

IN RE: PETITION FOR VARIANCE

S side Rolling Mill Road, 1,282 feet SW of
c/l of Canton Center Drive
15th Election District
6th Councilmanic District
(7211 Rolling Mill Road)

Fish Lips, LLC
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* CASE NO. 2011-0186-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Office of Administrative Hearings for consideration of a Petition for Variance filed by Frank V. Boozer, Jr., Esquire on behalf of the legal owner of the subject property, Frank Petillo, President, Fish Lips, LLC. Petitioner is requesting Variance relief from Sections 258.1 and 238.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a side yard setback of .67 feet and a rear yard setback of 0 feet in lieu of the required 30 feet each. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 2.

Appearing at the requisite public hearing in support of the variance request was Petitioner Frank Petillo, President of Fish Lips, LLC and Frank V. Boozer, Jr., Esquire, attorney for the Petitioner. Also in attendance was Rick Richardson with Richardson Engineering, LLC, the professional engineer who prepared the site plan. Vincent Guida, Jr., Esquire, appeared on behalf of the adjoining property owner, Thomas C. Sanders. Mr. Guida advised that his client took no position regarding whether the variance request should be granted or denied.

Testimony and evidence offered revealed that the subject property is a warehouse facility that was constructed in 1968, and is used in Mr. Petillo's business as a wholesale seafood and produce marketer. Petitioner's engineer, Rick Richardson, testified that the relief being sought in

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Date 1-21-11

By RS

the present case was basically a 10 foot enlargement to a proposed storage building that was the subject of variance relief for the property granted in 2008 by Deputy Zoning Commissioner Thomas H. Bostwick (Case No. 2008-0601-A). Mr. Richardson testified that the property is unique in that it closely abuts the rail line spur which runs near the south side of the property. Mr. Richardson also testified that most of the industrial sites in this area are constructed right up to the property line, so as to avail themselves of the proximity to the rail line. As such, Mr. Richardson further testified that the Petitioner would experience a practical difficulty and hardship if it was not permitted to construct its proposed storage building, since it would not have immediate access to the rail spur. Finally, Mr. Richardson testified that in his opinion granting variance relief in this matter would not present a threat the public safety or welfare.

Petitioner's next witness was Frank Petillo, who is the President and owner of Fish Lips, LLC, the Petitioner and owner of the real property at 7211 Rolling Mill Road. Mr. Petillo testified that he has owned the property for approximately 10 years, and is in the wholesale seafood and produce business. Mr. Petillo testified that he intends to use the proposed structure to store racks of seafood, and that if he was unable to do so it would present a hardship to his expanding business. Mr. Petillo further testified that if the requested variance relief was granted, he would remove from the site an existing above-ground diesel tank located on the western side of the property, facing the property owned by Thomas C. Sanders and located at 7201 Rolling Mill Road. In addition, Mr. Petillo advised that he will plant sod and grass on the western side of his property in the 6 foot setback area indicated on Petitioner's Exhibit 2, and would also relocate a dumpster to the first dock door facing Rolling Mill Road, oriented at the northern portion of the subject property. Mr. Guida expressed some concern on behalf of his clients concerning the exact

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Date 1-21-11

By my

location for the dumpster, and to clarify the issue Mr. Richardson marked Petitioner's Exhibit 2 (the site plan) with a red circle and indicated this is where the dumpster would be located.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

After considering all of the testimony and evidence presented at the hearing, I am persuaded to grant the variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, the subject property has an irregular "bend" along its southern border, and abuts a rail line at that point. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner. As explained at the hearing, Petitioner's wholesale seafood business is expanding, and the proposed storage facility would improve operations and Mr. Petillo testified that he intends to create storage shelves in the additional 10 feet of space (as sought in the variance Petition). Both Rick Richardson and Mr. Petillo also testified that the additional 10 feet sought in the variance would enable the business to immediately abut the rail spur, which would also be advantageous to the operation of Petitioner's wholesale business.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. The subject property is located in a heavy manufacturing zone, and the grant of variance relief would allow Petitioner to conduct his business up to the property line and adjoining the rail spur, as with the other businesses in the area. Finally, Mr. Richardson testified that in his opinion, the relief requested would pose no harm to the community.

