

From: john mcclelland <jmac110@msn.com>
Sent: Sunday, February 26, 2023 11:25 AM
To: washgrove <washgrove@comcast.net>
Subject: Fw: BZA special exception - commercial corner

Kathy,

1 of 6 prior emails being resent as NO response has been received from the mayor of Washington Grove, the town council of Washington Grove, the planning commission of Washington Grove nor the Washington Grove board of zoning appeals.

The other five will be forwarded as well.

John A McClelland
110 Grove Ave Box 295
Washington Grove, MD 20880
240-988-8593

From: john mcclelland
Sent: Saturday, May 15, 2021 5:20 PM
To: washgrove <washgrove@comcast.net>
Subject: BZA special exception - commercial corner

The Town of Washington Grove, mayor, town council, planning commission and board of zoning appeals,

During an unrelated conversation regarding the commercial corner's current landlord contact information and dumpster location, I was devastated to hear that another commercial corner license exception (religious organization) was being pursued at 105 Washington Grove Ln, Washington Grove, Md 20880. Every one of my major concerns were verified by the actions of the prior tenant and lack of action by the landlord and Town of Washington Grove. A regurgitation of concerns and events as originally presented at the 2019 BZA hearing as well as subsequent letters/emails to the mayor, planning commission, town council, board of zoning appeals, landlord, prior tenant, law firm etc in response to the immediate violations and damaging effects to myself, staff and business are attached. The requirements for granting an exception as listed in the Town of Washington Grove's ordinances were NOT met by the prior religious group thus preventing the BZA from legally issuing an exception approval in the first place. Within one day the basis for granting the approval was violated and should have been cause for immediate revocation of the business license. Instead, I suffered through over a year of emotional distress and financial hardship.

A brief summary - the attachments by number

1 - Original letter of concern sent to the BZA

2 - Applicable section of Town ordinance pertaining to special exceptions

3 - Letter of appeal to overturn exception provided the day before based upon an immediate violation of the terms of the exception

4 - Letter to landlord pointing out obvious lease provisions and requesting appropriate action

5 - Ordinance recommendations presented to the planning commission along with explanations and basis of various ordinances as it applied to the BZA exception ruling

6 - Brief chronological history of events regarding the BZA religious group exception, issues, police calls and town clerk's notification (to the Town's mayor as enforcement officer) of a fabricated allegation of assault

7 - Threat of litigation letter sent to the landlord's representative

8 - Quiet Possession (section 28) of commercial corner lease. FYI - The lease provides for quiet, peaceful possession of the leased space free from interference from noise, noxious or unpleasant fumes or odors or other disturbance from other tenants in the same building or center. *The lease is valid 24 hours a day, 7 days a week through the end of the leasing period.*

The provided attachments are just some of the related data from February 2019 to August 2019 and do not even scratch the surface of the emotional and financial toll (both personally and professionally) thrust upon me and my business (including staff). It cannot be repeated.

The planning commissions and town council must address this issue immediately to correct a well-intended exception option which cannot work specifically at 105 Washington Grove Ln. Also, one of the previously submitted suggestions to the planning commission was to notify neighbors, related businesses, the Town etc for any potential exceptions under consideration at the commercial corner. To discover this potential via an offhand comment - especially with the prior problems associated with this type of "business use" and location- is unacceptable and must also be addressed.

My concern is obvious and the need to address is immediate. An expedient reply is appreciated.

Thank you,

John McClelland
McClelland Insurance & Financial Services
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301-948-8593

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***With the common sense covid mask restrictions being lifted future Town meetings and BZA hearings should return to in person affairs.**

Town of Washington Grove
Board of Zoning Appeals
300 Grove Ave Box 216
Washington Grove MD 20880

February 16, 2019

RE: Request for Commercial Use Special Exception at 105 Washington Grove Ln

Board of Zoning Appeals,

I, John A McClelland, am a 30+ year resident of Washington Grove (110 Grove Ave) as well as a 30 year tenant of the Washington Grove commercial corner (105 Washington Grove Ln 2nd floor) operating as McClelland Insurance & Financial Services. Throughout those 30 years I, have attempted to work with the landlord to promote a viable commercial environment while also protecting the Town and its resident neighbors. Article VII Section 8 specifies the role/expectations of the Town, Town residents/neighbors as well as the commercial corner's landlord and tenants regarding approved uses and protections granted. Applicable sections of the Town's Ordinance are listed below with specific concerns highlighted and questions raised.

Article VII Section 8.11

- (b) To assist in protecting both nearby residences and local retail development against fire, noxious matter, **noise**, glare and other objectionable influences;

Article VII Section 11.324

- (F) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.
- (H) Will not adversely affect the health, safety, security, morals, or general welfare of residents, **visitors**, or **workers in the area** at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

Concern – Noise (airborne) /Vibrations (impact)

- 105 Washington Grove Lane was constructed in the early 1900s. In my agency's office space (as well as the offices across the hall) the only barrier between the upstairs and downstairs is heart pine flooring and a drywall ceiling. The two most recent occupants below were a retail store and a catering business office. Although occasionally heard neither presented a noise intrusion issue. The Post Office when located there was of little distraction as well. One or two other businesses, however, did present noise interference problems when playing music and/or a television. A carpet/flooring business smoked tobacco products (chain smokers) which forced the repeated involvement of Montgomery County. The landlord was unable/unwilling to enforce the terms of the lease regarding noise, fumes and odors involving all of the previously mentioned problematic tenants.
- The organization seeking a commercial use exception states their assemblies will contain no more than "60 participants" with staff and church leadership potentially adding to this number. Sixty people speaking, singing etc. would result in a great deal of auditory disturbance that would negatively impact the professional environment of my financial services operation directly above.
- An electronic sound system, band equipment (complete drum kit/symbols, electric guitars, keyboard etc), amplifiers. PA system and speakers have already been installed/set up. This would obviously pose a major noise issue for any business in or next to the building. Resident neighbors may have cause for concern as well.
- My agency provides insurance protection for over 20 religious organizations. Many of which are extremely enthusiastic, boisterous and very loud.....and located in standalone structures on larger tracts of land or industrial warehouse space.
- Nearby home residents could also be impacted depending upon the amplification of the PA system and music.

Article VII Section 8.11

- © To lessen traffic congestion in the streets, especially in residential areas;

Article VII Section 6.2224

- The minimum numbers of off street **parking** spaces per unit of measurement for each type of use are as listed in the following schedule. Other uses operated in association with the uses listed must be provided for in addition.

Type of Use # of Spaces Unit of Measurement

Residential 2 Dwelling unit

Place of religious worship 1 Five seats

Retail sales 1 100 sq. feet devoted to the use

Storage accessory to 1 300 sq. feet devoted retail sales to the use

Medical practitioner's 1 200 sq. feet devoted Office to the use

Office or similar uses 1 500 sq. feet devoted to the use

Article VII Section 11.324

- (D) Will be in harmony with the general character of the neighborhood considering population density, design, scale, and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.

Concern – Parking

- The commercial corner parking lot has a total of 59 parking spaces (40 on the "front" corner of Railroad St and Washington Grove Ln and 19 in the "rear" along Hickory Rd). Also note that 3 of the 59 are designated handicapped and cannot be included in "general public" parking space computations – thus reducing the number of public parking spaces to 56.
- The commercial corner currently consists of a financial services office, barber shop, hair salon and post office. Two retail spaces are "vacant" (assuming the 1st floor of 105 Washington Grove Ln is included since furniture and equipment have already been moved in and set up). The number of owners/employees are as follows: post office (3), Barber shop (3), hair salon (7), financial office (4) and an unapproved art studio (1) which totals 18 vehicles. Now the total number of available public parking spaces for all commercial customers is 38.
- My agency averages 15+ customer visits per day and requires 6 available spaces. The barber shop, post office, art studio and hair salon customer visits/vehicles are unknown. On Saturday February 2, 2019 at approximately 2:30 PM 32 vehicles were parked in the front lot and another 12 parked in the rear (total 44) leaving 12 public parking spaces for the religious organization. With a stated assembly size of 60 adequate parking is questionable.
- Nearby residents could also be impacted if parking is insufficient or alternatives to a full parking lot are not formally established. Parking along Hickory Rd? Washington Grove Lane? Across the street at Hannigans?

