IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
N side Mt. Carmel Road, 702 feet W of c/l York Road	*	DEPUTY ZONING COMMISSIONER
7th Election District	*	OF BALTIMORE COUNTY
3rd Councilmanic District		
(100 Mt. Carmel Road)	*	
Jeff Wise *Legal Owner*	*	CASE NO. 07-170-XA

* * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Exception and Variance filed by Jeff Wise, Legal Owner. The requests are for property located at 100 Mt. Carmel Road. A Special Exception is to permit the continued use of a Service Garage in a BL zone per Section 230.13 of the of the Baltimore County Zoning Regulations (B.C.Z.R.). The Variance request is to permit a 0-foot wide landscape buffer in lieu of the required 10 feet; to permit a 56-foot setback in lieu of the required 150 feet; to permit a 23-foot setback on the east and a 4-foot setback on the west in lieu of the required 50 feet; and to permit building coverage of 23 % in lieu of the required maximum 15%.

The property was posted with a notice of the public hearing date and time on December 1, 2006, and notice given to the general public by publication in the *Jeffersonian* Newspaper on November 30, 2006.

Interested Persons

Appearing at the hearing on behalf of the variance request were Bruce Doak, of Gerhold, Cross & Etzel, Ltd., who prepared the site plan, Jennifer Wise and Jeff Wise, Legal Owners. Francis X. Borgerding, Jr., Esquire, represented the Petitioner. There were no protestants or citizens at the hearing. Peter Max Zimmerman, People's Counsel, entered his appearance in this case.

Date 1-5-07

Zoning Advisory Committee

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated December 12, 2006 which recommends approval due to the existing status of the State Highways garage (with parking in the rear), the existing dense evergreen screening along the property lines. and the proposal's general consistency with the Hereford Community Plan and the CR District Regulations, a copy of which is incorporated herein and made a part hereof the file.

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."

Section 502.1 of the B.C.Z.R. - *Special Exceptions*

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;
B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air; [Bill No. 45-1982]

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Date 1-5-07

G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

Testimony and Evidence

The subject property contains 0.59 acres zoned RC 5 CR and is improved by an existing one story masonry building which formerly housed a State Highway Administration Office and garage. Mr. Borgerding proffered that this property had been used by the State as a garage for repair of State trucks and vehicles since 1930. Five years ago the State moved its repair functions to a new location, and sold this property at auction to a buyer in 2003 who in turn sold it to the Petitioner. As shown on Petitioner's exhibit 2, the property is located on Mt. Carmel Road near the Hereford business district, which lies between the Harrisburg Expressway (I 83) and York Road.

The Petitioner would like to use the property as an auto service garage for the repair of vehicles. While it was a State garage it was exempt from zoning regulations but now needs approval as a service garage in private hands. Mr. Borgerding noted that Hereford had changed over the years so that the proposed use now fits within the commercial corridor of Mt. Carmel Road.

In regard to the variance requests, Mr. Borgerding indicated that the requests to permit a 0-foot wide landscape buffer for parking facilities in lieu of the required 10 feet; to permit a 56-foot front yard setback in lieu of the required 150 feet; to permit a 23-foot setback on the east and a 4-foot setback on the west in lieu of the required 50 feet; and to permit building coverage of 23 % in lieu of the required maximum 15% all arise from the existing buildings on site and long narrow configuration of the property.

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1-5-07

The issue of landscaping around the rear parking area is addressed in Petitioner's exhibit 2. There is a line of mature evergreen trees along the east side of the property which buffer the proposed uses from the driveway and commercial uses on the adjoining property to the east. See Photographs 3H, 3J and 3K. Again there are mature mixed evergreens which line the rear of the property. See Photograph 3L. He opined that these would stay and would buffer the proposed use so that parking facilities would not need additional landscaping on the east or north. The Petitioner proposes to plant additional screening on one section of the western edge of the parking area and incorporate existing plantings as shown in Petitioner's exhibit 2. As such he indicated that the parking area is adequately screened. He mentioned that the Planning Office representative visited the site and was satisfied with screening as reflected in that Office's comments.

The Petitioner is not proposing to increase the foot print of the existing building but rather simply has improved its appearance as shown in photograph 3I. Again the existing building is 56 feet from the centerline of Mt. Carmel Road. The lot is only 64 feet wide so that no building including the existing building could meet the 50 foot setback to lot line. Finally the existing building cover 23 % of the lot and can not meet the 15 % coverage requirement of the regulations. He noted that the existing building was erected much before the zoning regulation were imposed

Mr. Borgerding presented photographs of the uses along this portion of Mt. Carmel Road which include residential uses to the west, exhibit 3I, commercial building to the south, exhibit 3F, a church and cemetery across Mt. Carmel Road, exhibit 3C and 3E, and the commercial uses to the west, exhibit 3D. In addition he presented a letter in support of the requests from the Hereford Community Association. The letter mentions the substantial improvements made to the building which include replacing all windows and a new entrance.

Date 1-5-07

In regard to the special exception for a service garage, he noted that hours of operation would be 7:30 AM to 6 PM Monday thru Saturday, there would be no body work or painting, nor storage of damaged vehicles on the premises. Most vehicles will be in and out in one day, but some could be on the premises for several weeks. There will be no car carrier deliveries of damaged vehicles.

Finally in response to questions about the evergreen screening to the east, the Petitioner indicated the there is a small space along the driveway which could be planted if the evergreens were removed by the owner.

Findings of Fact and Conclusions of Law

As mentioned at the hearing I have two concerns with these requests. First the very dense and effective line of mature evergreens to the east which the Petitioner claims as part of his rationale for these requests do not belong to the Petitioner but rather are on the Foard Enterprises property. As such the Petitioner cannot guarantee their continued existence unless he secures a legally binding agreement to that effect. I believe that the Planning Office and Community Association endorsement are based in some part on the existence of this line of trees as everyone viewing the site would assume that the trees belonged to the Petitioner.

My second concern is the effect a service garage will have on the residential uses to the west. The back of the existing building is only 4 feet from the boundary with the Gray/Miller dwelling, and has no landscaping at all.

I think these concerns can be accommodated rather simply by requiring the Petitioner to submit a landscape plan to the Baltimore County Landscape Architect which shall include some plantings within the 4 feet along the west property line to buffer the building from the dwelling. The Landscape Architect is an expert in designing plantings in tight spaces. The landscape plan shall also contain a plan for vegetative screening along the east boundary of the parking lot in the

ORDER RECEIVED FOR FILING
Date 1-5-07
By

rear. This may require relocating the parking spaces provided along this border. However this latter requirement can be avoided if the Petitioner presents the Landscape Architect proof of a legally binding agreement with the property owner to the east that the existing line of evergreens will be maintained.

Variances

The request for variance arises because the existing building is located on a small narrow lot. It has been used as a garage under State ownership before the zoning regulations were imposed. The imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district. Consequently I find the property unique in a zoning sense.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Obviously it is impractical to move the building to meet the regulations and impossible to meet the regulations regarding the side yard setbacks.

Finally, I find this variance 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 if certain conditions are met for the reasons above.

Consequently I will approve the requested variance with conditions.

Special Exception

Having approved the variance, I also find that the proposed use meets the criteria of Section 502.1 of the BCZR, is within the spirit and intent of the RC 5CR regulations and will not adversely affect the community. The Planning Office and Hereford Community Association have endorsed the requests. However I believe as above those endorsements are based to some

PLANNING OFFICE
Date 1-5-07
By

extent on the existing evergreen screening on the adjacent property. The conditions below will address this concern. Consequently I will grant the special exception requested.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested special hearing and variance should be granted with conditions.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 5th day of January, 2007 that the Petitioner's request for variance to permit a 0-foot wide landscape buffer for parking facilities in lieu of the required 10 feet; to permit a 56-foot setback in lieu of the required 150 feet; to permit a 23-foot setback on the east and a 4-foot setback on the west in lieu of the required 50 feet; and to permit building coverage of 23 % in lieu of the required maximum 15%be and are hereby GRANTED; and

IT IS FURTHER ORDERED that the Petitioner's Special Exception to permit the continued use of a Service Garage in a BL zone per Section 230.13 of the of the Baltimore County Zoning Regulations (B.C.Z.R.) be and is hereby GRANTED subject, however, to the following conditions:

1. The Petitioner may apply for any permits required and be granted same upon receipt this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Compatibility Report as required by Section 259.3.c.8 of the B.C.Z.R. shall be submitted to the Office of Planning prior to the issuance of a building permit.
3. The Petitioner shall submit a landscape plan to the Baltimore County Landscape Architect for the western boundary of the subject property which shall include some plantings within the 4 feet space between the boundary and the building to properly buffer the proposed uses from the dwelling to the west. The landscape plan shall also contain a plan for vegetative screening along the east boundary of the parking lot in the rear. This may require relocating the parking spaces provided along this border. However this latter requirement can be avoided, if the Petitioner presents the Landscape Architect proof of a legally binding agreement with the property owner to the east that the existing line of evergreens will be maintained.
4. Hours of operation shall be 7:30 AM to 6 PM Monday thru Saturday.

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Date 1-5-07
By

5. There would be no body work, no painting, nor storage of damaged vehicles on the premises for more that one week.
6. There will be no car carrier deliveries of damaged vehicles to the premises.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

PLEASE RETURN TO CASE FILES
1-5-07

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 100 MT. CARMEL ROAD

which is presently zoned R.C. 5 C.R.

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 Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Exception, 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:

Francis X. Borgerding, Jr.
Name - Type or Print

Signature

Company

409 Washington Ave suite 600 (410) 296-6820
Address Telephone No.

Towson MD 21204
City State Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Jeff Wise
Name - Type or Print

Signature

13038 Beaver Dam Rd
Address Telephone No.

Cockeysville MD 21030
City State Zip Code

Representative to be Contacted:

BRUCE DOAK @ G.C.&E.
Name

320 E. TOWSONTOWN BLVD 323-4470
Address Telephone No.

TOWSON MD 21286
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By _____ Date 10/13/06

Case No. 07-170-XA

REV 09/15/98

PLEASE RECEIVED FOR FILING

Date 10/5/01

By _____

SPECIAL EXCEPTION REQUESTED
100 Mount Carmel Road LLC

TO PERMIT THE CONTINUED USE OF A SERVICE GARAGE IN A BL ZONE PER SECTION 230.13 OF THE B.C.Z.R.

Item # 170

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 100 MT. CARMEL ROAD

which is presently zoned R.C. 5 C.R.

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)

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

Legal Owner(s):

Name - Type or Print: Jeff Wise

Signature

Jeff Wise

Name - Type or Print

Signature

13038 Beaver Dam Rd

Address — Telephone No.

Cockeysville — MD — 21030

City — State — Zip Code

Attorney For Petitioner:

Francis X. Borgerding, Jr.

Name - Type or Print

Signature

Company

409 Washington Avenue 600 (410) 296-6820

Address — Telephone No.

Towson — MD — 21204

City — State — Zip Code

Representative to be Contacted:

BRUCE DOAK c/o G.C. & E.

Name

320 E. TOWSONTOWN BLVD

Address — Telephone No.

TOWSON — MD — 823-4470

City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By KLL Date 10/13/06

Case No. 07-170-XA

RECEIVED FOR FILING

REV 9/15/98 Date 1507

By B

VARIANCES REQUESTED
100 Mount Carmel Road LLC

TO PERMIT A 0' WIDE LANDSCAPE BUFFER IN LIEU OF THE REQUIRED 10' PER SECTION 409.8.A.1 OF THE B.C.Z.R. (EXISTING EVERGREEN SCREENING ALONG THE PROPERTY LINE WILL REMAIN)

TO PERMIT A 56' FRONT SETBACK IN LIEU OF THE REQUIRED 150' PER SECTION 1A04.3.B.2.B OF THE B.C.Z.R.

TO PERMIT A 23' SETBACK ON THE EAST, AND A 4' SETBACK ON THE WEST IN LIEU OF THE REQUIRED 50' PER SECTION 1A04.3.B.2.B OF THE B.C.Z.R.

TO PERMIT BUILDING COVERAGE OF 23% IN LIEU OF THE REQUIRED MAXIMUM 15% PER SECTION 1A04.3.B.3 OF THE B.C.Z.R.

