

IN RE: PETITION FOR SPECIAL EXCEPTION *

BEFORE THE

(9412 Belair Road)

11th Election District *

OFFICE OF

6th Council District

Maliheh Investment Properties, LLC *

ADMINISTRATIVE HEARINGS

Legal Owner

Petitioner *

FOR BALTIMORE COUNTY

* Case No. 2015-0112-X

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

Now pending is a Motion for Reconsideration filed by the Office of People's Counsel, and an opposition thereto filed by the Petitioner. The issue at hand concerns whether the RTA regulations are applicable in this case, and if so, whether they can/should be modified or variances.

The original Order submitted by the undersigned generated some of the confusion in this regard. In reviewing the site plan, I focused on the adjacent R.O.A. zone and held that such a zone does not trigger the RTA regulations. February 4, 2015 Order, p.3. That continues to be my opinion, but that is not the "holding" of this Order; indeed, as Mr. Zimmerman notes, the issue of whether an R.O.A. zone generates a R.T.A is purely "academic" in this case given that (and this was the point overlooked in the original Order) the subject property is in fact adjacent to D.R. 3.5-zoned property. Thus, the RTA regulations are applicable.

The next issue concerns whether those regulations are subject to modification in the circumstances of this case, or whether variance relief is required. I believe, as noted in the original Order and as suggested by the DOP, that a modification of the RTA regulations is appropriate in this case. I believe that the RTA modifications granted in Case No. 94-405-XA are still applicable (given zoning relief "runs with the land") and all that is required at this juncture is a slight enlargement of the modifications granted in 1994.

ORDER RECEIVED FOR FILING

Date 3/19/15

By Drh

For present purposes, it suffices to say that the testimony of Mr. Wells and the ZAC comment of the DOP lead me to believe the slight incursions upon the RTA setbacks will not detrimentally impact the neighborhood. This point is also underscored by the fact that none of the neighboring owners along Pinedale Drive - - i.e., the "beneficiaries" of the RTA setbacks - - voiced any concern in this case. The Petitioner's facility has been at the present location for many years, and it performs a vital function for the aging population in the area. Indeed, Mr. Varzandeh (principal of the entity owner) explained that his facility cares for many local residents, and has also received grants from the Baltimore County Department of Aging in recognition of these services. In these circumstances, I do not believe that the slight modifications of the RTA setbacks will in any way have a negative impact upon the community; to the contrary, I believe it will enable Petitioner to expand his facility to meet the demand for such convalescent services.

Petitioner has submitted a revised site plan (dated March 12, 2015) that will be marked as Exhibit 5. Thereon, Mr. Wells has indicated (in green line revisions) the 75' and 100' RTA setback and limits, and as Ms. Busse notes in her March 13, 2015 correspondence, only two small portions of the proposed building addition as well as a small portion of the existing parking area will intrude upon the RTA setbacks.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 19th day of March, 2015, that the Motion for Reconsideration be and is hereby GRANTED to the extent that the RTA regulations shall be applicable in this case.

IT IS FURTHER ORDERED that modifications to the RTA requirements be and are hereby GRANTED, such that portions of the proposed building addition and existing parking area (as more particularly shown on the revised site plan marked and admitted as Exhibit 5) shall be permitted within the RTA setback.

ORDER RECEIVED FOR FILING

Date

3/19/15

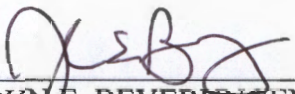
By

den

IT IS FURTHER ORDERED that all other terms and conditions included in the original Order dated February 4, 2015 shall continue in full force and effect.

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

JEB/sln



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 3/19/15

By sln



KEVIN KAMENETZ
County Executive

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

March 19, 2015

Jennifer R. Busse, Esquire
Whiteford, Taylor & Preston, LLLP
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204-5025

MOTION FOR RECONSIDERATION

RE: Petition for Special Exception
Case No.: 2015-0112-X
Property: 9412 Belair Road

Dear Mrs. Busse:

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

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,

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:slm
Enclosure

c: Peter Zimmerman, Esq.,
Baltimore County Office of People's Counsel

IN RE: PETITION FOR SPECIAL EXCEPTION *

(9412 Belair Road)

11th Election District *

6th Council District

Maliheh Investment Properties, LLC *

Legal Owner

Petitioner *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2015-0112-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Exception filed for property located at 9412 Belair Road. The Petition was filed on behalf of the legal owner of the subject property, Maliheh Investment Properties, LLC. The Special Exception petition seeks relief pursuant to §§202.3.B and 1B01.1.C.3 of the Baltimore County Zoning Regulations (B.C.Z.R) to permit a Convalescent Home providing Domiciliary (Assisted Living) Care. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit No. 2.

Appearing in support of the request were owner Khashy Varzandeh and Kenneth Wells, a licensed surveyor whose firm prepared the site plan. Jennifer R. Busse, Esquire represented the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. No Protestants or interested citizens attended the hearing.

Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP). These will be discussed below.

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Date 2/4/15

By Sen

The subject property is approximately 1 acre and is zoned R-O-A. The property is improved with a one story building now used as an Assisted Living Facility II (ALF). The Petitioner proposes to expand the operation which would constitute a convalescent home under the B.C.Z.R. That use is permitted by special exception in the R-O-A (and D.R.) zone.

Special Exception Law in Maryland

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). The Schultz standard was revisited in People's Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. In this case, Mr. Wells opined that Petitioner satisfied the B.C.Z.R. §502.1 standards, and I concur. As such, the petition for special exception will be granted.

ZAC Comments

The Bureau of DPR indicated that "local open space" would be required, as would a landscape plan. The site plan (Ex. 2) shows that 4,263 sq. ft. of "relocated open space" is being provided, although it is unclear whether that constitutes "amenity open space" or "local open space." Only assisted living facilities (ALF)—and not convalescent homes-- are required to provide 10% "private open space," per B.C.Z.R. §432A.1.C.3. This case involves a convalescent home, and such a use does not require amenity or private "open space."

Local open space (LOS) is required by Article 32, Title 4 of the County Code in "development" cases. Under the law, "development" is broadly defined, to include the

ORDER RECEIVED FOR FILING

2
Date

2/4/15

By

sen

"improvement of property for any purpose involving building." BCC § 32-4-101(p). Thus, it may be that LOS is required here (or that, as noted in Ms. Tansey's January 22, 2015 e-mail, a waiver of same is available under Resolution 63-00). In any event, that issue will be considered if and when the County requires a "development plan" to be submitted prior to the issuance of permits, and Mr. Wells testified that the County may not require such a plan in this case.

In addition, Petitioner has submitted a schematic landscape plan (Ex. 4), and Mr. Wells explained that plantings far in excess of what the Landscape Manual requires will be provided. A condition regarding final landscape plan approval will be included in the Order which follows.

The DOP indicated that it initially had several concerns with the project, but that through meetings and discussions with the Petitioner the site plan was revised to address these issues. The DOP noted it had "no objection to granting the special exception," and the recommendations set forth in its ZAC comment will be included as conditions in the Order.

RTA

A discussion took place at the hearing concerning whether or not the RTA regulations were applicable in this case. The regulations provide that the RTA applies in the R-O-A zone, subject to certain exceptions not applicable in this case. B.C.Z.R. §202.4. But this is only when "the property to be developed is zoned D.R. [or in this case, R-O-A., per §202.4.A] and lies adjacent to land zoned D.R.1, D.R. 2, D.R. 3.5, D.R. 5.5 or RC". B.C.Z.R. §1B01.1.B.1.b. Here, as shown on the County zoning map (Exhibit 1), the adjacent property is zoned R-O-A. As such, I do not believe the RTA requirements are applicable in this case.

However, in an abundance of caution, and notwithstanding my reasoning above, the Petitioner has requested a modification of the RTA standards pursuant to B.C.Z.R. §1B01.1.B.1.c. Petitioner contends the proposed improvements and use are compatible with the surrounding uses

ORDER RECEIVED FOR FILING

3

Date

2/4/15

By

sen

and that it has complied to the extent possible with the RTA requirements. I concur, and believe the modification meets the spirit and intent of the Regulations without adversely impacting any adjacent property or the surrounding locale. In addition, a similar modification of the RTA requirements was granted by the Zoning Commissioner in Case No. 94-405-XA, and I believe that relief still applies to the property today.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 4th day of February, 2015, that the Petition for Special Exception to permit a Convalescent Home providing Domiciliary (Assisted Living) Care, be and is hereby GRANTED.

IT IS FURTHER ORDERED that a modification to the RTA requirements pursuant to B.C.Z.R. §1B01.1.B.1.c., based upon a finding that the proposed use and improvements are compatible with the surrounding uses and that compliance to the extent possible with the RTA requirements has been achieved, be and is hereby GRANTED.

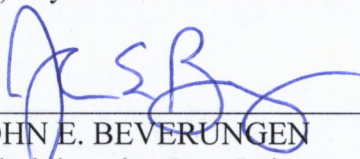
The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner shall have five (5) years from the date hereof in which to utilize the special exception.
3. Petitioner must comply with the four (4) requests set forth in the DOP ZAC comment, a copy of which is attached hereto.
4. Prior to issuance of permits, Petitioner must submit for approval by Baltimore County a landscape plan.

ORDER RECEIVED FOR FILING

Date 2/4/15
By Aln

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 2/4/15
By sln

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: January 20, 2015

FROM: Andrea Van Arsdale
Director, Office of Planning

RECEIVED

JAN 21 2015

SUBJECT: 9412 Belair Road

INFORMATION:

OFFICE OF ADMINISTRATIVE HEARINGS

Item Number: 15-112
Petitioner: Maliheh Investment Properties LLC
Zoning: ROA
Requested Action: Special Exception

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The subject request is for a special exception pursuant to Section 202.3B and 1B01.1.C.3 to permit a Convalescent Home providing Domiciliary (Assisted Living) care (now defined in Section 101 as "nursing home") and for such other and further relief as may be determined necessary by the Administrative Law Judge. The proposed use is allowed in ROA by special exception and as limited in DR 3.5 zone.

Upon review of the petition and accompanying site plan and subsequent to a site visit, the following comment and recommendation is offered.

The site plan indicates that the existing building currently operates as an ALF II pursuant to an approved Use Permit dated 8/29/2005 with a maximum of 15 beds. Proposed is a one story addition to the existing facility for a 30 bed convalescent home with 5 additional parking spaces. The use as existing and proposed is institutional.

The use, as limited in DR 3.5, is therefore subject to the Residential Transition Area requirements pursuant to BCZR 202.4.A.

The proposed addition would necessitate the removal of a substantial stand of mature trees. The desire to retain mature trees and landscaping is emphasized by the Perry Hall Community Plan, of which this property is a part. Adopted by the county council in

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Date 2/4/15

By Den

2010, and so a part of MP 2020, the plan states that every effort should be made to preserve mature trees and landscaping along Belair Road.

The Planning Department has met with the applicant's representatives several times to discuss issues relating to applying the RTA, addressing the architecture of the building so as to minimize the long, blank wall along Belair Road, preserving as many trees as possible, and making the structure as compatible as possible with the surrounding residential community.

To date, the applicant continues to make progress in addressing this department's comments by improving the site plan and architecture. Revised schematic building elevations were submitted today that reflect requested modifications. Therefore, this department has no objection to granting the special exception and finds that the proposal meets the compatibility objectives subject to the following conditions:

1. Provide final colored building elevations indicating building materials and a specific color palette labeled for each material.
2. Provide a final landscape plan with lighting, for review and approval by the County's landscape architect. The maximum height of any lighting fixture shall be 16 feet.
3. Provide details to include dimensions and materials of any proposed identification signage indicated on site plan.
4. Provide screening for any proposed refuse storage area and associated proposed screening on the landscape and site plan.

