

**IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE**

SE corner of Bosley Avenue and
York Road
8th Election District
3rd Councilmanic District
(10525 York Road)

Harry Kolodner
Legal Property Owner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY

* **Case No. 08-208-SPHA**

* * * * *

ORDER ON REQUESTS/MOTIONS FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner for consideration of several Requests/Motions for Reconsideration filed by Protestants in connection with the decision rendered in the above captioned matter. These Requests/Motions for Reconsideration were filed pursuant to Rule 4(k) of Appendix G of the Baltimore County Zoning Regulations ("BCZR") wherein the Rules of Practice and Procedure Before the Zoning Commissioner/Hearing Officer for Baltimore County are provided. Rule 4(k) permits a party to file a Motion for Reconsideration of an Order issued by the Zoning Commissioner. This Motion must be filed within 30 days of the date the Order was issued, and must state with specificity the grounds and reasons for their request.

In the instant matter, the undersigned previously granted Petitioner's Special Hearing and Variance Petitions pursuant to the Findings of Fact and Conclusions of Law and accompanying Order dated February 22, 2008. Thereafter, the undersigned received the following letters, each of which will be treated as a Motion for Reconsideration:

- Motion for Reconsideration (dated March 1, 2008) received March 4, 2008 from Eric Rockel, President of the Greater Timonium Community Council (GTCC).

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- Request for Reconsideration (dated March 5, 2008) received March 6, 2008 from Ann H. Heaton, President of the Sherwood Hill Improvement Association (SHIA).
- Request for Reconsideration (dated March 5, 2008) received March 10, 2008 from Brian J. and Karen M. Smith of 21 Bosley Avenue, Cockeysville, MD 21030.
- Motion for Reconsideration (dated March 12, 2008) received March 12 2008 from Peter Max Zimmerman, People's Counsel for Baltimore County. In addition, a subsequent letter (dated March 18, 2008) was received March 18, 2008 from Mr. Zimmerman.

In three separate letters dated March 10, 2008, Petitioner's attorney, Jason T. Vettori, Esquire submitted responses to the GTCC, SHIA, and Smith motions for reconsideration. In addition to the aforementioned motions for reconsideration and responses, on March 24, 2008, Ms. Rebecca Gerber of 11 Hillside Avenue, Cockeysville, MD 21030 filed a timely appeal of the February 22, 2008 decision to the Board of Appeals of Baltimore County.

The Motion for Reconsideration filed by the Mr. Rockel of the GTCC seeks reconsideration on the ground that notice of the hearing in the above-referenced matter was not properly posted on the County's Website, or properly published in *The Jeffersonian*. In particular, Mr. Rockel states the hearing date was published as January 7, 2008 at 10:00 AM instead of the actual hearing date of January 9, 2008 at 9:00 AM. However, the zoning file in this matter reflects that publication of the notice in *The Jeffersonian* stated the proper hearing date of January 9, 2008 at 9:00 AM. As to posting on the County's Website, there is no statutory authority requiring that notice of the hearing be posted on the County's Website. I also believe that the number of citizens in attendance at the hearing belies the premise that proper notice was not afforded to neighbors or interested parties. Hence, the Motion for Reconsideration filed by Mr. Rockel shall be denied.

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The remaining motions for reconsideration filed by the SHIA, Mr. and Mrs. Smith, and People's Counsel, taken collectively, seek reconsideration on several grounds. First, they believe that commercial parking should not be permitted in the Residential Transition Area (RTA), and further that a 10 foot buffer and setback is inadequate to provide a separation of the proposed business to the residential areas behind it. Second, that the number of parking spaces proposed for the rear of the property is excessive as compared with the proposed use. Third, that there are a number of businesses that could occupy the property as it stands without the need of variance relief, and that the commercially zoned area of the property is adequate for an appropriate business. Fourth, that Petitioner's requested use permit for business parking in a residential zone does not meet the RTA standards. And fifth, that Petitioner's proposal infringes on the riverine floodplain.

I have reviewed the written grounds in support of the motions for reconsideration and have also reviewed the Findings of Fact and Conclusions of Law dated February 22, 2008. In my judgment, the issues raised in the aforementioned motions do not present any new or different evidence that would persuade me to alter, change, or amend my prior decision. These issues were presented and addressed at the hearing and decided upon based on the evidence. Therefore, the motions for reconsideration shall be denied.

In addition to denying the motions on their merits, I also believe the motions should be denied based on the premise that the Office of the Zoning Commissioner no longer has jurisdiction over the above-referenced matter due to an appeal having been filed in this matter. Although the language of Rule 4K of the Rules of Practice and Procedure Before the Zoning Commissioner/Hearing Officer for Baltimore County appears to stay further proceedings upon the filing of a motion for reconsideration, there is also legal authority that states an

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administrative agency is divested of jurisdiction when an appeal is noted with respect to the matter or issues under consideration. See, *Pressman v. State Accident Fund*, 246 Md. 406 (1967). In particular, "...an appeal from the order of an administrative agency stays the power of the agency to proceed further until the issues on appeal have been resolved ..." *Id.* at 416. As such, a timely appeal having been filed in this matter, the motions for reconsideration shall be denied and the case forwarded to the Board of Appeals of Baltimore County for a *de novo* appeal.

WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 2nd day of April, 2008 that the aforementioned Motions for Reconsideration be and are hereby DENIED consistent with the above. Pursuant to an appeal having been filed in this matter, the Director of the Department of Permits and Development Management shall transfer and make available the Zoning Commissioner's hearing file to the Board of Appeals in accordance with Sections 32-3-108 and 32-3-109 of the Baltimore County Code for a *de novo* appeal.


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

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**IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE**

SE corner of Bosley Avenue and
York Road
8th Election District
3rd Councilmanic District
(10525 York Road)

Harry Kolodner
Legal Property Owner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-208-SPHA**
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the legal owner of the subject property, Harry Kolodner, on behalf of the proposed contract purchaser, Bill Kidd's Volvo. The Special Hearing request was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

- To approve a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 409.8 of the B.C.Z.R.; and
- To approve the construction of a parking facility in a riverine floodplain pursuant to Section 500.6 of the B.C.Z.R., and Sections 3112.00 and 3112.2 of the Baltimore County Building Code; and Sections 32-4-107, 32-4-404, 32-4-414, and 32-8-301 of the Baltimore County Code (B.C.C.).

The Variance request is from Section 1B01.1.B.1.e of the B.C.Z.R. to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot RTA buffer and 75 foot RTA setback. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing and variance relief was Kevin Townsley on behalf of Petitioner Bill Kidd's Volvo, and their attorney,

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Jason T. Vettori, Esquire. Also appearing in support of the requested relief was Patrick C. Richardson, Jr. with Richardson Engineering, LLC, the professional engineer who prepared the site plan. A number of Protestants and interested citizens also attended the hearing. They are identified on the "Citizen's Sign-In Sheet" that is contained within the case file. Although a number of persons testified in opposition to the requested relief, the Protestants' "informal" spokespersons were Ann Heaton and Nancy Coradi, President and Vice President, respectively, of the Sherwood Hill Improvement Association, Inc., which represents approximately 600 homes in the vicinity of the subject property. In addition, Eric Rockel, President of the Greater Timonium Community Council, appeared and articulated his organization's concerns over the requested relief.

Testimony and evidence offered revealed that the subject property is an irregular-shaped parcel containing approximately 2.595 acres, more or less, and split zoned B.R., D.R.3.5 and R.O. The property is located at the southeast corner of Bosley Avenue and York Road (MD Route 45) approximately 300 feet north of Warren Road in the Cockeysville area of Baltimore County. It has approximately 157 feet of frontage on York Road and 352 feet of frontage on Bosley Avenue. It is also bordered to the south by an intermittent tributary to the Beaver Dam. The property is currently improved with several existing structures, including a one-story 10,500 square foot building (35 feet wide by 300 feet long) located closest to York Road which at one time supported a retail (furniture) store; a one-story 3,450 square foot building (23 feet wide by 150 feet long) fronting Bosley Avenue which housed an auto repair facility; a one-story 611 square foot shed located between the aforementioned buildings; and a one-story 1,606 square foot dwelling located on the south side of the property. The existing commercial buildings and shed are located in the B.R. zoned portion of the property; the existing dwelling is located in the

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D.R.3.5 zoned portion of the property. Some of the structures are in a state of disrepair, as shown in the photographs which were marked and accepted into evidence as Petitioner's Exhibit 2.

As many residents in the Cockeysville-Lutherville-Timonium communities are aware, Petitioner operates Bill Kidd's Toyota-Volvo on the east side of York Road, just south of Warren Road, and also operates a vehicle service facility south of the car dealership on Industry Lane in Cockeysville. Petitioner is now contemplating purchasing the subject property from the current owner, Mr. Kolodner, and proposes utilizing the property for a new Volvo sales facility and adjoining outdoor sales area to replace the portion of the existing Bill Kidd's dealership dedicated to selling Volvos. The new car sales facility will be located in the largest of the existing structures on the subject property (the 10,500 square foot building). This structure will be substantially rehabilitated, and a portion will be razed so as to reduce the length by 57 feet and the overall size of the structure by nearly 20%. Other smaller buildings on the site will be removed so that as a result, the site will be aesthetically improved and less crowded by structures. Petitioner's counsel, Mr. Vettori, indicated that Petitioner also recognizes and understands that areas such as the subject property generally have significant commercial uses on the main roads such as York Road, but often back up to residentially zoned and used areas. In order to diminish any impact on the surrounding neighborhood, the site plan indicates a proposed 10-foot landscape area, along with a six foot privacy fence. Petitioner has also met with Avery Harden, the County's landscape architect for the Department of Permits and Development Management ("PADM") and David L. Thomas with the Department of Public Works ("DPW") regarding the relief requested in the petitions, and any substantive issues related to those petitions.

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Petitioner notes that the proposed car dealership is permitted as a matter of right in the B.R. zone. Petitioner does not require any approval to conduct this business at this location. Pursuant to Section 236.1 of the B.C.Z.R., the B.R. zone permits uses permitted and as limited in the B.M. zone, as well as other uses. Pursuant to Section 233.2 of the B.C.Z.R., the B.M. zone permits automobile sales as a matter of right. Hence, the B.R. zone allows automobile sales. Petitioner also points out that no zoning relief is being sought for any existing or proposed "structures," or for the use of the B.R. portion of the property. The requests for variance and special hearing are for the proposed parking facility, which lies on the D.R. portion of the property.

As to the proposed operation of the new car sales facility, Petitioner indicates that no outside speaker system is proposed for the site. Petitioner also stresses that there will be no body work, painting or the like on the site, nor will dismantled or junk cars unfit for operation on the highways be stored anywhere on site. The hours of operation will be from 9:00 AM until 9:00 PM Monday through Friday, and 9:00 AM until 5:00 PM Saturday, with no business operations on Sundays. There will not be a gate proposed for the subject site. A vehicle will be parked to block the access, but the entrance will remain open during off-hours. The site is to be used for the sale of Volvos exclusively. Petitioner also noted that it is a policy of Volvo that no streamers or balloons be used to promote sales or holiday events.

Petitioner is seeking variance relief from the RTA (Residential Transition Area) buffer and setback requirements contained in Section 1B01.1.B.1.e of the B.C.Z.R. to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot RTA buffer and 75 foot RTA setback. Petitioner contends that the RTA variance is distinguishable from typical variance relief from height, area, off street parking, or sign regulations. Section 1B01.1.B.1.a(1) of the

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B.C.Z.R. defines the RTA as "a one hundred foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed." Pursuant to Section 1B01.1.B.1.a(2) of the B.C.Z.R., "[t]he purpose of an RTA is to assure that similar housing types are built adjacent to one another, or that adequate buffers and screening are provided between dissimilar housing types." In Petitioner's view, the RTA is intended to protect the owner of a dwelling from having a dissimilar "housing type" placed adjacent to his property, and is not applicable to the instant commercial proposal. Pursuant to Section 1B01.1.B.1.b of the B.C.Z.R., "[t]he RTA is generated if the property to be developed is zoned D.R. and lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R.5.5 or R.C., which:

- 1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; or
- 2) Is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected.

As previously indicated, Petitioner contends the parking facility, not the retail structure, is what generates the RTA buffer and setback. Any parking area permitted under Section 409.8.B of the B.C.Z.R., as is the case in the instant matter, is considered a residential transition use, which under Section 1B01.1.B.1.d(3) of the B.C.Z.R., is subject to the approval of a specific landscape plan for the buffer area which must meet the requirements for a Class A plan. Parking spaces as an accessory use under Section 1B01.1.A.18.d of the B.C.Z.R. are considered a residential transition use under Section 1B01.1.B.1.d(1) of the B.C.Z.R. As conditions in residential transition areas, Sections 1B01.1.B.1.e(2) and (5) of the B.C.Z.R. require that parking lots must be set back from the tract boundaries 75 feet and provide a 50 foot RTA buffer.

Petitioner believes the requested variance should be granted because special circumstances and conditions exist that are peculiar to the land and structure. The property is

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unique due to its shape and as a result of constraints from environmental features, as well as its orientation to York Road and its historic use. Strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship, as the property would be so constrained that no reasonable use would be viable. Moreover, the existing use with improvements would likely be subject to a similar request for relief, if not greater. In short, the vast majority of uses permitted by right in the B.R. zone would require more parking than is proposed by the instant use, which would similarly interfere with the 50 foot buffer and 75 foot setback requirements of the RTA. As such, according to Petitioners, the requested variance should be granted, as it is in strict harmony with the spirit and intent of the height, area, off street parking, or sign regulations.

As previously indicated, the new automobile sales facility proposed in the B.R. portion of the property and the parking lot in the D.R.3.5 portion of the property are uses permitted by right. The off-street parking facilities, which are the subject of the variance request, are subject to the design, screening and landscaping requirements set forth in the Landscape Manual adopted pursuant to Section 32-4-404 of the B.C.C. and lighting requirements pursuant to Section 409.8.A of the B.C.Z.R. Furthermore, Section 1B01.B.1.e(4) of the B.C.Z.R. states as follows:

- 4) The maximum height of any lighting fixtures in an RTA buffer area shall be 16 feet, except for public utility uses which must be of reasonable height. The fixtures shall be designed and placed so as to prevent the spillage of light into any adjoining dwelling or lot. The intensity of the fixture shall not exceed 0.2 candle at the tract boundary.

The spirit and intent of the RTA regulations that require the aforementioned setback and buffer from which a variance is sought is to provide adequate screening, which Petitioner believes the proposed plan provides. Furthermore, Petitioner notes that Avery Harden, Baltimore County's

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landscape architect, will have the opportunity to review the proposed lighting, screening and landscaping for the subject site during the Development Plan Review Process. Similarly, the Department of Environmental Protection and Resource Management ("DEPRM") will evaluate the Development Plan to ensure no harm will be done to the environment. In fact, Petitioner also notes that efforts to obtain a Forest Buffer Variance have commenced.

Special Hearing relief is requested in order to obtain a use permit for business parking in a residential zone and to permit construction of a parking facility in a riverine floodplain. Petitioner emphasizes that the existing use, under the current regulations, and virtually all uses permitted under the current zoning of the property would require similar relief. Under the authority granted by Sections 500.6 and 500.7 of the B.C.Z.R., Petitioner is seeking to have the Zoning Commissioner issue a use permit pursuant to Section 409.8.B of the B.C.Z.R. for the use of land within a residential zone for parking facilities to meet the requirements of Section 409.6 of the B.C.Z.R.

The zoning regulations provide two means by which a use permit may be obtained. First, as articulated in the zoning regulations, Section 409.8.B.1(a),(b) and (c) of the B.C.Z.R. sets out a procedure whereby an application can be filled out for a use permit, which does not necessitate a public hearing. Section 409.8.B.1(d) of the B.C.Z.R. requires a public hearing on the use permit if a formal request for a public hearing is filed. Second, while Section 409.8.B.1 of the B.C.Z.R. does not explicitly state that a use permit can be obtained by filing a petition for special hearing, Section 500.7 of the B.C.Z.R. permits a petitioner to voluntarily request a public hearing so that the Zoning Commissioner can interpret and apply this section. The instant Petition for Special Hearing is filed in accordance with this section.

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As indicated on the site plan, the proposed parking facility extends from the B.R. zone into the D.R.3.5 zone. The proposed use, a new automobile sales facility -- and all uses in Baltimore County -- are required to provide sufficient on site parking for the use. The use permit being sought -- for the use of land in a residential zone (D.R. 3.5) for parking facilities to meet the requirements of Section 409.6 of the B.C.Z.R. -- is the subject of this first request for special hearing relief. Section 409.6.A of the B.C.Z.R. sets out the general requirements for the required minimum number of on site parking spaces to support proposed uses. Furthermore, it clearly indicates that "[w]here the required number of off-street parking spaces is not set forth for a particular type of use, the Director of the Department of Permits and Development Management shall determine the basis of the number of spaces to be provided."

According to Petitioner, a new car sales facility has traditionally been regarded as being included in the "retail-general" use as set forth in Section 409.6.A.2 of the B.C.Z.R. Therefore, a new car sales facility is commonly parked at five spaces per 1,000 square feet of gross floor area, which is the required number of spaces required for a "retail-general" use. Petitioner acknowledges that the proposed use requires more than the normal or minimum number of spaces required by a "retail-general" use because it contains elements of an "automotive service station" use. Section 409.6.A.2 of the B.C.Z.R. contains regulations applicable to an "automobile service station" use. Pursuant to this section, the minimum number of required off street parking spaces is stated in Section 405 of the B.C.Z.R under the heading "fuel service station."

Section 405.4.A.3.d of the B.C.Z.R. sets forth the required number of parking spaces on the site of any fuel service station. This section requires parking for a retail component as well as parking required for features unique to a fuel service station. Section 405.4.A.3.d(2) of the

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B.C.Z.R. distinguishes between convenience stores up to 1,500 square feet (parked at three spaces per 1,000 square feet of gross floor area) and convenience stores larger than 1,500 square feet (parked at five spaces per 1,000 square feet of gross floor area). The new automobile sales facility, while not a convenience store, is above 1,500 square feet in gross floor area and does contain characteristics similar to a convenience store, which necessarily requires additional parking spaces pursuant to Section 405.4.A.3.d of the B.C.Z.R.

