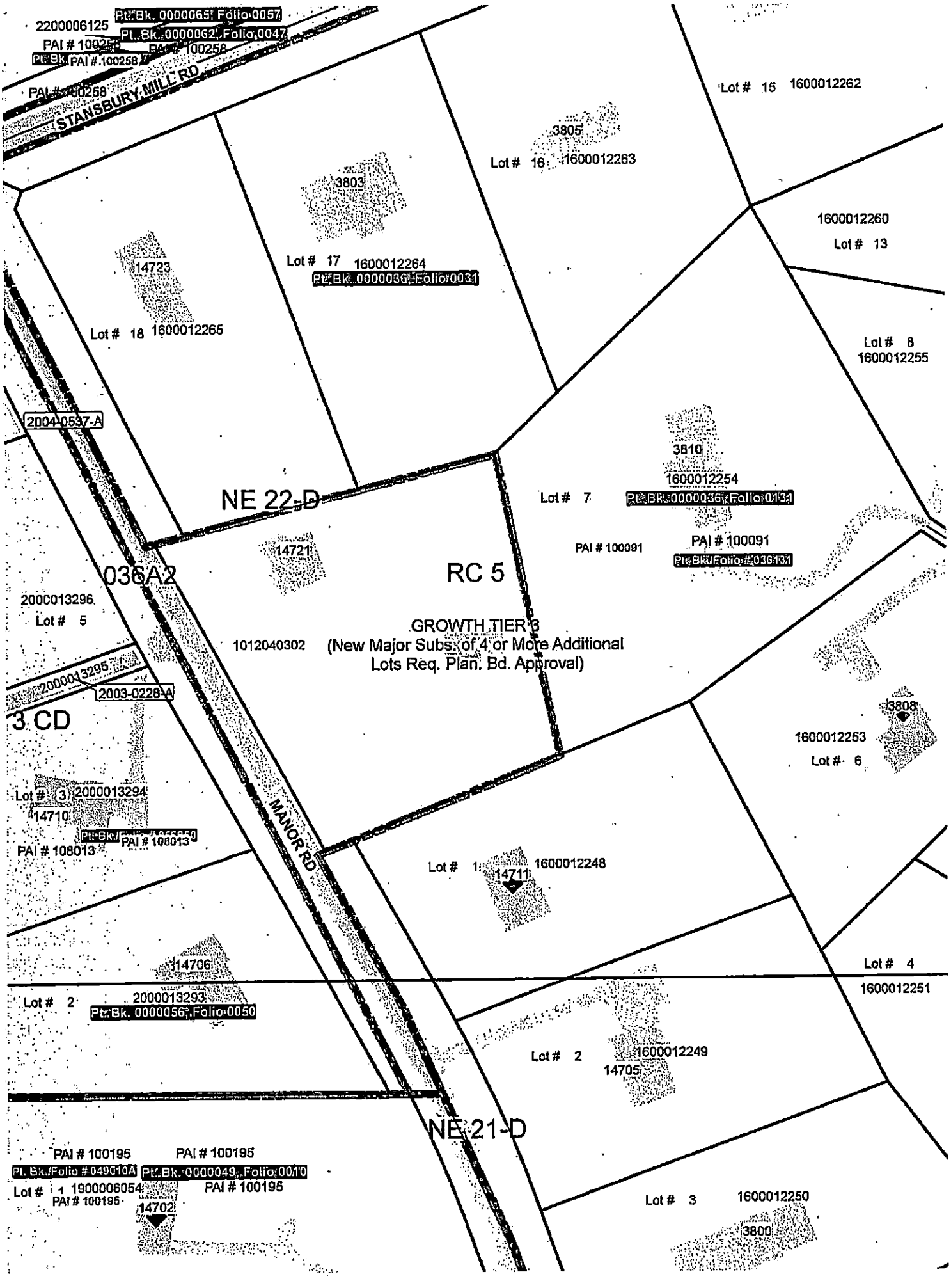
ORDERED that a civil penalty in the amount of **$6,000.00** be immediately imposed; and it is further

ORDERED that owner shall correct the violation(s) set forth in the attached citation within seven (7) days of the entry of this Order.

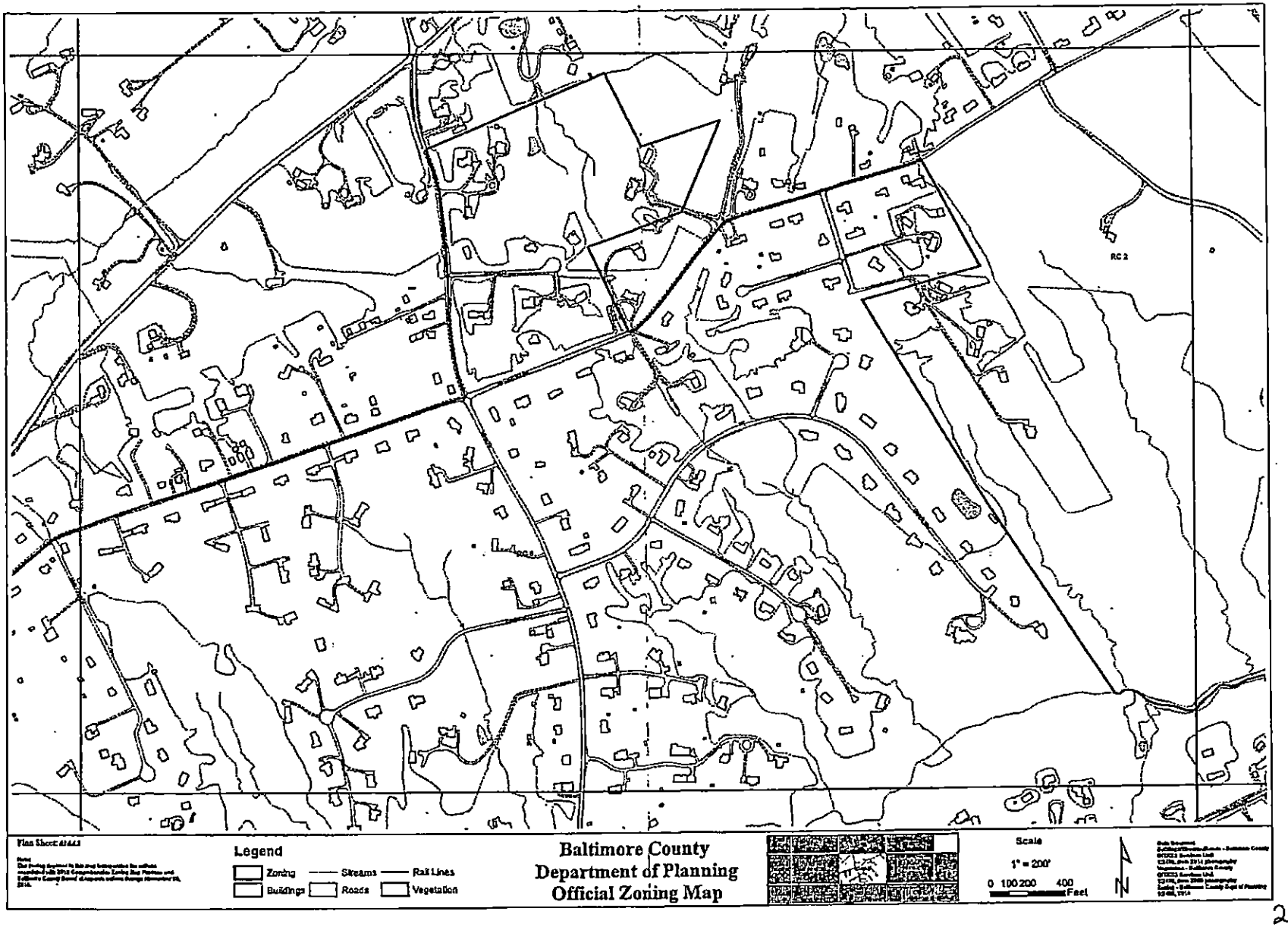
IT IS FURTHER ORDERED THAT Baltimore County shall be authorized to send an employee or authorized contractor to enter the property to correct the violation(s), the costs and expenses of which shall be assessed against Respondents.

Signed: _____
Lawrence M. Stahl
Managing Administrative Law Judge

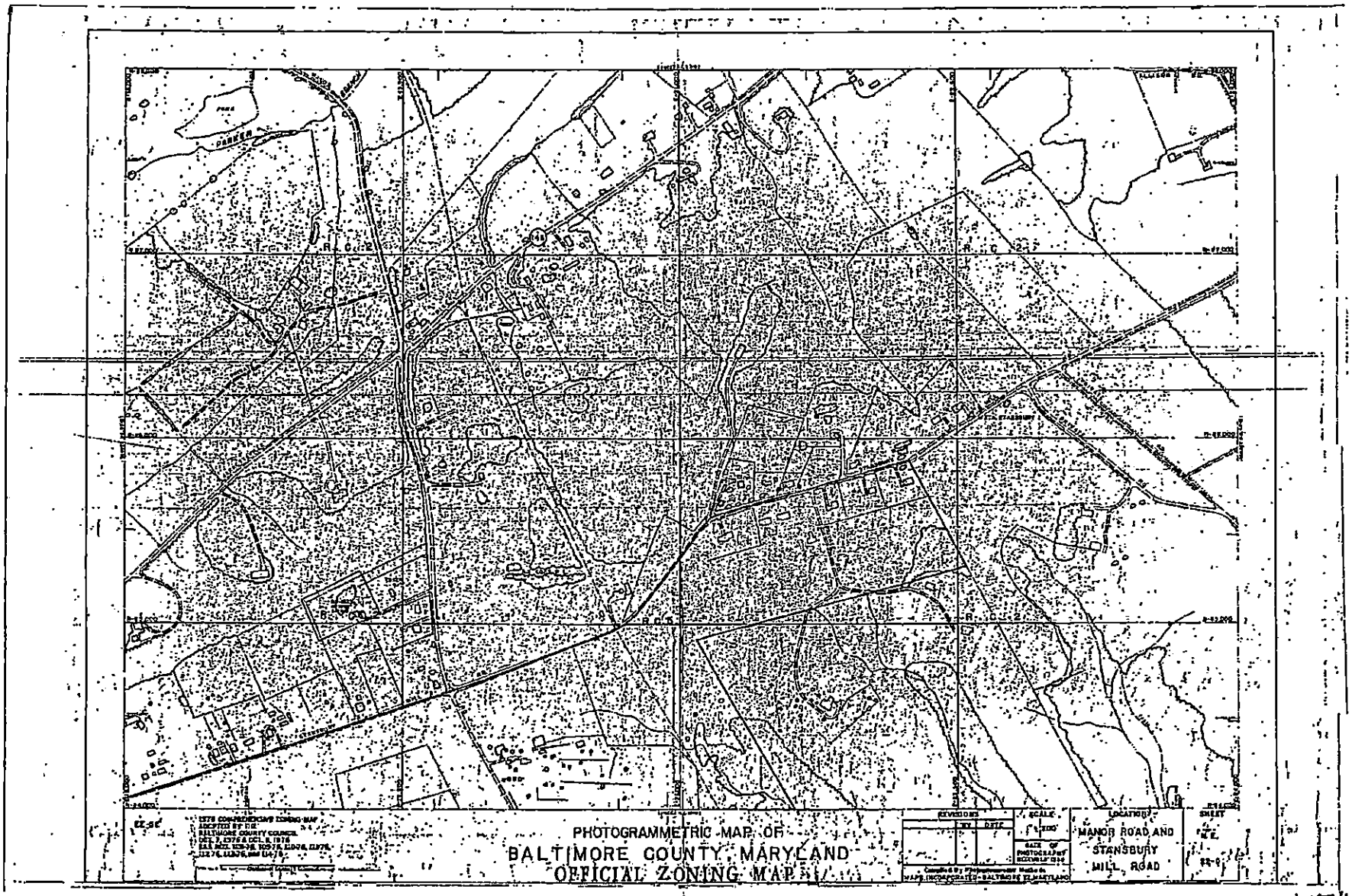
LMS/hmk


2200006125
Pt. Bk. 0000065, Folio 0057
Pt. Bk. 0000062, Folio 0047
PAI # 100258
Pt. Bk. PAI # 100258
PAI # 100258
STANSBURY MILL RD
Lot # 15 1600012262
3805
Lot # 16 1600012263
3803
1600012260
Lot # 13
Lot # 17 1600012264
Pt. Bk. 0000036, Folio 0031
14723
Lot # 18 1600012265
Lot # 8
1600012255
2004-0537-A
3810
1600012254
NE 22-D
Lot # 7
Pt. Bk. 0000036, Folio 0131
14721
PAI # 100091
PAI # 100091
Pt. Bk./Folio # 036131
036A2
RC 5
2000013296
Lot # 5
GROWTH TIER 3
1012040302
(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)
2000013295
2003-0228-A
3 CD
3808
1600012253
Lot # 6
Lot # 3 2000013294
14710
Pt. Bk./
PAI # 108013
PAI # 108013
MANOR RD
Lot # 1 14711 1600012248
14706
Lot # 4
1600012251
Lot # 2
2000013293
Pt. Bk. 0000056, Folio 0050
Lot # 2
1600012249
14705
NE 21-D
PAI # 100195
PAI # 100195
Pt. Bk./Folio # 049010A
Pt. Bk. 0000049, Folio 0010
Lot # 1 1900006054
PAI # 100195
PAI # 100195
14702
Lot # 3
1600012250
3800

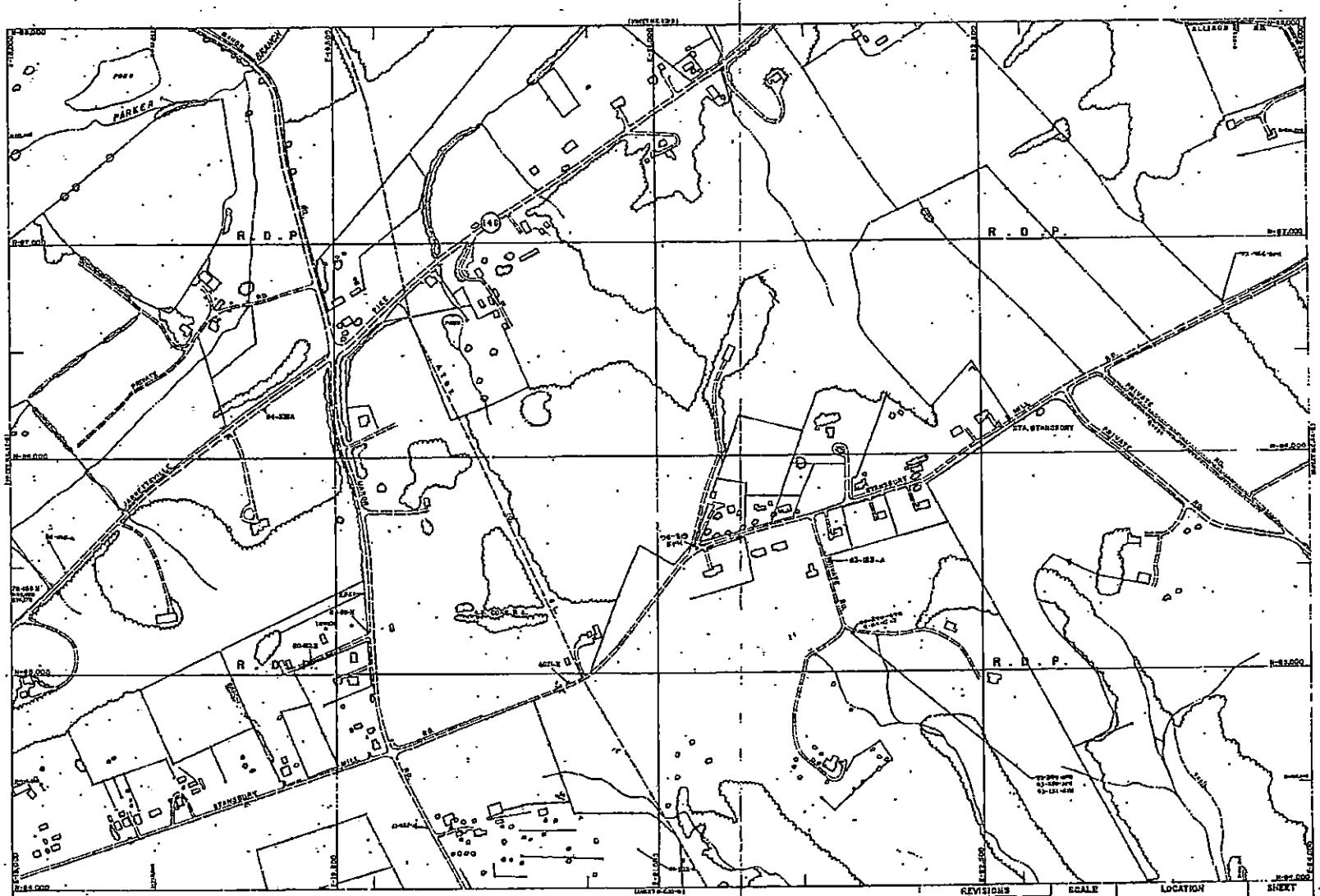

Pt. Bk. 0000065, Folio 0057
2200006125
Pt. Bk. 0000062, Folio 0047
Pt. Bk. PAI # 100258
STANSBURY MILL RD
Lot # 15 1600012262
3805
Lot # 16 1600012263
3803
1600012260
Lot # 13
14723
Lot # 17 1600012264
Pt. Bk. 0000036, Folio 0031
Lot # 18 1600012265
Lot # 8
1600012255
2004-0537-A
3810
1600012254
NE 22-D
Lot # 7
Pt. Bk. 0000036, Folio 0131
PAI # 100091
14721
Pt. Bk./Folio # 036131
RC 5
036A2
2000013296
Lot # 5
GROWTH TIER 3
(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)
1012040302
2000013295
2003-0228-A
3808
1600012253
Lot # 6
Lot # 3 2000013294
14710
Pt. Bk./
PAI # 106013
MANOR RD
Lot # 1 1600012248
14711
14706
Lot # 4
1600012251
Lot # 2 2000013293
Pt. Bk. 0000056, Folio 0050
Lot # 2 1600012249
14705
NE 21-D
Pt. Bk./Folio # 049010A
Pt. Bk. 0000049, Folio 0010
Lot # 1 1900006054
PAI # 100195
14702
Lot # 3 1600012250
3800


RC 2
Legend
Zoning
Streams
Rail Lines
Buildings
Roads
Vegetation
Baltimore County
Department of Planning
Official Zoning Map
Scale
1" = 200'
0 100 200 400
Feet

2016


PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY, MARYLAND
OFFICIAL ZONING MAP
MANOR ROAD AND
STANSBURY
MILL ROAD

1976



EE-SE

ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
MARCH 24, 1971
BY BILLS NOS. 28, 29, 30, 31, and 32

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY, MARYLAND
OFFICIAL ZONING MAP

REVISIONS			SCALE	LOCATION	SHEET
	BY	DATE	1" = 200'	MANOR ROAD AND STANSBURY MILL ROAD	N.E. 22-D
			DATE OF PHOTOGRAPHY DECEMBER 1969		

Compiled By Photogrammetric Methods
MAPS, INCORPORATED - BALTIMORE 23, MARYLAND

PLAN HOLD

DRAWING NUMBER NE-22-D

1971

TITLE ... - RENTAL HOUSING LICENSES

§ 35-6-101. - DEFINITIONS.

(a) *In general.* In this title the following words have the meanings indicated.

(b) *Apartment complex.* "Apartment complex" means a group of 2 or more related buildings that:

(1) Have the same owner; and

(2) Contain at least 4 dwelling units in each building that:

(i) Share a common entrance from the outside with other dwelling units in the same building; or

(ii) Are arranged above or below, or next to, another dwelling unit.

(c) *Applicant.*

(1) "Applicant" means the property owner of a dwelling unit.

(2) "Applicant" includes a tenant of a dwelling when the tenant rents a dwelling unit or a portion of a dwelling unit to another tenant.

(d) *Boarding or rooming house.* "Boarding or rooming house" has the meaning stated in § 101 of the Baltimore County Zoning Regulations.

(e) *Code Official.* "Code Official" means the Director or the Director's designee.

(f) *Department.* "Department" means the Department of Permits, Approvals and Inspections.

(g) *Director.* "Director" means the Director of the Department.

(h) *Dwelling.* "Dwelling" means a building or a portion of a building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

(i) *Dwelling unit.* "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons that has permanent provisions for living, sleeping, eating, cooking, or sanitation.

(j) *Group house.*

(1) "Group house" means a group of not less than 3 attached dwelling units which:

(i) Have been constructed together in a lateral row surrounded by yard space;

(ii) Are separated from another by a party wall; and

(iii) Have the same owner.

(2) "Group house" includes townhouse apartment complexes, group house apartment buildings, and back to back group houses.

(3) "Group house" does not include a duplex or semidetached dwelling.

(k) *Hearing Officer.* "Hearing Officer" has the meaning stated in § 3-6-101 of the Code.

(l) *Home inspection.* "Home inspection" means a written evaluation of the compliance of one or more of the components of an existing residential building with the health and safety requirements established by the Director in accordance with § 35-6-107 of this title.

