

**BALTIMORE COUNTY, MARYLAND**  
Board of Appeals of Baltimore County  
*Interoffice Correspondence*

DATE: July 13, 2011

TO: Arnold Jablon, Director  
Permits, Approvals & Inspections

FROM: Sunny Cannington, Legal Secretary  
Board of Appeals

SUBJECT: CLOSED APPEAL CASE FILES/CASES DISMISSED

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The following cases have been closed as of the above date and are being returned to your office for storage.

<u>Case No:</u>	<u>Case Name:</u>
10-042-SPH	Wayne & Lisa Knell

c: Michael Field, County Attorney

CIRCUIT COURT FOR BALTIMORE COUNTY  
SUZANNE MENSCH  
CLERK OF THE CIRCUIT COURT  
P.O. BOX 6754  
TOWSON, MD 21285-6754  
410-887-3494

DATE 7/5/11

CASE NUMBER C10-12007

PLTFF In the matter of

VS

DEFT Wayne + Lisa Kneel

**I AM HEREBY REMOVING THE EXHIBITS/TRANSCRIPTS FROM THE  
CIRCUIT COURT FOR BALTIMORE COUNTY. I REPRESENT THE PLAINTIFF/  
DEFENDANT** Board of appeals

PRINT NAME Sunny Cunningham

SIGNATURE Sunny Cunningham

6/29/11

CIRCUIT COURT FOR BALTIMORE COUNTY  
Julie L. Ensor  
Clerk of the Circuit Court  
County Courts Building  
401 Bosley Avenue  
P.O. Box 6754  
Towson, MD 21285-6754  
(410)-887-2601, TTY for Deaf: (800)-735-2258  
Maryland Toll Free Number (800) 938-5802

RECEIVED

JUL - 5 2011

BALTIMORE COUNTY  
BOARD OF APPEALS

06/28/11

Case Number: 03-C-10-012007 AA OTH  
Date Filed: 10/12/2010  
Status: Closed/Active  
Judge Assigned: To Be Assigned,  
Location :  
CTS Start : 10/12/10 Target : 04/09/12

In the Matter of Wayne J Knell, et al

CASE HISTORY

OTHER REFERENCE NUMBERS

Description	Number
Case Folder ID	C10012007V01

Box 727  
For Sunny

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET 001	Knell, Wayne J		BT DO 04/05/11	10/13/10
		Party ID: 1575105		
	Mail: 1854 Chesapeake Road Pasadena, MD 21122	10/13/10		10/13/10 LC
	Attorney: 0015608 Covahey, Bruce Edward Covahey & Boozer, P. A. 614 Bosley Avenue Baltimore, MD 21204 (410)828-9441	Appear: 10/13/2010		10/13/10
PET 002	Knell, Lisa S		BT DO 04/05/11	10/13/10
		Party ID: 1575106		
	Mail: 1854 Chesapeake Road	10/13/10		10/13/10 LC

Pasadena, MD 21122

Attorney: 0015608 Covahey, Bruce Edward  
 Covahey & Boozer, P. A.  
 614 Bosley Avenue  
 Baltimore, MD 21204  
 (410)828-9441

Appear: 10/13/2010

10/13/10

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
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ADA	001 County Board Of Appeals For Baltimore County	Party ID: 1575107	BT DO 04/05/11	10/13/10
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Mail:	Jefferson Bldg, Suite 203 105 W. Chesapeake Avenue Towson, MD 21204	10/13/10		10/13/10 LC
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Attorney:	0005744 Demilio, Carole S People's Counsel For Baltimore County 105 W Chesapeake Avenue Room 204 Towson, MD 21204 (410)887-2188	Appear: 10/20/2010		10/20/10
-----------	--	--------------------	--	----------

	0029075 Zimmerman, Peter M People's Counsel For Baltimore County 105 West Chesapeake Ave. Room 204 Towson, MD 21204 (410)887-2188	Appear: 10/20/2010		10/20/10
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**CALENDAR EVENTS**

Date	Time	Fac	Event Description	Text SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec			

03/29/11	09:30A	CR11	Civil Non-Jury Trial	Y	VBW	01 /01	01/06/11 JMO
	Held/Concluded		03/29/11 E V.Ballou-Watts	Y			
Stenographer(s): Court Smart							

**DISPOSITION HISTORY**

Disp Date	Disp Code	Description	Stage Code	Description	Activity User	Date
04/05/11	DO	Decree or Order	BT	BEFORE TRIAL/HEARING	JB	04/05/11

**JUDGE HISTORY**

JUDGE ASSIGNED	Type	Assign	Date	Removal	RSN
TBA To Be Assigned,	J		10/13/10		

**DOCUMENT TRACKING**

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review Filed by PET001-Knell, PET002-Knell	10/12/10	10/13/10	PET001	TBA		04/05/11	LC JBJ
0001001	Response to Petition for Judicial Review *	10/18/10	10/20/10	ADA001	TBA		04/05/11	KAS JBJ
0002000	Notice of Appeal and Certification Filed by PET001-Knell, PET002-Knell	10/15/10	10/19/10	PET001	TBA		04/05/11	AL JBJ
0003000	Correspondence *	11/01/10	11/09/10	000	TBA		11/09/10	KET
0004000	Correspondence from Nancy Pivec	11/15/10	12/02/10	000	TBA		12/02/10	NF
0005000	Transcript of Record from Adm Agency *	11/29/10	12/08/10	000	TBA		04/05/11	SAP JBJ
0006000	Notice of Transcript of Record Sent	12/08/10	12/08/10	ADA001	TBA		12/08/10	SAP
0007000	Notice of Transcript of Record Sent	12/08/10	12/08/10	PET001	TBA		12/08/10	SAP
0008000	Notice of Transcript of Record Sent	12/08/10	12/08/10	PET002	TBA		12/08/10	SAP
0009000	Scheduling Order	12/29/10	12/29/10	000	TBA		12/29/10	JMO
0010000	Hearing Notice	01/06/11	01/06/11	000	TBA		01/06/11	JMO
0011000	Stipulation AMENDED BRIEFING SCHEDULE Filed by PET001-Knell, PET002-Knell, ADA001-County Board Of Appeals For Baltimore County	12/20/10	01/15/11	PET001	TBA		01/15/11	NF
0012000	Memorandum in Support of Petition for Judicial Review Filed by PET001-Knell, PET002-Knell	01/24/11	02/11/11	PET001	TBA		02/11/11	LC
0013000	Memorandum w/Exhibits	02/24/11	03/11/11	ADA001	TBA		03/11/11	LC
0014000	Open Court Proceeding March 29, 2011. Hon.Vicki Ballou Watts. Hearing had in re:	03/29/11	03/29/11	000	VBW		04/05/11	MJ JBJ

Appeal. Court affirms decision from Administrative Agency. Order to be filed.

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0015000	Order of Court Board of Appeals of Baltimore County decision in CBA-2010-042-SPH dated Sept. 10,2010 be and it is hereby AFFIRMED as specified	04/05/11	04/05/11	000	VBW Affirmed	04/05/11	JBj JBj
0016000	DOCKET ENTRIES TRANSFERRED TO BOARD OF APPEALS	04/06/11	04/06/11	000	TBA		RDR

**TICKLE**

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	10/18/10	0	no	no	DANS	D	001	001
1YRT	One Year Tickle (Jud	CLOSED	10/12/11	365	no	no	DAAA	D	001	000
EXPU	Exhibit Pickup Notic	CLOSED	06/04/11	30	no	no			000	000
SLTR	Set List For Trial	CANCEL	10/18/10	0	yes	no	1ANS	T	001	001
SLTR	Set List For Trial	Done	11/29/10	0	yes	yes	DTRA	D	005	000

**EXHIBITS**

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp	Dt	Dis	By
000		ADA 001	County Board Of Appeals For B							
		B	BOX 727/CBA TRANSC							B

**DIFFERENTIATED CASE MANAGEMENT**

**TRACKS AND MILESTONES**

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes  
 Assign Date: 12/20/10 Order Date : 12/29/10  
 Start Date : 12/20/10 Remove Date: .

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(	01/04/11	04/05/11	CLOSED	
All Motions (excluding Motions in Limine	02/17/11	04/05/11	CLOSED	

03-C-10-012007 Date: 06/28/11 Time: 10:57

Page: 5

Milestone	Scheduled	Target	Actual	Status
TRIAL DATE is	03/29/11	03/20/11	03/29/11	REACHED

**ACCOUNTING SUMMARY**

NON-INVOICED OBLIGATIONS AND PAYMENTS  
-----

Date	Rcpt/Initials	Acct Desc	Oblig	Payment	Total MOP	Balance
-----						
10/12/10	201000027927/MAB	1102 CF-Civil Fil	.00	80.00	-80.00 CK	-80.00
10/12/10	201000027927/MAB	1500 Appearance F	.00	10.00	-10.00 CK	-90.00
10/12/10	201000027927/MAB	1265 MLSC	.00	55.00	-55.00 CK	-145.00
10/13/10		1102 CF-Civil Fil	80.00	.00	80.00	-65.00
10/13/10		1265 MLSC	55.00	.00	55.00	-10.00
10/13/10		1500 Appearance F	10.00	.00	10.00	.00

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4/6/11

RECEIVED

APR 13 2011

BALTIMORE COUNTY BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY
Julie L. Ensor
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

04/06/11

Case Number: 03-C-10-012007 AA OTH
Date Filed: 10/12/2010
Status: Closed/Active
Judge Assigned: To Be Assigned,
Location :
CTS Start : 10/12/10 Target : 04/09/12

In the Matter of Wayne J Knell, et al

CASE HISTORY

OTHER REFERENCE NUMBERS

Table with 2 columns: Description, Number. Row: Case Folder ID, C10012007V01

INVOLVED PARTIES

Table with 5 columns: Type Num, Name, Addr Str/End, Pty. Disp. Addr Update, Entered. Rows include Wayne J Knell and Lisa S Knell with their respective addresses and dates.

Pasadena, MD 21122

Attorney: 0015608 Covahey, Bruce Edward  
 Covahey & Boozer, P. A.  
 614 Bosley Avenue  
 Baltimore, MD 21204  
 (410)828-9441

Appear: 10/13/2010

10/13/10

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
ADA 001	County Board Of Appeals For Baltimore County	Party ID: 1575107	BT DO 04/05/11	10/13/10
	Mail: Jefferson Bldg, Suite 203 105 W. Chesapeake Avenue Towson, MD 21204	10/13/10		10/13/10 LC
	Attorney: 0005744 Demilio, Carole S People's Counsel For Baltimore County 105 W Chesapeake Avenue Room 204 Towson, MD 21204 (410)887-2188		Appear: 10/20/2010	10/20/10
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Appeal. Court affirms decision from Administrative Agency. Order to be filed.

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SLTR	Set List For Trial	CANCEL	10/18/10	0	yes	no	1ANS	T	001	001
SLTR	Set List For Trial	Done	11/29/10	0	yes	yes	DTRA	D	005	000

**EXHIBITS**

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
000		ADA 001	County Board Of Appeals For B					
		B	BOX 727/CBA TRANSC					B

**DIFFERENTIATED CASE MANAGEMENT**

**TRACKS AND MILESTONES**

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 Start Date : 12/20/10 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(	01/04/11	04/05/11		CLOSED
All Motions (excluding Motions in Limine	02/17/11	04/05/11		CLOSED

03-C-10-012007

Date: 04/06/11

Time: 10:47

Page: 5

Milestone

Scheduled Target Actual Status

-----  
TRIAL DATE is

03/29/11 03/20/11 03/29/11 REACHED

**ACCOUNTING SUMMARY**NON-INVOICED OBLIGATIONS AND PAYMENTS  
-----

Date	Rcpt/Initials	Acct Desc	Oblig	Payment	Total MOP	Balance
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10/12/10	201000027927/MAB	1500 Appearance F	.00	10.00	-10.00 CK	-90.00
10/12/10	201000027927/MAB	1265 MLSC	.00	55.00	-55.00 CK	-145.00
10/13/10		1102 CF-Civil Fil	80.00	.00	80.00	-65.00
10/13/10		1265 MLSC	55.00	.00	55.00	-10.00
10/13/10		1500 Appearance F	10.00	.00	10.00	.00

3/29/11

IN THE MATTER OF

WAYNE J. KNELL AND LISA S. KNELL

CBA CASE NO. 2010-042-SPH

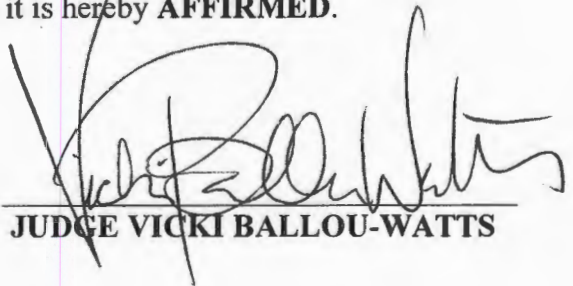
\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE COUNTY  
\* CASE NO: 03-C-10-12007

\* \* \* \* \*

ORDER

Upon consideration of "Memorandum of Petitioners in Support of Petition for Judicial Review," "Memorandum of People's Counsel for Baltimore County," oral argument of counsel and for the reasons more fully stated on the record at the March 29, 2011 hearing, it is this 29th day of March, 2011, by the Circuit Court for Baltimore County

**ORDERED** that the Board of Appeals of Baltimore County decision in CBA-2010-042-SPH dated September 10, 2010 be and it is hereby **AFFIRMED**.

  
JUDGE VICKI BALLOU-WATTS

Clerk, send copies to:

Bruce Covahey, Esquire  
Carole Demilio, Esquire

**RECEIVED**  
APR 13 2011  
BALTIMORE COUNTY  
BOARD OF APPEALS

**FILED** APR 05 2011

J.J. Covahey, Demilio

11/29/16

IN THE CIRCUIT COURT  
FOR BALTIMORE COUNTY

\*

PETITION OF:  
WAYNE AND LISA KNELL

\*

CIVIL ACTION  
NO. : 03-C-10-012007

\*

FOR JUDICIAL REVIEW OF THE OPINION OF \*  
THE COUNTY BOARD OF APPEALS \*  
OF BALTIMORE COUNTY \*  
JEFFERSON BUILDING – ROOM 203 \*  
105 W. CHESAPEAKE AVENUE \*  
TOWSON, MARYLAND 21204 \*

IN THE MATTER OF :  
WAYNE AND LISA KNELL – LEGAL OWNERS\*  
/PETITIONERS \*  
FOR SPECIAL HEARING AND SPECIAL \*  
EXCEPTION ON PROPERTY LOCATED \*  
AT THE S/S BURKE AVENUE, 125' W OF C/L \*  
OF AIGBURTH AVENUE \*  
(115 BURKE AVENUE) \*

9<sup>TH</sup> ELECTION DISTRICT \*  
5<sup>TH</sup> COUNCILMANIC DISTRICT \*

BOARD OF APPEALS CASE NO.: 10-042-SPH \*

\* \* \* \* \*

RECEIVED AND FILED  
2010 NOV 29 AM 10:00  
CLERK OF THE CIRCUIT COURT  
BALTIMORE COUNTY

**PROCEEDINGS BEFORE THE ZONING COMMISSIONER  
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the  
Petition for Judicial Review directed against it in this case, herewith transmits the record of  
proceedings had in the above-entitled matter, consisting of the original papers on file in the  
Department of Permits and Development Management and the Board of Appeals of Baltimore  
County:

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND  
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT  
OF BALTIMORE COUNTY**



No. 10-042-SPH

August 6, 2009	Petition for Special Hearing to approve a rooming house for a maximum of four (4) unrelated adults and to approve a modification of Section 1B01.1.B.1.b filed by Wayne and Lisa Knell, Petitioners.
August 27	Entry of Appearance filed by People's Counsel for Baltimore County.
September 13	Certificate of Posting
September 17	Certificate of Publication in newspaper
September 24	ZAC Comments.
October 2	Hearing held before the Zoning Commissioner
October 15	Findings of Fact and Conclusions of Law issued by the Deputy Zoning Commissioner. Petition for Special Hearing relief to approve a rooming house was DENIED; and the Petition for Special Hearing to approve a modification of Section 1B01.1.B.1.b of the BCZR was DISMISSED AS MOOT.
November 10, 2009	Notice of Appearance and Notice of Appeal filed by Bruce E. Covahey, Esquire, on behalf of Wayne and Lisa Knell, Petitioners
March 8, 2010	Notification of Appeal issued by the Department of Permits and Development Management.
May 11, 2010	Board convened for hearing.

*Exhibits submitted at hearing before the Board of Appeals:*

Petitioner's Exhibit No.

- 1 – Deed for subject property
- 2 – Letter from Mayor of Berlin, MD
- 3 – Letter from Chief of Police of Berlin, MD
- 4 – Baltimore County Police Report
- 5 – Rental Registration Report
- 6 – Mapquest map showing location of property
- 7 – Drawing of house, 1<sup>st</sup> and 2<sup>nd</sup> floors
- 8 – Plat to Accompany Petition for Zoning
- 9 A-I – Photos of Property and alley
- 10 – Traffic survey of York and Burke
- 11 – State Highways Administration Letter

12 – Zoning Advisory Committee’s Comments

People’s Counsel Exhibit No.

- 1 – Aerial Photograph of Aigburth Manor
- 2 – Rule 8 papers from the Aigburth Manor Association of Towson
- 3 – Office of Planning Recommendations dated 9/3/09
- 4 – Code Enforcement Final Order dated 10/29/08
- 5 – GIS Map
- 6 – Rooming House Complaint dated 10/4/08
- 7 A-H – Photos of front and rear of property
- 8 – County Zoning Map
- 9 – Zoning Board file
- 10 – Sign-in Sheet

- |                   |   |
|-------------------|---|
| July 23           | Memorandum of People's Counsel for Baltimore County.  |
| July 23           | Petitioner’s Brief and Memorandum in Lieu of Closing Argument filed by Bruce E. Covahey, Esquire on behalf of Wayne and Lisa Knell, Petitioners.          |
| August 24         | Board convened for Public deliberation.   |
| September 10      | Final Opinion and Order issued by the Board in which the Petition for Special Hearing relief was DENIED.  |
| October 12        | Petition for Judicial Review filed in the Circuit Court for Baltimore County by Bruce E. Covahey, Esquire, on behalf of Wayne and Lisa Knell, Petitioners |
| October 14        | Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.  |
| October 15        | Certificate of Compliance sent to all parties and interested persons.   |
| October 18, 2010  | Response to Petition for Judicial Review filed by Office of People's Counsel.   |
| November 29, 2010 | Transcript of testimony filed.  |
| November 29, 2010 | Record of Proceedings filed in the Circuit Court for Baltimore County.  |

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

*Sunny Cannington*

Sunny Cannington, Legal Secretary  
County Board of Appeals  
The Jefferson Building, Suite 203  
105 W. Chesapeake Ave.  
Towson, Maryland 21204  
410-887-3180

c: Wayne and Lisa Knell  
Bruce E. Covahey, Esquire  
Fay Citerone/Knollwood-Donnybrook Improvement Association  
Paul S. Hartman, President/Aigburth Manor Association of Towson, Inc.  
Eric Hiemstra, President/Fellowship Forest Community Assoc.  
Office of People's Counsel  
William J. Wiseman, III, Zoning Commissioner  
Timothy Kotroco, Director/PDM  
Arnold F. "Pat" Keller, III, Director/Planning  
Nancy C. West, Assistant County Attorney  
John E. Beverungen, County Attorney

10/18/10

IN THE PETITION OF WAYNE AND LISA KNELL  
FOR JUDICIAL REVIEW OF THE DECISION OF  
THE COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

IN THE CASE OF WAYNE AND LISA KNELL  
LEGAL OWNERS/PETITIONERS FOR SPECIAL  
HEARING ON PROPERTY LOCATED at  
S/S Burke Avenue, 125' W of c/l of Aigburth Avenue  
(115 Burke Avenue)

9<sup>th</sup> Election District, 5<sup>th</sup> Councilmanic District

Case No. 2010-042-SPH  
Before the County Board of Appeals

\* \* \* \* \*

**RESPONSE TO PETITION FOR JUDICIAL REVIEW**

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, in accordance with Maryland Rule 7-204, submits this response to the Petition for Judicial Review filed by WAYNE AND LISA KNELL and states that they intend to participate in this action for Judicial Review. The undersigned participated in the proceeding before the County Board of Appeals.

\* IN THE  
\*  
\* CIRCUIT COURT  
\*  
\* FOR  
\*  
\* BALTIMORE COUNTY  
\* Case No.: 03-C-10-12007

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

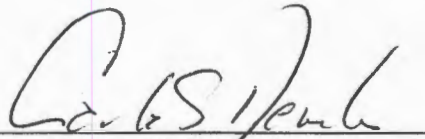
*Carole S. Demilio*

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

**RECEIVED**  
OCT 18 2010  
BALTIMORE COUNTY  
BOARD OF APPEALS

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19<sup>th</sup> day of October, 2010, a copy of the foregoing Response to Petition for Judicial Review was mailed to County Board of Appeals, 105 West Chesapeake Avenue, Suite 203, Towson, Maryland 21204 and Bruce E. Covahey, Esquire, Covahey, Boozer, Devan & Dore, P.A., 614 Bosley Avenue, Towson, MD 21204, Attorney for Petitioner.



CAROLE S. DEMILIO  
Deputy People's Counsel for Baltimore County

10/15/10

IN THE CIRCUIT COURT  
FOR BALTIMORE COUNTY

\*  
\*

PETITION OF:  
WAYNE AND LISA KNELL

CIVIL ACTION  
NO. : 03-C-10-012007

\*

FOR JUDICIAL REVIEW OF THE OPINION OF  
THE COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY  
JEFFERSON BUILDING – ROOM 203  
105 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204

\*  
\*  
\*  
\*

IN THE MATTER OF :  
WAYNE AND LISA KNELL – LEGAL OWNERS\*  
/PETITIONERS  
FOR SPECIAL HEARING AND SPECIAL  
EXCEPTION ON PROPERTY LOCATED  
AT THE S/S BURKE AVENUE, 125' W OF C/L  
OF AIGBURTH AVENUE  
(115 BURKE AVENUE)

\*  
\*  
\*  
\*

9<sup>TH</sup> ELECTION DISTRICT  
5<sup>TH</sup> COUNCILMANIC DISTRICT

\*  
\*

BOARD OF APPEALS CASE NO.: 10-042-SPH

\*

RECEIVED AND FILED  
2010 OCT 15 PM 2:51  
CLERK OF THE CIRCUIT COURT  
BALTIMORE COUNTY

\* \* \* \* \*

**CERTIFICATE OF COMPLIANCE**

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Bruce Covahey, Esquire  
Covahey, Boozer, Devan & Dore  
614 Bosley Avenue  
Towson, MD 21204

Wayne and Lisa Knell  
1854 Chesapeake Road  
Pasadena, MD 21122

Sue Cornish  
213 Garden Road  
Towson, MD 21286

Helen and G. T. Keplinger  
1 E. Burke Avenue  
Towson, MD 21286

Fay Citerone  
Knollwood-Donnybrook  
Improvement Association  
P.O. Box 19131  
Towson, MD 21284

B. Florence Newman  
8 Maryland Avenue  
Towson, MD 21286

Paul S. Hartman, President  
Aigburth Manor Association of Towson, Inc.  
P.O. Box 20143  
Towson, MD 21284

Christia Raborn  
Remax  
The Executive Building  
22 West Road  
Baltimore, MD 21204

Tracey Marcantoni  
27 Normal Terrace  
Towson, MD 21286

Eric Hiemstra, President  
Fellowship Forest Community Assoc.  
503 Hillen Road  
Towson, MD 21286

Karen and Fred Parks  
23 Normal Terrace  
Towson, MD 21286

Dr. and Mrs. Harold Griswold  
23 Hilltop Road  
Towson, MD 21286

Mary Louise Stenchly  
63 Aigburth Avenue  
Towson, MD 21286

Paul Hartman  
18 ½ Cedar Avenue  
Baltimore, MD 21286

Toni Thomas  
140 Marburth Avenue  
Towson, MD 21286

Joyce Routson  
142 Marburth Avenue  
Towson, MD 21286

Pat France  
7508 Knollwood Road  
Towson, MD 21286

Judy Gregory  
1116 Stevenson Lane  
Towson, MD 21286

Richard Parsons  
412 Woodbine Avenue  
Towson, MD 21204

Michael Ertel  
505 West Joppa Road  
Towson, MD 21204

Mary Carol Bruff  
15 Hillside Avenue  
Towson, MD 21286

Fay Citerone  
909 Rappaix Court  
Towson, MD 21286

Chris Raborn  
601 Wilton Road  
Towson, MD 21286

David Riley  
7609 Knollwood Road  
Towson, MD 21286

Robert Battista  
202 Aigburth Road  
Towson, MD 21286

George Allen  
58 Burkleigh Road  
Towson, MD 21286

Jay Martin  
71 Burkshire Road  
Towson, MD 21286

Ed Kilcullen  
100 Maryland Avenue  
Towson, MD 21286

Richard Spooner  
8411 Coco Road  
Rosedale, MD 21237

Peter Moulder  
1552 Dellsway Road  
Towson, MD 21286

David Zoll  
16 Aigburth Road  
Towson, MD 21286

Zach Coon  
23 Maryland Avenue  
Towson, MD 21286

W. Turlington  
1509 Cranwell Road  
Lutherville, MD 21093

Elaine Miginsky  
106 E. Padonia Road  
Timonium, MD 21093

Sr. Evelyn Grudza  
9 Skidmore Court  
Towson, MD 21204

Nancy Pivec  
934 Radcliffe Road  
Towson, MD 21204

Rita Melnick  
120 Willow Avenue  
Towson, MD 21286

Wendy Kwiatkowski  
12 Maryland Avenue  
Towson, MD 21286

Brenda Ames-Ledbetter  
9 Maryland Avenue  
Towson, MD 21286

Office of People's Counsel  
The Jefferson Building, Suite 204  
105 W. Chesapeake Avenue  
Towson, MD 21204

William J. Wiseman, III, Zoning  
Commissioner  
The Jefferson Building, Suite 103  
105 W. Chesapeake Avenue  
Towson, MD 21204

Arnold F. "Pat" Keller, Director  
Office of Planning  
The Jefferson Building, Suite 101  
105 W. Chesapeake Avenue  
Towson, MD 21204

Timothy Kotroco, Director  
Office of Permits and Development Mgmt  
County Office Building  
111 W. Chesapeake Avenue, Suite 105  
Towson, MD 21204



In the Matter of: W. [redacted] and Lisa Knell  
Circuit Court Case No: 03-C-10-012007  
Board of Appeals Case No: 10-042-SPH

4

John E. Beverungen, County Attorney  
Office of Law  
400 Washington Avenue  
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

**I HEREBY CERTIFY** that on this 15<sup>th</sup> day of October, 2010, a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

Sunny Cannington  
Sunny Cannington, Legal Secretary  
County Board of Appeals  
The Jefferson Building, Suite 203  
105 W. Chesapeake Avenue  
Towson, Maryland 21204  
410-887-3180



## County Board of Appeals of Baltimore County

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

October 15, 2010

Bruce E. Covahey, Esquire  
Covahey, Boozer, Devan & Dore  
614 Bosley Avenue  
Towson, MD 21204

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

RE: Petition for Judicial Review  
Circuit Court Case No.: 03-C-10-0012007  
In the Matter of: Wayne and Lisa Knell  
Board of Appeals Case No.: 10-042-SPH

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on October 12, 2010 by the Bruce E. Covahey, Esquire on behalf of Wayne and Lisa Knell in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review filed by Bruce E. Covahey, Esquire within 60 days.

The transcript of the hearing before the Board of Appeals, which took place on May 11, 2010, has been previously completed and the original has been provided to the Board for transmitting to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,

A handwritten signature in black ink that reads "Sunny Cannington".

Sunny Cannington  
Legal Secretary

Duplicate original letter  
Enclosure

cc: See attached Notification List

Petition for Judicial Review  
In the Matter of: Wayne and Lisa Knell  
Circuit Court Case No: 03-C-10-012007  
Board of Appeals Case No: 10-042-SPH

Notification List  
October 15, 2010  
Page 2

c: Wayne and Lisa Knell  
Sue Cornish  
Helen and G. T. Keplinger  
Fay Citerone/Knollwood-Donnybrook Improvement Association  
B. Florence Newman  
Paul S. Hartman, President/Aigburth Manor Association of Towson, Inc.  
Christia Raborn/Remax  
Tracey Marcantoni  
Karen and Fred Parks  
Eric Hiemstra, President/Fellowship Forest Community Assoc.  
Dr. and Mrs. Harold Griswold  
Mary Louise Stenchly  
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Richard Spooner  
Peter Moulder  
David Zoll  
Zach Coon  
W. Turlington  
Elaine Miginsky  
Sr. Evelyn Grudza  
Nancy Pivec  
Rita Melnick  
Wendy Kwiatkowski  
Brenda Ames-Ledbetter  
William J. Wiseman, III, Zoning Commissioner  
Timothy Kotroco, Director/PDM  
Arnold F. "Pat" Keller, III, Director/Planning  
Nancy C. West, Assistant County Attorney  
John E. Beverungen, County Attorney

0/12/10

**IN THE CIRCUIT COURT FOR BALTIMORE COUNTY**

**PETITION OF:**

Wayne J. Knell and Lisa S. Knell  
1854 Chesapeake Road  
Pasadena, Maryland 21122

**FOR JUDICIAL REVIEW OF THE  
DECISION OF THE COUNTY  
BOARD OF APPEALS FOR  
BALTIMORE COUNTY**  
Suite 203, Jefferson Building  
105 W. Chesapeake Avenue  
Towson, MD 21204

CIVIL ACTION No.

**IN THE MATTER OF:**

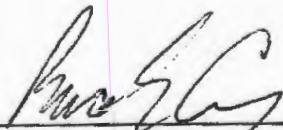
Wayne J. Knell and Lisa S. Knell  
S/S Burke Avenue  
125' W/of C/L of Aigburth Avenue  
9<sup>th</sup> District, 5<sup>th</sup> Council  
Case No. 10-042-SPH  
May 11, 2010

**RECEIVED**  
OCT 13 2010  
BALTIMORE COUNTY  
BOARD OF APPEALS

\* \* \* \* \*

**PETITION FOR JUDICIAL REVIEW**

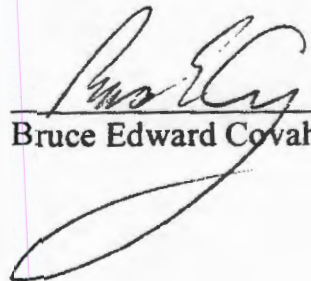
Wayne J. Knell and Lisa S. Knell, by their attorneys, Bruce Edward Covahey and Covahey, Boozer, Devan & Dore, P.A., pursuant to Rule 7-201, hereby request judicial review by this Honorable Court of the September 10, 2010 Opinion of the County Board of Appeals for Baltimore County denying their Petition for Special Hearing. The Petitioners were parties to the said proceedings.

  
\_\_\_\_\_  
Bruce Edward Covahey  
Covahey, Boozer, Devan & Dore, P.A.  
614 Bosley Ave.  
Towson, Maryland 21204  
410-828-9441  
Attorneys for Petitioners


**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12th day of October, 2010, I mailed first class, postage prepaid, a copy of the foregoing Petition for Judicial Review to:

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

  
\_\_\_\_\_  
Bruce Edward Covahey

ldr101002

CIRCUIT COURT FOR BALTIMORE COUNTY		
Case #: 03-C-10-012007	Folder #: 01	Date Filed: 10/12/2010
Case Type: Administrative Agency Appeal		
 In the Matter of Wayne J Knell, et al		
Petitioner: Wayne J Knell		
Petitioner's Attorney: Bruce Edward Covahey Esq	Phone No.: (410)828-9441	Fax No.: (000)000-0000

C10012007V01



**CIRCUIT COURT  
 FOR  
 BALTIMORE COUNTY  
 CIVIL / FAMILY**



C10 12007

CASE NUMBER

VOLUME

- 1 pl — to —
- 2 pl — to —
- 3 pl — to —
- 4 pl — to —
- 5 pl — to —
- 6 pl — to —
- 7 pl — to —
- 8 pl — to —
- 9 pl — to —
- 10 pl — to —
- 11 pl — to —
- 12 pl — to —
- 13 pl — to —
- 14 pl — to —
- 15 pl — to —

ADDITIONAL RECORDS ON  
 MICROFILM    YES

9/10/10

IN THE MATTER OF  
WAYNE J. AND LISA S. KNELL - APPLICANTS  
S/s Burke Avenue; 125' w/of c/l of Aigburth Ave.  
(115 Burke Avenue)  
9<sup>th</sup> Election District, 5<sup>th</sup> Councilmanic District

RE: Petition for Special Hearing

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* CBA Case No.: 10-042-SPH

\* \* \* \* \*

OPINION

This case comes to the Board on an appeal from a decision of the Deputy Zoning Commissioner (DZC) on a Petition for Special Hearing filed by Legal Property Owners, Wayne J. and Lisa S. Knell, which was denied. Petitioners sought relief pursuant to Sections 500.7 of the Baltimore County Zoning Regulations (BCZR) to approve a rooming house for a maximum of four (4) unrelated adults pursuant to Sections 408.B.1 and 502.1 of the BCZR. The Petitioners were represented at the hearing by Bruce E. Covahey, Esquire and the Protestants appeared *pro se*. People's Counsel participated and was represented by Deputy People's Counsel Carole S. Demilio. The hearing was held on May 11, 2010. Closing Briefs were submitted on July 3, 2010. The Public Deliberation was held on August 24, 2010.

Facts

The property in question is a rectangular property and contains approximately 6,000 square feet or 0.14 acres, more or less, zoned DR 5.5.; located on the south side of Burke Avenue, east of York Road in the Donnybrook area of Towson in Baltimore County. The property is improved with an existing two-story brick and frame dwelling, containing 1,848 square feet. Mr. Knell testified that he and his wife took title to the property in 2007 from his

wife's parents and submitted the Deed to the property. The property has been in Mrs. Knells family since 1986 and has been consistently used as a rental home throughout the time period. Mr. Knell stated that the home contains four (4) bedrooms and two (2) baths and a full unfinished basement. There is a detached garage on the property at the end of a driveway that runs along the side of the property.

After taking title to the property, the Knells illegally converted the property to a four (4) bedroom boarding house and proceeded to rent it. It was occupied by four (4) Towson University undergraduate students. After complaints from the neighbors about noise and the clutter in the rear yard, the Knells were cited by Baltimore County for operating an illegal boarding house without a permit. Other violations were also found with respect to the unkempt nature of the property. The citation precipitated the current request for the zoning relief.

At the time of the hearing, the home was occupied by a family who was renting it from the Petitioners. The Petitioners are absentee landlords, and own an apartment house in Berlin, Maryland. The Petitioners presented a letter from the Mayor of Berlin and the Chief of Police in Berlin, indicating that they were a satisfactory landlord for the properties that they own in that town.

Petitioners testified with respect to the upgrades that they have made in the home at 115 Burke Avenue and also stated that there would be no parking in the alley to the rear of the home. The tenants park on the grass in the rear and presently use the alley for access and egress. The Petitioner intended to screen access to the alley by use of bushes. The Petitioners stated that they are concerned about problems with the neighbors and would make monthly inspections of the property. If the people who had signed the Lease were not following the conditions of the Lease,



they would be asked to leave. Petitioners presented a Rental Registration report indicating the properties in the immediate area of 115 Burke Avenue which were rental properties.

The Protestants who testified in the hearing were Paul Hartman, a member of the Aigburth Community Association and the current President of that Association. He stated that the Association had reviewed the request for the boarding house and had voted to oppose the permit. There are various problems with renting to students from Towson University, including vehicle parking in the area, trash, and the behavior of the students including large parties and late comings and goings of individuals at the boarding house. He cited Tiger Fest of April 24<sup>th</sup>, 2010 in which four (4) arrests and forty-eight (48) citations were issued. The students keep different hours than the normal residents in the area and come and go at all hours, early in the morning and late at night. He stated that the Association had no objection to renting to families who are not students, but he felt that allowing a boarding house in this area would lead to the licensing of other boarding houses and would cause a decline in the values of the properties in the Association in the community.

Ms. Joy Routson, who lived directly behind 115 Burke Avenue testified that she had been in her home for thirty-seven (37) years. She filed a complaint because two (2) cars were parked in the back yard and two (2) were parked in front. She called the Knells to ask about shrub removal and was told that the shrubs were cleared so that the students could pull out into the alley rather than on to Burke Avenue. She also testified that on New Years Eve she had to call for police at 2 o'clock a.m. because of a loud party at 115 Burke Avenue. Ms. Routson stated that the party broke up when the police arrived. She testified that she was afraid that the boarding house would degrade the value of her home and that there were no other boarding houses in the area. She had no problem with renting to a family, but not to students.

Mr. Edward Kilcullen also testified that he lived at Maryland Avenue and that he was familiar with the problems with students in the area. He thought it would be a dangerous precedent to allow a boarding house in the area and as President of the Greater Towson Council of Community Associations (GTCCA), he opposed the granting of the license for a boarding house.

Judith Giacomo also testified that she lived at 17 Aigburth Road for twenty-six (26) years. She was a member of the Aigburth Community Association and she was familiar with the students problems. She stated that the Association opposed boarding houses every time a request has been made and that they, in fact, got rid of three (3) fraternity houses in the area. She also feared that the property values would decline as a result of the granting of the boarding house in the present situation and that other boarding houses would be licensed thereby lowering the value of homes in the neighborhood. She presented a list of individuals from the neighborhood who were present at the hearing. The list was accepted by the Board as Board Exhibit No.: 10. It contained the names of fourteen (14) individuals in the neighborhood of 115 Burke Avenue who opposed the granting of the license.

#### Decision

Section 408B.1A.2.e. of the Baltimore County Zoning Regulations (BCZR) states as follows:

- e. Following the public hearing, the Zoning Commissioner may either deny or grant a use permit conditioned upon:
  - (1) Findings following the public hearing.
  - (2) The character of the surrounding community and the anticipated impact of the proposed use on that community.

(3) The manner in which the requirements of this section and Section 502.1 and other applicable requirements are met and any additional requirements as deemed necessary by the Zoning Commissioner in order to ensure that the use will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives of this section and Section 502.1 of these regulations.

