

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
(1228 Kahler Avenue) *
15th Election District * OFFICE OF
7th Councilmanic District *
Jeanette Siverd (Diegel), Diana (Passapae) * ADMINISTRATIVE HEARINGS
Wagner & Linda Hammond *
Petitioners * FOR BALTIMORE COUNTY
* Case No. 2014-0203-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Jeanette Siverd (Diegel), Diana (Passapae) Wagner and Linda Hammond ("Petitioners"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve a modification of the existing non-conforming use to remove part of the property from the area to separate the house from the non-conforming portion of the property and to install a sloped roof for the garage to a height of 32 ft.

Appearing at the public hearing in support of the requests was Jeanette Siverd, Linda Hammond, Diana Passapae and professional engineer Rick Richardson, from Richardson Engineering, LLC, whose firm prepared the site plan. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance at the hearing. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) dated May 5, 2014 and Bureau of Development Plans Review dated April 17, 2014.

The subject property is 0.805± acres, and is zoned DR 5.5. Petitioners' father in the 1930s began a blacktop paving business on the site, which also contained a single family

ORDER RECEIVED FOR FILING

Date

6/5/14

By

Sen

dwelling (in which Petitioners were born and raised). The Petitioners are the surviving children, and they are trying to manage their father's estate, including the subject property.

This is a unique case, because the nonconforming use issue has been settled for many years. In 1977, the Deputy Zoning Commissioner determined that the Petitioners enjoyed a "legal nonconforming use as a contractor's equipment and storage yard." Exhibit 2. At present, the Petitioners have sought from the Development Review Committee (DRC) a lot line adjustment (Exhibit 4) which would divide the subject property into two lots: a 6,000 sf. lot improved with the single family dwelling known as 1228 Kahler Avenue, and a 17,705 sf. lot to the rear of the dwelling, for continued use as a contractor's equipment storage yard. The storage yard lot is improved with a large 1 story building (2,145 sf.) used in connection with the business. As Mr. Richardson noted, this in reality would be reducing by nearly 50% the current size of the nonconforming property, since the 6,000 sf. lot with the single family dwelling would no longer be nonconforming, since it would satisfy the DR 5.5 zone bulk and area standards.

In light of the above, the zoning aspects of this scenario are subsidiary to the DRC process (now pending), wherein the lot line reconfiguration will be accomplished. In my opinion, the Regulations do not prohibit the requested relief, and there is no indication that granting the Petition would be injurious to the community. The Petitioners are not expanding the nonconforming use or associated building. Following the death of their father, their brother Donald continued operating the family business on site. Donald Schiavo is recently deceased, and the Petitioners indicated they will continue operating the storage yard business, and hope to sell the single family dwelling (which if the DRC relief is granted would be on its own lot) to raise funds for improvements to the business. Thus, there has been no discontinuation (for one

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Date 6/5/14

2 By Sen

year or more) of the nonconforming use. In these circumstances, I believe B.C.Z.R. §104 has been satisfied, and the Petition will be granted.

With regard to the ZAC comments, a DRC application has been filed, and thus Mr. Kennedy's concerns have been addressed. The DOP submitted a lengthy list of concerns regarding the site, and I believe that some, but not all, should be imposed as conditions in the Order which follows. The plan should be amended to show the location of the chain link fence, and to label the "shed" which adjoins the large commercial building referenced earlier. The DOP states that the shed is falling down, and the Petitioners conceded that it is in poor shape. As for whether that building needs to be razed, I will leave that determination to the County's Buildings Engineer and/or building inspectors, both of whom will be copied on this Order. The commercial building will remain 1 story, which of course means there will be no storage on a "potential upper floor." Finally, the Petitioners stated that the construction equipment referenced in comment #5 has been moved to a different location on site, but they also advised that such equipment was at no time stored in the "public right-of-way" as stated in the DOP's ZAC comment.

THEREFORE, IT IS ORDERED this 5th day of June 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to approve a modification of the existing non-conforming use to remove part of the property from the area to separate the house from the non-conforming portion of the property and to install a sloped roof for the garage to a height of 32 ft., be and is hereby GRANTED.

ORDER RECEIVED FOR FILING

Date

6/5/14

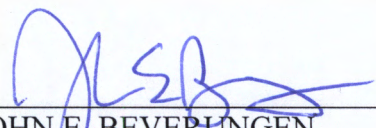
By

Sen

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. Within 15 days of the date of this Order, Petitioners shall submit an amended site plan showing the location of the chain link fence and the "shed" which adjoins the large commercial building.

