IN THE MATTER OF REVEREND LUCY WARE - LEGAL OWNER AND PETITIONER FOR SPECIAL HEARING ON THE PROPERTY LOCATED AT 4512 OLD COURT ROAD	*	BEFORE THE BOARD OF APPEALS OF
2ND ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	BALTIMORE COUNTY
	*	Case No. 14-064-SPH

* * * * * * * * * * * * *

OPINION

This matter comes to the Board of Appeals of Baltimore County ("Board") on remand from the Circuit Court for Baltimore County.

FACTUAL BACKGROUND

In 2012, Reverend Lucy Ware purchased the property at 4512 Old Court Road after learning that a church is a permitted use in the D.R. (Density Residential) 3.5 zone. She intended to use the property for her church, Jesus Christ is the Answer Ministries, which she founded in 1997.

The property is a 1.2± acre parcel improved by a dwelling, and located in the northwest area of Baltimore County. Old Court Road is a heavily travelled four-lane road, and the property is near where Old Court Road passes over the Baltimore Beltway and is in close proximity to other religious and institutional uses.

A church is a use permitted by right in the D.R. zones, but under the Residential Transition Area ("RTA") provisions of the Baltimore County Zoning Regulations ("BCZR"), it is subject to setbacks and buffers and is expected to be compatible with the character and general welfare of the surrounding residential premises. The plan should comply with the RTA regulations "to the extent possible." BCZR 1B01.1B1g(6)

The subject property is improved by a dwelling that appears to have had several additions

over the years. It is adjoined by other dwellings on both sides and to the rear.

HISTORY OF THE CASE

WARE I

In 2013, Reverend Lucy Ware, pastor of Jesus Christ is the Answer Ministries, filed a petition for Special Hearing to use the property at 4512 Old Court Road as church, seeking approval to allow a new church within the RTA per BCZR section 1B01.1B1g(6); to allow an RTA buffer of 28 feet in lieu of the required 50 feet per section 1B01.1e(5); to allow an RTA setback of 28 feet in lieu of the required 75 feet and to permit parking spaces within the setback; and to find that the plan demonstrates compliance to the extent possible with section 1B01.1B1g(6).

After a public hearing, the Administrative Law Judge (ALJ) denied the petition. Neighbors attended the hearing, participated and were opposed to the petition. Ware appealed the ALJ decision to this Board, who also denied the petition. The Circuit Court and Court of Special Appeals affirmed the Board's decision.

WARE II

While Ware I was pending appeal, Ware filed a second petition with changes to the site plan that moved the parking to comply and increased the setback and buffers. Also requested was approval of an addition to an existing church. Otherwise, the relief was the same as in Ware I.

The ALJ denied the petition as barred by res judicata, as did this Board on appeal.

Ware then filed suit in Federal District Court alleging that the dismissal violated the Religious Land Use and Institutionalized Person Act (RLUIPA) 42 U.S.C. §2000cc et seq., as well as constitutional violations. The United States District Court dismissed the case, though it found that the modified site plan differed substantially from that filed in Ware I. At that time, Ware filed an appeal of the Board of Appeals decision to the Circuit Court for Baltimore County.

On appeal to the Fourth Circuit, that court found that a government decision influenced by community members' religious bias is unlawful, even if the government decision makers display no bias themselves. Based on RLUIPA's broad protections, on February 7, 2019, the Fourth Circuit vacated the District Court judgment and remanded the case for further proceedings before the United States District Court.

On February 8, 2019, the Circuit Court for Baltimore County reversed the Board decision dated September 13, 2017 and remanded Ware II for further proceedings. The Board proceeds on the remand from the Circuit Court for Baltimore County.

CURRENT CASE

On remand, the Board held a *de novo* hearing on July 16, 2019. Appearing at the hearing with Reverend Ware were Lawrence E. Schmidt, Esquire, of Smith, Gildea and Schmidt, LLC, and Bruce E. Doak, a licensed surveyor. No one appeared in opposition.

Mr. Doak, who was accepted as an expert in surveying and Baltimore County zoning matters, testified that the proposed plan satisfies the RTA buffers of 50 feet on three sides of the property; the existing structure protrudes into the buffer and setback on the northeast side of the property, thus reducing the possibility of a larger buffer. The RTA setback in the rear of the property is 72.7 feet rather than 75 feet, but that is as close to the existing building as parking can be established to comply with the BCZR. The setback on the southwest side of the site is 97 feet, but is crossed by the drive aisle serving the parking area. The front setback is not met because of the proposed drive aisle and parking, but not by any building improvements. Other than where the existing structure sits, no building improvements are proposed in the setback areas.

All proposed parking meets the requirement of the BCZR, as does a proposed addition to the building. Mr. Doak felt that the proposed addition would add to the general residential appearance of the building, which currently suffers from ill-matched older additions.

Mr. Doak introduced exhibits showing the locations of at least four other religious institutions within a 2,000 feet radius of the site.

It was Mr. Doak's opinion that the plan and improvements are consistent with other religious uses and compatible with the surrounding residences in the area. Mr. Doak presented photographs of the site and of the nearby and adjoining properties. He also pointed out where landscaping and fencing would be added to the edges of the property, providing additional buffering.

Mr. Schmidt called Reverend Lucy Ware to testify. Reverend Ware, the senior pastor at the church, stated that she acquired the property in 2012. She has led the congregation since 1997, and stated that it consists of thirty to forty adults and children. The church is a nondenominational Christian church, holding services and bible study on Sundays. Other activities at the church include choir practice and prayer meetings during the week. Holiday and life cycle events are celebrated as well. The church offers tutoring programs in math and science for students in area schools, as well as service programs to assist seniors and the elderly. There is no alcohol allowed at the church and there are no employees other than Ms. Ware. Ms. Ware further testified that there will be no outdoor amplified music.

STANDARD OF REVIEW

The Baltimore County Zoning Regulations provide that a new church is a use permitted within the Residential Transition Area ("RTA"), subject to certain findings. (BCZR §1B01.1.B.1g(6).

A new church in the RTA is a permitted exception, provided that there are findings that the proposed improvements are planned in such a way that compliance with the RTA use requirements will be maintained "to the extent possible" and that the use " is expected to be compatible with the character and general welfare of the surrounding residential premises."

The appropriate standard of review is whether there is substantial evidence from the record as a whole on which the Board can reach a conclusion. *Eller Media Co. v. Mayor of Baltimore*, 141 Md. App. 76, 84 (2001). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Md. State Police v. Warwick Supply & Equip. Co., Inc.*, 330 Md. 474, 494, 624 A.2d 1238, 1248 (1993)

DISCUSSION

The Board first determined that the proposed use is that of a new church under BCZR §1B01.1B.1(g)6., since the property had not been used as a church prior to Reverend Ware's acquisition. The testimony of Mr. Doak was persuasive that compliance was achieved to the extent possible; the only way to be more compliant would be to remove portions of the existing structure, and to do so would render the buildable area of the site insufficient to support a permitted use. Where the RTA buffers and setbacks were less than those stated in the BCZR, such deficiencies were created by the location of the existing structure, or in the case of the rear yard, by the need to comply with the BCZR parking regulations.

Mr. Doak also testified that the structure will be improved by a small addition that will render the current somewhat awkward building to have a more pleasing residential appearance. Parking will be primarily in the rear of the property, thus keeping the street view of the property consistent with adjoining residential properties. The property will also be enhanced by additional landscaping, particularly between the subject property and neighboring residences, thus minimizing impacts on adjoining residences. Photographs and site plans supported Mr. Doak's testimony, which was un-contradicted.

Further, Reverend Ware indicated that the congregation is small and that other than her, the church has no employees; activities will be limited to prayer, study and community support services, including tutoring and assistance to the elderly.

The Board also took note that Old Court Road at this location is a heavily travelled road in close proximity to the Baltimore Beltway (I-695), and as such, locating the church on this road is more appropriate than on a side or interior street.

CONCLUSION

Based on the testimony and evidence presented to the Board and the discussion herein, the County Board of Appeals will approve the petition, subject to certain conditions consistent with the goals of the RTA regulations.

The request for relief under Section 1B01.1.g(4) to approve an addition to an existing church is dismissed as moot.

ORDER

THEREFORE, IT IS THIS 16th day of October, 2019 by the Board of Appeals of Baltimore County hereby,

ORDERED, that the petition for special hearing to approve the site plan for a new church at 4512 Old Court Road is hereby granted subject to the following conditions:

1. Prior to constructing improvements to the existing structure, Petitioner shall submit architectural plans to the Office of Planning to assure that the building retain a residential appearance;
2. Any sign on the property shall comply with BCZR §450;
3. Exterior lighting shall be limited to security lighting and shall be directed away from adjoining residences;
4. Petitioner shall install planting on the southwest property line in a manner that will screen the subject property from the adjoining residence.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Kendra Randall Jolivet, Panel Chair

Deborah C. Dopkin

Joseph L. Evans

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
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TOWSON, MARYLAND, 21204
410-887-3180
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October 16, 2019

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

RE: *In the Matter of: Reverend Lucy Ware – Legal Owner/Petitioner*
Case No.: 14-064-SPH

Dear Mr. Schmidt:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure

c: See Distribution List Attached

c: Reverend Lucy Ware
Jimmie and Barbara Roberson
Tom and Ruthanne Otto
Barry and Sylvia Powell
Gayle Emerson
Lillian Nolley
Linda Miller
Tim and Peggy Lang
Wade Young, II
Dale Watkins
Jeffrey and Rathea Mims
Al and Evelyn Michel
R. Eddie Daniels
Clyde and Muriel Lyles
Ella Green
Reverend Ervin Dantzler
Office of People's Counsel
Paul Mayhew, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Reverend Lucy Ware 14-064-SPH