Section 502.1 of the BCZR states:

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

The burden of proof for compliance with Section 502.1 is on the Petitioner. After a review of the evidence and testimony taken in this matter, the Board has determined that Petitioner has not met that burden of proof and it will uphold the decision of the Deputy Zoning Commissioner. Petitioners presented a Rental Registration report indicating that there are number of rental properties in the area. With respect to Burke Avenue, the report showed that

there were thirty-six (36) units which were rental properties. Of those thirty-six (36) rental properties:

three (3) properties had three (3) to five (5) units involved,  
two (2) others had two (2) units; and  
the rest were single units.

The itemization indicates that boarding houses were not prevalent in the immediate Burke Avenue area.

The testimony from neighbors show that when the home was rented to students, the trash was allowed on the front lawn and noisy parties took place at the home. In addition, the cars parked on the property indicate that at least each individual had a vehicle that would be parked on the property and were unsightly.

The Board has determined that under Section 502.1A., the licensing of a boarding house would be detrimental to the health, safety or general welfare of the locality involved. The testimony with respect to the New Year's Eve party, the trash and the utilization of the alley for entrance and exit to the property from the rear, would grossly effect the neighbors. In addition, under Section 502.1D., the Board feels that a Boarding House on this property would tend to overcrowd the land and cause the undue concentration of population by allowing four (4) individuals, particularly with automobiles to live in the home, which is currently being occupied by one (1) family. The Board feels it would be inconsistent with the purposes of the zoning property classifications and inconsistent with the spirit and intent of the zoning property regulations to allow a boarding house in this particular area. Testimony that establishing a boarding house in this situation would be a "slippery slope" which would eventually lead to additional boarding houses thereby lowering the property values; is given considerable credit by

the Board. In addition, under the seminal case of Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981), the Board finds that a boarding house at this location would have more of an adverse effect than a boarding house at some other location within the D.R. 5.5 zone.


**ORDER**

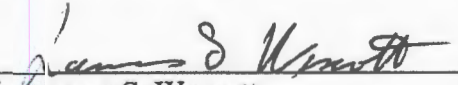
THEREFORE, IT IS THIS 10<sup>th</sup> day of September, 2010 by the Board of Appeals of Baltimore County

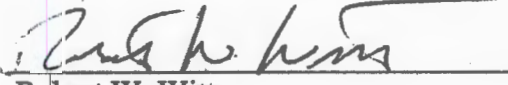
**ORDERED** that the Petitioners Request for Special Hearing relief filed pursuant to §500.7 of the Baltimore County Zoning Regulations (BCZR) for a rooming house for a maximum of four (4) unrelated adults, pursuant to §408.B.1 and §502.1 of the Baltimore County Zoning Regulations (BCZR) be and the same 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, Chairman

  
\_\_\_\_\_  
Lawrence S. Wescott

  
\_\_\_\_\_  
Robert W. Witt

9/10/10



## County Board of Appeals of Baltimore County

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

September 10, 2010

Bruce Covahey, Esquire  
Covahey, Boozer, Devan & Dore  
614 Bosley Avenue  
Towson, MD 21204

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

RE: *In the Matter of: Wayne and Lisa Knell – Petitioner/Appellant*  
Case No.: 10-042-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Handwritten signature of Theresa R. Shelton in black ink, including the initials "TR" and "kc".

Theresa R. Shelton  
**Administrator**

TRS/kc  
Enclosure

Duplicate Original Cover letter

c: *See Attached Distribution List*

Distribution List  
September 10, 2010  
Page 2

c: Wayne and Lisa Knell  
Sue Cornish  
Helen and G. T. Keplinger  
Maggie Dates  
Fay Citerone/Knollwood-Donnybrook Improvement Association  
B. Florence Newman  
Paul S. Hartman, President/Aigburth Manor Association of Towson, Inc.  
Christia Raborn/Remax  
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Dr. and Mrs. Harold Griswold  
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Nancy Pivec  
Rita Melnick  
Wendy Kwiatkowski  
Brenda Ames-Ledbetter  
William J. Wiseman, III, Zoning Commissioner  
Timothy Kotroco, Director/PDM  
Arnold F. "Pat" Keller, III, Director/Planning  
Nancy C. West, Assistant County Attorney  
John E. Beverungen, County Attorney

**BOARD OF APPEALS OF BALTIMORE COUNTY**  
**MINUTES OF DELIBERATION**

**IN THE MATTER OF:** Wayne and Lisa Knell 10-042-SPH

**DATE:** August 24, 2010

**BOARD/PANEL:** Lawrence M. Stahl, Chairman  
Robert W. Witt  
Lawrence S. Wescott

**RECORDED BY:** Sunny Cannington/Legal Secretary

**PURPOSE:** To deliberate the following:

1. Petition for Special Hearing to approve a rooming house for a maximum of four (4) unrelated adults.

**PANEL MEMBERS DISCUSSED THE FOLLOWING:**

**STANDING**

- The Board discussed that the Petitioners requested relief to allow them to rent the subject property as a rooming house to students of Towson University which is in close proximity to the subject property. The Board discussed that like so many other cases that come before the Board, the Petitioners did what they wanted to do and then the County was called in on a complaint and a violation was issued. The Petitioners were then informed that they needed to request permission to do what they wanted. The Petitioners then filed their Petition for Special Hearing which was denied by the Deputy Zoning Commissioner.
- The Board discussed that the parties submitted closing briefs in this matter. The Petitioners made several arguments including that they followed all the procedures and policies to be approved and they met the requirements of § 502.1 of the BCZR. The Protestants, members of the community, argued that using this property as a rooming house creates problems for the community at large. The original complaint stemmed from excessive noise, trash, having four cars parked on the property in various locations, and other issues.
- The Board determined that renting the property is not the issue in this matter. The issue in this matter is using this property to house students. The Board determined that this is one case where the argument of the “slippery slope” applies. Should the Board allow the use of this property as a rooming house, other properties in the area could be used as rooming houses and that would compound issues with traffic, trash, and parking.
- The Board reviewed the laundry list of requirements in § 502.1 of the BCZR. The Board determined that the subject situation does not meet the requirements of § 502.1. In pertinent part, using the property as a rooming house would be detrimental to the



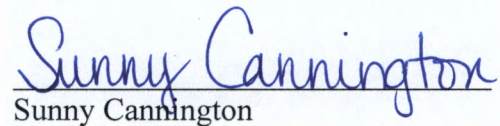
community where it is located; it would overcrowd the land; and it is not in keeping with the zoning of the property or the spirit and intent of the law.

**DECISION BY BOARD MEMBERS:** The Board determined that the requested use of the property is not appropriate for this neighborhood.

**FINAL DECISION:** After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY the Petition for Special Hearing.

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

Respectfully Submitted,

  
Sunny Cannington

7/23/10

RE: PETITION FOR SPECIAL HEARING  
115 Burke Avenue; S/S Burke Avenue,  
125' W of c/line of Aigburth Avenue  
9<sup>th</sup> Election & 5<sup>th</sup> Councilmanic Districts  
Legal Owner(s): Wayne & Lisa Knell  
Petitioner(s)

BEFORE THE  
BOARD OF APPEALS  
FOR  
BALTIMORE COUNTY  
10-042-SPH

RECEIVED  
JUL 23 2010

BALTIMORE COUNTY  
BOARD OF APPEALS

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

I. Statement of Facts

The subject property is a rectangular 6000 sq. ft. D.R. 5.5 lot improved with a detached single-family dwelling. It is located on Burke Avenue, just south and east of Towson proper, in the long-standing and settled single family residential community of Aigburth, and adjoining other settled residential communities known as Knollwood and Donnybrook. The owners, Wayne and Lisa Knell, took title to the property by deed dated July 18, 2007 as a gift from Lisa Knell's parents. The Knells do not live in the area but reside just over 40 miles from the site in Pasadena, Anne Arundel County.

After taking title, the Knells illegally converted the property to a four bedroom boarding house and proceeded to rent it. It was occupied by four Towson University undergraduate students. After complaints from the neighbors about the rowdy and disturbing behavior of the tenants and the unsightly conversion of the rear yard to a parking lot, the Knells were cited by Baltimore County for operating an illegal boarding house without a permit (and other violations because the property was found to be unkempt). This citation precipitated the zoning relief here, as the owners were not content to limit the tenants to a maximum of two unrelated persons or a family, uses permitted by right in the zone.

The Deputy Zoning Commission denied the Special Hearing in a written Order dated October 15, 2009. Among other findings, he noted on page 6: **"Based on the collective testimony of the witnesses at the public hearing, along with numerous**

letters contained in the case file, I find that this request would adversely impact the health, safety, and general welfare of this [residential] community.” Many neighbors opposed to the relief attended the DZC’s hearing. Several letters opposed to a boarding house were sent from neighbors and community associations.

The Knells continued to pursue a boarding house use and filed an appeal with the County Board of Appeals, even though the site is currently under a two year lease to a married couple, a use permitted by right in the applicable D.R. 5.5 zone. The Office of People’s Counsel for Baltimore County entered its appearance on August 27, 2009, just after the Petition for Special Hearing was filed. Numerous neighbors and representatives of the community association and Deputy People’s Counsel for Baltimore County attended the hearing before the CBA on May 11, 2010.

## **II. An Analysis of BCZR Boarding House Regulations and Zoning Law** **Boarding and Rooming House Regulations**

The Boarding or Rooming House zoning regulations are found in **BCZR 101** defining the use, and in **BCZR 408B** setting forth the standards and restrictions for a proposed use. (See attached copies.) It is undisputed the proposed use is for a boarding house as defined in BCZR 101; the Petition itself seeks “. . . a **rooming house for a maximum of 4 unrelated adults** (pursuant to BCZR Section 408B.1 and 502.1) . . .”

BCZR 408B.1A.2.b. requires a special hearing under the administrative hearing process, that is, a public hearing before the Zoning Commissioner with *de novo* appeal to the County Board of Appeals. The Petitioner has the burden of proof under 408B.1A.2.f., which specifically states: “. . . **the applicant shall be required to satisfy the burden of proof required for such use to be granted.**”

It is important to recognize the strict standards; the Petitioner must satisfy before a boarding house permit can be granted under BCZR 408B.1A.2.e. The CBA must make specific findings on “**The character of the surrounding community and the anticipated impact of the proposed use on that community**” and in addition, “**The manner in which the requirements of this section and Section 502.1 [special exception standards] and other applicable requirements are met and any additional**

requirements as deemed necessary by the Zoning Commissioner [and CBA] in order to ensure that the use will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives of this section and Section 502.1 of these regulations.” In other words, the proposed use is tantamount to a “super special exception” because not only must BCZR 502.1 be satisfied, but the CBA must (i) look at the surrounding neighborhood to determine if a boarding house fits in and (ii) specifically look at the impact of the use on the neighborhood. For instance, a boarding house may be more out of character in a single-family residential area than in a higher density residential zone that also permits multifamily dwellings such as apartments and condominiums.

BCZR 408B also establishes stricter standards than other residential uses in the D.R. zone. Before a boarding house can be approved, (i) it must meet parking requirements beyond the general standards in BCZR 409; (ii) it cannot be located adjacent to another boarding house; and (iii) it cannot be located in a row house. All of these additional standards suggest a boarding house with multiple tenants can be disruptive to a community where residents must park on the neighborhood streets, can be exponentially disruptive if located in close proximity to another boarding house, and is, by its nature, potentially disruptive if within close proximity to other residences.

The effect is there are much stricter standards that must be satisfied for a boarding house residential use than any other residential use permitted by right or special exception. It suggests that such a use is potentially harmful and disruptive to a residential community and requires close scrutiny. For these reasons, the experience of the citizens in the neighborhood here is particularly relevant and should be a significant factor in the Board’s decision.

#### **Special Exception Standards**

*“A permitted use in a given zone is permitted as of right within the zone, without regard to any potential or actual adverse effect that the use will have on neighboring properties. A special exception, by contrast, is merely deemed *prima facie* compatible in a given zone. The special exception requires a case-by-case evaluation by an*

*administrative zoning body or officer according to legislatively-defined standards. That case-by-case evaluation is what enables special exception uses to achieve some flexibility in an otherwise semi-rigid comprehensive legislative zoning scheme.”* (emphasis added) MBC Realty, LLC, et al. v. Mayor and City Council Of Baltimore, et al. \_\_\_ Md. App. \_\_\_\_\_ 2010.

The application of the special exception standards to a boarding house use also places a significant burden on the Petitioner to demonstrate that the use will not adversely affect the community. Historically, the special exception concept is part of the legislative creation of a more modern way of resolving land use controversies. It is a mechanism directed both to guard against the right thing going in the wrong place and to fulfill the comprehensive zoning plan and legislative intent of the zoning law.

In Euclid v. Ambler Realty Co. 272 U.S. 365 (1926), the Supreme Court validated comprehensive zoning in sustaining the constitutionality of a residential zone which precluded apartment building use. Justice Sutherland wrote that common law nuisance gives a clue to the rationale for zoning, along with comprehensive planning. He added,

“Thus, the question whether the power exists to forbid the erection of a building of a particular kind or for a particular use, like the question whether a particular thing is a nuisance, is to be determined, not by an abstract consideration of the building or of the thing considered apart, but by considering it in connection with the circumstances and the locality. ... A nuisance may be merely the right thing in the wrong place, like a pig in the parlor instead of the barnyard.” 272 U.S. 388. Internal citation omitted.

The Court also had the insight that in a detached house section “... very often the apartment house is a mere parasite, constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district.” 262 U.S. at 394.

In 1953, the Maryland Court of Appeals marked the special exception evolution with the validation and explanation of the mechanism in Montgomery County v. Merlands Club 202 Md. 279 (1953). Judge (later Chief Judge) Hall Hammond wrote,

‘... The duties given the Board are to judge whether the neighboring properties and the general neighborhood would be adversely affected, and whether the use, in the particular case, is in harmony with the general purpose and intent of the zoning plan.’

Under the specific language in the special exception statute, there are clearly concerns about the impact on the neighborhood. The preface to BCZR 502.1 is worth reviewing:

**“Section 502  
Special Exception  
BCZR 1955**

**Note: Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another . . . All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety or general welfare of the public, the uses listed as special exceptions are permitted only if granted by the Zoning Commissioner, and subject to an appeal to the County Board of Appeals. . .”**

The special exception zoning regulation itself is repeated here because each standard applies to the use and were addressed by the protesting witnesses in their own words in the instant case.

**“502.1 Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:**

- A. Be detrimental to the health, safety or general welfare of the locality involved;**
- B. Tend to create congestion in roads, streets or alleys therein;**
- C. Create a potential hazard from fire, panic or other danger;**
- D. Tend to overcrowd land and cause undue concentration of population;**
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;**
- F. Interfere with adequate light and air; [Bill No. 45-1982]**
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; [Bill No. 45-1982]**
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]**
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone. [Bill No. 74-2000]”**

It is significant that all eight special exception standards applicable to D.R. zoned properties under BCZR 502.1 A-H (Paragraph I. pertains only to the R.C. zones), directly apply to the boarding house proposed here. In other special exception cases, a denial has been upheld even if only one standard applies and has not been met by the Petitioner.

This special exception use was also described in the seminal Schultz v. Pritts 291 Md. 1, 21-22 (1981):

**“When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. . . Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses.”** (citations omitted).

The burden of proof for a special exception remains with the applicant not only under general special exception law (See Turner v. Hammond 270 Md. 41, 55-56 (1973); Futoryan v. Mayor & City Council 150 Md. App. 157 (2003)), but because it is also specifically referred to in the boarding house regulation. (See BCZR 408B.).

Under the burden of proof the Petitioner must show that the use will not produce the adverse affects listed in BCZR 502.1. Here, there is virtually no testimony, let alone persuasive testimony, from the property owner that a boarding house for 4 college students, including conversion of the rear yard into a parking lot, will not create the adverse conditions described in 502.1 A.- H. Rather, the property owner’s case centers on (i) assuring for himself a monetary return on the improvements he made to the interior of the house and (ii) assuring for himself a ready source of tenants among the Towson University student population so that he can maximize his leasehold income, a factor Petitioner admitted at the Zoning Commissioners hearing, and again affirmed at the CBA hearing. (See DZC’s Opinion, P.3, and CBA Transcript (T.) 56).

But special exceptions and variances are not designed to accommodate and provide relief for property owners who invest in a piece of property and make renovations before seeking zoning approval, and then claim such monetary expenditures

justify approval of the use. Ironically, these Petitioners tend to over-inflate their investment in the site while disregarding the neighbors' concerns about the adverse impact of the proposed use on the value of their homes.

It cannot be overstated that the instant site's proximity to Towson University, whose students are Petitioners' preferred tenants, is what makes the use at this site particularly adverse to the neighborhood. A boarding house with tenants whose lifestyles are similar to the residents in the neighborhood may be less offensive. Or a boarding house for college students, but located adjacent to the campus or in a commercial setting without a settled residential community, may have a lesser adverse impact on the neighboring properties. But this location, in the midst of a settled, stable neighborhood of single-family homes for families and adults, in close proximity to a university who admittedly has a shortage of on campus housing, is particularly detrimental and harmful on so many levels.

Similarly, the neighbor's concerns that approval of a boarding house would set a precedent is particularly valid here where there are many legitimate rental properties and *de facto* boarding houses whose owners could file comparable requests to operate a boarding house. This is especially relevant under BCZR 408B, which requires the CBA to consider the "anticipated impact" on the community.

The issues raised here were considered in other appellate cases which denied a special exception use. In Schultz, *supra*, the court remanded the case to consider traffic access and safety. In County Comm'rs v. Holbrook 314 Md. 210 (1988), the Court applied Schultz to reinstate a zoning board denial of a special exception based on adverse visual impact of a motor home on a residence, indicating an adverse effect on the value of the residence.. In People's Counsel v. Mangione, the Court of Special Appeals affirmed denial of a nursing home in a residential zone and explicitly noted that "*size and scope of the project are relevant considerations.*" 85 Md.App. at 747, n.6. In People's Counsel v. Country Ridge Shopping Center 144 Md.App. 580 (2002), the Court affirmed denial of a pawnshop in a shopping center zoned for business use because of the adverse effect such a use would have on the neighborhood. In each situation, there was something particular



about the project or neighborhood, which justified denial. In Lucas v. People's Counsel 147 Md. App. 209 (2002) the Court of Special Appeals denied a helicopter use in the R.C. 2 Zone, and considered the rural character of the R.C. 2. In 1994, Judge John Garrity sustained the denial of a special exception for a rubble fill. Moseman v. Prince George's County, 99 Md. App. 258 (1994). The factors particular to the site and relatively more injurious than at other locations included the presence of an existing rubble fill across the street, a narrow and winding access road, the proximity of single family homes, highly erodible soils, risks to well water, and depreciation of property values. In each case, the proposed use was evaluated in the context of the surrounding neighborhood and the anticipated impact.

In Futoryan v. Mayor & City Council 150 Md. App. 157 (2003), in which the Court affirmed denial of a conditional use (special exception) for an automobile repair garage in a business zone, Judge Charles Moylan discussed in depth the Schultz standard. He stressed that Schultz "*... was particularly helpful in clarifying the distinction between a permitted and a merely conditional use (or special exception).*" The thrust of Judge Davidson's opinion was that particular adverse neighborhood effects tolerated for uses permitted by right would not be acceptable for a special exception. It is thus false to say that a special exception should be approved where it would be no more harmful (or less harmful) than a potential permitted use. It has to be viewed on its merits. So, where evidence showed how the garage operation was "*... a detriment to the general welfare of the adjoining residential community,*" it warranted denial of the special exception. Several points of comparison may be relevant, such as zoning and character of the surrounding area. A point of comparison may involve intensity of use. Judge Moylan advised:

**"Even within the same zoning geography, the intensity of the proposed conditional use could also be a factor. A large-scale operation of automobile storage, automobile repair, and body and fender work completely filling, and perhaps spilling over, the entire lot could well be deemed to constitute a degree of adverse influence not constituted by a much smaller automobile repair operation as an auxiliary of a service station."**

In the case at hand, these concerns were the thrust of the Protestants' testimony. They explained that rental properties *per se* were not necessarily inappropriate or that renting to two unrelated individual instead of four individuals had a lesser negative impact. In other words, the *intensity* of a boarding house use, particularly with an absentee landlord who cannot supervise the comings and goings, is greater than a residential use by a family, a couple, or even two unrelated individuals. As will be set out in the following section of this Memorandum, the Protestants described their experiences with *de facto* illegal boarding house set-ups and the complaints by residents to the community association which is familiar to the Protestant witnesses here who are officers and in a position to hear the concerns of the community residents. The witnesses were extremely persuasive that the standard in BCZR 408 B “. . . **the anticipated impact of the proposed use on that community**” warrants denial of the special use permit for a boarding house. There was no testimony from the Petitioner to counter these concerns, although the burden falls on the Petitioner to show why the adverse effects of a boarding or rooming house would *not* occur here.

Moreover, the relative intensity of a boarding house residential use compared to residential uses by families and no more than two unrelated individuals is underscored by the prohibition of boarding houses in townhouses or row houses (BCZR 408B.1. B) and the requirement for a public hearing if a boarding house is proposed adjacent to an existing one. (BCZR 408B.1.E.).

### **III. An Analysis of Witnesses' Testimony In Light of Applicable Zoning Law** **Petitioners' Witnesses**

1. Petitioner, **Wayne Knell**, the co-owner along with his wife, testified as did his father-in-law, Richard M. Spooner, the grantor of the subject site to the current owners.

Mr. Knell stated that his father-in-law had always rented the property but he and his wife decided to make changes to the site almost immediately after they took title. The dining room was converted to a fourth bedroom, completely changing the traditional layout of kitchen, dining room and living room on the first floor for houses in this neighborhood. Mr. Knell acknowledged that his father-in-law was in violation of the

County laws as well. (T. 52). In addition, Mr. Knell admitted he instructed a “landscaper” to remove the trees and bushes in the rear yard for pad parking sites. Mr. Knell stated on direct examination, as he identified pictures of the site:

“Q. And photos, I guess C through G, I believe it is, what do they depict, if you would?”

A. This is the back of the property.

Q. Is that what’s intended to be used as the parking area?

A. Yes.

Q. What is your plan in terms of surfacing, if you will, that portion of the property?

A. Whatever the county recommends. Gravel, pavement, whatever.”

Q. Do you have a preference one way or the other to which you would prefer to use?

A. Probably gravel.

Q. Why would that be?

A. So it’s still pervious . . . So the rain can filter through it.” T. 42-43.

Clearing the trees resulted in the removal of the screening for the neighbors on Marburth Avenue whose rear yards, along with the residents on the 100 block of Burke Avenue, border the alley. Mr. Knell replaced the grass in the rear yard with gravel parking sites. Apparently, no permits were obtained for these modifications to the home. Moreover, although Mr. Knell stated he registered the property as a rental unit, he claims never to have inquired into the number of tenants permitted, despite investing what he now alleges are considerable sums for the conversion. (T. 52-53).

The witness made several self-serving statements that are misleading, if not untruthful. He claims he is concerned about the neighbors and inspects the property every two weeks, (T. 25) but admits he at no time made contact with the neighbors on these visits, nor did he make any effort to cut the grass in the front yard or insure that the trash cans had lids and that they were used properly. (T. 54-55). He was cited with both of these infractions by Baltimore County inspectors.

Mr. Knell also claimed in direct examination that he would inspect the property, and evict tenants that did not comply. (T. 47-48). But Mr. Paul Hartman testified in opposition to the relief here that “ . . . **the property [subject site] come up with complaints at several of our meetings which did result in a code enforcement hearing . . .**” T. 84-85. Apparently, when Mr. Knell had the opportunity to monitor a

leasing arrangement with three or four students, albeit an illegal use of the property, he was not attentive or concerned about the effect on the neighbors.

Mr. Knell became aware of a loud, disturbing party when the students resided at the site, and stated on direct examination that the students apologized to Joyce Routson, who lives across the alley (T.28), but Ms. Routson stated unequivocally that there were never apologies from the students or from Mr. Knell. (T.133).

Mr. Knell claimed he shared phone numbers with the neighbors, (T. 26) but he only did so with Paul Hartman, an officer in the Aigburth Community Association after the Zoning Commissioner hearing. Mr. Knell could not recall Mr. Hartman's last name on direct examination. (T. 26). Also, Mr. Knell never bothered to join the Aigburth Community Association although he is eligible for membership.

Mr. Knell touted the fact that he and his wife own a 60 unit rental building in Berlin, Maryland, but this operation has a full-time property manager and maintenance man, neither of whom work at the Burke Avenue property. Mr. Knell is not an active property manager but is a full-time foreman on the day shift at a steamship company. As stated, he resides in Anne Arundel County.

He did not appear knowledgeable about conditions at 115 Burke Avenue. He was confused if not deceptive about the terms of the leases and the number of students on the lease when he was operating an illegal boarding house. His testimony on direct examination suggest a cavalier approach to being a landlord at this site:

“Q. Did you attend a hearing regarding the code violation?

A. Yes.

Q. What's your recollection as to the outcome of that hearing?

A. They let the three students stay until the end of the lease.

Q. Do you recall when the lease terminated at that point in time relative to the hearing?

A. I think it was in May? March? May? Somewhere in that area.” T. 16.

The neighbor, Joyce Routson, testified the students were there until the end of the Spring semester, a violation of the Code Enforcement Order which imposed a limit of 2 tenants after March 1<sup>st</sup>. (T.124). Mr. Knell claimed he did not know a 4<sup>th</sup> student lived there, although he had already converted the dining room into a fourth bedroom.

Mr. Knell stated he cut the trees in the rear yard because Joyce Routson, complained "every year" about the condition of the yard; Ms. Routson refuted this and stated she spoke with the Petitioners on only one occasion when she contacted Mrs. Knell on July 31, 2008, dismayed that the trees were being cut down, which removed the buffer between her property and 115 Burke Avenue. According to Ms. Routson, Mrs. Knell was indifferent to her concerns. (T. 117-118).

The witness, Mr. Knell, acknowledged he has a viable use for the site if the boarding house permit is not granted. He stated on direct examination:

"Q After that lease terminates [current lease which ends January, 2012], assuming those tenants don't renew their lease, what is your intention at that point in time, even if this permit is not granted?

A. Market it like I have the last time and rent it out. Use it as a rental.

Q. If it's not granted, would the plan be then just to rent to two unrelated tenants, or more if they are related, if the permit was not granted?

A. Not granted, it would be two students or two non-related adults or family." T. 43-44.

The witness affirmed his desire to lease to four University students because of the location near the school, although the rent would be the same regardless of the number of tenants. (T. 56). He admitted he is not losing money under the present lease (T. 56), a further indication the site has a viable use as a rental property without the need to operate a boarding house. Mr. Knell stated at T. 57: "**It's a good investment whether there's two people in there or a family of ten.**" Zoning relief cannot be granted simply because the owner desires a more profitable use. The Court of Appeals rejected this position to support a special exception in Richmark Realty Co. v. Whittlip, 226 Md. 273, 173 A.2d 196, 202 (1961), which stated:

"While one of Richmark's witnesses testified that the best use of the property would be for a filling station, there was no showing that it could not be utilized for some of the other uses permitted under its present classification. That the use denied would be more valuable than other possible uses is not decisive." (citations omitted).

In Marino v. City of Baltimore, 215 Md. 206, 137 A.2d 198, 202(1957), the Court affirmed denial of a special exception and stated:

“Mere financial hardship or an opportunity to get an increased return from the property is not sufficient reason for granting an exception.”

Similar language is found in Easter v. Mayor and City Council of Baltimore, 195 Md. 395 (1950), a variance case.

Mr. Knell offered the rental registry for Baltimore County and speculated on the number of rental units in the area. His testimony on direct is flawed because he arbitrarily selected the streets to include and could not differentiate among the rental units. (T. 61). As noted above, the zoning regulations permit renting to no more than two unrelated persons. As their testimony indicated, the citizens are not opposed to rental properties *per se* or in every case; rather, they oppose rentals to more than 2 unrelated tenants at this location, particularly in light of Mr. Knell’s clear intent to rent to college students. Also, the number of rental units in this area, as opposed to other D.R. 5.5 zoned sites, highlights their concerns because it exposes the number of potential applicants for boarding houses among those same rental properties if this special hearing is granted. These are valid concerns under BCZR 408 B and BCZR 502.1.

Mr. Knell claimed he wants to have a good relationship with the community (T. 49), but Mr. Hartman testified that neither he as president or anyone in the community association was ever contacted by Mr. Knell about 115 Burke Avenue, the Special Hearing request, or the code violations citations. (T. 93-94).

2. **Mr. Richard Spooner** testified for the Petitioner but contradicted his son-in-law’s testimony. He stated he was aware of the limit on the number of unrelated tenants and that there were only two students leasing the property when it was deeded to the Knells:

“Q. Were you aware during that period of time that there was a limitation on the number of unrelated individuals you could rent to? . . .

A. “. . . I was aware of when that changed. . . we were down to two until the house was – it was pretty much decided that the Knells would take over.”  
T.69-70.

On inquiry from the panel chairman, Mr. Spooner responded:

“The Chairman . . . Sir, you mentioned there was a time you had five tenants, and then you found out about the regulations and you had to reduce the number of tenants?”

The Witness: That's right.

The Chairman: Was that before you transferred the property?

The Witness: Oh, way before.

The Chairman: When you say way before, you mean years before?

The Witness: Years before " T. 72

Mr. Knell's testimony on this issue on direct examination contradicts his father-in-law's and is self serving:

"Q. Now, when you first took title to the property, did you immediately sign a new lease, or did you let the existing lease lapse at that point in time?

A. There were three tenants in there when we took the property over, two females and one male. . . .

Q. They were initially tenants of your mother-in-law and father-in-law?

A. Correct." T. 20.

### Protestants' and People's Counsel's Witnesses

1. **Mr. Paul Hartman** testified in opposition to the boarding house. He is president of the Aigburth Community Association and has resided at 18 ½ Cedar Avenue for 22 years. He is also a member of the Greater Towson Council Community Associations University Relations Committee and has significant information about the past, present and future student housing accommodations and the current and projected enrollment at Towson University. In light of the statistics which indicate that about 2/3rds of the Towson students must seek off campus housing, (T. 109) the Aigburth community has been consistent in opposing boarding house permits.(T. 77-78, 88). Mr. Hartman pointed out that other applicants have been denied zoning approval for rooming or boarding houses in the Aigburth neighborhood. (T. 94).

Mr. Hartman described the neighborhood as a settled residential community consisting of single family detached and group homes (town houses), some dating back to the Civil War, and many constructed immediately after WWII. (T. 81). The predominant residents are families who are long-time owners or renters. (T. 82).

The Aigburth Community Association voted on the 115 Burke Avenue issue in compliance with its by-laws, and opposes conversion of the single-family home to a boarding house. (T. 98-99). Mr. Hartman discussed in edifying detail past problems with

student housing in the residential community. This testimony is crucial to the BCZR standard, which requires the CBA to consider **“The character of the surrounding community and the anticipated impact of the proposed use on that community.”** BCZR 408B.1A.2. e. (2). (emphasis added). What better evidence of impact than past experiences with student renters in the neighborhood.

Mr. Hartman described the following problems with Towson University students renting homes in the neighborhood:

- Excessive noise from music, loud talking, shouting, fighting and automobiles, occurring at all hours, and inappropriate times.
- Unsatisfactory disposal of trash.
- Unkempt yards and general lack of maintenance of properties.
- Excessive traffic at the failing intersection at Burke and York Roads.
- Lack of parking and illegal parking due to a higher than average number of automobiles per house and the extraordinary number of guests with their own cars visiting the students.
- Traffic in alleys traditionally used exclusively by emergency and trash hauling vehicles and which are frequently used as a play area for the children in the neighborhood.
- Nuisance crimes such as public urination, and public drunkenness.
- Reduction in property values and the overall adverse effect on the quality of life and the value of the neighborhood as a viable residential community.
- Lack of stability that often accompanies an increase in rental properties and the concomitant reduction in home ownership, a threat to the stability and attractiveness of Aigburth. T.85, 86, 87, 88, 92

Mr. Hartman’s experience is that there is a sufficient pool of potential renters among families, single people and couples that are permitted by right and have less adverse impact than multiple tenants in boarding houses. As evidence of this, he indicated he is not aware of any vacant rental properties in the neighborhood even without approved boarding house uses. (T. 105).

Mr. Hartman was extremely knowledgeable about the failure of Towson University to provide adequate housing for its students. He emphasized very strongly that by permitting a boarding house in the Aigburth community, unlike other areas in Baltimore County zoned D.R 5.5 that are not adjacent to a major college or university, a dangerous precedent would be established. This would likely result in a plethora of



boarding house applications in the community from existing landlords and real estate investors. It will be difficult to deny future applications if this one is granted – the classic “slippery slope.” The character of the neighborhood would be forever changed, possibly precipitating an exodus of existing homeowners or a lack of prospective homeowners who would instead seek more settled and stable neighborhoods in Baltimore County.

Mr. Hartman’s testimony provided numerous reasons to deny the special hearing under the special exception standards applicable to a boarding house permit as well as the specific standards in BCZR 408B. None of his concerns were refuted by the Petitioner, an absentee landlord living over 40 miles away in Anne Arundel County.

While Mr. Knell may have provided the abstract assurances that a boarding house here would pose no problem to the community or the immediate neighbors, he never adequately addressed the problems that actually existed when he illegally had four college students living at 115 Burke Avenue. In this case, the Petitioner’s assurances are speculative, self-serving and vague while the protesting citizens’ concerns are based on real experiences at the site and elsewhere in the community.

2. Additional persuasive evidence to describe the adverse effects on the health, safety and welfare of the community and the anticipated impact of the requested relief can be found in the testimony of **Ms. Joyce Routson**, who lives directly behind the subject site. She described the adverse effects of both the tenants’ behavior, and the change in appearance when the site was converted to a boarding house. Mr. Knell may claim the parents of his student tenants have to sign the leases as a type of check on behavior, but this did not curb the disruptive behavior of his prior tenants nor act as a deterrent. Ms. Routson described the deteriorating condition of the property at that time and the change in character from a secluded, tree-lined residential back yard to a parking lot for the student tenants. This deprived her of the privacy she had enjoyed while using the amenities she constructed in her back yard. (T. 127-128). She noted no other house on her block or the 100 block of Burke Avenue, except for the corner house, has parking in the rear yard. Most of the yards are screened with trees and shrubbery. She is concerned that

the traffic generated in the alley with parking in the back of the house may damage her fence and pose a safety threat. (T. 132).

Ms. Routson's concerns go beyond the aesthetics although they are a factor in their own right. Ms. Routson is concerned about the adverse impact on the value of her home, one of her primary assets. (T. 128). The behavior of the college tenants at 115 Burke Avenue also disturbed her peaceful enjoyment of her home. She was forced to call the police when a New Year's Eve Party in 2009 got out of hand. She estimated there were at least 100 partygoers between 115 Burke and 113 Burke, also leased to Towson University students. The noise continued past 2:00 a.m. and did not break up until the police arrived. Contrary to Mr. Knell's testimony, there were no apologies made from the tenants or him. The witness confirmed Mr. Hartman's testimony that Mr. Knell did nothing to be a responsible, considerate neighbor -- he never contacted the neighbors, or provided his telephone number as a recourse when he acquired the property. This is troublesome because BCZR 408B requires particular attentiveness, monitoring and cooperation of the owner under BCZR 408B.1 G. which requires the owner to assure compliance with the **"the Livability Code; the applicable zoning regulations; or the noise, litter, fire, health or sanitation ordinances of Baltimore County."**

Ms. Routson described how the students were noisy, talked loudly on cell phones outside of the house, called out inappropriately to one another, played loud music, and caused a lot of noise with their cars at all hours. In other words, **"they just don't live the same lifestyle that families do, and it's just not a good fit at all for students to be living in the neighborhood with families."** (T.139-141). She acknowledged that although two students are permitted to reside in a house by right, four students are more problematic than 2 students; with an increase in the number of student tenants, the problems increase exponentially. (T.142).

The witness also refuted Mr. Knell's testimony that she complained every year about trimming the trees and bushes. She pointed out she spoke to the Knells only once -- when she contacted Mrs. Knell about the sudden removal of the trees and shrubs in the back yard. (T.132-133).

Ms. Routson also confirmed that the current non-student renters at the site do not cause these problems. She testified from experience that it is more likely to have these problems occur with students than with families or couples.

3. **Mr. Edward Kilcullen** lives in the area and is a member of Towson Manor Village and the President of The Greater Towson Council Community Association (“GTCCA”). He grew up on Maryland Avenue and purchased a home there nine years ago. (T.143-144). Mr. Kilcullen noted the trend to convert homes to rental properties for Towson University students. (T.144-145). Mr. Kilcullen agreed with his neighbors that the neighborhood has “. . .had a lot of problems with students living in the residential areas of Towson.” (T.145). He echoed the concerns of Mr. Hartman that the relief requested here:

“. . . sets a very dangerous precedent. Other investors could apply for the same permit. And we have a number of rental properties in the neighborhood, many of which are rented to students, so it would just set a dangerous precedent that those other property owners could then apply for the same permit, using the same argument that’s being made today.” T. 145-146

In his position with GTCCA, Mr. Kilcullen is also familiar with the current and projected on campus housing shortage for Towson University students. He noted in direct examination on page 148: **“We [GTCCA] have been pushing for several years for the university to build additional on-campus housing.”** But unfortunately, as Mr. Hartman stated, Mr. Kilcullen noted no relief is in sight “. . . because their enrollment is growing and projected to grow by several more thousand more students, so even a couple thousand more beds on campus is not going to accommodate the number of students living in the community.” T. 148-149.

