IN THE MATTER OF	* BEFORE THE
THE APPLICATION OF	
ELSA AND PELAYO CORREA –LEGAL OWNERS	* COUNTY BOARD OF APPEALS
FOR A VARIANCE ON PROPERTY LOCATED	
ON E/SIDE OF MAIN STREET, 275	* OF
FEET S/OF CENTERLINE OF	
COCKEYS MILL ROAD	* BALTIMORE COUNTY
(217 MAIN STREET)	
4TH ELECTION DISTRICT	* CASE NO. 08-304-A
3RD COUNCILMANIC DISTRICT	

* * * * * * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on a timely appeal brought by Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel for Baltimore County, resulting from a decision by Thomas H. Bostwick, Deputy Zoning Commissioner to grant (with restrictions) a Petition for Variance filed by the Petitioners, Drs. Elsa Correa and Pelayo Correa, legal owners, seeking relief from § 409.6(A)(2); of the *Baltimore County Zoning Regulations* (BCZR) to permit 14 parking spaces in lieu of the required 18 and from § 409.4(C); of the *Baltimore County Zoning Regulations* (BCZR) to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet; and from § 409.4(A); of the *Baltimore County Zoning Regulations* (BCZR) to permit an access driveway of 9 feet in lieu of the required 20 feet.

A public hearing before the Board of Appeals was held on September 17, 2008. A public deliberation followed on October 21, 2008.

The subject property is located at 217 Main Street, 4th Election District, 3rd Councilmanic District. Deborah C. Dopkin, Esquire, represented the Petitioners before the Deputy Zoning Commissioner but at the September 17, 2008 hearing before the Board of Appeals, the Petitioners were pro sec.

Dr. Elsa Correa testified that she owns the building and has for twenty (20) years and has maintained her practice at that location the whole time. She relayed that her clients are aging and

she needs more space. The front of the building is rented out as a gift shop. She stated that she has one employee at this practice location and has no medical equipment on site other than files. The space she currently uses is 870 square feet. Dr. Correa also stated that she has another practice located in Essex.

Steven Weber testified for the People's Counsel for Baltimore County, who was represented by Carole S. Demilio. Mr. Weber has thirty (30) years with Baltimore County in the Division of Traffic Engineering and his current position is Chief of that Division. He testified that the new addition would eliminate a parking space for an area that is already deficient in parking spaces. Also, the driveway entrance and exit is sub-standard for this zone. There is only enough room for one (1) car to come and go at a time; thus causing a safety hazard to motorists on Randallstown Road. He further testified that the entire area has tight parking issues due to the concentrated non-conforming uses in the locality surrounding the subject property. Mr. Weber submitted as evidence (People's Counsel's Exhibit No. 2), a letter from Steven D. Foster, Chief, Engineering Access Permits Division of the State Highway Administration, Maryland Department of Transportation, which requested that Baltimore County require the Petitioner/Applicant to obtain an SHA – Access Permit as a condition for a variance, due to the failing entrance. Reconstruction of the entrance would have to be completed to meet the current SHA Guidelines for Access to Commercial Property. Mr. Weber testified the building would be increased by twenty-five (25%) percent to a commercial use that is already non-conforming.

Dr. Correa testified that she has an understanding with the property owner, that she shares her driveway with, that her patients can drive in his driveway when hers is occupied. However,

there is no formal written agreement between the property owners and no future promise this practice/understanding between the parties will continue.

George H. Harman, President of the Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc. testified in opposition for the requested variance due to overbuilding of Main Street in Reisterstown. Plan Sheet: 048C2, Baltimore County Office of Planning and Zoning Official Zoning Map (People's Counsel's Exhibit No. 3), shows the intense use of BL and BR along Reisterstown Road, which the Council feels, that the granting of this variance request, would add to a problem of parking in an area that is already at a premium. There is a school in the area that adds to traffic problems during the day. Mr. Harman added that a turn lane was added at the sacrifice of the eastbound and westbound lanes, which makes for a dangerous situation.

Mrs. Demilio, Office of People's Counsel, noted that this is a non-conforming use issue and does not meet current Baltimore County Regulations and that the requested variance would only add to the problem. Dr. Correa is not under any hardship. She can reclaim rented space for her practice to expand. Dr. Correa stated that the property was not unique and Mrs. Demilio proved that there was no uniqueness and no practical difficulty. This property was like all the other properties in the area.

Section 307 of the *Baltimore County Zoning Regulations* (BCZR) permits granting of a variance upon certain terms and conditions, which in pertinent part in this case, allow a variance where special circumstances or conditions exist that are peculiar to the land that is the subject of the variance requested, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship.

The burden to establish special circumstances or conditions was clarified by the Court of Special Appeals in *North v. St. Mary's County* 99Md. App 502 (1994), when Judge Cathell stated:

> An applicant for variance bears the burden of overcoming the assumption that the proposed use is unsuited. That is done, if at all, by satisfying fully the dictates of the statute authorizing the variance.

Under the Court of Special Appeals decision in *Cromwell v. Ward*, 102 Md.App. 691 (1995), which sets forth the legal benchmark under which a variance may be granted, the Board of Appeals, hearing the case *de novo*, is given the task of interpreting regulations and statutes where issues are debatable in the light of the law. The first burden on the Petitioner for variance is to prove that the property is unique. This standard must be met before other parts of the variance requirements can be properly considered.

The Court defined the term "uniqueness" and stated:

> In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

After a thorough review of the evidence and testimony before us, the Board finds unanimously as a matter of fact that the Petitioner has not met the burden as required for a variance under BCZR 307.1 and the standards of *Cromwell v. Ward*.

The first prong requires that the land itself of the subject property must be unique from others in the neighborhood to qualify for a variance. The testimony and evidence, including that

of the legal owner, are substantial and uncontradicted that 217 Main Street is not different from the other lots in that neighborhood. All of the plats and photographs introduced into evidence establish that neighboring properties are of equivalent size and nature.

Having found that the first prong of the standard has not been met by the Petitioners, the Board as a matter of law need not consider practical difficulty or spirit and intent.

This Board agrees with the Office of People's Counsel that supporting this variance would only make a problem worse for the citizens of the Reisterstown area. Dr. Correa has options to make room for her practice by taking space she rents out. The State Highway Administration and Division of Traffic Engineering agree there is a nonconforming use and an inadequate driveway and parking facility. The Board also agrees that there was no proof of uniqueness or practical difficulty.

Therefore it is the unanimous decision of this Board to deny the request for variance seeking

relief from § 409.6(A)(2); of the *Baltimore County Zoning Regulations* (BCZR) to permit 14 parking spaces in lieu of the required 18 and from § 409.4(C); of the *Baltimore County Zoning Regulations* (BCZR) to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet; and from § 409.4(A); of the *Baltimore County Zoning Regulations* (BCZR) to permit an access driveway of 9 feet in lieu of the required 20 feet.

ORDER

THEREFORE, IT IS THIS 9th day of February, 2009 by the Board of Appeals of Baltimore County;

ORDERED that Petitioners' request for variance seeking relief from § 409.6(A)(2); of the *Baltimore County Zoning Regulations* (BCZR) to permit 14 parking spaces in lieu of the required 18 and from § 409.4(C); of the *Baltimore County Zoning Regulations* (BCZR) to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet; and from § 409.4(A); of the *Baltimore County Zoning Regulations* (BCZR) to permit an access driveway of 9 feet in lieu of the required 20 feet

be and the same is hereby **DENIED.**

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Edward W. Crizer, Jr., Panel Chairman

Lawrence M. Stahl

Wendell H. Grier

IN RE: PETITION FOR VARIANCE E side Main Street, 275 feet S c/l Cockeys Mill Road 4th Election District 3rd Councilmanic District **(217 Main Street)** Dr. Elsa and Dr. Pelayo Correa *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY **Case No. 08-304-A**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Dr. Elsa and Dr. Pelayo Correa. Petitioners are requesting variance relief as follows:

- From Section 409.6(A)(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 14 parking spaces in lieu of the required 18; and
- From Section 409.4(C) of the B.C.Z.R. to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet; and
- From Section 409.4(A) of the B.C.Z.R. to permit an access driveway of 9 feet in lieu of the required 20 feet.

The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance requests was Petitioner Dr. Elsa Correa and her attorney, Deborah Dopkin, Esquire. Also appearing in support of the requested relief was Richard E. Matz with Colbert Matz Rosenfelt, Inc., the professional engineer who prepared the site plan, and Gus Mack, a contractor working with Petitioners.

Appearing as an interested citizen was Kathleen Bell of 4415 Butler Road. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is a rectangular-shaped property containing approximately .24 acres of land zoned B.L. with a small strip of D.R.3.5 bordering the eastern edge of the property. The property is located on the east side of Main Street between Cockeys Mill Road and Bond Avenue in the Reisterstown area of Baltimore County. Petitioners submitted an aerial photograph of the subject property which was marked and accepted into evidence as Petitioners' Exhibit 8 and shows the location of the subject property and its proximity to the surrounding properties. The subject property is improved with a 4,310 square foot two-story commercial building with a brick front. Petitioners submitted several photographs of the existing structure, which were marked and accepted into evidence as Petitioners' Exhibits 2A through 2F. Petitioners also submitted a number of photographs of the rear of the property highlighting the parking area and the land behind the existing building. These photographs were marked and accepted into evidence as Petitioners' Exhibits 4A through 4D, 6A through 6D, and 7A through 7D.

Further evidence indicated that Petitioners have owned the subject property for approximately 20 years and use the rear portion of the first floor of the existing structure to operate a small psychiatric practice. Petitioner Dr. Elsa Correa is a license medical doctor and generally operates the psychiatric practice on Wednesdays from 6:00 a.m. to 9:30 a.m. and on Saturdays from 7:00 a.m. to approximately noon. Dr. Correa typically sees one patient at a time and the majority of the patients are elderly persons. To properly serve the clientele, the entrance to Petitioners' practice, as seen in Exhibit 2E, is handicap accessible via a winding ramp. The second story of the existing building is leased to a law firm, DeLeonardo, Smith & Associates,

LLC, and the front portion of the first floor is currently unoccupied. The surrounding properties are used to operate a number of small commercial businesses. Petitioners submitted a series of photographs of the surrounding neighborhood, which were marked and accepted into evidence as Petitioners' Exhibit 3A through 3D.