DATE: September 12, 2019

BOARD/PANEL: Kendra Randall Jolivet, Panel Chair
Deborah C. Dopkin
Joseph L. Evans

RECORDED BY: Sunny Cannington/Administrator

PURPOSE: To deliberate the following:

Petition for Special Hearing to approve the site plan for a new church; and to approve an addition to a church including the parking areas and driveways.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board noted the history of this matter and announced that while they are aware of the history of this matter, their opinion is based solely on the evidence and testimony presented at the July 2019 de novo hearing. The Board noted that no one appeared in opposition to this matter.
- The Board discussed that the subject property is located in a DR zone. Churches are permitted by right in a DR zone but they are subject to RTA regulations. The Board noted that the property as it is, does not meet the RTA regulations. The Board discussed that the BCZR requires a finding that the church comply with the RTA as much as possible. The Board determined that site plan as submitted at the July 2019 hearing, satisfies the RTA as much as possible.
- The Board discussed that there is a BCZR §1B01.1.B.1.g(4) provision for an existing church which enumerates certain restrictions and there is a BCZR §1B01.1.B.1.g(6) provision for a new church with certain restrictions. The Board determined this matter falls under the g(6) provision. The Board determined that the church is permitted on the subject property.
- The Board discussed conditions for the approval of this property as a church. The Board determined that they will impose conditions including, but not limited to, screening/landscaping, lighting, and signs.
- The Board discussed whether the conditions as discussed would violate RLUIPA and they determined that they can't see any way these conditions would violate RLUIPA as the conditions do not hinder the religious use of the property.

CONCLUSION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the relief requested in the Petition for Special Hearing, with conditions.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

/s
Sunny Cannington

IN THE MATTER OF	*	IN THE CIRCUIT COURT
LUCY WARE	*	FOR BALTIMORE COUNTY
	*	Case No. 03-C-18-004007

* * * * *

MEMORANDUM OPINION

This matter is before the Court on a Petition for Judicial Review filed by the Petitioner, Reverend Lucy Ware. The Court has considered the Petition, the Opinion of the Board of Appeals for Baltimore County dated September 13, 2017, the administrative record, and the Petitioner's Memorandum In Support of Petition for Judicial Review. No Memorandum in opposition was filed. While one interested party appeared for the hearing on the administrative appeal set for February 6, 2019, no opposition to the requested relief was stated.

I. Factual Background

Reverend Lucy Ware is the pastor of the Jesus Christ is the Answer Ministries congregation. Reverend Ware purchased a home located at 4512 Old Court Road in Baltimore County on August 31, 2012. The property is located in a residential area that is zoned DR 3.5 (Density Residential, 3.5 dwelling units per acre). A church is a permitted use by right within a DR 3.5 zone. Reverend Ware proposed to convert an existing building into a church building.

Reverend Ware and her congregation were initially advised by Baltimore County Zoning Office personnel that the proposed church was subject to the County's Residential Transition Area ("RTA") requirements. Reverend Ware filed Petitions for Special Hearing and Variance with the Office of Administrative Hearings (hereinafter referred to as "the Ware I Litigation"). The Petition for Special Hearing requested relief to allow Reverend Ware's church on the property, and also requested approval of reduced RTA buffers and setbacks for the building and

parking area. The Petition for Variance sought relief relating to the proposed parking area. Following a hearing before a County Zoning Commissioner, Reverend Ware's Petitions were denied. This decision was affirmed after a de novo hearing before the Board of Appeals, by the Circuit Court on a Petition for Judicial Review, and by the Court of Special Appeals. *See, Ware v. People's Counsel,* 223 Md. App. 628 (2014).

While the appellate process in the Ware I Litigation was pending, Reverend Ware filed the Petition that is the subject of this litigation with the Office of Administrative Hearings. (hereinafter referred to as "the Ware II Litigation"). Initially the Petition in the Ware II Litigation requested a special hearing for a new church and to approve reduced setbacks and buffers. However Reverend Ware amended her Petition and plan and proposed building an addition to the existing structure. Additionally, the amended Petition requested an exception from the RTA requirements pursuant to BCZR §1B01.1.B.1(g)(4), which was not addressed in the Ware I Litigation.

The Baltimore County Office of People's Counsel moved to intervene in this case and filed a motion to dismiss the Ware II Litigation based upon res judicata principles. The ALJ granted this motion without a hearing or response from Reverend Ware. Reverend Ware filed a request for reconsideration, which was denied, and the matter was appealed to the Board of Appeals on January 9, 2014. People's Counsel again filed a motion to dismiss the Ware II Litigation with the Board of Appeals. The Ware II Litigation was then stayed while the Ware I Litigation was on appeal.

On November 30, 2016, individual Protestants adopted the People's Counsel's Motion to Dismiss the Ware II Litigation. However on March 30, 2017, the People's Counsel withdrew his motion to dismiss under res judicata principles, stating, "Upon review of the record, in view of

differences between the present petition and the previous petition, our office chooses hereby to withdraw its motion to dismiss relating to the res judicata doctrine."

The Board of Appeals continued its consideration of the Ware II Litigation and held a hearing on the motion to dismiss on May 11, 2017. By opinion dated September 13, 2017, the Board granted the motion to dismiss, holding that the Ware II Litigation was barred by res judicata and collateral estoppel. The Board stressed that issues now raised in the Ware II Litigation could have been raised in the Ware I Litigation. Ultimately the Board held:

> The facts in Ware I and Ware II concern the same Petitioner, regarding the same property, and same proposed conversion of a single-family residence into a church. The issues related to the application of the RTA regulations and the generation of the RTA and required buffers and setbacks, as well as potential exclusions are present in both. The only difference is that Petitioner, once denied in Ware I as a new church, wants a second bite as under the theory it is an existing church.
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> ***
>
> Therefore, the issue of whether the church was new or existing was decided in Ware I. In that case, the Board determined that the Petitioner's request for a new church on this property should be denied. For the doctrine of collateral estoppel to apply, the probable fact-finding that undergirds the judgment used to estop must be scrutinized to determine if the issues raised in that proceeding were actually litigated, or facts necessary to resolve the pertinent issues were adjudicated in that action.
>
> ***
>
> In conclusion, Petitioner could have brought the claim that her property was a valid, legally existing church to avail herself of at the time of Ware I, whether solely or in the alternative. The failure to do so bars her claim pursuant to the doctrine of res judicata. Even in the absence of res judicata, Petitioner's claim is barred by collateral estoppel as Petitioner sought validation of her property as a new, legal church but, the Board in Ware I specifically denied her request. For that reason as well, Petitioner's claims in Ware II are barred.

(citations omitted).

Reverend Ware also filed suit in the United States District Court for the District of Maryland against Baltimore County and the Board of Appeals under the Religious Land Use and Institutionalized Persons Act of 20000 ("RLUIPA"), 42 U.S.C. §2000 et. seq. Baltimore County

and the Board of Appeals filed a motion to dismiss the RLUIPA Litigation, which was ultimately granted by the Honorable Richard D. Bennett on March 27, 2018. Judge Bennett's memorandum opinion included an analysis of the res judicata implications that the Ware I Litigation had on subsequent claims. Ultimately Judge Bennett concluded:

> [T]he Complaint asserts that Ware II proposes a different site plan than Ware I. Specifically, Ware II proposes a 50-foot buffer and setbacks to the north, east and west that either completely or substantially comply with the zoning requirements of the BCZR.... The changes in Ware II prevent res judicata from barring Plaintiffs' claims....
>
> For the same reason, collateral estoppel also does not bar Plaintiffs' claims. "under collateral estoppel, once an issue is actually and necessarily determined by a court of competent jurisdiction, that determination is conclusive in subsequent suits based on a different cause of action involving a party to the prior litigation....As described above, the issues Defendants seek to preclude in Ware II are not identical to the issues previously litigated in Ware I. According to the facts before this Court, Ware II asks the Board to consider whether the Ware II site plan, offering different buffer and setback measurements, meets the two conditions required for a new church to be exempt from the RTA requirements. Accordingly, collateral estoppel does not bar Plaintiff's claims.

(citations omitted). Judge Bennett granted the motion to dismiss the RLUIPA litigation and an appeal of that decision is currently pending in the United States Court of Appeals for the Fourth Circuit.

Following the dismissal of the RLUIPA litigation, the Petition for Judicial Review was filed in this matter.

II. Standard of Review

On appeal from the decision of an administrative agency, including review of a zoning decision, the determination below should be affirmed if it is not based upon an error of law, and if the agency's conclusions are reasonably based upon the record. *See, People's Counsel v. Maryland Marine*, 316 Md. 491, 196-197 (1989) and cases cited therein. This standard prohibits a reviewing court from substituting its judgment for the expertise of the administrative agency.

That deference, however, is not accorded if the reviewing court determines that the decision below is based upon an erroneous conclusion of law. *See, Belvoir Farms v. North*, 355 Md. 259, 267-268 (1999) and cases cited therein.

In order for a reviewing court to uphold the decision of an administrative board, the Court must determine whether reasoning minds reasonably could have reached the factual conclusions made by the board. *See, Eberle v. Bell*, 103 Md. App. 160, 166 (1975) and cases cited therein. The reviewing court, however, must not simply substitute its factual determinations for that of the board or agency. *See, Supervisor of Assessments v. Ely*, 272 Md. 77 (1974).

As noted by the Court of Appeals in the zoning context, "It is a clearly established rule in the law of zoning that a court may not substitute its judgment for that of the Zoning Board." *Stansbury v. Jones,* 372 Md. 172, 182 (2002) (citations omitted). Indeed, "the zoning agency is considered to be the expert in the assessment of the evidence, not the court." *Bowman Group v. Moser,* 112 Md. App. 694, 699 (1996), *cert. denied,* 344 Md. 568 (1997).

