IN RE: PETITION FOR VARIANCE

N side Eudowood Lane, 150 feet E

c/l Hillen Road

9th Election District

5th Councilmanic District

(North side - Eudowood Lane (349))

Petitioners

Mount Calvary African Methodist Episcopal Church, Inc.; Dr. Ann F. Lightner-Fuller, Pastor BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

CASE NO. 07-383-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 owners of the subject property, Mount Calvary African Methodist Episcopal Church, Inc.; Dr. Ann F. Lightner-Fuller, Pastor. The Petitioners are requesting variance relief for property located at North Side - Eudowood Lane (349). The variance request is from Sections 238.1 and 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed office/community center (an ancillary use to a church) to have a front yard setback as close as 4.11 feet, a side yard setback as close as 24.72 feet, and a rear yard setback as close as 19.56 feet in lieu of the required 25, 30 and 30, respectively.

The property was posted with Notice of Hearing on April 10, 2007 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 April 12, 2007 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

STATE STATE

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

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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 April 20, 2007 which contains restrictions. That Office commented that the property is within the East Towson Community Conservation Area of the Towson Community Plan. While it was envisioned previously that the site might function as a locale for additional housing opportunities, it is apparent that the current request reflects present needs of the community. With respect to building setbacks, the requested zoning relief does not appear to be detrimental to the immediate adjacent property owners and is necessary to achieve the proposed expansion of the existing Church. The expansion of the existing Church is substantial, and has the potential to impact the surrounding community with respect to parking. The Petitioner has indicated that this expansion is for the sole use by existing Church members and will not be used for outside lease purposes (e.g. public events, etc.).

ZAC comments were received from the Department of Environmental Protection and Resource Management dated April 12, 2007 which contains restrictions. Copies of these comments are incorporated herein and made a part hereof the file.

Interested Persons

Appearing at the hearing on behalf of the variance request were Dr. Ann Lightner-Fuller, Pastor, and Allen Price, consultant and Robert Banks, member. Emerson Dorsey, Jr., Esquire, represented the Petitioner. Jane Zang and Richard Parsons appeared at the hearing as interested citizens.

Correspondence was received from Adelaide Bentley of the North East Towson Association Inc., in favor of the request, as well as Stacy Weiss and Ed Kilcullen of the Towson Manor Village Community Association who expressed support with concerns. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

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The subject property contains 0.9 acres +/- zoned ML and DR 10.5 and is improved by an existing structure for which a permit to raze has been requested. As shown on exhibit 1, the property is an assemblage of seven lots which are located across Eudowood Lane from the Petitioner's Church. The Petitioner would like to erect a 19,977sq. ft. office, education and family life center as an ancillary use to the church.

Mr. Dorsey indicated that the Church was built in 1893 and used continuously since that time. The Church received a variance for setbacks and parking in 1996 in Case No. 96-488-A by which the Church was allowed to expand the sanctuary and convert the old Church to a classroom. In that case 88 parking spaces were required for this 350 seat Church. The variance allowed 16 spaces. However Mr. Dorsey pointed out that case has nothing to do with this case because the subject property is on a separate parcel separated by the 20 ft wide County owned roadbed of Eudowood Lane. He also opined that as an ancillary use to the Church, the new building is not required under the regulations to provide any more parking spaces as the business hours of the Church and Family Center are different. He explained the Church has services on

Sunday and the new Family Center would operate on weekdays only. As such they can share existing parking. Nevertheless the Petitioner plans to provide 36 additional spaces as shown on exhibit 1. Given the separate parcels of this and the Church site, Mr. Dorsey indicated that the Planning Office was not correct in requesting corrections to the zoning note on the Plat to Accompany. Finally he indicated that the Petitioner has petitioned the County to close Eudowood Lane selling the roadbed to the Petitioner. If this occurred, the Petition could provide additional parking spaces on the old roadbed.

Mr. Banks, a Trustee of the Church, indicated the need to find space for Church ministries which he believed the new Family Center could provide.

Mr. Price, a development consultant, indicated that the site's long narrow configuration makes any building on the property difficult. For example the ML regulations require front and rear setbacks of 25 and 30 feet (55 feet) while the parcel has only 70 feet at its narrowest point. A building 15 feet deep is impractically shallow. In addition the S shape configuration prevents practical building on the property except where shown. This location also allows the front doors of the Church and Family Center to face one another.

There is no additional property available to purchase to increase the depth of the property which is bounded on the north by the old MA and PA railroad right of way, on the east by the Black and Decker plant, on the south by apartments. High voltage power transmission lines are located to the rear of the property.

Finally he noted that many members walk from the neighborhood via pedestrian walkways to services in the Church and will walk to the Family Center so that parking beyond the new 36 spaces is not required.

In regard to concerns about parking on Hillen Road expressed in correspondence from the Towson Manor Village Association, Mr. Dorsey indicated that the Church has no authority to

prevent parking on Hillen Road for Church services but does request members not to park there. He had no objection if the County posted the area with no parking signs. He agreed that the Family Center would not be rented to non members. In regard to concerns from the community that the Church might someday lose its agreement with the Cranston building, he indicated that this Commission has no jurisdiction to require private parties to continue an agreement. Mr. Parsons agreed that this Commission could not dictate private parking agreements, generally supported the Petitioner's requests but opined that parking is an issue for the variance under *Cromwell v Ward*.

Ms. Zang expressed concern about parking by members of the Church on Hillen Road, that 36 new spaces was not adequate for the uses proposed and requested the Petitioner provide underground parking for members and the new facility. Mr. Price testified that underground parking would be prohibitively expensive.

Findings of Fact and Conclusions of Law

This case has an unusual legal and one practical issue. Regarding the legal matter the Petitioner maintains that since this property is a separate parcel from that on which the Church is located, this case is wholly separate from the prior case which allowed the Church to expand the sanctuary without meeting the off street parking regulations. Yet when looking at the parking requirements for the Family Center, the Petitioner embraces the Church as a principal use for which the Family Center is ancillary.

The first question that arises is whether the use on one parcel (the Church) can be the principal use for an accessory use (the Family Center) located on another parcel separated by the roadbed of Eudowood Lane. The Petitioner indicated that the Zoning Office's long standing interpretation of the regulations is that principal and accessory uses can be separated by a public road. This interpretation is based upon the Court of Appeals decision in *Gruver-Cooley Jade*

Corp v Perlis, 252 Md. 684, 251 A.2d 589 (1969) in which the Court held that an ordinance allowing transfer of excess area to an "adjoining" subdivision could occur across an 80 foot wide street. The Court explained that the word "adjoining" does not necessarily require properties to touch but merely be separated by no other property which can be put to private use.

While this may seem to be a peculiar interpretation of "adjoining" the facts of the case were that the developer installed the 80 foot street in a subdivision, wanted to transfer excess area across the street and so the decision makes great practical sense. However the definition section of the BCZR specifies:

ACCESSORY USE OR STRUCTURE -- A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. [Bill Nos. 100-1970; 26-1988] [EN] (Emphasis Supplied)

This section seems very clear that the accessory use must be on the same lot and so there may be a conflict between in Zoning Office interpretation and the regulation applied to this case. Rather than try to resolve this apparent conflict, the Petitioner undertook to describe in more detail the exact uses planned for the Family Center and the parking required by the regulations for each use as shown in a letter from Mr. Dorsey dated May 11, 2007 and accepted as Petitioner's exhibit 2. He describes the office uses, multi-purpose room, classrooms, library and laboratory uses in the Family Center and attributes parking to each. He opined that the 36 spaces on this parcel and 18 spaces on the Church parcel are more than sufficient to meet the proposed

uses of the Family Center. I have no reason to doubt his description or his calculations and so I find the proposed parking meets the parking regulations of Section 409 of the BCZR.

obtaining title to the roadbed, the front yard setback variance would not be needed under the zoning merger doctrine of *Friends of the Ridge v Baltimore Gas & Electric Company*, 352 Md 645,724 A.2d 34. However the County still owns the roadbed of Eudowood Lane as of this case and so we must deal with the situation.

In regard to the requested variances, I accept Mr. Price's testimony that the site's long narrow configuration makes any building on the property difficult. For example the ML regulations require front and rear setbacks of 25 and 30 feet (55 feet) while the parcel has only 70 feet at its narrowest point. A building 15 feet deep is impractically shallow. In addition the S shape configuration prevents practical building on the property except where shown. This location also allows the front doors of the Church and Family Center to face one another. Consequently I find the property unique in a zoning sense and that the Petitioner would suffer hardship and/or practical difficulty in using the property under the circumstances. I further find that 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. To reassure the community I will request the Department of Public Works to install no parking signs along the Church's frontage on Hillen Road. In addition I will prohibit renting the Family Center to the public to ensure members of the Church will be the ones using the Family Center.

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 with conditions.

THEREFORE, IT IS ORDERED, this ______ day of May, 2007 by this Deputy Zoning Commissioner, that the Petitioner's variance request from Sections 238.1 and 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed office/community center (an ancillary use to a church) to have a front yard setback as close as 4.11 feet, a side yard setback as close as 24.72 feet, and a rear yard setback as close as 19.56 feet in lieu of the required 25, 30 and 30, respectively is hereby GRANTED subject to the following conditions:

- 1. The Petitioner may apply for his building permit and be granted same upon receipt of 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 proposed expansion will be used solely by Church members and shall not be used for outside lease/public use.
- 3. Architectural elevation drawings for all facades of the proposed expansion shall be submitted to and approved by the Office of Planning prior to the application of building permits.
- 4. A final landscaping and lighting plan shall be submitted to Avery Harden, County Landscape Architect, for review and approval. Provide details of the lighting for the site. All lighting shall be directed away from surrounding residential structures. Such a plan shall include dense, evergreen plantings along the entire Hillen Road frontage.
- 5. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
- 6. The Department of Public Works is requested to install "no parking " sign along the frontage of the Church on Hillen Road.

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

THE STATE



JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

EMERSON L. DORSEY, JR., ESQUIRE TYDINGS & ROSENBERG LLP 100 EAST PRATT STREET, 26TH FLOOR BALTIMORE MD 21202

Re: Petition for Variance
Case No. 07-383-A
Property: North Side - Eudowood Lane (349)

May 2, 2007

Dear Mr. Dorsey:

Enclosed please find the decision rendered in the above-captioned case.

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

Jan V. murflig

JVM:pz

Enclosure

c: Dr. Ann F. Lightner-Fuller, Pastor, Mount Calvary African Methodist Episcopal Church, Inc., 300 Eudowood Lane, Towson MD 21286 Allen Price, 205 East 25th Street, Baltimore MD 21218 Robert Banks, 6649 Collinsdale Road, Baltimore MD 21234 June Zang, 268 E. Susquehanna, Towson MD 21286 Dick Parsons, 412 Woodbine Avenue, Towson MD 21204



Petition for Variance

is the subject of this Petition.

