

IN RE: PETITIONS FOR SPECIAL HEARING, *
SPECIAL EXCEPTION & VARIANCE *
(1835 Frederick Road) *
1st Election District *
1st Councilmanic District *
Candlelight Realty, LLC, *Legal Owner* *
Witzke Properties *
Contract Purchaser *
Petitioners *

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY
Case No. 2014-0059-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 Lawrence E. Schmidt, Esquire from Smith, Gildea & Schmidt, LLC on behalf of Candlelight Realty LLC, the legal owner, and Witzke Properties, contract purchaser ("Petitioners"). The Petition for Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to determine the applicability of the residential transition area (RTA) to an existing structure undergoing a change in use. A Petition for Special Exception was filed pursuant to B.C.Z.R. § 1B01.1.C.9 to permit a funeral establishment in a D.R. (residential) zone.

Finally, a Petition for Variance was filed pursuant to the B.C.Z.R. as follows: (1) to permit a residential transition area of 22 feet in lieu of the required 100 feet pursuant to § 1B01.1.B.1.a; (2) to permit an RTA buffer of 33 feet to a parking structure (garage) in lieu of the required 50 feet pursuant to § 1B01.1.B.1.e(5); (3) to permit a setback of 33 feet for a parking structure (garage) in lieu of the required 75 feet pursuant to § 1B01.1.B.1.e(5); and (4) to permit an RTA setback of 50 feet for a parking lot in lieu of the required 75 feet pursuant to § 1B01.1.B.1.e(5).

The subject property and requested relief is more fully depicted on the redlined site plan

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Date 11/25/13

By SLN

that was marked and accepted into evidence as Petitioners' Exhibit 1. Appearing in support of the requests was Craig Witzke, Mitch Kellman and John Mellema, Jr. Lawrence E. Schmidt, Esquire with Smith, Gildea & Schmidt, LLC, appeared as counsel and represented the Petitioners. Several members of the community attended the hearing, and their names are listed in the case file. The file reveals that the Petition was advertised and posted as required by the Baltimore County Zoning Regulations.

The only substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), and the State Highway Administration (SHA).

The subject property is approximately 6.63± acres in size and is zoned D.R. 5.5 and D.R. 2. For many years the Candlelight Inn restaurant was operated on the premises, and as many residents indicated, it was a beloved Catonsville institution that hosted many celebratory dinners and other special occasion gatherings. The restaurant has closed, and the Petitioners propose to convert the use to a funeral establishment, which requires zoning relief.

SPECIAL HEARING

The Petition for Special Hearing seeks a determination as to whether the Residential Transition Area (RTA) regulations apply in this case. As noted above, the zoning is residential (primarily D.R. 5.5), and as shown on the aerial photo (Exhibit 2) the site is surrounded (for the most part) by single family dwellings. In these circumstances, I believe the RTA regulations are applicable.

Petitioners' counsel notes that the Candlelight Inn was constructed long before the adoption of the B.C.Z.R., and is thus a legal nonconforming use and building that with the construction of the proposed garage would be enlarged by not more than 25% of the floor area. As such, under B.C.Z.R. § 104 it would arguably enjoy a "grandfathered" status and not be

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By SLN

subject to the RTA regulations, and the garage (which would be connected to the main building by a breezeway) would enjoy the same exemption. Even so, I believe this site possesses the requisite uniqueness (discussed below) and will therefore resolve the matter by way of the variance petition.

SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). In fact, as noted by counsel, the Schultz case also involved a funeral home in a residential zone, and the court noted that such a use is appropriate even though "there can be no doubt that an undertaking business has an inherent depressing and disturbing psychological effect which may adversely affect persons residing in the immediate neighborhood." Id. at 13. The Schultz standard was revisited in People's Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. Such evidence was not presented here, and thus the petition will be granted.

VARIANCES

Based upon the testimony and evidence presented, I will also grant the petition for variance. To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

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By Sen

The Petitioners have met this test. The site is nearly seven acres in size (6.63 acres $\pm$) and is of irregular shape. In addition, it is improved with a structure that is over 150 years old. As such, the property is unique.

If the B.C.Z.R. were strictly interpreted, the Petitioners would indeed suffer a practical difficulty, since they would be unable to operate the new business at this location or would need to raze the existing structure and construct a new building that complied with zoning setbacks, which is an unpalatable alternative. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

The Garage

At the outset, Petitioners noted that only interior modifications are being proposed, with the exception of a garage to be constructed behind the existing restaurant and covered pavilion area. The garage will be connected to the main building (as recommended by the DOP) and will be used to store funeral vehicles, supplies and for intake and transfer of human remains. The Petitioners explained the garage was proposed for this location (instead of elsewhere on the lot) since it was "tucked away" in a "notch" behind the main building and would provide privacy so as to shield these operations from public view.

Although there was little opposition to its proposed placement, several neighbors objected to a prefabricated metal building being used for the garage. As one neighbor put it, "there is no such thing as an attractive metal building." I would tend to agree, especially given the iconic nature of the Candlelight Inn. I do not however believe that my role is to decide upon the design and/or aesthetic treatment of proposed structures. This is a matter best left to the DOP and Petitioners; they can agree upon a design that will function as needed and enhance the

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Date 11/25/13

By Den

appearance of the site. Mr. Witzke indicated he was amenable to working with the DOP in this fashion.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the petitions for special hearing, special exception and variance shall be granted.

