

IN RE: PETITIONS FOR SPECIAL HEARING, *

SPECIAL EXCEPTION & VARIANCE

N/S German Hill Road, 78' W of c/line of *

Ridgeshire Road

(7110 German Hill Road) *

12th Election District

7th Council District *

Polish National Catholic Church of the *

Holy Cross, Inc., *Legal Owner*

101 Development Group, LLC, *

Contract Purchaser

Petitioner(s) *

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 2010-0197-SPHXA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception, and Variance filed by Richard A. Koory, general counsel, on behalf of the legal owner of the subject property, Polish National Catholic Church of the Holy Cross, Inc., and the Contract Purchaser, 101 Development Group, LLC (d/b/a Genesis Health Care), through its general counsel, Michael S. Sherman. As filed, Petitioners request zoning approvals as follows: Special hearing relief is requested to (1) amend the previous special exception approval for a 180 bed convalescent home granted in Case No. 80-77-X, (2) to permit business parking in a residential zone pursuant to Section 409.8.B of the Baltimore County Zoning Regulations (B.C.Z.R.), (3) to confirm residential transition area (R.T.A.) setbacks in B.C.Z.R. Sections 1B01.1.B.1.e (3) and (5) are not applicable to the proposal, (4) to confirm that the remainder of a property shown as parcel 91 exists as a legal non-conforming cemetery use; and, (5) to approve a property line adjustment as a non-density transfer. Petitioners also request special exception relief to approve a convalescent home pursuant to B.C.Z.R. Section 1B01.1.C.3. Finally, variance relief was requested, in the alternative, if deemed

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Date 4-14-10

By [Signature]

necessary, to approve as little as a zero (0) foot setback and buffer in lieu of the required 50 foot buffer and 75 foot setback for parking lots. The subject property and requested relief are more fully described on the site plan, which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the relief requested were Natalie Holland on behalf of Petitioner Genesis Health Care, their attorney Sebastian A. Cross, Esquire, and James V. Hermann, the consultant and landscape architect who prepared the site plan. Appearing as interested persons were members of the church and several residents and/or business owners¹ in the area including Michael Morin, Orvil Pointer, Mary Williams, Cindy Morrison, Eugene L. Przybylowicz, III, and his father, Eugene L. Przybylowicz, and Melissa Sadowski, Business Development Representative, with the Department of Economic Development, who appeared and participated in support of the requested relief.

Testimony and evidence offered was that Genesis operates a nursing home known as "Heritage Center" at 7232 German Hill Road in Dundalk. The nursing home facility has been at this location since 1979, immediately after the original owner/operator obtained special exception relief to use the land as a 180 bed nursing home in Case No. 80-77-X. This approval was obtained by the previous operator, Meridian Health Care. Genesis purchased the facility in 1993 and has operated the nursing home since that date. The original Petition and copy of the Order granting the Special Exception are referenced on the site plan.

There are currently 180 beds at the existing facility and 175 total employees (full and part time, including three shifts), including caregivers and medical personnel, custodial employees, and administrative staff. Petitioner testified that it does not desire an increase of employees at this nursing home operation nor does Petitioner desire to add additional beds/patients. Due to the changing

¹ Mary Williams and Cindy Morrison appeared on behalf of the 100-year old family owned Dundalk Florist that operates in close proximity at 7233 German Hill Road.

character of nursing homes since the inception of zoning regulations pertaining to them in 1988, additional parking is desired due to the higher level of care necessary for current residents and the increased volume of visitors, including family, clergy, etc. Testimony was presented that life expectancy has increased for residents, even those with debilitating illnesses. Current residents receive an enhanced level of treatment onsite, previously not available in the past, and today's nursing homes operate as "step down" hospitals. This results in additional service providers arriving onsite to conduct rehab therapy, hospice care, radiology, physical therapy, occupational therapy, etc. It is these additional care service providers onsite that results in a need for more parking. Due to the traffic congestion, employees and visitors are often forced to park on the residential streets nearby. In addition, Petitioner expressed concerns about having adequate space for ingress and egress of emergency vehicles responding to calls for service.

It is also to be noted that the parking regulations have changed since the original approval of this site as a nursing home in 1979. At that time, only one parking space for each 10 beds was required. Under current regulation, one space for each three beds is mandated. See B.C.Z.R. Section 409.6. This issue was discussed in People's Counsel's letter submitted in this case, which attached a copy of e-mail correspondence from Steve Weber, Traffic Engineering Bureau. Mr. Weber opined that the proposed lot would benefit the community as it would provide needed on site parking and eliminate parking in the adjacent residential neighborhood. Mr. Zimmerman assumed (incorrectly) that the proposed building expansion would add beds and require additional parking. As noted above, the building addition is to improve existing services and conditions and no new beds will be added. With the proposed parking lot, 98 spaces will be provided in total, more than required under law and sufficient under operational conditions.

In addition to this parking issue, Genesis also wants to update the building by adding a

potential building addition, as more particularly shown on the site plan. Currently this nursing home contains 3 beds per room, which is less than desirable for patients and staff. Genesis wants to change these rooms to only have 2 beds per room. The proposed expansion will allow space for the conversion from 3 beds to 2 beds while not increasing the overall total number of patients/beds.

In order to address these needs, Genesis approached the adjacent church and property owner about acquiring approximately two acres from the neighboring parcel for the additional parking lot and proposed expansion. The adjacent tract (shown as Parcel 91) is a 9.7 acre tract primarily zoned D.R.5.5. A small portion of Parcel 91 is used as a cemetery, in conjunction with other adjacent properties owned by the Polish National Catholic Church. This cemetery has been at this location for over a century. Through purchase, Genesis proposes acquiring two acres of parcel 91 (which are vacant) and adding this land with frontage on German Hill Road to its property to accommodate the proposed expansion.

The Special Exception relief is requested is to approve the nursing home use on this two acre parcel. The Special Hearing is to amend the special exception granted in 1979, in order to incorporate the newly acquired property for use as a parking lot and for expansion of the current nursing home's special exception use, to the extent that the subject property will add to the area previously approved in the original case. The remaining 7.7 acres of Parcel 91 will continue to be part of the cemetery and approval of this is requested as a nonconforming use. The area of disturbance is limited to the 2 acres that Genesis will acquire and no other changes to the existing cemetery are proposed. Petitioners' requested relief and a detailed description of the subject property are more fully illustrated on the site plan and layout of current and proposed improvements. See Exhibits 1 and 4.

In support of the request, Petitioner offered aerial photographs of the site and the surrounding area, which were marked and accepted into evidence as Petitioners' Exhibits 2 and 3. These

photographs show primarily residential use of properties in the area with small pockets of commercial use along German Hill Road. Testimony indicated the design of the proposed parking and building expansion, as depicted on the site plan, would be in keeping with the aesthetics of the neighborhood and the existing facility. The design of the parking lot will result in an additional 43 spaces, and the expansion will not overcrowd the property. The new parking area will correct an operational deficiency and the expansion will permit realignment of rooms while providing much needed common space and related therapy space.

As to the location of the proposed building expansion and parking lot, written comments from both People's Counsel's office and the Baltimore County Office of Planning suggest a preferable relocation of the new parking lot to an area further from German Hill Road. The comments suggest this would create a more desirable layout. Moreover, these comments suggest that the building expansion be adjusted. Testimony was received that neither of these conditions are workable and cannot be incorporated. First, as shown on the site plan and through evidence presented, the grade immediately behind the possible future two-story building expansion is quite steep and would not permit the desired building expansion at that location. Significant re-grading would be required as the building would be built into a hill. As the property serves as the residence for 180 individuals, the installation of windows is required and this would be difficult on the hill side of the property. In addition to the steep grades, which would require retaining walls and would disrupt the natural topography of the site, locating the building as suggested by Planning would also create an architectural conflict with the existing building. Specifically, the Petitioners' proposal is designed to connect a proposed building wing with the main hallway of the existing building. Petitioners' submitted as Exhibit 4 the existing building floor plan, which shows this proposed entryway connecting with the main corridor of the existing operation, including a nurse's station as well as

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corridors to rooms, the lobby, dining room, etc. The placement of the expansion was stated as proper due to the entryway connecting logically with the current hallway layout of the existing operation.

Planning's comment states the proposed building could be redesigned; however, for the reasons previously outlined, this would not provide a feasible development either from a current operations standpoint or in light of the site constraints and grading requirements. Moreover, Planning's comment might require variances for building setbacks; which are not required under the current plan. Planning also requested that this proposed building should be designed as to not have a negative impact on the existing residential community. In this regard, Petitioner agreed to consult with the Office of Planning in developing an exterior building design that is in keeping not only with the existing residential character of its current operation, but also with the surrounding residential neighborhood. Petitioner also committed to working with the Office of Planning by indicating the parking area would be buffered by plantings and landscape design which would be reviewed and approved by the County's landscape architect and Office of Planning. Likewise, the proposed lighting plan would be also be subject to Planning review and approval.

Evidence was presented that the proposed development meets the criteria set forth in Section 502.1 of the BCZR, including the following: that the lot can be used without detrimental impact to the health, safety and general welfare of the locale; that it will not create congestion on the roads because it will take visitors and employees off the public streets in front of homes and businesses in the area, and will keep those persons from encroaching on private property. The proposed parking lot is compatible with the physical locale and neighborhood in that the subject property immediately abuts an existing nursing facility; and that the proposed use of the property is consistent with the zoning regulations and the previous approval granted through Case No. 80-77-X. Following Petitioners' case, neighbors offered testimony, stating they supported more parking in the area to alleviate spillage

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of vehicles into the neighborhood. The neighbors supported the operation of the nursing home itself, but were concerned over any potential expansion of the nursing home facility. The Petitioners' description of the proposed operation (that no new patients are proposed but a realignment to allow two beds to a room rather than three) satisfied those neighbors in attendance. Moreover, any additional expansion of the scope of the operation would have to comply with all relevant zoning regulations and require another public hearing.

As to the special hearing for the proposed parking, I find that it satisfies the requirement of 409.8.B of the B.C.Z.R. This proposed parking lot will be used as a component of the nursing home, in that it will be used only by Genesis employees and visitors and not for the public's use or by any other businesses in the vicinity. I agree with Petitioner this proposed parking will actually improve the traffic conditions in and around the community generated by the nursing home and that the design and layout of the parking lot depicted on Petitioners' Exhibit 1 is compatible with the physical locale and the mixed residential and commercial uses in the neighborhood. The location of the proposed parking in a residential zone is appropriate.

Petitioner also requests relief from the residential transition area requirements. The Petition for Special Hearing requests that I confirm that RTA setbacks are not "applicable" to this proposal. That wording is not technically correct; as the Petitioner is actually requesting that I determine that the RTA, as shown on the plan, is appropriate, based upon certain recommendations that were submitted in open hearing. One of the purposes of the RTA is to assure that adequate buffers and screening are provided between dissimilar housing types. Section 1B01.1.B.1.e.5 of the B.C.Z.R. generally requires that parking lots as an accessory use provide 50 foot buffers and 75 foot setbacks. Due to the size and

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4-14-10

By

RJ

configuration of the subject property, Petitioner desires a buffer and setback of 18 feet.² In the alternative to the special hearing, Petitioner asked for variance relief for these setbacks.

Addressing the request for special hearing, Petitioner observed that in certain circumstances, a variance from the RTA requirements *pursuant to the standard in Section 307.1* is not necessary for a reduction of the required residential transition area setbacks and buffers. Specifically, B.C.Z.R. Section 1B01.1.B.1.c(1) provides:

- (1) "Notwithstanding the provisions of Section 307, the hearing officer, upon the recommendation of Public Works, Planning, Environmental Protection and Resource Management, Permits and Development Management, Recreation and Parks, Community Development or the Economic Development Commission, may determine the amount of RTA in cases where a single tract of land is more than two acres, is vacant, or contains no more than one single-family detached, semidetached or duplex dwelling."³

The subject property is more than 2.0 acres in size and, therefore, qualifies for approval pursuant to the above section.⁴ Additionally, in this case, both the Director of Permits and Development Management and the Department of Economic Development submitted written recommendations to the undersigned, requesting that the proposed RTA buffers as shown on the plan be approved, without the need for a Section 307.1 based variance. Having considered Petitioners' site plan and the locations for the building addition, new off-street parking spaces, and other related improvements shown thereon, I will, based upon the Directors of Permits and Development Management and Economic Development's recommendations, approve the RTAs as shown on Petitioners' Exhibit 1. This approval is made *pursuant to Section 1B01.1.B.1.c(1)*, therefore, the provisions of the Section 307.1 are not applicable, and, as a result, the portion of

² There was certain discussion as to how the RTA setback/buffer is to be measured; i.e. from the property line of the Genesis site or the property line across the street at the closest neighbor's lot. The discussion is academic, insofar as a determination of the RTA pursuant to B.C.Z.R. Section 1B01.1.B.1.c.

³ This Section has been utilized to modify RTA requirements in the past. See (e.g.) Case No. 2009-0328-SPHA.

⁴ The property actually meets all three criteria, in that it is vacant and does not contain any dwelling.

the Petition for Variance that requests RTA relief through Section 307.1 will be dismissed as moot.

Finally, testimony and evidence was presented that the cemetery has existed on the remainder of Parcel 91 since the early 1900s with exhibits being submitted showing gravestones with dates of 1906, 1921 and 1927. As such, this cemetery predated the zoning regulations in Baltimore County and shall be permitted to remain as a legally non-conforming use. It should be noted that the 2-acre parcel that is subject to the Petition has always remained vacant and does not have any gravestones or other attributes attributable to a cemetery. As such, this vacant portion of land will be approved for the relief requested and will be permitted to be incorporated into the adjoining parcel through a non-density transfer (lot line adjustment). This lot line adjustment will allow these two acres to adjoin the existing facility while not adding any additional density thereon. As such, the density for the remainder of Parcel 91 will stay intact with the legally nonconforming cemetery use.

