

IN THE MATTER OF  
THE APPLICATION OF  
BRIAN CHAN – LEGAL OWNER /PETITIONER  
FOR VARIANCE ON PROPERTY LOCATED  
ON THE N/S PENNSYLVANIA AVENUE,  
228' E OF C/L OF RAILROAD AVENUE

9<sup>TH</sup> ELECTION DISTRICT  
5<sup>TH</sup> COUNCILMANIC DISTRICT

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* CASE NO. 05-387-A

\* \* \* \* \*

### OPINION

This matter comes before the Baltimore County Board of Appeals as a Petition for a Variance filed by Mr. Brian Chan from an order in which a variance request was GRANTED with restrictions by the Deputy Zoning Commissioner, John V. Murphy. The Petitioners requested variance relief for property located at 437 E. Pennsylvania Avenue, Towson, MD 21286, to permit a rear yard setback of 27 feet in lieu of the minimum required 50-foot setback and also to allow for a side yard setback of 6 feet in lieu of the 10-foot Code requirement pursuant to §§ 1B02.3.C.1 and 409.6 of the *Baltimore County Zoning Regulations* (BCZR).

The Petitioner was represented by Michael P. Tanczyn, Esquire, and Ms. Jennifer Rouse appeared *pro se* on behalf of the Harris Hill Condominium Association, Appellants /Protestants.

### Testimony

Witness for the Petitioner, R. A. Childress, Engineer with R. A. Childress & Associates, 713 Pheasant Drive, Forrest Hills, MD 21050, was qualified as an expert witness and testified that the subject property was in an Historic African Settlement District of East Towson and was being developed as two single-family dwellings with off-site parking, as requested by the County. He also stated that the current zoning is D.R. 10.5, which permits the proposed development, and the current elevation would remain. Mr. Childress testified that the Office of Planning and Zoning requested that decks be added, thus avoiding the likely request for a variance in the future to add decks. By adding the decks, this placed the improvements within 20 feet of the rear line, thereby requiring a variance.

In opposition to the development, Ms. Jennifer Rouse stated that the Condominium Association was not totally opposed to the development, due to it replacing a property that was in very poor condition and a detriment to the community. Her main concern was the potential increase of traffic cutting through the Condominium Association's private road. The Board was not convinced as to the number of cars proffered by Ms. Rouse to be associated with the two new homes nor to the issue that all the cars from the new homes would use her association's private road for access.

### Discussion

The Board of Appeals shall be governed by the following County Regulations as defined in § 307 of the BCZR – **Variances**.

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner of the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such a variance.

The Court of Special Appeals in *Cromwell v Ward*, 102 MD.App.691 (1995) required, as the prerequisite for granting a variance, a finding that the property was *unique*. The court defined the term as follows:

In the zoning context 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 has a inherent characteristic not shared by other properties in

the area, i.e. its shape topography, subsurface conditions, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstruction) or other similar restrictions... Id. at 710.

Mr. Childress' testimony supports the issue of uniqueness due to the site being located in an historic area resulting in restrictions due to the need, per the County's request, to comply with the historical appearance; more specifically the adding on of porches. The angle of the property, its topography, and the effect of the 1928 Plat allowing small lots which do not conform to the 1955 zoning requirements, along with the existence of a paper road easement that adjoins the property, cause practical difficulty.

In review of the site plan and per Mr. Childress' testimony, a variance would be required even if one home were built on the property. Also, the County recommends that no parking pad be placed on the property and requested that the Developer improve the curbing and road in front of the property, thus allowing off-street parking.

#### **Decision**

The Board finds that the request for variances meets both the requirement of uniqueness and the spirit and intent of § 307 of the B.C.Z.R. and we further find that such development does not adversely affect the public health, safety, or general welfare of the community. Further, strict adherence with *Baltimore County Zoning Regulations* would result in practical difficulty or unreasonable hardship as previously stated.

#### **ORDER**

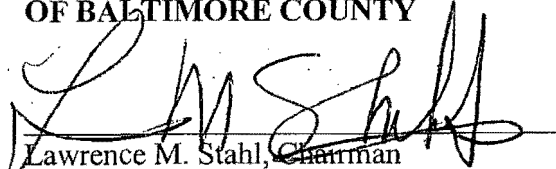
**THEREFORE, IT IS THIS** 3rd day of November, 2005 by the County Board of Appeals of Baltimore County

**ORDERED** that Petitioner's requested variance relief, to permit a rear yard setback of 27 feet in lieu of the minimum required 50-foot setback and also to allow for a side yard setback of 6 feet in lieu of the 10-foot Code requirement pursuant to §§ 1B02.3.C.1 and 409.6 of the

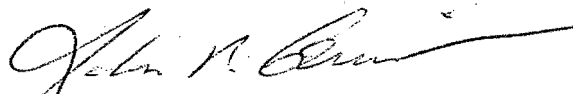
*Baltimore County Zoning Regulations (BCZR)*, be and the same is hereby **GRANTED**,  
pursuant to the recommendation of the Design Review Committee.

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*.

**COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
Lawrence M. Stahl, Chairman

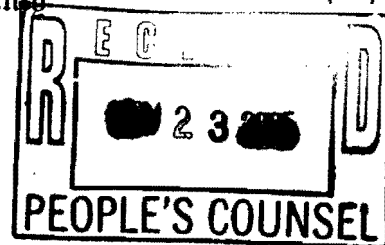
  
Mike Mohler

  
John P. Quinn



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
410-887-3180  
FAX: 410-887-3182



November 23, 2005

Jennifer Rouse, President  
Harris Hill Condominium Assn.  
523 Mcmanus Way  
Towson MD 21286

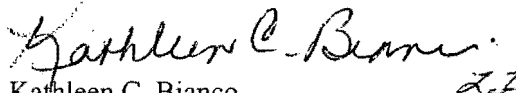
RE: *In the Matter of: Brian Chan* -Legal Owner /Petitioner  
Case No. 05-387-A

Dear Ms. Rouse:

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*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition. 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,

  
Kathleen C. Bianco  
Administrator

Enclosure

c: David Scotidas, Vice President, Harris Hill Condominium Assn.  
Michele M. Yendall, Secretary, Harris Hill Condominium Assn.  
Community Assn. Management /David Caplan  
Joan Brooks  
Northeast Towson Improvement Association  
Michael P. Tanczyn, Esquire  
Brian Chan  
Alonzo Childress /R. A. Childress & Assoc. Inc.  
✓ Office of People's Counsel  
William J. Wiseman III /Zoning Commissioner  
Pat Keller, Planning Director  
Timothy M. Kotroco, Director /PDM



**Department of Permits and  
Development Management**



**Baltimore County**

*James T. Smith, Jr., County Executive  
Timothy M. Kotroco, Director*

Director's Office  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204  
Tel: 410-887-3353 • Fax: 410-887-5708