THEREFORE, IT IS ORDERED this 25th day of November, 2013, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to §500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), be and is hereby GRANTED, and it is determined the RTA regulations apply in this case.

IT IS FURTHER ORDERED that the Petition for Special Exception filed pursuant to the B.C.Z.R., to permit a funeral establishment in a D.R. zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance relief as follows: (1) to permit a residential transition area of 22 feet in lieu of the required 100 feet pursuant to § 1B01.1.B.1.a; (2) to permit an RTA buffer of 33 feet to a parking structure (garage) in lieu of the required 50 feet pursuant to § 1B01.1.B.1.e(5); (3) to permit a setback of 33 feet for a parking structure (garage) in lieu of the required 75 feet pursuant to § 1B01.1.B.1.e(5); and (4) to permit an RTA setback of 50 feet for a parking lot in lieu of the required 75 feet pursuant to § 1B01.1.B.1.e(5), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners must comply with the ZAC comment of the SHA.

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Date 11/25/13

By Sen

3. The Petitioners shall not operate a crematory on the subject premises.
4. The Special Exception granted herein must be utilized within two (2) years of the date hereof, unless extended by subsequent Order.
5. The Special Exception area in which all funeral establishment operations must take place shall be the 3.69 acre $\pm$ parcel delineated on the redlined site plan marked as Exhibit 1.
6. The Petitioners must submit for approval by the DOP building elevations of the proposed garage, to ensure that it is compatible with the neighborhood and existing improvements on site.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh

ORDER RECEIVED FOR FILING

Date 11/25/13
By slh

KEVIN KAMENETZ
County Executive



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

November 25, 2013

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

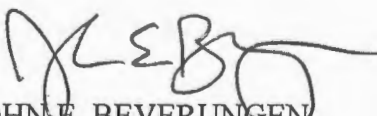
RE: Petitions for Special Hearing, Special Exception and Variance
Property: 1835 Frederick Road
Case No.: 2014-0059-SPHXA

Dear Counsel:

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:sln
Enclosure

c: Berchie Manley, 402 Montemar Avenue, Catonsville, Maryland 21228
Mary Tilghman, 3 Trotting Horse Ct., Catonsville, Maryland 21228
Christine Langr, 1703 Frederick Road, Catonsville, Maryland 21228
Bryan Lally, 1901 Frederick Road, Catonsville, Maryland 21228
Wayne Olson, 2115 Oaklodge Road, Catonsville, Maryland 21228



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 1835 Frederick Road which is presently zoned D.R. 5.5 and D.R.2
Deed References: 24804/00157 10 Digit Tax Account # 0103003161
Property Owner(s) Printed Name(s) Candlelight Realty, LLC

(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:

Witzke Properties

Name- Type or Print Witzke Properties
Signature [Signature]
9 Newburg Avenue, Suite 200 Catonsville MD
Mailing Address City State
21228 443-830-0310
Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print Lawrence E. Schmidt
Signature [Signature]
600 Washington Avenue, Suite 200 Towson MD
Mailing Address City State
21204 (410) 821-0070 lschmidt@sgs-law.com
Zip Code Telephone # Email Address

CASE NUMBER 2014-0059-SPHXA Filing Date 9, 5, 13

Legal Owners (Petitioners):

Candlelight Realty, LLC
Name #1 - Type or Print Name #2 - Type or Print
Signature #1 Signature #2
1835 Frederick Road Baltimore MD
Mailing Address City State
21228
Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print Lawrence E. Schmidt
Signature [Signature]
600 Washington Avenue, Suite 200 Towson MD
Mailing Address City State
21204 (410) 821-0070 lschmidt@sgs-law.com
Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING

Do Not Schedule Dates: 11/25/13 Reviewer JS
Date

REV. 10/4/11

By [Signature]

ATTACHMENT TO PETITION FOR ZONING HEARING

1835 Frederick Road

1st Election District

1st Councilmanic District

Special Hearing Relief:

1. To determine the applicability of the residential transition area to an existing structure undergoing a change in use pursuant to BCZR § 500.7; and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Special Exception Relief:

1. To permit a funeral establishment pursuant to BCZR § 1B01.1.C.9; and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Variance from Section(s):

1. In the alternative, to permit residential transition area of 22 feet in lieu of the required 100 feet pursuant to BCZR § 1B01.1.B.1.a(1); and
2. In the alternative, to permit an RTA buffer of 33 feet to a parking structure (garage) in lieu of the required 50 feet pursuant to BCZR § 1B01.1.B.1.e(5); and
3. In the alternative, to permit a setback of 33 feet for a parking structure (garage) in lieu of the required 75 feet pursuant to 1B01.1.B.1.e(5).
4. In the alternative, to permit an RTA setback of 50 feet for a parking lot, in lieu of the required 75 feet pursuant to BCZR § 1B01.1.B.1.e(5); and
5. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

