

IN RE: PETITION FOR VARIANCE
N Side of Church Lane, 81' E of
c/l of Products Drive
8th Election District
3rd Council District
(152 Church Lane)

152 Church Lane, LLC
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2011-0309-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the property, 152 Church Lane, LLC. The Petitioner is requesting Variance relief under Sections 255.1 and 303.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard setback of 4 feet in lieu of the required 30 feet and to permit a front yard depth of 14.33 feet in lieu of the required 11.2 feet. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the variance request were Petitioner Benjamin Marcantoni, Managing Member of 152 Church Lane, LLC and Patrick C. Richardson, Jr. with Richardson Engineering, LLC, the professional engineer who prepared the site plan. C. William Clark, Esquire with Nolan, Plunhoff & Williams, Chtd., attended the hearing as attorney for the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is located near the Home Depot in Cockeysville, and is zoned ML-IM. The property is improved by a house (which is vacant and somewhat dilapidated) and one story garage, both of which Petitioner plans to raze.

ORDER RECEIVED FOR FILING

Date 6-9-11

In their place, Petitioner seeks to construct an 880 square feet office building and a 2,000 square feet warehouse building, both one (1) story structures.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. No adverse comments were received from any of the County reviewing agencies.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested 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 dimensions of the lot are 135 feet deep by 75 feet wide. To begin with, this is an extremely small lot in an ML zone. In these circumstances, if the applicable provisions of the B.C.Z.R was enforced (§ 238.1), the Petitioner would be left with only a 15 foot wide "building envelope." The Petitioner - who operates a construction company and storage yard - would experience a practical difficulty if the B.C.Z.R was strictly enforced, since large construction vehicles and trailers could not access the site or turn around on the premises unless the proposed buildings are located on one side or another of the lot.

With regard to the front yard depth variance, the "required" 11.2 feet results from the "averaging" calculation of B.C.Z.R 303.2, and the figures are skewed because the adjoining structures, like the house on the subject property, are located extremely close to Church Lane. The reality is that the proposed one story office building will be set back over 14 feet from Church Lane, whereas the porch of the existing two story dwelling is just 10 feet from the road. In these circumstances, the variance relief will allow for the construction of a modern yet modest office building more in keeping with the current standards.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find

that variance relief can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

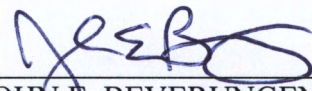
Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED, this 9 day of June, 2011 by this Administrative Law Judge that Petitioner's Variance request from Sections 255.1 and 303.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard setback of 4 feet in lieu of the required 30 feet and to permit a front yard depth of 14.33 feet in lieu of the required 11.2 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for a building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioner will be required to return and be responsible for returning said property to its original condition.

Any appeal of this decision must be made 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 6-9-11

3

By 



KEVIN KAMENETZ
County Executive

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

June 9, 2011

C. WILLIAM CLARK, ESQUIRE
NOLAN PLUMHOFF & WILLIAMS, CHTD.
502 WASHINGTON AVENUE #700
TOWSON MD 21204

Re: Petition for Variance
Case No. 2011-0309-A
Property: 152 Church Lane

Dear Mr. Clark:

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

JEB:pz

Enclosure



Petition for Variance

to the **Zoning Commissioner of Baltimore County** for the property
located at 152 Church Lane, Cockeysville, MD 21030
which is presently zoned ML-IM

Deed Reference: 29360 / 329 Tax Account # 0816000025

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)

255.1 to permit a side yard setback of 4' in lieu of the required 30' and from Section 303.2 to permit a frontyard depth of 14.33' in lieu of the required 11.2'.

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

practical difficulty due to existing site conditions as to be shown at a hearing on this Petition.