ESTIMATED LENGTH OF HEARING

MAYAILABLE FOR HEARING

to the Zoning Commissioner of Baltimore County

for the property located at North Side--Eudowood Lane (349)
which is presently zoned ML

I/We do solemnly declare and affirm, under the penalties of

perjury, that I/we are the legal owner(s) of the property which

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) 238.1 and 238.2

To permit a proposed office/community center (an ancillary use to a church) to have a front yard setback as close as 4.11 feet, a side yard setback as close as 24.72 feet, and a rear yard setback as close as 19.56 feet in lieu of the required 25, 30 and 30, respectively.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) Due to the irregular shape of the parcels and the needs of Petitioner to continue and expand the scope of programs and services provided to the East Towson community, it is impractical to construct a functional building on the site within the required setbacks.

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.

Legal Owner(s): Contract Purchaser/Lessee: MOUNT CALVARY AFRICAN METHODIST EPISCOPAL Name - Type of Film Name - Type or Print Signature Signature Dr. Ann F. Alehtner-Fuller, Pastor Name - Type or Print Telephone No. Address 20 Zip Code Signature State City 410-296-9474 300 Eudowood Lane Attorney For Petitioner: Telephone No. Address 21286 Maryland Towson Emerson L. Dorsey, Jr. Zip Code State City Name - Type of Priv Representative to be Contacted: Signature Mr. Allen Price Tydings & Rosenberg LLR Name Company 410-467-9805 100 East Pratt Street, 26th Fl. 410-752-9700 205 East 25th Street Telephone No. Telephone No. Address Address 21218 MD 21202 Baltimore MD Baltimore City Zip Code State Zip Code State OFFICE USE ONLY

Reviewed By

5/8·07 P)

Case No.

REV 9/15/98

ZONING DESCRIPTION FOR 349 EUDOWOOD LANE

Beginning at a point on the north side of Eudowood Lane which is 20 feet wide at the distance of 150.21 feet east of the centerline of the nearest improved intersecting street Hillen Road which is 40 feet wide. Being Lots 8, 9, 10, 11, 12, 13 & 14, in the subdivision of PLAT OF THE LAND BELONGING TO THE RELIEF ASSOCIATION OF BALTIMORE COUNTY MD. as recorded in Baltimore County Plat Book #2, Folio 42, containing 39,498.75 square feet. Also known as 349 Eudowood Lane and located in the 9TH Election District, 4TH Councilmanic District.

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Item # 383

5 -# YELOW - CUSTOMER 47 AMOUNT ACCOUNT MARYL BALTIMORE COUNTY, MARY
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT
DATE 7 PINK - AGENCY ALTIMORE COUNTY. DISTRIBUTION WHITE CASHIER RECEIVED FROM: FOR

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: #07-383-A

349 Eudowood Lane
North side of Eudowood Lane, 150 feet east of

centerline of Hillen Road
9th Election District - 5th Councilmanic District
Legal Owner(s): Mount Calvary A.M.E. Church, Inc.,
Legal Owner(s): Mount Calvary A.M.E. Church, Inc.,
Legal Owner(s): Mount Calvary A.M.E. Church, Inc.,
Or. Ann F. Lightner-Fuller, Pastor
Variance: to permit a proposed office/community center
(ancillary use to a church) to have a front yard setback as
close as 4.11 feet, a side yard setback as close as 19.56 feet in fleu
feet, and a rear yard setback as close as 19.56 feet in fleu
of the required 25, 30 and 30 feet respectively.
Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

Zoning Commissioner for Baltimore County
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.
4/129 Apr. 12

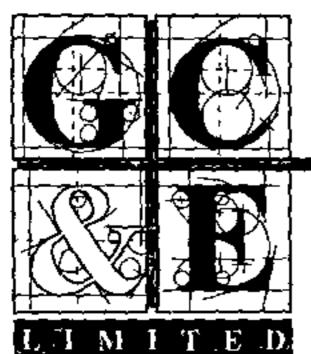
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}	. 2007

in the following weekly newspaper published in Baltimore County, Md., once in each of THIS IS TO CERTIFY, that the annexed advertisement was published ,2007 successive weeks, the first publication appearing

🛱 The Jeffersonian

William

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# 07-383-A
PETITIONER/DEVELOPER:
Mount Calvary A.M.E. Church, Inc.
DATE OF HEARING: April 30, 2007

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:

349 Eudowood Lane

(see page 2 for full size photo)

SIGNATURE OF SIGN POSTER

John J. Dill

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

POSTED ON: April 10, 2007

ZONING NOTICE

CASE #:07-383-A

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

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

10:00 am Monday, April 30, 20

THIME & DATE:

Carriance: To permit a proposed office/
Community center (ancillary use to a church) to lave a front yard setback as close as 4.11 feet, a lide yard setback as close as 24.72 feet, and a rear lard setback as close as 19.56 feet in lieu of the required 25, 30 and 30 feet respectively.

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RE: PETITION FOR VARIANCE

N/S Eudowood Lane (349); N/S Eudowood

Lane, 150' E c/line Hillen Road

9th Election & 5th Councilmanic Districts

Legal Owner(s): Mount Calvery Methodist *

Episcopal Church, Inc

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

07-383-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 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 9th day of March, 2007, a copy of the foregoing Entry of Appearance was mailed Allen Price, 205 East 25th Street, Baltimore, MD 21218 & Emerson Dorsey, Jr, Esquire, Tydings & Rosenberg, LLP, 100 E Pratt Street, 26th Floor, Baltimore, MD 21202, Attorney for Petitioner(s).

RECEIVED

12309200

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Deter Max Limmerman



JAMES T. SMITH, JR. County Executive

March 15, 2007
TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

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: 07-383-A

349 Eudowood Lane

North side of Eudowood Lane, 150 feet east of centerline of Hillen Road

9th Election District – 5th Councilmanic District

Legal Owners: Mount Calvary A.M.E. Church, Inc., Dr. Ann F. Lightner-Fuller, Pastor

Variance to permit a proposed office/community center (ancillary use to a church) to have a front yard setback as close as 4.11 feet, a side yard setback as close as 24.72 feet, and a rear yard setback as close as 19.56 feet in lieu of the required 25, 30 and 30 feet respectively.

Hearing: Monday, April 30, 2007 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Emerson Dorsey, Jr., 100 East Pratt Street, 26th Fl., Baltimore 21202 Dr. Ann Lightner-Fuller, Pastor, 300 Eudowood Lane, Towson 21286 Allen Price, 205 East 25th Street, Baltimore 21218

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, APRIL 14, 2007.

- (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, April 12, 2007 Issue - Jeffersonian

Please forward billing to:

Emerson Dorsey, Jr. 100 East Pratt Street, 26th Fl. Baltimore, MD 21202 410-752-9700

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: 07-383-A

349 Eudowood Lane

North side of Eudowood Lane, 150 feet east of centerline of Hillen Road 9th Election District – 5th Councilmanic District

Legal Owners: Mount Calvary A.M.E. Church, Inc., Dr. Ann F. Lightner-Fuller, Pastor

<u>Variance</u> to permit a proposed office/community center (ancillary use to a church) to have a front yard setback as close as 4.11 feet, a side yard setback as close as 24.72 feet, and a rear yard setback as close as 19.56 feet in lieu of the required 25, 30 and 30 feet respectively.

Hearing: Monday, April 30, 2007 at 10:00 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 <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: 07-383-4
Petitioner: Mount Colvere, African Methodist [piscopal Cinuch Inc.
Address or Location: 349 Endowood Lane Towson, MD 21286
PLEASE FORWARD ADVERTISING BILL TO:
Name: Emerson L. Dorsey Jr.
Address: 100 Eust Prutt Street 26th Floor
Bultimore, MO 2:202
Telephone Number: 410-752-9700
•

Revised 7/11/05 - SCJ



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

April 26, 2007

Emerson L. Dorsey, Jr.
Tydings & Rosenberg LLP
100 East Pratt Street, 26th Floor
Baltimore, MD 21202

Dear Mr. Dorsey:

RE: Case Number: 07-383-A, North Side - 349 Eudowood Lane

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 28, 2007.

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. Call Rillal

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel

Mount Calvary African Methodist Episcopal Church, Inc. Dr. Ann F. Lightner-Fuller,

Pastor 300 Eudowood Lane Towson 21286

Mr. Allen Price 205 East 25th Street Baltimore 21218



Martin O'Malley, Governor Anthony Brown, Lt. Governor

Neil J. Pedersen, Administrator

John D. Porcari, Secretary Designate

Maryland Department of Transportation

Date: MARCH 12, 2007

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

RE: **Baltimore County**

Item No. 7-383-A

ENDOWEDD LANE (345) MOUNT CALVARY A.M.E.CHURCH

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. 7-383 A

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,

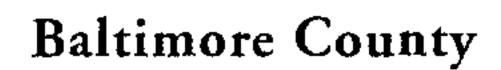
Division

SDF/MB

Fire Department

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





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

March 9, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: March 5,2007

383

Item Number: 374 through 388

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 on Recycled Paper



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: March 6, 2007

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For March 12, 2007

Item Nos. 07-374, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, and 388

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

DAK:CEN:clw |

cc: File

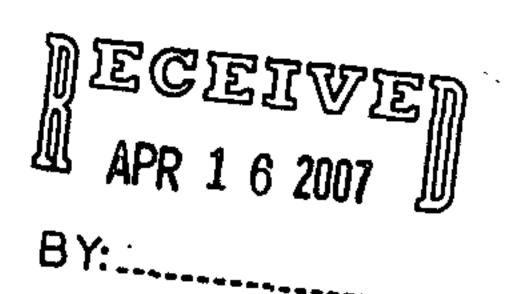
ZAC-NO COMMENTS-03062007.doc

JM



Inter-Office Correspondence





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Timothy M. Kotroco

FROM:

Dave Lykens, DEPRM - Development Coordination JWL

DATE:

April 12, 2007

SUBJECT:

Zoning Item

07-383-A

Address

N. Side of Eudowood Ln.

(Mt. Calvary African Methodist Episcopal Church)

Zoning Advisory Committee Meeting of March 5, 2007

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

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).

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:

Can ask for waiver of Forest Conservation Regulations.

Reviewer:

Brian Lindley

Date: 4/6/07

4-30-07 JM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: April 20, 2007

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

300 Eudowood Lane (Mount Calvary A.M.E. Church)

INFORMATION:

Item Number:

7-383

Petitioner:

Dr. Ann F. Lightner-Fuller

Zoning:

ML

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The subject property is within the East Towson Community Conservation Area as defined within the Towson Community Plan. Action Plan component number A.2 (proposed land uses) states that "Expansion and renovation of the Mt. Calvary A.M.E. Church is highly desirable to better serve the needs of the community" (p. 75). While it was envisioned previously that this site might function as a locale for additional housing opportunities, it is apparent that the current request reflects present needs of the community. With respect to building setbacks, the requested zoning relief does not appear to be detrimental to the immediate adjacent property owners and is necessary to achieve the proposed expansion of the existing Mount Calvary A.M.E. Church.

However, it should be noted that the expansion of the existing church is substantial, and has the potential to impact the surrounding community with respect to parking. In response, the petitioner has indicated to representatives within the Zoning Office that this expansion is for the sole use by existing church members and will <u>not</u> be used for outside lease purposes (e.g. public events, etc.).

Given the above information, the Office of Planning supports the petitioner's request provided that the following conditions are met.

