

IN RE: PETITION FOR ZONING VARIANCE BEFORE THE
 SW/Corner Church Lane and York Road DEPUTY ZONING COMMISSIONER
 (9945-96 York Road) 8th Election District
 3rd Councilmanic District OF BALTIMORE COUNTY
 Katherine Strakes Case No. 92-384-A
 Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance in which the Petitioner requests relief from Section 409.6.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 387 parking spaces in lieu of the required 396 spaces; from Section 238.2 of the B.C.Z.R. to permit a side yard setback of 10 feet in lieu of the required 40 feet for a proposed restaurant use in accordance with Petitioner's Exhibit 1.

The Petitioner, Katherine Strakes, appeared, testified, and was represented by Edward C. Covahey, Jr., Esquire. Also appearing on behalf of the Petitioner was Vincent J. Moskuna, Registered Land Surveyor, and Gus J. Stratakis, adjoining property owner. There were no Protestants.

Testimony indicated that the subject property, known as 9945-9996 York Road, consists of 5.58 acres more or less, zoned B.R., and is the site of the Church Lane Shopping Center. Petitioner testified that when this property was first developed, W. Bell and Company was the anchor tenant and was located at the north end of the shopping center. Testimony indicated that W. Bell and Company is no longer in business and, in fact, has vacated the subject property. The Petitioner is desirous of using 3,668 sq. ft. of the original warehouse space used by W. Bell and Company for a Pizza Hut restaurant. Due to this change in use of this portion of the subject property, additional parking for the entire site is required.

Testimony indicated that there is no other available parking for this site and that to require strict compliance with the zoning regulations would render this space unusable. Further testimony indicated that the requested variance to side yard setback requirements is necessary due to the recent conveyance of 0.11 acres of land to an adjoining property owner adjacent to the Tree House Restaurant which is located within the subject shopping center. Petitioner testified the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding uses.

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

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) 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
- 3) 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 variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result

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 By [Signature]

if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of June, 1992 that the Petition for Zoning Variance requesting relief from Section 409.6.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 387 parking spaces in lieu of the required 396 spaces; from Section 238.2 of the B.C.Z.R. to permit a side yard setback of 10 feet in lieu of the required 30 feet for a proposed restaurant use, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

[Signature]
 TIMOTHY M. KOTROCO
 Deputy Zoning Commissioner

ORDER RECEIVED FOR FILING
 Date 6/18/92
 By [Signature]

Suite 113, Courthouse
 400 Washington Avenue
 Towson, MD 21284

June 8, 1992

Edward C. Covahey, Jr., Esquire
 614 Bosley Avenue
 Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE
 SW/Corner Church Lane and York Road
 (9945-96 York Road)
 8th Election District - 3rd Councilmanic District
 Katherine Strakes - Petitioner
 Case No. 92-384-A

Dear Mr. Covahey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

[Signature]
 TIMOTHY M. KOTROCO
 Deputy Zoning Commissioner
 for Baltimore County

TMK:bjs

cc: People's Counsel

file

92-384A 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 (1) Section 409.6 B.3 to allow for three hundred eighty-seven (387) parking spaces in lieu of the required three hundred ninety-six (396). (2) To permit a sideyard variance from section 238.2 to allow a sideyard of ten (10) feet in lieu of the required thirty (30).

1. Warehouse space rendered obsolete by bankruptcy of tenant.
2. Warehouse space is incompatible with shopping center retail use, and shopper accommodation.
3. Without granting of sideyard set back, adjacent property to east may not be utilized.

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:	Legal Owner(s):
(Type or Print Name)	(Type or Print Name)
Signature	Signature
Address	(Type or Print Name)
City and State	Signature
Atorney for Petitioner:	718 YORK ROAD 666-5849
Edward C. Covahey, Jr.	Address
(Type or Print Name)	TOWSON, MARYLAND 21204
Signature	City and State
614 Bosley Avenue	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Address	KATHERINE STRAKES
Towson, Maryland 21204	Address
City and State	718 York Rd 666-5849
Atorney's Telephone No.: (410)828-9441	Address

92-384-A

M. & H. DEVELOPMENT ENGINEERS, INC.
 200 EAST JOPPA ROAD
 ROOM 101, SHELL BUILDING
 TOWSON, MARYLAND 21204

MARCH 30, 1992

DESCRIPTION FOR PARKING AND SIDE YARD VARIANCE
 FOR PROPERTY OF CHURCH LANE SHOPPING CENTER

Beginning for the same at a point measured 90 feet southeasterly from the center line of Church Lane (60 foot R/W) and the southwesterly side of York Road (66 foot R/W)