This is the same number of parking spaces required for a "retail-general" use pursuant to Section 409.6.A.2 of the B.C.Z.R. Pursuant to Section 405.4.A.3.d of the B.C.Z.R., the requirements for a fuel service station include, in addition to the number of spaces required for the retail component, one space per employee, three spaces per service bay, one space per self-service air or vacuum cleaner unit, and one space per automatic teller machine. Under the authority granted by Sections 500.6 and 500.7 of the B.C.Z.R., Petitioner contends that Section 409.6.A of the B.C.Z.R. allows the Zoning Commissioner to make the determination of the required number of off street parking spaces if it "is not set forth for a particular type of use."

The parking requirements for a fuel service station under Section 405.4.A.3.d(2) provide that a convenience store larger than 1,500 square feet is required to provide five spaces per 1,000 square feet of gross floor area.. Given that the proposed structure in this case is approximately 8,500 square feet, Petitioner believes it is required to provide five spaces per 1,000 square feet of gross floor area, or 43 spaces. Additionally, pursuant to Section 405.4.A.3.d(1) of the B.C.Z.R., a fuel service station must provide one space per employee on the busiest shift. Due to the sheer volume of workers at a new automobile sales facility, similar parking requirements are appropriate. Mr. Townsley indicated that approximately nine employees will be on site during

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the busiest shift. Therefore, the car dealership should be required to have an additional nine (9) parking spaces.

Section 405.4.A.3.d(3) of the B.C.Z.R. also requires that a fuel service station provide three spaces per service bay, not counting service spaces in the bays. As shown on the site plan, Petitioner anticipates having three vehicle display spaces inside the proposed revised structure that will be viewable from the outside by window. For parking purposes, Petitioner believes a fuel service station "service bay" is comparable to a "showroom" for new car sales. As such, it is appropriate to require three to nine spaces for this accessory use. Sections 405.4.A.3.d(4) and (5) of the B.C.Z.R. require one space per self service air or vacuum cleaner unit and one space per automatic teller machine, respectively. The proposed site plan shows an area to rinse vehicles and Petitioner believes it is appropriate to require one or more spaces for washing vehicles. As mentioned above, the unique conditions of a new automobile sales facility do not have parking requirements specifically enumerated in the B.C.Z.R. As such, Petitioner seeks to have the undersigned, under the authority of Sections 500.6 and 500.7 of the B.C.Z.R., require additional "auxiliary" parking for the automobile sales facility use, for a total of up to 62 "auxiliary" parking spaces.

Special Hearing relief is also requested in order to approve the construction of the parking facility in a riverine floodplain. In particular, it is proposed that a portion of the parking facility will be located at the southern end of the property, located furthest from Bosley Avenue, in a riverine floodplain. Prior to the Zoning Hearing, Mr. Richardson, Petitioner's engineer, met with Dave Thomas of the County's Department of Public Works to review the site plan and the potential impact of the parking facility on the riverine floodplain. A copy of a follow up letter dated January 8, 2008 from Mr. Richardson to Mr. Thomas was marked and accepted into

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evidence as Petitioner's Exhibit 3. In addition, a copy of the "Chart of Datums" obtained from the Department of Public Works to aid in assessing the impact on the riverine floodplain was marked and accepted into evidence as Petitioner's Exhibit 4. Mr. Thomas testified at the hearing that he reviewed the proposed plan and indicated he did not object to the waiver requests and special hearing request, provided the riverine floodplain indicated on the site plan was accurate. In an Inter-Office Correspondence dated January 23, 2008, Edward Adams, Director of the Department of Public Works, upon the information and recommendation of Mr. Thomas, issued a favorable recommendation for the proposed plan to Timothy Kotroco, Director of Permits and Development Management, which is contained within the case file.

Testifying in opposition to the requested relief were a number of nearby neighbors, as well as Ms. Coradi and Ms. Heaton with the Sherwood Hill Improvement Association, Inc., and Mr. Rockel with the Greater Timonium Community Council. In summary, the community made it clear that they oppose the use of the D.R. portion of the property for commercial parking purposes. They believe allowing this type of parking will have detrimental effects on the surrounding residential communities, and will cause property values to decrease. In short, they desire for the residentially zoned property to remain residential. The community also believes that the buffers and setbacks required by the RTA are very important, helping to delineate the residential areas from the commercial corridors. Allowing commercial parking would erode the buffer between the two uses and cause the commercial activity to further encroach into the residential areas. The community also expressed opposition to allowing the commercial parking in the riverine floodplain. It is against the principles of the floodplain to allow additional impervious surfaces to be placed on a large area of the property, especially where the resulting additional runoff will have no place to go but the stream which is directly impacted by the

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floodplain. Copies of photographs showing areas near the floodplain following significant rain were marked and accepted into evidence as Protestants' Exhibits 1A and 1B. Also marked and accepted into evidence as Protestants' Exhibit 3 was a Petition in opposition to the requested relief, which was circulated at the nearby assisted living facility and signed by a number of residents. Finally, a letter from a resident, Ms. Ann Blackwell, in opposition to the requested relief, was marked and accepted into evidence as Protestants' Exhibit 4.

Mr. Rockel then testified as to concerns over the potential detrimental impacts on the health, safety and welfare of the community. He wondered aloud how a finding could be made pertaining to the potential detrimental effects of Petitioner's plan without a finding, first, from the Department of Environmental Protection and Resource Management (DEPRM) as to the environmental and forest buffer impacts of the plan. He also believes reducing the 50 foot RTA buffer to 10 feet will have detrimental impacts.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. The comments received from the Office of Planning dated December 6, 2007 indicates that Office does not support Petitioner's request for special hearing or variance. The Office of Planning indicates that the parking facilities should be limited to the B.R. zoned portion of the site because there would be too much of an impact on the adjacent property owners and residents. In addition, construction of a parking facility in the riverine floodplain would adversely impact an already fragile stream system despite it being currently dry. As to the request for variance from the RTA buffer and setback requirements, the Office of Planning indicates that the RTA buffer is required to keep commercial enterprises from impacting the surrounding residences, and having almost no buffer between the proposed parking lot and the adjacent properties undermines that purpose.

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This case presents a compelling example of attempting to balance the needs and interests of residential communities that are near commercial areas, while also determining the applicability and proper interpretation of the relevant zoning regulations. As indicated earlier in this Order, this becomes even more difficult in areas such as in the instant case, where there are extensive commercial uses along a major road (i.e. – York road) and there are also established residential communities in largely D.R. zoned areas -- right next to the areas zoned for commercial and business use. However, based upon the testimony and evidence offered, I am persuaded to grant the relief requested. The Variance request is appropriate under the unique circumstances that are peculiar to the land that is the subject of this variance request. I find that strict compliance with the zoning regulations would pose a practical difficulty or unreasonable hardship and the request for relief is in strict harmony with the spirit and intent of the zoning regulations. Furthermore, the relief requested is of such a scale that it can avoid injury to the public health, safety and general welfare. The granting of the variance will be conditioned upon approval of a specific landscape plan for the buffer area, which must meet the requirements for a Class A plan. In short, the landscaping, fencing, and lighting requirements, in addition to the specific requirements of Section 409.8.B.2 of the B.C.Z.R., must be met.

As to the special hearing requests, pursuant to Section 409.8.B.1.e(4) of the B.C.Z.R., the Zoning Commissioner may either deny or grant a use permit for business or industrial parking in a residential zone, conditioned upon any additional requirements deemed necessary by him, to ensure that the parking facility will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives of the special exception criteria contained in Section 502.1 of the B.C.Z.R. In addition, as indicated above, business parking facilities are subject to the conditions of Section 409.8.B.2 of the B.C.Z.R.

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Testimony has been offered by Kevin Townsley on behalf of Petitioner that it is his intention to abide by these conditions and make them part of the Development Plan Approval Process and operation of the proposed use. Moreover, Section 409.8.A of the B.C.Z.R. sets out additional requirements, which will be implemented during the Development Plan Approval Process. Hence, the Special Hearing relief for the use permit is appropriate, given the split zoning of the subject property, its limited size, and the fact that virtually any use would require similar relief, given the unique site layout. Finally, the request for Special Hearing relief to permit construction of a parking facility in a riverine floodplain does not pose a major impact to the riverine floodplain, and the impact can be negated through landscaping and other site specific measures.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and after considering the testimony and evidence offered by the parties, I find that Petitioner's special hearing and variance requests should be granted with conditions.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 22nd day of February, 2008 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

- To approve a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 409.8 of the B.C.Z.R.; and
- To approve the construction of a parking facility in a riverine floodplain pursuant to Section 500.6 of the B.C.Z.R., and Sections 3112.00 and 3112.2 of the Baltimore County Building Code, and Sections 32-4-107, 32-4-404, 32-4-414, and 32-8-301 of the Baltimore County Code (B.C.C.),

be and the same are hereby GRANTED; and

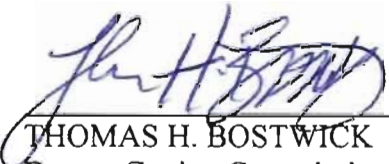
2-22-08
[Signature]

IT IS FURTHER ORDERED that Petitioner's request for Variance relief from Section 1B01.1.B.1.e of the B.C.Z.R. to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot RTA buffer and 75 foot RTA setback be and the same is hereby GRANTED, subject to the following which are conditions precedent to the relief granted herein:

1. Petitioner may apply for their permits and be granted same upon receipt of this Order; however, Petitioner is 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, Petitioner will be required to return, and be responsible for returning, said property to its original condition.
2. The maximum height of any lighting fixtures in an RTA buffer area shall be 16 feet, except for public utility uses which must be of reasonable height. The fixtures shall be designed and placed so as to prevent the spillage of light into any adjoining dwelling or lot. The intensity of the fixture shall not exceed 0.2 candle at the tract boundary.
3. The structures shall be constructed as shown on the site plan.
4. No outside loudspeakers shall be permitted on the subject site.
5. No loading of vehicles shall take place on the premises.
6. No body work, painting or the like on the site is permitted.
7. The hours of operation shall be limited to 9:00 AM to 9:00 PM Monday to Friday and 9:00 AM to 5:00 PM Saturday.
8. No streamers or balloons shall be used to promote the sale of vehicles.
9. This approval is subject to the approval by the County's Landscape Architect of a specific landscape plan for the buffer area which must meet the requirements of a Class A plan.
10. This approval is subject to the design, screening and landscaping requirements as set forth in the Landscape Manual adopted pursuant to BCC § 32-4-404 and lighting requirements.
11. Storage of "inventory" will be confined to the B.R. zoned portion of the property.

APPROVED FOR FILE
2.22.08
m

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



THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

SPIDER RECEIVED FOR FILING
2-22-08
pm

RECEIVED
FEB 11 2008

IN RE: PETITIONS FOR SPECIAL
HEARING AND VARIANCE

10525 York Road

N/east corner of Bosley Avenue and
York Road

8th Election District
3rd Councilmanic District

Harry Kolodner,
Legal Owner

* BEFORE THE
* ZONING
* COMMISSIONER
* FOR
* BALTIMORE COUNTY
*
* Case No.: 08-208-SPHA

BY: _____

* * * * *

MEMORANDUM OF LAW

Introduction

This matter comes before the Deputy Zoning Commissioner for consideration of the Petitions for Special Hearing and Variance filed by the legal owner of the subject property, Harry W. Kolodner. The Petitioner is requesting Variance relief from Baltimore County Zoning Regulations ("BCZR") § 1B01.1.B.1.e, to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot Residential Transition Area ("RTA") buffer and 75 foot RTA setback and for such other and further relief as may be determined necessary by the Zoning Commissioner. In addition, Special Hearing relief is requested for a use permit for business parking in a residential zone, pursuant to BCZR § 409.8; and to permit construction of a parking facility in a riverine floodplain, pursuant to BCZR § 500.6 and Baltimore County Building Code ("Building Code") §§

3112.00 and 3112.2; and Baltimore County Code ("BCC") §§ 32-4-107, 32-4-404, 32-4-414 and 32-8-301. The subject property and requested relief are more particularly described on the site plan, which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the Variance and Special Hearing requests were Kevin Townsley, on behalf of the contract purchaser, Bill Kidd's Volvo, his attorney, the undersigned, and Patrick C. Richardson, Jr., Richardson Engineering, LLC, the engineering consultant who prepared the site plan. Numerous residents of the surrounding community appeared as interested persons.

The Property

The subject property is located in the Cockeysville neighborhood of northern Baltimore County and is located just north of the intersection of York Road and Warren Road. It has approximately 157 feet of frontage on York Road and 352 feet of frontage on Bosley Avenue. The property is bordered to the south by a tributary to the Beaver Dam. The testimony and evidence offered reveals that the subject property contains 2.595 acres, more or less, zoned B.R., D.R. 3.5 and R.O. The property is improved with several structures, which at one time supported a retail (furniture) store and an auto repair use. Some of the structures are in a state of disrepair.

The contract purchaser proposes utilizing the property for a new automobile sales facility and adjoining outdoor sales area. The new car sales

facility is proposed to be located in the largest of the existing structures on the site. This structure will be substantially rehabilitated, and a portion thereof will be razed so as to reduce the structure by nearly 50%. Other smaller buildings on the site will be removed so that as a result, the site will be aesthetically improved and there will be less building on the site. The site plan indicates a 10-foot landscape area being proposed, along with a 6 foot privacy fence, to diminish the impact on the surrounding neighborhood. The Petitioner has met with Avery Harden, the County landscape architect for the Department of Permits and Development Management ("PDM") and David L. Thomas, the Department of Public Works ("DPW") regarding the relief requested in the Petitions for Special Hearing and Variance and any substantive issues regarding same.

The proposed car dealership is permitted as a matter of right in the B.R. zone. The Petitioner does not require any approval to conduct this business at this location. The B.R. zone permits uses permitted and as limited in the B.M. zone, BCZR § 236.1, as well as other uses. The B.M. zone permits automobile sales as a matter of right, BCZR § 233.2. Therefore, the B.R. zone allows automobile sales. It is also important to bear in mind that no zoning relief is being sought for an existing or proposed "structure," or the use of the B.R. portion of the property. The requests for Variance and Special Hearing relief are for the proposed parking facility, which lies on the D.R. portion of the property.

No outside speaker system is proposed for the site. There will not be any body work, painting or the like on the site, nor will dismantled or junk cars unfit

for operation on the highways be stored anywhere on-site. The hours of operation will be from 9 a.m. until 9 p.m. Monday through Friday, and 9 a.m. until 5 p.m. Saturday. There will be no gate proposed for the subject site. A vehicle will be parked to block the access, but the entrance will remain open during off-hours. The site is to be used for the sale of Volvos exclusively. It is a policy of Volvo that no streamers or balloons be used to promote sales or holiday events.

RTA Variance

The RTA Variance is distinguishable from Variance relief from height, area, off-street parking or sign regulations. The RTA is defined as a 100 foot area, including any public road or public right-of-way, extending from a D.R. zone at tract boundary into the site to be developed. BCZR § 1B01.1.B.1.a (1). The purpose for the RTA is to assure that similar housing types are built adjacent to one another, or that adequate buffers and screening are provided between dissimilar "housing types." BCZR § 1B01.1.B.1.a (2). Arguably, the RTA is intended to protect the owner of a dwelling from a dissimilar housing type being placed adjacent to his property and is not applicable to this commercial proposal.

Pursuant to BCZR § 1B01.1.B.1.b, the RTA is generated if the property to be developed is zoned D.R. and lies adjacent to land zoned D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5 or R.C., which:

- 1) Contains a dwelling within 150 feet of the tract boundary; or

2) Is vacant, less than 2 acres in size and contains the buildable area at least 20 feet by 30 feet of which a dwelling meeting all the required setbacks can be erected.

As previously stated, the parking facility, not the retail structure, is what generates the RTA buffer and setback. Any parking area permitted under BCZR § 409.8.B, as is the case in the instant matter, is considered a residential transition use, which is subject to the approval of a specific landscape plan for the buffer area which must meet the requirements for a Class A plan. (See BCZR § 1B01.1.B.1.d(3)) Parking spaces, as an accessory use, are considered a residential transition use under BCZR § 1B01.1.A.18.d. (See BCZR § 1B01.1.B.1.d(1)). Parking lots must be set back from the tract boundaries 75 feet and provide a 50 foot RTA buffer, pursuant to BCZR § 1B01.1.B.1.e(2) & (5).

The requested Variance should be granted because special circumstances and conditions exist that are particular to the land and structure. The property is unique in its shape, constraints from environmental features, orientation to York Road and historic use. Strict compliance with the Zoning Regulations would result in practical difficulty or unreasonable hardship, as the property would be so constrained that no reasonable use is viable. The existing use with improvements would likely be subject to a similar request for relief, if not greater. The vast majority of uses permitted by right in the B.R. zone would require more parking than is proposed by the instant use, which would similarly interfere with the 50-foot buffer and 75-foot setback requirements of the RTA.

The requested Variance should be granted, as it is in strict harmony with the spirit and intent of the height, area, off-street parking or sign regulations.

As previously indicated, the new automobile sales facility proposed in the B.R. portion of the property and the parking lot in the D.R. 3.5 portion of the property are uses permitted by right. The off-street parking facilities, which are the subject of the Variance request, are subject to the design, screening and landscaping requirements as set forth in the Landscape Manual adopted pursuant to BCC § 32-4-404 and lighting requirements pursuant to BCZR § 409.8.A. Furthermore, BCZR § 1B01.B.1.e (4) reads as follows:

The maximum height of any lighting fixtures in an RTA buffer area shall be 16 feet, except for public utility uses which must be of reasonable height. The fixtures shall be designed and placed so as to prevent the spillage of light into any adjoining dwelling or lot. The intensity of the fixture shall not exceed 0.2 candle at the tract boundary¹.