- The proposed expansion will be used solely by church members and shall <u>not</u> be used for outside lease / public use.
- Architectural elevations drawings for all facades of the proposed expansion shall be submitted to and approved by the Office of Planning prior to the application of building permits.

• The site plan notes that there are no prior zoning hearings for this property, yet references zoning case 96-488-A. The site plan shall be revised to indicate the prior zoning history for the subject property.

• A final landscaping and lighting plan shall be submitted to Avery Harden, County Landscape Architect for review and approval. Provide details of the lighting for the site. All lighting shall be directed away from surrounding residential structures.

• Such a plan shall include dense, evergreen plantings along the entire Hillen Road frontage.

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

Reviewed by:

Division Chief: AFK/LL: CM

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> TOWSON MD OFFICE 410.337.0407 FAX 410.337.3758

> > www.tydingslaw.com

EMERSON L. DORSEY, JR.

410.752.9723 edorsey@tydingslaw.com

TYDINGS & ROSENBERG LLP

May 8, 2007

ATTORNEYS AT LAW

Honorable John V. Murphy **Deputy Zoning Commissioner** Baltimore County Office of the Zoning Commissioner County Courts Building, Room 405 401 Bosley Avenue Towson, Maryland 21204

Re: Case No. 07-383-A

349 Eudowood Lane

Mount Calvary African Methodist Episcopal Church

Dear Deputy Commissioner Murphy:

Thank you for requesting additional information regarding the uses my client, Mount Calvary African Methodist Episcopal Church (the "Church"), will undertake in the proposed Family Life and Education Center (the "Center") it intends to construct at 349 Eudowood Lane in Towson. A petition for variance was filed in connection with the proposed project, and a hearing was held before you on April 30, 2007.

The Church will use the Center for the following:

First Floor:

Director of Outreach Office (one person) for persons seeking services from the Church.

Food Pantry/Clothes Closet for emergency food and clothing needs of Church and community members.

Building superintendent area for building maintenance equipment and supplies for a parttime building superintendent.

Multi-purpose room and kitchen (with a maximum seating capacity of one hundred forty persons) for Church related meetings, events, etc. This facility will not be available for hire or for use, and will not be used by persons other than the Church or Church members, although the Church will make the multi-purpose room available (without charge) for community

TYDINGS & ROSENBERG LLP

Honorable John V. Murphy May 8, 2007 Page 2

organizations that may desire to have community meetings, etc. when such use does not interfere with previously scheduled Church events. The Church does not intend to use the multi-purpose room during regular Sunday worship services at 300 Eudowood Lane.

Second Floor:

Five (5) classrooms with a maximum of twenty (20) seats per class for religious and other-meetings, etc. (e.g., bible study) for use by the Church. These classrooms will not be used during regular Sunday worship services at 300 Eudowood Lane.

Computer training laboratory with a maximum of twelve (12) stations. The computer training laboratory will not be used during regular Sunday worship services at 300 Eudowood Lane.

Library with a capacity of not more than ten (10) to twelve (12) persons.

Third Floor:

Administrative offices for the pastor of the Church and her executive assistant.

Four (4) ministry leadership offices.

Board Room for meetings of the Church's trustees and stewards.

Only the Director of Outreach office and the third floor administrative offices will be used on a daily basis during normal daytime hours. At no time does the Church intend to use the Center at the same time it is using the sanctuary facility for worship at 300 Eudowood Lane. There will be thirty-six (36) parking spaces at 349 Eudowood Lane, and the eighteen (18) spaces at 300 Eudowood Lane (for which a variance was granted in Case No. 96-488-A).

Thank you for allowing my client to submit this additional information. Please call if you have any questions or need any additional information.

Emerson L. Dorsey, Jr.

Sincerely yours

Mount Calvary African Methodist Episcopal Church AP & Company, LLC

#644648v.1

cc:

April 30, 2007

TO: Baltimore County Zoning Commissioner:

FROM: Ed Kilcullen, President, Towson Manor Village Community Association

RE: Case # 07-383

DATE: 4/30/07

I am writing to express our community's concern about the setback variances requested by the Mt. Calvary A.M.E. Church. While our community has no objection to the proposed building per se, the size of the building will seriously limit the amount of parking available for the new building. We request that the conditions below be included in any ruling on the setback variances.

I would ask that you consider the following in making your decision. In 1979, Mt. Calvary A.M.E. Church requested zoning variances for reduced setbacks and parking spaces related to the construction of an addition. The Baltimore County Department of Public Works, in a letter to the Zoning Commissioner regarding the Church's request, referenced earlier (1973) comments by the Bureau of Public Services for the preliminary plan for East Towson Housing. These comments included the statement that "absolutely no parallel parking, whatsoever, will be allowed on Hillen Road and Railroad Avenue, and future plans must specifically note this."

In January 1996, then Baltimore County Councilman Doug Riley requested that the Department of Public Works add a sidewalk along Hillen Road to its list of Capital Improvement Projects. In his request, Councilman Riley noted "I understand that the Mount Calvary Church addition, planned for the vacant lot fronting Hillen Road, will soon be under construction. This new construction, I assume, will include the placement of a sidewalk on Hillen Road along the Church's property line.... In addition, there will be an increase in pedestrian traffic to the expanded church facilities, requiring improved pedestrian access. In short, sidewalks in this area are long overdue."

The response from the Department of Public Works stated "when the new Mount Calvary Church is constructed, we will work with the Church representatives and their developers to assure that Hillen Road along the church frontage is constructed to its ultimate when the church is built, to include concrete sidewalks, curbs, and gutters."

In July 1996, the Baltimore County Office of Planning issued its recommendations regarding Mt. Calvary's parking variance request. Among the recommendations were the following:

- A landscape plan should be submitted showing dense evergreen planting along the entire Hillen Road frontage.
- 4. On-street parking should be limited to Eudowood Lane and should not block access for fire or emergency vehicles.

It is clear that the County has long believed that a sidewalk and curbing along Hillen Road is necessary and that there should be no parking along the road. This is our community's primary concern due to the danger it poses both to drivers and, more importantly, to pedestrians walking along Hillen Road. Since Mt. Calvary reports that most of its members walk to church, it seems a sidewalk along the Hillen Road side of their property would be critical to promoting their safety.

We are also concerned that the setbacks will use space that could be used for parking, limiting the number of on-site parking spaces. Further, the long-term use of the parking spaces at the Cranston building is uncertain should that building ever be sold or redeveloped. To alleviate this concern, we are requesting that a copy of the rental agreement with Cranston be included as a condition of the variances, and that this agreement include a provision that ensures it will remain in effect should there be a change in ownership of the Cranston property.

I understand that the Office of Planning has requested a "spirit and intent" letter that certifies that the new building will be used for the Church membership only and will not be rented out to, or otherwise used by, other groups. This will provide some measure of comfort to the community as to the uses of the new building but, with 2,000 members of the Church, it will not solve the parking problems.

Towson Manor Village certainly supports the Church's mission to address the needs of your membership and values its service to the larger community. Our concern is the safety of pedestrians and drivers on Hillen Road. We respectfully request that the above conditions be included in your ruling on the church's variance requests.

Thank you for your consideration.

Towson Manor Village Community Association P.O. Box 20173
Towson, MD 21286

From:

Ed Kilcullen <edkilcullen@yahoo.com>

To:

Pat Keller <pkeller@baltimorecountymd.gov>

Date:

4/30/2007 9:49:22 AM

Subject: Mt. Calvary

CC:

Kevin Gambrill kgambrill@baltimorecountymd.gov, Stacy Weiss

<stacyweiss1@comcast.net>

Pat -- Stacy said that you would get our written testimony to the hearing this morning on Mt. Calvary's variance requests. Mine is attached. Please confirm that you have received this. Thanks, Ed

Ahhh...imagining that irresistible "new car" smell? Check out new cars at Yahoo! Autos.

To: Zoning Commissioner

Re: Case 07-383 / Mt. Calvary Church

While Towson Manor Village believes that the expansion of the church will have a positive effect on it's community, and we support the expansion, we are concerned that the setbacks being requested eliminate any future possibility to provide additional on-site parking for it's members.

In 1996 the church was granted a parking variance for 16 spaces in lieu of 88. The proposed expansion for Mt. Calvary is occurring on the site that MD Etching Company once owned, thus eliminates the location where the off-site parking was being provided for in the earlier variance case.

According to the church, they have 2000 members. The current property has 16 parking spaces. While the proposed expansion allows for 22 additional spaces, the setbacks required for this building allow them to build a bigger building without sufficient parking. This past Sunday there were 16 cars parked on Hillen Road during church service. According to the 1996 variance, the Office of Planning recommended on-street parking should be limited to Eudowood Lane.

We respectfully request that the issues described above be taken in to account before the variance is granted.

Thank you for your consideration,

Stacy Weiss
VP of Zoning
Towson Manor Village Community Association

Am 30

William J. Wiseman, III
Zoning Commissioner
Zoning Review
Department of Permits and Development Management
111 West Chesapeake Avenue, Room 111
Towson, MD 21204

APR 18 2007
BY:

Reference: Case Number (07-383-A)

Dear Commissioner Wiseman:

I am writing on behalf of the North East Towson Improvement Association to verify that the Pastor and members of Mount Calvary AME Church met with our association last year to discuss their plans for the Mount Calvary Family Life and Educational Center. The association members voted to support the project.

We believe that the project will be a benefit to the entire community and would appreciate your office supporting their request for zoning variances.

Please contact me at (410) 321-1346 (home) or at (410) 296-4615 (office), if you have any questions.

Thank you for your consideration.

Sincerely,

Adelaide C. Bentley

President .

cc: Rev. Dr. Ann Lightner-Fuller

MPROVEMENT

ESOCIATION.

N.E.T.A., Inc



From:

"Emerson L. Dorsey, Jr" < Edorsey@tydingslaw.com>

To:

<jvmurphy@co.ba.md.us>

Date:

05/07/07 12:34 PM

Subject: Mt. Calvary AME Church (Case No. 07-383-A)

Mr. Murphy:

I now have all of the information regarding Mt. Calvary AME Church's uses (floor by floor) for the proposed family life and education building at 349 Eudowood Lane, and will be forwarding a letter outlining the proposed uses to you within the next day.

Thank you for your help. Please call or e-mail if you have any questions or need any additional information.

Emerson Dorsey

ME TE - (1/18/12)

TYDINGS & ROSENBERG LLP

Emerson L. Dorsey, Jr

100 East Pratt Street 26th Floor Baltimore, MD 21202

Edorsey@tydingslaw.com

410.752.9723 fax: 410.727.5460

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EMERSON L. DORSEY, JR. 410.752.9723 edorsey@tydingslaw.com

ATTORNEYS AT LAW

TYDINGS & ROSENBERG LLP

May 11, 2007

Honorable John V. Murphy
Deputy Zoning Commissioner
Baltimore County Office of the Zoning Commissioner
County Courts Building, Room 405
401 Bosley Avenue
Towson, Maryland 21204

Case No. 07-383-A
349 Eudowood Lane
Mount Calvary African Methodist Episcopal Church

Required Parking

Dear Deputy Commissioner Murphy:

Re:

As a follow-up to my May 8, 2007 letter, I am providing additional information regarding the parking that my client, Mount Calvary African Methodist Episcopal Church (the "Church"), believes is required pursuant to Section 409 of the Baltimore County Zoning Regulations (the "Regulations") in connection with the uses it will undertake in the proposed Family Life and Education Center (the "Center") it intends to construct at 349 Eudowood Lane in Towson. A petition for variance was filed in connection with the proposed project, and a hearing was held before you on April 30, 2007. Different activities will be conducted in the Center during the daytime hours, evenings and weekends, with few, if any, of the activities taking place simultaneously. Additionally, at no time does the Church intend to use the Center at the same time it is using the sanctuary facility at 300 Eudowood Lane for worship.

