IN RE: PETITION FOR VARIANCE
S/S of Eastern Blvd., 25 feet east of
Stevens Road
15th Election District
6th Councilmanic District
(3201 Eastern Avenue)

1, 2 & 3 Eastern Avenue

Petitioner

BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 06-681-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

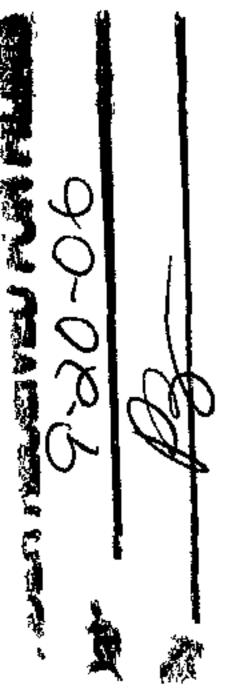
This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owner of the subject property, 1, 2 & 3 Eastern Avenue LLC. The Petitioner is requesting variance relief for property located at 3201 Eastern Avenue. Variance relief is requested from Section 409.8.A.4 to permit parking 0 feet from the right-of-way line and Section 232.3.B to permit a 10 foot rear yard setback in lieu of the required 10 feet from the right-of-way line and 20 feet rear yard setback, respectively.

The property was posted with Notice of Hearing on August 12, 2006 for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief and time and date of the public hearing. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on August 10, 2006 to notify any interested persons of the scheduled hearing date and relief requested.

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 letter was received from the Bureau of Development Plans Review dated July 13, 2006 which contains restrictions. A ZAC comment letter was received from the State Highway Administration dated July 11, 2006 which contains restrictions. A ZAC comment letter was received from the Department of Environmental Planning and Resource Management dated August 25, 2006 which contains restrictions. In addition there was a memo to file from the Zoning Office dated June 29, 2006 which indicates several zoning concerns. Copies of which are attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request were Rick Richardson, Jr., from Richardson Engineering, who prepared the site plan, Jim Rosier, Bill Donithan and George Anagnostou, for the corporate Petitioner. Jason Vetorri, Esquire represented the Petitioner. There were no protestants or citizens as the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

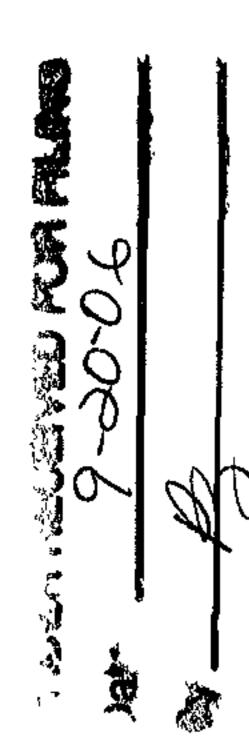
Testimony and Evidence

The subject property contains approximately 0.7 acres zoned BL and is not improved at the present time. The property is located at the intersection of Eastern Boulevard and Stevens Road as shown in the Plat to Accompany, exhibit 1. Mr. Anagnnostou indicated that he purchased the property as a location for overflow parking for his restaurant on Eastern Boulevard nearby. However he needed to expand the restaurant using an adjacent parcel which contained several retail tenants. As an accommodation to these tenants, he determined to build a small commercial building on the subject site into which these tenants could move. Along with these tenants, he indicated that he would like to have an ice cream shop in the building shown on exhibit 1 which he thought would enhance the renovations occurring on Eastern Boulevard.

Mr. Donithan, a neighbor, indicated his enthusiastic support for the proposed use.

Mr. Richardson indicated that the variance request arises from the recent widening of the State's right of way along Eastern Boulevard which now includes within the right of way, new sidewalks as shown on exhibit 1. The widened right of way now comes within one foot of the sidewalk shown. In addition he noted that the property is trapezoidal in shape having 76 feet of depth on the western end and 113 feet of depth on the eastern end. Finally he pointed out the storm water management swale on the eastern end of the property. Taken together these factors create the need for a variance for parking 0 feet from the right of way of Eastern Boulevard in lieu of the required setback of 10 feet. The Petitioner will meet all parking and FAR requirements.

In regard to the request for variance from the rear yard regulations, Mr. Richardson noted that the alley shown on exhibit 1, is a private right of way which has



From the above I believe we have made every effort to accommodate Planning's reasonable request for additional landscaping along Eastern Avenue to enhance the renaissance efforts in the area. However it appears that that requiring the landscaping will endanger the ice cream shop which is an even greater enhancement of the renaissance efforts.

Considering the testimony and evidence presented variance relief is needed. The SHA recently exacted 20 feet of additional right of way for Eastern Boulevard from this property which directly impacts the requested variances. In addition the property is oddly shaped and location of any building constrained by the storm water management swale on the eastern end of the property. Consequently I find the property unique from a zoning standpoint. The imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The Petitioner would not be able to build an economically viable retail building.

Finally, I find these variances can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. The new building with ice cream shop will enhance the renaissance efforts in the community.

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 Petitioners, I find that the Petitioners' variance request should be granted.

30.0e-8

THEREFORE, IT IS ORDERED, this _______day of September, 2006, by this Deputy Zoning Commissioner, that the Petitioner's variance request from is hereby GRANTED, subject to the following conditions:

- 1. In conformance with *Federal Flood Insurance* Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
- 2. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
- 3. The building engineer shall require a permit for this project.
- 4. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
- 5. Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the County.
- 6. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).
- 7. The site must reduce pollutant loadings 10% below predevelopment loadings to comply with Intensely Developed Area regulations.

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:pz



JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

September 20, 2006

JASON VETTORI, ESQUIRE GILDEA & SCHMIDT, LLC 300 E. LOMBARD STREET, STE. 1440 BALTIMORE, MD 21202-3228

Re: Petition for Variance
Case No. 06-681-A
Property: 3201 Eastern Avenue

Dear Mr. Vettori:

Enclosed please find the decision rendered in the above-captioned case. The petition for variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:pz

Enclosure

c: Rick Richardson, Richardson Engineering LLC, 110 Old Padonia Road, Suite LC, Cockeysville MD 21030

Jim Rosier, 15 Elinor Avenue, Baltimore MD 21236

Bill Donithan, 3031 Eastern Blvd., Baltimore MD 21220

George Anagnostou, 3321 Eastern Blvd., Baltimore MD 21220.



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 3201 EASTERN BOULEVARD
which is presently zoned BL

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) 409.8. A. A. TO PERMIT PARKING O'FROM THE RIGHTOF WAY LINE AND 232.3.B TO PERMIT A 10' REAR YARD SETBACK.