Traffic

- Almost all religious assemblies/congregations arrive and leave within a relatively narrow time period. Traffic activity of 60 individuals, in whatever number of cars, arriving and departing at the same time is significantly different from the other business uses whose customers arrive and depart throughout the course of the day. Note: A traffic accident located at the entrance/exit to the commercial corner takes place an average of 1-2 times per month. A vehicle travelling south on Railroad St attempts a left turn into the commercial corner and is struck in the passenger side by a vehicle travelling north on Railroad St towards Washington Grove Ln.
- Again, nearby residents located on Washington Grove Lane and Hickory Rd could be negatively impacted at the busy times of arrival and departure.

Concern – Different location and exposure

- 109 Washington Grove Lane is significantly different from 105 Washington Grove Lane. 109 Washington Grove Lane is part of the newer constructed area of the commercial corner which has a double walled cinder block constriction and is of one story with no neighbors/businesses above.
- The post office and hair salon are located on either side and are less reliant upon a quiet, professional environment for normal operations. Also, the post office is not open for business during much of this religious organization's stated hours of operation either – as they close at 5:00 PM M-F and 2:00 PM on Sat.
- This Highway Christian Church group has half the membership of the proposed religious group under consideration now.

Hours of operation

- My agency is conducting business Mon – Fri from 8:30 AM – 8:30 PM and Sat from 9:00 AM – 4:00 PM. During busy times of the year those hours may be extended to begin earlier and end later.
- Barber shop conducts business Mon – Fri from 10:00 AM to 8:00 PM and Sat from 8:00 AM to 5:00 PM
- Hair Salon conducts business Mon – Fri from 9:00 AM to 8:00 PM and Sat 8:00 AM to 4:00 PM
- Post office open 24/7 – with office hours Mon-Fri 9:00 AM to 5:00 PM and Sat 9:00 AM to 2:00 PM
- *Note both the barber shop and hair salon extend their hours to finish up late appointments.

Direct Response to the letter received from Movimento Penticostal Rios de Agua Viva Inc requesting an approved use.

- 1) "No significant improvements or alterations will be done...other than painting and replace carpeting" – ***means nothing will be done to mitigate the noise and vibration for other businesses located in the building.***
- 2) NA
- 3) "...has a self-contained parking lot with over 100 spaces." – ***No the total number of spaces for the entire commercial corner is 59 with 56 able to be classified as public parking spaces due to 3 handicapped. 38 in the front.***
- 4) "clear and convincing evidence that our use will not...increase noise, ...vehicular traffic".
 - a) ***Yes this will have a material impact on noise and will negatively affect the neighbors/tenants located directly above.***
 - b) NA
 - c) "There will not be any consumer or retail traffic, so there will not be any significant increase in pedestrian or vehicular traffic" ***This does not make sense. If the traffic arrived sporadically and in short duration throughout the day like consumer or retail traffic it would have less of an impact. Having vehicles with 60 members arrive and depart at approximately the same time, as well as stay for a number of hours, has a dramatic impact upon parking availability and traffic safety concerns.***
 - d) "operations will be during limited time periods" – ***This point is valid only if those time periods are not during normal operating hours of the neighboring businesses. I.E. Saturday after 4:00 PM and Sundays.***
- 5) NA – See my response to 4d above.

Summary

My primary concern is obviously for the continued success of my insurance & financial business operations in addition to the peaceful coexistence with other businesses located at the commercial corner. Due to the presented hours of operation, current membership size and amplified sound equipment already installed – this proposed use cannot be considered as submitted – unless the hours of operation are limited to Saturdays after 4:00 PM and Sundays. Soundproofing the first floor from the second floor (airborne and impact noise) would not be possible due to the age, style/age of construction and cost effectiveness/landlord expense. Noise and the detrimental impact upon me (as resident neighbor), my office staff and financial/insurance agency are the issues. Promises and verbal assurances cannot be accepted as compliance with Town ordinance has already been placed in jeopardy – as some sort of assembly was taking place on Sunday February 10, 2019 from at least 6:30 PM to 7:30 PM.

In addition to quiet, my agency must have access to 6 parking spaces in the rear (near the corner of Hickory Rd and Railroad St) throughout the business days of Monday through Saturday. Based upon the total number of public parking spaces and the current commercial corner parking use the addition of sudden/immediate vehicle parking for 60 members of the proposed religious group could be of issue as well.

**** The landlord MUST be included and held mutually responsible/accountable for all commercial “use” exception hearings/decisions. Based upon three decades of experience I fear that IF this use is approved any violations of the stipulations placed upon this religious group at 105 Washington Grove Lane will be enforceable through legal action.**

Thank you for your consideration. I am unable to personally attend this BZA hearing due to a prior conflict (daughter playing lacrosse in NC– MD vs UNC).

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8.21 Special Exceptions

The following uses may be allowed as special exceptions in the Commercial Zone upon application to the Board of Zoning Appeals who may grant such special exception upon such conditions, restrictions, or limitations as the Board of Zoning Appeals may deem appropriate to preserve, improve, or protect the general residential character of the Town of Washington Grove and after a finding that the other requirements of this Section 8.2B and of the Code of Ordinances of the Town of Washington Grove have been met:

- (a) Research and development incidental to professional and business office uses, provided that the applicant shows by clear and convincing evidence that said uses will not present a risk to public health or safety.
- (b) Specialty retail stores which are defined as retail sales of merchandise (but not food or drink for human consumption) of one class category of merchandise provided that the applicant shows by clear and convincing evidence that said use will not significantly burden the Town of Washington Grove with increased noise, litter, or pedestrian or vehicular traffic.
- (c) Charitable, religious or educational institutions as defined in Section 4.2 provided the applicant shows by clear and convincing evidence that said use will not significantly burden the Town of Washington Grove with increased noise, litter, or pedestrian or vehicular traffic.

8.23 Nuisances

Any such use which is found to be a public nuisance by reason of emission of dust, gas, smoke, odor, noise, vibration, or other disturbance, is expressly prohibited in the C L zone.

Before making its decision on any matter within its powers, the Board must hold a public hearing thereon.

11.311 Notice of Hearing. At least 30 days notice of a public hearing must be given in writing to the applicant or appellant, the Commission, the Mayor, the Town Council, and the owner of all land contiguous to the land with which the hearing is concerned or directly across any street from it. The Board may also give notice to such other interested persons, organizations, or agencies as it sees fit. The Board may also advertise the hearing in the same manner as prescribed in Section 13.32. Upon receipt of any application for a special exception or variance which will involve any change to a structure or site visible from any public way, the Board of Zoning Appeals promptly shall forward a complete copy of the same to the Historic Preservation Commission for review and comment.

11.312 Conduct of Hearing. Any person may submit oral or written testimony at the hearing. The applicant, the Town Council, Commission and any party required to be notified by Section 11.311 may be represented by counsel and cross examine witnesses. The rules of evidence do not apply. A report of the entire hearing must be made. The report together with all exhibits and written statements submitted at the hearing, must be incorporated in the application file and considered part of the record. The Board may leave the public record open or reopen the public record for a specific time to receive additional written comments.

11.313 Continuation of Adjourned Hearing. When a hearing is adjourned and the time and place of the continued hearing are announced at the time of adjournment no further notice need be given; otherwise notice of the continued hearing must be given in the same manner as in the case of the original hearing.

11.314 Minutes. The Board must keep minutes of its proceedings, meetings and hearings.

11.315 Resolutions. All actions of the Board must be taken by resolution, including the grounds and findings, forming the basis thereof, and a record of the members' votes, all of which must be incorporated in the minutes.

11.316 Attendance of Witnesses. The Board is authorized to require the attendance of witnesses at hearings or meetings and to administer oaths.

