RE: PETITION FOR VARIANCE 11 Lynbrook Road; E/S of Lynbrook Rd, 320 ft South of the center line of Eastern Blvd 15th Election & 7th Councilmanic Districts Legal Owner(s): Lucky Star LLC Petitioner(s)	* * * * *	BEFORE THE BOARD OF APPEALS FOR BALTIMORE COUNTY 2021-109-A

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

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MOTION FOR PARTIAL SUMMARY DECLARATORY JUDGMENT AND PREHEARING MEMORANDUM

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SDAT – 11 Lynbrook Road

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PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MOTION FOR PARTIAL SUMMARY DECLARATORY JUDGMENT AND PREHEARING MEMORANDUM

Introduction

Lucky Star, LLC (Lucky) filed a garden variety zoning petition for height variance for a detached garage building accessory to a dwelling with a height of 20 feet in excess of the maximum 15 feet per Baltimore County Zoning Regulation (BCZR) Sec. 400.3.

Lucky acquired the property on April 30, 2020. The property is located on Lynbrook Road in Essex and has a longstanding dwelling. The SDAT Real Property Data, attached, shows the property occupies .78 acres and is listed as residential, 1.5 stories, with 1440 square feet living area.

It is zoned Business-Local (B.L.) and is adjacent to a Density Residential (D.R.) Zone. Therefore, per BCZR Sec. 230.1.A.1, the dwelling use is a permitted use via incorporation of the D.R. Zone permitted uses.

For over half a century, county zoning law has regulated the use, location, area, and height of accessory buildings under BCZR Sec. 400 and specific zone provisions. The Court of Special Appeals classically dealt with a somewhat similar height variance in Cromwell v. Ward 102 Md. App. 691 (1995).

Our office entered our appearance, as usual, but did not initially take a position. However, upon review of the Administrative Law Judge's decision, we saw that petitioner had injected an entirely new issue. Petitioner's engineer, Patrick Richardson, asserted that

there was no need for a variance because the property is in a Business-Local (B.L.) Zone, therefore not literally a "residence zone" under BCZR Sec. 400.

We disagreed with this statutory construction, as did Zoning Supervisor Jeffrey Perlow, with whom we discussed the matter. We began with the premise that the dwelling use is permitted in the B.L. Zone only by incorporation of the immediately adjoining Density Residential Zone uses. We went on to include other zoning provisions in our analysis, detailed below in the Argument. In this context, it is anomalous and disjointed to take advantage of the B.L. Zone/D.R. Zone incorporated dwelling use and then evade the cognate accessory building controls by reference to that same B.L. Zone. As the saying goes, it is too clever by half. It takes the BCZR Sec. 400.1 language out of context and defeats the overall statutory purpose.

We also were concerned that the zoning petition did not raise this legal issue for determination via special hearing per BCZR Sec. 500.7. There was consequently no public notice of the issue. So, on both counts, there was no jurisdiction to recognize the issue.

Accordingly, our office filed a motion for reconsideration. With the reasonable expectation that it would be granted, we suggested we would not be inclined to oppose the height variance, noting at the same our impression that a modest side yard variance also looked to be present. Petitioner opposed our office's motion and maintained the legal position that a variance is not required.

The Administrative Law Judge denied our motion in the final opinion and order dated September 9, 2021. We promptly filed this *de novo* appeal, challenging the final order and the incorporated July 20, 2021 decision.

Our paramount concern is the legal issue. It is an issue of first impression. To the best of our recollection, there was never before an assertion that a building accessory to a dwelling is exempt from BCZR Sec. 400 control just because it is in a Business Zone. The material facts are clear. Under these circumstances, it appears to be helpful to state our office's position in this pre-hearing memorandum, which focuses on this issue.

As to the variance, while this was not our primary concern below, it will be necessary at this level for Petitioner to satisfy the burden of proof under BCZR Sec. 307.1. The Board has dealt with the variance standards in many cases.

* * *

The zoning petition was filed on April 20, 2021 to legitimize the garage, which was already built. It had been erected without prior zoning approval and at odds with Building Permit 970580 issued to previous owner Intercoastal, LLC.

On March 6, 2021, Lucky had filed its own permit application B979912 for a garage detached and on the "Rear (Waterside) of SFD." The application states that this permit cancels expired permit 970580 and refers to a change in construction. The application also says, "Accessory Structure Letter Required." There is no mention of any zoning issues. The proposed use is stated to be: "SFD and Garage (For Personal Use Only)." This is consistent with the main dwelling use.

Apparently, upon review of this application, it looks like the County informed Lucky that they needed to file a zoning petition. This would explain the timing of the zoning variance petition filed on April 20, 2021.

Legal Questions Presented for Partial Summary Judgment

1. Does the Administrative Law Judge have jurisdiction or authority to make a determination of law outside the four corners of the zoning petition?

2. Is there likewise a lack of jurisdiction or authority to determine a legal issue where, based on the petition, there was no public notice of the issue?

3. As a matter of law, does BCZR Sec. 400 Applies to Buildings Accessory to Dwellings in Business and other Zones Which Permit Residence Zone Uses by Incorporation?

Relevant Baltimore County Zoning Regulations

The following Baltimore County Zoning Regulations are included in the appendix: BCZR Secs. 1A03.3.A.8.f., 1A04.2.A.11.f, 1B01.1.A.18, 230.1.A.1, 205.3.A.1, 205.3.B.1, 206.3A.2, 206.3.B.1, 216.1.B.1, 221.1.B.1, 225.1.B.1, 232, 233.1.A, 236.1.A, 302, 307.1, 400, 500.7.

Argument

I. There Should Be Issued a Summary Declaratory Judgment that Accessory Residential Buildings in the Business Zone Are Subject to the BCZR Sec. 400 Controls on Accessory Buildings in Residential Zones

A. The Special Hearing and Summary Judgment

BCZR Sec. 500.7 provides for special hearings to assess determinations of zoning law applicable to particular properties. To repeat, the legal issue which Lucky's engineer injected at the ALJ hearing entails a special hearing determination,

Such a special hearing issue effectively involves a request for declaratory judgment. Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005). The familiar standards for summary judgment apply when there is no genuine dispute of material facts, and judgment is warranted as a matter of law. State v. Rovin 472 Md. 317, 351-52 (2021); Baltimore City Police Department v. Potts 468 Md. 265, 282 (2020). This is the situation here with respect to the application of BCZR Sec. 400 to residential accessory buildings in a Business Zone.

B. There is No Jurisdiction or Authority to Consider a Subject Matter and Core Legal Issue Outside the Four Corners of the Zoning Petition

The owner of the property is Lucky Star, LLC. ("Lucky") The petition is for a zoning variance under BCZR Sec. 400.3 relating to the height of a proposed detached accessory garage building. The petition for variance mislabels the owner as Luck Star, LLC, apparently a clerical error. The July 20, 2021 opinion perpetuated the error. Our motion for reconsideration identified this error, which was thereafter corrected.

To repeat, procedurally, we were very surprised to see in the opinion that Lucky brought up the legal issue that the BCZR Sec. 400.1 to 400.3 accessory building requirements should not apply where the residence is in a Business Zone. The zoning petition came in just as a petition for height variance for an accessory building to a dwelling. We were doubly surprised that the ALJ entertained the issue, and of course the more surprised with the ruling, reiterated on reconsideration.

There was no petition for special hearing to determine the use was exempt. Lucky is bound by the four corners of the petition, which is a pleading. People's Counsel v. Mangione 85 Md. App. 738, 744-5 (1991). There was no jurisdiction to decide what amounts to a special hearing in the absence of timely amendment. This brings us to the correlative lack of public notice.

C. There Is No Jurisdiction to Make the Legal Determination Because the Public Notice Was Limited to the Variance Petition

In this context, BCZR Sec. 500.7 prescribes the public notice requirements for a petition for special hearing, including "… the action requested in the petition." As noted, a special hearing is effectively a declaratory judgment. It is settled, as a matter of administrative law, that ". . . the failure of an administrative official to give proper notice of a hearing, required by law, is fatal to the jurisdiction of the official or the board to conduct the hearing …." Cassidy v. County Board of Appeals 218 Md. 418, 421-25 (1958). See Baltimore Street Parking Co. v. Mayor & City Council of Baltimore 194 Md. App. 569, 593-94 (2010).

A notice describing a particular type of zoning relief is not sufficient for a materially different form of relief. 4 Salkin. American Law of Zoning Sec. 40:21, 3d Ed. (2021), updating Anderson's American Law of Zoning. Had a special hearing petition been filed for the zoning issue, we would have initially made the argument that such dwellings are not exempt from BCZR Secs. 400.1-3. It is unknown whether the ALJ might have viewed the matter differently. As happened, the ALJ did not turn back upon reconsideration.

D. As a Matter of Law, BCZR Sec. 400 Applies to Buildings Accessory to Dwellings in Business and other Zones Which Permit Residence Zone Uses by Incorporation.

We respectfully disagree that buildings and structures accessory to residences and other residential zone uses are exempt from the standard restrictions in BCZR Secs. 400.1-3 just because the principal residence happens to be located in a Business Zone.