IN LIEU OF THE REQUIRED 10 FEET FROM THE RIGHT-OF-WAY LINE AND 20 FEET REAR YARD SETBACK, RESPECTIVELY.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) SITE CONFIGURATION AND OTHER INFORMATION AS PRESENTED AT THE 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:

Legal Owner(s):

			1.243	EASTER	IN AVI	ENVE, LLC
Name - Type or Print		N	ame - Type or Print			<i></i>
Signature	, , , , , , , , , , , , , , , , , , ,		Signayde		LC NOS Z	by Marying Me.
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City	State	Zip Code	Signature		<u> </u>	· · · · · · · · · · · · · · · · · · ·
Attorney For Petitic	ner:		1 EAST	SRN AVE	NUE	410-627-60(Telephone No.
			Address BALTIM)	21202
Name - Type or Print		C	ity 27914	State		Zip Code
	·	······································	Representa	tive to be Co	ntacted:	
Signature			PATRICK	1 RICHART	25021 JE	7
Company	· 	- 	Name RICHARDS	C RICHARD ON ENGWEE PADONIA P	EWG.LLC	
Address		Telephone No.	Address	PADONIA P	D STLC	<i>. 410~560~1</i> 502 Telephone No.
			COCKEYS City	VILLE	MD	21030
City	State	Zip Code	City		State	Zip Code
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10	/ 0/ A		ESTIMATED LEN	NGTH OF HEARING	;	- ++à
Case No. O6.	- 100 - A		UNAVAILABLE F	OR HEARING I		
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	3-20-06	ار معطول الإيمانية. م				i • •
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110 Old Padonia Road, Suite LC Cockeysville, Maryland 21030

410-560-1502, fax 410-560-0827

ZONING DESCRIPTION 3201 EASTERN AVENUE 15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME at a point on the south side of Eastern Boulevard, being at the intersection point as shown on the Plat of 'Eastern Manor', having a right-of-way (50) feet in width, where it intersects the east side of Stevens Road, a right-of-way (50) feet in width, thence running 21.22 along the east side of the Stevens Road right-of-way to the point of beginning of a new variable width right of way for Eastern Boulevard, (1) North 61 degrees 05 minutes 42 seconds East 82.06 feet, (2) North 66 degrees 39 minutes 02 seconds East 136.35 feet, (3) thence leaving Eastern Boulevard, South 15 degrees 10 minutes 23 seconds East 113.29 feet to the centerline of an alley (20) feet in width, thence running parallel with said alley, (4) South 74 degrees 49 minutes 37 seconds West 197.81 feet to a point on the east side of Stevens Road, thence running and binding on the east side of the Stevens Road right-of-way, (5) North 27 degrees 56 minutes 23 seconds West 76.31 feet, to the point of beginning. Also being known as lots 1-3 'Eastern Manor' as recorded in the Baltimore County Land Records in plat book 14 folio 22.

Containing a net area of 0.46 acres or 20,062 square feet of land, more or less.



06-68(-A (DROF-OFF)

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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:

3201 Eastern Avenue
South side of Eastern Boulevard, 25 feet east of Stevens Road
15th Election District — 6th Councilmanic District
Legal Owner(s): 1, 2 & 3 Eastern Avenue, LLC
Variance: to permit parking 0 feet from the public rights of way and to permit 10 foot rear yard setback in lieu of the required 10 feet from the right-of-way line and 20 feet

the required 10 feet from the right-of-way line and 20 feet rear yard setback, respectfully.
Hearing: Monday, August 28, 2008 at 9:00 In Room 407, County Courts Building, 401 Bosley. Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing.
Contact the Zoning Review Office at (410) 887-3391.

8/126 August 10

CERTIFICATE OF PUBLICATION

<u>810</u> , 20 <u>06</u>	
THIS IS TO CERTIFY, that the annexed advertisement was pub	lished
in the following weekly newspaper published in Baltimore County,	Md.,
once in each ofsuccessive weeks, the first publication apper on8 10,20_6	aring
The Jeffersonian	1
Arbutus Times	1
☐ Catonsville Times	,
☐ Towson Times	1
Owings Mills Times	i
□ NE Booster/Reporter	
☐ North County News	1
S. WULLING	
LEGAL ADVENTIONA	

CERTIFICATE OF POSTING

RE: Case No.: 06-681-A

Petitioner/Developer: 1, 2, 43

EASTERN AVE, LCC

Date of Hearing/Closing: 8-28-06

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

ATTN: Kristen Matthews {(410) 887-3394}

* 1 3m

Ladies and Gentlemen:

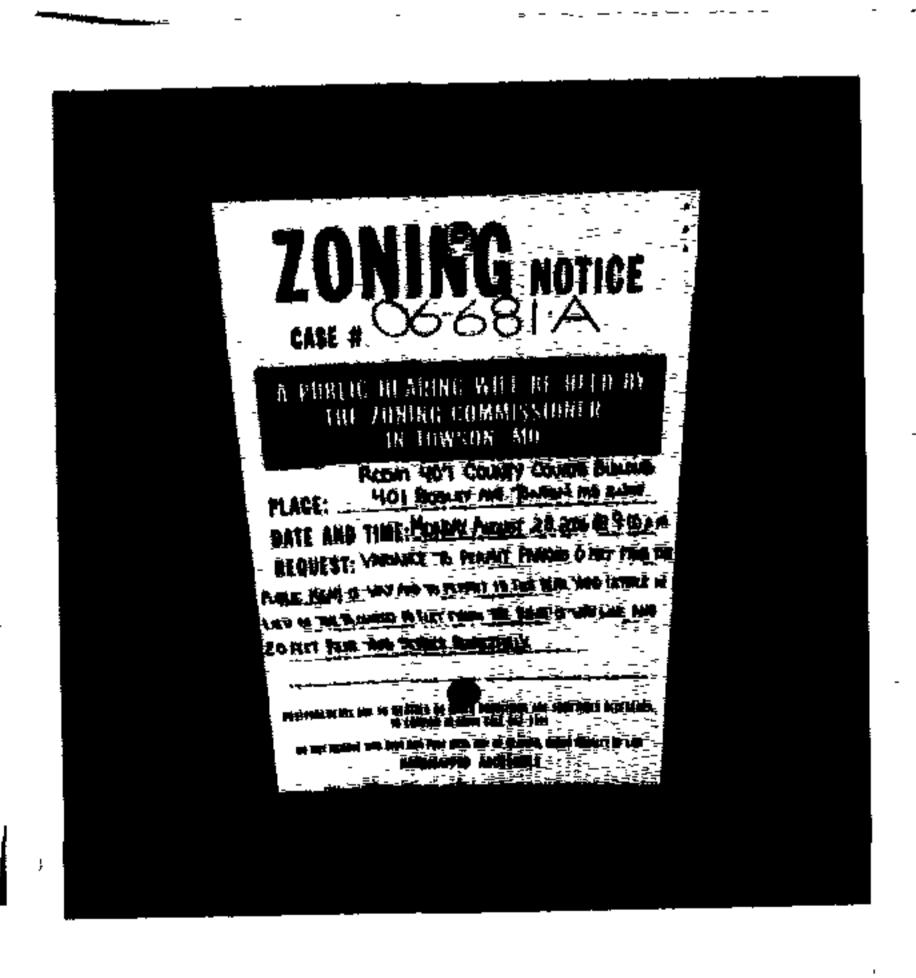
-

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:

3201 EASTERN ALE

The sign(s) were posted on 8-12-06 (Month, Day, Year)

Sincerely,



Robert Black 8-14-00 (Signature of Sign Poster) (Date)
SSG Robert Black
(Print Name)
1508 Leslie Road
(Address)
Dundalk, Maryland 21222
(City, State, Zip Code)
(410) 282-7940
(Telephone Number)

Department of Permits Development Management

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



Baltimore County :

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

July 13, 2006

NOTICE OF ZONING 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: 06-681-A

3201 Eastern Avenue Southside of Eastern Boulevard, 25 feet east of Stevens Road 15th Election District – 6th Councilmanic District Legal Owner: 1, 2, & 3 Eastern Avenue, LLC

Variance to permit parking 0 feet from the public right-of-way and to permit 10 foot rear yard setback in lieu of the required 10 feet from the right-of-way line and 20 feet rear yard setback, respectfully.

Hearing: Monday, August 28, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: 1,2 & 3 Eastern Avenue, LLC, 1 Eastern Avenue, Baltimore 21202
Patrick Richardson, Richardson Engineering, 110 Old Padonia Rd., Ste. LC, Cockeysville 21030

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, AUGUST 12, 2006.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Visit the County's Website at www.baltimorecountyonline.info

TO: PATUXENT PUBLISHING COMPANY

Thursday, August 10, 2006 Issue - Jeffersonian

Please forward billing to:

Patrick Richardson, Jr.
Richardson Engineering, LLC
110 Old Padchia Road, Ste. LC
Cockeysville, MD 21030

410-560-1502

NOTICE OF ZONING HEARING

The Zoning Comraissioner 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: 0/3-681-A

3201 Eastern Avenue

Southside of Easterr Boulevard, 25 feet east of Stevens Road

15th Election District - 6th Councilmanic District Legal Owner: 1, 2, ξ, 3 Eastern Avenue, LLC

<u>Variance</u> to permit parking 0 feet from the public right-of-way and to permit 10 foot rear yard setback in lieu of the required 10 feet from the right-of-way line and 20 feet rear yard setback, respectfully.

Hearing: Monday: August 28, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Boslay Avenue, Towson 21204

WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCEM ODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR VI ORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ∷O VING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring 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 the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising: Item Number or Case Number:	(DROP-OFF)
PLEASE FORWARD ADVERTISING BILL TO: Name: PATRICK (, RICHARDSON, JR. Address: C/D RICHARDSON ENGINEERING LID OLD PADONIA ROAD, SUR COCKEYSULLE, MO 21030 Telephone Number: 410-560-1502	, <u>(</u> (<u>C</u>
Richardson Engineering, LLC Patrick C. Richardson, Jr., PE Civil Engineering 110 Old Padonia Road, Suite LC Commercial Cockeysville, Maryland, 21030 Residential 410-560-1502 Industrial 410-560-0827 fax Rick@RichardsonEngineering.net	Revised 7/11/05 - SCJ



JAMES T. SMITH, JR. County Executive

August 23, 2006

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

George Anagnostou, Managing Member 1, 2 & 3 Eastern Avenue, LLC 1 Eastern Avenue Baltimore, MD 21202

Dear Mr. Anagnostou:

RE: Case Number: 06-681-A, 3201 Eastern Boulevard

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 29, 2006.

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,

u. Callibal D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel Patrick C. Richardson, Jr. Richardson Engineering, LLC 110 Old Padonia Road, Ste LC Cockeysville 21030

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

July 13,2006

ATTENTION: Zoning Review Planners

Distribution Meeting of: July 10,2006

Item No.: 638, 675, 676, 677, 678, 679, 680, (681,) 682, 683, 684, 685, 686,

687 and 688.

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

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

Acting Lieutenant Don W. Muddiman Fire Marshal's Office 410-887-4880 MS-1102F



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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

July 11, 2006

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

RE:

Baltimore County Item No. 681 (JNP) 3201 Eastern Avenue

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval of the Variance. However, the owner/developer will be required to obtain an access permit for the required entrance improvements along MD 45.

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

J. J. Hoelh

Engineering Access Permits Division

Participant of the second of t

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: August 25, 2006

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

3201 Eastern Avenue

INFORMATION:

Item Number:

6-681

Petitioner:

1,2,3 Eastern Avenue, LLC, c/o George Anagonostov

Zoning:

BL

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the subject request and offers the following comments:

- 1. Provide a five-foot planting strip between the proposed right of way and the head in parking along Eastern Avenue. This strip should be planted with an ornamental hedge/flowering plants to screen and soften the proposed parking area.
- 2. Provide architectural elevations of the proposed commercial building for review and approval by the Office of Planning prior to issuance of building permit.
- 3. Provide elevations of any freestanding signs to be erected on site to be reviewed and approved by the Office of Planning prior to issuance of building permits.

For further information concerning the matters stated here in, please contact Laurie Hay at 410-887-3480.

Prepared by:

Division Chief:

AFK/LL: CM

W:\DEVREV\ZAC\6-681.doc

M

BALTIMORE COUNTY, MARYLAND

Inter-Office Memorandum

DATE:

August 25, 2006

TO:

Kristen Matthews

Department of Permits & Development Management

FROM:

Patti Zook, Legal Secretary to

John V. Murphy, Deputy Zoning Commissioner

SUBJECT:

Petition for Special Hearing - Case No. 06-674-SPH

The hearing was scheduled for Friday, August 25, 2006 at 9:00 am. The attorneys, Dino LaFiandra (Petitioner) and J. Carroll Holzer (Protestants) made a joint request for continuance. Therefore, the attorneys will be contacting you to reschedule the hearing.

We are returning the file to you for safekeeping.

Thank you for your attention and cooperation in this matter.