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Date 1-21-11

By Bj

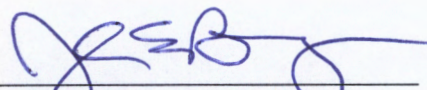
Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this 21 day of January, 2011 by this Administrative Law Judge, that Petitioner's Variance request from Sections 258.1 and 238.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a side yard setback of .67 feet and a rear yard setback of 0 feet in lieu of the required 30 feet each be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its building permit 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 appeal period 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. The granting of this variance relief is expressly conditioned upon Petitioner's completion of the improvements discussed at the hearing:
 - 1) Removal of above-ground diesel storage tank;
 - 2) Planting and sodding the 6 foot setback area on the western side of the subject property facing 7201 Rolling Mill Road;
 - 3) Relocating dumpster to northern portion of subject property at the location indicated with a circle marked "dumpster" on Petitioner's Exhibit 2.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:pz

ORDER RECEIVED FOR FILING

Date 1-21-11

By B7 4



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

January 20, 2011

FRANK V. BOOZER, JR., ESQUIRE
COVAHEY BOOZER DEVAN & DORE PA
614 BOSLEY AVENUE
TOWSON MD 21204

Re: Petition for Variance
Case No. 2011-0186-A
Property: 7211 Rolling Mill Road

Dear Mr. Boozer:

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 with the Department of Permits, Applications and Inspections an appeal within thirty (30) days from the date of this Order. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over the printed name of John E. Beverungen.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

THB:pz

Enclosure

c: Frank Petillo, President, Fish Lips LLC, 7211 Rolling Mill Road, Baltimore MD 21224
Rick Richardson Engineering, Inc., 30 East Padonia Road, Suite 500, Timonium MD 21030
Ed Griffiths, 965-A Belair Road, Baltimore MD 21236
Vincent Guida, Jr., Esquire, Bowie & Jensen, 29 West Susquehanna Avenue, Suite 600,
Towson, MD 21204

John



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 7211 Rolling Mill Rd.

which is presently zoned MH-IM

Deed Reference: 12617 / 137 Tax Account # 1519450350

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) 258.1, 238.2 (BCZR)

To allow a side yard setback of .67-feet and a rear yard setback of 0-feet in lieu of the required 30-feet.

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

Complete argument and supporting documentation of hardship and practical difficulty to be presented at the requested 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:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Frank V. Boozer, Jr.

Name - Type or Print

Signature

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

Company

614 Bosley Ave.

(410)-828-9441

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Fish Lips, LLC (Frank Petillo - President)

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Representative to be Contacted:

Frank V. Boozer, Jr.

Name

614 Bosley Ave.

(410)-828-9441

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Case No. 2011-0186-A

Office Use Only

Estimated Length of Hearing
Unavailable For Hearing

Reviewed by

D.T.

Date 11/22/10

REV 8.20.07

ORDER RECEIVED FOR FILING

Date

1-21-11

By

pm

**ZONING DESCRIPTION
7211 ROLLING MILL ROAD
15 TH ELECTION DISTRICT
7th Councilmanic District
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point on the South side of Rolling Mill Road (70' right-of-way) at a distance of 1,282 feet Southwest of the centerline of the nearest improved intersecting street Canton Center Drive (70' right-of-way), thence running and binding on the South side of Rolling Mill Road right-of-way (1) by a curve to the left with a radius of 7,600.00 feet and a arc length of 95.05 feet with a chord of South 72 degrees 26 minutes 48 seconds West 95.05 feet, (2) by a curve to the right with a radius of 7,600.00 feet and a arc length of 52.76 feet with a chord of South 73 degrees 45 minutes 25 seconds West 52.76 feet, thence leaving the South side right-of-way of Rolling Mill Road the following course and distance, (3) South 28 degrees 15 minutes 30 seconds East 157.66 feet to a point on the North side of a railroad right-of-way, thence binding on the North side of the railroad right-of-way the following courses and distances, (4) North 71 degrees 16 minutes 08 seconds East 29.15 feet, (5) North 61 degrees 44 minutes 30 seconds East 116.25 feet, thence leaving the North side railroad right-of way, (6) North 28 degrees 15 minutes 30 seconds West 133.85 feet, to the point of beginning;

Containing a net area of 0.49 acres of land, more or less.



2011-0186-A

**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: # 2011-0186-A
7211 Rolling Mill Road -
S/side of Rolling Mill Road,
1,282 feet southwest of
centerline of Canton Center
Drive
15th Election District
6th Councilmanic District
Legal Owner(s): Fish Lips,
LLC, Frank Petillo
Variance: to allow a side
yard of .67 feet and a rear
yard setback of 0 feet in
lieu of the required 30 feet.
Hearing: Wednesday, Jan-
uary 19, 2011 at 9:00 a.m.
in Room 104, Jefferson
Building, 105 West Ches-
apeake Avenue, Towson
21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

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

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

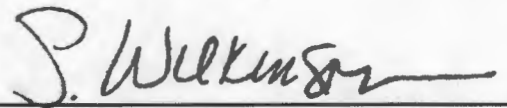
JT 1/632 Jan. 4 264298

CERTIFICATE OF PUBLICATION

1/6/, 2011

THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each of 1 successive weeks, the first publication appearing
on 1/4/, 2011.