For all of these reasons and after due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth above, I find that Petitioners' request for special hearing and special exception should be GRANTED, and the petition for variance will be dismissed as moot.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this 14th day of April, 2010, that the Petition for Special Exception to approve a convalescent home, pursuant to Baltimore County Zoning Regulations (B.C.Z.R.) Section B01.1.c.3, be and is hereby GRANTED; and,

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By

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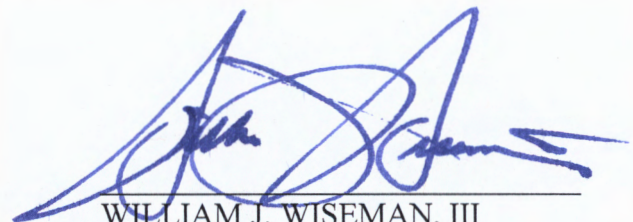
IT IS FURTHER ORDERED, that the Petition for Special Hearing to amend the previous Special Exception for a 180 bed convalescent home granted through Case No. 80-77-X; to approve business parking in a residential zone; to permit residential transition area (RTA) setbacks as shown on the plan and as recommended by the Directors of the Office of Economic Development and Department of Permits and Development Management; to confirm that the remainder of Parcel 91 exists as a non-conforming cemetery use; and to approve a property lien adjustment as a non-density transfer, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner shall consult with the Office of Planning as indicated hereinabove to develop appropriate design and architectural elements for the proposed building expansion; as well as obtaining approvals for a landscape and lighting plan.

IT IS FURTHER ORDERED that Petition for Variance relief shall be DISMISSED as MOOT.

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

Order.



WILLIAM J. WISEMAN, III
Zoning Commissioner
of Baltimore County

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Date

4-14-10

By

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BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

April 14, 2010

Sebastian A. Cross, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Ste. 200
Towson, MD 21204

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE
N/S German Hill Road, 78' W of c/line of Ridgeshire Road
(7110 German Hill Road)
12th Election District - 7th Council District
Polish National Catholic Church of the Holy Cross, Inc., *Legal Owner*;
101 Development Group, LLC, *Contract Purchaser* - Petitioners
Case No. 2010-0197-SPHXA

Dear Mr. Cross:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

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

Very truly yours,

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

WILLIAM J. WISEMAN
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

- c: Natalie Holland, Genesis Health Care, 515 Fairmount Avenue, Towson, MD 21286
James V. Hermann, JV Hermann & Associates, LLC, 1895 Eden Mill Road,
Pylesville, MD 21132
Michael Morin, Genesis Health Care, 7232 German Hill Road, Dundalk, MD 21222
Orvil Pointer, 1707 Inverness Avenue, Dundalk, MD 21222
Mary Williams, Dundalk Florist, 7233 German Hill Road, Dundalk, MD 21222
Cindy Morrison, Dundalk Florist, 7233 German Hill Road, Dundalk, MD 21222
Eugene L. Przybylowicz, III, 1724 Trappe Church Road, Darlington, MD 21034
Eugene L. Przybylowicz, 8057 Gray Haven Road, Dundalk, MD 21222
Melissa Sadowski, Department of Economic Development
People's Counsel; Stephen E. Weber, Traffic Engineering, Office of Planning; File



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at: 7110 German Hill Road

which is presently zoned: DR 16 & DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s):

SEE ATTACHED

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

TO BE PRESENTED AT HEARING

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

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

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

Contract Purchaser/Lessee:

101 Development Group, LLC, Michael S. Sherman, General Counsel

Name - Type or Print

Michael S. Sherman

Signature

101 E. State Street

Address

Telephone No.

Kennett Square

PA

19348

City

State

Zip Code

Attorney For Petitioner:

Sebastian A. Cross

Name - Type or Print

Sebastian A. Cross

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Polish National Catholic Church of the Holy Cross, Inc

Name - Type or Print

Richard A. Koory, Attorney

Signature

Richard Koory, General Counsel

Name - Type or Print

Signature

208 South Broadway

Address

Telephone No.

Baltimore

MD

21231

City

State

Zip Code

Representative to be Contacted:

Sebastian A. Cross, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

Case No. 2010-0197-SPHX-A

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By [Signature]

Date

01-13-10

REV 9/15/98

ORDER RECEIVED FOR FILING

Date 1-14-10

By [Signature]

Attachment to Petition for Variance
7110 German Hill Road

1. In the alternative, if the Zoning Commissioner deems it necessary, to approve as little as a zero ft. setback and buffer in lieu of the required 50 ft. buffer and 75 ft. setback for parking lots as per BCZR 1B01.1.B.1.e (3) & (5).



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 7110 German Hill Road

which is presently zoned DR 16 & DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

SEE ATTACHED

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

I, or we, agree to pay expenses of above Special Exception, 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:

101 Development Group, LLC, Michael S. Sherman, General Counsel

Name - Type or Print

Michael S. Sherman

Signature

101 E. State Street

Address

Telephone No.

Kennett Square

PA

19348

City

State

Zip Code

Attorney For Petitioner:

Sebastian A. Cross

Name - Type or Print

Sebastian A. Cross City

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

410-821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Polish National Catholic Church of the Holy Cross, Inc

Name - Type or Print

Richard A. Koory Attorney

Signature

Richard Koory, General Counsel

Name - Type or Print

Signature

208 South Broadway

Address

Telephone No.

Baltimore

MD

21231

State

Zip Code

Representative to be Contacted:

Sebastian A. Cross, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200

410-821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

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ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By [Signature] Date 01-13-10

REV 09/15/98

ORDER RECEIVED FOR FILING

Date 4-14-10

By [Signature]

Attachment to Petition for Special Exception
7110 German Hill Road

1. To approve a Special Exception for a convalescent home as per BCZR § 1B01.1.C.3.



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 7110 German Hill Road

which is presently zoned DR 16 & DR 5.5

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

SEE ATTACHED

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

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

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

Contract Purchaser/Lessee:

101 Development Group, LLC, Michael S. Sherman, General Counsel

Name - Type or Print

Michael S. Sherman

Signature

101 E. State Street

Address

Telephone No.

Kennett Square

PA

19348

City

State

Zip Code

Attorney For Petitioner:

Sebastian A. Cross

Name - Type or Print

Sebastian A. Cross

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Polish National Catholic Church of the Holy Cross, Inc

Name - Type or Print

Richard R. Koory Attorney

Signature

Richard Koory, General Counsel

Name - Type or Print

Signature

208 South Broadway

Address

Telephone No.

Baltimore

MD

21231

State

Zip Code

Representative to be Contacted:

Sebastian A. Cross

Name

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By

[Signature]

Date

01-13-10

REV 9/15/98

ORDER RECEIVED FOR FILING

Date

4-14-10

By

[Signature]

Attachment to Petition for Special Hearing
7110 German Hill Road

1. To amend the previous Special Exception for a 180 bed convalescent home granted through case no. 80-77-X;
2. To approve business parking in a residential zone as per BCZR § 409.8.b;
3. To confirm R.T.A. setbacks in BCZR § 1B01.1.B.1.e(3) & (5) are not applicable to the proposal.
4. To confirm remainder of parcel 91 exists as a legal non-conforming cemetery use.

5. To approve property adjustment as a non-density transfer.

Genesis Health Care

JVHermann & Associates LLC

1895 Eden Mill Road
Pylesville, Maryland 21132

Tel. 410-688-6005
Email: jvhermann@gmail.com

Heritage Center
7110 German Hill Road
Baltimore, Maryland 21222

Zoning Description

Beginning at a point on the northern right-of-way line of German Hill Road which right-of-way is 57' wide at the distance of 78' +/- west of the centerline of the nearest improved intersecting street Ridgeshire Road which right-of-way is 50' wide. Thence the following courses and distances:

151.50 feet along the arc of a non tangent curve to the left having a radius of 1757.00 feet subtended by a chord bearing S 89° 42'50" W 151.46 feet, N 21° 55'29" W 425.78 feet, N 86° 20'23" E 277.38 feet, S 04° 39'56" E 413.31 feet to the place of beginning.



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

No. **49380**

Date: **01/13/2010**

PAID RECEIPT

BUSINESS - JUNE THE 1897
 1/13/2010 1/13/2010 09:36:50 5

REC 4503 MARKIN 1897 118
 RECEIPT # 44072 1/13/2010 09:36

5 528 20100113 09:36:50

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	POB	0000		6150					200.00

Total: **200.00**

Rec From: **Dev. Group, LLC**

For: **2010-0197- SPNKA**

Recpt Tot 1990.00
 1990.00 OF 1.00 GA
 Baltimore County, Maryland

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: # 2010-0197-SPHXA

7110 German Hill Road

N/side of German Hill Road, 78 feet +/- west of the centerline of Ridgeshire Road

12th Election District — 7th Councilmanic District

Legal Owner(s): Polish National Catholic Church of the Holy Cross, Inc., Richard Koory, GC

Contract Purchaser: 101 Development Group, LLC, Michael Sherman, GC

Special Hearing: to amend the previous Special Exception for a 180 bed convalescent home granted through case 80-77-X; to approve business parking in a residential zone; to confirm R.T.A. setbacks in BCZR 1801.0.B.1.e(3) and (5) are not applicable to the proposal; to confirm remainder of parcel 91 exists as a legal non-conforming cemetery use; to approve property line adjustment as a non-density transfer. **Special Exception** to approve a Special Exception for a convalescent home. **Variance** to approve as little as zero feet setback and buffer in lieu of the required 50 feet buffer and 75 feet setback for parking lots.

Hearing: Friday, March 26, 2010 at 2p.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.

03/19/2010 March 11

232241

CERTIFICATE OF PUBLICATION

3/12/2010

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 3/11/2010.

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

S. Wilkinson

LEGAL ADVERTISING

+ - CERTIFICATE OF POSTING

2010-0197-SPHXA

RE: Case No.: _____

Petitioner/Developer: _____
101 Development Group, LLC, Michael Sherman, GC

March 26 2010

Date of Hearing/Closing: _____

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

Attn: Kristin Matthews

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were
posted conspicuously on the property located at: _____
7110 German Hill Road

March 11 2010

The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,

Robert Black 3/15/10
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

ZONING NOTICE

CASE # 2010-0197-SPHXA

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

PLACE: Room 104, JEFFERSON BUILDING
105 WEST CHESAPEAKE AVE TOWSON 21204

DATE AND TIME: FRIDAY, MARCH 26, 2010 AT 2:00 P.M.

REQUEST: SPECIAL HEARING TO AMEND THE PREVIOUS SPECIAL
EXCEPTION FOR A 180 BED CONValesCENT HOME GRANTED THROUGH
CASE 80-77-X. TO APPROVE BUSINESS PARKING IN A RESIDENTIAL ZONE
TO CONFIRM R.T.A. SETBACKS IN BCZR 1801.0.B.1.E(3) AND (5) ARE NOT
APPLICABLE TO THE PROPOSAL. TO CONFIRM REMAINDER OF PARCEL 91 EXISTS
AS A LEGAL NON-CONFORMING CEMETARY USE. TO APPROVE PROPERTY
LINE ADJUSTMENT AS A NON-DENSITY TRANSFER. SPECIAL EXCEPTION TO
APPROVE A SPECIAL EXCEPTION FOR A CONValesCENT HOME. VARIANCE
TO APPROVE AS LITTLE AS ZERO FEET SETBACK AND BUFFER IN LIEU OF
THE REQUIRED 50 FEET BUFFER AND 75 FEET SETBACK FOR PARKING
LOTS.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
February 16, 2010

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: 2010-0197-SPHXA

7110 German Hill Road

N/side of German Hill Road, 78 feet +/- west of the centerline of Ridgeshire Road

12th Election District – 7th Councilmanic District

Legal Owners: Polish National Catholic Church of the Holy Cross, Inc., Richard Koory, GC

Contract Purchaser: 101 Development Group, LLC, Michael Sherman, GC

Special Hearing to amend the previous Special Exception for a 180 bed convalescent home granted through case 80-77-X; to approve business parking in a residential zone; to confirm R.T.A setbacks in BCZR 1B01.0.B.1.e(3) and (5) are not applicable to the proposal; to confirm remainder of parcel 91 exists as a legal non-conforming cemetery use; to approve property line adjustment as a non-density transfer. Special Exception to approve a Special Exception for a convalescent home. Variance to approve as little as zero feet setback and buffer in lieu of the required 50 feet buffer and 75 feet setback for parking lots.

Hearing: Friday, March 26, 2010 at 2:00 p.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Sebastian Cross, Gildea & Schmidt, 600 Washington Ave., Ste. 200, Towson 21204
Richard Koory, 208 South Broadway, Baltimore 21231
Michael Sherman, 101 E. State Street, Kennett Square, PA 19348

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, MARCH 11, 2010.**
(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, March 11, 2010 Issue - Jeffersonian

Please forward billing to:
Sebastian Cross
Gildea & Schmidt
600 Washington Ave., Ste. 200
Towson, MD 21204

410-821-0070

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2010-0197-SPHXA

7110 German Hill Road

N/side of German Hill Road, 78 feet +/- west of the centerline of Ridgeshire Road

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Special Hearing to amend the previous Special Exception for a 180 bed convalescent home granted through case 80-77-X; to approve business parking in a residential zone; to confirm R.T.A setbacks in BCZR 1B01.0.B.1.e(3) and (5) are not applicable to the proposal; to confirm remainder of parcel 91 exists as a legal non-conforming cemetery use; to approve property line adjustment as a non-density transfer. Special Exception to approve a Special Exception for a convalescent home. Variance to approve as little as zero feet setback and buffer in lieu of the required 50 feet buffer and 75 feet setback for parking lots.