JVM:pz

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: July 13, 2006

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For July 17, 2006

Item No. 681

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

The base flood elevation for this site is 10.2 feet Baltimore County Datum.

The flood protection elevation for this site is 11.2 feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the county.

DAK:CEN:clw

cc: File

ZAC-ITEM NO 681-07132006.doc

8 20.06 S

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

AUG 2 5 2006

ZONING COMMISSIONER

TO:

Timothy M. Kotroco

FROM:

Dave Lykens, DEPRM - Development Coordination awa

DATE:

August 25, 2006

SUBJECT:

Zoning Item

06-681-A

Address

3201 Eastern Avenue

Zoning	Advisory	Committee	Meeting	of July	10.	2006
		• +++		~ ~ ~ · · · · · · ·	~ ~ ,	

······································	The Department of Environmental Protection and Resource Management has no
	comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

__X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

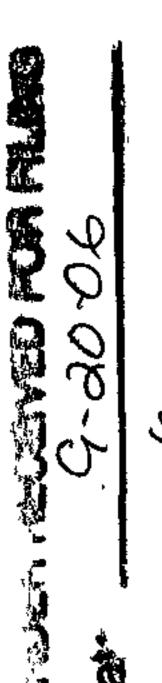
Site must reduce pollutant loadings 10% below pre-development loadings to comply with Intensely Developed Area regulations.

Reviewer:

Glenn Shaffer

Date: August 25, 2006

Document1



RE: PETITION FOR VARIANCE

3201 Eastern Avenue; S/S Eastern Blvd,

25' E Stevens Road

15th Election & 6th Councilmanic Districts Legal Owner(s): 1,2 & 3 Eastern Avenue,

LLC by George E. Anagnostou,

Petitioner(s)

BEFORE THE

* ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

* 06-681-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.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

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 17th day of July, 2006, a copy of the foregoing Entry of Appearance was mailed to, Patrick Richardson, 110 Old Padonia Road, Ste. LC, Cockeysville, MD 21030, Representative for Petitioner(s).

RECEIVED

1 7 2006

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per.....

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BALTIMORE, MARYLAND 21202

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September 13, 2006

John (Jack) V. Murphy Deputy Zoning Commissioner Baltimore County 401 Bosley Ave, 4th Floor Towson MD 21204

Re: MCMJ, LLC/Eastern Blvd. (Lots 1, 2 & 3)

Case No.: 06-0681-A

Dear Mr. Murphy:

Thank you for your letter dated August 29, 2006 regarding the above referenced matter. I have had an opportunity to discuss same with Mr. Richardson. The modification you proposed in the above referenced letter, to resolve Planning's issue, would severely impact the proposed site.

Upon information and belief, DEPRM would not approve such a significant encroachment on the existing swale. First, DEPRM, in accordance with Baltimore County Code ("BCC") Section 33-2-303 (a), requires a 25-foot setback from nontidal wetlands. At present, we are going to request mitigation to permit a setback of 16 feet. Your proposal, while it solves Planning's issue, creates another issue, which would have DEPRM up in arms. At present, we will likely need to request a variation from the standards provided under Article 33, Title 2 of the BCC, in accordance with BCC § 33-4-231(a)(4). Secondly, the depth of the proposed retail structure ranges from 38 feet to 44 feet. Paul Thompson (ADW), our architect, proffers that most retail uses require a depth of 50 to 60 feet in order to be marketable. Rita's wanted 40 feet, but we got them to agree to 38 feet. Neither Rita's nor any other retailer would be able to utilize a space with a depth of approximately 33 feet. For these reasons, among others, the site constraints pose special circumstances and conditions, which would result in practical difficulties and unreasonable hardship if a variance were not granted.

Deputy Zoning Commissioner John V. Murphy September 13, 2006 Page 2

With respect to the Zoning Review comments regarding indication of the public or private alley towards the rear of the property, the redlined plat to accompany will address this issue. The alley, as indicated at the hearing, is a private alley, 10 feet of which is held in fee by the Petitioner. In order to address the second comment from the Zoning Office, we offer the following clarification regarding the front yard setback calculation. Baltimore County Zoning Regulations ("BCZR") Section 232.1 indicates, for commercial buildings, the front building line shall not be less than ten feet from the property line, and not less than 40 feet from the center line of the street, except as specified in Section 303.2. BCZR Section 303.2, as applicable to the B.L. zone, indicates the front yard depth of any building hereafter erected shall be the average of the front yard depths of the lots "immediately adjoining" on each side. The subject property is a corner lot, adjoined by a public right-of-way on the west side and a commercial building to the east. As indicated on the plat to accompany Petition, the commercial structure to the east of the subject property has a front yard depth of 47.7 feet. As the subject site is bounded by two public right-of-ways to the north and west, the lot across Stevens Road is not "immediately adjoining." As such, the 47.7 foot front yard depth of the property to the west is averaged with the minimum 10 foot setback, as set forth in BCZR Section 232.1, per Zoning Office policy and the Zoning Commissioner's Manual (see page 3-2.1, interpreting § 303.2, commercial). Therefore, the front yard averaging applicable to the subject site is 57.7 feet (47.7 + 10), divided by 2, or 28.85 feet. As a result, no relief is required.

Regrettably, the unique features of the subject property, as described in greater detail at the hearing in the above referenced matter, limit the orientation of the proposed structure. DEPRM has already indicated the existing swale will be impacted by the proposed addition of impervious surface to the site. As such, the orientation of picnic tables for the proposed Rita's, which we found to be an excellent idea, will be reserved until the impact on the swale is fully realized. A copy of the redlined plat to accompany is enclosed herein for your review. We hope this answers all outstanding issues. In the event you would like us to provide greater detail regarding any of the outstanding issues, please do not hesitate to contact the undersigned for further elaboration on those matters. Thank you for your time and consideration.

Very truly yours,

Jason T. Vettori

JTV: sf Enclosure

CC: Lawrence E. Schmidt, Esquire

Case #: 06-681-A

Drop-Off Petition

June 29, 2006 Note to Hearing File:

This Drop-Off Petition was submitted without complying with the Zoning Office policy procedures for accuracy and completeness as required and shown below:

FREQUENT FLYER ATTORNEYS DROP OFF ZONING PETITIONS POLICY PROCEDURES

The following zoning policy is related to the filing of zoning petitions and is aimed at expediting the petition filing process with this office:

- The Director of the Office of Permits and Development Management (PDM) allows zoning attorneys who frequently file for zoning hearings and who are capable of filing petitions that comply with <u>all</u> technical aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of an appointment for review by zoning personnel.
- 2. Any attorney using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. In the event that the petition has not been filed correctly, there is the possibility that another hearing will be required or the zoning commissioner may deny the petition due to errors or incompleteness. All petitions filed in this manner will receive a cursory review and if necessary they will be commented on by zoning personnel prior to the hearing. A corrective memo by zoning review may be placed in the hearing file to be considered by the Hearing Officer.
- 3. When a petition has been dropped off by the attorney, it will only be reviewed for very basic necessary input, logging, and distribution information.

