

86-232-SHA #117 PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 232.2 to permit (1) a 15' side yard setback in lieu of the required 30', (2) a 5' rear yard setback in lieu of the required 30' and (3) a 13' side yard setback in lieu of the required 30'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

To be determined at hearing

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

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

Contract Purchaser: 714 Associates
(Type or Print Name)
Signature: Jack H. Pechter, General Partner
Address: (Type or Print Name)
City and State: (Type or Print Name)
Signature: (Type or Print Name)
Address: (Type or Print Name) Phone No. (Type or Print Name)
City and State: (Type or Print Name)
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: John B. Howard, Esquire, 210 Allegheny Avenue, Towson, MD 21204, 823-4111
Attorney for Petitioner: John B. Howard, Esquire, 210 Allegheny Avenue, Towson, MD 21204, 823-4111
Attorney's Telephone No.: 823-4111

ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of October, 1985, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 4th day of December, 1985, at 10:30 o'clock A.M.

Cell John
Zoning Commissioner of Baltimore County.

(over)

86-232-SHA #117 PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.2b.(6) to permit 43 parking spaces in lieu of the required 49 parking spaces.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

To be determined at hearing

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

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

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(Type or Print Name)
Signature: Jack H. Pechter, General Partner
Address: (Type or Print Name)
City and State: (Type or Print Name)
Signature: (Type or Print Name)
Address: (Type or Print Name) Phone No. (Type or Print Name)
City and State: (Type or Print Name)
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: John B. Howard, Esquire, 210 Allegheny Avenue, Towson, MD 21204, 823-4111
Attorney for Petitioner: John B. Howard, Esquire, 210 Allegheny Avenue, Towson, MD 21204, 823-4111
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Cell John
Zoning Commissioner of Baltimore County.

(over)

86-232-SHA #117 PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an existing non-conforming parking use.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

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

Contract Purchaser: 714 Associates
(Type or Print Name)
Signature: Jack H. Pechter, General Partner
Address: (Type or Print Name)
City and State: (Type or Print Name)
Signature: (Type or Print Name)
Address: (Type or Print Name) Phone No. (Type or Print Name)
City and State: (Type or Print Name)
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: John B. Howard, Esquire, 210 Allegheny Avenue, Towson, MD 21204, 823-4111
Attorney for Petitioner: John B. Howard, Esquire, 210 Allegheny Avenue, Towson, MD 21204, 823-4111
Attorney's Telephone No.: 823-4111

ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of October, 1985, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 4th day of December, 1985, at 10:30 o'clock A.M.

Cell John
Zoning Commissioner of Baltimore County.

(over)

IN RE: PETITIONS SPECIAL HEARING AND VARIANCES
E/S of York Road, 127' from the intersections of the centerlines of York and Lamborne Roads - 9th Election District
714 Associates,
Petitioner
Case No. 86-232-SHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests variances to permit side yard setbacks of 13 feet and 15 feet instead of the required 30 feet, a rear yard setback of 5 feet instead of the required 30 feet, and 43 parking spaces instead of the required 49 spaces and, additionally, confirmation of an existing nonconforming use for three off-street parking spaces in a residential zone, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by Martin Pechter, a limited partner, appeared and testified and was represented by Counsel. The Church of the Immaculate Conception (church), by its Associate Pastor, The Reverend Gregory R. Smith, and Mr. and Mrs. Gerhard A. Hauptmann appeared, not as Protestants but as interested parties, adjacent property owners who have entered into agreements with the Petitioner, and were represented by Counsel. See Petitioner's Exhibits 2 and 3. It is noted for the record that the Zoning Commissioner received a letter dated November 26, 1986 from Susan M. Sheesley, President of the Towson Community Corporation, opposing the parking variance. See Protestants Exhibit 1.