There will be a total of 2,196 square feet of office space (including the third floor Board Room and the first floor building superintendent area) in the Center. Section 409.6.A.2 of the Regulations requires 3.3 spaces per 1,000 square feet of gross floor area, but the entire Center is not an office use. Accordingly, it is believed that ten (10) parking spaces are required for the office use.

The multi-purpose room will be 2,752 square feet, and there will be seating for a maximum of 140 persons. The Regulations do not provide parking requirements for this area, but the Church believes that the use of the multi-purpose room will be consistent with that described in Section 409.A.4 of the Regulations for religious assembly which requires one space

Put #2

TYDINGS & ROSENBERG LLP

Honorable John V. Murphy May 11, 2007 Page 2

per four (4) seats. Accordingly, it is believed that thirty-five (35) parking spaces are required for the multi-purpose room use.

The Regulations do not provide parking requirements for the classrooms, library or computer training laboratory. The Church, however, believes that these uses are comparable to an "elementary or middle school" or a "high school" described in Section 409.A.4 of the Regulations, and that one space per employee plus visitor spaces as determined by the Zoning Commissioner is the standard to be used. The Church's employees also use the offices (the Pastor, her assistant, the Director of Outreach and the part-time building superintendent) and they are accounted for in the proposed office use parking calculations. The Church believes that a total of nine (9) spaces will suffice for the classroom, library and laboratory uses.

As you know, there will be thirty-six (36) parking spaces at 349 Eudowood Lane and eighteen (18) spaces at 300 Eudowood Lane (for which a variance was granted in Case No. 96-488-A). A total of fifty-four (54) spaces owned by the Church are available for the Center, and these spaces are sufficient for the Center uses.

Thank you for allowing my client to submit this additional information. Please call if you have any questions or need any additional information.

Sincerely yours,

Emerson L. Dorsey, Jr.

cc: Mount Calvary African Methodist Episcopal Church AP & Company, LLC

Туре	Limitation	Minimun Acreage		
Fowl or Poultry:				
Chickens, ducks, turkeys, geese	No numerical limit, provided that a nuisance	1		
	is not created or allowed			
	to exist on the property			

^{*}Sucklings and weanlings under 12 months of age will not be counted.⁵

Section 101
Definitions
[BCZR 1955]

Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these regulations, certain terms and words are defined below. [Bill No. 149-1987]

Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. [Bill No. 149-1987]

ACCESSORY BUILDING — One which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building.

ACCESSORY USE OR STRUCTURE — A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. [Bill Nos. 100-1970; 26-1988]⁶

AGRICULTURE, COMMERCIAL — The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to § 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture,

⁵ Editor's Note: See also Section 404.

Editor's Note: The definition of "acreage, gross residential" which originally followed this definition was repealed by Bill No. 100-1970. The definition of "after-hours club," which followed thereafter, was repealed by Bill No. 36-2000.

252 Md. 684, 251 A.2d 589

Court of Appeals of Maryland. GRUVER-COOLEY JADE CORP. et al.

v. Marvin E. PERLIS et al. No. 300. March 12, 1969.

Property owners filed bill of complaint, alleging that a plat had been illegally approved. The Circuit Court, Montgomery County, Ralph G. Shure, J., rendered judgment that plats of subdivision were void and appeals were taken. The Court of Appeals, McWilliams, J., held that where county council had used expression 'county planning board' intentionally to exclude the county board of appeals in one provision of density control section of zoning ordinance, subsequent use of word 'board' in density control section and requiring approval of the 'board' of transfer of excess area from one subdivision to adjoining subdivision in order to meet density requirements means county planning board rather than board of appeals.

Decree reversed.

West Headnotes

[1] KeyCite Notes

Where county council had used expression "county planning board" intentionally to exclude the county board of appeals in one provision of density control section of zoning ordinance, subsequent use of word "board" in density control section requiring approval of the "board" of transfer of excess area from one subdivision to adjoining subdivision in order to meet density requirements means county planning board, rather than board of appeals.

[2] KeyCite Notes

414 Zoning and Planning
414II Validity of Zoning Regulations
414II(B) Regulations as to Particular Matters
414k85 k. Density of Population. Most Cited Cases
(Formerly 268k43)

In determining if density control requirements relating to subdivisions were met, plat of two blocks of land was not to be considered standing alone and was to be added to area of two plats recorded subsequent to and implementing preliminary subdivision plan of entire area, in calculating average net area.

[3] KeyCite Notes

 ### 414k85 k. Density of Population. Most Cited Cases (Formerly 268k43)

Where various record plats were filed subsequent to preliminary plan and comprised entire subdivision as shown on preliminary plan, blocks of land in one of record plats, which were separated from other blocks of land in other plats by 80-foot-wide street were "adjoining" as that term is used in ordinance permitting transfer of excess area from one subdivision to adjoining subdivision to meet subdivision density control requirements.

*685 **590 Robert H. Metz, Silver Spring (Linowes & Blocher and R. Robert Linowes, Silver Spring, on the brief), for Elsie E. Marks, Martha F. Riess and Gruver-Cooley Jade Corp. Harry W. Lerch, Silver Spring (Sanford E. Wool, Silver Spring, on the brief), for Maryland-National Capital Park and Planning Commission, appellants, David L. Cahoon, Alfred H. Carter and Stanley D. Abrams, County Attys., Rockville, on brief, for Erwin W. Bucklin. Suburban Maryland Homebuilders Association, I John Ritterpusch, Lawrence E. Speelman and Ritterpusch & Gingell, Silver Spring, amicus curiae, on the brief. Samuel Gordon, Silver Spring (Marvin E. Perlis, Silver Spring, on the brief), for appellees.

Before HAMMOND, C. J., and MARBURY, BARNES, McWILLIAMS and FINAN, JJ.

McWILLIAMS, Judge.

The trial judge, Shure, J., declared the plat of 'Blocks Q and R' of Luxmanor 'to have been illegally approved' by the Montgomery County Planning Board [FN1] (board) and, consequently, to be null and void. At the core of the dispute is the question whether the word 'board' as used in the applicable section of the Montgomery County Zoning Ordinance means the Montgomery County Planning Board or the Montgomery County Board of Appeals. The appellants are The Maryland-National Capital Park and Planning Commission (Commission), *686 Erwin W. Bucklin, Director of Inspection and Licenses of Montgomery County (Bucklin), Elsie E. Marks and Martha F. Riess (Marks-Riess), the owners of Luxmanor, and Gruver-Cooley Jade Corporation (Gruver-Cooley), the developer of Luxmanor under a contract with Marks-Riess. The appellees Marvin E. and Edith Perlis (Perlis) own a lot adjoining Block R; the appellees Robert V. and Kathleen O. Smith (Smith) own a lot adjoining Block Q.

<u>FN1.</u> The Maryland-National Capital Park and Planning Commission, Montgomery County Planing Board.

Marks-Riess engaged Gruver-Cooley to develop their R-R (Rural Residential) land, a few miles south of Rockville, into a single family subdivision under the density control provisions of s 111-7(g) of the **591 Montgomery County Code (1965) which is as follows:

'Density control development:

- '(1) PURPOSES. The purposes of this subsection and other sections of this chapter concerning average lot size are to provide a method of development for land to permit variation in lot sizes without an increase in the density population or development, to encourage subdivisions with varying lot sizes so as to allow home buyers a choice of lot sizes according to their needs, to preserve open space, tree cover, recreation areas, scenic vistas, outstanding natural topography and to prevent soil erosion by permitting varying lot sizes according to the nature of the terrain within the development.
- '(2) PUBLIC WATER AND SEWER. The provisions of this subsection shall not be applicable nor shall land be subdivided under the herein permitted variations from the R-R minimum standards unless both public water and public sewer will be available prior to occupancy of building lots. When land is subdivided under this subsection, no building permit shall be issued unless such water and sewer are available.
- '(3) VARIATIONS PERMITTED. All requirements of the R-R Zone shall apply to a density control

development, except as specifically modified as follows:

- 'a. NET LOT AREA. Each main building together *687 with its accessory buildings may be located on a lot having a net area of at least fifteen thousand square feet; provided, that the average net area of all lots created by any subdivision in which such lot is located shall be at least twenty thousand square feet.
- 'b. YARDS, REAR. Accessory buildings may be located not less than sixty feet from the front lot line or proposed front street line.
- '(4) LOT AVERAGES, SPECIAL REQUIREMENTS:
- 'a. To control what may be included on a plat for the purposes of the average net lot area requirement, the county planning board, at its discretion, may exclude from such average any lots which by reason of size, shape or location, or for other good cause, are not reasonably suitable for single-family residential development, or the board may require replatting of such lots. The board may also require that lots adjoining major highways, limited access highways, railways, multi-family, commercial or industrial zoning be at least twenty thousand square feet in net lot area.
- 'b. Land within such subdivision not platted into building lots may be counted in the average net lot area when such land is dedicated to public use for recreation, parks, school sites or other public purpose, and such dedication has been approved by the board on the recorded subdivision plat. Areas dedicated for state, county or municipal public roads, streets, sidewalks, crosswalks, utility and storm drainage rights of way, and for location of other necessary facilities appurtenant thereto shall not be included in the average.
- 'c. An accumulation of excess area from one subdivision to another may be transferred to an adjoining subdivision only upon approval of the board. The average net area of all of the lots in any record plat, together with all record plats previously recorded in the same subdivision, shall be not less than twenty thousand square feet.
- 'd. Record plats filed under this provision shall contain *688 a notice thereon of 'R-R Density Control Development-Resubdivision Strictly Controlled.' Resubdivision of a density control plat which would reduce average net lot area is prohibited, except for any part which may later be rezoned under the provisions of this chapter to a different zone.'
- **592 In June 1961 Gruver-Cooley filed with the Commission a preliminary subdivision plan of Luxmanor showing 86 lots with an average density of 20,685 square feet per lot. Montgomery County Code (1965) s 104-23 et seq. The board approved the preliminary subdivision plan on 23 August 1961. Implementing the preliminary plan Gruver-Cooley prepared and filed two record plats, both of which were approved by the board on 10 January 1962. The first, entitled 'Blocks G, H and J and Parts of Blocks D, E and K,' contained 43 lots totaling 895,978 square feet, averaging 20,837 square feet per lot. Since the average area had to be only 20,000 square feet per lot there was a surplus of 35,978 square feet. The second, entitled 'Blocks E and K and Parts of J and D,' contained 35 lots totaling 707,479 square feet, averaging 20,214 square feet per lot, leaving a surplus of 7,479 square feet. Both plats were filed, approved and recorded among the Land Records, in accordance with the density control provisions set forth above.