Hearing: Friday, March 26, 2010 at 2:00 p.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
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

March 18, 2010

Sebastian Cross
Gildea & Schmidt, LLC
600 Washington Ave. Ste. 200
Towson, MD 21204

Dear: Sebastian Cross

RE: Case Number 2010-0197-A, 7110 German Hill Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 13, 2010. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Polish National Catholic Church of the Holy Cross, Inc; 208 South Broadway, Baltimore, MD
21231
101 Development Group, LLC; 101 E. State St.; Kennett Square, PA 19348

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: January 22, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For February 1, 2010
Item Nos. 2010-0189, 190, 191, 192,
193, 195, 196, 197, 198 and 199

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

DAK:CEN:cab

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-02012010 -NO COMMENTS.doc



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

January 27, 2010

ATTENTION: Zoning Review Planners

Distribution Meeting Of: January 18, 2010

Item Numbers: 0193, 0197

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

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

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

cc: File

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



Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: Jan 21, 2010

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

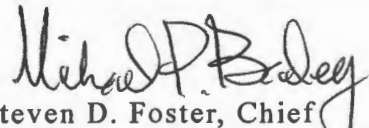
RE: Baltimore County
Item No. 2010-0197-SPHXA
7110 GERMAN HILL RD
POLISH NAT. CATH. CH. OF
THE HOLY CROSS, INC.
VARIANCE -
SPECIAL HEARING -

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. 2010-0197-SPHXA.

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

Very truly yours,


Steven D. Foster, Chief
For Engineering Access Permits
Division

SDF/mb

BW 3/26
2 PM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 19, 2010

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

RECEIVED

MAR 19 2010

SUBJECT: 7110 German Hill Road

INFORMATION:

ZONING COMMISSIONER

Item Number: 10-197

Petitioner: Polish National Church of the Holy Cross, Inc.

Zoning: DR 16 and DR 5.5

Requested Action: Variance, Special Exception and Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan. The following comments are offered:

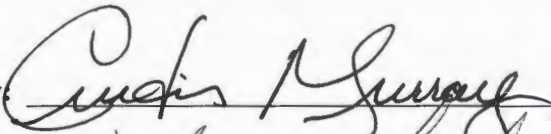
The proposed addition and accessory parking is immediately across from a community of single-family residential homes. The proposed parking has been placed in front to connect with the parking for the existing structure on the adjacent property.

The proposed building should be architecturally compatible with the residential properties across German Hill Road. The site should also be designed to not have a negative impact on the existing residential community as well. To that end, the additional structure should be set close to the road. There is ample room for the parking to be located to the side and rear of the proposed building.

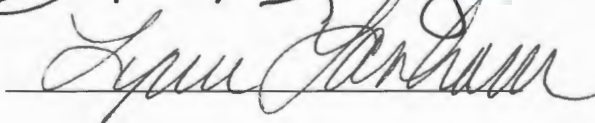
Alternatively, the proposed addition can be redesigned to attach along the front of the existing structure in the existing front parking lot and protrude less into the currently empty lot. Such a layout would permit the opportunity for a upgraded front elevation to the existing building and the proposed structure in addition to more room for parking on the side and rear of the proposed addition. This results in a existing residential community not being subjected to facing a parking lot.

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

Prepared by:



Division Chief:
AFK/LL: CM



RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SPECIAL EXCEPTION & VARIANCE * ZONING COMMISSIONER
7110 German Hill Road; N/S German Hill *
Road, 78' W of c/line of Ridgeshire Road *
12th Election & 7th Councilmanic Districts * FOR
Legal Owner(s): Polish National Catholic *
Church of the Holy Cross, Inc * BALTIMORE COUNTY
Contract Purchaser(s): 101 Development *
Group, LLC * 10-197-SPHXA

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

FEB 01 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of February, 2009, a copy of the foregoing Entry of Appearance was mailed to Sebastian A. Cross, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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

RECEIVED

March 10, 2010

MAR 10 2010

HAND DELIVERED

William J. Wiseman, III, Zoning Commissioner
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

ZONING COMMISSIONER

Re: PETITION FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE
Polish National Catholic Church of the Holy Cross, Legal Owner and
101 Development Group, LLC, Contract Purchaser - Petitioners
7110 German Hill Road
Case No: 10-197-SPHXA

Dear Mr. Wiseman,

We asked Stephen E. Weber, Chief of Traffic Engineering, to review the petition and site plan in this case for any traffic/parking issues. As a result, he sent the enclosed e-mail dated March 2, 2010, which is self-explanatory. As is our custom, we forward it to you for consideration. The hearing is set for March 26, 2010.

The owner is the Polish National Church. The listed "contract purchaser/lessee" is 101 Development Group, LLC. The proposed use involves a convalescent home. More to the point, it appears mainly to be for approval of an additional or new parking lot to serve an existing facility.

Mr. Weber focuses on the "possible future building expansion." He notes, that this "is not part of this variance request." However, the site plan outline of the "possible 2-story future building expansion" is confusing. It looks like it is for informational purposes, and thus subject to future hearing review. But its presence on the site plan might imply that any approval will give this "possibility" an advance blessing, so that no further hearing would be required.

It is also problematic that the site plan is confusing or incomplete with respect to existing and proposed uses, as well as size, scale, dimensions, and landscaping. The description of the "Possible future 2-story building expansion" is just one example.

Mr. Weber describes the need for additional parking to take pressure off local streets. At the same time, he identifies significant problems arising from the proposed new building. Any such building would have to take into account the need for still another parking lot and driveway design. Such new construction would likely overcrowd the site.

William J. Wiseman, III, Zoning Commissioner

March 10, 2010

Page 2

So, the proposed new building should be deleted from the special exception or be denied. To repeat, its presence on the plan could be misused in the future to suggest that any approval here implies an approval or favorable decision on the additional building, without taking into account Mr. Weber's observations.

This is not the only problem with the petitions. There does not appear to be any basis for the "special hearing" exemption of the proposal from the Residential Transition Area requirements. The proposal involves a nursing home and parking facility. This does not qualify for an exception as a reconstruction of a church or other facility under BCZR § 1B01.1.B.1.g.(3). Nor is it a new church or other building for religious worship under subsection (5). The RTA location and pertinent variances should be shown clearly on the site plan. The petitioner would then need to demonstrate the justification for the variances.

In this context, the proposed location of the parking lot is problematic. While Mr. Weber has identified the need for additional parking, Petitioners could place the parking lot more centrally on the property. This would avoid or mitigate the substantial ((Zero feet instead of 50/75 feet) setback and landscape buffer variances. Petitioners place the parking lot at the corner of the site, with virtually no setbacks. There is then the aforesaid major new building, which itself would need more parking. The contemplated expansion would probably overcrowd the site, fail to provide sufficient setbacks and buffering in an RTA, and lack sufficient landscaping. The site would be almost entirely covered by buildings and parking lots.

For your information, we enclose the December 17, 2009 decision of the Circuit Court in the Genesis Healthcare case. This affirmed the County Board of Appeals denial of a special exception involving RTA variances for an expanded parking lot for a healthcare facility in Catonsville. While each case must be evaluated on the facts, a proposed encroachment into the RTA is subject to strict scrutiny. Here, the need for additional parking can be fulfilled without the requested variances by locating the new parking lot more centrally on the site.

We are open to review any response from counsel for Petitioners and any additional observations from county departments to address these concerns.

Thank you for your attention.

Sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw

cc: Sebastian A. Cross, Esquire
Stephen Weber, Traffic Engineering
Lynn Lanham, Office of Planning

From: Stephen Weber
To: People's Counsel
CC: Dennis Kennedy
Date: 3/2/2010 2:00 PM
Subject: Fwd: Polish National Catholic Church 10-197-SPHXA
Attachments: 10-197-SPHXA Petition.pdf

Dear Mr. Zimmerman:

We have examined the subject request. Please be advised that we would support the requested setback variances. It appears that the nursing home is planning to expand the size of its property to allow for potential expansion of the building and an immediate expansion of their parking lot. Currently the nursing home is severely short on available parking and their employees/guests regularly park on German Hill Rd. Not only do they park on the north side of German Hill Rd adjacent to the nursing home and the cemetery but also on the south side of German Hill Rd in front of adjacent single-family homes and a floral business to the east. This parking has created hardships for the residents and floral business with vehicles at times parking too close to driveways, taking away on-street parking for the nearby residents and their guests, interfering with sight lines, and also presenting increased problems for deliveries by commercial trucks into and out of the floral shop driveways.

While the level of on-street parking by the nursing home employees & guests varies considerably, it tends to range anywhere from about 5 to 32 vehicles being placed on German Hill Rd because of insufficient on-site parking. The proposed 43 additional parking spaces shown on the plan would essentially eliminate the parking problems with which all their neighbors currently have to deal. As such it would be a definite benefit to them.

While I realize the proposed "possible future building expansion" shown on the plan is not part of this variance request, we only comment that when and if the nursing home comes to the County in the future for any such expansion, the location of the expansion will have to take into account the equal need to proportionately increase the size of the parking area to accommodate the increased parking demands generated by such an expansion. Since the proposed lot expansion appears to only be about 10 extra spaces beyond their current general maximum on-street parking being generated, it would clearly be very insufficient for a 2-story building expansion as shown on the plan. It would be necessary for any such expansion to be built toward the north end of the property, or they would have to build a driveway around the west edge of the building to an additional parking lot at the back end of the site behind the addition. We just want everyone to understand that the parking lot addition proposed under this variance is really only going to address the parking demands already being created by the existing building.

Should you have any questions regarding these comments or require any further clarification, please let me know.

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

>>> People's Counsel 2/5/10 9:56 AM >>>
Mr. Weber,

Attached you will find the Petitions for Special Hearing, Special Exception and Variance in the above case. Please review and let our office know if there are any traffic concerns.

Thank you in advance.
Peter Max Zimmerman

Rebecca M. Wheatley
Legal Secretary
Office of the People's Counsel for Baltimore County
410-887-2188 Phone
410-823-4236 Fax

PETITION OF GENESIS HEALTHCARE
FOR JUDICIAL REVIEW OF THE DECISION
OF THE COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

IN THE CASE OF GENESIS
LEGAL OWNERS FOR A PETITION FOR
SPECIAL VARIANCE ON PROPERTY
LOCATED AT 19 FUSTING AVENUE
N/S FUSTING AVENUE, 137' N C/LINE
HOWARD AVE

1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

PRIOR CASE NO. 07-535-SPHXA
BEFORE THE COUNTY OF APPEALS
1ST COUNCILMANIC DISTRICT

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
*
*
*
*
* Case No. 03-C-09-07215
*
*
*

* * * * *

MEMORANDUM OPINION

This matter came before the Court for hearing on December 8, 2009, on an administrative appeal from the decisions of the Opinions and Orders, dated January 16, 2009 and May 21, 2009, of the Baltimore County Board of Appeals (CBA) denying a request for variance. The Court has considered the memoranda submitted, along with the arguments of counsel in deciding this appeal.

I. Factual Background

Genesis Healthcare (Genesis) operates a nursing home in Catonsville, MD located at 16 Fusting Ave. Genesis also owns the subject property, an empty lot approximately 67 feet wide by 230 feet deep, zoned D.R. 5.5 (Density Residential), located across the street at 19 Fusting Ave. Located next to 19 Fusting Ave. are a single-family home (23 Fusting Ave.) and a seven unit apartment converted from a single family home. Genesis

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JAN 9 2010

BALTIMORE COUNTY
BOARD OF APPEALS

FILED JAN 11 2010



is seeking to convert 19 Fusting Ave. into a parking lot to alleviate what it alleges are overcrowded conditions on its own lot.

Because 23 Fusting Ave. is a single-family home within one hundred fifty feet of the boundary with 19 Fusting Ave., a residential transition area (RTA) is created. *See* Baltimore County Zoning Regulations (BCZR) § 1B01.1.B.1.b(1). An RTA is “a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed.” BCZR § 1B01.1.B.1.a(1). “The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.” BCZR § 1B01.1.B.a(2). Because the RTA generated from 23 Fusting Ave. extends onto 19 Fusting Ave. the BCZR requires that any parking lot or structure “shall provide a fifty-foot buffer and seventy-five-foot setback, and a height not to exceed 35 feet within the one-hundred-foot transition area.” BCZR § 1B01.1.B.e(5).

Due to the fact that this seventy-five foot setback would extend beyond the sixty-seven foot width of 19 Fusting Ave., Genesis filed three Petitions for special exception, special hearing and variance in May, 2007 to allow the paving of a lot with a thirteen and seven tenths (13.7) foot buffer/setback from the property boundary. In an Opinion dated September 10, 2007 the Deputy Zoning Commissioner granted the petitions subject to certain conditions. A neighbor, Angela Lunczynski, filed a timely appeal to the CBA. The CBA conducted three days of hearings, on June, 2008, July 23, 2008, and July 29, 2008. (Hereinafter “Day 1,” “Day 2,” and “Day 3” respectively.)

