

In The Circuit Court for Baltimore City
CIVIL

CL

115621

In the Matter of

A.M. LEBSON, MD.

VS

THE BOARD OF MUNICIPAL AND ZONING APPEALS
OF BALTIMORE CITY

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CATEGORY APPAA _____

CASE NO. 90184037/CL115971 PAGE 1 of _____

PARTIES	ATTORNEY(S)
A.M. LEBSON, MD, PA	GARY A. BERGER
VS	528508
THE BOARD OF MUNICIPAL AND ZONING APPEALS OF BALTIMORE CITY	
Emanuel Reich Esther Reich	322254 Rodney R. Putman

DATE	DOCKET ENTRIES	NO.
7-3-90	Order for Appeal from the Decision of the Board of Municipal and Zoning Appeals of Baltimore City	1
7-6-90	Pltff's petition for appeal	2
7/23/90	Depts (Emanuel Reich & Esther Reich)	3
	in regard person answer for (add depts)	
8-2-90	Appy Rodney R. Putman Atty for Dept of the Board of Municipal and Zoning Appeals	4
	Answer to Petition for	
8-7-90	Transcript of record (Set CTF) PP-31	5
8-7-90	Notice sent in accordance with Md Rule B-12	6
6/6/90	Reply Memorandum for	7
10/15/90	Dept. (Board of Municipal and Zoning)	8
	Memorandum of Law.	
10/31/90	Reply Memorandum of Law	9
11/30/90	Case submitted to the court for determination without aid of a jury. (Hollander)	
"	He'll sub curia (Hollander)	

ARTHUR M. LEBSON, M.D., P.A. * IN THE
 Appellant * CIRCUIT COURT
 v. * FOR
 BOARD OF MUNICIPAL * BALTIMORE CITY
 AND ZONING APPEALS * Case No. 90184037/CL115971
 and *
 EMANUEL REICH and *
 ESTHER REICH *
 Appellees *
 * * * * *

MEMORANDUM OPINION AND ORDER

Hollander, J.

I. Introduction and Background

Arthur M. Lebson, M.D., P.A. ("Lebson" or "Appellant") has appealed the decision of the Board of Municipal and Zoning Appeals (the "Board" or "Appellee") dated June 11, 1990. The Board approved Lebson's conditional use of two terrace¹ apartments at 3640 Ford's Lane as a non-resident doctor's office.² However, the Board rejected Lebson's application to extend the conditional use into a first floor apartment, finding that it did not meet the standards of the Zoning Ordinance of Baltimore City. Board's decision at page 5. It is from the portion of the Board's decision denying the extension of the conditional use that Lebson appeals.

1. The lower level is alternately referred to as both a terrace apartment and a basement apartment.

2. No appeal has been taken as to this portion of the Board's decision.

II. Factual Summary

Appellant's medical office is located at 3640 Ford's Lane, Baltimore, Maryland (the "Building"), in an R-5 residential zoning district. The Building is a three story apartment house.³ It is part of a complex of several three story brick apartment buildings (the "Complex"), containing a total of 86 dwelling units and professional offices. Lebson uses two basement apartments (the "Property") in the Building for his medical offices. The remainder of the Building houses two dwelling units per floor.

Lebson applied to the Board for conditional use approval to continue to use the basement level as a non-resident doctor's office⁴ and to extend the use into a portion of the first floor, known as Apartment D (the "Apartment"). Lebson attached to his appeal an explanation of his proposed use of the Apartment and the need for the use as requested. It states in pertinent part:

We have added transtelephone cardiac monitoring, pulmonary testing and vascular studies.

It is our hope at a future date that we may continue to increase our services to the public to include possibly podiatry (foot care), ophthalmology (eye care) and other services that will help our aging population.

It is our feeling that we would be better able to serve our community and those patients that

3. The Building has a lower level, a first floor and a second floor.

4. A prior tenant, Doctor Weinberger, previously used the same unit for his medical office. He had conditional use approval since 1967. Lebson had been using the Property since 1977, without a permit. See page 3, infra.

attend our office from the surrounding area by being able to expand our services to accomodate more areas of medical need so that these patients will not have to travel distances in order to undergo these important diagnostic tests.

Appeal from the Decision of the Zoning Administrator under the Zoning Ordinance.⁵

A hearing was held before the Board on June 5, 1990. Appellant testified that he had been using the Property as a doctor's office since 1977. Office hours are currently 8:30 a.m. until 3:30 p.m. everyday but Monday, when there are evening hours until 7:30 p.m. T.10. Lebson explained that he occupied the Property without a permit, because the preceding tenant, Doctor Weinberger, had obtained a permit in 1966 to use the premises as a doctor's office. T.3. Lebson claimed he was informed by the landlord that a new permit was unnecessary. T.3.

In 1988, Lebson leased a third unit, the Apartment, which had previously been used for residential purposes. Appellant testified that he planned to use the Apartment for storage and patient treatment. T.6. He indicated that he intended to place medical equipment in the Apartment to measure patients' breathing and circulation. T.6.

Testifying in opposition to the extended use were Emanuel and Esther Reich (the "Reichs"),⁶ first floor residents of the Property. The Reichs live in Apartment C, adjacent to the Apartment.

5. The administrative record, on appeal, has not been sequentially numbered. Accordingly, documents in the record will be described herein by name, so as to permit their identification. References to the transcript of the administrative hearing held on June 5, 1990 are abbreviated by "T", along with the particular page number of the transcript.

6. Emanuel and Esther Reich filed a motion in proper person to dismiss this appeal on July 23, 1990, and were added as defendants to the instant case.

Emanuel Reich ("Reich") testified that he had been asked to represent other tenants who were unable to attend the hearing. T.17. He submitted a petition purportedly signed by 31 residents of the Complex (the "Petition"), all of whom opposed Lebson's expansion. T.17-18.

Reich described the layout of the Building, explaining that in order to get to Appellant's offices it is necessary to go down seven steps to the terrace of the Building. The terrace level professional offices are accessible through a separate entrance. T.21. However, the only entrance to the Apartment is through the garden entrance used by residents to access their apartments. T.20-22. Residents use only the garden entrance. T.23.

Reich noted that when Lebson leased the Apartment, he and other tenants were assured by Lebson that the Apartment would only be used for storage. T.23. However, Reich claimed Appellant began using the Apartment as a waiting room and for additional office space. T.24. Reich stated that as a result of Lebson's use of the Apartment, patients congregated outside the Building and on the steps. He also said that on several occasions, his wife, Esther Reich ("Ms. Reich"), and other female residents, were harassed by patients making "unbecoming remarks" to them as they entered or exited the Building.

Reich explained that there was no opposition to Lebson's continued use of the Property, since patients could enter and exit through the separate entrance on Ford's Lane. Reich also testified that there was no opposition to the

extension of Lebson's use for storage only. However, he urged the Board to disapprove Appellant's requested extension because:

We seek nothing more than to live as residential tenants with quiet and restfulness. We do not want them coming up on our floor. We don't want to open the door and be confronted by them. Neither do we want them sitting on our stairs and harrassing us.

T.26-27. Ms. Reich stated that she was afraid to open her door. She testified that she had been harrassed by patients with "vile language", and that she has had to run up the steps to her apartment because she was afraid of the waiting patients. T.27-28.

In addition to oral testimony, the Board received reports from the Departments of Planning, Housing and Community Development, and Transportation. None voiced any opposition to Lebson's application.

Based on the evidence presented at the hearing the Board applied the Zoning Ordinance and denied Lebson's proposal to extend the conditional use to the Apartment.

III. Scope of Review

The Board's decision denying the extension of conditional use to the apartment must be supported by "substantial evidence" on the record. A scintilla of evidence is not enough. Prince George's Co. v. Meininger, 264 Md. 148, 152 (1972). Moreover, this court may not engage in judicial fact-finding. Findings of fact made by the Board are binding upon the reviewing court, if supported by substantial evidence. See Board of County Comm'rs. v. Holbrook, 314 Md. 210, 218 (1988). Any inference reasonably to be drawn from the facts is

also left to the Board. Snowden v. Mayor and City Council of Baltimore, 224 Md. 443, 448 (1961). "The Court may not substitute its judgment on the question whether the inference drawn is the right one or whether a different inference would be better supported. The test is reasonableness, not rightness." Id.

In cases involving zoning agencies, due deference is given to the agency decisions because of their "expertise." It is the agency, not the reviewing court, which must exercise discretion to permit or deny an application. Floyd v. County Council of Prince George's Co., 55 Md. App. 246, 258 (1983) (citations omitted). Where a question is "fairly debatable," then, a court may not substitute its judgment for that of the administrative body, even if the court would not have reached the same conclusion based on the evidence. Eger v. Stone, 253 Md. 533, 542 (1969).

But the Board's authority is not unchecked. Where the action of the Board is arbitrary, capricious or discriminatory, or if the Board has made an erroneous interpretation of law, the decision will not stand. See, e.g., Hardesty v. Zoning Board, 211 Md. 172, 177 (1956); Heath v. Mayor and City Council of Baltimore, 187 Md. 296, 304 (1946). On review, then, this court must consider whether a reasoning mind could have reached the factual conclusion that the Board reached, Board of County Comm'rs. v. Holbrook, supra, 314 Md. at 218, and whether the Board properly applied the law.

IV. Discussion

A. Conditional Use

Zoning is one of the important elements of land planning

that is used to guide and accomplish the "coordinated, adjusted, and harmonious development of [a] jurisdiction which will promote [the] general welfare." Code, Art. 66 B, Sec. 3.06; Board of County Commr's of Cecil County v. Gaster, 285 Md. 233, 246 (1979). It is also a tool by which a legislative body can establish general areas or districts devoted to selected uses. Schultz v. Pritts, 291 Md. 1, 20 (1981) (citation omitted). Once a use district is created, the regulations written to effect the zoning plan will designate certain uses as ofright (permitted uses), while other uses are permitted under certain conditions (conditional or special exception uses).⁷ Id.

Appellant applied for a conditional use. In Schultz v. Pritts, supra, the Court of Appeals explained:

The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature had determined to be permissible absent any fact or circumstance negating the presumption. The duties given the Board are to judge whether the neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

291 Md. at 11 (emphasis in original).

7. The terms "conditional use" and "special exception use" are synonymous. Zellinger v. CRC Development Corp., 281 Md. 614, 619 n.4 (1977). Md. Code Ann., Art. 66B, Sec. 1.00 provides in pertinent part: "Special exception" means a grant of a specific use that would not be appropriate generally or without restriction and shall be based upon a finding that certain conditions governing special exceptions as detailed in the zoning ordinance exist, that the use conforms to the plan and is compatible with the existing neighborhood."

It is well settled that where a request for conditional use creates an adverse effect upon neighboring properties, the request must be denied. As the court stated in Board of County Comm'rs. v. Holbrook, supra, an adverse impact is established

where the facts and circumstances indicate that the particular special exception use and location purpose would cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, than that inherently associated with such a use regardless of its location within the zone.

314 Md. at 217-18. Accord, People's Counsel for Baltimore Co. v. Mangione, ___ Md. App. ___, No. 4651 (filed February 1, 1991); Schultz v. Pritts, supra, 291 Md. at 15.

In considering the issue of "adverse impact," the question of harm or disturbance to the neighboring area is critical. Although Appellant need not establish that the proposed use will benefit the area, he does have the burden of producing evidence to show that the proposed use would not be a detriment to the neighborhood or otherwise adversely affect the public interest. If the evidence makes the issue of harm or disturbance fairly debatable, the matter is one for the Board's decision, and should not be "second-guessed" by an appellate court. Board of County Comm'rs. v. Holbrook, supra.

On the other hand, where an adverse impact is not established, denial of the request is not appropriate. As the court stated in Schultz v. Pritts, 291 Md. at 10:

If there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application of special exception use is arbitrary, capricious and illegal....(emphasis added).

B. The Ordinance

In light of these principles, Lebson's Appeal must be examined. Appellant's request for a conditional use is governed by Sections 11.0-3b-1 and 11.0-5 of the Zoning Ordinance of Baltimore City. Under those sections, the Board may not authorize a conditional use unless it finds that the use will not be detrimental to or endanger the health, security, general welfare or morals of the community.

Section 11.0-5 directs the Board to consider 13 factors when considering an application for a conditional use. These include: the nature of the proposed site, including its size and shape and proposed size, shape and arrangement of structures; the resulting traffic patterns and adequacy of proposed off-street parking and loading; the nature of the surrounding area and the extent to which the proposed use might impair its present and future development; the proximity of dwellings, churches, schools, public structures and other places of public gatherings; accessibility of the premises for fire and police protection; accessibility of light and air to the premises and to the property in the vicinity; the type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided; the preservation of cultural and historic landmarks; any Urban Renewal Plan approved by the Mayor and City Council or the Master Plan for the City approved by the Planning Commission; and any other matter considered to be in the interest of the general welfare.

C. The Board's Decision

In denying Lebson's Appeal, the Board considered in particular:

the nature of the proposed site, including its size and shape and the proposed size and shape and arrangement of the structure; the increased traffic; the nature of the surrounding area and [was] of the opinion that the further expansion would impair its present and future development and other matters considered to be in the interest and general welfare of the community.

The Board also found as a fact that the present use of the premises by Dr. Lebson was never intended in the Board's original approval for Dr. Weinberger. Board's Dec. at page 4. Further, the Board found that Lebson had not met all of the necessary standards with regard to extending his practice into the Apartment. The Board was of the view that the expansion would be objectionable to the tenants in the Building, and consequently, the request was rejected. Board's Decision at page 4.

V. Allegations of Error

The Petition of the Residents

Appellant's chief allegation of error is that the Board's decision was based primarily on the Petition submitted by Reich. Lebson complains that the Petition was hearsay and any consideration of it by the Board, over objection,⁸ was fundamentally unfair. With this assertion the court disagrees.

8. T. at 18.

The Petition constitutes hearsay, as it represents an out of court statement offered to prove the truth of the matters asserted therein. However, the Court of Appeals has recognized that administrative agencies are not generally bound by the technical rules of evidence. There is ample authority that hearsay evidence may be admitted in contested administrative proceedings. See, e.g., Maryland Fire UW v. Insurance Comm., 260 Md. 258, 267 (1971); Neuman v. City of Baltimore, 251 Md. 92 (1968); Dal Maso v. Board of County Comm'rs. of Prince George's Co., 238 Md. 333 (1965). Further, the Court has recognized on several occasions that hearsay testimony is not only admissible in administrative hearings in contested cases, but if credible and of sufficient probative force, it may be the sole basis for the decision of the administrative body. See, Redding v. Board of County Comm'rs. for Prince George's Co., 263 Md. 94, cert. denied 406 U.S. 923 (1971); Tauber v. County Board of Appeals for Montgomery Co., 257 Md. 202 (1970); Eger v. Stone, supra. Administrative agencies simply must observe the basic rules of fairness to parties appearing before them. Montgomery Co. v. Nat'l. Capital Realty Corp., 267 Md. 364 (1972).

While it is impossible to ascertain from the record what weight the Board gave to the Petition, it is clear the Board did rely on the representation that all, or nearly all, of the residents of the Complex were opposed to Lebson's proposed use. Board's Decision at page 4. The Board presumably found the Petition to be credible and probative, and the corroborative sworn testimony of the Reichs further supported the Board's decision. This court has no basis with which to disagree.

B. Cross-Examination

Appellant also contends that he was denied the meaningful opportunity to cross-examine Reich, and that the Board's reliance upon Reich's testimony was, therefore, unfair. It is clear that Appellant was represented by counsel at the hearing, and that no request for cross-examination was made. Similarly, no objection was lodged to the denial of an opportunity to conduct cross examination. See T. at 27. Moreover, Lebson was afforded the opportunity to respond to the testimony. T.28.

The law is well settled that reasonable cross-examination must be permitted in administrative hearings. American Radio-Telephone Service, Inc. v. Public Service Commission, 33 Md. App. 423 (1976). But where, as here, Appellant did not request cross-examination of any specific witness and no objection was raised as to any denial or lack of such opportunity, then Appellant can be held to have waived this right. Hyson v. Montgomery Co. Council, 242 Md. 55 (1966). See also, Overton v. Board of Co. Comm'rs., 223 Md. 141, 146 (1960) (court held that there was no request by an appellant for cross-examination, and no showing that it would have been denied had it been requested).

The circumstances of Lebson's appeal make pertinent the comments of the Hyson court:

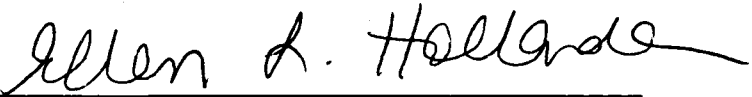
Having decided that appellants were entitled to reasonable cross-examination if it were properly asked for and denied, what does the record actually show in this respect? After examining and re-examining the record, we are unable to find a denial of appellant's request to cross-examine any specific witness or "material." Consequently, we are unable to hold that error on this score was committed.

Accordingly, this court finds that no error was committed by the Board with regard to cross-examination.

VI. Conclusion

The record reflects that the Board considered the impact of the proposed conditional use. It concluded that such use would not be permissible. This decision is supported by substantial evidence in the record.

Based on the foregoing, it is, this 27th day of February, 1991, by the Circuit Court for Baltimore City, ORDERED that the decision of the Board of Appeals be, and the same hereby is, AFFIRMED.



Ellen L. Hollander, Judge

cc: Gary A. Berger, Esquire
Attorney for Appellant
Sandra R. Gutman, Esquire
Attorney for Appellee
Mr. Emanuel Reich
Ms. Esther Reich

A. M. LEBSON, M.D., P.A.
3640 Fords Lane
Baltimore, Maryland 21215

* IN THE

Appellant

* CIRCUIT COURT

v.

THE BOARD OF MUNICIPAL
AND ZONING APPEALS OF
BALTIMORE CITY
417 E. Fayette Street
Baltimore, Maryland 21202

FILED

OCT 31 1990

FOR

CIRCUIT COURT FOR BALTIMORE CITY
BALTIMORE CITY

Appellee

* CASE NO. 90184037/CL115971

* * * * *

REPLY TO MEMORANDUM OF LAW (Rule B-12)

A. M. Lebson, M.D., P.A., by Gary A. Berger and Berger and Fink, his attorneys, respectfully submits this Reply Memorandum, pursuant to Maryland Rule B-12, and states as follows:

Appellee, in its Memorandum of Law, represents to this Court, at page 6 thereof, that "no objection was made to the introduction of" a Petition admitted into evidence before the Board of Municipal and Zoning Appeals in the above-referenced matter. The transcript of that proceeding, on page 18 at line 17, indicates the contrary. Furthermore, the Petition at issue played a substantial role in the Board's Resolution, Appellee's contentions to the contrary notwithstanding.

The Resolution, page 3, paragraph 3, states that the Board "heard testimony from a resident of the building who submitted a Petition from practically every resident in the structure voicing their objection and opposition" to Appellant. By means of this Petition, therefore, a single Protestant (Emanuel Reich) spoke to the Board not simply on his own behalf but on behalf

of all of the tenants of his complex. Later, on page 4 of its Resolution, the Board states that Appellant's Petition "would be objectionable to the tenants in the building and, therefore, must be rejected". (Emphasis provided.) As a result, Appellee's contention that this Petition was not weighed heavily by the Board must be rejected. In this context, it should be noted that Appellee has admitted in its Memorandum that neither the Department of Planning, nor the Department of Transportation expressed any objection to Appellant's proposal.

In overruling Appellant's objection, the Board not only opened the proceeding to hearsay testimony, it denied the Appellant his fifth and fourteenth Amendment rights to cross examine the witnesses against him. The Constitution of the United States is not suspended in administrative proceedings; the Appellant is entitled to cross examine the alleged signatories for purposes of authentication, bias, accuracy, veracity, and credibility. The Appellant was entitled to a fair hearing, in substance and not just in form, and this was denied him. Ford v. Baltimore County, 268 Md. 172 (1972), Montgomery County v. National County Realty Corp., 267 Md. 364 (1972).

Because the Board's Resolution is based in inadmissible evidence, its decision must be reversed. In fact, if the "Petition testimony" is excised from its proceeding, the Board's findings would be less than "fairly debatable"; the inadmissible evidence should be stricken and the Board's decision reversed.

CONCLUSION

For the reasons hereinabove set forth, and for the reasons stated in Appellant's Memorandum, previously filed in this proceeding, Appellant urges this Honorable Court to:

A. Reverse the decision of the Board of Municipal and Zoning Appeals or, in the alternative, permit additional testimony to be offered as is provided for by Section 11-03-11 of the Zoning Ordinance;

B. And for such other and further relief as the nature of its cause may require.

Respectfully submitted,



GARY A. BERGER
Berger and Fink
105 W. Chesapeake Avenue, #101
Towson, Maryland 21204
(301) 828-5000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of October, 1990, a copy of the foregoing Reply to Memorandum was mailed, postage prepaid, to: SANDRA GUTMAN, ESQUIRE, Room 143, City Hall, 100 N. Holliday Street, Baltimore, Maryland 21202, and EMANUEL and ESTHER REICH, 3640 Fords Lane, Baltimore, Maryland 21215.


GARY A. BERGER

A. M. LEBSON, M.D., P.A.

Appellant

vs.

BOARD OF MUNICIPAL
AND ZONING APPEALS

Appellee

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IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

Case No. 90184037/CL115971

FILED

OCT 15 1990

**CIRCUIT COURT FOR
BALTIMORE CITY**

* * * * *

MEMORANDUM OF LAW

STATEMENT OF THE CASE

This case is before the Court on an appeal from A. M. Lebson ("Appellant") from a final decision of the Board of Municipal and Zoning Appeals (the Board) denying Appellant's application to extend the use of the terrace apartment of 3640 Fords Lane, Baltimore, Maryland, currently used as a non-resident doctor's office, into a portion of the first floor, known as Apartment D.

QUESTION PRESENTED

Whether the decision of the Board was supported by substantial evidence and is therefore correct.

STATEMENT OF FACTS

The subject property is located at 3640 Fords Lane in Baltimore City. It is in an R-5 residential zoning district. The premises is improved by a three story brick apartment building which is used for eighty-six dwelling units. The portion of the building known as 3640 Fords Lane is a two-story terrace building. Appellant uses the terrace apartment for his doctor's offices, and the remainder of the building houses two dwelling units. Appellant applied to the Board for conditional use approval to continue to use the terrace level as a non-resident doctor's office and to extend the use into a portion of the first floor, known as Apartment D.

Attached to his appeal, is an explanation by Appellant of the proposed use of Apartment D and the need for the use as requested. It states:

We have added transtelephone cardiac monitoring, pulmonary testing and vascular studies ...

* * *

It is our hope at a future date that we may continue to increase our services to the public to include possibly podiatry (foot care), ophthalmology (eye care) and other services that will help our aging population.

It is our feeling that we would be better able to serve our community and those patients that attend our office from the surrounding area by being able to expand our services to accomodate more areas of medical need so that these patients will not have to travel distances in order to undergo these important diagnostic tests. (Exhibit A, attached).

A hearing on Appellant's application was held on June 5, 1990, where Appellant was represented by counsel. Appellant testified that he is now occupying three units in the building, including Apartment 3D. Two of the units are located in the basement of the building, while Apartment 3D is located on the first floor. All of the units are occupied without a permit. (T. 2-4).

Appellant testified that his main office is on the terrace level and that the extended portion would be used for storage and patient care. (T. 6). At the time of the hearing Appellant stated that he had been using the first floor unit for a doctor's office for a year and a half prior to the Board's hearing. Prior to that, the apartment had been used for residential purposes. (T. 8). It was stated that the proposed unit would have machines which are used to measure a patient's breathing and circulation. (T. 6,9). Office hours are 8:30 A.M. to 3:30 P.M. every day but Monday where there are evening hours until 7:30 P.M. (T. 10).

Read into the record was the report of the Department of Planning which had no objection to the appeal. The Department of Housing and Community Development and the Department of Transportation were also unopposed.

Appellant also stated that in addition to the use of the unit for patients, it would be used for both storage and by Appellant's staff.

Testifying in opposition to the expanded use was Emanuel Reich ("Reich"), a first floor resident of the building. Reich lives in Apartment C and the proposed use would be adjacent to his residence in Apartment D. He stated that he had been asked to represent other tenants who were not able to be present.

Reich submitted a petition which was signed by all of the residents of the building, all of whom opposed the expansion. (T. 17-18). He then explained the nature of the apartment complex, explaining that in order to get Appellant's offices it is necessary to go down seven steps to the basement. This level contains professional offices and can be reached by a separate entrance behind the units. However, the third unit requested by Appellant can only be reached by entering through a garden entrance and going up an additional level. This unit is not part of Appellant's present offices, but is located within the residential area of the building. (T. 20-22).

Reich explained that there was no opposition to Appellant's continuing to use the basement premises because the patients can enter and exit through an entrance on Fords Lane that does not involve the garden entrance which the residents use. (T. 23).

Reich also testified that when Appellant began using Apartment 3D one and a half years ago, the tenants had been assured by the landlord that it was rented solely for purposes of storage. However, shortly thereafter, the tenants learned that the unit had been converted to an additional physician's office and waiting room, all of which, including the use for storage, constituted an extension of a conditional use. (T. 23, 24).

As a result, Reich stated that instead of using Appellant's waiting room downstairs, the patients congregate outside of the building and on the steps leading to the main entrance. Several times Reich's wife had been harassed by these people who made "unbecoming remarks" to her and other women who live on the property. (T. 26). Reich asked the Board to disapprove Appellant's request because "... we seek nothing more than to live as residential tenants with quiet and restfulness. * * * We do not want them coming up on our floor. We don't want to open the door and be confronted by them. Neither do we want them sitting on our stairs and harassing us." (T. 26-27).

Also testifying was Esther Reich who told the Board that she has but one exit from her apartment and that would be the same that the patients would use in order to get to the first floor office. She stated that she would be afraid because she has been so frequently harassed with "vile language" from the waiting patients. (T. 27-28).

The Board considered all of the evidence, applied the relevant portions of the Zoning Ordinance and concluded that the proposal be rejected.

DISCUSSION

Appellant has characterized the proceedings before the Board as a "cursory hearing" in which he was denied "any meaningful opportunity" to cross examine the witnesses. Appellant's Memorandum, page 5. Such claims are entirely unsubstantiated by the record. Appellant was represented by

counsel before the Board. The only objection noted occurred when Reich attacked Appellant's credibility. (T. 18). Other than that, no further objection was noted during the course of the Board's proceedings. Nonetheless, Appellant contends that Reich's testimony was biased and should not have been considered by the Board. Appellant fails, however, to support this contention with either fact or law. It has been held that the rights required by due process before an administrative agency include the right to notice, to present evidence and argument, to rebut adverse evidence through cross examination, to appear with counsel, to have the decision based upon the evidence presented at the hearing, and to have a complete record. Boehm v. Anne Arundel County, 54 Md.App. 497 (1983). All of these elements were satisfied by the Board in the present case.