May 25, 2005

Brian Chan  
P.O. Box 626  
Timonium, MD 21094

Dear Mr. Chan:

RE: Case: 05-387-A, 437 E. Pennsylvania Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on April 26, 2005 by Joan Brooks of the Harris Hill Condominium Association. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco  
Director

TK:klm

c: William J. Wiseman, III, Zoning Commissioner  
Timothy Kotroco, Director of PDM  
People's Counsel  
Alonzo Childress, 713 Pheasant Drive, Forest Hill 21050  
Joan Brooks, 514 McManus Way, Towson 21286  
David Caplan, 3655A Old Court Rd., Ste. 14, Baltimore 21208

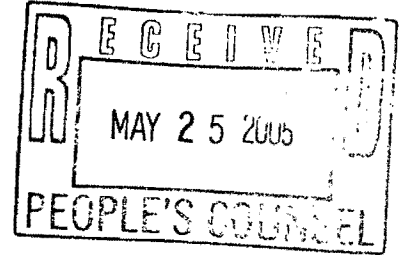


60  
/p42

**APPEAL**

Petition for Variance  
437 E. Pennsylvania Avenue  
N/S Pennsylvania Avenue, 228 ft. E/of c/line of Railroad Avenue  
9<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District  
Legal Owner: Brian Chan

Case No.: 05-387-A



Petition for Variance (February 2, 2005)

Zoning Description of Property

Notice of Zoning Hearing (February 14, 2005)

Certification of Publication (The Jeffersonian Issue – March 3, 2005)

Certificate of Posting (March 5, 2005) by Charles Merritt

Entry of Appearance by People's Counsel (February 17, 2005)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet – None in file

Citizen(s) Sign-In Sheet – None in file

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Plan to accompany Petition for Zoning Variance

Protestants' Exhibits – None in file

Miscellaneous (Not Marked as Exhibit)

1. Red marked Plan to accompany Petition for Zoning Variance  
(notes Added Rear Decks as of 3/18/05)

Deputy Zoning Commissioner's Order (GRANTED – March 29, 2005)

Notice of Appeal received on April 26, 2005 from Joan Brooks of the Harris Hill Condominium Association

c: People's Counsel of Baltimore County, MS #2010  
Deputy Zoning Commissioner  
Timothy Kotroco, Director of PDM  
Brian Chan, P.O. Box 626, Timonium 21094  
Alonzo Childress, 713 Pheasant Drive, Forest Hill 21050  
Joan Brooks, 514 McManus Way, Towson 21286  
David Caplan, 3655 A Old Court Rd., Ste. 14, Baltimore 21208

*date sent May 25, 2005, klm*

PM2

April 22, 2005

**Baltimore County**  
**Department of Permits and Zoning**  
111 West Chesapeake Avenue, Room 111  
Towson, Maryland 21204

**Re: Zoning Case No. 05-387-A, Mr. Brian Chan, Petitioner**  
Gentlemen:

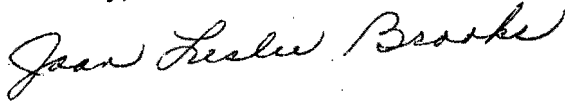
Please be advised that the Board of Trustees for the Harris Hill Condominium, on behalf and at the request of the unit owners, hereby requests to file an appeal against the approved zoning variances granted on March 29, 2005.

The rear and side yard setback variances granted to the petitioner may cause an adverse impact upon the aesthetics and property values of the nearby community of Harris Hill. Additionally, we are concerned with the sub-division of the small lot, which will obviously cause additional wear to the privately owned and maintained street known as McManus Way and result in unanticipated private expense to the unit owners.

Attached hereto please find our check(s) in the amount of \$400.00 representing the required amounts to file such appeal. Kindly notify the following persons of the date of the appeal.

Joan Brooks  
514 McManus Way  
Towson MD 21286  
Community Association Management  
Attn: David Caplan  
3655 A Old Court Road, Suite 14,  
Baltimore MD 21208

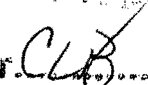
Sincerely,



Joan Brooks, President  
Harris Hill Condominium Association

Enc./check  
cc: David Caplan,

RECEIVED

Per. 

3/29

IN RE: PETITION FOR VARIANCE  
N/S of Pennsylvania Avenue, 228 ft.  
E centerline of Railroad Avenue  
9th Election District  
5th Councilmanic District  
(437 E. Pennsylvania Avenue)

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* CASE NO. 05-387-A

Brian Chan  
*Petitioner*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, Brian Chan. The variance request is for property located at 437 E. Pennsylvania Avenue in the Towson area of Baltimore County. The variance request is from Sections 1B02.3.C.1 and 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit rear yard setbacks of 27 ft. in lieu of 50 ft. for dwellings on proposed Lots 1 & 2 and a side yard setback of 6 ft. in lieu of 10 ft. for proposed Lot 2. Also, to allow 0 parking space on site in lieu of 2 for each lot. The subject property and requested relief are more particularly described on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Variance.

The property was posted with Notice of Hearing on March 5, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on March 3, 2005 to notify any interested persons of the scheduled hearing date.

Amended Petition

At the outset of the hearing, the Petitioner noted that the subject plan was reviewed by the Office of Planning who had made twenty recommendations for change as the result of the Planning Design Review Panel. Recommendation #7 required that decks be added to the rear of the two new homes for the convenience of the new owners. This requires a variance to permit a deck with a rear yard setback of 20 feet in lieu of the required 37.5 feet. However, for whatever reason, this fourth

request was not advertised either on the sign posted on the property or in the newspaper advertisement. Four community representatives attended the hearing, including a representative of the Northeast Towson Improvement Association, all of whom indicated that adequate notice was given the community, that they had taken off work to attend the hearing and did not want to re-advertise and re-post the property so that another hearing could be held perhaps a month from the hearing date. Consequently, the amended Petition was accepted without re-posting or re-advertising.

### **Applicable Law**

#### **Section 307 of the B.C.Z.R. – *Variances*.**

“The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.”

### **Zoning Advisory Committee Comments**

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated February 25, 2005, a copy of which is attached hereto and made a part hereof. A revised Planning Comment dated March 23, 2005 was also received after the hearing which indicates that the parking for the new homes would not have to be on-site but rather could be on the street within the area of the right-of-way which is widened by the Petitioner.