At the hearings Genesis presented two witnesses, Leana Hoover, administrator at the Genesis facility, and Bruce Doak, a licensed surveyor. Ms. Hoover testified that

Genesis had one hundred thirty-eight beds in its facility. Day 1, T. 34. BCZR § 409.6.A.1 sets fourth the standards for off-street parking, requiring one parking space for every three nursing beds. Genesis has fifty-six parking spaces at 16 Fusting Ave. but claimed that there was insufficient parking for staff and visitors. Day 1, T. 64. However Ms. Hoover agreed that similar convalescent facilities had comparable medical attendants visiting the facility and could not identify anything unusual about the 16 Fusting Ave. facility that would generate a disproportionate number of vehicles. Day 1, T. 110.

Mr. Doak was offered as an expert in Baltimore County development and zoning regulations, and presented his opinion why 19 Fusting Ave. was unique. Mr. Doak explained that 19 Fusting Ave. was unique due to the narrowness of the lot as well as its "very unique relationship to the convalescent home across the street." Day 2, T. 49. On cross-examination however, Mr. Doak acknowledged 19 Fusting Ave. was physically and topographically similar to several other properties in the area, and he acknowledged that some of these properties were even narrower. The primary thing that Mr. Doak claimed to make 19 Fusting Ave. unique was the proposed use. Day 2, T. 62-67. Mr. Doak confirmed that the size of the property would not prevent residential use of the property. Day 2. T. 102.

The Protestants of the variance testified at length about their opposition to the proposed parking lot. Additionally, the Protestants testified that the shape of the property was not unique and that several other area properties were of similar shape and size. *See e.g.*, Day 2, T. 218-19; Day 3, T. 28-29.

II. Decision of the CBA

The CBA denied the request for variance, and accordingly also denied the special exception and special hearing, in its Opinion dated January 16, 2009. Essentially the CBA determined that the property was not unique. The CBA found that 19 Fusting Ave. was narrow in width and rectangular in shape, but that this was quite similar to other lots in the area that contained residential structures. The CBA recognized that the narrowness of the lot, in conjunction with the setback requirements for the parking lot itself and the fact that the lot was located across the street from Genesis' nursing home facility, created unique circumstances. However, the CBA determined that the lot's physical characteristics were not unique. Therefore the CBA denied Genesis petition. See *Cromwell v. Ward*, 102 Md. App. 691, 698, 710 (1995) (discussed *infra*).

Genesis filed a Motion for Reconsideration requesting that the CBA reconsider in light of the Court of Appeals decision in *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County*, 407 Md. 53 (2008), defining "unique" as a property with "an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or similar restrictions." *Id.* at 81. Again, the CBA was not convinced by this argument, but rather agreed with People's Counsel, who noted that *Cromwell* had addressed Genesis' assertion when it stated "In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvement upon the property, or upon neighboring property." 102 Md. App. at 710. Therefore, the CBA denied Genesis Motion for Reconsideration in its opinion dated May 21, 2009.

III. Issue Presented

Whether the CBA erred in denying Genesis' request for a variance on the grounds that the property located at 19 Fusting Ave. was not unique.

IV. Standard of Review

"[T]he standard of review of the action of an administrative agency is whether a reasoning mind could have reached the conclusion which the administrative agency reached." *State Ins. Comm'r v. National Bureau of Casualty Underwriters*, 248 Md. 292, 309 (1967). "[T]he order of an administrative agency must be upheld on judicial review if it is not based on an error of law, and if the agency's conclusions reasonably may be based upon the facts proven." *People's Counsel v. Mangione*, 316 Md. 491, 496-97 (1989). Once the court determines that the administrative agency applied the proper legal standards, judicial review of the agency's conclusions is then tested by the "substantial evidence test." *See Montgomery County v. Buckman*, 333 Md. 516, 519-20 (1994).

The substantial evidence standard applicable to the Board's findings of fact and resolution of mixed questions of law and fact, sometimes referred to as the "fairly debatable" test, is implicated by our assessment of whether the record before the Board contained at least "a little more than a scintilla of evidence" to support the Board's scrutinization action. If such substantial evidence exists, even if [the Court] would not have reached the same conclusion as the Board based on all the evidence, [it] must affirm. Stated another way, substantial evidence pushes the Board's decision into the unassailable realm of a judgment call, one for which [the Court] may not substitute [its] exercise of discretion.

Friends of the Ridge v. Baltimore Gase and Electric Co., 120 Md. App. 444, 446 (1998), vacated in part, 352 Md. 645 (1999). However, on pure questions of law, no deference is

given "beyond the weight merited by the persuasive force of the reasoning employed." *Id.* The "fairly debatable test" mentioned above states: "If there is some evidence pointing in each direction, the issue is, by definition, 'fairly debatable,' and the decision of the administrative agency, whichever way it goes, may not be reversed on judicial review as having been arbitrary or capricious." *Futoryan v. Mayor and City Council of Baltimore*, 150 Md. App. 157, 172 (2003).

V. Legal Analysis

BCZR § 307.1 provides the CBA the authority to grant variances only in instances where "special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the [regulations] would result in practical difficulty or unreasonable hardship." The Court of Special Appeals has interpreted § 307.1 to require both the special circumstances and practical difficulty to exist prior to the variance being granted. *See Cromwell v. Ward*, 102 Md. App. 691, 698 (1995). "However, as is clear from the language of the... ordinance, the initial factor must be established before the practical difficulties, if any, are addressed... It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties..." *Id.*

The Court of Appeals recently reaffirmed the requirements to establish the unique nature of the property in *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County, et al.*, 407 Md. 53 (2008). As stated in *Trinity*:

[T]he 'unique' aspect of a variance requirement does not refer to the extent of improvements on the property, or upon the neighboring property. 'Uniqueness of a property for zoning purposes requires that the subject

property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or similar restrictions.

407 Md. at 81 (quoting *Lewis v. Dept. of Natural Resources*, 377 Md. 382, 434 (2003)).

Genesis claims that the CBA erred in finding that 19 Fusting Ave. was not unique. Genesis argues that 19 Fusting Ave. is unique based upon the “practical [restriction] imposed by the abutting [property],” at 23 Fusting Ave. First, Genesis points out that 23 Fusting Ave. is the only adjacent property that creates an RTA because it is the only single-family home located within one hundred fifty feet of the property boundary. Second, Genesis notes its desire to build a parking lot at 19 Fusting Ave. Genesis reasons that 19 Fusting Ave. is unique because it is impossible to build the parking lot and comply with the fifty-foot buffer and seventy-five-foot setback required by the RTA due to the fact that the seventy-five-foot setback extends beyond the sixty-seven-foot width of the property. Further, this practical restriction is unique because the RTA would not exist if the house at 23 Fusting Ave. were further than one-hundred-fifty from the property line. Therefore, Genesis reasons that a unique practical restriction exists because but for the location of the house at 23 Fusting Ave. the RTA would not exist and Genesis would not be required to have to maintain a buffer and setback. Thus, Genesis claims the CBA erred in concluding that 19 Fusting Ave. was not unique.

This Court is not convinced by these arguments, and finds that the CBA properly applied the law in determining that 19 Fusting Ave. was not unique. Genesis’ expert acknowledged that many properties in the neighborhood and throughout the county were of similar widths as 19 Fusting Ave. The Court of Special Appeals has recognized that

the inability of a property to accommodate the setbacks for a desired use is not evidence of uniqueness under *Cromwell* and § 307.1. See generally *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497 (1986) (ruling that a trucking facility which had been operating on property too small to accommodate the required set back was in violating of the BCZR and not eligible for a variance despite the fact that it had been in operation prior to the change in the zoning regulations). "It is not the uniqueness of the plight of the owner, but the uniqueness of the land causing the plight which is the criterion... Thus, a landowner was not entitled to a variance to relieve his land from a restriction which applied equally to all lots of similar size." *Cromwell*, 102 Md. App. at 719-20.

Genesis' argument that *Trinity's* holding that uniqueness can be created by "practical restrictions imposed by abutting properties (such as obstructions)" includes the RTA created by the location of the single-family home at 23 Fusting Ave is not persuasive. If the RTA restrictions alone constitute a "practical restriction," then all properties in similar circumstances would arguably be "unique." This would severely compromise the purpose of this zoning restriction.

The CBA properly interpreted the variance case law in analyzing this issue. There was substantial evidence to support the CBA decision. Genesis' desire to build a parking lot at 19 Fusting Ave., on property completely encompassed by a RTA, is not a unique circumstance. Rather the CBA properly applied *Cromwell* and *Trinity* when it looked at the physical characteristics of the subject property itself.

The evidence in the record supports the CBA's findings that other properties in the neighborhood were similarly narrow, and that 19 Fustng Ave. lacked any unusual

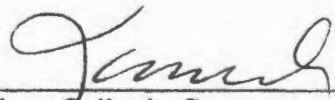
physical characteristics. The mere existence of a zoning restriction created by an abutting property does not make a property unique. Because a reasoning mind could have reached the same conclusion as the CBA based upon this evidence, this Court must affirm its decision.

Conclusion

For the reasons stated, the decisions of the CBA comport with the applicable law, and are supported by substantial evidence. Therefore, the decisions are AFFIRMED.

Date

12/17/09



Kathleen Gallogly Cox
Judge

Clerk: Please send copies to all parties.

PETITION OF GENESIS HEALTHCARE
FOR JUDICIAL REVIEW OF THE DECISION
OF THE COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

IN THE CASE OF GNEIS
LEGAL OWNERS FOR A PETITION FOR
SPECIAL VARIANCE ON PROPERTY
LOCATED AT 19 FUSTING AVENUE
N/S FUSTING AVENUE, 137' N C/LINE
HOWARD AVE

1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

PRIOR CASE NO. 07-535-SPHXA
BEFORE THE COUNTY OF APPEALS
1ST COUNCILMANIC DISTRICT

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY

* Case No. 03-C-09-07215

* * * * *

JUDGMENT ORDER

For the reasons stated in this Court's Memorandum Opinion dated December 17,
2009, the decisions of the Baltimore County Board of Appeals dated January 16, 2009
and May 21, 2009 are AFFIRMED.

12/17/09
Date

Kathleen Gallogly Cox
Judge

Clerk: Please send copies to all parties.

cc: L. SCHMIDT ESQ.
C. DEMISTO ESQ.
M. TANNIEN ESQ.

FILED JAN 11 2010

GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE

SUITE 200

TOWSON, MARYLAND 21204

TELEPHONE 410-821-0070

FACSIMILE 410-821-0071

www.gildeallc.com

DAVID K. GILDEA

LAWRENCE E. SCHMIDT

D. DUSKY HOLMAN

SEBASTIAN A. CROSS

CHARLES B. MAREK, III

JASON T. VETTORI

March 22, 2010

Sent via Hand Delivery

Mr. Timothy M. Kotroco, Director
Department of Permits and Development Management
111 W. Chesapeake Avenue, Room 105
Towson, MD 21204

Re: Genesis Health Care/7110 German Hill Road
Case No.: 10-0197-SPHXA

Dear Mr. Kotroco:

Kindly be advised that I represent Genesis Health Corp. ("Genesis") the owner of property located at 7110 German Hill Road in Dundalk. This property is improved with an existing nursing home building that provides housing for approximately 180 residents. Genesis is a nationally recognized leader in the operation of nursing homes and providing services to the elderly. Genesis operates a number of facilities in the greater Baltimore Metropolitan Area and several facilities in Baltimore County. The property at 7110 German Hill Road employs approximately 150 people.

The building at 7110 German Hill Road was constructed many years ago and was approved by Baltimore County in 1979 by the then Zoning Commissioner. Due to its age and Genesis' desire to modernize its facility, Genesis proposes a modest renovation of the site.

Specifically, when the facility was initially opened, the parking requirements under the Zoning Regulations then in affect required one (1) parking space per 10 beds. Those requirements have been amended so that three (3) parking spaces are now required for each 10 beds. Due to theses requirements and the functional inefficiency of the existing parking lot, Genesis proposes the construction of an additional parking area on a two (2) acre property immediately adjacent to its site. That property is currently owned by the Polish National Catholic Charities and is vacant. The two (2) acre parcel is a small piece of a large cemetery operated by the charity. Additionally, Genesis proposes the eventual construction of a building addition. This addition will not increase the capacity of the facility, rather, it will enhance the services provided. Specifically rooms that currently house three (3) beds will be adjusted to provide two (2) beds. As a result, although the number of residents will not change, the quality of service will be enhanced. Further, additional administrative and employee space will be provided within the addition.

Mr. Timothy M. Kotroco

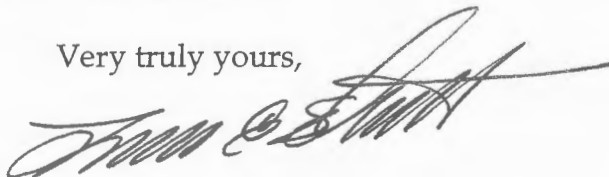
March 22, 2010

Page 2

Although the Genesis facility is surrounded on three (3) sides by the Polish Catholic Cemetery, a residential community of single family dwellings is located across German Hill Road from the property. Under the County's Zoning Regulations, these houses generate a "Residential Transition Area" (RTA) which requires a 75 foot setback and 50 foot buffer to the parking lot. The Zoning Regulations further provide that the setback/buffer may be modified by the Zoning Commissioner upon recommendation of any number of County Department Directors, including the Director of the Department of Permits and Development Management. The Commissioner will determine the precise RTA to be required if a modification to the setback/buffer is requested by the applicant and supported by a Director. As shown on the attached plan, the closest residence will be across German Hill Road. This major public roadway thus serves as a buffer between the houses on that side of the street and the Genesis property. Additionally, the parking lot will be setback 18 feet from the right-of-way on the Genesis side of that roadway. We believe that the attached plan provides an adequate RTA in view of the character of the property at issue and neighborhood.