By mid-1964 Gruver-Cooley was ready to proceed with the preparation of a record plat for the remainder of the land shown on the preliminary plan approved in August 1961. A revised preliminary plan,[FN2] filed in January 1965, was approved by the board on 4 May 1965. The implementing record plat was approved by the board in December 1965 and recorded among the Land Records in April 1966. According to the preliminary plan filed in June 1961 the remainder of the property was to be divided *689 into 12 lots averaging 21,247 square feet per lot. The record plat approved in December 1965 showed the same number of lots but the average number of square feet per lot was reduced to 17,450 square feet. It appears that 32,070 square feet had been dedicated to the newly proposed Rosemont Drive and 8,246 square feet to the improvement of the intersection of Lux Lane and Tuckerman Drive. The visible effect of the change on Perlis seems to have been that under the

1961 preliminary plan his land was abutted by two lots whereas the record plat shows him to be bordered by four smaller lots. In Smith's case six lots now abut his property whereas under the preliminary plan there were only four.

FN2. Montgomery County Code (1965) s 104-24(g) is as follows:

'Time limit on approval. If within one year from the date of approval of a preliminary plan, the subdivider has not placed on final plats all of the area covered by such approved preliminary plan, then the approval for the remainder of the plan shall expire. The subdivider may apply for an extension of the approval of a preliminary plan, subject to the same limitations as above.'

The record plat of 'Blocks Q and R' shows a deficit of 30,596 square feet but it will be recalled the first two plats showed a surplus of 43,457 (7,479 35,978) square feet so that for the entire subdivision there was actually a surplus of \$12,861 square feet.

In March 1968, almost two years after the record plat of 'Blocks R and Q' had been recorded among the Land Records, Perlis and Smith filed their bill of complaint alleging the impropriety of transferring excess area from one subdivision to an adjoining subdivision, lack of notice and irreparable damage and praying temporary and permanent injunctive relief. At trial an allegation in respect of the requirement of notice was withdrawn.

Judge Shure seems to have taken the position that excess area may not be transferred from one subdivision to an adjoining subdivision and that even if it is permissible approval of the Board of Appeals is required. In his opinion, he said:

'The clear intent of this density control requirement is to insure that the average net area of all lots on any recorded plat shall be not less than 20,000 square feet. If accumulation of excess area is to be transferred to any adjoining subdivision, this may be done only upon approval of the County Board of Appeals. (Sec. 111-7) No such approval was granted, or even sought in this case. The builderowners here elected to proceed with the **593 development of the entire *690 Luxmanor area on a piecemeal basis and by the establishment of three subdivisions. This was to accommodate their personal development plan and they cannot borrow from one subdivision to accommodate another to the aggrievement of those who have lots of sufficiency density and will be drastically affected, as are the plaintiffs herein.' (Emphasis added.)

1.

Although Perlis and Smith seem not to have argued the point below, in this Court they make much of Judge Shure's statement that approval of the transfer of excess area from one subdivision to another may be given only by the Montgomery County Board of Appeals. Perhaps, in limine, it ought to be noted that in the Montgomery County Code, the word 'board' has at least four definitions. In s 83-22 it is defined to mean the 'electrical board;' according to s 104-1 it means the 'Montgomery County Planning Board' (of the Maryland-National Capital Park and Planning Commission); s 111-2 declares it to mean the 'county board of appeals;' it may also mean the 'Board of License Commissioners,' Appendix E, p. 2267. It is true, of course, as Perlis and Smith are quick to point out, that s 111-7 is a part of Chapter 111, titled 'Zoning,' that s 111-2 'Definitions' provides that '(f)or the purposes of this Chapter (111) the following words and phrases shall have the meanings respectively ascribed to them by this section,' and that the word 'Board' is defined to mean the 'county board of appeals.' If, as they argue, the definition in s 111-2 must be applied to s 111-7(g) and if, as it would seem to follow, the County Council intended the word 'board' to mean the 'county board of appeals' it is very odd indeed that the Council should have used, in s 111-7(g)(4) a, the words 'the county planning board' when the word 'board' would have sufficed. It seems to us that the choice of words was deliberate and intentional. It will be recalled that although s 111-7(c)(1) establishes a minimum area of 20,000 square feet for each lot in an R-R zone the stated purpose of the density control section, 111-7(g), is to provide a method of development permitting variation in lot sizes so as 'to encourage subdivisions

with varying *691 lot sizes.' (Emphasis added.) To this end the minimum area per lot is reduced to 15,000 square feet, provided, however, that the average net area of all of the lots 'shall be at least 20,000 square feet.' It is at once apparent that s 111-7(g) has to do with subdivision, not zoning and to what more appropriate body ought the administration of the provisions of that section be committed than to the 'county planning board,' already defined, already in existence and already charged with the administration of subdivision control by Chapter 104 of the Montgomery County Code, titled 'Subdivision of Land.'

Since we are of the firm opinion that the County Council used the expression 'the county planning board' intentionally, delibrately and for the purpose of excluding 'the county board of appeals,' it would certainly seem to follow that the subsequent use, in s 111-7, of the word 'board' was intended to mean the 'county planning board.' It will be observed that later in th very same sentence in which the words 'the county planning board' are first used the word 'board' also appears. Parsed, in part, the sentence reads 'the county planning board * * * may exclude * * * or the board may require.' It would be folly indeed to insist that the word 'board,' the subject of the disjunctive clause, means the 'county board of appeals.' In the succeeding sentence the words '(t) he board may also require' unmistakably refer back to and provide a nexus with the proceding sentence. Here again it would frivolous to suggest that what might be required in this regard is a function of the 'board of appeals.' The next use of the word 'board' has to do with the same subject matter and a function which normally is **594 exercised exclusively by the planning board. It is entirely clear to us that what is contained in s 111-7(g)(4) c is germane to everything else in s 111-7(g); in fact, standing alone subsection (4) c would be virtually meaningless. That 'approval of the board' means the approval of the county planning board seems to us to be inescapable.

We find further support for the opinion expressed above in other sections of Chapter 111. Sec. 111-17(d)(3) provides; in part, as follows:

'(3) REPORT BY PLANNING BOARD. If the planning board finds that a proposed site * * *. The *692 board shall notify the applicant and the district council * * *.' (Emphasis added.)

In s 111-25(e)(3) we find the following:

'(3) REVIEW AND REPORT BY PLANNING BOARD. The planning board shall examine the proposed town sector plan *, * *. If the board finds that the proposed town sector plan * * *. The board shall notify the district council * * *.' (Emphasis added.)

See also ss 111-25(g)(2) and 111-25(h). Another instance appears in s 111-26(d)(3):

'(3) REVIEW AND REPORT BY PLANNING BOARD. The planning board shall examine the proposed planned neighborhood plan * * *. If the board finds * * *. The board shall notify the district council * * *.' (Emphasis added.)

See also s 111-26(e)(1), (2) and (3).

The powers and duties of the county board of appeals are stated in s 111-30. Our close scrutiny of this section has not revealed anything which could be said to require a transfer of excess area to be approved by the board of appeals rather than the planning board.

The repetition here of the familiar and oft-quoted principles of statutory construction would be to no purpose. However, what was said in <u>Maguire v. State</u>, 192 Md. 615, 623, 65 A.2d 299, 302 (1949), seems apposite:

'Adherence to the meaning of words does not require or permit isolation of words from their context.
'* * * the meaning of the plainest words in a statute may be controlled by the context. A statute should be so construed that all its parts harmonize with each other and render them consistent with its general object and scope.' Pittman v. Housing Authority, 180 Md. 457, 463-464, 25 A.2d 466, 469.

'* * * it is the most natural and general exposition of a statute to construe one part of the statute by another part of the same *693 statute, for that best expresseth the meaning of the makers.' Coke upon Littleton, p. 381a. 'If it be true that it is the duty of the court to ascertain the meaning of the legislature from the words used in the statute and the subject-matter to which it relates, there is an equal duty to restrict the meaning of general words, whenever it is found necessary to do so, in order to carry out the legislative intention.' Reiche v. Smythe, 13 Wall. 162, 164, 20 L.Ed. 566.'

II.

Perlis and Smith appear to be arguing that even if the ordinance intended approval by the planning board rather than the board of appeals, s 111-7(g)(4) c still requires the 'average net area of all of the lots in any record plat, together with all record plats previously recorded in the same subdivision' (emphasis by appellees), to be not less than 20,000 square feet. They point to the cross-examination of John J. Broda, one of the Commission's planning engineers, in which he admitted that the record plat of 'Blocks Q and R' was a 'subdivision plat' and that it is a 'subdivision.' Therefore, they continue, since 'Blocks Q and R' are a subdivision, **595 and since no other record plats have been recorded in that same subdivision, the plat is illegal because the net average of all of the lots is less than 20,000 square feet. So now the question is what does the word 'subdivision' mean as used here. In s 70-67 of the Montgomery County Code (Laws of Maryland of 1959, Ch. 780, sec. 1 at 1250),

'(t)he word 'subdivision' means the division of a lot, tract, or parcel of land into two or more lots, plots, sites, tracts, parcels or other division for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided; * * *.' (Emphasis added.)

The definition is repeated in s 104-1. There is, to be sure, a measure of confusion arising out of the first sentence of s 111-7(g)(4) c when it is considered out of context. The confusion *694 vanishes, however, if one inserts the words 'record plat of the' before 'subdivision' so that the sentence will read '(a)n accumulation of excess area from one (record plat of the) subdivision to another may be transferred to an adjoining (record plat of the) subdivision only upon approval of the board.' Any doubt that this is what the Council meant cannot fail to be resolved by a comprehensive look at the mechanism provided by the ordinance for the creation and implementation of residential subdivisions.

Sec. 104-12(a) provides as follows:

- '(a) Phases. In order to provide an orderly basis for the processing of subdivision plans prior to approval, the board will consider such plans in two stages, as follows:
- '(1) The preliminary plan shall be submitted with application and fee for conditional or tentative approval.
- '(2) The final plat for recordation of all or part of a subdivision shall be submitted with required supporting data and documents, together with application for approval and plat feet.' (Emphasis added.)

Sec . 104-23(a) requires that every 'proposed subdivision or resubdivision shall be submitted to the board for tentative or conditional approval in the form of a preliminary plan prior to the submission of a suddivision record plat.' (Emphasis added.)

Sec. 104-24(g) provides that 'if within one year from the date of approval of a preliminary plan, the subdivider has not placed on final plats all of the area covered by such approved preliminary plan, then the approval for the remainder of the plan shall expire.' (Emphasis added.)

Sec. 104-25(a) states that 'a final plat may include only a portion of the approved preliminary plan; * * *.'

Finally, and perhaps conclusively, the second (and last) sentence of s 111-7(g)(4) c provides that '(t)he average net area of all of the lots in any record plat' which, of course, is precisely what the plat of 'Blocks Q and R' is, 'together with all record plats previously recorded in the same subdivision,' Luxmanor, 'shall be not less than' 20,000 square feet. This seems to us to be a clear indication that the plat of 'Blocks Q *695 and R' is not to be considered as standing alone and that in calculating the average net area of the 12 lots contained therein there must be added the area of the two plats previously recorded. If that is done the average net area exceeds 20,000 square feet per lot.

