



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

October 29, 2012

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

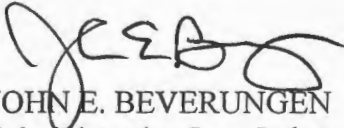
RE: Petitions for Special Hearing, Special Exception and Variance
Case No.: 2013-0037-SPHXA
Property: 10845 Philadelphia Road

Dear Mr. Schmidt:

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

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

IN RE: PETITIONS FOR SPECIAL HEARING, *
SPECIAL EXCEPTION & VARIANCE
(10845 Philadelphia Road) *
Martin G. Kutlik *
Petitioner *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2013-0037-SPHXA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of Petitions for Special Hearing, Special Exception and Variance filed by Jason T. Vettori, Esquire, on behalf of the legal owner, Martin G. Kutlik. The Petition for Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to: (1) approve a modified parking plan pursuant to § 409.12.B of the B.C.Z.R., and (2) For such other and further relief as may be deemed necessary by the Administrative Law Judge. A Petition for Special Exception was filed pursuant to § 204.3.B.2 of the B.C.Z.R., to: (1) approve a Class B Office Building, and (2) For such other and further relief as may be deemed necessary by the Administrative Law Judge. Finally, a Petition for Variance was filed pursuant to the B.C.Z.R. as follows: (1) From § 204.3.B.2.a, to permit up to 100% of the total adjusted floor area of the office building to be occupied by medical offices in lieu of the maximum permitted 25% of the total adjusted floor area, (2) From § 204.4.C.7, to permit a maximum lot size of 2.883 acres in lieu of the maximum lot size of 1 acre; and (3) For such other and further relief as may be deemed necessary by the Administrative Law Judge. 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 1.

ORDER RECEIVED FOR FILING

Date 10-29-12

By [Signature]

Appearing at the public hearing in support of the requests were Martin G. Kutlik, legal owner, and William N. Bafitis, professional engineer with Bafitis & Associates, Inc., the consulting firm that prepared the site plan. Lawrence E. Schmidt, Esquire, with Smith, Gildea & Schmidt, LLC, appeared as counsel and represented the Petitioner. There were no opponents in attendance at the hearing. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) on September 21, 2012 indicating that the development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (§§ 33-3-101 through §§ 33-3-120) of the Baltimore County Code (B.C.C.), the Forest Conservation Regulations (§§ 33-6-101 through 33-6-122 of the B.C.C.) and any future building permits for the site must be reviewed by Groundwater Management, since the property is served by a septic system. In addition, a ZAC comment was received from the Bureau of Development Plans Review (DPR) on September 6, 2012, indicating that the parking layout shown on the plan does not match that shown on aerial photograph, and signs should be posted to warn users that the lower half of the parking lot is within the 100-year floodplain. Furthermore, a ZAC comment was received from the Department of Planning (DOP) on October 15, 2012, as follows:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The applicant is requesting approval of a modified parking plan. Pursuant to Section 409.12.B of the BCZR, a modified parking plan may be approved if there is undue hardship. The applicant has not indicated the reason for which the requested modification is being made. The Department of Planning visited the site and it isn't evident why the parking requirements would create an undue hardship for this particular property.

ORDER RECEIVED FOR FILING

Date 10-29-12

2

By [Signature]

The driveway for the subject property does not meet the minimum width requirement. Pursuant to Section 409.4.A of the BCZR, driveways are required to be at least 20 feet in width for two-way movements. Near the street right-of-way line, the existing driveway is 18 feet wide and further into the site the driveway is only 12 feet wide. The safety of the narrow driveway width is exacerbated by the presence of two brick columns located along both sides of the driveway at its connection to Philadelphia Road. This particular driveway provides access from a busy arterial road to a large parking lot and therefore, for safety reasons, it should be in compliance with the minimum requirements.

The petitioner requests a variance to permit up to 100 percent of the total adjusted floor area of the proposed Class B office building to be occupied by medical offices in lieu of the maximum permitted 25 percent specified in Section 204.3.B.2.a of the BCZR. The 25 percent limitation is a use regulation that is contained within Section 204.3 (Use Regulations for the RO Zone). The BCZR do not authorize use variances.

The existing building is very attractive. If the proposed addition is approved, it should be architecturally consistent with the existing building. Elevation drawings shall be submitted for review and approval by the Department of Planning before the issuance of any building permits.

Comments were also received from the Office of People's Counsel on September 20, 2012, indicating their opposition. Mr. Zimmerman expressed concern with the variance request for medical office use, and also identified several other issues he considered problematic, including deficient side yard setbacks and landscape buffer areas.

The subject property consists of approximately 2.3 acres and is zoned RO, MLR and ML. All physical improvements at the site are located in the RO zone. The Petitioner formerly lived at the home on site, but it is now used for office space by a firm founded by Petitioner, Physicians Medical Billing. As the name implies, this firm provides services for the medical profession, but there are not health care providers on site and no care or treatment of any kind is rendered at the location. The Petitioner's business has been successful, and he now wishes to expand, hence the present case.

At the outset of the hearing, Petitioner's counsel indicated he was withdrawing without prejudice that portion of the variance request seeking 100% medical office use. Mr. Schmidt

ORDER RECEIVED FOR FILING

Date 10-29-12

10-29-12

indicated he received and reviewed Mr. Zimmerman's letter, and did not want to engage in protracted litigation concerning whether the request constituted a "use variance," as opposed to an area or dimensional variance as allowed under B.C.Z.R. § 307.

SPECIAL HEARING

The special hearing request sought approval of a modified parking plan, as shown on Exhibit 7. Under note #16 on the plan, 56 parking spaces are required, while 51 are provided. The Petitioner indicated there has never been a shortage of parking on site, and the special hearing relief is sought to essentially "leave things as they are." With respect to the width of the drive aisles, those conditions have existed on site for many years without complication, and the use in question is office space, rather than medical office uses, which would generate far more traffic and raise greater concerns. There is no evidence that the existing parking arrangement has had any negative impact upon the community, and I believe that would remain the case after the 3,000 square foot office addition is completed. As such, I will approve the modified parking plan, as shown on Exhibit 7.

VARIANCES

Petitioner seeks variance relief with respect to the maximum lot size for Class B office buildings, per B.C.Z.R. § 204.4.C.7. While there is a residence (used as such) to the east of this site (known as 10903 Philadelphia Road), the adjacent lot to the west (10839 Philadelphia Road) is zoned ROA and MLR, and is used as an electrical contractor's warehouse. As such, the maximum lot size is two acres while the subject property is 2.8 acres. The Petitioner requested, and was granted, a change from ROA to RO zoning in the 2012 Comprehensive Zoning Map Process (CZMP), and the change was sought so that Petitioner could expand his business into a

ORDER RECEIVED FOR FILING

Date 10-29-12

By bw

Class B office building. The Councilman was obviously aware this was the impetus for the zoning change requested, and thus this request is the next logical step in the process.

The property is uniquely shaped and is also split-zoned (RO, MLR and ML), which qualifies it as unique under pertinent case law. If the B.C.Z.R. were strictly enforced, Petitioner would suffer a practical difficulty in that he would not be able to expand his business, despite having secured the requisite zoning to do so. As such, the variance request concerning lot size will be granted.

Having said that, it may be that relief is not even required with regard to this issue. As noted above, all improvements are in the RO zone, as is the proposed addition. The RO zoned portion of the property is 0.92 acres, the balance being ML and MLR. In these circumstances, it is at least arguable that the "lot size" referenced in B.C.Z.R. § 204.4.C.7 concerns land with RO zoning, and the regulation would not make sense to apply to a split-zoned property in the aggregate, especially since none of the office building uses are in the ML or MLR zones.

According to Petitioner, the recent zoning change (which occurred after the petition was filed in this case) has necessitated additional variance relief, and counsel sought leave to amend the petition to seek relief for a 10' setback in lieu of the 20' required by B.C.Z.R. § 204.4.C.4. Counsel explained that in the ROA zone, the DR 3.5 setback of 10' was appropriate as shown on the original plan. Exhibit 1. When the property was rezoned to RO, a 20' side setback applied. Mr. Bafitis made redlined changes to the plan to reflect their request. Exhibit 7. The same relief is also sought with respect to the 20' landscape buffer required under B.C.Z.R. § 204.4.C.9.c.(1).

As noted above, I believe the site possesses the requisite characteristics for variance relief under Maryland law, and the 10' side setback and landscape buffer requests seem reasonable. I also do not believe that the granting of this relief will negatively impact the adjacent dwelling,

ORDER RECEIVED FOR FILING

Date 10-29-12

5

By RW

and the Petitioner will be required to have the landscaping approved by the County's landscape architect prior to permit issuance.

SPECIAL EXCEPTION STANDARDS

Special exception uses are presumptively valid and consistent with the comprehensive zoning plan, People's Counsel v. Loyola College, 406 Md. 54, 77 n. 23 (2008), and no evidence was offered here to rebut the presumption. Petitioner's expert, Mr. Bafitis of Bafitis & Associates, Inc., testified via proffer that the project would satisfy Section 502.1 of the B.C.Z.R., and I concur. The Petitioner has operated his business on site for many years without complaint, and I do not believe the modest addition proposed would negatively impact the neighborhood. Petitioner indicated he had a good relationship with all of his neighbors, and it is worth noting again that no letters of opposition or protest were received on this case.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing, Special Exception and Variance requests should be granted.

THEREFORE, IT IS ORDERED this 29th day of October, 2012, by this Administrative Law Judge, that Petitioner's request for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve a modified parking plan pursuant to § 409.12.B of the B.C.Z.R., be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioner's request for Special Exception filed pursuant to § 204.3.B.2 of the B.C.Z.R., to approve a Class B Office Building, be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioner's request for Variance from § 204.3.B.2.a of the B.C.Z.R., to permit up to 100% of the total adjusted floor area of the office building to be

ORDER RECEIVED FOR FILING

Date 10-29-12

6

By DW

occupied by medical offices in lieu of the maximum permitted 25% of the total adjusted floor area, be and hereby is MOOT, the request having been withdrawn by counsel.

IT IS FURTHER ORDERED that Petitioner's request for Variance from § 204.4.C.7 of the B.C.Z.R., to permit a maximum lot size of 2.883 acres in lieu of the maximum lot size of 1 acre, be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioner's request for Variance from § 204.4.C.4 of the B.C.Z.R., to permit a 10' side yard setback in lieu of the required 20' setback, be and is GRANTED, and

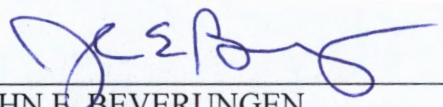
IT IS FURTHER ORDERED that Petitioner's request for Variance from § 204.4.C.9.c.(i) of the B.C.Z.R., to permit a 10' landscape buffer in lieu of the required 20', be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for his appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Unless extended by subsequent Order, the special exception approval granted herein must be utilized within two (2) years from the date hereof.
3. Petitioner must comply with the ZAC comments received from DEPS; a copy of which is attached hereto and incorporated herein.

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

JEB/dlw


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 10-29-12 7

By [Signature]

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

10/17 1:30
RECEIVED

SEP 21 2012

OFFICE OF ADMINISTRATIVE HEARINGS



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: David Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: September 20, 2012

SUBJECT: DEPS Comment for Zoning Item # 2013-0037-SPHXA
Address 10845 Philadelphia Road
(Kutlik Property)

Zoning Advisory Committee Meeting of August 27, 2012.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Regina Esslinger – Environmental Impact Review

Additional Comments:

Any future bldg. permits for this site must be reviewed by Groundwater Mgmt., since the property is served by a septic system.

Reviewer: Dan Esser – Groundwater Management

ORDER RECEIVED FOR FILING

Date 10-29-12

By DW



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

address 10845 Philadelphia Road

which is presently zoned RO, MLR & ML

Deed Reference 14003/00415

10 Digit Tax Account # 1102057800

Property Owner(s) Printed Name(s) Martin G. Kutlik

CASE NUMBER 2013-0031SP444 Filing Date 8/21/12 Estimated Posting Date 9/2/12 Reviewer G.H.

(SELECT THE HEARING(S) BY MARKING ☒ AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ☒ a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

See attached.

2. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
- See attached.

3. ☒ 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 below your hardship or practical difficulty or indicate below "To Be Presented At Hearing". If you need additional space, you may add an attachment to this petition)

To be presented at hearing.

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

I, or we, agree to pay expenses of above petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Jason T. Vettori, Smith Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address

City

State

21204

410-821-0070

jvettori@sgs-law.com

Zip Code

Telephone #

Email Address

Legal Owners:

Martin G. Kutlik

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

10845 Philadelphia Road White Marsh, MD

Mailing Address

City

State

21162-1717 (410) 236-7667

martykutlik@comcast.net

Zip Code

Telephone #

Email Address

Representative to be contacted:

Jason T. Vettori, Smith Gildea & Schmidt, LLC

Name - Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address

City

State

21204

410-821-0070

jvettori@sgs-law.com

Zip Code

Telephone #

Email Address

ATTACHMENT TO PETITION FOR ZONING HEARING
10845 Philadelphia Road

Special Hearing relief to approve:

1. A modified parking plan pursuant to Section 409.12.B of the BCZR; and
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Special Exception relief for:

1. A Class B Office Building pursuant to Section 204.3.B.2 of the BCZR; and
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Variance relief from Section(s):

1. 204.3.B.2.a of the BCZR to permit up to 100% of the total adjusted floor area of the office building to be occupied by medical offices in lieu of the maximum permitted 25% of the total adjusted floor area; and
2. 204.4.C.7 of the BCZR to permit a maximum lot size of 2.883 acres in lieu of the maximum lot size of 1 acre; and
3. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

November 29, 2012

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

MOTION FOR RECONSIDERATION

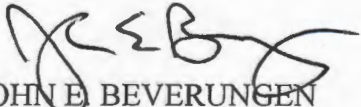
RE: Petitions for Special Hearing, Special Exception and Variance
Case No.: 2013-0037-SPHXA
Property: 10845 Philadelphia Road

Dear Mr. Schmidt:

Enclosed please find a copy of the decision rendered in the **Motion for Reconsideration**.

In the event any party finds the Motion for Reconsideration rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure



Bafitis & Associates, Inc.

ZONING DESCRIPTION
FOR
10845 PHILADELPHIA ROAD
WHITE MARSH, MARYLAND

Beginning at a point on the Southside of Philadelphia Road (MD. Rte. 7) 60 feet wide;
and 1,013' ± Northeasterly from centerline of the intersection of Ebenezer Road 50' foot
wide;

1. Thence running along Philadelphia Road (MD. Rte. 7) North 30°-45'-34" East
256.02 feet to a point;
2. Thence leaving said road the following ten (10) courses and distances;
South 52°-38'-53" East 285.46' to a point;
3. Thence North 49°-15'-50" East 47.96' to a point;
4. Thence South 49°-16'-00" East 48.00' to a point;
5. Thence South 14°-17'-00" East 80.00' to a point;
6. Thence South 11°-42'-00" West 40.00' to a point;
7. Thence South 03°-12'-00" East 60.00' to a point;
8. Thence South 35°-31'-00" East 65.00' to a point;
9. Thence South 54°-24'-06" East 22.40' to a point;
10. Thence South 51°-55'-36" West 156.20' to a point;
11. Thence North 52°-13'12" West 477.86 feet to the place of beginning.

Containing, 125,583 Sq. Ft. or 2.88 Ac. More or less.

Deed Ref, 14003/415

William N. Bafitis, P.E.



Seal _____

No.

877.64

Date: _____

8/21/12

PAID 1000

BUSINESS - THE - THE - THE

THE UNIVERSITY OF CHICAGO

REC-15 44-38861-100

DATE: _____

5 32 1945 821 30481194

UNIT 11

Handy Tool

1950.10 3 1.00 5

Saltine Crust. (continued)

Total: 950.00

Rec

From:

For:

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

**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: 2013-0037-SPHX A
Petitioner: MARTIN G. KUTLIK
Address or Location: 10845 PHILADELPHIA ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: JASON T. VETTORI
Address: SMITH, GILDEA & SCHMIDT, LLC
600 WASHINGTON AVE., STE. 200
TOWSON, MD 21204
Telephone Number: (410) 821-0070

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: #2013-0037-SPHXA

10845 Philadelphia Road
S/s Philadelphia Rd., 1,013 ft. +/- NE from centerline of
Ebenezer Road

11th Election District - 5th Councilmanic District

Legal Owner(s): Martin Kutlik

Special Hearing to approve a modified parking plan and for such other and further relief as may be deemed necessary by the Administrative Law Judge (ALJ) for Baltimore County.

Special Exception for a Class B Office Building and for such other and further relief as may be deemed necessary by the ALJ. **Variance** to permit up to 100% of the total adjusted floor area of the office building to be occupied by medical offices in lieu of the maximum permitted 25% of the total adjusted floor area; to permit a maximum lot size of 2.883 acres in lieu of the maximum lot size of 1 acre and for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Wednesday, October 17, 2012 at 1:30 p.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.
09/314 September 27 877329



501 N. Calvert Street, Baltimore, MD 21278

September 27, 2012

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on September 27, 2012.

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

PATUXENT PUBLISHING COMPANY

By: Susan Wilkinson

Susan Wilkinson

CERTIFICATE OF POSTING

2013-0037-SPHXA

RE: Case No.: _____

Petitioner/Developer: _____

Martin Kutlik

October 17, 2012

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
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: _____

10845 Philadelphia Rd

September 27, 2012

The sign(s) were posted on _____

(Month, Day, Year)

Sincerely,

September 27, 2012

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

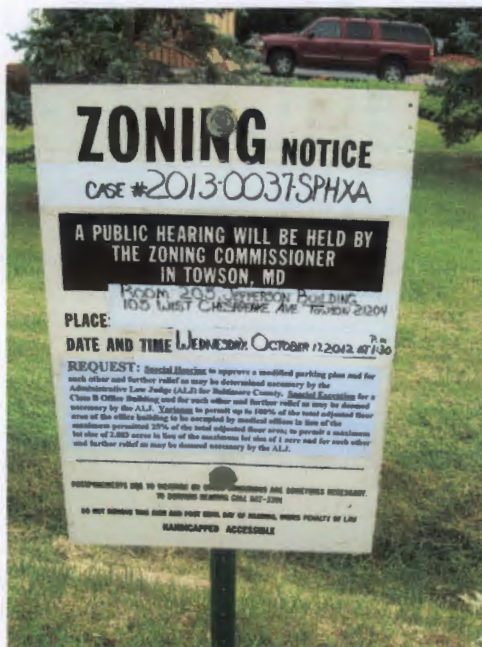
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
SPECIAL EXCEPTION AND VARIANCE		
10845 Philadelphia Road; S/S Philadelphia Rd*		OF ADMINSTRATIVE
1,013; NE of c/line Ebenezer Road		
11th Election & 5 th Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Martin Kutlik		
Petitioner(s)	*	BALTIMORE COUNTY
	*	2013-037-SPHXA

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

SEP 05 2012

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 5th day of September, 2012, a copy of the foregoing Entry of Appearance was mailed to Jason Vettori, Esquire, Smith, Gildea & Schmidt, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



KEVIN KAMENETZ
County Executive

September 10, 2012

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

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 NUMBER: 2013-0037-SPHXA

10845 Philadelphia Road

S/s Philadelphia Rd., 1,013 ft. +/- NE from centerline of Ebenezer Road

11th Election District – 5th Councilmanic District

Legal Owners: Martin Kutlik

Special Hearing to approve a modified parking plan and for such other and further relief as may be deemed necessary by the Administrative Law Judge (ALJ) for Baltimore County. Special Exception for a Class B Office Building and for such other and further relief as may be deemed necessary by the ALJ. Variance to permit up to 100% of the total adjusted floor area of the office building to be occupied by medical offices in lieu of the maximum permitted 25% of the total adjusted floor area; to permit a maximum lot size of 2.883 acres in lieu of the maximum lot size of 1 acre and for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Wednesday, October 17, 2012 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: Jason Vettori, 600 Washington Avenue, Ste. 200, Towson 21204
Martin Kutlik, 10845 Philadelphia Road, White Marsh, 21162

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURS., SEPTEMBER 27, 2012.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, September 27, 2012 Issue - Jeffersonian

Please forward billing to:

Jason Vettori
Smith, Gildea & Schmidt
600 Washington Ave, Ste. 200
Towson, MD 21204

410-821-0070

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2013-0037-SPHXA

10845 Philadelphia Road

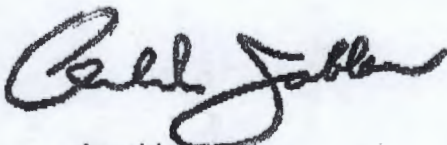
S/s Philadelphia Rd., 1,013 ft. +/- NE from centerline of Ebenezer Road

11th Election District – 5th Councilmanic District

Legal Owners: Martin Kutlik

Special Hearing to approve a modified parking plan and for such other and further relief as may be deemed necessary by the Administrative Law Judge (ALJ) for Baltimore County. Special Exception for a Class B Office Building and for such other and further relief as may be deemed necessary by the ALJ. Variance to permit up to 100% of the total adjusted floor area of the office building to be occupied by medical offices in lieu of the maximum permitted 25% of the total adjusted floor area; to permit a maximum lot size of 2.883 acres in lieu of the maximum lot size of 1 acre and for such other and further relief as may be deemed necessary by the ALJ.

Hearing: Wednesday, October 17, 2012 at 1:30 p.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 ACCOMODATIONS, 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.

IN RE: PETITIONS FOR SPECIAL HEARING, *
SPECIAL EXCEPTION & VARIANCE *
(10845 Philadelphia Road) *
Martin G. Kutlik *
Petitioner *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2013-0037-SPHXA

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

I have received and reviewed Petitioner's Motion for Reconsideration, as well as the opposition thereto filed by the Office of People's Counsel. I will deny the Motion for Reconsideration, for the reasons explained below.

The only issue that requires consideration at this juncture is whether the notice of hearing provided in this case was sufficient to confer jurisdiction on the Administrative Law Judge to rule upon a request for a floodplain waiver. I do not believe it was.

The posted notice and newspaper advertisement both referred to a "zoning" hearing to be conducted under authority of the "zoning act." Such notice was sufficient under Maryland Law to satisfy due process concerns, provided the relief granted was set forth in the Baltimore County Zoning Regulations (B.C.Z.R.). In fact, the court of appeals has held that a notice of zoning hearing that specifies only one aspect of relief (i.e., a rezoning) would nonetheless entitle the administrative body to grant a "special exception," even if those words were not used in the notice. Cassidy v. Balto. Co., 218 Md. 418 (1958). But, in citing Professor Merrill's treatise on "Notice," the court held that notice of a "proceeding of one character may not be used as the foundation for action of a different sort, though it may bear some relation to the subject of the original hearing." Id. at 424.

ORDER RECEIVED FOR FILING

Date 11-29-12

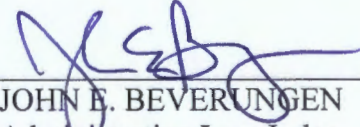
By 19W

I think that is the scenario in the case at hand. The relief granted in the October 29, 2012 Order was pursuant to the zoning regulations and B.C.Z.R. § 500.6 (cited by Petitioner) confers authority on the Zoning Commissioner to conduct hearings involving the "zoning regulations." Obviously, floodplain requirements and standards are set forth in the Baltimore County Code and the County Building Code. The standards governing waivers of those regulations are also different from the standards applicable to zoning relief. As such, I do not believe it would have been appropriate to address and grant such relief, even if the Petitioner had raised the topic at the October 17, 2012 hearing. And that is especially the case on a Motion for Reconsideration, the scope of which (though not expressly stated in "Rule K") is extremely limited to addressing errors of law and/or fact in the original Order. Given that, as noted by People's Counsel, the floodplain issue was not raised or addressed at the October 17, 2012 hearing, it would be inappropriate to address that issue on a Motion for Reconsideration.

THEREFORE, IT IS ORDERED this 29th day of November, 2012, by this Administrative Law Judge, that the Motion for Reconsideration be and is DENIED.

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

JEB/sln



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 11-29-12

By [Signature]

CASE NAME 10845 Philadelphia
CASE NUMBER 2013-0037-SPHKA
DATE 10-17-12

[illegible]

10/17 1:30

CASE NO. 2013-

0037-SP HXA

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>9-6</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>C</u>
<u>9-21</u>	DEPS (if not received, date e-mail sent _____)	<u>C</u>
	FIRE DEPARTMENT	
<u>10-15</u>	PLANNING (if not received, date e-mail sent _____)	<u>C</u>
<u>8-28</u>	STATE HIGHWAY ADMINISTRATION	<u>No objection</u>
	TRAFFIC ENGINEERING	
	COMMUNITY ASSOCIATION	
	ADJACENT PROPERTY OWNERS	

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 9-27 The JeffersonianSIGN POSTING Date: 9-27 by Black 20 daysPEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐PEOPLE'S COUNSEL COMMENT LETTER Yes ☒ No ☐Comments, if any: See correspondence of 9-20 from P.C.

Maryland Department of Assessments and Taxation
Real Property Data Search (vw4.2A)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent](#)
[Redemption](#)
[GroundRent](#)
[Registration](#)

Account Identifier:

District - 11 Account Number - 1102057800

Owner Information

Owner Name: KUTLIK MARTIN G Use: INDUSTRIAL
Principal Residence: NO
Mailing Address: 10845 PHILADELPHIA RD
WHITE MARSH MD 21162-1717 Deed Reference: 1)/14003/ 00415
2)

Location & Structure Information

Premises Address Legal Description
10845 PHILADELPHIA RD 3.111 AC
0-0000 SS PHILADELPHIA RD
2640FT E COWENTON

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0072	0024	0571		0000				1	
									<u>Plat Ref:</u>

Special Tax Areas Town NONE
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2000	2692	3.1100 AC	07

Stories	Basement	Type	Exterior
1.000000	YES	STANDARD UNIT BRICK	

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2010	07/01/2012	07/01/2013
<u>Land</u>	152,300	152,300		
<u>Improvements:</u>	433,900	433,900		
<u>Total:</u>	586,200	586,200	586,200	
<u>Preferential Land:</u>	0			

Transfer Information

<u>Seller:</u> BOWERS E GERTRUDE	<u>Date:</u> 09/02/1999	<u>Price:</u> \$125,000
<u>Type:</u> ARMS LENGTH IMPROVED	<u>Deed1:</u> /14003/ 00415	<u>Deed2:</u>
<u>Seller:</u> BOWERS ANDREW J	<u>Date:</u> 10/11/1989	<u>Price:</u> \$0
<u>Type:</u> NON-ARMS LENGTH OTHER	<u>Deed1:</u> /08294/ 00153	<u>Deed2:</u>
<u>Seller:</u>	<u>Date:</u>	<u>Price:</u>
<u>Type:</u>	<u>Deed1:</u>	<u>Deed2:</u>

Exemption Information

Partial Exempt Assessments	Class	07/01/2012	07/01/2013
<u>County</u>	000	0.00	
<u>State</u>	000	0.00	
<u>Municipal</u>	000	0.00	

Tax Exempt: Special Tax Recapture:
Exempt Class: NONE

Homestead Application Information

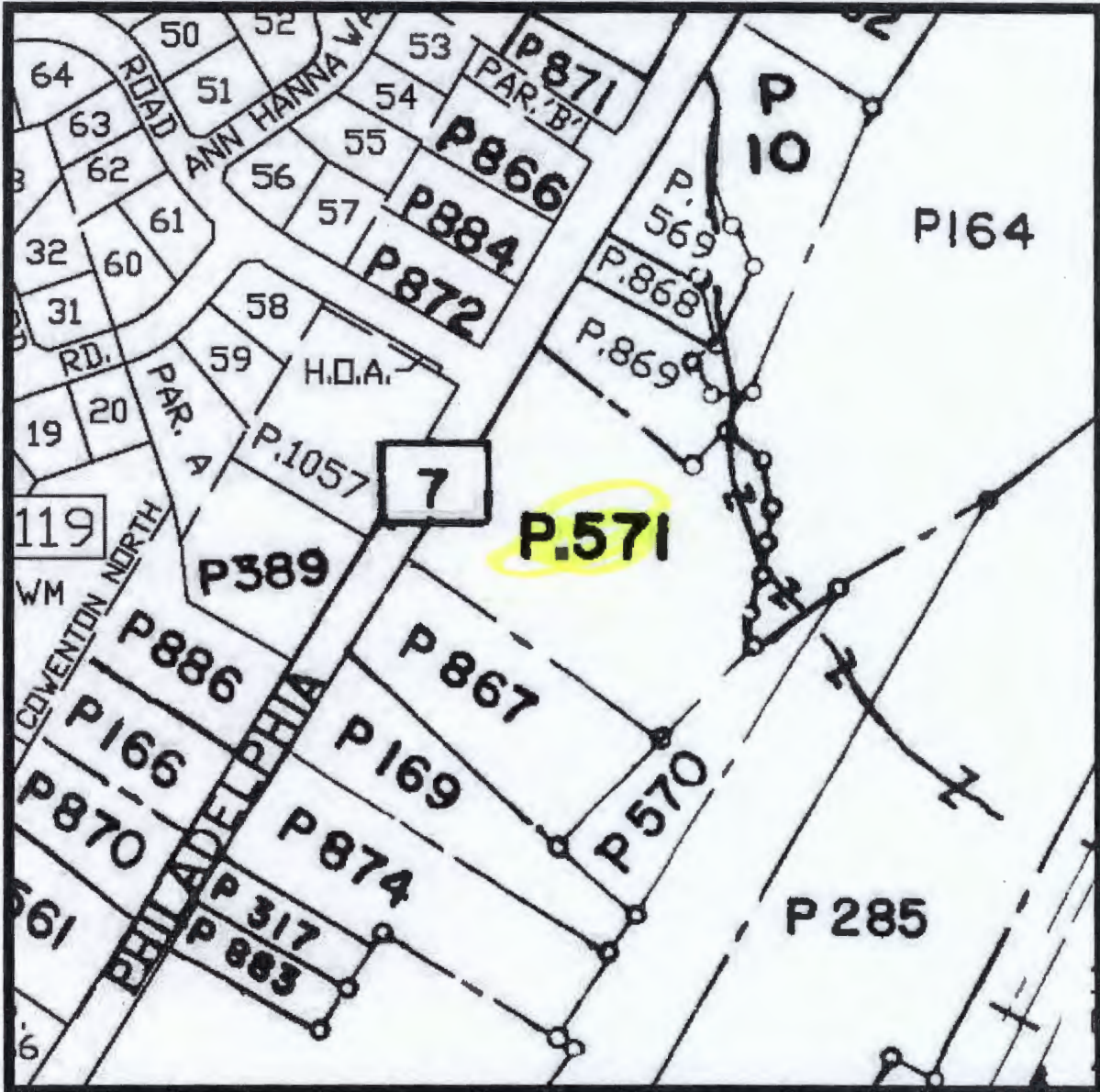
Homestead Application Status: No Application



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

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

District - 11 Account Number - 1102057800



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

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

Property maps provided courtesy of the Maryland Department of Planning ©2011.
 For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



10/17 1:30
RECEIVED

SEP 21 2012

OFFICE OF ADMINISTRATIVE HEARINGS

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: David Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: September 20, 2012

SUBJECT: DEPS Comment for Zoning Item # 2013-0037-SPHXA
Address 10845 Philadelphia Road
(Kutlik Property)

Zoning Advisory Committee Meeting of August 27, 2012.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: *Regina Esslinger – Environmental Impact Review*

Additional Comments:

Any future bldg. permits for this site must be reviewed by Groundwater Mgmt., since the property is served by a septic system.

Reviewer: *Dan Esser – Groundwater Management*

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: October 11, 2012

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED

SUBJECT: 10845 Philadelphia Road

OCT 15 2012

INFORMATION:

OFFICE OF ADMINISTRATIVE HEARINGS

Item Number: 13-037

Petitioner: Martin G. Kutlik

Zoning: RO, MLR and ML

Requested Action: Special Hearing, Special Exception and Variance

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The applicant is requesting approval of a modified parking plan. Pursuant to Section 409.12.B of the BCZR, a modified parking plan may be approved if there is undue hardship. The applicant has not indicated the reason for which the requested modification is being made. The Department of Planning visited the site and it isn't evident why the parking requirements would create an undue hardship for this particular property.

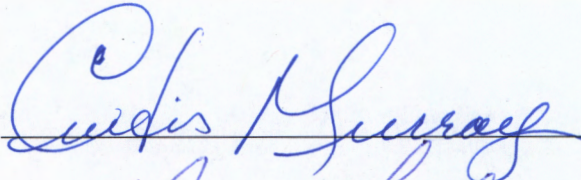
The driveway for the subject property does not meet the minimum width requirement. Pursuant to Section 409.4.A of the BCZR, driveways are required to be at least 20 feet in width for two-way movements. Near the street right-of-way line, the existing driveway is 18 feet wide and further into the site the driveway is only 12 feet wide. The safety of the narrow driveway width is exacerbated by the presence of two brick columns located along both sides of the driveway at its connection to Philadelphia Road. This particular driveway provides access from a busy arterial road to a large parking lot and therefore, for safety reasons, it should be in compliance with the minimum requirements.

The petitioner requests a variance to permit up to 100 percent of the total adjusted floor area of the proposed Class B office building to be occupied by medical offices in lieu of the maximum permitted 25 percent specified in Section 204.3.B.2.a of the BCZR. The 25 percent limitation is a use regulation that is contained within Section 204.3 (Use Regulations for the RO Zone). The BCZR do not authorize use variances.

The existing building is very attractive. If the proposed addition is approved, it should be architecturally consistent with the existing building. Elevation drawings shall be submitted for review and approval by the Department of Planning before the issuance of any building permits.

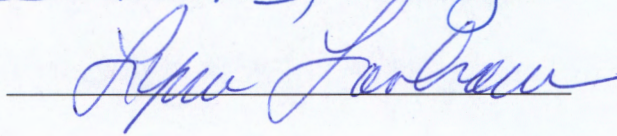
For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by:

A handwritten signature in blue ink, appearing to read "Curtis M. Murray", written over a horizontal line.

Division Chief:

AVA/LL: CM

A handwritten signature in blue ink, appearing to read "Ryan L. Brown", written over a horizontal line.

The existing building is very attractive. If the proposed addition is approved, it should be architecturally consistent with the existing building. Elevation drawings shall be submitted for review and approval by the Department of Planning before the issuance of any building permits.

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

Prepared by: _____

Division Chief: _____
AVA/LL: CM

Debra Wiley - ZAC Comments - Distribution Mtg. of 8/27

From: Debra Wiley
To: Kennedy, Dennis; Lanham, Lynn; Livingston, Jeffrey; Lykens, David; M...
Date: 8/30/2012 8:06 AM
Subject: ZAC Comments - Distribution Mtg. of 8/27

Good Morning,

Please see the cases listed below and the hearing date, if assigned. If you wish to submit a ZAC comment, please be advised that you must do so before the hearing date. If it's not received by the hearing date, it will not be considered in our decision.