In the present case, the issue decided by the Board was dismissal based upon principles of res judicata and collateral estoppel. Therefore the decision below is not accorded deference, but must be reviewed based upon an independent analysis of the controlling legal principles.

III. Analysis

The challenge to the Board's determination below is unopposed. While the People's Counsel initially filed a motion to dismiss based upon res judicata principles, that motion was withdrawn based upon essentially a concession that the issues in the Ware II Litigation were not considered or addressed in the Ware I Litigation. While the Protestants adopted the People's Counsel's original position, they have not briefed or argued it on this appeal.

The cogent analysis of the governing principles of res judicata and collateral estoppel in Judge Bennett's Memorandum Opinion compel a reversal and remand in this matter, even if this appeal were not, in essence, conceded. As detailed in the Appellant's Memorandum, the plan presented in the Ware I Litigation is materially different from the current plan. This site plan was not addressed in the Ware I Litigation, so res judicata principles do not apply. *Whittle v. Board of Zoning Appeals of Baltimore City,* 211 MD., 36 (1956). If the Board's collateral estoppel analysis were affirmed, a litigant would essentially be barred from proposing a modified or new use on the site once a prior petition was adjudicated. Although principles of judicial economy are best served if related issues are addressed in a single petition, that concern should not preclude a landowner from proposing an alternative approach to a site if an earlier proposal has been rejected.

IV. Conclusion

For the reasons stated, the decision by the Board of Appeals for Baltimore County dated September 13, 2017, is reversed, and this matter is remanded to the Board of Appeals for hearing on the merits of the Petition for Special Hearing filed by Reverend Ware.

2/8/19
Date

KATHLEEN GALLOGLY COX
JUDGE

Clerk's Office: Please send copies to all parties.

True Copy Test
JULIE L. ENSOR, Clerk
Per _____
Assistant Clerk

FILED FEB 13 2019

IN THE MATTER OF	*	IN THE CIRCUIT COURT
LUCY WARE	*	FOR BALTIMORE COUNTY
	*	Case No. 03-C-18-004007

* * * * *

ORDER

This matter is before the Court on a Petition for Judicial Review filed by the Petitioner, Reverend Lucy Ware. For the reasons stated in the Memorandum Opinion dated February 8, 2019, the decision by the Board of Appeals for Baltimore County dated September 13, 2017, is reversed, and this matter is remanded to the Board of Appeals for hearing on the merits of the Petition for Special Hearing filed by Reverend Ware.

2/8/19
Date

KATHLEEN GALLOGLY COX
JUDGE

Clerk's Office: Please send copies to all parties.

True Copy Test
JULIE L. ENSOR, Clerk
Per _____
Assistant Clerk

FILED FEB 13 2019

IN THE MATTER OF REVEREND LUCY WARE, LEGAL OWNER PETITION FOR SPECIAL HEARING FOR THE PROPERTY LOCATED AT 4512 OLD COURT ROAD 2ND ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY
	*	Case No. 14-064-SPH

* * * * * * * * * * * * *

OPINION AND ORDER

This matter is before the Board on a Motion to Dismiss filed originally by People's Counsel for Baltimore County, and adopted and incorporated by Protestants, by and through their counsel, J. Carroll Holzer, Esquire. This case has been informally identified as "Ware II." By way of background, the same parties were involved in a previous case, "Ware I." The nature of the Motion and the decision reached by the Board in Ware II requires a review of the County regulations, as well as the claims, events and outcome of Ware I.

FACTUAL BACKGROUND

Lucy Ware is the Senior Pastor for Jesus is the Answer Ministries. Reverend Ware purchased the home at 4512 Old Court Road, which is 1.2 acres and zoned DR 3.5, to convert that house into a church. A building used for religious worship is a permitted use by right within a DR zone. BCZR §1B01.1.A.3. However, Baltimore County Zoning Regulations establish certain use restrictions based on existing subdivision and development characteristics. BCZR §1B01.1.B. At particular issue for Reverend Ware was the County's restrictions concerning the Residential Transition Area ("RTA") regulations. BCZR §1B01.1.B.1. Under those regulations, a RTA is generated if the property to be developed is zoned DR and lies adjacent to land, as relevant, DR 3.5, which: (1) contains a single-family detached, semi-detached or duplex dwelling within 150

feet of the tract boundary. BCZR §1B01.1.B.1.b.

When a RTA is generated, the County requires "a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed." BCZR §1B01.1.B.1.a(1). Certain conditions also apply in residential transition areas, which are particular to parking lots, landscaping, lighting and accessory uses. BCZR §1B01.1.B.1.e. Baltimore County Zoning Regulations permit variances of the RTA buffer requirements, as long as the modification to the RTA satisfies compatibility criteria and the reduction in the RTA "will not adversely impact the residential community…adjacent to the property to be developed." BCZR §1B01.1.B.1.c. Also, the County Regulations identify certain exceptions to the conditions. BCZR §1B01.1.B.1.g. As relevant to this case, there is an exception that concerns existing churches/buildings for religious worship and there are two exceptions that concern new churches/buildings for religious worship:

> (4) An addition to an existing church or other building for religious worship, including parking areas and driveways, provided all other applicable zoning regulations including setback, parking and screening requirements, are maintained.
>
> (5) A new church or other building for religious worship constructed on a parcel of land large enough to provide landscaped but otherwise unimproved yard areas of 100 feet between any improvement and any property line other than street frontages.
>
> (6) A new church or other building for religious worship, the site plan for which has been approved after a public hearing in accordance with Section 500.7. Any such hearing shall include a finding that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that said plan can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

BCZR §1B01.1.B.1.g(4)-(6) (Emphasis Added).

Ware I

On December 21, 2012, Petitioner filed petitions for a special hearing and zoning variances seeking to change the property's use from a single-family residence to a church and to eliminate entirely the RTA buffer and RTA setback. Petitioner also sought variances for parking regulations, specifically, BCZR §§409.4, 409.8(A)(2) and §409.8(A)(6). Prior to her petitions, the property was already being used as a church in the manner consistent with the relief requested in her petitions. On February 27, 2013, a hearing was held in front of the Administrative Law Judge, who denied the petitions on March 7, 2013. Following an appeal, the Board of Appeals held a *de novo* hearing (Case No.: 13-147-SPHA).

The Board, on October 9, 2013, denied the petitions. Petitioner argued that no RTA was generated as there were no proposed exterior structural changes or additions to the home. Opinion, CBA 13-147-SPHA. The Board, however, determined that RTA is generated by its proposed use as a church, as a "residential transition use" includes, *inter alia*, any use "permitted as of right under BCZR §1B01.1.A." BCZR §1B01.1.B.1.d. The Board also concluded that Petitioner was, in fact, developing and improving the property irrespective of exterior changes. Opinion, CBA 13-147-SPHA. Petitioner argued, in the alternative, that the proposed use is not subject to RTA requirements because it met the exception found at BCZR §1B01.1.B.1.g(6), applicable to new churches/other buildings for religious worship. After reviewing the exceptions, the Board concluded, based on the facts presented, the only exception with possible application was BCZR §1B01.1.B.1.g(6), but even that was inapplicable based on the evidence. Opinion, CBA 13-147-SPHA. The Board concluded there was no attempt to even minimally comply with the RTA requirements and that the proposal failed to demonstrate compatibility with the character or general welfare of the surrounding homes. Id.

On June 16, 2014, the Circuit Court for Baltimore County upheld the Board of Appeals decision, prompting appeal the Court of Special Appeals. The Court of Special Appeals, in turn, concluded that the RTA requirements applied to the proposed church and that Reverend Ware was not entitled to her requested parking variances, upholding the Board of Appeals decision. Ware v. People's Counsel for Baltimore County, 223 Md.App. 669; 117 A.3d 628 (2015).

Ware II

While Ware I was progressing through its hearings and appeals, a second petition was filed on behalf of Petitioner on September 11, 2013. Petitioner sought a Special Hearing seeking relief similar to that requested by Petitioner in Ware I, but without the parking variances. On October 31, 2013, Petitioner amended the petition in Ware II to identify a new plan, which proposed a building addition to the existing structure. As such, Petitioner asserted that the exception found at BCZR §1B01.1.B.1.g(4), applicable to existing churches, applied to the proposal.

On February 4, 2014, People's Counsel filed the Motion to Dismiss at issue. People's Counsel requested that the Board of Appeals stay Ware II and, on February 19, 2014, the Board of Appeals did so. Petitioner sought to have Ware II heard following her appeal to the Court of Special Appeals on Ware I. The Board decided to continue the stay until resolution of the appeal on Ware I. On November 30, 2016, by way of correspondence to the Board, counsel for Protestants adopted People's Counsel Motion to Dismiss. Then, on March 30, 2017, People's Counsel withdrew from Ware II.

On May 11, 2017, the Board held a hearing on the pending Motion to Dismiss. On June 1, 2017, the Board publicly deliberated and granted the Motion for the reasons that follow.

Petitioner's Claims Are Barred By *Res Judicata* and Collateral Estoppel

As identified within the Motion to Dismiss, *res judicata* applies to quasi-judicial

administrative decisions. See, Batson v. Shifflett, 325 Md. 604, 701-705 (1992) (at 702: "agency findings made in the course of proceedings that are judicial in nature should be given the same preclusive effect as findings made by a court"). Also as noted within the Motion, this Board has barred claims pursuant to *res judicata* and/or collateral estoppel numerous times in the past. See, e.g., In the Matter of Catherine Robinson, CBA Case No. 15-235-SPHA, 2016, Motion for Recon. Denied, March 10, 2017. In the Matter of Boone-Kondylas, LLC, CBA Case No.: 16-003-SPH (2016); and In the Matter of Andrew and Stephanie Mattes, CBA Case No. 11-051-SPH (2012).