The last shot in appellees' locker is aimed at the expression 'adjoining subdivision.' It is argued that because 'Blocks Q and R' are separated from 'Blocks G, H and J and parts of Blocks D, E and K' by Tuckerman Lane (80 feet wide) they are not 'adjoining,' and since a transfer of excess area can be made only from one subdivision to an 'adjoining subdivision' the attempted transfer in **596 the case at bar must fail. We are not impressed by this argument.

The term 'adjoining' has been defined as follows:

'In its etymological sense, and according to the more approved definitions, the word means abutting, contiguous, having a common boundary, in contact with, lying next to or in contact with, meeting at some line or point of juncture, next to, touching, touching or contiguous, as distinguished from lying near or adjacent; but this is not necessarily the meaning of the word in all connections, and the word may be employed as meaning adjacent, close or near to, or nearest or most accessible. The meaning of the word as employed in a particular case must be gathered from the context, the intention, and the particular circumstances under which it is used.' 2 C.J.S. Adjoin at pp. 1-2 (1936).

'Adjoining premises' has been defined as follows:

'adjoining premises. * * * the term has also been construed as not absolutely precluding the idea of separation by some object intervening ('Adjoining' may not require properties to touch but merely to be separated by no other property which can be put to private use, citing Homac Corp. v. Sun Oil Co., 137 Misc. 551, 244 N.Y.S. 51, 54; a yard may be separated by a street and yet adjoin, citing *696 Commonwealth v. Curley, 101 Mass. 24, 25.) and the question as to what amount of separation will or will not deprive premises of the character of adjoining premises within the meaning of that term depends upon the circumstances of each particular case.' Id. at 2.

In any case, it is plain that the council had in mind the adjunction of record plats of parts of a subdivision and not separate subdivisions. The entire subdivision must be shown on the plat of the preliminary plan. The development of the entire subdivision may be accomplished on a piecemeal basis by the use of record plats which when all added together will comprise the entire subdivision as shown on the preliminary plan. Since the ordinance contemplates the transfer of excess area from one record plat to another record plat it would seem to matter little that a matching line might happen to be on one or the other side of one of the streets in the development.

The views expressed herein make it necessary for us to reverse the decree of the learned trial judge.

Decree reversed.

Costs to be paid by appellees.

Md. 1969. Gruver-Cooley Jade Corp. v. Perlis, 252 Md. 684, 251 A.2d 589

END OF DOCUMENT

(C) 2007 Thomson/West. No Claim to Orig. U.S. Govt. Works.

IN RE:

PETITION FOR VARIANCE

S/S Eudowood Lane, 150' E of

the c/l of Hillen Road (300 Eudowood Lane) 9th Election District 4th Councilmanic District

Mt. Calvary A.M.E. Church

Petitioner

BEFORE THE

* DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

* Case No. 96-488-A

*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 300 Eudowood Lane, locat-The ed in the vicinity of Hillen Road and Towsontown Boulevard in Towson. Petition was filed by the owner of the property, Mt. Calvary A.M.E. Church, by Reverend Anne Lightner-Fuller, and Metro Housing, who owns a portion of the property which is the subject of this request. The Petition was filed through their attorney, Newton A. Williams, Esquire. The Petitioners seek relief from Sections 1801.2.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 2 feet for the existing building, rear yard setbacks of 8 feet and 47.5 feet for the proposed addition, and a side/rear setback of 2 feet for the proposed addition, all in lieu of the required 50 feet rear setback and 10 feet side setback, and minimum required interior side setback of 20 feet and corner/side street setback of 35 feet. In addition, the Petitioners seek relief from Section 409.6 of the B.C.Z.R. to permit 16 parking spaces in lieu of the required 88. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Anne Lightner-Fuller, Pastor, Newton A. Williams, Esquire, attorney for the

Item # 383

Petitioners, and several members of the Mt. Calvary A.M.E. Church, as well as numerous residents from the surrounding community. Also appearing as an interested party was Susan Gray, a resident of Towson Manor Village. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 0.73 acres, zoned D.R. 10.5, and is improved with a one-story building which has been the home of the Mt. Calvary A.M.E. Church for the past 106 years. On behalf of the Petitioners, Rev. Lightner-Fuller testified that Mt. Calvary A.M.E. Church has outgrown the existing building and the congregation wishes to construct a one-story addition to the existing building to provide a new sanctuary and much needed administrative office space. The existing building and proposed improvements are more particularly shown on the site plan identified as Petitioner's Exhibit 1. Due to the irregular shape of the property, and its location at the corner of Eudowood Lane and Hillen Road, the relief requested is necessary in order to proceed with the proposed improvements. A review of the site plan revealed that the proposed expansions to the Church will maintain the same setbacks established by the existing building. Furthermore, some of the variances from side/rear setback requirements are necessary for that portion of the property which abuts the property owned by Metro Housing, a joint Petitioner in this matter. Testimony revealed that Metro Housing, who owns the property immediately east of the subject site, has donated some of its land to the Church to be utilized in its expansion efforts, provided the variances requested herein are granted.

As to the parking variance, it is clear from the site plan that there is insufficient space on the property to provide 88 parking spaces. In the opinion of this Deputy Zoning Commissioner, the Petitioner has done. ٠,

an excellent job in providing 16 parking spaces on site. Testimony indicated that many of the church members live in the immediate area and walk to church, thereby eliminating the need for parking. Furthermore, the Petitioner has entered into a parking agreement with Maryland Etching, a nearby property owner, to utilize their parking lot during church activities. The Church also provides bus transportation to and from the Church.

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

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or struc-

ture which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare, and is in strict harmony with the spirit and intent of the B.C.Z.R.

It is to be noted that the benefits the Mt. Calvary A.M.E. Church provides to the surrounding community are too numerous to mention in this Order. This much needed expansion will allow the leaders of this Church and the congregation to improve upon those benefits it offers to the residents and communities in Towson. This Zoning Commissioner's Office has personally witnessed one example of the fine individuals who are members of this Church, namely, Dynia Charles, who worked in the Zoning Commissioner's Office during the summer months of her high school vacation. It was easy to detect the positive influence that the Mt. Calvary A.M.E. Church has had upon Ms. Charles and it exemplifies the fine work the church has done in and around the community. The proposed expansion of the Church will surely be a benefit to all the residents of Towson.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this ___ day of August, 1996, that the Petition for Variance seeking relief from Sections 1801.2.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 2 feet for the existing building, rear yard setbacks of 8 feet and 47.5 feet for the proposed addition, and a side/rear setback of 2 feet for the proposed

addition, all in lieu of the required 50 feet rear setback and 10 feet side setback, and minimum required interior side setback of 20 feet and corner/side street setback of 35 feet, and from Section 409.6 of the B.C.Z.R. to permit 16 parking spaces in lieu of the minimum required 88, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with the recommendations made by the Office of Planning in their comments dated June 26. 1996. However, with respect to landscaping the subject property, I believe that only low-growing, ground-cover type plants should be used to screen the property along Hillen Road. This will allow the presence of the Mt. Calvary A.M.E. Church to be known to passing motorists. on Hillen Road, as well as enable them to see the beautiful, new sanctuary upon its completion.
- 3) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the "restrictions of this Order.

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

RE: PERIXION SPECIAL HEARING
NE/S of Falls Road, 172' NW
of the centerline of Greenspring Valley Road 8th Election District

PLM Associates Ltd. Partnerhip, et al,

20NING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 87-362-SPH

BEFORE

Petitioners

* * * * * * *

The Petitioners herein request approval for the transfer of density from certain percels zoned D.R. to other parcels zoned D.R. which are included within a subdivision plan, as more particularly described on Petitioners' Ex-

hibit 1.

Petitioners. the Meadows Petitioners, testified in opposition. Counsel also submitted a Memorandum in opposition. 18, Eurzd Norris Lankford, an immediate adjoining property owner, by Thomas Petty, appeared and were protestants appeared, individually and collectively as expert Homeowner's land planner, testified Association, Inc., which was repre-Memoranda were submitted represented by Counon behalf of the

Comissioner Baltimore County Charter (Charter) to "defend the zoning maps". authority Baltimore 10 misplaced; el has not followed the stricture mandated by the Charter 8 to involve itself before County (Board) has sua sponte granted the People's Counbased its involvement on the broad authority granted to Zoning Commissioner in this matter. not persuaded to be equally as magnanimous. it has no jurisdiction. the Board Although OVET While it is true the years, the ğ Board In addi-

see Ri

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on the testimony and evidence which People's Counsel did not hear or review. absurdity. great significance, Commissioner. testimony the People's Counsel with the responsibility to protect is far-fetched. simultaneously waiving To permit People' or special Counsel or reviewing On what 19 1 Countries The Petition presented here is for an interpretation, not for clothes itself with the mantle impinges on the zoning maps for which the Charter expowers exception. the Charter requirement argument that such a request for an interpretation as ntered its the evidence presented would basing its Memorandum? Certainly, it is not based Counsel Although density is certainly an issue appearance, to submit memorandum without hearing the it did not appear at the hearto "appear" before the Zoning of protectionism be to countenance while

zoned B.R. County Review Group certain parcels zoned D.R. to other parcels zoned D.R. by way of a "bridge" those parcels have common thread attached magement pond located subdivision unit. Testimony and from a portion of a parcel zoned D.R. which has a storm water Seminary Avenue and Seminary Farm Road, and adjacent to the 없 (CRG) requesting approval for the transfer of density from 8 ğ on it to a contiguous parcel also zoned D.R. Although each parcel is owned separately, that the subject property, located on Falls and Joppa all, classifications. together and filed a subdivision plan with the namely, Mr. Petty. Center and Racquet Club, All four parcels together However, the owners consists there 19 10 10 ğ

The Petitioners propose to construct 53 dwelling units by concentrating D.R.2, with a small portion zoned B.R; Parcel 2 is zoned primarily 0-1, with approximately 1.7 acres zoned D.R.2 and an even smaller portion zoned D.R.16; Parcel 3 is zoned 0-1, B.R., and D.R.1; and Parcel 4 is zoned D.R.2, with B.

propose to transfer density from those portions of Parcel 3 zoned 0-1 and D.R. by way of that contiguous portion of Parcel 4 zoned 8.R., through the D.R. portion of Parcel 4, to Parcel 1. Circuitous and imaginative but neither necessarily fatal.

