

IN THE MATTER OF
Towson West Elementary School
6916 Charles Street
Petition for Special Hearing

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Case No. 2009-0046-SPH

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BEFORE THE
ZONING COMMISSIONER
FOR
BALTIMORE COUNTY

MOTION TO DISMISS

Movant, Board of Education of Baltimore County, by its undersigned counsel, hereby moves to dismiss the Petition for Special Hearing filed in the captioned matter, and in support of same states:

1. On or about August 22, 2008, Petitioners, certain members of the Ruxton Ridge Community Association, filed a petition for special hearing seeking a determination of whether the Board of Education of Baltimore County is obliged to comply with the Baltimore County Zoning Regulations (BCZR). See Petition, ¶¶ 1 & 2. Although aware that the response to these questions is in the negative, Petitioners have nonetheless advanced a "fall back" question, asking whether the Board of Education is obliged to comply with the BCZR by dint of "past custom and usage." See Petition, ¶ 3. The answer to that question is also "no," and Petitioners' requests, in the aggregate, are wholly without merit.

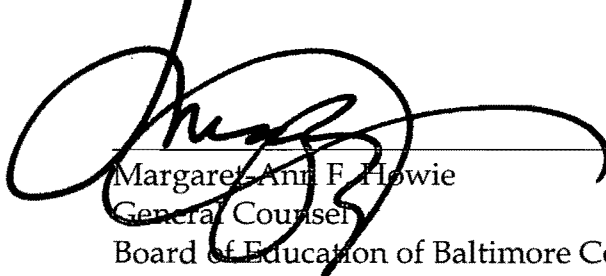
2. As an initial matter, it is beyond dispute that local Boards of Education in Maryland are state, and not local, agencies. *Jones v. Frederick County Board of Education*, 689 F. Supp. 535 (D. Md. 1988). See, also, *Board of Education v. Montgomery County*, 237 Md. 191 (1964); *State v. Board of Education*, 346 Md. 633 (1997); *Board of Education v. Prince Georges'*

County Educators' Association, 309 Md. 85 (1987); *McCarthy v. Board of Education*, 280 Md. 634 (1977).

3. As recognized in a long line of cases, it is equally clear that the state and its agencies are not subject to local zoning, subdivision, and other land use regulations. See, e.g., *Pan American Health Organization v. Montgomery County*, 338 Md. 214, 226 (1995); *City of Baltimore v. State of Maryland*, 281 Md. 217, 223-224 (1977). In addition, in a series of opinions on the topic, the Office of the Attorney General has repeatedly opined that local land use regulations, including historic preservation ordinances and similar laws, have never been held binding on the state and its agencies. See, e.g., 91 Md. Op. Att. Gen. 164 (2006); 87 Md. Op. Att. Gen. 119.

4. Finally, and as a response to the third question raised by Petitioners' filing, the state and its agencies are not subject to the doctrine of estoppel, particularly as concerns the enforcement of the law. *Marriott v. Cole*, 115 Md. App. 493, 508, *cert. den.*, 347 Md. 254 (1997) ("doctrine of estoppel ordinarily does not apply against the State, or its agencies"). Regardless of what "pattern and practice" has been observed to date, the state is not bound to adhere to county zoning and land use requirements, and the Petition for Special Hearing should be dismissed as a matter of law.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Margaret', is written over a horizontal line.

Margaret Ann F. Howie
General Counsel

Board of Education of Baltimore County
6901 Charles Street
Towson, Maryland 21204
(410) 887-4060

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 19, 2008 a copy of the *MOTION TO DISMISS* was mailed, postage pre-paid to Mr. William Wiseman, Zoning Commissioner, Zoning Review, County Office Building, 111 West Chesapeake Avenue, Room 111, Towson, MD 21204, and to J. Carroll Holzer, Esq., Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286, Attorney for Petitioners.



Margaret-Ann F. Howie

10-3-08
P.P

BALTIMORE COUNTY PUBLIC SCHOOLS

Joe A. Hairston, Superintendent

6901 Charles Street Towson, MD • 21204-3711

September 19, 2008

RECEIVED
SEP 22 2008

BY:

William Wiseman, Esq.
Zoning Commissioner
Zoning Review
County Office Building
111 West Chesapeake Avenue, Room 111
Towson, MD 21204

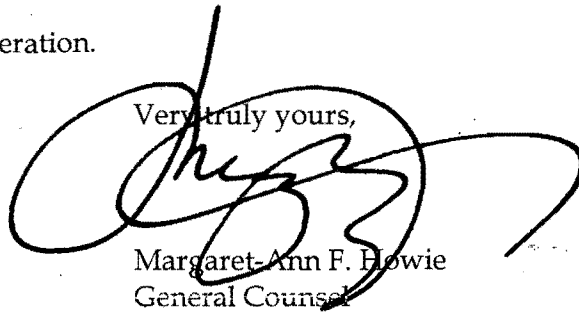
Re: *In the Matter of Towson West Elementary School*
6916 Charles Street
Petition for Special Hearing
Case No. 2009-0046-SPH

Dear Commissioner Wiseman:

Enclosed please find the Board of Education of Baltimore County's *Motion to Dismiss* in the above-captioned matter.

Thank you for your consideration.

Very truly yours,



Margaret-Ann F. Howie
General Counsel

MAH/ps
Enclosure

c: Dr. Joe A. Hairston, Superintendent of Schools
J. Robert Haines, Esq., Deputy Superintendent
Mr. Michael G. Sines, Executive Director, Department of Physical Facilities
Ms. Michele Prumo, Executive Director, Planning & Support Operations
J. Carroll Holzer, Esq., Attorney for Petitioners



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 6916 Charles Street
which is presently zoned DR1

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve and 500.6

(see Supplemental sheet)

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.

see signature sheets
attached

Petitioners do not own subject
Name - Type or Print property

Signature

Address Telephone No.

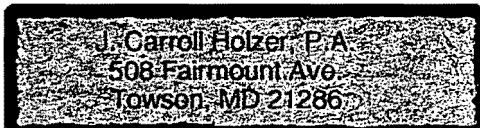
City State Zip Code

Attorney For Petitioner:

J. Carroll Holzer

Name - Type or Print

J. Carroll Holzer
Signature



City State Zip Code

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.

Legal Owner(s):

Baltimore Board of Education
Name - Type or Print

Signature

Name - Type or Print

Signature

6901 Charles St 410-887-4281

Address

Telephone No.