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:

C. William Clark
Name - Type or Print _____
Signature C. William Clark
Nolan, Plumhoff & Williams, Chtd.
Company _____
502 Washington Ave., #700 (410) 823-7800
Address _____ Telephone No. _____
Towson MD 21204
City State Zip Code

Legal Owner(s):

152 Church Lane, LLC
Name - Type or Print _____
Signature B. S. Marcantoni
Benjamin S. Marcantoni, Managing Member
Name - Type or Print _____
Signature CANDYCE M. MARCANTONI
152 Church Lane (443) 250-2675
Address Telephone No. _____
Cockeysville MD 21230
City State Zip Code

Representative to be Contacted:

Richardson Engineering, LLC
Name _____
30 E. Padonia Rd, #500 (410) 560-1502
Address Telephone No. _____
Timonium MD 21093
City State Zip Code

Case No. 2011-0309-A

Office Use Only

Estimated Length of Hearing _____
Unavailable For Hearing _____

REV 8/20/07 ORDER RECEIVED FOR FILING

Reviewed by D.T. Date 4/13/11

Date 6-9-11

By pr

30 E. Padonia Road, Suite 500
Timonium, Maryland 21093

tel. 410-560-1502
fax 443-901-1208

**ZONING DESCRIPTION
152 CHURCH LANE
8 TH ELECTION DISTRICT
3RD Councilmanic District
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point on the North side of Church Lane (30' right-of-way) at a distance of 81 feet (more or less) from the centerline of Products Drive (24' paving, more or less), thence running and binding on the North side of Church Lane right-of-way (1) South 83 degrees 22 minutes 43 seconds East 75.00 feet, thence leaving the North side right-of-way of Church Lane the following course and distance, (2) North 06 degrees 37 minutes 17 seconds East 135.00 feet, (3) North 83 degrees 22 minutes 43 seconds West 75.00 feet, (4) South 06 degrees 37 minutes 17 seconds West 135.00 feet, to the point of beginning;

Containing a net area of 10,125 square feet or 0.23 acres of land, more or less.



2011-0309-A

RE: PETITION FOR VARIANCE
152 Church Lane; NS Church Lane
81 feet. east of centerline Products Dr.
8th Election & 3rd Councilmanic Districts
Legal Owner(s): Benjamin & Candyce
Marcantoni

Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 2011-0309-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.

RECEIVED
APR 28 2011
[Signature]

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of April, 2011, a copy of the foregoing Entry of Appearance was mailed to C. William Clark, Nolan, Plumhoff & Williams, Chtd., 502 Washington Avenue, #700, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

**NOTICE OF ZONING
HEARING**

The Administrative Law Judges 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: # 2011-0309-A

152 Church Lane
N/S Church Lane, 81 feet
east of centerline of Products Drive

8th Election District
3rd Councilmanic District
Legal Owner(s):

152 Church Lane, LLC
by Benjamin Marcantoni,
Managing Member

Variance: to permit a side yard setback of 4 feet in lieu of the required 30 feet and to permit a front yard depth of 14.33 feet in lieu of the required 11.2 feet.

Hearing: Wednesday,
June 1, 2011 at 11:00
a.m. in Room 205, Jefferson Building, 105 West
Chesapeake Avenue,
Towson 21204.

ARNOLD JABLON, DIRECTOR
OF PERMITS, APPROVALS
AND INSPECTIONS FOR
BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

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

JT/5/702 May 17 276046

CERTIFICATE OF PUBLICATION

5/19/ 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 5/17/ 2011.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

