

MEMORANDDUM

NO ORDER
FOR 2009
IN THIS FILE

DATE: February 6, 2009

TO: To The File

FROM: Thomas H. Bostwick
Deputy Zoning Commissioner
for Baltimore County

SUBJECT: Case Nos. 2009-0149-A, 2009-0150-A, 2009-0151-A and
2009-0152-A - located on McCann Avenue

The above-referenced cases were before me on February 6, 2009.

The aforementioned Petitions were filed in connection with the four properties located at 7, 9, 11, and 13 McCann Avenue. The properties abut one another and are situated on the south side of McCann Avenue, just west of York Road and north of Warren Road, in Cockeysville. The Petitions were filed by Frederick L. Matusky, Managing Member, on behalf of the property owner, McCann F&S, Inc.

For 7, 9, and 11 McCann Avenues, Petitioner is requesting variance relief for each of those properties from Section 409.6.A.2 of the B.C.Z.R. to permit 6 off-street parking spaces in lieu of the required 12 parking spaces, and to amend the previously approved site plans in Case Nos. 06-282-A, 06-283-A, and 06-284-A, respectively.

For 13 McCann Avenue, Petitioner is requesting variance relief from Section 409.6.A.2 to permit 10 off-street parking spaces in lieu of the required 12 parking spaces, and from Sections 255.1 and 238.2 of the B.C.Z.R. to allow a rear yard setback of 4 feet in lieu of the minimum required 30 feet, and to amend the previously approved site plan in Case Nos. 05-182-A and 06-285-A.

In response to the Petitions, People's Counsel elicited input from Steve Weber of the Department of Public Work's Traffic Engineering. Mr. Zimmerman's and Mr. Weber's comments were not very favorable. In the interim, Petitioner's attorney, Ed Covahey, has been in contact with People's Counsel in an attempt to ameliorate any outstanding issues. As a result, Mr. Covahey requested a postponement of the February 6, 2009 hearing. Mr. Covahey also indicated that in response to Mr. Zimmerman's concerns, the site plans might be changed slightly. I granted the postponement request. It should also be noted that there were no Protestants or interested citizens in attendance at the time.

February 6, 2009

SUBJECT: Case Nos. 2009-0149-A, 2009-0150-A, 2009-0151-A and
2009-0152-A - located on McCann Avenue

Page 2

Thereafter, at approximately 9:30 AM, an interested citizen appeared. This gentleman, Mr. Stephen Rhine, owns the property across the street from the subject properties at 12 McCann Avenue. He is also President of HIM Trans-Mode Systematic, Inc., that operates on that property. He did not necessarily oppose the relief being requested, but was interested in more details about what Petitioner is proposing for the properties. He was informed that the cases had been postponed and was given a copy of the site plan for the properties and a copy of Mr. Zimmerman's letter dated February 2, 2009. He was also informed that the properties would be re-posted and re-advertised indicating the new date and time for the hearing.

c: Kristen Matthews, Zoning Review Office



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property
located at 7 McCann Avenue, Hunt Valley, MD 21030

which is presently zoned ML-IM

Deed Reference: 23267 / 126 Tax Account # 08-0813000927

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 EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

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

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Edward C. Covahey, Jr.

Name - Type or Print

Signature

Covahey, Boozer, Devan & Dore, P.A.

Company

614 Bosley Ave.

410-828-9441

Address

Telephone No.

Towson,

MD

21204

City

State

Zip Code

Legal Owner(s):

MCCANN F&S, LLC

Name - Type or Print

By **Frederick L. Matusky**

Signature **Frederick L. Matusky,**

Managing Member

Name - Type or Print

Signature

10604 Beaver Dam Road

410-527-0060

Address

Telephone No.

Hunt Valley,

MD

21030

City

State

Zip Code

Representative to be Contacted:

Frederick L. Matusky

Name

10604 Beaver Dam Road

410-527-0060

Address

Telephone No.

Hunt Valley,

MD

21030

City

State

Zip Code

Case No. **2009-0149-A**

Office Use Only

Estimated Length of Hearing **1 HR.**

Unavailable For Hearing

Reviewed by **JL** Date **11-21-08**

TO BE HEARD CONSECUTIVELY WITH #0150 ETC.

EXHIBIT A

For the property located at 7 McCann Avenue

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, 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 petitions for a Variance from Section 409.6.A.2. of the Baltimore County Zoning Regulations to allow:

Six (6) off-street parking spaces in lieu of the required twelve (12) parking spaces and to amend previously approved Site Plan in Case No. 06-282-A.

for the following reasons:

1. The subject property is unique in that the present zoning designation of ML-IM impacts the ability to utilize the property for the proposed improvements to serve the small independent contractor and the property is further unique in that there is a severe slope extending from McCann Avenue to the rear of the site.
2. Practical difficulty and unreasonable hardship exist because of the fact that the property cannot be developed for industrial commercial use within the context of the ML-IM zoning without the granting of the requested variance.
3. The granting of the requested variance would be in accordance with Section 307 of the Baltimore County Zoning Regulations in that it would be in harmony with the spirit and intent of the Regulations, would not be detrimental to the public safety and general welfare of the community, and in fact would promote the health, safety and general welfare of the community in that utilizing same for commercial purposes would serve the intent of the existing zoning as opposed to allowing the improvements to continue to be used as private residences.

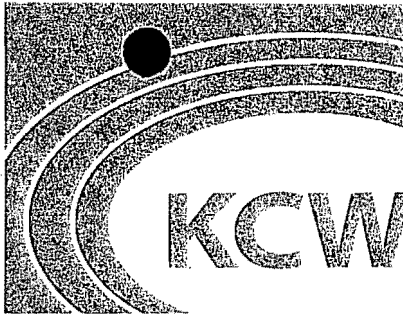
ldr081108

William K. Woody, L.S.
President and CEO

Douglas L. Kennedy, P.E.
Senior Vice President

J. Peter McDonnell
Executive Vice President

Melissa M. Walker
Vice President, CFO



Kimberly M. Groves, P.E.
Vice President, Engineering

Kevin C. Anderson, Jr., P.E.
Vice President, Dir. of Land Development

Reginald C. Roberts
Associate, Dry Utilities Specialist

Michael D. Trent, L.S.
Associate, Chief of Surveys

0149

**ZONNING DESCRIPTION
PROPERTY OF McCANN F&S, LLC
#7 McCANN AVENUE
8th ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

Beginning for the same at a point on the Southernmost Right-of-Way line of McCann Avenue, 20 feet wide, said point being distant 205 feet., more or less, from the centerline of York Road, thence leaving said Right-of-Way line of McCann Avenue the following four courses and distances:

1. South 03 degrees 00 minutes West 100 feet to a point; thence
2. North 87 degrees 42 minutes West 50 feet to a point; thence
3. North 03 degrees 00 minutes East 100 feet to a point; thence
4. North 87 degrees 42 minutes West 50 feet to the Point of Beginning.