The premise for residences and other residential zone uses in Business Zones is that they are permitted vicariously as uses "permitted and as limited in the residential zone

immediately adjoining…." BCZR Sec. 230.1.A.1. Here, the site plan shows the immediately adjoining zone as D.R. 16.

For the purpose of permitting the residential zone use, the adjoining residential zone is essentially incorporated and grafted, so that the zone becomes a hybrid business/residence zone. It is anomalous and unreasonable to conclude that the legislative purpose is to exempt buildings accessory to residential zone uses from the normal restrictions in a zone which has a nonresidential label but which allows such residential zone uses only by virtue of incorporation from the adjoining residential zone uses.

Correlatively, the incorporation of residence zone standards follows a discernible pattern not only in the B.L. Zone, but also the other main Business Zones (B.M. and B.R --- BCZR Secs. 233.1.A, 236.1.A), the Business Maritime Zones (B.M.M., B.M.B., B.M.Y.C. --- BCZR Secs. 216.1.B.1, 221.1.B.1, 225.1.B.1) and O.R.-1 and the O.R. 2 Office Zones (BCZR Secs. 205.3.A.1, 205.3.B.1, 206.3.A.2, 206.3.B.1). Thus, residences and accessory residential buildings in the Business and Office Zones adjacent to D.R. Zones pose the same problems as those in the D.R. Zones.

We also looked at the B.L. Zone Area Regulations in BCZR Sec. 232. The provisions for front, side, and rear yard setbacks refer to BCZR Sec. 302 for residences. In turn, BCZR Sec. 302.1 states:

> "§ 302.1. - Adherence to Regulations for Adjoining Zone.
>
> > Residences hereafter erected in business and manufacturing zones shall be governed by all height and area regulations for the predominant residence zone which immediately adjoins, or by D.R.5.5 Zone"

Upon review with Zoning Supervisor Jeffrey Perlow, he reminded us also of BCZR Sec. 1B01.1.A.18, particularly subsection g:

> "1B01.1 – General Uses Regulations in D.R. Zones
>
> A. Uses permitted as of right. The following uses only are permitted as of right in D.R. Zones of all classifications, subject to the restrictions hereinafter prescribed.
>
> * * *
>
> > 18. Accessory uses or buildings other than those permitted only by special exception, including, but not limited to:

* * *

> g. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (all such accessory structures or uses subject to the height and area provisions for buildings as set forth in Section 400). [Bill No. 71-1987]"

This is the D.R. Zone permitted use by right provision which specifically addresses accessory buildings in D.R. Zones, including garages and other accessory buildings and structures subject to BCZR Sec. 400. It is incorporated into the B.L. Zone by BCZR Sec. 230.1.A.1. The same is true for the other Business and Office Zones which incorporate the immediately adjoining D. R. Zone uses. Similar provisions are in several of the R.C. residential zones, such as Sec. 1A03.3.A.8.f for the R.C. 4 Zone and Sec. 1A04.2.A.11.f for the R.C. 5 Zone. All of these reinforce even more explicitly the point that the B.L. Zone incorporation of the D.R. Zone uses permitted and as limited per BCZR Sec. 230.1.A.1 effectively engrafts the D.R. Zone accessory building provisions, along with the incorporated permitted dwelling use. Therefore, BCZR Secs. 400.1 to 400.3 apply.

* * *

Our analysis accords with the canons of statutory construction. The goal of statutory construction is to discern legislative purpose through review of language, history, and context. It comprises all relevant parts or sections of the legislation. These emphasize harmonization of the entire statutory context, scheme and purpose, and the avoidance of unreasonable and absurd consequences.

Kaczorowski v. Baltimore, 309 Md. 505, 513-16 (1987) observed legislation "… usually has some objective, goal, or purpose. It seeks to remedy some evil, to advance some interest, to attain some end." 309 Md., at 513. Judge William Adkins wrote,

> "Moreover, despite Kaczorowski's pleas that we examine the trees so closely that we do not see the forest, the plain-meaning rule does not force us to read legislative provisions in rote fashion and in isolation. What we are engaged in is the divination of legislative purpose or goal… The 'meaning of the plainest language' is controlled by the context in which it appears." 309 Md., at 514.

He referred to Justice Holmes' concept that "the general purpose is a more important aid than any rule which grammar or formal logic may lay down." *Ibid*. Continuing,

"The purpose, in short, determined in light of the statute's context, is the key. And that purpose becomes the context within which we apply the plain-meaning rule. Thus 'results that are unreasonable, illogical or inconsistent with common sense should be avoided… with the real legislative intention prevailing over the intention indicated by the literal meaning.'" 309 Md., at 516.

Baltimore County Coalition Against Unfair Taxes v. Baltimore County, 321 Md. 184, 203-04 (1990) carried forward,

"Thus, we have said that a statute must be construed in context, because the meaning of the 'plainest language may be governed by the context in which it appears.'… In this regard, words in a statute must be read in a way that advances the legislative policy involved. … Courts may, therefore, consider not only the literal or usual meaning of those words, but their meaning and effect in the context in which the words were used, and in light of the setting, the objectives, and purpose of the enactment. … Moreover, in such circumstances, courts may consider the consequences that may result from one meaning rather than another, with real intent prevailing over literal intent."

As in Stanford v. Maryland Police Training, 346 Md. 374, 380 (1997):

"The statutory language is not read in isolation, but 'in light of the full context in which [it] appear[s], and in light of external manifestations of intent or general purpose available through other evidence.'"

Judge Harrell reiterated in Rockville v. Rylyns 372 Md. 514, 549-551(2002):

" . . . if the statute is part of a general statutory scheme or system, the sections must be read together to ascertain the true intention of the Legislature." (citations omitted).

* * * * * * * *

"As noted, absurd results in the interpretive analysis of a statute are to be shunned. This Court stated in *D & Y, Inc. v. Winston*, 320 Md. 534, 538, 578 A.2d 1177, 1179 (1990), that "construction of a statute which is unreasonable, illogical, unjust, or inconsistent with common sense should be avoided." (citations omitted). *See also Blandon v. State*, 304 Md. 316, 319, 498 A.2d 1195, 1196 (1985) ("[R]ules of statutory construction require us to avoid construing a statute in a way which would lead to absurd results."); *Erwin and Shafer, Inc. v. Pabst Brewing Co.*, 304 Md. 302, 311, 498 A.2d 1188, 1192 (1985) ("A court must shun a construction of a statute which will lead to absurd consequences.").

A perusal of recent Court of Appeals opinions revealed this land use case: 75-80 Properties, LLC v. Rales, Inc. 470 Md. 598, 624-25 (2020). Judge Booth wrote,

"In construing a statute, 'we avoid a construction of the statute that is unreasonable, illogical, or inconsistent with common sense.' *Bellard v. State*, 452 Md. 467, 482, 157 A.3d 272 (2017) (citations omitted). Additionally, the 'meaning of the plainest language is

controlled by the context in which it appears.' *Md. Dep't of the Env't v. Cty. Comm'rs of Carroll Cty.*, 465 Md. 169, 203, 214 A.3d 61 (2019) (citations and quotations omitted). As this Court has stated,

> ' [b]ecause it is part of the context, related statutes or a statutory scheme that fairly bears on the fundamental issue of legislative purpose or goal must also be considered. Thus, not only are we required to interpret the statute as a whole, but, if appropriate, in the context of the entire statutory scheme of which it is a part.'

* * *

We consulted with Zoning Supervisor Jeffrey Perlow as to his office's opinion. We filed his responsive e-mail with our motion for reconsideration in the Administrative Law Judge proceedings. He concurred with and contributed to our office's evaluation.

II. The Burden of Proof Is on Petitioner to Satisfy Variance Standards

The County Board of Appeals is familiar with the variance standards under BCZR Sec. 307.1 involving uniqueness resulting in practical difficulty. The Court of Appeals discussed these in detail in Trinity Assembly of God v. People's Counsel 406 Md. 54, 79-85 (2008). As noted, the height variance here echoes to a degree the height variance at issue for the wine cellar in Cromwell v. Ward 102 Md. App, 695 (1995) Resolution of the variance issue awaits presentation of facts at the *de novo* hearing.

Conclusion

The correct statutory construction is that BCZR Secs. 400.1-3 apply to accessory buildings to residences in the B.L. and similarly situated zone which incorporate the permitted uses as limited in the immediately adjoining D.R. zone

The public interest in the exemption issue is of first impression. The decision of the County Board of appeals will have value as a precedent. As a matter of law, we do not see any legal basis to conclude that the proposed accessory garage is exempt.

Furthermore, the petition for variance does not confer jurisdiction to make what amounts to a special hearing determination of exemption from the law. The public notice was likewise insufficient for such a determination.

As for the variance, at this juncture, the burden of proof is on Petitioner to present evidence to meet the applicable legal standards.