Testimony indicated that the subject property, zoned B.R.-C.S.A. with a narrow strip along its southwestern and southeastern property lines zoned D.R.5 and improved with a stone and frame office building, is located on

cc: Robert A. Hoffman, Esquire
Lewis L. Fleury, Esquire
The Reverend Gregory R. Smith
Mr. & Mrs. Gerhard Hauptmann
People's Counsel

York Road, adjacent to the church. The Petitioner proposes to raze the existing building and construct a single-story building containing 9,800 square feet for retail uses, which will necessitate setbacks of 13 feet to the southwest property line, 15 feet to the north property line, and 5 feet to the west property line. Although the building could be higher, thereby negating the need for the variances, the Petitioner has entered into agreements with both neighbors, the church to the south and the Hauptmann's to the north (whose property is zoned B.R.-C.S.A./C.S-1 and on which Towson Animal Hospital is located), who prefer the single-story building, which would, in fact, create a lower profile than the existing building. In addition, the Petitioner has agreed to provide and maintain retaining walls and landscaping, as more particularly described on Petitioner's Exhibits 2 and 3. Both neighbors consented to the requested relief.

Testimony from John Strong Smith, a registered civil engineer, was that due to the retaining walls, the unique shape of the site, and the comments submitted by the State Highway Administration, Maryland Department of Transportation (State), only 43 of the required 49 parking spaces can be provided. If there is to be compliance with the State's comments, parking spaces will have to be deleted.

The Petitioner also requests confirmation of a nonconforming use. Prior to 1976, the D.R.5.5 strip was zoned B.R.-C.S.A. According to Robert Gaines, the owner of the property at that time, the parcel contained portions of three parking spaces used for parking for the existing office building, which is permitted by right in a B.R. Zone. When the 1976 Comprehensive Zoning Maps were adopted, the zoning was changed to D.R.5.5, and since the change in zoning, the area has been used continuously and without interruption for parking.

The Baltimore County Planning Board granted a waiver (W-85-108) of the County Review Group plan on July 18, 1985.

The Petitioner seeks relief from Sections 409.2b.(6) and 232.2, pursuant to Section 307, and confirmation of a nonconforming use pursuant to Section 104.1, Baltimore County Zoning Regulations (BCZR).

An area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

- whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variances were not granted. It has been established that the requirement from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

The uncontroverted testimony, which was amply supported, conclusively indicates that the property has been used continuously and without interruption for parking since prior to 1976. After due consideration of the testimony and evidence presented, it is clear that a nonconforming use exists.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variances and approval prayed for should be granted.

