

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>VARIANCE</b>		
N/W corner of Regester Avenue and	*	DEPUTY ZONING
Sherwood Road		
9 <sup>th</sup> Election District	*	COMMISSIONER
5 <sup>th</sup> Councilmanic District		
(812 Regester Avenue)	*	FOR BALTIMORE COUNTY
<b>Charles Phelan</b>	*	
<i>Petitioner</i>		
	*	<b>Case No. 2008-0448-SPHA</b>
	*	

\* \* \* \* \*


**ORDER OF DISMISSAL**

This matter initially came before this Deputy Zoning Commissioner as Petitions for Special Hearing and Variance. The case was scheduled for a public hearing on May 28, 2008 at 2:00 PM in Room 106 of the County Office Building located at 111 West Chesapeake Avenue in Towson, MD. Prior to the hearing, counsel for Petitioner, J. Neil Lanzi, Esquire, sent a letter dated May 21, 2008 to this Commission requesting a postponement of the hearing. In his letter, Mr. Lanzi indicated his firm had only recently become involved in the case and desired a postponement in order to communicate further with applicable Community Associations and People's Counsel prior to the hearing. In a letter dated May 22, 2008, the undersigned granted the postponement request.

Thereafter, the undersigned received a letter dated June 4, 2009 from People's Counsel Peter Max Zimmerman, Esquire indicating that he had received an inquiry from an area citizen as to the status of the above-referenced case. Upon reviewing the file, Mr. Zimmerman indicated there has been no activity on this case since my letter granting the postponement on May 22, 2008. He also indicated his office contacted Mr. Lanzi and was given the understanding that Petitioner had not pursued the matter further through Mr. Lanzi's office. As a result of the above

and based upon the request made by People's Counsel, the undersigned shall dismiss the Petitions without prejudice for lack of prosecution.

**WHEREFORE, IT IS ORDERED** by the Deputy Zoning Commissioner for Baltimore County this 10<sup>th</sup> day of July, 2009 that the above-referenced Petitions for Special Hearing and Variance be and the same are hereby DISMISSED without prejudice.

  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz

- c: J. Neil Lanzi, Esquire, 409 Washington Avenue, Suite 617, Towson, MD 21204  
Charles Phelan, 812 Register Avenue, Baltimore, MD 21234  
Bruce Doak, Gerhold, Cross & Etzel, 320 East Towsontown Boulevard, Suite 100,  
Towson, MD 21286  
People's Counsel; Office of Planning; File

MD TAX # 0901540813  
26624/359



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 812 REGISTER AVE  
which is presently zoned DR S.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 SEE ATTACHED

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

Name - Type or Print \_\_\_\_\_  
Signature \_\_\_\_\_  
Company \_\_\_\_\_  
Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Legal Owner(s):**

CHARLES PHELAN  
Name - Type or Print \_\_\_\_\_  
Charles P Phelan  
Signature \_\_\_\_\_  
Name - Type or Print \_\_\_\_\_  
Signature \_\_\_\_\_

812 REGISTER AVE  
Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
BALTIMORE, MD 21239  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Representative to be Contacted:**

BRUCE DOAK  
c/o GERHOLD, CROSS & ETZEL  
Name \_\_\_\_\_  
320 E. TOWSONTOWN BLVD SUITE 100  
Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
TOWSON MD 21286  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
410-823-4470

**OFFICE USE ONLY**

ESTIMATED LENGTH OF HEARING \_\_\_\_\_  
UNAVAILABLE FOR HEARING \_\_\_\_\_

Case No. 2008-0448-SHA

Reviewed By D.T. Date 3/26/08

**SPECIAL HEARING REQUESTED**

812 REGISTER AVENUE

TO AMEND THE PREVIOUSLY GRANTED SPECIAL EXCEPTION #454 FOR A NURSING HOME TO NOW ALLOW THE ISSUANCE OF A USE PERMIT FOR AN ASSISTED-LIVING FACILITY III PER SECTION 432A.A.3 OR THE B.C.Z.R.

TO ALLOW THE EXISTING PARKING TO REMAIN AS IT WAS WHEN THE ORIGINAL CASE #454 WAS APPROVED BECAUSE ALTERING IT WOULD CREATE AN UNDUE HARDSHIP.

2008-0448-SPHA



MD TAX # 0901540813  
2/26/24/359

# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 812 REGISTER AVENUE

which is presently zoned DR S.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 Variance from Section(s) SEE ATTACHED

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

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

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

### Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

### Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

### Legal Owner(s):

CHARLES PHELAN  
Name - Type or Print

Charles Phelan  
Signature

Name - Type or Print

Signature

812 REGISTER AVE  
Address Telephone No.

BALTIMORE, MD 21239  
City State Zip Code

### Representative to be Contacted:

GERHOLD CROSS, & ETZEL  
BRUCE DOAK c/o G.C. & E.  
Name SUITE 100

320 E. TOWSON TOWN BLVD  
Address Telephone No.

TOWSON MD 823-4470  
City State Zip Code

### OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING \_\_\_\_\_

UNAVAILABLE FOR HEARING \_\_\_\_\_

Reviewed By DT Date 3/26/08

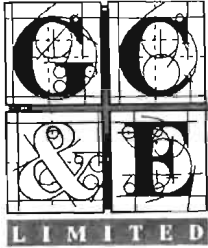
Case No. 2008-0448-SPHA

227 9/15/98

**VARIANCE REQUESTED**  
**812 REGISTER AVENUE**

TO PERMIT THE 11 EXISTING PARKING SPACES IN LIEU OF THE REQUIRED  
14 PER SECTION 409.6.A.1 OF THE B.C.Z.R.