Under the circumstances, Genesis would appreciate your favorable recommendation of the attached plan to the Zoning Commissioner. If you are supportive of this request, please sign below where indicated and return to me as soon as possible. I will present this letter to the Commissioner and request a modification of the RTA consistent with this plan. Finally, please note that the hearing before the Zoning Commissioner is scheduled for Friday, March 26, 2010, at 2:00 p.m., thus your prompt attention is appreciated.

Very truly yours,



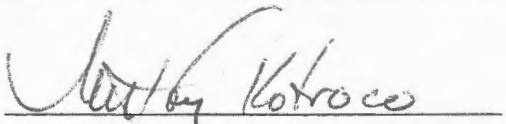
Lawrence E. Schmidt

LES: jkl

Enclosure

CC: James V. Hermann, JVHermann & Associates
Sebastian A. Cross, Esquire

REVIEWED & RECOMMENDED



Mr. Timothy M. Kotroco, Director

Department of Permits and Development Management



Maryland Department of Assessments and Taxation
HARFORD COUNTY
Real Property Data Search (2007 vw1.1d)

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

Account Identifier: District - 05 **Account Number -** 001935

Owner Information

Owner Name: PRZYBYLOWICZ EUGENE L III **Use:** RESIDENTIAL
 PRZYBYLOWICZ DIANA L **Principal Residence:** YES
Mailing Address: 1724 TRAPPE CHURCH ROAD **Deed Reference:** 1) / 2190/ 469
 DARLINGTON MD 21034-1619 2)

Location & Structure Information

Premises Address **Legal Description**
 1724 TRAPPE CHURCH ROAD LT 1 2 ACRES
 DARLINGTON 21034-1619 1724 TRAPPE CHURCH ROAD
 LD BARBERRY PT 95/32

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	95032
27	2F	430					1	1	Plat Ref:	

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1987	1,232 SF	2.00 AC	
Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2010	07/01/2009	07/01/2010
Land	138,000	128,000		
Improvements:	175,390	142,500		
Total:	313,390	270,500	313,390	270,500
Preferential Land:	0	0	0	0

Transfer Information

Seller: DAVIES BRUCE LYNN	Date: 10/25/1994	Price: \$129,500
Type: IMPROVED ARMS-LENGTH	Deed1: / 2190/ 469	Deed2:
Seller: RICHARDSON GUY E	Date: 05/15/1987	Price: \$28,000
Type: IMPROVED ARMS-LENGTH	Deed1: / 1396/ 963	Deed2:
Seller: BARBERRY THEODORE OMAR	Date: 02/23/1983	Price: \$17,500
Type: IMPROVED ARMS-LENGTH	Deed1: / 1181/ 658	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *



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

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

Account Identifier: District - 12 **Account Number -** 1216076710

Owner Information

Owner Name: PRZYBYLOWICZ EUGENE L **Use:** RESIDENTIAL
 PRZYBYLOWICZ ELVIRA **Principal Residence:** YES
Mailing Address: 8057 GRAY HAVEN RD **Deed Reference:** 1) / 4983/ 350
 BALTIMORE MD 21222-3447 2)

Location & Structure Information

Premises Address
 8057 GRAY HAVEN RD

Legal Description

GRAY HAVEN

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
104	7	230			1	D	36	3	Plat Ref: 19/ 1

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1955	1,216 SF	3,500.00 SF	04

Stories	Basement	Type	Exterior
2	YES	END UNIT	BRICK

Value Information

	Base Value	Value As Of 01/01/2009	Phase-in Assessments As Of 07/01/2009	As Of 07/01/2010
Land	38,000	38,000		
Improvements:	74,510	111,090		
Total:	112,510	149,090	124,703	136,896
Preferential Land:	0	0	0	0

Transfer Information

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

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

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

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *


Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw6.3d)

[Go Back](#)
[View Map](#)
[New Search](#)
Account Identifier: District - 12 Account Number - 1216060620

Owner Information

Owner Name:	POLISH NAT CATHOLIC CH OF THE HOLY CROSS INC	Use:	EXEMPT
Mailing Address:	208 S BROADWAY BALTIMORE MD 21231	Principal Residence:	NO
		Deed Reference:	1) 2)

Location & Structure Information
Premises Address

7110 GERMAN HILL RD

Legal Description

 LT NS GERMAN HILL RD
 BEG 150 E OF 51ST

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
96	22	91						3	Plat Ref:

Special Tax Areas	Town
	Ad Valorem
	Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1907	1,208 SF	14.93 AC	01
Stories	Basement	Type	Exterior
2	NO	STANDARD UNIT	BRICK

Value Information

	Base Value	Value	Phase-In Assessments	
		As Of	As Of	As Of
		01/01/2009	07/01/2009	07/01/2010
Land	113,790	142,230		
Improvements:	60,850	75,390		
Total:	174,640	217,620	188,966	203,292
Preferential Land:	0	0	0	0

Transfer Information

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

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt:	COUNTY AND STATE
Exempt Class:	CHURCHES, SYNAGOGUES, & PARSONAGES

Special Tax Recapture:
* NONE *

CASE NAME 7110 German Heir Rel.
CASE NUMBER 2010-0197-SP1KA
DATE 3-26-10

[illegible]

CASE NAME 7110 Darnell White, RA
CASE NUMBER 2010-0197-SPHMA
DATE 3-26-10

100 years old



GENE PRZYBYLOWICZ
FAA-CERTIFIED FLIGHT INSTRUCTOR
PHONE & FAX 410-285-4936

CASE NAME 7110 German Tree Rd.
CASE NUMBER 2010-0197-SHKA
DATE 3-26-10

[illegible]

Case No.:

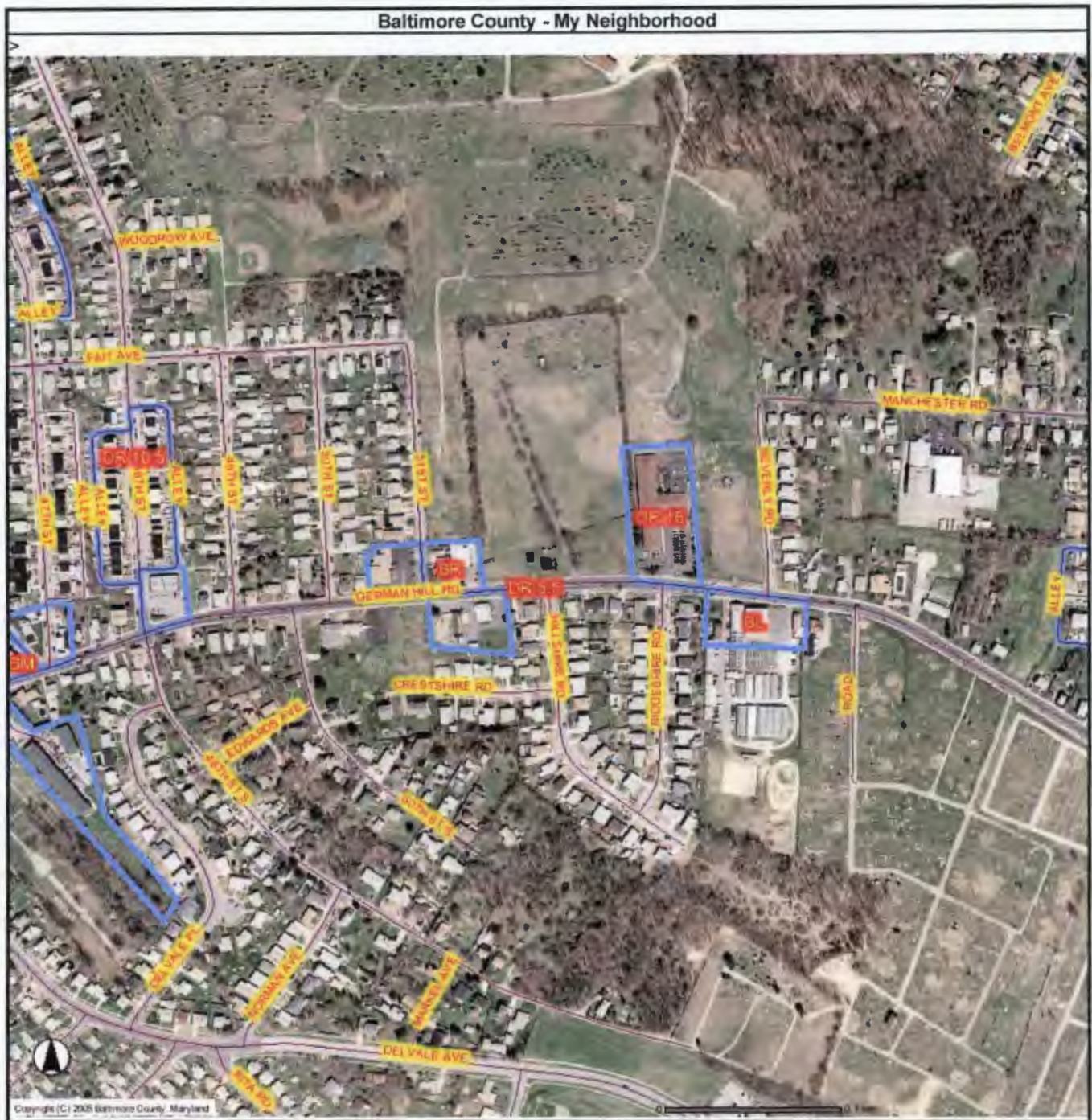
2010-0197-SPHXA 7110 German Hill Rd.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN	VARIOUS PHOTO'S FROM DUNDALK FLOREST - Mary Wilson & LINDA MORRISON -
No. 2	2 Aerial Photos	Demonstrating Existing Conditions of area
No. 3	Aerial - Existing Conditions	
No. 4	LAYOUT OF CURRENT OR AND PROPOSED IMPROVEMENTS	
No. 5	RTA Regulations	
No. 6	DIRECTOR KOTROCO Recommendation ON RTA approval	
No. 7	DIRECTOR IANNUCCI RTA Recommendation	
No. 8	NON CONFORMING CEMETERY - Holy Cross	
No. 9		
No. 10		
No. 11		
No. 12		