Prepared by:

Division Chief:

AVA:lh,ll

ORDER RECEIVED FOR FILING

Date

2/4/15

By

sen



KEVIN KAMENETZ
County Executive

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

February 4, 2015

Jennifer R. Busse, Esquire
Whiteford, Taylor & Preston, LLLP
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, MD 21204-5025

RE: Petition for Special Exception
Case No.: 2015-0112-X
Property: 9412 Belair Road

Dear Mrs. Busse:

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,

A handwritten signature in black ink, appearing to read "JEB", is written over a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure



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 9412 Belair Road which is presently zoned ROA
Deed References: 29402/175 10 Digit Tax Account # 1 1 1 1 0 5 7 2 5 0
Property Owner(s) Printed Name(s) Maliheh Investment Properties LLC

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

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

PLEASE SEE ATTACHED

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:~~

KHASHAYAR VARZANDEH

Name - Type or Print

Khoshayar Varzandeh

Signature

4302 CHAPEL RD PERRY HALL MD

Mailing Address City State 21204

21204 410-832-2077 KHASHAYAR@GMAIL.COM

Zip Code Telephone # Email Address

Attorney for Petitioner:

Jennifer R. Busse, Esquire

Name - Type or Print

J Busse

Signature Whiteford, Taylor & Preston

1 W. Pennsylvania Ave., Ste. 300, Towson MD

Mailing Address City State

21204 /410-832-2077/ jbusse@wtplaw.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Maliheh Investment Properties LLC /

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Khoshayar Varzandeh, Organizer

9412 Belair Road, Perry Hall, Maryland

Mailing Address City State

21204 /410.248.0545/BaltimoreALF@gmail.com

Zip Code Telephone # Email Address

Representative to be contacted:

Jennifer R. Busse, Esquire

Name - Type or Print

J Busse

Signature Whiteford, Taylor & Preston

1 W. Pennsylvania Ave., Ste. 300, Towson MD

Mailing Address City State

21204 / 410-832-2077 / jbusse@wtplaw.com

Zip Code Telephone # Email Address

CASE NUMBER 2015-0112-X Filing Date 11, 17, 14

Do Not Schedule Dates:

Date

2/4/15

Reviewer

BD

REV. 10/4/11

By

den

Attachment to Petition for Special Exception

9412 Belair Road

Petition for Special Exception pursuant to BCZR Section §202.3B and §1B01.1.C.3 to permit a
Convalescent Home providing Domiciliary (Assisted Living) Care; and

For such other and further relief as may be determined necessary by the Administrative Law Judge.

437503v2

Item # 0112

kjWellsInc

Land Surveying, Site Planning & Landscape Architecture

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

October 2, 2014
Zoning Description
of
9412 Belair Road
Baltimore County
Maryland
11th Election District
5th Councilmanic District

Beginning at a point form by the intersection of the northwest side of Belair Road (width varies) and the southwest side of Pinedale Drive (width varies) said point being 66 feet southwest from the centerline of Pinedale Drive; thence the following courses and distances: 1) South 42 degrees 11 minutes 39 seconds West 195.63 feet; 2) North 47 degrees 48 minutes 21 seconds West 136.47 feet; 3) North 42 degrees 11 minutes 39 seconds East 25.79 feet; 4) North 77 degrees 24 minutes 22 seconds West 35.09 feet; 5) North 10 degrees 46 minutes 09 seconds East 141.31 feet; 6) a line curving to the left having a radius of 546.43 feet and an arc length of 71.18 feet; 7) a line curving to the right having a radius of 155.00 feet and an arc length of 125.45 feet; 8) South 47 degrees 39 minutes 37 seconds East 41.48 feet; 9) South 7 degrees 34 minutes 53 seconds East 45.08 feet to the place of beginning as recorded in Liber 29402 folio 175.



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

No. **116288**

Date: **11/17/14**

PAID RECEIPT

BUSINESS ACTUAL TIME
 11/18/2014 11/17/2014 11:19:23

RE: MS02 WALKIN JOHN ICE

RECEIPT # 94036 11/17/2014 OFL

Dept 5 528 ZONING VERIFICATION

CR NO. 116288

Receipt for \$500.00

\$500.00 CR \$1.00 CA

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150						\$500.00

Total: **\$500.00**

Rec From: **Malibu Investment Prop. LLC**

For: **zoning hearing - case # 2015-0112-X**

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

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: 2015-0112-X

Petitioner: Ma Maison, Inc

Address or Location: 9412 Belair Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Khashy Varzandeh

Address: 9412 Belair Rd

Perry Hall, MD
21128

Telephone Number: 410. 248. 0545

2015-0112-X

CERTIFICATE OF POSTING

CASE NO: 2015-0112-X

PETITIONER/DEVELOPER
WHITE FORD, TAYLOR, PRESTON

DATE OF HEARING/CLOSING:

1/21/15

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

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 AT _____

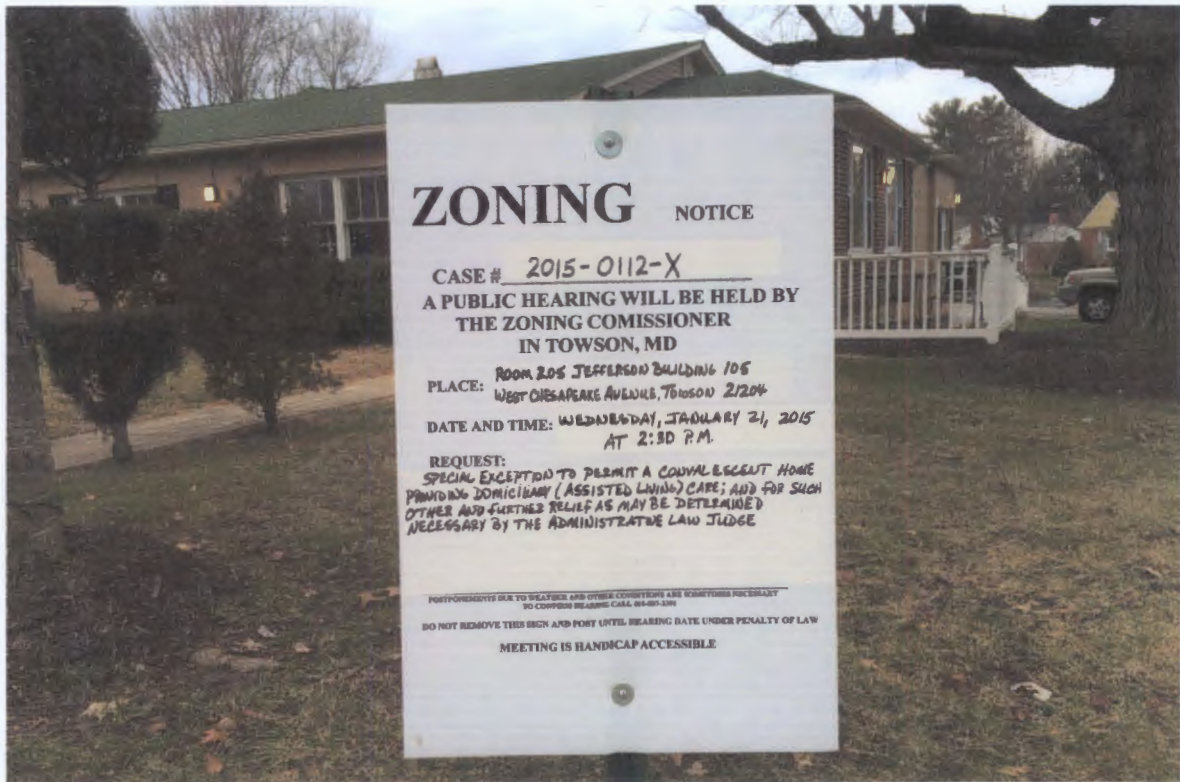
9412 BELAIR ROAD

HIS SIGN(S) WERE POSTED ON December 30, 2014
(MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle 12/30/14
SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE
(SIGN POSTER)
60 CHELMSFORD COURT
BALTIMORE, MD 21220
(ADDRESS)
PHONE NUMBER: 443-629-3411



made 12/30/14

TO: PATUXENT PUBLISHING COMPANY
Tuesday, December 30, 2014 Issue - Jeffersonian

Please forward billing to:
Khashy Varzandeh
4302 Chapel Road
Perry Hall, MD 21128

410-248-0545

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:

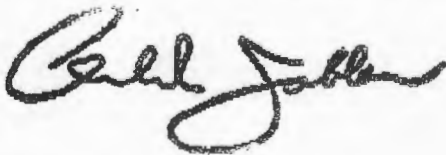
CASE NUMBER: 2015-0112-X

410-248

9412 Belair Road
NW/s Belair Road, corner sw/s Pinedale Drive
11th Election District – 5th Councilmanic District
Legal Owners: Maliheh Investment Properties, LLC, Khashayar Varzandeh

Special Exception to permit a Convalescent Home providing Domiciliary (assisted living) care; and for such other and further relief as may be determined necessary by the Administrative Law Judge.

Hearing: Wednesday, January 21, 2015 at 2:30 p.m. in Room 205, 105 W. 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.



KEVIN KAMENETZ
County Executive
December 1, 2014

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

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: 2015-0112-X

9412 Belair Road

NW/s Belair Road, corner sw/s Pinedale Drive

11th Election District – 5th Councilmanic District

Legal Owners: Maliheh Investment Properties, LLC, Khashayar Varzandeh

Special Exception to permit a Convalescent Home providing Domiciliary (assisted living) care; and for such other and further relief as may be determined necessary by the Administrative Law Judge.

Hearing: Wednesday, January 21, 2015 at 2:30 p.m. in Room 205, 105 W. Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Jennifer Busse, 1 W. Pennsylvania Ave., Ste. 300, Towson 21204
Khashayar Varzandeh, 4302 Chapel Road, Perry Hall 21128

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JANUARY 1, 2015.**
- (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.

Case No.: 2015-0112-X

Exhibit Sheet

2-4-15
Aen

Petitioner/Developer

DO
X-21-15

Protestants

No. 1	Aerial zoning map	
No. 2	Site plan (redlined)	
No. 3	Elevation / Rendering	
No. 4	Schematic Landscape Plan	
No. 5	Revised Site plan (dated 3-12-2015)	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



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

Printed 1/19/2015

EXHIBIT

1

2/2/15
wcl

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: January 20, 2015

FROM: Andrea Van Arsdale
Director, Office of Planning

SUBJECT: 9412 Belair Road

INFORMATION:

Item Number: 15-112

Petitioner: Maliheh Investment Properties LLC

Zoning: ROA

Requested Action: Special Exception

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The subject request is for a special exception pursuant to Section 202.3B and 1B01.1.C.3 to permit a Convalescent Home providing Domiciliary (Assisted Living) care (now defined in Section 101 as "nursing home") and for such other and further relief as may be determined necessary by the Administrative Law Judge. The proposed use is allowed in ROA by special exception and as limited in DR 3.5 zone.

Upon review of the petition and accompanying site plan and subsequent to a site visit, the following comment and recommendation is offered.

The site plan indicates that the existing building currently operates as an ALF II pursuant to an approved Use Permit dated 8/29/2005 with a maximum of 15 beds. Proposed is a one story addition to the existing facility for a 30 bed convalescent home with 5 additional parking spaces. The use as existing and proposed is institutional.

The use, as limited in DR 3.5, is therefore subject to the Residential Transition Area requirements pursuant to BCZR 202.4.A.

The proposed addition would necessitate the removal of a substantial stand of mature trees. The desire to retain mature trees and landscaping is emphasized by the Perry Hall Community Plan, of which this property is a part. Adopted by the county council in

2010, and so a part of MP 2020, the plan states that every effort should be made to preserve mature trees and landscaping along Belair Road.

The Planning Department has met with the applicant's representatives several times to discuss issues relating to applying the RTA, addressing the architecture of the building so as to minimize the long, blank wall along Belair Road, preserving as many trees as possible, and making the structure as compatible as possible with the surrounding residential community.