(m) *Home inspector.* "Home inspector" has the meaning stated in § 16-101 of the Business Occupations and Professions Article of the Annotated Code of Maryland.

(n) *Occupant.* "Occupant" means an individual who inhabits a space within a dwelling unit.

(o) *Owner.* "Owner" means a person who:

(1) Has more than a 25% legal or equitable interest in a property; or

(2) Shares in more than 25% of the profits or losses from the rental property.

(p) *Person.* "Person" has the meaning stated in § 1-2-107 of the Code.

(q) *Premises.*

(1) "Premises" means a lot, plot, or parcel of land on which there is a dwelling.

(2) "Premises" includes all dwellings on the lot, plot, or parcel of land.

(r) *Property owner.*

People's Counsel ALJ Exh. 5

(1) "Property owner" means an owner.

(2) "Property owner" includes a:

(i) Limited liability company; and

(ii) The guardian of an estate or the personal representative of an estate, if ordered to take possession of the premises by a court.

(s) *Tenant.* "Tenant" means an occupant of a rental property who is not an owner of the rental property.

(1988 Code, § 18-101) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004; Bill No. 43-05, § 1, 5-16-2005; Bill No. 117-05, § 1, 11-21-2005; Bill No. 36-06, § 1, 5-15-2006; Bill No. 103-06, § 1, 9-15-2006; Bill No. 87-07, § 1, 2-3-2008; Bill No. 122-10, §§ 15, 30, 1-16-2011)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

Section 2 of Bill No. 36-06 provides that a property owner subject to the requirements of Title 6 shall obtain the license required by this Act on or before July 14, 2006.

Section 2 of Bill No. 103-06 provides that a property owner subject to the requirements of Title 6 shall obtain the license required by this Act on or before November 16, 2006.

Section 2 of Bill No. 87-07 provides that a person subject to the requirements of Article 35, Title 6 of the Baltimore County Code, 2003 shall obtain the license required by this Act on or before July 1, 2008. This section does not apply to a dwelling unit for which a license was received under Article 35, Title 6 of the Baltimore County Code, 2003 before the effective date of this Act.

Section 2 of Bill No. 76-08 repeals and re-enacts Section 2 of Bill No. 87-07 to change the deadline for obtaining the required license from July 1, 2008 to January 1, 2009.

Section 2 of Bill No. 26-18 provides that a property owner who is no longer exempted from the licensing requirements of Article 25, Title 6 of the County Code as a result of this Act shall obtain the license before September 1, 2018.

§ 35-6-102. - PURPOSE.

The purpose of this title is to establish a licensing program in the county in order to:

(1) Create an additional procedure for the enforcement of county codes and regulations to protect and promote the public safety, health, and welfare; and

(2) Reverse the physical decline of areas of the county that have:

(i) A high number of rental properties;

(ii) Older rental properties;

(iii) High crime rates; or

(iv) Experienced a significant shift from single family owner-occupied homes to multiple family rental properties.

(1988 Code, § 18-102) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004; Bill No. 87-07, § 1, 2-3-2008)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

§ 35-6-103. - SCOPE.

(a) *In general.* This title applies to:

(1) Boarding or rooming houses; and

(2) Dwellings with six or less dwelling units.

(b) *Limitations.* This title does not apply to:

(1) Dwellings that are solely owner-occupied, including:

(i) One additional individual who is not a minor without regard to the relationship of the individual and without regard to the number of minors in the dwelling unit related by blood, marriage or adoption to the additional individual or under the legal custody of the individual; and

(ii) Individuals related as grandparents, parents, children, or grandchildren by blood, marriage, or adoption to or under the legal custody of the owner;

(2) Dwellings with seven or more dwelling units;

(3) Apartment complexes;

(4) Dwelling units exempted by the Department as required by federal or state law or regulation;

(5) Dwelling units occupied by a former owner of the dwelling unit who, after having sold the dwelling unit to a new owner, continues to reside in the dwelling unit and pays rent to the new owner, provided the residency lasts not more than 12 months;

(6) Subject to regulations adopted by the Department, dwellings occupied by an owner and an individual paid directly or indirectly by the owner, including a nurse, nanny, or other household assistant;

(7) Dwelling units solely occupied by a person related as a grandparent, parent, child, or grandchild by blood, marriage, or adoption to or under the legal custody of the owner of the dwelling unit, which may include one additional individual who is not a minor without regard to the relationship of the individual and without regard to the number of minors in the dwelling unit related by blood, marriage or adoption to the additional individual or under the legal custody of the individual; or

(8) Dwellings listed on the National Register of Historic Places, the county inventory established under § 32-7-301 of the Code, the

Baltimore County Preliminary Landmarks List, or the Baltimore County Final Landmarks List.

(c) *Limitation on use of dwelling as boarding or rooming house.* This title does not authorize the use of a dwelling as a boarding or rooming house, except as authorized under the Baltimore County Zoning Regulations.

(1988 Code, § 18-103) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004; Bill No. 87-07, § 1, 2-3-2008; Bill No. 17-09, § 2, 4-19-2009; Bill No. 38-09, § 1, 7-6-2009; Bill No. 26-18, § 1, 5-21-2018)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

§ 35-6-104. - REGULATIONS.

The Department may adopt regulations, in accordance with Article 3, Title 7 of the code, to carry out the provisions of this title.

(1988 Code, § 18-104) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

§ 35-6-105. - LICENSE - REQUIRED.

(a) *In general.*

(1) A property owner may not rent a dwelling unit or a portion of a dwelling unit unless the property owner has been issued a license as provided for in this title.

(2) A tenant may not rent a dwelling unit or a portion of a dwelling unit to another tenant or a sub-tenant unless the tenant has been issued a license as provided for in this title.

(b) *Required licenses.*

(1) A license is required for each dwelling unit.

(2) The Director shall determine at the sole discretion of the Director the number of dwelling units that are contained in a dwelling.

(c) *Issuance.* The Director shall issue a license to each applicant that meets the requirements of this title.

(d) *Scope.* A license authorizes a property owner or a tenant to rent a dwelling unit or a portion of a dwelling unit.

(1988 Code, § 18-105) (Bill No. 49-02, § 1, 7-25-2002; Bill No. 76-03, § 14, 7-1-2004; Bill No. 87-07, § 1, 2-3-2008)

Editor's note:

Section 1 of Bill 40-06 repeals the sunset provision contained in Section 9 of Bill 49-02.

§ 35-6-106. - SAME - APPLICATIONS.

(a) *In general.* An applicant for a license shall:

(1) Submit to the Director an application on the form the Director provides; and

(2) Pay to the Director the application fee established by the County Administrative Officer in accordance with:

(i) Subsection (b) of this section; and

(ii) § 3-1-202 of the code.

(b) *Fee requirements.*

(1) In establishing the fee for a license for a dwelling unit or boarding or rooming house, the County Administrative Officer shall establish all fees, including:

(i) A fee for a boarding or rooming house that is:

1. Owner-occupied and contains three or more tenants; or

2. Not owner-occupied; and

(ii) A reduced fee for a dwelling that is owner-occupied and contains one or two tenants.

(2) The Director may waive a fee for any dwelling that is owner-occupied if the Director determines that the fee is a financial hardship for the owner.

(c) *Required application information.*

(1) In addition to any other information required on an application form, the application form shall require:

(i) The name of the applicant and the address of the principal place of business of the applicant;

(ii) A description of the dwelling unit and the address of the dwelling unit by house or unit number;

IN THE MATTER OF THE APPLICATION OF SHIRLEY J. & PAUL R. REINKE, JR. - LEGAL OWNERS /PETITIONERS FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE N/S FOURTH AVENUE, 400' W OF C/L BALTIMORE AVENUE (4 FOURTH AVENUE) 13TH ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 00-404-SPH

OPINION

This matter comes before the Board of Appeals as an appeal of a denial by the Deputy Zoning Commissioner by Order dated May 24, 2000 in which a Petition for Special Hearing was requested to allow a legal nonconforming use as a four-apartment dwelling in a B.L. zone.

This matter was heard by this Board *de novo* on January 10, 2001. Representing the Appellants /Petitioners was Charles Brooks, Esquire, and appearing for the Protestants, Lansdowne Improvement Association, was John V. Murphy, Esquire. People's Counsel for Baltimore County also participated in these proceedings. Following the hearing, the Board recessed briefly to review the information then reconvened to deliberate the merits of the case. Notice of these activities was provided to those in attendance.

The subject property, #4 Fourth Avenue, in Lansdowne, Baltimore County, consists of 0.11 acre, zoned B.L. and is improved with a 2-½ story frame structure. The Petitioners' initial witness was Joseph Larson, from Spellman, Larson, and Associates, a Civil Engineering and Land Surveying firm. Mr. Larson, who has been accepted as an expert before this Board on previous occasions, was again accepted as an expert in land and zoning matters. Mr. Larson testified to zoning and improvements as noted previously. As well, he presented a plat of the property which included a survey, measurement and layout of the building. He testified to the fact that it was being remodeled and consisted of two identical units on each floor. He stated that the layout of the floor plan had been done earlier that week and did not reflect the previous condition of the dwelling. He noted that modifications had just started; that there had been no embellishment; that these are existing conditions; and floor plan represents a structural layout.

Mr. Larson, on cross-examination, admitted that his testimony reflects the current condition of the residence and testified that he was in the house Monday and Tuesday "of this week" for the first time. He knew no zoning history of the site. Additional testimony by Mr. Larson related to § 402 and side yard setback requirements. He admitted that this property does not meet the requirements and that a multi-family dwelling on property zoned D.R. 5.5 is only through conversion.

Paul Reinke, Appellant /Petitioner, testified that he acquired the property in March of 1994, and that he is working to replace existing plaster walls and to insulate and update electrical wiring. Mr. Reinke did testify to some changes that he made by referencing Appellant's Exhibit No. 2. They are as follows:

- 1st floor – partitioned bathroom in Apartment #2
- 2nd floor – changed second floor; 3 years ago, in Apartment #3, moved bathroom from rear to side. In Apartment #4, he created a bathroom.

These changes are outlined in yellow marker on Petitioners' Exhibit #2. Mr. Reinke stated that he lived in Apartment #3 with his parents and siblings as a child. He lived there for one year when his family brought another dwelling on Fourth Avenue. He also testified to being friends with the daughter of the owner of #4 Fourth Avenue over a number of years and aware of the residence's use as an apartment dwelling. The Petitioner /Appellant bought his business in 1971. This property is located at 2811 Hammonds Ferry Road and is located across the street from the subject property. In his efforts to accommodate parking for his business, Petitioner purchased two lots (#142 and #143) for parking. Mr. Reinke testified that from 1943 to the present, the subject property has always been a four-apartment dwelling. The Appellant then attempted to submit affidavits in which he personally obtained the signatures. Counsel for the Protestants and People's Counsel vigorously objected, stating that this evidence was accepted below and was hearsay evidence. The Board concurred and refused to accept the affidavits.

During cross-examination, the Appellant testified that he began renovations in 1994. He again testified to the changes that he made as outlined above. He stated that there were two bathroom facilities, one upstairs and one downstairs, when he bought the property. He also testified to one kitchen upstairs

and one kitchen downstairs. He stated, at most, the property was being used as two units before he bought the property. He testified that the second floor was not being used and it was in deplorable condition. No one could live up there. He further testified that when he took possession in 1994 the building was only livable on the first floor, and there was one kitchen and one bath. He stated it was already divided and that 2/3 of the building was never being used by anyone. He stated that he was unsure when the previous owner, Tanzella, bought the property. However, he thought it to be around 1963. He testified he had no personal knowledge that anyone ever lived in the apartments. In review of his personal knowledge about the chronological owners, he cited ownership by the Crumbs when he first lived there and believed that was from 1943 to 1963. In 1963, Tanzella bought the property from the Crumbs and held it until it was sold to the Petitioner in 1994. He has no knowledge of ownership before 1943. He stated that his family moved there in 1943 when he was 6 years old and in the first grade. He lived there for 2 to 3 years then moved to the City. He moved back to Lansdowne when he was in the seventh grade. He testified to never being in the property while it was owned by Tanzella, but he knew there was mail for others who lived there during that time. He further testified that the property was uninhabitable for people to live in when he bought the property from Mrs. Tanzella. There were no leases at that time. He stated that there had been one tenant who lived there for one year; however, there was no rent paid. The tenant worked off his rent. Once again, he stated there were no tenants in the building since 1970.

Cross-examination by People's Counsel reconfirmed the dates of ownership and identified the Eichelmans as the party who transferred ownership to the Crumbs.

Counsel for the Protestants concluded with a Motion to Dismiss as the Appellant testified to the subject property not being occupied as apartments and being used as a single-family dwelling.

In conclusion, People's Counsel summarized that, in order for a nonconforming use to be allowed, there must be evidence of a continual and uninterrupted use. Since testimony to interrupted use was provided by the Appellant, People's Counsel also moved for dismissal.

Charles Brooks, Counsel for Petitioner /Appellant, concluded that intention to abandon is the defining consideration for nonconforming use as outlined in *Landay v. Zoning Appeals Board*, No. 93, October Term, 1937. He concludes that the dwelling was retained structurally as four apartments and cessation of use depends on whether it is voluntary or involuntary. In this case, Mr. Brooks concludes that it was an involuntary cessation of use due to the deplorable conditions. Mr. Brooks also cited *McLay, et al, v. MD Assemblies, Inc.*, No. 329, September Term 1972, Court of Appeals of Maryland, 269 Md. 465; 306 A.2d 524, July 6, 1973.

The Protestants also offered cases to support their position, and all the cases were collected and reviewed by the Board prior to rendering its decision.

Upon review of the cases offered by Counsel on both sides of this issue, and in conformance with *Baltimore County Zoning Regulations* (BCZR), § 104.1, which states:

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

The Board concluded that Mr. Reinke used the property as a one-apartment dwelling for many years as evidenced by his own testimony. He also testified to there being no second apartment in the dwelling for somewhere between 1 to 3 years. This testimony supports the position of Protestants and People's Counsel that, pursuant to the requirements of § 104.1 of the BCZR, any change in use or abandonment or discontinuance of such nonconforming use for a period of one year or more terminates the right to continue or resume such nonconforming use.

In addition, the Board finds, through the Appellant's testimony, that the upstairs apartments had been uninhabited for a number of years. Mr. Reinke did not show his intent to continue the nonconforming use and thus the Board unanimously rules to grant the Motion to Dismiss the case, and will so order.

ORDER

THEREFORE, IT IS THIS 27th **day of** June, 2001 by the County Board of Appeals of Baltimore County

ORDERED that Protestants' /People's Counsel's Motion to Dismiss be and the same is hereby GRANTED; and it is further

ORDERED that the Petitioners' request for special hearing to approve a legal nonconforming use as a four-apartment dwelling in a B.L. zone 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

Lawrence S. Wescott, Chairman

Donna M. Felling

Lawrence M. Stahl

IN THE MATTER OF THE APPLICATION OF TEIK SENG LEONG -PETITIONER /OWNER FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S WENDELL AVENUE, 187' S OF C/L PUTTY HILL AVENUE (8719-8721 WENDELL AVENUE) 14TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 99-338-SPHA

* * * * * * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on appeal of a decision of the Deputy Zoning Commissioner dated June 24, 1999 in which Petitions for Special Hearing and Variance were denied in part and granted in part with restrictions. The relief requested by the Petitioner on appeal is for approval of three dwelling units in two buildings on the same lot which do not conform to current setback and lot width requirements as a nonconforming use, with two off-street parking spaces.

A public hearing was held before this Board on October 25, 2000, with closing memorandums filed by December 11, 2000. A public deliberation was held on January 4, 2001. Appearing on behalf of the petition were Teik Seng Leong, Property Owner, and Ruth Eickerson, adjacent property owner. Nancy E. Paige, Esquire, appeared as counsel for Petitioner.

The Protestants were Arthur L. Bell, adjacent property owner; Ruth Baisden, representing Greater Parkville Community Council; and several other members of the community. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel.

Testimony and evidence indicated that the subject property consists of 0.38 acre, more or less, zoned D.R. 5.5. The subject property is improved with a two-story structure containing two

separate apartments. In addition, to the rear of the property exists a one-story dwelling. The subject property is located on Wendell Avenue in the Parkville area of Baltimore County.

Teik Seng Leong testified that there were two buildings when he purchased the property. The main house had two separate apartments with each unit having an occupant. Each unit has separate electric meters. The purchase was contingent upon the property being brought into zoning compliance. Mr. Leong sent a letter to Baltimore County on January 2, 1996 requesting that the property be reviewed for compliance with § 402 of the *Baltimore County Zoning Regulations* (BCZR). [Petitioner's Exhibit No. 15] On January 18, 1996, he received a letter from Baltimore County's Department of Permits & Development Management (DPMD) stating that he needed an as-built site plan to confirm area requirements. He was not sure exactly what this meant and conferred with the real estate agent. The witness asserted that the agent assured him that, once he sent in the site plan, all would be fine. Based on this advice, Mr. Leong stated that he settled on the house on March 11, 1996 and sent in the site plan on March 15, 1996.

On March 18, 1996 he was informed by DPDM that he was not in compliance with the BCZR. He was informed that a special hearing may be requested for a legal nonconforming use of three units in two dwellings on one lot. In the alternative, he was advised that he could request a special hearing to utilize the single-dwelling conversion provisions in § 402 of the BCZR for two existing dwellings on one lot and variances for setback requirements. According to his testimony, the latter option was detrimental to him because he could not afford the mortgage without the income from the two additional units. He went to a lawyer to help him with the situation, who advised him not to do anything. He testified that a code violation citation was issued later by Baltimore County which prompted him to file the subject petition.

Mr. Leong testified that Michael Bush, the cottage tenant, has lived there since November 1993 and referred to a copy of his signed lease that was in evidence. [People's Counsel Exhibit No. 4] He also testified that he has invested over $20,000.00 for improvements to the property. Photographs were submitted to accurately reflect what is there now. He also noted in Petitioner's Exhibit No. 19B that the woodwork was older in the back part of the building with the floors at two different levels and no connection between the two for access.

Ms. Ruth Eickerson, who has resided at 3411 Putty Hill Avenue since 1957, related that two families have lived in the main house and in the cottage since she moved in. She also stated that the Millers, previous owners of the property, lived there prior to her arrival.

Mr. Arthur L. Bell of 8720 Wendell Avenue testified that he has lived in his house across the street from the subject property since May of 1967 and knew the Millers. He stated that the Millers used the whole house with their three sons and two nephews. A photograph was introduced as People's Counsel Exhibit No. 5. Mr. Bell stated that an addition in the back as shown on the photograph was added in 1967.

He further testified that in the 1970s the nephews renovated an old chicken coop on the subject property and moved from the main house to what is now referred to as the cottage. In 1974 or 1975, a new tenant moved into the cottage. After Mr. Miller passed away in 1979 or 1980, Ms. Miller and two sons continued to live in the main house. In conclusion, Mr. Bell asserted that the two sons sold the property following Mrs. Miller's death.

Ruth Baisden, representing the Greater Parkville Community Council (GPCC), produced Rule 8 papers to testify on behalf of the organization. [People's Counsel Exhibit No. 9] The GPCC has taken a position to develop a general policy against increased density. This position was taken during the Comprehensive Zoning Map Process. They object to the subject property's

request because it goes against this policy. She stated that she has not personally been on the site.

Ms. Demilio, Deputy People's Counsel, stated that it was her office's position that, since this was a *de novo* hearing, all issues were before the Board for review. In response to this opinion, the Board defers to the upper courts in *Dalhl v. County Bd of Appeals*, 258 Md. at 162. In interpreting § 501.3 (now § 501.6), the Court in *Dalhl* found it significant that § 501.3 referred to "issues" and did not use the term "decision." As the Court stated, the term "issue" connotes a matter, which lends itself to a separate finding or separate holding. Based on this differentiation, the Court determined that the term *de novo* as used in § 501.3 meant that on appeal there shall be a *de novo* hearing on those issues which have been appealed and not on every matter covered in the original Petition.

The Appellant in the case before us appealed only the section dealing with the nonconforming use. This was the only appeal taken in this matter. Therefore, this Board has jurisdiction to hear only that portion which was brought before it on appeal.

Those issues before the Board are:

- Is the present use of the subject property a nonconforming use?
- If the subject property is not a conforming use, are all the regulations being met for three dwellings with the variances granted by the Deputy Zoning Commissioner?

The issue of nonconforming use is difficult to prove. BCZR § 101 sets forth the definition:

> NONCONFORMING USE – A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use.

BCZR § 104.1, enacted in 1955, states:

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

The operative word here is "use." It is not enough to prove that "structures" existed on the site for the requisite time period. There was credible evidence that there have been two tenants since 1953 as noted in Mr. Schafer's letter (Petitioner's Exhibit No. 9), which stated that there were two apartments in the house but did not mention a tenant in the cottage. This was supported by the testimony of Mrs. Eickerson, who has lived there since 1957. The Baltimore Metropolitan documents (Petitioner's Exhibits 7 and 8) reflected activity between 1966 and 1972. Petitioner's Exhibit No. 8 reflects that a permit was issued and a new sewer was constructed in October 1966, and as a result there was a new sewer charge for three apartments at $22.00 each. Nothing relates to any activity prior to 1955. The Board concludes that the Petitioner has not met the burden to prove that three units existed prior to 1955. There was no compelling evidence to prove otherwise.