Petitioners are proposing to build a 14 foot by 31 foot two-story addition to the existing structure to improve the waiting area and create a more spacious and comfortable environment for patients. When inquired as to why the front area of the first floor that is currently vacant could not be utilized by Petitioners for this purpose, Mr. Matz, Petitioners' engineer, indicated that the unoccupied space in the front of the first floor of the building could not be used due to the grade of the property and the fact that there is a four foot drop between Petitioners' office and the currently unused portion of the building. Since the majority of Petitioners' patients require handicap access to the Office, Petitioners are also unable to move their practice to the unoccupied portion of the building. While the property currently meets the parking space requirements in Section 409.6.A.2 of the B.C.Z.R, the proposed addition would increase the number of required spaces from 14 to 18, thus requiring the Petitioners to seek variance relief.

Although not opposed to the requests for relief, Kathleen Bell expressed concern over potential storm water drainage issues on her property. Ms. Bell owns the property immediately adjacent to and north of the subject property. Her property is situated at a lower grade than the subject property, as shown on the site plan and the photographs accepted into evidence as Petitioners' Exhibits 6A through 6D and 7A through 7D. It houses several commercial tenants. She is concerned about the existing storm water runoff, but is also concerned that the situation will be worse following construction of the addition and reconfiguring of the parking to the rear of the property. Her desire is that storm water runoff be directed elsewhere than her property. In

response, Mr. Matz indicated he was aware of Ms. Bell's concerns and that the issue would be properly addressed. He indicated that any new paving and landscaping would not direct storm water toward her property, but rather would direct water flow to the rear of the subject property into the open field between the property and the Board of Education building.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief. The State Highway Administration comment dated February 4, 2008 indicates that the existing entrance to the property is consistent with state requirements and had no objection to approval. The Office of People's Counsel, however, requested comment from Stephen Weber, Chief of the Division of Traffic Engineering, which raised some concern over the parking constraints on the property.

Considering all the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. The majority of the requested relief seeks to bring existing conditions into compliance with the B.C.Z.R. While the width of the parking aisle and driveway do not currently meet the requirements of Section 409.4 of the B.C.Z.R., these conditions have existed without incident for many years. The evidence also demonstrated that Petitioners have an informal arrangement with the neighboring property owners at Bransfield Motor Co. to use their driveway when necessary to access the subject property. Petitioners submitted a series of photographs of the neighboring property, which were marked and accepted into evidence as Petitioners' Exhibits 5A through 5C. This informal agreement helps to alleviate some of the potential congestion on the narrow existing driveway on the property. Since the site cannot feasibly be brought into compliance with the regulations, I find that the imposition of zoning on this property disproportionably

impacts the subject property as compared to others in the zoning district. Additionally, strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship since Petitioners cannot practically widen the existing driveway or width of the parking aisle.

I further find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. While the Office of People's Counsel has expressed some concern over increasing the amount of traffic on a driveway and parking area that already fails to comply with the regulations, I find that the proposed addition will not serve to increase the amount of traffic on the property. Petitioners will not be increasing the amount of patients seen on the property, and only aim to create a more comfortable waiting area. The proposal will not increase congestion in the parking area, and there is no evidence that the number of parking spaces is insufficient to serve Petitioners' patients or clients and employees of the Law Office. It is also important to note that the State Highway Administration reviewed the current state of the property and had no objection to the granting the proposed relief. Given the limited hours of operation of Petitioners' practice, I am confident that the proposed addition will benefit Petitioners' patients without having any negative effect on the surrounding locale. Thus, I find that the requests meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md.App. 691 (1995).

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

RECEIVED FOR FILING
4-1-08
BY

THEREFORE, IT IS ORDERED this 15th day of April, 2008 by this Deputy Zoning Commissioner, that Petitioners' variance requests as follows:

- From Section 409.6(A)(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 14 parking spaces in lieu of the required 18; and
- From Section 409.4(C) of the B.C.Z.R. to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet; and
- From Section 409.4(A) of the B.C.Z.R. to permit an access driveway of 9 feet in lieu of the required 20 feet.

be and are hereby GRANTED subject to the following:

1. Petitioners are advised that they may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. In connection with the new two-story addition, Petitioners shall ensure that storm water runoff generated by the subject property not be directed to the adjacent properties, in particular the property owned by Kathleen Bell. Petitioner shall devise any new paving and landscaping such that storm water runoff is directed to the rear of the subject property and toward the open field located behind the subject property.

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

RECEIVED FOR FILING
4.1.08
BY

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

April 1, 2008

DEBORAH DOPKIN
1000 MERCANTILE-TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON MD 21204

Re: Petition for Variance
Case No. 08-304-A
Property: 217 Main Street

Dear Ms. Dopkin:

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

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

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

c: Richard E. Matz, Colbert, Matz & Rosenfelt, 2835 Smith Avenue, Suite G, Baltimore, MD 21209
Dr. Elsa and Dr. Pelayo Correa, 217 Main Street, Reisterstown MD 21136
Gus Mack, 712 Stemmers Run Road, Baltimore MD 21221
Kathleen Bell, 4415 Butler Road, Glyndon MD 21071

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 217 Main Street

which is presently zoned BL 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 of thereof, hereby petition for a Variance from Section(s)

See attached.

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

To be presented at hearing.

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

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

Contract Purchaser/Lessee:

Name – Type or Print

Signature

Address. Telephone No.

City State Zip Code

Attorney For Petitioner:

Name – Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

Dr Elsa Correa
Name – Type or Print

Signature

Dr. Pelayo Correa
Name – Type or Print

Signature

217 Main Street 410-252-0738
Address. Telephone No.

Reisterstown Md 21136
City State Zip Code

Representative to be Contacted:

Richard E. Matz, P.E.
COLBERT MATZ ROSENFELT, INC
2835 Smith Avenue, Suite G 410-653-3838
Address Telephone No.

Baltimore MD 21209
City State Zip Code

Case No. 08-304-A

RECEIVED FOR FILING
Date 4.1.08
By PM

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING
UNAVAILABLE FOR HEARING
Reviewed By RJT **Date** 1/11/08

Attachment for 217 Main Street Variance Petition

Variance Request: To permit 14 spaces in lieu of the required 18, per Section 409.6(A)(2), BCZR ; to permit an aisle width of 17' and 21', respectively, in lieu of the required 22', per Section 409.4(C), BCZR; to permit an access driveway of 9' in lieu of the required 20', per Section 409.4(A), BCZR.

Item #304

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: #8-304-A
217 Main Street
E/side of Main Street, 275 feet south of centerline of Cockeys Mill Road
4th Election District - 3rd Councilmanic District
Legal Owner(s): Drs. Elsa & Pelayo Correa

Variance: to permit 14 parking spaces in lieu of the required 18 and to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet and to permit an access driveway of 9 feet in lieu of the required 20 feet.

Hearing: Tuesday, March 11, 2008 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special 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/2/809 Feb. 26 164914

CERTIFICATE OF PUBLICATION

2/28/, 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 2/26/, 2008.

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

P. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 09733

Date: 1/11/08

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				325 =

Total: 325 =

Rec From:

For: zoning hear case # 08-304-A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

CASHIER'S VALIDATION

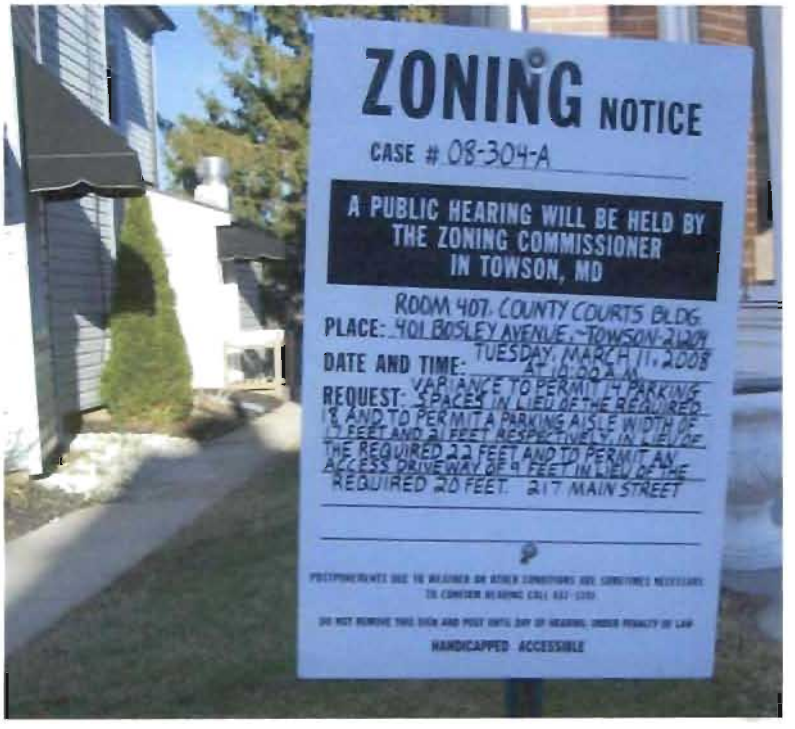
PAID RECEIPT
BUSINESS ACTUAL TIME DRW
1/10/2008 1/11/2008 14:16:38 2
DEP ASSC MAIL JEVA JEE
RECEIPT # 557743 1/11/2008 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 009733
Recpt Tot $325.00
$325.00 CK $.00 CA
Baltimore County, Maryland

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS
DATE: 02/21/08
Case Number: 08-304-A
Petitioner / Developer: COLBERT, MATZ & ROSENFELT INC.
Date of Hearing (Closing): MARCH 11, 2008

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
217 MAIN STREET

The sign(s) were posted on: 02/19/08



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 – 666 – 5366
(Telephone Number of Sign Poster)


ZONING APPEAL
PUBLIC HEARING
CASE NUMBER:
OR-304 A
FOR INFORMATION CALL
887-3180
DO NOT REMOVE
UNDER PENALTY OF LAW

Requested: May 28, 2008

APPEAL SIGN POSTING REQUEST

CASE NO.: 08-304-A

217 Main Street

4th ELECTION DISTRICT APPEALED: 4/11/2008

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, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 08-304-A

LEGAL OWNER: **DRS. ELSA &PELAYO CORREA**

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

217 MAIN STREET
E/SIDE OF MAIN STREET, 275 FEET S/OF CENTERLINE OF COCKEYS MILL ROAD

The sign was posted on 9/3, 2008.

