

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE - E/Side Riverton Road,		
NE Corner Magnolia and Riverton Roads	*	ZONING COMMISSIONER
(203 Riverton Road)		
15 th Election District	*	OF
6 th Council District		
	*	BALTIMORE COUNTY
Roger Magsamen, et ux		
Petitioners	*	Case No. 2008-0480-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Roger N. and Linda M. Magsamen, through their attorney, Lawrence E. Schmidt, Esquire. The Petitioners request a special hearing to confirm previously granted zoning relief and approve an amendment (where necessary) to the previously approved site plan from Case Nos. 69-109-X and 02-167-SPH to reflect the proposed modifications and reconfiguration of lots; to approve the non-density transfer and lot line adjustment for the three (3) existing lots, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with Baltimore County Code (B.C.C.) Section 32-4-106(a)(viii). In addition, Petitioners request variance relief as follows: (1) to permit an existing residence on proposed Lot B to have a rear yard setback of 28 feet +/- in lieu of the required 30 feet pursuant to Baltimore County Zoning Regulations (B.C.Z.R.) Section 1B02.3C.1; (2) to permit an existing residence on proposed Lot B to have front yard setback of 28 feet +/- in lieu of the required average setback of 30 feet pursuant to B.C.Z.R. Section 303.1; (3) if necessary, to permit a rear yard, for a commercial building on proposed Lot A abutting a lot in a residential zone, of 3.5 feet in lieu of the required 20 feet pursuant to B.C.Z.R. Section 232.3B; (4) if necessary, to permit a side yard setback for an existing nonresidential building on proposed Lot A of 0 feet in lieu of the required 20 feet pursuant to B.C.Z.R. 232.2B; (5) if necessary, to permit a proposed building on proposed Lot C with a side yard setback of 10 feet in lieu of the required 20 feet pursuant to

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 Date 6-23-08
 By [Signature]

B.C.Z.R. Section 1B01.2.C.1.a; (6) if necessary, to permit a proposed building on proposed Lot C with a front yard setback of 30 feet in lieu of the required 40 feet pursuant to B.C.Z.R. Section 1B01.2.C.1.a and (7) to permit 13 parking spaces in lieu of the required 22 parking spaces pursuant to B.C.Z.R. Sections 405.4A.3.d (1) and (3) on proposed Lot A. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Roger and Linda Magsamen, property owners, their son, Matthew Magsamen, proprietors of the business on the site known as Magsamen Auto Center, and Lawrence E. Schmidt, Esquire, attorney for the Petitioners. Also appearing was William N. Bafitis, P.E., of Bafitis & Associates, Inc., the consultant who prepared the site plan for this property. There were no Protestants or other interested persons present.

The uncontradicted evidence and testimony offered established the following. The subject property is a rectangular shaped property, located at the northeast corner of the intersection of Riverton Road referred to as 203 and 205 Riverton Road and Magnolia Avenue referred to as 503 Magnolia Avenue in the Middle River community in eastern Baltimore County. The property is 150' x 175' in dimension. The collective total area of the property is 26,250 square feet, or .602 acres, more or less, and split-zoned B.L. and D.R.5.5. The property is predominantly zoned B.L.; however, there is a small strip of the site zoned D.R.5.5 along the northern boundary. As noted, the property is actually comprised of three (3) separate lots as recorded in the plat of Middle River, Book 1, folio 120. These lots are shown as Lot Nos. 1, 2 and 3 and are more particularly highlighted on Petitioners' Exhibit 4. The lots run in a perpendicular fashion from Riverton Road (parallel to Magnolia Avenue).

Presently, the property is used for two (2) purposes. In fact, these separate uses have existed on this property for many years. Specifically, the property is improved with a one and one half story dwelling known as 203 Riverton Road. The dwelling fronts Riverton Road and the dwelling serves as the residence of Mr. and Mrs. Magsamen. The dwelling was constructed

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in 1942 and Mrs. Magsamen indicated that she has lived at this property virtually her entire life, in that the property was originally owned by her parents. The rear of the property, known as 503 Magnolia Avenue, is used for business/commercial purposes. As more particularly shown on the site plan, it is improved with two separate structures which are used for a service garage operation. Mrs. Magsamen testified that originally this portion of the property was used by her father as a plumber's office. In fact, the commercial buildings located on the rear of the site were constructed in the early 1950's. Later, this operation was converted to an automobile service garage. Roger Magsamen presently operates the garage and it is his intent that the business will be taken over by his son Matthew Magsamen. The improvements on the rear portion of the property include a small office area as well as two garage style buildings which collectively contain six (6) service bays.

Further testimony and evidence offered was that Roger Magsamen began his operation of the service garage on the rear of the site in the late 1960's. In fact, he filed for zoning approval under a petition for special exception for a service garage with Baltimore County under Case No. 69-109-X. A copy of the Opinion and site plan issued in that case were offered collectively as Petitioners' Exhibit 2. That Opinion shows that the Special Exception was granted by Order of the Zoning Commissioner on November 18, 1968.

As the history of the case reflects, Roger Magsamen then filed a subsequent petition for special hearing in 2002. In that case, zoning relief was requested to approve an amendment to the previously approved site plan in Case No. 69-109-X to reflect certain modifications to the property. By order of the then Zoning Commissioner on January 10, 2002, the special hearing request was granted.

The matter now returns before this Commission for a third time under the instant petitions. In this regard, it was indicated that the senior Mr. Magsamen is taking a less active role in the operation of the business, and thus relief is requested to accommodate the transition of the operation of the service garage to his son, Matthew. Under the petition for special hearing, relief is requested to approve a modified site plan from the previously approved plans in the prior

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cases. Specifically, the three (3) existing lots as originally platted are being reconfigured. As more particularly shown on the plan, there will be no increase in the number of lots, however the configuration is requested to accurately reflect the separate uses on the site. Specifically, new proposed Lot A is shown to contain 10,475 square feet of area. This lot will contain the entire service garage operation identified as 503 Magnolia Avenue. Lot A will essentially encompass the rear portion of Lots 1, 2 and 3.

Secondly, a lot designated as Lot B has been shown will contain 9,680 square feet in area. This lot encompasses the senior Magsamen's dwelling referred to as 203 Riverton Road. Lot C is presently unimproved, however, the site plan shows an area where a building envelope is located in the event a structure is erected on that lot. It is to be noted that much of proposed Lot C is zoned B.L. and that the precise character of the building (residential or commercial) has not been determined. In regards to the special hearing, Mr. Bafitis also indicated that the Petitioners, pursuant to the development regulations identified in Baltimore County Code (B.C.C.) Section 32-4-106(a)(1), had requested approval of the proposed lot line adjustment through the County's Development Review Committee (DRC). The DRC has deferred consideration of the request pending the receipt of a favorable Order in the instant case granting the requisite zoning relief. The Petitioners obtaining of the DRC's approval of the request will therefore be a restriction of the relief to be granted herein.

As to the petition for variance, there are two setback variances needed for each of the proposed new lots. These variances are required because of the locations and configurations of the existing structures (as situated on the tract) which were built nearly fifty years ago. Specifically, for proposed Lot A, a rear yard setback variance is requested to permit a distance of 3.5 feet in lieu of the required 20 feet for an existing commercial building (garage). Secondly, an internal side yard variance to allow a 0 foot setback in lieu of the required 20 feet is sought for an existing commercial building (garage). The proposed lot line which relates to this side yard setback has been located to provide the greatest rear yard area for the existing dwelling. Insofar as Lot B, existing front and rear yard setbacks of 28 feet each, in lieu of the required 30 feet, are

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requested. As noted above, the house lot - 203 Riverton Road - faces that roadway and the front yard setback variance is requested to legitimize the existing location of the dwelling. Similarly, the rear setback is measured to the side of the existing commercial structure, which is where the proposed lot line is located. For Lot C, side yard setbacks of 10 feet in lieu of the required 20 feet are shown as well as a front yard setback of 30 feet in lieu of the required 40 feet. In that the precise use of the proposed building is not ascertained, the greatest potential setback requirement was imposed.

The final variance relates to parking requirements for the service garage. As more particularly shown on the plan, 22 spaces are required and 13 are proposed. In support of this request, it is to be noted that this long established service garage caters to existing clients and most work is done on an appointment basis. Thus, the Petitioners are able to control the flow of traffic and prevent parking from spilling over onto the adjacent public streets. It is also to be noted that an existing automobile shop is also located immediately across Magnolia Avenue from the subject commercial use. Thus, the Petitioners commercial use, which has existed here for years (since the 1960's), is compatible with the neighborhood.

Based upon the testimony and evidence presented, I am persuaded to grant the relief which has been requested. Insofar as the special hearing request, I am appreciative of the fact that the elder Mr. Magsamen may retire. I appreciate the senior Magsamen's desire to retain their dwelling, which they will continue to occupy, on a separate lot, independent of the service garage operation. Similarly, in the event that Matthew Magsamen takes over the business, the reconfiguration proposed will ensure that the service garage operation will be on a separate lot and will not intrude onto the adjacent residential property. The special hearing is appropriate to allow this reconfiguration so that the lot lines will accurately reflect uses of the property which have existed for 50 years.

Insofar as the variances, I am also persuaded to grant that relief. This is indeed an unusual case with an existing property containing two inherently divergent type uses. Again, the historic use of this property and the previous zoning approvals carry significant weight in

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Date 6-23-08
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considering this request. Moreover, the split zoning of the property is a unique characteristic which disproportionately impacts the uses and zoning regulations that impact this site. Based upon all of these characteristics, I find that requisite uniqueness has been shown and I conclude that a denial of the variance relief requested would result in a practical difficulty upon the Petitioners. Thus, the variances shall be granted. Moreover, given the long standing historic use of this site, the character of the area, the prior Order and the lack of any interested persons or opponents at the hearing, I conclude that the grant of the requisite zoning relief will not be detrimental to adjacent properties.

Finally, it is to be noted that there was no adverse Zoning Advisory Committee (ZAC) comments. The Department of Public Works voiced no opposition to the proposal as did the Fire Department and State Highway Administration. A comment was received from the Office of Planning at the hearing which also indicated that that Office did not oppose the Petitioners request. However, the Office of Planning did recommend that certain landscape screening be provided to the rear of proposed Lot C to provide a buffer to adjacent residential uses. In this regard, the Petitioner indicated that a fence presently exists along that property line and that incorporation of that requirement was not objected to by the Petitioners. Thus, I shall grant that as a condition of the relief requested.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

DATE RECORDED
23rd
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of June 2008 that the Petition for Special Hearing to confirm previously granted zoning relief and approve an amendment (where necessary) to the previously approved site plan from Case Nos. 69-109-X and 02-167-SPH to reflect the proposed modifications and reconfiguration of lots; to approve the non-density transfer lot line adjustment for the three (3) existing lots, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole

- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

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Date 6-23-08
By [Signature]



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

June 23 2008

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

RE: PETITION FOR SPECIAL HEARING AND VARIANCE
NE Corner Magnolia and Riverton Roads
(203 Riverton Road)
15th Election District - 6th Council District
Roger Magsamen, et ux - Petitioners
Case No. 2008-0480-SPHA

Dear Mr. Schmidt:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been approved with restrictions, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "William J. Wiseman III", written over a horizontal line.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Roger N. and Linda M. Magsamen, 203 Riverton Road, Baltimore, MD 21220
Matthew Magsamen, 410 Tanglewood Court, Joppatowne, MD 21085
William N. Bafitis, P.E., Bafitis & Associates, Inc., 1249 Engleberth Road,
Baltimore, MD 21221
People's Counsel; Development Review Committee, DPDM; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 203 Riverton Road
which is presently zoned BL & DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, interested person(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition(s) 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 interested person(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

N/A
Name - Type or Print
Signature
Address Telephone No.
City State Zip Code

Attorney For Petitioner:

Jason T. Vettori
Name - Type or Print
Signature
Gildea & Schmidt, LLC
Company
600 Washington Avenue, Suite 200 (410) 821-0070
Address Telephone No.
Towson MD 21204
City State Zip Code

Interested Person(s):

Roger M. Magsamen
Name - Type or Print
Signature
Linda M. Magsamen
Name - Type or Print
Signature
203 Riverton Road
Address Telephone No.
Baltimore MD 21220
City State Zip Code

Representative to be Contacted:

Jason T. Vettori, Gildea & Schmidt, LLC
Name
600 Washington Avenue, Suite 200 (410) 821-0070
Address Telephone No.
Towson MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 08-400-SPHA

Reviewed By C.M. Date 4-14-08

REV 9/15/98

ORDER RECEIVED FOR FILING

Date 6-23-08

By [Signature]

ATTACHMENT TO PETITION FOR SPECIAL HEARING

203 Riverton Road

1. To confirm previously granted zoning relief and approve an amendment, (where necessary) to the previously approved site plan from Case Nos. 69-109-X and 02-167-SPH to reflect the proposed modifications and reconfiguration of lots;
2. To approve the non-density transfer and lot line adjustment for the three (3) existing lots, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC Section 32-4-106(a)(viii); and
3. For such other and further relief as may be deemed necessary by the Zoning Commissioner.