PETITIONER' S

EXHIBIT NO. #2



PETITIONER'S

EXHIBIT NO. 3

50 feet 20 m

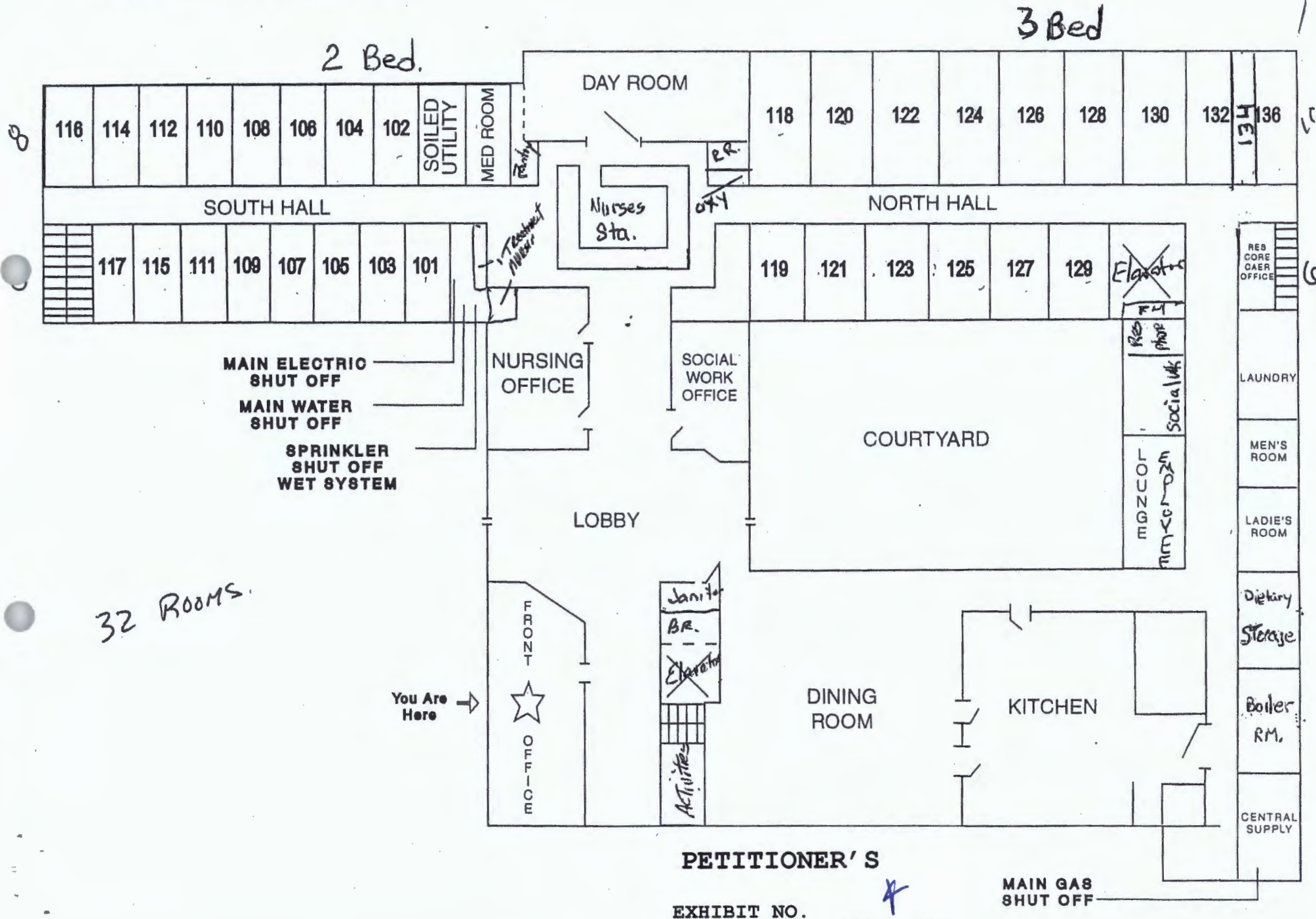






FIRST FLOOR

MAIN SHUT OFF LOCATIONS



PETITIONER'S

EXHIBIT NO. 4

MAIN GAS SHUT OFF

- e. Offices for the conduct of business incidental to the rental, operation, service or maintenance of apartment buildings.
 - f. Signs, subject to Section 450. [Bill No. 89-1997]
 - g. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (all such accessory structures or uses subject to the height and area provisions for buildings as set forth in Section 400). [Bill No. 71-1987]
19. Commercial film production, subject to Section 435. [Bill No. 57-1990]
- B. Dwelling-type and other supplementary use restrictions based on existing subdivision and development characteristics. [Bill No. 124-1981]
1. Residential transition areas and uses permitted therein. [Bill No. 2-1992]
- a. Definitions and purpose. [Bill No. 2-1992]
 - (1) The residential transition area (RTA) is a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed.
 - (2) The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.
 - b. Generation of residential transition area. An RTA is generated if the property to be developed is zoned D.R. and lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R.5.5 or R.C. which: [Bill Nos. 2-1992; 8-2004]
 - (1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; or
 - (2) Is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected.
 - c. Variance of RTA. [Bill No. 2-1992]
 - (1) Notwithstanding the provisions of Section 307, the hearing officer, upon the recommendation of Public Works, Planning, Environmental Protection and Resource Management, Permits and Development Management, Recreation and Parks, Community Development or the Economic Development Commission, may determine the amount of RTA in cases where a single tract is more than two acres, is vacant, or contains no more than one single-family detached, semidetached or duplex dwelling.
 - (2) The RTA for a tract may be modified as directed by findings pursuant to § 32-4-402 and the hearing officer's hearing under Article 32, Title 4, Subtitle 2 of the Baltimore County Code. However, the hearing officer

GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE

SUITE 200

TOWSON, MARYLAND 21204

TELEPHONE 410-821-0070

FACSIMILE 410-821-0071

www.gildeallc.com

PETITIONER' S

EXHIBIT NO. 6

DAVID K. GILDEA

LAWRENCE E. SCHMIDT

D. DUSKY HOLMAN

SEBASTIAN A. CROSS

CHARLES B. MAREK, III

JASON T. VETTORI

March 22, 2010

Sent via Hand Delivery

Mr. Timothy M. Kotroco, Director
Department of Permits and Development Management
111 W. Chesapeake Avenue, Room 105
Towson, MD 21204

**Re: Genesis Health Care/7110 German Hill Road
Case No.: 10-0197-SPHXA**

Dear Mr. Kotroco:

Kindly be advised that I represent Genesis Health Corp. ("Genesis") the owner of property located at 7110 German Hill Road in Dundalk. This property is improved with an existing nursing home building that provides housing for approximately 180 residents. Genesis is a nationally recognized leader in the operation of nursing homes and providing services to the elderly. Genesis operates a number of facilities in the greater Baltimore Metropolitan Area and several facilities in Baltimore County. The property at 7110 German Hill Road employs approximately 150 people.

The building at 7110 German Hill Road was constructed many years ago and was approved by Baltimore County in 1979 by the then Zoning Commissioner. Due to its age and Genesis' desire to modernize its facility, Genesis proposes a modest renovation of the site.

Specifically, when the facility was initially opened, the parking requirements under the Zoning Regulations then in affect required one (1) parking space per 10 beds. Those requirements have been amended so that three (3) parking spaces are now required for each 10 beds. Due to theses requirements and the functional inefficiency of the existing parking lot, Genesis proposes the construction of an additional parking area on a two (2) acre property immediately adjacent to its site. That property is currently owned by the Polish National Catholic Charities and is vacant. The two (2) acre parcel is a small piece of a large cemetery operated by the charity. Additionally, Genesis proposes the eventual construction of a building addition. This addition will not increase the capacity of the facility, rather, it will enhance the services provided. Specifically rooms that currently house three (3) beds will be adjusted to provide two (2) beds. As a result, although the number of residents will not change, the quality of service will be enhanced. Further, additional administrative and employee space will be provided within the addition.

Mr. Timothy M. Kotroco

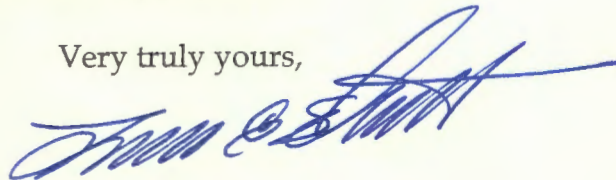
March 22, 2010

Page 2

Although the Genesis facility is surrounded on three (3) sides by the Polish Catholic Cemetery, a residential community of single family dwellings is located across German Hill Road from the property. Under the County's Zoning Regulations, these houses generate a "Residential Transition Area" (RTA) which requires a 75 foot setback and 50 foot buffer to the parking lot. The Zoning Regulations further provide that the setback/buffer may be modified by the Zoning Commissioner upon recommendation of any number of County Department Directors, including the Director of the Department of Permits and Development Management. The Commissioner will determine the precise RTA to be required if a modification to the setback/buffer is requested by the applicant and supported by a Director. As shown on the attached plan, the closest residence will be across German Hill Road. This major public roadway thus serves as a buffer between the houses on that side of the street and the Genesis property. Additionally, the parking lot will be setback 18 feet from the right-of-way on the Genesis side of that roadway. We believe that the attached plan provides an adequate RTA in view of the character of the property at issue and neighborhood.

Under the circumstances, Genesis would appreciate your favorable recommendation of the attached plan to the Zoning Commissioner. If you are supportive of this request, please sign below where indicated and return to me as soon as possible. I will present this letter to the Commissioner and request a modification of the RTA consistent with this plan. Finally, please note that the hearing before the Zoning Commissioner is scheduled for Friday, March 26, 2010, at 2:00 p.m., thus your prompt attention is appreciated.

Very truly yours,



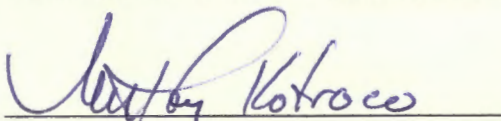
Lawrence E. Schmidt

LES: jkl

Enclosure

CC: James V. Hermann, JVHermann & Associates
Sebastian A. Cross, Esquire

REVIEWED & RECOMMENDED



Mr. Timothy M. Kotroco, Director

Department of Permits and Development Management

BW 3/26
2pm



BALTIMORE COUNTY
MARYLAND

PETITIONER' S

EXHIBIT NO. 7

JAMES T. SMITH, JR.
County Executive

DAVID S. IANNUCCI
Executive Director
Department of Economic Development

March 25, 2010

RECEIVED

MAR 25 2010

Mr. William J. Wiseman, III
Baltimore County Zoning Commissioner
111 West Chesapeake Avenue
Towson, MD 21204

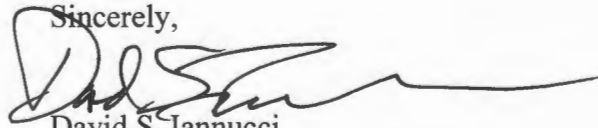
ZONING COMMISSIONER

Dear Mr. Wiseman:

Genesis Health Care, located at 7110 German Hill Road in Dundalk, (Case number 10-0197-SPHXA) is an existing nursing home that provides care for 180 residents. In order to enhance services provided to the residents, Genesis would like to expand and modernize the current building as well as the parking lot. Expanding the parking lot will improve the functional inefficiencies that currently exist as well as meet the required regulations.

Genesis Health Care is a major employer in Maryland, operating a number of facilities in the greater Baltimore region and several facilities in Baltimore County. They currently employ 4,000 statewide and 150 at the Dundalk facility.

Baltimore County Economic Development is in full support of Genesis Health Care's expansion. I recommend the residential transition area be modified to accommodate the proposed facility enhancements.

Sincerely,

David S. Iannucci
Executive Director

cc: Pat Keller



PETITIONER'S

EXHIBIT NO.

B

A



JESUS HAVE MERCY

KILKOWSKI

WIFE
MARYANNA
BORN 1853
JUNE 22, 1927

HUSBAND
MARION
BORN 1855
AUG. 23, 1933

Case No.: 2010-0197-SPHXA 7110 GERMAN Hill RD.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN	VARIOUS PHOTO'S FROM DUNDALK FLORET - Mary Wilson & LINDA MORRISON -
No. 2	2 Aerial Photos	Demonstrating Existing Conditions of area
No. 3	Aerial - Existing Conditions	
No. 4	LAYOUT OF CURRENT OR AND PROPOSED IMPROVEMENTS	
No. 5	RTA Regulations	
No. 6	DIRECTOR KOTROCO Recommendation ON RTA approval	
No. 7	DIRECTOR IANNUCCI RTA Recommendation	
No. 8	NON CONFORMING CEMETERY - Holy Cross	
No. 9		
No. 10		
No. 11		
No. 12		



PROTESTANT' S

EXHIBIT NO. _____

1





ZONING NOTICE

CASE # 2010-0197-SPHXA

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

PLACE: Room 104, JEFFERSON BUILDING
105 WEST CHESAPEAKE AVE TOWSON 21204

DATE AND TIME: FRIDAY MARCH 26, 2010 AT 2:00 P.M.

REQUEST: SPECIAL HEARING TO AMEND THE PREVIOUS SPECIAL

EXCEPTION FOR A 180 BED COMMUNIST HOME GRANTED THROUGH
CASE 80-77-X TO APPROVE BUSINESS PARKING IN A RESIDENTIAL ZONE
TO CORRECT R.T.A. ERRORS IN BCZA 1801.0.B1.C13 AND C15 ARE NOT
APPLICABLE TO THE PROPOSAL TO CORRECT R.T.A. ERRORS IN BCZA 1801.0.B1.C13 AND C15 ARE NOT
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POSTPONEMENTS DUE TO WEATHER OR OTHER CIRCUMSTANCES ARE SOMETIMES NECESSARY
TO CORRECT HEARING CALL 867-3331
DO NOT REMOVE THIS SIGN AND POST UNTIL OUT OF HEARING UNDER PENALTY OF LAW

HAZARDOUS ACCESSIBLE











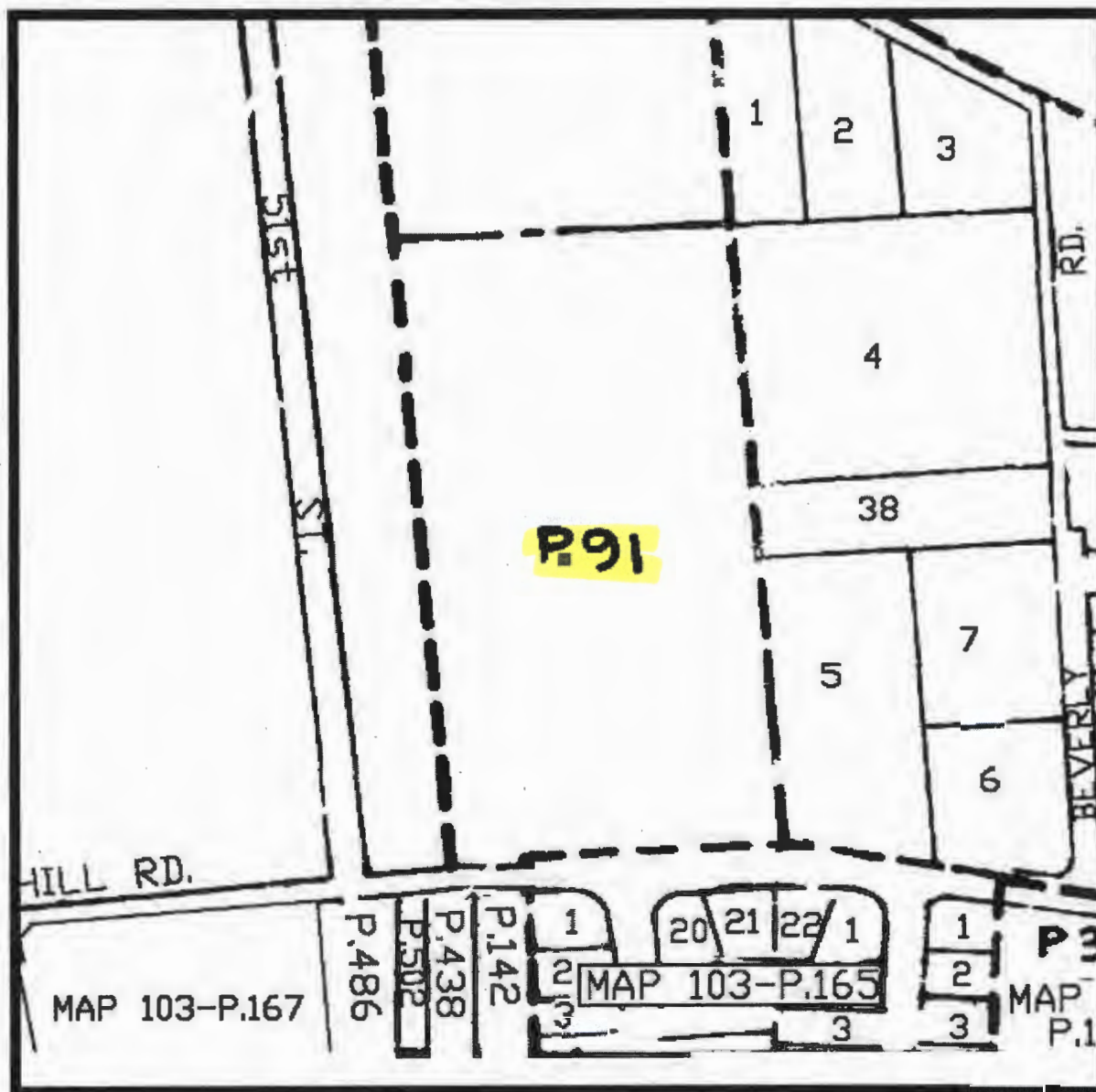




Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

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

District - 12 Account Number - 1216060620



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net.