Res judicata precludes the relitigation of a suit if: (1) the parties in the present litigation are the same or in privity with the parties to the earlier action; (2) the claim in the current action is identical to the one determined in the prior adjudication; and (3) there was a final judgment on the merits in the previous action.[1] Powell v. Breslin, 430 Md. 52, 63–64; 59 A.3d 531, 538 (2013); citing, Colandrea v. Wilde Lake Cmty. Ass'n, Inc., 361 Md. 371, 389; 761 A.2d 899, 908 (2000); Cicala v. Disability Review Bd., 288 Md. 254, 263; 418 A.2d 205, 211 (1980); Cook v. State, 281 Md. 665, 668; 381 A.2d 671, 673 (1978).

Counsel for Petitioner argued at the hearing on May 11, 2017 that the parties to the present litigation may not have been the same as Ware I. Notably, that argument is absent from Petitioner's Reply to the Motion to Dismiss. Nevertheless, at least some of Protestants in Ware I and Protestants in Ware II. Because there is and was a common interest, Protestants pooled together to contest Petitioner in Ware I and the same thing occurred in Ware II. There is no evidence that shows that the parties are different or any allegation identifying which parties are different. At a minimum, there is unquestionably overlap among the Protestants in these cases. Therefore, for those Protestants that were party to Ware I and remain as Protestants for Ware II, which again, it is

[1] There is no argument over whether there was a final judgment on the merits in Ware I.

unquestioned that there are at least some, the parties are the same for purposes of *res judicata*. Any notion that because one or more participants in Ware I are no longer participating in Ware II, *res judicata* is inapplicable even to those parties participating in both, Ware I and Ware II, must be summarily disregarded.

The real thrust of Petitioner's argument, as set forth in Petitioner's Reply and at argument, is that *res judicata* is inapplicable because the second case, Ware II, is different from Ware I in that different sections of Baltimore County Zoning Regulations apply. Specifically, Petitioner argued that, in Ware I, it was seeking an exception pursuant to BCZR §1B01.1.B.1.g(6) but in Ware II, was seeking an exception pursuant to BCZR §1B01.1.B.1.g(4). A key distinction between those two exceptions, as noted above, is that BCZR §1B01.1.B.1.g(4) applies to existing churches, while BCZR §1B01.1.B.1.g(6) applies to new churches.

However, *res judicata* bars "the same parties from litigating a second lawsuit on the same claim, **or any other claim arising from the same transaction or series of transactions and that could have been-but was not-raised in the first suit.**" Gonsalves v. Bingel, 194 Md. App. 695, 709; 5 A.3d 768, 777 (2010) (emphasis added), quoting, Anne Arundel County Bd. of Educ. v. Norville, 390 Md. 93, 106; 887 A.2d 1029 (2005) (citations omitted). As to what Maryland Courts consider to be transactional, "considerations as whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage." Norville, 390 Md. at 109; 887 A.2d at 1038, quoting Restatement (Second) of Judgments § 24; citing, FWB Bank v. Richman, 354 Md. 472, 493; 731 A.2d 916, 927-928 (1999).

Therefore, the question arises --- could Petitioner have raised the exception claimed under BCZR §1B01.1.B.1.g(4), for an existing church, at the same time as the claim under BCZR

§1B01.1.B.1.g(6) for a new church? In other words, could Petitioner have raised the claims in Ware II in Ware I?

While Schrodinger's cat may be both dead and alive until observed, seemingly a church building cannot be both new and also existing until Petitioner's theory is argued. However, the law allows for claims in the alternative, even those inconsistent or mutually exclusive of one another. See, e.g. Md. Rule of Civil Procedure 2-303(c) ("A party may also state as many separate claims or defenses as the party has, regardless of consistency and whether based on legal or equitable grounds.").

The facts in Ware I and Ware II concern the same Petitioner, regarding the same property, and same proposed conversion of a single-family residence into a church. The issues related to the application of the RTA regulations and the generation of the RTA and required buffers and setbacks, as well as potential exclusions are present in both. The only difference is that Petitioner, once denied in Ware I as a new church, wants a second bite as under the theory it is an existing church. Tellingly, Ware II was originally filed seeking the exclusion pursuant to BCZR §1B01.1.B.1.g(6) for a new church and was subsequently amended to seek the exclusion pursuant to BCZR §1B01.1.B.1.g(4) for an existing church. Nothing prevented Petitioner from doing the same in Ware I. If the church is a legally existing church for Ware II, it was a legally existing church for Ware I.[2]

Therefore, Petitioner could have brought both claims in Ware I and/or Petitioner could have proceeded solely under its theory of being an existing church. Petitioner could have amended the petition in Ware I, prior to adjudication, as Petitioner did in Ware II. Petitioner, however, failed

[2] As referenced earlier, Petitioner converted the property from a residence to a church and then filed her petition in Ware I. At the Motion hearing, it was argued that the church was existing because of the use prior to the petition.

to bring the Ware II claims in Ware I or amend Ware I to include the Ware II claims. As a result, Petitioner is barred by *res judicata* from relitigating matters that could have been brought in Ware I and particularly, its claims in Ware II are barred. For these reasons, the Motion to Dismiss is granted.

Relatedly, Petitioner's claims are also barred by collateral estoppel as to whether the church is new or existing.

Collateral estoppel precludes a party from re-litigating a factual issue that was essential to a valid and final judgment against the same party in a prior action. Shader v. Hampton Imp. Ass'n, Inc., 217 Md. App. 581, 606; 94 A.3d 224, 238 (2014), aff'd, 443 Md. 148; 115 A.3d 185 (2015), citing, Welsh v. Gerber Prods., Inc., 315 Md. 510, 516, 555 A.2d 486 (1989). Maryland has adopted a four-pronged test that must be satisfied in order to apply collateral estoppel:

> 1. Was the issue decided in the prior adjudication identical with the one presented in the action in question?
>
> 2. Was there a final judgment on the merits?
>
> 3. Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?
>
> 4. Was the party against whom the plea is asserted given a fair opportunity to be heard on the issue?

Shader, 217 Md. App. at 605; 94 A.3d at 238, citing, Pat Perusse Realty Co. v. Lingo, 249 Md. 33, 45; 238 A.2d 100 (1968); *accord* Wash. Suburban Sanitary Comm'n v. TKU Assocs., 281 Md. 1, 18–19; 376 A.2d 505 (1977).

In this instance, Petitioner filed to change the property's use from a single-family residence to a church. Prior to that, the property had always been a single-family residence. To use the property as a church, Petitioner was required to have parking, pursuant to BCZR §409.6. The parking and required landscaping constituted improvements to the property and development of

the property.

Petitioner's expert in Ware I acknowledged that if the property was used as a residence, it would not need to comply with the RTA conditions, but to operate as a church it did need to comply. See, e.g., Ware I, 223 Md. App. at 677. The purpose for the petition and hearing in Ware I was to convert the residence to a church and obtain relief from the application of the RTA regulations to the church. In order to be excluded from the RTA regulations, Petitioner argued that it was a new church, and therefore, the new church exception pursuant to BCZR §1B01.1.B.1.g(6) applied. In other words, to legally become a church, County zoning required parking and other measures to be proven at the hearing to the satisfaction of this Board. In order for the property to be used as a legal church, Petitioner had to prove, *inter alia*, that it could meet all the regulations for a new church as required, or that it met the exception under Subsection g(6). Petitioner failed to meet those regulations.

Pursuant to that argument, the Board in Ware I examined all possible exceptions in BCZR §1B01.1.B.1.g and concluded that the only exception that potentially applied was BCZR §1B01.1.B.1.g(6). Opinion, CBA 13-147-SPHA. Therefore, the Board evaluated the applicability of the exceptions for existing churches and found them inapplicable to Petitioner. The Board denied the applicability of the new church exception because the proposal did "not even minimally comply with the RTA requirements" for new churches. Opinion, CBA 13-147-SPHA.

Therefore, the issue of whether the church was new or existing was decided in Ware I. In that case, the Board determined that the Petitioner's request for a new church on this property should be denied. "[F]or the doctrine of collateral estoppel to apply, the probable fact-finding that undergirds the judgment used to estop must be scrutinized to determine if the issues raised in that proceeding were actually litigated, or **facts necessary to resolve the pertinent issues were**

adjudicated in that action." Shader, 217 Md. App. at 605-606; 94 A.3d at 238 (emphasis added), quoting Colandrea v. Wilde Lake Cmty. Ass'n, Inc., 361 Md. 371, 391–92; 761 A.2d 899 (2000) (citations omitted).

As factors two and three are not at issue (or are addressed above), turning to the fourth element, certainly Petitioner had the opportunity to litigate whether it was an existing church (though it could be more than reasonably questioned whether it should be considered an existing church given its infancy, as well as its brief operation in violation of the zoning regulations that prompted the petition in Ware I). Petitioner requested approval that it was a new church. Only now, with nothing different as to its operations at the time of the petition of Ware I, does Petitioner claim it is an existing church. In short, this property is not a lawful church. Therefore, by default, it does not "exist" and an addition cannot be built onto it as requested.

CONCLUSION

In conclusion, Petitioner could have brought the claim that her property was a valid, legally existing church to avail herself of at the time of Ware I, whether solely or in the alternative. The failure to so do bars her claim pursuant to the doctrine of *res judicata*. Even in the absence of *res judicata*, Petitioner's claim is barred by collateral estoppel as Petitioner sought validation of her property as a new, legal church but, the Board in Ware I specifically denied her request. For that reason as well, Petitioner's claims in Ware II are barred. As a result, Protestants' Motion to Dismiss is granted.