Towson, MD

21204

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By LXR/JRE Date 8-13-08

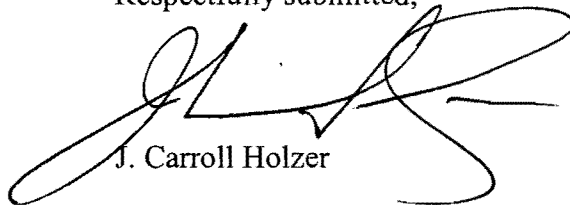
Case No. 2009-0046-SPH

SUPPLEMENTAL SHEET TO ACCOMPANY
PETITION FOR SPECIAL HEARING
FOR RIDGE RUXTON/TOWSON WEST ELEMENTARY SCHOOL
6916 CHARLES STREET, TOWSON, MD 21204

Pursuant to §500.6 & 500.7 of the B.C.Z.R., the Petitioners request the Zoning Commissioner determine:

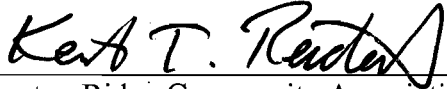
1. Is the Baltimore County Board of Education, in proposing a new school at 6916 Charles Street, Towson, MD required to comply with the BCZR related to setbacks, height restrictions, parking and area requirements and such other and further limiting requirements in a DR 1 Zone all as shown on Exhibits 1, 2, 3, 4 and 5?
2. If meeting setback requirements is answered in the affirmative pursuant to the BCZR, then for purposes of the BCZR, what is the rear and what are the side yard setbacks at the subject site for potential alternative #1 and #2?
3. If the answer to Question #1 is in the negative, has the Board of Education and Baltimore County established by past custom and usage that the Board of Education must comply with the BCZR?
4. Such other and further relief that may be raised and developed at the hearing.

Respectfully submitted,

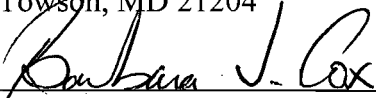

J. Carroll Holzer

NEW SCHOOL AT RIDGE RUXTON
PETITION FOR SPECIAL HEARING

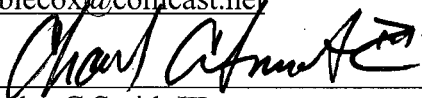
List of Petitioners



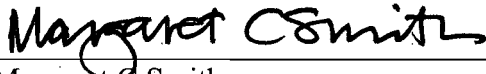
Ruxton Ridge Community Association
c/o Kent Reichert, President
1 Charles Ridge Garth
Towson, MD 21204



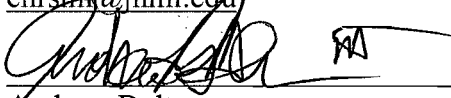
Barbara J. Cox
6901 Charles Ridge Road
Towson, MD 21204
410-828-6532
barbiecox@comcast.net



Charles C Smith III



Margaret C Smith
6900 Charles Ridge Road
Towson, MD 21204
410-583-1199
marsie@jhmi.edu
chrsmi@jhmi.edu



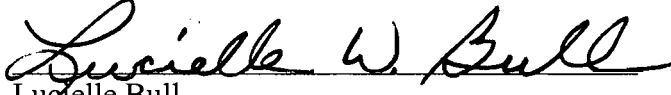
Andrew Bolton



Fran Bolton
6902 Charles Ridge Road
Towson, MD 21204
410-823-1155
fbolt001@aol.com
abolton@mandtbank.com
abolton@mtb.com

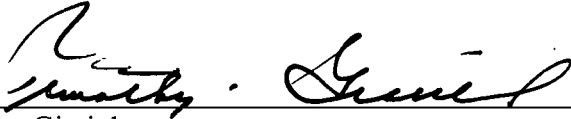


Nelson Bull



Lucielle Bull

1239 Wine Spring Lane
Towson, MD 21204
410-296-0740

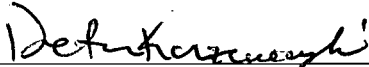


Tim Gisriel

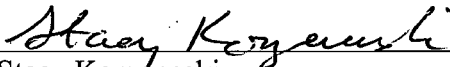


Jeanie Gisriel

1237 Wine Spring Lane
Towson, MD 21204
410-832-5440
tim.gisriel@abrealty.com

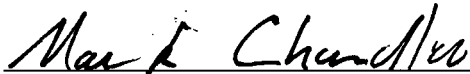


Peter Korzeneski



Stacy Korzeneski

1235 Wine Spring Lane
Towson, MD 21204
410-823-5452
pkorz@carroll-lawyers.com
stacy.k@longandfoster.com
s.korz@comcast.net

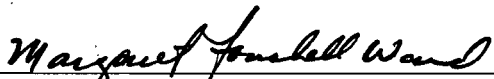


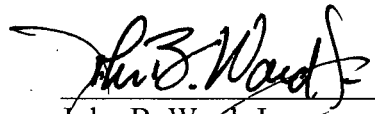
Mark Chandler

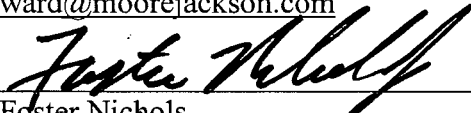


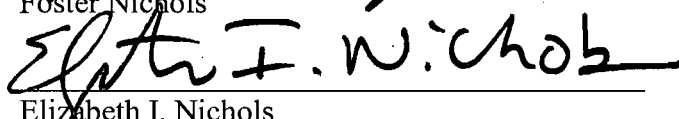
Ellen Chandler

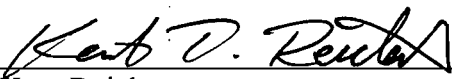
1233 Wine Spring Lane
Towson, MD 21204
410-825-0634
mchandler3@verizon.net

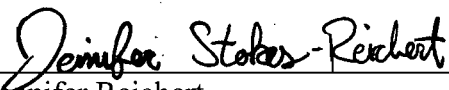

Margaret Fonshell Ward


John B. Ward, Jr.
7002 Charles Ridge Road
Towson, MD 21204
410-321-6034
ward@moorejackson.com

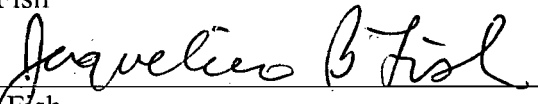

Foster Nichols


Elizabeth I. Nichols
7001 Charles Ridge Road
Towson, MD 21204
410-823-6126
Nichols@pbworld.com
enichols@spsfg.org


Kent Reichert


Jennifer Reichert
1 Charles Ridge Garth
Towson, MD 21204
410-583-4799
kentjenn@verizon.net


Mike Fish

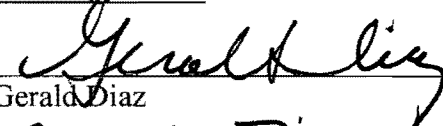

Jackie Fish
4 Wine Spring Garth
Towson, MD 21204
410-821-0880
reidfish@comcast.net
~~georgem4@comcast.net~~

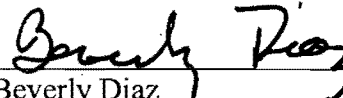
George N 2445@gmail.com

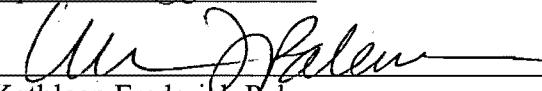


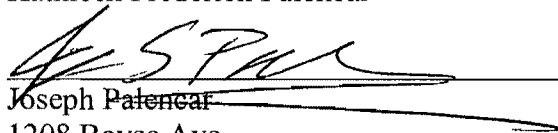
Michael S. Beatty
1307 Walnut Hill Lane
Ruxton, MD 21204
Walnut Hill Lane
mbeatty@hspdc.com
mikenat@aol.com


Danuta Chacour
1311 Walnut Hill Ln.