Containing 5,000 square feet or 0.11 acres of land more or less.

As recorded in Deed Liber 22773, folio 519.

Also known as #7 McCann Avenue and located in the 8th Election District of Baltimore County, MD.

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. 10748
Expiration Date 1-2-2010



Douglas L. Kennedy

KCW Engineering Technologies, Inc.

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

0149
 JL

No. **31454**

Date:

11/21/08

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 11/21/2008 11/21/2008 10:31:18 4

REG 3504 WALTON BETH EYE
 END REPT & ASSES 11/21/2008 GLEN

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Obj	Dept	Obj	BS Acct	Amount
001	856	0000		1150					325.00

Total: **325.00**

Rec

From:

For:

NON REC VAR 7016 CALVIN AVE

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

NOTICE OF ZONING HEARING

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

Case: #2009-0149-A

7 McCann Avenue
S/side of McCann Avenue, 205
feet west of York Road,
8th Election District
3rd Councilmanic District
Legal Owner(s): McCann F & S,
LLC

Variance: to permit six (6) off
street parking spaces in lieu of
the required twelve (12) park-
ing spaces and to amend previ-
ously approved site plan in
Case 06-282-A.

Hearing: Friday, February 6,
2009 at 9:00 a.m. in Room
106, County Office Building,
111 West Chesapeake Ave-
nue, 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 concern-
ing the File and/or Hearing,
Contact the Zoning Review Of-
fice at (410) 887-3391.
1/30/09 Jan. 22 192625

CERTIFICATE OF PUBLICATION

1/22/2009

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 1/22/2009.

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

S. Wilkinson

LEGAL ADVERTISING

Feb-02-09 12:42 From-COVAHEY & BOOZER

4108237530

T-806 P.01/05 F-695

COVAHEY, BOOZER, DEVAN & DORE, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
MICHAEL T. PATE
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING
YONA OPENDEN
FRANK V. BOOZER, JR.

410-828-9441

FAX 410-823-7530

ANNEX OFFICE
SUITE 302
608 BALTIMORE AVE.
TOWSON, MD 21204
410-828-5923
FAX 410-298-2131

*ALSO ADMITTED TO D.C. BAR

Date: February 2, 2009

To: Kristen Matthews

Fax No.: 410-887-3048

Re: Case No. 2009-1049-A, 2009-0150-A,
2009-0151-A and 2009-0152-A

Attached please find Certificates of Posting which Linda O'Keefe submitted to you on January 19, 2009, however, my client advises he was contacted by Patty on January 30, 2009 and advised same were not in your file.

Please call my secretary, Linda, and confirm receipt of the attached. Thank you.

Covahey, Boozer, Devan & Dore, P.A.
By: Edward C. Covahey, Jr.

CONTENTS: 5 pages including cover sheet

(If any pages are missing, please call Linda - 410-828-9441)

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE INDICATED ABOVE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF THE RECIPIENT OF THIS MESSAGE IS NOT THE ADDRESSEE OR THE EMPLOYEE OR AGENT OF THE ADDRESSEE, YOU ARE ADVISED THAT ANY DISSEMINATION OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY COVAHEY & BOOZER, P.A. IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO COVAHEY, BOOZER, DEVAN & DORE, P.A. AT THE ABOVE ADDRESS.

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATHHEWS

DATE: 01/19/09

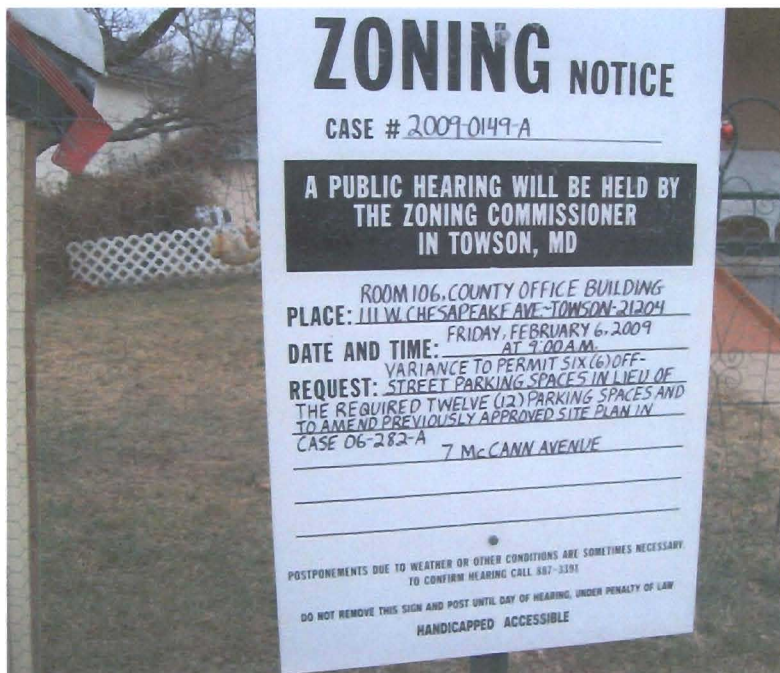
Case Number: 2009-0149-A

Petitioner / Developer: EDWARD COVAHEY, ESQ. ~ FRED MATUSKY

Date of Hearing (Closing): FEBRUARY 6, 2009

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

The sign(s) were posted on: JANUARY 18, 2009



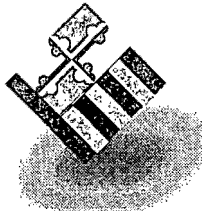
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

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



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

December 31, 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: 2009-0149-A

7 McCann Avenue
S/side of McCann Avenue, 205 feet west of York Road
8th Election District – 3rd Councilmanic District
Legal Owners: McCann F & S, LLC

Variance to permit six (6) off street parking spaces in lieu of the required twelve (12) parking spaces and to amend previously approved site plan in Case 06-282-A.