2008-0448-SPHA



# Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286  
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

March 20, 2008

**ZONING DESCRIPTION  
PHELAN PROPERTY  
812 Register Avenue  
Baltimore County, Maryland**

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

Beginning for the same at a point on the North West corner of Sherwood Road and Register Avenue, running thence along the north side of Register Avenue,

- 1) North 72°18'00" West 90.00 feet,
- 2) North 03°41'00" East 167.15 feet,
- 3) South 86°19'00" East 105.72 feet,
- 4) South 09°00'00" West 189.00 feet to the point of beginning

Containing 16,910 square feet of land, more or less.

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



2008-0448-SPHA

**BALTIMORE COUNTY, MARYLAND**  
**OFFICE OF BUDGET AND FINANCE**  
**MISCELLANEOUS RECEIPT**

No. 12182

Date: 3/26/08

**PAID RECEIPT**

BUSINESS ACTUAL TIME INM  
 3/27/2008 3/26/2008 13:36:1 7  
 WALKIN DOOL DRD  
 RECEIPT # 438160 3/26/2008 9801  
 Dept 5 520 ZONING VERIFICATION  
 012182  
 Recpt Tot \$650.00  
 \$650.00 CR 1.00 1A  
 Baltimore County, Maryland

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				650.00

Total: 650.00

Rec From: CSR SURVEYS

For: 2008-0448-SPHA  
812 REGISTER ONE

D. THOMPSON

**DISTRIBUTION**  
 WHITE - CASHIER      PINK - AGENCY      YELLOW - CUSTOMER

**CASHIER'S  
 VALIDATION**



**NOTICE OF ZONING HEARING**

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

Case: **2008-0448-SPHA**

812 Regester Avenue

N/west corner of Regester Avenue and Sherwood Road

9th Election District — 5th Councilmanic District

Legal Owner(s): Charles Phelan

**Special Hearing:** to amend the previously granted Special Exception #454 for a nursing home to now allow the issuance of a use permit for an Assisted Living Facility III and to allow the existing park to remain as it was when the original case #454 was approved because altering it would create an undue hardship. **Variance:** to permit the 11 existing parking spaces in lieu of the required 14.

**Hearing:** Wednesday, May 28, 2008 at 2:00 p.m. In Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21284.

**WILLIAM J. WISEMAN, III**

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible: for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

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

JT 5/664 May 13

172983

**CERTIFICATE OF PUBLICATION**

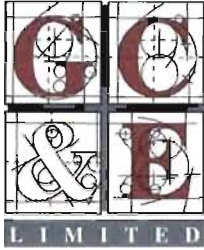
\_\_\_\_\_ 5/15/, 20\_\_\_\_

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 5/13/, 2008.

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



LEGAL ADVERTISING



# Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286  
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

## CERTIFICATE OF POSTING

RE: CASE#08-0448-SPHA  
PETITIONER/DEVELOPER:  
Charles Phelan  
DATE OF HEARING: May 28, 2008

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

ATTENTION: KRISTEN MATTHEWS

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY  
SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

(see page 2 for full size photo)

POSTED ON: May 9, 2008

LOCATION:  
812 Regester Avenue

SIGNATURE OF SIGN POSTER

Bruce E. Doak

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

# ZONING NOTICE

**CASE # :2008-0448-SPHA**

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

**Place :** Room 106, County Office Building  
111 West Chesapeake Ave., Towson, MD

**Date & Time:** Wednesday, May 28, 2008 @ 2:00 p.m.

**Special Hearing** to amend the previously granted Special Ex-ception #454 for a nursing home to now allow the issuance of a use permit for an Assisted Living Facility III and to allow the existing park- ing to remain as it was when the original case #454 was approved be- cause altering it would create an undue hardship.

**Variance** to permit the 11 existing parking spaces in lieu of the required 14.

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

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



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/neighbor 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.**

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**For Newspaper Advertising:**

Item Number or Case Number: 2008-0448-SPHA  
Petitioner: PHELAN  
Address or Location: 812 REGISTER AVE

PLEASE FORWARD ADVERTISING BILL TO:

Name: CHARLES PHELAN  
Address: 812 REGISTER AVE.  
BALTO. MD 21239  
Telephone Number: 410-357-4409

Revised 2/20/98 - SCJ



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.  
*County Executive*

April 8, 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: 2008-0448-SPHA**

812 Regester Avenue

N/west corner of Regester Avenue and Sherwood Road

9<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owner: Charles Phelan

Special Hearing to amend the previously granted Special Exception #454 for a nursing home to now allow the issuance of a use permit for an Assisted Living Facility III and to allow the existing park to remain as it was when the original case #454 was approved because altering it would create an undue hardship. Variance to permit the 11 existing parking spaces in lieu of the required 14.

