

IN RE: PETITION FOR VARIANCE

(503 Academy Road)

1st Election District

1st Council District

Penguin Properties, LLC

Legal Owner

Petitioner

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BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2017-0211-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Penguin Properties, LLC, owner of the subject property ("Petitioner"). The Petitioner is requesting variance relief from Section 402.1 of the Baltimore County Zoning Regulations (B.C.Z.R) to allow an existing side yard setback of 8 ft. in lieu of the required 15 ft. A site plan was marked as Petitioner's Exhibit 1.

Benjamin Smith and architect Robert Weaver appeared in support of the petition. Timothy Manuelides, Esq., represented the Petitioner. Several neighbors attended the hearing to learn more about the project and express concerns regarding the request. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request but identified one concern (related to an existing garage in the rear yard) which will be addressed in the Order below.

The property is approximately 35,460 square feet and is zoned DR 5.5. The property is improved with a single-family dwelling constructed in 1915. The dwelling is uninhabitable as shown in the photos submitted at the hearing. Petitioner's Ex. 3. Petitioner proposes to renovate the dwelling, which will contain two separate apartments or living units (i.e., what was formerly

ORDER RECEIVED FOR FILING

Date 3-24-17

By Sen

known as a “duplex” but is now called a “two-family dwelling”). The existing home will not be repositioned or relocated on the lot, and the footprint and/or height of the dwelling will not be increased or enlarged.

As mentioned at the hearing in response to a question from the community, a two-family dwelling is permitted in this case since Petitioner satisfies the dimensional requirements for the DR 5.5 zone as set forth in B.C.Z.R. §402.1. Although Petitioner requests a variance for a side yard setback, the same 15 ft. side yard requirement applies to both “single-family detached” dwellings and “two-family” dwellings in the DR 5.5 zone. Compare B.C.Z.R. §§ 1B01.2.C.1.b & 402.1. In other words, even assuming Petitioner planned to renovate the home and use it as a “single-family detached” dwelling, a side yard variance would still be required.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The lot is narrow and deep (100 ft. x 370 ft.). In addition, Petitioner must contend with site conditions which have existed for over 100 years. As such, the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be required to raze or relocate the dwelling. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. At present this vacant property is an eyesore, and the improvements proposed by Petitioner will greatly enhance the appearance of the dwelling.

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By Sen

THEREFORE, IT IS ORDERED, this 24th day of **March, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to B.C.Z.R. §402.1 to allow an existing side yard setback of 8 ft. in lieu of the required 15 ft., 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. As part of the overall renovation of the subject property the existing accessory structure must also be renovated with materials matching those used for the principal dwelling.

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



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:slh

ORDER RECEIVED FOR FILING

Date 3-24-17

By slh



KEVIN KAMENETZ
County Executive

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

March 24, 2017

Timothy Manuelides, Esq.
401 Washington Avenue
Suite 803
Towson, Maryland 21286

RE: Petition for Variance
Case No. 2017-0211-A
Property: 503 Academy Road

Dear Mr. Manuelides:

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 the printed name of John E. Beverungen.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Rafael Farina, 501 Academy Road, Catonsville, Maryland 21228
Lucas Feld, 507 Academy Road, Catonsville, Maryland 21228



PETITION FOR ZONING HEARING(S)

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

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

Address 503 Academy Road which is presently zoned DR5.5

Deed References: 38051/317 10 Digit Tax Account # 0107000572

Property Owner(s) Printed Name(s) Penguin Properties

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

3. X a Variance from Section(s)

402.1.B (minimum side yard of 15' for conversion of one family dwelling to duplex or semi-detached) to allow a side yard set back of 8' instead.

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)

Existing structure is just over 8' from side yard property line. Intent is to renovate existing structure into 2 dwelling units. It would be a hardship / practical difficulty to move or tear down the existing structure to meet Section 402.1.B.

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

I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

CASE NUMBER 2017-0211-A Filing Date 2/8/17

Legal Owners (Petitioners):

Benjamin Smith, Penguin Properties

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

Signature #1 Signature #2

101 Smithwood Ave, Catonsville MD
Mailing Address City State

21228 / 860-309-4223 / benjaminjosephsmith@gmail.com
Zip Code Telephone # Email Address

Representative to be contacted:

Robert Weaver, KGRW & Associates, LLC

Name - Type or Print

Signature

3454 Ellicott Center Drive, Ellicott City, MD
Mailing Address City State

21043 / 410-207-1086 / robert.weaver@kg-rw.com
Zip Code Telephone # Email Address

Do Not Schedule Dates: Reviewer AT

ORDER RECEIVED FOR FILING

Date 3-24-17

By sen

REV. 10/4/11

Zoning Property Description For: 503 Academy Road, Catonsville, MD 21228

Beginning at a point on the north-east side of Academy Road which is 40 feet wide (right of way) at a distance of ± 50 feet south east of the centerline of the nearest improved intersecting street (Stratford Road) which is 60 feet wide (right of way).

Thence the following courses and distances: First point of call (POC) – N.41 30' 00" E. 350.00'. Second POC – S.46 30' 00" E. 97.17'. Third POC – S.41 30' 00" W. 370.00'. Forth POC – N.35 00' 00" W. 100.00' back to the point of beginning as recorded in Deed Book 38051, Folio 319 containing 35, 460 square feet of lot. Located in the 1st Election District and 1st Council District.