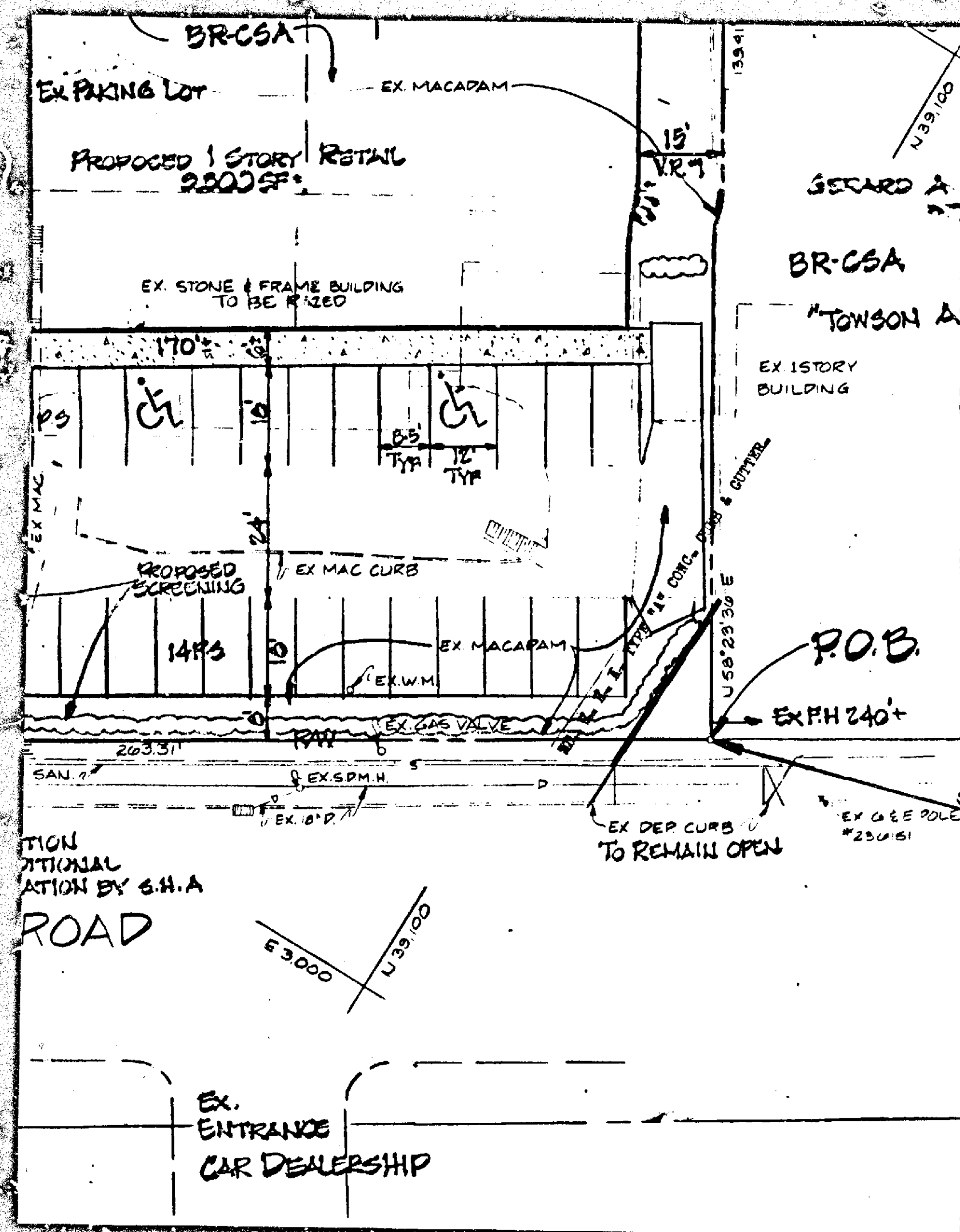
Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 14th day of February, 1986, that the Petition for Variances to permit side yard setbacks of 13 feet and 15 feet instead of the required 30 feet, a rear yard setback of 5 feet instead of the required 30 feet, and 43 parking spaces instead of the required 49 spaces, be and is hereby GRANTED and, additionally, a nonconforming use for three off-street parking spaces in a residential zone be approved and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- Petitioner's Exhibits 2 and 3, agreements entered into by and between the Petitioner and its neighbors, shall be adopted and made a part of this Order in their entirety.

Cell John
Zoning Commissioner of Baltimore County

- 5 -

AUG 22 1951



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-4500

NOVEMBER 14, 1985

Re: Zoning Advisory Meeting of **OCTOBER 1, 1985**
Item # **117**
Property Owner: **714 ASSOCIATES**
Location: **E/S YORK RD. 127' FROM INTER-
SECTIONS OF 4TH YORK & LAMBOURNE**
205

Dear Mr. Jablon:

The Division of Current Planning and Zoning has reviewed the subject petition and offers the following comments. The items checked below are:

- (X) There are no site planning factors requiring comment.
- (X) A County Review Group Meeting is required.
- (X) This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- (X) A record plat will be required and must be recorded prior to issuance of a building permit.
- (X) The access is not satisfactory.
- (X) The circulation on this site is not satisfactory.
- (X) The parking arrangement is not satisfactory.
- (X) Parking calculations must be shown on the plan.
- (X) This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- (X) Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-38 of the Development Regulations.
- (X) Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- (X) The amended Development Plan was approved by the Planning Board on 11/13/85.
- (X) Landscaping: This property is located in a Baltimore County Landscape Manual, 1911-1979. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is: 1. The property is located in a traffic area controlled by a "D" level intersection as defined by 8111.12-79, and its conditions change are reevaluated annually by the County Council.
- (X) Additional comments:
**A LAWS OF CRG PLAN (4985-108 K/A
714 ASSOCIATES) WAS GRANTED BY THE PLANNING
BOARD ON 11/13/85.**

CC: James Howell
Eugene A. Boser,
Chief, Current Planning and Development

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

October 2, 1985

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: **714 Associates**
Location: **SW/S York Road, 127' S of centerline of York and Lambourne Roads**
Item No.: **117** Zoning Agenda: Meeting of October 1, 1985

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- (X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- 2. A second means of vehicle access is required for the site.
- 3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department.
- 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.
- 6. Site plans are approved, as drawn.
- 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: John F. O'Neill Noted and Approved: John F. O'Neill
Planning Group Fire Prevention Bureau
Special Inspection Division