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

6/5/14

By

sln

KEVIN KAMENETZ
County Executive



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

June 5, 2014

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

RE: Petition for Special Hearing
Property: 1228 Kahler Avenue
Case No. 2014-0203-SPH

Dear Mr. Richardson:

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 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,

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

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Code Inspector, Baltimore County Division of Code Inspections
and Enforcement, Department of Permits, Approvals and Inspections,
111 W. Chesapeake Avenue, Towson, MD 21204



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 1228 Kahler Avenue which is presently zoned DR-5.5

Deed References: 5386/134

10 Digit Tax Account # 1519071550

Property Owner(s) Printed Name(s) Linda Hammond, Jeanette Diegel, Diana Wagner, Donald Schiavo (Dec.)

(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 a modification of the existing non-conforming use to remove part of the property from the area to separate the house from the non-conforming portion of the property and to install a sloped roof for the garage to a height of 32 feet.

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) To be presented at the 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(s)~~ Petitioner

LINDA HAMMOND
Name- Type or Print

Linda Hammond
Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

JEANETTE SIVERD (Diegel) / DIANA (Passapae) WAGNER

Name #1 - Type or Print Name #2 - Type or Print

Jeanette Siverd Diana Passapae
Signature #1 Signature #2

1228 Kahler Avenue Baltimore MD
Mailing Address City State

21237 / 410-574-3394 / jksiverd@yahoo.com
Zip Code Telephone # Email Address

Representative to be contacted:

Richardson Engineering, LLC
Name - Type or Print

Signature

30 E. Padonia Road, Suite 500 Timonium MD
Mailing Address City State

21083 / 410-560-1502 / Rick@RichardsonEngineering.net
Zip Code Telephone # Email Address

CASE NUMBER 2014-0203-SP4 Filing Date 4/3/14

Do Not Schedule Dates: Reviewer JS

**ZONING PROPERTY DESCRIPTION FOR
1228 KAHLER AVENUE
15TH ELECTION DISTRICT
7TH COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point on the **east** side right-of-way of **Kahler Avenue** (30 feet wide) at a distance of **30 feet north** of the centerline of the nearest improved intersecting street **Boaz Avenue** (which is a **60 feet** wide right of way); the point also being where the east side right-of-way of **Kahler Avenue** intersects the north side right-of-way of **Boaz Avenue**:

Thence the following courses and distances: (1) North 16 degrees 54 minutes 00 seconds West 50.03 feet, (2) North 75 degrees 07 minutes 10 seconds East 184.20 feet, (3) North 15 degrees 58 minutes 50 seconds West 100.02 feet, (4) North 75 degrees 07 minutes 10 seconds East 2.05 feet, (5) North 15 degrees 58 minutes 50 seconds West 91.55 feet, (6) North 48 degrees 38 minutes 10 seconds East 64.57 feet, (7) South 14 degrees 52 minutes 50 seconds East 269.03 feet, (8) by a curve to the right with a radius of 1170.00 feet, an arc length of 55.23 feet, and a chord bearing and distance of South 73 degrees 46 minutes 02 seconds West 55.22 feet, (9) South 75 degrees 07 minutes 10 seconds West 183.40 feet; to the point of beginning.

Containing a net area of 23,705 square feet or 0.544 acres.

Being all of the land as recorded in deed Liber 5386, Folio 131,
Located in the 15th Election District and 7th Councilmanic District.



2014-0703-SP4

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

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: 2014-0703-SPH
Petitioner: HAMMOND/DIEGEL/WAGNER/SHAWO
Address or Location: 1728 KAHLER AVENUE

PLEASE FORWARD ADVERTISING BILL TO:

Name: JEANETTE SIVERD + DIANA WAGNER
Address: 1728 KAHLER AVE.
BALTIMORE, MD 21237

Telephone Number: 410-574-3394

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

109840

No.

Date:

PAID RECEIPT

BUSINESS ACTUAL TIME
 4/03/2014 4/03/2014 10:19:33

MS01 WALKIN LINS LJR

RECEIPT # 304342 4/03/2014

5 528 ZONING VERIFICATION

10/07/10

Receipt Tot \$500.00

\$500.00 OK \$0.00 CA

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept	Obj	BS Acct	Amount
000	806	0000		6150					\$ 500.00

Total: \$ 500.00

Rec

From: HAMMOND/DIEGEL/WAGNER/SU AVO

For:

2014-0203-SPH

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

2014-0203-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Jeanette Siverd (Diegel), Diana Wagner (Passapae), Linda Hammond

June 4, 2014

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 100
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

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

1228 Kahler Ave

May 15, 2014

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

Sincerely,

May 15, 2014

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)





THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

May 1, 2014

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 May 15, 2014

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

NOTICE OF ZONING HEARING

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

Case: # 2014-0203-SPH

1228 Kahler Avenue

NE corner of Kahler Avenue and Boaz Road

15th Election District - 7th Councilmanic District

Legal Owner(s): Jeanette Silverd (Diegel),

Diana Wagner (Passapae), Linda Hammond

Special Hearing: to approve a modification of the existing non-conforming use to remove part of the property from the area to separate the house from the non-conforming portion of the property and to install a sloped roof for the garage to a height of 32 feet.