Appellant also claim that the petition offered by Reich was erroneously given "great weight" by the Board. While the Board mentioned the petition along with all of the other evidence that was presented, there is absolutely nothing in the Board's resolution to support the contention either that the petition was given greater weight than any of the other evidence or that the signatures were improperly obtained. No objection was made to the introduction of the petition, nor was the issue of the signatures ever raised by Appellant during the course of the hearing.

In his argument, Appellant claims that he was denied the opportunity to cross-examine the witnesses. Once again, he has failed to point out a specific instance where this occurred. The

record clearly does not support that contention. The law is settled that reasonable cross-examination must be permitted at administrative hearings. But where, as in the present case, Appellant did not request cross-examination of any specific witness, and no objection was raised as to any denial or lack of opportunity for cross-examination, then no prejudicial error has been shown since Appellant has, in effect, waived these rights. Hyson v. Montgomery County Council, 242 Md. 55 (1966).

Appellant was requesting approval for extension of a conditional use. The Board may authorize a conditional use subject to the provisions of Sections 11.0-3.c and 11.0-5.a. Under those sections the Board may not authorize a conditional use unless it finds that the use will not be detrimental to or endanger the health, security, general welfare or morals of the community.

Section 11.0-5.a contains thirteen standards which the Board must apply when considering a conditional use. In its resolution, the Board stated that Appellant had not met the necessary standards. It based its determination on standards number one, nature of the proposed site; two, traffic; three, nature of the surrounding area; and twelve, all matters considered to be in the interest of the general welfare. Standard number four, which the Board considered, is particularly applicable because it concerns the proximity of dwellings, a factor clearly addressed by Reich's testimony. Because of the

applicability of the aforestated standards, the Board granted the conditional use as to the portion of the premises originally used by Appellant, but denied the expansion to Apartment 3D.


It is well established that the weighing of the evidence is left to the expertise of the zoning authority, and it is the duty of such board to decide the application of the ordinance to the facts at hand. Prince George's County v. Meininger, 264 Md. 148 (1978).

It is also well settled that a court cannot substitute its judgment for that of the zoning authority if the question is fairly debatable. Sembly v. County Board of Appeals, 269 Md. 177, 304 A.2d 814 (1983). The court will reverse a zoning board's action only where there are no grounds for reasonable debate and where the action of the zoning authority has been found to be arbitrary, capricious or illegal. Hardesty v. Board of Zoning Appeals, 211 Md. 172, 126 A.2d 216 (1972).

In the present case, Appellant admits that the evidence before the Board was fairly debatable. (Appellant's Memorandum, page 5.) Since the issue is admittedly fairly debatable, this Court cannot substitute its judgment for that of the Board and therefore the Board must be affirmed.

CONCLUSION

For the reasons stated herein, the decision of the Board should be affirmed.



SANDRA R. GUTMAN
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Telephone: 396-3933

Attorneys for Appellee

CERTIFICATION OF MAILING

I HEREBY CERTIFY THAT on this 15 day of October, 1990, a copy of the foregoing Memorandum of Law was sent by first class mail, postage prepaid, to

Gary A. Berger, Esquire
Berger & Fink
105 W. Chesapeake Av., Ste. 101
Towson, MD 21204.


SANDRA R. GUTMAN
Acting Principal Counsel

A. M. LEBSON, M.D., P.A.
3640 Fords Lane
Baltimore, Maryland 21215

Appellant

v.

THE BOARD OF MUNICIPAL AND
ZONING APPEALS OF BALTIMORE
CITY
417 E. Fayette Street
Baltimore, Maryland 21202

Appellee

* IN THE
* CIRCUIT COURT
*
* FOR
* BALTIMORE CITY
* AT LAW
* CASE NO.: 90184037/CL115971

FILED
SEP 6 1990
CIRCUIT COURT FOR
BALTIMORE CITY

* * * * *

MEMORANDUM OF APPELLANT
PURSUANT TO MARYLAND RULE B12

A. M. LEBSON, M.D., P.A., on his own behalf, by GARY A. BERGER and BERGER and FINK, his attorneys, respectfully submits this Memorandum pursuant to Maryland Rule B12.

STATEMENT OF THE CASE

This is an Appeal from the action of the Board of Municipal and Zoning Appeals of Baltimore City ("Board") which by its Resolution in Case No. 171-90X, dated June 11, 1990, approved Appellant's application, in part, and denied it, in part. This Appeal is being taken from that portion of the Board's Resolution denying Appellant an extension of conditional use to Apt. D, 3640 Fords Lane, which space Appellant seeks to use for storage purposes appurtenant to medical offices.

ISSUE

Whether the decision of the Board was unsupported by competent, material and substantial evidence and contrary to the facts and established law?

Handwritten initials

THE FACTS

Appellant is the current occupant of the subject property, terrace level at 3640 Fords Lane, and is the successor in interest to Dr. Richard Weinberger, who originally used the premises as a physician's office. Dr. Weinberger's use was approved May 9, 1967 and these premises have been used as doctors' offices, for all practical purposes, continuously since that time.

The current occupant, Appellant, is a medical office, with a largely geriatric patient base. The practice draws largely from the immediate neighborhood, with many of the patients being disabled and handicapped, but nonetheless accessing the practice as pedestrians. See Transcript (Appellant's Exhibit "1"), pages 10 and 11, and attachment to Appellant's Appeal from the Decision of the Zoning Administrator (Appellant's Exhibit "2").

Appellant has, in good faith, endeavored to provide the most modern methodology for essentially poor and elderly people. As a result, Appellant undertook to occupy Apt. D in this building, the unit at issue, for the purpose of making two new machines available to patients, and for the further purpose of providing the principal office, at terrace level, with additional storage space. Transcript, p. 6, lines 1 to 4. Unbeknownst to Appellant, absent the Board's approval such use is violative of the Zoning Ordinance (No. 1051, Baltimore City Code, 1971).

Subsequently, Appellant was cited for violating Section 2.0-10 of the aforesaid Zoning Ordinance, apparently upon the instance of Protestants Emanuel and Esther Reich ("Protestants"). Transcript, p. 24, line 11. The Protestants testified that they were afraid of harassment from Appellant's male patients, and that their opposition to Appellant derived from this perceived harassment. Transcript, p. 26, lines 10 to 21, inclusive; p. 27, lines 1 to 6 and lines 17 to 22.

Nevertheless, Protestants also testified that they did not oppose the use of the subject property for storage purposes. See Transcript, p. 25, lines 13 and 14, where Mr. Reich testifies, "We don't want to oppose the doctor, if he wants to use it for storage". Dr. Lebson, for Appellant, in fact, limited his use of this property to storage only. Transcript, p. 7, lines 2 to 5. He further testified that he would remove anything controversial from Apt. D and use the space strictly for storage. Transcript, p. 16, lines 11 to 21.

Nonetheless, the Board, by Resolution dated June 11, 1990, (Appellant's Exhibit "3"), found that Emanuel Reich objected to Appellant's Application for Extension of Conditional Use, and denied Appellant's Application, in part. It is from this Denial that this Appeal issues.

ARGUMENT

The Board, in its Resolution (Appellant's Exhibit "3"), held that the expansion requested by Appellant would be "not

permissible in its opinion; it would be objectionable to the Tenants in the building and, therefore, must be rejected". Resolution, p. 4. In support for this holding, the Board pointed out that it "heard testimony from a resident of the building, who submitted a Petition from practically every resident in this structure voicing their objection and opposition to further commercialization of the complex". The Board's holding is contrary to the facts presented, and the evidence considered was neither competent nor material and substantial.

In the case of Ford v. Baltimore County, 268 Md. 172 (1972), the Court of Appeals held that "when a hearing is required, it must be a fair hearing in all respects and not a mere form". Citing Heath v. Mayor and City Council of Baltimore, 187 Md. 296, 305 (1946), the Court continued that "a statutory provision for a public hearing implies both the privilege of introducing evidence and the duty of deciding in accordance with the evidence, and it is arbitrary and unlawful to make an essential finding without supporting evidence. This is especially true in zoning cases...".

The Board's consideration as gospel of Protestant's petition, over objection, was fundamentally unfair to the Appellant. Certainly, in the absence of any meaningful opportunity to cross examine the Protestant, the acceptance of, and subsequent reliance upon, heresay of this magnitude must be considered by this Court as error. In the cursory hearing

afforded by the Board, the Board is still bound to observe basic rules of fairness even though it is not strictly bound by formal rules of evidence. Montgomery County v. National County Realty Corp., 267 Md. 364 (1972).

While the petition was afforded great weight, it was never scrutinized by the Board, and, more importantly, the signatures were never authenticated. Nor were the signatories established to be residents of the community. In fact, Dr. Lebson, by his testimony, placed the substance of the Petition in dispute when he expressed his incredulity at the possibility of a particular patient being party to the Petition. Transcript, p. 28, lines 8 to 13. Although "fairly debatable", the Board's reliance on Protestant's testimony was misplaced; its consideration of the petition over objection was error.

As previously stated, Protestants have agreed that they have no opposition to the Appellant's use of the property in question for storage purposes. Considering that Appellant will limit the use of space for storage purposes, and, more importantly, considering the public interest in Appellant's service to the community, it should be abundantly clear that the Board erred in refusing to allow Appellant's extension, as requested.

Finally, in the case of Dundalk Holding Co. v. Horn, 266 Md. 280 (1972), it was held that where findings were not supported by substantial evidence (emphasis provided), those findings would

be considered arbitrary and capricious and tantamount to a denial of Due Process under Article 23 of the Declaration of Rights of the Maryland Constitution. Appellant contends that Protestant's testimony was biased and therefore not credible and that Protestant's petition was wrongly considered by the Board, and that, as a result, the Board's findings were not supported by substantial, competent evidence. Furthermore, the Board should have noted the broad area of accord between Protestant and Appellant as to the use of the subject property for storage and, notwithstanding the above, granted Appellant's request for extension of conditional use into the aforesaid Apt. D, 3640 Fords Lane.

CONCLUSION

For the reasons hereinabove set forth, Appellant urges this Honorable Court to:

a. Reverse the decision of the Board of Municipal and Zoning Appeals or, in the alternative, permit additional testimony to be offered as is provided for by Section 11-03-11 of the Zoning Ordinance;

b. And for such other and further relief as the nature of its cause may require.

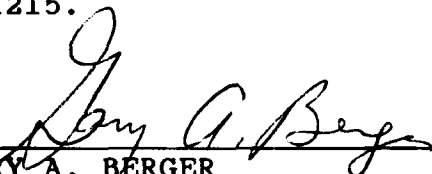
Respectfully submitted,



GARY A. BERGER
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(301) 828-5000
Attorneys for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 6th day of September, 1990, a copy of the foregoing Memorandum with Exhibits was mailed, postage prepaid, to: SANDRA GUTMAN, ESQUIRE, Acting Principal Counsel, Room 143, City Hall, 100 N. Holliday Street, Baltimore, Maryland 21202, and EMANUEL and ESTHER REICH, 3640 Fords Lane, Baltimore, Maryland 21215.



GARY A. BERGER

APPELLANT'S EXHIBIT "1"

CITY OF BALTIMORE

BEFORE THE BOARD OF MUNICIPAL AND ZONING APPEALS

IN THE MATTER OF:

3640 FORDS LAND

Appeal #171-90X

Ton continue to use terrace level as a non-resident doctor's office and extend use into portion of first floor apartment.

June 5, 1990

BALTIMORE, MARYLAND

The above entitled matter came for hearing pursuant to notice.

BEFORE:

Gia A. Blatterman, Chairperson
Herbert Brown,
Melvin R. Kenney, Sr.
Barbara A. Green, Member
Gilbert V. Rubin, Executive Director

COPY

APPEARANCES

Arthur M. Lebson, MD, PA
3640 Fords Lane
Baltimore, Maryland 21215

Emmanuel Reich
3640 Fords Lane
Baltimore, Maryland 21215

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MS. BLATTERMAN: Appeal number 171X. The premises is 3640 Fords Lane. The name of the Appellant is A. M. Lebson, MD, PA. A description of the proposed building or use is to continue to use terrace level as a non-resident doctor's office and to extend use into portion of the first floor apartment D. This is in an R5 zoning district. Will all those who are going to testify, please raise your right hand?

Whereupon,

ARTHUR M. LEBSON, MD

the witness, having first been duly sworn, testified as follows:

EXAMINATION BY MS. BLATTERMAN:

Q Sir, would you please state your name and spell your last name?

A Yeah, Arthur M. Lebson, L-E-B-S-O-N.

Q Okay, Mr. Lebson, Dr. Lebson, excuse me, is this in an apartment building?

A Yes.

Q Do you own your units or are they--

A No, they're leased on a year to year basis.

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1 Q What is the cost of your lease?

2 A About \$550 per unit, approximately.

3 Q Okay, how many units are you now occupying?

4 A Three.

5 Q Three units.

6 A Two really, and one for storage.

7 Q Okay, so you want to occupy another one?

8 A Yes.

9 Q How long have you been practicing there?

10 A 1977 August.

11 MR. RUBIN: You've been there since August 1977,
12 and you've never gotten a permit?

13 DR. LEBSON: No, when we came there the landlord
14 had told us that there was a permit in place, and that
15 since the position had been there continuously since 1966,
16 he told us there was no reason to go down and stand before
17 the Board, as someone had been there during that entire
18 period of time practicing in that office.

19 And there was a cross on the bottom floor, the
20 Jewish National Fund had an office there, and they'd been
21 there for maybe ten or fifteen years also. And he said
22 since it was standing, we didn't have to go down, and gave

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1 us a lease for a doctor's office that we signed.

2 MR. RUBIN: He is a zoning authority?

3 DR. LEBSON: No, the landlord told us that it had
4 been a doctor's office and had been so zoned, so we
5 believed him.

6 MR. RUBIN: And you have two spaces you said, two
7 units?

8 DR. LEBSON: Yes, two in the basement and one we
9 just acquired on the first floor.

10 MS. BLATTERMAN: Okay, we have three units here
11 that you are occupying, of which whether they're for
12 storage or not they're occupied for doctor's offices, which
13 you have gotten, really, no legal permission to use for
14 such, as far as I can see here.

15 MR. BERGER: Madame Chairperson, if I may.

16 MS. BLATTERMAN: Certainly, and you are?

17 MR. BERGER: My name is Gary Berger, and I am the
18 attorney for Dr. Lebson.

19 MR. RUBIN: What is your name?

20 MR. BERGER: Gary Berger, B-E-R-G-E-R. And if I
21 may, first off, there are three units which are presently
22 being occupied by Dr. Lebson, just for point of

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1 clarification. The third is the unit which is in source
2 of some contention, I believe this is the unit to which we
3 seek an extension of conditional use.

4 And this is a unit which will be primarily be
5 used for storage. But Dr. Lebson and his practice is
6 already in possession of it. As the first and primary
7 inquiry has been as to whether Dr. Lebson properly obtained
8 permission from this Board to take possession of this
9 property as a doctor's office in 1977, there was no bad
10 faith, clearly, on Dr. Lebson's behalf.

11 The point I'm trying to make is that there was no
12 knowledge on Dr. Lebson's part, that there was a
13 requirement by the City that permission be obtained, and he
14 has been there in, basically, blissful ignorance of the
15 requirement. So we are now aware of this, and that's why
16 we're here.

17 MS. BLATTERMAN: So you want to legalize exactly
18 what you've been doing.

19 MR. BERGER: Yes, ma'am, absolutely.

20 BY MS. BLATTERMAN:

21 Q So that third unit you would still use for
22 storage?

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1 A Storage and further use for patient care. We
2 would have, there's two machines up there that would be
3 used for measuring breathing, and one would be measuring
4 circulation in the legs.

5 Q So it would be an extended use of office visits?

6 A Yeah, but very few people, I would guess less
7 than five percent of the people would ever need to go up
8 there, and it wouldn't need to be on a visit to visit
9 basis. I mean, if you have a circulatory problem, you may
10 need it checked twice a year, if at all.

11 Q When you say up there, is this on the second
12 level, another level?

13 A It's like three, four, like seven or eight steps
14 up. It's a low-rise.

15 Q Okay, so your main office--

16 A Is on the terrace.

17 Q The two rooms, are on the terrace?

18 A Terrace.

19 Q This particular unit is on the first floor?

20 A First floor, four steps from street level.

21 Q Okay, which at this time, for a long time, you've
22 been using as a storage unit. So there hasn't been any

1 activity?

2 A We used it in the beginning, we used it as
3 activity until we were informed of the problem, and then we
4 didn't use it anymore except for storage. So there's been
5 no patient traffic there.

6 Q Okay, when you say in the beginning you used it,
7 when you were informed of the problem, when was that in the
8 beginning?

9 A About, there had been a family there, and then
10 when it became vacant, it was vacant for a while, and we
11 asked the landlord, and he rented it to us about a year and
12 a half ago. In the beginning we used it like we were using
13 the others until there was a problem we were made aware of
14 that it needed to be zoned for that. And then there's been
15 no significant traffic, except people going up to file
16 things in storage there, otherwise, the machinery really
17 hasn't been used, maybe once a month if at all.

18 Q When were you made aware that there was a
19 problem?

20 A About last year, then the process started.

21 Q And it took you a year to come here to try to
22 legalize it even as a storage for your business?

1 MR. BERGER: No, that's not correct, I believe
2 the issue was raised in May of 1989, I believe that's the
3 inspectors date of his report. And application was not
4 made a year later, it was made, I believe no later than the
5 fall of 1989. Dr. Lebson is a physician, not an attorney,
6 and it's not expected of medical people, the same detection
7 to legal details I would a lawyer.

8 MS. BLATTERMAN: Mr. Berger, let me as you this,
9 before, let's say Dr. Lebson said a year and a half he's
10 been into this apartment. Okay, before that time, was it
11 used for residential dwelling?

12 MR. BERGER: This unit, yes, this one particular
13 unit.

14 MS. BLATTERMAN: Okay, so actually it's only been
15 the past year and a half that it has been used, and with
16 all due respect, and he is not an attorney, has been using
17 it illegally.

18 MR. BERGER: Yes, ma'am.

19 MS. BLATTERMAN: That's all I need to clarify
20 with myself. If the Board grants you this extension of
21 conditional use, is this \$550 per month, is this per unit?

22 DR. LEBSON: Per unit.

1 BY MS. BLATTERMAN:

2 Q Okay, and you plan on putting some type of
3 machines that would occasionally be used of patients in
4 there, breathing machines?

5 A Yeah, just measure their breathing in order to
6 see whether or not they need oxygen at home for congestive
7 heart failure, asthma, emphysema or bronchitis. But the
8 treatment is done on the first floor. We have, if you come
9 in with asthma, we have a machine we can give you to break
10 the asthmatic attack, and then we have simple machines you
11 just blow into a tube that measures your airflow and how
12 much air you can blow out. But in order to really assess,
13 you know, how well or poorly you're doing, we have to do
14 something more extensive.

15 Q Does the use of these machines or this machine,
16 does it generate any noise or any--

17 A No.

18 Q Nothing at all so you wouldn't know?

19 A It makes a hum.

20 Q It makes a hum?

21 A It's less than a TV set.

22 Q And what are your office hours?

1 A Office hours, we start about 8:30 in the morning,
2 and we're usually finished by 3:30 every day, except for
3 Monday. Monday we have evening hours that runs between
4 6:30 and 7:30 depending on how many people make an
5 appointment that are on their way home from work. Majority
6 of the people that we serve are across the, a lot of the
7 people that we serve are neighborhood people. There's two
8 high rises of federally subsidized elderly building, where
9 you have to be age 55 to live.

10 And there are a lot of people that have come to
11 our office as patients, as their physicians were far away
12 and travel was difficult for them, so they just sort of
13 come across the street. The other reason the two machines
14 are, that if we didn't have it, they would either have to
15 go over to Sinai Hospital, which is probably about a mile
16 and a half away, you know, go find the department, sit
17 there, wait, go through these tests. And it would be a
18 burden on the patients in order to have to go elsewhere.

19 So the more that we're able to do for them in the
20 building, we do some other things that are part of a
21 doctor's office and some other services for them, so it
22 allows them the ability of not having to travel since a lot

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1 of them are handicapped, arthritic, older, and just really
2 can't travel distances to other physicians as they don't
3 drive cars and most of them are disabled or handicapped.

4 MS. BLATTERMAN: Do you have a report?

5 MR. RUBIN: Yeah, the planning department says
6 the doctor currently operates out of one apartment on the
7 terrace level and is proposed to expand to a second
8 apartment on the first floor. Apartment house is part of a
9 larger complex. The office employs four full-time and four
10 part-time staff, and operates five days a week, from 9:30
11 to 5:00 p.m. The majority of the patients live in the
12 surrounding area.

13 Staff learned that the second apartment will be
14 used for storage of records and provide additional work
15 space for the therapy staff. According to the applicant,
16 the primary purpose of the expansion is to provide those
17 services to the client base. He will be adding no
18 additional staff, nor is he planning to expand his client
19 base.

20 The Department of Planning has no objection to
21 the appeal. HCD -- Health and Traffic are not opposed.

22 MS. BLATTERMAN: I have a question, I just need

1 to know. If the entrance to this third unit infringes upon
2 the privacy of the residents there. Sometimes they have
3 private entrances.

4 DR. LEBSON: No, the way it's laid out is that
5 there are two ground level entrances. The terrace is a
6 ground level entrance on Fords Lane and you walk down three
7 steps and you're in the terrace apartments. You walk to
8 the right to the doctor's office. In order to get to the
9 first floor, you would then walk up the doctor's office,
10 make a right, walk up four steps, hit a little terrace
11 landing of sorts, and go up four more steps and make a
12 sharp right into the apartment.

13 So it's up four, across a terrace of four feet,
14 up the steps and a right into the apartment. So it doesn't
15 pass any other persons space. In other words, the other
16 people that live there in other apartments would be across
17 the hall up four steps and across the terrace and above the
18 office. So there really isn't any other, even in-between
19 our unit except for the mailbox.

20 MR. BERGER: And if I may add, for clarification,
21 the amount of traffic that existed when this office was
22 being used for patients, if I'm not mistaken, I believe I

1 heard Dr. Lebson say that five or six patients a week were
2 the average number of patients availing themselves of this
3 second or first floor area. That being the case, I believe
4 it's less traffic than if it were being used as a real live
5 tenant for housing.

6 It is primarily to be used as a storage space,
7 and although this is an adjunct use to basically create
8 "one-stop shopping". This is also primarily to be used for
9 storage, not to generate a burden. Not to create a
10 tremendous amount of traffic up the steps. Truth be told,
11 it is a convenience to the patients to have this there.

12 It is a geriatric practice. There are older
13 people in subsidized housing immediately across the street,
14 the pedestrian, they come to the office for this sort of
15 treatment. And since the word illegal was used, it's an
16 important and strong word, I would add that since Dr.
17 Lebson has been made aware of the illegality of the nature
18 of his use, there has been no traffic whatsoever by
19 patients up to this level. This has been in difference to,
20 in good faith, I believe.

21 MS. GREEN: According to the Planning Department,
22 is says the staff learned, I think the report was misread,

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1 learned that the second apartment be used for storage of
2 records, and will provide additional work space for the
3 clerical staff. So that's not what you're saying it's
4 going to be used for.

5 DR. LEBSON: It will be used mostly for that and
6 maybe five people a week would go up and have this
7 breathing test in the machine that would be stored up
8 there.

9 MS. BLATTERMAN: In other words, you're going to
10 have a secretarial pool up there. This is what this is
11 telling me, the clerical staff.

12 DR. LEBSON: Yeah, it's people that work on the
13 monitoring system that we have.

14 MS. BLATTERMAN: So it will not be used for
15 storage?

16 DR. LEBSON: It will be.

17 MS. GREEN: I want to clear up what he's actually
18 going to use this space for. Because Planning is saying
19 that you said to them, the City, that you're going to use
20 it for additional work space for your staff. It has
21 nothing in here about the machines. Did you explain that
22 to them, that you were going--

1 DR. LEBSON: When I went to the hearing, yes.
2 The hearing in the local neighborhood association, we met
3 with them, we mentioned that to them?

4 MS. GREEN: To the Planning Department also?

5 MR. BERGER: For point of clarification, that was
6 before Northwest Baltimore Corporation, who had their own
7 civil hearing, and Dr. Lebson can't distinguish that
8 between the Planning, for the Government. Just so that
9 we're clear the time and terms. And Dr. Lebson, apparently
10 delegates some of this information exchange to staff, and
11 he can't speak for what, perhaps, somebody in the staff may
12 have said to Planning. Nor do we have anybody here to
13 contradict that.

14 So I believe that Dr. Lebson is to be taken at
15 face value. What he's saying to the extent that there is
16 contradiction, there is absolute truth.

17 MS. GREEN: What I'm saying to you, sir, is that,
18 I've got to take into consideration what I'm reading here
19 and what he's saying. I can't say that this is wrong, and
20 then you're saying don't say he's wrong. So right now, I'm
21 trying to get to the bottom of it, and this is why I'm
22 asking the question.

1 So I will know how to vote. I want to be able to
2 vote fairly, that's why I'm asking these questions.

3 MR. BERGER: And for my role here, I'm only
4 trying to make clarification. I believe that Dr. Lebson is
5 perhaps qualifying something somebody in the staff may have
6 told Planning.

7 DR. LEBSON: We can also use the machine
8 downstairs, I mean, that's not a major problem, you know.
9 We can move the machine down. It won't be a hardship.

10 MS. GREEN: I'm not saying to do that.

11 DR. LEBSON: I'm just saying when you decide and
12 you vote, I'm just telling you if that's a problem, it can
13 be remedied easily by having someone move the entire
14 computer type system downstairs, and it's not going to be a
15 catastrophic event to have to move it. I mean, if that's a
16 major problem with Zoning, than rather than have to get
17 into a whole bunch of appeals and everything, it's just as
18 easy for you to say you can do this or not do this if you
19 do A, B, C and D, and we can move the machine downstairs
20 and just use that, and move different clerical things
21 upstairs instead.

22 You know we can replace one room with another.

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1 There's no problem with that. That's not a major problem
2 on our point.

3 Whereupon,

4 EMMANUEL REICH

5 the witness, having first been duly sworn, testified as
6 follows:

7 EXAMINATION BY MS. BLATTERMAN:

8 Q Sir, would you please state your name, please?

9 A My name is Emmanuel Reich. And I'm a resident of
10 the premises in question. I share the first floor with
11 the apartment that the doctor is requesting for his use.
12 That apartment is D, my apartment is number C. I'd like to
13 say just as a passing or a preface to my remarks. This is
14 my first experience in speaking to a Court or to a City
15 tribunal or what. And if I flounder, I'll ask you nice
16 people for your assistance and guidance, I'll do my best,
17 nonetheless.

18 What we have speaking as a tenant, I've been
19 asked by the other two resident tenants, to speak for them
20 as well, because they're senior citizens in their eighties.
21 They have signed a petition against what is being proposed
22 together with--

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1 Q You'll submit this petition for the record? Go
2 ahead.

