

IN RE: PETITION FOR VARIANCE

N side of Fitch Avenue; 200 feet E of
the c/l of Rossville Boulevard
14th Election District
6th Councilmanic District
(4416 Fitch Avenue)

**Emil A. Schott Jr. and
Barbara J. Schott, Power of Attorney**
Petitioners

**Kafo, LLC; Dr. Patricia A. O'Brien,
Managing Member**
Contract Purchaser

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY

*
*
* CASE NO. 2010-0290-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Emil A. Schott, Jr. and Barbara J. Schott by Power of Attorney of Emil A. Schott, Jr., and the current lessee and contract purchaser of the subject property, Dr. Patricia O'Brien (hereinafter collectively referred to as "Petitioners"). Petitioners are requesting Variance relief as follows:

- From Section 238.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard of 18 feet in lieu of the 30 feet required; and
- From Section 250.2 of the B.C.Z.R. to permit a side yard of 28 feet in lieu of the 30 feet required, and the sum of two side yards of 46 feet in lieu of the 80 feet required.

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 variance requests were the contract purchaser, Dr. Patricia A. O'Brien, Managing Member, Kafo, LLC, Christine O'Brien --

Dr. O'Brien's daughter and business manager, and William A. Beale, Esquire, attorney for Petitioners. Also appearing in support of the requested relief was Richard E. Matz, with Colbert Matz Rosenfelt, Inc., the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is rectangular in shape, containing 0.70 acre, zoned M.L.R.-I.M. and B.R. and located on the north side of Fitch Avenue, east of the centerline of Rossville Boulevard, in the Nottingham area of Baltimore County. The subject property is currently improved with a 1½-story building currently occupied by the contract purchaser, Dr. Patricia O'Brien and her dental practice, O'Brien Family Dentistry. Dr. O'Brien currently leases the property from the legal owners, but at this juncture desires to purchase the property and develop it further. The current office is a residence-like structure that, according to the Real Property Data Search contained in the file, was built in 1963 and contains approximately 1,152 square feet. Photographs of the existing improvements on the property were marked and accepted into evidence as Petitioners' Exhibits 3A and 3B. The subject property is located in what could be termed a "transition area" between the large commercial corridor along Belair Road (Route 1), zoned with various business and manufacturing districts, and residential properties to the east of the subject property, including numerous Perry Hall subdivisions. The zoning map, which also shows the various zoning designations surrounding the subject property, was marked and accepted into evidence as Petitioners' Exhibit 2.

Petitioners request variance relief in order to facilitate the sale of the subject property. Development of the subject property would result in the razing of the current improvements on the property and the subsequent construction of a new and improved two-story medical office building. It is this redevelopment that drives the need for variance relief. The first phase of

redevelopment would entail razing the existing garage and canopy near the rear of the property and removing the existing driveway to the east of the primary structure. The garage, canopy and driveway can be seen more clearly in the aforementioned photographs (Petitioner's Exhibits 3A and 3B). Demolition would make way for the construction of a proposed 50 foot by 74 foot two-story office building for a dental office to be occupied by the O'Brien Family Dentistry on the second floor, and other medical office tenants on the first floor. The second phase of redevelopment, razing the existing primary structure, would commence once the proposed building was completed and occupied. Elevation, cross-section and architectural drawings and renderings of the proposed development were marked and accepted into evidence as Petitioners' Exhibit 5. Petitioners' attorney, Mr. Beale, noted the existence of an agreement with the adjacent property owner to the east, Beltway Property Management, Inc., to execute an agreement similar to the "Declaration of Easement and Covenants for Maintenance of Private Driveway" that was marked and accepted into evidence as Petitioners' Exhibit 4, for the use of the private driveway for the benefit of the subject property. As shown on the site plan and explained by Petitioners' engineer, Mr. Matz, the use of this private ingress and egress will result in better traffic flow to and from the proposed parking area to the rear, while not having any measureable effect on the property owner's use of the road for their benefit.

Mr. Matz also explained that the proposed development could not move forward absent variance relief. Under existing Zoning Regulations only a 20 foot wide structure could be built due to the narrow nature of the property and the side yard requirements. Thus, the subject property would be disproportionately impacted compared to others in the zoning district. Additionally, the property's location in a "transition area" renders it unique. Moreover, the unique topography of the property, which slopes from front to back, creates difficult conditions

for development. Mr. Matz also provided expert testimony that strict compliance with the Zoning Regulations would be unworkable and would create practical difficulty and unreasonable hardship upon Petitioners.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated May 21, 2010 which indicate that the Office does not oppose the Petitioners' request provided certain conditions are met, including architectural building elevations to be reviewed and approved prior to issuance of any building permits, and submission of a landscape plan which includes details on any proposed signage and lighting for review and approval prior to the issuance of any building permits. No other comments in opposition to the requests were received.

Based upon the testimony and evidence presented, I am persuaded to grant the request for variance relief. There is adequate evidence that the subject property is peculiar, unusual and unique in accordance with Section 307.1 of the B.C.Z.R., as interpreted in the case of *Cromwell v. Ward*, 102 Md. App. 691 (1995). Factors such as environmental conditions, topography and lot configuration are indicators of a unique property. Further, a property owner has a common law right to use his property in a manner so as to realize its highest and best use. See, *Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303 (1972). Under the current Zoning Regulations, the odd lot configuration of the subject property would only enable Petitioners to construct a 20 foot wide structure -- certainly not practical for this property's commercial zoning. Compliance with the Regulations would thereby create a practical difficulty that would result in depriving Petitioners of a use otherwise permitted under the Regulations. Moreover, the location of the subject property in a transition or "buffer" area between primarily commercial uses to the

west and more residential uses to the east, as well as the sloping topography, contribute to the uniqueness of the subject property.

Finally, I find that the variance requests can be granted in harmony with the spirit and intent of the Regulations, and in such manner as to grant relief without injury to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioners' variance request should be granted.

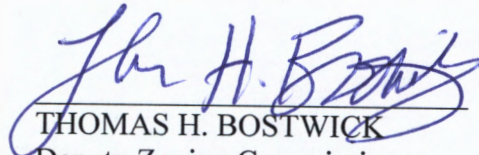
THEREFORE, IT IS ORDERED this 28th day of June, 2010 by this Deputy Zoning Commissioner, that Petitioners' Variance requests as follows:

- From Section 238.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard of 18 feet in lieu of the 30 feet required; and
- From Section 250.2 of the B.C.Z.R. to permit a side yard of 28 feet in lieu of the 30 feet required, and the sum of two side yards of 46 feet in lieu of the 80 feet required,

be and are hereby **GRANTED**, subject to the following:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Architectural building elevations for the proposed structure shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits.
3. A landscape plan which includes details on any proposed signage and lighting shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits.

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


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

June 28, 2010

WILLIAM A. BEALE, ESQUIRE
604 CENTRAL AVENUE
TOWSON MD 21204

Re: Petition for Variance
Case No. 2010-0290-A
Property: 4416 Fitch Avenue

Dear Mr. Beale:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

Enclosure

- c: Dr. Patricia A. O'Brien, Managing Member, Kafo LLC, 400 West Joppa Road, Towson MD 21204
Christine O'Brien, 18 Gray Drive, Pasadena MD 21122
Richard Matz, Colbert Matz & Rosenfelt, Inc., 2835 Smith Avenue, Suite G, Baltimore MD 21209



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 4416 Fitch Avenue

which is presently zoned MLR and BR

Deed Reference 6412/311 Tax Account # 1407016820

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 of thereof, 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)

Reasons to be presented at the hearing.

Property 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:

Kafo. LLC

Dr. Patricia A. O'Brien, Managing Member

Name - Type or Print

Signature

4416 Fitch Avenue

Address.

City

410-882-5552

Telephone No.

MD 21236

State Zip Code

Attorney For Petitioner:

William A. Beale, Esq.

Name - Type or Print

Signature

William A. Beale, P.A.

Company

604 Central Avenue

Address

Towson

City

410-337-2530

Telephone No.

MD 21204

State Zip Code

Legal Owner(s):

Emil A. Schott, Jr.

Name - Type or Print

Signature

Barbara J. Schott, P.O.A. Emil A. Schott, Jr.

Name - Type or Print

Signature

4717 Mellow Road

Address.

White Hall

City

410-557-7152

Telephone No.

MD 21161

State Zip Code

Representative to be Contacted:

Richard E. Matz, P.E.

COLBERT MATZ ROSENFELT, INC

2835 Smith Avenue, Suite G

Address

Baltimore

City

410-653-3838

Telephone No.

MD 21209

State Zip Code

Case No. 2010-0290-A

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By D.T.

Date 4/22/10

Revised Copy

Attachment to Zoning Petition – 4416 Fitch Avenue 18

From Sec. 238.2, BCZR, to permit a side yard of ~~19~~ feet in lieu of 30 feet required;

From Sec. Sec. 250.2, BCZR, to permit a side yard of ~~29~~ feet in lieu of 30 feet required, and the sum of two side yards of ~~48~~ feet in lieu of 80 feet required,

46

per DT



ZONING DESCRIPTION – 4416 FITCH AVENUE

Beginning at a point on the north side of Fitch Avenue, which is of varying width, at a distance of 200 feet east of the centerline of Rossville Boulevard, which is 75 in width, thence the following courses and distances:

N 18°16'12"E, 295.56 ft.;
S 82°10'51" E, 101.90 ft.;
S 18°16'09"W, 312.54 ft., thence
N 72°35'41" W, 100.22 ft. to the Point of Beginning

As recorded in Deed Liber 6412, folio 311 and containing 0.70 acre, more or less. Also known as 4416 Fitch Avenue, and located in the 14th Election District, 6th Councilmanic District.



Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.

License No. 13203, Expiration Date: 11-2-10

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

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

For Newspaper Advertising:

Item Number or Case Number: 2010-0290-A
Petitioner: O'BRIEN FAMILY DENTISTRY (KAFO, LLC)
Address or Location: 4416 FITCH AVENUE
BALTIMORE, MD 21236.