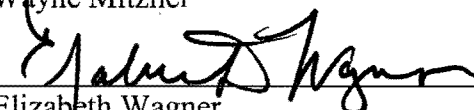

Gerald Diaz

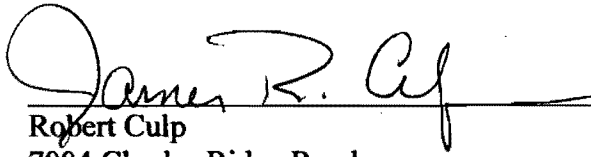

Beverly Diaz
1300 Walnut Hill Lane
Ruxton, Maryland 21204
443-690-1581
jdpinetreelc@gmail.com


Kathleen Frederick Palencar


Joseph Palencar
1208 Boyce Ave
Ruxton, Maryland 21204
443-845-7860
kpalencar@comcast.net


Wayne Mitzner


Elizabeth Wagner
1301 Wine Spring Lane
Ruxton, Maryland 21204
410 820 1943
wmitzner@jhspk.edu
wagnerem@jhmi.edu

A handwritten signature in cursive script, appearing to read "Robert Culp", is written over a horizontal line.

Robert Culp
7004 Charles Ridge Road
Towson, MD 21204
410-494-9787

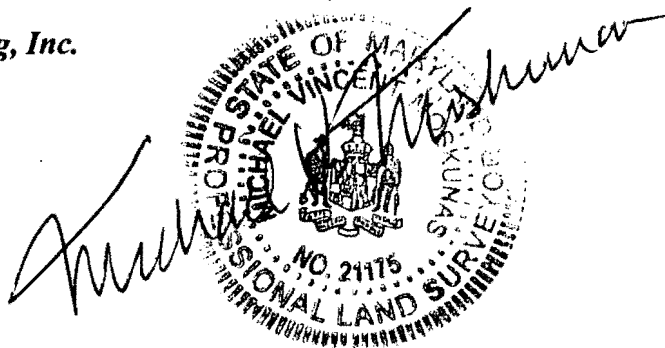
**Zoning Description for #6916 North Charles Street
a.k.a. Ridge Ruxton/Towson West Elementary School
(the description is based on the title deed and the drawing shown on Sheet 2 of 2)**

Beginning at a point on the southwest side of North Charles Street which is a variable right of way as shown on State Road Commission (SRC) Plat Nos. 10653 and 17830, said point being Station 138+55 as shown on SRC Plat No. 10653 at the distance of 655 feet northwest of Station 132 as shown on SRC Plat No. 17829, said point being in or about the intersection of Boyce Avenue and North Charles Street. Boyce Avenue is a variable right of way as shown on the last mentioned SRC Plat.

As recorded in deeds Liber 2614, folio 112 and Liber 2842, folio 181 and more particularly described as follows:

Beginning from the said point described above and running thence the following seven (7) courses and distances, viz: (1) S 32° 09' 00" W, 22.36 feet; (2) S 35° 27' 29" W, 198.01 feet; (3) S 40° 07' 00" W, 66.00 feet; (4) S 44° 28' 00" W, 66.00 feet; (5) S 54° 40' 00" W, 66.00 feet; (6) S 59° 40' 00" W, 46.20 feet and (7) S 68° 10' 00" W, 52.80 feet to the centerline of Boyce Avenue; thence running along said centerline N 66° 20' 03" W, 339.84 feet; thence leaving said centerline the following eleven (11) courses and distances, viz: (1) N 03° 40' 00" E, 500.63 feet; (2) N 84° 12' 00" W, 100.07 feet; (3) N 03° 41' 06" E, 118.70 feet; (4) N 03° 39' 39" E, 365.98 feet; (5) S 89° 19' 00" E, 872.68 feet to the west side of the right of way of North Charles Street; (6) S 25° 55' 40" W, 87.73 feet; (7) S 38° 15' 00" W, 109.45 feet; (8) S 06° 52' 10" W, 114.96 feet; (9) and southerly by a line curving to the left having a radius of 1016.73 feet for a distance of 296.91 feet (the chord of said arc bearing S 05° 48' 01" W, 295.86 feet); (10) S 06° 49' 03" W, 114.95 feet and (11) S 10° 13' 27" E, 37.55 to the point of beginning, containing 16.7795 acres, more or less. Also known as #6916 North Charles Street and located in the 9th Election District and 2nd Councilmanic District.

*Prepared by Site Rite Surveying, Inc.
Michael V. Moskunas
Reg. No. 21175*



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: #2009-0046-SPH

6916 Charles Street

S/west side of N. Charles St., at the distance of 655' n/west of centerline of Boyce Avenue

9th Election District - 2nd Councilmanic District

Legal Owner(s): Baltimore County Board of Education

Special Hearing: to address whether Baltimore County Board of Education is required to comply with including, but not limited to, setback, height, and parking requirements under the BCZR through past custom, usage, etc.; if so required, what are the rear and side yard setback requirements in Alternative Plans #1 & #2.

Hearing: Thursday, January 8, 2009 at 9:00 a.m. in Room 104, Jefferson Building, 105 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 12/7/07 Dec. 23

191034

CERTIFICATE OF PUBLICATION

1/7/2009

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 12/23/2008.

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

S. Wilkinson

LEGAL ADVERTISING

NOTICE OF ZONING HEARING

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Case: # 2009-0046-SPH

6916 Charles Street

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9th Election District - 2nd Councilmanic District

Legal Owner(s): Baltimore County Board of Education

Special Hearing: to address whether Baltimore County Board of Education is required to comply with including, but not limited to, setback, height and parking requirements under the BCZR through past custom, usage, etc.; if so required, what are the rear and side yard setback requirements in Alternative Plans #1 & #2.

Hearing: Friday, October 3, 2008 at 10:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

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

9/25/2008 September 18

183795

CERTIFICATE OF PUBLICATION

9/18/2008

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- ☒ 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 CASH RECEIPT

No. 22800

Date: 8/13/08

PAID RECEIPT

BUSINESS ACTUAL TIME DPM
/14/2008 8/13/2008 14:25:16 1

REG #301 WALKIN JRIC JHR
RECEIPT # 389028 8/13/2008 OFLN

5 526 ZONING VERIFICATION
022800

Recpt Tot \$325.00
\$325.00 - CK \$1.00 - CA
Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Obj	Dept Obj	BS Acct	Amount
001	506	0000		6150				325.00

Total: \$ 325.00

Rec From: J. CARROLL HOLZER P.A.

For: GONING CHARLES JT
PETITION FOR SPECIAL HEARING

CASE # 2009-0046-SP4

DROP - OFF

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

**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: 2009-0046-SPH
Petitioner: Ruxton Ridge Community Asso.
Address or Location: 6916 Charles St.

PLEASE FORWARD ADVERTISING BILL TO:

Name: J. CARROLL HOLZER
Address: 508 FAIRMONT AVE.
TOWSON, MD 21286
Telephone Number: 410-825-6961

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.

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

For Newspaper Advertising:

Item Number or Case Number: _____

Petitioners Luxton Ridge Community Assn and 30 Named individ.