08-480-SPH A



Flood

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at: 203 Riverton Road

which is presently zoned: BL & DR 5.5

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)

TO BE PRESENTED AT HEARING

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

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

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

Contract Purchaser/Lessee:

N/A

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Jason T. Vettori

Name - Type or Print

City

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Roger M. Magsamen

Name - Type or Print

Signature

Linda M. Magsamen

Name - Type or Print

Signature

203 Riverton Road

Address

Telephone No.

Baltimore

MD

21220

State

Zip Code

Representative to be Contacted:

Jason T. Vettori, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Towson

MD

Telephone No.

21204

City

State

Zip Code

OFFICE USE ONLY

Case No. DB-480-SPHA

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By CM

Date 4-14-08

REV 9/15/98

ORDER RECEIVED FOR FILING

Date

6-23-08

By

CM

ATTACHMENT TO PETITION FOR VARIANCE

203 Riverton Road

1. To permit an existing residence on proposed Lot B to have a rear yard setback of 28 feet +/- in lieu of the required 30 feet pursuant to BCZR § 1B02.3C.1;
2. To permit an existing residence on proposed Lot B to have front yard setback of 28 feet +/- in lieu of the required average setback of 30 feet pursuant to BCZR § 303.1;
3. If necessary, to permit a rear yard, for a commercial building on proposed Lot A abutting a lot in a residential zone, of 3.5 feet in lieu of the required 20 feet pursuant to BCZR § 232.3B;
4. If necessary, to permit a side yard setback for an existing nonresidential building on proposed Lot A of 0 feet in lieu of the required 20 feet pursuant to BCZR § 232.2.B;
5. If necessary, to permit a proposed building on proposed Lot C with a side yard setback of 10 feet in lieu of the required 20 feet pursuant to BCZR § 1B01.2.C.1.a;
6. If necessary, to permit a proposed building on proposed Lot C with a front yard setback of 30 feet in lieu of the required 40 feet pursuant to BCZR § 1B01.2.C.1.a;
7. To permit 13 parking spaces in lieu of the required 22 parking spaces pursuant to BCZR §§ 405.4A.3.d (1) and (3) on proposed Lot A; and
8. For such other and further relief as may be deemed necessary by the Zoning Commissioner.

08-480 - SP11A



Bafitis & Associates, Inc.

**ZONING DESCRIPTION
FOR
203 RIVERTON ROAD
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING for same at the intersection of the East side of Riverton Road, 50 feet wide; and the North side of Magnolia Avenue, 50 feet wide;

1. Thence running along Riverton Road North $04^{\circ}-56'-26''$ West 150.00 feet to a point;
2. Thence leaving said road the following two courses and distances: North $85^{\circ}-03'-34''$ East 175.00 to a point;
3. Thence South $04^{\circ}-56'-26''$ East 150.00 feet to a point; on the Northside of Magnolia Avenue
4. Thence running along said road South $85^{\circ}-03'34''$ West 175.00 feet to the point of beginning.

Containing 26,250 Sq. Ft. or 0.602 Acres more or less.

Being known as Lots 1-3 as shown on a Plat Entitled, "Plat of Middle River" recorded among the Land Records of Baltimore County, Maryland in Plat Book 01, Folio 120.



William N. Bafitis, P.E.
William N. Bafitis, P.E., Md. Reg. No. 11641

3/28/08
Date

~~08-644~~
08-980-SPHA

NOTICE OF ZONING HEARING

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

Case: #2008-0480-SPHA

203 Riverton Road

E/side of Riverton Road, n/east corner of Magnolia Road and Riverton Roads

15th Election District - 6th Councilmanic District

Legal Owner(s): Robert & Linda Magsamen

Special Hearing: to confirm the previous granted zoning relief and approve an amendment (where necessary) to the previous approved site plan from Case 69-109-X and 02-167-SPH. To reflect the proposed modifications and reconfiguration of lots; and to approve the non-density transfer and lot line adjustment for the three existing lots that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC, Section 32-4-106(a)(viii). **Variance:** to permit an existing residence of proposed lot B to have a rear yard setback of 28 ft +/- in lieu of the required 30 ft and to permit an existing residence of proposed lot B, to have front yard setbacks 28 ft +/- in lieu of required average setback of 30 ft and if necessary, to permit a rear yard for a commercial building on proposed lot A, abutted a lot in a residential zone, of 3.5 ft in lieu of the required 20 ft if necessary; to permit a side yard setback for an existing non-residential building on proposed lot A of 0 ft, in lieu of the required 20 ft, if necessary. To permit a proposed building on lot C with a side yard setback of 10 ft in lieu of the required 20 ft, if necessary. To permit a proposed building on proposed lot C with a front yard setback of 30 ft in lieu of the required 40 ft and to permit 13 parking spaces, in lieu of the required 22 parking spaces. Pursuant to BCZR, Sec. 405.4A.3D(1) and (3) on proposed lot A and for such other and further relief as may be deemed necessary by the Zoning Commissioner.

Hearing: Wednesday, June 18, 2008 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

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

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

JT 6/604 June 3

174896

CERTIFICATE OF PUBLICATION

6/5/, 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 6/3/, 2008.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **12140**

Date: **4-14-08**

PAID RECEIPT

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001		001		0190				650.00

Total: **650.00**

Rec
From:

GILDEF & SCHWARTZ LLC

For:

205 RIVINGTON AVE S/H.A
00-487-5141A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

BUSINESS ADDRESS 4/14/2008 4:14 PM 2
 RECEIPT # 57302 4-11-2008 DELH
 \$ 650.00 BALTIMORE COUNTY, MARYLAND
 Receipt # 5450.181
 \$650.00 \$1.00 EA
 Baltimore County, Maryland

CERTIFICATE OF POSTING

RE: Case No.: 2008-0480. SIPHA

Petitioner/Developer: ROBERT L

LINDA MAGSAMEN

Date of Hearing/Closing: JUNE 18, 2003

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

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

Ladies and Gentlemen:

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

203 RNEATON ROAD

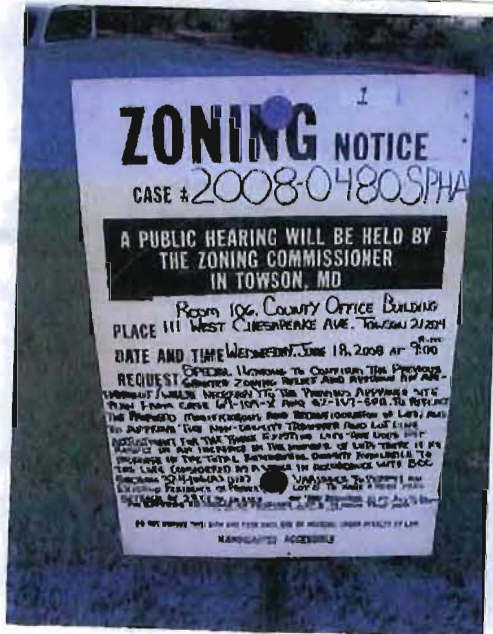
The sign(s) were posted on

June 3, 2008

(Month, Day, Year)

Sincerely,

SSG Robert A Black
1508 Leslie Road
Dundalk, MD 21222
410-282-7940



**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.

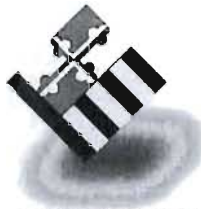
For Newspaper Advertising:

Item Number or Case Number: 08-480-SPHA
Petitioner: ROGER & LINDA MAGSAMEN
Address or Location: 203 RIVINGTON ROAD

PLEASE FORWARD ADVERTISING BILL TO:

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

Revised 2/20/98 - SCJ



BALTIMORE COUNTY

MARYLAND

NOTICE OF ZONING HEARING

May 2, 2008

JAMES T. SMITH, JR.

TIMOTHY M. KOTROCO, *Director*

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: 2008-0480-SPHA

203 Riverton Road

E/side of Riverton Road, n/east corner of Magnolia Road and Riverton Roads

15th Election District – 6th Councilmanic District

Legal Owners: Robert & Linda Magsamen

Special Hearing to confirm the previous granted zoning relief and approve an amendment (where necessary) to the previous approved site plan from Case 69-109-X and 02-167-SPH. To reflect the proposed modifications and reconfiguration of lots; and to approve the non-density transfer and lot line adjustment for the three existing lots that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC, Section 32-4-106(a)(viii). Variance to permit an existing residence of proposed lot B to have a rear yard setback of 28 ft +/- in lieu of the required 30 ft and to permit an existing residence of proposed lot B, to have front yard setbacks 28 ft +/- in lieu of required average setback of 30 ft and if necessary, to permit a rear yard for a commercial building on proposed lot A, abutted a lot in a residential zone, of 3.5 ft in lieu of the required 20 if necessary; to permit a side yard setback for an existing nonresidential building on proposed lot A of 0 ft, in lieu of the required 20 ft, if necessary. To permit a proposed building on lot C with a side yard setback of 10 ft in lieu of the required 20 ft, if necessary. To permit a proposed building on proposed lot C with a front yard setback of 30 ft in lieu of the required 40 ft and to permit 13 parking spaces, in lieu of the required 22 parking spaces. Pursuant to BCZR, Sec. 405.4A.3D(1) and (3) on proposed lot A and for such other and further relief as may be deemed necessary by the Zoning Commissioner.

Hearing: Wednesday, June 18, 2008 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Jason Vettori, 600 Washington Ave., Ste. 200, Towson 21204
Mr. & Mrs. Magsamen, 203 Riverton Road, Baltimore 21221

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JUNE 3, 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, June 3, 2008 Issue - Jeffersonian

Please forward billing to:

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

410-821-0070

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2008-0480-SPHA

203 Riverton Road

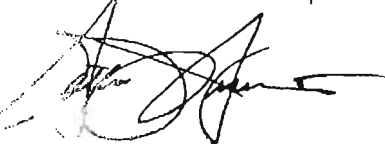
E/side of Riverton Road, n/east corner of Magnolia Road and Riverton Roads

15th Election District – 6th Councilmanic District

Legal Owners: Robert & Linda Magsamen

Special Hearing to confirm the previous granted zoning relief and approve an amendment (where necessary) to the previous approved site plan from Case 69-109-X and 02-167-SPH. To reflect the proposed modifications and reconfiguration of lots; and to approve the non-density transfer and lot line adjustment for the three existing lots that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC, Section 32-4-106(a)(viii). Variance to permit an existing residence of proposed lot B to have a rear yard setback of 28 ft +/- in lieu of the required 30 ft and to permit an existing residence of proposed lot B, to have front yard setbacks 28 ft +/- in lieu of required average setback of 30 ft and if necessary, to permit a rear yard for a commercial building on proposed lot A, abutted a lot in a residential zone, of 3.5 ft in lieu of the required 20 if necessary; to permit a side yard setback for an existing nonresidential building on proposed lot A of 0 ft, in lieu of the required 20 ft, if necessary. To permit a proposed building on lot C with a side yard setback of 10 ft in lieu of the required 20 ft, if necessary. To permit a proposed building on proposed lot C with a front yard setback of 30 ft in lieu of the required 40 ft and to permit 13 parking spaces, in lieu of the required 22 parking spaces. Pursuant to BCZR, Sec. 405.4A.3D(1) and (3) on proposed lot A and for such other and further relief as may be deemed necessary by the Zoning Commissioner.