2013-0004-SPHA - 1236 E. Riverside Rd.
No hearing date in database as of today

2013-0032-A - 349 Bigley Ave.
Admin. Var. - Closing Date: 9/10

2013-0033-A - 3937 Chaffey Rd.
Admin. Var. - Closing Date: 9/10

2013-0034-A - 714 Murdock Rd.
Admin. Var. - Closing Date: 9/10

2013-0035-A - 2033 E. Joppa Rd.
No hearing date in database as of today

2013-0036-A - 5803 Pine Hill Dr.
Admin. Var. - Closing Date: 9/17

2013-0037-SPHXA - 10845 Philadelphia Rd.
No hearing date in database as of today

2013-0038-X - 5012 Mt. Carmel Rd.
No hearing date in database as of today

2013-0039-SPH - 1401 Regester Ave.
No hearing date in database as of today

2013-0040-A - 3310 Blenheim Rd.
Admin. Var. - Closing Date: 9/17

2013-0041-A - 1919 Wills Rd.
No hearing date in database as of today

2013-0042-A - 3112 Rices Lane
Admin. Var. - Closing Date: 9/17

Subject: ZAC Comments - Distribution Mtg. of 8/27
Created By: dwiley@baltimorecountymd.gov
Scheduled Date:
Creation Date: 8/30/2012 8:06 AM
From: Debra Wiley

Recipient	Action	Date & Time	Comment
To: Curtis Murray (cjmurray@baltimorecountymd.gov)	Delivered	8/30/2012 8:06 AM	
To: David Lykens (dlykens@baltimorecountymd.gov)	Delivered	8/30/2012 8:06 AM	
To: Dennis Kennedy (DKennedy@baltimorecountymd.gov)	Pending		
To: Don Muddiman (dmuddiman@baltimorecountymd.gov)	Pending		
To: Jeffrey Livingston (jlivingston@baltimorecountymd.gov)	Delivered	8/30/2012 8:06 AM	
To: Lynn Lanham (mlanham@baltimorecountymd.gov)	Delivered	8/30/2012 8:06 AM	



KEVIN KAMENETZ
County Executive

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

October 11, 2012

Martin G. Kutlik
10845 Philadelphia Road
White Marsh MD 21162

RE: Case Number: 2013-0037 SPHXA, Address: 10845 Philadelphia Road, 21162

Dear Mr. Kutlik:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on August 21, 2012. 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: jaf

Enclosures

c: People's Counsel
Jason T. Vettori, Esquire, 600 Washington Avenue, Suite 200, Towson, MD 21204

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



Darrell B. Mobley, Acting Secretary
Melinda B. Peters, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 8-28-12

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2013-0037-SHXA
Special Hearing Special Exception
Variance
Martin G. Kutlik
10845 Philadelphia Road
MD 7

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 8-27-12. A field inspection and internal review reveals that an entrance onto MD 7 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Special Exception Variance. Case Number 2013-0037-SHXA.

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may email him at (rzeller@sha.state.md.us). Thank you for your attention.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steven D. Foster".
Steven D. Foster, Chief
Access Management Division

SDF/raz

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

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

SUBJECT: Zoning Advisory Committee Meeting
For September 10, 2012
Item No. 2013-0037

DATE: September 06, 2012

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment.

The parking layout shown on the plan does not match that shown on aerial photograph.
Are these revisions proposed?

Signs should be posted to warn users that the lower half of the parking lot is within the 100 year flood plain.

DAK:CEN
cc: File
ZAC-ITEM NO 13-0037-09102012.doc

M E M O R A N D U M

DATE: January 8, 2013
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2013-0037-SPHXA - Appeal Period Expired

The appeal period for the above-referenced case expired on December 31, 2012. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: Case File
Office of Administrative Hearings

Debra Wiley - Fwd: Zoning Case No. 13-37-SPHA, 10845 Philadelphia Road, Petitioner, Martin Kutlik, Motion for Reconsideration, Preliminary Response

From: John Beverungen

To: Debra Wiley

Date: 11/27/2012 11:25 AM

Subject: Fwd: Zoning Case No. 13-37-SPHA, 10845 Philadelphia Road, Petitioner, Martin Kutlik, Motion for Reconsideration, Preliminary Response

for the file

>>> Peter Zimmerman 11/26/12 6:10 PM >>>
Re: Zoning Case No. 13-37-SPHA, 10845 Philadelphia Road

Dear Judge Beverungen,

This office has just received Petitioner's Motion for Reconsideration, which actually adds a new petition for special hearing for a waiver of the prohibition of any development in the riverine floodplain. Please accept for filing this, our office's preliminary response, albeit in some detail. We are filing this promptly, virtually immediately, so that the Petitioner and the Administrative Law Judge (ALJ) have ample time to reflect on it within the short 30-day time frame allocated under the Rules to the review and decisions on motions for reconsideration. Our office intends to file a further response (likely brief, with any additions, revisions, or corrections found warranted) and will do so with reasonable promptness, targeting next Monday, December 3.

To be more specific, Petitioner's motion involves a new petition for waiver from the specific floodplain law prohibition on development in the riverine floodplain and involving the very specific criteria for such waivers. County Code Sections 32-4-414(c), 32-8-201, et seq., 32-8-301, et seq., especially 32-8-303, 32-8-304 and 32-8-306, and Building Code Sections 3112 and 3112.2.

In general, according to the site plan, Petitioner wants to add at his 2.3 acre Philadelphia Road property a 2-story Class B office building with 3,010 square feet on each story, 6,020 feet total on a site with an existing 1-story Class A residential office building (a converted residence) having 3550 square feet on the main level and 2622 square feet on lower level, with a total combined 6,172 square feet. However, the site plan does not mention that the new building will have a basement, which by virtue of the latest petition we now know is a part of the plan. So, the new building looks to be higher and actually will have 3 stories (based on the BCZR Section 101.1 definition of "story"), albeit slightly less ground floor area. To sum up, this is a major new addition, larger in scope than the existing converted residence. Its location, size, and design appear to be those chosen by Petitioner and his consultants, without regard to any floodplain problem.

The ALJ heard the zoning case on October 17 and issued his decision on October 29, 2012. According to the motion (para. 3), Petitioner, through his consultants, applied for a building permit at some time subsequent to the hearing. Also, at some time after the hearing, Petitioner's consultants were advised of a floodplain problem. There was apparently a meeting between William Bafitis, P.E., Petitioner's consultant and DPW staff on November 5, 2012; a letter from Mr. Bafitis, to David Thomas, Assistant to the Director, on November 8, 2012; and then the November 13, 2012 correspondence from DPW Director Edward Adams to the ALJ on November 13, 2012. This last inter-office correspondence found no offside impact and recommended approval of the anticipated floodplain construction setback waiver request. Remarkably, the Motion for Reconsideration requesting the waiver was not filed till at least November 21, 2012 (based on the date of certificate of service), the day before Thanksgiving; so the DPW recommendation was issued cooperatively in advance of the actual petition for waiver.

Whether or not Petitioner had time to advise the ALJ of this problem before issuance of the ALJ decision is unclear. Whether or not DPW review should have come after the petition rather than before is another question. But these matters are ultimately academic because, as explained below, the floodplain problem generated a new petition for special hearing, with new notice and hearing requirements, and additional substantive concerns.

Procedurally, our office's preliminary response is that this motion for a floodplain development waiver in the riverine floodplain actually involves a new petition which was not part of or considered in relation to the original petition for zoning relief. In the appropriate and specific context here, it is misnamed as "reconsideration" because the floodplain problem was never identified or at issue for consideration before. As Confucius is reported to have said, "What is necessary is to rectify names ... If names be not correct, language is not in accordance with the truth of things. If language be not in accordance with the truth of things, affairs cannot be carried on to success." Confucius, Analects, Book 13, Verse 3.

The new petition must therefore follow the procedure followed by other petitions for special hearing for waivers of the floodplain law: public notice by posting the property and newspaper circulation, and a hearing to review compliance with the floodplain law and the criteria for waivers. Proper notice is of course a jurisdictional requirement. Cassidy v. County Board of Appeals 218 Md. 418 (1958). The various departments which review such petitions should have the opportunity to comment as they normally do. There also must be comments from the state coordinating office. See Section 32-8-303(c). The records relating to any waivers and their justifications must be sent to the Federal Emergency Management Agency. Section 32-8-306(b).

Substantively, it should be underlined that the elements and standards for floodplain law waivers under the various cited provisions of Article 32 of the County Code and of the Building Code go beyond approval by the Department of Public Works. There must be showing of "good and sufficient cause" and "exceptional hardship" (not economic hardship) under 32-8-303(a) in addition to the showing there is no impact on flood heights, safety, nuisance, expense, etc. There is also under Section 32-8-304(2) a prohibition of waivers for "new buildings" in the floodplain. Correspondingly, Building Code Section 3112.2 prohibits new buildings or additions in the riverine floodplain.

So, while we have enduring respect for the views of the Department of Public Works concerning offsite flood impact, there are additional statutory requirements beyond the purview of their briefly stated favorable view of the request.

Preliminarily, it is difficult to discern any exceptional hardship relating to Petitioner's choice of whether to add a building on the property and where to locate it. It is also difficult to discern how retaining walls for the purpose of the new Class B office building's rear basement entrance are independent of or separable from the office building itself and beyond the scope of the intent of the statutory prohibition on waivers for new buildings.

In light of the strong legislative intent to prohibit building in riverine floodplains, and in any event the very stiff waiver standards, there appears to be good reason to ask Petitioner to adjust and reconsider its building plan, including any retaining walls, to stay completely out of the floodplain and/or the required setback distance of 20 feet from the 1-foot freeboard limit. This apparently was not done when the initial zoning petition was filed, so that the waiver now is being tacked on as a kind of band-aid for the incomplete initial petition.

The current floodplain law is traceable to the history of violent storms such as Hurricane Agnes in 1972 in this area and other storms around the country. It should be kept in mind that global warming has led to increased intensity and scope of storms in recent years (Isabel, Irene, Sandy, to name just a few), it is likely that current floodplain maps are outdated, that the 100-year storm of the last century actually now occurs and will occur much more frequently, and that when the next maps are done, the floodplain boundaries will be more extensive. It would not be surprising to find out that a much larger section of this property is within future revised floodplain map boundaries. See Climate.gov and other links for a review of the National Oceanic and Atmospheric Administration's ongoing review and reports on this subject. A great deal of information is also available at the website for the recent 9th Marine Law Symposium of the Marine Affairs Institute of Roger Williams University Law School.

While we must deal with current maps, it is all the more reason that current legal requirements should be rigorously applied and, at the very least, not ignored or overlooked.

I am sending this e-mail promptly so that Petitioner's counsel has plenty of time to reply. I will follow this up after our office's further consideration of the above to see whether there is anything I would add, revise, or correct.

Sincerely, Peter Max Zimmerman, People's Counsel for Baltimore County

NOV 21 2012

**IN RE: PETITIONS FOR SPECIAL HEARING,
SPECIAL EXCEPTION & VARIANCE**

S side of Philadelphia Road; 1,013 feet NE from
c/1 of Ebenezer Road
11th Election District
5th Councilmanic District
(10845 Philadelphia Road)

Martin G. Kutlik
Petitioner

BEFORE THE

OFFICE OF

OFFICE OF ADMINISTRATIVE HEARINGS

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2013-0037-SPHXA

* * * * *

PETITIONER'S MOTION FOR RECONSIDERATION OF
OPINION AND ORDER

Martin G. Kutlik, Petitioner, by and through his attorneys, Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, files this Motion for Reconsideration of AJL Beverungen's Opinion and Order dated October 29, 2012 pursuant to Rule K of the Rules of Practice and Procedure Before the Hearing Officer, and respectfully states the following:

1. This matter came before ALJ Beverungen for public hearing on Wednesday, October 17, 2012 to consider Petitioner's Petition for Zoning Relief requesting the following: Special Exception for a Class B Office Building and for such other and further relief as may be deemed necessary by the ALJ for Baltimore County; Petition for Special Hearing to approve a modified parking plan and for such other and further relief as may be deemed necessary by the ALJ for Baltimore County; and Petition for Variance to permit up to 100% of the total adjusted floor area of the office building to be occupied by medical offices. The Petition for Variance was withdrawn at the hearing.

2. Petitioner sought the above relief in order to construct an addition to the existing s A Office Building. By definition, a Class A Office Building is "A principal building that was constructed as a one-family or two-family detached dwelling and that is converted by proper

permit to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purposes of this definition, enclosure of a porch of a house or the addition of an exterior stairway at the side or rear of the building does not constitute external enlargement." A Class B Office Building is defined as "A principal building used for offices and which is not a Class A office building." Thereby through construction of an addition, the existing Class A Office Building structure is converted to a Class B Office Building. The Petitions for Special Exception and Special Hearing were granted via ALJ Beverungen's written Opinion and Order dated October 29, 2012.

3. Subsequent to the hearing, Petitioner, through his consultants, applied for the required permits to construct the improvements proposed on the Plan to Accompany the Petition for Zoning Relief in the above-captioned case. Petitioner was advised by the Department of Permits, Approvals, and Inspections that the proposed rear basement entrance to the addition would necessitate a retaining wall due to the grade of the property. Due to the proposed location of the retaining wall and an existing floodplain on the property, the proposed construction would necessitate a floodplain waiver. A floodplain waiver grants Petitioner permission to construct improvements in the required setback from a riverine floodplain, pursuant to Section 500.6 of the Baltimore County Zoning Regulations ("BCZR") and Sections 3112.00 and 3112.2 of the Baltimore County Building Code; and Sections 32-4-107, 32-4-404, 32-4-414 and 32-8-301 of the Baltimore County Code ("BCC") which (a) will result in no adverse off-site impact to adjoining properties and (b) will not result in a flow depth increase of greater than half a foot. In this case, the retaining wall will be located 12 feet from the floodplain, rather than the 20 foot setback requirement provided in the Department of Public Works ("DPW") Design Manual Plate DF-1. A copy of the Plan to Accompany the Petitions, as revised on

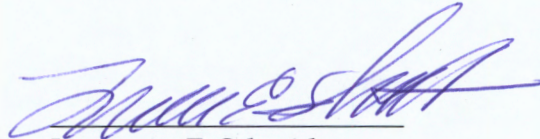
November 8, 2012, which added the proposed landscaping, basement entrance and sidewalks, is attached hereto as Exhibit No. 1.

4. Rule K states that a party has 30 days, in this case until November 28, 2012, to file a Motion for Reconsideration. As such, the instant motion has been timely filed. In addition, the Motion must state the grounds and reasons for the request. Having requested "such other and further relief as may be deemed necessary by the [ALJ]" in the original requests for zoning relief, ALJ Beverungen has the authority to grant the floodplain waiver herein. A copy of the instant Motion has been forwarded to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, who entered his appearance in this matter. However, no further notice is required, because as indicated on Page 2 of the Opinion and Order, "[t]here were no opponents in attendance at the hearing."

5. To summarize, none of the existing or proposed office building itself will be in the required setback of 20 feet from the 100-year floodplain. However, the retaining wall which the County will require in order to provide a rear basement entrance will require a floodplain waiver. The retaining wall will be setback 12 feet, rather than the 20 foot limit provided for in DPW Design Manual Plate DF-1. Most importantly to the instant request for relief, the Director of DPW, Edward C. Adams, Jr., has recommended approval of the floodplain waiver. A copy of DPW's inter-office correspondence is attached hereto as Exhibit No. 2. As evidenced by the Director of DPW's inter-office correspondence of November 13, 2012, "[t]he proposed walls have no offsite impact on the floodplain." Director Adams' written comment concludes "this office recommends approval of the floodplain setback waiver as requested."

The Petitioner respectfully requests that the ALJ accept DPW's recommendation and amend/revise the order dated October 29, 2012 to approve the floodplain waiver and permit a 12 foot setback buffer to a floodplain in lieu of the 20 foot required.

Respectfully submitted,

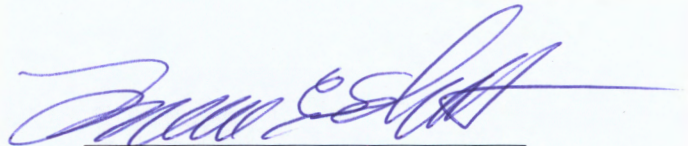


Lawrence E. Schmidt
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of **November, 2012**, a copy of the foregoing Motion for Reconsideration was sent via electronic mail and mailed first-class, postage prepaid to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Room 204
Towson, MD 21204



Lawrence E. Schmidt

Debra Wiley - 2013-0037-SPHXA - Motion for Reconsideration

From: Debra Wiley
To: Wheatley, Rebecca
Date: 11/29/2012 3:30 PM
Subject: 2013-0037-SPHXA - Motion for Reconsideration
Attachments: 2013-0037-SPHXA Motion for Reconsideration.doc

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

JB 10-17-12

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

To: John E. Beverungen,
Administrative Law Judge for Baltimore County
MS4103

RECEIVED

NOV 16 2012

From: Edward C. Adams, Jr., Director
Department of Public Works

OFFICE OF ADMINISTRATIVE HEARINGS

Date: November 13, 2012

Subject: Zoning Case No. 2013-0037-SPHXA
10845 Philadelphia Road
Motion for Reconsideration to include Floodplain Setback Waiver

This office was requested to comment on a motion for reconsideration described in the attached letter from Bafitis & Associates, Inc. dated November 8, 2012 concerning a waiver of setback required by DPW Design Manual Plate DF-1 from the required 20 feet from the one-foot freeboard limit to 12 feet to allow attached retaining walls for a basement entrance into the proposed building addition, all as shown on the "Plan to Accompany Petition for Special Exception, Special Hearing and Variance Request for 10845 Philadelphia Road" revised as dated November 8, 2012 prepared by Bafitis & Associates, Inc.

The proposed walls have no offsite impact on the floodplain. This office recommends approval of the floodplain setback waiver as requested.

ECA/DLT/s

Attachment: Letter from Bafitis & Associates, Inc., dated 11/8/2012

CC: Arnold Jablon, Deputy Administrative Officer & Director, Department of Permits, Approvals and Inspections, Attn. Kristen Lewis (MS 1105); Jason Vettori, Smith, Gildea & Schmidt; William N. Bafitis, Bafitis & Assoc., Inc.; Dennis Kennedy, Chief, Development Plans Review & Building Plans Review; Peter M. Zimmerman, Peoples' Counsel



Bafitis & Associates, Inc.

November 8, 2012

Mr. Dave Thomas
Assistant to the Director
of Public Works
Room 307
County Office Building
111 W. Chesapeake Avenue
Baltimore, MD 21204

Dear Dave;

Ref: Building Addition at 10845 Philadelphia Road
White Marsh, Maryland 21162

As per our meeting on November 5, 2012, we are attaching a copy of the site plan you seen of the above referenced project. Also, attached is the Zoning Order Case No. 2013-0037-SPHXA which Larry Schmidt is going to ask the Administrative Law Judge, John E. Beverungen, for a "Motion to Reconsider" to consider including the intrusion of our retaining walls into the 100 Year Regulatory Flood Plain's 20 foot structure setback (As per Storm Drainage Design Plate DF-1) as part of his zoning order decision.

As discussed we are asking for a letter from you indicating you supporting the small basement entrance retaining walls to have an approximate 12 foot structural setback in lieu of the required 20 foot for this project.

We appreciate your help in this matter and if you have any questions do not hesitate to call.

Sincerely,
BAFITIS AND ASSOCIATES, INC.

William N. Bafitis, P.E.
President

WNB/lkb



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

September 20, 2012

HAND DELIVERED

John Beverungen, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED

SEP 20 2012

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Martin Kutlik - Petitioner
10845 Philadelphia Road
Case No.: 2013-037-SPHXA

Dear Mr. Beverungen,

There arises in this case an issue of public interest as to whether, in the R.O. (Residential-Office) Zone, there may be granted a special exception for a Class B office building (by virtue of a large addition to a converted residence) with a variance for 100% medical office use instead of the maximum permitted 25% under BCZR Section 204.3.B.2. There also arises an issue as to whether a variance may be granted for a Class B office building on a property of 2.3 acres instead of the maximum 2 acres under BCZR Section 204.4.C.7.

At the same time, the Petitioner misconceives the required side yard setback. The site plan shows a 10' setback for the addition, instead of the minimum 20 feet to the adjacent residentially zoned properties required by BCZR Section 204.4.C.4. Furthermore, the site plan fails to address the landscape buffer requirements. There is a required minimum landscape buffer of 20 feet adjacent to residentially zoned properties under BCZR Section 204.4.C.9. The proposed addition encroaches into the buffer area.

* * *

The Philadelphia Road property here occupies 2.3 acres. It is split-zoned. The R.O. Zone (Residential-Office) fronts Philadelphia Road. An M.L.R. zone (Manufacturing-Light, Restricted) is to the rear. A sliver of M.L. (Manufacturing -Light is near the northeast rear corner of the property.

There is an existing office building, Class A, on the R.O. Zone frontage, apparently a converted residence. It has a ground floor and lower level, comprising in sum 6,172 square feet.

The site plan shows it as 25 % medical office use, which is permitted under BCZR Section 204.3.A.2. However, it would be expanded to 100% under the proposal.

The proposed addition, thereby converting the office building to Class B, would have two stories occupying 6,020 square feet medical office space, and a lower level for storage. It would be just 11 feet from the property to the north, zoned D.R. 3.5. There is no provision for any landscape buffer.

The site plans shows the adjacent property to the south zoned R.O.A., (Residential-Office, Class A), a residential zone (BCZR Section 101.1), with a dwelling. To the north is a D.R. 3.5 (Density-Residential), another residential zone, also with a dwelling. There are also dwellings across Philadelphia Road.

* * *

Our office has in the past consistently taken the position that to vary the 25% medical office use limit amounts to a use variance and is inherently not permitted. For example, in the attached April 27, 2012 letter to the County Board of Appeals in the 27 Hooks Lane, LLC case, No. 12-135-SPHXA), we wrote:

"Meanwhile, our office has taken the position in the past and maintains the position that the legislative limitation of 25% medical office use in the R.O. Zone amounts to a use variance and/or is not susceptible to variance under the standards elucidated in BCZR Section 307.1 and applied in such cases as Trinity Assembly of God v. People's Counsel 406 Md. 54 (2008). There is simply nothing unique about a property which relates to the choice of the type of offices. Indeed, in the present case, the desire for 100% medical offices appears to be a marketing strategy, and does not involve any genuine difficulty or hardship in the use of the property.

We have cited the legislative purposes of enclosed Bills 37-88, 151-88 and Planning Board Report on Residential-Office Zones dated May 19, 1988, preceding the latter Bill. The Planning Board stated in the last introductory paragraph on Page 2 and in its Page 5 Summary:

"The proposed amendments to the R.O. zone, together with County Council Bill No. 26-88 which establishes higher standards for off-street parking and County Council Bill NO, 37-88 which restricts medical offices to no more than 25% of the total build floor space should ensure that the original intent of the R.O. zoning is effectively met.

* * *

"SUMMARY

It is hoped that these revisions to the regulations for development in Residential/Office zones, when taken together with the new standards for parking and the 25% maximum limit for medical offices will effectively address the problems which have arisen in the development of Class B office buildings in the past and will enable Baltimore County to

retain the R.O. zone as an effective, useful and generally "fair" form of development in areas of transition between residential and commercial uses."

As to the remaining issues involving amenity open space, landscaping, parking, and compatibility, those would have to be looked at under the variance and compatibility standards. The site is relatively small compared to the nearby commercial and office properties. On the other hand, as a practical matter, the proposal does squeeze virtually every inch of the property for the office use and parking, with the consequence of zero amenity open space and landscape buffer.

The Planning Board Report also provides insight, with respect to Class B office buildings, as to the purpose of the amenity open space, landscaping requirements, and compatibility on pages 3 and 4. The gist is that these are serious requirements, not to be varied lightly.

Furthermore, in the R.O. Zone, because the variances accompany a special exception, there is the concern that the initial "presumption" in favor of a special exception may fall by the wayside. The special exception is conceptually and descriptively a conditional use. Schultz v. Pritts 291 Md. 1 (1981). The failure to satisfy specific additional standards translates as a failure to satisfy the applicable conditions. Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County 103 Md. App. 324 (1995); Umereley v. People's Counsel 108 Md. App. 497, cert. denied 342 Md. 584 (1995)."

* * *

The situation of the Philadelphia Road property here fits the classic purpose of the R.O. Zone, as a limited, moderate transitional zone surrounded by residential zones and uses. It is entirely contrary to the legislative purpose to exceed the 25% limit for medical office use. The side yard setback conflict is another aggravating factor, as is the irreparable failure to address the landscape buffer requirements. Under these circumstances, there is no legal justification for the proposed zoning special exception and variances.

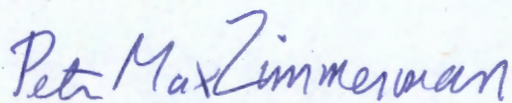
Indeed, the expansion appears too large to be justified even if the proposal were for general office use. It appears to be incompatible with the adjacent dwellings. It is also, as noted, too close to the adjacent north residence to comply with setback and landscape buffer requirements.

As a footnote, the County Council rezoned comprehensively the 27 Hooks Lane property to B.L. (Business-Local), so that the 25% medical office use limit is no longer applicable in that case. We have not yet reviewed the extent to which the rezoning affects the other variances requested there. The point to be made is that the Hooks Lane site, while in a mixed use area with some townhouse use, it is adjacent to more intense commercial uses. Even there, while the property was zoned R.O., it was our office's position that the medical office use limit did apply.

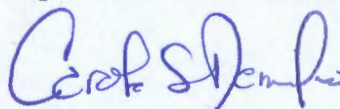
With the Philadelphia Road property here in the middle of a residential area, there is no reasonable expectation of such a rezoning. In any event, the property remains zoned R.O. As such, it would be unacceptable to grant the zoning petition for all of the reasons recited in this letter.

John Beverungen, Administrative Law Judge
September 20, 2012
Page 4

Sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. DeMilio
Deputy People's Counsel

cc: Jason Vettori, Esquire



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 27, 2012

Hand-delivered

Wendell H. Grier, Chairman
County Board of Appeals
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
APR 27 2012

BALTIMORE COUNTY
BOARD OF APPEALS

Re: PETITION FOR SPECIAL HEARING, SPECIAL
EXCEPTION AND VARIANCE

Legal Owners: Twenty Seven Hooks Lane, LLC
27 Hooks Lane; SE/S Hooks Lane, 1,050' NE of c/line Reisterstown Road
Case No.: 2012-135-SPHXA, CBA Hearing assigned for June 5-6, 2012

Dear Chairman Grier:

This case involves the proposal for a new Class B office building, potentially for 100% medical office use, at 27 Hooks Lane, on the south side of Hooks Lane in the Pikesville area. This area is just outside the Beltway and northeast of Reisterstown Road.

The property comprises approximately one-quarter of an acre, and sits between larger commercial/office properties on the same side of Hooks Lane. There is, however, a mix of zones and uses along Hooks Lane in this area. The large Commerce Centre is just to the west, and a commercial development to the east. But there are residential zones and uses across Hooks Lane to the east of the Woodholme shopping center, medical office building, and Lifebridge fitness facility complex. The Greentree development is among the residential developments across Hooks Lane.

The nub of the present case is that 27 Hooks Lane is zoned Residential-Office (R.O.) a transitional residential zone which, among other things, limits medical office use to 25% of the office use. BCZR Section 204.3.B.2. The current proposal would replace the existing office building with a new larger building. This entails a special exception, a variance to provide 100% medical offices, and significant variances to the BCZR Section 204.4.C Bulk Regulations for amenity open space and landscape buffer standards (zero vs. the required 7% and 10/ 20 feet respectively), along with an offstreet parking variance. There also appears to be a deviation from the building side yard setback requirements.

Perhaps recognizing the incongruity of the medical office proposal in the R.O. Zone, the property owner has applied for reclassification to the Office Building-Residential (OR-2) Zone in the 2012 Comprehensive Zoning Map process. (CZMP) See attached Issue 2-005. The O.R. 2 Zone is one of many office and business zones which does not have such a specific limitation on medical office

use. BCZR Section 206.3.A.1. The proposed Class B office building would be permitted by right but would still have to satisfy performance standards under BCZR Section 206.4.C and compatibility standards under BCZR Section 208 and County Code Section 32-4-402. Indeed, the existence of many office and business zones which would allow 100% medical office use reinforces the point that the R.O. Zone 25% limitation must stand fast.

It may be prudent for the Board and the parties to await the outcome of the 2012 CZMP before the trial of this case. If the property is rezoned to O.R. 2 or some other zone, then the case could be remanded to the Hearing Officer to provide the opportunity for an amended petition.

* * *

Meanwhile, our office has taken the position in the past and maintains the position that the legislative limitation of 25% medical office use in the R.O. Zone amounts to a use variance and/or is not susceptible to variance under the standards elucidated in BCZR Section 307.1 and applied in such cases as Trinity Assembly of God v. People's Counsel 406 Md. 54 (2008). There is simply nothing unique about a property which relates to the choice of the type of offices. Indeed, in the present case, the desire for 100% medical offices appears to be a marketing strategy, and does not involve any genuine difficulty or hardship in the use of the property.

We have cited the legislative purposes of enclosed Bills 37-88, 151-88 and Planning Board Report on Residential-Office Zones dated May 19, 1988, preceding the latter Bill. The Planning Board stated in the last introductory paragraph on Page 2 and in its Page 5 Summary:

"The proposed amendments to the R.O. zone, together with County Council Bill No. 26-88 which establishes higher standards for off-street parking and County Council Bill NO, 37-88 which restricts medical offices to no more than 25% of the total build floor space should ensure that the original intent of the R.O. zoning is effectively met.

* * *

"SUMMARY

It is hoped that these revisions to the regulations for development in Residential/Office zones, when taken together with the new standards for parking and the 25% maximum limit for medical offices will effectively address the problems which have arisen in the development of Class B office buildings in the past and will enable Baltimore County to retain the R.O. zone as an effective, useful and generally "fair" form of development in areas of transition between residential and commercial uses."

As to the remaining issues involving amenity open space, landscaping, parking, and compatibility, those would have to be looked at under the variance and compatibility standards. The site is relatively small compared to the nearby commercial and office properties. On the other hand, as a practical matter, the proposal does squeeze virtually every inch of the property for the office use and parking, with the consequence of zero amenity open space and landscape buffer.

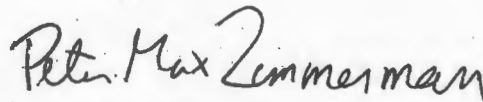
The Planning Board Report also provides insight, with respect to Class B office buildings, as to the purpose of the amenity open space, landscaping requirements, and compatibility on pages 3 and 4. The gist is that these are serious requirements, not to be varied lightly.

Furthermore, in the R.O. Zone, because the variances accompany a special exception, there is the concern that the initial "presumption" in favor of a special exception may fall by the wayside. The special exception is conceptually and descriptively a conditional use. Schultz v. Pritts 291 Md. 1 (1981). The failure to satisfy specific additional standards translates as a failure to satisfy the applicable conditions. Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County 103 Md. App. 324 (1995); Umereley v. People's Counsel 108 Md. App. 497, cert. denied 342 Md. 584 (1995).

It is worth repeating and emphasizing, in light of all of the above, that it may be prudent to await the outcome of the 2012 CZMP before litigating this case. The proposal really does not fit in the R.O. Zone. The County Council CZMP legislation is now scheduled to be enacted on or before September 16, 2012.

Thank you for your consideration in this matter.

Sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw

cc: Christopher Mudd, Esquire
Cynthia Hitt Kent, Esquire
Alan P. Zukerberg, Esquire

Baltimore County 2012 Comprehensive Zoning Map Process
Log of Issues For District 2
March 28, 2012

Issue Number 2-004	Petitioner Fuchs North America, Inc.	Location 9740 Reisterstown Rd			
	Existing Zoning and Acres	Requested Zoning and Acres	Preliminary Staff Recommendation	Planning Board Recommendations	Final County Council Decision
	BM 0.43	BM IM 5.39	BM IM 5.39		
	BM IM 0.03	5.39	5.39		
	BR IM 0.18				
	ML IM 1.79				
	MLR IM 2.96				
	5.39				
Comments	Need site plan.				
Issue Number 2-005	Petitioner Twenty Seven Hooks Lane, LLC	Location 27 Hooks Ln			
	Existing Zoning and Acres	Requested Zoning and Acres	Preliminary Staff Recommendation	Planning Board Recommendations	Final County Council Decision
	RO 0.30	OR 2 0.30	OR 2 0.30		
	0.30	0.30	0.30		
Comments					
Issue Number 2-006	Pettitioner Michael Dopkin	Location 99 Painters Mill Rd			
	Existing Zoning and Acres	Requested Zoning and Acres	Preliminary Staff Recommendation	Planning Board Recommendations	Final County Council Decision
	ML IM 3.01	BL 3.01	BL 3.01		
	3.01	3.01	3.01		
Comments	See 2-023. Need site plan.				
Issue Number 2-007	Petitioner Sarah Sartipy	Location 9925 Reisterstown Road			
	Existing Zoning and Acres	Requested Zoning and Acres	Preliminary Staff Recommendation	Planning Board Recommendations	Final County Council Decision
	DR 1 0.19	BR 0.97	DR 1 0.31		
	DR 16 0.16	0.97	DR 16 0.01		
	RO 0.62		RO 0.65		
	0.97		0.97		
Comments	See 2-001, 2-023, 2-029				

(Total acreages may not equal due to rounding.)

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 6

BILL NO. 37-88

MS. BARBARA F. BACHUR, COUNCILMAN

BY THE COUNTY COUNCIL, MARCH 21, 1988

A BILL ENTITLED

AN ACT concerning

Zoning Regulations - Hospitals and Nursing Homes

FOR the purpose of revising the definitions of certain types of health care facilities; permitting nursing homes in all types of Planned Unit Developments; exempting the reconstruction of certain nursing homes from FDA requirements; providing a definition of a medical office and of a medical clinic; authorizing the location of a medical office in certain zones and under certain conditions; authorizing the location of a medical clinic in business and manufacturing zones; prohibiting their location in residential or residential office zones; permitting an ambulatory surgical facility by Special Exception; and generally relating to the regulation of health care facilities in Baltimore County.