4. The last witness for Protestants was **Judith Giacomo**, a 26 year resident of the Aigburth community who resides at 17 Aigburth Road with her husband. She is a long – time member and officer of the Aigburth Community Association. She resides two blocks from the subject site. (T.151). Mrs. Giacomo recalled that over the years, there were two or three applications for boarding houses, that the community association opposed those as well and that they were all denied. (T.152). Because of the proximity to Towson

University and the long-standing shortage of campus housing, Mrs. Giacomo stated there are no legal boarding or rooming houses in the neighborhood because “ . . . a neighborhood as ourselves having concerns with keeping a nice neighborhood has to be vigilant and involved in the association in order to keep it a nice neighborhood.” T. 152. For these reasons she recalled that the residents of the neighborhood also worked hard to disband three Towson University fraternities that took over residences and caused numerous problems. Mrs. Giacomo observed that:

**“ When students are in a house, they multiply. They just seem to multiply. There are ten, and all of a sudden, there are fifty.” T. 153-154**

The witness also described that once the student tenants are in place, there is a fear of retaliation toward the neighbors who complain. This means no matter how many restrictions are in an administrative order, once a boarding house is approved, the effectiveness of relying on enforcement from Baltimore County is neutralized by the fear of retaliation. Mrs. Giacomo shares the deep concern that once one boarding house is approved, other owner-landlords will apply to maximize the number and pool of tenants. (T.154). For instance, the larger rental homes can accommodate more than the four boarders requested here, and there could be requests for twice as many tenants under the regulations. Then the disturbances described by all the neighbors would double or increase exponentially. (T.155).

Mrs. Giacomo testified very specifically about the BCZR standards concerning the impact on the community if the boarding house permit is approved here. Her concerns were not speculative but based on her personal experiences and complaints she received as an officer of the community association. She gave as an example a house on Maryland Avenue that was rented to 4 Towson University students when the owner moved to Australia:

**“And it just about destroyed that block of single family homes, the noise, the number of students visiting daily, nightly, the trash. . .**

**The boys had three dogs that they allowed to roam freely. Two of the dogs were Pit Bulls.**

**One of the dogs attacked the next-door neighbor’s small boy. It was very frightening.**

**The neighbors tried . . . We met with them to try to help, as the association, to try to help with the problem.**

**Finally, the whole neighborhood banded together and it was taken to a code enforcement hearing, and it began to be resolved then.**

**The students were unable to conform to what a regular family neighborhood is like.” T. 158-159.**

Like the other witnesses, Mrs. Giacomo does not oppose renters *per se*, but she is concerned about the adverse impact on her property value if the relief is granted in the instant case.

### Summary

The overwhelming evidence supports a denial of the boarding/rooming house use. Petitioners did not meet their burden of proof and barely touched on the specific standards under BCZR 408B and 502.1. On the other hand, Protestants described at length the anticipated adverse effects, and even more pointedly, the adverse experience when four Towson University students resided at the site for two semesters. In addition, the neighbors have had years of negative experiences with Towson University students residing among them from time to time. Their testimony more than adequately demonstrated why under the standards in BCZR 408B and 502.1, a single boarding house at this location has a greater adverse impact than elsewhere in the zone: (i) the use is out of character with this residential community; (ii) there is legitimate concern that other property owners will apply for boarding house permits because there are already more rental properties here than in other neighborhoods; (iii) a boarding house is more appealing because the site is in close proximity to a major university with a severe on-campus housing shortage; and (iv) the character of the neighborhood will change from owner-occupied to rental units. Furthermore, the inattentiveness of the Petitioners to the concerns of the community and the disregard for local county regulations when they illegally operated a boarding house here suggests a pattern of behavior inconsistent with the high standards required for boarding house owners under BCZR 408B.

For these reasons, the Petition for Special Hearing should be denied..

*Peter Max Zimmerman*

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PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carole S. Demilio*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of July, 2010, a copy of the foregoing Memorandum of People's Counsel for Baltimore County was mailed to Bruce Edward Covahey, Esquire, Covahey, Boozer, Devan & Dore, P.A., 614 Bosley Avenue, Towson, MD 21204, Attorney for Petitioner(s).

*Carole S. Demilio*

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CAROLE S. DEMILIO  
Deputy People's Counsel  
for Baltimore County

**BALTIMORE COUNTY CODE**

The Baltimore County Code of 2003, as amended.  
[Bill No. 137-2004]

**BANK**

The term "bank" includes bank station, building and loan association, savings and loan association, credit union and similar chartered financial institutions. The term also includes automatic teller machines or banking devices and drive-through banking facilities, except as limited by the use listing in any zone where a bank is permitted.

[Bill Nos. 13-1980; 191-1990]

**BASEMENT**

That portion of a building below the first floor, the floor of which is less than 1/2 of the height of the room below the average grade of the adjoining ground. (See definitions of "cellar" and "story.")

Editor's Note: The former definition of "bed-and-breakfast home," which immediately followed, was repealed by Bill No. 130-2005.

**BED-AND-BREAKFAST INN**

A tourist home located on a minimum five-acre tract with frontage on an arterial or collector street that provides four to 20 rooms for paying guests on an overnight basis for periods not to exceed 14 days, with breakfast being available on premises at no additional cost. A bed-and-breakfast inn is allowable in a building originally constructed as a one-family dwelling that has historic value or significance, and may include accessory structures.

[Bill Nos. 113-1988; 130-2005]

**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.

[Bill No. 100-1970]

**BILLIARD OR POOL ROOM**

A business establishment where the principal use is the playing of pool or billiards and at least 75% of the net floor area of the establishment's interior space is devoted exclusively to this use. The net floor area does not include space that is not available for use by the public.

[Bill No. 30-1983]

**BOARDING- OR ROOMING HOUSE**

[Bill Nos. 44-1982; 124-1993; 86-2001; 102-2001; 137-2004; 17-2009]

**A.**

A building:

**1.**

Which is the domicile of the owner and in which rooms with or without meals are provided, for compensation, to three or more individuals who are 18 years old or older and not related by blood, marriage or adoption to the owner; or

**2.**

Which is not the owner's domicile and which is occupied in its entirety, for compensation, by three or more individuals who are 18 years old or older and not related to each other by blood, marriage or adoption.

**B.**

The term does not include a hotel, motel, apartment building or a facility for foster care (as defined in the Family Law Article, Section 5-501(g) of the Annotated Code of Maryland and COMAR 07.06.16). The term does include a care home (as defined in the Health General Article, Section 19-307(b) of the Annotated Code of Maryland.)

**C.**

For purposes of this definition only, "owner" means an individual who:

**1.**

Has more than a 50% legal or equitable interest in the property; and

**2.**

Shares in more than 50% of the profits or losses derived from the compensation paid under Paragraph A of this definition.

D.

If an individual who is 18 years old or older and who is not related to the owner by blood, marriage or adoption resides for more than 30 days during any twelve-month period in a building in which compensation is received from any person, the building shall be considered the domicile of the individual for purposes of this definition.

E.

The owner of a building shall have the burden of proving that an individual is related by blood, marriage, or adoption either to the owner or to the other individuals in the domicile as required under Paragraph A.1 or A.2 of this definition.

BOATYARD

A commercial or nonprofit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, berthing, securing, fueling and general servicing of marine craft of all types.  
[Bill No. 64-1963]

BREWERY

An establishment with a valid alcoholic beverage manufacturer's license Class 5, 6 or 7 issued in accordance with the Annotated Code of Maryland, Article 2B, Section 2-206, 2-207 or 2-208.  
[Bill No. 185-1995]

BREWERY, CLASS 5A

A brewery with a state Class 5 license which produces 100,000 or more barrels of malt beverage per year.  
[Bill No. 185-1995]

BREWERY, CLASS 5B

A brewery with a state Class 5 license which produces less than 100,000 barrels of malt beverage per year.  
[Bill No. 185-1995]

BREWERY, CLASS 6

A brewery with a state Class 6 (pub-brewery) license. A Class 6 brewery is accessory to a standard restaurant and produces no more than 2,000 barrels of malt beverage per year.  
[Bill No. 185-1995]

BREWERY, CLASS 7

A brewery with a state Class 7 (micro-brewery) license. A Class 7 brewery is established in conjunction with a standard restaurant and produces no more than 10,000 barrels of malt beverage per year. For the purposes of these regulations, a standard restaurant with a state Class 7 license shall be defined as a Class 7 brewery.  
[Bill No. 185-1995]

BUILDING

A structure enclosed within exterior walls or fire walls for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING HEIGHT

The height of the highest point on a building or other structure as measured by the vertical distance from the highest point on the structure to the horizontal projection of the closest point at exterior grade. In instances where it is obvious that the exterior grade has been artificially built up above natural or surrounding finished grade, the vertical distance will be measured by projecting the natural or surrounding finished exterior grade to the closest point (foundation wall).  
[Bill No. 151-1988]

BUILDING LINE

The line established by law beyond which a building shall not extend.

BUILDING MATERIALS STORAGE AND SALES YARD

The use of any space, whether inside or outside a building used principally for the storage or sale of building materials or supplies.  
[Bill No. 149-1987]



**SECTION 408B Boarding- Rooming Houses in D.R. Zones**

[Bill No. 124-1993]

**§ 408B.1 Permit procedure; regulations.**

Notwithstanding any provision in these regulations to the contrary, boarding- or rooming houses are permitted in D.R. Zones, subject to the provisions of this section.

A.

Upon application to the Department of Permits and Development Management (PDM), the Director may issue a use permit for a boarding- or rooming house under the following procedure:

1.

Upon application, the applicant shall provide the following information:

a.

The maximum number of tenants expected to live on the property.

b.

A site plan indicating the location and type of structure and the proximity of dwellings on adjacent lots.

c.

The location of the required off-street parking spaces.

d.

A floor plan indicating the number of bedrooms and bathrooms.

e.

Such other information as the Director may require.

2.

Notice and hearing.

a.

On the property in question, notice of the application for the use permit shall be conspicuously posted for a period of 15 days following the filing of the application.

b.

Within the fifteen-day posting period, any interested person may file a formal request for a public hearing before the Zoning Commissioner in accordance with Section 500.7.

c.

If a formal request for a public hearing is not filed, the Director, without a public hearing, may grant a use permit for a boarding- or rooming house in a D.R. Zone if the proposed use meets the requirements of this section and Section 502.1. The use permit may be issued with such conditions or restrictions as determined appropriate by the Director to satisfy the provisions of this section and Section 502.1 and to ensure that the boarding- or rooming house will not be detrimental to the health, safety or general welfare of the surrounding community.

d.

If a formal request for a public hearing is filed, the Director shall schedule a date for the public hearing before the Zoning Commissioner, such hearing to be held not less than 21 days and not more than 90 days from the date of filing of the request for public hearing.

e.

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

(1)

Findings following the public hearing.

(2)

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

(3)

The manner in which the requirements of this section and Section 502.1 and other applicable requirements are met and any additional requirements as deemed necessary by the Zoning Commissioner in order to ensure that the use will not be detrimental to the health, safety or general welfare of the surrounding community and as are

deemed necessary to satisfy the objectives of this section and Section 502 of these regulations.

f.

If a formal request for a public hearing is not filed and notwithstanding any provision herein to the contrary, the Director may, at his or her discretion, require a public hearing whereat the applicant shall be required to satisfy the burden of proof required for such use to be granted.

g.

Notwithstanding the provisions of Section 1B01.1B, the Director, or the Zoning Commissioner if a hearing is requested, or the County Board of Appeals, upon appeal, may modify Section 1B01.1.B.1.b as it pertains to such use in D.R. Zones.

B.

Boarding or rooming houses are permitted only in single-family detached dwellings.

C.

The applicant shall be required to keep and preserve accurate occupancy records, including the name, social security number and dates of occupancy of each tenant and shall make such records available to the Fire Department, Police Department, Department of Permits and Development Management and other appropriate governmental agencies.

D.

Off-street parking spaces shall be located in the side or rear only, unless otherwise approved by the Zoning Commissioner, and shall be landscaped in accordance with the Class A requirements of the Landscape Manual.

E.

After the effective date of Bill No. 124-93, a new boarding- or rooming house is not permitted next to an existing boarding- or rooming house unless permitted after a public hearing pursuant to Section 408.B.

F.

Upon approval of the initial use permit, the applicant, operator, owner or lessee of the property or premises at issue shall be required to renew the use permit annually, to be dated from the month of the initial approval. Such renewal shall not be subject to Section 408B.A.2 above.

G.

The Director may suspend, revoke or refuse to renew the use permit for the following reasons:

1.

The applicant has made any false or misleading statement in any application or other document required to be filed under this section.

2.

The applicant has failed to comply with the Livability Code; the applicable zoning regulations; or the noise, litter, fire, health or sanitation ordinances of Baltimore County.

3.

The applicant has failed to comply with the terms and conditions of the initial approval.

H.

The applicant, as a condition precedent to the approval of the initial use permit, shall be required to permit the county to enter and inspect the premises upon twenty-four-hour notice to the applicant, operator, owner or lessee of the property or premises.

I.

Appeals from any decision or order of the Director or Zoning Commissioner may be taken to the Board of Appeals in accordance with § 32-3-401 of the Baltimore County Code.

[Bill No. 137-2004]

7/23/10

IN THE MATTER OF:  
WAYNE J. AND LISA S. KNELL  
Legal Owners/Petitioners  
115 Burke Avenue  
9<sup>th</sup> Election District  
5<sup>th</sup> Councilmanic District

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\*  
\* CBA-10-042-SPH

\* \* \* \* \*

**PETITIONERS' BRIEF AND MEMORANDUM IN LIEU OF CLOSING ARGUMENT**

Wayne J. Knell and Lisa S. Knell, Petitioners, by Bruce Edward Covahey and Covahey, Boozer, Devan & Dore, P.A., their attorneys, respectfully submit this Brief and Memorandum in Lieu of Closing Argument as requested by the County Board of Appeals of Baltimore County ("Board") at the conclusion of the hearing held on May 11, 2010.

**STATEMENT OF THE CASE**

The Petitioners are the record owners of property located at 115 Burke Avenue, Towson, Maryland 21286 ("Property"), which is improved by a single-family, two-story brick and frame dwelling. The Property is primarily used as a rental and investment property and was rented at the time of the May 11, 2010 hearing.

The instant case commenced on or about August 6, 2009, when the Petitioners filed a Petition for Special Hearing ("Petition") with regard to the Property. The Petition, which was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("BCZR"), sought approval of a boarding or rooming

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house permit for a maximum of four (4) unrelated adults pursuant to Sections 408B.1 and 502.1 of the BCZR.<sup>1</sup>

A hearing was held before Thomas H. Bostwick, Deputy Zoning Commissioner for Baltimore County, after which Deputy Zoning Commissioner Bostwick issued Findings of Fact and Conclusions of Law ("Findings") in which he determined that the Petitioners' proposed boarding or rooming house permit would not meet the requirements of BCZR § 502.1 and denied the requested relief.

This matter comes before the Board as a result of a timely appeal filed by Petitioners from the Findings issued by Deputy Zoning Commissioner Bostwick.

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<sup>1</sup> The Petition also requested Special Hearing relief to approve a modification of BCZR § 1B01.1.B.1b pursuant to BCZR § 408.B.1.A.2.g however this portion of the Petition was dismissed as moot upon agreement of the parties.

## QUESTIONS PRESENTED

- I. **WHETHER THE PETITIONERS' PROPOSED USE OF THE PROPERTY SATISFIES THE REQUIREMENTS OF BCZR § 408B.1 AND IS COMPATIBLE WITH THE CHARACTER OF THE SURROUNDING COMMUNITY.**
- II. **WHETHER THE PETITIONERS' PROPOSED USE OF THE PROPERTY SATISFIES THE HEALTH, SAFETY AND WELFARE REQUIREMENTS OF BCZR § 502.1 IN LIGHT OF THE MINIMAL EFFECT THE GRANT OF THE PETITIONERS' PERMIT WILL HAVE ON THE SURROUNDING COMMUNITY.**

## STATEMENT OF THE FACTS

As noted above, the Petitioners are the record owners of the Property. The Property is rectangular in shape, contains approximately 6,000 square feet, or 0.14 acres, of land and is subject to zoning classification D.R.5.5. The Property is located on the south side of Burke Avenue, east of York Road, in the Donnybrook area of Towson in Baltimore County. It is improved by a two-story brick and frame, single-family dwelling with four bedrooms and two bathrooms, containing approximately 1,848 square feet, which was constructed in 1940.

Richard Spooner and Carlyn Spooner (collectively the "Spooners"), the parents of Petitioner Lisa S. Knell, took title to the Property in 1986. (T. 67). Upon taking title to the Property, the Spooners inherited four tenants then leasing the Property from the prior owner. (T. 68-69). The Spooners continued to let the Property throughout the duration of their ownership, having as many as five (5) tenants occupying the Property at one time. (T. 68-70). During their period of ownership, the Spooners often rented the property to Towson University students. (T. 69).

In 2007, the Spooners conveyed title to the Property to the Petitioners. (T. 13, 70); Petr.'s Ex. 1. Upon taking title, the Petitioners inherited three unrelated tenants from the Spooners. (T. 19-20, 51-52). The existing tenants had occupied the Property for approximately three years prior to the Petitioners taking title. (T. 20).

Upon the expiration of the inherited tenants' lease, the Petitioners allowed the property to remain vacant and undertook approximately \$47,000.00 in renovations and improvements to the Property. (T. 20-21, 52-53). Improvements made to the Property include converting a first floor room into a bedroom, installing new carpets and windows, adding central air conditioning, removing overgrown vegetation and pruning a tree located at the rear of the Property. (T. 20-21, 51, 62-63). After completing those improvements, the Petitioners rented the property to a new set of unrelated tenants. (T. 14-15).

In October 2008, the Baltimore County Office of Code Inspection and Enforcement issued a notice advising that the Petitioners were in violation of, *inter alia*, the BCZR prohibition against three or more unrelated individuals residing together in a property in a D.R. zone. (T. 15-16, 51-55); BCZR § 101.1. After a hearing on the violation, it was determined that, although the presence of three unrelated tenants violated the BCZR, the tenants could continue to reside at the Property for the duration of their lease. (T. 16).

Subsequent to the hearing on the code violation, the Petitioners filed an application with the Baltimore County Department of Permits and Development Management ("DPDM") for a boarding or rooming house permit ("Permit").

Pursuant to BCZR § 408B.1, the Petitioners made an application for a maximum of four (4) tenants expected to live on the property and submitted, *inter alia*, a site plan showing the proposed layout of the Property, including required parking. Petr.'s Ex. 8. A Special Hearing was scheduled and held before Deputy Zoning Commissioner Thomas Bostwick, who denied Petitioners' application for failing to meet the requirements of BCZR § 502.1.

### **ARGUMENT**

#### **I. THE PETITIONERS' PROPOSED USE IS COMPATIBLE WITH THE SURROUNDING COMMUNITY AND WILL HAVE LITTLE IMPACT ON THE NEIGHBORHOOD.**

The operation of a boarding house at the Property, as proposed by the Petitioners, is entirely compatible with the surrounding community because the proposed use is a minor deviation from both the current use of the Property and the current composition of the neighborhood.

The Property is already lawfully used as a rental property, as has been the case for at least twenty four (24) years. Petitioners are merely proposing to permit up to an additional two unrelated persons to reside on the Property, in a community with an already sizable rental presence. For example, roughly 170 registered rental properties, and at least one unregistered rental property, are located within approximately three blocks of the Property. (T. 33-34); Petr.'s Ex. 5. Additionally, each of the witnesses called by People's Counsel conceded that multiple rental properties are present in the community and have been for a significant period of time. (T. 97, 135-36, 149, 161-62). In particular, Paul Hartman, president of the Aigburth Manor Association of Towson, conceded that

*twenty one percent (21%)* of the homes within the association's boundaries were rental properties at the time of its last audit and that there have been rental properties in the community throughout the twenty one (21) year period in which he has lived in the community. (T. 97-98).

The witnesses testifying in opposition to the Petition view the presence of a sizable number of rental properties in the community as a sign that the Petition must be denied. The reality is that it is a sign that the Petitioners' proposed use of the Property is consistent with the present character of the neighborhood and would have little, if any, impact on the community.

Despite the assertions of the witnesses called by People's Counsel that the ideal tenants would be families or young professionals, it cannot be denied that Towson University's student population is already a considerable presence in the neighborhood. (T. 83-84). Towson University's inadequate amount of on-campus housing for its enrollment forces students to seek out off-campus housing in the community surrounding the University. (T. 106-08). The subject neighborhood is especially attractive to those students, as confirmed by the testimony of various witnesses with regard to Towson University student tenants residing in the neighborhood. See generally, (T. 73-162).

In light of the pervasive presence of rental properties, the Petitioners' proposed use is entirely compatible with the existing character of the community and would have no appreciable impact on the community's already sizable rental presence. Additionally, denying Petitioners' proposed use on the basis of the



opponents' fear that the Property will be rented to students of Towson University would drive a wedge between the community and the University.

To be certain, the Petitioners are not proposing a major deviation from the composition of the community nor are the Petitioners proposing a new use of the Property. This is not a case of converting an owner-occupied, single family home located in a neighborhood comprised completely of owner-occupied homes into a rental property. It is also not an instance where the landlord will be a novice or absentee. The Property in this case has been a rental property for at least twenty four (24) years and is intended to be used as a rental property for years to come, regardless of the Board's ruling on the Petition. (T. 13-14, 67-70). In addition, the Property is and will be managed by an experienced and proven landlord. (T. 22-25).

The Petitioners have consistently demonstrated a commitment to being good neighbors and landlords by attempting to address issues before they blossom into significant problems. With regard to the Property, Petitioners have been pro-active in making themselves available and accessible to neighbors, as evidenced by Mr. Knell providing his mobile phone number to neighbors to call in the event of a problem. (T. 26). The Petitioners have even gone as far as requiring their tenants to seek out neighbors and apologize for disturbing them when incidents have occurred in the past. (T. 28).

Furthermore, Petitioners' track record as landlords speaks for itself. As the owners of a sixty-unit apartment complex in Berlin, Maryland, the Petitioners were acknowledged by William "Gee" Williams, III, the Mayor of Berlin, Maryland,

for contributing to a “dramatic and significant improvement in the maintenance of the property and conduct of the residents.” Petr.’s Ex. 2. Even Deputy Zoning Commissioner Bostwick acknowledged in his Findings that he believed that the Petitioners “would [not] act as absentee landlords with a complete disregard for the effects that their property would have on the surrounding property.” Zon. Comm. Findings, p.6.

It is understandable that community members would be concerned about landlords who show no commitment to the community and are unresponsive to community concerns. On the other hand, the Board and the community should embrace landlords, such as the Petitioners, who are prepared to act openly and accept the governmental and community scrutiny that a boarding house permit warrants and allows.

**II. THE PETITIONERS HAVE FULFILLED THE FILING AND PERMITTING REQUIREMENTS FOR A BOARDING OR ROOMING HOUSE PURSUANT TO BCZR § 408B.1.**

Before a boarding or rooming house is permitted in an area zoned D.R. 5.5, an applicant must follow the permitting procedure as set forth in BCZR § 408B.1. That Section enumerates a two-step process for securing a use permit for a boarding or rooming house from the Director of the DPDM. First, the individual seeking to obtain the boarding or rooming permit must make an application to the Director of the DPDM. BCZR § 408B.1.A. Next, the applicant must comply with the notice and hearing requirements of that section. BCZR § 408B.1.A.1-2. With regard to these procedural requirements, there can be no doubt the Petitioners have fully complied.

**(a) The Petitioners have complied with the application requirements to secure a boarding or rooming house permit as provided in BCZR § 408B.1.**

The first step in obtaining a permit for a boarding or rooming house is to make an application to the Director of the DPDM. The application to the Director must contain the disclosures listed in BCZR § 408B.1.A.1. That Section requires an applicant to provide to the Director the following information and documentation:

- a. The maximum number of tenants expected to live on the property.
- b. A site plan indicating the location and type of structure and the proximity of dwellings on adjacent lots.
- c. The location of the required off-street parking spaces.
- d. A floor plan indicating the number of bedrooms and bathrooms.
- e. Such other information as the Director may require

**BCZR § 408B.1.A.1.**

In accordance with the requirements set forth in the zoning regulations, Petitioners commissioned Walter Thomas Tydings, a professional property line surveyor registered in the State of Maryland and employed by Schulte & Associates, Inc., to draft a Plat to Accompany Petition for Zoning Special Hearing ("Site Plan"). Petr.'s Ex. 8. A cursory examination of Petitioners' Site Plan, shows that it complies with requirements (a) through (c) of Section 408B.1.A.1. The Location Information section of the Site Plan states a majority of the required information, including that a maximum of four tenants are expected to live on the property. BCZR § 408B.1.A.1(a). The Site Plan also shows that existing dwellings are situate to the east and west of the Property, approximately eight feet and eleven feet from the Property, respectively, and further depicts four off-street parking spaces in the rear of the Property, BCZR § 408B.1.A.1(c). See (T.

38-40); Petr.'s Ex. 8. Finally, Petitioners included in their application a floor plan showing the four (4) bedrooms and two (2) bathrooms in the house on the Property. BCZR § 408B.1.A.1(d); (T. 35-37); Petr.'s Ex. 7.

**(b) The Petitioners have complied with the notice and hearing requirements set forth in BCZR § 408B.1**

As required by BCZR § 408B.1.A.2, the Petitioners conspicuously posted notice of their permit application on the Property for fifteen (15) days following the filing of the Petition. The hearing before Deputy Zoning Commissioner Bostwick was held pursuant to such notice.

Since the Petitioners have established compliance with the two-step application procedure in BCZR § 408B.1.A, the Board must now consider whether to grant the requested use permit. In doing so, the Board must consider the character of the community surrounding the Property, the impact the proposed permit may have on the community and whether the Petitioners have satisfied the criteria of BCZR §502.1. BCZR § 408B.1.A.2.e.

**III. THE PETITIONERS' PROPOSED USE OF THE PROPERTY MEETS ALL OF THE STANDARDS OF BCZR § 502.1.**

Generally, the provisions of BCZR § 502.1 apply to cases involving petitions for special exceptions. Beyond that, consideration of an application for a boarding or rooming house permit involves determining the manner in which the requirements of § 502.1 are met plus any additional requirements as deemed necessary by the Zoning Commissioner. BCZR § 408B.2.e.3. A special exception typically must be granted unless the facts and the circumstances show that the use proposed at the particular location proposed would have an adverse

effect above and beyond those inherently associated with the proposed use *irrespective* of its location. Schultz v. Pritz, 291 Md. 1, 15 (1981); Anderson v. Sawyer, 23 Md.App. 612, 625 (1974). Since BCZR § 408B.2 expressly incorporates BCZR § 502.1, it follows that that rule also applies to consideration of the Petition in this matter, meaning the Petition must be granted unless such an inordinate impact can be shown.

As will be discussed more fully below, the Petitioners' proposed use of the Property meets the requirements of the applicable provisions of § 502.1 and will not have an adverse effect on the community surrounding the Property, but instead is entirely consistent and compatible therewith. It certainly cannot be shown that the impact of a boarding house at the Property will exceed the effects of a boarding house in other locations, as must be shown before the Petition can be denied. Id. Accordingly, the Petition must be granted.

**(a) Petitioners' proposed use will not be detrimental to the health, safety or general welfare of the community surrounding the Property.**

The first criterion for the Board to consider pursuant to BCZR § 502.1 is whether Petitioners' proposed use will be detrimental to the health, safety or general welfare of the locality involved. BCZR § 502.1(A). The Baltimore County legislature has determined that as part of its comprehensive plan rooming or boarding houses are to be allowed in residential zones via the special exception process. See, e.g. BCZR § 408B.1. It is presumed that uses expressly provided for in the BCZR pursuant to a special exception promote the health, safety and general welfare of the community provided the other specific requirements of the

ordinance are met. Anderson, 23 Md.App. at 624. Therefore, the burden is effectively upon the opponents of the Petition to show that this condition has not been satisfied. Id.

As set forth more fully above and below, the Petitioners proposed use satisfies the requirements specified in the BCZR for obtaining a rooming or boarding permit. Because the Petitioners' proposed use is a minimal expansion of an existing use, in an area where such a use is already quite prevalent, granting Petitioners' permit would be in keeping with the character of the neighborhood and not effect the health, safety or general welfare of the locality.

Furthermore, the protestants have failed to present sufficient evidence to overcome the presumption that Petitioners' proposed use will promote the health, safety and general welfare of the community. Anderson, 23 Md.App. at 624. Addressing specifically the health, safety and general welfare of the community, witness Paul Hartman testified that the Aigburth Manor Association of Towson's concern was based on Towson University students living in a number of illegal rooming or boarding houses operating in the neighborhood. (T. 91-92). While the community's concern regarding unlawful activity in the neighborhood is understandable, it does not justify the denial of the Petitioners' application for a fully licensed, *lawful* rooming or boarding house, and certainly does not overcome the presumption that Petitioners' proposed use will promote the health, safety and general welfare of the community.

**(b) Petitioners' proposed use will not tend to create congestion in roads, streets or alleys.**

The Board must next consider whether granting Petitioners' permit would tend to create congestion in roads, streets or alleys in the community. BCZR § 502.1(B). A review of the evidence presented shows that the proposed use would not create such congestion.

Petitioner Wayne Knell testified that the two tenants currently residing at the Property each own a car and that on the weekends an additional car belonging to the son of one of the tenants is present on the Property. (T. 18, 103). In all likelihood, the granting of the requested permit to allow four (4) non-related tenants would add no more than two cars to the mix, assuming the son's vehicle is not counted. While Petitioners' proposed use could thus increase the number of the automobiles present on the Property, it is clear that the expansion and effect on the local traffic patterns would be insignificant.

With regard to traffic volume on Burke Avenue, the main road to the front of the Property, Petitioners introduced into evidence a traffic survey of the intersection of York Road and Burke Avenue prepared by the Maryland State Highway Administration showing that approximately 11,900 vehicles per day travel along Burke Avenue east of York Road. Petr.'s Ex. 10. The addition of no more than two automobiles beyond those used by the current tenants to the thousands currently traveling on Burke Avenue everyday is so inconsequential as to barely warrant mentioning. Beyond that, evidence was offered showing that Towson University students are more likely to walk to the University than to drive because of the short distance and the shortage of parking on campus. (T. 45,

135). Furthermore, because student class schedules are often different than the daily schedules of working adults, the addition of two automobiles “would not have an impact on rush hour traffic,” as conceded by People’s Counsel witness Paul Hartman. (T. 103).

The witnesses offered by People’s Counsel voiced their concerns that granting Petitioners’ proposed use would add additional traffic to the alleyway behind the Property. (T. 125-26, 132). However, the Site Plan clearly negates those fears by indicating that the only area to be used for ingress and egress is the driveway located along the east side of the property, which exits solely onto Burke Avenue. Petr.’s Ex. 8. The rear of the property bordering the alley will be landscaped and tenants will not be able to use the alley to access the property. Id. In that regard, Petitioners have expressed their willingness to install shrubbery, other flora and “whatever Baltimore County asks [the Petitioners] to do” to prevent access to the alley from the rear of the Property. (T. 39-40).

In sum, Petitioners’ proposed use of the Property would add an insignificant amount of traffic to that which already operates on Burke Avenue and would actually *reduce* the amount of traffic in the alley in the rear of the Property. Therefore, the Board must conclude that the proposed use will not tend to create congestion in roads, streets or alleys in the community. BCZR § 502.1(B).

**(c) Petitioners’ proposed use will not create a potential hazard of fire, panic or other danger.**

BCZR § 502.1 next requires the Board to consider whether the proposed use of the Property will create a potential hazard of fire, panic or other danger.



BCZR § 502.1(C). The Petitioners' proposed use will not create such a hazard because there is no significant or noteworthy difference between two, three or four tenants occupying the Property. BCZR § 502.1(C). Considering the urban designation and high concentration of people in the community surrounding the Property, there will be little, if any impact on the potential hazard of fire, panic or other danger from the grant of the Petitioners' permit. Furthermore, Petitioners' proposed use would not have an adverse effect above and beyond those inherently associated with four persons, related or not, living together in a single-family home, whether at the Property or elsewhere.

**(d) Petitioners' proposed use will not tend to overcrowd land and cause undue concentration of population.**

The next issue to be considered pursuant to BCZR § 502.1 is whether the Petitioners' proposed use will tend to overcrowd land and cause undue concentration of population. BCZR § 502.1(D). Since the Property could be rented to a family of any size as a matter of right, the Petitioners' proposed use would not have an effect on the local population above and beyond those inherently associated with four persons living in the same house. Therefore, the Petitioners' proposed use will not tend to overcrowd land and cause undue concentration of population. BCZR § 502.1(D).

At *most*, Petitioners proposed use would add two *unrelated* residents to an already well-developed, well-populated urban area. There is no difference, in terms of population density, between four unrelated persons and four related persons living together. Accordingly, the Petitioners' proposed use of the Property would, at the worst, cause an inconsequential effect on the overall

population of the community and have no impact on population density or concentration.

- (e) Petitioners' proposed use will not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements.**

The Board must next consider whether granting the Petition would cause interference with provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. BCZR § 502.1(E). Permitting up to two more unrelated residents to use the services provided by the Baltimore County Department of Public Works, Baltimore County Public Schools or other government agencies will not adversely effect the provision of those services. The impact, if any, will be so trivial that it will go unnoticed by the surrounding community. In addition, there is no meaningful difference between two additional unrelated persons using these services and a family of four or more using the same services.<sup>2</sup> Surely the services provided by various governmental agencies in the urban Towson area can absorb the addition of two unrelated persons just as they could absorb that same use by a family of four.

- (f) Petitioners' proposed use will not interfere with adequate light and air.**

The next condition to be considered pursuant to BCZR § 502.1 is whether the Petitioners' proposed use will interfere with adequate light and air. BCZR § 502.1(F). The proposed use does not change the footprint of the improvements

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<sup>2</sup> A family with two school-aged children would actually have a *greater* impact on schools than four unrelated adults without children, as such a family would add two pupils to the Baltimore County Public Schools registration rolls.

on the Property or otherwise alter the nature of the use of the Property. Therefore, that use will not interfere with adequate light and air.

**(g) Petitioners' proposed use will not be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the Zoning Regulations.**

BCZR § 502.1 next mandates that the Board determine whether the proposed use of the Property will be inconsistent with the purposes of the property's zoning classification or in any other way be inconsistent with the spirit and intent of the BCZR. BCZR § 502.1(G). As discussed more fully above, the BCZR expressly allows for rooming or boarding houses in residential zones as part of the County Council's comprehensive plan. See, e.g. BCZR § 408B.1. Furthermore, successful establishment of the other requirements in BCZR § 408B.1 and BCZR § 502.1 gives rise to a presumption that Petitioners' proposed use promotes the health, safety and general welfare of the community. Anderson, 23 Md.App. at 624.

The Petitioners have demonstrated, *supra*, that the community surrounding the Property has a sizable rental population and that the Property, in light of its twenty four (24) year history as a rental property, is entirely compatible and consistent with the overall zoning scheme of the neighborhood. (T. 67). Additionally, Petitioners' proposed use will not be inconsistent with the purposes of the Property's D.R.5.5. zoning classification.

The stated purpose of D.R. zoning classifications is, *inter alia*, to foster a greater variety in housing types within future residential developments, to provide a greater certainty about dwelling types and densities in the community and to

provide a means to satisfy differing housing market requirements without rezoning. BCZR § 1B00.2. Clearly, the Petitioners' proposed use furthers these goals.

By granting Petitioners' permit, the community will obtain a legal rooming or boarding house, subject to the ongoing oversight of DPDM. The presence of such an option for prospective residents adds to the variety of housing types available in the neighborhood, as desired in accordance with the BCZR. Granting Petitioners' permit will also provide certainty with regard to exactly how the Property is being used and how many individuals are residing there.

According to witness Paul Hartman, there are several code enforcement hearings regarding illegal rooming or boarding houses each year. (T. 91). If the Petition is granted, the community can be assured that the Property's use conforms to the requirements of the law. The community can also better monitor how many persons are residing in the home and how the Property is being used. This level of transparency certainly does not exist with any illegal rooming or boarding houses operating in the community.

Additionally, granting Petitioners' permit will provide a means to satisfy differing housing market requirements without rezoning. By being able to lease the Property to four unrelated individuals, the Petitioners will not only gain access to a larger market of individuals looking to rent, but those individuals seeking housing will also be able to take advantage of economies of scale. For example, if the Petitioner leases the Property to two persons for \$1,500.00 per month, the cost per person per month equals \$750.00. However, if the Property is leased to

four persons the average cost drops to \$375.00 per person per month, clearly a more manageable expense. The more manageable rent will, in turn, allow the Petitioners to attract a broader market of potential tenants.

A similar analysis is applicable to other costs such as utility and maintenance costs. Viewed in light of the current state of the economy, there can be no doubt that granting Petitioners' proposed use will help ensure that the property will not sit vacant for want of tenants.

Moreover, the Petitioners proposed use harmonizes with the spirit and intent of the zoning regulations. The "spirit and intent" of the BCZR includes promoting consistency of land use among neighboring properties. As noted previously, multiple other properties in the Petitioners' neighborhood, including one adjacent residence, are already rental properties. (T. 30). Therefore, the Petitioners' proposed use is consistent with the BCZR and the "spirit and intent" of those regulations would be honored by granting the Petition.

**(h) Petitioners' proposed use of the Property will not be inconsistent with the impermeable surface and vegetative retention provisions of the BCZR.**

The Board must next determine if the Petitioners' proposed use will be inconsistent with the impermeable surface and vegetative retention provisions of the BCZR. BCZR § 502.1(H). The Petitioners' Site Plan does not alter the current amount of impermeable cover and incorporates a permeable gravel surface in the area of the proposed parking spaces at the rear of the Property. (T. 41-43); Petr.'s Ex. 8; BCZR § 502.1(H). Furthermore, the Site Plan includes the addition of landscaping and plantings in the rear of the Property, which will be

consistent with impermeable surface requirements and will add to the overall volume and quality of vegetation. (T. 39-40, 63); Petr.'s Ex. 8. Accordingly, Petitioners clearly satisfy this requirement since the only change to the Property will be the addition of new vegetation.

**(i) The provisions of BCZR § 502.1 pertaining to R.C. Zones are inapplicable to the Board's review of this matter.**

The last condition set forth in BCZR § 502.1 requires the Board to consider whether a use will be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone. BCZR § 502.1(l). Since the Property lies in a D.R. 5.5 zone, this element of BCZR § 502.1 is not applicable to the Board's review in this matter.

Overall, the application of the facts of this case to the criteria set forth in BCZR § 502.1 demonstrates that Petitioners' proposed use is a wholly appropriate and beneficial use of the Property. Such a use would serve the interests of both the Petitioners and the community at large. Accordingly, the Petition must be granted.