ORDER

THEREFORE, ON THIS 13th day of September, 2017, by the Board of Appeals of Baltimore County, it is hereby:

ORDERED that Protestants' Motion to Dismiss is **GRANTED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Andrew Belt, Chairman

Maureen Murphy

Jason S. Garber

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

September 13, 2017

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

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, Maryland 21286

RE: *In the Matter of: Reverend Lucy Ware – Legal Owner/Petitioner*
Case No.: 14-064-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: See Distribution List Attached

c: Reverend Lucy Ware
James S. Patton
Jimmie and Barbara Roberson
Tom and Ruthanne Otto
Barry and Sylvia Powell
Gayle Emerson
Lillian Nolley
Linda Miller
Tim and Peggy Lang
Wade Young, II
Dale Watkins
Jeffrey and Rathea Mims
Al and Evelyn Michel
R. Eddie Daniels
Clyde and Muriel Lyles
Ella Green
George and Martha Zentz
Reverend Ervin Dantzler
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Deputy Administrative Officer, and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

KEVIN KAMENETZ
County Executive

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

January 14, 2014

RECEIVED
JAN 15 2014
BALTIMORE COUNTY
BOARD OF APPEALS

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

RE: **APPEAL TO BOARD OF APPEALS**
Case No. 2014-0064-SPH
Location: 4512 Old Court Road

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed in this Office on January 9, 2014. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
J. Carroll Holzer, P.A., 508 Fairmount Avenue, Towson, Maryland 21286

Bruce Doak, 3801 Baker Schoolhouse Road, Freeland, Maryland 21053
George & Margaret Zentz, 4509 Old Court Road, Baltimore, Maryland 21208
Jeffrey & Rathea Mims, 4508 Old Court Road, Baltimore, Maryland 21208
Rev. Ervin Dantzler, 4515 Old Court Road, Baltimore, Maryland 21208
Dale Watkins, 4513 Dresden Road, Baltimore, Maryland 21208
Helen Aiken, 4502 Dresden Road, Baltimore, Maryland 21208
Clyde & Muriel Lyles, 4511 Dresden Road, Baltimore, Maryland 21208

APPEAL

Petitions for Special Hearing
(4512 Old Court Road)
2nd Election District – 2nd Councilmanic District
Legal Owner: Reverend Lucy Ware
Case No. 2014-0064-SPH

Petition for Special Hearing (OLD September 12, 2013)

Revised Petition for Special Hearing (Revised by Bruce Doak on October 31, 2013)

Zoning Description of Property

Notice of Zoning Hearing (November 19, 2013)

Certificate of Publication (October 29, 2013)

Certificate of Posting (October 29, 2013) Bruce E. Doak

Entry of Appearance by People's Counsel (September 17, 2013)

Petitioner(s) Sign-in Sheet – None
Citizen(s) Sign-in Sheet – None

Zoning Advisory Committee Comments

Petitioner(s) Exhibits - None

Protestants' Exhibits – None

Miscellaneous (Not Marked as Exhibits) – Letter dated October 30, 2013 from Carole S. Demilio (Deputy People's Counsel for Baltimore County) People's Counsel Answer to Motion for Reconsideration dated December 13, 2013 and Protestants Answer to Motion for Reconsideration from J, Carroll Holzer, Esquire dated December 16, 2013.

Administrative Law Judge Order and Letter (DISMISSED WITH PREJUDICE on basis of *res judicata* on November 4, 2013)

Request for Motion for Reconsideration from: Lawrence E. Schmidt, Esquire dated December 3, 2013

Administrative Law Judge Order and Letter on Motion for Reconsideration (December 19, 2013)

Notice of Appeal – January 9, 2014 by Lawrence E. Schmidt, Esquire from Smith, Gildea & Schmidt.

IN RE: **PETITION FOR SPECIAL HEARING** 2nd Election District 2nd Councilman District **(4512 Old Court Road)** Reverend Lucy Ware Petitioner	*	BEFORE THE
	*	OFFICE OF
	*	ADMINISTRATIVE HEARINGS
	*	FOR BALTIMORE COUNTY
	*	**Case No. 2014-0064-SPH**

* * * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

Now pending is the Petitioner's Motion for Reconsideration, to which responses have been filed by the Office of People's Counsel and J. Carroll Holzer, Esq., on behalf of several area residents. The Motion will be denied, as discussed below.

In Case No. 2013-0147-SPHA (hereafter "Ware I"), the Board of Appeals (BOA) denied zoning relief, finding that the proposed church would not be "compatible with the neighborhood." An appeal of that Order was filed in the Circuit Court for Baltimore County, which occurred subsequent to the pre-hearing dismissal of the above case (hereafter "Ware II") by Order dated November 4, 2013. That Order dismissed with prejudice the Petition in Ware II, based on res judicata.

The Petitioner's Motion contends the ruling is erroneous, because Ware II does not seek variance relief (as was sought in Ware I) and that the Residential Transition Area (RTA) relief sought is now different, given that the plan has been modified and the proposed parking relocated. The Petitioner argues that res judicata is inapplicable, based on the "same evidence" test. I do not believe this argument has merit, and the decision in *Jack v. Foster Branch* (upon which the Petitioner principally relies) is distinguishable.

ORDER RECEIVED FOR FILING

Date 12-19-13

By KW

As noted in Mr. Zimmerman's Memorandum, nothing has changed between the filing dates of these cases. The facts are the same, and the zoning proposal is the same: to use a single family dwelling in a DR zone as a church. Whether or not the parking arrangement has changed slightly is of no moment. If Petitioner's argument was credited, a Petitioner could simply "tweak" a previously denied plan in a minor way and avoid the bar of res judicata, leading to endless litigation.

Petitioner, citing *Jack*, argues that res judicata applies only if the cause of action is the same in both cases, which in turn requires application of the "same evidence" test. Petitioner is correct that variance relief is not sought in Ware II; but special hearing relief is, and such relief (pertaining to the relaxation of, or exception to, RTA requirements) was also sought in Ware I. Thus, the same evidence is required in both cases: proof that a church is entitled to a relaxation of or exception to RTA buffers and setback requirements as set forth in Baltimore County Zoning Regulations (B.C.Z.R.) § 1B01.1.B.1.

And this is what distinguishes *Jack*. In *Jack*, the Petitioner first sought variance relief, and in the second case sought relief for reduced parking requirements under a completely different (and "less restrictive") section of the Harford County zoning code. *Jack v. Foster Branch*, 53 Md. App. 325, 331 (1982). Here, special hearing relief (with respect to the RTA regulations) under B.C.Z.R. § 500.7 was sought in both cases. As in *Seminary Galleria*, where the Petitioner also cited *Jack* in an effort to avoid res judicata, both cases (Ware I and II) seek approval to convert a single family dwelling to a church in a DR zone, and Ware II is barred by res judicata.

WHEREFORE, it is this **19th** day of December, 2013 by the Administrative Law Judge ORDERED that the Petitioner's Motion for Reconsideration, be, and is hereby DENIED.

ORDER RECEIVED FOR FILING

Date 12-19-13

By DW

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/dlw

ORDER RECEIVED FOR FILING

Date 12-19-13

By DW

KEVIN KAMENETZ
County Executive

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

December 19, 2013

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

RE: **ORDER ON MOTION FOR RECONSIDERATION**
Petition for Special Hearing
Case No.: 2014-0064-SPH
Property: 4512 Old Court Road

Dear Mr. Schmidt:

Enclosed please find a copy of the Order on Motion for Reconsideration 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 Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: J. Carroll Holzer, Esq., Holzer and Lee, 508 Fairmount Avenue, Towson, MD 21286
Peter Max Zimmerman, Esq., People's Counsel for Baltimore County
Bruce Doak, 3801 Baker Schoolhouse Road, Freeland, MD 21053
George & Margaret Zentz, 4509 Old Court Road, Baltimore, MD 21208
Jeffrey & Rathea Mims, 4508 Old Court Road, Baltimore, MD 21208
Rev. Ervin Dantzler, 4515 Old Court Road, Baltimore, MD 21208
Dale Watkins, 4513 Dresden Road, Baltimore, MD 21208
Helen Aiken, 4502 Dresden Road, Baltimore, MD 21208
Clyde & Muriel Lyles, 4511 Dresden Road, Baltimore, MD 21208

-IN RE: **PETITION FOR SPECIAL HEARING** 2nd Election District 2nd Councilman District (4512 Old Court Road) Reverend Lucy Ware Petitioner	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **Case No. 2014-0064-SPH**

* * * * * * * * *

OPINION AND ORDER

The above zoning petition seeks Special Hearing relief; specifically, the reduction of Residential Transitional Area (RTA) setbacks for a church. The Office of People's Counsel, in correspondence dated October 30, 2013, notes that essentially the same relief was sought in an earlier case, 2013-0147-SPH. The special hearing relief was denied in that case, and the Board of Appeals by Order dated October 9, 2013, also denied the petition.

In its correspondence, the Office of People's Counsel argues the newly-filed petition should be dismissed/denied on the basis of *res judicata*. I agree. In Seminary Galleria v. Dulaney Improvement Ass'n., 192 Md. App. 719 (2010), the Court of Special Appeals made clear that the doctrine of *res judicata* applies to zoning cases, and that a petitioner (as here) cannot seek the same relief (albeit with slight variations to the original plan or petition) in a subsequent case after the initial petition is denied.

Given that this determination presents a question of law, I believe it is appropriate to dismiss the case prior to an evidentiary hearing. Indeed, the applicability of *res judicata*, like the analogous double jeopardy provision in criminal cases, should be decided at the earliest possible juncture. If it is not, the protections afforded by the doctrine are lost, as noted in the correspondence from the Deputy People's Counsel.

