

RE: PETITION FOR BUILDING PERMIT)	BEFORE
to erect an amateur radio trans-)	
mitting and receiving antenna,)	COUNTY BOARD OF APPEALS
202 Welford Road, "York Manor")	
8th District, Heinrich N. Putschi,)	OF
Petitioner)	BALTIMORE COUNTY, NO. 14469

The applicant in the instant case seeks to erect a radio transmitting and receiving antenna. The applicant was refused a building permit by the Buildings Engineer on the basis that such an antenna apparently is prohibited by the Zoning Regulations of Baltimore County. The use of the word "prohibitive" is used in the fashion that a special exception is required in order to erect such an antenna. The applicant contends that the erection of this tower is a furtherance of his hobby as a radio amateur and is in no way connected with any business pursuit or opportunity.

The Board must take cognizance of the fact that an antenna of this nature is necessary for the radio hobblist who pursues his hobby in his home. The Board is again faced with the question as to whether the regulations allude to a purely business use of a wireless transmitting and receiving antenna, or whether the regulations in their silence actually permits such an antenna as long as it is not used in business pursuits. The Board must take cognizance of the fact that the zoning regulations are in derogation of common law property rights, and that if such regulations are to be strictly construed then it must not necessarily follow that such uses are permitted if the regulations are silent. The Board can find no reference in the regulations wherein an amateur radio transmitter per se, is prohibited. It must necessarily follow that if at such future time the operator or owner wishes to use his transmitter as a business pursuit then, without question, a special exception would have to be sought. The questions presented before the Board at this time must necessarily then deal with the applicant's contention that this will be solely a non-commercial enterprise.

If we are to follow the above thinking, then the Board has no recourse except to direct the Building Engineer to issue a permit for

the tower or antenna as requested if said antenna complies with all of those regulations pertaining to the safety of its structure.

G. Mitchell Austin, Acting Chairman

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

DATE: February 13, 1964

Note: Mr. Kaufman did not sit at this hearing.

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