Hearing: Friday, February 6, 2009 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204

A handwritten signature in cursive script that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Edward Covahey, Jr., 614 Bosley Avenue, Towson 21204
Frederick Matusky, 10604 Beaver Dam Road, Hunt Valley 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JANUARY 22, 2009.**
- (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
Thursday, January 22, 2009 Issue - Jeffersonian

Please forward billing to:
McCann F&S, Inc.
Attn: Fred Matusky
10604 Beaver Dam Road
Hunt Valley, MD 21030

410-527-0060

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: 2009-0149-A

7 McCann Avenue
S/side of McCann Avenue, 205 feet west of York Road
8th Election District – 3rd Councilmanic District
Legal Owners: McCann F & S, LLC

Variance to permit six (6) off street parking spaces in lieu of the required twelve (12) parking spaces and to amend previously approved site plan in Case 06-282-A.

Hearing: Friday, February 6, 2009 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.

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 0149 A

Petitioner

McCANN F&S, LLC

Address or Location:

7 McCANN AVENUE

PLEASE FORWARD ADVERTISING BILL TO:

Name:

McCANN F&S, LLC

Address

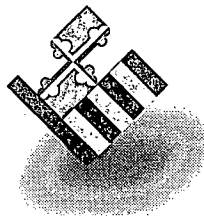
10604 BEAVER DAM ROAD

HUNT VALLEY, MD 21030

ATTN: FRED MATUSKY

Telephone Number:

TELE: 410-527-0060



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 29, 2009

Edward C. Covahey, Jr.
Covanhey, Boozer, Devan & Dore, P.A.
614 Bosley Ave.
Towson, MD 21204

Dear: Edward C. Covahey, Jr

RE: Case Number 2009-0149-A, 7 McCann Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 21, 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 dark ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
McCann F&S, LLC; 10604 Beaver Dam Rd.; Hunt Valley; MD 21030
Fredrick L. Matusky; 10604 Beaver Dam Rd.; Hunt Valley, Md 21030

TB 2/6
9, 10, 11 + 2
pm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 7, 2009

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

SUBJECT: 7,9,11 and 13 McCann Avenue

RECEIVED

INFORMATION:

JAN 12 2009

Item Number: 9-149, 150, 151 and 152

Petitioner: McCann F & S, LLC

ZONING COMMISSIONER

Zoning: ML-IM

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

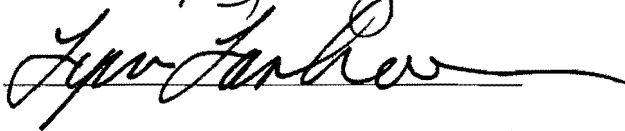
The Office of Planning has reviewed the petitioner's request and accompanying site plan. This office does not oppose the requested parking variances. The property was the subject of a limited exemption, reviewed October 31, 2007. If the building elevations have been altered since the aforementioned date, the Office of Planning requests review of such prior to the application for any building permits and conformance with Hunt Valley Timonium guidelines and any conditions or prior zoning orders.

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

Prepared by:



Division Chief:
AFK/LL: CM





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

State Highway
Administration

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

Maryland Department of Transportation

Date: 12-11-2008

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

RE: Baltimore County
Item No 2009-0149-A
7 MCCANN AVENUE
MCCANN F&S LLC
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. 2009-0149-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

For Steven D. Foster, Chief
Engineering Access Permits
Division

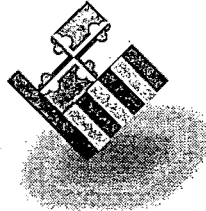
SDF/MB

My telephone number/toll-free number is _____

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

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





BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

December 15, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: December 15, 2008

Item Numbers 0541, 0121, 0146, 0147, **0149**, 0150, 0151, 0152, 0154, 0155, 0156, 0157

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

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

Lieutenant Roland P. Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: December 10, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For December 15, 2008
Item No.: 2009-149, 150, 151, 152,
154, 156 & 157

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

DAK:CEN:cab
cc: File

ZAC-12152008-NO COMMENTS

RE: PETITION FOR VARIANCE * BEFORE THE
7 McCann Avenue; S/S McCann Avenue, * ZONING COMMISSIONER
205' c/line York Road *
8th Election & 3rd Councilmanic Districts * FOR
Legal Owner(s): McCann F&S, LLC * BALTIMORE COUNTY
Petitioner(s) *
* 09-149-A

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

DEC 09 2008

.....

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

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of December, 2008, a copy of the foregoing Entry of Appearance was mailed to, Frederick Matusky, 10604 Beaver Dam Road, Hunt Valley, MD 21030 and Edward C. Covahey, Jr, Esquire, Covahey, Boozer, Devan & Dore, P.A., 614 Bosley Avenue, Towson, MD 21204, Attorney for Petitioner(s).

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



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

February 2, 2009

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

Re: PETITIONS FOR VARIANCES
McCann F&S, LLC- Petitioner
7 thru 13 McCann Avenue
Case No: 09-149/150/151/152-A

RECEIVED
FEB 02 2009
ZONING COMMISSIONER

Dear Mr. Wiseman,

As is our custom, because this case involves traffic issues, we asked Stephen E. Weber, Chief of Traffic Engineering, to review the site plan. He sent the enclosed e-mail report dated February 2, 2009, with aerial photography. This report identifies a number of serious concerns, which justify opposition to the combined or consecutive petitions. The hearing date for this case has been set for February 6, 2009.

Mr. Weber observes that the proposal involves replacement of four existing converted single-family homes with two new duplex structures. It appears reasonable for the redevelopment to provide required parking and, among other things, to use the rear 4 lots of the 8 for this purpose. At least some of these lots, incidentally, are in the same account, and it appears generally that the four different cases are intertwined and should be considered together. Indeed, the separation of the requests into four petitions and site plans is confusing and distracting. There should have been one petition and one site plan. Incidentally, the rear yard setback variance is probably unnecessary if the realistic rear boundary is considered to be at the back of the rear lots.