2017-0211-A

№ 148659

Date:

2/8/17

SECRET

BUSINESS	ACTUAL	TIME	DRW
2/09/2017	2/08/2017	12:26:29	1

REG 0501 WALKIN LJR
 >>RECEIPT # 706833 2/08/2017 OFLN
 Dept 5 528 ZONING VERIFICATION
 CR NO. 148652

Recpt Tot \$500.00
\$514.00 OT
Baltimore County, Maryland

[illegible]

Total:

~~\$~~ 500

Rec:
From:

For:

503 ACADEMY RD

2017-0511-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

The Daily Record

11 East Saratoga Street

Baltimore, MD 21202-2199

(443) 524-8100

<http://www.thedailyrecord.com>

Order #: 11289726

Case #:

Description:

CASE NUMBER: 2017-0211-A - 503 Academy Road

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in The Daily Record, a daily newspaper published in the State of Maryland 1 times on the following dates:

3/3/2017



Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

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: 2017-0211-A

503 Academy Road

NE/s Academy Road, 50 ft. SE of centerline of Stratford Road

1st Election District- 1st Councilmanic District

Legal Owners: Penguin Properties, Benjamin Smith

Variance to (minimum side yard of 15 feet for conversion of one family dwelling duplex or semi-detached) to allow a side yard setback of 8 feet instead.

Hearing: Thursday, March 23, 2017 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

ARNOLD JABLON,
Director of Permits,

Approvals and Inspections for Baltimore County.

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3301.

mh3

The first part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation $f(x) = \int_0^x f(t) dt$. It is shown that $f(x)$ is a constant function. The second part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation $f(x) = \int_0^x f(t) dt$. It is shown that $f(x)$ is a constant function.

The third part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation $f(x) = \int_0^x f(t) dt$. It is shown that $f(x)$ is a constant function.

The fourth part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation $f(x) = \int_0^x f(t) dt$. It is shown that $f(x)$ is a constant function.

The fifth part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation $f(x) = \int_0^x f(t) dt$. It is shown that $f(x)$ is a constant function.

ZONING NOTICE

CASE # 2017-0211-A

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

JEFFERSON BLDG ROOM 205
PLACE: 105 W. CHESAPEAKE AVE. TOWSON, MD 21204

DATE AND TIME: THURS. MAR 23 2017 10 AM

REQUEST: VARIANCE TO (MINIMUM SIDE YARD
OF 15 FEET FOR CONVERSION OF ONE
FAMILY DWELLING TO DUPLEX OR SEMI-DE-
TACHED) TO ALLOW A SIDE YARD SETBACK OF
8 FEET INSTEAD

IF WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
HEARING CALL 887-3391

CASE NO. 2017-0211-A

C H E C K L I S T

Support/Oppose/
Conditions/
Comments/
No Comment

Comment
Received

Department

2/23

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

No Comment

2/15

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

No Comment

FIRE DEPARTMENT

No Obj
w/condition

3/13

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

No Objection

2/13

STATE HIGHWAY ADMINISTRATION

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 3/3/2017

SIGN POSTING Date: 3/1/17 by Pulson

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

CERTIFICATE OF POSTING

Date: 3-1-17

RE: Case Number: 2017-0211-A

Petitioner/Developer: Benjamin Smith

Date of Hearing/Closing: March 23, 2017 10 AM

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 503 Academy Rd

The signs(s) were posted on 3-1-17
(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

ATTACH PHOTOGRAPH

1015 Old Barn Road
(Street Address of Sign Poster)

Parkton, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

TO: DAILY RECORD
Thursday, March 2, 2017 Issue

Please forward billing to:
Benjamin Smith
101 Smithwood Avenue
Catonsville, MD 21228

860-309-4223

NOTICE OF ZONING HEARING

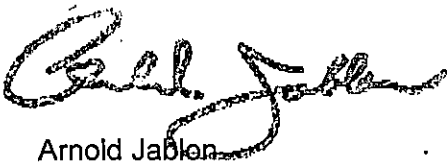
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2017-0211-A

503 Academy Road
NE/s Academy Road, 50 ft. SE of centerline of Stratford Road
1st Election District – 1st Councilmanic District
Legal Owners: Penguin Properties, Benjamin Smith

Variance to (minimum side yard of 15 feet for conversion of one family dwelling duplex or semi-detached) to allow a side yard setback of 8 feet instead.

Hearing: Thursday, March 23, 2017 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



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

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ
County Executive

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

February 28, 2017

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: 2017-0211-A

503 Academy Road

NE/s Academy Road, 50 ft. SE of centerline of Stratford Road

1st Election District – 1st Councilmanic District

Legal Owners: Penguin Properties, Benjamin Smith

Variance to (minimum side yard of 15 feet for conversion of one family dwelling duplex or semi-detached) to allow a side yard setback of 8 feet instead.

Hearing: Thursday, March 23, 2017 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Benjamin Smith, 101 Smithwood Avenue, Catonsville 21228
Robert Weaver, 3454 Ellicott Center Drive, Ellicott City 21043

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, MARCH 3, 2017.**
- (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.

