

IN THE MATTER OF
THE APPLICATION OF
10,000 YORK ROAD LLC, C/O
BROOKMAN MOTORWORKS -
PETITIONERS FOR SPECIAL
EXCEPTION AND VARIANCE ON
PROPERTY LOCATED ON THE SOUTH
SIDE CHURCH LANE, 1480' WEST
OF THE C/L OF YORK ROAD
(131 CHURCH LANE)
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 97-548-XA

* * * * *

O P I N I O N

This matter comes before the County Board of Appeals on appeal from the granting by Deputy Zoning Commissioner of Petitions for Special Exception and Variance filed by the property owner, 10,000 York Road LLC. The Petitioners request a special exception to permit a service garage use on the subject property, zoned M.L.-I.M., and variance relief from the Baltimore County Zoning Regulations (BCZR) as follows: From Section 255.1, 238.1 and 238.2 to permit a front yard setback of 7 feet from an existing road right-of-way and 22 feet from the center of an existing road, in lieu of the required 25 feet and 50 feet, respectively, and to permit a side and rear yard of as close as 5 feet each in lieu of the required 30 feet; and from Sections 409.4.B and 409.8.A.4 to permit parking spaces (in parking bays) without direct access to a travel aisle, as usually required, and to permit a parking setback from an existing road right-of-way of 0 feet in lieu of the required 10 feet. The subject property, known as 131 Church Lane, is located in the vicinity of Beaver Dam Road in Cockeysville, and is more particularly described on the site plan submitted which was placed in evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitioner was Robert D. Brookman, President of Brookman Motorworks, proposed tenant and principal of 10,000 York Road LLC, the property owner, and Paul Lee, Professional Engineer, who prepared the site plan and development scheme for the property. William F.C. Marlow, Jr., Esquire, represented Petitioner on the appeal. Peter Max Zimmerman appeared on behalf of the Office of People's Counsel. Appearing as Protestants in the matter were George Eckhart III, nearby resident, and David O. Kaiss, who left prior to the conclusion of the hearing and did not testify.

Paul Lee, as Petitioner's expert, testified that the subject property, zoned M.L.-I.M., consists of 12,450 sq. ft., more or less, and is presently unimproved. He demonstrated his familiarity with the requirements for a special exception and opined that those requirements have been met in this case. The Petitioners are desirous of developing the property with an automotive service garage, consisting of six (6) service bays and general office space, with an accessory parking area in the front portion of the lot. Mr. Lee pointed out that the property was unique in several respects: (1) it has a 7-foot higher elevation than adjoining properties which thus makes it difficult topographically to tie up with other lots; (2) it is small and unimproved while the surrounding properties are improved thus precluding any meaningful commercial use of the property without variances; and (3) the surrounding properties consist mostly of nonconforming commercial uses or conforming uses with variances. He stated, in addition,

that the strict imposition of the zoning regulations with the substantial setbacks as applied to this particular property would impose undue hardship in trying to build anything of utility larger than the size of a telephone booth or the like.

Testimony revealed that Mr. Brookman is affiliated with Brookman Motorworks, a "previously-owned" or used BMW automobile dealership located at the corner of Church Lane and York Road, one-half mile from the subject site. Although automotive services for BMWs are provided at this location, the service center on that site is insufficient in size and design to handle all of the cars that they sell and those that are brought in for service. Accordingly, the Petitioners wish to develop the subject site with a larger and more efficient service garage. However, in order to proceed with the proposed improvements, the requested special exception and variance relief are necessary.

The combined testimony indicated that the proposed building would be designed in keeping with BMW sales establishment and that only service work will be performed. The Petitioners indicated that they wish to operate their business Monday through Friday, 8:00 a.m. to 5:00 p.m., and they intend to have a gated entrance to the proposed facility, which will provide adequate security for vehicles stored on site as well as prevent access after hours. Late night deliveries would be made at another location.

George Eckhart appeared and testified that he was satisfied with the relief requested provided the Petitioners amend their Petition to increase from 22 feet to 40 feet the front setback from

the center of Church Lane so as to match the setback of another neighbor's property. The Petition for Variance was amended to reflect the increased building setback. Mr. Eckhart is a long-time resident of Church Lane, and his home is located directly across from the subject site.

The Baltimore County Zoning Regulations permit proposed service garage use in an M.L.-I.M. zone by special exception.

The Petitioner has met the burden of adducing testimony and evidence which show that the proposed use meets the prescribed standards and requirements set forth in Section 502.1 of the BCZR. The Petitioner has shown that the proposed use would be conducted without detriment to the neighborhood and would not adversely affect the public interest.

After reviewing all of the testimony and evidence presented, the Board believes that the special exception should be granted. The photographs and video film submitted by the Petitioner and the site plan demonstrate that the subject property is located in an area appropriate for this type of use. In fact, all of the property surrounding the subject site, including that occupied by Mr. Eckhart, is zoned M.L. Furthermore, Church Lane dead-ends at the Genstar rock quarry located not far from the subject site, and many of the surrounding properties along Church Lane have been converted to commercial or industrial uses. The proposed use of the subject property as a service garage for their BMW operation located nearby is consistent with the character of the surrounding area and should be permitted.

The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone, Schultz v. Pritts, 432 A.2d 1319 (1981), nor will the proposed use be detrimental to the health, safety, or general welfare of the locality. It will not tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, or otherwise in any way be inconsistent with the spirit and intent of the BCZR.

Having determined that a special exception should be granted, we address the variance requested. Umerley v. People's Counsel teaches:

A variance may only be granted after a two-step inquiry. First, the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property. Cromwell v. Ward, 102 Md.App. 691, 721, 651 A.2d 424 (1995). If such a finding is made, the zoning authority must then determine whether an unreasonable hardship results from the disproportionate impact of the ordinance. Id.

Umerley, 108 Md.App. 497 at 505 (1996).

North v. St. Mary's County, addressed the first prong of the test:

...the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area (i.e., its shape, topography, subsurface, condition, environmental factors,

historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties [such as obstructions] or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

North, 99 Md. App. 502 at 514 (1994).

Clearly, the Petitioner has demonstrated that the subject property is "unique" as defined in North. Its shape, elevation, size, topography, the practical restriction imposed by abutting properties, and its being the only unimproved property in an area overrun with improved nonconforming uses all bring this property within the requirements of BCZR Section 307.1.

Our next inquiry requires us to determine whether the strict application of the zoning regulations would cause practical difficulty to the Petitioner and its property. McLean v. Soley, 270 Md. 208 (1973). In order to establish practical difficulty for an area variance, the Petitioner must meet the following standards:

- 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 a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient 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).

The testimony and evidence presented make it clear that practical difficulty or unreasonable hardship will result if the

variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions described which are unique to this particular parcel. In short, if this Board imposes the requisite setbacks on the property, Petitioner is not left with much upon which to build. Finally, the relief requested will not be detrimental to the health, safety or general welfare of the surrounding locale, and meets the spirit and intent of the BCZR.

Therefore, for the reasons given above, the requested special exception and variance relief should be granted.

O R D E R

IT IS THEREFORE this 19th day of February, 1998, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception to permit a service garage use on the subject property, zoned M.L.-I.M., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and it is further

ORDERED that the Petition for Variance, as amended, seeking relief from the Baltimore County Zoning Regulations as follows: From Sections 255.1, 238.1 and 238.2 to permit a front yard setback of 40 feet from the center of an existing road, in lieu of the required 50 feet, and to permit a side and rear yard of as close as 5 feet in lieu of the required 30 feet; and from Section 409.4.B and 409.8.A.4 to permit parking spaces (in parking bays) without

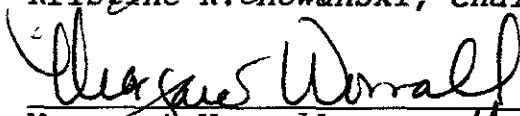
direct access to a travel aisle as usually required and to permit a parking setback of 0 feet from an existing road right-of-way in lieu of the required 10 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

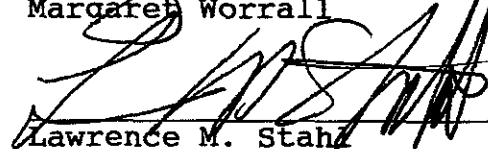
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



Kristine K. Howanski, Chairman



Margaret Worrall



Lawrence M. Stahl



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

February 19, 1998

Mr. and Mrs. George Eckhart
132 Church Lane
Cockeysville, MD 21030

RE: Case No. 97-548-XA
10,000 York Road LLC c/o Brookman Motorworks

Dear Mr. and Mrs. Eckhart:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Administrator

encl.

cc: William F.C. Marlow, Jr., Esquire
Lindsay Dryden, Jr., Vice President
Brookman Motorworks
Robert D. Brookman, President
Brookman Motorworks
Paul Lee, Professional Engineer
David O. Kaiss
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

IN RE:	PETITIONS FOR SPECIAL EXCEPTION	*	BEFORE THE
	AND VARIANCE – S/S Church Lane,		
	1480' W of the c/l of York Road	*	COUNTY BOARD
	(131 Church Lane)		
	8 th Election District	*	OF APPEALS
	3 rd Councilmanic District		
		*	OF BALTIMORE
	10,000 York Road LLC, c/o		
	Brookman Motorworks – Petitioners	*	COUNTY
		*	Case No. 97-548-XA
*	*	*	*
*	*	*	*

ORDER

I. FINDINGS OF FACT:

This matter comes before the County Board of Appeals on appeal from the granting by Deputy Zoning Commisioner of Petitions for Special Exception and Variance filed by the property owner, 10,000 York Road LLC. The Petitioners request a special exception to permit a service garage use on the subject property, zoned M.L.-I.M., and variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 255.1, 238.1, and 238.2 to permit a front yard setback of 7 feet from an existing road right-of-way and 22 feet from the center of an existing road, in lieu of the required 25 feet and 50 feet, respectively, and to permit a side and rear yard of as close as 5 feet each in lieu of the required 30 feet; and from Sections 409.4.B and 409.8.A.4 to permit parking spaces (in parking bays) without direct access to a travel aisle, as usually required, and to permit a parking setback from an existing road right-of-way of 0 feet in lieu of the required 10 feet. The subject property, known as 131 Church Lane, is located in the vicinity of Beaver Dam Road in Cockeysville, and is more particularly described on the site plan submitted which was placed in evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitioner were Bob Brookman, President of Brookman Motorworks, proposed tenant and as a principal of 10,000 York Road LLC, and Paul Lee, Professional Engineer, who prepared the site plan and development scheme for the property. Appearing as Protestants in the matter were George Eckhart, III, nearby resident, and David O. Kaiss, who left prior to the conclusion of the hearing and did not testify.

Paul Lee, as Petitioner's expert, testified that the subject property, zoned M.L.-I.M., consists of 12,450 sq. ft., more or less, and is presently unimproved. He demonstrated his familiarity with the requirements for a special exception and opined that those requirements have been met in this case. The Petitioners are desirous of developing the property with an automotive service garage, consisting of six (6) service bays and general office space, with an accessory parking area in the front portion of the lot. Mr. Lee pointed out that the property was unique in that, *inter alia*, it has a 7' higher elevation than adjoining properties, is unimproved while the surrounding properties are improved and the surrounding properties consist mostly of non-conforming commercial uses or conforming uses with variances. He stated, in addition, that the lot is small in size; and the strict imposition of the zoning regulations, as applied to this particular property, would impose undue hardship.

Testimony revealed that Mr. Brookman is affiliated with Brookman Motorworks, a "previous-owned" or used BMW automobile dealership located at the corner of Church Lane and York Road, one-half mile from the subject site. Although automotive services for BMWs are provided at this location, the service center on that site is insufficient in size and design to handle all of the cars that they sell and those that are brought in for service.

Accordingly, the Petitioners wish to develop the subject site with a larger and more efficient service garage. However, in order to proceed with the proposed improvements, the requested special exception and variance relief are necessary.

The combined testimony indicated that the proposed building would be designed in keeping with the BMW sales establishment and that only service work will be performed. The Petitioners indicated that they wish to operate their business Monday through Friday, 8:00 a.m. to 5:00 p.m. and they intend to have a gated entrance to the proposed facility, which will provide adequate security for vehicles stored on site as well as prevent access after hours. Late night deliveries would be made at another location.

George Eckhart appeared and testified in favor of the relief requested provided the Petitioners amend their Petition to increase from 22' to 40' the front setback from the center of Church Lane. The Petition for Variance was amended to reflect the increased building setback. Mr. Eckhart is a long-time resident of Church Lane and that his home is located directly across from the subject site.

II. CONCLUSIONS OF LAW:

The Baltimore County Zoning Regulations permit proposed service garage use in a M.L.-I.M. zone by special exception.