Peter Max Zimmerman
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 2021 a copy of the foregoing People's Counsel For Baltimore County's Motion For Partial Summary Declaratory Judgment and Prehearing Memorandum was sent via email to Jeffrey Perlow, Zoning Supervisor, Zoning Review Office, 111 West Chesapeake Avenue, Towson, Maryland 21204, jperlow@baltimorecountymd.gov and Dino LaFiandra, Esquire, 100 West Pennsylvania Avenue, Suite 305, Towson, Maryland 21204, dcl@lafiandralaw.com, Attorneys for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Special Tax Recapture: None

Account Identifier: **District -** 15 **Account Number -** 1501920231

Owner Information

Owner Name:	LUCKY STAR LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	7839 SAINT THOMAS LANE NOTTINGHAM MD 21236-	**Deed Reference:**	/42843/ 00048

Location & Structure Information

Premises Address:	11 LYNBROOK RD BALTIMORE 21220-2809	**Legal Description:**	.781 AC 11 LYNBROOK RD ES

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0091	0008	0287	15030020.04	0000				2021	Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1929	1,440 SF		34,020 SF	04

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
1 1/2	YES	STANDARD UNIT	SIDING/	3	1 full/ 1 half		

Value Information

	Base Value	Value As of 01/01/2021	Phase-in Assessments As of 07/01/2021	Phase-in Assessments As of 07/01/2022
Land:	87,500	87,500		
Improvements	60,800	107,100		
Total:	148,300	194,600	163,733	179,167
Preferential Land:	0	0		

Transfer Information

Seller: INTERCOASTAL MARINE LLC	**Date:** 05/14/2020	**Price:** $300,000
Type: ARMS LENGTH IMPROVED	**Deed1:** /42843/ 00048	**Deed2:**
Seller: FEDERAL HOME LOAN MORTGAGE CORPORATION	**Date:** 03/10/2015	**Price:** $37,500
Type: NON-ARMS LENGTH OTHER	**Deed1:** /35916/ 00267	**Deed2:**
Seller: STEELE CAROLE A	**Date:** 09/16/2014	**Price:** $34,232
Type: NON-ARMS LENGTH OTHER	**Deed1:** /35367/ 00496	**Deed2:**

Exemption Information

Partial Exempt Assessments:	**Class**	07/01/2021	07/01/2022
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

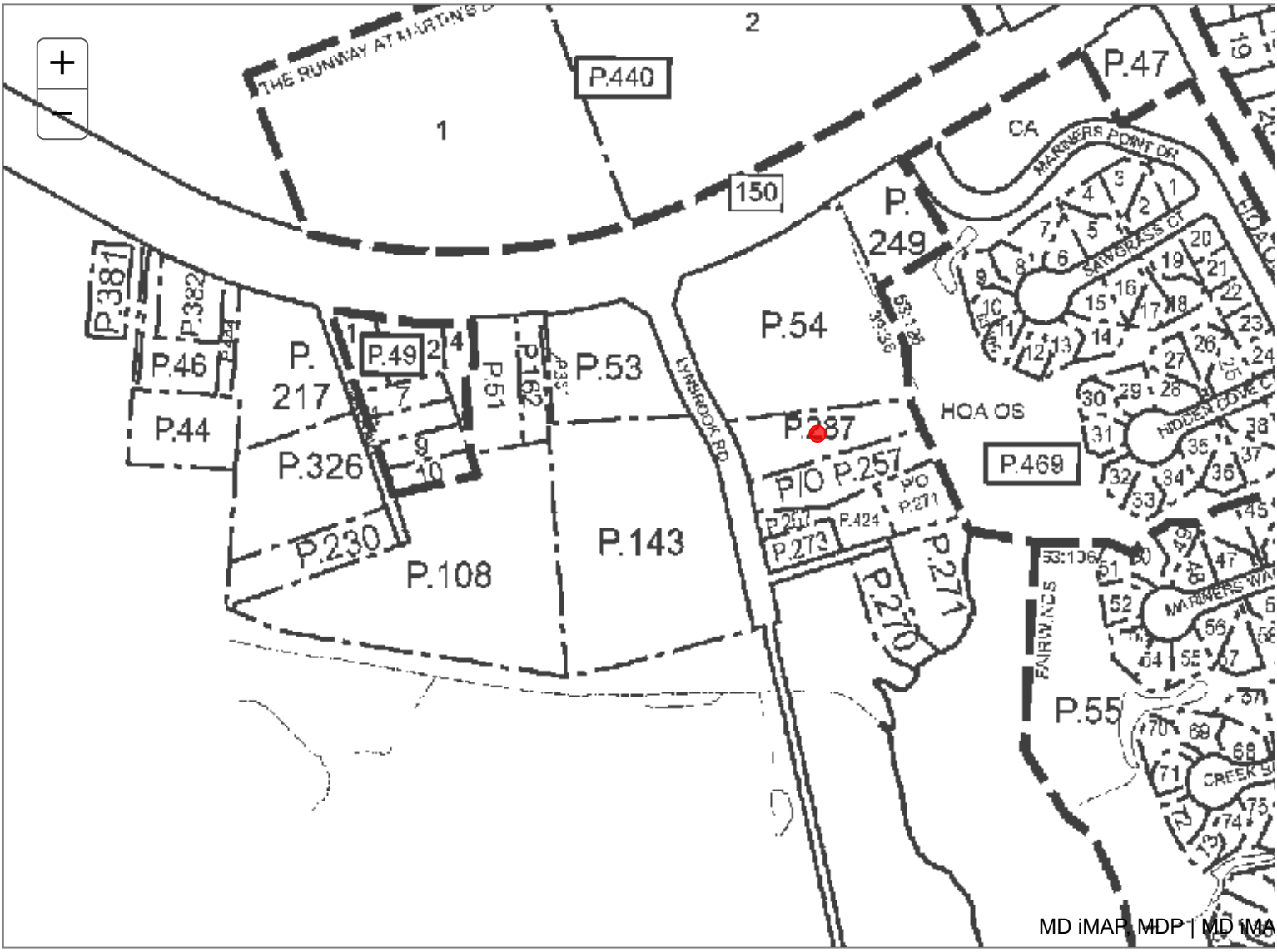
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

Baltimore County

New Search (https://sdat.dat.maryland.gov/RealProperty)

District: 15 Account Number: 1501920231



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at **www.plats.net (http://www.plats.net)**.

Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at **http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx (http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx)**.

SECTION 1A03

R.C.4 (Watershed Protection) Zone

§ 1A03.1. Findings and legislative policy. [Bill No. 178-1979]

The County Council finds that major, high-quality sources of water supply for the entire Baltimore Metropolitan Area and for other neighboring jurisdictions lie within Baltimore County and that continuing development in the critical watersheds of those water supply sources is causing increased pollution and sedimentation in the impoundments, resulting in increasing water treatment costs and decreasing water storage capacity. The R.C.4 zoning classification and its regulations are established to provide for the protection of the water supplies of metropolitan Baltimore and neighboring jurisdictions by preventing contamination through unsuitable types or levels of development in their watersheds.

§ 1A03.2. Rezoning by petition. [Bill No. 178-1979]

No petition for reclassification of property in an R.C.4 Zone may be granted unless a registered professional engineer, architect, landscape architect or land surveyor first certifies that:

A. The parcel of land under petition lies at least 200 feet from the property line of any public water reservoir;

B. The parcel lies at least 300 feet from any first or second order or greater stream that flows directly into a public water reservoir;

C. That the parcel lies at least 300 feet from any third order or greater stream that flows directly or indirectly into a public water reservoir;

D. No more than 30 percent of the parcel has a slope of more than 20 percent;

E. The parcel does not lie within a 100-year floodplain; and

F. As shown by an environmental impact statement, the manner in which proposed reclassification will affect water quality in the watershed or any public water reservoir.

For the purpose of this section, streams are classified by order as shown on the map of stream orders adopted by the Planning Board on March 25, 1976.

§ 1A03.3. Use regulations.

A. Uses permitted as of right. The following uses, only, are permitted as of right in R.C.4 Zones:

1. Dwellings, one-family detached.

2. Farms and limited-acreage wholesale flower farms (Section 404). **[Bill No. 51-1993]**

3. Open space, common.

4. Telephone, telegraph, electrical-power or other similar lines or cables, all underground; underground gas, water or sewer mains or storm drains; other underground

conduits, except underground interstate and intercontinental pipelines. **[Bill Nos. 63-1980; 47-1982; Bill No. 47-1985; Bill No. 52-2020[1]]**

5. Trailers or mobile homes, provided that any trailer or mobile home allowed under this provision must be used or stored in accordance with the provisions of Subsection B, C, E or F of Section 415.1 and Section 415.2.A.1, as applicable. **[Bill No. 27-2015]**

6. Antennas used by CATV systems operated by companies franchised under Article 25 of the Baltimore County Code, if situated on property owned by the county, state or federal government or by a governmental agency. **[Bill Nos. 220-1981; 137-2004]**

7. Transit facilities. **[Bill No. 91-1990]**

8. Accessory uses or structures, including, but not limited to the following:

   a. Excavations, uncontrolled.

   b. Farmer's roadside stand and produce stand, subject to the provisions of Section 404.4. **[Bill No. 41-1992]**

   c. Home occupations.

   d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25 percent of the total floor area of that residence; and does not involve the employment of more than one nonresident employee. **[Bill Nos. 105-1982; 65-1999]**

   e. Parking spaces, including recreational vehicles, subject to the provisions of Section 415A.

   f. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400). **[Bill No. 71-1987]**

   g. Signs, subject to Section 450. **[Bill No. 89-1997]**

9. Commercial film production, subject to Section 435. **[Bill No. 57-1990]**

10. Farmstead creamery, subject to the provisions of Section 404.13. **[Bill No. 34-2009]**

B. Uses permitted by special exception. The following uses, only, are permitted by special exception in R.C.4 Zones:

1. Antique shops, subject to the provisions of Section 402B.

2. Camps, including day camps.

3. Community buildings, swimming pools or other uses of a civic, social, recreational or educational nature, including picnic grounds and tennis facilities, provided that

1. **Editor's Note**—This bill also provided for the renumbering of Subsections 6 through 11 as Subsections 5 through 10.