The spirit and intent of the RTA regulations that require the aforementioned setback and buffer from which a Variance is being sought, is to provide adequate screening, which the proposed plan provides. Furthermore, Avery Harden, Baltimore County's landscape architect for PDM, will have the opportunity to review the proposed lighting, screening and landscaping for the subject site during the Development Plan Review Process. Similarly, the Department of Environmental Protection and Resource Management ("DEPRM")

¹ As a reference, Baltimore City requires street lights to have a minimum intensity of 1.0 candle, but they prefer them to range between 2.0 and 4.0 candle. Stated another way, the lighting would be equivalent to 5% to 20% of the average city streetlight.

will evaluate the Development Plan to ensure no harm will be done to the environment. Efforts to obtain a Forest Buffer Variance have commenced.

The contract purchaser intends to consult with Ann H. Heaton, President of the Sherwood Hill Improvement Association, regarding concerns unique to the proposed use, as well as lighting, screening and landscaping during the Development Plan Review Process. As previously stated, Bill Kidd's Volvo does not intend to have any outside loudspeakers. It does not plan to incorporate excessive on-site advertising for holiday sales. No loading of vehicles will take place on-site either. In fact, the only outside activity will be from salespersons showing vehicles. The only maintenance of vehicles will be a car rinse for the estimated 45 cars sold each month, which amounts to little more than one car a day being cleaned. This activity will take place inside the refurbished structure, which is to be significantly reduced in size. The Petitioner testified that he had met with Avery Harden and Dave Thomas prior to this hearing. The contract purchaser further testified that he would not have proceeded with this plan without preliminary indications from Mr. Harden and Mr. Thomas that screening and landscaping could be provided on this site in such a way that public health, safety and general welfare would not suffer any injury.

Special Hearing Relief

Special Hearing relief is being requested by the Petitioner in order to obtain a use permit for business parking in a residential zone and to permit construction of a parking facility in a riverine floodplain. It is to be emphasized

that the existing use, under the current regulations, and virtually all uses permitted under the current zoning of the property would require similar relief. The Petitioner is seeking to have the Zoning Commissioner, pursuant to BCZR §§ 506 and 507, as well as 409.8.B, issue a use permit for the use of land within a residential zone for parking facilities to meet the requirements of BCZR § 409.6.

The Zoning Regulations provide two means by which a use permit may be obtained. First, as articulated in the Zoning Regulations, BCZR § 409.8.B.1(a),(b) and (c) sets out a procedure whereby an application can be filled out for a use permit, which does not necessitate a public hearing. BCZR § 409.8.B.1 (d) requires a public hearing on the use permit if a "formal request" for a public hearing is "filed." While BCZR § 409.8.B.1 does not explicitly state that a use permit can be obtained by filing a Petition for Special Hearing, Section 500.7 of the BCZR permits a Petitioner to voluntarily request a public hearing so that the Zoning Commissioner can interpret and apply this Section. The Petition for Special Hearing is filed in accordance with this Section

As indicated on the site plan, the proposed parking facility extends from the B.R. zone into the D.R. 3.5 zone. The proposed use, a new automobile sales facility, and all uses in Baltimore County are required to provide sufficient on-site parking for same. The use permit being sought, for the use of land in a residential zone (D.R. 3.5) for parking facilities to meet the requirements of BCZR § 409.6, is the subject of this first Special Hearing request. The required number of "auxiliary" parking spaces are proposed to be located in the rear of the

property.² The parking or storage of "inventory"³ is proposed only in the B.R. zone.

BCZR § 409.6.A sets out the general requirements for the minimum required number of on-site parking spaces to support proposed uses. Furthermore, it clearly indicates that "[w]here the required number of off-street parking spaces is not set forth for a particular type of use, the Director of [PDM] shall determine the basis of the number of spaces to be provided." A new car sales facility has traditionally been regarded as being included in the "retail-general" use, as set forth in BCZR § 409.6.A.2. Therefore, a new car sales facility is commonly parked at 5 spaces per 1000 square feet of gross floor area, the required number of spaces to be provided for a "retail-general" use.

It is the Petitioner's contention that the proposed use requires more than the minimum number of spaces required by a "retail-general" use because it contains elements of an "automotive service station" use. BCZR § 409.6.A.2 has regulations applicable to an "automobile service station" use. The minimum number of required off-street parking spaces for the "automotive service station" use is regulated by Section 405 of the BCZR, pursuant to BCZR § 409.6.A.2.

BCZR § 405.4.A.3.d sets out the required number of parking spaces on the site of any fuel service station. This section requires parking for a retail component as well as parking required for features unique to a fuel service

² "Auxiliary" spaces are defined as those spaces required pursuant to BCZR § 409.6.

³ "Inventory" is defined as motor vehicles for sale.

station. BCZR § 405.4.A.3.d(2) distinguishes between convenience stores up to 1500 square feet (parked at 3 per 1000 square feet of gross floor area) and convenience stores larger than 1500 square feet (5 per 1000 square feet of gross floor area).⁴ This is the same number of parking spaces required for a "retail-general" use pursuant to BCZR § 409.6.A.2. The requirements for a fuel service station include, in addition to the number of spaces required for the retail component, 1 space per employee (*See* BCZR § 405.4.A.3.d(1)), 3 spaces per service bay (*See* BCZR § 405.4.A.3.d(3)), 1 space per self-service air or vacuum cleaner unit (*See* BCZR § 405.4.A.3.d(4)), and 1 space per automatic teller machine (405.4.A.3.d(5)). Under the authority of BCZR §§ 500.6 and 500.7, the Zoning Commissioner shall make the determination of the required number of off-street parking spaces if it "is not set forth for a particular type of use." (*See* BCZR § 409.6.A.)

The parking requirements for a fuel service station provide that a convenience store larger than 1500 square feet is required to provide 5 spaces per 1000 square feet of gross floor area. BCZR § 405.4.A.3.d(2). Given that the proposed structure in this case is approximately 8500 square feet, the Petitioner is required to provide 5 spaces per 1000 square feet of gross floor area, or 43 spaces.

Additionally, a fuel service station must provide one (1) space per employee on the busiest shift. (*See* BCZR § 405.4.A.3.d(1)) Due to the sheer

⁴ The new automobile sales facility, while not a convenience store, is above 1,500 sq ft in gross floor area and does contain similarities to a convenience store, which requires additional parking spaces. BCZR § 405.4.A.3.d

volume of workers at a new automobile sales facility, similar parking requirements are appropriate. Mr. Townsley testified that approximately nine (9) employees will be on site during the busiest shift. Therefore, the car dealership should be required to have an additional nine (9) parking spaces under BCZR § 409.6.

The BCZR also requires that a fuel service station provide three (3) spaces per service bay, not counting service spaces in the bays. (See BCZR § 405.4.A.3.d(3)) Bill Kidd's anticipates having 3 vehicle display spaces inside the proposed revised structure that will be viewable from the outside by window. The fuel service station "service bay" is comparable to a "showroom" for new car sales. As such, it would be appropriate to require three (3) to nine (9) spaces for this accessory use.

BCZR §§ 405.4.A.3.d(4) and (5) require one space per self-service air or vacuum cleaner unit and one (1) space per automatic teller machine, respectively. The proposed site plan does have an area to rinse vehicles and it would be appropriate to be required to provide one (1) or more spaces for such a use.

In conclusion, clearly the Zoning Regulations, § 409.6, in particular, contemplates a new car sales facility being required to provide parking spaces in addition to those required under the "retail-general" use requirement. The unique conditions of a new automobile sales facility do not have parking requirements specifically enumerated for same. As such, the Zoning Commissioner, exercising this power under the authority of BCZR §§ 500.6 and

500.7, should require additional "auxiliary" parking for such a use. Based upon the prior analysis, we contend that we are required to provide up to 62 "auxiliary" parking spaces in the instant matter.

The Zoning Commissioner may deny or grant a use permit, conditioned upon any additional requirements deemed necessary by him, to ensure that the parking facility will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives of BCZR § 502.1, pursuant to BCZR § 409.8.B.1.e(4). Additionally, such parking facilities are subject to the conditions of BCZR § 409.8.B.2. Testimony has been offered by Mr. Kevin Townsley that it is his intention to abide by these conditions and make them part of the Development Plan Approval Process and operation of the proposed use. BCZR § 409.8.A sets out additional requirements, which will be implemented during the Development Plan Approval Process. The use permit being sought is for the parking required pursuant to BCZR § 409.6.

The southern portion of the property, located furthest from Bosley Avenue, proposes a portion of the parking facility to be located in a riverine floodplain. That portion of the parking facility that lies in the riverine floodplain, as indicated on the site plan, is not considered substantial. Prior to the Zoning Hearing, Mr. Richardson and I met with Dave Thomas to review the proposed site plan's impact on the riverine floodplain. Mr. Thomas, reviewing the proposed plan, indicated that he did not object to the waiver requests and

Petition for Special Hearing, provided the riverine floodplain indicated on the site plan was accurate. In a letter dated January 23, 2008, Ed Adams, Director of the Department of Public Works, upon the information and recommendation of Mr. Thomas, issued a favorable recommendation for the proposed plan to Timothy Kotroco, Director of Permits and Development Management ("PDM"), a copy of which is attached hereto as Exhibit No. 1. Thus, Special Hearing relief to permit construction of a parking facility in a riverine floodplain is appropriate. The Petitioner will continue to work with DEPRM in an effort to address the environmental impact the proposed use or any alternative use on this constrained site in an attempt to mitigate same.

Conclusion

Based upon the testimony and evidence offered, the Variance request is appropriate under the unique circumstances that are peculiar to the land that is the subject of this request for relief. Strict compliance with these regulations would pose a practical difficulty or unreasonable hardship and the request for relief is in strict harmony with the spirit and intent of the zoning regulations. Furthermore, the relief requested is of such a scale that it can avoid injury to the public health, safety and general welfare. The use permit is conditioned upon approval of a specific landscape plan for the buffer area, which must meet the requirements for a Class A plan. The Special Hearing relief for the use permit is appropriate, given the split zoning of the subject property, its limited size, and the fact that virtually any use would require similar relief given the unique site

layout. Finally, the request for Special Hearing relief to permit construction of a parking facility in a riverine floodplain does not pose a major impact to the riverine floodplain, and the impact can be counteracted through landscaping and other site-specific measures.

The Zoning Commissioner may grant the requested zoning relief, pursuant to BCZR §§ 307, 500.6 and 500.7, conditioned upon any additional requirements deemed necessary to protect the surrounding neighborhood. Petitioner avers that the relief requested should be granted and agrees to the following items as conditions of approval for the aforementioned zoning relief:

1. The maximum height of any lighting fixtures in an RTA buffer area shall be 16 feet, except for public utility uses which must be of reasonable height. The fixtures shall be designed and placed so as to prevent the spillage of light into any adjoining dwelling or lot. The intensity of the fixture shall not exceed 0.2 candle at the tract boundary.
2. The structures shall be constructed as shown on the site plan.
3. No outside loudspeakers shall be permitted on the subject site.
4. No loading of vehicles shall take place on the premises.
5. No body work, painting or the like on the site is permitted.
6. The hours of operation shall be limited to 9 a.m. to 9 p.m. Monday to Friday and 9 a.m. to 5 p.m. Saturday.
7. No streamers or balloons shall be used to promote the sale of vehicles.
8. This approval is subject to the approval of a specific landscape plan for the buffer area which must meet the requirements of a Class A plan.
9. This approval is subject to the design, screening and landscaping requirements as set forth in the Landscape Manual adopted pursuant to BCC § 32-4-404 and lighting requirements.

10. Storage of "inventory" will be confined to the B.R. zoned portion of the property.



Jason T. Vettori
Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February 2008, a copy of the foregoing Hearing Memorandum was sent via first class mail, postage prepaid, to:

Ann Heaton
President
Sherwood Hill Improvement Association, Inc.
P.O. Box 52
Cockeysville MD 21030

Peter Max Zimmerman, Esquire
Carole DeMillio, Esquire
People's Counsel
400 Washington Avenue
Room 47
Towson MD 21204



JASON T. VITTORI



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10525 York Road

which is presently zoned 20 BR and DR 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Please see the attached.

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Lawrence E. Schmidt

Name - Type or Print

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Harry W. Kolodner

Name - Type or Print

Signature

Name - Type or Print

Signature

10525 York Road

Address

Cockeysville

MD

21030

State

Zip Code

Representative to be Contacted:

Lawrence E. Schmidt, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 08-208-SPHA

Reviewed By A. Tsui

Date 11/01/07

REV 9/15/98

COPIES RESERVED FOR FILE

2.22.08

per

ATTACHMENT TO PETITION FOR SPECIAL HEARING

10525 York Road

1. A use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 of the Baltimore County Zoning Regulations (BCZR), pursuant to Section 409.8 of the BCZR; and
2. To permit construction of a parking facility in a riverine floodplain, pursuant to Section 500.6 of the BCZR and Sections 3112.00 and 3112.2 of the Baltimore County Building Code; and Sections 32-4-107, 32-4-404, 32-4-414 and 32-8-301 of the Baltimore County Code (BCC); and
3. For such other relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

08-208-SPHA



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at: 10525 York Road

which is presently zoned: DR.3.5, BR and RO

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):

1. 1B01.1.B.1.e (BCZR) to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot RTA buffer and 75 foot RTA setback; and
2. For such other and further relief as may be determined necessary by the Zoning Commissioner.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(indicate hardship or practical difficulty)

TO BE PRESENTED AT HEARING

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Lawrence E. Schmidt

Name - Type or Print

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Harry W. Kolodner

Name - Type or Print

Signature

Name - Type or Print

Signature

10525 York Road

Address

Telephone No.

Cockeysville

MD

21030

State

Zip Code

Representative to be Contacted:

Lawrence E. Schmidt, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

Case No.

08-208-SPHA

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

A-TSW

Date

11/01/07

REV 9/15/98

SPHA RESERVED FOR FILED

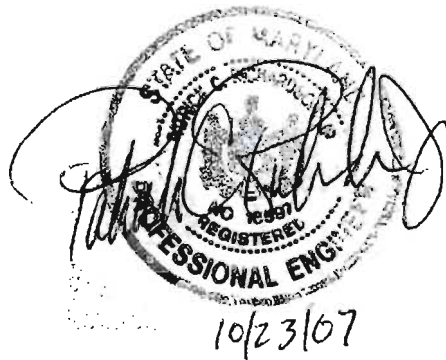
2.22.08

B

**ZONING DESCRIPTION
10525 YORK ROAD
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

Beginning at a point on the east side of York Road, 66 feet wide; at a distance of 22 feet more or less, from the centerline intersection of York Road and Bosley Avenue, 30 feet wide; and running thence from said place of beginning, binding on the south side of Bosley Avenue, (1) North 70 degrees 41 minutes 40 seconds East 352.00 feet, thence leaving Bosley Avenue (2) South 19 degrees 18 minutes 20 seconds East 150.00 feet, (3) North 70 degrees 41 minutes 40 seconds East 152.01 feet, (4) South 19 degrees 20 minutes 39 seconds East 156.70 feet, (5) South 78 degrees 02 minutes 21 seconds West 76.38 feet, (6) South 04 degrees 39 minutes 33 seconds West 74.97 feet, (7) South 85 degrees 00 minutes 21 seconds West 15.49 feet, (8) North 28 degrees 48 minutes 39 seconds West 73.06 feet, (9) South 78 degrees 00 minutes 21 seconds West 78.25 feet, (10) North 80 degrees 57 minutes 39 seconds West 183.60 feet, (11) South 87 degrees 15 minutes 21 seconds West 80.30 feet, (12) South 83 degrees 32 minutes 21 seconds West 56.40 feet to a point on the east side of York Road, thence binding on said east side (13) North 19 degrees 10 minutes 54 seconds West 157.00 feet to the point of beginning.

Containing a net area of 98,061 square feet, or 2.251 acres of land, more or less.



08-208-SPHA

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: #08-208-SPHA

10525 York Road

S/east corner of Bosley Avenue and York Road

8th Election District - 3rd Councilmanic District

Legal Owner(s): Harry Kolodner

Variance: to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot RTA buffer and 75 foot RTA setback and for such other and further relief as may be determined necessary by the Zoning Commissioner. **Special Hearing:** to allow a use permit for the use of land in a residential zone for parking facilities. To permit construction of a parking facility in a riverine floodplain, and for such other relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Wednesday, January 9, 2008 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

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

JT 1/6/16 Jan. 1

159287

CERTIFICATE OF PUBLICATION

1/3/2008

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/1/2008.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkins

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **06886**

Date: **11/01/07**

PAID RECEIPT

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				650-

Total: **\$650-**

Rec From: **Gildea + Schmidt, LLC**
 For: **10525 YORK RD**
08-208-SPHA

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

BUSINESS ACTUAL TIME IDB
 11/05/2007 11/01/2007 15:13:29 2
 502 MARKIN JEN JEE
 RECEIPT # 045676 00/31/2007 0718
 Dept 5 528 JIMMY VERIFICATION
 006886
 Receipt tot 650.00
 650.00 CH 9.00 CA
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No.: 08-208-SPHA

Petitioner/Developer: HARRY

KOLODNER

Date of Hearing/Closing: 1-9-08

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

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

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:

10525 YORK RD

The sign(s) were posted on 12-25-07
(Month, Day, Year)

Sincerely,

Robert Black 1-2-09
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

For Newspaper Advertising:

Item Number or Case Number: 08-208-SPHA
Petitioner: HARRY W. KOLODNER
Address or Location: 10525 YORK ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: JASON T. VETTORI
Address: GILDEA & SCHMIDT, LLC
600 WASHINGTON AVE., STE. 200
TOWSON, MD 21204
Telephone Number: (410) 821-0070

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 20, 2007 Issue - Jeffersonian

Please forward billing to:

Jason Vettorri
Gildea & Schmidt, LLP
600 Washington Avenue, Ste. 200
Towson, MD 21204

410-821-0070

NOTICE OF ZONING HEARING

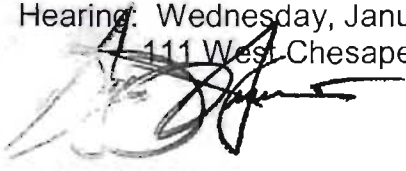
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 08-208-SPHA

10525 York Road
S/east corner of Bosley Avenue and York Road
8th Election District – 3rd Councilmanic District
Legal Owners: Harry Kolodner

Variance to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot RTA buffer and 75 foot RTA setback and for such other and further relief as may be determined necessary by the Zoning Commissioner. Special Hearing to allow a use permit for the use of land in a residential zone for parking facilities. To permit construction of a parking facility in a riverine floodplain, and for such other relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Wednesday, January 9, 2008 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake 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.