The Petitioner has met the burden of adducing testimony and evidence which show that the proposed use meets the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without detriment to the neighborhood and would not adversely affect the public interest.

After reviewing all of the testimony and evidence presented, the Board believes that the special exception should be granted. The photographs and video film submitted by

the Petitioner and the site plan demonstrate that the subject property is located in an area appropriate for this type of use. In fact, all of the property surrounding the subject site, including that occupied by Mr. Eckhart, is zoned M.L. Furthermore, Church Lane dead-ends at the Genstar rock quarry located not far from the subject site, and many of the surrounding properties along Church Lane have been converted to commercial or industrial uses. The proposed use of the subject property as a service garage for their BMW operation located nearby is consistent with the character of the surrounding area and should be permitted.

The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981), nor will the proposed use be detrimental to the health, safety, or general welfare of the locality. It will not tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, or otherwise in any way be inconsistent with the spirit and intent of the B.C.Z.R.

Having determined that a special exception should be granted, we address the variance requested. Umerley v. People's Counsel, teaches:

A variance may only be granted after a two-step inquiry. First, the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property. Cromwell v. Ward, 102 Md. App. 691, 721, 651 A.2d 424 (1995). If such a finding is made, the zoning authority must then determine whether an unreasonable hardship results from the disproportionate impact of the ordinance. Id.

Umerley, 108 Md. App. 497 at 505 (1996).

North v. St. Mary's County, addressed the first prong of the test:

the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.

"Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area (i.e. its shape, topography, subsurface, condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

North, 99 Md. App. 502 at 514 (1994).

Clearly, the Petitioner has demonstrated that the subject property is "unique" as defined in North. Its shape, elevation, size, topography, the practical restriction imposed by abutting properties, and its being the only unimproved property in an area overrun with improved non-conforming uses bring this property within the requirements of B.C.Z.R. §307.1.

Our next inquiry requires us to determine whether the strict application of the zoning regulations would cause practical difficulty to the Petitioner and its property.

McLean v. Soley, 270 Md. 208 (1973). In order to establish practical difficulty for an area variance, the Petitioner must meet the following standards:

- 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 a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient 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).

The testimony and evidence presented make it clear that practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions described which are unique to this particular parcel. In addition, the relief requested will not be detrimental to the health, safety or general welfare of the surrounding locale, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and a public hearing on the Petitions having been held, and for the reasons given above, the requested special exception and variance relief should be granted.

IT IS THEREFORE ORDERED by the County Board of Appeals for Baltimore County, this _____ day of December, 1997, that the Petition for Special Exception to permit a service garage use on the subject property, zoned M.L.-I.M., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance, as amended, seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Sections 255.1, 238.1, and 238.2 to permit a front yard setback of 40 feet from the center of an existing road, in lieu of the required 50 feet and to permit a side and rear yard of as close as 5 feet in lieu of the required 30 feet; and from Section 409.4.B and 409.8.A.4 to permit parking spaces (in parking bays) without direct access to a travel aisle as usually required and to permit a parking setback of 0 feet from an existing road right-of-way in lieu of the required 10 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit 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 the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

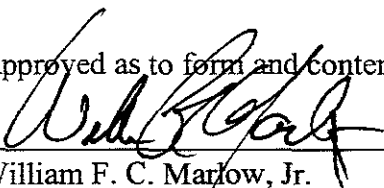
COUNTY BOARD OF APPEALS FOR
BALTIMORE COUNTY:

By: _____
Kristine K. Howanski

By: _____
Margaret T. Worrall

By: _____
Lawrence M. Stahl

Approved as to form and content:



William F. C. Marlow, Jr.



Patricia O'C. B. Farley
Attorneys for Petitioner

Approved as to form:

George Eckhart

Peter Max Zimmerman
People's Counsel

David O. Kaiss

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
PETITION FOR VARIANCE
131 Church Lane, S/S Church Lane, * COUNTY BOARD OF APPEALS
1480' W of c/I York Road
8th Election District, 3rd Councilmanic * OF BALTIMORE COUNTY

10,000 York Road LLC * CASE NO. 97-548-XA
Petitioner

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of William F. C. Marlow, Jr. and Marlow & Wyatt,
attorneys, in the above-captioned matter.



William F. C. Marlow, Jr., Esquire
Marlow & Wyatt
404 Allegheny Avenue
Towson, Maryland 21204
(410) 821-1013
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of December, 1997 a copy of the
foregoing Entry of Appearance was hand delivered to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204

Carole S. Demilio, Esquire
Deputy People's Counsel for Baltimore County
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204



William F. C. Marlow, Jr.

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE - S/S Church Lane,
1480' W of the c/l of York Road * DEPUTY ZONING COMMISSIONER
(131 Church Lane)
8th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District * Case No. 97-548-XA

10,000 York Road LLC, c/o
Brookman Motorworks - Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owner of the property, 10,000 York Road LLC, c/o Brookman Motorworks, by Lindsay Dryden, Jr., Vice President, through their attorneys, Michael L. Snyder, Esquire and Patricia O'C B. Farley, Esquire. The Petitioners request a special exception to permit a service garage use on the subject property, zoned M.L.-I.M., and variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Sections 255.1, 238.1, and 238.2 to permit a front yard setback of 7 feet from an existing road right-of-way and 22 feet from the center of an existing road, in lieu of the required 25 feet and 50 feet, respectively, and to permit a side and rear yard of as close as 5 feet each in lieu of the required 30 feet; and from Sections 409.4.B and 409.8.A.4 to permit parking spaces (in parking bays) without direct access to a travel aisle, as usually required, and to permit a parking setback from an existing road right-of-way of 0 feet in lieu of the required 10 feet. The subject property, known as 131 Church Lane, is located in the vicinity of Beaver Dam Road in Cockeysville, and is more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 2.

ORDER RECEIVED FOR FILING

Date

By

Appearing at the hearing on behalf of the Petitions were Lindsay Dryden, Jr., Vice President of 10,000 York Road LLC, Bob Brookman, President of Brookman Motorworks, Paul Lee, Professional Engineer who prepared the site plan for this property, and Patricia Farley, Esquire, attorney for the Petitioners. Appearing as Protestants in the matter were George Eckhart, III, and his wife, Margaret Eckhart, nearby residents.

Testimony and evidence offered revealed that the subject property consists of 12,450 sq.ft., more or less, zoned M.L.-I.M. and is presently unimproved. The Petitioners are desirous of developing the property with a one-story automotive service garage, consisting of six (6) service bays and general office space, with an accessory parking area in the front portion of the lot. Testimony revealed that Mr. Dryden and Mr. Brookman are affiliated with Brookman Motorworks, a used BMW dealership located at the corner of Church Lane and York Road. Mr. Brookman testified that although automotive services for BMW's are provided at this location, the service center on that site is insufficient in size and design to handle all of the cars that are brought in for service, including those that they sell. Thus, the Petitioners wish to develop the subject site with a larger and more efficient service garage. However, in order to proceed with the proposed improvements, the requested special exception and variance relief are necessary.

Further testimony indicated that the proposed building would be designed in keeping with the BMW sales establishment and that all service work will be performed by appointment only. The Petitioners propose only to provide mechanical services on the subject property and agreed that no body or fender work would be performed on the site. The Petitioners indicated that at the present time, they wish to operate their business Monday

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through Friday, 8:00 AM to 5:00 PM and do not intend to have any hours on Saturday and Sunday. Furthermore, the Petitioners intend to have a gated entrance to the proposed facility, thereby providing adequate security for vehicles stored on site as well as preventing access after hours. Should the need arise for any late night deliveries, those deliveries would be made at the Brookman Motorworks dealership at the intersection of York Road and Church Lane.

As noted above, Mr. and Mrs. George Eckhart appeared and testified in opposition to the relief requested. Testimony revealed that the Eckharts are long-time residents of Church Lane and that their house is located directly across from the subject site. In fact, Mrs. Eckhart has lived on her property for the past 50 years. The Eckharts are concerned about noise pollution, storm water runoff, and the additional traffic that will be generated as a result of the proposed service garage, and thus, are opposed to the relief requested.

It is clear that the B.C.Z.R. permits the use proposed in a M.L.-I.M. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any

ORDER RECEIVED FOR FILING

Date

By

adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted. The photographs submitted by the Petitioners and the site plan show that the subject property is located in an area appropriate for this type of use. In fact, all of the property surrounding the subject site, including that owned by the Eckharts, is zoned M.L. Furthermore, Church Lane dead-ends into the Genstar rock quarry located not far from the subject site, and many of the surrounding properties along Church Lane have been converted over to commercial or industrial uses. In my view, the Petitioners' proposal to use the subject property as a service garage for their BMW operation located nearby is consistent with the character of the surrounding area and should be permitted.

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. Soley, 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;

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[Signature]
#35

2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient 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).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the health, safety or general welfare of the surrounding locale, and meets the spirit and intent of the B.C.Z.R.

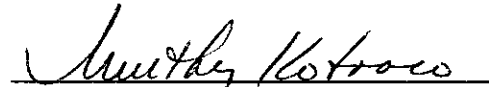
Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the requested special exception and variance relief should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 6th day of August, 1997 that the Petition for Special Exception to permit a service garage use on the subject property, zoned M.L.-I.M., in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Sections 255.1, 238.1, and 238.2 to permit a front yard setback of 7

feet from an existing road right-of-way and 22 feet from the center of an existing road, in lieu of the required 25 feet and 50 feet, respectively, and to permit a side and rear yard of as close as 5 feet in lieu of the required 30 feet; and from Section 409.4.B and 409.8.A.4 to permit parking spaces (in parking bays) without direct access to a travel aisle as usually required and to permit a parking setback of 0 feet from an existing road right-of-way in lieu of the required 10 feet, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit 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 the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 8/16/92
By [Signature]



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

August 6, 1997

Michael L. Snyder, Esquire
Patricia O'C B. Farley
400 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
S/S Church Lane, 1480' W of the c/l of York Road
(131 Church Lane)
8th Election District - 3rd Councilmanic District
10,000 York Road LLC c/o Brookman Motor - Petitioners
Case No. 97-548-XA

Dear Mr. Snyder and Ms. Farley:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have 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 the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Lindsay Dryden, Jr., Vice President, 10,000 York Road LLC
10,000 York Road, Cockeysville, Md. 21030

Mr. Paul Lee, 304 W. Pennsylvania Avenue, Towson, Md. 21204

Mr. & Mrs. George Eckhardt, 132 Church Lane, Cockeysville, Md. 21030

People's Counsel; Case Files

RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
PETITION FOR VARIANCE		
131 Church Lane, S/S Church Lane,	*	ZONING COMMISSIONER
1480' W of c/l York Road		
8th Election District, 3rd Councilmanic	*	OF BALTIMORE COUNTY
10,000 York Road LLC	*	CASE NO. 97-548-XA
Petitioner		
* * * * *		

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

Carole S. Demilio
 CAROLE S. DEMILIO
 Deputy People's Counsel
 Room 47, Courthouse
 400 Washington Avenue
 Towson, MD 21204
 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of July, 1997, a copy of the foregoing Entry of Appearance was mailed to Michael L. Snyder, Esq., Coady & Farley, 400 Allegheny Avenue, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN

548



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at

131 CHURCH LANE

97-548-XA

which is presently zoned

ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for Permit a Service Garage in a ML-IM zone.

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

I, or we, agree to pay expenses of above Special Exception 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.

~~Contract Purchaser~~ Engineer:
Paul Lee Engineering, Inc.

Paul Lee

(Type or Print Name)

Paul Lee

Signature

304 W. Pennsylvania Avenue

Address

Towson, Maryland 21204

City

State

Zipcode

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.

Legal Owner(s):

10,000 York Road LLC c/o Brookman Motor

(Type or Print Name)

Signature

Lindsay Dryden, Jr.

(Type or Print Name)

Lindsay Dryden, Jr., Vice President

Signature

10,000 York Road

Address

(410) 666-0800

Phone No.

Cockeysville, Maryland

21030

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Coady & Farley

Name

400 Allegheny Avenue

Address

(410) 337-0200

Phone No.

Towson, Maryland 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

ORDER RECEIVED FOR FILING

Date

By

Attorney for Petitioner:

Coady & Farley

(Type or Print Name)

Michael L. Snyder

Patricia O.C.B. Farley

Signature

400 Allegheny Avenue

Address

(410) 337-0200

Phone No.

Towson, Maryland

City

State

Zipcode





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at

131 CHURCH LANE

97-548-XA

which is presently zoned ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

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(s)

See attached.

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 presented 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.

Contract Purchaser/Engineer:

Paul Lee Engineering, Inc.