SECTION 1A04
R.C.5 (Rural-Residential) Zone

§ 1A04.1. General provisions.

A. Legislative statement of findings.

1. Declaration of findings. It is found that:

a. The rural-residential development that has occurred in Baltimore County heretofore has been of a scattered and generally disorderly nature;

b. This form of development constitutes a wasteful use of land and is fiscally expensive to serve with respect to the provision of basic services;

c. In some cases lot sizes are inadequate to assure long-term adequacy of on-lot sewer and water systems;

d. That unless measures are implemented to assure more rational growth patterns, including adequate lot size, undue financial hardships will be placed on Baltimore County and the life, safety and general welfare of the citizens of the county will be adversely affected;

e. That specific areas which are highly suitable for rural-residential development do exist; and

f. That these areas are adequate to accommodate anticipated future growth in the rural area and that future growth should be directed to these areas.

B. Purpose. The R.C.5 zoning classification is established, pursuant to the legislative findings above, in order to:

1. Provide for rural-residential development in suitable areas in which basic services are not anticipated.

2. Eliminate scattered and generally disorderly patterns of future rural-residential development.

3. Assure that encroachments onto productive or critical natural resource areas will be minimized.

4. Provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems.

§ 1A04.2. Use regulations.

A. Uses permitted as of right. The following uses, only, are permitted as of right in R.C.5 Zones:

1. Churches or other buildings for religious worship including church schools.

2. Dwellings, one-family detached.

3. Farms and limited-acreage wholesale flower farms. **[Bill No. 51-1993]**[1]

1. **Editor's Note**—Former Item 4, "Farmettes," which followed this item, was repealed by Bill No. 110-1993, and former Item 5, "Hospitals" was repealed by Bill No. 37-1988.

4. (Reserved)[2]

5. Open space, common.

6. Schools, including but not limited to private preparatory schools, colleges, conservatories or other fine arts schools. **[Bill Nos. 63-1980; 47-1982; 47-1985]**

7. Streets or ways.

8. Telephone, telegraph, electrical-power or other similar lines or cables, all underground; underground gas, water or sewer mains or storm drains; other underground conduits, except underground interstate and intercontinental pipelines.

9. Trailers or mobile homes, provided that any trailer or mobile home allowed under this provision must be used or stored in accordance with the provisions of Subsection B, C, E or F of Section 415.1 and Section 415.2.A.1, as applicable. **[Bill No. 27-2015]**

10. Antennas used by CATV systems operated by companies franchised under Article 25 of the Baltimore County Code, if situated on property owned by the county, state or federal government or by a governmental agency. **[Bill Nos. 220-1981; 137-2004]**

11. Accessory uses or structures, including, but not limited to, the following:

    a. Excavations, uncontrolled.

    b. Farmer's roadside stand and produce stand, subject to the provisions of Section 404.4. **[Bill No. 41-1992]**

    c. Home occupations.[3]

    d. Parking spaces, including recreational vehicles, subject to the provisions of Section 415A.

    e. Piers, wharves, docks and bulkheads, subject to the provisions of Section 417.

    f. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400). **[Bill No. 71-1987]**

    g. Signs, subject to Section 450. **[Bill No. 89-1997]**

12. Riding stable (commercial or noncommercial), if located more than 200 feet from a residential property line, and in existence for at least 15 years prior to the effective date of this Act.[4] **[Bill No. 76-2016]**

13. Commercial film production, subject to Section 435. **[Bill No. 57-1990]**

14. Transit facilities. **[Bill No. 91-1990]**

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2. **Editor's Note**—Former Item 4, "Assisted-living facilities, Class A," added by Bill No. 188- 1993, was repealed by Bill No. 32-2006, retroactive to 5-29-2004.
3. **Editor's Note**—Former Paragraph d, "Offices or studios," which followed this paragraph, was repealed by Bill No. 124-1982.
4. **Editor's Note**—Former Section 1A04.A.12, regarding life-care facilities, was repealed by Bill No. 55-2004.

SECTION 1B01
Regulations With Respect to D.R. Zones in General

§ 1B01.1. General use regulations in D.R. Zones.

A. Uses permitted as of right. The following uses only are permitted as of right in D.R. Zones of all classifications, subject to the restrictions hereinafter prescribed. **[Bill No. 2-1992]**

1. Dwellings as provided herein and as provided in Section 430 and subject to Section 402:

   a. In all D.R. Zones: single-family detached, semidetached or duplex dwellings.

   b. In all D.R. Zones: alternative site-design dwellings, subject to findings of compatibility pursuant to § 32-4-402 and the hearing officer's hearing under Article 32, Title 4, Subtitle 2 of the Baltimore County Code, and as provided for in the Comprehensive Manual of Development Policies. **[Bill No. 137-2004]**

   c. In D.R.5.5 Zones, subject to findings of compatibility by the hearing officer: group houses and multifamily buildings. **[Bill No. 85-1997]**

   d. In D.R.10.5 and D.R.16 Zones: group houses and multifamily buildings. **[Bill No. 85-1997]**[1]

2. Trailers or mobile homes (Section 415). **[Bill No. 27-2015]**

3. Churches, other buildings for religious worship or other religious institutions.

4. Aboveground electrical-power, telephone, telegraph lines, except aboveground electrical power lines having a capacity of 35 kilovolts or more; pole-mounted transformers or transformer banks.

5. Other cables; conduits; gas, water or sewer mains; or storm-drain systems, all underground.

6. Excavations, uncontrolled (as defined in Section 101).

7. Farms, produce stand in association with a farm, or limited-acreage wholesale flower farms (see Section 404). **[Bill No. 41-1992]**

8. Garages, community.

9. Hospitals. **[Bill No. 37-1988]**

10. Local open space tracts or other common amenity open space.

11. Privately sponsored day care and nursery programs, as an ancillary use, within housing for the elderly projects, as defined in Section 101 of these regulations. **[Bill No. 47-1982]**

12. Class A group child care centers and Class B group child care centers providing for up to 40 children, if not located in a residential transition area, subject to the requirements of Section 424, and family child care homes, group child care centers and nursery schools. **[Bill No. 200-1990]**

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1. **Editor's Note**—Former Section 1B01.1.A.1.e which followed, regarding elderly housing and assisted-living facilities, was repealed by Bill No. 19-2004.

13. Research institutes or laboratories in existence at the time of the adoption of Bill No. 122-1984, subject to the zoning regulations in effect at the time of the approval by Baltimore County of the institute or laboratory. **[Bill No. 122-1984]**

14. Schools, except business or trade schools or such schools as are permitted by special exception (Subsection C, below), but including schools for agricultural training and private colleges on properties recommended for designation for institutional/ educational uses in a Community Plan adopted by the County Council. **[Bill Nos. 63-1980; 47-1982; 47-1985; 90-2018]**

15. Signs, nonaccessory, to the extent permitted under Section 413.

16. Antennas used by CATV systems operated by companies franchised under Article 25 of the Baltimore County Code, if situated on property owned by the county, state or federal government or by a governmental agency. **[Bill Nos. 220-1981; 137-2004]**

17. Transit facilities. **[Bill No. 91-1990]**

18. Accessory uses or buildings other than those permitted only by special exception, including, but not limited to:

    a. Accessory radio or television receiving antennas.

    b. Wireless transmitting and receiving structures, provided that any such structure: is a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission; if it is an independent structure, shall be subject to the same requirements as are applied to buildings under Section 400; if it is a rigid-structure antenna, shall be no higher than 50 feet above grade level and with no supporting structure thereof closer than ten feet to any property line; and does not extend closer to the street on which the lot fronts than the front building line.[2]

    c. Home occupations, as defined in Section 101.[3]

    d. Parking spaces, including accessory garage spaces.

    e. Offices for the conduct of business incidental to the rental, operation, service or maintenance of apartment buildings.

    f. Signs, subject to Section 450. **[Bill No. 89-1997]**

    g. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (all such accessory structures or uses subject to the height and area provisions for buildings as set forth in Section 400). **[Bill No. 71-1987]**

19. Commercial film production, subject to Section 435. **[Bill No. 57-1990]**

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2. **Editor's Note**—Former Item c, which followed this item and permitted automotive-service stations, was repealed by Bill No. 172-1993.
3. **Editor's Note**—Former Item c, which followed this item and permitted offices of certain professional persons as an accessory use to their residences, was repealed by Bill No. 105-1972, effective 8-26-1982.

SECTION 205
OR-1 (Office Building — Residential) Zone
[Bill No. 167-1980[1]]

§ 205.1. Declaration of findings. [Bill No. 186-1994]

A. It is found that the name of the O-1 (Office Building) zoning classification is misleading the public because the name implies that only office buildings are permitted when, in fact, the zone does permit residential and other uses permitted in the D.R.5.5 Zone.