ORDER RECEIVED FOR FILING
Date 11/4/13
By Sln

WHEREFORE, in light of the foregoing, IT IS ORDERED this 4th day of November, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing filed in the above-captioned matter be, and the same is, hereby DISMISSED WITH PREJUDICE on the basis of *res judicata*.

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/sln

ORDER RECEIVED FOR FILING
Date 11/4/13
By SLN

KEVIN KAMENETZ
County Executive

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

November 4, 2013

Peter Max Zimmerman
Office of People's Counsel
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

RE: Petition for Special Hearing
Case No.: 2014-0064-SPH
Property: 4512 Old Court Road

Dear Mr. Zimmerman:

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: Bruce Doak, 3801 Baker Schoolhouse Road, Freeland, Maryland 21053
George & Margaret Zentz, 4509 Old Court Road, Baltimore, Maryland 21208
Jeffrey & Rathea Mims, 4508 Old Court Road, Baltimore, Maryland 21208
Rev. Ervin Dantzler, 4515 Old Court Road, Baltimore, Maryland 21208
Dale Watkins, 4513 Dresden Road, Baltimore, Maryland 21208
Helen Aiken, 4502 Dresden Road, Baltimore, Maryland 21208
Clyde & Muriel Lyles, 4511 Dresden Road, Baltimore, Maryland 21208

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 9512 Old Court Road **which is presently zoned** D.R. 3.5

Deed References: SM 32581 / 132 10 Digit Tax Account # 1 8 0 0 0 0 3 1 6 1

Property Owner(s) Printed Name(s) Reverend Lucy Ware

(SELECT THE HEARING(S) BY MARKING X 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. X **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 sheet (REVISED) 10/31/13

2. ____ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ____ **a Variance** from Section(s)

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)**

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

Legal Owners (Petitioners):

Reverend Lucy Ware

Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

7111 Liberty Road Baltimore MD

Mailing Address City State

21207 | 443-415-0499 | JAMINISTRIES@AOL.COM

Zip Code Telephone # Email Address

Attorney for Petitioner:

Smith Gildea & Schmidt

Lawrence Schmidt

Name- Type or Print

Signature

600 Washington Ave. Suite 200 Towson MD

Mailing Address City State

21204 | 410-821-0070 | LSCHMIDT@SGS-LAW.COM

Zip Code Telephone # Email Address

Representative to be contacted:

Bruce E. Doak

Bruce E. Doak Consulting, LLC

Name – Type or Print

Signature

3801 Baker Schoolhouse Road Freeland MD

Mailing Address City State

21053 | 410-419-4906 | BDOAK@BRUCEEDOAKCONSULTING.COM

Zip Code Telephone # Email Address

CASE NUMBER 2014-0024-SPH **Filing Date** 9/12/13 **Do Not Schedule Dates:** ____ **Reviewer** JCM

REV. 10/4/11

REVISED

SPECIAL HEARING REQUESTED

1) To approve the site plan for a proposed building for a new church pursuant to BCZR § 1B01.1.B.1.g(6).

2) To approve an addition to a church including parking areas and driveways pursuant to BCZR §1B01.B.1.g(4).

3) For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

4) That the submitted site plan demonstrates compliance to the extent possible with section 1B01.1B1g (6) (BCZR)

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 9512 Old Court Road **which is presently zoned** D.R. 3.5

Deed References: SM 32581 / 132 10 Digit Tax Account # 1 8 0 0 0 0 3 1 6 1

Property Owner(s) Printed Name(s) Reverend Lucy Ware

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   See attached sheet (REVISED)

2. ____ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ____ **a Variance** from Section(s)

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)**

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

Legal Owners (Petitioners):

Reverend Lucy Ware
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

7111 Liberty Road Baltimore MD
Mailing Address City State

21207 | 443-415-0499 | JAMINISTRIES@AOL.COM
Zip Code Telephone # Email Address

Attorney for Petitioner:

Smith Gildea & Schmidt
Lawrence Schmidt
Name- Type or Print

Signature

600 Washington Ave. Suite 200 Towson MD
Mailing Address City State

21204 | 410-821-0070 | LSCHMIDT@SGS-LAW.COM
Zip Code Telephone # Email Address

Representative to be contacted:

Bruce E. Doak
Bruce E. Doak Consulting, LLC
Name – Type or Print

Signature

3801 Baker Schoolhouse Road Freeland MD
Mailing Address City State

21053 | 410-419-4906 | BDOAK@BRUCEEDOAKCONSULTING.COM
Zip Code Telephone # Email Address

CASE NUMBER 2014-0064-SPH **Filing Date** 9/12/13 **Do Not Schedule Dates:** _____ **Reviewer** JCM

REV. 10/4/11

REVISED

SPECIAL HEARING REQUESTED

1) To approve the site plan for a proposed building for a new church pursuant to BCZR § 1B01.1.B.1.g(6).

2) To approve an addition to a church including parking areas and driveways pursuant to BCZR §1B01.B.1.g(4).

3) For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

4) That the submitted site plan demonstrates compliance to the extent possible with section 1B01.1B1g (6) (BCZR)

Bruce E. Doak Consulting, LLC
3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

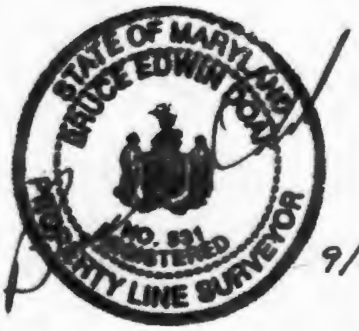
Zoning Description

4512 Old Court Road-1.206 Acre Parcel
Second Election District Second Councilmanic District
Baltimore County, Maryland

Beginning at a point on the northwest side of Old Court Road, approximately 277 feet southwest of the centerline of Streamwood Drive, thence running and binding on the northwest side of Old Court Road, the following course and distance, viz 1) South 47 degrees 44 minutes 00 seconds West 219.13 feet, thence leaving Old Court Road and running on the outlines of the subject property, the three following courses and distances, viz 2) North 35 degrees 02 minutes 06 seconds West 241.55 feet, 3) North 47 degrees 48 minutes 27 seconds East 219.50 feet, and 4) South 34 degrees 56 minutes 23 seconds East 241.31 feet to the place of beginning.

Containing 1.206 acres of land, more or less.

This description is part of a zoning hearing petition and is not intended for any conveyance purposes.



9/10/13

Land Use Expert and Surveyor

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: 2014-0064 SPH

Petitioner: Reverend Lucy Ware

Address or Location: 4512 Old Court Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Reverend Lucy Ware

Address: 7111 Liberty Road

Baltimore Md 21207

Telephone Number: 443-915-0199

Revised 2/20/98 - SCJ

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

No. 105155

Date: 10/31/13

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				250.00

Total: 250.00

Rec From: Pastor Lucy Ware

For: Revision on Special Hearing

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME DRN
10/31/2013 10/31/2013 11:31:35 2
REG WS02 WALKTH JEWA JEE
>>RECEIPT # 854209 10/31/2013 OPER
Dept 5 528 ZONING VERIFICATION
CK NO. 105155
Receipt Tot $250.00
$250.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

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

No. 102589

Date: 9/11/13

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				500.—

Total: 500.—

Rec From: WARE, LUCY REV.

For: 2014-0064-SPH

PAID RECEIPT
BUSINESS ACTUAL TIME DRW
9/12/2013 9/11/2013 13:37:09 8
REG WB04 WALKIN SHIL SAN
>>RECEIPT # 589367 9/11/2013 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 102589
Rcpt Tot $500.00
$500.00 CK $.00 CA
Baltimore County, Maryland

TO: PATUXENT PUBLISHING COMPANY
Tuesday, October 30, 2013 Issue - Jeffersonian

Please forward billing to:
Reverend Lucy Ware 443-415-0499
7111 Liberty Road
Baltimore, MD 21207

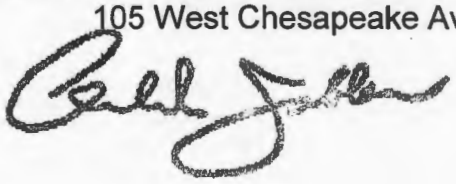
NOTICE OF ZONING HEARING

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: 2014-0064-SPH
4512 Old Court Road
NW/s Old Court Road, 277 ft. +/- SW of centerline of Streamwood Drive
2nd Election District – 2nd Councilmanic District
Legal Owners: Reverend Lucy Ware

Special Hearing to allow a new church for religious worship on the subject property located with the RTA and to allow a residential transition area (RTA) buffer of 28 ft. (existing building) in lieu of the required 50 ft.; to allow a residential transition area (RTA) setback of 28 ft. (existing building) in lieu of the required 75 ft. from a tract boundary to a parking lot or structure on the east side of the property and to permit parking spaces within 46 ft. +/- and 36 +/- on the southwest and northeast sides of the subject property in lieu of the required 75 ft.; that the submitted site plan demonstrates compliance to the extent possible.

Hearing: Tuesday, November 19, 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.

1/14/14
WCR

RECEIVED
JAN 14 2014
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 13, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 4512 Old Court Road

INFORMATION:

Item Number: **14-064** *(revised plan and petition)*

Petitioner: Reverend Lucy Ware

Zoning: **DR 3.5**

Requested Action: **Special Hearing**

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 allow the following:

- To allow a new church for religious worship on the subject property located with the RTA.
- To allow a residential transition area (RTA) buffer of 28 feet in lieu of the required 75 feet from a tract boundary to a parking lot or structure on the east side of the property and to permit parking spaces with 46 feet and 36 on the southwest and northeast sides of the subject property in lieu of the required 75 feet per section.
- That the submitted site demonstrates compliance to the extent possible with section 1B01.1B1g(6) (BCZR).