11.317 Application Fee. Any administrative appeal, request for variance, or petition for special exception filed shall be accompanied by payment of the applicable filing fee as set forth in ARTICLE XVI of the Code of Ordinances.

11.32 Decision by Board

Following the closing of the record of a public hearing the Board must render a decision either by

- (a) approving or denying the application or appeal, or
- (b) dismissing the application or appeal if the Board finds that it fails to conform to any of the procedural requirements of this Article.

11.321 Time Limit. If a decision has not been rendered

(a) 60 days after the closing of the record of the public hearing in the case of an application for Special Exception, or

(b) 30 days after the closing of the record of the public hearing in the case of a variance or appeal; then it must be assumed that the application or appeal has been disapproved, except that the Board, by resolution, may extend the time limit by 30 days.

11.322 Based on Record. The Board must make its decision solely upon the basis of its findings as to whether each of the specific requirements of the appropriate Sections of this Article has been satisfied by the evidence in the record.

11.323 Burden on Applicant. In the interpretation of the evidence the Board must consider the burden of proof to be upon the applicant, including the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Board.

11.324 Special Exceptions.

(a) Stand for Evaluation.

(1) A special exception must not be granted without the findings required by this Article VII. In making these findings the Board of Appeals shall consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

(2) A special exception may be granted when the Board finds from a preponderance of the evidence of record that the proposed use:

(A) Is a permissible special exception in the zone.

(B) The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception be granted.

(C) Will be consistent with the general plan for the physical development of the Town of Washington Grove including the applicable master plan. Any decision to grant or deny a special exception must be consistent with any recommendation in the applicable master plan regarding the appropriateness of a special exception at a particular location. If the Planning Commission in a report on a special exception concluded that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

(D) Will be in harmony with the general character of the neighborhood considering population density, design, scale, and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.

(E) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

(F) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

(G) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master plan do not alter the nature of an area.

(H) Will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

(I) Will be served by adequate public services and facilities, including police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities. With regard to findings relating to public roads, the Board shall further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

(3) Nothing in this Article relieves an applicant from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department which approves or licenses the project.

(4) The applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.

(5) The Board may condition approval of a special exception with any requirements necessary to protect nearby properties and the general neighborhood. These conditions may include limiting hours of operation, days of operation, number of employees and students and the times of their arrival and exit, exterior lighting, number and nature of vehicle trips, exterior appearance, vehicular parking and traffic circulation, signage, and buffering of outdoor sports or recreational areas.

(c) Shall, in connection with any Special Exception use which may reasonably cause more than twenty (20) vehicular arrivals per day for three (3) or more days in any single week, require that the Special Exception property have not less than thirty (30) feet of road frontage on a public street with a width of pavement not less than 27 feet within the Town boundaries. Ingress and egress to the Special Exception property in connection with the Special Exception use shall be exclusively via said access, and shall be improved with an entrance and driveway of sufficient width and design to safely accommodate two way traffic and emergency vehicle access.

11.33 Opinion

The decision of the Board must be stated in a written opinion setting forth the evidence upon which it is based. The opinion becomes a part of the file, and copies must be made available to all persons who were notified of the hearing and to all who submitted oral or written testimony.

11.4 Appeal from Decisions of Board

An administrative appeal from any decision of the Board may be taken by any aggrieved person or by the Town to any court of competent jurisdiction under the B Rules, Maryland Rules of Procedure.

RE: BZA Hearing of February 23, 2019

Based upon yesterday's testimonies, letters, pictures etc. the proposed religious use for 105 Washington Grove Lane does NOT meet the applicable Town of Washington Grove ordinances regarding a special use exception. Based upon that information and statements made after the record was closed my initial inclination to compromise and allow potential issues of noise and vibration nuisances on Saturdays after 4:00 PM and on Sundays is no longer available. The basis for this position is as follows:

- The age and construction of the building listed as 105 Washington Grove Ln.
- The location of my business on the 2nd floor of 105 Washington Grove Ln is a separate property and should have been entitled to more protections.
- My lease which states I (as tenant) "shall have and hold premises for a continuous period of years beginning on ...and ending on". This time period has **no** restriction on the days or times of use of said premises.
- My lease also stipulates ..."Lessor covenants to Lessee its quiet and peaceful possession of the leased space, and the right to use the same space free from interference from noise, noxious or unpleasant fumes or odors or other disturbances from other tenants in the same building or center."
- My businesses posted "open to the public" hours are 9:00 AM to 6:00 PM M – F with evenings and weekends available by appointment.
- My daily business operations normally extend from 8:30 AM to 9:00 PM M-F, 10:00 AM to 4:00 PM Sat and various times on Sundays. *This letter is actually being written in my office on Sunday February 24, 2019. I came in to catch up on the work lost due to the 3 hour BZA hearing yesterday. Amplified music, singing and drumming can be clearly heard from below as well as vibrating the floor/walls/desk/computer screens etc. Only one day and the first violation is registered.*
- Potential religious organization "use" was written under the Town's ordinances requiring BZA exception for the exact reasons of concerns for noise, parking and traffic.
- The Town's Planning Commission, who wrote the ordinances including those requiring a use exception, unanimously voted against the religious use IF located at 105 Washington Grove Ln. – again due to concerns for noise interference into the neighboring property/offices located directly above on the second floor.
- Permitted commercial corner uses include retail establishments, hair salons, barber shops and do not have a noise restriction covenant. This is NOT precedent setting for special use exception covenants. Hence the requirement for a special use exception.
- The statements made regarding noise associated with assemblies of 30-60 people (including groups of teenagers and children), singing, playing musical instruments, amplification etc.. lead any reasonable person to know this will cause noise interference to the business above/neighbors.
- The reluctance of Silvia Albanez to consider ANY covenants and/or restrictions regarding potential noise intrusion into nearby properties and/or tenants of the building from Monday through Saturday.
- In cases of a special use exception the applicant has the burden of proving with clear and convincing evidence all aspects of applicable Town Ordinance with special emphasis upon Article VII Section 11.324 e and f. No convincing evidence was presented and an offer to include noise restrictions as part of the use exception was flatly rejected by the applicant. As feared by any reasonable person and the Town's Planning Commission – both ordinance sections 11.324 e & f were violated today (Sunday February 24, 2019) with objectionable noise and vibrations caused by amplified music (drums, bass, organ, voice) forcing me to leave the premises. A quiet and peaceful business work environment was lost. The landlord could not be reached.

I believe the BZA approval was granted in error and, in light of immediate noise/vibration violations, should be revoked. The landlord (15 West Montgomery LLC), the leasing agent and landlord representative (Kenneth Brown) as well as Movimiento Pentecostal Rios de Agua Viva, INC should seriously consider 109 Washington Grove Lane instead. The basis for this recommendation is as follows:

- 109 Washington Grove Ln was already approved for this use
- The square forage of both property addresses (105 and 109) are the same – approximately 1400 sq ft according to testimony from Silvia Albanez and Kenneth Brown (leasing agent and landlord representative)
- 109 Washington Grove Lane does have a second door in the rear (currently a loading dock) - contrary to the testimony provided. Stairs could easily be installed.
- This second door needed for egress and ingress was the only reason provided by Silvia Albanez for opting out of this location.
- 109 Washington Grove Lane has handicapped parking directly in front and is wheelchair accessible.
- 109 Washington Grove Lane has a significantly lower opportunity for noise intrusion that could negatively impact neighboring businesses – due to that building's construction and the neighbor's (USPS) hours of operation.
- 109 Washington Grove Ln was supported by the PC for ALL of the reasons presented above.