Mr. Weber also points out that failure to provide adequate parking will likely cause overflow problems on this dead-end street, even if traffic volumes are relatively low. There is limited on-street parking available. In addition, the petitioner apparently uses its paved area for contractor storage or staging, further taking up space available for accessory parking.

There are other details and observations in the extensive report, including consideration of the parking use of the rear lots notwithstanding any grade, swale, and floodplain issues. As Mr. Weber concludes,

William J. Wiseman, III, Zoning Commissioner
February 2, 2009
Page 2

"When looking at the entire site, how the parcels are set up, and the ownership of the various parcels/lots, it appears clear that the petitioner has the reasonable ability of addressing all the parking needs for his proposal without adversely affecting the adjoining properties. We would therefore be strongly opposed to the granting of this petition."

Based on this report, it appears that the petitioner needs to go back to the drawing board, reassess the proposed redevelopment of the entire site, and provide the required parking.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

Enclosure

cc: Edward C. Covahey, Jr., Attorney for Petitioner
Stephen Weber, Chief

From: Stephen Weber
To: People's Counsel
CC: Dennis Kennedy
Date: 02/02/2009 12:27 PM
Subject: Fwd: Case No. 09-149/150/151/152-A, 7 thru 13 McCann Ave
Attachments: McCannAve2.bmp; McCannAve.bmp

Mr. Zimmerman:

There is quite a bit of case history on these sites, but suffice it to say in reviewing these 4 sites from a traffic standpoint, our biggest concern would deal with the combined element of parking variances being requested for these 4 lots and the fact that it definitely seems the petitioner has not taken all reasonable means to accommodate the parking requirements per the County Zoning Regulations. The total combined requests are as follows:

#7, Parking Required = 12, Parking Provided = 6
#9, Parking Required = 12, Parking Provided = 6
#11, Parking Required = 12, Parking Provided = 6
#13, Parking Required = 16, Parking Provided = 10

#7 thru 13, Parking Required = 52, Parking Provided = 28

In the vast majority of requests for various variances and special exceptions for numerous sites throughout the County, many times these are due to trying to modify an existing site and building and dealing with the constraints of a tight property. Being able to comply with the various zoning regulations sometimes poses special circumstances because of the facts of dealing with existing buildings and property lines and other constraints. In this particular case, the petitioner owns what was platted as 8 different contiguous lots and is proposing to knock down the four existing buildings (originally constructed as single-family homes) and construct what basically appears to be two duplex commercial structures on the 4 lots adjacent to McCann Ave. At the same time, all 4 improvements and the associated parking is shown constrained on the 4 lots adjacent to McCann Ave with nothing extending into the rear lots behind them.

In looking at the parcel outlines, what is not clearly denoted is that Lot 3 and 3A (#9) are under one parcel tax account #08-13-000878 and Lot 4 and 4A (#7) are also under one parcel tax account #08-13-000927. Thus they are really two parcels, not four as the plans make them appear. I've attached an aerial photograph showing a perspective view of these properties looking from the north and an aerial photo with 2-foot contour lines shown across all the properties. (Note that the contour aerial photo also identifies the full size of the lots for #7 & #9.) While some of the previous cases talk about the grades behind the properties, and the contour lines do show that there is a grade sloping down away from McCann Ave down to a drainage swale immediately south of the subject properties, it does not appear that these grades are sufficient to prevent a reasonable provision for parking in the rear of the lots of #7 & #9. When looking at both the photograph and the aerial contour, one can look at the adjacent parcel to the east at #5 which has the same exact original house as was constructed on #7 & #9 and is the exact same width, and interestingly one can evidently see the amount of parking that the owner, Stephen Miller, was able to accommodate on this lot. Since the parcels for #7 & #9 are identical in size to that for #5, and the original grades are reasonably similar, it appears that with proper engineering the parcels for #7 & #9 should be able to be developed without requesting any parking variances at all by utilizing the property in the rear. Since the petitioner is proposing to demolish #7 thru #13, they even have greater latitude to regrade the entire lots as necessary to make it easier to accommodate the parking in the rear. As such, with regard to the two parcels for #7 & #9, there appears to be no reasonable justification for requesting a parking variance and both lots should provide the entire 12 parking spaces each are required to have, just like the neighboring property to the east at #5. The petitioner does not appear to have an apparent hardship which makes it infeasible to comply with this element of the zoning regulations.

When looking at #11 & #13, the situation is slightly different in that these parcels are half the size of #7 & #9, however at the same time the petitioner is still the owner of the two similar sized parcels directly behind them. From the photographs, it appears that the petitioner is using this paved area as some type of contractor storage or staging area. The petitioner may want to hold onto Lots 9 & 10 and sell off Lots 1 & 2 on which he would construct #13 & #11, respectively. While that certainly would appear to be within the petitioner's rights, at the same time it would seem that the Zoning Commissioner should take into account the fact that the petitioner has the ability of similarly providing the amount of parking needed under the Zoning regulations by combining Lots 1 & 9 into one parcel for #13 and combining Lots 2 & 10 into one parcel for #11, just as what was apparently done with #9 & #7.

I have been made aware that due to the drainage swale just to the south of these properties, probably a portion of the rear of these lots are located within a defined flood plain across the rear of the properties. While such a flood plain may prevent the construction of any buildings within the flood plain, there are mechanisms in place for being able to place parking within a flood plain. I am not sufficiently familiar with all the standards governing such parking areas, but I do know that there are means by which parking can be established in such areas. While such spaces obviously would be unusable in a flood situation, they would be available most likely 99% of the time.