By: _____
(Signature of Sign Poster)

_____
(Print Name)

RECEIVED
OCT 09 2008
BALTIMORE COUNTY
BOARD OF APPEALS

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: 08-304-A

Petitioner: Dr. Elsa Correa and Dr. Pelayo Correa

Address or Location: 217 Main Street, Reisterstown MD

PLEASE FORWARD ADVERTISING BILL TO:

Name: Gus Mack

Address: Cutting Edge Construction Services, Inc.
712 Stemmers Run Road, Unit B
Baltimore, MD 21221

Telephone Number: 410-238-4900

Revised 7/11/05 - SCJ

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

January 30, 2008
TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

NOTICE OF ZONING HEARING

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

CASE NUMBER: 08-304-A
217 Main Street
E/side of Main Street, 275 feet south of centerline of Cockeys Mill Road
4th Election District – 3rd Councilmanic District
Legal Owners: Drs. Elsa & Pelayo Correa

Variance to permit 14 parking spaces in lieu of the required 18 and to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet and to permit an access driveway of 9 feet in lieu of the required 20 feet.

Hearing: Tuesday, March 11, 2008 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Drs. Elsa & Pelayo Correa, 217 Main Street, Reisterstown 21136
Richard Matz, 2835 Smith Avenue, Ste. G., Baltimore 21209

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, FEBRUARY 25, 2008.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 26, 2008 Issue - Jeffersonian

Please forward billing to:
Gus Mack 410-238-4900
Cutting Edge Construction Services
712 Stemmers Run Road, Unit B
Baltimore, MD 21221

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: 08-304-A
217 Main Street
E/side of Main Street, 275 feet south of centerline of Cockeys Mill Road
4th Election District – 3rd Councilmanic District
Legal Owners: Drs. Elsa & Pelayo Correa

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Hearing: Tuesday, March 11, 2008 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

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, Jefferson Building
Second Floor, 105 W. Chesapeake Avenue
(adjacent to Suite 203)

July 31, 2008

NOTICE OF ASSIGNMENT

CASE #: 08-304-A

IN THE MATTER OF: DRS. ELSA AND PELAYO CORREA -
Legal Owners /Petitioners 217 Main Street
4th Election District; 3rd Councilmanic District

4/01/2008 – D.Z.C.'s Decision in which requested variance relief was GRANTED with restrictions.

ASSIGNED FOR: WEDNESDAY, SEPTEMBER 17, 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 : Office of People's Counsel

Counsel for Petitioner : Deborah C. Dopkin, Esquire
Petitioner : Drs. Elsa and Pelayo Correa
Richard E. Matz /Colbert Matz Rosenfelt, Inc.
Gus Mack

Kathleen Bell

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

DEBORAH C. DOPKIN, P.A.
ATTORNEY AT LAW
409 WASHINGTON AVENUE, SUITE 1000
TOWSON, MARYLAND 21204

TELEPHONE 410-821-0200
FACSIMILE 410-823-8509
e-mail ddopkin@dopkinlaw.com

DEBORAH C. DOPKIN

September 16, 2008

Via Hand Delivery
Kathleen C. Bianco, Administrator
County Board of Appeals
of Baltimore County
Jefferson Building, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 08-304-A/217 Main Street

Dear Ms. Bianco:

A hearing in the above captioned matter is scheduled before the County Board of Appeals on Wednesday, September 17, 2008 at 10:00 a.m. As I communicated to you by telephone, the property owners wish to proceed with the hearing at that time. Unfortunately, I did not receive the hearing notice that was sent and will not be appearing at this hearing. I have recommended to the Petitioner that they seek a continuance to afford them the opportunity to be represented by counsel.

I apologize to the Board and to the Office of People's Counsel for any inconvenience this may cause.

Very truly yours,

Deborah C. Dopkin

DCD/kmc
cc: Cutting Edge Construction (via fax)
Dr. Elsa Correa (via fax)
Mr. Richard Matz (via fax)
People's Counsel for Baltimore County (via fax)

C:\docs\KMC\DCD\Letters 2008\Bianco Kathleen-correa.wpd

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

September 19, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

DRS. ELSA & PELAYO CORREA -Petitioners
Case No. 08-304-A

Having heard this matter on 9/17/2008, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, OCTOBER 21, 2008 at 9:30 a.m.**

LOCATION : **Hearing Room #2, Second Floor**
Jefferson Building, 105 W. Chesapeake Avenue

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Petitioner : Drs. Elsa and Pelayo Correa
Richard E. Matz /Colbert Matz Rosenfelt, Inc.
Gus Mack

Kathleen Bell

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

Copy to: 7-2-4

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

March 5, 2008

Dr. Elsa Correa
Dr. Pelayo Correa
217 Main Street
Reisterstown, MD 21136

Dear Drs. Correa:

RE: Case Number: 08-304-A, 217 Main Street

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 11, 2008. 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
Richard E. Matz, P.E. Colbert Matz Rosenfelt, Inc. 2835 Smite Avenue, Suite G Baltimore 21209

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

County Office Building, Room 111
, 2007
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

January 29, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: January 29, 2008

Item Number: 304, 313, 321

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.

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4880 (C)443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: February 1, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For February 4, 2008
Item Nos. 08-298, 299, 300, 301, 302, 304, 306, 307, 308, 309, 310, 311, 312, 313, 314, 316, 317, 318, 319, 320, 321, 322 and 323

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

DAK:CEN:cab
cc: File
ZAC-NO COMMENTS- 02042008.doc

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

SHA State Highway Administration

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

Maryland Department of Transportation

February 4, 2008

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

RE: Baltimore County
Item No. 08-304-A
217 Main Street
275' south of Cockeys Mill RD
Elsa/Correa Property
Variance-

Dear Ms. Matthews:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on January 31, 2008. A field inspection and internal review reveals that the existing entrance onto MD 140 (Main Street) is consistent with current State Highway Administration requirements. Therefore, this office has no objection to 217 Main Street property, Case Number 08-304-A approval.

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

Very truly yours,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB
Cc: Mr. David Malkowski, District Engineer, SHA
Mr. Michael Pasquariello, Utility Engineer, SHA

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 7, 2008

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-304- Variance**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Jessie Bialek in the Office of Planning at 410-887-3480.

Prepared By: Curtis Murray

Division Chief: Lynn Lanham

CM/LL

RE:	PETITION FOR VARIANCE 217 Main Street; E/S Main Street, 275' S c/line Cockeys Mill Road 4th Election & 3rd Councilmanic Districts Legal Owner(s): Drs. Elsa & Pelayo Correa Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 08-304-A

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
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 25th day of January, 2008, a copy of the foregoing Entry of Appearance was mailed to, Richard E. Matz, PE, Colbert Matz Rosenfelt, Inc, 2835 Smith Avenue, Suite G, Baltimore, MD 21209, Representative for Petitioner(s).

RECEIVED
JAN 25 2008
Per.....

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: DRS. ELSA & PELAYO CORREA 08-304-A

DATE: October 21, 2008

BOARD/PANEL: Edward Crizer, Jr.
Lawrence Stahl
Wendell Grier

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate an appeal of the following:

1. Variance request to permit an addition for handicap patients and additional parking on the property.

2. Whether the property meets the standards of Cromwell v. Ward in order to grant the variance.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Petitioner has owned and operated her business at this location for twenty years. Her patients range in age and disability.
- The Petitioner wishes to extend the existing ramp to the property, build an addition onto the property, and add parking to accommodate her disabled patients.
- The Petitioners dismissed their attorney prior to the hearing and represented themselves, pro se, at the hearing. The Board felt that the Petitioners were not familiar with the legal requirements to gain a variance.
- The Petitioners testified that the property was not unique and that the property was, in fact, similar to every other property in the area.
- The Petitioners occupy one floor of their building and rent out the other floor. The parking is shared between this building and the neighboring building.

DECISION BY BOARD MEMBERS: The property does not meet the standards of Cromwell v. Ward for uniqueness. The Board feels that if the Petitioners require additional space, they may have invented the problem by renting the other floor of the building.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to *DENY* the relief requested in the variance.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Sunny Cannington

Sunny Cannington

TB 3/11

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

CAROLE S. DEMILIO
Deputy People's Counsel

February 28, 2008

William J. Wiseman, III, Zoning Commissioner
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

RECEIVED
FEB 29 2008
BY:_____

Re: PETITION FOR VARIANCE
Elsa & Pelayo Correa- Petitioners
Case No: 08-304-A

Dear Mr. Wiseman,

Because this petition for variance to support a general and medical office addition generates significant parking issues, we asked Stephen E. Weber, Chief of Traffic Engineering, to review the site plan. As a result, he sent the enclosed e-mail dated February 26, 2008 and attached aerial photo. As is our custom, we forward it to you for consideration. The hearing is currently scheduled for March 11, 2008.

Mr. Weber's comment presents major concerns about the single-lane driveway access to the busy arterial Maryland Route 140, the high utilization of existing spaces, the site constraints, the lack of off-street parking, the excessive vehicle storage on the neighboring property, and the parking demand generated by short-term or long term future uses of the additional space.

Mr. Weber concludes,

> "We find that the current site is so constrained today and considerably fails to meet current access standards that we would recommend against the granting of the requested variance. We feel that granting the requested variance would only exacerbate the current substandard conditions of the site and only set up the site to be unable to accommodate the demands the increased office space would place on it."

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

cc: Richard E. Matz, PE
Stephen Weber, Chief

From: Stephen Weber
To: People's Counsel
CC: Dennis Kennedy
Date: 02/26/2008 6:19 PM
Subject: Case No. 08-304-A, 217 Main Street
Attachments: 217MainSt.bmp

Dear Mr. Zimmerman:

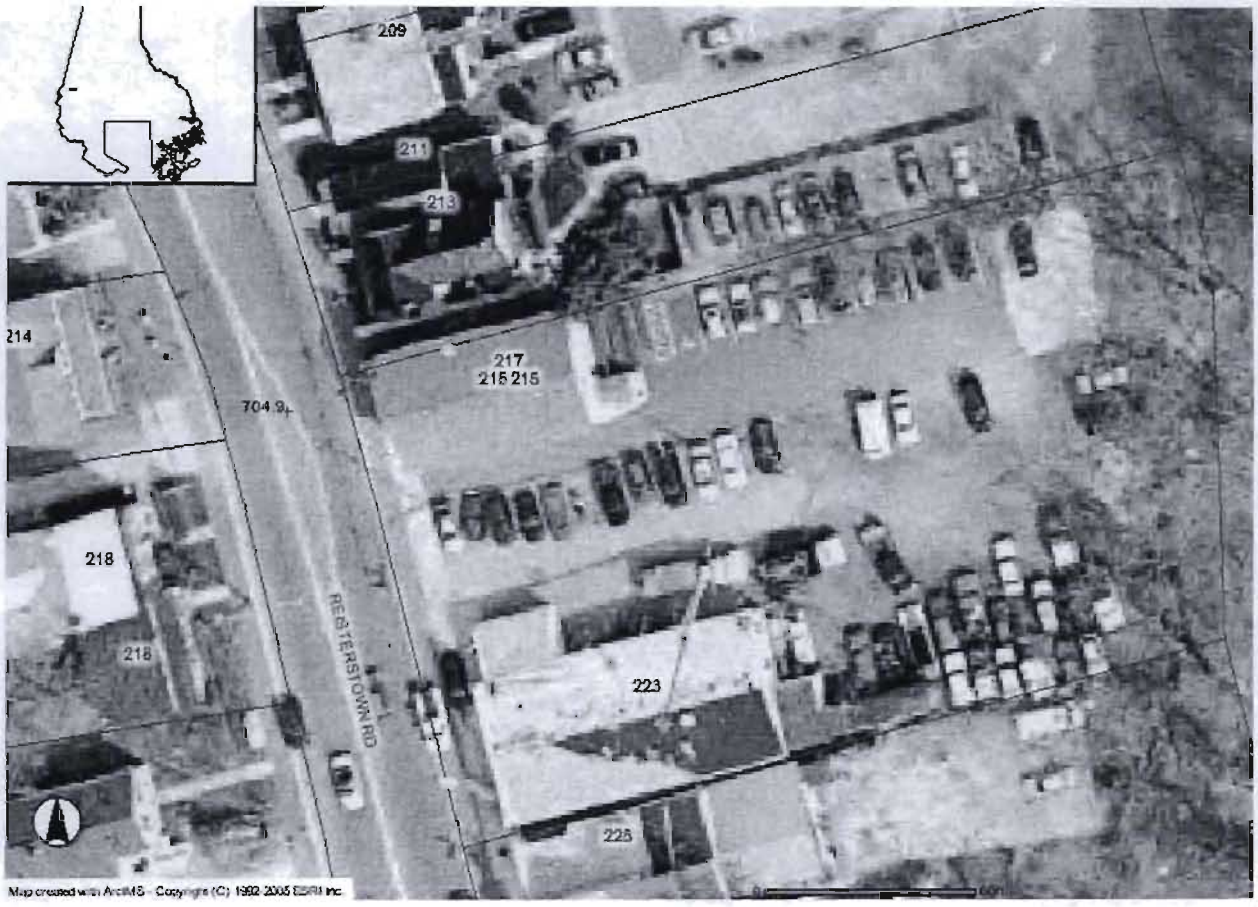
In reviewing this case, we note that the request is for installing an addition onto #217 Main St in Reisterstown, MD. Examination of the current site would indicate that the parking lot just meets current zoning requirements from the standpoint of the number of available spaces. The entrance onto Main St is substandard, basically only being one lane wide to provide for 2-way traffic. This single lane for 2-way traffic exists for about 80 feet into the property. There is no on-street parking available on the portion of Main Street adjacent to the property since the road striping is beginning the accommodation of a northbound left-turn lane for turning onto Cockeys Mill Rd. Main St in front of this site is a busy arterial highway (Maryland Route 140) and carries approximately 16,500 vehicles/day.

The proposed addition would add additional medical office and general office floor area (approximately an additional 440 sq. ft. each) and thereby would also require an additional four parking spaces, thus causing the need for a parking variance to allow only 14 spaces instead of the required 18. In looking at a recent aerial photo of this location (attached, but showing the road improperly as Reisterstown Rd), it shows high utilization of the existing parking spaces. This project proposes to increase the total floor area by slightly over 25% with no associated increase in parking, even though it appears to already be making relatively full use of the limited parking that is available. Based on the extremely constrained site, granting the requested variance would appear to set up a situation where the parking demands will be greater than the parking provided. Since there is no on-street parking available adjacent to the site and the adjacent auto store also appears to be significantly over capacity with excessive vehicles stored on the property than it properly allows, it is unclear where the petitioner is planning on putting the additional vehicles likely to be generated by the increased office space. Even if the petitioner may argue that the proposed addition will not add any additional employees nor any additional customers/clients now, the addition nevertheless establishes the potential for such increases in the future when other uses and/or tenants will come into the picture. The increased office space will also allow for increased potential and likelihood of higher traffic generation rates thereby increasing the probability of vehicles encountering each other head-on on the single-lane driveway. If vehicles are waiting to enter onto busy Main St from the site, that forces any vehicles wanting to enter the site to instead just sit stopped on Main Street and hold up traffic behind them until the vehicles exiting the site can get onto Main St themselves.

We find that the current site is so constrained today and considerably fails to meet current access standards that we would recommend against the granting of the requested variance. We feel that granting the requested variance would only exacerbate the current substandard conditions of the site and only set up the site to be unable to accommodate the demands the increased office space would place on it.

Should you have any questions regarding these comments, 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


209
211
213
214
217
215 215
704 9+
218
218
223
225
REISTERSTOWN RD
Map created with ArcIMS - Copyright (C) 1992-2005 ESRI Inc.

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER 08-304-A
DATE MARCH 11, 2008

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Deborah Dopkin	409 WASHINGTON AVE Ste 1000	TOWSON MD 21204	DDopkin@DopkinLaw.com
ELSA CORREA MD	11720 GREENSPRING DR	LUTHERVILLE MD 21093	
RICHARD MATZ	2835 SMITH AVE., SUITE G.	BALTIMORE, MD. 21209.	DMATZ@CMRENGINEERS.COM
Wm CORREA - CONSULTANT	2912 GRANT AVE	OWINGS MILLS, MD 21117	
Gus Mack - Contractor	717 Stevenson Lane Road	Balto, MD 21221	

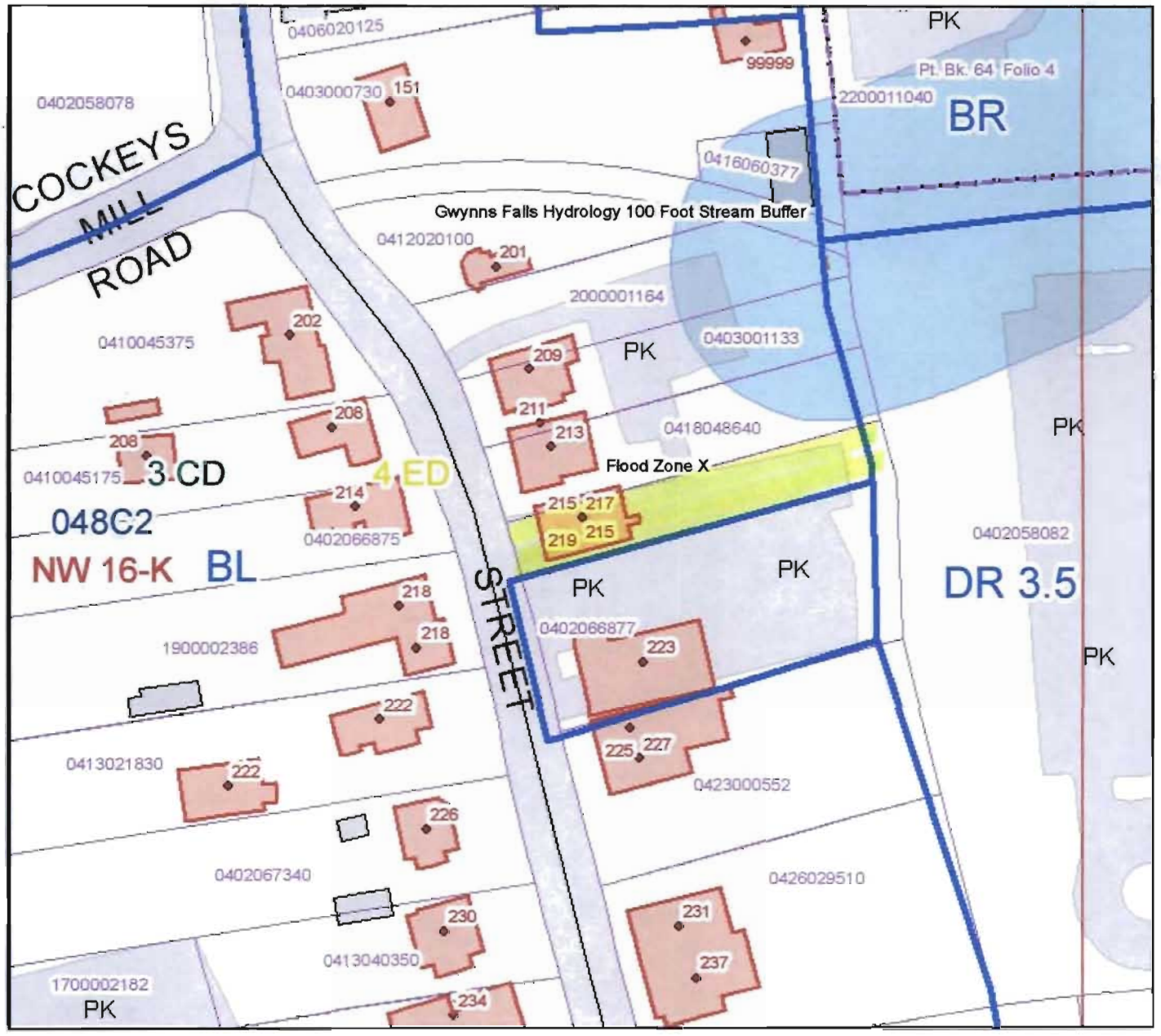
PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER 08-309-A
DATE _____

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Kathleen Bell	4415 Butler Rd	Lyndon 21071	

217 Main Street



DQ Map Notes

Publication Date: January 11, 2008
Publication Agency: Department of Permits & Development Management
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

N W E S

100 0 100 Feet

1 inch equals 100 feet

Item # 304

08 - 304 - A 9-17-08
CORREA

Petitioner ~~Appellant~~ Exhibits

✓ (1) Photo of site

✓ (2) Opinion of DZC 4-1-08
T section

✓ (3) Photos of front of Petit. building
A } Front of site
B

[Remainder of file below moved]

• 08-304A • 9-17-08

CORREA

PEOPLES COUNSEL EXHIBITS

1. Aerial photo of site 2002-2003 (circa)
2. SHA letter to Watthews 9-15-08
3. Zoning Map [redacted] 048 C 2 Aug 31, 2004
   2-9-05 Comp Zoning Map regarding
4. Rule & documents - unsigned ✓ see note* *Signed Copy filed 9-19-08
5. MdSDAT print out of site - 8-25-08 pg 1 and 2 (map)

Blow up of #1 attached

REISTERSTOWN-OWINGS MILLS-GLYNDON COORDINATING COUNCIL, INC.
P.O. Box 117
Reisterstown, Maryland 21136

The undersigned hereby acknowledge and attest that on September 13 –14, 2008, the Board of Directors of the Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc. (ROG), a Maryland corporation, in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: That the ROG Board voted to support the Peoples Counsel in their action at the Board of Appeals and any future appeals regarding Baltimore County zoning case 08-0304-A.