As stated at the hearing, I am in an uncomfortable position protecting my business interests and livelihood vs. the leasing agent's/landlord's pursuit of commercial corner occupancy/income. Silvia Albanez, representative of Movimiento Pentecostal Rios de Agua Viva Inc, demonstrated little concern for my rights to a quiet and peaceful work space as a 30 year commercial corner businesses and immediate neighbor. This inability to compromise on any of the assembly's/religious group's impacts and/or recognize my businesses rights to a quiet and peaceful work environment as well as my previously offered compromises regarding "waived" noise violations on Saturday evenings and Sundays are cause for concern for all. The intent of this letter/notification is for all interested parties to understand the potential impacts and legal ramifications of the Movimiento Pentecostal Rios de Agua Viva, Inc's move to 105 Washington Grove Lane, Washington Grove MD 20880 as well as the Town of Washington Grove Board of Zoning Appeals exception decision - which does NOT override any violation of MOCO's noise ordinance and/or the lease provisions regarding "interference from noise or other disturbances from other tenants" for any day or time period – including weekdays and Saturdays and Sundays and holidays. Hopefully something can be done by the Town government to correct this situation and avoid potential irreparable damages to my business – which would be difficult or impossible to measure.

Sincerely,

John A McClelland
110 Grove Ave and 11 Brown St
Washington Grove MD 20880

Cc Planning Commission, Mayor John Compton, 15 West Montgomery LLC, Movimiento Pentecostal Rios de Agua Viva Inc.

From: john mcclelland <jmac110@msn.com>
Sent: Sunday, March 3, 2019 12:55 PM
To: Bell Properties <bellproperties@gmail.com>
Cc: Kenneth Brown <kenbrown@quasarrealestate.com>; albanez.silvia@gmail.com
Subject: Washington Grove Commercial Corner

Tatyana,

As you are aware I have been a tenant at the Washington Grove commercial corner for 30 years. During that time I had a professional business relationship with the owner/managers/maintenance staff (i.e. John Bell, Stephen Beck, Jennifer Magerowski, Evelyn Fernandez, Niram Masih, Ernie, Mike and Brian Pike). As part of the Washington Grove government (town council, planning commission etc) I was a constant liaison between the Town's interests and the property owner's interests. I disagreed with the Southland (7/11) removal, fought for both sides with the Prime Choice Caterers and assisted with ordinance writing/revisions for commercial corner use (dry cleaner, tailor, religious group and most recently a request to also include a currently illegal art studio). During that time I was in constant contact with the landlord (primarily Steve Beck, property managers and maintenance staff) to improve the commercial corner's appearance, attract more acceptable businesses to the property, set expectations as to what businesses would be acceptable, minimize any negative impacts upon the neighboring community and make the corner a financially viable/successful enterprise for all.

All tenant's leases include a provision protecting them and their business from interference from noise, noxious or unpleasant fumes or odors or other disturbance from other tenants in the same building or center. A right to use the leased space in a quiet and peaceful possession for the entire duration of the lease encompasses twenty four hours a day and seven days per week. Any reasonable person would know that a large assembly of individuals (25 to 60) accompanied by amplified music, drums, electric guitars, electronic keyboards, PA system etc would violate those previously mentioned lease provisions.

The most recent request for a religious assembly to be located directly below my office space, however, appears to be based upon a great deal of misinformation and/or incorrect assumptions. As part of the Planning Commission and Town Council an ordinance was developed, written and approved to allow religious use for The Highway Christian Church specifically located at 109 Washington Grove Lane. Due to a number of potential impacts (size, noise, parking, traffic, time of operation, activities etc) this religious use classification was NOT given blanket approval for the commercial corner but required a Board of Zoning Appeal hearing. The Planning Commission voted unanimously to NOT permit the religious group use if located at 105 Washington Grove Ln.

Representatives of Bell Properties know the various aspects of my insurance and financial business operations - some of which require my agency to be available in the evenings M-F as well as the weekends. (clientele/insurance carriers located throughout the US/Canada in various time zones is just one of many factors). Just recently during the week in early February between the hours of 7:00 PM and 8:00 PM you and I spoke while I was working at my office regarding Olga and her use of two offices as an art studio. Also, last week Niram was scheduling hallway carpet replacement times during March on Saturdays and Sundays so any weekend business interruptions would be minimized. Obviously Bell Properties is aware of my business hours which have not changed over the last 30 years.

Per testimony at a recent Washington Grove Board of Zoning Appeals hearing the McClelland Insurance & Financial Services' "Allstate web page open to the public" business hours (9:00 AM to 6:00 PM M - F) were presented as the only times my leased office space was used by my business - apparently implying that any other days or times would allow/permit noise and vibration interference from another tenant - thus violating local ordinance and lease guarantees. The applicant even rejected a Board of Zoning Appeals offer to approve the use IF it included covenants/restrictions on noise/vibration during the week (M - F) and on Saturdays until 4:00 PM which again leads a reasonable person to believe interference from noise etc will be part of the day to day operations of this religious group. If Mr. Brown, the religious assembly applicant and/or any representative of Bell Properties had consulted with the Town (Planning Commission) or myself (as was done in years past) this aspect of the lease requirement protecting all tenants' rights to a quiet and peaceful environment free from interference from noise, vibration etc would have avoided any attempt to rent to this type of assembly/organization located at 105 Washington Grove Ln. It is hoped that this religious group was not led to believe that their use would not violate terms of the commercial corner leases, were not recommended (and/or coached) to pursue a "use" exception with the full knowledge that their generated noise and vibration would damage the other businesses operations and were not told a prior approval of a similar "use exception" for religious group located at a different address would override the applicable ordinances and laws.

Last Sunday February 24, 2019 I was forced to leave my office due to the band noise/music from below. Drums, electric/amplified instruments and vocals literally shook everything located above (my leased office space). A request for immediate landlord action was left for the property manager (Niram) at approximately 4:42 PM, however, this burden cannot be placed on my business, the courts and/or police.

The attached letter addressing the BZA hearing has been sent to the Town of Washington Grove and associated governmental bodies concerning the commercial corner uses and past noise/vibration violation.

As always, your assistance and support is appreciated. Make it a great day.

John A McClelland
McClelland Insurance & Financial Services
11 Brown St Box 295
Washington Grove, MD 20880
240-988-8593

PLANNING COMMISSION SUGGESTIONS

Article VII Section 11.311 –

- Modify required **notifications** to include all residents of WG including the tenants of the commercial corner.
- 11.311 Notice of Hearing. At least 30 days notice of a public hearing must be given in writing to the applicant or appellant, the Commission, the Mayor, the Town Council, and the owner of all land contiguous to the land with which the hearing is concerned or directly across any street from it. The Board may also give notice to such other interested persons, organizations, or agencies as it sees fit. The Board may also advertise the hearing in the same manner as prescribed in Section 13.32.

Article VII Section 8 –

- Section 8.2 – IF deemed acceptable - add “art studio” use - with same BZA exception requirements. This MUST be done ASAP as an art studio (not office) currently exists, the mayor told the landlord/tenant that it was a permissive use (“professional office”) and is a potential liability exposure for the Town, landlord and tenant. IF it is NOT deemed as a potential acceptable use – then the Town’s mayor must remove/evict the violating commercial corner activity.
*Fumes and odors from paints and/or glues have caused myself and employees to vacate the premises on numerous occasions due to headaches and fear of the health impacts.
- Section 8.21 – Add that a meeting with the Planning Commission is required before sending to the BZA

Article XI Section 2 What is the criteria/basis for the following:

2.9 Licensee Shall Obey All Laws. No business, licensed or not, shall be conducted or operated so as to amount to a violation of any requirements or any Federal, State, County, or Ordinance of the Town of Washington Grove or to amount to a nuisance in fact.

2.10 Revocation of License. Any license may be revoked by the Town Council of Washington Grove at any time during the life of such license for any violation by the licensee of this Ordinance.