Having so determined, the next issue before us is: since the buildings are not a nonconforming use, does the Petitioner meet the regulations for three dwellings with the variances granted? The Board finds that there is insufficient square footage available in the approximately .38 acre subject parcel to allow three density units. Moreover, the Deputy Zoning Commissioner (DZC) granted the Petitioner any variance necessary to obtain two dwellings on the lot by either converting the main house back to a single-family dwelling and maintaining the cottage created from the former chicken coop; or no longer utilizing the chicken coop and maintaining the two units in the main house. This decision was based on the DZC's calculations

that the Petitioner would need a 6,000 square-foot area for the separate cottage structure (BCZR § 1B02.C.1) and a 10,000 square-foot area for the two-apartment dwelling (BCZR § 402.1). The DZC utilized § 102.2.A which states: "If several uses are proposed as separate structures on one property, each must meet the zoning requirements as if it was a separate parcel." Therefore, the Petitioner does not have enough land area to support three dwelling units when one is located within its own structure.

The Petitioner raised the issue that the County is estopped from denying that there is sufficient area for three dwelling units. The Petitioner utilized the conversion table, which is set forth in § 402.1 of the BCZR and stated that they require 10,000 square feet of lot area to convert an existing dwelling into two units, and an additional 3,000 square feet for a third. The Petitioner feels that the subject lot substantially exceeds this area.

The Petitioner felt that the letter from Mr. Fernando of DPDM (Petitioner's Exhibit No. 16) gave him a clear affirmation that there was sufficient lot area to support three dwellings in two separate buildings. The Petitioner feels that, in Mr. Fernando's letter of March 18, 1996 (Petitioner's Exhibit No. 17) he advised that the property did not conform to BCZR and that either variances or recognition of a legal nonconforming use would be necessary to cure the violations. The Petitioner opined that this case presents an unusual situation in which a municipality is estopped to challenge a use which it now contends is illegal, but which was previously approved by its employee.

The Board reviewed the letters of Mr. Fernando and finds that the letters were very clear that a problem existed. Mr. Fernando's letter states:

> A special hearing may be requested for a legal nonconforming use of 3 units in 2 dwellings on one lot.

In the alternative, you may request a special hearing to utilize the single dwelling conversion provision in Section 402 of the BCZR for two dwellings on one lot and variances for setback requirements.

The Board notes that the letters offered two entirely different potential solutions. The County did nothing to create the problems that the Petitioner feels exist. For the reasons specified, the Board finds that there is no issue of estoppel.

O R D E R

THEREFORE, IT IS THIS 10th day of August, 2001 by the County Board of Appeals of Baltimore County

ORDERED that Petitioner's request for Special Hearing to approve three dwelling units in two buildings as a nonconforming use be and is hereby **DENIED**; and it is further

ORDERED that Petitioner's request for a determination that there is sufficient lot area to support three density units on the subject property be and is hereby **DENIED**; and it is further

ORDERED that the Petitioner shall be permitted to maintain two separate dwelling units on the subject property in either of the following instances, and subject to the restrictions as stated below:

1) The Petitioner shall be permitted to continue to utilize the former chicken coop as a dwelling and convert the main house into a single-family residential use, thereby constituting two dwelling units on the subject property; or, in the alternative,

2) The Petitioner may discontinue the use of the chicken coop as a dwelling, utilizing said structure for storage purposes only, and continue to use the main house as a two-dwelling unit structure.

Within thirty (30) days from the date of this Order, the Petitioner shall submit to the Zoning Commissioner's Office a new site plan of the property indicating the manner in which he intends to

convert the use of the subject property back to a two-dwelling use. The Petitioner shall permit a code enforcement inspector to enter his premises in order to determine that only two dwelling units exist on the property. The conversion of the property to two dwelling units shall occur within ninety (90) days from the date of this Order.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Panel Chairman

Margaret Worrall

C. Lynn Barranger

IN THE MATTER OF THE APPLICATION OF JEANNETTE R. AND WILLIAM F. CLARK FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NEC INTERSECTION TAYLOR AVE AND CHESTNUT AVE (2900 TAYLOR AVENUE 9TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 01-025-SPH

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County arising from an appeal of the decision of the Zoning Commissioner dated September 7, 2000 in which a Special Hearing request for the property located at 2900 Taylor Avenue for approval of a 2-unit apartment as a nonconforming use was denied. The matter was heard by the Board on May 22, 2002. Roger Elliott, Esquire, appeared on behalf of the Petitioners, and Ruth Baisden, representing the Greater Parkville Community Council, appeared *pro se* on behalf of the Protestants.

After opening arguments, the Board heard from Jeannette Clark, the property owner. She testified that the property which is the subject of the Special Hearing request consists of .2066 acre, split-zoned R.O. and D.R. 5.5. The property is an improved 2-1/2 story framed house with a one-story block garage in the rear. Mrs. Clark testified that the property was purchased by her and her husband in 1968 and that they have been the owners since that time. She related that the property at purchase had a tenant on the second floor but that the first floor was vacant, her explanation being that the resident on that floor had recently died. She further described various items in the house, including a

description of two kitchens in which there were separate cast iron sinks, stoves, and other accoutrements appropriate to a kitchen, and that it was here opinion that these items dated back to the 1940s.

An affidavit from Tennie Glass was presented, in which the Affiant swore that her husband, Eugene Glass, had worked for the previous owner of the subject property, which she described as a two-family dwelling. The affidavit related that her husband had worked on the property from 1944 through 1968 when the two-family house was sold to the Petitioners. Apparently, Mr. Glass worked at the property for Mr. and Mrs. Clark until he passed away some time later.

Ms. Baisden testified on behalf of the Protestants. After presenting to the Board the appropriate Rule 8 papers authorizing her to speak on behalf of the Greater Parkville Community Council ("Council"), she related that it was the position of the Council that the property was a single-family residence. She believed that there had not been use of the property uninterruptedly as a nonconforming use and that the Council believed that the Petition for Special Hearing should be denied.

In closing argument, counsel drew the Board's attention to the fact that the two sets of plumbing and stoves in the kitchens certainly showed that the premises were set up as two separate residences, and that, based upon the testimony and the affidavit presented, the nonconforming use should be granted.

Nonconforming uses are regulated by § 104 of the *Baltimore County Zoning Regulations* (BCZR) and are specifically defined in § 101 of those regulations as a "legal use that does not conform to a use regulation for the zone in which it is located or to a

special regulation applicable to such a use...." Pursuant to § 104.1 of the BCZR, a nonconforming use is allowed to continue even though it is not in compliance with the current zoning regulations, provided that any material change in the character of the nonconforming use or abandonment or discontinuance of such nonconforming use for a period of one year or more, shall terminate the validity of the use. As a nonconforming use is inconsistent with the land use pattern established by zoning regulations, the nonconforming user is required under the applicable court decisions to prove the essential elements of his or her right to continue the nonconformity. Therefore, a nonconforming user must prove that his or her use existed prior to the enactment of the underlying restricted ordinance, and will not be sustained where evidence in support of the prior use is insufficient or contradictory. *Kastendike v. Baltimore Association for Retarded Children*, 267 Md. 389; 297 A.2d 745. The underlying zoning at this location has been in effect since 1955. Therefore, the use must have been legal as of 1955 and continued without material change, discontinuance, or abandonment for a period of one year or more since that time.

Based upon the testimony presented in support of the Petition for Special Hearing, the Board unanimously finds that the burden of proof which rests upon the property owner pursuant to the requirements set forth in § 104 and the applicable case law have not been met. Although there is certainly some evidence and testimony that the premises may have been set up to include multiple apartments, the burden has not been met to establish that the use of the property for multiple dwellings has continued uninterruptedly

and without discontinuance or abandonment since 1955. Therefore, the Petitioners' request is denied.

ORDER

THEREFORE, IT IS THIS 31st day of October, 2002 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing for the property located at 2900 Taylor Avenue for approval of a 2-unit apartment as a nonconforming use be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Panel Chairman

Charles L. Marks

C. Lynn Barranger

IN THE MATTER OF THE APPLICATION OF TIMOTHY LUECKING – LEGAL OWNER FOR SPECIAL HEARING ON THE PROPERTY LOCATED AT 301 RESERVE COURT 1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 08-199-SPH

OPINION

This matter comes before the Baltimore County Board of Appeals as an appeal from the January 10, 2008 decision of the Zoning Commissioner in a Special Hearing wherein the Petitioner sought approval for a nonconforming use of certain real estate presently used as an apartment building. The Petitioner, Timothy T. Luecking, was represented by Keith R. Truffer, Esquire. The Protestants, Stephen Shutz, Kranthi Mupparaju, Nicole Maloy, Jamie Rudy and William and Martha Rudy, were represented by Michael P. Tanczyn, Esquire. A hearing was held before the Board on July 30, 2008 and a Public Deliberation was held on October 28, 2008.

BACKGROUND

The Petitioner is the owner of an improved parcel of land in Baltimore County known as 301 Reserve Court. The parcel is a rectangular shaped corner lot (121' wide x 225' deep) in Catonsville with frontage along Reserve Court on the parcel's north side and to the east side is Rolling Road. The parcel contains a gross area of 19,952 square feet (+/-) zoned D.R.2 and is improved with a 2,154 square foot residential dwelling and detached garage. The improvements were built in 1941 and contain two apartments with separate entrances for each unit. The Petitioner purchased the subject property in 1999 at which time the Petitioner was presented with a Conditional Use Permit issued by the Director of Zoning to the Administration and Development Management to the previous owner of the property authorizing the use of the property as a nonconforming two apartment dwelling.

In August of 2007 a Code Enforcement inspection was initiated at the request of neighbors of the subject property based upon an allegation that the subject property had been converted into

a three-unit apartment dwelling in violation of the county zoning laws. Thereafter a violation citation was issued directing compliance with the D.R.2 zoning and thereby challenging the validity of the previously issued conditional Use Permit. A hearing was held before the Baltimore County hearing officer on September 6, 2007 from which a decision was issued finding the Petitioner in violation of County zoning laws by having multiple units on residential property zoned for single-family use based on the size of the lot. A civil penalty was imposed against the Petitioner and suspended, in part, conditioned upon the Petitioner filing for a hearing before the zoning commissioner on or before November 1, 2007.

A hearing was held before the Zoning Commissioner of Baltimore County after which the Zoning Commissioner issued an Order dated January 10, 2008 by which the use of the subject property as a three apartment dwelling was denied and the non-conforming use of the subject property as a two unit apartment dwelling was found to have been forfeited by way of "abandonment" of the Conditional Use Permit by reason of the conversion of the conversion of the dwelling into a three apartment unit dwelling.

ISSUE PRESENTED

Has the subject property lost it status as an apartment dwelling under the previously issued Conditional Use Permit?

TESTIMONY AND EVIDENCE

The Owner/Petitioner, Timothy Lucking, appeared before the Board of Appeals and testified that he acquired the property in June of 1999, by Deed from Mark McDaniel and that there were no tenants in the property at the time he took possession of the property. He testified that the seller of the property presented him with a Conditional Use Permit, which by its terms allowed for the use of the subject dwelling as a two-apartment dwelling. He testified that he moved into the property shortly after the purchase and lived on the first floor of the building and rented out the second floor.

The Petitioner testified that he continued to use the property as a two-apartment building, with only short periods of vacancy, for the next nine (9) years. The Petitioner testified that in January 2001, he separated from his now, ex-wife and moved to another house for (13) months and then moved back into the second floor of the property in the Spring of 2002. Petitioner further testified that he made renovations to the first floor and basement of the house and then

People's Counsel ALJ Exh. 9

rented the first floor and basement to separate tenants in 2002. Petitioner identified the tenant in the basement of the house as being Jamie Collette who moved there in 2002 while Petitioner was residing in the floor one apartment of the building. The Petitioner further testified that the basement apartment remained rented until 2008.

The Protestants in this case called as a witness Mr. Ray Harmon, of the Baltimore County Code Enforcement Office who testified that in his position as a Code Enforcement Officer he visited the subject property in 2007, in response to complaints from neighbors of the subject property, and noted that the property was served by two (2) utility meters and had three (3) separate mailboxes. The evidence presented by Mr. Harmon did not disclose the names listed on each of the three (3) mailboxes. After Mr. Harmon's initial inspection of the subject property he then returned there and delivered a correction notice to the Petitioner mandating that the use of the building as a three-apartment unit be ceased. Thereafter Mr. Harmon issued the citation, which triggered a Code Enforcement Hearing before the Baltimore County Code Enforcement Hearing Officer.

Several witnesses appeared at the Board of Appeals hearing to place into the controversy the validity of the Conditional Use Permit on the theory that the said permit had been rendered null and void as the result of alleged gaps in tenancy within the two-apartment arrangement of the building as it existed prior to its conversion into a three-apartment dwelling unit. Moreover testimony was received by the Board relative to the length of occupancy of the tenants of the building prior to and after the point, at which the Petitioner purchased the subject property.

The Petitioner called as his first witness, Ms. Casserly, who testified that her grandparents bought the subject property in 1942 and owned it until 1976. As Ms. Casserly was born in 1948, she testified that her first memory of coming to the subject property was in 1954. She testified that her relatives, James Cox and Pearl Cox lived at the property until 1976. She went further to testify that according to her knowledge and information, the subject building had always been used as a two-apartment dwelling. She testified that she was unaware of the occupancy status of the subject property after its purchase by the Petitioner.

A witness for the Petitioner, Mr. Mark McDaniel, previously known as Mark Bohannon, testified that he moved into the property in 1976 and remained there until his sale of the property to the Petitioner in 1999. He testified that from 1976 until 1998 his uncle Mr. Jimmy Cox occupied the second floor apartment and that his uncle paid no rent for the apartment. Mr.

McDaniel testified that after the death of Mr. Cox in 1998 he then rented the second floor apartment to a college student.

The Protestants apparently base one of their arguments on the theory of "Conditional Use". The property was abandoned prior to the 1999 purchase, by reason of the failure of Mr. Cox, the second floor tenant, to pay any rent during his tenancy. The Protestants attempted to support this argument by calling as a witness Mr. Jose Pineda, a Custodian of Records for Baltimore Gas and Electric Company, who testified that he reviewed the electric utility usage records for the subject property for an unspecified period of time prior to the 1999 transfer of ownership and concluded that there was evidence of only minimal usage of the utility service for the second floor apartment.

The testimony was apparently offered to support the proposition that the apartment in question was unoccupied for an extended period of time prior to the Petitioner's purchase of same and that the alleged vacancy thereby created an abandonment of the Conditional Use permit by the prior owners. Moreover, the Protestants urged the Board to conclude that the Conditional Use permit could be considered abandoned upon a showing that there was no continual use of the subject dwelling as a two apartment house.

The Baltimore County Zoning Regulations in section Section 101 defines a nonconforming use as a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. The Baltimore County Zoning Regulations in Section 104.1 lists the conditions that will terminate a nonconforming use as:

1. A change from the non-conforming use to any other use whatsoever; or
2. Abandonment of the non-conforming use for one year or more; or
3. Discontinuance of the non-conforming use for one year or more.

DECISION

The Board concludes that the evidence presented as to the use of the subject property prior to its 1999 purchase by the Petitioner does not establish that the prior owner(s) abandoned the non-conforming use as contemplated under Maryland law. In the case of McKemy v.

Baltimore County, 39 Md. App. 257, 385 A.2d 96 (1998) the Court of Special Appeals opined that a proper determination of compliance with Section 104.1 of the Baltimore County Zoning Regulations requires consideration of the extent that the current use of a property is in conflict or compliance with the nature and purpose of the original non-conforming use. Based on the foregoing the Board concludes that evidence of a possible abandonment of the non-conforming use predicated upon the pre-1999 use of the subject property does not establish that the present use of the property is invalid based on the historical use of the property.

The Board concludes that the present use of the subject property is that of a three (3) apartment building based upon Petitioner's testimony that he renovated the basement of the subject property and thereafter rented it out along with the other two units existing therein. There is little argument that the subject property has been converted into a three-apartment dwelling. The issue that remains is whether this action resulted in the loss of the non-conforming use status as previously authorized by the County. Under Maryland law the non-conforming use status may be lost where there is an unlawful "expansion" of the non-conforming use or permitted where there is an "intensification" of that use. The test for the foregoing is articulated in the case of County Commissioners of Carroll County v. Zent 86 Md App. 745, 753-754, 587 A.2d 1205, 209 (1991). In Zent, the Court noted the following factors to be considered in determining whether an activity is within the scope of a non-conforming use and among those factors is the issue of whether the current use is a dramatic enlargement or extension of the original nonconforming use. In footnote 5 to the opinion in Zent the Court stated:

> "We said in Prince George's Co. v. E.L. Gardiner, Inc. 47 Md.App. 471, 424 A.2d 392 (1981), rev'd on other grounds, 293 Md. 259, 443 A.2d 114 (1982), that: A distinction is to be drawn between the enlargement or extension of nonconforming uses and an intensification of such lawful uses uses. An increase in floor space ... an increase in the area of a lot used for nonconforming uses; or a change in business methods or the provision of new accessory facilities with the resulting extension of the use involved have been held to be proposals for the enlargement of a nonconforming use. Conversely, an increase in the volume of an existing business is usually referred to as intensification

> rather than an enlargement and such intensification has been permitted under a valid nonconforming use."

The Board believes that the expansion of the use of the subject property from that of a two- apartment dwelling unit into a three-apartment dwelling unit amounts to an illegal enlargement of the nonconforming use.

ORDER

IT IS THEREFORE THIS 23rd day of January, 2009 by the County Board of Appeals of Baltimore County;

ORDERED that the "Conditional Use" permit issued for the subject property herein is determined to be void and that the subject property shall revert to the applicable zoning status of a single family residence; and it is further

ORDERED that the Petition for Special Hearing in Case No. 08-199-SPH to confirm and approve a nonconforming two-apartment use at 301 Reserve Court is **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

Lawrence S. Wescott, Panel Chairman

Wendell H. Grier

Robert W. Witt

IN THE MATTER OF:		IN THE
TIMOTHY LEUCKING	*	CIRCUIT COURT
Petitioner	*	FOR
v.	*	BALTIMORE COUNTY
HILLCREST RESERVE HOMEOWNERS' ASSOCIATION, INC.	*	CASE NO: 03-C-09-001926
Respondent	*	
	*	

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

MEMORANDUM OPINION

This matter comes before this Court regarding the Petition of Timothy Leucking (Petitioner) for judicial review of the decision of the County Board of Appeals, in Appeal No. 08-199-SPH. In an Opinion and Order issued January 23, 2009, the County Board of Appeals affirmed the determination of the Zoning Commissioner, finding that Petitioner had failed to prove the existence of a nonconforming use and denying his petition.

Petitioner filed a Petition for Judicial Review on May 22, 2009 in the Circuit Court for Baltimore County. People's Counsel for Baltimore County filed a response memorandum on June 18, 2009 and the Hillcrest Reserve Homeowners' Association filed a response memorandum on June 22, 2009. A hearing was held before this Court on July 31, 2009, at which time parties presented arguments. For the reasons set forth herein, this Court will AFFIRM the findings of the County Board of Appeals.

Background

The property that is the subject of this case is a plot of 19,952 square feet located at 301 Reserve Court in the Catonsville area of Baltimore County, Maryland. On the subject property sits a 2-story brick dwelling, built in 1941. Since 1980, this property has been zoned as D.R.2.[1] Although this designation requires a minimum of 25,000 square feet of property for a single home to be divided into two separate family units, the property had been granted a nonconforming use under the zoning restriction. This nonconforming use was granted based on persistent use of the property as two separate units prior to and continuing since the zoning designation of D.R.2. In 1999, Petitioner, Mr. Timothy Leucking, acquired the property with the intent to continue using the home as a two-unit rental property.

Petitioner continued to rent the property as two units until 2002. At that time, Petitioner renovated the basement of the house, creating a third unit to be used as an additional rental unit. In July of 2002, Petitioner began renting the basement apartment as a separate unit, thus totaling 3 rental units on the subject plot of land. Soon after, members of the Hillcrest Reserve community filed a complaint with the Zoning Commissioner. A citation was issued to Petitioner on August 14, 2007. Subsequently, Hearing Officer Raymond Wisnom held a hearing on September 6, 2007. In an opinion dated September 11, 2007, Hearing Officer Wisnom noted a 1999 "use permit" approved for two apartments, but recommended the case be brought before the Zoning Commissioner to determine if a nonconforming use was appropriate.

Mr. Leucking petitioned for a Special Hearing before the Zoning Commissioner. In a January 10, 2008 Findings of Fact and Conclusions of Law issued by the Zoning Commissioner, Petitioner's request for a Special Hearing was denied. Petitioner was

[1] D.R.2 signifies that the Density Residential limit is two units per acre under the Baltimore County Zoning Regulations.

FILED OCT 5 2009

People's Counsel ALJ Exh. 10

provided with six months to cease rental of the property as a multi-family dwelling and to return the property to a single-family dwelling.

Petitioner next appealed the Findings of Fact and Conclusions of Law of the Zoning Commissioner to the County Board of Appeals. Public deliberations were heard on October 28, 2008. The County Board of Appeals issued a Final Opinion and Order on January 23, 2009, denying Mr. Leucking's petition for Special Hearing relief. Petitioner then filed for Judicial Review in the Circuit Court for Baltimore County.