Paul Lee

(Type or Print Name)

Paul Lee

Signature

304 W. Pennsylvania Avenue

Address

Towson, Maryland 21204

City

State

Zipcode

Attorney for Petitioner:

Coad & Farley

(Type or Print Name)

Michael L. Snyder Patricia D'C.B. Farley

Michael L. Snyder Patricia D'C.B. Farley

Signature

400 Allegheny Avenue (410) 337-0200

Address

Phone No.

Towson, Maryland 21204

City

State

Zipcode

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.

Legal Owner(s):

10,000 York Road LLC c/o Brookman Motor Work

(Type or Print Name)

Lindsay Dryden, Jr.

Signature

Lindsay Dryden, Jr., Vice President

(Type or Print Name)

Signature

10,000 York Road

(410) 666-0800

Address

Phone No.

Cockeysville, Maryland 21030

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Coady & Farley

Name

400 Allegheny Avenue (410) 337-0200

Address

Phone No.

Towson, Maryland 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

2-3 hr

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

5/5/97



Printed with Soybean Ink
on Recycled Paper

ORDER RECEIVED FOR FILING
5/5/97
[Signature]

PETITION FOR VARIANCE

97-548-XA

Petitioner requesting a Variance to Section 255.1, 238.1,, and 238.2 of the BCZR to permit a front yard setback of 7' from an existing road R/W and 22' from the center of an existing road in lieu of the required 25' and 50' and to permit a side and rear yard as close as 5' in lieu of the required 30' (a Variance of 18' and 28' and 25'), and a Variance to Section 409.4.B and 409.8.A.4 of the BCZR to permit parking spaces (in parking bays) without direct access to a travel aisle as usually required and to permit a 0' setback for parking from an existing road R/W in lieu of the required 10' (a Variance of 10').

ORDER RECEIVED FOR FILING

Date

By

Paul Lee, P.E.

548

Paul Lee Engineering Inc.

304 W. Pennsylvania Ave.

Towson, Maryland 21204

410-821-5941

DESCRIPTION

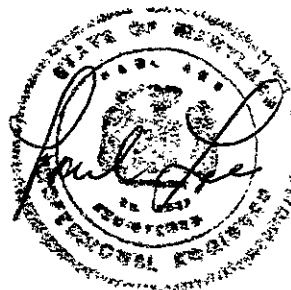
97-548-XA

#131 CHURCH LANE

ELECTION DISTRICT 8C3 BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the south side of Church Lane, said point also being located west-erly - 1480 feet⁺ from the center of York Road; thence leaving said south side of Church Lane (1) S 12° W - 102 feet, thence (2) N 77½° W - 109 feet, 6 inches, thence (3) N 16½° E - 106 feet to the south side of Church Lane, thence running with and binding on said south side of Church Lane (4) S 75½° E - 102 feet to the point of be-ginning.

Containing 10,920 s.f. of land, more or less.



J.O. 97-020
5/16/97

Engineers — Surveyors — Site Planners ✓

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

042652

DATE 9/5/97 ACCOUNT R-001-6150

AMOUNT \$ 460.00

RECEIVED FROM: David D. Kaiss Co.

FOR: Appeal - Case # 97-548-XA

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

Rye

PAID RECEIPT

PROCESS ACTUAL TIME

9/05/1997 9/05/1997 14:30:02

REG 4803 CASHIER UNIT ULN DRAWER

MISCELLANEOUS CASH RECEIPT

Receipt # 017712

CS NO. 042652

OFFICE

460.00 CHECK: FU

Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

038045

DATE 6/6/97 ACCOUNT 01-615

By: mtl
Item 548

AMOUNT \$ 550.00

RECEIVED FROM: 10000 York Rd LLC - 131 Church Lane

020 - Comm Trar \$ 250.00

FOR: 020 - Sp Expense \$ 300.00

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed rezoning of the following property:

Case # 67-648-XA
131 Church Lane, 1480 W of York Road
8th Election District
3rd Councilmanic
Legal Owner(s):
10,000 York Road LLC

Special Exception: to permit a service garage in a M.L.-1M zone. Variance: to permit a front yard setback of 7 feet from an existing road right-of-way and 22 feet of existing road in lieu of the required 25 feet and 50 feet and to permit a side and rear yard as close as 5 feet in lieu of the required 30 feet and to permit parking spaces (in parking bays) without direct access to a travel aisle and to permit a zero foot setback for parking from an existing road right-of-way in lieu of the required 10 feet.
Hearing: Thursday, July 10, 1987 at 2:00 p.m., Room 407 Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible. For special accommodations Please Call (410) 887-3353.
(2) For information concerning the File and/or Hearing Please Call (410) 887-3391.

6/22/June 19 C152327

CERTIFICATE OF PUBLICATION

TOWSON, MD., 6/19, 1987

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 6/19, 1987

THE JEFFERSONIAN,
D. H. Erickson
LEGAL AD. - TOWSON

CERTIFICATE OF POSTING

RE: Case # 97-548-XA

Petitioner/Developer:

(10,000 York Rd. LLC)

Date of Hearing/Closing:

(July 10, 1997)

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at _____

131 Church Lane Baltimore, Maryland 21030 _____

The sign(s) were posted on _____ Jun. 24, 1997 _____

(Month, Day, Year)

Sincerely,


(Signature of Sign Poster & Date)

Thomas P. Ogle, Sr.
(Printed Name)

325 Nicholson Road
(Address)

Baltimore, Maryland 21221 _____

(410)-687-8405
(Telephone Number)



97-548-XA

CERTIFICATE OF POSTING

RE: Case No.: 97-548 XA

Petitioner/Developer: _____

BROOKMAN MOTORWORKS

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at 131 CHURCH LA.

The sign(s) were posted on 10/6/97
(Month, Day, Year)

Sincerely,

Gary Freund 10/7

(Signature of Sign Poster and Date)

GARY FREUND

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than *

Format for Sign Printing, Black Letters on White Background:

Item # 548

ZONING NOTICE

Case No.: 97-548-XA

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: *

DATE AND TIME: *

REQUEST: special exception to permit a service garage and variances
to permit setbacks of 5', 7', + 22' on lot of 30', 25', +
50', respectively and to permit parking spaces without direct
access to on a side ~~lot~~ and a 0' street setback on lot
on a side and a 10' setback

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Ave.
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 548

Petitioner: 10,000 York RL LLC c/o Brookman Motor

Location: 131 Church Lane

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Michael L. Snyder

ADDRESS: 400 Allegheny Ave.

Towson, MD 21204

PHONE NUMBER: (410) 337-0200

AJ:ggs

(Revised 09/24/96)

TO: PUTUXENT PUBLISHING COMPANY
June 19, 1997 Issue - Jeffersonian

Please forward billing to:

Michael L. Snyder
400 Allegheny Avenue
Towson, MD 21204
410-337-0200

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-548-XA
131 Church Lane
S/S Church Lane, 1480' W of c/l York Road
8th Election District - 3rd Councilmanic
Legal Owner(s): 10,000 York Road LLC

Special Exception to permit a service garage in a M.L.-I.M. zone.
Variance to permit a front yard setback of 7 feet from an existing road right-of-way and 22 feet of an existing road in lieu of the required 25 feet and 50 feet and to permit a side and rear yard as close as 5 feet in lieu of the required 30 feet, and to permit parking spaces (in parking bays) without direct access to a travel aisle and to permit a zero foot setback for parking from an existing road right-of-way in lieu of the required 10 feet.

HEARING: THURSDAY, JULY 10, 1997 at 2:00 p.m., Room 407 Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

June 13, 1997

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-548-XA

131 Church Lane

S/S Church Lane, 1480' W of c/l York Road

8th Election District - 3rd Councilmanic

Legal Owner(s): 10,000 York Road LLC

Special Exception to permit a service garage in a M.I.-I.M. zone.

Variance to permit a front yard setback of 7 feet from an existing road right-of-way and 22 feet of an existing road in lieu of the required 25 feet and 50 feet and to permit a side and rear yard as close as 5 feet in lieu of the required 30 feet, and to permit parking spaces (in parking bays) without direct access to a travel aisle and to permit a zero foot setback for parking from an existing road right-of-way in lieu of the required 10 feet.

HEARING: THURSDAY, JULY 10, 1997 at 2:00 p.m., Room 407 Courts Building, 401 Bosley Avenue.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: 10,000 York Road LLC
Michael L. Snyder, Esq.
Paul Lee Engineering, Inc.

- NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY JUNE 25, 1997.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

October 15, 1997

NOTICE OF ASSIGNMENT

CASE #: 97-548-XA

IN THE MATTER OF: 10,000 YORK ROAD LLC c/o Brookman
Motor Works -Petitioners (131 Church Lane)
8th Election District; 3rd Councilmanic

(Petitions for Special Exception and Variance
GRANTED by D.Z.C.)

ASSIGNED FOR: WEDNESDAY, DECEMBER 10, 1997 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure,
Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

Kathleen C. Bianco
Administrator

cc: Appellants /Protestants	: David O. Kaiss Mr. & Mrs. George Eckhart
Counsel for Petitioners Petitioners	: Michael L. Snyder, Esquire : 10000 York Road LLC c/o Brookman Motor Works Lindsay Dryden, Jr., V.P. Robert D. Brookman, V.P.
Paul Lee Engineering, Inc.	: Paul Lee
People's Counsel for Baltimore County Pat Keller Lawrence E. Schmidt	Arnold Jablon, Director /PDM Virginia W. Barnhart, Co Atty



Case No. 97-548-XA

10,000 YORK ROAD LLC
c/o BROOKMAN MOTORWORKS - Petitioners

S/s Church Lane, 1480' W of c/I of York Road
(131 Church Lane)

8th Election District

Appealed: 9/3/97

(see attached Plat -
Pet. Ex. No. 2)

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: June 23, 1997

FROM: Robert W. Bowling, Chief
Development Plans Review Division **SIGNED: ROBERT W. BOWLING**

SUBJECT: Zoning Advisory Committee Meeting
for June 23, 1997
Item No. 545

The Development Plans Review Division has reviewed the subject zoning item. The proposed parking lot is subject to Sec. IX.C.2.b.(1) of the Landscape Manual requiring landscape areas in the parking lot.

RWB:HJO:jrb

cc: File

ZONE623.545

B A L T I M O R E C O U N T Y, M A R Y L A N D
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: POM

DATE: 6/19/97

FROM: R. Bruce Seeley.
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: June 16, 97

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:	536	545
	540	546
	542	547
	543	548
	544	

RBS:sp

BRUCE2/DEPRM/TXTSBP

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

June 16.97 kl
DATE: 10/07/96

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: Browing-Ferris, Inc.
Steven H. Goeller
Gordon M. Roberts, Jr. & Mary A. Roberts
Owings Mills Self Storage, Inc.
Timonium Land Corporation
10,000 York Road LLC

Location: DISTRIBUTION MEETING OF OCT. 07, 1996.