To date, the applicant continues to make progress in addressing this department's comments by improving the site plan and architecture. Revised schematic building elevations were submitted today that reflect requested modifications. Therefore, this department has no objection to granting the special exception and finds that the proposal meets the compatibility objectives subject to the following conditions:

1. Provide final colored building elevations indicating building materials and a specific color palate labeled for each material.
2. Provide a final landscape plan with lighting, for review and approval by the County's landscape architect. The maximum height of any lighting fixture shall be 16 feet.
3. Provide details to include dimensions and materials of any proposed identification signage indicated on site plan.
4. Provide screening for any proposed refuse storage area and associated proposed screening on the landscape and site plan.

Prepared by:

Division Chief:

AVA:lh,ll

MEMORANDUM

DATE: April 21, 2015
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2015-0112-X – Appeal Period Expired

The appeal period for the above-referenced case expired on April 20, 2015. 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

WHITEFORD, TAYLOR & PRESTON L.L.P.

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March 13, 2015

Hand Delivery

Honorable John E. Beverungen
Baltimore County Administrative Law Judge
Jefferson Building
Office of Administrative Hearings
105 W. Chesapeake Avenue
Suite 103
Towson, Maryland 21204

RECEIVED

MAR 13 2015

OFFICE OF ADMINISTRATIVE HEARINGS

**Re: 9412 Belair Road
Case No. 2015-0112-X
Response to People's Counsel Motion for Reconsideration**

Dear Judge Beverungen:

This office represents the property owner and applicant in the above referenced matter. Please accept this letter as our response to People's Counsel's Motion for Reconsideration, as well as People's Counsel's email to you dated March 12, 2015 further clarifying his position on this matter.

In his recent email, People's Counsel writes that his office will not challenge a determination that these issues can be resolved via the grant of a modification to the RTA requirements. People's Counsel's email clarifies that his priority is ensuring that no precedent is set via an Order in this matter regarding whether the RTA requirements apply where adjacent property is zoned R-O-A. Here, the land adjacent and to the west (also fronting on Belair Road) of the 9412 Belair Road property is zoned R-O-A, the same as the subject property.

In its ZAC Comment, the Office of Planning pointed out, correctly so, that the R-O-A zone is subject to the RTA requirements per BCZR Section 202.4. This means that even though BCZR Section 1B01.1.B.1.b provides that an RTA is only "generated if the property to be developed is zoned D.R. and lies adjacent to land zoned D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5 and RC ...", where, as is here, the property to be developed is zoned

R-O-A, one must continue on in his/her analysis and determine if an RTA is generated by virtue of what zoning of land lies adjacent. People's Counsel believes that not only is the R-O-A zone burdened with the RTA requirements but that it benefits from them as well. We disagree, and to the best of our knowledge, this controversy has never arisen since the enactment of the RTA regulations.

Preliminarily, we do not see precedent being set in a case on this level where in the event of an appeal the matter is heard de novo. However, to avoid an appeal, we are willing to request whatever relief People's Counsel argues applies so as to provide our client with the most expeditious result. Our position is that if the County Council intended the RTA requirements apply in such a situation, they would have amended the RTA regulations. We note that the RTA regulations were in fact amended to include application to the RC zones. Further, the R-O-A is classified in the BCZR as an office zone and it is thus logical that an RTA would not be generated from R-O-A zoned land.

Nevertheless, in the interest of obtaining an expeditious outcome, we join People's Counsel in seeking a clarification that the modification granted by Your Honor did in fact include the area at issue. Further, herein we analyze the impact of the RTA on the entire property and respectfully request Your Honor clarify the Opinion and Order in this matter to document the scope of the modification granted.

People's Counsel raised several issues in his Motion, but his subsequent email narrows his concerns and provides that he will be satisfied so long as a modification to the RTA requirements is provided. As you are aware, your Opinion and Order already grants a modification of the RTA requirements. (See, page 4).

Above, we addressed the requirements stemming from the adjacent R-O-A zoned property to the southwest. Below we also analyze the site from two other directions. People's Counsel did not have the opportunity to review the redlined plan which was filed at the hearing. In an effort to best explain these issues, we attach hereto an Exhibit which is the redlined plan submitted at the hearing with additional green lines, the purpose of which is to demonstrate the impact of the RTA requirements in the manner asserted as appropriate by People's Counsel. This Exhibit clarifies the areas we respectfully submit were and are covered by the modification granted.¹

¹ People's Counsel's Motion states no RTA is generated from the property across Pinedale Drive which is zoned R-O and we agree, and thus no discussion is provided herein in that regard. Similarly, no discussion is provided herein regarding whether an RTA is generated from the properties across Belair Road.

Viewing 9412 Belair Road from the properties to the northeast, across Pinedale Drive, an RTA is generated from those properties which are zoned D.R. 3.5 and contain single family detached dwellings within 150' of the tract boundary. However, and as noted by Your Honor in the Opinion and Order in this case, a modification of the RTA requirements was already granted in a prior case for this property (Case No. 94-405-XA).

Our position is that per the doctrine of the law of the case, the prior modification is still in force and effect. The prior modification relates to the existing building. Since no structural improvements are proposed in the area that is arguably the subject of that prior modification, we saw no need to seek any further approval in this regard.

Nevertheless, in an effort to fully flesh out this issue and satisfy any concerns of People's Counsel, the attached Exhibit is showing (in green) the impact of the RTA requirements on the property running from these D.R. zoned properties across Pinedale Drive. As shown thereon, there is only one existing parking space which arguably requires relief. Notably, this parking space has been in existence for 20 years without question. We therefore respectfully request that Your Honor clarify the Opinion and Order to ensure that the modification is granted.

Viewing 9412 Belair Road from the west, an RTA is similarly generated. As previously noted, the redlined plan presented at the hearing contained RTA affiliated lines. However, upon review of People's Counsel's Motion, it was discovered that the RTA markings could have been more clearly delineated so as to intersect with the rear of the proposed addition to the building. The attached Exhibit clearly demonstrates the circumstances and we respectfully request Your Honor clarify the Opinion and Order to identify that the modification being granted encompasses relief for this minor portion of the proposed building addition.

In the event Your Honor agrees with People's Counsel and determines that a formal amendment to the petition in this matter is required, we are not opposed to doing so. We are also willing to further amend the plan if any further revisions are determined to be necessary. People's Counsel has not requested an additional hearing and we agree that one is not necessary. There was no opposition at the hearing.

In sum, we respectfully submit that there is sufficient evidence in the record to support the grant of the modification to the RTA requirements and/or even variances from the RTA requirements if these were considered necessary. As noted by People Counsel, the Office of Planning issued a favorable comment and found that, pending approval of various conditions which the property owner agreed to, the proposal

• Honorable John Beverungen
March 13, 2015
Page 4

satisfies the compatibility objectives. Furthermore, the property owner's consultant, Mr. Ken Wells, was accepted as an expert as a zoning expert and testified to the uniqueness of this property, the detrimental impact which would result if the subject area could not be developed, and that no detrimental impact to the surrounding locale will result from the proposed expansion.

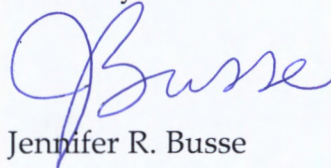
We respectfully request, therefore, that Your Honor clarify his Opinion and Order and grant the modification from the RTA requirements to permit:

- 1) the proposed building addition on the southwest portion of the property in the RTA buffer and setback (adjacent to the R-O-A zoned property);
- 2) the continuation of the existing parking area in the RTA setback on the northeast side of the property; and
- 3) the proposed building addition (the rear corner of the proposed building) in the RTA setback on the west side of the property.

We respectfully request that Your Honor's Opinion and Order find that the evidence in the record supports the finding that the fresh modification granted in this case meets the spirit and intent of the regulations without impacting adjacent properties or the surrounding locale. The use proposed has essentially already been in existence for many years without incident or complaint and the proposed addition to the building will permit the continuation of a service to the community.

Thank you for your consideration of these issues.

Sincerely,



Jennifer R. Busse

cc: Peter Max Zimmerman, Esquire
Mr. Khashy Varzandeh

Attachment

John E. Beverungen

From: Peter Max Zimmerman
Sent: Thursday, March 12, 2015 3:30 PM
To: John E. Beverungen
Cc: Busse, Jennifer R.
Subject: Maliheh Investment Properties, Petition for Variance, 9412 Belair Road, 2015-112-X

Dear Judge Beverungen,

I anticipate and understand that Jennifer Busse, attorney for the Petitioner, will be filing shortly a response to our office's motion for reconsideration. Having reviewed the record and matter further, including communication with Ms. Busse, I believe this supplement to the motion may help clarify our position and perhaps help expedite the resolution.

- 1) In reference to our office's position that the R-O-A Zone RTA legislation comprises adjacent R-O-A properties, the relevant adjacent property is the Pipino property to the southwest. There still are also the D.R. Zone properties to the rear and across Pinedale Drive also. It remains our view, and this is our priority, that the R-O-A Zone legislation applies where adjacent properties are zoned R-O-A.
- 2) For the sake of completeness, I need to comment on the alternative approval of a modification of the RTA based on a finding of compatibility under BCZR Sec. 1B01.1.B.1.c on pages 3-4 of the present February 4, 2015 opinion. While the petition for special exception did not request such modification, I note that the Planning Department did recommend on January 20, 2015 that, as revised and conditioned, the proposed convalescent home is compatible. The petition was advertised as a special exception, which implicitly involves compatibility. There were no protestants.

I need to add that BCZR Sec. 1B01.1.B.1.c is to some degree ambiguous. This is a rarely utilized and murky provision, and I have struggled with its meaning. I think there is a good argument that both subsections must be read together, and that the hearing officer modification under subsection (2) must be based on the qualifying property criteria, departmental recommendations, and hearing officer determination in subsection (1). This is to me the most sensible interpretation of the legislative purpose in the context of the entire statute. Otherwise, a relatively modest and general compatibility finding essentially swallows up not only subsection (1) but also the rest of this very comprehensive and detailed legislation, including setbacks, buffers, exceptions and various criteria.

The source of this particular provision is Bill 2-92. I have not yet been able to locate any legislative history or policy guidance.

Notwithstanding these concerns, if under the particular and total circumstances of this case, your judgment remains that the RTA situation can be resolved by such modification, our office will not challenge it. We may reserve the issue for a future case which might be more problematic on its facts.

- 3) As to the impact of the 1994 Zoning Commissioner decision in Case 94-405-XA, I do not believe it carries over automatically to this new project, with a different and expanded use, albeit somewhat similar. On the other hand, the approval in that case is a factor which is supportive of the modification and compatibility finding here. It is one of the circumstances which weighs against our pursuing any issue or argument at this time based on the interpretation of BCZR Sec. 1B01.1.B.1.c.
- 4) In conclusion, our main focus is what we view as the requisite application of the RTA law for R-O-A Zone property situations where the adjacent property is also zoned R-O-A. We are concerned that, unless

reconsidered, this case will set a precedent. Therefore, we have to register our disagreement with the initial opinion. While we have some question about BCZR Sec. 1B01.1.B.1.c, we may explore that in more depth in a future case where it may be a more apt or ripe issue in the public interest.

Respectfully, Peter Max Zimmerman, People's Counsel for Baltimore County, 410 887-2188

Debra Wiley

From: Busse, Jennifer R. <jbusse@wtplaw.com>
Sent: Thursday, March 12, 2015 2:40 PM
To: John E. Beverungen; Peter Max Zimmerman
Cc: Debra Wiley; Kotroco, Timothy
Subject: RE: Case No. 2015-112-X - Maliheh Investment Properties, LLC - 9412 Belair Rd

Thank you for your patience your Honor.
We will be filing our Response tomorrow.

From: Busse, Jennifer R.
Sent: Friday, March 06, 2015 3:15 PM
To: 'John E. Beverungen'; Peter Max Zimmerman
Cc: Debra Wiley; Kotroco, Timothy
Subject: RE: Case No. 2015-112-X - Maliheh Investment Properties, LLC - 9412 Belair Rd

Your Honor,
I have let People's Counsel's office know I will be filing a response.
I hope to get it done early next week.
Thanks.