Item #170

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

April 19, 2006

ZONING DESCRIPTION
100 Mount Carmel Road LLC
100 Mount Carmel Road
Baltimore County, Maryland

All that piece or parcel of land situate, lying and being in the Seventh Election District, Third Councilmanic District of Baltimore County, Maryland and described as follows to wit:

Beginning for the same at a point on the west side of York Road and the north side of Mount Carmel Road, running west along the north side of Mount Carmel Road 702 feet, thence running,

1) North 08 degrees 04 minutes 18 seconds East 201.84 feet,
2) South 56 degrees 28 minutes 46 seconds East 75.21 feet,
3) South 08 degrees 04 minutes 18 seconds West 181.23 feet,
4) North 72 degrees 08 minutes 54 seconds West 68.91 feet, to the point of beginning.

Containing 12,983 square feet of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.

7+

10/03/06

Item #170

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 21016

DATE 10/13/06 ACCOUNT R001 006 6150

AMOUNT $ 705.00

RECEIVED FROM:

FOR: Zoning Hearing + SD exception + variance 605 # 07 170 XA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	AMT
10/16/2006	10/13/2006	14:31:14	4

REF: 0506 WALKIN ITEM 001
WTRECEIPT # 516844 10/13/2006 DRLH
Dept 5 529 ZONING VERIFICATION
CR NO. 021016
Recpt Tot 705.00
$705.00 CH $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

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: #07-170-XA
100 Mt. Carmel Road
N/side of Mt. Carmel Road, 702 feet west centerline of York Road
7th Election District — 3rd Councilmanic District
Legal Owner(s): Jeff Wise

Special Exception: to permit the continued use of a Service Garage in a BL zone per Section 230.13 of the BCZR. **Variance:** to permit a 0-foot wide landscape buffer in lieu of the required 10 feet, and to permit a 56 foot setback in lieu of the required 150 feet and to permit a 23 foot setback on the east, and a 4 foot setback on the west in lieu of the required 50 feet and to permit building coverage of 23% in lieu of the required maximum 15%.

Hearing: Monday, December 18, 2006 at 11:00 a.m. 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) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

11/379 November 30 117429

CERTIFICATE OF PUBLICATION

11/30/, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/30/, 2006.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE# 07-170-XA
PETITIONER/DEVELOPER:
Jeff Wise
DATE OF HEARING: Dec. 18, 2006

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

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

LOCATION:
100 Mt. Carmel Road

(see page 2 for full size photo)

POSTED ON: December 1, 2006

SIGNATURE OF SIGN POSTER

John Dill

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

RECEIVED
DEC 04 2006
DEPT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING NOTICE

CASE # :07-170-XA

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

PLACE: Room 407 County Courts Building
401 Bosley Avenue, Towson, MD

11:00 am Monday, December 18, 2006

Special Exception: to permit the continued use of a Service Garage in a BL zone per Section 230.13 of the BCZR.

Variance: to permit a 0-foot wide landscape buffer in lieu of the required 10 feet, and to permit a 56 foot setback in lieu of the required 150 feet and to permit a 23 foot setback on the east, and a 4 foot setback on the west in lieu of the required 50 feet and to permit building coverage of 23% in lieu of the required maximum 15%.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY TO CONFIRM HEARING
CALL 410-887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HEARINGS ARE HANDICAPPED ACCESSIBLE

12/01/2006

ZONING NOTICE
DEC 04 2006
DEPT. OF
12/01/2006

RE:	PETITION FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
	100 Mt. Carmel Road; N/S Mt. Carmel Rd, 702' W c/line York Road	*	ZONING COMMISSIONER
	7th Election & 3rd Councilmanic Districts	*	FOR
	Legal Owner(s): Jeff Wise		
	Petitioner(s)	*	BALTIMORE COUNTY
		*	07-170-XA

* * * * * * * * * * * * *

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

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 30th day of October, 2006, a copy of the foregoing Entry of Appearance was mailed to Bruce E. Doak, Gerhold, Cross & Etzel, Ltd, 320 E Towsontown Blvd, Towson, MD 21286 and Francis X. Borgerding, Jr, Esquire, 409 Washington Avenue, St 600, Towson, MD, 21204, Attorney for Petitioner(s).

RECEIVED
OCT 3 0 2006
Per... KLM.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Department of Permits and 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

November 9, 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: 07-170-XA
100 Mt. Carmel Road
N/side of Mt. Carmel Road, 702 feet west centerline of York Road
7th Election District – 3rd Councilmanic District
Legal Owner: Jeff Wise

Special Exception to permit the continued use of a Service Garage in a BL zone per Section 230.13 of the BCZR. Variance to permit a 0-foot wide landscape buffer in lieu of the required 10 feet, and to permit a 56 foot setback in lieu of the required 150 feet and to permit a 23 foot setback on the east, and a 4 foot setback on the west in lieu of the required 50 feet and to permit building coverage of 23% in lieu of the required maximum 15%.

Hearing: Monday, December 18, 2006 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Francis Borgerding, 409 Washington Avenue, Ste. 600, Towson 21204
Jeff Wise, 13038 Beaver Dam Road, Cockeysville 21030
Bruce Doak, 320 E. Towsontown Blvd., Towson 21286

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, DECEMBER 2, 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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, November 30, 2006 Issue - Jeffersonian

Please forward billing to:
Jeff Wise
13038 Beaver Dam Road
Cockeysville, MD 21030

410-823-4470

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: 07-170-XA
100 Mt. Carmel Road
N/side of Mt. Carmel Road, 702 feet west centerline of York Road
7th Election District – 3rd Councilmanic District
Legal Owner: Jeff Wise

Special Exception to permit the continued use of a Service Garage in a BL zone per Section 230.13 of the BCZR. Variance to permit a 0-foot wide landscape buffer in lieu of the required 10 feet, and to permit a 56 foot setback in lieu of the required 150 feet and to permit a 23 foot setback on the east, and a 4 foot setback on the west in lieu of the required 50 feet and to permit building coverage of 23% in lieu of the required maximum 15%.

Hearing: Monday, December 18, 2006 at 11:00 a.m. 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 ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (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: 07-170-XA

Petitioner: ~~Jeff Wise~~ 100 MT. CARMEL ROAD LLC

Address or Location: 100 MT. CARMEL ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: Jeff Wise

Address: 13038 Beaver Dam Road
Cockeysville, MD 21030

Telephone Number: 410-823-4470

Revised 7/11/05 - SCJ

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

December 14, 2006

Francis X. Borgerding, Jr.
409 Washington Avenue, Suite 600
Towson, MD 21204

Dear Mr. Borgerding:

RE: Case Number: 07-170-XA, 100 Mt. Carmel Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 13, 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,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Jeff Wise 13038 Beaver Dam Road Cockeysville 21030
Bruce Doak Gerhold, Cross & Etzel 320 E. Towsontown Blvd. Towson 21286

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

January 4, 2007

FRANCIS X. BORGERDING, JR., ESQUIRE
409 WASHINGTON AVENUE, SUITE 600
TOWSON, MD 21204

Re: Petitions for Special Exception & Variance
Case No. 07-170-XA
Property: 100 Mt. Carmel Road

Dear Mr. Borgerding:

Enclosed please find the decision rendered in the above-captioned case. The petitions for special exception and variance have 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

John V. Murphy
Deputy Zoning Commissioner

JVM:pz
Enclosure

c: Bruce Doak, P.E., Gerhold, Cross & Etzel, Ltd, 320 East Towsontown Blvd., Suite 100, Towson, MD 21286
Jeffrey and Jennifer Wise, 13038 Beaver Dam Road, Cockeysville MD 21030

RECEIVED FOR FILING
Date 1-5-07
By

Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

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

October 31, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: October 23, 2006

Item Number(s): 170 through 182

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 Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C)443-829-2946
MS-1102F

cc: File

Printed with Soybean Ink
on Recycled Paper

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

SHA State Highway Administration Driven to Excel

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: October 31, 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. 7-170-XA
100 Mt Carmel Rd
MD 137
Jeff Wise Property
Special Exception
Variance

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-170-XA.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

HEREFORD COMMUNITY ASSOCIATION, INC.

The Principle Voice of the Hereford Community

April 13, 2006

Zoning Commissioner
Baltimore County, Maryland
Court House
401 Bosley Ave.
Towson, MD 21204

Re: Former State Highway Building
100 block of Mount Carmel Road
Hereford, Maryland

Dear Commissioner,

The owner of the former SHA Building, Mr. Jeffery Wise has applied for a variance in use for this building to house an automobile repair business.

The building is located in the envelope that is covered by the Hereford Plan. The operation of this business is within the scope of the commerce that is to be conducted in the Hereford. Mr. Wise has spent a considerable amount of time and money to upgrade the building to a very suitable condition that meets the requirements of the Hereford Plan as well.

Although the building is located on a plot of land that is zoned RC5-CR, it is directly adjacent to and across from land that is zoned BL-CR.

At its April 11, 2006 meeting, the Hereford Community Association unanimously voted to support Mr. Wise request for a zoning variance. The addition of this business will be an asset to the community.

We strongly recommend that you grant the variance.

Hereford Community Association, Inc.

P.O. Box 180
Monkton, MD 21111

t. 410-357-0252
f. 410-357-0252
(Call first)
pcummins@verizon.net

Sincerely,

Paul Z Cummins II

Paul Z. Cummins, II
President

C: Mr. Jeffery Wise.

Pet #4

Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, MD 21286

Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

TRANSMITTAL SHEET

TO: **Dave Duvall**

FROM: Scott Hodgkins

COMPANY: Baltimore County Zoning Office

DATE: 10/13/06

RE:

TOTAL NO. OF PAGES INCLUDING COVER:

FAX NUMBER:

PHONE NUMBER:

WE ARE TRANSMITTING:

☐ ATTACHED ☐ VIA MAIL X VIA MESSENGER ☐ UNDER SEPARATE COVER ☐ FOR REVIEW

☐ PRINTS ☐ VIA FAX ☐ PROPOSAL ☐ DESCRIPTIONS ☐ LOCATION DRAWING

☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ F.Y.I.

QTY	DATE	ITEM	DESCRIPTION
12			Zoning plats
3			Variance petition forms
3			Special exception petition forms
1			Advertising form
1			Check for $705
1			Zoning map
3			Zoning decriptions

NOTES/COMMENTS:

12/18

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 12, 2006

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

SUBJECT: 100 Mount Carmel Road

RECEIVED

DEC 1 2 2006

ZONING

INFORMATION:

Item Number: 7-170

Petitioner: Jeff Wise

Zoning: RC 5 and CR

Requested Action: **Special Exception**

SUMMARY OF RECOMMENDATIONS:

After a review of the petition and a site visit The Office of Planning offers the following comments and recommendation:

This petition is for a Special Exception and variances to allow a service garage in an RC-5, CR Zone. The site is located on Mount Carmel Road in Hereford and is currently improved with the former State Highways maintenance garage.

The petitioner seeks to relocate the Napa Auto Parts store, which is currently attached to the rear of the "Batchelor Store", to the former State Highways garage site. The "Batchelor Store", which is located on York Road, was recently added to the Baltimore County Final Landmarks List. The historic portion of the "Batchelor Store" will be restored to current historic standards.

Due to the existing status of the State Highways garage (with parking in the rear); the existing dense evergreen screening along the property lines and the proposal's general consistency with the Hereford Community Plan and the CR District Regulations, the Community Planning Division recommends approval of the petition. It is also recommended that the compatibility report required by Section 259.3.c.8 of the B.C.Z.R. be submitted to the Office of Planning prior to issuance of a building permit.

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

Reviewed by: Cindy Murray

Division Chief: Lynn Lochner
AFK/LL: CM

W:\DEVREV\ZAC\7-170.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: October 26, 2006

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For October 30, 2006
Item Nos. 07-170, 171, 172, 174, 175,
176, 177, 178, 179, 180, 181. and 182

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-10262006.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 12, 2006

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

SUBJECT: 100 Mount Carmel Road

INFORMATION:

Item Number: 7-170

Petitioner: Jeff Wise

Zoning: RC 5 and CR

Requested Action: **Special Exception**

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

Reviewed by: Candis Lynch

Division Chief: Lynn Lochner
AFK/LL: CM

W:\DEVREV\ZAC\7-170.doc

SPECIAL DEED FROM THE STATE HIGHWAY ADMINISTRATION

(A)

Form SHA 63.00-26D (Rev. 5/2/90)

Special Sale Deed

Office of Real Estate

Item No. 88427-RG (Parcel No. 2)

THIS DEED, made this 17th day of January in the year ~~2002~~ 2003,

From the STATE HIGHWAY ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION, acting for and on behalf of the STATE OF MARYLAND, party of the first part, hereinafter sometimes called the "GRANTOR" unto **100 MT. CARMEL RD. LLC**, a Maryland limited liability company, hereinafter sometimes called the "GRANTEE."