Hearing: Wednesday, May 28, 2008 at 2:00 p.m. in Room 106, County Office Building,  
111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco  
Director

TK:klm

C: Charles Phelan, 812 Regester Avenue, Baltimore 21239

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, MAY 13, 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, May 13, 2008 Issue - Jeffersonian

Please forward billing to:  
Charles Phelan  
812 Regester Avenue  
Baltimore, MD 21239

410-357-4409

---

## NOTICE OF ZONING HEARING

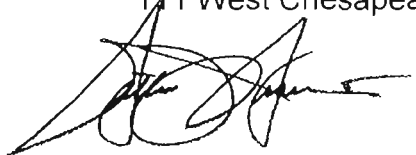
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

**CASE NUMBER: 2008-0448-SPHA**

812 Regester Avenue  
N/west corner of Regester Avenue and Sherwood Road  
9<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District  
Legal Owner: Charles Phelan

Special Hearing to amend the previously granted Special Exception #454 for a nursing home to now allow the issuance of a use permit for an Assisted Living Facility III and to allow the existing park to remain as it was when the original case #454 was approved because altering it would create an undue hardship. Variance to permit the 11 existing parking spaces in lieu of the required 14.

Hearing: Wednesday, May 28, 2008 at 2:00 p.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.



**BALTIMORE COUNTY**  
M A R Y L A N D

JAMES T. SMITH, JR.  
*County Executive*  
Charles Phelan  
812 Regester Ave.  
Baltimore, MD 21239

TIMOTHY M. KOTROCO, *Director*  
*Department of Permits and Development Management*  
May 22, 2008

Dear Charles Phelan

RE: Case Number:2008-0448-SPHA , Address: 812 Regester Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 26, 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  
Bruce Doak: C/O Gerhold, Cross and Etzel, 320 E Towsontown Blvd. Suite 100,  
Towson, MD 21286





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: APRIL 11, 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. ~~8-448-SPHA~~  
812 REGISTER AVENUE  
PHELAN PROPERTY  
SPECIAL HEARING &  
VARIANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. ~~8-448-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,

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

TB 5/28  
2pm

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

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

**DATE:** May 6, 2008

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

**RECEIVED**  
MAY 07 2008  
BY:.....

**SUBJECT:** Zoning Advisory Petition(s): **Case(s) 08-448- Special Hearing and Variance**

The Office of Planning has reviewed the above referenced case(s) and finds that the facility existed in the community for years as a nursing home (recently abandoned). The conversion to an assisted living use will have similar impact as the nursing home. The rehabilitation and upgrade of the existing structure will be an asset to the community.

The applicant should investigate the feasibility of the removal of the ramp adjacent to the Sherwood Ave sidewalk.

The Office of Planning supports the special hearing and variance requests.

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

**Prepared By:**  \_\_\_\_\_

**Division Chief:**  \_\_\_\_\_

CM/LL

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

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

**DATE:** April 17, 2008

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

**SUBJECT:** Zoning Advisory Petition(s): **Case(s) 08-448- Special Hearing and 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 Donnell Ziegler in the Office of Planning at 410-887-3480.

Prepared By:

*Curtis Gurney*

Division Chief:

*Tom Larkman*

CM/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

**DATE:** April 1, 2008

**FROM:** Dennis A. Kennedy<sup>DAK</sup>, Supervisor  
Bureau of Development Plans  
Review

**SUBJECT:** Zoning Advisory Committee Meeting  
For April 7, 2008  
Items Nos. 08-441, 442, 443, 445,  
446, 447, 448, and 449

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

DAK:CEN:lrk

cc: File

ZAC-04072008-NO COMMENTS

RE: PETITION FOR SPECIAL HEARING \* BEFORE THE  
 AND VARIANCE \* ZONING COMMISSIONER  
 812 Regester Avenue; NW corner Regester \*  
 Avenue & Sherwood Road \*  
 9<sup>th</sup> Election & 5<sup>th</sup> Councilmanic Districts \* FOR  
 Legal Owner(s): Charles Phelan \*  
 Petitioner(s) \* BALTIMORE COUNTY  
 \* 08-448-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.

RECEIVED  
 APR 03 2008  
 Per. *[Signature]*

*Peter Max Zimmerman*  
 PETER MAX ZIMMERMAN  
 People's Counsel for Baltimore County  
*Carole S. Demilio*  
 CAROLE S. DEMILIO  
 Deputy People's Counsel  
 Jefferson Building, Room 204  
 105 West Chesapeake Avenue  
 Towson, MD 21204  
 (410) 887-2188

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of April, 2008, a copy of the foregoing Entry of Appearance was mailed to Bruce E. Doak, Gerhold, Cross & Etzel, Ltd, 320 E Towsontown Blvd, Towson, MD 21286, Representative for Petitioner(s).

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



**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

June 4, 2009

HAND-DELIVERED

Thomas H. Bostwick, Deputy Zoning Commissioner  
The Jefferson Building  
105 W. Chesapeake Avenue, Suite 103  
Towson, Maryland 21204

RECEIVED

JUN 04 2009

Re: PETITION FOR SPECIAL HEARING AND VARIANCE  
Charles Phelan- Petitioner  
812 Regester Avenue  
Case No: 08-448-SPHA

ZONING COMMISSIONER

Dear Mr. Bostwick:

Upon inquiry from an area citizen as to the status of this petition, I reviewed the file. On April 28, 2008, I sent a letter to the Zoning Commissioner to state that the proposed Assisted Living Facility, Class III, conflicts with the relevant requirements of BCZR § 432A.3. Subsequently, Neil Lanzi, Esquire entered his appearance for petitioner on May 21, 2008 to request a postponement. On May 22, 2008, you wrote to grant the postponement and directed that he contact the Zoning Review Office to reschedule the hearing. Each of these letters is enclosed for your convenience.

There has been no action since that time. Our office called Mr. Lanzi to inquire about petitioner's intentions. If we understood him correctly, he could give no indication that petitioner is still pursuing the matter.