Jennifer R. Busse, Esq.
Whiteford Taylor Preston LLP
One W. Pennsylvania Ave., Suite 300
Towson, Maryland 21204
t: 410-832-2077 | f: 410-339-4619
jbusse@wtplaw.com | www.wtplaw.com | [Bio](#) | [vCard](#)

From: John E. Beverungen [<mailto:jbeverungen@baltimorecountymd.gov>]
Sent: Monday, March 02, 2015 2:59 PM
To: Peter Max Zimmerman; Busse, Jennifer R.
Cc: Debra Wiley
Subject: Case No. 2015-112-X - Maliheh Investment Properties, LLC - 9412 Belair Rd

Counsel,

Sorry for the delay in responding to your request for a meeting in the above case. An Order has been issued in the case, and Mr. Zimmerman of course filed a motion for reconsideration. Ms. Wiley sent me a note last week indicating the parties wanted to meet with me to assist in resolving the case.

While I too would like to see the matter resolved, I am not inclined to meet with counsel in this scenario. A hearing has been held, an Order issued, and a motion for reconsideration filed in a timely manner. If the parties are in disagreement, Ms. Busse should file a response to the motion for reconsideration outlining the nature of the dispute, and I will review the papers and issue an Order on the motion.

John Beverungen

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Debra Wiley

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Sent: Friday, March 06, 2015 3:15 PM
To: John E. Beverungen; Peter Max Zimmerman
Cc: Debra Wiley; Kotroco, Timothy
Subject: RE: Case No. 2015-112-X - Maliheh Investment Properties, LLC - 9412 Belair Rd

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Jennifer R. Busse, Esq.
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Towson, Maryland 21204
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From: John E. Beverungen [<mailto:jbeverungen@baltimorecountymd.gov>]
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Cc: Debra Wiley
Subject: Case No. 2015-112-X - Maliheh Investment Properties, LLC - 9412 Belair Rd

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John Beverungen
ALJ

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Debra Wiley

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Sent: Monday, March 02, 2015 2:59 PM
To: Peter Max Zimmerman; Busse, Jennifer R.
Cc: Debra Wiley
Subject: Case No. 2015-112-X - Maliheh Investment Properties, LLC - 9412 Belair Rd

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John Beverungen
ALJ

Debra Wiley

From: Debra Wiley
Sent: Wednesday, February 25, 2015 10:46 AM
To: John E. Beverungen
Subject: Case No. 2015-112-X - Maliheh Investment Properties, LLC - 9412 Belair Rd

Good Morning,

Just received a call from Rebecca in People's Counsel. Apparently, Pete filed a Motion for Reconsideration in this case and both Jen Busse and Pete want to meet with you to discuss working this out ...

In any event, both are available next week Tuesday through Friday (March 2 thru 6th). I've checked with Kristen since we don't have the March calendar yet and she's indicated that you have a 10 AM case on Tuesday, March 3rd.

Do you have any preferences? Thanks.

Debra Wiley
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Pete
T - Fri
next Tues. (3/2)
during
lunch

Jen 10-2
T - F
except (3/2)



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

February 20, 2015

HAND DELIVERED

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

RECEIVED

Re: Maliheh Investment Properties, LLC
9412 Belair Road
Case No. 2015-112-X

FEB 20 2015

OFFICE OF ADMINISTRATIVE HEARINGS

Dear Judge Beverungen,

Please accept this letter as a Motion for Reconsideration under Rule 4K of the Opinion and Order dated February 4, 2015 in the above case. Preliminarily, we have discussed our concern with Jennifer Busse, attorney for the Petitioner, and, subject to your approval, there likely may be an expeditious way to satisfy the concerns of all parties.

For several reasons, we agree with the Planning Department's view that the Residential Transition Area R-O-A Zone coverage applies. BCZR Sec. 202.4 states, in part,

"The provisions of Section 1B01.1B.1 (Residential transition areas and uses permitted therein) shall apply in the R-O-A Zone to the development of any use other than a single-family home or the conversion of a home to a Class A office building."

The specific question here is the scope of the RTA coverage where the adjacent property occupied by a single-family, semi-detached, or duplex dwelling (or, logically, a dwelling converted to a Class A office building) is zoned R-O-A, not Density Residential.

The issue is actually academic. To be sure, there is adjacent (nearby) essentially an R-O Zone property with a 2-story frame commercial building. This does not generate an RTA problem because it is an R-O Zone and does not involve a protected residential dwelling. But there are also adjacent D.R. 3.5 Zone properties with protected single-family dwellings. See Webster's Third New International Dictionary, page 26; Gruver-Cooley v. Perlis 252 Md. 684 (1969); Swarthmore Co. v. Kaestner 258 Md. 517, 529-30 (1970) as to the practical definitions of "adjacent," "adjoining," and "contiguous." This may be what the Planning Department had in mind in its January 20, 2015 comment.

The RTA thus applies in any event because there is the adjacent D.R. 3.5 Zone with two single-family dwelling lots across Pinedale Drive from the subject property. There is also an adjacent D.R. 3.5 Zone dwelling on the same side of Pinedale Drive, to the rear of the subject property. So, the RTA buffers and setbacks come into play.

Nevertheless, the February 4, 2015 opinion focused on the question of whether the RTA applies for an R-O-A Zone property where the adjacent zone is also R-O-A (and there is a protected dwelling within the 150 feet protected area). So far as we can recall, this is the first time that an RTA coverage issue for the R-O-A Zone has arisen.

We are dealing with a special exception for a convalescent home in the R-O-A zone. There is no doubt that the RTA setbacks apply to the nursing home use if the adjoining property is zoned D.R. 1, D.R. 2, D.R. 3.5 or R.C., which has a single-family home (or semi-detached or duplex) within 150 feet of the boundary. BCZR Sec. 1B01.1.B.1.b.

The RTA provisions themselves make no mention of the R-O-A Zone. So, the question is the legislative intent and purpose of what amounts to an R-O-A Zone RTA overlay. We also consider the legislative history and the declaration of findings and legislative policy in BCZR Sec. 202.1 and 202.1.

The County Council established the R-O-A Zone in Bill 170-91, enclosed. As introduced, the Bill included the RTA provision in Sec. 202.4. As enacted, the Bill added the words "and uses permitted therein" to the parenthetical "Residential Transition Areas." This was probably for clarification. Understandably, the Bill did not repeat verbatim the lengthy details of the basic D.R./R.C. Zone provisions of BCZR Sec. 1B01.1.B because these are quite lengthy.

Essentially, the R.O.A. zone focuses on properties with single-family, semi-detached, or duplex dwellings, which may be converted to the very restricted Class A office buildings, defined to preclude external enlargement of the dwellings, other than enclosure of a porch or addition of a stairway. BCZR Sec. 101.1. The targeted dwellings are the very uses at the heart of RTA protection. Moreover, such dwellings when converted to Class A office buildings, are virtually identical in appearance and involve fairly modest use. As it is said in BCZR Sec. 202.2,

"It is further the intent of the County Council that the residential appearance of the existing structure and the residential setting of any building converted to offices be maintained in the R-O-A Zone so that the converted dwelling will be highly compatible with neighboring residential property."

Meanwhile, the R-O-A Zone allows uses permitted by right or special exception in the D.R. Zone. This includes many uses subject to RTA coverage, and other uses allowed upon satisfaction of exception criteria. The convalescent home is not listed among the exceptions, so the usual RTA setback variances are required where targeted dwellings are within the defined proximity and where the proposed use encroaches into the setback areas.

The BCZR Sec. 202.4 statement of RTA coverage does not explicitly discuss or differentiate or distinguish the property to be developed from the zone of adjacent property.

However, it serves the legislative findings, purpose, and sense that absent a defined exclusion, the RTA comprises situations where the R-O-A Zone is mapped on adjacent property. We believe the R-O-A Zone and low-density D.R. Zone RTA provisions work together to protect nearby single-family, semi-detached, or duplex dwellings in both zones. This is in recognition of the concept that the R-O-A Zone is close in character to the low-density D.R. and R.C. Zones.

Having said that, based on the location, history, and character of the proposed use, and the lack of community objections to date, we see no public interest in opposing on the merits the variances here. Our concern is that this case is a precedent, and there may be future R-O-A Zone RTA cases which are more problematic, just as D.R. Zone RTA cases differ in quality.

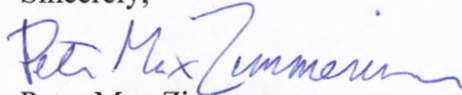
Subject to Hearing Officer review and approval, we propose the following approach,

1. Petitioner should amend the zoning petition to add the required and specific RTA variances, with the particular quantitative setbacks calculated and set forth
2. Petitioner should revise, at least by redline, the site plan to add the RTA variances, show the distance from adjacent homes, and show the buffer and setback deviations.
3. There should be restated the conditions, paragraphs 3 and 4, of the February 4 Order, pertinent to the 4 DOP requests and an approved landscape plan.
4. While arguable, we will not insist on reposting the property, because there appears to have been notice of the special exception, and this is a well-traveled area.
5. If, based on the record, the Hearing Officer is satisfied that the situation is such that variances are appropriate, that may resolve the case.

We hope that this resolution may be found appropriate and practical. We look forward to Petitioner's response.

Thank you for your review of this motion for reconsideration.

Sincerely,



Peter Max Zimmerman

People's Counsel for Baltimore County

cc: Jennifer Busse, Esquire
Lynn Lanham, Department of Planning

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1991, LEGISLATIVE DAY NO. 18

BILL NO. 170-91

MR. DOUGLAS B. RILEY, COUNCILMAN

BY THE COUNTY COUNCIL, OCTOBER 7, 1991

A BILL ENTITLED

AN ACT concerning

Zoning Regulations - R-O-A Zone

FOR the purpose of creating the R-O-A Zone in the Baltimore County Zoning Regulations which will allow for the conversion of homes into offices; stating findings of the County Council; defining terms; authorizing certain uses in the zone by right or by special exception; providing sign, bulk regulation, and parking requirements for the zone; providing for a review of conversion plans; conforming certain provisions of the development regulations; and generally relating to uses in R-O-A zones.

BY repealing and re-enacting, with amendments,

Section 100.1.A.2 and Section 101, the definitions of "Office Building, Class A" and "Residential Zone" Baltimore County Zoning Regulations, as amended

BY adding

Section 202

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 409.7.B.

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments

Section 26-2B2(e)

Title 26 - Planning, Zoning and Subdivision Control

Baltimore County Code, 1988

WHEREAS, the Baltimore County Council has received a final report from the Planning Board, dated July 18, 1991, concerning the subject legislation and held a public hearing on the report on September 26, 1991, now therefore

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

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE

COUNTY, MARYLAND, that Section 100.1.A.2. and Section 101, the definitions of "Office Building, Class A" and "Residential Zone" of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed and reenacted, with amendments, to read as follows:

Section 100 - Zones and Districts: Boundaries.

100.1--Baltimore County is hereby divided into zones and districts in accordance with this subsection.