3 A You have on the petition over 30 signatures
4 including all the tenants, the resident tenants of the
5 building in question. They have all signed on that, and
6 those residents who checked with a special check indicating
7 that they are residents of the premises.

8 Now the first thing I say, I was listening in
9 here and I must say that a major problem of the tenants has
10 been that Dr. Lebson lacks credibility.

11 Q That's not for us to say.

12 A I'm bringing you our problem.

13 Q Stick with what we need to know about the
14 legality of those units.

15 A Fine, let me go in and just explain what the
16 problem would be.

17 MR. BERGER: I will object to this being
18 admissable for the Board for the record.

19 MS. BLATTERMAN: Your objection is taken.

20 BY MS. BLATTERMAN:

21 Q Sorry, go ahead sir.

22 A The premises in question is a part of the

1 Fountainview complex of apartments. To understand the
2 problem as it faces us, I'll just take a moment and explain
3 what is this Fountainview complex. The Fountainview
4 consists of 14 apartment, apartment houses. They are
5 garden type apartments. They are situated within a,
6 surrounding a rectangular land plot.

7 This plot, you would call it more like a court.
8 A court or a large area which deserves the title of a park.
9 All the fourteen houses surround this park development.
10 They are garden type apartments. All the houses face the
11 court. Their main entrances are on the court. So that we
12 have here a group of tenants which are all interested and
13 concerned. When the petition, therefore carries, not only
14 the tenants in the house, but the neighboring tenants,
15 since they are all part of this complex, they are all
16 involved, and were very pleased to sign.

17 Had we had a little more time, the notice was
18 only posted ten days ago. Had we had, and we had several
19 holidays last week. We didn't have the time. We did as
20 much as we could to get this. Had we had the time, we
21 would have organized it far more. Because the tenants are
22 all voiced opposition.

1 We have, what we call, not only are we tenants as
2 such loose. We are not, we are united in an association of
3 the Fountainview Tenants Association. So that we're all
4 united, and therefore these signatures were given freely
5 and warmly.

6 Now, what we have here is the house in question,
7 number 3640, I'll refer to it by that number, is, as I
8 indicated, part of the Fountainview. The southern portion
9 of the Fountainview complex consists of three houses, three
10 of these apartments, that border on, not only on room of
11 this garden park circle, that we're all on, but their rears
12 border on Fords lane.

13 Three of the houses, the southern part, border
14 on, as I said, Fords Lane. Now, when they were built, the
15 builder and landlord, the previous one, we're living there
16 quite some time. We're more than 15 years resident, my
17 wife and I, we had contact with the builder and the
18 previous owner. He explained to me at the time that when
19 the buildings were built, they secured permission. We
20 questioned the point that the basements on Fords Lane were
21 being used for professional or other purposes.

22 He explained to us, that when the built it, since

1 the buildings, the rears faced the street, Fords Lane, they
2 thought it would be helpful for the property owners, if
3 they could secure light commercial use, in the form of
4 professional or what you have. And he said we built it on
5 that basis so that it would not interfere with any of the
6 tenants.

7 The building in question, number 3640, as well as
8 the other two joining buildings, they have special built
9 entrances on the rear that faces Fords Lane to the
10 basement. It's referred to as a, I forget the term that
11 the doctor uses, terrace. It is not a terrace, it is a
12 basement apartment, -- central court. As you enter our
13 building you go down seven steps to the basement, that's
14 where the location of the units of the professional units
15 are.

16 It is true that on Fords Lane, the entrance,
17 there are not seven steps down. The terrain lowers and you
18 have, I believe, three steps down from the street level to
19 the level of the basement. Now, all the houses are built
20 with a basement, and two stories above it. The basement
21 all have two apartments on the floor making a total of six
22 apartments to the house. Those apartments, the three that

1 I referred to on Fords Lane, have special entrances built
2 so that traffic goes into the basement, enters the basement
3 and exits from the basement.

4 As you go further in the hallway, you pass the
5 doctor's, both his apartments, then you got, I mentioned
6 the seven steps up. You come to the main entrance, which
7 is off the court, it's off the main entrance which is off
8 of the park area or the courtyard.

9 Q Okay, so that's the ground level, in other words,
10 the third apartment. From the garden, you would enter the
11 third apartment?

12 A Right. Let me correct that statement for one.
13 The main entrance is from the garden view, the entrance,
14 the stairs from the basement communicate with the rest, so
15 you can still come in that way, go up to the main entrance,
16 and then go up further to the next, to our level.

17 Now what we find, is the overtone by the landlord
18 and the builder, that it would not have any interference
19 with the comfort, the tranquility with the resident
20 tenants. Well, it's true, it's a basement, we went along
21 with it.

22 Q Okay, what I need to ask you is this. The use of

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1 this third apartment. And I know you've been used to know
2 the basement apartments being used as a doctor's office.
3 The new item that we're looking at is that third apartment.
4 How has that been, in your opinion, a disadvantage to the
5 people that live in the apartment house? That's what we
6 want to focus on.

7 A I'm coming to that. I'm just giving you the
8 preface so that you understand exactly what is involved.

9 Q Certainly.

10 A It is the entrance, the traffic had not
11 interfered with us primarily, because of the exit and
12 entrance on the rear, Fords Lane. Now, as far as the next
13 apartment was taken. The doctor rented that apartment
14 after it became vacant, as he indicated a year and a half
15 ago. We immediately asked the landlord whether that is
16 acceptable to him.

17 We told him that we're afraid of that. And he
18 answered, he says, "I can assure you. I did not rent it
19 for any other purpose but for storage. The doctor gave me
20 his word." And I believe he also said, but I'm not sure, I
21 think he told me that it would not be used for any other
22 purpose but storage. Now he went on to tell us that he is

1 not permitted to rent it except for residential and for
2 storage.

3 Within a very short time, couple months, we the
4 tenants noticed, that there was movement going on in that
5 apartment that was supposed to be used for storage. We
6 heard it was being converted, an office and a waiting room
7 were being made in there and all. We immediately notified
8 the landlord. He told us, if that's the case, that's a
9 violation of the law. He says, "I urge you to report it to
10 the Zoning Board."

11 It was we, the tenants that called the Zoning
12 Board and asked for an inspector, who came, inspected the
13 premises and told us that it was to be used for storage,
14 and he says, "The doctor explained that they would not use
15 it for an office."

16 Q Well, even, sir, even for storage, I would still
17 think that's an extension of the conditional use. Because
18 you're using it for storage for a medical office.

19 A You're right.

20 Q So what I'm asking you today is, they're here on
21 an appeal to get it to use for storage.

22 MR. RUBIN: Also for the doctor to use the

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1 premises.

2 BY MS. BLATTERMAN:

3 Q Well, the appeal actually is to use the terrace
4 level as a non-resident doctor's office and extended use.
5 Non-resident's doctor's office means for whatever the
6 doctor wants to use his office for.

7 A That's right.

8 Q So that's the appeal. So basically your group
9 that has signed these papers and the apartment dwellers,
10 are opposing it on the sheer fact that it's an extension of
11 the conditional use. And this is why you're here, sir.

12 A You're honor, we are very tolerant. We're
13 friendly people, we're very tolerant. We don't want to
14 oppose the doctor, if he wants to use it for storage. We
15 here to oppose, you're not bothering us with simple
16 storage, we're opposed to--

17 Q What you're saying is if there's no activity, you
18 don't oppose it?

19 A Let me explain further exactly what the problem
20 is. We were under the impression that it would be fine,
21 the doctor would have, or rather we would assume the
22 patients would come in from Fords Lane, exit through Fords

1 Lane. They would not interfere with us who have our main
2 entrance on the garden. That was fine.

3 In reality, it doesn't work, let me explain why
4 it doesn't work.

5 Q I understand, because, believe me, I know what
6 you're saying. You've said it all along, and it's an
7 infringement.

8 A Just one more comment, please.

9 Q Go ahead.

10 A What we found is that the people coming into the,
11 instead of all staying in the waiting room, they congregate
12 outside around the building, first in back and beyond that
13 even. They come out on the steps leading to the main
14 entrance. They are sitting there smoking. Because they
15 are not tolerated in the office. Now, beyond that too, the
16 women, my wife can tell you of the harassment.

17 My wife and other women have suffered in going up
18 and down, even though we don't use the basement. But when
19 they are sitting on the steps and you come in, you get
20 unbecoming remarks, particularly to the women. My wife
21 felt harassed. And that's why we're here, primarily. It
22 did not work out. However, they have a permit for that.

1 The only thing we came for, is please, we seek
2 nothing more than to live as residential tenants with quiet
3 and restfulness. We ask no more. We do not want them
4 coming up on our floor. We don't want to open the door and
5 be confronted by them. Neither do we want them sitting on
6 our stairs and harassing us. The tenants above me and my
7 wife, that's why we came for.

8 Whereupon,

9 ESTHER REICH

10 the witness, having first been duly sworn, testified as
11 follows:

12 EXAMINATION BY MS. BLATTERMAN:

13 Q Okay, is your testimony the same, ma'am, 'cause
14 if it is, we'll just take your name.

15 A Well, I just wanted to add something.

16 Q Give your name.

17 A My name is Esther Reich. I'm afraid I will be
18 afraid to open my door. I have one exit from my apartment,
19 and it's the same steps that his patients will be using
20 coming up to his office. I will be afraid to open my door,
21 I will never know who is standing there. What kind of men
22 are there. I've been harassed before with vile language,

1 and I actually, many times when they're sitting there,
2 these men, I run up my steps because I am afraid.

3 MS. BLATTERMAN: Alright.

4 DR. LEBSON: I'd like to say something. I can
5 tell you that no one has gone up to have any tests done in
6 that office for at least three months. Because the person
7 who does the tests has moved to another area to do them,
8 that's inconvenient for the patients, number one. Number
9 two, I took care of the patient directly above me, who
10 passed away very shortly, and her sister still lives in
11 that apartment, two up, I mean the top level. Who is in a
12 nursing home, and I took care of her during the terminal
13 stages of her illness.

14 The people that come in there, we have two
15 waiting rooms, by the way. We have a waiting room on the
16 right as you walk in, and an overflow waiting room on the
17 left as you walk in. Both were set up for that. The
18 number of people that have gone up the steps, is intimately
19 small, even when it is. If it's going to be there, there
20 are less people going up the steps now than there were when
21 the family that lived there with multiple children was
22 there.

1 So I don't know that there's been any traffic. I
2 mean, people that may come and sit outside the door on the
3 steps are below the level of that if they would sit there
4 when they come in. And like you said, the opening is to
5 Fords Lane where people come in. I don't think any of the
6 patients come in from the court, unless they would live
7 there. So the traffic flow is through the Fords Lane door.

8 The people that come in there are mostly from the
9 area. The people that go up the steps, don't go up the
10 steps, because just the secretaries and receptionists are
11 going to have to run up and down to get charts. And, you
12 know, that's what's really happening if you were to come by
13 and watch.

14 MS. BLATTERMAN: Okay, if that's all there is,
15 you'll hear from us in seven to ten days.

16 MR. BERGER: I do have one question, Mrs. Green,
17 apparently I misunderstood your point with regard to
18 planning. And if I may clarify that before you contemplate
19 a decision. I just want to make sure that I've
20 communicated to you responsively a concern. You did make
21 an inquiry with regard to Planning.

22 MS. GREEN: I understood what you're saying.

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MR. BERGER: Thank you for your time.

MS. BLATTERMAN: Thank you very much.

(Whereupon the hearing concluded.)

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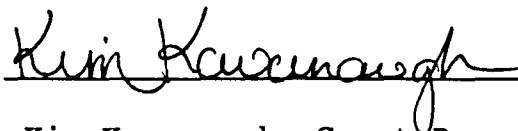
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Hearing in the matter of: 3640 Fords Lane

Appeal Number 171-90X

Date of Hearing: June 5, 1990

I hereby certify that the transcript in the above entitled matter is a complete and accurate transcription.



Kim Kavanaugh, Court Reporter

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BOARD OF MUNICIPAL AND ZONING APPEALS

DATA SHEET — FOR OFFICE USE ONLY

COMPILED FROM THE RECORD PRIOR TO THE PUBLIC HEARING

171-90X

JUN 5 1990 1:00 PM

APPEAL NO. DATE FILED Oct. 30, 1990 HEARING DATE 19

PURPOSE OF APPEAL To continue to use terrace level as a non-resident doctor's office & extend use into portion of 1st fl. (Apt.D)

PREMISES 3640 FORDS LANE

LOCATION n.w. side of Fords Lane, 337' s.w. of Park Heights Avenue

NAME OF APPELLANT A. M. LEBSON, MD.PA

ADDRESS OF APPELLANT 3640 Fords Lane - 21215

NAME OF OWNER U.s. Enterprises, Alan Grant, Gen. Partner

ADDRESS OF OWNER 7315 Wisconsin Ave. #825W, Bethesda, MD 20814

SIZE OF LOT 401.2' x 399.8' (IRREGULAR) 4.7 ACRES

DESCRIPTION OF EXISTING BLDG. OR USE 3-sty. brick apartment building, 270' x 482.6', used for a total of 86 dwg. units. Portion of bldg. k/a 3640 Fords Lane - 2sty. plus terrace, 80' x 30', terrace used for doctors office & remainder for 2 dwg. units.

DESCRIPTION OF PROPOSED BLDG. OR USE To continue to use terrace level as a non-resident doctor's office and extend use into portion of first floor, Apt. D

DECISION OF ZONING ADMINISTRATOR Ref. under Sec. 4.5-1c - Conditional Use & Sec. 2.0-10 - Extension of a Conditional Use

LOCATED IN A R-5 ZONING DISTRICT
(SEE ATTACHED SHEET)

PRIOR CASES -----

STAFF REPORT: Prior to 4/20/71, the date of passage of the New Comprehensive Zon. Ord. No. 1051, the property was zoned Residential Use, E-40 Height and Area District.

"Under the provisions of Section 4.5-1c, in the R-5 Residence District, the continuance of a professional office of a physician or dentist in a structure containing an established medical or dental office is listed as a conditional use provided:

- (a) such office use is beneficial to the health and general welfare of the residents of the area; and
- (b) such office use existed at the time of enactment of this comprehensive ordinance; and
- (c) such office use has been utilized for such purpose for a period of not less than three years prior to application; and

(d) that the conditional use shall be limited to no more than two physicians or more than two dentists in any such office.

"Under the provisions of Section 2.0-10, any change, including extensions, enlargements, relocations and structural alterations to a conditional use shall be subject to the same procedures and requirements applicable to conditional uses under this Ordinance.

"The Board may authorize a conditional use subject to the requirements and provisions of Sections 11.0-3-b-1 and 11.0-3-c.

"The proposal in this case is to continue to use terrace level, Apartment E & F, for Dr. Arthur Lebson, as a non-resident doctor's office and extend doctor's office to portion of the first floor, Apartment D, in the R-5 Residence District.

NOTE: The Steward Directory, Criss-Cross, 1990 Edition has Arthur Lebson, MD and Naomi Cutler, MD, both listed at 3640 Fords Lane with the same telephone number also addressed at 3640 Fords Lane is RLT Medical Associates as a new listing with a different telephone number.

P R I O R C A S E S

#324-60:THE BREVARD CORP. - To constr. an apt. house with 193 dwg.units
DISMISSED BY BD. 8-9-60

#491-64:H.M.H.CONSTRN.CO. - To convert 9 prof.offices to 9 dwg. units
totaling 86 dwg.units on lot. DISAPPROVED 11-10-64

***H.M.H.CONSTRN.CO. vs. M.& C.C. IN B.C.C. - BMZA REVERSED IN
B.C.C. BY SODARO,J. 12-10-64

#132-66:I.ERWIN - To retain existing s/f illum. sign on front wall of
bldg. adv.beauty shop. DISAPPROVED BY BD. 4-5-66

#474-66:DR.R.WEINBERGER - To use portion of premises k/a 3640 Fords Ln.
for non-resident doctor's office for Dr. Richard Weinberger.
APPROVED COND. 5-9-67

PLEASE PRINT OR TYPE

Form 1 BMZA 1410-14-1 REV. 7/68

Appeal No. _____ Notice of Appeal Filed _____ 19__

APPEAL FROM THE DECISION OF THE ZONING ADMINISTRATOR UNDER THE ZONING ORDINANCE.

TO: The Board of Municipal and Zoning Appeals, Baltimore, Md. _____ 19__
 14th floor — 417 E. Fayette St.

An appeal is hereby taken from the decision of the Zoning Administrator, and application is hereby made for an order, reversing said decision or authorizing an exception to the requirements of the Zoning Ordinance or approving an application, under the power vested in your Board, so as to permit the:

- Retention
- Construction
- Extension
- Alteration
- Conversion
- Use

of extension of conditional use

in accordance with the application and plans filed with the Zoning Administrator, and as hereinbelow described:

Premises designated as 3640 Fords Lane St., Rd. Ave.

Located on the North, East side of Fords Lane St., Rd. Ave., and

distant _____ feet North, East of the corner formed by the intersection of St., Rd. Ave. and _____ Ave.

Name of Appellant A.M. Leason, MD, PA Address 3640 Fords Lane (21215) P. O. Zone

Name of Owner U.S. Enterprises Address 7315 Wisconsin Ave # 825 W (20914) P. O. Zone

Size of Lot _____ ft. front X _____ ft. deep (or if) irregular see plat.

DESCRIPTION OF ALL BUILDINGS AND USES ON THE LOT
 IF MORE THAN ONE BUILDING USE SPACE IN REMARKS TO DESCRIBE ADDITIONAL BUILDINGS

	Existing	Proposed (purpose of appeal)
Size of Building	_____ ft. front & _____ ft. deep	_____ ft. front & _____ ft. deep
Height	_____ ft. _____ stories	_____ ft. _____ stories
Character of Const.	Frame <u>Brick</u> Masonry Metal	Frame Brick Masonry Metal
No. of families housed	<u>3</u>	<u>3</u>
Describe use of each floor of a building	Second Floor First Floor Lower Level	Second Floor First Floor Lower Level
	Apartments-residential Apartments-residential Offices	Apartments-residential Apartments-additional office space Offices
Date of Construction	N/A	N/A
REMARKS:		

Has there been any previous appeal to this Board on these premises? yes Appeal No. 474-66X

Located in a R-5 Zoning District.

Attached hereto and made a part of this application, is submitted all papers as required on the sheet of instructions furnished me. I hereby depose and say that all the above statements and the accompanying statements are correct and true.

Sworn to before me, this 17th day of OCTOBER 1989 } [Signature]
 (Appellant to sign here.)

[Signature]
 (Notary.) EXP 7/1/90

7

A STATEMENT OF FACTS IN SUPPORT OF THE APPEAL MUST BE MADE IN THE SPACE BELOW BEFORE THE CASE CAN BE SCHEDULED FOR A HEARING.

TO: THE BOARD OF MUNICIPAL AND ZONING APPEALS:

Referring to the application on reverse side of this sheet, I submit the following reasons in support of the appeal:

SEE ATTACHED SHEET

[Handwritten Signature]

Signature of Appellant.

Affidavit of Ownership (To be used in Positive Appeals if the Appellant is not the Owner.)

owner
HM 14

STATE OF MARYLAND, }
CITY OF BALTIMORE, } ss: _____ being duly sworn
(Owner's name)

deposes and says that he resides at _____ St., Ave.,
in the City of _____ in the State of _____, and

(1st) That he is the owner of all that certain lot, piece or parcel of land situated, lying and being in the City of Baltimore aforesaid and known and designated as _____ St. Ave., and

(2nd) That the statements of fact contained in the annexed application are true, and

(3rd) That he hereby authorizes _____ (Appellant's name) to make said application in his behalf.

Sworn to before me, this _____ day of _____ 19 _____ (Owner sign here)

(Notary.)

(over)

ARTHUR M. LEBSON, M.D., P.A.

FOUNTAINVIEW APARTMENTS

3640 FORDS LANE

BALTIMORE, MARYLAND 21215

358-2741

ARTHUR M. LEBSON, M.D.

PRACTICE LIMITED TO
INTERNAL MEDICINE

&
GERIATRICS

The practice of Arthur M. Lebson M.D., P.A. has been located at 3640 Fords Lane since August 1977. Over the years we have served the local geriatric population and feel that it is in the best interest of our patients that we be allowed to increase our services. In doing so, we require additional space in this building for storage of records and office functions. We have added transtelephonic cardiac monitoring, pulmonary testing and vascular studies; three areas of importance to an aging population.

The percentage of elderly people with cardiac arrhythmia that require monitoring of their medication due to possible medication toxicity, ineffective medication, and proper identification of heart irregularities is high. Also an aging population has an increasing incidence of peripheral vascular disease. Performing doppler studies of the lower extremities is helpful in differentiating a diagnosis of peripheral vascular disease from arthritis, the treatment of which is significantly different. Pulmonary function testing is another important aspect of testing of the elderly to differentiate between cardiac and pulmonary symptoms in regard to symptoms of shortness of breath.

There is no increased traffic flow or community disturbance with these extra services being offered in our building. None of the testing procedures pose any health threats to the residents of this building.

It is our hope at a future date that we may continue to increase our services to the public to include possibly podiatry (foot care), ophthalmology (eye care) and other services that will help our aging population.

In the past we have offered psychiatric counseling with a psychiatrist who performed house calls.

It is our feeling that we would be better able to serve our community and those patients that attend our office from the surrounding area by being able to expand our services to accommodate more areas of medical need so that these patients will not have to travel distances in order to undergo these important diagnostic tests. It will therefore be easier for our aging population in this neighborhood to get more comprehensive medical care at one location rather than having to travel to multiple offices and testing centers in order to undergo appropriate testing.

APPELLANT'S EXHIBIT "3"



GILBERT V. RUBIN
EXECUTIVE DIRECTOR

BOARD OF MUNICIPAL AND ZONING APPEALS

14TH FLOOR
417 E. FAYETTE STREET
PHONE 301-396-4301
BALTIMORE, MARYLAND 21202

JUN 11 1990

THIS IS NOT A PERMIT

DO NOT START WORK OR USE THE PROPERTY IF THIS APPLICATION IS APPROVED UNTIL YOU GET A PERMIT OR CERTIFICATE OF OCCUPANCY FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN ONE YEAR OF THE HEARING DATE.

At a meeting of the Board of Municipal and Zoning Appeals on Tuesday, June 5, 1990 the following resolution was adopted:

"Resolved, that in the matter of Appeal No. 171-90X

A. M. Lebson, MD, PA, 3640 Fords Lane Appellant,
to permit the continued use of terrace level as non-resident doctor's office and extend use into portion of first floor, Apartment D at 3640 Fords Lane

the BOARD OF MUNICIPAL AND ZONING APPEALS, after giving public notice, inspecting the premises, holding a public hearing, considering all data submitted, and by authority of Ordinance No. 1051, approved April 20, 1971, known as the Zoning Ordinance, made a study of the premises and neighborhood and finds that the property is on the northwest side of Fords Lane, 337 feet southwest of Park Heights Avenue, in an R-5 Residence District.

"The premises is improved by a three story, brick apartment building, 270 feet by 482.6 feet, used for a total of eighty-six dwelling units. A portion of the building, known as 3640 Fords Lane, a two story plus terrace building, 80 feet by 30 feet, used for doctor's offices on terrace and remainder is used for two dwelling units. It is proposed to continue to use the terrace level as a non-resident doctor's office and extend use into



portion of the first floor, Apartment D.

"Prior to April 20, 1971, the date of passage of the New Comprehensive Zoning Ordinance No. 1051, the property was zoned Residential Use, E-40 Height and Area District.

"Under the provisions of Section 4.5-1c, in the R-5 Residence District, the continuance of a professional office of a physician or dentist in a structure containing an established medical or dental office is listed as a conditional use provided:

- (a) such office is beneficial to the health and general welfare of the residents of the area;
- (b) such office use existed at the time of enactment of this comprehensive ordinance;
- (c) such office use has been utilized for such purpose for a period of not less than three years prior to application; and
- (d) that the conditional use shall be limited to no more than two physicians or more than two dentists in any such office.

"Under the provisions of Section 2.0-10, any change including extensions, enlargements, relocations, and structural alterations to a conditional use shall be subject to the same procedures and requirements applicable to conditional uses under this Ordinance.

"The Board may authorize a conditional use subject to the requirements and provisions of Sections 11.0-3b-1 and 11.0-3c.

"The testimony shows that this appeal presents a request for authorization to continue to use terrace level, Apartments E and F, for Dr. Arthur Lebson, as a non-resident doctor's office and extend doctor's office to portion of the first floor, Apartment D, in the R-5 Residence District.

"The testimony reveals that in 1977, without benefit of a permit, Dr. A. M. Lebson occupied a space for a non-resident doctor's office that had formerly been used for a Dr. Richard Weinberger; permission was granted for Dr. Weinberger in Appeal No. 474-66 and approved on May 9, 1967. Dr. Lebson occupies two units and is requesting a third unit to be used for storage, etc.)

"The Board, on the other hand, heard testimony from a resident of the building, who submitted a petition from practically every resident in this structure voicing their objection and opposition to further commercialization of the complex. They state this is a large medical operation; it is not tranquil, in fact, it is noisy, and there have been problems in regard to patients disturbing residents who occupy this building.

"The Board acknowledges receipt of a letter, dated December 26, 1989 from the Department of Planning, which states that the doctor currently operates out of one apartment on the terrace level and is proposing to expand into a second apartment on the first floor. The doctor employs four, full-time and four, part-time staff and operates five days a week from 9:30 A.M. to 5:00 P.M., and they have no objection to this appeal.

"The Board also acknowledges receipt of a letter, dated May 31, 1990 from the Department of Housing and Community Develop-

ment, indicating they, too, have no objection to this appeal.

"The Fire, Health and Transportation Departments are not opposed to this request.

"The Board feels and finds as a fact, that the present use of the premises by Dr. Lebson was never intended in its original approval for Dr. Weinberger.

"The Board feels that the doctor has not met all of the necessary standards with regard to extending his practice into another unit. The Board has determined that it will only allow Dr. A. M. Lebson to use the portion of the premises originally granted for a non-resident doctor's office, for Dr. Weinberger, and is opposed to any further expansion as proposed in the present appeal. The Board feels that the expansion is not permissible in its opinion; it would be objectionable to the tenants in the building and, therefore, must be rejected.

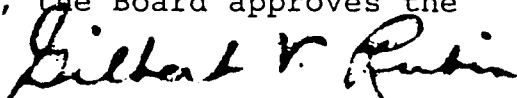
"The Board, in making its determination has considered the nature of the proposed site, including its size and shape and the proposed size, shape and arrangement of structures; the resulting traffic patterns and adequacy of proposed off-street parking and loading; the nature of the surrounding area and the extent to which the proposed use might impair its present and future development; the proximity of dwellings, churches, schools, public structures and other places of public gatherings; accessibility of the premises for fire and police protection; accessibility of light and air to the premises and to the property in the vicinity; the type and location of adequate utilities, access roads, drainage,

and other necessary facilities that have been or will be provided; the preservation of cultural and historic landmarks; any Urban Renewal Plan approved by the Mayor and City Council or the Master Plan for the City approved by the Planning Commission; all standards and requirements contained in this Ordinance; the intent and purpose of this Ordinance as set forth in Chapter 1; and any other matters considered to be in the interest of the general welfare.