JOHN C. MELLEMA SR., INC.
LAND SURVEYORS
5409 EAST DR. BALTO., MD. 21227
PHONE: 410-247-7488 FAX: 410-247-2507

ZONING DESCRIPTION
#1835 FREDERICK ROAD

BEGINNING AT A POINT ON THE SOUTH SIDE OF FREDERICK ROAD A 66 FOOT RIGHT OF WAY 60' SOUTHWEST OF CENTERLINE OF ROLLING ROAD. THENCE RUNNING ALON THE SOUTH SIDE OF FREDERICK ROAD SOUTHEASTERLY 391.6 FEET, THENCE LEAVING THE SOUTH SIDE OF FREDERICK ROAD AND RUNNING SOUTHWESTERLY 79.90 FEET, THENCE SOUTHEASTERLY 295.6 FEET, THENCE SOUTHEASTERLY 69.5 FEET, THENCE SOUTHEASTERLY 227.80 FEET, THENCE NORTHWESTERLY 445.6 FEET, THENCE NORTHWESTERLY 118.0 FEET, THENCE NORTHEASTERLY 595.3 FEET TO THE PLACE OF BEGINNING CONTAINING 6.35 ACRES OF LAND MORE OR LESS.

BEING ALL THE PROPERTY DESCRIBED IN A DEED DATED OCTOBER 6, 2006 BY AND BETWEEN CANDLE LIGHT INVESTMENTS INC. PARTIES OF THE FIRST PART AND CANDLELIGHT REALTY, LLC. PARTIES OF THE FIRST PART AND RECORDED IN BALTIMORE COUNTY MD. IN DEED LIBER 24804 FOLIO 157.



2014-0059-SP4XA

**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: 2014-0059-SPHXA

Petitioner: Candlelight Realty, LLC

Address or Location: 1835 Frederick Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Debbie Gaskins, Smith, Gildea & Schmidt, LLC

Address: 600 Washington Avenue, Suite 200, Towson MD 21204

Telephone Number: (410) 821-0070

Revised 2/20/98 - SCJ

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

No. **103440**

Date: **9/5/13**

PAID RECEIPT

BUSINESS ACTIVITY TYPE: 5
 9/04/2013 9/05/2013 11:40:55

RECEIPT # 492340 9/05/2013

Dept 5 520 ZONING VERIFICATION
 CF NO. 103440

Receipt Tot \$1,200.00

\$1,200.00 CF 1.00 CA

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					\$1200.00

Total: **\$1200.00**

Rec From: **CANDLELIGHT REALTY, INC**

For: **2014-0059 - SPHXA**

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 10/28/2013

Case Number: 2014-0059-SPHXA

Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. ~
WITZKE PROPERTIES ~ CANDLELIGHT REALTY

Date of Hearing (Closing): NOVEMBER 18, 2013

This is to certify under the penalties of perjury that the necessary sign(s)
required by law were posted conspicuously on the property located at:
1835 FREDERICK ROAD

The sign(s) were posted on: OCTOBER 27, 2013



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

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



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

October 31, 2013

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 October 29, 2013

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

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: # 2014-0059-SPHXA

1835 Frederick Road

S/S Frederick Road, opposite Rolling Road

1st Election District - 1st Councilmanic District

Legal Owner(s): Candlelight Realty, LLC

Contract Purchaser/Lessee: Witzke Properties

Special Hearing: to determine the applicability of the residential transition area to an existing structure undergoing a change in use, and for such other and further relief as may be required by the ALJ of Baltimore County. **Special Exception:** to permit funeral establishment and for such other and further relief as may be required by the ALJ. **Variance:** (in the alternative) to permit residential transition area of 22 feet in lieu of the required 100 feet; to permit an RTA buffer of 33 feet to a parking structure (garage) in lieu of the required 50 feet; to permit a setback of 33 feet for a parking structure (garage) in lieu of the required 75 feet; to permit an RTA setback of 50 feet for a parking lot, in lieu of the required 75 feet; and for such other and further relief as may be required by the Administrative Law Judge.

Hearing: Monday, November 18, 2013 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.

JT 10/913 Oct. 29

955103

MEMORANDUM

DATE: December 27, 2013
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2014-0059-SPHXA - Appeal Period Expired

The appeal period for the above-referenced case expired on December 26, 2013. 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



KEVIN KAMENETZ
County Executive

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

September 25, 2013

NOTICE OF ZONING HEARING

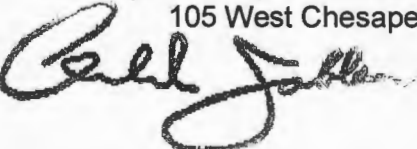
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1835 Frederick Road
S/s Frederick Road, opposite Rolling Road
1st Election District – 1st Councilmanic District
Legal Owners: Candlelight Realty, LLC
Contract Purchaser/Lessee: Witzke Properties

Special Hearing to determine the applicability of the residential transition area to an existing structure undergoing a change in use, and for such other and further relief as may be required by the ALJ of Baltimore County. Special Exception to permit funeral establishment and for such other and further relief as may be required by the ALJ. Variance (in the alternative) to permit residential transition area of 22 feet in lieu of the required 100 feet; to permit an RTA buffer of 33 feet to a parking structure (garage) in lieu of the required 50 feet; to permit a setback of 33 feet for a parking structure (garage) in lieu of the required 75 feet; to permit an RTA setback of 50 feet for a parking lot, in lieu of the required 75 feet; and for such other and further relief as may be required by the Administrative Law Judge.