March 24, 2008

My name is Rebecca Jerber and I am
appealing Deputy Zoning Commissioner Thomas
Bestwick's decision regarding Case No. 08-208-SPHA.
I am a resident in the neighborhood of the
proposed development.

Sincerely,

Rebecca Jerber

11 Hillside Ave

Cockeysville, Md 21030

Eve 410 683 4893

Day 410 229 1965

Rec'd
3/24/08
JEM

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **12018**

PAID RECEIPT

Date: **3.24.08**

BUSINESS ACTUAL TIME DRW
 3/26/2008 3/25/2008 10:15:31 2

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				400.00

Total: **400.00**

Rec From: **Rebecca Gerber**

For: **Appeal case # 08-208-SP41A**

REC 502 WALKIN JEVA JEE
 >>RECEIPT # 570117 3/25/2008 OFLN
 Dept 5 528 ZONING VERIFICATION
 CR NO. 012018
 Recpt Tot \$400.00
 \$400.00 CR \$.00 CA
 Baltimore County, Maryland

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

Requested: April 30, 2008

APPEAL SIGN POSTING REQUEST

CASE NO.: 08-208-SPHA

10525 YORK ROAD

8TH ELECTION DISTRICT

**APPEALED: 3/24/08 AND
4/11/08**

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 08-208-SPHA

LEGAL OWNER: HARRY KOLODNER

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

10525 YORK ROAD

SE/cor of Bosley Avenue and York Road

The sign was posted on 5-9-08, 2008.

By: [Signature]
(Signature of Sign Poster)

JASON SEIDMAN
(Print Name)

ZONING APPEAL

PUBLIC HEARING

CASE NUMBER:

08-208-SP14

FOR INFORMATION CALL

410-887-3180

DO NOT REMOVE
UNDER PENALTY OF LAW

BALTIMORE COUNTY BOARD OF APPEALS

05/09/2008 02:43 pm

IN THE MATTER OF
THE APPLICATION OF
HARRY KOLODNER -LEGAL OWNER;
BILL KIDD'S TOYOTA - C. P. /PETITIONERS
FOR SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE
SE CORNER OF BOLSEY AVENUE AND
YORK ROAD
(10525 YORK ROAD)
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
Case No. 08-208-SPHA

ORDER OF DISMISSAL OF PETITIONS

This case comes to the Board on appeal filed by People's Counsel for Baltimore County, as well as Sherwood Hill Improvement Association, Inc., et al, from the February 22, 2008 Order of the Deputy Zoning Commissioner, in which the subject Petitions for Variance and Special Hearing were granted with restrictions, and the April 22, 2008 Order of the Deputy Commissioner denying multiple Motions for Reconsideration.

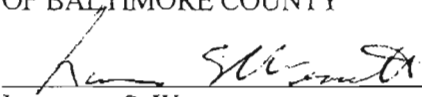
WHEREAS, the Board is in receipt of a letter of withdrawal of Petitions filed on 2/9/09 via hand delivery by Jason T. Vettori, Esquire, Counsel for Petitioners, (a copy of which is attached hereto and made a part hereof); and

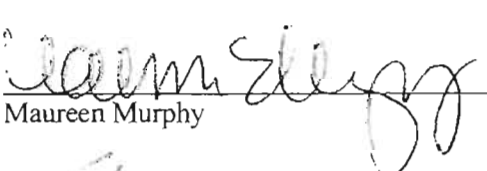
WHEREAS, said Counsel for Petitioner requests that the Petition for Special Hearing and Petition for Variance filed in the above-referenced matter be withdrawn as of that date,

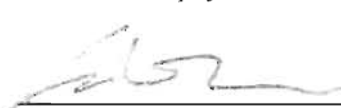
IT IS THEREFORE this 13th day of February, 2009, by the County Board of Appeals of Baltimore County

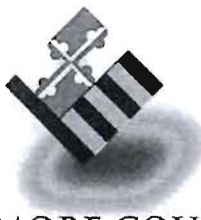
ORDERED that said Petitions filed in Case No. 08-208-SPHA are **WITHDRAWN AND DISMISSED**, rendering moot the appeal filed in this matter; and that the Deputy Zoning Commissioner's Order of February 22, 2008, including any relief granted and restrictions imposed therein, is rendered null and void.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Lawrence S. Wescott


Maureen Murphy


Andrew M. Belt



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

January 2, 2008

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

Dear Mr. Schmidt:

RE: Case Number: 08-208-SPHA, 10525 York Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 1, 2007. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Harry W. Kolodner 10525 York Road Cockeysville 21030

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 6, 2007

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

SUBJECT: 10525 York Road

INFORMATION:

Item Number: 8-208

Petitioner: Harry W. Kolaodner

Zoning: DR 3.5, BR and RO

Requested Action: Variance

RECEIVED
DEC 10 2007
BY:.....

The petitioner requests a variance from Section 1B01.1.B.1.e of the BCZR to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot RTA buffer and 75 foot RTA setback. A special hearing for a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 of the BCZR, pursuant to Section 409.8 of the BCZR, to permit construction of a parking facility in the riverine floodplain, pursuant to Section 500.6 of the BCZR and Sections 3112.00 and 3112.2 of the Baltimore County Building Code; and Sections 32-4-107, 32-4-404, 32-4-414, and 32-8-301 of the BCC.

SUMMARY OF RECOMMENDATIONS:

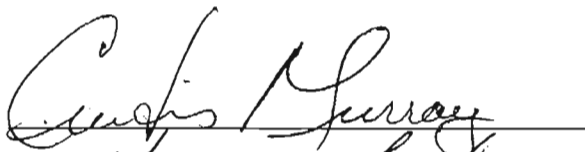
The Office of Planning does not support the special hearing for a use permit for the use of land in a residential zone for parking facilities, the parking facilities should be limited to the BR zoned portion of the site because there would be too much of an impact on the adjacent property owners and residents.

Furthermore, the Office also does not support the special hearing to permit construction of a parking facility in the riverine floodplain; this would adversely impact an already fragile stream system despite it being currently dry. The Office has already received a letter and some phone calls about this issue and the residents do not want this parking facility that close to their homes.

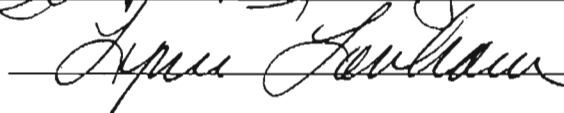
The Office of Planning also does not support the variance to allow a parking lot with a 10-foot buffer and setback in lieu of the required 50 foot RTA buffer and 75-foot RTA setback. The RTA buffer is required to keep commercial enterprises from impacting the surrounding residences and having almost no buffer between the parking lot and the adjacent properties undermines that purpose.

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

Reviewed by:

A handwritten signature in black ink, appearing to read "Curtis Murray", written over a horizontal line.

Division Chief:
AFK/LL: CM

A handwritten signature in black ink, appearing to read "James Sullivan", written over a horizontal line.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: November 9, 2007

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 20, 2007
Item Nos. 08-195, 206, 207, 208, 209,
210, 211, 212, 213, 214, 215, and 216

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-11092007.doc



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

State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 11/20/2007

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

RE: Baltimore County
Item No. 8-208-SPHA
10525 YORK ROAD
KOLODNER PROPERTY
VARIANCE
SPECIAL HEARING

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. 8-208-SPHA.

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,

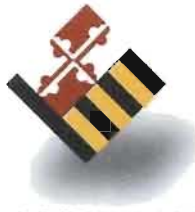
For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

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

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

November 16, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: November 20, 2007

Item Number: Item Numbers 196, ²⁰⁸ 206 through 216

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
410-887-4880 (C) 443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTER OFFICE CORRESPONDENCE

TO: Timothy Kotroco, Director,
Permits & Development Management

ATTN: Kristen Matthews
MS 1105

FROM: Edward Adams, Director,
Public Works



DATE: January 25, 2008

SUBJECT: Case No. 08-208-SPHA
10525 York Road

Section 32-8-303 (c) of the Baltimore County Code concerning waivers to the floodplain regulations says, "In considering a waiver action, comments from the state coordinating office and the County Department of Public Works shall be taken into account and maintained with the permit file." This memo is the comment from the Department of Public Works for the subject waiver.

Zoning Case No. 8-208-SPHA involves a waiver to floodplain regulations (specifically Section 32-4-414 BCC concerning development in the riverine floodplain) for small portions of parking area; other zoning issues are involved. As discussed in testimony by Dave Thomas of my office at the hearing of January 9, 2008, the Warren Road Extension flood study prepared for the State Highway Administration and dated September 1988 says it uses the BCD (Baltimore County vertical datum). Richardson Engineering, however, assumed it uses NAVD88 (County GIS datum) since contours agreed so closely with County GIS topography. Richardson and Thomas agreed that an exhibit be prepared overlaying the floodplain delineation plan from the SHA floodplain study on the site plan for the subject project. This exhibit was received by this office January 22, 2008 and verified to the satisfaction of this office that the floodplain limits shown on the "Plan to Accompany Zoning Petition" dated 10/20/07 by Richardson Engineering is correct.

The exhibit demonstrates minimal flood encroachment onto the parking area with no offsite impact to the floodplain. **This department therefore recommends approval of the waiver with respect to floodplain issues** as requested.

ECA/DLT/s

CC: David Guignet, State Coordinating Office, Maryland Department of Natural Resources; Thomas Bostwick, Deputy Zoning Commissioner; Glen Shaffer, EIRD, DEPRM; Dennis Kennedy, Chief, Development Plan Review Bureau; Patrick Richardson, Jr., Richardson Engineering, LLC



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

Lawrence Schmidt
Jason Vettori
Gildea & Schmidt
60 Washington Avenue, Ste. 200
Towson, MD 21204

Dear Messrs. Schmidt & Vettori:

RE: Case: 08-208-SPHA, 10525 York Road

Please be advised that an appeal of the above-referenced case was filed in this office on March 24, 2008 by Rebecca Gerber, and also on April 11, 2008 by the Office of People's Counsel. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
See Attached List





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

April 11, 2008

CAROLE S. DEMILIO
Deputy People's Counsel

Hand-delivered

Timothy Kotroco, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED

APR 11 2008

Per.

Re: PETITION FOR SPECIAL HEARING & VARIANCE
SE corner of Bosley Avenue and York Road
(10525 York Road)
8th Election District; 3rd Council District
Harry Kolodner - Petitioners
Case No.: 08-208-SPHA

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Order on Requests/Motions for Reconsideration dated April 2, 2008 and the incorporated Findings of Fact and Conclusions of Law dated February 22, 2008, filed by the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: Jason T. Vettori, Esquire
Eric Rockel, President of GTCC
Ann Heaton, President, Sherwood Hill Improvement
Brian & Karen Smith
Rebecca Gerber

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE *
10525 York Road; SE corner of Bosley * ZONING COMMISSIONER
Avenue & York Road *
8th Election & 3rd Councilmanic Districts * FOR
Legal Owner(s): Harry Kolodner *
Petitioner(s) * BALTIMORE COUNTY
* 08-208-SPHA

* * * * *

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/ documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 2007, a copy of the foregoing Entry of Appearance was mailed Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED

NOV 21 2007

Per.....

APPEAL

Petition for Special Hearing & Variance
10525 York Road
S/east corner of Bosley Avenue and York Road
8th Election District – 3rd Councilmanic District
Legal Owners: Harry Kolodner

Case No.: 08-208-SPHA

Petition for Special Hearing & Variance (November 1, 2007)

Zoning Description of Property

Notice of Zoning Hearing (November 21, 2007)

Certification of Publication (The Jeffersonian – January 1, 2008)

Certificate of Posting (December 25, 2007) by Robert Black

Entry of Appearance by People's Counsel (November 21, 2008)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Plan to accompany petition
2. Photos (A & B)
3. Letter dated January 2, 2008 to Public Works
4. Chart of Datums

Protestants' Exhibits:

1. Photos (A & B)
2. Letter of Opposition from Karen Smith
3. List of those Opposing Request
4. Letter of Opposition

Miscellaneous (Not Marked as Exhibit)

1. Letter dated January 10, 2008 from Sherwood Improvement Association
2. Memorandum of Law (February 11, 2008)
3. Letter dated March 1, 2008 from GTCC
4. Letter for Motion for Reconsideration (March 5, 2008)
5. Letter dated March 5, 2008 from Sherwood Improvement Association
6. Letter dated March 10, 2008 from Gildea & Schmidt
7. Letter dated March 10, 2008 from Gildea & Schmidt
8. Additional letter dated March 10, 2008 from Gildea & Schmidt
9. Request for Motion of Reconsideration from People's Counsel
10. Additional letter from People's Counsel dated March 18, 2008
11. Letter dated April 14, 2008 from Sherwood Hill Improvement Association
12. Email from Rebecca Gerber

Deputy Zoning Commissioner's Order (GRANTED w/rest. – February 22, 2008)

Order of Motions for Reconsideration (DENIED – April 2, 2008)

Notice of Appeal received on March 24, 2008 from Rebecca Gerber

Notice of Appeal received on April 11, 2008 from People's Counsel

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See Attached

date sent April 16, 2008, klm

CASE #: 08-208-SPHA

IN THE MATTER OF: HARRY KOLODNER – Legal Owner /
Petitioner 10525 York Road
8th Election District; 3rd Councilmanic District

SPH – To approve use permit to use of land in residential zone for parking facilities and construction of parking facility in a riverine floodplain;
VAR – Parking lot buffer and setback

2/22/2008 – D.Z.C.'s decision in which requested zoning relief was
GRANTED with conditions.

4/02/2008 – D.Z.C.'s Ruling on Motions for Reconsideration filed by Protestants and People's Counsel – Motions **DENIED**.

4/02/08 – Notice of Assignment sent to following parties; hearing assigned for Wednesday, July 2, 2008 at 10 a.m.:

Rebecca Gerber
Office of People's Counsel
Jason T. Vettori, Esquire
Lawrence E. Schmidt, Esquire
Kevin Townsley /Bill Kidd's Volvo
Harry Kolodner
Patrick C. Richardson, Jr., /Richardson Engineering LLC
Ann Heaton, President /Sherwood Hill Improvement Assn., Inc.
Eric Rockel, President /Greater Timonium Community Council
Jessie Wilkinson
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

6/11/08 – Amended Notice sent to all above – correcting case number only to read: 08-**208**-SPHA. No other changes.

7/23/08 – Postponement of 8/20/08 hearing date requested by Lawrence E. Schmidt, Esquire, counsel for Petitioner,
by letter dated June 23, 2008 (original not received by this office; copy obtained from Ms. Heaton, who inquired this date as to status of postponement request); same granted and reassigned to 10/22/08.
-- Notice of PP and Reassignment sent to parties; case reassigned to Wednesday, October 22, 2008, at 10:00 a.m.

10/01/08 – Letter from Lawrence E. Schmidt, Esquire, requesting postponement of hearing scheduled for 10/22/08

due to clients' consideration of alternative plans and ongoing discussions with the community; to allow "opportunity to more fully develop plans which could potentially resolve the issues."
-- T/C w/Peter Zimmerman - no objection to postponement ; however, inasmuch as Jack Dillon will be called as witness by People's Counsel, and in consideration of Mr. Dillon's schedule, this matter could not be heard before the Board until after late March 2009. Mr. Schmidt has no objection to that timeframe, should it be necessary to rescheduled this matter for hearing.
-- Notice of Postponement sent out this date, pulling case from assigned 10/22/08 date; to be held for 60 days prior to any reassignment; to be assigned only after confirmation with Mr. Schmidt.

IN THE MATTER OF: HARRY KOLODNER – Legal Owner /
Petitioner 10525 York Road
8th Election District; 3rd Councilmanic District

SPH – To approve use permit to use of land in residential zone for parking facilities and construction of parking facility in a riverine floodplain;
VAR – Parking lot buffer and setback

2/22/2008 – D.Z.C.'s decision in which requested zoning relief was
GRANTED with conditions.

4/02/2008 – D.Z.C.'s Ruling on Motions for Reconsideration filed by Protestants and People's Counsel – Motions DENIED.

11/03/08 – Notice of Assignment sent to parties; continued on 10/01/08; to be reset only after a period of 60 days
has passed. Scheduled for Thursday, April 23, 2009, at 10:00 a.m. in order to assure attendance by Mr. Dillon, as indicated above.

2/9/09 Letter and Order from Jason Vettori, Counsel for Petitioner, withdrawing the Petition.

2/13/09 – Order distributed to all parties.



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, The Jefferson Building
105 W. Cheapeake Avenue, Second Floor
(next to Suite 203)

June 9, 2008

NOTICE OF ASSIGNMENT

CASE #: 08-308-SPHA

IN THE MATTER OF: HARRY KOLODNER – Legal Owner /
Petitioner 10525 York Road
8th Election District; 3rd Councilmanic District

2/22/2008 – D.Z.C.'s decision in which requested zoning relief was GRANTED with conditions.

4/02/2008 – D.Z.C.'s Ruling on Motions for Reconsideration filed by Protestants and People's Counsel – Motions DENIED.

ASSIGNED FOR:

WEDNESDAY, AUGUST 20, 2008, at 10:00 a.m.