"The Board, in making its determination, denies the expansion particularly because of the nature of the proposed site, including its size and shape and the proposed size and shape and arrangement of the structure; the increased traffic; the nature of the surrounding area and is of the opinion that the further expansion would impair its present and future development and other matters considered to be in the interest and general welfare of the community.

"With due consideration to the guides and standards set forth the Board approves the application subject to Dr. Lebson using only the portion of the premises originally granted to Dr. Weinberger and denies any further expansion as requested in the present appeal.

"In accordance with the above facts and findings, and subject to the aforementioned condition, the Board approves the application."


EXECUTIVE DIRECTOR

THE CONDITIONAL USE APPROVAL HEREIN GRANTED IS LIMITED TO THIS APPELLANT ONLY AND CHANGE OF OWNERSHIP, EXTENSION, ENLARGEMENTS, RELOCATIONS OR STRUCTURAL ALTERATIONS SHALL BE SUBJECT TO A NEW APPEAL OR AMENDMENT BY THE BOARD OF MUNICIPAL & ZONING APPEALS.

GARY A. BERGER
BERBER AND FINK
105 W. CHESAPEAKE AVENUE, SUITE 101
TOWSON, MD. 21204

SANDRA R. GUTMAN
ACTING PRINCIPAL COUNSEL
ROOM 143, CITY HALL
100 N. HOLLIDAY STREET
BALTIMORE, MARYLAND 21202

6

NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE B-12

A.M. LEBSON, MD, PA

Docket:

vs.

Folio:

THE BOARD OF MUNICIPAL AND ZONING
APPEALS OF BALTIMORE CITY, ETAL

File: 90184037/CL115971

Date of Notice: 8/07/90

STATE OF MARYLAND, ss:

I HEREBY CERTIFY, That on the 7TH day of AUGUST, Nineteen Hundred and NINETY, I received from the Administrative Agency, the record, in the above captioned case.

SAUNDRA E. BANKS, Clerk
Circuit Court for Baltimore City

CC-39

NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE B-12

A.M. LEBSON, MD, PA

Docket:

vs.

Folio:

THE BOARD OF MUNICIPAL AND ZONING
APPEALS OF BALTIMORE CITY, ETAL

File: 90184037/CL115971

Date of Notice: 08/07/90

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SAUNDRA E. BANKS, Clerk
Circuit Court for Baltimore City

CC-39

9

CL-115971

Appeal No. 171-90X

Application of A. M. Lebson, MD, PA to continue use of terrace level as non-resident doctor's office & extend use into portion of first fl. Apt. D at 3640 Fords Lane

FILED

AUG 7 1990

CIRCUIT COURT FOR BALTIMORE CITY

I HEREBY CERTIFY that the papers herein are true copies of those in the record of the Board of Municipal and Zoning Appeals in the above-entitled matter.

Gilbert V. Rubin

GILBERT V. RUBIN, EXECUTIVE DIRECTOR

July 6, 1990

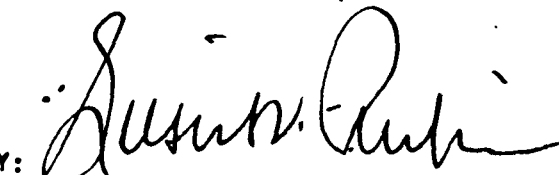
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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY THAT in accordance with Rule B-2-d of the Maryland Rules of Procedure, all parties or their representatives have been notified of the filing of this appeal.

BY:



GILBERT V. RUBIN, EXECUTIVE DIRECTOR
BOARD OF MUNICIPAL AND ZONING APPEALS

COPY



GILBERT V. RUBIN
EXECUTIVE DIRECTOR

BOARD OF MUNICIPAL AND ZONING APPEALS

14TH FLOOR
417 E. FAYETTE STREET
PHONE 301-396-4301
BALTIMORE, MARYLAND 21202

JUN 11 1990

THIS IS NOT A PERMIT

DO NOT START WORK OR USE THE PROPERTY IF THIS APPLICATION IS APPROVED UNTIL YOU GET A PERMIT OR CERTIFICATE OF OCCUPANCY FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN ONE YEAR OF THE HEARING DATE.

At a meeting of the Board of Municipal and Zoning Appeals on Tuesday, June 5, 1990 the following resolution was adopted:

"Resolved, that in the matter of Appeal No. 171-90X

A. M. Lebson, MD, PA, 3640 Fords Lane Appellant,
to permit the continued use of terrace level as non-resident doctor's office and extend use into portion of first floor, Apartment D
at 3640 Fords Lane

the BOARD OF MUNICIPAL AND ZONING APPEALS, after giving public notice, inspecting the premises, holding a public hearing, considering all data submitted, and by authority of Ordinance No. 1051, approved April 20, 1971, known as the Zoning Ordinance, made a study of the premises and neighborhood and finds that the property is on the northwest side of Fords Lane, 337 feet southwest of Park Heights Avenue, in an R-5 Residence District.

"The premises is improved by a three story, brick apartment building, 270 feet by 482.6 feet, used for a total of eighty-six dwelling units. A portion of the building, known as 3640 Fords Lane, a two story plus terrace building, 80 feet by 30 feet, used for doctor's offices on terrace and remainder is used for two dwelling units. It is proposed to continue to use the terrace level as a non-resident doctor's office and extend use into



portion of the first floor, Apartment D.

"Prior to April 20, 1971, the date of passage of the New Comprehensive Zoning Ordinance No. 1051, the property was zoned Residential Use, E-40 Height and Area District.

"Under the provisions of Section 4.5-1c, in the R-5 Residence District, the continuance of a professional office of a physician or dentist in a structure containing an established medical or dental office is listed as a conditional use provided:

- (a) such office is beneficial to the health and general welfare of the residents of the area;
- (b) such office use existed at the time of enactment of this comprehensive ordinance;
- (c) such office use has been utilized for such purpose for a period of not less than three years prior to application; and
- (d) that the conditional use shall be limited to no more than two physicians or more than two dentists in any such office.

"Under the provisions of Section 2.0-10, any change including extensions, enlargements, relocations, and structural alterations to a conditional use shall be subject to the same procedures and requirements applicable to conditional uses under this Ordinance.

"The Board may authorize a conditional use subject to the requirements and provisions of Sections 11.0-3b-1 and 11.0-3c.

"The testimony shows that this appeal presents a request for authorization to continue to use terrace level, Apartments E and F, for Dr. Arthur Lebson, as a non-resident doctor's office and extend doctor's office to portion of the first floor, Apartment D, in the R-5 Residence District.

"The testimony reveals that in 1977, without benefit of a permit, Dr. A. M. Lebson occupied a space for a non-resident doctor's office that had formerly been used for a Dr. Richard Weinberger; permission was granted for Dr. Weinberger in Appeal No. 474-66 and approved on May 9, 1967. Dr. Lebson occupies two units and is requesting a third unit to be used for storage, etc.

"The Board, on the other hand, heard testimony from a resident of the building, who submitted a petition from practically every resident in this structure voicing their objection and opposition to further commercialization of the complex. They state this is a large medical operation; it is not tranquil, in fact, it is noisy, and there have been problems in regard to patients disturbing residents who occupy this building.

"The Board acknowledges receipt of a letter, dated December 26, 1989 from the Department of Planning, which states that the doctor currently operates out of one apartment on the terrace level and is proposing to expand into a second apartment on the first floor. The doctor employs four, full-time and four, part-time staff and operates five days a week from 9:30 A.M. to 5:00 P.M., and they have no objection to this appeal.

"The Board also acknowledges receipt of a letter, dated May 31, 1990 from the Department of Housing and Community Develop-

ment, indicating they, too, have no objection to this appeal.

"The Fire, Health and Transportation Departments are not opposed to this request.

"The Board feels and finds as a fact, that the present use of the premises by Dr. Lebson was never intended in its original approval for Dr. Weinberger.

"The Board feels that the doctor has not met all of the necessary standards with regard to extending his practice into another unit. The Board has determined that it will only allow Dr. A. M. Lebson to use the portion of the premises originally granted for a non-resident doctor's office, for Dr. Weinberger, and is opposed to any further expansion as proposed in the present appeal. The Board feels that the expansion is not permissible in its opinion; it would be objectionable to the tenants in the building and, therefore, must be rejected.

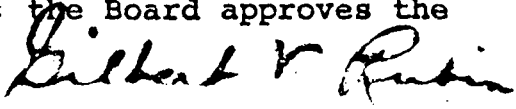
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and other necessary facilities that have been or will be provided; the preservation of cultural and historic landmarks; any Urban Renewal Plan approved by the Mayor and City Council or the Master Plan for the City approved by the Planning Commission; all standards and requirements contained in this Ordinance; the intent and purpose of this Ordinance as set forth in Chapter 1; and any other matters considered to be in the interest of the general welfare.

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"With due consideration to the guides and standards set forth the Board approves the application subject to Dr. Lebson using only the portion of the premises originally granted to Dr. Weinberger and denies any further expansion as requested in the present appeal.

"In accordance with the above facts and findings, and subject to the aforementioned condition, the Board approves the application."


EXECUTIVE DIRECTOR

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Sent to:

Appellant

U. S. Enterprises
Alan Grant, Gen. Ptnr.
7315 Wisconsin Ave., #825W
Bethesda, MD 20814

Gary A. Berger, Esq.
105 W. Chesapeake Ave. - 21204

Emanuel & Esther Reich
3640 Fords La., Apt. C - 21215

Robert W. Hearn
HCD - 13th floor

Ernest Freeman
Planning - 8th floor

Zoning Enforcement Section

Green
1486-10-1

BOARD OF MUNICIPAL AND ZONING APPEALS

DATA SHEET — FOR OFFICE USE ONLY

COMPILED FROM THE RECORD PRIOR TO THE PUBLIC HEARING

171-90X

JUN 5 1990 1:00 PM

APPEAL NO. 19
 DATE FILED Oct. 30, 1990 HEARING DATE 19
 PURPOSE OF APPEAL To continue to use terrace level as a non-resident doctor's office & extend use into portion of 1st fl. (Apt.D)
 PREMISES 3640 FORDS LANE
 LOCATION n.w. side of Fords Lane, 337' s.w. of Park Heights Avenue
 NAME OF APPELLANT A. M. LEBSON, MD.PA
 ADDRESS OF APPELLANT 3640 Fords Lane - 21215
 NAME OF OWNER U.s. Enterprises, Alan Grant, Gen. Partner
 ADDRESS OF OWNER 7315 Wisconsin Ave. #825W, Bethesda, MD 20814
 SIZE OF LOT 401.2' x 399.8' (IRREGULAR) 4.7 ACRES
 DESCRIPTION OF EXISTING BLDG. OR USE 3-sty. brick apartment building, 270' x 482.6', used for a total of 86 dwg. units. Portion of bldg. k/a 3640 Fords Lane - 2sty. plus terrace, 80' x 30', terrace used for doctors office & remainder for 2 dwg. units.
 DESCRIPTION OF PROPOSED BLDG. OR USE To continue to use terrace level as a non-resident doctor's office and extend use into portion of first floor, Apt. D
 DECISION OF ZONING ADMINISTRATOR Ref. under Sec. 4.5-1c - Conditional Use & Sec. 2.0-10 - Extension of a Conditional Use

LOCATED IN A R-5 ZONING DISTRICT
(SEE ATTACHED SHEET)

PRIOR CASES -----
STAFF REPORT: Prior to 4/20/71, the date of passage of the New Comprehensive Zon. Ord. No. 1051, the property was zoned Residential Use, E-40 Height and Area District.

"Under the provisions of Section 4.5-1c, in the R-5 Residence District, the continuance of a professional office of a physician or dentist in a structure containing an established medical or dental office is listed as a conditional use provided:

- (a) such office use is beneficial to the health and general welfare of the residents of the area; and
- (b) such office use existed at the time of enactment of this comprehensive ordinance; and
- (c) such office use has been utilized for such purpose for a period of not less than three years prior to application; and

(d) that the conditional use shall be limited to no more than two physicians or more than two dentists in any such office.

"Under the provisions of Section 2.0-10, any change, including extensions, enlargements, relocations and structural alterations to a conditional use shall be subject to the same procedures and requirements applicable to conditional uses under this Ordinance.

"The Board may authorize a conditional use subject to the requirements and provisions of Sections 11.0-3-b-1 and 11.0-3-c.

"The proposal in this case is to continue to use terrace level, Apartment E & F, for Dr. Arthur Lebson, as a non-resident doctor's office and extend doctor's office to portion of the first floor, Apartment D, in the R-5 Residence District.

NOTE: The Steward Directory, Criss-Cross, 1990 Edition has Arthur Lebson, MD and Naomi Cutler, MD, both listed at 3640 Fords Lane with the same telephone number also addressed at 3640 Fords Lane is RLT Medical Associates as a new listing with a different telephone number.

P R I O R C A S E S

#324-60:THE BREVARD CORP. - To constr. an apt. house with 193 dwg.units
DISMISSED BY BD. 8-9-60

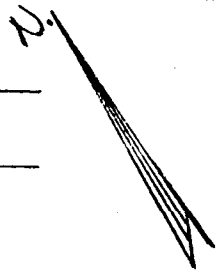
#491-64:H.M.H.CONSTRN.CO. - To convert 9 prof.offices to 9 dwg. units
totaling 86 dwg.units on lot. DISAPPROVED 11-10-64

***H.M.H.CONSTRN.CO. vs. M.& C.C. IN B.C.C. - BMZA REVERSED IN
B.C.C. BY SODARO,J. 12-10-64

#132-66:I.ERWIN - To retain existing s/f illum. sign on front wall of
bldg. adv.beauty shop. DISAPPROVED BY BD. 4-5-66

#474-66:DR.R.WEINBERGER - To use portion of premises k/a 3640 Fords Ln.
for non-resident doctor's office for Dr. Richard Weinberger.
APPROVED COND. 5-9-67

R-5



HAR SINAI CONGREGATION

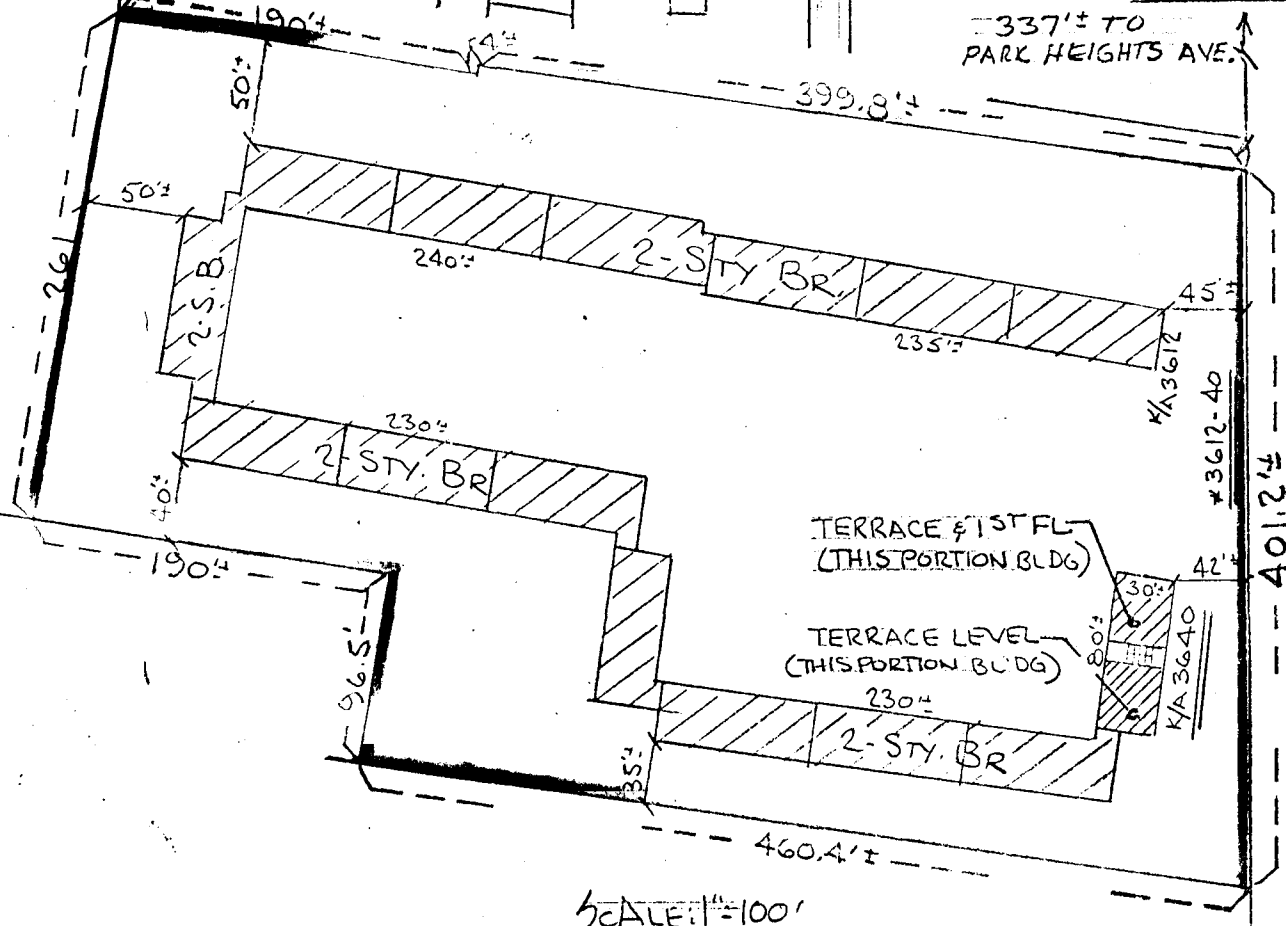
R-5

SCALE: 1" = 200'

337'± TO PARK HEIGHTS AVE.

R-6

R-5



SCALE: 1" = 100'

ARTHUR M. LEBSON, M.D.
3640 FORDS LANE
BALTIMORE, MD. 21215

CITY OF BALTIMORE

BEFORE THE BOARD OF MUNICIPAL AND ZONING APPEALS

IN THE MATTER OF:

3640 FORDS LAND

Appeal #171-90X

Ton continue to use terrace level as a non-resident doctor's office and extend use into portion of first floor apartment.

June 5, 1990

BALTIMORE, MARYLAND

The above entitled matter came for hearing pursuant to notice.

BEFORE:

Gia A. Blatterman, Chairperson
Herbert Brown,
Melvin R. Kenney, Sr.
Barbara A. Green, Member
Gilbert V. Rubin, Executive Director

APPEARANCES

Arthur M. Lebson, MD, PA
3640 Fords Lane
Baltimore, Maryland 21215

Emmanuel Reich
3640 Fords Lane
Baltimore, Maryland 21215

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PROCEEDINGS

1
 2 MS. BLATTERMAN: Appeal number 171X. The
 3 premises is 3640 Fords Lane. The name of the Appellant is
 4 A. M. Lebson, MD, PA. A description of the proposed
 5 building or use is to continue to use terrace level as a
 6 non-resident doctor's office and to extend use into portion
 7 of the first floor apartment D. This is in an R5 zoning
 8 district. Will all those who are going to testify, please
 9 raise your right hand?

10 Whereupon,

11 ARTHUR M. LEBSON, MD

12 the witness, having first been duly sworn, testified as
 13 follows:

14 EXAMINATION BY MS. BLATTERMAN:

15 Q Sir, would you please state your name and spell
 16 your last name?

17 A Yeah, Arthur M. Lebson, L-E-B-S-O-N.

18 Q Okay, Mr. Lebson, Dr. Lebson, excuse me, is this
 19 in an apartment building?

20 A Yes.

21 Q Do you own your units or are they--

22 A No, they're leased on a year to year basis.

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1 Q What is the cost of your lease?

2 A About \$550 per unit, approximately.

3 Q Okay, how many units are you now occupying?

4 A Three.

5 Q Three units.

6 A Two really, and one for storage.

7 Q Okay, so you want to occupy another one?

8 A Yes.

9 Q How long have you been practicing there?

10 A 1977 August.

11 MR. RUBIN: You've been there since August 1977,
12 and you've never gotten a permit?

13 DR. LEBSON: No, when we came there the landlord
14 had told us that there was a permit in place, and that
15 since the position had been there continuously since 1966,
16 he told us there was no reason to go down and stand before
17 the Board, as someone had been there during that entire
18 period of time practicing in that office.

19 And there was a cross on the bottom floor, the
20 Jewish National Fund had an office there, and they'd been
21 there for maybe ten or fifteen years also. And he said
22 since it was standing, we didn't have to go down, and gave

1 us a lease for a doctor's office that we signed.

2 MR. RUBIN: He is a zoning authority?

3 DR. LEBSON: No, the landlord told us that it had
4 been a doctor's office and had been so zoned, so we
5 believed him.

6 MR. RUBIN: And you have two spaces you said, two
7 units?

8 DR. LEBSON: Yes, two in the basement and one we
9 just acquired on the first floor.

10 MS. BLATTERMAN: Okay, we have three units here
11 that you are occupying, of which whether they're for
12 storage or not they're occupied for doctor's offices, which
13 you have gotten, really, no legal permission to use for
14 such, as far as I can see here.

15 MR. BERGER: Madame Chairperson, if I may.

16 MS. BLATTERMAN: Certainly, and you are?

17 MR. BERGER: My name is Gary Berger, and I am the
18 attorney for Dr. Lebson.

19 MR. RUBIN: What is your name?

20 MR. BERGER: Gary Berger, B-E-R-G-E-R. And if I
21 may, first off, there are three units which are presently
22 being occupied by Dr. Lebson, just for point of

1 clarification. The third is the unit which is in source
2 of some contention, I believe this is the unit to which we
3 seek an extension of conditional use.

4 And this is a unit which will be primarily be
5 used for storage. But Dr. Lebson and his practice is
6 already in possession of it. As the first and primary
7 inquiry has been as to whether Dr. Lebson properly obtained
8 permission from this Board to take possession of this
9 property as a doctor's office in 1977, there was no bad
10 faith, clearly, on Dr. Lebson's behalf.

11 The point I'm trying to make is that there was no
12 knowledge on Dr. Lebson's part, that there was a
13 requirement by the City that permission be obtained, and he
14 has been there in, basically, blissful ignorance of the
15 requirement. So we are now aware of this, and that's why
16 we're here.

17 MS. BLATTERMAN: So you want to legalize exactly
18 what you've been doing.

19 MR. BERGER: Yes, ma'am, absolutely.

20 BY MS. BLATTERMAN:

21 Q So that third unit you would still use for
22 storage?

1 A Storage and further use for patient care. We
2 would have, there's two machines up there that would be
3 used for measuring breathing, and one would be measuring
4 circulation in the legs.

5 Q So it would be an extended use of office visits?

6 A Yeah, but very few people, I would guess less
7 than five percent of the people would ever need to go up
8 there, and it wouldn't need to be on a visit to visit
9 basis. I mean, if you have a circulatory problem, you may
10 need it checked twice a year, if at all.

11 Q When you say up there, is this on the second
12 level, another level?

13 A It's like three, four, like seven or eight steps
14 up. It's a low-rise.

15 Q Okay, so your main office--

16 A Is on the terrace.

17 Q The two rooms, are on the terrace?

18 A Terrace.

19 Q This particular unit is on the first floor?

20 A First floor, four steps from street level.

21 Q Okay, which at this time, for a long time, you've
22 been using as a storage unit. So there hasn't been any

1 activity?

2 A We used it in the beginning, we used it as
3 activity until we were informed of the problem, and then we
4 didn't use it anymore except for storage. So there's been
5 no patient traffic there.

6 Q Okay, when you say in the beginning you used it,
7 when you were informed of the problem, when was that in the
8 beginning?

9 A About, there had been a family there, and then
10 when it became vacant, it was vacant for a while, and we
11 asked the landlord, and he rented it to us about a year and
12 a half ago. In the beginning we used it like we were using
13 the others until there was a problem we were made aware of
14 that it needed to be zoned for that. And then there's been
15 no significant traffic, except people going up to file
16 things in storage there, otherwise, the machinery really
17 hasn't been used, maybe once a month if at all.

18 Q When were you made aware that there was a
19 problem?

20 A About last year, then the process started.

21 Q And it took you a year to come here to try to
22 legalize it even as a storage for your business?

1 MR. BERGER: No, that's not correct, I believe
2 the issue was raised in May of 1989, I believe that's the
3 inspectors date of his report. And application was not
4 made a year later, it was made, I believe no later than the
5 fall of 1989. Dr. Lebson is a physician, not an attorney,
6 and it's not expected of medical people, the same detection
7 to legal details I would a lawyer.

8 MS. BLATTERMAN: Mr. Berger, let me as you this,
9 before, let's say Dr. Lebson said a year and a half he's
10 been into this apartment. Okay, before that time, was it
11 used for residential dwelling?

12 MR. BERGER: This unit, yes, this one particular
13 unit.

14 MS. BLATTERMAN: Okay, so actually it's only been
15 the past year and a half that it has been used, and with
16 all due respect, and he is not an attorney, has been using
17 it illegally.

18 MR. BERGER: Yes, ma'am.

19 MS. BLATTERMAN: That's all I need to clarify
20 with myself. If the Board grants you this extension of
21 conditional use, is this \$550 per month, is this per unit?

22 DR. LEBSON: Per unit.

1 BY MS. BLATTERMAN:

2 Q Okay, and you plan on putting some type of
3 machines that would occasionally be used of patients in
4 there, breathing machines?

5 A Yeah, just measure their breathing in order to
6 see whether or not they need oxygen at home for congestive
7 heart failure, asthma, emphysema or bronchitis. But the
8 treatment is done on the first floor. We have, if you come
9 in with asthma, we have a machine we can give you to break
10 the asthmatic attack, and then we have simple machines you
11 just blow into a tube that measures your airflow and how
12 much air you can blow out. But in order to really assess,
13 you know, how well or poorly you're doing, we have to do
14 something more extensive.

15 Q Does the use of these machines or this machine,
16 does it generate any noise or any--

17 A No.

18 Q Nothing at all so you wouldn't know?

19 A It makes a hum.

20 Q It makes a hum?

21 A It's less than a TV set.

22 Q And what are your office hours?

1 A Office hours, we start about 8:30 in the morning,
2 and we're usually finished by 3:30 every day, except for
3 Monday. Monday we have evening hours that runs between
4 6:30 and 7:30 depending on how many people make an
5 appointment that are on their way home from work. Majority
6 of the people that we serve are across the, a lot of the
7 people that we serve are neighborhood people. There's two
8 high rises of federally subsidized elderly building, where
9 you have to be age 55 to live.

10 And there are a lot of people that have come to
11 our office as patients, as their physicians were far away
12 and travel was difficult for them, so they just sort of
13 come across the street. The other reason the two machines
14 are, that if we didn't have it, they would either have to
15 go over to Sinai Hospital, which is probably about a mile
16 and a half away, you know, go find the department, sit
17 there, wait, go through these tests. And it would be a
18 burden on the patients in order to have to go elsewhere.