AND FURTHER RESOLVED: That the Board empowers and instructs George Harman, Jonathan Schwartz, and David Simonetti, President, 1st Vice President, and 2nd Vice President, respectively, to individually or jointly represent ROG at any hearings before the Board of Appeals of Baltimore County and any body of appropriate jurisdiction for any subsequent appeals. Mr. Harman, Mr. Schwartz, or Mr. Simonetti to appear at those hearings for ROG and make known the position of ROG in this matter, to wit, that:

ROG opposes the proposed petition for variance that would allow the building to be expanded for additional commercial purposes and also opposes the reduction in the required parking. Furthermore, Mr. Harman, Mr. Schwartz, and Mr. Simonetti are authorized to explain or amplify as they see fit, this stated position.

AS WITNESS OUR HANDS THIS 17th day of September 2008.

ATTEST:
Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.

Gail M. Sangelo
Secretary

George H Harman
President

****

RESOLVED, that at this second meeting of ROG for 2007 to 2008, that the responsibility for the official presentation of positions for actions on all zoning and development matters is hereby assigned only to the President, Vice Presidents, and Committee Chair(s) as elected, or duly appointed. The President and Vice Presidents may authorize in writing with two signatures, the delegation of this authority to other members of the organization.

WITNESS OUR HANDS AND SEALS THIS 17th day of September,2008.

ATTEST: Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.

Gail M. Sangelo
Secretary

George H Harman
President

RECEIVED
SEP 19 2008
BALTIMORE COUNTY
BOARD OF APPEALS

PC #4 Filed
9-19-08

Ltr 9/2/08 Peop Co. Ex 4

REISTERSTOWN-OWINGS MILLS-GLYNDON COORDINATING COUNCIL, INC.
P.O. Box 117
Reisterstown, Maryland 21136

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ATTEST:
Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.

_____ George H Harman

_____, Secretary _____, President

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WITNESS OUR HANDS AND SEALS THIS 17th day of September,2008.

ATTEST: Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.

_____ George H Harman

_____, Secretary _____, President

PC 4

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw5.1)

Go Back
View Map
New Search

Account Identifier: **District** - 04 **Account Number** - 0418048640

Owner Information

Owner Name:	CORREA DR ELSA CORREA DR PELAYO	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	217 MAIN ST REISTERSTOWN MD 21136-1213	**Deed Reference:**	1) / 8262/ 9 2)

Location & Structure Information

Premises Address	**Legal Description**
217 MAIN ST	ES MAIN ST 200 S BENSON RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
48	17	926						2	Plat Ref:

Special Tax Areas **Town**
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1965	3,286 SF	10,304.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2008	Phase-in Assessments As Of 07/01/2008	As Of 07/01/2009
Land	160,300	200,300		
Improvements:	172,900	217,200		
Total:	333,200	417,500	361,300	389,400
Preferential Land:	0	0	0	0

Transfer Information

Seller:	ROGERS NANCY ANN	**Date:**	08/30/1989	**Price:**	$145,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 8262/ 9	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

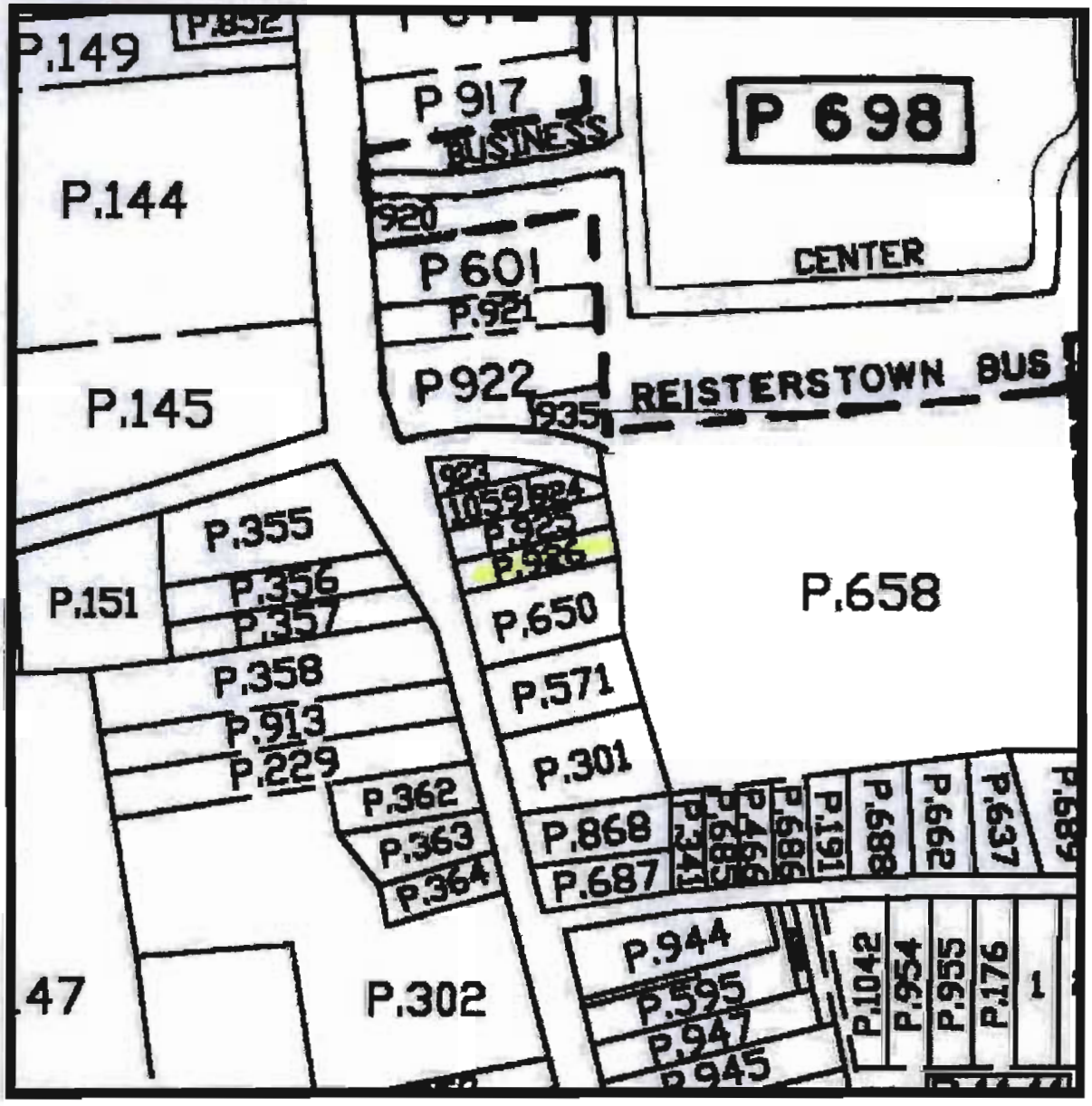
Special Tax Recapture:
* NONE *

BOA 9-17-08 Ex #5
Peop. Ct.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

District - 04**Account Number** - 0418048640



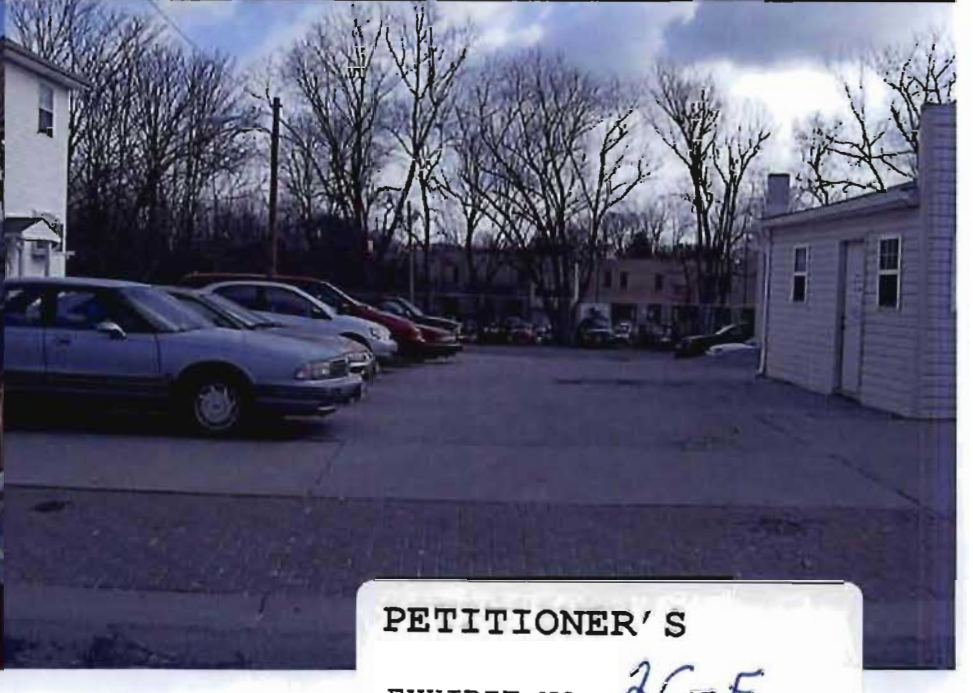
Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