Complaints concerning alleged violations of this Ordinance shall be made by any person, group, association, or public agency or official. Such complaints shall be in writing, stating fully the nature of the alleged violation, and shall be directed to the Mayor. The Mayor or his designee shall investigate all such complaints, and, if he or she finds that any provisions of this Ordinance have been or are being violated, shall notify the alleged violator and the complainant in writing of his findings along with a copy of the complaint and then refer the matter to the Town Council for a hearing. At such hearing all parties will have the right to be represented by counsel and may present such evidence to the Town Council as may be relevant. If the Town Council finds that a violation of this Ordinance has occurred, the license of the violator shall be revoked for five days for a first violation. A finding by the Town Council of a second violation of this Ordinance within twelve months of the first violation shall require a revocation of a license permanently. A permanently revoked license may not thereafter be renewed.

BZA Hearing - The "use" could NOT be approved as the following ordinance requirements were not met

- 11.323 Burden on Applicant. In the interpretation of the evidence the Board must consider the burden of proof to be upon the applicant, including the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Board.
- 11.324 (2) A special exception may be granted when the Board finds from a preponderance of the evidence of record that the proposed use:
 - (E) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.
 - (F) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

(4) The applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.

(5) The Board may condition approval of a special exception with any requirements necessary to protect nearby properties and the general neighborhood. These conditions may include limiting hours of operation, days of operation, number of employees and students and the times of their arrival and exit, exterior lighting, number and nature of vehicle trips, exterior appearance, vehicular parking and traffic circulation, signage, and buffering of outdoor sports or recreational areas.

Article VII Section 14

the information copies of the zoning map should be changed promptly after issuance of the opinion.

Section 14. Violations and Remedies

14.1 Complaints of Violations

Complaints concerning alleged violations of this Article, or of any decision made thereunder may be made by any person, group, association, or public agency or official. Such complaints must be in writing, stating fully the nature of the alleged violation, and must be directed to the Mayor. The Mayor must investigate all such complaints. If the Mayor finds that any provisions of this Article may have been violated, the Mayor may notify the person responsible in writing of the violation and order the action necessary to correct it. The Mayor must also record the complaint and all subsequent action related thereto.

14.2 Remedies

Upon verification of a violation the Mayor may proceed as follows:

(a) In the case of a building or structure under construction or alteration, the Mayor may order the work stopped and may have the building posted with a Stop Work Notice. The builder must be given notice in writing of the order, and no work may proceed except to correct the violation and to continue in compliance with this Article. If, at the expiration of 10 days, the violation has not been corrected, the Mayor may cancel the building permit and institute proceedings against the violator as provided for in Article IX. Penalties – Enforcement – Severability.

(b) In the case of a use violation, the Mayor may serve the occupant with an order to cease the violation. If, after the expiration of 10 days the violation has not ceased, the Mayor may institute proceedings against the violator as provided for in Article IX. Penalties – Enforcement – Severability.

The Mayor, the Town Council, or any person, group, association, or public agency may, in addition, institute injunction, mandamus, or other appropriate action to cause the violation to cease or to be corrected.

February 23, 2019

- Town of Washington Grove Board of Zoning Appeals hearing regarding a business license for Movimiento Pentecostal Rios de Agua Viva Inc. Kenneth Brown presents himself as the landlord's representative and, in my opinion, provides erroneous testimony. (The name of the court recorder is being pursued so a transcript can be reviewed).

February 24, 2019

- Amplified music and singing originating from the space below (the church) is at such a volume the floor is vibrating and the walls shaking. The landlord property manager is called, however, messages must be left as no live person is reached. A letter outlining the Town of Washington Grove's ordinance violations as well as Montgomery County's noise ordinances is written to Washington Grove's mayor, Board of zoning Appeals, Planning Commission, Movimiento Pentecostal Rios de Agua Viv, the landlord (Tatyana Bell) and Kenneth Brown. Letter were hand delivered to the church below and Board of Zoning Appeals members.
- **Regarding the delivery to the church. I knocked on the front door, then walked into the space approximately 15 feet where I was greeted by a young adult male who accepted my letter and said he would give to Silvia Albanez (church administrator and signor for the church on Washington Grove's business license application). The band members and singers were present (sounded like they were warming up) along with a handful of individuals sitting in chairs. Time is approximately 5:30 PM.

February 25, 2019

- Tatyana Bell contacted as the external door to my offices was found unlocked, the hallway lights were turned on and two of my office doors open. Tatyana stated that she came to the building from 6-7 PM "to check on the missing/broken window glass" located in another office (no part of my lease).
- Kenneth Brown contacts the Town of Washington Grove's business office and speaks to Kathy Leighman, Town Clerk which is forwarded to the Town of Washington Grove's mayor, John Compton, who duties also include enforcement. Mr. Brown states that John McClelland accosted/assaulted a 17 year old girl within the church's leased space. (The Town clerk's notes and the email sent to the Town's mayor have been requested). *Note: the above false report to the Town of Washington Grove was not discovered by John McClelland until July 18, 2019

March 3, 2019

- Email received from Kenneth Brown (previously provided) threatening John McClelland with charges of harassment to the new tenant (church) and to the owner (? Delivering letter?) as well as prohibiting John McClelland from speaking with any tenant in the commercial corner.

May 5, 2019 – May 13, 2019

- Emails sent to landlord (Tatyana Bell) citing excessive noise and vibration interference from the church/band below. Unsigned responses from bellproperties@gmail.com originally stated my email was vague, requested exactly the day/time of the violation(s) as well as the nature and duration....ultimately taking a position that it occurred on a Sunday so it is not a landlord lease issue but a Montgomery County noise ordinance alleged violation. . (*11) I have been advised to contact the MOCO police department for noise violations.

July 17, 2019 (7:30 PM)

- Church and amplified music/singing etc vibrate the floors/walls. Not wanting to call the police, I knock on the door and wait for the pastor who comes outside. He is asked to stop the excessive noise as I am working above. The pastor replies "they told me it was ok after 7 o'clock". I reminded him of the statements made at the Washington Grove Board of Zoning Appeals and the terms of our leases – and my desire to NOT call the police as

the landlord had previously recommended. I went back to work and he apparently disconnected the amplification. His service could be heard and was still in operation at 9:35 PM when I left the building.

July 18, 2019

- A recorded phone message is pulled from the agency VOIP system shortly before 9:00 AM. It is a call made after 7:00 PM on July 17, 2019 from Kenneth Brown filing a liability claim against "an Allstate agent whose name is John McClelland and he rents an office space in my building". "Today he went into another unit in this building and assaulted somebody in the unit." "I am pissed beyond belief ok. What can we do about this without going totally nuts." Ken Brown also stated the other person is "shaken up" and "I'm going to call that other person back and recommend that they do call and file a police report."

July 29, 2019

- Formal legal representation established regarding defamation of character by purported landlord representative Kenneth Brown as well as lease violations - both causing financial loss and emotional duress.
- The Town of Washington Grove is contacted to establish procedures for attaining transcripts of the February 2019 BZA hearing. The Town clerk provided information of a prior report by Kenneth Brown alleging an assault on a 14 year old girl by John McClelland on February 24, 2019. The clerk then reported the incident to the Mayor of Washington Grove, John Compton. John McClelland was never contacted by the mayor.

August 5, 2019

- Request for access to public records filed with the Town of Washington Grove attaining the handwritten note from the Town clerk, Kathy Lehman, and her subsequent email dated February 25, 2019 to Town mayor, John Compton regarding the false claim reported by Kenneth Brown on February 25, 2019

August 14, 2019

- Legal representative, David T Russell, issues cease and desist letter to Kenneth Brown (attached). Civil litigation under consideration.

From: ★ Town of Washington Grove >

To: ★ John Compton >

Hide



McClelland & Commercial Corner

February 25, 2019 at 12:27 PM

📁 Found in Town of Washington Grove Mailbox

John,

I don't know what to do with this information. I received a phone call from real estate agent Ken Brown. He works for Tatiana Bell, the owner of the Commercial Corner. Ken reported the following:

- On Sunday (2/24/19), John McClelland entered 105 WG Lane without permission
- He "accosted" a 17 year old girl and handed her a letter
- He "scared the Hell out of her"
- He behaved as he was the enforcer of the rules for the area

I asked what he meant by "accosted" and he said John did not put his hands on her but scared her. I asked if they called the police. He said no. I told him I would give the information to you and then gave him your contact information. The use of the word "accosted" is very concerning. I'm thinking John should be told about this in case Ken continues to use the word. Yikes!