PLEASE FORWARD ADVERTISING BILL TO:

Name: CHRISTINA O'BRIEN
Address: P.O. BOX 250
PASADENA MD 21123
Telephone Number: 443-690-8790

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

No. **53902**

Date: **4/22/10**

PAID RECEIPT

ADDRESS: NONE THE 1000
 4/23/2010 4/22/2010 11:26:20 7
 REC 4005 MAINT 0000 000
 RECEIPT 1 520107 4/22/2010 0012

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				325.00

Total: **325.00**

Rec From: **PATRICIA A. O'BRIEN, D.D.S.**

For: **2010-0290-A**
4416 FITCH AVE.

D. THOMPSON

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: #2010-0290-A

4416 Fitch Avenue

N/side of Fitch Avenue, 200 feet east of the centerline of Rossville Boulevard

14th Election District — 6th Councilmanic District

Legal Owner(s): Emil & Barbara Schott, Jr.

Contract Purchaser: Kafo, LLC, Dr. Patricia O'Brien, Managing Member

Variance: To permit a side yard of 18 feet in lieu of the required 30 feet; to permit a side yard of 28 feet in lieu of the required 30 feet, and the sum of the two side yards of 46 feet in lieu of the required 80 feet.

Hearing: Friday, June 18, 2010 at 11:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

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

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

06/075 June 3

242385

CERTIFICATE OF PUBLICATION

6/3/, 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 6/3/, 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

ATTENTION: KRISTEN MATHHEWS

DATE: 05/30/2010

Case Number: 2010-0290-A

Petitioner / Developer: WILLIAM BEALE~DR. PATRICIA O'BRIEN

MR. & MRS. SCHOTT, JR. ~RICHARD MATZ

Date of Hearing (Closing): JUNE 18, 2010

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
4416 FITCH AVENUE

The sign(s) were posted on: MAY 30, 2010



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

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

TO: PATUXENT PUBLISHING COMPANY
Thursday, June 3, 2010 Issue - Jeffersonian

Please forward billing to:
Christina O'Brien
P.O. Box 250
Pasadena, MD 21123

443-690-8790

CORRECTED 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: 2010-0290-A

4416 Fitch Avenue

N/side of Fitch Avenue, 200 feet east of the centerline of Rossville Boulevard

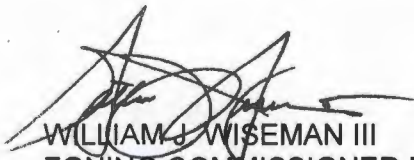
14th Election District – 6th Councilmanic District

Legal Owners: Emil & Barbara Schott, Jr.

Contract Purchaser: Kafo, LLC, Dr. Patricia O'Brien, Managing Member

Variance to permit a side yard of 18 feet in lieu of the required 30 feet; to permit a side yard of 28 feet in lieu of the required 30 feet, and the sum of the two side yards of 46 feet in lieu of the required 80 feet.

Hearing: Friday, June 18, 2010 at 11:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

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



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 27, 2010

CORRECTED 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:

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4416 Fitch Avenue

N/side of Fitch Avenue, 200 feet east of the centerline of Rossville Boulevard

14th Election District – 6th Councilmanic District

Legal Owners: Emil & Barbara Schott, Jr.

Contract Purchaser: Kafo, LLC, Dr. Patricia O'Brien, Managing Member

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Hearing: Friday, June 18, 2010 at 11:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:kll

C: William Beale, 604 Central Avenue, Towson 21204
Dr. Patricia O'Brien, P.O. Box 250, Pasadena 21123
Mr. & Mrs. Schott, Jr., 4717 Mellow Road, White Hall 21161
Richard Matz, 2835 Smith Avenue, Ste. G., Baltimore 21209

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JUNE 3, 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, June 3, 2010 Issue - Jeffersonian

Please forward billing to:
Christina O'Brien
P.O. Box 250
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443-690-8790

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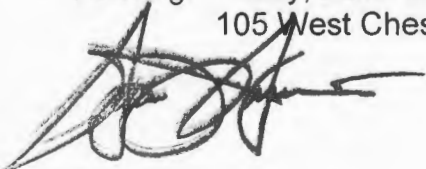
14th Election District – 6th Councilmanic District

Legal Owners: Emil & Barbara Schott, Jr.

Contract Purchaser: Kafo, LLC, Dr. Patricia O'Brien, Managing Member

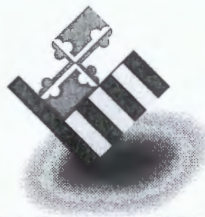
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Hearing: Friday, June 18, 2010 at 11:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 18, 2010

NOTICE OF ZONING HEARING

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CASE NUMBER: 2010-0290-A

4416 Fitch Avenue

N/side of Fitch Avenue, 200 feet east of the centerline of Fitch Avenue

14th Election District – 6th Council

Legal Owners: Emil & Barbara

Contract Purchaser: Kafo, LLC

28 Variance to permit a side yard of 29 feet in lieu of the required 80 feet.

Hearing: Friday, June 18, 2010 at 10:00 AM
105 West Chesapeake Avenue, Towson, Maryland 21204

Timothy Kotroco
Director

TK:kl

C: William Beale, 604 Central Avenue, Towson 21204
Dr. Patricia O'Brien, P.O. Box 250, Pasadena 21123
Mr. & Mrs. Schott, Jr., 4717 Mellow Road, White Hall 21161
Richard Matz, 2835 Smith Avenue, Ste. G., Baltimore 21209

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JUNE 3, 2010.**
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- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

June 10, 2010

William A. Beale, Esq.
William A. Beale, P.A.
604 Central Ave.
Towson, MD 21204

Dear: William A. Beale, Esq.

RE: Case Number 2010-0290-A, 4416 Fitch Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 22, 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
Emil A. & Barbara J. Schott, Jr.; 4717 Mellow Rd.; White Hall, MD 21161
Patricia O'Brien: Kafo., LLC; P.O. Box 250; Pasadena, MD 21123
Richard Matz: Colbert Matz Rosenfelt, Inc.; 2835 Smith Ave. Ste. G; Baltimore, MD 21209

TB
6-18-10

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco

RECEIVED

FROM: Dave Lykens, DEPRM - Development Coordination

JUN 11 2010

DATE: June 11, 2010

ZONING COMMISSIONER

SUBJECT: Zoning Item # 10-290-A
Address 4416 Fitch Avenue
(Schott Property)

Zoning Advisory Committee Meeting of May 3 & 31, 2010.

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

Reviewer: JWL

Date: 6/11/10

TB 6/18 11am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 21, 2010

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

RECEIVED

SUBJECT: 4416 Fitch Avenue

INFORMATION:

MAY 25 2010

Item Number: 10-290

Petitioner: William A. Beale, Esq.

ZONING COMMISSIONER

Zoning: MLR and BR

Requested Action: Variance

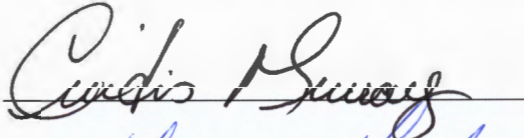
SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan and does not oppose the petitioner's request provided:

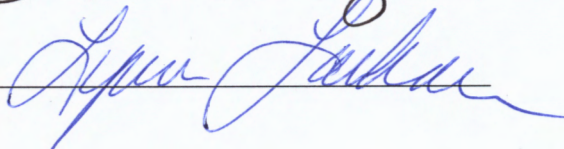
1. Architectural building elevations for the proposed structure are submitted for review and approval prior to the issuance of any building permits.
2. A landscape plan, which includes details on any proposed signage and lighting, is submitted for review and approval prior to the issuance of any building permits.

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

Prepared by:



Division Chief:
AFK/LL: CM



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For June 14, 2010
Item Nos. 2010- 290, 293, 322, 323,
325, 326, 328 and 329

DATE: June 2, 2010

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

DAK:CEN:elm

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-06142010 -NO COMMENTS.doc

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For May 17, 2010
Item Nos. 2010- 253, 270, 271, 290,
291, 292, & 294

DATE: May 7, 2010

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

DAK:CEN:elm

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-05172010 -NO COMMENTS.doc



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

State Highway
Administration

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 6-14-2010

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

RE: Baltimore County
Item No. 2010-0290-A
4416 FITCH AVENUE
SCHOTT PROPERTY
VARIANCE.

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2010-0290-A.

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,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

My telephone number/toll-free number is _____

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

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.sha.maryland.gov



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

State Highway
Administration

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: May 4, 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. 2010-0290-A
4416 FITCH AVENUE
SCHOTT PROPERTY
VARIANCE -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2010-0290-A.

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Very truly yours,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

RE: PETITION FOR VARIANCE * BEFORE THE
4416 Fitch Avenue; N/S Fitch Avenue, *
200' E of c/line of Rossville Boulevard * ZONING COMMISSIONER
14th Election & 6th Councilmanic Districts *
Legal Owner(s): Emil & Barbara Schott * FOR
Contract Purchaser(s): Kafo, LLC *
Petitioner(s): * BALTIMORE COUNTY
* 10-290-A

* * * * *

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

MAY 07 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of May, 2010, a copy of the foregoing Entry of Appearance was mailed to Richard E. Matz, PE, Colbert Matz Rosenfelt, Inc, 2835 Smith Avenue, Suite G, Baltimore, MD 21209 and William A. Beale, Esquire, 604 Central Avenue, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CHECKLISTComment
ReceivedDepartmentSupport/Oppose
No Comment6-2-10

DEVELOPMENT PLANS REVIEW

nc6-11-10

DEPRM

nc

FIRE DEPARTMENT

5-21-10

PLANNING

(if not received, date e-mail sent _____)

support
w/ condition5-4-10

STATE HIGHWAY ADMINISTRATION

nc

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: 6-3-10

SIGN POSTING

Date: 5-30-10

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No

Comments, if any: power of attorney document
in the case file

**DURABLE GENERAL POWER OF ATTORNEY
AND DESIGNATION OF GUARDIAN
OF
BARBARA J. SCHOTT**

I, **Barbara J. Schott**, of Harford County, Maryland, do hereby execute this General Power of Attorney with the intention that the attorney-in-fact (hereinafter "Agent") named shall be able to act in my place in all matters. I intend that it be governed by Maryland law.

Section 1. Designation of Agent.

1.01. I appoint **Emil A. Schott**, to be my Agent to act for me, in my name and in my place. In the event that **Emil A. Schott** is unable to act as my Power of Attorney, or he declines to act, then I appoint **Dennis Glen Schott** as my agent.