/mb

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

November 20, 1985

TED ZALESKI, JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 117 Zoning Advisory Committee Meeting are as follows:

Property Owner: **714 Associates**
Location: **SW/S York Road, 127' S of c/c of York and Lambourne Roads**
District: **9th.**

APPLICABLE ITEMS ARE CIRCLED:

- (1) All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85; the Maryland Code for the Handicapped and Aged (A.9.5.1, 9.11-1 - 1980) and other applicable Codes and Standards.
- (2) A building and other miscellaneous permits shall be required before the start of any construction. A zoning permit shall be required as will separate permits for signs, paving, etc.
- (3) Residential: The area of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is not required on plans and technical data.
- (4) All the Groups except B-1 Single Family Detached Dwelling require a minimum of 2 hour fire rating for exterior walls closer than 6'-0" to an interior lot line. B-1 the Groups require a one hour wall if closer than 3'-0" to an interior lot line. Any wall built on an exterior lot line shall require a fire of party wall. See Table 101, Section 107, Section 106.2 and Table 107. No openings are permitted in masonry exterior wall within 3'-0" of an interior lot line. See also Section 101.0 for opening protective.
- (5) The structure does not appear to comply with Table 505 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 101 and 505 and have your Architect/Engineer contact this department.
- (6) The requested variance appears to conflict with Section (a) of the Baltimore County Building Code.
- (7) When filing for a required Change of Use/Conversion Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Required Architectural or Engineer seals are usually required. The change of Use Groups are from the to the or to Mixed Use. See Section 112 of the Building Code.
- (8) The proposed project appears to be located in a Flood Plain, Flood/Alleviation. Please see the attached copy of Section 15.0 of the Building Code as adopted by Bill #1-85. Site plans shall show the correct elevations above sea level for the lot and the finished floor levels including basement.
- (9) Comments:
- (10) These abbreviated comments reflect only on the information provided by the drawings submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired the applicant may obtain additional information by visiting Room 322 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204.

John F. O'Neill
C. E. Burman, Chief
Building Plans Review

1/22/85

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Zoning Commissioner

FROM: Norman E. Gerber, AICP, Director
Office of Planning and Zoning

SUBJECT: Zoning Petition No. 86-232-SPHA

Date: November 21, 1985

Assuming compliance with the comments of the Zoning Plans Advisory Committee, this office offers no comment other than to suggest that consideration be given to locating the entrance opposite an existing curb-cut on the opposite side of York Road.

Norman E. Gerber
Director

NEG:JGH:slm

86-232-SPHA

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 14, 1985

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on November 14, 1985.

THE JEFFERSONIAN,
18 Venetian
Publisher
Cost of Advertising
27.50

By Order of
ARNOLD JABLON
Zoning Commissioner
Baltimore County
Nov. 14.

86-232-SPHA

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 13, 1985

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on November 13, 1985.

THE JEFFERSONIAN,
18 Venetian
Publisher
Cost of Advertising
46.75

By Order of
ARNOLD JABLON
Zoning Commissioner
Baltimore County
November 1985

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 9th Date of Posting: 11-12-85

Posted for: Arnold Jablon, Zoning Commissioner

Petitioner: 714 Associates

Location of property: W/S of York Road, 127' from the intersection of the City of York and York and Lambourne Roads

Location of Signs: Along west side of York Road, approx. 175' south of Lambourne Road and 2 signs west side of York Road, approx. 280'