Address or Location: 410 J. Carroll Holzer, PA

PLEASE FORWARD ADVERTISING BILL TO:

Name: _____

Address: _____

J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286

Telephone Number: 410-825-6961

Revised 7/11/05 - SCJ

Post-it® Fax Note	7671	Date <u>8/13/08</u>	# of pages <u>1</u>
To	<u>STERLING</u>	From	<u>JUN</u>
Co./Dept.	<u>HOLZER & LEE</u>	Co.	<u>ZONING</u>
Phone #	<u>410-825-6961</u>	Phone #	<u>410-887-3391</u>
Fax #	<u>410-825-4923</u>	Fax #	<u>410-887-3048</u>

For 6961 Charles St.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, December 23, 2008 Issue - Jeffersonian

Please forward billing to:

J. Carroll Holzer
508 Fairmount Avenue
Towson, MD 21286

410-825-6961

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: 2009-0046-SPH

6916 Charles Street

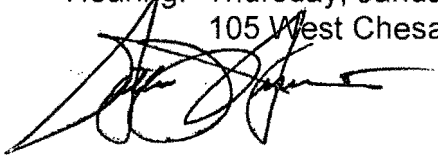
S/west side of N. Charles St., at the distance of 655' n/west of centerline of Boyce Avenue

9th Election District – 2nd Councilmanic District

Legal Owners: Baltimore County Board of Education

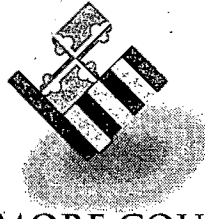
Special Hearing to address whether Baltimore County Board of Education is required to comply with including, but not limited to, setback, height and parking requirements under the BCZR through past custom, usage, etc.; if so required, what are the rear and side yard setback requirements in Alternative Plans #1 & #2.

Hearing: Thursday, January 8, 2009 at 9:00 a.m. in Room 104, Jefferson Building,
105 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
MARYLAND

JAMES T. SMITH, JR.
County Executive

September 10, 2008
TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2009-0046-SPH

6916 Charles Street

S/west side of N. Charles St., at the distance of 655' n/west of centerline of Boyce Avenue
9th Election District – 2nd Councilmanic District

Legal Owners: Baltimore County Board of Education

Special Hearing to address whether Baltimore County Board of Education is required to comply with including, but not limited to, setback, height and parking requirements under the BCZR through past custom, usage, etc.; if so required, what are the rear and side yard setback requirements in Alternative Plans #1 & #2.

Hearing: Friday, October 3, 2008 at 10:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

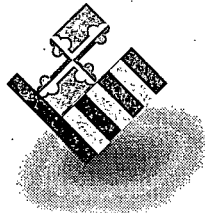
A handwritten signature in black ink, reading "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: J. Carroll Holzer, Holzer & Lee, 508 Fairmount Avenue, Towson 21286
Balto. Co. Board of Ed., 6901 Charles St., Towson 21204
Petitioners Listed on Variance

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, SEPT. 18, 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.



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

November 18, 2008
TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

NEW 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: 2009-0046-SPH

6916 Charles Street

S/west side of N. Charles St., at the distance of 655' n/west of centerline of Boyce Avenue
9th Election District – 2nd Councilmanic District

Legal Owners: Baltimore County Board of Education

Special Hearing to address whether Baltimore County Board of Education is required to comply with including, but not limited to, setback, height and parking requirements under the BCZR through past custom, usage, etc.; if so required, what are the rear and side yard setback requirements in Alternative Plans #1 & #2.

Hearing: Thursday, January 8, 2009 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

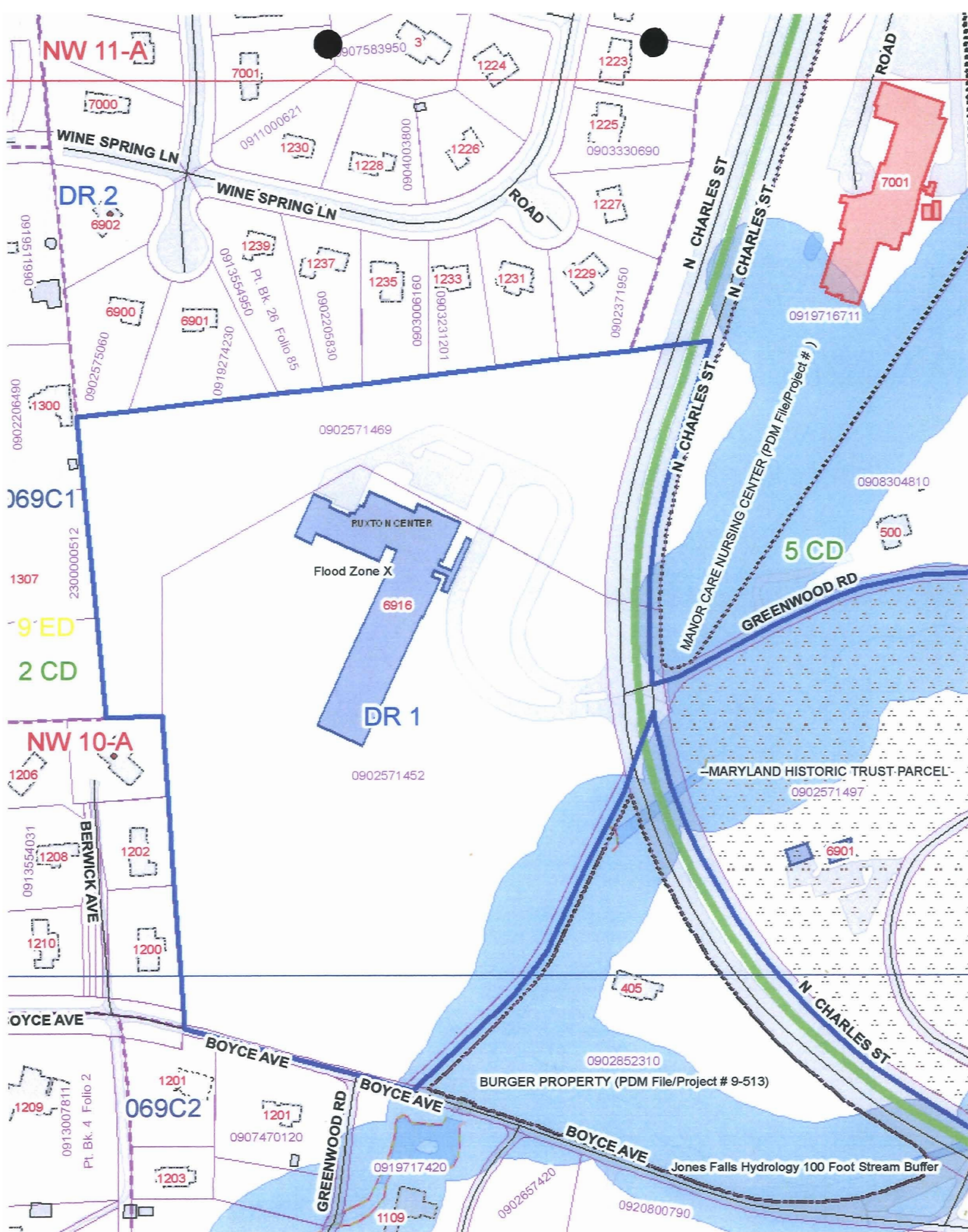
A handwritten signature in black ink, appearing to read "Timothy Kotroco".