SUMMARY OF RECOMMENDATIONS:

The petitioner has submitted a site plan for the 4512 Old Court Road Property. Planning has reviewed the site plan with the consideration of the surrounding community.

Planning's observes that there is no information on the provided site plan informing any action before the Baltimore County Board of Appeals.

Furthermore, the plan submitted with the current petitioner's request for a Special Hearing does not propose any sufficient difference from that which was submitted in zoning Case No. 203-0147-SPHA and found incompatible. The Department of Planning cannot recommend to the Administrative Law Judge that the proposed use is compatible with the character and general welfare of the surrounding residential premises.

The proposed parking arrangement does not conform to the required 75 foot Residential Transition Area (RTA) setbacks. The proposed structure does not meet the 50 foot RTA buffer or the 75 foot RTA setback. Lastly, the reconfigured parking may require relief from Section 409.4.B and 409.4.C of the

Baltimore County Zoning Regulations as direct access onto a driveway is not permitted and a minimum 22 foot drive aisle is also not provided.

The Department of Planning is unable to support the petitioner's request at this time.

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

Prepared By:

Division Chief:
AVA/LL:cjm

OLD

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 9512 Old Court Road **which is presently zoned** DR.3.5

Deed References: SM 32581 / 132 10 Digit Tax Account # 1 8 0 0 0 0 3 1 6 1

Property Owner(s) Printed Name(s) Reverend Lucy Ware

(SELECT THE HEARING(S) BY MARKING X 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. X **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 sheet OLD

2. ____ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ____ **a Variance** from Section(s)

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)**

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

Legal Owners (Petitioners):

Reverend Lucy Ware
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

7111 Liberty Road Baltimore MD
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21207 | 443-415-0499 | JAMINISTRIES@AOL.COM
Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

Bruce E. Doak
Bruce E. Doak Consulting, LLC
Name – Type or Print

Signature

3801 Baker Schoolhouse Road
Mailing Address City Freeland State MD

21053 | 410-419-4906 | BDOAK@BRUCEEDOAKCONSULTING.COM
Zip Code Telephone # Email Address

CASE NUMBER 2014-0064-SAH **Filing Date** 9/12/13 **Do Not Schedule Dates:** ____ **Reviewer** JCM

REV. 10/4/11

2014-0064
Scanned

OLD

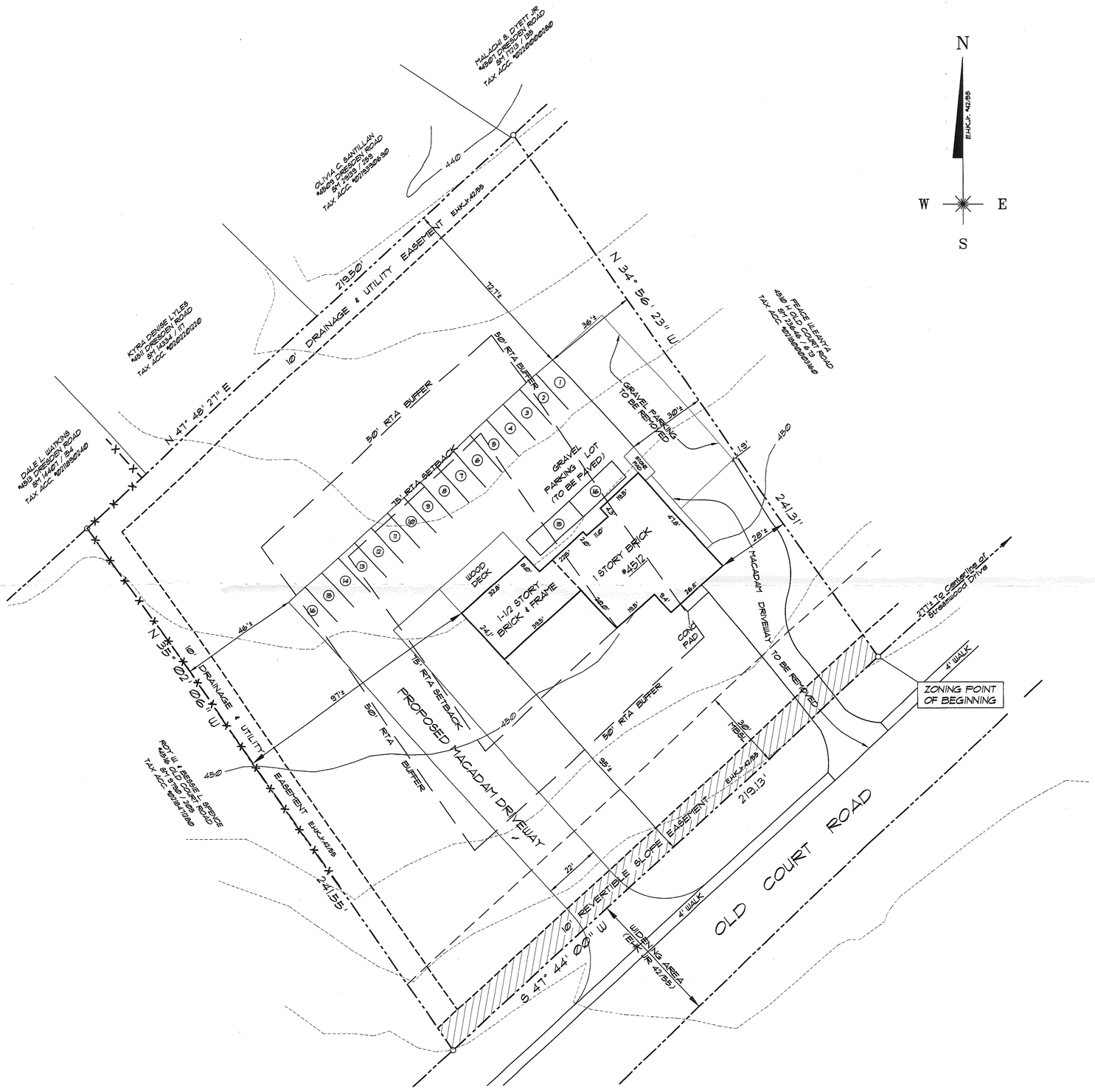
SPECIAL HEARING REQUESTED

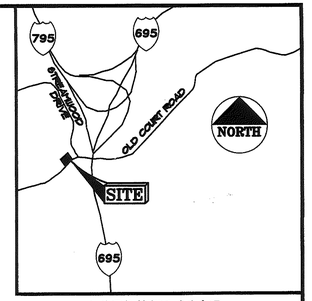
1) To allow a new church for religious worship on the subject property located within the RTA per section 1B01.1B1g (6) (BCZR)

2) To allow a residential transition area (RTA) buffer of 28 feet (existing building) in lieu of the required 50 feet per section 1B01.1e (5) (BCZR)

3) To allow a residential transition area (RTA) setback of 28 feet (existing building) in lieu of the required 75 feet from a tract boundary to a parking lot or structure on the east side of the property and to permit parking spaces within 46 feet± and 36 feet ± on the southwest and northeast sides of the subject property in lieu of the required 75 feet per section 1B01.1e (5) (BCZR)

4) That the submitted site plan demonstrates compliance to the extent possible with section 1B01.1B1g (6) (BCZR)





VICINITY MAP
1" = 2000'

GENERAL NOTES

1. Ownership: Reverend Lucy Ware
2. Address: 4512 Dover Road ADC Map: 4696 K1 &2
3. Deed references: SM 32581 / 132
4. Tax Map / Parcel / Tax account #: 77 / 1011 / 18-00-003161 (1.206 acres)
6. Zoning: D.R. 3.5 Zoning Map: NW077C2
7. Census Tract: 402604 Water shed: Gwynns Falls Subsewer shed: Gwynns Falls Schools: Winand E.S. Old Court M.S. Milford Mill Academy H.S. Regional Planning Area: 301a
8. The boundary shown hereon is from deeds recorded in the Land Records of Baltimore County. All other information shown hereon was taken from Baltimore County GIS tile 077C2 and the information provided by Baltimore County on the internet.
9. Improvements: Single family dwelling being converted to a church.
10. The existing building is not historic. The subject property is not historic or in a historic district.
11. The existing building does not exceed a height of 35 feet.
12. The existing building is serviced by public water and sewer.
13. The subject property is not in the Chesapeake Bay Critical Area.
14. The subject property is not located within a 100 year flood plain.
15. Total gross floor area of existing building: 2,845 square feet.
16. Existing F.A.R. 0.06.

PROPOSED DEVELOPMENT

To utilize the existing one single dwelling as a church. No changes will be made to the exterior of the building. The parking lot will be expanded and then paved & striped. A new driveway will be constructed under a commercial driveway access permit issued by Baltimore County.

PARKING CALCULATIONS

Required parking spaces for a 64 seats: 16
(1 parking space per 4 seats in the principal place of worship per section 406.6 BCZR)
Parking spaces provided on site: 16

CHANGE OF OCCUPANCY

A permit for a change of occupancy has been applied for from Baltimore County

LANDSCAPE PLAN

A Landscape Plan was reviewed and approved by Baltimore County as required by the BCZR. The plan required 8 trees to be planted. The owner planted 32 trees along the eastern and northern property lines in lieu of the required 8 and met the requirements of the plan.