Remarks: One of 2 signs on York Road

Posted by: John F. O'Neill Date of return: 11-15-85

Number of Signs: 4

86-232-SPHA

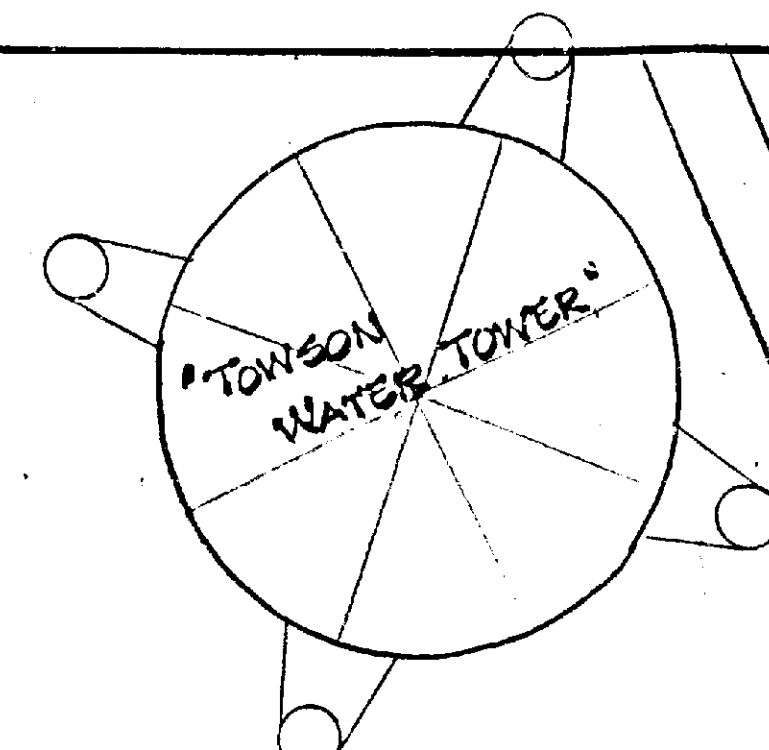
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 30th day of October, 1985.

Arnold Jablon
Zoning Commissioner

Petitioner: 714 Associates Received by: James E. Dyer
Petitioner's Attorney: John B. Howard, Esquire Chairman, Zoning Plans Advisory Committee