WHEREAS, the State Highway Administration of the Department of Transportation, acting for and on behalf of the State of Maryland, has heretofore acquired certain property and rights, situate, lying and being in Baltimore County, State of Maryland; and

WHEREAS, the State Highway Administration has constructed, or is about to construct a certain State Highway and/or Bridge known and designated as MD 137 - Mt. Carmel Rd. Hereford toward Evna; and

WHEREAS, the State Highway Administration has prepared, or caused to be prepared, a Right of Way plat designated as State Highway Administration Plat numbered **52014 (Rev. 8/19/91)** which Plat is intended to be or has been recorded among the Land Records of the aforesaid County in the appropriate Plat Book; and

WHEREAS, the said Plat shows the land, easements, rights and controls of access which have been determined by the said State Highway Administration as necessary to be retained by the State for the construction, operation, maintenance, use and protection of the highway and/or bridge constructed, or to be constructed, as aforesaid; and

WHEREAS, the State Highway Administration has agreed, for good and valuable considerations, to convey unto the GRANTEE herein certain land, hereinafter described, which the State Highway Administration has determined is no longer needed by it in connection with the construction, operation, maintenance, use and protection of the State Highway System; and

WHEREAS, under the provisions of Section 8-309 of the Transportation Article of the Annotated Code of Maryland, as amended, it is necessary for the State Highway Administrator - Chairman, State Roads Commission only to execute the deed conveying this property.

NOW, THEREFORE, THIS DEED WITNESSETH: That for and in consideration of the sum of One Dollar ($1.00), and other good and valuable considerations, the receipt and adequacy of which is hereby acknowledged, the said party of the first does hereby grant, convey and quit claim unto **100 MT. CARMEL RD. LLC**, a Maryland limited liability company, its successors and assigns, all right, title and interest of the State Highway Administration and the State of Maryland, in and to that

Pet # 1

certain lot or parcel of ground situate, lying and being in Baltimore County, State of Maryland, and identified as Parcel No. 2, containing 0.297 of an acre of land, more or less, and shown border shaded thus [redacted] on State Highway Administration Plat numbered **52014 (Rev. 8/19/91)**, a reduced copy of which is attached hereto and incorporated herein as Exhibit No. 1. *

BEING a part of the same property conveyed by a deed dated 6/2/30 and recorded among the Land Records of Baltimore County, Maryland, in Liber No. 853, folio 376, from Anna E. McJilton unto the State of Maryland to the use of the State Roads Commission.

RESERVING, HOWEVER, UNTO THE STATE OF MARYLAND TO THE USE OF THE STATE HIGHWAY ADMINISTRATION, its successors and assigns forever, all of the following described land, easements, rights, privileges and controls:

EXCEPT FOR THE PROPERTY HEREIN CONVEYED, all the land and premises, together with the appurtenances thereto belonging or in anywise appertaining, as shown and/or indicated on State Highway Administration Plat numbered **52014 (Rev. 8/19/91)**, all of which Plat is made a part hereof and which is duly recorded, or intended to be recorded, among the Land Records of the aforesaid County.

SUBJECT TO and excepting from the operation and effect of this deed any and all rights and reservations that may have been granted or reserved by former owners of this property or their predecessors in title and/or covenants or restrictions which may have been established with respect to said land by such former owners or their predecessors in title.

SUBJECT TO and excepting from the operation and effect of this deed any and all existing rights now held or used by any public utility or public utilities across or adjacent to the land herein conveyed.

TOGETHER with the buildings and improvements thereon, and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the land and premises, hereinbefore described and mentioned, to the extent of the State's right, title and interest thereto, unto **100 MT. CARMEL RD. LLC**, a Maryland limited liability company, its successors and assigns.

SUBJECT, HOWEVER, TO EACH AND EVERY RESERVATION, RESTRICTION, CONDITION, COVENANT AND CONTROL SET FORTH IN THIS INSTRUMENT OF WRITING.

AND THE GRANTEE HEREIN, by the acceptance of this deed, does hereby covenant and agree, on behalf of itself, its successors and assigns, to abide by and respect each and every reservation, restriction, condition, covenant and control set forth in this instrument of writing, it being the intention hereof to perpetuate all of the rights and privileges retained by the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, by this deed. It is expressly understood and agreed that these covenants shall run with and bind the property hereby conveyed and the remaining property of the GRANTEE and shall be binding upon the GRANTEE, its successors and assigns, forever.

* For Additional Description See Survey Description dated January 10, 2003 as prepared by J.S. Dallas, Inc. and incorporated by reference herein. Exhibit No. 2 It is the intention that the forementioned description should control as between SHA Plat No. 52014 and the attached survey description.

RS Agent SHA

3/1/90 SHA 63.00-26D (C)

The actual consideration paid by the GRANTEE to GRANTOR is Two Hundred Six Thousand and 00/100 Dollars ($206,000.00).

IN TESTIMONY WHEREOF, Witness the hands and seals of the parties hereto:

WITNESS:

Gary Feitelson

STATE HIGHWAY ADMINISTRATION OF THE MARYLAND DEPARTMENT OF TRANSPORTATION

By: _____ (Seal)
Parker F. Williams
State Highway Administrator

Approved as to Form and Legal Sufficiency

Libby C Rappaport
Assistant Attorney General

Concurred in by:

Christian C. Larson, Director
Office of Real Estate

STATE OF MARYLAND - COUNTY/~~CITY~~ OF Baltimore, To Wit:

I HEREBY CERTIFY that, before me, the subscriber, a NOTARY PUBLIC of the STATE OF MARYLAND, in and for the County/City aforesaid, personally appeared **Parker F. Williams**, State Highway Administrator and acknowledged the aforegoing deed to be the act of the State Highway Administration and, at the same time, made oath in due form of law that he is fully authorized to execute and acknowledge the same.

AS WITNESS MY HAND AND NOTARIAL SEAL, this 25TH day of October in the year 2002.

James E Frankel (Seal)
Notary Public

My Commission Expires: 01/01/04

I hereby certify that this instrument was prepared under my supervision, an attorney admitted to practice by the Court of Appeals of Maryland.

Libby C Rappaport
Assistant Attorney General

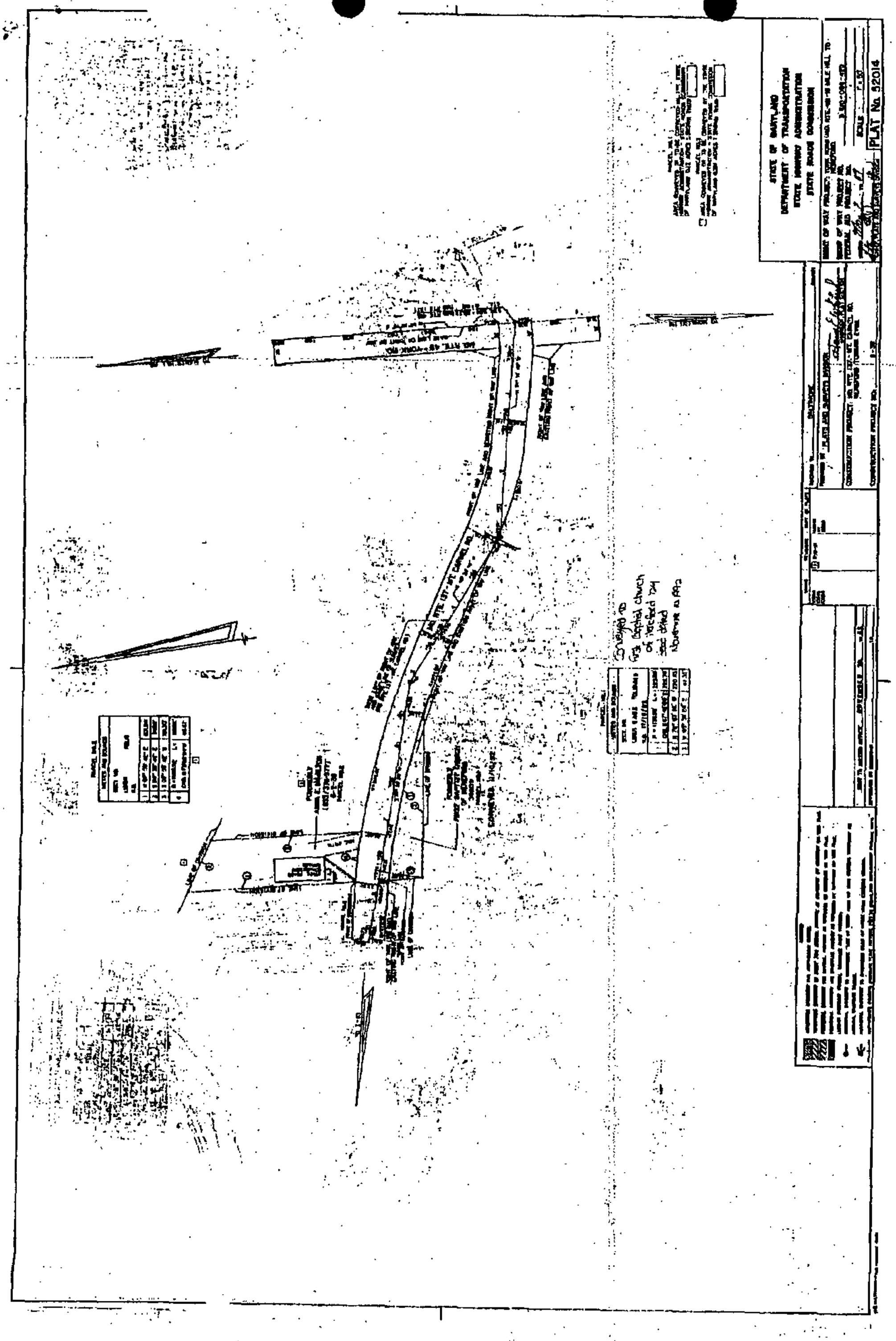

STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
STATE ROAD COMMISSION
PLAT No. 32014

Exhibit No. 1

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, MD 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

RECEIVED
FEB 2 8 2007
ZONING COMMISSIONER

TRANSMITTAL SHEET

TO:
Jack Murphy
Deputy Zoning Commisioner

FROM:
Bruce E. Doak

COMPANY:

DATE:
2/27/07

RE:
Wise Property
Case #07-170-XA

TOTAL NO. OF PAGES INCLUDING COVER:

FAX NUMBER:

PHONE NUMBER:

WE ARE TRANSMITTING:

☐ ATTACHED ☐ VIA MAIL X VIA MESSENGER ☐ UNDER SEPARATE COVER ☐ FOR REVIEW
☐ PRINTS ☐ VIA FAX ☐ PROPOSAL ☐ DESCRIPTIONS ☐ LOCATION DRAWING
☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ F.Y.I.

QTY	DATE	ITEM	DESCRIPTION
1	2/24/07	original	Final Landscape Plan

Enclosed is the landscape plan required in your order. It has been reviewed and approved by Avery Harden. Please place this in the file. Please feel free to call me with any questions you may have.

Cc Avery Harden via mess.
Frank Borgerding via mess.

Case 07-170-XA

3/12

Kristen -

Please add the attached paperwork to the case file.
Thanks.

Patti

3/14/07

Kristen,

I think this belongs to a zoning file.
I could not find the PDM#.