Hearing: Wednesday, June 4, 2014 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

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

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

5/347 May 15

979817



KEVIN KAMENETZ
County Executive

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

April 30, 2014

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2014-0203-SPH

1228 Kahler Avenue

NE corner of Kahler Avenue and Boaz Road

15th Election District – 7th Councilmanic District

Legal Owners: Jeanette Siverd (Diegel), Diana Wagner (Passapae), Linda Hammond

Special Hearing to approve a modification of the existing non-conforming use to remove part of the property from the area to separate the house from the non-conforming portion of the property and to install a sloped roof for the garage to a height of 32 feet.

Hearing: Wednesday, June 4, 2014 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Siverd, Wagner, Hammond, 1228 Kahler Avenue, Baltimore 21237
Richardson Engineering, 30 E. Padonia Rd., Ste. 500, Timonium 21093

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, MAY 15, 2014**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, May 15, 2014 Issue - Jeffersonian

Please forward billing to:
Jeanette Siverd & Diana Wagner
1228 Kahler Avenue
Baltimore, MD 21237

410-574-3394

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: 2014-0203-SPH

1228 Kahler Avenue

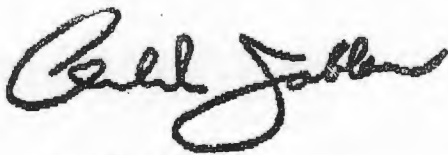
NE corner of Kahler Avenue and Boaz Road

15th Election District – 7th Councilmanic District

Legal Owners: Jeanette Siverd (Diegel), Diana Wagner (Passapae), Linda Hammond

Special Hearing to approve a modification of the existing non-conforming use to remove part of the property from the area to separate the house from the non-conforming portion of the property and to install a sloped roof for the garage to a height of 32 feet.

Hearing: Wednesday, June 4, 2014 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL 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.

MEMORANDUM

DATE: July 8, 2014
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2014-0203-SPH – Appeal Period Expired

The appeal period for the above-referenced case expired on July 7, 2014. 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

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
1228 Kahler Avenue; NE corner of Kahler		
Avenue & Boaz Road	*	OF ADMINSTRATIVE
15 th Election & 7 th Councilmanic Districts		
Legal Owners: Jeanette Siverd (Diegel), Diana*		HEARINGS FOR
(Passapae) Wagner, Linda Hammond	*	BALTIMORE COUNTY
& Donald Schiavo	*	2014-203-SPH
Petitioner(s)		

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

APR 18 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of April, 2014, a copy of the foregoing Entry of Appearance was mailed to Richardson Engineering, LLC, 30 E. Padonia Road, Suite 500, Timonium, MD 2193, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CHECKLISTComment
ReceivedDepartmentSupport/Oppose/
Conditions/
Comments/
No Comment4-17

DEVELOPMENT PLANS REVIEW

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

C/WCondition

DEPS

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

FIRE DEPARTMENT

5-5

PLANNING

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

C/WConditions4-17

STATE HIGHWAY ADMINISTRATION

No objection

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: 5-1-14

SIGN POSTING

Date: 5-15-14by Black

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

May 28, 2014

Jeanette Siverd (Diegel)
Diana (Passapae) Wagner
1228 Kahler Avenue
Baltimore MD 21237

RE: Case Number: 2014-0203 SPH, Address: 1228 Kahler Avenue

Dear Ms. Siverd & Ms. Wagner :

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on April 3, 2014. 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
Richardson Engineering LLC, 30 E. Padonia Road, Suite 500, Timonium MD 21093

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



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

Date: 4/17/14

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

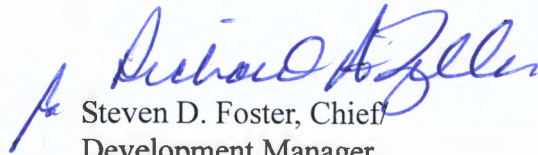
RE: Baltimore County
Item No 2014-0203-SPH
Special Hearing
Jeanette Sixerd (Diegel)
Diana (Passapae) Wagner
Linda Hammond
Donald Schiavo
1228 Kahler Avenue

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2014-0203-SPH

Should you have any questions regarding this matter, please 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).

Sincerely,


Steven D. Foster, Chief
Development Manager
Access Management Division

SDF/raz

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

Amended Site Plan
Richardson Engineering, LLC *per*
Order
6-5-14

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

Tel: 410-560-1502
Fax: 443-901-1208

June 12, 2014

Mr. John E. Beverungen, Administrative Law Judge
Permits, Approvals and Inspections
105 W. Chesapeake Avenue
Towson, MD 21204

Subject: 1228 Kahler Avenue – 2014-0203-SPH

Dear Mr. Beverungen:

Attached is a copy of the amended site plan as required with the Opinion and Order issued with this case. We have added the existing fence and delineated the “shed” garage building on the plan as requested.