BY repealing

Section 101 - Definitions, the definition of "Hospital" and "Convalescent Home" and Section 407

Baltimore County Zoning Regulations, as amended

BY adding

Section 101 - Definitions, the definition of "Ambulatory Surgical Facility (or Center)", "Hospital", "Nursing Home", "Medical Clinic", "Medical Office", and "Medical Practitioner" and Section 408A

BY repealing and re-enacting, with amendments,

Section 101 - Definitions, the definition of "office" and "Office Building, Class B", and

Sections 1A01.2.C.12., 1A02.2.B.16., 1A02.2.B.17., 1A04.2.A.5.,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1A04.2.B.10., 1B01.1.A.9., 1B01.B.1.c.12., 200.2.A.3.,
200.2.B.2., 201.2.A.3., 201.2.B.2., 203.3.A.2, 203.3.B.2.,
204.3.A.2., 205.3.A.1., 207.3.A.4, 230.9, 236.4, 241.1, 253.1,
430.2.D.4., 430.3.D.4., and 430.4.D.4.

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final
report from the Planning Board concerning the subject legislation and
has held a public hearing thereon, now therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2. COUNTY, MARYLAND, that Section 101-Definitions, the definitions of
3. "Hospital" and "Convalescent Home" and Section 407 of the Baltimore
4. County Zoning Regulations, as amended, be and they are hereby repealed.

5. SECTION 2. AND BE IT FURTHER ENACTED, that Section 101 -
6. Definitions, the definitions of "Ambulatory Surgical Facility (or
7. Center)", "Hospital", "Nursing Home", "Medical clinic", "Medical
8. office", and "Medical Practitioner", and Section 408A be and they are
9. hereby added to the Baltimore County Zoning Regulations, as amended, to
10. read as follows:

11. Section 101 - Definitions

12. AMBULATORY SURGICAL FACILITY (OR CENTER). ANY ENTITY OR PART
13. THEREOF WHICH OPERATES PRIMARILY FOR THE PURPOSE OF PROVIDING SURGICAL
14. SERVICES TO PATIENTS NOT REQUIRING HOSPITALIZATION AND WHICH IS
15. REGULATED BY THE STATE AS A HEALTH CARE FACILITY.

16. HOSPITAL: AN INSTITUTION WHICH IS LICENSED AS A HOSPITAL BY
17. THE STATE AND WHICH RECEIVES INPATIENTS AND PROVIDES MEDICAL, SURGICAL,
18. PSYCHIATRIC OR OBSTETRICAL CARE. THIS TERM INCLUDES ANY HEALTH-RELATED
19. FACILITIES WHICH ARE ESTABLISHED IN CONNECTION WITH A HOSPITAL AND ARE
20. LOCATED ON THE SAME SITE AS THE HOSPITAL. SUCH HEALTH-RELATED
21. FACILITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, DIAGNOSTIC FACILITIES,
22. REHABILITATION CENTERS, LABORATORIES, TRAINING FACILITIES, OUTPATIENT
23. CARE FACILITIES, FACILITIES FOR CHRONIC OR CONVALESCENT CARE AND
24. ELDERLY HOUSING FACILITIES.

1. NURSING HOME: (FORMERLY CONVALESCENT HOME): A FACILITY WHICH
2. PROVIDES BOARD, SHELTER, AND NURSING CARE TO CHRONIC OR CONVALESCENT
3. PATIENTS. THIS TERM ALSO INCLUDES FACILITIES WHICH PROVIDE DOMICILIARY
4. CARE WITHIN A NURSING HOME.

5. ~~MEDICAL CLINIC: A PLACE FOR THE TREATMENT OF OUTPATIENTS BY~~
6. ~~ONE OR MORE MEDICAL PRACTITIONERS, INCLUDING, BUT NOT LIMITED TO,~~
7. MEDICAL CLINIC: THE TERM INCLUDES SURGICAL CENTER, AMBULATORY
8. CARE CENTERS, DIAGNOSTIC CENTERS, BIRTHING CENTERS AND DIALYSIS
9. SATELLITE UNITS. THE TERM DOES NOT INCLUDE AMBULATORY SURGICAL
10. FACILITIES.

11. MEDICAL OFFICE: A PLACE FOR THE TREATMENT OF OUTPATIENTS BY
12. ONE OR MORE MEDICAL PRACTITIONERS. THIS TERM DOES NOT INCLUDE A
13. VETERINARIAN'S OFFICE, MEDICAL CLINIC, ~~SURGICAL CENTER,~~
14. AMBULATORY CARE CENTER, DIAGNOSTIC CENTER, BIRTHING CENTER, OR DIALYSIS
15. SATELLITE UNIT. THE TERM DOES NOT INCLUDE AMBULATORY SURGICAL
16. FACILITIES.

17. MEDICAL PRACTITIONER: A PHYSICIAN, DENTIST, OPTOMETRIST,
18. CHIROPRACTOR, PODIATRIST, PSYCHOLOGIST, PHYSICAL THERAPIST, NURSE, OR
19. OTHER SIMILAR HEALTH PROFESSIONAL LICENSED BY THE STATE.

20. Section 408A - AMBULATORY SURGICAL FACILITY (OR CENTER)

21. NOTWITHSTANDING ANY OTHER PROVISIONS OF THESE REGULATIONS, AN
22. AMBULATORY SURGICAL FACILITY IS PERMITTED BY SPECIAL EXCEPTION IN ALL
23. ZONES OF THE COUNTY EXCEPT D.R., R.O. AND R.C. ZONES.

24. SECTION 3. AND BE IT FURTHER ENACTED, that Section 101 -
25. Definitions, the definition of "office" and "Office Building, Class B",
26. and Sections 1A01.2.C.12., 1A02.2.B.16., 1A02.2.B.17., 1A04.2.A.5.,
27. 1A04.2.B.10., 1B01.B.1.C.12., 200.2.A.3., 200.2.B.2., 201.2.A.3,
28. 201.2.B.2., 203.3.A.2., 203.3.B.2, 204.3.A.2., 205.3.A.1, 207.3.A.4,
29. 230.9, 236.4., 241.1, 253.1, 430.2.D.4., 430.3.D.4., and 430.4.D.4. of

1. the Baltimore County Zoning Regulations, as amended, be and they are
2. hereby repealed and re-enacted, with amendments, to read as follows:

3. OFFICE: The term "office" does not include a bank, a post
4. office, a veterinarian's office, nor an establishment where merchandise
5. is stored on or sold from the premises. THE TERM DOES INCLUDE A
6. MEDICAL OFFICE.

7. Office building, Class B: A principal building that-

8. 1. Is devoted primarily to office use (, clinic or
9. group-medical-center use (including the practice of dentistry),) or
10. opticians' (or optometrists') establishments;

11. 2. Is not attached to any other building;

12. 3. Is the only building on the lot on which it is
13. situated; other than accessory storage for maintenance buildings,
14. or, if a conversion from a Class A office building, those existing
15. buildings which were accessory to the Class A office building;

16. 4. Together with any accessory buildings, has a floor area
17. ratio of no more than 0.5; and

18. 5. Is no higher than 35 feet. (Bill No. 13, 1980.)

19. Section 1A01 - R.C. 2 Zones

20. 1A01.2 - Use Regulations

21. C. Uses permitted by Special Exception.

22. 12. Offices for agriculture - related uses (;
23. physicians' or dentists' offices as principal uses)

24. Section 1A02 - R.C. 3 Zones

1. 1A02.2 - Use Regulations
2. B. Uses permitted by Special Exception.
3. 16. (Nursing homes,) Convalescent homes (or
4. sanitariums)
5. (17. Physicians' or dentists' offices)
6. Section 1A04 - R.C. 5 Zone
7. 1A04.2 - Use Regulations
8. A. Uses permitted as of right.
9. (5. Hospitals)
10. B. Uses permitted by Special Exception.
11. (10. Office of doctor or dentist)
12. Section 1B00 - D.R. Zones
13. 1B01.1.A. Uses Permitted as of Right
14. 9. Hospitals [(see Section 407)]
15. 1B01.1.B.1.c. Exceptions to residential transition.
16. 12. NOTWITHSTANDING THE PROVISIONS OF SECTION 104, THE
17. RECONSTRUCTION OF AN EXISTING NURSING HOME WHICH IS DESTROYED BY FIRE
18. OR OTHER CASUALTY. HOWEVER, SUCH RECONSTRUCTION MAY NOT INCREASE THE
19. SIZE OR GROUND FLOOR AREA OF THE STRUCTURE OR ALTER THE LOCATION OR USE
20. OF THE STRUCTURE.

1. Section 200 - R.A.E.1 Zones

2. 200.2

3. A. Uses Permitted

4. 3. The following retail or service uses, in any
5. apartment building of 50 or more dwelling units, subject to the
6. limitations of Paragraph B:

7. (4. Chiropodists' offices

8. 5. Clinics or group medical centers (including the
9. practice of dentistry))

10. 13. Opticians' (or optometrists') offices

11. B. Supplementary Use Regulations.

12. 2. No individual use permitted under Subparagraph A.3
13. shall occupy more than 600 square feet of gross floor area; except,
14. however, that this limitation shall not apply to the following:

15. (Clinics or group medical centers;)

16. Food stores, which shall not, however, occupy more than
17. 5,000 square feet of floor area in any building;

18. Restaurants.

19. Section 201 - R.A.E.2 Zones

20. 201.2

21. A. Uses Permitted

1. 3. The following retail or service uses, in any
2. apartment building of 50 or more dwelling units, subject to the
3. limitations of Paragraph B:

4. (7. Chiropodists' offices

5. 8. Clinics or group medical centers (including the
6. practice of dentistry))

7. 18. Opticians' (or optometrists') offices

8. B. Supplementary Use Regulations.

9. 2. No individual use permitted under Subparagraph A.3
10. shall occupy more than 1000 square feet of gross floor area; except,
11. however, that this limitation shall not apply to the following:

12. Banks, building and loan associations, and similar
13. chartered financial institutions;

14. (Clinics and group medical centers;) Food stores, which
15. shall not, however, occupy more than 5000 square feet of floor area;

16. Restaurants.

17. Section 203 - RO Zones

18. 203.3 Use Regulations

19. A. Uses Permitted As of Right.

20. 2. Class A office buildings CONTAINING OFFICES OR
21. MEDICAL OFFICES and their accessory uses including parking, EXCEPT
22. THAT NO MORE THAN 25% OF THE TOTAL ADJUSTED GROSS FLOOR AREA OF THE
23. OFFICE BUILDING MAY BE OCCUPIED BY MEDICAL OFFICES.

1. B. Uses Permitted by Special Exception

2. 2. Class B office buildings CONTAINING OFFICES OR
3. MEDICAL OFFICES, EXCEPT THAT NO MORE THAN 25% OF THE TOTAL ADJUSTED
4. GROSS FLOOR AREA OF THE OFFICE BUILDING MAY BE OCCUPIED BY MEDICAL
5. OFFICES. A CLASS B OFFICE BUILDING IN EXISTENCE PRIOR TO THE
6. EFFECTIVE DATE OF THIS LEGISLATION WITH MEDICAL OFFICES IN EXCESS OF
7. 25% OF THE TOTAL ADJUSTED GROSS FLOOR AREA IS A CONFORMING USE IF IT
8. IS IN COMPLIANCE WITH THE TERMS OF ITS SPECIAL EXCEPTION. SUCH AN
9. OFFICE BUILDING MAY BE EXPANDED IF THE EXPANSION MEETS THE CURRENT
10. PARKING REQUIREMENTS FOR MEDICAL OFFICES.

11. Section 204 - O-1 Zones

12. 204.3 Use Regulations

13. A. Uses permitted as of right

14. 2. Class A, Class B, or Class C office buildings
15. CONTAINING OFFICES, MEDICAL OFFICES, OR MEDICAL CLINICS.

16. Section 205 - O-2 Zones

17. 205.3 Use Regulations

18. A. Uses permitted as of right

19. 1. Class A, Class B or Class C(,) office buildings
20. CONTAINING OFFICES, MEDICAL OFFICES, OR MEDICAL CLINICS

21. Section 207 - O.T. Zone

22. 207.3 Permitted Uses

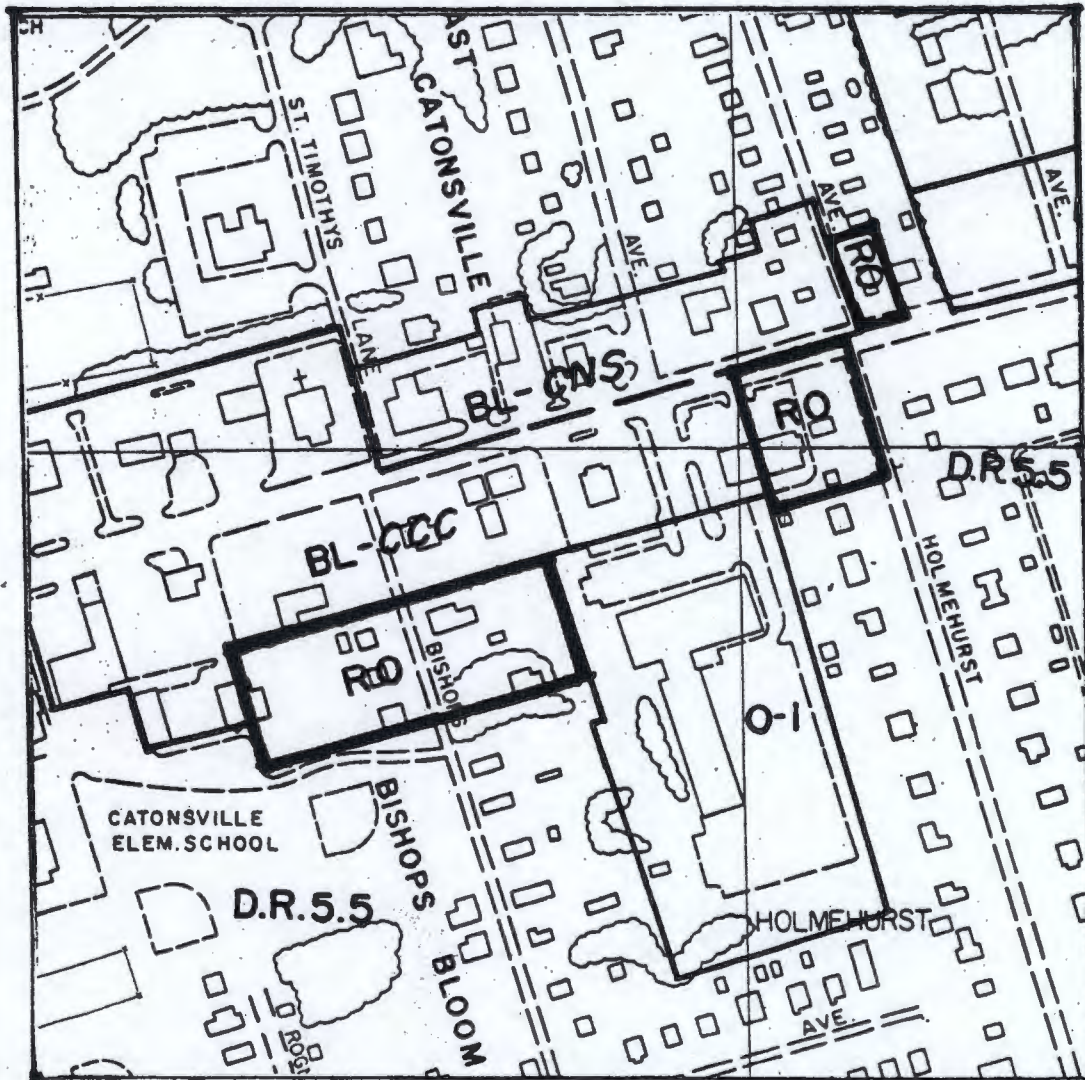
23. A. Principal Uses

1. 4. Hospital (, clinics, or group medical centers
2. (including the practice of dentistry))
3. B.L. Zone - Business, Local
4. Section 230
5. The following uses only are permitted (See section 230.12):
6. 230.9
7. MEDICAL CLINIC
8. B.R. Zone - Business, Roadside
9. Section 236 - Use Regulations
10. 236.4 - Special Exceptions
11. [Hospital, Class B (see Section 407);]
12. M.R. Zone - Manufacturing Restricted
13. 241.1 - The following uses are permitted, provided their
14. operations are entirely within enclosed buildings except where approval
15. of the development plan indicates otherwise:
16. Office and office buildings AND MEDICAL CLINIC;
17. M.L. Zone - Manufacturing, Light
18. 253.1 - Uses permitted as of right. The uses listed in this
19. subsection, only, shall be permitted as of right in M.L. zones, subject
20. to any conditions hereinafter prescribed.

1. 33. Offices or Office Buildings OR MEDICAL CLINICS
2. Section 430 - Unit Developments
3. 430.2 - Neighborhood Development
4. D. Uses permitted.
5. 4. Institutions; churches; private schools; NURSING
6. HOMES.
7. 430.3 - Community Developments
8. D. Uses permitted.
9. 4. The following institutional uses:
10. 4. NURSING HOMES.
11. 430.4 - Town Developments
12. D. Use Regulations
13. 4. The following institutional uses:
14. 4. NURSING HOMES.
15. Section 4. And be it further enacted, that this Act shall take
16. effect forty-five days after its enactment.

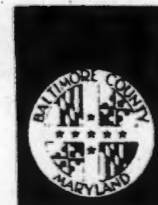
RESIDENTIAL-OFFICE ZONES

MAY 19, 1988



FINAL REPORT OF THE BALTIMORE COUNTY PLANNING BOARD
REGARDING THE RESIDENTIAL-OFFICE ZONE

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING



Dennis F. Rasmussen
County Executive

Published by the Baltimore County Office of Planning and Zoning
Towson, Maryland 21204

Printed by Central Printing Services
Baltimore County Office of Central Services

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
AND DEVELOPMENT REGULATIONS CONCERNING R-O ZONES

A Final Report of the Baltimore County Planning Board
(May 19, 1988)

PROJECT DESCRIPTION

Subject: Resolution No. 7-87
Resolution to consider amendments to the
Baltimore County Zoning Regulations in order to
restrict or eliminate Class B Office Buildings as
a permitted use in RO zones.

Attachments: Attachment A - Resolution
Attachment B - Proposed Regulations
Attachment C - Comparative Analysis
Attachment D - Comparative Site Plan

INTRODUCTION

In 1980, County Council Bill No. 13 established the various office zoning classifications in the Baltimore County Zoning Regulations. The intent of the Residential-Office (R.O.) zone is stated in the legislation as follows.

203.2 - Statement of Legislative Policy. The R.O. zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can not longer reasonably be restricted solely to uses allowable in moderate-density residential zones. It is intended that buildings and uses in R-O zones shall be highly compatible with the present or prospective uses of nearby residential property. It is not the R-O classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas.

The R-O zone permits two types of office buildings. Class A office buildings which are the results of conversions of existing residences to office use, are permitted as of right. Class B office buildings are new buildings or expansions of existing Class A office buildings and are limited in size by definition. Class B office buildings are permitted by special exception.

The Office of Planning and Zoning submitted a preliminary report to the Planning Board in December, 1987. A public hearing was held by the Planning Board in February. Based on comments received at the public hearing and subsequent to it, the preliminary recommendations were revised and are contained in this report.

ANALYSIS

An analysis of the R.O. zone as currently written identified a basic conflict between the stated intent of the zone regarding "compatibility" and the actual regulations that permit development at a size and scale which is in conflict with adjoining residential uses.

Low parking standards, especially for medical offices, have caused difficulties for development in the R.O. zone. Class A office buildings have generally not caused significant problems as discussed below. For Class B office buildings, problems have arisen due to the lack of building setbacks, inadequate landscaped buffers (as exist in D.R. zones for residential transition areas), no limit to R.O. lot size and a floor area ratio which permits buildings far larger than most adjacent residential uses.

In addition, the control of development by the CRG and Zoning Commissioner through a finding of "compatibility" has been difficult to achieve because of the absence of a precise definition of "compatibility".

The provision of 25% of the site area as amenity open space (A.O.S.) has proved an ineffective way of controlling site design and the granting of variances for A.O.S. and parking has usually only exacerbated the problem, with off-site parking intruding into adjacent residential streets.

In cases where residential land is no longer suitable for housing, but where the location is not appropriate for business use, there is a need for a "transitional" zone, such as the R.O. zone, but with far more stringent building and site design controls.

The proposed amendments to the R.O. zone, together with County Council Bill No. 26-88 which establishes higher standards for off-street parking and County Council Bill No. 37-88 which restricts medical offices to no more than 25% of the total built floor space should ensure that the original intent of the R.O. zoning is effectively met.

Buffer Yards

Extensively landscaped buffer yards that cannot be used for stormwater management, buildings, parking, driveways (except for site access) or dumpsters are proposed to provide effective open space and replace the 25% amenity open space in the current regulations. In addition a minimum of 7% of the paved on-site parking and driveway area must be pervious and landscaped.

"Compatibility" of the R.O. zone with residential zones necessitates the provision of minimum landscaped green areas between buildings and parking in the R.O. zone and adjoining residences. Buffer yards create the area necessary to truly justify the transitional nature of the R.O. zone and assist in preventing adjacent residences from having the need to apply for non-residential zoning in the future.

Building Height

The height limit of thirty-five feet in the existing R.O. zone is a reasonable and adequate standard. In addition to this height requirement the provision of roof treatments similar to those of adjacent buildings was added to ensure that the overall building form in the R.O. zone would be compatible with nearby residences.

Design Review

The proposed legislation sets out a list of elements to be included in the Baltimore County Development Regulations, by which the CRG and the Zoning Commissioner can judge the "appropriateness" of a proposed building in an R.O. zone. In the past, too great an emphasis was placed on a building design being "compatible" and not enough on site design. The proposed R.O. legislation, if adopted, will ensure that the R.O. Class B building, and its site, will "fit" into its residential area context, both in terms of site layout and building design. It is recommended that CRG approval be obtained prior to the submittal of a petition for special exception to the Zoning Commissioner. In R-O zones site design and design review are particularly critical and should be decided upon before a special exception is granted.

Signage

In addition to the eight square foot sign requirement which currently applies in the R-O zone it is proposed that office buildings located adjacent to principal commercial arterials be permitted an additional fifteen square feet per side on a free standing sign located along the arterial road. The existing requirement is too restrictive for sites located along major roads and have resulted in many variance requests.

Guidelines for Granting of Variances

In addition to the proposed amendments to the Zoning Regulations and Development Regulations, the Planning Board recommends that the Zoning Commissioner adopt guidelines for the granting of variances in the R-O zone to assure that the spirit and intent of the legislation is met. Legislative action is not required for these policy guidelines.

SUMMARY

It is hoped that these revisions to the regulations for development in Residential/Office zones, when taken together with the new standards for parking and the 25% maximum limit for medical offices will effectively address the problems which have arisen in the development of Class B office buildings in the past and will enable Baltimore County to retain the R.O. zone as an effective, useful and generally "fair" form of development in areas of transition between residential and commercial uses.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1987, LEGISLATIVE DAY NO. 5

RESOLUTION NO. 7-87

EVANS & BACHUR, COUNCILMEMBERS

BY THE COUNTY COUNCIL, MARCH 16, 1987

A Resolution to the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to restrict or eliminate Class B Office Buildings as a permitted use in RO zones.

WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, the Baltimore County Zoning Regulations currently provide for the RO zoning classification in order to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas; and

WHEREAS, it is intended that buildings and uses in RO zones should be highly compatible with the present or prospective uses of nearby residential property; and

WHEREAS, it is not the purpose of the RO zoning classification to accommodate a substantial part of the demand for office space; and

WHEREAS, the Class B office building is a use which is not always consistent with the predominantly residential nature of the RO zone; and

WHEREAS, the County Council believes that a review of the RO zone is necessary in order to address the issue of the Class B office building.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to either eliminate the Class B office building as a use permitted in RO zones or to require certain setbacks for Class B office buildings when permitted in RO zones in order that such office buildings may be compatible with surrounding residential uses.

Recommendations

The Baltimore County Planning Board recommends that the Baltimore County Zoning Regulations, 1955, and the Baltimore County Development Regulations as amended, be further amended as set forth below. Wherever utilized, dashes indicate text to be deleted, and underlining indicates text to be added.

1. Revise the definitions of "Medical Office" and "Office building, Class B" in Section 101 of the Zoning Regulations and add a definition for "principal arterial" as follows:

Medical Office: A place for the treatment of outpatients by one or more medical practitioners. This term does not include a veterinarian's office, medical clinic, ambulatory care center, diagnostic center, birthing center, or dialysis satellite unit. The term does not include ambulatory surgical facilities. This term does include a pathology laboratory.

Office building, Class B: A principal building that

1. Is devoted primarily to office use or opticians' establishments; (Bill No. 37, 1988)
2. Is not attached to any other building;
3. Is the only building on the lot on which it is situated; other than accessory storage or maintenance buildings; or, if a conversion from a Class A office building, those existing buildings which were accessory to the Class A office building.

~~4. Together with any accessory buildings, has a floor area ratio of no more than 0.5; and~~

~~5. Is no higher than 35 feet.~~

Principal Arterial - A motorway, or portion thereof which is or is intended for travel to or from major activity centers, which has predominantly commercial frontage, and which is designated as such on the most recently approved federal highway functional classification map for the Baltimore Urbanized Area.

2. In Section 203 of the Zoning Regulations, Residential-Office Zone, revise paragraph 203.2, 203.3 and 203.6 as follows:

203.2-Statement of Legislative Policy. The R-0 zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate-density residential zones. It is intended that buildings and uses in R-0 zones shall ~~be highly compatible with the~~ not intrude upon or disturb present or prospective uses of nearby residential property. It is not the R-0 classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas. [Bill No. 13, 1980.]

- B. Uses Permitted by Special Exception. The following uses, only, may be permitted by special exception in an R-0 zone: providing such use has an approved CRG plan prior to the granting of a special exception:

C. Signs and Off-Street Parking Requirements.

1. 6. Signs-and-Displays. In addition to signs permitted under Subsection 413.1, 1 stationary outside identification sign is permitted, provided that the sign is not illuminated, does not project more than 6 inches from the building, and does not have a surface area exceeding 8 square feet. No other signs or displays of any kind visible from outside the buildings are permitted, except that along a principal arterial an additional free-standing sign with a surface area of no more than 15 square feet per side is also allowed;
2. Off-street parking spaces shall be provided in accordance with Section 409 except that to the extent possible parking shall be located in the side or rear yards of the lot;

203.6 - Conversion of Dwellings to Office Buildings. Any one-or two-family detached dwelling or apartment building which is under application for either a change in zoning classification to R.O., or for a conversion from a residential use to an office use shall require a special exception if the dwelling has been enlarged in floor area by ten percent or more within a period of one-year five (5) years prior to the date of application for change or conversion.

3. In Section 203 of the Zoning Regulations, delete paragraph 203.4, Bulk Regulations and add a new paragraph to read as follows:

~~203.4---Bulk-Regulations.--Uses-permitted-under-Item-203.3.A.1,--uses permitted-under-Item-203.3.B.1,--and-new-structures-accessory-to-Glass A-office-buildings-are-governed-by-the-bulk-regulations-of-R.R.-5.5 zones.--(Glass-A-office-buildings-themselves,--which-by-definition-may not-be-enlarged,--are-not-subject-to-bulk-regulations,--nor-are-unenlarged structures-accessory-to-the-original-houses,)--For-uses-permitted under-Item-203.3.B.2,--the-area-devoted-to-amenity-open-space-must-be at-least-25-percent-of-the-gross-site-area.~~

203.4 - Bulk Regulations of R-0 Zones. Uses permitted as of right or by special exception are governed by the following bulk regulations:

- A. Residential uses are governed by the bulk regulations of D.R. 5.5 zones.
- B. Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original building.

C. Class B office buildings.

1. Maximum floor area ratio: 0.33
2. Maximum height of structure: 35 feet to the ridgeline of a pitched roof;
3. Minimum front yard setback: 25 feet or the average of the setbacks of the adjacent structures, whichever is less;
4. Minimum side yard setbacks: 10 feet, except if the adjacent use is predominantly residentially zoned, in which case the setback shall be 20 feet;
5. Minimum rear yard setback: 30 feet;
6. Amenity open space: seven (7) percent of the interior of the parking lot not including setback and buffer area requirements shall be pervious land area in association with plantings;
7. Maximum lot size: one (1) acre or two (2) acres if located on a principal arterial;
8. Landscape requirements. In addition to the requirements set forth in the Baltimore County Landscape Manual:
 - a. All parking and dumpster areas which abut a residential zone shall be screened by an opaque fence, wall or berm in association with plantings;
 - b. The minimum screening height shall be five (5) feet;
 - c. The following buffers, which shall not be encroached upon by stormwater management, parking or dumpster areas, shall be provided:
 1. Property lines which abut any property which is predominantly residentially zoned must have a 20 foot landscape buffer;
 2. Property lines which abut any residential street must have a 15 foot landscape buffer;
 3. Property lines which abut any commercially zoned property must have a 10 foot landscape buffer;
4. In Section 22-104 of the Development Regulations, modify paragraph (a) Development of property in R-0 zones as follows:
 - (a) Development of property in an R-0 zone: ~~shall-be-designed-to-achieve~~
 - (1) Compatibility-of-the-proposed-development-with Development shall be appropriate to the specific circumstances of the site taking

into account surrounding uses; tree preservation; protection of watercourses and bodies of water from erosion and siltation; and safety, convenience, and amenity for the neighborhoods.

5. In Section 22-10 of the Development Regulations, Development in R-0 zones add a new subparagraph (2) to read as follows:

(2) In determining the appropriateness of Class B office buildings, design elements of proposed buildings shall be evaluated in relation to existing adjacent or surrounding buildings. In most cases, to be considered appropriate, new buildings shall be similar to existing ones in the following respects:

- (i) Height
- (ii) Bulk and general massing
- (iii) Major divisions or rhythms of the facade
- (iv) Proportion of openings (window-wall-relation)
- (v) Roof treatment
- (vi) Materials, colors, textures
- (vii) General architectural character
 - a) horizontal or vertical emphasis
 - b) scale
 - c) stylistic features and themes - porches, colonades, pediments, cupolas, cornices, coins, detail and ornament
- (viii) Relation to street
- (ix) Exterior lighting. Buildings shall not be lighted on the exterior and any lighting provided for safety reasons should be minimized and directed away from adjoining residential property.

PROPOSED SUPPLEMENTAL ZONING AMENDMENTS

In addition to the recommended substantive changes to the Baltimore County Zoning Regulations, the Planning Board recommends the following "housekeeping amendments":

1. In Subsection 204.4.B, Bulk Regulations for Class B Office Buildings in O-1 zones, add a new subparagraph 5 and a new subparagraph 6 as follows:

5. Maximum floor area ratio: 0.50

6. Maximum height of structures: 35 feet

2. In Subsection 205.4, add a new subparagraph 5 and a new subparagraph 6 as follows:

5. Maximum floor area ratio: 0.50

6. Maximum height of structures: 35 feet

3. In Section 502, Special Exceptions, add a new paragraph 502.8:

502.8 Bill No. _____ does not affect the validity of any order granting a special exception for a Class B office building pursuant to Subsection 203.3.B. Any such special exception may be used in accordance with the applicable provisions of these regulations in effect at the time of the grant of such special exception provided construction is started prior to the date of adoption of this bill.

The Planning Board recommends that the following criteria for the review of variances be adopted by the Zoning Commissioner as policy.

CLASS B OFFICE BUILDINGS
IN R-O ZONES

Because of the transitional nature of the R-O zone, variances from height, area, off-street parking and sign regulations shall generally not be considered. When a variance is requested, the proposed project shall be reviewed for general layout and configuration based upon but not limited to the following criteria:

1. Parking. Parking should be provided in sufficient quantity in order to prevent overflow parking on adjacent residential streets. Parking lots and driveways should be located in such a manner to provide distance separation between buildings, and adjoining residences. Parking areas should be extensively landscaped and buffered to minimize negative automotive impacts on adjoining residential properties. Parking areas should be sufficiently landscaped internally to separate long stretches of parking, provide shade and screening and assist in reducing negative automotive impacts;
2. Building Setbacks. The building setbacks should assure that the structure is situated in such a manner so that the structure does not encroach or impact adjoining residential property, or obstruct air and light;
3. Building Location. Buildings should be generally located near the front of the site and in a manner similar to adjoining residential structures while allowing the office to function on the lot. The types and nature of adjoining uses and road usage should also be considered in determining building location;
4. Building Bulk. The building bulk should be maintained in accordance with the provisions of the zone. The building bulk for this type of use will be at a larger scale than adjoining residential uses, however, the scale should be maintained as provided in the zone;
5. Buffer Yards. The provision of natural, extensively landscaped buffer yards planted in scale with adjoining residences is critical to the functioning of this zone. In certain instances where natural or unique site features should be preserved, some flexibility may be appropriate;
6. Natural Features. To the greatest extent feasible or possible unique or natural features should be preserved on the site. Flexibility in site design may be provided to preserve unique or natural features;
7. Signs. Signage should be provided at appropriate scale and location in order to minimize visual impact on adjoining residences. Signage should be limited to the greatest extent possible and constructed in an unobstructive manner;

RESIDENTIAL OFFICE ZONE COMPARATIVE ANALYSIS

	<u>D.R. 5.5</u>	<u>R.O. Existing</u>	<u>R.O. Proposed</u>
SETBACKS			
Front	25 feet	Not required	25 feet
Side	10 feet	Not required	10 feet, 20 feet if residential
Rear	30 feet	Not required	30 feet
HEIGHT	50 feet	35 feet	35 feet, appropriate roof form
SIGNAGE		8 sq. ft.	8 sq. ft. 15 sq. ft. per side free- standing along major arterials
LOT SIZE			
Minimum	Not required	Not required	Not required
Maximum	Not required	Not required	1 acre 2 acres if located adjacent to major arterial
BUFFER YARDS/ AREAS			
	Not required	8' planting strip between parking and street	20 feet between residential use or zone
	Not required		10 feet between street, non- residential use or zone
	Not required		10 feet between arterial street
	Not required		15 feet between residential street
OPEN SPACE		25% amenity open space	7% internal landscaping in parking area in addition to landscaped buffers

PARKING

OLD PARKING STANDARDS

NEW PARKING STANDARDS

Office Use

general office-ground
floor 1/300 sq.ft.

all offices
3.3/1000 sq. ft.

medical office 1/300 sq.ft.

medical offices
4.5/1000 sq. ft.

general office-upper floors
1/500 sq.ft.

