

IN THE APPELLATE COURT OF MARYLAND

Rosedale Community Assn,
Appellant

v.

Fazal, Llc,
Appellee

*
* No. 0680, September Term 2024
* ACM-REG-0680-2024
* Circuit Court No. C-03-CV-23-000955
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MANDATE

On the 17th day of September, 2024, it was ordered and adjudged by the
Appellate Court of Maryland:

Voluntary Dismissal by Appellant. Appeal Dismissed.

STATE OF MARYLAND, Sct.:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said
Appellate Court of Maryland. In testimony whereof, I have hereunto set my hand as Clerk and
affixed the seal of the Appellate Court of Maryland, this 18th day of September, 2024.



Rachel Dombrowski

Rachel Dombrowski, Clerk
Appellate Court of Maryland



IN THE MATTER OF
ROSEDALE COMMUNITY
ASSOCIATION, et al.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No. C-03-CV-23-000955



* * * * *

MEMORANDUM OPINION AND ORDER

This matter is before the Court as an Administrative Record Appeal from the Board of Appeals for Baltimore County (“Board”) by the Rosedale Community Association, James Earlbeck, Graceann Rehbein, and Paul King (“Petitioners”), based on the Board’s decision to grant Fazal, LLC’s (“Respondent”) Petition for Variance.

On March 6, 2023, the Petitioners filed a Petition for Judicial Review of the Opinion of the Board of Appeals for Baltimore County dated February 7, 2023. On March 15, 2023, the Respondent filed a Response to the Petition for Judicial Review. On May 10, 2023, the Transcript and Record of Proceedings was filed. On June 5, 2023, the Petitioners filed a Memorandum of Law in Support of Judicial Review. On July 5, 2023, the Respondent filed a Response in Opposition to Petition for Judicial Review, along with three supporting exhibits. On August 3, 2023, the Petitioners filed a Reply Memorandum in Support of Judicial Review. On March 19, 2024, the parties appeared before this Court for the administrative appeal hearing. The Petitioners appeared *pro se*, and the Rosedale Community Association President, Russ Mirabile, spoke on behalf of the Petitioners.

I. Background

The Respondent is a used car dealer and is the owner of the property located at 8202 Pulaski Highway (“Property”). The Property is approximately 0.396 acres +/- and was improved

by a single-story commercial building. The Property was previously a fast-food restaurant. The Property is zoned Business, Roadside-Automotive, Service (BR-AS). The stretch of Pulaski Highway where the Property is located is improved by other commercial and industrial uses, including a golf cart sales and repair business, an equipment supply and repair business, and a liquor store.

In 2019, the Respondent filed a Petition for Special Exception and Variance for the Property. The Respondent also filed a request for variance seeking to permit a zero foot setback from the rear, side, and front property lines, instead of the required ten-foot rear, side, and front yard setbacks. The Respondent requested this variance so that he could display used vehicles for sale in the front area of the Property. On February 27, 2019, the Administrative Law Judge (“ALJ”), Judge Beverungen, granted the Petition for Variance, which permitted the zero foot setback and permitted Fazal, LLC to have no design, screening, and landscaping along the sides of the existing parking area and driveway. Judge Beverungen additionally found that the Property was unique.

In November 2021, the Respondent filed a request to amend the variance seeking to construct a one-story addition to the commercial building on the Property in order to repair cars for sale on the premise. Administrative Law Judge Murphy granted the respondent’s request to amend the variance and also noted the Property was unique.

The Board conducted a two-day *de novo* hearing on March 16 and October 26, 2022, and a public deliberation was held on December 22, 2022.

On February 7, 2023, the Board filed an Opinion approving the proposed building addition to the Property. The Board granted Fazal, LLC’s Petition which permitted the repair and sale of vehicles on the Property, and Fazal, LLC was granted a variance permitting a zero foot

setback from the rear and side property lines for an eighteen-foot-high building addition in lieu of the required thirty foot minimum rear and side yard setbacks. The relief granted was conditioned upon several conditions.

II. Legal Standard

Judicial review of an agency's factual findings is limited to ascertaining whether a reasoning mind could have reached the same factual conclusions reached by the agency on the record before it. *See Stansbury v. Jones*, 372 Md. 172, 182-85 (2002). The court, when reviewing a final decision of an administrative agency, determines only the legality of the decision and whether there was "substantial evidence" from the record as a whole to support the decision. *Board of Education v. Paynter*, 303 Md. 22, 35 (1985). The test for whether there is substantial evidence is "whether a reasoning mind reasonably could have reached the factual conclusion the agency reached." *Motor Vehicle Admin. v. Shea*, 415 Md. 1, 18 (2010) (quoting *Motor Vehicle Admin. v. Delawter*, 403 Md. 243, 256-67 (2008)). In applying the substantial evidence test, the court should defer to the agency's responsibility to find facts and draw inferences there from. *Maryland State Police v. Lindsey*, 318 Md. 325, 334 (1990).

For conclusions of law, courts will give significant weight to an agency's experience in interpreting a statute that the agency administers. *Anderson v. General Cas. Ins. Co.*, 402 Md. 236, 244-45 (2007). However, if the agency makes an erroneous conclusion of law, the court must correct that conclusion. *Id.* at 245.

The reviewing court must review the agency's decision in the light most favorable to the agency, since decisions of administrative agencies are *prima facie* correct. *Motor Vehicle Admin. v. Lindsey*, 309 Md. 557, 563 (1987). A reviewing court may not set aside an administrative

decision merely because it might weigh the evidence differently or assess credibility differently. *Jacocks v. Montgomery County*, 58 Md. App. 95, 110-11 (1984).

III. Discussion

The Petitioners contend that the Board erred during the *de novo* hearings on March 16, 2022 and October 26, 2022 by adopting, from Case No. 2019-0171-XA, the finding that the Property was unique. The Petitioners argue that *de novo* hearings are “wholly original” and thus the Board should not have adopted the previous findings of the ALJ.

The Respondent contends that the Property was properly determined to be unique on February 27, 2019 by Administrative Law Judge Beverungen, in Case No. 2019-0171-XA, and that no appeals were subsequently filed in response to that case. Since the Property was previously adjudicated to be unique, the Respondent argues that the Petitioner’s argument is moot because of the doctrine of collateral estoppel. The Respondent supports this contention by stating that the same parties litigated the issue in Case No. 2019-0171-XA, and the finding of the uniqueness of the property was properly found by Judge Beverungen. The Respondent additionally argues that when Judge Murphy and the Board in the subsequent hearings applied collateral estoppel to the issue of whether the Property was unique, that practical difficulty of the variance was still reviewed, and the variance which was granted was fair.

The Petitioners responded to the Respondent’s contention regarding the issue of collateral estoppel by arguing that the doctrine of collateral estoppel is inappropriate in this case because the Board had authority under § 501.6 of the Baltimore County Zoning Regulations to determine whether the Property is unique under Maryland Law. This section of the Zoning Regulations states that “[a]ppeals from the Zoning Commissioner shall be heard by the Board of Zoning Appeals *de novo*. At such hearing, all parties, including the Zoning Commissioner, shall have the

right to be represented by counsel, to produce witnesses and to file and submit all proper oral or written evidence.” BALTIMORE COUNTY, MD., ZONING REGUL. § 501.6 (2023).

This Court finds that collateral estoppel is appropriate in this case, and that the issue of whether the Property was unique was previously adjudicated. In order for a prior decision of an ALJ to have collateral estoppel in court it must be determined “(1) whether the ALJ was acting in a judicial capacity; (2) whether the issue presented to the Circuit Court...was actually litigated before the ALJ; and (3) whether its resolution was necessary to the ALJ's decision.” *Reid v. State*, 119 Md. App. 129, 135 (1998). Here, the ALJ was acting in a judicial capacity as the matter came before Judge Beverungen as a Petition for Special Exceptions and Variance. Judge Beverungen issued an Opinion and Order in Case No. 2019-0171-XA, and the Order informed the Petitioners that they had thirty days from the date of the Order to file an appeal. Additionally, the issue of whether the Property was unique was presented and litigated before the ALJ, and this finding was necessary to the ALJ's decision to grant the variance. Furthermore, substantial evidence and testimony were provided to the Board that would suggest the Property was unique. Thus, this Court finds that collateral estoppel applies to the issue of whether the Property is unique and therefore AFFIRMS the Judgment of the Board of Appeals.

IV. Final Ruling

WHEREFORE, it is by the Circuit Court for Baltimore County,

ORDERED, Judgment of the Board of Appeals for Baltimore County is **AFFIRMED**.



Michael J. Finifter

Judge Michael J. Finifter 05/08/2024 1:46:49 PM
Circuit Court for Baltimore County

Entered: Clerk, Circuit Court for
Baltimore County, MD
May 8, 2024

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

*

*

PETITION OF:
ROSEDALE COMMUNITY ASSN, *et al.*

*

FOR JUDICIAL REVIEW OF THE OPINION
OF THE BOARD OF APPEALS
OF BALTIMORE COUNTY

*

CIVIL ACTION
NO.: C-03-CV-23-000955

*

Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204

*

*

IN THE MATTER OF:
FAZAL, LLC AND QAISAR SHAHZAD,
PRESIDENT AND PETITIONERS
Petition for Special Hearing and Variance on the
Property located at 8202 Pulaski Highway

*

*

*

15TH ELECTION DISTRICT
7TH COUNCIL DISTRICT

*

BOARD OF APPEALS CASE NO.: 21-201-SPHA *

* * * * *

**PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW JUDGE
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the Board of Appeals of Baltimore County and, in answer to the
Petition for Judicial Review directed against it in this case, herewith transmits the record of
proceedings had in the above-entitled matter, consisting of the original papers on file in the
Department of Permits, Approvals and Inspections and the Board of Appeals of Baltimore
County:

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
OF BALTIMORE COUNTY**

July 12, 2021 Petition for Special Hearing and Variance filed by C. Edward Hartman,
IV, Esquire on behalf of Qaisar Shahzad, President of Fazal, LLC,

requesting Special Hearing to amend Case No. 2019-0171-XA, and Variance to permit a 0 foot setback from the rear and side property lines for a 18 foot high building addition in lieu of the required 30 foot minimum rear and side yard setbacks per Section 238.2 of the Baltimore County Zoning Regulations.

July 20, 2020	People's Counsel for Baltimore County Entry of Appearance
September 19, 2021	Letter to Code Enforcement of Baltimore County from Russ Mirabile, President of Rosedale Community Association.
September 23, 2021	Certificate of Posting
September 24, 2021	Certificate of Publication in newspaper
September 30, 2021	Letter from Russ Mirabile requesting a postponement until several issues have been resolved.
October 5, 2021	Letter to Administrative Law Judge from Bruce E. Doak objecting to postponement request.
October 5, 2021	Email from Director of Permits, Approvals and Inspections denying postponement request.
October 6, 2021	ZAC Comments
October 8-12, 2021	Miscellaneous scheduling correspondence
November 3, 2021	Amended Certificate of Posting
November 4, 2021	Hearing held before the Administrative Law Judge
November 15, 2021	Opinion and Order issued by the Administrative Law Judge wherein the Petition for Special Hearing from BCZR §500.7 to amend Case No. 2019-0171-XA was GRANTED in accordance with the Redlined Site Plan with conditions, to permit the repair and sale of vehicles purchased by the Petitioner; and the Variance from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks was GRANTED.
December 14, 2021	Notice of Appeal filed by Russ Mirabile, President of Rosedale Community Association.

November 22, 2021	Redline Site Plan submitted by Bruce Doak.
December 14, 2021	Appeal received by the Board.
January 6, 2022	Notice of Assignment issued by the Board.
March 16, 2022	Board convened for a Hearing, Day 1.
March 16, 2022	Letter to Board from Mr. Mirabile.
March 29, 2022	Board convened for Public Deliberation on Motion for Continuance.
April 6, 2022	Miscellaneous scheduling emails.
April 11, 2022	Notice of Assignment – Day 2, issued by the Board.
April 22, 2022	Subpoenas issued by the Board at the request of Russ Mirabile, President of Rosedale Community Association.
April 26, 2022	Subpoenas issued by the Board at the request of Russ Mirabile, President of Rosedale Community Association.
May 18, 2022	Affidavits of Service received by the Board.
May 23, 2022	Letter to Board from Mr. Mirabile requesting a postponement.
May 25, 2022	Notice of Postponement issued by the Board.
May 25, 2022	Letter to Mr. Mirabile from the Board advising Board will not grant a postponement indefinitely.
August 30, 2022	Letter to Board and Mr. Hartman from Mr. Mirabile regarding hearing dates.
September 12, 2022	Notice of Assignment – Day 2, issued by the Board.
September 15, 2022	Letter to Attorney Hartman from Russ Mirabile, President, Rosedale Community Association asking if his client, Qaisar Shahzad, would be interested in attempt to resolve the matter.
September 21, 2022	Subpoenas issued by the Board at the request of Russ Mirabile, President, Rosedale Community Association.
October 26, 2022	Board convened for a Hearing, Day 2.

Exhibits submitted at Hearings before the Board of Appeals:

Petitioners' Exhibit No.

- 1 – Plan to Accompany a Zoning Petition
- 2 – SDAT Report
- 3 – GIS
- 4 – GIS Photo
- 5 – Boundary Survey Plat
- 6 – Photos Key Sheet / Photos A-N
- 7 – Adjoining neighbor letter of support
- 8 – Aerial photograph marked – 30 ft. Rd.
- 9 – Boundary Survey Plat marked – 30 ft. Rd.
- 10A&B – Street view photographs – 30 ft. Rd.
- 11 – GIS – marked – 30 ft. Rd.
- 12 – Deed – 3/16/2018 Leonard Martin to Fazal, LLC (L40210, p49) (Parcel 760)
- 13 – Deed – 10/4/2020 Albert C. Earlbeck to Earlbeck Family LLC (L14826, p187)
- 14 – Deed – 7/11/2005 Fine Dining, Inc. to Jieun, LLC (L22183, F555)
- 15 – Deed – 1/27/2006 LHB Lorraine LLC to Abbey M. Williams (L, SM23338, F121) (Parcel 715, Lots 11-14)
- 16 – Plat 12/41

Protestants' Exhibit No.

- AAA #1-A – without Russ Mirabile signature (Rule 8 satisfied)
- AAA #1-B – Signature Stamped (Rule 8 satisfied)
- AAA #00 – Variance Request by Bruce Doak
- AAA # 0 – Good Standing Deed – State of Maryland Good Standing of Rosedale Community Association
- AAA #1A – Postponement 1/29/2019
- AAA #4 – Map
- 2 – Zoning petition Doak #2 Plan to accompany zoning petition decision of Judge Murphy
- 12 – Fence Application
- 12 – 3-2-2022 Do Not Match
- 12-B – False Application for fence S/A 10-12 wrong measurements for fence
- 17 – Zoning / Russ 11-7 or 8, 2021 / First Notice HHH 4, 5, 6 Russ Mirabile, 1st notice
- 18 – First notice – Thursday, October 13 Earlbeck
- 18A – Photo by EB / photo taken by Earlbeck, shows date and time
- 22 – RM Zoning notice 11/7 or 8, 2021 taken by Russ Mirabile
- 28 – Front of Root Beer stand Doak #6G S/A

36 – Doak posting signed, penalty of perjury
36A – Front of 8202 Pulaski – posting (false posting)
36B – Same – different posting site (false posting “shadow Russ”)
41 – “Doodle fence” Plenty of room – by Doak
44 – Paul King (letter of Paul King, dates were posted wrong March 11, 2022)
50 – BGE overhead wires – Pet. 6N Doak Photo (Doak never showed BGE requirements)
51 – Photo fence / Lot Doak Pt #6L (fence in common use right-of-way)
61 – Real Estate Compliance Road Closing
70 – BGE K-Guide Lines (important: Doak failed to investigate)
77 HHH6 – Affidavit of Paul King
104 – Drawing
105 – Zoning Checklist

November 28, 2022	Written Argument filed by Hartman, Attorneys at Law, and Nicholas L. Ketterer, Esquire on behalf of Fazal, LLC.
November 28, 2022	Memorandum filed by Russell R. Mirabile, President of Rosedale Community Association, Protestants.
December 22, 2022	Board convened for Public Deliberation.
February 7, 2023	Opinion and Order issued by the Board wherein the Petition for Special Hearing from BCZR §500.7 to amend Case No. 2019-0171-XA was GRANTED with conditions, to permit the repair and sale of vehicles purchased by the Petitioner; and the Variance from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks was GRANTED, with conditions.
March 6, 2023	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Russ Mirabile, President of Rosedale Community Association, <i>pro se</i> ; James Earlbeck, <i>pro se</i> ; Graceann Rehbein, <i>pro se</i> ; and Paul King, <i>pro se</i> .
March 6, 2023	Notice to Administrative Agency of Judicial Review
March 15, 2023	Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals, Case No.: C-03-CV-23-000955

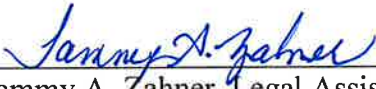
March 15, 2023 Response to Petition for Judicial Review filed by Hartman, Attorneys at Law, and Nicholas L. Ketterer, Esquire on behalf of Fazal, LLC.

March 16, 2023 Certificate of Compliance sent to all parties and interested persons.

May 10, 2023 Transcript of testimony filed.

May 10, 2023 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.



Tammy A. Zahner, Legal Assistant
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
appealsboard@baltimorecountymd.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of May, 2023 a copy of the foregoing was mailed first class mail, postage prepaid, or inter-office mail to the following:

C. Edward Hartman, Esquire
Nicholas L. Ketterer, Esquire
116 Defense Highway, Suite 300
Annapolis, MD 21041

Russ Mirabile, President
Rosedale Community Assn.
7932 Oakdale Avenue
Rosedale, MD 21237

Qaisar Shahzad, President
Fazal, LLC
9243 Bellbeck Road
Parkville, MD 21234

Graceann Rehbein
8011 Woodhaven Road
Rosedale, MD 21237

James Earlbeck
8204 Pulaski Highway
Rosedale, MD 21237

Paul King
8226 Pulaski Highway
Rosedale, MD 21237



Tammy A. Zahner



Board of Appeals of Baltimore County

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

May 10, 2023

Nicholas L. Ketterer, Esquire
C. Edward Hartman, Esquire
116 Defense Highway, Suite 300
Annapolis, Maryland 21041

Russ Mirabile, President
Rosedale Community Association
7932 Oakdale Avenue
Rosedale, Maryland 21237

RE: Petition for Judicial Review
Circuit Court Civil Action No.: C-03-CV-23-000955
In the Matter of: Fazal, LLC and Qaisar Shahzad, President
Board of Appeals Case No.: 21-201-SPHA

Dear Messrs. Ketterer, Hartman and Mirabile:

Kindly note that the Proceedings before the Administrative Law Judge and the Board of Appeals of Baltimore County have been filed with the Circuit Court for Baltimore County via the Maryland Electronic Courts and E-filing system. Enclosed is a copy for your records.

If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tammy A. Zahner".

Tammy A. Zahner
Legal Assistant

Duplicate Original Cover Letter
Enclosure

c: Qaisar Shahzad, President/Fazal, LLC
James Earlbeck
Graceann Rehbein
Paul King

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

*

*

PETITION OF:
ROSEDALE COMMUNITY ASSN, *et al.*

*

FOR JUDICIAL REVIEW OF THE OPINION
OF THE BOARD OF APPEALS
OF BALTIMORE COUNTY
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204

*

*

*

*

CIVIL ACTION
NO.: C-03-CV-23-000955

IN THE MATTER OF:
FAZAL, LLC AND QAISAR SHAHZAD,
PRESIDENT AND PETITIONERS
Petition for Special Hearing and Variance on the
Property located at 8202 Pulaski Highway

*

*

*

15TH ELECTION DISTRICT
7TH COUNCIL DISTRICT

*

BOARD OF APPEALS CASE NO.: 21-201-SPHA *

* * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

C. Edward Hartman, Esquire
116 Defense Highway, Suite 300
Annapolis, MD 21041

Russ Mirabile, President
Rosedale Community Assn.
7932 Oakdale Avenue
Rosedale, MD 21237

Qaisar Shahzad, President
Fazal, LLC
9243 Bellbeck Road
Parkville, MD 21234

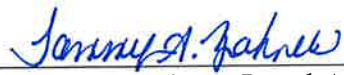
James Earlbeck
8204 Pulaski Highway
Rosedale, MD 21237

Graceann Rehbein
8011 Woodhaven Road
Rosedale, MD 21237

Paul King
8226 Pulaski Highway
Rosedale, MD 21237

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

I HEREBY CERTIFY that on this 16th day of March, 2023, a copy of the foregoing was mailed first class mail, postage prepaid, to the individuals listed above.



Tammy A. Zahner, Legal Assistant
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3180
appealsboard@baltimorecountymd.gov



Board of Appeals of Baltimore County

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

March 16, 2023

Russ Mirabile, President
Rosedale Community Association
7932 Oakdale Avenue
Rosedale, Maryland 21237

C. Edward Hartman, Esquire
116 Defense Highway, Suite 300
Annapolis, Maryland 21041

RE: Petition for Judicial Review
Circuit Court Civil Action No.: C-03-CV-23-000955
In the Matter of: Fazal, LLC and Qaisar Shahzad, President and Petitioners
Board of Appeals Case No.: 21-201-SPHA

Dear Mr. Mirabile and Mr. Hartman:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed by Russ Mirabile, President of Rosedale Community Assn., James Earlbeck, Graceann Rehbein, and Paul King, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. The County Board of Appeals received written notification of acceptance from the Circuit Court for Baltimore County on March 15, 2023. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Rosedale Community Assn., *et al.* having taken the appeal, is responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

The Board is in receipt of transcripts for both hearings and one public deliberation. However, there was a public deliberation on a Motion for Continuance held on March 29, 2022 that will need to be transcribed. Please let us know if we have your authority to order said transcript.

WebEx was the official record of the hearings before the Board. The recording will be copied by this office and provided to you for transcription. The transcriptionist must meet the requirements set forth in the Maryland Rules which states: "*a stenographer, court reporter, or transcription service designated by the court for the purpose of preparing an official transcript from the recording.*" The Board of Appeals can assist in obtaining a qualified transcriptionist upon request.

Please be advised that the ORIGINAL transcript must be provided to the Board of Appeals no later than MAY 5, 2023 so that it may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,



Tammy A. Zahner
Legal Assistant

Duplicate Original Cover Letter
Enclosure

c: Fazal, LLC/Qaisar Shahzad, President
James Earlbeck
Graceann Rehbein
Paul King

IN THE CIRCUIT COURT OF MARYLAND FOR BALTIMORE COUNTY

IN THE MATTER OF
ROSEDALE COMMUNITY ASSN. *et al*

Petitioners

Case No.: C-03-CV-23-000955

* * * * *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

Fazal, LLC, by and through Hartman, Attorneys at Law, and Nicholas L. Ketterer, its attorneys, hereby files its Response to Petition for Judicial Review pursuant to Md. Rule 7-204(a). Fazal, LLC intends to participate in the action for judicial review.

HARTMAN, ATTORNEYS AT LAW

By: /s/ Nicholas L. Ketterer
Nicholas L. Ketterer
CPF#2203100003
116 Defense Highway, Suite 300
Annapolis, Maryland 21401
Telephone: (410) 266-3232
Facsimile: (410) 266-5561
Nicholas.ketterer@hartman.law
Attorney for Fazal, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of March 2023, a copy of the foregoing document was mailed, first class, postage prepaid to:

Rosedale Community Assn
C/O Russ Mirabile, President
7932 Oakdale Avenue
Rosedale, MD 21237

James Earlbeck
8204 Pulaski Highway
Rosedale, MD 21237

Graceann Rehbein
8011 Woodhaven Road
Rosedale, MD 21237

Paul King
8226 Pulaski Highway
Rosedale, MD 21237

/s/ Nicholas L. Ketterer

Nicholas L. Ketterer

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:

ROSEDALE COMMUNITY ASSN,
Russ Mirabile, President, President
7932 Oakdale Ave.
Rosedale, MD 21237

JAMES EARLBECK
8204 Pulaski Highway
Rosedale, MD 21237

GRACEANN REHBEIN
8011 Woodhaven Road
Rosedale, MD 21237

PAUL KING
8226 Pulaski Highway
Rosedale, MD 21237

FOR JUDICIAL REVIEW OF THE
DECISION OF:
BOARD OF APPEALS
OF BALTIMORE COUNTY
105 West Chesapeake Avenue
Suite 203
Towson, Maryland 21204
Case No. 21-201-SPHA

In the Matter of : *Fazal, LLC &*
Qaisar Shahzad, Legal Owners
SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED AT
8202 Pulaski Highway

Civil Action No.: 21-701-SPHA

C-03-CV-23-000955

FILED
2023 MAR -6 PM 2:30
CIRCUIT COURT
BALTIMORE COUNTY

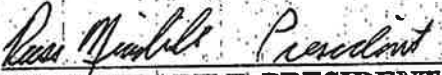


PETITION FOR JUDICIAL REVIEW

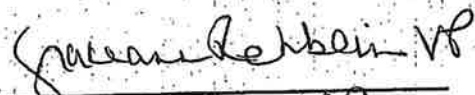
Appellants/Petitioners, Rosedale Community Association, by Russ Mirabile, President,
7932 Oakdale Ave., Rosedale, MD 21237; **James Earlbeck**, 8204 Pulaski Highway, Rosedale,
MD 21237; **Graceann Rehbein**, 8011 Woodhaven Road, Rosedale, MD 21237; and **Paul King**,
8226 Pulaski Highway, Rosedale, MD 21237, all **PRO SE** and feeling aggrieved by the Opinion
of the Board of Appeals dated February 7, 2023 and attached hereto appeal to the Baltimore
County Circuit Court.

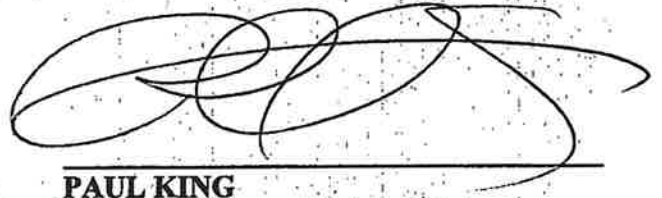
Filed concurrently with this Petition for Judicial Review is payment to cover the costs of
this appeal.

Respectfully submitted,


RUSS MIRABILE, PRESIDENT
PRO SE


JAMES EARLBECK
PRO SE


GRACEANN REHBEIN VP
PRO SE



**PAUL KING
PRO SE**

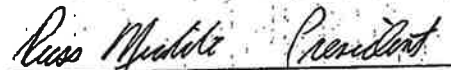
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of March, 2023, a copy of the foregoing Petition for Judicial Review was either mailed first class, postage pre-paid or HAND DELIVERED To:

County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Suite 203
Towson, Maryland 21204

People's Counsel for
Baltimore County
Jefferson Building
105 West Chesapeake Avenue
Room 204
Towson, Maryland 21204

C. Edward Hartman, Esquire / A# *KH*
116 Defense Highway, Suite 300
Annapolis, Maryland 21041


**RUSS MIRABILE, PRESIDENT
PRO SE**

IN THE MATTER OF
FAZAL, LLC AND QAISAR SHAHZAD,
PRESIDENT AND PETITIONERS FOR
SPECIAL HEARING AND VARIANCE ON
THE PROPERTY LOCATED AT
8202 PULASKI HIGHWAY

15th ELECTION DISTRICT
7th COUNCIL DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 21-201-SPHA

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County on appeal filed by the Rosedale Community Association of an Opinion and Order of the Administrative Law Judge ("ALJ") dated November 15, 2021, wherein a Petition for Special Hearing to amend the Opinion and Order in Case No. 2019-0171-XA to permit the repair and sale of vehicles purchased by Petitioner, and a Petition for Variance to permit a zero ft. setback from the rear and side property lines for an 18 ft. high building additions, were granted subject to conditions.

The Board conducted two days of a *de novo* hearing on March 16 and October 26, 2022. A public deliberation was held on December 22, 2022. Both the hearing and deliberation were held virtually as provided by the Board's Rules of Practice and Procedure.

Petitioner, Fazal, LLC, ("Fazal") was represented by C. Edward Hartman, Esquire and Nicholas L. Ketterer, Esquire of Hartman Attorneys at Law. Also appearing for Petitioner was Bruce Doak, a licensed surveyor, who qualified as an expert in Baltimore County zoning and subdivision matters. Appearing for Protestant, Rosedale Community Association was its President, Russell Mirabile. Also appearing for Protestant was Steven Broyles a licensed surveyor and engineer, who qualified as an expert.

Both parties introduced numerous exhibits, including photographs, and had witnesses who owned nearby property testify in their respective cases.

FACTUAL BACKGROUND

The Property is approximately 0.396 acres +/- and is improved with a commercial, one-story block building of 1,600 square feet, in which a used automobile sales business is located, as was approved in Case. No. 2019-171-XA. The Property is zoned Business, Roadside – Automotive, Service (BR-AS). The business currently only sells vehicles, but performs no repairs on site. The stretch of Pulaski Highway is improved by other commercial and industrial uses, the nearest being a golf cart sales and repair business, an equipment supply and repair business, and liquor store.

Fazal's first witness was Bruce Doak. Mr. Doak testified that he prepared the plans and petition in the subject case. The Property is improved by a one-story block building, formerly used as a fast food restaurant, but now used for car sales, as is permitted in the zone and under the prior zoning case. The rear portion of the site is fenced. We note that Case No. 2019-0171-XA established the uniqueness of the site and improvements. Under that case, Fazal is permitted to have up to 50 cars for sale on the site, together with customer and employee parking. Under the current request, the number of cars for sale would be limited to no more than 30, together with associated parking. The building addition would be used to repair and service vehicles prior to sale.

Mr. Doak testified that though the property deed calls to the centerline of the alley (also known as Batavia Farm Road) as the property line, Fazal has agreed to leave that roadway open and relocate the fence away from the property line to allow unrestricted use of the road in common with others.

Pulaski Highway in the vicinity of the site is a four lane divided highway. There are no significant residential uses and the area is heavily commercial and industrial in nature. There is a traffic signal at the intersection of Pulaski Highway and Batavia Farm Road. To the extent there is any residential use in the area, a group of mobile homes are located on Batavia Farm Road behind the businesses that flank the rear of the Property. No one appeared at the hearing from those residences.

The proposal would extend two sides of the existing building by an L-shaped addition extending to the rear property line on the north and to the east property line on the side. The addition would be 18' high to accommodate a lift for vehicle repairs.

Upon cross-examination by Mr. Mirabile, Mr. Doak explained that the Property shares an address with its neighbor to the east and that the Petitioner would relocate the fence within ninety days of a final approval.

Mr. Mirabile led the Protestant's case, calling several witnesses, including Steve Broyles, a licensed engineer who was accepted as an expert. Mr. Mirabile also testified as President of the Rosedale Community Association, having presented the requisite Rule 8 submission. He put forth several issues: inadequate posting, errors in the site plan, lack of uniqueness, self-created hardship, and failure to meet the special exception criteria of BCZR §502.1, and a concern that the site would take on the appearance of a junk yard.

Mr. Mirabile called Paul King of King's Liquors, located at 8226 Pulaski Highway. Mr. King raised concerns regarding the appearance of the site and the need for grass to be mowed. Also testifying in opposition was James Earlbeck who owns the property at 8204 Pulaski Highway immediately to the rear of the subject site. Mr. Earlbeck explained that his business is not an auto repair business, but one that does metal working and that he provides parts and

distribution for industry of compressed cryogenic gas and hazardous materials for industrial customers. He raised safety concerns and concerns over ingress and egress along Batavia Farm Road to his property. He also is concerned that the site will become a junkyard.

Mr. Mirabile then called Steve Broyles. Mr. Broyles testified to a number of issues where the site plan did not provide the detail enumerated in the zoning office checklist. Most concerning of these is the omission on the site plan of the location of high voltage power lines at the rear of the Property and appropriate setbacks from these. Other technical issues raised by Mr. Broyles included how parking was calculated and shown. Mr. Broyles also questioned the uniqueness of the Property.

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Mr. Mirabile re-called Mr. Doak to question him about Mr. Broyles' testimony. Mr. Doak distinguished the checklist issues raised by Mr. Broyles as guidelines rather than legal requirements. Further, Mr. Doak noted that Case No. 2019-0171-XA, addressed other issues raised by Mr. Broyles. More significantly, Mr. Doak addressed the issue regarding setbacks from the power lines as one that would be looked at by BGE and Baltimore County prior to permits being issued, rather than at the zoning approval stage, and that the approval process has many steps, including utility review, building design, D.R.C. (subdivision approval), final site plan review and submission of permit plans. At any stage, a negative comment would require Petitioner to modify the site design.

APPLICABLE LAW

Baltimore County Zoning Regulations

§ 101 Definitions: GARAGE, SERVICE — A garage, other than a residential garage, where motor-driven vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale.

§ 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.

§ 500.7. - Petitions for public hearing; notice.

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 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.

A Special Hearing Petition is effectively a request for declaratory judgment. BCZR § 500.7, *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005). While the BCZR provides no specific criteria for the granting of a Petition for Special Hearing, "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing relief requested would be compatible with the community and generally consistent with the spirit and intent of the regulations." *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. Ct. Spec. App. (Sept. Term 2016). The Petitioner bears the burden of presenting evidence on which the Board can assess whether a zoning request pursuant to the BCZR may be approved.

DISCUSSION

The Board finds that the Petition for Special Hearing and Variance should be granted. The Board also finds that the relief requested is compatible with the community and consistent with the spirit and intent of the Baltimore County Zoning Regulations.

The use of a used car facility is permitted in the B.R.-A.S. zone by Special Exception, which was granted in Case No. 2019-0171-XA. As noted in that case, there are unsightly aspects to the use and inherently detrimental impacts associated with the use is not a basis for denial. This remains true today. In the 2019 case, the ALJ also found the existence and physical location of the building are characteristics of the Property that are unique and consistent with the language of B.C.Z.R. § 307.1. We note that Fazal, LLC has adapted an abandoned building and site to a use that is presumptively correct and similar in character to nearby and adjoining uses.

Fazal proposes to reduce the number of cars stored outside from 50 to 30, thus mitigating an acknowledged inherently detrimental impact. Mr. Shahzad testified that the

In the matter of Fazal, LLC
Case No.: 21-201-SPHA

addition would allow him to make repairs to cars to be sold from this location, so he would not have to transport vehicles to other facilities for repair as he currently must. We note that a service garage is a use permitted by right in the Business-Major (B.M.) zone under BCZR, §233.1, and therefore under BCZR, §236.1.A, is permitted by right on this Property. Indeed, the Automotive Service District Overlay provides BCZR, §259.2.B is applied to "certain parcels of land zoned B.L., B.M. or B.R., which are appropriate for uses dominated by the parking and servicing of automobiles or characterized by frequent parking turnover..." To avoid the Property's principal use becoming a service garage, we will impose a condition limiting the servicing of vehicles to only those being offered for sale. Mr. Shahzad testified that he would service only those cars being offered for sale, and would not be changing the principal use of the Property.

As to the allegation of the adequacy of the notice, the attendance of Protestants at the hearing below and before this Board attests to the sufficiency of the notice. We concur with dicta in *Cassidy v. County Board of Appeals*, 218 Md. 418 (1958) to the effect that the lack of notice is waived by a party's appearance and participation in the proceedings. Protestants did have notice, and then requested a postponement of the original hearing from the date posted. When that postponement was granted, Protestants then complained that the sign did not reflect the re-scheduled hearing date. It is difficult to find that the signage was inadequate when it was the Protestants who initiated a postponement (based on the date on the sign), and that the date changed as a result of their request.

In regard to Batavia Farm Road, the Petitioner has moved the eight foot high chain-link fence from Batavia Farm Road so that the travel way remains unobstructed and used in

common by all properties adjoining the road, despite the fact that the property line runs to the center line of the road.

The site plan that accompanied the Petitions may not have ticked all the boxes of technical details on the Office of Zoning checklist, but there is no question that the plan sufficiently illustrates what use is intended and where it is intended to occur.

As to the serious issue of the proximity of the building addition to the power lines, BGE will weigh in on the issue as the applicant moves through the approval and permit process.

The Board notes the concerns regarding the Property's appearance raised by Protestants and comments offered by the Department of Planning and will address these by adopting the conditions imposed by the ALJ.

CONCLUSION

For the reasons discussed herein, the Board of Appeals approves the proposed building addition at 8202 Pulaski Highway.

ORDER

THEREFORE, IT IS this 7th day of February, 2023, by the Board of Appeals for Baltimore County

ORDERED, that the Petition for Special Hearing from BCZR § 500.7 to amend Case No. 2019- 0171-XA is hereby **GRANTED** as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner; and it is further

ORDERED, that the Variance from BCZR § 238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks is hereby **GRANTED**.

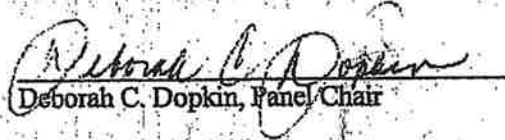
The relief granted herein shall be subject to the following conditions:

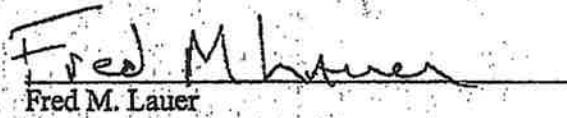
1. Only damaged, disabled and/or inoperative vehicles being offered for sale may be repaired at the Property;
2. All damaged, disabled and/or inoperative vehicles shall be parked and repaired inside the proposed addition until such vehicles are in operable and saleable condition at which point they may be parked on the outdoor sales area.
3. Petitioner may not display, park and/or store more than 30 vehicles at any one time, whether for sale or repair.
4. Petitioner shall stripe all customer and employee parking spaces pursuant to BCZR §409.
5. Within 15 days of the date hereof, Petitioner shall submit to Baltimore County a redlined site plan indicating where on the Property vehicle inventory will be displayed and the location of all customer and employee parking.
6. Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Road or in any manner obstruct or close off Batavia Farm Road until such paper road, or portion of paper road abutting the Property, is legally closed pursuant to a Road Closing Petition.
7. A formal Landscape Plan is not required to be filed. However, Petitioner shall plant and continue to maintain while under its ownership, bushes, shrubs and/or other landscaping in the two (2) grass areas fronting along Pulaski Highway, which, in the Petitioner's discretion, can reasonable fit within those areas.
8. No temporary banners, signs or advertising flags shall be permitted on the subject property.

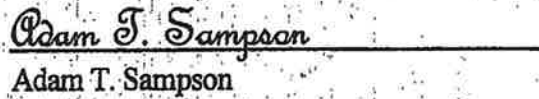
9. Any change to the principal use of the Property will require Petitioner to submit a revised site plan and be subject to a public hearing before the Administrative Law Judge.

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

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Deborah C. Dopkin, Panel Chair


Fred M. Lauer


Adam T. Sampson



**CIRCUIT COURT FOR BALTIMORE COUNTY,
MARYLAND**

401 Bosley Avenue, P.O. Box 6754
Towson, MD 21285-6754

Main: 410-887-2601

Case Number: C-03-CV-23-000955
Administrative Agency: 21-201-SPHA
Workers Compensation Number: N/A

To: BALTIMORE COUNTY BOARD OF APPEALS
105 WEST CHESAPEAKE AVENUE
SUITE 203
TOWSON, MD 21204

IN THE MATTER OF ROSEDALE COMMUNITY ASSN ET AL.

Date: 3/6/2023

NOTICE TO ADMINISTRATIVE AGENCY OF JUDICIAL REVIEW

You are advised that a petition for judicial review was filed on 03/06/2023 and assigned Civil Action No. C-03-CV-23-000955.

Pursuant to Maryland Rule 7-202(d) (1), a copy of the petition is enclosed for the agency.


Julie L. Ensor
Clerk of the Circuit Court



cc:

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF:

ROSEDALE COMMUNITY ASSN,
Russ Mirabile, President, President
7932 Oakdale Ave.
Rosedale, MD 21237

JAMES EARLBECK
8204 Pulaski Highway
Rosedale, MD 21237

GRACEANN REHBEIN
8011 Woodhaven Road
Rosedale, MD 21237

PAUL KING
8226 Pulaski Highway
Rosedale, MD 21237

FOR JUDICIAL REVIEW OF THE
DECISION OF:
BOARD OF APPEALS
OF BALTIMORE COUNTY
105 West Chesapeake Avenue
Suite 203
Towson, Maryland 21204
Case No. 21-201-SPHA

In the Matter of : *Fazal, LLC &*
Qaisar Shahzad, Legal Owners
SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED AT
8202 Pulaski Highway

Civil Action No.: 21-201-SPHA

FILED
2023 MAR -6 PM 2:31
BALTIMORE COUNTY



PETITION FOR JUDICIAL REVIEW

Appellants/Petitioners, Rosedale Community Association, by Russ Mirabile, President,
7932 Oakdale Ave., Rosedale, MD 21237; **James Earlbeck**, 8204 Pulaski Highway, Rosedale,
MD 21237; **Graceann Rehbein**, 8011 Woodhaven Road, Rosedale, MD 21237; and **Paul King**,
8226 Pulaski Highway, Rosedale, MD 21237, all **PRO SE** and feeling aggrieved by the Opinion
of the Board of Appeals dated February 7, 2023 and attached hereto appeal to the Baltimore
County Circuit Court.

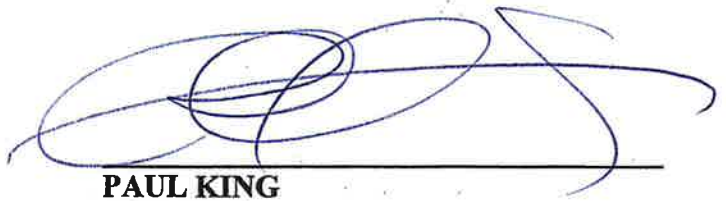
Filed concurrently with this Petition for Judicial Review is payment to cover the costs of
this appeal.

Respectfully submitted,


RUSS MIRABILE, PRESIDENT
PRO SE


JAMES EARLBECK
PRO SE


GRACEANN REHBEIN
PRO SE



**PAUL KING
PRO SE**

CERTIFICATE OF SERVICE

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County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Suite 203
Towson, Maryland 21204

People's Counsel for
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**RUSS MIRABILE, PRESIDENT
PRO SE**

IN THE MATTER OF
FAZAL, LLC AND QAISAR SHAHZAD,
PRESIDENT AND PETITIONERS FOR
SPECIAL HEARING AND VARIANCE ON
THE PROPERTY LOCATED AT
8202 PULASKI HIGHWAY

15th ELECTION DISTRICT
7th COUNCIL DISTRICT

* BEFORE THE
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In regard to Batavia Farm Road, the Petitioner has moved the eight foot high chain-link fence from Batavia Farm Road so that the travel way remains unobstructed and used in

common by all properties adjoining the road, despite the fact that the property line runs to the center line of the road.

The site plan that accompanied the Petitions may not have ticked all the boxes of technical details on the Office of Zoning checklist, but there is no question that the plan sufficiently illustrates what use is intended and where it is intended to occur.

As to the serious issue of the proximity of the building addition to the power lines, BGE will weigh in on the issue as the applicant moves through the approval and permit process.

The Board notes the concerns regarding the Property's appearance raised by Protestants and comments offered by the Department of Planning and will address these by adopting the conditions imposed by the ALJ.

CONCLUSION

For the reasons discussed herein, the Board of Appeals approves the proposed building addition at 8202 Pulaski Highway.

ORDER

THEREFORE, IT IS this 7th day of February, 2023, by the Board of Appeals for Baltimore County

ORDERED, that the Petition for Special Hearing from BCZR § 500.7 to amend Case No. 2019- 0171-XA is hereby **GRANTED** as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner; and it is further

ORDERED, that the Variance from BCZR § 238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks is hereby **GRANTED**.

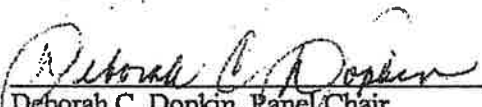
The relief granted herein shall be subject to the following conditions:

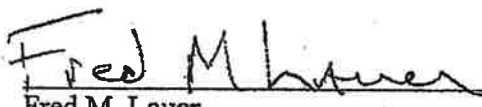
1. Only damaged, disabled and/or inoperative vehicles being offered for sale may be repaired at the Property;
2. All damaged, disabled and/or inoperative vehicles shall be parked and repaired inside the proposed addition until such vehicles are in operable and saleable condition at which point they may be parked on the outdoor sales area.
3. Petitioner may not display, park and/or store more than 30 vehicles at any one time, whether for sale or repair.
4. Petitioner shall stripe all customer and employee parking spaces pursuant to BCZR §409.
5. Within 15 days of the date hereof, Petitioner shall submit to Baltimore County a redlined site plan indicating where on the Property vehicle inventory will be displayed and the location of all customer and employee parking.
6. Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Road or in any manner obstruct or close off Batavia Farm Road until such paper road, or portion of paper road abutting the Property, is legally closed pursuant to a Road Closing Petition.
7. A formal Landscape Plan is not required to be filed. However, Petitioner shall plant and continue to maintain while under its ownership, bushes, shrubs and/or other landscaping in the two (2) grass areas fronting along Pulaski Highway, which, in the Petitioner's discretion, can reasonable fit within those areas.
8. No temporary banners, signs or advertising flags shall be permitted on the subject property.

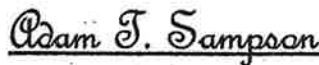
9. Any change to the principal use of the Property will require Petitioner to submit a revised site plan and be subject to a public hearing before the Administrative Law Judge.

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

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Deborah C. Dopkin, Panel Chair


Fred M. Lauer


Adam T. Sampson



Board of Appeals of Baltimore County

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

February 7, 2023

Russ Mirabile, President
Rosedale Community Association
7932 Oakdale Avenue
Rosedale, Maryland 21237

C. Edward Hartman, Esquire
116 Defense Highway, Suite 300
Annapolis, Maryland 21041

RE: In the Matter of: *Fazal, LLC* – Legal Owner
Case No.: 21-201-SPHA

Dear Mr. Mirabile and Mr. Hartman:

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Qaisar Shahzad, President/Fazal, LLC
James Earlbeck
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

IN THE MATTER OF
FAZAL, LLC AND QAISAR SHAHZAD,
PRESIDENT AND PETITIONERS FOR
SPECIAL HEARING AND VARIANCE ON
THE PROPERTY LOCATED AT
8202 PULASKI HIGHWAY

15th ELECTION DISTRICT
7th COUNCIL DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 21-201-SPHA

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County on appeal filed by the Rosedale Community Association of an Opinion and Order of the Administrative Law Judge (“ALJ”) dated November 15, 2021, wherein a Petition for Special Hearing to amend the Opinion and Order in Case No. 2019-0171-XA to permit the repair and sale of vehicles purchased by Petitioner, and a Petition for Variance to permit a zero ft. setback from the rear and side property lines for an 18 ft. high building additions, were granted subject to conditions.

The Board conducted two days of a *de novo* hearing on March 16 and October 26, 2022. A public deliberation was held on December 22, 2022. Both the hearing and deliberation were held virtually as provided by the Board’s Rules of Practice and Procedure.

Petitioner, Fazal, LLC, (“Fazal”) was represented by C. Edward Hartman, Esquire and Nicholas L. Ketterer, Esquire of Hartman Attorneys at Law. Also appearing for Petitioner was Bruce Doak, a licensed surveyor, who qualified as an expert in Baltimore County zoning and subdivision matters. Appearing for Protestant, Rosedale Community Association was its President, Russell Mirabile. Also appearing for Protestant was Steven Broyles a licensed surveyor and engineer, who qualified as an expert.

Both parties introduced numerous exhibits, including photographs, and had witnesses who owned nearby property testify in their respective cases.

FACTUAL BACKGROUND

The Property is approximately 0.396 acres +/- and is improved with a commercial, one-story block building of 1,600 square feet, in which a used automobile sales business is located, as was approved in Case. No. 2019-171-XA. The Property is zoned Business, Roadside – Automotive, Service (BR-AS). The business currently only sells vehicles, but performs no repairs on site. The stretch of Pulaski Highway is improved by other commercial and industrial uses, the nearest being a golf cart sales and repair business, an equipment supply and repair business, and liquor store.

Fazal's first witness was Bruce Doak. Mr. Doak testified that he prepared the plans and petition in the subject case. The Property is improved by a one-story block building, formerly used as a fast food restaurant, but now used for car sales, as is permitted in the zone and under the prior zoning case. The rear portion of the site is fenced. We note that Case No. 2019-0171-XA established the uniqueness of the site and improvements. Under that case, Fazal is permitted to have up to 50 cars for sale on the site, together with customer and employee parking. Under the current request, the number of cars for sale would be limited to no more than 30, together with associated parking. The building addition would be used to repair and service vehicles prior to sale.

Mr. Doak testified that though the property deed calls to the centerline of the alley (also known as Batavia Farm Road) as the property line, Fazal has agreed to leave that roadway open and relocate the fence away from the property line to allow unrestricted use of the road in common with others.

Pulaski Highway in the vicinity of the site is a four lane divided highway. There are no significant residential uses and the area is heavily commercial and industrial in nature. There is a traffic signal at the intersection of Pulaski Highway and Batavia Farm Road. To the extent there is any residential use in the area, a group of mobile homes are located on Batavia Farm Road behind the businesses that flank the rear of the Property. No one appeared at the hearing from those residences.

The proposal would extend two sides of the existing building by an L-shaped addition extending to the rear property line on the north and to the east property line on the side. The addition would be 18' high to accommodate a lift for vehicle repairs.

Upon cross-examination by Mr. Mirabile, Mr. Doak explained that the Property shares an address with its neighbor to the east and that the Petitioner would relocate the fence within ninety days of a final approval.

Mr. Mirabile led the Protestant's case, calling several witnesses, including Steve Broyles, a licensed engineer who was accepted as an expert. Mr. Mirabile also testified as President of the Rosedale Community Association, having presented the requisite Rule 8 submission. He put forth several issues: inadequate posting, errors in the site plan, lack of uniqueness, self-created hardship, and failure to meet the special exception criteria of BCZR §502.1, and a concern that the site would take on the appearance of a junk yard.

Mr. Mirabile called Paul King of King's Liquors, located at 8226 Pulaski Highway. Mr. King raised concerns regarding the appearance of the site and the need for grass to be mowed. Also testifying in opposition was James Earlbeck who owns the property at 8204 Pulaski Highway immediately to the rear of the subject site. Mr. Earlbeck explained that his business is not an auto repair business, but one that does metal working and that he provides parts and

distribution for industry of compressed cryogenic gas and hazardous materials for industrial customers. He raised safety concerns and concerns over ingress and egress along Batavia Farm Road to his property. He also is concerned that the site will become a junkyard.

Mr. Mirabile then called Steve Broyles. Mr. Broyles testified to a number of issues where the site plan did not provide the detail enumerated in the zoning office checklist. Most concerning of these is the omission on the site plan of the location of high voltage power lines at the rear of the Property and appropriate setbacks from these. Other technical issues raised by Mr. Broyles included how parking was calculated and shown. Mr. Broyles also questioned the uniqueness of the Property.

Mr. Mirabile also called Qaisar Shahzad, President of Fazal, LLC to testify regarding his use of the site. Mr. Shahzad stated that he only sells cars from the Property, but has to transport them off-site if repairs are needed prior to sale. He wishes to be able to make those repairs at the site.

Mr. Mirabile re-called Mr. Doak to question him about Mr. Broyles' testimony. Mr. Doak distinguished the checklist issues raised by Mr. Broyles as guidelines rather than legal requirements. Further, Mr. Doak noted that Case No. 2019-0171-XA, addressed other issues raised by Mr. Broyles. More significantly, Mr. Doak addressed the issue regarding setbacks from the power lines as one that would be looked at by BGE and Baltimore County prior to permits being issued, rather than at the zoning approval stage, and that the approval process has many steps, including utility review, building design, D.R.C. (subdivision approval), final site plan review and submission of permit plans. At any stage, a negative comment would require Petitioner to modify the site design.

APPLICABLE LAW

Baltimore County Zoning Regulations

§ 101 Definitions: GARAGE, SERVICE — A garage, other than a residential garage, where motor-driven vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale.

§ 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.

§ 500.7. - Petitions for public hearing; notice.

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 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.

A Special Hearing Petition is effectively a request for declaratory judgment. BCZR § 500.7, *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005). While the BCZR provides no specific criteria for the granting of a Petition for Special Hearing, “the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing relief requested would be compatible with the community and generally consistent with the spirit and intent of the regulations.” *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. Ct. Spec. App. (Sept. Term 2016). The Petitioner bears the burden of presenting evidence on which the Board can assess whether a zoning request pursuant to the BCZR may be approved.

DISCUSSION

The Board finds that the Petition for Special Hearing and Variance should be granted. The Board also finds that the relief requested is compatible with the community and consistent with the spirit and intent of the Baltimore County Zoning Regulations.

The use of a used car facility is permitted in the B.R.-A.S. zone by Special Exception, which was granted in Case No. 2019-0171-XA. As noted in that case, there are unsightly aspects to the use and inherently detrimental impacts associated with the use is not a basis for denial. This remains true today. In the 2019 case, the ALJ also found the existence and physical location of the building are characteristics of the Property that are unique and consistent with the language of B.C.Z.R. § 307.1. We note that Fazal, LLC has adapted an abandoned building and site to a use that is presumptively correct and similar in character to nearby and adjoining uses.

Fazal proposes to reduce the number of cars stored outside from 50 to 30, thus mitigating an acknowledged inherently detrimental impact. Mr. Shahzad testified that the

addition would allow him to make repairs to cars to be sold from this location, so he would not have to transport vehicles to other facilities for repair as he currently must. We note that a service garage is a use permitted by right in the Business-Major (B.M.) zone under BCZR, §233.1, and therefore under BCZR, §236.1.A, is permitted by right on this Property. Indeed, the Automotive Service District Overlay provides BCZR, §259.2.B is applied to "certain parcels of land zoned B.L., B.M. or B.R., which are appropriate for uses dominated by the parking and servicing of automobiles or characterized by frequent parking turnover..." To avoid the Property's principal use becoming a service garage, we will impose a condition limiting the servicing of vehicles to only those being offered for sale. Mr. Shahzad testified that he would service only those cars being offered for sale, and would not be changing the principal use of the Property.

As to the allegation of the adequacy of the notice, the attendance of Protestants at the hearing below and before this Board attests to the sufficiency of the notice. We concur with dicta in *Cassidy v. County Board of Appeals*, 218 Md. 418 (1958) to the effect that the lack of notice is waived by a party's appearance and participation in the proceedings. Protestants did have notice, and then requested a postponement of the original hearing from the date posted. When that postponement was granted, Protestants then complained that the sign did not reflect the re-scheduled hearing date. It is difficult to find that the signage was inadequate when it was the Protestants who initiated a postponement (based on the date on the sign), and that the date changed as a result of their request.

In regard to Batavia Farm Road, the Petitioner has moved the eight foot high chain-link fence from Batavia Farm Road so that the travel way remains unobstructed and used in

common by all properties adjoining the road, despite the fact that the property line runs to the center line of the road.

The site plan that accompanied the Petitions may not have ticked all the boxes of technical details on the Office of Zoning checklist, but there is no question that the plan sufficiently illustrates what use is intended and where it is intended to occur.

As to the serious issue of the proximity of the building addition to the power lines, BGE will weigh in on the issue as the applicant moves through the approval and permit process.

The Board notes the concerns regarding the Property's appearance raised by Protestants and comments offered by the Department of Planning and will address these by adopting the conditions imposed by the ALJ.

CONCLUSION

For the reasons discussed herein, the Board of Appeals approves the proposed building addition at 8202 Pulaski Highway.

ORDER

THEREFORE, IT IS this 7th day of February, 2023, by the Board of Appeals for Baltimore County

ORDERED, that the Petition for Special Hearing from BCZR § 500.7 to amend Case No. 2019- 0171-XA is hereby **GRANTED** as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner; and it is further

ORDERED, that the Variance from BCZR § 238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks is hereby **GRANTED**.

The relief granted herein shall be subject to the following conditions:

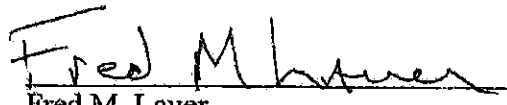
1. Only damaged, disabled and/or inoperative vehicles being offered for sale may be repaired at the Property;
2. All damaged, disabled and/or inoperative vehicles shall be parked and repaired inside the proposed addition until such vehicles are in operable and saleable condition at which point they may be parked on the outdoor sales area.
3. Petitioner may not display, park and/or store more than 30 vehicles at any one time, whether for sale or repair.
4. Petitioner shall stripe all customer and employee parking spaces pursuant to BCZR §409.
5. Within 15 days of the date hereof, Petitioner shall submit to Baltimore County a redlined site plan indicating where on the Property vehicle inventory will be displayed and the location of all customer and employee parking.
6. Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Road or in any manner obstruct or close off Batavia Farm Road until such paper road, or portion of paper road abutting the Property, is legally closed pursuant to a Road Closing Petition.
7. A formal Landscape Plan is not required to be filed. However, Petitioner shall plant and continue to maintain while under its ownership, bushes, shrubs and/or other landscaping in the two (2) grass areas fronting along Pulaski Highway, which, in the Petitioner's discretion, can reasonable fit within those areas.
8. No temporary banners, signs or advertising flags shall be permitted on the subject property.

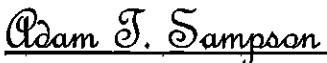
9. Any change to the principal use of the Property will require Petitioner to submit a revised site plan and be subject to a public hearing before the Administrative Law Judge.

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

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Deborah C. Dopkin, Panel Chair


Fred M. Lauer


Adam T. Sampson



Board of Appeals of Baltimore County

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

November 29, 2022

NOTICE OF DELIBERATION

IN THE MATTER OF:

21-201-SPHA

Fazal, LLC – LO
Qaisar Shahzad, President
8202 Pulaski Highway
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA; and

Variance relief from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

11/15/21 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing from BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA was GRANTED in accordance with a Redlined Site Plan as conditioned, to permit the repair and sale of vehicles purchased by the Petitioner; and the Variance from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks was GRANTED, with conditions..

This matter having been heard March 16, 2022 and concluded on October 26, 2022, a public deliberation has been

ASSIGNED FOR: DECEMBER 22, 2022, AT 9:00 A.M.

The above scheduled public deliberation will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the public deliberation will be posted on our web calendar the night before at www.baltimorecountymd.gov/departments/appeals.html.**

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER DELIBERATION AND A COPY SENT TO ALL PARTIES.

NOTE: Closing briefs were due on November 28, 2022 no later than 3:00 p.m.

**(Electronic copy emailed to:
appealsboard@baltimorecountymd.gov)**

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled deliberation.

Krysundra Cannington, Administrator

c. Counsel for Legal Owner/Petitioner
Legal Owner/Petitioners

: C. Edward Hartman, Esquire
: Fazal, LLC/Qaisar Shahzad, President

Protestants, *pro se*

: Rosedale Community Association
Russell Mirabile, President

Bruce E. Doak/Bruce E. Doak Consulting
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

IN THE MATTER OF:

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 21-201-SPHA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on October 26, 2022, at 10:00 a.m. a.m./p.m. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

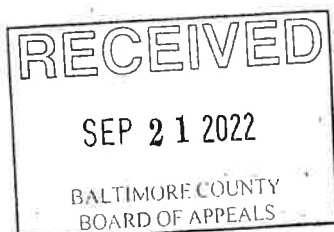
The above scheduled hearing will be held remotely using WebEx for audio and video participation. Call-in information and a link to the hearing will be posted the night before on the Board of Appeals calendar found at www.baltimorecountymd.gov/Agencies/appeals/index.html. If you do not have access to a computer or smart device, please contact the Board of Appeals at 410-887-3180 for the call-in information the day before the scheduled hearing.

Witness: Qaisar Shahzad, President, Fazal, LLC
Address: 9243 Bellbeck Road
Parkville, MD 21234

Requested by:

Name: Russ Mirabile, President, Rosedale Community Assn.
Firm: P.O. Box 70285
Address: Rosedale, MD 21237

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (☒) Private Process Server, to issue the summons set forth herein.



Sunny Cannington
Board of Appeals for Baltimore County

IN THE MATTER OF:

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 21-201-SPHA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on October 26, 2022, at 10:00 a.m. a.m./p.m. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

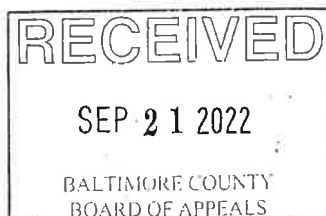
The above scheduled hearing will be held remotely using WebEx for audio and video participation. Call-in information and a link to the hearing will be posted the night before on the Board of Appeals calendar found at www.baltimorecountymd.gov/Agencies/appeals/index.html. If you do not have access to a computer or smart device, please contact the Board of Appeals at 410-887-3180 for the call-in information the day before the scheduled hearing.

Witness: Bruce Doak t/a Bruce E. Doak Consulting
Address: 3801 Baker Schoolhouse Road
Freeland, MD 21053

Requested by:

Name: Russ Mirabile, President, Rosedale Community Assn.
Firm: P.O. Box 70285
Address: Rosedale, MD 21237

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (☒) Private Process Server, to issue the summons set forth herein.



Sunny Cunningham
Board of Appeals for Baltimore County



P.O. Box 70285, Rosedale, Maryland 21237

In the Matter of :
Fazal, LLC
8202 Pulaski Hwy
Rosedale, MD 21237

Case # 21-201 SPHA
15th Election District
7th Council District



September 15, 2022

Dear Attorney Hartman,

In the best interest of all parties and to avoid further litigation with the Board of Appeals of Baltimore County, Maryland, Circuit Court and Annapolis, I am contacting you to find out if your client, Qaisar Shahzad, would be interested in an attempt to resolve the matter mentioned above.

Please inform me by Tuesday, September 20, 2022.

Thank You,

Russ Mirabile
President, Rosedale Community Assn.
443-846-5399
7932 Oakdale Ave.
Rosedale, MD 21237
(no email)

cc (via email only)

C. Edward Hartman, Esquire (edward@hartman.law
Qaisar Shahzad, President/Fazal, LLC (ringotowing1@gmail.com)
Appeals Board (appealsboard@baltimorecountymd.gov)

Board of Appeals of Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204



Board of Appeals of Baltimore County

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

September 12, 2022

NOTICE OF ASSIGNMENT – DAY 2

IN THE MATTER OF: Fazal, LLC – LO
Qaisar Shahzad, President
21-201-SPHA 8202 Pulaski Highway
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA; and

Variance relief from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

11/15/21 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing from BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA was GRANTED in accordance with a Redlined Site Plan as conditioned, to permit the repair and sale of vehicles purchased by the Petitioner; and the Variance from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks was GRANTED, with conditions.

The Board convened for hearing in this matter on March 16, 2022. The Board held a public deliberation and granted a request for continuance requested by Protestant. This matter has been

ASSIGNED FOR: OCTOBER 26, 2022, AT 10:00 A.M. – Day 2

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/departments/appeals the night before.**

A complete set of **exhibits must be emailed** at least **48 hours before the hearing** to **appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.

Notice of Assignment – Day 2
In the matter of: Fazal, LLC – LO
Case number: 21-201-SPHA
September 12, 2022
Page 2

- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c.	Counsel for Legal Owner/Petitioner	: C. Edward Hartman, Esquire
	Legal Owner/Petitioners	: Fazal, LLC/Qaisar Shahzad, President
	Protestants, <i>pro se</i>	: Rosedale Community Association
		Russell Mirabile, President

Bruce E. Doak/Bruce E. Doak Consulting
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law



P.O. Box 70285, Rosedale, Maryland 21237

In the Matter of :
Fazal, LLC
8202 Pulaski Hwy
Rosedale, MD 21237

Case # 21-201 SPHA
15th Election District
7th Council District

August 30, 2022

Baltimore County Board of Appeals
105 West Chesapeake Ave. Suite 203
Towson, MD 21204

Attn: Krysundra Carrington, Administrator
C. Edward Hadman, Esquire



Yesterday, August 31, 2022, I notified all as to "starter or whatever" dates. The submitted dates are all tentative dates.

Due to the Labor Day weekend "tizzy", I have not been able to contact all of my witnesses.

I just want to clarify the mentioned dates. I am positive we all can find agreeable dates.

Thank you all, again for your cooperation,

Russ Mirabile
President, Rosedale Community Assn.

cc (via email only)

C. Edward Hartman, Esquire (edward@hartman.law)
Qaisar Shahzad, President/Fazal, LLC (ringotowing1@gmail.com)
Bruce Doak/Bruce Doak Consulting (bdoak@bruceedoakconsulting.com)
Steve Broyles (stevenkbroyles@gmail.com)
Appeals Board (appealsboard@baltimorecountymd.gov)



Board of Appeals of Baltimore County

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

May 25, 2022

Russell Mirabile, President
Rosedale Community Association
P.O. Box 70285
Rosedale, MD 21237
BY PICK UP ONLY

Re: In the matter of: Fazal, LLC
Case No: 21-201-SPHA

Dear Mr. Mirabile:

The Board has agreed to grant your request for postponement of the hearing on May 31, 2022. Enclosed please find the Postponement Notice.

The Board will not grant this postponement indefinitely. Therefore we ask for specific dates when Mr. Broyles will be available for rescheduling of this matter. You may have Mr. Broyles contact me directly with regard to rescheduling this matter. If Mr. Broyles is unable to provide possible dates for rescheduling, the Board has suggested that you may want to look for an alternate witness.

I kindly request your and Mr. Broyles's availability no later than June 3, 2022 so that I may coordinate with Mr. Doak and Mr. Hartman to reschedule this matter.

Sincerely,

A handwritten signature in black ink that reads "Sunny Cannington". The signature is written in a cursive, flowing style.

Krysundra Cannington
Administrator

Enclosure

cc (via email only):

C. Edward Hartman, Esquire (edward@hartman.law)
Qaisar Shahzad, President/Fazal, LLC (ringotowing1@gmail.com)
Bruce Doak/Bruce Doak Consulting (bdoak@bruceedoakconsulting.com)



Board of Appeals of Baltimore County

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

May 25, 2022

NOTICE OF POSTPONEMENT

IN THE MATTER OF: Fazal, LLC – LO
Qaisar Shahzad, President
21-201-SPHA 8202 Pulaski Highway
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA; and

Variance relief from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

11/15/21 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing from BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA was GRANTED in accordance with a Redlined Site Plan as conditioned, to permit the repair and sale of vehicles purchased by the Petitioner; and the Variance from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks was GRANTED, with conditions.

This matter was assigned for hearing on May 31, 2022, at 10:00 a.m. and has been postponed by request of the parties. This matter will be reassigned to a later date.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

Notice of Postponement
In the matter of: Fazal, LLC – LO
Case number: 21-201-SPHA
May 25, 2022
Page 2

c. Counsel for Legal Owner/Petitioner
Legal Owner/Petitioners

: C. Edward Hartman, Esquire
: Fazal, LLC/Qaisar Shahzad, President

Protestants, *pro se*

: Rosedale Community Association
Russell Mirabile, President

Bruce E. Doak/Bruce E. Doak Consulting
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law



P.O. Box 70285, Rosedale, Maryland 21237

To: AppealsBoard@BaltimoreCountyMd.gov

May 23, 2022

I received a phone call from my expert witness, Steve Broyles, on Sunday evening, May 22, 2022. He advised me that he was released from GBMC Hospital on Saturday, May 21, 2022 and he was still very weak after being hospitalized for over a week.

He also stated that he will have to resume chemo treatments starting May 31, 2022 at GBMC, thus he will not be able to attend the May 31st hearing.

If the Board wants a Doctor's or Medical report, he is willing to accomodate any requests. Subsequently, I am requesting a postponement of the May 31, 2022 Hearing. I need his work product and testimony.

If need be, please contact me at 443-846-5399. No e-mail please. I will keep the Board apprised.

(This memo is sent by a commercial business for sending only, not to receive information for me.)

Thank you,

Russ Mirabile
Rosedale Community Association

cc: Steven K. Broyles

In the
BOARD OF APPEALS OF BALTIMORE COUNTY

**IN THE MATTER OF
QAISAR SHAHZAD, PRESIDENT OF 7A2AI, LLC**

Trial Date: 05/31/22 10:00 AM

Case Number: 21-201-SPHA

Affidavit of Service

The undersigned hereby certifies as follows:

1. That I am a competent individual over eighteen (18) years of age and not a party to the above action.
2. That on **04/27/22 07:41 AM**, I served *Subpoena* upon **QAISAR SHAHZAD, PRESIDENT OF 7A2AI, LLC**, by **personal service**, description as follows:

Race	Sex	Age	Hair	Height	Weight
Middle Eastern	Male	50 - 54	Mixed	5ft 6in - 5ft 9in	166 - 180 lbs

3. That service was effected at his/her usual place of abode located at 9243 Bellbeck Road Parkville, MD 21234.
4. That the facts, upon which I concluded that the individual served is of suitable age and discretion, are personal observation and the recipient's statement.
5. That, in accordance with MD Rule 20-201(f), this affidavit does not contain any restricted information.

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information, and belief.



Stephen Folcher, Agent For
Monumental Process Servers, Inc.
823 M. L. K. Jr. Blvd.
Baltimore, MD 21201
Monumentalpsphotos@gmail.com
(410) 523-4980
Process Server Cost: 100.00
MPS File Number: 2204250205013
Client File Number:



IN THE MATTER OF:

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 21-201-SPHA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on May 31, 2022, at 10:00 a.m./p.m. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

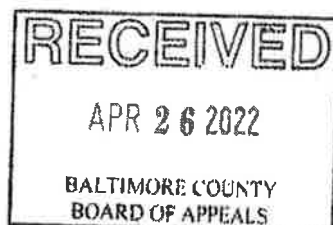
The above scheduled hearing will be held remotely using WebEx for audio and video participation. Call-in information and a link to the hearing will be posted the night before on the Board of Appeals calendar found at www.baltimorecountymd.gov/Agencies/appeals/index.html. If you do not have access to a computer or smart device, please contact the Board of Appeals at 410-887-3180 for the call-in information the day before the scheduled hearing.

Witness: Qaisar Shahzad, President, Fazal, LLC
Address: 9243 Bellbeck Road
Parkville, MD 21234

Requested by:

Name: Russ Mirabile, President, Rosedale Community Association
Firm: P.O. Box 70285
Address: Rosedale, MD 21237

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (☒) Private Process Server, to issue the summons set forth herein.



Samir A. Zaher
Board of Appeals for Baltimore County

In the
BOARD OF APPEALS OF BALTIMORE COUNTY

**IN THE MATTER OF
BRUCE DOAK T/A BRUCE E DOAK CONSULTING**

Trial Date: 05/31/22 10:00 AM

Case Number: 21-201-SPHA

Affidavit of Service

The undersigned hereby certifies as follows:

1. That I am a competent individual over eighteen (18) years of age and not a party to the above action.
2. That on **04/27/22 07:50 PM**, I served *Subpoena* upon **BRUCE DOAK T/A BRUCE E DOAK CONSULTING**, by **personal service**, description as follows:

Race	Sex	Age	Hair	Height	Weight
White	Male	60 - 64	Brown	5ft 6in - 5ft 9in	166 - 180 lbs

3. That service was effected at his/her usual place of abode located at 3801 Baker Schoolhouse Road Freeland, MD 21053.
4. That the facts, upon which I concluded that the individual served is of suitable age and discretion, are personal observation and the recipient's statement.
5. That, in accordance with MD Rule 20-201(f), this affidavit does not contain any restricted information.

I do solemnly declare and affirm under the penalties of perjury that the matters and facts set forth herein are true to the best of my knowledge, information, and belief.



R. Duff

Roland Duff, Agent For
Monumental Process Servers, Inc.
823 M. L. K. Jr. Blvd.
Baltimore, MD 21201
Monumentalpsphotos@gmail.com
(410) 523-4980
Process Server Cost: 100.00
MPS File Number: 2204250205012
Client File Number:



IN THE MATTER OF:

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 21-201-SPHA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on May 31, 2022, at 10:00 a.m./p.m. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

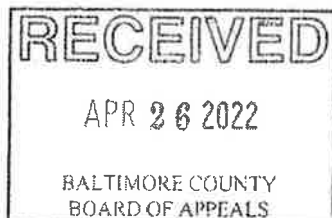
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Witness: Qaisar Shahzad, President, Fazal, LLC
Address: 9243 Bellbeck Road
Parkville, MD 21234

Requested by:

Name: Russ Mirabile, President, Rosedale Community Association
Firm: P.O. Box 70285
Address: Rosedale, MD 21237

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (X) Private Process Server, to issue the summons set forth herein.



Johnny D. Johnson
Board of Appeals for Baltimore County

IN THE MATTER OF:

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 21-201-SPHA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on May 31, 2022, at 10:00 a.m./p.m. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. Call-in information and a link to the hearing will be posted the night before on the Board of Appeals calendar found at www.baltimorecountymd.gov/Agencies/appeals/index.html. If you do not have access to a computer or smart device, please contact the Board of Appeals at 410-887-3180 for the call-in information the day before the scheduled hearing.

Witness: Qaisar Shahzad, President, Fazal, LLC
Address: 9243 Bellbeck Road
Parkville, MD 21234

Requested by:

Name: Russ Mirabile, President, Rosedale Community Association
Firm: P.O. Box 70285
Address: Rosedale, MD 21237

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (X) Private Process Server, to issue the summons set forth herein.



Sammy A. Zahner
Board of Appeals for Baltimore County

IN THE MATTER OF:

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 21-201-SPHA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on May 31, 2022, at 10:00 (a.m.)/p.m. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. Call-in information and a link to the hearing will be posted the night before on the Board of Appeals calendar found at www.baltimorecountymd.gov/Agencies/appeals/index.html. If you do not have access to a computer or smart device, please contact the Board of Appeals at 410-887-3180 for the call-in information the day before the scheduled hearing.

Witness: Bruce Doak t/a Bruce E. Doak Consulting

Address: 3801 Baker Schoolhouse Road

Freeland, MD 21053

Requested by:

Name: Russ Mirabile, President, Rosedale Community Association

Firm: P.O. Box 70285

Address: Rosedale, MD 21237

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (☒) Private Process Server, to issue the summons set forth herein.



Sammy A. Zaher
Board of Appeals for Baltimore County

IN THE MATTER OF:

* BEFORE THE

* BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO.: 21-201-5PHA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on MAY 31, 2022, at 10:00 a.m./p.m. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. Call-in information and a link to the hearing will be posted the night before on the Board of Appeals calendar found at www.baltimorecountymd.gov/Agencies/appeals/index.html. If you do not have access to a computer or smart device, please contact the Board of Appeals at 410-887-3180 for the call-in information the day before the scheduled hearing.

Witness: BRUCE DOAK T/A BRUCE E. DOAK Consulting
Address: 3801 BAKER Schoolhouse Road.
FreeLard, Md. 21053

Requested by:

Name: ROSS Mirabile Pres, Rosedale Community Association
102
~~Firm:~~ P.O. Box 70285
Address: OR# 7932 OAKDALE AVE
Rosedale, Md 21237

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (☒) Private Process Server, to issue the summons set forth herein.



Sunny Carrington
Board of Appeals for Baltimore County

IN THE MATTER OF:

* BEFORE THE

* BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO.: 21-201-SPHA

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on MAY 31, 2022, at 10:00 (a.m.) p.m. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. Call-in information and a link to the hearing will be posted the night before on the Board of Appeals calendar found at www.baltimorecountymd.gov/Agencies/appeals/index.html. If you do not have access to a computer or smart device, please contact the Board of Appeals at 410-887-3180 for the call-in information the day before the scheduled hearing.

Witness: QAISAR SHAHZAD, Pres. FAZAI, LLC

Address: 9243 Bellbeck Road
PARKVILLE, MD 21234

Requested by:

Name: ROSS MIRABILE, Pres. Rosedale Community Associa +100

~~Firm:~~ P.O. Box 70285

Address: OR: 1932 OAKDALE Ave.
Rosedale, Md 21237

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests () the Sheriff, (X) Private Process Server, to issue the summons set forth herein.



Sunny Cunningham
Board of Appeals for Baltimore County



Board of Appeals of Baltimore County

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

April 11, 2022

NOTICE OF ASSIGNMENT – DAY 2

IN THE MATTER OF: Fazal, LLC – LO
Qaisar Shahzad, President
21-201-SPHA 8202 Pulaski Highway
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA; and

Variance relief from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

11/15/21 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing from BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA was GRANTED in accordance with a Redlined Site Plan as conditioned, to permit the repair and sale of vehicles purchased by the Petitioner; and the Variance from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks was GRANTED, with conditions.

ASSIGNED FOR: **MAY 31, 2022, AT 10:00 A.M.**

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/departments/appeals the night before.**

A complete set of **exhibits must be emailed at least 48 hours before the hearing to appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

Notice of Assignment – Day 2
In the matter of: Fazal, LLC – LO
Case number: 21-201-SPHA
April 11, 2022
Page 2

- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c. Counsel for Legal Owner/Petitioner
Legal Owner/Petitioners

: C. Edward Hartman, Esquire
: Fazal, LLC/Qaisar Shahzad, President

Protestants, *pro se*

: Rosedale Community Association
Russell Mirabile, President

Bruce E. Doak/Bruce E. Doak Consulting
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

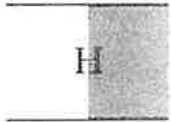
Krysundra Cannington

From: Edward Hartman IV <edward@hartman.law>
Sent: Wednesday, April 6, 2022 1:42 PM
To: Bruce Doak; Krysundra Cannington
Cc: russell3947@gmail.com
Subject: RE: Fazal, LLC 21-201-SPHA

CAUTION: This message from edward@hartman.law originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

I am available for May 5, 17, 26, and 31.

Thank you,
Edward Hartman IV



C. EDWARD HARTMAN, IV
HARTMAN
ATTORNEYS AT LAW

Edward@Hartman.law; Phone: (410)266-3232; Fax: (410)266-5561

From: Bruce Doak <bdoak@bruceedoakconsulting.com>
Sent: Wednesday, April 6, 2022 12:43 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Edward Hartman IV <edward@hartman.law>; russell3947@gmail.com
Subject: Re: Fazal, LLC 21-201-SPHA

I am available the following dates for the 2nd day:

May 5, 17, 26, 31, June 1 & 9.

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

4/8/22 9:39am
Spoke with Russ Mirabile

5/31 OK
5/5 probably not

Received message from Mirabile - no 5/5
9:56am 4/8/22 - says he didn't get email

On Apr 6, 2022, at 12:37 PM

Good afternoon,

In an effort to schedule a Day 2 in the above referenced Fazal, LLC 21-201-SPHA, I offer the following dates: May 5, 17, 19, 26, 31, June 1, 9, 2022. I have offered these same dates to the panel. I kindly request that you let me know all the dates that work for you so I can coordinate everyone's schedules.

Thank you,

Krysundra Cannington

From: Bruce Doak <bdoak@bruceedoakconsulting.com>
Sent: Wednesday, April 6, 2022 12:43 PM
To: Krysundra Cannington
Cc: edward@hartman.law; russell3947@gmail.com
Subject: Re: Fazal, LLC 21-201-SPHA

CAUTION: This message from bdoak@bruceedoakconsulting.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

I am available the following dates for the 2nd day:

May 5, 17, 26, 31, June 1 & 9.