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



LEGAL ADVERTISING

CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATHHEWS

DATE: 1/6/11

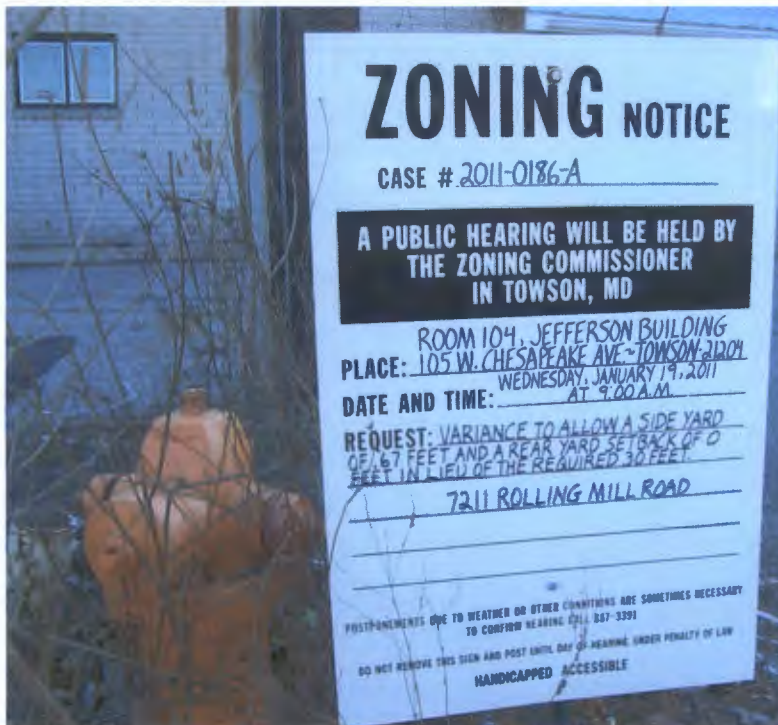
Case Number: 2011-0186-A

Petitioner / Developer: FRANK BOOZER, COVAHEY, BOOZER, DEVAN, & DORE~FISH LIPS, FRANK PETILLO~DONALD MITTEN

Date of Hearing (Closing): JANUARY 19, 2011

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:
7211 ROLLING MILL ROAD

The sign(s) were posted on: JANUARY 4, 2011



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

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



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

December 28, 2010

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

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2011-0186-A

7211 Rolling Mill Road

S/side of Rolling Mill Road, 1,282 feet southwest of centerline of Canton Center Drive

15th Election District – 6th Councilmanic District

Legal Owners: Fish Lips, LLC, Frank Petillo

Variance to allow a side yard of .67 feet and a rear yard setback of 0 feet in lieu of the required 30 feet.

Hearing: Wednesday, January 19, 2011 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "George Klunk".

George Klunk
Acting Director

GK:kl

C: Frank Boozer, Covahey, Boozer, Devan & Dore, 614 Bosley Ave., Towson 21204
Fish Lips, Frank Petillo, 7211 Rolling Mill Road, Baltimore 21224
Donald Mitten, 30 E. Padonia Road., Ste. 500, Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JANUARY 4, 2011.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 4, 2011 Issue - Jeffersonian

Please forward billing to:

Frank Boozer
Covahey, Boozer, Devan & Dore
614 Bosley Avenue
Towson, MD 21204

410-828-9441

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: 2011-0186-A

7211 Rolling Mill Road

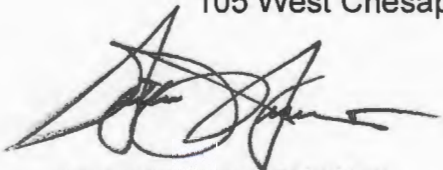
S/side of Rolling Mill Road, 1,282 feet southwest of centerline of Canton Center Drive

15th Election District – 6th Councilmanic District

Legal Owners: Fish Lips, LLC, Frank Petillo

Variance to allow a side yard of .67 feet and a rear yard setback of 0 feet in lieu of the required 30 feet.

Hearing: Wednesday, January 19, 2011 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

**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: 2011-0186-A

Petitioner: FISH LIPS, LLC

Address or Location: 7211 ROLLING MILL RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: FRANK V. BOOZER, JR., ESQ.

Address: COVAHEY, BOOZER, DEVAN + DORE, P.A.

614 BOSLEY AVE.

TOWSON, MD 21204

Telephone Number: 410-828-9441

CASE NAME Fish Lips LLC
CASE NUMBER 2011-186A
DATE 4/18/11 1-19-11

[illegible]

RE: PETITION FOR VARIANCE	*	BEFORE THE
7211 Rolling Mill Road; S/S Rolling Mill		
Road, 1,282' SW of c/line Canton Center Dr.*		ZONING COMMISSIONER
15 th Election & 6 th Councilmanic Districts		
Legal Owner(s): Fish Lips, LLC	*	FOR
Petitioner(s)	*	BALTIMORE COUNTY
	*	2011-186-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

DEC 08 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 2010, a copy of the foregoing Entry of Appearance was mailed to Frank V. Boozer, Jr., Esquire, Covahey Boozer Devan & Dore PA, 614 Bosley Avenue, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: George Klunk, (Acting) Director
Department of Permits and
Development Management