Item No.: 536, 541, 543, 545, 547, and 548

Zoning Agenda:

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.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
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", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File





Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary

Parker F. Williams
Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 6-17-97
Item No. 548 MJK

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

P. J. Gredlein
for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 5, 1997

Michael L. Snyder, Esquire
Patricia O'C B. Farley
400 Allegheny Avenue
Towson, MD 21204

RE: Petitions for Special
Exception and Variance
S/S Church Lane, 1480' W
of the c/l of York Road
(131 Church Lane)
8th Election District
3rd Councilmanic District
10,000 York Road LLC c/o
Brookman Motor- Petitioners
Case No. 97-548-XA

Dear Mr. Snyder:

Please be advised that an appeal of the above-referenced case was filed in this office on September 3, 1997 by David O. Kaiss and Mr. and Mrs. George F. Eckhart. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

ARNOLD JABLON
Director

AJ:rye

c: People's Counsel



APPEAL

Petitions for Special Exception and Variance
S/S Church Lane, 1480' W of the c/l of York Road
(131 Church Lane)
8th Election District - 3rd Councilmanic District
10,000 York Road LLC c/o Brookman Motorworks - Petitioners
Case No. 97-548-XA

Petitions for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits: 1 - No Exhibit Found
 2 - Plat to Accompany Petition for
 Special Exception and Variance
 3 - No Exhibit Found
 4-A1-J1 - Seventeen Photographs

Fifteen Photographs Not Marked as Exhibits

Deputy Zoning Commissioner's Order dated August 6, 1997 (Granted)

Notice of Appeal received on September 3, 1997 from David O. Kaiss
and Mr. and Mrs. George F. Eckhart

c: Michael L. Snyder, Esquire, Patricia O'C B. Farley, 400 Allegheny
Avenue, Towson, MD 21204
Mr. Lindsay Dryden, Jr., Vice President, 10,000 York Road LLC,
10,000 York Road, Cockeysville, MD 21030
Mr. Paul Lee, 304 W. Pennsylvania Avenue, Towson, MD 21204
Mr. and Mrs. George Eckhart, 132 Church Lane, Cockeysville,
Maryland 21030
People's Counsel of Baltimore County, M.S. 2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

APPEAL

Petitions for Special Exception and Variance
S/S Church Lane, 1480' W of the c/l of York Road
(131 Church Lane)
8th Election District - 3rd Councilmanic District
10,000 York Road LLC c/o Brookman Motorworks - Petitioners
Case No. 97-548-XA

- ✓ Petitions for Special Exception and Variance
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Entry of Appearance of People's Counsel
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:

- 1 - No Exhibit Found
- ✓ 2 - Plat to Accompany Petition for Special Exception and Variance
- 3 - No Exhibit Found
- ✓ 4-A1-J1 - Seventeen Photographs

- ✓ Fifteen Photographs Not Marked as Exhibits
- ✓ Deputy Zoning Commissioner's Order dated August 6, 1997 (Granted)
- ✓ Notice of Appeal received on September 3, 1997 from David O. Kaiss and Mr. and Mrs. George F. Eckhart

c: Michael L. Snyder, Esquire, Patricia O'C B. Farley, 400 Allegheny Avenue, Towson, MD 21204
Mr. Lindsay Dryden, Jr., Vice President, 10,000 York Road LLC, 10,000 York Road, Cockeysville, MD 21030
Mr. Paul Lee, 304 W. Pennsylvania Avenue, Towson, MD 21204
Mr. and Mrs. George Eckhart, 132 Church Lane, Cockeysville, Maryland 21030
People's Counsel of Baltimore County, M.S. 2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

* David O. Kaiss
11236 Falls Road
Lutherville MD 21093

William F. C. Marlow, Jr., Esquire
MARLOW & WYATT
404 Allegheny Avenue
Baltimore, MD 21204

Counsel for Petitioner

97 SEP -9 AM 10:45

RECEIVED
COUNTY BOARD OF APPEALS

✓ E

522 Holden Road
21286-5636

JOINT
Appeal



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

January 6, 1998

William F. C. Marlow, Jr., Esquire
MARLOW & WYATT
404 Allegheny Avenue
Baltimore, MD 21204

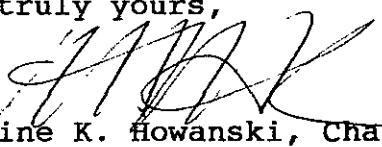
Re: Case No. 97-548-XA
10,000 York Road LLC c/o
Brookman Motor Words -Petitioners

Dear Mr. Marlow:

The Board is in receipt of your letter dated January 5, 1998 and proposed Order in the above-referenced case.

If a resolution has not been reached between the parties by January 26th, the Board will resolve the issue at its discretion.

Very truly yours,


Kristine K. Howanski, Chairman
County Board of Appeals

cc: Peter Max Zimmerman
People's Counsel for Baltimore County
Carole S. Demilio, Deputy People's Counsel
Mr. and Mrs. George Eckhart III
Mr. David O. Kaiss
Lindsay Dryden, Jr., Vice President
10,000 York Road LLC
Mr. Paul Lee
Lawrence E. Schmidt
Pat Keller, Director /Planning
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



Case No. 97-548-XA

SE -Service garage in ML-IM zone;
VAR -setbacks; parking spaces in parking bays
without direct access to travel aisle and parking
setback.

8/06/97 -Deputy Zoning Commissioner's Order in
which Petitions for Special Exception and Variances
GRANTED.

10/15/97 -Notice of Assignment for hearing scheduled for Wednesday,
December 10, 1997, at 10:00 a.m. sent to following:

David O. Kaiss
Mr. & Mrs. George Eckhart
Michael L. Snyder, Esquire
10000 York Road LLC c/o
Brookman Motor Works
Lindsay Dryden, Jr., V.P.
Robert D. Brookman, V.P.
Paul Lee Engineering, Inc. /Paul Lee
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt

Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

12/10/97 -Hearing before the Board; case completed. Deliberation immediately
followed; Board granted special exception and variance requests.
Proposed Order to be submitted by the parties.

1/06/98 -Letter from William F. C. Marlow, Jr., Esquire, counsel for
Petitioners, with accompanying proposed Order and copies of
correspondence between counsel regarding the agreement and proposed
Order.
- Letter from K. Howanski to parties; parties given until January 26th
to resolve this matter.

1/12/98 -Letter from P Zimmerman in response to Mr. Marlow's letter.

1/26/98 -Letter from George F. Eckhart III regarding procedure for (1) seeing
the revised site plan; and (2) signature of agreement to final order by
parties involved (ie, David Kaiss, Mr. Eckhart, Paul Lee, and Patricia
Farley. Statement by Mr. Eckhart that the agreement was between
Petitioners and Appellants.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: 10000 York Road LLC c/o Brookman Motor Works
Case No. 97-548-XA

DATE : Wednesday, December 10, 1997 /
at conclusion of hearing

BOARD /PANEL : Kristine K. Howanski, Chairman (KKH)
Lawrence M. Stahl (LMS)
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco
Administrator

Purpose: To deliberate Case No. 97-548-XA; deliberated at
conclusion of hearing on the merits this date.

KKH: We are here to deliberate Case No. 97-548-XA in the matter of
10000 York Road LLC and its Petitions for Special Exception
and Variance.

MW: I have listened to the testimony in the case today and
certainly had an opportunity to look over the exhibits. The
basis of the decision, or my decision, I believe comes down to
the standards set forth in the Baltimore County Zoning
Regulations; specifically, Petitioner requests a special
exception for a service garage that would have to be decided
under section 502.1 and the standards set forth therein. And
they have also requested a variance, or several variances
actually, to satisfy 307. We are also led, I think, by the
case Cromwell v. Ward, which sets out the standards of review
and also sets out the standards of review in a certain order
that we are expected to follow. Specifically, they are
whether or not the piece of property is unique, whether there
is practical difficulty involved, and whether indeed, after
those two prongs are satisfied, whether the variance will
satisfy the spirit and intent of the zoning regulations.

I think the evidence has certainly convinced me that the
special exception is appropriate on this property to allow a
service garage. I feel that request meets all of 502
requirements and standards. The variances, I think, are a
little more difficult. But I believe the Petitioner, in this
case, has satisfied the first prong, which is unique. The
property is zoned M.L.-I.M. It's a vacant lot, and one of the
only lots in the area undeveloped; and it's a small lot
compared to other uses. There are no nonconforming uses on
the property which would allow it to do things it couldn't do.

Minutes of Deliberation /Case No. 97-548-XA
/ 10000 York Road LLC /Brookman Motor Works

I was interested in the elevation because I think that the point is that because it is higher at elevation, and no testimony to the contrary, which prevents it being combined with other lots to be used in a different way. Have to look at this lot as where it is -- as is -- as a single element. It is unique in this respect. That brings us to practical difficulty. I thought that Mr. Lee was quite clear that if you place the required setbacks on this property, there was very little left to develop. So I think there is practical difficulty without the variances.

Those two prongs being satisfied, spirit and intent comes into play, and it seems to me that the property is zoned M.L.-I.M. Certainly the photographs, evidence and the video tape show that the area is being used, although it once was residential neighborhood, it is more and more being used as the zoning indicates -- although there are existing residences in the area, the whole area is for commercial use. I think it fits with the spirit and intent.

It would be my opinion that the site plan as amended is appropriate and that the special exception standards are satisfied, and that we should grant both in accordance with the amended site plan.

LMS: I heard the evidence today, and as my colleague has quite properly pointed out, two matters which are clearly delineated in the zoning regulations -- as to what you have to prove.

The case for the special exception has been clearly established. Approved use by special exception in a zone that already exists. Section 502.1 standards were established by both the testimony of the parties involved and Mr. Lee. I think where they were applicable, they were met.

The variance is certainly controlled by Cromwell v. Ward and Section 307. I don't think there is any question as to uniqueness. It is a unique area by physical setup, and how it has been used in practical and zoning way. Uniqueness is clearly shown -- mix of residential and commercial - commercial zoning but developed over period of time. Photograph would not have shown this; particularly motivated by the part of the video that showed the actual -- you could see the land /plateau; obviously that you had physically limited lot by something that was not visited upon other lots in the area.

Uniqueness for that and for the other reasons set forth -- and based on the nonconforming use issue as pointed out --

Minutes of Deliberation /Case No. 97-548-XA
/ 10000 York Road LLC /Brookman Motor Works

does comport with zoning. Practical difficulty is obvious -- if you cannot use it for something other than off the wall, you have a difficulty.

I believe that the original zoning variance requests were therefore justified; would have been appropriate. I have no objection therefore to the proposed amended zoning change, and again, I feel, just for the record, that whether or not there are alterations internally is, frankly, not the business of this Board. They would have to meet permit and other construction requirements of Baltimore County. Our responsibility goes to zoning, setbacks, special exception, and variances.

I think a properly re-done plan should appear in the records at some point; not appropriate to submit them to the Board. I do think it would be well advised that proper copy be transmitted to proper zoning office so for the future it will properly reflect what in fact this entails.

I would grant the special exception and also agree to grant variances as agreed by the parties.

KKH: We appear to be unanimous then. I would concur with my colleagues as to the special exception. The harder task is the variance issue, and again I would concur that uniqueness was established, particularly by height elevation. I'm more accepting of gray types of uniqueness in the commercial context as opposed to residential context. I would agree with that, and I think that same uniqueness does fit into the practical difficulty component of it. It's clear that with those kinds of constraints, you are limited to what you can build and/or the use of the property.

And again, I think that with the spirit and intent of M.L.-I.M. zone, by what it is -- there are existing residences -- this Board appreciates the gesture of Petitioners to work with Mr. Eckard in that regard. It's difficult when the zoning is M.L.; would concur. We would grant the special exception as well as the variances. I also concur with Mr. Stahl regarding what you probably need to submit to the proper folks to get this on the road. As a practical matter, we probably favor an order being drafted by the parties in this instance, with the parties signing off on it as to content and form.

The site plan is not our task. Agreeable to setbacks as defined. The question is whatever building they do has to fit in those confines; will stay with that basic footprint. Can hold them to that. Mr. Stahl wanted one submitted to the

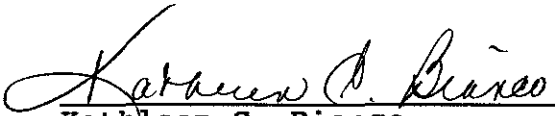
Minutes of Deliberation /Case No. 97-548-XA
/ 10000 York Road LLC /Brookman Motor Works

zoning authorities. This is why I think it's better for the parties to submit an Order then for the Board. When everyone is okay on that -- as long as it reflects what we deliberated on -- we will sign it.

I am obliged to advise you that an appeal may be taken within 30 days from the written decision and not today's date.

We are therefore adjourned.

Respectfully submitted,


Kathleen C. Bianco



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

December 31, 1997

William F.C. Marlow, Jr., Esq.
Marlow & Wyatt
404 Allegheny Avenue
Towson, MD 21204

VIA FACSIMILE

Re: PETITIONS FOR SPECIAL EXCEPTION AND
VARIANCE - 131 Church Lane
10,000 YORK ROAD, LLC, c/o BROOKMAN
MOTORWORKS, Petitioners
Case No. 97-548-XA

Dear Mr. Marlow:

In reply to your December 30 letter concerning your proposed Order in the above case, my initial thoughts are as follows:

1. The Opinion and Order should state that People's Counsel neither agrees with nor consents to the requested special exception and variances.

2. The Opinion and Order should, in any event, state and require, as a condition that:

a. The amended request for variance, moving the proposed front building setback to 40 feet from the center of Church Lane, requires an amended site plan.

b. The amended site plan shall be filed with the Office of Permits and Development Management and shall comply with all other laws and regulations, aside from the variances granted herein.

c. The amended site plan shall be submitted to the Office of Planning for review and approval for consistency with respect to the Landscape Manual and the Comprehensive Manual of Development Policies.

In addition, because this office does not agree with the reasons stated in your proposed Opinion, it would decline to approve it as to form.

William F.C. Marlow, Jr., Esq.
December 31, 1997
Page Two

Meanwhile, Mr. Eckhart has informed us that he is writing a letter concerning your proposed Order.

In view of your desire to submit the proposed Order on January 2, 1998, I am advising you of my initial concerns with it now, and also inform you that there may be additional concerns after I have the opportunity to thoroughly review the proposed Order with the Deputy People's Counsel on Monday, January 5. This time frame will also allow Mr. Eckhart an opportunity to comment on the proposed Order.