19 So the more that we're able to do for them in the
20 building, we do some other things that are part of a
21 doctor's office and some other services for them, so it
22 allows them the ability of not having to travel since a lot

1 of them are handicapped, arthritic, older, and just really
2 can't travel distances to other physicians as they don't
3 drive cars and most of them are disabled or handicapped.

4 MS. BLATTERMAN: Do you have a report?

5 MR. RUBIN: Yeah, the planning department says
6 the doctor currently operates out of one apartment on the
7 terrace level and is proposed to expand to a second
8 apartment on the first floor. Apartment house is part of a
9 larger complex. The office employs four full-time and four
10 part-time staff, and operates five days a week, from 9:30
11 to 5:00 p.m. The majority of the patients live in the
12 surrounding area.

13 Staff learned that the second apartment will be
14 used for storage of records and provide additional work
15 space for the therapy staff. According to the applicant,
16 the primary purpose of the expansion is to provide those
17 services to the client base. He will be adding no
18 additional staff, nor is he planning to expand his client
19 base.

20 The Department of Planning has no objection to
21 the appeal. HCD -- Health and Traffic are not opposed.

22 MS. BLATTERMAN: I have a question, I just need

1 to know. If the entrance to this third unit infringes upon
2 the privacy of the residents there. Sometimes they have
3 private entrances.

4 DR. LEBSON: No, the way it's laid out is that
5 there are two ground level entrances. The terrace is a
6 ground level entrance on Fords Lane and you walk down three
7 steps and you're in the terrace apartments. You walk to
8 the right to the doctor's office. In order to get to the
9 first floor, you would then walk up the doctor's office,
10 make a right, walk up four steps, hit a little terrace
11 landing of sorts, and go up four more steps and make a
12 sharp right into the apartment.

13 So it's up four, across a terrace of four feet,
14 up the steps and a right into the apartment. So it doesn't
15 pass any other persons space. In other words, the other
16 people that live there in other apartments would be across
17 the hall up four steps and across the terrace and above the
18 office. So there really isn't any other, even in-between
19 our unit except for the mailbox.

20 MR. BERGER: And if I may add, for clarification,
21 the amount of traffic that existed when this office was
22 being used for patients, if I'm not mistaken, I believe I

1 heard Dr. Lebson say that five or six patients a week were
2 the average number of patients availing themselves of this
3 second or first floor area. That being the case, I believe
4 it's less traffic than if it were being used as a real live
5 tenant for housing.

6 It is primarily to be used as a storage space,
7 and although this is an adjunct use to basically create
8 "one-stop shopping". This is also primarily to be used for
9 storage, not to generate a burden. Not to create a
10 tremendous amount of traffic up the steps. Truth be told,
11 it is a convenience to the patients to have this there.

12 It is a geriatric practice. There are older
13 people in subsidized housing immediately across the street,
14 the pedestrian, they come to the office for this sort of
15 treatment. And since the word illegal was used, it's an
16 important and strong word, I would add that since Dr.
17 Lebson has been made aware of the illegality of the nature
18 of his use, there has been no traffic whatsoever by
19 patients up to this level. This has been in difference to,
20 in good faith, I believe.

21 MS. GREEN: According to the Planning Department,
22 is says the staff learned, I think the report was misread,

1 learned that the second apartment be used for storage of
2 records, and will provide additional work space for the
3 clerical staff. So that's not what you're saying it's
4 going to be used for.

5 DR. LEBSON: It will be used mostly for that and
6 maybe five people a week would go up and have this
7 breathing test in the machine that would be stored up
8 there.

9 MS. BLATTERMAN: In other words, you're going to
10 have a secretarial pool up there. This is what this is
11 telling me, the clerical staff.

12 DR. LEBSON: Yeah, it's people that work on the
13 monitoring system that we have.

14 MS. BLATTERMAN: So it will not be used for
15 storage?

16 DR. LEBSON: It will be.

17 MS. GREEN: I want to clear up what he's actually
18 going to use this space for. Because Planning is saying
19 that you said to them, the City, that you're going to use
20 it for additional work space for your staff. It has
21 nothing in here about the machines. Did you explain that
22 to them, that you were going--

1 DR. LEBSON: When I went to the hearing, yes.
2 The hearing in the local neighborhood association, we met
3 with them, we mentioned that to them?

4 MS. GREEN: To the Planning Department also?

5 MR. BERGER: For point of clarification, that was
6 before Northwest Baltimore Corporation, who had their own
7 civil hearing, and Dr. Lebson can't distinguish that
8 between the Planning, for the Government. Just so that
9 we're clear the time and terms. And Dr. Lebson, apparently
10 delegates some of this information exchange to staff, and
11 he can't speak for what, perhaps, somebody in the staff may
12 have said to Planning. Nor do we have anybody here to
13 contradict that.

14 So I believe that Dr. Lebson is to be taken at
15 face value. What he's saying to the extent that there is
16 contradiction, there is absolute truth.

17 MS. GREEN: What I'm saying to you, sir, is that,
18 I've got to take into consideration what I'm reading here
19 and what he's saying. I can't say that this is wrong, and
20 then you're saying don't say he's wrong. So right now, I'm
21 trying to get to the bottom of it, and this is why I'm
22 asking the question.

1 So I will know how to vote. I want to be able to
2 vote fairly, that's why I'm asking these questions.

3 MR. BERGER: And for my role here, I'm only
4 trying to make clarification. I believe that Dr. Lebson is
5 perhaps qualifying something somebody in the staff may have
6 told Planning.

7 DR. LEBSON: We can also use the machine
8 downstairs, I mean, that's not a major problem, you know.
9 We can move the machine down. It won't be a hardship.

10 MS. GREEN: I'm not saying to do that.

11 DR. LEBSON: I'm just saying when you decide and
12 you vote, I'm just telling you if that's a problem, it can
13 be remedied easily by having someone move the entire
14 computer type system downstairs, and it's not going to be a
15 catastrophic event to have to move it. I mean, if that's a
16 major problem with Zoning, than rather than have to get
17 into a whole bunch of appeals and everything, it's just as
18 easy for you to say you can do this or not do this if you
19 do A, B, C and D, and we can move the machine downstairs
20 and just use that, and move different clerical things
21 upstairs instead.

22 You know we can replace one room with another.

1 There's no problem with that. That's not a major problem
2 on our point.

3 Whereupon,

4 EMMANUEL REICH

5 the witness, having first been duly sworn, testified as
6 follows:

7 EXAMINATION BY MS. BLATTERMAN:

8 Q Sir, would you please state your name, please?

9 A My name is Emmanuel Reich. And I'm a resident of
10 the premises in question. I share the first floor with
11 the apartment that the doctor is requesting for his use.
12 That apartment is D, my apartment is number C. I'd like to
13 say just as a passing or a preface to my remarks. This is
14 my first experience in speaking to a Court or to a City
15 tribunal or what. And if I flounder, I'll ask you nice
16 people for your assistance and guidance, I'll do my best,
17 nonetheless.

18 What we have speaking as a tenant, I've been
19 asked by the other two resident tenants, to speak for them
20 as well, because they're senior citizens in their eighties.
21 They have signed a petition against what is being proposed
22 together with--

1 Q You'll submit this petition for the record? Go
2 ahead.

3 A You have on the petition over 30 signatures
4 including all the tenants, the resident tenants of the
5 building in question. They have all signed on that, and
6 those residents who checked with a special check indicating
7 that they are residents of the premises.

8 Now the first thing I say, I was listening in
9 here and I must say that a major problem of the tenants has
10 been that Dr. Lebson lacks credibility.

11 Q That's not for us to say.

12 A I'm bringing you our problem.

13 Q Stick with what we need to know about the
14 legality of those units.

15 A Fine, let me go in and just explain what the
16 problem would be.

17 MR. BERGER: I will object to this being
18 admissable for the Board for the record.

19 MS. BLATTERMAN: Your objection is taken.

20 BY MS. BLATTERMAN:

21 Q Sorry, go ahead sir.

22 A The premises in question is a part of the

1 Fountainview complex of apartments. To understand the
2 problem as it faces us, I'll just take a moment and explain
3 what is this Fountainview complex. The Fountainview
4 consists of 14 apartment, apartment houses. They are
5 garden type apartments. They are situated within a,
6 surrounding a rectangular land plot.

7 This plot, you would call it more like a court.
8 A court or a large area which deserves the title of a park.
9 All the fourteen houses surround this park development.
10 They are garden type apartments. All the houses face the
11 court. Their main entrances are on the court. So that we
12 have here a group of tenants which are all interested and
13 concerned. When the petition, therefore carries, not only
14 the tenants in the house, but the neighboring tenants,
15 since they are all part of this complex, they are all
16 involved, and were very pleased to sign.

17 Had we had a little more time, the notice was
18 only posted ten days ago. Had we had, and we had several
19 holidays last week. We didn't have the time. We did as
20 much as we could to get this. Had we had the time, we
21 would have organized it far more. Because the tenants are
22 all voiced opposition.

1 We have, what we call, not only are we tenants as
2 such loose. We are not, we are united in an association of
3 the Fountainview Tenants Association. So that we're all
4 united, and therefore these signatures were given freely
5 and warmly.

6 Now, what we have here is the house in question,
7 number 3640, I'll refer to it by that number, is, as I
8 indicated, part of the Fountainview. The southern portion
9 of the Fountainview complex consists of three houses, three
10 of these apartments, that border on, not only on room of
11 this garden park circle, that we're all on, but their rears
12 border on Fords lane.

13 Three of the houses, the southern part, border
14 on, as I said, Fords Lane. Now, when they were built, the
15 builder and landlord, the previous one, we're living there
16 quite some time. We're more than 15 years resident, my
17 wife and I, we had contact with the builder and the
18 previous owner. He explained to me at the time that when
19 the buildings were built, they secured permission. We
20 questioned the point that the basements on Fords Lane were
21 being used for professional or other purposes.

22 He explained to us, that when the built it, since

1 the buildings, the rears faced the street, Fords Lane, they
2 thought it would be helpful for the property owners, if
3 they could secure light commercial use, in the form of
4 professional or what you have. And he said we built it on
5 that basis so that it would not interfere with any of the
6 tenants.

7 The building in question, number 3640, as well as
8 the other two joining buildings, they have special built
9 entrances on the rear that faces Fords Lane to the
10 basement. It's referred to as a, I forget the term that
11 the doctor uses, terrace. It is not a terrace, it is a
12 basement apartment, -- central court. As you enter our
13 building you go down seven steps to the basement, that's
14 where the location of the units of the professional units
15 are.

16 It is true that on Fords Lane, the entrance,
17 there are not seven steps down. The terrain lowers and you
18 have, I believe, three steps down from the street level to
19 the level of the basement. Now, all the houses are built
20 with a basement, and two stories above it. The basement
21 all have two apartments on the floor making a total of six
22 apartments to the house. Those apartments, the three that

1 I referred to on Fords Lane, have special entrances built
2 so that traffic goes into the basement, enters the basement
3 and exits from the basement.

4 As you go further in the hallway, you pass the
5 doctor's, both his apartments, then you got, I mentioned
6 the seven steps up. You come to the main entrance, which
7 is off the court, it's off the main entrance which is off
8 of the park area or the courtyard.

9 Q Okay, so that's the ground level, in other words,
10 the third apartment. From the garden, you would enter the
11 third apartment?

12 A Right. Let me correct that statement for one.
13 The main entrance is from the garden view, the entrance,
14 the stairs from the basement communicate with the rest, so
15 you can still come in that way, go up to the main entrance,
16 and then go up further to the next, to our level.

17 Now what we find, is the overtone by the landlord
18 and the builder, that it would not have any interference
19 with the comfort, the tranquility with the resident
20 tenants. Well, it's true, it's a basement, we went along
21 with it.

22 Q Okay, what I need to ask you is this. The use of

1 this third apartment. And I know you've been used to know
2 the basement apartments being used as a doctor's office.
3 The new item that we're looking at is that third apartment.
4 How has that been, in your opinion, a disadvantage to the
5 people that live in the apartment house? That's what we
6 want to focus on.

7 A I'm coming to that. I'm just giving you the
8 preface so that you understand exactly what is involved.

9 Q Certainly.

10 A It is the entrance, the traffic had not
11 interfered with us primarily, because of the exit and
12 entrance on the rear, Fords Lane. Now, as far as the next
13 apartment was taken. The doctor rented that apartment
14 after it became vacant, as he indicated a year and a half
15 ago. We immediately asked the landlord whether that is
16 acceptable to him.

17 We told him that we're afraid of that. And he
18 answered, he says, "I can assure you. I did not rent it
19 for any other purpose but for storage. The doctor gave me
20 his word." And I believe he also said, but I'm not sure, I
21 think he told me that it would not be used for any other
22 purpose but storage. Now he went on to tell us that he is

1 not permitted to rent it except for residential and for
2 storage.

3 Within a very short time, couple months, we the
4 tenants noticed, that there was movement going on in that
5 apartment that was supposed to be used for storage. We
6 heard it was being converted, an office and a waiting room
7 were being made in there and all. We immediately notified
8 the landlord. He told us, if that's the case, that's a
9 violation of the law. He says, "I urge you to report it to
10 the Zoning Board."

11 It was we, the tenants that called the Zoning
12 Board and asked for an inspector, who came, inspected the
13 premises and told us that it was to be used for storage,
14 and he says, "The doctor explained that they would not use
15 it for an office."

16 Q Well, even, sir, even for storage, I would still
17 think that's an extension of the conditional use. Because
18 you're using it for storage for a medical office.

19 A You're right.

20 Q So what I'm asking you today is, they're here on
21 an appeal to get it to use for storage.

22 MR. RUBIN: Also for the doctor to use the

1 premises.

2 BY MS. BLATTERMAN:

3 Q Well, the appeal actually is to use the terrace
4 level as a non-resident doctor's office and extended use.
5 Non-resident's doctor's office means for whatever the
6 doctor wants to use his office for.

7 A That's right.

8 Q So that's the appeal. So basically your group
9 that has signed these papers and the apartment dwellers,
10 are opposing it on the sheer fact that it's an extension of
11 the conditional use. And this is why you're here, sir.

12 A You're honor, we are very tolerant. We're
13 friendly people, we're very tolerant. We don't want to
14 oppose the doctor, if he wants to use it for storage. We
15 here to oppose, you're not bothering us with simple
16 storage, we're opposed to--

17 Q What you're saying is if there's no activity, you
18 don't oppose it?

19 A Let me explain further exactly what the problem
20 is. We were under the impression that it would be fine,
21 the doctor would have, or rather we would assume the
22 patients would come in from Fords Lane, exit through Fords

1 Lane. They would not interfere with us who have our main
2 entrance on the garden. That was fine.

3 In reality, it doesn't work, let me explain why
4 it doesn't work.

5 Q I understand, because, believe me, I know what
6 you're saying. You've said it all along, and it's an
7 infringement.

8 A Just one more comment, please.

9 Q Go ahead.

10 A What we found is that the people coming into the,
11 instead of all staying in the waiting room, they congregate
12 outside around the building, first in back and beyond that
13 even. They come out on the steps leading to the main
14 entrance. They are sitting there smoking. Because they
15 are not tolerated in the office. Now, beyond that too, the
16 women, my wife can tell you of the harassment.

17 My wife and other women have suffered in going up
18 and down, even though we don't use the basement. But when
19 they are sitting on the steps and you come in, you get
20 unbecoming remarks, particularly to the women. My wife
21 felt harassed. And that's why we're here, primarily. It
22 did not work out. However, they have a permit for that.

1 The only thing we came for, is please, we seek
2 nothing more than to live as residential tenants with quiet
3 and restfulness. We ask no more. We do not want them
4 coming up on our floor. We don't want to open the door and
5 be confronted by them. Neither do we want them sitting on
6 our stairs and harassing us. The tenants above me and my
7 wife, that's why we came for.

8 Whereupon,

9 ESTHER REICH

10 the witness, having first been duly sworn, testified as
11 follows:

12 EXAMINATION BY MS. BLATTERMAN:

13 Q Okay, is your testimony the same, ma'am, 'cause
14 if it is, we'll just take your name.

15 A Well, I just wanted to add something.

16 Q Give your name.

17 A My name is Esther Reich. I'm afraid I will be
18 afraid to open my door. I have one exit from my apartment,
19 and it's the same steps that his patients will be using
20 coming up to his office. I will be afraid to open my door,
21 I will never know who is standing there. What kind of men
22 are there. I've been harassed before with vile language,

1 and I actually, many times when they're sitting there,
2 these men, I run up my steps because I am afraid.

3 MS. BLATTERMAN: Alright.

4 DR. LEBSON: I'd like to say something. I can
5 tell you that no one has gone up to have any tests done in
6 that office for at least three months. Because the person
7 who does the tests has moved to another area to do them,
8 that's inconvenient for the patients, number one. Number
9 two, I took care of the patient directly above me, who
10 passed away very shortly, and her sister still lives in
11 that apartment, two up, I mean the top level. Who is in a
12 nursing home, and I took care of her during the terminal
13 stages of her illness.

14 The people that come in there, we have two
15 waiting rooms, by the way. We have a waiting room on the
16 right as you walk in, and an overflow waiting room on the
17 left as you walk in. Both were set up for that. The
18 number of people that have gone up the steps, is intimately
19 small, even when it is. If it's going to be there, there
20 are less people going up the steps now than there were when
21 the family that lived there with multiple children was
22 there.

1 So I don't know that there's been any traffic. I
2 mean, people that may come and sit outside the door on the
3 steps are below the level of that if they would sit there
4 when they come in. And like you said, the opening is to
5 Fords Lane where people come in. I don't think any of the
6 patients come in from the court, unless they would live
7 there. So the traffic flow is through the Fords Lane door.

8 The people that come in there are mostly from the
9 area. The people that go up the steps, don't go up the
10 steps, because just the secretaries and receptionists are
11 going to have to run up and down to get charts. And, you
12 know, that's what's really happening if you were to come by
13 and watch.

14 MS. BLATTERMAN: Okay, if that's all there is,
15 you'll hear from us in seven to ten days.

16 MR. BERGER: I do have one question, Mrs. Green,
17 apparently I misunderstood your point with regard to
18 planning. And if I may clarify that before you contemplate
19 a decision. I just want to make sure that I've
20 communicated to you responsively a concern. You did make
21 an inquiry with regard to Planning.

22 MS. GREEN: I understood what you're saying.

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MR. BERGER: Thank you for your time.

MS. BLATTERMAN: Thank you very much.

(Whereupon the hearing concluded.)

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Hearing in the matter of: 3640 Fords Lane

Appeal Number 171-90X

Date of Hearing: June 5, 1990

I hereby certify that the transcript in the above entitled matter is a complete and accurate transcription.

Kim Kavanaugh

Kim Kavanaugh, Court Reporter

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Ward 27
 Sec. 23
 Blk. 4293
 Lot 5/7

This Application Must Be Filled Out in Ink or on Typewriter.
 See inside for instructions.
MAYOR AND CITY COUNCIL OF BALTIMORE
 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 CONSTRUCTION AND BUILDING INSPECTION DIVISION
PERMIT APPLICATION

Dist. No
 Date Issued
 Permit No.
 Minor Pr. No.

Official Designation: _____

PLANS NO.

DO NOT WRITE ABOVE THIS LINE

PROPERTY ADDRESS 3640 FORDS LA
 K/A FOUNTAINVIEW APARTMENTS
 OWNER U.S. ENTERPRISES Address
 LESSEE ARTHUR M. LEBSON M.D., P.A. Address 3640 FORDS LA Lic. No.
 PRIME CONTRACTOR Address Lic. No.
 ELECTRICAL CONTRACTOR Address Lic. No.
 PLUMBING CONTRACTOR Address Lic. No.
 GAS FITTER Address Lic. No.
 ARCHITECT OR ENGINEER Address Lic. No.

A. TYPE OF IMPROVEMENT NEW CONSTRUCTION ADDITION/ALTERATION OTHER c/o

DESCRIPTION OF WORK (Be specific when plans are not submitted):
EXTENSION OF CONDITIONAL USE TO ADDITIONAL APARTMENT
ON FIRST FLOOR OF BUILDING, IN CONSTRUCTION WITH
DOCTORS OFFICE FOR DR. ARTHUR M. LEBSON, M.D.

DEPARTMENT	DATE	APPROVED BY	DISSAPPROVED	AREA/PLANNER
C.H.A.P.				
CHARLES CTR./INNER HARBOR				
COMMERCIAL REVITALIZATION				
DEPT. OF PLANNING				
MKT. CTR. DEV. CORP.				
NPA/DHCD PLANNING				
OTHERS				

REFER FD HD PD NOTES

EXISTING USE(S) 3 APT. & DOCTORS OFF.
 PROPOSED USE(S) SAME

Estimated total cost of work \$ Expected Date of Completion

F. DIMENSIONS	Front (Ft.)	Depth (Ft.)	Height (Ft.)	Stories	Area (Sq. Ft.)	Volume (Cu. Ft.)
Present Building	<u>60</u>	<u>30</u>		<u>2</u>		
Proposed Building						
Lot	<u>401.2</u>	<u>590±</u>				

METERS: Electric Existing New Relocate Enlarge
 Gas Existing New Relocate Enlarge

PERMIT CHARGES: Applicant must complete information in category columns only.

CATEGORY	FEE	CATEGORY	FEE
SMOKE CONTROL		DISPENSERS & TANKS	
PERIODIC INSPECTION		No. of Tanks Gals. Ea.	
MISCELLANEOUS		No. of Dispensers Intake Dia.	
CHANGE OF OCCUPANCY		FIRE PROTECTION	
CHAP		Sprinklers:	
CONSTRUCTION		No. New	
New Building		No. Relocated	
Addition		Standpipes: No.	
Alteration		CO ² System: Cu. Ft. Protected	
Repair		GAS FUEL BURNING EQUIPMENT	
Misc. Const.		No. Units Type BTU Input	
Sediment and Erosion Control			
Storm Water Management			
Cost of Const Work Only \$			
ELECTRICAL		ELEVATORS	
New Service Amps		No. to be installed	
No. of circuits to be installed or altered		No. to be altered	
Fixtures only		Type Use	
Temp. wiring kw.		Serial No.	
Other		PLUMBING	
HEATING & FUEL BURNING EQUIP. (other than gas)		No. fixtures to be installed	
No Units Type BTU Input		No. fixtures to be reconstructed	
		No. electric water heaters	
		Water service pipe	
		Sanitary sewer connection?	
REFRIGERATION & AIR CONDITIONING		Storm water connection?	
No. Units Type		Other	
Refrigerant		TOTAL FEES	
Total Rating BTU Tons		5% TAX	
Alterations or Repairs		TOTAL	
Ventilation System CFM		Fees Checked By:	Date:

The owner of the above described property hereby approves this application and agrees to comply with all ordinances of the Mayor and City Council of Baltimore and to do no work not specifically covered by this application.

"I declare under penalties of perjury that this application, including any accompanying plans, specifications, etc. has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of the work to be covered by this application." "I also declare that I am the owner or have specific approval of the owner to act as agent for this application."

SIGNED: Arthur M. Lebow ARTHUR M. LEBOW DATE: 10/16/89
Signature of Owner or Authorized Agent Print Name
 ADDRESS: 3640 FORDS LA BALTO. MD. 21215 301-858-2741
Print Number and Name of Street City State Zip Code Phone
358-2747 DAY

ZONING Referred APPROVALS APPROVED

By Malone Date 10-30-89 STRUCTURAL (DESIGN) (FEE) CHECKED RUDOLPH F. JANSSEN
 REFERRALS APPROVED By Date ELECTRICAL (DESIGN) (FEE) CHECKED Director-Construction
 By Date By Date MECHANICAL (DESIGN) (FEE) CHECKED & Building Inspection
 PRELIMINARY INSPECTION By Date Per:
 By Date Date:

NOTICE OF APPEAL
TO THE
BOARD OF MUNICIPAL AND ZONING APPEALS

5212

TO: THE BOARD OF MUNICIPAL AND ZONING APPEALS
Room 1432, Rivoli Building, 417 E. Fayette St.
Baltimore, Maryland 21202

FROM: Arthur M. Lebson, M.D. P.A. 3640 Fords Lane 21215
(Name) (Address)

GENTLEMEN: REFERRING TO MY APPLICATION DATED October 30, 1989

FOR PERMIT TO Continue to use as doctor's office on terrace level
and extend use to 1st floor. (APT-D)

AT PREMISES DESIGNATED AS 3640 Fords Lane

WHICH WAS ~~DISAPPROVED~~ (REFERRED) ON October 30, 1989

UNDER SEC. 4.5-1c; 2.0-10 OF THE ZONING ORDINANCE

FOR THE REASON THAT IT VIOLATES THE ZONING ORDINANCE IN THE FOLLOWING RESPECTS:

- 4.5-1c - Conditional Use
- 2.0-10 - Extension of a conditional use

\$175.00

Zoning District: R - 5

A copy of application is attached herewith.

Notice of an appeal from this decision is hereby given within ten days from date of the decision as required by the rules of the Board.

I will file, within the prescribed time limit, an appeal on proper form, a copy of the decision of the Zoning Commissioner and blueprints as required.

When you have set a date for hearing the appeal, I will post the premises as required by your Board.

2405 BOLD MISC 241 TO
0005 OCT 31 89 01:24PM
7535 MISC 175.00

Respectfully,

10/30/89

Arthur M. Lebson
Signature of Applicant
ncw

Date _____

NOTICE OF APPEAL
TO THE
BOARD OF MUNICIPAL AND ZONING APPEALS

5212

TO: THE BOARD OF MUNICIPAL AND ZONING APPEALS
Room 1432, Rivoli Building, 417 E. Fayette St.
Baltimore, Maryland 21202

FROM: Arthur M. Lebson, M.D. P.A. 3640 Fords Lane 21215
(Name) (Address)

GENTLEMEN: REFERRING TO MY APPLICATION DATED October 30, 1989

FOR PERMIT TO Continue to use as doctor's office on terrace level
and extend use to ^{portion of} 1st floor. (APT D)

AT PREMISES DESIGNATED AS 3640 Fords Lane

WHICH WAS ~~RECORDED~~ (REFERRED) ON October 30, 1989

UNDER SEC. 4.5-1c; 2.0-00 OF THE ZONING ORDINANCE

FOR THE REASON THAT IT VIOLATES THE ZONING ORDINANCE IN THE FOLLOWING RESPECTS:

- 4.5-1c - Conditional Use
- 2.0-10 - Extension of a conditional use

\$175.00

Zoning District: R - 5

A copy of application is attached to the Notice of Appeal.

An appeal from this decision may be taken to the Board of Municipal and Zoning Appeals as provided in the Zoning Ordinance. If you desire to take such an appeal, sign and date the enclosed forms (Notice of Appeal) in duplicate and file them with the Board of Municipal and Zoning Appeals, Room 701, Saratoga Street Municipal Building within ten (10) days of the date of the decision.