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

On Apr 6, 2022, at 12:37 PM, Krysundra Cannington <kcannington@baltimorecountymd.gov> wrote:

Good afternoon,

In an effort to schedule a Day 2 in the above referenced Fazal, LLC 21-201-SPHA, I offer the following dates: May 5, 17, 19, 26, 31, June 1, 9, 2022. I have offered these same dates to the panel. I kindly request that you let me know all the dates that work for you so I can coordinate everyone's schedules.

Thank you,

Sunny

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
Phone: (410) 887-3180
Fax: (410) 887-3182

Confidentiality Statement



P.O. Box 70285, Rosedale, Maryland 21237

March 16, 2022

Baltimore County Board of Appeals
Jefferson Building, Suite 203
105 N. Chesapeake Ave.
Towson, MD 21204



Reference: 8202 Pulaski Highway
Rosedale, MD 21237

Members: Chair Judge Deborah Dopkin, Judge Adam Sampson, Judge Fred Lauer, et al

I would like to thank each of you for your patience with me at the March 16, 2022 virtual hearing.

As I explained, I was not aware of the exhibit computer process & procedures. I was caught up at the moment and off guard at the virtual procedures for exhibit(s), Introductions for Pandemic purposes. After the "dust settled" I am convinced that the virtual Hearings are the best method for all, especially for witnesses. There is no reason for the Board to change or revert back to the "dinosaur age" for the Board's process.

I, and others will have to "catch up" to the present/future of the computer process.

I will abide by the requirement of Title 8.

Respectfully,

Russ Mirabile
President, Rosedale Community Association

7932 Oakdale Ave
Rosedale, MD 21237

P.O. Box 70285
Rosedale, MD 21237



P.O. Box 70285, Rosedale, Maryland 21237

March 16, 2022

Baltimore County Board of Appeals
Jefferson Building, Suite 203
105 N. Chesapeake Ave.
Towson, MD 21204



Reference: 8202 Pulaski Highway
Rosedale, MD 21237

Members: Chair Judge Deborah Dopkin, Judge Adam Sampson, Judge Fred Lauer, et al

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I, and others will have to "catch up" to the present/future of the computer process.

I will abide by the requirement of Title 8.

Respectfully,

Russ Mirabile
President, Rosedale Community Association

7932 Oakdale Ave
Rosedale, MD 21237

P.O. Box 70285
Rosedale, MD 21237



P.O. Box 70285, Rosedale, Maryland 21237

March 16, 2022

Baltimore County Board of Appeals
Jefferson Building, Suite 203
105 N. Chesapeake Ave.
Towson, MD 21204



Reference: 8202 Pulaski Highway
Rosedale, MD 21237

Members: Chair Judge Deborah Dopkin, Judge Adam Sampson, Judge Fred Lauer, et al

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I, and others will have to "catch up" to the present/future of the computer process.

I will abide by the requirement of Title 8.

Respectfully,

Russ Mirabile
President, Rosedale Community Association

7932 Oakdale Ave
Rosedale, MD 21237



Board of Appeals of Baltimore County

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

January 6, 2022

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Fazal, LLC – LO
Qaisar Shahzad, President
21-201-SPHA 8202 Pulaski Highway
15th Election District; 7th Council District

Re: Petition for Special Hearing pursuant to BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA; and

Variance relief from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

11/15/21 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing from BCZR §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA was GRANTED in accordance with a Redlined Site Plan as conditioned, to permit the repair and sale of vehicles purchased by the Petitioner; and the Variance from BCZR §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks was GRANTED, with conditions.

ASSIGNED FOR: **MARCH 16, 2022, AT 10:00 A.M.**

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/departments/appeals the night before.**

A complete set of **exhibits must be emailed at least 48 hours before the hearing to appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

Notice of Assignment
In the matter of: Fazal, LLC – LO
Case number: 21-201-SPHA
January 6, 2022
Page 2

- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you require special accommodations, please contact this office at least one week prior to hearing date.

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c.	Counsel for Legal Owner/Petitioner	: C. Edward Hartman, Esquire
	Legal Owner/Petitioners	: Fazal, LLC/Qaisar Shahzad, President
	Protestants, <i>pro se</i>	: Rosedale Community Association
		Russell Mirabile, President

Bruce E. Doak/Bruce E. Doak Consulting
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

December 14, 2021

C. Edward Hartman, Esquire – edward@hartman.law
116 Defense Highway, Suite 300
Annapolis, MD 21041

RE: **APPEAL TO BOARD OF APPEALS**
Petitions for Special Hearing & Variance
Case No. 2021-0201-SPHA
Property: 8202 Pulaski Highway



Dear Mr. Hartman:

Please be advised that an appeal of the above-referenced case was filed in this Office on December 14, 2021. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm
Enclosure

c: Baltimore County Board of Appeals
People's Counsel
Qaisar Shahzad – President of Fazal, LLC – ringotowing1@gmail.com
Bruce E. Doak – bdoak@bruceedoakconsulting.com
Russ Mirabile, Rosedale Community Assoc. – P.O. Box 70285, Rosedale, MD 21237

APPEAL

Petitions for Special Hearing and Variance
Case No.: 2020-0201-SPHA
8202 Pulaski Highway
15th Election District, 2nd Council District

Petitions for Special Hearing and Variance – 7/12/21

Zoning Description of Property (1 page)

Notice of Zoning Hearing – 9/15/2021

Certification of Publication – *The Daily Record* newspaper - published on September 24, 2021

Certification of Posting by Bruce E. Doak – September 23, 2021 and November 3, 2021

Entry of Appearance by People's Counsel – 7/20/21

Attendance/Panelist List (5- sheets)

Zoning Advisory Committee Comments: Department of Planning – 10/6/21

State Highway Administration – 8/12/2021

Department of Environmental Protection and Sustainability – 7/22/21

Bureau of Development Plans Review – 8/25/21

Petitioner's Exhibits: (Bruce Doak)

1. Plan
2. SDAT Report
3. GIS
4. GIS Photo
5. Boundary Survey Plan
6. Photos Key Sheet – Photos A-N
7. Adjoining neighbor of support
8. Aerial Photograph marked
9. Boundary Survey Plan
10. 10A & 10B – Street View Photographs
11. GIS
12. Deed – 3/6/18
13. Deed – 10/4/2000
14. Deed – 7/11/2005
15. Deed – 1/27/2006
16. Plat

Miscellaneous-

Cover Letter and Administrative Law Judge's Order Decision – Special Hearing & Variance-
Granted – November 15, 2021

Notice of Appeal filed by Rosedale Community Association on 11/14/21
Check number 142021 - \$600.00

Cashier's Receipt # 203995 – \$600.00 fee for Special Hearing and Variance

GENERAL SITE INFORMATION

1. Ownership: FAZAL LLC
9423 Bell Beck Road Parkville, MD 21234
2. Address: 8202 Pulaski Highway Baltimore, MD 21237
3. Deed references: JLE 43210/ 49
4. Area: 0.396 acre (per SDAT)
5. Tax Map / Parcel / Tax account #: 89 / 760 / 15-23-00376
6. Election District: 15 Councilmanic District: 7
ADC Map: 47C0J9 GIS title: 089C3 Position sheet: 9NE21
Census tract: 450100 Census block: 24005450100
Schools: Red House Rm ES Golden Ring MS Overlea HS
7. The boundary shown hereon is from the deed recorded in the Land Records of Baltimore County. All other information shown hereon was taken from Baltimore County GIS title 089C3 and the information provided by Baltimore County on the Internet.
8. Improvements: Single story office building & paved parking lot. The existing building and the paved parking lot will remain.

OFFICE OF ZONING

Zoning: BR AS
Case #2019-071-XA
Special Exception to allow a used motor vehicle outdoor sales area- granted
Variances for setbacks & no screening or landscaping- granted

Parking Calculations per Section 409.6.A.1 BCZR

Office 1.6 (600 sq. ft.) x 5 = 8
Autos for sale = 30 (not required to meet Sect. 409 req.)
Auto repair (2 service bays) = 9
Total parking spaces required = 17
Parking spaces provided (outside) = 4 (employee & customer spaces)
Parking spaces provided (inside) = 3 (bays) + 10 = 13
Total parking spaces provided = 17

Damaged or disabled motor vehicles will be kept inside the proposed building addition.

Signage

A sign may be installed on the frontage of Pulaski Highway and will meet all zoning regulations.

BR AS Requirements per Section 238 BCZR

Front: 50 feet from the street right of way for a dual highway
Side / Rear: 30 feet from property line

Storage and display of vehicles in the front yard: not more than 15 feet in front of the required front building line (50' - 15' = 35')

Maximum permitted floor area ratio: 2.0

Existing floor area area ratio: 0.09 (based on SDAT info) / Proposed 6.39

ENVIRONMENTAL IMPACT

Watershed: White Marsh URDL land type: 1

1. The existing building is currently served by public water and sewer.
2. There are no underground storage tanks on the subject property.
3. The subject property is not in the Chesapeake Bay Critical Area.
4. The subject property is not located within a 100 year flood plain.

OFFICE OF PLANNING

Regional Planning District: Rosedale District Code: 326

Growth Tier: 1 (served by public sewer and inside URDL)

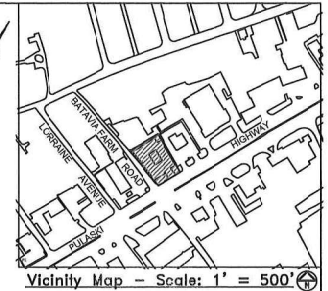
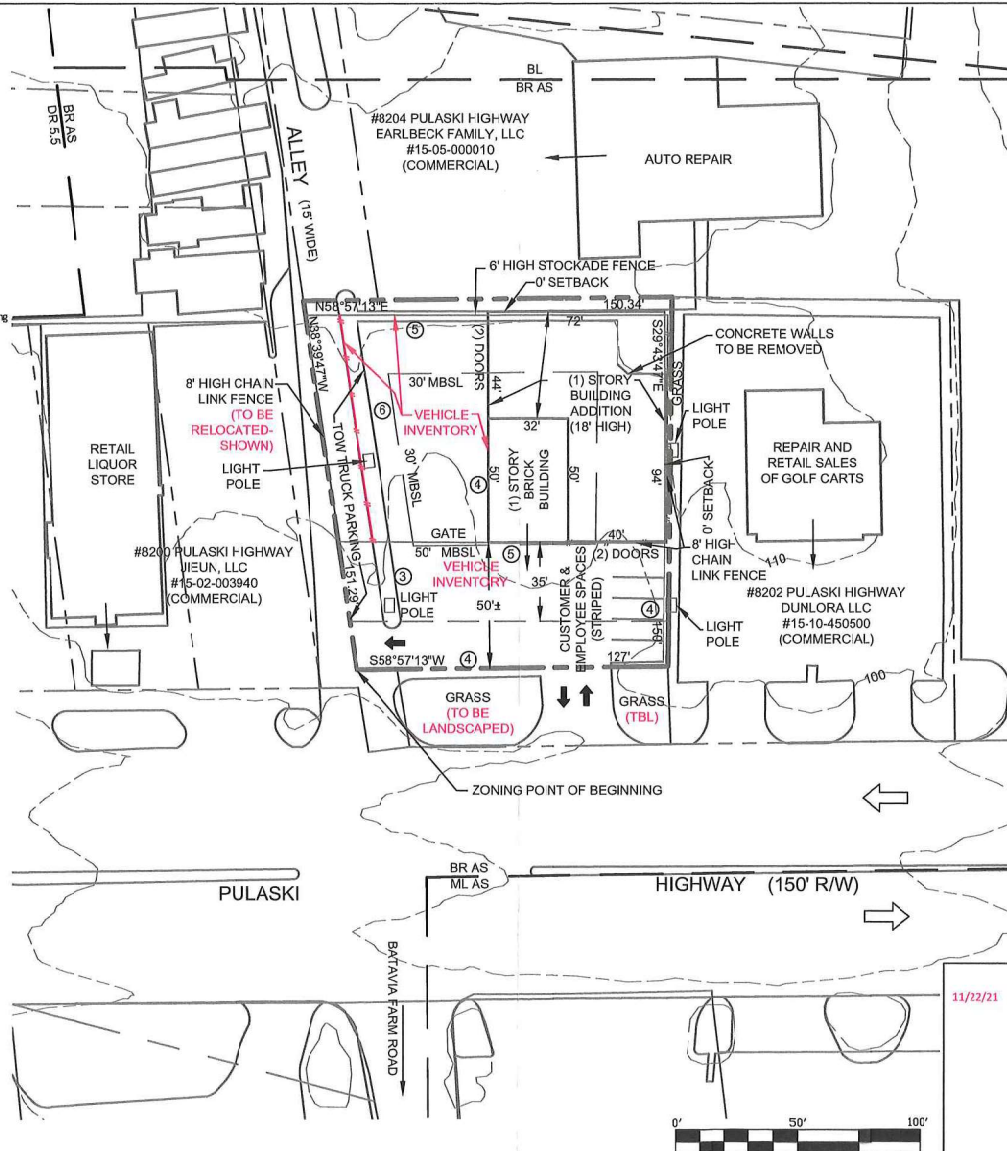
1. The existing building is not historic. The subject property is not in a historic district.

PUBLIC WORKS

The utilities that serve the subject property are located in Pulaski Highway

PROPOSED DEVELOPMENT

Use the subject property and the existing building for used car sales, auto repair, auto painting and a towing business. An addition to the building is proposed.



PLAN TO ACCOMPANY A
ZONING PETITION
FOR
#8202 PULASKI HIGHWAY

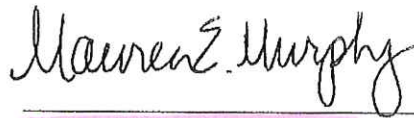
BALTIMORE COUNTY, MARYLAND 15th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT	
REVISION 11/22/21 REDLINE PLAN AS REQUESTED IN ZONING ORDER	Date: 7/2/21 Scale: 1"=50'

6. Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Rd. or in any obstruct or close off Batavia Farm Rd. until such paper road, or portion of paper road abutting the Property, is legally closed pursuant to a Road Closing Petition.

7. A formal Landscape Plan is not required to be filed. However, Petitioner shall plant and continue to maintain while under its ownership, bushes, shrubs and/or other landscaping in the two (2) grass areas fronting along Pulaski Hwy. which, in the Petitioner's discretion, can reasonable fit within those areas.

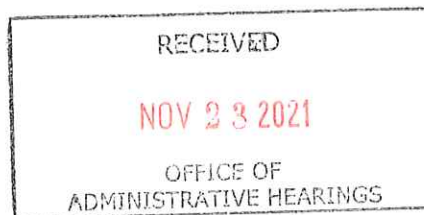
8. No temporary banners, signs or advertising flags shall be permitted on the subject property.

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



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

PMM/dlm



that the variance is within the spirit and intent of the BCZR and that it will not harm the public health, safety or welfare, particularly in light of the support from adjacent business B-more Buggies 4 Less and lack of opposition from any surrounding property owner.

THEREFORE, IT IS ORDERED this 15th day of **November 2021**, by this Administrative Law Judge that the Petition for Special Hearing from BCZR, §500.7 to amend Case No. 2019-0171-XA is hereby **GRANTED** in accordance with a Redlined Site Plan as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner.

IT IS FURTHER ORDERED that the Variance from BCZR, § 238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks 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 their 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. All damaged, disabled and/or inoperative vehicles shall be parked and repaired inside the proposed addition until such vehicles are in operable and saleable condition at which point they may be parked on the outdoor sales area.
3. Petitioner may not display, park and/or store more than 30 vehicles at any one time, whether for sale or repair.
4. Petitioner shall stripe all customer and employee parking spaces pursuant to BCZR, §409.
5. Within 15 days of the date hereof, Petitioner shall submit to Baltimore County a redlined site plan indicating where on the Property vehicle inventory will be displayed and the location of all customer and employee parking.



P.O. Box 70285, Rosedale, Maryland 21237

November 14, 2021

To: Office of Administrative Hearings
105 West Chesapeake Ave. Suite 103
Towson, MD 21204

Dear Sir / Madam;

Reference: Case No. 2021-0201-SPHA
Property: 8202 Pulaski Hwy, Rosedale, MD

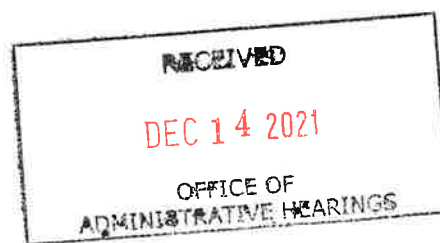
The above request an appeal from the decision on November 15, 2021, by Honorable Judge Maureen E. Murphy, Administrative Law Judge for Baltimore County, Maryland.

The above referencing case and stated is case No. 2021-0201 SPHA , Property: 8202 Pulaski Highway, Rosedale, MD 21237

Also enclosed is a certified check for appeals

Thank You

Russ Mirabile, President
443-846-5399



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

No. 203995

Date: 12/14/21

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				600.00

Total: 600.00

Reg From: Rosedale Comm. Assoc.

For: OAH
Case No: 2021-0201-SPHA
Address: 8202 Pulaski Highway
Hearing Date: 11/4/21
check # 142021

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

ROSEDALE COMMUNITY ASSOCIATION INC
7932 Oakdale Ave
Rosedale, MD 21237

DATE 12-14-21 142021

PAY TO THE
ORDER OF

Baltimore County, Md. Government \$ 600⁰⁰
Six Hundred Dollars & no/100 DOLLARS

ORRSTOWN BANK

MEMO

Approved 8202 Pulaski
Russell Mitchell
Stacyann Heblin



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

November 15, 2021

C. Edward Hartman, Esquire – edward@hartman.law

RE: Petitions for Special Hearing & Variance
Case No. 2021-0201-SPHA
Property: 8202 Pulaski Highway

Dear Mr. Hartman:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order 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 that reads "Maureen E. Murphy".

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw
Enclosure

c: Bruce E. Doak – bdoak@bruceedoakconsulting.com
Qaisar Shahzad, President of Fazal, LLC – ringotowing1@gmail.com
Russell Mirabile – russell3947@gmail.com

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE *
(8202 Pulaski Highway) * OFFICE OF
15th Election District *
2nd Council District * ADMINISTRATIVE HEARINGS
Qaisar Shahzad, *
Legal Owner * FOR BALTIMORE COUNTY
Petitioner * Case No. 2021-0201-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Fazal, LLC, legal owner (“Petitioner”) for the property located at 8202 Pulaski Hwy., Rosedale (the “Property”). The Special Hearing was filed pursuant to Baltimore County Zoning Regulations (“BCZR”), §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA. Variance relief was also filed from BCZR, §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Qaisar Shahzad, a member of the Petitioner, appeared at the hearing along with Bruce E. Doak, licensed surveyor, who prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 1). C. Edward Hartman IV, Esquire represented the Petitioner. Russell Mirabile, President of Rosedale Community Association, who initially requested a postponement of the hearing, did not appear.

Zoning Advisory Committee (“ZAC”) comments were received from Department of Planning (“DOP”) which agency opposed the requested relief. Department of Environmental

ORDER RECEIVED FOR FILING

Date 11-15-21

By aw

Protection and Sustainability (“DEPS”) also submitted a comment but did not oppose the requested relief.

The Property is approximately .396 acres +/- and is improved with a commercial, 1-story brick building (1,600 sf), housing the operation of a used automobile sales business known as “N. A. Motors” in accordance with the relief granted in Case No. 2019-0171-XA. (Pet. Ex. 3). The Property is zoned Business, Roadside – Automotive, Service (BR-AS). Mr. Shahzad is the operator of the business and currently only sells, but does not repair, vehicles which he purchases. Aerial and street view photographs reveal that the Property faces south on Pulaski Hwy., and is surrounded by other commercial uses including a golf cart business (“B-more Buggies 4 Less”) to the east, an auto repair business to the north (the “Earlbeck Family Auto Repair”), and a liquor store to the west. (Pet. Ex. 4; 6A-N). It was noted that both B-more Buggies 4 Less and the Property use the address 8202 Pulaski Hwy.

A boundary survey and location drawing dated April 19, 2021, was submitted showing the Property boundaries and site area layout for the Petitioner’s business (the “Boundary Survey”). (Pet. Ex. 5). It shows the commercial building, an 8 ft. tall chain link fence surrounding part of the Property, a 6 ft. tall wooden fence along the northern boundary line, as well as paved parking and storage yards. Importantly, as revealed on a plat identified as “Property of R.D. Hesse, Rosedale, MD” (L 12, F 41), there is a 30 ft. +/- wide paper road named Batavia Farm Rd. between the Property and the liquor store. (Pet. Ex. 16).

Mr. Doak marked up a copy of the aerial photograph to show the current use of Batavia Farm Rd. It depicts that the Earlbeck Family Auto Repair business to the north of the Property uses the paper road to park vehicles. (Pet. Exs. 8, 10B). Mr. Shahzad testified that the owners/operators of the Earlbeck Family Auto Repair business have closed off Batavia Farm Rd.

ORDER RECEIVED FOR FILING

Date 11-15-21

By [Signature]

at their property line by installing a chain link fence across the width of the paper road. (Pet. Ex. 10-B). According to Mr. Doak, a Road Closing case has not been filed and the paper road has never been dedicated to the County. That aerial photograph also reveals that beyond the Eastbeck Auto Repair business are single family homes which use the portion of the paper road abutting those properties as part of their yards/driveways.

Mr. Doak also marked up a copy of the Boundary Survey. (Pet. Ex. 9). That Exhibit, in combination with the street view photographs of Batavia Farm Rd., appear to show that the Petitioner's chain link fence does not currently extend into Batavia Farm Rd. (Pet. Exs. 9, 10-A and 10-B). Street view photographs also show that vehicles which do not belong to the Petitioner (as indicated on the photograph) are parked along Batavia Farm Rd. (Pet. Ex. 10-A). However, as Mr. Doak explained, Petitioner is proposing to extend the existing chain link fence 15 ft. into Batavia Farm Rd. (Pet. Ex. 8) and to use that portion of land.

In addition to extending the chain link fence into Batavia Farm Rd., Petitioner is proposing to construct a 1-story addition (6,768 sf) as depicted on the Site Plan. (Pet. Ex. 1). Due to the size of the Property, the addition would extend to the side and rear Property lines with zero setbacks. A letter of support was provided by B-more Buggies 4 Less for the proposed addition. (Pet. Ex. 7). The Petitioner is also proposing to repair the vehicles which he purchases within the new addition. Mr. Doak emphasized that a service garage is permitted by right in the BR-AS zone. Petitioner is proposing that the maximum number of vehicles on the Property either for sale or for repair at one time would be 30. In order to prevent the appearance of a junkyard, all damaged, disabled or inoperable vehicles will be stored and repaired inside the new addition. A lift(s) will also be installed. The addition will be accessed via 2 doors on its southern end, as well as 2 doors on its western end. (Pet. Ex. 1).

ORDER RECEIVED FOR FILING

Date 11-15-21

By [Signature]

In regard to parking, as adjudicated in Case No. 2019-0171-XA, BCZR, §409 is not applicable to inventory of used vehicles which are for-sale, but is applicable to customer and employee parking. As identified on the Site Plan, the total number of parking spaces required is 17 and the total number of parking spaces which will be provided is 17.

SPECIAL HEARING

A hearing to request special zoning relief is proper under BCZR, §500.7 as follows:

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 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.

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). And, "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations." *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. App. (Sept. Term 2016).

In the instant case, I find that the Petition to amend the Opinion and Order in Case No. 2019-0171-XA to permit the repair of vehicles, in addition to the sale of vehicles, is within the spirit and intent of the BCZR. I agree with the Petitioner that the proposal here which is for a service garage is not for a change in use; rather it is in addition to the sale of vehicles. A service garage is a use permitted by right in the Business-Major (BM) zone under BCZR, §233.1, and therefore under BCZR, §236.1.A, is permitted by right on this Property. Indeed, the Automotive

ORDER RECEIVED FOR FILING

Date 11-15-21

By low

Service District Overlay provides BCZR, §259.2.B is applied to “certain parcels of land zoned B.L., B.M. or B.R., which are appropriate for uses dominated by the parking and servicing of automobiles or characterized by frequent parking turnover...”

The proposal here is that the addition would house the damaged, disabled and inoperable vehicles which are in need of repair prior to parking the vehicles for sale on the outdoor sales area. I find this proposal is appropriate for the Property and is consistent with the similar auto and golf cart repair businesses surrounding the Property. The proposed addition will be constructed on top of the existing paved surface and therefore no additional impervious surface will be added. Petitioner is proposing to reduce the number of vehicles for sale from 50 (as permitted in Case No. 2019-0171-XA) to 30 vehicles. I note that BCZR, §238.4 permits the storage and display of vehicles in the front yard provided that those vehicles are not parked more than 15 ft. in front of the required front building line.

In regard to Batavia Farm Rd., I cannot grant the Petitioner’s request to move the 8 ft. high chain link fence into Batavia Farm Rd. unless that paper road is legally closed pursuant to a Road Closing Petition. The deeds for the Property and the other properties which abut Batavia Farm Rd., indicate that it is a road to be used “in common.” While this case is not a Road Closing Petition, and while I am not deciding whether or not that paper road should be closed as I do not have all of the evidence on that issue before me, it appears that the Petitioner and adjacent property owners would be served by filing a joint Road Closing Petition in order that each abutting property could then legally use whatever roadbed is provided to each abutting owner pursuant to their respective deeds. The file reflects that the closing of this paper road was an issue which was also raised by the Rosedale Community Association. Finally, given that there was no comment by Development Plans Review (“DPR”) that a formal Landscaping Plan is

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Date 11-15-21

By 192

required here, and notwithstanding DOP's comment to the contrary, I find that it would be interests of the general welfare and spirit of the BCZR for the Petitioner to plant some bushes, shrubs and/or landscaping in the two (2) grass areas fronting along Pulaski Hwy. I find that a Landscaping Plan is not required to be filed in this case.

VARIANCE

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).

As noted above, this Property was previously adjudicated to be unique in Case No. 2019-0171-XA. The Property and existing building have not changed since that case. As a result, that factual finding is applicable to this case under the doctrine of collateral estoppel. *Garrity v. Maryland State Bd. of Plumbing*, 447 Md. 359, 368 (2016). (See also *Colandrea v. Wilde Lake Community Ass'n, Inc.*, 361 Md. 391 (2000); *Washington Suburban Sanitary Commission v. TKU Associates*, 281 Md. 1, 18-19 (1977)).

I find that the Petitioner would suffer practical difficulty and hardship if the variance relief was denied because the size of the Property limits the extent of an addition which is needed in order to house disabled, damaged and/or inoperable vehicles from view, thus eliminating the appearance of a junk yard. The size of the proposed addition will enable a lift(s) to be installed in order to repair vehicles indoors. While I am cognizant of DOP's proposed condition to permit 10 ft. side and rear yard setbacks in lieu of the proposed zero foot setbacks, I find no legal requirement for a 10 ft. setback, and granting the same would eliminate a useable service garage. I further find

ORDER RECEIVED FOR FILING

Date 11-15-21

By [Signature]

that the variance is within the spirit and intent of the BCZR and that it will not harm the public health, safety or welfare, particularly in light of the support from adjacent business B-more Buggies 4 Less and lack of opposition from any surrounding property owner.

THEREFORE, IT IS ORDERED this 15th day of **November 2021**, by this Administrative Law Judge that the Petition for Special Hearing from BCZR, §500.7 to amend Case No. 2019-0171-XA is hereby **GRANTED** in accordance with a Redlined Site Plan as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner.

IT IS FURTHER ORDERED that the Variance from BCZR, § 238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks 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 their 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. All damaged, disabled and/or inoperative vehicles shall be parked and repaired inside the proposed addition until such vehicles are in operable and saleable condition at which point they may be parked on the outdoor sales area.
3. Petitioner may not display, park and/or store more than 30 vehicles at any one time, whether for sale or repair.
4. Petitioner shall stripe all customer and employee parking spaces pursuant to BCZR, §409.
5. Within 15 days of the date hereof, Petitioner shall submit to Baltimore County a redlined site plan indicating where on the Property vehicle inventory will be displayed and the location of all customer and employee parking.

ORDER RECEIVED FOR FILING

Date 11-15-21

By [Signature]

6. Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Rd. or in any obstruct or close off Batavia Farm Rd. until such paper road, or portion of paper road abutting the Property, is legally closed pursuant to a Road Closing Petition.

7. A formal Landscape Plan is not required to be filed. However, Petitioner shall plant and continue to maintain while under its ownership, bushes, shrubs and/or other landscaping in the two (2) grass areas fronting along Pulaski Hwy. which, in the Petitioner's discretion, can reasonable fit within those areas.

8. No temporary banners, signs or advertising flags shall be permitted on the subject property.

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



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

PMM/dlm

ORDER RECEIVED FOR FILING

Date 11-15-21

By [Signature]

Debra Wiley

From: Debra Wiley
Sent: Monday, November 15, 2021 8:14 AM
To: 'C. Edward Hartman, Esq. -'
Cc: 'Bruce Doak'; 'Qaisar Shahzad -'; 'Russell Mirabile -'; Donna Mignon; County Council; Henry Ayakwah; Jeffery Livingston; Jenifer G. Nugent; Peoples Counsel; Vishnubhai K Desai
Subject: CORRECTED EMAIL / OPINION AND ORDER - Case No. 2021-0201-SPHA - 8202 Pulaski Highway
Attachments: 20211115080220112.pdf

Good Morning,

Please find attached ALJ Murphy's Opinion and Order in reference to the above matter.

Have a great day

-----Original Message-----

From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Monday, November 15, 2021 8:02 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 11.15.2021 08:02:20 (-0500)

Queries to: adminhearingscpr@baltimorecountymd.gov

Debra Wiley

From: Debra Wiley
Sent: Monday, November 15, 2021 8:07 AM
To: 'C. Edward Hartman, Esq. -'
Cc: 'Bruce Doak'; 'Qaisar Shahzad -'; 'Russell Mirabile -'; Donna Mignon; County Council; Henry Ayakwah; Jeffery Livingston; Jenifer G. Nugent; Peoples Counsel; Vishnubhai K Desai
Subject: RE: Decision - Case No. 2021-0201-SPHA - 8202 Pulaski Highway

PLEASE DISREGARD -- INCORRECT ORDER ATTACHED.

WILL RESEND.

MY APOLOGIES.

-----Original Message-----

From: Debra Wiley
Sent: Monday, November 15, 2021 8:06 AM
To: 'C. Edward Hartman, Esq. -' <edward@hartman.law>
Cc: 'Bruce Doak' <bdoak@bruceedoakconsulting.com>; 'Qaisar Shahzad -' <ringotowing1@gmail.com>; 'Russell Mirabile -' <russell3947@gmail.com>; Donna Mignon <dmignon@baltimorecountymd.gov>; County Council <countycouncil@baltimorecountymd.gov>; Henry Ayakwah <hayakwah@baltimorecountymd.gov>; Jeffery Livingston <jlivingston@baltimorecountymd.gov>; Jenifer G. Nugent <jnugent@baltimorecountymd.gov>; Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; Vishnubhai K Desai <vdesai@baltimorecountymd.gov>
Subject: Decision - Case No. 2021-0201-SPHA - 8202 Pulaski Highway

Good Morning,

Please find attached ALJ Murphy's Opinion and Order in reference to the above matter.

Have a great day !

-----Original Message-----

From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Monday, November 15, 2021 8:00 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 11.15.2021 07:59:55 (-0500)

Queries to: adminhearingscpr@baltimorecountymd.gov

Debra Wiley

From: Debra Wiley
Sent: Monday, November 15, 2021 8:06 AM
To: 'C. Edward Hartman, Esq. -'
Cc: 'Bruce Doak'; 'Qaisar Shahzad -'; 'Russell Mirabile -'; Donna Mignon; County Council; Henry Ayakwah; Jeffery Livingston; Jenifer G. Nugent; Peoples Counsel; Vishnubhai K Desai
Subject: Decision - Case No. 2021-0201-SPHA - 8202 Pulaski Highway
Attachments: 20211115075955742.pdf

Good Morning,

Please find attached ALJ Murphy's Opinion and Order in reference to the above matter.

Have a great day !

-----Original Message-----

From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Monday, November 15, 2021 8:00 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 11.15.2021 07:59:55 (-0500)
Queries to: adminhearingscpr@baltimorecountymd.gov

Donna Mignon

From: Donna Mignon
Sent: Tuesday, October 12, 2021 1:58 PM
To: Kristen L Lewis
Cc: Debra Wiley
Subject: 2021-0201-SPHA - 8202 Pulaski Highway

Hi Kristen,

I spoke to Bruce Doak and he is going to let me know if the attorney and his client can make it on the November 4th. Please hold that until I hear back. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868



P.O. Box 70285, Rosedale, Maryland 21237

October 8, 2021

Reference:
8202 Pulaski Highway
Rosedale, MD 21237

Reference: #2021-0201-x

Rescheduling of Hearing,

Please note, Russ Mirabile, President of Rosedale Community Association, will not be available on the following dates:

October 14, 18, 20, 25

November 2, 3, 5, 15

December 7, 15

These dates were pre-set before any notice of 2021-0201-x case hearing was set in. These dates include two eye surgeries which were pre-scheduled and other medical related appointments, pre-dating the 2021-0201-x issue.

Thank you,

Russ Mirabile
President, Rosedale Community Association
443-846-5399

* JAN '22
TBA in Dec. '21

Rosedale Community Association



P.O. Box 70285, Rosedale, Maryland 21237

Oct 8. 2020

Reference: 8202 Palushy
et al.

Reference # 2021-0201-X

Rescheduling of Hearings,

Please note, Ross McIndale, president of Rosedale Community Association, will not be able to be available on the

Following dates

Oct. 14

18

20

25

Nov. 2

3

5

15

Dec. 7

15

Delivered

10th 8:24

10:15 A.M.

OFFICE Closed

These dates were pre-set before any notice of 2021-0201-X case hearing set in. These dates include two eye surgeries pre-scheduled & other medical related appointed times pre dating the 2021-0201-X case. Thank you Ross McIndale 443-846 5399

BALTIMORE COUNTY, MARYLAND

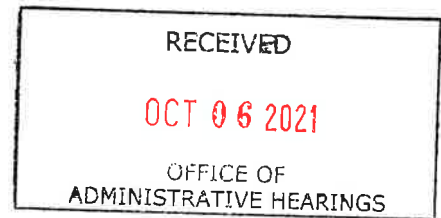
INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 10/6/2021

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2021-0201-X



INFORMATION:

Property Address: 8202 Pulaski Highway
Petitioner: Qaisar Shahzad, FAZAL LLC
Zoning: BR AS
Requested Action: Special Hearing and Variance

The Department of Planning has reviewed the petition for a Special Hearing under Section 500.7 to amend Case No. 2019-0171-XA to build an addition to the building, reduce the number of display vehicle from 50 to 30, and to be able to repair cars within the building; and a Variance to permit a 0 foot setback from the rear and side property lines for a 18 foot tall building addition in lieu of the required 30 foot minimum rear and side yard setbacks per Section 238.2 BCZR.

A site visit was conducted on 8/13/2021. The land uses in the area are primarily auto services and other commercial, manufacturing and industrial uses on Pulaski Highway. There are residential uses to the rear of the subject site. The subject site is currently a used outdoor motor vehicle sales area. The Special Exception under case #2019-0171-XA was granted to allow a used motor vehicle outdoor sales area.

On September 19, 2021, a letter was submitted from the Rosedale Community Association to express concerns about the blocked access between Pulaski Highway and Old Philadelphia Road. Observations from the recent site visit indicate that a fence has been installed and tow trucks are parked on the "30 foot road for use in common" as referenced under property Deed JLE 40210, p. 0049. Based on deed language, the common road services several properties, and should remain free of obstacles that obstruct access through the "30 foot road for use in common", referred to as "15-foot Alley" in the subject plan.

The Department of Planning has reviewed the request. Upon review, it has been determined that the request does not meet the spirit and intent of the BCZR, would be incompatible with the surrounding area, and there is an absence of an adequate unique land based hardship to warrant a 0 foot building setback in lieu of a 30 foot setback.

The Department is not in support of the requested Special Hearing and Variance as presented. The department would be in support of the request upon meeting the following criteria:

- A 10 foot minimum setback on the rear and right side property lines for the proposed addition
- The fence and vehicle storage is moved outside of the "road to be used in common" per deed, labeled "Alley" on said plans, to be used for shared access between abutting properties.

- Investigate with the SHA opportunities to provide landscaping meeting the approval of the Baltimore County Landscape Architect within the grassed areas along the Pulaski Highway frontage.
- Stripe the parking lot to reflect the change of use pursuant to the requirements of BCZR§ 409. Indicate specifically what areas are dedicated to inventory display, employees and clientele.
- There shall be no working on nor storage of damaged and disabled vehicles on the site.
- There shall be no temporary signage, banners or advertising flags displayed on the property or on the grass area. All signage shall confirm with Section 450 of the BCZR.

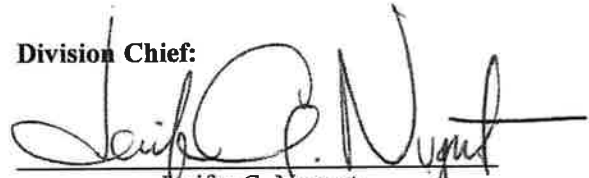
For further information concerning the matters stated herein, please contact Mark Landolina at 410-887-3480.

Prepared by:



 Krystle Patchak

Division Chief:



 Jenifer G. Nugent

SL/JGN/KP/

c: Mark Landolina.

Bruce E. Doak, Bruce E. Doak Consulting LLC.
 C. Edward Hartman IV, Esquire
 Office of the Administrative Hearings
 People's Counsel for Baltimore County



STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Gregory Slater
Secretary
Tim Smith, P.E.
Administrator

August 12, 2021

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Lewis:

We have reviewed the site plan to accompany the petition for Special Hearing variance on the subject of the Case number referenced below, which was received on August 12, 2021. A field inspection and internal review reveals that an entrance onto Pulaski Highway (US 40) is consistent with current State Highway Administration guidelines. Based on that evaluation entrance improvements are not required. Therefore, SHA has no objection to approval for Special Hearing, Case Number 2021-0201-XA.

Qaisar Shahzad, President of Fazal, LLC
8202 Pulaski Hwy

If there are any questions, please contact Mr. Steven Autry at 410-229-2335, or toll free (in Maryland only) at 1-800-735-2258 (x2335), or via email at sautry@mdot.maryland.gov

Sincerely,

Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

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

DATE: July 22, 2021

SUBJECT: DEPS Comment for Zoning Item # 2021-0201-XA
8202 Pulaski Highway
Address (Fazal, LLC Property)

Zoning Advisory Committee Meeting of **July 26, 2021**.

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

Reviewer: Steve Ford

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals
EFC for VKD

DATE: August 25, 2021

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 26, 2021
Item No. 2021-0200-A, 0201-XA, 0202-A, 0203-A, 0206-A, 0207-A
& 0208-A

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

*

*

*

*

*

VKD: cen
cc: file

Donna Mignon

From: Peter Gutwald
Sent: Tuesday, October 5, 2021 5:15 PM
To: Jeffrey N Perlow; Paul Mayhew; Donna Mignon
Cc: Debra Wiley; Kristen L Lewis
Subject: RE: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

After careful consideration, I am respectfully denying the request for postponement. Please advise all applicable parties of this decision.

C. Pete Gutwald, Director
Permits, Approvals and Inspections

From: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>
Sent: Tuesday, October 5, 2021 10:57 AM
To: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: RE: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Shouldn't be long
Jeff

From: Paul Mayhew
Sent: Tuesday, October 05, 2021 10:21 AM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: RE: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Please inform us ASAP as to whether the postponement request is granted or not.

Paul M. Mayhew
Managing Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
pmayhew@baltimorecountymd.gov

From: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>
Sent: Tuesday, October 5, 2021 10:13 AM
To: Donna Mignon <dmignon@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: RE: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Thank you Donna!

From: Donna Mignon

Sent: Tuesday, October 05, 2021 8:49 AM

To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>

Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>

Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Importance: High

Hi Jeff,

I just received a message that Kristen is on vacation. Please see the attached. Thank you.

From: Donna Mignon

Sent: Tuesday, October 5, 2021 7:40 AM

To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>

Cc: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>

Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Importance: High

Good Morning Kristen,

Please find attached the Request for Postponement in regard to the above-referenced matter.

Since this is outside of the 5 days, I am deferring to you. Thank you.

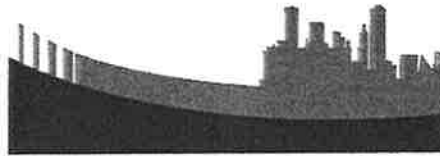
Donna Mignon, Legal Assistant

Baltimore County Office of Administrative Hearings

105 West Chesapeake Avenue, Suite 103

Towson, Maryland 21204

410-887-3868



October 5, 2021

Paul Mayhew, Baltimore County Administrative Law Judge
105 W. Chesapeake Avenue
Towson, MD 21204

Re: Case 2021-0201-SPHA Hearing Postponement

Dear Mr. Mayhew,

I have read the letter written by Russ Mirabile and I find it heavy on accusations and light on evidence to justify a postponement of our hearing.

The 30' road (known to some as Batavia Farm Road) was shown on the subdivision plat "Property of R.D. Hesse" in Plat Book 12/41 (copy enclosed). It was never conveyed to Baltimore County because the in fee ownership was left in all of the adjoining deeds (our property back to 1947).

The use of this road for access has dried up over the years. It is now used as a function of the businesses and the residences along it (see aerial photo) and has been for decades. I have also provided photos taken in 2018 and 2021 that shows unrestricted use of the remainder for both access and parking.

The 30' road has never been maintained by Baltimore County and is currently not on their maintenance list. You can also see in the aerial photo that almost all of the road is gone or grown over.

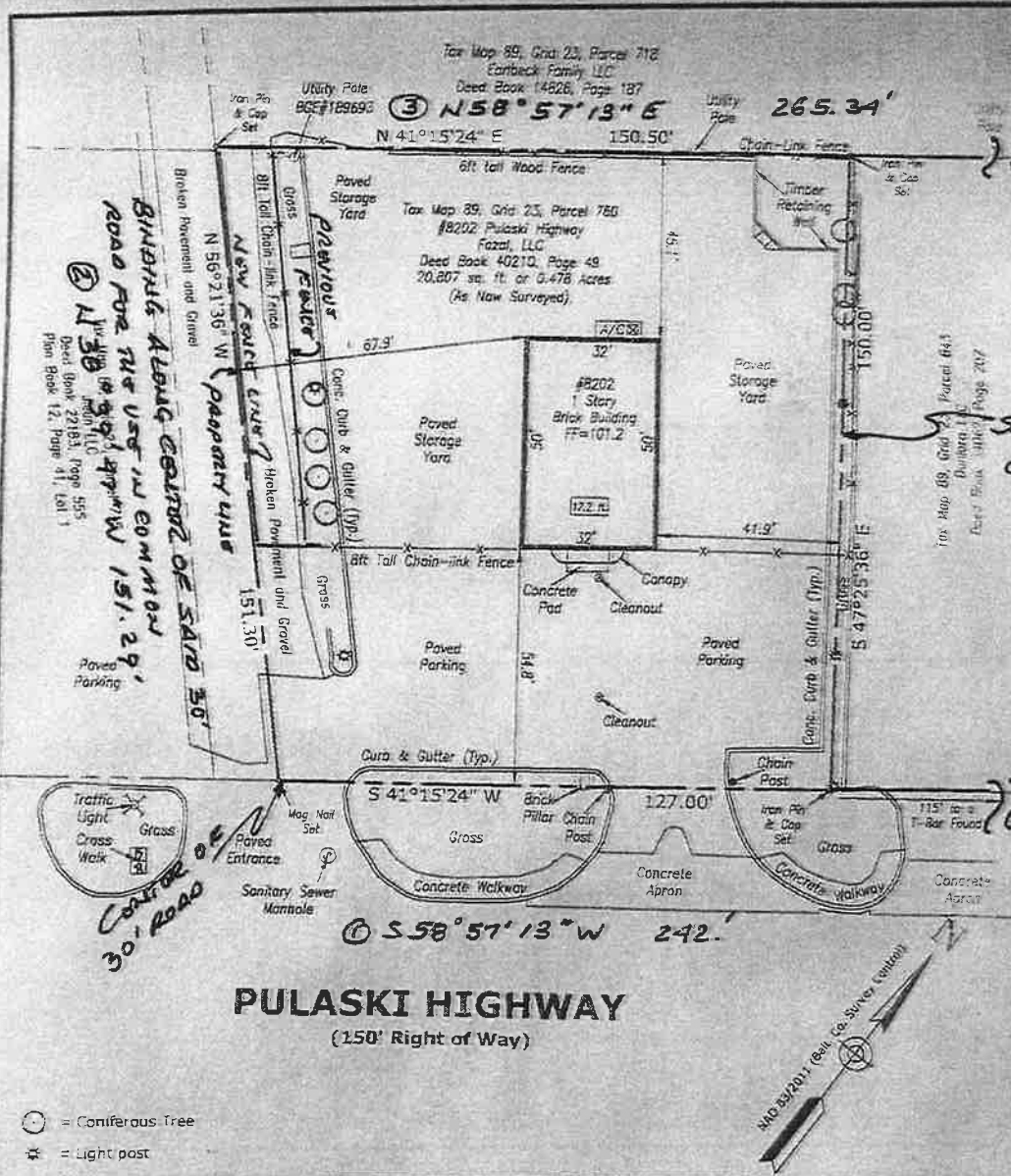
The road does not effect what my client is petitioning for, the same as in 2018, and hopefully that will be considered in your decision not to postpone this hearing.

As in 2018, Mr. Mirabile is fishing for any way to stop this business for what ever personal reason he has.

Sincerely,


Bruce E. Doak

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



NOTE:

This survey was prepared without the benefit of a title report which may reveal additional conveyances, easements, rights-of-way or building restriction lines not shown hereon.

SURVEYOR'S CERTIFICATE

This is to certify that this Boundary & Location survey was personally prepared by me or that I was in responsible charge over it's preparation and the surveying work reflected in it and that this Survey is in compliance with COMAR Sections 09.13.06.12 of the Minimum Standards of Practice as now adopted by the board for Professional Land Surveyors.

Scott M. Landis
Professional Land Surveyor (Maryland No. 21613)
Expires/Renews: 8-18-2021

BOUNDARY SURVEY & LOCATION DRAWING

FAZAL LLC PROPERTY

#8202 PULASKI HIGHWAY

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

BPR LLC
SURVEYORS - LAND PLANNERS

150 Airport Drive
Suite 4

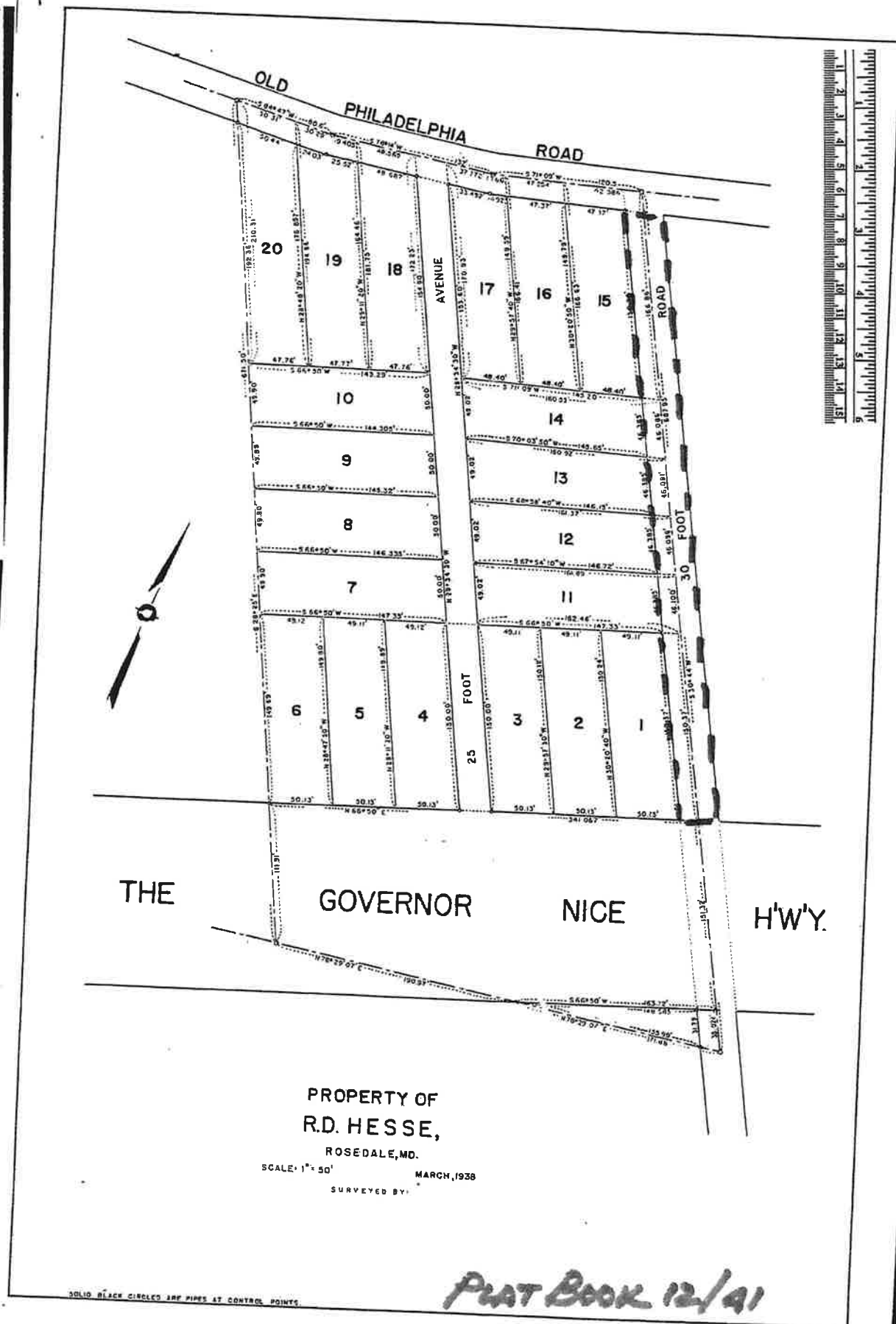
Westminster, Maryland 21157

Phone: (410)-857-9030
or (410)-376-0333
Fax: (410)-876-1532
www.bprsurveying.com

Drawn:	J. R. Garis
Checked:	S. M. Landis
Date:	4/8/2021
Project No.:	21-0328
Scale:	1 inch = 30 feet
Sheet:	1 of 2

PLAT SHOWING IN FEE OWNERSHIP TO
E 30' ROAD

1" = 43'





GIS SHOWING PROPERTIES ALONG 30' ROAD

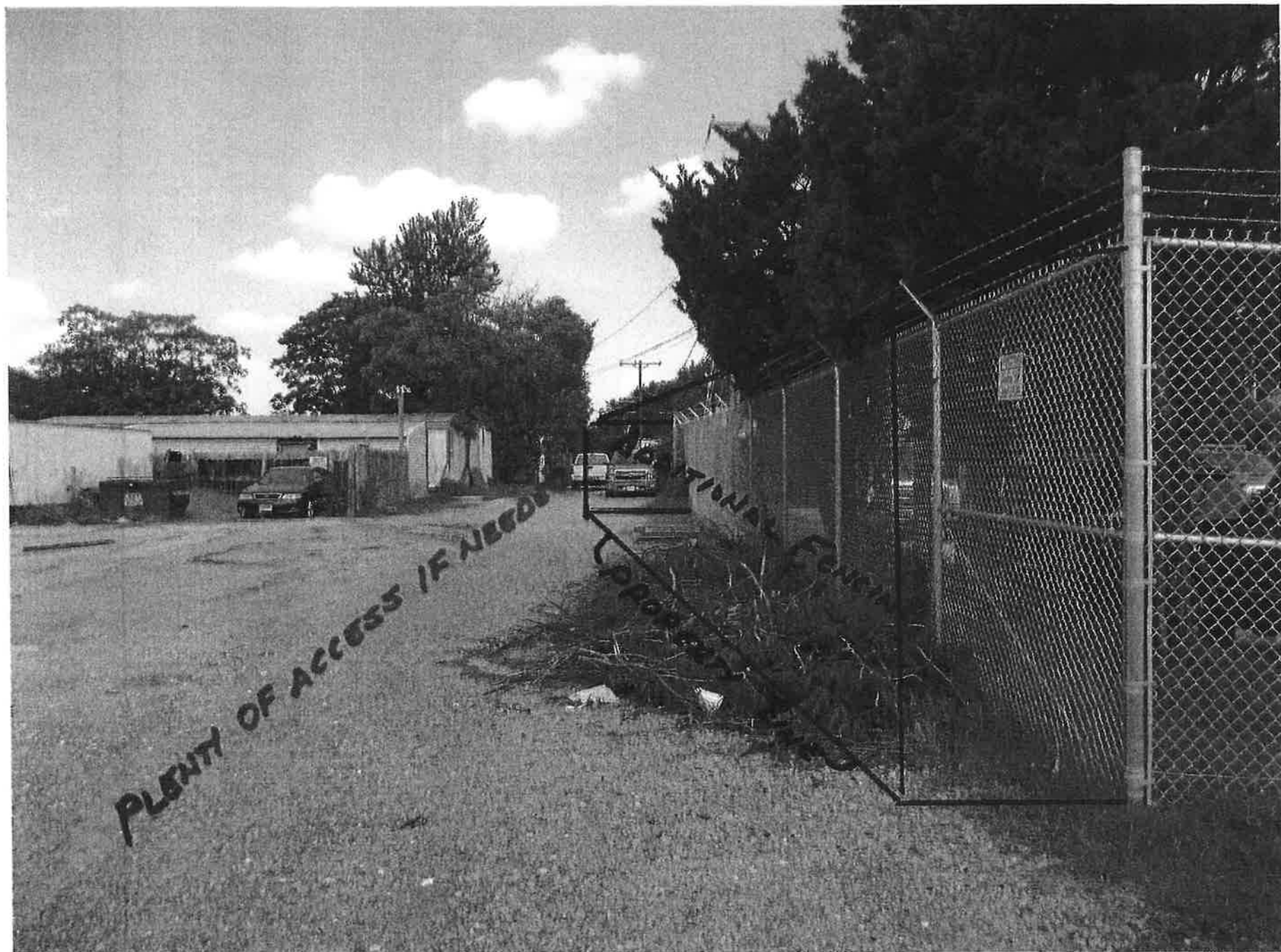


PHOTO SHOWING EXISTING ACCESS

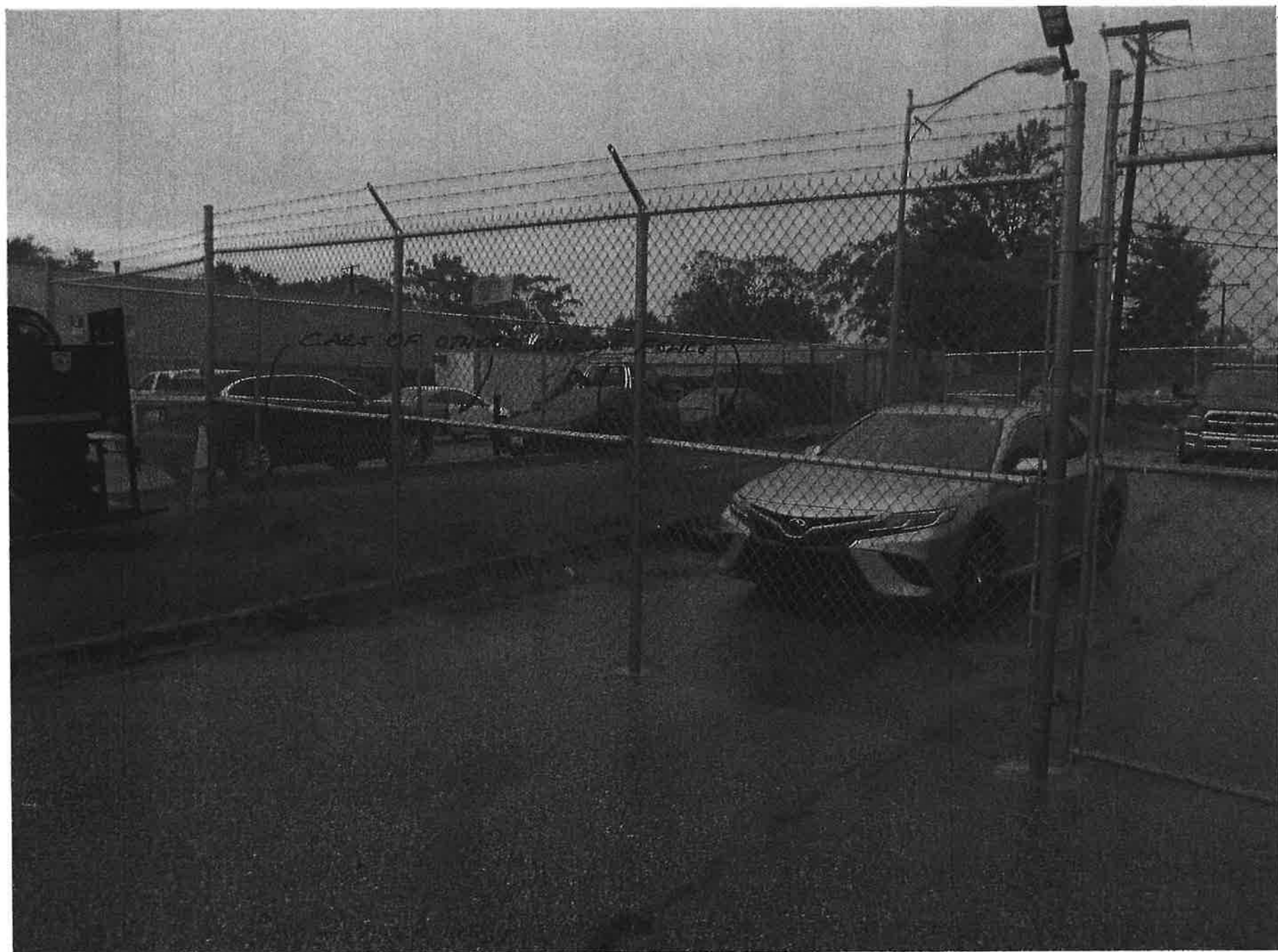


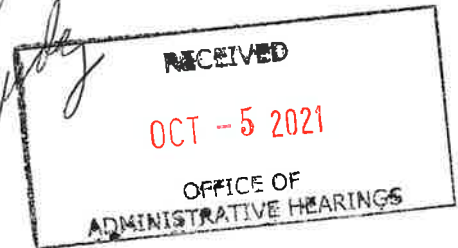
PHOTO SHOWING USE OF EXISTING ACCESS BY OTHERS

Rosedale Community Association



P.O. Box 70285, Rosedale, Maryland 21237

Delivered 10/1-21
Admitted
Fudge
Deep Closed
10:20 AM
AS



September 30, 2021

Reference #Case 2021-0201 SPHA
8202 Pulaski Highway
Rosedale, MD 21237

On behalf of the Rosedale Community Association and Russ Mirabile, I am requesting that the hearing scheduled for October 14, 2021 be postponed until 3 issues are resolved: A) This complaint to unmask the self closing of Batavia Farm Road, B) a hearing has been held on the placing of a fence in the right-of-way of Batavia Farm Road and, C) a hearing has been held on the "self closing of the right-of-way of Batavia Farm Road, by Petitioner(s) and "B&G Auto Repair." *et al.*

This request for postponement will eliminate any more confusion of Permits granted. Any more granting of permits will only cause more "confusion" and add to the "*build first / I'm sorry second / Permit last*" process.

Lastly, I brought the "closing of Batavia Farm Road" to the attention of the hearing Judge at the original hearing, over a year ago.

Thank You


Russ Mirabile
President, Rosedale Community Association
443-846-5399

cc:

- Councilman Crandell's Office
- Baltimore County People's Council
- Managing Administrative Judge Paul Mayhear, for Baltimore County, MD
- Baltimore County Permits and Licenses
- Baltimore County Code Enforcement

Copies of previous correspondence attached. *prior*

The Daily Record

200 St. Paul Place Suite 2480
Baltimore, Maryland 21202
1 (443) 524-8100
www.thedailyrecord.com

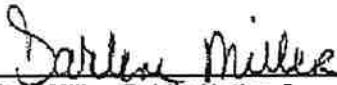
PUBLISHER'S AFFIDAVIT

Order #: 12037889
Case #: 2021-0201-SPHA
Description:

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 virtual hearing on the property identified herein as follows: CASE NUMBER: 2021-0

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:

9/24/2021



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 virtual hearing on the property identified herein as follows:

CASE NUMBER: 2021-0201-SPHA

8202 Pulaski Highway

Southeast side of Pulaski Highway, 105 ft. southeast of Batavia Farm Road

15th Election District - 7th Councilmanic District

Legal Owners: Qaisar Shahzad, Fazal, LLC

Special Hearing to amend Case 2019-0171-XA. Variance to permit a 0 ft. setback from the rear and side property lines for an 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

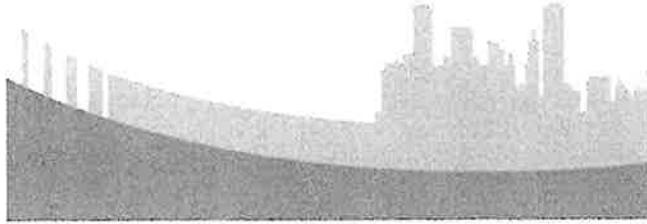
Hearing: Thursday, October 14, 2021 at 1:30 p.m.

For information on how to participate in the hearings please go to www.baltimorecountymd.gov/adminhearings no later than 48 hours prior to the hearing. You will be asked to provide your contact information and the case number provided above. You may also call 410-887-3868, ext. 0.

Pete Gutwald

Director of Permits, Approvals and Inspections for Baltimore County

s24



CERTIFICATE OF POSTING

September 23, 2021 (amended _____)

Re:

Zoning Case No. 2021-0201-SPHA

Legal Owner: Fazal LLC, Qaisar Shahzad, President

Hearing date: October 14, 2021

Baltimore County Department of Permits, Approvals & Inspections
County Office Building
111 West Chesapeake Avenue, Room 111
111 West Chesapeake Avenue Towson, MD 21204

Attention: Jeff Perlow

Ladies and Gentlemen,

This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at 8202 Pulaski Highway.

The signs were posted on September 23, 2021.

The signs were inspected again on _____.

Sincerely,

Bruce E. Doak
MD Property Line Surveyor #531

See the attached sheet(s) for the photos of the posted sign(s)

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

ZONING NOTICE

CASE NO. 2021-0201-SPHA

8202 Pulaski Highway

**THE ADMINISTRATIVE LAW JUDGE OF BALTIMORE COUNTY, BY
AUTHORITY OF THE ZONING ACT AND REGULATIONS OF
BALTIMORE COUNTY, WILL HOLD A VIRTUAL HEARING ON THE
PROPERTY IDENTIFIED.**

DATE & TIME: THURSDAY OCTOBER 14, 2021 1:30 PM

**FOR INFORMATION ON HOW TO PARTICIPATE IN THE HEARINGS
PLEASE GO TO WWW.BALTIMORECOUNTYMD/GOV/ADMINHEARINGS.
YOU WILL BE ASKED TO PROVIDE YOUR CONTACT INFORMATION
AND THE CASE NUMBER PROVIDED ABOVE. YOU MAY ALSO CALL
410-887-3868, EXT. 0.**

REQUESTS:

SPECIAL HEARING TO AMEND CASE 2019-0171-XA.

**VARIANCE TO PERMIT A 0 FOOT SETBACK FROM THE REAR AND SIDE
PROPERTY LINES FOR AN 18 FEET HIGH BUILDING ADDITION IN LIEU
OF THE REQUIRED 30 FOOT MINIMUM REAR AND SIDE YARD
SETBACKS.**

ZONING NOTICE

CASE NO. 2021-0201-SPHA

8202 Pulaski Highway

**THE ADMINISTRATIVE LAW JUDGE OF BALTIMORE COUNTY, BY
AUTHORITY OF THE ZONING ACT AND REGULATIONS OF
BALTIMORE COUNTY, WILL HOLD A VIRTUAL HEARING ON THE
PROPERTY IDENTIFIED.**

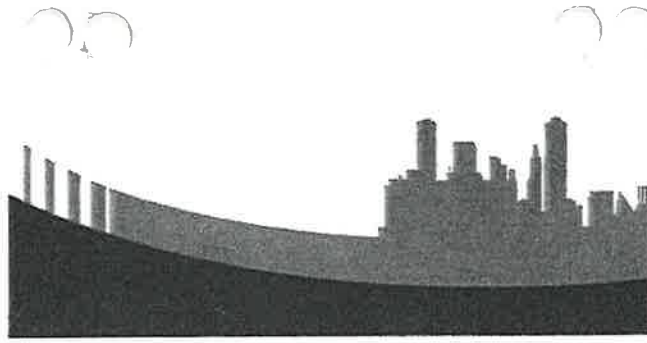
DATE & TIME: THURSDAY OCTOBER 14, 2021 1:30 PM

**FOR INFORMATION ON HOW TO PARTICIPATE IN THE HEARINGS
PLEASE GO TO WWW.BALTIMORECOUNTYMD/GOV/ADMINHEARINGS.
YOU WILL BE ASKED TO PROVIDE YOUR CONTACT INFORMATION
AND THE CASE NUMBER PROVIDED ABOVE. YOU MAY ALSO CALL
410-887-3868, EXT. 0.**

REQUESTS:

SPECIAL HEARING TO AMEND CASE 2019-0171-XA.

**VARIANCE TO PERMIT A 0 FOOT SETBACK FROM THE REAR AND SIDE
PROPERTY LINES FOR AN 18 FEET HIGH BUILDING ADDITION IN LIEU
OF THE REQUIRED 30 FOOT MINIMUM REAR AND SIDE YARD
SETBACKS.**



CERTIFICATE OF POSTING

September 23, 2021 (amended November 3, 2021)

Re:

Zoning Case No. 2021-0201-SPHA

Legal Owner: Fazal LLC, Qaisar Shahzad, President

Hearing date: October 14, 2021 (postponed to November 4, 2021)

Baltimore County Department of Permits, Approvals & Inspections
County Office Building
111 West Chesapeake Avenue, Room 111
111 West Chesapeake Avenue Towson, MD 21204

Attention: Jeff Perlow

Ladies and Gentlemen,

This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at 8202 Pulaski Highway.

The signs were posted on September 23, 2021.

The signs were inspected again on November 3, 2021.

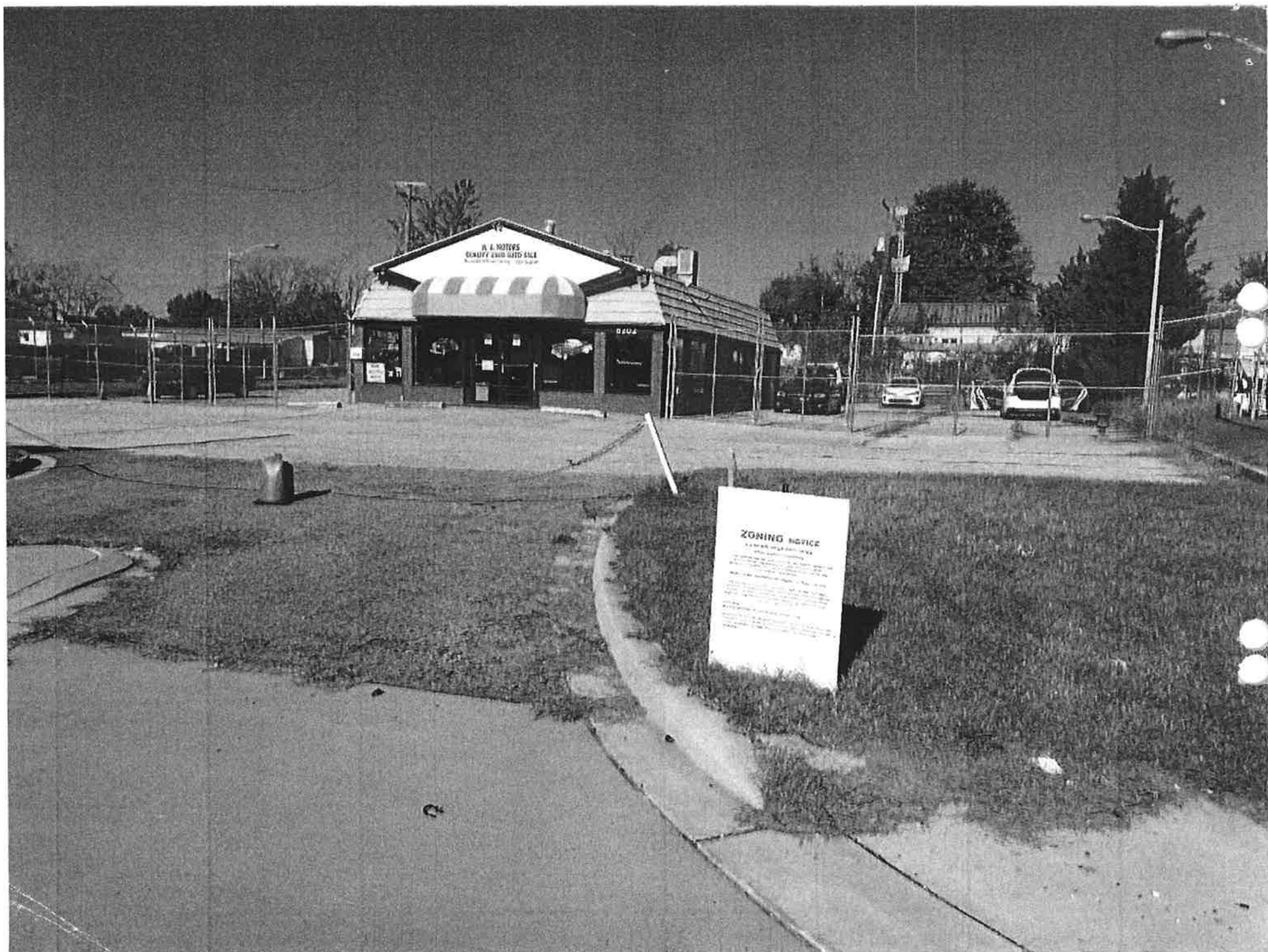
Sincerely,

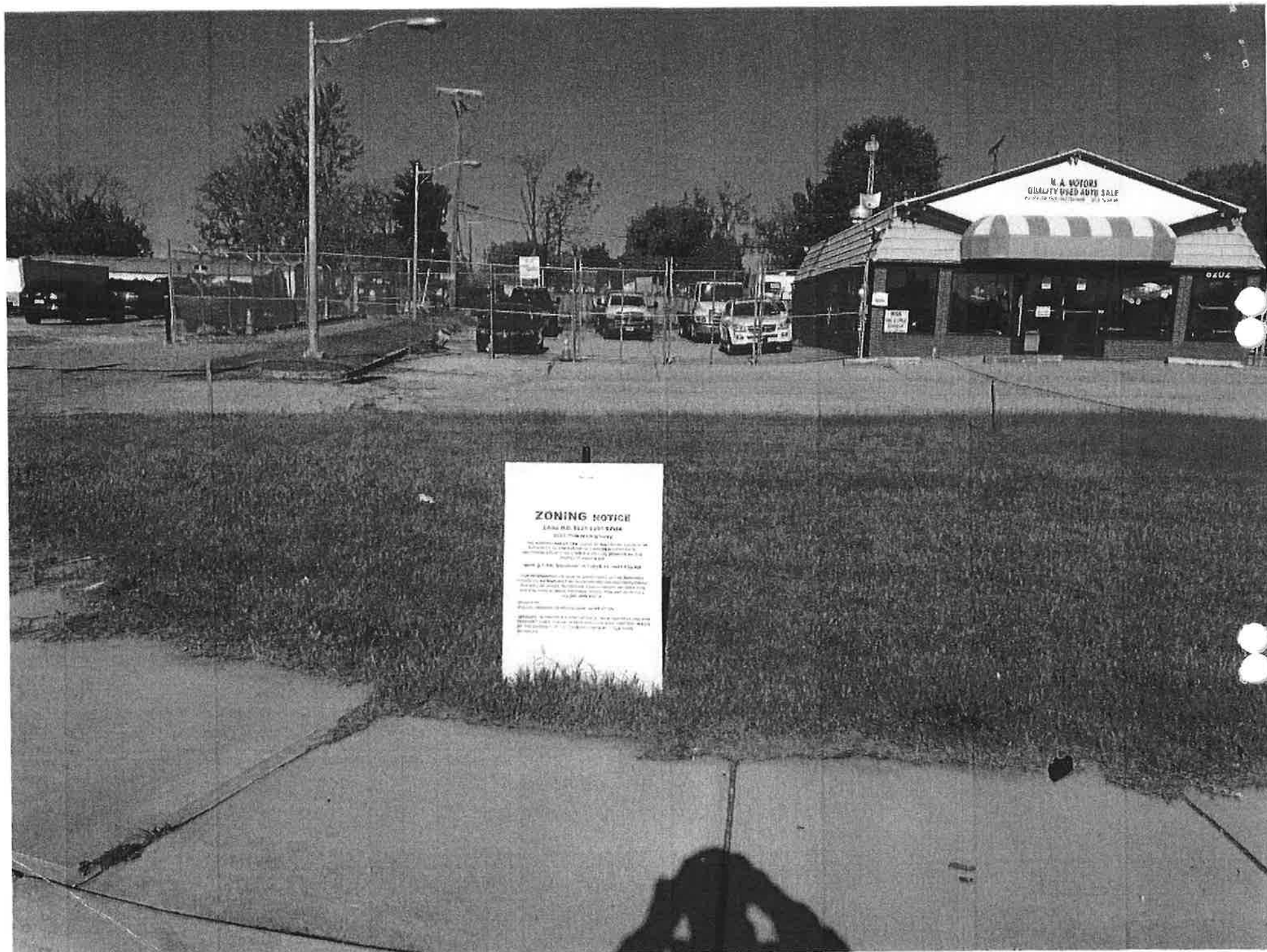
A handwritten signature in black ink, appearing to read "Bruce E. Doak".

Bruce E. Doak
MD Property Line Surveyor #531

See the attached sheet(s) for the photos of the posted sign(s)

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





Rosedale Community Association



P.O. Box 70285, Rosedale, Maryland 21237

9/19/2021

Code Enforcement of Baltimore County

(A) Attached are photos of 8202 Pulaski Highway, 21237 and a copy of a fence permit, dated,

PLEASE NOTE: NO INDICATION OF ALLEY BY APPLICANT, THUS "POSSIBLE DECEPTION" OF THE PERMIT OFFICE!

The photos indicate an erection of a sizable height of fencing, located in a public right-of-way and a Closed Gated Sign for the public right-of-way.

The permitting by Baltimore County of each fence may have been deceiving to the permit office, due to the infringement of and in the public right-of-way, Batavia Farm Rd.

There have been complaints prior by the Mobile Park residents of no access to the rear of their homes due to the claim of cutting off of this right-of-way from Pulaski Highway to Old Philadelphia Rd., 21237, named Batavia Farm Road.

This right-of-way has been in existence for over seventy years. As a child, many of us used this access to the Stewarts Root Beer stand to avoid traffic on Pulaski Highway.

There seems to be a policy of (1) Build first (2) If caught, declare hardship (3) Continue operation while the legal process takes place for months or years (4) Then issue permit. I do not believe this is the proper way for the process to work, to benefit one individual for self business.

(B) There is also, now, a storage yard of vehicles that has closed the alley or right-of-way as well, hidden by a fence. You may contact me at 443-846-5399.

Thank You


Russ Mirabile
President, Rosedale Community Association

cc:

- Councilman Crandell's Office
- People's Council
- Attorney Paul Mayhear, Managing Administrative Law Judge for Baltimore County, MD



APPLICATION FOR FENCE PERMIT
BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS, APPROVALS & INSPECTIONS
111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204

Permit No. B 945868
Receipt No. AT74115
Fee Paid \$75.00
CR# 1592

Make checks payable to Baltimore County, Maryland --- PERMIT FEES ARE NON-REFUNDABLE

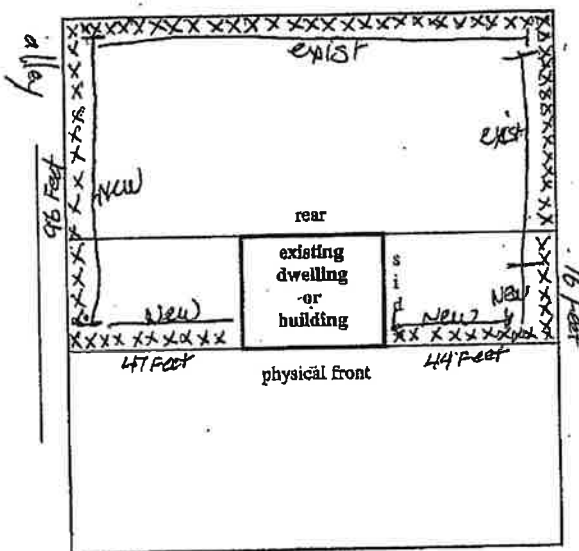
Tax Account # 1523003760 Zone BRAS 21237
Type or print in ink:
Work Site Address 8202 Pulaski Hwy Roseville MD 21237 Election District 15
Owner's Name Qaisar Shahzad Phone No. 443-794-0669
Mailing Address 9243 Bellbrook Rd Parkville MD 21237
Owner's Agent _____ Phone No. 443-794-0669

COMPLETE SKETCH BELOW OR ATTACH A PLAN THAT CLEARLY SHOWS:

Property line dimensions, easements, existing buildings, road names, and location of alleys.
Proposed fence, total length 203, height 8 Feet, and type Chain Link
Property line setbacks: front 91, sides 96, and 16, and rear covered.
Property use Automotive. Rear/Side yard abuts adjoining front yard: Yes ☒ No ☐

Corner Lot: Yes ☒ No ☐
Historic District: Yes ☐ No ☒

SITE PLAN



Road Name 8202 Pulaski Hwy Roseville MD

FENCE REGULATIONS

Permit required for fences over 42 inches high (measured vertical to ground, even if fence is placed on top of wall). Fences erected within easement must be removed at owner's expense, if required.

Building Code, Part 122:

122.1 - **Residential Fences** -- Maximum height of 42 inches in front yard as determined by BCZR and 6 feet in side and rear yards at the property line. Maximum height of 10 feet in side and rear yards, provided set back 2 feet for vertical foot over 6 feet.

122.2 - **Commercial Fences** -- Maximum height of 12 feet. Building's Engineer may approve higher fence for dangerous, hazardous, or athletic field. Electric and barbed wire fences are only permitted for the retention of livestock and when not a safety hazard to the public. No pointed projections less than 4 feet high. Barbed wire retaining material may be on top of fence that is at least 6 feet, 9 inches high.

Zoning Code (BCZR) (access easements cannot be fenced)

102.5 - **Corner Lot** -- No fence or other obstruction to vision is permitted higher than 3 feet within 25 feet of a corner of two streets, 15 feet of a street and alley, and 10 feet of two alleys.