DATE: December 6, 2010

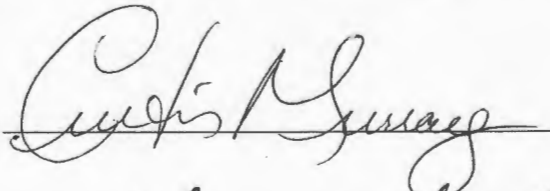
FROM: Jeff Mayhew
(Acting) Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 11-186- Variance**

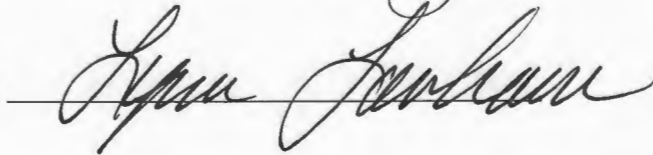
The Office of Planning has reviewed the above referenced case(s) and does not oppose the petitioner's request.

For further questions or additional information concerning the matters stated herein, please contact John Alexander in the Office of Planning at 410-887-3480.

Prepared By:



Division Chief:
CM/LL





KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

January 14, 2011

Fish Lips, LLC
Frank Petillo
7211 Rolling Mill Road
Baltimore, Maryland 21224

RE: Case # 2011-0186 7211 Rolling Mill Road

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

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:rjc
Enclosures

c: People's Counsel
Frank V. Boozer, Jr. 614 Bosley Avenue, Towson, Maryland 21204
Covahey, Boozer, Devan & Dore, 614 Bosley Ave Towson, Maryland 21204



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: DEC. 3, 2010

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

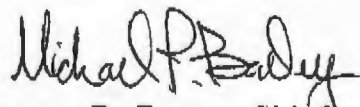
RE: Baltimore County
Item No 2011-0186-A
7211 ROLLING MILL RD
FISH LIPS, LLC
VARIANCE -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2011-0186-A.

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

Very truly yours,


For Steven D. Foster, Chief
Access Management Division

SDF/mb

Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500



Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

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

December 09, 2010

ATTENTION: Kristen Mathews
ZAC 12-6-2010

Case Number(s): 2011-0152-SPHA
2011-0180-A
2011-0181-A
2011-0182-A
2011-0183-SPH
2011-0184-A
2011-0185-SPH
2011-0186-A
2011-0187-A
2011-0188-A

The fire marshal's office has no comments at this time.

Lt. Jimmie D. Mezick
Fire Marshal's Office
410-887-4880
MS-1102F

cc: File

Visit the County's Website at www.baltimorecountyonline.info



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For December 13, 2010
Item Nos. 2011- 152, 180, 182, 183,
184, 185, 186, 187 and 188

DATE: December 9, 2010

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-12132010 -NO COMMENTS.doc



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

September 1, 2010

Donald N. Mitten, P.E.
Richardson Engineering, LLC
30 E. Padonia Rd., Suite 500
Timonium, MD 21093

RE: Spirit and Intent of Zoning Case 2008-0601-A
7211 Rolling Mill Road, MD St Tax #15194500350
15th Election District

Dear Mr. Mitten:

Your recent letter sent to this office has been given to me for reply. Based on the information and plans provided and my review of the available zoning records, the following has been determined.

Pursuant to Section 258.1 and directed to Section 238.2 of the BCZR, a 30-foot setback is required for the side and rear of a commercial building in a M.H.-I.M. zone. Research of prior zoning hearings does not show any variance for the current deficient rear setback. Therefore, your request to construct an addition as shown on the provided site plan is **not** within the spirit and intent of zoning case 2008-0601-A. Attached please find a copy of "Additions with Deficient Setbacks" from the Zoning Commissioner's Policy Manual outlining our rules and regulations.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Sincerely,

A handwritten signature in cursive script that reads "Donna Thompson".

Donna Thompson
Planner II, Zoning Review

DT

IN RE: PETITION FOR VARIANCE

SE side of Rolling Mill Road, 2000 feet E
of c/l of North Point Blvd.
15th Election District
7th Councilmanic District
(7211 Rolling Mill Road)

Edward Petillo
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* CASE NO. 2008-0601-A

*previous
order*

* * * * *

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 owner of the subject property, Edward Petillo. Petitioner is requesting variance relief from Section 258.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a side yard setback of six feet in lieu of the required 30 feet.¹ The subject property and requested relief are more fully depicted on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner Edward Petillo and his attorney, F. Vernon Boozer, Esquire. Also appearing in support of the requested relief was Joseph Larson with Spellman Larson & Associates, Inc., the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is mostly square-shaped with a slight angle along the front of the property at Rolling Mill Road, and contains 0.49 acre, more or less, zoned M.H.-I.M. The property is located on the south side of Rolling Mill

¹ Section 258.1 of the B.C.Z.R. states that the area regulations in the M.H. Zone shall be the same as those in B.R. Zone, unless such B.R. Zone regulations conflict with the provisions of Section 258.2. The B.R. Zone area regulations are contained in Section 238 of the B.C.Z.R. Section 238.2 of the B.C.Z.R. states that the minimum side and rear yard setbacks for non-residences, or "other buildings" (as in the instant matter) shall be 30 feet.