Question Presented

This Court restates the question presented by Petitioner in his petition for judicial review as follows:

I. Whether the County Board of Appeals drew reasonable factual inferences and interpreted the zoning law fairly to determine that the addition of a third apartment constituted an invalid change of the nonconforming use?

Standard of Review

The Court's scope of review of a decision of an administrative agency is narrow, recognizing that board members have expertise in a particular area and ordinarily should be free to exercise their discretion as such. *Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 395, 396 A.2d 1080 (1979), *citing Finney v. Halle*, 241 Md. 223, 216 A.2d 530 (1966). A Circuit Court's review of an agency decision is governed by the Maryland Administrative Procedure Act (hereinafter "APA"), Md. State Gov't Code Ann. § 10-222, which provides as follows:

> "(a) Review of final decision. – (1) . . . a party who is aggrieved by the final decision in a contested case is entitled to judicial review of the decision as provided in this section.
> . . .

> (h) Decision – In a proceeding under this section, the court may:
> (1) remand the case for further proceedings;
> (2) affirm the final decision; or
> (3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:
> (i) is unconstitutional;
> (ii) exceeds the statutory authority or jurisdiction of the agency;
> (iii) results from an unlawful procedure;
> (iv) is affected by any other error of law;
> (v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
> (vi) is arbitrary or capricious."

The standard of review of the action of an administrative agency is whether a reasoning mind could have determined the conclusion, which the administrative agency reached. *Nnoli v. Nnoli*, 101 Md. App. 243, 646 A.2d 1021 (1994). An order of an administrative agency must be upheld on judicial review if it is not based upon an erroneous determination of law, and if the agency's conclusions reasonably may be based upon the facts proven; however, a reviewing court is under no constraint in reversing an administrative decision that is premised solely upon an erroneous conclusion of law. *Montgomery County v. Buckman*, 333 Md. 516, 636 A.2d 448 (1994).

A reviewing court may, and should, examine facts found by an agency, to see if there was evidence to support each fact found. This Court's role is "limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law." *Juvenile Servs. v. Miley*, 178 Md. App. 99, 105, 940 A.2d 1137, 1140 (2008) (quoting *Maryland-National Capital Park and Planning Comm'n v. Anderson*, 395 Md. 172, 190-81, 909 A.2d 694 (2006)). If there was evidence of the fact in the record before the agency, no matter how conflicting, or how questionable the credibility of the source of the evidence, the court has no power to

substitute its assessment of credibility for that made by the agency, and by doing so, reject the fact. *Comm'r Baltimore City Police Dep't v. Cason*, 34 Md. App. 487, 368 A.2d 1067 (1977), *cert. denied*, 280 Md. 728 (1977).

A reviewing court may, and should, examine any inference, drawn by an agency, of the existence of a fact not shown by direct proof, to see if that inference reasonably follows from other facts which are shown by direct proof. If it does, even though the agency might reasonably have drawn a different inference, the court has no power to disagree with the fact so inferred. *Id.* at 508, 368 A.2d 1067. A reviewing court may, and should, examine any conclusions reached by an agency, to see whether reasoning minds could reasonably reach that conclusion from facts in the record before the agency, by direct proof, or by permissible inference. If the conclusion could be so reached, then it is based upon substantial evidence and the court has no power to reject that conclusion. *Id.* at 508, 368 A.2d 1067.

Discussion

Whether the County Board of Appeals drew reasonable factual inferences and interpreted the zoning law fairly to determine that the addition of a third apartment constituted an invalid change of the nonconforming use?

Under the General Provisions of the Baltimore County Zoning Regulations § 101, a Nonconforming Use is "a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such use." The property subject of this case is zoned as D.R.2, which stipulates that the lot must have a minimum

area of 25,000 square feet in order to house two family units within the property.[2] Since this property has been consistently used as two separate rental units since before the property was zoned D.R.2 in 1980, the owners were granted a nonconforming use to allow the continuation of two-unit rentals, despite the fact that the property does not have an area of 25,000 square feet.

Under BCZR § 104.1, a nonconforming use (as defined by § 101) may continue except as otherwise specifically noted in the regulations, provided that upon any change from such nonconforming use to any other whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate.[3] The law contemplates the gradual disappearance of nonconforming uses. *See Prince George's County v. E. L. Gardner*, 47 Md. App. 471 (1981). Since the language of the statute determines that a change from the approved nonconforming use to any other unapproved nonconforming use can terminate the owner's rights, a body of law has emerged to distinguish changes that improperly expand the nonconforming use from changes merely intensifying the approved nonconforming use. Any expansion[4] of the nonconforming use is tantamount to a change from the nonconforming use, thus terminating the right to the nonconforming use.

---

[2] As Respondents note in their memorandum, each increase from two units requires an additional 7,500 square feet of lot area. In order to house three families in a D.R.2 zone, the lot would require 32,500 square feet. The subject lot in this case is 19,952 square feet.
[3] It is uncontested that until 2002 Petitioner and prior owners were able to prove an unbroken and continual chain of nonconforming use which preceded the 1981 D.R.2 zoning and allowed the continuation of two rental units on the property.
[4] Throughout the memorandum and various opinions cited by the parties, the terms "expansion," "extension" and "enlargement" are used interchangeably. Each term is synonymously distinguished from the more static "intensification" language.

In *Prince George's County v. E. L. Gardner*, 47 Md. App. 471 (1981), the Court of Special Appeals noted examples of improper enlargements of a nonconforming use, such as an increase in floor space arising from an addition to an existing building, an increase in the area of a lot used for nonconforming uses, and a change in business methods. *Id.* at 476. Conversely, the Court of Special Appeals noted, an increase in the volume of an existing business is usually referred to as intensification and has been permitted under a valid nonconforming use. *Id.* "Maryland recognizes, and our cases have held, that an intensification of a nonconforming use is permissible, so long as the nature and character of that use is unchanged and is substantially the same." *Trip Associates, Inc., et al v. Mayor and City Council of Baltimore*, 392 Md. 563, 579, citing *Feldstein v. LaVale Zoning Board*, 246 Md. 204, 211 (1967). Petitioner argues that the increase of rental units from two to three units is merely an increase in volume of the nonconforming use not straying from the original nature and character of the nonconforming use, and is thus a valid intensification.

In his memorandum, Petitioner's cites numerous Maryland cases discussing the distinction between expansion and intensification. Petitioner compares the facts at hand to the increase in the number of nights a club could provide adult entertainment from two nights a week to five nights a week[5], the increased use of a sports stadium for baseball games[6], the increased use of lot space for the storage of cars from 10 to 60 cars[7], the increase of quantity and height of junk piles stored in a junkyard lot[8], and an increase in

[5] *Trip Associates, Inc., et al v. Mayor and City Council of Baltimore*, 392 Md. 563 (2006).
[6] *Green, et al v. Garret, et al.*, 192 Md. 52 (1949)
[7] *Nyburg v. Solmson*, 205 Md. 150 (1954).
[8] *Feldstein v. LaVale Zoning Board*, 246 Md. 204 (1967).

the number of decommissioned trucks kept on property owned by a trucking company.[9] Petitioner's reliance on these examples is misplaced. Each case cited involves an increase in the frequency of the nonconforming use on the property without expansion of the facilities. The examples cited by Petitioner are not analogous to an increase of rental units within a single home. Petitioner's intensification argument is simply untenable. The addition of a third apartment was not an intensification of the nonconforming use when compared to other valid examples.

It is the opinion of this court that the addition of a third apartment to the dwelling constituted an expansion not contemplated under the original nonconforming use. This was not a mere intensification of the existing nonconfonning use. BCZR § 104.3 states that no nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. It is clear that the addition of a third apartment constituted an improper enlargement of more than 25% of the ground floor space. Such an enlargement must be considered a change in nonconforming use of the property and thus violates the right to the original nonconforming use. Consistent with the intent and purpose of BCZR § 104.1, the nonconforming use granted to the subject property must now terminate, and the home must convert to single-family home use allowed in the D.R.2 Zone.

It is the opinion of this court that the County Board of Appeals drew reasonable factual inferences and interpreted the zoning law fairly in reaching their conclusion. The County Board of Appeals fairly determined that the renovation of the basement of the property constituted an invalid change and an improper enlargement of the

[9] *County Commissioners of Carroll County v. Zent*, 86 Md.App. 745 (1991).

nonconforming use, and acted reasonably in terminating the nonconforming use granted to Mr. Leucking.

CONCLUSION

For the reasons set forth herein, the County Board of Appeal's decision is AFFIRMED.

Judge
Ruth A. Jakubowski
Date: 9/17/09

True Copy Test
SUZANNE MENSH, Clerk
Per _____ Assistant Clerk

IN THE MATTER OF:	*	IN THE
TIMOTHY LEUCKING	*	CIRCUIT COURT
Petitioner	*	FOR
v.	*	BALTIMORE COUNTY
HILLCREST RESERVE HOMEOWNERS' ASSOCIATION, INC.	*	CASE NO: 03-C-09-001926
Respondent	*	

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

ORDER

This matter came before the Court as an appeal from a decision of the Baltimore County Board of Appeals. Based upon the Court's review of the record, and for the reasons stated in its memorandum opinion, it is this 17 day of September, 2009, by the Circuit Court for Baltimore County, Maryland,

ORDERED that the decision of the Baltimore County Board of Appeals be **AFFIRMED** and any costs be paid by Petitioner.

Judge
Ruth A. Jakubowski
Date: 9/17/09

True Copy Test
SUZANNE MENSH, Clerk
Per _____ Assistant Clerk

FILED OCT 8 2009

Debra Wiley

From: Debra Wiley
Sent: Tuesday, August 11, 2020 11:25 AM
To: Lawrence M. Stahl (lawrence.stahl1@gmail.com); Stahl, Lawrence
Subject: Case No. 2019-0437-SPH
Attachments: 20200811112731748.pdf

Larry,

Please find attached Ms. Heyman-Magaziner's Memo in Opposition to Granting of Nonconforming Use packet.

Debra Wiley, Legal Administrative Secretary Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Tuesday, August 11, 2020 11:28 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 08.11.2020 11:27:31 (-0400)
Queries to: adminhearingscpr@baltimorecountymd.gov

IN THE OFFICE OF ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY

RECEIVED
AUG 10 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

ITMO Petition for Special Hearing
14721 Manor Road **Case 2019-437 SPH**
Jacqueline R. Frank, Petitioner

MEMORANDUM IN OPPOSITION TO GRANTING OF NONCONFORMING USE

Rebecca Heyman-Magaziner, joined by John Raley, property owners in Baltimore County, Maryland, file this Memorandum in Opposition to Granting of Non-Conforming Use and says:

Note: while we were told an audio of the continued hearing of 7/21/20 would be provided, same did not arrive prior to Rebecca Heyman-Magaziner's departure from the State of Maryland Accordingly, she has no information regarding the testimony of Christine Derbach. I will note however, that it appears by what has been relayed to us, that Ms. Derbach did not or was unable to produce leases, cashed checks, receipts, utility bills or any other information to confirm her rental at the property in question. Additionally, I understand she did not or was unable to produce pictures of the multiple rental units and multiple electricity meters. Should that be the impression of the Court, I propose that her testimony is of no relevance to the question of usage of the property for Three (3) apartments consistently since 1945.

NO TOLLING REGARDING DISCONTINUATION OF NON-CONFORMING USE

As to the prevailing caselaw regarding non-conforming use in Baltimore County, we adopt that set forth in the People's Counsel for Baltimore County's Memorandum. However, I will add that I have had the opportunity to review several of the cases regarding non-conforming use. Of particular interest is the unreported case of Lagna v People's Counsel, found at 2016 WL 327029. In that matter the question of 'tolling of discontinuance' is resolved, as regards non-conforming use of land, by the land-owner continuing to use the property in the non-conforming matter until the conclusion of the litigation. After the Administrative Law Judge in that case found the site was being utilized in a fashion that exceeded the existing zoning a penalty was imposed, and the property owner was ordered to bring the property into compliance. That penalty and order was suspended to allow for a special hearing to be held "to determine and resolve the zoning use". Emphasis added. Though not compelling precedent, certainly this is enlightening as to what Petitioner's options were once Judge Stahl entered a finding for violation. Ms. Frank is not permitted a tolling of discontinuance, but rather she could have elected continuing the non-conforming use (i.e. continue renting 3 apartments) pending a final resolution of the question. To the best of my knowledge caselaw and the prevailing statutes do not allow for the tolling of discontinuance of non-conforming use under these circumstances, so as means to avoid compliance with the statutory requirement that no such discontinuance exist for over a 365 day period if a non-conforming use is to be

ratified. Ms. Frank and her counsel did not present any such authority for the said tolling during the course of these proceedings, and we assert that is because it does not exist.

1945 – CLEARLY THE START DATE FOR WHEN NON-CONFORMING USE MUST HAVE EXISTED

Interestingly, the Lagna case also sheds the issue of how far back a non-conforming use must be in existence to qualify for that non-conforming use to be ratified. In that case Mr. Lagna argued that *the property historically served as a 'boat club' since before the initial adoption of zoning regulations in 1945.* The Lagna Court pointed out the principles of Maryland Law which can be relied upon in the instant matter regarding non-conforming uses:

> A property owner establishes a non-conforming use if the property owner can demonstrate to the relevant authority ...that the property was being used in a then-lawful manner before, and at the time of, adoption of a new zoning ordinance which purports to prohibit the use on the property. Such a property owner has a vested constitutional right to continue the prohibited use, subject to local ordinances that may prohibit 'extension' of the use.
>
> Cnty. Council of Prince George's Cnty v. Zimmer Dev. Co., 444 Md. 490 (2015)

As to the History of the Baltimore County Zoning Laws regarding non-conforming use, we hereby adopt that set forth in the People's Counsel for Baltimore County's Memorandum. Reference is additionally made to People's Counsel's Exhibit in the instant case (which was already accepted an Exhibit in the matter before ALJ Stahl – an email from Jeffrey N. Perlow dated Thursday, July 16, 2020 and the attached 1945 map indicating that the subject property was zoned "A" Residence in 1945. This designation later became known as Residential R-6 in 1955. A property so designated had not then - and is not now - authorized for more than two (2) residences [such as a duplex], and never authorized for apartments, according to Mr. Perlow. Mr. Perlow also opined that 'For them [meaning the Petitioner] to establish a non-conforming use for a three-family dwelling, the Petitioner would have to show that all three dwellings existed prior to 1945". At some point in the Hearing on July 21, 2020 someone mentioned that the relevant period to be considered in this case is Twenty (20) years. Whomever pointed that out was clearly mistaken; perhaps confused the adverse possession rule in land ownership. The right to continue a non-conforming use depends on the continuity of the substantive characteristics of the use. *See* McKemy v. Baltimore Cnty., 39 Md. App. 257 (1978) We assert that continuity begins in 1945 and goes until the date of the end of litigation regarding the use of said property.

A HEAVY BURDEN OF PROOF IS ON PETITIONER

The Lagna case again also provides insight as to what a Petitioner may rely upon in attempt to prove their case. Mr. Lagna offered testimony and exhibits in effort to show the various social and boat related activities that continued on the property without interruption since 1937. Obviously, Ms. Frank is

free to present her case as she sees fit. There is no right or wrong way for her to proceed on that issue. What is clear, however, is the lack of testimony and evidence in the instant matter. Said lack of evidence speaks volumes as to the issue at hand. It also leaves the factfinder without grounds upon which to grant the Petitioner's request as the evidence that has been provided does not add up to meet Petitioner Frank's heavy burden in this case.

During the months between the two hearings in Ms. Frank's case she was asked to produce many documents. Those requests came from property owners such as Rebecca Heyman-Magaziner and John Raley, and from People's Counsel, by way of e-mails copied to ALJ Stahl. Furthermore, as the saying goes; A picture is worth a thousand words! That said, reference is made to John Raley's email to Mr. Schmidt dated July 10, 2020 which was copied to ALJ Stahl and was accompanied by a photo showing the unkept and potentially vacated front residence on the property in question. That photo is quite similar to the photo produced by property owner Steve Weinberg introduced along with the Zillow listing (including pictures) regarding the property in question that was already over a year old and showed at most, an abandoned property or, at the very least, an eyesore in the community. From the roadway, it would appear that only one house is situated on the property. Perhaps this is why the issue of non-conforming use took so long to come to light.

As the Court in Trip Assocs, Inc. v Mayor and City Council of Baltimore, 392 Md.563 (2006) so aptly stated **one of the main tests for determining a non-conforming use is recognized to be "whether the property is known in the neighborhood as being employed for that given purpose"** The pictures presented by Mr. Raley and by Mr. Weinberg speak directly to the fact that the Three (3) apartments were not visible from the roadway. There is simply no valid reason for the non-conforming use to be granted which would permit such an abomination to continue. Reference is also made to the email from People's Counsel dated January 29, 2020 directed to ALJ Stahl and copied to Ms. Frank's counsel, wherein is stated that a three dwelling apartments use would require the licenses enumerated in Sec. 35-6-103(a) and 35-6-105. In the case at bar Ms. Frank has failed to produce any such licenses. And finally, reference is made to Rebecca Heyman-Magaziner's letter of January 28, 2020 addressed to Your Honor and copied to Petitioner's counsel.

The burden in this case rests squarely on the Petitioner. Petitioner Frank MUST show that there have been Three (3) apartments rented out on the property since before 1945, without a continuous lapse of 366 days at any time since, in order to prevail. The law is construed strictly against nonconforming uses, which the law intends to disappear. See Prince George's County v E L Gardner, 293 Md 259 (1982) Nonconforming uses are not favored by Maryland law, and local ordinances regulating validity [of] non-conforming uses will be construed to effectuate their purposes. See Cnty. Council of Prince George's Cnty v Zimmer Dev Co., 444 Md. 490 (2015) Paraphrasing a quote from the Lagna opinion; ***It is incumbent upon [Frank] as the petitioner, to persuade ... that a lawful use existed when the lot was zoned for***

residential use in 1945, and ... that whatever use had been made of the lot at the time continued thereafter without changing to any other use.

Logically there are numerous documents that would support her contention, including but not limited to, tax records showing rental income, ledgers showing payment receipts, leases, and the above referenced licenses. Review of the Deed recorded at Liber 3378 Page 016 dated 7/2/1958 sheds no light as to property was conveyed to Howard Lintz (the senior as opposed to the Petitioner's witness) having Three (3) apartments upon it. The same is true in the Deed recorded at Liber 6539 Paged 504 dated 5/26/1983 that was conveyed to Constantine Frank. Additionally, the Deed at Liber 8169 Page 330, when Petitioner Frank gained partial ownership, fails to refer to any apartments being situated on the property. These Deeds shown ownership of the property but DO NOT support the contention that Three (3) apartments have been rented continuously on said property from the dates the Deeds were signed. And nothing contained in these Deeds references Three (3) apartments being in existence on the property from 1945 forward. Despite Petitioner's Frank's testimony that there had been Three (3) apartments on the property at the time of purchase by her Husband, the evidence submitted by her counsel fails to support that claim. Petitioner Frank additionally testified that her now deceased husband handled the records for the rentals. He passed away many years ago, however. If we are to believe the property has continuously been used for Three (3) rental apartments, where are the records from the day the late Mr. Frank passed on to present? Had there truly been three rental incomes being produced at that property, surely *some record* must exist. No such records were produced before Your Honor, by the Petitioner or by any of her witnesses. Additionally, to her credit Petitioner Frank admitted to not having a very good memory. It is not for the factfinder to fill in the missing blanks, making the presentation of the documents to support the Petitioner's contentions even that much more urgent.

Addressing the P.S. meter issue contained in the letter from BGE produced by counsel for the Petitioner, I am referencing my letter to Your Honor dated January 8, 2020 and copied to Mr. Schmidt. I also make reference to the BGE definition of a P.S. Meter that Your Honor accepted into evidence - provided by me to all participants in the July 21, 2020 hearing. Clearly the existence of a P.S. meter DOES NOT prove continuous use as apartments at any time, and more importantly does not support the existence of Three (3) apartments on the property since 1945. The P.S. meter is a power saving device that acts to permit the Landlord/property owner to separate the utility usage in common areas from usage by the Lessees. It is used in common areas of apartments buildings and commercial buildings, but it can also be utilized in an agricultural setting such as in stables. Ms. Frank did not prove the alleged Three (3) apartments share a common hallway and/or laundry room where such a meter would be used. She also did not produce any information, through her testimony and that of her witnesses, to show there were separate utility meters for each of the Three (3) apartments.

Mr. Lintz testified for the Petitioner. He stated that he paid a utility bill during the time he lived on the property, but he had no first-hand knowledge regarding other such bills. In fact, it is quite possible he

paid the only utility bill for the property when he resided there, especially since the Petitioner is unable to produce any utility bills for this case. Truly though, the existence of different utility bills for the property, unless able to be produced from 1945 to present in three different names indicating three different Lessees, are not indicative of the existence of said apartments. In fact, despite what may be called credible testimony by Mr. Lintz, the record still does not support the granting of Petitioner's request as even Mr. Lintz cannot possibly have firsthand knowledge of the property use as far back as 1945. He so much as admitted to no firsthand knowledge of the property since he moved out, except seeing a few cars on the property – which is not indicative of multiple residences in and of itself. He had not visited the property, not been inside and had spoken to no one at the property since he left in 1977.