We thank you for your consideration of the above request.

Sincerely,



Patrick C. Richardson, Jr., P.E.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For April 21, 2014
Item No. 2014-0203

DATE: April 17, 2014

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

The proposed line of division shown should be accomplished through the development process if the ALJ allows the requested separation.

DAK: CEN.
Cc: file.
ZAC-ITEM NO 14-0203-04212014.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 5, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED

MAY 05 2014

SUBJECT: 1228 Kahler Avenue

OFFICE OF ADMINISTRATIVE HEARINGS

INFORMATION:

Item Number: 14-203

Petitioner: Jeanette Siverd (Diegel) and Diana (Passapae) Wagner

Zoning: DR 5.5

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The request is for a special hearing to approve the modification of the existing non-conforming use to remove part of the property from the area to separate the house from the non-conforming portion of the property and to install a sloped roof for the garage to a height of 32'.

The business operation that is run from this property was confirmed as a non-confirming use and contractor's storage area in 1977 via zoning cases 76-27-V and 76-76-C. The request has been made so that the family can sell the house but keep the business on the property.

The applicant was directed by the Development Review Committee to seek a special hearing for a non-conforming use. The requested lot line adjustment was not granted. (DRC# 012114LLA).

As it stands now, the house itself is in good condition. However, the portion of the property containing the business is in poor condition (see attached photos). Fences are rusted and falling apart and the main building and smaller shed that face Boaz Rd are falling apart and in need of serious repairs. A large piece of construction equipment sits in the driveway, and a large flat bed trailer is parked on the premises as well.

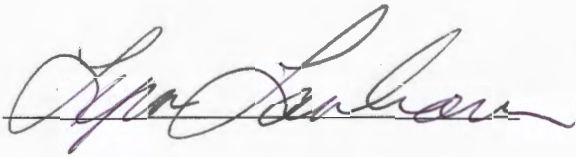
The Department of Planning recommends the following:

1. Clean up the site of all trash, debris, etc.
2. Show fence location on the plan.
3. Replace the existing fencing. ✓
4. The fence along Boaz Avenue should be located back from the right-of-way with landscape screening in the front.
5. Remove equipment from the public right-of-way.

6. The plan should identify the garage that is to be re-roofed and provide building elevations.
7. Roof can be sloped for drainage but structure should remain one-story.
8. No additional storage should be allowed in a potential upper floor
9. Plan should label the shed which is falling down.
10. The shed should be removed and should not be shown as part of the building.

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

Division Chief:
AVA/LL
Attachment

A handwritten signature in purple ink, appearing to read "Matt Diana", is written over a horizontal line.

Real Property Data Search (w2)

[Search Help](#)Your feedback is important to us. [Please take our short survey.](#)

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
Account Identifier:	District - 15 Account Number - 1519071550	
Owner Information		
Owner Name:	DIEGEL JEANETTE WAGNER DIANE HAMMOND LINDA SCHIAVO DONALD	Use: RESIDENTIAL
Mailing Address:	1228 KAHLER AVE BALTIMORE MD 21237-2827	Principal Residence: YES
	Deed Reference:	1) /00000/ 00000 2)
Location & Structure Information		
Premises Address:	1228 KAHLER AVE 0-0000	Legal Description: LT 100,101 1228 KAHLER AVE PHILADELPHIA HEIGHTS
Map: 0089	Grid: 0017	Parcel: 0606
Sub District:	Subdivision: 0000	Section:
Block:	Lot: 100	Assessment Year: 2012
Plat No:	Plat Ref: 0010/ 0106	
Town:	NONE	
Special Tax Areas:		
Ad Valorem:	Tax Class:	
Primary Structure Built 1938	Above Grade Enclosed Area 1,736 SF	Finished Basement Area
Property Land Area 9,200 SF	County Use 04	
Stories 2.000000	Basement YES	Type STANDARD UNIT
Exterior 1/2 BRICK SIDING	Full/Half Bath 1 full	Garage 1 Detached
Last Major Renovation		
Value Information		
Base Value	Value	Phase-in Assessments
	As of	As of
	01/01/2012	07/01/2013
Land: 62,500	62,500	As of 07/01/2014
Improvements 124,100	86,400	
Total: 186,600	148,900	148,900
Preferential Land: 0		0
Transfer Information		
Seller: HAILE ELMER R	Date: 03/02/1951	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /00000/ 00000	Deed2:
Seller: SCHIAVO JASPER	Date: 03/02/1951	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /00000/ 00000	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Exemption Information		
Partial Exempt Assessments: Class	07/01/2013	07/01/2014
County: 000	0.00	
State: 000	0.00	
Municipal: 000	0.00/0.00	0.00/0.00
Tax Exempt:	Special Tax Recapture:	
Exempt Class:	NONE	
Homestead Application Information		
Homestead Application Status: Denied		

New Search (<http://sdat.resiusa.org/RealProperty>)

Order the **TAX MAP** [click here...](#)

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

x Loading... Please

Loading... Please Wait.