427 - **Residential Fences** in side or rear yard which adjoins residential front yard (setback and maximum height) - fence may not exceed 42" if situated within 10 feet of the adjoining front yard property line, with the exception of 48" pool fence and houses more than 200 feet apart.

Special Fence Regulations: Exist for Historic Properties, the Honeygo Overlay District, RC5, RC6, RC7 and RC8 Zones.

Fence Waivers - Sec. 122.4: All requests for a waiver of heights over 42" in front yard must be submitted to the Building Engineer. Waiver requests require posting and may require a public hearing if height is contested. Contested front yard waiver hearings are held before the Building Engineer. If a zoning variance and fence waiver are required, both hearings shall be before the Zoning Commissioner.

County Code, Section 18-2-601, Obstruction of Drivers' View at Intersection.

Corner Lots: The County Code does not allow a fence on a corner lot to obstruct the vision of drivers as they reach an intersection. If a sight problem is noted later, the property owner will be required to move the fence. To be safe, contact Traffic Engineering at 410-887-3554 for a free site inspection before you build the fence. An issued permit does **NOT** certify that the fence will be in compliance.

OWNER/AGENT CERTIFICATION

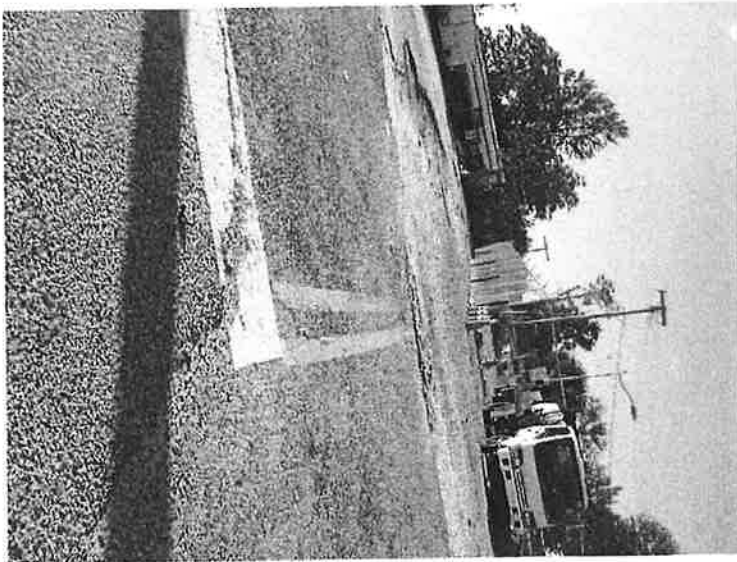
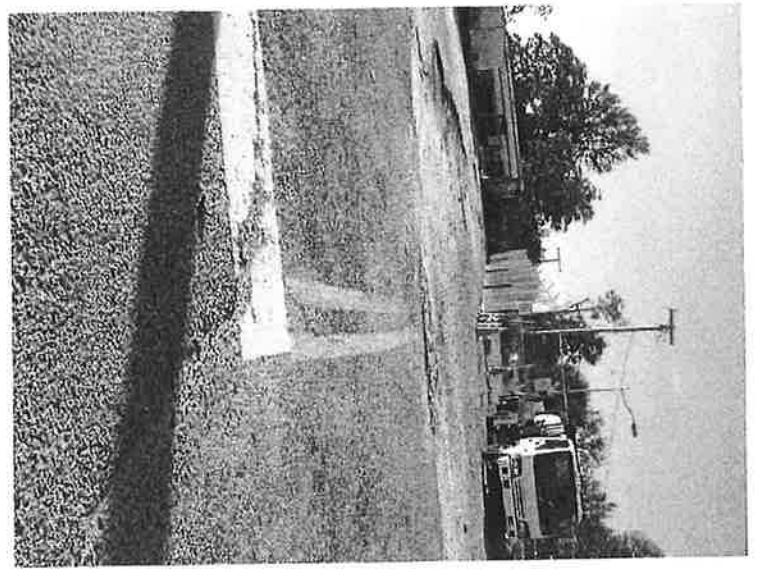
I have carefully read the above regulations and hereby certify that the proposed fence will be located on private property, and **NOT** within the 100-year floodplain, will not violate the codes, and that the information supplied is true, complete, and correct.

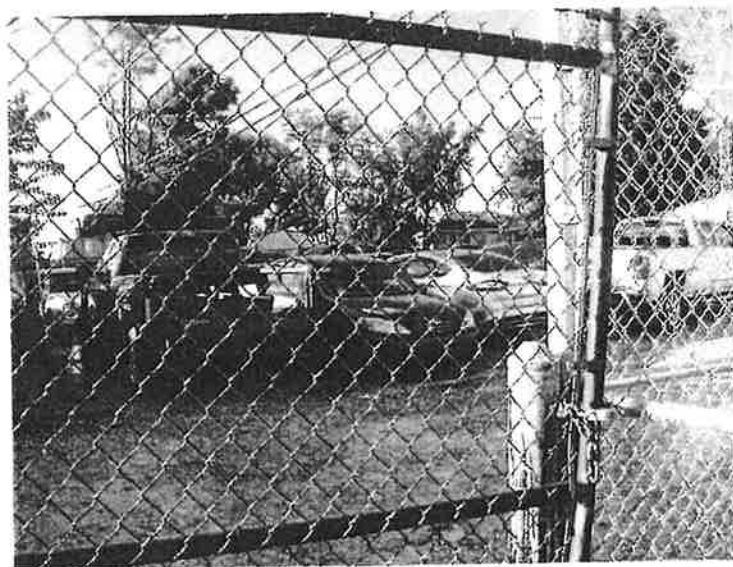
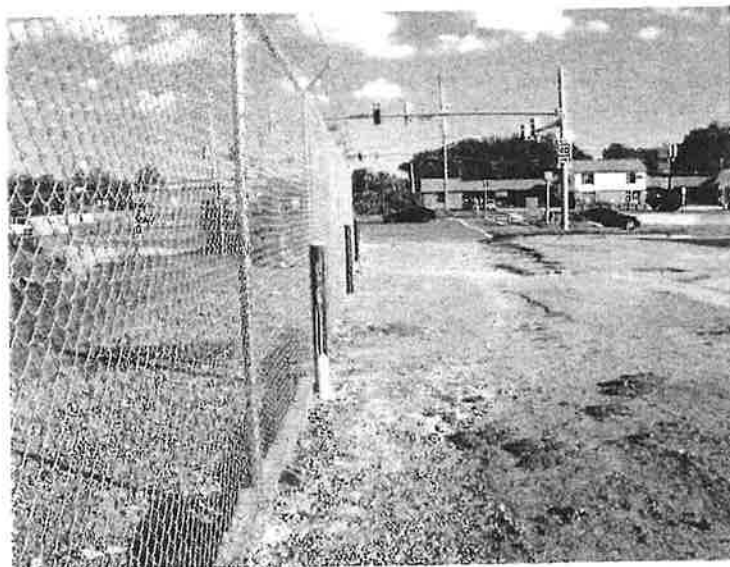
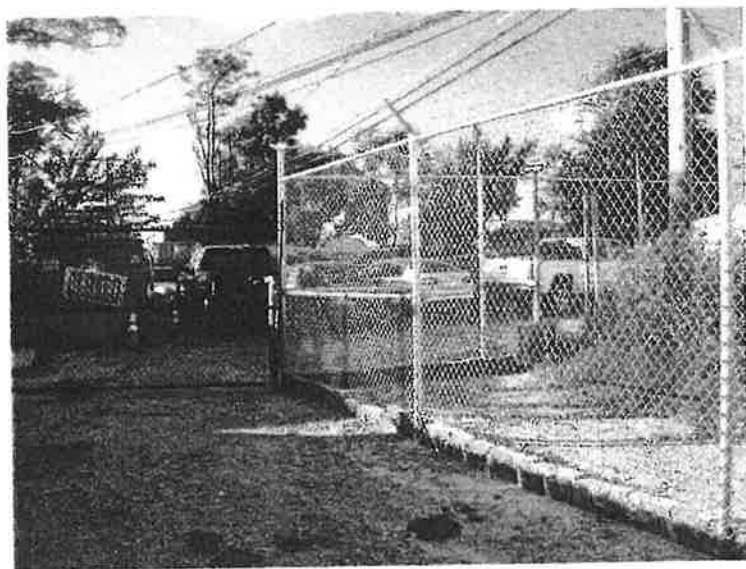
Applicant Signature Qaisar Shahzad Date 03-29-18 Print or Type Name Qaisar Shahzad

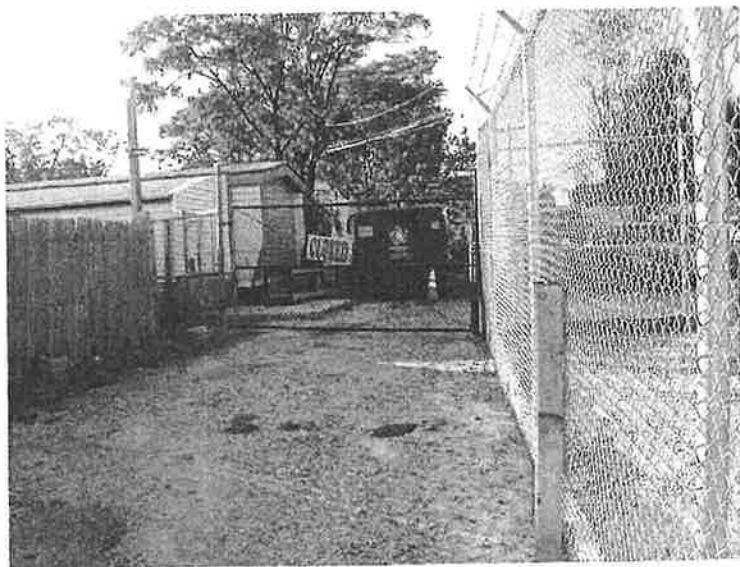
PAI APPROVAL (FOR FENCE ONLY) Authority under Section 500.4, BCZR

Approval Signature [Signature] Print Initials [Signature] Date 3/29/18

APPLICANT - KEEP THIS COPY FOR YOUR PERMANENT RECORDS







RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE OFFICE
AND VARIANCE		
8202 Pulaski Highway; SE/S of Pulaski	*	OF ADMINISTRATIVE
Highway, 105' SE of Batavia Farm Road	*	HEARINGS FOR
15 th Election & 7 th Councilmanic Districts	*	
Legal Owner(s): Fazal LLC		
Petitioner(s)	*	BALTIMORE COUNTY
	*	2021-201-XA

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman/rmw

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio/rmw

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of July, 2020, a copy of the foregoing Entry of Appearance was mailed to Bruce Doak, 3801 Baker Schoolhouse Road, Freeland, Maryland 21053, BDoak@bruceedoakconsulting.com and C. Edward Hartman, IV, Esquire, 116 Defense Hwy, Suite 300, Annapolis, MD 21401, Edward@Hartman.Law, Attorney for Petitioner(s).

Peter Max Zimmerman/rmw

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

**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 fifteen (15) 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: 2021-0201-XA
Property Address: 8202 PULASKI HIGHWAY
Property Description: NORTH SIDE OF PULASKI HIGHWAY, OPPOSITE
OF BATAVIA FARM ROAD
Legal Owners (Petitioners): FAZAL LLC
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: BRUCE E. DOAK
Company/Firm (if applicable): BRUCE E. DOAK CONSULTING LLC
Address: 3801 BAKER SCHOOLHOUSE ROAD
FREE LAND MD 21053
Telephone Number: 410-419-4906

Revised 5/20/2014

ZAC AGENDA

Case Number: 2021-0201-XA **Reviewer:** Gary Hucik
Existing Use: COMMERCIAL **Proposed Use:** COMMERCIAL
Type: SPECIAL HEARING, VARIANCE
Legal Owner: Qaisar Shahzad, President oo Fazal, LLC
Contract Purchaser: No Contract Purchaser was set.

Critical Area: No **Flood Plain:** No **Historic:** No **Election Dist:** 15 **Council Dist:** 7

Property Address: 8202 PULASKI HWY

Location: Property located on the Southeast side of Pulaski Highway, 105 FT Southeast of Batavia Farm Rd.

Existing Zoning: BR-AS **Area:** .396 ACRES

Proposed Zoning:

SPECIAL HEARING:

To amend Case # 2019-0171-XA.

VARIANCE:

BCZR 238.2 To permit a 0 FT setback from the rear and side property lines for a 18 FT high building addition in lieu of the required 30 FT minimum rear and side yard setbacks.

Attorney: C. Edward Hartman, IV, Esq.

Prior Zoning Cases: None

Concurrent Cases: None

Violation Cases: None

Closing Date:

Miscellaneous Notes:



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 8202 Pulaski Highway which is presently zoned BR-45
 Deed References: 90210/49 10 Digit Tax Account # 1523003760
 Property Owner(s) Printed Name(s) FAZAL LLC

(SELECT THE HEARING(S) BY MARKING ☒ 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

SEE ATTACHED PAGE

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

3. ☒ a Variance from Section(s)

SEE ATTACHED PAGE

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
 (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

TO BE PRESENTED AT THE HEARING

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

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

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

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

☒ C. EDWARD HARTMAN IV, ESQ.

Name- Type or Print

☒ C. E. Hartman

Signature

☒ 116 DEFENSE HWY SUITE 300 MD

Mailing Address

City

State

☒ 21401 410-266-3232

Zip Code

Telephone #

Email Address

EDWARD@HARTMAN.LAW

Legal Owners (Petitioners):

☒ QAISAR SHAHZAD PRES. OF FAZAL LLC

Name #1 - Type or Print

Name #2 - Type or Print

☒ Qaisar Shahzad

Signature #1

Signature #2

☒ 9243 BELLECK ROAD PARKVILLE MD 21234

Mailing Address

City

State

☒ 21234 443-794-0669

Zip Code

Telephone #

Email Address

RINGOTOWING1@GMAIL.COM

Representative to be contacted:

BRUCE E. DOAK

BRUCE E. DOAK CONSULTING

Name - Type or Print

Signature

☒ 3801 BAKER SCHOOLHOUSE ROAD FREEANOMD

Mailing Address

City

State

☒ 21053 410-919-9906

Zip Code

Telephone #

Email Address

BD@BRUCEDOAKCONSULTING.COM

CASE NUMBER 2021-0201-X Filing Date 7/12/21

Do Not Schedule Dates: _____

Reviewer gh

REV. 10/4/11

ORDER RECEIVED FOR FILING

11-15-21

JP4A

Petitions Requested

Case # 2021-0201-XA

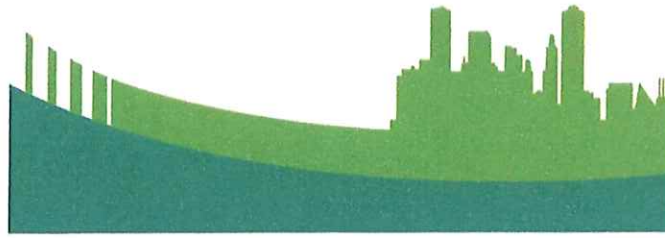
Special Hearing

To amend Case No. 2019-0171-XA

Variance

1) To permit a 0 foot setback from the rear and side property lines for a 18 foot high building addition in lieu of the required 30 foot minimum rear and side yard setbacks per Section 238.2 BCZR

2021-0201-XA



Zoning Description

8202 Pulaski Highway
Fifteenth Election District Seventh Councilmanic District
Baltimore County, Maryland

Beginning at the northeast intersection of the northwest right of way line of Pulaski Highway and the northeast side of an alley (15' wide), thence leaving Pulaski Highway and running and binding on the northeast side of said alley and running with and binding on the outlines of the subject property, 1) North 38 degrees 39 minutes 47 seconds West 151.29 feet, thence leaving said alley and continuing to run with and bind on the outlines of the subject property, the two following courses and distances, viz. 2) North 58 degrees 57 minutes 13 seconds East 150.34 feet and 3) South 29 degrees 43 minutes 47 seconds East 150 feet to intersect the northwest right of way line of Pulaski Highway, thence running and binding on said right of way and continuing to run with and bind on the outlines of the subject property, 4) South 58 degrees 57 minutes 13 seconds West 127 feet to the point of beginning.

Containing 0.396 of an acre of land, more or less.

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



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

2021-0201-XIA

1. Ownership: FAZAL LIC
9423 Belk Road Parkville, MD 21234
2. Address: 8202 Pulaski Highway Baltimore, MD 21237
3. Deed references: JLE 40210/ 49
4. Area: (.396 acre (perSDAT)
5. Tax Map / Parcel / Tax account #: 85 / 760 / 15-23-003760
6. Election District: 15 Councilmanic District: 7
Election Map: 4720J9 GIS tile: 089C3 Position sheet: 9NE21
Census tract: 450100 Census block: 24005450100
Schools: Red House Rn ES Golden Ring MS Overlea HS
7. The boundary shown hereon is from the deed recorded in the Land Records of Baltimore County. All other information shown hereon was taken from Baltimore County GIS tile 089C3 and the information provided by Baltimore County on the internet.
8. Improvements: Single story office building & paved parking lot. The existing building and the paved parking lot will remain.

Zoning: BR AS
Case #2019-0171-XA
Special Exception to allow a used motor vehicle outdoor sales area- granted
Variances for setbacks & no screening or landscaping- granted

Office 1.6 (1600 sq. ft.) x 5 = 8
Autos for sale = 30 (not required to meet Sect. 409 req.)
Auto repair (3 service bays) = 9
Total parking spaces required = 17
Parking spaces provided (outside) = 4 (employee fit customer spaces)
Parking spaces provided (inside) = 3 (bays) + 10 = 13
Total parking spaces provided = 17

Signage

BR AS Requirements per Section 238 BCZR

Front: 50 feet from the street right of way for a dual highway
Side / Rear: 30 feet from property line

Storage and display of vehicles in the front yard: no: more than 15 feet in front of the required front building line (50' - 15' = 35')

Maximum permitted floor area ratio: 2.0

Existing floor area area ratio: 0.09 (based on SDAT info) / Proposed 0.39

Watershed: White Marsh URDL land type: 1

1. The existing building is currently served by public water and sewer.
2. There are no underground storage tanks on the subject property.
3. The subject property is not in the Chesapeake Bay Critical Area.
4. The subject property is not located within a 100 year flood plain.

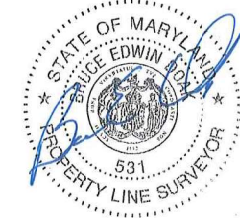
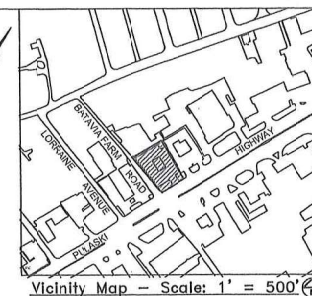
Regional Planning District: Rosedale District Code: 326

Growth Tier: 1 (served by public sewer and inside URDL)

1. The existing building is not historic. The subject property is not in a historic district.

The utilities that serve the subject property are located in Pulask Highway

Use the subject property and the existing building for used car sales, auto repair, auto painting and a towing business. An addition to the building is proposed.



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

PLAN TO ACCOMPANY A
ZONING PETITION
FOR
#8202 PULASKI HIGHWAY

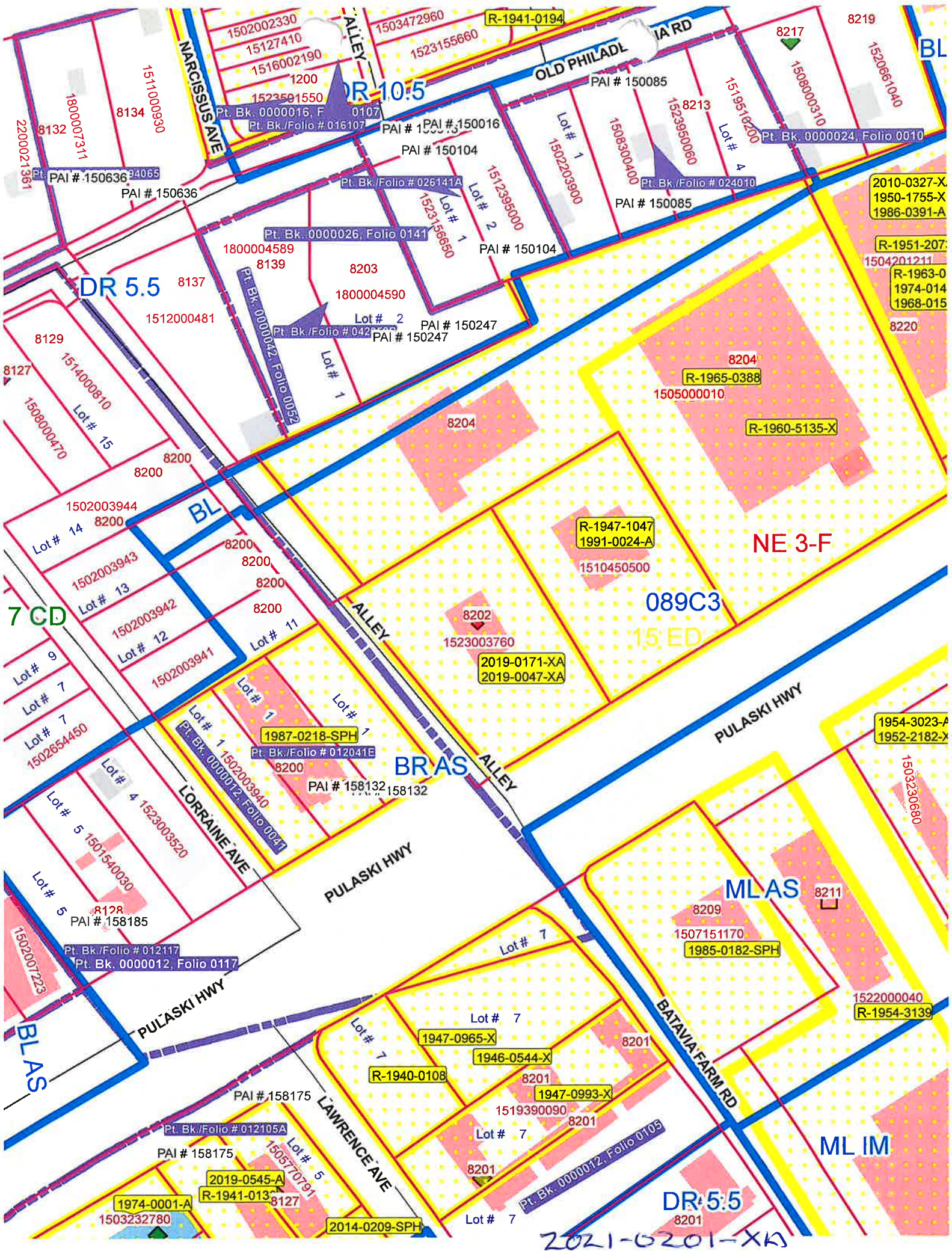
BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT

Date: 7/2/21

Scale: 1"=50'

[illegible]

2021-0201-XIA



2021-0201-XA

Real Property Data Search (w2)

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
Special Tax Recapture: None		
Account Identifier:		District - 15 Account Number - 1523003760
Owner Information		
Owner Name:	FAZAL LLC	Use: COMMERCIAL
		Principal Residence: NO
Mailing Address:	9423 BELLBECK RD PARKVILLE MD 21234-	Deed Reference: /40210/ 00049
Location & Structure Information		
Premises Address:	8202 PULASKI HWY BALTIMORE 21237-	Legal Description: .396 AC NS PULASKI H NE COR BATAVIA FARMS
Map: 0089	Grid: 0023	Parcel: 0760
Neighborhood: 31502.04	Subdivision: 0000	Section:
Block:	Lot:	Assessment Year: 2021
Plat No:	Plat Ref:	
Town: None		
Primary Structure Built 1975	Above Grade Living Area 1,600 SF	Finished Basement Area
		Property Land Area 17,249 SF
		County Use 24
Stories	Basement	Type FAST FOOD
		Exterior /
		Quality C3
		Full/Half Bath
		Garage
		Last Notice of Major Improvements
Value Information		
	Base Value	Value
		As of 01/01/2021
Land:	371,900	371,900
Improvements	72,400	77,800
Total:	444,300	449,700
Preferential Land:	0	0
		Phase-in Assessments
		As of 07/01/2020
		As of 07/01/2021
		444,300
		446,100
Transfer Information		
Seller: MARTIN LEONARD C	Date: 05/02/2018	Price: \$450,000
Type: ARMS LENGTH IMPROVED	Deed1: /40210/ 00049	Deed2:
Seller: BONOMOLO VINCENT F	Date: 10/26/2017	Price: \$10,000
Type: NON-ARMS LENGTH OTHER	Deed1: /39561/ 00142	Deed2:
Seller: MARTIN LEONARD	Date: 10/14/1988	Price: \$250,000
Type: ARMS LENGTH IMPROVED	Deed1: /07999/ 00379	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	
County:	000	07/01/2020
State:	000	0.00
Municipal:	000	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:

1. This screen allows you to search the Real Property database and display property records.

IN THE MATTER OF
FAZAL, LLC AND QAISAR SHAHZAD,
PRESIDENT AND PETITIONERS FOR
SPECIAL HEARING AND VARIANCE ON
THE PROPERTY LOCATED AT
8202 PULASKI HIGHWAY

15th ELECTION DISTRICT
7th COUNCIL DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 21-201-SPHA

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County on appeal filed by the Rosedale Community Association of an Opinion and Order of the Administrative Law Judge (“ALJ”) dated November 15, 2021, wherein a Petition for Special Hearing to amend the Opinion and Order in Case No. 2019-0171-XA to permit the repair and sale of vehicles purchased by Petitioner, and a Petition for Variance to permit a zero ft. setback from the rear and side property lines for an 18 ft. high building additions, were granted subject to conditions.

The Board conducted two days of a *de novo* hearing on March 16 and October 26, 2022. A public deliberation was held on December 22, 2022. Both the hearing and deliberation were held virtually as provided by the Board’s Rules of Practice and Procedure.

Petitioner, Fazal, LLC, (“Fazal”) was represented by C. Edward Hartman, Esquire and Nicholas L. Ketterer, Esquire of Hartman Attorneys at Law. Also appearing for Petitioner was Bruce Doak, a licensed surveyor, who qualified as an expert in Baltimore County zoning and subdivision matters. Appearing for Protestant, Rosedale Community Association was its President, Russell Mirabile. Also appearing for Protestant was Steven Broyles a licensed surveyor and engineer, who qualified as an expert.

Both parties introduced numerous exhibits, including photographs, and had witnesses who owned nearby property testify in their respective cases.

FACTUAL BACKGROUND

The Property is approximately 0.396 acres +/- and is improved with a commercial, one-story block building of 1,600 square feet, in which a used automobile sales business is located, as was approved in Case. No. 2019-171-XA. The Property is zoned Business, Roadside – Automotive, Service (BR-AS). The business currently only sells vehicles, but performs no repairs on site. The stretch of Pulaski Highway is improved by other commercial and industrial uses, the nearest being a golf cart sales and repair business, an equipment supply and repair business, and liquor store.

Fazal's first witness was Bruce Doak. Mr. Doak testified that he prepared the plans and petition in the subject case. The Property is improved by a one-story block building, formerly used as a fast food restaurant, but now used for car sales, as is permitted in the zone and under the prior zoning case. The rear portion of the site is fenced. We note that Case No. 2019-0171-XA established the uniqueness of the site and improvements. Under that case, Fazal is permitted to have up to 50 cars for sale on the site, together with customer and employee parking. Under the current request, the number of cars for sale would be limited to no more than 30, together with associated parking. The building addition would be used to repair and service vehicles prior to sale.

Mr. Doak testified that though the property deed calls to the centerline of the alley (also known as Batavia Farm Road) as the property line, Fazal has agreed to leave that roadway open and relocate the fence away from the property line to allow unrestricted use of the road in common with others.

Pulaski Highway in the vicinity of the site is a four lane divided highway. There are no significant residential uses and the area is heavily commercial and industrial in nature. There is a traffic signal at the intersection of Pulaski Highway and Batavia Farm Road. To the extent there is any residential use in the area, a group of mobile homes are located on Batavia Farm Road behind the businesses that flank the rear of the Property. No one appeared at the hearing from those residences.

The proposal would extend two sides of the existing building by an L-shaped addition extending to the rear property line on the north and to the east property line on the side. The addition would be 18' high to accommodate a lift for vehicle repairs.

Upon cross-examination by Mr. Mirabile, Mr. Doak explained that the Property shares an address with its neighbor to the east and that the Petitioner would relocate the fence within ninety days of a final approval.

Mr. Mirabile led the Protestant's case, calling several witnesses, including Steve Broyles, a licensed engineer who was accepted as an expert. Mr. Mirabile also testified as President of the Rosedale Community Association, having presented the requisite Rule 8 submission. He put forth several issues: inadequate posting, errors in the site plan, lack of uniqueness, self-created hardship, and failure to meet the special exception criteria of BCZR §502.1, and a concern that the site would take on the appearance of a junk yard.

Mr. Mirabile called Paul King of King's Liquors, located at 8226 Pulaski Highway. Mr. King raised concerns regarding the appearance of the site and the need for grass to be mowed. Also testifying in opposition was James Earlbeck who owns the property at 8204 Pulaski Highway immediately to the rear of the subject site. Mr. Earlbeck explained that his business is not an auto repair business, but one that does metal working and that he provides parts and

distribution for industry of compressed cryogenic gas and hazardous materials for industrial customers. He raised safety concerns and concerns over ingress and egress along Batavia Farm Road to his property. He also is concerned that the site will become a junkyard.

Mr. Mirabile then called Steve Broyles. Mr. Broyles testified to a number of issues where the site plan did not provide the detail enumerated in the zoning office checklist. Most concerning of these is the omission on the site plan of the location of high voltage power lines at the rear of the Property and appropriate setbacks from these. Other technical issues raised by Mr. Broyles included how parking was calculated and shown. Mr. Broyles also questioned the uniqueness of the Property.

Mr. Mirabile also called Qaisar Shahzad, President of Fazal, LLC to testify regarding his use of the site. Mr. Shahzad stated that he only sells cars from the Property, but has to transport them off-site if repairs are needed prior to sale. He wishes to be able to make those repairs at the site.

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APPLICABLE LAW

Baltimore County Zoning Regulations

§ 101 Definitions: GARAGE, SERVICE — A garage, other than a residential garage, where motor-driven vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale.

§ 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.

§ 500.7. - Petitions for public hearing; notice.

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 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.

A Special Hearing Petition is effectively a request for declaratory judgment. BCZR § 500.7, *Antwerpen v. Baltimore County*, 163 Md. App. 194, 209 (2005). While the BCZR provides no specific criteria for the granting of a Petition for Special Hearing, “the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing relief requested would be compatible with the community and generally consistent with the spirit and intent of the regulations.” *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. Ct. Spec. App. (Sept. Term 2016). The Petitioner bears the burden of presenting evidence on which the Board can assess whether a zoning request pursuant to the BCZR may be approved.

DISCUSSION

The Board finds that the Petition for Special Hearing and Variance should be granted. The Board also finds that the relief requested is compatible with the community and consistent with the spirit and intent of the Baltimore County Zoning Regulations.

The use of a used car facility is permitted in the B.R.-A.S. zone by Special Exception, which was granted in Case No. 2019-0171-XA. As noted in that case, there are unsightly aspects to the use and inherently detrimental impacts associated with the use is not a basis for denial. This remains true today. In the 2019 case, the ALJ also found the existence and physical location of the building are characteristics of the Property that are unique and consistent with the language of B.C.Z.R. § 307.1. We note that Fazal, LLC has adapted an abandoned building and site to a use that is presumptively correct and similar in character to nearby and adjoining uses.

Fazal proposes to reduce the number of cars stored outside from 50 to 30, thus mitigating an acknowledged inherently detrimental impact. Mr. Shahzad testified that the

addition would allow him to make repairs to cars to be sold from this location, so he would not have to transport vehicles to other facilities for repair as he currently must. We note that a service garage is a use permitted by right in the Business-Major (B.M.) zone under BCZR, §233.1, and therefore under BCZR, §236.1.A, is permitted by right on this Property. Indeed, the Automotive Service District Overlay provides BCZR, §259.2.B is applied to "certain parcels of land zoned B.L., B.M. or B.R., which are appropriate for uses dominated by the parking and servicing of automobiles or characterized by frequent parking turnover..." To avoid the Property's principal use becoming a service garage, we will impose a condition limiting the servicing of vehicles to only those being offered for sale. Mr. Shahzad testified that he would service only those cars being offered for sale, and would not be changing the principal use of the Property.

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common by all properties adjoining the road, despite the fact that the property line runs to the center line of the road.

The site plan that accompanied the Petitions may not have ticked all the boxes of technical details on the Office of Zoning checklist, but there is no question that the plan sufficiently illustrates what use is intended and where it is intended to occur.

As to the serious issue of the proximity of the building addition to the power lines, BGE will weigh in on the issue as the applicant moves through the approval and permit process.

The Board notes the concerns regarding the Property's appearance raised by Protestants and comments offered by the Department of Planning and will address these by adopting the conditions imposed by the ALJ.

CONCLUSION

For the reasons discussed herein, the Board of Appeals approves the proposed building addition at 8202 Pulaski Highway.

ORDER

THEREFORE, IT IS this 7th day of February, 2023, by the Board of Appeals for Baltimore County

ORDERED, that the Petition for Special Hearing from BCZR § 500.7 to amend Case No. 2019- 0171-XA is hereby **GRANTED** as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner; and it is further

ORDERED, that the Variance from BCZR § 238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks is hereby **GRANTED**.

The relief granted herein shall be subject to the following conditions:

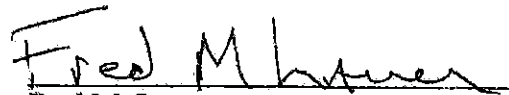
1. Only damaged, disabled and/or inoperative vehicles being offered for sale may be repaired at the Property;
2. All damaged, disabled and/or inoperative vehicles shall be parked and repaired inside the proposed addition until such vehicles are in operable and saleable condition at which point they may be parked on the outdoor sales area.
3. Petitioner may not display, park and/or store more than 30 vehicles at any one time, whether for sale or repair.
4. Petitioner shall stripe all customer and employee parking spaces pursuant to BCZR §409.
5. Within 15 days of the date hereof, Petitioner shall submit to Baltimore County a redlined site plan indicating where on the Property vehicle inventory will be displayed and the location of all customer and employee parking.
6. Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Road or in any manner obstruct or close off Batavia Farm Road until such paper road, or portion of paper road abutting the Property, is legally closed pursuant to a Road Closing Petition.
7. A formal Landscape Plan is not required to be filed. However, Petitioner shall plant and continue to maintain while under its ownership, bushes, shrubs and/or other landscaping in the two (2) grass areas fronting along Pulaski Highway, which, in the Petitioner's discretion, can reasonable fit within those areas.
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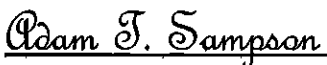
9. Any change to the principal use of the Property will require Petitioner to submit a revised site plan and be subject to a public hearing before the Administrative Law Judge.

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

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Deborah C. Dopkin, Panel Chair


Fred M. Lauer


Adam T. Sampson



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
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February 7, 2023

Russ Mirabile, President
Rosedale Community Association
7932 Oakdale Avenue
Rosedale, Maryland 21237

C. Edward Hartman, Esquire
116 Defense Highway, Suite 300
Annapolis, Maryland 21041

RE: In the Matter of: *Fazal, LLC – Legal Owner*
Case No.: 21-201-SPHA

Dear Mr. Mirabile and Mr. Hartman:

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

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

Very truly yours,

A handwritten signature in cursive script, reading "Sunny Cannington Hay".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Qaisar Shahzad, President/Fazal, LLC
James Earlbeck
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

IN THE MATTER OF
FAZAL, LLC AND QAISAR SHAHZAD,
PRESIDENT AND PETITIONERS FOR
SPECIAL HEARING AND VARIANCE ON
THE PROPERTY LOCATED AT
8202 PULASKI HIGHWAY

15th ELECTION DISTRICT
7th COUNCIL DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: 21-201-SPHA

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County on appeal filed by the Rosedale Community Association of an Opinion and Order of the Administrative Law Judge (“ALJ”) dated November 15, 2021, wherein a Petition for Special Hearing to amend the Opinion and Order in Case No. 2019-0171-XA to permit the repair and sale of vehicles purchased by Petitioner, and a Petition for Variance to permit a zero ft. setback from the rear and side property lines for an 18 ft. high building additions, were granted subject to conditions.

The Board conducted two days of a *de novo* hearing on March 16 and October 26, 2022. A public deliberation was held on December 22, 2022. Both the hearing and deliberation were held virtually as provided by the Board’s Rules of Practice and Procedure.

Petitioner, Fazal, LLC, (“Fazal”) was represented by C. Edward Hartman, Esquire and Nicholas L. Ketterer, Esquire of Hartman Attorneys at Law. Also appearing for Petitioner was Bruce Doak, a licensed surveyor, who qualified as an expert in Baltimore County zoning and subdivision matters. Appearing for Protestant, Rosedale Community Association was its President, Russell Mirabile. Also appearing for Protestant was Steven Broyles a licensed surveyor and engineer, who qualified as an expert.

Both parties introduced numerous exhibits, including photographs, and had witnesses who owned nearby property testify in their respective cases.

FACTUAL BACKGROUND

The Property is approximately 0.396 acres +/- and is improved with a commercial, one-story block building of 1,600 square feet, in which a used automobile sales business is located, as was approved in Case. No. 2019-171-XA. The Property is zoned Business, Roadside – Automotive, Service (BR-AS). The business currently only sells vehicles, but performs no repairs on site. The stretch of Pulaski Highway is improved by other commercial and industrial uses, the nearest being a golf cart sales and repair business, an equipment supply and repair business, and liquor store.

Fazal's first witness was Bruce Doak. Mr. Doak testified that he prepared the plans and petition in the subject case. The Property is improved by a one-story block building, formerly used as a fast food restaurant, but now used for car sales, as is permitted in the zone and under the prior zoning case. The rear portion of the site is fenced. We note that Case No. 2019-0171-XA established the uniqueness of the site and improvements. Under that case, Fazal is permitted to have up to 50 cars for sale on the site, together with customer and employee parking. Under the current request, the number of cars for sale would be limited to no more than 30, together with associated parking. The building addition would be used to repair and service vehicles prior to sale.

Mr. Doak testified that though the property deed calls to the centerline of the alley (also known as Batavia Farm Road) as the property line, Fazal has agreed to leave that roadway open and relocate the fence away from the property line to allow unrestricted use of the road in common with others.

Pulaski Highway in the vicinity of the site is a four lane divided highway. There are no significant residential uses and the area is heavily commercial and industrial in nature. There is a traffic signal at the intersection of Pulaski Highway and Batavia Farm Road. To the extent there is any residential use in the area, a group of mobile homes are located on Batavia Farm Road behind the businesses that flank the rear of the Property. No one appeared at the hearing from those residences.

The proposal would extend two sides of the existing building by an L-shaped addition extending to the rear property line on the north and to the east property line on the side. The addition would be 18' high to accommodate a lift for vehicle repairs.

Upon cross-examination by Mr. Mirabile, Mr. Doak explained that the Property shares an address with its neighbor to the east and that the Petitioner would relocate the fence within ninety days of a final approval.

Mr. Mirabile led the Protestant's case, calling several witnesses, including Steve Broyles, a licensed engineer who was accepted as an expert. Mr. Mirabile also testified as President of the Rosedale Community Association, having presented the requisite Rule 8 submission. He put forth several issues: inadequate posting, errors in the site plan, lack of uniqueness, self-created hardship, and failure to meet the special exception criteria of BCZR §502.1, and a concern that the site would take on the appearance of a junk yard.

Mr. Mirabile called Paul King of King's Liquors, located at 8226 Pulaski Highway. Mr. King raised concerns regarding the appearance of the site and the need for grass to be mowed. Also testifying in opposition was James Earlbeck who owns the property at 8204 Pulaski Highway immediately to the rear of the subject site. Mr. Earlbeck explained that his business is not an auto repair business, but one that does metal working and that he provides parts and

distribution for industry of compressed cryogenic gas and hazardous materials for industrial customers. He raised safety concerns and concerns over ingress and egress along Batavia Farm Road to his property. He also is concerned that the site will become a junkyard.

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DISCUSSION

The Board finds that the Petition for Special Hearing and Variance should be granted. The Board also finds that the relief requested is compatible with the community and consistent with the spirit and intent of the Baltimore County Zoning Regulations.

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The Board notes the concerns regarding the Property's appearance raised by Protestants and comments offered by the Department of Planning and will address these by adopting the conditions imposed by the ALJ.

CONCLUSION

For the reasons discussed herein, the Board of Appeals approves the proposed building addition at 8202 Pulaski Highway.

ORDER

THEREFORE, IT IS this 7th day of February, 2023, by the Board of Appeals for Baltimore County

ORDERED, that the Petition for Special Hearing from BCZR § 500.7 to amend Case No. 2019- 0171-XA is hereby **GRANTED** as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner; and it is further

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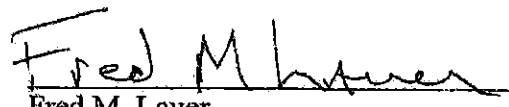
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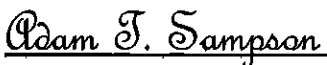
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**BOARD OF APPEALS
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Deborah C. Dopkin, Panel Chair


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Board of Appeals of Baltimore County

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February 7, 2023

Russ Mirabile, President
Rosedale Community Association
7932 Oakdale Avenue
Rosedale, Maryland 21237

C. Edward Hartman, Esquire
116 Defense Highway, Suite 300
Annapolis, Maryland 21041

RE: In the Matter of: *Fazal, LLC* – Legal Owner
Case No.: 21-201-SPHA

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Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Qaisar Shahzad, President/Fazal, LLC
James Earlbeck
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Department of Planning
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law

Tammy Zahner

From: Caitlin Bassett <caitlin.bassett@hartman.law>
Sent: Monday, November 28, 2022 3:04 PM
To: Appeals Board
Cc: Nicholas Ketterer; C. Edward Hartman, III
Subject: Written Argument for 21-201-SPHA
Attachments: 2021-201-SPHA Petitioner Argument.pdf

CAUTION: This message from caitlin.bassett@hartman.law originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Afternoon Appeals Board,

Please find attached the Written Argument we are submitting on behalf of our client, Qaisar Shahzad in the matter of Case No. 21-201-SPHA.

Thank you.

Sincerely,
Caitlin

Caitlin Bassett

Paralegal

Hartman Law

116 Defense Highway #300

Annapolis, Maryland 21401

caitlin.bassett@hartman.law

410-266-3232 (office)



H

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
TO AMEND THE OPINION AND ORDER	*	OF ADMINISTRATIVE
IN CASE NUMBER 2019-0171-XA	*	HEARINGS FOR
8202 Pulaski Highwayl SE/S of Pulaski	*	BALTIMORE COUNTY
Highway, 105' SE of Batavia Farm Road	*	Case No. 2021-0201-SPHA
15 th Election & 7 th Councilmanic District		
Legal Owner(s): Fazal, LLC		
Petitioner(s)		

* * * * *

WRITTEN ARGUMENT

Fazal, LLC, Petitioner, by and through Hartman, Attorneys at Law, and Nicholas Ketterer, its attorneys, hereby files this Written Argument supporting this Board’s affirming of the Opinion and Order in Case No. 2021-0201-SPHA, and in support thereof states:

Fazal, LLC is the legal owner of the property located at 8202 Pulaski Highway, Rosedale (the “Property”). The two-day hearing, which occurred over a span of six (6) months, was a result of Rosedale Community Association’s appeal from the Opinion and Order of Administrative Law Judge Maureen E. Murphy, in which the Judge partially granted Petitioner’s request to amend the Opinion and Order in Case No. 2019-0171-XA, granting variance relief from Baltimore County Zoning Regulation (“BCZR”) §238.2, permitting a zero (0) foot setback from the rear and side property lines allowing for an eighteen (18) foot high building in lieu of the required thirty (30) foot minimum rear and side yard setbacks.

Qaisar Shahzad appeared as a representative of Petitioner and Bruce E. Doak, licensed surveyor, appeared to give expert testimony as to why a variance to the side and rear property lines is appropriate under the BCZR. Appellant, Russell Mirabile, President of the Rosedale Community Association and Steven Broyles, licensed surveyor, appeared along with several members of the community in opposition to the variance relief requested.

Mr. Shahzad has been using the Property for used automobile sales under a special exception granted in Case No. 2019-0171-XA. Mr. Shahzad has been permitted to sell used cars, but not repair them, mainly due to concerns over the appearance of a junkyard that may result from such repairs. Mr. Shahzad stated that he purchases the vehicles at auction and brings them to the lot to sell. If repairs are needed, he must tow the vehicles to an offsite location to make repairs. Mr. Shahzad seeks this variance to permit him to construct a service garage to repair the vehicles at the Property, eliminating the needless burden of towing the vehicles off site while also alleviating the fears of the appearance of a junkyard.

REQUIREMENTS FOR VARIANCE RELIEF

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

- (1) It must be shown that 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).

The Property was previously adjudicated to be unique in Case No. 2019-0171-XA. The Property and existing structures have not changed, and Petitioner argues that the factual finding in Case No. 2019-0171-XA applies here under the doctrine of collateral estoppel. *Garrity v. Maryland State Bd. of Plumbing*, 447 Md. 359, 368 (2016). (See also *Colandrea v. Wilde Lake Community Ass'n, Inc.*, 361 Md. 391 (2000); *Washington Suburban Sanitary Commission v. TKU Associates*, 281 Md. 1, 18-19 (1977)). Petitioner argues that conflicting findings of uniqueness will result in confusion and potential adverse zoning action against Petitioner. Should the Board disagree, Petitioner argues that the property, as it stands, is improved with a commercial, 1-story building that used to operate as a fast-food restaurant. The location of the building, directly in the

center of the approximately .396-acre lot, makes it almost impossible to expand the building in any direction without running afoul of the BCZR property line setback requirements. Mr. Doak opined that variance relief to the property line setback requirements is quite common for similar businesses along that stretch of Pulaski Highway and that there are many similar automobile repair shops along the highway. The stretch of Pulaski Highway on which the Property is located is zoned BR-AS, and Mr. Doak emphasized that service garages are permitted by right within the BR-AS zone.

Mr. Shahzad argues that the addition to the Property of a service garage does not change the use from used car sales, but instead adds to it. Used cars are often in need of a tune up before they can be sold and adding a service garage to enable those repairs is both an appropriate addition to used car sales and serves to prevent any appearance of a junkyard. Such a service garage likewise serve to reduce the noise and traffic congestion related to towing the vehicles to other locations to effectuate repairs. Mr. Shahzad even offered to reduce the number of vehicles being offered for sale from the fifty (50) currently permitted to thirty (30), to further alleviate any concern with the physical appearance of the lot as a junkyard. The Property's unique layout with the building in the center of the lot prevents construction of a functional service garage, a use permitted by right in the BR-AS zone, absent variance relief from property line setback requirements.

Mr. Shahzad will suffer practical difficulty and hardship if the variance request is denied. Mr. Shahzad must tow used vehicles off site to effectuate repairs which he could easily complete on site within the confines of a service garage. Absent variance relief, no service garage to house damaged, disabled, and/or inoperable vehicles from view could feasibly fit on the lot and Mr. Shahzad will continue to suffer practical difficulties and hardship in the operation of his business. Variance relief in this manner services the spirit and intent of the BCZR, in that it will not harm

the public health, safety, or welfare, and serves to eliminate the concerns over the physical appearance of the Property.

Appellant, Rosedale Community Association, raised several concerns in its opposition to Mr. Shahzad's request for variance relief, none of which are relevant to the variance relief requested. Mr. Mirabile and several of his witnesses took issue with the notice posted on the Property and the timing of the hearing back in 2021. Mr. Doak opined he properly posted the notices on the Property, filed certificates of posting, and the reason for the inaccurate date of hearing on the sign was a result of Mr. Mirabile's own request for a postponement of the hearing. Mr. Doak further stated that the County itself informed him he did not need to update the dates on the postings because the postponement was a direct result of Mr. Mirabile's request. As such, any concern of Mr. Mirabile or the Rosedale Community Association over the posting on the Property is moot.

Mr. Broyles testified that there are high voltage Baltimore Gas and Electric ("BGE") lines that run along the rear of the Property and that construction of a service garage underneath those lines would be a major hazard. While the location of the BGE lines is certainly something that must be addressed with BGE prior to breaking ground, it is not something that must be addressed and fleshed out prior to the granting of variance relief. Such a requirement would inflict a heavy burden on any petitioner seeking variance relief, essentially requiring them to fully complete the entire process of permitting for construction before even getting zoning approval to build anything. Mr. Broyle's other opinions largely relate to non-mandatory guidelines for site plans, which do not need to be addressed here for the Board to grant variance relief.

Finally, BCZR §409 does not apply to vehicles displayed for sale and they are not calculated into the number of parking spots required for customers and staff parking. To the extent

that Mr. Mirabile argues about Batavia Farm Road, Mr. Shahzad acknowledges that a formal Road Closing Petition must be granted in order to proceed with incorporating the part of the Property located within the road into his operations. As such, any of Mr. Mirabile's arguments about the road are moot.

For all the foregoing reasons, Petitioner respectfully requests this Board grant its requested variance relief from the setbacks from the side and rear property lines and permit it to go forward to the next steps of the still lengthy process before any ground can be broken on a service garage at the Property.

Respectfully submitted,

HARTMAN, Attorneys at Law

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Nicholas L. Ketterer, Esq.
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Nicholas.ketterer@hartman.law
Attorneys for Petitioner



7932 Oakdale Avenue, Rosedale, MD 21237

November 28, 2022

Baltimore County Board of Appeals
Jefferson Building, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204



RE: Memorandum for Case Number: 2021-0201-SPHA
Address: 8202 Pulaski Highway, Rosedale, Maryland 21237
Owner/Petitioner: FAZAL, LLC
Special Hearing to amend Case No. 2019-0171-XA, and
Variance to permit a 0 ft. setback from the side and rear property lines for a 18' high building addition in lieu of the required 30' minimum rear and side yard setbacks per Section 238.2 BCZR.

Abbreviations:

BCBA Baltimore County Board of Appeals
BCZR Baltimore County Zoning Regulations
BGE Baltimore Gas and Electric
COMAR Code of Maryland Regulations
DLLR Maryland Department of Licensing and Regulation
EX Exhibit
RCA Rosedale Community Association
PET Petitioner FAZAL LLC for 8202 Pulaski Highway

The Rosedale Community Association, (RCA) opposes granting of Zoning Case No. 2021-0201-SPHA for 8202 Pulaski Highway, Baltimore, MD 21207 and requests the Baltimore County Board of Appeals (BCBA), deny the petition for the following concerns and reasons:

1. Zoning Case No. 2021-0201-SPHA for 8202 Pulaski Highway, Baltimore, MD 21207 was not properly posted and listed the incorrect hearing date of 10/14/2021 as the rescheduled date was 11/4/2021.
2. 8' fence in Center of Batavia Farm Road Redlined Site Plan indicates the 8' fence is to be relocated to the east edge of Batavia Farm Private road 30' right-of-way. Said 8' fence has been relocated as shown on the amended Redlined Site Plan. RCA requests that no permission be granted to return fence and storage use to the center of Batavia Farm Road.
3. Petitioners (PET) site plan is not accurate, has multiple errors and omissions.
4. Variance Petition, the property is not unique or unusual and different in nature from the surrounding properties and any alleged practical difficulty or undue hardship would have been due to a change of existing use which was a result of the applicants' own actions.
5. Special Hearing, the amended Red Lined Site Plan for Case# 2021-0201-SPHA which amends Case# 2019-0171-XA includes a new structure addition with a 0' setback on the rear and east side property line cannot be granted without being detrimental to, the health, safety or general welfare of the locality involved.

Case Issues:

1. Zoning Case No. 2021-0201-SPHA for 8202 Pulaski Highway, Baltimore, MD 21207 was not properly posted and listed the incorrect hearing date of 10/14/2021 as the rescheduled date was 11/4/2021 and should have been reposted with the correct date 20 days prior to the hearing. RCA requests the case be denied since the community at large did not have proper notice to participate.

Mr. J. M. Earlbeck, owner of the adjacent commercial properties at 8202 and 8204 Pulaski highway testified that he saw the zoning sign with the incorrect date and would have attended the hearing on 11/4/2021 had he been informed of the correct date. See RCA Exhibit (EX)18 correspondence from J.M. Earlbeck dated 3/3/2022 noting on 11/3/2021 the posting sign indicated hearing date of 10/14/2021 and RCA EX18A photo of posting sign with hearing date of 10/14/2022 taken by JM Earlbeck on 11/5/2022. Mr. Earlbeck also requested that the Special Hearing and Variance be denied.

Mr. Paul King, owner of several nearby commercial properties located on Pulaski Highway, testified that he saw the zoning sign with the incorrect date and would have attended the hearing on 11/4/2021 had he been informed of the correct date. See RCA EX 77HHH Paul King affidavit and RCA EX 44 Paul King letter. Mr. King also requested that the petition for Special Hearing and Variance be denied.

Mr. Bruce Doak, MD licensed property line surveyor and expert witness for the PET, testified that he posted the zoning notice sign on 9/23/2021 and inspected the sign on 11/3/2021 for the 11/4/2021 hearing date to make sure the sign was still there, however the sign had the incorrect date of 10/14/2021. See RCA EX 36 Certificate of Posting. Mr. Doak alleged he was told by the zoning office that he did not need to post a new sign, See Transcript of BCBA Case# 2021-0201-SPHA page 142. Why would Mr. Doak reinspect the Zoning Notice Sign the day prior to the hearing and not revise the correct date of 11/4/2021 on the sign?

2. PET illegally installed an 8' fence in the center of Batavia Farm Road. Said 8' fence had two Baltimore County Code Enforcement violations, one on 9/15/2021 for failure to obtain a building permit and the second one on 3/2/2022 for fence measurements not matching site plan see RCA EX 12. The 8' fence has been relocated to the east side of the private road 30' right-of-way as per the amended Redlined Site Plan dated 11/22/2021. The Opinion and Order by Office of Administrative Hearings Case# 2021-0201-SPHA was granted subject to Condition/Restriction 6. "Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Rd. or in any obstruct or close off Batavia Farm Rd. until such paper road or portion of paper road abutting the Property, is legally closed."

Although the 8' of chain link fence has recently been removed RCA opposes the future extension of said fence, use and storage of vehicles on the east 15' to the center of Batavia Farm Road 30' wide private roadway used by the public and all property owners bounding thereon. RCA requests the Board deny any request for fencing, parking or any use except ingress and egress to the site for PET to encroach into the 30' wide right-of-way for the private Batavia Farm Road.

3. Mr. Steven Broyles licensed Professional Land Surveyor, Professional Engineer and RCA Expert Witness testified that the PET site plan had multiple errors and omissions.

- a. The amended Redlined Site Plan submitted for Zoning Case No. 2021-0201-SPHA is in error showing only 4 parking spaces provided when the site plan requires 17 parking spaces as there was no variance request for a reduced number of parking spaces or a modified parking plan. Mr. Broyles also testified the parking calculation on the PET's amended Redlined Site Plan was inaccurate and the required number of parking spaces was 26.
- b. Amended Redlined Site Plan is missing items on the Zoning Checklist Part II Zoning Public Hearing Applications RCA EX 105 The first page of the Zoning Checklist clearly states, "To avoid time-consuming and costly delays, all checklist information must be included on the plan and/or in the hearing application."

Zoning Checklist: RCA EX105 Page 1-3

- Item 3 net & gross area not shown,
- Item 14 entrance width missing,
- Item 16 utilities, no utilities shown,
- Item 23 parking calc page 4 shows 17 parking spaces is incorrect 26 parking spaces are required see calculation in e. below,
- Item 24 Special use requirements site plan must show compliance with Baltimore County Zoning Regulations (BCZR) 405 damaged vehicle storage, damaged and inoperable vehicles must be stored inside and not on exterior parking areas.

Off-Street Parking Requirements; RCA EX105 Page 6

- Item 1 Paving: shows tow truck parking on grassed island no durable dustless surface site plan does not indicate paving limits, type and all grassed or landscaped areas.
- Item 2 Landscape: Case# 2021-0201-SPHA Order 11-15-2021
Condition/Restriction 7. Requires landscaping bushes, and shrubs in the 2 grassed areas fronting Pulaski Hwy. The site plan does not identify the two landscaped areas fronting Pulaski Hwy and had the site plan accurately shown the grassed islands on the west side and rear of the property the ALJ may have required landscaping there also.
- Item 3 Curb: not called out and type,
- Item 6 Entrance: width not shown,
- Item 10 Loading Zone: none indicated,
- Item 11 Handicapped Parking: none indicated.
- c. Vehicle storage can only fit 13 with double overhead door access on front and rear left side of proposed structure, see RCA EX104 parking layout by Steve Broyles enlarged site plan 1"=20' scale
- d. Inside parking RCA EX104 parking layout by Steve Broyles interior parking can only fit 12 parking spaces with 2 compact not 13 with as per BCZR 409 Standards no room for office or work area
- e. Parking Calcs incorrect RCA EX105 Page 4 Zoning Checklist
Existing Building Area 1600sf
Proposed Building Area 6768sf
 $6768sf [(1600sf/1000sf) \times 5/1000sf + (5168sf/1000sf) \times 3.3/1000sf] = 26$ parking spaces
Auto Sales Display/Offices/Parts 5 spaces/1000sf; Service 3 spaces/1000sf

State of Maryland DLLR Professional Land Surveyor Business Practices:

- f. RCA EX103 COMAR 09.13.06.12. Maryland Department of Labor, Board for Professional Land Surveyors, Minimum Standards of Practice, Business Practices
COMAR 09.13.06.12.G. By signing and sealing surveying documents, a licensee assumes full responsibility for the preparation of the surveying documents described in this chapter and for the accuracy and adequacy of the surveying work reflected in the documents

COMAR 09.13.06.12.H. When signing and sealing surveying documents, a licensee shall indicate the license expiration date on the documents before submitting them in accordance with requirements set forth in Business Occupations and Professions Article, §15-502 (a), Annotated Code of Maryland. Bruce E. Doak Professional Property Line Surveyor does not indicate an expiration date.

Site Plan is not accurate and contains many errors and omissions PET should be denied until an accurate site plan is submitted.

4. Variance Petition 2021-0201-SPHA

Type 2: VARIANCE

Petition Request 2:

To permit a 0 ft. setback from the side and rear property lines for an 18' high building addition in lieu of the required 30' minimum rear and side yard setbacks.

- a. Even though this property was previously adjudicated to be unique in Case No.2019-0171-XA Page BCZA 2021-0201-SPHA Order and the property and existing building have not changed this is a new variance for a structure setback variance and expanded primary structure not a car parking or vehicle inventory storage setback variance. As the appeal is a de novo hearing uniqueness and unusualness need to be re-evaluated and not just granted under the doctrine of collateral estoppel.
- b. Mr. Broyles RCA Expert testified that the property is not unique or unusual and no different in nature from the surrounding properties. He testified that many surrounding properties are small lots with small centrally located buildings and circular traffic patterns for service and restaurant commercial uses.

RM Cromwell vs Ward MD Court of Special Appeals.

Cromwell vs Ward Court of Special Appeals Page 2 Excerpt:

"Although somewhat indirectly, appellant has pointed out an important aspect of the variance process is at least a two-step process. The first step requires a finding that the property whereon structures are to be placed (or uses conducted is – in of itself -unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e. a determination of whether practical difficulty and/or unreasonable hardship resulting from disproportionate impact of the ordinance caused by the property's uniqueness,"

The variance process should have stopped here and been denied.

- c. Mr. Broyles testified in his professional opinion that if BCZR were strictly interpreted the PET would not suffer a practical difficulty or undue hardship. The PET, Fazal LLC, would be able to make a reasonable use that is compatible with the small site size, to use the property for a used car dealership but only store 13 vehicles for inventory. If Fazal LLC need a larger operation they should have purchased a larger site and building. Any alleged practical difficulty or undue hardship would have been due to a change of existing use which was a result of the applicants' own actions.

- d. Mr. Broyles testified in his Professional Opinion that this relief is not in strict harmony with the spirit and intent of height, area, off-street parking, or sign regulations.
- e. Mr. Broyles testified in his Professional Opinion granting this variance relief would cause substantial injury to public health, safety, and general welfare. The 0' Building setback overcrowds Mr. Earlbeck's property to the rear or North and BMore Buggies to the right or East, interfering with adequate light and air.
- f. Mr. Broyles testified that there are Baltimore Gas and Electric (BGE) overhead powerlines along the Rear or North property line that is a 13,200 volt 3 phase primary feeder supplying transformers to Earl Becks Property and 2 buildings at 8204 Pulaski Highway. BGE Construction Setbacks RCA EX 70+ require 10' setback plus one half of the 8' cross arm on top of the utility pole for a total 14' setback from BGE and property line. This building cannot be constructed with a 0' rear yard setback! That is why the zoning checklist requires utilities to be shown, had Mr. Doak realized there was an omission showing the BGE primary high voltage feeders along the rear property line he would have never designed the building with a 0' setback.

The variance approval placing the proposed building against the rear property line with BGE overhead 13,200 volt primary feeder power lines creates multiple safety, electrocution and fire hazards; furthermore the 0' rear yard setback violates building, fire and life safety codes currently in effect. This project needs to pump the brakes, hit the reset button, go back to the planning stage, involve a Professional Engineer familiar with public utilities and submit an accurate site plan; Therefore, BCBA should deny this PET for Special Hearing and Variance.

5. Special Hearing 2021-0201-SPHA

Petition Type 1: SPECIAL HEARING to amend opinion and order in Case No. 2019-171-XA
Petition Request 1: To amend opinion and order in Case No. 2019-171-XA, and to construct a 1 story 6,768sf addition with 0' setback on side and rear property lines.

The amended Redlined Site Plan site plan for Case# 2021-0201-SPHA which amends Case# 2019-0171-XA includes a new structure addition with a 0' setback on the rear and east side property line. The amended Redlined Site Plan is inaccurate, this PET should be denied.

Before any special hearing is granted it must appear that the use is for which the special exception is requested will not:

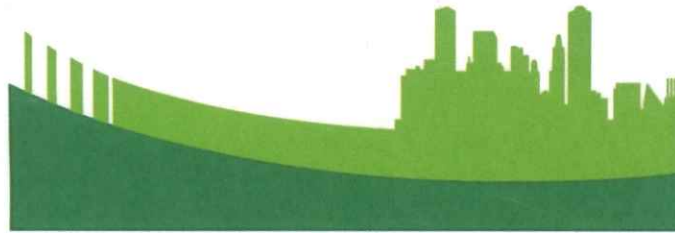
- a. Be detrimental to the health, safety or general welfare of the locality involved; the 0' rear structure setback under the BGE 13,200 volt 3 phase primary electric feeders create an electrocution, safety and fire hazard.
- b. Tend to create congestion in roads, streets or alleys therein; Closing half of Batavia Farm Road would create congestion therein.
- c. Create a potential hazard from fire, panic or other danger; the granting of this special exception with a 0' set back on the rear property line creates a fire danger. As Mr. Earlbeck testified, he regularly transports hazardous and flammable materials including compressed gasses by truck on driveways adjacent to the PET's property line
- d. Tend to overcrowd land and cause undue concentration of population; A building this size on this small of a lot clearly overcrowds the land.
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements; This 0' setback structure at the rear property line clearly interferes with Public Electricity transmission to adjacent properties.

- f. Interfere with adequate light and air; this proposed 0' setback building on the rear and east side interferes with adequate light and air for the two adjacent neighbors at 8202 and 8204 Pulaski highway.
- g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; this proposed amended site plan is inconsistent with area setbacks and Sec 409 off street parking requirements and no parking standard variance or modified parking plan has been requested. BCZR Section 238.4. Storage and display of materials and vehicles. Storage and display of materials, vehicles and equipment are permitted in the front yard, but not more than 15 feet in front of the required front building line for BR Zones. The PET amended Redlined Site Plan shows tow truck parking 35' in front of the required front building line which is not allowed and there was no variance request for this set back requirement for storage of inventory vehicles or service tow trucks.

This inaccurate amended Redlined Site Plan has multiple errors, omissions and BCZR violations and the PET for special hearing and variance should be denied.

Sincerely,


Russell R. Mirabile, President
Rosedale Community Association



✓ = in evidence

CASE #2021- 0201-SPHA EXHIBITS
(In the order of submittal)

- ✓ 1) Plan to Accompany a Zoning Petition
 - ✓ 2) SDAT Report
 - ✓ 3) GIS
 - ✓ 4) GIS photo
 - ✓ 5) Boundary Survey Plat
 - ✓ 6) Photos Key Sheet / photos A-N
 - ✓ 7) Adjoining neighbor letter of support
 - ✓ 8) Aerial Photograph marked - 30 ft. Rd.
 - ✓ 9) Boundary Survey Plat marked - 30 ft. Rd.
 - ✓ 10A+10B) Street View Photographs - 30 ft. Rd.
 - ✓ 11) GIS - marked - 30 ft. Rd.
 - ✓ 12) Deed - 3/16/18 Leonard Martin to Fazal, LLC (B40210, P49)
(Parcel 760)
 - ✓ 13) Deed - 10/4/2000 Albert C. Earlbeck to Earlbeck Family LLC (L14826,
P187)
- Bruce E. Doak Consulting, LLC
3801 Baker Schoolhouse Road
Freeland, MD 21053
410-419-4906 cell / 443-900-5535 office
bdoak@bruceedoakconsulting.com
- ✓ 14) Deed - 7/11/2005 Fine Dining, Inc. to Jieun, LLC (L22183, F 555)
 - ✓ 15) Deed - 1/27/2006 LHB Lorraine LLC to Abbey M. Williams
(L, sm 23338, F 121)
 - ✓ 16) Plat 12/41 (Parcel 715, lots 11-14)

GENERAL SITE INFORMATION

1. Ownership: FAZAL LLC
9423 Tell Beck Road Parkville, MD 21234
2. Address: 8202 Pulaski Highway Baltimore, MD 21237
3. Deed references: JLE 40210 / 49
4. Area: 0.296 acre (per SDAT)
5. Tax Map / Parcel / Tax account #: 89 / 760 / 15-23-003750
6. Election District: 15 Councilmanic District: 7
ADC Map: 4700J9 GIS tile: 089C3 Position sheet: 9NE21
Census tract: 450100 Census block: 2-005450100
Schools: Red House Run ES Golden Ring MS Overies HS
7. The boundary shown hereon is from the deed recorded in the Land Records of Baltimore County, All other information shown hereon was taken from Baltimore County GIS tile (89C3) and the information provided by Baltimore County on the internet.
8. Improvements: Single story office building & paved parking lot. The existing building and the paved parking lot will remain.

OFFICE OF ZONING

Zoning: BR AS
Case #2019-0171-XA
Special Exception to allow a used motor vehicle outdoor sales area- granted
Variances for setbacks & no screening or landscaping- granted

Parking Calculations per Section 409.6.A.1 BCZR

Office	1.6 (1600 sq. ft.) x 5	= 8
Autos for sale	= 30 (not required to meet Sect. 409 req.)	
Auto repair (3 service bays)	= 9	
Total parking spaces required	= 17	
Parking spaces provided (outside)	= 4 (employee & customer spaces)	
Parking spaces provided (inside)	= 3 (bays) x 10 = 13	
Total parking spaces provided	= 17	

Damaged and/or disabled motor vehicles will be kept inside the proposed building addition.

Signage

A sign may be installed on the frontage of Pulaski Highway and will meet all zoning regulations.

BR AS Requirements per Section 238 BCZR

Front: 50 feet from the street right of way for a dual highway
Side / Rear: 30 feet from property line

Storage and display of vehicles in the front yard: not more than 15 feet in front of the required front building line (50' - 15' = 35')

Maximum permitted floor area ratio: 2.0

Existing floor area ratio: 0.09 (based on SDAT info) / Proposed 0.39

ENVIRONMENTAL IMPACT

Watershed: White Marsh URCL land type: 1

1. The existing building is currently served by public water and sewer.
2. There are no underground storage tanks on the subject property.
3. The subject property is not in the Chesapeake Bay Critical Area.
4. The subject property is not located within a 100 year flood plain.

OFFICE OF PLANNING

Regional Planning District: Rosedale District Code: 326

Growth Tier: 1 (served by public sewer and inside URCL)

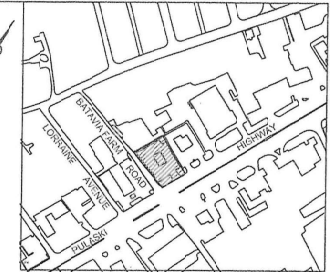
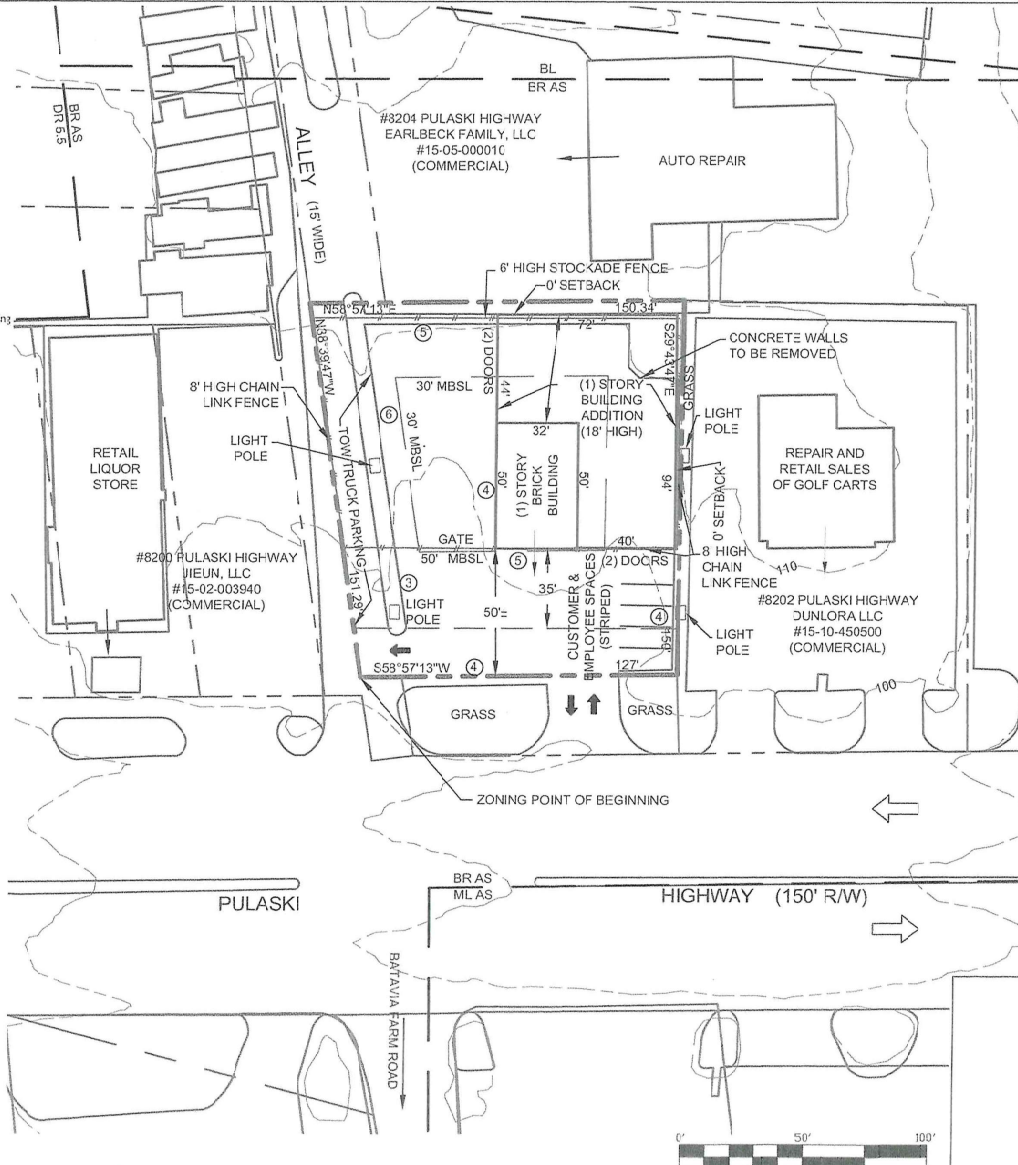
1. The existing building is not historic. The subject property is not in a historic district.

PUBLIC WORKS

The utilities that serve the subject property are located in Pulaski Highway

PROPOSED DEVELOPMENT

Use the subject property and the existing building for used car sales, auto repair, auto painting and a towing business. An addition to the building is proposed.