Property maps provided courtesy of the Maryland Department of Planning ©2009.
 For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml

1215000123

096B3

PL Bk. 4 Folio 106
1215000080

PDM # 128008

SITE

SE 2-

DR 16

GERMAN ~~WILL~~ RD

19870421

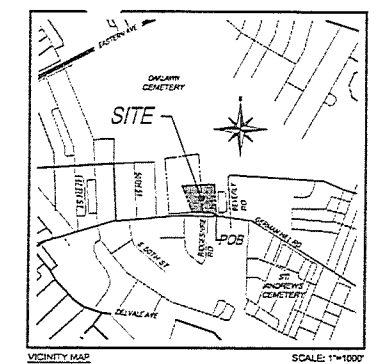
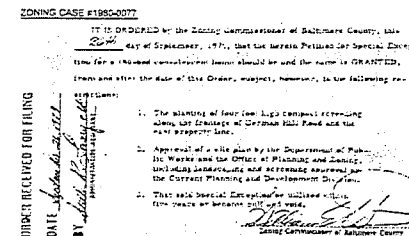
BL

ROAD

GERMAN HILL RD

103B1

48TH ST



COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY

John M. Galt
 John M. Galt
 10/1/84
 10/1/84
 10/1/84

LEGEND

EX. LOT LINE
 EX. BUILDING
 EX. 2' CONTOUR
 EX. 3' CONTOUR
 EX. PAVING
 EX. ZONING
 EX. UTILITY POLE
 EX. FENCE
 EX. GAS
 EX. STORM DRAIN
 EX. SANITARY
 EX. WATER
 EX. FIRE HYDRANT
 PROP. FIRE HYDRANT
 PROP. LGS
 PROP. CURB

SITE DATA:

1. **OWNER/APPLICANT:** HERITAGE ASSOCIATES CO
GENESIC HEALTHY CORP.
101 EAST STATE STREET
KENNETT SQUARE, PA 19348
7028 GERMAN HILL ROAD
BALTIMORE, MARYLAND 21222

TAX MAP ADDRESS: MAP 96, PARCEL 223
12-121-106753

TAX MAP #/PARCEL: EXISTING AREA = 2.0 ACRES +/- (87,120 SF)
PROPOSED AREA = 4.8 ACRES +/- (174,240 SF)

TAX NO.: DR 18

ACREAGE: NURSING HOME (CONVALESCENT)
NURSING HOME (CONVALESCENT)

2. **OWNER:** POLISH NATIONAL CATHOLIC
CHARITIES OF THE POLY-CROSS INC
208 SOUTH BROADWAY
BALTIMORE, MARYLAND 21201

CONTRACT PURCHASER: 161 DEVELOPMENT LLC
101 EAST STATE STREET
KENNETT SQUARE, PA 19348
CONTACT: NATALIE HOLLAND
PHONE: 410-64-8160

PROPERTY ADDRESS: 7110 GERMAN HILL ROAD
BALTIMORE, MARYLAND 21222

TAX MAP #/PARCEL: MAP 96, PARCEL 91
12-121-062020

TAX NO.: EXISTING AREA = 6.7 ACRES +/- (422,932 SF +/-)
PROPOSED AREA = 7.7 ACRES +/- (335,412 SF +/-)

ACREAGE: DR 5.5
VACANT

ZONING: NURSING HOME (CONVALESCENT)

EXISTING USE:

PROPOSED USE:

3. **ELECTION DISTRICT:** 12

4. **COUNCILMANIC DISTRICT:** 7

5. **A PLAN TO ACCOMPANY DRC REQUEST FOR A LOT LINE ADJUSTMENT WILL BE SUBMITTED TO BALTIMORE COUNTY'S DEPARTMENTAL REVIEW COMMITTEE.**

6. **SETBACKS:**

	DR 5.5	DR 18
FRONT:	40 FEET	30 FEET
SIDE:	20 FEET	25 FEET
REAR:	30 FEET	30 FEET

7. **PARKING:**

REQUIRED = 18 PS (180 BEDS / 10 * 18 PS) *
PROPOSED = 39 PS

* - REQUIRED PARKING PER THE PLAN APPROVED BY THE OFFICE OF PLANNING & ZONING DATED 8-13-60 CASE # 80-77.

8. **THIS PROPERTY IS SERVED BY PUBLIC WATER AND SANITARY SEWER.**

9. **ZONING MAP # 09683 - PREVIOUS PRINT OUT OF EXISTING ZONING FROM BALTIMORE COUNTY'S DEPARTMENT OF ZONING ON 1-6-2010**

10. **ZONING HISTORY - RECENT ZONING CHANGES:**
#1962-5619 - REQUEST FOR ZONING RECLASSIFICATION FROM R-6 TO R-4 WAS GRANTED ON MARCH 5th, 1965, AN APPEAL WAS DENIED ON JULY 6th, 1965. (SEE ORDERS INCLUDED THIS PLAN.)
#1960-6077 - SPECIAL EXCEPTION TO OPERATE A 180 BED CONVALESCENT HOME WAS GRANTED ON SEPTEMBER 25th, 1978. (SEE ORDER INCLUDED THIS PLAN.)

11. **FLOOD ZONE - THE SUBJECT PROPERTY IS WITHIN ZONE A AS SHOWN ON THE FIRM MAP 2400100420 F (SEPTEMBER 26, 2008).**

12. **BOUNDARY INFORMATION DERIVED FROM ALTA/ACAD LAND TITLE SURVEY BY JOSEPH THOMPSON & ASSOCIATES, LLC, 402 HICKORY AVENUE, BEL AIR, MARYLAND 21014, GIS DATA: BALTIMORE COUNTY GIS FILE 09683 AND 10381.**

13. **PROPOSED SIGNAGE SHALL COMPLY WITH SECTION 450 OF THE BCZR.**

14. **THERE ARE NO PROPOSED STREET IMPROVEMENTS AND/OR RIGHT-OF-WAY HIGHWAY WIDENING FOR THIS PROJECT.**

15. **THE SUBJECT PROPERTY IS NOT WITHIN THE SHED OF A FAILING INTERSECTION OR FAILING WATER OR SEWER AREA FROM BALTIMORE COUNTY'S BASIC FACILITIES MAPS.**

16. **REQUESTED ZONING RELIEF:**

PETITION FOR SPECIAL EXCEPTION

1. **TO APPROVE A SPECIAL EXCEPTION FOR A CONVALESCENT HOME AS PER BCZR § 1801.1.C.3.**

PETITION FOR SPECIAL HEARING

1. **TO DENY THE PREVIOUS SPECIAL EXCEPTION FOR A 180 CONVALESCENT HOME GRANTED THROUGH CASE NO. 60-77-3.**

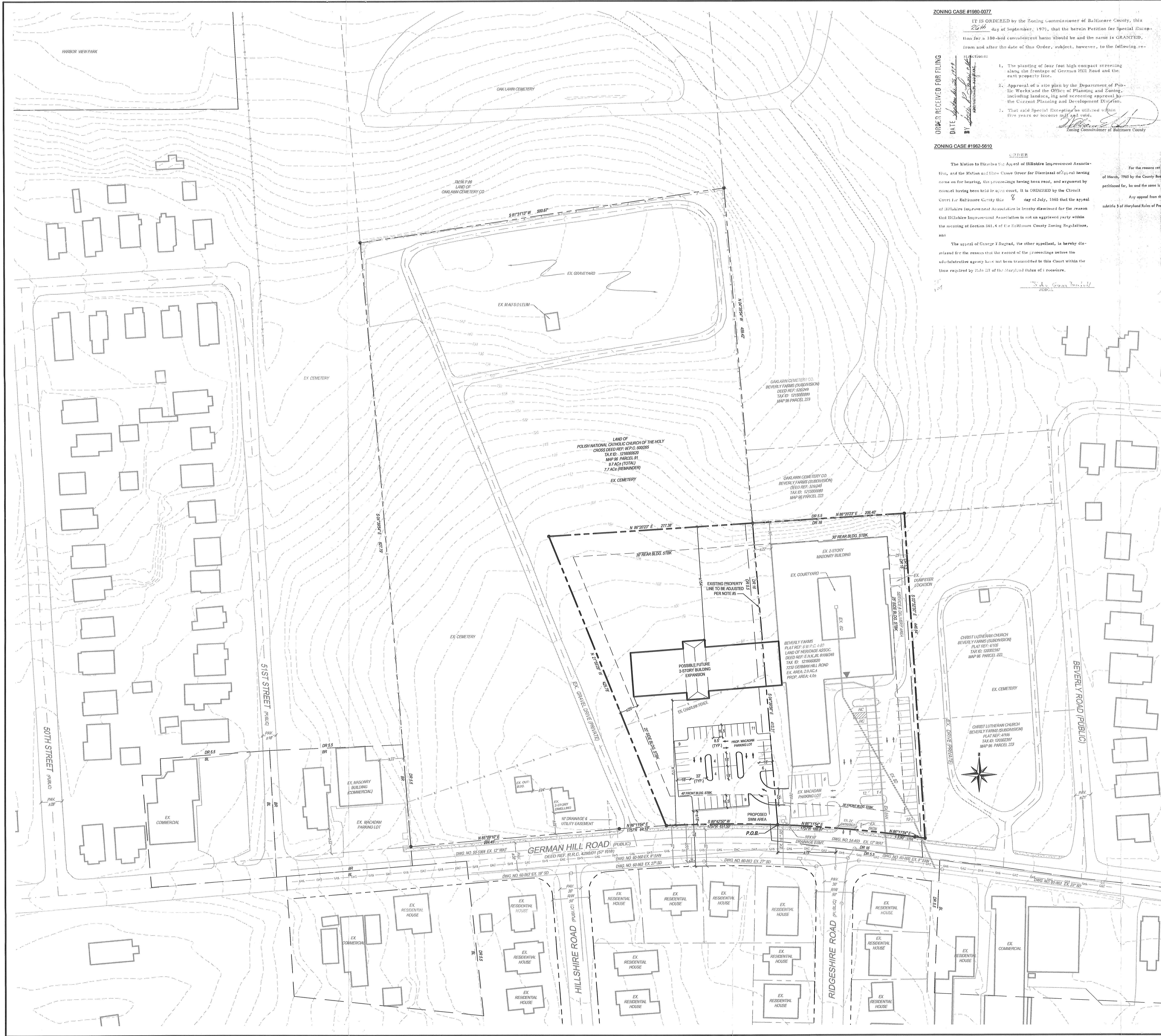
2. **TO APPROVE BUSINESS PARKING IN A RESIDENTIAL ZONE AS PER BCZR § 4.00.1(b).**

3. **TO CONFIRM R-4L SETBACKS IN BCZR § 1801.1.B.1.(E) ARE NOT APPLICABLE TO THE PROPOSAL.**

PETITION FOR VARIANCE

1. **IN THE EVENT (IF THE ZONING COMMISSIONER DEEMS IT NECESSARY, TO APPROVE AS LITTLE AS A ZERO FT. SETBACK AND BUFFER IN LIEU OF THE REQUIRED 50 FT. BUFFER AND 75 FT. SETBACK FOR PARKING LOTS AS PER BCZR 1801.1.B.1.E (5).**

		JVBermann & Associates, LLC 1895 Eden Mill Road Pylesville, Maryland 21132 Phone: 410-688-6005 Email: jvbermann@gmail.com	
		PLAN TO ACCOMPANY SPECIAL EXCEPTION AND SPECIAL HEARING PETITIONS HERITAGE CENTER 7110 GERMAN HILL ROAD BALTIMORE COUNTY, MARYLAND	
		ELECTION DISTRICT 13	COUNCILMANIC DISTRICT 7
		SCALE: 1"=50'	DWG NO. 2006-188A DATE: 05/17/2010 SHEET: 1 OF 1



ZONING CASE #1980-0077

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 26th day of September, 1979, that the herein Petition for Special Exception for a 180-bed convalescent home should be and the same is GRANTED, from and after the date of this Order, subject, however, to the following conditions:

- The planting of four foot high compact screening along the frontage of German Hill Road and the east property line.
- Approval of a site plan by the Department of Public Works and the Office of Planning and Zoning, including landscaping and screening approved by the Current Planning and Development Division.
- That said Special Exception be utilized within three years or become null and void.

ZONING CASE #1982-5810

The Motion to Dismiss the Appeal of Hillshire Improvement Association, and the Motion to Dismiss the Case Order for Dismissal of Appeal having come on for hearing, the proceedings having been read, and argument by counsel having been held in open court, it is ORDERED by the Circuit Court for Baltimore County this 8 day of July, 1985 that the appeal of Hillshire Improvement Association is hereby dismissed for the reason that Hillshire Improvement Association is not an aggrieved party within the meaning of Section 501.4 of the Baltimore County Zoning Regulations, and

The appeal of George F. Nugent, the other appellant, is hereby dismissed for the reason that the record of the proceedings before the administrative agency have not been transmitted to this Court within the time required by Rule 27 of the Maryland Rules of Procedure.