When looking at McCann Ave, it is clearly a dead-end low traffic volume street, only servicing the adjacent parcels with an extremely unlikely possibility of it ever being connected to anything else. One can see from the aerial photo with the contour lines

that there is some element of parallel parking taking place on the north side of the roadway, but because of the limited length of the roadway and its relatively narrow width, the amount of on-street parking available for all the adjoining properties is limited. Parking is only allowed on the north side near York Rd, for 7 cars at the most. The remainder of the roadway is posted No Parking Anytime on both sides. McCann Ave comes off of York Rd so parking cannot overflow from McCann Ave onto that roadway. Thus, any parking issues generated by all the adjoining properties is going to be contained on McCann Ave itself and all the adjoining properties. As such, the petitioner's four requests ends up with him requesting the ability of not providing 24 required parking spaces on his own properties, instead subjecting McCann Ave and all adjoining property owners to parking spillover onto this narrow dead-end street. To put that into perspective, if one were even able to put parallel parked cars end-to-end from York Rd to the terminus of McCann Ave, one could only park 16 cars on one side of the street. Obviously one can't park cars end-to-end because of the numerous driveway entrances and the existing parking restrictions, so that isn't even possible. Therefore, with only 7 on-street parking spaces being available, and those oftentimes already being used by the adjacent businesses, adding new businesses with an extreme shortage of available on-site parking will result in a serious parking shortage and the existing businesses could have a situation where the few available on-street parking spaces may rarely be available for them anymore. Add to that that the petitioner's properties are intended to be for small contractors, we are faced with numerous other tight contractor sites where they then place trailers on the property for additional storage, thereby permanently removing another parking spaces from use. The petitioner's proposals end up taking up nearly every square inch of outside area for parking (at least on the two 100-foot lots fronting McCann Ave) and therefore there isn't a bit of usable space outside even if the contractor did want to try and gain some additional storage area. There is certainly a good possibility of parking spaces being "converted" to storage in order to accommodate such needs. Even the petitioner utilizes trailers for storage himself, both photographs taken at different times, showing nearly the same trailers in the same areas unmoved on Lot 10 and 3A.

When looking at the petitioner's request for providing perpendicular parking directly off the south side of McCann Ave, we do not prefer seeing this type of parking, especially in commercial/industrial settings, but given that McCann Ave is a short street with limited adjacent properties and low traffic volumes, it would probably work acceptably from a traffic standpoint.

These are our thoughts on the petitioner's request. When looking at the entire site, how the parcels are set up, and the ownership of the various parcels/lots, it appears clear to us that the petitioner has the reasonable ability of addressing all the parking needs for his proposal without adversely affecting all the adjoining properties. We would therefore be strongly opposed to the granting of the requested parking variances for all four of the sites.

Should you have any questions regarding these comments or wish to discuss the issue further, please feel free to give me a call.

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

Patricia Zook - Re: Case 2009-0145 - hearing is Thursday, February 5 - comments needed for Bill

From: Dennis Kennedy
To: Zook, Patricia
Date: 2/2/2009 11:46 AM
Subject: Re: Case 2009-0145 - hearing is Thursday, February 5 - comments needed for Bill

Patti:

Apparently, the zoning office lost two whole batches of our comments. The comments were sent to them in November and December. In any event, we had no comments on Items 143, 144, 145, 149, 150, 151, and 152.

Dennis Kennedy

>>> Patricia Zook 2/2/2009 11:15 AM >>>

Good morning -

We received the above-referenced case file on Friday afternoon and noticed that comments from your respective offices are missing. The hearing is scheduled for Thursday, February 5.

CASE NUMBER: 2009-0145--A

7930 Pulaski Hwy.
Location: N side of Pulaski Highway, 380 feet S of the c/l of Chesaco Avenue.
15th Election District, 7th Councilmanic District
Legal Owner: Bernard O. Jeffers

VARIANCE To permit a proposed addition with a 14 feet side yard setback in lieu of the required 30 feet.

Hearing: Thursday, **2/5/2009** at 2:00:00 PM County Office Building, 111 West Chesapeake Avenue, Room 106, Towson

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

Patricia Zook - Cases 2009-0149-A, 09-0150-A, 09-0151-A and 09-0152-A - on McCann Avenue - comments needed

From: Patricia Zook
To: Kennedy, Dennis; Livingston, Jeffrey
Date: 1/30/2009 3:12 PM
Subject: Cases 2009-0149-A, 09-0150-A, 09-0151-A and 09-0152-A - on McCann Avenue - comments needed
CC: Bostwick, Thomas

Gentlemen -

The below-described case files were just brought to our office and all are missing comments from your respective offices. These cases are scheduled for hearings on Friday, February 6. If you have 'no comment' just reply to this e-mail and I'll place it in the file.

As always, thanks for your help.

CASE NUMBER: 2009-0149--A

7 McCann Avenue

Location: S side of McCann Avenue, 205 feet W of York Road.

8th Election District, 3rd Councilmanic District

Legal Owner: McCann FandS, LLC

VARIANCE To permit six (6) off street parking spaces in lieu of the required twelve (12) parking spaces and to amend previously approved site plan in Case no. 06-282-A.

Hearing: Friday, 2/6/2009 at 9:00:00 AM County Office Building, 111 West Chesapeake Avenue, Room 106, Towson

CASE NUMBER: 2009-0150--A

9 McCann Avenue

Location: S side of McCann Avenue, 255 feet W of York Road

8th Election District, 3rd Councilmanic District

Legal Owner: McCann FandS, LLC

VARIANCE To permit 6 off street parking spaces in lieu of the required 12 parking spaces and to amend previously approved site plan in Case No. 06-283-A.

Hearing: Friday, 2/6/2009 at 9:30:00 AM County Office Building, 111 West Chesapeake Avenue, Room 106, Towson

CASE NUMBER: 2009-0151--A

11 McCann Avenue

Location: S side of McCann Avenue, 305 feet W of York Road.

8th Election District, 3rd Councilmanic District

Legal Owner: McCann FandS, LLC

VARIANCE For 6 off-street parking spaces in lieu of the required 12 parking spaces and to amend previously approved site plan in Case No. 06-284-A.

Hearing: Friday, 2/6/2009 at 10:00:00 AM County Office Building, 111 West Chesapeake Avenue, Room 106, Towson

CASE NUMBER: 2009-0152--A

13 McCann Avenue

Location: S side of McCann Avenue, 355 feet W of York Road.

8th Election District, 3rd Councilmanic District

Legal Owner: McCann FandS, LLC

VARIANCE For 10 off-street parking spaces in lieu of the required 12 parking spaces and for a variance from Sections 255.1 and 238.2 to allow a rear yard setback of 4 feet in lieu of the minimum required 30 feet and to amend previously approved site plan in Case Nos. 05-182-A and 06-285-A.