### **Interested Persons**

Appearing at the hearing on behalf of the variance request was Brian Chan, Petitioner. Attending the hearing as interested citizens were Mr. Miller, on behalf of the Northeast Towson Improvement Association, Ms. Schrum, and Mr. Tiskiewic, representatives appearing on behalf of Dr. Thomas Daly and Mr. Etzel. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

### **Testimony and Evidence**

Mr. Childress, the engineer who prepared the Plan to Accompany, indicated that the subject property is within the East Towson Community Design Review Panel Area as well as within the Historic African Settlement District of East Towson. As such, the plan is subject to review by the Design Review Panel who submitted 20 changes to the plan, which they indicated are binding on this Commission.

Mr. Childress noted that the subject property had been improved by the home which was in very poor condition and which was razed some time ago. The Petitioner proposes to subdivide the subject lot into two lots. Lot 1 would contain 3800 sq. feet and Lot 2 would contain 4600 sq. feet. Both lots meet the minimum lot size for the DR 10.5 regulations. The Petitioner would then like to erect two new homes on the premises in accord with the findings of the Design Review Panel with which the Petitioner fully agrees and has incorporated into the redline Plan to Accompany.

The first variance involves both lots to permit rear yard setbacks of 27 ft. in lieu of 50 ft. for dwellings on Lots 1 & 2. He indicated that the proposed homes are only 18 feet wide by 50 feet long. If the rear yard setback were strictly enforced the house would be only 30 feet long which would make the homes unreasonably small. See Petitioner's Exhibit 1 and the dotted line indicating the rear of the buildings if the 50-foot rear yard setback were enforced.

The second variance comes from the existence of a 25-foot wide paper road on the East Side of Lot 2. Mr. Childress indicated that this paper road has never been dedicated to the County and could never meet the present road width of 40 feet minimum. The old roadbed contains some public utilities. The Petitioner is requesting a side yard setback of 6 ft. in lieu of 10 ft. for proposed Lot 2. Again, if strictly enforced this would reduce the width of the new home, which is only 18 feet to begin with.

There was some confusion regarding the third request to allow 0 parking spaces on site in lieu of 2 parking spaces for each lot. Initially, the binding comment from the Office of Planning was that parking should be on site. However, a revised comment was received after the hearing from the Office of Planning stating that parking should be on the street. The Office of Planning felt that this would be more in keeping with other new homes in the neighborhood, especially the homes on Lennox Avenue recently built by St. Ambrose Housing. The vehicles associated with these new homes would park in the area in front of the homes, which will be widened as part of the right-of-way exaction.

Finally, the Office of Planning required that decks be added to the new homes because these would likely be requested by future variance requests by the homeowners. The normal rear yard setback in DR 10.5 is 50 feet. However, projections are allowed into rear yards 25% or 37.5 feet. As shown on Exhibit 1, the decks would come within 20 feet of the rear line. Again, the reason is to provide amenities, which will be attractive to new homebuyers and save the County having to go through variance requests piecemeal.

Mr. Miller, representing the Northeast Towson Improvement Association, praised the Petitioner's cooperation with the Association and generally supported the proposal. He indicated that the homes built on Lennox Avenue were good prototypes for these homes including on-street parking. He fully agreed that the decks be added to the rear of the homes as shown. Ms. Schrum

and Mr. Tiskiewic represented Dr. Thomas Daly who owns nearby property on Joppa Road. They applauded razing the previously existing building and had no objection to the proposed homes on the two lots. Mr. Etzel indicated his support as well recalling other new homes in the area, which he thought, improved the neighborhood.

At that point in the hearing, a general discussion ensued as to whether or not the proposed homes changed the pattern of development in the neighborhood. Each of the citizens indicated that they saw no problem with what was proposed. In fact, it may well happen that similar homes will be built on adjoining lots. There was no indication that the citizens saw the proposal as adversely changing the neighborhood.

**Findings of fact and conclusions of law**

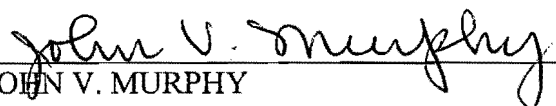
I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The Petitioner proposes several features of the new homes requested by the Planning Design Review Panel which require variances. No increase in residential density beyond that otherwise allowable by the Zoning Regulations will result by granting these variances since the lots meet the minimum lot size of the DR 10.5 zone. Furthermore, I find these variances can be granted in strict harmony with the spirit and intent of said regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. The community obviously welcomes more homes like the ones on Lennox Avenue and sees no danger to changing the pattern of development of the neighborhood.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's variance requests should be granted.

THEREFORE, IT IS ORDERED, this 29 day of March, 2005, by this Deputy Zoning Commissioner, that the Petitioner's request for variance from Sections 1B02.3.C.1 and 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit rear yard setbacks of 27 ft. in lieu of 50 ft. for dwellings on proposed Lots 1 & 2 and a side yard setback of 6 ft. in lieu of 10 ft. for proposed Lot 2; to allow 0 parking space on site in lieu of 2 for each lot, and to allow decks on the homes of lots 1 and 2 with a rear yard setback of 20 feet in lieu of the required 37.5 feet be and are hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for any necessary permits and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at his 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.
2. Compliance with the Amended ZAC comments submitted by the Office of Planning dated March 23, 2005, a copy of which is attached hereto and made a part hereof; and
3. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

  
JOHN V. MURPHY  
DEPUTY ZONING COMMISSIONER  
FOR BALTIMORE COUNTY

JVM:raj



# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 437 E. Pennsylvania Ave.  
which is presently zoned DR 10.5

This Petition shall be filed with the Department of Permits and 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 Determined at Hearing*

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

## Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

## Attorney For Petitioner:

Name - Type or Print

City

Signature

Company

Address

Telephone No.

City

State

Zip Code

## Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

PO BOX 626

443-520-5973

TIMONIUM MD

State

Zip Code

## Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

## OFFICE USE ONLY

Case No. 05 387 A

ESTIMATED LENGTH OF HEARING 1HR

UNAVAILABLE FOR HEARING

Reviewed By JK

Date 2/02/05

## **Petition for Variance**

**For the Property located at 437 E. Pennsylvania Avenue**

Petition for Variance from Sections 1B02.3.C.1 and 409.6 BCZR to permit rear yard

Setbacks of 27 ft in lieu of 50 ft for dwellings on proposed Lots 1 & 2 and a side yard

Setback of 6 ft in lieu of 10 ft for proposed Lot 2. Also, to allow 0 parking space on site

In lieu of 2 for each lot.

**Department of Permits and  
Development Management**

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



**Baltimore County**

*James T. Smith, Jr., County Executive*  
*Timothy M. Kotroco, Director*

March 14, 2005

Brian Chan  
P.O. Box 626  
Timonium, Maryland 21094

Dear Mr. Chan:

RE: Case Number: 05-387-A, 437 E. Pennsylvania Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 2, 2005.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive style.