Specifically, the following accuracy and completeness issues remain outstanding:

- 1.) Drop-Off petition was not submitted by the required attorney (submitted by engineer).
- 2.) Drop-Off petition's site plan does not indicate if public or private alley.
- 3.) Drop-Off petition's site plan does not address the front yard averaging requirements of Section 303.2 (BCZR), including the fire resisting materials status of adjacent permanent commercial buildings.

Therefore, the party submitting this Drop-Off Petition is solely responsible for the accuracy and completeness of all information filed.

Jeffrey Perlow, Planner II

Zoning Review



all improved lots within 200 feet on each side thereof, provided that no dwelling shall be required to be set back more than 60 feet in D.R.2 Zones, 50 feet in D.R.3.5 Zones and 40 feet in D.R.5.5 Zones. In no case, however, shall nonresidential principal buildings have front yards of less depth than those specified therefor in the area regulations for D.R.2, D.R.3.5 and D.R.5.5 Zones respectively. [Resolution, November 21, 1956]

In B.L., B.M. and B.R. Zones, the front yard depth of any building hereafter erected shall be the average of the front yard depths of the lots immediately adjoining on each side, provided such adjoining lots are improved with permanent commercial buildings constructed of fire-resisting materials situate within 100 feet of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall be not less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above.

Section 304 Use of Undersized Single-Family Lots [BCZR 1955; Bill No. 47-1992]

- [Bill Nos. 64-1999; 28-2001] Except as provided in Section 4A03, a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:
 - A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;
 - B. All other requirements of the height and area regulations are complied with; and
 - C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.
- 304.2 Building permit application.
 - A. Any person desiring to erect a dwelling pursuant to the provisions of this section shall file with the Department of Permits and Development Management, at the time of application for a building permit, plans sufficient to allow the Office of Planning to prepare the guidelines provided in Subsection B below. Elevation drawings may be required in addition to plans and drawings otherwise required to be submitted as part of the application for a building permit. Photographs representative of the neighborhood where the lot or tract is situated may be required by the Office of Planning in order to determine appropriateness of the proposed new building in relation to existing structures in the neighborhood.
 - B. At the time of application for the building permit, as provided above, the Director of the Department of Permits and Development Management shall request comments from the Director of the Office of Planning (the "Director"). Within 15 days of receipt of a request from the Director of the Department of Permits and Development Management, the Director shall provide to the