Under the circumstances, the petition should be dismissed for lack of prosecution. In any event, there is, in my opinion an irreconcilable conflict with the zoning law governing assisted living facilities.

Thank you for your consideration.

Very truly yours,

*Peter Max Zimmerman*

Peter Max Zimmerman  
People's Counsel for Baltimore County

PMZ/rmw

cc: J. Neil Lanzi, Esquire



**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

April 28, 2008

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

Re: Charles Phelan  
Case No: 08-448-SPHA

RECEIVED  
APR 28 2008

BY:.....

Dear Mr. Wiseman:

This case is scheduled for hearing on May 28, 2008.

The petition is for an Assisted Living Facility, Class III. Such a facility would house more than 15 residents and have to meet other conditions set forth in BCZR § 101, Assisted Living Facility definition, subsection C. The location is at 815 Regester Avenue. The zoning classification is D.R. 5.5.

The Zoning Commissioner should deny the petition as a matter of law. BCZR § 432A.3 permits an Assisted Living Facility, Class III only in D.R. 16, RAE, R.O., R.O.A. or B.M. Zones by use permit. As it is not listed as permitted, it is prohibited. BCZR § 102.1: Kowalski v. Lamar 25 Md. App. 493 (1975) ; People's Counsel v. Surina 400 Md. 662 (2007). Please note that an Assisted Living Facility, Class I (less than 8 residents) would be permitted by use permit. A Class II facility (8 to 15 residents) would be permitted if on a principal arterial street. Regester Avenue is not a principal arterial street. The bottom line is that the D.R. 5.5 Zone here allows only a Class I facility, for less than 8 residents, at this location.

It should also be noted that the petition styles itself as an amendment to a previously granted special exception. This is inaccurate. Upon review of the attached 1945 Use Permit approval courteously supplied by Mr. Doak, Petitioner's representative, it appears that the approval was for the continuation of a non-conforming nursing home, with an addition, not for a special exception. It also appears to be undisputed, based on information from area citizens, that the nursing home closed several years. The nonconforming use has therefore terminated. BCZR § 104.1.

William J. Wiseman, III, Zoning Commissioner

April 28, 2008

Page 2

In any event, whatever the status of the nursing home, it is impermissible to have an Assisted Living Facility, Class III in a D.R. 5.5 Zone.

Respectfully submitted,

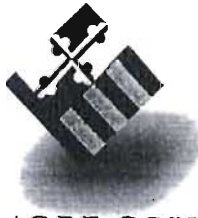
*Peter Max Zimmerman*

Peter Max Zimmerman  
People's Counsel for Baltimore County

PMZ/ rmw

cc: Bruce E. Doak, Gerhold, Cross & Etzel, Ltd  
Charles Phelan, Petitioner





cap  
P.M.2

BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.  
*County Executive*

May 22, 2008

THOMAS H. BOSTWICK  
*Deputy Zoning Commissioner*

J. NEIL LANZI, ESQUIRE  
409 WASHINGTON AVENUE, #617  
TOWSON, MD 21204

Re: Petition for Special Hearing and Variance  
Case No. 8-448-SPHA  
812 Regester Avenue

Dear Mr. Lanzi:

Your letter dated May 21, 2008 to Zoning Commissioner William J. Wiseman, III has been forwarded to my attention as I am scheduled to hear the above-referenced case on Tuesday, May 28, 2008 at 2:00 PM in Room 407 of the County Courts Building.

In your letter, you request a postponement of the hearing date because your firm just recently became involved in the case, and you have received a copy of a letter from People's Counsel dated April 28, 2008 contesting the case. You also indicated that based on your communications with representatives from the applicable Community Associations, you believe further discussions with those groups regarding the property might be beneficial to all sides.

Based on your representations, I will grant the postponement request and direct that you contact Kristen Matthews in the Zoning Review Office to reschedule the hearing to another date. I also direct that the property be re-posted and re-published at your client's expense. Finally, if there is still a sign on the property, please have Mr. Doak's firm mark the sign "postponed - to be rescheduled."

Very truly yours,

THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

c: Bruce Doak, Gerhold, Cross & Etzel, Ltd., 320 E. Towsontown Blvd., Suite 100,  
Towson, MD 21286  
People's Counsel

**J. NEIL LANZI, P.A.**  
ATTORNEY AT LAW  
MERCANTILE BUILDING, SUITE 617  
409 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204

(410) 296-0686

FAX: (410) 296-0689

E-Mail: [nlanzi@lanzilaw.com](mailto:nlanzi@lanzilaw.com)

J. Neil Lanzi  
OF COUNSEL  
Fred L. Coover\*

**COLUMBIA**  
Suite 420, Parkside Bldg  
10500 Little Patuxent Parkway  
Columbia, Maryland 21044-3563

\*Also Admitted in District of Columbia

Reply to Towson

May 21, 2008

Hand-Delivered

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



Re: Petition for Special Hearing and Variance  
Case No. 08-448-SPHA

Dear Mr. Wiseman:

My firm recently became involved in the above referenced zoning case set for hearing on May 28, 2008. I have also received a copy of the letter sent to you by Office of People's Counsel dated April 28, 2008. Further, recent communications with representatives of the applicable Community Associations confirm it will be beneficial to all sides for further discussions to take place regarding property which is the subject of this hearing.

Accordingly, I would respectfully request the hearing presently set for May 28, 2008 be postponed.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Neil Lanzi".