Vicinity Map - Scale: 1" = 500'



Bruce E. Doak Consulting, LLC
Land Use Expert and Surveyor
3801 Baker Schoolhouse Road
Frederick, MD 21783
o 443-500-5535 m 410-419-4306
bdoak@bruceedoakconsulting.com



PLAN TO ACCOMPANY A ZONING PETITION

FOR
#8202 PULASKI HIGHWAY

BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT

Date: 7/2/21

Scale: 1" = 50'

PET. EXHIBIT # 1

Real Property Data Search (w1)

Search Result for BALTIMORE COUNTY

View Map			View GroundRent Redemption				View GroundRent Registration			
Special Tax Recapture: None										
Account Identifier:			District - 15 Account Number - 1523003760							
Owner Information										
Owner Name:			FAZAL LLC				Use:		COMMERCIAL	
Mailing Address:			9423 BELLBECK RD PARKVILLE MD 21234-				Principal Residence:		NO	
							Deed Reference:		/40210/ 00049	
Location & Structure Information										
Premises Address:			8202 PULASKI HWY BALTIMORE 21237-				Legal Description:		.396 AC NS PULASKI H NE COR BATAVIA FARMS	
Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0089	0023	0760	31502.04	0000				2021	Plat Ref:	
Town: None										
Primary Structure Built			Above Grade Living Area		Finished Basement Area		Property Land Area		County Use	
1975			1,600 SF				17,249 SF		24	
Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements			
		FAST FOOD	/	C3						
Value Information										
			Base Value		Value		Phase-in Assessments			
					As of		As of		As of	
					01/01/2021		07/01/2021		07/01/2022	
Land:			371,900		371,900					
Improvements			72,400		77,800					
Total:			444,300		449,700		446,100		447,900	
Preferential Land:			0		0					
Transfer Information										
Seller: MARTIN LEONARD C				Date: 05/02/2018				Price: \$450,000		
Type: ARMS LENGTH IMPROVED				Deed1: /40210/ 00049				Deed2:		
Seller: BONOMOLO VINCENT F				Date: 10/26/2017				Price: \$10,000		
Type: NON-ARMS LENGTH OTHER				Deed1: /39561/ 00142				Deed2:		
Seller: MARTIN LEONARD				Date: 10/14/1988				Price: \$250,000		
Type: ARMS LENGTH IMPROVED				Deed1: /07999/ 00379				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										

OLD PHILADELPHIA RD

DR 5.5

BL

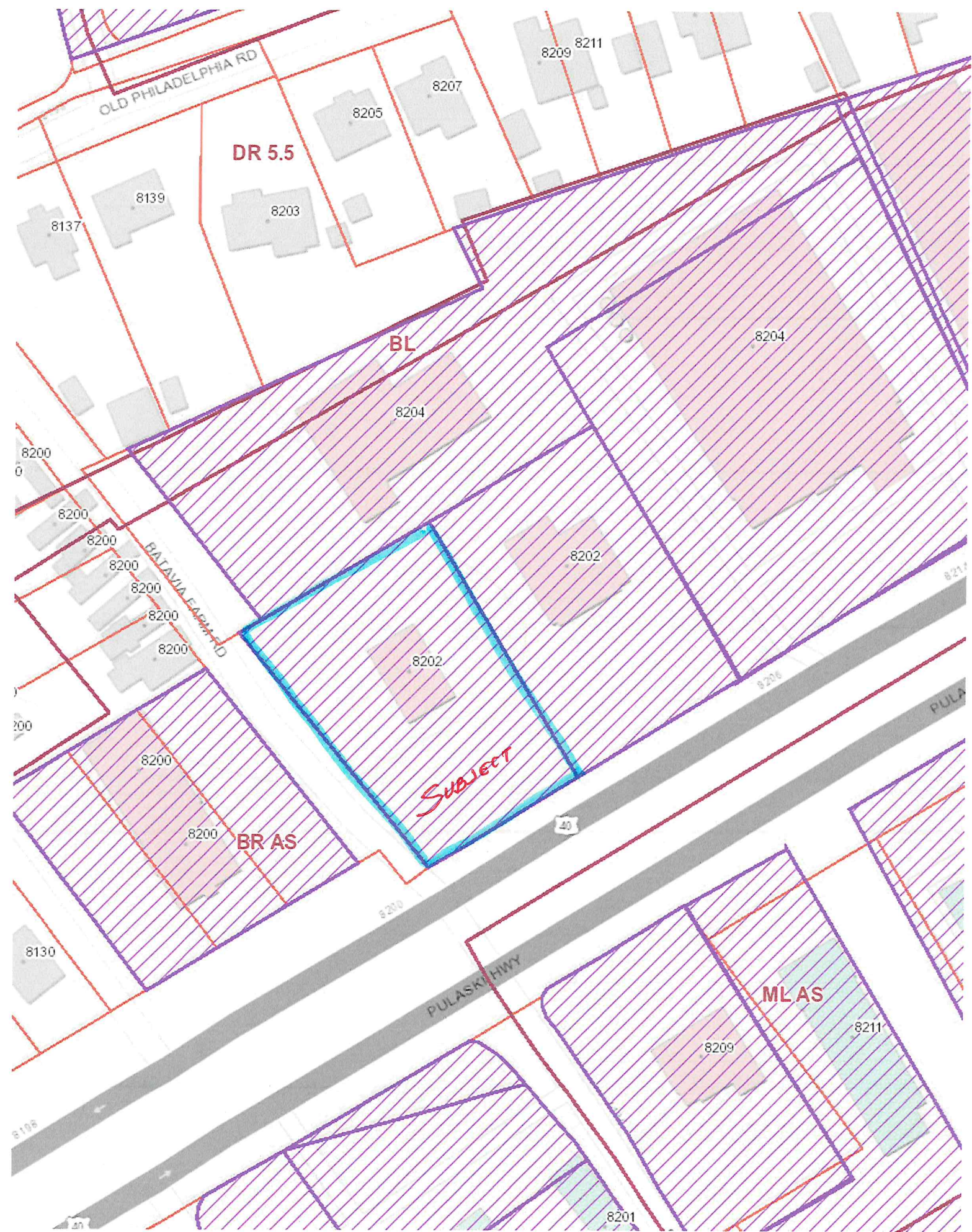
SUBJECT

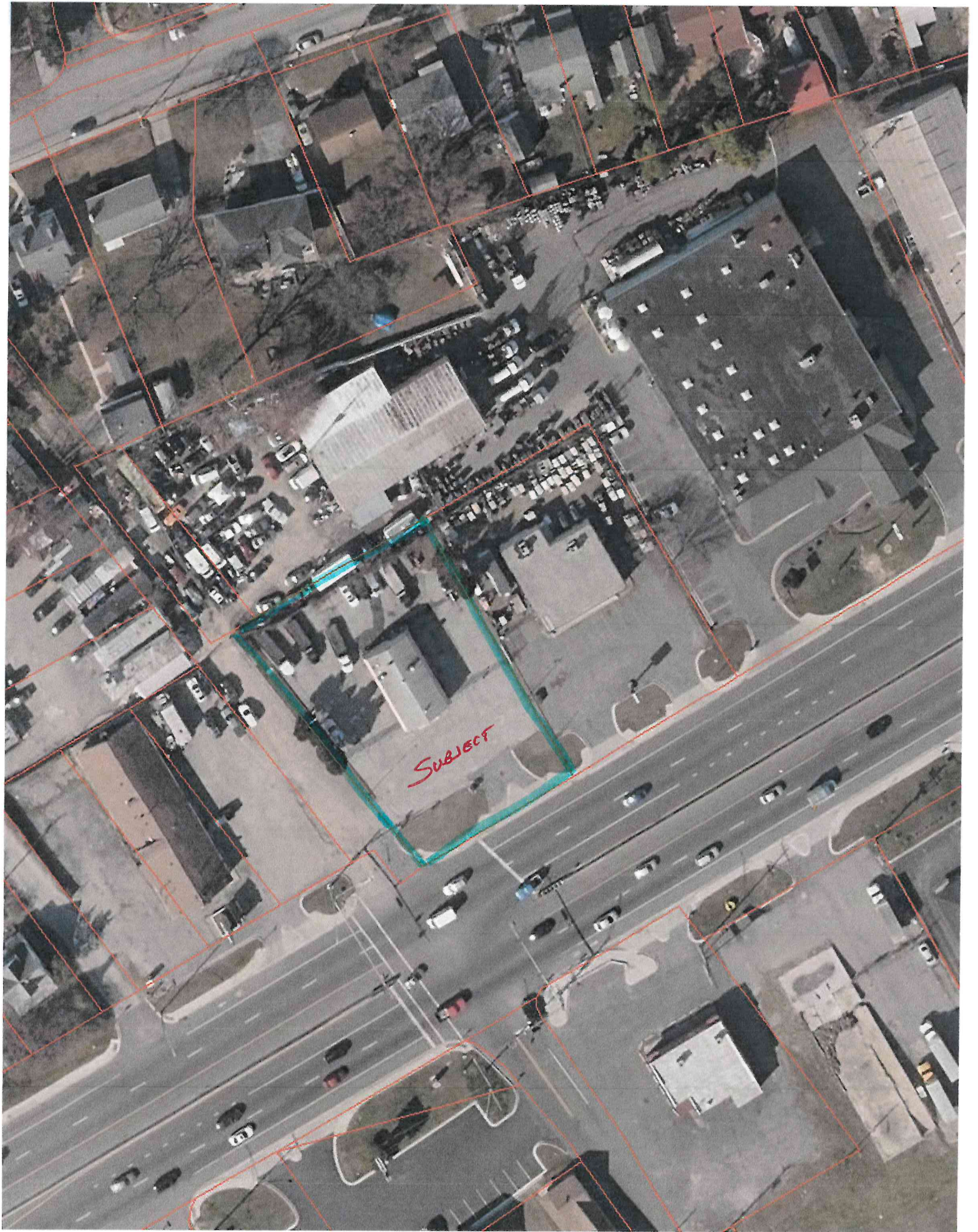
BR AS

ML AS

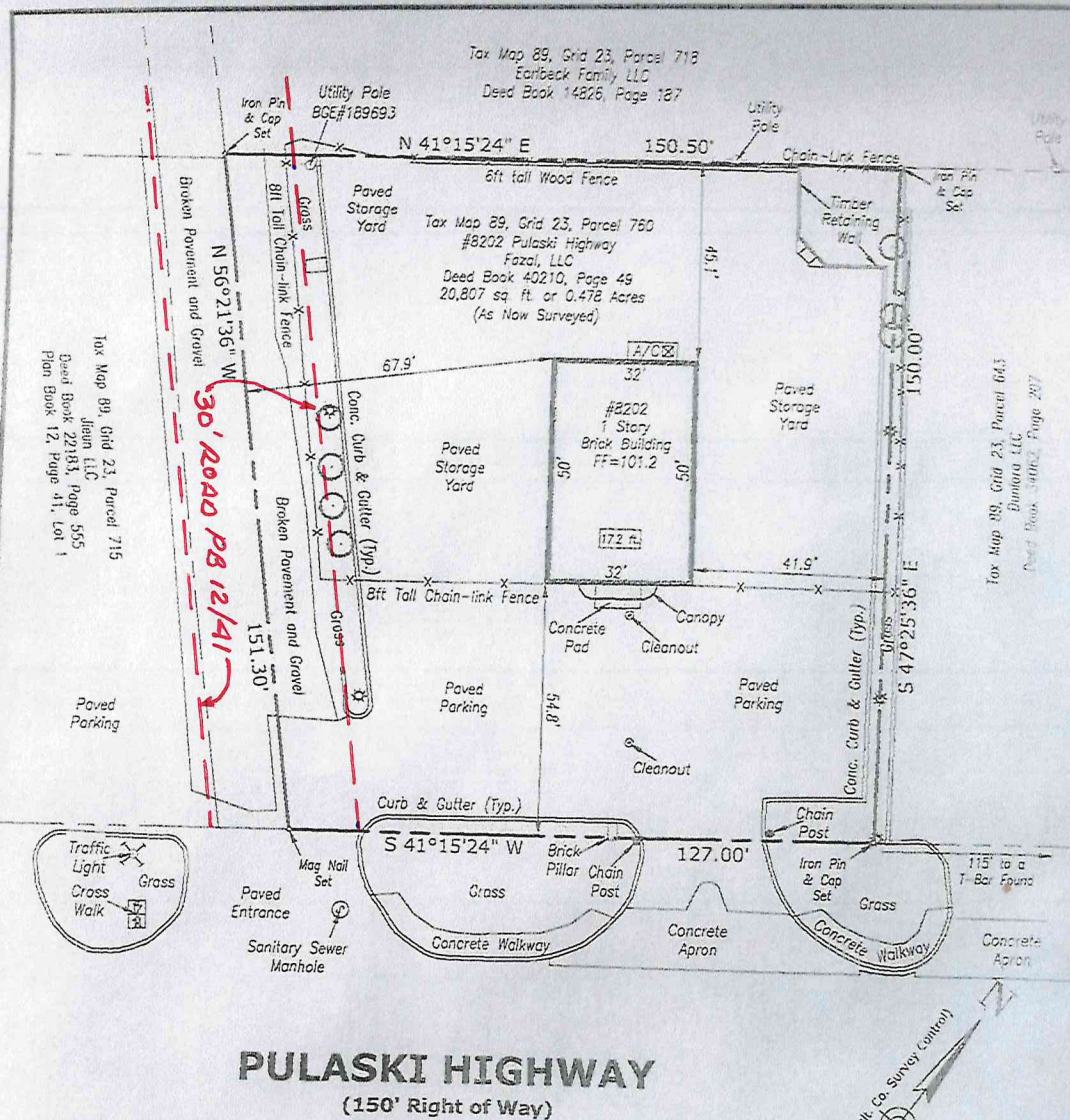
PULASKI HWY

PET. EXHIBIT #3





PET. EX #4



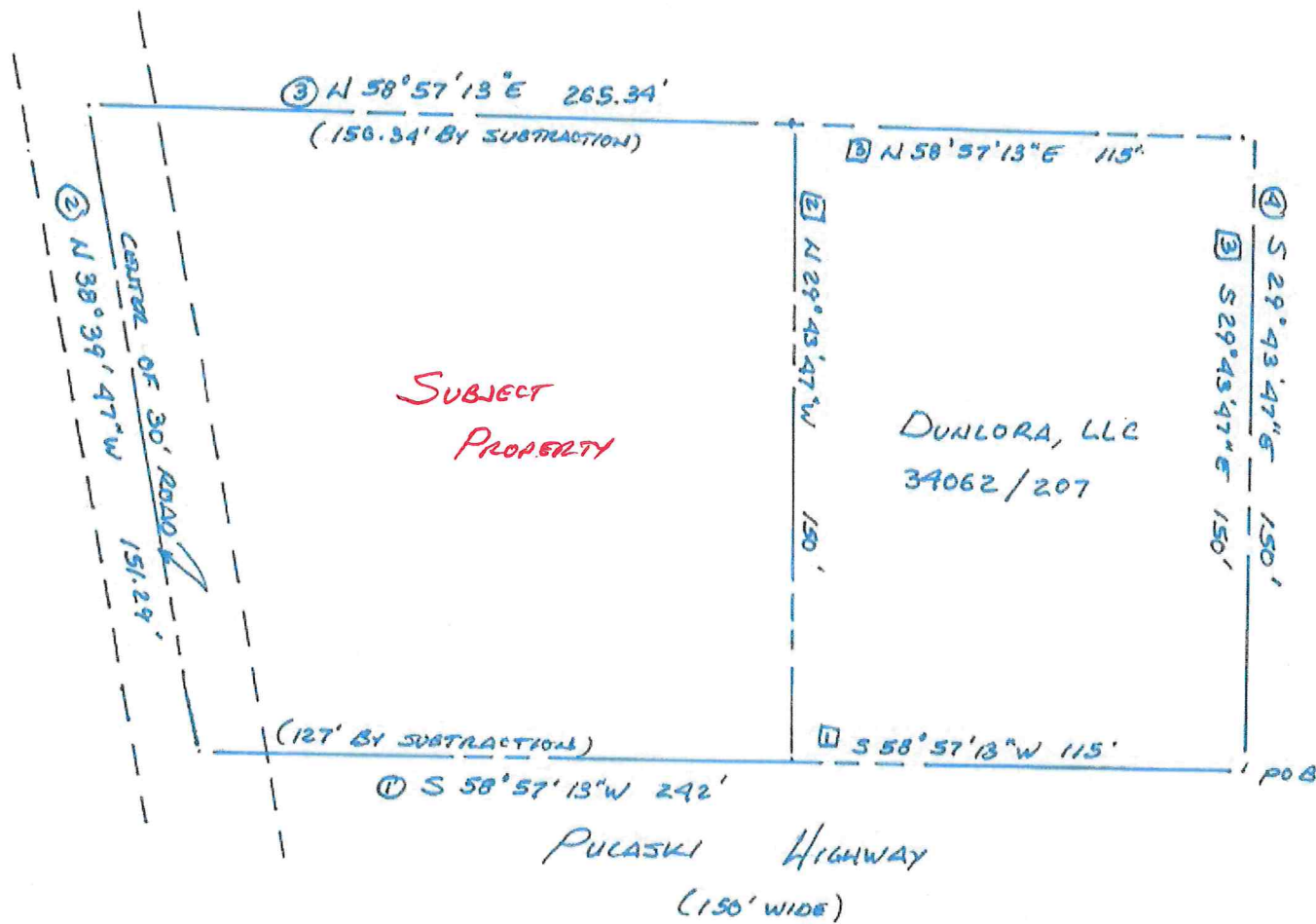
Scott M. Landis
 Scott M. Landis
 Professional Land Surveyor (Maryland No. 21613)
 Expires/Renews: 8-18-2021
 Date: 4/19/2021

BPR LLC
SURVEYORS - LAND PLANNERS
 150 Airport Drive
 Suite 4
 Westminster, Maryland 21157

Phone: (410)-857-9030
 or (410)-876-0333
 Fax: (410)-876-1532
 www.bprsurveying.com

PET. EXHIBIT #5A

Drawn:	J. R. Garis
Checked:	S. M. Landis
Date:	4/8/2021
Project No. :	21-0328
Scale:	1 inch = 30 feet
Sheet:	1 of 1

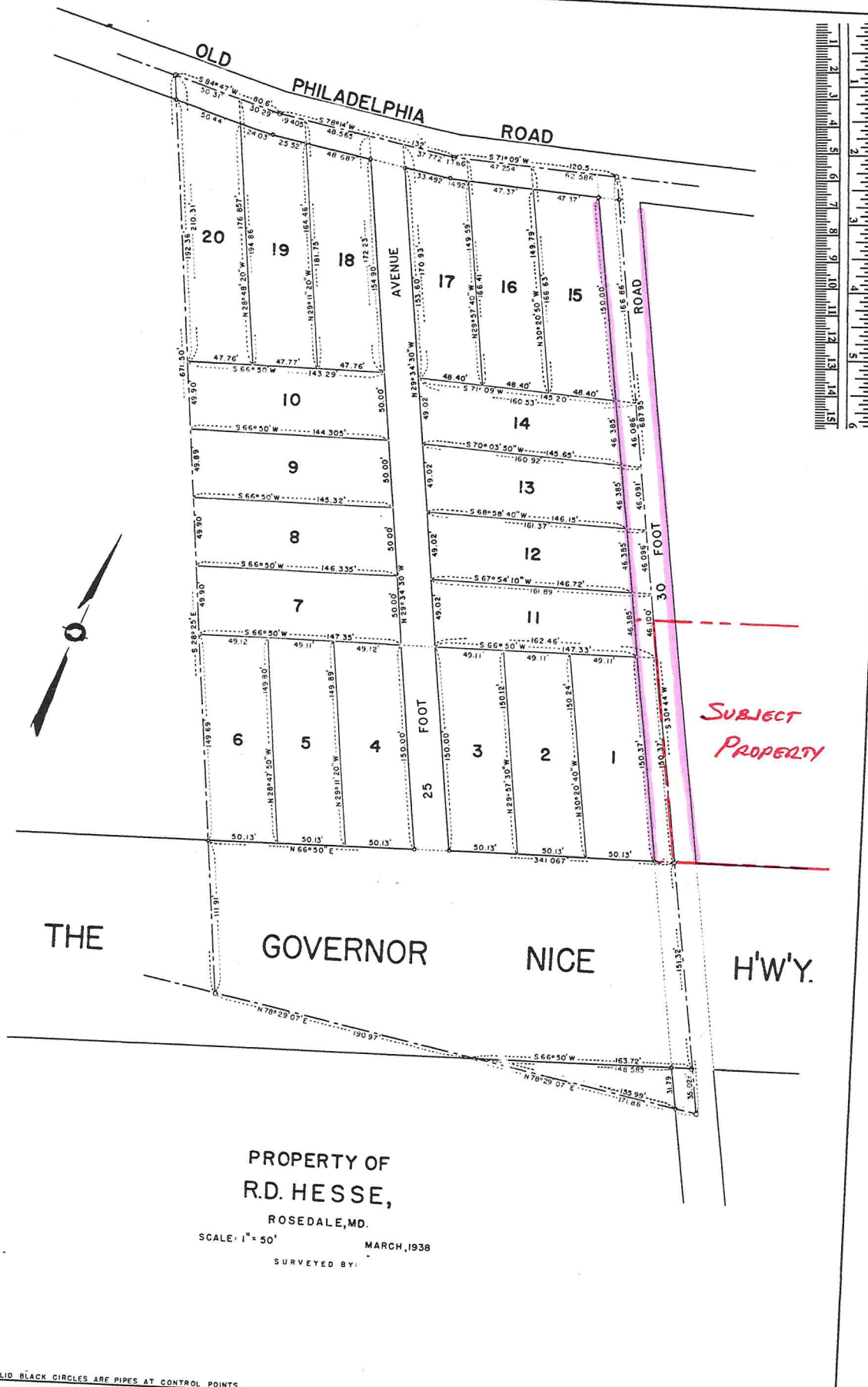


DEED PLOT

PET. EXHIBIT # 5B

1"=40'

Plat Book 12/41



Pet Exhibit #5C

PHOTO KEY SHEET

PET EXHIBIT #6 PHOTOS A-N





PET EXHIBIT #6A



Pgt EXHIBIT #6B



Pet Exhibit #6C



Pet. Exhibit #60



PET. EXHIBIT # 65



PET. EXHIBIT #6F



PET. EXHIBIT #66



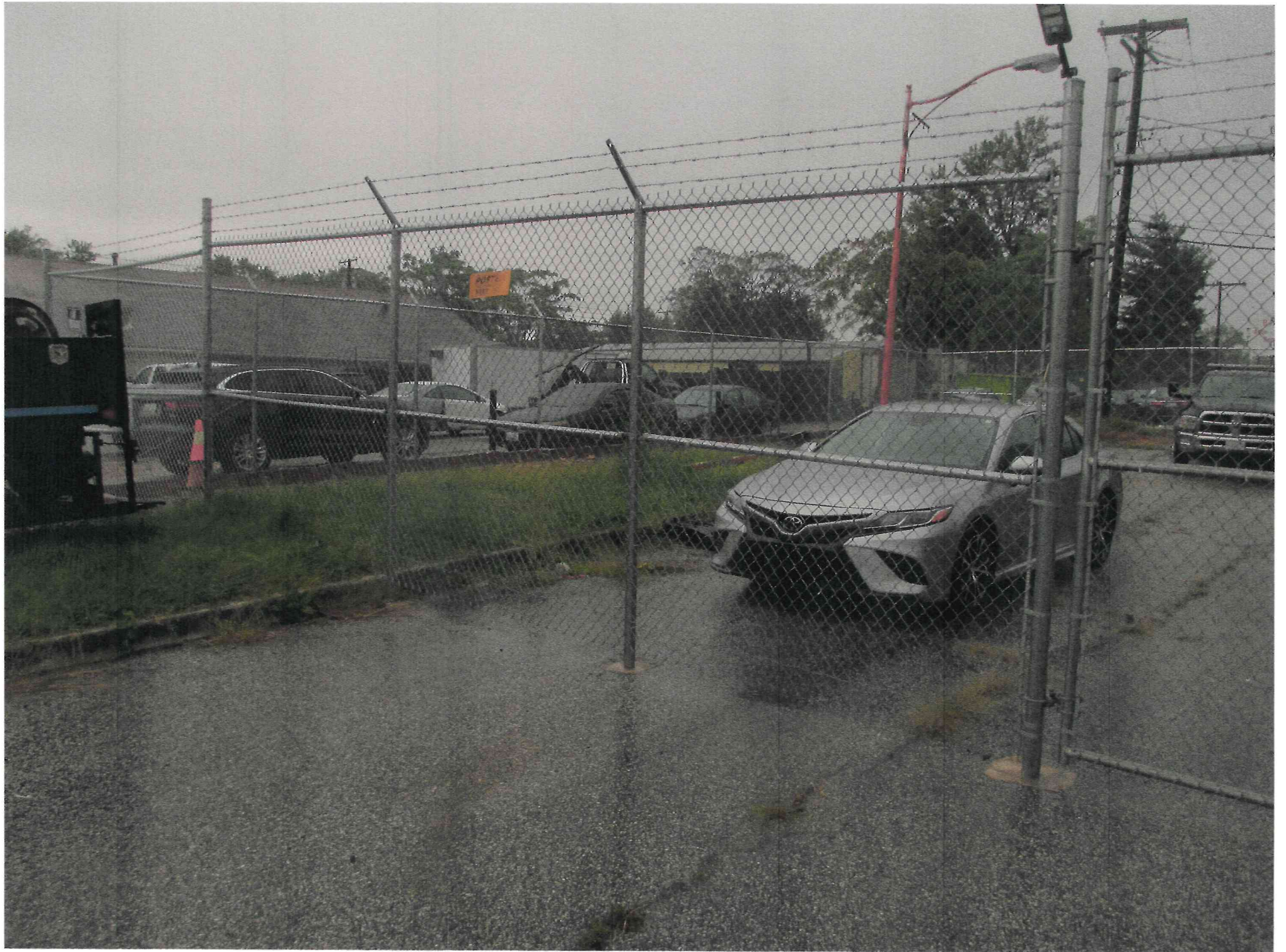
Pet. Exhibit #64



Pet. Exhibit #6-I



Pet. Exhibit #6J



Pet. Exhibit # 6K



PET. EXHIBIT # 6L



PET EXHIBIT #6M



Pgt. Exhibit #6N

Jerry Zellner

7813 Daniels Ave

Parkville, MD 21234

Phone. 410-804-1125

To whom it may concern,

Dear Sir,

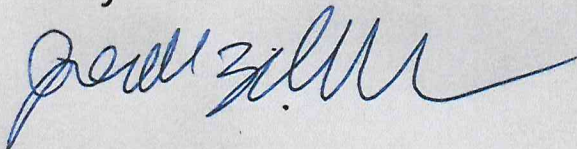
I am the business owner of B-more Buggies 4 Less next door to 8202 pulaski hwy roasdale md 21237. I understand my neighbour apply for varience with a Zero foot setback for new building. I have absolutely no isse with this new zoning and fully support him.

If you have any question please call me.

Thank you

Sincerely.

Jerry Zeller



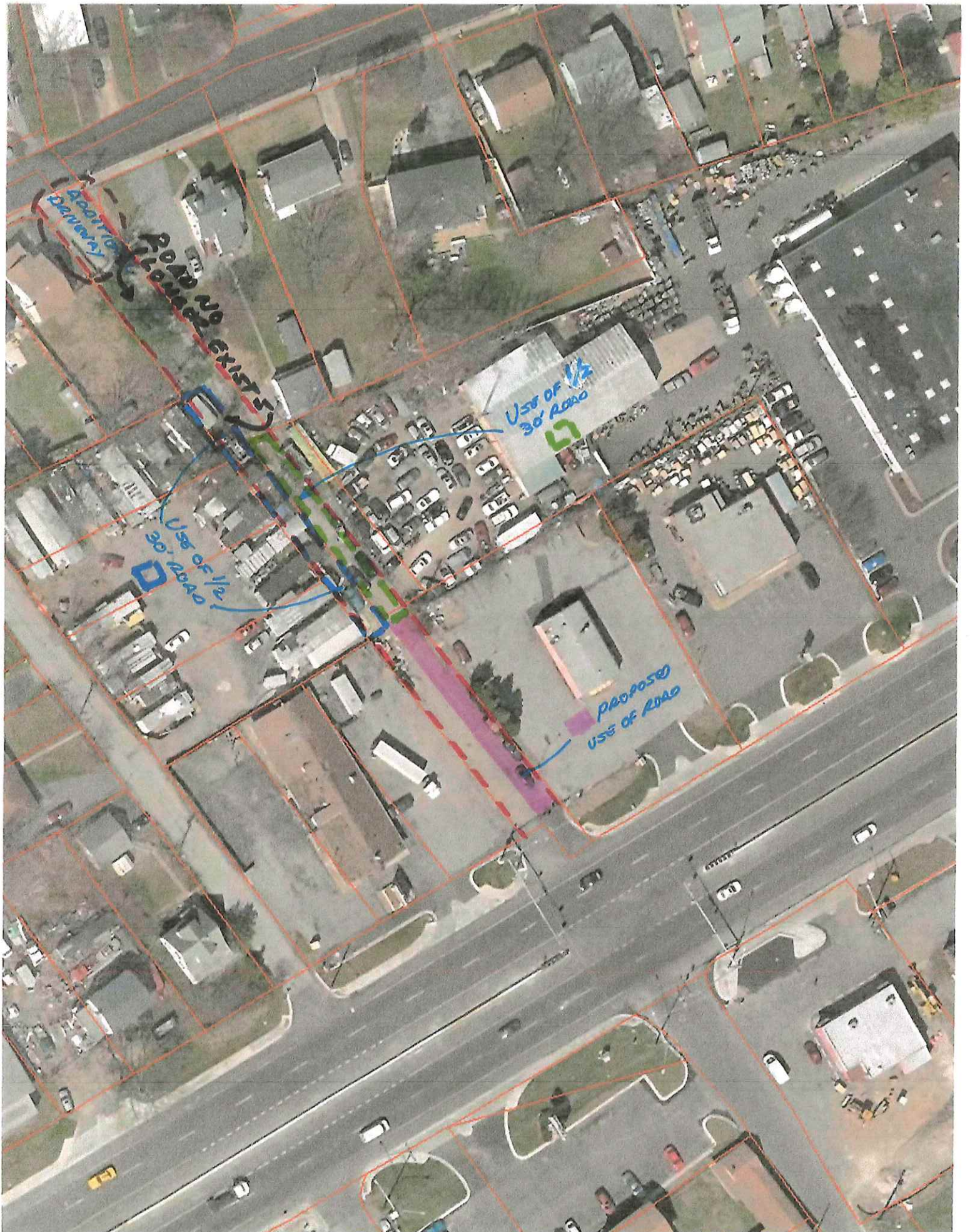
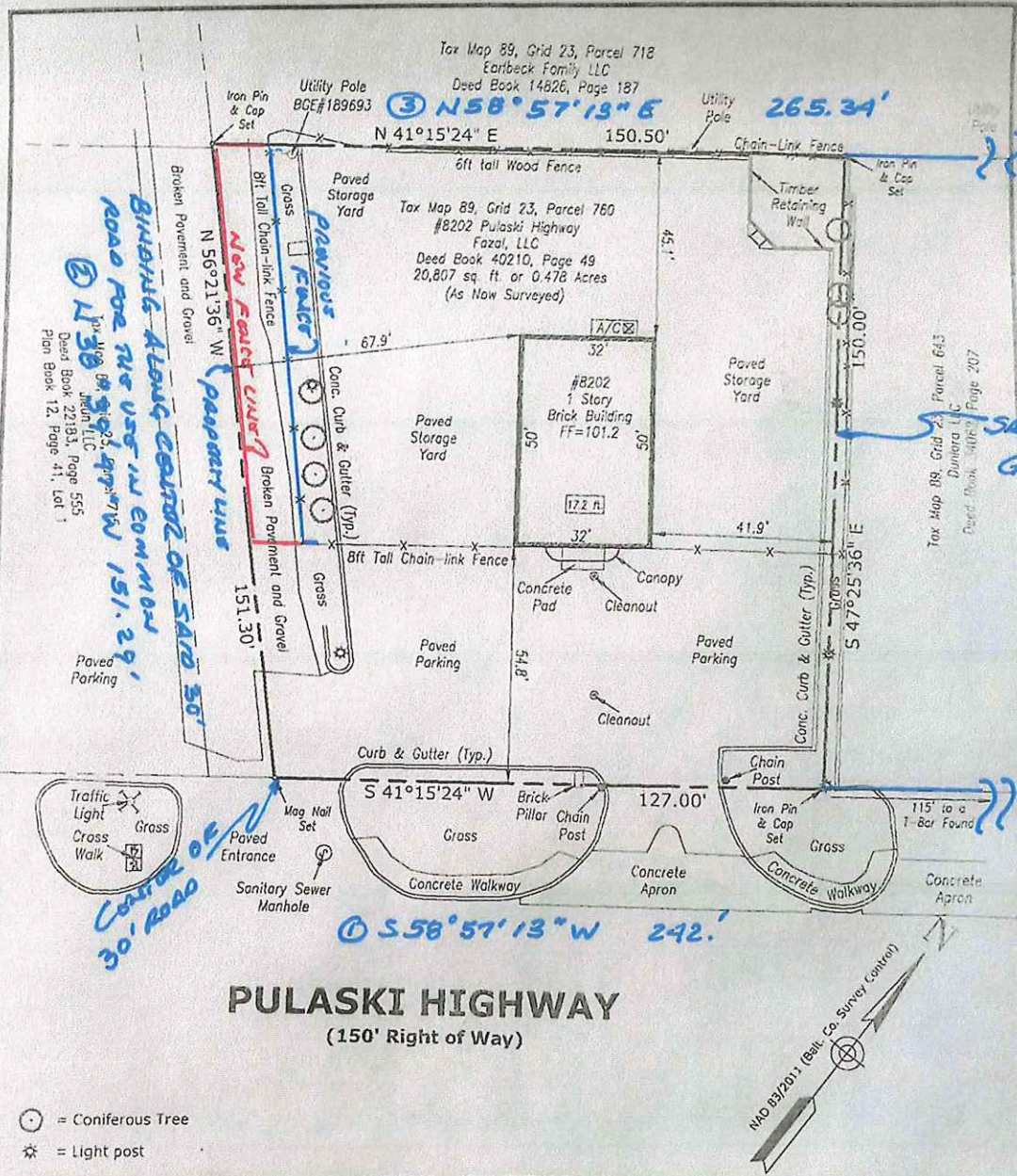


PHOTO SHOWING EXISTING USE IN 30' ROAD

Pet Ex. 8



- = Coniferous Tree
- * = Light post



NOTE:

This survey was prepared without the benefit of a title report which may reveal additional conveyances, easements, rights-of-way or building restriction lines not shown hereon.

SURVEYOR'S CERTIFICATE

This is to certify that this Boundary & Location survey was personally prepared by me or that I was in responsible charge over it's preparation and the surveying work reflected in it and that this Survey is in compliance with COMAR Sections 09.13.06.12 of the Minimum Standards of Practice as now adopted by the board for Professional Land Surveyors.

Scott M. Landis

Scott M. Landis
Professional Land Surveyor (Maryland No. 21613)
Expires/Renews: 8-18-2021

4/19/2021

Date

**BOUNDARY SURVEY & LOCATION DRAWING
FAZAL LLC PROPERTY**

#8202 PULASKI HIGHWAY
15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

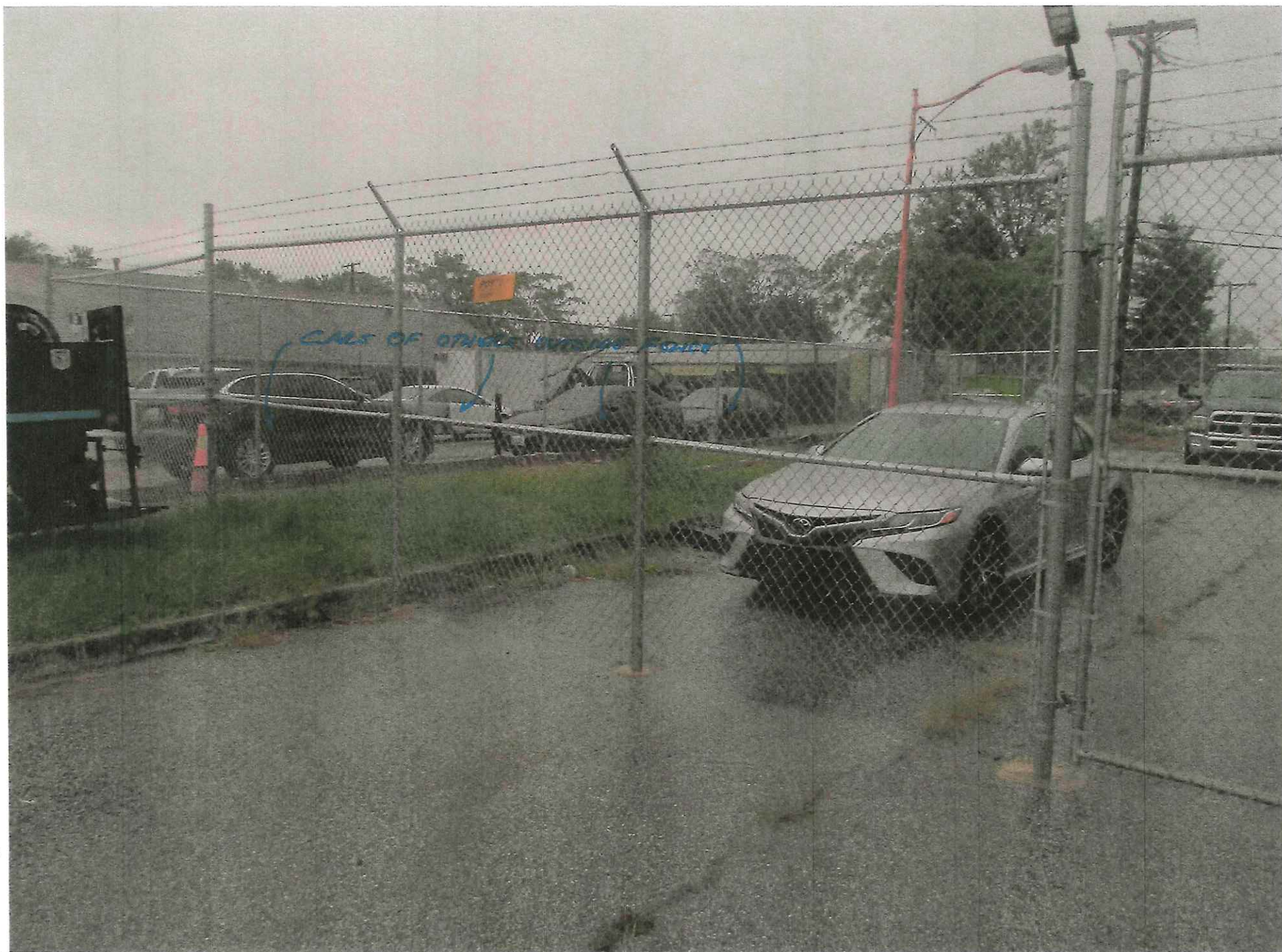
BPR LLC
SURVEYORS - LAND PLANNERS
150 Airport Drive
Suite 4
Westminster, Maryland 21157

Phone: (410)-857-9030
or (410)-876-0333
Fax: (410)-876-1532
www.bprsurveying.com

Drawn:	J. R. Garis
Checked:	S. M. Landis
Date:	4/8/2021
Project No. :	21-0328
Scale:	1 inch = 30 feet
Sheet:	1 of 1

**PLAT SHOWING IN FEE OWNERSHIP TO
A 30' ROAD**

1" = 43.2'
Pet Ex: 9



Pet Ex: 10-A

PHOTO SHOWING USE OF EXISTING ACCESS BY OTHERS

PLENTY OF ACCESS IF NEEDED

ADDITIONAL FENCING
PROPERTY LINE

PHOTO SHOWING EXISTING ACCESS



GIS SHOWING PROPERTIES ALONG 30' ROAD Pet Ex: 11

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 40210, p. 0049, MSA_CE62_40067, Date available 05/03/2018. Printed 10/07/2021.

RECORD & RETURN TO:
POWERHOUSE TITLE GROUP
C/O 11585 CHAPEL ROAD
CORDOVA MD 21625-2233

BOOK: 40210 PAGE: 49

Parcel 760
FAZAL LLC

1
OF
2

File No. 18-14399

Tax ID # (15) 15-23-003760

This Deed is made this 16TH day of MARCH, 2018, by and between LEONARD C. MARTIN, GRANTOR, and FAZAL, LLC, a Maryland Limited Liability Company, GRANTEE.

~ W i t n e s s e t h ~

That for and in consideration of the sum of FOUR HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$450,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey unto the said FAZAL, LLC, its successors and assigns, in Fee Simple, all that lot of ground situate in the County of Baltimore, State of Maryland and described as follows, that is to say:

BEGINNING FOR THE SAME ON THE NORTH SIDE OF PULASKI HIGHWAY, FORMERLY KNOWN AS GOVERNOR NICE HIGHWAY, SAID POINT BEING SITUATED SOUTH 58 DEGREES 57 MINUTES 13 SECONDS WEST 209 FEET ALONG THE NORTH SIDE OF SAID HIGHWAY FROM THE INTERSECTION OF THE NORTH SIDE OF PULASKI HIGHWAY WITH THE NORTH 22.5 DEGREES WEST PERCHES LINE OF THE LAND DESCRIBED IN DEED FROM MARGARETHA H. HEIMBUCH, WIDOW, TO HENRY HEIMBUCH AND WIFE DATED JUNE 12, 1913, AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER WPC 412, FOLIO 142, AND RUNNING THENCE FROM SAID BEGINNING AND BINDING ALONG THE NORTH SIDE OF THE PULASKI HIGHWAY 150 FEET WIDE, REFERRING ALL COURSES TO THE TRUE MERIDIAN, SOUTH 58 DEGREES 57 MINUTES 13 SECONDS WEST 242 FEET TO THE CENTER OF A 30 FOOT ROAD AND TO THE EASTERNMOST OUTLINE OF THE PROPERTY NOW OR FORMERLY OWNED BY RAPHAEL HESSE AND WIFE AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER WPC 631, FOLIO 197; THENCE, LEAVING SAID HIGHWAY AND BINDING ALONG THE CENTER OF SAID 30 FOOT ROAD FOR THE USE IN COMMON AND ALONG THE EASTERNMOST OUTLINE ABOVE REFERRED TO, NORTH 38 DEGREES 39 MINUTES 47 SECONDS WEST 151.29 FEET; THENCE, RUNNING PARALLEL WITH THE PULASKI HIGHWAY, NORTH 58 DEGREES 57 MINUTES 13

Deed (w Taxes)
Recording only \$T20.00
Name: Martin/Fazal
Ref: 66
Deed (with Taxes)
Purchase 40.00
LR - Deed State
Transfer Tax 2,250.00
LR Tax - 1kd 7,500.00
Subtotal: 9,810.00
Total: 9,925.00
05/02/2018 11:53
CC03-AN
#111818 CC0301 -
Baltimore
Court/CC03.01.01 -
Register 01

Pet Ex: 12

SECONDS EAST 265.34 FEET; THENCE, SOUTH 29 DEGREES 43 MINUTES 47 SECONDS EAST 150 FEET TO THE PLACE OF BEGINNING.

SAVING AND EXCEPTING THEREFROM ALL THAT PORTION OF THE ABOVE DESCRIBED PROPERTY WHICH BY DEED DATED MARCH 31, 1953, AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER GLB 2272, FOLIO 177, WAS GRANTED AND CONVEYED BY NICHOLAS SENNETT AND WIFE UNTO GARNET E. JONES AND WIFE.

THE IMPROVEMENTS THEREON NOW BEING KNOWN AND DESIGNATED AS 8202 PULASKI HIGHWAY, ROSEDALE, MARYLAND 21237.

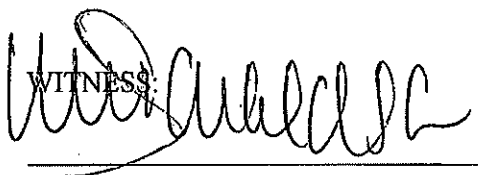
BEING THE SAME PROPERTY WHICH BY DEED DATED AUGUST 25, 2017 AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY, STATE OF MARYLAND, IN LIBER JLE 39561, FOLIO 142, WAS GRANTED AND CONVEYED BY CAROLYN J. NELSON, PERSONAL REPRESENTATIVE OF THE ESTATE OF VINCENT F. BONOMOLO UNTO LEONARD C. MARTIN.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Grantee, **FAZAL, LLC**, its successors and assigns, in Fee Simple, forever.

And the Grantor hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

As Witness the hand and seal of said Grantor, the day and year first above written.

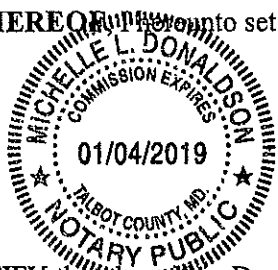
WITNESS:


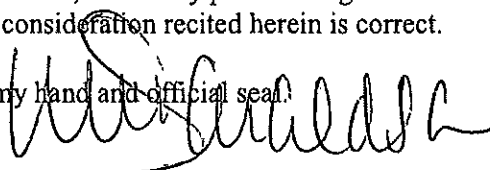
 (Seal)
 Leonard C. Martin

STATE OF MARYLAND } ss
 COUNTY OF BALTIMORE }

I HEREBY CERTIFY that on this **16th** day of **March, 2018**, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Talbot, appeared **Leonard C. Martin**, the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be his act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

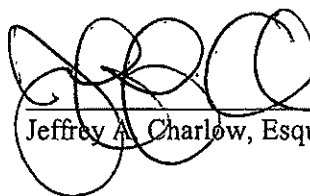
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.




 Notary Public
 My commission expires 1.4.2019

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Charlow Law Group, LLC


 Jeffrey A. Charlow, Esquire

(Type or Print in Black Ink Only All Copies Must Be Legible)

([] Check Box if Addendum Intake Form is Attached.)

1	Type(s) of Instruments	1	Deed		Mortgage		Ass't of Rents		Other
		2	Deed of Trust		Lease				
2	Conveyance Check Box	X	Improved Sale		Unimproved Sale		Multiple		Not an Arms- Length Sale [9]
			Arms-Length [1]		Arms-Length [2]		Arms Length [3]		
3	Tax Exemptions (if Applicable) Cite or Explain Authority	Recordation							
		State Transfer							
		County Transfer							

4	Consideration and Tax Calculations	Consideration	Amount	Finance Office Use Only	
		Purchase Price/Consideration	\$ 450,000.00	Transfer and Recordation Tax Consideration	
		Any New Mortgage	\$ 320,000.00	Transfer Tax Consideration	\$
		Balance of Existing Mortgage	\$	x () %	= \$ 6750.00
		Other:	\$	Less Exemption Amount	= \$
		Other:	\$	Total Transfer Tax	= \$
		Full Cash Value	\$ 0.00	Recordation Tax Consideration	\$ 2250.00
			x () per \$500	= \$	
			TOTAL DUE	\$	

5	Fees	Amount of Fees	Doc. 1	Doc. 2	Agent:
		Recording Charge	\$ 20.00	\$ 75.00	
		Surcharge	\$ 40.00	\$ 40.00	Tax Bill:
		State Recordation Tax	\$ 2,250.00	\$ 0.00	
		State Transfer Tax	\$ 2,250.00	\$	C.B. Credit:
		County Transfer Tax	\$ 6,750.00	\$	
		Other	\$	\$	Ag. Tax/Other:
		Other	\$	\$	

6	Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	District	Property Tax ID No.(1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG	
		15	15-23--3760	39561@142	0089	0760	1 (5)	
		Subdivision Name		Lot (3a)	Block(3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage(4)
		METES AND BOUNDS		---	---	---	---	17,249 SF
		Location/Address of Property Being Conveyed (2)						
		8202 PULASKI HIGHWAY, BALTIMORE, MARYLAND 21237						
		Other Property Identifiers (if applicable)				Water Meter Account No.		
		Residential [X] or Non-Residential []				Fee Simple [XX] or Ground Rent []		Amount: \$0
		Partial Conveyance? [] Yes [X] No				Description/Amt. of SqFt/Acreage Transferred:		N/A
		If Partial Conveyance, List Improvements Conveyed: N/A						

7	Transferred From	Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
		LENOARD C. MARTIN	FAZAL, LLC
		Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	Doc. 2 - Owner(s) of Record, if Different from Grantor(s)

8	Transferred To	Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
		FAZAL, LLC	LEONARD C. MARTIN
		New Owner's (Grantee) Mailing Address	
		9423 BELLBECK ROAD, PARKVILLE, MARYLAND 21234	

9	Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10	Contact/Mail Information	Instrument Submitted By or Contact Person		☒ Return to Contact Person
		Name: MICHELLE		
		Firm: POWERHOUSE TITLE GROUP, LLC		☐ Hold for Pickup
		Address: C/O 11585 CHAPEL ROAD, CORDOVA, MD 21625-2233		
		Phone: 443-604-7630		☐ Return Address Provided

11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER							
Assessment Information	☐ Yes	☒ No	Will the property being conveyed be the grantee's principal residence?				
	☐ Yes	☒ No	Does transfer include personal property? If yes, identify:				
	☐ Yes	☒ No	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)				
Assessment Use Only - Do Not Write Below This Line							
☐ Terminal Verification		☐ Agricultural Verification		☐ Whole		☐ Part	
☐ Tran. Process Verification							
Transfer Number:		Date Received:		Deed Reference:		Assigned Property No.:	
Year		Geo.		Map		Sub	Block
Land		Isse				Plat	Lot
Buildings						Section	Occ. Cd.
Other						Ex. Cd.	

RECORDATION TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND

**EXEMPT FROM TRANSFER TAXES
PURSUANT TO MD. TAX PROP. ART.,
TITLE 12, SECTION 108 (y) (v) CODE ANN.
TRANSFER FROM SOLE PROPRIETORSHIP
TO LIMITED LIABILITY COMPANY**

THIS DEED, Made this 4th day of October, in the year two thousand by and between ALBERT C. EARLBECK, of Baltimore County, State of Maryland, party of the first part, Grantor, and EARLBECK FAMILY LLC, A Maryland Limited Liability Company, party of the second part, Grantee.

WITNESSETH, That for valuable consideration but no monetary consideration the said ALBERT C. EARLBECK does grant and convey unto the said EARLBECK FAMILY LLC, A Maryland Limited Liability Company, its successors and assigns, in fee simple, all that property, lying, and being in Baltimore County, State of Maryland, and described as follows, that is to say:

SEE EXHIBIT "A" ATTACHED HERETO

BEING a portion of the same property which by deed dated December 28, 1967 and recorded among the Land Records of Baltimore County in Liber O.T.G. no. 4836 folio 541 was granted and conveyed by A. C. Earlbeck, Inc., a body corporate unto the within grantor, in fee simple.

TOGETHER WITH the buildings and improvements thereupon erected, made, or being and all and every the rights, alleys, ways, waters, privileges, appurtenances, and advantages to the same belonging or anywise appertaining.

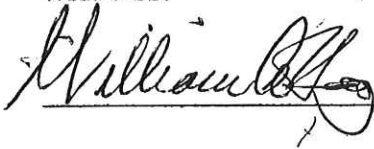
TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances,

EARLBECK FAMILY LLC, A Maryland Limited Liability Company, its successors and assigns, in fee simple.

AND the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter, or thing whatsoever to encumber the property hereby conveyed, that he will warrant specially the property granted, and that he will execute such further assurances of the same as may be requisite.

AS WITNESS the signature of the said Grantor.

WITNESS:



ACE (SEAL)
ALBERT C. EARLBECK

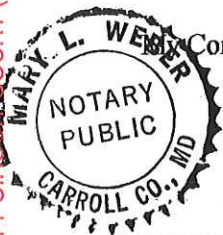
STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY that on this 14th day of ^{October}~~September~~, 2000, before me, a Notary Public in and for the jurisdiction aforesaid, personally appeared ALBERT C. EARLBECK, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who signed the same in my presence, and acknowledged that he executed the same for the purposes therein contained; and further made oath that the consideration hereinabove set forth is true and correct.

AS WITNESS my hand and Notarial Seal.

Mary L. Weber

Notary Public



Commission Expires April 1, 2003

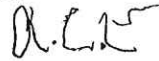
TRANSFER CERTIFICATION

THE SAID ALBERT C. EARLBECK CERTIFIES THAT THIS CONVEYANCE IS A CONVERSION OF A SOLE PROPRIETORSHIP TO A LIMITED LIABILITY COMPANY TO WHICH SAID SOLE PROPRIETORSHIP IS BEING CONVERTED FROM A SOLE

PROPRIETORSHIP TO A LIMITED LIABILITY COMPANY. THE ASSETS OF THE PROPRIETORSHIP ARE BECOMING ASSETS OF THE LIMITED LIABILITY COMPANY. THE REAL PROPERTY CONVEYED IN THIS DEED IS MANAGED AND ACCOUNTED FOR AS PART OF THE ASSETS OF THE CONVERTING SOLE PROPRIETORSHIP.

THE MEMBER OF THE SOLE PROPRIETORSHIP ARE IDENTICAL TO THE MEMBER OF THE LIMITED LIABILITY COMPANY, AND THE MEMBER'S ALLOCATION OF PROFITS AND LOSSES WITHIN THE LIMITED LIABILITY COMPANY ARE IDENTICAL TO THE MEMBERS' ALLOCATION OF PROFITS AND LOSSES OF THE CONVERTING PREDECESSOR ENTITY/SOLE PROPRIETORSHIP.

I UNDERSTAND THAT THE TAX PROPERTY ARTICLE AT SECTIONS 14-1002 AND 1003 STATE THAT A PERSON WHO INTENTIONALLY WITHHOLDS INFORMATION TO EVADE THE PAYMENT OR PREVENT THE IMPROPER COLLECTION OF TAXES OR NEGLIGENTLY PROVIDES FALSE INFORMATION IN CONNECTION WITH A TAX RELATED INQUIRY IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION, MAY BE SUBJECT TO THE PENALTIES PRESCRIBED.



ALBERT C. EARLBECK

ATTORNEY'S CERTIFICATION

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.



WILLIAM A. HAHN, JR.

Return to:
William A. Hahn, Jr., Esquire
Suite 700, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

EXHIBIT "A"

Beginning for the same at a point in the northernmost right-of-way line of Pulaski Highway (150 feet wide) at the beginning of the third or North 22½ degrees West 398 foot line of the land which by deed dated May 12, 1953 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2290, folio 325, was conveyed by Cassie Heinbuch, divorced, to August Heinbuch and Kathryn Heinbuch, his wife, running thence on the northernmost right-of-way line of Pulaski Highway and binding reversely on a part of the second line in the aforesaid deed, as now surveyed, South 59 degrees 31 minutes 50 seconds West 209.00 feet to the end of the fourth or South 29 degrees 43 minutes 47 seconds East 150.00 foot line of the land which by deed dated March 31, 1953 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2272, folio 177, was conveyed by Nicholas Sennett and wife to Garnet E. Jones and wife, thence leaving Pulaski Highway and binding reversely on the fourth and third lines of the last mentioned deed, the two following courses and distances, as now surveyed; (1) North 29 degrees 09 minutes 10 Seconds West 150 feet; (2) South 59 degrees 31 minutes 50 seconds West 115.00 feet to a point in the third of North 58 degrees 57 minutes 13 seconds East 265.34 foot line of the land which by deed dated February 14, 1947 and recorded among the Land Records of Baltimore County in Liber J.W.B. No. 1532, folio 452, was conveyed by Cassie Heinbuch to Nicholas Sennett, at the distance of 150.50 feet from the beginning of said third line, running thence and binding reversely on a part of said third line to the beginning thereof, as now surveyed, South 59 degrees, 31 minutes 50 seconds West 150.50 feet to the center of Batavia Farms Road (30 feet wide) and to intersect the first line of the aforesaid deed, Cassie Heinbuch, divorced, to August Heinbuch and wife, running thence on the center of Batavia Farms Road and binding reversely on a part of the first line of the last mentioned deed, as now surveyed, North 38 degrees 05 minutes 10 seconds West 143.13 feet, thence leaving said outline and running for lines of division the two following courses and distances, viz; (1) North 69 degrees 19 minutes 10 seconds East 264.89 feet; (2) North 25 degrees 23 minutes 40 seconds West 55.13 feet to intersect the southern outline of the subdivision, known as Lindale, and recorded among the Plat Records of Baltimore County in Plat Book W.J.R. No. 25, folio 141, running thence on the southern outline of said Subdivision as now surveyed, North 72 degrees 04 minutes 00 seconds East 55.00 feet to the southwest corner of the Subdivision, known as Berkland, and recorded among the Plat Records of Baltimore County in Plat Book G.L.B. No. 24, folio 10, and running thence on the southern outline of the said Subdivision, as now surveyed, North 72 degrees 07 minutes 50 seconds East 200.00 feet to intersect the third line of the aforesaid deed, Cassie Heinbuch, divorced, to August Heinbuch and wife, running thence and binding reversely on a part of said third line, as now surveyed, South 24 degrees 43 minutes 30 seconds East 274.38 feet to the place of beginning. Containing 2.135 acres of land, more or less.

SAVING AND EXCEPTING THEREFROM so much as is described in a Deed dated April 10, 1986 and recorded among the Land Records of Baltimore County, Maryland in Liber No. 7144, folio 836, from Albert C. Earlbeck to Baltimore County, Maryland.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

(Check Box if Addendum Intake Form is Attached.)

THE FD SURE \$
RECORDING FEE
TOTAL
Reg. BAOI
SR
Nov 22, 2006

5.00
20.00
25.00
RCPT # 72058
BLK # 2168
02:44 PM

1	Type(s) of Instruments	☒ Deed ☐ Deed of Trust	☐ Mortgage ☐ Lease	☐ Other	☐ Other
2	Conveyance Type Check Box	☒ Improved Sale ☐ Arms-Length [1]	☐ Unimproved Sale ☐ Arms-Length [2]	☐ Multiple Accounts ☐ Arms-Length [3]	☒ Not an Arms-Length Sale [9]
3	Tax Exemptions (If Applicable)	Recordation State Transfer County Transfer			
4	Cite or Explain Authority	TP 12-108 (Y/V)			

4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only	
		Purchase Price/Consideration	\$	Transfer and Recordation Tax Consideration	
		Any New Mortgage	\$	Transfer Tax Consideration	
		Balance of Existing Mortgage	\$	X () % = \$	
		Other:	\$	Less Exemption Amount = \$	
		Other:	\$	Total Transfer Tax = \$	
		Other:	\$	Recordation Tax Consideration = \$	
		Bill Cash Value	\$	X () per \$500 = \$	
		TOTAL DUE		\$	

5	Fees	Amount of Fees		Doc. 1	Doc. 2	Agent:	
		Recording Charge	\$	25.00	\$		Tax Bill:
		Surcharge	\$		\$		C.B. Credit:
		State Recordation Tax	\$		\$		Ag. Tax/Other:
		State Transfer Tax	\$		\$		
		County Transfer Tax	\$		\$		
		Other	\$		\$		
		Other	\$		\$		

6	Description of Property	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG	
		15	15-05-000010	4836-541	0089	0718		
		Subdivision Name		Lot (3a)	Block (3b)	Section/AR(3c)	Plat Ref.	SqFt/Acreage (4)
								2.135 Acre

Location/Address of Property Being Conveyed (2)	
8204 PULASKI HIGHWAY BALTO. MD - 21237	
Other Property Identifiers (if applicable)	
Water Meter Account No.	
Residential ☐ or Non-Residential ☒ Fee Simple ☒ or Ground Rent ☐ Amount:	
Partial Conveyance? ☐ Yes ☒ No Description/Amt. of SqFt/Acreage Transferred:	
If Partial Conveyance, List Improvements Conveyed:	

7	Transferred From	Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
		ALBERT C. EARLBECK	
8	Transferred To	Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	Doc. 2 - Owner(s) of Record, if Different from Grantor(s)

8	Transferred To	Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
		EARLBECK FAMILY LLC	
New Owner's (Grantee) Mailing Address			
8204 PULASKI HIGHWAY BALTIMORE, MARYLAND 21237			

9	Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10	Contact/Mail Information	Instrument Submitted By or Contact Person		☒ Return to Contact Person
		Name: WILLIAM A. HAHN, JR. ATTORNEY		☐ Hold for Pickup
		Firm: SUITE 700 502 WASHINGTON AVENUE		☐ Return Address Provided
		Address: TOWSON, MARYLAND 21204		
		Phone: (410) 823-7858		

11	Assessment Information	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER	
		Yes ☒ No Will the property being conveyed be the grantee's principal residence?	
		Yes ☒ No Does transfer include personal property? If yes, identify:	
		Yes ☒ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).	

Assessment Use Only - Do Not Write Below This Line							
☐ Terminal Verification	☐ Agricultural Verification	☐ Whole	☐ Part	☐ Tran. Process Verification			
Transfer Number	Date Received	Deed Reference	Assigned Property No.				
Year	19	19	Geo.	Map	Sub	Block	
Land			Zoning	Grid	Plat	Lot	
Buildings			Use	Parcel	Section	Occ. Cd.	
Total			Town Cd.	Ex. St.	Ex. Cd.		
REMARKS:							

TRANSFER TAX NOT REC
Director of Budget and Fi
BALTIMORE COUNTY MAI
Per [Signature]
Authorized Signature
Date 11-22-2006 Sec

0022183 555

55775-191817

The Transferor (Grantor) herein is a resident entity of the State of Maryland and claims exemption from the tax withholding requirements of Section 10-912 of Maryland's Tax General Article.

In accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland, the Transferor (Grantor) declares that the actual amount of "total payment" received is \$ 235,455 Dollars.

DEED

THIS DEED is made this 11th day of July, 2005, by and between **FINE DINING, INCORPORATED**, a body corporate duly organized and existing under the Laws of the State of Maryland, party of the first part; and **JIEUN, LLC**, a Maryland limited liability company, party of the second part.

WITNESSETH, that in consideration of \$5.00 and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the actual monetary consideration for this deed as certified by the parties hereto being \$566,750.00, the said party of the first part does grant, convey, and assign unto the said party of the second part, its successors and assigns, in fee simple, all that lot or parcel of ground situate, lying and being in Baltimore County, State of Maryland, and being more particularly described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot Nos. **1, 2, and 3** as shown on that certain subdivision plat entitled, "**Plat of the PROPERTY OF RAPHAEL D. HESSE AT ROSEDALE, as surveyed by Dollenberg Brothers, Towson, Maryland**" which said Plat is duly recorded among the Land Records of Baltimore County in Plat Book CWB Jr. No. **12**, folio **41**. The improvements thereon being known as No. **8200 Pulaski Highway**, Baltimore, MD 21237.

BEING the same lots of ground which by Deed dated August 5, 2004 and recorded among the Land Records of Baltimore County in Liber SM No. 20708, folio 592 was granted and conveyed by Chong S. Kim unto the said party of the first part, grantor herein.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises together with the appurtenances thereto belonging unto the said party of the second part, its successors and assigns, in fee simple.

AND the said party of the first part hereby covenants that it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that it will warrant specially the property hereby granted; and that it will execute such further assurances of the same as may be requisite.

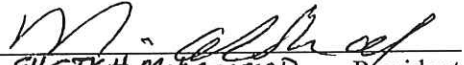
AND the said party of the first part hereby further certifies that the within conveyance is not part of a transaction involving the sale or transfer of all or substantially all of the assets of the within grantor.

WITNESS the name and seal of the said party of the first part by the signature of its duly authorized President.

WITNESS:



FINE DINING, INCORPORATED, a
Maryland corporation

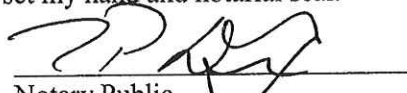
by: 
SHEIKH MOHAMMAD ARSHAD, President

STATE OF MARYLAND, City OF BALTIMORE, to wit:

I HEREBY CERTIFY, That on this 11th day of July, 2005, before me, the subscriber, a Notary Public in and for the State aforesaid, personally appeared Sheikh Mohammad Arshad who acknowledged herself to be the — President of **FINE DINING INCORPORATED**, a body corporate duly organized and existing under the Laws of the State of Maryland, and that as such

President, being fully authorized so to do, did execute the foregoing instrument for the purposes therein contained, by signing in my presence, the name of the said corporation by him self as such duly authorized corporate officer.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

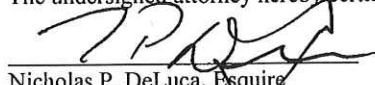

Notary Public

My Commission Expires:

5/1/08

NICHOLAS P. DeLUCA
NOTARY PUBLIC
HOWARD CO., MARYLAND

The undersigned attorney hereby certifies that the within instrument was prepared under his supervision.


Nicholas P. DeLuca, Esquire

Assessments and Taxation, and County Finance Office Only.
(Type or Print in Black Ink Only—All Copies Must Be Legible)

RECORDING FEE
IN TAX STATE
TOTAL
Rec'd BAO6
SM BC
Jul 12, 2005

20.00
2,833.75
2,873.75
Rcpt # 87628
Bk # 1376
03:56 PM

1	Type(s) of Instruments	☒ Check Box if addendum Intake Form is Attached. ☒ Deed ☐ Mortgage ☒ Other <i>1-20</i> ☐ Deed or Trust ☐ Lease ☒ <i>Aut. 2+R</i> ☐ Other																																																							
2	Conveyance Type Check Box	☒ Improved Sale ☐ Unimproved Sale ☐ Multiple Accounts ☐ Not an Arms- Arms-Length [1] Arms-Length [2] Arms-Length [3] Length Sale [9]																																																							
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COUNTY CIRCUIT COURT (Land Records) SM 22183, p. 0557, MSA_CE62_22038. Date available 07/20/2005. Printed 10/07/2021.

☐ Baltimore City ☒ Baltimore County: Belt Lo

The addendum form should be used when one transaction involves more than two instruments.
Each instrument should be itemized in accordance with Section No. 1 of the Intake Sheet.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

	Amount Due	Doc. #			
(Continued) Fees	Recording Charge	\$ 20	\$	\$	\$
	Surcharge	\$ 20	\$	\$	\$
	State Recordation Tax	\$	\$	\$	\$
	State Transfer Tax	\$	\$	\$	\$
	County Transfer Tax	\$	\$	\$	\$
	Other	\$	\$	\$	\$
	Other	\$	\$	\$	\$
(Continued) Transferred From	<u>JLEW, LLC</u>				
(Continued) Transferred To	<u>The Palmyra Bond</u>				
(Continued) Other Names to be Indexed					
Special Instructions					

15-02-003940

RECORDATION TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND
T.P. ART 12-108

DOC # 2 8 4 5 6
Initial: [Signature]
Date 7/12/05

Parcel 715 Williams (Trailers)
Lots 11-14

This Deed, MADE THIS 27th day of **January, 2006**, by and between **LHB LORRAINE, LLC**, a Maryland limited liability company, party of the first part, GRANTOR; and **ABBEY M. WILLIAMS**, party of the second part, GRANTEE.

WITNESSETH, That in consideration of the sum of **THREE HUNDRED FORTY FIVE THOUSAND AND 00/100 DOLLARS (\$345,000.00)**, the receipt whereof is hereby acknowledged, the said GRANTOR does grant and convey to the said **ABBEY M. WILLIAMS**, as sole owner, in fee simple, all that lot of ground situate in Baltimore County, Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lots 11, 12, 13 and 14, as shown on a plat entitled "Plat of Property of Raphael D. Hesse at Rosedale, as surveyed by Dollenberg Brothers, Towson, Maryland" which plat is recorded among the Land Records of Baltimore County, Maryland, in Plat Book CWB Jr., No. 12, folio 41.

BEING the same property which by Deed dated 01/20/2005 and recorded among the Land Records of Baltimore County, in Liber 21342, folio 606, was granted and conveyed by LEN BUSH to LHB LORRAINE, LLC, a Maryland limited liability company the within GRANTOR.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said ABBEY M. WILLIAMS, as sole owner, in fee simple.

AND the said party of the first part hereby covenants that it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that it warrant specially the property hereby granted; and that it will execute such further assurances of the same as may be requisite.

IN WITNESS WHEREOF, the Grantor has caused this Deed to be duly executed on its behalf by its Member.

ATTEST:

LHB LORRAINE, LLC, a Maryland
limited liability company

By: Leonard H. Bush, Managing Member

STATE OF MARYLAND,

, to wit:

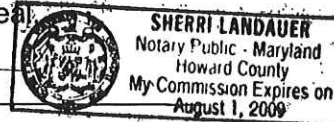
I HEREBY CERTIFY, That on this 27 day of **January, 2006** before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared LEONARD H. BUSH, Managing Member of **LHB LORRAINE, LLC**, a Maryland limited liability company, acting in his capacity as the managing member of the Limited liability company herein, and that he, being authorized so to do, executed the foregoing Deed for the purposes therein contained and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

My commission expires:

8-1-09

Notary Public



THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

C. L. Landauer
C. L. LANDAUER

AFTER RECORDING, PLEASE RETURN TO:
LAKESIDE TITLE COMPANY
5840 BANNEKER ROAD SUITE 120
COLUMBIA, MD 21044

**Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferors:
LHB LORRAINE, LLC.

2. Reason for Exemption

Resident Status	☒ I, Transferor, am a resident of the State of Maryland. ☐ Transferor is a resident entity under § 10-912 (A)(4) of Maryland's Tax General Article, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration, and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Handwritten Signature
LHB LORRAINE, LLC.

3b. Entity Transferors

Witness/Attest

By: _____

IMP FD SURE \$ 20.00
RECORDING FEE 20.00
TR TAX STATE 1,725.00
TOTAL 1,765.00
Res# B004 Rcft # 97540
SH JLF Blk # 738
Feb 03, 2006 12:21 PM

1	Type(s) of Instruments	() Check Box if Addendum Intake Form is Attached.)			
		1	Deed	Mortgage	Other
			Deed of Trust	Lease	
2	Conveyance Check Box		Improved Sale	X	Unimproved Sale
			Arms-Length [1]	Arms-Length [2]	Arms Length [3]
3	Tax Exemptions (if Applicable)	Recordation			
	Cite or Explain Authority	State Transfer			
		County Transfer			
4	Consideration and Tax Calculations	Consideration		Amount	Finance Office Use Only
		Purchase Price/Consideration		\$ 345,000.00	Transfer and Recordation Tax Consideration
		Any New Mortgage		\$.00	Transfer Tax Consideration
		Balance of Existing Mortgage		\$	x () % = \$
		Other:		\$	Less Exemption Amount - \$
		Other:		\$	Total Transfer Tax = \$
		Full Cash Value		\$ 345,000.00	Recordation Tax Consideration \$
					x () per \$500 = \$
					TOTAL DUE \$
5	Fees	Amount of Fees		Doc. 1	Doc. 2
		Recording Charge		\$ 20.00	\$
		Surcharge		\$ 20.00	\$
		State Recordation Tax		\$ 1,725.00	\$
		State Transfer Tax		\$ 1,725.00	\$
		County Transfer Tax		\$ 5,175.00	\$
		Other		\$	\$
		Other		\$	\$
6	Description of Property	District	Property Tax ID No.(1)	Grantor Liber/Folio	Map
			15-1502003941	21342/606	
		Subdivision Name		Lot (3a)	Block(3b)
				Sect/AR(3c)	Plat Ref.
					SqFt/Acreage(4)
		Location/Address of Property Being Conveyed (2)			
		LORRAINE AVENUE, LOTS 11, 12, 13, 14, BALTIMORE, MD 21237			
		Other Property Identifiers (if applicable)		Water Meter Account No.	
		TAX ID# 'S 15-1502003942, 15-02003943, 15-1502003944			
		Residential [X] or Non-Residential []		Fee Simple [X] or Ground Rent []	Amount: \$N/A
		Partial Conveyance? [] Yes [X] No		Description/Amt. of SqFt/Acreage Transferred:	N/A
		If Partial Conveyance, List Improvements Conveyed: N/A			
7	Transferred From	Doc. 1 - Grantor(s) Name(s)		Doc. 2 - Grantor(s) Name(s)	
		LHB LORRAINE, LLC., by and through E. Bruce Jones,			
		Doc. 1 - Owner(s) of Record, if Different from Grantor(s)		Doc. 2 - Owner(s) of Record, if Different from Grantor(s)	
8	Transferred To	Doc. 1 - Grantee(s) Name(s)		Doc. 2 - Grantee(s) Name(s)	
		ABBEY M., WILLIAMS			
		New Owner's (Grantee) Mailing Address			
		2315-B FOREST DRIVE, SUITE 49, ANNAPOLIS, MD. 21401			
9	Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional)		Doc. 2 - Additional Names to be Indexed (Optional)	
10	Contact/Mail Information	Instrument Submitted By or Contact Person			X
		Name: Ann Miller			Return to Contact Person
		Firm: LAKESIDE TITLE COMPANY			
		Address: 5840 BANNEKER ROAD, SUITE 120, COLUMBIA, MD 21044			Hold for Pickup
		Phone: 410-992-1070			Return Address Provided
11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER				
	Assessment Information	Yes	X	No	Will the property being conveyed be the grantee's principal residence?
		Yes	X	No	Does transfer include personal property? If yes, identify:
		Yes	X	No	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required)
	Assessment Use Only - Do Not Write Below This Line				
	Terminal Verification	Agricultural Verification		Whole	Part
	Transcript Number:	Date Received:		Assigned Property No.:	
	Year	Geo.		Map	Sub
	Land	Zoning		Grid	Plat
	Building	Use		Parcel	Section
	Other	Town Cd.		Ex. St.	Ex. Cd.
	Block		Lot		
	Occ. Cd.				

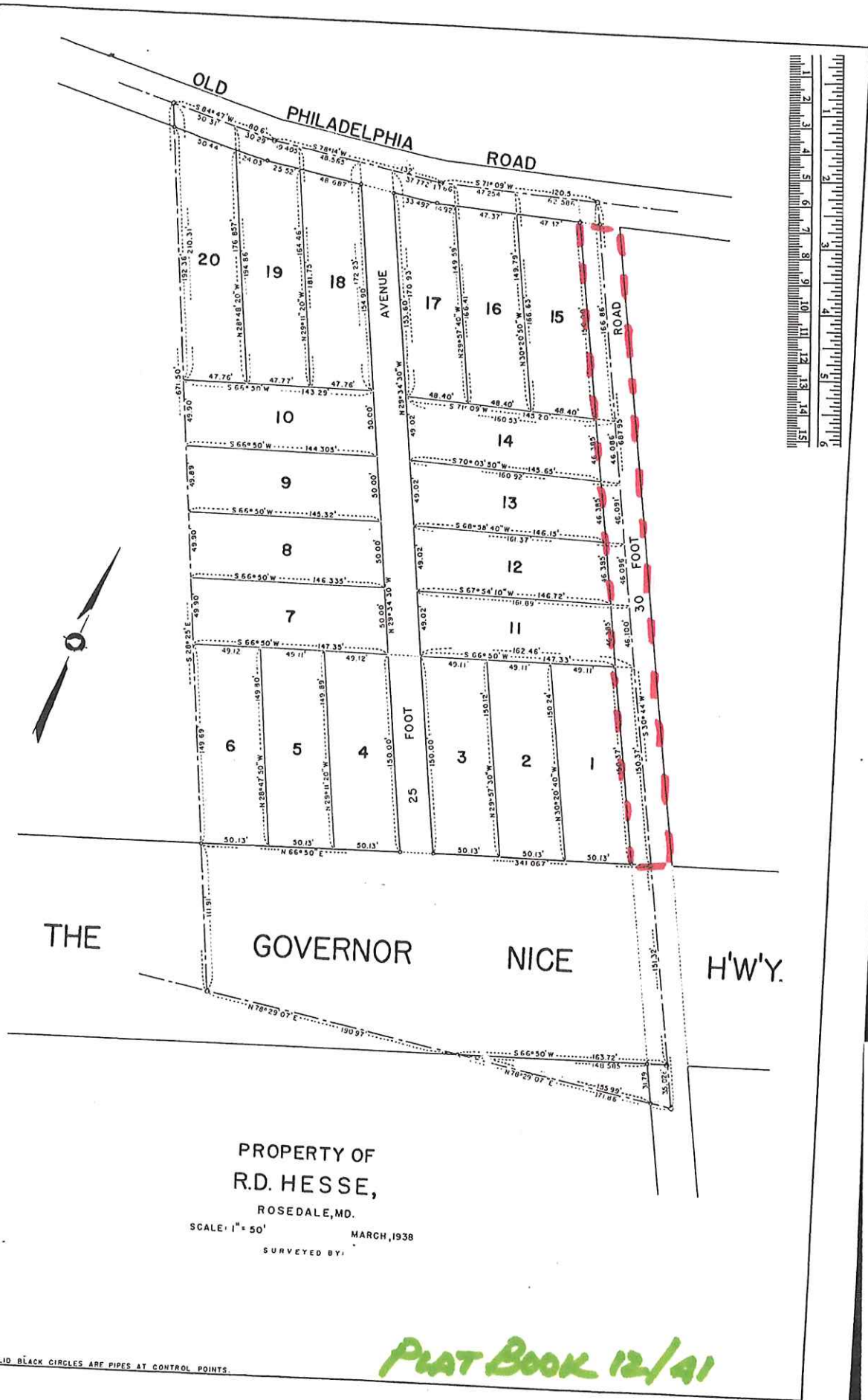
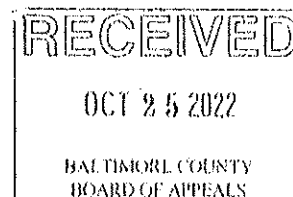


EXHIBIT CHECKLIST

Explanation of Abbreviations:

EB	=	Earlbeck
S/A	=	same as
Dog	=	ID. of Specific Document
R or RM	=	Russ Mirabile
"Doodle fence"	=	according to exhibit by Mr. Doak it appears as "doodling" rather than specifics, as evidence should be.
RT	=	Route
ML#1	=	Mark Landolina
SL#1	=	Steve Lafferty



~~AK~~ AAA #1-A without RM signature Rule 8 satisfied
~~AK~~ AAA #1-B President Signature Stamped Rule 8 satisfied

A - AAA #00 Varlance Request By Bruce Doak
 A ✓ AAA #0 Good Standing Deed State of MD Good Standing of Rosedale Community Association
 A ✓ AAA #1A Postponement Postponement 1/29/2019

~~AK~~ RCA - Good Standing
 1A S/A
 1B S/A

Subpoena

QS #1 Subpoena Qaisar Shahzad Dated
 QS #2 Affidavit for Qaisar Shahzad
 BD#1 Subpoena Bruce Doak with due diligence Attached affidavit by Server
 BD#2

X ✓ AAA #2 Settlement Hartman - letter to Hartman R. Mirabile requested settlement 9/15/22
 X ✓ AAA #3 Recommendation for Settlement for Attorney Hartman's client
 A ✓ AAA #4 Map
 1 Good Standing from State of Maryland
 1B S/A
 A ✓ 2 Zoning petition Doak #2 Plan to accompany zoning petition decision of Judge Murphy
 3 Decision Judge Murphy Plan to accompany zoning petition decision of Judge Murphy
 3A Opinion and Order, Judge Murphy & Judge Beverungen 2/27/19
 4 Dietz Surveying explanation Dietz Survey Plan
 4B S/A
 4C S/A
 5 Deed TX 10#(15) 15-23-003760 - 30' in common use - Batavia Farm Rd
 5A S/A, 5C, 5Dog Deed

- 6 Map of Rosedale - showing Batavia Farm Road
- 7 S/A
- 8 State Hwy survey of Batavia Farm Road
- 10 Code Enforcement & Inspection 9-15-21 \$2,000 fine
Non appealable order of code
- 11 Code Enforcement & Inspection 9-22-21 \$3,000 fine Non appealable order of code
- 11A Fence measurements - Different measurements fence code, inspection discovery, erroneous measurements
- A ✓*12 FENCE Application, erroneous measurements & sketch
- A ✓*12 3-2-2022 Do Not Match
- *12A Warrant of Restitution by Earlbeck Earlbeck evicts tenant
- A ✓*12B False Application for fence S/A 10-12 wrong measurements for fence
- 13 EB Oppose 0' set back, Letter from Jim Earlbeck Nothing unique about property
- 13A S/A Signature page
- 14 Abby Williams / Hilltop Trailer Park opposes set-back same, no Batavia Farm Rd closure
- 15 Paul King opposes 0' setback same: for different sign posting
- 16 Mike Stroh Ret #7 = oppose 0' set back & letter of No Permission, both tenants of Earlbeck forgery on letter
- 16A Zeller Letter - forgery, as referenced to exhibit A
- A ✓ 17 ~~17~~ Zoning Russ 11- 7 or 8, 2021 First Notice HHH 4,5,6 Russ Mirabile, 1st notice
- A ✓ 18 First notice - Thurs, October 13 Earlbeck
- A ✓ 18A Photo by EB photo taken by Earlbeck, shows date and time
- 19 Lafferty -Fence No Parking 15' alley - in subject plan,
Shared access between abutting properties
- 19A Stripe to (change: USE pursuant) Requirement of BC2R 409 from Lafferty
- 20 Photo of 4 on- encumbered Earlbeck business fence takes up Batavia Farm Rd
- 20A S/A close up, silhouette of Russ taking photo
- 20B Parked vehicle on Batavia Farm Rd, nobody can get through
- 20C Intentional blocked 30' right-of-way on Batavia Farm Rd
- 20 Dog Photo of trucked blocked fence in roadway S/A
- 21A Transcript Nov. 4, 2021 proceeding, both sides of pages
- A ✓ 22 RM Zoning notice 11/ 7 or 8/2021 taken by Russ Mirabile
- *23 Photo 11/5/21 by Jim Earlbeck date and time differ from advertized date
- 23A EB 1st notice Letter from Jim Earlbeck
- 24 RM Stacked vehicles in Batavia Farm Rd from across street
- 25 Access by others? Doak 10-A Don't understand why fence is in parking lot
- 26 "Doodle" fence line - Imaginary - Doak Exhibit 10B Doak shows imaginary fence
and need sodding if possible
- 26A Photo of Wet Rt. 40 and sale of garage Doak 6C
Shahzad could have bought this building
- 27 Drive through parking on bldg. of old Root Beer stand
- A ✓ 28 Front of Root Beer stand Doak #6G S/A
- 29 Possible deception Russ and photo of #29 =Build first 2) if caught, declare hardship
3) continue operation 4) Then issue permit
- 29A Site plan for fence Wrong measurements & no showing of Batavia Farm Road
According to Landolina and Lafferty SL#1 ML#1
- 30 Posting by Doak - perjury by Doak
- 31 Doak 16 items - check list
- 32 Doak letter RM letter Unfounded and lacking merit - Paul Mayhew
- 33 Doak letter to Mayhew - RM heavy on accusations and light on evidence to justify postpone

- 33A Variance Petition by Doak, submitted
- 34 S/A #33 by Doak
- 35 RM letter giving notice /postponement - 3 issues & build first 2) I'm sorry? 3) permit loss
process Hand delivery date Oct 1, 2021
- A ✓ 36 Doak posting signed, penalty of perjury
- A ✓ 36A Front of 8202 Pulaski - posting false posting
- ✓ 36B Same - different posting site false posting "shadow Russ"
- 37 S/A Zoning notice Date 11/7/21 or 11/8/21 RM false dates
- 38 Possible deception letter 9/21/21 by Russ Mirabile - Doak
- 39 Doak exh. 9 Photo "in fee"
- 40 S/A Property lines - Earlbeck and Shahzad
- A ✓ 41 "Doodle fence" Plenty of room - by Doak
- 41A Earlbeck letter
- 41 Dog
- 41C EB opposes fence closure
- 41B Signature "EB" Nothing Unique by Earlbeck
- 41++
- 42 EB Eviction notice of tenant behind 8202 Pulaski Hwy
- 43 Abbey Williams owner of Mobile Park, against
- A ✓ 44 Paul King letter of Paul King, dates were posted wrong March 11, 2022
- 45 Buggy letter M. Stoh forgery of names presented
- 46 Jerry Zeller Signature
- 47 Back ups 3/16 Hearing Board of Appeals
- *48 Posting * Certified of Posting by Doak HHH 4,5,6 affidavit perjury
- *49 Qaisar Red Line Site Plan - Front/back ?? where is the site plan ordered by Judge Murphy
No site plan
- A ✓ 50 BGE overhead wires Pet. 6N Doak photo Doak never showed BGE requirements
- A ✓ 51 Photo fence Lot Doak Pt #6L Fence in common use right-of-way
- 52 S/A
- 53 + 53A photo of costly S/A side up top
- 54 S/A Above
- 55 S/A
- 56 S/A Existing use of 30' roadway +8 Doak
- 57 Photo of fence doak p#6M Old Philadelphia Rd
- 58 S Steve Broyles Alley photo No fence - clear
- 59 R Russ - alley of Batavia Farm Rd from Old Philadelphia Rd
- 60 S Steve alley of Batavia Farm Rd from Old Philadelphia Rd
- A ✓ 61 R BC Real Estate Compliance * Road Closing
- 61A Road closing procedures
- 62 R Letter of deception by Russ sent Sept 9, 2021
- 63 R 4 photos Empty lot
- 64 Petition 6N BGE wires
- 65 EB front building on Route 40
- 66 EB S/A
- 67 EB Back yard
- 68 EB Truck usage by Earlbeck
- 69 EB Front of Buggy Business
- A ✓ 70 BGE K-Guide Lines Important: Doak failed to investigate
- 71 BGE Service application Important: Doak failed to investigate
- 72 BGE Road closing procedures

73 R Monumental Process service

*73BD1 R Doak Service 4/27/22 prior - BD#1 A B C D E F, BD#2 Doak avoiding service

74 RF Qaisar Affidavit Service QS#1, QS#2 accepted service for hearing

~~WA~~ 75 HHH Affidavit Russ Mirabile, Pres. RCA

76 HHH Affidavit James Earlbeck

A ~~77~~ 77 HHH 6 Affidavit Paul King

78 HHH SL#1 Mark Landolina and Steve Lafferty

A / Exhibit 104 Drawing

A / Exhibit 105 Zoning Checklist

~~HHH #5 Affidavit of Russ Mirabile~~



P.O. Box 70285, Rosedale, Maryland 21237

Cell# 443-846-5399



Reference Special Meeting:
HELD on Wednesday, April 20, 2022
Location: St. Clement Hall
1212 Chesaco Avenue
Rosedale, MD 21237



To: County Councilman Todd Crandell
To: Representative Diane Clyde, Homes of America
To: Baltimore County Board of Appeals

Referencing Title 8 Baltimore Co. Board of Appeals, and Vote for Representative

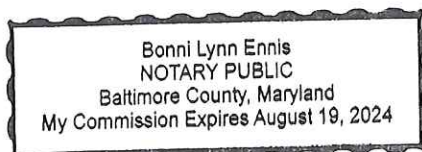
A special meeting was held on the above date, time and location for purposes of a Second P.U.D. meeting and Title 8, attendance approximately 84-95 individuals.