3-3 7 - 25 - 2001

PLEASE PRINT CLEARLY

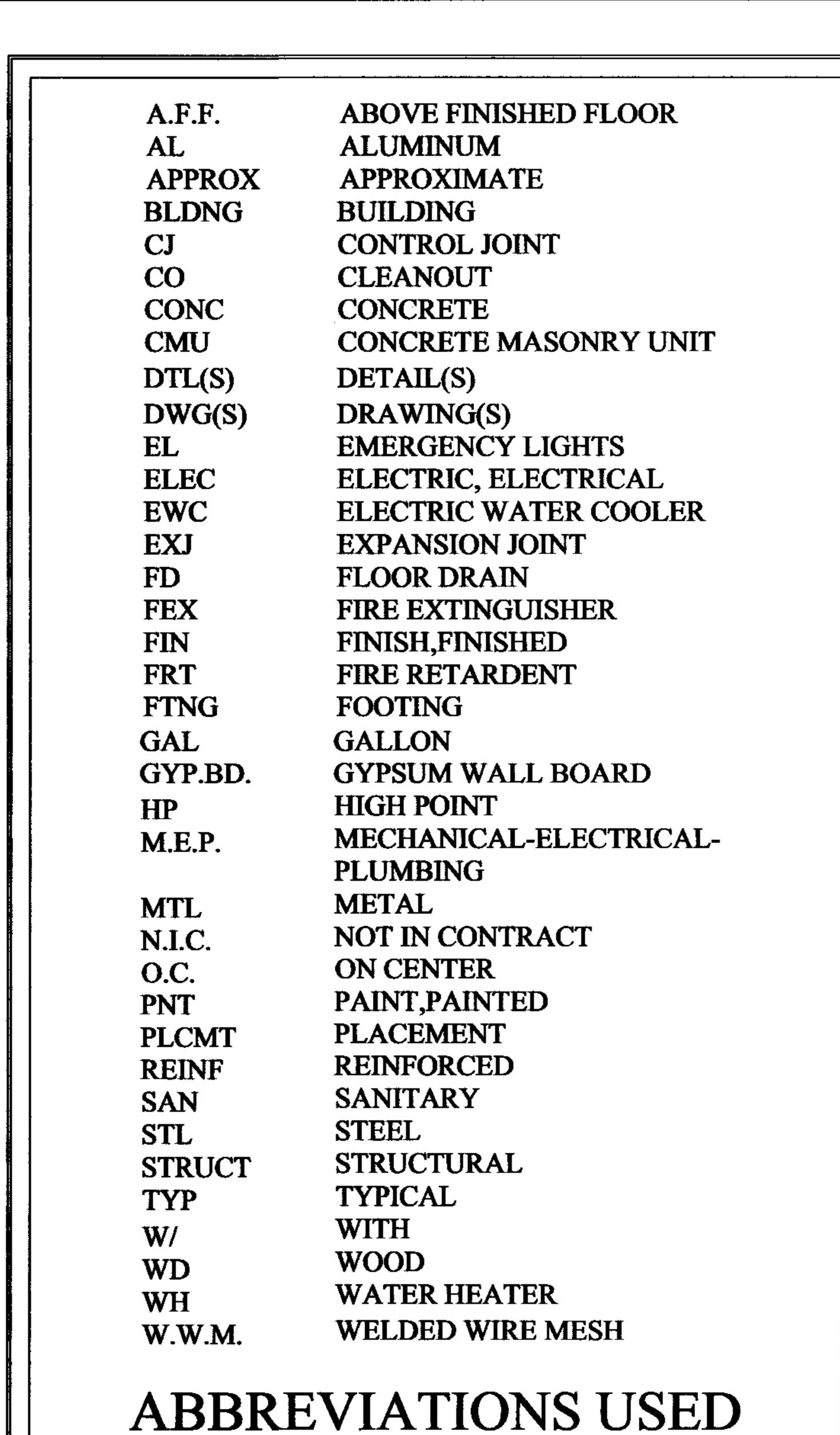
CASE NAME 3201 GASTGRAJ AUT CASE NUMBER 06-681-A DATE 8/28/06

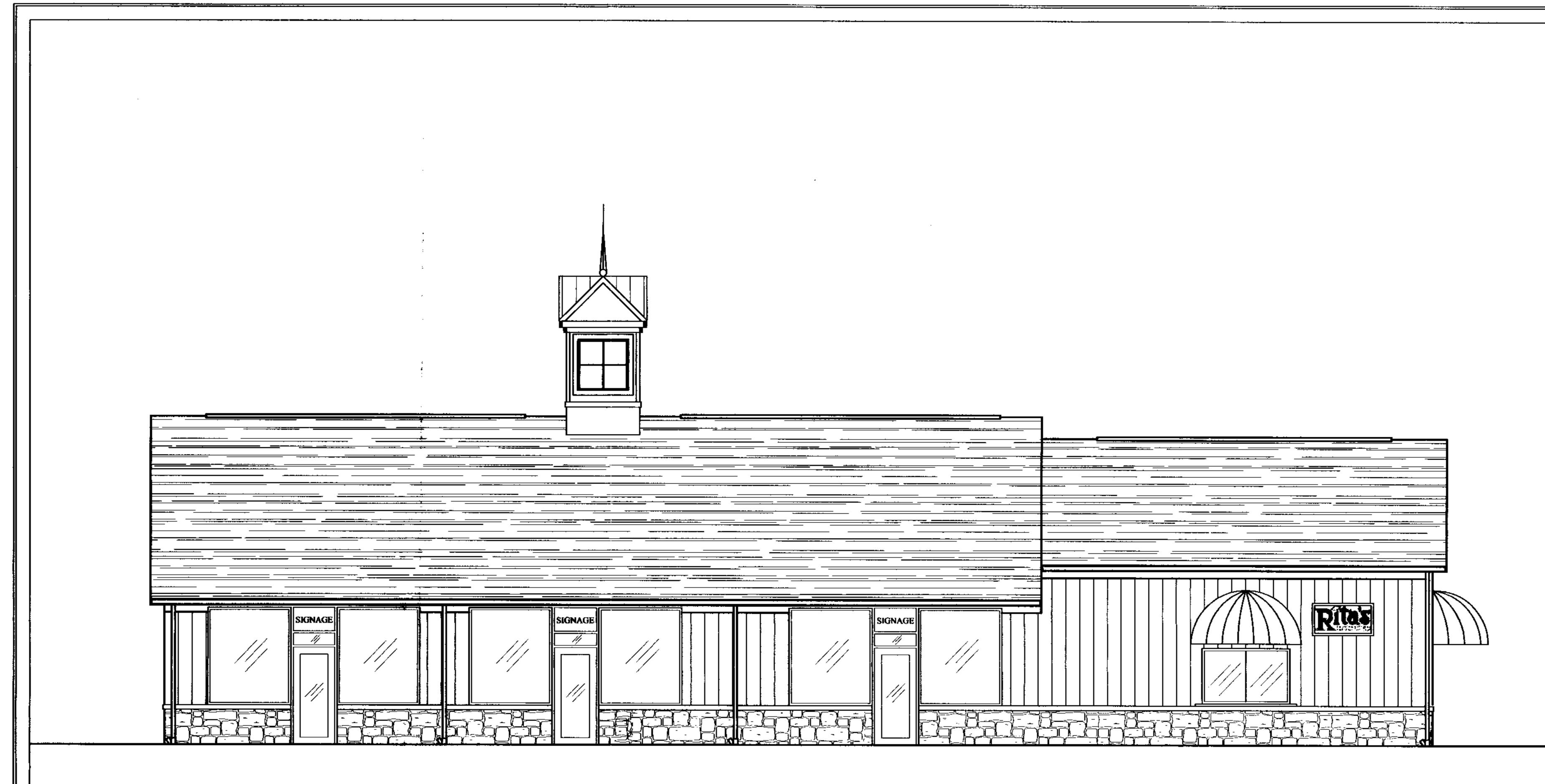
PETITIONER'S SIGN-IN SHEET

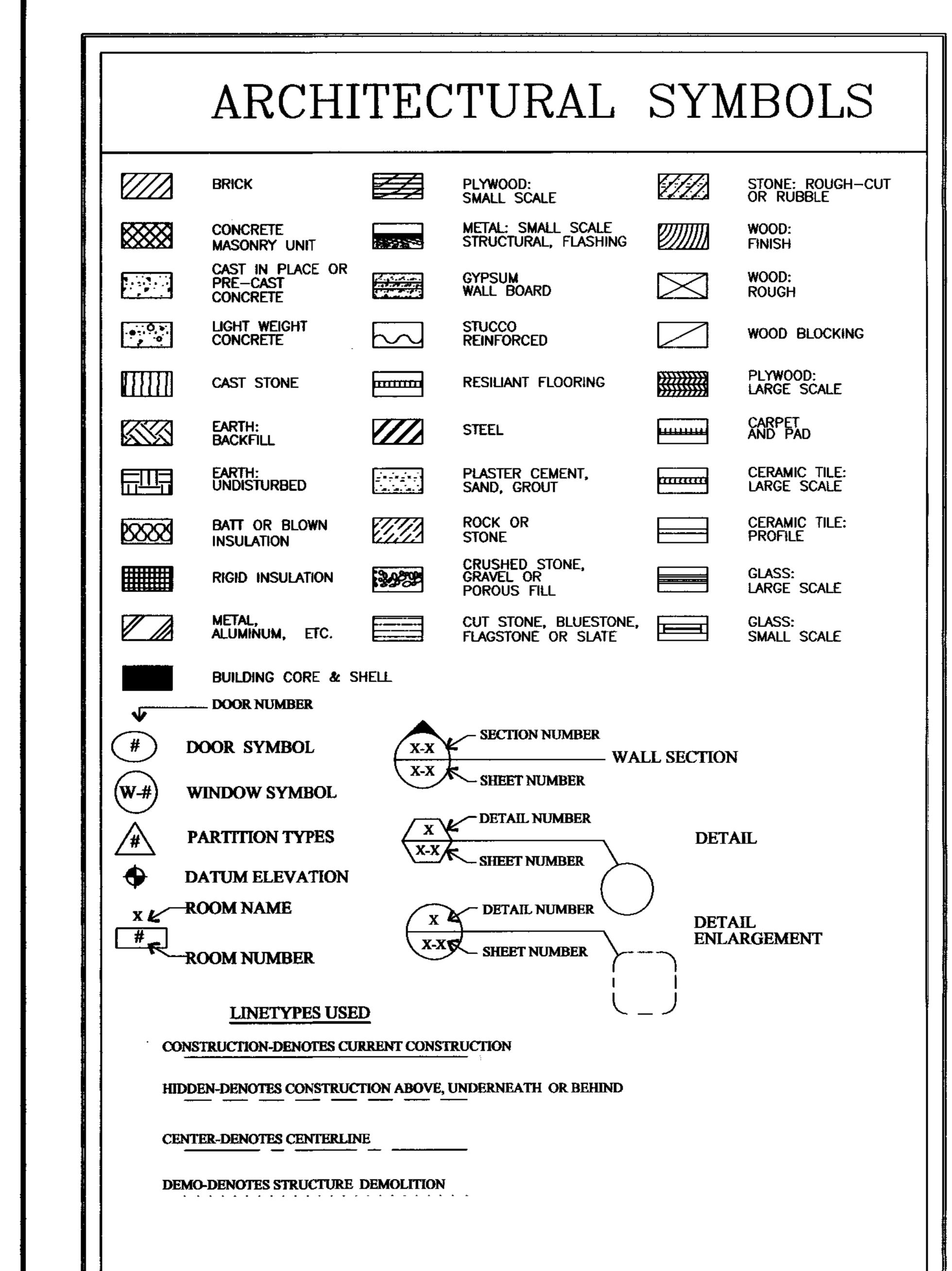
NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
RICK KICHARDON	110 our Phround RD 57. CC	Cockersville MV 21030	RICK & PICHARDSW ENGINEERING, NOT
GEOUSE AMAGES tou	2.1	Comme 10. 2122	
Buel Danthan	3031 RASTERN DLUD	2CTIMMA	
TASON VETTALL	7	Begunne wo	ivethan & of heallend
4			