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Note: Zoning case #2103-0147-SPHA denied the special hearing and variances requested at that time. The planned parking area and driveway have been amended in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that said plan can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

OLD

Bruce E. Doak Consulting, LLC
Land Use Expert and Surveyor
3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

PLAN TO ACCOMPANY A PETITION FOR A SPECIAL HEARING

4512 Old Court Road 1.206 Acres

Lot 2 "Diana Acres" EHK Jr 42/55

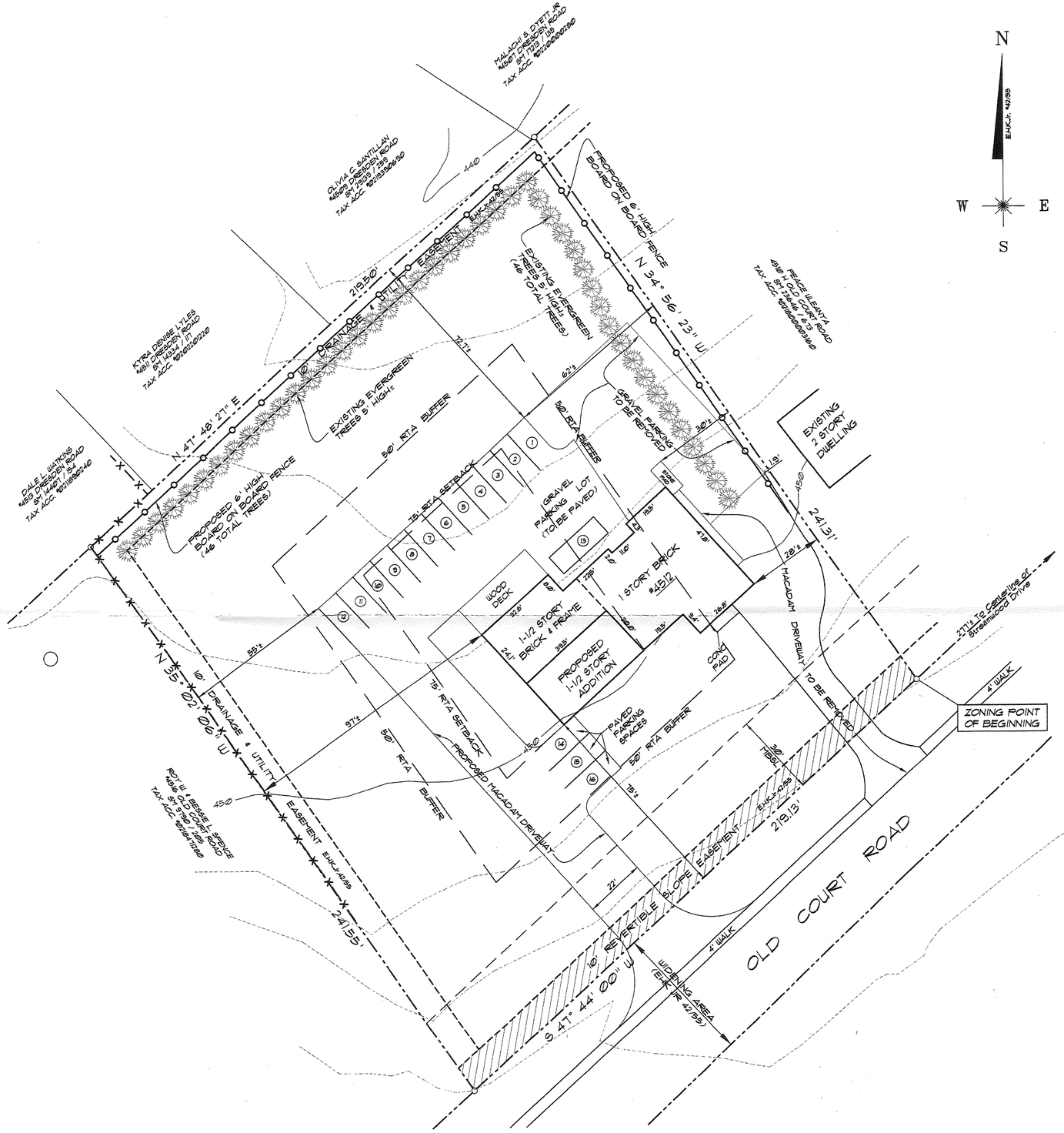
2nd ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

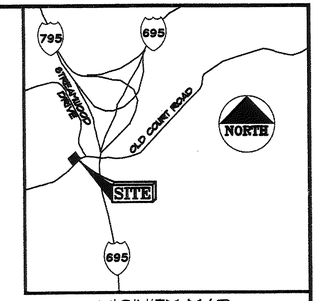
STATE OF MARYLAND — BRUCE EDWIN DOAK — NO. 531 — REGISTERED PROPERTY LINE SURVEYOR — 9/11/13

Date: 9/11/2013

Scale: 1"=20'

OLD





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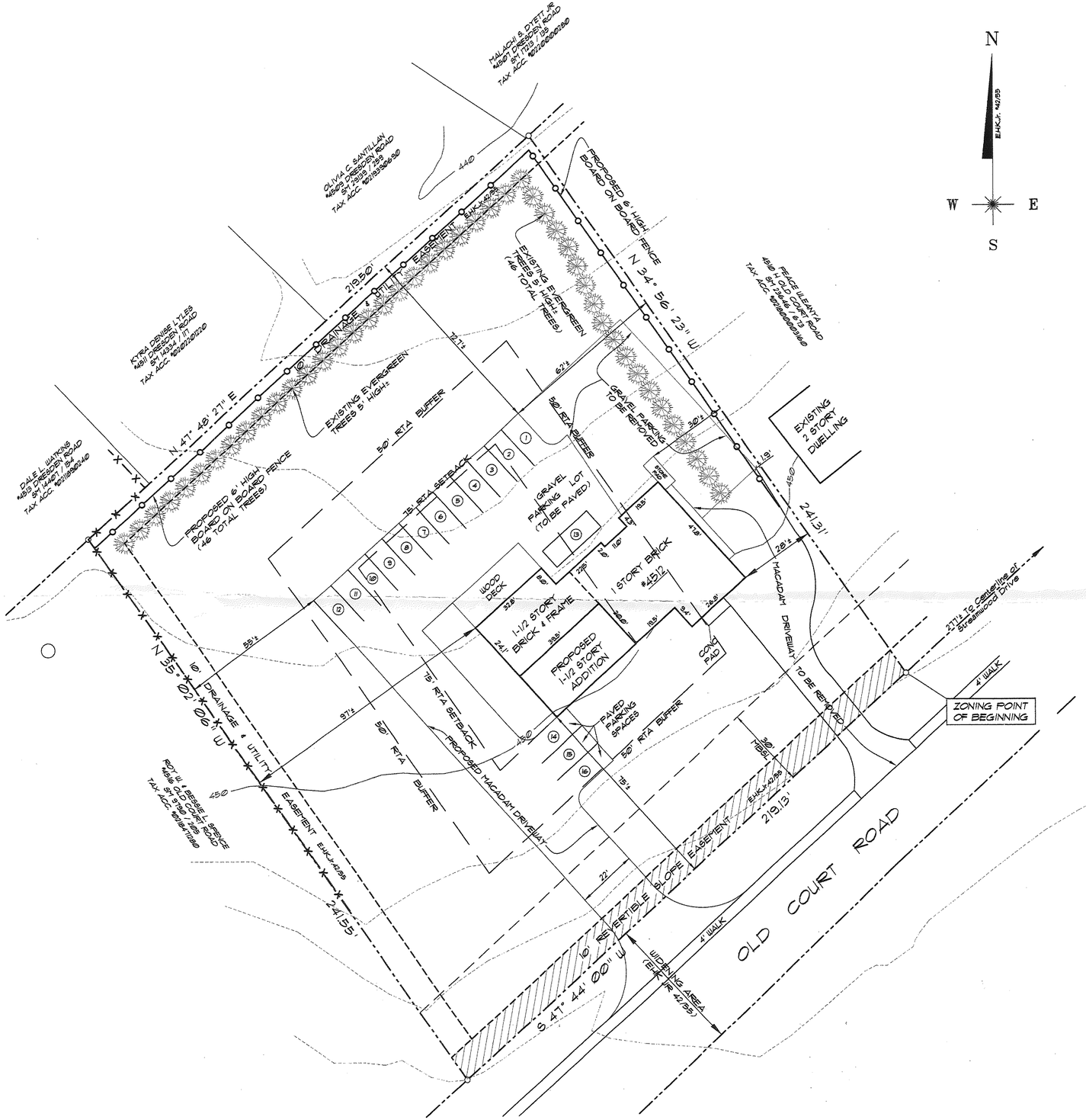
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@brucedoakconsulting.com

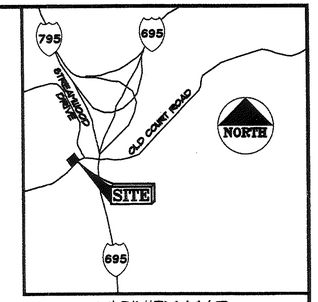
PLAN TO ACCOMPANY A PETITION FOR A
SPECIAL HEARING
4512 Old Court Road 1.206 Acres
Lot 2 "Diane Acres" EHK Jr 42/55
2nd ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND · BRUCE EDWIN DOAK · NO. 550 · REGISTERED PROPERTY LINE SURVEYOR · 10/30/13

Date: 9/11/2013
Scale: 1"=20'
Rev. Parking, Addition, Trees, Fence 10/29/13

2014-0064-SPH
REVISED





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2nd ELECTION DISTRICT 2nd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND · BRUCE EDWIN DOAK · NO. 531 · REGISTERED PROPERTY LINE SURVEYOR · 10/30/13

Date: 9/11/2013
Scale: 1"=20'
Rev. Parking, Addition, Trees, Fence 10/29/13

2014-0064 SPH
REVISED