CONSEQUENSES OF FAILURE TO PRODUCE EVIDENCE THAT IS OR SHOULD BE IN THE POSSESSION OF THE PARTY

In evidentiary hearings the 'missing evidence rule' is a principle of evidence law that focuses on the impact on the factfinder of the party's nonproduction of evidence at trial. According to this rule, when a party fails at trial to present evidence that the party does, *or should*, control and that would have been proper to present, the factfinder is entitled to infer that the evidence would have been unfavorable to that party. This is a common rule, as even a first-year law school student should be aware and as every litigator knows. Nowhere is it stated that a Petitioner before the Office of Administrative Hearings is exempt from this very basic rule of litigation. "Failure to bring before tribunal some circumstance, document, or witness, when either party himself or his opponent claims that facts would thereby be elucidated, serves to indicate, as most rational inference, that party fears to do so, and this fear is some evidence that circumstance or document or witness, if brought, would have exposed facts unfavorable to party." Christensen v. State, 21 Md. App. 428 (Md. Ct. Spec. App. 1974) We assert that this is true in the case at bar. Petitioner should have records to show the existence of Three (3) apartments. Certainly, she has within her control to obtain records from the Internal Revenue Service showing rental income for all of the years she has had ownership of the property. She additionally has within her control the ability to show bank records supporting the rental income she has been receiving, by her own calculations, since 1989 when her name was added to the Deed. Ms. Frank purports, through counsel, to be unable to get BGE to comply with producing documents despite issuing a Subpoena. She has not addressed her own failure to produce records in this case. It is unlikely, however, that she can meet her burden of obtaining records to show continuous use as Three (3) apartments since 1945, thus **her Petition must be Denied.**

Respectfully submitted,

Rebecca Heyman Magaziner

Rebecca Heyman Magaziner
3523 Southside Avenue
Phoenix MD 21131
443.418.7599

John C. Raley
3810 Donerin Way
Phoenix, MD 21131

rlhmlaw@hotmail.com Jcr319@hotmail.com

Certificate of Service

I hereby certify on the 4th day of August, 2020 a copy of the foregoing was emailed to ALJ Lawrence Stahl at lstahl@baltimorecountymd.gov, Lawrence Schmidt, Esq. at lschmidt@sgs-law.com; Zachary Wilkens, Esq. at zwilkens@sgs-law.com; John Raley at Jer319@hotmail.com ; Steven Weinberg at Steven.d.Weinberg@gmail.com and Peter Max Zimmerman, Esq. (of People's Counsel) at pzimmerman@baltimorecountymd.gov,

Rebecca Heyman Magaziner

Rebecca Heyman Magaziner

IN THE OFFICE OF ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY

RECEIVED
AUG 10 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

ITMO Petition for Special Hearing
14721 Manor Road Case 2019-437 SPH
Jacqueline R. Frank, Petitioner

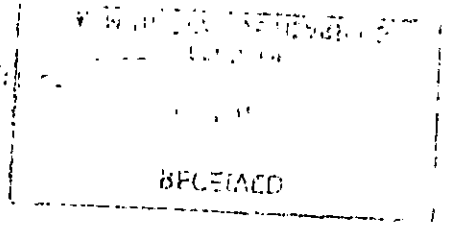
MEMORANDUM IN OPPOSITION TO GRANTING OF NONCONFORMING USE

Rebecca Heyman-Magaziner, joined by John Raley, property owners in Baltimore County, Maryland, file this Memorandum in Opposition to Granting of Non-Conforming Use and says:

Note: while we were told an audio of the continued hearing of 7/21/20 would be provided, same did not arrive prior to Rebecca Heyman-Magaziner's departure from the State of Maryland Accordingly, she has no information regarding the testimony of Christine Derbach. I will note however, that it appears by what has been relayed to us, that Ms. Derbach did not or was unable to produce leases, cashed checks, receipts, utility bills or any other information to confirm her rental at the property in question. Additionally, I understand she did not or was unable to produce pictures of the multiple rental units and multiple electricity meters. Should that be the impression of the Court, I propose that her testimony is of no relevance to the question of usage of the property for Three (3) apartments consistently since 1945.

NO TOLLING REGARDING DISCONTINUATION OF NON-CONFORMING USE

As to the prevailing caselaw regarding non-conforming use in Baltimore County, we adopt that set forth in the People's Counsel for Baltimore County's Memorandum. However, I will add that I have had the opportunity to review several of the cases regarding non-conforming use. Of particular interest is the unreported case of Lagna v People's Counsel, found at 2016 WL 327029. In that matter the question of 'tolling of discontinuance' is resolved, as regards non-conforming use of land, by the land-owner continuing to use the property in the non-conforming matter until the conclusion of the litigation. After the Administrative Law Judge in that case found the site was being utilized in a fashion that exceeded the existing zoning a penalty was imposed, and the property owner was ordered to bring the property into compliance. That penalty and order was suspended to allow for a special hearing to be held "to determine and resolve the zoning use". Emphasis added. Though not compelling precedent, certainly this is enlightening as to what Petitioner's options were once Judge Stahl entered a finding for violation. Ms. Frank is not permitted a tolling of discontinuance, but rather she could have elected continuing the non-conforming use (i.e. continue renting 3 apartments) pending a final resolution of the question. To the best of my knowledge caselaw and the prevailing statutes do not allow for the tolling of discontinuance of non-conforming use under these circumstances, so as means to avoid compliance with the statutory requirement that no such discontinuance exist for over a 365 day period if a non-conforming use is to be


RECEIVED

ratified. Ms. Frank and her counsel did not present any such authority for the said tolling during the course of these proceedings, and we assert that is because it does not exist.

1945 – CLEARLY THE START DATE FOR WHEN NON-CONFORMING USE MUST HAVE EXISTED

Interestingly, the Lagna case also sheds the issue of how far back a non-conforming use must be in existence to qualify for that non-conforming use to be ratified. In that case Mr. Lagna argued that *the property historically served as a 'boat club' since before the initial adoption of zoning regulations in 1945.* The Lagna Court pointed out the principles of Maryland Law which can be relied upon in the instant matter regarding non-conforming uses:

> A property owner establishes a non-conforming use if the property owner can demonstrate to the relevant authority ...that the property was being used in a then-lawful manner before, and at the time of, adoption of a new zoning ordinance which purports to prohibit the use on the property. Such a property owner has a vested constitutional right to continue the prohibited use, subject to local ordinances that may prohibit 'extension' of the use.
>
> Cnty. Council of Prince George's Cnty v. Zimmer Dev. Co., 444 Md. 490 (2015)

As to the History of the Baltimore County Zoning Laws regarding non-conforming use, we hereby adopt that set forth in the People's Counsel for Baltimore County's Memorandum. Reference is additionally made to People's Counsel's Exhibit in the instant case (which was already accepted an Exhibit in the matter before ALJ Stahl – an email from Jeffrey N. Perlow dated Thursday, July 16, 2020 and the attached 1945 map indicating that the subject property was zoned "A" Residence in 1945. This designation later became known as Residential R-6 in 1955. A property so designated had not then - and is not now - authorized for more than two (2) residences [such as a duplex], and never authorized for apartments, according to Mr. Perlow. Mr. Perlow also opined that 'For them [meaning the Petitioner] to establish a non-conforming use for a three-family dwelling, the Petitioner would have to show that all three dwellings existed prior to 1945". At some point in the Hearing on July 21, 2020 someone mentioned that the relevant period to be considered in this case is Twenty (20) years. Whomever pointed that out was clearly mistaken; perhaps confused the adverse possession rule in land ownership. The right to continue a non-conforming use depends on the continuity of the substantive characteristics of the use. *See* McKemy v. Baltimore Cnty., 39 Md. App. 257 (1978) We assert that continuity begins in 1945 and goes until the date of the end of litigation regarding the use of said property.

A HEAVY BURDEN OF PROOF IS ON PETITIONER

The Lagna case again also provides insight as to what a Petitioner may rely upon in attempt to prove their case. Mr. Lagna offered testimony and exhibits in effort to show the various social and boat related activities that continued on the property without interruption since 1937. Obviously, Ms. Frank is

free to present her case as she sees fit. There is no right or wrong way for her to proceed on that issue. What is clear, however, is the lack of testimony and evidence in the instant matter. Said lack of evidence speaks volumes as to the issue at hand. It also leaves the factfinder without grounds upon which to grant the Petitioner's request as the evidence that has been provided does not add up to meet Petitioner Frank's heavy burden in this case.

During the months between the two hearings in Ms. Frank's case she was asked to produce many documents. Those requests came from property owners such as Rebecca Heyman-Magaziner and John Raley, and from People's Counsel, by way of e-mails copied to ALJ Stahl. Furthermore, as the saying goes; A picture is worth a thousand words! That said, reference is made to John Raley's email to Mr. Schmidt dated July 10, 2020 which was copied to ALJ Stahl and was accompanied by a photo showing the unkept and potentially vacated front residence on the property in question. That photo is quite similar to the photo produced by property owner Steve Weinberg introduced along with the Zillow listing (including pictures) regarding the property in question that was already over a year old and showed at most, an abandoned property or, at the very least, an eyesore in the community. From the roadway, it would appear that only one house is situated on the property. Perhaps this is why the issue of non-conforming use took so long to come to light.

As the Court in Trip Assocs, Inc. v Mayor and City Council of Baltimore, 392 Md.563 (2006) so aptly stated **one of the main tests for determining a non-conforming use is recognized to be "whether the property is known in the neighborhood as being employed for that given purpose"** The pictures presented by Mr. Raley and by Mr. Weinberg speak directly to the fact that the Three (3) apartments were not visible from the roadway. There is simply no valid reason for the non-conforming use to be granted which would permit such an abomination to continue. Reference is also made to the email from People's Counsel dated January 29, 2020 directed to ALJ Stahl and copied to Ms. Frank's counsel, wherein is stated that a three dwelling apartments use would require the licenses enumerated in Sec. 35-6-103(a) and 35-6-105. In the case at bar Ms. Frank has failed to produce any such licenses. And finally, reference is made to Rebecca Heyman-Magaziner's letter of January 28, 2020 addressed to Your Honor and copied to Petitioner's counsel.

The burden in this case rests squarely on the Petitioner. Petitioner Frank MUST show that there have been Three (3) apartments rented out on the property since before 1945, without a continuous lapse of 366 days at any time since, in order to prevail. The law is construed strictly against nonconforming uses, which the law intends to disappear. See Prince George's County v E L Gardner, 293 Md 259 (1982) Nonconforming uses are not favored by Maryland law, and local ordinances regulating validity [of] non-conforming uses will be construed to effectuate their purposes. See Cnty. Council of Prince George's Cnty v Zimmer Dev Co., 444 Md. 490 (2015) Paraphrasing a quote from the Lagna opinion; ***It is incumbent upon [Frank] as the petitioner, to persuade ... that a lawful use existed when the lot was zoned for***

residential use in 1945, and ... that whatever use had been made of the lot at the time continued thereafter without changing to any other use.

Logically there are numerous documents that would support her contention, including but not limited to, tax records showing rental income, ledgers showing payment receipts, leases, and the above referenced licenses. Review of the Deed recorded at Liber 3378 Page 016 dated 7/2/1958 sheds no light as to property was conveyed to Howard Lintz (the senior as opposed to the Petitioner's witness) having Three (3) apartments upon it. The same is true in the Deed recorded at Liber 6539 Paged 504 dated 5/26/1983 that was conveyed to Constantine Frank. Additionally, the Deed at Liber 8169 Page 330, when Petitioner Frank gained partial ownership, fails to refer to any apartments being situated on the property. These Deeds shown ownership of the property but DO NOT support the contention that Three (3) apartments have been rented continuously on said property from the dates the Deeds were signed. And nothing contained in these Deeds references Three (3) apartments being in existence on the property from 1945 forward. Despite Petitioner's Frank's testimony that there had been Three (3) apartments on the property at the time of purchase by her Husband, the evidence submitted by her counsel fails to support that claim. Petitioner Frank additionally testified that her now deceased husband handled the records for the rentals. He passed away many years ago, however. If we are to believe the property has continuously been used for Three (3) rental apartments, where are the records from the day the late Mr. Frank passed on to present? Had there truly been three rental incomes being produced at that property, surely *some record* must exist. No such records were produced before Your Honor, by the Petitioner or by any of her witnesses. Additionally, to her credit Petitioner Frank admitted to not having a very good memory. It is not for the factfinder to fill in the missing blanks, making the presentation of the documents to support the Petitioner's contentions even that much more urgent.

Addressing the P.S. meter issue contained in the letter from BGE produced by counsel for the Petitioner, I am referencing my letter to Your Honor dated January 8, 2020 and copied to Mr. Schmidt. I also make reference to the BGE definition of a P.S. Meter that Your Honor accepted into evidence - provided by me to all participants in the July 21, 2020 hearing. Clearly the existence of a P.S. meter DOES NOT prove continuous use as apartments at any time, and more importantly does not support the existence of Three (3) apartments on the property since 1945. The P.S. meter is a power saving device that acts to permit the Landlord/property owner to separate the utility usage in common areas from usage by the Lessees. It is used in common areas of apartments buildings and commercial buildings, but it can also be utilized in an agricultural setting such as in stables. Ms. Frank did not prove the alleged Three (3) apartments share a common hallway and/or laundry room where such a meter would be used. She also did not produce any information, through her testimony and that of her witnesses, to show there were separate utility meters for each of the Three (3) apartments.

Mr. Lintz testified for the Petitioner. He stated that he paid a utility bill during the time he lived on the property, but he had no first-hand knowledge regarding other such bills. In fact, it is quite possible he

paid the only utility bill for the property when he resided there, especially since the Petitioner is unable to produce any utility bills for this case. Truly though, the existence of different utility bills for the property, unless able to be produced from 1945 to present in three different names indicating three different Lessees, are not indicative of the existence of said apartments. In fact, despite what may be called credible testimony by Mr. Lintz, the record still does not support the granting of Petitioner's request as even Mr. Lintz cannot possibly have firsthand knowledge of the property use as far back as 1945. He so much as admitted to no firsthand knowledge of the property since he moved out, except seeing a few cars on the property – which is not indicative of multiple residences in and of itself. He had not visited the property, not been inside and had spoken to no one at the property since he left in 1977.

CONSEQUENSES OF FAILURE TO PRODUCE EVIDENCE THAT IS OR SHOULD BE IN THE POSSESSION OF THE PARTY

In evidentiary hearings the 'missing evidence rule' is a principle of evidence law that focuses on the impact on the factfinder of the party's nonproduction of evidence at trial. According to this rule, when a party fails at trial to present evidence that the party does, *or should*, control and that would have been proper to present, the factfinder is entitled to infer that the evidence would have been unfavorable to that party. This is a common rule, as even a first-year law school student should be aware and as every litigator knows. Nowhere is it stated that a Petitioner before the Office of Administrative Hearings is exempt from this very basic rule of litigation. "Failure to bring before tribunal some circumstance, document, or witness, when either party himself or his opponent claims that facts would thereby be elucidated, serves to indicate, as most rational inference, that party fears to do so, and this fear is some evidence that circumstance or document or witness, if brought, would have exposed facts unfavorable to party." Christensen v. State, 21 Md. App. 428 (Md. Ct. Spec. App. 1974) We assert that this is true in the case at bar. Petitioner should have records to show the existence of Three (3) apartments. Certainly, she has within her control to obtain records from the Internal Revenue Service showing rental income for all of the years she has had ownership of the property. She additionally has within her control the ability to show bank records supporting the rental income she has been receiving, by her own calculations, since 1989 when her name was added to the Deed. Ms. Frank purports, through counsel, to be unable to get BGE to comply with producing documents despite issuing a Subpoena. She has not addressed her own failure to produce records in this case. It is unlikely, however, that she can meet her burden of obtaining records to show continuous use as Three (3) apartments since 1945, thus **her Petition must be Denied.**

Respectfully submitted,

Rebecca Heyman Magaziner

Rebecca Heyman Magaziner
3523 Southside Avenue
Phoenix MD 21131
443.418.7599

John C. Raley

John C. Raley
3810 Donerin Way
Phoenix, MD 21131

rlhmlaw@hotmail.com Jcr319@hotmail.com

Certificate of Service

I hereby certify on the 4th day of August, 2020 a copy of the foregoing was emailed to ALJ Lawrence Stahl at lstahl@baltimorecountymd.gov, Lawrence Schmidt, Esq. at lschmidt@sgs-law.com; Zachary Wilkens, Esq. at zwilkens@sgs-law.com; John Raley at Jer319@hotmail.com ; Steven Weinberg at Steven.d.Weinberg@gmail.com and Peter Max Zimmerman, Esq. (of People's Counsel) at pzimmerman@baltimorecountymd.gov,

Rebecca Heyman Magaziner

Rebecca Heyman Magaziner

[redacted]

Donna Mignon

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Tuesday, August 4, 2020 2:46 PM
To: Administrative Hearings; Lawrence Stahl
Cc: Debra Wiley; Donna Mignon; Becky Heyman Magaziner; 'steven.d.weinberg@gmail.com'; jcr319@hotmail.com; Peoples Counsel; Rebecca Wheatley; Lawrence Schmidt; Zachary Wilkins
Subject: Jacqueline Frank - 14721 Manor Road- Case No. 2019-437-SPH
Attachments: Petitioner's Closing Memorandum in Lieu of Closing Argument-0001.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Attached please find Petitioner's Closing Memorandum in Lieu of Closing Argument in the above reference matter.

Thank you.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

RECEIVED
AUG 05 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

RECEIVED
AUG 4 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE OF
IN THE MATTER OF: Jacqueline R. Frank *Legal Owner* 14721 Manor Road	*	ADMINISTRATIVE HEARINGS
	*	FOR
	*	BALTIMORE COUNTY
10th Election District 3rd Councilmanic District	*	**Case No.: 2019-437-SPH**

* *

PETITIONER'S CLOSING MEMORANDUM IN LIEU OF CLOSING ARGUMENT

The property owner, Jacqueline R. Frank (hereinafter "Petitioner), by and through her attorneys, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, submit this Closing Memorandum in Lieu of Closing Argument in support of the petition for Special Hearing and state:

The Petition for Special Hearing: This Special Hearing petition is filed pursuant to Baltimore County Zoning Regulation ("BCZR") Sec. 500.7, which allows an individual to petition the Zoning Commissioner (a/k/a "ALJ") for an interpretation of the proper application of any zoning regulation. This specifically includes the determination of a non-conforming use. A Special Hearing has been likened to an action for declaratory judgment. (See *Antwerpen v. Baltimore County,* 163 Md. App. 194, 2005).

Relief Requested: Petitioner seeks approval of a non-conforming use (as defined and regulated in the BCZR) to allow 3 apartment/dwelling units on her property located at 14721 Manor Road (the "Property") in northeastern Baltimore County.

Non-Conforming Uses under the BCZR: A non-conforming use is a "grandfathered" use. The BCZR recognizes that some uses of land are not permitted under a property's existing zoning classification but that those uses pre-date the date when the zoning classification/regulation prohibiting the use became applicable. A valid and lawful nonconforming use is established if the owner can demonstrate that *before and at the time* of the adoption of a new zoning

classification/ordinance, the property was being used in a lawful manner that, by later legislation, became non-permitted. *Trip Assoes., Inc. v. Mayor and City Council of Baltimore,* 392 Md. 563, 569 (2006).

In Baltimore County, the law regarding nonconforming uses is set forth in Section 104.1 of the BCZR, which provides:

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

Standard of Proof: The rabid opposition to the Petition is hard to fathom, unless there is a mis-understanding of what is requested. Petitioner is NOT seeking a change in the zoning of the Property. There is no precedent applicable to the community being established by a finding that a non-conforming use exists on the Property. The question presented is limited and pertains to this Property only, i.e. it is either non-conforming; or, it is not. The issues of whether the use is incompatible with the area, detrimental to the locale or inconsistent with the zoning are irrelevant. By definition, a non-conforming use can be all these things; as it is allowed only because it is grandfathered.

The relevant date to establish that the use is grandfathered: In his letter to the ALJ dated November 8, 2019 (People's Counsel's Ex. 4), Mr. Zimmerman opined that the use must have existed prior to 1971 in order to be legally non-conforming. However, during the hearing; he back tracked, and will no doubt argue in his closing memo that it is an earlier date. Respectfully, the conclusion in his earlier letter was the correct one.

The County's first zoning regulations were adopted in 1945. They were rudimentary in nature and predominantly regulated urban properties served by public water and sewer. They listed

but six zones (designated A-G), compared with the 37 zones in the current BCZR. The BCZR was comprehensively amended in 1955. The A-G zones were replaced with new classifications (see BCZR Sec. 100.3). These regulations likewise were basic (but more detailed than the 1945 regs) and much of the rural north County was still not zoned. In watershed legislation adopted in 1971 (Bill 100-70) the current regulations were put into place. A new rural zone for the north County was created; namely, RDP (Rural Deferred Planning). Later, in the mid to late 1970's the "RC" (Rural Conservation) zones were created. These zones were applied to rural properties without public utilities. In creating those zones, the County Council determined that development in the rural areas of Baltimore County had been taking place at an increasing rate and *without the framework of a land use plan or other planning components*. See *Security Mgt. Co. v. Baltimore County,* 104 Md. App. 234 (1995). In 1976, the Property was zoned RC 2. The present RC 5 zoning of the Property was applied in 2016.