Pakaka







IRE SAFETY INFORMATION

IBC TABLE 601 & 602 FIRE-RESISTANCE RATINGS IN HOURS

EXTR BEARING WALLS:
INTR BEARING WALLS:
NON-BEARING WALLS/PARTITIONS:
STRUCTURAL FRAMING:
FLOOR CONSTRUCTION:
ROOF CONSTRUCTION:
SMOKE PARTITIONS:
USE/OCCUPANCY SEPARATION:
EXIT PASSAGE WAYS:

INSULATION

ATTIC (EXPOSED): FLAME SPREAD OF 25 OR LESS SMOKE DEVELOPMENT OF 450 OR LESS (BOCA 722.2) WALLS (CONCEALED): FLAME SPREAD OF 75 OR LESS SMOKE DEVELOPMENT OF 450 OR LESS (BOCA 722.3)

LIVE FLOOR LOAD: 100 PSF
LIVE ROOF LOAD: 30 PSF = 14.4 PSF
WIND LOAD: 75 MPH - 3 SECOND GUST- 90 MPH
SNOW LOAD: 20 PSF

STRUCTURAL LOADS: IBC TABLE 1607.1

GENERAL BUILDING DATA

USE OR OCCUPANCY: IBC SECTION 304

ZONING:

BUSINESS 'B' / MERCANTILE 'M'
MIXED USE - SEPARATED
NO SPRINKLER SYS:

BL TAD

TYPE OF CONSTRUCTION: VB
IBC SECTION 602

BUILDING AREA CALCULATIONS: IBC TABLE 503
ALLOWABLE AREA: 'B' - VB- 9,000 GSF /2 STORY
'M' - VB- 9,000 GSF /1 STORY

ACTUAL AREA: 3786 GSF FRONTAGE INCREASE $9,000 \times .75 = 6,750$ 9,000 + 6,750 = 15,750 GSF

OCCUPANCY CALCULATIONS: IBC TABLE 1004.1.2

BUSINESS 'B': 1,000 SF ÷ 100 GSF = 10 OCCUPANTS

MERCANTILE 'M': 1,000 SF ÷ 30 GSF = 34 OCCUPANTS

EXIT CALCULATIONS: IBC TABLE 1005.1

BUSINESS 'B'
10 OCCUPANTS x 0.2 = 2.0 INCHES

MERCHANTILE 'M 34 OCCUPANTS x 0.2 = 9.0 INCHES

EXIT TRAVEL DISTANCE: 200 FT.

COMMON PATH OF EXIT TRAVEL: 75 FT.

APPLICABLE CODES:

2003 INTERNATIONAL BUILDING CODE AS
AMMENDED BY LOCAL BILL 01-38

2003 INTERNATIONAL MECHANICAL CODE
2002 STATE OF MARYLAND ACCESSIBILITY CODE 05.02.02

2002 STATE OF MARY LAND ACCESSIBILITY CODE 05.02.

2003 NFPA 101, LIFE SAFETY CODE (AS ENFORCED BY THE STATE FIRE MARSHALL'S OFFICE)

CONTRACTUAL INFORMATION

GENERAL NOTES:

1. CONTRACT DOCUMENTS INCLUDE DRAWINGS & SPECIFICATIONS.

2. CONTRACTOR(S) ARE RESPONSIBLE FOR COMPLIANCE WITH APPLICABLE BUILDING CODES.

3. CONTRACTOR TO VERIFY EXISTING SITE CONDITIONS.

ANY/ALL DIFFERENCES IMPACTING CONSTRUCTION
OF THE BRANCH BANK ARE TO BE SENT TO THE
ARCHITECT IN WRITING PRIOR TO CONSTRUCTION OF
CONTRACT WORK.

ARCHITECT'S EXCLUSION

THE SITE (CIVIL) MECHANICAL, PLUMBING, ELECTRICAL AND FIRE PROTECTION WORK DESIGN AND CONSTRUCTION ARE UNDER OWNER'S SEPARATE CONTRACTS. THEREFORE THOSE PORTIONS OF THE WORK ARE NOT INDICATED ON THE ARCHITECTURAL/STRUCTURAL DRAWINGS. THE OWNER IS SOLELY RESPONSIBLE FOR THE CIVIL, MECHANICAL, PLUMBING, ELECTRICAL AND FIRE PROTECTION WORK, INCLUDING COORDINATION, UNDER SEPARATE CONTRACTS.