**IV. THE OPPOSITION TO PETITIONERS' PROPOSED USE IS BASED ON INCHOATE FEARS, WHICH DO NOT WARRANT A DENIAL OF THE PETITION.**

The opposition in this case bases its position solely upon non-specific concerns, based entirely on the character of the overall community and not specifically on the proposed use of the Property. In fact, a great deal of testimony adduced by People's Counsel identified the witnesses' apparent dislike of student tenants and fear that if Petitioners' proposed use is granted then other

boarding house permits will be granted. (T. 90, 92, 96, 131, 139-40, 142, 145-46, 158-60). These anxieties, however, are insufficient to justify the denial of Petitioner's proposed use in light of their satisfaction of all other criteria.

In Anderson v. Sawyer, 23 Md.App. 612, the Court of Special Appeals put to rest fears very similar to those of the protestants in this case. In that case, which originated in Baltimore County, the Board denied a petition for special exception for construction of a funeral home on land zoned for residential use. Id. The opponents in that case argued, *inter alia*, that granting the requested special exception would set an unwanted precedent and "create a wedge [in the neighborhood] for future commercialization." Id. at 621.

In finding that the proposed use conformed to the character of the area and complimented the surrounding commercial and residential zones, the Court of Special Appeals stated that the protestants' evidence did not constitute probative evidence on the issue of adverse effect because it neither contradicted nor rebutted other evidence, and "amount[ed] to nothing more than a generalized fear unsupported by facts or reasons." Id. at 622.

Similarly, in this case, the protesting witnesses have merely expressed that granting Petitioners' proposed use will set "a very dangerous precedent" because "other property owners could then apply for the same permit." (T. 92, 145-46). As in Anderson, this represents a generalized fear unsupported by facts or reason because *anyone* owning property in a D.R. Zone can apply for a boarding or rooming house permit regardless of the Board's ruling in this matter. BCZR § 408B.1. Furthermore, simply stating that granting Petitioners' proposed

use will create a “very dangerous precedent” cannot rebut the undisputed evidence that the neighborhood already includes a sizable number of rental properties and that the Petitioners have more than satisfied the requirements of BCZR § 502.1.

The evidence presented by People’s Counsel on this issue consists almost exclusively of conjecture regarding a possible “domino effect” and is of little probative value. (T. 92). For example, although witness Judith Giacomo agreed that she shared in the concern that the grant of the Petition would create a “very dangerous precedent”, when asked if she had anything to add to that fear, she stated “no” and proceeded to tell a story, over the objection of Petitioners’ counsel, about an unidentified resident in the neighborhood having trouble selling a home two or three years ago who ended up renting to Towson University students. (T. 155-56). This is clearly non-probative evidence and speaks solely to the protestants’ generalized fears regarding rental properties in the community.

Witness Edward Kilcullen reiterated the concern regarding a “dangerous precedent.” (T. 145-46). Beyond that, he discussed other property owners with no connection to this matter selling homes to an investor who subsequently demolished the homes. (T. 144). He also chided Towson University for failing to provide adequate on-campus housing. (T. 148-49). Those issues are not directly related to the Board’s review of the Petition, but instead speak only to the



generalized, non-specific concerns of the community and should thus be give little value by the Board.<sup>3</sup>

In Deen v. Baltimore Gas and Electric Company, 240 Md. 317 (1965), the Court of Appeals rejected the Appellants' speculative fears associated with a request for special exception to allow overhead electrical transmission lines on rural, undeveloped land. In that case, the Appellants argued that the Board should have considered the future effects of the proposed special exception on the health, safety and welfare that could have been reasonably anticipated in the normal course of development of the locality. Id. at 330-31. Dismissing the Appellants' argument as irrelevant for lack of evidence, the Court stated:

The only evidence as to future conditions was testimony revealing the possibility of future residential development of this land but such a possibility alone does not come close to showing a future deleterious effect upon the public health, safety or general welfare.

Id. at 331.

Likewise, the protestants in this case have only testified to the *possibility* of deleterious effects and the *possibility* of future applications for boarding or rooming house permits. Furthermore, there was no evidence admitted regarding the current number of boarding or rooming house applications that may be pending with the DPDM. Obviously, the People's Counsel's evidence on this issue fails to show a possibility of future negative effect upon the public health, safety or general welfare of the locality sufficient to warrant denial of the Petition.

By enacting § 408B.1, the County Council has declared that a rooming or boarding house is an appropriate use of property in a residential zone when the

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<sup>3</sup> Mr. Kilcullen followed this testimony by acknowledging that the properties sold to a

criteria of that section are met. The Petitioners have meet each of those criteria, as demonstrated above. People's Counsel has failed to rebut the presumption that that use is appropriate with regard to the subject Property. Anderson, 23 Md.App. at 624. Therefore, the Petition must be granted.

**V. REMEDIES ARE AVAILABLE IN THE EVENT THE COMMUNITY'S CONCERNS MATERIALIZE.**

The Board must grant Petitioners' permit because they have clearly met the requirements of BCZR § 408B.1 and BCZR § 502.1. However, in the unlikely event that the fears expressed by various witnesses should materialize, the approval of Petitioners' permit is not a permanent, irreversible act. Should the concerns develop into something more definite and concrete, BCZR § 408B.1 provides two methods for terminating the Petitioners' permit.

First, if the permit is granted, Petitioners would be required to renew the use permit annually with the Director of the DPDM. BCZR § 408B.1(F). Therefore, if the Director of the DPDM were to find that the proposed use no longer satisfies any of the requirements of BCZR or is otherwise detrimental to the community, the Director could refuse to renew the Petitioner's permit.

Additionally, the Director of the DPDM may suspend, revoke or refuse to renew the use permit for, *inter alia*, failure to comply with the Baltimore County Livability Code, applicable zoning regulations or the noise, litter, fire, health or sanitation ordinances of Baltimore County. BCZR § 408B.1(G). Furthermore, if the Petitioners fail to comply with the terms and conditions of the initial approval of the permit, the permit may be suspended, revoked or not renewed. Id.

Those provisions act as powerful swords to ensure that the Petitioners continue to be good neighbors and act for the benefit of the community. Should the proposed use be granted and the community's fears come to pass, at the very worst §§ 408B.1(F)-(G) would provide an adequate and prompt remedy to alleviate any problems. Therefore, since the Petitioners have shown that the proposed use satisfies the numerous requirements of the BCZR, the Board must grant Petitioners' permit request and allow them to operate a boarding house at the Property.

**VI. THE BOARD MUST REMAIN COGNIZANT THAT THE PETITION PERTAINS TO A SINGLE PROPERTY.**

As discussed above, two themes recurred in the testimony of the witnesses called by People's Counsel. The first is that granting a boarding house permit to Petitioners would create a "dangerous precedent." (T. 145-46, 155).

With regard to the first theme, the Board must remain cognizant that the Petition pertains to a single property and not to every prospective rental property in the subject community. The Board's review of this matter must focus on whether the proposed use of *the Property* satisfies the criteria of BCZR §§ 408B.1 and 502.1 and not be distracted by concerns about other properties. Otherwise, the Petitioners will be unfairly penalized for the actions of other landlords and tenants in the community.

**VII. THE PETITIONERS SHOULD NOT BE PENALIZED BY ANY INADEQUACY IN THE AMOUNT OF ON-CAMPUS HOUSING PROVIDED BY TOWSON UNIVERSITY.**

The second recurring theme in the testimony of the protesting witnesses is that the inadequate on-campus housing at Towson University would make the

Property attractive to University students, who the witnesses dislike as renters. In the witnesses' ideal world, Towson University would provide dormitory space for every full time student in attendance so there would be no demand for student rentals in the community. However, few, if any, colleges house all of their students in campus housing.

That being noted, denying the Petition because it might lead to students renting the Property from the Petitioners would again penalize the Petitioners for the actions of others. In this case, they would be penalized for the actions of other landlords and tenants *and* for the alleged inaction of Towson University and/or the University System of Maryland in providing sufficient on-campus student housing. In both instances, the Board must not penalize the Petitioners for factors that lie wholly beyond their control.

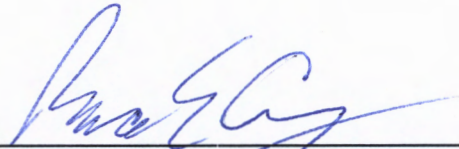
**VIII. DENIAL OF THE PETITION WOULD EFFECTIVELY RENDER § 408B.1 A NULLITY.**

As discussed in detail above, the Petitioners have satisfied each and every criteria set forth in BCZR §§ 408B.1 and 502.1. If the Petition were to be denied under the compelling circumstances of this case, it would suggest strongly that there are effectively *no* circumstances under which a property owner could obtain a boarding house permit in the subject community.

The County Council enacted BCZR § 408B.1 because it deemed a boarding house an appropriate use in a residential zone. Denial of the Petition despite the overwhelming evidence presented by Petitioners would render BCZR § 408B.1 meaningless by effectively negating the intention of the County Council. Such a result is clearly unwarranted and should not be furthered by the Board.

**IX. CONCLUSION.**

For the reasons set forth above, it is clear that the Petitioners have met their burden of proof pursuant to BCZR § 408B.1 and other applicable statutes. Therefore, the Petitioners' Petition for Rooming or Boarding House Permit must be granted.



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614 Bosley Avenue  
Towson, Maryland 21204  
410-828-9441  
Attorneys for Petitioners,  
Wayne J. Knell and Lisa S. Knell

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23rd day of July, 2010, a copy of the foregoing Brief and Memorandum in Lieu of Closing Argument was mailed, first class, postage prepaid, to:

Carole Demilio, Esquire  
Deputy People's Counsel for Baltimore County  
The Jefferson Building, Suite 101  
105 W. Chesapeake Ave, Towson, MD 21204



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BRUCE EDWARD COVAHEY

**BALTIMORE COUNTY, MARYLAND**

Board of Appeals of Baltimore County

*Interoffice Correspondence*

Phone: 410-887-3180

Fax: 410-887-3182

To: Stuart Kelly, Code Enforcement

From: Sunny Cannington, Legal Secretary

Date: March 10, 2010

Re: Signs to be Posted

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Enclosed please find an Appeal Sign Posting Request for the following property:

Case No.:

10-042-SPH

Case Name:

Wayne and Lisa Knell

Address:

115 Burke Avenue

**RECEIVED**

**MAR 22 2010**

**BALTIMORE COUNTY  
BOARD OF APPEALS**



**BALTIMORE COUNTY**

M A R Y L A N D

JAMES T. SMITH, JR.  
*County Executive*

TIMOTHY M. KOTROCO, *Director*  
*Department of Permits and*  
**March 8, 2010** *Development Management*

Bruce Covahey  
Covahey, Boozer, Devan & Dore  
614 Bosley Avenue  
Towson, MD 21204

Dear Mr. Covahey:

RE: Case: 2010-0042-SPH, 115 Burke Avenue

Please be advised that your appeal of the above-referenced case filed in this office on November 10, 2009 has been processed. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco  
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner  
Timothy Kotroco, Director of PDM  
People's Counsel  
Wayne & Lisa Knell, 1854 Chesapeake Road, Pasadena 21122  
See attached list

## APPEAL

Petition for Special Hearing  
115 Burke Avenue  
S/s Burke Ave., 125' w/of c/l of Aigburth Ave.  
9<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District  
Legal Owners: Wayne & Lisa Knell

Case No.: 2010-0042-SPH

Petition for Special Hearing (August 6, 2009)

Zoning Description of Property

Memo to file by Leonard Wasilewski (August 6, 2009)

Notice of Zoning Hearing (August 28, 2009)

Certification of Publication (The Jeffersonian – 9/17/2009)

Certificate of Posting (September 13, 2009) by Linda O'Keefe

Entry of Appearance by People's Counsel (August 27, 2009)

Petitioner(s) Sign-In Sheet – 1 Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – 2 Sheets

Zoning Advisory Committee Comments

Petitioners' Exhibit

Exhibits 1 thru 10 (see Exhibit Sheet)

Protestants' Exhibits:

Exhibits 1 thru 3 (see Exhibit Sheet)

Miscellaneous (Not Marked as Exhibit)

None

Deputy Zoning Commissioner's Order (DENIED – October 15, 2009)

Notice of Appeal received on November 10, 2009 from Bruce Covahey

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

*date sent March 8, 2010, klm*



COVAHEY, BOOZER, DEVAN & DORE, P. A.

ATTORNEYS AT LAW  
614 BOSLEY AVENUE  
TOWSON, MARYLAND 21204

EDWARD C. COVAHEY, JR.  
F. VERNON BOOZER \*  
MARK S. DEVAN  
THOMAS P. DORE  
BRUCE EDWARD COVAHEY  
JENNIFER MATTHEWS HERRING  
FRANK V. BOOZER, JR.

410-828-9441

FAX 410-823-7530

ANNEX OFFICE  
SUITE 302  
606 BALTIMORE AVE.  
TOWSON, MD 21204  
410-828-5525  
FAX 410-296-2131

\*ALSO ADMITTED TO D.C. BAR

November 10, 2009

**HAND-DELIVERED**

Office of the Zoning Commissioner  
For Baltimore County  
Attn: Kristen Matthews, Appeals Clerk  
111 W. Chesapeake Ave., Room 111  
Towson, Maryland 21204

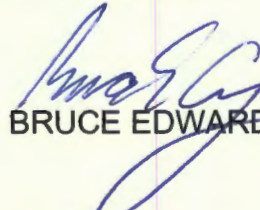
RE: Petition for Special Hearing  
S side of Burke Avenue; 125 ft. W of the c/l of Aigburth Avenue  
(115 Burke Avenue)  
9<sup>th</sup> Election District – 5<sup>th</sup> Council District  
Wayne J. and Lisa S. Knell - Petitioners  
Case No. 2010-0042-SPH

Dear Sir or Madam,

Please be advised that this office represents Wayne J. Knell and Lisa S. Knell in this matter. The Petitioners are interested persons who appeared before the Zoning Commissioner at the hearing on the above-referenced Petition for Special hearing.

Please note an appeal to the Board of Appeals in the above captioned matter. Enclosed please find a check for the appeal fee of Four Hundred Dollars (\$400.00). Should you have any questions please do not hesitate to contact my office.


Very truly yours,

  
BRUCE EDWARD COVAHEY

1026ldr08  
Enclosure  
cc: Wayne J. Knell  
Lisa S. Knell

RECEIVED

NOV 10 2009

.....

*date  
10/15 for  
decision*

10/15/09

**IN RE: PETITION FOR SPECIAL HEARING** \*  
S side of Burke Avenue; 125 feet W of the c/l \*  
of Aigburth Avenue \*  
9<sup>th</sup> Election District \*  
5<sup>th</sup> Councilmanic District \*  
(115 Burke Avenue) \*

**Wayne J. and Lisa S. Knell**  
*Petitioners*

BEFORE THE  
DEPUTY ZONING  
COMMISSIONER  
FOR BALTIMORE COUNTY  
CASE NO. 2010-0042-SPH

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by the legal property owners, Wayne and Lisa Knell. Petitioners request Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a rooming house for a maximum of four (4) unrelated adults pursuant to Sections 408B.1 and 502.1 of the B.C.Z.R. As filed, the Petition also requested Special Hearing relief to approve a modification of Section 1B01.1.B.1.b of the B.C.Z.R. pursuant to Section 408.B.1.A.2.g of the B.C.Z.R.<sup>1</sup> The subject property and requested relief are more fully described on the site plan, which was marked and accepted into evidence as Petitioners' Exhibit 8.

Appearing at the requisite public hearing in support of the requested special hearing relief were Petitioners Wayne and Lisa Knell along with their attorney Bruce E. Covahey, Esquire. The case also garnered significant interest from the community and approximately thirty neighbors and interested citizens attended the hearing in opposition to the requested relief. For the sake of brevity, their names and addresses are not specifically identified in this Order, but they are all listed on the "Citizens Sign-In Sheet," which was circulated before the hearing began

<sup>1</sup> At the outset of the hearing, the parties agreed that this portion of the request was not legally required. Accordingly, this portion of the Petition shall be dismissed as moot.

10-15-09

and is contained within the case file. It should also be noted that twelve letters from various individuals and community associations opposing the requested relief were submitted and accepted into evidence as Protestants' Exhibits 2A through 2L.

Testimony and evidence offered revealed that the subject property is rectangular in shape and contains approximately 6,000 square feet or 0.14 acre, more or less, zoned D.R.5.5. As shown on the site plan and the map of the property that was marked and accepted into evidence as Petitioners' Exhibit 6, the property is located on the south side of Burke Avenue, east of York Road, in the Donnybrook area of Towson in Baltimore County. The property is improved with an existing two-story brick and frame dwelling containing 1,848 square feet. Mr. Knell testified that he and his wife took title to the property in 2007 from his wife's parents, and submitted the deed to the property, which was marked and accepted into evidence as Petitioners' Exhibit 1. The property had been in Mrs. Knell's family since 1986, and has been consistently used as a rental home throughout this time period.

Mr. Knell testified that once he took title to the property, he performed approximately \$47,000 in renovations to the existing dwelling, completely revamping the home by adding central air conditioning, new furniture, windows and siding, landscaping, new doors, insulation, and updated bathrooms. Mr. Knell also converted a room that was previously used as a dining room into a fourth bedroom, as demonstrated on the floor plan of the home, which was marked and accepted into evidence as Petitioners' Exhibit 7. The dwelling and surrounding property is depicted in a series of photographs, which were marked and accepted into evidence as Petitioners' Exhibits 9A through 9J. The photographs reveal that the home fronts on Burke Avenue with a driveway leading to a one car garage, but can also be accessed through an alley that runs along the rear of the property where Mr. Knell removed a patio area that was previously

surrounded by shrubs and bushes. Parking can be located in the garage and on the driveway, as well as the rear of the property.

Mr. Covahey elicited testimony from Mr. Knell demonstrating that Petitioners are professional landlords who also own an approximately 60-unit apartment complex known as "Quail Run" in Berlin, Maryland, just outside of Ocean City, Maryland. The Knells submitted letters in support of their petition from the Berlin Mayor and Police Chief, which were respectively marked and accepted into evidence as Petitioners' Exhibits 2 and 3. The letters indicate that the Knells have been an asset to the Berlin community, and are far from absentee landlords attempting to obtain an extra source of income without taking an active role in the maintenance and well being of their properties. The Knells live approximately 45 minutes from Towson, and Mr. Knell testified that he has given his contact information to several members of the surrounding community and is available to deal with any problems that may occur on the subject property.

While the B.C.Z.R. permit the Knells to lease this property to two unrelated people as of right, the Knells filed this Petition in an effort to obtain the authority to lease to a maximum of four unrelated people. According to Mr. Knell, the property is in an excellent location to lease to Towson University students, which is located in close proximity to the school. While Mr. Knell is charging a flat monthly rate of \$1,700 whether the property is leased to two or four people, he testified that it would benefit the Knells (by making it easier to find tenants) and the future lessees (by making the rent cheaper for students or families) if the property could be leased to three or four unrelated people. Mr. Knell conceded that the property has been leased to three or four unrelated people in the past, but indicated he was unaware of the regulation limiting rentals

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10-15-09

to two unrelated people. Relief is now requested to continue to lease to a maximum of four unrelated people in the future.

Following Petitioners' presentation of their case, approximately ten citizens testified at the public hearing, all in strong opposition to the request for special hearing. Again, for the sake of brevity, the witnesses will not be individually named, but their names are contained in the case file and are made a part of the record in this case. The witnesses, some of whom represented local community associations such as the Aigburth Manor Association of Towson, Inc., which encompasses the subject property, and the Greater Towson Council of Community Associations, which is an umbrella organization of 30 community associations, all expressed a number of concerns with this petition. Neighbors testified that since Mr. Knell cleared the vegetation in the rear of the property, students have begun to drive at excessive speeds, often late at night, in the alley that separates the property from a line of row houses. Neighbors are concerned that their children face a greater risk of injury because of the increased traffic, and also expressed concern with the congestion that has been caused by increased traffic flow to the property.

In addition, several citizens complained about the effects of permitting an increased number of students to live in homes in the small surrounding community. Neighbors have been burdened with loud music late at night, and one explained that she had to actually move her bedroom from the side of her home fronting the subject property to the far side of her home to reduce the noise emanating from the subject property. Excessive garbage, trash, and debris was another concern, and the Protestants submitted several photographs depicting these conditions on the property, which apparently have increased in the past few years due to the addition of the fourth bedroom in the home. The photographs were marked and accepted into evidence as Protestants' Exhibits 2A through 2K, and they reveal the changes to the layout of the backyard,

SEARCHED FOR PLATS  
10-15-09

the new parking area in the rear of the property, and displays of significant amounts of garbage in the front of the home. While the Protestants were understanding of the lack of housing available for Towson University students, they strongly opposed overcrowding their small community by permitting more than two unrelated people to live in a dwelling such as on the subject property. According to the Protestants, this is precisely the type of request that former Deputy Zoning Commissioner John V. Murphy was referring to when he denied a similar request in Case Number 2007-0294-SPH on the basis that it could create a domino effect in the surrounding community.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Comments were received from the Office of Planning dated September 3, 2009, which indicates that the property is located in a neighborhood that has capacity issues and Petitioners seek a boarding house for more than two unrelated adults. The neighborhood is currently zoned D.R.5.5 and has existing problems with traffic and parking. The neighborhood is within the boundaries of the traffic shed for a low rated traffic intersection and already has permit only off-street parking to manage the limited amount of parking spaces. Allowing more than two unrelated adults on a single property would set a precedent in this community, which would only further exacerbate its current overburdened conditions. Furthermore, the neighborhood has had a long history of rental properties being leased by multiple tenants beyond that which is permitted by the Regulations. These rental properties in the past have led to increases in nuisance crime, noise, illegal parking and lack of maintenance. The community has struggled and fought hard to remove any rental properties that were leasing more residents than legally allowed. Granting permission of a rooming house would also set a bad precedent for the

RESERVED FOR FILE  
10-15-09

neighborhood and could possibly set off a domino effect of other rental properties also looking for zoning relief for rooming houses.

Based on the testimony and evidence, I am not persuaded to grant the requested relief. I acknowledge that Mr. Covahey presented credible evidence in support of Petitioners' request, and I do not believe the Knells would act as absentee landlords with a complete disregard for the effects that their property would have on the surrounding community. That being said, based on the outpouring of testimony and letters opposing the requested relief, I cannot find that the boarding/rooming house would meet the requirements of section 502.1 of the B.C.Z.R.

That section requires, among other things, that a request would not tend to create congestion in roads, streets or alleys therein, and this was a major concern for all of the witnesses that testified at the public hearing as well as the Office of Planning. As a practical matter, if four unrelated students or other individuals were permitted to live in a single-family dwelling, there would likely be at least four cars on the property and often even more to accommodate friends and other visitors. This is twice as many cars as would typically park on the property if the B.C.Z.R. were strictly enforced. In my view, permitting more than two unrelated adults to reside in the dwelling would cause congestion and increased traffic, contrary to Section 502.1.B of the B.C.Z.R.

Additionally, the Protestants raised legitimate concerns of safety for children, excessive music and noise, and increased amounts of trash and debris. Based on the collective testimony of the witnesses at the public hearing, along with the numerous letters contained in the case file, I find that this request would adversely impact the health, safety, and general welfare of this community. Accordingly, I shall deny the request for special hearing.

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10-15-09

In conclusion, it should be noted that the instant Petition does raise a legitimate, ongoing issue concerning the increase in enrollment at Towson University and the lack of housing available to students. On the one hand, many of the homes in the Towson community, such as the subject property, were built long ago -- mostly in the 1930's and 40's -- and were intended for use by a single family. The small surrounding neighborhoods along Burke Avenue and the adjoining streets are simply not equipped to handle the inflow of university residents. On the other hand, the university and its student body are left with a situation where there is an unfulfilled need for student housing, with a recent increase of approximately 4,000 enrolled students and only approximately 600 beds on campus to accommodate for this growth. Unfortunately, this conundrum cannot be solved by an Order from the Office of the Zoning Commissioner. Rather, with each incoming freshman class, it will likely continue to be a source of tension between the school and the nearby Towson community unless or until some sort of compromise or agreement can be reached.

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

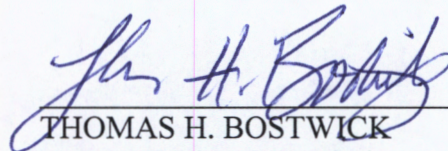
THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 15<sup>th</sup> day of October, 2009, that Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for a rooming house for a maximum of four (4) unrelated adults pursuant to Sections 408B.1 and 502.1 of the B.C.Z.R. be and is hereby **DENIED**; and

~~RECEIVED FOR FILE~~  
10-15-09



IT IS FURTHER ORDERED that Petitioners' request for Special Hearing relief to approve a modification of Section 1B01.1.B.1.b of the B.C.Z.R. pursuant to Section 408.B.1.A.2.g of the B.C.Z.R. be and is hereby **DISMISSED AS MOOT**.

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

  
\_\_\_\_\_  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz

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10-15-09



**BALTIMORE COUNTY**  
M A R Y L A N D

JAMES T. SMITH, JR.  
*County Executive*

THOMAS H. BOSTWICK  
*Deputy Zoning Commissioner*

October 15, 2009

BRUCE COVAHEY, ESQUIRE  
COVAHEY, BOOZER, DEVAN & DORE  
614 BOSLEY AVENUE  
TOWSON MD 21204

Re: Petition for Special Hearing  
Case No. 2010-0042-SPH  
Property: 115 Burke Avenue

Dear Mr. Covahey:

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

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

Very truly yours,

THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz

Enclosure

c: Wayne And Lisa Knell, 1854 Chesapeake Road, Pasadena MD 21122  
*See Attached List*

**BALTIMORE COUNTY, MARYLAND**  
**Interoffice Memorandum**

DATE: August 6, 2009  
TO: Zoning Commissioner and File  
FROM: Leonard Wasilewski, Planner II, Zoning Review  
SUBJECT: Petition for Special Hearing  
Case No. 2010-0042-SPH  
(115 Burke Avenue)

**A.** For clarification, this office accepted a Petition for Special Hearing, for a Rooming/Boarding House on August 6, 2009 from the property owner, Wayne J. Knell.

**B.** During the filing appointment the petitioner was advised that four parking spaces were required (only 3 shown) and that access to the parking spaces needs to macadam or some type of dustless durable surface. Additionally, the driveway access from Burke Avenue appears to have a 7 ' width on the side of the house.

Please call me if you have any questions.

LW



Tax Account# 09-13-750700  
Rec'd Ref. 6065/593

# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 115 Burke Avenue  
which is presently zoned DR S.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

*a rooming house for a maximum of 4 unrelated adults (pursuant to Section 408.B.1 and 502.1, BC2R) and should approve a modification of Section 1801.1B.1.b, BC2R (pursuant to Section 408B.1.A.2.g, BC2R).*

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

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

### Contract Purchaser/Lessee:

### Legal Owner(s):

Name - Type or Print \_\_\_\_\_  
Signature \_\_\_\_\_  
Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

\* Wayne J. Knell  
Name - Type of Print \_\_\_\_\_  
\* Wayne J. Knell  
Signature \_\_\_\_\_  
\* Lisa S. Knell  
Name - Type of Print \_\_\_\_\_  
\* Lisa S. Knell  
Signature \_\_\_\_\_

### Attorney For Petitioner:

\* 1854 Chesapeake Rd. \* 410-439-1252  
Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
\* Pasadena \* MD \* 21122  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Name - Type or Print \_\_\_\_\_  
Signature \_\_\_\_\_  
Company \_\_\_\_\_  
Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

### Representative to be Contacted:

Name \_\_\_\_\_  
Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

### OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING \_\_\_\_\_

UNAVAILABLE FOR HEARING \_\_\_\_\_

Case No. 2010-0042 SPH

Reviewed By [Signature] Date 8/6/09

REV 9/15/98

RECEIVED FOR FILING  
10-15-09  
[Signature]

# Zoning Description

ZONING DESCRIPTION FOR 115 Burke Avenue, Baltimore, MD 21286

Beginning at a point on the south side of Burke Avenue which is 50 feet wide at the distance of 125 feet west of the centerline of the nearest improved intersecting street, Aigburth Avenue which is 50 feet wide, containing 6,041 square feet. Also known as 115 Burke Avenue and located in the 9<sup>th</sup> Election District, 5<sup>th</sup> Councilmanic District.

“As recorded in Deed Liber 26025, Folio 593” with the following metes and bounds:

N 05°08'57" E 125.00',

S 84°51'03" E 48.33',

N 05°08'57" E 125.00',

S 84°51'03" E 48.33' to the place of beginning.

2010-0042-SPH

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT  
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

---

---

For Newspaper Advertising:

Item Number or Case Number: 2010-0042-SPH  
Petitioner: WAYNE J KNELL & LISA S. KNELL  
Address or Location: 115 BURKE AVE

PLEASE FORWARD ADVERTISING BILL TO:

Name: WAYNE J KNELL  
Address: 1854 CHESAPEAKE RD.  
PASADENA, MD 21122  
Telephone Number: C-410-977-6447 H-410-439-1252

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

No. 11797

Date: 8/6/07

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	206	FWO		650					325.00

Total: 325.00

Rec From: Wayne J Kroll JR

For: 115 Burke Ave

7732

2002-0046-574

DISTRIBUTION

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

PLEASE PRESS HARD!!!!

CASHIER'S  
 VALIDATION

**NOTICE OF ZONING HEARING**

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

Case: # 2010-0042-SPH  
115 Burke Avenue  
S/side of Burke Avenue,  
125 feet west of centerline  
of Alburgh Avenue  
9th Election District  
5th Councilmanic District  
Legal Owner(s): Wayne &  
Lisa Knell

**Special Hearing:** for a use permit for a rooming house for a maximum of 4 unrelated adults and should approve a modification of section 1B01.1.B.1.b, BCZR (RTA).

Hearing: Friday, October 2, 2009 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III  
Zoning Commissioner for  
Baltimore County

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

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

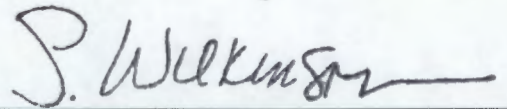
9/322 Sept. 17 213878

# CERTIFICATE OF PUBLICATION

\_\_\_\_\_ 9/17 \_\_\_\_\_, 2009

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 ~~successive weeks~~, the first publication appearing on 9/17 \_\_\_\_\_, 2009.

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



LEGAL ADVERTISING



Requested: March 10, 2010

**APPEAL SIGN POSTING REQUEST**

**CASE NO.: 10-042-SPH**

115 Burke Avenue

5<sup>th</sup> ELECTION DISTRICT

APPEALED: 11/10/09

**ATTACHMENT** – (Plan to accompany Petition – Petitioner’s Exhibit No. 8)

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

**CERTIFICATE OF POSTING**

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

Attention: Theresa Shelton  
Administrator

**CASE NO.: 10-042-SPH**

**LEGAL OWNER: Wayne and Lisa Knell**

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

115 BURKE AVENUE  
S/S OF BURKE AVENUE, 125’ W/OF C/L OF AIGBURTH AVENUE

-----  
The sign was posted on \_\_\_\_\_, 200\_\_\_\_\_.

By: \_\_\_\_\_  
(Signature of Sign Poster)

\_\_\_\_\_  
(Print Name)



**BALTIMORE COUNTY**  
MARYLAND

JAMES T. SMITH, JR.  
*County Executive*

TIMOTHY M. KOTROCO, *Director*  
*Department of Permits and*  
*Development Management*  
August 28, 2009

**NOTICE OF ZONING HEARING**

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

**CASE NUMBER: 2010-0042-SPH**

115 Burke Avenue

S/side of Burke Avenue, 125 feet west of centerline of Aigburth Avenue

9<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owners: Wayne & Lisa Knell

Special Hearing for a use permit for a rooming house for a maximum of 4 unrelated adults and should approve a modification of section 1B01.1.B.1.b, BCZR (RTA).

Hearing: Friday, October 2, 2009 at 9:00 a.m. in Room 104, Jefferson Building,  
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco  
Director

TK:klm

C: Wayne & Lisa Knell, 1854 Chesapeake Road, Pasadena 21122

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURS., SEPTEMBER 17, 2009**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY  
Thursday, September 17, 2009 Issue - Jeffersonian

Please forward billing to:  
Wayne Knell  
1854 Chesapeake Road  
Pasadena, MD 21122

410-439-1252

---

## NOTICE OF ZONING HEARING

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

**CASE NUMBER: 2010-0042-SPH**

115 Burke Avenue

S/side of Burke Avenue, 125 feet west of centerline of Aigburth Avenue

9<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owners: Wayne & Lisa Knell

Special Hearing for a use permit for a rooming house for a maximum of 4 unrelated adults and should approve a modification of section 1B01.1.B.1. b, BCZR (RTA).

Hearing: Friday, October 2, 2009 at 9:00 a.m. in Room 104, Jefferson Building,  
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-837-3391.



HELEN KEPLINGER &  
G.T. KEPLINGER  
1 EAST BURKE AVENUE  
TOWSON MD 21286

FAY CITERONE  
KNOLLWOOD-DONNYBROOK  
IMPROVEMENT ASSOC  
PO BOX 19131  
TOWSON MD 21284

CHRISTIA RABORN  
REMAX  
THE EXECUTIVE BLDG.  
22 WEST ROAD  
BALTIMORE MD 21204

ERIC HIEMSTRA, PRESIDENT  
FELLOWSHIP FOREST COMMUNITY  
ASSOCIATION  
503 HILLEN ROAD  
TOWSON, MD 21286

MARY LOUISE STENCHLY  
63 AIGBURTH AVENUE  
TOWSON 21286

JOYCE ROUTSON  
142 MARBURTH AVE  
TOWSON MD 21286

JUDY GREGORY  
1116 STEVENSON LANE  
TOWSON MD 21286

MARY CAROL BRUFF  
15 HILLSIDE AVE  
TOWSON MD 21286

DAVID RILEY  
7609 KNOLLWOOD RD  
TOWSON MD 21286

KAY CRONIN  
1861 LOCH SHIEL ROAD  
TOWSON MD 21286

B. FLORENCE NEWMAN  
8 MARYLAND AVENUE  
TOWSON MD 21286

PETER & MARGARET FISHER  
144 MARBURTH AVENUE  
TOWSON MD 21286-1144

KAREN & FRED PARKS  
23 NORMAL TERRACE  
TOWSON MD 21286

PAUL HARTMAN  
18 1/2 CEDAR AVE  
BALTIMORE MD 21286

CAMMY THOMAS  
111 BURKE AVE  
TOWSON MD 21286

RICHARD PARSONS  
412 WOODBINE AVE  
TOWSON MD 21204

FAY CITERONE  
909 RAPPAIX CT  
TOWSON MD 21286

ROBERT BATTISTA  
202 AIGBURTH RD  
TOWSON MD 21286

SUE CORNISH  
213 GARDEN RD  
TOWSON MD 21286

MAGGIE DATES  
1857 LOCH SHIEL ROAD  
TOWSON MD 21286

PAUL S. HARTMAN, PRESIDENT  
AIGBURTH MANOR ASSOC OF  
TOWSON INC  
PO BOX 20143  
TOWSON MD 21284-0143

TRACEY MARCANTONI  
27 NORMAL TERRACE  
TOWSON MD 21286

DR & MRS HAROLD GRISWOLD  
23 HILLTOP ROAD  
TOWSON MD 21286

TONI THOMAS  
140 MARBURTH AVE  
TOWSON MD 21286

PAT FRANCE  
7508 KNOLLWOOD RD  
TOWSON MD 21286

MICHAEL ERTEL  
505 WEST JOPPA RD  
TOWSON MD 21204

CHRIS RABORN  
601 WILTON RD  
TOWSON MD 21286

GEORGE ALLEN  
58 BURKLEIGH RD  
TOWSON MD 21286

JAY MARTIN  
71 BURKSHIRE RD  
TOWSON MD 21286

ED KILCULLEN  
100 MARYLAND AVE  
TOWSON MD 21286

RICHARD SPOONER  
8411 COCO RD  
ROSEDALE MD 21237

PETER MOULDER  
1552 DELLSWAY RD  
TOWSON MD 21286

DAVID ZOLL  
16 AIGBURTH RD  
TOWSON MD 21286

ZACH COON  
23 MARYLAND AVE  
TOWSON MD 21286

W TURLINGTON  
1509 CRANWELL RD  
LUTHERVILLE MD 21093

ELAINE MIGINSKY  
106 EAST PADONIA RD  
TIMONIUM MD 21093

SR EVELYN GRUDZA  
9 SKIDMORE CT  
TOWSON MD 21204

NANCY PIVEC  
934 RADCLIFFE RD  
TOWSON MD 21204

RITA MELNICK  
120 WILLOW AVE  
TOWSON MD 21286

WENDY KWIATKOWSKI  
12 MARYLAND AVE  
TOWSON MD 21286

BRENDA AMES-LEDBETTER  
9 MARYLAND AVE  
TOWSON MD 21286



County Board of Appeals of Baltimore County

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

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

May 12, 2010

NOTICE OF DELIBERATION

CASE #: 10-042-SPH IN THE MATTER OF: Wayne J. and Lisa S. Knell
Legal Owners /Petitioners
115 Burke Avenue / 9th Election District; 5th Councilmanic District

Having concluded this matter on 12/09/08 public deliberation has been scheduled for the following date /time:

DATE AND TIME : TUESDAY, AUGUST 24, 2010 at 9:00 a.m.