2011-0309-A

RE: Case No.: _____

Petitioner/Developer: _____

152 Church Lane, LLC

June 1, 2011

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

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

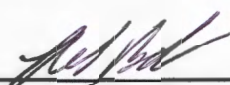
152 Church Lane

May 17, 2011

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

Sincerely,

May 18, 2011


(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



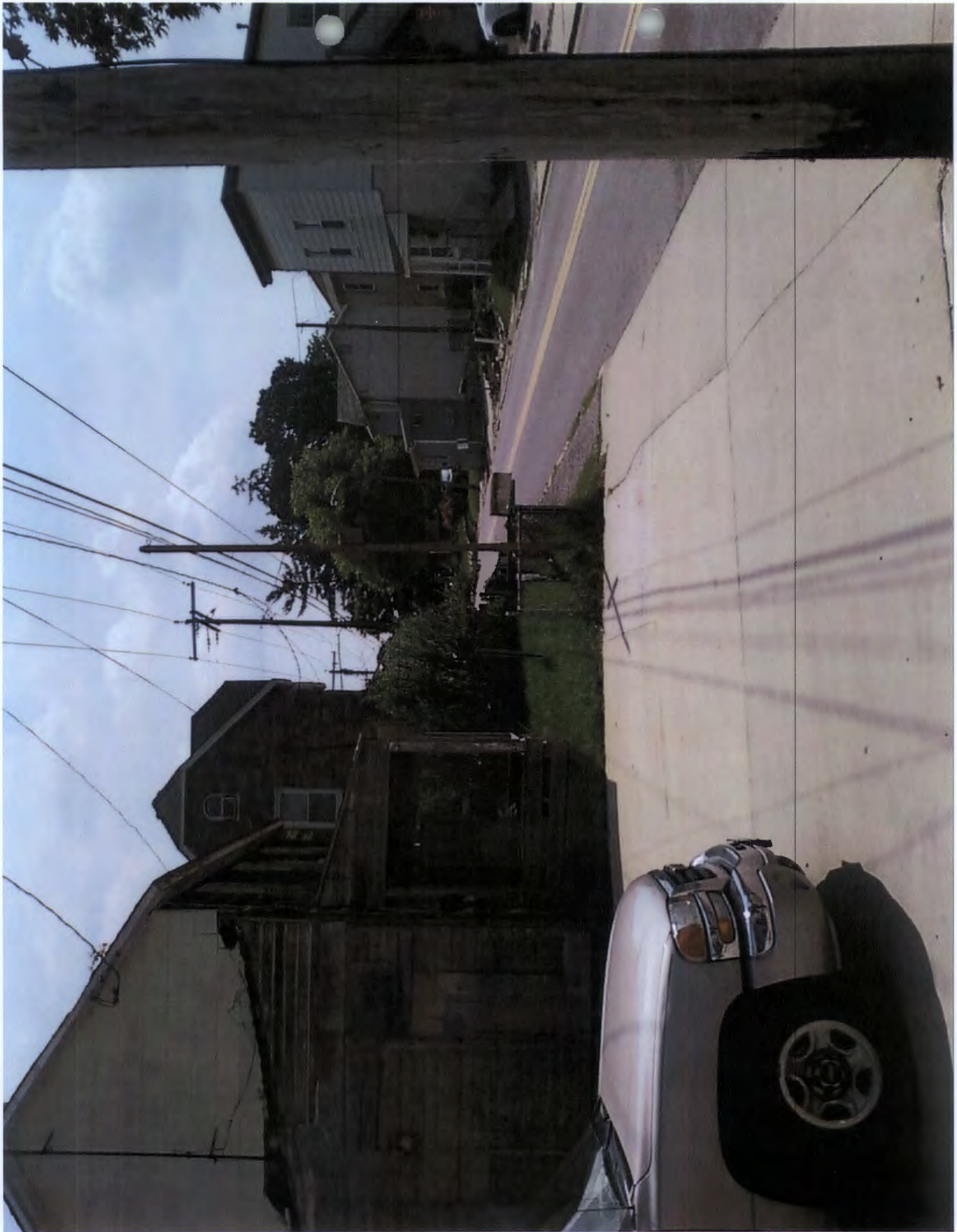
HELP WANTED
4106678000

204486









§ 253.4. Uses within 100 feet of residential boundaries and motorways; screening. [Bill Nos. 176-1981; 31-1984; 137-2004]

Within 100 feet of any residential zone boundary or the right-of-way of any street abutting such a boundary, only passenger automobile accessory parking and those uses permitted in M.R. Zones, as limited by the use regulations in Section 241, are permitted. Any use other than passenger automobile accessory parking and those uses permitted in M.R. Zones as limited by the use regulations in Section 241 established within 100 feet of the right-of-way of an existing or proposed freeway or expressway so designated by the Planning Board shall be screened from the motorway in accordance with the standards and criteria contained in the Baltimore County Landscape Manual adopted pursuant to § 32-4-404 of the Baltimore County Code. Notwithstanding the foregoing, no trucking facility or part of a trucking facility may be established within 100 feet of such a right-of-way.