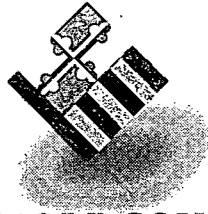
Timothy Kotroco
Director

TK:klm

C: J. Carroll Holzer, Holzer & Lee, 508 Fairmount Avenue, Towson 21286
Balto. Co. Board of Ed., 6901 Charles St., Towson 21204
Petitioners Listed on Variance

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDN., DECEMBER 24, 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.





BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
January 6, 2009

J. Carroll Holzer
508 Fairmount Ave.
Towson, MD 21286

Dear: J. Carroll Holzer

RE: Case Number 2009-0046-SPH, 6916 Charles St.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 13, 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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Balto. Co. Board of Education, 6901 Charles St., Towson, MD 21204
Petitioners Listed on Variance

10/22
TB
10/3
10am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 29, 2008

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

SUBJECT: 6916 Charles Street

INFORMATION:

Item Number: 9-046

Petitioner: J. Carroll Holzer

Zoning: DR 1

Requested Action: Special Hearing

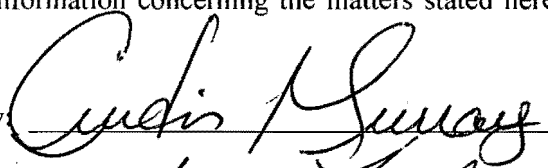
RECEIVED
OCT 02 2008
BY: [initials]

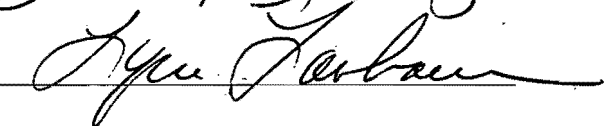
The petitioner seeks clarification on a legal issue. The special hearing request is to determine whether the Board of Education is required to adhere to the Baltimore County Zoning Regulations for the DR 1 zoning classification for the construction of a new school.

SUMMARY OF RECOMMENDATIONS:

Attorneys for Baltimore County and/or the Board of Education will address the legal question at the hearing. The Office of Planning will defer its comments until the legal issue is resolved.

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

Reviewed by: 

Division Chief: 
AFK/LL: CM

TB
10-22-08

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
SEP 30 2008

BY:.....

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: September 30, 2008

SUBJECT: Zoning Item # 09-046-SPH
Address 6916 North Charles Street
(Baltimore County Board of Education Property)

Zoning Advisory Committee Meeting of August 25, 2008

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

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer: Michael S. Kulis

Date: August 27, 2008



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

August 28, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: August 25, 2008

Item Number: 0046

Pursuant to your request, this Bureau has reviewed the referenced plan(s) and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

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

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: August 26, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For September 2, 2008
Item Nos. 09-0037, 0039, 0046, 0047, 0048
0049 and 0050

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

DAK:CEN:lrk
cc: File
ZAC- 08262008-NO COMMENTS

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
6916 N. Charles Street; SW/S North Charles
Street, 655' NW c/line Boyce Avenue * ZONING COMMISSIONER
9th Election & 2nd Councilmanic Districts
Legal Owner(s): Balto. Co. Bd of Education * FOR
Petitioner(s) * BALTIMORE COUNTY
* 09-046-SPH

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

AUG 28 2008

.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of August, 2008, a copy of the foregoing Entry of Appearance was mailed to J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY PUBLIC SCHOOLS

Joe A. Hairston, Superintendent

6901 Charles Street Towson, MD • 21204-3711

October 2, 2008

RECEIVED
OCT 03 2008

BY:.....

William Wiseman, Esq.
Zoning Commissioner
Zoning Review
County Office Building
111 West Chesapeake Avenue, Room 111
Towson, MD 21204

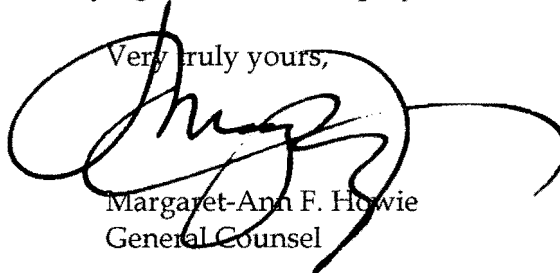
Re: *In the Matter of Towson West Elementary School*
6916 Charles Street
Case No. 2009-0046-SPH

Dear Commissioner Wiseman:

The Board of Education of Baltimore County has received verbal notification from Ms. Kristen Matthews of your office that a hearing in the above-referenced matter, scheduled for October 3, 2008, has been cancelled. As of today's date, your office's website still indicates that the hearing is being held tomorrow; moreover, we have not yet received written confirmation of same.

In light of Ms. Matthews' representation, the Board has concluded that the matter has been cancelled. If this understanding is in error, kindly notify the undersigned immediately. If the hearing proceeds and the incorrect information has been relayed, the Board's absence should not be construed to waive any right at law or in equity in defense its of this matter.

Very truly yours,



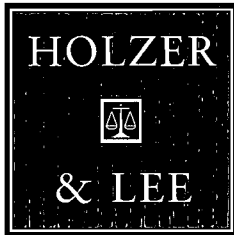
Margaret-Ann F. Howie
General Counsel

MAH/ps

BY FACSIMILE AND FIRST CLASS MAIL

c: Dr. Joe A. Hairston, Superintendent of Schools
J. Robert Haines, Esq., Deputy Superintendent
Mr. Michael G. Sines, Executive Director, Department of Physical Facilities
Ms. Michele Prumo, Executive Director, Planning & Support Operations
J. Carroll Holzer, Esq., Attorney for Petitioners

this was
faxed to
Hairston on
10-2-08



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

~~XXXXXXXXXXXXXXXXXXXX~~

jcholzer@cavtel.net

October 2, 2008

#7796

Jim/Buster

William Wiseman, Esquire
Zoning Commissioner
105 West Chesapeake Avenue
Suite 103
Towson, Maryland 21204

RE: *In the Matter of: Towson West Elementary School*
6916 Charles Street
Petition for Special Hearing
Case No.: 2009-0046-SPH

RECEIVED
OCT 03 2008

BY:

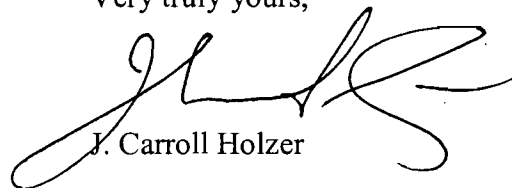
Dear Mr. Wiseman:

I received a Motion to Dismiss in the above-captioned case filed by Baltimore County Public School System. I would appreciate your scheduling this case in for a hearing on the Motion to Dismiss as promptly as possible. I would expect that the hearing would take no more than one hour.

I also believe that the matter was postponed at my request because of a conflict with the Court of Special Appeals case that conflicted with the previous notice.