ORDER

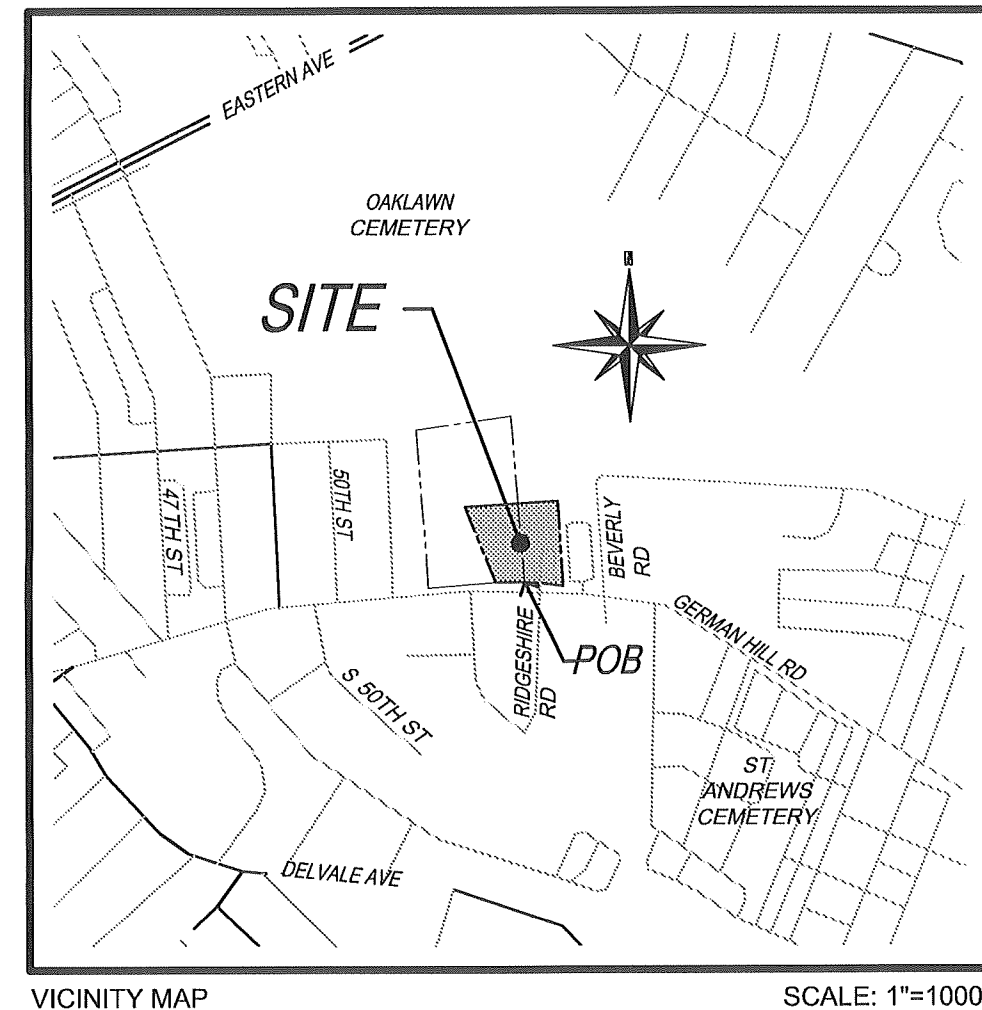
For the reasons set forth in the foregoing Opinion, it is this 8 day of March, 1985 by the County Board of Appeals, ORDERED that the reconsideration petitioned for, be and the same is hereby granted.

Any appeal from this decision must be in accordance with Chapter 1105, subtitle 8 of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

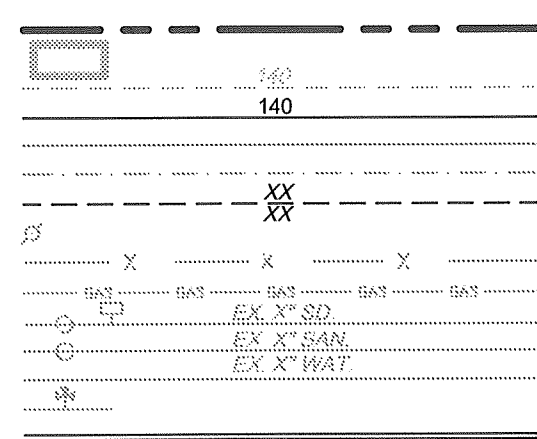
W. Phil Park

John A. Slawik



LEGEND

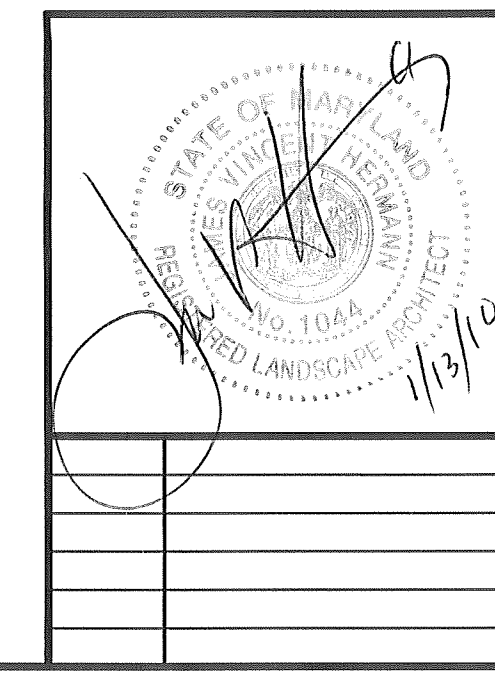
- EX. LOT LINE
- EX. BUILDING
- EX. Z. CONTOUR
- PROP. CONTOUR
- EX. PAVING
- EX. ROAD CENTERLINE
- EX. ZONING
- EX. UTILITY POLE
- EX. FENCE
- EX. GAS
- EX. STORM DRAIN
- EX. SANITARY
- EX. WATER
- EX. FIRE HYDRANT
- PROP. CURB



SITE DATA:

- OWNER/APPLICANT: HERITAGE ASSOCIATES CO
GENESIS HEALTH CORP.
101 EAST STATE STREET
KENNETT SQUARE, PA 19348
7232 GERMAN HILL ROAD
BALTIMORE, MARYLAND 21222
TAX MAP #PARCEL: MAP 96, PARCEL 223
TAX NO.: 12-12106752
ACREAGE: EXISTING AREA = 2.0 ACRES +/- (87,120 SF)
PROPOSED AREA = 4.0 ACRES +/- (174,240 SF)
ZONING: DR 16
EXISTING USE: NURSING HOME (CONVALESCENT)
PROPOSED USE: NURSING HOME (CONVALESCENT)
- OWNER: POLISH NATIONAL CATHOLIC CHARITIES OF THE HOLY CROSS INC
208 SOUTH BROADWAY
BALTIMORE, MARYLAND 21231
CONTRACT PURCHASER: 101 DEVELOPMENT LLC
101 EAST STATE STREET
KENNETT SQUARE, PA 19348
CONTACT: NATALIE HOLLAND
PHONE: 410-49-8100
7110 GERMAN HILL ROAD
BALTIMORE, MARYLAND 21222
TAX MAP #PARCEL: MAP 96, PARCEL 91
TAX NO.: 12-121806020
ACREAGE: EXISTING AREA = 9.7 ACRES +/- (422,532 SF +/-)
PROPOSED AREA = 7.7 ACRES +/- (335,412 SF +/-)
ZONING: DR 5.5
EXISTING USE: VACANT
PROPOSED USE: NURSING HOME (CONVALESCENT)
- ELECTION DISTRICT: 12
- COUNCILMANIC DISTRICT: 7
- A PLAN TO ACCOMPANY DRG REQUEST FOR A LOT LINE ADJUSTMENT WILL BE SUBMITTED TO BALTIMORE COUNTY'S DEVELOPMENT REVIEW COMMITTEE.
- SETBACKS: FRONT: 40 FEET DR 5.5 30 FEET DR 16
SIDE: 20 FEET 25 FEET
REAR: 30 FEET 30 FEET
- PARKING: REQUIRED = 18 PS (180 BEDS / 10 = 18 PS) *
PROPOSED = 38 PS
* - REQUIRED PARKING PER THE PLAN APPROVED BY THE OFFICE OF PLANNING & ZONING DATED 8-13-80 CASE # 80-77. NO INCREASE IN THE PROPOSED BEDS IS ANTICIPATED AT THIS TIME WITH THE POSSIBLE FUTURE 2-STORY BUILDING ADDITION.
- THIS PROPERTY IS SERVED BY PUBLIC WATER AND SANITARY SEWER.
- ZONING MAP # 09683 - RECEIVED PRINT OUT OF EXISTING ZONING FROM BALTIMORE COUNTY'S DEPARTMENT OF ZONING ON 1-6-2010.
- ZONING HISTORY - PREVIOUS ZONING CASES:
#1982-5810 - REQUEST FOR ZONING RECLASSIFICATION FROM R-6 TO R-A WAS GRANTED ON MARCH 5TH, 1985. AN APPEAL WAS DISMISSED ON JULY 8TH, 1985. (SEE ORDERS INCLUDED THIS PLAN.)
#1980-0077 - SPECIAL EXCEPTION TO OPERATE A 180 BED CONVALESCENT HOME WAS GRANTED ON SEPTEMBER 26TH, 1979. (SEE ORDER INCLUDED THIS PLAN.)
- FLOOD ZONE - THE SUBJECT PROPERTY IS WITHIN ZONE X AS SHOWN ON THE FIRM MAP 2400100420 F (SEPTEMBER 26, 2008).
- BOUNDARY INFORMATION DERIVED FROM ALTA/ASCM LAND TITLE SURVEY BY JOSEPH THOMPSON & ASSOCIATES, LLC, 402 HICKORY AVENUE, BEL AIR, MARYLAND 21014, GIS DATA: BALTIMORE COUNTY GIS TITLE 09683 AND 10351.
- PROPOSED SIGNAGE SHALL COMPLY WITH SECTION 450 OF THE BCZR. THE EXISTING SIGN IS TO REMAIN. (BALTIMORE COUNTY PERMIT # 12838)
- THERE ARE NO PROPOSED STREET IMPROVEMENTS AND/OR RIGHT-OF-WAY HIGHWAY WIDENING FOR THIS PROJECT.
- THE SUBJECT PROPERTY IS NOT WITHIN THE SHED OF A FAILING INTERSECTION OR FAILING WATER OR SEWER AREA PER BALTIMORE COUNTY'S BASIC SERVICES MAPS.
- PROPOSED LIGHTING FIXTURES USED TO ILLUMINATE OFF-STREET PARKING AREAS SHALL BE ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS. LIGHT STANDARDS SHALL BE PROTECTED FROM VEHICULAR TRAFFIC BY CURBING OR LANDSCAPING.
- DESIGN, SCREENING AND LANDSCAPING SHALL BE PROVIDED IN ACCORDANCE WITH THE LANDSCAPE MANUAL AND ALL OTHER MANUALS ADOPTED PURSUANT TO SECTION 32-4-404 OF THE BALTIMORE COUNTY CODE.
- CURBING OR ANCHORED WHEEL STOPS MUST BE PROVIDED AROUND EVERY PARKING LOT IN ACCORDANCE WITH BALTIMORE COUNTY'S REGULATIONS.
- THIS PROPERTY IS NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
- REQUESTED ZONING RELIEF:
PETITION FOR SPECIAL EXCEPTION
1. TO APPROVE A SPECIAL EXCEPTION FOR A 180 BED CONVALESCENT HOME AS PER BCZR § 1801.1.C.3.
PETITION FOR SPECIAL HEARING
1. TO AMEND THE PREVIOUS SPECIAL EXCEPTION FOR A 180 CONVALESCENT HOME GRANTED THROUGH CASE NO. 80-77-X;
2. TO APPROVE BUSINESS PARKING IN A RESIDENTIAL ZONE AS PER BCZR § 409.8.B;
3. TO CONFIRM R.T.A. SETBACKS IN BCZR § 1801.1.B.1 & 1801.1.B.1.A(4)(D) ARE NOT APPLICABLE TO THE PROPOSAL;
4. TO CONFIRM REMAINDER OF PARCEL 91 EXISTS AS A LEGAL NON-CONFORMING CEMETERY USE.
- PETITION FOR VARIANCE
1. IN THE ALTERNATIVE, IF THE ZONING COMMISSIONER DEEMS IT NECESSARY, TO APPROVE AS LITTLE AS A ZERO FT. SETBACK AND BUFFER IN LIEU OF THE REQUIRED 50 FT. BUFFER AND 75 FT. SETBACK FOR PARKING LOTS AS PER BCZR 1801.1.B.1.b(3)(5).

To Approve non-dens. by Transfer



JVHermann & Associates, LLC
1895 Eden Mill Road
Pylesville, Maryland 21132
Phone: 410-688-6005
Email: jvherrmann@gmail.com

PLAN TO ACCOMPANY SPECIAL EXCEPTION AND SPECIAL HEARING PETITIONS
HERITAGE CENTER
7110 GERMAN HILL ROAD
BALTIMORE COUNTY, MARYLAND

ELECTION DISTRICT 12 COUNCILMANIC DISTRICT
SCALE: 1"=50' DWG NO. 2009-108A DATE: 01/13/2010 SHEET: 10

PETITIONER'S EXHIBIT NO. 1