TRIP GENERATION

USE

TRIP GENERATION RATES

Residential

Single-family, 5 dwelling units per acre
Town-house, 5 dwelling units per acre

9.1*
7 *

Office

General
Medical

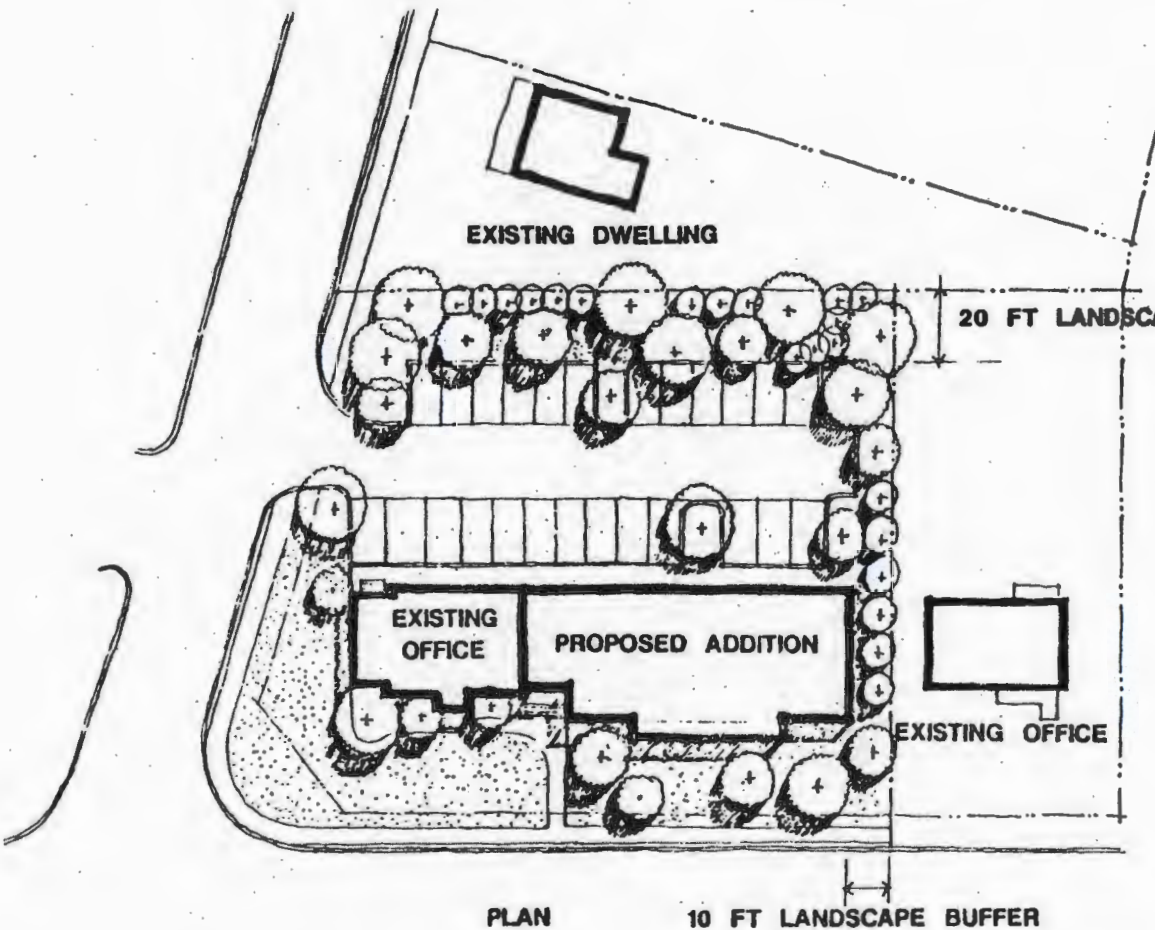
11.7+
63.5+

*Trips per dwelling unit

+Trips per 1,000 sq. ft. of gross floor area

The reduction in medical offices allowed in an R.O. zone to 25% of total floor area built has a significant impact on parking provision and trip generation.

SOURCE: Institute of Transportation Engineers

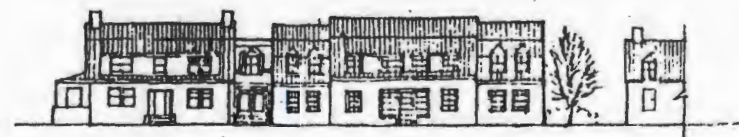


RECOMMENDED CRG PLAN REVISION

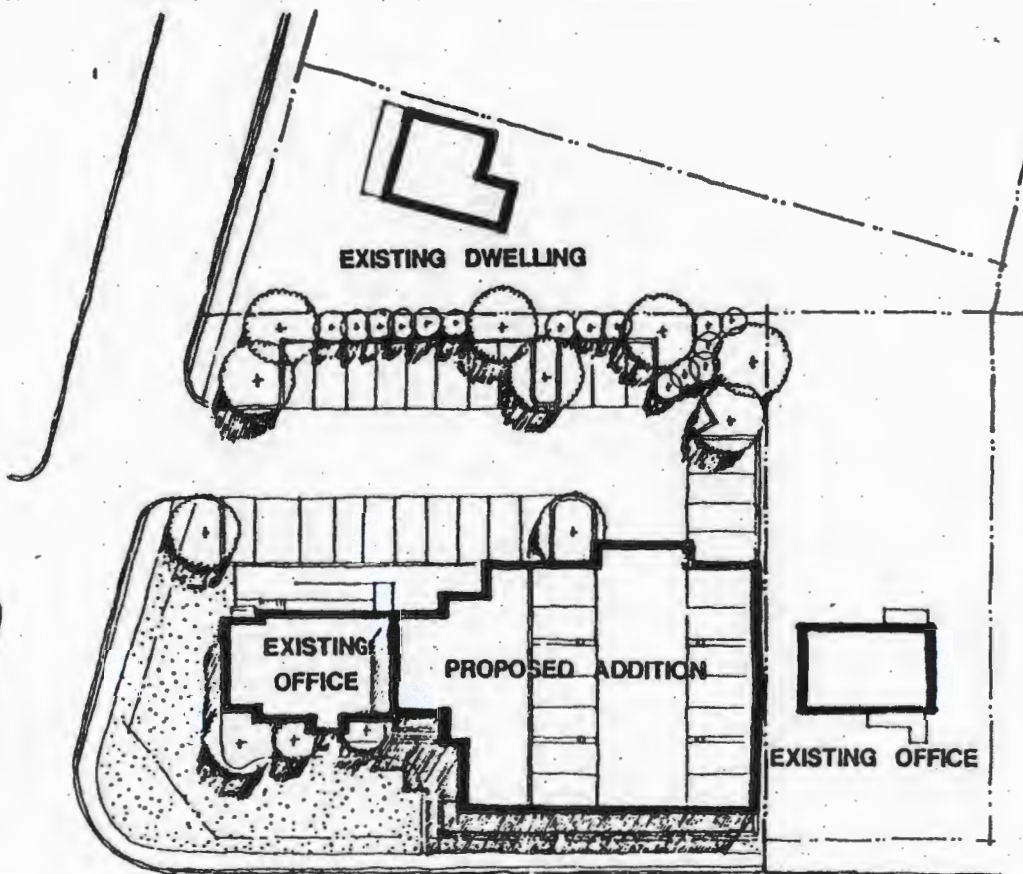
Based on proposed R.O. regulations and new parking regulations.

Site Area	27,853
Building Size	+8,000
Proposed Parking	26
Required Parking	26
Floor Area Ratio	0.29

Building Design - as per new R.O. design guidelines setbacks and landscaped area as per proposed R.O. Regulations.



COMPARATIVE SITE PLAN PROPOSED RESIDENTIAL OFFICE ZONE



PLAN

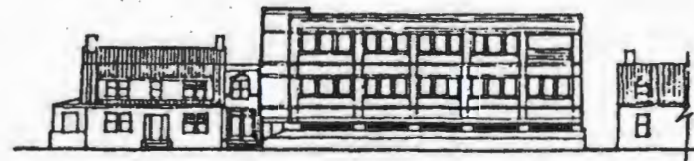
PRELIMINARY CRG PLAN SUBMISSION*

Based on R.O. and Parking regulations as of April 1988.

Area of Site	27,853
Building Size	13,926
Proposed Parking	38
Parking Required	36
Floor Area Ratio	0.50

Setback and landscaped area as shown.
Building Design - proposed as compatible.

* Taken from actual CRG plan preliminary submission.



ELEVATION

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

COMPARATIVE SITE PLAN
EXISTING RESIDENTIAL OFFICE ZONE

BILL NO. 151-88

MS. BARBARA F. BACHUR, COUNCILWOMAN

BY THE COUNTY COUNCIL, OCTOBER 3, 1988

*Adopted
Effective
11-27-88*



A BILL ENTITLED

AN ACT concerning

Residential - Office Zone

FOR the purpose of amending the Baltimore County Zoning Regulations and the Baltimore County Development Regulations in order to generally revise the R-O Zoning classification relating to the conditions and requirements imposed upon the conversion of certain types of buildings, and generally relating to the permitted uses, conditions, restrictions, limitations, and requirements imposed upon uses in R-O Zones in Baltimore County.

BY repealing and re-enacting, with amendments,

Section 101 - the definitions of "Building Height" and "Office Building, Class B"

Baltimore County Zoning Regulations, as amended.

BY adding

Section 101 - alphabetically, the definition of "Principal Arterial"

Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments,

Sections 203.2, 203.3, 203.4, 203.6, 204.4.B., 205.4.C.,
and 409.7B

Baltimore County Zoning Regulations, as amended.

BY adding

Section 502.8

Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments,

Section 22-104(a)

Title 22 - Planning, Zoning and Subdivision Control

Baltimore County Code, 1978, 1986 Supplement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and has held a public hearing thereon, now, therefore,

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2. COUNTY, MARYLAND, that the definitions of "Building Height" and
3. "Office Building, Class B" in Section 101 of the Baltimore County
4. Zoning Regulations, as amended, be and they are hereby repealed and
5. re-enacted, with amendments, to read as follows:

6. Section 101 - Definitions

7. Building Height: [The vertical distance measured from the
8. average grade to the average elevation of the roof of the highest
9. story.] THE HEIGHT OF THE HIGHEST POINT ON A BUILDING OR OTHER
10. STRUCTURE AS MEASURED BY THE VERTICAL DISTANCE FROM THE HIGHEST POINT
11. ON THE STRUCTURE TO THE HORIZONTAL PROJECTION OF THE CLOSEST POINT AT
12. EXTERIOR GRADE. IN INSTANCES WHERE IT IS OBVIOUS THAT THE EXTERIOR
13. GRADE HAS BEEN ARTIFICIALLY BUILT UP ABOVE NATURAL OR SURROUNDING
14. FINISHED GRADE, THE VERTICAL DISTANCE WILL BE MEASURED BY PROJECTING
15. THE NATURAL OR SURROUNDING FINISHED EXTERIOR GRADE TO THE CLOSEST
16. POINT (FOUNDATION WALL).

17. Office Building, Class B: A principal building that
18. [1.] Is devoted primarily to office use or opticians'
19. establishments[;].
20. [2. Is not attached to any other building;
21. 3. Is the only building on the lot on which it is situated;
22. 4. Has a floor area ratio of no more than 0.5; and
23. 5. Is no higher than 35 feet.]

24. SECTION 2. And be it further enacted, that the definition of
25. "Principal Arterial" be and it is hereby added to Section 101 of the
26. Baltimore County Zoning Regulations, as amended, to read as follows:

27. Section 101 - Definitions

1. PRINCIPAL ARTERIAL: A MOTORWAY, OR PORTION THEREOF WHICH:
2. 1) IS OR IS INTENDED FOR TRAVEL TO OR FROM MAJOR ACTIVITY CENTERS;
3. AND 2) WHICH IS DESIGNATED AS SUCH ON THE MOST RECENTLY APPROVED
4. FEDERAL HIGHWAY FUNCTIONAL CLASSIFICATION MAP FOR THE BALTIMORE
5. URBANIZED AREA.

6. SECTION 3. And be it further enacted, that Sections 203.2,
7. 203.3, 203.4, 203.6, 204.4.B., 205.4.C., and 409.7B of the Baltimore
8. County Zoning Regulations, as amended, be and they are hereby
9. repealed and re-enacted, with amendments, to read as follows:

10. 203.2 - Statement of Legislative Policy. The R-O zoning
11. classification is established, pursuant to the findings stated above,
12. to accommodate houses converted to office buildings and some small
13. class B office buildings in predominantly residential areas on sites
14. that, because of adjacent commercial activity, heavy commercial
15. traffic, or other, similar factors, can no longer reasonably be
16. restricted solely to uses allowable in moderate-density residential
17. zones. It is intended that buildings and uses in R-O zones shall [be
18. highly compatible with the] NOT INTRUDE UPON OR DISTURB present or
19. prospective uses of nearby residential property. It is not the R-O
20. classification's purpose to accommodate a substantial part of the
21. demand for office space, it being the intent of these Zoning
22. Regulations that office-space demand should be met primarily in C.T.
23. districts, C.C.C. districts, and, to a lesser extent, in other
24. commercial areas.

25. 203.3 - Use Regulations.

26. A. Uses Permitted as of Right. The following uses,
27. only, are permitted as of right in any R-O zone:

28. 1. Uses permitted as of right and as limited in
29. D.R. 5.5 zones or

1. 2. Class A office buildings containing offices
2. or medical offices and their accessory uses including parking, except
3. that no more than 25% of the total adjusted gross floor area of the
4. office building may be occupied by medical offices.

5. B. Uses Permitted by Special Exception. The
6. following uses, only, may be permitted by special exception in an R-O
7. zone, IF SUCH USE HAS AN APPROVED CRG PLAN PRIOR TO THE GRANTING OF A
8. SPECIAL EXCEPTION:

9. 1. Uses permitted by special exception and as
10. limited in D.R. 5.5 zones or

11. 2. (A) Class B office buildings containing
12. offices or medical offices, except that no more than 25% of the total
13. adjusted gross floor area of the office building may be occupied by
14. medical offices. A Class B office building in existence prior to the
15. effective date of this legislation with medical offices in excess of
16. 25% of the adjusted gross floor area is a conforming use if it is in
17. compliance with the terms of its special exception. Such an office
18. building may be expanded if the expansion meets the current parking
19. requirements for medical offices.

20. (B) UP TO 100% OF THE TOTAL ADJUSTED GROSS
21. FLOOR AREA OF A CLASS B OFFICE BUILDING MAY BE OCCUPIED BY MEDICAL
22. OFFICES IF:

23. (1) THE FLOOR AREA RATIO OF THE
24. PROPOSED CLASS B OFFICE BUILDING IS NOT GREATER THAN 0.20;

25. (2) A DOCUMENTED SITE PLAN AND A
26. SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING HAVE BEEN APPROVED BY
27. THE ZONING COMMISSIONER OR THE BOARD OF APPEALS, EITHER ON APPEAL OR
28. AS A RESULT OF ITS ORIGINAL JURISDICTION, PRIOR TO THE EFFECTIVE DATE
29. OF BILL 151-88;

30. (3) CONSTRUCTION OF THE CLASS B
31. BUILDING IS STARTED PRIOR TO THE EXPIRATION DATE OF THE SPECIAL
32. EXCEPTION AS REQUIRED BY SECTION 502.3; AND

33. (4) PARKING REQUIREMENTS SHALL BE
34. CALCULATED BY REQUIRING THE MAXIMUM NUMBER OF PARKING SPACES AS

1. DETERMINED BY SECTION 409 OF THESE REGULATIONS, THE REQUIREMENTS OF
2. THE DOCUMENTED SITE PLAN, OR THE REQUIREMENTS OF THE ORDER GRANTING
3. THE SPECIAL EXCEPTION, WHICHEVER SHALL YIELD THE GREATEST NUMBER OF
4. SPACES.

5. C. [Signs and Display.] SIGNS AND OFF-STREET
6. PARKING REQUIREMENTS.

7. 1. In addition to signs permitted under
8. Subsection 413.1, 1 stationary' outside identification sign is
9. permitted, provided that the sign is not illuminated, does not
10. project more than 6 inches from the building, and does not have a
11. surface area exceeding 8 square feet. No other signs or displays of
12. any kind visible from outside the building are permitted, EXCEPT THAT
13. ALONG A PRINCIPAL ARTERIAL AN ADDITIONAL FREE-STANDING SIGN WITH A
14. SURFACE AREA OF NO MORE THAN 15 SQUARE FEET PER SIDE IS ALSO ALLOWED
15. IF THERE IS ADJACENT NON-RESIDENTIALLY USED OR NON-RESIDENTIALLY
16. ZONED FRONTAGE.

17. 2. OFF-STREET PARKING SPACES SHALL BE PROVIDED IN
18. ACCORDANCE WITH SECTION 409. TO THE EXTENT POSSIBLE PARKING SHALL BE
19. LOCATED IN THE SIDE OR REAR YARDS OF THE LOT. ALL REQUIRED PARKING
20. SPACES SHALL BE PROVIDED ON THE SAME LOT AS THE STRUCTURE OR USE TO
21. WHICH THEY ARE ACCESSORY.

22. [203.4 - Bulk Regulations. Uses permitted under Item
23. 203.3.A.1, uses permitted under Item 203.3.B.1, and new structures
24. accessory to Class A office buildings are governed by the bulk
25. regulations of D.R. 5.5 zones. (Class A office buildings themselves,
26. which by definition may not be enlarged, are not subject to bulk
27. regulations, nor are unenlarged structures accessory to the original
28. houses.) For uses permitted under Item 203.3.B.2, the area devoted
29. to amenity open space must be at least 25 per cent of the gross site
30. area.]

1. 203.4 - BULK REGULATIONS OF R-O ZONES. USES PERMITTED AS OF
2. RIGHT OR BY SPECIAL EXCEPTION ARE GOVERNED BY THE FOLLOWING BULK
3. REGULATIONS:

4. A. USES PERMITTED UNDER 203.3.A.1., USES PERMITTED UNDER
5. 203.3.B.1. AND NEW STRUCTURES ACCESSORY TO CLASS A OFFICE BUILDINGS
6. ARE GOVERNED BY THE BULK REGULATIONS OF D.R. 5.5 ZONES.

7. B. CLASS A OFFICE BUILDINGS THEMSELVES, WHICH BY
8. DEFINITION MAY NOT BE ENLARGED, ARE NOT SUBJECT TO BULK REGULATIONS,
9. NOR ARE UNENLARGED STRUCTURES ACCESSORY TO THE ORIGINAL BUILDING.

10. C. CLASS B OFFICE BUILDINGS.

11. 1. MAXIMUM FLOOR AREA RATIO: 0.33;
12. 2. MAXIMUM HEIGHT OF STRUCTURE: 35 FEET
13. 3. MINIMUM FRONT YARD SETBACK: 25 FEET OR THE
14. AVERAGE OF THE SETBACKS OF THE ADJACENT STRUCTURES, WHICHEVER IS LESS;
15. 4. MINIMUM SIDE YARD SETBACKS: 10 FEET, EXCEPT IF
16. THE ADJACENT PROPERTY IS PREDOMINANTLY RESIDENTIALLY ZONED OR
17. RESIDENTIALLY USED, OR IS ADJACENT TO A RESIDENTIAL STREET, IN WHICH
18. CASE THE SETBACK SHALL BE 20 FEET;
19. 5. MINIMUM REAR YARD SETBACK: 30 FEET;
20. 6. AMENITY OPEN SPACE: SEVEN (7) PERCENT OF THE
21. INTERIOR OF THE PARKING LOT NOT INCLUDING SETBACK AND BUFFER AREA
22. REQUIREMENTS SHALL BE PERVIOUS LAND AREA IN ASSOCIATION WITH
23. PLANTINGS;
24. 7. MAXIMUM LOT SIZE: ONE (1) ACRE EXCEPT THAT IF
25. LOCATED ON A PRINCIPAL ARTERIAL, AND IF THERE IS ADJACENT
26. NON-RESIDENTIALLY USED OR NON-RESIDENTIALLY ZONED FRONTAGE, THE
27. MAXIMUM LOT SIZE MAY BE TWO ACRES.
28. 8. LANDSCAPE REQUIREMENTS. IN ADDITION TO THE
29. REQUIREMENTS SET FORTH IN THE BALTIMORE COUNTY LANDSCAPE MANUAL:

1. a. ALL PARKING AND DUMPSTER AREAS WHICH ABUT A
2. RESIDENTIAL ZONE SHALL BE SCREENED BY AN OPAQUE FENCE, WALL OR HEDG
3. IN ASSOCIATION WITH PLANTINGS;

4. b. THE MINIMUM SCREENING HEIGHT SHALL BE FIVE
5. (5) FEET;

6. c. THE FOLLOWING BUFFERS, WHICH SHALL NOT BE
7. ENCROACHED UPON BY ABOVE GROUND STORMWATER MANAGEMENT, PARKING OR
8. DUMPSTER AREAS, BUT WHICH MAY BE BROKEN BY THE ENTRANCEWAY, SHALL BE
9. PROVIDED:

10. 1. PROPERTY LINES WHICH ABUT ANY PROPERTY
11. WHICH IS PREDOMINANTLY RESIDENTIALLY ZONED OR RESIDENTIALLY USED OR
12. WHICH ABUT ANY RESIDENTIAL STREET, MUST HAVE A 20 FOOT LANDSCAPE
13. BUFFER;

14. 2. PROPERTY LINES WHICH ABUT ANY
15. NON-RESIDENTIALLY ZONED PROPERTY MUST HAVE A 10 FOOT LANDSCAPE
16. BUFFER.

17. 203.6 - Conversion of Dwellings to Office Buildings. Any one-
18. or two-family [detached] dwelling OR APARTMENT BUILDING which is
19. under application for EITHER A CHANGE IN ZONING CLASSIFICATION TO
20. R.O. OR FOR A conversion from a residential use to an office use
21. shall require a special exception if the dwelling has been enlarged
22. in floor area by ten per cent or more within a period of [one year]
23. FIVE YEARS prior to the date of application for CHANGE OR
24. conversion.

25. 204.4 - Bulk Regulations of O-1 Zones

26. B. Class B Office Buildings. The following bulk
27. regulations apply to any Class B office building and its lot.

28. 1. Minimum setback from any lot line other than a
29. street line: 20 feet or equal to the height of the buildings
30. whichever is greater;

31. 2. Minimum setback from any street line: 35 feet;

1. 3. Minimum area devoted to amenity open space: 20
2. per cent of net lot area.

3. 4. New structures accessory to Class B office
4. buildings are governed by the bulk regulations of D.R. 5.5 zones for
5. accessory buildings.

6. 5. MAXIMUM FLOOR AREA RATIO: 0.50

7. 6. MAXIMUM HEIGHT OF STRUCTURES: 35 FEET

8. 205.4 - Bulk Regulations of O-2 Zones

9. C. Class B office buildings. The following bulk
10. regulations apply to any Class B office building and its lot.

11. 1. Minimum setback from any lot line other than a
12. street line: 20 feet or equal to the height of the building
13. whichever is greater;

14. 2. Minimum setback from any street line: 35 feet;

15. 3. Minimum area devoted to amenity open space: 25
16. per net lot area.

17. 4. New structures accessory to Class B office
18. buildings are governed by the bulk regulations of D.R. 10.5 zones for
19. accessory buildings.

20. 5. MAXIMUM FLOOR AREA RATIO: 0.50

21. 6. MAXIMUM HEIGHT OF STRUCTURES: 35 FEET

22. 409.7 Location of Parking.

23. B. Except in C.T. Districts AND R-O ZONES, off-site
24. parking spaces for uses other than residential and lodging shall be
25. located within 500 feet walking distance of a building entrance to
26. the use that such spaces serve. In C.T. districts, such spaces shall
27. be permitted within 1000 feet walking distance of the building
28. entrance. In the C.T. district of Towson, such spaces shall be
29. permitted within 1500 feet walking distance of the building entrance,
30. provided they are located within the town center boundary. IN R-O

1. ZONES, SUCH SPACES SHALL BE PROVIDED ON THE SAME LOT AS THE STRUCTURE
2. OR USE TO WHICH THEY ARE ACCESSORY.

3. SECTION 4. And be it further enacted, that Section 502.8 be
4. and it is hereby added to the Baltimore County Zoning Regulations, as
5. amended, to read as follows:

6. Section 502 - Special Exceptions

7. 502.8 BILL NO. 151-88 DOES NOT AFFECT THE VALIDITY OF ANY
8. ORDER GRANTING A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING
9. PURSUANT TO SUBSECTION 203.3.B. PRIOR TO THE EFFECTIVE DATE OF THE
10. BILL. ANY SUCH SPECIAL EXCEPTION MAY BE USED IN ACCORDANCE WITH THE
11. APPLICABLE PROVISIONS OF THESE REGULATIONS IN EFFECT AT THE TIME OF
12. THE GRANT OF SUCH SPECIAL EXCEPTION AND IN ACCORDANCE WITH THE TERMS
13. THEREOF, PROVIDED CONSTRUCTION IS STARTED PRIOR TO THE EXPIRATION
14. DATE OF THE SPECIAL EXCEPTION AS REQUIRED BY SECTION 502.3.

15. SECTION 5. And be it further enacted, that Section 22-104(a)
16. of Title 22 - Planning, Zoning and Subdivision Control, of the
17. Baltimore County Code, 1978, 1986 Supplement, be and it is hereby
18. repealed and re-enacted, with amendments, to read as follows:

19. Section 22-104 - Development in R-O, O-1, O-2, or OT
20. zone.

21. (a) (1) Development of property in an R-O zone shall be
22. [designed to achieve compatibility of the proposed development with]
23. APPROPRIATE TO THE SPECIFIC CIRCUMSTANCES OF THE SITE TAKING INTO
24. ACCOUNT surrounding uses; tree preservation; protection of
25. watercourses and bodies of water from erosion and siltation; and
26. safety, convenience, and amenity for the neighborhoods.

27. (2) IN DETERMINING THE APPROPRIATENESS OF CLASS B
28. OFFICE BUILDINGS, DESIGN ELEMENTS OF PROPOSED BUILDINGS SHALL BE
29. EVALUATED IN RELATION TO EXISTING ADJACENT OR SURROUNDING BUILDINGS.

1. UNLESS DETERMINED OTHERWISE BY THE DIRECTOR OF THE OFFICE OF PLANNING
2. AND ZONING TO BE CONSIDERED APPROPRIATE, NEW BUILDINGS SHALL BE
3. SIMILAR TO EXISTING ONES IN THE FOLLOWING RESPECTS:

4. (i) HEIGHT
5. (ii) BULK AND GENERAL MASSING
6. (iii) MAJOR DIVISIONS OR RHYTHMS OF THE FACADE
7. (iv) PROPORTION OF OPENINGS
8. (WINDOW-WALL-RELATION)
9. (v) ROOF TREATMENT
10. (vi) MATERIALS, COLORS, TEXTURES
11. (vii) GENERAL ARCHITECTURAL CHARACTER

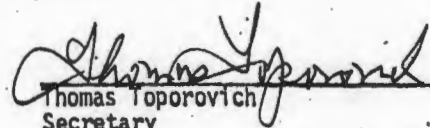
12. a) HORIZONTAL OR VERTICAL EMPHASIS
13. b) SCALE
14. c) STYLISTIC FEATURES AND THEMES
15. -PORCHES, COLONNADES, PEDIMENTS, CUPOLAS, CORNICES, COINS, DETAIL AND
16. ORNAMENT

17. (viii) RELATION TO STREET
18. (ix) EXTERIOR LIGHTING. BUILDINGS SHALL NOT
19. BE LIGHTED ON THE EXTERIOR AND ANY LIGHTING PROVIDED FOR SAFETY
20. REASONS SHOULD BE MINIMIZED AND DIRECTED AWAY FROM ADJOINING
21. RESIDENTIAL PROPERTY.

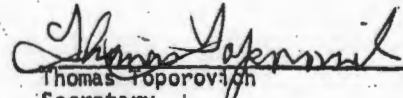
22. SECTION 6. And be it further enacted, that this Act shall
23. take effect forty-five days after its enactment.

READ AND PASSED this 3rd day of October, 1988

BY ORDER

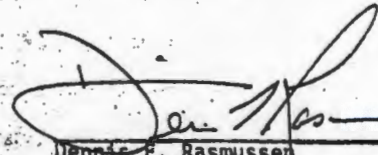

Thomas Toporovich
Secretary

PRESENTED to the County Executive for his approval this 4th day
of October, 1988

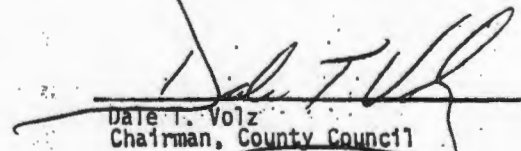

Thomas Toporovich
Secretary

APPROVED AND ENACTED:

10/13/88


Dennis F. Rasmussen
County Executive

I HEREBY CERTIFY THAT BILL NO. 151-88 IS TRUE AND CORRECT AND TOOK
EFFECT ON November 27, 1988


Dale T. Volz
Chairman, County Council

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE – E/S Reisterstown Road, *
120' S of the c/l of Glyndon Drive * ZONING COMMISSIONER
(409 Main Street) *
4th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District *
* Case No. 00-481-XA
Karl Pick *
Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owner of the subject property, Karl Pick. The Petitioner requests a special exception for a Class B office building in an R.O. zone with up to 100% of the total adjusted floor area occupied by medical offices, pursuant to Section 204.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.); or, in the alternative, a special exception for a Class B office building with medical offices in excess of 25% of the adjusted gross floor area, pursuant to Section 204.3.B.2.a of the B.C.Z.R. In addition to the special exception, the Petitioner requests variance relief from the B.C.Z.R. as follows: From Section 204.3.B.2(a) to permit a Class B office building containing 100% medical offices in lieu of the maximum allowed 25%; or, from Section 204.3.B.2(b) to permit 100% medical offices under this Section; from Section 204.4.C.6 to permit Amenity Open Space (AOS) of 0% in lieu of the required 7%; from Section 204.4.C.9 to permit landscape buffer of 0 feet in lieu of the required 20 feet and 10 feet required, and to permit any landscaping deficiencies existing in lieu of those set forth in the Baltimore County Landscape Manual; from Section 409.4 to permit parking spaces along a driveway in lieu of an aisle and to allow a 16-foot wide two-way movement in lieu of the required 20-foot width; and from Section 409.6 to permit 18 parking spaces in lieu of the required 15. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing on behalf of the Petition were Karl Pick, property owner, Richard E. Matz, Professional Engineer who prepared the site plan for this property, and Steve Rosen, Esquire, attorney for the Petitioner. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel, containing approximately 0.42 acres in area, zoned R.O. The property has frontage on the east side of Main Street (Maryland Route 140) in Reisterstown and is improved with a one-story stucco office building. Presently, the building contains 2,872 sq.ft. in area and is used entirely for medical offices. In addition to the building, the site features a driveway leading from Reisterstown Road, and a macadam-paved parking area to the rear of the property. Adjacent properties feature similar retail/business/office uses. The U.S. Post Office owns adjacent property to the south and east of the subject site and its post office building is located to the rear of the subject property. Another medical office building is located on the north side of the subject site.

Dr. Pick testified that he has owned the property since 1984 and at the time of his purchase, the existing building was used for storage purposes. Previously, the building was used as a single family dwelling. Subsequent to his purchase of the property, Dr. Pick converted the building to accommodate his dental practice. Presently, he practices at the site with another professional partner. Additionally, a pediatric dentist leases a portion of the building. In order to make better use of the property and accommodate these various medical practices, the Petitioner proposes the construction of a small addition to the rear of the existing building to provide a separate treatment area for one of the practitioners. The proposed addition will measure 420 sq.ft. in area. A floor plan was submitted at the hearing (Petitioner's Exhibit 3) which displays the existing and proposed office layout. Dr. Pick explained that there will be no increase in the number of practitioners using the building and that the proposed addition is necessary to accommodate the professionals who currently practice on site and foster a better environment for these professionals.

The term "office" is defined in Section 101 of the B.C.Z.R. as "A building or portion of a building used for conducting the affairs of a business, profession, service, industry, or

government, including a medical office." Surely, this structure falls within that definition. Moreover, "Office Building, Class A" is defined as "A principal building that was originally constructed as a one-family, or two-family detached dwelling, and that is converted by proper permit, to office use without any external enlargement for the purpose of creating office space or otherwise accommodating the office use." Surely, the building, in its present configuration, is a Class A office building. There were no external changes to the structure when originally converted to office use by Dr. Pick in approximately 1985. An "Office Building, Class B" is defined in the B.C.Z.R. as "A principal building used for offices and which is not a Class A Office Building." Presently, the existing building is considered a Class A office building; however, the proposed addition will make the building become a Class B office building.

Under the Petition for Special Exception, the Petitioner seeks alternative relief. First, approval is requested for a Class B office building in accordance with Section 204.3.B.2(b) of the B.C.Z.R. That Section allows up to 100% of the total adjusted gross floor area of a Class B Office building to be occupied by medical offices, if four conditions are met. They are that the floor area ratio of the use is not greater than 25% of the total floor area of the building; that a documented site plan and a special exception for a Class B office building have been approved by the Zoning Commissioner or Board of Appeals prior to the effective date of Bill No. 151-88; that construction of a Class B office building is started prior to the expiration date that a special exception was granted, pursuant to Section 502.3; and, that the parking requirements, as determined therein, have been satisfied. In the alternative, the Petitioner requests relief under Section 204.3.B.2(a) of the B.C.Z.R. That Section allows a Class B office building with medical offices in excess of 25% of the total adjusted gross floor area, if the building is in compliance with the terms of its special exception, and if the proposed expansion meets the current parking requirements for medical offices.

In addition to the special exception relief, variances as outlined above are being requested. In support of these requests, Mr. Matz offered testimony regarding the site and existing and proposed use. He indicated that 13 parking spaces are provided on site and that the Petitioner

has an arrangement with the Post Office to utilize areas of the adjacent property when necessary for overflow parking. Pursuant to Section 409.6 of the B.C.Z.R., 15 parking spaces are required for this site. By utilizing the existing and off-site parking spaces, the Petitioner can provide the required 15 parking spaces. Mr. Matz also described the existing driveway, which is slightly undersized. Notwithstanding its dimension, it apparently functions adequately for the site. In this regard, patients are seen by appointment only, and it was indicated that the existing driveway and parking area sufficiently accommodates the existing use. As noted above, the proposed addition is not being constructed to accommodate an additional professional person or to expand the existing practices, only to assist the current practitioners on the site with more space and flexibility.

Based upon the undisputed testimony and evidence offered, I am persuaded to grant the special exception relief, pursuant to Section 204.3.B.2(a). It is significant that there were no Protestants or other interested persons at the hearing. The absence of any Protestants is a persuasive factor to the finding that the existing use of the property for medical offices is not detrimental to the health, safety or general welfare of the surrounding neighborhood. Since the use of the building will not change, rather, only the building will be enlarged, I find that the requirements of Section 502.1 have been met. Photographs submitted at the hearing show that the property is attractively maintained and it appears that the existing parking arrangement is satisfactory. Thus, I find that the Petitioner meets the requirements of Section 502.1 of the B.C.Z.R. as it relates to special exception relief. Thus, the alternative relief sought within the Petition for Special Exception shall be granted.

The requested variances will also be granted. A variance from Section 204.3.B.2a will be granted to allow 100% of the site to contain medical offices in lieu of the maximum allowed 25%. This variance will be restricted, however, to the existing Practitioners. I am satisfied that these medical professionals have operated their respective practices without detrimental impacts to the surrounding neighborhood. Perhaps if other medical personnel were on site, there would be increased detrimental impacts. Thus, the relief granted will be specific to these individuals. A

variance from Section 204.3.B.2.b is moot in that special exception relief is not granted under that Section.