A. Zones.

2. Zones are classified as follows:

R.C.2	(Resource Conservation--agriculture)
R.C.3	(Resource Conservation--deferral of planning and development)
R.C.4	(Resource Conservation--watershed protection)
R.C.5	(Resource Conservation-- rural residential)
R.C.20	(Resource Conservation--critical area) [Bill No. 6, 1989]
R.C.50	(Resource Conservation--critical area agricultural) [Bill No. 6, 1989]
R.C.C.	(Resource Conservation--commercial) [Bill No. 103, 1988]
D.R.1	(Density Residential, 1.0 dwelling unit per acre)
D.R.2	(Density Residential, 2.0 dwelling units per acre)
D.R.3.5	(Density Residential, 3.5 dwelling units per acre)
D.R.5.5	(Density Residential, 5.5 dwelling units per acre)
D.R.10.5	(Density Residential, 10.5 dwelling units per acre)
D.R.16	(Density Residential, 16.0 density units per acre)
R.A.E.1	(Residential, 40.0 density units per acre)
R.A.E.2	(Residential, 80.0 density units per acre)
R-O	(Residential-Office, 5.5 dwelling units per acre)
R-O-A	(RESIDENTIAL-OFFICE; CLASS A OFFICE)
O-1	(Office Building)
O-2	(Office Park)
O.T.	(Office and Technology)
B.L.	(Business, Local)
B.M.	(Business, Major)
B.R.	(Business, Roadside)
M.R.	(Manufacturing, Restricted)
M.L.R.	(Manufacturing, Light; Restricted)
M.L.	(Manufacturing, Light)
M.H.	(Manufacturing, Heavy)

Section 101 - Definitions.

Office Building, Class A: A principal building that was originally constructed as a 1-family or 2-family detached dwelling and that is converted BY PROPER PERMIT to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purposes of this definition,

enclosure of a porch of a house OR THE ADDITION OF AN EXTERIOR STAIRWAY AT THE SIDE OR REAR OF THE BUILDING does not constitute external enlargement.

Residential Zone: A zone classified as R.C., B.R., R-O-A, or R.A.E. "Zoned for residential purposes": Within a residential zone.

SECTION 2. AND BE IT FURTHER ENACTED, that Section 202 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

SECTION 202--RESIDENTIAL-OFFICE, CLASS A OFFICE ZONE (R-O-A)

ZONE

202.1 DECLARATION OF FINDINGS.

A. RESIDENTIAL USE OF CERTAIN SITES MAY NOT BE ECONOMICALLY FEASIBLE IN SOME PREDOMINANTLY MODERATE-DENSITY RESIDENTIAL AREAS THAT ARE IMMEDIATELY ADJACENT TO COMMERCIAL OR OTHER NONRESIDENTIAL USES;

B. NEITHER BUSINESS ZONING NOR HIGH-DENSITY RESIDENTIAL ZONING NOR RESIDENTIAL-OFFICE ZONING WHICH PERMITS NEW OFFICE BUILDINGS ON THOSE SITES IS APPROPRIATE; AND

C. WITH APPROPRIATE RESTRICTIONS, HOUSES CONVERTED TO OFFICES ARE SUITABLE, ECONOMICALLY FEASIBLE USES OF SUCH SITES.

202.2--STATEMENT OF LEGISLATIVE POLICY. THE R-O-A ZONING CLASSIFICATION IS ESTABLISHED, PURSUANT TO THE FINDINGS OF SECTION 202.1, TO ACCOMMODATE SINGLE FAMILY, DUPLEX AND TWO FAMILY DETACHED HOUSES CONVERTED TO OFFICE BUILDINGS IN PREDOMINANTLY RESIDENTIAL AREAS ON SITES THAT, BECAUSE OF ADJACENT NONRESIDENTIAL ACTIVITY, HEAVY COMMERCIAL TRAFFIC, OR OTHER SIMILAR FACTORS, CAN NO LONGER REASONABLY BE LIMITED SOLELY TO USES ALLOWABLE IN MODERATE-DENSITY RESIDENTIAL ZONES. IT IS FURTHER THE INTENT OF THE COUNTY COUNCIL THAT THE RESIDENTIAL APPEARANCE OF THE EXISTING STRUCTURE AND THE RESIDENTIAL SETTING OF ANY BUILDING CONVERTED TO OFFICES BE MAINTAINED IN THE R-O-A ZONES SO THAT THE CONVERTED DWELLING WILL BE HIGHLY COMPATIBLE WITH NEIGHBORING RESIDENTIAL PROPERTY. TO MAINTAIN RESIDENTIAL CHARACTER, THE COUNCIL DOES NOT INTEND THAT LOTS BE DEVELOPED OR REDEVELOPED SOLELY FOR THE PURPOSE OF PROVIDING PARKING IN THE R-O-A ZONE. THE R-O-A ZONE SHALL ONLY BE APPLIED TO SITES WHICH ARE LARGE ENOUGH OR DESIGNED IN SUCH A WAY THAT PARKING AND ACCESS CAN BE ACCOMMODATED WITHOUT SACRIFICING THE RESIDENTIAL CHARACTER OF THE SITE AND WHERE THE

CONVERSION FROM RESIDENTIAL TO OFFICE USE WILL NOT CAUSE SERIOUS DISRUPTION IN TRAFFIC FLOW.

202.3--USE REGULATIONS.

A. USES PERMITTED BY RIGHT. THE FOLLOWING USES, ONLY, ARE PERMITTED BY RIGHT IN ANY R-O-A ZONE:

1. USES PERMITTED BY RIGHT AND AS LIMITED IN D.R. 3-5 ZONES.

2. CLASS A OFFICE BUILDINGS CONTAINING OFFICES, AND THEIR ACCESSORY USES INCLUDING SURFACE PARKING, BUT NOT INCLUDING PARKING AS A PRINCIPAL USE, EXCEPT AS PROVIDED UNDER SECTION 409.7.B.2.

3. A SINGLE FAMILY OR TWO FAMILY DETACHED DWELLING IN WHICH A PORTION OF THE BUILDING IS CONVERTED TO OFFICES AND A PORTION IS USED FOR A DWELLING, WITHOUT ANY EXTERNAL ENLARGEMENT, EXCEPT AS PERMITTED AND CONDITIONED BY SECTION 202.5 FOR THE PURPOSE OF CREATING OFFICE SPACE OR OTHERWISE ACCOMMODATING THE OFFICE USE. RESIDENTIAL EXPANSION IS SUBJECT TO THE CONDITIONS OF SECTION 202.3.B. AND 202.5.

4. THE RECONSTRUCTION OF A CLASS A OFFICE BUILDING WHICH IS DESTROYED BY FIRE OR OTHER CASUALTY, SUBJECT TO THE CONDITIONS OF SECTION 202.6.

B. USES PERMITTED BY SPECIAL EXCEPTION. USES PERMITTED BY SPECIAL EXCEPTION AND AS LIMITED IN D.R. 3.5 ZONES, ONLY, ARE PERMITTED BY SPECIAL EXCEPTION. ANY DWELLING WHICH IS UNDER APPLICATION FOR EITHER A CHANGE IN ZONING CLASSIFICATION TO R-O-A OR FOR A CONVERSION FROM A RESIDENTIAL USE TO AN OFFICE USE AFTER OBTAINING THE R-O-A ZONING CLASSIFICATION SHALL REQUIRE A SPECIAL EXCEPTION IF THE DWELLING HAS BEEN ENLARGED IN FLOOR AREA BY TEN PERCENT OR MORE WITHIN A PERIOD OF FIVE YEARS PRIOR TO THE DATE OF APPLICATION FOR CHANGE OR CONVERSION.

C. SIGNS AND OFF-STREET PARKING REQUIREMENTS.

1. IN ADDITION TO SIGNS PERMITTED UNDER SUBSECTION 419.1, ONE STATIONARY OUTSIDE IDENTIFICATION SIGN IS PERMITTED, PROVIDED THAT THE SIGN IS NOT ILLUMINATED, IS WALL-MOUNTED OR PROJECTS FROM THE BUILDING AND DOES NOT HAVE A SURFACE AREA EXCEEDING SIX SQUARE FEET ON EACH SIDE. NO OTHER SIGNS OR DISPLAYS OF ANY KIND VISIBLE FROM OUTSIDE THE BUILDING ARE PERMITTED.

2. OFF-STREET PARKING SPACES SHALL BE PROVIDED IN ACCORDANCE WITH SECTION 409, BUT NO STRUCTURED PARKING IS PERMITTED,

EXCEPT FOR A RESIDENTIAL GARAGE, THAT WAS CONSTRUCTED AS AN ACCESSORY USE TO THE DWELLING PRIOR TO ITS CONVERSION TO A CLASS A OFFICE BUILDING.

A. PARKING AREAS SHALL BE SCREENED IN ACCORDANCE WITH THE LANDSCAPE MANUAL;

B. PARKING SHALL BE SETBACK AT LEAST 10 FEET FROM THE PROPERTY LINE EXCEPT THAT IF THE PROPERTY LINE ADJUTS AN ALLEY, NO SETBACK IS REQUIRED PROVIDED THAT THE ALLEY DOES NOT ADJUT A FRONT OR SIDE YARD OF A RESIDENTIALLY USED PROPERTY;

C. NOTWITHSTANDING THE PROVISIONS OF SECTION 307, PARKING SHALL BE LOCATED IN THE SIDE OR REAR ONLY, UNLESS OTHERWISE APPROVED BY THE ZONING COMMISSIONER PURSUANT TO SECTION 307.

D. NOTWITHSTANDING THE PROVISIONS OF SECTION 307, THE ZONING COMMISSIONER MAY NOT PERMIT A VARIANCE OF MORE THAN ONE PARKING SPACE BELOW THE NUMBER REQUIRED BY THESE REGULATIONS.

202.4--BULK REGULATIONS OF R-O-A ZONES. USES PERMITTED BY RIGHT OR BY SPECIAL EXCEPTION ARE GOVERNED BY THE FOLLOWING BULK REGULATIONS:

A. RESIDENTIAL USES AND NEW STRUCTURES ACCESSORY TO CLASS A OFFICE BUILDINGS ARE GOVERNED BY THE BULK REGULATIONS OF THE D.R. ZONE CLASSIFICATION IN PLACE AT THE TIME WHEN THE R-O-A ZONE WAS APPLIED, SUBJECT TO COMPLIANCE WITH SECTION 202.6. IF A D.R. ZONE WAS NOT IN PLACE AT THE TIME THAT THE R-O-A ZONE WAS APPLIED, THE BULK REGULATIONS OF THE D.R.3.5 ZONE, AS SET FORTH IN SECTION 1802.3C.1, SHALL GOVERN. THE PROVISIONS OF SUBSECTION 1801.1.B. (RESIDENTIAL TRANSITION AREAS AND USES PERMITTED THEREIN) SHALL APPLY IN THE R-O-A ZONE TO THE DEVELOPMENT OF ANY USE OTHER THAN A SINGLE FAMILY HOME OR THE CONVERSION OF A HOME TO A CLASS A OFFICE BUILDING.

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

C. THE RECONSTRUCTION OF AN EXISTING CLASS A OFFICE BUILDING WHICH IS DESTROYED BY FIRE OR OTHER CASUALTY MAY NOT INCREASE THE SIZE OR GROSS FLOOR AREA OF THE STRUCTURE OR ALTER THE LOCATION OF THE STRUCTURE, WITHOUT A SPECIAL VARIANCE SUBJECT TO THE LIMITATIONS CONTAINED IN SECTION 104.2.

202.5--SUBMITTING PLAN FOR CONVERSION. A NEW BUILDING OR PART OF A BUILDING TO BE USED AS A DWELLING MUST BE OCCUPIED AS A

RESIDENTIAL USE FOR FIVE YEARS BEFORE SUBMITTING A PLAN FOR CONVERSION TO A CLASS A OFFICE BUILDING, SUBJECT TO DOCUMENTATION OF COMPLIANCE WITH THE RESIDENTIAL USE REQUIREMENT IN THIS SECTION. THE USE OR DEVELOPMENT OF ANY PROPERTY IN AN R-O-A ZONE MAY NOT BE CHANGED FROM THAT EXISTING ON THE EFFECTIVE DATE OF THE CLASSIFICATION'S APPLICATION TO THAT PROPERTY, EXCEPT IN ACCORDANCE WITH A PLAN APPROVED BY THE COUNTY REVIEW GROUP AS PROVIDED IN TITLE 26, ARTICLE V OF THE BALTIMORE COUNTY CODE, UNLESS THE CHANGE IN USE IS CONFINED TO A CHANGE IN THE NUMBER OF DWELLING UNITS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 402.