W. Carl Richards, Jr.  
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel

Visit the County's Website at [www.baltimorecountyonline.info](http://www.baltimorecountyonline.info)



# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

**TO:** Timothy M. Kotroco, Director  
Department of Permits and  
Development Management

**DATE:** March 23, 2005

**FROM:** Arnold F. 'Pat' Keller, III  
Director, Office of Planning

**SUBJECT:** 437 East Pennsylvania Avenue, Amended

**INFORMATION:**

**Item Number:** 5-387

**Petitioner:** Brian Chan

**Zoning:** DR 10.5

**Requested Action:** Variance

RECEIVED

MAR 23 2005

ZONING COMMISSIONER

### PROJECT DESCRIPTION:

The applicant proposes a two lot subdivision in East Towson along Pennsylvania Avenue. The houses and lots will be narrow and will face the road. Parking will be accommodated **on-street**. Sidewalks, curb and gutters will be installed along the property frontage. The sidewalk will be located behind the curb. The porch will be set back 7½ feet from the right-of-way. The porch depth will be 8 feet with the front facade set back at 15½ feet from the right-of-way.

### DESIGN REVIEW PANEL COMMENTS:

The following issues and recommendations were identified at the Design Review Panel meeting. These recommendations are binding on the Hearing Officer. The Office of Planning recommends that the petitioner's request be approved subject to the following conditions:

1. Add lead walks from the public sidewalk to the opening of the porch.
2. Add a landscape buffer along the side of lot 1 next to the adjacent townhouses.
3. Add windows to the sides of the houses. Revise the floor plans accordingly.
4. The front window shall be full length and the door shall be located to the side.

5. Add a true window in the attic on the front facade.
6. Relocate the bathroom on the first floor so that is not at the front entrance.
7. Add a porch/deck to the rear of the houses (similar to the houses on Lennox Avenue).
8. Add soffits under the eave.
9. The rear window above the sink should be longer.
10. The elevation of the first floor shall be a minimum of twenty-four inches off of the ground.
11. Run the plumbing along the inside walls.
12. Place the bathrooms together on the second floor to allow more opportunity for windows in the master bedroom.
13. The houses will have heat pumps with an option for gas. Condensers will be located outside.
14. The materials shall be vinyl with asphalt shingles (similar to the houses on Lennox Avenue).
15. The porches shall be painted wood (similar to the houses on Lennox Avenue).
16. Add street trees (possibly three) between the units along the Pennsylvania Avenue frontage.
17. Add lattice on the front porch to screen the undercarriage structure.
18. The panel supports the requested setback variance to the side yard and for the porch projections.
19. The applicant will modify the variance request to allow rear yard decks.
20. Submit revised architectural elevations, floor plans, site and landscape plans to the Office of Planning for review and approval.

For further information concerning the matters stated herein, please contact Jenifer German at 410-887-3480.

Prepared by:

Mark A. Cunningham

Division Chief:

Diana L. Lachar

AFK/LL:MAC:

Robert L. Ehrlich, Jr., Governor  
Michael S. Steele, Lt. Governor



Robert L. Flanagan, Secretary  
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 2.11.05

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

RE: Baltimore County  
Item No. 387 JLL

Dear Ms. Matthews:

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief  
Engineering Access Permits Division

My telephone number/toll-free number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • [www.marylandroads.com](http://www.marylandroads.com)

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

**TO:** Timothy M. Kotroco, Director  
Department of Permits and  
Development Management

**DATE:** February 25, 2005

**FROM:** Arnold F. 'Pat' Keller, III  
Director, Office of Planning

**SUBJECT:** 437 East Pennsylvania Avenue

**INFORMATION:**

**Item Number:**

5-387

**Petitioner:** Brian Chan

**Zoning:** DR 10.5

**Requested Action:** Variance

**PROJECT DESCRIPTION:**

The applicant proposes a two lot subdivision in East Towson along Pennsylvania Avenue. The houses and lots will be narrow and will face the road. Parking will be accommodated off-street. Sidewalks, curb and gutters will be installed along the property frontage. The sidewalk will be located behind the curb. The porch will be set back 7½ feet from the right-of-way. The porch depth will be 8 feet with the front facade set back at 15½ feet from the right-of-way.

**DESIGN REVIEW PANEL COMMENTS:**

The following issues and recommendations were identified at the Design Review Panel meeting. These recommendations are binding on the Hearing Officer. The Office of Planning recommends that the petitioner's request be approved subject to the following conditions:

1. Add lead walks from the public sidewalk to the opening of the porch.
2. Add a landscape buffer along the side of lot 1 next to the adjacent townhouses.
3. Add windows to the sides of the houses. Revise the floor plans accordingly.
4. The front window shall be full length and the door shall be located to the side.

## Fire Department

700 East Joppa Road  
Towson, Maryland 21286-5500  
Tel: 410-887-4500



## Baltimore County

*James T. Smith, Jr., County Executive*  
*John J. Hohman, Chief*

County Office Building, Room 111  
Mail Stop #1105  
111 West Chesapeake Avenue  
Towson, Maryland 21204

February 14, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: February 22, 2005

Item No.: 379, 380-392, 394 (387)

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Franklin J. Cook  
Fire Marshal's Office  
(O) 410-887-4881 (C) 443-829-2946  
MS-1102F

cc: File

Visit the County's Website at [www.baltimorecountyonline.info](http://www.baltimorecountyonline.info)



BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco  
FROM: John D. Oltman, Jr <sup>300</sup>  
DATE: February 25, 2005  
SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of February 14, 2005

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

05-379

05-381

05-385

05-386

05-387

05-388

05-389

05-390

05-391

05-394

Reviewers: Sue Farinetti, Dave Lykens

PMZ

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

**TO:** Timothy M. Kotroco, Director  
Department of Permits and  
Development Management

**DATE:** March 23, 2005

**FROM:** Arnold F. 'Pat' Keller, III  
Director, Office of Planning

**SUBJECT:** 437 East Pennsylvania Avenue, Amended

**INFORMATION:**

**Item Number:** 5-387

**Petitioner:** Brian Chan

**Zoning:** DR 10.5

**Requested Action:** Variance

**PROJECT DESCRIPTION:**

The applicant proposes a two lot subdivision in East Towson along Pennsylvania Avenue. The houses and lots will be narrow and will face the road. Parking will be accommodated **on-street**. Sidewalks, curb and gutters will be installed along the property frontage. The sidewalk will be located behind the curb. The porch will be set back 7½ feet from the right-of-way. The porch depth will be 8 feet with the front facade set back at 15½ feet from the right-of-way.

**DESIGN REVIEW PANEL COMMENTS:**

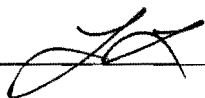
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1. Add lead walks from the public sidewalk to the opening of the porch.
2. Add a landscape buffer along the side of lot 1 next to the adjacent townhouses.
3. Add windows to the sides of the houses. Revise the floor plans accordingly.
4. The front window shall be full length and the door shall be located to the side.