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

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 legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/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:

Case Number: 2017-0211-A
Property Address: 503 ACADEMY ROAD
Property Description: _____
Legal Owners (Petitioners): Penguin Properties
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Benjamin Smith
Company/Firm (if applicable): Penguin Properties
Address: 101 Smithwood Avenue
Catonsville, MD 21228
Telephone Number: 860-309-4223

Revised 7/9/2015



KEVIN KAMENETZ
County Executive

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

March 16, 2017

Benjamin Smith
Penguin Properties
101 Smithwood Avenue
Catonsville MD 21228

RE: Case Number: 2017-0211 A, Address: 503 Academy Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on February 8, 2017. 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.", written in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Robert Weaver, KGRW & Associates, LLC, 3454 Ellicott Center Drive, Ellicott City MD 21043

Larry Hogan, *Governor*
Boyd K. Rutherford, *Lt. Governor*



Pete K. Rahn, *Secretary*
Gregory C. Johnson, P.E., *Administrator*

Date: 2/13/17

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

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. 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 Case No. 2017-0211-A

Variance
Benjamin Smith Penguin Properties
503 Academy Road.

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy Wolcott".

Wendy Wolcott, PLA
Metropolitan District Engineer – District 4
Baltimore & Harford Counties

WW/RAZ

3-23

BALTIMORE COUNTY, MARYLAND

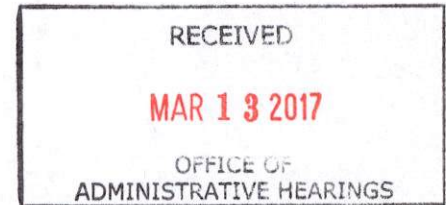
INTER-OFFICE MEMORANDUM

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

DATE: 3/8/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-211



INFORMATION:

Property Address: 503 Academy Road
Petitioner: Benjamin Smith, Penguin Properties
Zoning: DR 5.5
Requested Action: Variance

The Department of Planning has reviewed the petition for a variance to permit a duplex or semi-detached dwelling with an interior side yard of 8' in lieu of the required 15'.

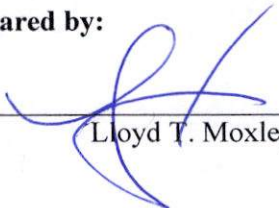
A site visit was conducted on February 21, 2017.

The Department has no objection to granting the petitioned zoning relief conditioned upon the following:

- As a part of the overall renovation of the subject property the Department recommends the existing accessory structure be similarly renovated or removed.

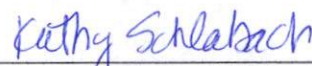
For further information concerning the matters stated herein, please contact Dennis Wertz at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Dennis Wertz
Robert Weaver, KGRW & Associates, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: February 15, 2017

SUBJECT: DEPS Comment for Zoning Item # 2017-0211-A
Address 503 Academy Road
(Penguin Property)

Zoning Advisory Committee Meeting of February 20, 2017

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford

Date: 2-15-2017

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: February 23, 2017

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For February 20, 2017
Item No. 2017-0205, 0206, 0207, 0209, 0210, 0211, 0212 and 0213

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

DAK:CEN
cc:file

G:\DevPlanRev\ZAC -No Comments\ZAC02202017.doc

RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
503 Academy Road; NE/S of Academy Road,	*	OF ADMINISTRATIVE
50' SE of c/line of Stratford Road	*	HEARINGS FOR
1 st Election & 1 st Councilmanic Districts	*	BALTIMORE COUNTY
Legal Owner(s): Penguin Properties,	*	2017-211-A
by Benjamin Smith		
Petitioner(s)		

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

FEB 16 2017

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of February, 2017, a copy of the foregoing Entry of Appearance was mailed to Robert Weaver, KGRW & Associates, LLC, 3454 Ellicott Center Drive, Ellicott City, Maryland 21043, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

M E M O R A N D U M

DATE: April 25, 2017
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2017-0211-A – Appeal Period Expired

The appeal period for the above-referenced case expired on April 24, 2017. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: / Case File
Office of Administrative Hearings

RE: PETITION FOR VARIANCE
503 Academy Road; NE/S of Academy Road
50' SE of c/line of Stratford Road
1st Election & 1st Councilmanic Districts
Legal Owners: Penguin Properties, LLC,
by Benjamin Smith

Petitioner.

*** BEFORE THE OFFICE**
*** OF ADMINISTRATIVE**
*** HEARINGS FOR**
*** BALTIMORE COUNTY**
*** 2017-211-A**

* * * * *

ENTRY OF APPEARANCE ON BEHALF OF PETITIONER

Please enter the appearance of Timothy Manuelides, Esq. and the law office of Timothy Manuelides, LLC as counsel for Petitioner.