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105 West Chesapeake Avenue, Towson 21204


Arnold Jablon
Director

AJ:kl

C: Lawrence Schmidt, 600 Washington Ave., Ste. 200, Towson 2104
Witzke properties, 9 Newburg Avenue, Ste. 200, Catonsville 21228
Candlelight Realty, 1835 Frederick Road, Baltimore 21228

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, OCTOBER 29, 2013.**
(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
Tuesday, October 29, 2013 Issue - Jeffersonian

Please forward billing to:

Debbie Gaskins
Smith, Gildea & Schmidt
600 Washington Avenue, 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:

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1835 Frederick Road
S/s Frederick Road, opposite Rolling Road
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Hearing: Monday, November 18, 2013 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.

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
SPECIAL EXCEPTION AND VARIANCE * OF ADMINISTRATIVE
1835 Frederick Road; S/S Frederick Road, *
opposing Rolling Road * HEARINGS FOR
1st Election & 1st Councilmanic Districts * BALTIMORE COUNTY
Legal Owner(s): Candlelight Realty, LLC *
Contract Purchaser(s): Witzke Properties *
Petitioner(s) * 2014-059-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 11 2013

.....

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 1th day of September, 2013, a copy of the foregoing Entry of Appearance was mailed to Lawrence Schmidt, 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

CASE NO. 2014-

0059
SPHXACHECKLISTSupport/Oppose/
Conditions/
Comments/
No CommentComment
ReceivedDepartment

9/13/13

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

N/C

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

FIRE DEPARTMENT

10/3/13

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

C

9/12/13

STATE HIGHWAY ADMINISTRATION

C

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

11/12/13

ADJACENT PROPERTY OWNERS

Ltr OF
SUPPORT

Letter from Michael Bryant

ZONING VIOLATION

(Case No. _____)

Ray + Deborah Paul 11/13
Part
Support / Part
objection

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date:

10/29/13

SIGN POSTING

Date:

10/27/13

by

O'Keefe

PEOPLE'S COUNSEL APPEARANCE

Yes

☒

No

☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes

☐

No

☐

Comments, if any: _____



KEVIN KAMENETZ
County Executive

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

November 14, 2013

Candle Light Inn LLC
1835 Frederick Road
Baltimore MD 21228

RE: Case Number: 2014-0059 SPHXA, Address: 1835 Frederick Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on September 5, 2013. 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
Witzke Properties, 9 Newburg Avenue, Suite 200, Catonsville MD 21228
Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson MD 21204

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



James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

Date: 9-12-13

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

RE: Baltimore County
Item No. 2014-0059-SPHXA
Special Hearing Special Exception
Variance
Condelight Realty LLC
1835 Frederick Road
MD144

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 9-9-13. A field inspection and internal review reveals that an entrance onto MD144 consistent with current State Highway Administration guidelines is required. As a condition of approval for Variance, Case Number 2014-0059-SPHXA the applicant must contact the State Highway Administration to obtain an entrance permit.

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 E-mail him at (rzeller@sha.state.md.us). Thank you for your attention.

Sincerely,

Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

\cc: Mr. Michael Pasquariello, Utility Engineer, SHA
Mr. David Peake, District Engineer, SHA

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Michael J. Bryant
25 N. Rolling Rd.
Catonsville, MD 21228

November 12, 2013

Office of Zoning
Room 111
111 West Chesapeake Ave.
Towson, MD 21204

RE: Case # 2014-0059-SPHXA

I am a resident living within a few blocks of the Candle Light Inn, the subject of the referenced zoning hearing. I would like to register my support of the proposed changes. We have lived in this location since 1986 and are very committed to the Catonsville area. It is very important that properties remain occupied even as uses change due to the economy.

Thank you for your consideration.



Michael J. Bryant

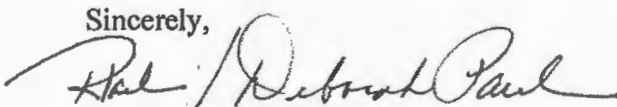
November 13, 2013
Ms. Kristen Lewis
Zoning Office
Room 105
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Lewis:

We are submitting comments regarding Case #2014-0059-SPHXA, Candlelight Restaurant, 1835 Frederick Road. A zoning hearing is scheduled for November 18, 2013 and we will be unable to attend. This property borders ours (3 S. Hilltop Road) and the proposed Special Exceptions and Variances will impact us. The Candlelight property is 6.35 acres. We have no objection to the Variance request to permit a residential transition area of 22 feet in lieu of the required 100 feet because the covered pavilion is existing and does not detract from the neighborhood aesthetics. However, we do object to the request to permit an RTA buffer of 33 feet to a parking structure (garage) in lieu of the required 75 feet and the request to permit an RTA setback of 50 feet for a parking lot, in lieu of the required 75 feet.

The parking garage proposed is extremely large (40' x 55') and would be an unsightly addition to the neighborhood in the location proposed. Currently, this is a grass area next to the pavilion with trees and would be a pleasant space for grieving persons to relax and meditate. The property already has a large paved area behind the existing building that would be a more appropriate location and would not require approval of a variance. We also object to decreasing the RTA setback for a parking lot to 50 feet instead of 75 feet. Again there is ample property to expand the parking areas without moving them closer to residential property. Since there does not seem to be any compelling reasons for approving the variances, we request that the Zoning Board respect the privacy of long term residents who have lived in the adjoining properties and deny these requests.