Further instructions and forms for completing the appeal shall be obtained from the office of the Board of Municipal and Zoning Appeals, Where an alleged violation currently exists, you are hereby notified to correct any violation or complete application for appeal and have hearing date set within 30 days of the date of decision (or such shorter time as the Court may have set). Otherwise, legal action may be instituted.

7585 N130 175.00

10/30/89

ZONING ENFORCEMENT OFFICER
ZONING SECTION

Arthur M. Lebson
Per Donald K. O'Malley

PLEASE PRINT OR TYPE

Form 1 BMZA 1410-14-1 REV. 7/88

Appeal No. 171-904

Notice of Appeal Filed OCT 30 19 89

APPEAL FROM THE DECISION OF THE ZONING ADMINISTRATOR UNDER THE ZONING ORDINANCE.

TO: The Board of Municipal and Zoning Appeals, Baltimore, Md. _____ 19_____
14th floor — 417 E. Fayette St.

An appeal is hereby taken from the decision of the Zoning Administrator, and application is hereby made for an order, reversing said decision or authorizing an exception to the requirements of the Zoning Ordinance or approving an application, under the power vested in your Board, so as to permit the:

CONTINUE Use } of ~~extension of conditional use~~ TERRACE LEVEL AS A
NON-RESIDENT DOCTORS OFFICE FOR DR. ARTHUR M.
LEBSON & EXTEND USE INTO PORTION OF 1ST-FL.

in accordance with the application and plans filed with the Zoning Administrator, and as hereinbelow described:

Premises designated as 3640 Fords Lane St., Rd. Ave.

Located on the North, East side of Fords Lane St., Rd. Ave., and

distant 337 ± feet North, East of the corner formed by the intersection of FORDS LANE St., Rd. Ave. and PARK HEIGHTS St., Rd. Ave.

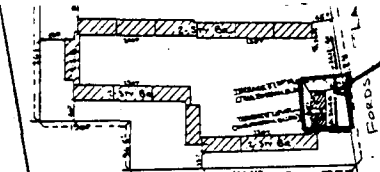
Name of Appellant A.M. Lebson, MD, PA Address 3640 Fords Lane (21215) P. O. Zone

Name of Owner U.S. Enterprises Address 7315 Wisconsin Ave # 825 W (20814) P. O. Zone

Size of Lot 401.2' ft. front X 322.8' ft. deep (or if irregular see plat. 4.7 ± ACRES)

DESCRIPTION OF ALL BUILDINGS AND USES ON THE LOT

OVERALL 270' x 425' IF MORE THAN ONE BUILDING USE SPACE IN REMARKS TO DESCRIBE ADDITIONAL BUILDINGS

	Existing	Proposed (purpose of appeal)
Size of Building	80 ft. front & 30 ft. deep (see plat)	80 ft. front & 30 ft. deep
Height	2 PLUS TERRACE stories	3 stories
Character of Const.	Frame <u>Brick</u> Masonry Metal	Frame Brick Masonry Metal
No. of families housed	3 86 TOTAL	3
Describe use of each floor of a building	Second Floor: Apartments-residential First Floor: Apartments-residential Lower Level: Offices	CONTINUE TO USE TERRACE LEVEL FOR DR OFFICE AND EXTEND OFFICE USE TO PORTION OF FIRST FLOOR (APC-D) Apartments-residential Apartments-additional office space Offices
Date of Construction	N/A	N/A
REMARKS:		

Has there been any previous appeal to this Board on these premises? yes Appeal No. 474-66X

DR.L Located in a R-5 Zoning District.

Attached hereto and made a part of this application, is submitted all papers as required on the sheet of instructions furnished me. I hereby depose and say that all the above statements and the accompanying statements are correct and true.

Sworn to before me, this 17th day of OCTOBER 1989 (Appellant to sign here.)

[Signature]
(Notary.) EXP 7/1/90

NOTE: In Positive Appeals when the Appellant is not the Owner, the affidavit on the reverse side must be executed.

COMPLETE STATEMENT OF APPELLANT ON REVERSE SIDE

A STATEMENT OF FACTS IN SUPPORT OF THE APPEAL MUST BE MADE IN THE SPACE BELOW BEFORE THE CASE CAN BE SCHEDULED FOR A HEARING.

TO: THE BOARD OF MUNICIPAL AND ZONING APPEALS:

Referring to the application on reverse side of this sheet, I submit the following reasons in support of the appeal:

SEE ATTACHED SHEET

[Handwritten signature]

Signature of Appellant.

Affidavit of Ownership (To be used in Positive Appeals if the Appellant is not the Owner.)

STATE OF MARYLAND, } ss: ALAN H. GLENN, Gen. Pk. Forest, et al. J. U. being duly sworn
CITY OF BALTIMORE, } (Owner's name)

deposes and says that he resides at # 6 FRENCH COURT St., Ave.,

in the City of GAITHERSBURG in the State of Maryland, and

(1st) That he is the owner of all that certain lot, piece or parcel of land situated, lying and being in the City of Baltimore aforesaid and known and designated as 3640 FOXE Lane St., Ave., and

(2nd) That the statements of fact contained in the annexed application are true, and

(3rd) That he hereby authorizes ARTHUR G. LEBSON (Appellant's name) to make said application in his behalf.

Sworn to before me, this 10/23 day of 1989 } Alan H. Glenn (Owner sign here)

(Notary.)

(over)

*owner
HMH*

ARTHUR M. LEBSON, M.D., P.A.

FOUNTAINVIEW APARTMENTS
3640 FORDS LANE
BALTIMORE, MARYLAND 21215
358-2741

ARTHUR M. LEBSON, M.D.

PRACTICE LIMITED TO
INTERNAL MEDICINE
&
GERIATRICS

The practice of Arthur M. Lebson M.D., P.A. has been located at 3640 Fords Lane since August 1977. Over the years we have served the local geriatric population and feel that it is in the best interest of our patients that we be allowed to increase our services. In doing so, we require additional space in this building for storage of records and office functions. We have added transtelephonic cardiac monitoring, pulmonary testing and vascular studies; three areas of importance to an aging population.

The percentage of elderly people with cardiac arrhythmia that require monitoring of their medication due to possible medication toxicity, ineffective medication, and proper identification of heart irregularities is high. Also an aging population has an increasing incidence of peripheral vascular disease. Performing doppler studies of the lower extremities is helpful in differentiating a diagnosis of peripheral vascular disease from arthritis, the treatment of which is significantly different. Pulmonary function testing is another important aspect of testing of the elderly to differentiate between cardiac and pulmonary symptoms in regard to symptoms of shortness of breath.

There is no increased traffic flow or community disturbance with these extra services being offered in our building. None of the testing procedures pose any health threats to the residents of this building.

It is our hope at a future date that we may continue to increase our services to the public to include possibly podiatry (foot care), ophthalmology (eye care) and other services that will help our aging population.

In the past we have offered psychiatric counseling with a psychiatrist who performed house calls.

It is our feeling that we would be better able to serve our community and those patients that attend our office from the surrounding area by being able to expand our services to accommodate more areas of medical need so that these patients will not have to travel distances in order to undergo these important diagnostic tests. It will therefore be easier for our aging population in this neighborhood to get more comprehensive medical care at one location rather than having to travel to multiple offices and testing centers in order to undergo appropriate testing.

From Pin case 491-64

The apartments designated as 3612-3640 Fords Lane are comprised of 15 separate apartment buildings, each having 3 floors, namely, a terrace floor, first floor and second floor. The buildings, as per the attached plat plans are numbered 3612 to 3640.

	<u>Existing</u>		<u>Proposed</u>
3612	5 apartments, 1 office		5 apartments, 1 office
3614	6 apartments		6 apartments
3616	6 apartments		6 apartments
3618	6 apartments		6 apartments
3620	4 apartments, 2 office	✓	6 apartments
3622	6 apartments		6 apartments
3624	6 apartments		6 apartments
3626	4 apartments, 2 office	✓	6 apartments
3628	4 apartments, 2 office	✓	6 apartments
3630	4 apartments, 2 office	✓	6 apartments
3632	6 apartments		6 apartments
3634	6 apartments		6 apartments
3636	6 apartments		6 apartments
3638	4 apartments, 2 office	✓	5 apartments, 1 office
3640	<u>4</u> apartments, <u>2</u> office		<u>4</u> apartments, <u>2</u> office
	77 apartments, 13 offices		86 apartments, 4 offices

The apartments designated as 3612-40 Fords Lane are comprised of 15 separate apartment buildings, each having 3 floors, namely, a terrace floor, first floor and second floor. The buildings as per the attached plat plans are numbered 3612 to 3640. Building #3612 has 5 apartments and 1 office unit. Buildings 3620, 3626, 3628, 3630, 3638 and 3640 have 4 apartment units and 2 office units. The remainder of said 15 buildings have 6 apartment units.

This existing arrangement is to be changed to the proposed units where building 3612 will remain 5 apartments and 1 office unit, building 3640 will remain 4 apartment units and 2 office units, building 3628 will change from 4 apartments and 2 office units to 5 apartments and 1 office unit, and the remainder of the office units will be eliminated and changed into apartment units. Thus of the 13 office units in the original 15 buildings, 4 will remain as offices and 9 will be changed to apartments. Thus we have the change increasing the number of apartment units from 77 to 86, and the number of offices reduced from 13 to 4.

FORDS LANE 21215 Contd

3601 HAR SINAI HOUSE Contd
 3601 Studnitz Adolph 358-0202
 Swietoslowski Henry K 764-3975
 Tarakanski M 358-8157
 Thomas C 358-9848
 Umansky P R 358-4347
 Volynsky Ruvin 358-8354
 Wach Sam 764-2865
 Weissman Eleanor 764-7892
 White Morton Mrs 764-2182
 Winsten H 358-5779
 Wittik Lena 764-2629
 Wolff Harold 764-2759
 Yospe Louis 358-1842
 Zaritsky Tosif 358-9557
 Ziesemer Diane 764-8532
 3602 Gutzman Zvi 764-7823
 3602 Keys Charles 358-7141
 3602 Milloff David 358-6826
 3602 Reed Diane 358-7141
 3612 Askovitz Levi 358-0588
 3612 Barr Louys 358-0588
 3612 Charnoff Melvin H 358-6366
 3612 Dukehart Leon 764-1182
 3612 Dukehart Yale 358-5431
 3612 Hochman Howard J 764-2701
 3612 #NA'AMAT USA
 Baltimore Council 358-3337
 3612 #Pioneer Woman
 Na'Amat Baltimore
 Council 358-3337
 3614 Blumenthal Alan J 358-2955
 3614 Blumenthal Renee 358-2955
 3614 Goodman C H 358-9619
 3614 Lowenthal Mickey 764-8353
 3614 Rudo Herbert S Mrs 764-0261
 3614 Salganik Anne Mrs 764-3012
 3614 Sonnenberg Aryeh 358-9568
 3615 HAR SINAI WEST
 Bailey Z 764-8385
 Bakaleyschik T 764-7904
 Berman A E 358-4737
 Binder Miriam 764-6530
 Birman Gitla 358-1632
 Bosch Harry K 764-7578
 Brenner Charles 358-4521
 Brik Manes 358-0138
 Burman J 358-3691
 Burman J 358-6102
 Caplan K 764-8328
 Chosak Morris 358-6055
 Cohen N F B 358-5975
 Cook Edith M 358-7816
 Davidoff Max 764-2617
 Druzman Kahasya 358-8017
 Elinoff D 764-1122
 Endelman David 764-8048
 Eskwith R 764-3020
 Evans Emma M Mrs 358-1652
 Fine Joseph M 358-8192
 Firestein A E 764-7674
 Foster L 764-7597
 Goldberg Abraham 764-7257
 Gonsberg Khantsya 358-2416
 Guralnick Pearl 358-2534
 Haber L 764-1535
 #Har Sinai West 358-9393
 Hinton G 358-0275
 Hurwitz Nettie Mrs 358-6913
 Jackson S 764-8133
 Kaplan Benjamin 358-0204
 Katz S S 358-6932
 Klipen S 358-1664
 Koffler Sibyl 358-0459
 Kogan Mollie B 358-4339
 Koverdinsky Khana 358-0509
 Kramer N 358-7484
 Kreymer Gregory 764-8436
 Kritt A F 358-4031
 Krumholz S R 764-1158
 Lemler Solomon LeRoy 358-3085
 Levin B 764-8412
 Levin Henry 358-2607
 Levine Lil 764-9215
 Losik Moysey 358-7413
 Mager S C 358-2882
 Matz Belle C 358-3144
 McQuay T 358-1252
 Officer Moe 358-6536
 Pines Milton 764-6412
 Plaks Lillian 358-1841
 Pollack Alexander 358-7658
 Pollack R 358-0794
 Polsky P E 358-6209
 Quitt B 358-5256
 Rosenbery M 358-2909
 Rosenthal R 358-3831
 Royzman Bronay 358-2537
 Rubenstein Bernard 358-2365
 Rudo Harry Z 358-5075
 Sachs Bessie Meyer 358-0543
 Sachs E F 764-7411
 Samson Sarah 358-7648
 Sapperstein Albert 358-7351
 Sauber Charles Mrs 358-1686
 Scherr Edna Mrs 764-3736
 Schlafter R 764-3734
 Schnaper M N 764-6392
 Schwartz D L 358-0323
 Shapiro Morris 358-4511
 Shavrick Lillian Mrs 358-6784
 Sheer S 764-7503
 Shevchuk Riva 358-9820
 Shukler Lea 358-3041
 Silberstein Frieda 764-7492
 Skvirskaya Lyubov 764-0245
 Solomon E 358-7229

FORDS LANE 21215 Contd

3615 HAR SINAI WEST Contd
 3615 Somin Yakov 358-9313
 Stalman Evelyn Mrs 358-3774
 Styar Isidore 358-2457
 Sugar Louis S 764-6715
 Sugarman M 358-8431
 Tainyu Melvina Mrs 764-9121
 Talan Y 764-4043
 Tchulak Vendel 358-8052
 Tokman Chaim 358-9650
 Udoff Jerome 764-8393
 Waingold S 764-8378
 Washington Sallie 358-7798
 Wiener B A 358-8646
 Wolfram H F 358-3470
 Yarborough Marie 358-7415
 Zurn Harold Mrs 358-3058
 3616 Appel Moses 764-8044
 3616 Baar Jeffrey 358-3129
 3616 Bridge Benjamin 358-5207
 3616 Hainzer Fred 358-0743
 3616 Press Samuel 358-5017
 3616 Wolpert Sylvan 358-4480
 3616 Berman Allan R 358-1696
 3616 Brunner Scott 358-7540
 3616 Friedman Bluma 358-6321
 3616 Kleinsman L 358-4592
 3616 Kobernick Theodore 764-1719
 3618 Wach Samson 358-6241
 3620 Buchwalter Judah 358-6959
 3620 Davis Irving 358-6446
 3620 Eller J 358-5379
 3620 Pruce Earl 358-3793
 3620 Weill Marc 358-2613
 3622 Cohn Aber S 358-4751
 3622 Glazer Samuel 358-7931
 3622 Weinreb Eliezer 358-5046
 3622 Zywicca Rabbi Meyer 358-7359
 3624 Bistriz David 764-0162
 3624 Flamer H Dr 764-3115
 3624 Greenwald Harold 358-6555
 3624 Levin S J 358-2954
 3624 Levin Steven 764-8205
 3624 Monheit David 764-8635
 3624 Stregovsky S 764-1848
 3626 Cameron Lee 358-2840
 3626 Gaby Shirley 764-1986
 3626 Lowenthal Benjamin 358-2804
 3626 Salb Nathan 764-3645
 3628 Aaronson Helene 358-3369
 3628 Dadoun Annette H 358-7339
 3628 Jaffee Marietta L 358-6036
 3628 Jaffee Norman B 358-6036
 3628 Kerman Amy B 358-7103
 3628 Kerman Jonathan S 358-8706
 3628 Neuberger Nathan 358-0631
 3628 Ross Gary 358-0631
 3628 Ross Rebecca 764-7414
 3630 Baral Daniel 358-5901
 3630 Caplan Lee 358-6902
 3630 Senter Ari 358-4164
 3630 Silberberg David 358-6836
 3630 Silverstone R 358-7331
 3632 Berger Arthur H 358-9139
 3632 Fishbein B A 358-7331
 3632 Fishbein Sidney W 358-7331
 3632 Goldman A 358-9256
 3632 Golfeiz Emanuel 358-9051
 3632 Kohansion J 358-6962
 3632 Spirn Ronald 358-5172
 3634 Bamberger Moshe 358-6345
 3634 Berman E 358-5767
 3634 Cowen Sidney 764-3204
 3634 Ludwig Rae Mrs 358-0792
 3634 Tissenbaum David 764-3071
 3636 Berman F 358-4328
 3636 Harrison Boris M 358-0763
 3636 Schlam Steve 358-5568
 3636 Weill Louis 358-3565
 3638 Birnbaum Meyer 358-4520
 3638 Esterson B 358-6873
 3638 #Fountain View
 Hairstyles 358-3388
 Gross S 358-1103
 3638 Kanefsky Adam 358-6472
 3640 #Cutler Naomi MD 358-2741
 3640 #Lebson Arthur M MD 358-2741
 3640 #R L T Medical Assocs 358-0611
 3640 Reich Emanuel 358-1837
 3640 Schultz H 764-0312
 3640 Troch John A Jr 358-4361
 3701 Horwitz Eli H 358-2632
 3701 Lehman B 764-2672
 3701 #Lehman Bernard H &
 Co tax consultant 484-0575
 3701 Michelson Elliott 764-0717
 3701 Oppel B 358-2632
 3701 Waller Sue P 764-2818
 3702 #Car Line 358-2200
 3702 #Ktz Chaim Center For
 Jewish Studies 764-1553
 3702 Porter S Rabbi 764-6083
 3710 Lerner P J Rabbi 358-0732
 3712 FORDCREST APTS
 Mednick Sol PhD 764-0598
 Schreiber Milton 358-2449
 Zetzer Rose S 764-9130
 3800 Becker E A 358-4170
 3800 Berman Morris Rev 358-8676
 3800 Brooks R A 764-1796
 3800 Crawford D 358-2350
 3800 Glass Charlotte 358-5898
 3800 Saperstein Sam 764-1034
 3800 Sauerwein C Bayard 358-7208
 3800 Schnitzer H W 358-0216
 3800 Siegel A 764-9214

FORDS LANE 21215 Contd

3800 Wagner Sol 358-5453
 3806 Berman Joe B 764-2630
 1806 Blue Albert 764-2231
 3806 Cole Barbara 358-4215
 3806 Goldberg G 358-4720
 3806 Jaffe Morris 358-1493
 3806 Mandlen E 358-4847
 3806 Silver Hilda 764-7398
 3806 Weiss Norman 358-8607
 3811 Sykes Melvin J 358-6765
 1812 Bloom Albert A 358-1894
 3812 Fishbein Louis 764-0568
 3812 Jacobs Ethel 358-0081
 3812 Kotzen Saml 764-9211
 3812 Peng Lin 764-3086
 3812 Radeloff Hyman 764-6317
 3812 Roll Allen 358-8944
 3812 Sigler Sidney H 764-1026
 3818 Baptiste Wilma 358-5301
 3818 Berger H C 764-0636
 3818 Bluefield R 358-6274
 3818 Blumenthal J 764-1582
 3818 Brooks Reba 358-5432
 3818 Brutkus Lester 358-1197
 3818 Davidson David 764-0418
 3818 Golfeiz Aghdas 358-5609
 3818 Hill Horace F 358-9834
 3818 Scherr R B 764-7056
 3818 Seassy Beatrice 764-1305
 3818 Silverman F 764-8309
 Fieldcrest Rd
 3900 Axelrod B 358-7866
 3900 Bruner Haia 358-5956
 3900 Caplan C K 358-7399
 3900 Grant D 764-0952
 3900 Greenspan S L 358-2337
 3900 Harris D 764-2599
 3900 Harris S 764-9375
 3900 Kane Jack 764-9302
 3900 Kowarow Kersh 358-4132
 3900 Lewis Karen 764-6577
 3900 Maier Louis 358-7127
 3900 Pollokoff Mervin 764-7180
 3900 Snowwhite Jules 358-5390
 3906 Binstock Albert 764-7959
 3906 Cummins Calvert 764-9374
 3906 Essert Helen M 764-7053
 3906 Ginsberg Hattie 358-8873
 3906 Krastman Harry 764-7207
 3906 Oxtricher Istvan 358-3748
 3906 Schneider S 764-9153
 3906 Schorr George 764-3761
 3906 Siegel R 358-2198
 3912 Berg E 764-3548
 3912 Bordley M Delores 358-6936
 3912 Caplan J 764-9086
 3912 Ginsberg Sarah F 764-2810
 3912 Greenbaum Max 764-0938
 3912 Harlee Elizabeth 764-0356
 3912 Hershkovitz Moshe 358-5917
 3912 Junker Fred 764-1654
 3912 Kraft B 358-5659
 Fordham Dr
 4000 Gutman M 358-0455
 4000 Levin Samuel B 764-7311
 4000 Lovice D 358-4418
 4000 Steinberg I 358-2036
 4001 Merles Peter 358-5648
 4003 Garrison E E 358-7337
 4004 Carroll Menachem 764-0914
 4004 Effner Darlene 358-0379
 4004 Friedlander Isreal D 358-0403
 4004 Miller J 358-5302
 4004 Mone Edgar L 358-8737
 4004 Scheinberg M 358-8727
 4004 Taylor Ramon I 764-2558
 4005 Kurland Abraham I 764-6221
 4008 Levy I S 358-0238
 4008 Lissy Irving 764-6745
 4008 Lissy Owen 764-6745
 4008 Schaffer S 358-6567
 4008 Schwartz S R 358-6929
 4008 Smith D A 764-0334
 4008 Solomon L D 358-1750
 4008 Weiner Eric D 358-5789
 4012 Goetz T F 358-9438
 4012 Harkless S 358-8250
 4012 Levin Ida Mrs 358-4684
 4012 Lynch J L 358-5739
 4012 Mitchell Thelma 358-5054
 4012 Sacks Samuel D 358-2688
 4016 Aronoff Harry Mrs 764-7241
 4016 Berger S K 358-6270
 4016 #Four Thousand Ford's
 Lane Apts 358-2168
 4016 Goldenson T 764-1018
 4016 Maravi P 358-9718
 4016 Olsan Esther Mrs 764-7869
 4016 #Pink Satique Salon 358-5955
 4016 Schleifer Max 358-4415
 4016 Vollweiler B 358-3160
 4016 Zilberman Roza 358-1949
 Reisterstown Rd
 4103 #Zadain Resources 358-2319
 4110 Harper D M 764-1633
 4111 Blake Frank E 764-3626
 4112 Kreiner J Carroll 764-2852
 4115 Brown Johnny L 764-8113
 4115 Reichenberg Hanna Mrs 358-0476
 4117 Raqlin Robert D 764-3870
 4119 Pullen Willie E 764-7727

FORDS LANE 21215 Contd

Fairview
 4200 Engel Mildred
 4201 Oliver Z
 4201 Turner E
 4203 Ballastore Beverly
 4205 Fishbein Rose
 4205 Scott B J
 4208 Hurwitz Samuel
 42105 Blumberg Jerome
 4211 Miller P L
 4212 Blouse Jesse
 4214 Golaan Gerome
 4216 Wells Jno Mrs
 4218 Evans L E
 4219 Smith D B
 4220 Tunstall Selma
 4221 Johns Robert
 4223 Calloway Belle
 4224 Muldrog Willis
 FOREST GLEN RD 21216
 Map G:886-541
 Wakefield
 2803 Horne Teresa
 2804 Hendrick S A
 2807 Murray Gloria
 2810 McCrea Samuel
 2818 Hurt C
 2819 White Clifford
 2821 Adams A K
 2822 Brock Cheryl
 2824 James Y A
 2827 Smith Harold
 2840 Davis Lester
 2844 Merrick David
 2846 Hayes Sherria
 2847 Breckenridge D
 2888 Franklin Paul
 2855 Tyson Peter
 2863 Hardy Calvin L
 2865 Johnson Dawn L
 Fairview Av
 2901 Alston Roger A
 2902 Tinsley Perlin
 2904 Brooks Earnest
 2905 Dailey Bertram
 2906 Bennett Eliza
 2910 Thorpe James
 2910 Thorpe Marit
 2912 Brooks George
 2913 Miller Nellie
 2914 Dallas Ralph
 2915 Laws Juniors
 2916 Brown Sharon
 2920 Keys Sallie A
 2921 Armour Clara
 2923 Hooper Jno C
 2925 Moore A G Mrs
 2925 Moore Gwendol
 2927 Childress E B
 2927 Childress Gar
 2929 Dean Aurla R
 2931 Clemons Ervin
 2931 Clemons Rosa
 2933 Talley John P
 FOREST HEIGHTS DR L
 Map M:883-537
 Clifton Av
 2003 Caplan Louise
 2011 Davis H T
 FOREST HILL AVE 212
 Map T:895-521
 1303 Miller Jos
 1303 Miller Mike
 1305 Dorsey George
 1313 Hadaway Kare
 1317 Hardesty Jean
 Elm Rd
 1404 Farace Antho
 1409 Fiolekowski P
 1409 Haney J
 1409 Garrett Rose
 1412 Ditty F
 1416 Elser Theodo
 1418 Rausch Edwin
 1420 Shelly K E
 1422 Shreet W Lin
 1424 Miller G
 1430 Knapp Kennet
 1432 Hook Geo M S