1) Update and boundary lines of the sale of St. Clement School, Rosedale, MD. 21237. Purchasers are Homes of America. There were two representatives from Homes of America that offered bill boards showing boundaries, and any discussions and responses to any questions on the P.U.D. procedure.

2) The second issue was a vote to be taken on rule Title 8, for Baltimore County Board of Appeals representative, for the purpose of speaking on behalf of the Rosedale Community Association, referencing a zoning variance change of address: 8202 Pulaski Highway, 21237, (Old Stewart's Root Beer stand at Batavia Farm Rd.) for an addition to the existing structure, for a three-bay auto repair shop.

Both issues were voted upon unanimously. Homes of America received approval for the P.U.D. and Russ Mirabile received permission to represent the Title 8 requirement for the 8202 Pulaski Highway, 21237 variance.

In attendance were two Baltimore County Police officers, Officer Flanary and Sgt. Mickles, and Maryland State Police Troopers Mohammed and Doug Anderson, representing Councilman Todd Crandell's office.



April 21, 2022

Bonni Ennis

Secretary

Bonni Lynn Ennis - BSE 4/24/22

Graceann Rehbein

Vice President

Graceann Rehbein 4/22/22

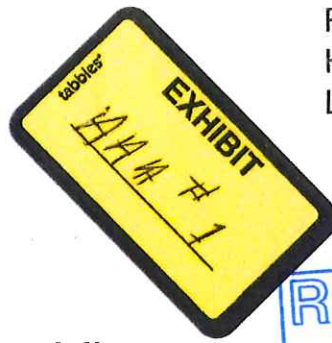


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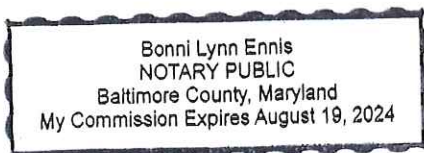
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April 21, 2022

Bonni Ennis

Secretary

Bonni Lynn Ennis - BSE 4/21/22

Graceann Rehbein

Vice President

Graceann Rehbein 4/21/22



*Russ Mirabile President
Oct 14, 2022*

copy



Petitions Requested

Case # 2021-0201-XA

Special Hearing

To amend Case No. 2019-0171-XA

Variance

1) To permit a 0 foot setback from the rear and side property lines for a 18 foot high building addition in lieu of the required 30 foot minimum rear and side yard setbacks per Section 238.2 BCZR

2021-0201-XA



copy

ROSEDALE COMMUNITY ASSOCIATION, INC.: D03126364

Department ID Number:

D03126364

Business Name:

ROSEDALE COMMUNITY ASSOCIATION, INC.

Principal Office: 

7932 OAKDALE AVENUE

ROSEDALE MD 21237

Resident Agent: 

RUSSELL MIRABILE

7932 OAKDALE AVENUE

ROSEDALE MD 21237

Status:

REVIVED

Good Standing:

THIS BUSINESS IS IN GOOD STANDING

Business Type:

CORPORATION

Business Code:

04 ORDINARY BUSINESS - NON-STOCK

Date of Formation/ Registration:

12/03/1990

State of Formation:

MD

Stock Status:

NONSTOCK

Close Status:

NO



Rosedale Community Association



"Non Political Community Association"

7932 Oakdale Ave
Rosedale, MD 21237

Phone:
443-846-5399



Kristen Lewis
Baltimore County Zoning Scheduler
111 West Chesapeake Ave.
Towson, MD 21204



Dear Kristen,

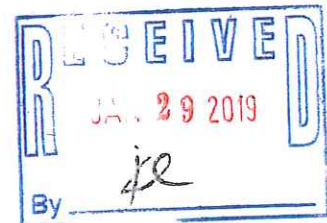
As President of the Rosedale Community Association, I would like to request a postponement of Case #2019-171, address 8202 Pulaski Highway, Rosedale, MD 21237.

Sincerely,


Russ Mirabile

Russ Mirabile

Russ Mirabile
President, Rosedale Community Association
443-846-5399

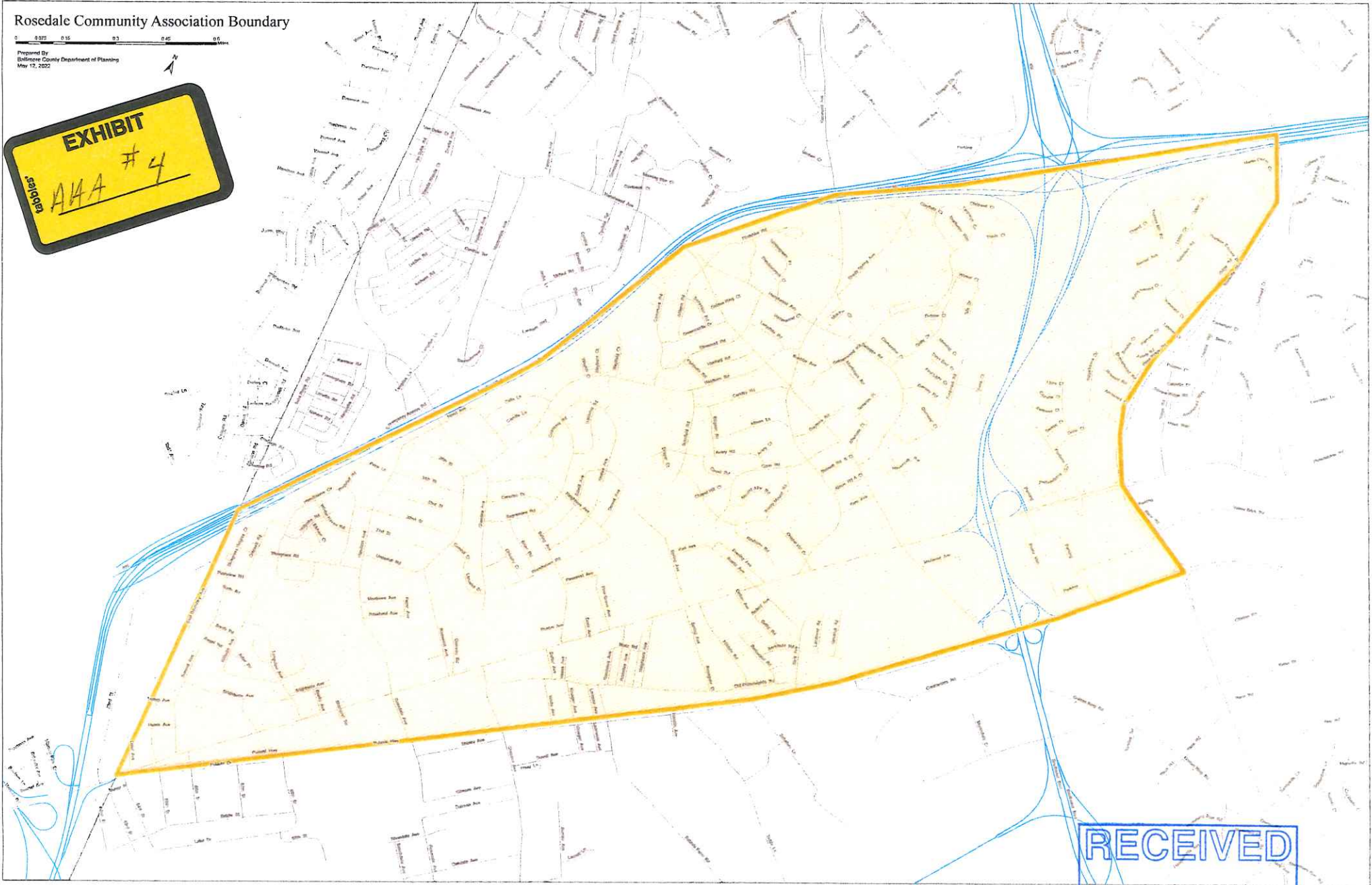


- ① No Hearing "Notice" Sign has been Posted as of 10:50 AM
- ② If possible a 30 day postpone date would be desirable due to Community Meeting date in March 1.29.19
- Thank You*
Russ Mirabile Pres

Rosedale Community Association Boundary

0 0.075 0.15 0.3 0.45 0.6 Miles

Prepared By
Baltimore County Department of Planning
May 12, 2022



RECEIVED

OCT 24 2022

BALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED

OCT 24 2022

BALTIMORE COUNTY
BOARD OF APPEALS

EXHIBIT

2

GENERAL SITE INFORMATION

- Ownership: FAZAL LLC
9423 Brl Beck Road Parkville, MD 21234
- Address: 8202 Pulaski Highway Baltimore, MD 21237
- Deed references: JLE 402107 / 49
- Area: 0.396 acre (per SDAT)
- Tax Map / Parcel / Tax account #: 89 / 760 / 15-23-003760
- Election District: 15 Councilmanic District: 7
ADC Map: 4700J9 GIS file: 089C3 Position sheet: 9NE21
Census tract: 450100 Census block: 24005450100
Schools: Red House Run ES Golden Ring MS Overlea HS
- The boundary shown hereon is from the deed recorded in the Land Records of Baltimore County. All other information shown hereon was taken from Baltimore County GIS file 089C3 and the information provided by Baltimore County on the Internet.
- Improvements: Single story office building & paved parking lot. The existing building and the paved parking lot will remain.

OFFICE OF ZONING

Zoning: BR AS
Case #2019-0171-XA
Special Exception to allow a used motor vehicle outdoor sales area- granted
Variances for setbacks & no screening or landscaping- granted

Parking Calculations per Section 409.6.A.1 BCZR

Office 1.6 (1603 sq. ft.) > 5 = 8
Autos for sale = 30 (not required to meet Sect. 409 req.)
Auto repair (3 service bays) = 9
Total parking spaces required = 17
Parking spaces provided (outside) = 4 (employee & customer spaces)
Parking spaces provided (inside) = 3 (bays) + 10 = 13
Total parking spaces provided = 17

Damaged and/or disabled motor vehicles will be kept inside the proposed building addition.

Signage

A sign may be installed on the frontage of Pulaski Highway and will meet all zoning regulations.

BR AS Requirements per Section 233 BCZR

Front: 50' feet from the street right of way for a dual highway
Side / Rear: 30' feet from property line

Storage and display of vehicles in the front yard: not more than 15' feet in front of the required front building line (50' - 15' - 35')

Maximum permitted floor area ratio: 2.0

Existing floor area: area ratio: 0.09 (based on SDAT info) / Proposed 0.39

ENVIRONMENTAL IMPACT

Watershed: White Marsh URDL load type: 1

- The existing building is currently served by public water and sewer.
- There are no underground storage tanks on the subject property.
- The subject property is not in the Chesapeake Bay Critical Area.
- The subject property is not located within a 100 year flood plain.

OFFICE OF PLANNING

Regional Planning District: Rosedale District Code: 326

Growth Tier: 1 (served by public sewer and inside URDL)

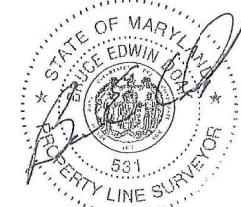
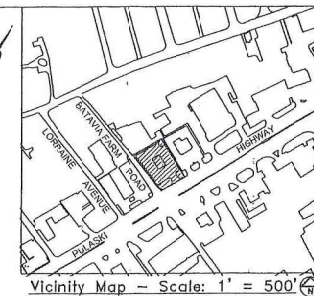
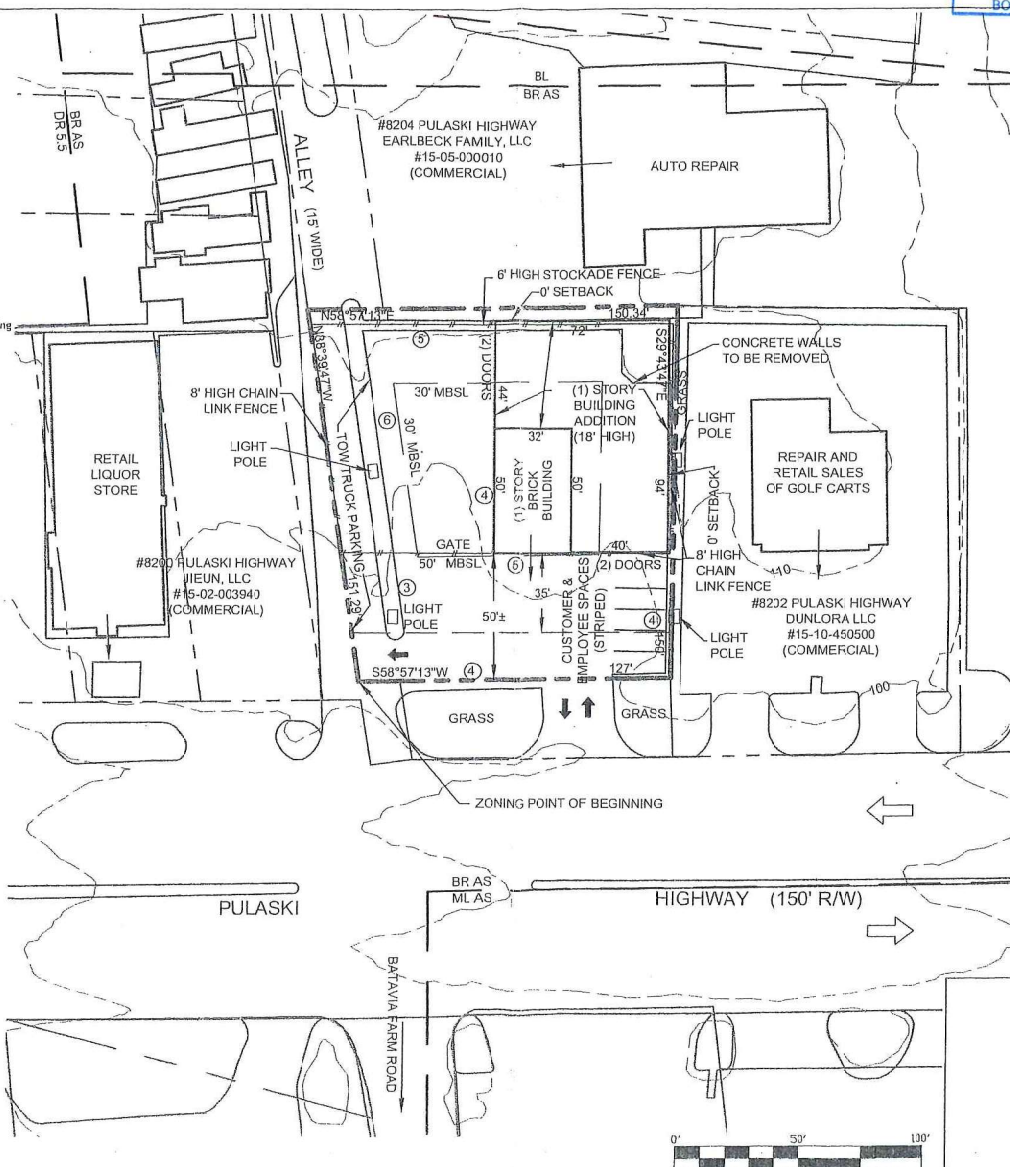
- The existing building is not historic. The subject property is not in a historic district.

PUBLIC WORKS

The utilities that serve the subject property are located in Pulaski Highway

PROPOSED DEVELOPMENT

Use the subject property and the existing building for used car sales, auto repair, auto painting and a towing business. An addition to the building is proposed.



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

PLAN TO ACCOMPANY A
ZONING PETITION

FOR

#8202 PULASKI HIGHWAY

BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT

Date: 7/2/21

Scale: 1"=50'

PET. EXHIBIT # 1

RECEIVED
OCT 24 2022
BALTIMORE COUNTY
BOARD OF APPEALS



APPLICATION FOR FENCE PERMIT
BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS, APPROVALS & INSPECTIONS
111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204

Permit No. B3945868
Receipt No. A774115
Fee Paid \$75.00
CK# 1592

Make checks payable to Baltimore County, Maryland --- PERMIT FEES ARE NON-REFUNDABLE

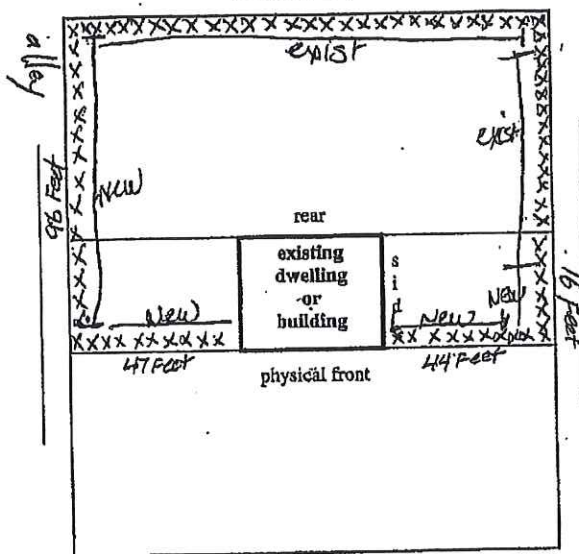
Tax Account # 1523003760 Zone BR AS
Type or print in ink: 21237
Work Site Address 8202 Pulaski Hwy Rosedale MD 21237 Election District 15
Owner's Name Daisar Shahzad Phone No. 443-794-0669
Mailing Address 9243 Bellbrook Rd Parkville MD 21234
Owner's Agent _____ Phone No. 443-794-0669

COMPLETE SKETCH BELOW OR ATTACH A PLAN THAT CLEARLY SHOWS:

Property line dimensions, easements, existing buildings, road names, and location of alleys.
Proposed fence, total length 203, height 8 Feet, and type Chain Link.
Property line setbacks: front 91, sides 96, and 16, and rear covered.
Property use Residential. Rear/Side yard abuts adjoining front yard: Yes ☒ No ☐

Corner Lot: Yes ☒ No ☐
Historic District: Yes ☐ No ☒

SITE PLAN



Road Name 8202 Pulaski Hwy Rosedale MD

FENCE REGULATIONS

Permit required for fences over 42 inches high (measured vertical to ground, even if fence is placed on top of wall). Fences erected within easement must be removed at owner's expense, if required.

Building Code, Part 122:

122.1 - Residential Fences -- Maximum height of 42 inches in front yard as determined by BCZR and 6 feet in side and rear yards at the property line. Maximum height of 10 feet in side and rear yards, provided set back 2 feet for vertical foot over 6 feet.

122.2 - Commercial Fences -- Maximum height of 12 feet. Building's Engineer may approve higher fence for dangerous, hazardous, or athletic field. Electric and barbed wire fences are only permitted for the retention of livestock and when not a safety hazard to the public. No pointed projections less than 4 feet high. Barbed wire retarding material may be on top of fence that is at least 6 feet, 9 inches high.

Zoning Code (BCZR) (access easements cannot be fenced)
102.5 - Corner Lot -- No fence or other obstruction to vision is permitted higher than 3 feet within 25 feet of a corner of two streets, 15 feet of a street and alley, and 10 feet of two alleys.

427 - Residential Fences in side or rear yard which adjoins residential front yard (setback and maximum height) - fence may not exceed 42" if situated within 10 feet of the adjoining front yard property line, with the exception of 48" pool fence and houses more than 200 feet apart.

Special Fence Regulations: Exist for Historic Properties, the Honeygo Overlay District, RC5, RC6, RC7 and RC8 Zones.

Fence Waivers - Sec. 122.4: All requests for a waiver of heights over 42" in front yard must be submitted to the Building Engineer. Waiver requests require posting and may require a public hearing if height is contested. Contested front yard waiver hearings are held before the Building Engineer. If a zoning variance and fence waiver are required, both hearings shall be before the Zoning Commissioner.

County Code, Section 18-2-601. Obstruction of Drivers' View at Intersection.

Corner Lots: The County Code does not allow a fence on a corner lot to obstruct the vision of drivers as they reach an intersection. If a sight problem is noted later, the property owner will be required to move the fence. To be safe, contact Traffic Engineering at 410-887-3554 for a free site inspection before you build the fence. An issued permit does NOT certify that the fence will be in compliance.

OWNER/AGENT CERTIFICATION

I have carefully read the above regulations and hereby certify that the proposed fence will be located on private property, and NOT within the 100-year floodplain, will not violate the codes, and that the information supplied is true, complete, and correct.

Applicant Signature Daisar Shahzad Date 03-29-18 Print or Type Name Daisar Shahzad

PAI APPROVAL (FOR FENCE ONLY) Authority under Section 50D.4, BCZR

Approval Signature [Signature] Print Initials [Initials] Date 3/29/18

APPLICANT - KEEP THIS COPY FOR YOUR PERMANENT RECORDS

EXHIBIT

12 - Fence

Permits, Approvals, and Inspections
Code Inspections & Enforcement
County Office Building, Rm. 213
111 West Chesapeake Ave
Towson, Maryland 21204

www.baltimorecountymd.gov/Agencies/permits/



Code Enforcement
Electrical Inspection
Plumbing Inspection
Building Inspection 410-887-3953



CODE ENFORCEMENT & INSPECTION CITATION

FAZAL LLC
9423 BELLBECK RD
PARKVILLE, MD 21234

CASE NUMBER CC2108046	PROP.TAX ID 15-10-450500
VIOLATION ADDRESS 8202 PULASKI HWY ROSEDALE, MD 21237-2825	

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY CODES AND/OR REGULATIONS:

County Codes/Regulations	Inspector's Comments
B.C.C. 35-2-301: Obtain building/ fence/ sign permit	Fence measurements do not match what was approved on the fence permit/site plan approved on 3/29/18. Permit No.B945868

Pursuant to Section 1-2-217, Baltimore County Code, civil penalty has been assessed, as a result of the violation(s) cited herein, in the amount indicated:

\$2000

This will be a virtual hearing. To attend your hearing, or get more information about the hearing process, please visit:
www.baltimorecountymd.gov/codehearings

DATE: **03/02/2022** TIME: **10:00** A.M.

IF A VIOLATOR DOES NOT APPEAR AT THE CODE ENFORCEMENT HEARING, THE CITATION AND ANY CIVIL PENALTY ARE DEEMED A NON-APPEALABLE FINAL ORDER OF THE CODE OFFICIAL OR THE DIRECTOR.

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Inspector Badge Number 47	Issued Date 02/08/2022
-------------------------------------	----------------------------------



APPLICATION FOR FENCE PERMIT
BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS, APPROVALS & INSPECTIONS
111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204

Permit No. B 945868
Receipt No. A 774115
Fee Paid \$75.00
CK#1592

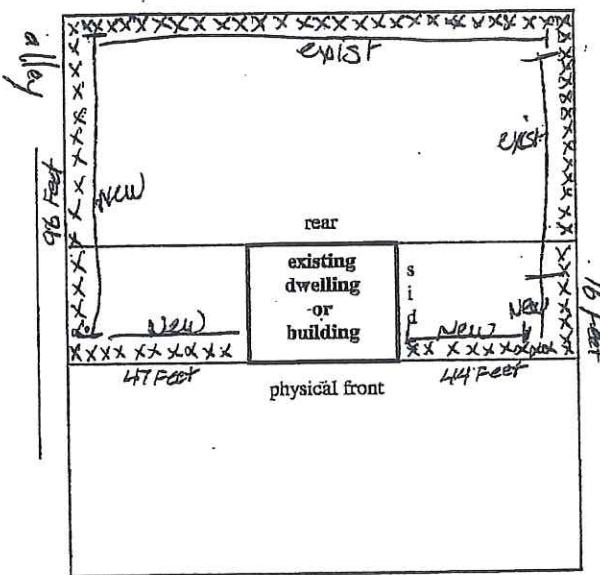
Make checks payable to Baltimore County, Maryland -- PERMIT FEES ARE NON-REFUNDABLE

Tax Account # 1523003760 Zone BR AS 21237
Type or print in ink:
Work Site Address 8202 Pulaski Hwy Rosedale MD 21237 Election District 15
Owner's Name Daisav Shahzad Phone No. 443-794-0669
Mailing Address 9243 Bellbrook Rd Parkville MD 21237
Owner's Agent _____ Phone No. 443-794-0669

COMPLETE SKETCH BELOW OR ATTACH A PLAN THAT CLEARLY SHOWS:
Property line dimensions, easements, existing buildings, road names, and location of alleys.
Proposed fence, total length 203, height 8 Foot, and type Chain Link
Property line setbacks: front 91, sides 96, and 16, and rear covered.
Property use Automotive. Rear/Side yard abuts adjoining front yard: Yes ☒ No ☐

Corner Lot: Yes ☒ No ☐
Historic District: Yes ☐ No ☒

SITE PLAN



Road Name 8202 Pulaski Hwy Rosedale MD

FENCE REGULATIONS

Permit required for fences over 42 inches high (measured vertical to ground, even if fence is placed on top of wall). Fences erected within easement must be removed at owner's expense, if required.

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122.2 - Commercial Fences -- Maximum height of 12 feet. Building's Engineer may approve higher fence for dangerous, hazardous, or athletic field. Electric and barbed wire fences are only permitted for the retention of livestock and when not a safety hazard to the public. No pointed projections less than 4 feet high. Barbed wire retarding material may be on top of fence that is at least 6 feet, 9 inches high.

Zoning Code (BCZR) (access easements cannot be fenced)
102.5 - Corner Lot -- No fence or other obstruction to vision is permitted higher than 3 feet within 25 feet of a corner of two streets, 15 feet of a street and alley, and 10 feet of two alleys.

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Special Fence Regulations: Exist for Historic Properties, the Honeygo Overlay District, RC5, RC6, RC7 and RC8 Zones.

Fence Waivers - Sec. 122.4: All requests for a waiver of heights over 42" in front yard must be submitted to the Building Engineer. Waiver requests require posting and may require a public hearing if height is contested. Contested front yard waiver hearings are held before the Building Engineer. If a zoning variance and fence waiver are required, both hearings shall be before the Zoning Commissioner.

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OWNER/AGENT CERTIFICATION

I have carefully read the above regulations and hereby certify that the proposed fence will be located on private property, and **NOT** within the 100-year floodplain, will not violate the codes, and that the information supplied is true, complete, and correct.

Applicant Signature Daisav Shahzad Date 03-29-18 Print or Type Name Daisav Shahzad

PAI APPROVAL (FOR FENCE ONLY) Authority under Section 500.4, BCZR

Approval Signature [Signature] Date 3/29/18
Print Initials [Initials]

APPLICANT - KEEP THIS COPY FOR YOUR PERMANENT RECORDS





ZONING NOTICE

CASE NO. 2021-0201-SPHA

8202 Pulaski Highway

THE ADMINISTRATIVE LAW JUDGE OF BALTIMORE COUNTY, BY
AUTHORITY OF THE ZONING ACT AND REGULATIONS OF
BALTIMORE COUNTY, WILL HOLD A VIRTUAL HEARING ON THE
PROPERTY IDENTIFIED.

DATE & TIME: THURSDAY OCTOBER 14, 2021 1:30 PM

FOR INFORMATION ON HOW TO PARTICIPATE IN THE HEARINGS
PLEASE GO TO WWW.BALTIMORECOUNTYMD/GOV/ADMINHEARINGS.
YOU WILL BE ASKED TO PROVIDE YOUR CONTACT INFORMATION
AND THE CASE NUMBER PROVIDED ABOVE, YOU MAY ALSO CALL
410-887-3868, EXT. 0.

REQUESTS:

SPECIAL HEARING TO AMEND CASE 2019-0171-XA.

VARIANCE TO --

PM- 11-7/8-121





4 March 2022

Baltimore County Office of Administrative Hearings
C/O Rosedale Community Association
P.O. Box 70285
Rosedale, MD 21237

RE: Case No. 2021-0201-SPHA

To Whom it May Concern,

I, James Earlbeck, under the Penalty of Perjury, do hereby state the facts of my letter 3/3/22 concerning the Zoning Notice Sign are true and correct.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James Earlbeck", with a long, sweeping underline.

James Earlbeck

President Earlbeck Family LLC

President Dunlora LLC

President Earlbeck Gases & Technologies

410-687-8400



11/24/2021

AFFIDAVIT OF RUSS MIRABILE

I, Russell Mirabile, under the penalty of perjury, witnessed a Zoning Notice Sign for the Hearing Date of October 14, 2021, which was posted incorrectly.
(Exhibits 17 and 22 RM)

My photograph, dated November 7 or 8, 2021, was already past the date of the Hearing, October 14, 2021. I travel Pulaski Highway daily and use the red light at Batavia Farm Road and Pulaski Highway to make a left turn every day, traveling to and from my house at 7932 Oakdale Avenue, Rosedale, Maryland 21237.

Russell Mirabile
Russell Mirabile

Russ Mirabile
7932 Oakdale Ave
Rosedale, MD
21237

443-846-5399



King Liquors
8226 Pulaski Highway
Baltimore, Maryland 21237

410-686-2770



November 6, 2021

King Liquors

AFFIDAVIT

I, Paul King of King Liquors, do solemnly declare under the penalties of perjury, do state that I witnessed the post of Notice of Zoning, Case #2021-0201-SPHA on November 6, 2021 on the grass plot of 8202 Pulaski Highway. I made a U-turn at Batavia Farm Road to return to the site to confirm the date, posting after October 14, 2021.

Respectfully,

Paul King

A handwritten signature in black ink, appearing to read "Paul King", written over a faint, larger signature.





3 March 2022

Baltimore County Office of Administrative Hearings
C/O Rosedale Community Association
P.O. Box 70285
Rosedale, MD 21237

Re: Case No.: 2021-0201-SPHA

Mr. Mirabile,

I first noticed the Zoning Notice sign on the front of 8202 Pulaski Hwy parcel 0760 on 3 November. It stated that the hearing was scheduled for Thursday 14 October. I would have attended the hearing if the true hearing date of 4 November had been displayed on the sign. I went back on 5 November to take a photograph of the sign to gather information to determine the status of the hearing. Attached is a copy of my photograph taken 5 November.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.M. Earlbeck".

J.M. Earlbeck
President Earlbeck Family LLC
President Dunlora LLC
President Earlbeck Gases & Technologies
410-687-8400

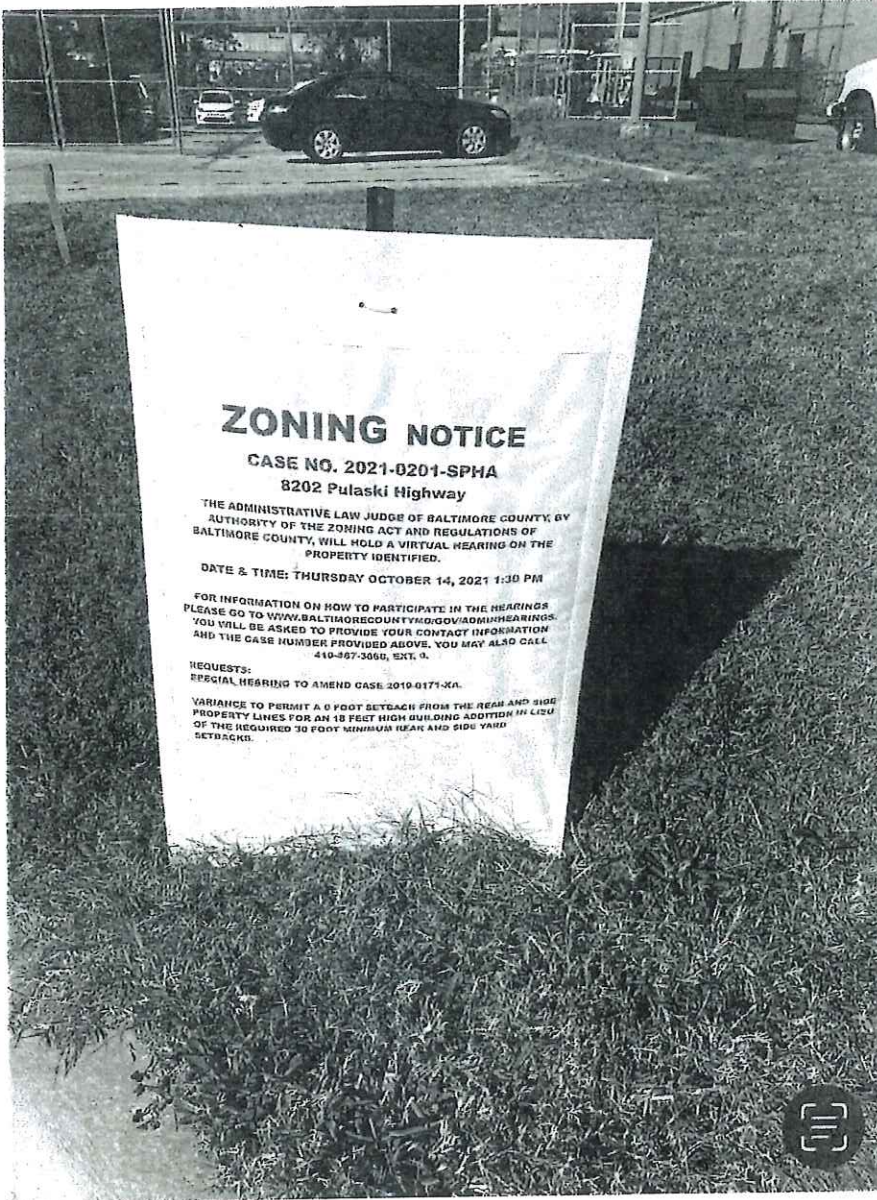


3:57



November 5, 2021
1:31 PM

Edit



ZONING NOTICE

CASE NO. 2021-0201-SPHA

8202 Pulaski Highway

THE ADMINISTRATIVE LAW JUDGE OF BALTIMORE COUNTY, BY
AUTHORITY OF THE ZONING ACT AND REGULATIONS OF
BALTIMORE COUNTY, WILL HOLD A VIRTUAL HEARING ON THE
PROPERTY IDENTIFIED.

DATE & TIME: THURSDAY OCTOBER 14, 2021 1:30 PM

FOR INFORMATION ON HOW TO PARTICIPATE IN THE HEARINGS
PLEASE GO TO WWW.BALTIMORECOUNTYMD/GOV/ADMINHEARINGS.
YOU WILL BE ASKED TO PROVIDE YOUR CONTACT INFORMATION
AND THE CASE NUMBER PROVIDED ABOVE. YOU MAY ALSO CALL
410-887-3868, EXT. 0.

REQUESTS:

SPECIAL HEARING TO AMEND CASE 2019-0171-XA.

VARIANCE TO



11-9.2
or

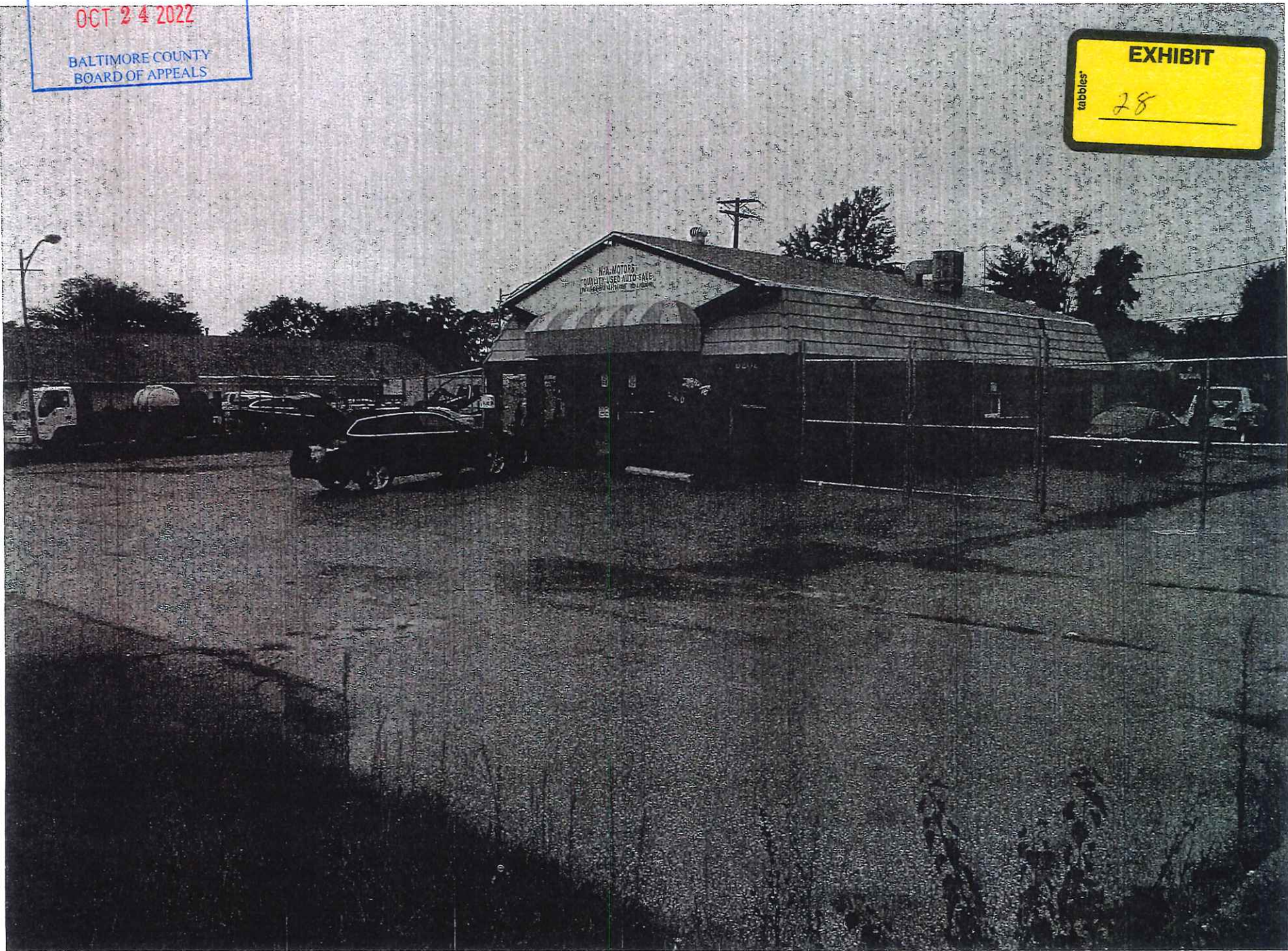


RECEIVED

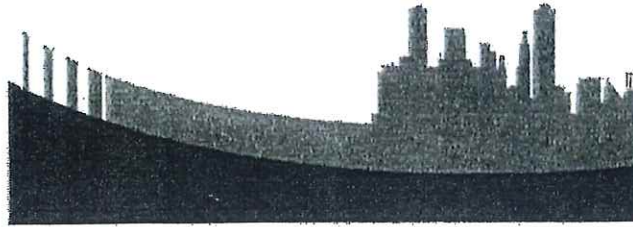
OCT 24 2022

BALTIMORE COUNTY
BOARD OF APPEALS

EXHIBIT
tabbles®
28



PET. EXHIBIT #66



CERTIFICATE OF POSTING

September 23, 2021 (amended November 3, 2021)

Re:

Zoning Case No. 2021-0201-SPHA

Legal Owner: Fazal LLC, Qaisar Shahzad, President

Hearing date: October 14, 2021 (postponed to November 4, 2021)

Baltimore County Department of Permits, Approvals & Inspections
County Office Building
111 West Chesapeake Avenue, Room 111
111 West Chesapeake Avenue Towson, MD 21204

Attention: Jeff Perlow

Ladies and Gentlemen,

This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at **8202 Pulaski Highway**.

The signs were posted on **September 23, 2021**.

The signs were inspected again on **November 3, 2021**.

Sincerely,

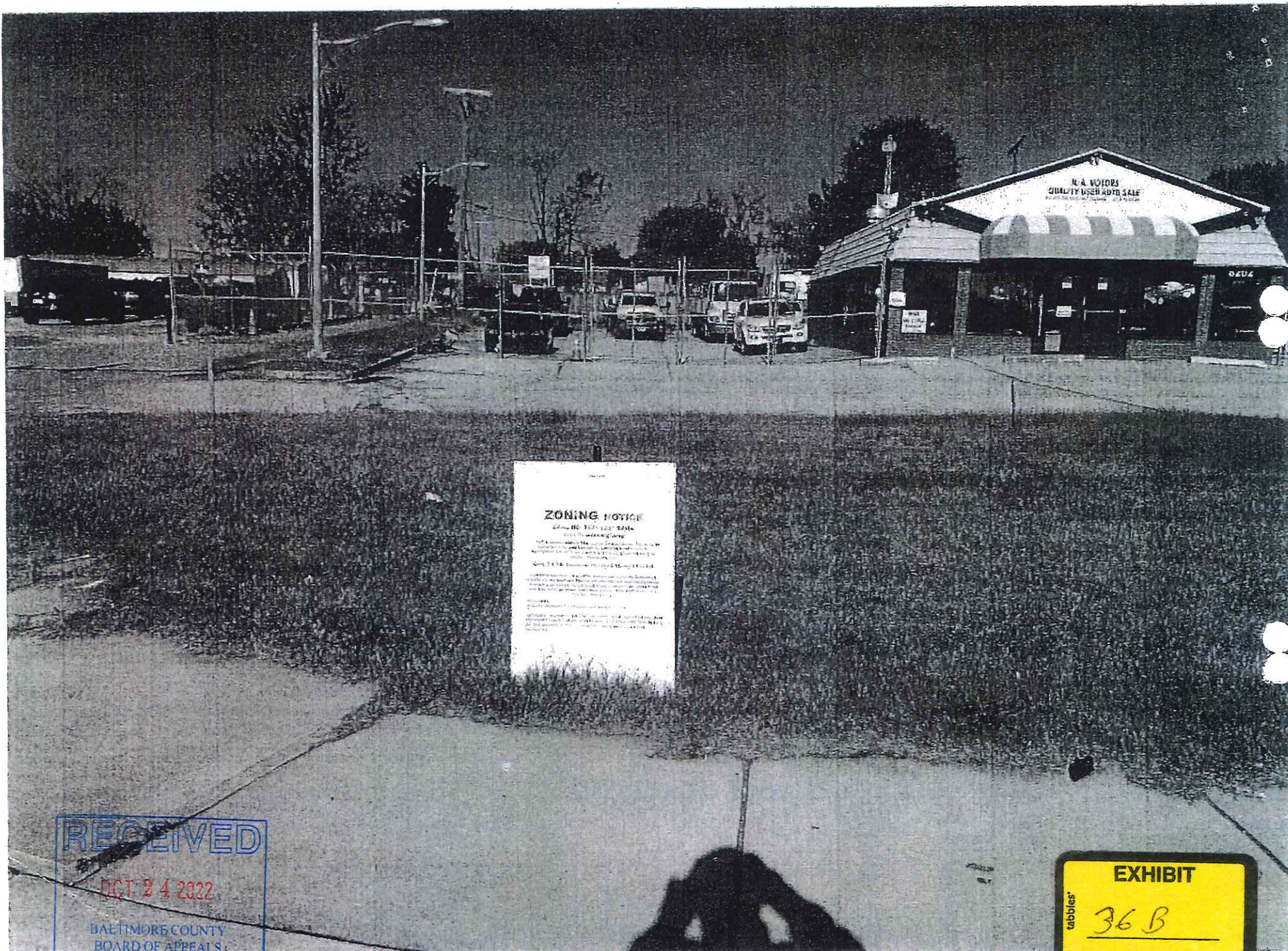
Bruce E. Doak
MD Property Line Surveyor #531

See the attached sheet(s) for the photos of the posted sign(s)

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







ZONING NOTICE

Home DE 123456789

1234567890

NOT A ZONING VIOLATION
This notice is placed on the property of the owner of the property described above. It is to inform the public that the property is being used for the purpose of a home-based business. The property is located in a residential zone and is not subject to the same regulations as commercial properties. The property is being used for the purpose of a home-based business and is not subject to the same regulations as commercial properties. The property is being used for the purpose of a home-based business and is not subject to the same regulations as commercial properties.

RECEIVED

OCT 24 2022

BALTIMORE COUNTY
BOARD OF APPEALS

EXHIBIT

tabbles

36 B

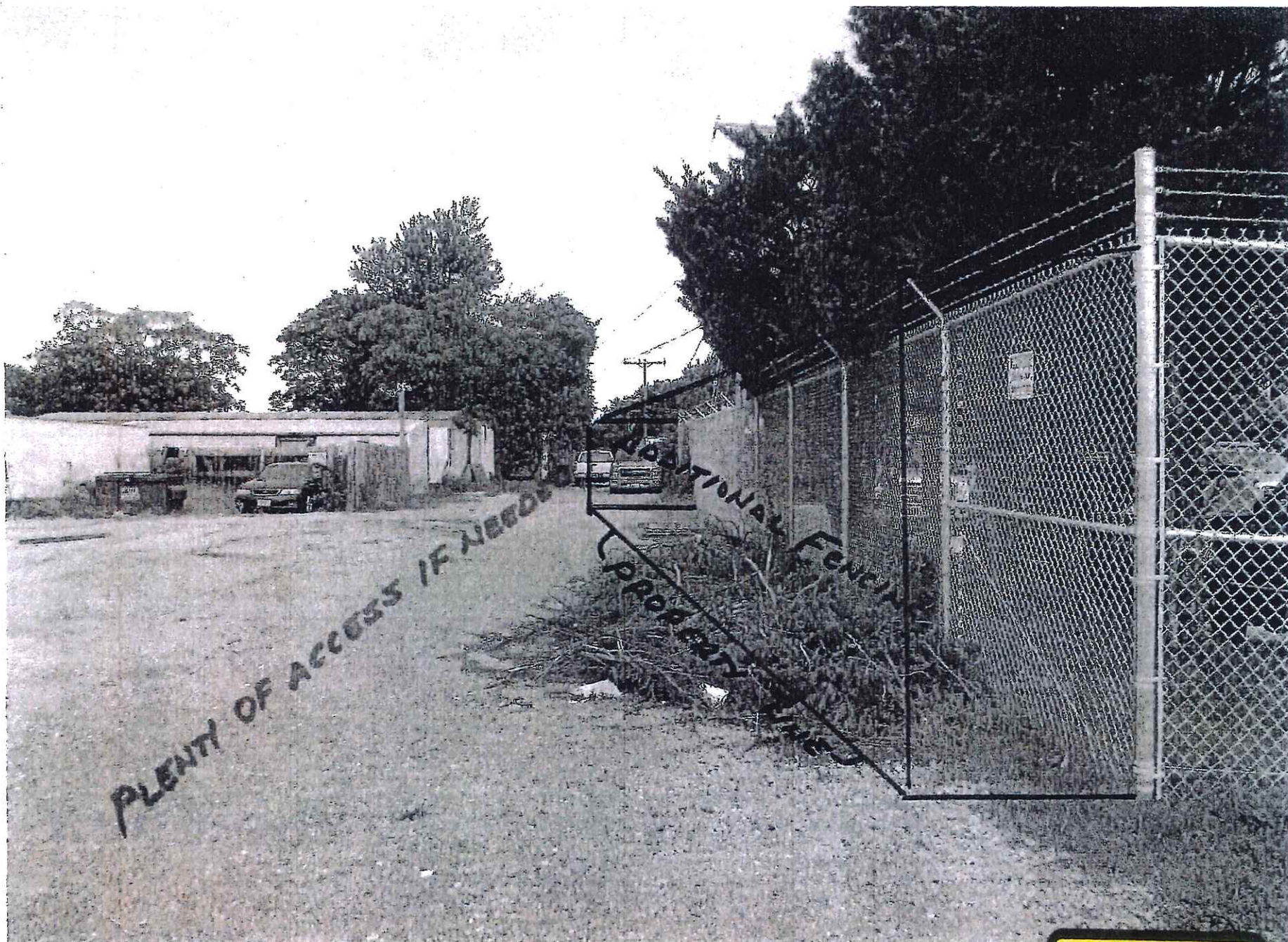
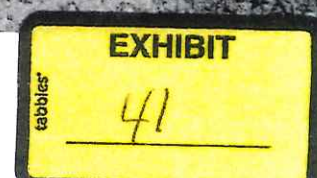


PHOTO SHOWING EXISTING ACCESS



11 March 2022

Baltimore County Office of Administrative Hearings

C/O Rosedale Community Association
P.O. Box 70285
Rosedale, MD 21237

Re: Case No.: 2021-0201-SPHA

Mr. Mirabile,

The 8226 Pulaski Group LLC, owners of 8226 Pulaski Hwy, d/b/a King's Liquors, oppose the request for variance to permit a 0 foot setback from the side and rear of the property lines in lieu of the required 30 foot minimum for 8202 Pulaski Hwy parcel 0760 per Case No. 2021-0201-SPHA.

We believe that eliminating the 30 foot set back will negatively impact the aesthetics of the properties which will result in a diminished value of the surrounding properties.

Respectfully submitted,

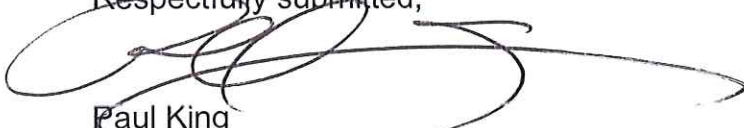

Paul King
President 8226 Pulaski Group LLC





EXHIBIT
tabbies
50 +

POT. EXHIBIT #6N

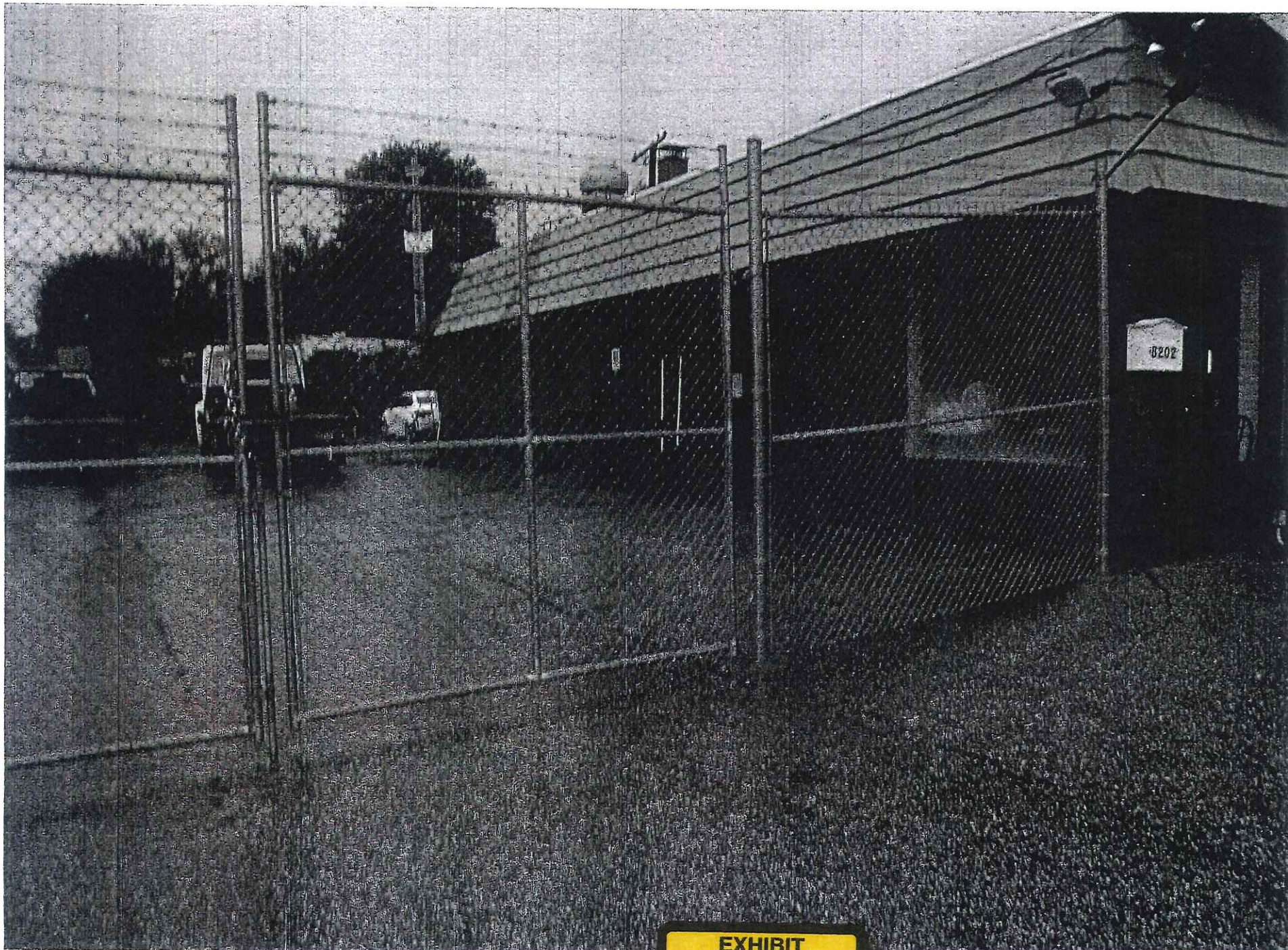


EXHIBIT
tabbler 51 +

PET. EXHIBIT #6L

BALTIMORE COUNTY REAL ESTATE COMPLIANCE
APPLICATION FOR THE CLOSURE/OPENING OF A ROAD/ALLEY



Petitioner: _____	Attorney: _____
_____	_____
Address: _____	Address: _____
_____	_____
Telephone: _____	Telephone: _____
_____	_____
Fax: _____	Fax: _____
_____	_____
Engineer: _____	E-mail addresses: _____
_____	Petitioner: _____
Address: _____	Attorney: _____
Telephone: _____	Engineer: _____
_____	_____
_____	_____

The Petitioner, as evidenced by the attached package, hereby applies to Baltimore County, Maryland for the [opening/closure] of _____ which [road/alley] is situate in the _____ area of the _____ Election and _____ Councilmanic Districts of Baltimore County.

- ☐ _____ is laid out on a Plat entitled _____ and recorded in Plat Book No. _____, folio _____ and said [road/alley] was not reserved; or
- ☐ _____ is/is not owned by Baltimore County; or
- ☐ _____ is/is not maintained by Baltimore County.

COMMENTS:



_____(SEAL)
Petitioner

CHECKLIST FOR APPLICANTS

Application is submitted to the: Real Estate Compliance, PAI
County Office Bldg., Room 112
111 W. Chesapeake Avenue
Towson, Maryland 21204

The applicant's package must contain:

- _____ A signed original and copy of Notice of Closure or Opening
 - _____ Completed Certificate of Title (see attached format for requirements)
 - _____ Metes and Bounds description
 - _____ A Mylar signed and sealed by a registered surveyor together with a copy of the Mylar indicating:
 - _____ P.O.B.
 - _____ Closure area must be labeled "AREA TO BE (CLOSED or OPENED)"
 - _____ Closure/opening area must be hatched (dashed hatching) correctly
 - _____ If closure area is owned by Baltimore County, a deed reference must be included on the drawing
 - _____ Drawing must include a perimeter description
 - _____ Specify acreage, rounded to the nearest 3rd decimal point, and square footage
 - _____ If road is laid out on a plat, include plat name and reference
 - _____ Certified Check for \$820.00 sent to Real Estate Compliance payable to "Baltimore County, Maryland"
 - _____ Scheduled placement of notice in newspaper of general circulation for three (3) weeks allowing for sufficient time to obtain Certificate of Publication, setting forth the description of the closure area, date, time, and place of hearing.
 - _____ Prior to publication, e-mail or fax (410-887-3270) a copy of ad for County's approval
 - _____ Send letters together with copy of first publication by Certified Mail to:
 - _____ 1) All abutting property owners.
 - _____ 2) All Utilities--BGE, Verizon & Comcast Cable.
 - _____ 3) If abuts State Highway, to SHA, 707 N. Calvert Street, Baltimore, MD 21202
 - _____ Obtain services of Court Reporter for recording proceedings at the hearing.
- On or before the last day of publication** submit the following to Real Estate Compliance:
- _____ Submit Petition for Road Closing executed by all parties. Please note that if the area to be opened affects more than the Petitioner, then all parties affected by the opening must join in the petition to evidence their agreement to bear the cost of any and all improvements in connection with the road opening.

(Sample notice to abutting property owner)

DATE

Re: _____

Dear _____:

Enclosed herewith, please find a notice of road (closing/opening) and accompanying _____ concerning the closing of the above-captioned

If you, as an abutting property owner, have any objections to the closing/opening, you may appear at the hearing on the date and time shown in the notice to make your objections known and/or submit your objections in writing prior to the hearing.

In the event of inclement weather, please contact Real Estate Compliance at (410) 887-3251 to determine status of hearing.

If you have any questions, please contact Real Estate Compliance at any time.

Sincerely,

Petitioner

Enclosure



An Exelon Company



Construction Guidelines

Equipment Placement

❖ Setbacks

- Equipment to structure foundation = 10 feet
- Fencing to steel structure = 5 feet
- Fencing to laminated wood pole = 10 feet
- Gas Lines to Pad = 5 feet from the wall of the pipe
(case-by-case determination)
- Gas Lines to Fence = 5 feet from wall of the pipe
- Underground Distribution Lines = 3 feet on either side
(avoid where possible)

❖ In Right-of-Ways:

- Keep within the drip line (between conductors)
- Keep parallel to overhead lines
- Note: Goal is to keep as much of ROW clear for
future Gas, Transmission or Distribution core needs.

❖ Under the Structure: With Transmission's approval and when conditions dictate, equipment may be placed under the structure with following restrictions:

- Concrete shelters or cabinets on concrete/steel platforms only
- Setback from legs AND vertical/horizontal cross-bracing = 5 feet minimum
- No wooden platforms, generators or other fuel source will be allowed
- No board-on-board fencing

Generators

- ❖ Diesel only
- ❖ Must be enclosed with a chain link fence

Meter Board/Meter Stack

- ❖ In accordance with the current BGE metering standards
- ❖ Height = No limitation – Meter must be set at 60 inches
- ❖ Electric Service Applications filed by BGE

Fencing

- ❖ 7'+1' chain link, unless otherwise stated by Jurisdiction
- ❖ No board-on-board unless required by the Jurisdiction



Vegetation

- ❖ No plantings allowed unless required by the Jurisdiction
- ❖ Where required, lower growing shrubs are acceptable. No trees.
See listing of Forestry approved shrubs.
- ❖ When a landscaping plan is required, Forestry must approve the drawings.

Transmission Poles

- ❖ Single Poles with distribution under-build are prohibited from use
- ❖ PTEs acceptable under Jurisdiction height limitations and approved structural analysis
- ❖ Wood Transmission Pole Replacement
 - Single Pole: Steel or Laminated structures acceptable
 - H-Frames: No hybrids; Steel H-Frame or Single Steel Pole, if possible
- ❖ Failed Structural
 - Replacement required

Transmission Towers

- ❖ FWT Acceptable
- ❖ Failed Structural
 - Structure modifications acceptable
 - Steel pole replacement, if possible

Grounding

- ❖ Ground ring for step touch protection requires 30" from perimeter of any metal fence



ACCESS REQUIREMENTS

Heavy Equip/Boom Trucks/Deliveries

- Prior E-Mail Notification & Approval by BGE
- Safety Watchman On-Site

PPE ON R.O.W

- Long Pants
- Hard-Soled Shoes
- Hard Hat & Safety Glasses
(During Construction)

(Sample notice to BGE)

DATE

Baltimore Gas and Electric Company
Attn: Right-of-Way Specialist, Real Estate
1068 N. Front St, Room 302
Baltimore, Maryland 21202

RE: Road Closing
Portion of _____
in the _____ Election District

Dear Mr. Meeker:

Enclosed herewith, please find a Notice of Road (Closing/Opening) and a drawing/plat with regard to the closing/opening of the above-captioned road located in the _____ Election District of Baltimore County.

If BGE has any objections to the proposed closure/opening, said objections must be submitted in writing to Real Estate Compliance, County Office Building, 111 West Chesapeake Avenue, Room 112, Towson, Maryland 21204 at least 48 hours prior to the date of the hearing. A representative of BGE should attend in order to explain the reasons for its objection and/or answer questions.

In addition, please provide information regarding the existence of any and all aerial and/or underground utilities located within said road. In the event we do not hear from you prior to the road closing/opening hearing, we will assume BGE has no objections to the closure/opening and/or utilities located within the roadbed.

Please be advised that failure to respond could result in BGE losing any right to have their facilities located or remaining within the bed of the road.

Thank you for your attention and cooperation in this matter.

Very truly yours,

Petitioner

Enclosures

(Sample notice to cable/internet provider)

DATE

Comcast Cablevision of Baltimore County
Attn: Community Relations
8031 Corporate Drive
White Marsh, Maryland 21236

RE: Road Closing
Portion of _____
in the _____ Election District

Dear Comcast:

Enclosed herewith, please find a Notice of Road (Closing/Opening) and a drawing/plat with regard to the closing/opening of a portion of the above-captioned road located in the _____ Election District of Baltimore County.

If Comcast has any objections to the proposed closure/opening, said objections must be submitted in writing to Real Estate Compliance, County Office Building, 111 West Chesapeake Avenue, Room 112, Towson, Maryland 21204 at least 48 hours prior to the date of the hearing. A representative of Comcast should attend in order to explain the reasons for its objection and/or answer questions.

In addition, please provide information regarding the existence of any and all aerial and/or underground utilities located within said road. In the event we do not hear from you prior to the road closing hearing, we will assume Comcast has no objections to the closure/opening and/or utilities located within the roadbed.

Please be advised that failure to respond could result in Comcast losing any right to have their facilities located or remaining within the bed of the road.

Thank you for your attention and cooperation in this matter.

Very truly yours,

Petitioner

Enclosures

(Sample notice to telephone/internet provider)

DATE

Verizon Communications
Attn: Real Estate Department
1 Verizon Way
Basking Ridge, New Jersey 07920

RE: Road Closing
Portion of _____
in the _____ Election District

To whom it may concern:

Enclosed herewith, please find a Notice of Road (Closing/Opening) and a drawing/plat with regard to the closing/opening of a portion of the above-captioned road located in the _____ Election District of Baltimore County.

If Verizon has any objections to the proposed closure/opening, said objections must be submitted in writing to Real Estate Compliance, County Office Building, 111 West Chesapeake Avenue, Room 112, Towson, Maryland 21204 at least 48 hours prior to the date of the hearing. A representative of Verizon should attend in order to explain the reasons for its objection and/or answer questions.

In addition, please provide information regarding the existence of any and all aerial and/or underground utilities located within said road. In the event we do not hear from you prior to the road closing hearing, we will assume Verizon has no objections to the closure/opening and/or utilities located within the roadbed.

Please be advised that failure to respond could result in Verizon losing any right to have their facilities located or remaining within the bed of the road.

Thank you for your attention and cooperation in this matter.

Very truly yours,

Petitioner

Enclosure

(Sample petition)

IN THE MATTER OF
THE CLOSING/OPENING OF
A PORTION OF _____
IN THE __TH ELECTION DISTRICT,
____TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY EXECUTIVE
* FOR
* BALTIMORE COUNTY

RC -

* * * * *

PETITION FOR ROAD CLOSING/OPENING

The Petition of [Petitioner's Name], for the closing/opening of a portion of [Name of Road] in the _____ Election and _____ Councilmanic Districts of Baltimore County, Maryland AS SHOWN ON drawing and generally described as follows:

*** SAMPLE OF DESCRIPTION

*** Substitute with name/description of road you intend to close/open

Being a parcel of land 20 feet wide running in an easterly direction approximately 220 feet, more or less, from the intersection with the East side of _____ Road, more or less, measured South 87 1/2 degrees East along the center line of _____ from the East side of _____ Road, thence running easterly along the rear portions of numbers 4, 6, 8, 10, 12, and 14 _____, and the rear portions of numbers 8, 10, 12, 14, 16, 18, 20, 22, 26, 30 and 32 _____ Avenue a distance of 523 feet, more or less:

+++ And for reasons for the closing/opening states the following:

(+++ All reasons for closing/opening may not apply to your road closing/opening)

1. That said portion of said road is/is not necessary for public travel.
2. That said road is of no use to anyone other than Petitioner and the adjacent property owners.
3. That said road constitutes a nuisance to the Petitioner in that they are the only persons maintaining the same.
4. Specify intended use of area after closure/opening.
5. And for such other and further reasons as shall be presented at the time of the hearing.

WHEREFORE, Your Petitioner prays:

That said road as previously described herein be closed/opened.

_____, Petitioner
(address)

(Sample notice)

IN THE MATTER OF
THE CLOSING/OPENING OF

* BEFORE THE
* COUNTY EXECUTIVE
* FOR
* BALTIMORE COUNTY

____ ELECTION DISTRICT,
____ COUNCILMANIC DISTRICT
RC - _____

* * * * *

NOTICE OF ROAD CLOSING/OPENING

TO WHOM IT MAY CONCERN:

Pursuant to Article 18, Title 3, Subtitle 302 of the Baltimore County Code of 2015, as amended, [Petitioner's Name] intends to close/open a portion of [Name of Road], in the _____ Election and _____ Councilmanic Districts of Baltimore County, Maryland.

*** SAMPLE OF DESCRIPTION

*** Substitute with description of road you intend to close/open

Beginning for the same at a point on the southernmost boundary, or North 74 12' 06" West 244.99 feet line of the subdivision plat of _____, Plat ____ as now recorded in the Plat Records of Baltimore County, Maryland in Liber __, folio __, said point being the intersection of the boundary line between Rossville Boulevard and Parcel "L" as shown on the said plat, and the aforesaid southernmost line, said point also being 17.62 feet from the beginning of aforesaid southernmost line, thence binding on said southernmost line as surveyed by Baltimore County Department of Surveys in a survey dated _____, North 74 10' 14" West 22.80 feet, thence for new lines of division, Northwesterly along the arc of a curve deflecting to the right with a radius of 2251.83 feet and an arc length of 156.01 feet and a chord bearing and distance of North 24 51' 42" West 155.98 feet, said curve also being 39.5 feet East of and concentric with the base line of Rossville Boulevard as shown on Baltimore County Bureau of Engineering drawing number 85-0683, thence North 30 09' 27" East 67.48 feet, thence Easterly along the arc of a curve deflecting to the right and having a radius of 1692.95 feet, an arc length of 22.69 feet and a chord bearing and distance of North 85 57' 11" East 22.69 feet to intersect the Western boundary of Parcel "L" as shown on the first mentioned subdivision plat, said curve also being concentric with and 55 feet South of the center line of Perry Hall Boulevard as shown on Baltimore County Bureau of Engineering drawing number 85-0683, thence binding on said boundary line in a southerly direction the following two courses and distances, viz.: along the arc of a curve deflecting to the left having a radius of 84.00 feet, an arc length of 78.98 feet and a chord bearing and distance of South 10 57' 26" West 76.10 feet to a point, and along the arc of a curve deflecting to the left with a radius of 1392.39 feet, an arc length of 140.58 feet and a chord bearing and distance South 18 52' 17" East 140.52 feet to the place of beginning.

Containing _____ sq. ft., or _____ acre, more or less.

The abutting (or adjoining) property owners involved are as follows:

Mr. John Smith
_____ Road
Baltimore, Maryland 212____

Ms. Jane Doe
_____ Road
Baltimore, Maryland 212____

TAKE NOTICE: A hearing will be held on the ____ day of _____, 20__ at ____ AM/PM. in the conference room of Real Estate Compliance, Room 112, 111 W. Chesapeake Avenue, Towson, Maryland, 21204 for the purpose of receiving objections, if any, to the closing/opening. If you cannot be present to submit your objections, you may send your written objections via certified mail to Real Estate Compliance at the above address. Please note, however, written objections must be received by this office at least one business day prior to the date of the hearing.

ADD THE FOLLOWING FOR DECEMBER THROUGH MARCH HEARINGS:

(Please note that in the event of inclement weather, contact Real Estate Compliance at 410-887-3251 to determine if the hearing has been postponed until the ____ day of _____, 20__ at ____ AM/PM.)

Name(s) of Petitioner
(address) _____

(Sample notice for publication)

**PUBLICATION OF NOTICE OF ROAD CLOSING
BEFORE THE COUNTY EXECUTIVE OF
BALTIMORE COUNTY**

THE CLOSING OF _____
IN THE _____ ELECTION DISTRICT &
_____ COUNCILMANIC DISTRICT

* * * * *

NOTICE OF ROAD CLOSING

TO WHOM IT MAY CONCERN:

Pursuant to Article 18, Title 3, Subtitle 302 of the Baltimore County Code, 2015, Petitioner, _____, intends to close [insert road name] in the _____ Election and _____ Councilmanic Districts of Baltimore County, Maryland.

DESCRIPTION OF ROAD TO BE CLOSED

BEING all of that certain tract or parcel of land which, by a Deed dated _____ and recorded among the Land Records of Baltimore County, Maryland in Liber _____, folio _____, was granted and conveyed by _____ to Baltimore County, Maryland, said parcel is shown and designated as "_____" on a Plat entitled "_____" dated _____ and recorded _____ among the Land Records of Baltimore County, Maryland in Plat Book _____, folio _____.

ABUTTING PROPERTY OWNERS:

Name
Address

TAKE NOTICE: A hearing will be held on _____ at _____ am/pm in the Real Estate Compliance Division, Room 110, 111 W. Chesapeake Avenue, Towson, Maryland 21204, for the purpose of receiving objections, if any, to the closing. If you cannot be present to submit your objections, you may send your written objections via certified mail to the Real Estate Compliance, County Office Building, Room 112, 111 W. Chesapeake Avenue, Towson, Maryland, 21204. Please note, however, written objections must be received by this office at least one (1) business day prior to the date of the hearing. Please note that in the event of inclement weather, contact Real Estate Compliance at 410-887-3251 to determine if the hearing has been postponed until _____.

PETITIONER:

By: _____
[INSERT NAME and TITLE OF SIGNATORY]

(REQUIRED FORMAT FOR TITLE CERTIFICATE ACTUAL DOCUMENT NEED NOT BE USED)

TO:

FROM:

CERTIFICATE OF TITLE

Re:

The undersigned Attorney at Law, authorized to practice in the State of Maryland having an established office at _____, being familiar with the Land Records, Circuit Court Records, Orphan Court Records and other records of Baltimore County, has examined the foregoing records, or such of them that may relate to the title and encumbrances thereon of the road/alley herein described for a period covering at least 60 years, and certifies that said records disclose the following:

LOCATION AND GENERAL DESCRIPTION OF ROAD/ALLEY: _____

AS APPEARING FROM LAND RECORDS: Contains __ +/- acre described in _____

OWNER OF ROAD/ALLEY AS APPEARING: _____

FROM THE ASSESSMENT RECORDS _____th District Acct no. _____

FEE SIMPLE TITLE VESTED IN: _____

OTHER INTERESTS OF RECORD: [List with applicable references or type: None] _____

REFERENCE TO DEEDS AND OTHER INSTRUMENTS BY WHICH TITLE WAS ACQUIRED: _____

EASEMENTS: _____

RESTRICTIONS OR OTHER COVENANTS: _____

MORTGAGE LIENS: List all that apply or type: None _____

OTHER LIENS AND ENCUMBRANCES: _____

Also attached are copies of all other deeds in the chain of title for at least a 60 year period. _____

This Certificate of Title is rendered to Baltimore County, Maryland, for its benefit, with the understanding that Baltimore County, Maryland, will rely upon the truth, accuracy and completeness of the certifications, representations and opinions herein set forth.

This certification may be relied upon by Baltimore County, Maryland, authorities. It may not be relied upon by any other person or entity without the prior written consent of the undersigned.

I FURTHER agree to indemnify, protect, and hold harmless Baltimore County, Maryland, its agents, employees, successors, and assigns from and against any and all costs, liability, penalties, fines, forfeitures, attorney's fees, judgments, and related litigation costs arising from errors and omissions contained in this certification, it being fully understood and acknowledged that Baltimore County intends to rely fully upon said certification.

It is the opinion of the undersigned that good and merchantable title vests in the aforementioned title holders of record, subject only to such easements, restrictions, covenants, and liens and encumbrances as are above mentioned and the following: (add additional comments as appropriate).

Attorney

_____(SEAL)

Name: _____ (print)

Address: _____

Telephone # _____

Firm: _____

Address: _____

Telephone No. _____

PROFESSIONAL LIABILITY INSURANCE: (\$1,000,000.00 minimum)

Company: _____

Policy No.: _____

Policy Limits: _____

King Liquors
8226 Pulaski Highway
Baltimore, Maryland 21237

410-686-2770



November 6, 2021

King Liquors

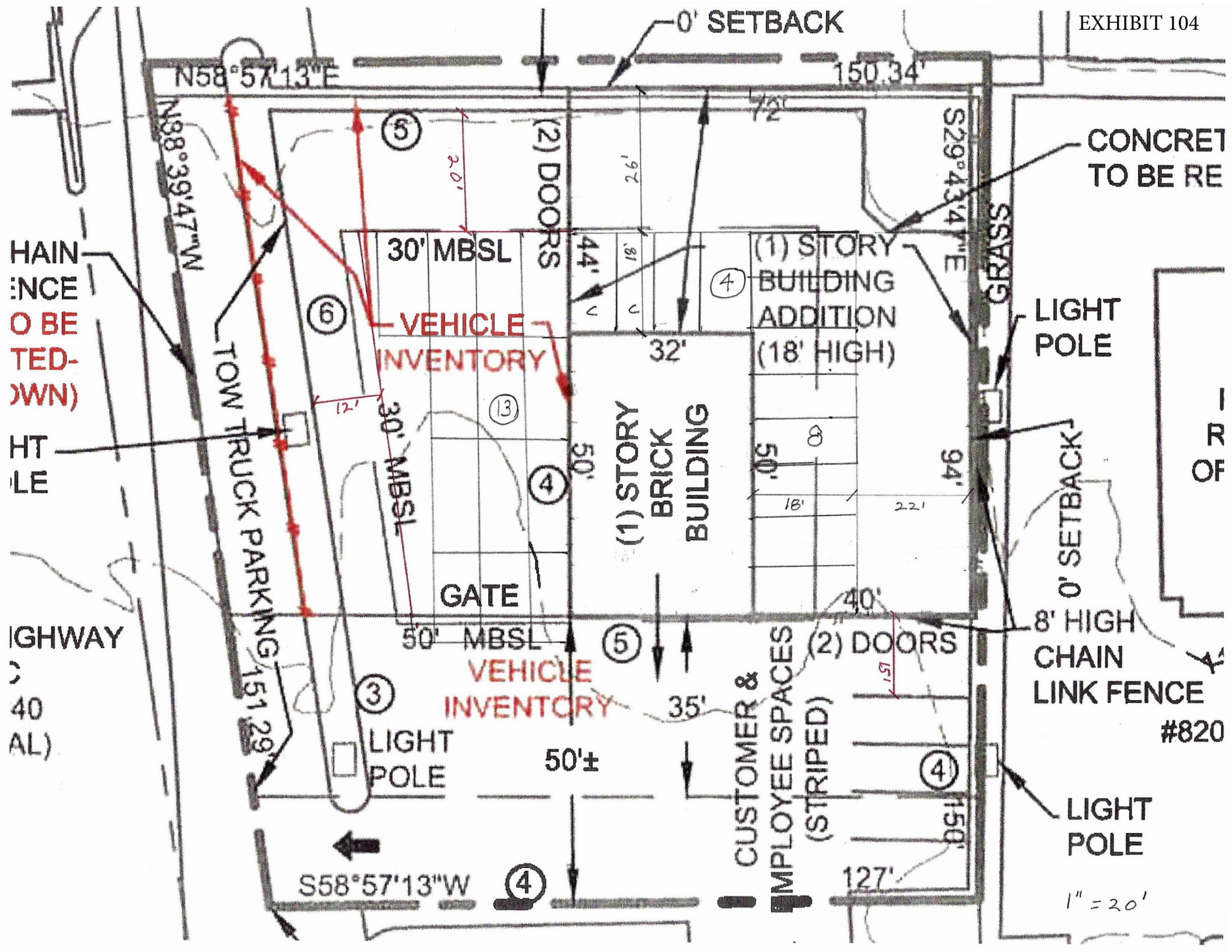
AFFIDAVIT

I, Paul King of King Liquors, do solemnly declare under the penalties of perjury, do state that I witnessed the post of Notice of Zoning, Case #2021-0201-SPHA on November 6, 2021 on the grass plot of 8202 Pulaski Highway. I made a U-turn at Batavia Farm Road to return to the site to confirm the date, posting after October 14, 2021.

Respectfully,

Paul King

A handwritten signature in black ink, appearing to read "Paul King".





Zoning Review
 Department of Permits, Approvals and Inspections
 Baltimore County Office Building
 Towson, MD 21204

ZONING CHECKLIST

PART I: NON-RESIDENTIAL BUILDING PERMITS AND/OR PART II: ZONING PUBLIC HEARING APPLICATIONS

PART I

Please be aware that this checklist is for your information only and
it is not intended to offer, or to be considered, legal advice.

Revised 3/2022

=====

This checklist is a guide in preparing plans and information for building permit (PART I) and/or zoning public hearing (PARTS I and II) applications. Ten (10) copies of the site plan must accompany an application for a building permit, while for zoning hearings twelve (12), or fourteen (14) if in or near a floodplain, are needed. TO AVOID TIME-CONSUMING AND COSTLY DELAYS, ALL CHECKLIST INFORMATION MUST BE INCLUDED ON THE PLAN AND/OR IN THE HEARING APPLICATION.