Thanks
KW

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

January 4, 2007

FRANCIS X. BORGERDING, JR., ESQUIRE
409 WASHINGTON AVENUE, SUITE 600
TOWSON, MD 21204

Re: Petitions for Special Exception & Variance
Case No. 07-170-XA
Property: 100 Mt. Carmel Road

Dear Mr. Borgerding:

Enclosed please find the decision rendered in the above-captioned case. The petitions for special exception and variance have 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: Bruce Doak, P.E., Gerhold, Cross & Etzel, Ltd, 320 East Towsontown Blvd., Suite 100, Towson, MD 21286
Jeffrey and Jennifer Wise, 13038 Beaver Dam Road, Cockeysville MD 21030

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
N side Mt. Carmel Road, 702 feet W of c/l York Road	*	DEPUTY ZONING COMMISSIONER
7th Election District	*	OF BALTIMORE COUNTY
3rd Councilmanic District		
(100 Mt. Carmel Road)	*	
Jeff Wise		
Legal Owner	*	CASE NO. 07-170-XA

* * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Exception and Variance filed by Jeff Wise, Legal Owner. The requests are for property located at 100 Mt. Carmel Road. A Special Exception is to permit the continued use of a Service Garage in a BL zone per Section 230.13 of the of the Baltimore County Zoning Regulations (B.C.Z.R.). The Variance request is to permit a 0-foot wide landscape buffer in lieu of the required 10 feet; to permit a 56-foot setback in lieu of the required 150 feet; to permit a 23-foot setback on the east and a 4-foot setback on the west in lieu of the required 50 feet; and to permit building coverage of 23 % in lieu of the required maximum 15%.

The property was posted with a notice of the public hearing date and time on December 1, 2006, and notice given to the general public by publication in the *Jeffersonian* Newspaper on November 30, 2006.

Interested Persons

Appearing at the hearing on behalf of the variance request were Bruce Doak, of Gerhold, Cross & Etzel, Ltd., who prepared the site plan, Jennifer Wise and Jeff Wise, Legal Owners. Francis X. Borgerding, Jr., Esquire, represented the Petitioner. There were no protestants or citizens at the hearing. Peter Max Zimmerman, People's Counsel, entered his appearance in this case.

Zoning Advisory Committee

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated December 12, 2006 which recommends approval due to the existing status of the State Highways garage (with parking in the rear), the existing dense evergreen screening along the property lines. and the proposal's general consistency with the Hereford Community Plan and the CR District Regulations, a copy of which is incorporated herein and made a part hereof the file.

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."

Section 502.1 of the B.C.Z.R. - *Special Exceptions*

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;
B. Tend to create congestion in roads, streets or alleys therein;
C. Create a potential hazard from fire, panic or other danger;
D. Tend to overcrowd land and cause undue concentration of population;
E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
F. Interfere with adequate light and air; [Bill No. 45-1982]

G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]
H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

Testimony and Evidence

The subject property contains 0.59 acres zoned RC 5 CR and is improved by an existing one story masonry building which formerly housed a State Highway Administration Office and garage. Mr. Borgerding proffered that this property had been used by the State as a garage for repair of State trucks and vehicles since 1930. Five years ago the State moved its repair functions to a new location, and sold this property at auction to a buyer in 2003 who in turn sold it to the Petitioner. As shown on Petitioner's exhibit 2, the property is located on Mt. Carmel Road near the Hereford business district, which lies between the Harrisburg Expressway (I 83) and York Road.

The Petitioner would like to use the property as an auto service garage for the repair of vehicles. While it was a State garage it was exempt from zoning regulations but now needs approval as a service garage in private hands. Mr. Borgerding noted that Hereford had changed over the years so that the proposed use now fits within the commercial corridor of Mt. Carmel Road.

In regard to the variance requests, Mr. Borgerding indicated that the requests to permit a 0-foot wide landscape buffer for parking facilities in lieu of the required 10 feet; to permit a 56-foot front yard setback in lieu of the required 150 feet; to permit a 23-foot setback on the east and a 4-foot setback on the west in lieu of the required 50 feet; and to permit building coverage of 23 % in lieu of the required maximum 15% all arise from the existing buildings on site and long narrow configuration of the property.

The issue of landscaping around the rear parking area is addressed in Petitioner's exhibit 2. There is a line of mature evergreen trees along the east side of the property which buffer the proposed uses from the driveway and commercial uses on the adjoining property to the east. See Photographs 3H, 3J and 3K. Again there are mature mixed evergreens which line the rear of the property. See Photograph 3L. He opined that these would stay and would buffer the proposed use so that parking facilities would not need additional landscaping on the east or north. The Petitioner proposes to plant additional screening on one section of the western edge of the parking area and incorporate existing plantings as shown in Petitioner's exhibit 2. As such he indicated that the parking area is adequately screened. He mentioned that the Planning Office representative visited the site and was satisfied with screening as reflected in that Office's comments.

The Petitioner is not proposing to increase the foot print of the existing building but rather simply has improved its appearance as shown in photograph 3I. Again the existing building is 56 feet from the centerline of Mt. Carmel Road. The lot is only 64 feet wide so that no building including the existing building could meet the 50 foot setback to lot line. Finally the existing building cover 23 % of the lot and can not meet the 15 % coverage requirement of the regulations. He noted that the existing building was erected much before the zoning regulation were imposed

Mr. Borgerding presented photographs of the uses along this portion of Mt. Carmel Road which include residential uses to the west, exhibit 3I, commercial building to the south, exhibit 3F, a church and cemetery across Mt. Carmel Road, exhibit 3C and 3E, and the commercial uses to the west, exhibit 3D. In addition he presented a letter in support of the requests from the Hereford Community Association. The letter mentions the substantial improvements made to the building which include replacing all windows and a new entrance.

In regard to the special exception for a service garage, he noted that hours of operation would be 7:30 AM to 6 PM Monday thru Saturday, there would be no body work or painting, nor storage of damaged vehicles on the premises. Most vehicles will be in and out in one day, but some could be on the premises for several weeks. There will be no car carrier deliveries of damaged vehicles.

Finally in response to questions about the evergreen screening to the east, the Petitioner indicated the there is a small space along the driveway which could be planted if the evergreens were removed by the owner.

Findings of Fact and Conclusions of Law

As mentioned at the hearing I have two concerns with these requests. First the very dense and effective line of mature evergreens to the east which the Petitioner claims as part of his rationale for these requests do not belong to the Petitioner but rather are on the Foard Enterprises property. As such the Petitioner cannot guarantee their continued existence unless he secures a legally binding agreement to that effect. I believe that the Planning Office and Community Association endorsement are based in some part on the existence of this line of trees as everyone viewing the site would assume that the trees belonged to the Petitioner.

My second concern is the effect a service garage will have on the residential uses to the west. The back of the existing building is only 4 feet from the boundary with the Gray/Miller dwelling, and has no landscaping at all.

I think these concerns can be accommodated rather simply by requiring the Petitioner to submit a landscape plan to the Baltimore County Landscape Architect which shall include some plantings within the 4 feet along the west property line to buffer the building from the dwelling. The Landscape Architect is an expert in designing plantings in tight spaces. The landscape plan shall also contain a plan for vegetative screening along the east boundary of the parking lot in the

rear. This may require relocating the parking spaces provided along this border. However this latter requirement can be avoided if the Petitioner presents the Landscape Architect proof of a legally binding agreement with the property owner to the east that the existing line of evergreens will be maintained.

Variances

The request for variance arises because the existing building is located on a small narrow lot. It has been used as a garage under State ownership before the zoning regulations were imposed. The imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district. Consequently I find the property unique in a zoning sense.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Obviously it is impractical to move the building to meet the regulations and impossible to meet the regulations regarding the side yard setbacks.

Finally, I find this variance 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 if certain conditions are met for the reasons above.

Consequently I will approve the requested variance with conditions.

Special Exception

Having approved the variance, I also find that the proposed use meets the criteria of Section 502.1 of the BCZR, is within the spirit and intent of the RC 5CR regulations and will not adversely affect the community. The Planning Office and Hereford Community Association have endorsed the requests. However I believe as above those endorsements are based to some

extent on the existing evergreen screening on the adjacent property. The conditions below will address this concern. Consequently I will grant the special exception requested.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested special hearing and variance should be granted with conditions.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 5th day of January, 2007 that the Petitioner's request for variance to permit a 0-foot wide landscape buffer for parking facilities in lieu of the required 10 feet; to permit a 56-foot setback in lieu of the required 150 feet; to permit a 23-foot setback on the east and a 4-foot setback on the west in lieu of the required 50 feet; and to permit building coverage of 23 % in lieu of the required maximum 15%be and are hereby GRANTED; and

IT IS FURTHER ORDERED that the Petitioner's Special Exception to permit the continued use of a Service Garage in a BL zone per Section 230.13 of the of the Baltimore County Zoning Regulations (B.C.Z.R.) be and is hereby GRANTED subject, however, to the following conditions:

1. The Petitioner may apply for any permits required and be granted same upon receipt this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Compatibility Report as required by Section 259.3.c.8 of the B.C.Z.R. shall be submitted to the Office of Planning prior to the issuance of a building permit.
3. The Petitioner shall submit a landscape plan to the Baltimore County Landscape Architect for the western boundary of the subject property which shall include some plantings within the 4 feet space between the boundary and the building to properly buffer the proposed uses from the dwelling to the west. The landscape plan shall also contain a plan for vegetative screening along the east boundary of the parking lot in the rear. This may require relocating the parking spaces provided along this border. However this latter requirement can be avoided, if the Petitioner presents the Landscape Architect proof of a legally binding agreement with the property owner to the east that the existing line of evergreens will be maintained.
4. Hours of operation shall be 7:30 AM to 6 PM Monday thru Saturday.

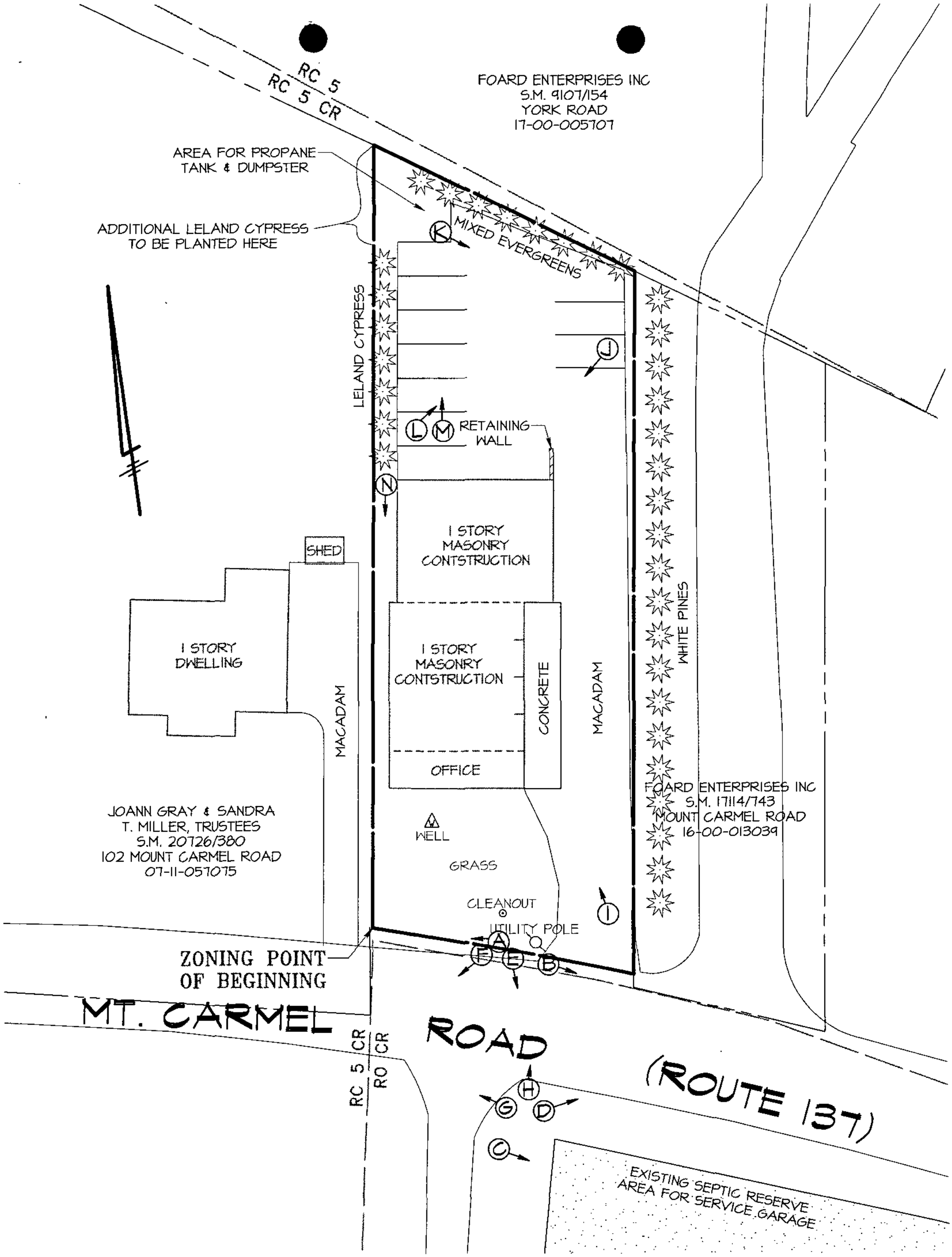
5. There would be no body work, no painting, nor storage of damaged vehicles on the premises for more that one week.
6. There will be no car carrier deliveries of damaged vehicles to the premises.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz


RC 5
RC 5 CR
FOARD ENTERPRISES INC
S.M. 9107/154
YORK ROAD
17-00-005707
AREA FOR PROPANE TANK & DUMPSTER
ADDITIONAL LELAND CYPRESS TO BE PLANTED HERE
MIXED EVERGREENS
LELAND CYPRESS
RETAINING WALL
1 STORY MASONRY CONTSTRUCTION
SHED
1 STORY DWELLING
1 STORY MASONRY CONTSTRUCTION
CONCRETE
OFFICE
MACADAM
MACADAM
WHITE PINES
FOARD ENTERPRISES INC
S.M. 17114/743
MOUNT CARMEL ROAD
16-00-013039
JOANN GRAY & SANDRA T. MILLER, TRUSTEES
S.M. 20726/380
102 MOUNT CARMEL ROAD
07-11-057075
WELL
GRASS
CLEANOUT
UTILITY POLE
ZONING POINT OF BEGINNING
MT. CARMEL ROAD
RC 5 CR
RO CR
(ROUTE 137)
EXISTING SEPTIC RESERVE AREA FOR SERVICE GARAGE

PLEASE PRINT CLEARLY

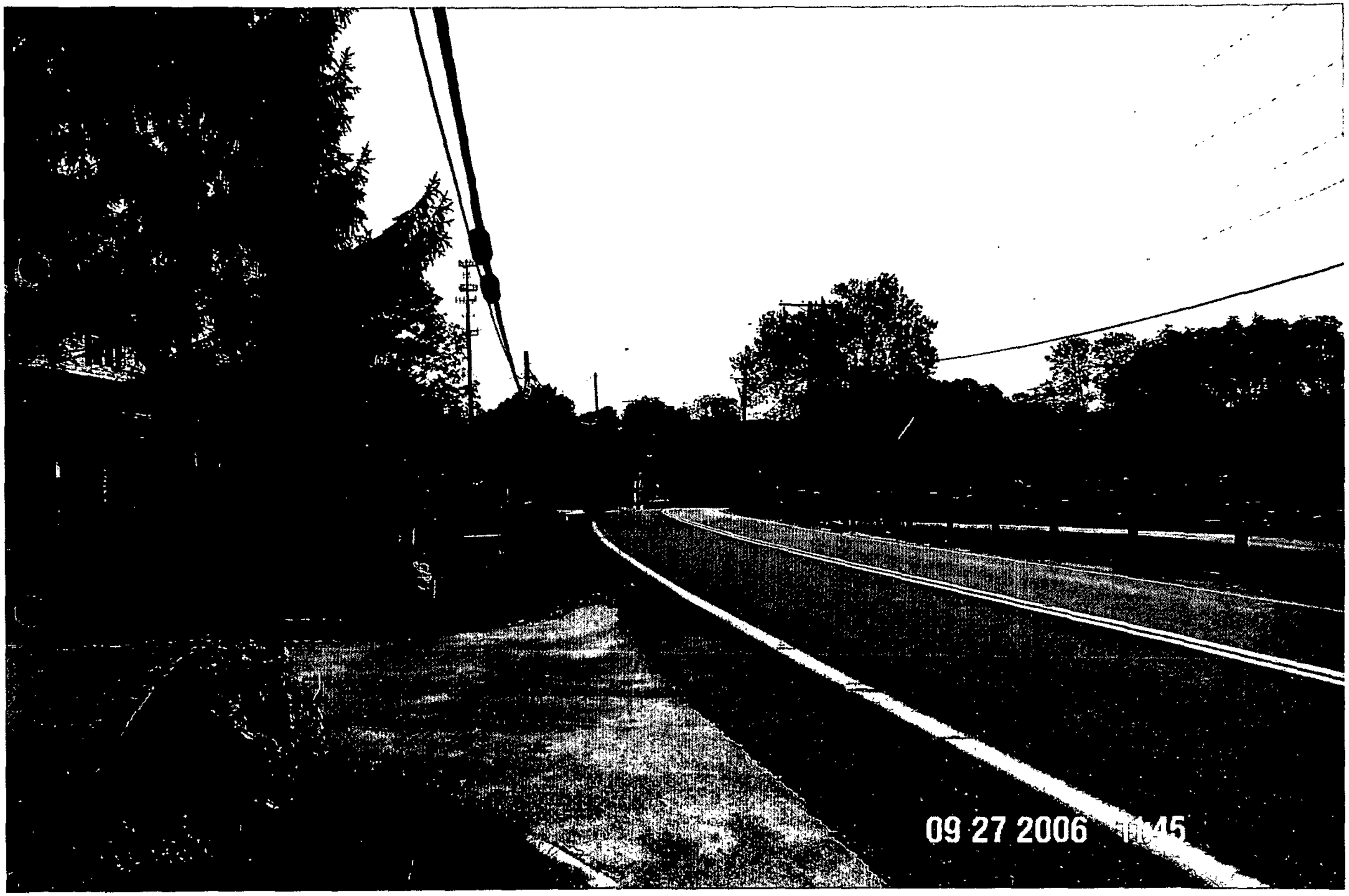
CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Bruce Doak	320 E. Towsontown Blvd	Towson Md 21286	
Gorrhold Gross & Etzel			
Jeffrey Wise	13038 Beaverdam Rd	Hunt Valley MD 21030	
Jennifer Wise	13038 Beaver Dam Rd	Hunt Valley MD 21030	
Francis X. Borgerding, Jr.	409 Washington ave suite 600	Towson, md 21204	

KEEP
MARYLAND
BEAUTIFUL
PLEASE
DON'T LITTER
$1000 FINE
09 27 2006 11:45

(B)



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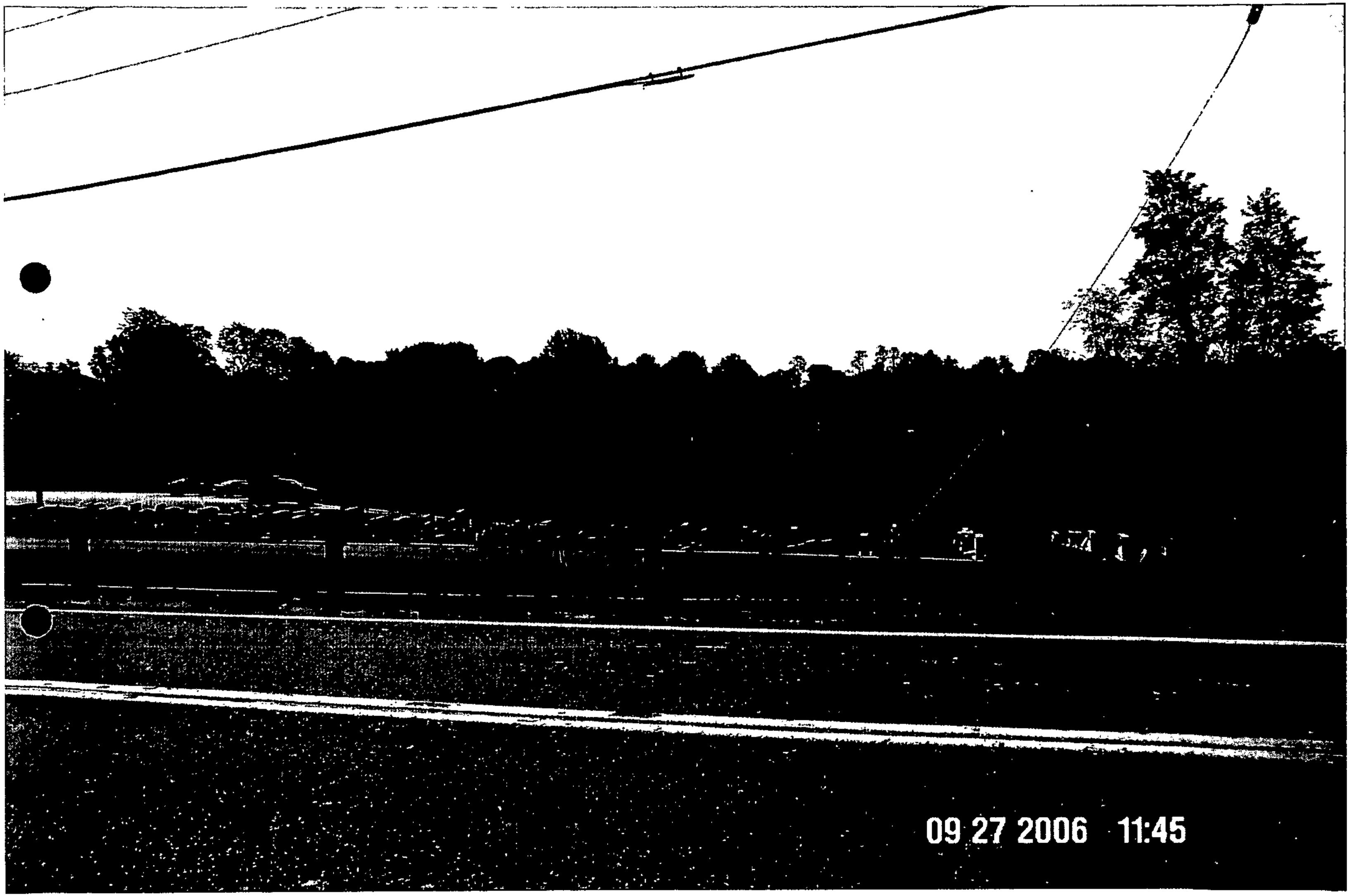

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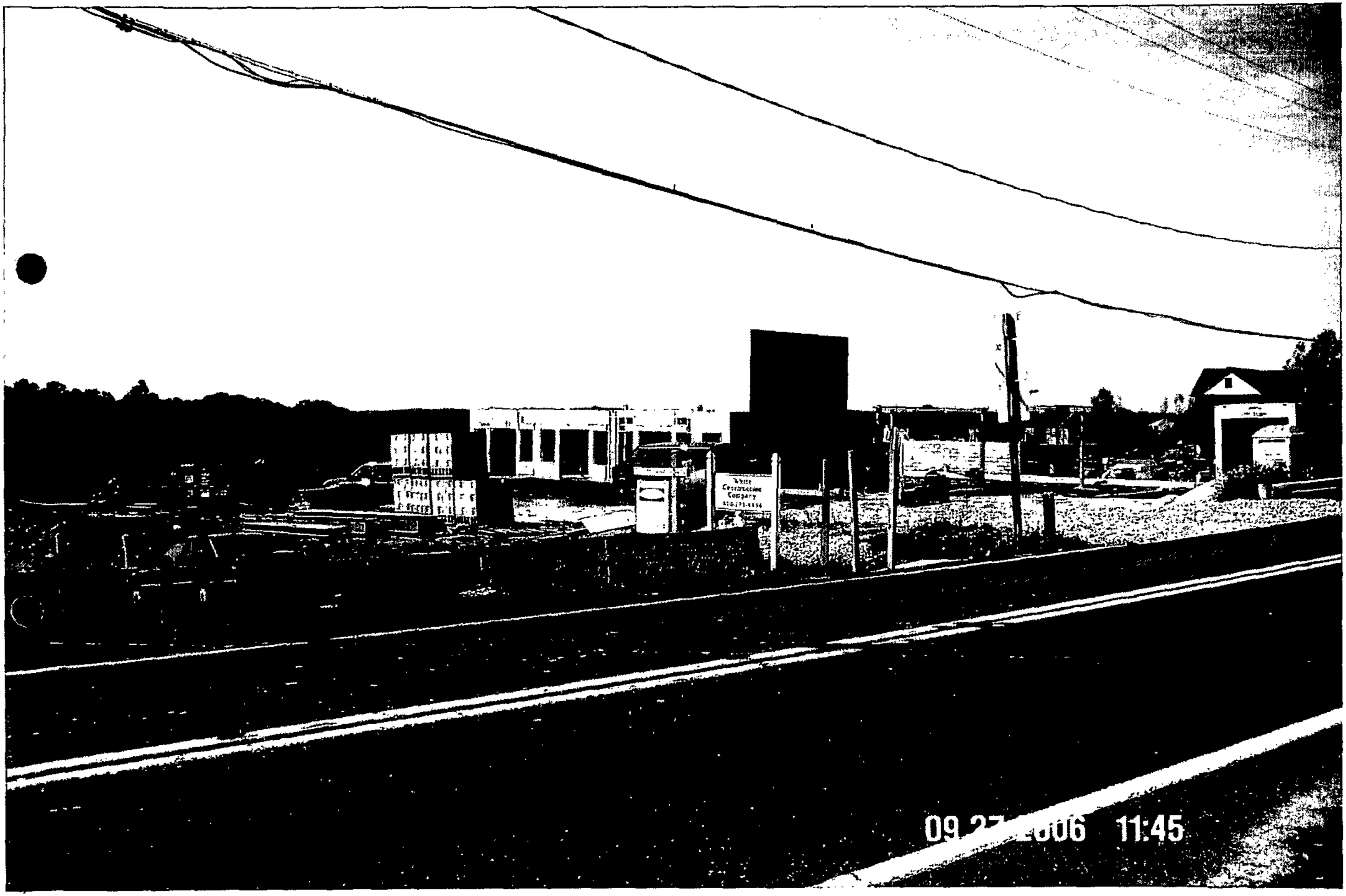