Hearing: Wednesday, June 18, 2008 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.

County Executive

Jason T. Vettori:

Gildea & Schmidt, LLC

600 Washington Ave. Suite 200

Towson, MD 21204

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

June 11, 2008

Dear:

Jason T. Vettori

RE: Case Number 2008-0480-SPHA, Address: 203 Riverton Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 14, 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:lnw

Enclosures

c: People's Counsel
Roger M. Magsamen, 203 Riverton Rd., Baltimore, MD 21220

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 18, 2008

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

SUBJECT: 203 Riverton Road

INFORMATION:

Item Number: 8-480

Petitioner: Roger M. Magsamen

Zoning: BL and DR 5.5

Requested Action: Special Hearing and Variance

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JUN 20 2008

BY:.....

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request for special hearing and variance and does not oppose the petitioner's request provided there is landscape screening provided on rear yard of lot C to screen the fence, metal building and parking.

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

Reviewed by:

Division Chief:
AFK/LL: CM



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

April 24, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: April 21, 2008

Item Number: 470,471,472,473,474, 475,476,477,478, 479,480,481,
482,483,484,485,486 and 488

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.

1The Fire Marshal's Office has no comments at this time.

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

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: April 28, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For April 28, 2008
Item No.: 08-470, 471, 472, 474, 475, 476,
477, 478, 479, 480, 481, 482, 483, 484,
485, 486, 487, and 488.

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

DAK:CEN:lrk
cc: File

ZAC-04282008-NO COMMENTS



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

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

Maryland Department of Transportation

Date: APRIL 21, 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. 8-480-SPHA
203 RIVERTON ROAD
MAGAMEN 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. 8-480-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

From: Debra Wiley
To: Murray, Curtis
Date: 06/12/08 2:47:34 PM
Subject: OP Comment Needed - Bill

Missing
OP 6/12

Hi Curtis,

Bill has a case scheduled for Wed., 6/18 @ 9 AM and is missing a comment. I have provided a case description for your convenience below as follows:

CASE NUMBER: 8-480-SPHA

203 Riverton Road

Location: E side Riverton Road, NE corner Magnolia and Riverton Roads.

15th Election District, 6th Councilmanic District

Legal Owner: Robert M. and Linda M. Magsamen

SPECIAL HEARING To confirm previously granted zoning relief and approve an amendment, (where necessary) to the previously approved site plan from Case Nos. 69-109-X and 02-167-SPH to reflect the proposed modifications and reconfiguration of lots; and to approve the non-density transfer and lot line adjustment for the three (3) existing lots, that does not result in an increase in the number of lots and there is no increase in the total residential density available to the lots considered as a whole in accordance with BCC Section 32-4-106(a)(viii).

VARIANCE To permit an existing residence on proposed Lot B to have a rear yard setback of 28 feet +/- in lieu of the required 30 feet and to permit an existing residence on proposed Lot B to have front yard setback of 28 feet +/- in lieu of the required average setback of 30 feet and if necessary, to permit a rear yard, for a commercial building on proposed Lot A abutting a lot in a residential zone, of 3.5 feet in lieu of the required 20 feet and if necessary, to permit a side yard setback for an existing nonresidential building on proposed Lot A of 0 feet in lieu of the required 20 feet and if necessary, to permit a proposed building on proposed Lot C with a side yard setback of 10 feet in lieu of the required 20 feet and if necessary, to permit a proposed building on proposed Lot C with a front yard setback of 30 feet in lieu of the required 40 feet and to permit 13 parking spaces in lieu of the required 22 parking spaces pursuant to BCZR Sections 405.4A.3.d(1) and (3) on proposed Lot A; and for such other and further relief as may be deemed necessary by the Zoning Commissioner.

Hearing: Wednesday, 6/18/2008 at 9:00:00 AM, County Office Building, 111 West Chesapeake Avenue, Room 106, Towson

Thanks and have a great day !

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE *
203 Riverton Road; E/S Riverton Road, NE * ZONING COMMISSIONER
corner Magnolia & Riverton Roads *
15th Election & 6th Councilmanic Districts * FOR
Legal Owner(s): Robert & Linda Magsamen *
Petitioner(s) * BALTIMORE COUNTY
* 08-480-SPHA

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

APR 28 2008

Per.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of April, 2008, a copy of the foregoing Entry of Appearance was mailed to Jason T. Vettori Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CASE NAME MACSAMON
CASE NUMBER 08-480-SPHA
DATE 6/18/08

[illegible]



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw3.1)

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 15 Account Number - 1513205810

Owner Information

Owner Name:	MAGSAMEN ROGER N MAGSAMEN LINDA M	Use:	RESIDENTIAL
Mailing Address:	203 RIVERTON RD BALTIMORE MD 21220-4102	Principal Residence:	YES
		Deed Reference:	1) / 4750/ 556 2)

Location & Structure Information

Premises Address	Legal Description
203 RIVERTON RD	LT 1,2,3 MIDDLE RIVER

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
90	11	709				3	1	3	Plat Ref: 1/ 120

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1942	1,838 SF	26,250.00 SF	04
Stories	Basement	Type	Exterior
1 1/2	YES	STANDARD UNIT	BRICK

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2006	07/01/2007	07/01/2008
Land	36,560	66,560		
Improvements:	109,720	146,840		
Total:	146,280	213,400	191,026	213,400
Preferential Land:	0	0	0	0

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

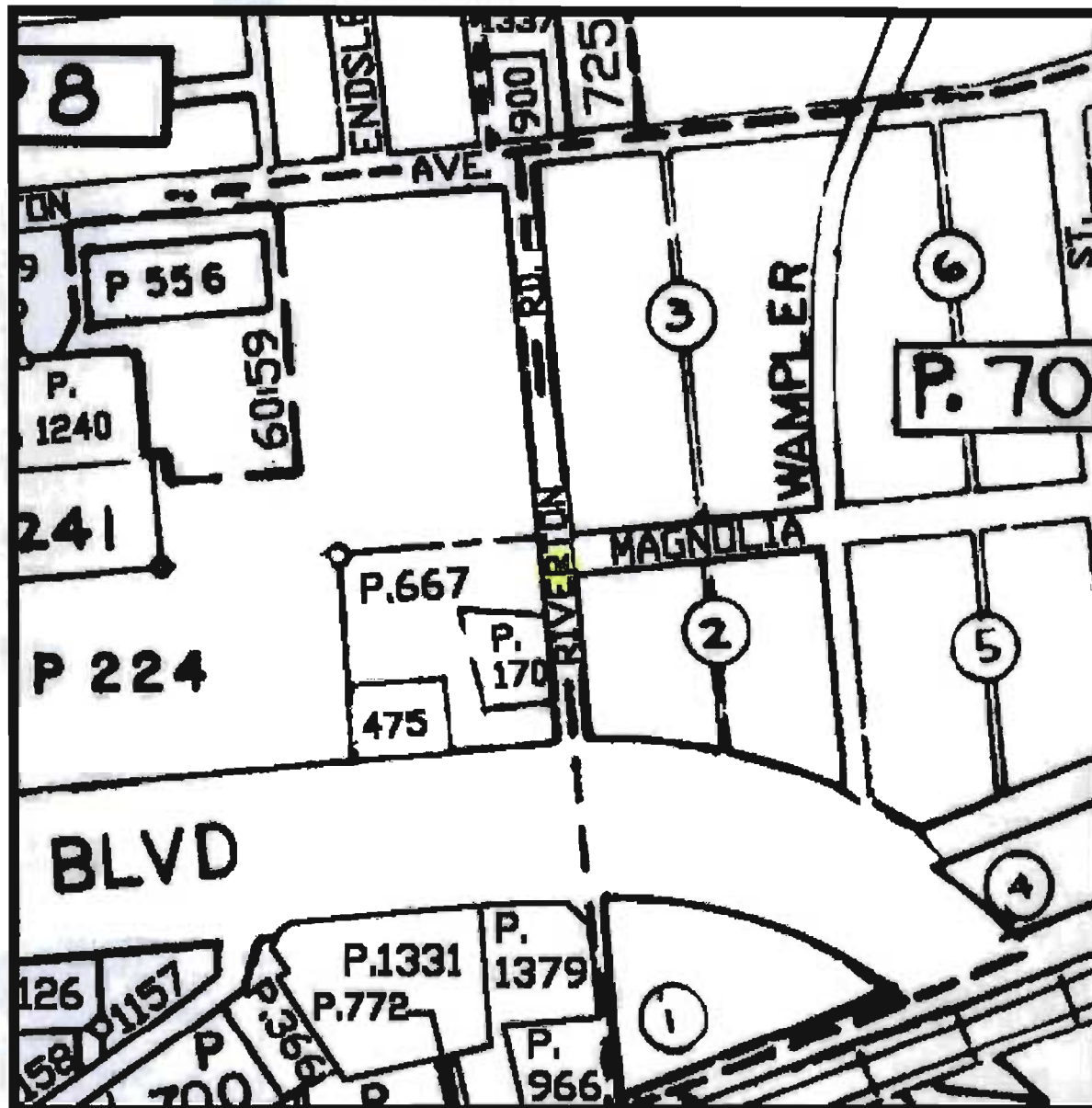
Special Tax Recapture:
 * NONE *



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

[Go Back](#)
[View Map](#)
[New Search](#)