CASE NAME 1228 KAHLER AVE
CASE NUMBER 2014-203
DATE 6/4/14

[illegible]

Case No.: 2014-0203-SPH

Exhibit Sheet

Petitioner/Developer

Protestant

DW 7-8-14

slm
6/5/14

No. 1	Plan	
No. 2	Order in No. 77-76 & 77-136	
No. 3	Historical photos	
No. 4	Jan 30, 2014 letter re: DRC request	
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

1228 Kahler Avenue
14th Election District

: DEPUTY ZONING

Mr. Jasper Schiavo
1228 Kahler Avenue
Baltimore, Maryland 21237
Defendant

: COMMISSIONER

: OF

: BALTIMORE COUNTY

: 77-76-V, C-77-136

::: :::

::: :::

A complaint has been filed with the Zoning Office concerning an alleged violation of the Baltimore County Zoning Regulations on property at the above location. A hearing was held to determine whether a violation exists.

The following Baltimore County Zoning Regulations are involved:

Section 102.1 - "No land shall be used or occupied and no building or structure shall be erected, altered, located, or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use."

Section 104 - "NONCONFORMING USES"

This property was the subject of a prior hearing, Case No. 76-27-V, and a subsequent Order, dated August 26, 1975, which found a nonconforming use existed for a contractor's equipment storage yard.

On November 19, 1976, a second hearing was held in this matter, Case No. 77-76-V, and an Order dated December 2, 1976 was issued. Said Order held the matter of a contractor's equipment storage yard sub curia pending the submittal of an approved site plan describing all of the property at 1228 Kahler Avenue and adjacent thereto.

Testimony at the hearing indicated that two distinct parcels of land are involved. The first, referred to as parcel "A", fronts on Kahler Avenue to the extent of 50 feet, more or less. The second parcel, identified as parcel "B", lies to the rear of and adjoins the former, and borders 1228, 1230, 1232, and 1234 Kahler Avenue, and runs approximately 269 feet north and south. Both of these parcels are presently owned by Jasper Schiavo and utilized for

PETITIONER'S

EXHIBIT NO. 2

dant in the late 1930's and has been in continuous use as a contractor's equipment storage yard since that date, but that parcel "B" was not acquired by Mr. Schiavo until 1958. A site plan submitted on behalf of Mr. Schiavo confirms the 1958 date.

The Order rendered by James E. Dyer, the then Deputy Zoning Commissioner, wherein a nonconforming use was adjudicated on August 26, 1975, pertained to that property known as 1228 Kahler Avenue, of which parcel "B" is a part.

Witnesses on behalf of the Defendant testified to the continued use of parcel "B" as a contractor's equipment storage yard prior to and after the Defendant's acquisition of it, during which period of time it was alleged to have been leased by him for storage of contractor's equipment.

A nearby resident, in protest, alleged that the use of parcel "B" by the Defendant, and his acquisition of additional mechanical equipment, constituted an unauthorized expansion of a nonconforming use, and that repair of such equipment is not permitted on the property.

Without reviewing the testimony and evidence in detail, but based on all testimony and evidence presented at the hearing, the Deputy Zoning Commissioner is now ready to make a decision.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 17th day of February, 1977, that the 1228 Kahler Avenue property, including designated parcels "A" and "B", does enjoy a legal nonconforming use as a contractor's equipment storage yard.

Further it is ORDERED that all operations at the subject property must be restricted to the hours between 8 a.m. and 5 p.m. no more than six days per week; screening must be installed; and a site plan must be submitted for approval and full compliance obtained, all within 60 days from the date of this Order.



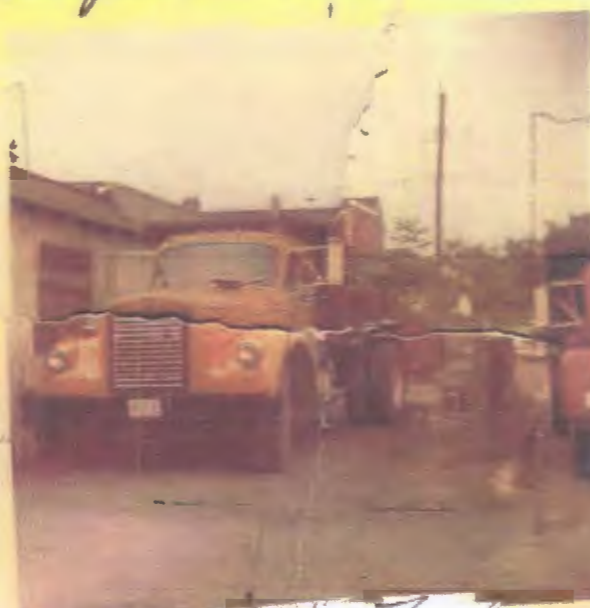
Small Garage & big Garage.