The other variance requests will also be granted. These relate to amenity open space issues, landscape buffers, driveway width, and the location and number of parking spaces. It is significant that all of these variances relate to existing conditions. I am persuaded that the Petitioner has met the requirements of Section 307 of the B.C.Z.R. for variance relief to be granted. Moreover, there were no adverse Zoning Advisory Committee comments submitted by any Baltimore County reviewing agency. Thus, it appears that relief can be granted without any detriment to the surrounding locale.

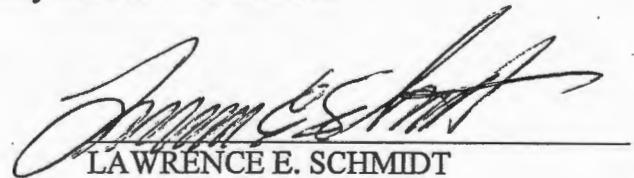
Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth herein, the special exception and variance relief shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29th day of July, 2000 that the alternative relief requested in the Petition for Special Exception, to permit a Class B office building with medical offices in excess of 25% of the adjusted gross floor area, pursuant to Section 204.3.B.2.a of the B.C.Z.R., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the B.C.Z.R. as follows: From Section 204.3.B.2(a) to permit a Class B office building containing 100% medical offices in lieu of the maximum allowed 25%; from Section 204.4.C.6 to permit Amenity Open Space (AOS) of 0% in lieu of the required 7%; from Section 204.4.C.9 to permit landscape buffer of 0 feet in lieu of the required 20 feet and 10 feet required, and to permit any landscaping deficiencies existing in lieu of those set forth in the Baltimore County Landscape Manual; from Section 409.4 to permit parking spaces along a driveway in lieu of an aisle and to allow a 16-foot wide two-way movement in lieu of the required 20-foot width; and from Section 409.6 to permit 18 parking spaces in lieu of the required 15, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The special exception relief granted herein is limited to the Petitioner and the Practitioners who presently occupy the building. In the event different tenants (physicians, dentists, etc.) would occupy the site, the Petitioner must file a Petition for Special Hearing seeking approval to continue the use and insure that different medical professionals would not cause detrimental impacts to adjacent properties.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Special Exception for a Class B office building in an R.O. zone with up to 100% of the total adjusted floor area occupied by medical offices, pursuant to Section 204.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) and the Petition for Variance seeking relief from Section 204.3.B.2(b) to permit 100% medical offices under this Section, be and are hereby DISMISSED as moot.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

IN RE: PETITIONS FOR SPECIAL EXCEPTION	*	BEFORE THE
AND VARIANCE		
W/S of York Road, N/S of	*	DEPUTY ZONING COMMISSIONER
Harding Road		
8 th Election District	*	OF BALTIMORE COUNTY
3 rd Councilmanic District		
(2412, 2414 and 2416 York Road)	*	CASE NO. 06-536-XA
Walter L. Brewer, Jr. and Brent K. Brewer	*	
Legal Owners & Petitioners		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Exception and Variance filed by Walter L. Brewer, Jr. and Brent K. Brewer, Legal Owners. The requests are for property located at 2412, 2414 and 2416 York Road in the West Timonium Heights area of Baltimore County.

A special exception is requested for a Class B office building an R.O. zone. The variance request is as follows: 1) allow a side yard setback of 10 feet in lieu of the required 20 feet from a residentially zoned property per Section 204.4.C.4 of the Baltimore County Zoning Regulations (B.C.Z.R.); 2) allow 0% amenity open space in lieu of the required 7% per Section 204.4.C.6 of the B.C.Z.R.; 3) allow landscape buffers as small as 0 feet in lieu of the required 20 feet per Section 204.4.C.9c(1) of the B.C.Z.R.; 4) allow a front setback of 50 feet in lieu of front average setback of 18.64 feet per Section 204.4.C.3 of the B.C.Z.R.; 5) allow a parking/dumpster area abutting a residential zone to be without screening in lieu of the required opaque screening per Section 204.C.9.a of the B.C.Z.R.

The property was posted with a notice of the public hearing date and time on May 22, 2006, and notice given to the general public by publication in the *Jeffersonian* Newspaper on May 3, 2006.

67406
PZ

Interested Persons

Appearing at the hearing on behalf of the variance request were Walter L. Brewer, Jr., Petitioner. Bruce E. Doak, of Gerhold, Cross & Etzel, Ltd., prepared the site plan. Eric Rockel, President of the Greater Timonium Community Council appeared at the hearing in support of the requests. Peter Max Zimmerman, People's Counsel, entered his appearance in this case.

Zoning Advisory Committee

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comments were received from the Office of Planning dated May 11, 2006 and Bureau of Development Plans Review dated May 3, 2006, copies of which are made a part hereof.

Applicable Law

Section 307 of the B.C.Z.R. - *Variances*.

"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 the 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. 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 502.1 of the B.C.Z.R. - *Special Exceptions*

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;

674-06
P3

- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air; [Bill No. 45-1982]
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; [Bill No. 45-1982]
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

Testimony and Evidence

The subject property contains 0.5 acres zoned RO and is improved by an existing house. Mr. Doak proffered that the property is one of the Brewer family holdings in the area which in this case combines ten 20 foot wide lots. The property is located on York Road at Harding Street in a mixed commercial and residential area.

The Petitioner would like to raze the existing building and erect a small Class B office building with no medical offices. See Petitioner's exhibit 1, the Plat to Accompany. The proposed building is 5,167.65 square feet in size with one story. Eighteen (18) parking spaces are required and 18 parking spaces are being provided. Traffic will enter from York Road and exit at Harding.

In regard to the Planning Office comments Mr. Doak agreed to submit further elevations to the Planning Office and to save the large evergreens along York Road to the extent possible. However he pointed out that these trees have not been field located and so it is possible some may have to be removed. In contrast he disagreed with the comments from the Bureau of Development Plans Review which requested that no buffer be built within the right of way of Harding Street. The Plat to Accompany shows a buffer strip partially within the right of way. He noted that the it is common practice for owners to improve their property up to the curb line

which typically includes some road right of way. He indicated that this owner realizes the risk that the improvement may have to be removed if the County would ever actually use the full road width. He argued that Harding Street is peculiar compared to the other streets which intersect with York Road in the area. Most of these streets have 16 feet of paving in 30 foot right of ways. Harding Street already has a full 40 feet of right of way which has been widened on the Petitioner's side so that the street has an 11 foot wide step as shown on exhibit 1. Consequently the street will never be widened further so there is no reason that the landscape buffer can not be placed partially on the right of way and partially on the Petitioner's property. Mr. Doak opined that if he would place the full buffer within the subject property there would not be enough room for parking and aisleways. He noted the site is only 0.5 acres in size which only permits one way traffic. Any further reduction would be detrimental to traffic flow.

In regard to the request for variances, he noted that the property at Roosevelt Street and York Road north of the subject property is used commercially at present even if in a "residential" zone. This building and all the other commercial uses along York Road have 10 feet or less side yard distance between the RO use and the next property. Consequently the request for 10 foot side yard setback instead of 20 feet is consistent with the neighborhood. As shown the Petitioner proposes to have a landscape buffer in this 10 foot strip.

The regulations also require 7 % amenity open space within the parking field. While the Petitioner proposes some amenity open space, he can not meet the regulations because of the small size of the subject property.

The regulations require landscape buffers 20 feet wide along property lines which abut residentially used or zoned property. The Petitioner would like to have no buffer on the rear lot line because the Petitioner owns the adjoining lots to the west so there would be no need for landscaping. In addition Mr. Doak pointed out that there was a prior special exception case for

the Petitioner's office for his plumbing business at 3 Roosevelt Street which is west of the subject property. A condition of granting the special exception was that the Petitioner erect a 6 foot high privacy fence along the alley on the west side of the property. This will buffer the only nearby residential use which is the Chilcoat residence on lots 15 through 17 which front on Harding Street.

In regard to front yard setback, the other buildings on either side of the subject property are so close to York Road that the average setback is only 18 + feet. However the Petitioner would like to provide landscaping, parking and drive aisles on the York Road side of the building and therefore proposes to set the building back 50 feet from the edge of the right of way.

Finally Mr. Doak indicated that the Petitioner could provide the screening for the dumpster shown on exhibit 1 as required and no longer requests the 5th zoning relief.

In regard to the Special Exception, Mr. Doak opined that the proposed use meets each criteria of Section 502.1 of the BCZR and would not adversely impact the neighborhood. The proposed office is in the York Road commercial corridor. Commercial uses are both to the north and south while the Petitioner's office for his plumbing business is on the west.

Mr. Rockel, President of the Greater Timonium Community Council spoke in support of both the special exception and variances. He related that the Council met with the Petitioner many times regarding the property and is satisfied that this is a good use of the property.

Findings of Fact and Conclusions of Law

Variances

This small tract is zoned RO and located along York Road, a very busy commercial road with residential uses along both sides beyond the commercial uses. Class B Office buildings are allowed by special exception in this zone. The tract is oddly shaped by having a substantial right of way widening by the County along Harding Street at York Road. This compresses the uses

that may be made on the lot. I find the property unique in a zoning sense. The imposition of zoning on this property disproportionately impacts the subject property as compared to others in the zoning district. For example the landscape buffers along Harding Street are directly impacted.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship as the Petitioner would not be able to erect the proposed building with parking and drive aisles.

No increase in residential density beyond that otherwise allowable by the Zoning Regulations will occur as a result of granting this variance.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. The side yard setback is against another commercial use, the missing buffers in the rear would buffer the Petitioner's plumbing office, there already is a privacy fence along the alley in the rear, 158 sq. ft of amenity open space will not be significant if provided, and the front yard setback allows buffers along York Road. As important I note the Petitioner has worked with a very sophisticated community association on this plan who fully support not only the variances but the special exception as well. I see no adverse impact on the community in this plan.

Special Exception

I will also grant the special exception to allow this Class B office building in this RO Zone. The RO regulations make it clear that the primary goal of the RO zone is to provide a transition between commercial and residential uses. I agree with the Community Council that this is a good use at this location providing transition from busy and commercial York Road to the residential neighborhoods to the rear. I see no adverse impact on the community.

The Petitioner agreed to the Planning Office comments but disagreed with the comments from Plans Review who would like to have all landscaping within the site and none within the right of way of Harding Street. Plans Review's position is entirely proper. A site plan can not show improvements in the right of way which by implication would be approved with the site plan associated with the special exception. I can not approve uses in the County's right of way to which they object.

I also agree with Mr. Doak that Harding Street is already improved to the widest conceivable right of way. If the Petitioner chooses to provide additional buffering along Harding as shown then as Mr. Doak says the Petitioner takes the risk that these improvements may have to be removed if the County wanted to widen Harding Street yet again. While I must direct the Petitioner to remove the buffering from the right of way, this will not affect the Petition which asks for 0 feet buffers in some areas. The Petitioner will simply show 5 feet of buffers along Harding. I leave it to the Community Council and the Petitioner whether or not they want to risk planting in the right of way.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested special hearing and variance should be granted with conditions.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 15th day of June, 2006, that the variance requests as follows: 1) allow a side yard setback of 10 feet in lieu of the required 20 feet from a residentially zoned property per Section 204.4.C.4 of the Baltimore County Zoning Regulations (B.C.Z.R.); 2) allow 0% amenity open space in lieu of the required 79% per Section 204.4.C.6 of the B.C.Z.R.; 3) allow landscape buffers as small as 0 feet in lieu of the required 20 feet per Section 204.4.C.9c(1) of the

FILED
6-7-06
12

B.C.Z.R.; 4) allow a front setback of 50 feet in lieu of front average setback of 18.64 feet per Section 204.4.C.3 of the B.C.Z.R.; be and are hereby GRANTED; and

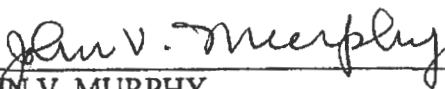
IT IS FURTHER ORDERED that the Petitioner's request to allow a parking/dumpster area abutting a residential zone to be without screening in lieu of the required opaque screening per Section 204.C.9.a of the B.C.Z.R. is denied as moot having been withdrawn; and

IT IS FURTHER ORDERED, that the special hearing for a special exception requested for a Class B office building an R.O. zone, be and is hereby GRANTED, subject, however, to the following conditions:

1. The Petitioner may apply for his building permit and be granted same upon receipt this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner shall submit architectural elevations to the Office of Planning prior to the issuance of any building permits.
3. The existing mature evergreen trees along York Road shall remain. If the said trees cannot be retained, the Petitioner may meet with the Office of Planning to discuss an alternative.
4. The Petitioner shall remove landscape buffering along Harding Street which lies within the County right of way.

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

Order.



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

67406
pz

IN RE: PETITIONS FOR SPECIAL EXCEPTION, *
VARIANCE and SPECIAL VARIANCE
S/E Side of Joppa Road, 60' SW of c/line of *
Quentin Avenue *
(1807 East Joppa Road) *
9th Election District *
5^h Council District *

Jennifer M. Hitt *
Petitioner *

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

Case No. 2009-0080-XSA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception, Variance and Special Variance filed by Jennifer M. Hitt, the owner of the subject property, through her attorney, Edward J. Gilliss, Esquire. The Petitioner requests a special exception to allow the conversion of an existing Class A Office Building to a Class B Office Building in an R-O (Residential – Office) Zone, pursuant to Section 204.3.B.2.a of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, variance relief is requested from the B.C.Z.R. as follows: (1) from Section 409.4.A to permit a drive aisle with a width of 7.2 feet in lieu of the required 20 feet; (2) from Section 409.4.C to permit a travel lane with a width of 19 feet in lieu of the required 22 feet; (3) from Section 409.8.A.5 to permit a dead end parking bay without backup area; (4) from Section 204.4.C.4 to permit an 8 foot side yard setback for an addition in lieu of the required 10 feet; and lastly (5) for a special variance from Section 4A02.4.G to permit a proposed addition to 1807 East Joppa Road that is within the Loch Raven Boulevard/Joppa Road traffic shed. The subject property and requested relief are more particularly described on the redlined site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request(s) on behalf of the property owner, Jennifer Hitt, were her husband, Matthew B. Hitt, who has for fifteen (15) years operated his accounting business at the subject location; Bernadette L. Moskunus with Site Rite

NOT RECORDED FOR FILING
Date 1-12-09
By [Signature]

Surveying, Inc., the consultant who prepared the site plan for this property, and Edward J. Gilliss, Esquire, attorney for the Petitioner. There were no Protestants or other interested persons present. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case and at the onset of the hearing, the Petitioner amended the Petition and site plan in response to comments submitted by Mr. Zimmerman and Stephen E. Weber, Chief of Traffic Engineering, who had reviewed the initial site plan. The amended plan provides signage and traffic circulation detail.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel (50' wide x 160' deep) located on the southeast side of East Joppa Road between Quentin Avenue and Oakleigh Road, near the Baltimore Beltway (I-695) Overpass in Parkville. The property contains a gross area of 9,250 square feet or 0.212 acres, more or less, zoned R-O and is improved with a 1 1/2-story frame bungalow and a paved accessory parking area in the rear portion of the lot. The Petitioner purchased the site in 2002 after leasing the property and improvements for some ten (10) years prior and now proposes a rear addition to accommodate the growing CPA (Certified Public Accountant) business. As shown on the site plan, the existing building is 32' wide x 31' deep and contains approximately 1,018 square feet of office space. The Petitioner proposes the construction of a two-story addition, 25' x 30' in dimension, to the rear of the structure to provide an additional 750 square feet of commercial space. Mr. Hitt stated the basement and second floor area would be dedicated to needed storage space. The addition's first floor will serve as a desperately needed conference room and provide organizational space. These improvements and uses are more particularly shown on building elevation drawings submitted into evidence as Petitioner's Exhibit 5.

Special Exception relief is necessary to reflect the proposed expansion of the current use from a Class A Office building to a Class B Office building. A Class B office building is defined in Section 101 of the B.C.Z.R. as "A principle building used for offices and which is not a Class A Building." A Class B Office Building is permitted in the R-O zone by special exception. In this regard, the building has been used by Matthew Hitt for the past 15 years and

COPIES RESERVED FOR FILING
Date 1-12-09
By [Signature]

has worked well without any complaint, zoning violation, or incident. The term "Office" is defined in the regulations as "A building or portion of a building used for conducting the affairs of a business, *profession*, service, industry, or government, including a medical office." Surely, this structure falls within that definition. For the Petitioner, the building is suitable and economically feasible for use at this site. The proposed 0.27 floor area ratio is appropriate and the seven (7) off-street parking spaces are adequate for the no more than five (5) office workers on premises at any one time. Mr. Hitt testified that the CPA's business primarily involves off-site visits to their client's place of business. It was further indicated that there will be no new employees, no new bathroom, no new vehicles, and, as stated above, storage will be dedicated to the basement and second floor areas with the remaining first floor for needed work space and conference room. Mr. Hitt stated that he anticipates staying at this location for at least the next thirteen (13) years and hopes to purchase 1805 East Joppa Road when the Odette's retire and close their insurance agency.

Based upon the testimony and evidence presented, I am persuaded that special exception relief should be granted. In my judgment, the proposal complies with the requirements of Section 502.1 of the B.C.Z.R. and will not cause detrimental impacts to the health, safety and general welfare of the locale.

Turning next to the variance requests, the Petitioner originally requested four (4) variances, three (3) relating to B.C.Z.R. Section 409 requirements for driveways (7.2 feet instead of 20 feet), travel lanes (19 feet instead of 22 feet), and dead-end parking (without back-up area) and one (1) from B.C.Z.R. Section 204.4.C.4 for a building side yard setback (8 feet instead of 10 feet). This Section states in pertinent part: "Minimum side yard setbacks: 10 feet, *except if the adjacent property is predominantly residentially zoned, residentially used or is adjacent to a residential street, in which case the setback shall be 20 feet*".¹ Although the adjacent properties are zoned R-O, they are used commercially and not residentially. Accordingly, the Office of

¹ In January 2005, the County Council rewrote the definitional section of the B.C.Z.R. to include the R-O zone as being within the "residential zone".

DATE: 1-12-09
BY: [Signature]

Zoning Review determined the applicable side yard setback in this case to be 10 feet. I agree. As illustrated on the site plan adjacent side-by-side properties are used commercially. Neighboring 1801 East Joppa Road is in the B.L.R. (Business Local Restricted) Zone. There is not a dissimilar use between the properties to lend support for a 20-foot side yard buffer. As to the appropriateness of this variance to permit a side yard setback of 8 feet, the 1-½ story bungalow is already built and located on the lot 7.2 feet (east side) from the property line. The setback has therefore already been established and has existed since 1951. This is corroborated by the Zoning Advisory Committee (ZAC) comment submitted by the Office of Planning. Within the comment the Director states:

"This office supports the special exception request to expand the existing office. The office addition is in line with and to the rear of the existing building. The driveway servicing the building exists. The variances requested do not appear to place a burden on the existing adjacent residential uses or have negative impacts on the general vicinity."

Due to the architectural and structural characteristics possessed by this property, not shared by other properties in the area, the requested setback relief of 8 feet in lieu of the 10 feet is in order to comply with the spirit and intent of the regulations.

Addressing the Section 409 variances, Mr. Hitt stated that the driveway on the subject property provides for a total width of 10.5 feet (8.5 feet on the subject property plus a 2 foot encroachment of the driveway onto the adjacent property to the east). This driveway/configuration has existed on the site since 1951, well before the amended zoning regulations of 1955; however, current regulations require a minimum driveway width of 20 feet. As suggested by Steve Weber, who reviewed the plan at the request of Office of People's Counsel, Petitioner submitted Exhibit 3 - (Driveway Use Agreement), to address concerns of encroachment. This Agreement, dating back to 1984, provides for the right of the Petitioner, her heirs, and assigns, to use, for as long as it is used as a driveway, the piece of ground 2'-6" wide to

DATE 1-12-09
BY [Signature]

the east of the boundary line between 1809 and 1807 East Joppa Road and running 120' parallel with the western boundary of 1809 East Joppa Road. The Petitioner next requests approval to permit a travel lane with a width of 19 feet in lieu of the required 22 feet from 409.4.C. As also suggested by Stephen Weber, Petitioner submitted Exhibit 6 – (Joint Use Driveway Agreement) that states in pertinent part:

“WHEREFORE, Odette and Hitt agree that the owners, tenants, employees and customers of the aforesaid properties and the business users of those properties shall be permitted to use each other's driveways, so that the driveway on the east edge of the properties (1805 E. Joppa Road) shall be used for ingress to the parking areas and the driveway on the far west of the properties (1807 E. Joppa Road) shall be used for egress from the parking areas. Odette and Hitt agree to instruct tenants and/or employees to use the driveways as aforesaid”.

This agreement, to pair the driveways, is demonstrated on the revised site plan (Exhibit 1) and addresses to the extent possible the substandard entrance and driveway issues.

In addition, Mr. Hitt testified from his personal knowledge of the workings of the property that surprisingly, given Mr. Weber's comments, that there are no parking lot problems on site today. He believed this was because the Odette's property (1805 East Joppa Road) and Hitt's property (1807 East Joppa Road) sit side-by-side with driveways on either side of the adjoining properties with parking located behind the structures. Because both properties were formerly residences before being converted to commercial use, the driveways are narrower than if they had originally been constructed for commercial use. As noted above, Petitioner purchased 1807 East Joppa Road from Odette and intends to purchase 1805 East Joppa Road from Odette when they desire to sell. The Hitt's intend to merge the two (2) properties once they are under common ownership. See Petitioner's Exhibit 6. Mr. Gilliss opined that the use-in-common parking lot and access with the adjacent property qualified for relief to be granted for a

DATE RECEIVED FOR FILING
Date 1-12-09
By [Signature]

modified parking plan pursuant to B.C.Z.R. Section 409.12. To provide compliance with current regulations, he argues would be an undue hardship on the Petitioner for reasons given. I accept the fact that there is currently no room on the nonconforming property to rectify the drive aisle deficiencies. As such, I find the property unique. I also find that the Petitioner would suffer a practical difficulty if the regulations were strictly enforced.

In regard to parking, Ms. Moskunas supplemented Mr. Hitt's testimony by noting that ordinarily adding a new addition would require more parking. However, the subject addition will be used by the existing CPA business employees; therefore, the seven (7) spaces will provide more than adequate parking. People's Counsel correctly points out that B.C.Z.R. Section 204.4.C.6 and 9 requires Class B Office buildings to provide amenity open space in the interior portion of the parking lot in addition to buffer area requirements. Ms. Moskunas noted that a retaining wall runs along the parking area at the boundary between the subject property and 1809 East Joppa Road. *See* Photographic Exhibits 4B-9 through 4B-16. There is existing planting provided with existing mulch areas that runs perpendicular (east to west) across the parking area with 1805 East Joppa Road. Additionally, a 7-foot wood-on-wood board privacy fence runs across the entire rear property line separating the R-O from the D.R.5.5 residential uses to the rear. As evidenced on Petitioner's Exhibit 1 - General Note 13, the Petitioner shall submit for review and approval a landscape plan to Avery Harden, the County's Landscape Architect, at the time of building permit application. To require the Petitioner to provide additional amenity open space in the parking lot given these facts would be inconsistent with other commercial uses in the vicinity.

In addition, special variance relief is requested in order to proceed with the proposed development, the ZAC comments issued by reviewing agencies as a result of their respective

RECEIVED FOR FILING
Date 1-12-09
By [signature]

review of the site alerted Petitioner to the fact that the subject property is located within the shed of a failing intersection as well as an "Area of Special Concern" for sewer. The "F" level traffic shed identified is Loch Raven and Joppa Roads. This intersection has been assigned an "F" level of service pursuant to the current Basic Service Map for transportation. Thus, and as will be explained in more detail below, the instant Petition for Special Variance was filed.

Pursuant to Section 4A00.1 of the B.C.Z.R., the purpose and intent of Article 4A, entitled "Growth Management," is to generally "implement the objectives of the County-wide Master Plan and to adopt standards and guidelines relative to new development." Additionally, the growth management regulations seek to encourage development patterns that are consistent with the preservation of the quality of life in existing neighborhoods, to ensure the adequacy of public facilities and infrastructure, the preservation of the natural, agricultural and environmental resources and to promote appropriate new growth and development. The purpose and intent of the Basic Services Maps of the growth management regulations is set forth in Section 4A02.1 of the B.C.Z.R. Therein, it is provided that Basic Service Maps are to be annually prepared by the County to ensure that public facilities are in place to adequately serve proposed development. Additionally, Section 4A02.2 of the B.C.Z.R. states that in the event of any conflict between the growth management regulations and any other provision of the B.C.Z.R., the provisions of the growth management regulations control. Thus, the Petition for Special Variance requested in this case is governed by the requirements in Article 4A and, hence, the variance provisions of Section 307 of the B.C.Z.R. are not applicable.

Mr. Gilliss demonstrated that the only ingress and egress to the subject site is by way of the eastbound lanes of Joppa Road. He discussed several factors that mitigate against any anticipated impacts at the subject intersection. First, Joppa Road's eastbound and westbound

RECEIVED FOR FILING
Date 1-12-09
By 193

traffic lanes are separated by a concrete median as depicted on the photographs submitted. See Petitioner's Exhibit 4B-1 through 4B-6. Traffic exiting 1807 East Joppa Road must therefore proceed east on Joppa Road away from the failing intersection. Secondly, there will be no increased traffic as a result of the proposed addition in as much as the employees will remain the same. This testimony is substantiated by Stephen Weber, who in his correspondence to the Office of People's Counsel dated October 19, 2008, states in pertinent part:

"Based on the relatively small size of the addition, the distance of this site from the critical intersection, and recognizing that the eastern border of the moratorium area only lies 200 feet to the east at the Beltway, we would find that the additional traffic impacts from this site on the critical intersection would be nearly imperceptible and therefore we would have no objection to the granting of a Special Variance for this proposal".

Based upon the foregoing, I find that the testimony and evidence that has been offered is sufficient to comply with the special variance standard set forth in Section 4A03.4.G of the B.C.Z.R. Thus, the Petition for Special Variance shall be granted and relief approved so that the proposed improvement may be approved and building permits issued for this addition notwithstanding its location within the shed of a failing intersection. It is clear that there will be no impact on the "F" intersection.

After due consideration of all of the testimony and evidence presented, a review of the provisions contained within Petitioner's Deed (Exhibit 2) and Agreement(s) – (Exhibits 3 and 6), I am persuaded to grant the special exception and variance requests. The testimony and amended site plan presented by Ms. Moskunus and the fact that the CPA business has been operating for 15 years without incident is persuasive to a finding that the proposed use meets the special exception requirements set forth in Section 502.1 of the B.C.Z.R. as well as Section 307 and *Cromwell v. Ward* 102 Md. App. 691 (1995) and will not be detrimental to the health, safety or general welfare of the surrounding locale. I further find that the proposed use is consistent with and will complement the other businesses in the vicinity, and that sufficient parking exists to support the use.

Date 1-12-09
By [Signature]

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 12th day of January 2009 that the Petition for Special Exception, pursuant to Section 204.3.B.2.a of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a Class B office building in an R-O zone, be and is hereby GRANTED; and,

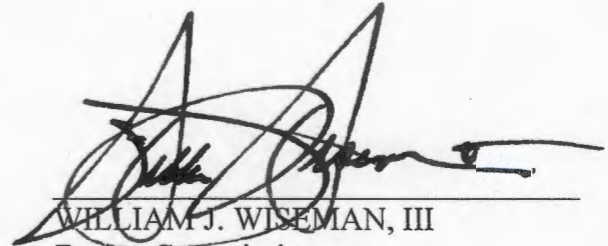
IT IS FURTHER ORDERED that the Petition for Variance, seeking relief from the B.C.Z.R. as follows: (1) from Section 409.4.A to permit a drive aisle with a width of 7.2 feet in lieu of the required 20 feet; (2) from Section 409.4.C to permit a travel lane with a width of 19 feet in lieu of the required 22 feet; (3) from Section 409.8.A.5 to permit a dead end parking bay without backup area, and (4) from Section 204.4.C.4 to permit an 8 foot side yard setback for an addition in lieu of the required 10 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Special Variance seeking relief from Section 4A02.4.G of the B.C.Z.R. to permit the construction of a proposed addition to 1807 East Joppa Road within the Loch Raven Boulevard/Joppa Road traffic shed and a finding that such improvements will not adversely impact the traffic shed in which this property is located, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner may apply for her permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The proposed addition shall be constructed substantially in accordance with the building elevation drawings accepted and marked as Petitioner's Exhibit 5.

DATE RECEIVED FOR FILING
Date 1-12-09
By 183

- 3) Prior to the issuance of any permits, the Petitioner shall submit a landscape plan for review and approval by Avery Harden, the County's Landscape Architect.
- 4) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

RECEIVED FOR FILING
Date 1-12-09
By [Signature]

IN RE: **PETITIONS FOR VARIANCE AND
SPECIAL EXCEPTION**

E/S Winters Lane, 192' NE of c/line
of Old Frederick Road
(400 Winters Lane)
1st Election District
1st Council District

Michael Young, et ux
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* Case No. **07-036-XA**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for the consideration of Petitions for Special Exception and Variance filed by the owners of the subject property, Michael Young, and his wife, Stacy Young. The Petitioners request a special exception for a Class "B" Office Building on the subject site and variance relief from Sections 409.6A.2, 303.1 and 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two parking spaces in lieu of the required four spaces, a side yard setback of 6 feet in lieu of the required 10 feet; and a front setback of 9 feet in lieu of the required front average. The subject property and requested relief are more particularly described on the site submitted, which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were Michael and Stacy Young, property owners. Appearing as interested citizens/Protestants in this matter were Col. James Pennington, President of the Banneker Community Development Association, and Jordan Gilmore, a law school student from the University of Baltimore. Also in attendance and providing testimony was Dennis Wertz from the Office of Planning for this District.

Testimony and evidence revealed that the subject property is a small triangular shaped parcel,

containing approximately 0.09 acres in area (3,762.05 square feet), zoned R.O. The property has frontage on the east side of Winters Lane and is just north of the intersection of Winters Lane and Old Frederick Road in the Catonsville Pines subdivision of Catonsville adjacent to the Winters Lane African-American Survey District. The property is improved with a two-story form stone garage, a concrete driveway with a two parking space area, and a cinder block storage building at the eastern end of the lot. In addition to the building site features, a board-on-board fence surrounds the property. All improvements are in poor condition and in need of restoration.

Mr. Young testified that he has owned the property since February, 2006 and at the time of his purchase, the existing building and property was used as a dumping ground and for storage of an old automobile and debris. Previously, the building was used by the Gundy family as a garage. Following the death of Carlene Gundy, Mr. Young purchased the property from her estate knowing that the property and building were in need of major renovation and improvements. Mr. Young, the owner of Young's Floor and Remodeling Company in Abingdon, Maryland believes he can convert the building to accommodate his needs for a field office in this area. In this regard, Young's flooring has a blanket contract with the City of Baltimore for the installation of hardwood flooring in all of its school gymnasiums. The subject premises will not be used or intended to attract customers, will not be open to the public, and will not have customer traffic coming to and going from the property. Mr. and Mrs. Young realize that the Residential-Office Zone does not allow for the storage of contractor's materials and supplies and other than their keeping some product samples, the small office will be used to cost out jobs for the Petitioners hardwood flooring services provided to Baltimore City Schools. To address concerns raised by Col. Pennington and Dennis Wertz at the hearing, and in the Zoning Advisory Committee (ZAC) comment of September 27, 2006, Mr. Young

ORDER RECEIVED FOR FILING
Date 1-22-07
By Dfg

has begun renovations to the building's interior and exterior and projects completion for spring. Roofing permits have been obtained and roof repairs are nearing completion. The form stone exterior will be repaired and painted and new garage doors will be installed. The small shed at the rear of the property will be retained and renovated. The perimeter fencing will first be repaired and then later replaced with a new 6' high board-on-board fence.

The term "Office" is defined in Section 101 of the B.C.Z.R. as: "A building or portion of a building used for conducting the affairs of a business, profession, service, industry, or government, including a medical office." Surely, this structure falls within that definition. For the Petitioners, the building is suitable and economically feasible for use at this site. The proposed use for no more than two office workers on the premises at any one time would render the two off-street parking spaces adequate as no customers or clients are expected on the premises.

A Class B office building is defined in Section 101 of the B.C.Z.R. as: "A principal building used for offices and which is not a Class A office building." A Class B office building is permitted in the R.O. zone by Special Exception.

Based upon the testimony and evidence presented, I am persuaded that special exception relief should be granted. In my judgment, the proposal complies with the requirements of Section 502.1 of the B.C.Z.R., and that the proposed office building will not cause detrimental impacts to the health, safety, and general welfare of the locale.

In addition to the special exception relief, variances as outlined above are being requested. As shown on the site plan, the gross floor area of the building is 1,076 square feet. Pursuant to Section 409.6 of the B.C.Z.R., four spaces are required for this site. Mr. Young described the existing driveway, which is slightly undersized. Notwithstanding its dimension, it apparently

ORDER RECEIVED FOR FILING
Date 1-22-07
By DJW

functions adequately for the site and the two parking spaces are sufficient to accommodate the proposed use. Petitioners also seek relief to allow a side yard restriction of 6 feet in lieu of 10 feet and an existing front set back of 10 feet in lieu of the average setback of 26 feet. Due to the narrow width of the lot and the location of existing improvements and landscaped buffer proposed, I find that the Petitioners have satisfied the requirements of Section 307.1 of the B.C.Z.R. as interpreted by the Court of Special Appeals in *Cromwell v. Ward* 102 Md. 691 (1995).