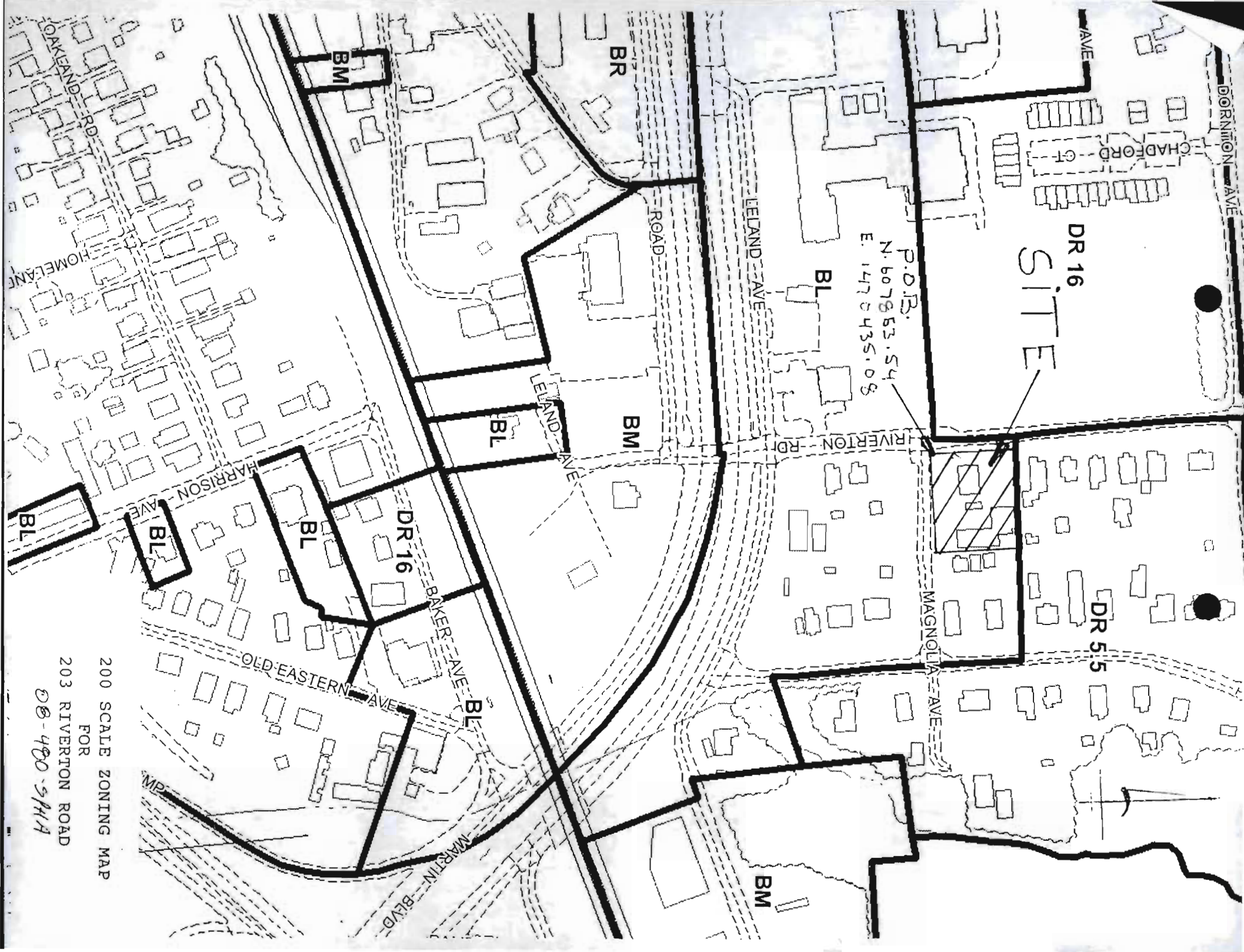
District - 15 Account Number - 1513205810



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/tax_mos.htm





DR 16
SITE

P.O.B.
N. 607853.54
E. 1470435.08

DR 5.5

BR

BL

BM

BL

DR 16

BL

BL

BL

BM

200 SCALE ZONING MAP

FOR

203 RIVERTON ROAD

DB-480-5/HA

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW/Cor. Riverton Road & Magnolia Avenue
(203 Riverton Road) * ZONING COMMISSIONER
15th Election District
6th Council District * OF BALTIMORE COUNTY

Roger Magsamen, et ux * Case No. 02-167-SPH
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Roger and Linda Magsamen, and Magsamen Auto Center, Inc., Lessee, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners request a special hearing to approve an amendment to the previously approved site plan in Case No. 69-109-X to reflect the proposed modifications. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Roger and Linda Magsamen, property owners, their son, Matthew Magsamen, the proprietor of the business on the site, and Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. Also appearing was Michael J. Ertel, the Professional Engineer who prepared the site plan for this property. There were no Protestants or other interested persons present.

The subject property is a rectangular shaped parcel, located on the northeast corner of the intersection of Riverton Road and Magnolia Avenue in Middle River. The property contains a gross area of 26,250 sq.ft., more or less, zoned B.L. and is improved with several structures, including a residence. Although the property does have a business zoning classification and is one lot of record, it is effectively divided into two separately used parcels. The front portion of the site, immediately adjacent to the intersection of Riverton Road and Magnolia Avenue, is improved with

ORDER RECEIVED FOR FILING

Date

3y

Photographs were offered at the hearing which show that the property is attractively maintained and well-kept. In this regard, the Petitioners recently installed a board-on-board fence to screen the business use. Obviously, landscaping is not necessary around the residential portion of the site. In this regard, the character of the neighborhood is of note. The immediate property to the west is owned by William Mason, a family member, and is used residentially. The property across Riverton Road from the subject site is owned by the Board of Education of Baltimore County and is the site of the Martin Boulevard Elementary School. The neighborhood is generally a mix of residential and business uses.

Based upon the testimony and evidence offered, I am persuaded to grant the Petition for Special Hearing. The fact that there were no Protestants present and the service garage use has existed on the site for over 33 years is persuasive to a finding that the use is appropriate here and not detrimental to the health, safety and general welfare of the locale. Moreover, as noted above, the area of the special exception will not be enlarged. The special hearing is appropriate and necessary to update the site plan to reflect existing improvements.

A Zoning Plans Advisory Committee (ZAC) comment was received from the Office of Planning which generally supports the Petitioners' request, provided an existing dumpster on the premises is screened by way of a board-on-board fence in combination with landscaping. Apparently, there is a small dumpster which is used to dispose of office waste from the business. In addition, a larger dumpster was recently placed on the property to assist in the Petitioners' clean-up efforts. In this regard, Mr. Magsamen indicated that the larger dumpster will be removed shortly and it was agreed at the hearing that it would be removed on or before March 31, 2002. As for the smaller dumpster, it may remain in its present location. I am not persuaded that additional landscaping is necessary in that the recently installed board-on-board fence with landscaping appears to adequately buffer the site. Moreover, the photographs submitted show that the site is well-maintained and the Petitioners agreed to keep the property neat and orderly.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

§ 32-4-106. LIMITED EXEMPTIONS.

(a) *Exemption from development review and approval process.*

(1) The following proposed development is exempt from compliance with Subtitle 2 of this title:

(i) The building or preparation of land for building a dwelling for one or two families:

1. On a single lot or tract that is not part of a recorded plat; or

2. On a lot or lots exempt from the lapse provisions of § 32-4-273 of this title;

(ii) The building or preparation of land for building on a lot of record lawfully in effect at the time of the building or preparation of the land for building, provided the lot of record did not result from a subdivision of land exempt under § 32-4-105 of this subtitle;

(iii) The construction of one tenant house or the location of one trailer on a farm tract;

(iv) The subdivision of property in accordance with a court order, a will, or the laws of intestate succession;

(v) The resubdivision or lot line adjustment of industrially zoned or commercially zoned parcels of land that have been the subject of a previously approved Development Plan and recorded plat;

(vi) The construction of residential accessory structures or minor commercial structures;

(vii) The construction of a building owned and operated by a county volunteer fire, ambulance, or rescue company that is used primarily for:

1. Storage or training purposes;
2. Fund-raising activities; or
3. Other purposes related to rescue or fire-suppression activities;

(viii) Lot line adjustments in residential zones for lots that are not part of an approved Development Plan under this title or an approved Development Plan under Article 1B of the Baltimore County Zoning Regulations. For purposes of this subsection, "lot line adjustment" means one or more alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of the owners, provided that the alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole;

26-1988; 36-1988; 19-2004^{EN}

Zoning Classification	Maximum Gross Residential Density (in dwelling or density units per acre)	Maximum Height of Buildings (in feet)
-----------------------	---	---------------------------------------

D.R.1	1.0 dwelling units/acre	50
D.R.2	2.0 dwelling units/acre	50
D.R.3.5	3.5 dwelling units/acre	50
D.R.5.5	5.5 dwelling units/acre	50
D.R.10.5	10.5 dwelling units/acre	50
D.R.16	16.0 density	60

B. Other principal uses. Density, bulk and open space regulations, standards or controls for principal uses other than dwellings within zones of different classification shall be governed by provisions adopted pursuant to the authority of Section 504. [Bill No. 26-1988]^{EN}

1B02.3 Special regulations for certain existing developments or subdivisions and for small lots or tracts in D.R. Zones.

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19**THE REGULATIONS****ARTICLE 1B, DENSITY RESIDENTIAL (D.R.) ZONES [Bill No. 100-1970]****Section 1B02, Use, Parking, Bulk Density and Open Space Regulations, Standards and Controls**

A. In D.R. Zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy and development of; alteration or expansion of structures upon; and administrative procedures with respect to:

1. Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Planning Commission and which has been used, occupied or improved in accordance with the approved subdivision plan;
2. Any land in a subdivision tract which was laid out in accordance with the regulations of residence zoning classifications now rescinded, for which a subdivision plan tentatively approved by the Planning Board remains in effect and which has not been used, occupied or improved in accordance with such plan;
3. Any lot or tract of lots in single ownership which is not in an existing development or subdivision, as described in Subsection A.1 or A.2, and which is too small in gross area to accommodate six dwelling or density units in accordance with the maximum permitted density in the D.R. Zone in which such tract is located;
4. Any lot or tract of lots in single ownership which is not in an existing development or subdivision, as described in Subsection A.1 or A.2, and which is less than one-half acre in area, regardless of the number of dwelling or density units permitted at the maximum permitted density in the zone in which it is located; or
5. Any lot or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission.

B. Standards applicable to existing developments, etc. The minimum standards for net area, lot width, front yard depth, single-side-yard width, sum of widths of both side yards, rear yard depth and height with respect to each use in a development described in Subsection A.1 above, shall be as prescribed by the zoning regulations applicable to such use at the time the plan was approved by the Planning Board or Commission; however, the same or similar standards may be codified under Section 504, and these standards shall thereupon control in such existing developments. Development of any subdivision described in Subsection A.2 shall be in accordance with the tentatively approved subdivision plan therefor. Standards for development of lots or tracts described in Subsection A.3, A.4 or A.5 shall be as set forth in Subsection C below.

C. Development standards for small lots or tracts.

1. Any dwelling hereafter constructed on a lot or tract described in Subsection A.3 or A.4 shall comply with the requirements of the following table:

Zoning	Minimum Net		Minimum		Minimum		Sum of Side		Minimum	
	Lot Area per		Minimum		Width of		Individual		Yard	
	Classification	Dwelling Unit	Lot	Depth	Side	Widths	Depth			
Yard	(sq. ft.)	Width (feet)	(feet)	Yard (feet)	(feet)	(feet)	(feet)			
	D.R.1	40,000	150	50	20	50	50			

D.R.2	20,000	100	40	15	40	40
D.R.3.5	10,000	70	30	10	25	30
D.R.5.5	6,000	55	25	10	--	30
D.R.10.5	3,000	20	10	10	--	50
D.R.16	2,500	20	10	25	--	30

2. Other standards for development of small lots on tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504.

D. An amendment to any part of a development plan involving only property subject to the provisions of this subsection shall not be subject to the provisions of Section 1B01.3.A.7.

ARTICLE 2, ^{EN}ELEVATOR-APARTMENT RESIDENCE ZONES, RESIDENTIAL-OFFICE ZONES, OFFICE ZONES, BUSINESS ZONES, MANUFACTURING ZONES AND DISTRICTS [Bill Nos. 100-1970; 13-1980; 167-1980]

Section 200, R.A.E.1 Zones: Residence, Apartment, Elevator [Bill No. 100-1970]

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19**THE REGULATIONS****ARTICLE 3, EXCEPTIONS TO HEIGHT AND AREA REQUIREMENTS****Section 303, Front Yard Depths in Residence and Business Zones [BCZR 1955]**

303.1 In D.R.2, D.R.3.5 and D.R.5.5 Zones, ^{EN} the front yard depth of any building hereafter erected shall be the average of the front yard depths of the lots immediately adjoining on each side, provided such adjoining lots are improved with principal buildings situate within 200 feet of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall be not less than the average depth of the front yards of all improved lots within 200 feet on each side thereof, provided that no dwelling shall be required to be set back more than 60 feet in D.R.2 Zones, 50 feet in D.R.3.5 Zones and 40 feet in D.R.5.5 Zones. In no case, however, shall nonresidential principal buildings have front yards of less depth than those specified therefor in the area regulations for D.R.2, D.R.3.5 and D.R.5.5 Zones respectively. [Resolution, November 21, 1956]

303.2 In B.L., B.M. and B.R. Zones, the front yard depth of any building hereafter erected shall be the average of the front yard depths of the lots immediately adjoining on each side, provided such adjoining lots are improved with permanent commercial buildings constructed of fire-resisting materials situate within 100 feet of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall be not less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above.