A

PETITIONER'S

EXHIBIT NO 3 ~~A~~ A-B
Bd of Appeals 9-17-08

B

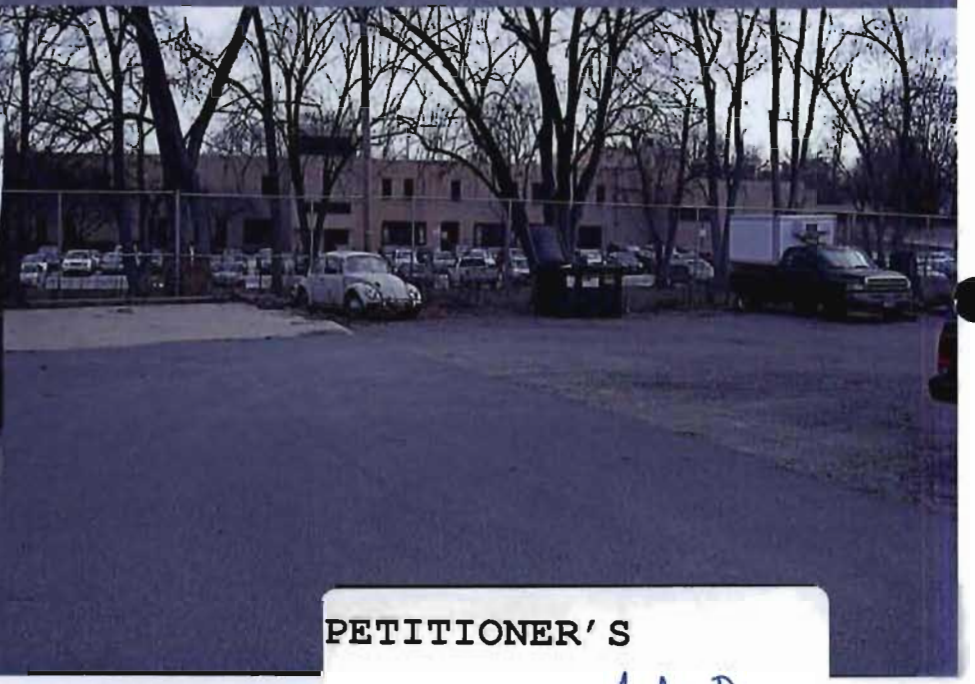


PETITIONER'S

EXHIBIT NO. 2C-F

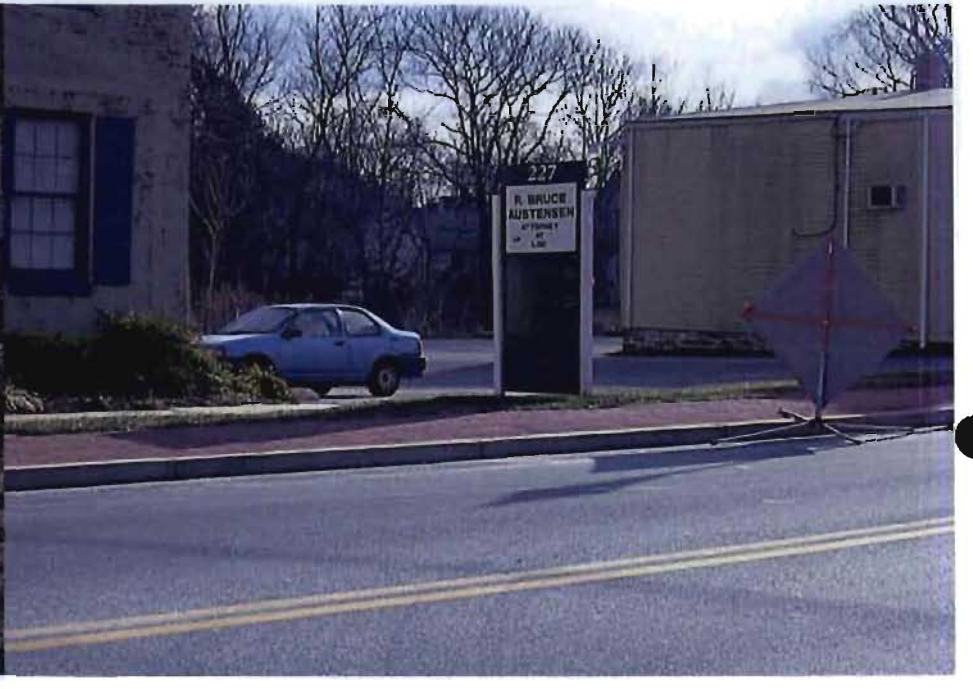
PETITIONER'S

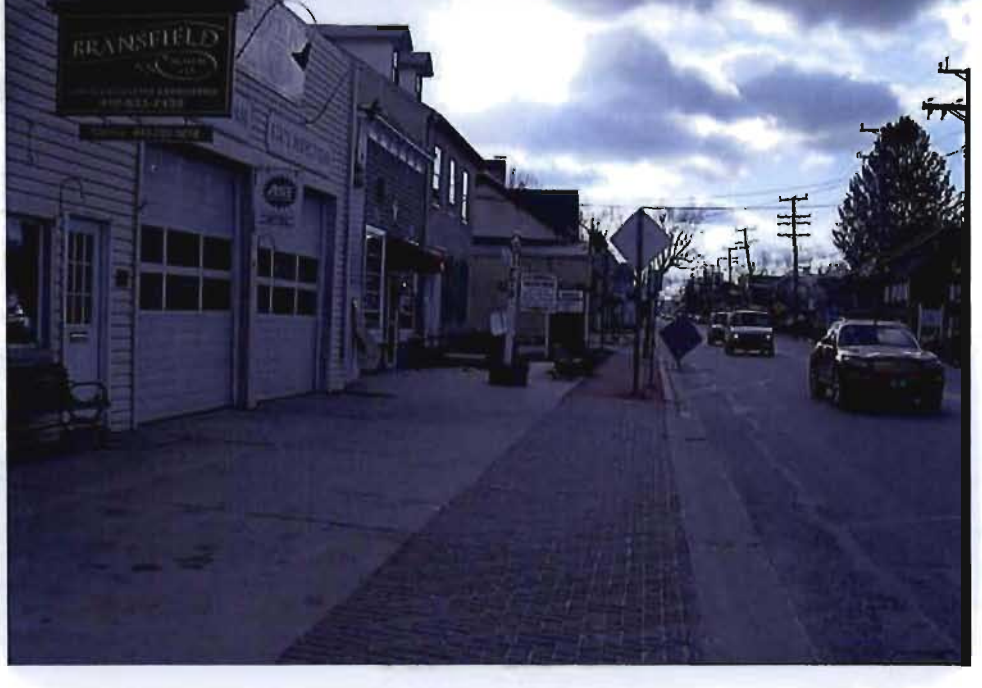
EXHIBIT NO. 3A-D



PETITIONER'S

EXHIBIT NO. 4A-D





PETITIONER'S

EXHIBIT NO. 5A-C

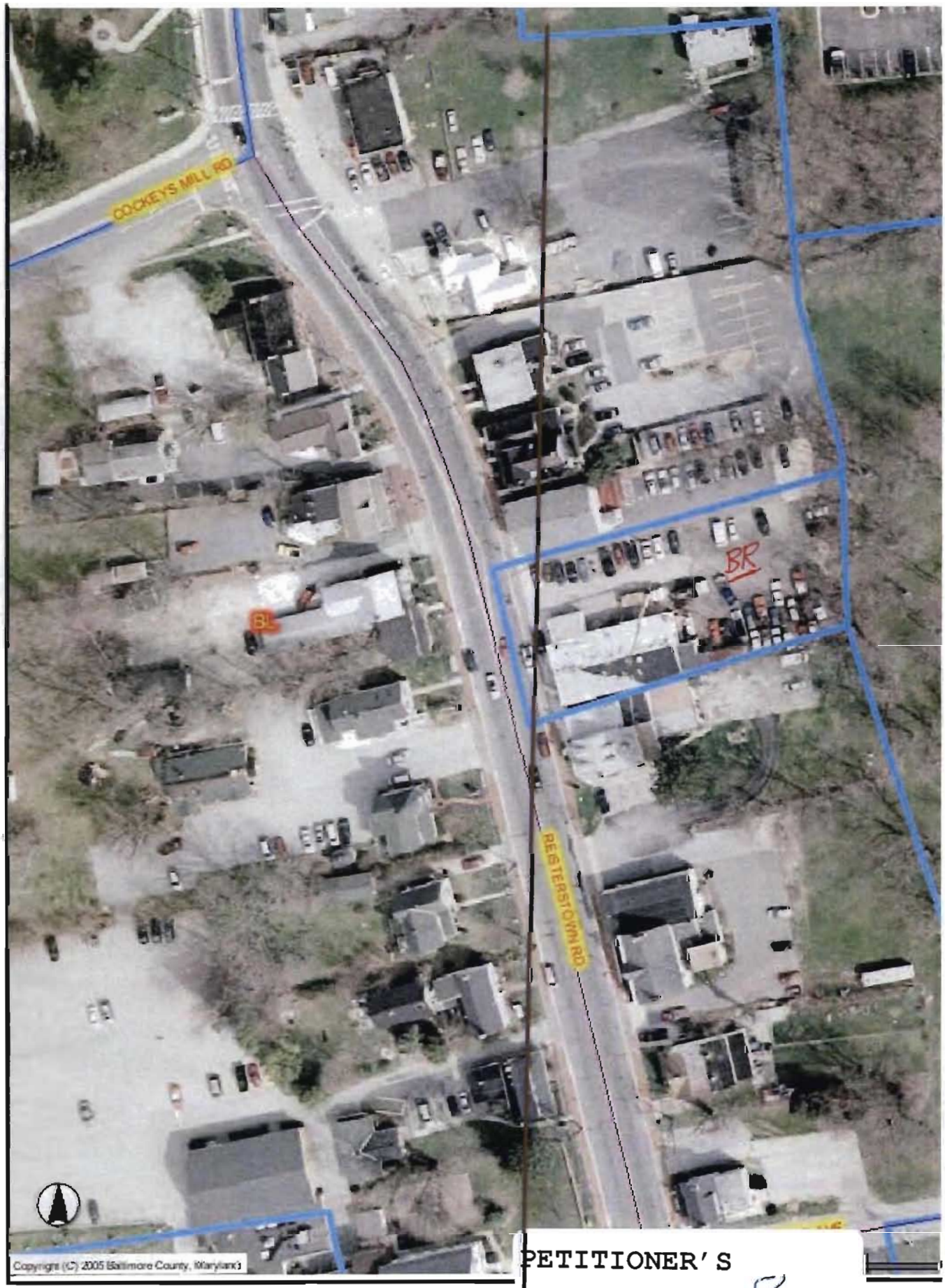
PETITIONER'S

EXHIBIT NO. 6A-D

PETITIONER'S

EXHIBIT NO. 7A-D

2007-213



PETITIONER'S

EXHIBIT NO. 5

BOA 9-17-08 Resp. 6. (EX #1

BOA
9-17-08 Dep #2

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

SHA State Highway Administration

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

Maryland Department of Transportation

September 15, 2008

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

RE: Baltimore County
Item No. 08-304-A
MD 140 (Westminster Pike)
75' n/e Reisterstown Road
Reisterstown Center
Special Exception
Variance

Dear Ms. Matthews:

This is in reference to the ZAC Agenda Case Number 08-304-A for the property located at 217 Main Street in Reisterstown, Maryland. In our February 19, 2008 letter (Foster to Matthews) comments regarding access onto the property from MD 140 (Main Street) indicated that the existing entrance is acceptable for the present-day use.