Sincerely,



Ray and Deborah Paul
3 S. Hilltop Road
Catonsville, Maryland 21228

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: October 3, 2013

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED

OCT 04 2013

SUBJECT: 1835 Frederick Road

Item Number: 14-059

OFFICE OF ADMINISTRATIVE HEARINGS

Petitioner: Candle Light Realty, LLC

Zoning: DR 5.5, DR 2

Requested Action: Special Hearing, Special Exception, Variance

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner is seeking a Special Hearing to determine the applicability of the residential transition area to an existing structure undergoing a change in the use pursuant to section 500.7 of the BCZR. The petitioner is also seeking a special exception to permit a funeral establishment. Lastly the petitioner is seeking variance requests for the following:

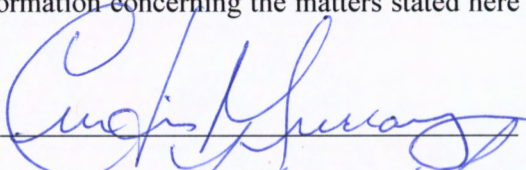
- In the alternative to permit residential transition area of 22 feet in lieu of the required 100 feet
- In the alternative to permit a RTA buffer of 33 feet to a parking structure (garage) in lieu of the required 50 feet and 75 feet respectively
- In the alternative, to permit an RTA setback of 50 feet for a parking lot, in lieu of the required 75 feet

Planning does not object to the petitioner's Special Hearing request for the existing structure and the petitioner's Special Exception request to permit a funeral establishment. Planning also does not object to the RTA variance requests for the existing structure and proposed garage. However, it appears that the proposed garage could be located outside of the 75-foot building setback and the 50-foot buffer to residential could be maintained. The petitioner should also strongly consider attaching the proposed accessory structure to the principal building.

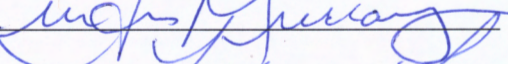
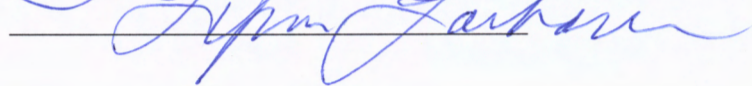
Planning does have the following comments regarding the petitioner's requests:

1. Submit elevations of any proposed changes to the existing building.
2. Submit elevations of the proposed garage and state the height of the structure.

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

Prepared By: 

Division Chief:
AVA/LL:cjm

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: September 13, 2013

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

SUBJECT: Zoning Advisory Committee Meeting
For September 16, 2013
Item No. 2014-0047, 0048, 0049, 0050, 0051, 0052, 0054, 0055, 0056,
0057, 0058 and 0059