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19**THE REGULATIONS****ARTICLE 3, EXCEPTIONS TO HEIGHT AND AREA REQUIREMENTS****Section 307, Variances [BCZR 1955; Bill Nos. 107-1963; 32-1988; 2-1992; 9-1996]****Section 307, Variances [BCZR 1955; Bill Nos. 107-1963; 32-1988; 2-1992; 9-1996]**

307.1 The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases 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 Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. ^{EN} Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

Section 308, Variances and Special Exceptions for Radiation Fallout Shelters [Bill Nos. 87-1961; 19-1962]

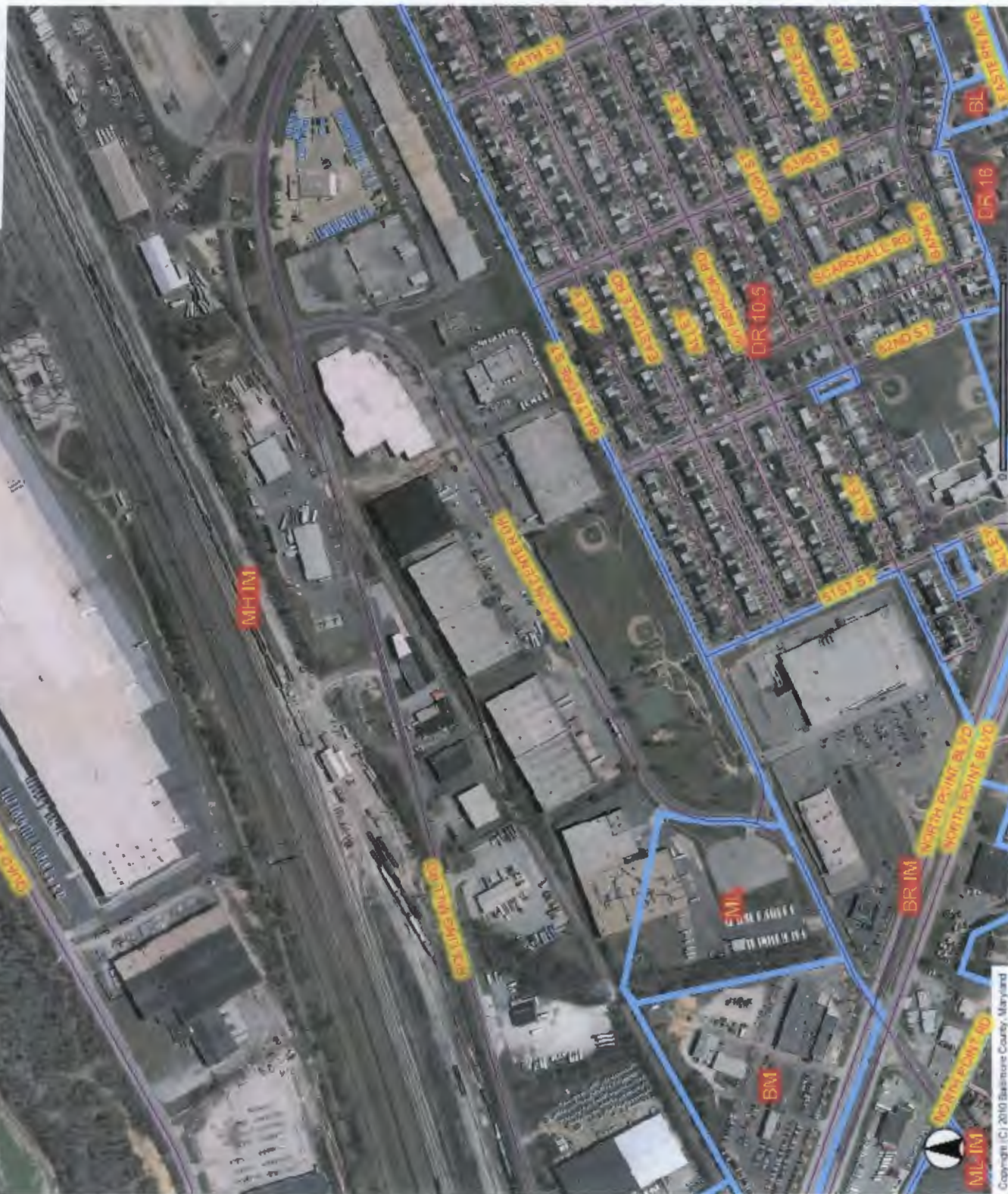
Radiation fallout shelters may be erected and constructed in accordance with specifications published by the Office of Civil and Defense Mobilization of the United States Government for one of the shelter types or designs approved by said agency as being effective for affording protection from radiation fallout, and the Zoning Commissioner may grant variances from area and height regulations and may make special exceptions to the Zoning Regulations where strict compliance with those regulations would result in practical difficulty or unreasonable hardship, and where the owner of the lot does not own sufficient adjoining land to conform strictly to the width and area requirements. However, any such variance or special exception shall be granted by the Zoning Commissioner only if in harmony with the general purpose and intent of the Zoning Regulations. All decisions of the Zoning Commissioner with respect to such matters shall be subject to appeal to the Board of Appeals. Every radiation fallout shelter which may be erected and constructed under this section shall be used only for the purpose of protection from radiation fallout, and not for normal residential, commercial or industrial uses.