Section 304, Use of Undersized Single-Family Lots [BCZR 1955; Bill No. 47-1992]

304.1 [Bill Nos. 64-1999; 28-2001] Except as provided in Section 4A03, a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;
- B. All other requirements of the height and area regulations are complied with; and
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

304.2 Building permit application.

A. Any person desiring to erect a dwelling pursuant to the provisions of this section shall file with the Department of Permits and Development Management, at the time of application for a building permit, plans sufficient to allow the Office of Planning to prepare the guidelines provided in Subsection B below. Elevation drawings may be required in addition to plans and drawings otherwise required to be submitted as part of the application for a building permit. Photographs representative of the neighborhood where the lot or tract is situated may be required by the Office of Planning in order to determine appropriateness of the proposed new building in relation to existing structures in the neighborhood.

B. At the time of application for the building permit, as provided above, the Director of the Department of Permits and Development Management shall request comments from the Director of the Office of Planning (the "Director"). Within 15 days of receipt of a request from the Director of the Department of Permits and Development Management, the Director shall provide to the Department of Permits and

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19
THE REGULATIONS
ARTICLE 2,
Section 232, B.L. Zone Area Regulations [BCZR 1955]

232.3 Rear yard. [Bill No. 26-1963]

A. For residences, as in Section 302.

B. For commercial buildings, none required, except that where the rear lot line abuts a lot in a residence zone there shall be a rear yard not less than 20 feet deep.

232.4. Parking area and loading space. In accordance with the provisions of Section 409.

232.5. Floor area ratio. The maximum permitted floor area ratio for any site in a B.L. Zone, excepting C.C.C. and C.T. Districts, shall be 3.0. [Bill Nos. 7-1962; 111-1968; 100-1970]

Section 232A, Special Regulations for C.C.C. Districts [Bill Nos. 111-1968; 100-1970; ^{EN} 26-1988]

Contrary provisions of these zoning regulations notwithstanding, the regulations of this section shall apply in C.C.C. Districts superimposed upon B.L. Zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these zoning regulations.)

232A.1 Apartments shall be permitted, but only above the first story of a building. Elderly housing facilities shall be permitted in any story of a building. [Bill No. 36-1988]

232A.2 No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet.

232A.3 The maximum permitted floor area ratio for any site shall be 4.0; the specific number of dwelling or density units, as such, shall not be directly limited.

232A.4 The minimum permitted amenity open space ratio shall be 0.2.

232A.5 A brewery, Class 7, is permitted if within the urban rural demarcation line. [Bill No. 185-1995]

Section 232B, Special Regulations for C.T. Districts [Bill Nos. 111-1968, Section 232A; 100-1970; 115-1982; 26-1988; 36-1988]

Notwithstanding other provisions of these zoning regulations to the contrary, the following regulations shall apply in C.T. Districts superimposed upon B.L. Zones. (All aspects of matters not governed by the following provisions of this subsection shall be governed by all other applicable provisions of these zoning regulations.)

232B.1 Apartments shall be permitted, but only above the first story of a building. Elderly housing facilities shall be permitted in any story of a building.

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

THE REGULATIONS

ARTICLE 1B, DENSITY RESIDENTIAL (D.R.) ZONES [Bill No. 100-1970]

Section 1B01, Regulations With Respect to D.R. Zones in General

1B01.2 General density, bulk, building separation, open space and other height and area standards and regulations.

A. Density controls.

1. Application of maximum density standards to tract in one zone. The maximum gross residential density permitted in any one D.R. Zone shall control only as applied to the total gross residential acreage within a subdivision tract, and shall not apply to or establish minimum areas of lots created by subdivision within such tract.
2. Application to tract divided by zone boundary. In D.R.10.5, D.R.16 or in any nonresidential zone which allows residential development, wherever a single tract is divided by a zone boundary so that portions of such tract lie within D.R. Zones of different classification, the total number of dwelling or density units permitted, as determined by multiplying the gross acreage of each portion by the maximum density permitted under Section 1B02.2 in the zone within which that portion lies and totaling the results, shall be permitted without further regard to the zone boundary, and the units may be distributed over the tract as though it were in a single zone. [Bill No. 2-1992]

B. Bulk regulations. [Bill No. 2-1992]

1. Detached and attached buildings. In the application of the provisions of this article, buildings shall be considered as detached if there are no above-grade structural connections between them. If buildings are, in fact, structurally connected above grade, they shall be considered as mutually attached buildings if divided by lot lines, or as one building if situated on a single lot.
2. Building lengths. The building lengths have been described in accordance with Section 504.2, Comprehensive Manual of Development Policies.

C. Building setback requirements. [Bill No. 2-1992]

1. Except as otherwise may be provided under standards adopted pursuant to Section 504.2, the minimum setbacks and heights shall be as set forth in the following tables:

a. Nonresidential principal building setbacks in DR Zones.

Nonresidential Principal Building Setbacks

	Front Yard (feet) (feet)	Side Yard Interior (feet)	Corner Street Side	Rear Yard (feet)
D.R.1	70	40	65	50
D.R.2	60	30	50	40
D.R.3.5	50	20	35	30
D.R.5.5	40	20	35	30
D.R.10.5	25	20	35	50

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

THE REGULATIONS

ARTICLE 4, SPECIAL REGULATIONS

Section 405, Fuel Service Stations [Bill No. 172-1993]

A. A fuel service station is permitted by right subject to Section ~~405.4~~, provided that no part of the lot is within 100 feet of a residentially zoned property and is integrated with and located:

1. In a planned shopping center of which at least 20% has been constructed at the time the building permit for the fuel service station is issued, but not to exceed one station for each 60,000 square feet of gross floor area of the planned shopping center;
2. In an approved planned industrial park of a minimum net area of 50 acres, but not to exceed one for each 50 acres of net area; or
3. In a planned drive-in cluster.

B. Fuel service stations on individual sites which do not comply with the requirements of Section 405.2.A are permitted by special exception, as provided below and subject to Sections 405.3 and ~~405.4~~.

1. Within the urban-rural demarcation line (URDL), in C.C.C., A.S., I.M. or MD 43 Districts, provided no part of the lot is in an M.R. Zone. [Bill No. 78-2002]
2. Outside the URDL with C.R. District designation only in B.L., B.M. or B.R. Zones, subject to Section 259.3.B.2.

405.3 In addition to the findings required under Section 502.1, the Zoning Commissioner, prior to granting any special exception for a fuel service station, shall consider the presence of abandoned fuel service stations in the vicinity of the proposed site. A finding by the Zoning Commissioner of the presence of one abandoned fuel service station, as defined in Section 405.7, within a one-half-mile radius, or two such stations within a one-mile radius of the proposed fuel service station establishes that there is no need for the proposed use, unless rebutted to the Zoning Commissioner's satisfaction by market data.

405.4 Standards.

A. Site development.

1. Site dimensions. The area of any fuel service station site shall be no less than 15,000 square feet or 1,500 times the number of fuel service spaces (as defined in Section 101), whichever is greater. If any use permitted under Section 405.4.D or 405.4.E is added to the fuel service station, the area of the site shall be increased in accordance with the provisions of those sections.
2. Setbacks.
 - a. No main structure of a service station shall be set back less than 35 feet from any street right-of-way; no fuel pump shall be set back less than 25 feet from any street right-of-way; no canopy shall be set back less than 15 feet from any street right-of-way.
 - b. Except at the required access driveways, a landscape transition area shall be provided along the entire perimeter of fuel service stations. Such area shall have a minimum width of 10 feet if the fuel service station abuts a public right-of-way, and six feet in all side and rear yards abutting nonresidentially zoned land, except that service stations located within 50 feet of any residentially zoned property (other than a residential zone line in a public right-of-way) shall provide a buffer measuring no less than 15 feet from that property line.
 - c. The landscape transition area shall be vegetated and screened in accordance with the

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19**THE REGULATIONS****ARTICLE 4, SPECIAL REGULATIONS****Section 405, Fuel Service Stations [Bill No. 172-1993]**

d. Other setbacks shall be as required by these regulations.

3. Access, internal circulation and vehicle reservoir capacity.

a. The number and location of access driveways shall be determined by the hearing officer or Zoning Commissioner based upon the recommendations of the Director of Public Works and the Office of Planning.

b. All internal paved areas of a fuel service station site used for parking, driveway, aisles and stacking purposes shall comply with Section 409 and shall be laid out to preclude vehicles waiting on the street or blocking the right-of-way before gaining entrance.

c. In addition to the fuel service space, at least one stacking space shall be provided:

(1) For each pump island side, at pump islands that contain multiproduct dispensers (MPD) and where a bypass lane serves each (MPD);

(2) For each MDP in cases where there is no bypass lane or where a convenience store is located on the same lot; or

(3) For each pump, if the pump dispenses a single fuel type.

d. Parking spaces on the site of any fuel service station shall be provided as follows:

(1) One space per employee on the largest shift.

(2) Three spaces per 1,000 square feet of gross floor area for a convenience store up to 1,500 square feet. (Convenience stores larger than 1,500 square feet shall be subject to the parking requirements for retail uses in accordance with Section 409, including the first 1,500 square feet).

(3) Three spaces per service bay, not counting service spaces in the bays.

(4) One space per self-service air or vacuum cleaner unit.

(5) One space per automatic teller machine.

B. All fuel service stations shall provide a rest room facility, water and compressed air for customers.

Case No.: 2008-0480-SPHA203 RIVERTON RD.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2	Special Exception 69-109X and Site Plan	IT IS OF NOTE THAT THIS HISTORY DISCLOSES ALL BL ZONE THE D.R.S.S. MUST BE DRAFTING OVERSITE ??
No. 3	Special Hearing 02-167-SPH	
No. 4	YELLOW LINES ON SITE PLAN TO DELINEATE EXISTING CONDITIONS	
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION

#69-109-X

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Roger Magsamen legal owner 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 (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an _____ zone to an EASTERN AREA zone; for the following reasons:

NE-4-Z
X

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for A SERVICE GARAGE

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Roger M. Magsamen

Roger M. Magsamen

Legal Owner

Contract purchaser

Address _____

Address 201 Riverston Road

Robert J. Pomadke

Petitioner's Attorney

Protestant's Attorney

309 Eastern Boulevard
Address Baltimore, Maryland 21221

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day of October, 1968, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 19th day of November, 1968 at 10:00 o'clock

A. M.

[Signature]
Zoning Commissioner of Baltimore County

(over)

PETITIONER'S

EXHIBIT NO. 2

ROGER M. MAGSAMEN
NE/cor. of Riverston St. and
Magnolia Ave.
#69-109-X
15th

ORDER RECEIVED

DATE 11/15/68 FOR RECORD

69-109-X

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the petitioner has met all requirements of Section... 502.1 of the Baltimore County Zoning Regulations, the special exception should be granted.

the above reclassification should be had and it further appearing that by reason of

A Special Exception for should be granted

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 1st day of November, 1968, that the herein described property or area should be and that the same is hereby reclassified from to a zone; and/or a Special Exception for a Garage Service should be and the same is granted, from and after the date of this order, subject to approval of the site plan by the Bureau of Public Services and the Office of Planning and Zoning.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

the above re-classification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this day of 196, that the above re-classification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as and to remain a zone; and/or the Special Exception for be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

City, Town and Topographical Survey Land Subdivisions Earthwork Computations

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North side
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Robert J. Romacke,
809 Eastern Blvd.,
Baltimore, Md. 212

Petitioner

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: November 8, 1968

FROM: George E. Gavrelis, Director of Planning

SUBJECT: Petition #69-109-X. Special Exception for Garage, Service.
Northeast corner of Riverton Street and Magnolia Avenue.
Being the property of Roger N. Magsamen, Petitioner.