Lastly, the testimony of Col. Pennington concerning traffic and Winters Lane being a very busy thoroughfare will be addressed. He's concerned that the backing up of vehicles out of the Petitioners garage would have an adverse effect on traffic and further points out that there is no permitted parking on Winters Lane. Mr. Young addressed these points, assuring Col. Pennington that none of his vehicles will be parking on neighboring streets and that the loading and unloading of any of his vehicles would occur before and after normal business hours.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted with conditions.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of January, 2007, that the Petition for Special Exception to allow a Class "B" Office Building on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and

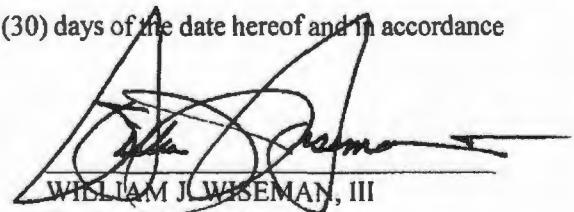
IT IS FURTHER ORDERED that the Petition for Variance seeking relief of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Sections 409.6A.2, 303.1 and 1B02.3.C.1 to permit two parking spaces in lieu of the required four spaces, a side yard setback of 6 feet in lieu of the required 10 feet; and a front setback of 9 feet in lieu of the required front average, in

ORDER RECEIVED FOR FILING
Date 1-22-07
By DSW

accordance with Petitioners' Exhibit 1, be and is hereby GRANTED subject to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason this order is reversed, the Petitioners shall be required to return, and be responsible for returning said property to its original condition.
- 2) There shall be no parking of vehicles on adjacent streets in the community. Also, there shall be no parking in front of the structure or any loading/unloading of any vehicle Monday through Friday, 7 AM through 6:30 PM.
- 3) The Special Exception relief granted herein is limited to the Petitioners. In the event of a different tenant or owner of the site, the new owner/tenant must file a Petition for Special Hearing seeking approval to continue the use and to ensure that the different occupant would not cause detrimental impacts to adjacent properties or vehicles using the public right-of-way.
- 4) Prior to the use of the premises for office purposes, Petitioners shall correct the problems addressed in this Order and bring the property into good order and repair.
- 5) Petitioners shall submit building elevation drawings of the proposed improvements to the form stone building to the Office of Planning for review and approval prior to the issuance of any permits and shall further submit a final landscaping plan for review and approval by the County's Landscape Architect.
- 6) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be filed within thirty (30) days of the date hereof and in accordance with the applicable provisions of law.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date 1-22-07

By [Signature]

IN RE: PETITIONS FOR SPECIAL EXCEPTION *
AND VARIANCE

S/S Philadelphia Road (MD Rte. 7), 705' E of *
c/line of Golden Ring Road
(8629 Philadelphia Road) *

15th Election District *
6th Council District *

8629 Philadelphia Road, LLC *
Petitioner

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 2010-0322-XA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception and Variance, filed on behalf of the owner of the subject property, 8629 Philadelphia Road, LLC by Michael Novak, its managing member, through their attorney, John B. Gontrum, Esquire. The Petitioner requests a special exception to allow a Class B Office Building in the Residential – Office (R-O) zone, pursuant to Section 204.3.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, variance relief is sought from B.C.Z.R. Section 204.4.C.4 or alternatively Section 204.4.C.5 for a setback of four (4) feet in lieu of the required ten (10) feet side yard setback (northeast side) or alternatively in lieu of a 30 foot rear yard setback. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Michael Novak, on behalf of the owner, and Patrick (Rick) Richardson, P.E. of Richardson Engineering, LLC, the consultant who prepared the site plan for the property. John B. Gontrum, Esquire of Whiteford, Taylor & Preston, LLC appeared on behalf of the Petitioner. There were no Protestants or other

ORDER RECEIVED

Date

7-26-10

By

103

interested persons present.

Testimony and evidence offered disclosed that the subject property consists of approximately 0.731 acres located on the southeast side of Philadelphia Road just west of its intersection with I-695. To the property's east and south are an industrially zoned, business flex property and the ramp to eastbound Baltimore beltway. To the west of the subject property along Philadelphia Road is another R-O zoned property occupied by a dwelling and to its rear is a D.R.5.5 zoned property also occupied by a dwelling. The property is currently occupied by a 1,876 square foot two-story dwelling built in 1929 and used as an office by Consolidated Coatings, Inc. also controlled by Mr. Novak, its President. The office clearly fronts on Philadelphia Road and to its rear is a small garage and a parking area. The property has a 4 foot drop in elevation moving west to east.

The proposal includes the construction of a one-story 1,500 square foot garage within 4 feet of the northeastern property line, the removal of the existing garage and some proposed paving to allow vehicles using the garage an adequate turn around area. The proposed garage would face west into the rear yards of the residential properties located west of the site. The garage is intended to house equipment and vehicles associated with the business.

Petitioner seeks the variance because centering the garage on the property would be difficult due to the topography of the rear portion of the site. A substantial amount of grading is reduced by having the rear of the garage abut the M.L. zoned property. In addition, there is much less paving required to have the vehicles maneuver outside of the parking area. Furthermore, by placing the garage in its proposed location the Petitioner has positioned it to be far removed from the residential uses and in the rear of the houses to minimize its impact on the residential uses to the west.

Accordingly, I find that the proposed development of the site should be granted a special exception. The proposed use of the site will not be injurious to the public health, safety or general welfare.

I also find that a variance from the 10 foot required side yard setback should be granted based on the unique features of the site's topography and the site's relationship to the adjoining uses. It is far more desirable to have the garage located closer to the industrial zoned property and to provide a buffer area to the residentially zoned properties than to center the garage on the site with all of the consequential grading. Compliance with the zoning regulations would create a practical difficulty not only for the Petitioner but also for the adjoining residences.

As noted above, Zoning Advisory Committee (ZAC) comments were filed by several agencies with respect to the request, and none of the comments were adverse to the requested relief. The Office of Planning not only requested landscaping along the property to buffer the proposed garage from the existing residences to the west but also requested review of the elevations of the garage. I find this latter request to be unnecessary. The garage is essentially a one-story accessory structure to the building, directly adjacent to an industrial area. The garage appears to be little larger than those on the adjoining residential properties. With the screening in place there is no need for the additional review.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 26th day of July, 2010 that the Petition for Special Exception to permit a Class B Office Building and garage on the subject property, pursuant to Section 204.3.B.2 of the Baltimore

ORDER RECEIVED FOR FILING

Date 7-26-10

By 193

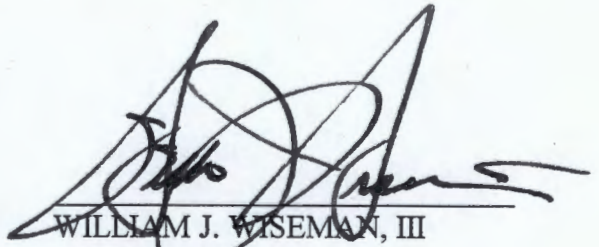
County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance from B.C.Z.R. Section 204.4.C.4 for a setback of four (4) feet in lieu of the required ten (10) foot side yard setback, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; subject to the following restrictions:

1. The Petitioner may apply for any required building permits and be granted same upon the receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until the thirty (30) day appeal period from the date of this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Following issuance of the building permit for the garage, but prior to the issuance of a use and occupancy permit, Petitioner shall plant and maintain a row of Leland Cypress or similar evergreen materials along the southeastern boundary of its property from the southwest corner of the existing paving for a distance of 80 feet along its southeastern property line to screen the garage from the adjoining properties on the south side of the subject site.

IT IS FURTHER ORDERED that Petitioner's alternative variance request to have a rear setback of four (4) feet in lieu of the minimum required rear yard setback of 30 feet, is hereby DISMISSED AS MOOT.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code and filed within thirty (30) days of the date of this Order.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

IN RE: **PETITION FOR SPECIAL EXCEPTION** *

S/S Milford Mill Road, 400' S c/line of

Reisterstown Rd *

(3 Milford Mill Road)

3rd Election District *

2nd Council District *

Prologue, Inc.

Petitioner *

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. **2009-0156-X**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by Jennifer R. Busse, Esquire, and Sendy Rommell, as President of Prologue, Inc., the legal owner of the subject property. The Petitioner requests special exception relief in accordance with the Baltimore County Zoning Regulations (B.C.Z.R.) Section 502.5.A to permit the renewal of the special exception granted in Case Number 04-320-X for a community care center in an R.O. zone pursuant to Section 204.3B.1 of the B.C.Z.R. The subject property and requested relief are more particularly described on the redlined site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 3.

Appearing at the requisite public hearing in support of the request were Molly Coffay and Sendy Rommel, President and Chief Executive Officer of Prologue, Inc. Jennifer R. Busse, Esquire, with Whiteford, Taylor & Preston, LLP appeared as counsel for the Petitioner, and Mitchell J. Kellman, a zoning consultant with Daft-McCune-Walker, Inc., the engineering firm who prepared the site plan for this property, appeared and testified in favor of renewing the special exception approval previously granted. There were no Protestants or other interested persons in attendance at the public hearing. Ryan Minnehan and Eduardo Azcarate, law students, observed the proceedings as part of their legal education requirement.

Testimony and evidence offered revealed that the subject property is irregular shaped and located between Linden Terrace and Milford Mill Road, just west of Reisterstown Road, not far from the Suburban Golf and Country Club in Pikesville. The property contains a gross area of

RECEIVED FOR FILING

Date 3-5-09

By [signature]

1.537 acres of land zoned R.O., and is presently improved with a three-story building serving as a community care center. Petitioner submitted an aerial photograph of the property prior to the construction of the existing building, which was marked and accepted into evidence as Petitioner's Exhibit 1. The photograph shows the condition of the property at the time that approval was granted to build and operate the community care center with its associated parking plan in Case Number 04-320-X. Petitioner also submitted a series of photographs illustrating existing conditions, which were marked as Petitioner's Exhibits 2A-H. The photographs reveal an attractive three-story brick building that was constructed according to the conditions imposed by the then Zoning Commissioner Lawrence E. Schmidt in his Order dated April 12, 2004. Today, Petitioners simply request, albeit expensive to do so, the renewal of the previous relief granted in Case Number 04-320-X, as is required by B.C.Z.R. Section 502.5.A.

Testimony at the public hearing revealed that Prologue, Inc. is a non-profit organization that provides services for individuals afflicted with mental illness. The organization conducts classes and group studies for its clients to provide job skills and assistance with daily living activities. The building on the subject property fronts on Milford Mill Road and access thereto is solely from that roadway. In this regard, the rear of the property abuts Linden Terrace; however, there is no access to the site from that road, due to the existence of residences on the other side of Linden Terrace. Additionally, landscaping and buffering in the rear of the site shield the building and attendant parking lot from those residences. Approximately 130 people are enrolled in Prologue's program and 45 to 60 attend classes at the site each day. Some receive more intensive services, while others appear less often. Prologue acts as an extended family for those individuals and there are approximately 100 employees, including full and part-time staff. The facility is licensed by the State of Maryland and does not provide any residential accommodations. The Petitioner filed the instant petition for special exception in an effort to continue to offer these services to the surrounding community.

The Zoning Advisory Committee (ZAC) comments were received from the Office of Planning dated February 5, 2009. The Office commented that the plan is in compliance with

NOT RECORDED FOR PLANS
Date 3-5-09
32

their original ZAC comment as well as the comments of the Design Review Panel with the exception of the material used for the dumpster surround. See Planning Office Comment #2: *"The dumpster location intrudes into the public area. Relocate the dumpster back from the public right of way. Provide a brick enclosure."* A vinyl dumpster surround was constructed in lieu of a brick enclosure. The enclosure has been located away from Milford Mill Road as was originally conditioned and is screened with landscaping. The Office of Planning does not object to the material used as the dumpster is well constructed and well maintained. The Office of Planning recommends that the wording of the original condition be changed to delete the word "brick". In addition, the recycling dumpster should be relocated to the other side of the enclosure so that it is not visible from Milford Mill Road. With this change, the Office of Planning recommends approval of this Special Exception as the use is otherwise fully in compliance with the original Order and the use is a community benefit. Furthermore, as long as Prologue is the owner and operator of the community care center, and the use is in compliance with the special exception hearing approval, the Office of Planning supports continued use as such.

After considering all of the evidence and testimony presented at the public hearing, I am convinced that the requested extension of the previously granted special exception should be granted. A community care center is defined in Section 101 of the B.C.Z.R. as follows:

"A small scale facility, sponsored or operated by a private charitable organization or by a public agency and licensed by the Maryland State Department of Health and Mental Hygiene or by the Maryland State Department of Social Services, for the housing, counseling, supervision or rehabilitation of alcoholics or drug abusers, or of the physically or mentally handicapped, or abused individuals who are not subject to incarceration or in need of hospitalization."

Since Prologue's operation admittedly falls within this definition, the special exception granted in Case Number 04-320-X is subject to the additional restrictions imposed by Section 502.5.A of the B.C.Z.R., which states that:

"Any special exception or renewal thereof granted for a community care center under the authority of these regulations shall be for the limited duration of five

RECEIVED FOR FILING
DATE 3-5-01
302

years and shall thereafter be of no further force and effect, unless, no later than three months prior to the expiration of such special exception application is filed for renewal. Applications for renewal shall be heard by the Zoning Commissioner as in the case of an original petition, except that additional testimony and competent evidence shall be presented pertaining to applicant's standard of performance of the requirements imposed in the original order or any renewal order. Such renewal order, if granted, may impose new or amended conditions as may be appropriate."

I am convinced after considering the testimony and evidence presented at the hearing that the requested extension of the special exception is warranted and should be granted. All of the uncontradicted testimony is persuasive to a finding that Prologue operates a nonprofit service that benefits the surrounding community. The structure that houses Prologue's operation is an attractive brick building that adds to the aesthetic nature of the community, and the services provided therein have undoubtedly helped hundreds of mentally ill County residents without having any negative effect on the surrounding locale. Accordingly, I am convinced that the requested extension should be granted. This approval will be subject to one (1) amended condition that addresses the Office of Planning's comment regarding the vinyl, rather than brick, closure to the existing dumpster on the property. The community care center, and parking layout, will be approved for another five (5) years as permitted by the B.C.Z.R.

It must be noted that Section 502.5.A of the B.C.Z.R. has only been the subject of one (1) prior zoning case in recent memory. *See*, Case No. 05-065-SPHA. Since the prior case did not provide a wealth of analysis, the review of Section 502.5.A in this case is somewhat of a case of first impression. Presumably, this Section reflects the County Council's interest in periodically checking in on community care centers because of the impact that they could potentially have on the surrounding community. However, it must be noted that this regulation effectively places a substantial drain on resources for a non-profit organization such as Prologue.

COPIES RESERVED FOR PLANS
3-5-8
23

Section 502.5.A in effect forces nonprofit companies such as Prologue to spend valuable time and money every five (5) years on the services of both the attorney and engineering firm needed to pursue relief from this Commission. This appears inequitable given that the renewal requirement is not placed on any other special exception uses, and the Baltimore County Permits & Development Management's Zoning Enforcement Division could potentially be relied upon to force such an entity to a public hearing in the event that specific violations were alleged.

With regard to state licensing controls, which also monitor community care centers, the provisions fall under Maryland regulations pertaining to community and mental health programs. Prologue offers a psychiatric rehabilitation program and its operations are overseen by the Maryland Office of Health Care Quality. That office responds to complaints and concerns submitted by the public or elected officials and it conducts regular inspections. Inspectors can appear on site without advance notice. Licenses are issued by that office and can be valid up to a period of three (3) years. Perhaps an option moving forward would be for the Office of Planning and Department of Permits & Development Management to inspect these sites every five (5) years to ensure there are no concerns with the continued operation. Alternatively, nonprofit organizations such as Prologue could request a continuation of their special exception use via a request sent by letter to the Director of the Department of Permits & Development Management every five (5) years which would prompt an inspection by the County. While B.C.Z.R. Section 502.5.A states that applications for renewal must be heard by the Zoning Commissioner, perhaps this process could be conducted informally through a simple letter from counsel or by way of a Petition for Special Hearing if there have been significant site plan changes.

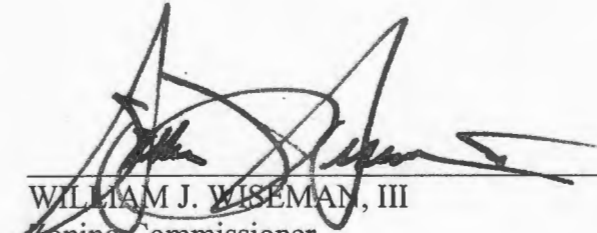
RECEIVED FOR FILING
3-5-09
107

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 5th day of March 2009 that the Petition for Special Exception filed pursuant to the Baltimore County Zoning Regulations (B.C.Z.R.) Section 502.5.A to permit the renewal of the special exception previously granted in Case Number 04-320-X for a community care center and modified parking plan in an R.O. zone per B.C.Z.R. Section 204.3B.1, be and is hereby GRANTED, subject to the following restrictions:

1. The Petitioner is hereby made aware that this Order is subject to the thirty (30) day appeal provisions of Section 32-3-401 of the Baltimore County Code.
2. Petitioner shall be allowed to maintain the vinyl dumpster surround that was constructed in lieu of the brick enclosure that was originally required in Case No. 04-320-X.

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


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

COPIES RETURNED FOR FILING
Date 3-5-09
By [signature]

IN RE: **PETITIONS FOR SPECIAL EXCEPTION ***

S/S Warren Road, 930' E of

York Road

(103 Warren Road)

8th Election District

3rd Council District

Michelle A. White, et al

Petitioners

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 2009-0122-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the legal owners of the subject property, David F. Black and Michelle A. White. The Petitioners request a special exception for a Class B Office Building pursuant to Section 204.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the request were David Black, co-owner of the property, and Paul Lee, a Professional Engineer with Century Engineering, Inc., the engineering firm who prepared the site plan for the property and are assisting the Petitioners through the development review process. Donald M. Gundlach appeared as an interested citizen on behalf of the Hunt Meadow Community Association. There were no other interested persons present.

Testimony and evidence offered revealed that the property, which is the subject of this special exception request, consists of 0.999 acres, more or less, zoned R-O. The subject property is rectangularly shaped (150' wide x 290' deep) and unimproved at this time. It is located on the south side of Warren Road in the Cockeysville area not far from York Road (MD 45). The Petitioners are proposing to construct a two-story Class B Office Building with basement on the subject property

CHECK RECEIVED FOR FILING

Date

By

with a parking lot. The details of the building and parking lot are more particularly shown on Petitioners' Exhibit 1. In this regard, the property was the subject of prior Case No. 02-047-XA in which the Petitioners obtained similar special exception relief by Order dated September 19, 2001 by then Deputy Zoning Commissioner Timothy M. Kotroco. Pursuant to Section 502.3 of the B.C.Z.R., any special exception granted must be utilized within two (2) years of the date of any final Order granting same; however, an extension of up to five (5) years may be obtained, if requested prior to the expiration of the initial two (2)-year period. Moreover, where a special exception in effect cannot be utilized within the maximum allowable time because of inadequacy or unavailability of public sewer or water facilities, the Zoning Commissioner shall extend such time for utilization to a date 18 months after such facilities become adequate and available. In this case, it is beyond dispute that the Petitioners have been proceeding through the Design Review Process receiving approvals from the Department of Public Works for road work (Petitioners' Exhibit 3A), utilities (Petitioners' Exhibit 3B), grading and sediment control (Petitioners' Exhibit 3C) and stormwater management (Petitioners' Exhibit 3D). Despite obtaining these approvals that have taken a long time, the prior special exception expired as no extension was requested. Thus, the requested relief is necessary to re-establish the conditional use previously granted in order to proceed. It is to be noted that the site plan is identical to the one previously approved in 2001 (Petitioners' Exhibit 2B). The Office of Planning in its Zoning Advisory Committee (ZAC) comment is also persuasive and sets forth in pertinent part:

"The Office of Planning does not consider this request nor that which was approved in 2001 to be detrimental to the health, safety, or general welfare of the community.

COPY RECEIVED FOR FILING
Date 1-20-09
By [signature]

To date the subject community has not experienced any drastic transformations since 2001.

The Office of Planning does not oppose the petitioner's current request for special exception for a Class B office building provided the building adheres to the Hunt Valley/Timonium guidelines and that building elevations are submitted to the Office of Planning for review and approval prior to the application for building permits."

A Class B Office Building is defined in Section 101 of the B.C.Z.R. as a principal building used for offices and which is not a Class A Office Building. A Class B Office Building is permitted in the R-O zone by special exception. Based upon the testimony and evidence presented by Mr. Lee, I am easily persuaded that the special exception relief should be granted. In my judgment, the proposal complies as it did in 2001, with the requirements of Section 502.1 of the B.C.Z.R. and that the proposed office building will not cause detrimental impacts to the health, safety and general welfare of the locale.

As noted above, Don Gundlach appeared as a Board Member of the Hunt Meadow Community Association. The 171-home Aspen Hill townhouse community abuts the Petitioners property at the southeastern corner. Additionally, and as demonstrated on the site plan, Aspen Hill maintains a 30-foot wide strip of community open space land that traverses along the eastern property line from Warren Road until it reaches Spring Glen Court. While he had no objection to the proposed office building, he raised concerns relative to the proposed height of the building, changes in topography or grade that currently exists between the properties and stormwater runoff. In this regard, Mr. Lee discussed, to Mr. Gundlach's satisfaction, General Note No. 14 (Petitioners' Exhibit 1), which limits the building height to 35 feet, and provided information illustrated on the grading and stormwater management plans (Petitioners' Exhibits 3C and 3D respectively) that have been

approved and comply with all Baltimore County regulations.

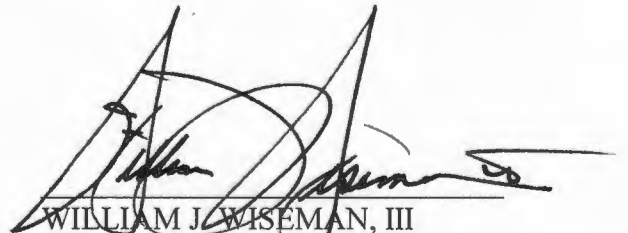
Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of January 2009 that the Petition for Special Exception to permit a Class B Office Building in the R-O zone, pursuant to Section 204.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason this order is reversed, the Petitioners shall be required to return, and be responsible for returning said property to its original condition.
- 2) The Petitioners shall submit building elevation drawings of the proposed improvements to the Office of Planning for review and approval prior to the issuance of any permits.

Any appeal of this decision must be made taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

RECEIVED FOR PLANNING
Date 1-20-09
By [Signature]

IN RE: PETITION FOR SPECIAL EXCEPTION *

N/W Corner Liberty Road (MD Rt. 26) and
St. James Road
(8316 Liberty Road)
2nd Election District
4th Council District

Richwad Enterprises, Inc.
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 08-341-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owner of the subject property, Richwad Enterprises, Inc., by Wanda Richardson, its president, through their attorney, Vernon Boozer, Esquire. The Petitioner requests a special exception to allow the operation of a private professional school in an R-O zone, pursuant to Sections 204.3.B.1 and 1B01.1.C.14 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the amended site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Wanda Richardson, representative of Richwad Enterprises, Inc., owner of the subject property; Joseph L. Larson, with Spellman, Larson & Associates, Inc., the consultant who prepared the site plan for this property, and Vernon Boozer, Esquire, attorney for the Petitioner. Gaywood S. McGuire, Jr. of McGuire's Accounting Service, a former tenant at this location, appeared as an interested citizen. There were no other community representatives or persons present.

Testimony and evidence offered revealed that the subject property is a rectangular shaped corner lot located on the northwest side of St. James Road and Liberty Road just west of Rolling Road in Randallstown. The property is approximately 47' wide and 175' deep containing a gross

COPIES RECEIVED FOR FILING
Date 4-15-08
By [Signature]

area of 7,779 square feet (0.18 acres), more or less, zoned R-O. The site is presently improved with a 1-½ story office building built in 1926 which features front and rear porches and a large parking field on the rear portion of the lot. The property known as 8316 Liberty Road has been used for six (6) offices for many years and was recently acquired by the Petitioner in May 2007. Ms. Richardson is in the process of acquiring the requisite license from the Maryland Higher Education Commission which would allow for a Private School that would provide training and certification for nursing assistants. In this regard, it is anticipated that the school will operate in two (2) shifts (9:00 AM to 1:00 PM and 6:00 PM to 9:00 PM). Ms. Richardson, a graduate of Rutgers and Notre Dame states she will utilize 100% of the entire first floor and 90% of the second floor for the Private School. As shown on the site plan, parking will be provided to the rear of the building and is adequate for one (1) employee, a certified nurse instructor and parking for up to 36 seats (one space per four seats). Additionally, as part of her due diligence, Ms. Richardson anticipates that most of the students that will enroll in the school would use the public transportation as a bus stop is directly in front of the building. Mr. Larson opined that the morning and evening sessions would operate with less of a traffic impact than the business operation which has provided for six (6) offices for more than five (5) years at this location. Ms. Richardson, who currently teaches at the Baltimore City Community College, as a Professor of Academic Achievement is a credible witness with connections in the home care and assisted living facility businesses to allow placement of students upon graduation.

The Petitioner has filed the instant request seeking approval to use the office building for a private professional school in accordance with Section 204.3.B.1 of the B.C.Z.R. That Section permits such a use "as limited in the D.R.5.5 zones". Specifically, Section 1B01.1.C.14 permits, by special exception:

"Private colleges (not including business or trade schools), dancing schools, dormitories or fraternity or sorority houses. [Bill 47-1985]"

The undisputed testimony and evidence presented at the hearing was persuasive that Ms. Richardson meets the requirements of that section. Nowhere in the B.C.Z.R. are "trade schools" or "business schools" defined. Nor is either term defined in the Baltimore County Code (B.C.C.). Any word or term not defined in Section 101 of the B.C.Z.R. shall have the ordinary accepted definition as set forth in the most recent addition of Webster's Third New International Dictionary. *Trade school* is defined in Webster's as "a school usually on the secondary level devoted especially to teaching the practice and theory of skilled trades". Certainly, a school teaching and certifying nursing assistants would not be a trade school, which most people would think of as a skilled trade such as labor-intensive professionals, i.e., welders, plumbers, carpenters, electricians, mechanics, roofers, etc. Similarly, a *business school* is defined as "a graduate school offering study leading to a degree of Master in Business Administration". I find that a nursing assistant program would not constitute a "business school"; that is, since this nursing assistant school would not be teaching a "skilled trade" or study leading to a "Business MBA Degree", it should be allowed in this R-O zone. Additionally, testimony and evidence presented was sufficient to satisfy the standards set forth in Section 502.1 of the B.C.Z.R. That section sets out the criteria which must be met in order for special exception relief to be granted. In this case, I would find that the Petitioner meets those requirements and that a use of the subject property as a Professional School would not be detrimental to the health, safety or general welfare of the locale.

As noted above, Gaywood S. McGuire, Jr. appeared as a concerned businessman who is familiar with the locale. While he had no specific objections to the proposed private school use on the property, he raised concerns relative to the type and caliber of student who would be coming to this property. He also expressed concerns about parking and whether the existing electrical service in the building would be adequate. In response to the concerns raised by Mr.

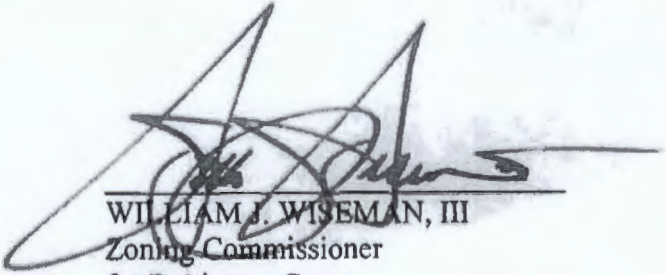
McGuire, Ms. Richardson testified that the utility service was adequate and that by operating a private school she would be allowed selectivity in enrolling the student participants.

After due consideration of the testimony and evidence presented, I am persuaded that the proposed private professional school is appropriate in this instance and that the relief requested should be granted. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and the neighbors do not object to the proposal. As noted above, both the subject and adjacent buildings have existed for many years. Moreover, the subject property has been operating as an office use for several years and the conversion of the structure to a private professional school will help to enhance the local business climate of the immediate area.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the Petition for Special Exception shall be granted.

THEREFORE, IT IS HEREBY ORDERED by the Zoning Commissioner for Baltimore County on this 15th day of April 2008 that the Petition for Special Exception to allow the operation of a private professional school in accordance with Sections 204.3.B.1 and 1B01.1.C.14 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Any appeal of this Order shall be taken in accordance with Baltimore County Code Section 32-3-401.



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date 4-15-08

By 123

NONE MENTION
CRG

2013-0037-
SPHXA

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE
AND VARIANCE
SW side of Liberty Road, 200 feet * DEPUTY ZONING COMMISSIONER
S of c/l Of Chapman Road *
2nd Election District * OF BALTIMORE COUNTY
4th Councilmanic District
(9217 Liberty Road)
*
Sohan L. Sambhi and Joginder Kaur
Legal Owner * CASE NO. 07-296-XA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Exception and Variance filed by Sohan L. Sambhi and Joginder Kaur. The requests are for property located at 9217 Liberty Road. The Special Exception is pursuant to Section 502.1 of the BCZR to approve a Class B office building. The Variance request is from Section 204.4 of the BCZR to permit a proposed Class B office building to have a rear yard setback as close as 23.8 feet in lieu of the required 30 feet.

The property was posted with a notice of the public hearing date and time on February 6, 2007 and notice given to the general public by publication in the "Jeffersonian" Newspaper on February 6, 2007.

Interested Persons

Appearing at the hearing on behalf of the variance request were Sohan L. Sambhi, the Petitioner, and Rizwan Siddiqi, with Mufti & Associates, who prepared the site plan. There were no protestants or citizens at the hearing. Peter Max Zimmerman, People's Counsel, entered his appearance in this case.

Zoning Advisory Committee

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Bureau of

CO. 200-2
2-22-07
[Signature]

Development Plans Review (BDPR) dated January 11, 2007 which requests 5 feet of additional right of way along Chapman Road.

Amended Petition

As the result of the BDPR comment to give the County additional frontage along Chapman Road, the Petitioner proposed to move the office building toward the rear another 5 feet resulting in a revised variance request for rear yard setback of 18.8 feet in lieu of the required 30 feet and landscape buffer of 3.5 feet in lieu of the required 10 feet.

Applicable Law

Section 307 of the B.C.Z.R. - *Variances*.

"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 the 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. 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 502.1 of the B.C.Z.R. - *Special Exceptions*.

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air; [Bill No. 45-1982]
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; [Bill No. 45-1982]

- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

Testimony and Evidence

The subject property contains 12,123 square feet or 0.27863 acres zoned RO and is vacant. The Petitioner proposes to erect a one story 30 x 68.5 office building (2,055 square feet) on the property facing Chapman Road as shown in Petitioner's exhibit 1. As originally proposed the new class B office building would meet all the bulk requirements of Section 204.4 of the BCZR except the rear yard setback which would be 23.8 feet in lieu of the required 30 feet as shown.

However the Petitioner received a ZAC comment from the Bureau of Development Plans Review which requested an additional County right of way for Chapman Road of 5 feet and to adjust the requests for variance accordingly. Mr. Siddiqi indicated that the lot is trapezoidal in shape with only 75 feet of depth along Liberty Road. He could not reduce the size of the internal driveways shown and still maintain reasonable traffic circulation as the flow was already one way. He discussed this matter with BDPR and determined that he had three options in trying to comply with this request.

The first was to decrease the depth of the building from 30 feet to 25 feet. However in discussions with the architect and owner, he determined that this would result in a design which would not be viable as each office would then be only 17 x 25 feet in size. This would not provide sufficient storage space for tenants.

The second option is to request a front yard setback variance of 20 feet in lieu of the required 25 feet and landscape buffer width of 5 feet in lieu of the required 10 feet. However if, as and when the County actually widened Chapman Road, the new building would be uncomfortably close to the street.

The third option, which eventually he chose, was to move the whole building back away from Chapman Road 5 feet as shown on exhibit 2, the redline site plan. This required a rear yard setback of 18.5 feet in lieu of the required 30 feet and a landscape buffer width of 3.5 feet in lieu of the required 10 feet. He indicated that because of the trapezoidal shape, the 10 foot buffer does not simply reduce to 5 feet as shown. The width of the landscape buffer varies from 3.5 feet to 11.1 feet which he opined would still provide adequate separation and buffering for the insurance agency office to the rear.

He opined that the property was unique in a zoning sense because of its trapezoidal shape and narrowness in depth which make any commercial use of the property problematic.

In regard to the request for special exception for a Class B office building on the property, he opined that the proposed use meets the criteria of Section 502.1 of the BCZR, is within the spirit and intent of the RO regulations and would not adversely affect the community which is primarily commercial. He noted that in order to develop the property as proposed, the owner must extend the public sewer line approximately 400 feet which is quite expensive. He opined that residential development of the property has not been possible for this reason. Again he noted that virtually all the uses along this portion of Liberty Road are commercial so there will be no negative impact.

Findings of Fact and Conclusions of Law

I recognize that the amended Petition was not specifically advertised or posted as new variances were requested. In a perfect world the comment requesting additional frontage along Chapman Road would have been sent to the Petitioner prior to posting and advertising. However in the real world this did not occur. Fortunately the Petitioner received the comment prior to the hearing and so was able to adjust his request.

I find that the public was effectively and substantially notified of the rear yard setback and landscape buffer width requests under the circumstances. Given the commercial nature of this portion of Liberty Road, it seems unlikely to me that someone seeing the sign or reading the advertisement for the original petition would not appear at the hearing on the original Petition but would appear for the amended Petition.

In regard the request for variances, I find the property unique in a zoning sense because of its trapezoidal shape and narrowness of depth from Chapman Road.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. I have no reason to doubt that the proposed building would not be viable if reduced in size to avoid the variances.

I also agree with the Petitioner that the third option pushing the whole building back 5 feet to accommodate the County desire to widen the right of way of Chapman Road is the best choice under the circumstances and is not self imposed.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. The area is commercial and having proposed building closer to the boundary line or having a slightly smaller buffer width on the rear will not adversely affect the office to the rear.

In regard to the request for special exception, I find the request meets the criteria of Section 502.1 of the BCZR, the proposed use is within the spirit and intent of the RO zoning classification and will not adversely affect the community for the reasons above.