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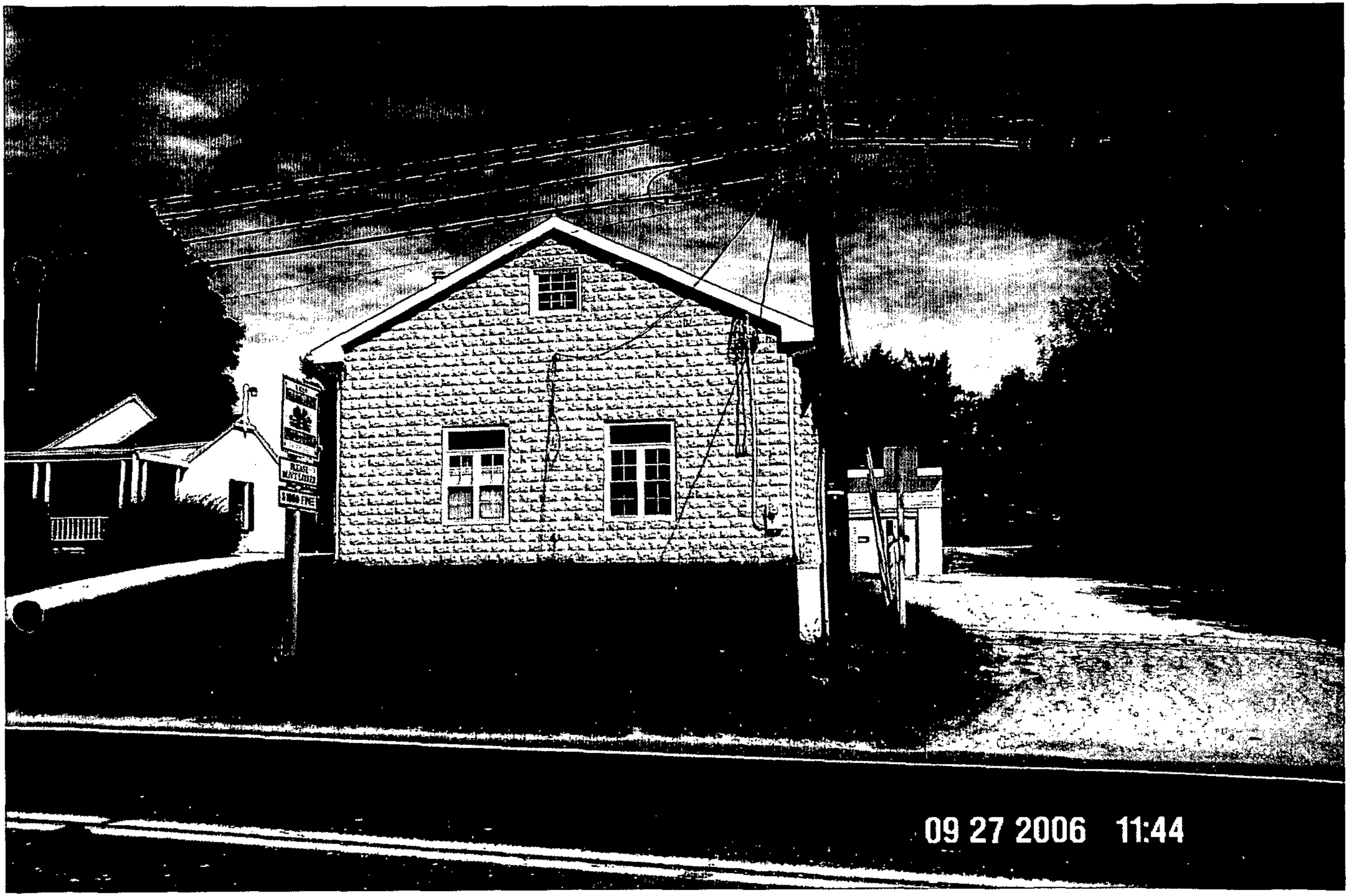

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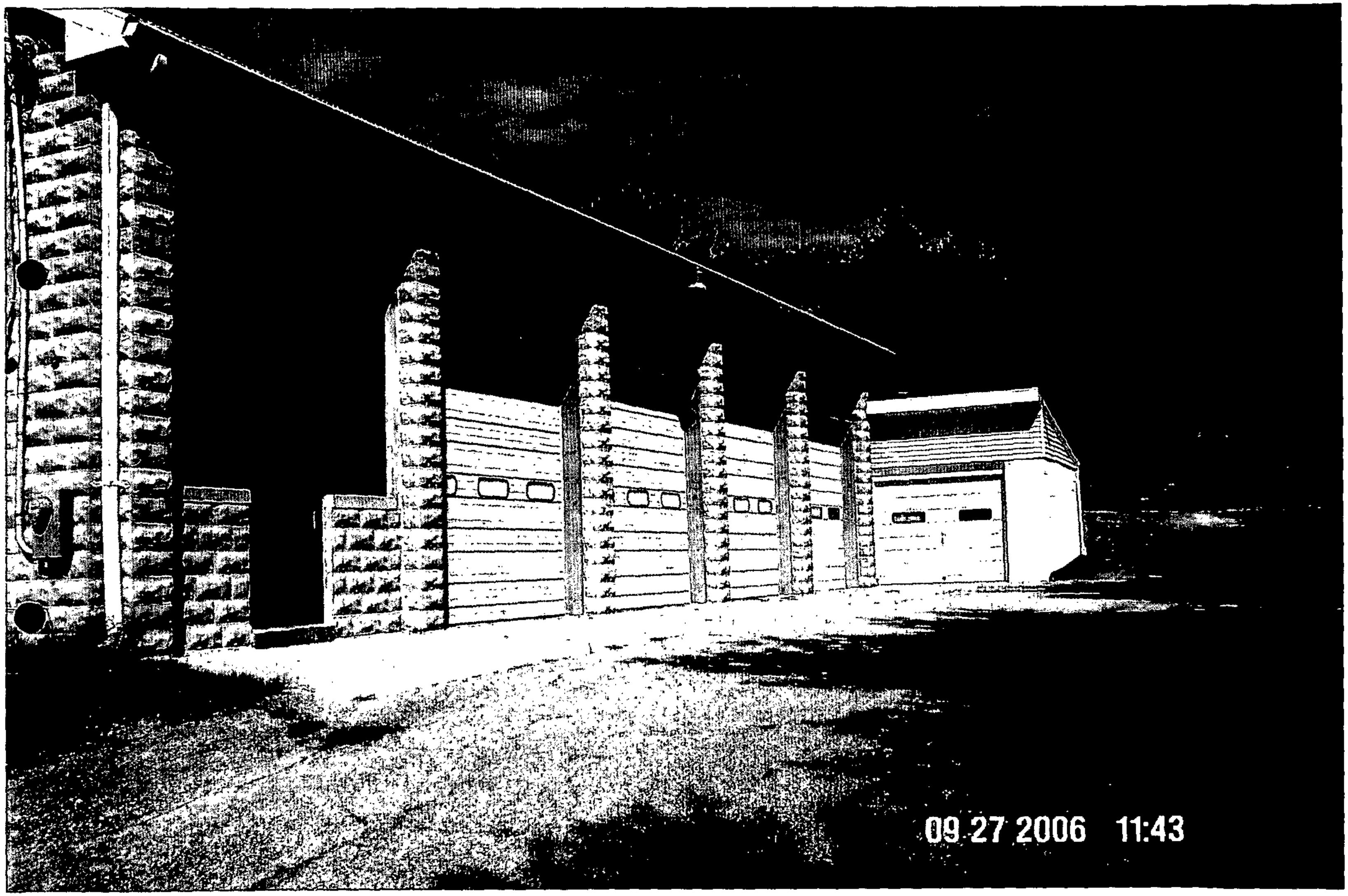

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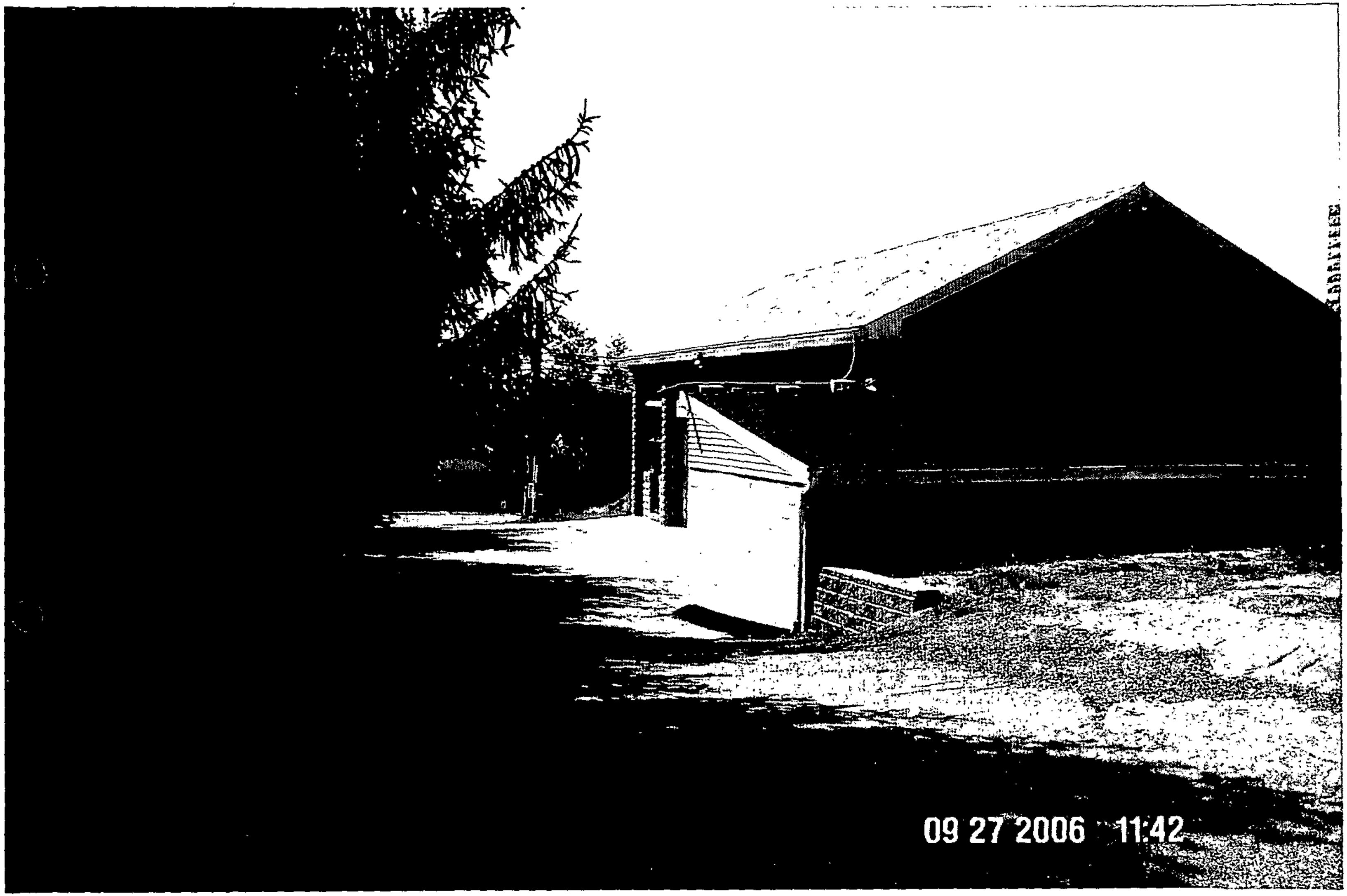