1.02. Any person serving as my Agent may designate a successor or successors who shall serve if for any reason such person shall fail to act or continue as Agent and no successor has been designated herein. Such designation shall be made in writing executed and acknowledged before a notary public by the person serving as my Agent and shall be conclusive as to the designation of a successor Agent. One or more individuals or a corporate fiduciary, or any combination of them, may serve as a successor Agent.

1.03. Unless otherwise specifically stated herein, any successor Agent shall have all of the powers of my Agent originally appointed.

1.04. The following written evidence shall be deemed conclusive and may be relied upon to establish that a person has failed to act or continue as my Agent.

- a. A death certificate for the person;
- b. A notarized statement of the person resigning or refusing to act as my Agent; or
- c. A notarized statement of the person's attending physician that he or she is not able to manage his or her affairs.

1.05. In this instrument, terms such as "he" or "she" or "his" or "her" shall be taken to include the masculine, feminine, and neuter genders, singular or plural, as appropriate.

Barbara J. Schott
BARBARA J. SCHOTT

Section 2. Effective Date of Power of Attorney.

2.01. This Power of Attorney shall **not be affected by the disability of the principal** and shall be effective immediately.

2.02. All persons dealing with my Agent may rely fully on the Power of Attorney and the authority of my Agent to act for me hereunder unless they have actual knowledge of its revocation or my death.

Section 3. Powers.

My agent shall have all of the powers, elections, and authority granted by statute, common law or rule of court. In addition (but without limitation), my Agent also shall have the power to:

3.01. Collect and receive, with or without the institution of suit or other legal process, all debts, demands, monies, benefits, gifts, objects, interest, dividends, annuities, and employee-plan, social security, and similar employment benefits that now are due or may become due hereafter or otherwise payable to me and exercise options with respect to the same, taking all lawful actions (in my name or otherwise) to recover or compromise those items.

3.02. Sell, convey, lease, exchange, mortgage, pledge, release, hypothecate, or otherwise deal with, dispose of, exchange, or encumber any of my property, either real or personal, any other real property now owned or hereafter acquired by me, upon such terms as my Agent considers to be appropriate.

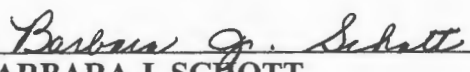
3.03. Appear on my behalf in any litigation, arbitration, or administrative proceeding in which I am or may become a party.

3.04. Waive any or all dower or similar rights which I may have in real or personal property in any jurisdiction.

3.05. Give releases, consents, and receipts on my behalf.

3.06. Endorse all checks drawn to my order for deposit; deposit funds in my name in any banking or savings institution or in any money-market account, whether or not insured; and withdraw funds and sign and endorse in my name as drawer and/or endorser checks drawn upon any bank, trust company, savings institution, or money-market fund in which I may have funds on deposit.

3.07. Apply my assets and incur and pay expenses on my behalf for (a.) my benefit, and (b) the health and maintenance in reasonable comfort of my spouse, and (c) the health, and education


BARBARA J. SCHOTT

(including college and graduate or professional education) and maintenance in reasonable comfort of my children, provided that my Agent may not apply any assets to satisfy his own legal support obligation, unless my Agent is unable to discharge that obligation.

3.08. Pay and/or compromise any and all bills, accounts, claims, obligations, and demands now due by me or becoming due by me.

3.09. Hold, invest, reinvest, and otherwise deal with and manage all property in which I have any interest.

3.10. Exercise any option or right under any insurance policy that I may own, except that my Agent may not act with respect to any policy on his life and may not change any beneficiaries under any policy.

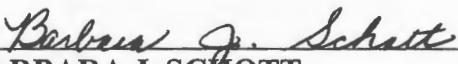
3.11. Vote, and give proxies to vote, any securities that I may own; exercise any rights of election or control with respect to any partnership, venture, or business in which I may have an interest; and transfer or surrender any securities or partnership, joint venture, or business interest which I may own, and execute in my name or on my behalf any stock power, assignment, or other instrument in order to effect any such transfer or surrender.

3.12. Enter into or renew at my expense any agency or custodian agreement with any bank or trust company for the investment or safekeeping of any property and revoke any such agreement, whether entered into by me, my Agent, or any other person.

3.13. Have unrestricted access to, and the right to enter into, any safety deposit box, vault, storage warehouse, or other depository which I may own, which may be registered in my name or in which any property may be held for me.

3.14. Bargain for, contract for, purchase, receive, lease, or otherwise acquire in my name, for my account or on my behalf, property of any kind, real or personal, tangible or intangible, including (but not limited to) United States Treasury Bills, Notes and Bonds, and other obligations of the United States Government, or any of its agencies, of any series or issue.

3.15. Prepare and execute any and all federal, state, local, income, gift or other tax returns, FICA returns, payroll tax returns, claims for refunds, or declarations of estimated tax; represent me (directly or through attorneys, accountants, or other agents) in any matter before the Internal Revenue Service or any other federal, state, or local agency; execute closing agreements or powers of attorney forms required by any agency; execute consents extending the statutory period for the assessment or collection of taxes; pay all taxes and interest thereon which I properly may owe or which may be assessed against me; contest the validity of any proposed assessment; exercise any election available


BARBARA J. SCHOTT

to me under the tax laws of any jurisdiction; and take any of the foregoing actions for tax years beginning on or after January 1, 2000, and before the date of my death.

3.16. Execute, seal, acknowledge, and deliver any instruments, documents, or papers deemed necessary, advisable, or expedient with respect to any property and to attach to, and incorporate in, this Power of Attorney any document referred to hereinabove and any legal description for real property now or hereafter owned by me as my Agent shall deem appropriate to carry out the provisions of this Power of Attorney.

3.17. Retain on my behalf such professional service providers (including the Agent's firm or members of the Agent's firm), including attorneys, accountants, investment advisors, and brokers, and compensate them on my behalf as he deems advisable.

3.18. Disclaim, in whole or in part, any right of succession or transfer to property or any interest in property that I may have, now or in the future.

3.19. Make a gift to or for the benefit of any individual from my property outright, under the applicable Uniform Gifts to Minors Act or Uniform Transfer to Minors Act, or in trust, if (a) the gift qualifies for, and is within, the annual exclusion allowed under gift tax laws; and (b)(i) the gift is consistent with my established pattern of giving, or (ii) (my death is likely to occur within a year (as determined by my Agent), the gift will reduce federal estate tax on my estate and is made to one or more of my descendants or the spouses of my descendants.

3.20. Make a gift from my assets to any religious, charitable, or educational organization, provided that the gift qualifies for the income tax deduction and gift tax deduction under IRC Section 170 & 2512 and is consistent with my established pattern of charitable giving.

3.21. Make any election permitted by law with respect to any qualified or non-qualified retirement plan, annuity, or IRA, whether owned by myself or payable on the death of my spouse including the election of the form and amount of distributions, the designation of beneficiaries, and the rollover of distributions into an IRA.

3.22. Delegate any or all of the above powers to fewer than all the persons then serving as Agent by a notarized writing and revoke any such delegation by a similar instrument.

Section 4. Extent of Agent's Authority and Liability; Compensation.

4.01. Except as expressly provided herein, my Agent may act in all matters with respect to all powers described herein as freely, fully, and effectively as I could or might do personally if present and of sound and disposing mind.

Barbara J. Schott
BARBARA J. SCHOTT

4.02. My Agent in no way shall be limited in the exercise of any power because the exercise of the power will benefit, or otherwise affect, an interest of the Agent. However, my Agent shall not apply my assets to satisfy the Agent's own support obligation, unless my Agent is unable to discharge that obligation.

4.03. My Agent shall be entitled to no compensation for services rendered, but shall be entitled to be reimbursed for any expenses incurred.

Section 5. Ratification; Use of Photocopy; Revocation of Prior Powers.

5.01. I ratify all acts taken (up to now or hereafter) by my Agent by authority of this General Power of Attorney.

5.02. I hereby revoke and cancel any and all general powers of attorney previously executed by me, if any, and any such documents shall be of no further force or effect. However, I do not intend in any way in this instrument to affect, modify, or terminate any special restricted, or limited power of attorney I previously may have granted in connection with any banking, borrowing, or commercial transaction.

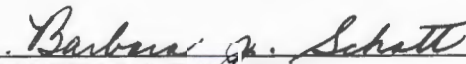
5.03. I authorize the use of one or more photocopies of this General Power of Attorney, in lieu of the original executed by me, to carry out its provisions.

Section 6. Designation of Guardian.

6.01. I request that no guardianship proceeding for my property be instituted in the event of my disability, it being my intention that this durable power of attorney shall permit my Agent to act on my behalf.

6.02. In the event that it becomes necessary for any court to appoint a guardian or conservator for my property, I direct that **Emil A. Schott** shall serve as such guardian.

6.03. Any guardian or conservator who at any time shall be appointed by any court shall be excused from the necessity of giving bond.


BARBARA J. SCHOTT

Section 7. Care of My Person.

7.01. Should I become unable to care for myself, my Agent shall have the primary duty and discretion of making all arrangements for my care, comfort, maintenance in my customary standard of living, medical treatment, nursing care (if the latter is necessary or advisable), and generally for all decisions having to do with my personal well-being, health, and happiness. My Agent shall have access to all my medical records.

7.02. If any important or crucial decision - specifically including the granting or withholding of consent to any medical procedure or employing or discharging medical providers - is required regarding my living arrangements, health, medical care, and well-being, I give full authority to my Agent. My Agent shall have no liability or responsibility whatsoever for any action affecting my personal care, well-being, and related matters described in this Section which is taken in good faith. My Agent may grant releases of liability or responsibility to the medical providers caring for me.

7.03. As guides to my Agent, I state the following: First, to the extent reasonably possible, I would like to be maintained in my own home in the manner to which I am accustomed, with private care, if necessary, rather than in a nursing or retirement home. Second, I have executed a Declaration Concerning Life-Sustaining Procedures (a so-called "Living Will"), a copy of which shall be given to my Agent.

7.04. I have executed a separate Durable Power of Attorney for Health Care ("Health Care Power of Attorney") of even date herewith. I ask that, when appropriate, my Agent under this General Power of Attorney coordinate with my Agent under the Health Care Power of Attorney and that they attempt to reach a mutual agreement on decisions concerning my health and personal care.

AS WITNESS my hand and seal this 7 day of February 2003.