LOCATION : Hearing Room #2, Jefferson Building
105 W. Chesapeake Avenue, Second Floor - Suite 206
(adjacent to Suite 203)

NOTE: Closing briefs are due on Friday, July 23, 2010, no later than 4:00 p.m.
(Original and three [3] copies)

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

Theresa R. Shelton
Administrator

c: Counsel for Appellant/Petitioner : Bruce Edward Covahey
Appellant/Petitioner : Wayne J. and Lisa S. Knell

People's Counsel for Baltimore County
William Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

See Attached List - in Opposition



**BALTIMORE COUNTY**

M A R Y L A N D

JAMES T. SMITH, JR.  
*County Executive*

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

September 24, 2009

Wayne & Lisa Knell  
1854 Chesapeake Rd.  
Pasadena, MD 21122

Dear: Wayne & Lisa Knell

RE: Case Number 2010-0042-SPH, 115 Burke Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 6, 2009. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

W. Carl Richards, Jr.  
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel



BALTIMORE COUNTY, MARYLAND  
INTEROFFICE CORRESPONDENCE

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

**DATE:** August 19, 2009

**FROM:** Dennis A. Kennedy<sup>DAK</sup>, Supervisor  
Bureau of Development Plans  
Review

**SUBJECT:** Zoning Advisory Committee Meeting  
For August 17, 2009  
Item Nos. 2010-0041, 2010-042, 043 and 045

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

DAK:CEN:kmt

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-08192009 -NO COMMENTS.doc



State Highway Administration

Maryland Department of Transportation

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

Beverly K. Swain-Staley, Acting Secretary  
Neil J. Pedersen, Administrator

Date: August 15, 2009

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

RE: Baltimore County  
Item No. 2010-0042-SPH  
115 BURKE AVENUE  
KNELL PROPERTY  
SPECIAL HEARING -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2010-0042-SPH

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

*Michael P. Bailey*  
Steven D. Foster, Chief  
Engineering Access Permits  
Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

**DATE:** September 3, 2009

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

**SUBJECT:** 115 Burke Avenue

**INFORMATION:**

**Item Number:** 10-042

**Petitioner:** Wayne J. Knell

**Zoning:** DR 5.5

**Requested Action:** Special Hearing

**SUMMARY OF RECOMMENDATIONS:**

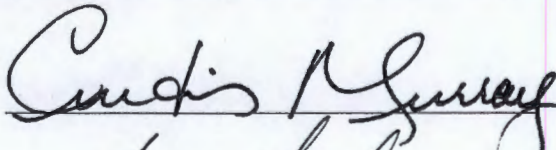
The subject property is located in a neighborhood that has capacity issues and the petitioner seeks a boarding house for more than two unrelated adults. The neighborhood is currently zoned DR 5.5 and has existing problems with traffic and parking. The neighborhood is within the boundaries of the traffic shed for a low rated traffic intersection and already has permit only off-street parking to manage the limited amount of parking spaces. Allowing more than two unrelated adults on a single property would set a precedent in this community which would only further exacerbate its current overburdened conditions.

Furthermore, this neighborhood has had a long history of rental properties being leased by multiple tenants beyond that which is permitted by the regulations. These rental properties in the past have led to increases in nuisance crime, noise, illegal parking and lack of maintenance. The community has struggled and fought hard to remove any rental properties that were leasing more residents than legally allowed. Granting permission of a rooming house would also set a bad precedent for the neighborhood and could possibly set off a domino effect of other rental properties also looking for zoning relief for rooming houses.

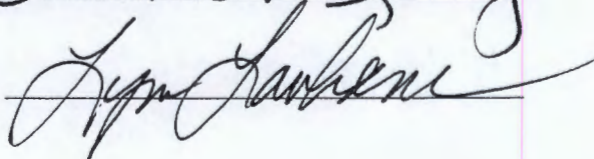
For all of the reasons stated above, The Office of Planning recommends **DENIAL** of the petitioner's request for a rooming house.

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

Prepared by:



Division Chief:  
AFK/LL: CM



TB 10/2  
9am

**BALTIMORE COUNTY, MARYLAND**

**Inter-Office Correspondence**



RECEIVED

SEP 29 2009

ZONING COMMISSIONER

TO: Timothy M. Kotroco  
FROM: Dave Lykens, DEPRM - Development Coordination  
DATE: September 29, 2009  
SUBJECT: Zoning Item # 10-042-SPH  
Address 115 Burke Avenue  
(Knell Property)

Zoning Advisory Committee Meeting of August 17, 2009

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

Reviewer: JWJ

Date: 9/29/09

RE: PETITION FOR SPECIAL HEARING  
115 Burke Avenue; S/S Burke Avenue,  
125' W of c/line of Aigburth Avenue  
9<sup>th</sup> Election & 5<sup>th</sup> Councilmanic Districts  
Legal Owner(s): Wayne & Lisa Knell  
Petitioner(s)

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR  
\* BALTIMORE COUNTY  
\* 10-042-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 27 2009

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 27<sup>th</sup> day of August, 2009, a copy of the foregoing Entry of Appearance was mailed to Wayne & Lisa Knell, 1854 Chesapeake Road, Pasadena, MD 21122, Petitioner(s).

*Peter Max Zimmerman*

\_\_\_\_\_  
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

Patricia Zook - Case No. 2010-0042-SPH – 15 Burke Avenue

---

**From:** Patricia Zook  
**To:** thehiemstras@gmail.com  
**Date:** 10/14/2009 3:19 PM  
**Subject:** Case No. 2010-0042-SPH – 15 Burke Avenue

---

Good afternoon Mr. Hiemstra -

I am preparing the mailing list for persons to receive a copy of the Order in the above referenced case. Your correspondence as President of the Fellowship Forest Community Association did not have a mailing address.

Please provide a mailing address to me so that we can make sure that you receive a copy of the Order when it is ready.

Patti Zook  
Baltimore County  
Office of the Zoning Commissioner  
105 West Chesapeake Avenue, Suite 103  
Towson MD 21204

410-887-3868

[pzook@baltimorecountymd.gov](mailto:pzook@baltimorecountymd.gov)

**From:** <KFCronin@comcast.net>  
**To:** tbostwick@baltimorecountymd.gov  
**Date:** 10/1/2009 3:32 PM  
**Subject:** Fwd: 1863 Loch Shiel Rd and calls for service

----- Forwarded Message -----

From: "Randy Guraleczka" <rguraleczka@baltimorecountymd.gov>  
To: KFCronin@comcast.net  
Cc: "George Morgan" <GMorgan@towson.edu>  
Sent: Tuesday, September 15, 2009 12:57:36 PM GMT -05:00 US/Canada Eastern  
Subject: Re: 1863 Loch Shiel Rd

Attached are the calls for service for 1863 Loch Shiel Rd. Calls for this past weekend are included.

>>> <KFCronin@comcast.net> 9/14/2009 4:51 PM >>>

Lt. Guraleczka,

Thank you for your response regarding 1863 Loch Shiel Rd. I would appreciate your forwarding the information concerning the calls for service as I have contacted my attorney in order to file a formal complaint with the owners of this property.

----- Original Message -----

From: "Randy Guraleczka" <rguraleczka@baltimorecountymd.gov>  
To: KFCronin@comcast.net  
Sent: Monday, September 14, 2009 10:10:31 AM GMT -05:00 US/Canada Eastern  
Subject: 1863 Loch Shiel Rd

Ms. Cronin, this is Lieutenant Guraleczka from the Towson Precinct. I got the voice mail messages you left on Sunday. I printed the calls for service at 8163 Loch Shiel Rd. I will talk to the Midnight Shift Commander to find out what his Officers observed there. I talked to Cpl. George Morgan from the Towson University Police. He is going to visit 8163 Loch Shiel this week and advise them of sanctions that will be taken by the University if problems persist at the residence. I also spoke to Ann Marie from Councilman Gardina's Office. She has taking care of keeping Code Enforcement up to date on the boarding issue.

## Calls for Service

Date Range = 08/14/2009 - 09/15/2009

and records3.mastlocation.district = '06' and (records3.mastlocation.streetaddr like '%1863 LOCH SHIEL%' or records3.mastlocation.xstreet like '%1863 LOCH SHIEL%' or records3.mastlocation.ystreet like '%1863 LOCH SHIEL%')

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092260175 **Date/Time:** 08/14/2009 2:28:06 AM

**Cross Streets:**

**RA:** 060710 **Disposition:** 8 **Call Type:** Disturbance **Unit:** 625 **Officer:** 3387

**Remarks:** ADV LOUD PARTY GOING ON AT LOC

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092411263 **Date/Time:** 08/29/2009 4:09:45 PM

**Cross Streets:**

**RA:** 060710 **Disposition:** 8 **Call Type:** Civil Matter **Unit:** 628 **Officer:** 4989

**Remarks:** CEILING COLLAPSED IN THE BEDROOM, UNK IF THE STRUCTURE OF THE HOME IS COMPROMISED . CLR RENTS HOME AND IS UNABLE TO GET IN TOUCH W/ HOMEOWNER CLR REQ FIRE DEPT TO CHECK STATUS OF HOME AND PD TO

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092470198 **Date/Time:** 09/04/2009 2:47:26 AM

**Cross Streets:**

**RA:** 060710 **Disposition:** 7 **Call Type:** Noise Complaint **Unit:** 628 **Officer:** 4508

**Remarks:** ADV GRP OF STUDENTS ARE OUTSIDE ARGUING..MAKING ALOT OF NOISE..POSS INTOX..ARE VERY LOUD

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092470216 **Date/Time:** 09/04/2009 3:03:32 AM

**Cross Streets:**

**RA:** 060710 **Disposition:** 7 **Call Type:** Noise Complaint **Unit:** 629 **Officer:** 5137

**Remarks:** LOUD PARTY AT LOC, LOTS OF DRUNKEN COLLEGE STUDENTS, REF CC #198

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092480130 **Date/Time:** 09/05/2009 1:15:16 AM

**Cross Streets:**

**RA:** 060710 **Disposition:** 7 **Call Type:** Neighbor Complaint **Unit:** 629 **Officer:** 4653

**Remarks:** INTOX FEMALE NBR TRIED TO OPEN COMPL DOOR TO SPEAK W/ HER, OCC'D ABT 30 MINS AGO INTOX FEMALE NBR TRIED TO OPEN COMPL DOOR TO SPEAK W/ HER, OCC'D ABT 30 MINS AGO 625 DIRECT HOLDING SENT

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092491886 **Date/Time:** 09/06/2009 11:00:10 PM

**Cross Streets:**

**RA:** 060710 **Disposition:** 8 **Call Type:** Noise Complaint **Unit:** 626 **Officer:** 4653

**Remarks:** LOUD PARTY W/ LOUD MUSIC

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092560089 **Date/Time:** 09/13/2009 12:43:09 AM

**Cross Streets:**

**RA:** 060710 **Disposition:** 8 **Call Type:** Noise Complaint **Unit:** 625 **Officer:** 3387

**Remarks:** SINCE JULY, ONGOING PROBLEM, COLLEGE STUDENTS, HAVING A LOUD PARTY MS. CRONIN CALLED BACK, ADV THAT PARTY HAS STOPPED

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092560292 **Date/Time:** 09/13/2009 2:44:24 AM

**Cross Streets:**

**RA:** 060710 **Disposition:** 7 **Call Type:** Noise Complaint **Unit:** 629 **Officer:** 5137

**Remarks:** LOUD PARTY. P.629 FOR STOPI W/ 610

**Address:** 1863 LOCH SHIEL RD **CC Number:** 092560323 **Date/Time:** 09/13/2009 3:09:39 AM

**Cross Streets:**

**RA:** 060710 **Disposition:** 8 **Call Type:** Check on Location **Unit:** 609 **Officer:** 3533

**Remarks:** LOUD PARTY, M & F ALSO ARGUING



APPLICATION FOR A USE PERMIT, PUBLIC HEARING REQUEST  
AND USE PERMIT IF NO PUBLIC HEARING IS REQUESTED  
FOR A BOARDING/ROOMING HOUSE IN  
A D.R. ZONE

APPLICATION TO THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT:

I, or we, WAYNE J KNULL JR. owner(s) of the property in Baltimore County and which is described in the description and plat attached hereto and made part hereof, hereby petition for a use permit under Subsection 408B of the Baltimore County Zoning Regulations (BCZR), to determine whether or not the Director of Permits and Development Management should issue a use permit. Said use permit is necessitated to permit the use of Boarding/Rooming house pursuant to the regulations of Subsection 408B. (BCZR).

I, or we, agree to have the property posted in accordance with Section 408B.A.2.a (BCZR) and pay expenses of processing upon filing of this request, additional public hearing fees and reposting if I decide to proceed after a Protestant's public hearing request and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

WAYNE J KNULL JR  
Owner (type or print name)  
Wayne J Knull Jr.  
Owner(s) Signature(s)

8-6-09  
Date  
115 BURKE AVE, TOWSON 21286  
Address (print or type) Zip  
Phone # Work - 410-977-6447  
Home 410-439-1252

APPLICATION INFORMATION BY SECTION:

- 408B.A.1.b - Scale Site plan required for zoning information & 200 scale zoning map
- 408B.B - Only single family detached houses
- 408B.A.1.a - Maximum numbers of tenants
- 409.6.A.1 - Will owner reside on property?
- 408B.D + Parking 1/bed & 2 (owners/resident) in side & rear yard only
- 408B.A.1.c
- 408B.A.1.d - Floor plans indicating bedrooms & bathrooms

POSSIBLE PUBLIC HEARING REQUEST

I, or we, \_\_\_\_\_ request that the proposed use permit be the subject of a public hearing as provided for in Section 408B.A.2.d of the zoning regulations. I also agree to pay the current established processing fee for this public hearing request.

Protestant's (type or print name) \_\_\_\_\_ Date \_\_\_\_\_

Protestant's Signature \_\_\_\_\_

Address (type or print) \_\_\_\_\_ Zip \_\_\_\_\_  
Phone # Work - \_\_\_\_\_  
Home \_\_\_\_\_

USE PERMIT

Pursuant to the posting of the property, in accordance with Section 408B.A.2.c2q (BCZR), and in the absence of a formal public hearing request, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, that the herein described USE PERMIT FOR A BOARDING/ROOMING HOUSE is in keeping with the spirit and intent of the Baltimore County Zoning Regulations and the use WILL NOT be detrimental to the health, safety, and general welfare of the surrounding community, subject to the following conditions precedent, if any, as determined appropriate by the Department of Permits and Development Management, and in accordance with the site plan dated \_\_\_\_\_, application, and description filed by the petitioner, is hereby \_\_\_\_\_ (subject to strict compliance with all of the provisions of the BCZR and any of the following site specific restrictions, which are conditions precedent to the granting of the use permit).

Director, Department of Permits and Development Management  
By: \_\_\_\_\_

BALTIMORE COUNTY PERMITS AND DEVELOPMENT MANAGEMENT  
111 West Chesapeake Avenue  
Towson, MD 21204

**SCHEDULED DATES AND CERTIFICATE OF FILING AND POSTING  
FOR A USE PERMIT FOR A BOARDING/ROOMING HOUSE**

The application for your proposed use permit has been reviewed and is accepted for filing by

\_\_\_\_\_ on \_\_\_\_\_  
Planner's Name (printed) Date ("A")

A sign indicating the proposed use permit must be posted on the property for fifteen (15) days before a decision can be rendered. The processing fee for the use permit is \$50.00. You must use one of the sign posters on the approved list and you are responsible for all printing/posting costs. The zoning notice must be visible on the property on or before the posting date noted. It should remain there through the closing date.

In the absence of a formal demand for a public hearing during the 15-day posting period, a decision can be expected within approximately four weeks. However, if a valid demand is received by the closing date, then the decision shall only be rendered after the required public special hearing (for which additional fees are required).

\* SUGGESTED POSTING DATE \_\_\_\_\_

"B"(within 15 days of "A")

DATE POSTED

HEARING REQUESTED - YES \_\_\_ NO \_\_\_ \_\_\_\_\_

(date)

CLOSING DATE (Last day for hearing demand) \_\_\_\_\_

"C" ("B" + 15 days)

\* Usually Within 15 Days of Filing

-----  
CERTIFICATE OF POSTING - BOARDING/ROOMING HOUSE

BRH # \_\_\_\_\_

Location of Property: \_\_\_\_\_

District: \_\_\_\_\_

Posted By: \_\_\_\_\_

Date: \_\_\_\_\_

Revised 10/23/08

BRH # 2010-02

Accepting Planner - Print Name \_\_\_\_\_

LAW OFFICES  
**JOHN G. ROLKER**  
14 W. SARATOGA STREET  
BALTIMORE, MARYLAND 21201

(410) 837-0942  
FAX (410) 625-0911



April 26, 2010

County Board of Appeals  
Jefferson Building, 2<sup>nd</sup> Floor, Suite 203  
105 W. Chesapeake Avenue  
Towson, MD 21204

ATTN: County Board of Appeals

RE: Case Number 10-042-SPH

This letter is to voice my opposition to granting an exception to the owner of the property above to operate a boarding house at 115 Burke Avenue in Towson.

Limiting the number of unrelated persons that can live in a dwelling in a residential area (of single family homes) has existed for a long time. To circumvent these intentions by allowing an exception for the property to qualify as a boarding house should not be granted.

The following are reasons:

1. The obvious intention of the request is to increase the potential for increased income to the property owner (investor). This is not in the community's best interest. It is not a reason to grant the request.
2. It is my understanding that during the ownership (of the current applicant for classification as a boarding house) several complaints were made to the police and authorities concerning excessive noise and disturbances. Granting an exception to the property's status would essentially give legitimacy to those types of offensive actions, by persons in residence, their invitees or others who decide to just show up.
3. Allowing any number of unrelated people to rent has resulted in problems in Greenbriar in the past three to four years. Specifically that occurred at houses on Stevenson Lane at Hillen Road and on Overcrest Road at Stevenson Lane. Those tenancies resulted not only in a loss of the community's rights to peaceful enjoyment of their property, but health related issues from uncut grass to excessive and improperly stored garbage.

PAGE 2

I have lived in the Towson area most of my 64+ years. I have lived in Stoneleigh, Rogers Forge, Hampton, the "Towson side" of Loch Raven Village, and, for the last 25 years, in Greenbrier.

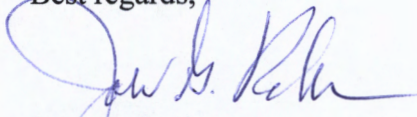
I am uncertain if it is the owner's intention to rent to students, but assume it must be. An excessive presence of unrelated occupants is ruining the neighborhoods in the area. Property values are declining where "off campus" housing is provided by uncaring landlords. There is increased traffic congestion and there are a number of accidents attributable to the students. As an example, my car was struck in the rear by a student residing "off campus".

The Towson area was at one time a special place to live. Now it is deteriorating. This will continue to change for the worse by allowing local properties to be converted to rooming houses.

There is an undeniable strain on various governmental budgets and services in any overcrowded area. When the overcrowding is caused by younger generation/temporary residents, the peace and tranquility of any area is threatened and crime increases. These are statistical certainties. I am familiar with the area around the house in question and can say that there is already a lack of street parking.

Your efforts to help us avoid the increased risks to our safety and health would be appreciated. A decision against allowance of these premises as a rooming house would actually benefit all neighboring communities in Baltimore County.

Best regards,



John G. Rolker  
Towson, MD 21286

CC: Council Vince Gardina  
400 Washington Avenue  
Towson, MD 21204

CC: County Executive Jim Smith  
400 Washington Avenue  
Towson, MD 21204

4/21/2010

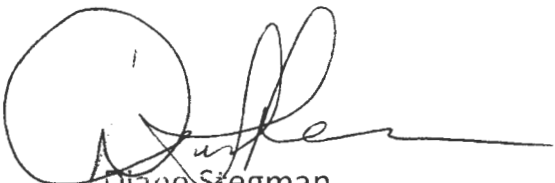
County Board of Appeals  
Jefferson Building, Second Floor, Suite 203  
105 W. Chesapeake Avenue  
Towson, MD 21204

Re: Case Number 10-042-SPH

To: The County Board of Appeals

I am a resident of the Greenbrier community. I am strongly opposed to granting a rooming house/boarding house permit in case number: 10-042-SPH. I believe it would adversely affect the general welfare of the residents in the surrounding areas. Given that Towson University is in high demand of housing with their expansion over the years I do not think our community should bear the burden and the price of providing for their housing needs. With the granting of this case, it would set a precedent for future requests resulting in changing the general familial atmosphere of our neighborhoods which has drawn people to live here.

Sincerely,



Diane Stegman  
505 Overcrest Road  
Towson, MD 21286  
410-458-0002

**RECEIVED**

**APR 26 2010**

**BALTIMORE COUNTY  
BOARD OF APPEALS**

Bellona-Gittings  
Community Association, Inc.

May 5, 2010

County Board of Appeals  
Jefferson Building  
Suite 203  
105 W. Chesapeake Ave.  
Towson, MD 21204

RECEIVED  
MAY - 7 2010

Re: Case # 10-042-SPH

BALTIMORE COUNTY  
BOARD OF APPEALS

Dear Sir:

The Bellona-Gittings Community Association would like to go on record as opposing the zoning appeal for 115 E. Burke Avenue to be granted a rooming house/boarding house permit. Such a permit would allow up to four unrelated tenants which could negatively affect the quality of life of the Aigburth Manor community, as well as other nearby communities. Trash, noise, and irresponsible behavior are problems communities are often forced to deal with when more than two unrelated tenants occupy a residence. This leads to the deterioration of neighborhoods and reduced property values which zoning codes are intended to protect.

We hope that the Board of Appeals will uphold the current zoning and its protections by denying the zoning appeal for a rooming house/boarding house permit for 115 E. Burke Avenue.

Yours truly,

*Nancy P. Maronick*

Nancy P. Maronick  
President  
5911 Charlesmead Ave.  
Baltimore, MD 21212

# Fellowship Forest Community Association Towson, Maryland

April 28, 2010

County Board of Appeals  
Jefferson Buildings, Second Floor Suite 203  
105 W. Chesapeake Avenue  
Towson, MD 21204

RE: Case Number: 10-042-SPH

Dear Board of Appeals,

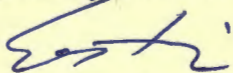
The Fellowship Forest Community Association strongly opposes any zoning relief that would allow a rooming house/boarding house at 115 Burke Avenue, or, for that matter, at any location near our community.

Fellowship Forest and the neighborhoods that surround it are primarily comprised of owner-occupied residences. Many of the residents in our community – young families and retirees alike – are or plan to be long-term residents who provide stability to our community and to Towson. It is these residential owners who contribute to this area and make it such a desirable and attractive place to live.

A rooming house would introduce a transient population into the community, at a time where there is an abundance of apartment space elsewhere in Towson. There is no compelling reason for this zoning relief request, other than the profit that the owner of the property stands to make. Allowing an exception to this zoning rule, which was established for an important purpose, will only open the door to more requests for rooming/boarding houses right in the heart of our communities.

We urge you to decline this request for zoning relief in order to protect and preserve the welfare and character of our communities.

Respectfully submitted,



Eric Hiemstra, President  
Fellowship Forest Community Association

**RECEIVED**

APR 29 2010

BALTIMORE COUNTY  
BOARD OF APPEALS

**Our Neighborhood — “Fellowship” since 1674**

Concerning **CASE NUMBER – 10-042-SPH**

April 24, 2009

County Board of Appeals  
Jefferson Building  
Second Floor, Suite 203  
105 W. Chesapeake Avenue  
Towson, MD 21204

Dear Sir:

This letter is to express my strong opposition to the appeal of the zoning case of 115 E. Burke Avenue. With many of my neighbors, I attended the original hearing to express my opposition to this request for a rooming house/boarding house permit at this address. I am still in opposition to this. Currently this house appears to be rented by a couple and there has been no issue to this community. In the past, there were as many as four to five residents and their various girlfriends/boyfriends living in the house. They reeked havoc in the neighborhood and caused safety issues for our children and noise/nuisance issues for the neighbors in the community. We do not need this; it is a family community.

A rooming house/boarding house permit would adversely affect the health, safety, and general welfare of our residents.

Please know that I am still **strongly opposed** to their request now for a rooming house/boarding house permit. Aigburth Manor and the surrounding neighborhoods are made up of primarily owner occupied residences. Our residents generally move into the community as young families, send their children to local schools, and stay in these homes into their retirement.

A rooming house invites a transient population that does not contribute to the community in any positive way. There is no shortage of apartment space in the Towson area. In fact there is an over abundance of unrented property at this time. This property at 115 Burke Avenue making the request has a short driveway that can accommodate no more than two cars. Because four students were living there, the owner cut down the shrubs in the back so that the four cars could park in the yard and exit through the alley. We have almost 16 young children in our neighborhood and it is dangerous to have them zooming out of that backyard into our narrow alley.

We see no need for a rooming house and feel it is a detriment to the general welfare of our communities. As I understand it, Baltimore County currently has no existing rooming house/boarding houses and now is **not** the time to permit one.

I urge you to consider the community in this matter. Thank you for giving this careful thought.

Respectfully submitted,

*Mary-Louise Stenchly*

Mary-Louise Stenchly  
63 Aigburth Avenue  
Towson, MD 21286

**RECEIVED**  
APR 28 2010

**BALTIMORE COUNTY  
BOARD OF APPEALS**



To: File  
10/8/09  
u

8 Maryland Avenue  
Towson, MD 21286  
October 3, 2009

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

RE: Case Number 2010-0042-SPH, Special Hearing for a Rooming House at  
115 Burke Avenue

Dear Zoning Commissioner:

I was unable to attend the hearing on the above matter because I had a long-standing doctor's appointment. I am against the Baltimore County zoning office giving a permit to allow a rooming house at 115 Burke Avenue.

The residence at 115 Burke has been illegally rented to over 3 unrelated individuals for a number of years. The owner is an absentee landlord and will be unable to responsibly supervise the property in the future, as he has been unable to supervise it in the past. Granting a Rooming House/Boarding House permit at 115 Burke Ave. would seriously take away from the family residential quality in our neighborhood.

Last year, a house on our street was occupied (illegally) by unrelated students while that landlord lived elsewhere. The students would hold noisy parties late at night, and in the morning the street would be littered with trash and beer bottles that the tenants made no effort to clean up. Small children live in our neighborhood; they should not have to live side-by-side with boarders who have no commitment to, or respect for, our community.

Please uphold the existing law, which was designed to keep residential family zones safe and wholesome for children and civic-minded adults.

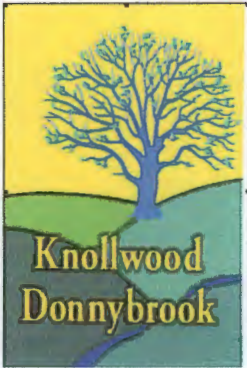
Please deny this request for a rooming house.

Cordially yours,

B. Florence Newman

B. Florence Newman

cc: Zoning Commissioner



Knollwood-Donnybrook Improvement Association

P.O. Box 19131  
Towson, MD 21284

RECEIVED

MAY - 7 2010

BALTIMORE COUNTY  
BOARD OF APPEALS

April 26<sup>th</sup>, 2010

RECEIVED

MAY 03 2010

ZONING COMMISSIONER

**RE: 115 Burke Ave. Case Number 2010-0042-SPH**

County Board of Appeals  
Jefferson Building  
105 West Chesapeake Ave., Suite 203  
Towson, MD 21204

The Knollwood-Donnybrook Improvement Association opposes in the strongest terms zoning relief that would allow a rooming house/board house at 115 Burke Ave., near our community. In 2007 our community fought just such a request. At that time the zoning commission ruled in the community's favor. (see Case 2007-294-SPH).

Knollwood-Donnybrook and the surrounding neighborhoods are made up of primarily owner occupied residences. Our residents generally move into the community as young families and stay in these homes into their retirement. They send their children to local schools and many participate in community activities. It is these owner occupants that make this area so attractive.

A rooming house invites a transient population that does not contribute to the community in any positive way. There is no shortage of apartment space in the Towson area. In fact there is an over abundance of unrented property at this time.

Over-renting, nuisance behavior and parking issues diminish the quality of our lives and property. The residents of Towson are fed-up with property owners who try every means possible to wiggle around Baltimore County code.

We see no need for a rooming house now or in the future and feel it is an enormous detriment to the general welfare of our communities.

Sincerely,

*Fay Citerone, Zoning and Code Enforcement Committee Chair,  
Knollwood-Donnybrook Improvement Association*

CC: Zoning Commissioner

# *The Greater Towson Council of Community Associations, Inc.*

♦ P.O. Box 5421 ♦ Towson, MD 21285-5421 ♦ [www.gtcca.org](http://www.gtcca.org)

May 7, 2010

Baltimore County Board of Appeals  
Jefferson Building, Second Floor, Suite 203  
105 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: 115 E. Burke Avenue  
Case No. 10-042-SPH

Members of the Board of Appeals:

I am writing on behalf of the Greater Towson Council of Community Associations (GTCCA) to express our strong support for the decision of the Deputy Zoning Commissioner denying the request for a rooming house permit in the above-referenced case.

This property was the subject of a rooming house/boardinghouse violation February 2009 for renting to more than two unrelated tenants. The owner was given several months to allow the tenants time to move out. In September 2009 Deputy Zoning Commissioner denied a request for a rooming house/boarding house permit.

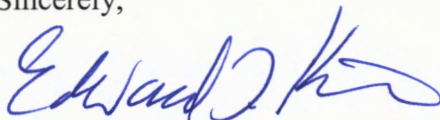
The Greater Towson area is increasingly targeted by investors seeking to capitalize on Towson University's severe housing shortage due to significant enrollment growth and insufficient on-campus housing. The number of rental properties has significantly increased with more and more students moving off-campus into the residential areas. This has had a negative impact on affected neighborhoods.

Allowing a rooming house permit will set a very dangerous precedent and will open the door for the many investors who own rental properties in the Towson area to follow suit and seek such permits for their properties. The Greater Towson Council of Community Associations strongly opposes this rooming house permit and respectfully requests that you deny the property owner's request.

The Deputy Zoning Commissioner heard evidence including testimony from affected members of the community and denied the requested permit. We urge the County Board of Appeals to support the community and affirm the decision of the Deputy Zoning Commissioner.

Thank you for your consideration.

Sincerely,

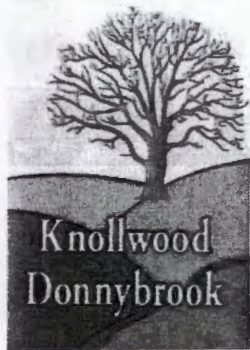


Edward T. Kilcullen, Jr.  
President

**RECEIVED**  
MAY - 7 2010

BALTIMORE COUNTY  
BOARD OF APPEALS

To: File 10/8/09  
UCR



Knollwood-Donnybrook Improvement Association

P.O. Box 19131  
Towson, MD 21284

October 2<sup>nd</sup> 2009

**RE: 115 Burke Ave. Case Number 2010-0042-SPH**

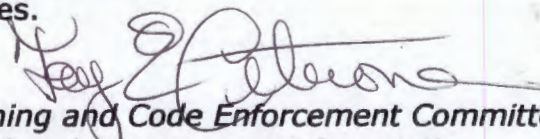
Zoning Review Office  
Jefferson Building  
105 West Chesapeake Ave., Suite 103  
Towson, MD 21204

The Knollwood-Donnybrook Improvement Association strongly opposes zoning relief that would allow a rooming house/board house at 115 Burke Ave., near our community. In 2007 our community fought just such a request. The zoning commission ruled in our favor at that time.

Knollwood-Donnybrook and the surrounding neighborhoods are made up of primarily owner occupied residences. Our residents generally move into the community as young families and stay in these homes into their retirement. They send their children to local schools and many participate in community activities. It is these owner occupants that make this area so attractive.

A rooming house invites a transient population that does not contribute to the community in any positive way. There is no shortage of apartment space in the Towson area. In fact there is an over abundance of unrented property at this time.

We see no need for a rooming house and feel it is a detriment to the general welfare of our communities.

Sincerely,  
  
Fay Citerone, Zoning and Code Enforcement Committee Chair,  
Knollwood-Donnybrook Improvement Association

CC: Zoning Commissioner

**Fellowship Forest Community  
Association**  
Towson, Maryland

*To File*  
*cc to Bill*

September 29, 2009

W. Carl Richards, Jr., Chief  
Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

**RE: 115 Burke Avenue // Case number: 2010-0042-SPH**

Dear Chief Richards,

The **Fellowship Forest Community Association** strongly opposes any zoning relief that would allow a rooming house/boarding house at 115 Burke Avenue, or, for that matter, at any location near our community.

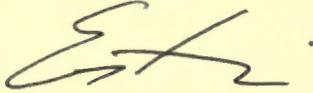
Fellowship Forest and the neighborhoods that surround it are primarily comprised of owner-occupied residences. Many of the residents in our community – young families and retirees alike – are or plan to be long-term residents who provide stability to our community and to Towson. It is these residential owners who contribute to this area and make it such a desirable and attractive place to live.

A rooming house would introduce a transient population into the community, at a time where there is an abundance of apartment space elsewhere in Towson. There is no compelling reason for this zoning relief request, other than the profit that the owner of the property stands to make. Allowing an exception to this zoning rule, which was established for an important purpose, will only open the door to more requests for rooming/boarding houses right in the heart of our communities.

**Our Neighborhood — “Fellowship” since 1674**

We urge you to decline this request for zoning relief in order to protect and preserve the welfare and character of our communities.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric Hiemstra". The signature is fluid and cursive, with a prominent initial "E".

Eric Hiemstra, President  
Fellowship Forest Community Association

Cc: William J. Wiseman, III, Zoning Commissioner

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD.21204

To whom it may concern,

I'm writing in regards to the property 115 Burke Avenue which is case number 2010-0042-SPH. I implore you to deny a change which would allow 4 unrelated people to live at 115 Burke Avenue. I live 5 houses from this property and already have lived next to disrespectful neighbors and have also lived in the city where this is allowed and it has not gone well to say the least. There is a reason this neighborhood has fought to have no more than 2 unrelated people in a home such as the noise, neighbors calling the police more from 10PM to 2ish ect.. Not only have I lived in neighborhoods with many unrelated folks in a house and believe me this is not conducive to a safe, family friendly atmosphere. I've also lived on group home with 4 or more unrelated people and more often than not nothing was done about neighbors complaints. This neighborhood has fought very hard to have no more than 2 unrelated people in a house and I hope you will continue to respect what we've worked so hard for and not make a change to allow 4 unrelated individuals to move into 115 Burke Ave.. This change would open the door for future problems in this neighborhoods as well as other areas.

Respectfully,  
Towson home owner

Towson, MD  
Sept. 20, 2009

Zoning Review Office  
Baltimore County Office Bldg., Rm 111  
111 W. Chesapeake Avenue  
Towson, MD 21204

Dear Sirs,

This letter is in regard to:

115 Burke Avenue, Case Number: 2010-0042-SPH  
Special Hearing for a use permit for a rooming house  
for a maximum of 4 unrelated adults to approve a  
modification of section 1B01.1.B.1.b., BCZR (RTA).

A rooming house invites a transient population that does not contribute to the community in any positive way. There is no shortage of apartment space in the Towson area. In fact, there is an over-abundance of unrented property at this time.

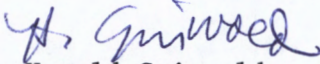
Aigburth Manor and surrounding neighborhoods are made up primarily of owner-occupied residences. We support the local schools and our children participate in community activities. Ours is a highly attractive area in which to live and raise children.

There is no doubt that granting the Rooming House/Boarding House permit will adversely affect the health, safety, and general welfare of our communities.

We strongly urge you to deny the above-mentioned permit.

Thank you.

Sincerely,

  
Dr. and Mrs. Harold Griswold  
23 Hilltop Rd  
Towson, MD 21286

cc: Zoning Commissioner  
Jefferson Bldg.  
105 W. Chesapeake Ave. Suite 103  
Towson, MD 21204



Reference: 115 Burke Avenue

Case number: 2010-0042-SPH

September 20, 2009

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

Dear Sir:

I am a resident of the Aigburth Manor community, living at 63 Aigburth Avenue, a few doors from the house that is requesting a rooming house/boarding house permit. This very same house has been brought before the zoning review once before and was in violation of having too many students in the house. They got a nice slap on the wrist!

Please know that I am **strongly opposed** to their request now for a rooming house/boarding house permit. Aigburth Manor and the surrounding neighborhoods are made up of primarily owner occupied residences. Our residents generally move into the community as young families, send their children to local schools, and stay in these homes into their retirement. I moved here in 1967, my children have attended the local schools and I am now living as a retiree in my home. I do believe that it is owner occupants like me that make this area so attractive to young families.

A rooming house invites a transient population that does not contribute to the community in any positive way. There is no shortage of apartment space in the Towson area. In fact there is an over abundance of unrented property at this time. This property at 115 Burke Avenue making the request has a short driveway that can accommodate no more than two cars. Because four students were living there, the owner cut down the shrubs in the back so that the four cars could park in the yard and exit through the alley. We have almost 16 young children in our neighborhood and it is dangerous to have them zooming out of that backyard into our narrow alley.

We see no need for a rooming house and feel it is a detriment to the general welfare of our communities. As I understand it, Baltimore County currently has no existing rooming house/boarding houses and now is **not** the time to permit one.

I urge you to consider the community in this matter. Thank you for giving this careful thought.

Sincerely yours,  
Mary-Louise Stenchly

Mr. & Mrs. Fred Parks  
23 Normal Terrace  
Towson, MD 21286

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

Re: Case number: 2010-0042-SPH

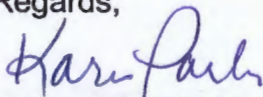
Dear Zoning Review Board:

We strongly object to the issuance of a permit for a rooming house on the property at 115 Burke Avenue for the following reasons:

- 1) Homeowners are drawn to communities of owner occupied residences precisely because of the owner occupied presence. The home owners provide a sense of community by being vested in the area through community organizations, schools, community events and pride in their homes. Rental properties typically detract from this sense of community. Rental occupants are not vested in the property or the community. There is no financial incentive for these occupants to maintain the properties and participate in the betterment of the community.
- 2) There is no need for additional rooming space. There is currently an oversupply of rental units in surrounding apartments and rental facilities.
- 3) The issuance of this permit would set a PRECEDENT for Baltimore County. There are currently no other rooming or boarding houses in the Baltimore County. An area that has an abundance of rental supply is the wrong place to begin.
- 4) And, a precedent decision of this magnitude for the county needs to include the participation of the county as a whole.

Thank you for taking our concerns about this permit into consideration.

Regards,



Karen & Fred Parks

Cc: Zoning Commissioner  
Jefferson Building  
105 West Chesapeake Avenue, Suite 103  
Towson, MD 21204

September 28, 2009

Peter and Margaret Fisher  
144 Marburth Avenue  
Towson, MD 21286-1144  
443-465-7527  
Prop. ID: 09-19-329520

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Ave.  
Towson, MD 21204

Reference: Case Number 2010-0042-SPH  
Property: 115 Burke Ave.