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

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

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

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c:	Appellant /Protestant	: Rebecca Gerber
	Appellant	: Office of People's Counsel
	Counsel for Petitioner	: Jason T. Vettori, Esquire
		Lawrence E. Schmidt, Esquire
	Petitioner /C.P.	: Kevin Townsley /Bill Kidd's Volvo
	Petitioner /Legal Owner	: Harry Kolodner
	Patrick C. Richardson, Jr., /Richardson Engineering LLC	

Ann Heaton, President /Sherwood Hill Improvement Assn., Inc.
Eric Rockel, President /Greater Timonium Community Council
Jessie Wilkinson

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

*Amended Notice
sent 6/11/08 -
correcting
case #
to "208"*

*08-208-
SPHA*

GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE

SUITE 200

TOWSON, MARYLAND 21204

TELEPHONE 410-821-0070

FACSIMILE 410-821-0071

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DAVID K. GILDEA

LAWRENCE E. SCHMIDT

D. DUSKY HOLMAN

SEBASTIAN A. CROSS

CHARLES B. MAREK, III

JASON T. VETTORI

September 30, 2008

Kathleen C. Bianco
Board of Appeals
The Jefferson Building
105 W. Chesapeake Avenue, Room 203
Towson, MD 21204

**Re: Bill Kidd's Toyota/ 10525 York Road
Case No. 08-208-SPHA**



Dear Ms. Bianco:

We are hereby requesting a postponement of the Appeal Hearing for the above referenced case scheduled for October 22, 2008 at 10:00 a.m. This postponement is necessary due to our clients' consideration of alternative plans, which may result in substantial revisions to same. Our clients have had ongoing discussions with the community and would like an opportunity to more fully develop plans which could potentially resolve the issues this tribunal is being asked to consider on appeal. Therefore, we hereby request that this hearing be postponed.

As always if you have any questions or comments, please contact me.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Lawrence E. Schmidt".

Lawrence E. Schmidt

LES: jk

CC: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Carole S. DeMilio, Esquire, People's Counsel for Baltimore County
Ann Heaton, Sherwood Hill Improvement Association, Inc.
Patrick C. Richardson, Jr., Richardson Engineering, LLC
Kevin Townsley, Bill Kidd's Toyota
Jason T. Vettori, Esquire

*Granted 10/02/08
HOLD 60 days*



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, The Jefferson Building
105 W. Cheapeake Avenue, Second Floor
(next to Suite 203)

July 23, 2008

*pp'd @ reg. of
Mr. Schmidt;
heard 60
day - see
file note*

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 08-208-SPHA

IN THE MATTER OF: HARRY KOLODNER – Legal Owner /

Petitioner 10525 York Road

8th Election District; 3rd Councilmanic District

2/22/2008 – D.Z.C.'s decision in which requested zoning relief was GRANTED with conditions.

4/02/2008 – D.Z.C.'s Ruling on Motions for Reconsideration filed by Protestants and People's Counsel – Motions DENIED.

which was scheduled to be heard on 8/20/08 has been POSTPONED at the request of Counsel for Petitioner due to unavailability of expert witness on the scheduled date; and has been

REASSIGNED FOR: WEDNESDAY, OCTOBER 22, 2008, at 10 a.m.

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

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

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

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c:	Appellant /Protestant	: Rebecca Gerber
	Appellant	: Office of People's Counsel
	Counsel for Petitioner	: Jason T. Vettori, Esquire
		Lawrence E. Schmidt, Esquire
	Petitioner /C.P.	: Kevin Townsley /Bill Kidd's Volvo
	Petitioner /Legal Owner	: Harry Kolodner
	Patrick C. Richardson, Jr., /Richardson Engineering LLC	

Ann Heaton, President /Sherwood Hill Improvement Assn., Inc.
Eric Rockel, President /Greater Timonium Community Council
Jessie Wilkinson

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

TRANSMISSION VERIFICATION REPORT

TIME : 09/16/2008 09:45
NAME : BOARD OF APPEALS
FAX : 4108873182
TEL : 4108873180
SER.# : 000K7N258308

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
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MODE

09/16 09:44
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STANDARD
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County Board of Appeals of Baltimore County

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410-887-3180
FAX: 410-887-3182

**Hearing Room #2, The Jefferson Building
105 W. Cheapeake Avenue, Second Floor
(next to Suite 203)**

November 3, 2008

NOTICE OF ASSIGNMENT

CASE #: 08-208-SPHA

IN THE MATTER OF: HARRY KOLODNER – Legal Owner /
Petitioner /BILL KIDD'S TOYOTA 10525 York Road
8th Election District; 3rd Councilmanic District
2/22/2008 – D.Z.C.'s decision in which requested zoning relief was GRANTED
with conditions.
4/02/2008 – D.Z.C.'s Ruling on Motions for Reconsideration filed by
Protestants and People's Counsel – Motions DENIED.

which had been postponed from its October date for a period of no less than 60 days has been

ASSIGNED FOR:

THURSDAY, APRIL 23, 2009, at 10:00 a.m.

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

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Appellant /Protestant : Rebecca Gerber
Appellant : Office of People's Counsel

Counsel for Petitioner : Jason T. Vettori, Esquire
Lawrence E. Schmidt, Esquire

Petitioner /C.P. : Kevin Townsley /Bill Kidd's Volvo
Petitioner /Legal Owner : Harry Kolodner

Patrick C. Richardson, Jr., /Richardson Engineering LLC

Ann Heaton, President /Sherwood Hill Improvement Assn., Inc.
Eric Rockel, President /Greater Timonium Community Council
Jessie Wilkinson

William J. Wiseman III /Zoning Commissioner
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County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, The Jefferson Building
105 W. Cheapeake Avenue, Second Floor
(next to Suite 203)

October 2, 2008

11/03/08 -
Scheduled for
4/23/09
hearing.

NOTICE OF POSTPONEMENT

CASE #: 08-208-SPHA

IN THE MATTER OF: HARRY KOLODNER – Legal Owner /
Petitioner /BILL KIDD'S TOYOTA 10525 York Road
8th Election District; 3rd Councilmanic District

2/22/2008 – D.Z.C.'s decision in which requested zoning relief was GRANTED
with conditions.

4/02/2008 – D.Z.C.'s Ruling on Motions for Reconsideration filed by
Protestants and People's Counsel – Motions DENIED.

which had been reassigned for hearing on 10/22/08 has been **POSTPONED** at the request of Counsel for Petitioner,
without objection by the Office of People's Counsel; **TO BE HELD FOR A PERIOD OF 60 DAYS BEFORE
REASSIGNMENT.**

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

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be
in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted
within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to
hearing date.

Kathleen C. Bianco
Administrator

c: Appellant /Protestant : Rebecca Gerber
Appellant : Office of People's Counsel

Counsel for Petitioner : Jason T. Vettori, Esquire
Lawrence E. Schmidt, Esquire

Petitioner /C.P. : Kevin Townsley /Bill Kidd's Volvo
Petitioner /Legal Owner : Harry Kolodner

Patrick C. Richardson, Jr., /Richardson Engineering LLC

Ann Heaton, President /Sherwood Hill Improvement Assn., Inc.
Eric Rockel, President /Greater Timonium Community Council
Jessie Wilkinson

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

March 12, 2008

CAROLE S. DEMILIO
Deputy People's Counsel

HAND DELIVERED

Thomas H. Bostwick, Deputy Zoning Commissioner
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

RECEIVED
MAR 12 2008

Re: Harry Kolodner- Petitioner
10525 York Road
Case No: 08-208-SPHA

BY:.....

Dear Mr. Bostwick:

Please accept this letter as a Motion for Reconsideration under Rule 4K of the Findings of Fact and Conclusions of Law and Order dated February 22, 2008 in the above-referenced case. We have reviewed the requests for reconsideration by Eric Rockel on behalf of the Greater Timonium Community Council, Ann Heaton on behalf of Sherwood Hill Improvement Association, and Brian and Karen Smith, as well as the response from Lawrence Schmidt, attorney for Petitioner. This has provided an opportunity to study this case in more depth. We offer the following observations as to procedure and substance.

Mr. Rockel notes that the county website did not advertise this hearing. While the website notice is not statutory, it is apparent that in this internet age, many citizens rely on the posting of the hearing schedule on the county website. Mr. Rockel also emphasizes that the required Jeffersonian public newspaper notice for the January 9 hearing gave the incorrect date of January 7. There does not to be any dispute about this mistake. The newspaper provides, along with the sign posting the property, the required statutory notice. We have no way of knowing whether anyone was misled by this notice and missed the hearing in consequence. On his part, Mr. Rockel states that his preparation time was impaired.

In any event, we concur with the positions of Sherwood Hill and the Smiths on the merits for the following reasons,

1) Pursuant to BCZR § 409.8.B.1, eligibility for a use permit for business parking in a residential zone requires that it be essential to provide parking "to meet the requirements of Section 409.6" for a reasonable business use (not simply the use which the property owner desires). No matter which way the parking requirements are measured for an auto dealership, it is obvious that a reasonable business use has in the past and may still occupy the B.R. Zone section of this split-zoned property without parking encroachment into the residential zone. The problem here simply is that the size and scale of the proposed Volvo dealership use involves the use of just about the entire property for the dealership and associated parking. The proposal effectuates

a virtual *de facto* rezoning of the D.R. 3.5 area. In this context, it does not matter how the basic parking requirements for an auto dealership are calculated. The property can accommodate a reasonable business use without the need to invade the residential zone.

2) The use permit is subject to several enumerated standards under BCZR § 409.8.B.1.e. These include the impact on the community and the BCZR § 502.1 special exception standards. Given that a special exception is a conditional use, it is virtually a prerequisite that the proposed permit satisfy the condition that it meet residential transition area standards under BCZR 1B01.1.B. The proposal here not only does not meet the standards, but also deviates in the extreme: a 10 feet of buffer and setback instead of the required 50 and 75 feet. It is not surprising that the area community associations and residents find this to have a particular unacceptable commercial impact in proximity to this single-family home neighborhood. See Schultz v. Pritts 291 Md. 1 (1981); Chester Haven v. County Board of Appeals 103 Md. App. 324 (1995).

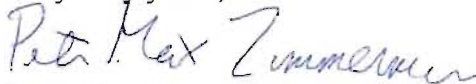
3) The deviation from RTA standards involves variances. The proposal meets neither the tests of uniqueness nor resulting practical difficulty. The property has historically accommodated a more modest business use, consistent with the transition effected by the residential zone. The only "difficulty" is that the property as zoned does not accommodate the new property owner's preferred use. It should be kept in mind that the property owner must accommodate to the law, not vice-versa. See Cromwell v. Ward 102 Md. App. 691 (1995); Umerley v. People's Counsel 108 Md. App. 497 (1996).

4) Avoidance of the inventory-parking prohibition in the residential zone with a pledged limitation to customer and employee parking appears unrealistic. This is especially true in light of the references in Ms. Heaton's and the Smiths' letters about their meeting with the Petitioner.

5) The proposed infringement on the riverine floodplain and consequential stormwater management problems are significant. Even though DPW is willing to accept what it considers "minimal encroachment onto the parking area with no offsite impact on the floodplain," any encroachment in the floodplain should be avoided if possible. Code § 32-8-303(a)(2) includes an "exceptional hardship" standard for waivers. There is clearly no "exceptional hardship" here. Rather, the proposal involves an expansion and overcrowding of business use on the site.

Under all of the above circumstances, the proposal fails to satisfy the several legal standards enumerated above. We have no alternative but to request that the petitions be denied.

Very truly yours,



Peter Max Zimmerman

People's Counsel for Baltimore County

PMZ/rmw

cc: Lawrence E. Schmidt, Esquire and Jason T. Vettori, Esquire
Eric Rockel
Brian & Karen Smith
Ann H. Heaton

GILDEA & SCHMIDT, LLC

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
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ANNAPOLIS, MD OFFICE
95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

March 10, 2008

RECEIVED
MAR 11 2008

BY:.....

Mr. Thomas H. Bostwick
Deputy Zoning Commissioner
401 Bosley Avenue, Suite 405
Towson, MD 21204

Re: Bill Kidd's Volvo/ 10525 York Road
Case No.: 08-208-SPHA

Dear Mr. Bostwick:

This letter is in response to the request for reconsideration of a variance from Brian J. and Karen M. Smith. Our client, Bill Kidd's Toyota, is concerned that each individual property owner will file separate Motions for Reconsideration regarding your Order dated February 22, 2008, which revisit issues that have already been addressed. The undersigned is available to respond in greater detail, should you deem a more detailed response necessary.

However, the issues raised in the Smiths' letter dated March 5, 2008 appear to be a repeat of testimony offered by the Protestants at the hearing dated January 9, 2008. The Smith's contention that there are a number of businesses that could use the property as it stands, while potentially true, does not make the hypothetically proposed use tangible and/or economically feasible. Several potential purchasers have approached the owner regarding potential uses for the site. To the best of my knowledge, none of these potential purchasers have considered proposing a use which would be confined to the existing structures and site layout. Therefore, the evidence presented was properly considered and ruled upon.

The evidence which was previously submitted set forth the reason for the number of parking spaces required and proposed. The Smiths' justification that approximately two new vehicles per day should be considered when calculating required parking is not a criteria by which required and proposed parking is calculated. Your condition that inventory be confined to the B.R. zoned portion of the property sufficiently addresses the Smiths' concerns. The Smiths offer no additional evidence to what was presented at the hearing that the stream and the surrounding community will be adversely affected by the amount of paving. As the record will reflect, the evidence offered by our expert, Patrick

Thomas H. Bostwick

March 10, 2008

Page 2

Richardson, testimony regarding meetings with Avery Harden, the County Landscape Architect for the Department of Permits and Development Management ("PDM") and David Thomas, Department of Public Works ("DPW"), about our request for zoning relief, DPW's written recommendation to approve the requested wavier and the fact that the County will further explore the stormwater management issue during the development review process outweighs the Smiths' unsubstantiated conclusions.

Again, we remain available to further elaborate upon our opposition to this request for reconsideration, but we reiterate that the record should not be reopened on issues that have already been decided where no compelling reason to do so has been presented.

Very truly yours,



Jason T. Vettori

JTV: sf

CC: Brian J. and Karen M. Smith
Ann Heaton, Sherwood Hill Improvement Association, Inc.
Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Kevin Townsley, Bill Kidd's Toyota
Patrick C. Richardson, Jr., Richardson Engineering, LLC
Lawrence E. Schmidt, Esquire

GILDEA & SCHMIDT, LLC

DAVID K. GILDEA
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D. DUSKY HOLMAN

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ANNAPOLIS, MD OFFICE
95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

March 10, 2008

RECEIVED
MAR 11 2008
BY: _____

Mr. Thomas H. Bostwick
Deputy Zoning Commissioner
401 Bosley Avenue, Suite 405
Towson, MD 21204

Re: Bill Kidd's Volvo/ 10525 York Road
Case No.: 08-208-SPHA
GTCC's Motion for Reconsideration

Dear Mr. Bostwick:

Please accept this letter as a response to the above referenced Motion for Reconsideration. The Motion for Reconsideration submitted by Eric Rockel, President of the Greater Timonium Community Council ("GTCC") is devoid of merit and is tantamount to an attempt to prejudicially delay your ruling. Preliminarily, his motion does not contain any indication that this pleading is an official action on behalf of the GTCC and should not be considered as such. However, without the luxury of reviewing the GTCC's by-laws, I am unaware of whether a resolution is required or not. The undersigned sees the following items as the grounds for Mr. Rockel's Motion for Reconsideration:

1. Baltimore County's website did not advertise the hearing adequately;
2. He learned about the hearing only a few days before it was scheduled; and
3. He recently learned that the publication of the hearing by Kristen Matthews of Permits and Development Management ("PDM") allegedly misstated the date and time of the hearing.

For the reasons which follow, Mr. Rockel's Motion for Reconsideration should be dismissed, with prejudice. With regard to his first contention, the Baltimore County Code ("BCC") does not require the Petitioner or the County to post notification of the hearing on the Baltimore County website. The failure of Baltimore County to post notice of the hearing date and time on its website does not provide a basis for reconsideration of the Zoning Commissioner's order. Next, the BCC does not contain a requirement that the GTCC, or Mr. Rockel for that matter, receive notice of the hearing in what he deems to be sufficient time.

Mr. Rockel further contends that the publication of the hearing date and time in the Jeffersonian indicated that the hearing was scheduled for January 7, 2008 at 10:00 a.m. Had Mr. Rockel taken the time to review the zoning file in Room 111 of PDM, he would know that it contains a copy of the notice posted in the Jeffersonian indicating the hearing date and time as January 9, 2008 at 9:00 a.m. The Notice of Hearing letter dated November 21, 2007 further indicates that the hearing was scheduled for January 9, 2008 at 9:00 a.m. The zoning hearing was scheduled for and took place on January 9, 2008 at 9:00 a.m. Previously, Mr. Rockel indicated that he only had a few days to prepare for the scheduled hearing after being notified by one of the residents that live in the community of the hearing date. This statement in his Motion for Reconsideration is, in essence, an admission that he did not rely upon the publication of notice in the Jeffersonian to prepare for and attend the above referenced hearing. Furthermore, even if the publication of notice in the Jeffersonian listed January 7, 2008 at 10:00 a.m. as the hearing date and time, then substantively he had two more days to plan for the hearing that actually took place on January 9, 2008 at 9:00 a.m. Finally, and most importantly, this issue of the publication of notice was addressed before you on the record at the hearing on this matter. At that time, you ruled that the Petitioner met its burden regarding posting and publication of notice.

My client would be prejudiced if you granted the Motion for Reconsideration to allow additional evidence by way of Memorandum to be submitted in this case. I indicated at the hearing, before Mr. Rockel and all others in attendance, that I would be submitting a Post-Hearing Memorandum about the factual and legal issues as a professional courtesy, given the numerous requests for relief and complexity of the legal and factual issues involved. At that time, Mr. Rockel could have availed himself of the opportunity to more fully research and address the factual and legal

Thomas H. Bostwick
March 10, 2008
Page 3

issues, which remained open, pending the Department of Public Works' ("DPW") recommendation to waive the floodplain requirements.

Mr. Rockel had ample time to address the merits of the relief requested leading up to and including the January 9, 2008 hearing through February 22, 2008, the date the Order was issued. His letter dated March 1, 2008 requesting a Motion for Reconsideration of your February 22, 2008 Order appears to be little more than an attempt to delay this decision from becoming final.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jason T. Vettori", with a large, stylized initial "J" and "V".