Date: March 22, 2017

Respectfully submitted,



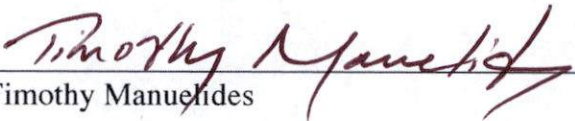
Timothy Manuelides
TIMOTHY MANUELIDES, LLC
401 Washington Avenue
Suite 803
Towson, MD 21286
(443) 538-5725

Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22th day of March, 2017, a copy of the foregoing Entry of Appearance on Behalf of Petitioner was served via electronic and first class mail, postage prepaid, upon:

Carole S. Demilio
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204



Timothy Manuelides

Real Property Data Search (w3) **Guide to searching the database**

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 01 Account Number - 0107000572			
Owner Information					
Owner Name:	PENGUIN PROPERTIES LLC		Use:	RESIDENTIAL NO	
Mailing Address:	101 SMITHWOOD AVE CATONSVILLE MD 21228-		Principal Residence:		
			Deed Reference:	/38051/ 00317	
Location & Structure Information					
Premises Address:		503 ACADEMY AVE BALTIMORE 21228-1813		Legal Description: 503 ACADEMY AVE NES 770 FT N OF EDMONDSON AV	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:
0095	0021	0033		0000	
					Block:
					Lot:
					Assessment Year:
					2016
					Plat No:
					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	
1915	3,002 SF	714 SF	35,460 SF	04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
2	YES	STANDARD UNIT	SIDING	4 full	1 Detached
					Last Major Renovation
Value Information					
	Base Value	Value As of 01/01/2016	Phase-in Assessments		
			As of 07/01/2016	As of 07/01/2017	
Land:	84,100	84,100			
Improvements	146,700	182,700			
Total:	230,800	266,800	242,800	254,800	
Preferential Land:	0			0	
Transfer Information					
Seller: FEDERAL NATIONAL MORTGAGE		Date: 09/23/2016		Price: \$137,500	
Type: ARMS LENGTH IMPROVED		Deed1: /38051/ 00317		Deed2:	
Seller: SMITH CRAIG A		Date: 11/16/2015		Price: \$585,089	
Type: NON-ARMS LENGTH OTHER		Deed1: /36880/ 00009		Deed2:	
Seller: TASKER ROY		Date: 01/19/2007		Price: \$575,000	
Type: ARMS LENGTH IMPROVED		Deed1: /25094/ 00286		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2016		07/01/2017	
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					

2. The Baltimore County Department of Public Works, Planning and Zoning Department, and the Baltimore County Department of Public Works, Planning and Zoning Department, are hereby certifying that the information provided on this page is accurate and complete. We have confidence in

2017-0211-A

A-1120-2102

JB
3-23-17 2017-0211-7

Debra Wiley

From: Administrative Hearings
Sent: Friday, February 10, 2017 11:59 AM
To: B Smith
Subject: RE: 503 Academy Road Variance - Attorney Waiver Request

Mr. Smith,

Please be advised that you have to open/click the second attachment from the administrative hearings folder.

From: B Smith [mailto:benjaminjosephsmith@gmail.com]
Sent: Friday, February 10, 2017 11:49 AM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Re: 503 Academy Road Variance - Attorney Waiver Request

Hello,

The second attachment did not come through. Can you please resend? Also curious if there is any reason given beyond the sited requirements.

Thanks,
Ben

On Fri, Feb 10, 2017 at 11:23 AM, Administrative Hearings
<administrativehearings@baltimorecountymd.gov> wrote:

Mr. Smith,

Your exemption request from the requirement for attorney representation has been reviewed by Judge Beverungen. Please be advised that your request has been denied; attachments for said denial have been provided for your convenience.

Attachments:

- (1) Zoning Requirement -- Page 1 of Zoning Review Hearing Checklist -- See, "Second: ... If you are incorporated, it is considered a requirement that you be represented by an attorney."
- (2) Legal Requirement: MD Code, Business Occupations & Professions, Section 10-206, specifically (b)(4).

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By copy of this email, Mr. Perlow is being provided said attachments for distribution to the zoning staff for future reference.

Thank you for contacting the Office of Administrative Hearings.

Debra Wiley

From: Administrative Hearings
Sent: Friday, February 10, 2017 11:23 AM
To: 'B Smith'
Cc: Jeffrey N Perlow
Subject: RE: 503 Academy Road Variance - Attorney Waiver Request
Attachments: Admin Hearings Copier

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From: B Smith [mailto:benjaminjosephsmith@gmail.com]
Sent: Wednesday, February 08, 2017 2:58 PM
To: Administrative Hearings <administrativehearings@baltimorecountymd.gov>
Subject: Fwd: 503 Academy Road Variance - Attorney Waiver Request

Hello,

I received a bounce back on the email I sent below, so I am attempting to re-send.

Thanks,
Ben

----- Forwarded message -----

From: B Smith <benjaminjosephsmith@gmail.com>
Date: Wed, Feb 8, 2017 at 2:54 PM
Subject: 503 Academy Road Variance - Attorney Waiver Request

To: administrativehearings@baltimorecountymd.gov, jbeverungen@baltimorecountymd.gov
Cc: Robert Weaver <robert.weaver@kg-rw.com>, James Smith <jamesrichardrobinsonsmith@gmail.com>

From: Penguin Properties, LLC

To: Honorable John E. Beverungen

Enclosures: (1) Variance application
(2) Property Plat
(3) MLS listing information
(4) BG&E documents

Dear Judge John E Beverungen,

This letter is submitted to request an exemption from the requirement for attorney representation during the processing of our zoning variance application, case number 2017-0211-A.