Subject: Special Hearing for a use permit for a rooming house for a maximum of 4 unrelated adults to approve a modification of section 1B01.1.B.1b., BCZR (RTA)

Members of the Zoning Review Office:

We wish to register our objection to the request of a use permit for a rooming house for a maximum of 4 unrelated adults for the property, 115 Burke Ave.

Aigburth Manor is a viable neighborhood that not only attracts new families to purchase and invest in this community, but also provides a stable environment for the older residents to feel comfortable and safe to continue to reside in their homes long into retirement. This dynamic is maintained primarily by the personal involvement of the residents themselves. The introduction of a stream of a transient population with no personal stake in the welfare of this community is a tipping point for a community to fracture. A boarding house situation, especially with an absentee landlord, puts the burden on neighbors to deal with reduced available parking in an already limited area, more trash in a rodent prone area, increasing noise, and of course, more visitors to that location exacerbating the fore-mentioned problems.

This review office can affect the positive image and protect the promising prospects of the Towson neighborhoods under its purview. We already have seen what greed has done to the housing markets in our economy and the resulting breakdown of communities.

September 28, 2009

Peter and Margaret Fisher  
144 Marburth Avenue  
Towson, MD 21286-1144  
443-465-7527  
Prop. ID: 09-19-329520

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Ave.  
Towson, MD 21204

Reference: Case Number 2010-0042-SPH  
Property: 115 Burke Ave.

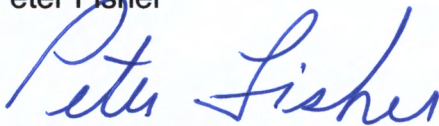
Subject: Special Hearing for a use permit for a rooming house for a maximum of 4  
unrelated adults to approve a modification of section 1B01.1.B.1b., BCZR  
(RTA)

This office of Zoning Review needs to affirm the hard earned reputation of the  
community of Aigburth Manor, as well as the surrounding neighborhoods, by upholding  
the values of a stable, congruous neighborhood which contributes socially,  
economically, and politically to provide a strong Towson community.

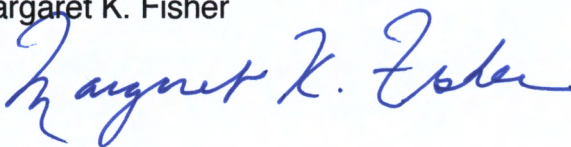
Please show the integrity of the Zoning Review Office in protecting those who actually  
live in this community, and by denying the request for the above mentioned use permit  
to the parties who have physically abandoned this neighborhood, with only the intent to  
financially profit from it.

Sincerely,

Peter Fisher



Margaret K. Fisher



cc: Zoning Commissioner  
Jefferson Building  
105 West Chesapeake Ave., Suite 103  
Towson, MD 21204

Aigburth Manor

2 October 2009

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

Re: Case number: 2010-0042-SPH

Dear Sir or Madam:

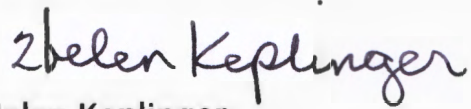
I write in reference to a Towson property located at 115 Burke Avenue, for which a use permit to allow a rooming house with a maximum of 4 unrelated adults has been sought. I realize that this letter will arrive after the hearing scheduled for October 2, 2009. My husband, son, and I are owners of a property at 1 E. Burke Avenue, where my son, a college professor, has lived since 2001. In that relatively short period of time the neighborhood continues to deteriorate due to over crowding of small row houses with large numbers of transient "unrelated adults" who have no stake in the welfare of the community at large. Because of the location of the neighborhood, and its proximity to Towson University, unrelated adults crowd into small homes which in turn crowds out young families who actually participate in community life, attend local schools, and contribute to the quality of life in this close in-town community.

To allow this permit (in effect a modification of the code section 1B01.1.B.1.b., BCZR (RTA)) would be a serious move that will jeopardize the safety and welfare of the entire family oriented community. There is already inadequate parking in this community. Four unrelated adults always means four more automobiles, and each of those unrelated adults always has a circle of friends who all also drive cars and park in the community. The amount of garbage generated by these four unrelated adults far exceeds the amount generated by a family. The family will as likely as not recycle. The four unrelated adults (lets call them college students) are never inclined to recycle----a serious health issue when the garbage and beverage containers spill into the alley ways, attracting rats which are an ever-present component of in-town life. The general welfare of these in-town communities is threatened by the influx of far more persons than the houses were designed to accommodate. The driving habits of these college students----especially after a night of partying----endangers the college students and anyone else who happens to be out and about, whether walking a dog or just enjoying the night air.

If Towson is serious about enforcing violations of the code, and serious about revitalizing its central core, these small communities that

were built just before and after WWII must be preserved and protected, not thrown to the wolves (the landlords who make "cash cows" out of modest little family houses that they rent to college students). Please do not grant this permit, and please continue to enforce the code and preserve these little pockets of affordable housing for people who do have a stake in the health, safety and welfare of their communities.

Yours truly,

A handwritten signature in black ink that reads "Helen Keplinger". The signature is written in a cursive style with a large initial 'H' and a long, sweeping tail on the 'g'.

Helen Keplinger

Cc:

Zoning Commissioner  
Jefferson Building  
105 West Chesapeake Avenue, Suite 103  
Towson, MD 21204



PLEASE PRINT CLEARLY

CASE NAME \_\_\_\_\_

CASE NUMBER \_\_\_\_\_

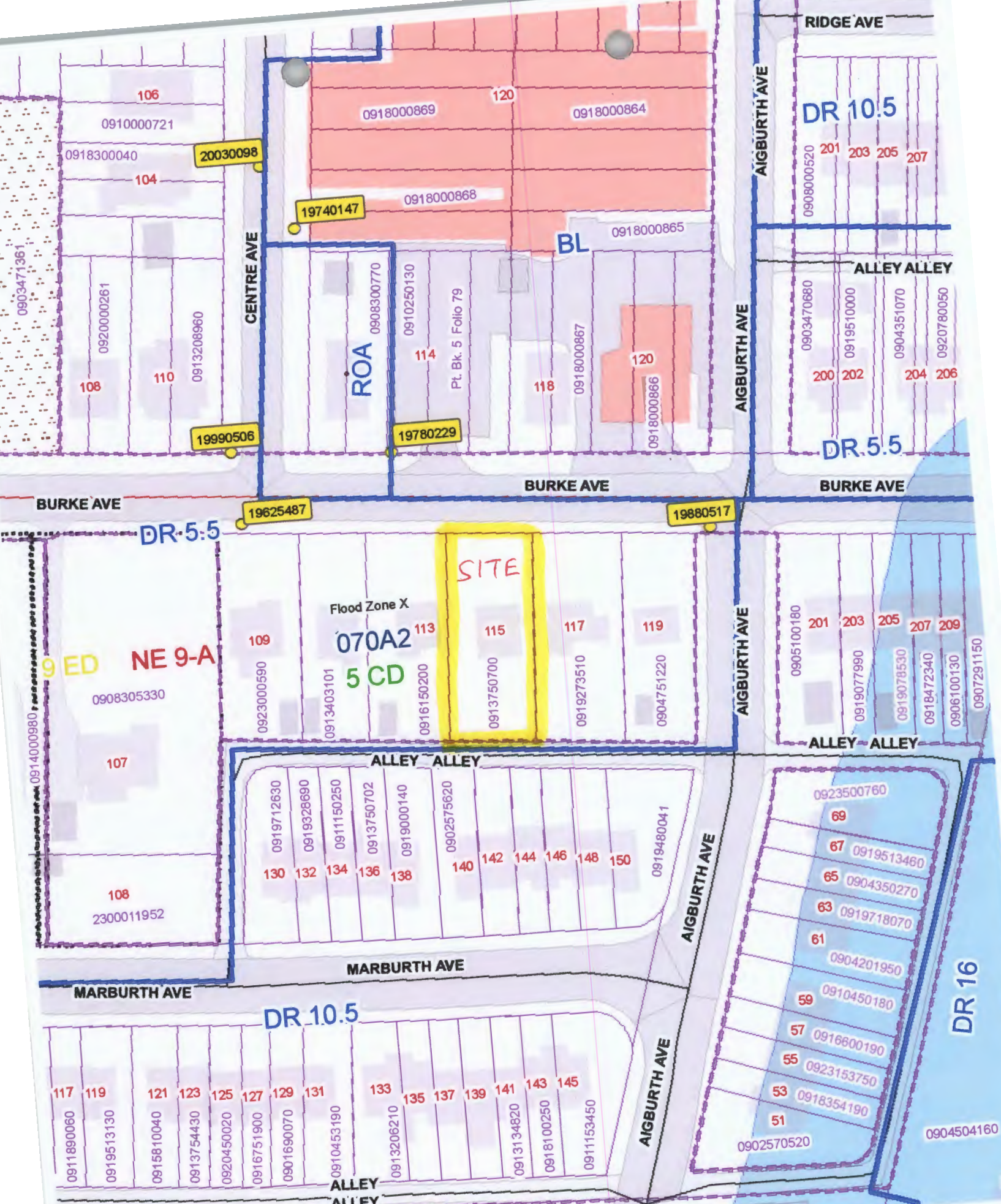
DATE \_\_\_\_\_

### CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Paul Hartman	18 1/2 Cedar Ave	Baltimore, MD 21286	paul@dirtylinen.com
TONI THOMAS	140 MARBURTH AVE	TOWSON 21286	Thomas, Antoinette@gmail.com
Joyce Routsen	142 Marburth Ave	" "	jroutsen@verizon.net
Ammy Thomas	.111 Burke Ave	Towson 21286	gregbthomas@comcast.net
PAT FRANCE	7508 Knollwood Rd	21286	PATFRANCE@CENTROL-INC.COM
Judy Gregory	1116 Stevenson Lane	Towson, MD 21286	thedygregory@comcast.net
Richard Parsons	412 Woodburne Ave	Towson MD 21204	RParsons@BCPL.net
Michael Ertel	505 West Joppa Rd	Towson, MD 21204	mkertel@aol.com
Mary Carol Bruff	15 Hillside Ave	Towson MD 21286	c-bruff08@comcast.com
Mary-Louise Stenchly	63 Aigburth Ave	TOWSON MD 21286	MLSTENCHLY@VERIZON.NET
Fay Citerone	909 Rappaix Ct	Towson MD 21286	Fay.Citerone@gmail.com
Chris Raborn	601 Wilton Rd.	Towson, MD. 21286	chris.raborn@gnail.com
DAVID RILEY	7609 KNOLLWOOD RD	TOWSON, MD 21286	
Robert Battista	202 Aigburth Rd	Towson MD 21286	bob.b12@comcast.net
Herold Griswold	23 Hilltop Rd	Towson MD 21286	griswold@tccorson.edu
GEORGE ALLEN	58 BURKLEIGH Rd.	Towson, Md 21286	GSTMASERS@hotmail.com
Jay Martin	71 Berkshire Rd.	Towson, Md 21286	
G.T. Keplinger	1 East Burke Ave	Towson, MD 21286	gkeplinger@comcast.net
Ed KILCULLEN	100 MARYLAND AVE	TOWSON, MD 21286	ede@gtcca.org
Richard M. Spomer	8411 Coco Rd Rosedale Md. 21237-		







SITE

Flood Zone X

070A2  
5 CD

2010-0042-SPH



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

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

**Account Identifier:** District - 09 Account Number - 0913750700

**Owner Information**

<b>Owner Name:</b>	KNELL WAYNE J, JR KNELL LISA S	<b>Use:</b>	RESIDENTIAL
<b>Mailing Address:</b>	1854 CHESAPEAKE RD PASADENA MD 21122-5813	<b>Principal Residence:</b>	NO
		<b>Deed Reference:</b>	1) /26065/ 593 2)

**Location & Structure Information**

<b>Premises Address</b>	<b>Legal Description</b>
115 BURKE AVE	LT SS BURKE AV 115 BURKE AVE 500 E OF MARYLAND AV

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:
70	14	483						2	

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1940	1,848 SF	6,000.00 SF	04

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	ASBESTOS SHINGLE

**Value Information**

	Base Value	Value		
		As Of	Phase-in Assessments	As Of
		01/01/2008	As Of	07/01/2010
Land	90,000	108,000		
Improvements:	136,470	171,500		
<b>Total:</b>	<b>226,470</b>	<b>279,500</b>	<b>261,822</b>	<b>279,500</b>
Preferential Land:	0	0	0	0

**Transfer Information**

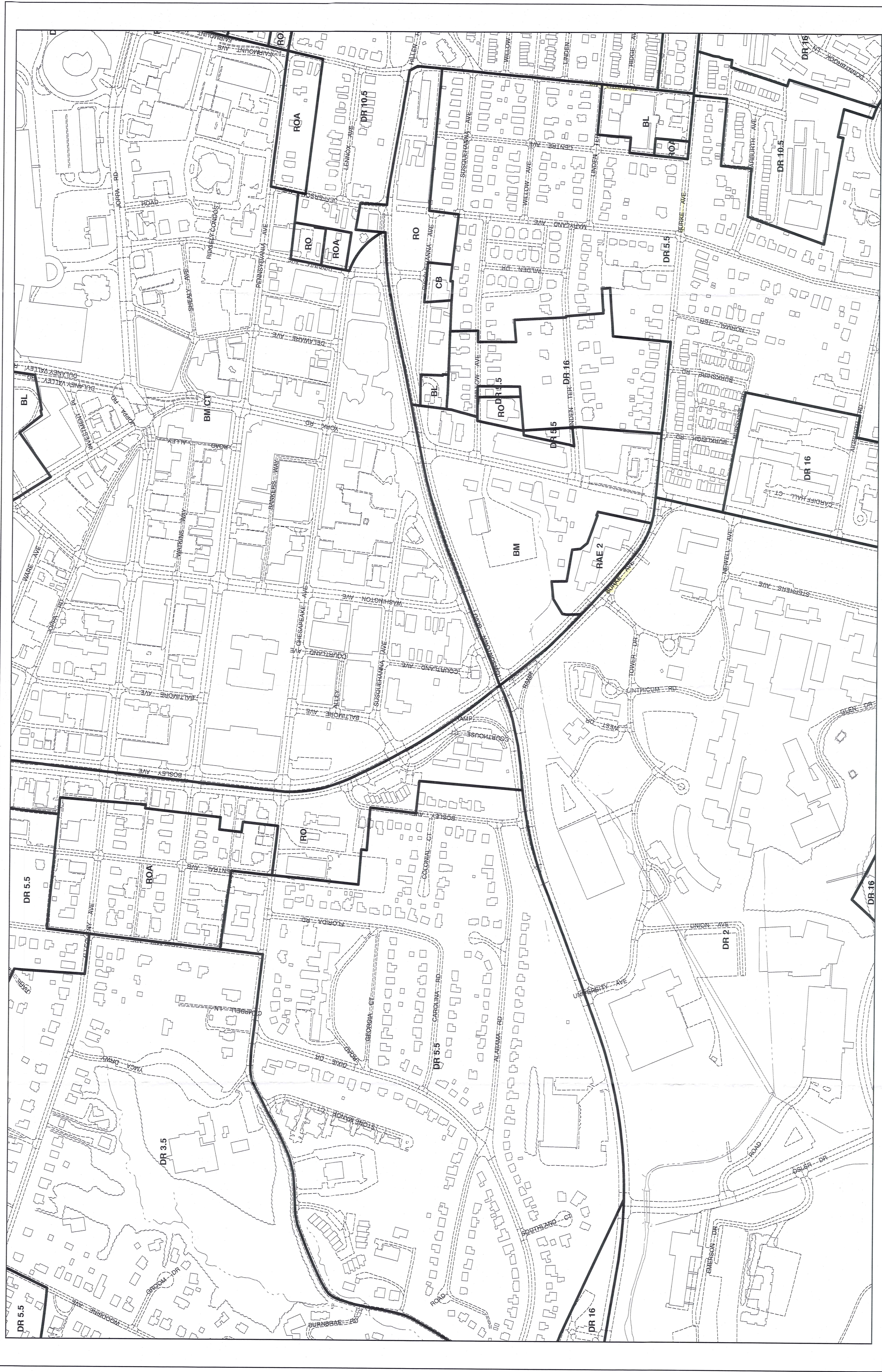
<b>Seller:</b> SPOONER RICHARD M	<b>Date:</b> 08/20/2007	<b>Price:</b> \$0
<b>Type:</b> NOT ARMS-LENGTH	<b>Deed1:</b> /26065/ 593	<b>Deed2:</b>
<b>Seller:</b> ESSLINGER WARREN	<b>Date:</b> 09/09/1986	<b>Price:</b> \$78,000
<b>Type:</b> IMPROVED ARMS-LENGTH	<b>Deed1:</b> / 7304/ 164	<b>Deed2:</b>
<b>Seller:</b>	<b>Date:</b>	<b>Price:</b>
<b>Type:</b>	<b>Deed1:</b>	<b>Deed2:</b>

**Exemption Information**

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

**Tax Exempt:** NO      **Special Tax Recapture:** \* NONE \*





Plan Sheet: 070A2

Note:  
The zoning depicted in this application incorporates the actions associated with 2008 Comprehensive Zoning Map Process, zoning changes associated with an adopted Community Plan and Baltimore County Board of Appeals actions through December 31, 2008.

**Legend**

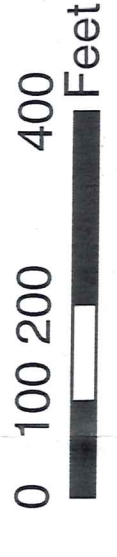
- Buildings
- Zoning
- Streams
- Roads
- Vegetation
- Rail Lines

**Baltimore County  
Office of Planning and Zoning  
Official Zoning Map**

069B1	069C1	070A1	070B1	070C1
069B2	069C2	070A2	070B2	070C2
069B3	069C3	070A3	070B3	070C3

**Scale**

1" = 200'



Data Sources:  
Aerial Data - Baltimore County  
CITRIS Site List  
1:2400 - from 1985/86 photography  
Zoning - Baltimore County Office of Planning  
1:2400, 2008

CBA Re No 8



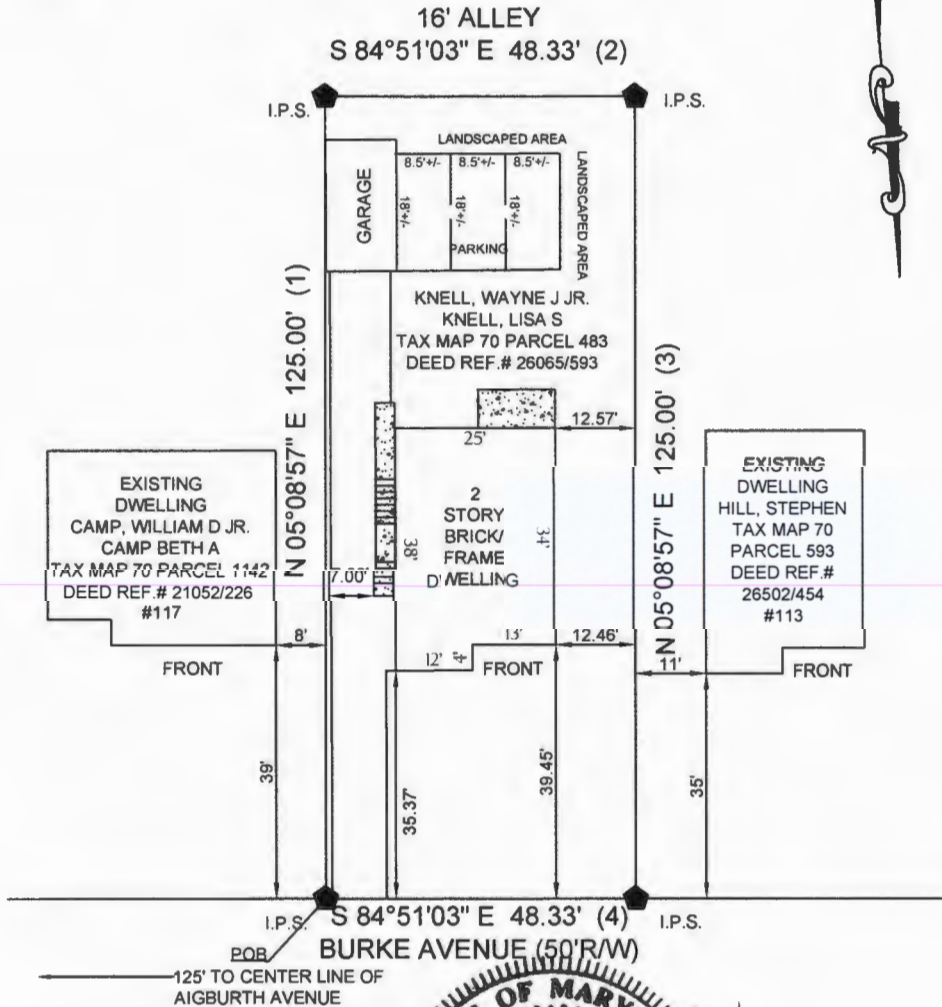
CPA  
#5

# PLAT TO ACCOMPANY PETITION FOR ZONING

VARIANCE  SPECIAL HEARING

PROPERTY ADDRESS: 115 BURKE AVE.  
 BALTIMORE, MD 21286  
 PROPERTY OWNER: KNELL, WAYNE J JR. & LISA  
 DEED REF.# 26065/593

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION



## LOCATION INFORMATION

ELECTION DISTRICT: 9TH  
 COUNCILMANIC DISTRICT: 5TH  
 1"=200' SCALE MAP # 070A2  
 ZONING: DR 5.5  
 LOT SIZE: 6041.25 SQFT. / .14 AC. +/-  
 PARKING REQUIRED FOR 4 TENANT BEDS = 4  
 PARKING PROVIDED FOR 4 TENANT BEDS = 4

	PUBLIC	PRIVATE		
SEWER:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	YES	NO
WATER:	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
CHESAPEAKE BAY CRITICAL AREA A	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
100 YEAR FLOOD PLAIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
HISTORIC PROPERTY/ BUILDING	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
PRIOR ZONING HEARING	<input type="checkbox"/>	<input checked="" type="checkbox"/>		

## ZONING OFFICE USE ONLY

REVIEWED BY	ITEM #	CASE #
<i>ZW</i>	2010	0042-SPH

SCALE 1"=30'

Schulte & Assoc. Inc.  
 4399 MOUNTAIN ROAD  
 PASADENA, MD 21122  
 PHONE: 410-360-9464  
 FAX: 410-360-0247



1	IN THE MATTER OF:	* BEFORE THE
2	Wayne J. and Lisa S. Knell	* COUNTY BOARD OF APPEALS
3	Legal Owners/Petitioners	* OF
4	115 Burke Avenue	* BALTIMORE COUNTY
5	9th Election District	* CBA-10-042-SPH
6	5th Councilmanic District	* May 11, 2010

\* \* \* \* \*

8           The above-entitled matter came on for hearing  
9 before the County Board of Appeals of Baltimore County,  
10 Hearing Room #2, Jefferson Building, 105 W. Chesapeake  
11 Avenue, Towson, Maryland 21204, at 10 a.m., May 11, 2010.

\* \* \* \* \*

21   Reported by: Carolyn E. Peatt



Case No.: 2010-0042-5PH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	DEED (2007)	Comm. Assoc. Letter
No. 2	Letter Mayor Berlin	(A-K) PHOTOS
No. 3	Letter Police Chief	(A-L) Series Letters opposing
No. 4	BC Police call list	
No. 5	Rental Registration Report	
No. 6	Map of property	
No. 7	Floor Plan	
No. 8	Site Plan	
No. 9	A-J PHOTOS	
No. 10	SHA COMMENT	
No. 11		
No. 12		

0026065 593

NO CONSIDERATION  
NO TITLE EXAMINATION

DEED

This Deed, MADE THIS 18 day of JULY in the year TWO THOUSAND AND SEVEN by and between **RICHARD M. SPOONER** and **CARLYN J. SPOONER**, parties of the first part, and **WAYNE J. KNELL, JR. and LISA S. KNELL, his Wife**, parties of the second part.

**WITNESSETH**, That in consideration of the sum of One Dollar (\$1.00) the actual consideration is none as the Grantees are the daughter and son in law of the Grantor and other good and valuable considerations, the receipt whereof is hereby acknowledged the said **RICHARD M. SPOONER and CARLYN J. SPOONER**, parties of the first part do grant and convey to the said **WAYNE J. KNELL, JR. and LISA S. KNELL**, his Wife as tenants by entireties, the survivor of them and the survivors personal representatives and assigns, in fee simple, all that lot or parcel of ground, situate, lying and being in Baltimore County, State of Maryland, and described as follows, that is to say:

**BEGINNING** for the same on the southeast side of Burke Avenue at a point measured along the southeast side of Burke Avenue South 77 degrees 57 minutes East 457 feet from the corner formed by the intersection of the southeasternmost side of Burke Avenue and the easternmost side of Maryland Avenue, running thence along the southeast side of Burke Avenue South 77 degrees 57 minutes East 48 and 33/100ths feet, thence running at right angles to Burke Avenue





TELEPHONE 410-641-2770  
FAX 410-641-2316

# Mayor & Council Of Berlin

10 William Street Berlin, Maryland 21811

September 25, 2009

Zoning Commission  
Towson, Maryland

Dear Members of the Towson Zoning Commission:

I understand that Mr. Wayne Knell is appearing before you to seek a zoning variance for one his properties in your jurisdiction. I do not wish to infer any opinion or knowledge regarding the particular zoning request, but simply offer my comments on the Town of Berlin's experience with Mr. Knell, as a property owner of one of our community's subsidized housing projects.

Mr. Knell has been an owner of the Quail Run Apartments I & II in the Town of Berlin, Worcester County, Maryland for the past five years. During that time we have witnessed dramatic and significant improvement in the maintenance of the property and the conduct of the residents.

The Town of Berlin earlier this year became the first in the State of Maryland to initiate a "Community Prosecutors" program under the direction of our local State's Attorney. The purpose of the program is to end open air drug market activity in our town and is based on the highly successful program that originated in High Point, North Carolina.

The owners and property manager of the Quail Run Apartments have been totally supportive of this effort and extended their full commitment and cooperation to the Town of Berlin and local law enforcement. Quite frankly, they took many pre-emptive measures to improve the quality of life for their residents and that of the immediate neighborhood, long before the town started this broader-based initiative.

I believe you will find Mr. Knell to be an honest and straightforward person to work with whose actions show that he cares about the properties for which he is responsible.

Sincerely,

Wm. Gee Williams III  
Mayor

P.S. --- Forty years ago, my wife, an Ocean City girl, attended Towson University while I was a student at the University of Maryland, College Park. We have many fond memories of your community and the many kindnesses we were extended from local residents and businesses during that time.

**Mayor**  
WM. GEE WILLIAMS, III

**Vice President**  
ELROY BRITTINGHAM, SR.

**Council Members**  
DEAN BURRELL, SR.  
LISA HALL  
PAULA LYNCH  
TROY PURNELL

**Town Attorney**  
DAVID GASKILL

**Town Administrator**  
ANTHONY J. CARSON, JR.





## Berlin Police Department

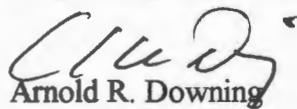
10 WILLIAM STREET  
BERLIN, MARYLAND 21811

September 28, 2009

To Whom It May Concern:

The reason for this letter is to state that Mr. Wayne Knell has been an active owner/property manager in the Town of Berlin for the past five years. During this time, Mr. Knell and his partners have transformed Quail Run Apartments an apartment with various issues and community concerns (prior to his ownership) into a valued part of the neighborhood. During the change, Mr. Knell and his staff removed problem tenants, installed surveillance equipment, and renovated many of the units within the apartment complex in an effort to improve the quality of life. Mr. Knell has shown a true concern for his tenants and the community. If you have any questions or concerns about this letter please feel free to call.

Respectfully Submitted,



Arnold R. Downing  
Chief of Police



CALLS FOR SERVICE @ 115 BURKE AVENUE  
 JANUARY 1, 1999 - SEPTEMBER 13, 2009

STREETADDR	CFS_NUM	DTG_CALL_RECEIVED	DISPOSITION	CALL TYPE	CALLER_NAME	REMARKS
115 E BURKE AV E	991970159	07/16/1999 02:50:45	1	Suicide, ATTEMPT		SUICIDAL SUBJ AT LOC CUT HER WRIST....
115 BURKE AV E	000870140	03/27/2000 05:25:00	8	Check on Location	913	SEE A JENNIFER UNGER, LOOKING FOR A GRACE STUBY, #2F 11/16/77, 5'2 112# AND ADV FOR 913 GRACE IS NOT THERE A/629 0528 HRS
115 BURKE AV E	001241108	05/03/2000 17:32:00	8	Anonymous Calls/Telephone Misuse	MS UNGERER	KNOWN ADULT MALE & FM CALLING COMPL, THREATENING HER LIFE & FAMILY. WILL ADV FURTHER SENT FOR DELAY
115 BURKE AV E	001270028	05/06/2000 00:15:44	8	Check on Location	MS UNGERER	WAS THREATENED COUPLE DAYS AGO JUST HEARD LOUD BANG DOWN STAIRS IS AFRAID SOMONE TRYING TO KICK OP EN FRT DOOR AND GET IN
115 BURKE AV E	001610145	06/09/2000 03:08:36	8	Check on Location	MS UNGERER	CALLER ADV SHE HEARS SOMEONE IN HER DOWNSTAIRS W/ HER ROOMATE, THINKS SOMETHING IS WRONG CALLER THINKS SOMEONE MAY HAVE BROKEN IN BUT ISNT SURE, COULD POSS BE AN EXFRIEND OF HERS BUT ISNT SURE ADV SHE HAS BEEN THREATENED RECENTLY AND THINKS SUBJ THREATENING HER 613 OUT W/SUBJ SYCAMORE/E LAKE CALLER ADV SHE THINKS SHE HEARD SOMEONE RUN OUT REAR OF LOC, NFI HARBAUGH, BRYANT KENNETH 041275 2/M
115 BURKE AV E	003581387	12/23/2000 20:04:15	1	Hit & Run Accident - Property Damage	MS BARNES	NO SUSP INFO, REPORT
115 BURKE AV E	011771556	06/26/2001 21:10:49	8	Traffic Stops	680	WT VW EYS436
115 BURKE AV E	012670155	09/24/2001 04:16:59	8	Suspicious Condition	JENNIFER	COMPL'S EXBOYFRIEND JUST LEFT THREATENED THE COMPL AND HER NEW BOYFRIEND'S LIFE DRIVING A WHITE BMW
115 BURKE AV E	031620440	06/11/2003 09:10:02	8	Traffic Stops	627	GRN SUBARU DBV576
115 BURKE AV E	052720514	09/29/2005 09:31:06	1	Destruction of Property	DEBORAH DANKELMAN	TO VEH..NO SUSP INFO..OCCD SOMETIME OVERNIGHT..
113 & 115 BURKE AV E	090010174	01/01/2009 01:25:35	8	Disturbance	JOYCE ROUTSON	TOWSON UNIVERSITY STUDENTS HAVING TWO LOUD PARTIES @ LOC .. COMPL ADV SUBJ ARE ON BACK PORCHES OF BOTH LOCS , REOCCURRING PROBLEM 627 OWES CODES
115 BURKE AV E / UPDATED LOC	090411902	02/10/2009 22:54:45	7	Noise Complaint	KATHY SIROTA,	COLLEGE AGE KIDS HAVING LOUD PARTY..SUBJS ARE OUTSIDE AT HOUSE ACROSS FRM RADEBAUGH'S FLORIST

TO: SGT. PARRISH

9/14/2009

1



FROM: K. MCCUBBIN

## DISPOSITION CODES:

1. **Report**
2. **Report; Unfounded** (incident did not occur)
3. **Report; Incident Handled By Another Agency**
4. **Report; Incident Unverified** (can not substantiate occurrence)
5. **No Report; Unfounded** (incident did not occur)
6. **No Report; Incident Handled By Another Agency**
7. **No Report; Incident Unverified** (can not substantiate occurrence)
8. **No Report; Incident Adjusted**
9. **No Accident Report; MVA forms issued, occurred on public property**
10. **No Accident Report; MVA forms issued, occurred on all other property**

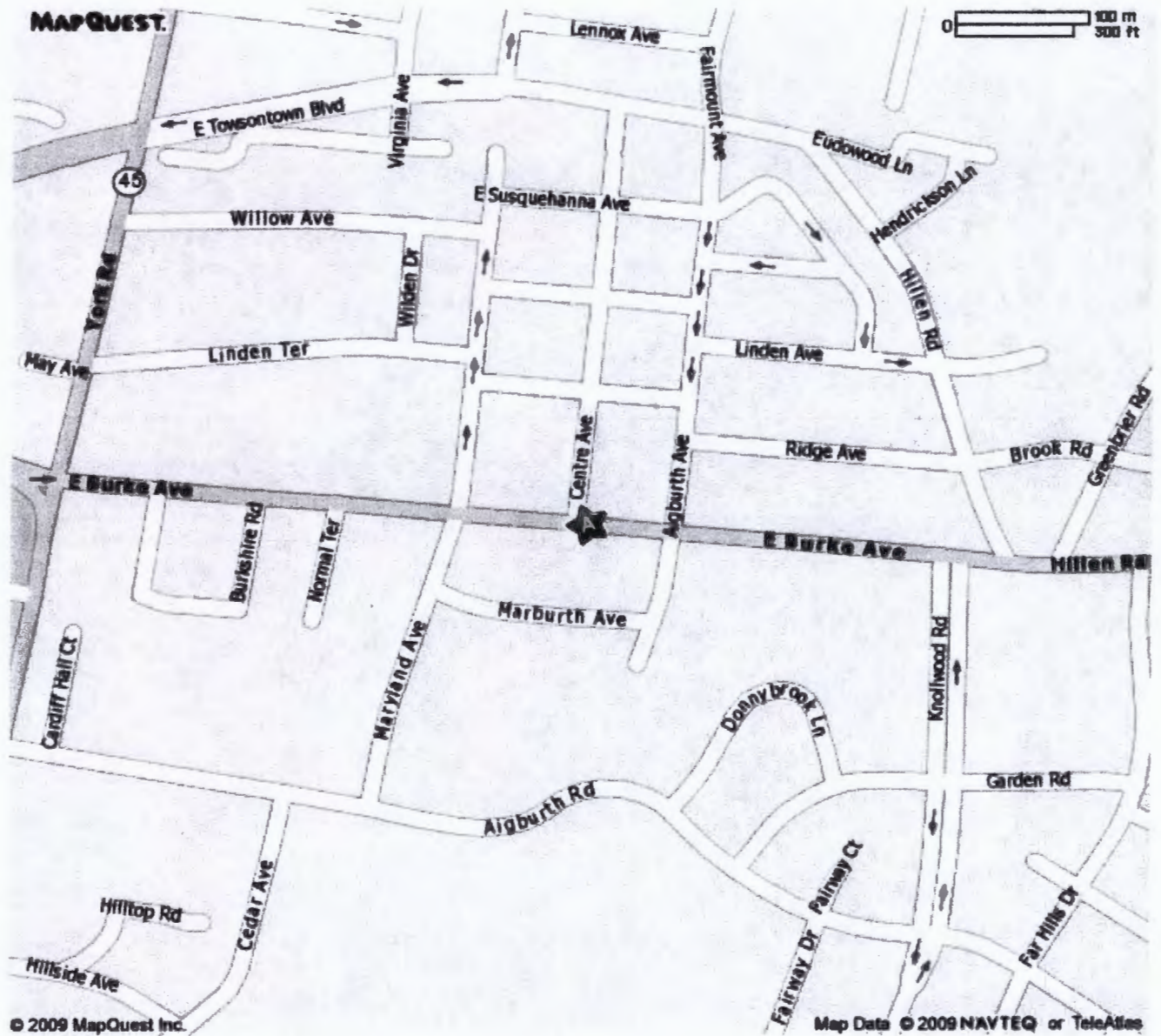


BALTIMORE COUNTY  
MARYLAND

# Rental Registration Program Report Alphabetical by Street Name

PETITIONER'S  
EXHIBIT  
5

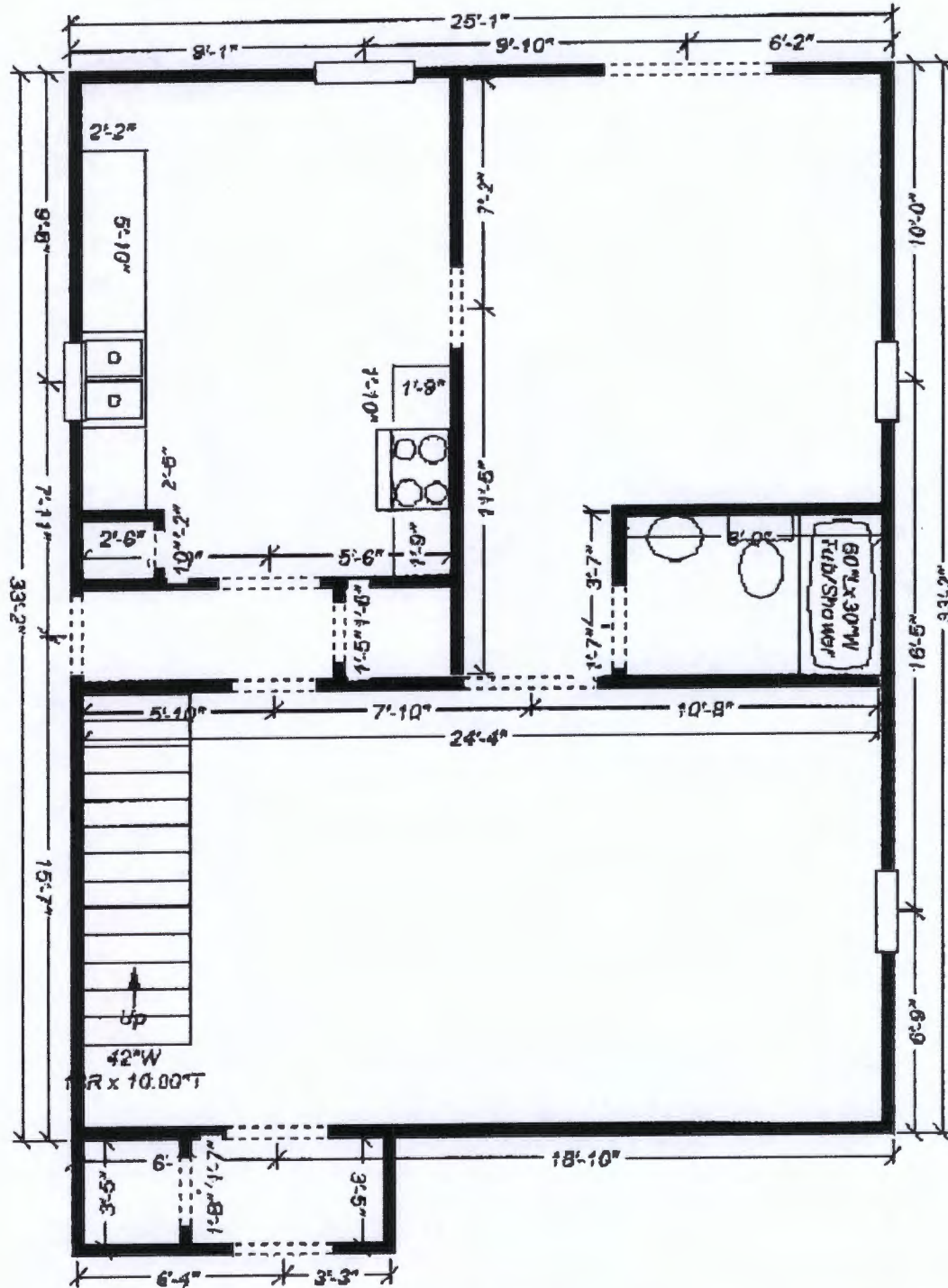
<u>Rental Property Address</u>	<u>Unit</u>	<u>Zipcode</u>	<u>Owner Name(s)</u>	<u>Owner Address</u>	<u>Number of Units</u>	<u>Exempt *</u>
<b>Rental Street: 10TH</b>						
2811 10TH ST		21219	MICHAEL R MUHL / CHRISTINE M MUHL-KEENER	16 PELCZAR AVE MD 21221	1	NO
9606 10TH AVE		21234	GUSAM PROPERTIES LLC	PO BOX 42241 MD 21284	1	NO
9705 10TH AVE		21234	ELIZABETH J PALMER	3300 PEMBROOK RD, LOT 525 FL 33021	1	NO
<b>Rental Street: 11TH</b>						
2810 11TH ST		21219	RAY A BINETTI / SUZANNE S BINETTI	8806 HINTON AVE MD 21219	1	NO
<b>Rental Street: 12TH</b>						
2807 12TH ST		21219	RAY A BINETTI / SUZANNE S BINETTI	8806 HINTON AVE MD 21219	1	NO
2809 12TH ST		21219	RAY A BINETTI / SUZANNE S BINETTI	8806 HINTON AVE MD 21219	1	NO
<b>Rental Street: 1ST</b>						
101 1ST AVE		21227	WILLIAM DELAWDER / DENISE DELAWDER	7327 GAITHER ROAD MD 21784	2	NO
127 1ST AVE		21227	ROBERT K SMITH / SHARON K SMITH	5511 HEATHERWOOD RD MD 21227	1	NO
1312 1ST RD		21220	JEFFREY B HAAS	13000 EASATERN AVENUE MD 21220	1	YES (8)
1316 1ST RD		21220	CARVILLE A BIDDISON JR.	1605 WILSON POINT RD MD 21220	1	YES (1)
2636 1ST AVE		21227	DONALD M SCOTT	211 MOUNTAIN RD MD 21090	1	YES (8)
29 1ST AVE		21227	JASON HEAD	29 FIRST AVE MD 21227	1	NO
305 1ST AVE		21227	TIMOTHY POTTER	5252 TALBOTS LANDING MD 21043	1	NO
39 1ST AVE		21227	JOHN V ROLLINS	39 FIRST AVENUE MD 21227	1	YES (1)
5702 1ST AVE		21227	HENRY BRILL / BONNIE BRILL	1202 SWALLOW COURT MD 21227	2	NO
5709 1ST AVE		21227	DAVID MCINTYRE	5709 1ST AVE MD 21227	1	YES (1)
<b>Rental Street: 2ND</b>						
101 2ND AVE		21227	JOSEPH DUKES	PO BOX 964 MD 21784	1	NO
1208 2ND RD		21220	MARY A WEIS	14 BUTTERNUT DR MD 21220	1	NO
1418 2ND RD		21220	WILLIAM WETZELBERGER JR. / LORRAINE D WETZELBERGER	1806 WILSON POINT ROAD MD 21220	1	YES (8)
3018 2ND AVE		21234	IRIS BOND	9103 PANORAMA DRIVE MD 21128	1	YES (5)
3028 2ND AVE		21234	MARY A BUCHANAN	7829 OLD HARFORD ROAD MD 21234	1	NO
3034 2ND AVE		21234	NELLE C STULL	3033 3RD AVE MD 21234	1	YES (1)
31 2ND AVE		21227	MICHAEL KEARNS	31 SECOND AVE MD 21227	1	YES (1)
5721 2ND AVE	1 AND 2	21227	TIM LUECKING	301 RESERVE CT MD 21228	2	NO
<b>Rental Street: 32ND</b>						
7913 E 32ND ST	1 AND 2	21237	ADIELA MIKLEWSKI	7929 32 ND STREET MD 21237	2	NO
<b>Rental Street: 34TH</b>						
7904 34TH ST		21237	STEPHEN M RAVER	3413 NORTHWIND RD MD 21234	1	NO