764-6415	764-6415	358-9650	3812	Koczen Saml	764-3271
Eleanor	764-7892	764-8393	3812	Peng Lin	764-3086
rton Mrs	764-2182	764-8378	3812	Radeloff Hyman	764-6317
old	764-2759	358-7798	3812	Roll Allen	+358-8948
Ruth E	764-1178	358-1452	3812	Sigler Sidney H	764-1026
uis	358-1382	764-7625	3818	Baptiste Wilma	358-5301
Iosif	358-9557	358-8646	3818	Berger H C	764-0636
Diane	764-8532	358-3470	3818	Bluefeld R	358-6274
	358-0128	358-7415	3818	Blumenthal J	764-1582
Zvi	764-7823	358-1977	3818	Brooks Reba	358-5432
David	+358-6826	358-3058	3818	Brutzkus Lester	358-1197
Melvin H	358-6366	764-8044	3818	Davidson David	764-0418
Leon	764-1142	358-5207	3818	Golfeiz Aghdas	358-5609
Yale	358-5431	358-7642	3818	Hilb Horace F	358-9834
Howard J	+764-2701	358-0743	3818	Scherr R B	764-7056
JSA		358-5017	3818	Silverman F	+764-8309
ra Council	358-3337	358-4480			
Woman		358-1696			
Baltimore		358-9424			
	358-3337	358-9424		Fieldcrest Rd	
al Alan J	358-2955	+358-5321	3900	Axelrod B	358-7866
al Renee	358-2955	358-4592	3900	Caplan C K	358-7399
C H	358-9619	764-1719	3900	Greenspon S L	358-2337
l Mickey	+764-8353	764-2723	3900	Harris D	764-2599
bert S Mrs	764-0261	358-6446	3900	Harris S	764-7975
Anne Mrs	764-3012	358-5379	3900	Kane Jack	764-9302
Yaakov	764-2635	+764-2790	3900	Kapenstein David	358-0973
WEST		+358-6266	3900	Maier Louis	358-1127
	358-5460	358-3793	3900	Pollokoff Mervin	764-7180
	764-8385	358-4751	3900	Snowwhite Jules	358-5390
chik T	764-7904	358-7934	3906	Binstock Albert	764-7959
P Mrs	358-3849	+764-2856	3906	Cummins Calvert	764-9374
iriam	764-6603	358-5046	3906	Essert Helen M	764-7053
itla	358-1632	358-7359	3906	Ginsberg Battie	358-8873
rry K	764-7578	764-0162	3906	Krastman Harry	764-7207
Charles	358-4521	764-3115	3906	Neuman Charles	358-9028
es	358-0138	358-6555	3906	Oztricher Istvan	358-3748
	358-3691	764-8205	3906	Schneider S	764-9153
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th N	358-5975	358-2840	3912	Baublitz L	+764-2837
Max	764-2617	764-1986	3912	Berg E	+764-3548
e	358-6525	+358-2804	3912	Bordley M Delores	+358-6936
D	764-1122	+764-3645	3912	Caplan J	764-9086
David	764-8048	764-6384	3912	Ginsberg Sarah F	764-2810
R	764-3020	764-7998	3912	Greenbaum Max	764-0938
na M Mrs	358-1652	+358-0631	3912	Herchkovitz Moshe	358-5917
eph M	358-8192	+764-7414	3912	Junker Fred	764-1654
ein Charles	764-7605	358-6868	3912	Kraft B	358-5659
n A E	764-7674	+358-7111			
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Abraham	764-7257	358-9139	4000	Levin Samuel B	764-7311
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k Pearl	358-2534	358-7331	4000	Steinberg I	358-2036
i West	358-9393	358-9256	4001	Merles Peter	358-5648
Nettie Mrs	358-0275	+358-9051	4003	Garrison E E	358-7337
S	358-6913	358-5767	4004	Effner Darlene	358-0379
enjamin	764-8133	764-3204	4004	Friedlander Isreal D	358-0403
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Siby	358-1664	764-2811	4004	Raczkowski Mendel	358-8197
Gre	358-0459	764-3071	4004	Scheinberg M	358-8727
F	358-7484	358-4328	4005	Taylor Ramon I	+764-2558
Iris	764-8436	358-0763	4008	Kurland Abraham I	764-6221
S R	358-4031	+358-5938	4008	Levy I S	358-0238
olomon LeRoy	+764-2126	358-3565	4008	Lissy Irving	764-6745
	764-1158	+358-5568	4008	Lissy Owen	764-6745
	358-3085	358-4520	4008	Schaffer S	358-6567
	+764-8412	358-6873	4008	Schwartz S R	358-6929
nry	358-2607	#Fountain View	4008	Smith D A	+764-0334
ucille	358-3462	Hairstyles	4008	Solomon L D	358-1750
ysey	358-7419	358-3388	4008	Weiner Eric D	358-5789
C	358-2882	358-7654	4012	Goetz T T	358-9438
le C	358-3144	358-1103	4012	Levin Ida Mrs	358-4684
Marcela	358-1062	358-2741	4012	Lynch J L	358-5739
Moe	+358-6536	358-2741	4012	Maier Julius	358-7055
lton	764-6412	358-1837	4012	Minster Howard M	358-7542
lilian	358-1841	764-0312	4012	Minster Samuel Rev	358-7542
Alexander	358-7658	358-4361	4012	Sacks Samuel D	358-2688
R	358-0794	358-2632	4012	Wolfson Samuel	358-1734
E	358-6209	764-2672	4016	Aronoff Harry Mrs	764-7241
Helen Mrs	358-2329	#Lehman Bernard H &	4016	Berger S K	358-6270
Bessie Mrs	358-2681	Co tax consultant	4016	#Four Thousand Ford's	
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		3701	4016	Goldenson T	764-1018
		3701	4016	Maravi P	358-9718
		3710	4016	Olsan Esther Mrs	764-7869
			4016	#Pink Satique Salon	358-5955
			4016	Schleifer Max	358-4415

□ CHANGE OF ADDRESS + NEW LISTING

1989 Edition

FORDS LANE 21215 Contd

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 Swieczkowski Henry K 764-3975
 Tarakanski M 358-8157
 Thomas C 358-9888
 Umansky P R 358-4347
 Volynsky Ruvin 358-8354
 Wachs Sam 764-2865
 Weissman Eleanor 764-7892
 White Morton Mrs 764-2182
 Winsten H #358-5779
 Wittik Lena +764-2529
 Wolff Harold 764-2759
 Yospe Louis 358-1842
 Zaritsky Isosif 358-9557
 Ziesemer Diane 764-8532
 3602 Guttman Ivi 764-7823
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 3612 Askovitz Levi +764-0588
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 3612 Hochman Howard J 764-2701
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 Baltimore Council
 Na#Amat Baltimore
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 3612 Blumenthal Alan J 358-2955
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 3612 Goodman C H 358-9619
 3612 Lowenthal Mickey 764-8353
 3612 Rudo Herbert B Mrs 764-0261
 3612 Salganik Anne Mrs 764-3012
 3612 Sonnenberg Aryeh +358-9568
 3615 HAR SINAI WEST
 Bailey Z 764-8385
 Bakaleyschik T 764-7904
 Berman A E #358-4737
 Binder Miriam 764-6530
 Birman Gitla 358-1632
 Bosch Harry K 764-7578
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 Burman J 358-3691
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 Caplan K 764-8328
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 Cohen N F B 358-5975
 Cook Edith N 358-7816
 Davidoff Max 764-2617
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 Ellinoff D 764-1122
 Endelman David 764-8048
 Eskwith R 764-3020
 Evans Emma M Mrs 358-1652
 Fine Joseph M 358-8192
 Firestein A E 764-7674
 Foster L 764-7597
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 Guralnick Pearl 358-2534
 Haber L +764-1535
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 Hurwitz Nettie Mrs 358-6913
 Jackson S 764-8133
 Kaplan Benjamin 358-0208
 Katz S S #358-6932
 Kilman S 358-1668
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 Kojan Mollie B #358-4339
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 Krumholz S R 764-1158
 Lesler Solomon LeRoy 358-3085
 Levin B 764-8412
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 Levine Lil #764-9215
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 Mager S C 358-2882
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 McQuay T 358-1252
 Officer Moe 358-6536
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 Plaks Lillian 358-1841
 Pollack Alexander 358-7658
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 Polsky P E 358-6209
 Quitt B 358-5256
 Rosenbery M 358-2909
 Rosenthal R 358-3831
 Roytman Bronay 358-2537
 Rubenstein Bernard 358-2365
 Rudo Harry Z 358-5075
 Sachs Bessie Meyer 358-0543
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 Samson Sarah 358-7648
 Sapperstein Albert 358-7351
 Sauber Charles Mrs 358-1686
 Scherr Eina Mrs 764-3736
 Schaffer R 764-3734
 Schnaper M N 764-6392
 Schwartz D L 358-0323
 Shapiro Morris #358-4511
 Shavrick Lillian Mrs 358-6784
 Sheer S #764-7503
 Shevchuk Riva 358-9820
 Shmukler Lea 358-3041
 Silberstein Frieda 764-7492
 Skvirskaya Lyubov 764-0245
 Solomon E 358-7229

FORDS LANE 21215 Contd

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 Soain Yakov +358-9313
 Stalman Evelyn Mrs 358-3774
 Styar Isidore #358-2457
 Sugar Louis S #764-6715
 Sugarman M 358-8431
 Tainqu Melvina Mrs 764-9121
 Talan Y 764-8043
 Tchulak Vendel 358-8052
 Tokman Chaim 358-9650
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 Waingold S 764-8378
 Washington Sallie 358-7798
 Wiener B A 358-8646
 Wolfram H F 358-3470
 Yarborough Marie 358-7415
 Zurn Harold Mrs 358-3058
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 3616 Mainzer Fred 358-0743
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 3622 Zywicca Rabbi Meyer 358-7359
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 3624 Dadoun Annette H +358-7339
 3624 Jaffee Marietta L +764-6036
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 3624 Kerman Amy B +358-7103
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 Hairstyles 358-3388
 Gross S 358-1103
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 #Labson Arthur M MD 358-2741
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 3702 #Car Line +358-2200
 #Ktz Chaim Center For Jewish Studies #764-1553
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FORDS LANE 21215 Contd

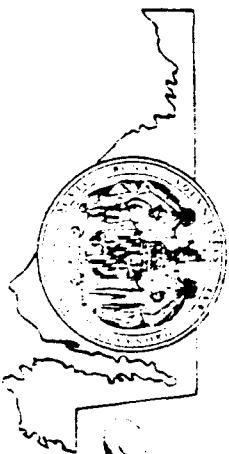
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 4112 Kreiner J Carroll 764-2852
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 4119 Pullen Willie E 764-7727

FORDS LANE 21215 Contd

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 4201 Oliver E
 4201 Turner E
 4203 Ballecerose P
 4205 Fishbein Samuel
 4205 Scott B J
 4208 Hurwitz Jerome
 4210 Blunberg Jerome
 4211 Miller J L
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 4214 Goldman Jerome
 4216 Wells Jno Mrs
 4218 Evans L E
 4219 Smith D B
 4220 Tunstall Seidel
 4221 Johns Robert
 4223 Calloway Bell
 4224 Muldrow William
 FOREST GLEN RD 21215
 Map G:886-541
 Wakefield Rd
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 2804 Hendrick S A
 2807 Murray Gloria
 2810 McCrea Samuel
 2818 Hurl C
 2819 White Clifford
 2821 Adams A K
 2822 Brock Cheryl
 2824 James Y A
 2827 Smith Harold E
 2840 Davis Lester
 2846 Merrick David
 2846 Hayes Sharrs
 2847 Breckenridge Dav
 2848 Franklin Paul
 2855 Tyson Peter
 2863 Hardy Calvin J
 2865 Johnson Dawn Lynn
 Fairview Ave
 2901 Alston Roger A
 2902 Tinsley Perin D
 2904 Brooks Earnest
 2905 Dailey Bertram
 2906 Bennett Elizabeth
 2910 Thorpe James W
 2910 Thorpe Marrita
 2912 Brooks George C
 2913 Miller Nellie Mrs
 2914 Dallas Ralph
 2915 Laws Juniors
 2916 Brown Sharon
 2920 Keys Sallie A
 2921 Armour Clara W
 2923 Hooper Jno C Sr
 2925 Moore A G Mrs
 2925 Moore Gwendolyn
 2927 Childress E B
 2927 Childress Garlan
 2929 Dean Auria R
 2931 Clemons Ervin J
 2931 Clemons Rosalind
 2933 Talley John M
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 Map H:883-537
 Clifton Ave
 2003 Caplan Louise
 2011 Davis R T
 FOREST HILL AVE 21230
 Map T:895-521
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 1303 Miller Mike A
 1305 Dorsey George L
 1313 Hadaway Karen
 1317 Hardesty Jean
 Elm Rd
 1404 Ziolkowski Julian
 1409 Foster Harry E
 1409 Foster Rita A Mrs
 Georgetown Rd
 1604 Farace Anthony F
 1606 Odachowski Betty
 1608 Haney J
 1610 Garrett Rosetta Mrs
 1612 Ditty F
 1616 Elser Theodore E
 1618 Rausch Edward C Jr
 1620 Shelly K E
 1622 Shreet W Linwood
 1624 Miller G
 1630 Knapp Kenneth
 1632 Hook Geo M Sr

1990 Edition

State of



Maryland

449176

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

LICENSE, REGISTRATION, OR CERTIFICATION RENEWAL

THE MARYLAND STATE BOARD OF PHYSICIAN QUALITY ASSURANCE
CERTIFIES THAT ARTHUR LEBSON
IS AN AUTHORIZED PHYSICIAN AND SURGEON

IN ACCORDANCE WITH THE HEALTH OCCUPATIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND

LIC REG CERT NO
117042

EXPIRATION DATE
09/30/90

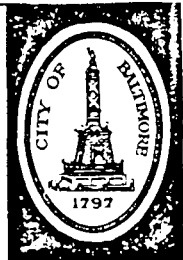
WHERE REQUIRED BY LAW THIS MUST BE COUNTERSIGNED LAST AND IN FULL TO VOUCHER ARTICLES

SIGNATURE OF BEARER

(Signature)
Social Security Number

FROM	NAME & TITLE	David C. Tanner Zoning Examination Supervisor
	AGENCY NAME & ADDRESS	Department of Housing & Community Development Zoning Enforcement Section 417 East Fayette Street - Room 100
	SUBJECT	ZONING SUMMARIES

CITY of
BALTIMORE
MEMO



DATE: June 5, 1990

TO
Board of Municipal and Zoning Appeals
417 East Fayette Street - 14th Floor

The Zoning Commissioner brings to your attention the following facts concerning the property noted below. It is suggested that this information be considered and made a part of the Hearing record. Department files will be made available upon request.

PROPERTY: 3612-70 Fords Lane
portion k/a 3640 Fords Lane APPEAL NO. 171-90X

1. This appeal arises from:
 - an application disapproved or referred by the Zoning Commissioner.
 - a Violation Notice issued by the Zoning Commissioner.
2. The Police Survey of 1931 records the use of the property as:
No Police Survey on film.
3. The last Multiple Dwelling License issued was March 29, 1990 to use for 86 dwelling units and four (4) other units (3612-70 Fords Lane).
4. The last permit issued was January 17, 1968, No. A95202 to use 3640 Fords Lane as office for Jewish National Funds Organization. The last application on file was February 11, 1981 requesting alteration work to wall in doctor's office only. The application was signed by H.M.H. Construction Co. The application indicates building now used for doctor's office and 86 dwelling units. The application further indicated building to be used for same.

David C. Tanner

FROM	NAME & TITLE	Michael P. Doyle Transportation Associate II
	AGENCY NAME & ADDRESS	Department of Transportation Traffic Engineering 417 E. Fayette Street - Room 612
	SUBJECT	APPEAL NO. 171-90X

CITY of
BALTIMORE
MEMO



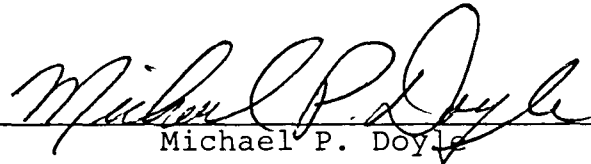
DATE: June 1, 1990

TO

Mr. Gilbert V. Rubin
Executive Director
Board of Municipal & Zoning Appeals
417 E. Fayette Street
Baltimore, Maryland 21202

Please refer to the application of Dr. Arthur M. Lebson, 3640 Fords Lane, for a permit to continue to use terrace level as a non-resident doctor's office and extend use into portion of first floor (Apartment C) at 3640 Fords Lane.

Our Department has no objection to this application.



Michael P. Doyle

MPD:smc

WE'RE COUNTING ON YOU - CENSUS 1990

FIRE DEPARTMENT HEADQUARTERS
BALTIMORE, MARYLAND

28-2100-0156 REV. 3/86
1400-26-12

DATE: May 14, 1990

FROM: Mr. Peter J. O'Connor
Chief of Fire Department

TO: Mr. Gilbert V. Rubin, Exec. Director
Board of Municipal and Zoning Appeals

APPLICATION: Continue to use terrace level as a non-resident doctor's
office and extend use into portion of first floor (Apt. C).

LOCATION: 3640 Fords Lane

CONSTRUCTION OR INSTALLATION: A two (2) story, non-sprinklered building of masonry
construction.

REPORT: At your request, Lieutenant Bernard Williams of the Fire
Prevention Bureau conducted an inspection on May 7, 1990
of the above premises.

The Fire Department has no objections to Zoning Appeal
No. 171-90X, provided, that all applicable Codes and
Ordinances of Baltimore City are complied with.

RESPECTFULLY SUBMITTED,



CHIEF OF FIRE DEPARTMENT

ivj -

FROM	NAME & TITLE	William N. Glenn <i>WNG</i> Chief, Institutional Facilities
	AGENCY NAME & ADDRESS	Bureau of Community Hygiene Baltimore City Health Department 303 E. Fayette Street, 4th Floor
	SUBJECT	Zoning Appeal No. 171-90X 3640 Fords Lane

CITY of
BALTIMORE
MEMO



DATE: 25 May 1990

TO Gilbert V. Rubin, Executive Director
Board of Municipal and Zoning Appeals
417 E. Fayette Street, 14th Floor

This is in reply to your letter of 4 May 1990 pertaining to the application of Dr. Arthur M. Lebson, MD PA, 3640 Fords Lane for a permit to continue to use terrace level as a non-resident doctor's office and extend use into portion of first floor (Apt. C) at 3640 Fords Lane. Your file reference on this case is Appeal No. 171-90X.

The plans and specifications have been reviewed and there would appear to be no health hazard involved in the usage stated above provided:

1. Used disposable hypodermic needles, old medicines, discarded bandages, and surgical wastes are stored in covered metal containers in an area inaccessible to trespassers and children pending final disposal.
2. The premises are kept clean and free of nuisances to the neighborhood.
3. Approved drinking water facilities are provided for both patients and employees.
4. A bathroom must be accessible to patients as well as staff with a door that can be locked.
5. Hand wash basin must be provided for each examining room.
6. All potentially infectious waste (bandages, dressings, syringes, blood samples, tissue, etc.) must be kept separately from regular trash and disposed of by an approved method - licensed infectious waste hauler, incineration, or autoclaving. The policy for storage and disposal of infectious waste should be in writing and approved by the Health Department. Call 396-4411 if any questions.

WNG:bep
cc: Dr. Arthur M. Lebson, MD PA
John Huppert
Bernard Bochenek
File

171-90X 6-5-90

FROM

NAME & TITLE	Robert W. Hearn, Commissioner
AGENCY NAME & ADDRESS	Department of Housing and Community Development 417 E. Fayette Street
SUBJECT	District #420: 3640 Fords Lane Appeal to BMZA (Conditional Use)

CITY of
BALTIMORE
MEMO



DATE: May 31, 1990

TO
Mr. Gilbert V. Rubin
Board of Municipal & Zoning Appeals

The Department of Housing and Community Development is in receipt of an application from Dr. Arthur Lebson to continue to use the terrace level on the premises known as 3640 Fords Lane as a doctor's office and extend portion of the first floor apartment. The property is located in an R-5 Zoning District. The proposed use violates Sections 4.5-1c (conditional Use) and 2.0-10 (extension of a conditional use).

Dr. Lebson is currently operating out of one apartment on the terrace level of the Foundationview Apartments. The hours of the operation are from 9:30 a.m. to 5:00 p.m. The expansion of the first floor apartment would provide additional work space and storage area for records.

The Department of Housing and Community Development has no objection to this appeal.

The Northwest Baltimore Corporation has been notified of this appeal and may respond directly to the Board.

RWH/JN/11

cc:
Marianna Donisi-McCann
Northwest Baltimore Corporation
3319 W. Belvedere Avenue
Baltimore, Maryland 21215

Arthur M. Lebson
3640 Fords Lane
Baltimore, Maryland

FROM

NAME & TITLE	ERNEST FREEMAN, AICP, DIRECTOR <i>Ernest Freeman</i>
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8th Floor, 417 EAST FAYETTE STREET
SUBJECT	3640 FORDS LANE

CITY of
BALTIMORE
MEMO



TO

Mr. Gilbert V. Rubin, Executive Director
Board of Municipal and Zoning Appeals
14th Floor, 417 East Fayette Street

DATE: December 26, 1989

The Department of Planning is in receipt of the application of Arthur Libson, M. D., to continue to use a portion of the premises at 3640 Fords Lane as a non-residential doctor's office.

Section 4.5-1c of Ordinance #1051 states that non-residential doctor offices in R-5 Zoning Districts are conditional uses requiring approval of the Board of Municipal and Zoning Appeals. Section 2.0-10 states that any addition or expansion of a conditional use must also be approved by the Board of Municipal and Zoning Appeals.

The doctor who currently operates out of one apartment on the terrace level is proposing to expand into a second apartment on the first floor. The apartment house is part of a larger complex located just off of Fallstaff Avenue across from Har Sinai Congregation. The building in which the doctor operates is along Fords Lane and not within the interior residential area.

The office employs four full-time and four part-time staff and operates five days a week from 9:30 a.m. to 5:00 p.m. A majority of Dr. Libson's patients live in the surrounding community.

— Staff learned that second apartment will be used for the storage of records and will provide additional work space for the clerical staff. According to the applicant, the primary purpose of the expansion is to provide better service to his existing client base. He will be adding no additional staff nor is he planning to expand his client base.

Since the expansion will have minimal impact on parking or congestion in the area, the Department of Planning has no objections to this appeal.

EF/AF/jjr

Mr. David Tanner, Zoning Enforcement
Mr. Tom Stosur, Fifth District Planner
Ms. Joyce Nance, HCD

Protest

11-90X

Date - June 3, '9

Dear Zoning Board,

We, the undersigned tenants of the Fountainview Complex and members of the Fountainview Tenants Association, do hereby proclaim our complete opposition to any further commercialization of our complex.

We have found the above to significantly detract from the quiet, residential atmosphere that we enjoy and value so highly.

Won't you kindly consider our position in rendering your decision.

Thank you

Name	Address	Phone #
------	---------	---------

- | | | | |
|-----|-----------------------------|-------------------|----------------------|
| ✓ 1 | Mr. & Mrs. Emanuel Reich | 3640 C Fords Lane | 358-1837 |
| 2 | Paul & Michelle Str | 3538 D Fords Ln. | 358-1864 |
| 3 | Malcom & Peneta Menden | 3612 D Fords Ln | 358-5463 |
| 4 | Mr. & Mrs. Stuart Lepper | 3612 B Fords Ln. | 358-9341 |
| ✓ 5 | Mrs. Helen Schultz | 3640-B Fords Lane | |
| 6 | Mr. & Mrs. Oscar Jurefsky | 3638-A Fords Ln | 358 764-9312
6472 |
| 7 | Miss Bernice Easton | 3638 B Fords Lane | 358-6973 |
| 8 | Mr. & Mrs. Steve Schlam | 3636 B Fords Lane | 358-5568 |
| 9 | Mr. & Mrs. Beach Berg | 3632 E Fords Ln. | 764-9241 |
| 10 | Mr. & Mrs. Ben Suss | 3632 A Fords Lane | 358-7247 |
| 11 | Mr. & Mrs. Jeffrey D. Bue | 3616 E Fords Lane | 358-3129 |
| 12 | MISSENBACH | 3634 D FORDS LANE | 764-3071 |
| 13 | Mr. & Mrs. David Silberberg | 3630 C Fords Lane | 358-4164 |
| 14 | E Zerman | 3630 B " " | 358 9930 |
| 15 | Mr. & Mrs. J. Kerman | 3628 C Fords Lane | 358-7103 |
| 16 | Mrs. Helen Calman | 3628 D Fords Ln | 358-3369 |
| 17 | Mr. Michael Nosovsky | 3628 F Fords Ln | 764-8512 |

(over)

18 - Mr & Mrs Meyer Zyrona 3622 Ford's La. 358-7359

171-90x Protest

June 3, 1990

Dear Zoning Board,

We, the undersigned tenants of the Fountainview Complex and members of the Fountainview Tenants Association, do hereby proclaim our complete opposition to any further commercialization of our complex.

We have found the above to significantly detract from the quiet, residential atmosphere that we enjoy and value so highly.

Won't you kindly consider our position in rendering your decision.

Thank you,

	Name	Address	Phone #
✓ 19	Mora E. J. J. J.	3640-A-Fords Lane	358-4361
20	Dave M. M. M.	3612-F-Fords Lane	764-8635
21	Mr. & Mrs. Harold Greenwald	3624 Fords Lane	358-6555
22	Robert M. Rosenbaum	3624 Fords Lane	358-1529
23	Steven & Lena Levin	3624 Fords Lane B	764-8205
24	Sherry & Sheryl Ambush	3630 Fords Lane A	358-9046
25	Elza M. M. M.	3624 Fords Lane A	764-2042

11-407 Protest

Date June 3, 1999

Dear Zoning Board,

We, the undersigned tenants of the Fountainview Complex and members of the Fountainview Tenants Association, do hereby proclaim our complete opposition to any further commercialization of our complex. We have found the above to significantly detract from the quiet, residential atmosphere that we enjoy and value so highly. Won't you kindly consider our position in rendering your decision.

Thank you

	Name	Address	Phone #
1			
26	Meta Maurizer	3616 Fords Lane	358-0743
27	Deve Sommers	3614 Fords Lane	358-9568
28	Alant Renee Burt	3614-A Fords Lane	358-2955
29	Carole Gooden	3614 Fords Lane	358-9619
30	Janet Jack	3614 B FORDS LA	358-9619
31	Dolly ALKBY	3636 F FORDS LA	764 1640

BOARD OF MUNICIPAL AND ZONING APPEALS

14th Floor
417 E. FAYETTE STREET - 21202

3640

FORDS LANE

Baltimore, Md., MAY 3 1990

To the Appellant:

Your appeal to the Board of Municipal and Zoning Appeals has been assigned Number 171-90X and scheduled for a Public Hearing as indicated on the form below. Hereafter refer to this matter by Appeal Number. Everything included within the heavy black lines is required to appear on the sign.

The certificate of posting at bottom of this form shall be dated, signed and filed at the office of the Board prior to the Public Hearing.

Owner/appellant or an authorized representative, previously approved by the Executive Director, must be present at the public hearing.

The sign shall be posted not later than MAY 26 1990

By Order of the Board [Signature]

Rule of the Board of Municipal and Zoning Appeals for posting:

Posting - The premises shall be posted in accordance with the following rules:

- A. The sign shall be not less than four (4) feet long and three (3) feet high, with black lettering not less than two (2) inches high, on white background.
- B. The sign shall be posted in a conspicuous manner, not over ten feet above the ground level, and where it will be clearly visible and legible to the public.
- C. The sign shall be posted not later than ten (10) days prior to the date of the Public Hearing, and shall be maintained in good condition until after the Public Hearing. Where proposed structures or uses are to be on the rear of the lot, the sign shall nevertheless be posted on the front of the premises, unless otherwise directed.

POST SIGN CONSPICUOUSLY ON FRONT OF PROPERTY

WORDING OF SIGN TO BE POSTED ON PREMISES

To Whom it May Concern:

Notice is hereby given by the Board of Municipal and Zoning Appeals that it will hold a public hearing Tuesday JUNE 5, at ONE P.M. in Room 215, City Hall on Appeal No. 171-90X for a permit TO CONTINUE DOCTOR'S OFFICE ON TERRACE level AND EXTEND TO USE PORTION OF FIRST FLOOR (APT. C) on these premises located in a R-5 Zoning District.