There you have it.

Kathy

This is Your Future.
Don't Leave it Blank.

Sunday

BZH - 9:30 AM

FROM

Ken

Mon 9:30-

on Sunday - Brown

John McClelland - Accosted a 17-year
old girl, handed her a letter,
scared the hell-out-of her. An
spoke without permission - Behaved as
if he could enforce the ^{+ make up} ~~rules~~ rules.
⇒ emailed John Compton

TL

gone

This is Your Future.
Don't Leave it Blank.

Number: _____

REQUEST FOR ACCESS TO PUBLIC RECORDS

Date: 8/5/19
Name: JOHN A McCLENNAN
Address: 110 GROVE AVE
WASHINGTON GROVE MD 20880
Company: McCLENNAN INSURANCE + FINANCIAL SERVICES
Phone: _____ (h) _____ (cell)
301-948-8593 (w)

Documents Requested: EMAIL SENT BY TOWN OF
WASHINGTON GROVE CLERK, KATHY LEIGHMAN, TO MAYOR
JOHN CAMPTON REGARDING ALLEGATION BY KENNETH BROWN PURPORTEDLY
INVOLVING JOHN McCLENNAN + YOUNG FEMALE AT COMMERCIAL CORNER,
FEBRUARY 2019 -

The Town of Washington Grove must reply within 10 days if this request for information will take up to 30 days to accomplish. The Public Information Act requires a response within 30 days of receipt of the request, unless additional time is needed by the Town and granted by the applicant.

John A. McClelland
Applicant

Mayor

BEA HEALING



August 14, 2019

VIA FEDERAL EXPRESS AND FIRST CLASS MAIL

Kenneth Brown
502 Calvin Lane
Rockville, MD 20851

Re: John McClelland, McClelland Insurance and Financial Services

Dear Mr. Brown:

Our firm represents the interests of John McClelland, d/b/a McClelland Insurance and Financial Services, with regard to his lease dated March 13, 1989, as amended, for the Premises located at 105 Washington Grove Lane, 2nd Floor ("Premises"), in Washington Grove, Maryland ("Lease"). Mr. McClelland is a licensed agent for including but not limited to Allstate Insurance.

We have been advised of the recent developments involving our client arising out of the Landlord's decision to rent part of the building in which the Premises is located to Movimento Penticostal Rios de Agua Viva (the "Church"). It is our understanding that you were the Landlord's leasing broker and/or real estate/leasing agent for this transaction.

As you know, our client objected to the Landlord's request for a Commercial Use Special Exception to allow the Church to occupy the building, based on his concerns regarding 1) the proposed Church's ability to meet the Special Exceptions criteria as set forth in Sections 8.21(c) and 11 of Article VII of the Town of Washington Grove's Ordinances, 2) inevitable loud noise emanating from the Church's services especially with its regular use of amplified/electrified instruments including drums and PA system, affecting his ability to work in direct contravention to his right to quiet enjoyment of the Premises as set forth in Paragraph 27 of the Lease, and 3) anticipated loss of parking spaces for his clients. We are aware that you spoke on behalf of the Landlord at a February 23, 2019 hearing, falsely stating under oath, among other things, our client's hours of operation (on which there are no limitations), in order to get a permit issued to your financial benefit. Subsequently, a Special Use Permit was granted and the Church moved into the first floor of the building. Since then, our client has politely asked the Church to lower the volume of their activities twice because the noise and vibration therefrom was preventing him from being able to work in the Premises much less even think; once by hand-delivering a letter to a male in his 20's to be passed on to the Church administrator, and once by talking to the pastor in person. When our client contacted the Landlord of these repeated noise/vibration violations, the Landlord advised our client to call the police, which he declined to do as a courtesy to the Church, and his brief and civil discussion with the Church pastor appeared to have finally rectified the situation.

However, it then came to our client's attention that you, as the purported Landlord and Owner of the Premises, have made false, misleading and unfounded allegations against Mr. McClelland to both representatives of the Town of Washington Grove and to representatives of Allstate Insurance, including but not limited to a completely fabricated allegation made to the Town Clerk that our client "accosted" a fictitious minor female, and another subsequent allegation to Allstate Insurance that our client "assaulted" the Church pastor, during which you actually attempted to make a false insurance claim. Needless to say, these allegations could not be farther from the truth, and we have also been made aware that you have threatened our client with misconduct in writing without any basis whatsoever, again misrepresenting yourself as the Landlord. These false statements were clearly made in retaliation for our client's oral and written objections to the Church's tenancy and noise complaints, as he has every right to do, and obviously, you would not collect your commission if the Church was not able to lease its current premises.

Please be advised that your outrageous and baseless actions have and will continue to damage our client's relationship with Allstate, his primary carrier, and could affect his multiple insurance and financial licensures in numerous states, as well as his reputation in the insurance business and in the town of Washington Grove in general. In other words, without any basis whatsoever, you have attacked our client's very livelihood to protect your own financial gain. Your willful misconduct may very well rise to the level of, among other things, fraud, misrepresentation, defamation, intentional tortious interference with Mr. McClelland's contractual relationships, making a fraudulent insurance claim and intentional infliction of emotional distress. These actions could result in lost business, lost profits and a myriad of other ramifications for which you shall be responsible.

Please accept this letter as our client's formal written demand that you, your company, its agents and employees immediately cease and desist from making any false statements or accusations in any way concerning our client to any persons or entities, that you immediately and formally withdraw the above accusations already made, and that you provide written confirmation and evidence to us that you have done so. In the event that you do not immediately cease and desist and withdraw from all such activity, our client will have no alternative but to pursue any and all civil remedies at his disposal in order to protect his interests in this matter, and you shall be liable for all damages incurred as a proximate result of this blatant misconduct.

I will be available at the above phone number to discuss this matter should you so desire, but we fully expect that this activity stop here and now.

Sincerely,

RUSSELL & RUSSELL, P.C.

David T. Russell / spcl

David T. Russell



Kenneth Brown
August 14, 2019
Page 3 of 3

cc: John McClelland
Thomas S. Rand, Jr., Esq.



sent to Tenant's last known address, if different from premises. All notices given hereunder by Tenant to Landlord shall be sent to Landlord in care of Bell, Cornelius & Shore, 101 West Jefferson Street, Rockville, Maryland 20850, unless Tenant is otherwise notified of another address for Landlord.

Quiet Possession:

28. So long as Lessee performs its obligations, Lessor covenants to Lessee its quiet and peaceful possession of the leased space, and the right to use the same free of interference from noise, noxious or unpleasant fumes or odors or other disturbance from other tenants in the same building or center.

Parking Facilities:

29. Lessee, its employees, customers, and visitors shall have the right to use such parking facilities as may adjoin or be available to the building, except those marked as such for other use.

Miscellaneous:

30. The obligations under this lease are the obligations of the Lessee personally and not that of any company with which Lessee may be affiliated. Lessor agrees that this agreement is solely between itself and the Lessee personally and Lessor hereby waives any claims, rights of action, or liabilities whatsoever against any companies with which Lessee may be affiliated which may arise out of this lease.

Miscellaneous:

31. All rights, powers and privileges conferred hereunder upon shall be cumulative but not restricted to those given by law. No failure of Landlord to exercise any power given Landlord hereunder, or to insist upon strict compliance by Tenant with his obligation hereunder, and no custom or practice of the parties at various with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms herof. "Landlord" as used in this Lease shall include first party, his heirs, executors, administrators, legal representatives, assigns and successors in title to premises. "Tenant" shall include second party, his or its heirs, executors, administrators, legal representatives, and if this Lease shall be validly assigned or sublet, shall also include Tenant's assignees or sublessees, as to premises covered by such assignments or sublease. "Landlord" and "Tenant" shall include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties. Time is of the essence of this Lease.