1. ____ NORTH ARROW, ELECTION DISTRICT, COUNTY COUNCIL DISTRICT, ZONING MAP NUMBER(S) AND TITLE PLAN "PLAN TO ACCOMPANY ____ PERMIT", (OR HEARING TYPE(S) AS APPLICABLE) AND THE DATE. Zoning Hearing Plans and Descriptions must be sealed by a MD registered Professional Engineer, Surveyor or Landscape Architect.
2. ____ SCALE OF DRAWING: Use Engineers Scale of 1" = 10', 1" = 20', 1" = 30', 1" = 40', 1" = 50', or 1" = 60'. If acreage exceeds 40 acres, use 1" = 100' scale.
3. ____ OUTLINE OF PROPERTY: Indicated by a heavy bold line and bearings, distances, gross and net area (acres and square feet) of parcel(s). This also applies to zoning hearing areas on the site with the POB and intersecting street name and distance shown and matching the sealed zoning description(s) required for all zoning hearing applications.
4. ____ VICINITY MAP: A vicinity map must be included on all site plans with the scales of 1" = 200', 1" = 500', or 1" = 1,000' WITH THE SITE AND HEARING LOCATIONS CLEARLY AND ACCURATELY OUTLINED AND LABELED.
5. ____ PREVIOUS COMMERCIAL PERMIT: Number(s) and the work on the same property and the approximate date of the last improvement listed on the plan or if very old, age of building and parking spaces.

6. ____ ZONING HEARINGS, CRG, DRC, WAIVERS: The case number(s), date of the order(s), what was granted or denied, and any restrictions must be listed and addressed in detail on the plan. List any CRG, DRC, or waiver approval dates and file numbers and dates on the plan, along with the type granted. Also reference any authorized changes on a previously approved plan. State if or not the property is under active zoning violation(s), state the reason for citation, and add the case number and the inspectors name.
7. ____ ZONING: Zone lines on and adjacent to the site must be clearly shown and labeled on the plan. Copies of the GIS zoning map may be obtained from PAI, room 124, County Office Building.
8. ____ OWNERSHIP: Of parcel(s) and relation of parcel(s) to adjacent property including tax account number (10 digits), deed reference numbers, lot numbers, and subdivision name.
9. ____ LOCATION: Street address and name of adjoining street(s) and distance from property corner to the nearest intersecting public street centerline. For hearing plans, match it to zoning description.
10. ____ STREETS, WIDENING, RIGHT-OF-WAY, EASEMENTS: Include all existing public boundary streets with the existing right-of-way width and paving width. ALSO INCLUDE ANY RIGHT-OF-WAY WIDENING REQUIRED, EITHER BY BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS OR THE STATE OF MARYLAND. Include any existing or proposed easements or right(s)-of-way and indicate public or private. (For Baltimore County roads, Room 200 and Room 206, County Office Building; State Highways: phone number (410-545-5600).)
11. ____ USES, BUILDINGS: Existing location and proposed use of all buildings (or additions) and property, show building locations, orientations and uses on adjacent properties. Note height and number of stories.
12. ____ DIMENSIONS, SETBACKS: Dimensions and orientation of buildings and setbacks from property lines, include all setbacks between buildings.
13. ____ STREET SETBACKS: And use of all permanent commercial buildings within 100 feet of each side property line to establish average street setbacks an BL, BM, and BR zones per Section 303.2, BCZR, and Policy 3-2.1. Also see average setback requirements if in a CR District in 259.3.C.2.
14. ____ ENTRANCES: Location and width of existing and/or proposed entrances (traffic channelization) and their relation to entrances on adjacent properties and properties across the street. Indicate method - curbing, R/R ties. (For County requirements, Developers Engineering at 887-3751 or State Highways at 410-545-5600.)
15. ____ SIGNS: All existing and proposed, location, height, square footage, illumination, setback from existing or proposed right-of-way, and note if single or double-faced. See Permit Drawing/Detail Checklist on the County Website at the Zoning Forms Summary under Permits, Approvals and Inspections. Note all signs will comply with Section 450 BCZR or list the required relief and BCZR Section references for the zoning hearing.
16. ____ UTILITIES: Show location and size of public utilities and the right-of-way both adjacent to and on-site. In the event that no public water or sewer exist, the means for providing proper well and septic system must be indicated. (Public utilities, room 206, County Office Building.)
17. ____ FEATURES: Location of streams, storm water management systems, drainage, and pipe systems on or within 50 feet of the property and the 100-year floodplain, if any. State flood plain status.
18. ____ FLOOR AREA, GROSS (Floor Area Ratio) CALCULATIONS: (Used for parking calculations.) The floor area ratio is the total gross floor area of all the floor areas of all the buildings on a site, divided by the gross site area. The gross site area includes up to one-half of the boundary streets to which the property has right of access, up to a maximum of 30 feet.
19. ____ HEIGHT DETERMINATION: Tent must be included for buildings above 40 feet (see Section 231, BCZR). Where a building height determination is required and Section 231 does not apply, use Zoning Policy 1-8 and show a scaled detailed drawing on the plan.

20. ____ AMENITY OPEN SPACE (AOS): Location and square foot calculations in the following zones: R.A.E.-1, R.A.E.-2, R.O., OR-1, OR-2, O.T., S-E, B.L.-C.C.C., B.L.-C.T., B.M.-C.C.C., B.M.-C.T., B.R.-C.C.C., and B.R.-C.T. The qualifying AOS areas within the net lot area must be shaded, dimensioned and separate areas subtotaled in square feet on the plan print and included in the AOS calculations in the notes.
21. ____ FIRE HYDRANTS: Location of fire hydrants and distance to the property.
22. ____ SITE PLANS: Must be trimmed to a neat 8-1/2" x 11" or, where larger prints are necessary, they shall be folded to that size with the title block showing. THEY MUST BE LEGIBLE. AND NO LARGER THAN 24" X 36" (unless authorized by the intake review Planner).
23. ____ REQUIRED OFF-STREET PARKING AND CALCULATIONS: On the site plan for all uses on the property pursuant to Section 409, BCZR, and the attached standards and samples.
24. ____ SPECIAL USE REQUIREMENTS: Must show compliance on the plan with the applicable zoning regulations and BCZR Sections, to include, but not limited to the following: Farm and agricultural operations (S. 404); waterfront construction/facilities (S. 417); car wash (S. 419 and 409.10); amusement devices (S. 422 and 423); child care (S. 424); assisted living (S. 432); truck facilities (S. 410, also see online checklist.); service stations (S. 405); damaged or disabled vehicles and parts (S. 405.A); uses with automotive stacking such as banks, drive-through restaurants, etc. (S. 409.10); business / industrial parking in a residential zone (S. 409.8.B.2); In DR zones, RTA requirements (1B01.1.B.1).
25. ____ BASIC SERVICES MAPS: State if the site is, or is not, in any failed Basic Services Map areas. If in a failed area, identify it and state what action is being taken to resolve the issue.
26. ____ ZERO SETBACK BUILDINGS: Must meet building code, as well as fire code requirements, with regard to type of construction, windows, etc.
27. ____ FEES: For the permit filing fees contact Permits and Licenses at (410-887-3900). For all required development review fees contact Development Management at (410-887- 3335). Zoning Hearing fees vary; contact Zoning Review at (410-887-3391) to confirm filing costs.

REQUIRED NUMBER OF OFF-STREET PARKING SPACES

CHART IS ONLY A GUIDE AND IT DOES NOT SUPERCEDE SECTION 409 BCZR

RETAIL/BEAUTY OR BARBER SHOP/SKATING RINK.....5/1,000	GROUP CHILD CARE/NURSERY SCHOOL.....1/Emp. (Minimum 2)
SHOPPING CENTER 100,000 SQ. FT. G.L.A. **.....5/1,000	HOSPITAL1.5/BED
HOTEL/MOTEL/ROOMING&BOARDING/TOURIST HOME...1/RM / SUITE	MARINA/BOAT YD.....0.5/SLIP / STORAGE SPACE ON LAND
NURSING HOME OR ASSISTED LIVING FACILITY (ALF)*.....1/3 BEDS	POOL HALL/ARCADE.....4/1,000
MANUFACTURING/WAREHOUSE.....1/EMP	SCHOOLS (ALL)...1/EMP..VISITOR/STUDENT.....PER REVIEW
POOL (community).....1/7 PERSONS (capacity per Health Dept.)	POOL (commercial).....1/4 PERSONS (capacity per Health Dept.)
RESTAURANT (standard, ie; with seating (no CLASS "D" LIC).....16/1,000	RESTAURANT (carry-out only).....5/1,000
TAVERN/NIGHT CLUB/DANCE HALL/CATERING HALL.....20/1,000	CLASS "D" LIQUOR. LIC. USES (ALL)20/1000
ATHLETIC CLUB/HEALTH SPA (3/COURT) OTHERWISE.....10/1,000	CONTINUING CARE FACILITY.....1/DWU..ALF/NURSING SEE*
HOUSING FOR THE ELDERLY..CLASS A..1/1.5DWU...CLASS B...1/DWU	GOLF COURSE..8/HOLE...DRIVE RANGE/MINI GOLF.....1.5/TEE
BOWLING ALLEY.....4/LANE	RELIGIOUS ASSEMBLY/THEATRE/AUDITORIUM.....1/4SEATS
AUTO SALES..DISPLAY/OFFICES/PARTS..5/1,000...SERVICE...3.3/1,000	SERVICE GARAGE (no fuel sales).....3.3/1,000
FURNITURE/CARPET STORE..RESEARCH & LAB USES.....2.5/1,000	FUNERAL HOME..... 10/1,000...1/2EMP.....1/BUSINESS VEHICLE
DORMITORY...1/4BEDS...FRAT OR SORORITY HOUSE.....1/2BEDS	FUEL (AUTO) SERVICE STATION.....SEE SECTION 405
CAR WASH.....SEE SECTION 419	TRUCKING FACILITIES**.....,SEE SECTIONS 410 /409/TF CHKLST
TOWSON (C.T.) DISTRICT PARKING**,.....SEE SECTION 409	HISTORIC BUILDINGS**.....SEE SECTION 409
OFFICE (GENERAL) / PERSONAL SERVICE.....3.3/1,000	OFFICE (MED)/CLINIC..VETS OFFICE/VETERINARIUM...4.5/1,000

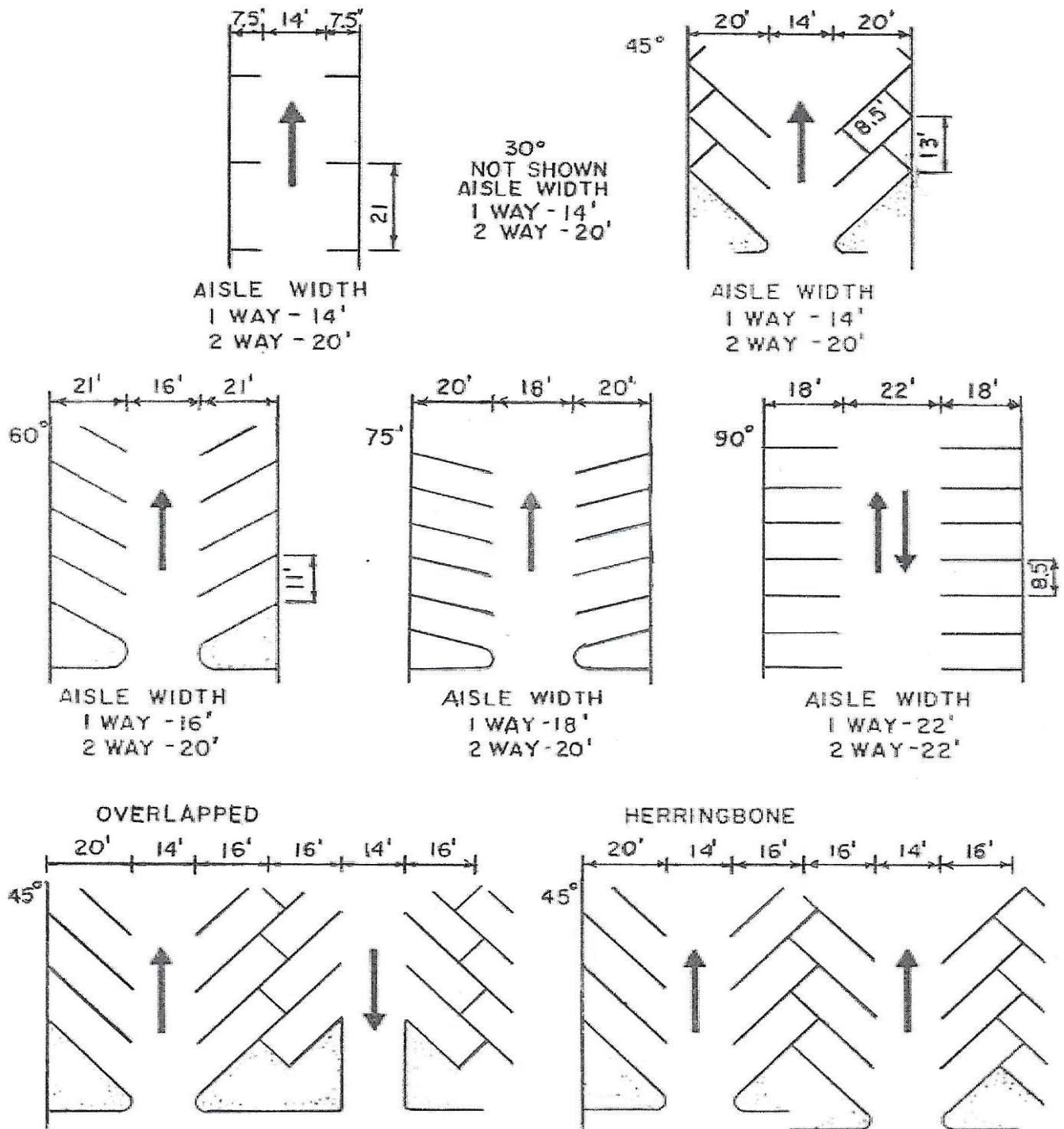
NOTES:

CONTACT ZONING REVIEW FOR PARKING CALCULATIONS NOT LISTED
 MIXED USES MEANS MIXED CALCULATIONS SUBTOTALLED AND OVERALL
 ROUND EACH FRACTIONAL CALCULATION TO THE HIGHER WHOLE NUMBER
 Example: 5 parking space per 1,000 sq. ft. of gross floor area is written as 5/1,000
 Employee: 1 parking space per employee is written as 1/Emp.
 ** = see Section 409 for details/exceptions/special regulations
 DWU = Dwelling Unit

Sample: required / provided parking space calculations:
 Proposed general office: 6,000 sq. ft. @ 3.3/1,000 = 19.8 or 20
 Proposed retail space: 3,500 sq. ft. @ 5/1,000 = 17.5 or 18
 Total required parking spaces = 38
 Total parking provided (on-site parking spaces) = ##

Sample Parking Layouts

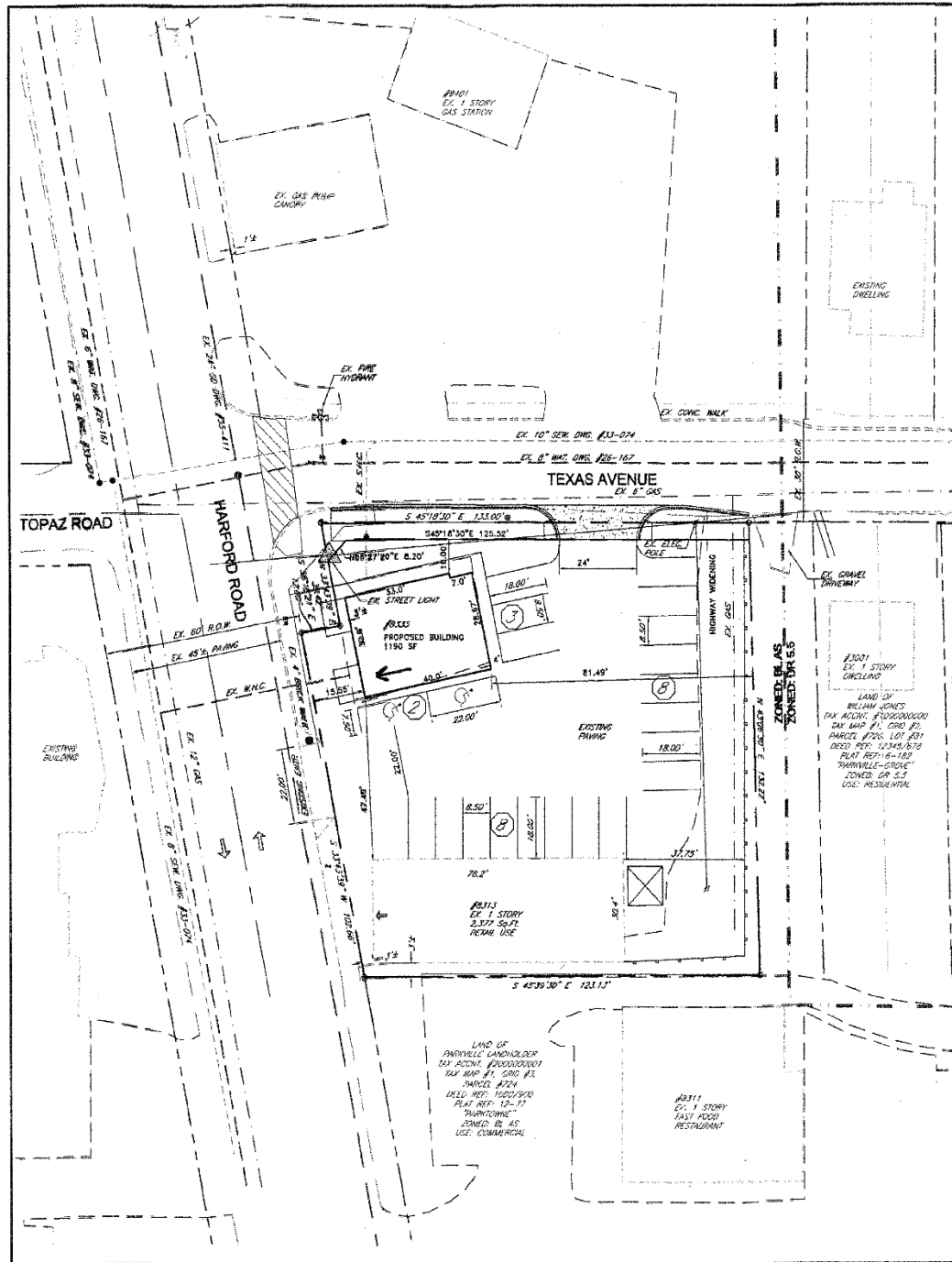
See BCZR 409.4.C



All parking maneuvering, access, aisles are required to be paved and striped per BCZR Section 409.8.

OFF-STREET PARKING REQUIREMENTS

1. ____ PAVING: (type and extent), STRIPING, AND 10-FOOT SETBACK TO A STREET R/W (8 feet if existing on 5/26/88 and documented) and must be clearly indicated on the plan and notes.
2. ____ DESIGN STANDARDS, SCREENING, AND LANDSCAPING: must be provided in accordance with the Landscape Manual and all other manuals adopted pursuant to Section 32-4-404 of the Baltimore County Code. (See Section 409.8.A.1, BCZR.) Contact County Landscape Architect at 410-887-3751.
3. ____ CURBING: or anchored wheel stops must be provided around parking lots and must be located not to interfere with the required landscaping and screening. Show a detail for wheel stops.
4. ____ DEAD-END PARKING BAYS: require a back-around or turn-around. Traffic circulation must be shown by the use of arrows on the plan. (See Section 409.8.A.5, BCZR.)
5. ____ LIGHTING: Add note: "Any fixture used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjacent residential site and public streets." Indicate placement, height, and direction on the plan and show protected by curbing or landscaping. If no lighting, state so. (See Section 409.8.A.3, BCZR.)
6. ____ ENTRANCES: on County roads for one-way traffic; 17 feet wide. Two-way traffic; not less than 24 feet nor more than 30 feet wide. Monumental entrances shall be provided with a minimum 2-foot wide median. Traffic lanes; not less than 17 feet nor more than 24 feet wide. Inbound lane not less than 18 feet the nor more than 36 feet wide for outbound. Entrances minimum 7.5 feet to property line. (Contact Developers Engineering, 410-887-3751.)
7. ____ ENTRANCES: on State roads are subject to the approval of the State Highway Administration. (Contact: Bureau of Access Permits at 410-545-5600.)
8. ____ DRIVE-THROUGH STACKING REQUIRED: BANK - 5 for first station, 2 for each additional station; RESTAURANT - 7 per station and 5 behind order board; CAR WASH - see Section 419, BCZR; OTHER USES - as determined by Zoning Review. *NOTE:* Do not count the space(s) at the service window(s). Drive-through lanes must be clearly marked by striping or pavement markings, may not block parking spaces, maneuvering aisles or cross the (clearly shown) principal pedestrian access.
9. ____ COMPACT OR SMALL CAR SPACES: When more than 50 spaces are provided in office and industrial uses and parking structures for residential and lodging uses only. Space size 7.5 x 16 feet (angled) and 7.5 x 18 feet (parallel) are permitted up to 40% maximum of the required spaces. All dimensions, calculations, and typical spaces must be on the plan. (Section 409.5)
10. ____ LOADING: (commercial or industrial) must be shown on the plan and be adequate to accommodate the size and use of the building in addition to all other parking requirements. Loading spaces may not impede normal vehicle circulation or block required spaces.
11. ____ HANDICAPPED: For parking space requirements. (Contact: Plans Review 410-887-3987).
12. ____ ADJUSTMENTS: (allowed in office and industrial): TRANSIT - 5% reduction; RIDESHARING - 10% reduction; SHARED PARKING - see Section 409.6.B.3, BCZR.
13. ____ BUSINESS OR INDUSTRIAL PARKING IN A RESIDENTIAL ZONE: may be granted by the Office Of Administrative Law after a 15 day posting procedure. If a request for a public hearing is filed within this time period, a Special Hearing is required (see Section 409.8.B, BCZR). *NOTE:* In the D.R. zone, within a residential transition area, all RTA requirements must be met or a variance must be granted. (See Section 1B01.1.B.1, BCZR.)

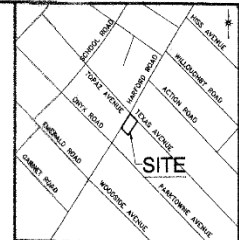


GENERAL NOTES:

- OWNER:
JOHN DOE
108 MASON STREET
ESSEX, MARYLAND
- SITE AREA:
GROSS: 23,609 Sq.Ft. or 0.542 Ac.±
NET: 17,021 Sq.Ft. or 0.391 Ac.±
- BUILDING AREA:
EXISTING: 3,132 Sq.Ft.
PROPOSED ADDITION: 81 Sq.Ft.
TOTAL PROPOSED: 3,213 Sq.Ft.
- UTILITIES:
PUBLIC WATER.
PUBLIC SEPTIC.
- THE SITE DOES NOT LIE WITHIN THE FLOODPLAIN AS SHOWN ON F.I.R.M. #2400100270F, PANEL # 270 OF 580 DATED SEPTEMBER 26, 2008.
- PARKING CALCULATIONS:
RESTAURANT (CARRY-OUT ONLY)
REQUIRED: 1,190 Sq.Ft. @ 5 PER 1,000 = 6 SPACES
RETAIL STORE
REQUIRED: 2,377 Sq.Ft. @ 5 PER 1,000 = 12 SPACES
TOTAL REQUIRED = 18 SPACES
PROVIDED: 21 SPACES
SPACES (2 HANDICAPPED, 19 REGULAR)
- SETBACKS:

	REQUIRED	PROVIDED
FRONT	2'	3'±
SIDE	10'	10'±
REAR	20'	81'±
- HEIGHT OF STRUCTURE:
MAX. PERMITTED: 40'
PROVIDED: EXISTING: 16' PROPOSED: 16'
- DEED REF: 12690/43
- TAX ACCOUNT: #1402088610-1402088612 & 1402089310
- COUNCILMANIC DISTRICT: 6th
- REGIONAL PLANNING DISTRICT: 318
- CENSUS TRACT: 4921.01
- WATERSHED: BACK RIVER
- ZONING: BL-AS
(PER 1"=200' ZONING MAP 081A1)
- TAX MAP #81, PARCEL #720, LOT #S 1-5
- NO KNOWN PREVIOUS ZONING CASES ON FILE.
- PERMITS ON FILE: 8733121 INTERIOR ALTERATIONS AND ADDITION
8746552 FRONT AND REAR ADDITIONS
- FLOOR AREA FOR BL:
MAXIMUM PERMITTED: 3.0
EXISTING: 3,132 + 23,609 = 0.133
PROPOSED: 3,168 + 23,609 = 0.134
- EXISTING FREE STANDING SIGN MUST CONFORM WITH SECTION 450 OF THE BCZR AND IS LIMITED TO ONE SIGN PER ROAD FRONTAGE.
- THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
- THERE ARE NO HISTORIC FEATURES ON SITE NOR IS THE SITE ITSELF HISTORIC.
- PREVIOUS DRC MEETINGS:
021810C FOR THE ADDITION ON THE SIDE
081010C FOR THE ADDITION TO THE REAR
122110B FOR THE RECONSTRUCTION OF THE BUILDING

* AVERAGING PROVISION OF NEAREST BUILDINGS TO THE NORTH AND SOUTH OF THE PROPOSED BUILDING. PER DISCUSSIONS WITH THE ZONING OFFICE THIS SETBACK WILL SATISFY THE AVERAGING PROVISION FOR FRONT SETBACK IN ACCORDANCE WITH BCZR SECTION 303.2. THE BUILDING IS BEING CONSTRUCTED IN THE SAME LOCATION AS THE EXISTING BUILDING EQUAL WITH THE PREVIOUS FRONT BUILDING LINE.



LOCATION MAP

SCALE: 1" = 500'

Mainstreet Engineering, Inc.

123 Zoning Avenue
Towson, Maryland 21204
Phone: 410-555-1234

PLAN TO ACCOMPANY
BUILDING PERMIT
FOR THE

RESTAURANT

8335 HARFORD ROAD

14TH ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

DRAWN BY: BBH	DESIGNED BY: PCR	SCALE: 1" = 20'
DATE: 01-27-11	JOB NO.: 11001	SHEET NO.: 1 OF 1

PART II

ADDITIONAL INFORMATION FOR NON-RESIDENTIAL ZONING PUBLIC HEARING APPLICATIONS (to be included with PART I / Checklist site plans when filing a petition)

FOR NON- RESIDENTIAL VARIANCES, SPECIAL HEARINGS, SPECIAL EXCEPTIONS, WAIVERS AND USE PERMITS

First: and most importantly: You must understand that the relief you have requested 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. Unless incorporated, you are not required to have an attorney, but it is strongly recommended that you consider obtaining legal representation. If you are incorporated, it is a requirement that you be represented by an attorney.

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

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.

When you have completed the following steps, **petitions may be submitted by using the U.S. Postal Service, private delivery service (FedEx, UPS, etc.) or in-person drop-off at the Zoning counter. Revisions will not be processed or accepted if they are just delivered or mailed. Revisions must be filed with the original intake Planner.**

AUTHORITY AND PETITIONER'S BURDEN:

INFORMATION ONLY, NOT LEGAL ADVICE

All requests for non-residential variances, special hearings, special exceptions, and use permits are handled by the Department of Permits, Approvals and Inspections (PAI). *Applications are obtained from and filed with the Zoning Review section of PAI* and all hearings are scheduled before an Office of Administrative Law Judge (**ALJ**). The enabling legislation providing the Administrative Law Judge (**ALJ**) with this authority is in Sections 307 and 500 of the Baltimore County Zoning Regulations (BCZR). The Director of PAI interprets and enforces the BCZR. Any disagreement with said interpretation may be taken to the Office of Administrative Law per Section 500.7 (BCZR). If the site in question is to be approved by the Administrative Law Judge (**ALJ**) as part of the development process, the public zoning requests will be considered concurrently with the development proposal.

Legal representation is recommended in all cases, but in the case of a corporation, it is a requirement. The information that proceeds is provided to give the petitioner a basic understanding of the legal burden of proof that must be satisfied prior to the granting of the petition. It is not a substitute for private legal counsel nor should it be construed as legal advice.

ALL HEARINGS ARE SCHEDULED IN THE ORDER RECEIVED. FAILURE TO ACCEPT AND/OR POSTPONE TWO (2) SCHEDULED HEARING DATES, ADVERTISE AND/OR POST SIGNAGE, WILL RESULT IN THE PETITION CASE BEING DELAYED AND RETURNED TO THE END OF PENDING CASE FILES. A NEW HEARING DATE WILL BE RECHEDULED IN THE ORDER THAT IT IS RECEIVED. IN ADDITION, A RECHEDULING FEE OF \$250.00 MAY BE REQUIRED.

VARIANCES

Under the authority of Section 307.1 (BCZR), the Administrative Law Judge, (ALJ) applying the two-step test set forth in *Cromwell v. Ward*, 100 Md. App. 691 (1995), has the authority to grant variance from the height, area, parking, and sign regulations.

- A. The first step requires the petitioner to prove, to the satisfaction of the ALJ, that the property whereon structures are to be placed (or uses conducted) is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on the surrounding properties.
- B. The second step of the test requires that the petitioner must demonstrate that strict compliance with the BCZR would result in either practical difficulty or unreasonable hardship. The Court of Special Appeals in *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, stated:
 - 1. "To prove undue hardship for a use variance, the following three criteria must be met:
 - (i) Applicant must be unable to secure a reasonable return or make any reasonable use of his property (mere financial hardship or opportunity for greater profit is not enough).
 - (ii) The difficulties or hardship is peculiar to the subject property in contrast with other properties in the zoning district.
 - (iii) Hardship was not the result of applicant's own actions.

To provide practical difficulty for an area variance, the following criteria must be met:

Whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome.

- (i) Whether the grant would be substantial injustice to applicant, as well as other property owners in district, or whether a lesser realization than that applied for would give substantial relief.
 - (ii) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."
- C. No increase in residential density beyond that allowed by the zoning regulations shall be permitted.
 - D. The relief requested must be in strict harmony with the spirit and intent of height, area, off-street parking, or sign regulations.
 - E. And only in such manner as to grant relief without substantial injury to public health, safety, and general welfare.

SPECIAL HEARINGS

Under the authority of Section 500.6 (BCZR), the Office of Administrative Law has 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 regarding this matter.

Under the authority of Section 500.7 (BCZR), any person can petition the Office of Administrative Law to hold a public hearing to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such a person in any property insofar as they are effected by the BCZR.

USE PERMITS AND WAIVERS

Certain uses have singular, individual characteristics which make it necessary, in the public interest (even though other County permits may not be required), to specify regulations for each zoning classification. Under the authority of Section 500.4 (BCZR), the Director of PAI has the power to issue certain use permits (certain others are issued under the authority of the Office of Administrative Law) provided that all of the conditions for that particular use specified in the BCZR are met. Under the authority of Section 500.7 (BCZR), the Director has the right to require a public hearing whenever the Director deems it in the public interest. Waivers, such as for flood plain construction also require a public hearing and must follow the zoning hearing intake and filing procedures.

100-YEAR FLOODPLAINS AND WAIVERS

The 100-year floodplain information and requirements (Bill 173-93, 11/17/93) may be obtained in the Development Plans Review Division (room 107) and Building Plans Review (room 110) in the Baltimore County Office Building. Flood Plain waivers require a Special Hearing. The following wording must be used:

Riverine Wording: (No New Buildings): Special Hearing for a waiver pursuant to BCZR Section 500.7; Building Code Parts 123, 124, 125; and BCC Sections 32-4-414, 32-4-107(a)(2), 32-8-301 to permit a proposed _____ (i.e., replacement or rebuilt building/structure; repair to a building/structure, etc.) in a riverine floodplain.

Tidal Wording: Special Hearing for a waiver pursuant to BCZR Section 500.7; Building Code Parts 123, 124, 125; and BCC Sections 32-4-107(a)(2), 32-8-301 to permit a proposed _____ (i.e., new building/structure; addition to a building/structure; replacement or rebuilt building/structure; repair to a building/structure, etc.) in a tidal floodplain.

Note:

DRC recommendations must accompany the petition and the State Department of Natural Resources (DNR), must also review all petition documents as part of the Zoning Advisory Committee (ZAC). Also, the Zoning Office will require 14 copies of the site plan.

SPECIAL EXCEPTIONS

Because not all uses fit neatly into permitted categories or zones, and under certain conditions various uses could be detrimental; the uses listed as special exceptions in the BCZR are permitted only if granted by the Office of Administrative Law, under the authority of Section 500.5 (BCZR). In cases of petitions for special exceptions under Section 502 of these regulations, the Office of Administrative Law shall hold a public hearing. After the hearing, the ALJ shall pass his order granting or refusing the special exception. In granting any special exception, the Administrative Law Judge must find that the use for which the special exception is requested will not:

- A. be detrimental to the health, safety, or general welfare of the area;
- B. create congestion in roads, streets, or alleys;
- C. create a potential hazard from fire, panic, or other dangers;
- D. overcrowd land and cause undue concentration of population;
- E. interfere with adequate provisions for schools, parks, water, sewerage, transportation, or other public requirements, conveniences, or improvements;
- F. interfere with adequate light and air;
- G. be inconsistent with the spirit and intent of the BCZR;
- H. be inconsistent with the impermeable surface and vegetative retention provisions of the BCZR.

In granting any special exception, the ALJ may impose such conditions, restrictions, or regulations as he deems necessary or advisable for the protection of surrounding and neighboring properties.

GENERAL APPLICATION PROCEDURE

A zoning hearing can only address issues as regulated by the BCZR. (Certain hearings, such as flood plain waiver public hearings are an exception to this.) You must contact other county/state agencies to determine if your plan meets their requirements!

Normally before granting any relief, the Office of Administrative Law shall require advertising and posting of the property and shall require, as applicable, a public hearing. All orders of an ALJ shall contain a finding of fact specifying the reason or reasons for granting or denying each request.

The normal time period from time of filing a petition until the time of receipt of the written order is usually somewhere between 45 and 90 days. Also, in addition to filing fees, costs are incurred for posting the property and advertising the hearing in area newspapers.

At the time of petition filing, petitioners will pay the filing costs. The petitioner will also receive a list of approved sign posters and the petitioner is responsible for hiring one of these approved posters to properly post the subject property with two (2) signs. The two (2) posting signs must remain *visible* on the property for a period of at least 20 days before the hearing and/or closing date.

Zoning petitions may be filed with PAI by appointment only. Applications/forms are available from Zoning Review or online.** All information on the forms must be typed or printed and they must be signed by the legal owner(s) or a corporate officer, with his/her title, the address, zip code, work and home telephone numbers and Email address provided. While the planner will assist the petitioner in interpreting those provisions of the BCZR applicable to the particular case, the final wording of the request and other information submitted, as set forth in the application, shall be the sole responsibility of the petitioner(s).

** http://www.baltimorecountymd.gov/Agencies/permits/pdm_zoning/zonforms.html#forms

THE APPLICATION MUST CONTAIN

- **Petition:** 3 (three) original petition forms signed and filled out as indicated. Any person signing as an authorized agent of the petitioner or contract purchaser must be able to bind the petitioner or contract purchaser to a legal contract. Their position must be indicated and where any doubt as to the person's authority may exist, a letter of authorization is required.
- **Plats:** 12 (twelve) or 14 (fourteen) for flood zone properties, copies of a **sealed** hearing plan with all information as indicated in this checklist.
- **Description:** 3 (three) separate copies of a **sealed description** of the property, beginning with the distance to the nearest improved intersecting street centerline, **as indicated in this checklist**.
- **Zoning Map:** 1 (one) copy of the GIS zoning map with the location and boundaries of the property accurately depicted (matching the sealed description) and the official 5 digit zoning map number (example: 070A2). Obtain map from the Zoning Review Counter **or** obtain map from the following web address: **bcgis.baltimorecountymd.gov/myneighborhood** and click on the "Map Views" button and then the "Development & Permits" tab. (See Example 4 on Page 14).
- **Fee:** 1 (one) filing fee of \$500.00 for each separate request of a variance, special hearing or special exception maximum charge of \$1,200.00 for one property/lot). Checks must be made payable to Baltimore County, Maryland. (Be aware that fees are subject to change without notice)
- **Advertising Form:** 1 (one) completed copy of the advertising form. You will be billed directly by the newspapers.
- **Posting:** Applicant is responsible for the posting (securing and paying an approved sign poster). The current list of approved sign posters is available in the Zoning Review Office.

THE ZONING HEARING PROPERTY DESCRIPTION

Three (3) typed copies (separate pages) of the zoning description of the property is required. Standard 8-1/2" x 11" sheets are acceptable. Most property descriptions, as stated on a deed, are too wordy but some of the information must be used. (Note: Old deed information such as perches or a stone, etc. cannot be used as is.) Read your deed, your location survey and your State Assessment record to determine which of the three options you should use. DO NOT PHOTOCOPY THE DESCRIPTION IN THE DEED. The zoning property description must comply with Part A and Part B:

PART A (START DESCRIPTION WITH THE FOLLOWING):

ZONING PROPERTY DESCRIPTION FOR _____
(address or location)

*Beginning at a point on the (north, south, east or west) side of (name of street on which property fronts) which is (number of feet of right-of-way width) wide at the distance of (number of feet) (north, south, east or west) of the centerline of the nearest improved intersecting street (name of street) which is (number of feet of right-of-way width) wide.

*Be aware that the Beginning Point and the distance in feet to the street centerline intersection, as stated in the zoning property description, must be shown and labeled on the hearing plan. The lot area (total square feet or acres) on the hearing plan and the zoning description must agree.

PART B (CONTINUE DESCRIPTION WITH ONE OF THE FOLLOWING 3 OPTIONS):

OPTION 1: (Metes and Bounds Sample – lot not part of record plat or minor subdivision):

THIS IS A SAMPLE ONLY: Thence the following courses and distances: (1st Point of Call- "POC") N.87 12' 13" E. 321.1', (2nd POC) S.18 27' 03" E. 87.2', (3rd POC) S.62 19' 00" W. 318', and (4th POC) N.08 15' 22" W. 80', back to the point of beginning as recorded in Deed Liber (_), Folio (_), containing (number of total square feet or acres in lot). Located in the (_) Election District and (_) Council District.

OPTION 2: (Subdivision Lot – lot is part of record plat):

Being Lot # (_), Block (_), Section # (_) in the subdivision of (name of subdivision) as recorded in Baltimore County Plat Book # (_), Folio # (_), containing (number of total square feet or acres in lot). Located in the (_) Election District and (_).

OPTION 3: (Minor Subdivision Lot Sample):

THIS IS A SAMPLE ONLY: Thence the following courses and distances: (1st Point of Call- "POC") N.87 12' 13" E. 321.1', (2nd POC) S.18 27' 03" E. 87.2', (3rd POC) S.62 19' 00" W. 18', and (4th POC) N.08 15' 22" W. 80' back to the point of beginning, as recorded in Deed Liber (_), Folio (_), containing (number of total square feet or acres in lot). Located in the (_) Election District and (_) Council District. Also known as Lot # (_) in the minor subdivision of (name of minor subdivision), minor subdivision # (_ _ -- _ _ -- M), as maintained by the Development Management Division of the Department of Permits, Approvals and Inspections.

REVIEW AGENCIES

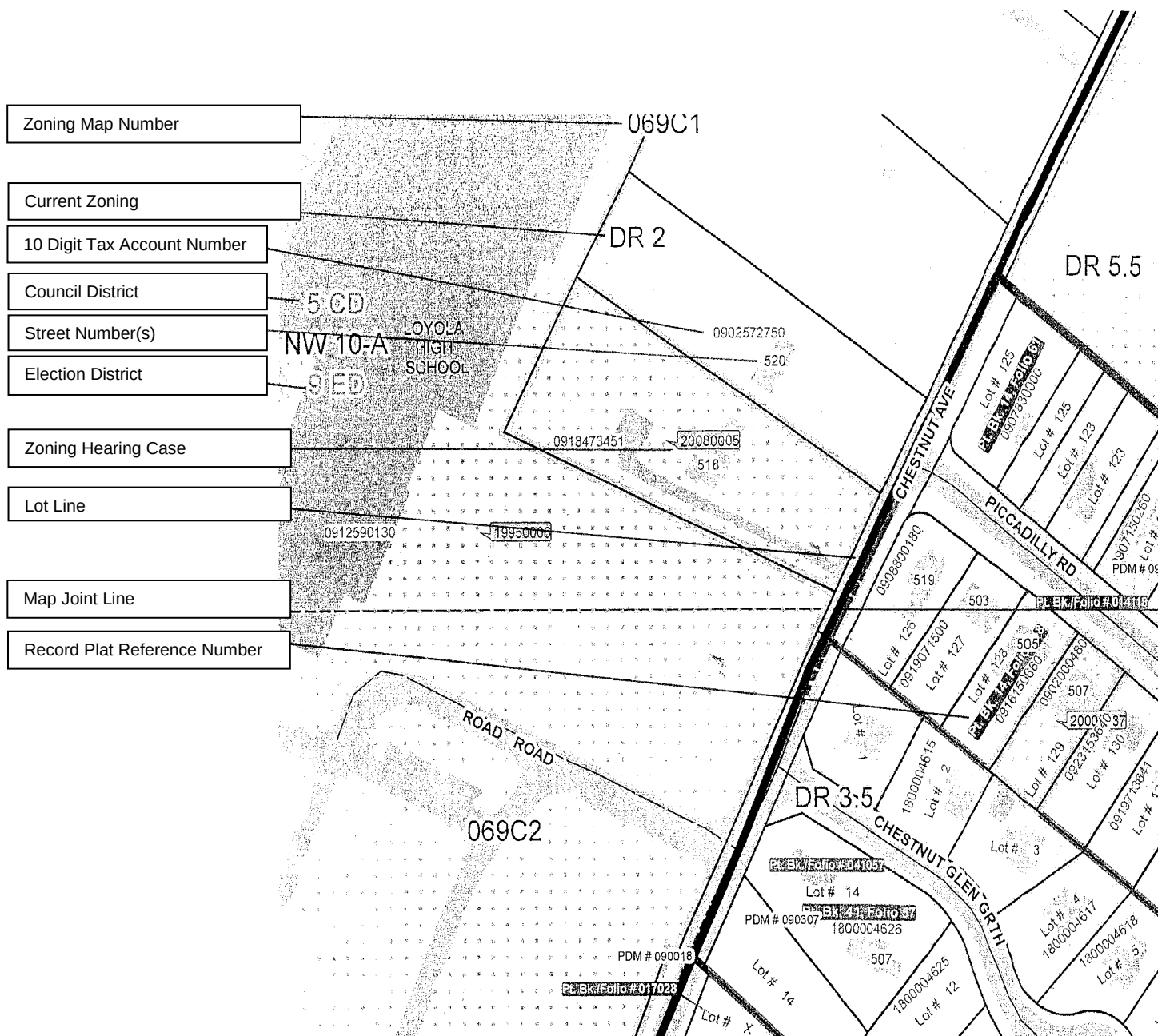
Prior to preparing the required plans, the petitioner or the engineer should contact the following agencies for pertinent data that may be required.

1. Assessments (SDAT)	410-512-4906
2. Development Plans Review (traffic issues)	410-887-3751
3. Fire Department	410-887-3998
4. State Highway Administration	410-545-5600
5. County Roads	410-887-3739
6. Planning (design, screening, landscaping, historic)	410-887-3211
7. Plans Review (construction/fire/floodplain plans)	410-887-3987
8. Department of Environmental Protection and Sustainability (DEPS) (see note)	410-887-3980
9. If <i>floodplain</i> , Department of Natural Resources	410-631-3902
10. If <i>critical area</i> , Maryland Office of Planning	410-767-4485

NOTE: For CBCA (Critical Area) sites: Without **DEPS comments** the ALJ will not write an order.
Floodplains and historic buildings should be identified and addressed as needed.
Flood Plain determination/issues call the Dept. of Public Works at 410-887-3300.
Historic issues/questions call the Office of Planning at 410-887-3480.

EXAMPLE # 2 - GIS MAP COPY

Available from the Zoning review counter. The color copy of this map is required for petition filing. This black and white example is keyed to the map information outlining the hearing site clearly on this map.



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: _____

Property Address: _____

Legal Owners (Petitioners): _____

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): _____

Address: _____

Telephone Number: _____

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(8202 Pulaski Highway)	*	OFFICE OF
15 th Election District		
2 nd Council District	*	ADMINISTRATIVE HEARINGS
Qaisar Shahzad,		
Legal Owner	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2021-0201-SPHA
	*	
	*	
	*	
	*	
	*	
	*	
	*	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Fazal, LLC, legal owner (“Petitioner”) for the property located at 8202 Pulaski Hwy., Rosedale (the “Property”). The Special Hearing was filed pursuant to Baltimore County Zoning Regulations (“BCZR”), §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA. Variance relief was also filed from BCZR, §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Qaisar Shahzad, a member of the Petitioner, appeared at the hearing along with Bruce E. Doak, licensed surveyor, who prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 1). C. Edward Hartman IV, Esquire represented the Petitioner. Russell Mirabile, President of Rosedale Community Association, who initially requested a postponement of the hearing, did not appear.

Zoning Advisory Committee (“ZAC”) comments were received from Department of Planning (“DOP”) which agency opposed the requested relief. Department of Environmental

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By aw

Protection and Sustainability (“DEPS”) also submitted a comment but did not oppose the requested relief.

The Property is approximately .396 acres +/- and is improved with a commercial, 1-story brick building (1,600 sf), housing the operation of a used automobile sales business known as “N. A. Motors” in accordance with the relief granted in Case No. 2019-0171-XA. (Pet. Ex. 3). The Property is zoned Business, Roadside – Automotive, Service (BR-AS). Mr. Shahzad is the operator of the business and currently only sells, but does not repair, vehicles which he purchases. Aerial and street view photographs reveal that the Property faces south on Pulaski Hwy., and is surrounded by other commercial uses including a golf cart business (“B-more Buggies 4 Less”) to the east, an auto repair business to the north (the “Earlbeck Family Auto Repair”), and a liquor store to the west. (Pet. Ex. 4; 6A-N). It was noted that both B-more Buggies 4 Less and the Property use the address 8202 Pulaski Hwy.

A boundary survey and location drawing dated April 19, 2021, was submitted showing the Property boundaries and site area layout for the Petitioner’s business (the “Boundary Survey”). (Pet. Ex. 5). It shows the commercial building, an 8 ft. tall chain link fence surrounding part of the Property, a 6 ft. tall wooden fence along the northern boundary line, as well as paved parking and storage yards. Importantly, as revealed on a plat identified as “Property of R.D. Hesse, Rosedale, MD” (L 12, F 41), there is a 30 ft. +/- wide paper road named Batavia Farm Rd. between the Property and the liquor store. (Pet. Ex. 16).

Mr. Doak marked up a copy of the aerial photograph to show the current use of Batavia Farm Rd. It depicts that the Earlbeck Family Auto Repair business to the north of the Property uses the paper road to park vehicles. (Pet. Exs. 8, 10B). Mr. Shahzad testified that the owners/operators of the Earlbeck Family Auto Repair business have closed off Batavia Farm Rd.

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By [Signature]

at their property line by installing a chain link fence across the width of the paper road. (Pet. Ex. 10-B). According to Mr. Doak, a Road Closing case has not been filed and the paper road has never been dedicated to the County. That aerial photograph also reveals that beyond the Eastbeck Auto Repair business are single family homes which use the portion of the paper road abutting those properties as part of their yards/driveways.

Mr. Doak also marked up a copy of the Boundary Survey. (Pet. Ex. 9). That Exhibit, in combination with the street view photographs of Batavia Farm Rd., appear to show that the Petitioner's chain link fence does not currently extend into Batavia Farm Rd. (Pet. Exs. 9, 10-A and 10-B). Street view photographs also show that vehicles which do not belong to the Petitioner (as indicated on the photograph) are parked along Batavia Farm Rd. (Pet. Ex. 10-A). However, as Mr. Doak explained, Petitioner is proposing to extend the existing chain link fence 15 ft. into Batavia Farm Rd. (Pet. Ex. 8) and to use that portion of land.

In addition to extending the chain link fence into Batavia Farm Rd., Petitioner is proposing to construct a 1-story addition (6,768 sf) as depicted on the Site Plan. (Pet. Ex. 1). Due to the size of the Property, the addition would extend to the side and rear Property lines with zero setbacks. A letter of support was provided by B-more Buggies 4 Less for the proposed addition. (Pet. Ex. 7). The Petitioner is also proposing to repair the vehicles which he purchases within the new addition. Mr. Doak emphasized that a service garage is permitted by right in the BR-AS zone. Petitioner is proposing that the maximum number of vehicles on the Property either for sale or for repair at one time would be 30. In order to prevent the appearance of a junkyard, all damaged, disabled or inoperable vehicles will be stored and repaired inside the new addition. A lift(s) will also be installed. The addition will be accessed via 2 doors on its southern end, as well as 2 doors on its western end. (Pet. Ex. 1).

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By [Signature]

In regard to parking, as adjudicated in Case No. 2019-0171-XA, BCZR, §409 is not applicable to inventory of used vehicles which are for-sale, but is applicable to customer and employee parking. As identified on the Site Plan, the total number of parking spaces required is 17 and the total number of parking spaces which will be provided is 17.

SPECIAL HEARING

A hearing to request special zoning relief is proper under BCZR, §500.7 as follows:

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 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.

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). And, "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations." *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. App. (Sept. Term 2016).

In the instant case, I find that the Petition to amend the Opinion and Order in Case No. 2019-0171-XA to permit the repair of vehicles, in addition to the sale of vehicles, is within the spirit and intent of the BCZR. I agree with the Petitioner that the proposal here which is for a service garage is not for a change in use; rather it is in addition to the sale of vehicles. A service garage is a use permitted by right in the Business-Major (BM) zone under BCZR, §233.1, and therefore under BCZR, §236.1.A, is permitted by right on this Property. Indeed, the Automotive

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By [Signature]

Service District Overlay provides BCZR, §259.2.B is applied to “certain parcels of land zoned B.L., B.M. or B.R., which are appropriate for uses dominated by the parking and servicing of automobiles or characterized by frequent parking turnover...”

The proposal here is that the addition would house the damaged, disabled and inoperable vehicles which are in need of repair prior to parking the vehicles for sale on the outdoor sales area. I find this proposal is appropriate for the Property and is consistent with the similar auto and golf cart repair businesses surrounding the Property. The proposed addition will be constructed on top of the existing paved surface and therefore no additional impervious surface will be added. Petitioner is proposing to reduce the number of vehicles for sale from 50 (as permitted in Case No. 2019-0171-XA) to 30 vehicles. I note that BCZR, §238.4 permits the storage and display of vehicles in the front yard provided that those vehicles are not parked more than 15 ft. in front of the required front building line.

In regard to Batavia Farm Rd., I cannot grant the Petitioner’s request to move the 8 ft. high chain link fence into Batavia Farm Rd. unless that paper road is legally closed pursuant to a Road Closing Petition. The deeds for the Property and the other properties which abut Batavia Farm Rd., indicate that it is a road to be used “in common.” While this case is not a Road Closing Petition, and while I am not deciding whether or not that paper road should be closed as I do not have all of the evidence on that issue before me, it appears that the Petitioner and adjacent property owners would be served by filing a joint Road Closing Petition in order that each abutting property could then legally use whatever roadbed is provided to each abutting owner pursuant to their respective deeds. The file reflects that the closing of this paper road was an issue which was also raised by the Rosedale Community Association. Finally, given that there was no comment by Development Plans Review (“DPR”) that a formal Landscaping Plan is

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By 192

required here, and notwithstanding DOP's comment to the contrary, I find that it would be interests of the general welfare and spirit of the BCZR for the Petitioner to plant some bushes, shrubs and/or landscaping in the two (2) grass areas fronting along Pulaski Hwy. I find that a Landscaping Plan is not required to be filed in this case.

VARIANCE

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).

As noted above, this Property was previously adjudicated to be unique in Case No. 2019-0171-XA. The Property and existing building have not changed since that case. As a result, that factual finding is applicable to this case under the doctrine of collateral estoppel. *Garrity v. Maryland State Bd. of Plumbing*, 447 Md. 359, 368 (2016). (See also *Colandrea v. Wilde Lake Community Ass'n, Inc.*, 361 Md. 391 (2000); *Washington Suburban Sanitary Commission v. TKU Associates*, 281 Md. 1, 18-19 (1977)).

I find that the Petitioner would suffer practical difficulty and hardship if the variance relief was denied because the size of the Property limits the extent of an addition which is needed in order to house disabled, damaged and/or inoperable vehicles from view, thus eliminating the appearance of a junk yard. The size of the proposed addition will enable a lift(s) to be installed in order to repair vehicles indoors. While I am cognizant of DOP's proposed condition to permit 10 ft. side and rear yard setbacks in lieu of the proposed zero foot setbacks, I find no legal requirement for a 10 ft. setback, and granting the same would eliminate a useable service garage. I further find

ORDER RECEIVED FOR FILING

Date 11-15-21

By [signature]

that the variance is within the spirit and intent of the BCZR and that it will not harm the public health, safety or welfare, particularly in light of the support from adjacent business B-more Buggies 4 Less and lack of opposition from any surrounding property owner.

THEREFORE, IT IS ORDERED this 15th day of **November 2021**, by this Administrative Law Judge that the Petition for Special Hearing from BCZR, §500.7 to amend Case No. 2019-0171-XA is hereby **GRANTED** in accordance with a Redlined Site Plan as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner.

IT IS FURTHER ORDERED that the Variance from BCZR, § 238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks 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 their 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. All damaged, disabled and/or inoperative vehicles shall be parked and repaired inside the proposed addition until such vehicles are in operable and saleable condition at which point they may be parked on the outdoor sales area.
3. Petitioner may not display, park and/or store more than 30 vehicles at any one time, whether for sale or repair.
4. Petitioner shall stripe all customer and employee parking spaces pursuant to BCZR, §409.
5. Within 15 days of the date hereof, Petitioner shall submit to Baltimore County a redlined site plan indicating where on the Property vehicle inventory will be displayed and the location of all customer and employee parking.

ORDER RECEIVED FOR FILING

Date 11-15-21

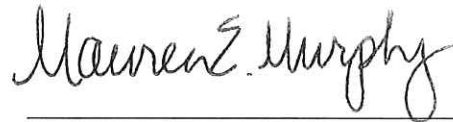
By [Signature]

6. Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Rd. or in any obstruct or close off Batavia Farm Rd. until such paper road, or portion of paper road abutting the Property, is legally closed pursuant to a Road Closing Petition.

7. A formal Landscape Plan is not required to be filed. However, Petitioner shall plant and continue to maintain while under its ownership, bushes, shrubs and/or other landscaping in the two (2) grass areas fronting along Pulaski Hwy. which, in the Petitioner's discretion, can reasonable fit within those areas.

8. No temporary banners, signs or advertising flags shall be permitted on the subject property.

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



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

PMM/dlm

ORDER RECEIVED FOR FILING

Date 11-15-21

By [Signature]



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

November 15, 2021

C. Edward Hartman, Esquire – edward@hartman.law

RE: Petitions for Special Hearing & Variance
Case No. 2021-0201-SPHA
Property: 8202 Pulaski Highway

Dear Mr. Hartman:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order 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 that reads "Maureen E. Murphy". The signature is written in a cursive style with a large, stylized "M" and "E".

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw
Enclosure

c: Bruce E. Doak – bdoak@bruceedoakconsulting.com
Qaisar Shahzad, President of Fazal, LLC – ringotowing1@gmail.com
Russell Mirabile – russell3947@gmail.com

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(8202 Pulaski Highway) *	OFFICE OF
15 th Election District	
2 nd Council District *	ADMINISTRATIVE HEARINGS
Qaisar Shahzad,	
Legal Owner *	FOR BALTIMORE COUNTY
Petitioner *	Case No. 2021-0201-SPHA
* * * * *	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Fazal, LLC, legal owner (“Petitioner”) for the property located at 8202 Pulaski Hwy., Rosedale (the “Property”). The Special Hearing was filed pursuant to Baltimore County Zoning Regulations (“BCZR”), §500.7 to amend the Opinion and Order in Case No. 2019-0171-XA. Variance relief was also filed from BCZR, §238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Qaisar Shahzad, a member of the Petitioner, appeared at the hearing along with Bruce E. Doak, licensed surveyor, who prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 1). C. Edward Hartman IV, Esquire represented the Petitioner. Russell Mirabile, President of Rosedale Community Association, who initially requested a postponement of the hearing, did not appear.

Zoning Advisory Committee (“ZAC”) comments were received from Department of Planning (“DOP”) which agency opposed the requested relief. Department of Environmental

Protection and Sustainability (“DEPS”) also submitted a comment but did not oppose the requested relief.

The Property is approximately .396 acres +/- and is improved with a commercial, 1-story brick building (1,600 sf), housing the operation of a used automobile sales business known as “N. A. Motors” in accordance with the relief granted in Case No. 2019-0171-XA. (Pet. Ex. 3). The Property is zoned Business, Roadside – Automotive, Service (BR-AS). Mr. Shahzad is the operator of the business and currently only sells, but does not repair, vehicles which he purchases. Aerial and street view photographs reveal that the Property faces south on Pulaski Hwy., and is surrounded by other commercial uses including a golf cart business (“B-more Buggies 4 Less”) to the east, an auto repair business to the north (the “Earlbeck Family Auto Repair”), and a liquor store to the west. (Pet. Ex. 4; 6A-N). It was noted that both B-more Buggies 4 Less and the Property use the address 8202 Pulaski Hwy.

A boundary survey and location drawing dated April 19, 2021, was submitted showing the Property boundaries and site area layout for the Petitioner’s business (the “Boundary Survey”). (Pet. Ex. 5). It shows the commercial building, an 8 ft. tall chain link fence surrounding part of the Property, a 6 ft. tall wooden fence along the northern boundary line, as well as paved parking and storage yards. Importantly, as revealed on a plat identified as “Property of R.D. Hesse, Rosedale, MD” (L 12, F 41), there is a 30 ft. +/- wide paper road named Batavia Farm Rd. between the Property and the liquor store. (Pet. Ex. 16).

Mr. Doak marked up a copy of the aerial photograph to show the current use of Batavia Farm Rd. It depicts that the Earlbeck Family Auto Repair business to the north of the Property uses the paper road to park vehicles. (Pet. Exs. 8, 10B). Mr. Shahzad testified that the owners/operators of the Earlbeck Family Auto Repair business have closed off Batavia Farm Rd.

at their property line by installing a chain link fence across the width of the paper road. (Pet. Ex. 10-B). According to Mr. Doak, a Road Closing case has not been filed and the paper road has never been dedicated to the County. That aerial photograph also reveals that beyond the Eastbeck Auto Repair business are single family homes which use the portion of the paper road abutting those properties as part of their yards/driveways.

Mr. Doak also marked up a copy of the Boundary Survey. (Pet. Ex. 9). That Exhibit, in combination with the street view photographs of Batavia Farm Rd., appear to show that the Petitioner's chain link fence does not currently extend into Batavia Farm Rd. (Pet. Exs. 9, 10-A and 10-B). Street view photographs also show that vehicles which do not belong to the Petitioner (as indicated on the photograph) are parked along Batavia Farm Rd. (Pet. Ex. 10-A). However, as Mr. Doak explained, Petitioner is proposing to extend the existing chain link fence 15 ft. into Batavia Farm Rd. (Pet. Ex. 8) and to use that portion of land.

In addition to extending the chain link fence into Batavia Farm Rd., Petitioner is proposing to construct a 1-story addition (6,768 sf) as depicted on the Site Plan. (Pet. Ex. 1). Due to the size of the Property, the addition would extend to the side and rear Property lines with zero setbacks. A letter of support was provided by B-more Buggies 4 Less for the proposed addition. (Pet. Ex. 7). The Petitioner is also proposing to repair the vehicles which he purchases within the new addition. Mr. Doak emphasized that a service garage is permitted by right in the BR-AS zone. Petitioner is proposing that the maximum number of vehicles on the Property either for sale or for repair at one time would be 30. In order to prevent the appearance of a junkyard, all damaged, disabled or inoperable vehicles will be stored and repaired inside the new addition. A lift(s) will also be installed. The addition will be accessed via 2 doors on its southern end, as well as 2 doors on its western end. (Pet. Ex. 1).

In regard to parking, as adjudicated in Case No. 2019-0171-XA, BCZR, §409 is not applicable to inventory of used vehicles which are for-sale, but is applicable to customer and employee parking. As identified on the Site Plan, the total number of parking spaces required is 17 and the total number of parking spaces which will be provided is 17.

SPECIAL HEARING

A hearing to request special zoning relief is proper under BCZR, §500.7 as follows:

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 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.

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). And, "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations." *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. App. (Sept. Term 2016).

In the instant case, I find that the Petition to amend the Opinion and Order in Case No. 2019-0171-XA to permit the repair of vehicles, in addition to the sale of vehicles, is within the spirit and intent of the BCZR. I agree with the Petitioner that the proposal here which is for a service garage is not for a change in use; rather it is in addition to the sale of vehicles. A service garage is a use permitted by right in the Business-Major (BM) zone under BCZR, §233.1, and therefore under BCZR, §236.1.A, is permitted by right on this Property. Indeed, the Automotive

Service District Overlay provides BCZR, §259.2.B is applied to “certain parcels of land zoned B.L., B.M. or B.R., which are appropriate for uses dominated by the parking and servicing of automobiles or characterized by frequent parking turnover...”

The proposal here is that the addition would house the damaged, disabled and inoperable vehicles which are in need of repair prior to parking the vehicles for sale on the outdoor sales area. I find this proposal is appropriate for the Property and is consistent with the similar auto and golf cart repair businesses surrounding the Property. The proposed addition will be constructed on top of the existing paved surface and therefore no additional impervious surface will be added. Petitioner is proposing to reduce the number of vehicles for sale from 50 (as permitted in Case No. 2019-0171-XA) to 30 vehicles. I note that BCZR, §238.4 permits the storage and display of vehicles in the front yard provided that those vehicles are not parked more than 15 ft. in front of the required front building line.

In regard to Batavia Farm Rd., I cannot grant the Petitioner’s request to move the 8 ft. high chain link fence into Batavia Farm Rd. unless that paper road is legally closed pursuant to a Road Closing Petition. The deeds for the Property and the other properties which abut Batavia Farm Rd., indicate that it is a road to be used “in common.” While this case is not a Road Closing Petition, and while I am not deciding whether or not that paper road should be closed as I do not have all of the evidence on that issue before me, it appears that the Petitioner and adjacent property owners would be served by filing a joint Road Closing Petition in order that each abutting property could then legally use whatever roadbed is provided to each abutting owner pursuant to their respective deeds. The file reflects that the closing of this paper road was an issue which was also raised by the Rosedale Community Association. Finally, given that there was no comment by Development Plans Review (“DPR”) that a formal Landscaping Plan is

required here, and notwithstanding DOP's comment to the contrary, I find that it would be interests of the general welfare and spirit of the BCZR for the Petitioner to plant some bushes, shrubs and/or landscaping in the two (2) grass areas fronting along Pulaski Hwy. I find that a Landscaping Plan is not required to be filed in this case.

VARIANCE

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).

As noted above, this Property was previously adjudicated to be unique in Case No. 2019-0171-XA. The Property and existing building have not changed since that case. As a result, that factual finding is applicable to this case under the doctrine of collateral estoppel. *Garrity v. Maryland State Bd. of Plumbing*, 447 Md. 359, 368 (2016). (See also *Colandrea v. Wilde Lake Community Ass'n, Inc.*, 361 Md. 391 (2000); *Washington Suburban Sanitary Commission v. TKU Associates*, 281 Md. 1, 18-19 (1977)).

I find that the Petitioner would suffer practical difficulty and hardship if the variance relief was denied because the size of the Property limits the extent of an addition which is needed in order to house disabled, damaged and/or inoperable vehicles from view, thus eliminating the appearance of a junk yard. The size of the proposed addition will enable a lift(s) to be installed in order to repair vehicles indoors. While I am cognizant of DOP's proposed condition to permit 10 ft. side and rear yard setbacks in lieu of the proposed zero foot setbacks, I find no legal requirement for a 10 ft. setback, and granting the same would eliminate a useable service garage. I further find

that the variance is within the spirit and intent of the BCZR and that it will not harm the public health, safety or welfare, particularly in light of the support from adjacent business B-more Buggies 4 Less and lack of opposition from any surrounding property owner.

THEREFORE, IT IS ORDERED this **15th** day of **November 2021**, by this Administrative Law Judge that the Petition for Special Hearing from BCZR, §500.7 to amend Case No. 2019-0171-XA is hereby **GRANTED** in accordance with a Redlined Site Plan as conditioned herein, to permit the repair and sale of vehicles purchased by the Petitioner.

IT IS FURTHER ORDERED that the Variance from BCZR, § 238.2 to permit a zero (0) ft. setback from the rear and side property lines for a 18 ft. high building addition in lieu of the required 30 ft. minimum rear and side yard setbacks 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 their 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. All damaged, disabled and/or inoperative vehicles shall be parked and repaired inside the proposed addition until such vehicles are in operable and saleable condition at which point they may be parked on the outdoor sales area.
3. Petitioner may not display, park and/or store more than 30 vehicles at any one time, whether for sale or repair.
4. Petitioner shall stripe all customer and employee parking spaces pursuant to BCZR, §409.
5. Within 15 days of the date hereof, Petitioner shall submit to Baltimore County a redlined site plan indicating where on the Property vehicle inventory will be displayed and the location of all customer and employee parking.

6. Petitioner shall not extend its business operation, including but not limited to any fence, into Batavia Farm Rd. or in any obstruct or close off Batavia Farm Rd. until such paper road, or portion of paper road abutting the Property, is legally closed pursuant to a Road Closing Petition.

7. A formal Landscape Plan is not required to be filed. However, Petitioner shall plant and continue to maintain while under its ownership, bushes, shrubs and/or other landscaping in the two (2) grass areas fronting along Pulaski Hwy. which, in the Petitioner's discretion, can reasonable fit within those areas.

8. No temporary banners, signs or advertising flags shall be permitted on the subject property.

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

Signed

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

PMM/dlm



CASE #2021- 0201-SPHA EXHIBITS
(In the order of submittal)

- 1) Plan to Accompany a Zoning Petition
- 2) SDAT Report
- 3) GIS
- 4) GIS photo
- 5) Boundary Survey Plat
- 6) Photos Key Sheet / photos A-N
- 7) Adjoining neighbor letter of support

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

GENERAL SITE INFORMATION

- Ownership: FAZAL LLC
9423 Tell Beck Road Parkville, MD 21234
- Address: 8202 Pulaski Highway Baltimore, MD 21237
- Deed references: JLE 40210 / 49
- Area: 0.296 acre (per SDAT)
- Tax Map / Parcel / Tax account #: 89 / 760 / 15-23-003750
- Election District: 15 Councilmanic District: 7
ADC Map: 4700J9 GIS tile: 089C3 Position sheet: 9NE21
Census tract: 450100 Census block: 2-005450100
Schools: Red House Run ES Golden Ring MS Overies HS
- The boundary shown hereon is from the deed recorded in the Land Records of Baltimore County, All other information shown hereon was taken from Baltimore County GIS tile (89C3) and the information provided by Baltimore County on the internet.
- Improvements: Single story office building & paved parking lot. The existing building and the paved parking lot will remain.

OFFICE OF ZONING

Zoning: BR AS
Case #2019-0171-XA
Special Exception to allow a used motor vehicle outdoor sales area- granted
Variances for setbacks & no screening or landscaping- granted

Parking Calculations per Section 409.6.A.1 BCZR

Office	1.6 (1600 sq. ft.) x 5	= 8
Autos for sale	= 30 (not required to meet Sect. 409 req.)	
Auto repair (3 service bays)	= 9	
Total parking spaces required	= 17	
Parking spaces provided (outside)	= 4 (employee & customer spaces)	
Parking spaces provided (inside)	= 3 (bays) x 10 = 13	
Total parking spaces provided	= 17	

Damaged and/or disabled motor vehicles will be kept inside the proposed building addition.

Signage

A sign may be installed on the frontage of Pulaski Highway and will meet all zoning regulations.

BR AS Requirements per Section 238 BCZR

Front: 50 feet from the street right of way for a dual highway
Side / Rear: 30 feet from property line

Storage and display of vehicles in the front yard: not more than 15 feet in front of the required front building line (50' - 15' = 35')

Maximum permitted floor area ratio: 2.0

Existing floor area ratio: 0.09 (based on SDAT info) / Proposed 0.39

ENVIRONMENTAL IMPACT

Watershed: White Marsh URCL land type: 1

- The existing building is currently served by public water and sewer.
- There are no underground storage tanks on the subject property.
- The subject property is not in the Chesapeake Bay Critical Area.
- The subject property is not located within a 100 year flood plain.

OFFICE OF PLANNING

Regional Planning District: Rosedale District Code: 326

Growth Tier: 1 (served by public sewer and inside URDL)

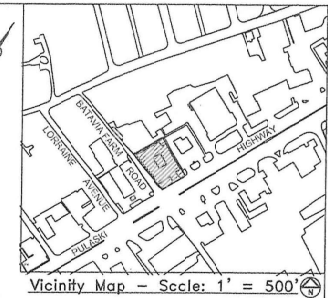
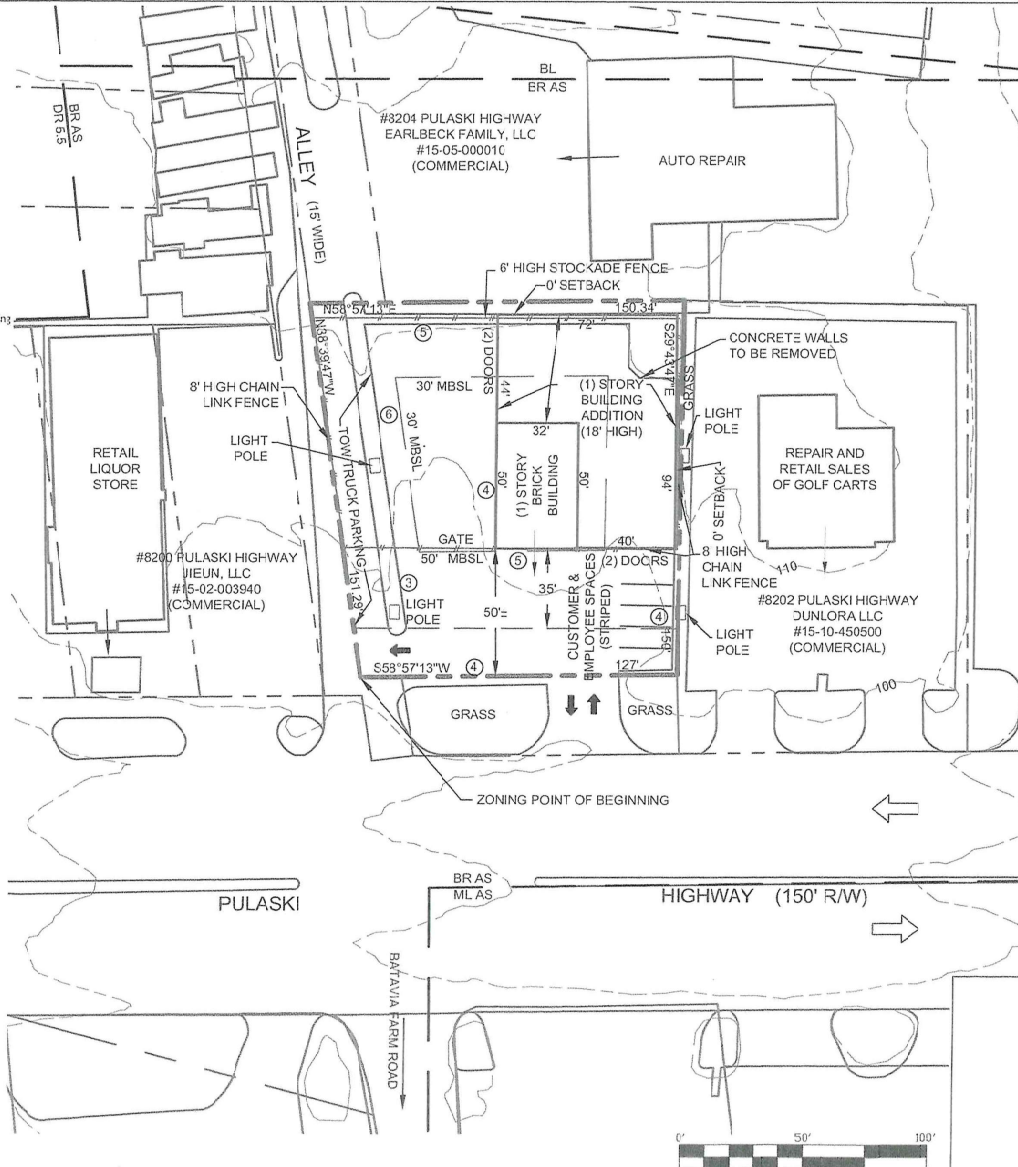
- The existing building is not historic. The subject property is not in a historic district.

PUBLIC WORKS

The utilities that serve the subject property are located in Pulaski Highway

PROPOSED DEVELOPMENT

Use the subject property and the existing building for used car sales, auto repair, auto painting and a towing business. An addition to the building is proposed.