All rights reserved. Use subject to License/Copyright Map Legend  
 Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our [Terms of Use](#)







PETITIONER'S  
EXHIBIT  
7

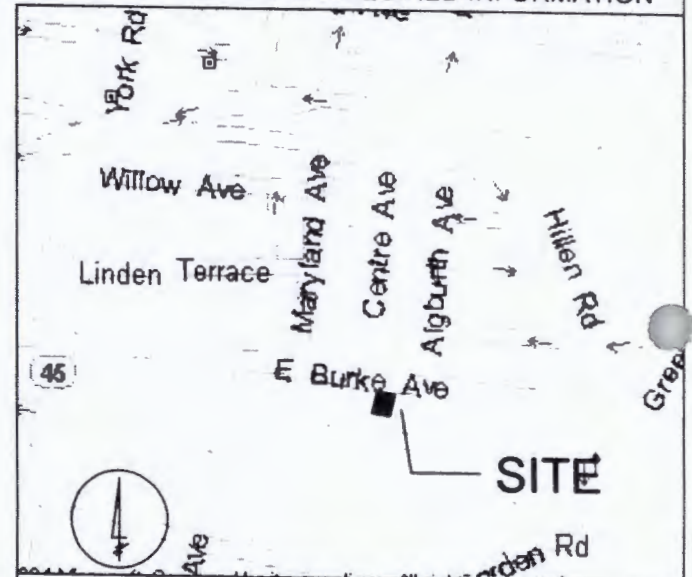
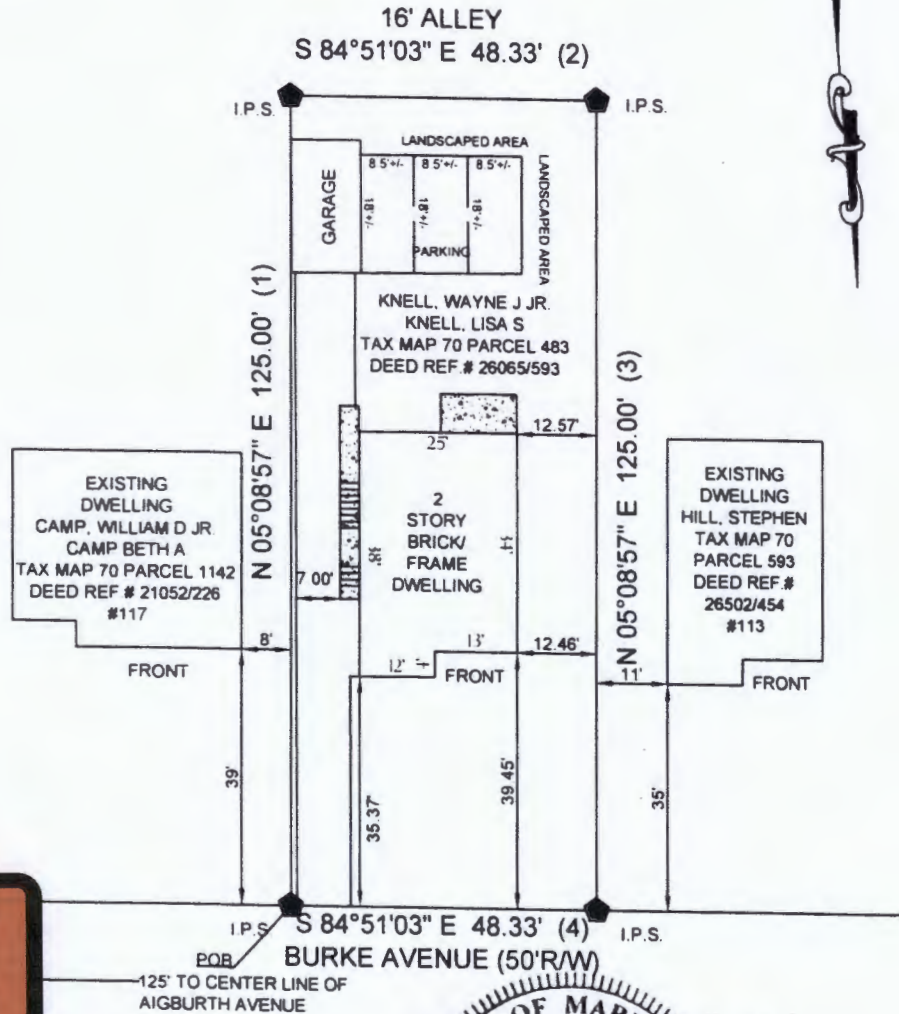
1ST FLOOR

# PLAT TO ACCOMPANY PETITION FOR ZONING

VARIANCE  SPECIAL HEARING

PROPERTY ADDRESS: 115 BURKE AVE.  
BALTIMORE, MD 21286  
PROPERTY OWNER: KNELL, WAYNE J JR. & LISA  
DEED REF. # 26065/593

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION



## LOCATION INFORMATION

ELECTION DISTRICT 9TH  
 COUNCILMANIC DISTRICT 5TH  
 1"=200' SCALE MAP # 070A2  
 ZONING: DR 5.5  
 LOT SIZE: 6041.25 SQFT. / 14 AC +/-  
 PARKING REQUIRED FOR 4 TENANT BEDS = 4  
 PARKING PROVIDED FOR 4 TENANT BEDS = 4  
 PUBLIC PRIVATE  
 SEWER:    
 WATER:    
 CHESAPEAKE BAY CRITICAL AREA  YES  NO  
 100 YEAR FLOOD PLAIN    
 HISTORIC PROPERTY/  
 BUILDING    
 PRIOR ZONING HEARING

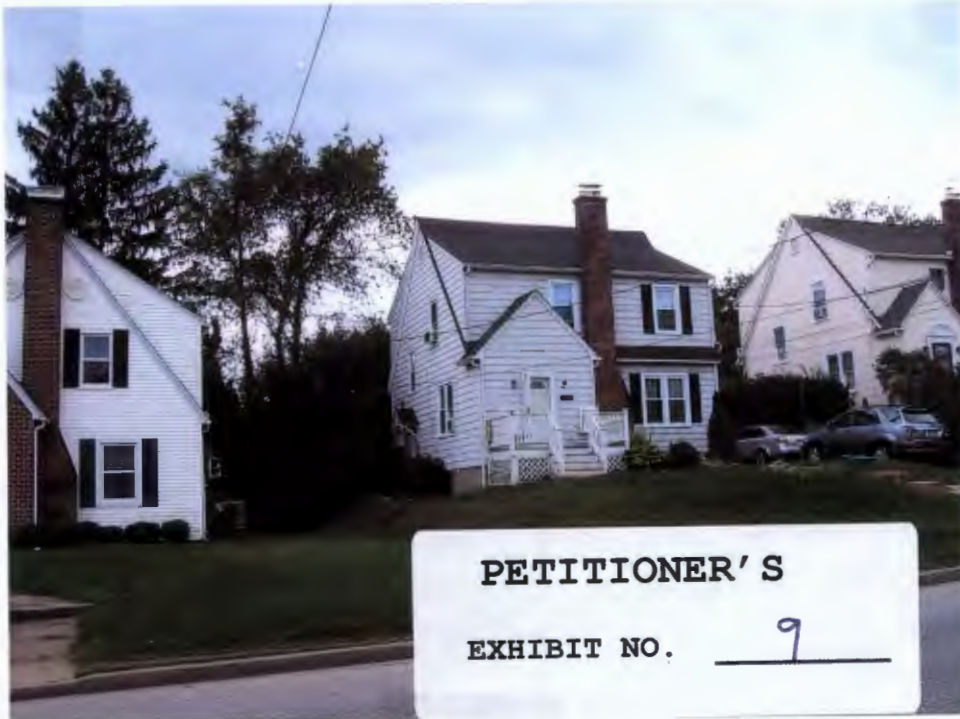
**PETITIONER'S EXHIBIT**  
**8**

Schulte & Assoc. Inc.  
4399 MOUNTAIN ROAD  
PASADENA, MD 21122  
PHONE: 410-360-9464  
FAX: 410-360-0247



SCALE 1"=30'

ZONING OFFICE USE ONLY  
 REVIEWED BY 1/1 ITEM # 7010 CASE # 0049 SPH



PETITIONER'S

EXHIBIT NO. 9











State Highway Administration

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

Beverly K. Swain-Staley, Acting Secretary  
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: August 15, 2009

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

RE: Baltimore County  
Item No. 2010-0042-SPH  
115 BURKE AVENUE  
KNELL PROPERTY  
SPECIAL HEARING -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2010-0042-SPH

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

*Michael P. Bailey*  
For Steven D. Foster, Chief  
Engineering Access Permits  
Division

SDF/MB



**BALTIMORE COUNTY, MARYLAND**  
**INTEROFFICE CORRESPONDENCE**

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

**DATE:** August 19, 2009

**FROM:** Dennis A. Kennedy<sup>DAK</sup>, Supervisor  
Bureau of Development Plans  
Review

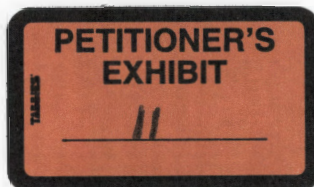
**SUBJECT:** Zoning Advisory Committee Meeting  
For August 17, 2009  
Item Nos. 2010-0041, 2010-042, 043 and 045

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

DAK:CEN:kmt

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-08192009 -NO COMMENTS.doc





Case No.: 2010-0042-SPH

Exhibit Sheet

Petitioner/Developer

**Protestant**

No. 1	DEED (2007)	Comm. Assoc. Letter
No. 2	Letter Mayor Berlin	(A-K) PHOTOS
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No. 9	A-J PHOTOS	
No. 10	SHA COMMENT	
No. 11		
No. 12		

# The Aigburth Manor Association of Towson, Inc.

P.O. Box 20143 • Towson, Maryland 21284-0143

Mr. William Wiseman  
Zoning Commissioner  
Jefferson Building  
105 W. Chesapeake Avenue, Suite 103  
Towson, Maryland 21204

RE: Case number: 2010-0042-SPH  
115 E. Burke Avenue

Dear Commissioner Wiseman,

The Aigburth Manor Association of Towson, Inc. voted to oppose the rooming house permit that has been requested for 115 Burke Avenue.

Towson University has been designated as the University System of Maryland's growth institution by the Board of Regents. In the past five years alone, enrollment has increased by at least 4,000 students. On-campus housing has grown by a mere 600 beds in approximately the past decade, which has resulted in thousands of students needing housing in the communities surrounding the University.

With a large influx of student renters come clashes in lifestyles. Residents, many of them families with children, have had to deal with frequent late-night parties, loud noise at all hours, excessive trash, and poorly-maintained properties where the owner does not live on premises. Renting to more than the two unrelated adults per unit that Baltimore County code allows brings more cars than the area was designed for, so some landlords are paving over back yards to allow more parking, thereby destroying valuable green space. Student renters are transients, only living in the area for at most a few years, and generally do not take an interest in the community nor put down roots.

Due to the proximity to Towson University, our neighborhood is a prime area for rental housing. Over the years, our old and established community of 135 single-family homes, some of them dating back to the pre-Civil War era, has seen many converted into absentee investor-owned rental properties. A recent inventory showed that 20% of our homes are now rental units. Neighboring Towson Manor Village has approximately 33% rentals, and Burkleigh Square has about 50%.

This hearing may be about granting a single rooming house permit, but if it is granted, many other landlords will be lining up. Once this dangerous precedent has been set, the community will have little hope of preventing future rooming house permits. This will irreversibly alter our neighborhoods for the worse. (The now vacant lots full of weeds along Burke, Linden, and Willow east of York Road are "exhibit A" for what out-of-control rental housing will do to a community.)

**PROTESTANT' S**

EXHIBIT NO.   1

On March 8, 2007, in case 07-294-SPH, Deputy Zoning Commissioner John V. Murphy denied the request for a rooming house permit in neighboring community Knollwood/Donnybrook at 7610 Knollwood Road because "it would set a precedent which over time will adversely affect the community." He recognized that the health, safety, and welfare of the residential areas of Towson would be threatened if rooming house permits were granted.

The Aigburth Manor Association of Towson, Inc. asks you to deny the rooming house permit for 115 Burke Avenue.

Sincerely,

Paul S. Hartman  
President, The Aigburth Manor Association of Towson, Inc.



greater metro

The Executive Building • 22 West Road • Baltimore, MD 21204 • 410-337-9300 • Fax 410-337-7368

TB 10/2  
9 AM

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

Zoning Commissioner  
Jefferson Building  
105 West Chesapeake Avenue, Suite 103  
Towson, MD 21204

RECEIVED

OCT 02 2009

ZONING COMMISSIONER

Re: 115 Burke Avenue  
Case number: 2010-0042-SPH

To whom it may concern,

As a resident, realtor and landlord in Towson for over 25 years, I see no reason to set a precedent by granting a zoning variance to circumvent occupancy limits.

The current occupancy regulations were adopted for health and safety reasons, after much study and input by the County and area residents. To pretend that this particular residence somehow needs or deserves more occupants opens the floodgates to other landlords looking for a way around the law.

There are already landlords hiding behind the improper use of LLCs, and others who simply ignore the code; please don't allow this case to set a precedent for yet another way around regulations.

Regards,

Christia Raborn

TB 10/2  
9 AM

# Fellowship Forest Community Association

Towson, Maryland

September 29, 2009

RECEIVED

SEP 30 2009

ZONING COMMISSIONER

William J. Wiseman, III  
Zoning Commissioner  
Jefferson Building  
105 West Chesapeake Avenue, Suite 103  
Towson, MD 21204

**RE: 115 Burke Avenue // Case number: 2010-0042-SPH**

Dear Commissioner Wiseman,

The **Fellowship Forest Community Association** strongly opposes any zoning relief that would allow a rooming house/boarding house at 115 Burke Avenue, or, for that matter, at any location near our community.

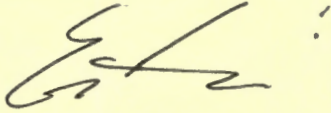
Fellowship Forest and the neighborhoods that surround it are primarily comprised of owner-occupied residences. Many of the residents in our community – young families and retirees alike – are or plan to be long-term residents who provide stability to our community and to Towson. It is these residential owners who contribute to this area and make it such a desirable and attractive place to live.

A rooming house would introduce a transient population into the community, at a time where there is an abundance of apartment space elsewhere in Towson. There is no compelling reason for this zoning relief request, other than the profit that the owner of the property stands to make. Allowing an exception to this zoning rule, which was established for an important purpose, will only open the door to more requests for rooming/boarding houses right in the heart of our communities.

**Our Neighborhood — “Fellowship” since 1674**

We urge you to decline this request for zoning relief in order to protect and preserve the welfare and character of our communities.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Eric Hiemstra', with a small mark to the right.

Eric Hiemstra, President

Fellowship Forest Community Association

Cc: W. Carl Richards, Jr., Chief, Zoning Review Office



**From:** <KFCronin@comcast.net>  
**To:** tbostwick@baltimorecountymd.gov  
**Date:** 10/1/2009 3:30 PM  
**Subject:** RE: zoning hearing for 115 Burke Ave. 10/02/09

Commissioner Bostwick,

I've lived in the Loch Raven Village community at 1861 Loch Shiel Rd for almost 5 years. It had always been a family-oriented neighborhood until the middle of July 2009 when the property at 1863 Loch Shiel Rd. became a rental unit. Five Towson University students have been living there. I had a code enforcement hearing scheduled for 10/06/09, which was postponed by one of the landlords, Dr. Harpal (Paul) Khanuja. The other owner is Dr. Ahuja Gurminder. His reason for postponement was to prepare with legal counsel.

The case number is: FA100614/CO0065990, filed with the Department of Permits and Development Management prior to 8/25/09. The students were also given a citation for disorderly conduct at that time, #092260175, from the Towson Baltimore County Police Department.

From 8/14 to 9/15, there were 9 calls for service for 1863 Loch Shiel Rd. You may find even more calls at the Towson Precinct #6 through Officer Doucett, who has been my best advocate to resolve this unbearable situation.

The inspector for code enforcement handling my case is L. Scott.

I am sending this message to you prior to your hearing regarding the zoning allowance to include up to 4 unrelated people for 115 Burke Ave. Although I realize the cases are different, the concerns are the same. 5 people, especially college students, create more of a disturbance with greater frequency. I am awakened at least 5 out of 7 days at 2 AM because of the partying and the violent arguments that occur at 1863 Loch Shiel Rd. I am a teacher and this disruption and emotional distress has begun to affect my ability to perform my job. It has also affected my health.

5 cars parking on our already limited spaces has caused many of our residents to park in alleys or on adjacent streets. These cars are on this street or close by every day and every night, since mid-July.

The accumulation of trash in the alley is another serious concern. 5 people from one dwelling create an enormous amount of trash.

I am hoping that you will consider these points when you arrive at your decision tomorrow. Please try to keep the safety and welfare of families in mind when you view this case.

I am enclosing a letter from one of my neighbors. She describes how her life has been affected by the 5 occupants at 1863 Loch Shiel Rd.

I am also forwarding a copy of calls for service for 1863 Loch Shiel Rd. during the period of 8/14 to 9/15.

**CC:** awalsh@DTSlawoffices.com; JCKLRV@aol.com; council5@baltimorecountymd.gov; LRumsey-Scott@baltimorecountymd.gov



2 October 2009

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

Re: Case number: 2010-0042-SPH

Dear Sir or Madam:

I write in reference to a Towson property located at 115 Burke Avenue, for which a use permit to allow a rooming house with a maximum of 4 unrelated adults has been sought. I realize that this letter will arrive after the hearing scheduled for October 2, 2009. My husband, son, and I are owners of a property at 1 E. Burke Avenue, where my son, a college professor, has lived since 2001. In that relatively short period of time the neighborhood continues to deteriorate due to over crowding of small row houses with large numbers of transient "unrelated adults" who have no stake in the welfare of the community at large. Because of the location of the neighborhood, and its proximity to Towson University, unrelated adults crowd into small homes which in turn crowds out young families who actually participate in community life, attend local schools, and contribute to the quality of life in this close in-town community.

To allow this permit (in effect a modification of the code section 1B01.1.B.1.b., BCZR (RTA)) would be a serious move that will jeopardize the safety and welfare of the entire family oriented community. There is already inadequate parking in this community. Four unrelated adults always means four more automobiles, and each of those unrelated adults always has a circle of friends who all also drive cars and park in the community. The amount of garbage generated by these four unrelated adults far exceeds the amount generated by a family. The family will as likely as not recycle. The four unrelated adults (let's call them college students) are never inclined to recycle—a serious health issue when the garbage and beverage containers spill into the alley ways, attracting rats which are an ever-present component of in-town life. The general welfare of these in-town communities is threatened by the influx of far more persons than the houses were designed to accommodate. The driving habits of these college students—especially after a night of partying—endangers the college students and anyone else who happens to be out and about, whether walking a dog or just enjoying the night air.

If Towson is serious about enforcing violations of the code, and serious about revitalizing its central core, these small communities that were built just before and after WWII must be preserved and protected, not thrown to the

wolves (the landlords who make "cash cows" out of modest little family houses that they rent to college students). Please do not grant this permit, and please continue to enforce the code and preserve these little pockets of affordable housing for people who do have a stake in the health, safety and welfare of their communities.

Yours truly,

Helen Keplinger

Cc:

Zoning Commissioner  
Jefferson Building  
105 West Chesapeake Avenue, Suite 103  
Towson, MD 21204

September 28, 2009

TB  
10-2-09

Peter and Margaret Fisher  
144 Marburth Avenue  
Towson, MD 21286-1144  
443-465-7527  
Prop. ID: 09-19-329520

Zoning Review Office  
Baltimore County Office Building, Room 111  
111 West Chesapeake Ave.  
Towson, MD 21204

RECEIVED

OCT 01 2009

Reference: Case Number 2010-0042-SPH  
Property: 115 Burke Ave.

ZONING COMMISSIONER

Subject: Special Hearing for a use permit for a rooming house for a maximum of 4  
unrelated adults to approve a modification of section 1B01.1.B.1b., BCZR  
(RTA)

Members of the Zoning Review Office:

We wish to register our objection to the request of a use permit for a rooming house for a maximum of 4 unrelated adults for the property, 115 Burke Ave.

Aigburth Manor is a viable neighborhood that not only attracts new families to purchase and invest in this community, but also provides a stable environment for the older residents to feel comfortable and safe to continue to reside in their homes long into retirement. This dynamic is maintained primarily by the personal involvement of the residents themselves. The introduction of a stream of a transient population with no personal stake in the welfare of this community is a tipping point for a community to fracture. A boarding house situation, especially with an absentee landlord, puts the burden on neighbors to deal with reduced available parking in an already limited area, more trash in a rodent prone area, increasing noise, and of course, more visitors to that location exacerbating the fore-mentioned problems.

This review office can affect the positive image and protect the promising prospects of the Towson neighborhoods under its purview. We already have seen what greed has done to the housing markets in our economy and the resulting breakdown of communities.

Case No: 10-042-5PT Case Name: WAYNE J. & LISA S. KNEEL

Exhibit List

Party: PETITIONERS Date: 5/11/10

Verified  
5/11/10  
KAC

Exhibit No:	Description:
✓ 1	DEED FOR PROPERTY.
✓ 2	LETTER FROM MAYOR OF BERLIN, MD
✓ 3	" " CHIEF OF POLICE " "
✓ 4	BALTIMORE COUNTY POLICE REPORT
✓ 5	RENTAL REGISTRATION REPORT
✓ 6	MAPQUEST MAP SHOWING LOCATION OF PROPERTY
✓ 7	DRAWINGS OF HOUSE - 1 <sup>ST</sup> & 2 <sup>ND</sup> FLOOR
✓ 8	PLAN TO ACCOMPANY PETITION FOR ZONING
✓ 9 A-I	PHOTOS OF PROPERTY AND ALLEY.
✓ 10	TRAFFIC SURVEY YORK & BURKE
✓ 11	STATE HIGHWAY LETTER
✓ 12	ZONING ADVISORY COMMITTEE'S COMMENTS

0026065 593

NO CONSIDERATION  
NO TITLE EXAMINATION

DEED

This Deed, MADE THIS 18 day of JULY in the year TWO THOUSAND AND SEVEN by and between **RICHARD M. SPOONER and CARLYN J. SPOONER**, parties of the first part, and **WAYNE J. KNELL, JR. and LISA S. KNELL, his Wife**, parties of the second part.

**WITNESSETH**, That in consideration of the sum of One Dollar (\$1.00) the actual consideration is none as the Grantees are the daughter and son in law of the Grantor and other good and valuable considerations, the receipt whereof is hereby acknowledged the said **RICHARD M. SPOONER and CARLYN J. SPOONER**, parties of the first part do grant and convey to the said **WAYNE J. KNELL, JR. and LISA S. KNELL, his Wife** as tenants by entireties, the survivor of them and the survivors personal representatives and assigns, in fee simple, all that lot or parcel of ground, situate, lying and being in Baltimore County, State of Maryland, and described as follows, that is to say:

**BEGINNING** for the same on the southeast side of Burke Avenue at a point measured along the southeast side of Burke Avenue South 77 degrees 57 minutes East 457 feet from the corner formed by the intersection of the southeasternmost side of Burke Avenue and the easternmost side of Maryland Avenue, running thence along the southeast side of Burke Avenue South 77 degrees 57 minutes East 48 and 33/100ths feet, thence running at right angles to Burke Avenue



CBA



TELEPHONE 410-641-2770  
FAX 410-641-2316

# Mayor & Council Of Berlin

10 William Street Berlin, Maryland 21811

September 25, 2009

Zoning Commission  
Towson, Maryland

Dear Members of the Towson Zoning Commission:

I understand that Mr. Wayne Knell is appearing before you to seek a zoning variance for one his properties in your jurisdiction. I do not wish to infer any opinion or knowledge regarding the particular zoning request, but simply offer my comments on the Town of Berlin's experience with Mr. Knell, as a property owner of one of our community's subsidized housing projects.

Mr. Knell has been an owner of the Quail Run Apartments I & II in the Town of Berlin, Worcester County, Maryland for the past five years. During that time we have witnessed dramatic and significant improvement in the maintenance of the property and the conduct of the residents.

The Town of Berlin earlier this year became the first in the State of Maryland to initiate a "Community Prosecutors" program under the direction of our local State's Attorney. The purpose of the program is to end open air drug market activity in our town and is based on the highly successful program that originated in High Point, North Carolina.

The owners and property manager of the Quail Run Apartments have been totally supportive of this effort and extended their full commitment and cooperation to the Town of Berlin and local law enforcement. Quite frankly, they took many pre-emptive measures to improve the quality of life for their residents and that of the immediate neighborhood, long before the town started this broader-based initiative.

I believe you will find Mr. Knell to be an honest and straightforward person to work with whose actions show that he cares about the properties for which he is responsible.

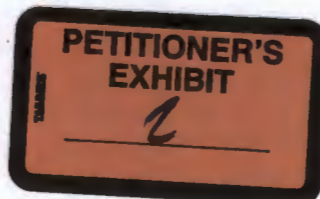
Sincerely,

Wm. Gee Williams III  
Mayor

P.S. — Forty years ago, my wife, an Ocean City girl, attended Towson University while I was a student at the University of Maryland, College Park. We have many fond memories of your community and the many kindnesses we were extended from local residents and businesses during that time.



CBA



410-641-1333  
FAX: 410-641-4880

Arnold R. Downing  
Chief of Police



## Berlin Police Department

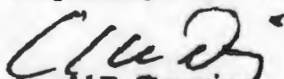
10 WILLIAM STREET  
BERLIN, MARYLAND 21811

September 28, 2009

### To Whom It May Concern:

The reason for this letter is to state that Mr. Wayne Knell has been an active owner/property manager in the Town of Berlin for the past five years. During this time, Mr. Knell and his partners have transformed Quail Run Apartments an apartment with various issues and community concerns (prior to his ownership) into a valued part of the neighborhood. During the change, Mr. Knell and his staff removed problem tenants, installed surveillance equipment, and renovated many of the units within the apartment complex in an effort to improve the quality of life. Mr. Knell has shown a true concern for his tenants and the community. If you have any questions or concerns about this letter please feel free to call.

Respectfully Submitted,

  
Arnold R. Downing  
Chief of Police

CBA



CALLS FOR SERVICE @ 115 BURKE AVENUE  
 JANUARY 1, 1999 - SEPTEMBER 13, 2009

STREETADDR	CFS_NUM	DTG_CALL_RECEIVED	DISPOSITION	CALL TYPE	CALLER_NAME	REMARKS
115 E BURKE AV E	991970159	07/16/1999 02:50:45	1	Suicide, ATTEMPT		SUICIDAL SUBJ AT LOC CUT HER WRIST.... SEE A JENNIFER UNGER, LOOKING FOR A GRACE STUBY, #2F 11/16/77, 5'2 112# AND ADV FOR 913 GRACE IS NOT THERE A/629 0528 HRS
115 BURKE AV E	000870140	03/27/2000 05:25:00	8	Check on Location	913	KNOWN ADULT MALE & FM CALLING COMPL, THREATENING HER LIFE & FAMILY. WILL ADV FURTHER SENT FOR DELAY
115 BURKE AV E	001241108	05/03/2000 17:32:00	8	Anonymous Calls/Telephone Misuse	MS UNGERER	WAS THREATENED COUPLE DAYS AGO JUST HEARD LOUD BANG DOWN STAIRS IS AFRAID SOMSONE TRYING TO KICK OP EN FRT DOOR AND GET IN
115 BURKE AV E	001270028	05/06/2000 00:15:44	8	Check on Location	MS UNGERER	CALLER ADV SHE HEARS SOMEONE IN HER DOWNSTAIRS W/ HER ROOMATE, THINKS SOMETHING IS WRONG CALLER THINKS SOMEONE MAY HAVE BROKEN IN BUT ISNT SURE, COULD POSS BE AN EXFRIEND OF HERS BUT ISNT SURE ADV SHE HAS BEEN THREATENED RECENTLY AND THINKS SUBJ THREATENING HER 613 OUT W/SUBJ SYCAMORE/E LAKE CALLER ADV SHE THINKS SHE HEARD SOMEONE RUN OUT REAR OF LOC, NFI HARBAUGH, BRYANT KENNETH 041275 2/M
115 BURKE AV E	001610145	06/09/2000 03:08:36	8	Check on Location	MS UNGERER	
115 BURKE AV E	003581387	12/23/2000 20:04:15	1	Hit & Run Accident - Property Damage	MS BARNES	NO SUSP INFO, REPORT
115 BURKE AV E	011771556	06/26/2001 21:10:49	8	Traffic Stops	680	WT VW EYS436
115 BURKE AV E	012670155	09/24/2001 04:16:59	8	Suspicious Condition	JENNIFER	COMPL'S EXBOYFRIEND JUST LEFT THREATENED THE COMPL AND HER NEW BOYFRIEND'S LIFE DRIVING A WHITE BMW
115 BURKE AV E	031620440	06/11/2003 09:10:02	8	Traffic Stops	627	GRN SUBARU DBV576
115 BURKE AV E	052720514	09/29/2005 09:31:06	1	Destruction of Property	DEBORAH DANKELMAN	TO VEH..NO SUSP INFO..OCCD SOMETIME OVERNIGHT..
113 & 115 BURKE AV E	090010174	01/01/2009 01:25:35	8	Disturbance	JOYCE ROUTSON	TOWSON UNIVERSITY STUDENTS HAVING TWO LOUD PARTIES @ LOC .. COMPL ADV SUBJ ARE ON BACK PORCHES OF BOTH LOCS , REOCCURING PROBLEM 627 OWES CODES
115 BURKE AV E / UPDATED LOC	090411902	02/10/2009 22:54:45	7	Noise Complaint	KATHY SIROTA,	COLLEGE AGE KIDS HAVING LOUD PARTY..SUBJS ARE OUTSIDE AT HOUSE ACROSS FRM RADEBAUGH'S FLORIST

TO: SGT. PARRISH

9/14/2009

1

*ORA*



FROM: K. MCCUBBIN



## DISPOSITION CODES:

1. **Report**
2. **Report; Unfounded** (incident did not occur)
3. **Report; Incident Handled By Another Agency**
4. **Report; Incident Unverified** (can not substantiate occurrence)
5. **No Report; Unfounded** (incident did not occur)
6. **No Report; Incident Handled By Another Agency**
7. **No Report; Incident Unverified** (can not substantiate occurrence)
8. **No Report; Incident Adjusted**
9. **No Accident Report; MVA forms issued, occurred on public property**
10. **No Accident Report; MVA forms issued, occurred on all other property**