202.6--REVIEW FOR COMPATIBILITY. ANY CONVERSION TO A CLASS A OFFICE BUILDING INVOLVING CHANGE TO THE EXTERIOR OF THE DWELLING, ANY NEW BUILDING TO BE USED AS A DWELLING, OR THE RECONSTRUCTION OF ANY CLASS A OFFICE BUILDING WHICH HAS BEEN DESTROYED BY FIRE OR OTHER CASUALTY, IS SUBJECT TO SECTION 26-282 OF THE DEVELOPMENT REGULATIONS. IN ADDITION TO THE STANDARDS OF 26-282, THE DIRECTOR OF THE OFFICE OF PLANNING AND ZONING SHALL CONSIDER THE COMPATIBILITY OF PROPOSED WINDOW AND DOOR TREATMENTS IN RELATION TO EXISTING ADJACENT OR SURROUNDING BUILDINGS.

SECTION 3. AND BE IT FURTHER ENACTED, that Section 409.7.B. of the Baltimore County Zoning Regulations, as amended, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

409.7--Location of Parking

All required off-street parking spaces shall be located either on the same lot as the structure or use to which they are accessory or off-site as provided for below.

B. (1) Except in C.T. Districts AND R-O-A and R-O zones, off-site parking spaces for uses other than residential and lodging shall be located within 500 feet walking distance of a building entrance to the use that such spaces serve. In C.T. Districts, such spaces shall be permitted within 1000 feet walking distance of the building entrance. In the C.T. District of Towson, such spaces shall be permitted within 1500 feet walking distance of the building entrance, provided they are located within the town center boundary. [In R-O zones, such spaces shall be provided on the same lot as the structure or use to which they are accessory.]

(2) IN R-O AND R-O-A ZONES ALL REQUIRED OFF-STREET PARKING SPACES SHALL BE PROVIDED ON THE SAME LOT AS THE STRUCTURE OR

USE TO WHICH THEY ARE ACCESSORY EXCEPT THAT IN CASES WHERE ADJACENT DWELLINGS HAVE BEEN CONVERTED TO CLASS A OFFICE BUILDINGS, PARKING SPACES MAY BE PROVIDED ON THE ADJACENT LOTS. THE USE OF AN OFF-SITE PARKING FACILITY WHICH IS ACCESSORY TO A CHURCH OR OTHER EXISTING PRINCIPAL USE MAY SATISFY THE PARKING REQUIREMENT, IF LOCATED NO MORE THAN 500 FEET FROM THE LOT.

SECTION 4. AND BE IT FURTHER ENACTED, that Section 26-282(a) of Title 26 - Planning Zoning and Subdivision Control, of the Baltimore County Code, 1988, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

Sec. 26-282. Development in RCC, R-O, R-O-A, O-1, O-2, or OT zone and CR Districts.

(a) (1) Development of property in AN-R-O-A ZONE AND an R-O zone shall be appropriate to the specific circumstances of the site, taking into account surrounding uses; tree preservation; protection of watercourses and bodies of water from erosion and siltation; and safety, convenience, and amenity for the neighborhoods.

(2) In determining the appropriateness of A NEW DWELLING, THE RECONSTRUCTION OF A CLASS A OFFICE BUILDING WHICH INVOLVES CHANGES TO THE EXTERIOR OF THE BUILDING, OR THE DEVELOPMENT OF class B office buildings, design elements of proposed buildings shall be evaluated in relation to existing adjacent or surrounding buildings. Unless determined otherwise by the director of the office of planning and zoning to be considered appropriate, new buildings shall be similar to existing ones in the following respects:

- a. Height;
- b. Bulk and general massing;
- c. Major divisions or rhythms of the facade;
- d. Proportion of openings (window-wall-relation);
- e. Roof treatment;
- f. Materials, colors, textures;
- g. General architectural character:
 1. Horizontal or vertical emphasis;
 2. Scale;
 3. Stylistic features and themes - porches, colonnades, pediments, cupolas, cornices, eaves, detail, and ornament;
- h. Relation to street;
 - i. Exterior lighting. Buildings shall not be lighted on the exterior, and any lighting provided for safety reasons should be minimized and directed away from adjoining residential property.

Section 5. And be it further enacted, that this Act shall take effect forty-five days after its enactment.

CASE NAME 2015-0112-X
CASE NUMBER 2015-0112-X
DATE 1/21/2015

[illegible]

John E. Beverungen

From: jtansey
Sent: Wednesday, January 21, 2015 8:16 AM
To: Jennifer R. Busse
Cc: John E. Beverungen; Lynn Lanham
Subject: Re: 9412 Belair Rd

Hi Jen - I told them in writing on December 29, 2014 that the Schematic Landscape Plan would not be approved before the ALJ's decision.

I am not in a position to know how the neighbors feel, but think that RTA regulations are there for a reason. The zoning petition didn't specifically mention relief from the RTA as part of the request and it is not something I would usually weigh in on in such a case.

I haven't seen what the side of the proposed building adjacent to 9406 Belair Road looks like, but it respects neither the RTA setback nor the RTA buffer and based upon Google, it appears that it will displace an already significant existing tree buffer adjacent to the neighbors.

My job is to insure that the planting does the best job possible based upon what the Judge decides. So I am neutral on the request and will await Mr. Beverungen's wise decision.

Jeanette M. S. Tansey, R.L.A.
Development Plans Review
Department of Permits, Approvals and Inspections
111 W. Chesapeake Ave, Rm 119
Towson, MD 21204
410-887-3751
410-887-2877 Fax
jtansey@baltimorecountymd.gov

>>> "Busse, Jennifer R." <jbusse@wtplaw.com> 1/20/2015 1:24 PM >>>

Hi Jean, Ken

John E. Beverungen

From: jtansey
Sent: Thursday, January 22, 2015 10:47 AM
To: kwells@kjwellsinc.com
Cc: Dennis A Kennedy; John E. Beverungen; Jennifer Busse
Subject: Re: Fwd: 9412 Belair Road ZAC Comment

Good morning, Ken -

Our section comments on the above state, "Landscape and Photometric Lighting Plans are required. Explain the "relocated open space" notation." Your plan had a notation saying "relocated open space" that I did not understand. I was asking why/where that came from. After further investigation, I believe that it may actually have been amenity, not local, open space to which that was referring. You should know what it is, since it is your plan and I was requesting clarification.

I was not involved in the earlier development of this site into an Assisted Living Facility, and there are no Recreation and Parks files on it. However, the Baltimore County Code does state that, "A Development Plan for a proposed residential development of land may not be approved unless the plan provides for local open space parcels...." 32-4-411

As well, page 4 of the Manual, Section III.A.1. states, "Residential development plans for properties in all zones, regardless of approval process, except for minor subdivisions, must provide LOS parcels...." So although none was required previously, it appears that it could have been. The requirement for Local Open Space is not dependent upon the subdivision of land, but rather the development of a parcel.

Per Bill 63-00, domiciliary and nursing care facilities requesting a waiver have a fee in lieu of \$0.

Jeanette M. S. Tansey, R.L.A.
Development Plans Review
Department of Permits, Approvals and Inspections
111 W. Chesapeake Ave, Rm 119
Towson, MD 21204
410-887-3751
410-887-2877 Fax
jtansey@baltimorecountymd.gov

>>> Dennis Kennedy 1/22/2015 9:39 AM >>>

Jean:

This one's all yours.

D

>>> Ken Wells <> 1/22/2015 9:33 AM >>>

Hey Dennis A.,

I attended a hearing yesterday for the subject property and was told by the ALJ that your section made a comment regarding the need to generate an LOS. I am a little confused. It was my understanding that an LOS is required if there is a proposed subdivision. Clearly we are not subdividing the property. Does the comment suggest that the requirement for LOS would also be triggered when a residential lot owner requests a side yard setback variance to build an addition? I hope not. The hearing was to grant a change in use through a special exception which also had shown a building addition on an existing residential lot. If you read Section 1.A of the manual it states the definition of LOS within the BCZR as "land provided in residential subdivisions.". Again we are not subdividing.

I believe you will be hearing from the ALJ regarding that comment.

Thanks,
Ken

kjWellsInc

Land Surveying, Site Planning & Landscape Architecture

7403 New Cut Road

Kingsville, Maryland 21087

Ph: 410.592.8800

Website: www.kjwellsinc.com

CASE NO. 2015- 0112-X

CHECKLIST

Support/Oppose/
Conditions/
Comments/
No Comment

Comment
Received

Department

12/5

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

C

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

FIRE DEPARTMENT

11/21/15

PLANNING rec'd on 11/21/15
(if not received, date e-mail sent _____)

C

11/24

STATE HIGHWAY ADMINISTRATION

no obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT

Date:

12/30/14

SIGN POSTING

Date:

12/30/14

by

Ogle

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any: _____

Real Property Data Search (w1)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration			
Account Identifier:		District - 11 Account Number - 1111057250							
Owner Information									
Owner Name:		MALIHEH INVESTMENT PROPERTIES LLC				Use: Principal Residence:		COMMERCIAL NO	
Mailing Address:		9412 BELAIR RD BALTIMORE MD 21236-1502				Deed Reference:		/29402/ 00175	
Location & Structure Information									
Premises Address:		9412 BELAIR RD 0-0000				Legal Description:		* NWS BELAIR RD 75FT SW PINEDALE RD	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0072	0002	0364		0000				2013	Plat Ref:
Special Tax Areas:				Town:		NONE			
				Ad Valorem:					
				Tax Class:					
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area		Property Land Area		County Use	
						10,275 SF		06	
Stories	Basement	Type	Exterior	Full/Half Bath		Garage	Last Major Renovation		
Value Information									
			Base Value		Value		Phase-in Assessments		
					As of		As of		As of
					01/01/2013		07/01/2014		07/01/2015
Land:			75,800		64,500				
Improvements			0		0				
Total:			75,800		64,500		64,500		
Preferential Land:			0						0
Transfer Information									
Seller: V ESFAHANI JAVARD				Date: 04/26/2010			Price: \$600,000		
Type: ARMS LENGTH MULTIPLE				Deed1: /29402/ 00175			Deed2:		
Seller: ESFAHANI JAVARD V				Date: 07/05/1994			Price: \$225,000		
Type: ARMS LENGTH MULTIPLE				Deed1: /10633/ 00745			Deed2:		
Seller: KNOPPEL ADAM C				Date: 04/12/1994			Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /10481/ 00072			Deed2:		
Exemption Information									
Partial Exempt Assessments:		Class				07/01/2014		07/01/2015	
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: No Application									

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

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

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

✕ Loading... Please Wait. Loading... Please Wait.



KEVIN KAMENETZ
County Executive

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

January 15, 2014

Khashy Varzandeh
4302 Chapel Road
Perry Hall MD 21128

RE: Case Number: 2015-0112 X, Address: 9412 Belair Road

Dear Mr. Varzandeh:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on November 18, 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." with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
David H Karceski, Esquire, 210 W Pennsylvania Avenue, Suite 500, Towson MD 21204

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



MARYLAND DEPARTMENT OF TRANSPORTATION

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

Date: 11/24/14

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

RE: Baltimore County
Item No 2015-0112-X
Special Exception
Malihch Investment
Properties LLC.
9412 Belair Road

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. 2015-0112-X

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-545-5598 or 1-800-876-4742 (in Maryland only) extension 5598, or by email at (rzeller@sha.state.md.us).

Sincerely,

A handwritten signature in blue ink, appearing to read "Steven D. Foster".

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
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: January 20, 2015

FROM: Andrea Van Arsdale
Director, Office of Planning

RECEIVED

JAN 21 2015

SUBJECT: 9412 Belair Road

INFORMATION:

OFFICE OF ADMINISTRATIVE HEARINGS

Item Number: 15-112

Petitioner: Maliheh Investment Properties LLC

Zoning: ROA

Requested Action: Special Exception

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The subject request is for a special exception pursuant to Section 202.3B and 1B01.1.C.3 to permit a Convalescent Home providing Domiciliary (Assisted Living) care (now defined in Section 101 as "nursing home") and for such other and further relief as may be determined necessary by the Administrative Law Judge. The proposed use is allowed in ROA by special exception and as limited in DR 3.5 zone.