PERMIT SET: 07-19-06

CONSTRUCTION DOCUMENT INDEX

COVER SHEET

ARCHITECTURAL

A-1.0 SITE PLAN
A-1.1 FLOOR PLAN

A-2.1 ELEVATIONS
A-3.0 BUILDING SECTIONS

A-3.1 BUILDING SECTION A-4.0 SCHEDULES

SP-2 SPECIFICATIONS

S-1 STRUCTURAL PLAN

S-2 STRUCTURAL DETAIL

PROJECT NO. 06209

EASTERN RETAIL CENTER
3201 EASTERN BOULEVARD
MIDDLE RIVER, MARYLAND



ARCHITECTURAL

TOWSON, MARYLAND 21204
PHONE: (410) 583-2440
FAX: (410) 583-7381

BELAIR

PHONE: (410) 893-6990

ISSUE

PERMIT SET 07-19-06

CS

COVER SHEET

PROJECT #: 06209


"Professional Certification.

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland, license number______,

OCOPYRIGHT ARCHITECTURAL DESIGN WORKS, INC. 2005
THIS DRAWING IS THE PROPERTY OF ARCHITECTURAL DESIGN WORKS
AND SHALL NOT BE REPRODUCED, COPIED, OR LOANED, OR USED
ANY PURPOSE OTHER THAN THAT FOR WHICH IT IS SPECIFICALLY

expiration date___

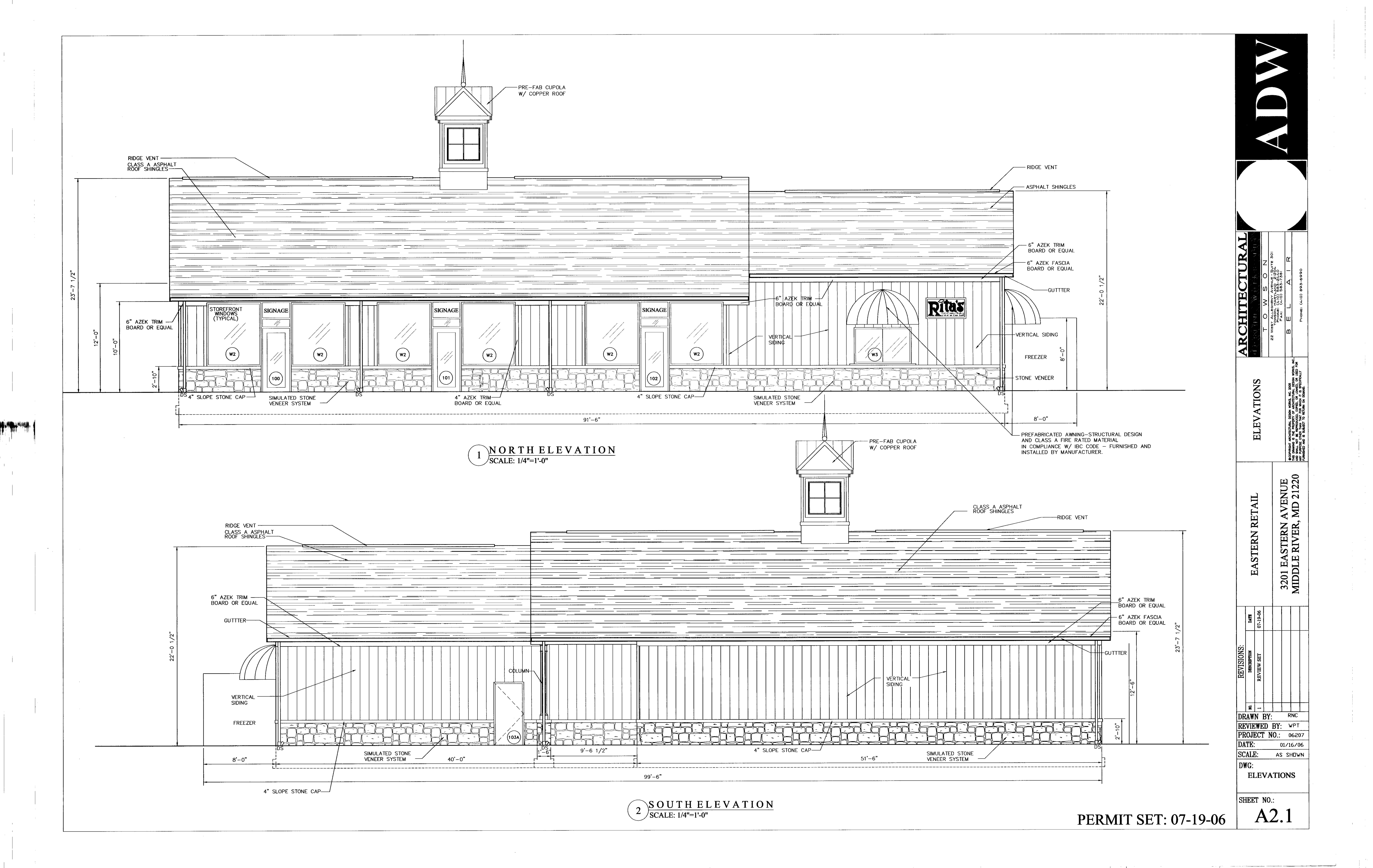





AS SHOWN **ELEVATIONS**

PERMIT SET: 07-19-06

A2.0





06-68 H- A COSS) (DROP-OFF) ROSS never been dedicated to the County, or paved or actually used by anyone as a means of access to Stevens Road. The right of way is 20 feet wide. Mr. Richardson opined that the Petitioner owned to the center of this private alley and so he set the rear of the proposed building on the edge of the right of way. However this location is within 20 feet of the BL/ DR line which requires a variance. He noted that the lots south of the alley have not been developed.

Finally Mr. Richardson noted that the Petitioner is not proposing to have vehicular access to Eastern Boulevard but will enter and exit the site on Stevens Road. He was not sure the comment from SHA is relevant.

Findings of Fact and Conclusions of Law

A question arose during the hearing whether or not the Petitioner could provide 5 feet of landscaping along Eastern Avenue as requested by the Planning Office. By letter dated August 29, 2006 to the Petitioner, I asked if the landscape could be provided by slightly reconfiguring the building so as to reduce its depth but increase its width toward the swale on the eastern side of the property. In response the Petitioner sent a letter dated September 13, 2006 which indicated that DEPRM would not likely approve further encroachment into the setback from the swale and that the shallow configuration would not be conducive to retail uses under the circumstances. Specifically the Petitioner indicates the much sought after ice cream shop has reluctantly agreed to the proposed depth of the building and may be lost as a tenant should the depth be further restricted. The Petitioner also presented a redline Plat to Accompany which has been accepted as Petitioner's exhibit 2 which indicates the setback of the building from the swale is 16 feet and clarifies the 20 foot alley is a private right of way.

7/3//06

New publication request for 2/2000. Sent to Jeffersonian. Earlier date was not good for Chent.

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