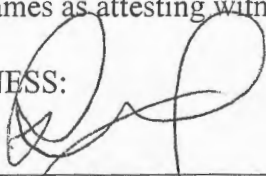
Social Security No.: 214-38-0146

Barbara J. Schott (SEAL)
BARBARA J. SCHOTT

Barbara J. Schott
BARBARA J. SCHOTT

SIGNED, SEALED, PUBLISHED AND DECLARED, by **Barbara J. Schott**, in the presence of both of us to be her Durable General Power of Attorney and Designation Of Guardian; at the same time, we in her presence, at her request, and in the presence of each other, do hereby sign our names as attesting witnesses.

WITNESS:



Claissa Neumer

9 South Hickory Avenue
Bel Air, Maryland 21014

9 South Hickory Avenue
Bel Air, Maryland 21014

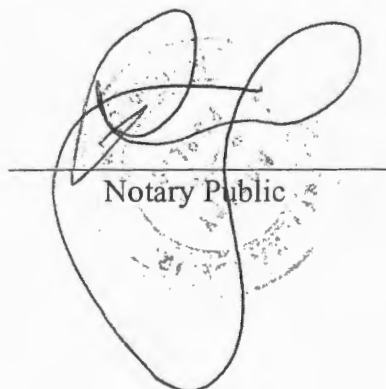
STATE OF MARYLAND, COUNTY OF HARBOR, TO WIT:

I HEREBY CERTIFY, that on this 14 day of February, 2003, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared **Barbara J. Schott** and acknowledged that she executed the foregoing Power of Attorney for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

My Commission Expires:

5/1/2005 (SEAL)





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

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

Account Identifier: District - 14 **Account Number -** 1407016820

Owner Information

Owner Name:	SCHOTT EMIL A,JR SCHOTT BARBARA J	Use:	COMMERCIAL
Mailing Address:	4717 MELLOW RD WHITE HALL MD 21161	Principal Residence:	NO
		Deed Reference:	1) / 6412/ 311 2)

Location & Structure Information

Premises Address	Legal Description
4416 FITCH AVE	NS FITCH AV .6998 AC 1320 BELAIR RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
81	11	248						1	Plat Ref:

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1963	1,152 SF	.69 AC	07

Stories	Basement	Type	Exterior
----------------	-----------------	-------------	-----------------

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2010	07/01/2009	07/01/2010
Land	209,900	209,900		
Improvements:	148,500	95,000		
Total:	358,400	304,900	358,400	304,900
Preferential Land:	0	0	0	0

Transfer Information

Seller: GERST WILLIAM J	Date: 06/30/1982	Price: \$84,000
Type: IMPROVED ARMS-LENGTH	Deed1: / 6412/ 311	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 *

CASE NAME 446 Fitch Ave
CASE NUMBER 2010-0290-A
DATE JUNE 18, 2010

CASE NAME 446 Fitch Ave
CASE NUMBER 2010-0290-A
DATE JUNE 18, 2010

[illegible]

Case No.: 2018-0290-A

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	site plan	
No. 2	zoning map	
No. 3 A+B	photos of existing 1 1/2 story structure with garage toward rear and entrance	
No. 4	Memorandum + Declaration of Easement... etc. for Contract purchases to be able to use entrance way at adjacent property	
No. 5	elevation drawings + renderings	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



MEMORANDUM

DATE: June 16, 2010
TO: KAFO LLC
FROM: Beltway Property Management, Inc.
RE: Common Driveway over parcel 1128 for the benefit of parcel 248

We have agreed in principle to execute the attached Declaration of Easement and Covenants for Maintenance of Private Driveway ("Agreement"). You, as contract purchaser of parcel 248, may require written confirmation of the Agreement for presentation in an upcoming zoning variance hearing. This Memorandum is intended to serve that purpose.

It is expected that if the zoning variance is approved, we will enter into an Agreement similar to the attached. We are also discussing an annual escrow arrangement for equal payments by each of us to an account to be applied to expenses and maintenance of the Common Driveway. *BPK*

The final version of the attached will be signed upon payment of the agreed consideration.

Agreed to this 17th day of June, 2010.

Beltway Property Management, Inc.

By: 

F:\WPFILES\REALESTMEMO O'Brien driveway

PETITIONER'S

EXHIBIT NO. 4

**DECLARATION OF EASEMENT AND COVENANTS FOR
MAINTENANCE OF PRIVATE DRIVEWAY**

THIS DECLARATION OF EASEMENT AND COVENANTS FOR MAINTENANCE OF PRIVATE DRIVEWAY ("Declaration") is made this ___ day of ___, 2010, by Beltway Property Management, Inc., a Maryland Corporation (hereinafter "Beltway" or "Declarant").

WHEREAS, the Declarant is the fee simple owner of that parcel of land on Fitch Avenue in Baltimore County, known as parcel 1128, Tax Map 81, which parcel was conveyed to it by Deed recorded among the Land Records of Baltimore County in Liber 14580, folio 489; and

WHEREAS, the Declarant desires to subject a portion of the parcel of land, hereinafter defined, to certain covenants and conditions with respect to the use and maintenance of a common right-of-way or driveway ("Common Driveway") for use in common with the owner of the adjacent land presently titled to Emil A. Schott, Jr. and Barbara J. Schott, his wife, which land is known as parcel 248, Tax Map 81, and was conveyed to the present owners by Deed recorded among the Land Records of Baltimore County in Liber 6412, Folio 311. The Common Driveway is located within the area denoted on the exhibit attached hereto as Private Ingress, Egress, Maintenance and Utility Easement, having an area of 6,404 square feet, more or less.

NOW, THEREFORE, the Declarant hereby declares that the Common Driveway shall be hereafter held, sold and conveyed subject to the covenants hereinafter set forth, which are for the purpose of providing (i) ingress and egress to, from and between the public street and the lands that share the Common Driveway, (ii) for sharing the cost of making repairs and/or replacements and for maintenance of the Common Driveway, which covenants shall run with the land and shall be binding upon all parties, their heirs, personal representatives, successors and assigns, having any right, title or interest in the Common Driveway or sharing the Common Driveway respectively, and shall inure to the benefit of each owner of the immediately adjacent lands or parcels as described above, and (iii) allowing for the installation, maintenance and repair of any utilities along or under the Common Driveway. This Declaration is intended for the sharing of the Common Driveway by the owners of the adjacent parcels ("Owners") and their respective heirs, personal representatives, successors, assigns, tenants, guests, and invitees.

1. **Easements.** The Declarant hereby declares and establishes an easement in perpetuity in, on, over and across the Common Driveway, and for the use in common for pedestrian and vehicular access to and from each of the lands sharing such Common Driveway and for the installation and maintenance of drainage and utility facilities on, in and under the Common Driveway.

2. **Contribution for Maintenance and Improvements.** The Owners of the adjacent parcels shall be responsible for contributing towards the costs of maintenance, repair and replacement of the Common Driveway, so that each of those Owners may enjoy the equal use and benefit of the Common Driveway (such maintenance, repair and replacement hereinafter collectively referred to as "Repairs" and the cost therefore referred to as the "Cost of Repairs") in the following amounts:

Parcel 1128-

50%

Parcel 248 -

50%

3. **Initiating Repairs.** In the event the Common Driveway requires Repairs, the Owner of any Lot sharing such Common Driveway may make such Repairs or cause such Repairs to be made (such Owner being hereinafter referred to as the "Initiating Owner") and may advance the Cost for Repairs therefor and shall be entitled to contribution for such Cost from the Owners of the other Lot or Common Driveway sharing such Common Driveway, upon compliance with the following procedures:

3.1 Except in case of an emergency, before making any Repairs or incurring any Cost for Repairs, the Initiating Owner shall notify the Owner of any lot or parcel sharing the Common Driveway, in writing, sent by certified mail, postage prepaid, return receipt requested, addressed to the Owner of the other lot or parcel (the "Benefiting Owner or Owners"), at the mailing address for such Benefiting Owner or Owners as shown on the Land Assessments Records of Baltimore County, Maryland, of the Repairs proposed, and request that such Benefiting Owner or Owners consent to the making of such Repairs. If the Benefiting Owner or Owners consent in writing, the Initiating Owner may contract for or make such Repairs and the Benefiting Owner or Owners shall thereafter be obligated to pay their pro-rata share of the cost of such Repairs. The Initiating Owner may demand that the proportionate share of the estimated Cost for Repairs be paid (to be held in escrow) in advance by the Benefiting Owner or Owners.

3.2 In the event of an emergency which creates a hazardous and unsafe condition, the Initiating Owner may make such Repairs or cause such Repairs to be made and advance the Cost of Repairs without giving notice as provided above. Within fifteen (15) days after making the Repairs, the Initiating Owner shall notify the Benefiting Owner or Owners, in writing, sent by certified mail, postage prepaid, return receipt requested, addressed to the Benefiting Owner or Owners, at the mailing address for such Benefiting Owner or Owners as shown on the Land Assessments Records of Baltimore County, Maryland, of the Repairs made and that the making of the Repairs was an emergency. The Benefiting Owner or Owners shall then be obligated to pay their pro-rata share of the cost of such Repairs. The payment shall be due within thirty (30) days after delivery of the notice.

3.3 Each Owner shall be exclusively responsible for any expenditures incurred for Repairs to the Common Driveway damaged through their negligence, willful misconduct or the delivery of goods or services to their property.

4. **Cost for Repairs.** "Cost for Repairs" as used herein shall mean the actual cost for the Repairs so made or to be made.

5. **Obligation of Owners.** Each Owner, for each of the parcels, hereby covenants, from time to time hereafter, by accepting a deed therefor, whether or not it shall be so expressed in such deed, and agrees to pay his/her/their share of the Cost for Repairs as provided above. The obligation to contribute to the Cost for Repairs shall be binding upon each of the Owners only for Repairs made while such Owner is the fee simple Owner of the Lot or Lands at the time the obligation fell due. The obligation for delinquent Cost for Repairs shall not be binding on a prior or successor Owner in title unless expressly assumed by him/her/them.

6. **Maryland Contract Lien Act.** The Initiating Owner shall be entitled to a lien against the lot or parcel of any Benefiting Owner or Owners responsible for a share of the Cost for Repairs who does not pay his/her/their proportionate share of the costs within sixty (60) days after written demand therefor. The Initiating Owner may establish and enforce the lien for any such cost pursuant to the Maryland Contract Lien Act. The lien may be established and enforced for damages, costs of collection, late charges permitted by law, and attorney's fees of Five Hundred Dollars (\$500.00) or such greater amount as may be awarded by a court having jurisdiction for breach of any of the covenants herein.