Jason T. Vettori

JTV: sf

CC: Eric Rockel, Greater Timonium Community Council
Ann Heaton, Sherwood Hill Improvement Association, Inc.
Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Kevin Townsley, Bill Kidd's Toyota
Patrick C. Richardson, Jr., Richardson Engineering, LLC
Lawrence E. Schmidt, Esquire

GILDEA & SCHMIDT, LLC

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TELEPHONE 410-295-0070

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
JASON T. VETTORI

March 10, 2008

RECEIVED
MAR 11 2008

BY: _____

Mr. Thomas H. Bostwick
Deputy Zoning Commissioner
401 Bosley Avenue, Suite 405
Towson, MD 21204

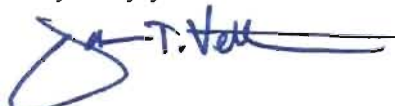
Re: Bill Kidd's Volvo/ 10525 York Road
Case No.: 08-208-SPHA

Dear Mr. Bostwick:

This letter is written in response to the Motion for Reconsideration filed by Sherwood Hill Improvement, Inc. This will be the third response to a Motion for Reconsideration you have received from us. I reiterate that we are responding to this request to reopen the case in order to protect the record. Should you require a more complete position by our client, we would be happy to provide same. However, the issues in this Motion appear to be the same. They amount to little more than an attempt to delay your decision from becoming final.

Mr. Rockel's initial motion regarding notice has been addressed. Similarly, the Smiths' motion contained no new justification for your Order to be reconsidered. Ms. Heaton misconstrued the fifth condition of your decision, where you stated any parking area permitted is considered a residential transition use. This statement clearly indicates that the parking lot, like the building itself, is considered a use from which the RTA buffer and setback are required. The variance from the RTA buffer and setback requirements for the *parking lot* was granted with this in mind. As such, this issue is moot. Similarly, there is nothing in the Baltimore County Zoning Regulations that restricts a Petitioner from providing parking in excess of the amount required. Therefore, her claim that excessive parking has been provided lacks merit. Finally, her description of the streetscape of York Road sheds no information that would justify the reopening of the record on this matter. For these reasons, among others, the undersigned submits that your Order dated February 22, 2008 should not be reopened, for there has been no new information submitted to justify such an action.

Very truly yours,



Jason T. Vettori

JTV: sf

CC: Ann Heaton, Sherwood Hill Improvement Association, Inc.
Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Kevin Townsley, Bill Kidd's Toyota
Patrick C. Richardson, Jr., Richardson Engineering, LLC
Lawrence E. Schmidt, Esquire



Sherwood Hill Improvement Association, Incorporated

P.O. Box 52 • Cockeysville, MD 21030

March 5, 2008

Thomas H. Bostwick
Deputy Zoning Commissioner
Baltimore County
Zoning Commissioner's Office
401 Bosley Avenue, Room 405
Towson, Maryland 21204

RECEIVED
MAR 06 2008

BY:.....

Re: Petition for Special Hearing and Variance
Case No. 08-208-SPHA
Property: 10525 York Road

Dear Mr. Bostwick:

I hereby respectfully request that you reopen the case named above for reconsideration.

In my letter of 1/9/08 requested by you, I described the Sherwood Hill Improvement Association, Inc. [SHIA]. I am enclosing a map that shows you the extent of our area. SHIA has held two special meetings for our whole membership's participation as well as two Executive Committee meetings since the hearing. The Executive Committee and I, as President, have been authorized to speak for the whole organization. During these meetings we have been able to learn more about the proposal itself, and the legal and practical ramifications of the Petitioner's requests. Initially we had two weeks from the time we learned about the hearing, to meet and prepare our position. Eric Rockel has recently written to you the particulars of the lack of accurate and complete notification of the hearing. Reconsidering this case would allow us to more fully express our concerns. This may be the only forum available to us as Bill Kidd does not intend to take the development process through public hearing.

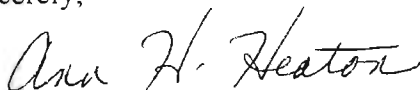
The RTA 50 foot buffer and 75 foot setback regulations were developed to protect residential properties. The Petitioner quotes the law showing that it protects one residential property from another rather than from commercial. This may be the way it is written, but it can be argued that intent and precedent can show the protection is also from commercial encroachment. On page 5 of your decision, "Any parking area permitted.....is considered a residential transition use...." We disagree with that opinion. Parking is an integral part of the commercial operation, and as such must be considered a part of the business itself and not part of any RTA. The 10 foot buffer and set-back is completely inadequate to provide a separation of business from the large residential area behind it. In order to provide adequate landscaping for a realistic buffer for the residential you must have at least 25 feet, and the original 50 feet would be best.

In the list of "conditions" #11 states, "Storage of 'inventory' will be confined to the B.R. zoned portion of the property." Although the residents agree with this condition it is unrealistic and impossible to enforce. The meeting of SHIA, held on 2/20/08 at the request of Bill Kidd, was attended by Bill Kidd, his attorney, Jason Vettori, project manager Kevin Townsley and engineer Rich Richardson. They differed in their opinions of where the new and used cars would be parked. Bill Kidd himself said he planned to park inventory behind the building. This was before your ruling, so I am sure he will try to comply with your order, but it will be next to impossible if you look carefully at the plan. Parking out front comes to 42 spaces which includes 6 handicapped. This leaves a total maximum of 36 new and used cars on display in the B.R. parking lot. The parking in the back on the D.R. property has 71 spaces, which is excessive for the 9 employees plus several customers at any one time. We believe there are far too many parking spaces in the plan for the needs of this business. Reducing certain of the parking spaces in the D.R. property could help alleviate the commercial impact on the current adjacent residences.

York Road is a commercial corridor. South of Warren Road it is heavily occupied by very big businesses, such as the auto dealerships, Walmart, Target, and wall-to-wall strip malls. Warren Road is a dividing line between the commercial large businesses and the smaller businesses that blend in more with the residential. This streetscape continues as a transition to Hunt Valley where it goes to the Urban Rural Demarcation Line. York Road north of Warren Road has one story brick office buildings set back from the road with planted buffers, historic houses converted into offices or antique shops, a few small businesses, but nothing like the huge business establishments to the south. The property in question has been used successfully by business for 50 some years and not required the variances requested by this petition. Surely there are other businesses out there that would like to locate on this property without encroaching on the residential portion. We disagree with your opinion, "that virtually any use would require similar relief, given the unique site layout." The commercial section is quite adequate for an appropriate business. The residential section is not even fronting on York Road and would continue to be a residential parcel.

Thank you for your consideration of our opinion. It is our hope you will decide to reopen this case.

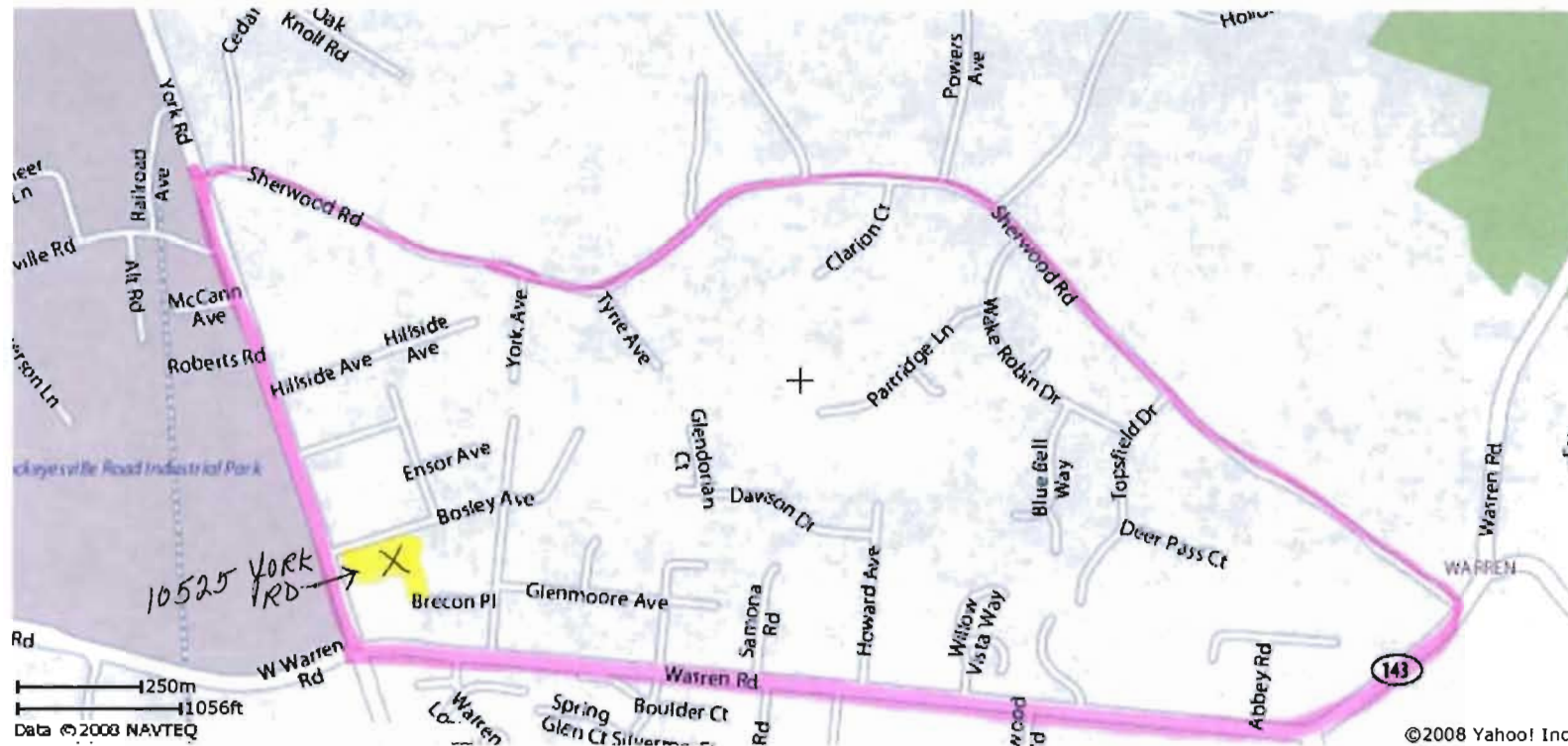
Sincerely,



Ann H. Heaton, President
Sherwood Hill Improvement Association, Inc.
10599 Topsfield Drive
Cockeysville, MD 21030
410-666-0833
ahheaton@aol.com

Enclosure: Map

Cc: Jason T. Vettori, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200,
Towson, MD 21204
Peter Max Zimmerman, Baltimore County Office of People's Counsel,
105 W. Chesapeake Ave., Suite 204, Towson, MD 21204



*Sherwood Hill Improvement Association Inc.
Bounded by York Road, Warren Road and Sherwood Road
570 households*

Thomas H. Bostwick
Deputy Zoning Commissioner for Baltimore County
401 Bosley Avenue, Room 405
Towson, MD 21204

RECEIVED
MAR 1 2008

BY:

March 5, 2008

Dear Mr. Bostwick,

This letter is a request for reconsideration of variance granted for 10525 York Road, Case No. 08-208-SPHA, dated February 22, 2008.

We have read the findings and conclusion thoroughly and respectfully disagree with your decision to grant the variance relief requested for several reasons. The finding allows the petitioner to construct a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot buffer and 75 foot RTA setback. The RTA is absolutely essential to protect the community residents from commercial development in a residential neighborhood. The proposed parking lot is on a parcel zoned DR3.5 that is bordered on 3 sides by homes in the community. The property currently has a house on it that has been there for 50 years. The proposed parking is excessive for the use requested and allowed, and would create an impervious surface allowing runoff into a stream bed serving Beaver Run.

It is stated in the findings and conclusion that the relief "is appropriate, given the split zoning of the subject property, its limited size, and the fact that virtually any use would require similar relief, given the unique site layout." We disagree with this statement. In fact, there are a number of businesses that could use the property as it stands. In fact, The Unfinished Shop operated quite well for 50 years on the property without special relief, while sharing the property with Kelly's Body Shop. We believe there are a number of businesses that could continue to operate quite successfully on the property without removing the required buffer and setbacks.

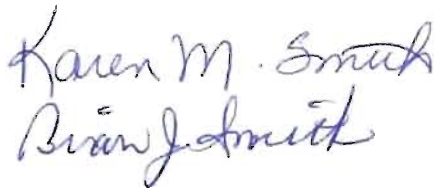
As stated in the findings and conclusion, "Storage of 'inventory' will be confined to the B.R. zoned portion of the property." As such, the proposed parking on the D.R. zoned portion of the property is excessive for customers and employees. By his own admission, the proposed contract purchaser would have no more than 9 employees during the busiest shift. Also by his own admission, the proposed contract purchaser sells an average of 2 new vehicles per day. The proposed 40+ parking spaces on the D.R. zoned portion of the property are extremely excessive for these needs, and represent an overdevelopment of the property in order satisfy the needs of one particular business.

During a community meeting convened at the request of the proposed contract purchaser, a question was raised about the parking of inventory on the D.R. zoned portion of the property. The proposed purchaser said that he intended to store inventory at the same time the proposed purchaser's lawyer said he would not. Clearly, the parties have different ideas, and we believe it would be difficult to enforce the ruling on inventory parking, especially when the proposed purchaser has other ideas.

Once a parcel on land has been paved as a parking lot, a precedent has been set and it is assumed that the site will remain a parking lot. Any runoff from the parking lot has no place to go but into the stream. This is a direct negative impact to the stream and the community. In addition, the proposed parking lot only has access from Bosley Ave, which is a narrow road with no sidewalks. This street is used by seniors and children alike, as the road leads to the Cockeysville Senior Center and the ballfields used by the Rec Council. An increase in traffic on this road is a severe safety issue.

Thank you for your attention to our concerns. We reiterate our request that you please reconsider your decision to allow the variances requested to this property.

Respectfully,

Handwritten signatures of Karen M. Smith and Brian J. Smith in blue ink.

Brian J. and Karen M. Smith
21 Bosley Avenue
Cockeysville, MD 21030
410.666.3349

cc: Peter Max Zimmerman. Baltimore County, Office of People's Counsel, 105 W. Chesapeake Avenue, Towson, MD 21204

Jason T. Vettori, Geldea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204

From: Stephen Weber
To: People's Counsel
Date: 03/11/2008 6:26 PM
Subject: Case No. 08-208-SPHA, 10525 York Rd (Bill Kidd's Volvo)

Dear Ms. DeMilio:

The traffic issues with this case are not so much the traffic volumes that are generated with such a use but primarily the impacts of the parking for the site on the adjoining residential properties. As is pointed out with the Deputy Zoning Commissioner's ruling, the minimum parking requirements for car dealerships is not clearly outlined in the County's zoning regulations. As a rule, the reasons why the amount of parking on-site is usually not that critical is because the amount of parking tends to be a self-enforcing matter. A car dealership needs to have adequate parking for its customers, and usually they will try to insure that there are a few open spaces near the front door for those customers. Next they want to have a sufficient number of vehicles on the surrounding lot to provide a good cross-section of all the makes & models of vehicles they carry. That is to help insure that when a customer asks about a given make & model that they have the vehicles readily available to examine and/or test drive. Lastly they generally want to have adequate parking for their employees.

The need for customer parking is obvious. The need for an adequate inventory of vehicles to show is also apparent. However, it is quite the norm for car dealerships to have many of their new cars located at satellite locations away from the dealership. It is probably the minority of dealerships that can manage to keep their entire inventory of new vehicles on the lot adjacent to the dealership building. A lot then depends on the exact type of dealership one has as to how many makes and models of vehicles exist. The more limited the makes/models, the less parking needed to provide an adequate inventory for show. Certainly dealerships would like to have a large portion of their inventory close to the dealership building. However, dealerships also find that it can be less expensive to buy or lease property on nearby parcels that do not have the exposure and good access to major roadways and keep inventory on these less expensive satellite locations. Therefore, this really becomes a business decision on how to balance the cost and convenience factors when determining where inventory is going to be located. The last need is for employee parking. For the most part, we generally have responsible car dealerships in Baltimore County. However, we have also had (and still have) a number of bad experiences with dealerships who do not allow their employees (sales staff, auto mechanics, clerks, drivers, auto-prep people, etc.) to park on their property and instead force them to park on the County roadways and into residential neighborhoods. The dealerships find that they want to put more inventory on their site for their customers to view and the only way they can accommodate it is by pushing the employees off of the dealership property. In most of these situations the County has not had any ability to regulate such parking since they often occur in situations where no County requirement exists to prohibit it or the property has gone thru the Zoning Commissioner and the Commissioner did not make any requirement that all dealership employees' vehicles had to be parked on site.

When reading the Deputy Zoning Commissioner's Order, the most confusing or disturbing portion of the order deals with Item #11, "Storage of 'inventory' will be confined to the B.R. zoned portion of the property." There are a total of 44 parking spaces totally in the B.R. zone, 11 parking spaces split between B.R. & D.R. 3.5, and 58 parking spaces totally in the D.R. 3.5 zone. Therefore, the inventory of cars has to fit in 44 spaces. Of these 44 spaces, the dealership has to carve out a certain number of spaces for customers to park, since they are not going to be forced to park in the back of the building away from the front entrance. That then leaves 69 parking spaces in the D.R. 3.5 zone for the dealership employees. It is quite obvious that an 8,500 sq. ft. dealership building is not going to require the need of 69 parking spaces, exclusive of inventory needs.

Mr. Townsley, for the petitioner, testified that approximately 9 employees will be on site during the busiest shift (requiring one space per employee) plus needing 5 spaces/1,000 sq. ft. or 9 + 43 parking spaces. He then goes on to testify to the need to provide 3 parking spaces per "service bay" and claims that a "showroom" is comparable to a "service bay" and therefore since they are going to have three vehicle display areas that it will translate to $3 \times 3 = 9$ additional spaces. Then there is the need for an additional parking space for washing cars, thus totaling a need for 62 "auxiliary" parking spaces. It is fairly apparent that the testimony has little to do with a justification for the actual need of day-to-day regular parking spaces for employees and vehicles receiving work but has more to do with trying to maximize the parking "requirements" for the site for parking, exclusive of inventory parking.