Penguin Properties, LLC is a simple partnership between two brothers, one a Baltimore resident and the other a U.S. Marine currently stationed overseas. Our goal in applying for a variance is to ensure compliance with county "change of occupancy" regulations concerning the property at 503 Academy Rd, Catonsville, which we purchased in September 2016. As you can see from the enclosed listing documents (encl: 3) and BG&E report (encl: 4), the house was marketed as a multifamily residence and had multiple electrical meters for over 30 years. However, the property was never properly changed from a single family to multifamily residence and has thus been non-compliant with County regulations.

Our construction goal is to rehabilitate a currently depressed and vacant property into a high quality duplex. We are applying for a variance to ensure that property will be in compliance with all county regulations concerning side yards for multifamily properties.

We respectfully request a waiver of the costly requirement for attorney representation at the zoning hearing based on the simple nature of the project, the lack of exterior changes to the 100 year old structure, the verifiable history of the property's use as a multifamily residence, the positive impact this project will have on the neighborhood, the limited availability of the LLC owners and the good faith that Penguin Properties has displayed in seeking the appropriate variance to ensure compliance with county regulations.

We look forward to your positive response in this matter and to the successful renovation of our property. Please direct any questions to Benjamin J. Smith at 860-309-4223 or benjaminjosephsmith@gmail.com.

Very respectfully,

Benjamin J. Smith

Owner, Penguin Properties, LLC

ZONING REVIEW

Revised 5/5/2016

HEARING CHECKLIST

This checklist is provided to you, for your information only, and **is not to be considered legal advice.**

First, and most importantly: You must understand that the relief you request is a quasi-judicial decision and you are responsible for meeting the burden of law required by the Baltimore County Zoning Regulations (BCZR). A judicial hearing is an adversary process and, therefore, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence, and cross-examine witnesses. The Office Of Administrative Law will rule on the evidence and testimony to determine whether or not the petition will be granted.

Second: You must understand that if a hearing is required, you are permitted to have representation by an attorney of your choice. You are not required to have an attorney, though it is recommended that you consider obtaining legal representation. If you are incorporated, it is considered a requirement that you be represented by an attorney.

Third: It is strongly recommended that you read and understand the requirements of the BCZR and related policies.

Fourth: No employee of the Department of Permits, Approvals and Inspections (PAI) may provide legal advice to anyone. The representations and opinions of any employee are not to be construed as definitive in any case. Only the decision of the Administrative Law Judge rendered after the statutory required public hearing is considered dispositive in matters relating to the interpretation of the BCZR.

Even though there may not be opposition in a given case, your request may be denied. For further information **or to make the required appointment**, please contact:



Zoning Review Office
Department of Permits, Approvals and Inspections
111 West Chesapeake Avenue
Room 111
Towson, MD 21204
Telephone: 410-887-3391

INDIVIDUAL RESIDENTIAL LOTS

Variances
Administrative Variances
Special Hearings
Administrative Special Hearings
Posting & Waivers

YOU MUST MAKE AN APPOINTMENT TO FILE A PETITION

Call 410-887-3391 to make an appointment and confirm filing fees. Due to the exacting review necessary for petition filing, **petitions or revisions will not be processed or accepted if they are just delivered or mailed.**

(ii) employed by a nonprofit organization receiving grants from the Maryland Legal Services Corporation and:

1. the person has training and experience;
2. the person is supervised by a lawyer; and
3. the supervising lawyer's appearance is entered in the proceeding;

(3) an insurance company while defending an insured through staff counsel;

* (4) an officer of a corporation, an employee designated by an officer of a corporation, a partner in a business operated as a partnership or an employee designated by a partner, a member of a limited liability company or an employee designated by a member of a limited liability company, or an employee designated by the owner of a business operated as a sole proprietorship while the officer, partner, member, or employee is appearing on behalf of the corporation, partnership, limited liability company, or business in a civil action in the District Court of Maryland if:

(i) the action:

1. is based on a claim that does not exceed the amount set under § 4-405 of the Courts Article for a small claim action; and
2. is not based on an assignment, to the corporation, partnership, or business, of the claim of another;

(ii) in the case of a designated employee, the employee:

1. is not assigned on a full-time basis to appear in the District Court on behalf of the corporation, partnership, or business;
2. provides the court a power of attorney sworn to by the employer that certifies that the designated employee is an authorized agent of the corporation, partnership, limited liability company, or sole proprietorship and may bind the corporation, partnership, limited liability company, or sole proprietorship on matters pending before the court; and

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 3/8/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-211

INFORMATION:

Property Address: 503 Academy Road
Petitioner: Benjamin Smith, Penguin Properties
Zoning: DR 5.5
Requested Action: Variance

The Department of Planning has reviewed the petition for a variance to permit a duplex or semi-detached dwelling with an interior side yard of 8' in lieu of the required 15'.

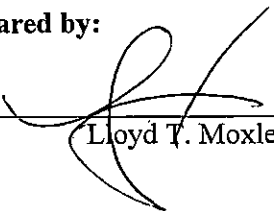
A site visit was conducted on February 21, 2017.