We understand that the applicant desires to further improve the property by adding useable building space and increasing parking. Additional improvements or expansion of the use would require reconstructing the entrance to meet current State Highway Guidelines for Access to Commercial Property. Therefore, this office requests that the County require the applicant to obtain an SHA - Access Permit as a condition of Special Exception and Variance Case No. 08-304-Aapproval for any expansion to the existing use. Please include our comments in staff report to the Zoning Hearing Officer.

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

Very truly yours,

for Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB
Cc: Mr. David Malkowski, District Engineer, SHA
Mr. Joseph Merrey, Department of Permits & Development Management, Baltimore County
Ms. Carole DeMilio, Office of Counsel, Baltimore County

IN RE: PETITION FOR VARIANCE E side Main Street, 275 feet S c/l Cockeys Mill Road 4th Election District 3rd Councilmanic District **(217 Main Street)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY
Dr. Elsa and Dr. Pelayo Correa *Petitioners*	*	**Case No. 08-304-A**

9-17-08 #2

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Dr. Elsa and Dr. Pelayo Correa. Petitioners are requesting variance relief as follows:

- From Section 409.6(A)(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 14 parking spaces in lieu of the required 18; and
- From Section 409.4(C) of the B.C.Z.R. to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet; and
- From Section 409.4(A) of the B.C.Z.R. to permit an access driveway of 9 feet in lieu of the required 20 feet.

The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance requests was Petitioner Dr. Elsa Correa and her attorney, Deborah Dopkin, Esquire. Also appearing in support of the requested relief was Richard E. Matz with Colbert Matz Rosenfelt, Inc., the professional engineer who prepared the site plan, and Gus Mack, a contractor working with Petitioners.

Appearing as an interested citizen was Kathleen Bell of 4415 Butler Road. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is a rectangular-shaped property containing approximately .24 acres of land zoned B.L. with a small strip of D.R.3.5 bordering the eastern edge of the property. The property is located on the east side of Main Street between Cockeys Mill Road and Bond Avenue in the Reisterstown area of Baltimore County. Petitioners submitted an aerial photograph of the subject property which was marked and accepted into evidence as Petitioners' Exhibit 8 and shows the location of the subject property and its proximity to the surrounding properties. The subject property is improved with a 4,310 square foot two-story commercial building with a brick front. Petitioners submitted several photographs of the existing structure, which were marked and accepted into evidence as Petitioners' Exhibits 2A through 2F. Petitioners also submitted a number of photographs of the rear of the property highlighting the parking area and the land behind the existing building. These photographs were marked and accepted into evidence as Petitioners' Exhibits 4A through 4D, 6A through 6D, and 7A through 7D.

Further evidence indicated that Petitioners have owned the subject property for approximately 20 years and use the rear portion of the first floor of the existing structure to operate a small psychiatric practice. Petitioner Dr. Elsa Correa is a license medical doctor and generally operates the psychiatric practice on Wednesdays from 6:00 a.m. to 9:30 a.m. and on Saturdays from 7:00 a.m. to approximately noon. Dr. Correa typically sees one patient at a time and the majority of the patients are elderly persons. To properly serve the clientele, the entrance to Petitioners' practice, as seen in Exhibit 2E, is handicap accessible via a winding ramp. The second story of the existing building is leased to a law firm, DeLeonardo, Smith & Associates,

LLC, and the front portion of the first floor is currently unoccupied. The surrounding properties are used to operate a number of small commercial businesses. Petitioners submitted a series of photographs of the surrounding neighborhood, which were marked and accepted into evidence as Petitioners' Exhibit 3A through 3D.

Petitioners are proposing to build a 14 foot by 31 foot two-story addition to the existing structure to improve the waiting area and create a more spacious and comfortable environment for patients. When inquired as to why the front area of the first floor that is currently vacant could not be utilized by Petitioners for this purpose, Mr. Matz, Petitioners' engineer, indicated that the unoccupied space in the front of the first floor of the building could not be used due to the grade of the property and the fact that there is a four foot drop between Petitioners' office and the currently unused portion of the building. Since the majority of Petitioners' patients require handicap access to the Office, Petitioners are also unable to move their practice to the unoccupied portion of the building. While the property currently meets the parking space requirements in Section 409.6.A.2 of the B.C.Z.R, the proposed addition would increase the number of required spaces from 14 to 18, thus requiring the Petitioners to seek variance relief.

Although not opposed to the requests for relief, Kathleen Bell expressed concern over potential storm water drainage issues on her property. Ms. Bell owns the property immediately adjacent to and north of the subject property. Her property is situated at a lower grade than the subject property, as shown on the site plan and the photographs accepted into evidence as Petitioners' Exhibits 6A through 6D and 7A through 7D. It houses several commercial tenants. She is concerned about the existing storm water runoff, but is also concerned that the situation will be worse following construction of the addition and reconfiguring of the parking to the rear of the property. Her desire is that storm water runoff be directed elsewhere than her property. In

response, Mr. Matz indicated he was aware of Ms. Bell's concerns and that the issue would be properly addressed. He indicated that any new paving and landscaping would not direct storm water toward her property, but rather would direct water flow to the rear of the subject property into the open field between the property and the Board of Education building.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief. The State Highway Administration comment dated February 4, 2008 indicates that the existing entrance to the property is consistent with state requirements and had no objection to approval. The Office of People's Counsel, however, requested comment from Stephen Weber, Chief of the Division of Traffic Engineering, which raised some concern over the parking constraints on the property.

Considering all the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. The majority of the requested relief seeks to bring existing conditions into compliance with the B.C.Z.R. While the width of the parking aisle and driveway do not currently meet the requirements of Section 409.4 of the B.C.Z.R., these conditions have existed without incident for many years. The evidence also demonstrated that Petitioners have an informal arrangement with the neighboring property owners at Bransfield Motor Co. to use their driveway when necessary to access the subject property. Petitioners submitted a series of photographs of the neighboring property, which were marked and accepted into evidence as Petitioners' Exhibits 5A through 5C. This informal agreement helps to alleviate some of the potential congestion on the narrow existing driveway on the property. Since the site cannot feasibly be brought into compliance with the regulations, I find that the imposition of zoning on this property disproportionably

impacts the subject property as compared to others in the zoning district. Additionally, strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship since Petitioners cannot practically widen the existing driveway or width of the parking aisle.

I further find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. While the Office of People's Counsel has expressed some concern over increasing the amount of traffic on a driveway and parking area that already fails to comply with the regulations, I find that the proposed addition will not serve to increase the amount of traffic on the property. Petitioners will not be increasing the amount of patients seen on the property, and only aim to create a more comfortable waiting area. The proposal will not increase congestion in the parking area, and there is no evidence that the number of parking spaces is insufficient to serve Petitioners' patients or clients and employees of the Law Office. It is also important to note that the State Highway Administration reviewed the current state of the property and had no objection to the granting the proposed relief. Given the limited hours of operation of Petitioners' practice, I am confident that the proposed addition will benefit Petitioners' patients without having any negative effect on the surrounding locale. Thus, I find that the requests meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md.App. 691 (1995).

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

THEREFORE, IT IS ORDERED this 15th day of April, 2008 by this Deputy Zoning Commissioner, that Petitioners' variance requests as follows:

- From Section 409.6(A)(2) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 14 parking spaces in lieu of the required 18; and
- From Section 409.4(C) of the B.C.Z.R. to permit a parking aisle width of 17 feet and 21 feet, respectively, in lieu of the required 22 feet; and
- From Section 409.4(A) of the B.C.Z.R. to permit an access driveway of 9 feet in lieu of the required 20 feet.

be and are hereby GRANTED subject to the following:

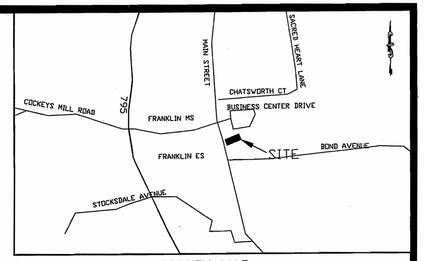
1. Petitioners are advised that they may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. In connection with the new two-story addition, Petitioners shall ensure that storm water runoff generated by the subject property not be directed to the adjacent properties, in particular the property owned by Kathleen Bell. Petitioner shall devise any new paving and landscaping such that storm water runoff is directed to the rear of the subject property and toward the open field located behind the subject property.

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



VICINITY MAP
SCALE: 1"=2000'

SCALE: 1"= 20'

NOTES:

1. OWNER: DR ELSA CORREA
   DR PELAYO CORREA
   217 MAIN STREET
   REISTERSTOWN, MD 21136-1213

2. SITE DATA:
   217 MAIN STREET
   AREA: 10,302 SF (0.24 ACRE)

   MAP 48 PARCEL 926
   TAX ACCOUNT NO.: 0418048640

   ELECTION DISTRICT: 04
   COUNCILMANIC DISTRICT: 03
   ZONED: BL AND DR 3.5 Map 048C2
   DEED REFERENCE: 8262/9

3. EXISTING USE: RETAIL, MEDICAL OFFICES AND OFFICES
   PROPOSED ADDITION: MEDICAL OFFICES AND STORAGE (OFFICES).

4. THE SITE IS NOT IN THE CHESAPEAKE BAY CRITICAL AREA.

5. THE SITE IS NOT IN A 100-YEAR FLOODPLAIN.

6. THE SITE IS NOT HISTORIC OR IN A HISTORIC DISTRICT.

7. THERE ARE NO OUTSTANDING ZONIING VIOLATIONS.

8. THERE IS NO CONTIGUOUS OWNERSHIP.

9. THERE ARE NO PREVIOUS COMMERCIAL PERMITS.

10. FLOOR AREA RATIO CALCULATIONS:
    EXISTING SQUARE FEET: 4,310
    PROPOSED SQUARE FEET: 1,271
    TOTAL SF: 5,581
    SITE AREA: 10,304 SF
    FAR= 5,581/10,304 OR 0.54
    MAXIMUM FAR ALLOWED IN A BL ZONE: 3.0

11. PARKING CALCULATIONS:

    BASEMENT
    EX. STORAGE= 871 SF (NO PARKING REQUIREMENT)
    PROP. STORAGE= 385 SF (NO PARKING REQUIREMENT)

    FIRST FLOOR
    EX. RETAIL= 848 SF @ 5/1000 SF= 4.24
    EX. MEDICAL OFFICES= 871 SF;
    PROP. MEDICAL OFFICES= 443 SF;
    TOTAL MEDICAL OFFICES= 1,311 SF @ 4.5/1000 SF= 5.90