7. **Subordination of the Lien to Mortgages.** The lien for the Cost for Repairs provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed against a lot or parcel that was recorded among the Land Records of Baltimore County prior to the recording of the lien for the Cost for Repairs. The lien for Cost for Repairs shall be effective from the date of its recording.

8. **No Merger.** There shall be no merger of the covenants, conditions, or restrictions created and imposed by this Declaration by reason of the fact that the same person, firm or corporation may hold, own or acquire, directly or indirectly, the fee simple estate in more than one of the lots or parcels. No such merger shall occur unless and until all of the persons, firms and corporations, having such fee simple interest in all of the lots or parcels sharing the Common Driveway, shall join in a written instrument specifically effecting such merger and duly recording the same.

9. **Termination or Amendment.** This Declaration may be terminated or amended in whole or in part with respect to all or a portion of the Common Driveway only with the written consent of all Owners of the lots or parcels, which would be affected by such termination or amendment as well as the consent of the appropriate agency of Baltimore County. Any instrument terminating or amending this Declaration must be recorded in the Land Records of Baltimore County, Maryland.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day and year first above written.

ATTEST:

Beltway Property Management, Inc.

By: _____

STATE OF _____, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY that on this ____ day of ____, 2010, before me, the subscriber, a Notary Public of the State and county aforesaid, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the above instrument and acknowledged that he/she executed the foregoing Declaration for the purposes therein contained, and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

My Commission Expires:

Notary Public

ATTORNEY CERTIFICATION

THIS IS TO CERTIFY that this instrument was prepared by or under the supervision of the undersigned, an attorney-at-law, licensed to practice before to Court of Appeals of the State of Maryland.

William A. Beale

DeGonia
Designs LLC
312 Mangrove Rd.
Severna Park, MD 21146
410-518-6736

EMAIL:
DeGonia.Designs@Verizon.net

Brien Dental
4416 Fitch Ave. Nottingham, MD 21236

No.	Description	Date

CoverSheet

Project number 2010-529
Date 05-18-10
Drawn by s.d.
Checked by s.d.

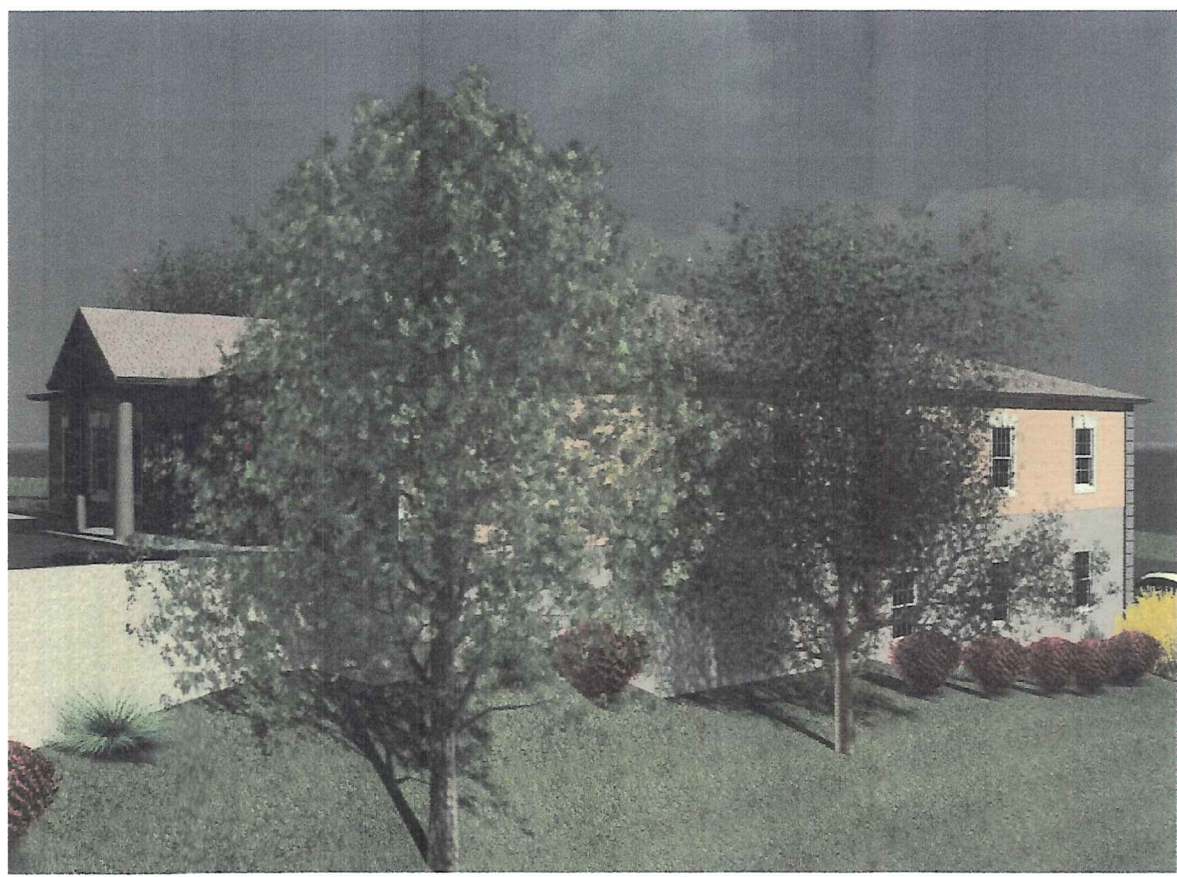
CS

Scale 12" = 1'-0"

PETITIONER'S
EXHIBIT NO. 5



6 3D View 6.1
12" = 1'-0"



4 3D View 4.1
12" = 1'-0"



2 3D View 2.1
12" = 1'-0"



5 3D View 5.1
12" = 1'-0"

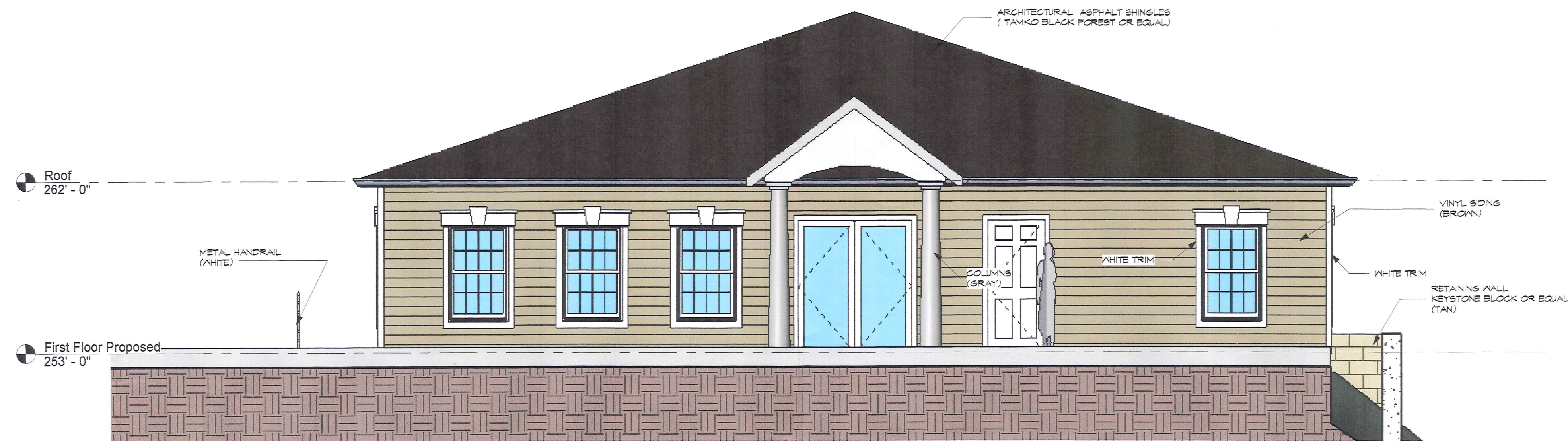


3 3D View 3.1
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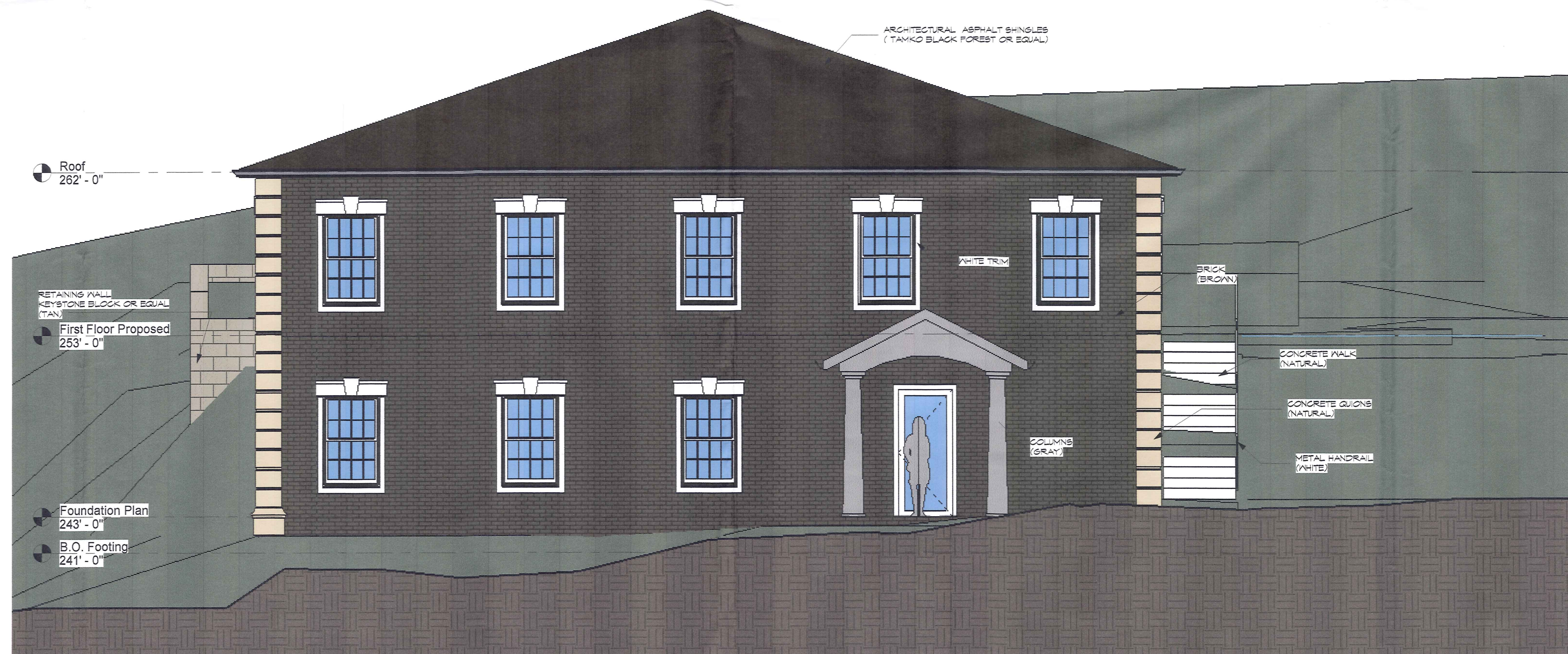