B. It is further found that the O-1 zoning classification is sufficiently similar to the O-2 classification that there is no longer a need for two separate zones.

§ 205.2. Statement of legislative policy. [Bill No. 186-1994]

A. It is the intent of the county that the name of the O-1 zoning classification be changed to the OR-1 (Office Building — Residential) Zone.

B. Properties classified as O-1 before the effective date of Bill No. 186-1994 shall be classified as OR-1 and shall be subject to the use and performance standards of the OR-1 Zone.

C. The OR-1 Zone shall no longer be applied to properties through the comprehensive Zoning Map process under § 32-3-202 of the Baltimore County Code, or through the cycle zoning process under Article 32, Title 3, Subtitle 5 of the Baltimore County Code, after the effective date of Bill No. 186-1994. **[Bill No. 137-2004]**

§ 205.3. Use regulations in OR-1 Zones.

A. The following uses, only, are permitted by right:

1. Uses permitted by right and as limited in D.R.5.5 Zones. **[Bill Nos. 108-1994; 186-1994]**
2. Class A or Class B office buildings containing offices, medical offices or medical clinics. **[Bill Nos. 37-1988; 186-1994]**
3. The following accessory commercial uses within Class B office buildings (See also Subsection C below.): **[Bill No. 186-1994]**
   a. Photocopying establishments.
   b. Secretarial-service establishments.
   c. Standard restaurants, carry-out restaurants and taverns without dancing or live entertainment; **[Bill No. 186-1994]**
   d. Travel bureaus.
   e. Banks, including one exterior walkup automatic teller machine for each bank located within an office building. **[Bill No. 186-1994]**
   f. Opticians' or optometrists' establishments. **[Bill No. 186-1994]**

1. **Editor's Note**—This bill originally added the O-1 Zone as Section 204. It was subsequently changed to OR-1 and Section 205 by Bill No. 186-1994.

4. Accessory uses not included under Item 1 above, but not any accessory commercial uses other than those listed in Item 3 (See Subsection B below.).

5. Class A or Class B office buildings containing MVA licensed vehicle tag and title service office, without inventory except state issued vehicle license plates. **[Bill No. 12-2020]**

B. The following uses, only, are allowable by special exception: **[Bill No. 186-1994]**

1. Uses allowable by special exception and as limited in D.R.5.5 Zones. **[Bill Nos. 108-1994; 186-1994]**

2. The following accessory commercial uses within Class B office buildings, provided that the Zoning Commissioner finds that each such use will primarily serve the principal uses of the lot (See also Subsection C below.): **[Bill No. 186-1994]**

a. Drugstores.

b. Personal-care establishments, including hair care, facial-treatment, manicuring or shoe-shining establishments.

c. Stationery or office-supply shops.

3. Wireless telecommunications towers, subject to Section 426. **[Bill Nos. 64-1986; 30-1998]**

C. Supplementary use regulations (See also Section 208.).

1. Accessory-commercial-use floor-area limitations.

a. No more than 7.5 percent of the adjusted gross floor area of any office building may be occupied by accessory commercial uses.

b. No single accessory commercial use other than a standard restaurant, carry-out restaurant or tavern may occupy more than 1,200 square feet of floor area. **[Bill No. 186-1994]**

2. Entrances to accessory commercial uses. No exterior entrance to any accessory commercial use within an office building is permitted unless 75 percent of the principal uses in the building have exterior entrances. **[Bill No. 24-1983]**

3. Signs are permitted, subject to Section 450. **[Bill No. 89-1997]**

§ 205.4. Performance standards in OR-1 Zones. [Bill No. 186-1994]

A. Uses permitted under Subsections 205.3.A.1 or 205.3.B.1 and new structures accessory to Class A office buildings are governed by the bulk regulations of D.R.5.5 Zones. Such uses are also subject to Section 1B01.1.B.1, Residential transition area restrictions, except in cases where a project is vested by law; has received a CRG, a development plan or reclamation plan approval; or for which a development plan has been accepted for filing by the Department of Permits, Approvals and Inspections before July 5, 1994. **[Bill Nos. 186-1994; 122-2010]**

B. The performance standards for all other uses shall be the same as for the OR-2 Zones, except that the height of a Class B office building shall be limited to 60 feet. **[Bill No. 186-1994]**

SECTION 206

OR-2 (Office Building — Residential) Zone[1]
[Bill Nos. 167-1980[2] 221-1980]

§ 206.1. Declaration of findings. [Bill No. 186-1994]

A. Some firms have established policies that their headquarters and most or all of their other offices should be situated in office parks and have thus occupied only a negligible amount of office space in town and community centers.

B. The residential office, Class A, and the residential office zones provide for the conversion of homes to offices and, in the case of the R-O Zone, the development of small office buildings on sites of no more than two acres.

C. If the zoning regulations were not to include a zoning classification primarily for office building development, with supportive accessory commercial uses and which permits moderate density residential development, business firms preferring to occupy offices in Baltimore County may choose sites in adjacent jurisdictions.

D. Office centers, rather than central commercial areas, may also be appropriate locations for offices whose employees spend most of the working day driving to widely separated places throughout the metropolitan area.

E. Providing additional opportunities for development of office buildings in Baltimore County could contribute to the county's assessable base and could create a significant number of job opportunities for citizens.

F. Development and maintenance of office building sites must be closely regulated to promote the establishment of amenities, to prevent traffic congestion and, in general, to protect the public interest, including the interests of citizens in nearby neighborhoods and the interests of firms and employees who will occupy the office buildings.

§ 206.2. Statement of legislative policy. [Bill Nos. 122-1984; 186-1994]

A. Pursuant to the findings declared above, the OR-2 zoning classification is established primarily to provide selectively for development of a limited number of well-landscaped office building developments. The OR-2 zoning classification also permits moderate density residential development or mixed office/residential uses.

B. It is intended that any development in an OR-2 Zone be designed, built and maintained so that it will be compatible with the character of nearby residential neighborhoods so that it will enhance rather than detract from amenities and property values in those neighborhoods.

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1. **Editor's Note**—A second Section 206, regarding Bowleys Quarters and Back River Neck areas, was added by Bill No. 64-1999. It was subsequently repealed, reenacted and renumbered by Bill No. 28-2001. See now Section 4A03.
2. **Editor's Note**—This bill originally added the O-2 Office Park Zone as Section 205. It was subsequently changed to OR-2 and Section 206 by Bill No. 186-1994.

§ 206.3. Use regulations in OR-2 Zones.

A. Uses permitted by right. The following uses, only, are permitted by right:

1. Class A or Class B office buildings containing offices, medical offices or medical clinics. **[Bill Nos. 37-1988; 186-1994]**

2. Uses permitted as of right and as limited in D.R.10.5 Zones. **[Bill Nos. 108-1994; 186-1994]**

3. Accessory uses or structures which are normally and customarily incidental to any permitted principal use, including the following, if within office buildings: **[Bill Nos. 126-1986; 186-1994]**

   a. Conference facilities (auditoriums, exhibition rooms, sleeping quarters or catering services for conferences attended by persons who do not ordinarily work in offices on the site, in addition to those who do).

   b. The following accessory commercial uses:

      (1) Banks, including one exterior walkup automated teller machine for each bank located within the office building; drive-through banking facilities permitted when operated from within the office building and provided that:

         (a) The OR-2 Zone in which "any drive-through banking facility" is located has a contiguous gross area of no less than ten acres; **[Bill No. 186-1994]**

         (b) Any individual banking establishment has a total of no more than two drive-through teller windows and machines;

         (c) Any such facility, including access traffic lanes, is located no less than 200 feet from any residence; and **[Bill No. 186-1994]**

         (d) Any such facility, including access traffic lanes, is screened from any residential zone abutting the lot on which the drive-through facility is located in accordance with the requirements for parking lots stipulated in the Baltimore County Landscape Manual. **[Bill No. 126-1986]**

      (2) Duplicating service businesses. **[Bill No. 126-1986]**

      (3) Secretarial-service establishments.

      (4) Drugstores.