15th District

HEARING: Monday, November 18, 1968 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for Special Exception for a service garage. If the petitioner can make the proofs required for Special Exceptions, granting of this petition should be conditioned upon strict compliance with the site plan presented with the additional requirement that all work be done inside the existing garage.

GEG:bms

PETITION FOR SPECIAL
EXCEPTION
15th DISTRICT
ZONING: Petition for Special
Exception for Garage, Service.
LOCATION: Northeast corner of
Riverton Street and Magnolia
Avenue.
DATE & TIME: MONDAY,
NOVEMBER 18, 1968 at 10:00 A.M.
PUBLIC HEARING: Room 106,
County Office Building, 111 W.
Chesapeake Avenue, Towson
Maryland.
The Zoning Commissioners of
Baltimore County, by authority of
the Zoning Act and Regulations of
Baltimore County, will hold a public
hearing.
Petition for Special Exception for
Garage, Service. As that corner of
Riverton Street and Magnolia Avenue,
Baltimore County.
Occurring at the intersection of
the North side of Magnolia Avenue,
15th Avenue, and the East side of
Riverton Street, 15th Avenue, and since
it is being held and at the



THE
ESSEX TIMES

ESSEX, MD. 21221

November 4, 1968

THIS IS TO CERTIFY that the annexed advertisement of
[illegible] was inserted in THE ESSEX TIMES, a week's newspaper published in
Baltimore County, Maryland on a week for [illegible]

was inserted in THE ESSEX TIMES, a week's newspaper published in
Baltimore County, Maryland on a week for [illegible]

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

October 21, 1968

Robert J. Romacka, Esq.,
809 Eastern Blvd.,
Baltimore, Maryland 21221
Item 85 RE: Roger Mags

COUNTY OFFICE BLDG.
1117 CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

200

JAMES E. DYER
Chairman

MEMBER

BUREAU OF
ENGINEERING
BUREAU OF
TRAFFIC ENGINEERING
STATE POLICE - JUDICIAL
BUREAU OF
FOR RECREATION
HEALTH DEPARTMENT
PROJECT PLANNING
BUILDING DEPARTMENT
BOARD OF EDUCATION
ZONING ADMINISTRATION
INDUSTRIAL
DEVELOPMENT

Robert J. Romacka, Esq.,
809 Eastern Blvd.,
Baltimore, Maryland 21221

SUBJECT: Item 85
Type of Hearing: Special
Exception for Service Garage
Location: Northernmost Corner
of Riverton Rd. & Magnolia Avenue
District: 15th
Petitioner: Roger Magsamen
Committee Meeting of October 15, 1968

Dear Mr. Romacka:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject site consists of 26,250 sq. ft. and is improved with a two-story brick dwelling in fair condition used as a residence, a story and a half garage which is used for automobile repair - this garage is located in the rear of the residence, and has frontage and access to Magnolia Avenue only.

The property is bounded on all sides by residences; however, the residence to the north is used as a body repair shop. An elementary school and gas station is located on the opposite side of Riverton Avenue.

Road access and traffic condition: Magnolia Avenue is a 50 ft. right-of-way with approximately 24 ft. of paving; Riverton Road is a 40 ft. right-of-way with approximately 26 ft. of paving. Access to the site is by way of a 22 ft. driveway off Magnolia Avenue.

Public services: An 8" water main exists in Riverton Road; a 42" sanitary sewer exists in Magnolia Avenue. Both Riverton Road and Magnolia Avenue are to be

developed as minimum 30 ft. rights-of-way.

Site Plan: The site proposes that approximate Exception be retained in located on the property; for the actual service garage plans to pave an area 34' maneuvering space and per been constructed in the a to a width of approximate

On the day of inspection the property: 8 trucks - the Zoning Regulations do that are to be worked on is not adequate in size t

The building or buildings and compliance with the Regulations. Additional of Air Pollution, Baltimore

The subject petition is enclosed, filing certificate which will be held not later date on the filing certificate future.

JFD:JD

Robert J. Romadka, Esq.,
809 Eastern Blvd.,
Baltimore, Maryland 21221
Item 85 RE: Roger Magnuson

October 21, 1968

developed as minimum 30 ft. paved roads, based on the existing rights-of-way.

Site Plan: The site plan submitted with the subject petition proposes that approximately 2/3 of the tract requested for Special Exception be retained in lawn area for the two-story brick dwelling located on the property; and that approximately 70 x 150 be utilized for the actual service garage operation. Of this area the petitioner plans to pave an area 34 x 150 which will be utilized as driveway maneuvering space and parking for four cars. A retaining wall has been constructed in the area proposed for parking which limits it to a width of approximately 35 ft.

On the day of inspection the following vehicles were located on the property: 8 trucks - 3 without tags, and one automobile. Since the Zoning Regulations do not permit service garages to store cars that are to be worked on outside, it would appear that subject site is not adequate in size to accommodate the type of use proposed here.

The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

The subject petition is accepted for filing as of the date on the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30, nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

JAMES E. DYER, Chairman

JFD:JD

#62-100X

MAP
4-B

EASTERN

AREA

NE 4-L

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ITTEE

#69-100X

Special
Service Garage
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& Magnolia Avenue

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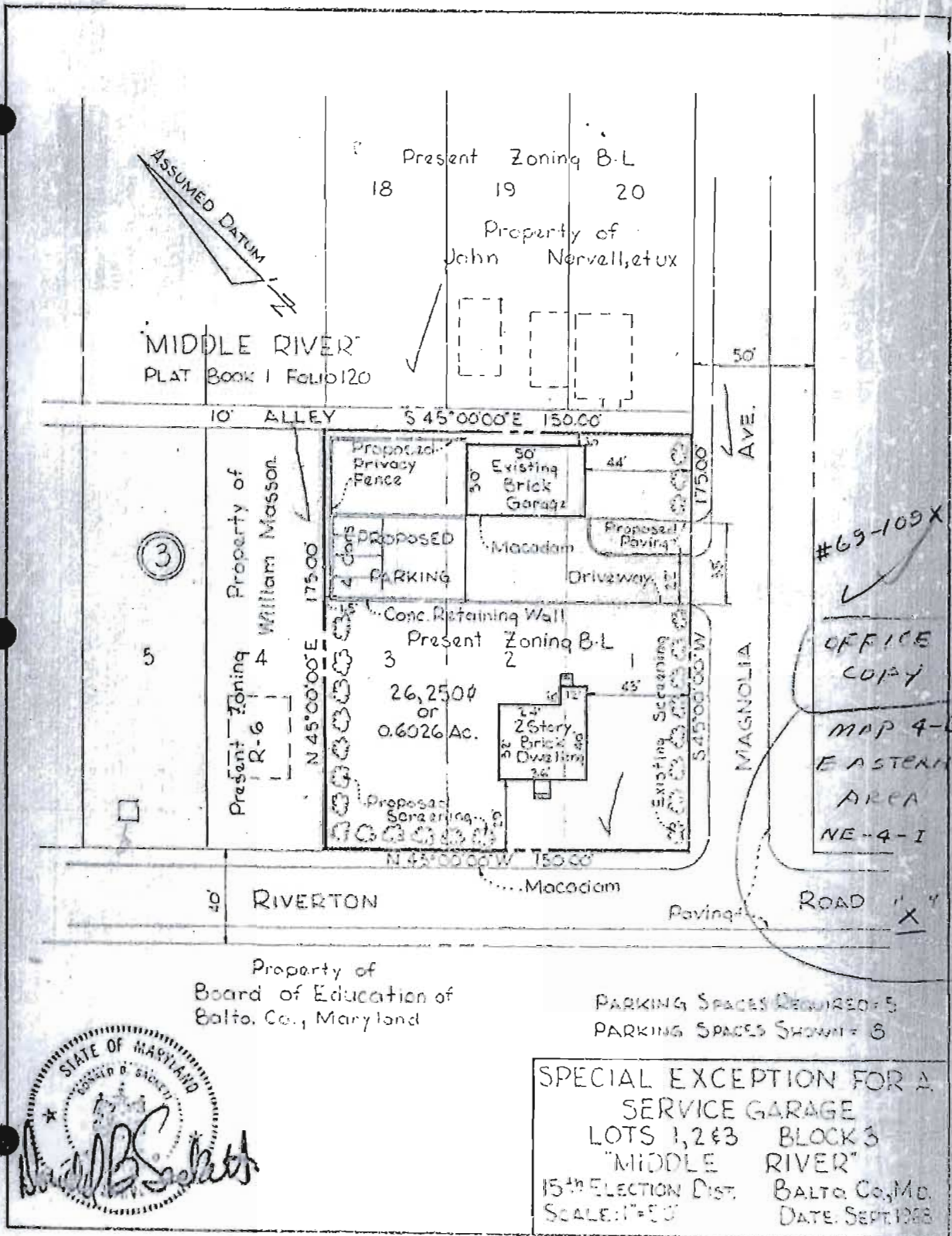
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Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

January 10, 2002

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, suite 600
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
NW/Corner Riverton Road and Magnolia Drive
(203 Riverton Road)
15th Election District - 6th Council District
Roger Magsamen, et ux - Petitioners
Case No. 02-167-SPH

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: ✓ Mr. & Mrs. Roger Magsamen
203 Riverton Road, Baltimore, Md. 21220
Mr. Michael J. Ertel, MJ Consulting, Inc.
5317 East Glen Road, Ellicott City, Md. 21043
Office of Planning; People's Counsel; Case File

PETITIONER' S

EXHIBIT NO. 3

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW/Cor. Riverton Road & Magnolia Avenue *
(203 Riverton Road) * ZONING COMMISSIONER
15th Election District *
6th Council District * OF BALTIMORE COUNTY

Roger Magsamen, et ux * Case No. 02-167-SPH
Petitioners *
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Roger and Linda Magsamen, and Magsamen Auto Center, Inc., Lessee, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners request a special hearing to approve an amendment to the previously approved site plan in Case No. 69-109-X to reflect the proposed modifications. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Roger and Linda Magsamen, property owners, their son, Matthew Magsamen, the proprietor of the business on the site, and Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. Also appearing was Michael J. Ertel, the Professional Engineer who prepared the site plan for this property. There were no Protestants or other interested persons present.

The subject property is a rectangular shaped parcel, located on the northeast corner of the intersection of Riverton Road and Magnolia Avenue in Middle River. The property contains a gross area of 26,250 sq.ft., more or less, zoned B.L. and is improved with several structures, including a residence. Although the property does have a business zoning classification and is one lot of record, it is effectively divided into two separately used parcels. The front portion of the site, immediately adjacent to the intersection of Riverton Road and Magnolia Avenue, is improved with

ORDER RECEIVED FOR FILING
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11/01/07

a one and one-half story brick dwelling in which Roger and Linda Magsamen reside, a one-story frame shed, and an inground swimming pool. Additionally, the property is landscaped and features an open, lawn area. By all appearances, that portion of the site is residential in character. The rear of the property, however, has an entirely different appearance and use. That portion of the site features two, connecting one and one-half story frame garages containing five service bays, which are utilized in connection with the business known as Magsamen Auto Center. Additionally, much of the rear portion of the site is paved. Access to this area of the property is by way of Magnolia Avenue. The details of the property and improvements thereon are more particularly shown on the site plan marked as Petitioner's Exhibit 1.

Apparently, Mr. & Mrs. Magsamen have owned and resided on the property for many years. In 1968 under Case No. 69-109-X, Mr. Magsamen applied for and was granted special exception relief to operate the existing service garage use in the rear portion of the property. Although he is still involved in the business, his son, Matthew Magsamen, generally runs the Auto Center. In this regard, Mr. Magsamen indicated that the garage provides a full line of automotive repairs and services, from general maintenance to heavy-duty mechanical work. However, there is no body and fender work or painting performed on site. The business is open to the general public Monday through Friday, from 8:00 AM to 5:30 PM, and an occasional Saturday job or personal work may occur on weekends. In addition to Matthew Magsamen, the business employs two mechanics and a secretary.