The Department has no objection to granting the petitioned zoning relief conditioned upon the following:

- As a part of the overall renovation of the subject property the Department recommends the existing accessory structure be similarly renovated or removed.

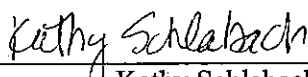
For further information concerning the matters stated herein, please contact Dennis Wertz at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Dennis Wertz
Robert Weaver, KGRW & Associates, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: February 8, 2019

SUBJECT: DEPS Comment for Zoning Item # 2019-0211-A
Address 2132 Rosalie Avenue
(Lu Property)

Zoning Advisory Committee Meeting of **February 4, 2019**.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford

John - fyi

Debra Wiley

From: B Smith <benjaminjosephsmith@gmail.com>
Sent: Wednesday, February 08, 2017 2:58 PM
To: Administrative Hearings
Subject: Fwd: 503 Academy Road Variance - Attorney Waiver Request
Attachments: Attachment 1 - 503 Variance Application.pdf; Attachment 2 - 503 AR_Variance Plan_2-2-17.pdf; Attachment 3 - 503 Academy Listing.pdf; Attachment 4 - BGE Meter Installation History.pdf

Hello,

I received a bounce back on the email I sent below, so I am attempting to re-send.

Thanks,
Ben

----- Forwarded message -----

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Date: Wed, Feb 8, 2017 at 2:54 PM
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To: administrativehearings@baltimorecountymd.gov, jbeverungen@baltimorecountymd.gov
Cc: Robert Weaver <robert.weaver@kg-rw.com>, James Smith <jamesrichardrobinsonsmith@gmail.com>

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To: Honorable John E. Beverungen

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(2) Property Plat
(3) MLS listing information
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Very respectfully,

Benjamin J. Smith

Owner, Penguin Properties, LLC

CASE NAME _____
CASE NUMBER 2017-211
DATE 3/23/2017

[illegible]

PLEASE PRINT CLEARLY

CASE NAME

CASE NUMBER

DATE _____

BER 2017-211
3/23/2017

CITIZEN'S SIGN - IN SHEET

NAME

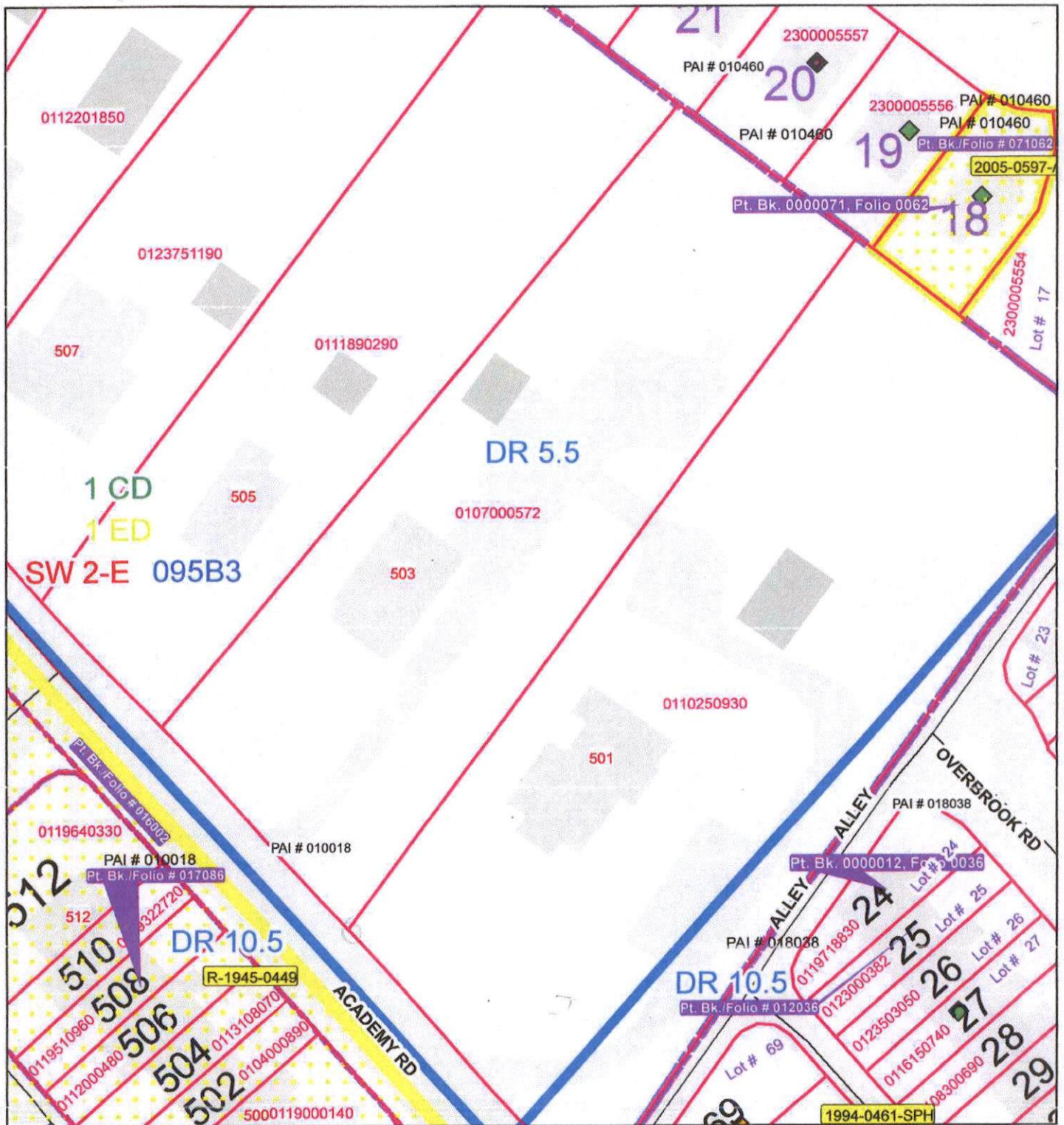
ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