Back Lot for Storage.



Garages



Another Dump Truck



No. 3

My Dad's Company & my brother in Dump Truck



House & Street view



Back by the big garage



Taken by big garage



ye 1939 march (no Row Home)

*Street view off side Little
Dunag*

Dump Truck off the Road





KEVIN KAMENETZ
County Executive

January 30, 2014

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

Patrick Richardson
Richardson Engineering, LLC
20 E. Padonia Road, Ste. 500
Timonium, MD 21093

Re: Schiavo Property, 1228 Kahler Avenue, 21237, Dist. 15c7
DRC Number: 012114-LLA (2013-00248)

Dear Sir/Madam:

Pursuant to Section 32-4-106(a)(1) of the Baltimore County Code, this letter constitutes an administrative order and decision on the request you filed with this department.

Your request has been submitted for careful review and consideration to the Director and Zoning Office. It has been determined that your proposal:

- ☐ Meets the requirements of a limited exemption under Section 32-4-106(a)(1)(viii) BCC
- ☐ Meets the requirements of a limited exemption under Section 32-4-106(a)(1)(ii) or (a)(1)(v) (No development or building and all future uses will require Zoning and Development approval)
- ☒ does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) BCC. You will be notified if your project can be scheduled for the next open DRC meeting and any additional requirements for review. A non-conforming use Special Hearing must be granted prior to zoning approval of a lot line adjustment.
- ☐ needs additional materials/information for review. Contact Carl Richards or Joseph Merrey at 410-887-3391.
- ☐ does not reach the scope or extent that would require Baltimore County development approval.
- ☐ all or a portion of the property is located within the Chesapeake Bay Critical Area, therefore prior to recording deeds or submitting a record plat you are required to apply for Lot Consolidation and Reconfiguration through the Dept. of Environmental Protection and Sustainability (Comar 27.01.02.08)

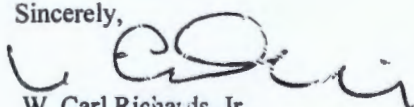
When recording deeds in the land records, please attach this letter and the survey plat as exhibits. Also, if the property(s) are improved or any Baltimore County permits are applied for or anticipated in the future, the following approval agencies should be contacted to resolve any possible development issues: Development Plans Review – 410-887-3751, Planning 410-887-3480, Environmental Protection & Sustainability – 410-887-5859

PETITIONER'S

EXHIBIT NO. 4


Arnold Jablon Initial

Sincerely,


W. Carl Richards, Jr.
Zoning Supervisor

Richardson Engineering, LLC

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

Tel: 410-560-1502
Fax: 443-901-1208

December 23, 2013

Attention: Mr. Arnold Jablon
Director of Permits, Approvals and Inspections
111 W. Chesapeake Avenue
Towson, MD 21204

Subject: 1228 Kahler Avenue – Lot Line Adjustment

Dear Mr. Jablon:

On behalf of our clients, the Schiavo family, we hereby request a limited exemption from the development regulations for the above project. This request is based upon the provision as defined in Section 32-4-106(b) (1).

The attached plan shows the lots as established with Plat 10-106, with the subject residence being on Lot 97. The additional parcel of land to the east, which comprises the balance of the property was created in Plat 16-107, which was a parcel of land not divided into lots on that plat. There is a house where the owner of the business lived located near Kahler Avenue, and a garage that was used for the business located to the eastern side of the lot.

The proposed change will be to move the lot line so the house can be sold as a separate entity while still maintaining the garage with the non-conforming use.

We believe that the proposed lot line adjustment is justified as defined in Section 32-4-106(b) (1) of the Baltimore County Code.

We thank you for your consideration of the above request.

Sincerely,

Patrick C. Richardson, Jr., P.E.