      (5) Standard restaurant, carry-out restaurant or tavern without dancing or live entertainment. **[Bill No. 186-1994]**

      (6) Exercise room for the exclusive use of the tenants and no larger than 1,500 square feet in size. **[Bill No. 126-1986]**

      (7) Newsstands. **[Bill Nos. 126-1986; 186-1994]**

      (8) Personal-care establishments, including hair-care, facial treatment, manicuring or shoe-shining establishments. **[Bill No. 186-1994]**

      (9) Stationery or office-supply shops. **[Bill No. 186-1994]**

      (10) Travel bureaus. **[Bill Nos. 167-1980; 186-1994]**

(11) Garment cleaning, collection and pickup only (actual cleaning to be done off premises). **[Bill Nos. 126-1986; 186-1994]**

(12) Data processing and office equipment service establishments, including incidental sales. **[Bill Nos. 126-1986; 186-1994]**

(13) Photographic film-processing establishments. **[Bill Nos. 126-1986; 186-1994]**

(14) Neighborhood car rental agency, subject to Section 408A. **[Bill No. 122-2005]**

(15) Wellness, health and fitness center. **[Bill No. 37-2015]**

(16) Florist. **[Bill No. 37-2015]**

(17) Optician's or optometrist's establishment. **[Bill No. 37-2015]**

4. Research institutes or laboratories. **[Bill No. 122-1984]**

5. Wireless telecommunications antennas or wireless telecommunications towers, subject to Section 426. **[Bill Nos. 64-1986; 30-1998]**

6. Opticians' or optometrists' establishments when within office buildings. **[Bill No. 126-1986]**

7. Health-care and surgery center. (See Section 438.) **[Bill No. 37-2015]**

8. Class A or Class B office buildings containing MVA licensed vehicle tag and title service office, without inventory except state issued vehicle license plates. **[Bill No. 12-2020]**

B. Uses allowable by special exception. **[Bill No. 186-1994]**

1. Uses allowable by special exception in a D.R.10.5 zone are allowable by special exception in an OR-2 Zone. **[Bill No. 186-1994]**

2. The following accessory uses are allowable by special exception if they are not within office buildings, as permitted by Section 206.3.A.3, or would occupy more floor area than would be allowed under the standard of Section 206.3.C.I.b, provided that the Zoning Commissioner finds that the uses will primarily serve the principal uses of the lot or office park: **[Bill Nos. 91-1985; 108-1994; 186-1994]**

a. Conference facilities. **[Bill No. 186-1994]**

b. Standard restaurant, carry-out restaurant or tavern without dancing or live entertainment. **[Bill No. 186-1994]**

c. Hotel and motel. **[Bill No. 186-1994]**

d. Wireless telecommunications towers, subject to Section 426. **[Bill Nos. 64-1986; 186-1994; 30-1998]**

e. Health and fitness clubs, including, but not limited to, those with handball, squash, tennis or racquetball courts or swimming pools. **[Bill Nos. 126-1986; 186-1994]**

f. Parking structures for passenger cars, as a principal use, provided that any such structure and site are designed or located in such a manner that associated noise, lighting and traffic will not intrude into adjacent residential neighbor-

SECTION 216

Business Maritime Marina (B.M.M.) Zone Use Regulations
[Bill No. 149-1992]

§ 216.1. Uses permitted by right and special exception.

A. The Chesapeake Bay Critical Area Location Protection Program enacted by Baltimore County on June 13, 1988, established buffer areas adjoining tidal waters and wetlands. Development and use of land within such buffer areas is limited to water-dependent facilities, as defined and regulated in COMAR 27.01.03 and in the county regulations enacted pursuant thereto. **[Bill No. 137-2004]**

B.

1. Subject to Subsection A, except as provided in Paragraph 2, residential and institutional uses permitted and as limited in D.R.5.5 Zones are permitted as of right. **[Bill No. 23-2008]**

2. This paragraph applies to any property located in the Bowleys Quarters District or the Lower Back River Neck District that is rezoned to B.M.M. after August 1, 2008. The only uses permitted by right on such property are those listed in Subsection C. **[Bill No. 23-2008]**

C. Subject to Subsection A, the following uses are permitted by right:

1. Marina.

2. Out-of-water storage facility, Class A in association with a marina only.

3. Restaurant up to 5,000 square feet gross floor area, provided the use is a part of and within the lot line of a marine-related use.

4. Retail sale or rental of marine-related goods such as boating, fishing, diving and bathing supplies and equipment.

5. Sale of convenience items to marina patrons, provided such activity is ancillary to the marina operation.

6. Community building, swimming pool or other structural or land use devoted to civic, social, recreational and educational activities, any of which must be accessory to a marina.

7. Shoreline fishing and shellfishing facility, Class I and Class II; commercial fisheries facilities, subject to the standards for such facilities in D.R. Zones.

8. Accessory uses or structures which are normally and customarily incidental to any principal use.

9. Yacht club, provided that the area regularly used for preparing, serving or consuming food or beverages does not exceed 5,000 square feet gross floor area, including outdoor seating area. **[Bill No. 136-1996]**

10. Combinations of the above uses. **[Bill No. 136-1996]**

SECTION 221
Business Maritime Boatyard (B.M.B.) Zone: Use Regulations
[Bill No. 149-1992]

§ 221.1. Uses permitted by right and special exception.

A. The Chesapeake Bay Critical Area Local Protection Program enacted by Baltimore County on June 13, 1988, established buffer areas adjoining tidal waters and wetlands. Development and use of land within such buffer areas is limited to water-dependent facilities, as defined and regulated in COMAR 27.01.03 and in the county regulations enacted pursuant thereto. **[Bill No. 137-2004]**

B.

1. Subject to Subsection A, except as provided in Paragraph 2, residential and institutional uses permitted and as limited in D.R.5.5 Zones are permitted as of right. **[Bill No. 23-2008]**
2. This paragraph applies to any property located in the Bowleys Quarters District or the Lower Back River Neck District that is rezoned to B.M.B. after August 1, 2008. The only uses permitted by right on such property are those listed in Subsection C. **[Bill No. 23-2008]**

C. Subject to Subsection A, the following uses are permitted by right:

1. Uses permitted by right in the B.M.M. Zone.
2. Boatyard.
3. Fabrication, storage or repair of fishing equipment.
4. Machine shop for repair of engines or marina equipment, provided that all activities are confined to a fully enclosed structure.
5. Research institute, for marine-related purposes.
6. Combinations of the above uses.

D. Subject to Subsection A, the following uses are permitted by special exception:

1. Uses permitted by special exception in the B.M.M. Zone.
2. Commercial beach, including dressing rooms and snack bar.
3. Facilities for docking of boats for hire having a capacity to carry more than 20 passengers, including crew.

SECTION 225

Business Maritime Yacht Club (B.M.Y.C.) Zone: Use Regulations

[Bill No. 136-1997]

§ 225.1. Uses permitted by right and special exception.

A. The Chesapeake Bay Critical Area Local Protection Program enacted by Baltimore County on June 13, 1988, established buffer areas adjoining tidal waters and wetlands. Development or use of land within such buffer areas is limited to water-dependent facilities, as defined and regulations in COMAR 27.01.03 and in the county regulations enacted pursuant thereto. **[Bill No. 137-2004]**

B.

1. Subject to Subsection A, except as provided in Paragraph 2, residential and institutional uses permitted and as limited in the adjacent residential zone are permitted by right. **[Bill No. 23-2008]**
2. This paragraph applies to any property located in the Bowleys Quarters District or the Lower Back River Neck District that is rezoned to B.M.Y.C. after August 1, 2008. The only uses permitted by right on such property are those listed in Subsection C. **[Bill No. 23-2008]**

C. Subject to Subsection A, the following uses are permitted by right:

1. Yacht club.
2. Area for food and beverages to be prepared for, served to or consumed by yacht club members and their guests, not to exceed 5,000 square feet gross floor area, including outdoor seating area.
3. Sale of convenience items to yacht club members and their guests, provided such activity is ancillary to the yacht club operation.
4. Community building, swimming pool or other structural or land use devoted to civic, social, recreational and educational activities, any of which must be accessory to a yacht club.
5. Simple repair of watercraft that normally can be completed while the vessel is in the water.
6. Out-of-water storage facility, Class A, for not more than 20 boats in association with a yacht club only, provided that the lot is greater than ten acres.
7. Accessory uses or structures which are normally and customarily incidental to any permitted principal use.
8. Combinations of the above uses.

D. Subject to Subsection A, the following uses are permitted by special exception:

1. Area for food and beverages to be prepared for, served to or consumed by yacht club members and their guests, exceeding 5,000 square feet gross floor area, including outdoor seating area, provided that the lot is at least five acres.

SECTION 230
Business, Local (B.L.) Zone Use Regulations
[BCZR 1955]

§ 230.1. Permitted uses.

A. The following uses only are permitted (See Section 230.2.):

1. Uses permitted and as limited in the residential zone immediately adjoining, except that animal boarding place, Class A, is permitted only as a special exception and kennel is prohibited. **[Bill No. 85-1967]**

2. Convalescent home.

3. Tourist home, boarding or rooming houses.

4. Fast-food, drive-through-only restaurant, carry-out restaurant, fast-food restaurant, and standard restaurant, tearoom, convenience store and dairy barn. **[Bill Nos. 40-1967; 110-1993; 86-1994; 27-2003; 49-2016]**

5. Bank, building and loan association.

6. Offices and office buildings.

7. Private colleges, dancing schools, conservatory for music and the arts, dormitories and fraternity and sorority houses. **[Resolution of 11-21-1956; Bill No. 47-1985]**

8. Business and trade schools.

9.

Alcoholic beverage package store

Amusement devices, subject to the provisions of Section 422 **[Bill No. 29-1982]**

Animal grooming facility **[Bill No. 93-2006]**

Antique shop

Arborist, licensed, located in the Parkville Commercial Revitalization District, and provided that no active tree work is performed, no retail sales occur, and no materials including tree limbs, firewood, mulch, wood chips or similar materials are kept or stored, upon the premises. In addition, appropriate screening of the property shall be installed, to the extent possible, in accordance with the Baltimore County Landscape Manual. **[Bill No. 23-2017]**

Arcade, subject to the provisions of Section 423. A **[Bill No. 29-1982]**

Automobile accessory shop

Automobile parking lot

Bakery, but goods baked on the premises must be sold only at retail on the premises, except that wholesale operations are permitted if the bakery is located in a commercial revitalization district and if the retail component of the bakery fronts the street and the wholesale operations are limited to no more than 30 percent of the building's square footage **[Bill No. 86-2009]**

Barbershops and beauty shops **[Bill No. 9-1999]**

SECTION 232
B.L. Zone Area Regulations
[BCZR 1955]

Minimum requirements, except as provided in Article 3, shall be as follows:

§ 232.1. Front yard.