It is anticipated that Mr. Zimmerman will argue that the non-conforming use must be shown to exist prior to the 1955 regulations; or perhaps as far back as 1945. Further, that he will rely upon an email from Jeff Perlow in the Zoning Office (People's Counsel's Ex. 1). But a review of that email and those older regulations demonstrates that he is wrong; for multiple reasons. First, Mr. Perlow says that the Property was zoned "A" Residence in 1945. In support thereof, he attaches an old zoning map. However, that map is illegible. The Property is not shown or identified thereon. Thus, there is no proof that the Property was zoned, at all, in 1945. Insofar as the period 1955-1971, Mr. Perlow acknowledges that the County possesses no maps for the area during those years. Thus, based upon the evidence presented, there is no indication that the Property was zoned/regulated (at all) prior to 1971 and most certainly not between 1955 and 1971. Thus, the

Property was not regulated (and the use not prohibited) until 1971. That is when the use became non-compliant with the regulations/zoning adopted at that time.

But assuming arguendo that the Property was indeed zoned as alleged prior to 1971; a review of those regulations is in order. Mr. Perlow opines that the Property was zoned "A" from 1945 through 1955 and then "R-6" from 1955 until Bill 100-70 was adopted in 1971. He further states that those zones allowed "two family dwellings" but not "three family dwellings." The response to this statement is simple; there are no "three family dwellings" (nor have there ever been) on the Property. There is a structure (called the "main house") with two units plus a garage/barn with one unit. The main house is therefore a "two family dwelling" and the garage is a "one family dwelling". There are not (nor have there ever been) three units within a single dwelling/structure.

This conclusion (that there lawfully existed a two family dwelling and one family dwelling) is buttressed by the language in the regulation. Specifically, the "A" regulations stated:

> In any "A" Residence Zone, except as hereinafter expressly provided, no building or land shall be used and no building or structure shall be hereinafter erected, altered, repaired or used except for ***one or more of the following uses*** (emphasis added):
>
> 2. Dwelling, single family.
> 3. Dwelling, two-family.

Unlike the present-day zoning regulations, which predominately limit one principal use per property, the 1945 "A" Residence Zone regulations unambiguously provides that land can be used for ***one or more of the following uses***. Of those permitted uses, single family dwellings and two-family dwellings are permitted. It is undisputed that the Property contains one single family dwelling located within the garage/barn and a two-family dwelling located within the main house. As such, if the "A" Residence zoning applied to the Property, both buildings (collectively containing the 3 apartments/dwelling units) would have been permitted. Similarly, the R-6

regulations (which People's Counsel claims apply to the Property from 1955-1970, without any evidence), permits both single family dwellings and two-family dwellings. Thus, a two-family dwelling **and** a one family dwelling were both permitted on the Property under both the "A" and "R-6" regulations.

Finally, even assuming arguendo that Mr. Perlow's email is construed to opine (even though it clearly does not) that there could not be three "residential units" on a single property (as opposed to within a single structure) the uses as they existed would have nonetheless been permitted. Specifically, both the 1945 and 1955 regulations did not limit "density", as that concept is regulated and understood under the current regulations. Instead they limited the number of units by prescribing a specific amount of acreage (expressed as square feet) required for each unit. In the "A" zone, 5,000 square feet per unit were required. In the R-6 zone, 6,000 square feet per unit. This Property, which is 1.4 acres in areas (60,984 square feet) easily meets the acreage required.

For all these reasons, the three units were allowed until the RDP zoning (and later the RC zones) came into being in 1971. Thus, it is that year that is the required "grandfathered" date.

The Petitioner's uncontradicted evidence of grandfathering: This Property has been owned by two families (Lintz and Frank) since the early 1950's. Mr. Lintz (son of the original owner) testified he moved into one of the units in the house (there were two units there) when he married in 1968. He further testified that there was a unit over the barn/garage going back to his earliest memories in the early 1950's. Ms. Frank testified that the 3 units have continuously existed since her husband purchased the Property from the Lintz's in the early 1980's. The Protestants (including all the interested neighbors and People's Counsel) presented no evidence to the contrary. The testimonies of Mr. Lintz, Ms. Frank, and others were credible and not challenged. Due to limitations of space, the evidence cannot be recounted here in detail, but it was clear and

unequivocal. A letter was also offered from BGE evidencing installation of multiple electric meters (serving multiple units) in 1966.

The continuous and uninterrupted use: Once established, a nonconforming use may be legislatively controlled or eliminated in two ways: either by (1) amortization, i.e., by requiring its termination after a period of time, or by (2) abandonment, i.e., by non-use or abandonment for a specific period of time". *Tripp Assoes., infra.* In Baltimore County, BCZR Sec. 104 states that the non-conforming use can be forfeited if there was either a change in the use or an abandonment or discontinuance of the use for a period of at least one year.

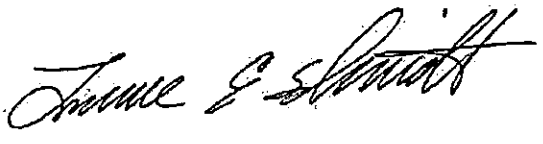
The collective testimony of Jacqui Frank (owner), Howard Lintz (tenant) and Krissy Derkach (tenant) was that there has been no change or abandonment/discontinuance for one year or more. Again, this testimony was credible and unchallenged. All testified that there have been three units on the Property since prior to 1971. They acknowledged that tenants came and went (although many, like Krissy Derkach, who was there for twenty years, were long term). Mrs. Frank specifically noted that there were small "gaps" during periods between tenants or when repairs or renovations were being done, but that those gaps never exceeded "3-4 months, at the most".

One Protestant, Mr. Raley offered the rather novel argument that three units have not been occupied over the "past year or so." In reply, Ms. Frank acknowledged that there has not been full occupancy since the County issued its violation citations. The last of these was issued in during the summer of 2019 (less than one year ago) and more importantly, the non-occupancy is not due to any abandonment or discontinuance of the Petitioner's own choosing. She was cited with a violation notice AND THREATENED AND DIRECTED BY THE COUNTY to discontinue the use until such time as the instant case was resolved. She was advised that she needed first to establish the non-conforming use and then obtain required licensing in order to operate. To use the

County's enforced shut down and the attendant delays caused by the coronavirus pandemic to establish an abandonment is disingenuous, at best.

CONCLUSION

In sum, the Petitioner has proven her case, without a doubt. The testimony of the witnesses (Ms. Frank, Mr. Lintz and Ms. Derkach) was not contradicted. The absence of documentation (in the form of leases or utility bills) is not fatal to the claim. The Petitioner and her counsel labored mightily to obtain info from BGE. What was obtained was submitted. BGE ignored the subpoena served on it. Ms. Frank testified that her husband handled the management of this Property until he was tragically murdered at his business in Baltimore City. She cleaned out his papers without giving thought to the retention of records that might corroborate the oral testimony. As is well settled, evidence can take many forms and the lack of "written proof" does not mean that the evidentiary burden was not met. (For example, there is likely no written evidence of adultery in a divorce case). The testimony offered was reliable and credible. For the reasons set forth herein, the Petition should be granted.



Lawrence E. Schmidt
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
410-821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 4th day of August, 2020, a copy of the Petitioner's Closing Memorandum in Lieu of Closing Argument was served via email to:

Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
People's Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
Peoplescounsel@baltimorecountymd.gov

Rebecca Heyman Magaziner, Esquire
3523 Southside Avenue
Phoenix, MD 21131
rlhmlaw@hotmail.com

John Raley
3810 Donerin Way
Phoenix, MD 21131
Jcr319@hotmail.com

Steven Weinberg
14714 Manor Road
Phoenix, MD 21131
steven.d.weinberg@gmail.com

Lawrence E. Schmidt

RE:	PETITION FOR SPECIAL HEARING 14721 Manor Road, Phoenix, MD 21131 Jacqueline R. Frank, Petitioner	*	BEFORE THE OFFICE
		*	OF ADMINSTRATIVE
		*	HEARINGS FOR
		*	BALTIMORE COUNTY
		*	CASE NO. 2019-437-SPH

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

MEMORANDUM OPPOSING NONCONFORMING USE

Steven D. Weinberg, property owner in Baltimore County, Maryland, files this Memorandum Opposing Nonconforming Use and says:

I join in the positions advanced by Peter Max Zimmerman, Esq., People's Counsel for Baltimore County, in his Letter to Judge Stahl dated November 8, 2019, his arguments at the hearing on July 21, 2020, and his Memorandum to Judge Stahl dated August 4, 2020. I also join in the positions set forth by Rebecca Heyman-Magaziner, Esq., in her Letter to Judge Stahl dated January 8, 2020, her presentation at the second hearing on July 21, 2020, and her Memorandum to Judge Stahl dated August 4, 2020. Specifically,

- Petitioner bears the burden of proving that 14721 Manor Road (the "Subject Property") has been used continuously for three apartments since at least as far back as 1945. Harris v. County Board of Appeals for Baltimore County, 249 Md. 554 (1968); Calhoun v. County Board of Appeals of Baltimore County, 262 Md. 265 (1971).

- Petitioner must prove that such use since 1945 has been without interruption for more than one year. *Baltimore County Zoning Regulations* (BCZR), Sec. 104.1.

- Petitioner has not met her burden of proof. The record is devoid of any rental housing licenses (required by County Code Article 35, Title 6. P.C. Exh. 5), rental or lease agreements, payment receipts, tenant ledgers, income tax returns showing rental income, or any other records showing continuous rental of three apartments on the Subject Property since 1945.

- Mere evidence of installation by Baltimore Gas and Electric Company of a PS Meter on the Subject Property is inconclusive to show continuous and uninterrupted use of three apartments on the Subject Property since 1945. *See generally* People's Counsel Memorandum, Exhibits 6 through 8.

RECEIVED
AUG 4 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

- Petitioner has presented no legal authority whatsoever to support her position that a violation notice somehow tolls termination by discontinuance under BCZR Sec. 104.1.

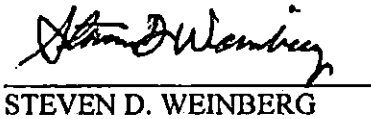
- Petitioner was not able to answer questions during the first hearing and stated that she suffered from "neural defects." As a result, Petitioner's testimony is entitled to little if any weight.

- The law is strictly construed against nonconforming uses and intends for them to disappear.

I reside directly across the street from the Subject Property. I attended the first hearing in person and the second hearing by videoconference. During the second hearing on July 21, 2020, I presented two items to the tribunal. The first item was a smartphone screenshot of the "top" of the multi-screen Zillow.com listing showing that the Subject Property had been on the market for 480 days as of July 21, 2020. The second item was the first photograph of the Zillow.com listing showing construction debris along the front and side of the main house of the Subject Property. True and correct copies of the screenshot and photograph I captured on my smartphone and displayed during the videoconference are attached hereto as Exhibits A and B, respectively. To the best of my knowledge, information and belief, renovations to the main house were undertaken more than one year ago and it has not been occupied since the renovations were completed.

Based on the conspicuous lack of evidence to meet Petitioner's high burden of proof, the Petition must be denied.

Respectfully submitted,



STEVEN D. WEINBERG
14714 Manor Road
Phoenix, MD 21131-1719
(410) 654-6777
steven.d.weinberg@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of August, 2020, a copy of the foregoing Memorandum Opposing Nonconforming Use was emailed to: Lawrence Schmidt, Esq., lschmidt@sgs-law.com and Zachary Wilkins, Esq., zwilkens@sgs-law.com, Attorneys for Petitioner; Peter Max Zimmerman, Esq., pzimmerman@baltimorecountymd.gov, People's Counsel for Baltimore County; Rebecca Heyman-Magaziner, Esq., rlhmlaw@hotmail.com,; and John C. Raley, Jcr319@hotmail.com.

STEVEN D. WEINBERG

RE:	PETITION FOR SPECIAL HEARING 14721 Manor Road, Phoenix, MD 21131 Jacqueline R. Frank, Petitioner	*	BEFORE THE OFFICE
		*	OF ADMINSTRATIVE
		*	HEARINGS FOR
		*	BALTIMORE COUNTY
		*	CASE NO. 2019-437-SPH

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

EXHIBIT "A" TO WEINBERG MEMORANDUM OPPOSING NONCONFORMING USE

[Zillow.com Listing]



$399,900 Studio -- ba 4,308 sqft

14721 Manor Rd, Phoenix, MD 21131

♥ Contingent

Est. Payment: $1,817/mo Get pre-qualified

What do you like about this home?

+ Add tags

Time on Zillow **480 days** Views **17** Saves **0**

⚠ This home has a pending offer.

Rarely available multi-family property in the Phoenix area!! 2 Separate buildings - main building has (2) two bedroom units, and building #2 has (1) two bedroom unit. Call LA for further info . 24 hour notice please!

Listing Agent

Sean O'Conor
O'Conor, Mooney & Fitzgerald

Facts and features

Type: Multi Family

Call Agent Message Agent

RE:	PETITION FOR SPECIAL HEARING 14721 Manor Road, Phoenix, MD 21131 Jacqueline R. Frank, Petitioner	*	BEFORE THE OFFICE
		*	OF ADMINSTRATIVE
		*	HEARINGS FOR
		*	BALTIMORE COUNTY
		*	CASE NO. 2019-437-SPH

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

EXHIBIT "B" TO WEINBERG MEMORANDUM OPPOSING NONCONFORMING USE

[Zillow.com Listing Photograph]


bright MLS

Donna Mignon

From: Administrative Hearings
Sent: Thursday, October 1, 2020 3:10 PM
To: Alyssa Moyers
Subject: RE: Frank/2019-437-SPH

RECEIVED
OCT 01 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

Good Afternoon,
This is acknowledgment that we received same and will be given to ALJ Stahl for his review and consideration.

Have a great day.

Donna

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Thursday, October 1, 2020 3:02 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Cc: Lawrence Schmidt <lschmidt@sgs-law.com>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Becky Heyman Magaziner <rlhmlaw@yahoo.com>; jcr319@hotmail.com; 'steven.d.weinberg@gmail.com' <steven.d.weinberg@gmail.com>
Subject: Frank/2019-437-SPH

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Please see the attached Petitioner's Motion for Reconsideration to be filed in the above referenced matter.

- *Alyssa*

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

Please consider the environment before printing this email.

RECEIVED
OCT 0 1 2020
OFFICE OF
ADMINISTRATIVE HEARINGS

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE OF
IN THE MATTER OF: Jacqueline R. Frank *Legal Owner* 14721 Manor Road	*	ADMINISTRATIVE HEARINGS
	*	FOR
	*	BALTIMORE COUNTY
10th Election District 3rd Councilmanic District	*	**Case No.: 2019-437-SPH**

* *

PETITIONER'S MOTION FOR RECONSIDERATION

Jacqueline R. Frank, Petitioner/Property Owner, by Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, her attorneys, moves for reconsideration of the Opinion and Order issued by Administrative Law Judge ("ALJ") Lawrence Stahl dated September 3, 2020, pursuant to the Administrative Law Judge's Rules of Practice and Procedure as stated in Rule 4K of the Rules of Practice and Procedure before the Zoning Commissioner (A/K/A as the Administrative Law Judge or "ALJ") found in Appendix G of the Baltimore County Zoning Regulations ("BCZR"), and as reasons therefore respectfully state:

INTRODUCTION AND BACKGROUND

This matter came before the ALJ as a Petition for Special Hearing for the property located at 14721 Manor Road in northern Baltimore County. The Petition, filed by Jacqueline R. Frank, Property Owner and Petitioner, sought a non-conforming use designation for the property, permitting the use of the improvements thereon as three dwelling/apartment units. By Opinion and Order dated September 3, 2020, the ALJ denied the Petition. Although the ALJ found that the use existed prior to the date of the adoption of the zoning classification that now prohibits the existing use, the ALJ held that the Petitioner did not meet her burden of proof that the use has existed

continuously and uninterruptedly since its establishment. For reasons set forth hereinafter, the ALJ's ruling is erroneous as a matter of law and must be reversed.

STANDARD OF REVIEW

As noted herein above, a Motion for Reconsideration of the decision of the ALJ can be filed by any party pursuant to Rule 4K. Although the rule provides no specific guidance as to when a reconsideration is warranted, it is apparent that an error of law by the ALJ would constitute an appropriate ground for the granting of such a request (See e.g. *Calvert County v. Howlin Realty* 364 Md. 301 (2001)). As noted in that matter, a motion cannot be granted merely because of a "change of mind" of the administrative body, but the grant of such motions is warranted when the decision under review is premised on an error of law. In this case, the ALJ improperly imposed an erroneous evidentiary standard upon the Petitioner and misinterpreted the Petitioner's "burden" to establish a non-conforming use as set forth in Maryland law.

NON-CONFORMING USES

In any non-conforming use case, there are two determinations that the ALJ must make in order to approve the use. These are identified in BCZR § 104.

A. The Date That The Use Was Established:

First, the ALJ must find that the use existed prior to the relevant date of the regulation or re-zoning which now prohibits the use. In this case, the ALJ determined that the three dwelling/apartment use needed to exist prior to 1971. This was the year when a zoning classification was assigned to this property that prohibits the three dwelling/apartments. The ALJ determined that this part of the necessary proof was satisfied, based upon the uncontradicted evidence offered. As the ALJ noted in the opinion, Howard Lintz (son of the former owners of the property) testified that he and his then new wife occupied one of the two apartments that were

existing in the primary (dwelling) building on the property shortly after his marriage in 1968. Specifically, he testified that upon his marriage, his parents reconfigured that building from a single-family dwelling unit to a building with two apartment units. One unit was located on the ground floor and the other on the (upstairs) second floor. Mr. Lintz testified that he and his new wife moved into the downstairs unit upon the marriage in 1968 and another tenant lived upstairs. Additionally, there was a third apartment unit over the garage/barn building, which existed at the time of his marriage and had been there for many years. Finally, the Petitioner produced documentation (from BGE) establishing that utility meters typically installed for apartments were placed on the Property in 1966. The ALJ accepted this evidence and concluded that the three dwelling/apartments existed prior to 1971 and thus the first determination needed to establish a non-conforming use was satisfied. Mr. Lintz, who lived on the Property and was the son of the then owners, offered testimony confirming the date the use was established (1968) based on his own experience and recollection. His testimony was credible and not disputed and was neither an "assumption" nor a "belief".[1] As such, the ALJ found, as a matter of fact, that the use predated the adoption of the zoning regulation (1971) which now prohibits the use.

B. The Continuous And Uninterrupted Use.

The second prong required to establish a lawful non-conforming use is that the use has continued, without abandonment or discontinuance for more than one year, since it was established. It is this second requirement upon which the ALJ denied the Petition. He reasoned that the Petitioner did not meet her burden and that the evidence supporting a finding that this prong was satisfied was based upon the aforementioned unidentified "assumptions" and "beliefs"

[1] In his opinion, the ALJ opined that the Petitioner did not meet her burden as the evidence was offered was not reliable and based upon "assumptions" and "beliefs". What assumptions and beliefs the ALJ was referring to were not clear nor identified.

which apparently were not credible. In reaching this conclusion, the ALJ misapplied the applicable standard as a matter of law and thus the decision must be reversed.

A review of the evidence offered on this issue is appropriate. In reviewing this issue, there are three distinct time frames that must be considered. The first is from 1968 (when the use was unequivocally established) through 1977. For this time frame, Mr. Lintz testified that he lived on the Property during those years. He testified that he lived continuously and uninterruptedly in the ground floor apartment in the primary building and that the second-floor apartment (upstairs) was likewise continuously occupied during his years of occupancy. Further, that the unit over the garage/barn was continuously occupied. There was no dispute as to this testimony. No neighbor or protestant challenged it. No one alleged that Mr. Lintz's testimony was false or perjured. His testimony was neither an "assumption" nor a "belief". It was based upon his own personal knowledge, experience and recollection. The veracity of this evidence is not debatable or open to interpretation. There is simply no basis on which the testimony can be discounted or disregarded.[2]

The second time frame is from 1983 to the present. Again, the testimony was not disputed or challenged and was offered by a witness with personal knowledge. Specifically, the Petitioner (Jacqueline Frank) testified that she and her husband bought the property from the senior Lintzs in 1983 and that the three units have been continuously and uninterruptedly occupied since then. She has either been the co-owner (she owned with her now deceased husband until his death) or sole owner since that time. As with Mr. Lintz, there is no plausible reason why her testimony should be discounted or disregarded. Again, it was not disputed or challenged, and is neither debatable nor open to interpretation. Unless the ALJ believes that the Petitioner committed perjury (and he

[22] There is no doubt that in a non-conforming use case, the evidence can take many forms. It can be oral or in written form. Notwithstanding the Protestants' assertions, there is no requirement that it be written. It only need be reliable, which is the case when, as is here, it is unchallenged.

made no finding of such, as to either Ms. Frank or Mr. Lintz) their testimony/evidence is reliable and dispositive. Ms. Frank was knowledgeable about the property during those years, as she owned it!! Further, for a nearly twenty-year period during this time, there was corroborating testimony from a tenant, Krissy Derkach. As is the circumstance with the date that the use was established, no protestant or neighbor challenged Ms. Franks' testimony. No one suggested or even inferred that her testimony was not honest and accurate.