To the Board of Municipal and Zoning Appeals

14th Floor
417 E. Fayette Street - 21202

Baltimore, Md., 5/29 1990

I hereby certify that the sign was posted on the premises in question in accordance with the above

instructions on 5/26 1990

[Signature] for AUTHORIZED REPRESENTATIVE

THE BOARD OF MUNICIPAL AND ZONING APPEALS
14TH FLOOR
417 E. FAYETTE STREET
BALTIMORE, MARYLAND 21202

May 4, 1990

Copy Sent To:
Health, Fire and Transportation Depts.

In your reply
please refer to
Appeal No. 171-90X

Dear Sir:

In accordance with Ordinance No. 1051, approved April 20, 1971, known as the Zoning Ordinance, we are submitting herewith a copy of the plans accompanying the application of Dr. Arthur M. Lebson, MD PA, 3640 Fords Lane 358-2741 or 358-274 for a permit to continue to use terrace level as a non-resident doctor's office and extend use into portion of first floor (Apt. C) at 3640 Fords Lane.

The Board asks if you will be kind enough to send an early report, so that it will be available at the public hearing on Tues., June 5, 1990 at 1:00 P.M.

Very truly yours,

Gilbert V. Rubin
Executive Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
ZONING ENFORCEMENT SECTION

417 East Fayette Street
Room 100
Baltimore, Maryland 21202

October 30, 1989

Mr. Larry Reich, Director
Department of Planning
417 East Fayette Street – 8th Floor
Baltimore, Maryland 21202

Dear Sir:

We are forwarding herewith a copy of the plat with reference to the application
of Arthur Lebson, M.D.
to continue to use as a non-resident doctor's office on terrace level and extend
this use on to 1st floor level for Dr. Arthur Lebson.
at 3640 Fords Lane

In accordance with Ordinance No. 1051, approved April 20, 1971, this application
is herewith referred to you for an advisory report. Said advisory report is to be forwarded
to the Board of Municipal and Zoning Appeals, 417 East Fayette Street – Room 1432,
within fifteen (15) calendar days of this request.

Sincerely yours,



DAVID C. TANNER
General Superintendent
Zoning Administration
and Enforcement

Enclosure

WHITE – Original
CANARY – Board of Municipal and Zoning Appeals
PINK – Zoning Administrator
GOLDENROD – Zoning Enforcement Section

CITY OF BALTIMORE

KURT L. SCHMOKE, Mayor



BOARD OF MUNICIPAL AND
ZONING APPEALS

GILBERT V. RUBIN, Executive Director
14th Floor, 417 E. Fayette Street
Baltimore, Maryland 21202

JAN 16 1990

Dr. Arthur M. Lebson, MD PA
3640 Fords Lane
Baltimore, MD 21215

Dear Sir:

This is to advise you that your application to continue to use terrace level as a non-resident doctor's office and extend use into portion of first floor at 3640 Fords Lane is now ready for final processing.

If you will appear in person at this office, between 8:30 A.M. and 4:30 P.M., this matter will be scheduled for public hearing.

In the event you no longer wish to pursue this appeal, please contact this office.

Very truly yours,

GILBERT V. RUBIN
EXECUTIVE DIRECTOR

GVR:lmt

CC--Zoning Enforcement Section

BOARD OF MUNICIPAL AND ZONING APPEALS

STATUS SHEET

171-90X

APPEAL NO.

10-30-89

Date of receipt of Notice of Appeal

11

Date of Decision of Zoning Administrator, as per copy filed

✓

Within ten (10) days of Date of Decision?

✓

Notice of Appeal forwarded to Zoning Administrator.

✓

Applicant notified as to limits of territory to be shown on plat, as follows

✓

Appeal form (1 BMZA) forwarded.

✓

Appeal form (1 BMZA) received.

✓

Plats received from Appellant.

N/A

Plats received from Applicant in Negative Appeal.

June 5

Scheduled for hearing on.

MAY 26

Latest date for posting.

✓

Posting form forwarded.

Certificate of proper posting received.

All papers received from the Zoning Administrator.

Data sheet and plat forwarded to Members of Board

IN CONDITIONAL USE CASES

Report of Traffic Engineering Department.

Dept. of Housing & Community Development

Report of Health Department.

Planning Commission

Report of Fire Department.

App. Cond.

6/5/90

Disposition of Board of Municipal and Zoning Appeals.

6/11/90

Applicant notified.

Zoning Administrator notified, all papers returned and receipt of same hereby acknowledged.

David C. Tanner

ZONING ADMINISTRATOR

Excerpts from Minutes

Meeting of 6/5/90

13

Under the provisions of Section 11.0-3-e-2-(c), the Board may authorize a yard or setback less than a yard or setback required by the applicable regulations.

The testimony shows that this appeal presents a request for authorization to construct a parking pad, 10 feet by 10 feet, in the required front yard setback area in the R-6 Residence District. The owner stated he acquired this property fourteen years ago for \$25,000; because of being handicapped, he prefers to have the parking space within close proximity to his dwelling. The cost of the pad would be approximately \$1800.

The Board, after having given due regard and consideration to the facts in this case, is of the opinion that the exception to the projection into the yard area is reasonable and would not adversely affect the community.

In accordance with the above facts and findings, the Board approves the application.

Mesdames Blattermann and Green and Messrs. Brown and Kenney voted in the affirmative. Motion carried.

Stat

16.* The following resolution was adopted by the Board:

RESOLVED, that in the matter of Appeal No. 171-90X, A. M. Lebson, MD, PA, 3640 Fords Lane, Appellant, to permit the continued use of terrace level as non-resident doctor's office and extend use into portion of first floor, Apartment D, at 3640 Fords Lane, the Board of Municipal and Zoning Appeals, after giving public notice, inspecting the premises, holding a public hearing, considering all data submitted, and by authority of Ordinance No. 1051, approved April 20, 1971, known as the Zoning Ordinance, made a study of the premises and neighborhood and finds that the property is on the northwest side of Fords Lane, 337 feet southwest of Park Heights Avenue, in an R-5 Residence District.

The premises is improved by a three story, brick apartment building, 270 feet by 482.6 feet, used for a total of eighty six dwelling units. A portion of the building, known as 3640 Fords Lane, a two story plus terrace building, 80 feet by 30 feet, used for doctor's offices on terrace and remainder is used two dwelling units. It is proposed to continue to use the terrace level as a non-resident doctor's office and extend use into the portion of the first floor, Apartment D.

Prior to April 20, 1971, the date of passage of the New Comprehensive Zoning Ordinance No. 1051, the property was zoned Residential Use, E-40 Height and Area District.

Under the provisions of Section 4.5-1-c, the continuance of a professional office a physician or dentist in a structure containing an established medical or dental office is listed as a conditional use in the R-5 Residence District and may be authorized by the Board provided:

(a) such office use is beneficial to the health and general welfare of the residents of the area; and

(b) such office use existed at the time of enactment of this comprehensive ordinance; and

(c) such office use has been utilized for such purpose for a period of not less than three years prior to application; and

(d) that the conditional use shall be limited to not more than two physicians or more than two dentists in any such office.

Under the provisions of Section 2.0-10, any change, including extensions, enlargements, relocations and structural alterations to a conditional use shall be subject to the same procedures and requirements applicable to conditional uses under this Ordinance.

The Board may authorize a conditional use subject to the requirements and provisions of Sections 11.0-3-b-1 and 11.0-3-c.

The testimony shows that this appeal presents a request for authorization to continue to use terrace level, Apartments E and F, for Dr. Arthur Lebson, as a non-resident doctor's office and extend doctor's office to portion of the first floor, Apartment D, in the R-5 Residence District.

The testimony reveals that in 1977, without benefit of a permit, Dr. A. M. Lebson occupied a space for a non-resident doctor's office that had formerly been used for a Dr. Richard Weinberger; permission was granted for Dr. Weinberger in Appeal No. 474-66 and approved on May 9, 1966. Dr. Lebson occupies two units and is requesting a third unit to be used for storage, etc.

The Board, on the other hand, heard testimony from a resident of the building, who submitted a petition from practically every resident in this structure voicing their objection and opposition to further commercialization of the complex. They state this is a large medical operation; it is not tranquil, in fact, it is noisy, and there have been problems in regard to patients disturbing residents who occupy this building.

The Board acknowledges receipt of a letter, dated December 26, 1989 from the Department of Planning, which states that the doctor currently operates out of one apartment on the terrace level and is proposing to expand into a second apartment on the first floor. The doctor employs four, full-time and four, part-time staff and operates five days a week from 9:30 A.M. to 5:00 P.M., and they have no objection to this appeal.

The Board also acknowledges receipt of a letter, dated May 31, 1990 from the Department of Housing and Community Development, indicating that they, too, have no objection to this request.

The Board feels and finds, as a fact, that the present use of the premises by Dr. Lebson was never intended in its original approval for Dr. Weinberger.

The Board feels that the doctor has not met all of the necessary standards with regard to extending his practice into another unit. The Board has determined that it will only allow Dr. A. M. Lebson to use the portion of the premises originally granted for a non-resident doctor's office for Dr. Weinberger and is opposed to any further expansion as proposed in the present appeal. The Board feels that the expansion is not permissible in its opinion; it would be objectionable to the tenants in the building and, therefore, must be rejected.

The Board, in making its determination, has considered the following standards: the nature of the proposed site, including its size and shape and the proposed size, shape and arrangement of the structures, the resulting traffic patterns and adequacy of proposed off street parking and loading, the nature of the surrounding area and the extent to which the proposed use might impair its present and future development, the proximity to dwellings, churches, schools, public structures and other places of public gatherings, the accessibility of the premises for fire and police protection, the accessibility of light and air to the premises and to the property in the vicinity, the type and location of adequate utilities, access roads drainage and other necessary facilities that have been or will be provided; the preservation of cultural and historic landmarks, the Urban Renewal Plan approved by the Mayor and City Council or the Master Plan for the City approved by the Planning Commission, all standards and requirements contained in this Ordinance, the intent and purpose of this Ordinance, as set forth in Chapter I, and other matters considered to be in the interest of the general welfare.

The Board, in making its determination, denies the expansion particularly because of the nature of the proposed site, including its size and shape and the proposed size and shape and arrangement of the structure; the increased traffic, the nature of

the surrounding area and is of the opinion that the further expansion would impair its present and future development and other matters considered to be in the interest and general welfare of the community.

With due consideration to the guides and standards set forth, the Board approves the application subject to Dr. Lebson using only the portion of the premises originally granted to Dr. Weinberger and denies any further expansion as requested in the present appeal.

In accordance with the above facts and findings, and subject to the aforementioned condition, the Board approves the application.

Mesdames Blattermann and Green and Messrs. Brown and Kenney voted in the affirmative. Motion carried. *End*

17. Appeal No. 172-90X, application of Tom Frank, to construct a three story addition at 3007 Northern Parkway, was scheduled for public hearing today, but the case was postponed and has been rescheduled for hearing on Tuesday, July 10, 1990, and all parties so notified.

18.* The following resolution was adopted by the Board:

RESOLVED, that in the matter of Appeal No. 173-90X, James F. Black, 3619 Lochearn Drive, Appellant, to permit the construction of a rear addition to rear building at 3641 Pulaski Highway, the Board of Municipal and Zoning Appeals, after giving public notice, inspecting the premises, holding a public hearing, considering all data submitted, and by authority of Ordinance No. 1051, approved April 20, 1971, known as the Zoning Ordinance, made a study of the premises and neighborhood and finds that the property is on the southwest corner of Pulaski Highway and Dean Street in a B-3-2 Business District.

The premises is improved by a two story, brick building, 15.5 feet by 57.4 feet, used for a grocery store and offices. There is also on the rear of the lot, a one story, masonry, storage building, 10.4 feet by 18 feet. It is proposed to construct a one story, masonry, rear addition with roof, 10.4 feet by 7 feet, to the rear building.

Prior to April 20, 1971, the date of passage of the New Comprehensive Zoning Ordinance No. 1051, the property was zoned Industrial Use, B-1-1/2 Height and Area District.

Under the provisions of Sections 2.0-8-m, Item 13 and 6.3-1-b, garages and accessory structures are permitted in required rear yards as accessory structures.

4

FILED
AUG 2 1990
CIRCUIT COURT FOR
BALTIMORE CITY

A. M. LEBSON, M.D., P.A.

*

IN THE

Appellant

*

CIRCUIT COURT

vs.

*

FOR

BOARD OF MUNICIPAL
AND ZONING APPEALS

*

BALTIMORE CITY

Appellee

*

Case No. 90184037/CL115971

*

* * * * *

ANSWER TO PETITION FOR APPEAL

The Board of Municipal and Zoning Appeals, Appellee, by Sandra R. Gutman, Acting Principal Counsel, its attorney, in Answer to the Petition for Appeal heretofore filed says:

1. It admits the allegations contained in paragraph 1 of the Petition.
2. It denies that Appellant testified that expansion into the first floor apartment (D) was for storage purposes only, as alleged in the third paragraph of paragraph 2 of the Petition.
3. It is without knowledge as to the Appellant's allegations regarding the authenticity of the signatures contained in the Petition and the interest of the parties who signed the Petition as stated in the third paragraph of paragraph 2 of the Petition and therefore denies same and demands strict proof thereof.
4. It denies that the Board denied Appellant his right to cross examine witnesses as alleged in the fourth paragraph of paragraph 2 of the Petition.

20


5. It denies that the Board's actions constitute an "omission" of any kind or that its actions were in any way erroneous as alleged in the fourth paragraph of paragraph 2 of the Petition.

6. It denies the allegations contained in paragraph 3 of the Petition.

7. It is without knowledge as to the allegations contained in paragraph 4 of the Petition and therefore denies same and demands strict proof thereof.

In further answering said Petition the Appellee states that the Board of Municipal and Zoning Appeals (the Board) had sufficient and credible evidence upon which to base its decision and that the decision of the Board was fair and reasonable and in accordance with the provisions of Zoning Ordinance 1051, approved April 29, 1971.

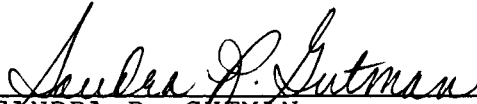
WHEREFORE, having fully answered the Petition heretofore filed, the Appellee prays that it be dismissed with costs.


SANDRA R. GUTMAN
Acting Principal Counsel
Room 143, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202
Telephone: 396-3933

Attorney for Appellee

CERTIFICATION OF MAILING

I HEREBY CERTIFY THAT on this 2 day of August, 1990, a copy of the foregoing Answer to Petition for Appeal was sent by first class mail, postage prepaid, to Gary A. Berger, Esquire, Berger & Fink, 105 West Chesapeake Avenue, Suite 101, Towson, MD 21204.



SANDRA R. GUTMAN
Acting Principal Counsel

CL-115971

EMANUEL REICH
3640 Fords Lane
BALTIMORE, MARYLAND 21215

FILED

JUL 23 1990

CIRCUIT COURT FOR
BALTIMORE CITY

July 20, 1990

Mr. Frank Novak
Clerk of Circuit Court
111 N. Calvert Street
Room 462
Baltimore, Maryland
21202

RE: A.M. Lebson, MD, PA

VS

Mayor & City Council
Appeal No. 171-90X
Premises: 3640 Fords Lane

Dear Sir:

As tenants residing at 3640 Fords Lane, Apt. C, we have been and will continue to be active participants in case No. 171-90X which was heard before the Municipal Zoning Board on June 5, 1990.

The appellant, Dr. A.M. Lebson, through his attorney, Gary A. Berger, has filed a petition for appeal of the Zoning Board's decision before the Circuit Court of Baltimore City.

We respectfully move that this appeal be dismissed. We unequivocally state, that the reasons cited by the appellant in petition of appeal, are erroneous and totally inaccurate. We consider it a privilege to confirm this statement in sections A and B that follow.

A. In item 2 paragraphs 1 and 3, the petition states that the additional office space that Dr. Lebson seeks, Apt. D of the 3640 premises, is to be used for "storage purposes only".

My wife, Mrs. Esther Reich and I reside in Apt. C, which is opposite and directly adjoining Apt. D, the subject of this appeal.

Some months ago, the appellant, Dr. Lebson, without zoning acquiescence, rented Apt. D ostensibly, as he says, for storage purposes only. Within three months, he proceeded to renovate, furnish, equip, and convert the apartment into an operative office.

A plaque indicating a medical specialty, CARDIOPHONICS, was and still is glued to the door.

A plaque was also posted downstairs and in the main entrance hall reading, CARDIOPHONICS, One Flight Up. The tenants' immediate objections and complaints of zoning violation culminated with the Zoning Board's rejection of the appellant's illegal expansion attempt.

In his current petition of appeal, the doctor, with the

same "Chutzpah", continues to state that his request for the use of Apt. D is only for storage.

B.

In item 2, paragraph 2 of his petition for appeal, the appellant states that a TENANTS' PETITION containing "signatures of many people who have no justiciable ^{interest} in these proceedings" was submitted.

This petition was signed by 31 tenants of the Fountainview complex, wherein they proclaim their complete opposition to any further commercialization of the complex and detract from the quiet residential atmosphere which they enjoy and highly value.

Every signature on the petition is followed by a phone number to facilitate authentication, if desired.

The 3640 Fords Lane building is a part of the Fountainview complex of garden apartments. The complex consists of 14 three story adjoining buildings built around a large common rectangular courtyard with the main entrance of each building from the courtyard.

The appellant, Dr. Lebson, occupies the basement of the 3640 building. It contains 2 apartments, 10 rooms with a private and separate street entrance from Fords Lane.

In his petition, the appellant, though surely aware of the true relationship, nevertheless refers to the members of the complex who signed the tenants' petition as "having no justiciable interest in these proceedings".

The appellant has presented no credible reasons for his appeal nor do we know of any existing new evidence.

All available evidence was heard and considered by the Board of Municipal and Zoning at its June 5th hearing. It is clear that their decision is entirely based on truth and justice.

Again we respectfully ask that our motion for dismissal of this appeal be accepted.

Very truly yours,

Emanuel Reich
Esther Reich

CERTIFICATE OF MAILING

We hereby certify that on this 19th day of July 1990, a copy of our answer to the Appellants Petition of Appeal from the decision of the Board of Zoning Appeals in its Case No. 171-90X was mailed, postage prepaid to Gary A. Berger, attorney for appellant at 105 W. Chesapeake Avenue, Towson, Maryland and to Sandra R. Gutman, Assistant City Solicitor, representing the Appellee at 143 City Hall, Baltimore, Maryland.

Emanuel Reich

Esther Reich

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FILED

JUL 6 1990

CIRCUIT COURT FOR BALTIMORE CITY

A. M. LEBSON, M.D., P.A.
3640 Fords Lane
Baltimore, Maryland 21215

Appellant

v.

THE BOARD OF MUNICIPAL AND
ZONING APPEALS OF BALTIMORE
CITY
417 E. Fayette Street
Baltimore, Maryland 21202

Appellee

IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY AT LAW

CASE NO.: 90184037/CL115971

* * * * *

PETITION FOR APPEAL

A. M. LEBSON, M.D., P.A., on his own behalf, by Gary A. Berger and Berger and Fink, his attorneys, respectfully represents to this Court:

1. This Appeal is taken from the decision of the Board of Municipal and Zoning Appeals which, in its Case No. 171-90X, denied the Appellant's application to extend the conditional use of the premises at 3640 Fords Lane into a portion of the first floor, Apartment D, as a non-resident doctor's office.

2. The circumstances which caused the Appeal to the Board are:

The Board of Municipal and Zoning Appeals, on June 5, 1990, held a Hearing with regard to the above-referenced property, hearing the request of Appellant to continue its use of terrace level apartment space as a non-resident doctor's office and to extend its use into a portion of the first floor, Apartment D. The Board approved Appellant's application, in part, and denied it in part. This Appeal is being taken from

that portion of the Board's Order which denied Appellant an extension of conditional use to Apartment D, which space Appellant advised the Board it intended to use for storage purposes.

In fact, the Board, by its resolution dated June 11, 1990, in its Appeal No. 171-90X, found that a resident of the building, one Emmanuel Reich, objected to this extension of use and, further, submitted a Petition voicing objection from "every resident in this structure".

A transcript of the proceedings, at page 25, lines 13 and 14, discloses that Mr. Reich, in fact, posed no opposition to the doctor's use of this space for storage purposes. Dr. Arthur M. Lebson, on behalf of Appellant, testified that the space would be used, with the Board's permission, for storage purposes only.

Furthermore, Mr. Reich's Petition was received over objection and was taken at face value as legitimate. Appellant contends that this Petition was persuasive upon the Board but was, nonetheless, not properly authenticated and, further, exhibited signatures of many people who have no justiciable interest in these proceedings, and, further, none of the signatures had been authenticated in and of themselves.

Finally, the Board, in its proceeding, did not provide a meaningful opportunity to Appellant to cross examine the Protestants, Mr. and Mrs. Reich, with regard to their testimony. Without such opportunity, Appellant was unable to explore the possibility that their direct testimony may not be

credible or, in the alternative, might be motivated by biases which would serve to discredit Protestants' testimony. Certainly, the Board placed great weight in the testimony of Protestants before rendering its decision and, as such, its omission to allow for cross examination is reversible error.

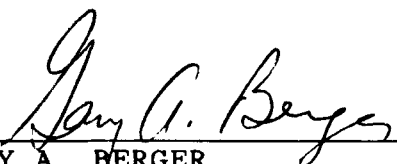
3. For the reasons above set forth and for other reasons to be shown at the Hearing hereof, your Appellant states that the Board's decision was arbitrary, capricious and contrary to the law, as well as contrary to the facts as presented before the Board.

4. Your Appellant, on whose behalf this Appeal is taken, is aggrieved by the decision of the Board and your Appellant is a taxpayer and, as such, is authorized by statute to take this Appeal.

WHEREFORE, your Petitioner prays:

a. That the decision of the Board be reversed or, in the alternative, that additional testimony be taken as provided for by Section 11.0-3-K4 of the Zoning Ordinance and by Rule B10 of the Maryland Rules of Procedure.

b. And for such other and further relief as this cause may require.



GARY A. BERGER
Berger and Fink
105 W. Chesapeake Avenue, #101
Towson, Maryland 21204
(301) 828-5000
Attorneys for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of July, 1990, a copy of the foregoing Petition for Appeal was mailed, postage prepaid, to GILBERT V. RUBIN, Executive Director, Board of Municipal and Zoning Appeals, and to DAVID TANNER, Department of Municipal and Zoning Appeals, directed to each of them at 417 E. Fayette Street, Baltimore, Maryland 21202.



GARY A. BERGER

A. M. LEBSON, MD, PA
3640 Fords Lane
Baltimore, MD 21215

Appellant

Vs.

THE BOARD OF MUNICIPAL AND ZONING
APPEALS OF BALTIMORE CITY
417 East Fayette Street
Baltimore, Maryland 21202

Appellee

*
* IN THE
*
* CIRCUIT COURT JUL 3 1990
*
* FOR
* **CIRCUIT COURT FOR**
* **BALTIMORE CITY**
*
* BALTIMORE CITY
*
* AT LAW
*

Case No: **90184037** *CL11591*
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CIVIL \$80.00
* LIBRA * \$5.00 *
* TTL \$85.00
CHECK \$85.00
CHNG \$0.00

ORDER FOR APPEAL

Mr. Clerk:

Please enter an appeal to the Circuit Court for Baltimore City on behalf of A. M. Lebson, MD, PA from the decision of the BOARD OF MUNICIPAL AND ZONING APPEALS OF BALTIMORE CITY in its Case Number 171 - 90X, said Board, by its Resolution, having denied the Appellant's application to extend the conditional use of the premises 3640 Fords Lane into a portion of the first floor, Apartment D, as a non-resident doctor's office.

The appeal to the Board is being made by the Appellant on its own behalf.

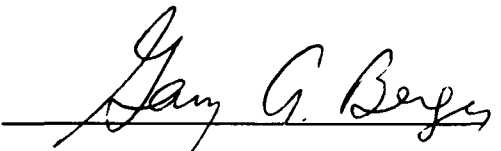
Gary A. Berger

GARY A. BERGER
BERGER AND FINK
105 W. Chesapeake Ave.
Suite 101
Towson, MD 21204

Attorneys for Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of July, 1990, a copy of the foregoing Order for Appeal was mailed, postage prepaid, to GILBERT V. RUBIN, Executive Director, Board of Municipal and Zoning Appeals, and to DAVID TANNER, Department of Municipal and Zoning Appeals, directed to each of them at 417 East Fayette Street, Baltimore, Maryland 21202.


GARY A. BERGER

BERGER AND FINK

ATTORNEYS AT LAW

SUITE 101

105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

GARY A. BERGER
ALAN FINK

(301) 828-5000
FAX (301) 828-5308

July 3, 1990

Law Desk
Circuit Court for Baltimore City
111 N. Calvert Street
Baltimore, Maryland 21202

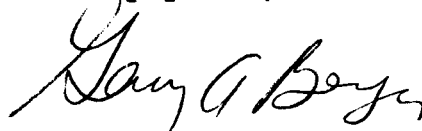
RE: A. M. Lebson, M.D., P.A.
v. The Board of Municipal and
Zoning Appeals of Baltimore
City

Dear Madam Clerk:

Enclosed please find an Order for Appeal, with one copy thereof, which I would appreciate your filing in the above-captioned case. I have also enclosed a check for the filing fees.

As always, if I may be of any assistance to you in expediting the above, please do not hesitate to contact me.

Sincerely yours,



GARY A. BERGER

GAB:dek

Enclosures

From: Jennifer Hafner
To: Ray Connor, Doris Byrne, Sheila Simms, Edward Papenfuse
Date: Monday, February 01, 2010 9:55:48 AM
Subject: MSA SC 5458-82-150

J.H.
2-1-10
166 Images

I have added five additional cases to this work order which need to be pulled and scanned. They are -

DUMBELLS ASSCS, ETAL V CONSUMER PROTECTION Box 739 Case No. 90059044 [MSA T2691-3376, OR/11/12/24]

File should be named msa_sc5458_82_150_[full case number]-####

WINTER, ETAL VS PIJANOWSKI, ETAL Box 783 Case No. 90081076 [MSA T2691-3420, OR/11/12/68]

File should be named msa_sc5458_82_150_[full case number]-####

POINDEXTER VS ALEXANDER & ALEXANDER Box 927 Case No. 90164037 [MSA T2691-3564, OR/11/14/44]

File should be named msa_sc5458_82_150_[full case number]-####

LEBSON MD VS BOARD OF MUNICIPAL Box 959 Case No. 90184037 [MSA T2691-3596, OR/11/14/76]

File should be named msa_sc5458_82_150_[full case number]-####

FL. 2-1-10
166 Images

HARRINGTON VS SECRETARY OF PUBLIC SAFETY Box 969 Case No. 90190075 [MSA T2691-3606, OR/11/15/2]

File should be named msa_sc5458_82_150_[full case number]-####