5. Add a true window in the attic on the front facade.
6. Relocate the bathroom on the first floor so that is not at the front entrance.
7. Add a porch/deck to the rear of the houses (similar to the houses on Lennox Avenue).
8. Add soffits under the eave.
9. The rear window above the sink should be longer.
10. The elevation of the first floor shall be a minimum of twenty-four inches off of the ground.
11. Run the plumbing along the inside walls.
12. Place the bathrooms together on the second floor to allow more opportunity for windows in the master bedroom.
13. The houses will have heat pumps with an option for gas. Condensers will be located outside.
14. The materials shall be vinyl with asphalt shingles (similar to the houses on Lennox Avenue).
15. The porches shall be painted wood (similar to the houses on Lennox Avenue).
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19. The applicant will modify the variance request to allow rear yard decks.
20. Submit revised architectural elevations, floor plans, site and landscape plans to the Office of Planning for review and approval.

For further information concerning the matters stated herein, please contact Jenifer German at 410-887-3480.

Prepared by: \_\_\_\_\_



Division Chief: \_\_\_\_\_



AFK/LL:MAC:

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

**TO:** Timothy M. Kotroco, Director  
Department of Permits and  
Development Management

**DATE:** February 25, 2005

**FROM:** Arnold F. 'Pat' Keller, III  
Director, Office of Planning

**SUBJECT:** 437 East Pennsylvania Avenue

**INFORMATION:**

**Item Number:** 5-387

**Petitioner:** Brian Chan

**Zoning:** DR 10.5

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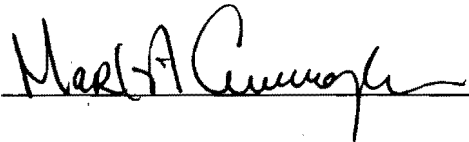
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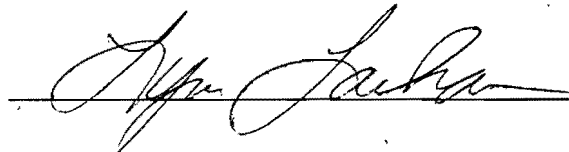
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20. Submit revised architectural elevations, floor plans, site and landscape plans to the Office of Planning for review and approval.

For further information concerning the matters stated herein, please contact Jenifer German at 410-887-3480.

Prepared by:



Division Chief:



AFK/LL:MAC:

RE: PETITION FOR VARIANCE \* BEFORE THE  
437 East Pennsylvania Avenue; N/side \*  
E Pennsylvania Ave, 228' E Railroad Ave \* ZONING COMMISSIONER  
9<sup>th</sup> Election & 5<sup>th</sup> Councilmanic Districts \*  
Legal Owner(s): Brian Chan \* FOR  
Petitioner(s) \* BALTIMORE COUNTY  
\* 05-387-A

\* \* \* \* \*

**ENTRY OF APPEARANCE**

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

**RECEIVED**

FEB 17 2005

Per *fen*

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carole S. Demilio*

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 17<sup>th</sup> day of February, 2005, a copy of the foregoing Entry of Appearance was mailed to, Brian Chan, P.O. Box 626, Timonium, MD 21094, Petitioner(s).

*Peter Max Zimmerman*

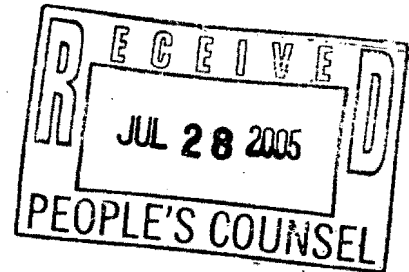
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
410-887-3180  
FAX: 410-887-3182

July 29, 2005



Michele M. Yendall, Secretary  
Harris Hill Condominium Association  
521 McManus Way  
Towson, MD 21286

RE: *In the Matter of: Brian Chan*  
Case No. 05-387-A

Dear Ms. Yendall:

This will acknowledge receipt of your correspondence dated July 25, 2005 regarding the change in person(s) to be notified for hearing in the subject matter.

The names of the current Officers for the Association have been added to the Board's file in this matter, and notice will be sent accordingly when the case is scheduled for hearing before the Board.

Please call me if I can be of any further assistance.

Very truly yours,

Kathleen C. Bianco  
Administrator

Enclosure

c: Brian Chan  
Office of People's Counsel  
Joan Brooks  
Jennifer Rous, President  
Harris Hill Condominium Assn.  
David Scotidas, Vice President  
Harris Hill Condominium Assn.  
Community Assn. Management /David Caplan



July 25, 2005

Board of Appeals  
Room 49  
Old Court  
400 Washington Ave  
Towson, MD 21204  
Attn: Kathleen Bianco

**Re: Zoning Case No. 05-387-A, Mr. Brian Chan, Petitioner**

Gentlemen:

Please be advised that the Board of Trustees for the Harris Hill Condominium, having previously notified you of its intent to appeal the approved zoning variances as above encaptioned, does hereby request a change in the person(s) to be notified of the date of such appear hearing.

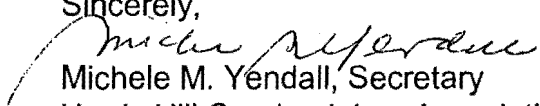
Please notify the following persons on behalf of the Condominium unit owners:

Jennifer Rous, President  
523 McManus Way  
Towson MD 21286

David Scotidas, Vice President  
503 McManus Way  
Towson, MD 21286

Community Association Management  
Attn: David Caplan  
3655 A Old Court Road, Suite 14,  
Baltimore MD 21208