Using similar logic for Bill Kidd's existing dealership on York Rd south of Warren Rd, that dealership building is approximately 24,000 sq. ft., that would translate approximately to "needing" 62 spaces $\times$ 24,000 sq. ft. / 8,500 sq. ft. = 175 "auxiliary" parking spaces on that lot as well. Interestingly, that lot accommodates approximately 260 parking spaces, the vast majority being assigned for accommodating inventory. If 175 spaces were required for "auxiliary" uses, that would leave only 85 spaces for new cars. Unless these two Bill Kidd's dealerships operate in drastically different operational worlds, it is fairly clear that the desire to "bump up" the parking requirements on the Bosley Ave site is to insure accommodation for inventory, even though that is supposed to be confined to the B.R. zone in the Commissioner's Order. The fact that "inventory" is in quotes in the Order also makes it unclear what is really meant by inventory. Does "inventory" mean any vehicle which is available for sale, new or used, or is it any vehicle titled to the dealership. Someone could park a vehicle in the D.R. 3.5 zone which is owned by the dealership and say, "That vehicle isn't available for sale and isn't part of our 'inventory'."

Looking at the petitioner's request, we can't say for certain that the parking area in the D.R. 3.5 zone would not be used for parking of inventory, but it does appear clearly excessive in size for the building that is supporting it if it cannot be used for parking any

vehicles owned and/or being sold by the dealership or owned and/or being sold by any other dealership in Baltimore. The fact that the request for commercial parking in a D.R. 3.5 zone is also a finger into a D.R. 3.5 zone, surrounded with single-family homes to three sides of the property, also appears to have an abnormal adverse impact on several different residential properties. The commercial intrusion onto so many adjacent residential parcels is concerning as these are oftentimes the type of situations that provide rationale for the adjoining residential properties to argue for rezoning to commercial uses at future dates. The intent of the County is to contain the commercial zoning to the property fronting York Rd and to not allow the creep of commercial zoning into the adjoining residential neighborhood in this area. If the parking lot did not extend east of the extension of the western property line of #15 Bosley Avenue, the impacts on the adjoining residential properties would be substantially reduced and would appear more appropriate under the context of which a special exception would be granted in these circumstances.

Should you have any questions regarding this review or wish to discuss the matter further, please feel free to give me a call.

Stephen E. Weber, Chief
Div. of Traffic Engineering
Baltimore County, Maryland
111 W. Chesapeake Avenue, Rm. 326
Towson, MD 21204
(410) 887-3554



Sherwood Hill Improvement Association, Incorporated

P.O. Box 52 • Cockeysville, MD 21030

April 14, 2008

Mr. Timothy Kotroco, Director
Department of Permits and
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Ms. Kathleen C. Bianco, Administrator
Baltimore County Board of Appeals
105 West Chesapeake Avenue, Ste. 203
Towson, Maryland 21204

Re: PETITION FOR SPECIAL HEARING & VARIANCE
SE corner of Bosley Avenue and York Road
10525 York Road
8th Election District, 3rd Council District
Harry Kolodner, Petitioner
Case No.: 08-208-SPHA

Dear Ms. Bianco and Mr. Kotroco:

I am writing on behalf of the Sherwood Hill Improvement Association, Inc., concerning Case 08-208-SPHA, which was heard before the Deputy Zoning Commissioner, who by ruling dated February 22, 2008 issued a Findings of Fact and Conclusions of Law granting the petitioner's requests. Motions/Requests for Reconsideration were submitted by various parties to the Deputy Zoning Commissioner by letters dated March 1, March 5, March 12, and March 18, 2008. On March 24, 2008, before the Deputy Zoning Commissioner responded to these requests for reconsideration, Ms. Rebecca Gerber filed an appeal of Case No. 08-208-SPHA.

Subsequently, by order dated April 2, 2008, the Deputy Zoning Commissioner denied Requests for Reconsideration and stated "there is also legal authority that states an administrative agency is divested of jurisdiction when an appeal is noted..."

When Ms. Rebecca Gerber filed the appeal on March 24, 2008, it was the last day of the 30 day period from the first ruling by the Deputy Zoning Commissioner. Ms. Gerber was advised by the office personnel that this was the final opportunity to file an appeal in the case. This information was incorrect since the 30 days was to begin again at the time Deputy Zoning Commissioner responded to the Motions/Requests for Reconsideration. As a result Ms. Gerber's appeal was filed prematurely.

This being the case, the Sherwood Hill Improvement Association, Inc. would like to join as a co-petitioner in the appeal filed by Ms. Gerber, who is a member of the Sherwood Hill Improvement Association, Inc., although she was acting as an individual, not as a representative when she filed the appeal. If it is not possible to be a co-petitioner, we request that at a minimum we be joined as an interested party in the appeal before the Board.

Page Two
April 14, 2008

Thank you for your consideration of this request. Please notify me of your decision and forward any information pertinent to this appeal to me at my home address as shown below.

Sincerely,



Ann H. Heaton, President
Sherwood Hill Improvement Association, Inc.
10599 Topsfield Drive
Cockeysville, MD 21030

and as an individual,

CC: Jason T. Vettori, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Ste. 200
Towson, MD 21204

Eric Rockel, President
Greater Timonium Community Council
1610 Riderwood Lutherville Drive
Timonium, MD 21093

Peter Max Zimmerman, Esquire
Baltimore County
Office of the People's Counsel
105 W. Chesapeake Avenue
Towson, MD 21204

Brian J. and Karen M. Smith
21 Bosley Avenue
Cockeysville, MD 21030

Rebecca Gerber
11 Hillside Avenue
Cockeysville, MD 21030

From: Krysundra Cannington
To: Gawel, Mark
Date: 05/20/08 8:34 AM
Subject: Sign Posts

Please be advised that we received a call from a neighbor in Case No. 08-208-SPHA /10525 York Road. The neighbor indicated that the sign has been knocked off the post. Whenever someone gets out that way, would they please check on the sign and re-affix to post if necessary.

Thank you.

Sunny



HG

Dear Mr McIntire

I am writing to you
about a forest buffer
variance near Bosley
York & Warren Rd.
I am hearing that
someone may put in
a car sales lot where
the unfinished Sharnick
Shop is. I live at
Warren Place Apartment

There is a great big
beautiful old tree that
I see out my window.
Please don't let them
take down that tree for
a car lot.

Ann Blackwell
10535 York Rd. Apt. 223
Cockeysville, MD 21030

Sincerely,

Ann Blackwell

Call me

if possible at 410 628 2315

1/3/08 - will forward letter to zoning.



T/c 5/19/08

from
Jessie

Wilkinson

Current address -
is York Avenue
21030
(appears as "Road")

Also - sign is off
post in
08-208-6PHA -
lying on ground

Contacted PDM for
fix.

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E-MAIL

RICK RICHARDSON
KEVIN TOWNSEY
JASON VETTORI

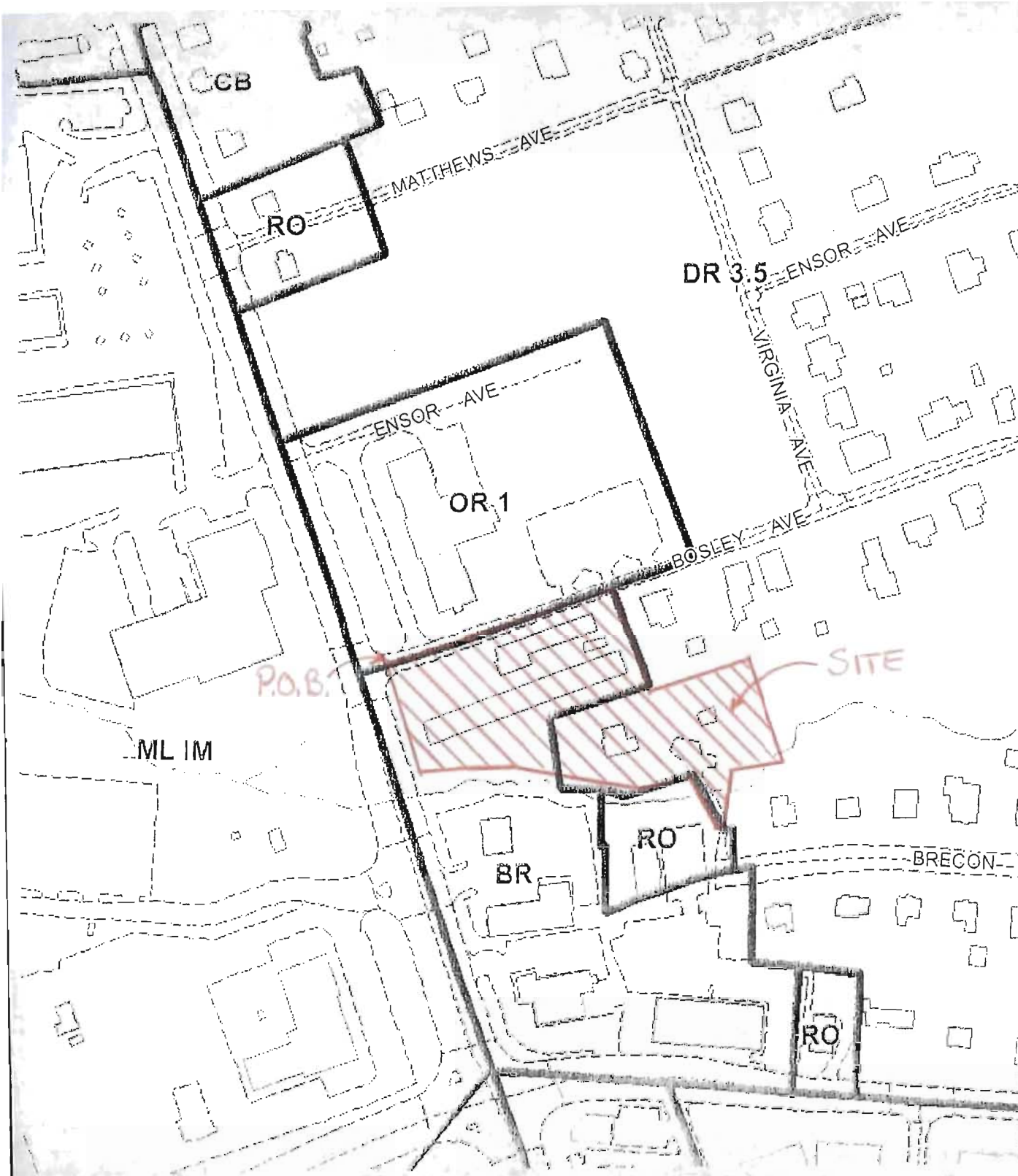
30 E PADONIA RD ST 508
10401 YORK RD
600 WASHINGTON AVE, STE. 200

TIMONIUM MD 21093

CASE NAME _____
CASE NUMBER _____
DATE _____

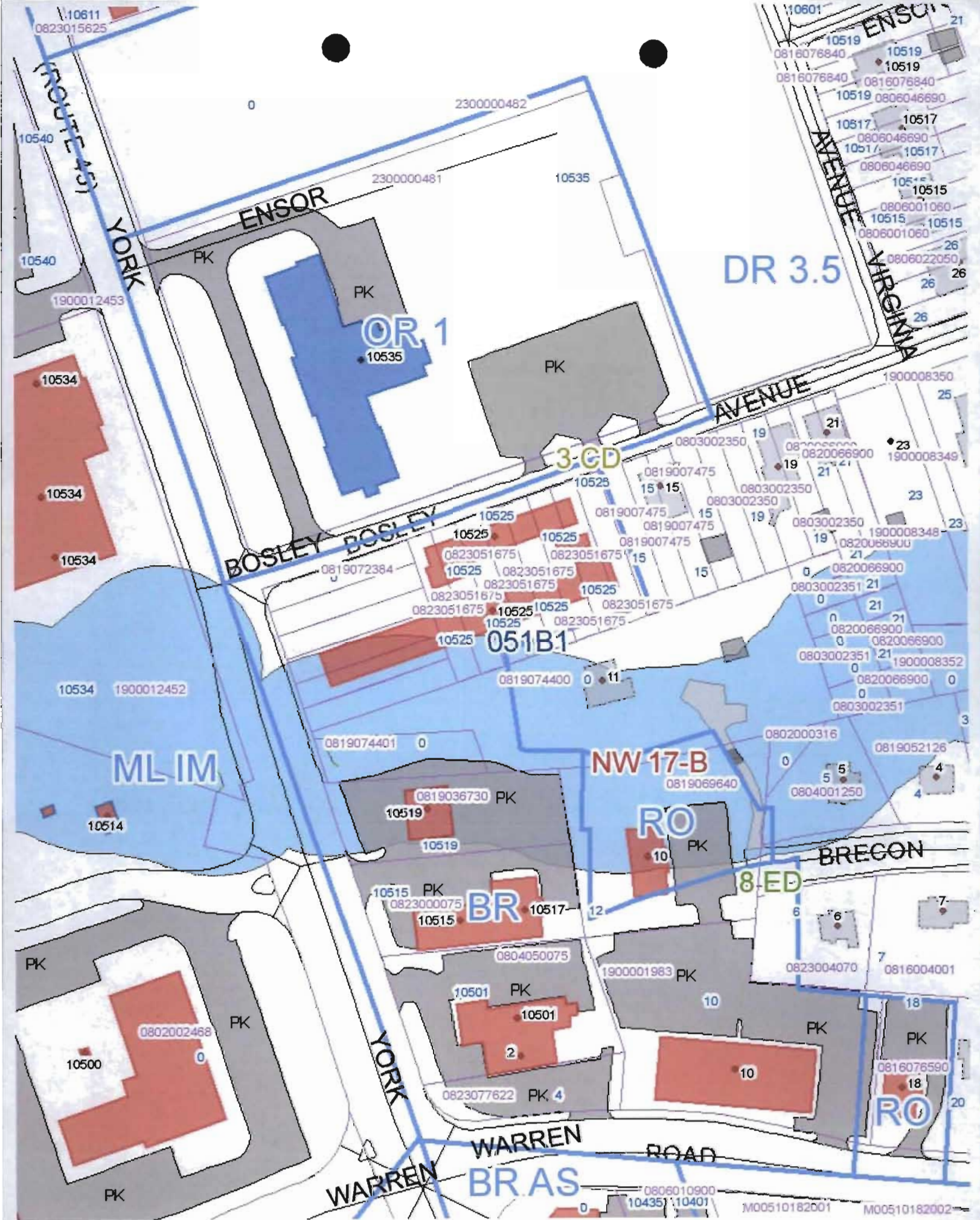
CASE NAME _____
CASE NUMBER _____
DATE _____

[illegible]



SCALE = 1" = 200'
MAP # 051B1

08-208-SPHA



08-208-SPHA

Case No.:

08-208-5PHA

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	A+B photos of stream after significant rain
No. 2 A+B	Photos of site	statement of Karen Smith
No. 3	letter to Dave Thomas of DPW	petition opposing auto dealership
No. 4	floodplain datum	correspondence from Ann Blackwell - neighbor
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

TB
1-7-08
9am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 6, 2007

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

SUBJECT: 10525 York Road

INFORMATION:

Item Number: 8-208

Petitioner: Harry W. Kolaodner

Zoning: DR 3.5, BR and RO

Requested Action: Variance

RECEIVED
DEC 10 2007
BY: _____

The petitioner requests a variance from Section 1B01.1.B.1.e of the BCZR to allow a parking lot with a 10 foot buffer and setback in lieu of the required 50 foot RTA buffer and 75 foot RTA setback. A special hearing for a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6 of the BCZR, pursuant to Section 409.8 of the BCZR, to permit construction of a parking facility in the riverine floodplain, pursuant to Section 500.6 of the BCZR and Sections 3112.00 and 3112.2 of the Baltimore County Building Code; and Sections 32-4-107, 32-4-404, 32-4-414, and 32-8-301 of the BCC.

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not support the special hearing for a use permit for the use of land in a residential zone for parking facilities, the parking facilities should be limited to the BR zoned portion of the site because there would be too much of an impact on the adjacent property owners and residents.

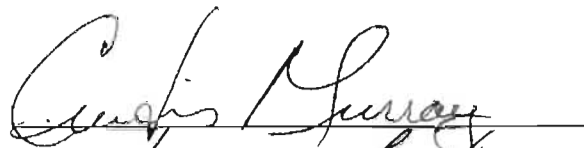
Furthermore, the Office also does not support the special hearing to permit construction of a parking facility in the riverine floodplain; this would adversely impact an already fragile stream system despite it being currently dry. The Office has already received a letter and some phone calls about this issue and the residents do not want this parking facility that close to their homes.

The Office of Planning also does not support the variance to allow a parking lot with a 10-foot buffer and setback in lieu of the required 50 foot RTA buffer and 75-foot RTA setback. The RTA buffer is required to keep commercial enterprises from impacting the surrounding residences and having almost no buffer between the parking lot and the adjacent properties undermines that purpose.

BALTIMORE COUNTY

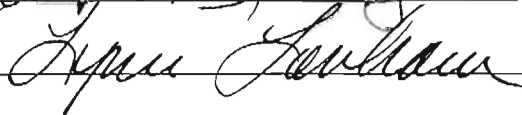
For further information concerning the matters stated here in, please contact Jessie Bialek at 410-887-3480.

Reviewed by:



Division Chief:

AFK/LL: CM



PETITIONER'S

EXHIBIT NO.

2A+B



30 E. Padonia Road, Suite 500
Timonium, Maryland 21093

tel. 410-560-1502
fax 443-901-1208

January 2, 2008

Baltimore County
Department of Public Works
111 W. Chesapeake Avenue
Towson, Maryland 21204

Attention: Mr. Dave Thomas, PE

Reference: 10525 York Road
Floodplain Confirmation

Dear Mr. Thomas:

I am writing on behalf of my client Bill Kidd's Volvo. They are the contract purchaser of this property and have a zoning hearing scheduled for January 9, 2008. Attached is a copy of the proposed grading plan for the site as we have discussed previously.