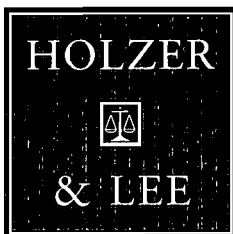
I will post the property as soon as I receive an agreeable date.

Very truly yours,


J. Carroll Holzer

JCH:mlg

cc: Margaret Ann F. Howie, Esquire
Mr. Foster Nichols



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

~~E-MAIL: JCHOLZER@BCPL.NET~~

jcholzer@cavtel.net

September 17, 2008
#7796

Kristen:
OK to postpone
Tia K.

Mr. Timothy Kotroco, Director
Permits & Development Management
111 Chesapeake Avenue
Towson, Maryland 21204

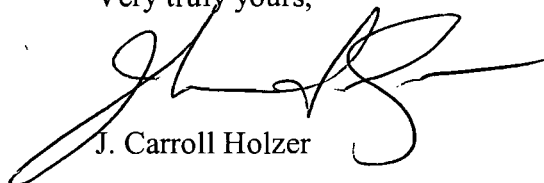
RE: Case No. 2009-0046-SPH
Legal Owners: Baltimore County Board of Education

Dear Mr. Kotroco:

I just received in the mail today the Notice of Hearing in the above referenced case. As you know, I represent the Petitioners in the Special Hearing. However, on October 3, 2008, I am scheduled to appear before the Court of Special Appeals in the case of Charles Herzog, et al. v. Cecil County. I have attached a copy of both notices in the two appeals I filed on behalf of my clients, Charles Herzog, et. al.

I appreciate your assistance and will be glad to work with the docket clerk and opposing counsel to reschedule the hearing at a mutually convenient date.

Very truly yours,



J. Carroll Holzer

Enclosures

JCH:mlg

Cc: Foster Nichols



LESLIE D. GRADET
CLERK

Court of Special Appeals
Robert C. Murphy Courts of Appeal Building
Annapolis, Md. 21401-1699

(410) 260-1450
WASHINGTON AREA 1-888-200-7444

ROBERT J. GREENLEAF
CHIEF DEPUTY

Notice Date 08/20/2008

J. CARROLL HOLZER, ESQUIRE
508 FAIRMOUNT AVE.
TOWSON, MD 21286

Re: CHARLES HERZOG ET AL V. CECIL COUNTY, MD
No. 02385, September Term, 2007

Dear Counsel:

Argument in the above-referenced case has been set for
10/03/2008, in Courtroom 002. Please report to this office
no later than 9:00 a.m. on that date.

Very truly yours,

LESLIE D. GRADET
CLERK



LESLIE D. GRADET
CLERK

Court of Special Appeals
Robert C. Murphy Courts of Appeal Building
Annapolis, Md. 21401-1699

(410) 260-1450
WASHINGTON AREA 1-888-200-7444

ROBERT J. GREENLEAF
CHIEF DEPUTY

Notice Date 08/20/2008

J CARROLL HOLZER, ESQUIRE
508 FAIRMOUNT AVE
TOWSON, MD 21286

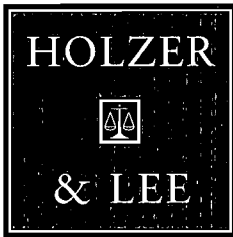
Re: CHARLES HERZOG ET AL. V. CECIL COUNTY
No. 02277, September Term, 2007

Dear Counsel:

Argument in the above-referenced case has been set for
10/03/2008, in Courtroom 002. Please report to this office
no later than 9:00 a.m. on that date.

Very truly yours,

LESLIE D. GRADET
CLERK



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

THE 508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@BCPL.NET

August 6, 2008
7796

HAND DELIVERED

Carl Richards
Department of Permits &
Development Management
County Office Building
Towson, MD 21204

Re: In the Matter of Petition for Special Hearing
Towson West Elementary School; 6916 Charles Street, Towson

Dear Mr. Richards:

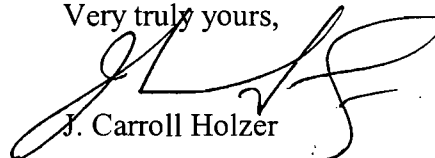
On behalf of my clients, the named individuals listed on the attached signature pages regarding the Board of Education property located at 6916 Charles Street, Towson, MD 21204, attached you will find three original Petitions for Special Hearing filed by my clients, 12 plats, three copies of a sealed description of the property and one color copy of the official zoning map as well as the filing fee. My clients in the instant Petition are not aware of any zoning violation involving the subject property. Obviously, the Petitioners are not the property owners.

For advertising purposes, the following language is to be used for posting and advertising purposes only:

"Whether Baltimore County Board of Education is required to comply with the BCZR, and/or through past custom, practice, usage, etc.?"

I appreciate your assistance in this matter and if you need to call, I can be reached at 410-825-6961

Very truly yours,



J. Carroll Holzer

JCH:clh

From: Thomas Bostwick
To: Matthews, Kristen
Date: 01/21/09 10:42:08 AM
Subject: Case No. 2009-0046-SPH

Kristen,

I am sending over a file that was scheduled about a week and a half ago on January 8, 2009 at 9 AM. It is a Special Hearing case filed by attorney Carroll Holzer on behalf of a number of Protestants opposed to a new school near the Ruxton Ridge School at 6916 Charles Street in Towson. The property owner is the Board of Education of Baltimore County.

Apparently, when the case was scheduled the last time, the Baltimore County Public Schools (BCPS) office was not notified of the hearing date. I don't think it was posted or advertized either. On the date of the hearing, Mr. Holzer appeared and we postponed the case. Mr. Holzer indicated he also believes that the case can be rescheduled fairly quickly because he anticipates that the case will not take very long and in fact will likely be dismissed, based on a Motion to Dismiss filed by the BCPS. Mr. Holzer indicated to me that he does not disagree with the arguments put forth in the BCPS's Motion.

The reason for this email is to ask that this matter be rescheduled. When getting a new hearing date, please consult with the BCPS's attorney's office, Margaret-Ann F. Howie, Esquire, as well as Holzer's office. Ms. Howie's phone number is (410) 887-4060. It doesn't need to stay with me, so it can be rescheduled on any date. If Bill ends up with it in the future, I will fill him in on any details. Thanks. Tom.

CC: Zook, Patricia

LAW OFFICES
J. CARROLL HOLZER, P.A.
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND 21286
(410) 825-6961

FAX (410) 825-4923 / E-MAIL: JCHOLZER@CAVTEL.NET

Facsimile Cover Sheet

To:

Jun

From: J. Carroll Holzer/Sterling Leese/Peggy Gilley

Date: Aug. 13, 2008 Time: 1:10 a.m./p.m.

Total Number of Pages Including this Cover: 2

Original Will / Will Not X Follow.

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

For Sending Office Purposes:

Fax Number: 410-

Main Number: 410-

Client & Matter:

File Number: #

CONFIDENTIALITY NOTICE

The information in this transmittal is intended only for the individual or entity named above. The attached letter or documents may be legally privileged and confidential. If you have received this information in error, please notify the sender immediately and return the original transmission to us by mail. Return postage is guaranteed. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication or its contents is strictly prohibited and a breach of confidentiality.