ARTICLE 4, SPECIAL REGULATIONS**Section A400, Purpose [Bill Nos. 40-1967; 18-1976]**

Certain uses, whether permitted as of right or by special exception, have singular, individual

PETITIONER'S

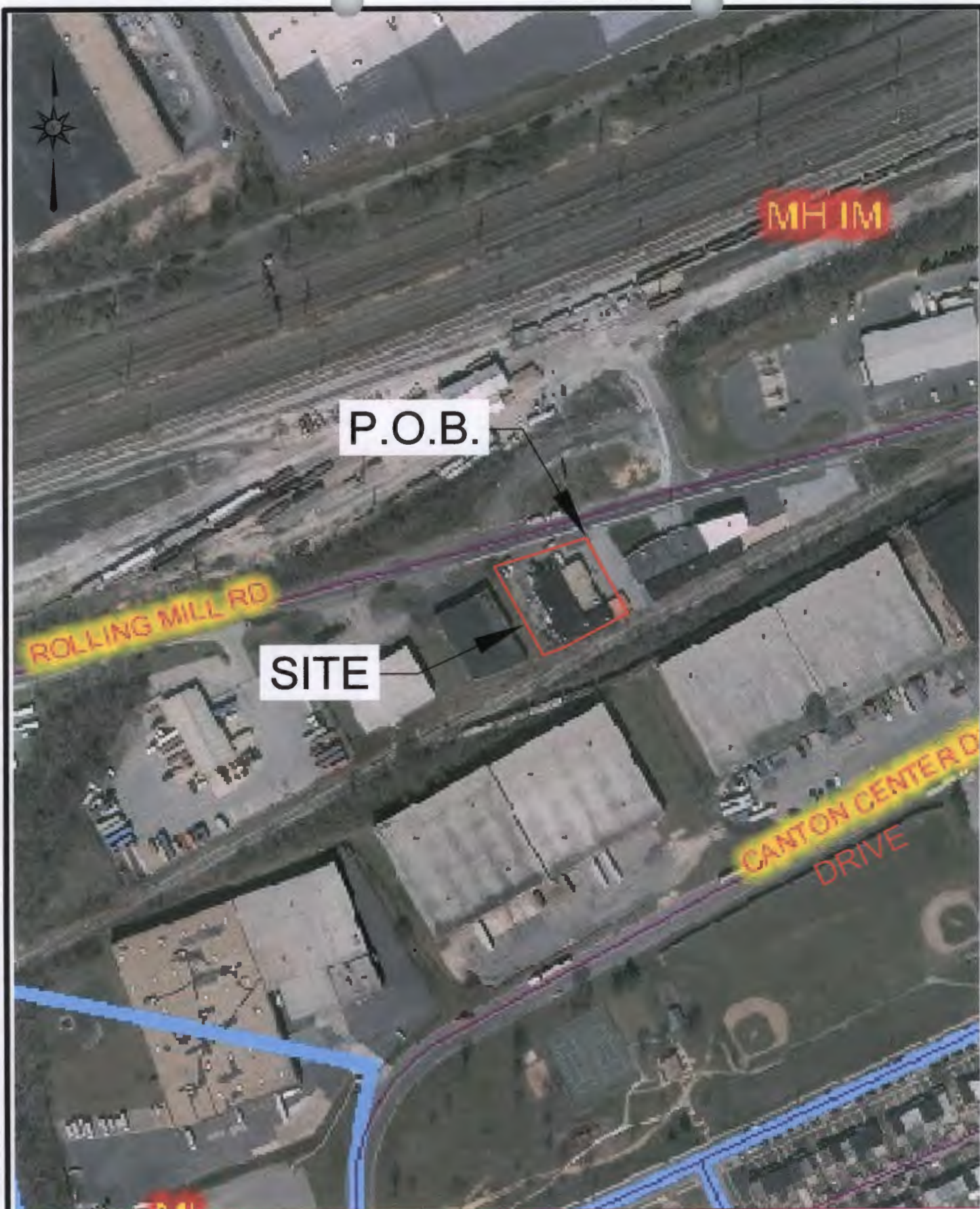
EXHIBIT NO. 21











ZONING MAP #096B2
SCALE: 1" = 200'