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

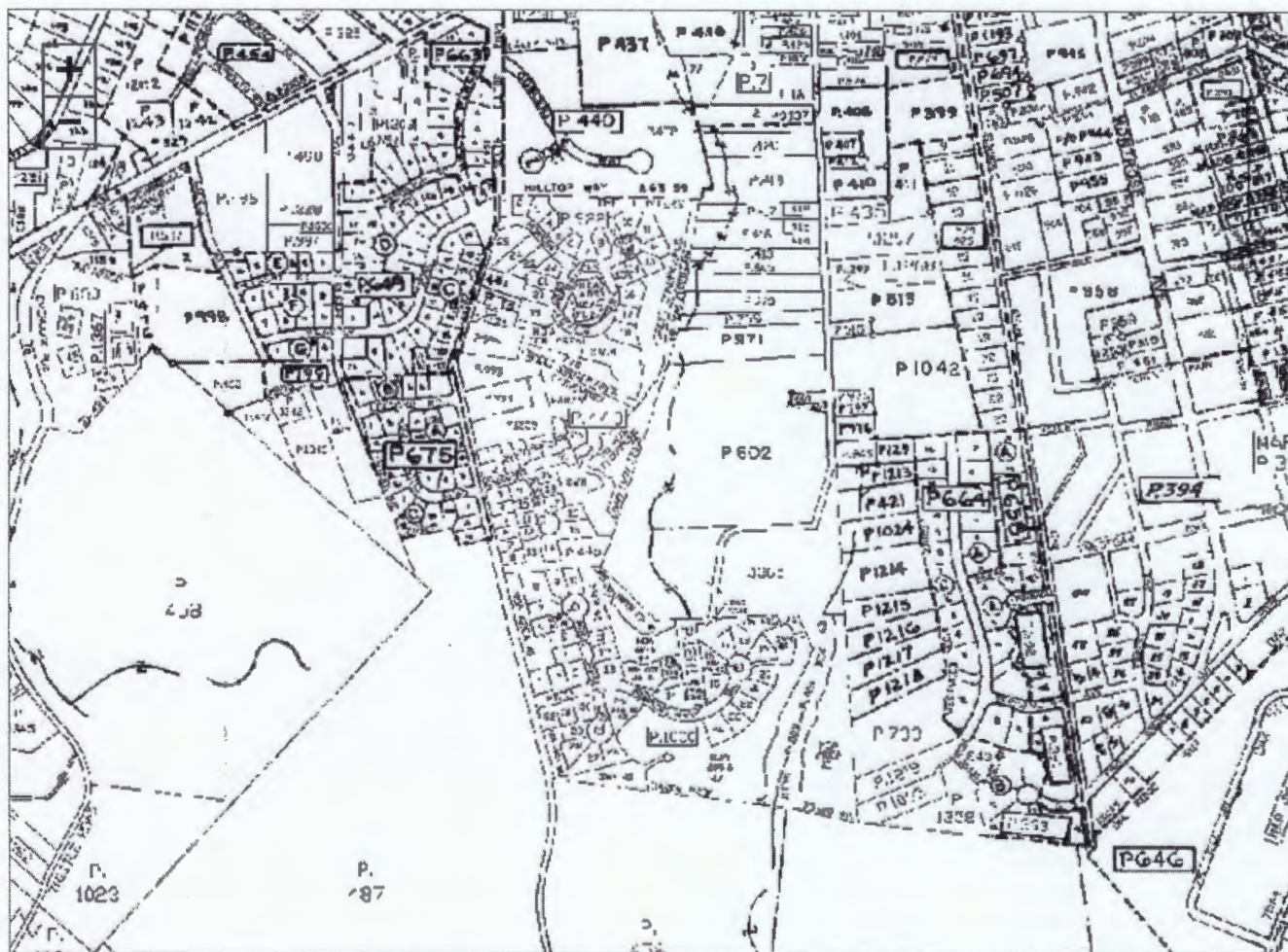
DAK:CEN
Cc: file

Real Property Data Search (w1)

Search Result for BALTIMORE COUNTY

<u>View Map</u>	<u>View GroundRent Redemption</u>	<u>View GroundRent Registr</u>
Account Identifier:	District - 01 Account Number - 0103003161	
Owner Information		
Owner Name:	CANDLELIGHT REALTY LLC	Use: COMMERCIAL
Mailing Address:	1835 FREDERICK RD BALTIMORE MD 21228-5516	Principal Residence: NO Deed Reference: 1) /24804/ 00157 2)
Location & Structure Information		
Premises Address:	1835 FREDERICK RD 0-0000	Legal Description: 6.208 AC 1835 FREDERICK RD 400FT E OF HI
Map: 0100	Grid: 0012	Parcel: 0437
Sub District:	Subdivision: 0000	Section:
Block:	Lot:	Assessment Year: 2012
Special Tax Areas:	Town: NONE	Ad Valorem:
Primary Structure Built 1850	Above Grade Enclosed Area 8320	Finished Basement Area
Stories	Basement	Property Land Area 6.2100 AC
Type RESTAURANT	Exterior	Full/Half Bath
Garage	Last Major Renov	
Value Information		
	Base Value	Value
		As of
		01/01/2012
Land:	591,200	591,200
Improvements	357,900	335,800
Total:	949,100	927,000
Preferential Land:	0	0
Transfer Information		
Seller: CANDLE LIGHT INVESTMENTS INC	Date: 11/22/2006	Price: \$830,000
Type: ARMS LENGTH IMPROVED	Deed1: /24804/ 00157	Deed2:
Seller: CATONSVILLE COUN TRY CLUB INC	Date: 03/07/1977	Price: \$145,000
Type: ARMS LENGTH IMPROVED	Deed1: /05730/ 00955	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	07/01/2013
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00
Tax Exempt:	Special Tax Recapture:	
Exempt Class:	NONE	
Homestead Application Information		
Homestead Application Status: No Application		

Baltimore County

[New Search \(http://sdat.resiusa.org/RealProperty/\)](http://sdat.resiusa.org/RealProperty/)District: **01** Account Number: **0103003161**

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 (<http://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 (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).



(<http://imsweb05.mdp.state.md.us/website/mosp/>)

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PLEASE PRINT CLEARLY

CASE NAME Witzke
CASE NUMBER 2014-59-SPHKA
DATE 11/18/13

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Michael Eayle	1222 Stevens Ave	Arbutus, MD 21227	meayle2@gmail.com
Jennifer Parker	217 Montrose Ave.	Catonsville, MD 21228	KPbigdog@comcast.net
George Brookhart	6123 Northdale Road 21228	Catonsville, MD. 21228	george.brookhart23@gmail.com
Robert Donohue	8132 RIVERSIDE DR	PASADENA, MD 21122	BOB.DONOHUE@AOL.COM
MARK LEONE	525 J Columbia RD	Columbia MD 21044	MARKLEONE@MRS.COM
RUSSELL WITZKE	12 Old GRANARY CT 21228	CATONSVILLE MD. 21228	RWITZKE21228@YAHOO.COM
James Coronado	2205 Fred. Rd	Cotonsville 21228	JHCoronado@gmail.com
Keith Lowe	303 Waveland Rd	Catonsville MD 21228	lowe Keith 510 yahoo.com
JOHN C. MELLEMA JR	5409 EAST DR.	BALTO. MD. 21227	JCMCS@VERIZON.NET
Timothy Pyle	6122 Moorcroft RD	CATONSVILLE MD 21228	pyle4@verizon.net
Craig Witzke	1704 Park. Grove Ave	Catonsville MD 21228	CW3151@yahoo.com
TOM WETTERN	2205 Frederick Rd	Catonsville MD 21228	twidinitris@aol.com
Mitch Kellman	200 E. Pennsylvania Ave	Towson, MD 21286	mickellman@dmw.com
Jeff Hinton	1878 McDuffet	Sykesville, MD 21784	jeff@homegamers.net
Lisa Wetherm	2205 Frederick Rd	Catonsville md 21228	Lisa Wetherm
CAHONCE E SCHMIDT	600 Washington Ave	TOWSON, MD 21228	schmidt@sps-law.com
Charles B Marek II	" "	" "	cmarek@sps-law.com