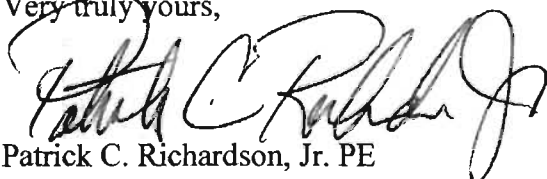
Also included is a copy of the flood study done by WBCM for the culvert addition to the culvert under York Road. This study was done to show the effects of the construction of an additional box being constructed as part of the improvements to the intersection of York Road and Warren Road.

The Engineering Design section of Baltimore County supplied the report. On the cover it references that the datum used was BCVD. However checking the report data, cross sections and the topography included in the plans, it appears to match the GIS data that we obtained to use as a base for the project. I have reviewed the sectional areas and believe they are in accordance with the HEC2 report done by WBCM. Therefore we are using the same floodplain elevations and believe them to be accurate.

Based on this information, we have provided a plan that will intrude into the floodplain in 2 locations. These locations are highlighted on the attached plan and are about 170 square feet in size each. The elevations of the water surface and ground are noted on each location. It is important to note that both locations will be within plus or minus about 1" from the existing ground surface conditions and that the maximum water elevation on the southern incursion is about 6" above the ground elevation.

We appreciate your help and cooperation in resolving this issue. Once you have reviewed the information, if you have any questions, please feel free to contact me at any time.

Very truly yours,

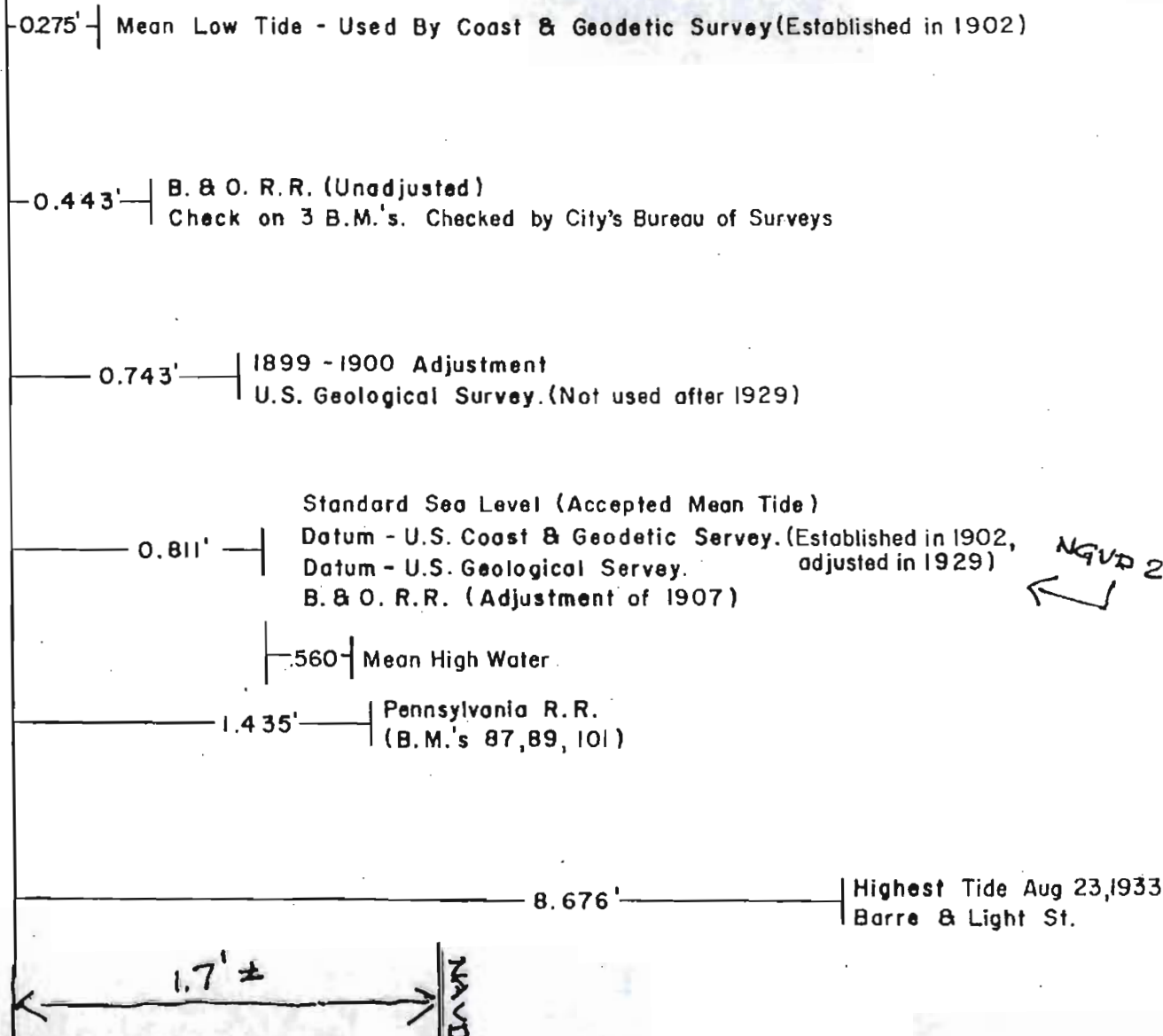


Patrick C. Richardson, Jr. PE

PETITIONER'S

EXHIBIT NO.

3



ZERO DATUM - MEAN LOW TIDE* - CITY AND COUNTY OF BALTIMORE

Information obtained from
Department of Public Works
of Baltimore City

*Zero Datum selected in 1902. From
1902 to 1954 Mean Low Tide has
risen 0.56'. This will not affect
comparison of survey datums.

BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS	APPROVED DIRECTOR <i>[Signature]</i>	REVIEWED	GENERAL DESIGN CHART OF DATUMS	G-C
	DIVISION OF ENGINEERING DATE 8/22/47			
		REVISED		
		DATE		
		BY		

PETITIONER'S

EXHIBIT NO.

4



PROTESTANT' S

EXHIBIT NO. 1A+B

Karen Smith Statement

The community is opposed to this variance with respect to the current zoning of a parcel of the Kolodner property. This parcel is zoned DR-3 and has a rental home on it. The use of this residentially-zoned land for an automobile parking lot is inconsistent with the zoning and the neighborhood. This parcel abuts several homes on both Brecon Place and Bosley Ave. Our neighborhood would be directly and negatively affected by the placement of an automobile lot in our backyards.

Most of the homes in this neighborhood have been here for at least 50 years, and some even longer. This is not a new neighborhood built to adjoin the commercial sector; rather it is an established, quiet neighborhood seeking to retain its character.

Several years ago, there was a zoning change requested for 2 residential properties on Warren Rd. that adjoin a commercial property. The rezoning was denied on the basis that commercial expansion (commercial creep) is undesirable in a residential community. We hope that this reasoning still holds true with respect to this variance request, and we respectfully request that this variance be denied. Thank you.

PROTESTANT' S

EXHIBIT NO. 2

111 W. Chesapeake Ave. Room 106. 9:00 AM. next to parking

Tom Bostwick

Please sign this petition
voicing your opposition to
the proposed construction of
an auto dealership on Bosley Ave.

1. Nancy Troy	16. William Skene
2. Lee Brancati	17. Kay L W
3. Helen Gluski	18. Susan Stuart
4. Grayson Holland	19. Alice Cummings
5. Joan Price	20. Mary Helle
6. Stephanie MacLean	21. Frances Cyrek
7. Ruth Baxters	22. Gris Brinkwater
8. Martha Johnson	23. Earl Hande
9. Alma Ford	24. Lillian Howard
10. Eileen Leon	25. Mary Yago
11. Betty Zwart	26. Judy Ford
12. Dolly Crispens	27. Norma Joyce
13. Janet White	28. Helen Murphy
14. Carol W. Murray	29. Elaine Allen
15. Mary Lou Brown	30. Barton O'Maguire
31. D. Susscher	32.

PROTESTANT' S

EXHIBIT NO.

3



BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

RECEIVED
JAN 04 2008

BY:.....

TO: Bill Wiseman
Zoning Commissioner

FROM: T. Bryan McIntire, Councilman
Third District Baltimore County Council

SUBJECT: Case 08-208-SPHA

DATE: 3 January 2008

Attached please find a letter from Ms. Ann Blackwell, a disabled constituent. She wishes to have her opposition to the above referenced case considered but is unable to travel to the hearing on Jan. 9, 2008.

I request you include her correspondence in the file for reference as the case is being considered.

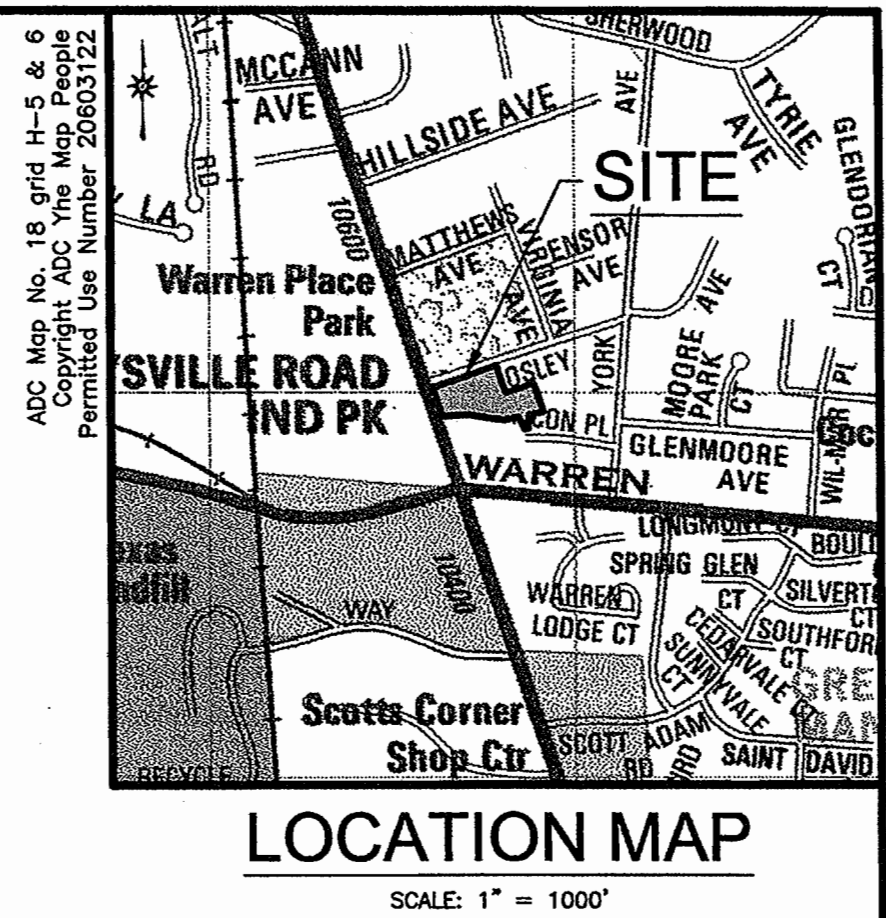
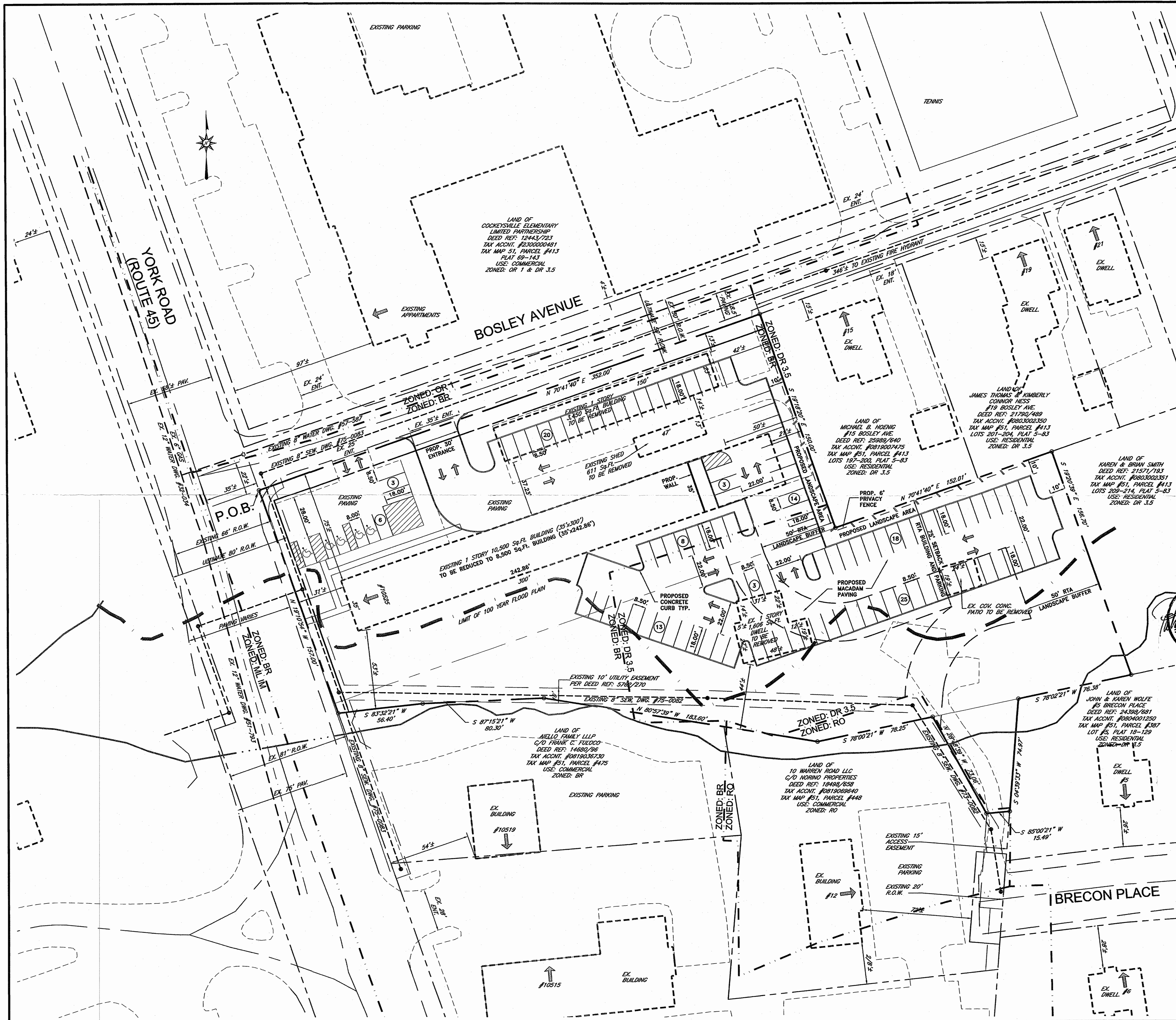
Thank you.

887-3196
887 5791 fax
M.S. 2201

TBM/gm

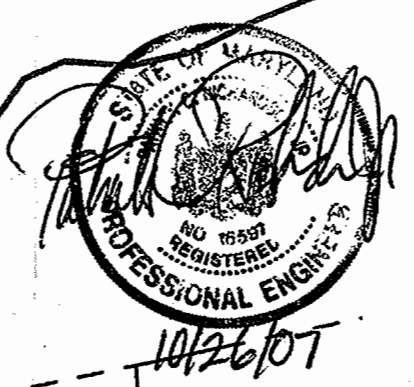
PROTESTANT'S

EXHIBIT NO. 4



GENERAL NOTES:

- OWNER: HARRY W. KOLODNER
10525 YORK ROAD
COCKEYSVILLE, MARYLAND 21030-2301
- SITE AREA:
GROSS: 113,055 Sq.Ft. or 2.595 Ac.±
NET: 98,061 Sq.Ft. or 2.251 Ac.±
- BUILDING AREAS:
EXISTING: 16,621 Sq.Ft.
PROPOSED: NO NEW BUILDING PROPOSED
TOTAL: 8,500 Sq.Ft. (8,121 Sq.Ft. TO BE REMOVED)
- UTILITIES
WATER: PUBLIC SEWER: PUBLIC
- THE SITE LIES WITHIN THE 100 YEAR FLOODPLAIN.
- THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
- USES:
EXISTING: AUTOMOTIVE DEALER
PROPOSED: AUTOMOTIVE DEALER (NO CHANGE)
- PARKING:
REQUIRED FOR AUTOMOTIVE DEALER: 5 SPACES PER 1,000 Sq.Ft.
5/1000 = .005 x 8,500 = 42.50 SPACES REQUIRED.
PROVIDED: 113 SPACES (5 HANDICAPPED, 108 REGULAR).
- SETBACKS: REQUIRED PROVIDED
FRONT 25' 75'±
SIDE 30' 31'±
REAR 30' 53'±
- DEED REF: 5266/8, 7359/291.
- TAX ACCOUNT #0823051675, 0819074400, 0819074401
- ELECTION DISTRICT: 8TH
- COUNCILMANIC DISTRICT: 3RD
- WATERSHED: LOCH RAVEN
- FLOOR AREA RATIO: 8,500 ÷ 113,055 = .075
- ZONING: BR, DR 3.5 & RO
(PER 1"=200' ZONING MAP 051B1)
- TAX MAP #51 PARCEL #413 & #291
- ANY PROPOSED SIGNS SHALL CONFORM TO BCZR.
- PREVIOUS ZONING CASE: NONE



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Timonium, Maryland 21093
Phone: 410-560-1502 Fax: 443-901-1208

PLAN TO ACCOMPANY
ZONING PETITION FOR

BILL KIDD'S VOLVO
10525 YORK ROAD

8TH ELECTION DISTRICT		BALTIMORE COUNTY, MARYLAND		
REVISIONS		DRAWN BY: CND	DESIGNED BY: CND	SCALE: 1" = 30'
PETITIONER'S		DATE: 10-20-07	JOB NO.: 07093	SHEET NO.: 1 OF 1
EXHIBIT NO.				