2011-0186-A

ROLLING MILL RD

19840081

19750255

1511152400

7215

096B2 MH IM
7 CD 15 ED

Lot # 6B

1519450350

7211

20080601

NE 1-E

Pt. Bk. 31, Folio 72
PDM # 158188

7201

1600000472

1503000300

Pt. Bk. 31, Folio 72

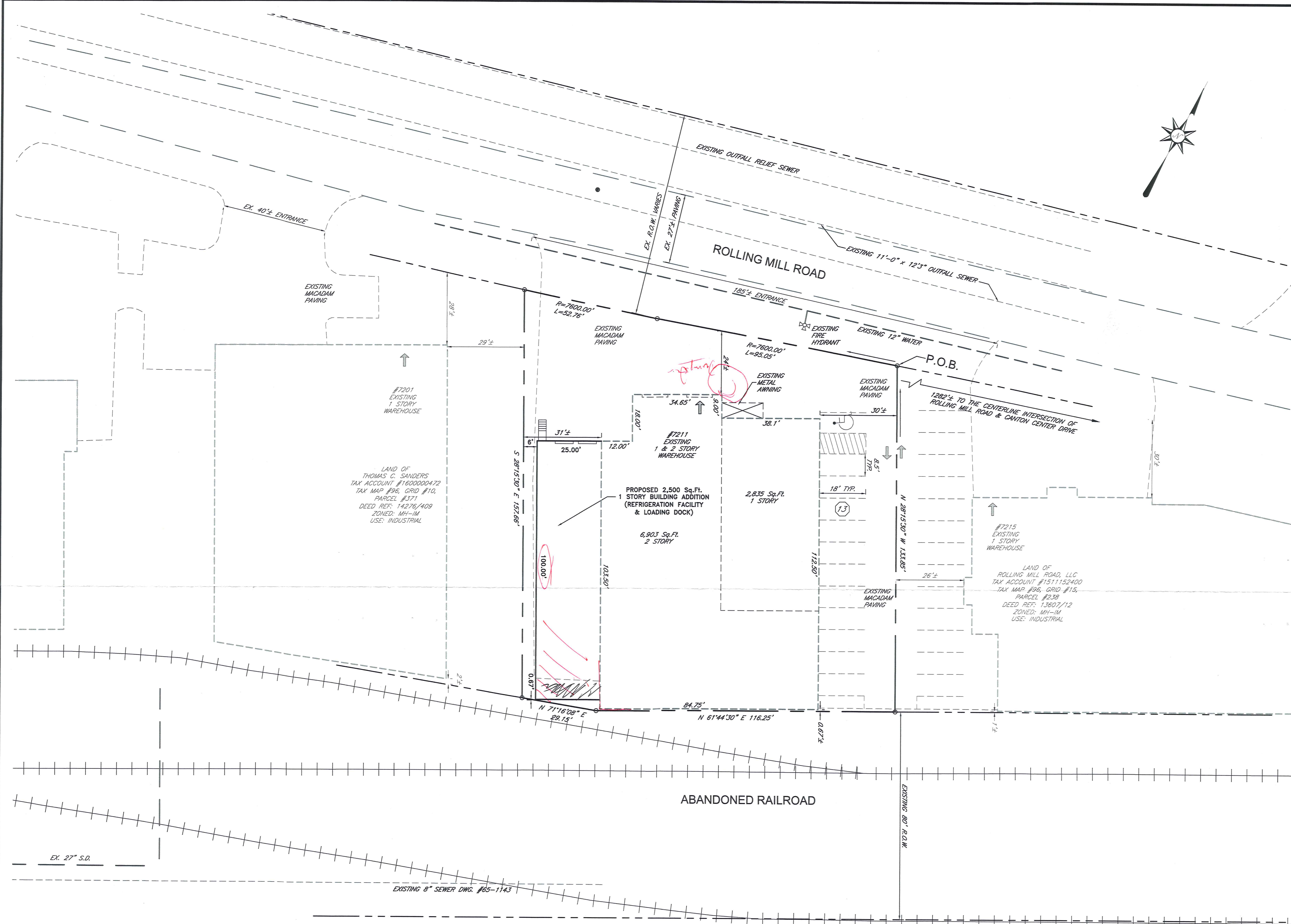
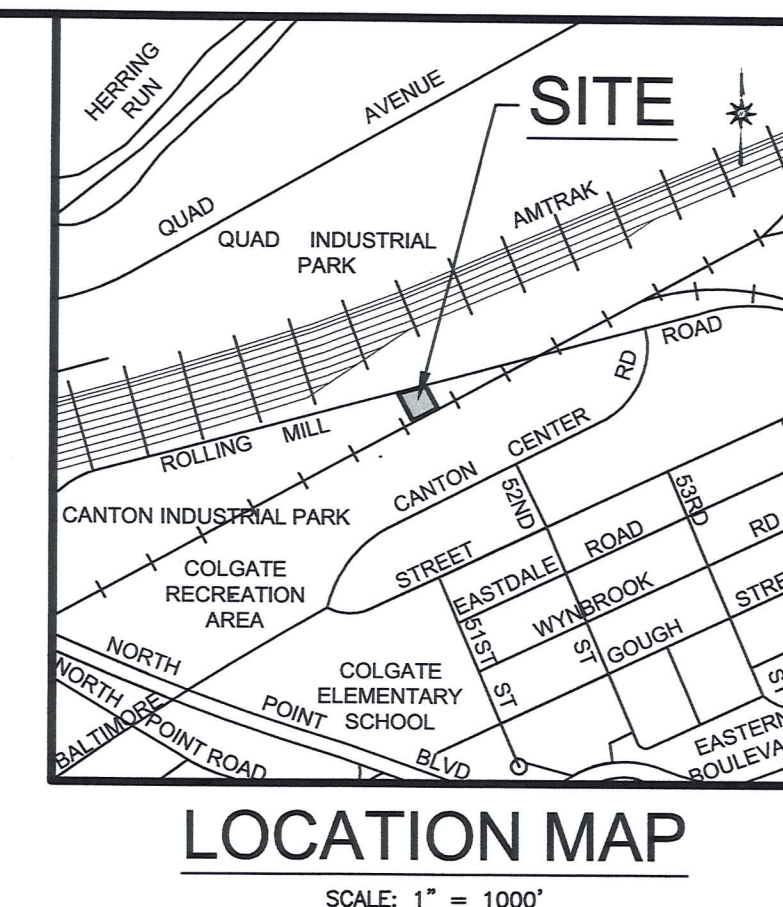
1516451390