Upon review of the petition and accompanying site plan and subsequent to a site visit, the following comment and recommendation is offered.

The site plan indicates that the existing building currently operates as an ALF II pursuant to an approved Use Permit dated 8/29/2005 with a maximum of 15 beds. Proposed is a one story addition to the existing facility for a 30 bed convalescent home with 5 additional parking spaces. The use as existing and proposed is institutional.

The use, as limited in DR 3.5, is therefore subject to the Residential Transition Area requirements pursuant to BCZR 202.4.A.

The proposed addition would necessitate the removal of a substantial stand of mature trees. The desire to retain mature trees and landscaping is emphasized by the Perry Hall Community Plan, of which this property is a part. Adopted by the county council in

2010, and so a part of MP 2020, the plan states that every effort should be made to preserve mature trees and landscaping along Belair Road.

The Planning Department has met with the applicant's representatives several times to discuss issues relating to applying the RTA, addressing the architecture of the building so as to minimize the long, blank wall along Belair Road, preserving as many trees as possible, and making the structure as compatible as possible with the surrounding residential community.

To date, the applicant continues to make progress in addressing this department's comments by improving the site plan and architecture. Revised schematic building elevations were submitted today that reflect requested modifications. Therefore, this department has no objection to granting the special exception and finds that the proposal meets the compatibility objectives subject to the following conditions:

1. Provide final colored building elevations indicating building materials and a specific color palate labeled for each material.
2. Provide a final landscape plan with lighting, for review and approval by the County's landscape architect. The maximum height of any lighting fixture shall be 16 feet.
3. Provide details to include dimensions and materials of any proposed identification signage indicated on site plan.
4. Provide screening for any proposed refuse storage area and associated proposed screening on the landscape and site plan.

Prepared by:

Division Chief:

AVA:lh,ll

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For December 1, 2014
Item No. 2015-0112

DATE: December 5, 2014

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

Local open space is required. A landscape plan is required.

* * * * *

DAK:CEN
cc:file

ZAC-ITEM NO 15-0112-12012014.doc



501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 2927534

Sold To:

Khashy Varzandeh - CU00403276
4302 Chapel Rd
Perry Hall, MD 21128

Bill To:

Khashy Varzandeh - CU00403276
4302 Chapel Rd
Perry Hall, MD 21128

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Dec 30, 2014

The Baltimore Sun Media Group

By S. Wilkinson
Legal Advertising

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: # 2015-0112-X
9412 Belair Road
NW/s Belair Road, corner SW/s Pinedale Drive
11th Election District - 5th Councilmanic District
Legal Owner(s) Melliheh Investment Properties, LLC,
Khashayar Varzandeh

Special Exception: to permit a Convalescent Home providing Domiciliary (assisted Living) care; and for such other and further relief as may be determined necessary by the Administrative Law Judge

Hearing: Wednesday, January 21, 2015 at 2:30 p.m. In Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 12/924 December 30 2927534

RE: PETITION FOR SPECIAL EXCEPTION
9412 Belair Road; NW corner of Belair
Road & Pinedale Drive
11th Election & 5th Councilmanic Districts
Legal Owner(s): Maliheh Investment
Properties, LLC by Khashayar Varzandeh
Petitioner(s)

* BEFORE THE OFFICE
* OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* 2015-112-X

* * * * *

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

NOV 25 2014

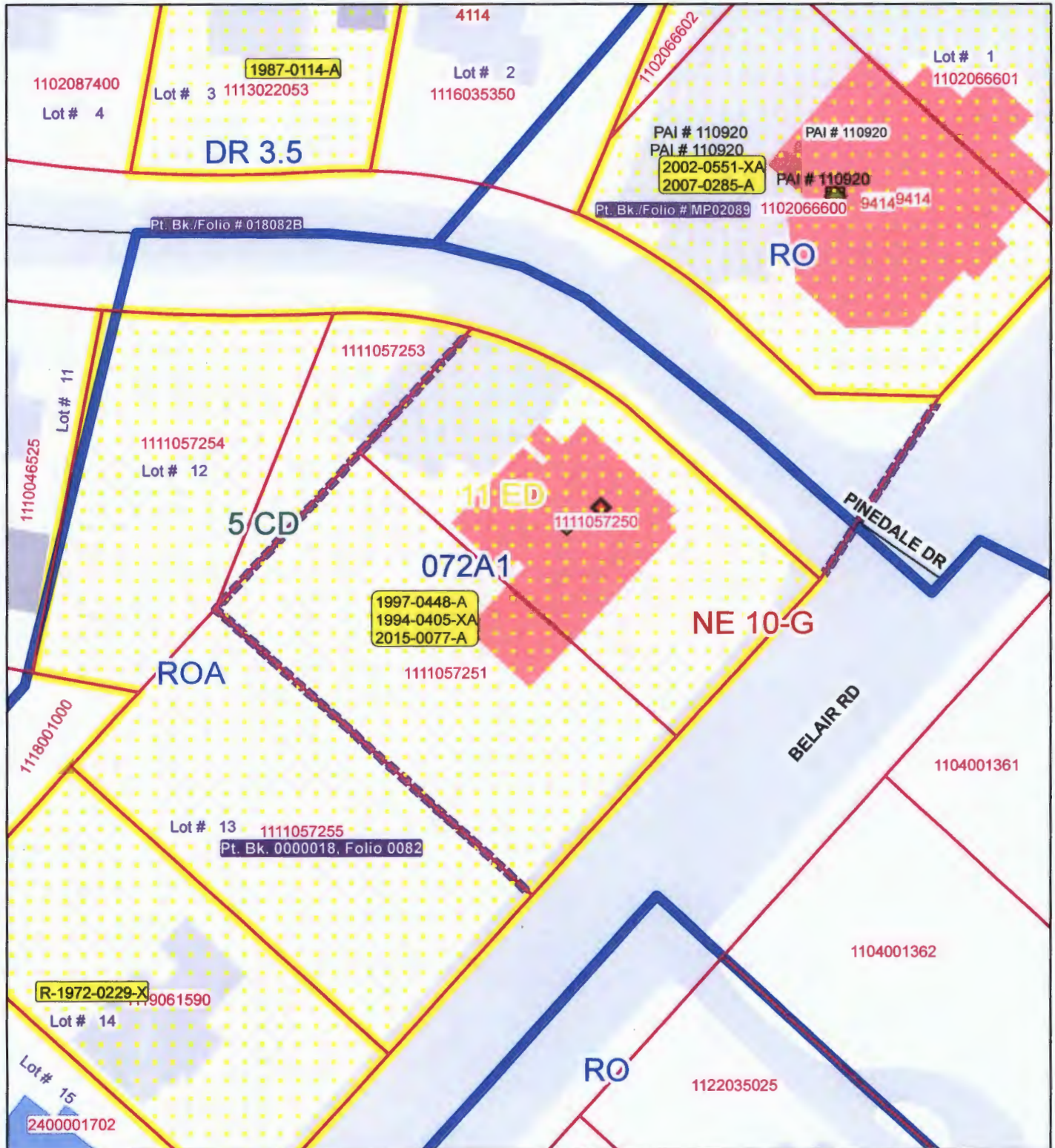
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of November, 2014, a copy of the foregoing Entry of Appearance was mailed to Jennifer Busse, Esquire, Whiteford, Taylor & Preston, 1 West Pennsylvania Avenue, Suite 300, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

9412 Belair Road



Publication Date: 11/14/2014



Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



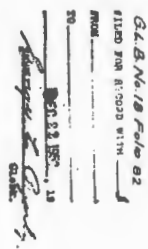
0 12.5 25 50 75 100 Feet

1 inch = 50 feet

Item #0112

Figure 1 consists of five horizontal bar charts, labeled (a) through (e), each representing a different age group. The y-axis for all charts is 'Percentage of respondents' ranging from 0 to 100. The x-axis represents the level of agreement, with categories 1 through 5. The data is as follows:

Age Group	1	2	3	4	5
(a) 18-24	10	20	30	25	15
(b) 25-34	15	25	35	20	5
(c) 35-44	20	30	40	15	5
(d) 45-54	25	35	45	10	5
(e) 55-64	30	40	50	10	5



NOTE: The representatives of Sections 72A, 72B and Article 17 of the Massachusetts Code of Mass., 1938 Chapter 717B (Ch. 717B), Subtitle C, Ch. 717B of the General Laws for as they relate to the marking of this paper and using the materials have been compared with:

Louis J. Gumbinger
JUN
Charles E. Brown
MRS. FRANK LAMBERT & LAND JOINTLY OWNERS

Approved for Baltimore County Planning Commission
Michael R. Big
 DIRECTOR DATE

MSA 551136-677

Item # 0112

- 1) OWNERS: MULTIHUS INVESTMENT PROPERTIES, LLC
- 2) OWNERS ADDRESS: 9412 S 2614 ROAD, BALTIMORE, MARYLAND 21236
- 3) OWNERS TELEPHONE NUMBER: 410-557-2520
- 4) TAX ACCOUNT NUMBERS: 111057250, 111057251, 111057252, 111057253, 111057254, 111057255, 111057256, 111057257, 111057258, 111057259, 111057260, 111057261, 111057262, 111057263, 111057264, 111057265, 111057266, 111057267, 111057268, 111057269, 111057270, 111057271, 111057272, 111057273, 111057274, 111057275, 111057276, 111057277, 111057278, 111057279, 111057280, 111057281, 111057282, 111057283, 111057284, 111057285, 111057286, 111057287, 111057288, 111057289, 111057290, 111057291, 111057292, 111057293, 111057294, 111057295, 111057296, 111057297, 111057298, 111057299, 111057300, 111057301, 111057302, 111057303, 111057304, 111057305, 111057306, 111057307, 111057308, 111057309, 111057310, 111057311, 111057312, 111057313, 111057314, 111057315, 111057316, 111057317, 111057318, 111057319, 111057320, 111057321, 111057322, 111057323, 111057324, 111057325, 111057326, 111057327, 111057328, 111057329, 111057330, 111057331, 111057332, 111057333, 111057334, 111057335, 111057336, 111057337, 111057338, 111057339, 111057340, 111057341, 111057342, 111057343, 111057344, 111057345, 111057346, 111057347, 111057348, 111057349, 111057350, 111057351, 111057352, 111057353, 111057354, 111057355, 111057356, 111057357, 111057358, 111057359, 111057360, 111057361, 111057362, 111057363, 111057364, 111057365, 111057366, 111057367, 111057368, 111057369, 111057370, 111057371, 111057372, 111057373, 111057374, 111057375, 111057376, 111057377, 111057378, 111057379, 111057380, 111057381, 111057382, 111057383, 111057384, 111057385, 111057386, 111057387, 111057388, 111057389, 111057390, 111057391, 111057392, 111057393, 111057394, 111057395, 111057396, 111057397, 111057398, 111057399, 111057400, 111057401, 111057402, 111057403, 111057404, 111057405, 111057406, 111057407, 111057408, 111057409, 111057410, 111057411, 111057412, 111057413, 111057414, 111057415, 111057416, 111057417, 111057418, 111057419, 111057420, 111057421, 111057422, 111057423, 111057424, 111057425, 111057426, 111057427, 111057428, 111057429, 111057430, 111057431, 111057432, 111057433, 111057434, 111057435, 111057436, 111057437, 111057438, 111057439, 111057440, 111057441, 111057442, 111057443, 111057444, 111057445, 111057446, 111057447, 111057448, 111057449, 111057450, 111057451, 111057452, 111057453, 111057454, 111057455, 111057456, 111057457, 111057458, 111057459, 111057460, 111057461, 111057462, 111057463, 111057464, 111057465, 111057466, 111057467, 111057468, 111057469, 111057470, 111057471, 111057472, 111057473, 111057474, 111057475, 111057476, 111057477, 111057478, 111057479, 111057480, 111057481, 111057482, 111057483, 111057484, 111057485, 111057486, 111057487, 111057488, 111057489, 111057490, 111057491, 111057492, 111057493, 111057494, 111057495, 111057496, 111057497, 111057498, 111057499, 111057500, 111057501, 111057502, 111057503, 111057504, 111057505, 111057506, 111057507, 111057508, 111057509, 111057510, 111057511, 111057512, 111057513, 111057514, 111057515, 111057516, 111057517, 111057518, 111057519, 111057520, 111057521, 111057522, 111057523, 111057524, 111057525, 111057526, 111057527, 111057528, 111057529, 111057530, 111057531, 111057532, 111057533, 111057534, 111057535, 111057536, 111057537, 111057538, 111057539, 111057540, 111057541, 111057542, 111057543, 111057544, 111057545, 111057546, 111057547, 111057548, 111057549, 111057550, 111057551, 111057552, 111057553, 111057554, 111057555, 111057556, 111057557, 111057558, 111057559, 111057560, 111057561, 111057562, 111057563, 111057564, 111057565, 111057566, 111057567, 111057568, 111057569, 111057570, 111057571, 111057572, 111057573, 111057574, 111057575, 111057576, 111057577, 111057578, 111057579, 111057580, 111057581, 111057582, 111057583, 111057584, 111057585, 111057586, 111057587, 111057588, 111057589, 111057590, 111057591, 111057592, 111057593, 111057594, 111057595, 111057596, 111057597, 111057598, 111057599, 111057600, 111057601, 111057602, 111057603, 111057604, 111057605, 111057606, 111057607, 111057608, 111057609, 111057610, 111057611, 111057612, 1