Special hearing relief is requested to update and amend the site plan to reflect existing improvements on the property. It is to be particularly noted that the area of the special exception has not changed and remains the same as that approved in 1968. A copy of the previously approved plan was submitted into evidence and marked as Petitioner's Exhibit 2. That plan shows the same division of the property into a residential component and service garage area. Although the area of the special exception has not changed, it does appear that the original building has been enlarged over the years, and there have been other minor changes insofar as landscaping.

Photographs were offered at the hearing which show that the property is attractively maintained and well-kept. In this regard, the Petitioners recently installed a board-on-board fence to screen the business use. Obviously, landscaping is not necessary around the residential portion of the site. In this regard, the character of the neighborhood is of note. The immediate property to the west is owned by William Mason, a family member, and is used residentially. The property across Riverton Road from the subject site is owned by the Board of Education of Baltimore County and is the site of the Martin Boulevard Elementary School. The neighborhood is generally a mix of residential and business uses.

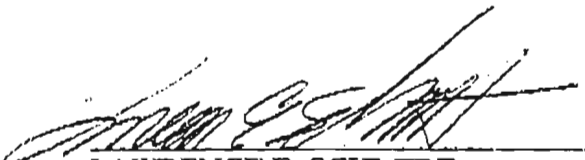
Based upon the testimony and evidence offered, I am persuaded to grant the Petition for Special Hearing. The fact that there were no Protestants present and the service garage use has existed on the site for over 33 years is persuasive to a finding that the use is appropriate here and not detrimental to the health, safety and general welfare of the locale. Moreover, as noted above, the area of the special exception will not be enlarged. The special hearing is appropriate and necessary to update the site plan to reflect existing improvements.

A Zoning Plans Advisory Committee (ZAC) comment was received from the Office of Planning which generally supports the Petitioners' request, provided an existing dumpster on the premises is screened by way of a board-on-board fence in combination with landscaping. Apparently, there is a small dumpster which is used to dispose of office waste from the business. In addition, a larger dumpster was recently placed on the property to assist in the Petitioners' clean-up efforts. In this regard, Mr. Magsamen indicated that the larger dumpster will be removed shortly and it was agreed at the hearing that it would be removed on or before March 31, 2002. As for the smaller dumpster, it may remain in its present location. I am not persuaded that additional landscaping is necessary in that the recently installed board-on-board fence with landscaping appears to adequately buffer the site. Moreover, the photographs submitted show that the site is well-maintained and the Petitioners agreed to keep the property neat and orderly.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of January, 2002 that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 69-109-X to reflect existing conditions on the property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The small dumpster shall be permitted to remain in its present location; however, the large dumpster shall be removed on or before March 31, 2002.
- 3) The property shall be maintained in good condition and kept free and clear of all trash and debris.
- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

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109



NOTES

1. Topography shown hereon was field run (Sept. 2007).
2. The Firm Insurance Rate Map, Panel 430 of 575 indicates this is situated within flood Zones C with a Flood Elevation of 10.0 (BCMD) for this site. Utilizing North American Vertical Datum (NAVD) of 1988 for this site the flood elevation is 8.3 (NAVD 88). (Baltimore County requires a minimum first floor elevation of 10.5) NAVD 88.
3. Property lines shown hereon were established by a boundary survey by Bafitis & Asso. Inc.
4. This site is not situated within the Chesapeake Bay Critical Areas.(MAP 90)
5. There shall be no clearing, grading, construction or disturbance of vegetation within the Buffer Area except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
6. There are no forest or developed woodlands on this site.
7. There no Tidal or Non-Tidal Wetlands on this site.
8. There is no significant plant or animal habitat on this site.
9. There are no slopes greater than 15% on this site.
10. There are no known wells on this site.
11. There are no known underground storage tanks or septic systems on this site.
12. There are no known potentially hazardous materials on this site as defined by Title 7- Health and Environmental Article, Annotated Code of Maryland, except as noted.
13. There are no buildings or property within this site that are included on the National Historical Trust Inventory, the Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
14. Public Water and sewer serve this site.
15. This site has not been the subject of the CRG, DRC, or Waiver Processes.
16. All signs shall comply with current Baltimore County Zoning Regulations.
17. Caution underground utilities may exist in Riverton Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
18. All roof downspouts must discharge rainwater runoff on- to a pervious surface.

ZONING HISTORY
CASE 02-167-SPH

THEREFORE, IT IS ORDERED by Zoning Commissioner for Baltimore County this 10th day of January, 2002 that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 69-109-X to reflect existing conditions on the property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The small dumpster shall be permitted to remain in its present location; however, the large dumpster shall be removed on or before March 31, 2002.
- 3) The property shall be maintained in good condition and kept free and clear of all trash and debris.
- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

CASE 69-109-X

A SPECIAL EXCEPTION WAS GRANTED FOR A SERVICE GARAGE.

ZONING VARIANCE REQUEST

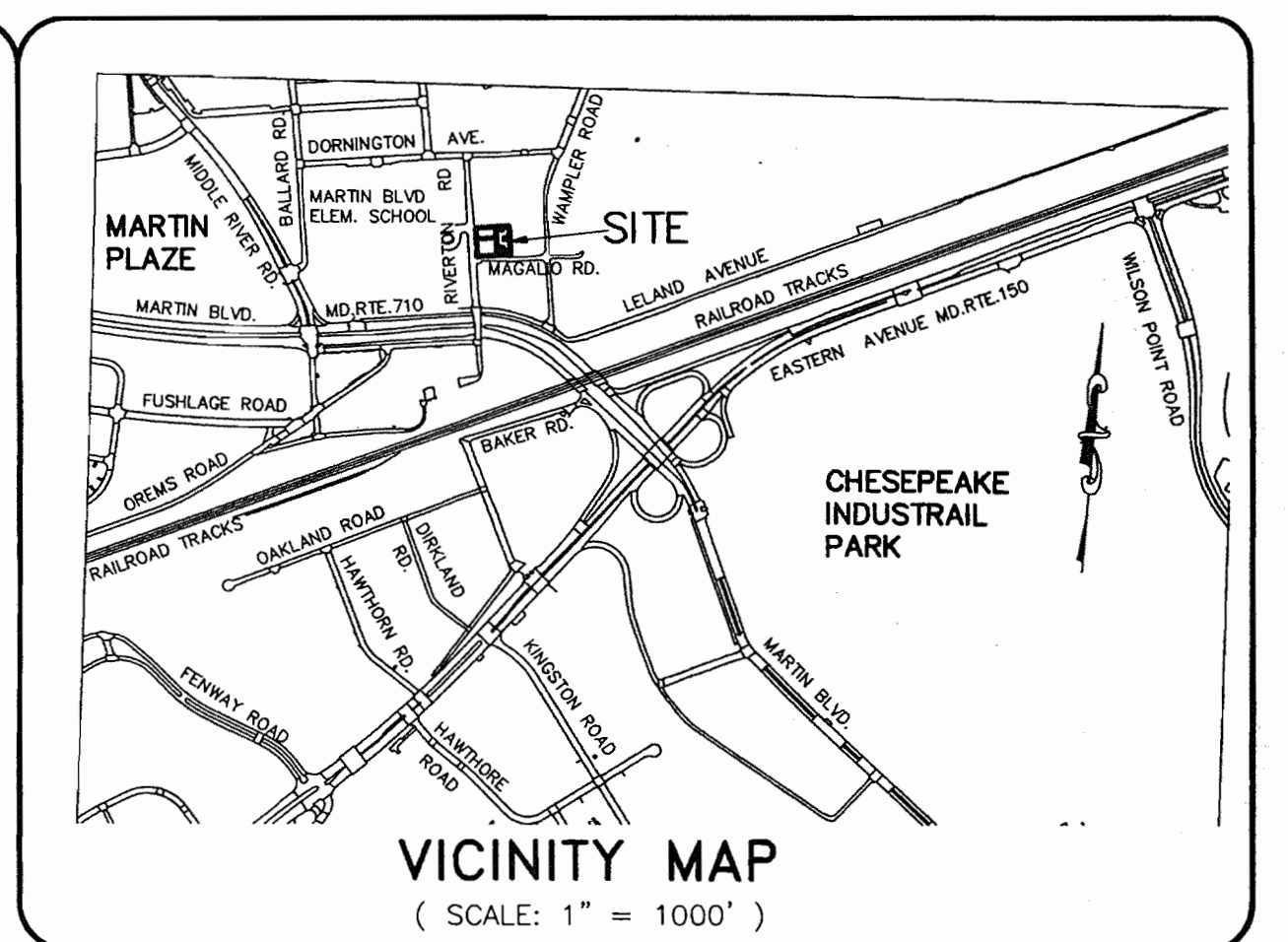
1. TO PERMIT AN EXISTING RESIDENCE ON PROPOSED LOT B TO HAVE A REAR YARD SETBACK OF 28 FEET ± IN LIEU OF THE REQUIRED 30 FEET PURSUANT TO BCZR, SECTION 1B02.3C.1;
2. TO PERMIT AN EXISTING RESIDENCE ON PROPOSED LOT B TO HAVE A FRONT YARD SETBACK OF 28 FEET ± IN LIEU OF THE REQUIRED AVERAGE SETBACK OF 30 FEET PURSUANT TO BCZR, SECTION 303.1;
3. IF NECESSARY, TO PERMIT A REAR YARD, FOR A COMMERCIAL BUILDING ON PROPOSED LOT A ABUTTING A LOT IN A RESIDENTIAL ZONE, OF 3.5 FEET IN LIEU OF THE REQUIRED 20 FEET PURSUANT TO BCZR, SECTION 232.3B;
4. IF NECESSARY, TO PERMIT A SIDE YARD SETBACK FOR AN EXISTING NON-RESIDENTIAL BUILDING ON PROPOSED LOT A OF 0 FEET IN LIEU OF THE REQUIRED 20 FEET, PURSUANT TO BCZR, SECTION 232.2.8;
5. IF NECESSARY, TO PERMIT A PROPOSED BUILDING ON PROPOSED LOT C WITH A SIDE YARD SETBACK OF 10 FEET IN LIEU OF THE REQUIRED 20 FEET PURSUANT TO BCZR, SECTION 1B01.2.C.1.g;
6. IF NECESSARY, TO PERMIT A PROPOSED BUILDING ON PROPOSED LOT C WITH A FRONT YARD SETBACK OF 30 FEET IN LIEU OF REQUIRED 40 FEET PURSUANT TO BCZR SECTION 1B01.2.C.1.g;
7. TO PERMIT 13 PARKING SPACES IN LIEU OF THE REQUIRED 22 PARKING SPACES PURSUANT TO BCZR, SECTION 405.4A.3.d.(1)AND(3) ON PROPOSED LOT A; AND
8. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ZONING COMMISSIONER.

ZONING SPECIAL HEARING REQUEST

1. TO CONFIRM PREVIOUSLY GRANTED ZONING RELIEF AND APPROVE AN AMENDMENT, (WHERE NECESSARY) TO THE PREVIOUSLY APPROVED SITE PLAN FROM CASE NOS. 69-109-X AND 02-167-SPX TO REFLECT THE PROPOSED MODIFICATIONS AND RECONFIGURATION OF LOTS;
2. TO APPROVE THE NON-DENSITY TRANSFER AND LOT LINE ADJUSTMENT FOR THE THREE (3) EXISTING LOTS, THAT DOES NOT RESULT IN AN INCREASE IN THE NUMBER OF LOTS AND THERE IS NO INCREASE IN THE TOTAL RESIDENTIAL DENSITY, AS CONSIDERED AS A WHOLE IN ACCORDANCE WITH BCC SECTION 32-4-106(a)(viii);
3. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ZONING COMMISSIONER.