J. Neil Lanzi

JNL\mal  
cc: Michael Phelan  
Bruce Doak  
Office of People's Counsel

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19

THE REGULATIONS

ARTICLE 1, GENERAL PROVISIONS

Section 101, Definitions [BCZR 1955]

**ASSISTED - LIVING FACILITY** [Bill Nos. 36-1988; 188-1993; 19-2004] -- A building, or portion of a building, that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination thereof, to meet the needs of individuals who are unable to perform or who need assistance in performing the activities of daily living and which is licensed as an **assisted - living** program as defined under Title 19, Subtitle 18 of the Health-General Article, Annotated Code of Maryland. For the purposes of this definition, if a resident lives in a room or apartment providing complete kitchen facilities intended for the daily preparation of meals by or for that resident, the unit shall not be considered an **assisted - living** facility. Density for such facilities shall be calculated at 0.25 for each bed.

1. **ASSISTED - LIVING FACILITY I** -- An **assisted - living** program which:

1. Is located in a structure which was built at least five years before the date of application;
2. Was not enlarged by 25% or more of ground floor area within the five years before the date of application; and
3. Which accommodates fewer than 8 resident clients.

3. **ASSISTED - LIVING FACILITY II** -- An **assisted - living** program which:

1. Is located in a structure which was built at least five years before the date of application;
2. Was not enlarged by 25% or more of ground floor area within the five years before the date of application; and
3. Accommodates between 8 and 15 resident clients.

2. **ASSISTED - LIVING FACILITY III** -- An **assisted - living** program which:

1. Will accommodate more than 15 resident clients; and
2. Will be in a structure which was built or enlarged by more than 25% of ground floor area less than five years before the date of application; or
3. Will be in a structure which will be newly constructed or enlarged by more than 25% of ground floor area for the **assisted - living** program.

**BALTIMORE COUNTY CODE** -- The Baltimore County Code of 2003, as amended. [Bill No.

**BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19**  
**THE REGULATIONS**  
**ARTICLE 4, SPECIAL REGULATIONS**  
**Section 432EN (Reserved)**

**Section 432<sup>EN</sup> (Reserved)**

**Section 432A, Assisted-Living Facility; Housing for the Elderly [Bill Nos. 19-2004  
N ; 32-2006]**

A. An assisted-living facility is permitted in the D.R., R.O., R.O.A., R.A.E., B.R., B.M. and OR-2 Zones as follows:

1. An assisted-living facility I is permitted by use permit.
  2. An assisted-living facility II is permitted by use permit if it has frontage on a principal arterial street.
  3. An assisted-living facility III is permitted in a D.R.16, R.A.E., R.O., R.O.A. or B.M. Zone by use permit. An assisted-living facility III is permitted in the OR-2 Zone by special exception and is limited by the use, area and bulk regulations of the D.R. 10.5 Zone. A facility located in an R.O. Zone is also subject to review by the design review panel for compatibility with surrounding uses.
  4. Housing for the elderly is permitted by right in R.A.E. Zones.
3. Except for the signs permitted by Section 450, no other signs or displays of any kind visible from the outside are permitted.
2. Off-street parking shall be provided in accordance with Section 409 and subject to the following conditions, but no parking structure is permitted except for a residential garage as defined in Section 101.
1. Parking shall be set back at least 10 feet from the property line, except that if the property line abuts an alley, no setback is required if the alley does not abut the front or rear yard of a residentially used property.
  2. Parking and delivery areas shall be located in the side or rear only.
  3. At least 10% of the lot shall be used to provide useable, contiguous and private open space.
- D. An assisted-living facility is subject to a compatibility finding pursuant to Section 32-4-402 of the Baltimore County Code.

An assisted-living facility located in a County historic district is also subject to review by the Landmarks Preservation Commission in the same manner as other buildings located in a historic district.

Section 433<sup>EN</sup> (Reserved)

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RE: PETITION FOR SPECIAL PERMIT  
NORTHWEST CORNER OF REEBER  
AVENUE AND SPERMWOOD ROAD,  
IDLEWILD -- ADDITION TO  
MISSING HOME -- MARY C. SPENCE,  
(formerly Amacoast) Petitioner

This is a petition for a Special Permit to erect an addition to a cottage/condo or nursing home, known as Amacoast Nursing Home, located at the northwest corner of Reebber Avenue and Spermwood Rd., in Idlewild.

It appears from the evidence that the petitioner has conducted, or will conduct, such an inspection for some time prior to the holding of public hearings in this County. When the zoning regulations and maps were adopted the property in question was not included in the class "M" Commercial Zone so that the petitioner then had an established and lawful non-conforming use existing on the effective date of the adoption of zoning regulations and maps as amended by all zoning amendments.

The present zoning action is for a special permit to erect a new addition non-conforming use by an addition to the present building on the site and over there of. The contemplated addition in the area of addition is building additions as per an approved and on file plan applications and comments.

A professional group of professionals appeared at the hearing before me and objected to the granting of the permit on the ground that the enlargement of the non-conforming use would depreciate the value of homes and nearby to the vicinity of the parcel and that, and that its new potential support. From it to be considered that the petition given by the professionals is sound professional advice the existing zoning would allow it is my opinion that the petitioner is clearly entitled to the special permit petitioned for.