§ 253.5. Conflicts with Section 270.

Wherever any provision of this section may conflict with a provision of Section 270, the provision in this section shall control.

SECTION 254

**M.L. Zone Height Regulations
[BCZR 1955; Bill No. 56-1961⁷⁶]**

§ 254.1. Height regulations.

Height unlimited, except that no building hereafter erected on a lot which abuts a residence or business zone shall exceed a height of 40 feet or three stories if any part of said building is within 100 feet of the boundary line of said residence or business zone (See Section 300.).

SECTION 255

**M.L. Zone Area Regulations
[BCZR 1955; Bill Nos. 56-1961; 85-1967]**

§ 255.1. Area regulations.

The area regulations in the M.L. Zone shall be the same as those in B.R. Zone unless such B.R. Zone regulations conflict with the provisions of Section 255.2.⁷⁷

76. Editor's Note: A literal reading of Section 3 of Bill No. 56-1961 would indicate that Section 254 of the Zoning Regulations was changed to read, in its entirety, as follows: "(See Section 255.1 and 300)." It has been assumed, however, that it was not the intent of the bill to repeal the language set out here as preceding that parenthetical reference.

77. Editor's Note: Part of former Subsection 255.1, added by Bill No. 56-1961 was revised by Bill No. 85-1967 and redesignated as Subsection 255.2.

nonresidential principal buildings have front yards of less depth than those specified therefor in the area regulations for D.R.2, D.R.3.5 and D.R.5.5 Zones respectively.

§ 303.2. Standards for B.L., B.M. and B.R. Zones.

In B.L., B.M. and B.R. Zones, the front yard depth of any building hereafter erected shall be the average of the front yard depths of the lots immediately adjoining on each side, provided such adjoining lots are improved with permanent commercial buildings constructed of fire-resisting materials situate within 100 feet of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall be not less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above.

SECTION 304

Use of Undersized Single-Family Lots
[BCZR 1955; Bill No. 47-1992]

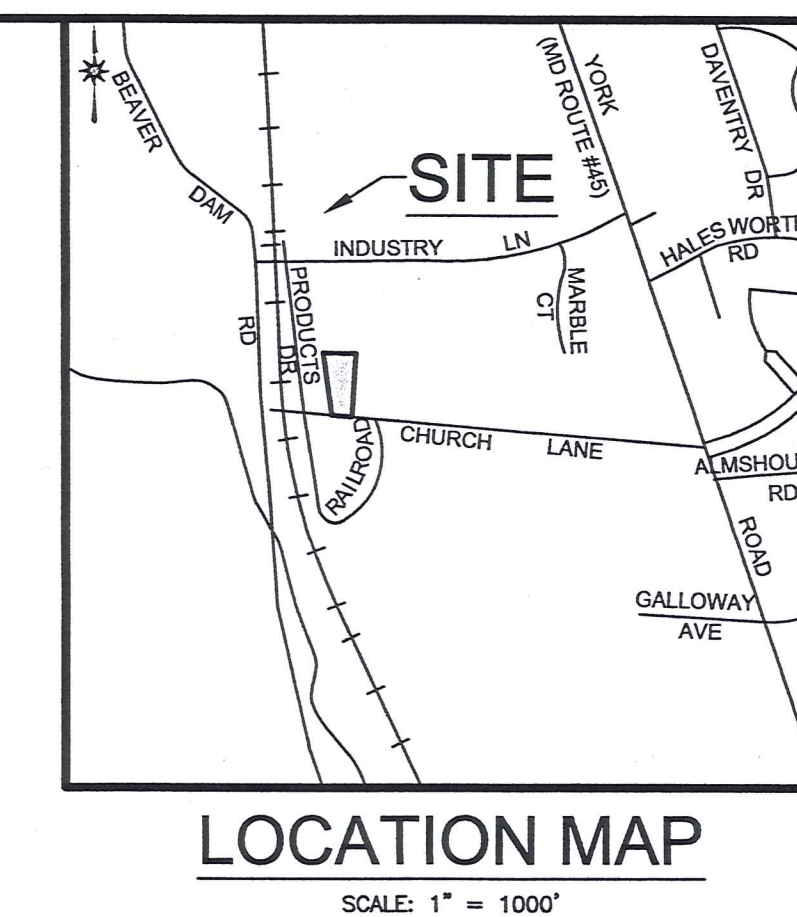
§ 304.1. Types of dwellings allowed; conditions. [Bill Nos. 64-1999; 28-2001]