ZONING HEARING CASE NO. 94-405-XA:
A SPECIAL EXCEPTION TO PERMIT A GROUP B CHILD CARE CENTER WAS
GRANTED ON JUNE 13, 1994. A VARIANCE WAS GRANTED TO ALLOW A 15 FT.
FRONT YARD SETBACK IN LIEU OF THE REQUIRED 25 FT. SETBACK. A
MODIFICATION TO THE RTA WAS GRANTED BASED ON USE BEING
COMPARIABLE WITHOUT ADVERSE IMPACT.

SPECIAL EXCEPTION USE OPERATED IN ACCORDANCE WITH APPROVAL PROVIDED VIA CASE 94-405-XA ABANDONED PER LETTER FROM BALTIMORE COUNTY DATED JUNE 13, 2005.

A USE PERMIT WAS ISSUED IN 2007 THAT GRANTED PERMISSION TO OPERATE A ASSISTED LIVING FACILITY II FOR A MAXIMUM OF 15 BEDS.

1. TO PERMIT A CONVALESCENT HOME PER BCZR § 101.1.C.3; AND
2. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE DETERMINED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE.



(IN FEET)
1 inch = 30 ft.

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 9/11/2014
PROJECT NO.:

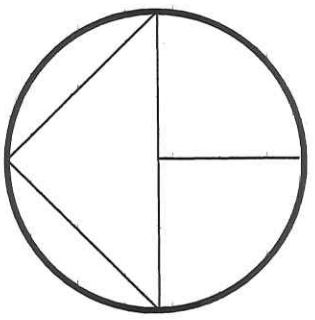
PLAN TO ACCOMPANY A
PETITION FOR A ZONING SPECIAL EXCEPTION
9412 BELAIR ROAD
BALTIMORE COUNTY, MARYLAND
11th ELECTION DISTRICT 5th CONGRESSIONAL DISTRICT

DATE: 9/11/2014

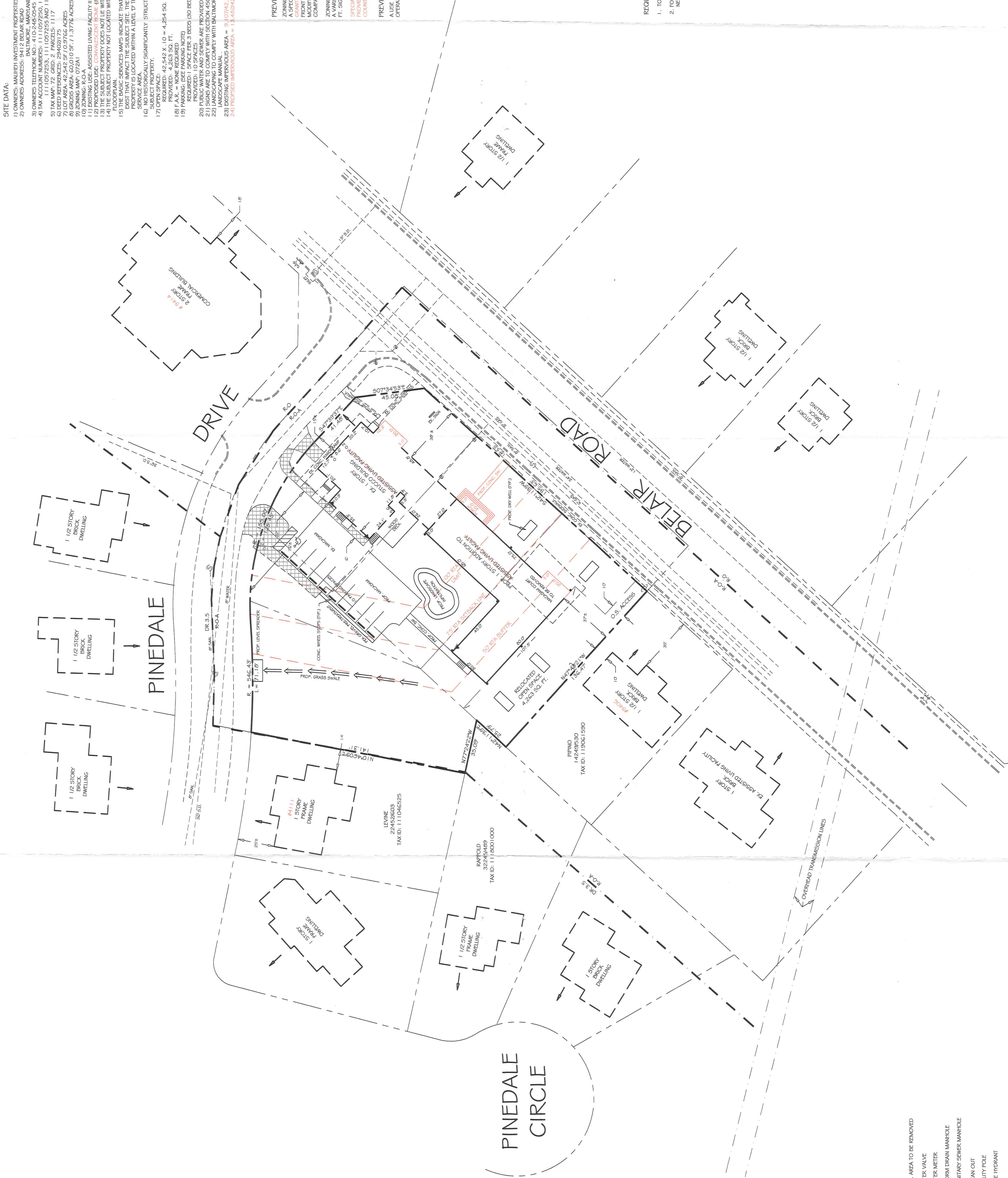
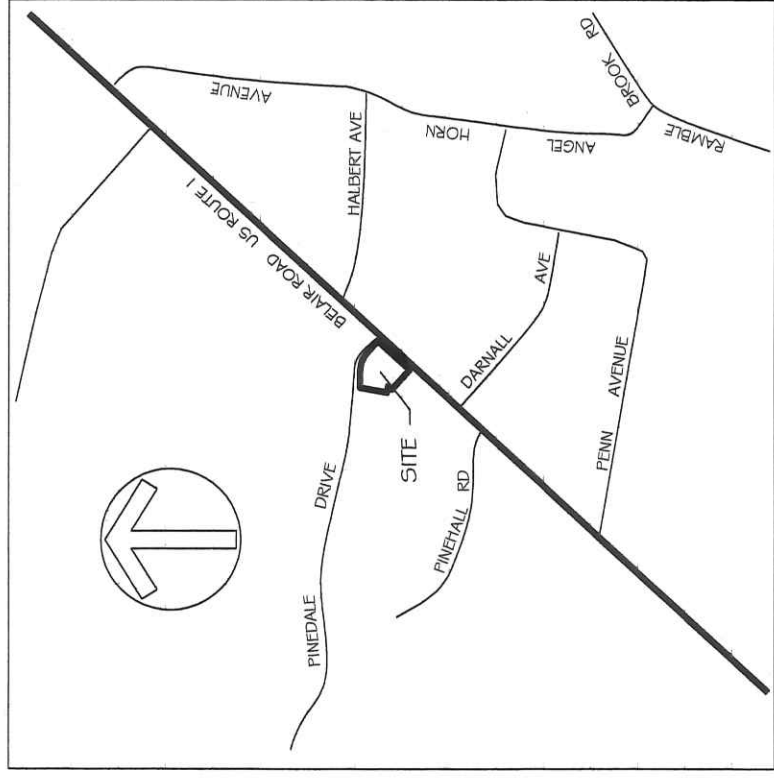
2014-038

SHEET 1 OF 1

kjWells Inc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800



MCS	REVISIONS:	
	NO.	DATE
	1	1/21/2015





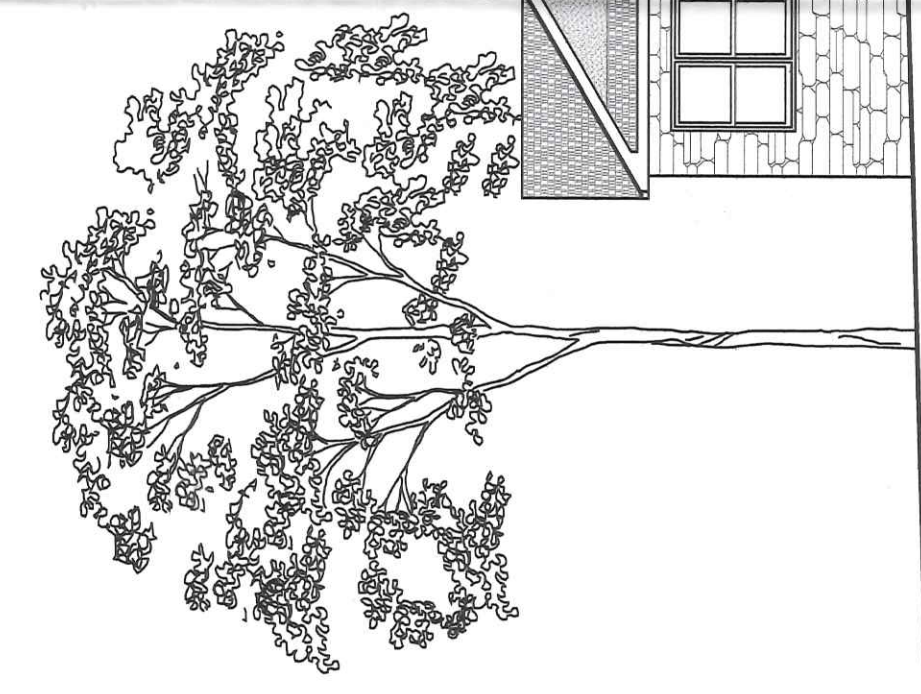
PROPERTY LINE

PROPERTY LINE

PIPINO
14249/530
TAX ID: 119061590

PINEDALE DR

9412 BELAIR ROAD
EXISTING FRONT ELEVATION



PROPERTY LINE

PROPERTY LINE

PIPINO
14249/530
TAX ID: 119061590

PINEDALE DR

9412 BELAIR ROAD
PROPOSED FRONT ELEVATION