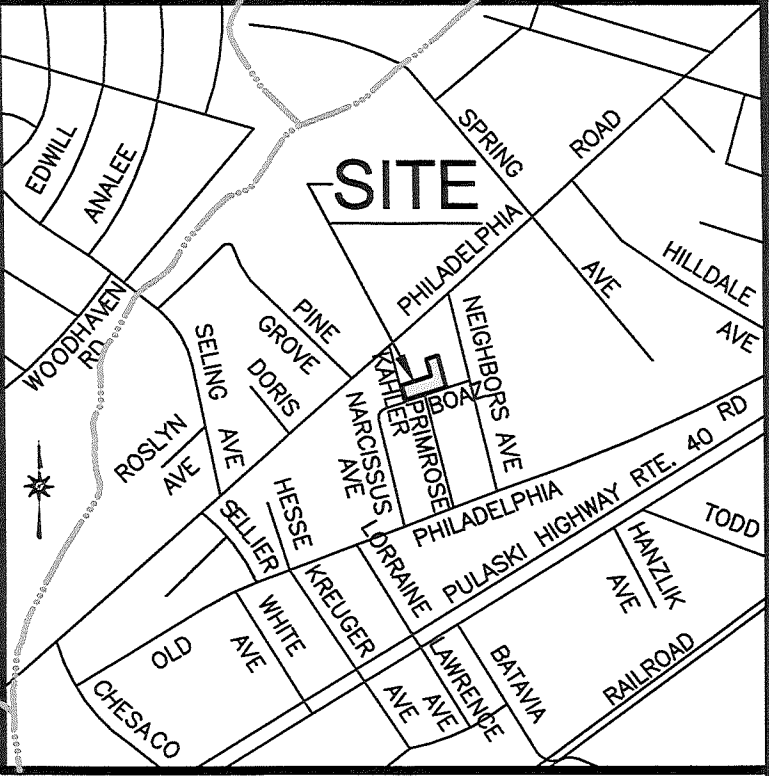
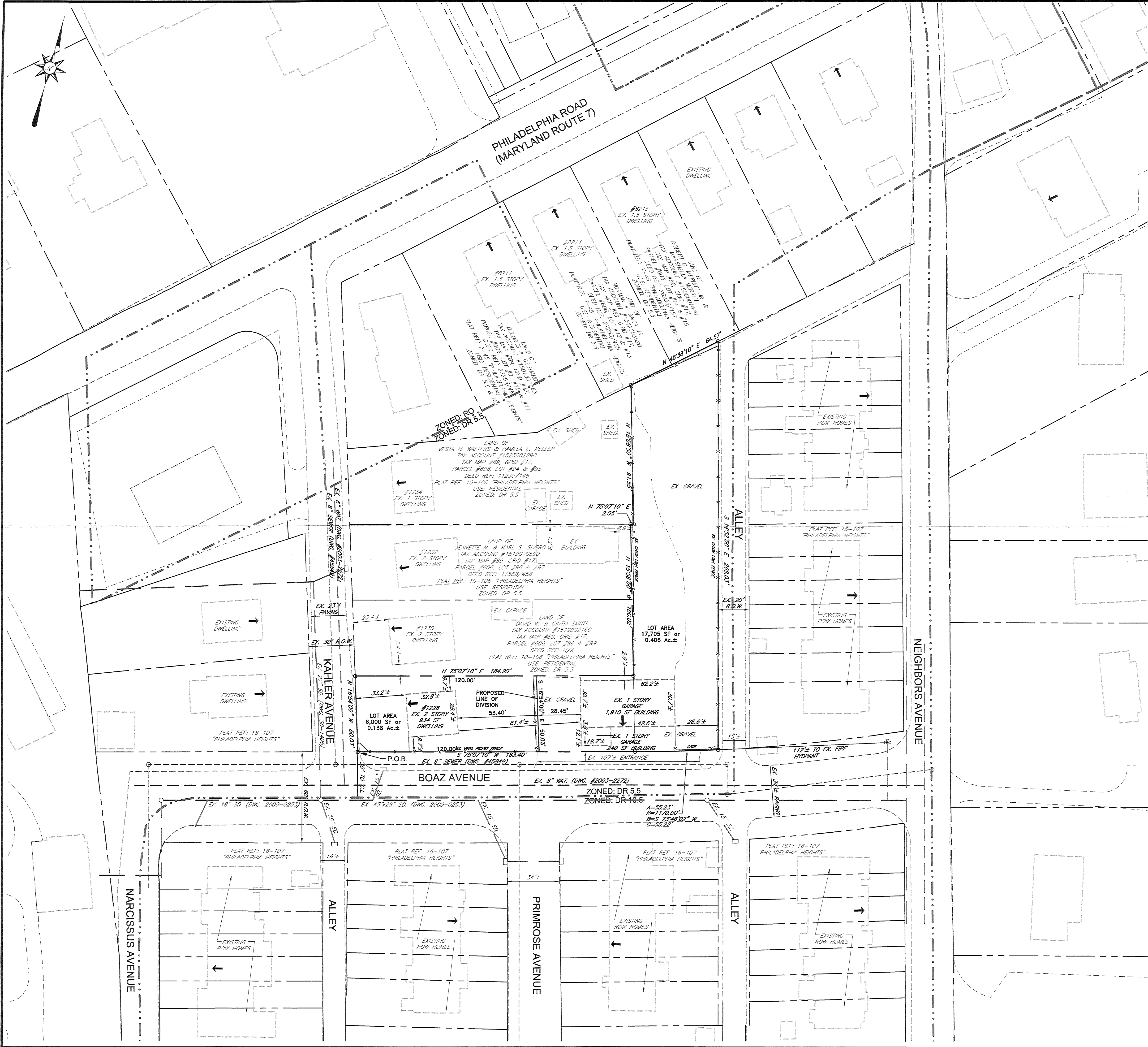
Encl: \$100.00 Processing Fee