Very truly yours,


Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/caj
Dictated but not read

cc: Mr. and Mrs. George F. Eckhart, III

Carl W. Richards, Jr., Office of Permits and Development Mgmt.

Jeffrey Long, Office of Planning



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

January 9, 1998

CAROLE S. DEMILIO
Deputy People's Counsel

Kristine K. Howanski, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
JAN 12 PM 1:05

Hand-delivered

Re: PETITIONS FOR SPECIAL EXCEPTION
AND VARIANCE
131 Church Lane, S/S Church Lane,
1480' W of c/l York Road
8th Election Dist, 3rd Councilmanic
10,000 YORK ROAD, LLC, Petitioner
Case No.: 97-548-XA

Dear Chairman Howanski:

This replies to Mr. Marlow's letter dated January 5, 1998,
with which we disagree. Our purpose is to proceed in a
constructive way.

Our office has not "reneged" on any agreement. This office
did not agree to the requested special exception and variances,
in original or amended form. We made it clear that it is the
Board's function to apply the law to the facts produced in the
record. Indeed, our office could not by consent simply agree to
a zoning approval which required administrative findings and
conclusions of law. See Attman/Glazer v. Mayor, 314 Md. 675
(1989). This is why we stated that a hearing would be required,
notwithstanding the apparent agreement on the morning of the
hearing with Appellants Eckhart and Kaiss to an amended request.

On the other hand, we respect the Board's decision in open
deliberation to grant the amended special exception and variances.

We did insist, in closing argument, that in the event the
Board determined to approve the amended request, there should be
the filing of a proper amended site plan. The reasons for this
are as follows:

1. At the hearing, engineer Paul Lee made clear that, while
moving and redlining the front of the L-shaped building back to a

Kristine K. Howanski, Chairman
Board of Appeals of Baltimore County
January 9, 1998
Page Two

40-foot setback from the center of Church Lane, he anticipated that the amendment would actually involve reconfiguring and adding to the building elsewhere. This would change the location of the bays and modify the parking arrangement. But he was not in a position to state the revised dimensions of the building or the new layout. The architect would have to be consulted.

2. A new configuration would ordinarily and necessarily be reviewed by relevant departments to make sure the revised plan complies with relevant zoning, landscaping, parking, and other requirements, and does not itself cause new legal conflicts.

3. During the deliberations, Panel Member Stahl stated, according to the Board's Minutes, page 3:

"I think a properly re-done plan should appear in the records at some point; not appropriate to submit them to the Board. I do think it would be well advised that proper copy be transmitted to proper zoning office so for the future it will properly reflect what in fact this entails."

4. As a matter of law, every special exception and variance petition is dependent on and must be reviewed according to a site plan. This is stated in Zoning Commissioner Rule 2. It also follows from BCZR 502.1 and 307.1 and the applicable standards. The Court of Special Appeals emphasized this generally in People's Counsel v. Mangione, 85 Md.App. 738, 745 (1991).

5. Normally, where petitioners amend requests prior to a hearing, the revised site plan is prepared and submitted prior to the hearing. Normally, where the Board grants a request with amendments or conditions resulting from the hearing, it requires filing an amended site plan. See Halle Cos. v. Crofton Civic Ass'n, 339 Md. 131 (1995).

We argued and preferred that the Board should require an amended site plan to be filed with the Board. In this connection, we have since reviewed the matter with Carl Richards, Zoning Supervisor of the Department of Permits and Development Management. He confirms that the preferred past practice, in the event of amendments arising at the Board hearing, is for the petitioner to have an amended site plan reviewed by the Zoning Office and filed in the case prior to the Board Order. This assures that all parties know the specific plan. Mr. Richards further states that this ordinarily is not a burdensome or protracted process.

Kristine K. Howanski, Chairman
Board of Appeals of Baltimore County
January 9, 1998
Page Three

Nevertheless, we understand and respect the Board's decision that the plan be filed with the zoning office after the decision. This, at least, is a basic minimum. With this procedure, there would not need to be another Board hearing. It would simply be a condition of the Board's Order that a proper revised site plan be filed with the Zoning Office for posterity, showing the new building, parking, and landscaping.

In other words, our demand is essentially for a condition that the revised site plan be filed with the Zoning Office, so that relevant agencies may satisfy themselves that it is in compliance with the Board's Order and other minimum requirements of the law. This is what would have to be done anyway in order to get a proper building permit. Additionally, I recall Mr. Lee indicating generally that a revised plan would have to be prepared and reviewed at some point by the proper authorities.

To further assist the Board, we propose the following language be added to the Board's Order:

"That approval of the amended special exception and variances is conditioned on the filing, review, and acceptance of an amended site plan which complies with this Order and otherwise complies with all applicable rules and regulations."

Our position is (1) legal, (2) fair, (3) consistent with our position at the hearing, and (4) not prejudicial to Petitioner. It is important to proper zoning administration and to confirm the proper handling of amended zoning requests and conditions.

Mr. Marlow has stated that Petitioner could withdraw the amendment based on his perception of this office's "having reneged on the settlement agreement." As noted, we disagree that our office did (or could) enter into any settlement agreement. Our position is, and has been, that the law must be followed. There was nothing upon which to renege.

Nevertheless, if Petitioner still feels or perceives any unfairness, has any concerns, or wishes for any reason to withdraw its amendment and proceed on the original plan, this office would not object, provided that, in that event, the case would fairly be retried and reargued, without prejudice to any of the parties to present different or additional evidence which may not have been presented at the initial hearing. And in any event, a party dissatisfied with a Board Order may appeal to the Circuit Court under Rule 7-201, et seq. of the Maryland Rules.

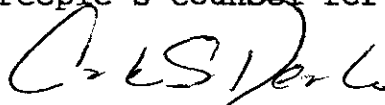
Kristine K. Howanski, Chairman
Board of Appeals of Baltimore County
January 9, 1998
Page Four

Again, this letter is written in the hope of resolving issues in a constructive way. We hope that its detail helps to clarify what our position has been throughout this matter.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/caf

cc: William F.C. Marlow, Jr., Esq.

Carl W. Richards, Jr., Office of Permits and Development Mgmt.

Mr. and Mrs. George F. Eckhart, III

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 28, 1998
Permits & Development Management

FROM: Charlotte E. Radcliffe 
County Board of Appeals

SUBJECT: Closed File: 97-548-XA /10,000 York Road LLC,
c/o Brookman Motorworks - Petitioners

As no further appeals have been taken in the above captioned case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. 97-548-XA) .

MARLOW & WYATT

ATTORNEYS-AT-LAW

404 ALLEGHENY AVENUE
BALTIMORE, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432

WILLIAM F.C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 431
4400 EAST WEST HIGHWAY
WASHINGTON, D.C. 20814

January 5, 1998

Kristine K. Howanski
Margaret T. Worrall
Lawrence M. Stahl
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RE: 10,000 York Road LLC, c/o Brookman Motor Works – Petitioners
(131 Church Lane); 8th Election District; 3rd Councilmanic
Case No. 97-548-XA

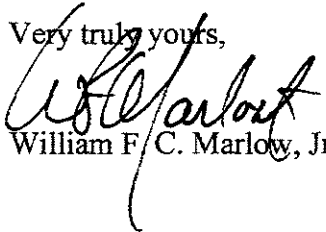
Dear Board Members:

I received with great dismay the attached letter from Mr. Zimmerman in connection with the above-referenced case.

My notes, as I hope do yours, reflect that at no time did the Board require an amended site plan be filed since Mr. Lee amended the plan during the course of his testimony. The Board merely *suggested* that we might want to change the one line in the amended plan and “drop one in the file” as opposed to what appears to be Mr. Zimmerman’s efforts at setting us up for another administrative hearing.

Since Mr. Zimmerman has now reneged on the settlement agreement and in light of the Board’s findings and conclusions of law, I feel that we could withdraw our requested amendment that was acceded to solely to satisfy Messrs. Zimmerman, Echart, and Kaiss. Nonetheless, my clients are willing to abide by their word and I am, accordingly, enclosing the proposed Order.

Very truly yours,


William F. C. Marlow, Jr.

WFCM:paz
Enclosures
cc: Peter Max Zimmerman

RECEIVED
COUNTY BOARD OF APPEALS
98 JAN -6 AM 8:27

MARLOW & WYATT

ATTORNEYS-AT-LAW

404 ALLEGHENY AVENUE
BALTIMORE, MARYLAND 21204
(410) 821-1013
TELEFAX (410) 821-5432

WILLIAM F.C. MARLOW, JR.
MICHAEL T. WYATT

ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WASHINGTON ADDRESS
SUITE 431
4400 EAST WEST HIGHWAY
WASHINGTON, D.C. 20814

December 30, 1997

VIA FACSIMILE

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Petitions for Special Exception and Variance – 131 Church Lane
10,000 York Road, LLC, c/o Brookman Motorworks, Petitioners
Case No. 97-548-XA

Dear Peter:

Over a week has passed since I submitted for your review the proposed Order in connection with the above-referenced case. For the same period of time, Mr. Eckhart has also had the benefit of the subject document. If there is a problem, I would appreciate your letting me know. Absent hearing from you and Mr. Eckhart by Friday, I will submit the Order to the Board without the requested signatures.

Very truly yours,



William F. C. Marlow, Jr.

WFCM:paz

cc: Mr. Robert Brookman

From:
George F. Eckhart, III
Resident
132 Church Lane
Cockeysville, Md. 21030

To:
William F.C. Marlow, Jr., Esquire
MARLOW & WYATT
404 Allegheny Avenue
Baltimore, Md. 21204

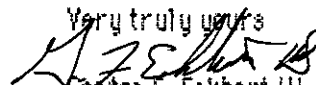
Re: Case No. 97-548-XA
Petitions For Special Exception and Variances
131 Church Lane
8th Election Dist., 3rd Councilmanic
10,000 York Road LLC c/o
Brookman Motor Works - Petitioner

Dear Mr. Marlow:

Mr. David Kaiss and myself would like to see the revised site plan. We are satisfied with the COUNTY BOARD OF APPEALS order that was agreed to before the hearing between Paul Lee, Patricia Farley and us (the appellants).

I thought there was a recommendation that all the parties would sign some kind of agreement to the final order. If that's so then when and where will we do this ? You can let us know at your convenience.

Let it be known to you, the Board Members, the Petitioners, the Office Of People's Counsel, and any interested parties that Mr. Zimmerman of the Baltimore County Office Of People's Counsel did not represent the appellants in this case. The People's Counsel has not reneged in any way. The People's Counsel did not make any agreement. An agreement was reached between the petitioners and the appellants. Let it also be known that the petitioners approached the appellants several times before the start of the hearing to have an agreement before the hearing. An agreement was made between the petitioners and the appellants before the hearing, but the petitioners have not honored all of the terms to the agreement as of January 23, 1998.

Very truly yours

George F. Eckhart III

cc: Kristine K. Howanski, Chairman - County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
Carole S. Demilio, Deputy - Peoples Counsel
Mr. David Kaiss
Mr. Paul Lee
Patrica Farley

98 JAN 27 PM 12:02
RECEIVED
COUNTY BOARD OF APPEALS

BROOKMAN MOTOR WORKS

10000 York Road
Cockeysville, MD 21030

(410) 666-0800
Fax (410) 666-2698

October 6, 1997

Kathleen Bianco
Board of Appeals
400 Washington Avenue
Room 49
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
97 OCT -8 PM 6:19

Ms. Bianco;

Please accept our letter asking for expedience in a hearing on case # 97-548XA for 131 Church Lane in Cockeysville, County of Baltimore. Our last hearing was in July 1997 at which time we received an approval from the judge which took three weeks to receive. Then had 30 days to wait for an appeal and on the 30th day one came in on September 6th. To now wait for a hearing in early January 1998 is and extreme hardship and hardy fair.

We respectfully ask for help in this matter.

Thank you,



Robert D. Brookman
Vice President
10000 York Road LLC

RDB/kjk

LINDSAY D. DRYDEN, JR.

600 FAIRMOUNT AVENUE

SUITE 203

TOWSON, MARYLAND 21204

TELEPHONE (301) 321-5665

FAX (301) 321-5672

October 7, 1997

Kathleen Bianco
Board of Appeals
400 Washington Avenue
Room 409
Towson, Maryland 21204

RE: Case # 97-548XA

Dear Ms. Bianco:

I am writing this letter to request an earlier hearing date for the above referenced case number regarding 131 Church Lane in Cockeysville, County of Baltimore. We received an approval from the judge at our last hearing in July 1997. We were required to wait 30 days for any appeals that may arise. On the 30th day, September 6, 1997 an appeal was filed. For us to wait, yet again, until January 1998 will cause much foreseen inconvenience and does not seem fair, considering our previous approval. Any attention or assistance you can give in this matter will be greatly appreciated.