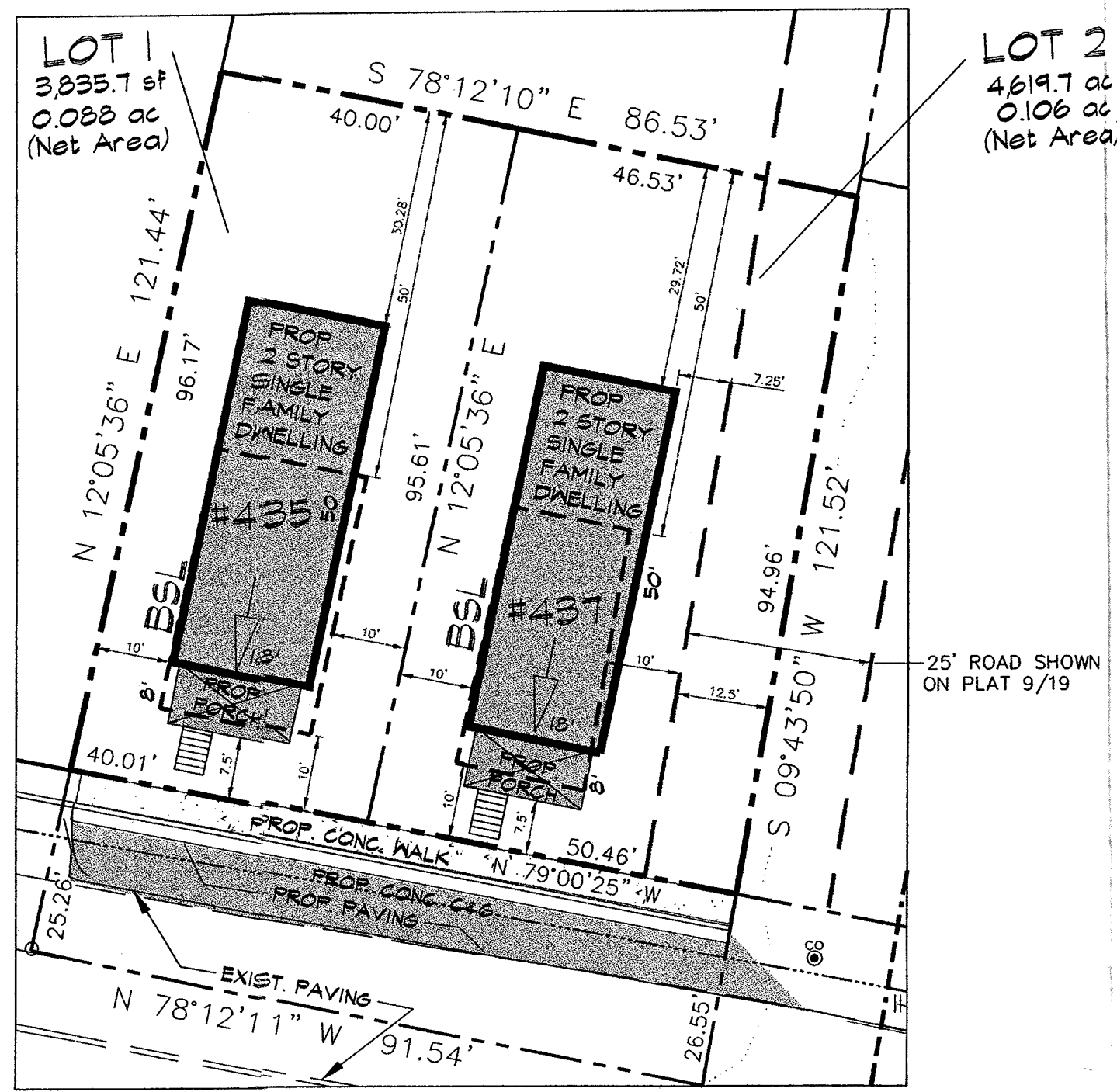
Sincerely,

  
Michele M. Yendall, Secretary  
Harris Hill Condominium Association

cc: David Caplan,

**RECEIVED**  
JUL 28 2005

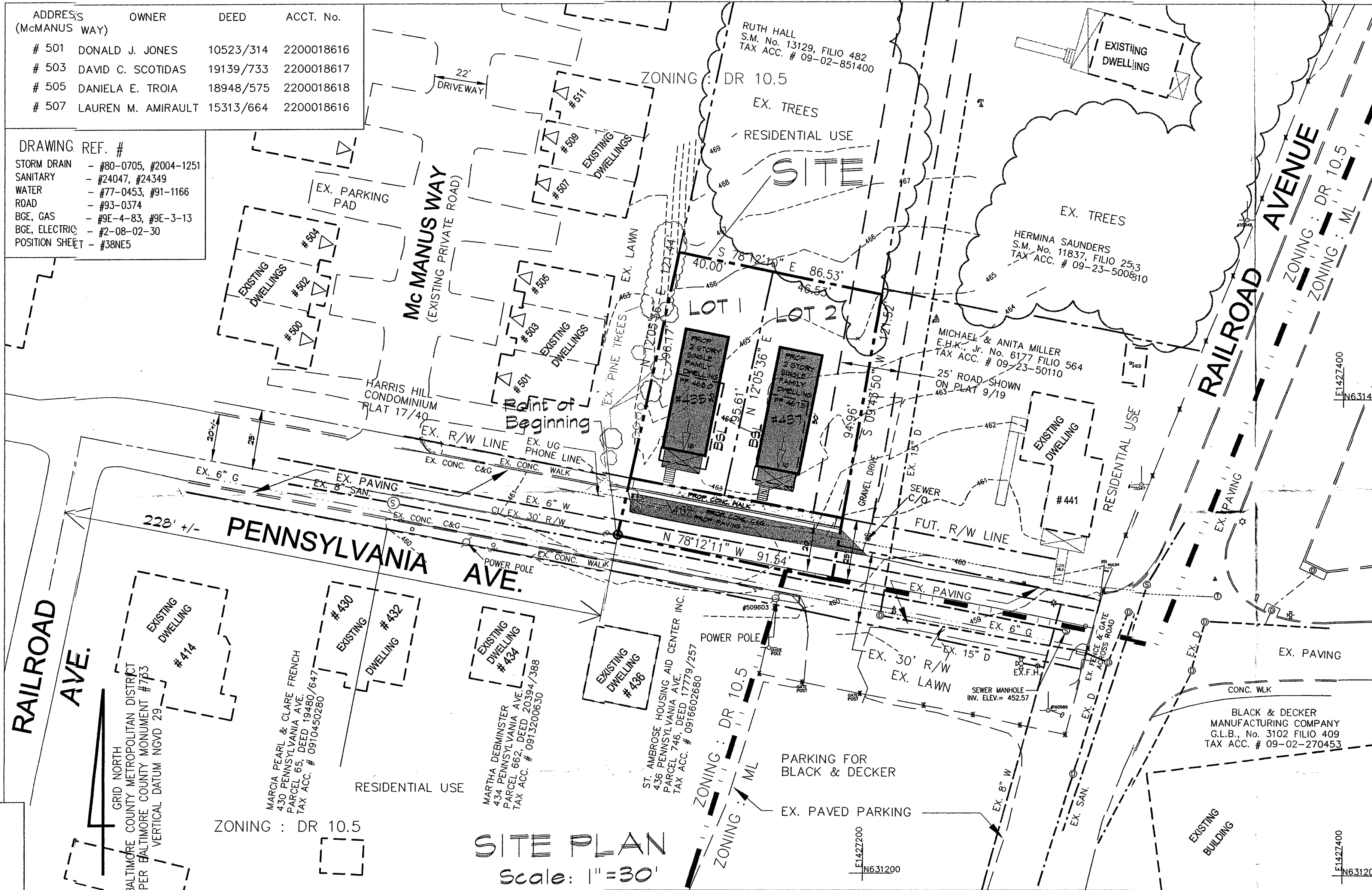
BALTIMORE COUNTY  
BOARD OF APPEALS



**SITE DETAIL  
PROPERTY LINE DATA**  
Scale: 1"=20'

| ADDRESS (McMANUS WAY) | OWNER              | DEED      | ACCT. No.  |
|-----------------------|--------------------|-----------|------------|
| # 501                 | DONALD J. JONES    | 10523/314 | 2200018616 |
| # 503                 | DAVID C. SCOTIDAS  | 19139/733 | 2200018617 |
| # 505                 | DANIELA E. TROIA   | 18948/575 | 2200018618 |
| # 507                 | LAUREN M. AMIRALTY | 15313/664 | 2200018616 |