1 3D View 1.1
12" = 1'-0"

Drawing List	
Sheet Number	Sheet Name
A 01	Front Elevation & Rear Elevation
A 02	Left & Right Side Elevations
A 03	Foundation Plan
A 04	First Floor Plan & Plot Plan
CS	CoverSheet



② Rear Elevation
1/4" = 1'-0"



① Front Elevation
1/4" = 1'-0"

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O'Brien Dental
4416 Fitch Ave. Nottingham, MD 21236

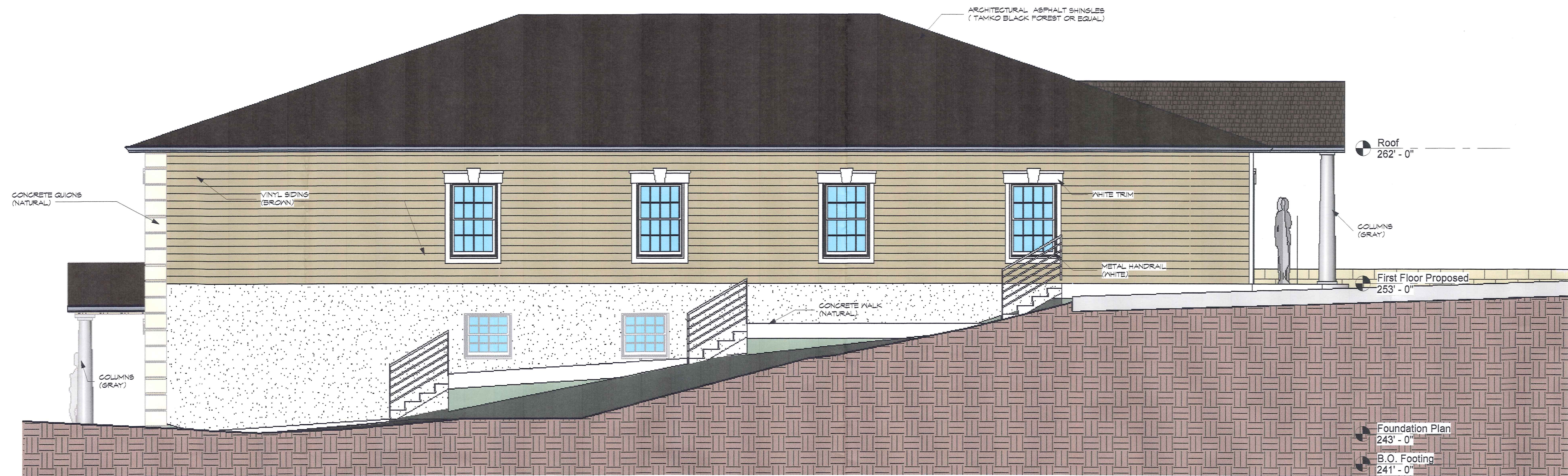
No.	Description	Date

Front Elevation & Rear Elevation

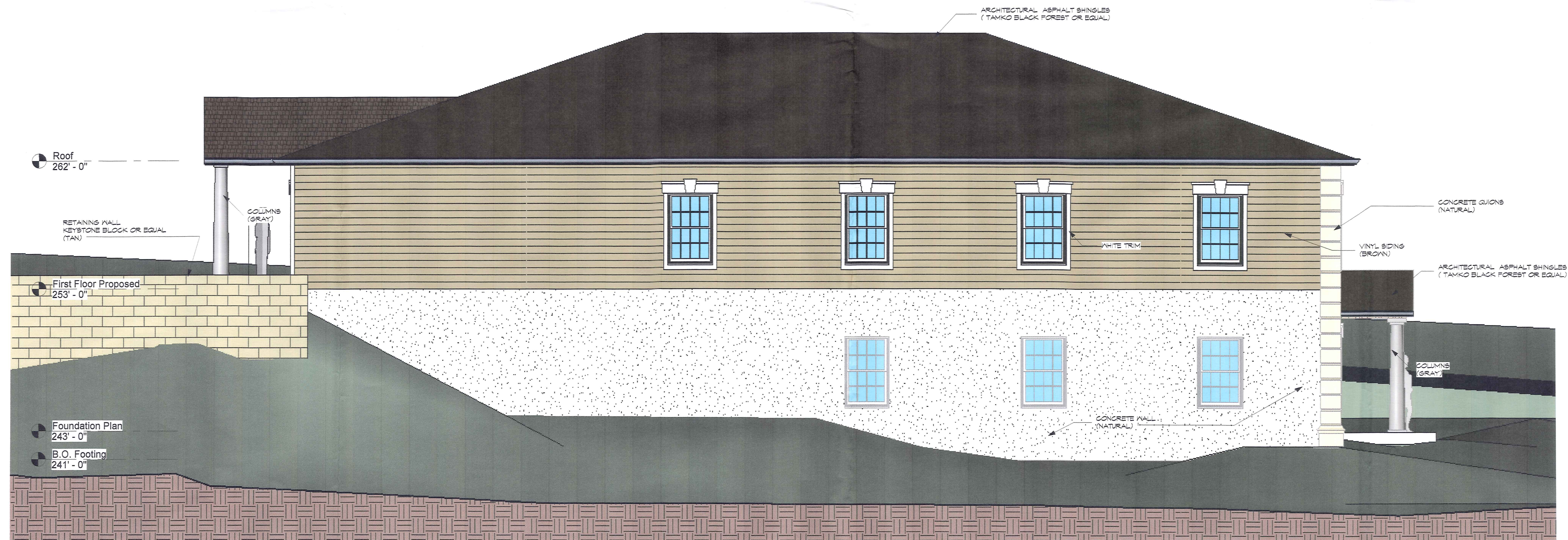
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Date 05-18-10
Drawn by s.d.
Checked by s.d.

A 01

Scale 1/4" = 1'-0"



② Right Side Elevation
1/4" = 1'-0"



① Left Side Elevation
1/4" = 1'-0"

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410-518-6736

EMAIL:
DeGonia.Designs@Verizon.net

Brian DeGonia
4416 Fitch Ave. Nottingham, MD 21236

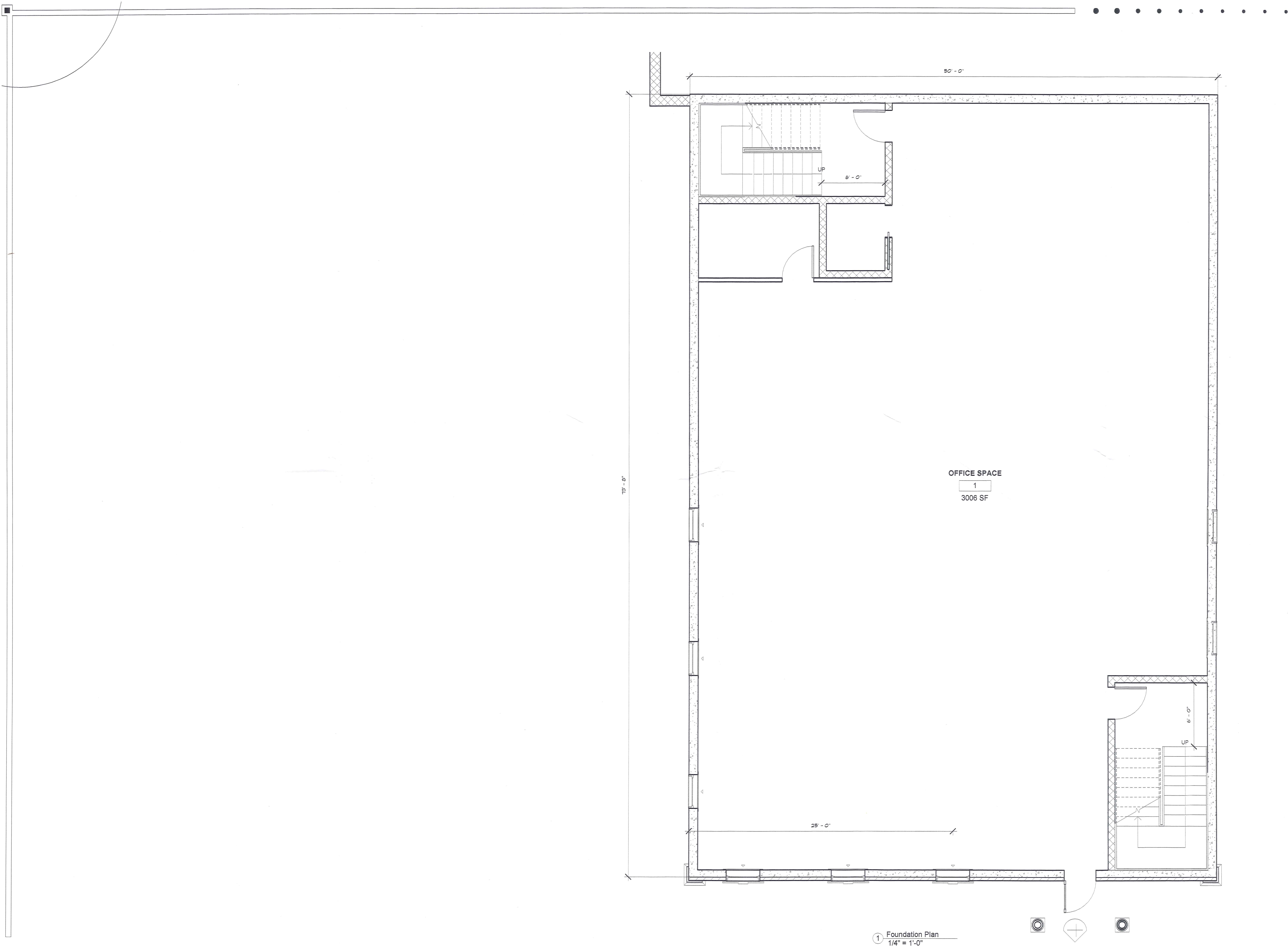
No.	Description	Date

Left & Right Side Elevations

Project number	2010-529
Date	05-18-10
Drawn by	s.d.
Checked by	s.d.