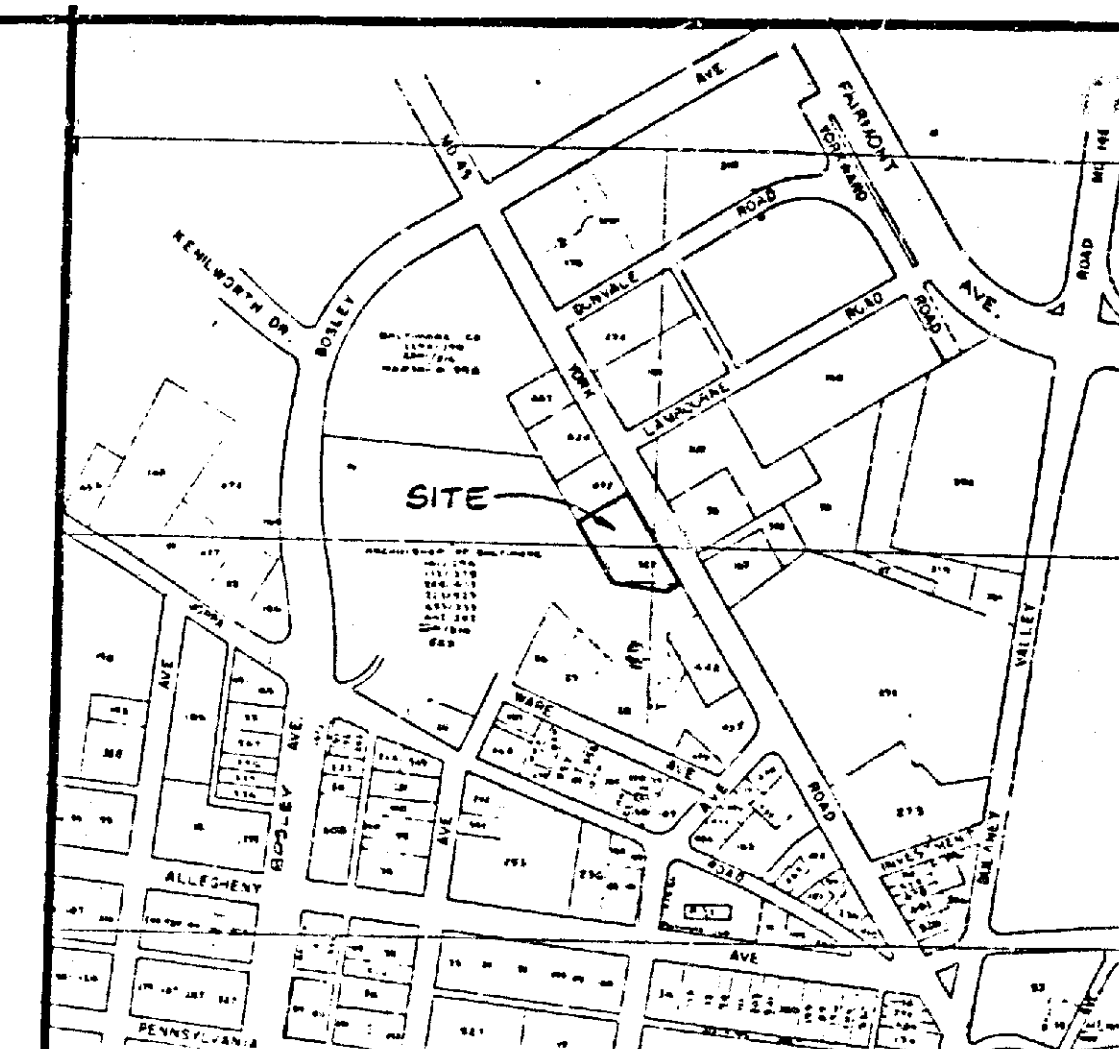


MAYOR & CITY COUNCIL OF BALTO.

"IMMACULATE CONCEPTION"
(CHURCH & SCHOOL PROPERTY)