thence S 18° 32' 06" E 123.55 feet;
 thence S 71° 27' 54" W 200.00 feet;
 thence S 18° 30' 06" E 131.00 feet;
 thence N 71° 27' 54" E 28.00 feet;
 thence S 01° 12' 26" E 45.26 feet;
 thence S 87° 23' 01" W 57.00 feet;
 thence S 18° 32' 06" E 100.00 feet;
 thence S 87° 23' 01" W 256.55 feet;
 thence S 81° 58' 56" W 64.92 feet;
 thence S 71° 08' 01" W 138.60 feet;
 thence N 00° 12' 10" W 624.23 feet;
 thence S 33° 09' 29" E 309.12 feet;
 thence S 75° 14' 00" E 75.00 feet;
 thence S 13° 54' 00" W 138.32 feet;
 thence S 83° 33' 52" E 55.92 feet;
 thence N 06° 07' 43" E 38.27 feet;
 thence N 75° 12' 43" E 70.18 feet;
 thence S 14° 47' 17" E 3.00 feet;
 thence N 75° 12' 43" E 68.78 feet to the Place of Beginning.

Containing 5.77 acres of land more or less recorded in the land records of Baltimore County in Liber 5032, folio 283.

Malcolm E. Hudkins
 Registered Surveyor #5095

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 33 Date of Posting: 6/18/92

Posted for: Katherine Strakes

Petitioner: Katherine Strakes

Location of property: Church Lane Shopping Center

Location of Sign: York Road, Towson, Md. 21204

Remarks: [Blank]

Posted by: [Signature] Date of return: 7/1/92

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 6/23, 1992

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/23, 1992

THE JEFFERSONIAN,
 S. Zate Orlow
 Publisher

\$42.25

receipt

Baltimore County Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21204

Date: 6/30/92 Account: P-001-4180 Number: H9200401

PUBLIC HEARING FEE	CITY	PRICE
920	30	\$175.00
TOTAL:		\$175.00

064040102KICRRC \$175.00
 EA 009143A03-31-92
 Please Make Checks Payable To: Baltimore County

92-384A

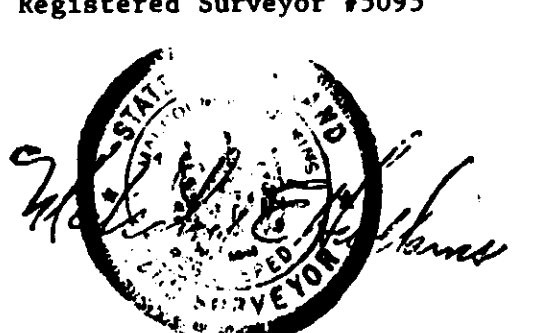
Date: 6/23/92 Account: P-001-4180 Number: H9200401

THE JEFFERSONIAN
 S. Zate Orlow
 Publisher

\$42.25

ORDER RECEIVED FOR FILING
 Date 6/18/92
 By [Signature]

Zoning Commissioner of Baltimore County.



92-384-A
 Baltimore County Government
 Office of Zoning Administration
 and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

DATE: 4/25/92

Katherine Strakes
 719 York Road
 Towson, Maryland 21204

RE:
 CASE NUMBER: 92-384-A
 9945-96 York Road
 8th Election District - 3rd Councilmanic
 Petitioner(s): Katherine Strakes (Church Lane Shopping Center)

Dear Petitioner(s):

Please be advised that \$ 7725 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE HEARING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Arnold Jablon
 ARNOLD JABLON
 DIRECTOR

cc: Edward C. Covahey, Jr., Esq.

92-384-A
 Baltimore County Government
 Office of Zoning Administration
 and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

APRIL 15, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-384-A
 9945-96 York Road
 8th Election District - 3rd Councilmanic
 Petitioner(s): Katherine Strakes (Church Lane Shopping Center)
 HEARING: MONDAY, MAY 18, 1992 at 9:45 a.m.

Variance to allow for 387 parking spaces in lieu of the required 396; and to allow a side yard of 10 feet in lieu of the required 30 feet.

Lawrence E. Schmidt
 LAWRENCE E. SCHMIDT
 Zoning Commissioner of
 Baltimore County

cc: Katherine Strakes
 Edward C. Covahey, Jr., Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government
 Office of Zoning Administration
 and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

May 7, 1992

Edward C. Covahey, Esquire
 614 Bosley Avenue
 Towson, MD 21204

RE: Item No. 401, Case No. 92-384-A
 Petitioner: Katherine Strakes
 Petition for Zoning Variance

Dear Mr. Covahey:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Baltimore County Government
 Office of Zoning Administration
 and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21204 (410) 887-3353

Your petition has been received and accepted for filing this 9th day of April, 1992.