Bruce E. Doak Consulting, LLC
Land Use Expert and Surveyor
3801 Baker Schoolhouse Road
Frederick, MD 21783
o 443-500-5535 m 410-419-4306
bdoak@bruceedoakconsulting.com

PLAN TO ACCOMPANY A ZONING PETITION

FOR

#8202 PULASKI HIGHWAY

BALTIMORE COUNTY, MARYLAND
15th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT

Date: 7/2/21

Scale: 1"=50'

PET. EXHIBIT # 1

Real Property Data Search (w1)

Search Result for BALTIMORE COUNTY

View Map			View GroundRent Redemption				View GroundRent Registration			
Special Tax Recapture: None										
Account Identifier:			District - 15 Account Number - 1523003760							
Owner Information										
Owner Name:			FAZAL LLC				Use:		COMMERCIAL	
Mailing Address:			9423 BELLBECK RD PARKVILLE MD 21234-				Principal Residence:		NO	
							Deed Reference:		/40210/ 00049	
Location & Structure Information										
Premises Address:			8202 PULASKI HWY BALTIMORE 21237-				Legal Description:		.396 AC NS PULASKI H NE COR BATAVIA FARMS	
Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0089	0023	0760	31502.04	0000				2021	Plat Ref:	
Town: None										
Primary Structure Built			Above Grade Living Area		Finished Basement Area		Property Land Area		County Use	
1975			1,600 SF				17,249 SF		24	
Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements			
		FAST FOOD	/	C3						
Value Information										
			Base Value		Value		Phase-in Assessments			
					As of		As of		As of	
					01/01/2021		07/01/2021		07/01/2022	
Land:			371,900		371,900					
Improvements			72,400		77,800					
Total:			444,300		449,700		446,100		447,900	
Preferential Land:			0		0					
Transfer Information										
Seller: MARTIN LEONARD C				Date: 05/02/2018				Price: \$450,000		
Type: ARMS LENGTH IMPROVED				Deed1: /40210/ 00049				Deed2:		
Seller: BONOMOLO VINCENT F				Date: 10/26/2017				Price: \$10,000		
Type: NON-ARMS LENGTH OTHER				Deed1: /39561/ 00142				Deed2:		
Seller: MARTIN LEONARD				Date: 10/14/1988				Price: \$250,000		
Type: ARMS LENGTH IMPROVED				Deed1: /07999/ 00379				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										

OLD PHILADELPHIA RD

DR 5.5

BL

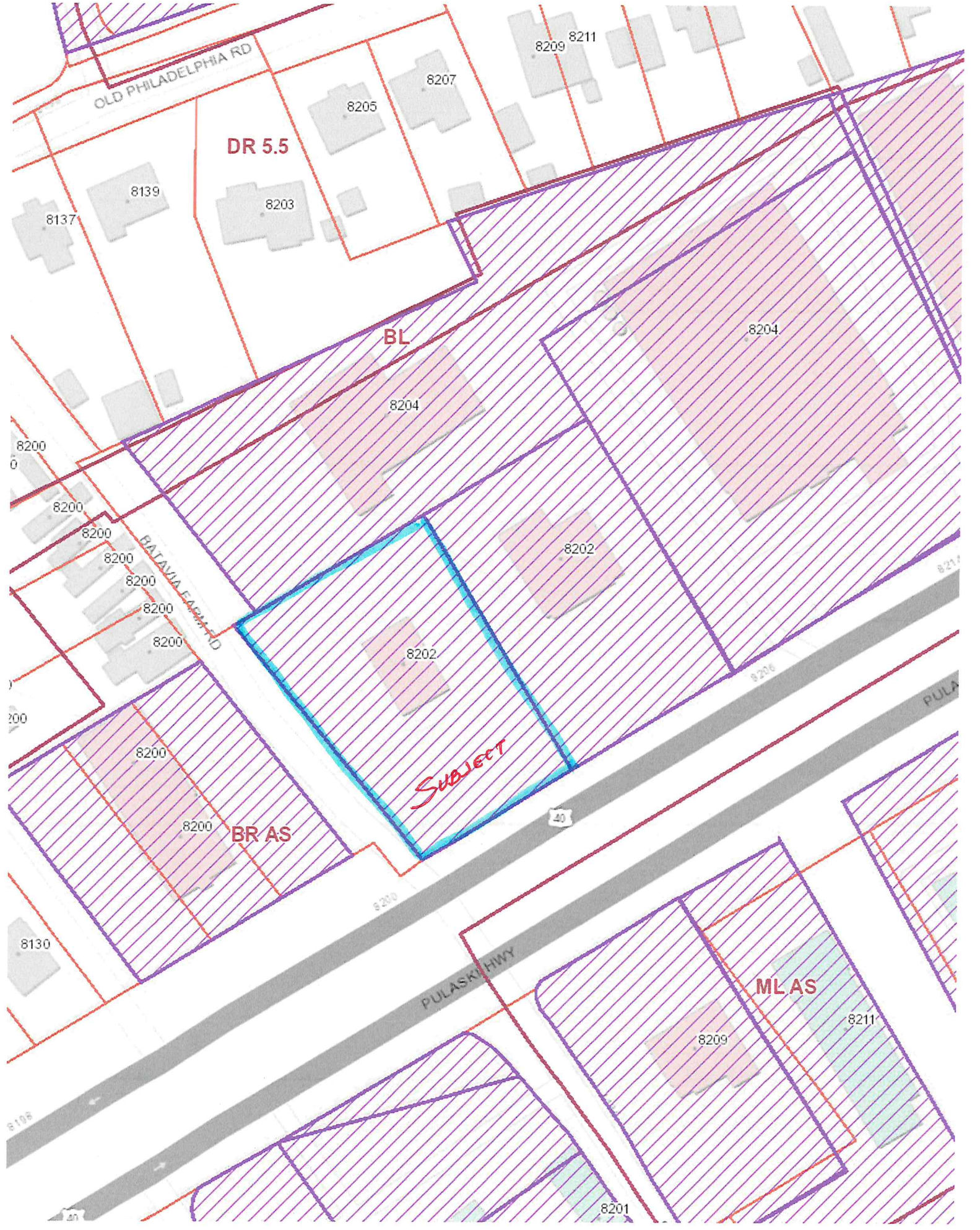
SUBJECT

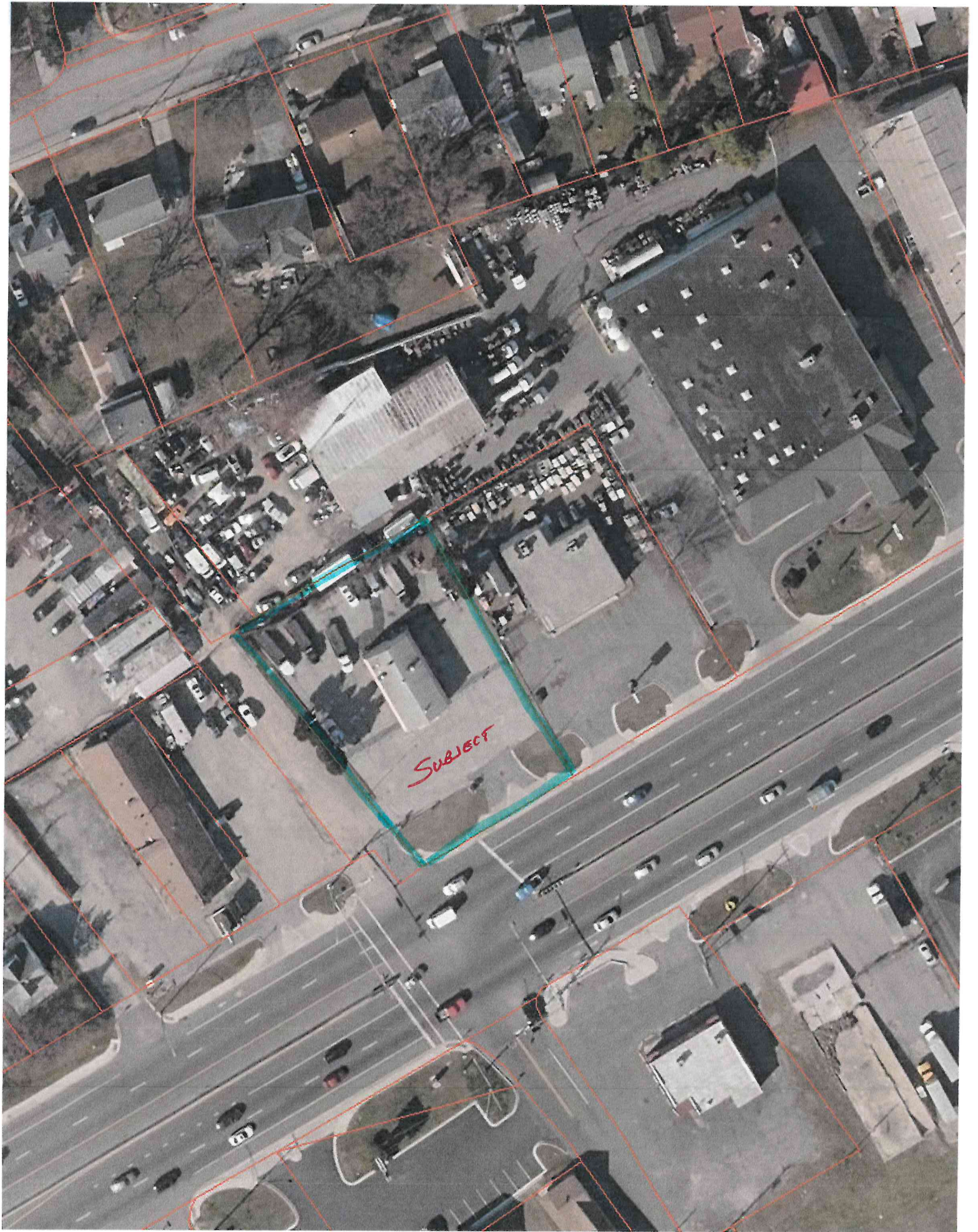
BR AS

ML AS

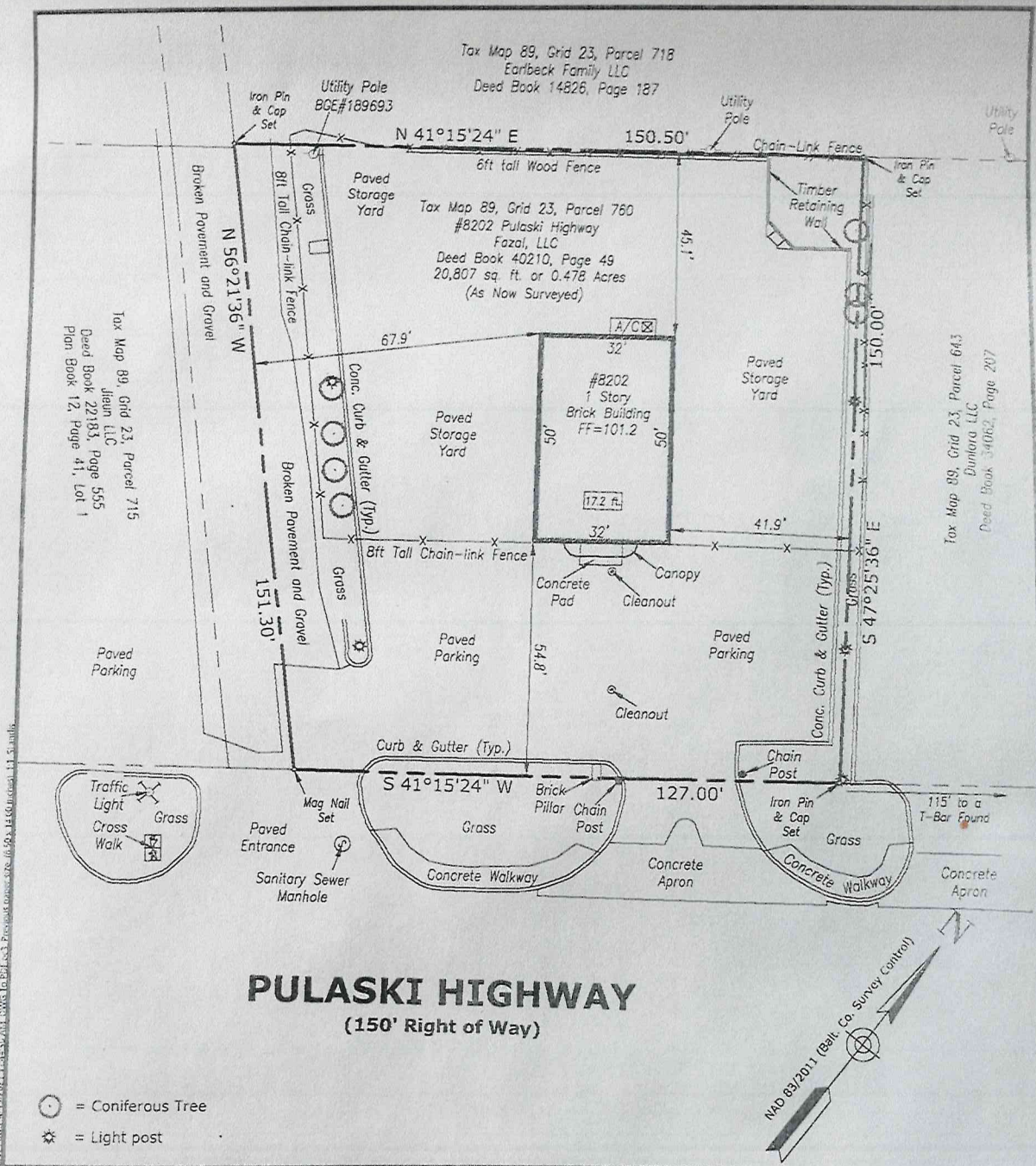
PULASKI HWY

PET. EXHIBIT #3





PET. EX #4



○ = Coniferous Tree
 * = Light post



NOTE:
 This survey was prepared without the benefit of a title report which may reveal additional conveyances, easements, rights-of-way or building restriction lines not shown hereon.

SURVEYOR'S CERTIFICATE
 This is to certify that this Boundary & Location survey was personally prepared by me or that I was in responsible charge over it's preparation and the surveying work reflected in it and that this Survey is in compliance with COMAR Sections 09.13.06.12 of the Minimum Standards of Practice as now adopted by the board for Professional Land Surveyors.

Scott M. Landis
 Scott M. Landis
 Professional Land Surveyor (Maryland No. 21613)
 Expires/Renews: 8-18-2021
 Date: 4/19/2021

BOUNDARY SURVEY & LOCATION DRAWING
FAZAL LLC PROPERTY
#8202 PULASKI HIGHWAY
 15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

BPR LLC
SURVEYORS - LAND PLANNERS
 150 Airport Drive
 Suite 4
 Westminster, Maryland 21157

Phone: (410)-857-9030
 or (410)-876-0333
 Fax: (410)-876-1532
 www.bprsurveying.com

Drawn:	J. R. Garis
Checked:	S. M. Landis
Date:	4/8/2021
Project No. :	21-0328
Scale:	1 inch = 30 feet
Sheet:	1 of 1

PET. EXHIBIT # 5

PHOTO KEY SHEET

PET EXHIBIT #6 PHOTOS A-N





PET EXHIBIT #6A



Pgt EXHIBIT #6B



Pet Exhibit #6C



Pet. Exhibit #60



PET. EXHIBIT # 65



PET. EXHIBIT #6F



PET. EXHIBIT #66



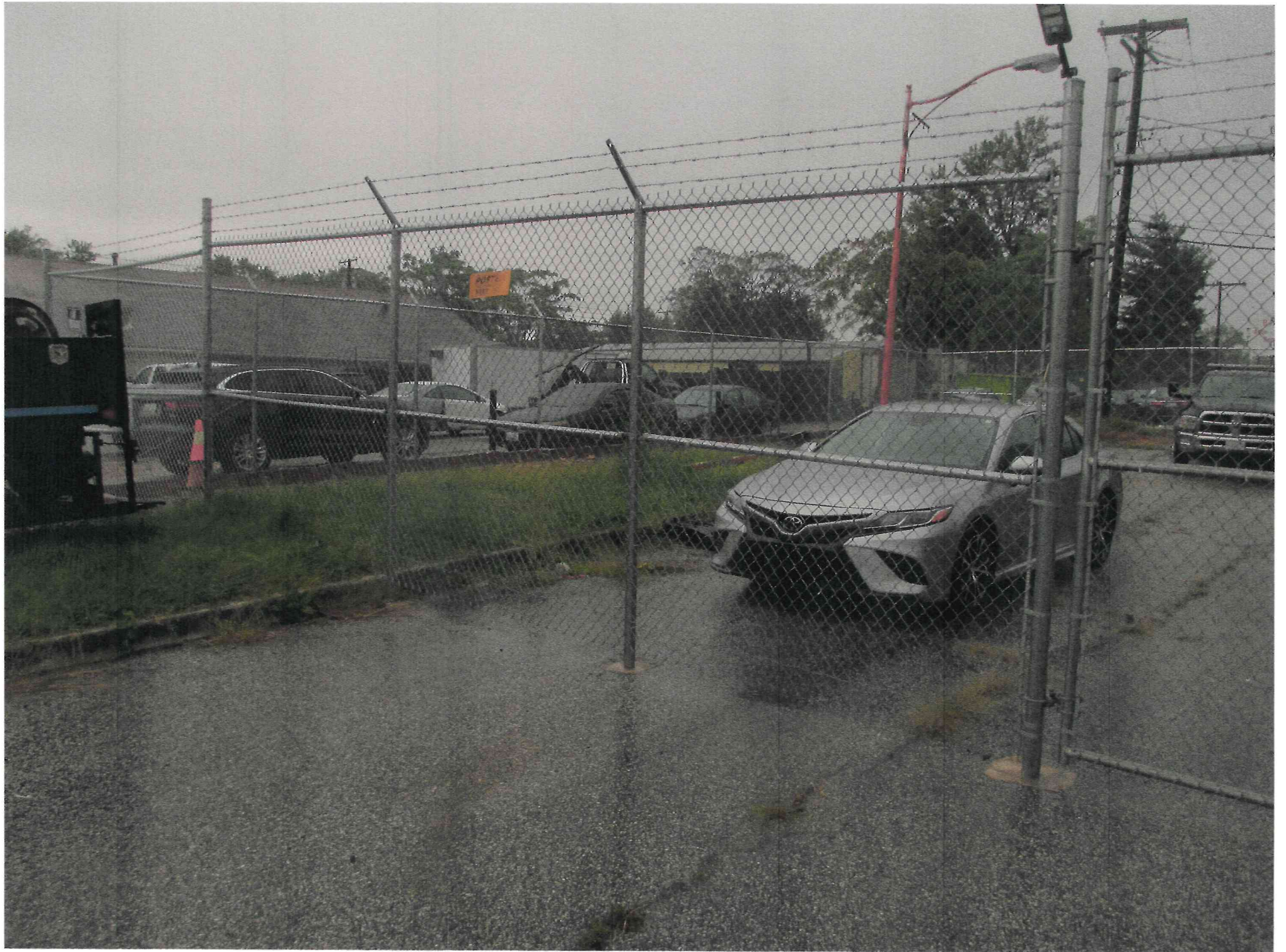
Pet. Exhibit #64



Pet. Exhibit #6-I



Pet. Exhibit #6J



Per. Exhibit #6K.



PET. EXHIBIT #6L



PET EXHIBIT #6M



POT. EXHIBIT #6N

Jerry Zellner

7813 Daniels Ave

Parkville, MD 21234

Phone. 410-804-1125

To whom it may concern,

Dear Sir,

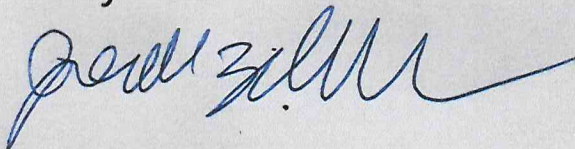
I am the business owner of B-more Buggies 4 Less next door to 8202 pulaski hwy roasdale md 21237. I understand my neighbour apply for varience with a Zero foot setback for new building. I have absolutely no isse with this new zoning and fully support him.

If you have any question please call me.

Thank you

Sincerely.

Jerry Zeller



Attendance Sheet

Attendance Program N: Event Name

- | | |
|---|--|
| 1 | Zoning Hearing - 2021-0201-SPHA -- 8202 Pulaski Highway - Fazal, LLC |
| 2 | Zoning Hearing - 2021-0201-SPHA -- 8202 Pulaski Highway - Fazal, LLC |
| 3 | Zoning Hearing - 2021-0201-SPHA -- 8202 Pulaski Highway - Fazal, LLC |
| 4 | Zoning Hearing - 2021-0201-SPHA -- 8202 Pulaski Highway - Fazal, LLC |

Event Start Date

November 4, 2021 New York Time

November 4, 2021 New York Time

November 4, 2021 New York Time

November 4, 2021 New York Time

Event Start Time

1:30 pm New York Time

1:30 pm New York Time

1:30 pm New York Time

1:30 pm New York Time

FirstName

Qaisar

Edward

Bruce

Maureen

LastName

Shahzad

Hartman

Doak

Murphy

Company

Email

ringotowing1@gmail.com

edward@hartman.law

bdoak@bruceedoakconsulting.com

mmurphy@baltimorecountymd.gov

Join Time

1:20 pm New York Time

1:29 pm New York Time

1:29 pm New York Time

1:16 pm New York Time

Leave Time	Attendance Duration	Chat	Chat sent a Question	Question si	Question si	Priority
2:46 pm New York Time	86.0 mins	N/A	N/A	N/A	N/A	N/A
2:46 pm New York Time	76.0 mins	N/A	N/A	N/A	N/A	N/A
2:46 pm New York Time	77.0 mins	N/A	N/A	N/A	N/A	N/A
2:46 pm New York Time	89.0 mins	N/A	N/A	N/A	N/A	N/A

Answer	Answer ser	Answered I	Responded to
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Panelist List

Name	Email address	Phone number	Time Zone	Language	Locale
Deb Wiley (Alternate Host)	dwiley@baltimorecountymd.gov	1-	New York Time	English	U.S.
Maureen Murphy (Alternate Host)	mmurphy@baltimorecountymd.gov	1-	New York Time	English	U.S.
Paul Mayhew (Alternate Host)	pmayhew@baltimorecountymd.gov	1-	New York Time	English	U.S.
Bruce Doak	bdoak@bruceedoakconsulting.com	1-	New York Time	English	U.S.
C. Edward Hartman	edward@hartman.law	1-	New York Time	English	U.S.
Qaisar Shahzad	ringotowing1@gmail.com	1-	New York Time	English	U.S.
Russell Mirabile	russell3947@gmail.com	1-	New York Time	English	U.S.

Debra Wiley

From: Debra Wiley
Sent: Tuesday, October 12, 2021 10:59 AM
To: Kristen L Lewis
Cc: Donna Mignon; 'Bruce Doak -'
Subject: Case No. 2021-0201-X
Attachments: 20211012110356232.pdf

Kristen,

Please see attached -- for rescheduling purposes.

Thanks.

-----Original Message-----

From: adminhearingscpr@baltimorecountymd.gov <adminhearingscpr@baltimorecountymd.gov>
Sent: Tuesday, October 12, 2021 11:04 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Message from "RNP002673F6C9D3"

This E-mail was sent from "RNP002673F6C9D3" (MP 3055).

Scan Date: 10.12.2021 11:03:56 (-0400)

Queries to: adminhearingscpr@baltimorecountymd.gov

Event Information

Event:	Zoning Hearing - 2021-0201-X -- 8202 Pulaski Highway - Fazal, LLC	Start Event
Type:	Listed Event	You can send event by email
Event address for attendees:	https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=ec4509fab70bd32f6760779e678650e5a	Start Now
Event address for panelists:	https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=ea547faee65ed05f71ce454f15041c4fb	Star
Date and time:	Thursday, November 4, 2021 1:30 pm Eastern Daylight Time (New York, GMT-04:00)	
Duration:	1 hour	
Description:	Zoning Hearing Case No: 2021-0201-SPHA Address: 8202 Pulaski Highway Owner: Fazal, LLC	Send Email
Event number:	2308 324 1742	You can send emails by email
Event password:	1234	Send Email
Host key:	572738	
Alternate Host:	Deb Wiley, Maureen Murphy, Paul Mayhew	Send
Panelist Info:		
Panelist password:		
Panelist numeric password:	158170	
Video Address:	23083241742@baltimorecountymd.webex.com You can also dial 173.243.2.68 and enter your meeting number.	
Audio conference:	US Toll +1-415-655-0001 Show all global call-in numbers Access code: 2308 324 1742	
Maximum number of registrants:	10000	
Destination address after event:		
Host image:		
Attendee list available for viewing by:	Host, presenter and panelists only	
Event material:	None	
Post-event survey:	No	
Email configured:	Pending, Approved, Rejected	

Registration Information

Registration ID required: No
Password required: No
Password:
Approval required: No
Custom registration form: No
After registration, go to URL:

Edit Event

Basic Information:

Asterisks (*) indicate required values.

* **Event type:** Online Event ▼ **Event Template:** – Standard Templates – ▼

* **Event name:** Zoning Hearing - 2021-0201-X – 8202 Pulaski Highw [?]
☒ Listed on public calendar

Registration: ☒ Required

* **Event password:** 1234 [?] The password must be at least 4 characters.

Date & Time:

* **Start date:** November ▼ 4 ▼ 2021 ▼ [?]
 * **Start time:** 1 ▼ : 30 ▼ ☐ am ☒ pm [Plan event time zones...](#)

Estimated duration: 1 hour ▼ 00 ▼ minutes

* **Time zones:** New York (Eastern Daylight Time, GMT-04:00) ▼
☐ Attendees can join 0 ▼ minutes before the scheduled start time

Email reminder: Send me a reminder email None ▼ minutes before event starts

Audio Conference Settings:

Select conference type: Webex Audio ▼

☒ Display global call-in numbers

☐ Provide audio to attendees using Audio Broadcast [?]

☒ Mute upon entry for all participants

Entry & exit tone: No Tone ▼

[Update This Event](#)

Event Description & Options:

Description: Zoning Hearing [?]
 Case No: 2021-0201-SPHA
 Address: 8202 Pulaski Highway
 Owner: Fazal, LLC

[Upload](#) a picture about the event description

Host image: [Upload](#) a picture of yourself or the presenter

Event material: [Upload](#) event material for attendees to download before event starts

Other UCF options: ☐ Do not allow attendees to share rich media files in this event
☒ Request attendees to verify rich media players

Who can view the attendee list: ☐ All participants
☒ Only the host, presenter, and panelists

Video: ☒ Turn on video

Post-event survey: [Create post-event survey](#)
☒ Do not display survey to attendees
☐ Display survey in pop-up window
☐ Display survey in main browser window (instead of destination URL)

Destination URL after event: http://

Attendees & Registration:

Attendees: [Create invitation list](#)
[View invitation list](#)

Invite friends: ☐ Allow registrants to invite friends to this event

Maximum number of registrants:

Registration form: Click [here](#) to customize your registration form

Destination URL after registration:

Approval required: ☐ Yes ☒ No [Set up approval rules](#)

Registration password: ☐ Yes, specify password: The password must be at least 4 characters.
☒ No

Registration ID required: ☐ Yes ☒ No

Presenters & Panelists:

Panelists: [Edit invitation list](#)
[View invitation list](#)

Panelists info: ?

☐ Allow panelists to upload documents associated with the event.

Panelist password: (recommended) The password must be at least 4 characters.

Confirm password:

Email Messages:

Email format: ☐ Plain Text ☒ HTML ☒ Include iCalendar Attachments

Invitation emails: [Attendees](#) | [Panelists](#)

Registration emails: ☒ Pending ☒ Approved ☒ Rejected | [Event In Progress](#)

Event updated emails: [All Approved Registrants](#) | [All Attendees](#) | [All Panelists](#)

Reminder emails: ☐ [1st Reminder](#) November ▼ 4 ▼ 2021 ▼ ☐ am ☒ pm
☐ [2nd Reminder](#) November ▼ 4 ▼ 2021 ▼ ☐ am ☒ pm

Follow-up emails: ☐ [Thank You for Attending](#) November ▼ 4 ▼ 2021 ▼ ☐ am ☒ pm
☐ [Absentee Follow-Up Email](#) November ▼ 4 ▼ 2021 ▼ ☐ am ☒ pm

[Save as template...](#)

[Go Back](#) [Update This Event](#)

Donna Mignon

From: Donna Mignon
Sent: Thursday, October 7, 2021 10:01 AM
To: Lajuanda Whitaker
Cc: Jeffrey N Perlow; Debra Wiley; Kristen L Lewis
Subject: RE: 2021-0201

We had to postpone it on our end due to no Judge being available. Everyone has been informed. Once Kristen gets back we are going to have her set this one in ASAP.

Thank you.

From: Lajuanda Whitaker <lwhitaker@baltimorecountymd.gov>
Sent: Thursday, October 7, 2021 9:59 AM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Cc: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>
Subject: RE: 2021-0201

You as well.

And Jeff asked that I remind you that it was said to not postpone so please advise everyone of the new plan.

Thank You
Lajuanda Whitaker
Office Assistant
Baltimore County Zoning Review Office
Department of Permits, Approvals & Inspections
Phone: 410-887-3391

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Thursday, October 7, 2021 9:50 AM
To: Lajuanda Whitaker <lwhitaker@baltimorecountymd.gov>
Subject: RE: 2021-0201

Good Morning,
Thank you. Henry sent it to us as well.
Thank you for being on top of things.

Have a great day. ☺

From: Lajuanda Whitaker <lwhitaker@baltimorecountymd.gov>
Sent: Thursday, October 7, 2021 9:48 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: 2021-0201

Good Morning,

Please add this to the folder that I gave you yesterday.

Thank You

Lajuanda Whitaker

Office Assistant
Baltimore County Zoning Review Office
Department of Permits, Approvals & Inspections
Phone: 410-887-3391

From: Henry Ayakwah <hayakwah@baltimorecountymd.gov>

Sent: Wednesday, October 6, 2021 1:34 PM

To: Mark Landolina <mlandolina@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; PAI Zoning Advisory Committee <paizac@baltimorecountymd.gov>; Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>

Subject: 21-201

Good afternoon,
Please see the attached zac comments and deed

Thank you
Henry a

Debra Wiley

From: Debra Wiley
Sent: Wednesday, October 6, 2021 11:34 AM
To: Kristen L Lewis; Donna Mignon
Cc: Paul Mayhew
Subject: FW: Case No. 2021-0201-SPHA - 10/14 @ 1:30 PM - 8202 Pulaski Hwy. - TO BE RESCHEDULED

Kristen,

Through no fault of the Petitioner and/or counsel, can you please give this case priority and reschedule ASAP. Unfortunately, Paul was not available and could not hear this case.

Thank you.

From: Debra Wiley
Sent: Wednesday, October 6, 2021 11:32 AM
To: 'Bruce Doak -' <bdoak@bruceedoakconsulting.com>; 'C. Edward Hartman -' <edward@hartman.law>; 'Qaisar Shahzad -' <ringotowing1@gmail.com>; 'Russell Mirabile -' <russell3947@gmail.com>
Cc: Kristen L Lewis <klewis@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; Maureen E Murphy <mmurphy@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: Case No. 2021-0201-SPHA - 10/14 @ 1:30 PM - 8202 Pulaski Hwy. - TO BE RESCHEDULED

Good Morning Gentlemen,

Please be advised that the above-referenced case will need to be rescheduled due to the judge's unavailability.

All parties referenced above will receive a new WebEx invitation once the hearing has been rescheduled.

Please contact Kristen Lewis to reschedule ASAP. She can be reached at 410-887-3391 or klewis@baltimorecountymd.gov

Thank you and our apologies for this inconvenience.

Debra Wiley

From: Debra Wiley
Sent: Wednesday, October 6, 2021 11:32 AM
To: 'Bruce Doak -'; 'C. Edward Hartman -'; 'Qaisar Shahzad -'; 'Russell Mirabile -'
Cc: Kristen L Lewis; Donna Mignon; Maureen E Murphy; Paul Mayhew
Subject: Case No. 2021-0201-SPHA - 10/14 @ 1:30 PM - 8202 Pulaski Hwy. - TO BE RESCHEDULED

Good Morning Gentlemen,

Please be advised that the above-referenced case will need to be rescheduled due to the judge's unavailability.

All parties referenced above will receive a new WebEx invitation once the hearing has been rescheduled.

Please contact Kristen Lewis to reschedule ASAP. She can be reached at 410-887-3391 or klewis@baltimorecountymd.gov

Thank you and our apologies for this inconvenience.

Debra Wiley

From: Donna Mignon
Sent: Wednesday, October 6, 2021 10:49 AM
To: Debra Wiley
Cc: Paul Mayhew
Subject: FW: FYI

Deb,

Can you do this since you are in the office and the file is in Paul's office?

From: Paul Mayhew <pmayhew@baltimorecountymd.gov>
Sent: Wednesday, October 6, 2021 10:47 AM
To: Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: FYI

OK. Thanks.

Can you please find the file for next Thursday's 1:30 hearing and notify all registered panelists and PAI that the hearing will be rescheduled due to my unavailability. Thank you.

Paul M. Mayhew
Managing Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
pmayhew@baltimorecountymd.gov

From: Donna Mignon <dmignon@baltimorecountymd.gov>
Sent: Wednesday, October 6, 2021 8:46 AM
To: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Maureen E Murphy <mmurphy@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: FYI

Good Morning,

Deb is on vacation Thursday and Friday.

I wanted to let you both know that for tomorrow I will log on my usual time 8 and I will be leaving for a dentist appointment at 9. Once I am done with the dentist, I will work from home and log back on. Just wanted to give you a heads up. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Wednesday, October 6, 2021 8:54 AM
To: Lajuanda Whitaker; EDWARD@HARTMAN.LAW; Bruce Doak; Paul Mayhew
Cc: Debra Wiley; Jeffrey N Perlow; Kristen L Lewis
Subject: RE: 2021-0201-SPHA

Hi Lajuanda,
Please bring this file over to our office. Thank you.

From: Lajuanda Whitaker <lwhitaker@baltimorecountymd.gov>
Sent: Wednesday, October 6, 2021 8:53 AM
To: EDWARD@HARTMAN.LAW; Bruce Doak <bdoak@bruceedoakconsulting.com>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Cc: Donna Mignon <dmignon@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: 2021-0201-SPHA

Good Morning,

Please be advised that ZONING case 2021-0201-SPHA has not been postponed.

Thank You

Lajuanda Whitaker
Office Assistant
Baltimore County Zoning Review Office
Department of Permits, Approvals & Inspections
Phone: 410-887-3391

Debra Wiley

Subject: Event cancelled: Zoning Hearing - Case No. 2021-0201-SPHA - 8202 Pulaski Highway - Qaisar Shahzad
Location: <https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e1462a119b2777502974b542981f60498>
Start: Thu 10/14/2021 1:30 PM
End: Thu 10/14/2021 2:30 PM
Recurrence: (none)
Organizer: webex

CAUTION: This message from messenger@webex.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

You canceled the following Webex event.

Host: Debra Wiley (dwiley@baltimorecountymd.gov)

Thursday, October 14, 2021 1:30 pm, Eastern Daylight Time (New York, GMT-04:00)

Need help? Go to <https://help.webex.com>



(https://baltimorecountymd.webex.com/)

Webex Events (classic)

New User Reference
(https://help.webex.com/)

Attend an Event

List of Events
(/ec3300/eventcenter/eventcenter.do?theAction=listevents_detail)

Unlisted Events
(/ec3300/eventcenter/eventcenter.do?siteurl=baltimorecountymd&theAction=unlistedevents)

Event Recordings
(/ec3300/eventcenter/eventcenter.do?theAction=archive)

Search
(/ec3300/eventcenter/eventcenter.do?siteurl=baltimorecountymd&theAction=search)

Host an Event

Schedule an Event
(/ec3300/eventcenter/eventcenter.do?actionType=schedule&theAction=schedule)

Event Deleted

You have successfully deleted the following event.

Event Information

Topic: Zoning Hearing - Case No. 2021-02
Pulaski Highway - Qaisar Shahzad
Host: Debra Wiley
Date and time: Thursday, October 14, 2021 1:30 pm
Eastern Daylight Time (New York, G
Location: https://baltimorecountymd.webex.com

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Panelist List

Name	Email address	Phone number	Time Zone	Language	Locale
Donna Mignon (Alternate Host)	dmignon@baltimorecountymd.gov	1-	New York Time	English	U.S.
Maureen Murphy (Alternate Host)	mmurphy@baltimorecountymd.gov	1-	New York Time	English	U.S.
Paul Mayhew (Alternate Host)	pmayhew@baltimorecountymd.gov	1-	New York Time	English	U.S.
Bruce Doak	bdoak@bruceedoakconsulting.com	1-	New York Time	English	U.S.
C. Edward Hartman	edward@hartman.law	1-	New York Time	English	U.S.
Qaisar Shahzad	ringotowing1@gmail.com	1-	New York Time	English	U.S.
Russell Mirabile	russell3947@gmail.com	1-	New York Time	English	U.S.

Donna Mignon

From: Donna Mignon
Sent: Tuesday, October 5, 2021 7:40 AM
To: Kristen L Lewis; Peter Gutwald
Cc: Paul Mayhew; Debra Wiley
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Attachments: Request for Postponement of 2021-0201-SPHA- 10 14 21.pdf

Importance: High

Good Morning Kristen,
Please find attached the Request for Postponement in regard to the above-referenced matter.
Since this is outside of the 5 days, I am deferring to you. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Tuesday, October 5, 2021 8:49 AM
To: Jeffrey N Perlow; Peter Gutwald
Cc: Debra Wiley; Paul Mayhew
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Attachments: Request for Postponement of 2021-0201-SPHA- 10 14 21.pdf

Importance: High

Hi Jeff,

I just received a message that Kristen is on vacation. Please see the attached. Thank you.

From: Donna Mignon
Sent: Tuesday, October 5, 2021 7:40 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Importance: High

Good Morning Kristen,
Please find attached the Request for Postponement in regard to the above-referenced matter.
Since this is outside of the 5 days, I am deferring to you. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: webmaster@baltimorecountymd.gov
Sent: Tuesday, October 5, 2021 12:22 PM
To: Administrative Hearings
Subject: Request to Testify

Results of Form Submission

Request to Testify

Label	Value
First Name	Russell
Last Name	Mirabile
Email	russell3947@gmail.com
Phone	4438465399
Address	7932 Oakdale Avenue
City	Rosedale
State	Maryland
ZIP Code	21237
Case Number	2021-0201-SPHA
Scheduled Hearing Date	10/14/2021



(https://baltimorecountymd.webex.com/)

Webex Events (classic)

- New User Reference
(https://help.webex.com/)
- Attend an Event
- List of Events
(/ec3300/eventcenter/ever
theAction=listevents_date&
- Unlisted Events
(/ec3300/eventcenter/enrc
siteurl=baltimorecountymd,
- Event Recordings
(/ec3300/eventcenter/reco
theAction=archive)
- Search
(/ec3300/eventcenter/ever
siteurl=baltimorecountymd,
- Host an Event
- Schedule an Event
(/ec3300/eventcenter/sche
actionType=schedule&serv

Event Information

Event:	Zoning h
Type:	Unlisted
Event address for attendees:	https://b
Event address for panelists:	https://b
Date and time:	Thursda Eastern
Duration:	1 hour
Description:	Zoning h Case No 8202 Pu Qaisar S
Event number:	2304 84
Event password:	1234
Host key:	769722
Alternate Host:	Donna M
Panelist Info:	
Panelist password:	

Panelist List

Name	Email address	Phone number	Time Zone	Language	Locale
Donna Mignon (Alternate Host)	dmignon@baltimorecountymd.gov	1-	New York Time	English	U.S.
Maureen Murphy (Alternate Host)	mmurphy@baltimorecountymd.gov	1-	New York Time	English	U.S.
Paul Mayhew (Alternate Host)	pmayhew@baltimorecountymd.gov	1-	New York Time	English	U.S.
Bruce Doak	bdoak@bruceedoakconsulting.com	1-	New York Time	English	U.S.
C. Edward Hartman	edward@hartman.law	1-	New York Time	English	U.S.
Qaisar Shahzad	ringotowing1@gmail.com	1-	New York Time	English	U.S.
Russell Mirabile	russell3947@gmail.com	1-	New York Time	English	U.S.

Donna Mignon

From: Donna Mignon
Sent: Tuesday, October 5, 2021 9:09 AM
To: 'edward@hartman.law'
Cc: 'Bruce Doak'
Subject: Case No: 2021-0201-SPHA 8202 Pulaski Highway

Good Morning:

As you are aware, a virtual Webex hearing has been scheduled for October 14, 2021 at 1:30 p.m. You should have received an invitation in an email which invited you to this hearing when the event was created on or about September 15, 2021.

Please note that all electronic and hard copies of all hearing exhibits, documents, site plans, photographs or evidence of any kind must be submitted in PDF format at **least two full business days** in advance of the hearing to : Office of Administrative Hearings at administrativehearings@baltimorecountymd.gov

Exhibits must be separately numbered and submitted, an exhibit list with the Case Number, an exhibit number and a brief description for each exhibit.

Please bring a hard copy of all exhibits and drop off in our lobby (address below) at least two full business days before the hearing date.

Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Jeffrey N Perlow
Sent: Tuesday, October 5, 2021 2:36 PM
To: Donna Mignon; Peter Gutwald
Cc: Debra Wiley; Paul Mayhew
Subject: RE: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Donna,
Pete's in a meeting, but as soon as I find out his decision on postponement, I will let you know. Thanks!
Jeff

From: Donna Mignon
Sent: Tuesday, October 05, 2021 8:49 AM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Importance: High

Hi Jeff,
I just received a message that Kristen is on vacation. Please see the attached. Thank you.

From: Donna Mignon
Sent: Tuesday, October 5, 2021 7:40 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Importance: High

Good Morning Kristen,
Please find attached the Request for Postponement in regard to the above-referenced matter.
Since this is outside of the 5 days, I am deferring to you. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Bruce Doak <bdoak@bruceedoakconsulting.com>
Sent: Tuesday, October 5, 2021 11:51 AM
To: Paul Mayhew
Cc: edward@hartman.law; Jeffrey N Perlow; Donna Mignon; Qaisar Shahzad
Subject: Re: Case No: 2021-0201-SPHA - Postponement
Attachments: No Postponement Letter 10 05 21.pdf; Exhibits to No Postponement Letter 10 05 21.pdf

Importance: High

CAUTION: This message from bdoak@bruceedoakconsulting.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good morning,

Please find enclosed our response to the request for a hearing postponement. We believe that after reading the enclosed information, you will find the request unfounded and lacking any merit.

Thank you for your consideration.

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

On Oct 5, 2021, at 9:17 AM, Donna Mignon <dmignon@baltimorecountymd.gov> wrote:

Please the attached we received. Thank you.

From: Donna Mignon
Sent: Tuesday, October 5, 2021 8:49 AM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Importance: High

Hi Jeff,
I just received a message that Kristen is on vacation. Please see the attached. Thank you.

From: Donna Mignon
Sent: Tuesday, October 5, 2021 7:40 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>

Cc: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Debra Wiley
<dwiley@baltimorecountymd.gov>

Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Importance: High

Good Morning Kristen,

Please find attached the Request for Postponement in regard to the above-referenced matter.
Since this is outside of the 5 days, I am deferring to you. Thank you.

Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868



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<Request for Postponement of 2021-0201-SPHA- 10 14 21.pdf>

Donna Mignon

From: Paul Mayhew
Sent: Tuesday, October 5, 2021 10:21 AM
To: Jeffrey N Perlow; Donna Mignon; Peter Gutwald
Cc: Debra Wiley
Subject: RE: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Please inform us ASAP as to whether the postponement request is granted or not.

Paul M. Mayhew
Managing Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
pmayhew@baltimorecountymd.gov

From: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>
Sent: Tuesday, October 5, 2021 10:13 AM
To: Donna Mignon <dmignon@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: RE: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Thank you Donna!

From: Donna Mignon
Sent: Tuesday, October 05, 2021 8:49 AM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
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Cc: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Importance: High

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Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103

Towson, Maryland 21204
410-887-3868

Donna Mignon

From: Donna Mignon
Sent: Tuesday, October 5, 2021 9:17 AM
To: 'edward@hartman.law'; 'Bruce Doak'
Subject: FW: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Attachments: Request for Postponement of 2021-0201-SPHA- 10 14 21.pdf

Importance: High

Please the attached we received. Thank you.

From: Donna Mignon
Sent: Tuesday, October 5, 2021 8:49 AM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
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Cc: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Importance: High

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Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

From: Bruce Doak <bdoak@bruceedoakconsulting.com>
Sent: Tuesday, October 05, 2021 11:51 AM
To: Paul Mayhew
Cc: edward@hartman.law; Jeffrey N Perlow; Donna Mignon; Qaisar Shahzad
Subject: Re: Case No: 2021-0201-SPHA - Postponement
Attachments: No Postponement Letter 10 05 21.pdf; Exhibits to No Postponement Letter 10 05 21.pdf
Importance: High

CAUTION: This message from bdoak@bruceedoakconsulting.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good morning,

Please find enclosed our response to the request for a hearing postponement. We believe that after reading the enclosed information, you will find the request unfounded and lacking any merit.

Thank you for your consideration.

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

On Oct 5, 2021, at 9:17 AM, Donna Mignon <dmignon@baltimorecountymd.gov> wrote:

Please the attached we received. Thank you.

From: Donna Mignon
Sent: Tuesday, October 5, 2021 8:49 AM
To: Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Paul Mayhew <pmayhew@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Importance: High

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To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Debra Wiley

<dwiley@baltimorecountymd.gov>

Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30

Importance: High

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Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
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410-887-3868



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<Request for Postponement of 2021-0201-SPHA- 10 14 21.pdf>

Donna Mignon

Subject: Web seminar scheduled: Zoning Hearing - 2021-0201-X -- 8202 Pulaski Highway - Fazal, LLC
Location: <https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e396cd8032f71f84425ab8d0c73e058fe>
Start: Thu 11/4/2021 1:30 PM
End: Thu 11/4/2021 2:30 PM
Show Time As: Tentative
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: webex

CAUTION: This message from messenger@webex.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

When it's time, start the Webex event here.

Host: Donna Mignon (dmignon@baltimorecountymd.gov)
Event number (access code): 2308 324 1742

Thursday, November 4, 2021 1:30 pm, Eastern Daylight Time (New York, GMT-04:00)

Event address for attendees:

<https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e396cd8032f71f84425ab8d0c73e058fe>

Event address for panelists:

<https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=ea369af197fbe46ad39a59e8aeb0>

Start event

Audio conference information

+1-415-655-0001 US Toll

Global call-in numbers

Join from a video system or application

Dial 23083241742@baltimorecountymd.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Panelist numeric password: 158170

If you are a host, click here to view host information:

<https://baltimorecountymd.webex.com/baltimorecountymd/j.php?MTID=e22aed27d7e549245e9ed5d327e1b81e5>

Need help? Go to <https://help.webex.com>

From: Donna Mignon
Sent: Tuesday, October 05, 2021 8:49 AM
To: Jeffrey N Perlow; Peter Gutwald
Cc: Debra Wiley; Paul Mayhew
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Attachments: Request for Postponement of 2021-0201-SPHA- 10 14 21.pdf

Importance: High

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From: Donna Mignon
Sent: Tuesday, October 5, 2021 7:40 AM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>; Peter Gutwald <cpgutwald@baltimorecountymd.gov>
Cc: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Case No: 2021-0201-SPHA - Scheduled for October 14, 2021 at 1:30
Importance: High

Good Morning Kristen,

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Donna Mignon, Legal Assistant
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Donna Mignon

From: webmaster@baltimorecountymd.gov
Sent: Sunday, September 26, 2021 12:15 PM
To: Administrative Hearings
Subject: Request to Testify

Results of Form Submission

Request to Testify

Label	Value
First Name	Qaisar
Last Name	Shahzad
Email	ringotowing1@gmail.com
Phone	4437940669
Address	9243 Bellbeck Rd
City	Parkville
State	Maryland
ZIP Code	21234-1563
Case Number	2021-0201-SPHA
Scheduled Hearing Date	10/14/2021

Donna Mignon

From: Kristen L Lewis
Sent: Wednesday, September 15, 2021 1:04 PM
To: Debra Wiley; Donna Mignon
Subject: Webex 2021-0201-SPHA

Good afternoon,

Below is another case needing a webex created. Thank you,

Case 2021-0201-SPHA
8202 Pulaski Highway
Owners: Qaisar Shahzad – ringotowing1@gmail.com
C. Edward Hartman – edward@hartman.law
Bruce Doak – bdoak@bruceedoakconsulting.com

Kristen Lewis-Coles
PAI – Zoning Review

Debra Wiley

From: Debra Wiley
Sent: Wednesday, September 15, 2021 1:16 PM
To: Kristen L Lewis; Donna Mignon
Subject: LINK - RE: Webex 2021-0201-SPHA

Event Information

Event: Zoning Hearing - Case No. 2021-0201-SPHA - 8202 Pulaski Highway - Qaisar Shahzad
Type: Unlisted Event
Event address for attendees: <https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e5d136>
Event address for panelists: <https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=ee796c>
Date and time: Thursday, October 14, 2021 1:30 pm
Eastern Daylight Time (New York, GMT-04:00)
Duration: 1 hour
Description: Zoning Hearing
Case No. 2021-0201-SPHA
8202 Pulaski Highway
Qaisar Shahzad
Event number: 2304 845 7327
Event password: 1234
Host key: 769722
Alternate Host: Donna Mignon, Maureen Murphy, Paul Mayhew
Panelist Info:
Panelist password:
Panelist numeric password: 419709
Video Address: 23048457327@baltimorecountymd.webex.com
You can also dial 173.243.2.68 and enter your meeting number.
Audio conference: US Toll
+1-415-655-0001
[Show all global call-in numbers](#)
Access code: 2304 845 7327

From: Kristen L Lewis <klewis@baltimorecountymd.gov>
Sent: Wednesday, September 15, 2021 1:08 PM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: RE: Webex 2021-0201-SPHA

Oh sheesh...LOL

10/14 at 1:30 p.m.

I need a nap LOL

From: Debra Wiley <dwiley@baltimorecountymd.gov>

Sent: Wednesday, September 15, 2021 1:05 PM

To: Kristen L Lewis <kLewis@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>

Subject: RE: Webex 2021-0201-SPHA

I need the date and time ... LOL

From: Kristen L Lewis <kLewis@baltimorecountymd.gov>

Sent: Wednesday, September 15, 2021 1:04 PM

To: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>

Subject: Webex 2021-0201-SPHA

Good afternoon,

Below is another case needing a webex created. Thank you,

Case 2021-0201-SPHA

8202 Pulaski Highway

Owners: Qaisar Shahzad – ringotowing1@gmail.com

C. Edward Hartman – edward@hartman.law

Bruce Doak – bdoak@bruceedoakconsulting.com

Kristen Lewis-Coles

PAI – Zoning Review

Debra Wiley

Subject: Web seminar scheduled: Zoning Hearing - Case No. 2021-0201-SPHA - 8202 Pulaski Highway - Qaisar Shahzad
Location: <https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e1462a119b2777502974b542981f60498>
Start: Thu 10/14/2021 1:30 PM
End: Thu 10/14/2021 2:30 PM
Show Time As: Tentative
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: webex

CAUTION: This message from messenger@webex.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

When it's time, start the Webex event here.

Host: Debra Wiley (dwiley@baltimorecountymd.gov)
Event number (access code): 2304 845 7327

Thursday, October 14, 2021 1:30 pm, Eastern Daylight Time (New York, GMT-04:00)

Event address for attendees:

<https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e1462a119b2777502974b542981f60498>

Event address for panelists:

<https://baltimorecountymd.webex.com/baltimorecountymd/onstage/g.php?MTID=e6667f48d378a3ae284f61c30de3>

Start event

Audio conference information

+1-415-655-0001 US Toll

Global call-in numbers

Join from a video system or application

Dial 23048457327@baltimorecountymd.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Panelist numeric password: 419709

If you are a host, click here to view host information:

<https://baltimorecountymd.webex.com/baltimorecountymd/j.php?MTID=e3b3ed59e7bcd8577856c091dccd4ecd8>

Need help? Go to <https://help.webex.com>

Panelist List

Name	Email address	Phone number	Time Zone	Language	Locale
Donna Mignon (Alternate Host)	dmignon@baltimorecountymd.gov	1-	New York Time	English	U.S.
Maureen Murphy (Alternate Host)	mmurphy@baltimorecountymd.gov	1-	New York Time	English	U.S.
Paul Mayhew (Alternate Host)	pmayhew@baltimorecountymd.gov	1-	New York Time	English	U.S.
Bruce Doak	bdoak@bruceedoakconsulting.com	1-	New York Time	English	U.S.
C. Edward Hartman	edward@hartman.law	1-	New York Time	English	U.S.
Qaisar Shahzad	ringotowing1@gmail.com	1-	New York Time	English	U.S.

BALTIMORE COUNTY BOARD OF APPEALS

IN RE: FAZAL, LLC

8202 Pulaski Highway

21-201 SPHA

A Public Deliberation in the
above-entitled matter was held virtually via WebEx
at 9:00 a.m. on December 22, 2022 amongst Deborah
Dopkin, Chairman, Adam Sampson and Fred Lauer,
Board Members.

Transcribed from WebEx video by:

Paula J. Eliopoulos

PROCEEDINGS

CHAIRMAN DOPKIN: Okay. It's 9:00 a.m. on December 22nd, 2022. This is a Public Deliberation of the Board of Appeals for Baltimore County in case number 21-201 SPHA in the matter of Fazal, LLC, the legal owner Qairsar Shahzad President for the property at 8202 Pulaski Highway with regard to a petition for special hearing to amend the Opinion and Order in case number 2019-0171XA and for variance relief to permit a zero foot setback in the rear and side property lines for an 18 foot high building addition in lieu of a required 30 foot minimum rear and side yard setback.

The appeal is of a November 15th, 2021 Opinion and Order of the ALJ wherein both petitions were granted subject to conditions. We held hearings on March 16th and a second day on October 26th, 2022.

The parties submitted written memoranda. I hope you've had time to review them. The Petitioner was represented and had an expert testimony and the Protestants were pro se but did have several witnesses and an engineer who testified as an expert as well.

1 This property is on Pulaski Highway in
2 the eastern part of Baltimore County and is zoned
3 for automotive use which is being made of the
4 property. It's a used car sales lot and the owner
5 wants to add to the building so he can do minor
6 repairs rather than have to move cars off-site.

7 Okay. Mr. Lauer?

8 MR. LAUER: Yes, ma'am.

9 CHAIRMAN DOPKIN: What's your view of
10 how -- of this case?

11 MR. LAUER: Well, I want to point out
12 that one of the issues also raised by the
13 Protestants was notice, just as an issue that I
14 think maybe we should address one way or the
15 other.

16 But my view is that this is zoned for
17 an auto use. I do see the hardship in terms of
18 doing the repair and selling these automobiles and
19 moving them from one location to the other as a
20 practical matter. Adding to the building and with
21 the zoning this is, it seems to me that it is
22 similar to other uses in the area and I don't see
23 a problem with that.

24 In terms of the variance and the
25 hardship, I believe the issues that I jotted down

1 related to those -- had to do with the location of
2 the building in the center of the lot and also in
3 terms of the practical difficulty and hardship, if
4 you will.

5 Also the BG&E lines in terms of
6 requiring certain setbacks were a problem. It
7 appears to me that there's a lot more that needs
8 to be done with BG&E and others after -- if in
9 fact we approve this request here. My overall
10 feel, this is just some input here, is that I
11 would probably vote for the variance and to give
12 them the request -- the leave requested.

13 CHAIRMAN DOPKIN: Let's talk about the
14 notice issue.

15 MR. LAUER: Okay.

16 CHAIRMAN DOPKIN: There was a lot of
17 testimony and evidence that the property was
18 posted which it appears to have been. To me the
19 issue of notice is that everybody showed up and
20 there's case law that says actual notice overcomes
21 the deficiency. And there's a Baltimore County
22 case, I think it's the Swathmore (phonetic) case
23 right on point.

24 So I don't think that defeats the
25 petition.

1 MR. LAUER: I also think that the
2 notice issue should have been raised below and
3 dealt with below either on reconsideration at the
4 time of the hearings or whatever, and I think in
5 part it was. But I think that's the appropriate
6 place for it.

7 CHAIRMAN DOPKIN: We hear these cases
8 de novo, so --

9 MR. LAUER: I know.

10 CHAIRMAN DOPKIN: It can be raised.

11 MR. LAUER: Yes. Okay. I agree with
12 you, by the way.

13 CHAIRMAN DOPKIN: Mr. Sampson?

14 MR. SAMPSON: I concur on the notice
15 issue.

16 You've addressed it and you referred
17 to the case and I don't see it as an issue that
18 precludes us from considering the merits in this
19 case.

20 CHAIRMAN DOPKIN: How about on the
21 special hearing?

22 MR. SAMPSON: I would be inclined to
23 grant the relief. If I understand the application
24 of these facts to the law, I think there is the
25 uniqueness of the building located in the center

1 that virtually renders it unable to be used for
2 the purpose that they're seeking.

3 And while I understand and I think the
4 community's grounds are well articulated and
5 they've done an admirable job preparing for the
6 hearing, presenting their case at the hearing,
7 presenting us with a very specific and relatively
8 short in number of pages which is a positive,
9 memorandum, I just think that the law on these
10 facts is satisfied and that the relief requested
11 is entitled.

12 So I would have gone through the same
13 analysis Mr. Lauer went through. I think that the
14 brief from Fazal, LLC likewise with less detail
15 because they think it's not necessary, hits the
16 high points on these issues and it tracks with how
17 I would actually write an opinion in this case.

18 So I would grant the relief requested.
19 It meets the uniqueness and the hardship Mr. Lauer
20 articulated why and I don't have any disagreement.

21 CHAIRMAN DOPKIN: I would agree with
22 you both and point out that our Statute includes
23 in the uniqueness analysis the buildings, not just
24 the property and this is an adaptive re-use of a
25 building that was -- of a use, I think a fast food

1 or restaurant that had failed, and it's
2 appropriate for the zone.

3 I think many of the issues the
4 Protestants raised will be dealt with as
5 permitting becomes an issue because if the BG&E
6 line is a problem or if the road is a problem,
7 they won't get their permits as they should.

8 I also think based on the conditions
9 in the ALJ's decision this is an opportunity for
10 improving the street scape of this property in a
11 way that will only enhance it. I would probably
12 suggest we add a condition that the Office of
13 Planning get to review the architectural as well
14 as requiring the landscape plan that the ALJ did.

15 Because if this goes forward it should
16 be for the betterment, not just more of the same.

17 So I think we're in agreement. Is
18 there anything you want to add?

19 MR. SAMPSON: No. I would say as
20 usual you do a fine job in very articulately
21 explaining in I think better fashion certainly
22 than myself these grounds and I do appreciate you
23 highlighting something that I did mean to say and
24 I forgot. The idea, and Mr. Lauer did touch on
25 it, the idea of BG&E and other concerns that

1 really are post Board approval if approved. And I
2 think a lot of parties that come before this Board
3 that oppose these petitions think that we are to
4 make all of those determinations and we're not.

5 And we do consider them, and it may be
6 that we could even agree with the opposition, but
7 that's for permitting. And it's possible that the
8 permits are never issued and the project doesn't
9 proceed.

10 This is just me adding on at the end,
11 because I think it would -- I don't know how to
12 help the community in these cases understand that,
13 but maybe it helps, maybe it's just cold comfort.

14 But these are precise issues that are
15 not before us but the case doesn't end with us,
16 it's just a step in the staircase of procedure
17 that a party has to go through and ultimately to
18 achieve final approval to do the project as
19 designed.

20 CHAIRMAN DOPKIN: That's very well
21 put. And that's one of the reasons I would add
22 Office of Planning review because the community
23 has fewer tools in their toolbox if a permit is
24 issued under the Code so that the levels of review
25 give them some input with the local planners who

1 are very sensitive to community concerns.

2 We hear them, we recognize them.
3 We're limited in what we can do so we do what we
4 can.

5 MR. SAMPSON: Yes. Thank you for
6 your--

7 CHAIRMAN DOPKIN: I appreciate your
8 comments.

9 MR. SAMPSON: I appreciate your
10 leadership in this one as with most of them.

11 CHAIRMAN DOPKIN: Well, thank you.
12 Which is going to end in a week.

13 MR. LAUER: No, but you can still lead
14 as chairing these various panels.

15 CHAIRMAN DOPKIN: You're so kind.

16 Well I hope you all have a wonderful,
17 happy, healthy holiday. I don't think I'll see
18 you again until the new year.

19 MR. LAUER: Okay. Thank you very
20 much.

21 MR. SAMPSON: I think I see you again
22 at 10:00. Have a good holiday.

23 MR. LAUER: Right. I'll see you then.

24 CHAIRMAN DOPKIN: All right. I'm
25 going off the record.

1 MR. LAUER: Thank you. Happy
2 holidays.

3 (Proceedings concluded)

1 CERTIFICATE OF TRANSCRIBER

2 STATE OF MARYLAND

3 BALTIMORE COUNTY:

4 I hereby certify that the above-entitled
5 proceedings heard in the Circuit Court for
6 Baltimore County on the above-mentioned date were
7 recorded by means of audio recording.

8 I certify that the foregoing is a true
9 and accurate transcription of the proceedings
10 indicated as transcribed by me.

11 I further certify that I am not a
12 relative of or an employee of any of the parties
13 herein and that I have no interest in the outcome
14 of the proceedings.

15 As witness whereof, I have affixed my
16 signature this 27th day of December, 2022.

17
18 *Paula J. Eliopoulos*
19 _____

20 Paula J. Eliopoulos

21 Court Reporter/Transcriber

22
23 My Commission Expires:24 June 15, 2024
25

BALTIMORE COUNTY BOARD OF APPEALS

IN RE: FAZAL, LLC

8202 Pulaski Highway

21-201 SPHA

A hearing in the above-entitled matter
was held virtually via WebEx on October 26, 2022
before Deborah Dopkin, Chairman, Adam Sampson and
Fred Lauer, Board Members.

On Behalf of the Petitioner:

Nicholas Ketterer, Esquire

On Behalf of the Appellant:

Russell Mirabile

Transcribed from WebEx video by:

Paula J. Eliopoulos

PROCEEDINGS

MS. DOPKIN: Mr. Ketterer?

MR. KETTERER: This is Nicholas Ketterer. Hello.

MS. DOPKIN: As I was saying, this is a public hearing before the Board of Appeals in Baltimore County, Maryland in the matter of Fazal, LLC, the legal owner of 8202 Pulaski Highway in case number 21-201 SPHA regarding a Petition for Special Hearing pursuant to Baltimore County Zoning Regulations 500.7 to amend the Opinion and Order in case number 20190171XA and for variance relief from BCCR Section 238.2 to permit a zero foot setback from the rear and side property lines or an 18 foot high boating addition in lieu of the required 30 foot minimum rear and side yards, and a November 15th, 2021 -- the appeal of a November 15th, 2021 Opinion and Order of the Administrative Law Judge which granted the requested relief.

This hearing is being held remotely and virtually and is being recorded. My name is Deborah Dopkin and with me are Board members Fred Lauer and Adam Sampson.

I would ask anyone in attendance to please mute yourself unless you're speaking to the

1 Board and if you are attending solely by telephone
2 to please call the Office of the Board at 887-3180
3 and identify what your phone number is or at least
4 the first three digits so we can let you speak if
5 that is your desire.

6 This is day 2, as I said, of a hearing
7 that was commenced on March 16th of this year. So
8 I would ask counsel to identify yourself for the
9 record.

10 MR. KETTERER: Nicholas Ketterer,
11 K-e-t-t-e-r-e-r on behalf of Fazal LLC. Joined by
12 Qairsar Shahzad who is --

13 MS. DOPKIN: We're not hearing you,
14 Mr. Ketterer.

15 MR. KETTERER: Can you hear me now?

16 MS. DOPKIN: Yes, but not very well.

17 MR. KETTERER: Is this better?

18 MS. DOPKIN: Volume.

19 Mr. Ketterer, you're muted. Would you
20 please --

21 MR. KETTERER: Yes. I just changed my
22 input. Is this better?

23 MS. DOPKIN: Yes. Would you please
24 again tell us your name and who you represent.

25 MR. KETTERER: Yes. Nicholas

1 Ketterer, K-e-t-t-e-r-e-r, Hartman Attorneys at
2 Law here for Petitioner Fazal LLC and Qaisar
3 Shahzad.

4 MS. DOPKIN: Thank you. And who is
5 the spokesman for the Appellant?

6 Mr. Mirabile, is there someone who
7 will be speaking on your behalf or are you the
8 spokesman for --

9 MR. MIRABILE: Yes, ma'am. I'm the
10 spokesperson for the community association and I'm
11 a citizen of Rosedale.

12 MS. DOPKIN: I'm sorry, would you
13 identify yourself.

14 MR. MIRABILE: Yes. Russ Mirabile.
15 I'm President of the Rosedale Community
16 Association. My address is 7932 Oakdale Avenue,
17 Rosedale, Maryland 21237.

18 MS. DOPKIN: Thank you.

19 MR. SAMPSON: Can we have him identify
20 who else is on the Zoom there in the room with
21 him.

22 MR. BROYLES: I'm Steven Broyles. I'm
23 a licensed professional engineer and land surveyor
24 and I'm the expert today for Rosedale Community
25 Association. I've been retained by them.

1 MS. DOPKIN: And who else is with you?
2 I see four people.

3 MR. EARLBECK: I am Jim Earlbeck,
4 President of Earlbeck Corporation doing business
5 as Earlbeck Gases and Technologies. I'm also a
6 managing partner of Earlbeck, LLC, the land owner
7 at 8204 Pulaski Highway.

8 I'm also the managing partner of
9 Dunlora LLC and I'm a property owner at 8202
10 Pulaski Highway, which is the adjoining property.

11 MS. EARLBECK: And I am Alison
12 Earlbeck. I am just here as IT support today.

13 MS. DOPKIN: Always a good thing.

14 Okay.

15 MR. MIRABILE: Ms. Dopkin, I have Paul
16 King is right next door. I just texted him to
17 come over. He is also going to be a witness or
18 present here in a few minutes.

19 MS. DOPKIN: We will -- when the time
20 comes we will have him sworn in and identified.

21 MR. MIRABILE: That would be fine.

22 MR. SAMPSON: Ms. Dopkin, one
23 procedural problem. I apologize. My County
24 computer says it is going to restart in nine
25 minutes and it appears as though I cannot block

1 that. I need to sign out and back on through my
2 office computer. I apologize.

3 MS. DOPKIN: Then we will let you do
4 that.

5 And why don't you do that now.

6 MR. SAMPSON: Yes. It will just take
7 a moment. I'll be right with you.

8 MS. DOPKIN: Thank you, Mr. Sampson.

9 (Pause)

10 MR. SAMPSON: Are you able to hear me?
11 I don't hear you.

12 MR. LAUER: Yes, I can hear you.

13 MS. DOPKIN: Yes. We're good. We can
14 see you and hear you. I have made you a panelist.
15 And I think we can now proceed.

16 My recollection, and I would --

17 MR. SAMPSON: I'm going to have to log
18 out and try again. I'm not getting any audio.

19 (Pause)

20 MS. DOPKIN: Okay. We will -- we hear
21 you. We will wait for Mr. Sampson again.

22 But as I started to say, my
23 recollection is that Mr. Hartman had concluded
24 Petitioner's case and Mr. Mirabile had commenced
25 the Protestant's case but was having technical

1 difficulties and unable to present his exhibits.

2 But that I believe has been remedied.

3 Let's see if Mr. Sampson can hear us
4 now. Can you hear us now?

5 MR. SAMPSON: I can't hear you. It's
6 so frustrating.

7 (Pause)

8 MS. DOPKIN: I'm going to suggest if
9 everyone is amenable, it's 10 after 10:00 that we
10 take a five minute break.

11 MR. SAMPSON: I have no way of hearing
12 you. I'm not hearing anything anybody is saying.

13 MS. DOPKIN: What I was going to
14 suggest is that we take a five minute break until
15 Mr. Sampson's County computer comes back on line
16 so that we can then have him fully participate.
17 And I apologize for the inconvenience. I'm not
18 going to leave the hearing, I'm just going to
19 pause the recording until Mr. Sampson can rejoin
20 us.

21 And let's reconvene at 10:30 and hope
22 that he is --

23 MR. SAMPSON: I'm on. I got it.

24 MS. DOPKIN: Oh.

25 MR. SAMPSON: Sonny walked me through.

1 I apologize to everyone.

2 MS. DOPKIN: All right. Then we won't
3 take a break.

4 I believe where we were is that Mr.
5 Hartman had concluded his case in chief and that
6 we are now -- Mr. Mirabile was presenting
7 Protestant's case but had some technical
8 challenges which he has since overcome, so I
9 believe it is the Protestant's case.

10 Are there any preliminary matters you
11 want to address, Mr. Ketterer, before we proceed
12 on that basis?

13 MR. KETTERER: That is my
14 understanding of the current posture. I do not
15 have any preliminary matters. I didn't know if
16 the Board wanted to maybe hear a recitation of the
17 case in chief. But I was not there, so I only
18 know from the notes. We're ready to go. I do not
19 have any preliminary matters.

20 MS. DOPKIN: No, I think we're good.
21 Unless Mr. Lauer or Mr. Sampson wants anything
22 from you, I think we can proceed with Mr.
23 Mirabile's case.

24 Mr. Sampson and Mr. Lauer, are you
25 good?

1 MR. LAUER: I agree.

2 MR. SAMPSON: Yes.

3 MS. DOPKIN: Okay. Mr. Mirabile?

4 MR. MIRABILE: Yes. First I'd like to
5 thank the Board for the time we had to extend for
6 Steve who had a major health problems. I
7 appreciate everybody's understanding on that.

8 That's my first statement. And that's
9 about it. So I would like to go ahead and start
10 in --

11 MR. LAUER: Your Honor, excuse me.
12 I'm sorry, but I am having trouble hearing Mr.
13 Mirabile. I don't know about you all but maybe we
14 can do something to clarify it a little more.

15 MR. EARLBECK: We are attempting to do
16 that right now. Can you hear me okay?

17 MR. LAUER: Now I can. Thank you.

18 MR. EARLBECK: You can.

19 MR. BROYLES: Where's the mike at.

20 MS. EARLBECK: Can you guys hear okay
21 now?

22 MS. DOPKIN: We can hear you and we
23 can hear Mr. Earlbeck. I think Mr. Mirabile is a
24 little further away from your mike and was
25 speaking a little quickly.

1 Can you slow down and try to face the
2 microphone.

3 MR. MIRABILE: Yes.

4 MS. DOPKIN: Let's try it again.

5 MR. MIRABILE: I first want to thank
6 the Board and you, Ms. Dopkin about having an
7 extensive time due to Steve Broyles' illness. It
8 was deeply appreciated. I know Steve appreciated
9 that.

10 I now will go into -- I am Russ
11 Mirabile, President of the Rosedale Community
12 Association.

13 MS. DOPKIN: Mr. Mirabile, can you
14 move closer to -- I realize you're reading from
15 some prepared notes but every time you put your
16 head down, we lose you.

17 MR. MIRABILE: Okay.

18 MR. BROYLES: Sit here, Russ.

19 MS. DOPKIN: Let's see if this is
20 better.

21 MR. EARLBECK: And we have one more
22 technical adjustment if needed.

23 MS. EARLBECK: I'm going to move this
24 over here.

25 MR. EARLBECK: That should be clearer.

1 MR. MIRABILE: Thank you. Once again,
2 I want to -- can everybody hear me now?

3 Once again I want to thank the Board,
4 especially Ms. Dopkin for allowing us to have an
5 extension of time due to Steve Broyles' illness.
6 It was greatly appreciated by me and I definitely
7 know by Steve.

8 I'm Russ Mirabile, the President of
9 the Rosedale Community Association. I also live
10 in Rosedale. The address of both is 7932 Oakdale
11 Avenue, Rosedale, Maryland 21237.

12 I first would like to --

13 MS. DOPKIN: If you will -- are you
14 going to be testifying or merely presenting your
15 case?

16 MR. MIRABILE: Merely presenting the
17 case, Ms. Dopkin.

18 MS. DOPKIN: Pardon?

19 MR. MIRABILE: Yes, ma'am, just
20 presenting the case. But I can go both ways. If
21 you want me to testify, I can testify.

22 MS. DOPKIN: Now, you were sworn in at
23 our first hearing.

24 MR. MIRABILE: Yes.

25 MS. DOPKIN: And I think we should

1 probably just out of an abundance of caution swear
2 you in again. Mr. Lauer, would you do so, please.

3 MR. LAUER: Yes, sir. Would you raise
4 your right hand, please.

5 Whereupon

6 RUSSELL MIRABILE,
7 called as a witness, having been first duly sworn
8 to tell the truth, the whole truth, and nothing
9 but the truth, was examined and testified as
10 follows:

11 MR. LAUER: And please, again, state
12 your name and give us your address for the record.

13 MR. MIRABILE: Russ Mirabile, 7932
14 Oakdale Avenue, Rosedale, Maryland 21237.

15 MR. LAUER: Thank you, sir.

16 MR. MIRABILE: If I may add that Paul
17 King is also present now. He was on his way over
18 and he's sitting at the table now.

19 MS. DOPKIN: Well, when you call your
20 witnesses, we will swear them in individually.

21 MR. MIRABILE: Okay. That's fine.

22 Ms. Dopkin, did you want me to clarify
23 Rule 8, or Title 8?

24 MS. DOPKIN: If you will be -- yes.
25 If you have your Rule 8 documents and will be

1 having yourself or anyone else represent the
2 Association, we will need those to be entered.

3 MR. MIRABILE: This is Exhibit 1A.

4 MS. DOPKIN: You're in a position to
5 share your screen, but we do not see anything.

6 MS. EARLBECK: We're going to do it in
7 just a minute. I'm pulling it up right now.

8 MR. SAMPSON: And I'm keeping track of
9 the exhibits, so I just want to ask you to be
10 clear. You've said already Exhibit 1A of which
11 there is none.

12 So you've got a pre-submitted list
13 that begins with AAA0 and then has a series of
14 AAAs and then it's Exhibit 01.

15 So can you please, when you present an
16 exhibit track your own list here and describe what
17 it is that you're presenting, please.

18 MR. MIRABILE: Yes, sir.

19 MR. SAMPSON: Thank you.

20 MR. MIRABILE: We'll go with the, just
21 as you suggested, AAA1-A. And that's a signature,
22 if you can find it --

23 MS. DOPKIN: And what Exhibit is this?

24 MR. MIRABILE: Pardon me, ma'am?

25 MS. DOPKIN: And you are offering this

1 as Exhibit what?

2 MR. MIRABILE: I have it, Steve,
3 what's the one that you have it on?

4 MR. BROYLES: I have it AAA 0. And
5 that's the State Department of Assessments and
6 Taxation, Certificate of Good Standing. It's an
7 e-mail from them to indicate that the Rosedale
8 Business is in good standing with the State
9 Department of Assessments and Taxation.

10 MS. DOPKIN: Please proceed.

11 MR. MIRABILE: Okay. That signature
12 there should be a -- my signature is not on that
13 list only because I had the Vice President sign it
14 with the Secretary but then I thought that your
15 rules did say the President. So the second
16 Exhibit which would be AAA1-B. At the bottom
17 you'll see that my name has also been added.
18 Well, this is going -- if you keep going.

19 MR. BROYLES: No, no. It's on the --
20 go up. It's on the paragraph where it says both
21 issues were voted upon.

22 MS. DOPKIN: Would you please go to
23 the top of the page so we can see the whole
24 document.

25 MR. BROYLES: Can you click it so it's

1 the whole page?

2 MS. EARLBECK: Yes. Can you guys see
3 that okay?

4 MS. DOPKIN: Yes.

5 MR. MIRABILE: Do you have the next
6 one where my signature is on the bottom left?

7 MS. EARLBECK: What's the exhibit
8 number?

9 MR. BROYLES: AAA 2.

10 MS. EARLBECK: That's this one.

11 MR. BROYLES: That's it right there,
12 Russ.

13 MR. MIRABILE: No. No. That's for
14 Attorney Hartman. That's -- this, it's AAA1-A or
15 1B. See this is my list. That's --

16 MS. EARLBECK: I don't think that
17 there is --

18 MS. DOPKIN: Well, Mr. Mirabile--

19 MR. MIRABILE: Yes, ma'am.

20 MS. DOPKIN: -- the first exhibit that
21 you offered is AAA-0 which is a Certificate of
22 Good Standing.

23 MR. MIRABILE: Okay .A.

24 MS. DOPKIN: The second page you've
25 offered is -- stop right there -- also identified

1 as AAA 00 which is just identifying the case.

2 What is the third page you've offered?

3 MR. MIRABILE: It's AAA1-B as in baby.

4 MS. DOPKIN: Can you go to that page,
5 please. Stop. Go back to the next -- this is AAA
6 1 which is a letter dated April 21st, 2022
7 directed to three people, the County Councilman,
8 Representative Diane Clyde, Homes of America and
9 to this Board in addressing our Rule 8. And that
10 for the purpose of a second -- and the Title 8
11 attendance opportunity 80 -- the second issue was
12 to be taken on Rule Title 8 for Baltimore County
13 Board of Appeals representative for the purpose of
14 speaking on behalf of the Rosedale Community
15 Association with regard to 8202 Pulaski Highway
16 and in addition to both issues were voted upon,
17 received approval and Russ Mirabile received
18 permission to represent -- I assume that means the
19 Rosedale Association with this variance case.

20 And what was the next page you
21 offered?

22 MR. MIRABILE: The next page was
23 AAA1B.

24 MS. DOPKIN: Can you please scroll to
25 that?

1 MS. EARLBECK: I don't think we have
2 that.

3 MR. MIRABILE: We have that from the
4 Board. We have that from the Board. That was in
5 -- that has my signature on it.

6 MS. DOPKIN: Well this says AAA2 and
7 is dated September 15th, 2022 --

8 MR. BROYLES: It's Exhibits QSA1B2, I
9 think. No, that's a subpoena. We don't have
10 that, Russ.

11 MR. MIRABILE: It's been stamped and
12 in. We have to have it.

13 MR. BROYLES: It's been stamped, but
14 the e-mail the Board sent us when they scanned
15 them, it was not included. Just move on.

16 MS. DOPKIN: So what, this is a letter
17 to Attorney Hartman from Mr. Mirabile inquiring
18 about the attendance of the Petitioner at the
19 hearing. What is the next page you offered?

20 MR. MIRABILE: The next one was AAA0
21 which means I'm in good standing from the State of
22 Maryland, that the Community Association.

23 MS. DOPKIN: No, no, no. Let's go
24 through these in the order that they've appeared.

25 MR. MIRABILE: Okay. Well, that's--

1 MS. DOPKIN: The next page is
2 identified by a yellow sticker AAA3 and it is from
3 the Rosedale Association to Attorney Hartman.

4 MR. KETTERER: I'm going to go ahead
5 and object to 2 and 3 already as settlement,
6 non-admissible settlement discussions.

7 And they are letters from him to our
8 firm that are not relevant.

9 MS. DOPKIN: And have these been in
10 any way -- Mr. Mirabile, are these just being --
11 why are these being offered?

12 MR. MIRABILE: To satisfy Title 8.
13 That was a major issue --

14 MS. DOPKIN: Your first two exhibits I
15 think did that. This does not advance that.

16 How do you say this addresses Rule 8?

17 MR. BROYLES: Just withdrawn.

18 MR. MIRABILE: No, I'm not.

19 In the rule it states that I had to
20 have a meeting and -- from the community
21 association with a special meeting to take a
22 raising of hands if I'm to represent the community
23 association at this hearing.

24 MS. DOPKIN: Your prior exhibit did
25 that.

1 MR. MIRABILE: Right. Okay. So I'm
2 just trying to comply and be assured that I'm able
3 to speak for the Community Association.

4 MS. DOPKIN: Well, I think you've
5 satisfied that with your prior exhibit.

6 Was it attested to by your Secretary?

7 MR. MIRABILE: Yes, ma'am. Secretary
8 and also the Vice President.

9 MS. DOPKIN: I'm going to say that
10 this Exhibit which is labeled AAA3 will not be
11 admitted if it is solely addressing settlement
12 negotiations.

13 What is your next page that you've
14 offered?

15 MR. MIRABILE: Ma'am, I just looked at
16 the Board. AAA3, okay, I'm going to say -- you
17 will not -- okay. That's fine. You will not
18 admit that. That's oaky.

19 MS. DOPKIN: Is there another page
20 being offered at this time?

21 MR. MIRABILE: Okay.

22 MS. DOPKIN: Wait. You didn't answer
23 my question. Ms. Earlbeck, is that everything
24 that is on the screen?

25 MS. EARLBECK: AAA4. Do you want to

1 go over that?

2 MR. MIRABILE: AAA4 is the map that is
3 required under the rules as well to identify the
4 Rosedale area.

5 MS. DOPKIN: Okay. AAA4 is the
6 boundaries of the Rosedale Improvement
7 Association.

8 MR. MIRABILE: Yes, ma'am.

9 MS. DOPKIN: Okay. Is there another
10 page, Ms. Earlbeck?

11 MS. EARLBECK: No. That is the last
12 page in this one, and then we go to Exhibits 1
13 through 10.

14 MS. DOPKIN: With the exception of, I
15 think it was AAA3, we will admit the Rule 8
16 documents.

17 MR. KETTERER: Madam Chairman, if I
18 may interject. I also requested AAA2 which I also
19 believe is a settlement letter be --

20 MS. DOPKIN: And we will -- okay. We
21 will not admit AAA 2 and 3.

22 Thank you, Mr. Ketterer.

23 Please -- Mr. Sampson, you're good
24 with that?

25 I can't hear you.

1 MR. SAMPSON: Yes. I have AAA0,
2 AAA00, AAA1, those are all admitted. AAA2 and 3
3 are not.

4 MS. DOPKIN: And AAA4 is.

5 MR. SAMPSON: Thank you.

6 MS. DOPKIN: Thank you.

7 (Exhibits AAA0, AAA00, AAA1 and AAA
8 4 were admitted into evidence)

9 Mr. Mirabile, please continue.

10 MR. MIRABILE: Yes, ma'am.

11 The Rosedale Community -- I'm going to
12 give you an opening statement, ma'am.

13 The Rosedale Community Association
14 represents the residents and businesses in the
15 Rosedale community as in good standing as of the
16 Maryland Community Association with the State
17 Department of Assessment and Taxations. And we
18 just went over the exhibits, I think it's 01 and
19 AA0.

20 In reference to the Board Rule 8, we
21 just went over that and that's acceptable. The
22 opening statement is the Rosedale Community
23 Association opposes the granting of the zoning
24 case number 2021-0201-SPHA for 8202 Pulaski
25 Highway, Baltimore Maryland 21237, that's supposed

1 to be 37, that's an error on my part for the
2 following concerns and reasons:

3 Number one, the zoning case number
4 2021-0201 SPHA for 8202 Pulaski Highway, Baltimore
5 Maryland 21237 was not properly posted and listed
6 the incorrect hearing date of 10/14/2021 as the
7 rescheduled date was 11/4/2021.

8 MR. KETTERER: All of that is moot.
9 We're well past that.

10 MR. MIRABILE: But that was --

11 MS. DOPKIN: Excuse me. Are you
12 raising an objection?

13 MR. KETTERER: I am. He's making
14 conclusory statements about irrelevant -- it's
15 irrelevant at this time.

16 MS. DOPKIN: I will let him make his
17 statement and you can respond.

18 MR. KETTERER: I understand, Your
19 Honor.

20 MS. DOPKIN: Please continue.

21 MR. MIRABILE: Do you want me to
22 respond to his opposition, ma'am, or continue on--

23 MS. DOPKIN: I would like you to read
24 your statement and then at the conclusion Mr.
25 Ketterer can respond if he has further objections.

1 MR. MIRABILE: Okay. The fence in the
2 center of Batavia Farm Road site plan, the fence
3 has been removed from the Petitioners on
4 approximately October 18th, 2021. Petitioner's
5 site plan is not accurate, has multiple errors and
6 omissions.

7 The various Petition A, 4A, even
8 though this property was previously adjudicated to
9 be unique in this case number 2019-0117-XA and the
10 property and existing building have not changed.
11 This is a new variance for a structure setback
12 variance, not a car parking or vehicle inventory
13 storage setback variance. It should have been
14 retried and re-adjudicated.

15 B, 4B, the property is not unique or
16 unusual and different in nature from the
17 surrounding properties.

18 4C, an alleged practical difficulty or
19 undue hardship would have been due to a change of
20 existing use, which was a result of the
21 Applicant's own actions.

22 4D, this variance is not a conforming
23 -- conformance with the spirit and intent of
24 Baltimore County Zoning Regulation BZ BCZR. This
25 variance cannot be granted without a substantial

1 injury to public health, safety and general
2 welfare.

3 4F, the variance approval placing the
4 proposed building against the rear property line
5 with BG&E overhead 13,200 volts primary feeder
6 power lines creates a multiple safety,
7 electrocution and fire hazards. Furthermore, zero
8 rear yard setback violates building, fire and life
9 safety codes currently in effect.

10 5, special hearing. The site plan for
11 case number 2021-010201-SPHA which amends case
12 number 20190171-XA includes a new structure
13 addition with a zero setback on the rear and east
14 side property line and also includes extending a
15 chain link 15 foot into the center of Batavia Farm
16 Road, private road, 30 feet wide, and utilizing
17 the east half Batavia Farm Road for tow truck
18 parking.