| DRAWING REF. # |                      |
|----------------|----------------------|
| STORM DRAIN    | #80-0705, #2004-1251 |
| SANITARY       | #24047, #24349       |
| WATER          | #77-0453, #91-1166   |
| ROAD           | #93-0374             |
| BGE, GAS       | #9E-4-83, #9E-3-13   |
| BGE, ELECTRIC  | #2-08-02-30          |
| POSITION SHEET | #38NE5               |



**SITE PLAN**  
Scale: 1"=30'

## GENERAL NOTES

### SITE

- DEED REFERENCE : 6686/693 \*
- TAX ACCOUNT No. #0923502630
- TAX MAP 70, GRID 9, PARCEL 69
- ELECTION DISTRICT : 9 COUNCILMANIC DISTRICT : 5
- TOTAL AREA OF PROPERTY : TOTAL AREA = 0.248 ACRES± 10,812 SF±  
GROSS = 0.248 ACRES± 10,812 SF± (TO & OF ROAD)

|                               |           |           |
|-------------------------------|-----------|-----------|
| TOTAL AREA OF LOTS :          | 0.194 AC. | 8,455 SF  |
| R/W WIDENING OF PUBLIC ROAD : | 0.054 AC. | 2,357 SF  |
| TOTAL AREA OF SITE :          | 0.248 AC. | 10,812 SF |

- THIS SITE IS ON BALTIMORE COUNTY 200 SCALE MAP : "NE 10B"
- EXISTING SITE CONDITION : LAWN, VACANT

### ENVIRONMENTAL

- THERE ARE NO CRITICAL AREA, ARCHAEOLOGICAL SITES, ENDANGERED SPECIES HABITATS OR HISTORICAL BUILDINGS WITHIN THE LIMITS OF CONSTRUCTION SHOWN ON THIS PLAN TO THE BEST OF OUR KNOWLEDGE.
- THERE ARE NO CRITICAL EXISTING SLOPES OF 25% OR GREATER.
- THERE ARE NO EXISTING WELL, SEPTIC SYSTEM OR ABANDONED UNDERGROUND TANKS ON SITE TO THE BEST OF OUR KNOWLEDGE.
- NO FOREST ON SITE.
- NO WETLANDS EXIST WITHIN A 25' OF THE SITE.
- NO STREAMS EXIST WITHIN A 100' OF THE SITE. THE SITE IS NOT WITHIN A 100 YEAR FLOODPLAIN.
- PUBLIC WATER AND SEWER SERVE THIS SITE.

### ZONING

- ZONING HISTORY : NONE.
- EXISTING USE: VACANT PROPOSED USE: RESIDENTIAL SUBDIVISION (2 SINGLE FAMILY DWELLINGS: File No. 05-001-M)
- ALL LOTS AND DWELLING UNITS SHOWN ON THIS PLAN ARE FOR SALE.
- EACH LOT TO HAVE TWO (2) PARKING SPACES ALONG EAST PENN. AVE. (WITHIN THE PUBLIC ROAD RIGHT-OF-WAY) SEE ZONING VARIANCE NOTES ON THIS PLAN.
- THIS PROPERTY AS SHOWN HAS BEEN HELD INTACT SINCE NOV. 5, 1928 (DATE OF RECORD PLAT 9/19). NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY TO SUPPORT ANY OTHER OFF-SITE DWELLING EXCEPT THE LOT LINE ADJUSTMENT.
- THE PROPERTY SHOWN HEREON IS SUBJECT TO ANY AND ALL AGREEMENT, EASEMENT, RIGHTS OF WAY AND/OR COVENANTS OF RECORD & LAW. THIS MINOR SUBDIVISION PLAN WAS PREPARED WITHOUT BENEFIT OF A TITLE EXAMINATION OR ABSTRACT.
- FRONT OF PROPOSED DWELLING SYMBOL:
- MAX. ALLOWED HEIGHT OF PROPOSED HOUSE (50 FEET)
- A ZONING FINAL DEVELOPMENT PLAN MAY BE REQUIRED DEPENDING ON THE NUMBER OF LOTS CREATED (AS DETERMINED FROM ZONING & THE EFFECTIVE DATE OF THE ZONING REGULATIONS FOR THAT ZONE)

### LOCAL OPEN SPACE

- LOCAL OPEN SPACE : NOT REQUIRED FOR MINOR SUBDIVISIONS.

### PUBLIC WORKS

- EAST PENN. AVENUE WILL BE WIDENING FOR APPROXIMATELY 90' AS REQUIRED BY THE DEPT. OF PUBLIC WORKS. RIGHT-OF-WAY WILL BE DEDICATED TO BALTIMORE COUNTY. CONSTRUCTION OF THE ROAD WIDENING PROJECTS SHALL BE IN ACCORDANCE WITH THE "COUNTY ROAD AGREEMENT". ROAD IMPROVEMENT

\* OWNER SETTLED ON PROPERTY NOV. 19, 2004. NEW DEED REFERENCE NUMBER HAS NOT BEEN ASSIGNED.