BALTIMORE COUNTY PUBLIC SCHOOLS

Joe A. Hairston, Superintendent

6901 Charles Street Towson, MD • 21204-3711

January 7, 2009

William Wiseman, Esquire
Zoning Commissioner
105 W. Chesapeake Avenue
Suite 103
Towson, Maryland 21204
VIA FACSIMILE TRANSMITTAL (410-887-3468)

RE: ZONING HEARING - JANUARY 8, 2008
In the Matter of Towson West Elementary School
6916 Charles Street, Towson, MD 21204
Case No. 2009-0046-SPH

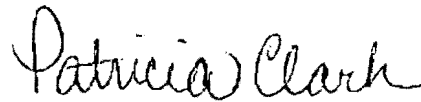
Dear Mr. Wiseman:

This correspondence confirms a telephone call received today at 4:00 p.m. from Ms. Patty Zook of your office. According to Ms. Zook, a zoning hearing has been scheduled for January 8, 2009, at 9:00 AM in the above-referenced matter.

Please be advised that the Board of Education of Baltimore County did not receive notice of the hearing. Furthermore, Margaret-Ann Howie, General Counsel, is out of the country until January 16, 2009, and no one is prepared to go forward at this hearing on such short notice.

This correspondence confirms, therefore, that the zoning hearing scheduled for January 8, 2009 will be postponed. Please feel free to call me if you have questions at 410-887-4060. Thank you.

Very truly yours,



Patricia S. Clark
Litigation Specialist

cc: Margaret-Ann F. Howie, Esq., General Counsel
J. Robert Haines, Esq., Deputy Superintendent
J. Carroll Holzer, Esq. (Via Facsimile 410-825-4923)

Patricia Zook - Case 2009-0046-SPH at 9 am on Thurs. January 8

From: Patricia Zook
To: Bostwick, Thomas
Date: 1/7/2009 4:12 PM
Subject: Case 2009-0046-SPH at 9 am on Thurs. January 8
CC: Wiley, Debra

Tom -

Margaret Ann Howie, general counsel for the Baltimore County Public Schools, is on vacation until January 15.

I spoke to Patricia Clark, litigation specialist. She informed me that they were not notified about tomorrow's hearing. They received notice for the hearing in October, but not for the January 8 hearing. I told her there was a copy of the notice in the folder, but not an address list so I couldn't determine where the notice was sent - if it was at all.

She may fax something to this effect to you. Please call her at 410-887-4060.

[the file contains a couple faxes sent to Kristen asking her to notify the school attorney when the case is rescheduled]

Patti Zook
Baltimore County
Office of the Zoning Commissioner
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson MD 21204

410-887-3868

pzook@baltimorecountymd.gov

OFFICE OF LAW
BALTIMORE COUNTY PUBLIC SCHOOLS
FACSIMILE TRANSMISSION

6901 Charles Street
Towson, Maryland 21204
410-887-4060
Fax: 410-887-4118

TO: William Wiseman, Esq.
Zoning Commissioner

DATE: October 2, 2008

FAX: 410-887-3468

FROM: Margaret-Ann F. Howie, Esq.
General Counsel

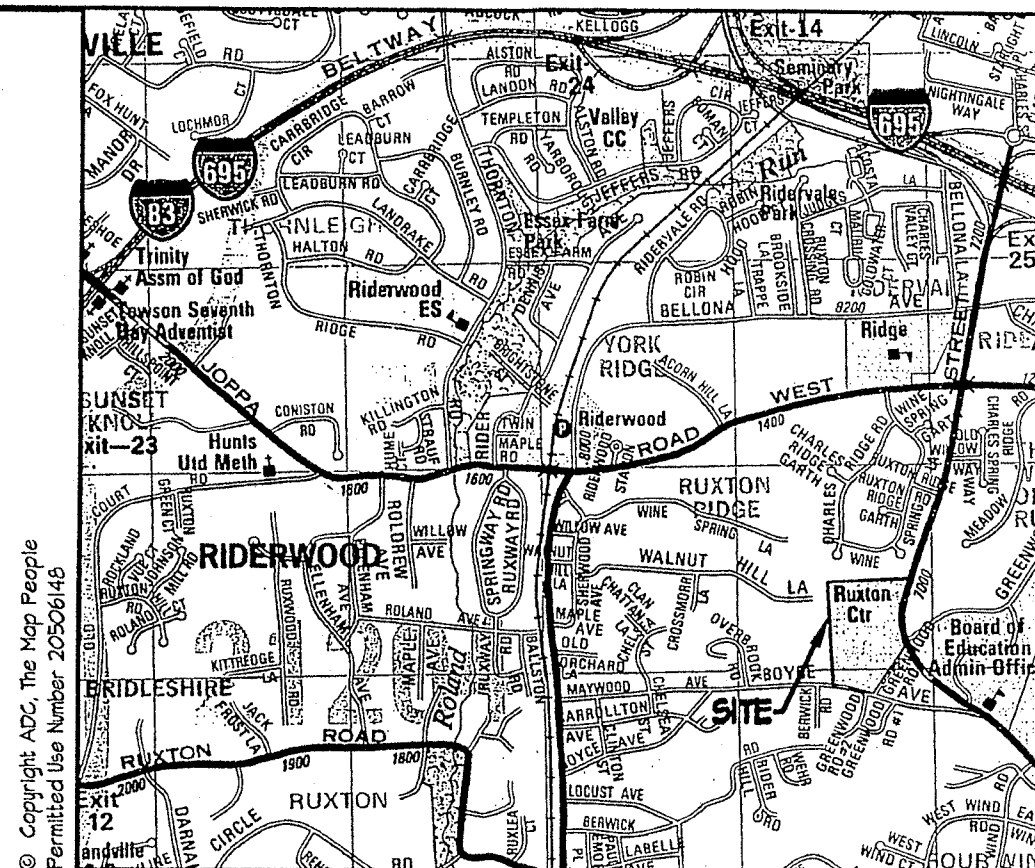
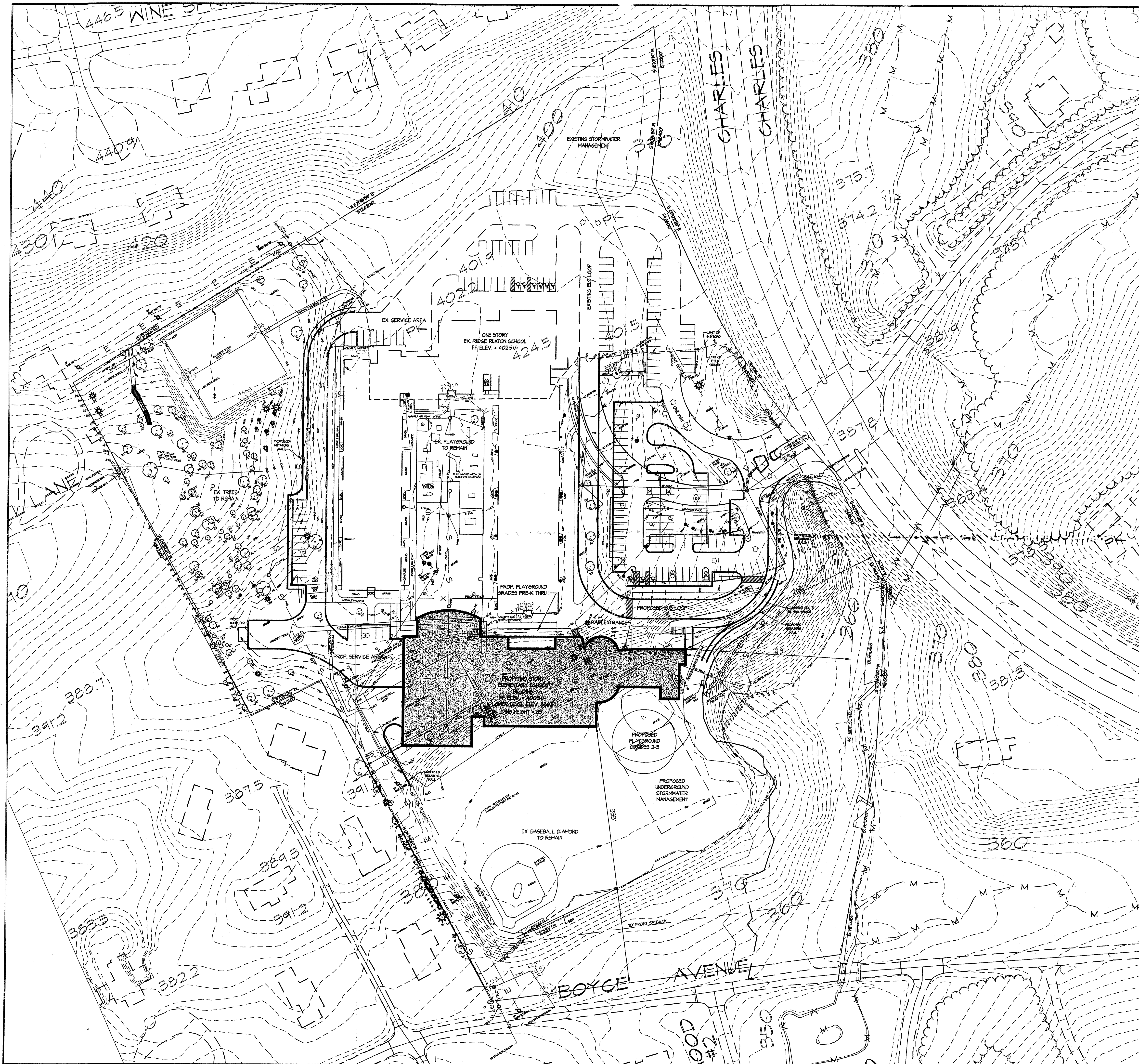
RE: *In the Matter of Towson West
Elementary School
6916 Charles Street
Case No. 2009-0046-SPH*