FRONT YARD AVERAGING

<u>RIVERTON ROAD</u>	<u>EX. SETBACK</u>
# 215	30'
# 213	30'
# 211	30'
# 209	30'
# 205	MIN. 30'
# 203	28'

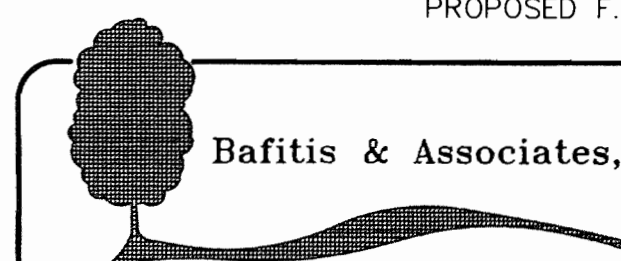


SITE DATA

- 1) OWNER: ROGER N.MAGSAMEN & LINDA M.MAGSAMEN
#203 RIVERTON ROAD
BALTIMORE, MARYLAND 21220
- 2) DEED REF: 4750/556
- 3) TAX ACC. NO.: 15-13205810
- 4) TAX MAP: 90 PARCEL: 709 LOTS: 1-3
- 5) PLAT REF: PLAT OF MIDDLE RIVER BOOK 01 FOLIO 120
- 6) ELECTION DISTRICT: 15TH
- 7) CONCILMANIC DISTRICT: 6TH ;
- 8) REGIONAL PLANNING DISTRICT: 327
- 9) CENSUS TRACT: 4514
- 10) ZONING: BL
- 11) ZONING MAP: 090C2
- 12) USE: EXISTING: RESIDENTIAL,AUTO SERVICE
PROPOSED: RESIDENTIAL, AUTO SERVICE
- 13) SITE AREAS: 26,250 S.F. OR 0.602 AC.
PROP. LOT A 10,475 S.F. OR 0.240 AC.
PROP. LOT B 9,680 S.F. OR 0.222 AC.
PROP. LOT C 6,095 S.F. OR 0.140 AC.

26,250 S.F. OR 0.602 AC.
- 14) EXISTING RESIDENCE CONSTRUCTED 1942
- 15) ORIGINAL SERVICE GARAGE CONSTRUCTED 1952(APPROX.)

- 16) PARKING: REQUIRED
- | | |
|---------------------------|-----------------|
| 3 P.S./BAY PLUS BAY SPACE | |
| 1 P.S./EMPLOYEE | |
| 6 BAYS | = 18 P.S. |
| 4 EMPLOYEES | = <u>4 P.S.</u> |
| TOTAL REQUIRED | = 22 P.S. |
| <u>PROPOSED</u> | = 13 P.S. |
- 17) FLOOR AREA RATIO: (IN BL AREA)
PERMITTED = 3.0
- | | |
|---------------------|---------------------|
| LOT A 2,280 + 1,665 | = 3,945 S.F. |
| LOT B | = 1,735 S.F. |
| LOT C (ENVELOPE) | = <u>1,729 S.F.</u> |
| | 7,409 S.F. |
- BL ZONED AREA = 24,540 S.F.
- PROPOSED F.A.R. = $\frac{1,735 \text{ S.F.}}{24,540 \text{ S.F.}}$ = 0.30



1249 Engleberth Rd. Baltimore, MD 21221

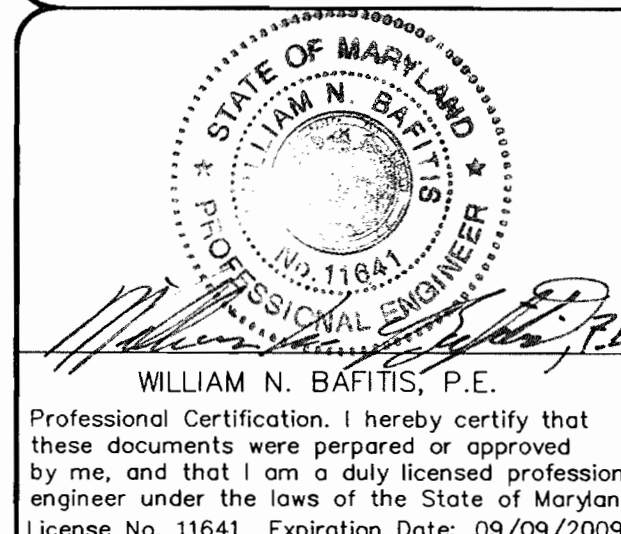
William N. Bafitis, P.E.
PRESIDENT

Civil Engineers/Land Planners
SURVEYORS

(410) 391-2336

**PLAT TO ACCOMPANY
PETITION FOR ZONING SPECIAL
HEARING & ZONING VARIANCES
FOR
#203 & #205 RIVERTON ROAD AND
#503 MAGNOLIA AVENUE**

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND



Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.
License No. 11641 Expiration Date: 09/09/2009

SHEET 1 OF 1

SCALE:	1" = 20'
JOB ORDER NO.	20718
DATE:	03/31/08
CHECKED:	C.F.H.
DRAWN:	N.W.B.

PETITIONER' S

EXHIBIT NO.



NOTES

- Topography shown hereon was field run (Sept. 2007).
- The Firm Insurance Rate Map, Panel 430 of 575 indicates this is situated within flood Zones C with a Flood Elevation of 10.0 (BMD) for this site. Utilizing North American Vertical Datum (NAVD) of 1988 for this site the flood elevation is 8.3 (NAVD 88). (Baltimore County requires a minimum first floor elevation of 10.5 NAVD 88).
- Property lines shown hereon were established by a boundary survey by Bafitis & Assoc. Inc.
- This site is not situated within the Chesapeake Bay Critical Areas (MAP 90)
- There shall be no clearing, grading, construction or disturbance of vegetation within the Buffer Area except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
- There are no forest or developed woodlands on this site.
- There are no Tidal or Non-Tidal Wetlands on this site.
- There is no significant plant or animal habitat on this site.
- There are no slopes greater than 15% on this site.
- There are no known wells on this site.
- There are no known underground storage tanks or septic systems on this site.
- There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
- There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
- Public Water and sewer serve this site.
- This site has not been the subject of the CRG, DRC, or Waiver Processes.
- All signs shall comply with current Baltimore County Zoning Regulations.
- Caution underground utilities may exist in Riverton Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
- All roof downspouts must discharge rainwater runoff on-to a pervious surface.

ZONING HISTORY CASE 02-167-SPH

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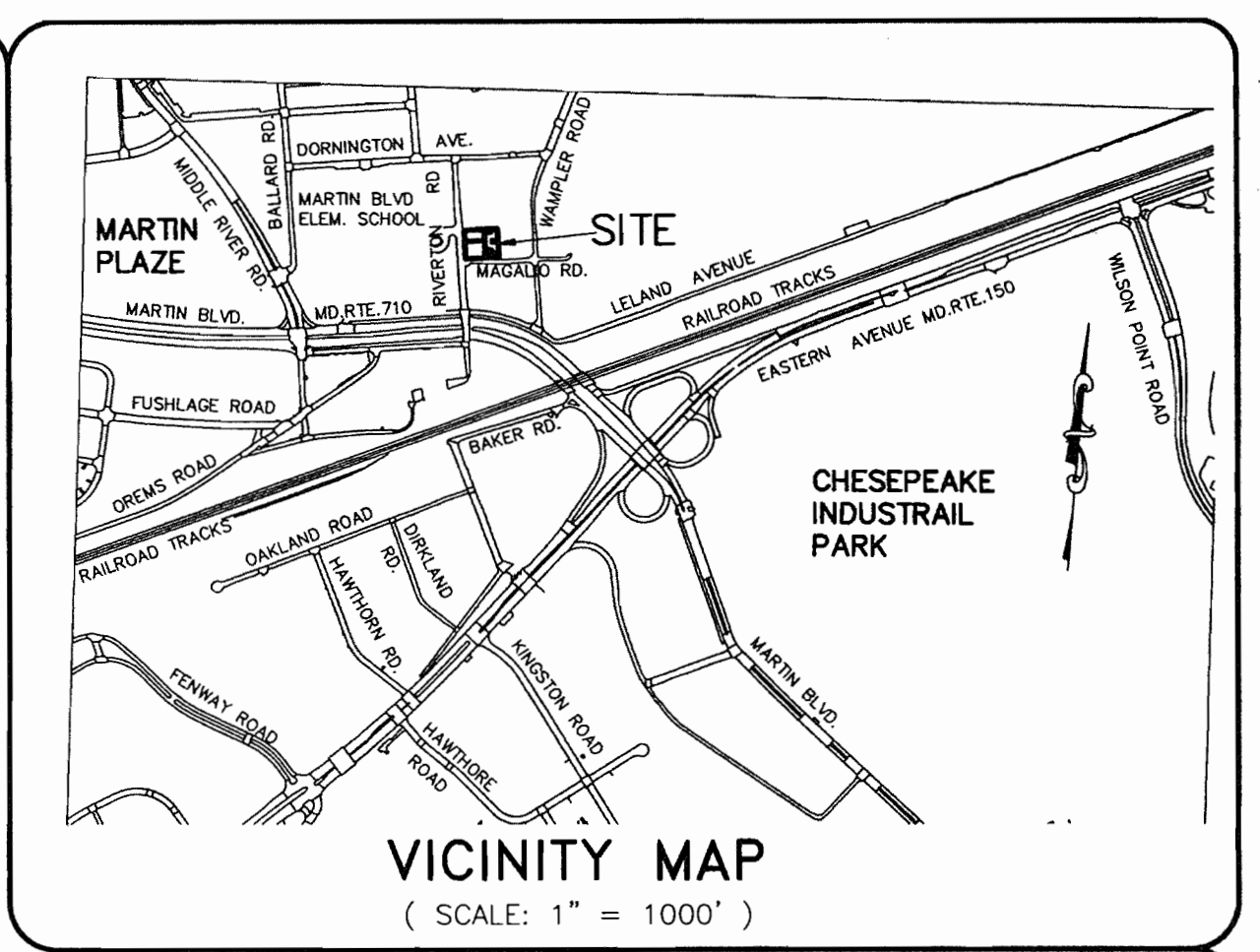
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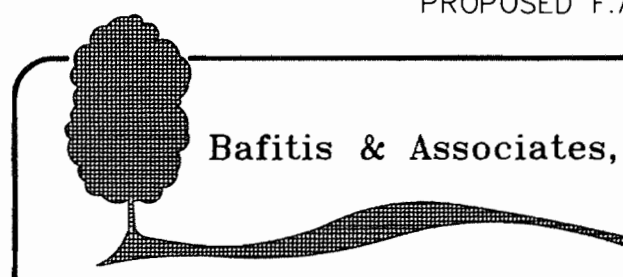
FRONT YARD AVERAGING

RIVERTON ROAD	EX. SETBACK
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# 213	30'
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# 209	30'
# 205	MIN. 30'
# 203	28'
AVERAGE SETBACK FOR #205 29.6' (SAY 30')	
AVERAGE SETBACK FOR #203 30'	



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Bafitis & Associates, Inc.
1249 Engleberth Rd. Baltimore, MD 21221
(410) 391-2336

William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS

PLAT TO ACCOMPANY PETITION FOR ZONING SPECIAL HEARING & ZONING VARIANCES FOR #203 & #205 RIVERTON ROAD AND #503 MAGNOLIA AVENUE

15TH ELECTION DISTRICT		BALTIMORE COUNTY, MARYLAND	
		SCALE: 1" = 20'	JOB ORDER NO: 20718
		DATE: 03/31/08	
WILLIAM N. BAFITIS, P.E. Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland. License No. 11641 Expiration Date: 09/09/2009		CHECKED: C.F.H.	DRAWN: N.W.B.
		SHEET 1 OF 1	
NO.	REVISIONS	DATE	

PETITIONER'S
EXHIBIT NO. 4