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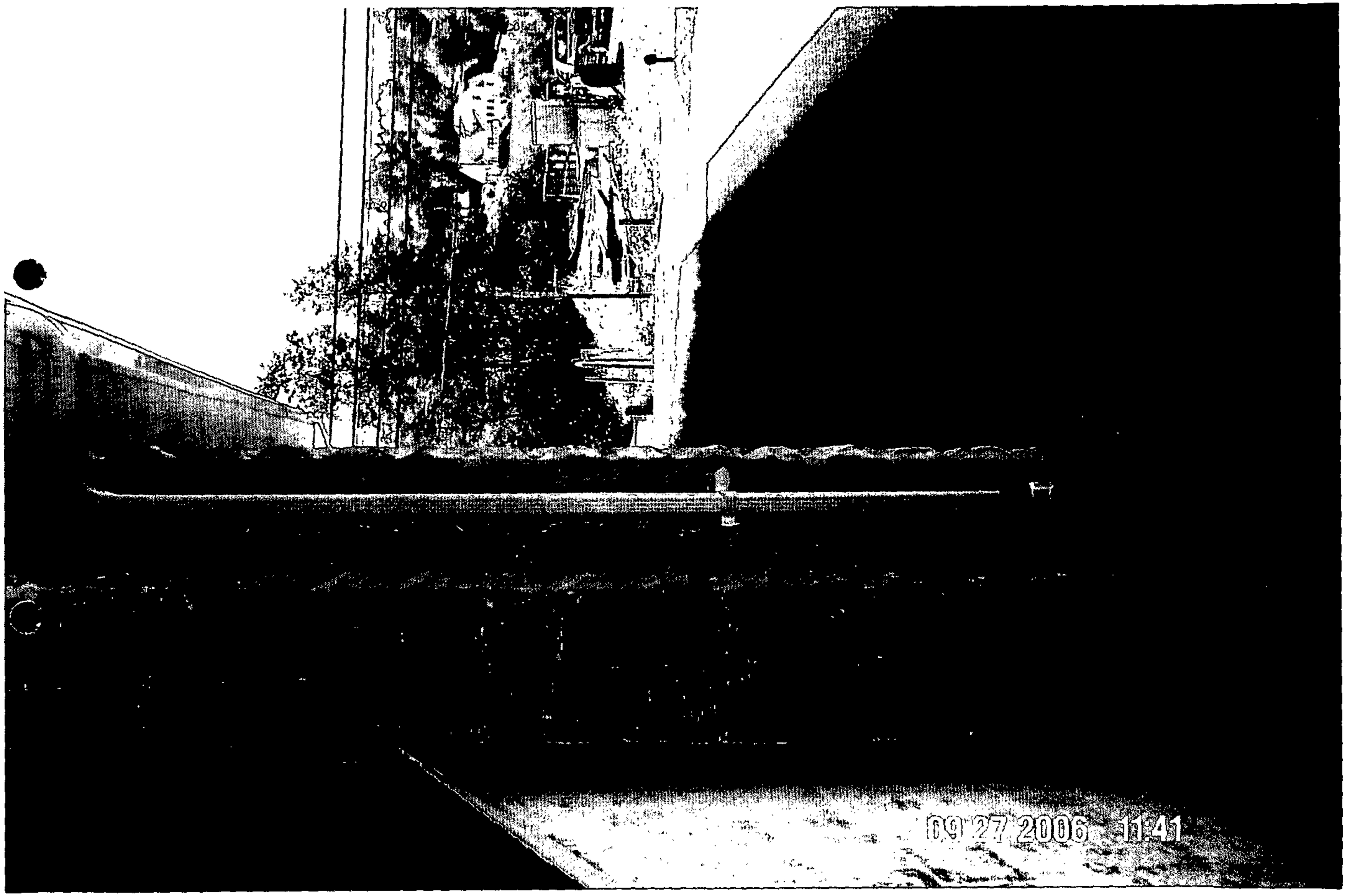
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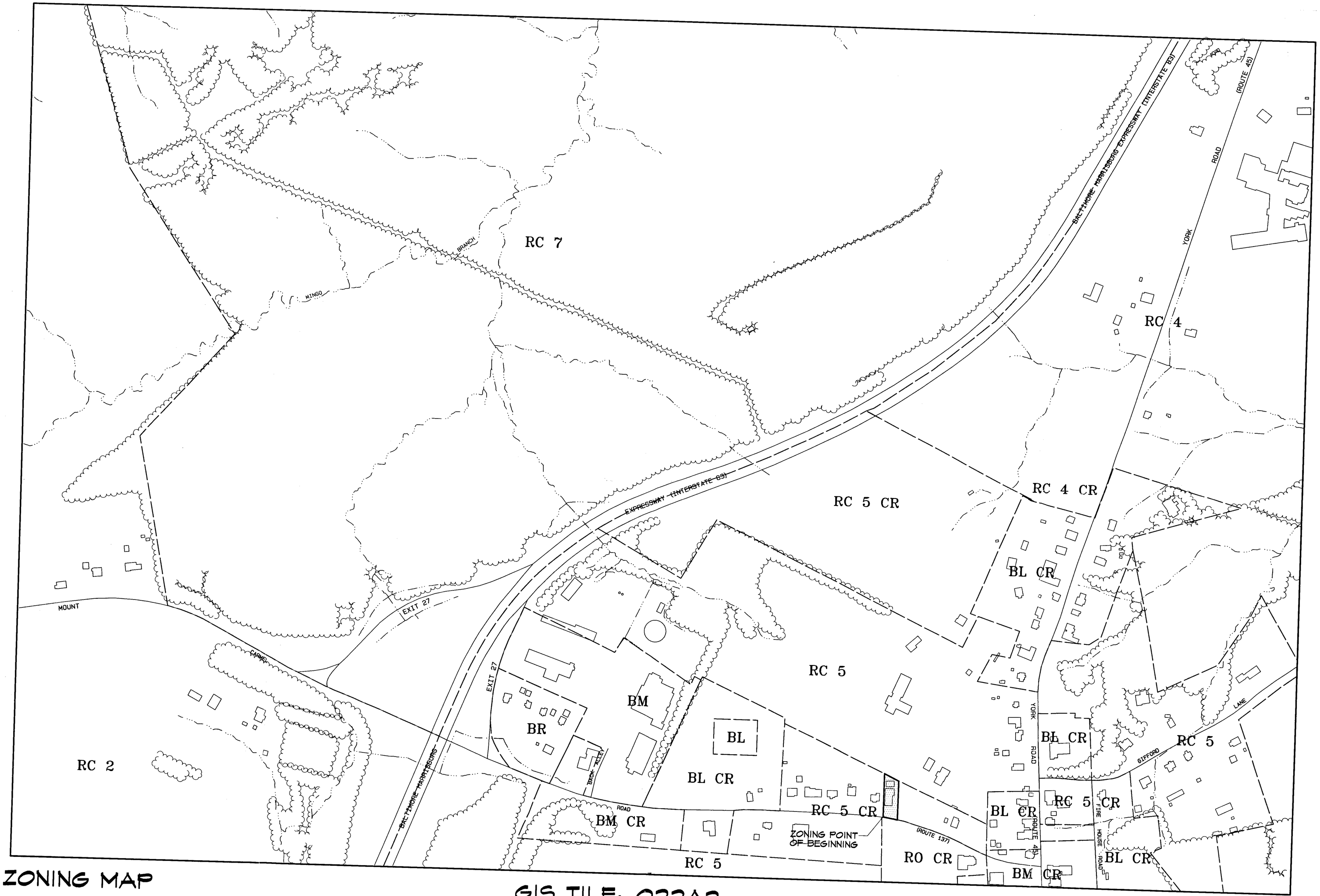
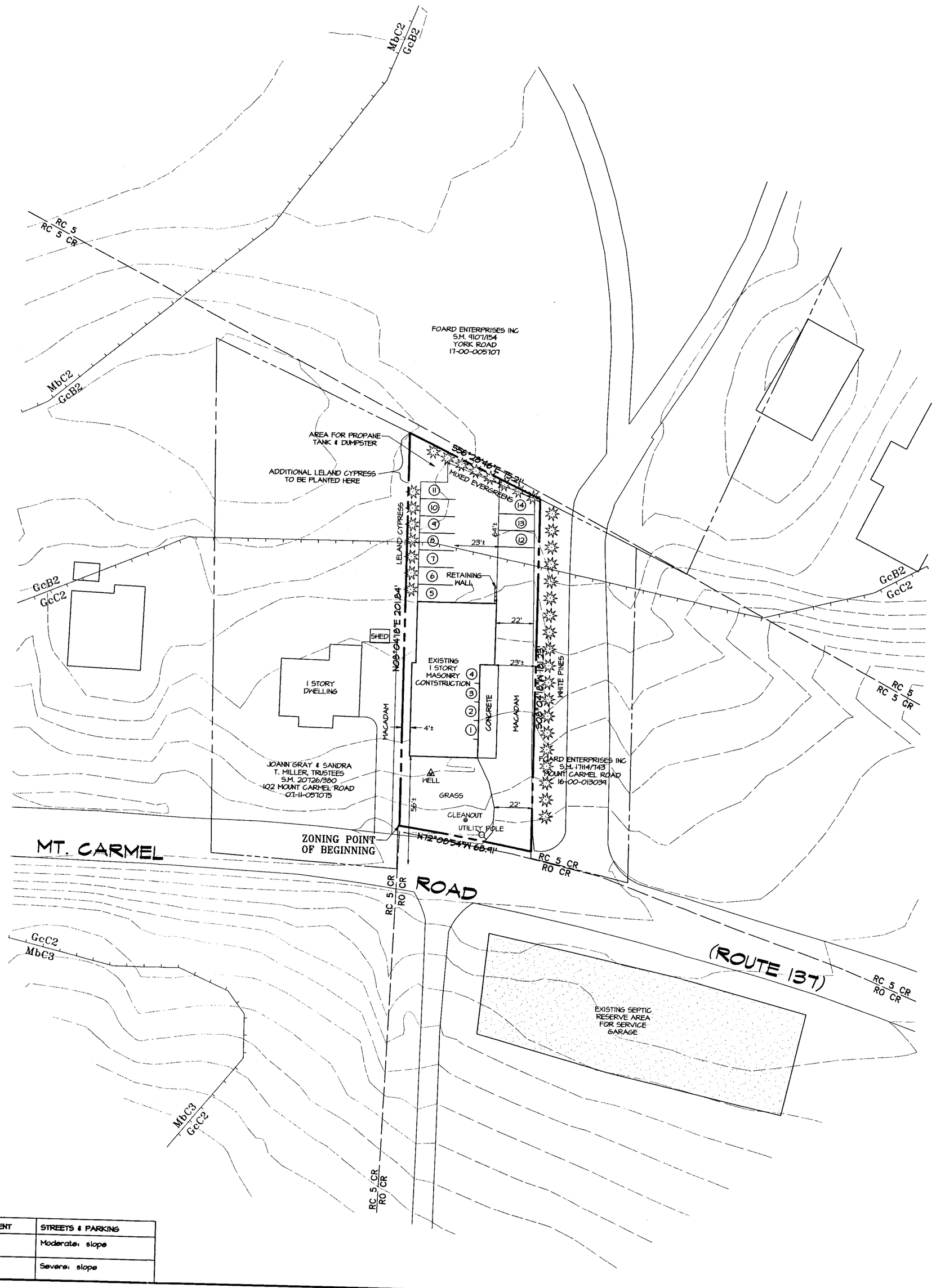


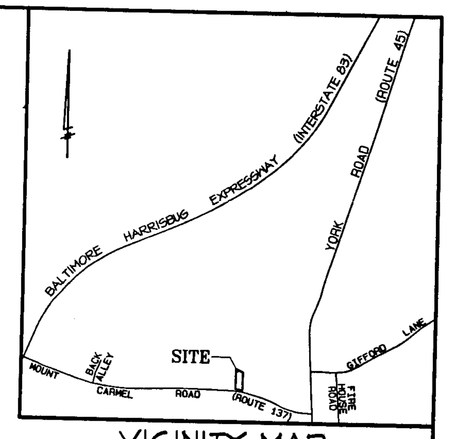
ZONING MAP

GIS TILE: 022A2

SCALE: 1"=200'

Item #170





VICINITY MAP
1" = 2000'

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS FROM DEED S.M. 17415/276.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 022A2.
3. THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM BALTIMORE COUNTY SOIL SURVEY MAP No. 9.
4. CENSUS TRACT 401000 REGIONAL PLANNING DISTRICT 301
   WATERSHED LOCH RAVEN SUBSEWERSHED NONE
   SCHOOL DISTRICT, ELEMENTARY - FIFTH E.S., MIDDLE - HEREFORD M.S., HIGH - HEREFORD H.S.
   A.D.C. MAP & GRID 7 D11
5. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
6. THE SUBJECT PROPERTY IS NEITHER HISTORIC NOR WITHIN A HISTORIC DISTRICT.
7. THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
8. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
9. THE SUBJECT PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN.
10. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PRIVATE WELLS AND SEPTIC SYSTEMS.
11. THIS GARAGE WAS FORMERLY USED AS A STATE HIGHWAY ADMINISTRATION SERVICE GARAGE.
12. ADJOINING ZONE IS BL CR.