503 Academy Road



Publication Date: 1/26/2017



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



0 15 30 60 90 120 Feet

1 inch = 60 feet

2017-0211-A

Case No.: 2017-0211-A

Exhibit Sheet

Petitioner/Developer

Protestant

slu
3-24-17

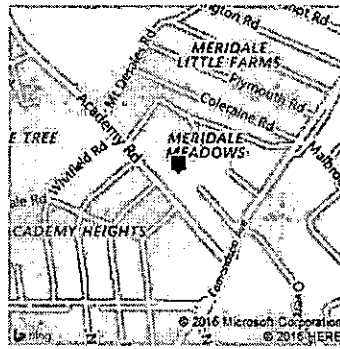
4-25-17
DW

No. 1	site plan	
No. 2	real estate listing	
No. 3	photos	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Metropolitan Regional Information Systems, Inc.

BC9724190 - BALTIMORE
503 ACADEMY RD, CATONSVILLE, MD 21228

Full Listing - Select this listing
Multi-Family - Watch this listing



Media Center
13- Photos
Virtual Tour
Neighbor Photos
Virtual Earth Maps

Additional Information
Tax Record
Property History
History - New, Price, Status
History - All Unit Types
No Open Houses

Resource Center
Aerial Imagery
Community Information
Assessor Map
Baltimore SDAT Website

Status: Sold
Close Date: 15-Sep-2016
Ownership: Fee Simple
Sale or Rental: Sale
Listing Type: Excl. Right
Adv Sub: Catonsville
Legal Sub:
Condo/Coop Proj Name:

Style:
Seller Subsidy: \$0
Type: Multi-Family
TH Type:
#Levels: 3
#Fireplaces:
Model:

List Price: \$143,500.00
Close Price: \$137,500.00
Inc City/Town:
Zip: 21228 - 1813
Election District: 1
Old Map: /784/5/
TBM Map:
Area:

Tax ID: 04010107000572
HOA Fee: /mo pd
C/C Fee: /mo pd
Elementary: WESTOWNE
Foreclosure: No

Total Taxes: \$4,522
Tax Year: 2015
Lot AC/SF: .81/35,460
Middle: CATONSVILLE
Auction: No

Level Location:
Age: 102
Year Built: 1915
High: CATONSVILLE
Potential Short Sale: No

FEATURES

Rooms:
Main Entrance:
Interior Style:
Dining/Kitchen:
Appliances:
Amenities:
Security:
Windows/Doors:
Walls/Ceilings:

Basement: Yes
Basement Type: Unfinished
Basement Entrance: Outside Entrance
Handicap: None
Unit Description:
R-Factor Basement:
House Dimensions: x
Above Grade Unfinished:
Below Grade Finished:
Directions:
ROUTE 40 TO ACADEMY ROAD.

Foundation:

R-Factor Ceilings:
SQFT-Tot Fin:
Above Grade Finished:
Below Grade Unfinished:

R-Factor Walls:

REMARKS

General/Agent:
This is a Fannie Mae HomePath property. All offers must be submitted online at www.HomePath.com. See ~View Documents~ for Instructions and disclosures. 1 Property is in First Look for the first 20 days on market, owner occupant bids only. First Look click on Homepath.com for dates. Buyer to verify ground rent, seller will not redeem ground rent.

Internet/Public:

This is a Fannie Mae HomePath Property. This Multi-Family features 4 Units with separate Gas and electric Meter for each unit. Near Banneker Community Center, Banneker Recreation Center, Shoppers, Sam's Club, Uplands Park, Catonsville Park and Malden Choice Park. Check this out before it is gone.

EXTERIOR

Building Sites/Lots:
Exterior:
Exterior Construction: Siding - Vinyl
Lot Description:
Other Buildings:
Original Builder:
Property Condition:
Roads:
Roofing:
Soil Type:
Topography:
Transportation:
View/Exposure:
Year Converted:

Lot Dimension: x x

Lot Acres/Sqft: .81/35,460

New Construction: No

Year Renovated:

Additional Multi-Family Information:

Efficiency Units: 0
Efficiency Avg Rent:
Two Bedroom Units: 0
Two Bedroom Avg Rent:

Single Room Units: 0
Single Room Avg Rent:

One Bedroom Units: 0
One Bedroom Avg Rent:
Three Bedroom Units: 0
Three Bedroom Avg Rent:

PARKING

Parking: Street
Garage Type:

Gar/Carpt/Assgn Sp: //

Petitioner's # 2

Petitioner's No. 3

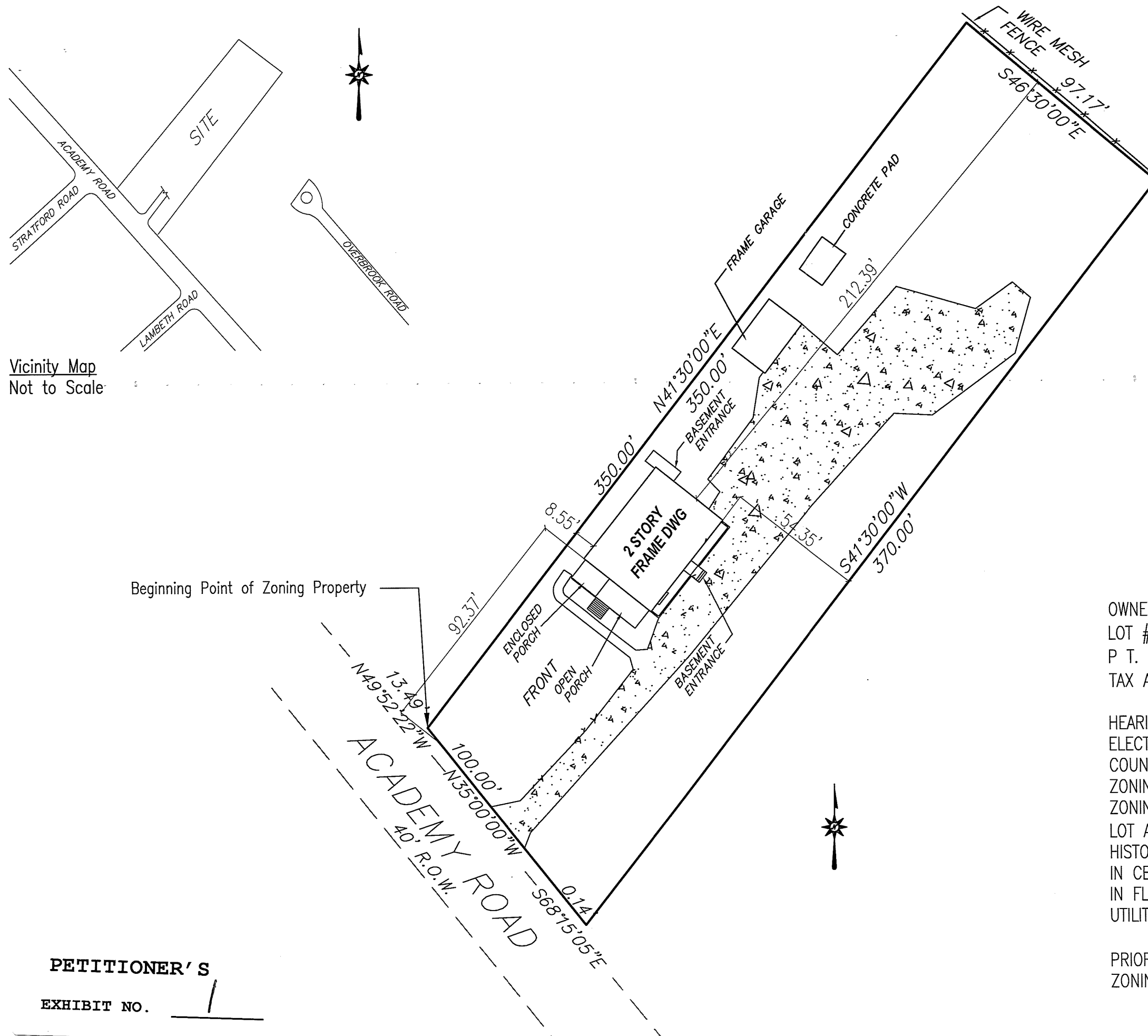












Vicinity Map
Not to Scale

Beginning Point of Zoning Property

PETITIONER'S

EXHIBIT NO. 1

OWNER: PENGUIN PROPERTIES
LOT #: N/A
P. T. BOOK/FOLIO #: 38051/317
TAX ACCOUNT#: 0107000572

HEARING PLAN FOR: VARIANCE
ELECTION DISTRICT: 1
COUNCIL DISTRICT: 1
ZONING MAP: 095B3
ZONING: DR 5.5
LOT AREA: 35,460 SQ. FT. (0.81 Acres)
HISTORIC: NO
IN CBCA: NO
IN FLOOD PLAIN: NO
UTILITIES: WATER: PUBLIC
SEWER: PUBLIC
PRIOR HEARING(S): NONE
ZONING VIOLATION CITATIONS: NONE

2017-0211-A

Penguin Properties
LLC
101 Smithwood Ave.,
Catonsville,
Maryland
21228

KGRW & Associates LLC
development services, planning, architecture, project management
3306 Greentree Drive Elkton City, MD 21042 / 410.297.4381
kevin.glover@kg-rw.com
www.kg-rw.com

Variance Plan
503 Academy Road
Catonsville, MD 21228

1	02/02/17 Variance Plan

Plat Plan

GR	S-1 1 of 1
RW	
1" = 40'-0"	