Sincerely,



Lindsay D. Dryden, Jr.

President

10000 York Road LLC

RECEIVED
COUNTY BOARD OF APPEALS
97 OCT 10 AM 11:41

AUGUST 30, 1997

ARNOLD JABLON, DIRECTOR
DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVE.
TOWSON MD 21204

PETITIONS FOR SPECIAL EXCEPTION
AND VARIANCE, 131 CHURCH LANE
CASE NO. 97-548-XA

DEAR MR. JABLON,
PLEASE ENTER AN APPEAL FOR DAVID O. KAISS AND
MR. & MRS. GEORGE F. ECKHART, TO THE COUNTY
BOARD OF APPEALS FROM THE FINDINGS OF FACT
AND CONCLUSIONS OF LAW AND ORDER DATED
AUGUST 6, 1997 OF THE BALTIMORE COUNTY DEPUTY
ZONING COMMISSIONER IN THE ABOVE-ENTITLED CASE.

ENCLOSED IS OUR CHECK IN THE AMOUNT OF
\$460.00 FOR THE FILING FEE.

FOR SPECIAL EXCEPTION	\$ 250.00
FOR VARIANCE	\$ 175.00
TO POST SIGN	\$ 35.00

PLEASE FORWARD COPIES OF ANY PAPERS PERTINENT
TO THE APPEAL AS NECESSARY AND APPROPRIATE.

VERY TRULY YOURS.

David O. Kaiss

DAVID O. KAISS

PHONE 410-252-8694

11236 FALLS RD.

LUTHERVILLE MD. 21093

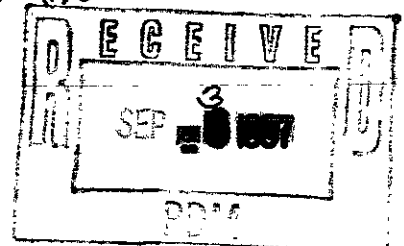
TO: E

MR. & MRS. GEORGE F. ECKHART

132 CHURCH LANE

PHONE 410 667-1063

COCKEYSVILLE MD. 21030



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Paul Lee
Hudson County, NJ
R. 2

304 W. Pennsylvania Ave 2104
600 Fairmount Ave 21286
10000 York Rd. Cockeysville



PROTESTANT

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

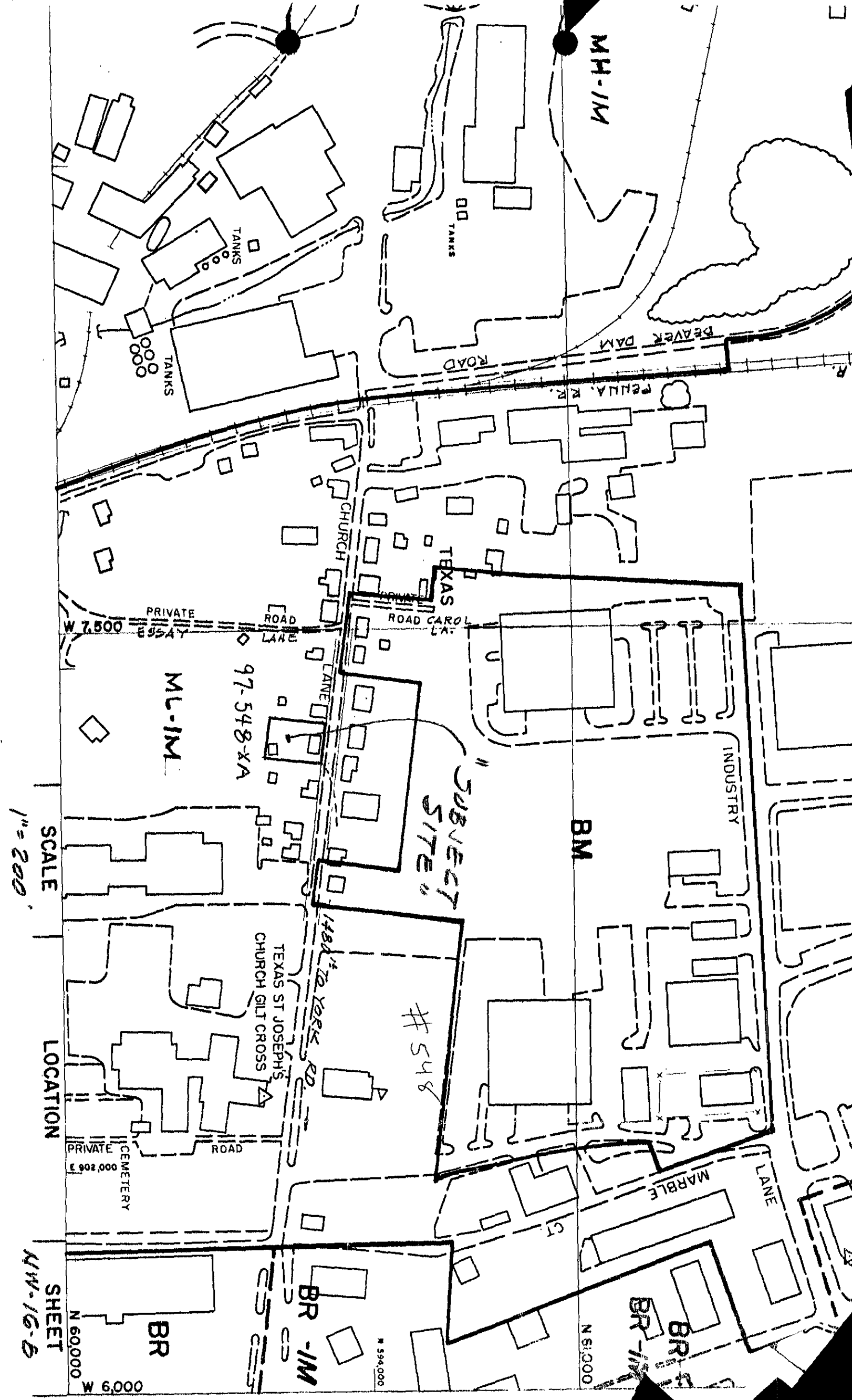
NAME

ADDRESS

Mr. & Mrs. George Eckhart



Printed with Soybean Ink
on Recycled Paper





Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

Ret. #7

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 6-17-97
Item No. 548 MJK

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

P. J. Gredlein
for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

June 16.97 kl
DATE: 10/07/96

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: Browing-Ferris, Inc.
Steven H. Goeller
Gordon M. Roberts, Jr. & Mary A. Roberts
Owings Mills Self Storage, Inc.
Timonium Land Corporation
10,000 York Road LLC

Location: DISTRIBUTION MEETING OF OCT. 07, 1996.

Item No.: 536, 541, 543, 545, 547, and 548

Zoning Agenda:

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.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
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", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: PDM

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

DATE: 6/19/97

SUBJECT: Zoning Advisory Committee
Meeting Date: June 16, 97

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:	536	545
	540	546
	542	547
	543	548
	544	

RBS:sp

BRUCE2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: June 23, 1997

FROM: Robert W. Bowling, Chief
Development Plans Review Division SIGNED: ROBERT W. BOWLING

SUBJECT: Zoning Advisory Committee Meeting
for June 23, 1997
Item No. 545

The Development Plans Review Division has reviewed the subject zoning item. The proposed parking lot is subject to Sec. IX.C.2.b.(1) of the Landscape Manual requiring landscape areas in the parking lot.

RWB:HJO:jrb

cc: File

ZONE623.545

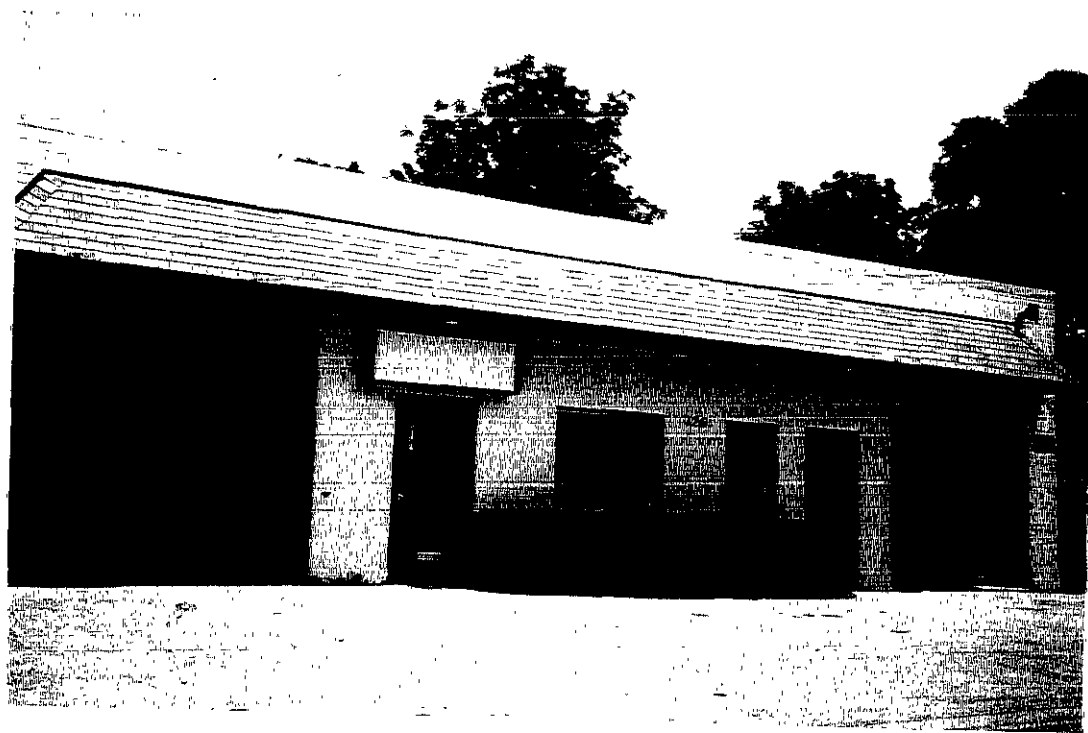
CHURCH LANE
BALTIMORE COUNTY, MD
Exhibit 4