D.R.-zoned portion of is contiguous to Parce! not all contiguous coned portion of Parce In the fatality 9 Density may be transferred if the D.R.-soned portions are contigu-Zoning Regulations (BCZR). Unfortunately for the Petitioncontiguous to the D.R.-zoned portion of Parcel 2, The key of the BCZR is clear; i.e., density conduit through which the density transfer the B.R.-Zoned portion of Parcel 4, which the Petition-Parcel 4 is contiguous I 4 but not to the D.R.-zoned portion of Parcel 4. ie within D.R. zones, even if of different D.R. classiand B.R.-goned portions of Parcel 3 and to the B.R.-1, which is contiguous to Parcel 2, the D.R. zones are the Petitioners ingenuity lies in Section 1801.2.A.2, seam, the issues are really not. each other. Parcel 3 is contiguous to Parcel 4, which The D.R.1-zoned to the D.R.-zoned partion of portion of Parcel transfer is permitted flows. 3 15 1 3

Perlis, 252 Md. 684 (1968), wherein the Court of Appeals in Gruver-Cooley v. Perlis, 252 Md. 684 (1968), wherein the Court interpreted the Montgomery County Code requirement that density transfer may occur only between "adjoining subdivisions". The Court ruled that the subdivisions did not need to be touching to be considered "adjoining" but could be "...close or mear to, or nearest or most accessible..." at p. 695. "Adjoining may not require properties to touch but merely to be separated by no other property which can be put to private use." at p. 695. See also Grand Union Co. v. Laurel Plaza, 256 P

Court County Code, citing Gruver, supra, and defined "contiguous" as meaning "...in close proximity; of Appeals interpreted the word "contiguous" as found in the Baltimore the subject invo (Md., 1966). use." at p. ived a roadway which separated the parcels. though not in In Swarthmore Co. v. Kalstner, See also contact... at p. 530. Grand Union Co. v. 258 Md. Laurel Plaza, 517 As in Grover, (1970), the

unless the intent of the within the meaning of "D.R. the intensive developme the parcels nt of BCZR is to include by extrapolation a commercial zone orivate use. 1 4, which is the key to the Petitioners' may be contiguous, the D.R. zones are not. zones of different classifications", as found in Parcel 1. If unlocked, the gate could be opened for It does not provide the "bridge" lock,

area for another building or use. which thus required for a building the B.R.-zoned portion tial zone" as R.C., D.R. residential zones immediately adjoining. The Petitioners ရှ Section Parcel Conversely, 230.1 transferred. 102.2, BCZR, **Bet** argued that such is the case and point to Section 230.1, could be developed with any of those uses permitted in refore, the density of the B.R.-zoned portion can be doped with those residential uses portion of Parcel or R.A.E. ermits uses in connercial a certain density permitted; the B.R.-zoned portion or use to be considered as if density is not a "use", the Petitioners' argument The syllogism is complete: prohibits utilization of the minimum area They interpret "use" Therefore, they argued, if undeveloped, Section 101, BCZR, defines "residen-3 or the D.R.2-zoned portion of zones that are allowed in any part of to include density, permitted in the D.R.1-zoned the minimum

permitted. Section 102.1, BCZR. See Kowalski v. Lamar, 334 A.2d 536 (1975). Section 1801.1.A, BCZR, delineates 16 uses permitted as of right in D.R. zones. Density or the transfer of density is not found. As Counsel for the Protestants quite correctly noted, no reference to density or the transfer of density as either a use permitted as of right or by special exception can be found in any zone classification. Density is the means by which residential dwelling units may be intensified for development, whether it be one such use per acre or 16 such uses per acre. If one acre exists in a D.R. Zone contiguous to a D.R.1 Zone, then the B.R.-zoned property may be developed with one dwelling unit. It does not mean that the one dwelling unit may be transferred.

There is no question that it is an appropriate exercise of the police power to limit density and provide for its transfer. It is also equally appropriate for the County to restrict as it has the procedure for such transfer. The Baltimore County Council (Council) has determined quite specifically that density may be transferred only from one D.R. zone to another D.R. zone as more definitively described in Section 1801.2.A.2.

interpretation and the Dingham Township, 440 A.2d 1284 (Pa. Cnwlth., 1982). landowner the least restrictive use of of validity that must be accepted. 62 A.2d 588 ordinance Fresumption of the correctness of original zones and of language contained must be strictly construed so as to Howard County .. Dorsey, 438 A.2d 1339 (1982). There is (R.I., 1982). When interpreting the zoning regulais clear and certain, (1948); must Lake Adventure, Inc. v. Zoning Hearing be interpreted literally. there is nothing left for Johnson & Wales College v. his property. Mayor of When the language Mongony v.

Bevilacqua, 432 A.2d 661 (R.I., 1981). Section 1801.2.A is clear and unambiguous.

The meaning of the plainest words in a statute may be controlled by the context. A statute should be so construed that all its parts harmonize with each other and render them consistent with its general object and scope. Pittman v. Housing Authority, 25 A.2d 466.

The basic principles of statutory construction were comprehensively set out by the Court of Appeals in State v. Fabritz, 276 Md. 416 (1975), cert. denied, 425 U.S. 942 (1976):

offectuate the real and actual intention of statutes is to effectuate the real and actual intention of the Legislature Purify v. Marc. Safe Dep. & Trust, 77 Mi. 58, 327 A.24 483 (1974); Scovilla Serv., Inc. v. Comptrollar, 269 Mi. 390, 306 A.2d 534 (1973); Height v. State, 225 Mi. 251, 170 A.2d 212 (1961). Equally well settled is the principle that statutes are to be construed reasonably with reference to the purpose to be accomplished, Walker v. Mortgomery County, 244 Mi. 98, 223 A.2d 181 (1965), and in light of the evils or mischief sought to be remedied, Mitchell v. State, 115 Mi. 360, 80 A.2d 1020 (1911); in other words, svery statutory enectment must be 'considered in its entirety, and in the context of the purpose underlying [its] enactment, Giant of Mi. v. State's Attorney, 267 Mi. 501 at 509, 288 A.2d 427, at 432 (1973). Of course, a statute should be construed according to the ordinary and natural import of its language, since it is the language of the statute which constitutes the primary source for determining the legislative intent. Carosvenor v. Supervisor of Assess., 271 Mi. 232, 315 A.2d 578 (1974); Height v. State, Supra. Where there is no ambiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascertain the primary source for determining the lagislative intent. Safe Deposit & Trust, Supra. Thus, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, courts are not at liberty to disregard the natural import of words with a view towards each sensible meaning. Catewood v. State, 244 Mi. 609, 224 A.2d 677 (1966). On the other hand, as stated in Meguire v. State, 192 Mi. 615, 623, 65 A.2d 299, 302 (1949), "ligitude text is southed to the meaning of words from their context the plainest words in a statute may be controlled by the context...In construing

Date April 2 1977
By Stille Livinge

possible consistent real legislative nconsistent with resulta are unreasonable, illog-sense should be avoided h the statutory language, tion prevailing over the are unressonable,

Board of Censors, ht v. State, supra dicated by c. A THE PERSON OF sults that are unth common sense stant with the site and the stand mes the literal mes 150 MH. 707, 246 meaning. 246 A.2d 48. 319, 2 226 91 (1968); 317

Anderson, American Law of various provisions must regulations are given to construed in light of density regulations Fire Dept. & Rescue Smith v. restrictions intent Miller, of the for 249 S transferring BCZR must be determined as being construed as Zoning, Squad 2 Ċ, Ä reconciled as intended effect. 2 X C 390. Section 16.08. BCZR Subjetaced density .₹ Thus, á R that a whole. of County Counts. , 255 the specific language delineating ř The relationship between concerning the use regulations t T Section 200 BELTS, several parts 1801.2.A.2 Profins Ł ğ) STE a whole. Bowie those 381, those

Section 25.72. Maryland, Inc. by implication to Appeals. Lenday v. MacWilliams, 1-4 and 25-8; clearly within their express terms." cannot be "Zoning regulations Zoning regulations must be strictly construed and cannot be extended construed to include or Aspen Hill Baltimore, prohib! 173 ä Venture 970 250 uses not Æ ğ ž 400 Ş derogation ű 621 Montgomery County, clearly within Yokely, exclude by implication that which is not (1938) (1968), McQuillin, a/<a R goning Law & common law Veptre their 265 MI. Practice, 4 Municipal corp., scope. rights 303 Sections Zoning (1972). they

Supervisor v. Southquate Harbor, phrase shall be rendered An ordinance should be suzplusage, construed "so 279 Md. superfluous, 586 that no (1977). word, clause, sentence, meaningless or magatory.". Ď,

Council Z, Language intended of Section for density 1B01.2.A.2 accuraing Š clear and unambiguous. 8 property Zoned other Ħ than C.

residential to be transferred, it would have so indicated. Therefore, the proposal to transfer density from the 0-1 property shall be denied.

The Fetitioners also propose to transfer density from the D.R.1 portion of Parcel 3 through the B.R. "bridge". This shall also be denied.

within a subdivision tract be contiguous for density to be transferred from parcels for the boundary...* unambiguous, and the intent clear. portion...in the of such tract ್ಟ್ರಾ in Section 1B01.2.A.2 states that a one D.R. zone to another. See also Section 1800.2.C and E, ACZR. The language lishes density zoning. the use of the term "subdivision parcels be contiguous. been the Although Section 1801.2.A.2 does not specifically require contiguity of Wherever a single tract is divided by a zone boundary so that portions practice and This limitation clearly implies that the new portions be contiglie within D.R. zones of different transfer of density from one parcel to another, zone within which that portion lies..." The use of the The clear intention of the BCZR is that D.R. policy of the Zoning tract" in Section 1B01.2.A.1, which estab-"...single tract is term "single Comissioner classification...of tract divided by a F is predicated by The language require that it has long zones

Tracquet club. portion of Parcel 3, as been improved with the lot, and added it to what is now Parcel 4 to allow with ingenuity doubled, "bridge" area had been part of the area reserved for a parking lot serving the D.R.-zoned portions of Parcels 3 and 4. portion of Parcel 4, does of way which exists in the "bridge" partion. the "bridge" effect. The B.R. "bridge", This area The Petitioners also pointed to a 50-foot reserved right shown on Petitioners' Exhibit 1A. The Petitioners, although contiguous to the D.R.1 portion of the D.R.2 cut off a plece of leased to the club, zoned B.R., is the "hatched" not provide the regulred contiguity See Gruver, supra. Additionally, this leased area, which had not for £

certain property which portion which actually touches both D.R. zones. Gruver, supra, permitted the of a coullict with Section 102.2, BCZR. The very division of the leased area, a portion of the propert across the "bridge" because Section 1801.2.A.2 does not permit density to be Notwithstanding the reserved right of way, this portion had been part of the transferred across a B.R. Zone, notwithstanding Section 230.1, BCZR, and the conneccially-zoned adjoining permitted the B.R.-zened portion o from the 0-1-zoned portion of Parcel 3 nor can density be transferred through coning Commissioner, that under the private it can be utilized for other private use. 3 of density across the road because the road obviously could not be unierscores area does The Petitioners thereby lose on both counts. They cannot transfer strategic decision reached herein and the long-standing policies of the use. 3 ij 100 property adjoining or through the connercially-zoned mean that density may be transferred, either from the residential zones on connercial property immediately The "bridge" area here could be; indeed, it had been. circumstances found here, density cannot be transferred parking. same ronsors described above, the right to use location to develop Parcel I to a degree not otherwise provide contiguity between the D.R.-zoned portions prohibition of density being transferred over that would be used for parking. Their attempt to separate f Parcel 4 to Parcel 1. y from that leased area was to svoid the possibility delineated in Policy RSD-2, "Density Transfer". It is executed a lease with the racquet club setting aside The Petitioners now wish to divide it and There is no conflict

Although there is no need to belabor the point, it is important to note that the protestants also refer to Sections 406A.3 and 406A.4, HCZR, to

further justify their opposition to the Petitioners' proposals. There was no evidence presented at the hearing to judge the merits of this argument.