ARCHBISHOP OF BALTIMORE

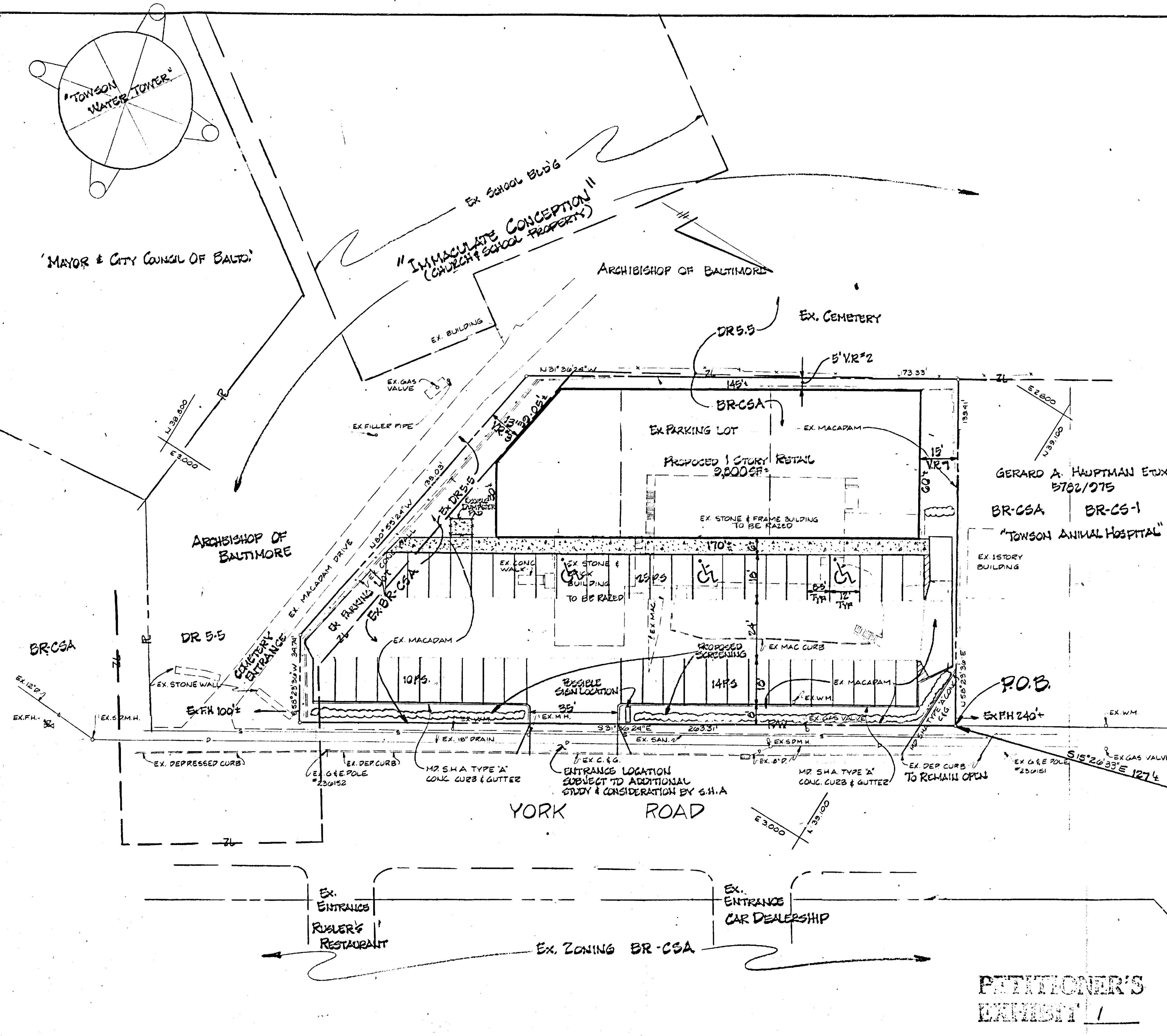
EX. CEMETERY



VICINITY MAP
SCALE: 1"=500'

GENERAL NOTES

1. AREA OF SITE 0.75 AC ±
2. EX. USE OFFICE & PARKING LOT
3. PROPOSED USE RETAIL
4. EX. ZONING BR-CSA
DR-5-B 0.05 AC ±
BR-CSA 0.60 AC ± = 23,620 S.F.
5. FLOOR AREA RATIO
23,620 S.F. / 23,620 S.F. = 1.00
6. PARKING REQUIRED
2,000 / 200 = 10 PS
7. PARKING PROVIDED 49 PS ±
(INCLUDES 3 HANDICAP)
8. SITE TO BE LANDSCAPED PER LANDSCAPE MANUAL WITH MODIFICATIONS REQUESTED (SECT. 22-105 BALTO. CO. CODE)
9. CRG. W/NER (W-13-105) GRANTED JULY 1, 1989
10. VARIANCES REQUESTED FROM (S.C.T.R.) SECTION 238.2
V.R.#1 - TO PERMIT A SIDE YARD SETBACK OF 15' IN LIEU OF THE REQUIRED 30'
V.R.#2 - TO PERMIT A REAR YARD SETBACK OF 5' IN LIEU OF THE REQUIRED 30'
V.R.#3 - TO PERMIT A SIDE YARD SETBACK OF 15' IN LIEU OF THE REQUIRED 30'
11. NO ADJOINING RESIDENTIAL LOT EXIST, BUT LIGHTING WILL BE DIRECTED AWAY FROM RESIDENTIAL ZONE
12. PROPOSED MACADAM PARKING LOT WILL BE DRAINED INTO EX. SYSTEM IN YORK RD. AND WELL SCREENED.
13. EX. WATER: 10" W - DWG (30-512) (30-502)
20" W - DWG (54-232)
14. EX. SEWER: 8" S - DWG (53-441) (53-442)
15. VARIANCE TO SECTION 409
A PARKING VARIANCE IS REQUESTED TO PERMIT A REDUCTION TO 49 PS. IN LIEU OF THE REQUIRED 49 PS. AS PROPOSED TO OBTAIN ANY PHYSICAL RESTRAINTS THAT MAY OCCUR.



GERARD A. HAUPTMAN ETUX.
5782/975

BR-CSA BR-CS-1

"TOWSON ANIMAL HOSPITAL"

P.O.B.

PETITIONER'S
EXHIBIT 1

LAMBOURNE
ROAD

REV 12/4/89 TO SHOW
SHA COMMENTS

**GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.**
CIVIL ENGINEERS & LAND SURVEYORS
303 ALLEGHENY AVENUE
TOWSON, MARYLAND 21204
(301) 925-8120



OWNER
714 ASSOCIATES
c/o J.H.P. DEVELOPMENT CO., INC.
908 YORK ROAD
TOWSON, MD. 21204

NOTE:
FOR VARIANCES SEE
GENERAL NOTES #11-15

PLAT TO ACCOMPANY A PETITION
FOR VARIANCES TO SECTION 238.2
& 409 AND A SPECIAL HEARING FOR
#714 YORK ROAD

BALTIMORE CO., MD.
SCALE: 1"=20'

ELECT. DIST. #9
SEPT. 7, 1989

PN 5201