For residences, as in Sections 302 and 303.1; for commercial buildings the front building line shall be not less than ten feet from the front property line and not less than 40 feet from the center line of the street, except as specified in Section 303.2.

§ 232.2. Side yards.[1]

A. For residences, as in Section 302.

B. For commercial buildings, none required on interior lots, except that where the lot abuts a lot in a residence zone there must be a side yard not less than the greater minimum width required for a dwelling on the abutting lot and on corner lots the side yard on the street side shall be not less than ten feet in width.

§ 232.3. Rear yard. [Bill No. 26-1963]

A. For residences, as in Section 302.

B. For commercial buildings, none required, except that where the rear lot line abuts a lot in a residence zone there shall be a rear yard not less than 20 feet deep.

§ 232.4. Parking area and loading space.

In accordance with the provisions of Section 409.

§ 232.5. Floor area ratio. [Bill Nos. 7-1962; 111-1968; 100-1970]

The maximum permitted floor area ratio for any site in a B.L. Zone, excepting C.C.C. and C.T. Districts, shall be 3.0.

1. **Editor's Note**—The title and Section 6 of Bill No. 64-1963 indicate amendment of this section, but it was assumed that it was the intent of that bill to amend Section 233.3 instead.

SECTION 233
Business, Major (B.M.) Zone Use Regulations
[BCZR 1955]

§ 233.1. Permitted uses.

The following uses only are permitted (Section 233.2):

A. Uses permitted in the B.L. Zone.

B.

Animal boarding place, Class A[1] **[Bill No. 85-1967[2] [Bill No. 11-2017]**

Bakery, with retail operation

Boatyard **[Bill Nos. 64-1963; 85-1967]**

Bowling alleys

Carpentry, electrical, plumbing, heating, sheet metal, electroplating and painting shops

Catering hall **[Bill No. 110-1993]**

Clothes cleaning and dyeing where not more than two units with combined capacity of not more than 50 pounds are employed

Commercial beach, with provision of adequate parking area, and permitting dressing facilities, snack bar, picnic area and boat rental **[Bill Nos. 64-1963; 85-1967]**

Commercial kennel, provided that: The commercial kennel is located in an I.M. Overlay District that is within the boundaries of the Hunt Valley/Timonium Master Plan area; any outdoor space associated with the commercial kennel is not used between the hours of 9:00 p.m. and 6:00 a.m.; and the commercial kennel is no closer than 500 feet from a residential use in a residential zone, unless such residential use is located across from a major collector road, in which case the commercial kennel may be located no closer than 100 feet. **[Bill No. 75-2021]**

Commercial recreation enterprises, including dance halls, skating rinks and others which, in the judgment of the Zoning Commissioner, are similar, but excluding merry-go-rounds and freak shows, shooting galleries and penny arcades

Community building, swimming pool or other structural or land use devoted to civic, social, recreational and educational activities **[Bill Nos. 64-1963; 85-1967; 26-1988]**

Funeral establishment **[Bill No. 43-1970]**

Garage, service

Golf course, country club or other outdoor recreation clubs; also quasi-public camp, including day camps, but no such uses shall be located on less than five acres, and no

1. **Editor's Note**—All of the provisions of this subsection that are not followed by bracketed historical references were reenacted without substantive amendment by Bill No. 85-1967. The entries indicated in this section as originally having been added by Bill No. 64-1963 were, according to a literal reading of that bill, to have been added to "[Section] . . . 232.2, title 'B.M. zone' . . .". However, Section 232.2 regulates side yards, not uses and is part of the regulations of the B.L. zoning classification, not the B.M. classification.
2. **Editor's Note**—This bill also repealed "Animal hospital," which originally followed.][3]

SECTION 236
Business, Roadside (B.R.) Zone Use Regulations
[BCZR 1955]

§ 236.1. Permitted uses.

The following uses only are permitted:

A. Uses permitted and as limited in the B.M. Zone.

B.

Animal boarding place, Class A **[Bill No. 85-1967]**

Animal boarding place, Class B **[Bill No. 85-1967]**

Bottling establishment, soft drink

Brewery, Class 7, if within the urban rural demarcation line **[Bill No. 185-1995]**

Commercial recreational facilities **[Bill No. 29-2018]**

Greenhouse

Laboratory

Motel or motor court

Printing, lithographing or publishing plant employing over 25 persons

Private kennel and commercial kennel, subject to Section 421 **[Bill No. 87-2001]**

Volunteer fire company

C. The following uses when located at least 50 feet from the residential zone boundaries at the ends of the commercially zones frontages: **[Resolution of 11-21-1956]**

Building materials storage and sales yard

Farm implements, sales and service

Feed and grain sales and storage[1]

Lumberyard

Public utility storage yard

Stone or monument works

Storage of inflammable liquids and gases underground (See Baltimore County Building Code for requirements.).

Tire retreading or recapping.

§ 236.2. Special exception uses.

The following uses when permitted as special exceptions (Sections 270 and 502):[2]

Airport

1. **Editor's Note**—"Kennel," which immediately followed, was repealed by Bill No. 87-2001.
2. **Editor's Note**—"After-hours club," which originally followed, was repealed by Bill No. 36-2000.

SECTION 302

Height and Area Regulations for New Residences in Business and Manufacturing Zones [BCZR 1955; Resolution, November 21, 1956]

§ 302.1. Adherence to regulations for adjoining zone.

Residences hereafter erected in business and manufacturing zones shall be governed by all height and area regulations for the predominant residence zone which immediately adjoins, or by D.R.5.5 Zone[1]

[1]Editor's Note—In this section, the R.6 Zone was redesignated as the D.R.5.5 Zone pursuant to Section 100.3A. [illegible]ations if no residence zone immediately adjoins.

SECTION 307
Variances
[BCZR 1955; Bill Nos. 107-1963; 32-1988; 2-1992; 9-1996]

§ 307.1. Authority to grant variances; procedures and restrictions.

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification.[1]

1. **Editor's Note**—Apparently conflicts with certain provisions found in the Baltimore County Code, 2003, as revised, which prescribe requirements with respect to notice and hearing regarding conventional reclassification petitions that differ from those which it prescribes regarding variance petitions. See the Appendices of this volume for excerpts from the Baltimore County Code, 2003. See § 32-3-301 for authority of the Zoning Commissioner to grant variances, and § 32-3-103 for provision regarding conflicts between Article 32, Title 3 of the Baltimore County Code, 2003 and the Zoning Regulations. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

SECTION 400
Accessory Buildings in Residence Zones
[BCZR 1955; Bill No. 27-1963]

§ 400.1. Location; lot coverage.

Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40 percent thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50 percent of such third. In no case shall they be located less than 2½ feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirements for such a building.

§ 400.2. Setback. [Bill No. 2-1992]

Accessory buildings, including parking pads, shall be set back not less than 15 feet from the center line of any alley on which the lot abuts.

§ 400.3. Height.

The height of accessory buildings, except as noted in Section 300, shall not exceed 15 feet.

§ 400.4. Accessory apartments. [Bill No. 49-2011[1]]

An accessory apartment is permitted as a temporary use within a principal single-family detached dwelling or within an accessory building situated on the same owner-occupied lot as the principal dwelling in any zone that permits single-family dwellings, subject to the following requirements:

A. If located within an existing single-family detached dwelling:

1. An applicant shall file with the Department of Permits, Approvals and Inspections an application for a use permit for an accessory apartment, on a form approved by the Department. With the application, the applicant shall submit a declaration of understanding, on a form approved by the Department, including but not necessarily limited to the following terms and conditions:

   a. The size of the accessory apartment may not exceed one-third of the overall floor area of the dwelling or 2,000 square feet, whichever is less;

   b. Any and all improvements to be dedicated as an accessory apartment shall be used solely as a single-family residence; and

   c. The accessory apartment may not have separate utility meters, such as gas and electric service.

1. **Editor's Note**—This Act stated that it applied retroactively to requests for in-law apartments filed on or after 8-1-2010, and also that owners of in-law apartments lawfully approved prior to the effective date of this Act must obtain a use permit required by this Act on or before 10-1-2012.

2. The Director may approve the application upon a finding that the size, location, and purpose of the accessory structure will not negatively affect the health, safety, or general welfare of the surrounding community.

B. If located within an accessory building on the same owner-occupied property as the principal single-family detached dwelling:

1. An applicant shall file a request for a special hearing and a use permit with the Department, together with a declaration of understanding as required by Subsection A1 of this section, and a public hearing before the Office of Administrative Hearings is required.

2. The size of the accessory apartment may not exceed 1,200 square feet, and the accessory building shall comply with the requirements of Section 400.