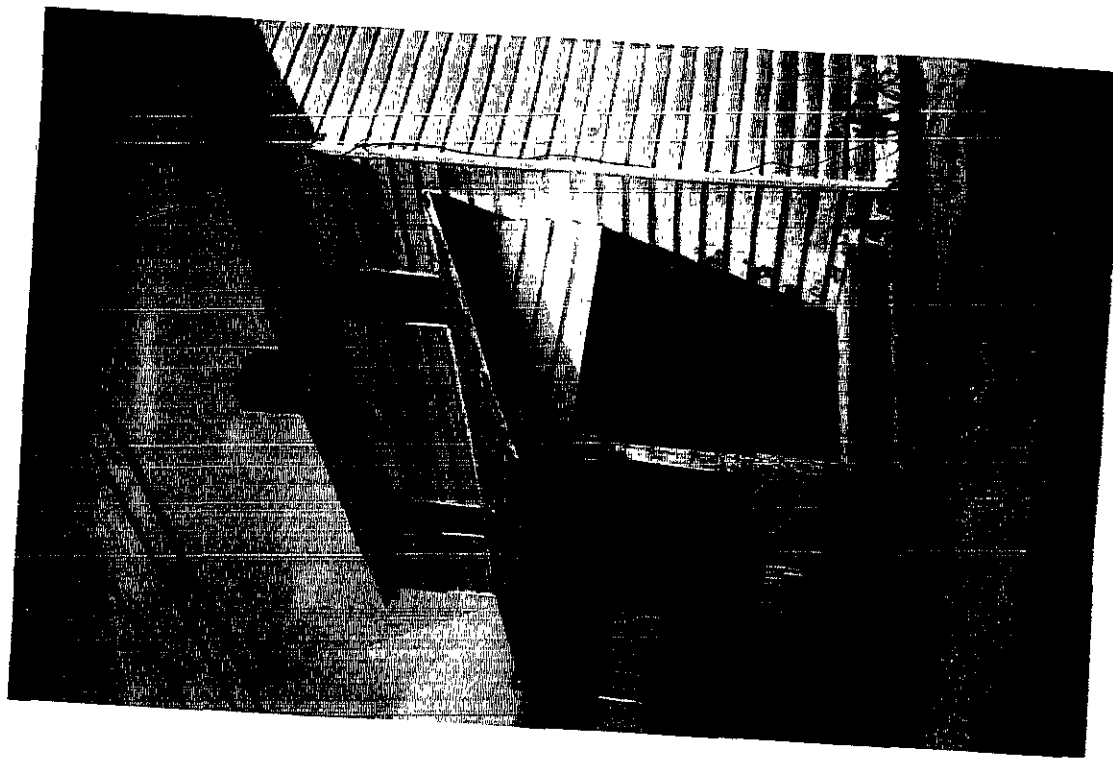
PHOTOGRAPHS

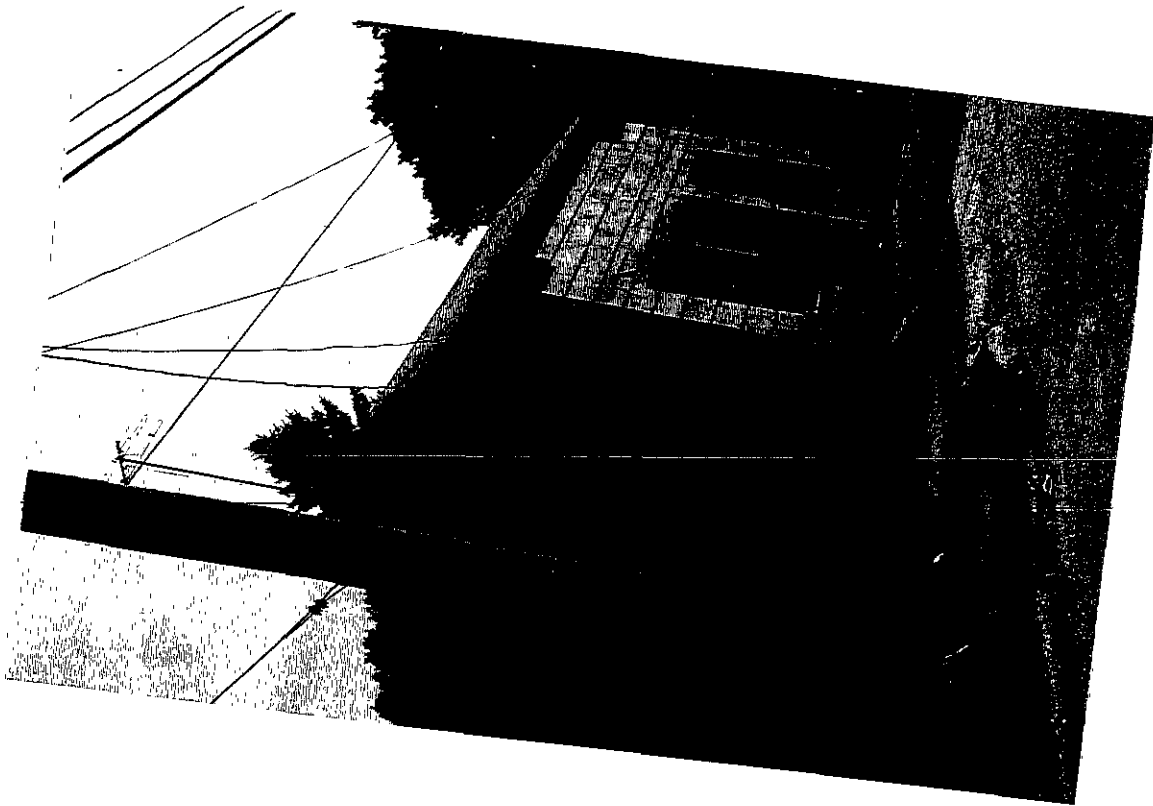
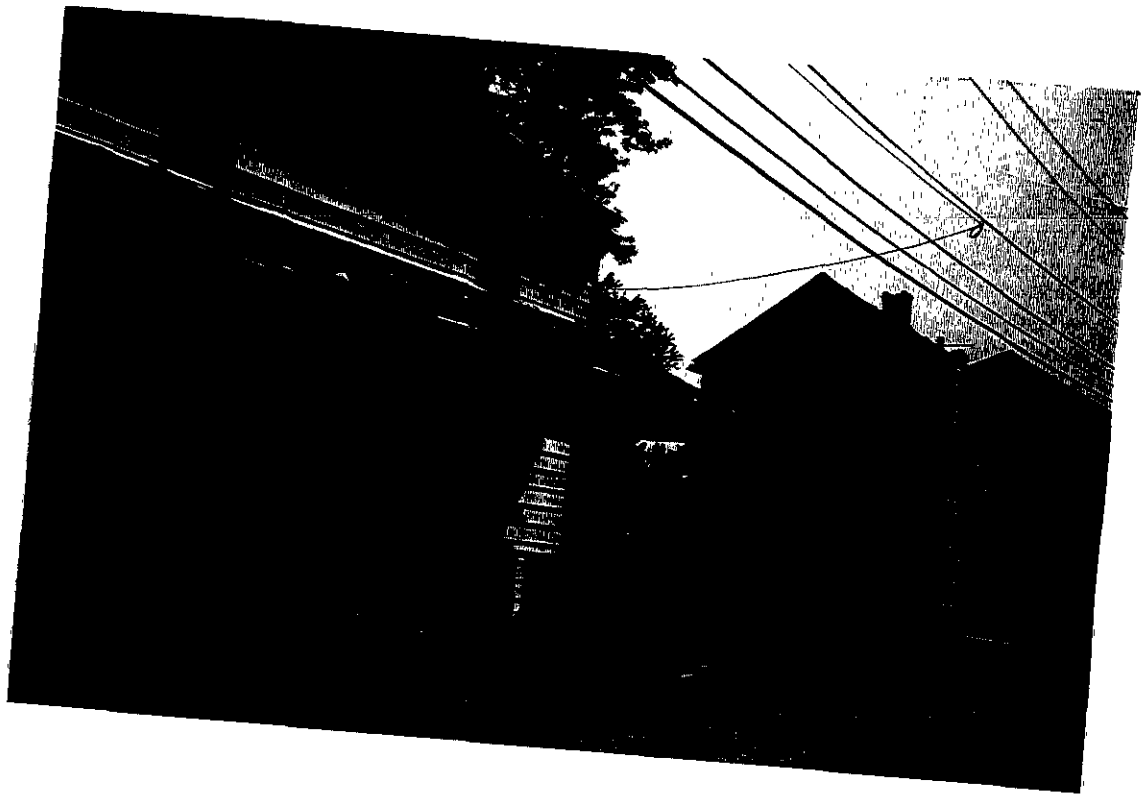
- A-1 SITE - 131 Church Lane Front view from Church Lane
- A-2 SITE - 131 Church Lane Front view looking southwest from Church Lane
- A-3 Site - 131 Church Lane Front view looking southeast from Church Lane
- B-1 View looking west on Church Lane to dead end at Genstar operation
- B-2 View at the dead end of Church Lane looking at Genstar
- C-1 View on north side of Church Lane , abandoned boarded up house
- C-2 Another view of C-1
- C-3 View of another abandoned and boarded up house on the north side of Church Lane
- C-4 Another view of C-3
- D View of business property on south side of Church Lane
- E View of another abandoned house on north side of Church Lane
- F View of driveway behind business property on south side of Church Lane
- G View of business property on north side of Church Lane
- H View of fenced vacant property on north side of Church Lane
- I-1 Looking west on Church Lane toward Genstar
- I-1 Same view as I-1 from farther east on Church Lane
- J-1 View looking east on Church Lane towards York Rd.