PAGES: 2
(including cover page)

MESSAGE: Please see a copy of my letter of today's date regarding the above-captioned matter.
It will also be sent via first class mail.

CONFIDENTIALITY NOTICE

This facsimile contains information that is intended only for the use of the above-named addressee(s). The information contained herein may be considered privileged under Maryland and federal law. Therefore, if you are not the intended recipient, please notify us immediately by phone and return the entire facsimile, including all attachments, to the address listed above via United States Mail.



VICINITY MAP
1"=2000'

NOTES

- Property Owner / Developer:
Baltimore County Public Schools
Office Of Engineering And Construction
Mailing Address
4610 Pikesville Park Drive, Suite 204
Baltimore, MD 21220
- Site Address:
6416 North Charles Street
Towson, MD 21204
- Plan Prepared By:
Site Resources Inc.
14315 Jarrattville Pike
Phoenix, MD 21131
410-683-3388
- Site Area : 16.8 Ac +/- (73,808 SqFt.)
- Existing Use: Special Needs School - Grades Pre-K thru 12
- Proposed Use: Elementary School Added To Site In New Building, Existing Use To Remain
- Site Data: Tax Map 64, Grid 11, Parcel 145
Tax Asst. No.: 040251452
040251464
Zoning : DR 1
Election District: 4
Continuance District: 2
- Parking
Parking Required: 1 Parking Space Per Employee,
Plus Visitor Spaces As Determined By The Zoning Commissioner

Existing Parking (Total)	130
Existing Parking To Be Removed	44
Existing Parking To Remain	86
Proposed Parking	+ 88
Total Parking Provided:	174
- Any new signs will be in accordance with Baltimore County zoning regulations.
- Previous Zoning History:
An A-1 Limited Exemption for building additions, parking and stormwater management was approved by a letter dated November 13, 1998 from the Development Review Committee (DRC # 10198E).

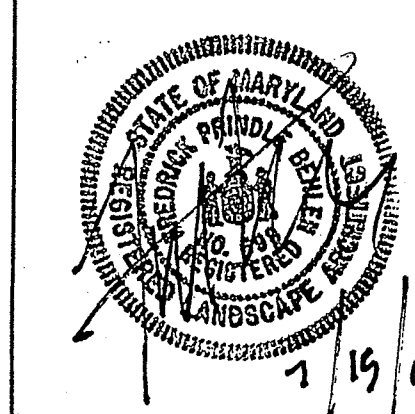
PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING PLAT PREPARED BY SITE RESOURCES FOR PROPERTY OWNER

PETITIONERS ARE NOT OWNERS
OF SUBJECT PROPERTY

RIDGE RUXTON / TOWSON WEST ELEMENTARY

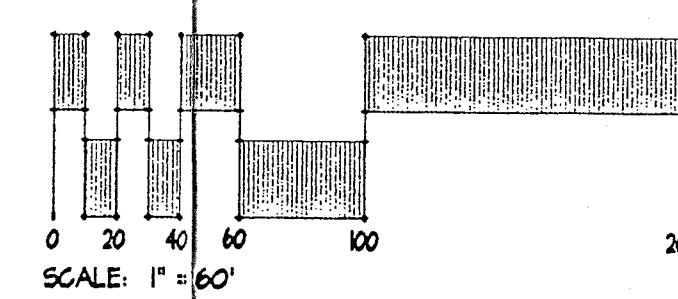
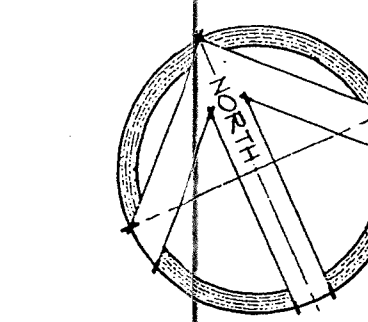
PROPERTY OF
Baltimore County
8th ELECTION DIST, BALTIMORE COUNTY, MD

REVISIONS



SITE RESOURCES
INCORPORATED
Comprehensive Land Planning & Site Design Services
14315 Jarrattville Pike • Phoenix, Maryland 21131
(410) 683-3388 • Fax (410) 683-3389

DRAWN BY: CGS	CONTRACT NO.:
DESIGNED BY: FFB	SCALE: 1" = 60'
CHECKED BY: SRI	SRI PROJECT NO. 08023
DATE: JULY 15, 2008	SHEET 1 OF 1



2009-0046-SRI

080418E