FW: Follow up - BZA special exception - commercial corner

washgrove@comcast.net <washgrove@comcast.net>

Wed 3/1/2023 2:40 PM

To: baraimondo@me.com <baraimondo@me.com>; christinedibble@outlook.com <christinedibble@outlook.com>; 'Darrell Anderson' <deanderson47@verizon.net>; 'Dave Cosson' <dcosson@klctele.com>; 'Eva Patrone' <evamarie.patrone@gmail.com>; gyachup@gmail.com <gyachup@gmail.com>; johncompton@me.com <johncompton@me.com>; georgettewg@gmail.com <georgettewg@gmail.com>; jd.inthegrove@gmail.com <jd.inthegrove@gmail.com>; pnagrod@msn.com <pnagrod@msn.com>; 'Robert Johnson' <rnj@elecdev.com>; 'Charlie Challstrom' <chacha4498@gmail.com>; 'Marc Hansen' <mpcshansen@yahoo.com>; sat.amagai@gmail.com <sat.amagai@gmail.com>

 8 attachments (2 MB)

WG - Commercial Corner use 120210515_13375776.pdf; WG - Commercial Corner use 2 20210515_13390943.pdf; WG - Commercial Corner use 3 20210515_13403003.pdf; WG - Commercial Corner use 4 20210515_13412854.pdf; WG - Commercial Corner use 5 20210515_13421246.pdf; WG - Commercial Corner use 6 20210515_15163157.pdf; WG - Commercial Corner use 7 20210515_15172853.pdf; WG - Commercial Corner use 8 20210515_15213620.pdf;

Sent from [Outlook](#)

From: john mcclelland <jmac110@msn.com>

Sent: Sunday, February 26, 2023 11:26 AM

To: washgrove <washgrove@comcast.net>

Subject: Fw: Follow up - BZA special exception - commercial corner

2 of 6 prior emails

John A McClelland

110 Grove Ave Box 295

Washington Grove, MD 20880

240-988-8593

From: john mcclelland <jmac110@msn.com>

Sent: Sunday, August 1, 2021 1:45 PM

To: washgrove <washgrove@comcast.net>; John Compton <johncompton@me.com>; Peter Nagrod <pnagrod@msn.com>

Subject: Follow up - BZA special exception - commercial corner

Kathy,

Please forward to the PC, TC and BZA.

Before a dissenting response to yesterday's BZA exception hearing could be written, the noise and vibrations from the new religious group's bass guitar (not including the other reported guitars, piano and vocals) are forcing me to vacate my office. It has not even been 24 hours (again) and my concerns have been proven accurate. I will endeavor to provide my position regarding the ordinances and the BZA "opinion". Earlier today I requested to be placed on the PC's August 4th agenda.

The landlord has been notified as well, however, any expectation of receiving a timely response and/or any action addressing the lease/contract violations are a false hope.

John A McClelland

McClelland Insurance & Financial Services

11 Brown St Box 295

Washington Grove, MD 20880

240-988-8593

From: john mcclelland

Sent: Saturday, May 15, 2021 5:20 PM

To: washgrove <washgrove@comcast.net>

Subject: BZA special exception - commercial corner

The Town of Washington Grove, mayor, town council, planning commission and board of zoning appeals,

During an unrelated conversation regarding the commercial corner's current landlord contact information and dumpster location, I was devastated to hear that another commercial corner license exception (religious organization) was being pursued at 105 Washington Grove Ln, Washington Grove, Md 20880. Every one of my major concerns were verified by the actions of the prior tenant and lack of action by the landlord and Town of Washington Grove. A regurgitation of concerns and events as originally presented at the 2019 BZA hearing as well as subsequent letters/emails to the mayor, planning commission, town council, board of zoning appeals, landlord, prior tenant, law firm etc in response to the immediate violations and damaging effects to myself, staff and business are attached. The requirements for granting an exception as listed in the Town of Washington Grove's ordinances were NOT met by the prior religious group thus preventing the BZA from legally issuing an exception approval in the first place. Within one day the basis for granting the approval was violated and should have been cause for immediate revocation of the business license. Instead, I suffered through over a year of emotional distress and financial hardship.

A brief summary - the attachments by number

- 1 - Original letter of concern sent to the BZA
- 2 - Applicable section of Town ordinance pertaining to special exceptions
- 3 - Letter of appeal to overturn exception provided the day before based upon an immediate violation of the terms of the exception
- 4 - Letter to landlord pointing out obvious lease provisions and requesting appropriate action
- 5 - Ordinance recommendations presented to the planning commission along with explanations and basis of various ordinances as it applied to the BZA exception ruling
- 6 - Brief chronological history of events regarding the BZA religious group exception, issues, police calls and town clerk's notification (to the Town's mayor as enforcement officer) of a fabricated allegation of assault
- 7 - Threat of litigation letter sent to the landlord's representative
- 8 - Quiet Possession (section 28) of commercial corner lease. FYI - The lease provides for quiet, peaceful possession of the leased space free from interference from noise, noxious or unpleasant fumes or odors or other disturbance from other tenants in the same building or center. *The lease is valid 24 hours a day, 7 days a week through the end of the leasing period.*

The provided attachments are just some of the related data from February 2019 to August 2019 and do not even scratch the surface of the emotional and financial toll (both personally and professionally) thrust upon me and my

business (including staff). It cannot be repeated.

The planning commissions and town council must address this issue immediately to correct a well-intended exception option which cannot work specifically at 105 Washington Grove Ln. Also, one of the previously submitted suggestions to the planning commission was to notify neighbors, related businesses, the Town etc for any potential exceptions under consideration at the commercial corner. To discover this potential via an offhand comment - especially with the prior problems associated with this type of "business use" and location- is unacceptable and must also be addressed.

My concern is obvious and the need to address is immediate. An expedient reply is appreciated.

Thank you,

John McClelland
McClelland Insurance & Financial Services
11 Brown St
Washington Grove MD 20880
301-948-8593

John A McClelland
110 Grove Ave Box 295
Washington Grove, MD 20880
240-988-8593

***With the common sense covid mask restrictions being lifted future Town meetings and BZA hearings should return to in person affairs.**

FW: Town Ordinance explanation

washgrove@comcast.net <washgrove@comcast.net>

Wed 3/1/2023 2:42 PM

To: baraimondo@me.com <baraimondo@me.com>; christinedibble@outlook.com <christinedibble@outlook.com>; 'Darrell Anderson' <deanderson47@verizon.net>; 'Dave Cosson' <dcosson@klctele.com>; 'Eva Patrone' <evamarie.patrone@gmail.com>; gyachup@gmail.com <gyachup@gmail.com>; johncompton@me.com <johncompton@me.com>; georgettewg@gmail.com <georgettewg@gmail.com>; jd.inthegrove@gmail.com <jd.inthegrove@gmail.com>; pnagrod@msn.com <pnagrod@msn.com>; 'Robert Johnson' <rnj@elecdev.com>; 'Charlie Challstrom' <chacha4498@gmail.com>; 'Marc Hansen' <mpcshansen@yahoo.com>; sat.amagai@gmail.com <sat.amagai@gmail.com>

Sent from [Outlook](#)

From: john mcclelland <jmac110@msn.com>

Sent: Sunday, February 26, 2023 11:27 AM

To: washgrove <washgrove@comcast.net>

Subject: Fw: Town Ordinance explanation

3 of 6 prior emails

John A McClelland

110 Grove Ave Box 295

Washington Grove, MD 20880

240-988-8593

From: john mcclelland

Sent: Saturday, September 11, 2021 2:26 PM

To: washgrove <washgrove@comcast.net>

Subject: Town Ordinance explanation

Kathy,

Please forward this email to the mayor, Town Council and Planning Commission.

Mayor, TC and PC,

Please provide a written explanation of the following ordinances so their intent and application are fully understood and can be explained/discussed at a public meeting (TC and PC).

Article VII Section 8.11, 8.2, 8.21, 8.23

Article VII Section 11 - with special emphasis upon Sections 11.323, 11.324 subsections 1, 2b, 2e, 2f, 2h, and 11.4.