SPECIAL EXCEPTION FROM 1945

CASE #454

SECTION XI of the zoning Regula tions entitled, "NON-CONFORMING USES", provided not only that a "lawful non-conforming use existing on the effective date of the adoption of these regulations may continue" but further provides that "any such lawful non-conforming use may be extended or enlarged so an extent not more than once again the area of the land so used in the original non-conforming use". It is abundantly clear from the application and evidence adduced before me that the petitioner is endeavoring to expand her lawful non-conforming use to an extent not more than once again the area of land used in the original non-conforming use and, ~~it is necessary to show that the extension permitted~~ ~~under the regulation cited~~, so that it is clear that the petitioner is entitled to enlarge her non-conforming use to the extent desired.

It might be well for me to state that at the time of the adoption of zoning regulations great consideration was given to this problem of the increase in the area of non-conforming uses and it was determined that some reasonable right to extend a non-conforming use would have to be included in the regulations as otherwise it would prevent a reasonable number of an extension of an existing business or occupation ~~under the~~ ~~provisions~~ and it is the opinion of the zoning Department that the regulations now in effect is reasonable in all respects and affords such a protection to those persons living in the vicinity of non-conforming uses.

In addition to the fact that I am satisfied that the petitioner is entitled to the double plotted use, for the reasons ~~stated~~ stated above, I may also say that the evidence produced shows me individuals that the petitioner has always conducted the establishment in a proper manner and without in any way ~~interfering~~ interfering with the state neighborhood.

I have carefully examined the brief filed on behalf of the protestants but I have concluded that the cases cited therein are not in point in the present controversy.

For the reasons given I have concluded that the special permit must be granted and I will sign an Order accordingly.

*[Signature]*  
Zoning Commissioner

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ZONING DEPARTMENT - BALTIMORE COUNTY, MD  
Certificate of Posting of Re-Classification of Special Permit Notice

7 District Date of Notice Aug 31 1919

Date of Post on Property [Signature]

Location of Sign on Property [Signature] feet from front Street or Road.

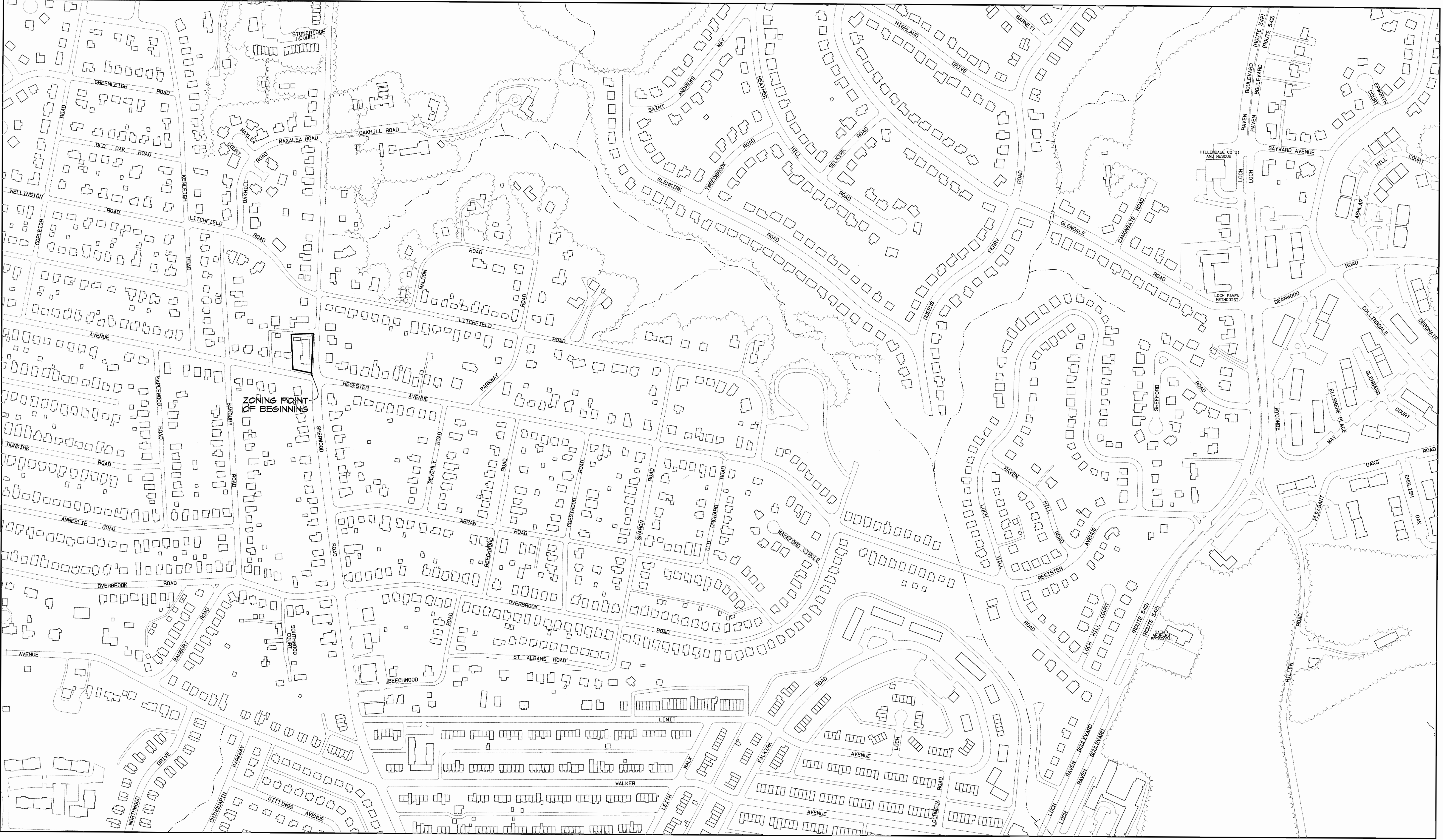
Location of property [Signature]

Re-classification of Special Permit authorized by [Signature]

Permittee [Signature]

Remarks [Signature]





ZONING MAP

GIS TILES: 080A1, 080B1

SCALE: 1" = 200'

**VARIANCE REQUESTED**

TO PERMIT THE 11 EXISTING PARKING SPACES IN LIEU OF THE REQUIRED 14 PER SECTION 401.6.A.1 OF THE B.C.Z.R.