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

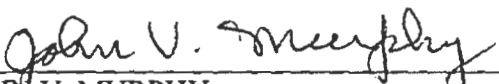
2-22-07
P3

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 22nd day of February, 2007 that the Petitioner's request for a Variance from Section 204.4 C 5 to permit a proposed Class B office building to have a rear yard setback as close as 18.8 feet in lieu of the required 30 feet and landscape buffer of 3.5 feet in lieu of the required 10 feet as shown on Petitioner's exhibit 2 is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petitioner's Special Exception pursuant to Section 502.1 of the BCZR is for a Class B office building as shown on the redline site plan as exhibit 2 is hereby GRANTED subject, however, to the following conditions:

1. The Petitioner may apply for any permits required and be granted same upon receipt this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would 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 V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

2-22-07
Ed

Baltimore County 2012 Comprehensive Zoning Map Process
Log of Issues For District 5
August 30, 2012

Issue Number	Petitioner	Victoria Marzooghian	Location	1766 E Joppa Road			
5-001	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision		
	BLR 0.24	BR or BM 0.45	BM 0.45	BM 0.45	BLR 0.24		
	BM 0.22	0.45	0.45	0.45	BM 0.22		
	0.45				0.45		
Comments							
Issue Number	Petitioner	Thomas J. Palm Sr.	Location	9528 Bel Air Road			
5-002	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision		
	DR 5.5 0.01	BL 0.21	DR 5.5 0.01	DR 5.5 0.01	DR 5.5 0.01		
	RO 0.20	0.21	RO 0.20	RO 0.20	RO 0.20		
	0.21		0.21	0.21	0.21		
Comments							
Issue Number	Petitioner	Edward Mazzetta	Location	8713 Bel Air Road, 4210 Silver Spring Road			
5-003	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision		
	CB 2.59	BL 2.94	CB 2.59	BL 2.94	CB 2.94		
	DR 5.5 0.74	RO 0.40	DR 5.5 0.74	RO 0.40	RO 0.40		
	3.33	3.33	3.33	3.33	3.33		
Comments							
Issue Number	Petitioner	Martin Kutlik	Location	19845 Philadelphia Road			
5-004	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision		
	ROA 0.92	RO 0.92	ROA 0.92	RO 0.92	RO 0.92		
	0.92	0.92	0.92	0.92	0.92		
Comments							

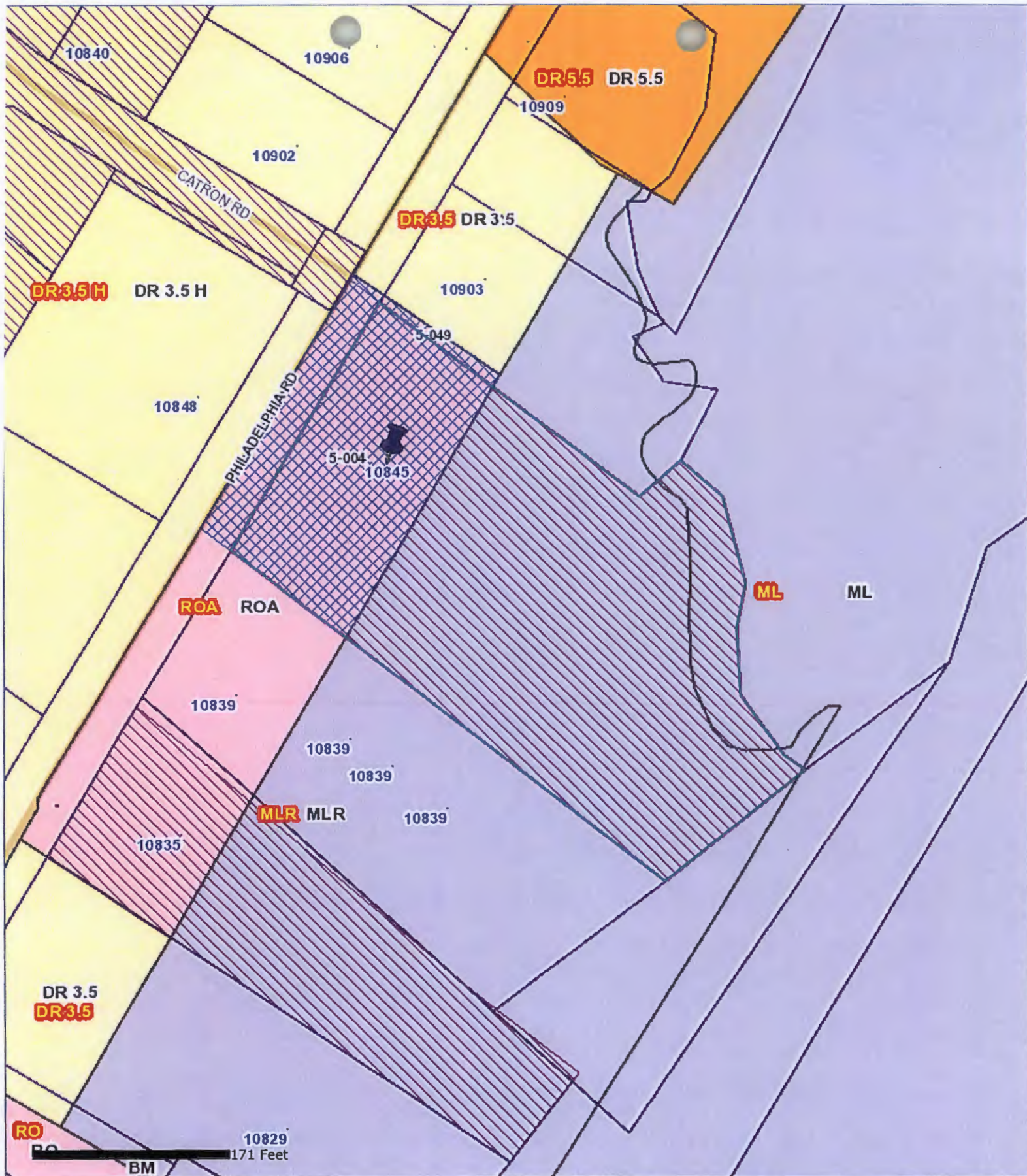
Pet No 2

Baltimore County 2012 Comprehensive Zoning Map Process
Log of Issues For District 5
August 30, 2012

Issue Number 5-047	Petitioner Baltimore County Council	Location East side of Loch Raven Blvd, Loch Hill Rd				
	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision	
	DR 16 44.22	DR 16 44.22	DR 16 44.22	DR 16 44.22	DR 1 5.48	
					DR 1 NC 38.74	
						44.22
Comments						
Issue Number 5-048	Petitioner Baltimore County Council	Location West side of Meetinghouse Rd, across from Marilynn Rd				
	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision	
	DR 2 3.96	DR 1 3.96	DR 2 3.96	DR 1 3.96	DR 1 3.96	
						3.96
Comments						
Issue Number 5-049	Petitioner Baltimore County Council	Location East side of Philadelphia Rd, across from Catron Rd				
	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision	
	ROA 0.03	DR 3.5 0.03	DR 3.5 0.03	DR 3.5 0.03	DR 3.5 0.03	
						0.03
Comments See 5-004						
Issue Number 5-050	Petitioner Baltimore County Council	Location South of Kenilworth Dr, across from West Rd				
	Existing Zoning and Acres	Requested Zoning and Acres	Final Staff Recommendation	Planning Board Recommendations	Final County Council Decision	
	DR 16 22.05	DR 16 22.05	BL CCC 4.48	DR 16 22.05	DR 16 22.05	
	DR 3.5 1.83	DR 3.5 1.83	DR 3.5 0.67	DR 3.5 1.83	DR 3.5 1.83	
			RAE 1 18.74			
						23.89
Comments						

(Total acreages may not equal due to rounding.)

Ref No 3



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



PA NO 4

Printed 10/15/2012

This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.



My Neighborhood Map

Let SA

Created By
Baltimore County
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.

Printed 10/15/2012



My Neighborhood Map

lot 613

Created By
Baltimore County
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.

Printed 10/16/2012

Pet. # 6







































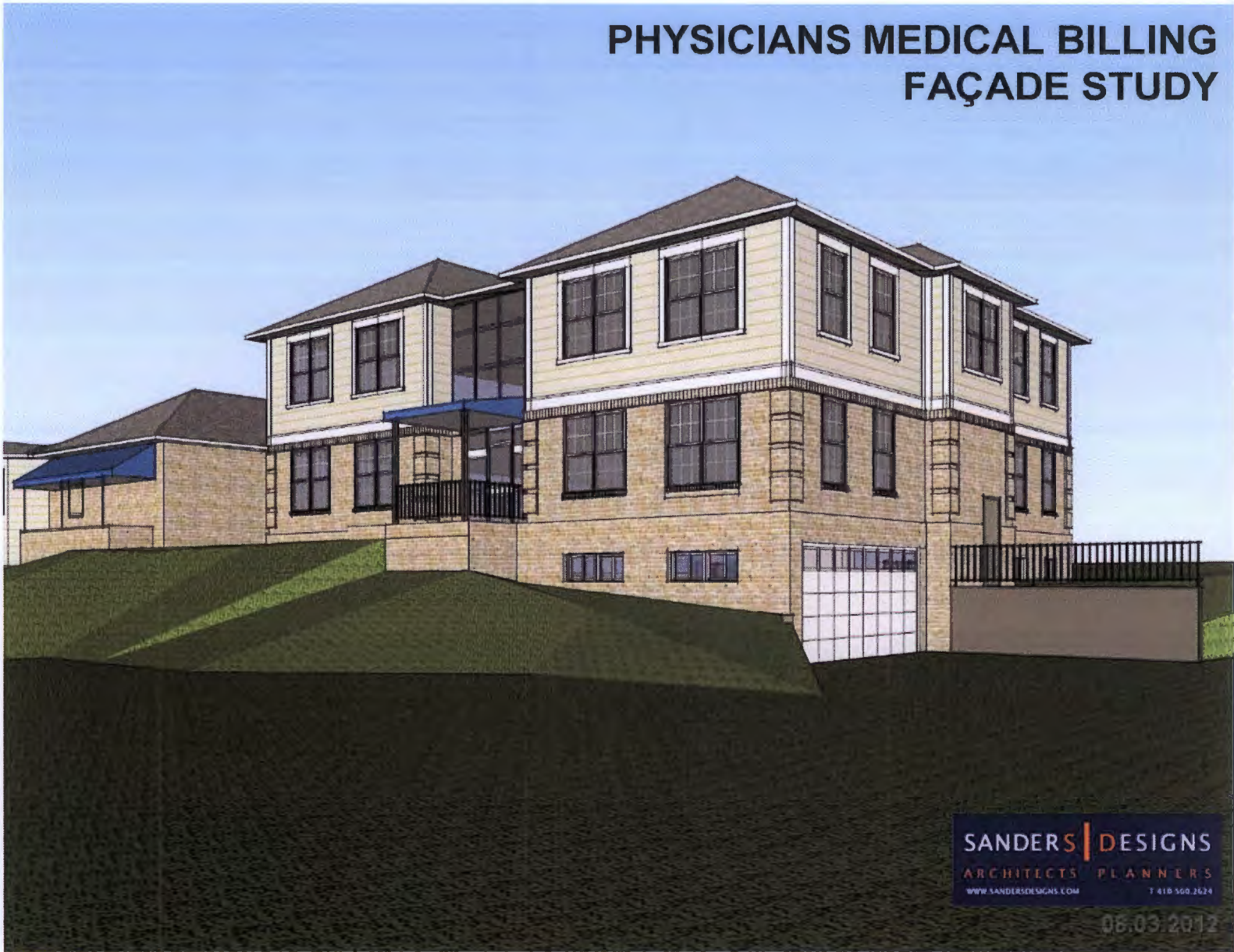








PHYSICIANS MEDICAL BILLING FAÇADE STUDY



Rel No 8



Addition

Existing
Building

West Elevation



North Elevation

Existing
Building

Addition

East Elevation





Case No.: 2013-0037-SHXA

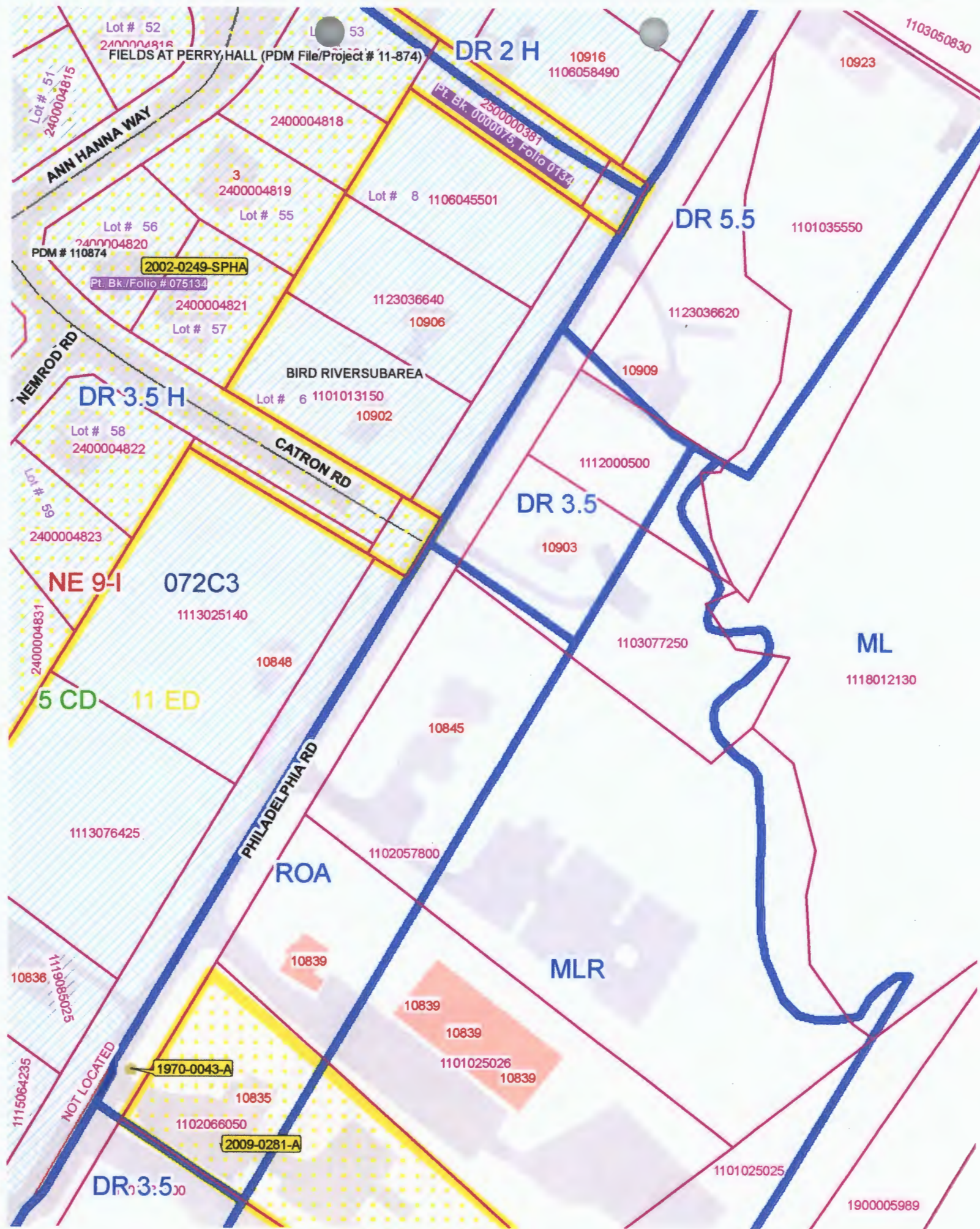
Exhibit Sheet

Petitioner/Developer

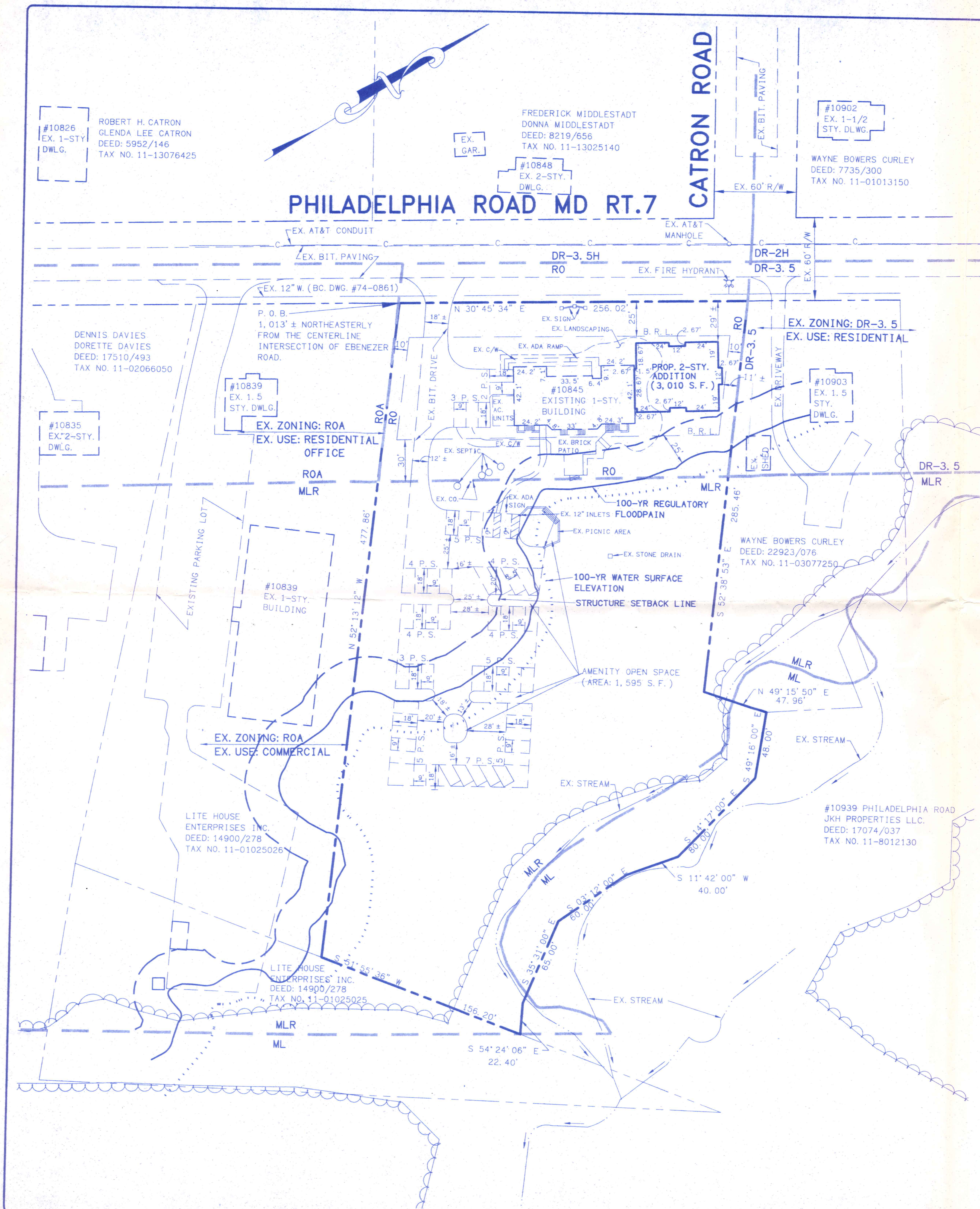
Protestant

JB 10/17
1:30 PM
10/1-8-13
10/29/12

No. 1	Site Plan	
No. 2	CZMP Issue 5-004	
No. 3	CZMP Issue 5-049	
No. 4	My Neighborhood Map	
No. 5	5A > Aerial Photos 5B > My Neighborhood	
No. 6	A-W Color Photos	
No. 7	Redlined Site Plan	
No. 8	Proposed Elevation Drawing of Addition.	
No. 9		
No. 10		
No. 11		
No. 12		



2013-0037-SP4X/A



NOTES

1. Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey, (JUNE 2012).
2. Property lines shown hereon were established by public information.
3. This site is not situated within the Chesapeake Bay Critical Areas (Map 72).
4. There shall be no clearing, grading, construction or disturbance of vegetation within this site except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
5. There are some forest or developed woodlands on this site.
6. There are Non-Tidal Wetlands on this site near the stream.
7. There is no significant plant or animal habitat on this site.
8. There are no slopes greater than 15% on this site.
9. There are no known wells on this site.
10. There are septic tanks on this site.
11. There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
12. There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, the Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
13. Public Water serves this site.
14. Caution underground utilities may exist in Philadelphia Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
15. Proposed building height max. 35'.
16. Flood Plain depicted as per Morris & Ritchie Associates Inc. flood study dated: April 30, 2002.
17. All signs shall comply with current Baltimore County Zoning Regulations.
18. The Special Hearing request for a modified parking plan is to permit the number of spaces as shown in note 16 and to permit driveways/driveways as narrow as 12 feet as shown on this plan.

PREVIOUS PERMITS

- | | |
|------------|----------------|
| 1) B387141 | DATE: 08/05/99 |
| 2) B387145 | DATE: 08/30/99 |
| 3) B494887 | DATE: 08/02/02 |
| 4) B529998 | DATE: 09/02/03 |

ZONING HISTORY

THERE ARE NO PREVIOUS CASES FOR THIS SITE.

SPECIAL HEARING REQUEST

1. A MODIFIED PARKING PLAN PURSUANT TO SECTION 409.12 b (B.C.Z.R.); AND
2. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

SPECIAL EXCEPTION REQUEST

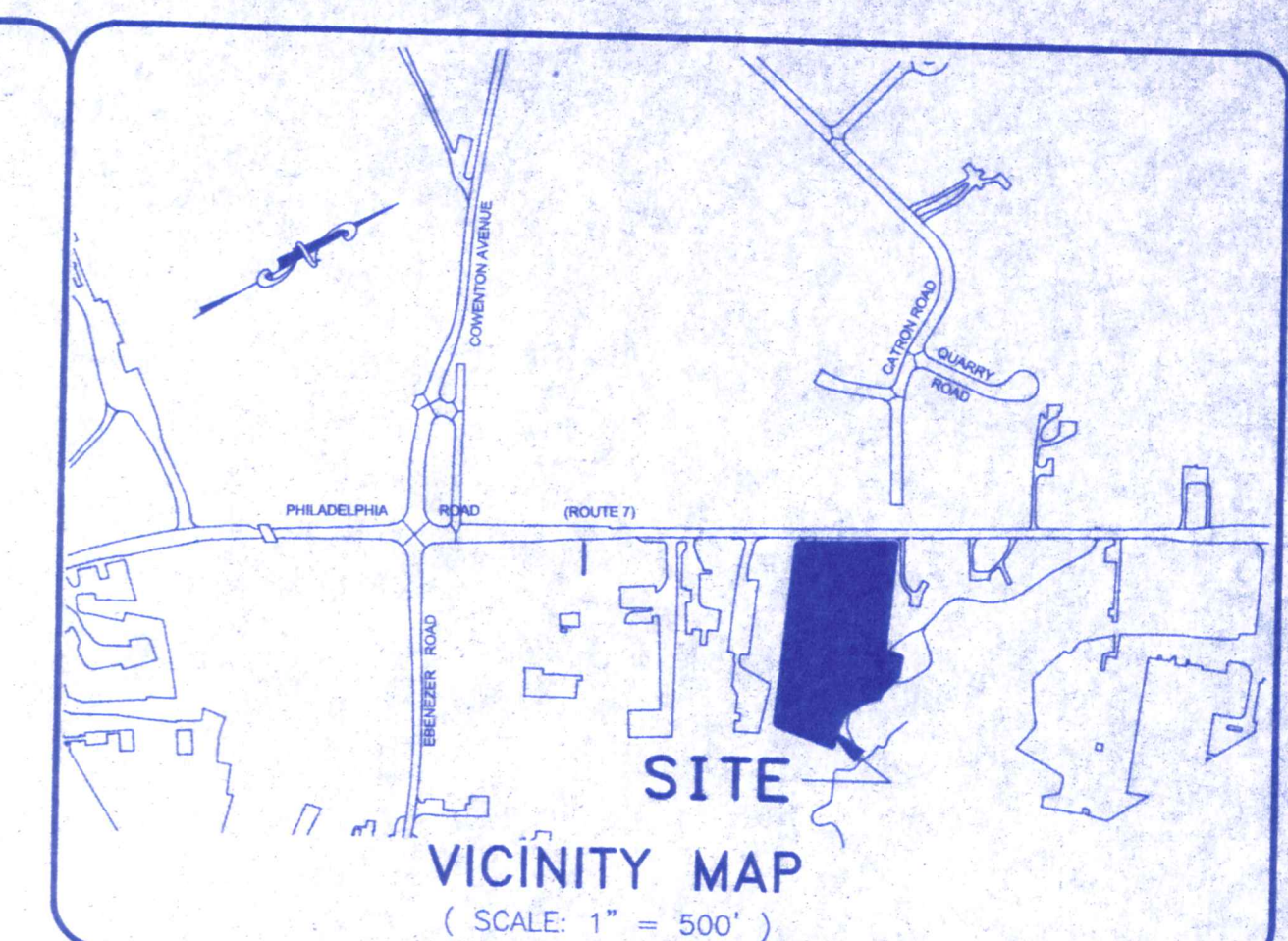
1. A CLASS B OFFICE BUILDING PURSUANT TO SECTION 204.3.B.2 (B.C.Z.R.); AND
2. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

VARIANCE REQUEST

1. 204.3.B.2.a OF THE (B.C.Z.R.) TO PERMIT UP TO 100% OF THE TOTAL ADJUSTED FLOOR AREA OF THE OFFICE BUILDING TO BE OCCUPIED BY MEDICAL OFFICES IN LIEU OF THE MAXIMUM PERMITTED 25% OF THE TOTAL ADJUSTED FLOOR AREA; AND
2. 204.4.C.7 OF THE (B.C.Z.R.) TO PERMIT A MAXIMUM LOT SIZE OF 2.883 ACRES IN LIEU OF THE MAXIMUM LOT SIZE OF 1 ACRE; AND
3. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

LEGEND

- | | |
|--|---------------------------------|
| | PROPERTY LINE |
| | LOT LINE |
| | R/W LINE |
| | ZONING LINE |
| | 100-YR. FLOOD PLAIN |
| | 100-YR. WATER SURFACE ELEVATION |
| | STRUCTURAL SETBACK LINE |
| | EXISTING STREAM |
| | EXISTING TREELINE |
| | BUILDING RESTRICTION LINE |



SITE DATA

- | | |
|--|-----------------------------|
| 1) OWNER: MARTIN G. KOELLER | #10845 PHILADELPHIA ROAD |
| 2) DEED REF: 14003/415 | WHITE MARSH, MARYLAND 21162 |
| 3) TAX ACC. NO.: 11-02057800 | |
| 4) TAX MAP: 72 | PARCEL: 571 LOT: NONE |
| 5) PLAT REF: NONE | |
| 6) ELECTION DISTRICT: 11TH | |
| 7) CONGRESSIONAL DISTRICT: 5TH | |
| 8) REGIONAL PLANNING DISTRICT: 317B | |
| 9) CENSUS TRACT: 4113.02 | |
| 10) ZONING: RO & MLR & ML | |
| 11) ZONING MAP: 07203 | |
| 12) USE: EXISTING: (CLASS A) 1-STORY RESIDENTIAL OFFICE BUILDING | |
| GENERAL OFFICE (75%) & MEDICAL OFFICE (25%) | |
| PROPOSED: (CLASS B) EXISTING 1-STY. OFFICE BUILDING INCLUDING | |
| LOWER LEVEL AND 2-STY. ADDITION MEDICAL OFFICE (100%) | |
| 13) PROPOSED FLOOR AREAS: | |
| 12,292 S.F. | |
| 125,583 S.F. | = 0.09 < 0.33 |
| 14) SITE AREA: 125,583 S.F. OR 2.883 AC. | |
| 15) AMENITY OPEN SPACE: REQUIRED: 1,400 S.F./20,000 S.F. = 0.07 = 7% | |
| PROPOSED: 1,595 S.F./20,000 S.F. = 0.0795 = 7.95% | |
| 16) PARKING: | |
| EXISTING: | |
| FIRST FLOOR = 3,550 S.F. | |
| LOWER LEVEL = 2,622 S.F. | |
| TOTAL = 6,172 S.F. | |
| GENERAL OFFICE = 3.3 P.S. PER 1,000 S.F. | |
| 6,172 X 75% = 4,629 X 3.3/1,000 = 15.27 | = 16 P.S. |
| MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F. | |
| 6,172 X 25% = 1,543 X 4.5/1,000 = 6.94 | = 7 P.S. |
| TOTAL | 23 P.S. |
| PROPOSED: | |
| FIRST FLOOR = 3,550 S.F. | |
| LOWER LEVEL = 2,622 S.F. | |
| TOTAL = 6,172 S.F. | |
| MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F. | |
| 6,172 X 100% = 6,172 X 4.5/1,000 = 27.77 | = 28 P.S. |
| LOWER LEVEL ADDITION (STORAGE) | |
| FIRST FLOOR (ADDITION) = 3,010 S.F. | |
| SECOND FLOOR (ADDITION) = 3,010 S.F. | |
| MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F. | |
| 6,020 X 100% = 6,020 X 4.5/1,000 = 27.09 | = 28 P.S. |
| SUB-TOTAL | 56 P.S. |
| TOTAL PARKING REQUIRED | 56 P.S. |
| PROVIDED: | |
| PARKING | 49 P.S. |
| ADA PARKING (HANDICAPP) | 2 P.S. |
| TOTAL | 51 P.S. |

Bafitis & Associates, Inc.
1249 Engleberth Rd. Baltimore, MD 21221

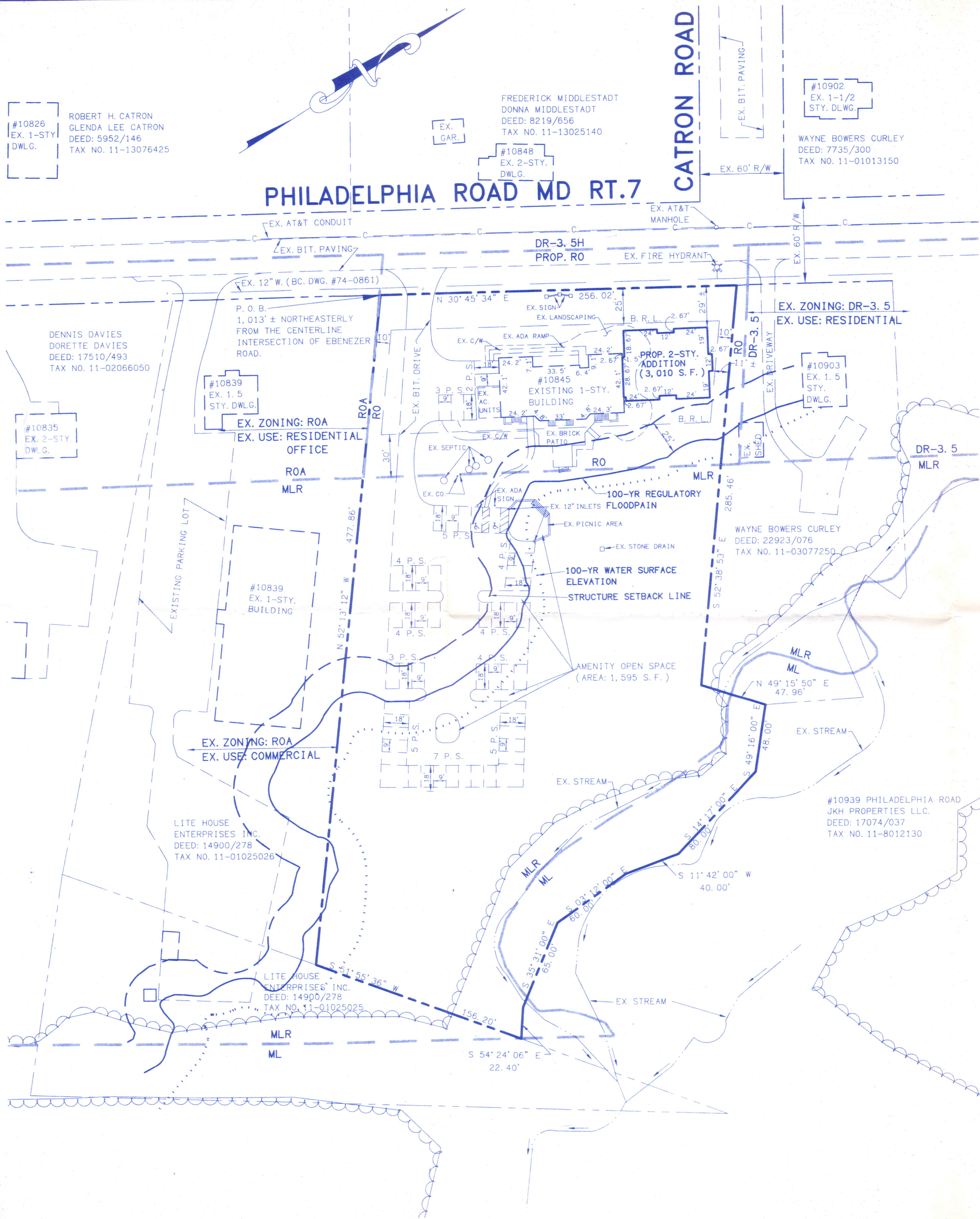
William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
(410) 391-2336

**PLAN TO ACCOMPANY
PETITION FOR SPECIAL EXCEPTION,
SPECIAL HEARING AND
VARIANCE REQUEST
FOR
#10845 PHILADELPHIA ROAD**
11TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

1
SHEET 1 OF 1

NO.	REVISIONS	DATE
1	ADDED NOTE #18, MODIFY PARKING AND CHANGE PARKING FROM 50 SPACES TO 51 SPACES.	10/16/12

PETITIONER'S
EXHIBIT NO. No 1



NOTES

- Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey. (JUNE 2012)
- Property lines shown hereon were established by public information.
- This site is not situated within the Chesapeake Bay Critical Areas. (Map 72)
- There shall be no clearing, grading, construction or disturbance of vegetation within this site except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
- There are some forest or developed woodlands on this site.
- There are Non-Tidal Wetlands on this site near the stream.
- There is no significant plant or animal habitat on this site.
- There are no slopes greater than 15% on this site.
- There are no known wells on this site.
- There are septic tanks on this site.
- There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
- There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
- Public Water serves this site.
- Caution underground utilities may exist in Philadelphia Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
- Proposed building height max. 35'.
- Flood Plain depicted as per Morris & Ritchie Associates Inc. flood study dated: April 30, 2002.
- All signs shall comply with current Baltimore County Zoning Regulations.

PREVIOUS PERMITS

- B387141 DATE: 08/05/99
- B387145 DATE: 08/30/99
- B494887 DATE: 08/02/02
- B529998 DATE: 09/02/03

ZONING HISTORY

THERE ARE NO PREVIOUS CASES FOR THIS SITE.