## LEGEND

- 464--- EXISTING CONTOUR
- PROPERTY LINE
- PROPOSED PAVING
- ZONING LINE
- BUILDING SETBACK LINE

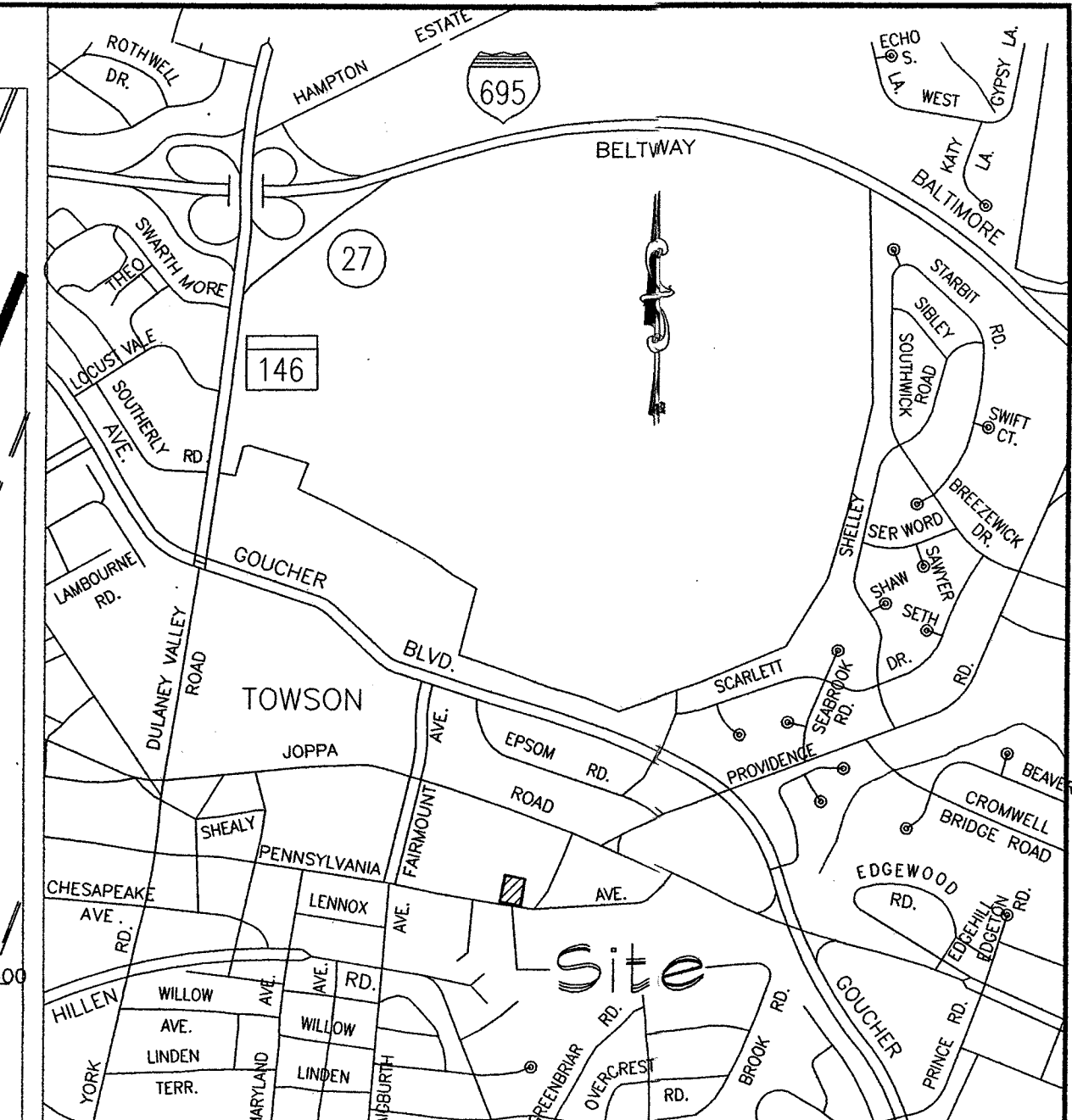
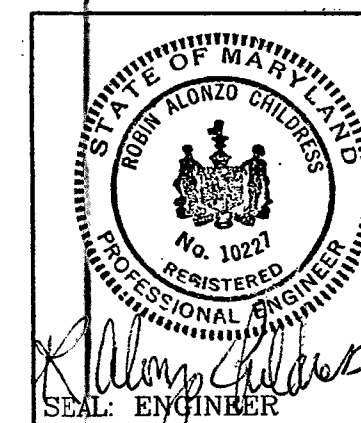
## BUILDING SETBACK LINE (BSL) REQUIREMENTS PER "D.R. 10.5" ZONING REGULATIONS

(Standards for Small Lot or Tract)

- Min. Front : 10ft
- Min. Side : 10ft (from R or Road)
- Min. Rear : 50ft
- Min. Lot Width : 20ft
- Minimum Size Lot : 3,000 sf (0.0689 ac±)
- Note : Max. Allowed Building Height : 50ft

## OWNER / PETITIONER :

BRIAN CHAN  
P.O. BOX 626  
TIMONIUM, MD. 21093  
PHONE (443) 520-5973



**LOCATION MAP**  
SCALE: 1" = 1,000'

MARYLAND COORDINATE SYSTEM (MCS)

- SITE IS WITHIN THE EAST TOWSON COMMUNITY-"DESIGN REVIEW PANEL AREA" AND IS SUBJECT TO THE PANEL'S REVIEW COMMENTS.
- SITE IS WITHIN THE "HISTORIC AFRICAN SETTLEMENT DISTRICT OF EAST TOWSON". THE SITE CONTAINED AN HISTORIC STRUCTURE KNOWN AS THE "JACOB HOUSE" (MHT# BA 01061) WHICH WAS PREVIOUSLY REMOVED.

## Petition for Zoning Variances for Lots 1 & 2 :

- TO PERMIT A REAR YARD SETBACK (IN A D.R. 10.5 ZONE) OF 27' IN LIEU OF THE MINIMUM REQUIRED 50'.
- TO PERMIT A SIDE YARD SETBACK (IN A D.R. 10.5 ZONE) OF 6' FROM A ROAD IN LIEU OF THE MINIMUM REQUIRED 10'.
- TO PERMIT ZERO ON-SITE PARKING SPACES IN LIEU OF THE REQUIRED 4 SPACES (2 LOTS x 2 PARKING SPACES). PARKING SPACES WILL BE AVAILABLE ALONG EAST PENNSYLVANIA AVENUE. THE ROAD PAVING WILL BE WIDENED AS REQUIRED BY DEPT. OF PUBLIC WORKS.

| DATE                                                                                                                    | REVISION DESCRIPTION                                                                                                 | BY                                     |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------|
|                                                                                                                         |                                                                                                                      |                                        |
| <b>Plan to Accompany Petition for<br/>Zoning Variances for<br/>BRIAN CHAN PROPERTY<br/>437 East Pennsylvania Avenue</b> |                                                                                                                      |                                        |
| BALTIMORE COUNTY<br>SCALE: 1"=30 ft.                                                                                    | DISTRICT 9 CS                                                                                                        | MARYLAND<br>DATE: 2/01/05              |
| ENGINEER:<br>R. A. CHILDRESS & ASSOC. INC.<br>713 PHEASANT DRIVE<br>FOREST HILL, MD. 21050<br>(410) 803-0304            | SURVEYOR:<br>THOMPSON & MCCORD ASSOC., LLC<br>402 N. HICKORY AVENUE, SUITE B<br>BEL AIR, MD. 21014<br>(410)-803-0696 | DWG. NO.<br><b>Z-1</b><br>SHEET 1 OF 1 |