Except as provided in Section 4A03, a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

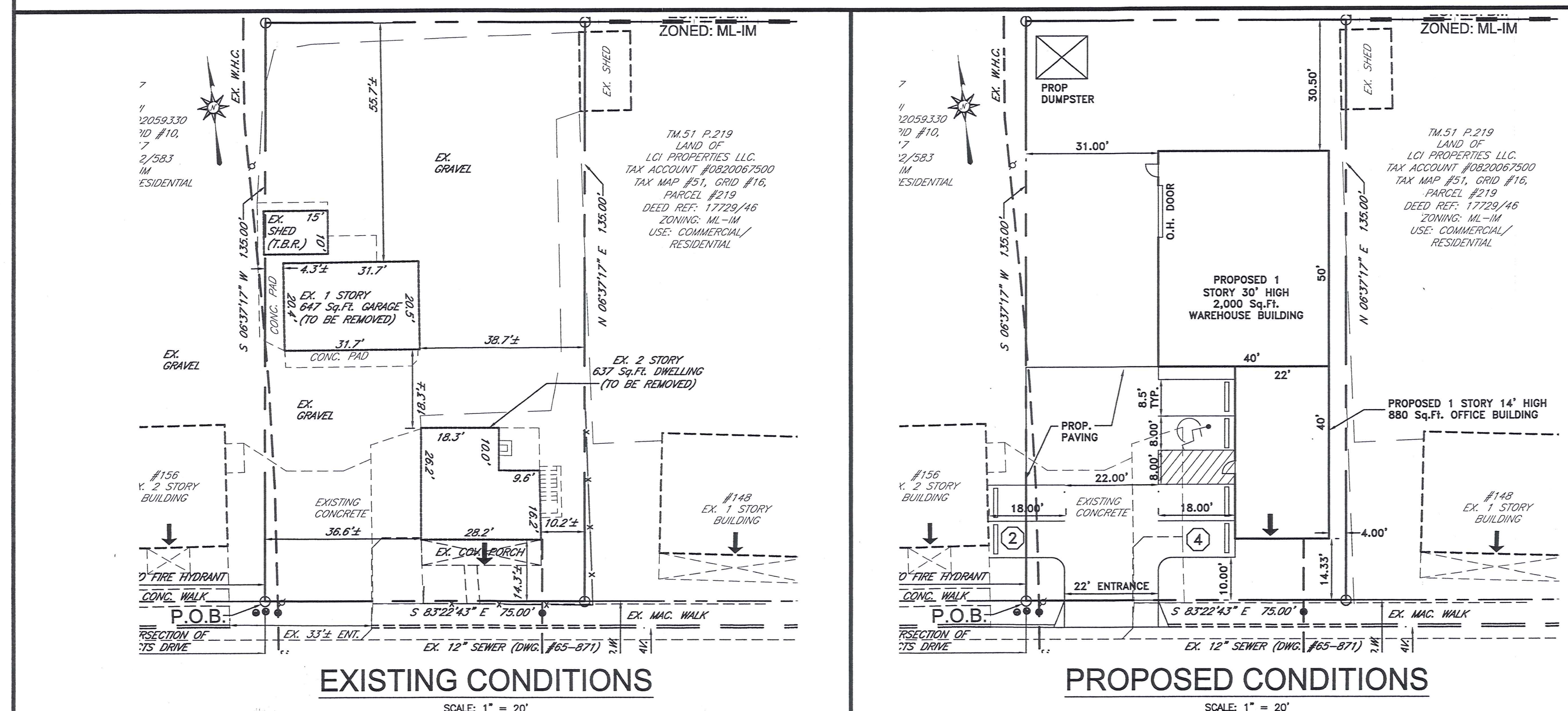
- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;
- B. All other requirements of the height and area regulations are complied with; and
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

§ 304.2. Building permit application.