Arnold Jablon
 ARNOLD JABLON
 DIRECTOR

Received By:
W. Carl Richards, Jr.
 Chairman,
 Zoning Plans Advisory Committee

Petitioner: Katherine Strakes
 Petitioner's Attorney: Edward C. Covahey

BUREAU OF TRAFFIC ENGINEERING
 DEPARTMENT OF PUBLIC WORKS
 BALTIMORE COUNTY, MARYLAND

DATE: April 16, 1992

TO: Mr. Arnold Jablon, Director
 Office of Zoning Administration
 and Development Management

FROM: Stephen E. Weber

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: April 13, 1992

This office has no comments for item numbers 392, 396, 397, 398, 399, 401, 404, 405, 407, 408, 413 and 417.

Stephen E. Weber
 Stephen E. Weber, P.E.
 Assistant Traffic Engineer

SEW/dm

BALTIMORE COUNTY, MARYLAND
 DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
 INTER-OFFICE CORRESPONDENCE

April 15, 1992

TO: Arnold Jablon, Director
 Zoning Administration and Development Management

FROM: DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Comments

The agenda for the zoning advisory committee meeting of April 13, 1992 has been reviewed by the Department of the Environmental Protection and Resource Management Staff.

There is no comment for the following item numbers:

392
 396
 399
 400
 401
 404
 407
 408
 413
 414
 417

SSF:rmp
 ZNG.NCS/GWRMP

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 APR 21 1992
 ZONING OFFICE

Baltimore County Government
 Fire Department

700 East Joppa Road, Suite 901
 Towson, MD 21204-5500 (410) 887-1500

APRIL 14, 1992

Arnold Jablon
 Director
 Zoning Administration and
 Development Management
 Baltimore County Office Building
 Towson, MD 21204

RE: Property Owner: KATHERINE STRAKES
 Location: #9945-96 YORK ROAD
 Item No.: 401 L3G Zoning Agenda: APRIL 13, 1992

Gentlemen:

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

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Carl J. ...* Noted and Approved
 Planning Group Fire Prevention Bureau
 Special Inspection Division

JP/KEK

BALTIMORE COUNTY GOVERNMENT
 INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
 Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
 for April 15, 1992
 Item 401

The Developer's Engineering Division has reviewed the subject zoning item and we feel that the proposed creation of a parcel to be conveyed falls under Section 20-171 (a)(5) and would therefore be exempt from Division 2 of the regulation.

A Public Works Agreement is not required; but we feel that the referenced section implies that a record plat is required. Subsequent development of the parcel is subject to Division 2.

We have no comment on the two variances.

Robert W. Bowling
 ROBERT W. BOWLING, P.E., Chief
 Developers Engineering Division

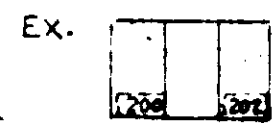
RWB:DAK-s

RECEIVED
 APR 15 1992
 ZONING OFFICE

THE SPACES ARE EXCLUSIVELY FOR THE USE OF CHURCH LANE SHOPPING CENTER - NO LEASED SPACES.
 PROPOSED 3,618 SQ. FT. RETAIL BUILDING WOULD BE PERMITTED WITHOUT A SPECIAL HEARING TO AMEND PARKING VARIANCE - CASE NO. 81-192-A