    SECOND FLOOR
    EX. OFFICES (BUSINESS) = 1,720 SF
    PROP. OFFICES (BUSINESS) = 440 SF
    TOTAL OFFICES (BUSINESS) = 2,160 SF @ 3.3/1000 SF = 7.13

    TOTAL REQUIRED SPACES: 4.24+5.9+7.13= 17.27 SAY 18 SPACES
    PROPOSED SPACES: 14, INCLUDING 1 HC

12. SETBACKS:

	REQUIRED	PROPOSED
SIDE	0'	9' (EXISTING) AND 1'
REAR	20'	155'
FRONT	10' FROM PL	0' (EXISTING)
	40' FROM CL OF ROAD	0' (EXISTING)

13. THERE IS NO ZONING HISTORY.

14. THE CLOSEST FIRE HYDRANT IS 528'± FROM PROPERTY LINE.

VARIANCE REQUEST:
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PARKING AREA DETAIL
SCALE: 1"= 10'

PLAN TO ACCOMPANY PETITION FOR VARIANCES

217 MAIN STREET

4TH ELEC[illegible] 3RD COUNCILMANIC DISTRICT

20 80

08-304
Correa

STATE OF MARYLAND — JAMES M. FOSENFELT — No. 13203 — PROFESSIONAL ENGINEER
June 10, 2008

Fosenfelt, Inc.
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[illegible]9
Baltim[illegible]
Telephone: (410) [illegible]-3838
Facsimile: (410) 653-7953

SCALE:	AS SHOWN
DATE:	12/28/07
JOB NO.:	2007213
DESIGNED:	
DRAWN:	DSL
CHECKED:	JMF
FILE:	VARIANCE.DWG
DRAWING NUMBER:	ZON-1

PETITIONER'S EXHIBIT NO. 1

NO.	DATE	REVISIONS:	BY

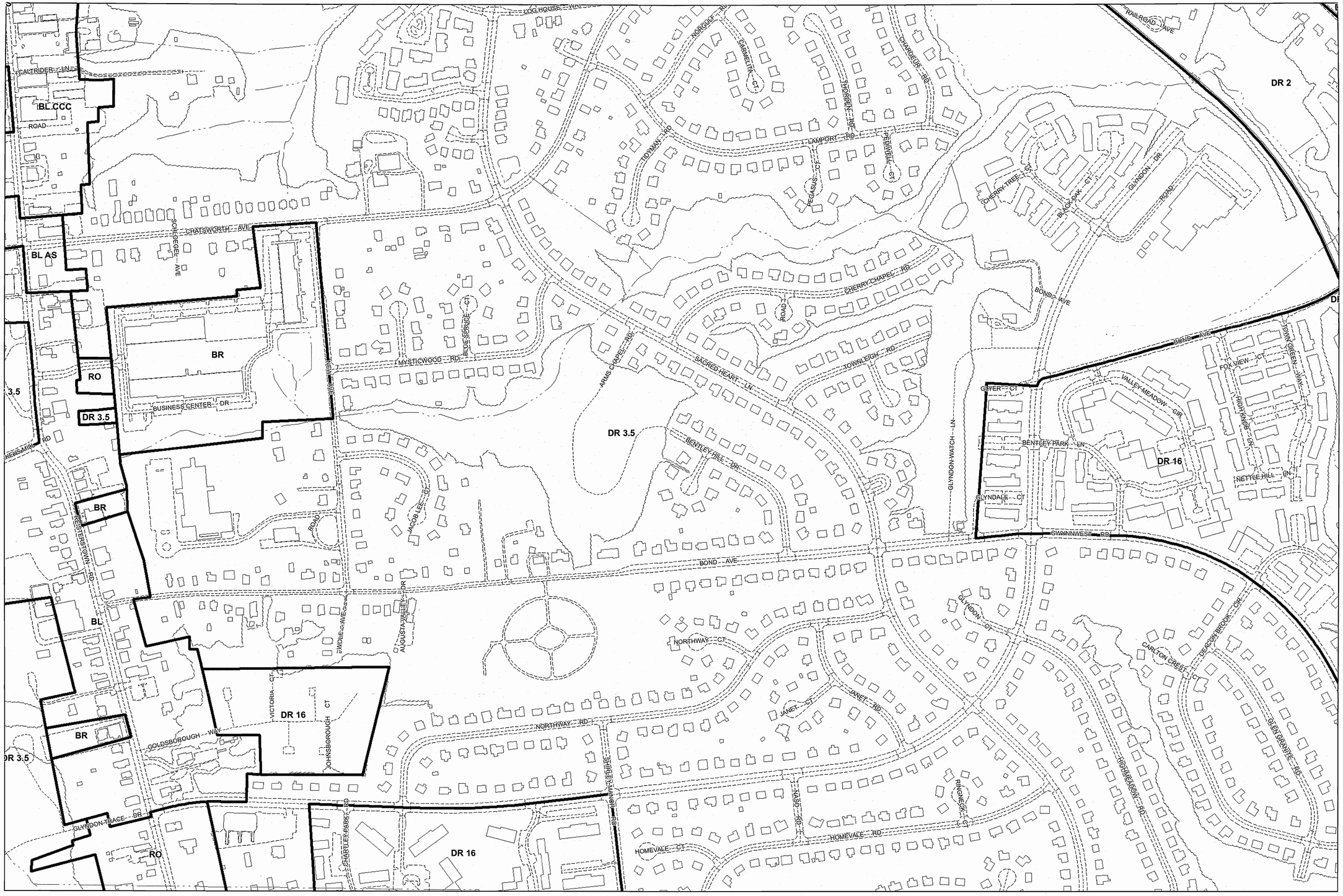
SHEET 1 OF 1

ITEM # 304

Produced by Baltimore County GIS Services Unit
Date: August 25, 2008
Date of Imagery: 2007

1 inch equals 25 feet

The Cadastral Information on this Plot was compiled from existing deed information. This Information is not to be considered authoritative. The Survey Information was not field checked and Certified by a licensed land surveyor.



Plan Sheet: *048C2*

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

Zoning — Streams — Vegetation
Buildings — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

048A1	048B1	048C1	049A1	049B1
048A2	048B2	048C2	049A2	049B2
048A3	048B3	048C3	049A3	049B3

Scale

1" = 200'

0 100 200 400 Feet

1

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

PC #3

Produced by Baltimore County GIS Services Unit
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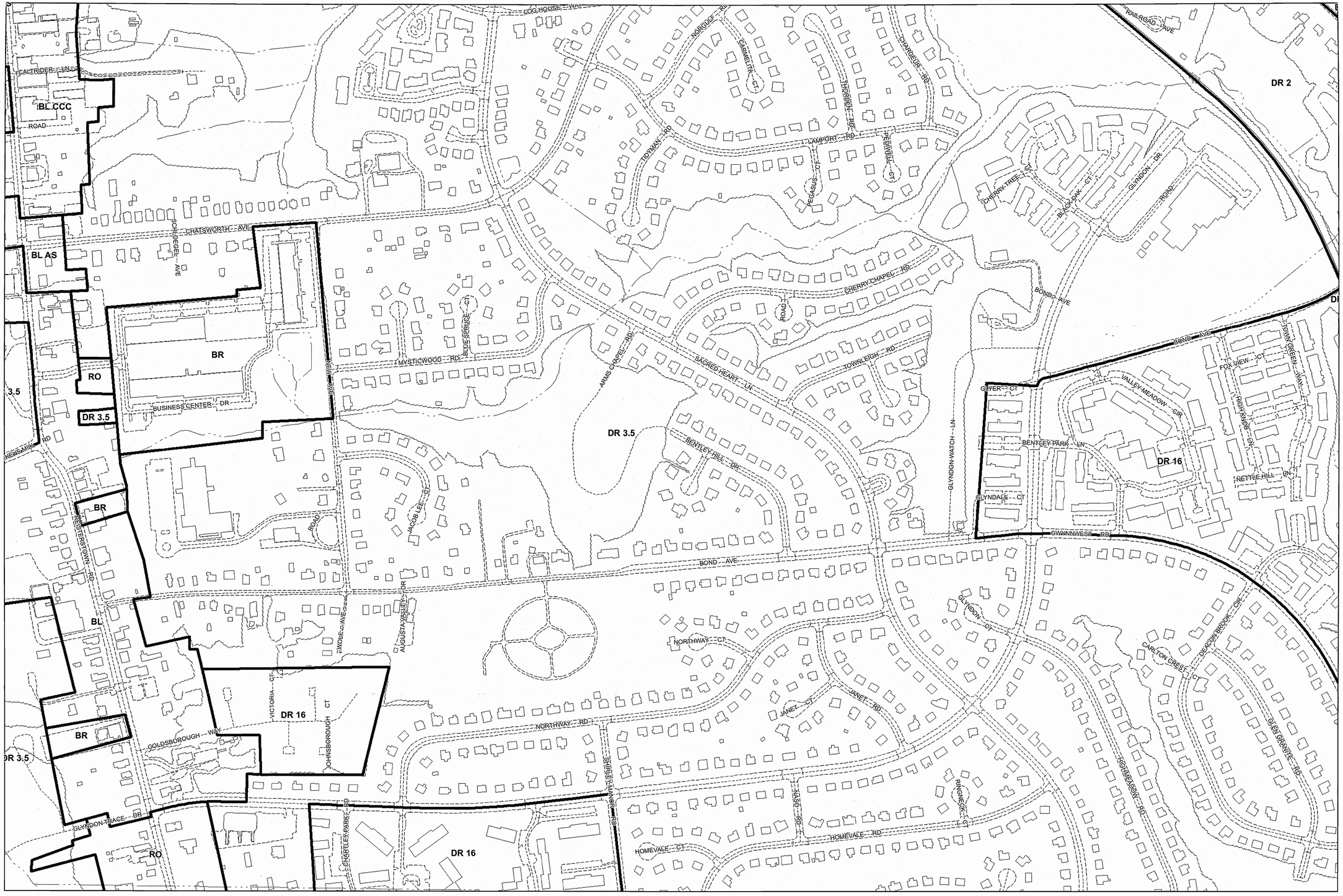

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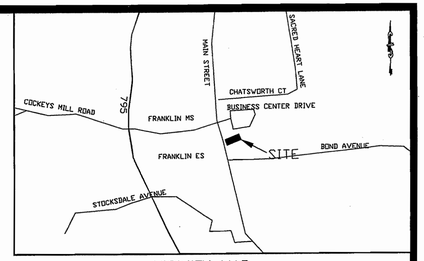

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STATE OF MARYLAND — JAMES M. FOSENFELT — No. 13203 — PROFESSIONAL ENGINEER
June 10, 2008

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