The final proposal made by the Petitioners is to transfer the density from Parcel 2, which is that portion zoned D.R.3, to Parcel 1, which immediately adjoins.

of the Petitioners herein, PF&M Associates, Inc., in Case No. 85-321-SPH, it was agreed that the portion of P=roel 2 zoned D.R.2 could be used only for storm-water management, landscaping, and certain "park-like" uses. This portion of Parcel 2 does in fact contain a storm-water management facility. There are no existing uses. Also, a storm-water management facility is not one of the categories of uses permitted in Section 1801.1.A.

case, the presence of the storm-water management facility does not prevent the was never reviewed. the jurisdiction of portion of Parcel 2; (2) approved by this Zoning Commissioner and was justified via three concepts: In Case No. 85-321. the appeal leaves as an accessory immediately the Zoning T) from that portion of Parcel 2 on which it is located to adjoining. Commissioner, in full force and effect. # use to an office building located on the 0-1-zoned -SPH, the placement of the storm-water management pond Zoning Commissioner. fact, the agreement executed by the parties which the Findings of Facts and Conclusions of Law, as an uncontrolled excavation; and (3) as not under The decision was appealed but In the instant 8

Although the BCZR does not provide a definition, the Courts have been clear that in the absence of a definition provided by law, the term must therefore be construed according to its plain, wasterstay understood meaning.

Arundel Supply Corp. v. Cason, 265 Md. 371 (1972).

"[t] be enjoyment of property, as by occupying or exercising it." The concept of the pond comes within the grading requirements as determined by the Departments of Public Works and Health. Grading is permitted, period. There is no thought that grading is a "use" or that it be regulated by the BCIR; other regulations and ordinances govern. The same is true for a pond; a depression is created, but it is a form of grading and is required as a result of sound development control.

A storm-water management pond is not a use within the meaning of the BCZR, and therefore, such a pand does not come within the jurisdiction of the Zoning Commissioner. It may be a planning, engineering, or health function to determine where such a pond should be located; but, if it is not a use, it certainly would not be a zoning function, which is essentially limited to the establishment of land use districts through the imposition of zoning classifications. In other words, zoning is almost exclusively concerned with use regulations. Howard County v. Dorsey, 438 A.2d 1339 (1982). It could be argued that grading and storm-water management techniques are not uses but are land preservation techniques not subject to the BCZR.

Even assuming arguendo that a storm-water management pond can be categorized as "local open space tracts or other common amenity open space" (Section 1801.1.A.10, BCZR), as listed under the general use regulations, density does not accrue to open space. Section 102.2 would be applicable if the open space was required pursuant to any overall area requirement for any use developed on the property, thereby preventing the transfer of unused density not part of the original parcel. However, if such is not the case, then the open space proviso cannot be considered as a "use" within its ordinary meaning. In other words, Sections 1801.1.A.10 and 102.2 must be read in conjunction, not sepacetally. If a D.R.-zoned parcel is not developed but left in open space,

Zording Commissione: Baltimore County

x: John B. Howard, Esquire

eorge W. White, Jr., Esquire

Mr. Norris B. Lankfor

People's Couns

Dute April 3 1977

By Sulla Farm as

THE APPLICATION OF FEM ASSOCIATES LID. I FOR APPROVAL OF TRANSFER ON PROPERTY I TRANSFER ON PROPERTY I THE NORTHEAST SIDE OF 172' NORTHWEST OF THE OF GREENSPRING VALLEY 8th ELECTION DISTRICT LETTYA DISTRICT RTNERSHIP, DENSITY CATED ON ALLS ROAD, ENTERLINE

BEFORE

COUNTY BOARD OF APPEALS

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BALTIMORE COUNTY

CASE NO. 87-362-SPH

NION

April 120 ဓ္ County Ψ density פנמיז Greensprin 1987 Caso he northeast side of Falls Hoad, 172' iting in part the Petitioners' certain parcels zoned D.R. to other parcels zoned D.R. Valley Road in the Eighth Election District of appeal from the Order of the Zoning Commissioner request northwest of for approval the Ŗ

Counsel hereof) filed that Decembe **h1**9 *** ient wishes to withdraw the Petition 1987 been { a copy advised by a letter from the Petitioner's of which is attached hereto and made or Special Hearing

Special and Protestant Protestant also Hearing. made ğ Ś The dismissed letter part Board Contingent upon the withdrawal of said Petition for eof) that the appeal filed on behalf of said Appellant/ ed December 16, as also been advised by Counsel 1987 (a copy of which is ş the Appellant attached heret

RDER

County the Petition 23rd ORDERED day ខ្ព or that December Special Sons decision of Hearing be and **.** set forth in 198 7 뚞 ই the same is hereby DENIED; the County Board of Appeals of Baltimor Zoning Commissioner be REVERSED and the aforegoing Opinion, ť this

M Associates Ltd. Partnership, et al

IT IS FURTHER ORDERED that the appeal filed in this case

DISMISSED.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

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Arnold G. Forehar

Detroit De

tricia Phipps

pus

IN THE MATTER OF
THE APPLICATION OF
PEAM ASSOCIATES LTD. PARTHERSHIP.
ET AL FOR APPROVAL OF A DENSITY
TRANSFER ON PROPERTY LOCATED ON
THE NORTHWEST OF THE CENTERLINE
OF GREENSPRING VALLET ROAD
8th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT

COUNTY BOARD OF APPEALS

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BALTIMORE COUNTY CASE NO. 87-362-SPH

AMENDED OPINION

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Baltimore centerline 9 County located density 7 CY B g spring Valley Road in the Eighth Election District of m certain parcels zoned D.R. inting in part the Petitioner's request Ġ the northeast side of Falls Road, 172 an appeal from the Order of the Zoning Commissioner to other rest parcels zoned D. TOT approval of northwest

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The Board has been advised by a letter from the Petitioner's Counsel filed December 11, 1987 (a copy of which is attached hereto and made a part hereof) that his client wishes to withdraw the Petition for Special Hearing The Board has also been advised by Counsel for the appellant/

Protestant by letter filed December 16, 1987 (a copy of which is attached heret and also made a part hereof) that the appeal filed on behalf of said Appellant/Protestant be dismissed contingent upon the dismissal of Petitioner's appeal.

Agreement having been reached between all parties and requests having been made to this Board that all appeals be dismissed, the Board will

ORDER

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For the reasons set forth in the aforegoing Amended Opinion, it is the 28th day of January , 1988 by the County Board of Appeals of

No. 87-362-SPH

Baltimore County CROERED taken in this matter be

are DISMISSED.

COUNTY BOARD OF AFFEALS OF BALTIMORE COUNTY

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PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

PETITIONER'S SIGN-IN SHEFT

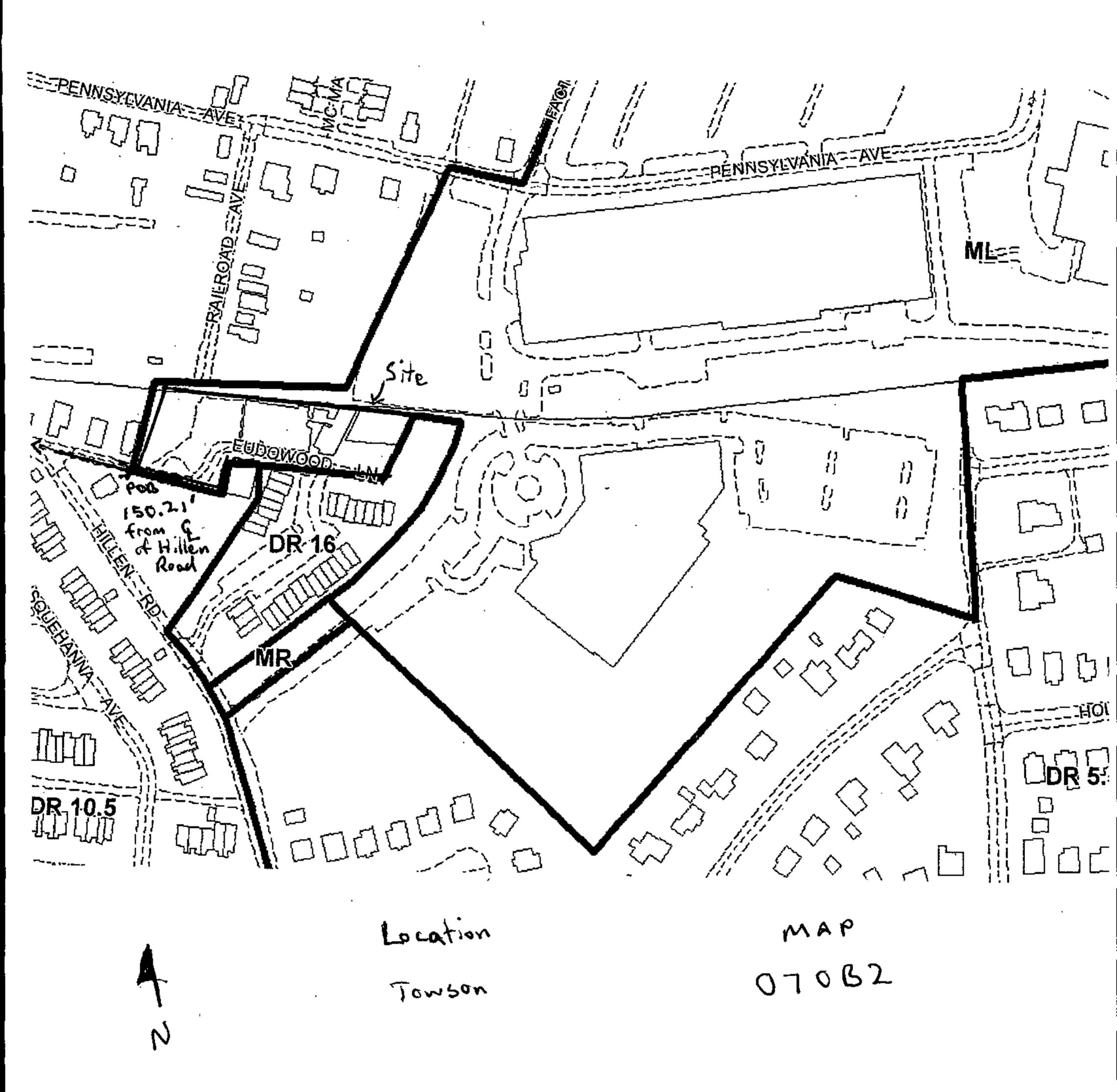
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NAME	Macron J. Conser J.	AP & COMPANY 11C	Hollert Banka								

PLEASE PRINT CLEARLY

AME	NUMBER	
CASE NAME	CASE N	DATE

CITIZEN'S SIGN-IN SHEET

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Item#383