- ALL EMPLOYEES SHALL PARK IN REAR.
 - SIGNS POSTED TO STATE "PARKING FOR CUSTOMERS OF SHOPPING CENTER ONLY" SHOWN BY #

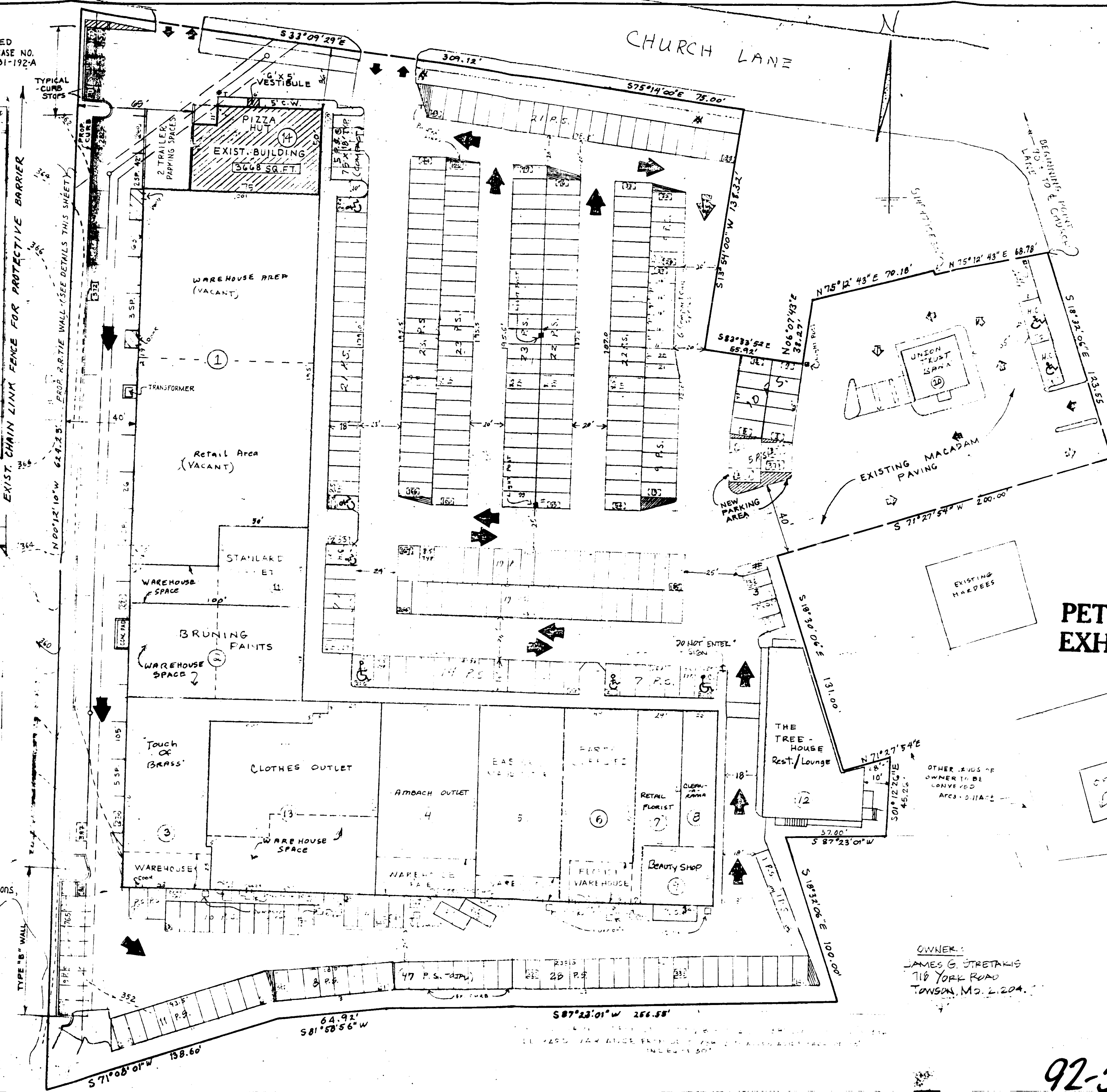
Parking Count Totals shown in or near end of parking spaces where possible.



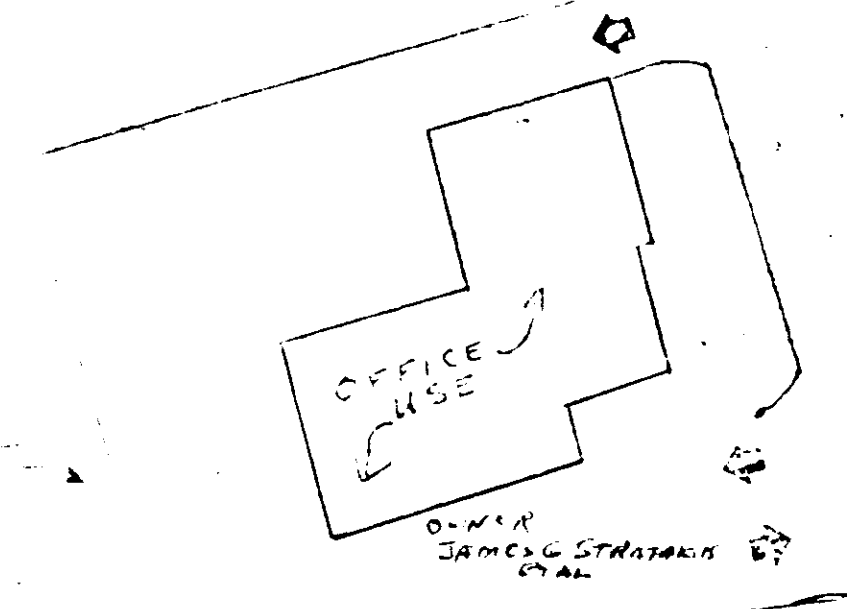
NOTE: Information shown hereon is not based on a field survey. Actual building locations, utility locations, etc. must be verified in the field.



M. & H. DEVELOPMENT ENGINEERS, INC.
 200 EAST JOPPA ROAD
 ROOM 101, SHELL BUILDING
 TOWSON, MARYLAND 21204



PETITIONER'S EXHIBIT 1



OWNER:
 JAMES G. STRETAKIS
 718 YORK ROAD
 TOWSON, MD. 21204.

SITE DATA
 Gross Area of Tract: 5.17 AC ±
 Ex. Zoning: B.P.
 Floor area ratio allowed: 2.00 = 451,416 S.F.
 Floor area comp. prop. max: 0.27, prop. 230

92-384-A