- A. Any person desiring to erect a dwelling pursuant to the provisions of this section shall file with the Department of Permits and Development Management, at the time of application for a building permit, plans sufficient to allow the Office of Planning to prepare the guidelines provided in Subsection B below. Elevation drawings may be required in addition to plans and drawings otherwise required to be submitted as part of the application for a building permit. Photographs representative of the neighborhood where the lot or tract is situated may be required by the Office of Planning in order to determine appropriateness of the proposed new building in relation to existing structures in the neighborhood.
- B. At the time of application for the building permit, as provided above, the Director of the Department of Permits and Development Management shall request comments from the Director of the Office of Planning (the "Director"). Within 15 days of receipt of a request from the Director of the Department of Permits and Development Management, the



1. OWNER:
152 CHURCH LANE, LLC
16005 BACONSFIELD LANE
MONKTON, MARYLAND 21111-1540
2. SITE AREA:
GROSS: 11,250 Sq.Ft. or 0.258Ac.±
NET: 10,125 Sq.Ft. or 0.232 Ac.±
3. SETBACKS: REQUIRED PROVIDED
FRONT 11.2' * 14.5'
SIDE 30' 4'
REAR 30' 30.5'
*AVERAGED PER SECTION 303.2
(10.2+12.2)/2=11.2
4. DEED REF: 29360/329
5. TAX ACCOUNT #0816000025
6. COUNCILMANIC DISTRICT: 3RD
7. ZONING: ML-IM
(PER 1"=200' ZONING MAP 051B2)
8. TAX MAP #61, PARCEL #218.
9. MAXIMUM BUILDING HEIGHT: 30' (1 STORY).
10. NO KNOWN PREVIOUS PERMITS ON FILE.
11. BUILDING AREA:
EXISTING: 1,434 Sq.Ft.
PROPOSED: 2,880 Sq.Ft.
12. UTILITIES
PUBLIC WATER.
PUBLIC SEPTIC.
13. SITE LIES WITHIN ZONE(S) "X" OF FLOOD INSURANCE RATE MAP (FIRM) PANEL #240010 0235 F PANEL 235 OF 580 DATED SEPT. 26, 2008.
ZONE "X" IS AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
14. PARKING CALCULATIONS
REQUIRED:
OFFICE - 880 Sq.Ft. @ 3.3 PER 1,000 = 3 SPACES
WAREHOUSE - 1 EMPLOYEE @ 1 PER EMPLOYEE = 1 SPACES
TOTAL = 4 SPACES
PROVIDED: 4 SPACES
(1 HANDICAPPED, 3 REGULAR)
15. REGIONAL PLANNING DISTRICT: 309A
16. CENSUS TRACT: 4084
17. WATERSHED: LOCH RAVEN
18. FLOOR AREA:
MAXIMUM PERMITTED: 2.0 (PER BR ZONE)
PROPOSED: 2,880 ± 11,250 = 0.256
19. ANY PROPOSED SIGNS ARE TO CONFORM TO THE BCZR.
20. THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
21. THERE ARE NO HISTORIC FEATURES ON SITE NOR IS THE SITE ITSELF HISTORIC.
22. USES:
EXISTING: OFFICE & STORAGE YARD.
PROPOSED: OFFICE & STORAGE YARD.



8TH ELECTION DISTRICT		BALTIMORE COUNTY, MARYLAND	
REVISIONS	DRAWN BY: CND	DESIGNED BY: PCR	SCALE: 1" = 20'
	DATE: 03-02-11	JOB NO.: 11009	SHEET NO.: 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