The third time frame was between 1978 (when Mr. Lintz moved out) and 1983 (when Ms. Frank acquired). Uncontradicted evidence was also offered about this five-year period. First, Ms. Frank testified that Mr. Lintz's father, from whom she purchased the property, told her that the property had been used as three dwelling/apartments continuously and uninterruptedly since his son married in 1968. Ms. Frank specifically recounted a conversation with the senior Mr. Lintz on the porch of the dwelling when she and her husband were purchasing. She recalled that during that conversation, he advised her of the continuous occupancy of the three units. This conversation is entirely logical as it would make sense that any buyer would be expected to inquire of the seller about the use of the Property. Unfortunately, the senior Mr. Lintz is deceased and (obviously) is not now available to testify. As stated in the Zoning Commissioner's Rules of Practice and Procedure, hearsay testimony is permissible in an Administrative forum such as the proceedings before the ALJ. (See Zoning Commissioner's Rules of Practice and Procedure, Appendix G, Rule L). Hearsay evidence is not only admissible, it may serve as the sole basis for decision if it is credible and has sufficient probative force. *Standard Oil Co. of New Jersey v. Mealey*, 147 Md. 249 (1925); *Commercial Transfer Co. v. Quasny*, 245 Md. 572 (1967). Thus, this testimony is admissible and persuasive. Like the other testimony, there is no reason to think it not credible. Moreover, the younger Mr. Lintz, who continued to be familiar with the property even after he

moved out because he then lived nearby and his parents continued to own it, corroborated Ms. Frank's testimony. He confirmed that the three-apartment use continued in the five years after he moved out. Indeed, he did state that he "assumed" that the multiple vehicles parked on the Property during that time were those of tenants, but this assumption is entirely plausible and consistent with the use alleged. His parents continued to own the Property. This testimony of an immediate family member of the then owners is logical. Collectively, the testimony offered is credible, reliable and persuasive, particularly since there is no challenge to it. In fact, several Protestants conceded that the Property had been used for multiple apartments for many years. As will be explained hereinafter, the lack of evidence offered by the Protestants to contradict and challenge the testimony of Ms. Frank and Mr. Lintz requires the acceptance of their testimony as reliable and persuasive.

From an evidentiary standpoint, the ALJ is the "finder of fact" and makes determinations upon the credibility of testimony and the veracity of evidence. But factual determinations need some basis from evidence offered in the record. The only evidence offered in this case is that the three dwelling/apartments have existed continuously since 1968. The legal precedent is legion that the conclusions of fact finder are afforded deference during appellate review. As has been said, the test by a reviewing court in considering the factual findings of the tryer is "not rightness, but reasonableness". Even if an appellate might determine the facts differently, deference is given to the fact finder.

By analogy, when challenged on appeal, a court will sustain the findings of fact made below when the fact finder's determinations are "fairly debatable" and if the evidence is open to difference conclusions or inferences. But the testimony offered here is not fairly debatable or open to any conclusion other than the fact that the nonconforming use has existed since 1968. There was

not dispute or challenge to the veracity of the testimony of Ms. Frank and Mr. Lintz. No one testified that "they are wrong, I recall a lengthy period of vacancy" or sentiments to that effect. Thus, there can be no conclusion drawn other than that the evidence offered is reliable. It was neither a "belief" nor an "assumption", but the personal recollection of owners or tenants who have personal knowledge of the Property during their occupancy or ownership of it.

In his refusal to accept this uncontradicted evidence, the ALJ apparently accepted the Protestants claims that "there is nothing in writing" and further relied on general zoning principles regarding non-conforming uses and an incorrect application of the "burden" applied in judging this type of matter.

As noted above, there is simply no legal authority for the proposition that a non-conforming use must be proved through the production of documentary evidence. Oral testimony, as offered here, can suffice. Insofar as the Petitioner's "burden", it is acknowledged and recognized that non-conforming uses are a disfavored land use and are discouraged under the law. They are plainly contrary to the zoning "scheme" and, by their nature, are typically not popular with nearby neighbors. But they do not establish precedent (except for the subject property at issue) and their impact on the locale is not an issue for consideration.

It has long been held that non-conforming use, once established, is a "vested right". (See *County Commissioners of Carroll Co. v. Uhler,* 78 Md. App. 140 (1989)). As has been stated, "(a) lawfully established non-conforming use is a vested right and is entitled to constitutional protection." *Higgins v. City of Baltimore*, 206 Md. 89, 98, 110 A.2d 503 (1955), citing *Amereihn v. Kotras*, 194 Md. 591, 601, 71 A.2d 865 (1950). See also *Laque v. State*, 207 Md. 242, 251, 113 A.2d 893, cert. denied, 350 U.S. 863, 76 S.Ct. 105 (1955). Therefore, the use thus becomes "lawful" once established and is thereafter a valid and authorized land use.

The ALJ's analysis of the burden in non-conforming use cases is erroneous. Certainly, it is the burden of the landowner to establish that the non-conforming use existed prior to the date of the adoption of the zoning classification that now prohibits the use. As stated in *Vogl v. Baltimore County,* 228 Md. 283 (1962) "There can be little doubt that each claimant must assume the *burden of establishing the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance.*" (emphasis added) (citing *Lapidus v. Baltimore City*, 222 Md. 260, (1960). As stated above, that is precisely what the Petitioner has done in this case; to wit, established without dispute that the use was established in 1968 (prior to the adoption of the prohibiting ordinance in 1971). The establishment of the date when the use commenced is the "burden" that the Petitioner must shoulder. Such principle is logical. Due to the incompatible nature of non-conforming uses to the zoning scheme, their mere existence is not adequate proof that they are permissible. Instead, the property owner must show, by clear and convincing evidence, that the use existed prior to the date of the prohibiting statute.

It is the next sentence in the *Vogl* opinion that is equally relevant; that is, "(a)nd whether a non-conforming use exists or has been abandoned are questions of fact to be decided by the Board." *Vogl* infra, pg. 283. That is, the Court first states that the proponent of a non-conforming use has the burden to establish the date of the use, but the Court imposes no such burden in addressing the second prong, i.e. that the use has continued uninterruptedly since. Thus, it is clear that the burden to establish the existence of the non-conforming use is squarely upon the Petitioner, but once that fact is established (as is the case here, by the ALJ's specific finding that the use began in 1968), the heavy burden of production on the Petitioner no longer exists. Upon the finding that the use pre-dated the date of the zoning designation upon the property, the analysis of the second prong to establish that the use has continued uninterruptedly since then requires only a balanced

analysis of the facts (without prejudice to the owner). The burden that the ALJ found to be required here does not exist as a matter of law.

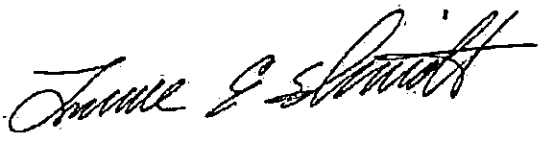
In fact, there is authority that the burden shifts to the protestants to establish that the use was discontinued. The undersigned has found no specific Maryland authority on this point (other, than as cited above, the language in *Vogl*). Indeed, the Court in *Vogl* did not add to its sentence to say, "(t)here can be little doubt that each claimant must assume the burden of establishing the existence of a non-conforming use at the time of the passage of the prohibiting zoning ordinance *AND ITS CONTINUANCE THEREAFTER."* If the burden were required of the Petitioner to establish the on-going use, the Court of Appeals would have said it.

Other jurisdictions have addressed the issue directly. "Once a landowner establishes the existence of a nonconforming use, the burden then shifts to the party seeking to enforce the zoning restriction to show that such use has been discontinued for the prescribed period, losing its nonconforming status." *New Orleans v. Hamilton* (1992, La App 4th Cir) 602 So 2d 112 (city failed to meet burden of proof that nonconforming use had ceased for at least six months, so as to lose nonconforming status under ordinance). See also *Berkey v. Kosciusko County Bd. of Zoning Appeals,* 607 NE2d 730 (1993, Ind App);

CONCLUSION

In this case, the facts are simple. The subject property has been used for three dwelling/apartments since 1968. No one disputes it! Instead, the Protestants and objecting neighbors hide behind some self-created burden of proof argument and allege, "your proof isn't good enough"; without producing a shred of evidence that the Petitioner's evidence is not credible. To adopt the test that the ALJ imposes would render nearly any non-conforming use impossible to obtain. That is not the intent of the law. To require this elderly Property owner to undergo the

substantial expense to convert the building into a single- family dwelling is both unfair and inappropriate. The ALJ should grant the Petition.



Lawrence E. Schmidt
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
410-821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 1st day of October, 2020, a copy of the Petitioner's Motion for Reconsideration was served via email to:

Peter Max Zimmerman, Esquire
Carole S. Demilio, Esquire
People's Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
Peoplescounsel@baltimorecountymd.gov

Rebecca Heyman Magaziner, Esquire
3523 Southside Avenue
Phoenix, MD 21131
rlhmlaw@hotmail.com

John Raley
3810 Donerin Way
Phoenix, MD 21131
Jcr319@hotmail.com

Steven Weinberg
14714 Manor Road
Phoenix, MD 21131
steven.d.weinberg@gmail.com

Lawrence E. Schmidt

Debra Wiley

From: Debra Wiley
Sent: Tuesday, October 13, 2020 10:07 AM
To: Lawrence M. Stahl (lawrence.stahl1@gmail.com); Stahl, Lawrence
Subject: MFR - Case No. 2019-0437-SPH - 14721 Manor Rd.
Attachments: 2019-0437-SPH MOTION FOR RECONSIDERATION.docx

Larry,

Please find attached the Order on the Motion for Reconsideration in reference to the above.

I've also placed a copy in your envelope to be picked up on 10/19.

Thanks.

Debra Wiley

From: Lawrence Stahl
Sent: Tuesday, October 13, 2020 11:35 AM
To: Debra Wiley
Subject: RE: MFR - Case No. 2019-0437-SPH - 14721 Manor Rd.

Hi—It's fine—send it out

Thanks

From: Debra Wiley <dwiley@baltimorecountymd.gov>
Sent: Tuesday, October 13, 2020 10:07 AM
To: Lawrence M. Stahl (lawrence.stahl1@gmail.com) <lawrence.stahl1@gmail.com>; Lawrence Stahl <lstahl@baltimorecountymd.gov>
Subject: MFR - Case No. 2019-0437-SPH - 14721 Manor Rd.

Larry,

Please find attached the Order on the Motion for Reconsideration in reference to the above.

I've also placed a copy in your envelope to be picked up on 10/19.

Thanks.

Packet to 25
10-5

Debra Wiley

From: Debra Wiley
Sent: Wednesday, October 7, 2020 11:28 AM
To: Lawrence M. Stahl (lawrence.stahl1@gmail.com); Stahl, Lawrence
Subject: Motion for Reconsideration(s)

Hi Larry,

Just received a call from Pete Zimmerman who indicated he **may** file a Response to the Motion for Reconsideration ("MFR") in the "Frank" case – BGE.

So, it appears you now have 2 MFR as follows:

– Case No. 2019-0437-SPH – 14721 Manor Rd. – Jacqueline R. Frank – MFR received 10/1 from Larry Schmidt, and

– Case No. 2020-0043-A – 3 Oak Hollow Ct. – Anna Oster – MFR received 9/21 from Irina Bondar

In any event, I just wanted to remind you that per Appendix G, it indicates that the Zoning Commissioner shall rule on the motion within 30 days from the date which the motion is accepted for filing.

Thanks.

Debra Wiley

From: Administrative Hearings
Sent: Friday, October 9, 2020 10:18 AM
To: Lawrence M. Stahl (lawrence.stahl1@gmail.com); Lawrence Stahl
Subject: FW: Jacqueline Frank - 14721 Manor Road- Case No. 2019-437-SPH
Attachments: Frank Jacqueline - PC Answer to Petitioners Motion for Reconsideration - Case No 2019-437 EOA.pdf

---

From: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>
Sent: Friday, October 9, 2020 10:02 AM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>
Cc: 'Becky Heyman-Magaziner' <rlhmlaw@hotmail.com>; 'steven.d.weinberg@gmail.com' <steven.d.weinberg@gmail.com>; 'John Raley' <jcr319@hotmail.com>; 'Lawrence Schmidt' <lschmidt@sgs-law.com>; zwilkins@sgs-law.com
Subject: Jacqueline Frank - 14721 Manor Road- Case No. 2019-437-SPH

Good Morning,

Attached for filing, you will find People's Counsel for Baltimore County's Answer to Petitioner's Motion for Reconsideration with regard to the above-mentioned case.

Thank you for your consideration.

Rebecca Wheatley, Legal Secretary
Office of People's Counsel
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
410-887-2188

Debra Wiley

From: Peoples Counsel
Sent: Friday, October 9, 2020 10:02 AM
To: Administrative Hearings; Lawrence Stahl
Cc: 'Becky Heyman-Magaziner'; 'steven.d.weinberg@gmail.com'; 'John Raley'; 'Lawrence Schmidt'; zwilkins@sgs-law.com
Subject: Jacqueline Frank - 14721 Manor Road- Case No. 2019-437-SPH
Attachments: Frank Jacqueline - PC Answer to Petitioners Motion for Reconsideration - Case No 2019-437 EOA.pdf

Good Morning,

Attached for filing, you will find People's Counsel for Baltimore County's Answer to Petitioner's Motion for Reconsideration with regard to the above-mentioned case.

Thank you for your consideration.

Rebecca Wheatley, Legal Secretary
Office of People's Counsel
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
410-887-2188

RE: PETITION FOR SPECIAL HEARING 14721 Manor Road; SE intersection of Stansbury Mill & Manor Roads, E/S of Manor* 10th Election & 3rd Councilmanic Districts Legal Owner(s): Jacqueline R. Frank Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2019-437-SPH

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

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S ANSWER TO PETITIONER'S MOTION FOR RECONSIDERATION

People Counsel answers, as follows:

I. Standards for Reconsideration

1. We observed in our preliminary e-mail that Zoning Commissioner (Administrative Law Judge) Rule 4K does not provide any standards for reconsideration. At that time, we referred to Maryland Rule 8-605, the procedures for response, and the standards. We noted that there is nothing in Petitioner's motion to meet the six Rule 8-605(b) criteria.

2. Upon further review, we researched the case law relevant to reconsideration by a quasi-judicial administrative agency where there are no statutory standards. We found that a prerequisite to reconsideration is fraud, surprise, mistake, or inadvertence. Calvert County Planning Comm'n v. Howlin Realty Co. 364 Md. 301, 322-24 (2001); Redding v. Board of County Comm'rs 263 Md. 94, 11-12 (1971); Schultze v. Montgomery County Board of Appeals 230 Md. 76, 81 (1962); Kay Construction Co. v County Council 227 Md. 479, 485 (1962). The burden is on the movant to provide such proof. In this context, the term "mistake" is construed narrowly and does not involve a change of mind, without any intervening change in conditions or other different factors. Where there is no material newly discovered evidence, there is no basis for reconsideration.

3. To make a longer story short, it is outside the proper scope of reconsideration to allow a party to reargue the case.

4. It is crystal clear here that Petitioner Jacqueline Frank's motion for reconsideration does not present or meet the requisite standards. It is a mere reargument of the case.

II. Burden of Proof

5. Even if the standards for reconsideration were more relaxed, there would be no basis for reconsideration.

6. Petitioner argues that Administrative Law Judge Stahl erred in finding that the nonconforming use discontinued because he placed the burden of proof on her. She argues that the burden should have shifted to Protestants.

7. This argument is flawed both legally and factually.

8. In a nonconforming use case, the burden is on the petitioner to prove each and every element, including those relating to abandonment and discontinuance. "These local ordinances and regulations must be strictly construed in order to effectuate the purpose of eliminating nonconforming uses." Prince George's County v. E.L. Gardner 293 Md. 259, 268 (1982); Purich v. Draper Properties 395 Md. 694, 708-11 (2006).

9. Petitioner's argument to shift the burden of proof is a fabrication. There is no basis for it in the case law or in the spirit and intent of nonconforming use law.

10. In any event, whoever had the burden, Administrative Law Judge Stahl found,

> "... little support for the premise that the three tenant nonconforming use has continued without interruption since its inception. There is the proffered testimony of Petitioner and there are 'assumptions' and 'beliefs' by Petitioner's witnesses. Even if their testimony is to be believed, Mr. Lintz can only testify to the period of 1968 to 1977 and Ms. Derkach the period from 1990 (sic, actually 1999) to 2018. There are therefore significant caps (sic, gaps) not addressed by any of Petitioner's witnesses. Page 7-8.

ALJ Stahl then underlined that Petitioner failed to produce any supporting documentary evidence that would be expected to be available to prove the existence of apartment use.

11. The bottom line is that, based on all the evidence, ALJ Stahl was not persuaded there was the requisite continuation of the nonconforming use. This was well within the scope of his discretionary exercise of judgment.

12. While ALJ Stahl concluded by stating that Petitioner had not met her burden, the opinion indicates that the evidence in its entirety was unpersuasive as to continuation,

that there were palpable gaps, and a conspicuous documentary void, regardless of the placement of the burden of proof.

13. It should be underlined that judging matters of credibility is discretionary and virtually unassailable where the decision-maker is not persuaded.

III. The Significance of the Documentary Void

14. To the extent there was any determinative matter, it would indeed be the absence of relevant supporting documents. As we observed in our post-hearing memorandum, pages 5-6, the Court of Appeals has held , Turner's Executor v. Turner 98 Md. 22 (1903),

> "... to raise a strong presumption against the party who withholds the evidence which he has it in his power to produce, and has even been held to amount to a confession of the untruth of the allegations ..."

15. We could have added that Petitioner's failure to produce the legally required rental licenses by itself would appear to disqualify the petition because the definition of nonconforming use requires a legal use. BCZR Sec. 101.1.

IV. The Flip Side

16. If the standards for reconsideration were more relaxed, we might have asked for a reconsideration of the placement of 1971 as the baseline for nonconformance rather than 1945. We might respectfully reargue our point that there is no legal basis for tolling nonconforming use during the period where there is any enforcement process. We might reiterate anyway that the evidence for existence of the nonconforming use at any time was scanty as best and unconvincing. To be sure, these issues will reappear in the event there is an appeal to the County Board of Appeals.

V. Brevity Is the Soul of Wit, Hamlet

17. Consistent with Shakespeare's famous dictum, and the dictum of ALJ Stahl for the post-hearing memoranda, we have kept this answer brief. We cannot help observing the anomaly of Petitioner's motion for reconsideration stretching to 10 pages.

Conclusion

As a matter of law, Petitioner's Motion for Reconsideration should be denied.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

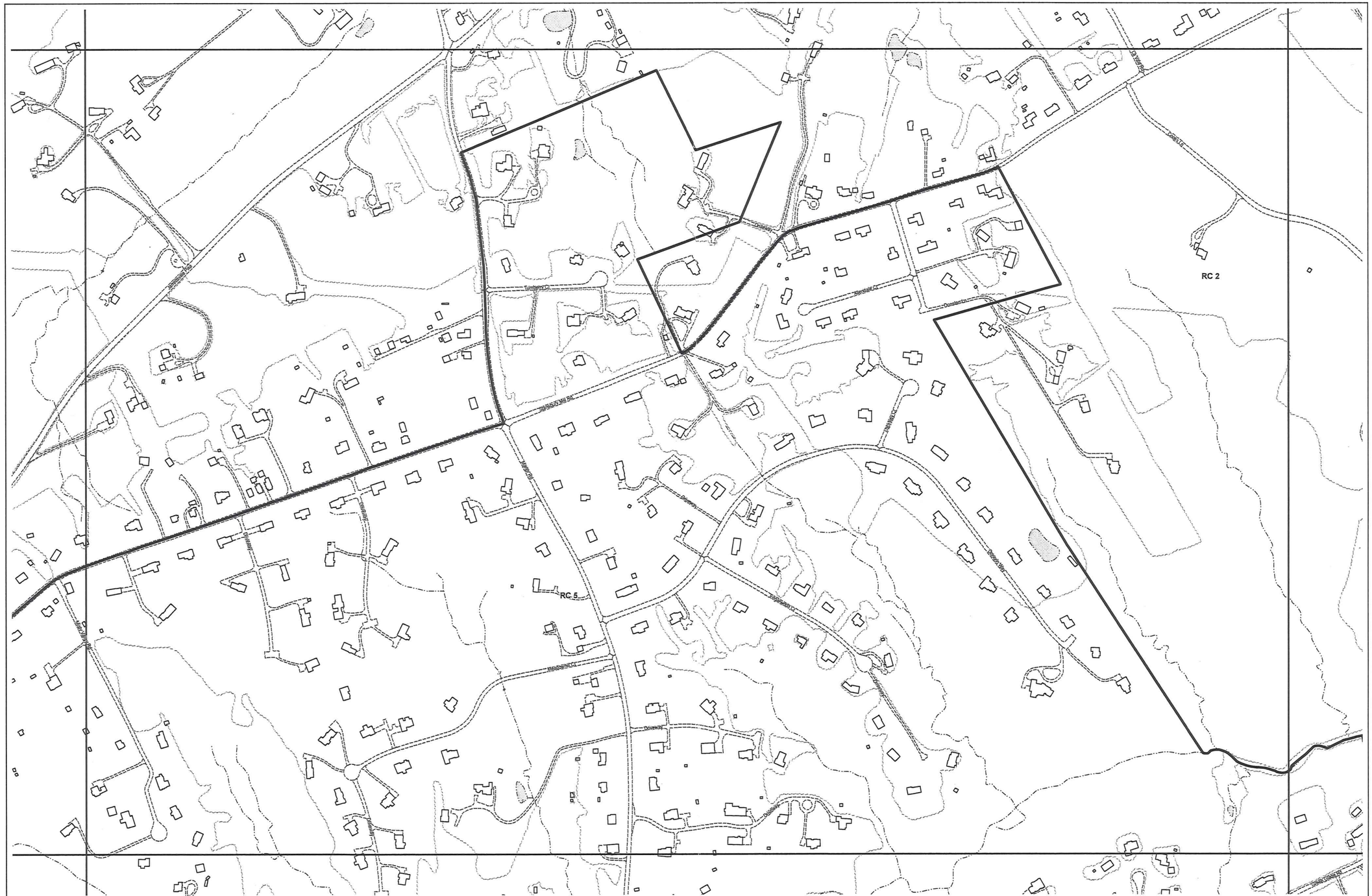
CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Suite 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of October, 2020, a copy of the foregoing People's Counsel for Baltimore County's Answer to Petitioner's Motion for Reconsideration was emailed to Rebecca Heyman Magaziner Esquire, 3523 Southside Avenue, Phoenix, Maryland 21131, rlhmlaw@hotmail.com; Steven Weinberg, 14714 Manor Road, Phoenix , MD 21131, Steven.d.Weinberg@gmail.com; John C. Raley, 3810 Donerin Way, Phoenix, MD 21131, jcr319@hotmail.com; and Lawrence Schmidt, Esquire, lschmidt@sgs-law.com & Zachary Wilkins, Esquire, zwilkins@sgs-law.com , 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorneys for Petitioner(s).