CASE NAME Candlelight Inn
CASE NUMBER 2014-0059-SPHXA
DATE 11-18-13

[illegible]

Case No.: 2014-0059-SPHXA

Exhibit Sheet

Petitioner/Developer

Protestant

190
12-27-13

SEN
11-25-13

No. 1	2 Plan (redlined)	
No. 2	Aerial photo	
No. 3	3A-30 Color photos	
No. 4		
No. 5		
No. 6		
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No. 8		
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No. 10		
No. 11		
No. 12		

ZONING NOTICE

CASE # 2014-0059-SPHXA

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

ROOM 205, JEFFERSON BUILDING
105 W. CHESAPEAKE AVE. TOWSON, MD 21204

DATE AND TIME: MONDAY, NOVEMBER 18, 2013
AT 1:30 P.M.

SPECIAL HEARING TO DETERMINE THE
APPLICABILITY OF THE RESIDENTIAL ZONING
AREA TO AN EXISTING 40,000 SQ. FT. BLDG.
AREA TO BE USED AS A DAY CARE CENTER
A CHANGE FROM RESIDENTIAL ZONING
FURTHER INFORMATION IS AVAILABLE AT THE

ZONING NOTICE

CASE # 2014-0059-SPHXA

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THE ZONING COMMISSIONER
IN TOWSON, MD

ROOM 205, JEFFERSON BUILDING
105 W. CHESAPEAKE AVE. TOWSON, MD 21204

DATE AND TIME: MONDAY, NOVEMBER 18, 2013
AT 1:30 P.M.

VARIANCE IN THE RESIDENTIAL ZONING
AREA TO BE USED AS A DAY CARE CENTER
A CHANGE FROM RESIDENTIAL ZONING
FURTHER INFORMATION IS AVAILABLE AT THE

ZONING NOTICE

CASE # 2014-0059-SPHXA

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105 W. CHESAPEAKE AVE. TOWSON, MD 21204

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AT 1:30 P.M.

VARIANCE IN THE RESIDENTIAL ZONING
AREA TO BE USED AS A DAY CARE CENTER
A CHANGE FROM RESIDENTIAL ZONING
FURTHER INFORMATION IS AVAILABLE AT THE































PDM # 010327
Pt. Bk./Folio # 057022
PARCEL F

PARCEL E 0119072330

53767 - 19920276

53769 - 20010525

53759 - 19960337

Pt. Bk. 0000057, Folio 0022

DR 3.5

DR 2

DR 3.5

53773 - 19584411
53773 - 20000175

FREDERICK RD

FREDERICK RD

1 CD
SW 3-G
DR 5.5

100C2
1 ED

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CONCERT WAY
PHILBAR CT

OPEN SPACE
CONCERT WAY

SWMR

Lot # 0 Forest Conservation Reservation
2400009589

RC 8

51302 - 20040382

DR-2

DR 3.5

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NOT DR 11

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SDR 12

LEGEND

- UTILITY POLE
- FIRE HYDRANT
- WATER METER
- SANITARY MANHOLE
- SIGN

EDGE OF WOODS

GUARD RAIL

FENCE

ZONING LINE

* DENOTES SPOT RESERVED FOR FUNERAL VEHICLES

LOT 1
#1901

PARCEL 438
"LALLY SUBDIVISION"
E.H.K. JR. 44 FOLIO 25

LOT 2
RAY C. PAUL
DEBORAH PAUL
DEED REF.: 27574/469
TAX NO. 01-1800007833

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LOT 34

PARCEL 440
"HILLTOP WAY"
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LEGEND