LOCATION MAP

SCALE: 1" = 1000'

GENERAL NOTES:

- OWNER: JASPER & VIRGINIA M. SCHIAVO, JEANETTE DIEGEL, DIANE WAGNER, LINDA HAMMOND & DONALD SCHIAVO 1228 KAHLER AVENUE BALTIMORE, MARYLAND 21237
- SITE AREA: GROSS: 35,062 SF or 0.805 Ac.± NET: 23,705 SF or 0.544 Ac.±
- EXISTING USE: DWELLING AND CONTRACTORS STORAGE YARD.
- UTILITIES: PUBLIC WATER & SEWER.
- DEED REF: 5386/131.
- TAX ACCOUNT: 1519072950 & 1519071550.
- ZONING: DR 5.5 (PER 1"=200' ZONING MAP 089C3)
- TAX MAP #89, PARCEL #608.
- COUNCILMANIC DISTRICT: 7th
- SITE LIES WITHIN ZONE "X" OF FLOOD INSURANCE RATE MAP (FIRM) PANEL #2400100410 F PANEL 410 OF 580 DATED SEPT. 26, 2008. ZONE "X" IS AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
- PREVIOUS ZONING CASES: 76-27-V AND 76-16-C TO CONFIRM THE SITE AS A NONCONFORMING USE AND CONTRACTORS STORAGE AREA
- NO KNOWN PREVIOUS CRO'S, DRO'S OR WAIVERS ON FILE.
- SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
- THE PROPERTY AND THE STRUCTURES ARE NOT HISTORIC.
- BUILDING AREA: 4,013 SF
- FLOOR AREA RATIO (F.A.R.): 4,013 / 35,062 = 0.114
- WATERSHED: BACK RIVER
- LOT FOR 1228 KAHLER AVE: 6,000 SF AFTER LOT LINE ADJUSTMENT

PROFESSIONAL CERTIFICATION:
I HEREBY CERTIFY THAT THESE DOCUMENTS
WERE PREPARED OR APPROVED BY ME, AND
THAT I AM A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE STATE
OF MARYLAND, LICENSE NUMBER 16597,
EXPIRATION DATE: 08-15-2015



Richardson Engineering, LLC

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

PLAN TO ACCOMPANY ZONING PETITION
FOR THE

SCHIAVO PROPERTY
1228 KAHLER AVENUE
BALTIMORE, MARYLAND 21237

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS	DRAWN BY:	DESIGNED BY:	SCALE:
	CND	PCR	1" = 30'
	DATE:	JOB NO.:	SHEET NO.:
	10-11-13	13106	1 OF 1



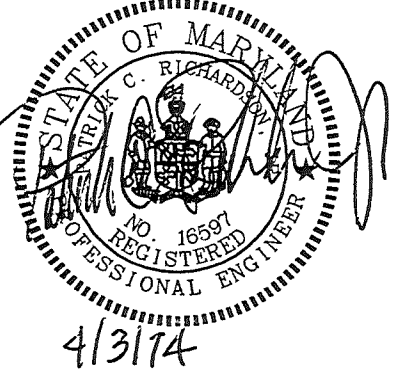
LOCATION MAP

SCALE: 1" = 100'

GENERAL NOTES:

- OWNER: JASPER & VIRGINIA M. SCHIAVO, JEANETTE DIEGEL, DIANE WAGNER, LINDA HAMMOND & DONALD SCHIAVO 1228 KAHLER AVENUE BALTIMORE, MARYLAND 21237
- SITE AREA: GROSS: 35,062 SF or 0.805 Ac.± NET: 23,705 SF or 0.544 Ac.± EXISTING USE: DWELLING AND CONTRACTORS STORAGE YARD.
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4/3/14

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Phone: 410-560-1502 Fax: 443-901-1208

PLAN TO ACCOMPANY ZONING PETITION FOR THE

SCHIAVO PROPERTY
1228 KAHLER AVENUE
BALTIMORE, MARYLAND 21237

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

REVISIONS	PETITIONER'S	DRAWN BY:	DESIGNED BY:	SCALE:
		CND	PCR	1" = 30'
EXHIBIT NO. 1		DATE:	JOB NO.:	SHEET NO.:
		10-11-13	13106	1 OF 1

CASE 2014-203-SPH