A 02

Scale	1/4" = 1'-0"
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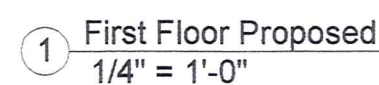
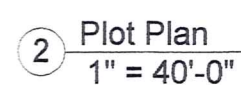
No.	Description	Date

Foundation Plan

Project number 2010-529
Date 05-18-10
Drawn by s.d.
Checked by s.d.

A 03

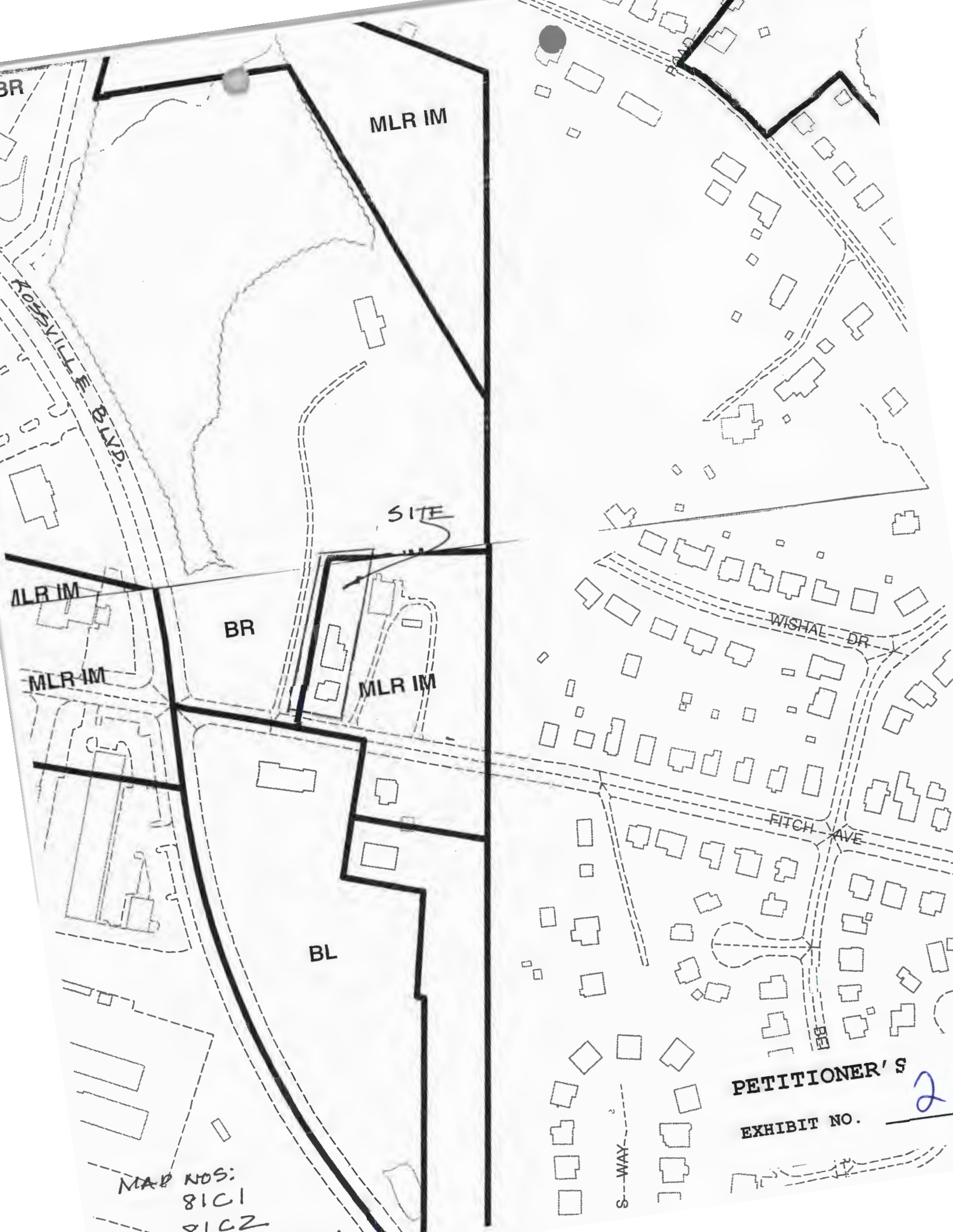
Scale 1/4" = 1'-0"



4416 Fitch Ave. Nottingham, MD 21236

Scale	As indicated
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BR

MLR IM

KOSBYVILLE BLVD.

SITE

MLR IM

BR

MLR IM

MLR IM

WISHAL DR

FITCH AVE

BL

S-WAY

MAP NOS:
81C1
81C2

PETITIONER'S

EXHIBIT NO.

2



PARCEL 248
EMIL A. SCHOTT Jr. AND
BARBARA J. SCHOTT
LIBER 6412 FOLIO 311

PARCEL 1128
BELTWAY PROPERTY
MANAGEMENT, INC.
LIBER 14580 FOLIO 489

PRIVATE
INGRESS, EGRESS, MAINTENANCE
AND UTILITY EASEMENT
AREA 6,404 sq.ft. or 0.147 ac.±



PRIVATE INGRESS, EGRESS, MAINTENANCE AND
UTILITY EASEMENT FOR THE BENEFIT OF PARCEL 248

BELTWAY PROPERTY MANAGEMENT, INC.
LIBER 14580 FOLIO 489

TAX MAP 81 - GRID 11 - PARCEL 248
BALTIMORE COUNTY, MARYLAND

CMR DRAWING FILE No.: 2010017 INGRESS EGRESS MAINTENANCE AND UTILITY EASEMENT 05_05_10

Colbert Matz Rosenfelt, Inc.

Engineers • Surveyors • Planners

2835 Smith Avenue, Suite G
Baltimore, Maryland 21209

Telephone: (410) 653-3838
Facsimile: (410) 653-7953

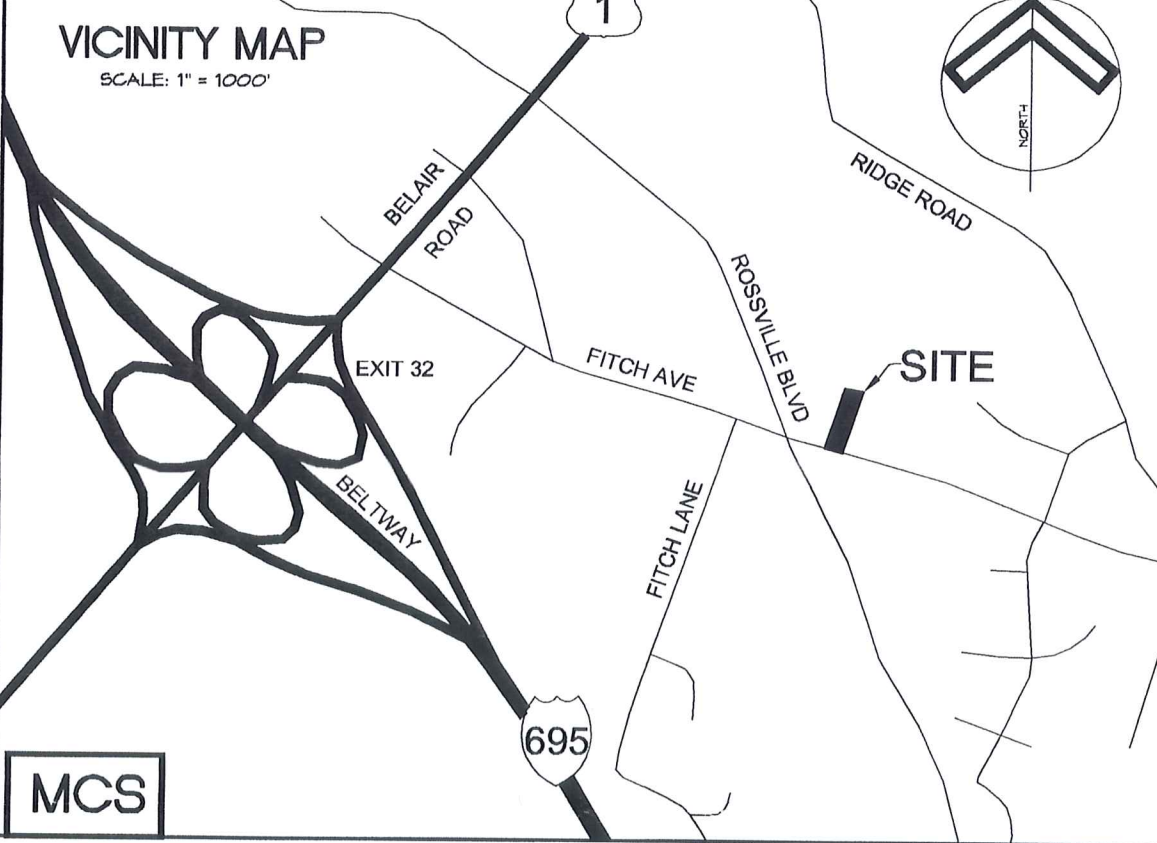


SCALE: 1"=30'

DATE: MAY 5, 2010

Key

- PROPERTY LINE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- PROPOSED CURB
- PROPOSED PAVING
- EXISTING PAVING TO REMAIN
- PROPOSED CONCRETE
- DIRECTION OF VEHICULAR TRAFFIC
- FRONT OF PROP. BUILDING
- SOIL SURVEY CLASSIFICATION