3. Following a public hearing, the Office of Administrative Hearings may grant a request upon a finding that the size, location, and purpose of the accessory apartment conform with Section 502.1 and may impose such conditions, restrictions or regulations consistent with Section 502.2 as may be deemed necessary or advisable for the protection of surrounding and neighboring properties, including the express prohibition that the accessory apartment not be converted to a second dwelling beyond the scope of this section.

4. The accessory apartment may not have separate utility meters or water and sewerage services unless approved by the Office of Administrative hearings based on specific findings of necessity for the accessory building.

C. Approval; renewal.

1. Approval. The approval of an application for a use permit in Subsection A or a request for a special hearing and a use permit in Subsection B shall be subject to the following:

a. The declaration of understanding and property description, including any conditions, restrictions, or regulations imposed by the Department or the Office of Administrative Hearings, shall be recorded in the land records of Baltimore County and a copy shall be filed with the Department; and

b. The accessory apartment shall only be utilized by immediate family members as defined in Section 101 and may not be used by any person other than an immediate family member for any other reason.

c. If the accessory apartment is no longer occupied by any person named in the use permit or if the property is sold, the use permit shall terminate, and any proposed changes in occupancy to the accessory apartment by the property owner or subsequent purchaser shall require a new request for a use permit as applicable under Subsection A or B.

2. Renewal. The applicant shall renew the use permit with the Department every two years by filing a renewal on a form approved by the Department, to be dated from the month of the initial approval, and shall list the name of any person occupying the accessory apartment.

SECTION 500
Zoning Commissioner and/or Deputy Zoning Commissioner[1]
[BCZR 1955]

§ 500.1. Approval of building permit applications.

All applications to the Buildings Engineer for building permits shall be submitted to the Zoning Commissioner[2] for approval by the Commissioner as to zoning before any permit shall be issued. Before approving any such application, the Zoning Commissioner shall be satisfied that the application is in proper form and contains all necessary information and that the proposed building or use of land, building or structure complies in all respects with the regulations then in effect with respect to zoning.

§ 500.2. Petitions for zone or district classification or reclassification.[3]

A. Whenever a petition is presented to the Department of Planning for a zone or district classification or reclassification of a piece of property, or for a special exception, such petition may be filed with the Zoning Commissioner only if it meets the Zoning Commissioner's Rules of Practice and Procedure.[4] Whenever the Department of Planning shall have acknowledged the adequacy of the petition in respect to such rules, including whatever site plan or other supporting material may be necessary, the petition may be filed with the Zoning Commissioner by the legal owner of the property or by his legally authorized representative. **[Bill Nos. 85-1964;[5] 40-1967; 55-2011]**

B. A date for a public hearing before the Zoning Commissioner on the petition for the proposed zone or district classification or reclassification may then be scheduled, and such hearing shall be held not less than 30 nor more than 90 days after the date set on the Zoning Commissioner's acknowledgment of such filing. **[Bill Nos. 85-1964; 40-1967]**

§ 500.3. Refusal to grant reclassification.

In the event that the Zoning Commissioner shall refuse to grant a reclassification and upon appeal to the County Board of Appeals, the said Board shall order such reclassification, the

1. **Editor's Note**—Some of the powers and duties of the Zoning Commissioner under this Article have been transferred to the Director of the Department of Permits and Development Management pursuant to Bill No. 69-1995, which amended Section 26-3 of the Baltimore County Code, 1988 Edition [now §§ 3-2-1103, 3-2-1201, 3-2-1202, and 3-2-1203 of the Baltimore County Code, 2003], as revised, to provide as follows: "(d) The zoning commissioner shall administer the office of zoning commissioner. Notwithstanding any provision in this Code or in the county zoning regulations to the contrary, the director of the department of permits and development management shall administer the zoning code and all other administrative matters otherwise assigned in this article or by zoning regulations or elsewhere to the zoning commissioner, except for the conduct of hearings by this Code."
2. **Editor's Note**—See Editor's Note above.
3. **Editor's Note**—This section has been superseded by Section 2-356 of the Baltimore County Code, 1988 Edition, [now Article 32, Title 3, Subtitle 5 of the Baltimore County Code, 2003], as revised, which vests original jurisdiction for reclassifications with the Board of Appeals (Bill No. 85-1978, effective 12-8-1978, and Bill No. 46-1979, effective 3-28-1979). See also Section 602(e) of the Baltimore County Charter, as well as Sections 32-3-401 and 32-3-517 of the Baltimore County Code, 2003, as found in Appendix D of this volume.
4. **Editor's Note**—The Rules of Practice and Procedure are included in Appendix G of this volume.
5. **Editor's Note**—Bill No. 85-1964 contained a section to effect a repeal of provisions cited as "section 500.2a and b." At the time of that bill's consideration and enactment, however, no provisions so designated appeared in the law. It is assumed that it was the bill's intent to repeal former Section 500.2 of BCZR 1955.

Zoning Commissioner shall then forthwith submit said reclassification to the County Commissioners of Baltimore County,[6] and upon their written approval thereof the said reclassification shall become effective and binding and shall constitute an amendment to the boundaries of the zoning districts.[7]

§ 500.4. Issuance of use permits. [Resolution, November 21, 1956; Bill No. 43-2017]

In cases in which no building permit is required, any person desiring to use any land for any purpose other than that for which said land is being used at the time of adoption of this Order and Resolution[8] shall make application to the Director of Permits, Approvals and Inspections for a use permit, upon such form as the Director may prescribe. If such use is permissible the Director may issue a use permit, conditioned by other provisions contained in the regulations which shall indicate that it authorizes the particular use applied for.

§ 500.5. Petitions for special exceptions.

In cases of petitions for special exceptions under Section 502 of these regulations, the Zoning Commissioner shall receive such petitions in such form as he may prescribe. He shall hold a public hearing thereon after giving public notice of such hearing as above provided with respect to petitions for reclassification. After such a hearing he shall pass his order granting or refusing such special exception.[9]

§ 500.6. Authority to conduct hearings.

In addition to his aforesaid powers, the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon, subject to the right of appeal to the County Board of Appeals as hereinafter provided.

§ 500.7. Petitions for public hearing; notice. [Bill No. 18-1976]

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the

6. **Editor's Note**—Under Section 1107 of the Baltimore County Charter, the County Council and County Executive have succeeded "to all powers heretofore vested in the county commissioners by the constitution and laws of this state." However, under the provisions of Section 604 of the Charter, those persons aggrieved by a decision of the Board of Appeals may now appeal such decision to the Circuit Court of Baltimore County. See Appendix E of this volume.

7. **Editor's Note**—This section has been superseded by Section 2-356 of the Baltimore County Code, 1988 Edition, [now Article 32, Title 3, Subtitle 5 of the Baltimore County Code, 2003], as revised, which vests original jurisdiction for reclassifications with the Board of Appeals (Bill No. 85-1978, effective 12-8-1978, and Bill No. 46-1979, effective 3-28-1979). See also Section 602(e) of the Baltimore County Charter, as well as Sections 32-3-401 and 32-3-517 of the Baltimore County Code, 2003, as found in Appendix D of this volume.

8. **Editor's Note**—The date of adoption and the effective date of BCZR 1955 was 3-30-1955.

9. **Editor's Note**—See also Sections 32-3-301 through 32-3-304 of the Baltimore County Code, 2003, as found in Appendix D of this volume.

existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

With respect to any zoning petition other than a petition for a special exception, variance or reclassification, the Zoning Commissioner shall schedule a public hearing for a date not less than 30 days after the petition is accepted for filing. If the petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least 15 days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the county. The notice shall describe the property, if any, and the action requested in the petition. Upon establishing a hearing date for the petition, the Zoning Commissioner shall promptly forward a copy thereof to the Director of Planning (or his deputy) for his consideration and for a written report containing his findings thereon with regard to planning factors.

§ 500.8. Authority to prescribe rules for hearings.

The Zoning Commissioner shall have the power to prescribe rules and regulations for the conduct of hearings before him, to issue summons for and compel the appearance of witnesses, to administer oaths and to preserve order.[10]

§ 500.9. Authority to require plats; plat specifications. [Resolution of 11-21-1956; Bill No. 55-2011]

The Zoning Commissioner shall have the power to require the production of plats of developments or subdivisions of land, or of any land in connection with which application for building or use permits or petition for a special exception, a reclassification or a temporary use shall be made, such plats to show the location of streets or roads and of buildings or other structures proposed to be erected, repaired, altered or added to. All such plats shall be drawn to scale and shall clearly indicate the proposed location, size, front, side and rear setbacks from property lines and elevation plans of proposed buildings or other structures. Such details shall conform in all respects with the Zoning Regulations. No such plats or plans, showing the opening or laying out of roads or streets, shall be approved by the Zoning Commissioner unless such plats or plans shall have been previously approved by the Baltimore County Department of Planning and the Department of Public Works.

§ 500.10. Right to appeal; filing of notice.

Any person or persons, jointly or severally, or any taxpayer or any official, department, board or bureau of Baltimore County feeling aggrieved by any decision of the Zoning Commissioner shall have the right to appeal therefrom to the County Board of Appeals. Notice of such appeal

10. **Editor's Note**—See Appendix G of this volume.