Hearing: Friday, 2/6/2009 at 10:30:00 AM County Office Building, 111 West Chesapeake Avenue, Room 106, Towson

Patti Zook
 Baltimore County
 Office of the Zoning Commissioner
 Jefferson Building, Suite 103
 105 West Chesapeake Avenue
 Towson MD 21204
 410-887-3868

previous order

IN RE: PETITION FOR VARIANCE
S/Side of McCann Avenue, 205' +/-
From centerline of York Road
8th Election District
3rd Councilmanic District
(7 McCann Avenue)

Helen Michelle Brengle, Legal Owners
and
McCann F&S, LLC, Lessee
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

* **CASE NO. 06-282-A**

* * * * *

IN RE: PETITION FOR VARIANCE
S/Side of McCann Avenue, 255' +/-
From centerline of York Road
8th Election District
3rd Councilmanic District
(9, 11 & 13 McCann Avenue)

McCann F&S, LLC, Legal Owners
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

* **CASE NOS. 06-283-A, 06-284-A
and 06-285-A**

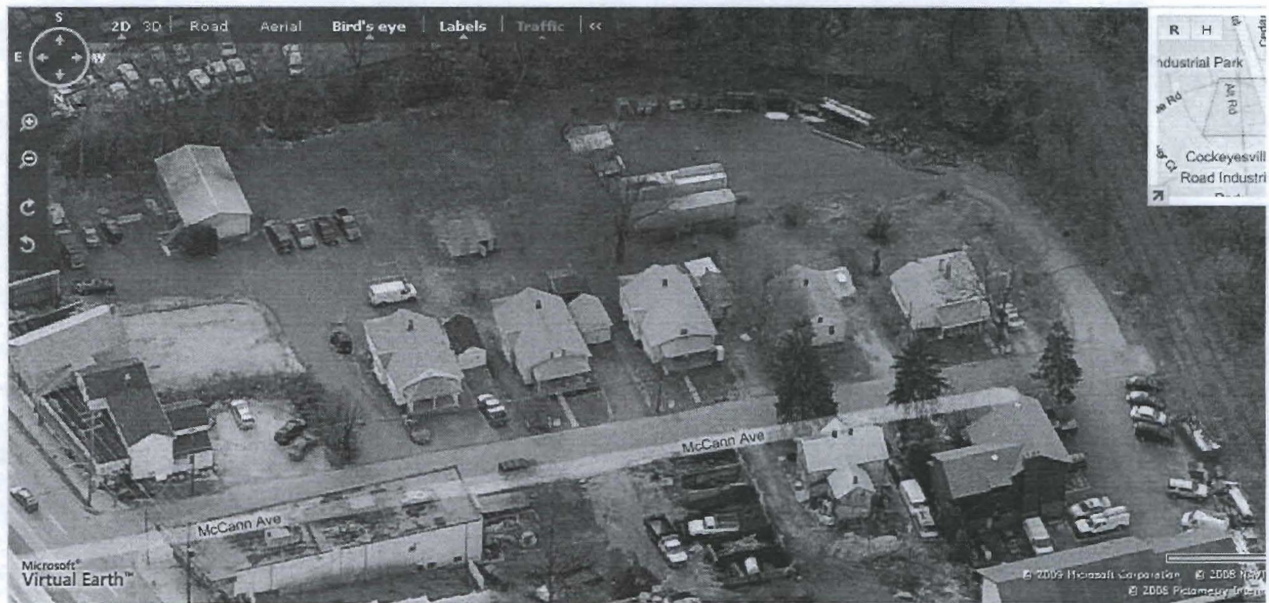
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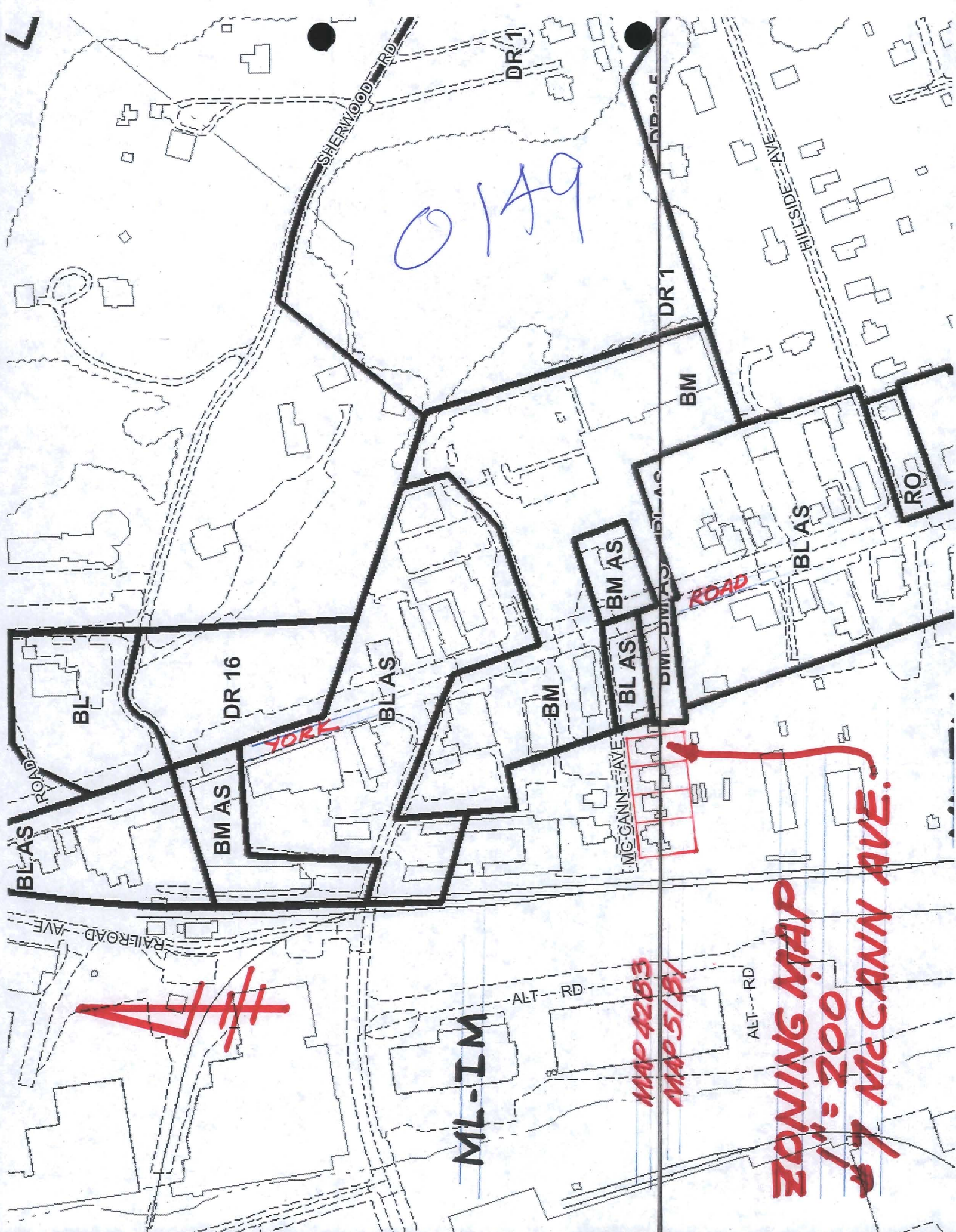
FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before this Deputy Zoning Commissioner as Petitions for Variance filed by the legal owners of each property, each of which is located in the Cockeysville area of Baltimore County as more particularly described in each case file. The Petitioners are requesting variance relief for properties set forth as follows:

Case No. 06-282-A: This property is located at 7 McCann Avenue. The variance request is from Sections 255.1, 238, 409.8A.4 and 409.4A of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow front yard setback from centerline of road of 45 feet in lieu of minimum required 50 feet, side yard setback of 0 feet and 14.0 feet in lieu of the minimum required 30 feet, rear yard setback of 20 feet in lieu of minimum required 30 feet, parking spaces closer than







0149

ZONING MAP
1/4" = 200'
67 MC CANN AVE.

ML-IM

MAP 4283
MAP 5181

YORK

ROAD

BL AS

RO

BM

BM AS

BL AS

BM

DR 16

BM AS

BL AS

BL

BL AS

ALT RD

ALT RD

MC CANN AVE

SHERWOOD RD

DR 1

DR 1

DR 2 E

HILLSIDE AVE

RAILROAD AVE

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 22 day of February, 2006, that variance relief for properties set forth as follows:

Case No. 06-282-A: The property is located at 7 McCann Avenue in the Cockeysville area of Baltimore County. The variance request is from Sections 255.1, 238, 409.8A.4 and 409.4A of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow front yard setback from centerline of road of 45 feet in lieu of minimum required 50 feet, side yard setback of 0 feet and 14.0 feet in lieu of the minimum required 30 feet, rear yard setback of 20 feet in lieu of minimum required 30 feet, parking spaces closer than 10 feet to right-of-way line, and driveway width for two-way movement of 14 feet in lieu of minimum required 20 feet, be GRANTED.

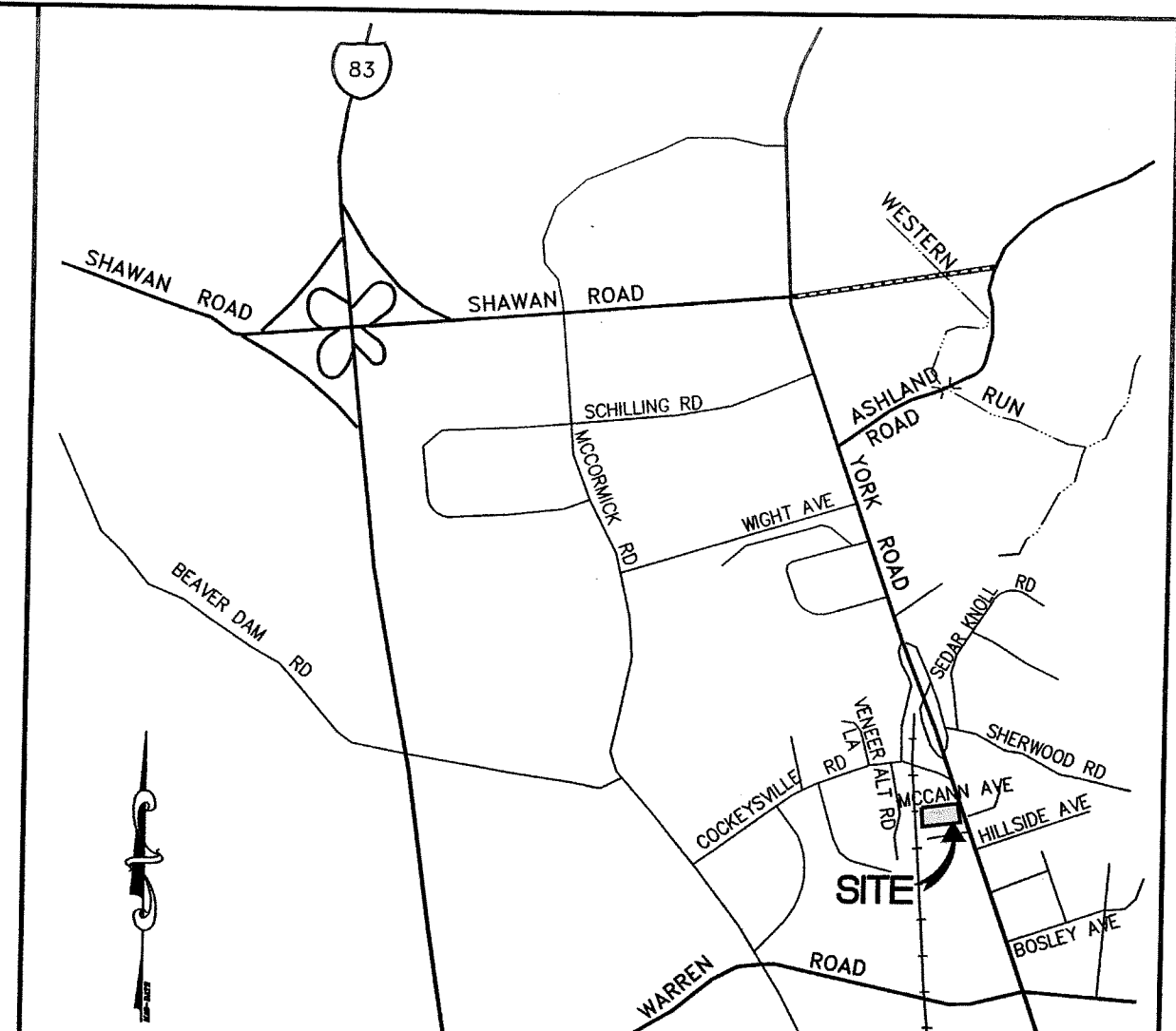
IT IS FURTHER ORDERED that these cases are subject however, to the following restrictions, which are conditions precedent to the relief granted herein:

- The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- The Petitioners must be in compliance with the ZAC comments submitted by the Office of Planning dated December 28, 2005, a copy of which is attached hereto and made a part hereof.
- When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:dlw



VICINITY MAP SCALE: 1" = 2000'

GENERAL NOTES

- OWNER:** McCANN F&S, LLC
10604 Beaver Dam Road
Hunt Valley, MD 21030
Attn: Fred Matusky
Tele: 410-527-0060
- LOCATION:** #7 McCANN AVENUE
- DEED:** Liber 22773, folio 519
- ELECTION DISTRICT:** 08
COUNCILMANIC DISTRICT: C3
- ZONING:** ML-IM
- EXISTING LAND USE:** Residential
- PROPOSED LAND USE:** Commercial - Office, Warehouse, Storage
- UTILITIES:** Public Water and Sanitary Sewer are existing.
- LIGHTING:** Lighting of parking areas shall be directed downward and away from residential properties and public rights-of-way.
- LANDSCAPING:** A Landscape Plan shall be prepared in accordance with the Baltimore County Landscape Manual.
- STORMWATER MANAGEMENT:** This project shall comply with the requirements of Baltimore County's Stormwater Management regulations.
- FOREST CONSERVATION:** This project shall comply with the requirements of Baltimore County's Forest Conservation regulations.
- HIGHWAY WIDENING:** Developer shall grant to Baltimore County at no cost a Highway Widening of 10 ft. along McCann Avenue.
- ADDRESS:** #7 McCANN AVENUE
TAX MAP: 51, Parcel 438
ACCOUNT NO.: 0813000927
SUBDIVISION: Lot 4-4A, "John A. McCann Property"
AREA: 5,000 sf = 0.11 ac. ±
- BUILDING AREA:**

First Floor Office	= 1584 s.f. (36' x 44')
Lower Level Storage/Office	= 1584 s.f.
Total Bldg. Area	= 3,168 s.f.
- BUILDING SETBACKS:**

	Required	Proposed
Front:	25' from R/W	25'
Side:	50' from C/L	45' **
Rear:	30'	0', 14' **
	30'	20' **

** Variance granted per Case No. 06-282-A.
- PARKING REQUIRED:** Office (First Floor): 1584 s.f. x 3.3 ps/1000 sf = 6 ps
Storage/Office (Lower Level): 1584 s.f. x 3.3ps/1000 sf = 6 ps
Total Parking Required = 12 ps

PARKING PROVIDED: = 6 ps *** Variance requested.

18. FLOOR AREA RATIO: 3168 / 5000 = 0.6 < 2.0

19. PREVIOUS ZONING HISTORY:
Case No. 06-282-A.
Variance granted per Deputy Zoning Commissioner's Order dated February 22, 2006. From Sections 255.1, 238, 409.8A.4 and 409.4A to allow a front yard setback from centerline of road of 45 ft. in lieu of the minimum required 50 ft., a Side Yard setback of 0.0 ft. and 14 ft. in lieu of the minimum required 30 ft., a Rear Yard setback of 20 ft. in lieu of the minimum required 30 ft., parking spaces closer than 10 ft. to right-of-way line, and driveway width for two-way movement of 14 ft. in lieu of the minimum required 20 ft.

PLAN TO ACCOMPANY PETITION for ZONING VARIANCE

PROPERTY of McCANN F&S, LLC
7 McCANN AVENUE

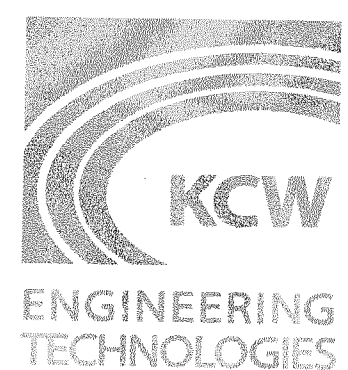
8th ELECTION DISTRICT COUNCILMANIC DISTRICT 3
BALTIMORE COUNTY, MARYLAND

NOTE:
CONSECUTIVE ZONING PETITIONS FOR VARIANCES HAVE BEEN FILED FOR ADJACENT PROPERTIES AT #9, #11 and #13 McCANN AVENUE OWNED BY McCANN F&S, LLC.

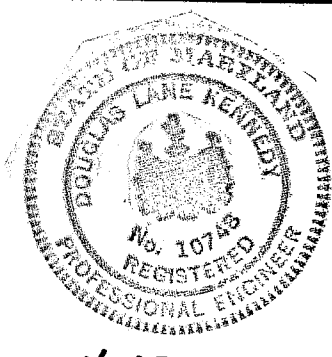
VARIANCE:

#7 McCANN AVENUE

Variance requested from BCZR Section 409.6A2. to allow: 6 off-street parking spaces in lieu of the minimum required 12 parking spaces, and to amend previously approved Site Plan in Case No. 06-282-A.



KCW Engineering Technologies, Inc.
810 Landmark Drive, Suite 215
Glen Burnie, MD 21061
Phone: 410.768.7700
Fax: 410.768.0200
www.kcw-et.com



11-17-2006

Douglas J. Kennedy

REVISIONS		KCW J.O.	2030178
DATE	DESCRIPTION	SCALE:	1" = 30'
		DATE:	NOV. 17, 2008
		DESIGNED:	YN
		DRAWN:	YN
		CHECKED:	DLK
		DRAWING NO.:	Z-7A