Article VII Section 14.1, 14.2

Article IX Sections 1, 2

Article XI Section 2.9 and 2.10

An understanding/explanation of the PC's written opinion (submitted as evidence) that a BZA special exception should not be granted to a church organization located at 105 Washington Grove Ln, Washington Grove MD 20880

Thank you for your assistance. I look forward to hearing from you.

John A McClelland

110 Grove Ave Box 295

Washington Grove, MD 20880

240-988-8593

FW: Val parked at commercial corner.



Wed 3/1/2023 2:43 PM

Subject: Fw: Val parked at commercial corner.

4 of 6 emails

240-988-8593

Subject: Val parked at commercial corner.

Two items:

Please call if additional information is needed and enjoy the day.

110 Grove Ave Box 295

FW: Town Ordinance explanation

washgrove@comcast.net <washgrove@comcast.net>

Wed 3/1/2023 2:44 PM

To: baraimondo@me.com <baraimondo@me.com>; christinedibble@outlook.com <christinedibble@outlook.com>; 'Darrell Anderson' <deanderson47@verizon.net>; 'Dave Cosson' <dcosson@klctele.com>; 'Eva Patrone' <evamarie.patrone@gmail.com>; gyachup@gmail.com <gyachup@gmail.com>; johncompton@me.com <johncompton@me.com>; georgettewg@gmail.com <georgettewg@gmail.com>; jd.inthegrove@gmail.com <jd.inthegrove@gmail.com>; pnagrod@msn.com <pnagrod@msn.com>; 'Robert Johnson' <rnj@elecdev.com>; 'Charlie Challstrom' <chacha4498@gmail.com>; 'Marc Hansen' <mpcshansen@yahoo.com>; sat.amagai@gmail.com <sat.amagai@gmail.com>

Sent from [Outlook](#)

From: john mcclelland <jmac110@msn.com>

Sent: Sunday, February 26, 2023 11:28 AM

To: washgrove <washgrove@comcast.net>

Subject: Fw: Town Ordinance explanation

5 of 6 emails

John A McClelland

110 Grove Ave Box 295

Washington Grove, MD 20880

240-988-8593

From: john mcclelland <jmac110@msn.com>

Sent: Saturday, September 25, 2021 12:02 PM

To: washgrove <washgrove@comcast.net>

Subject: Fw: Town Ordinance explanation

Kathy,

Please forward this email to the mayor, Town Council and Planning Commission

Mayor, TC and PC.

Please add the following ordinances to the previously sent email on this subject. I will request this subject to be added as an agenda item (vs. a public appearance) on both the upcoming TC and PC meetings.

Article VII Sections 2.111, 6.322, 6.342a, 6.343, 6.344.

*Note: Prior TC and PC action regarding the Prime Choice operations as well as the signage square footage allowances must also be known/understood to facilitate the conversation.

Thank you,

John A McClelland

110 Grove Ave Box 295

Washington Grove, MD 20880

240-988-8593

From: john mcclelland

Sent: Saturday, September 11, 2021 2:26 PM

To: washgrove <washgrove@comcast.net>

Subject: Town Ordinance explanation

Kathy,

Please forward this email to the mayor, Town Council and Planning Commission.

Mayor, TC and PC,

Please provide a written explanation of the following ordinances so their intent and application are fully understood and can be explained/discussed at a public meeting (TC and PC).

Article VII Section 8.11, 8.2, 8.21, 8.23

Article VII Section 11 - with special emphasis upon Sections 11.323, 11.324 subsections 1, 2b, 2e, 2f, 2h, and 11.4.

Article VII Section 14.1, 14.2

Article IX Sections 1, 2

Article XI Section 2.9 and 2.10

An understanding/explanation of the PC's written opinion (submitted as evidence) that a BZA special exception should not be granted to a church organization located at 105 Washington Grove Ln, Washington Grove MD 20880

Thank you for your assistance. I look forward to hearing from you.

John A McClelland

110 Grove Ave Box 295

Washington Grove, MD 20880

240-988-8593

FW: Business License

washgrove@comcast.net <washgrove@comcast.net>

Wed 3/1/2023 2:45 PM

To: baraimondo@me.com <baraimondo@me.com>; christinedibble@outlook.com <christinedibble@outlook.com>; 'Darrell Anderson' <deanderson47@verizon.net>; 'Dave Cosson' <dcosson@klctele.com>; 'Eva Patrone' <evamarie.patrone@gmail.com>; gyachup@gmail.com <gyachup@gmail.com>; johncompton@me.com <johncompton@me.com>; georgettewg@gmail.com <georgettewg@gmail.com>; jd.inthegrove@gmail.com <jd.inthegrove@gmail.com>; pnagrod@msn.com <pnagrod@msn.com>; 'Robert Johnson' <rnj@elecdev.com>; 'Charlie Challstrom' <chacha4498@gmail.com>; 'Marc Hansen' <mpcshansen@yahoo.com>; sat.amagai@gmail.com <sat.amagai@gmail.com>

Sent from [Outlook](#)

From: john mcclelland <jmac110@msn.com>

Sent: Sunday, February 26, 2023 12:40 PM

To: washgrove@comcast.net

Subject: Re: Business License

Importance: High

Kathy,

Due to your recent email(s) regarding business licenses, a conversation with Mark Hansen (who brought up the impact of the Latino church's operation/noise on my business), the comprehensive plan (equity, diversity and inclusion sections) and conversations with the planning commission (chair and prior members) - the purpose and validity of the Town ordinance and business permits is of question. Prior emails regarding the Town of Washington Grove ordinances (with specific emphasis on the commercial corner and just recent) never received a response nor the required Town/mayoral action.

A brief synopsis follows:

- The board of zoning appeals intentionally ignored required provisions for a special exception that would have prevented the approval of the current commercial corner special exception use. Per the BZA chair, Mark Hansen - also a Montgomery County attorney by profession, the current political climate (especially in MOCO) would potentially expose the Town to a potential law suit if the church's special exception application was denied - while I am the only business owner operating at the Washington Grove commercial corner who is a white, heterosexual male - and thus less likely to prevail in "any court of competent jurisdiction under the b Rules, Maryland Rules of Procedure".
- The mayor and Town Council refused to take required action of voiding the noncompliant actions of the BZA.
- The mayor literally told the commercial corner's landlord that an artist studio could operate there in direct violation of the Town's Code of ordinances and disregard for the health risks involved - just call it an art office. IF a business license even exists, it is a fraud.
- The "church" now allows for band practice (unrelated to church services and not religious songs ever heard during those aforementioned services) - which now take place 2-3 times per week in addition to the church services. This is a violation of the business license.
- Fumes from the art "office" have caused evacuation of the premises due to reported headaches and breathing difficulties.
- The church's advertising square footage (in addition to the nonmoving van) far exceeds that which is permitted
- Reference the previously sent emails (reforwarded today) for specifics on applicable Town Ordinance code etc.

The Town of Washington Grove's comprehensive plan as well as its lack of enforcement and adherence to the Town's own Ordinances have caused significant financial damage to my business as well as damage to the health

and well-being of all working here. It was an error believing in the rule of law - at least according to the Town of Washington Grove's Code of Ordinances.

As requested repeatedly in the past - please forward to the mayor, town council, planning commission, and the board of zoning appeals

Regards,

John A McClelland

110 Grove Ave Box 295

Washington Grove, MD 20880

240-988-8593

From: washgrove@comcast.net <washgrove@comcast.net>

Sent: Thursday, February 9, 2023 3:31 PM

To: jmccllland@allstate.com <jmccllland@allstate.com>; jmac110@msn.com <jmac110@msn.com>

Subject: Business License

Hi John. In December I sent out the Business License information along with a self-addressed, stamped envelope. We have still not received your updated document or the \$25.00 fee. Would you please get that to me in the next couple of days?

Thanks!

Kathy

Sent from [Outlook](#)