1506001060

1600000837

2011-0186-A

PETITIONER'S
EXHIBIT NO. 42



GENERAL NOTES:

- OWNER/APPLICANT: FISH LIPS, LLC
7211 ROLLING MILL ROAD
BALTIMORE, MARYLAND
21224-2033
- SITE AREA:
GROSS: 25,800 SF OR 0.59 Ac.±
NET: 21,365 SF OR 0.49 Ac.±
- BUILDING AREA:
EXISTING: 9,738 SF
PROPOSED: 12,238 SF
- UTILITIES:
PUBLIC WATER.
PUBLIC SEPTIC.
- HEIGHT OF STRUCTURE NOT TO EXCEED 40'.
- DEED REF: 12617/137
- TAX ACCOUNT: # 1519450350
- ELECTION DISTRICT: 15TH
- COUNCILMANIC DISTRICT: 7TH
- ZONING: MH-IM
(PER 1"=200' ZONING MAP 096B2)
- TAX MAP #96, PARCEL #238
- PREVIOUS ZONING CASES:
2008-0801-A, GRANTED OCTOBER 3, 2008.
TO ALLOW A SIDE YARD SETBACK OF 6' IN LIEU OF THE REQUIRED 30'.
75-255-A, DENIED JUNE 12, 1975.
TO REQUEST A 10' SIDE YARD SETBACK IN LIEU OF THE REQUIRED 30'.
- THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
- THERE ARE NO HISTORIC FEATURES ON SITE NOR IS THE SITE ITSELF HISTORIC.
- FAR CALCULATION:
PROPOSED BUILDING AREA: 19,141 SF
EXISTING GROSS SITE AREA: 25,800 SF
FAR: 0.74
- PARKING CALCULATIONS:
11 EMPLOYEES
1 SPACE PER EMPLOYEE = 11 SPACES REQUIRED
11 SPACES PROVIDED
- SETBACKS:
FRONT: 25 FEET
REAR AND SIDE: 30 FEET
- PREVIOUS DRC CASE: 082410C- GRANTED A LIMITED EXEMPTION UNDER SECTION 32-4-106(a)(1)(vi) ON 09-09-10
- THE SITE DOES NOT LIE WITHIN THE 100 YEAR FLOODPLAIN.
- REGIONAL PLANNING DISTRICT: 326
- CENSUS TRACT: 4501
- WATERSHED: BACK RIVER

Richardson Engineering, LLC

30 East Padonia Road, Suite 500
Timonium, Maryland 21093
Phone: 410-560-1502 Fax: 443-901-1208

PLAN TO ACCOMPANY ZONING PETITION FOR 7211 ROLLING MILL ROAD CANTON CENTER LOT 6B

15TH ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

REVISIONS

DRAWN BY:	DESIGNED BY:	SCALE:
CND	PCR	1" = 20'
DATE:	JOB NO.:	SHEET NO.:
10-07-10	10066	1 OF 1

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 NUMBER 16597,
EXPIRATION DATE: 08-15-2011