SPECIAL HEARING REQUEST

- A MODIFIED PARKING PLAN PURSUANT TO SECTION 409.12 b (B.C.Z.R.); AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

SPECIAL EXCEPTION REQUEST

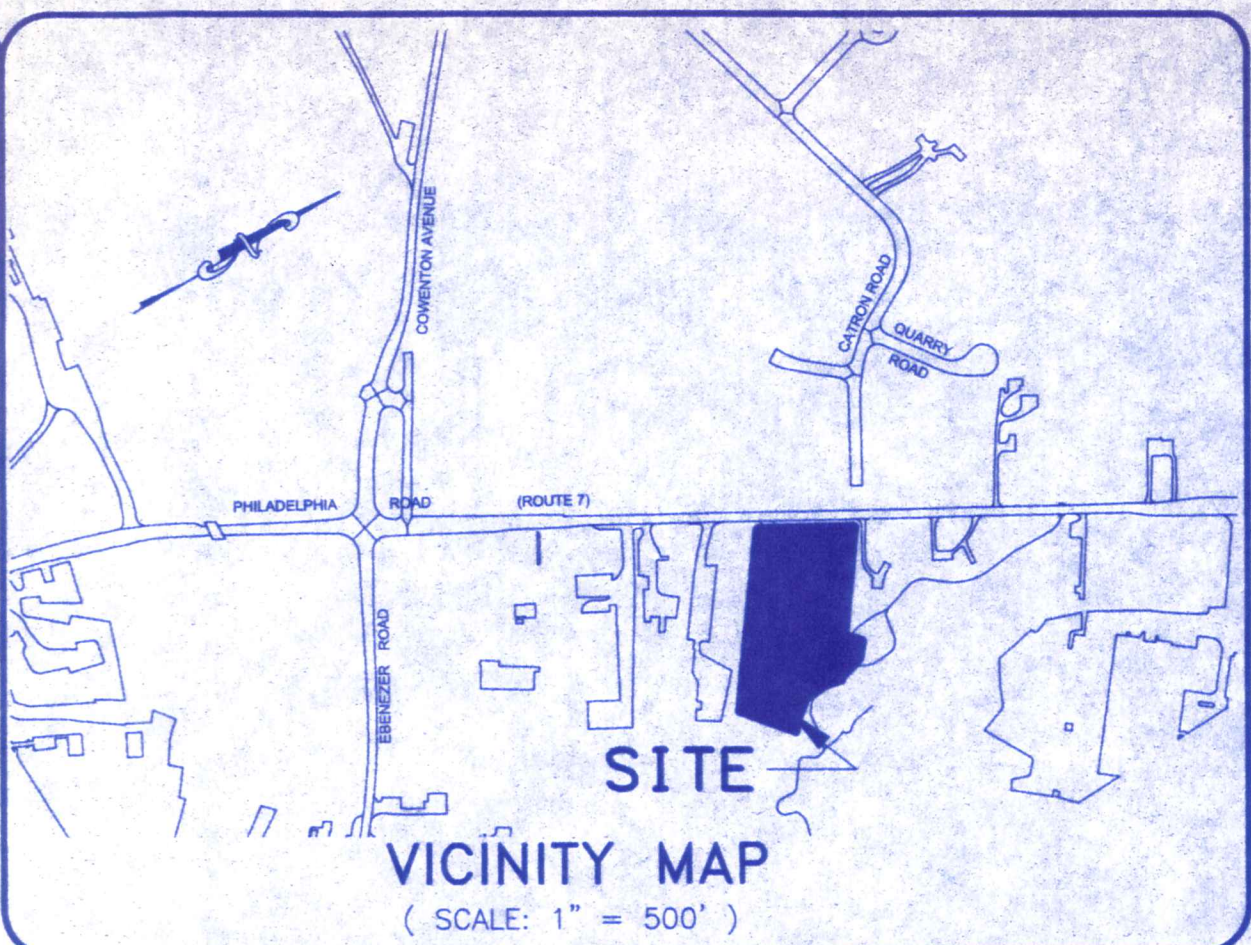
- A CLASS B OFFICE BUILDING PURSUANT TO SECTION 204.3.B.2 (B.C.Z.R.); AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

VARIANCE REQUEST

- 204.3.B.2. a OF THE (B.C.Z.R.) TO PERMIT UP TO 100% OF THE TOTAL ADJUSTED FLOOR AREA OF THE OFFICE BUILDING TO BE OCCUPIED BY MEDICAL OFFICES IN LIEU OF THE MAXIMUM PERMITTED 25% OF THE TOTAL ADJUSTED FLOOR AREA; AND
- 204.4.C.7 OF THE (B.C.Z.R.) TO PERMIT A MAXIMUM LOT SIZE OF 2.883 ACRES IN LIEU OF THE MAXIMUM LOT SIZE OF 1 ACRE; AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

LEGEND

	PROPERTY LINE
	LOT LINE
	R/W LINE
	ZONING LINE
	100-YR. FLOOD PLAIN
	100-YR. WATER SURFACE ELEVATION
	STRUCTURAL SETBACK LINE
	EXISTING STREAM
	EXISTING TREELINE
	BUILDING RESTRICTION LINE



SITE DATA

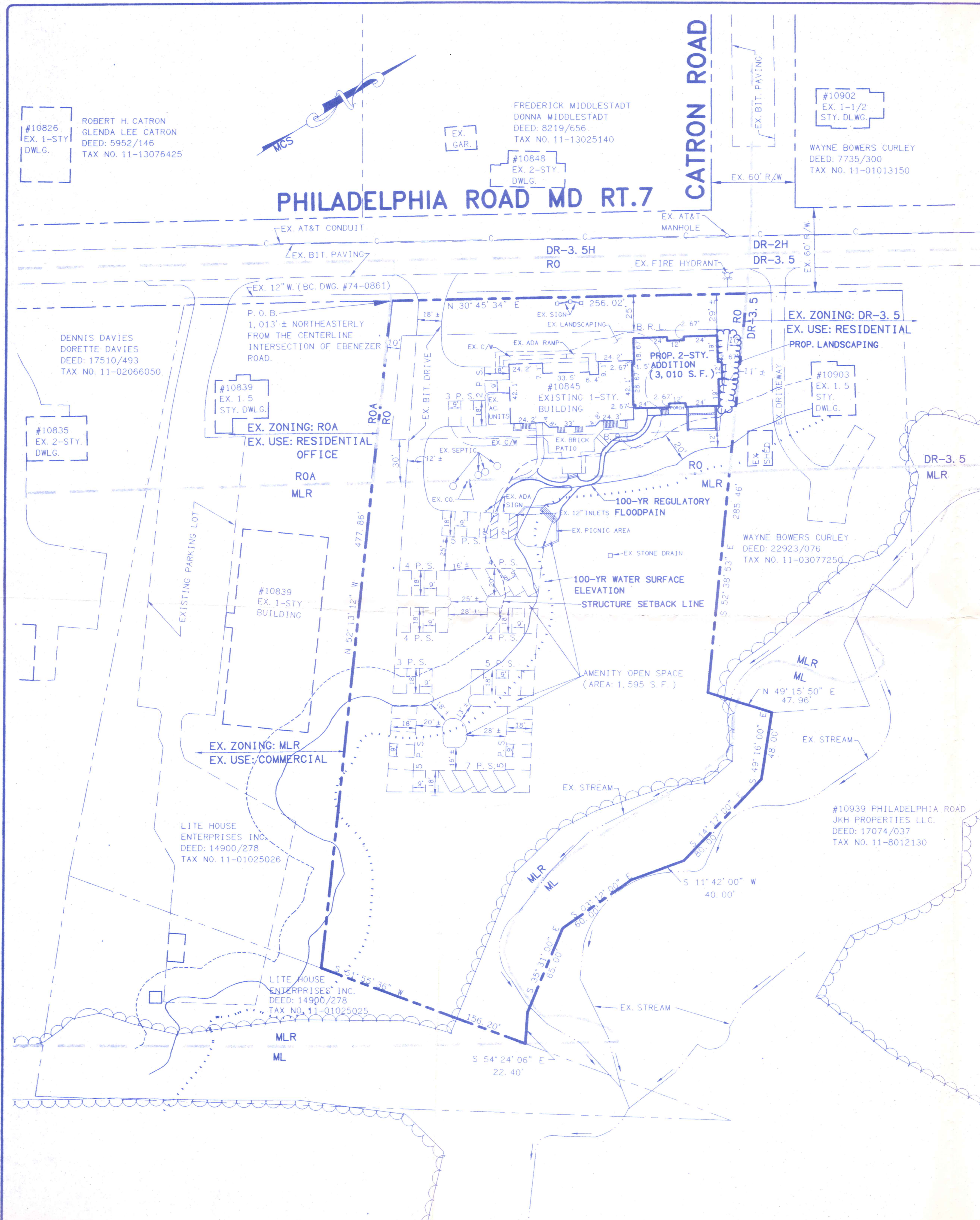
- OWNER: MARTIN G. KUTLIK
#10845 PHILADELPHIA ROAD
WHITE MARSH, MARYLAND 21162
- DEED REF: 14003/415
- TAX ACC. NO.: 11-02057800
- TAX MAP: 72 PARCEL: 571 LOT: NONE
- PLAT REF: NONE
- ELECTION DISTRICT: 11TH
- CONCILIAMIC DISTRICT: 5TH
- REGIONAL PLANNING DISTRICT: 317B
- CENSUS TRACT: 4113.02
- ZONING: RO & MLR & ML
- ZONING MAP: 072C3
- USE: EXISTING: (CLASS A) 1-STORY RESIDENTIAL OFFICE BUILDING
GENERAL OFFICE (75%) & MEDICAL OFFICE (25%)
PROPOSED: (CLASS B) EXISTING 1-STY. OFFICE BUILDING INCLUDING LOWER LEVEL AND 2-STY. ADDITION MEDICAL OFFICE (100%)
- PROPOSED FLOOR AREAS:
12,292 S.F. = 0.09 < 0.33
- SITE AREA: 125,583 S.F. OR 2.883 AC.
- AMENITY OPEN SPACE: REQUIRED: 1,400 S.F./20,000 S.F. = 0.07 = 7%
PROPOSED: 1,595 S.F./20,000 S.F. = 0.0798 = 7.98%
- PARKING:
EXISTING:
FIRST FLOOR = 3,550 S.F.
LOWER LEVEL = 2,622 S.F.
TOTAL = 6,172 S.F.
GENERAL OFFICE = 3.3 P.S. PER 1,000 S.F.
6,172 X 75% = 4,629 X 3.3/1,000 = 15.27 = 16 P.S.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,172 X 25% = 1,543 X 4.5/1,000 = 6.94 = 7 P.S.
TOTAL = 23 P.S.
PROPOSED:
FIRST FLOOR = 3,550 S.F.
LOWER LEVEL = 2,622 S.F.
TOTAL = 6,172 S.F.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,172 X 100% = 6,172 X 4.5/1,000 = 27.77 = 28 P.S.
LOWER LEVEL ADDITION (STORAGE)
FIRST FLOOR (ADDITION) = 3,010 S.F.
SECOND FLOOR (ADDITION) = 3,010 S.F.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,020 X 100% = 6,020 X 4.5/1,000 = 27.09 = 28 P.S.
SUB-TOTAL = 56 P.S.
TOTAL PARKING REQUIRED = 56 P.S.
PROVIDED:
PARKING = 48 P.S.
ADA PARKING (HANDICAPP) = 2 P.S.
TOTAL = 50 P.S.

Bafitis & Associates, Inc.
1249 Engleberth Rd. Baltimore, MD 21221

William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
(410) 391-2336

PLAN TO ACCOMPANY
PETITION FOR SPECIAL EXCEPTION,
SPECIAL HEARING AND
VARIANCE REQUEST
FOR
#10845 PHILADELPHIA ROAD
11TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

	SCALE: 1" = 40'	
	JOB ORDER NO: 21208	
	DATE: 08/17/12	
	CHECKED: W.N.B.	
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. 11641 Expiration Date: 09/09/2013	DRAWN: N.W.B.	
SHEET 1 OF 1		
NO.	REVISIONS	DATE



NOTES

- Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey. (JUNE 2012)
- Property lines shown hereon were established by public information.
- This site is not situated within the Chesapeake Bay Critical Areas (Map 72)
- There shall be no clearing, grading, construction or disturbance of vegetation within this site except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
- There are some forest or developed woodlands on this site.
- There are Non-Tidal Wetlands on this site near the stream.
- There is no significant plant or animal habitat on this site.
- There are no slopes greater than 15% on this site.
- There are no known wells on this site.
- There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
- There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
- Public Water serves this site.
- Caution underground utilities may exist in Philadelphia Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
- Proposed building height max. 35'.
- Flood Plain depicted as per Morris & Ritchie Associates Inc. Flood study dated: April 30, 2002.
- All signs shall comply with current Baltimore County Zoning Regulations.
- The Special Hearing request for a modified parking plan is to permit the number of spaces as shown in note 16 and to permit driveaisles/driveways as narrow as 12 feet as shown on this plan.

PREVIOUS PERMITS

- B387141 DATE: 08/05/99
- B387145 DATE: 08/30/99
- B494887 DATE: 08/02/02
- B529998 DATE: 09/02/03
- B770396 CHANGE OF OCCUPANCY
- B772567 ENCLOSURE OF REAR DECK

ZONING HISTORY

THERE ARE NO PREVIOUS CASES FOR THIS SITE.

SPECIAL HEARING REQUEST

- A MODIFIED PARKING PLAN PURSUANT TO SECTION 409.12 b (B.C.Z.R.); AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

SPECIAL EXCEPTION REQUEST

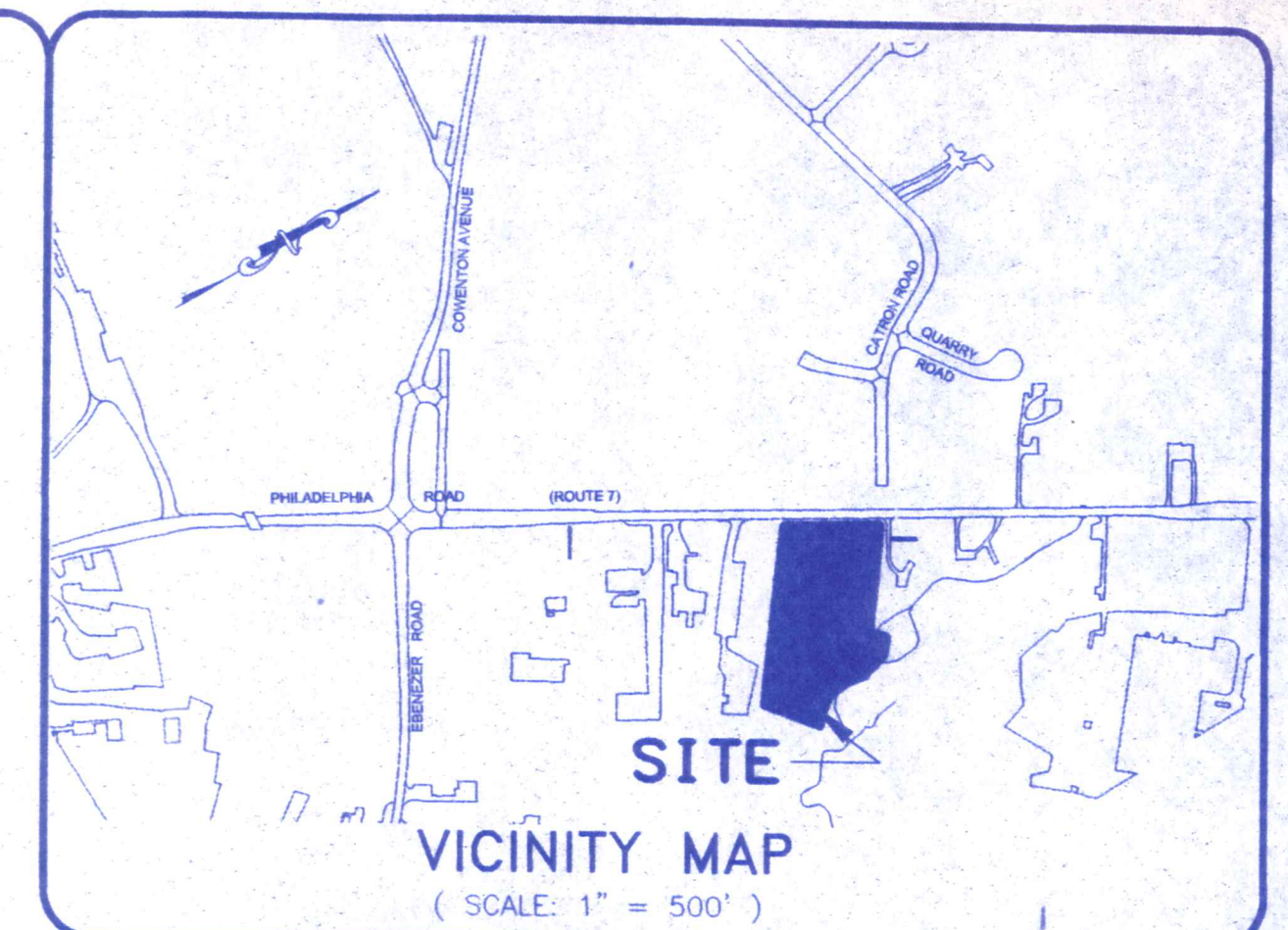
- A CLASS B OFFICE BUILDING PURSUANT TO SECTION 204.3.B.2 (B.C.Z.R.); AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

VARIANCE REQUEST

- 204.3.B.2 a OF THE (B.C.Z.R.) TO PERMIT UP TO 100% OF THE TOTAL ADJUSTED FLOOR AREA OF THE OFFICE BUILDING TO BE OCCUPIED BY MEDICAL OFFICES IN LIEU OF THE MAXIMUM PERMITTED 25% OF THE TOTAL ADJUSTED FLOOR AREA; AND
- 204.4.C.7 OF THE (B.C.Z.R.) TO PERMIT A MAXIMUM LOT SIZE OF 2.883 ACRES IN LIEU OF THE MAXIMUM LOT SIZE OF 1 ACRE; AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

LEGEND

	PROPERTY LINE
	LOT LINE
	R/W LINE
	ZONING LINE
	100-YR. FLOOD PLAIN
	100-YR. WATER SURFACE ELEVATION
	STRUCTURAL SETBACK LINE
	EXISTING STREAM
	EXISTING TREELINE
	B.R.L.
	BUILDING RESTRICTION LINE



SITE DATA

- OWNER: MARTIN G. KULITZ
#10845 PHILADELPHIA ROAD
WHITE MARSH, MARYLAND 21162
- DEED REF: 14003/415
- TAX ACC. NO.: 11-02057800
- TAX MAP: 72 PARCEL: 571 LOT: NONE
- PLAT REF: NONE
- ELECTION DISTRICT: 11TH
- CONCILMANIC DISTRICT: 5TH
- REGIONAL PLANNING DISTRICT: 317B
- CENSUS TRACT: 4113.02
- ZONING: RO & MLR & ML
- ZONING MAP: 07203
- USE: EXISTING: (CLASS A) 1-STORY RESIDENTIAL OFFICE BUILDING
GENERAL OFFICE (75%) & MEDICAL OFFICE (25%)
PROPOSED: (CLASS B) EXISTING 1-STY. OFFICE BUILDING INCLUDING
LOWER LEVEL AND 2-STY. ADDITION MEDICAL OFFICE (100%)
- PROPOSED FLOOR AREAS:
12,292 S.F. = 0.09 < 0.33
- SITE AREA: 125,583 S.F. OR 2.883 AC.
- AMENITY OPEN SPACE: REQUIRED: 1,400 S.F./20,000 S.F. = 0.07 = 7%
PROPOSED: 1,595 S.F./20,000 S.F. = 0.0798 = 7.98%
- PARKING:
EXISTING:
FIRST FLOOR = 3,550 S.F.
LOWER LEVEL = 2,622 S.F.
TOTAL = 6,172 S.F.
GENERAL OFFICE = 3.3 P.S. PER 1,000 S.F.
6,172 X 75% = 4,629 X 3.3/1,000 = 15.27 = 16 P.S.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,172 X 25% = 1,543 X 4.5/1,000 = 6.94 = 7 P.S.
TOTAL = 23 P.S.
PROPOSED:
FIRST FLOOR = 3,550 S.F.
LOWER LEVEL = 2,622 S.F.
TOTAL = 6,172 S.F.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,172 X 100% = 6,172 X 4.5/1,000 = 27.77 = 28 P.S.
LOWER LEVEL ADDITION (STORAGE) = 3,010 S.F.
FIRST FLOOR (ADDITION) = 3,010 S.F.
SECOND FLOOR (ADDITION) = 3,010 S.F.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,020 X 100% = 6,020 X 4.5/1,000 = 27.09 = 28 P.S.
SUB-TOTAL = 56 P.S.
TOTAL PARKING REQUIRED = 56 P.S.
PROVIDED:
PARKING:
ADA PARKING (HANDICAPP) = 2 P.S.
TOTAL = 51 P.S.

Bafitis & Associates, Inc.
1249 Engleberth Rd. Baltimore, MD 21221

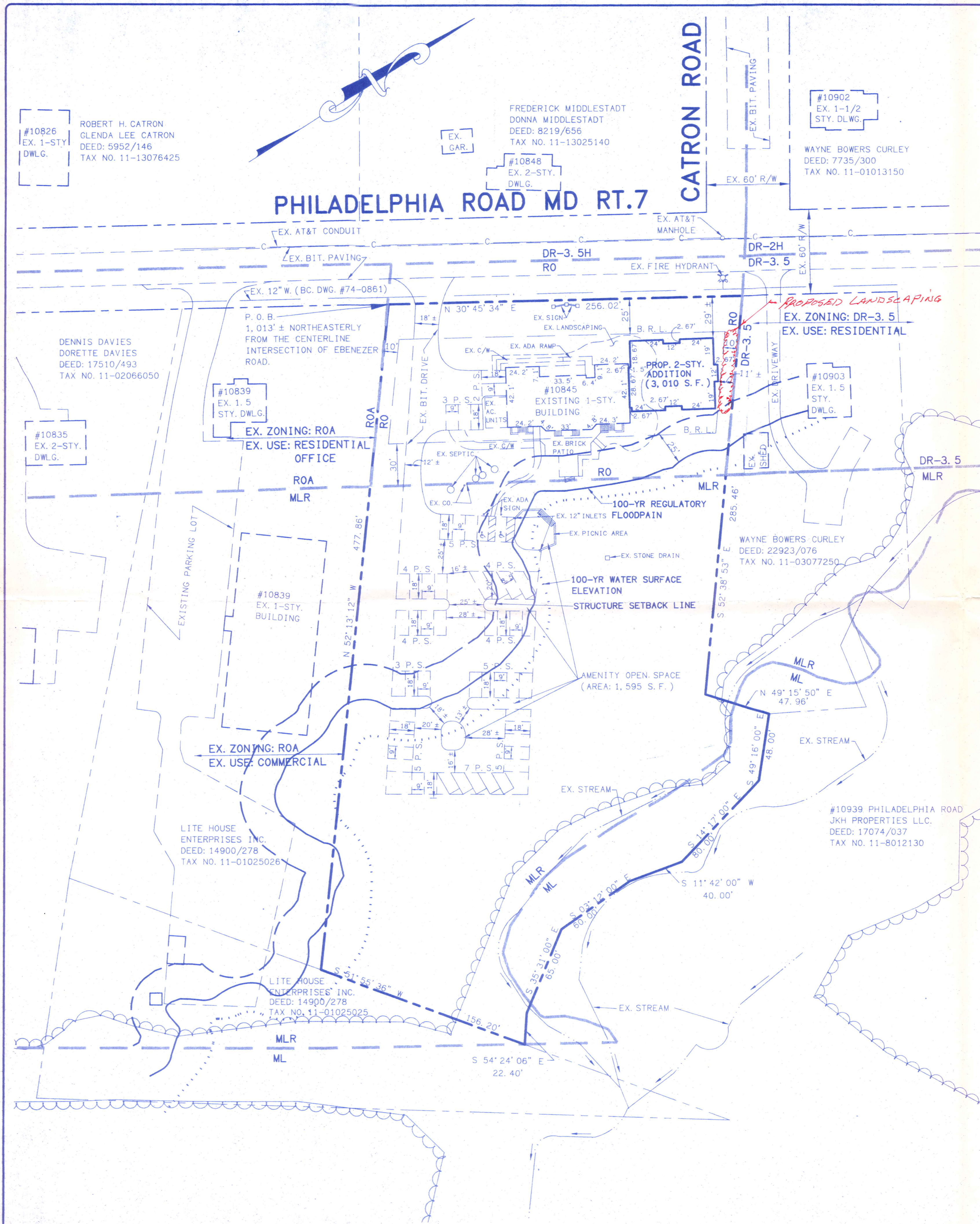
William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
(410) 391-2336

PLAN TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCE REQUEST FOR

#10845 PHILADELPHIA ROAD

11TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

	SCALE: 1" = 40'	
	JOB ORDER NO: 21208	
1	DATE: 08/17/12	
	CHECKED: W.N.B.	
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. 11641 Expiration Date: 09/09/2013	DRAWN: N.W.B.	
	SHEET 1 OF 1	
NO.	REVISIONS	DATE
1	ADDED NOTE #18, MODIFY PARKING AND CHANGE PARKING FROM 50 SPACES TO 51 SPACES.	10/16/12
2	ADDED PROP. LANDSCAPING, BASEMENT ENTRANCE, SIDEWALKS, AND NO. 5 & 6 PREVIOUS PERMITS.	11/08/12



NOTES

- Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey. (JUNE 2012)
- Property lines shown hereon were established by public information.
- This site is not situated within the Chesapeake Bay Critical Areas. (Map 72)
- There shall be no clearing, grading, construction or disturbance of vegetation within this site except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
- There are some forest or developed woodlands on this site.
- There are Non-Tidal Wetlands on this site near the stream.
- There is no significant plant or animal habitat on this site.
- There are no slopes greater than 15% on this site.
- There are no known wells on this site.
- There are septic tanks on this site.
- There are no known potentially hazardous materials on this site as defined by Title 7- Health and Environmental Article, Annotated Code of Maryland, except as noted.
- There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
- Public Water serves this site.
- Caution underground utilities may exist in Philadelphia Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
- Proposed building height max. 35'.
- Flood Plain depicted as per Morris & Ritchie Associates Inc. flood study dated: April 30, 2002.
- All signs shall comply with current Baltimore County Zoning Regulations.
- The Special Hearing request for a modified parking plan is to permit the number of spaces as shown in note 16 and to permit driveaisles/driveways as narrow as 12 feet as shown on this plan.

PREVIOUS PERMITS

- B387141 DATE: 08/05/99
- B387145 DATE: 08/30/99
- B494887 DATE: 08/02/02
- B529998 DATE: 09/02/03

ZONING HISTORY

THERE ARE NO PREVIOUS CASES FOR THIS SITE.

SPECIAL HEARING REQUEST

- A MODIFIED PARKING PLAN PURSUANT TO SECTION 409.12 b (B.C.Z.R.); AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

SPECIAL EXCEPTION REQUEST

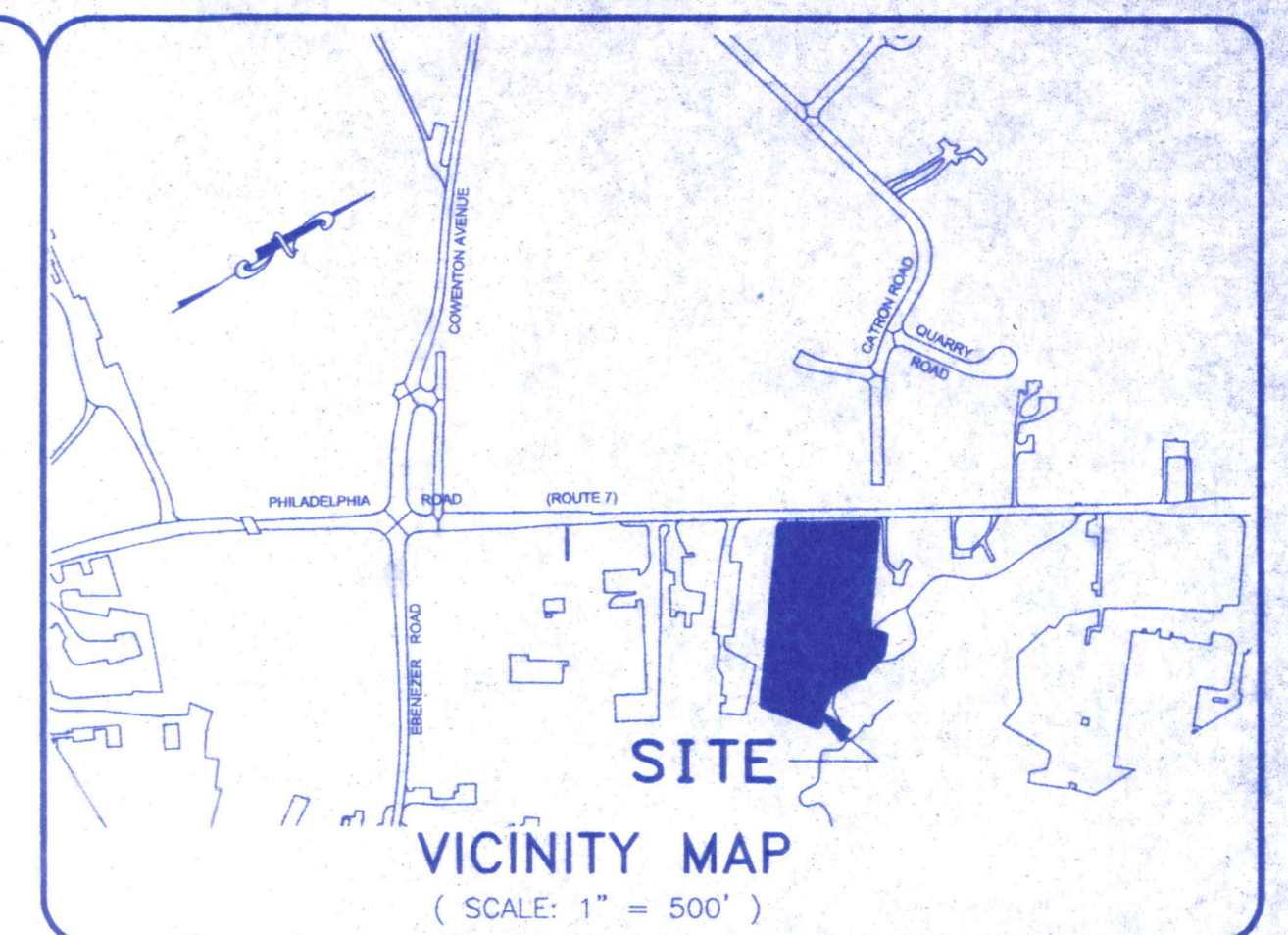
- A CLASS B OFFICE BUILDING PURSUANT TO SECTION 204.3.B.2 (B.C.Z.R.); AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

VARIANCE REQUEST

- 204.3.B.2.a OF THE (B.C.Z.R.) TO PERMIT UP TO 100% OF THE TOTAL ADJUSTED FLOOR AREA OF THE OFFICE BUILDING TO BE OCCUPIED BY MEDICAL OFFICES IN LIEU OF THE MAXIMUM PERMITTED 25% OF THE TOTAL ADJUSTED FLOOR AREA; AND
- 204.4.C.7 OF THE (B.C.Z.R.) TO PERMIT A MAXIMUM LOT SIZE OF 2.883 ACRES IN LIEU OF THE MAXIMUM LOT SIZE OF 1 ACRE; AND
- FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

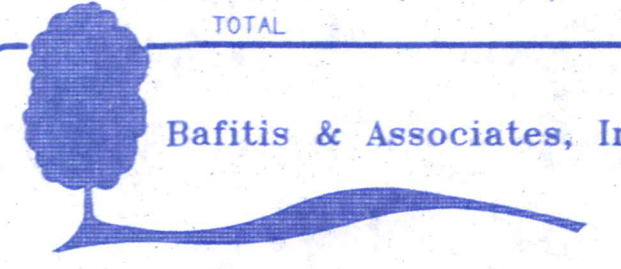
LEGEND

---	PROPERTY LINE
---	LOT LINE
---	R/W LINE
---	ZONING LINE
---	100-YR. FLOOD PLAIN
---	100-YR. WATER SURFACE ELEVATION
---	STRUCTURAL SETBACK LINE
---	EXISTING STREAM
---	EXISTING TREELINE
---	B.R.L. BUILDING RESTRICTION LINE



SITE DATA

- OWNER: MARTIN G. KUTLIK
#10845 PHILADELPHIA ROAD
WHITE MARSH, MARYLAND 21162
- DEED REF: 14003/415
- TAX ACC. NO.: 11-02057800
- TAX MAP: 72 PARCEL: 571 LOT: NONE
- PLAT REF: NONE
- ELECTION DISTRICT: 11TH
- CONCILMANIC DISTRICT: 5TH
- REGIONAL PLANNING DISTRICT: 317B
- CENSUS TRACT: 4113.02
- ZONING: RO & MLR & ML
- ZONING MAP: 072C3
- USE: EXISTING: (CLASS A) 1-STORY RESIDENTIAL OFFICE BUILDING
GENERAL OFFICE (75%) & MEDICAL OFFICE (25%)
PROPOSED: (CLASS B) EXISTING 1-STY. OFFICE BUILDING INCLUDING
LOWER LEVEL AND 2-STY. ADDITION MEDICAL OFFICE (100%)
- PROPOSED FLOOR AREAS:
12,292 S.F. = 0.09 < 0.33
125,583 S.F.
- SITE AREA: 125,583 S.F. OR 2.883 AC.
- AMENITY OPEN SPACE: REQUIRED: 1,400 S.F./20,000 S.F. = 0.07 = 7%
PROPOSED: 1,595 S.F./20,000 S.F. = 0.0798 = 7.98%
- PARKING:
EXISTING:
FIRST FLOOR = 3,550 S.F.
LOWER LEVEL = 2,622 S.F.
TOTAL = 6,172 S.F.
GENERAL OFFICE = 3.3 P.S. PER 1,000 S.F.
6,172 X 75% = 4,629 X 3.3/1,000 = 15.27 = 16 P.S.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,172 X 25% = 1,543 X 4.5/1,000 = 6.94 = 7 P.S.
TOTAL = 23 P.S.
PROPOSED:
FIRST FLOOR = 3,550 S.F.
LOWER LEVEL = 2,622 S.F.
TOTAL = 6,172 S.F.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,172 X 100% = 6,172 X 4.5/1,000 = 27.77 = 28 P.S.
LOWER LEVEL ADDITION (STORAGE)
FIRST FLOOR (ADDITION) = 3,010 S.F.
SECOND FLOOR (ADDITION) = 3,010 S.F.
MEDICAL OFFICE = 4.5 P.S. PER 1,000 S.F.
6,020 X 100% = 6,020 X 4.5/1,000 = 27.09 = 28 P.S.
SUB-TOTAL = 56 P.S.
TOTAL PARKING REQUIRED = 56 P.S.
PROVIDED:
PARKING = 49 P.S.
ADA PARKING (HANDICAPP) = 2 P.S.
TOTAL = 51 P.S.



Bafitis & Associates, Inc.
1249 Engleberth Rd. Baltimore, MD 21221
(410) 391-2336

William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
(410) 391-2336

PLAN TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION, SPECIAL HEARING AND VARIANCE REQUEST FOR #10845 PHILADELPHIA ROAD	
11TH ELECTION DISTRICT	BALTIMORE COUNTY, MARYLAND
	SCALE: 1" = 40'
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. 11641 Expiration Date: 09/09/2013	JOB ORDER NO.: 21208
SHEET 1 OF 1	DATE: 08/17/12
	CHECKED: W.N.B.
	DRAWN: N.W.B.
NO. REVISIONS	DATE
ADDED NOTE #18, MODIFY PARKING AND CHANGE PARKING FROM 50 SPACES TO 51 SPACES.	10/16/12