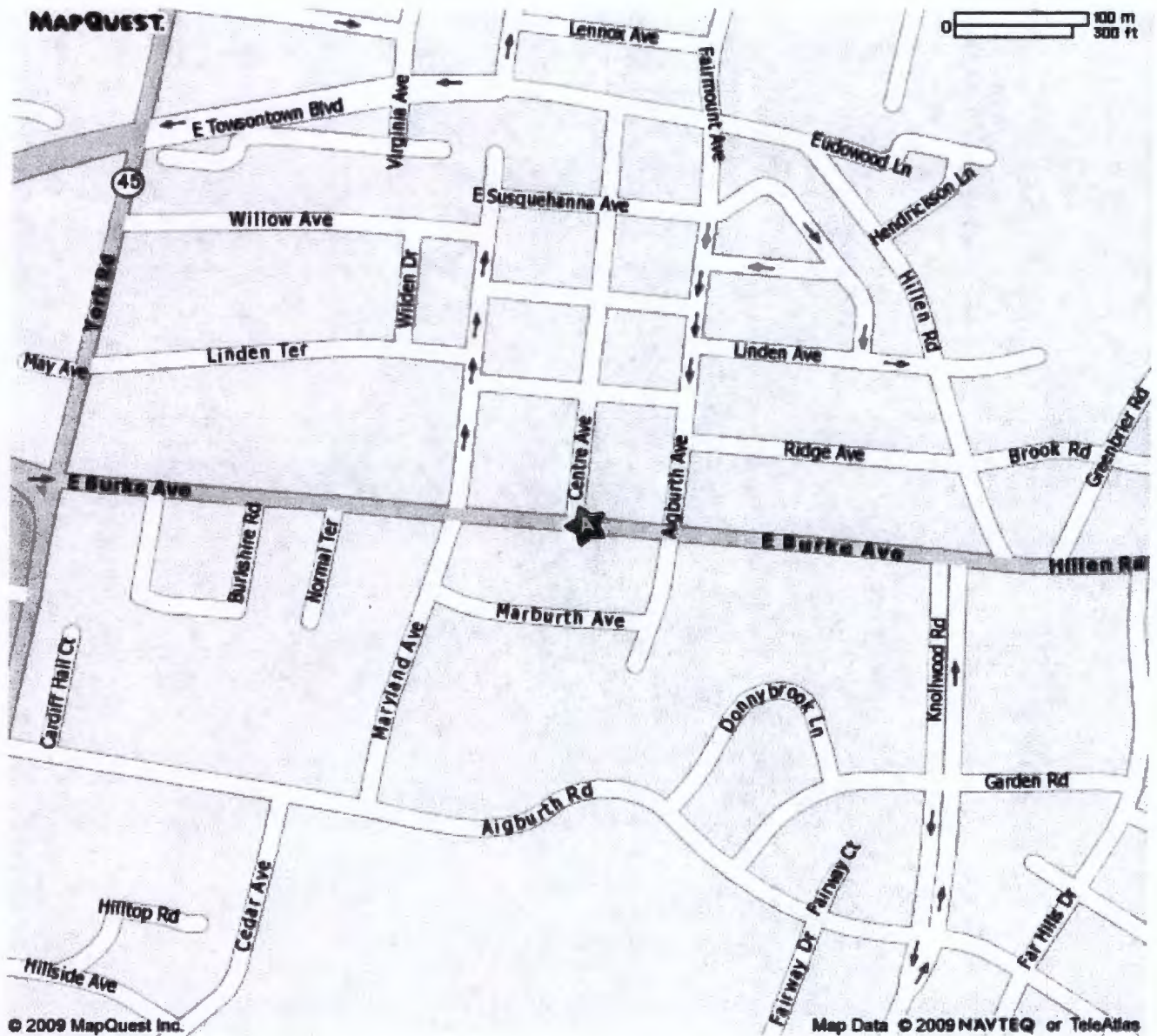
BALTIMORE COUNTY  
MARYLAND

# Rental Registration Program Report Alphabetical by Street Name

<u>Rental Property Address</u>	<u>Unit</u>	<u>Zipcode</u>	<u>Owner Name(s)</u>	<u>Owner Address</u>	<u>Number of Units</u>	<u>Exempt *</u>
<b>Rental Street: 10TH</b>						
2811 10TH ST		21219	MICHAEL R MUHL / CHRISTINE M MUHL-KEENER	16 PELCZAR AVE MD 21221	1	NO
9606 10TH AVE		21234	GUSAM PROPERTIES LLC	PO BOX 42241 MD 21284	1	NO
9705 10TH AVE		21234	ELIZABETH J PALMER	3300 PEMBROOK RD, LOT 525 FL 33021	1	NO
<b>Rental Street: 11TH</b>						
2810 11TH ST		21219	RAY A BINETTI / SUZANNE S BINETTI	8806 HINTON AVE MD 21219	1	NO
<b>Rental Street: 12TH</b>						
2807 12TH ST		21219	RAY A BINETTI / SUZANNE S BINETTI	8806 HINTON AVE MD 21219	1	NO
2809 12TH ST		21219	RAY A BINETTI / SUZANNE S BINETTI	8806 HINTON AVE MD 21219	1	NO
<b>Rental Street: 1ST</b>						
101 1ST AVE		21227	WILLIAM DELAWDER / DENISE DELAWDER	7327 GAITHER ROAD MD 21784	2	NO
127 1ST AVE		21227	ROBERT K SMITH / SHARON K SMITH	5511 HEATHERWOOD RD MD 21227	1	NO
1312 1ST RD		21220	JEFFREY B HAAS	13000 EASATERN AVENUE MD 21220	1	YES (8)
1316 1ST RD		21220	CARVILLE A BIDDISON JR.	1605 WILSON POINT RD MD 21220	1	YES (1)
2636 1ST AVE		21227	DONALD M SCOTT	211 MOUNTAIN RD MD 21090	1	YES (8)
29 1ST AVE		21227	JASON HEAD	29 FIRST AVE MD 21227	1	NO
305 1ST AVE		21227	TIMOTHY POTTER	5252 TALBOTS LANDING MD 21043	1	NO
39 1ST AVE		21227	JOHN V ROLLINS	39 FIRST AVENUE MD 21227	1	YES (1)
5702 1ST AVE		21227	HENRY BRILL / BONNIE BRILL	1202 SWALLOW COURT MD 21227	2	NO
5709 1ST AVE		21227	DAVID MCINTYRE	5709 1ST AVE MD 21227	1	YES (1)
<b>Rental Street: 2ND</b>						
101 2ND AVE		21227	JOSEPH DUKES	PO BOX 964 MD 21784	1	NO
1208 2ND RD		21220	MARY A WEIS	14 BUTTERNUT DR MD 21220	1	NO
1418 2ND RD		21220	WILLIAM WETZELBERGER JR. / LORRAINE D WETZELBERGER	1806 WILSON POINT ROAD MD 21220	1	YES (8)
3018 2ND AVE		21234	IRIS BOND	9103 PANORAMA DRIVE MD 21128	1	YES (5)
3028 2ND AVE		21234	MARY A BUCHANAN	7829 OLD HARFORD ROAD MD 21234	1	NO
3034 2ND AVE		21234	NELLE C STULL	3033 3RD AVE MD 21234	1	YES (1)
31 2ND AVE		21227	MICHAEL KEARNS	31 SECOND AVE MD 21227	1	YES (1)
5721 2ND AVE	1 AND 2	21227	TIM LUECKING	301 RESERVE CT MD 21228	2	NO
<b>Rental Street: 32ND</b>						
7913 E 32ND ST	1 AND 2	21237	ADIELA MIKLEWSKI	7929 32 ND STREET MD 21237	2	NO
<b>Rental Street: 34TH</b>						
7904 34TH ST		21237	STEPHEN M RAVER	3413 NORTHWIND RD MD 21234		

CBA

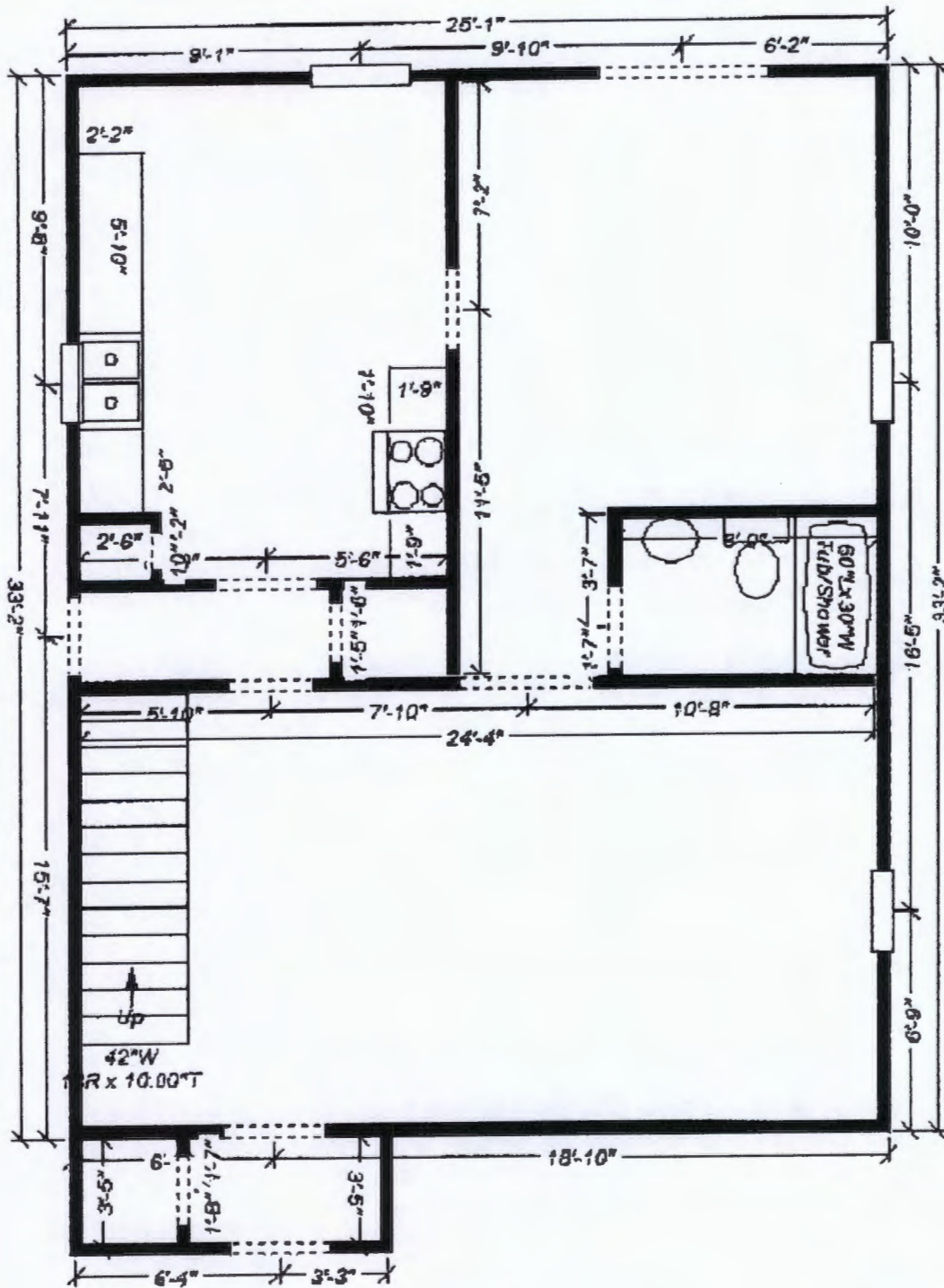




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 Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our [Terms of Use](#)

CPA





CBA



1ST FLOOR

# PLAT TO ACCOMPANY PETITION FOR ZONING

VARIANCE  SPECIAL HEARING

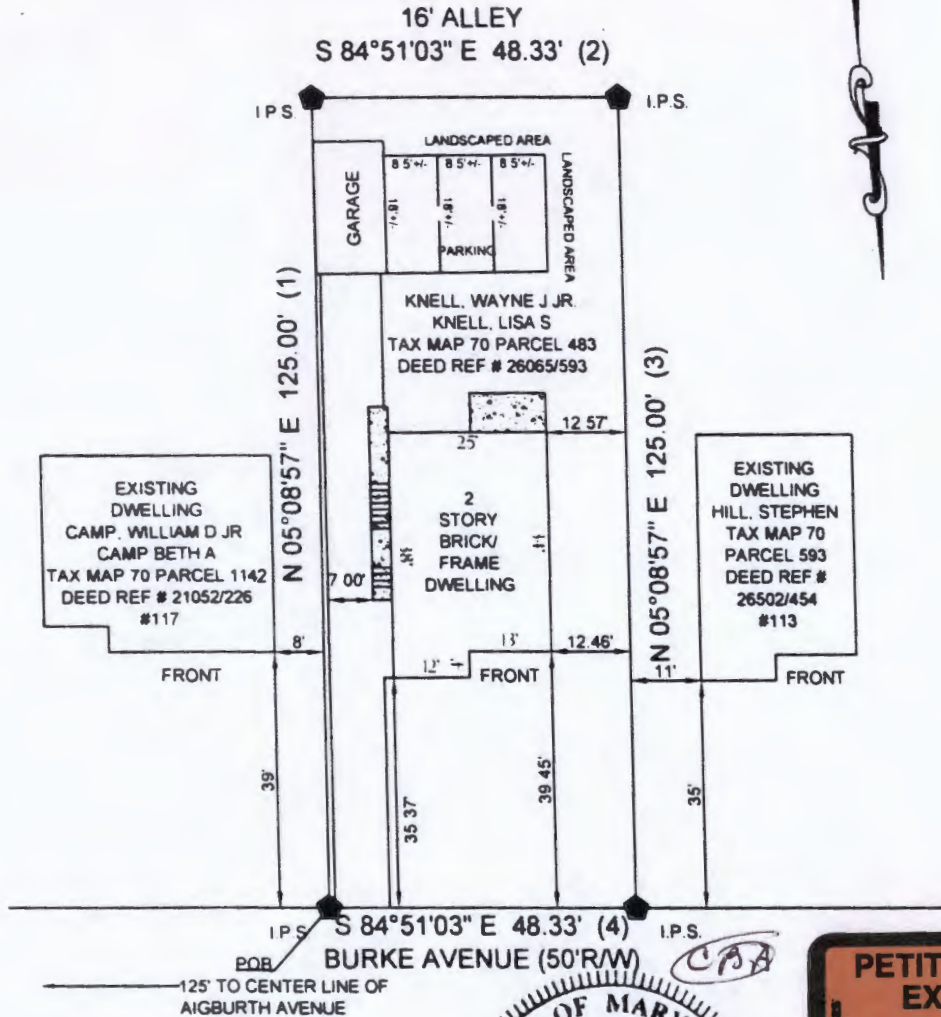
SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

PROPERTY ADDRESS: 115 BURKE AVE.

BALTIMORE, MD 21286

PROPERTY OWNER: KNELL, WAYNE J JR. & LISA

DEED REF # 26065/593



## LOCATION INFORMATION

ELECTION DISTRICT 9TH

COUNCILMANIC DISTRICT 5TH

1"=200' SCALE MAP # 070A2

ZONING DR 5.5

LOT SIZE 6041 25 SQFT. / 14 AC +/-

PARKING REQUIRED FOR 4 TENANT BEDS = 4

PARKING PROVIDED FOR 4 TENANT BEDS = 4

	PUBLIC	PRIVATE		
SEWER:	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
WATER:	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

CHESAPEAKE BAY CRITICAL AREA	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO
100 YEAR FLOOD PLAIN	<input type="checkbox"/>		<input checked="" type="checkbox"/>	
HISTORIC PROPERTY/ BUILDING	<input type="checkbox"/>		<input checked="" type="checkbox"/>	
PRIOR ZONING HEARING	<input type="checkbox"/>		<input checked="" type="checkbox"/>	

**PETITIONER'S EXHIBIT**  
8



Schulte & Assoc. Inc.  
4399 MOUNTAIN ROAD  
PASADENA, MD 21122  
PHONE: 410-360-9464  
FAX: 410-360-0247

ZONING OFFICE USE ONLY

REVIEWED BY TJ ITEM # 2010 CASE # 10042SPH

SCALE 1"=30'



CBA PET. 9A-I





1







**Maryland State Highway Administration  
Highway Information Services Division  
Turning Movement Count Study - Field Sheet**

Station ID: S2000030053  
Date: Wednesday 10/26/2005  
Location: MD 45 at Burke Ave

County: Baltimore  
Town: none  
Weather:

Comments: LOS AM:D PM:E

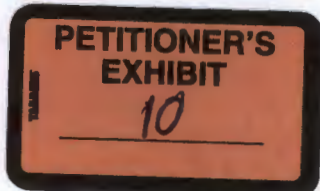
Interval (dd): 60 min

PEAK HOURS	AM PERIOD 6:00AM-12:00PM	Begin	End	Volume	PM PERIOD 12:00PM-19:00PM	Begin	End	Volume
		08:00	09:00	3181		17:00	18:00	3872

Hour	MD 45 From North				MD 45 From South				Burke Ave From East				Bosley Ave From West				Grand Total
	L	T	R	TOT	L	T	R	TOT	L	T	R	TOT	L	T	R	TOT	
6:00	10	288	41	339	73	237	16	326	93	148	23	264	21	33	89	143	1072
7:00	41	505	76	622	386	473	52	911	230	469	24	723	41	169	339	549	2805
8:00	79	523	84	686	493	652	30	1175	282	581	51	914	32	142	232	406	3181
9:00	93	518	90	701	348	625	41	1014	240	299	47	586	60	139	282	481	2782
10:00	32	527	49	608	213	542	56	811	189	208	32	429	82	182	263	527	2375
11:00	51	568	53	672	247	578	116	941	130	194	49	373	76	211	184	471	2457
12:00	56	596	66	718	300	792	192	1284	154	196	67	417	90	255	243	588	3007
13:00	48	571	63	682	257	775	94	1126	122	167	54	343	88	200	277	565	2716
14:00	58	586	52	696	332	727	129	1188	157	254	48	459	64	299	301	664	3007
15:00	56	635	78	769	504	943	181	1628	135	220	37	392	97	484	278	859	3648
16:00	83	647	67	797	371	870	181	1422	153	218	58	429	87	560	339	986	3634
17:00	95	706	95	896	407	890	182	1479	148	235	68	451	82	557	407	1046	3872
18:00	64	626	70	760	197	845	137	1179	161	190	58	409	87	357	168	612	2960
<b>TOTAL</b>	<b>766</b>	<b>7296</b>	<b>884</b>	<b>8946</b>	<b>4128</b>	<b>8949</b>	<b>1407</b>	<b>14484</b>	<b>2194</b>	<b>3379</b>	<b>616</b>	<b>6189</b>	<b>907</b>	<b>3588</b>	<b>3402</b>	<b>7897</b>	<b>37516</b>
<b>AM Peak</b>	<b>79</b>	<b>523</b>	<b>84</b>	<b>686</b>	<b>493</b>	<b>652</b>	<b>30</b>	<b>1175</b>	<b>282</b>	<b>581</b>	<b>51</b>	<b>914</b>	<b>32</b>	<b>142</b>	<b>232</b>	<b>406</b>	<b>3181</b>
<b>PM Peak</b>	<b>95</b>	<b>706</b>	<b>95</b>	<b>896</b>	<b>407</b>	<b>890</b>	<b>182</b>	<b>1479</b>	<b>148</b>	<b>235</b>	<b>68</b>	<b>451</b>	<b>82</b>	<b>557</b>	<b>407</b>	<b>1046</b>	<b>3872</b>

Hour	MD 45 North Leg			MD 45 South Leg			Burke Ave East Leg			Bosley Ave West Leg		
	S.C.	PED.	U.T.	S.C.	PED.	U.T.	S.C.	PED.	U.T.	S.C.	PED.	U.T.
6:00	0	2	0	0	2	2	0	1	0	0	3	7
7:00	0	5	1	0	18	0	0	5	0	0	8	10
8:00	0	4	4	0	9	0	0	5	0	0	17	8
9:00	0	6	5	0	10	0	0	5	0	0	13	7
10:00	0	7	5	0	20	2	0	7	0	0	11	12
11:00	0	7	4	0	14	0	0	8	0	0	29	6
12:00	0	13	4	0	20	0	0	12	0	0	33	17
13:00	0	6	3	0	13	0	0	5	0	0	27	9
14:00	0	17	6	0	13	0	0	17	0	0	32	2
15:00	0	13	1	0	33	0	0	13	0	0	68	4
16:00	0	11	6	0	14	1	0	12	0	0	48	4
17:00	0	9	5	0	14	0	0	7	0	0	54	17
18:00	0	8	3	0	5	0	0	2	0	0	35	1
<b>Total</b>	<b>0</b>	<b>108</b>	<b>47</b>	<b>0</b>	<b>185</b>	<b>5</b>	<b>0</b>	<b>99</b>	<b>0</b>	<b>0</b>	<b>378</b>	<b>104</b>
<b>AM Peak</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>17</b>	<b>8</b>
<b>PM Peak</b>	<b>0</b>	<b>9</b>	<b>5</b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>54</b>	<b>17</b>

CBA



Station ID: S2000030053  
 Date: Wednesday 10/26/2005  
 Location: MD 45 at Burke Ave

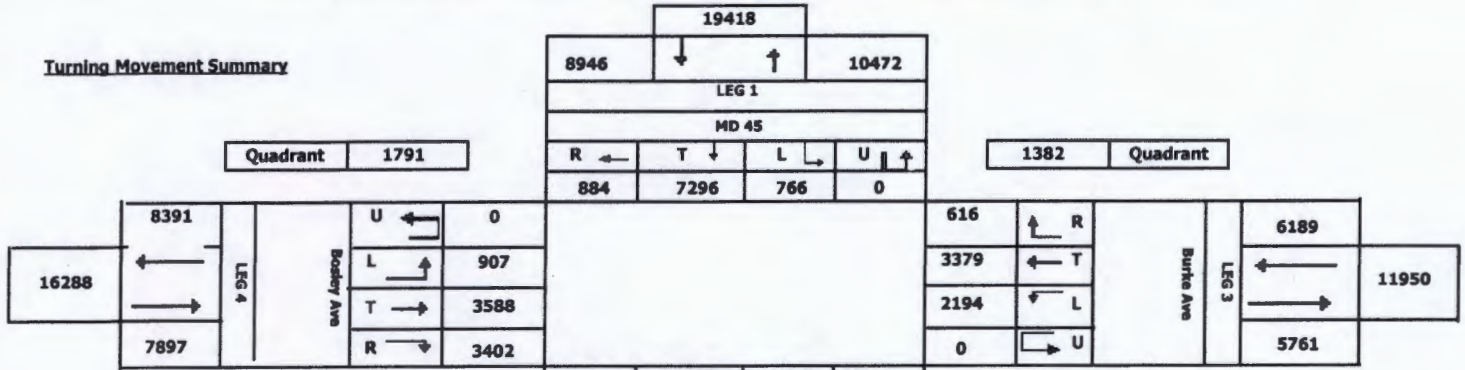
County: Baltimore  
 Town: none  
 Weather:

Comments: AM:D PM:E

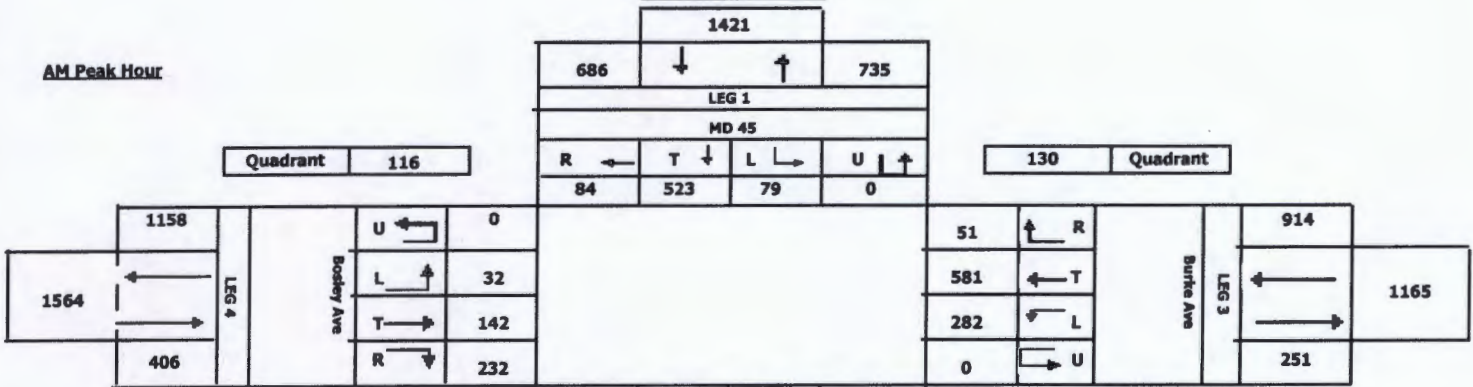
Interval (dd): 60 min

PEAK HOURS	AM PERIOD 6:00AM-12:00PM	Begin	End	Volume	PM PERIOD 12:00PM-19:00PM	Begin	End	Volume
		08:00	09:00	3181		17:00	18:00	3872

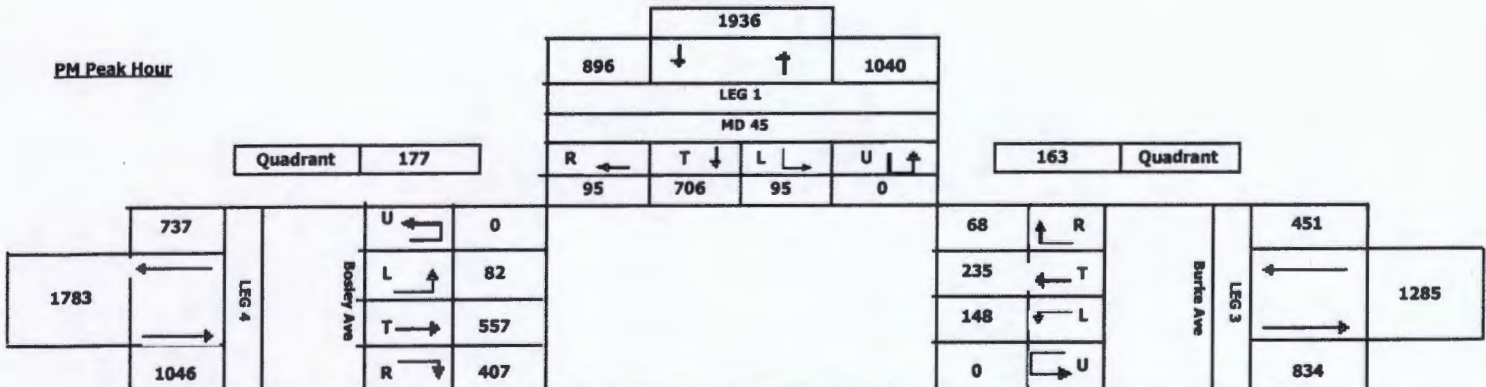
**Turning Movement Summary**



**AM Peak Hour**



**PM Peak Hour**





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

State Highway  
Administration

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

Maryland Department of Transportation

Date: AUGUST 15, 2009

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

RE: Baltimore County  
Item No. 2010-004Z-SPH  
115 BURKE AVENUE  
KNELL PROPERTY  
SPECIAL HEARING -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2010-004Z-SPH

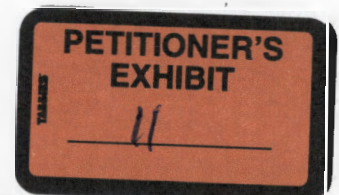
Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

*Michael D. Bailey*  
For Steven D. Foster, Chief  
Engineering Access Permits  
Division

SDF/MB

CBA



BALTIMORE COUNTY, MARYLAND  
INTEROFFICE CORRESPONDENCE

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

**DATE:** August 19, 2009

**FROM:** Dennis A. Kennedy<sup>DMK</sup>, Supervisor  
Bureau of Development Plans  
Review

**SUBJECT:** Zoning Advisory Committee Meeting  
For August 17, 2009  
Item Nos. 2010-0041, 2010-042, 043 and 045

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

DAK:CEN:kmt

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-08192009 -NO COMMENTS.doc

CBA







The Argharth Manor ASSOCIATION of Towson, Inc

RESOLVED: That at the April 2010 meeting of the Argharth Manor Association of Towson Association held on 4/13/2010 [DATE], it was decided by the Association that responsibility for review and action on all zoning matters for the period 4/13/2010 - 12/31/2010 be placed in the (Board of Directors) (~~Zoning Committee~~) consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

Paul Hartman  
Judith Giacomo

AS WITNESS OUR HANDS AND SEAL THIS 13<sup>th</sup> day of April, 2010

ATTEST:

The Argharth Manor Association of Towson, Inc.

Nancy Swatkowski  
Secretary

Paul A. Hartman  
President

CBA PC NO. 2

**AFFIDAVIT**

**STATE OF MARYLAND  
BALTIMORE COUNTY, SS:**

**TO WIT:**

I hereby swear upon penalty of perjury that I am currently a duly elected member  
of the (Board of Directors) ~~Zoning Committee~~ of the  
The Arghurth Manor Association. of Towson, Inc.

**ATTEST:**

The Arghurth Manor Association of Towson

Waldy J. Kuratkowski  
Secretary

Paul A. Hartman  
President

**DATE:** 4/13/2010



*up*

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

**DATE:** September 3, 2009

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

**SUBJECT:** 115 Burke Avenue

**INFORMATION:**

**Item Number:** 10-042

**Petitioner:** Wayne J. Knell

**Zoning:** DR 5.5

**Requested Action:** Special Hearing

**SUMMARY OF RECOMMENDATIONS:**

The subject property is located in a neighborhood that has capacity issues and the petitioner seeks a boarding house for more than two unrelated adults. The neighborhood is currently zoned DR 5.5 and has existing problems with traffic and parking. The neighborhood is within the boundaries of the traffic shed for a low rated traffic intersection and already has permit only off-street parking to manage the limited amount of parking spaces. Allowing more than two unrelated adults on a single property would set a precedent in this community which would only further exacerbate its current overburdened conditions.

Furthermore, this neighborhood has had a long history of rental properties being leased by multiple tenants beyond that which is permitted by the regulations. These rental properties in the past have led to increases in nuisance crime, noise, illegal parking and lack of maintenance. The community has struggled and fought hard to remove any rental properties that were leasing more residents than legally allowed. Granting permission of a rooming house would also set a bad precedent for the neighborhood and could possibly set off a domino effect of other rental properties also looking for zoning relief for rooming houses.

For all of the reasons stated above, The Office of Planning recommends **DENIAL** of the petitioner's request for a rooming house.

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

Prepared by:

*Curtis M. Murray*

Division Chief:  
AFK/LL: CM

*Lyne S. Anderson*

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

In the Matter of

Civil Citation No. 51434

Wayne J. Knell Jr.  
Lisa S. Knell  
1854 Chesapeake Road  
Pasadena, MD 21122

115 East Burke Avenue

Respondents

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

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on October 23, 2008, for a hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 408B failure to cease rooming/boarding house use on residential property zoned DR 5.5 known as 115 East Burke Avenue, 21286

On September 24, 2008, pursuant to §3-6-205, Baltimore County Code, Code Enforcement Officer, issued a code enforcement citation. The citation was sent to the Respondent by 1<sup>st</sup> class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$3,000.00 (three thousand dollars).

The Respondents appeared represented by Bruce Edward Covahey, Esquire.

Sophia Jennings, Code Enforcement Officer presented the case for Baltimore County.

Respondents through their attorney did not contest the violation charges. Respondents have a lease in effect for 3 persons at subject address. Evidence and testimony shows 4 persons living at subject address. Respondents have advised party not listed on lease that they must vacate. Respondents requested that the lease terms be allowed to terminate on February 28, 2009. Thereafter Respondents will not violate Baltimore County Zoning Regulations section 408B.

CBA PC No. 4

Complainant graciously accepted the terms. Hearing Officer agrees to terms based upon the conduct of the tenant's being one that has not disturbed the residential character of the neighborhood.

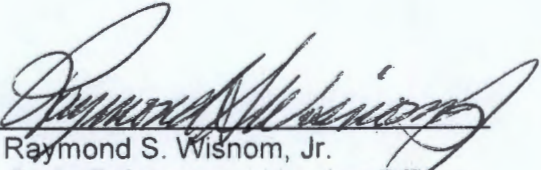
I find the Respondents in violation of Baltimore County Zoning Regulations (BCZR) section 408B.

IT IS ORDERED by the Code Enforcement Hearing Officer this 29<sup>th</sup> day of October 2008 that a civil penalty be imposed in the amount of \$3,000.00 (three thousand dollars).

IT IS FURTHER ORDERED that the civil penalty is suspended on condition the Respondents revert dwelling to a single-family dwelling status with no more than 2 unrelated adults having tenancy on or before March 1, 2009.

If the Respondent fails to correct the violations, the civil penalty shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violations have been corrected.

Signed: 

Raymond S. Wisnom, Jr.  
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of \$150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

**ROOMING HOUSE QUESTIONS FOR COMPLAINANT**

Case Number: CO 0051434  
Inspector's Name: JENNINGS  
Alleged Violation Address: 115 E BURKE AVE (21286)  
Return Questionnaire by: 10-9-08

Dear Joyce Routson, the Baltimore County Department of Permits and Development Management needs your help to correct code violations at the address above which relate to your complaint. To aid us in taking corrective action, we request that you write out answers to the following questions in the space provided and mail them to:

Department of Permits and Development Management  
111 W. Chesapeake Avenue, Rm. 213  
Towson, Maryland 21204

We thank you in advance for your assistance in helping to correct this apparent Code violation.

1. Print your full name: Joyce B. Routson
2. Print your current address: 142 Markburth Ave. Towson 21286
3. Please provide your telephone number and/or e-mail address to assist us in communicating with you more efficiently. Due to our obligations under the Freedom of Information Act, this information may be available to anyone requesting it, including owner and occupants of the subject property.  
Daytime 410.444-3180  
Home 410.321-1918
4. How long have you lived at this address?  
34 years
5. If you believe the rooming/boarding house at the subject property ("Alleged violation address") is owner occupied, what is the basis of such belief?  
It is not

CBA PC No. 6

6. How many people do you believe reside at this address and describe the basis of such understanding on your part including, if possible, the length of occupancy time for each resident? *4 vehicles are constant since April*
7. If you are aware that any residents of the subject property are related to the owner please state the source of such knowledge on your part.

*couldn't see house before bushes were removed. It may have been in violation for a long time!*

8. For what period of time have you observed more than 2 unrelated individuals living at the subject property? *The property has been a rental for many years. In April/May all of the trees and foliage in backyard were removed allowing for easy observation. It seems they were removed to allow for parking in the backyard!*
9. Do you know the names, sex and/or approximate ages of any of the residents of the subject property? Yes  No   
If yes, please provide below any information known.

*All are males and the owner told me in a phone conversation on July 31, 2008 that they were TSU students. During that conversation with Lisa Knell she indicated that she was aware of the Co. zoning laws. Her phone # is 410.439.1252.*

10. How often do you observe the resident of the subject property (i.e., at least daily, weekly, other)? *Daily activity. They "socialize" on the front yard! Visitors use the backyard as a parking lot. I have photos of the rear yard full of cars during the week.*
11. Do any residents drive a vehicle? Yes  No

If yes, provide the make, and State of origin and number of the license plate attached to the vehicle.

*4 Permanent. (all the time)*

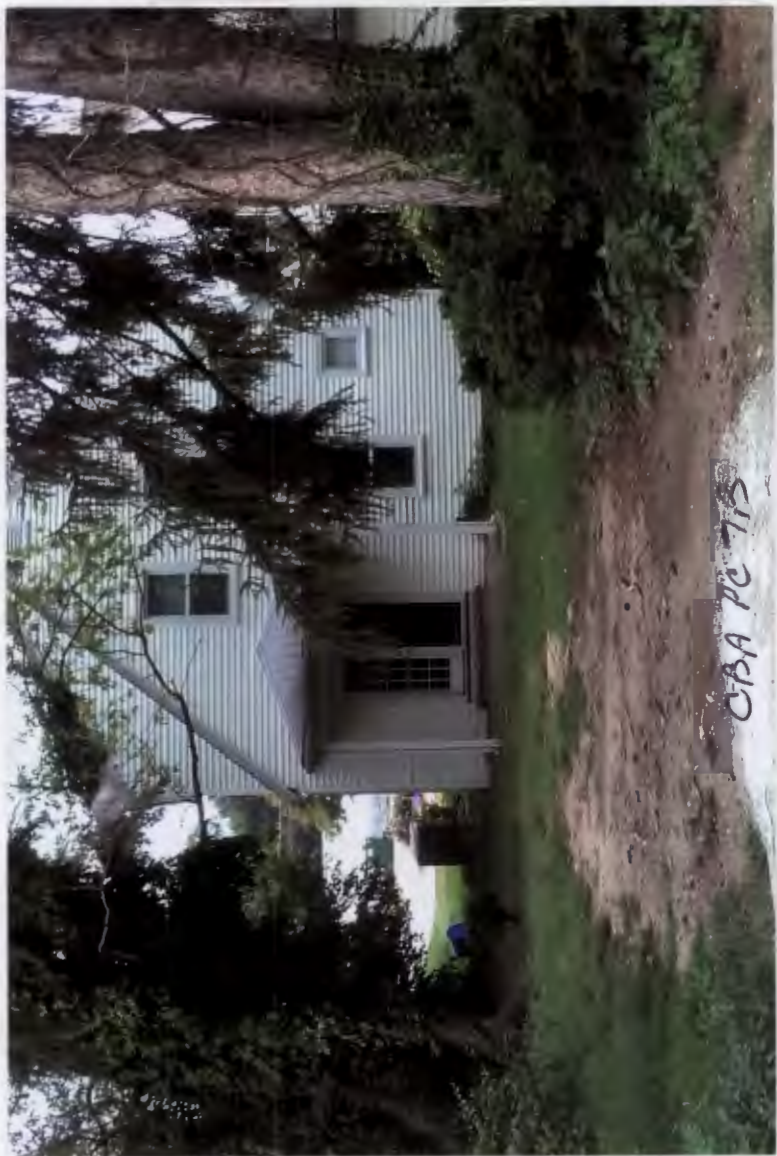
- 1) 17C903 MD - Toyota truck (white)*
- 2) CSB 8198 NY - Grey SUV*
- 3) JLV 740 MD - dk. color Volvo*
- 4) ? Sm. Jeep parked in front of garage*

Signature: *Joyce Brutsa* Date: *10.4.08*  
**Thank You for your assistance.**



PROTESTANT'S <sup>CBA</sup> PC 7  
EXHIBIT NO. 2A K

8 2 1 99



CBA PC 7-15



CBA PC 7-15



CBA PC 7D



CBA PC 7-E



CBA PC 7F





# People's Counsel Sign-In Sheet

Case Name: Wayne & Lisa Kneil  
 Case No.: 10-42-SPH  
 Date: May 11, 2010

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
✓	Paul Hartman	18 1/2 Cedar Ave, 21286	410-296-6934	oyster3000@verizon.net	Aigburth Manor	
	Susan Hartman	18 1/2 Cedar Ave 21286	410-296-6934			noise, traffic, prop values
✓	Joyce Routson	142 Marburth Ave 21286	410-321-9118		Aigburth Manor	property value
✓	JUDITH GIACOMO	17 AIGBURTH RD	410-337-7348		AIGBURTH MANOR	WELFARE OF NEIGHBORHOOD
	Sally Malena	18 AIGBURTH RD	410-387-3788		" "	FAMILY NEIGHBORHOOD
	Robert Battista	202 Aigburth Rd	410-238-0973		" "	Family neighborhood
	Mary Carol Bruff	15 Hillside Ave	410-823-1445		" "	Family Neighborhood
	Albert C. Kraestner	624 Lake Drive 21286	410-337-9300		Fellowship Forest	Noise, Traffic, Value
	Richard Parsons	412 Woodbine Ave	410-821-5475		GTEPA	
	Sue Cornish	213 Garden Rd	410-823-6737		Knollwood-DIA	Family neighborhood
✓ if necessary	Fay Citerone	909 Rappax Ct	410-339-5375		Knollwood	noise, prop value
✓	Antoinette Thomas	140 MARBURTH AVE	410-583-6922		Aigburth Manor	Disruptive Behavior, Family Neighborhood
	JACK L. GIACOMO	17 AIGBURTH RD.	410-337-7348		AIGBURTH MANOR	FAMILY NEIGHBORHOOD
✓	Ed KILCULLON	100 MARYLAND AVE	410-583-1438		GTECA	family neighborhood

CBA PC NO. 10