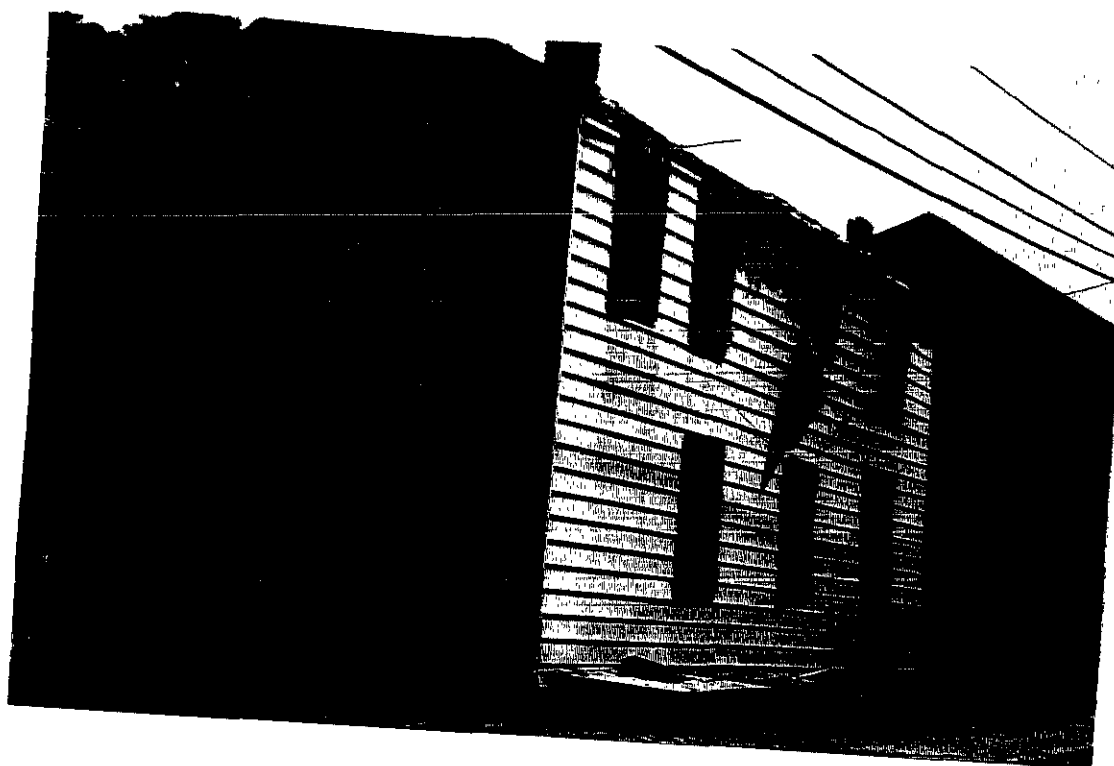


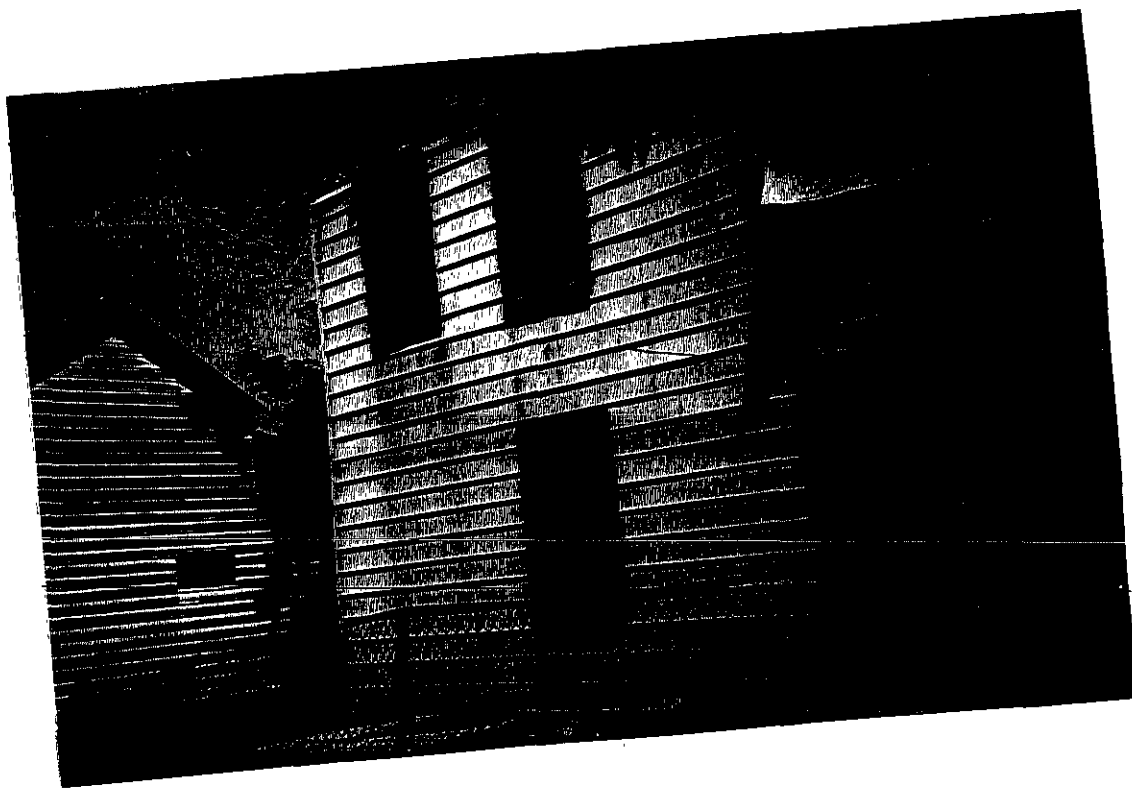


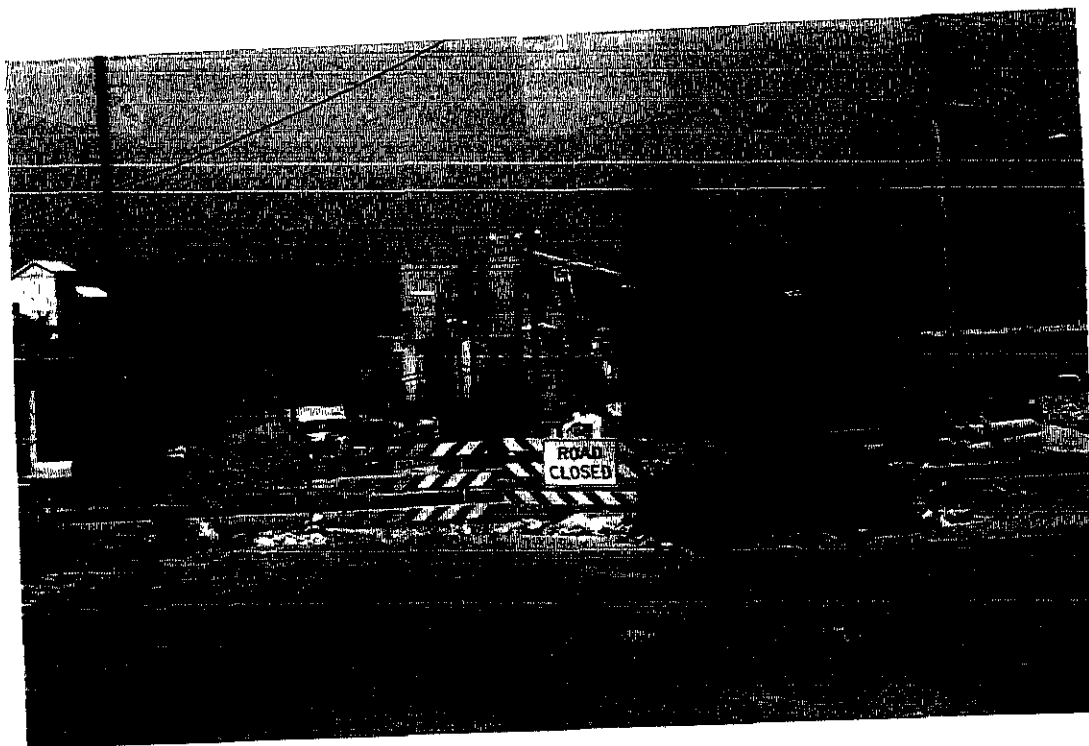












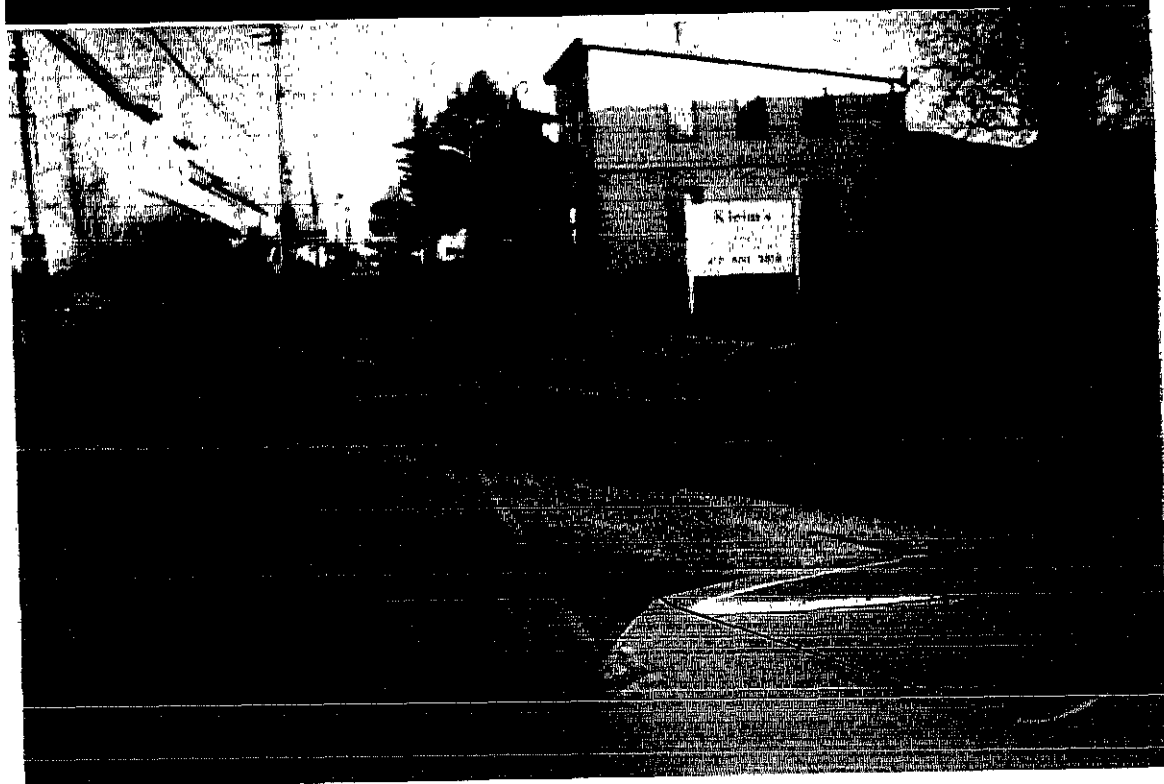


County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Case # 97-548-XA
10000 York Rd

Petitioners # 2A-2G
(7 photos)







photograph

Case 97-548-XA

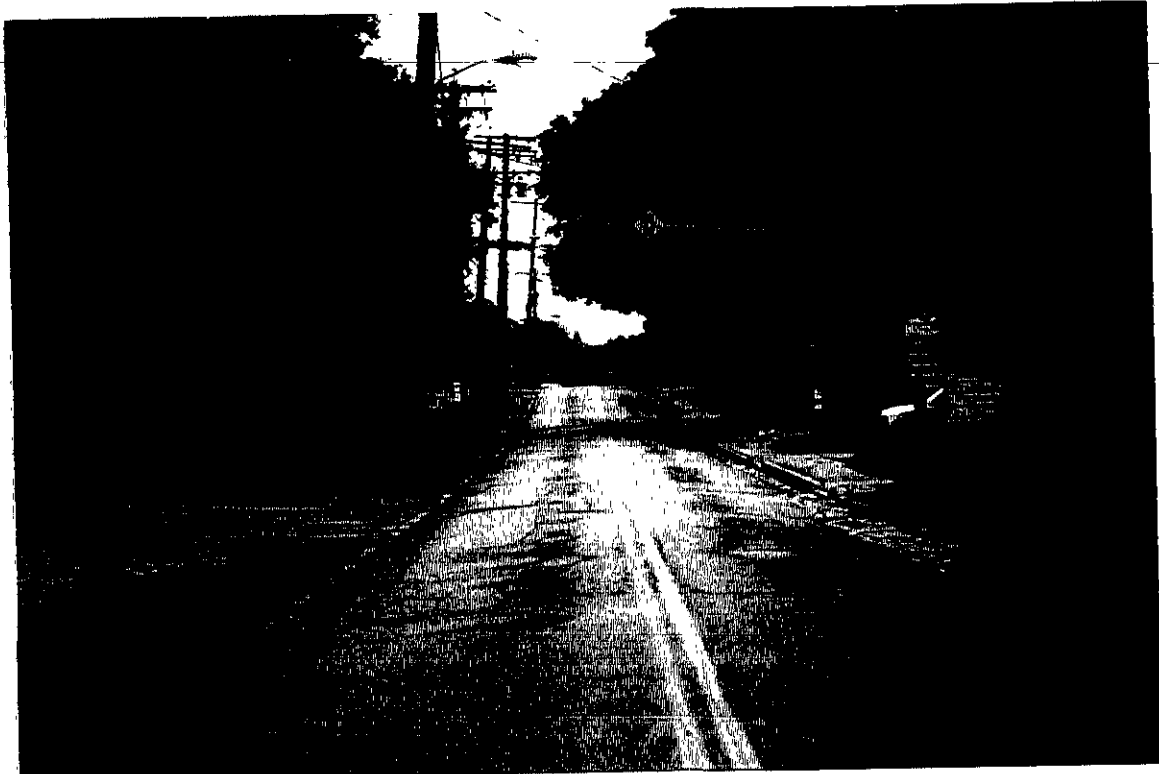


ON THE ROAD



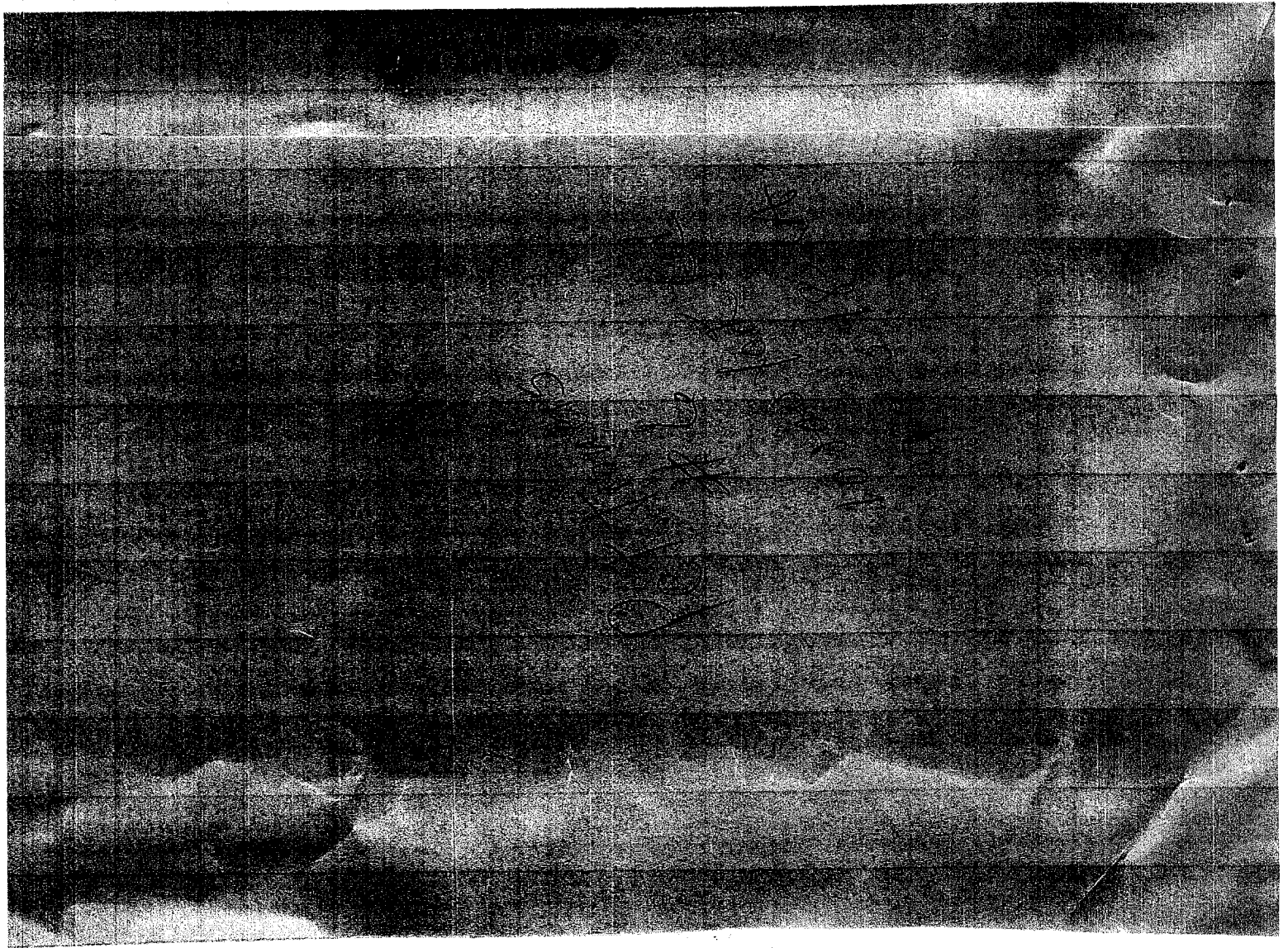












Church Lane

December 6, 1997