**SPECIAL HEARING REQUESTED**

TO AMEND THE PREVIOUSLY GRANTED SPECIAL EXCEPTION #454 FOR A NURSING HOME TO NOW ALLOW THE ISSUANCE OF A USE PERMIT FOR AN ASSISTED-LIVING FACILITY III PER SECTION 482A.A.9 OR THE B.C.Z.R.

TO ALLOW THE EXISTING PARKING TO REMAIN AS IT WAS WHEN THE ORIGINAL CASE #454 WAS APPROVED BECAUSE ALTERING IT WOULD CREATE AN UNDUO HARDSHIP.

**PARKING CALCULATIONS**


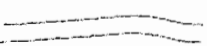
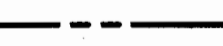

MINIMUM NUMBER OF PARKING SPACES REQUIRED:  
1 SPACE FOR EVERY 3 BEDS

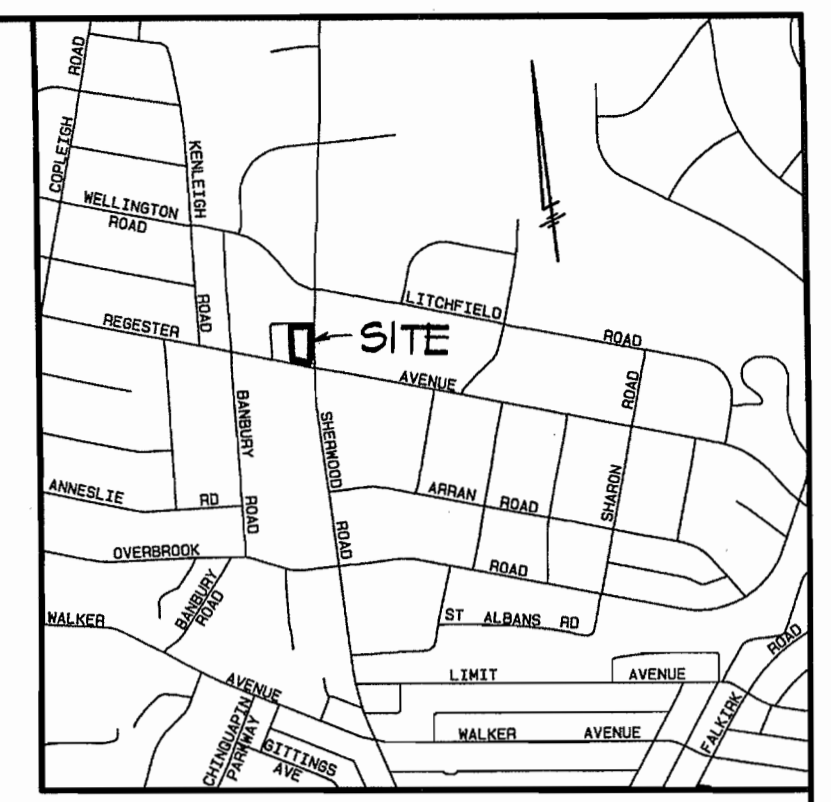
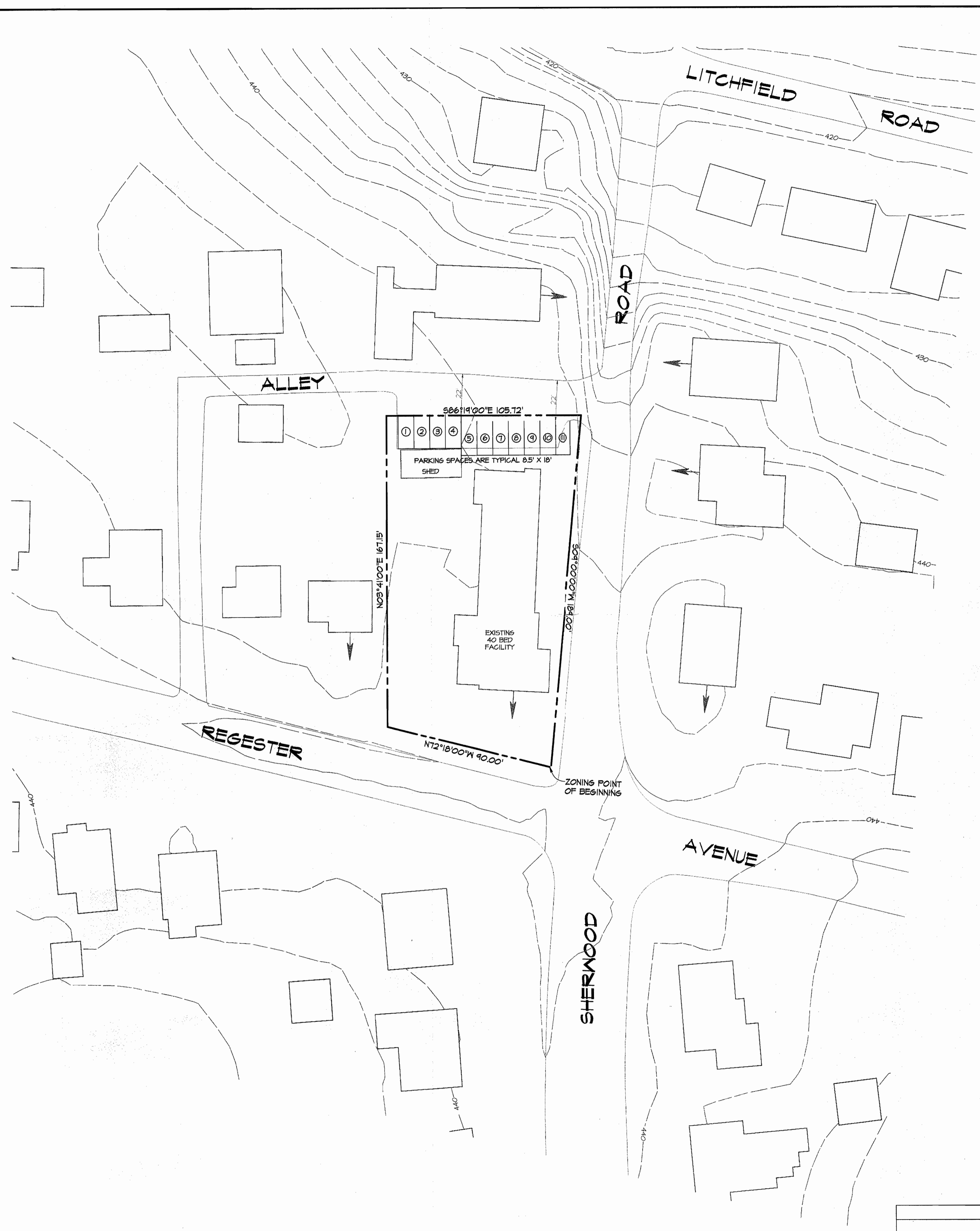
THERE ARE 40 BEDS