- UTILITY POLE
- FIRE HYDRANT
- WATER METER
- SANITARY MANHOLE
- SIGN

EDGE OF WOODS

GUARD RAIL

FENCE

ZONING LINE

* DENOTES SPOT RESERVED FOR FUNERAL VEHICLES

LOT 1
#1901

GAY LALLY
DEED REF.: 8061/573
TAX NO. 01-1800007832

PARCEL 438
"LALLY SUBDIVISION"
E.H.K. JR. 44 FOLIO 25

LOT 2
#3

RAY C. PAUL
DEBORAH PAUL
DEED REF.: 27574/469
TAX NO. 01-1800007833

LOT 35

MICHAEL CORNELIUS
BRENDA K. CORNELIUS
DEED REF.: 10502/085
TAX NO. 01-2200008050

LOT 33

STEPHEN B. DEITZ
WENDY HAUBERT
DEED REF.: 25954/190
TAX NO. 01-2200008049

LOT 32

JOHN L. SCAVILLA JR.
MARY SPRANKLE SCAVILLA
DEED REF.: 10808/084
TAX NO. 01-2200008048

LOT 31

JOHN L. TUCKER JR.
JOANN I. TUCKER
DEED REF.: 9498/590
TAX NO. 01-2200008047

LOT 30

PETER J. WEBER
EILEEN E. WEBER
DEED REF.: 9901/501
TAX NO. 01-2200008046

LOT 29

ALBERT WILLIAM FORD JR.
NANCY T. FORD
DEED REF.: 14419/036
TAX NO. 01-2200008045

LOT 26

BRIAN R. LYNCH
JENNIFER M. LYNCH
DEED REF.: 27459/237
TAX NO. 01-2200008042

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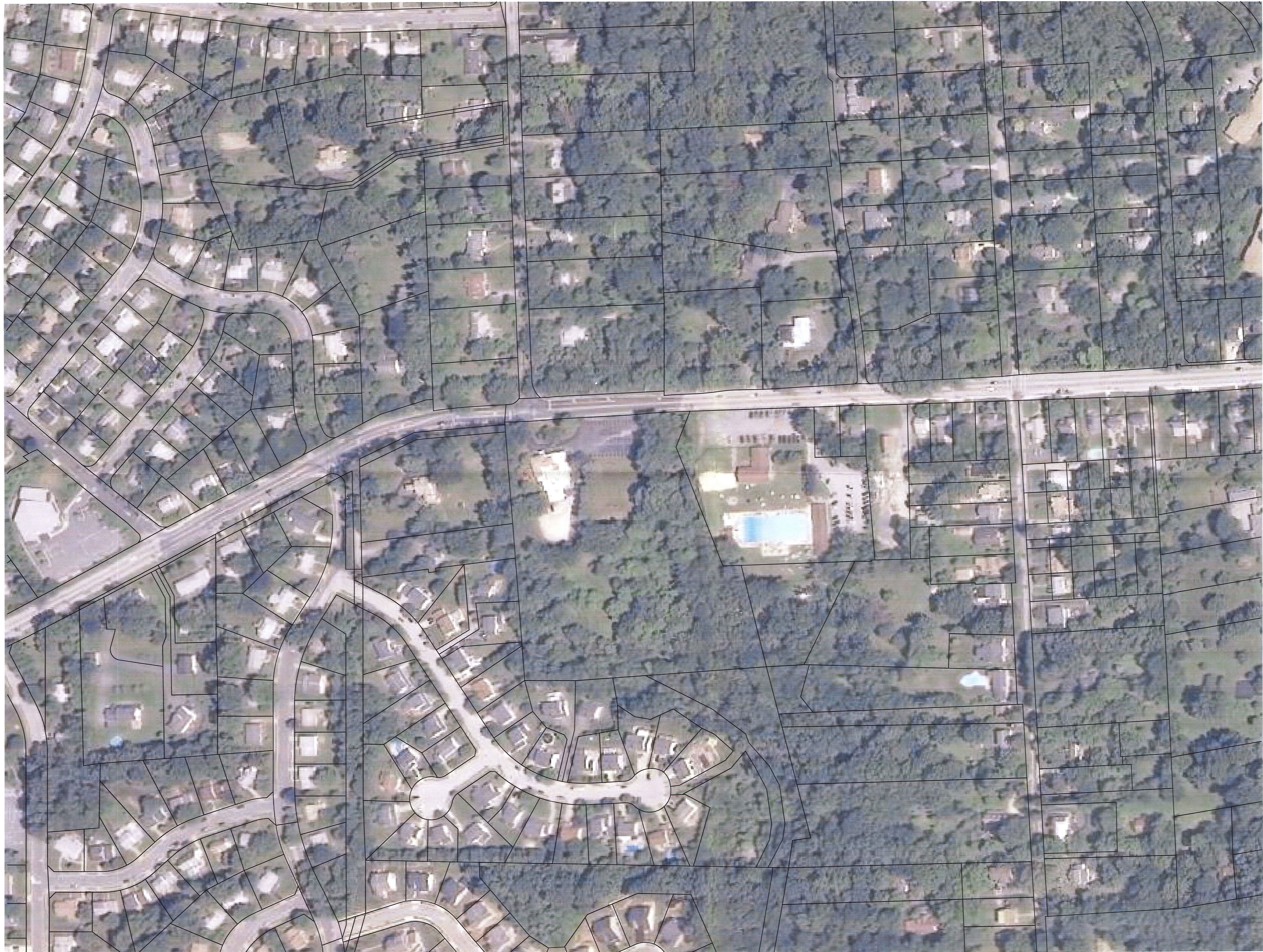
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LOT 2221

LOT 2223

LOT 222

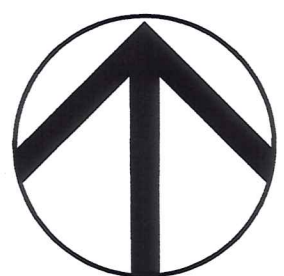


DATA SOURCES:

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A TEAM OF LAND PLANNERS, LANDSCAPE ARCHITECTS,
ENGINEERS, SURVEYORS & ENVIRONMENTAL PROFESSIONALS

Zoning Exhibit
1835 Frederick Road

BALTIMORE COUNTY, MARYLAND
SEAL



Ref 2

DATE	BY	REVISIONS

ISSUE DATES		BASE:
REVIEW:		DRAWN: CRH
BID:		DESIGNED:
PERMIT:		CHECKED BY:
CONSTRUCTION:		DATE CHECKED:
SCALE:	1"=100'	DRAWING:
PROJECT NO.:	13048	1 of 1

*****SYTIME*****
*****DGNTEC*****