BENCHMARK

COORDINATES AND BEARINGS SHOWN ON THIS PLAN ARE REFERRED TO THE MARYLAND COORDINATE SYSTEM NAD83/11 DATUM AND ARE BASED ON THE FOLLOWING:

STATION	NORTHING	EASTING	ELEVATION
BALT. CO. 65 - 459A	619535.30	1454165.55	294.11
BALT. CO. 65 - 440A	619525.52	1454324.40	244.14

- ZONING NOTES
- Owner: Emil J. and Barbara Schott, 4111 Mellow Road, White Hall, MD 21161, 410-551-1152
 - Contract Purchaser/Developer: O'Brien Family Dentistry, P.O. Box 290, Pasadena, MD 21123, 410-682-5552
 - Site Data: Tax Account No. 1407016820, Map No. 61, Parcel 246, Deed Reference: 6412/311, Site Area: 0.70 acre
 - Zoning: Zoned MLR-IM and BR. Zoning Map Nos. 61C1 and 61C2
 - There is no zoning history for this site.
 - All signs will meet the requirements of Section 450, BC2R.
 - Required Setbacks:
 - Front MLR-IM: 40 ft.
 - Front BR: 25 ft., 50 ft. from street centerline
 - Interior Side MLR-IM: 30 ft., 80 ft. sum of both sideyards
 - Interior Side BR: 30 ft.
 - Rear MLR-IM: 40 ft.
 - Rear BR: 30 ft.
 - Proposed Setbacks:
 - Front: 65 ft.
 - Interior Side: 14 ft. and 24 ft.
 - Rear: 160 ft.
 - Sum of Interior Side Yards: 48 ft.
 - Existing and Proposed Use: Dental and other offices, Proposed Building Area: 1400 sq. ft.
 - Maximum Permitted FAR (MLR-IM Zone): 0.6, Maximum Permitted Building Coverage: 50%, Proposed Building Coverage: 12.1%
 - Off-street Parking Calculations:
 - Required: 1400 sq. ft. @ 4.5 spaces/1,000 sq. ft. = 34 spaces
 - Proposed FAR: 0.28
 - Proposed: 94 spaces, incl. 2 HC
 - All parking spaces will be durable, dust-free and permanently striped.
 - No parking is proposed within 25 feet of a residential zone boundary.
 - This site is not in the Chesapeake Bay Critical Area.
 - There are no 100-year floodplains on this site.
 - This site has no historic buildings and is not in any historic district.
 - A Limited Exemption request will be submitted to the DRC for this project.
 - There are no commercial permits currently on file for this site.
 - All existing trees onsite to be removed, unless otherwise noted.

PETITIONER'S
EXHIBIT NO. 1

PLAN TO ACCOMPANY VARIANCE PETITION

4416 FITCH AVENUE

MAP 61, GRID 11, PARCEL 246
14th ELECTION DISTRICT - 6th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND 21236

GRAPHIC SCALE
1 inch = 20 ft.

Colbert Matz Rosenfelt, Inc.
Engineers * Surveyors * Planners

2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

Professional Certification

I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.

License No.	Expiration Date
13203	11-02-10

DATE	REVISIONS	BY
4/21/10	PBR ZONING	TNY

DATE	DESIGNED	DRAWN	CHECKED
4/21/10	SR	SR	REM

DRAWING NUMBER: ZON-1

SHEET 1 OF 1

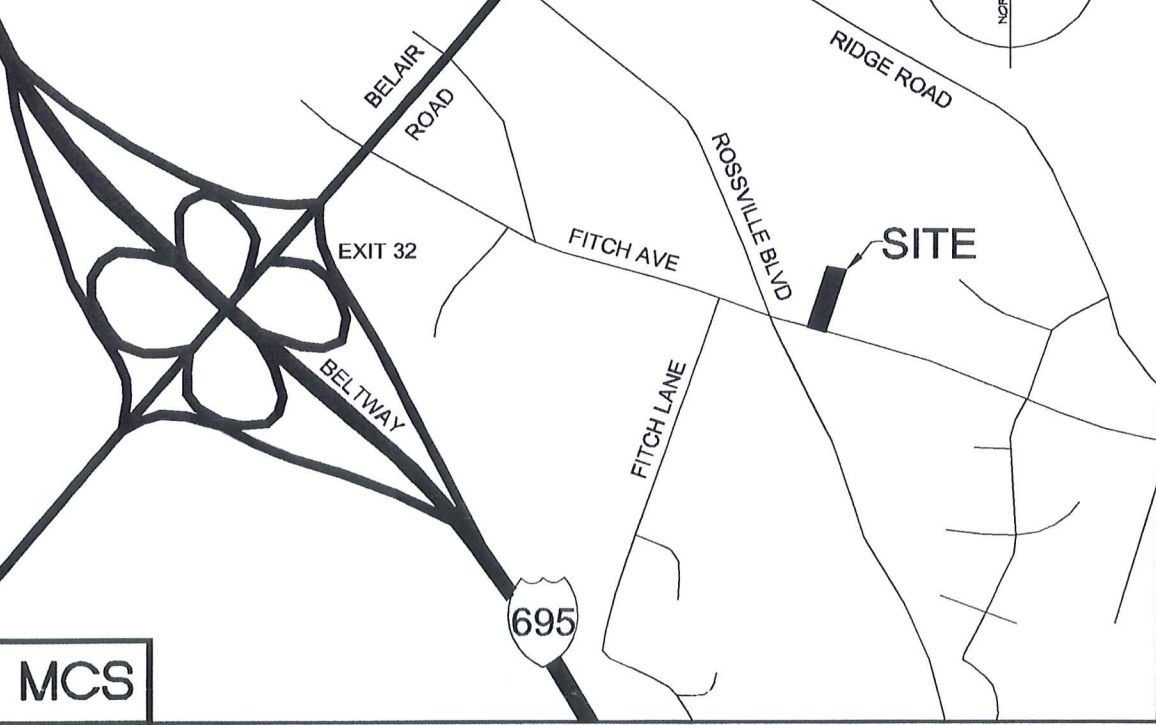
MCS

Key

- PROPERTY LINE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- PROPOSED CURB
- PROPOSED PAVING
- EXISTING PAVING TO REMAIN
- PROPOSED CONCRETE
- DIRECTION OF VEHICULAR TRAFFIC
- FRONT OF PROP. BUILDING
- SOIL SURVEY CLASSIFICATION

VICINITY MAP

SCALE: 1" = 100'



MCS

BENCHMARK

COORDINATES AND BEARINGS SHOWN ON THIS PLAN ARE REFERRED TO THE MARYLAND COORDINATE SYSTEM NAD83/11 DATUM AND ARE BASED ON THE FOLLOWING:

STATION	NORTHING	EASTING	ELEVATION
BALT. CO. G15 - 439A	618165.30	145165.55	204.11
BALT. CO. G15 - 440A	619025.82	1454324.40	244.14

ZONING NOTES

- Owner: Emil L. and Barbara Schott
4711 Melrose Road
White Hall, MD 21161
410-597-1152
- Contract Purchaser/Developer:
O'Brien Family Dentistry
P.O. Box 250
Pasadena, MD 21123
410-682-5552
- Site Data:
Tax Account No. 1407016820
Map No. 81, Parcel 248
Deed Reference: 6412/311
Site Area: 0.70 acre
- Zoning: Zoned MLR-M and BR. Zoning Map Nos. 81G1 and 81G2
- There is no zoning history for this site.
- All signs will meet the requirements of Section 450, BCZR.
- Required Setbacks:
Front MLR-M: 40 ft.
Front BR: 25 ft., 50 ft. from street centerline
Interior Side MLR-M: 30 ft., 80 ft. sum of both sideyards
Interior Side BR: 30 ft.
Rear MLR-M: 40 ft.
Rear BR: 30 ft.
Proposed Setbacks:
Front: 65 ft.
Interior Side: 15 ft. and 24 ft.
Rear: 160 ft.
Sum of Interior Side Yards: 46 ft.
- Existing and Proposed Use: Dental and other offices
Proposed Building Area: 1400 sq. ft.
- Maximum Permitted FAR (MLR-M Zone): 0.6
Proposed FAR: 0.25
Maximum Permitted Building Coverage: 50%
Proposed Building Coverage: 12.1%
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Proposed - 34 spaces, incl. 2 HC
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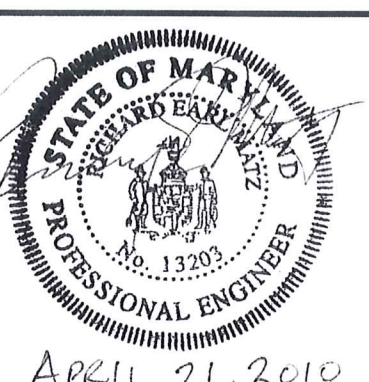
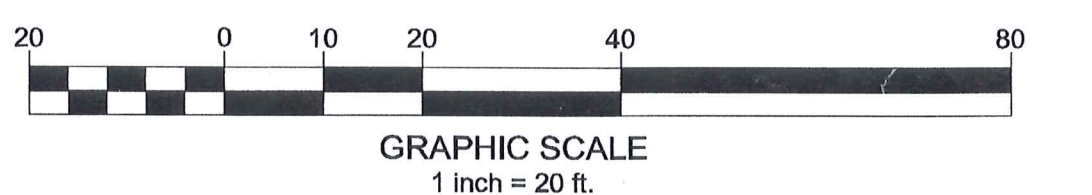
PETITIONER'S

EXHIBIT NO. 1

PLAN TO ACCOMPANY VARIANCE PETITION

4416 FITCH AVENUE

MAP 81, GRID 11, PARCEL 248
14th ELECTION DISTRICT - 6th COUNCILMANIC DISTRICT
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Professional Certification
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.
License No. 13203 Expiration Date: 11-02-10

NO.	DATE	REVISIONS	BY
1	4/21/10	PER. ZONING	TNY

SCALE: 1" = 20'
DATE: 4/20/10
JOB NO.: 2010-017
DESIGNED: SR
DRAWN: SR
CHECKED: REM

DRAWING NUMBER: **ZON-1**
SHEET 1 OF 1

MCS

PLOTTED BY: TOM WOOLFOLK
2010-0290-A