TOTAL PARKING SPACES REQUIRED = 14

PARKING SPACES PROVIDED = 11

**LEGEND**

- EXISTING BUILDING 
- EXISTING PAVING 
- PROPERTY LINE 
- CONTOURS 



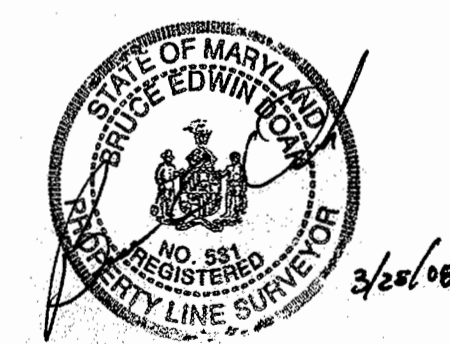
VICINITY MAP  
1" = 2000'

DEED S.M. 26624/359

**GENERAL NOTES**

1. THE BOUNDARY SHOWN HEREON IS FROM DEED S.M. 26624/359.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILES 080A1, 080B1.
3. GENUS TRACT - 441000 REGIONAL PLANNING DISTRICT - 315  
WATERSHED - BACK RIVER SUBWATERSHED - 51  
SCHOOL DISTRICT: ELEMENTARY - STONELEIGH E.S.; MIDDLE - DUMBARTON M.S.; HIGH - TOWSON H.S.  
A.D.C. MAP # GRID 21 E10
4. THERE IS A PRIOR ZONING CASE ON THE SUBJECT PROPERTY. CASE #454 WAS A PETITION FOR A SPECIAL PERMIT TO ERECT AN ADDITION TO A CONVALESCENT OR NURSING HOME. THE PERMIT WAS GRANTED IN 1945. THE DECISION ALSO ACKNOWLEDGED THAT THE PETITIONER HAD AN ESTABLISHED AND LAWFUL NON-CONFORMING USE EXISTING ON THE EFFECTIVE DATE OF THE ADOPTION OF ZONING REGULATIONS AND THIS WAS CONCEDED BY ALL PARTIES CONCERNED.
5. THE SUBJECT PROPERTY IS NEITHER HISTORIC NOR WITHIN A HISTORIC DISTRICT.
6. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
7. THE SUBJECT PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN.
8. ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PUBLIC WATER AND SEWER SYSTEMS.

**OWNER/DEVELOPER**  
CHARLES I. PHELAN, JR.  
812 REGISTER AVE  
BALTIMORE, MD 21294



**PLAN TO ACCOMPANY A  
VARIANCE AND SPECIAL  
HEARING REQUEST  
PHELAN PROPERTY**  
812 REGISTER AVENUE  
Deed Ref: S.M. No. 26624 folio 359  
Tax Account No.: 09-01-540813  
Zoned DR 53; GIS Tiles 080A1, 080B1  
Tax Map 80; Grid 3; Parcel 129  
9th ELECTION DISTRICT  
5th COUNCILMANIC DISTRICT  
BALTIMORE COUNTY, MARYLAND

Scale: 1"=30' Date: MARCH 17, 2008

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

REVISION	DATE	COMPUTED	DRAWN	CHECKED

FILE X:\Phelan Register\ZONING P-ANpro