SITE DATA

LOT SIZE

GROSS AREA 25,543 SQ. FT.

SITE USE

EXISTING 4 BAY SERVICE GARAGE

FLOOR AREA RATIO

ALLOWED IN BL ZONE IS 3.0
TOTAL SITE AREA 24,543 SQ. FT.
TOTAL FLOOR AREA 2,869 SQ. FT.
FAR = 0.246

PARKING CALCULATIONS

SERVICE GARAGE
PARKING SPACES REQUIRED PER SECTION 409.6.A.2 IS 3.3 PER 1,000 SQ. FT.
3 X 3.3 = 10
PARKING SPACES PROVIDED = 14

VARIANCE REQUESTED

TO PERMIT A 0' WIDE LANDSCAPE BUFFER IN LIEU OF THE REQUIRED 10' PER SECTION 409.8.A.1 OF THE B.C.Z.R. (EXISTING EVERGREEN SCREENING ALONG THE PROPERTY LINE WILL REMAIN)

TO PERMIT A 56' FRONT SETBACK IN LIEU OF THE REQUIRED 150' PER SECTION 1A04.3.B.2.B OF THE B.C.Z.R.

TO PERMIT A 23' SETBACK ON THE EAST, AND A 4' SETBACK ON THE WEST IN LIEU OF THE REQUIRED 50' PER SECTION 1A04.3.B.2.B OF THE B.C.Z.R.

TO PERMIT BUILDING COVERAGE OF 23% IN LIEU OF THE REQUIRED MAXIMUM 15% PER SECTION 1A04.3.B.3 OF THE B.C.Z.R.

SPECIAL EXCEPTION REQUESTED

TO PERMIT THE CONTINUED USE OF A SERVICE GARAGE IN A BL ZONE PER SECTION 230.13 OF THE B.C.Z.R.

LEGEND

- EXISTING WELL
- EXISTING CLEANOUT
- EXISTING BUILDING
- SOIL LINE
- EXISTING PAVING
- ZONING LINE
- PROPERTY LINE
- CONTOURS

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC FILTER FIELDS	HOMESITES W/BASEMENT	STREETS & PARKING
GcB2	Slight	Slight	Moderate: slope
GcC2, MbC2, MbC3	Moderate: slope	Moderate: slope	Severe: slope

OWNER\DEVELOPER
100 MT. CARMEL ROAD LLC
13038 BEAVER DAM ROAD
COCKEYSVILLE, MD 21030

PETITION TO ACCOMPANY A SPECIAL EXCEPTION AND A VARIANCE ON THE 100 MT. CARMEL ROAD LLC PROPERTY

100 MOUNT CARMEL ROAD
Deed Ref: S.M. No. 17415 folio 276
Tax Account No.: 24-00-006904
Zoned R.C. 5 C.R.; GIS Tile 022A2
Tax Map 22; Grid 14; Parcel 225
7th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND BRUCE EDWIN RAMM No. 231 REGISTERED PROFESSIONAL LAND SURVEYOR
10/12/06

Scale: 1"=30' Date: OCTOBER 1, 2006

REVISION	DATE
ZONING OFFICE REVISIONS	10/12/06

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

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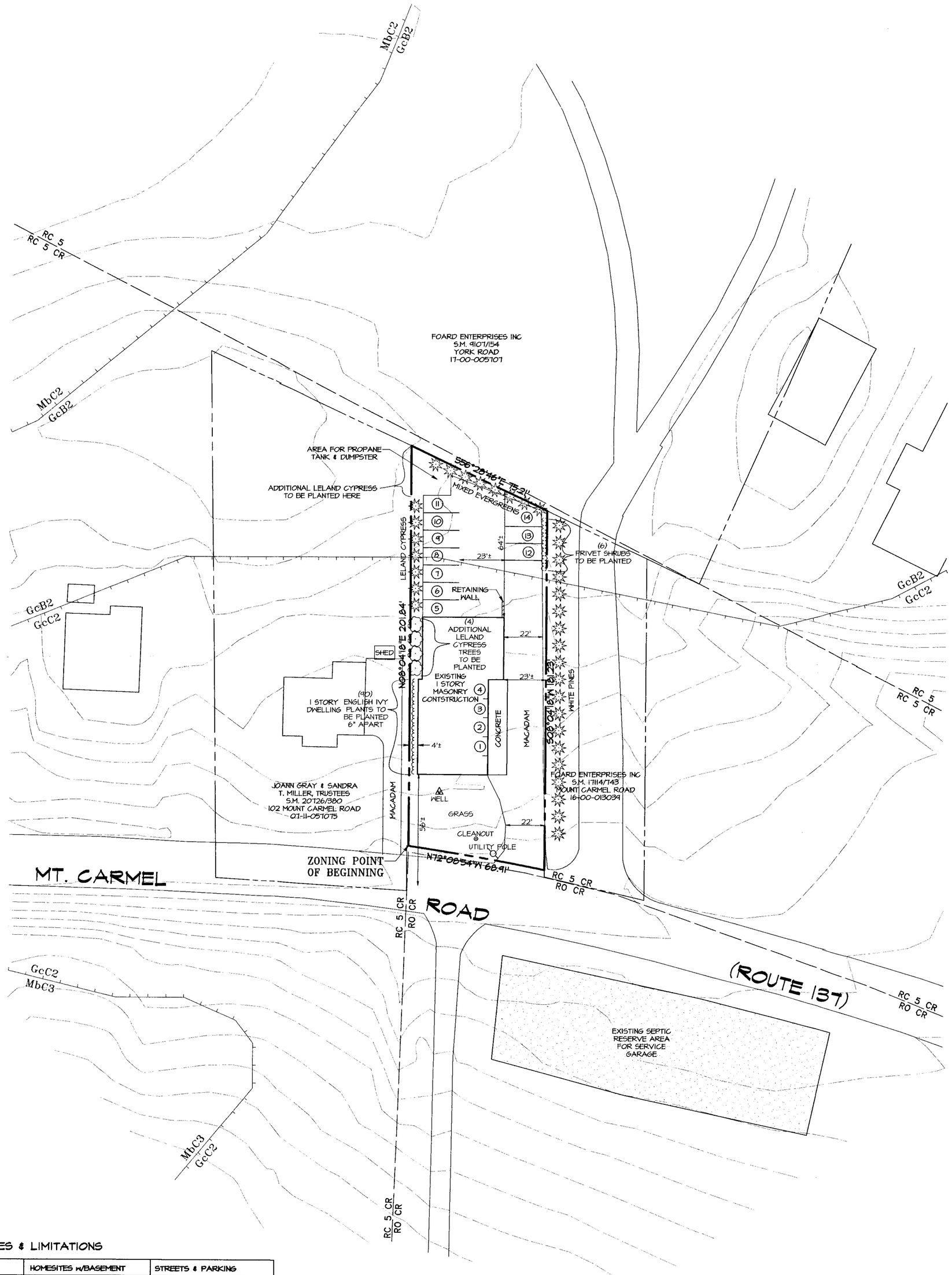

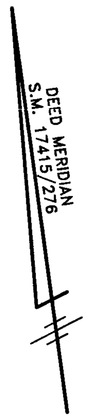

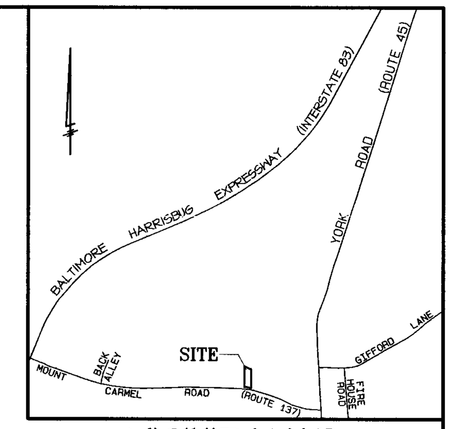

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1" = 2000'

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4. CENSUS TRACT 401000 REGIONAL PLANNING DISTRICT 301
   WATERSHED LOCH RAVEN SUBSEWERSHED NONE
   SCHOOL DISTRICT: ELEMENTARY - FIFTH E.S.; MIDDLE - HEREFORD M.S.;
   HIGH - HEREFORD H.S.
   A.D.C. MAP & GRID 7 D11
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EXISTING WELL
EXISTING CLEANOUT
EXISTING BUILDING
SOIL LINE
EXISTING PAVING
ZONING LINE
PROPERTY LINE
CONTOURS

OWNER\DEVELOPER
100 MT. CARMEL ROAD LLC
13038 BEAVER DAM ROAD
COCKEYSVILLE, MD 21030

FINAL LANDSCAPE PLAN OWNER CERTIFICATION FORM

I CERTIFY THAT I HAVE REVIEWED THIS FINAL LANDSCAPE PLAN, THAT I AM AWARE OF THE REGULATIONS PRESENTED IN THE BALTIMORE COUNTY LANDSCAPE MANUAL; AND I AGREE TO COMPLY WITH THESE REGULATIONS AND ALL APPLICABLE POLICY, GUIDELINES AND ORDINANCES. I AGREE TO CERTIFY THE IMPLEMENTATION OF THIS APPROVED FINAL LANDSCAPE PLAN UPON COMPLETION OF THE LANDSCAPE INSTALLATION NO LATER THAN ONE (1) YEAR FROM THE DATE OF APPROVAL OF THIS PLAN TO THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT, DEVELOPMENT PLANS REVIEW, ROOM 207, COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE, TOWSON, MD 21204.

Jeff Wise 2/24/07 Jeffrey Wise
APPLICANT SIGNATURE DATE PRINT NAME

13038 Beaverdam Rd
STREET ADDRESS

Hunt Valley MD 21030
CITY STATE ZIP

PDM# NOT APPLICABLE PERMIT# NOT APPLICABLE

FINAL LANDSCAPE PLAN

PETITION TO ACCOMPANY A SPECIAL EXCEPTION AND A VARIANCE ON THE

100 MT. CARMEL ROAD LLC PROPERTY

100 MOUNT CARMEL ROAD
Deed Ref: S.M. No. 17415 folio 276
Tax Account No.: 24-00-006904
Zoned R.C. 5 C.R.; GIS Tile 022A2
Tax Map 22; Grid 14; Parcel 225
7th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1"=30' Date: OCTOBER 1, 2006

SOIL TYPES & LIMITATIONS

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GcC2, MbC2, MbC3	Moderate: slope	Moderate: slope	Severe: slope

REVISION	DATE
FINAL LANDSCAPE SHOWN	2/16/07
PROPOSED LANDSCAPE SHOWN	2/9/07
ZONING OFFICE REVISIONS	10/12/06

GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

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