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


3803
14723
PAI # 100091
Pt. Bk./Folio # 036131
PAI # 100091
Lot # 18
1600012265
Lot # 17
1600012264
Pt. Bk. 0000036, Folio 0031
Lot # 16
1600012263
2000013297
2004-0537-A
3810
Pt. Bk. 0000036, Folio 0131
1600012254
Lot # 7
NE 22-D
14721
2000013296
Lot # 5
3 CD
10 ED
036A2
RC 5
2003-0228-A
2000013295
Lot # 4
GROWTH TIER 3
(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)
14721
1012040302
1600012253
Lot # 3
2000013294
14710
PAI # 108013
Pt. Bk./Folio # 056050
PAI # 108013
MANOR RD
Lot # 1
14711
1600012248
14706
Pt. Bk. 0000056, Folio 0050
2000013293
Lot # 2
NE 21-D
PAI # 100195
PAI # 100195
PAI # 100195
Lot # 1
1900006054
Pt. Bk./Folio # 049010A
Pt. Bk. 0000049, Folio 0010
Lot # 2
1600012249
14705



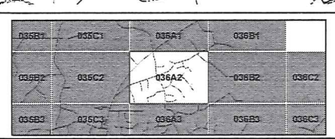
Plan Sheet: *036A2*

Note:
The zoning depicted in this map incorporates the actions associated with 2016 Comprehensive Zoning Map Process and Baltimore County Board of Appeals actions through November 18, 2016.

Legend

Zoning — Streams — Rail Lines
Buildings — Roads — Vegetation

Baltimore County
Department of Planning
Official Zoning Map



Scale

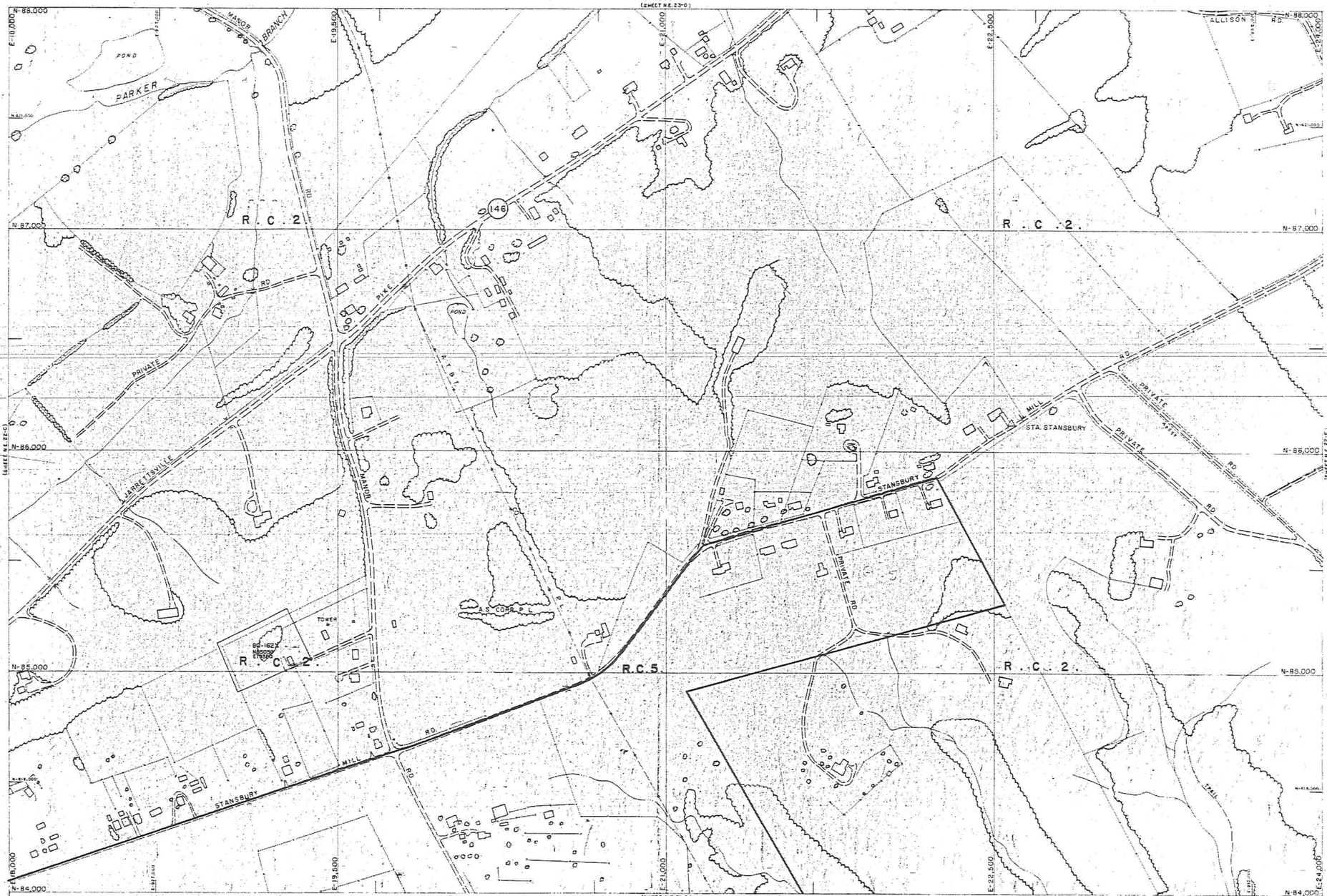
1" = 200'

0 100 200 400 Feet

N

Data Sources:
Buildings/Streams/Roads - Baltimore County OIT/GIS Services Unit
1:2400, from 2014 photography
Vegetation - Baltimore County OIT/GIS Services Unit
1:2400, from 2008 photography
Zoning - Baltimore County Dept of Planning
1:2400, 2016

2016



EE-SE

1976 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
OCT. 7, 1976 & OCT. 8, 1976
BILL NOS. 108-76, 109-76, 110-76, 111-76,
112-76, 113-76, and 114-76

CHAIRMAN COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY, MARYLAND
OFFICIAL ZONING MAP

REVISIONS		SCALE	LOCATION	SHEET
BY	DATE	1" = 200'	MANOR ROAD AND STANSBURY MILL ROAD	N. E. 22-D

DATE OF PHOTOGRAPHY DECEMBER 1959

Compiled By Photogrammetric Methods
MAPS, INCORPORATED—BALTIMORE 22, MARYLAND

1976

(SHEET N.E.23-D)

N-88,000 E-18,000 E-19,500 E-21,000 E-22,500 E-24,000

MANOR BRANCH · POND · PARKER · ALLISON RD. · N-421,000 · 146 · R.D.P. · RD. · PIKE · POND · A.T.&T. · PRIVATE · 84-336A · 92-466-SPH · MILL RD. · STA. STANSBURY · PRIVATE RD. · N-87,000 · N-86,000 · JARRETTSVILLE · 88-515-A · 72-159 X N85,400 E16,175 · 2961 · 84-69-X · TOWER · 80-162X · A.S. CORP. P.L. · 4021-X · 98-319 SPH · 83-183-A · 90-394-SPH · 93-244-SPH 93-250-SPH 93-251-SPH · TRAIL · N-418,000 · N-85,000 · STANSBURY · 01-522-A · N-84,000

(SHEET N.E.21-D)

EE-SE

ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
MARCH 24, 1971
BY BILLS NOS. 28, 29, 30, 31, and 32

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY, MARYLAND
OFFICIAL ZONING MAP

REVISIONS			SCALE	LOCATION	SHEET
	BY	DATE	1" = 200'	MANOR ROAD AND STANSBURY MILL ROAD	N. E. 22-D
			DATE OF PHOTOGRAPHY DECEMBER 1959		

Compiled By Photogrammetric Methods
MAPS, INCORPORATED—BALTIMORE 22, MARYLAND

PLAN HOLD

PEEL PROTECTIVE STRIP TO EXPOSE ADHESIVE. POSITION EDGE OF PRINT ON THIS LINE AND RUB TO ADHERE.

PLAN-HOLD CORPORATION / TORRANCE - CALIFORNIA
PATENTED AND OTHERS PENDING

DRAWING NUMBER NE-22-D

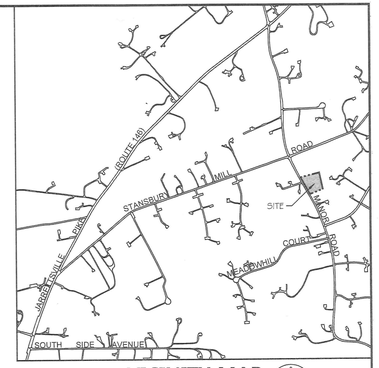
1971



PLAN

40 0 40 80

SCALE: 1" = 40'



VICINITY MAP

SCALE: 1" = 1,000'

LEGEND

- PROPERTY BOUNDARY
- ADJACENT LOT LINE
- EX. MAJOR CONTOUR
- EX. MINOR CONTOUR
- EX. BUILDING
- EX. ROAD
- EX. TREELINE
- STREAM CENTERLINE
- SOILS: BtB, LIB
- ZONES: RC 5 / RC 2

GENERAL NOTES

1. OWNER/ADDRESS: CONSTANTINE AND JACQUELINE FRANK, 19 BELLCLARE CIRCLE, SPARKS GLENCO, MD 21152
2. TAX ACCOUNT NUMBER: 1012040302
3. DEED REFERENCE: 08169 / 0330
4. TAX MAP: 0036, GRID: 0008, PARCEL: 0168
5. ACREAGE: 1.413 AC (61,550 SF)
6. ZONING CLASSIFICATION: RC5
7. BASED UPON BALTIMORE COUNTY'S "MY NEIGHBORHOOD" WEBSITE. THERE IS NO ZONING CASE HISTORY.
8. BASED UPON BALTIMORE COUNTY'S "MY NEIGHBORHOOD" WEBSITE, THE SITE AND BUILDING IS NOT HISTORIC AND THE PROPERTY IS NOT WITHIN A HISTORIC DISTRICT.
9. THE PROPERTY IS SERVED BY PRIVATE WELL AND SEPTIC.
10. THE SITE IS LOCATED OUTSIDE OF THE URDL.
11. THE SITE IS NOT LOCATED WITHIN A FLOODPLAIN NOR THE CHESAPEAKE BAY CRITICAL AREA.

DATA SOURCE:

1. EXISTING TOPOGRAPHIC, ROAD, STRUCTURE, ZONING, AND PROPERTY INFORMATION SHOWN HEREON IS BASED UPON MAPS PROVIDED BY THE BALTIMORE COUNTY OFFICE OF INFORMATION TECHNOLOGY GEOGRAPHIC INFORMATION SYSTEMS (GIS) DATED, 8/16/2019.
2. THE PROPERTY LINE(S) SHOWN HEREON ARE BASED UPON INFORMATION OBTAINED FROM AVAILABLE GIS RECORDS ONLY, AND DO NOT REFLECT THE RESULT OF A BOUNDARY SURVEY.

PETITIONER'S EXHIBIT NO. No 1

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

PLAN TO ACCOMPANY SPECIAL HEARING FOR NONCONFORMING USE

FRANK PROPERTY

14721 MANOR ROAD
PHOENIX, MD 21131

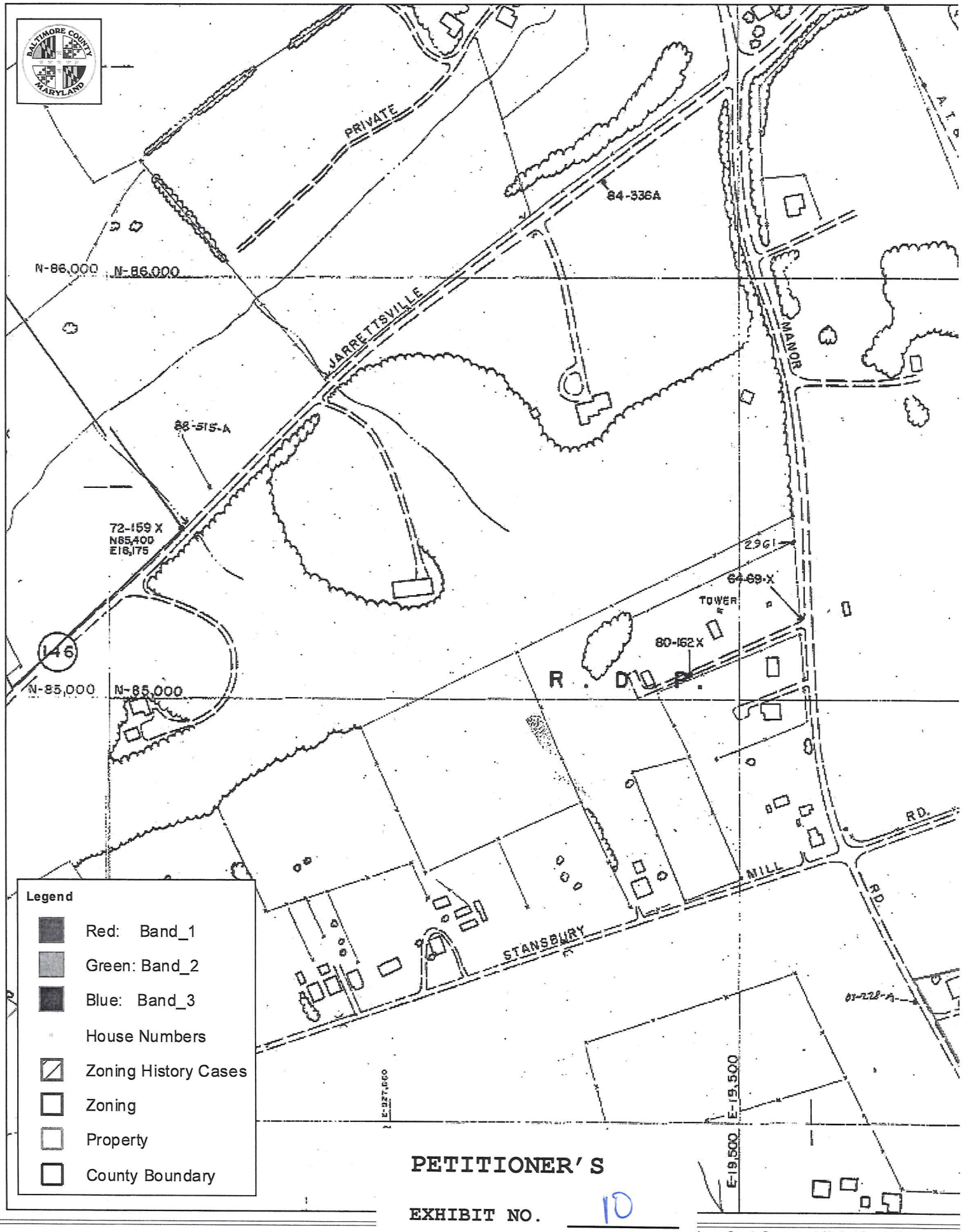
10 ELECTION DISTRICT
3 COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

MD.GRID (NAD83/1991)

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:	__/__/__	BASE:	ZNT
BID:		DRAWN:	ZNT
PERMIT:		DESIGNED:	MJK
CONSTRUCTION:		CHECKED BY:	
SCALE:	1" = 40'	DATE CHECKED:	
PROJECT NO:	19023	DRAWING:	1 of 1

A:\19023\19023-ENGINROAD FILESHEET FILES\19023_SP.DWG, 8/20/2019 10:33 AM, mjackson2



PETITIONER'S

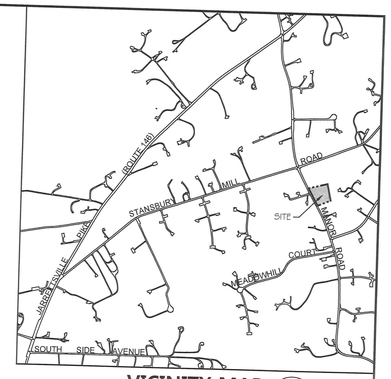
EXHIBIT NO. 10

imore County Government, Harford County Government, E



PLAN

SCALE: 1" = 40'



VICINITY MAP

SCALE: 1" = 1,000'

LEGEND

- PROPERTY BOUNDARY
- ADJACENT LOT LINE
- EX. MAJOR CONTOUR
- EX. MINOR CONTOUR
- EX. BUILDING
- EX. ROAD
- EX. TREELINE
- STREAM CENTERLINE
- SOILS: GdB, GdC, GhB, GaC
- ZONES: RC 5 / RC 2

GENERAL NOTES

1. OWNER/ADDRESS: JACQUELINE FRANK
   19 BELLCLARE CIRCLE
   SPARKS GLENCO, MD 21152
2. TAX ACCOUNT NUMBER: 1012040302
3. DEED REFERENCE: 08169 / 0330
4. TAX MAP: 0036
   GRID 0008
   PARCEL: 0168
5. ACREAGE: 1.413 AC (61,550 SF)
6. ZONING CLASSIFICATION: RC5; 200 SCALE GRID 036A2
7. BASED UPON BALTIMORE COUNTY'S "MY NEIGHBORHOOD" WEBSITE. THERE IS NO ZONING CASE HISTORY.
8. BASED UPON BALTIMORE COUNTY'S "MY NEIGHBORHOOD" WEBSITE, THE SITE AND BUILDING ARE NOT HISTORIC AND THE PROPERTY IS NOT WITHIN A HISTORIC DISTRICT.
9. THE PROPERTY IS SERVED BY PRIVATE WELL AND SEPTIC.
10. THE SITE IS LOCATED OUTSIDE OF THE URDL.
11. THE SITE IS NOT LOCATED WITHIN A FLOODPLAIN NOR THE CHESAPEAKE BAY CRITICAL AREA.

DATA SOURCE:

1. EXISTING TOPOGRAPHIC, ROAD, STRUCTURE, ZONING, AND PROPERTY INFORMATION SHOWN HEREON IS BASED UPON MAPS PROVIDED BY THE BALTIMORE COUNTY OFFICE OF INFORMATION TECHNOLOGY GEOGRAPHIC INFORMATION SYSTEMS (GIS) DATED, 8/6/2019.
2. THE PROPERTY LINE(S) SHOWN HEREON ARE BASED UPON INFORMATION OBTAINED FROM AVAILABLE GIS RECORDS ONLY, AND DO NOT REFLECT THE RESULT OF A BOUNDARY SURVEY.

SPECIAL HEARING RELIEF:

1. TO APPROVE A NONCONFORMING APARTMENT BUILDING USE (I.E. 3 APARTMENT/DWELLING UNITS) ON THE SUBJECT PROPERTY, PURSUANT TO BCZR § 104.1;
2. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

VIOLATION CASES:
CRH1901614
CC1908335
CRH1901612
CRH1901613

2019-0437-SPH

DMW
DAFT McCUNE WALKER INC
501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

PLAN TO ACCOMPANY SPECIAL HEARING FOR NONCONFORMING USE

FRANK PROPERTY

14721 MANOR ROAD
PHOENIX, MD 21131

10 ELECTION DISTRICT
3 COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

MSS (NAD83-1991)

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:	08/22/19	BASE:	ZNT
BID:		DRAWN:	ZNT
PERMIT:		DESIGNED:	MJK
CONSTRUCTION:		CHECKED BY:	
SCALE:	1" = 40'	DATE CHECKED:	
PROJECT NO:	19023	DRAWING:	1 of 1

A:\19023\19023fp_ELMERICAD FILES\SHEET FILES\19023_SP.DWG 8/22/2019 8:45 AM jmyslinski