19 Although the 8 foot fence was removed
20 on 10/8/22, if this amendment site plan and zoning
21 case is approved, the PET could re-install the
22 fence in the previous location in the center of
23 Batavia Farm Road as the amended site plan is
24 inaccurate and this petition should be denied.

25 Furthermore, this amended site plan

1 and case is detrimental to the health, safety,
2 general welfare of the locality involved. It
3 creates congestion in roads, streets, alleys
4 therein. It creates a potential hazard from fire
5 and panic, tends to over crowd the land. It
6 interferes with adequate provisions for
7 transportation and other public requirements,
8 interferes with adequate light and air.

9 It is inconsistent with the purposes
10 of the property's zoning classifications and is
11 inconsistent with the spirit and intent of these
12 zoning regulations.

13 6, although the 8 inch -- 8 foot of
14 chain link fence has recently been removed, the
15 Rosedale Community Association opposes the future
16 extension of said fence, use and storage of
17 vehicles on the east 15 foot to the center of the
18 Batavia Farm Road 30 foot wide private roadway
19 used by the public and all property owners
20 bounding therein.

21 Rosedale Community Association
22 requests the Board to deny any request for
23 fencing, parking, or any use except ingress and
24 egress to the site for PET to encroach into the 30
25 foot wide right of way for the private Batavia

1 Farm Road.

2 If the road is closed through a road
3 closing procedures in the future, the Petitioner
4 would have to amend this site plan, special
5 hearing and a variance. If this cannot be agreed
6 upon, the Rosedale Community Association must go
7 through the lengthy process today of proving our
8 case with the open use egress, ingress and egress
9 of Batavia Farm private road for the Rosedale
10 public, community at large.

11 Case at issue --

12 MR. BROYLES: This is the issue of it
13 not being posted properly.

14 MR. MIRABILE: Okay. There are cases
15 that are at issue is the zoning case 2021-0201
16 SPHA for 8202 Pulaski Highway Baltimore, Maryland
17 21237 was not properly posted and listed the
18 incorrect hearing date of 10/14/2021 as the
19 rescheduled date was 11/4/21 and should have been
20 reposted on the correct date 20 days prior to the
21 hearing.

22 RCA requests the case be denied and/or
23 remanded back to the original Administrative Law
24 Judge where as the community at large would have
25 proper notice to participate.

1 Exhibit 18, should we put that up now?

2 MS. EARLBECK: It is up.

3 MR. MIRABILE: Okay. Correspondence
4 from Jim Earlbeck dated 3/3/2022 noting on
5 11/3/2022 the posting sign indicated hearing date
6 of 10/14/2021. Exhibit 18A, photo of posting sign
7 with --

8 MR. KETTERER: I have to object.
9 They're referencing exhibits not in evidence.

10 MR. BROYLES: Well, we're offering
11 them.

12 MR. MIRABILE: That's why we're
13 offering them in now so we can have them.

14 MR. SAMPSON: Ms. Dopkin, if I can ask
15 a question. I've lost procedurally what we're
16 doing.

17 Is this argument? Is this testimony?
18 What is this?

19 MR. BROYLES: We're offering exhibits
20 and Mr. Earlbeck is going to testify.

21 MS. DOPKIN: Well, I believe --

22 MR. SAMPSON: First of all, can we
23 have a little more order here? Because Mr.
24 Mirabile is the representative. I don't know who
25 keeps talking to guide him, but that's not proper

1 procedure.

2 So I don't know that this is how we
3 should be proceeding.

4 MS. DOPKIN: I think that Mr. Mirabile
5 is a lay person who is also the spokesperson for
6 the community association and to the extent that
7 he is speaking for the association, he is
8 testifying as a witness with reading the statement
9 of the association. At least that's the way I
10 perceive him as acting at this moment.

11 MR. SAMPSON: Okay. So to the extent
12 that he's testifying or no matter what he's doing,
13 nobody else should be guiding him or interrupting
14 or doing anything else. If they want to be sworn
15 in and testify, that should happen separately.

16 MS. DOPKIN: Correct.

17 And to the extent that you want us to
18 see documents, you have to offer each separately
19 before you address it, Mr. Mirabile.

20 MR. MIRABILE: Yes, ma'am. I'm hearing
21 you. Yes.

22 MS. DOPKIN: So I see you've put
23 Exhibit 18 on the screen which is a letter dated
24 March 3rd, 2022 to the Baltimore County Office of
25 Administrative Hearings, care of the Rosedale

1 Community Association.

2 And it is addressed, directed to you
3 from Mr. Earlbeck and it's referencing the Zoning
4 notice that appeared on the property on November
5 3rd with an incorrect hearing date, apparently.

6 And I'm not sure what relevance that
7 has to today's hearing since you are here and
8 participated at our earlier hearing.

9 Mr. Ketterer, what is your objection
10 to the introduction of this letter?

11 MR. KETTERER: Well, it was being
12 referenced and not in evidence. I mean, he just
13 started talking about the contents of it without
14 having it admitted.

15 MS. DOPKIN: So now it's been offered.
16 And do you object?

17 MR. KETTERER: I object to the
18 relevance of it. We're here on appeal from a
19 variance relief that was granted.

20 MR. MIRABILE: May I respond to that?

21 MS. DOPKIN: Yes.

22 MR. MIRABILE: First of all, Mr.
23 Hartman should, for whatever reason should have
24 been here. Mr. Ketterer may not be aware of what
25 transpired.

1 We stopped at the end of Mr. Doak's
2 testimony until we ran into difficulties,
3 technical and personal difficulties --

4 MS. DOPKIN: Mr. Mirabile--

5 MR. MIRABILE: Yes.

6 MS. DOPKIN: Mr. Ketterer is objecting
7 to the relevance. How does this letter affect
8 today's hearing? Why is it relevant?

9 MR. MIRABILE: Notice. Notice was not
10 -- proper notice was not given to the community in
11 general, was not given to the immediate property
12 owners. That's -- notice is one of the first
13 things that has to be given for something to be
14 fair, judicially fair.

15 MS. DOPKIN: And because this does not
16 indicate what year that notice appeared, it's kind
17 of hard to --

18 MR. MIRABILE: Ma'am, if I'm allowed
19 to proceed. We have a photograph by Mr. Earlbeck
20 with the date and time on it that signifies when
21 he--

22 MS. DOPKIN: Well, are you offering
23 the photograph as an exhibit?

24 MR. MIRABILE: Yes, ma'am. Until Mr.
25 Ketterer interrupted, yes.

1 MR. SAMPSON: It's a legal proceeding
2 and there's a proper procedure and he's entitled
3 to object. And when the Chair asks you to address
4 the objection, you should address the objection
5 and not add all the editorial comments that you're
6 adding.

7 We have to get through this. This is
8 day 2. We've barely gotten anywhere. I'm part of
9 the cause of that with my technical difficulties,
10 but we really need to have a flow here where you
11 offer your exhibit, you lay the foundation for it
12 and then you move it in. And then counsel can
13 decide whether to object, and then the Chair will
14 address the objection and then we'll proceed to
15 the next exhibit.

16 But we need to do without the sort of
17 editorial comments about who should have been here
18 and when and whatever. Let's proceed, please, so
19 that we can get through this hearing.

20 MS. DOPKIN: Now, Mr. Mirabile has
21 offered a letter and a photograph. The photograph
22 is dated November 5th, 2021 alleging insufficiency
23 of notice from a hearing in 2021.

24 Mr. Ketterer has objected on
25 relevance. We're going to allow it and give it

1 the weight to which it's entitled based on the
2 proceeding so far.

3 (Exhibits 18 and 18A were admitted
4 into evidence)

5 Please continue, Mr. Mirabile. And
6 you're still reading the statement from the
7 Rosedale Community Association?

8 MR. MIRABILE: Yes, ma'am. Unless you
9 want me to stop and we'll just bring Mr. Earlbeck
10 up.

11 MS. DOPKIN: No. I want you to finish
12 the statement. I'm going to hear Mr. Ketterer's
13 objections and note them for the record and then
14 you can call your witness.

15 MR. MIRABILE: All right. Thank you.

16 I think we -- I stopped at the --

17 MS. EARLBECK: Next is Exhibit 22.

18 MS. DOPKIN: Mr. Mirabile, you are
19 testifying. Ask everyone else in the room not to
20 speak until they are called and sworn. That means
21 they can't be coaching you.

22 MR. MIRABILE: What I may suggest, Ms.
23 Alison is handling the computers and she has to
24 say which one is next or that's the only reason
25 why you're hearing her speak. She has the clicker

1 in her hand, I do not.

2 And this was the problem before, I
3 wasn't properly prepared for the electronic age.

4 MS. DOPKIN: Yes. Well she's put the
5 exhibit 18 and 18A up. We've admitted them.
6 Please continue.

7 MR. MIRABILE: Okay. Thank you.

8 Exhibit 22, close up of photograph of
9 posting of sign with the hearing date of 10/14/22.

10 MS. DOPKIN: Is this the same sign
11 that was Exhibit 18A?

12 MR. MIRABILE: Yes. Yes, ma'am.

13 MS. DOPKIN: Please continue.

14 MR. MIRABILE: Exhibit 36, certificate
15 of posting dated 9/23/21 and amended 11/3/2021
16 indicating hearing date was 11/4/2021. However,
17 the posting sign had a hearing date of 10/14/21
18 signed by Bruce Doak. Mr. Doak indicated in a
19 certificate of posting the signs were posted on
20 9/23/2021 and inspected again on 11/3/2022 no
21 indication of hearing date being changed to
22 reflect the new date of 11/4/2021.

23 MS. DOPKIN: So that's Exhibit 36.
24 Mr. Ketterer, I assume you have an ongoing
25 objection to the relevance?

1 MR. KETTERER: I do, but for the
2 sake--

3 MS. DOPKIN: We'll admit it and give
4 it the weight.

5 (Exhibit 36 was admitted into
6 evidence)

7 Please continue, Mr. Mirabile.

8 MR. MIRABILE: Okay. Thus denying the
9 Rosedale Community Association at large notice and
10 opportunity to participate and express concerns in
11 a hearing.

12 Witness 1, Mr. Earlbeck, these are
13 questions that I'm going to be asking him and I'd
14 like to have him sworn.

15 MS. DOPKIN: Are you finished reading
16 the statement of the association?

17 MR. MIRABILE: Yes, ma'am.

18 MS. DOPKIN: And Mr. Ketterer, do you
19 have any further objections other than as noted?

20 MR. KETTERER: Not at this time.

21 MS. DOPKIN: Thank you. Would you
22 call your next witness.

23 MR. EARLBECK: This is Jim Earlbeck,
24 excuse me, but Paul King is under a time
25 constraint, I am not so we'd like to alternate,

1 let him go first.

2 MS. DOPKIN: Mr. Mirabile, who is your
3 next witness?

4 MR. MIRABILE: It will be Paul King,
5 ma'am, trading as King Liquors.

6 MS. DOPKIN: And where is Mr. King?
7 Is he with you or is he joining us separately?

8 MR. MIRABILE: He's here right now,
9 ma'am.

10 MS. DOPKIN: Okay. Then we would like
11 to have Mr. King sworn in.

12 MR. LAUER: Sir, can you hear me?

13 MR. KING: Yes.

14 MR. LAUER: Please raise your right
15 hand.

16 Whereupon

17 PAUL KING,
18 called as a witness, having been first duly sworn
19 to tell the truth, the whole truth, and nothing
20 but the truth, was examined and testified as
21 follows:

22 MR. LAUER: Please state your name and
23 give us your address and spell your last name.

24 THE WITNESS: Paul L. King, K-i-n-g.
25 My address is 5166 Elder Road, Hydes, Maryland

1 21082.

2 MR. LAUER: I'm sorry, what road was
3 that? I didn't quite hear you, sir.

4 THE WITNESS: Elder. E-l-d-e-r. It's
5 Hydes, Maryland.

6 MR. LAUER: Thank you.

7 MS. DOPKIN: Now, Mr. Mirabile, the
8 way this works you ask questions, Mr. King answers
9 them.

10 MR. MIRABILE: Okay. Thank you.

11 DIRECT EXAMINATION

12 BY MR. MIRABILE:

13 Q Mr. King, can you please give your
14 business address of King Liquors.

15 A I own PL King Enterprises, trading as
16 King Liquors, 8226 Pulaski Highway, Baltimore,
17 Maryland 21237.

18 Q Okay. I'd like to bring up Exhibit, I
19 believe it's Ex 02.

20 MS. DOPKIN: Please identify what the
21 exhibit is.

22 MR. MIRABILE: That's not the one I'm
23 looking at, ma'am, I'm sorry. It's 77HHH.
24 Affidavit of Paul King.

25 MR. SAMPSON: I don't know where that

1 is. What number is that?

2 MS. DOPKIN: What is the Exhibit
3 number?

4 MR. MIRABILE: It's number 77HHH.

5 MR. SAMPSON: It's not on your list.

6 MS. DOPKIN: Actually it is. It's an
7 affidavit of Paul King.

8 MR. SAMPSON: Where do you see it as
9 77HHH. I don't have a 77 on my list.

10 MS. DOPKIN: It's page 3 of the
11 exhibits.

12 MR. SAMPSON: I only have 2.

13 MS. DOPKIN: There is a third page.
14 And where is the affidavit. Will you put it up on
15 the screen?

16 MS. EARLBECK: Yes. I am trying to
17 identify it right now. Is this the one that you
18 were looking for?

19 MR. MIRABILE: Yes.

20 MS. DOPKIN: That's HHH6, not 77.

21 MR. SAMPSON: Can I just interrupt,
22 Madam Chair. I have a two page list that Ms.
23 Cannington sent this morning. It sounds like
24 you're operating from a different list and I don't
25 know --

1 MS. DOPKIN: I got the same list sent
2 to me this morning.

3 MR. SAMPSON: It only has two pages,
4 not three.

5 MR. MIRABILE: I was not aware of the
6 change this morning until I just came in. That's
7 the reason why there's a little bit of confusion
8 here. Everything I submitted was submitted
9 earlier. So that's why I'm trying to jockey
10 between both of them to make sure that we're on
11 the same page. I apologize for the confusion.

12 MR. SAMPSON: I'm just trying to make
13 sure that I keep an accurate record of what
14 exhibits are being used and I was going by the
15 list provided to me and that -- I'm trying -- so
16 it sounds like it is only two pages, not three.

17 MS. DOPKIN: Actually, it's four.

18 MR. SAMPSON: Are you looking at the
19 attachment that Sonny sent this morning?

20 MS. DOPKIN: Or that Tammy sent. I'm
21 going to tell you which one it is and send it to
22 your --

23 MR. SAMPSON: Okay. I'm looking at an
24 e-mail from Krysundra Cannington with exhibits,
25 Rosedale. And it's two pages, PDF.

1 MR. LAUER: That's what I also
2 received, Mr. Sampson.

3 MS. DOPKIN: Apparently Mr. Mirabile
4 dropped off a list yesterday that Ms. Zahner sent
5 us this morning and it is four pages. And that is
6 the list that includes -- and we received that at
7 9:23 this morning.

8 MR. SAMPSON: So is that the list that
9 we're supposed to be operating from? That's the
10 current corrected list?

11 MS. DOPKIN: I believe that is.

12 MR. SAMPSON: Okay.

13 MS. DOPKIN: The office only obtained
14 it yesterday, so that may be part of the confusion
15 is that there was an earlier list.

16 MR. LAUER: Madam Chair, if I might
17 ask if counsel for the other side has received
18 this list or not.

19 MS. DOPKIN: I'm sorry, I can't hear
20 you.

21 MR. LAUER: Has counsel for the other
22 side received this list? I don't know.

23 MS. DOPKIN: That's not normally our
24 practice.

25 MR. LAUER: Okay. Thank you.

1 MR. SAMPSON: May I -- at the risk of
2 delaying this proceeding. May I ask for 30
3 seconds, I printed this to the printer. I need to
4 use the correct list so that I accurately mark
5 what's admitted and offered.

6 MS. DOPKIN: Please.

7 MR. SAMPSON: Okay. Just give me one
8 moment. Thank you.

9 MS. DOPKIN: While Mr. Sampson is
10 retrieving the exhibit list, Mr. Mirabile, do you
11 intend to have Mr. King read this into the record
12 or is he going to be answering questions that
13 you're asking him?

14 MR. MIRABILE: He can read it into the
15 record, ma'am, and then I'll ask him questions on
16 it. It pretty much speaks for itself.

17 MS. DOPKIN: That ends up being kind
18 of duplicative so --

19 MR. MIRABILE: Whatever you suggest
20 I'll be happy to do.

21 MS. DOPKIN: No, it's your case.
22 You'll have to present it the way you see fit.

23 MR. MIRABILE: While we're waiting,
24 I'd like to have --

25 MR. SAMPSON: I'm back, Chair Dopkin.

1 MS. DOPKIN: Okay. Thank you, Mr.
2 Sampson.

3 Now, Mr. Mirabile, you're offering
4 Exhibit 77HHH which is an affidavit of Mr. Paul
5 King. Is that what is on the screen before us?

6 MR. MIRABILE: Yes, ma'am. But
7 there's also -- the affidavit reflects his initial
8 letter --

9 MS. DOPKIN: Now wait a minute. What
10 is it labeled, Exhibit 44 is what you're referring
11 to as HHH77?

12 MR. MIRABILE: HHH77 is his affidavit
13 number 44 is the initial letter that Mr. King sent
14 to me about the posting of the wrong date.

15 MS. DOPKIN: Why don't we first look
16 at HHH77.

17 MR. MIRABILE: Okay.

18 MS. DOPKIN: Which you offered as an
19 exhibit.

20 MR. MIRABILE: Yes, ma'am.

21 MS. DOPKIN: So Mr. Ketterer can see
22 it and so we can see it.

23 MR. KETTERER: I believe this is a
24 different exhibit.

25 MS. DOPKIN: That is not -- is that

1 the affidavit that you're referring to? That's on
2 the screen?

3 MR. MIRABILE: No, ma'am. It's not
4 the affidavit. No.

5 44 is the initial letter and his
6 affidavit is --

7 MS. EARLBECK: Is this the one?

8 MR. MIRABILE: Yeah. There it is. I
9 see it. Yeah.

10 MS. DOPKIN: So up on our screen is
11 what you are identifying, this says HHH6.

12 MR. MIRABILE: Yes.

13 MS. DOPKIN: Is there an HHH77 that is
14 different than this?

15 MR. MIRABILE: No. No, ma'am. That
16 was -- that 77 was supposed to basically coincide
17 with the letter.

18 MS. DOPKIN: This is the affidavit of
19 Paul King.

20 MR. MIRABILE: Correct.

21 MS. DOPKIN: Mr. Ketterer?

22 MR. KETTERER: Same objection, but--

23 MS. DOPKIN: Okay. We'll admit it and
24 give it the weight we think it's entitled to.

25 (Exhibit 77HHH was admitted into

1 evidence)

2 What is your next exhibit, Mr.

3 Mirabile?

4 MR. MIRABILE: The initial letter of
5 Paul King which you -- we had -- just had on the
6 screen.

7 MS. DOPKIN: And that is your Exhibit
8 44?

9 MR. MIRABILE: Yes, ma'am.

10 MS. DOPKIN: And it is a letter dated
11 March 11th, 2022 basically stating Mr. King's
12 objection to the variance request.

13 MR. MIRABILE: Yes.

14 MS. DOPKIN: Okay. Do you have
15 another exhibit?

16 MR. MIRABILE: Not for Mr. King. No,
17 ma'am.

18 MS. DOPKIN: Mr. King?

19 MR. KING: Yes.

20 MS. DOPKIN: Do you want to -- do you
21 have questions for Mr. King, Mr. Mirabile?

22 DIRECT EXAMINATION

23 BY MR. MIRABILE:

24 Q The only thing I'd like to ask Mr.
25 King, the letter that he sent out are they true --

1 they're written by you and you're basically
2 opposing this whole thing because of your
3 business; is that correct?

4 A Yes, that's correct.

5 Q I'd like you to explain on your
6 affidavit, how did you come to find out, since you
7 were two doors down about how --

8 A I make a u-turn at the red light right
9 there on 40 and Batavia Farm Road every single
10 day, sometimes four to five times a day. I own
11 other properties on Pulaski Highway and I drive by
12 continuously to see if people are throwing trash
13 on the property, and I notice things around the
14 area.

15 And I noticed when they put the sign
16 up. I also noticed the dates on it. And, again,
17 I make four, five, sometimes six different u-turns
18 at that same identical intersection every single
19 day of the week. Six days a week.

20 Q Did you get close up to the --

21 A You can see the sign from the highway
22 because it's only 30 feet, two lanes away.

23 Q Okay. But did you see the dates?

24 A Yes, I saw the dates. The original
25 date was October 14th.

1 Q Okay. And if that October 14th date
2 would have been notified to you, would you have
3 contested this?

4 A Yes.

5 Q Okay. Do you think it's important
6 that you had notice of that?

7 A If you want to protest it, you have to
8 have notice of it.

9 Q Okay.

10 A Because I schedule things accordingly.

11 Q How long have you been a resident --
12 or not a resident, in the --

13 A I've owned that property at 8226 since
14 -- I've been there since 1987.

15 Q And you are concerned about the area?

16 A Yes. I also own property across the
17 street that again I check on every day. So,
18 again, I do it because people throw trash on the
19 property and I ride by to make sure nobody has
20 dumped a truck load of trash there.

21 But I look at every single piece of
22 property as I'm going up and down the highway
23 because I used to have my highway sign through the
24 State Highway Administration and we would clean
25 the highway for the SHA once every six weeks.

1 And, again, I notice, you know,
2 buildings, I notice trash on the highway.

3 Q Did you notice, this summer you called
4 me about the 8202 Pulaski Highway, the subject
5 property about the grass and the neatness of it.
6 Would you please explain that to the Board?

7 A Well, the grass was about two and a
8 half feet tall, it appeared to be. And, again,
9 it's -- I don't have any grass on my property, but
10 I noticed that it was quite high and it just made
11 the property look unsightly being that it's
12 growing, it actually looks like it's weeds growing
13 through there.

14 Q And did you ask me to report that to
15 the (inaudible) Code?

16 A Yes.

17 Q And what was my response?

18 MR. KETTERER: I think we're getting
19 afield here. This completely has no bearing on
20 this case.

21 MR. MIRABILE: Well, I think he does.
22 Do you mind if he answers.

23 MS. DOPKIN: Whoa, whoa, whoa. An
24 objection has been raised. What is the objection,
25 Mr. Ketterer?

1 MR. KETTERER: Relevancy. Again, this
2 has nothing to do with the variance.

3 MS. DOPKIN: Mr. Mirabile, what
4 relevance does the height of the grass on the
5 property have to do with the relief that's been
6 requested?

7 MR. MIRABILE: Well, because his
8 property is not like the other properties. It's
9 unkept, poor appearance. And Mr. King and his
10 other surrounding businesses do keep up their
11 properties and this is one of their objections.
12 That's the relevance of it.

13 And if --

14 MS. DOPKIN: Well, why don't you move
15 on with your line of questioning and try to keep
16 it focused on what is important to the relief
17 that's being requested.

18 MR. MIRABILE: Okay. That's about --
19 I have no more questions for Mr. King.

20 MS. DOPKIN: And, Mr. King. Thank
21 you. Are you excusing this witness?

22 MR. MIRABILE: Yes, ma'am.

23 MS. DOPKIN: Thank you. Please call
24 your next witness.

25 MR. KING: Thank you.

1 MR. MIRABILE: Mr. James Earlbeck.

2 MS. DOPKIN: Would you swear the
3 witness, please.

4 MR. LAUER: Sir, would you raise your
5 right hand, please.

6 Whereupon

7 JAMES EARLBECK,
8 called as a witness, having been first duly sworn
9 to tell the truth, the whole truth, and nothing
10 but the truth, was examined and testified as
11 follows:

12 MR. LAUER: Please give us your name,
13 spell your last name and give us your address for
14 the record.

15 MR. EARLBECK: My name is Jim
16 Earlbeck. My residential address is 16600 Old
17 York Road, Monkton, Maryland 21111.

18 MR. LAUER: And spell your last name,
19 please.

20 MR. EARLBECK: E-a-r-l-b-e-c-k.

21 MR. LAUER: Thank you.

22 MS. DOPKIN: Mr. Mirabile, please
23 question your witness.

24 MR. MIRABILE: Okay.

25 DIRECT EXAMINATION

1 BY MR. MIRABILE:

2 Q Mr. Earlbeck, I think you've done it.
3 Just for the record please give me your name,
4 address and phone number. And please describe the
5 facility that you're right next to, the 8202
6 Pulaski Highway.

7 A Jim Earlbeck, President of Earlbeck
8 Corporation has the business address of 8204
9 Pulaski Highway. That property is contiguous to
10 zoning property of interest. I am also the
11 managing partner of Dunlora LLC which owns 8202 --
12 it's a little confusing, not my choice -- with
13 two properties 8202, but that property is also
14 contiguous on the east side of the zoning request
15 property.

16 MS. DOPKIN: Would you spell the name
17 of that corporation for us.

18 MR. EARLBECK: Yes. That's Dunlora.
19 D-u-n-l-o-r-a, LLC.

20 MS. DOPKIN: Thank you.

21 MR. EARLBECK: And my phone number
22 is--

23 MS. DOPKIN: We don't need your phone
24 number.

25 MR. EARLBECK: Very good.

1 MS. DOPKIN: Mr. Mirabile, your next
2 question.

3 MR. MIRABILE: Yes, ma'am.

4 We have a site plan that's on the
5 board now which is, I believe it's site plan 2.

6 MS. DOPKIN: Exhibit 2. Was this --
7 is this your exhibit or was this previously
8 admitted?

9 MR. MIRABILE: Previously admitted,
10 ma'am.

11 MS. DOPKIN: And it was Petitioner's
12 Exhibit?

13 MR. KETTERER: I would believe this is
14 one of our Exhibits, Chairman.

15 MS. DOPKIN: Mr. Sampson, can you
16 identify what the site plan was offered as from
17 Petitioner's case?

18 MR. SAMPSON: I can try.

19 MR. MIRABILE: It's down on the
20 right-hand side.

21 MR. SAMPSON: Yes. This is
22 Petitioner's 2.

23 MR. MIRABILE: It says Petitioner's
24 Exhibit 1 on the plat.

25 MS. DOPKIN: Well, it was admitted as

1 Petitioner's 2. So the site plan is on the board.

2 What is your next question for Mr.
3 Earlbeck.

4 Q Can you describe your location of the
5 property, where the property of 8202 Pulaski
6 Highway is.

7 A 8202 is an L-shaped piece of property.
8 That exhibit that's currently up shown as Exhibit
9 2 shows one of the two buildings that's on that
10 L-shaped lot. The building that's on the exhibit
11 is to the rear of the Petitioner's piece of
12 property. The other building is not shown, it's
13 to the east side of the other 8202 which I believe
14 shows as -- it says repair and retail sales of
15 golf carts.

16 That is the property that Dunlora owns
17 which I'm managing partner. That is also 8202
18 Pulaski Highway. So, again, the two properties
19 that we have are contiguous to the rear and to the
20 east side of the Petitioner's property.

21 MS. DOPKIN: What is your next
22 question, Mr. Mirabile?

23 Q Do you have impact on whatever happens
24 to 8202 Pulaski Highway? What is your major
25 impact?

1 A If the Petitioner is granted zero foot
2 setbacks, the impact to both properties, our 8202
3 as well as the 8204 which is in the rear is of a
4 safety concern.

5 And also an egress ingress in case of
6 emergency.

7 Q When you say that you're stating that
8 the Batavia Farm Road?

9 A And that as well. Actually, I was
10 not. I was addressing the fact that the proximity
11 of the building at the Petitioner's site would be
12 right alongside of an exit lane of our trucks, our
13 Class 7 trucks which haul hazardous materials.

14 So I'm very concerned about the
15 proximity of neighbor's buildings.

16 Q Okay. Have you used Batavia Farm
17 Road, roadway, it's been in --

18 A We have used Batavia Farm Road in one
19 mannerism or the other since we purchased the
20 property, 8204 back in 1965.

21 Q And may I go to the, the next question
22 to the next exhibit, Exhibit 18.

23 MS. DOPKIN: Mr. Earlbeck, while that
24 is happening, you said you haul hazardous
25 substances?

1 MR. EARLBECK: That is correct.

2 MS. DOPKIN: The property at the rear
3 called Earlbeck Family, LLC?

4 MR. EARLBECK: Yes, we do.

5 MS. DOPKIN: And what is your
6 business? It's shown as auto repair on the plat.

7 MR. EARLBECK: That is incorrect. The
8 auto repair that's shown on the plat was a tenant
9 that we had for a while. We have moved them from
10 the facility due to zoning violations and we are
11 expanding our business back there.

12 We've always operated partly from that
13 building and now we're going to operate completely
14 -- well, I shouldn't say completely. We're going
15 to occupy that building in its entirety.

16 MS. DOPKIN: But what business
17 involves hazardous waste?

18 MR. EARLBECK: Oh, okay. We are in
19 the distribution of compressed and cryogenic
20 gases, so CO2, nitrogen, oxygen, argon, things
21 like that and metal working machinery.

22 MS. DOPKIN: Compressed gases and
23 metal working --

24 MR. EARLBECK: Machinery. The haz mat
25 portion, Madam Chairman is the compressed and

1 cryogenic gases.

2 MS. DOPKIN: And who does that serve?

3 MR. EARLBECK: That serves mostly
4 industrial customers. The oxygen does find its
5 way into medical use. The CO2 goes to beverages
6 and also cannabis growers.

7 MS. DOPKIN: And are you in the
8 building? Are there other tenants on the property
9 currently?

10 MR. EARLBECK: There is one other
11 tenant that we have in that building that was
12 shown on that exhibit to the rear, and that is
13 ARC3 Gases. And they are also in the compressed
14 and cryogenic gas business. Their only gas is
15 CO2.

16 MS. DOPKIN: And the driveway that you
17 said would be close to the proposed addition?

18 MR. EARLBECK: It runs parallel to
19 Pulaski Highway, ends at Batavia Farm Road. So
20 the trucks make a left at Batavia Farm Road, exit
21 in a southbound direction until it hits the red
22 light at Batavia Farm and Pulaski Highway.

23 MS. DOPKIN: Thank you. Mr. Mirabile,
24 you were offering into evidence another exhibit?

25 MR. MIRABILE: Yes, ma'am. May I ask

1 Mr. Earlbeck a question about that plat that was
2 shown that he testified for?

3 MS. DOPKIN: Yes.

4 MR. MIRABILE: Okay.

5 Q Mr. Earlbeck, I just want to clarify.
6 The property that's by, I believe it's called
7 Buggies?

8 A B-more Buggies is their trade name.

9 Q Right.

10 A And they are tenants of Dunlora, LLC.

11 Q And they do not have these -- these
12 are basically golf carts?

13 A Correct.

14 Q And they come in I guess on low boys,
15 not low boys but like a pickup truck, because I've
16 witnessed that.

17 A Typically trailers that are towed
18 behind pickup trucks, yes.

19 Q Okay. And so that's really not a
20 typical automobile service center?

21 A No. Absolutely not. All the golf
22 carts are battery powered so you don't have any
23 issues with oil contamination of the soil or
24 gasoline. They are battery powered vehicles.

25 Q Okay. So it's kind of taken out of

1 context that it's an automobile service center.

2 A Correct. Now historically that
3 building to the rear was automobile repair.

4 Q I'm talking about 8202.

5 A 8202 is battery powered golf carts.

6 Q Okay. And that's seasonal; is that
7 correct?

8 A They operate 12 months out of the
9 year. Most of their customers are commercial in
10 nature, not residential.

11 Q Okay. The next one is going to be
12 18A. Yeah. That's a photograph. 18A.

13 MS. DOPKIN: 18A. Whoa, whoa, whoa.
14 Go back.

15 18A appears to be a letter dated March
16 3rd, 2022 to the Rosedale Community Association
17 from JM Earlbeck regarding the posting. And I
18 believe Mr. Ketterer would have an ongoing
19 objection to the relevance of this notice issue.

20 What is your next exhibit, Mr.
21 Mirabile?

22 MR. MIRABILE: I would stick with that
23 one for a second, ma'am. I want to make sure that
24 Mr. Earlbeck, this was the first notice given to
25 me as well.

1 Q The notice speaks for itself, but I
2 wanted to ask you a question. Did you take a --
3 when you noticed that, did that date seem odd to
4 you because your business is directly next to 8202
5 Pulaski Highway.

6 A Yes.

7 Q Yes.

8 A As the letter states, I noticed the
9 sign and then went back for a second look and
10 that's when I took the photograph.

11 And, again, like Paul King, I make a
12 u-turn at that intersection. I tend to be a
13 fairly observant chap, and that was just the first
14 day I noticed it.

15 Q And we'll go to the next one -- would
16 you have attended the meeting or hearing if you
17 would have noticed it?

18 A Oh, absolutely.

19 Q So that 8202 has a major impact upon
20 your property.

21 A To both of the properties that we own.

22 Q Okay.

23 A As well as the operation of our
24 business.

25 Q Okay. Would you please go to the

1 next, 18A.

2 MS. DOPKIN: This is identified as 18A
3 and it is a photograph. It looks like the same
4 photograph that was offered earlier and admitted;
5 is that correct?

6 MR. MIRABILE: Yes, ma'am.

7 MS. DOPKIN: And Mr. Ketterer has an
8 ongoing objection based on relevance, but this has
9 already been admitted once so we're not going to
10 admit 18A a second time.

11 MR. MIRABILE: May I ask a question,
12 ma'am, to Mr. -- this is very important -- to Mr.
13 Earlbeck to clarify something on this photograph?
14 Because this photograph is basically the crux of
15 the fact that when that sign was noticed. And he
16 has the numbers up there of the date he took that
17 photograph. And I think that's very important.

18 He took that photograph -- I'll let
19 him explain it, because I'm not a camera person --
20 on November 5th of 2021 at 1:31 p.m. And once
21 again, that was after the date of notice, of the
22 zoning matter.

23 So I'd like to ask Mr. Earlbeck a
24 couple of questions about that.

25 MS. DOPKIN: Go right ahead.

1 MR. MIRABILE: Okay.

2 Q Mr. Earlbeck, I know you noticed that,
3 this photograph. Did you take this photograph?

4 A Yes, I did.

5 Q Okay. And what was the purpose --
6 what was the reason for you taking that
7 photograph?

8 A Because I wanted to document the fact
9 that it was there. I was curious to explore the
10 nature of it.

11 Q Okay. And also the fact, may I ask,
12 if you had noticed that before, would you have
13 attended the hearing or the meeting?

14 A Again, absolutely.

15 Q Okay. Can you identify all those
16 numbers up there on your camera so there's no
17 mis-confusion here of when you took that.

18 A The photograph was taken November 5th,
19 as I stated in my letter, 2021.

20 Q Okay. I'll ask you again, I'll repeat
21 myself on this. What are your concerns about the
22 project of this special hearing for the zero
23 setback?

24 A It is diminished --

25 MR. KETTERER: Asked and answered.

1 MS. DOPKIN: I'm sorry, was that an
2 objection?

3 MR. KETTERER: That was an objection.
4 Asked and answered.

5 MS. DOPKIN: I agree. Please move on,
6 Mr. Mirabile.

7 MR. MIRABILE: I wanted to ask you a
8 question.

9 Q Do you support in any way, shape or
10 form, the closing of Batavia Farm Road by --

11 A No. As I stated before, we've used
12 that road since 1965--

13 MR. KETTERER: I object to the
14 relevancy again. The closing of Batavia Farm Road
15 has no bearing on this. It's not at issue. The
16 only issue is the setbacks --

17 MS. DOPKIN: I'm going to allow it
18 because it does affect ingress and egress and
19 traffic, so I think it's relevant to the special
20 hearing relief.

21 MR. MIRABILE: Ms. Dopkin, also this
22 was one of the major factors that that site plan
23 was in error. And this also could have been
24 straightened out if the proper days were on --

25 MS. DOPKIN: Mr. Mirabile.

1 MR. MIRABILE: Okay. I understand it.
2 Okay. I get it.

3 MS. DOPKIN: We're admitting it.
4 You've testified. You are now asking questions of
5 Mr. Earlbeck. Do you have any further questions
6 for Mr. Earlbeck that have not been previously
7 asked?

8 MR. MIRABILE: One other question,
9 ma'am, I wanted to ask.

10 Q Do you have a concern about Mr.
11 Shahzad's property that -- what he wants to do,
12 proposes to do. Basically to make a long story
13 short, he has disabled, damaged vehicles or
14 inoperable vehicles. Are you concerned about the
15 appearance of a junk yard?

16 A I am. Absolutely.

17 MS. DOPKIN: Mr. Earlbeck, would you
18 tell us in your own words what your concern is?

19 MR. EARLBECK: The concern is that --
20 and, again, this is things that might happen, but
21 unfortunately the nature of the automotive repair
22 business. And I speak from experience because
23 this is why we evicted our tenant to the rear is
24 auto repair businesses tend to morph somewhat, at
25 least on Pulaski Highway, into junk yard

1 operations.

2 So I've got concerns that that might
3 follow that pattern. But that's just my concern
4 about what might happen.

5 MS. DOPKIN: Thank you. Mr. Mirabile,
6 do you have any further questions for this
7 witness?

8 MR. MIRABILE: No, ma'am, I do not.

9 MS. DOPKIN: Thank you. Mr. Ketterer?

10 MR. KETTERER: I have nothing for this
11 witness.

12 MS. DOPKIN: Okay. No cross.

13 Would this witness then be excused?

14 MR. MIRABILE: Yes, ma'am. But if I'd
15 like to recall him, depends on what Mr. Ketterer
16 does, if he remains in the building, I'd like to
17 recall him.

18 MS. DOPKIN: Okay. Thank you, Mr.
19 Earlbeck.

20 Mr. Mirabile, do you have any other
21 witnesses that you want to call?

22 MR. MIRABILE: Oh, yeah. Yes, ma'am.

23 MS. DOPKIN: Who is your next witness?

24 MR. MIRABILE: Witness three is Abby
25 Williams. She owns the mobile home park and --

1 MS. DOPKIN: Whoa, whoa, whoa. We'll
2 have her sworn and she can identify herself.

3 MR. MIRABILE: Ma'am, I'm going to --
4 for time sake, I'm going to waive her because I
5 just would like to have admitted her letter of --
6 she does not want Batavia Farm Road closed.

7 MS. DOPKIN: Is Ms. --

8 MR. MIRABILE: She's not here.

9 MS. DOPKIN: She's not there. She can
10 send a letter -- if she has sent a letter to the
11 Board it would be in the record. I'm not going to
12 admit it. It's hearsay if she's not there and
13 can't verify it.

14 So please continue. Who is your next
15 witness? If she's here by telephone, by the way,
16 we could admit her.

17 MR. MIRABILE: Okay.

18 MS. DOPKIN: But I don't see that
19 she's here at all.

20 MR. MIRABILE: Okay. No, she's not
21 here.

22 I'm also waiving the witnesses of Mike
23 Strohl --

24 MS. DOPKIN: If they're not here and
25 they're not testifying, it doesn't matter. You

1 don't have to tell us who's not here.

2 MR. MIRABILE: Okay.

3 MS. DOPKIN: Tell us who is here and
4 that you want to call next.

5 MR. MIRABILE: Okay.

6 The next witness is Steve Broyles.

7 MS. DOPKIN: Would you swear the
8 witness, please, Mr. Lauer.

9 MR. LAUER: Sir, would you raise your
10 right hand. I see you have.

11 Whereupon

12 STEPHEN BOYLES,
13 called as a witness, having been first duly sworn
14 to tell the truth, the whole truth, and nothing
15 but the truth, was examined and testified as
16 follows:

17 MR. LAUER: Please state your name,
18 give us your address, spell your last name for the
19 record. Thank you.

20 MR. BROYLES: My name is Steven
21 Broyles, B-r-o-y-l-e-s. Bravo, Romeo, Oscar,
22 Yankee, Lemo, Echo, Sierra.

23 My address is 10600 Davis Avenue,
24 Woodstock, Maryland 21163.

25 MR. LAUER: Thank you.

DIRECT EXAMINATION

BY MR. MIRABILE:

Q Mr. Broyles, you're here today as an expert witness. Do you have a professional license, engineering and professional land surveyor?

A Yes, sir. I'm a licensed professional engineer and a licensed professional land surveyor in the State of Maryland.

Q Okay. And what is your name, address and business -- professional and educational credentials.

A I have a Bachelor of Science from the University of Maryland College Park. I took graduate courses there but did not receive an MS. And, again, my credentials are licensed professional engineer and licensed professional land surveyor in the State of Maryland.

MS. DOPKIN: Go on. Mr. Mirabile. Are you asking any other questions to qualify this witness?

MR. MIRABILE: I'll ask him one more question.

Q Do you hold any professional licenses?

A You've asked that. Yes. Two

1 licenses, engineers and professional surveyor.

2 MS. DOPKIN: Mr. Broyles, have you
3 testified before the ALJ or this Board or the
4 Circuit Court in this or any other county in
5 Maryland?

6 MR. BROYLES: Yes, ma'am. Baltimore
7 County, Carroll County, Howard County, Harford
8 County, Anne Arundel.

9 I've testified probably half a dozen
10 times before this Board of Appeals. The most
11 recent one, I believe being King Mulch.

12 MS. DOPKIN: Were you qualified as an
13 expert in those instances?

14 MR. BROYLES: Yes. I qualified as an
15 expert in civil engineering, surveying, zoning and
16 environmental under the King Mulch case. It was a
17 storm water management issue.

18 MS. DOPKIN: Mr. Ketterer, Mr. Broyles
19 who is known to me if not to the other Board
20 members has previously been qualified and
21 testified as an expert in zoning, civil
22 engineering and surveying. Do you have any
23 objections to his being admitted as an expert
24 here?

25 MR. KETTERER: No.

1 MS. DOPKIN: Okay. Then we will admit
2 Mr. Broyles as an expert in civil engineering,
3 surveying and zoning in Baltimore County.

4 Please proceed with your questions,
5 Mr. Mirabile.

6 MR. MIRABILE: Okay. Thank you.

7 Q Mr. Broyles, the eight inch fence that
8 was in the center of Batavia Farm Road on the site
9 plan, the current site plan does not accurately
10 depict the existing site conditions as the 8 foot
11 fence in the center of Batavia Farm Road. It has
12 been -- go ahead.

13 MS. DOPKIN: Was that a question?

14 MR. KETTERER: I don't think that was
15 a question.

16 MR. MIRABILE: I haven't finished it.
17 I was stopped in the middle. I heard a noise and
18 I stopped.

19 Q --has been removed to the limits of 30
20 feet wide private road. That was just a statement
21 from me.

22 MS. DOPKIN: Mr. Mirabile, you're not
23 supposed to make statements. You're supposed to
24 ask questions.

25 MR. MIRABILE: Okay. It's all

1 referencing, ma'am, to the eight foot fence.

2 MS. DOPKIN: Just ask the question.
3 None of the -- it's considered leading him if you
4 give all that information.

5 MR. MIRABILE: Okay. No problem.

6 MS. DOPKIN: You need to ask him a
7 question that's not a yes or no question.

8 MR. MIRABILE: Okay.

9 Q This site plan shows that the fence --

10 MS. DOPKIN: You're testifying again.

11 MR. MIRABILE: Okay. Okay. Let me go
12 down to --

13 MS. DOPKIN: Ask him a question.

14 Q My question is, what I just described,
15 this amended site plan and amended special hearing
16 of the case number 2019-171-XA are approved as
17 submitted, the Petitioner will be able to return
18 the fence to the disputed location in the center
19 of the Batavia Farm Road. Would you explain that,
20 please.

21 A Yes. Technically the --

22 MR. KETTERER: I object. I believe
23 that's calling for a legal conclusion.

24 MS. DOPKIN: I'm sorry, Mr. Ketterer?
25 What's your objection?

1 MR. KETTERER: I object because I
2 believe he's calling for a legal conclusion, that
3 granting this variance would permit our client to
4 move a fence. I don't believe that's accurate and
5 I believe it's a legal conclusion.

6 MS. DOPKIN: I think he is asking a
7 question based on the -- I'm going to allow it
8 because he's asking a question based on what the
9 site plan showed as proposed, as I understand it.

10 MR. MIRABILE: Yes, ma'am. You're
11 right.

12 MR. SAMPSON: Maybe a little less
13 leading and a little more asking the expert to
14 give his opinion without you sort of leading him
15 down that road.

16 MS. DOPKIN: I'm going to ask that you
17 take down what's -- what you're showing on the
18 screen until you have another exhibit to enter so
19 we can better see Mr. Broyles.

20 MR. MIRABILE: Okay.

21 MS. DOPKIN: Thank you. Go ahead with
22 your question, please.

23 Q Go ahead, Steve, do you want--

24 MS. DOPKIN: You can answer the
25 question, Mr. Broyles.

1 A Okay. The original site plan admitted
2 for the amended case 2021 0201-SPA did show the
3 fence in the middle of Batavia Farm Road.

4 And if that were approved as submitted
5 as an amended site plan, he could have returned
6 and simply put the fence in the middle of the road
7 like he did before. There's nothing really
8 stopping him. He did it without a permit the
9 first time, as I understand.

10 However, there has been a red line
11 submitted on November 22nd, 2021 that shows
12 relocating the fence to the edge -- to the eastern
13 edge of the Batavia Farm Road private 30 foot wide
14 right of way and it shows vehicle parking actually
15 on the grass island on the -- what is a grass
16 island. It's not identified on the plan, on the
17 west side of Batavia Farm Road.

18 Q Okay. Mr. Broyles, the Rosedale
19 Community Association has requested, what you just
20 said, requested that this special hearing and
21 variance be denied as the Petitioner's site plan
22 because it's inaccurate. Do you agree with that?

23 A Yes, it is inaccurate.

24 MS. DOPKIN: That's not a question.

25 Come on. Is there --

1 MR. MIRABILE: Okay.

2 MS. DOPKIN: Ask a question.

3 MR. MIRABILE: Yes, ma'am.

4 Q Do you believe this variance should be
5 denied?

6 A Yes. For various reasons.

7 Q Could you explain the reasons.

8 A May I continue? If we can -- I don't
9 know if I'm allowed to submit an exhibit. I'd
10 like to pull up the zoning checklist which is the
11 Exhibit 105 and I'd like to go through all the
12 errors and omissions on this particular site plan
13 that are contained in the checklist, on the zoning
14 checklist that's required to be submitted with the
15 Petitioner's application.

16 MS. DOPKIN: You're saying it is your
17 exhibit number what?

18 MR. BROYLES: 105. It's the standard
19 zoning checklist for Baltimore County.

20 MS. DOPKIN: I don't see 105 on this
21 list.

22 MR. BROYLES: I e-mailed it in and
23 submitted it and sent -- the two page list shows
24 it.

25 MS. DOPKIN: Are yo offering the

1 zoning checklist now as an exhibit?

2 MR. BROYLES: Yes. So I can testify
3 about it.

4 MS. DOPKIN: Any objection, Mr.
5 Ketterer? This is a matter of public record.

6 MR. KETTERER: I can't object to that.

7 MS. DOPKIN: Thank you.

8 Go ahead, Mr. Broyles.

9 (Exhibit 105 was admitted into
10 evidence)

11 A Go to the full page so they can see
12 it.

13 Item 3 requires that the outline of
14 the property be shown and the gross and net area
15 be shown. And this particular site plan just
16 indicates area as per SDAT, it doesn't identify
17 the gross area and the net area as required by the
18 zoning checklist.

19 And the importance of that is, gross
20 area is typically used for density and it allows
21 calculation to the center of the right of way.
22 And in this particular case, I believe the
23 Petitioner and his expert are alleging they own
24 and have private use to the center of Batavia Farm
25 Road. And I believe that's the reason that they

1 did not list the net and gross area because it
2 would show that difference.

3 It is something that's required on the
4 checklist and it hasn't been provided.

5 Item 14, if you go to the next page of
6 it, is entrances. And although the entrances are
7 shown, there's no width of existing or proposed
8 entrances. I don't believe there are any proposed
9 entrances, but the width of the entrances aren't
10 shown. I'm just pointing it out as another
11 omission on the drawing.

12 And then item 16 which is most
13 important, utilities. It says show the location
14 and size of public utilities and, you know, and
15 right of ways and so forth. And the biggest
16 utility that they missed is the northern property
17 line or the rear property line between the
18 Petitioner's property and Mr. Earlbeck's property,
19 there is a BGE 13,200 volt three phase primary
20 transmission feeder that supplies Mr. Earlbeck's
21 welding businesses, Mr. Earlbeck's properties,
22 B-More Buggies and the next property up the street
23 and the Petitioner's property.

24 And the site plan doesn't identify any
25 utilities. And that omission, I believe had Mr.

1 Doak realized there was a primary high voltage
2 power feeder along that property line, he would
3 have never set a zero foot setback.

4 BGE requires 10 foot setback from any
5 above ground utility. The poles are set at or
6 near the property line. I have physically
7 inspected the site and I believe the poles are
8 within a foot of the property line near the
9 existing fence. They have an eight foot cross
10 arm. So if you take the edge of the cross arm
11 which is four feet, with a ten foot setback,
12 that's a minimum of 14 feet that building is
13 required to be off this property line.

14 Building a building under those high
15 voltage transmission lines, one, it's not allowed;
16 two, creates an electrocution, safety, fire
17 hazard. It violates the International Building
18 Code, it violates the Life Safety Code, 101, it
19 violates the National Electric Code.

20 This is a flagrant omission on this
21 drawing.

22 MS. DOPKIN: Mr. Broyles, is that
23 identified in any of the Zoning Advisory Committee
24 comments by the plans review people?

25 MR. BROYLES: I don't believe it was.

1 BGE typically doesn't get involved in commenting
2 on projects until they're at the DRC or
3 development stage. However, the checklist
4 requires utilities to be shown.

5 Had it been shown, someone may have
6 commented about it. At this point, none of the
7 plan reviewers are aware that there are electric
8 wires there that they're building a building
9 under.

10 MS. DOPKIN: And would this become an
11 issue at the permit stage or would, again, the
12 plans reviewer rely on the site plan -- or would
13 the survey drawings have to show it?

14 MR. BROYLES: The plans reviewer, the
15 electrical and the structural plans reviewer in
16 Baltimore County in my experience typically don't
17 go out and look at the site, they depend on the
18 accuracy of the site plan and the accuracy of the
19 design professional.

20 That's why all of the commercial
21 permits require a licensed professional engineer,
22 land surveyor, you know, and/or architect to see
23 all of that.

24 MS. DOPKIN: I don't think that was my
25 question. My question was, would the building

1 permit drawing plans have the detail that you are
2 saying was omitted from this plan?

3 MR. BROYLES: Not if he uses this same
4 checklist. If you look at the very front of this
5 chart --

6 MS. DOPKIN: That wasn't my question.
7 An architectural plan is not going to be --

8 MR. BROYLES: An architectural plan
9 would not show a power line on the site.

10 MS. DOPKIN: Thank you.

11 MR. BROYLES: Only a site plan would.

12 MS. DOPKIN: Go on. You were up to
13 item 16 on the checklist.

14 A Correct. And my point is, even at
15 building permit stage, this is the very same
16 checklist you use for a commercial building
17 permit.

18 MS. DOPKIN: Any other items on the
19 checklist you want to point out to the Board?

20 MR. BROYLES: Yes.

21 A Item 23. Item 23 is the required off
22 street parking calculation. And I believe their
23 calculation is inaccurate. If you will look at --
24 if we can shift to page 4 on this particular
25 exhibit, it clearly states that automobile sales,

1 display, offices, parts are to be calculated at 5
2 per thousand and that service use is 3.3 spaces
3 per thousand.

4 And on Mr. Doak's calculation, he
5 utilizes 1.6 spaces per thousand for the office,
6 and he utilizes just, you know four parking spaces
7 for employees and he comes up with a total of 17
8 parking spaces.

9 When I do the calculation with the, I
10 believe it's a 1600 square foot building and then
11 the additional calculation there, I come up with
12 27 spaces are being required.

13 The existing building or office areas
14 he's indicated is 1600 square feet. When you use
15 5 per thousand for that and you use 3.3 per
16 thousand for 5,168 square feet, that calculates to
17 26 parking spaces.

18 I believe the parking calculation that
19 they generated on the site plan is inaccurate.
20 It's not following Baltimore County Zoning
21 standards. I don't know where they got the 1.6
22 spaces per thousand for the office. 5 are clearly
23 required on this checklist and in Baltimore County
24 Zoning Regulations.

25 MR. LAUER: Madam Chair, if I might

1 just clarify it. Are you saying they need 26 or
2 27 spaces according to your calculation, sir?

3 MR. BROYLES: 26.

4 MR. LAUER: 26. Okay. Thank you.

5 Thank you, Madam Chair.

6 A Also, when you go to the checklist,
7 item 24, special use requirements. They should
8 have been referencing Section 405 and 405A which
9 is requirements for storage of damaged, disabled
10 or inoperative vehicles. It just requires that
11 they not be stored outside and they be stored
12 inside.

13 And the checklist requires that if
14 there's any special use requirements specific to
15 the site that they be listed on the site plan just
16 like zoning history and they are not listed there.

17 So that's another omission.

18 And then when we come to -- we'll go
19 to, I believe it's page 6 of the checklist which
20 is off street parking requirements. Item 1,
21 paving, it requires that they -- that all the
22 areas are clearly indicated as, you know, the type
23 of paving and whether they're grass, gravel or
24 whatever.

25 There's no indication at all what the

1 paving is. There's an island are on the back and
2 east side that it doesn't designate. My
3 inspection of the site has determined that it's
4 grass there.

5 It does identify two grass areas up on
6 the front of the site as grass and it is an
7 omission that they didn't list those areas. And
8 the original plan and the -- the original plan had
9 shown tow truck parking on the -- the original
10 plan dated I believe 7/2/2021 had shown tow truck
11 parking on the grass island on the west side of
12 the site which is not allowed.

13 Parking in a commercial facility has
14 to be a durable dustless surface. And the red
15 line plan shows vehicle inventory parking there,
16 that although it doesn't have to meet the
17 requirements of Section 409 for parking, it still
18 has to be a durable dustless surface.

19 I did the expansion at Al Packer Ford
20 and we weren't allowed to store inventory on
21 grass. We actually had to put in storm water
22 management and suitable paving for those areas.

23 Item 14 on the off street parking
24 checklist. Again, the entrance width is missing.
25 Item 16, no utilities are shown. And we get into

1 the same issue with the high voltage power feeder
2 at the rear of the property.

3 And then -- I'm sorry, I'm on the
4 wrong checklist. Item 2 on the off street parking
5 requirement, item 2 design standards and screening
6 and landscaping. The two island areas on the
7 front of the property are supposed to be
8 landscaped according to, I don't know if you want
9 to call it a condition or a restriction, I believe
10 it's number 6 in the Administrative Law Judge
11 Murphy's Order on that particular -- original
12 Order in that case 2021-0201.

13 And those two areas should have just
14 been called out as landscaping. And the omission
15 of not showing the other grass areas, had the
16 Hearing Officer known that there was an existing
17 grass area to the west and the rear, she may have
18 required landscaping there also.

19 But the omission on the plan, not
20 showing the type of surfacing, the plan reviewers,
21 the people that write ZAC comments and the Hearing
22 Officer herself weren't able to accurately
23 determine what was there and where landscaping
24 could have potentially been placed.

25 The only areas that were identified as

1 grass were the two areas on the front. And I
2 believe the reason they weren't identified is
3 because the Petitioner wanted to park there,
4 possibly it was just an error or omission.

5 Item 3, the curbs on --

6 MR. KETTERER: Can I object real quick
7 here.

8 MS. DOPKIN: What is your objection?

9 MR. KETTERER: All of this talk -- all
10 this calculation of number of parking spots and
11 calculation of vehicles used for storage at a used
12 car lot, that's all done with. That was in the
13 special exception variance that was already
14 granted back in 2019. This is a separate variance
15 request.

16 MR. BROYLES: Well this is a separate
17 variance, but I'm just pointing out errors and
18 omissions with the plan. It's not accurate. And
19 if, you know, the amended plan is approved then,
20 you know, they won't have the necessary parking.

21 They didn't request a variance of
22 parking standards, requirements or they didn't
23 request a--

24 MS. DOPKIN: Let me address Mr.
25 Ketterer's objection.

1 I think you will be able to address
2 that in your rebuttal case.

3 MR. KETTERER: Yes. If necessary.

4 MS. DOPKIN: So we will allow Mr.
5 Broyles to continue for the sake of trying to get
6 through his testimony.

7 What else -- do you have anything
8 further for us, Mr. Broyles?

9 MR. BROYLES: Oh, yes. It's quite
10 lengthy, unfortunately.

11 A Item 3 on the off street parking
12 requirements, page 6. None of the curbs are
13 identified. And that's just, you know -- there's
14 no way to know if something is an island or, you
15 know, what the existing limits of the paving area.
16 Again, item 6, the entrance width is not shown.

17 Item 10, there's no loading zone
18 indicated which is required on all commercial
19 sites. And item 11, there's no handicapped
20 parking indicated. That's a violation of the
21 American Disabilities Act. That's a violation of
22 International Building Code. There's a minimum
23 amount -- at least you have to have one
24 handicapped parking space on every commercial
25 facility, and there's none indicated.

1 And I did a preliminary plan where I
2 re-sequenced and that's our Exhibit 104, if we can
3 pull that up, where I laid out some vehicle
4 storage and interior parking they have indicated
5 on their plan.

6 And the 30 cars they say they can fit
7 just don't fit there.

8 To the proposed building on the rear
9 and the left side there's two overhead doors and
10 on the front right-hand side there's two overhead
11 doors, according to the plan and there's only 15
12 feet to get in there between the four parking
13 spaces up front.

14 They've got vehicle inventory storage
15 shown for 35 feet in front of the building and the
16 Baltimore County Zoning Regulations for BRAS only
17 allows inventory storage 15 foot in front of the
18 minimum front building setback. So they're
19 encroaching 20 feet into the --

20 MS. DOPKIN: Where is that? Is that
21 in the zoning regulations?

22 MR. BROYLES: Yes, ma'am.

23 MS. DOPKIN: What section?

24 MR. BROYLES: Let me pull that up for
25 you. Bear with me.

1 That's the BR area -- somewhere. Do
2 you have the Zoning Manual, Russell?

3 If you can bear with me, I can pull
4 that up. Okay. That is Baltimore County Zoning
5 Regulations Section 238.4. Would you like me to
6 read it?

7 MS. DOPKIN: No, thank you. We can
8 check it. Please continue.

9 MR. BROYLES: Sorry about that delay.

10 MS. DOPKIN: Is that specific as to
11 the AS zone, by the way?

12 MR. BROYLES: No. That's all BR
13 zones.

14 A And what I indicated here, by the time
15 they have minimum drive widths to get around the
16 site, in and out of it, my calculation is they can
17 only store 13 cars, not the 30 that they've
18 requested.

19 And the interior part I came up with
20 12, not the 13. That pretty much taps out the
21 building. I mean, in my professional opinion
22 they're just trying to do too much on this site.

23 Okay. That's it for items on the --
24 the other item I noticed and it's not a County
25 issue, but it just goes to the quality of the site

1 plan that's been submitted.

2 When a professional engineer or land
3 surveyor stamps any document in the State of
4 Maryland, they're required to put their expiration
5 date on it. Mr. Doak just did not do that. I can
6 cite you the Comar reference for that. And that
7 is Comar Section 9.13.06.12G. And we've actually
8 got that particular page printed in an exhibit if
9 you'd like to see it.

10 MS. DOPKIN: Are you offering it?

11 MR. BROYLES: Exhibit 103.

12 And it just states that they have to
13 list their expiration and it does not.

14 MS. DOPKIN: It speaks for itself.
15 It's a public record. We'll admit it and
16 determine its relevance.

17 Please continue.

18 (Exhibit 103 was admitted into
19 evidence)

20 MR. BROYLES: My point with all of
21 this is that the site plan is not accurate,
22 contains many errors and omissions and I just feel
23 like this petition should be denied until an
24 accurate site plan is submitted that conforms to
25 the required checklist.

1 The next, if I'm allowed, can I offer
2 an opinion on the variance, the zero foot setback
3 for the building.

4 MS. DOPKIN: Sure. Go on.

5 A In my opinion, there's nothing unique
6 or unusual about this property. All one has to do
7 is look left, look right, look behind you, look
8 across the street, look east, look west. This is
9 typical of the sites and businesses in this area.
10 They're all typically small lots with a small
11 structure in the center with circular parking
12 around the outside as Mr. Doak has indicated. And
13 that's because most of these buildings were gas
14 stations, you know, service stations, restaurants
15 banks and, you know, personal service type of
16 facilities.

17 And, you know, according as you all
18 know to, you know, Cromwell versus Ward, if
19 uniqueness cannot be established, that ends the
20 variance process and it's denied.

21 MR. KETTERER: I have to object just
22 because that's done with. That question is
23 answered and it cannot be revisited by the
24 doctrine of collateral estoppel.

25 MR. BROYLES: I understand that and I

1 read that. But this is a different variance.
2 We're talking about in the previous case it was a
3 variance for --

4 MS. DOPKIN: Mr. Broyles?

5 MR. BROYLES: Yes.

6 MS. DOPKIN: I'm going to let Mr.
7 Ketterer explain his objection for the Board.

8 MR. KETTERER: Yes, Chairman. The
9 property has already been adjudicated unique, and
10 the 2019 special exception variance has already
11 been granted and that is final.

12 Therefore they cannot be a factual
13 finding of anything other than uniqueness. That
14 is closed under the Doctrine of Collateral
15 Estoppel, to note changes --

16 MS. DOPKIN: This is a de novo hearing
17 before this Board and you're talking about a
18 change to the building. I'm going to allow it as
19 to the effect from the proposed modification that
20 is the subject of this hearing. Nobody is
21 questioning the original approval as to what was
22 permitted then.

23 But they're questioning it as to what
24 is being -- we are being asked to approve now.

25 Please continue, Mr. Broyles.

1 MR. BROYLES: Yes. Thank you.

2 MS. DOPKIN: You've said it's not
3 unique. We understand your -- what you've said.
4 What else do you want to say?

5 MR. BROYLES: There's a difference in
6 the variance, the previous variance in 171 was for
7 car parking against the property line, which is
8 allowed to park under BG&E lines because they're
9 movable and they're not structures that are
10 subject to people occupying them and being
11 electrocuted and catching on fire.

12 And in the previous case, Mr. Doak
13 identified that there was a hardship or technical
14 difficulty because of change of use on the
15 property and I agree with that. But the change of
16 use is self imposed by the applicant.

17 I mean, if he needed more space or a
18 bigger site, maybe he should have purchased a
19 larger property. That's caveat emptor. Buyer
20 beware.

21 MS. DOPKIN: So is your point that
22 this is a self created hardship?

23 MR. BROYLES: Yes, it is.

24 MS. DOPKIN: Continue, please.

25 MR. BROYLES: Okay. That's what I

1 have to say about the variance.

2 I don't believe the relief requested
3 is in strict harmony within the spirit, intent of
4 height area, off street parking and sign
5 regulations. As I indicated, I think the off
6 street parking calculations are incorrect. I
7 think that makes the site plan inaccurate and, you
8 know, furthermore, you know, can the variance be
9 granted, you know, the relief without substantial
10 injury to public safety and general welfare and it
11 can't. There's an immediate fire hazard from that
12 BGE high voltage power feeder putting a structure
13 on that rear property line.

14 It will never be allowed, for one.
15 And two, if it did slip through the cracks, it
16 could have catastrophic consequences. I mean, you
17 could have catastrophic loss of life, property
18 and, you know, personal injury. All you need a
19 wind storm to drop that 13,000 volt power line on
20 the roof and that building is gone.

21 MS. DOPKIN: Mr. Broyles, it looks to
22 me from the site plan that the liquor store is
23 equally non-compliant to the setback from the
24 power line. Have you looked at that?

25 MR. BROYLES: Yes. But the power

1 lines don't run behind him like that. This power
2 line runs from the edge of Batavia Farm Road east
3 between the properties of Mr. Earlbeck and the
4 Petitioner.

5 MS. DOPKIN: And you're saying it's
6 not --

7 MR. BROYLES: That feeder doesn't come
8 the other way, west.

9 MS. DOPKIN: It does not proceed to
10 the west on Batavia Farm?

11 MR. BROYLES: Correct.

12 MS. DOPKIN: Across Batavia Farm Road?

13 MR. BROYLES: It actually feeds along
14 the edge of Batavia Farm Road right of way.

15 Another reason not to close the road. It feeds
16 from, you know, Pulaski Highway and then it feeds
17 all the way back to, what's that, Route 7. Old
18 Philadelphia Road.

19 And, you know, the other issue is, you
20 know, if the variance isn't granted, it's not
21 denying the Petitioner use of the property. He
22 just can't put as big of a building on it. It's
23 not like he suffers a total use of the property.
24 It's not that type of hardship.

25 He can't put as much as he would like.

1 And in my opinion, you know, he's trying to put 10
2 pounds of dealership in a 5 pound site. It just
3 doesn't fit. That's my professional opinion.

4 MS. DOPKIN: Mr. Mirabile, do you have
5 any further questions for Mr. Broyles?

6 MR. MIRABILE: No, ma'am. I don't
7 have anything. No, ma'am.

8 MS. DOPKIN: Mr. Ketterer, do you have
9 any cross examination? I can't hear you.

10 MR. KETTERER: I will save it for
11 rebuttal.

12 MS. DOPKIN: Thank you.
13 Do you have any further witnesses, Mr.
14 Mirabile?

15 MR. MIRABILE: Yes, ma'am. I
16 subpoenaed Mr. Qaisar.

17 MS. DOPKIN: Wait a moment. Wait.
18 Are we excusing Mr. Broyles then?

19 MR. MIRABILE: No, not yet. No. I
20 may have one question for him on a photograph I
21 was looking to explain.

22 MS. DOPKIN: Well, then why don't you
23 ask him your question. You just told me you
24 didn't have questions for him.

25 MR. MIRABILE: Well, I was looking for

1 a photograph to expand on what he was talking
2 about with the power line that was produced by Mr.
3 Doak. But he did recognize that in his work. So
4 we can excuse Mr. Broyles.

5 MS. DOPKIN: Okay. Thank you, Mr.
6 Broyles. Would you please call your next witness,
7 Mr. Mirabile.

8 MR. MIRABILE: Yes. I want -- I
9 subpoenaed Mr. Qaisar Shahzad -- Shahzad, how he
10 pronounces his last name. And I'll see if he's in
11 the outside waiting room, number one.

12 And I did subpoena Bruce Doak but BED1
13 will show that he was -- evaded service and I'd
14 like to submit that if possible. I think it
15 should be put in.

16 MS. DOPKIN: Well, we're not going to
17 go there. You called Mr. Qaisar Shahzad.

18 MR. MIRABILE: Yeah. I subpoenaed
19 him. I'll see if he's in the waiting room.

20 MS. DOPKIN: I will make him a
21 panelist.

22 MR. SAMPSON: I believe Mr. Doak is
23 here as well.

24 MS. DOPKIN: And Mr. Doak is here as
25 well. But we will let Mr. -- Mr. Shahzad has been

1 made a panelist. I don't see him, but --

2 MR. SHAHZAD: I am here, ma'am.

3 MS. DOPKIN: Are you available by
4 video or just by audio.

5 MR. SHAHZAD: Let me try to put the
6 camera on. Yeah, my camera just turned on.

7 MS. DOPKIN: We see you now.

8 Would you swear the witness, please.

9 MR. SHAHZAD: My name is Qaisar
10 Shahzad and I'm --

11 MS. DOPKIN: Wait. Let's wait for Mr.
12 Lauer.

13 MR. SHAHZAD: Okay. Sorry about that.

14 MR. LAUER: Please raise your right
15 hand.

16 Whereupon

17 QAI SAR SHAHZAD,
18 called as a witness, having been first duly sworn
19 to tell the truth, the whole truth, and nothing
20 but the truth, was examined and testified as
21 follows:

22 MR. LAUER: Please state your name,
23 give us your -- spell your last name and give us
24 your address for the record.

25 MR. SHAHZAD: My name is Qaisar

1 Shahzad. Address is 9243 Bellbeck Road,
2 Parkville, Maryland, 21234.

3 MS. DOPKIN: Spell your name for us,
4 please.

5 MR. SHAHZAD: Q-a-i-s-a-r. Last name,
6 S-h-a-h-z-a-d.

7 MR. LAUER: Thank you.

8 MS. DOPKIN: Mr. Mirabile, you have
9 questions for Mr. Shahzad?

10 MR. MIRABILE: Yes. I was wondering
11 if we could take a 15 minute break so I may go to
12 the rest room.

13 MS. DOPKIN: It is 12:06. We will
14 pause this hearing until 12:20.

15 MR. MIRABILE: Okay. Thank you.

16 (Off the record)

17 MS. DOPKIN: We are back on the record
18 if everyone is ready, I muted everyone while we
19 were off the record.

20 Mr. Mirabile, if you are ready to
21 question Mr. Shahzad.

22 MR. MIRABILE: Yes.

23 MS. DOPKIN: This is your opportunity.

24 MR. MIRABILE: All right. Thank you.

25 DIRECT EXAMINATION

1 BY MR. MIRABILE:

2 Q Good afternoon, Mr. Shahzad. How are
3 you today?

4 A I'm doing well. How about you, sir?

5 Q I'm doing -- I could be better, but
6 thank you.

7 I'd like to ask you a couple of
8 questions. I won't be long with everybody.

9 Could you give me the name and address
10 of your business.

11 A My personal or business address?

12 Q No, your business address.

13 A The business address I have here is
14 N.A. Motors, 8202 Pulaski Highway, Rosedale,
15 Maryland 21237.

16 Q Okay. When you purchased the 8202
17 Pulaski Highway, did you have an agent work with
18 you or a real estate agent of any kind or any
19 professional?

20 A Yes, I do.

21 Q Who was that person's name?

22 A I forgot, but it's in the paper
23 somewhere, the contract when we made it.

24 Q Okay. Did that person tell you that
25 you would be able to have an automobile sales lot

1 there?

2 A He told me this is --

3 MR. KETTERER: Objection.

4 MS. DOPKIN: Wait. Mr. Shahzad. Mr.
5 Ketterer has raised an objection.

6 MR. KETTERER: I object to the hearsay
7 and the relevancy of any of this.

8 MS. DOPKIN: Yes. I'm going to
9 sustain that. One it would be something that was
10 said by somebody who is not here which is hearsay.

11 And I'm not sure why that -- what
12 bearing that has on the legal issues to be
13 determined by this Board today.

14 So please ask Mr. Shahzad another
15 question.

16 MR. MIRABILE: Okay. I'm sorry, I
17 just had two exhibits -- here they are.

18 MS. DOPKIN: Do you want to put them
19 up on the screen? You're still able to share.

20 MR. MIRABILE: Yes, ma'am. It's
21 number 12 -- do you want me to put all of them up?
22 I have three of them.

23 MS. DOPKIN: Well, let's do them one
24 at a time and you'll introduce them and see if Mr.
25 Ketterer has any objection and we'll go from

there.

So what's your first exhibit?

MR. MIRABILE: The first exhibit is
number 12.

MS. DOPKIN: Well, let's see it.

MR. MIRABILE: Okay.

MS. DOPKIN: And number 12 looks like it's a citation from Code Enforcement and Inspection.

MR. MIRABILE: Yes, ma'am.

MS. DOPKIN: I do not see a date on
here -- ah, dated --

MR. MIRABILE: It's at the bottom,
ma'am, it's --

MS. DOPKIN: The issue date was
February of 2022. Okay.

And you're introducing that as Exhibit number?

MR. MIRABILE: Exhibit 12.

MS. DOPKIN: It's citation case number
CC2108046. And why are you introducing this?

MR. MIRABILE: Credibility. Mr. Qaisar has a tendency to do things outside the law, outside the --

MS. DOPKIN: Well -- Mr. Ketterer are

1 you speaking?

2 MR. KETTERER: I want to object
3 immediately to relevancy. And he's also attacking
4 my client's credibility before even asking him a
5 question.

6 MS. DOPKIN: I'm going to sustain you
7 on credibility. You can attack -- that's
8 inappropriate at this point. And tell me what
9 relevance this has to the petition that's before
10 us.

11 MR. MIRABILE: Well, just as Mr.
12 Broyles explained everything, everything is not up
13 to level here and Mr. --

14 MS. DOPKIN: Well this is from
15 February and it is now almost November so that I'm
16 not sure it's -- it has bearing on what's before
17 us.

18 Do you want to -- is this an ongoing
19 condition or has it been corrected? Do you have--

20 MR. MIRABILE: Well, it's been
21 partially corrected. He still owes a fine to
22 Baltimore County.

23 MS. DOPKIN: Let's -- we'll admit it
24 and give it the weight that it's -- we see fit.

25 (Exhibit 12 was admitted into

1 evidence)

2 What's your next exhibit?

3 MR. MIRABILE: I have another one with
4 that, but I'll -- another Code Enforcement, but
5 I'll have to lean over and get it. The next one
6 would be 12 -- number 12, it's a reference to the
7 fence.

8 MS. DOPKIN: This is number 12.

9 MR. MIRABILE: This one says 12 fence.

10 MS. DOPKIN: 12A?

11 MR. SAMPSON: He has two 12s. There's
12 a 12 and then another 12 and then a 12A and a 12B.

13 MR. MIRABILE: Well this one is 12
14 fence. I did that so it would be easier to
15 follow.

16 MS. DOPKIN: That's 12. I don't know
17 what your next exhibit is from what's on the
18 screen.

19 MR. MIRABILE: We're trying to locate
20 it here.

21 MS. EARLBECK: I don't think we have
22 it.

23 MR. MIRABILE: You don't have it?
24 It's been stamped in.

25 MS. DOPKIN: What's your next exhibit,

1 Mr. Mirabile?

2 MR. MIRABILE: Right now I have to
3 hold off to make sure we can find -- not hold off,
4 but I'll -- okay. I'll hold off on that one,
5 ma'am. I'll just wait until we get this other one
6 up.

7 I wanted to ask, we can't seem to
8 find, it's been stamped in, but it's 12-fence.
9 F-e-n-c-e.

10 MS. DOPKIN: Do you have a question
11 for Mr. Shahzad while you're trying to locate
12 that?

13 MR. MIRABILE: Yes. While we're
14 trying to locate it.

15 Q Who did the measuring on this
16 application for the fence that you put up in the
17 middle of Batavia Farm Road.

18 MR. SAMPSON: Can you -- time out.
19 Can you stop sharing the screen if you're just
20 going to scroll through exhibits. It's very
21 distracting.

22 Thank you.

23 MS. DOPKIN: Your question was, who
24 prepared what?

25 MR. MIRABILE: Who prepared the fence

1 measurements that you had on Batavia Farm Road?

2 MR. KETTERER: I'll again object to
3 the relevancy of the fence and Batavia Farm Road.

4 MS. DOPKIN: And I don't know what --
5 are you referring to the site plan?

6 MR. MIRABILE: No. I'm referring to a
7 separate application for a fence permit.

8 MS. DOPKIN: And what bearing does
9 that have on the petition before us? That's a
10 separate matter is it not?

11 MR. MIRABILE: Well, no. He put the
12 fence up in the middle of Batavia Farm Road. And
13 it was --

14 MR. KETTERER: That's a statement.
15 It's not a question.

16 MS. DOPKIN: And I'm still not clear
17 on what bearing that has on the case before us if
18 it was a separate permit.

19 MR. MIRABILE: Well, this is --

20 MS. DOPKIN: And it's not an existing
21 condition, is it?

22 MR. MIRABILE: No. Two weeks ago he
23 took the fence down again.

24 MS. DOPKIN: That was a statement, not
25 a question. So what's your next question for Mr.

1 Shahzad?

2 MR. MIRABILE: Okay.

3 Q Mr. Shahzad, Judge Beverungen gave you
4 a --

5 MR. BROYLES: That's it, Russell.

6 MR. KETTERER: I have to object again.
7 The expert witness is telling him what to say.

8 MR. MIRABILE: He's not telling me
9 what to say.

10 MR. BROYLES: I pointed out an
11 exhibit.

12 MR. MIRABILE: I have my notes right
13 here.

14 MS. DOPKIN: Mr. Mirabile --

15 MR. MIRABILE: Yes.

16 MS. DOPKIN: --you were asking Mr.
17 Shahzad a question.

18 MR. MIRABILE: Yes.

19 MS. DOPKIN: What was the question?
20 Mr. Broyles, whoever else is in the room, we don't
21 want to hear from you if you're not testifying.

22 MR. BROYLES: Yes, ma'am.

23 Q Mr. Shahzad, you were -- you received
24 permission from Judge Beverungen, I believe it was
25 back in 2019 that you could have a used car sale

1 lot; is that correct?

2 A Yes, sir.

3 Q Okay. And then now you, about two
4 years later or a year and a half later, you
5 applied -- that was for one use. And now another
6 use now you say you want to have this building put
7 up; is that correct?

8 A Yes, sir.

9 Q And you want that for a different use;
10 is that correct?

11 A It's the same use. When you buy the
12 car, the car needs to be get seen before we sell
13 it to the customer. It should not break down on
14 the street. That's why we planned to have a
15 building that we can see the car and get the car
16 it is reliable, road reliable and have good
17 customer service. That's why we planned to add
18 the building.

19 Q Okay. Did you have that in mind when
20 you originally had the -- bought the property?

21 A I had in my mind what I thought all
22 the calls are good at the auction. But it's not.
23 There is something always when you start the
24 business, then you figure out how you got it, and
25 how you get success in the business. So the

1 success is when you got the car, you can see
2 yourself at your property and see how the car is.
3 If the car is good, you can put it for sale. If
4 not, it should be fixed before you sell it.

5 That's why I decided to have a
6 building to put it on my site. Instead of sending
7 the car over there and then get inspected over
8 there and then retail over there, just bring it to
9 the one place, fix it and sell it. And if
10 anything happened, the customer can come back to
11 me and I can fix his problem.

12 Q So you referred us to another
13 building. Are you using another building now to
14 sell cars?

15 A What other building?

16 Q You just mentioned there are other
17 buildings where you -- you're working in another
18 building so you can sell cars at 8202 Pulaski
19 Highway.

20 A Yes.

21 Q What is the address of that place?

22 A 8202 Pulaski Highway, Rosedale,
23 Maryland.

24 Q What is the other place that you
25 were--

1 A Other place means other shop. When I
2 sell the car, then I cannot stay here. I have to
3 take the car to the shop, they fix it and then get
4 it to the State inspector, get it inspected and
5 then send it back. So I'm not --

6 Q Okay, but --

7 A --it's a waste of time. I'm going
8 there, there, there, there, there. So I'm not
9 able to get the success. If the car is here,
10 somebody is working with me, I'm here. So I think
11 I can manage better.

12 Q Once again, what is the address of
13 where you're working out of?

14 MS. DOPKIN: I think that's been asked
15 and answered, Mr. Mirabile. What Mr. Shahzad said
16 is he works out of 8202 Pulaski Highway and that
17 he sometimes has to take cars to a repair shop or
18 State inspection station but he didn't -- Mr.
19 Shahzad are you working yourself at the repair
20 shop?

21 MR. SHAHZAD: Yes, I do, ma'am. I'm a
22 little bit of everything, engineer, you can say
23 everything.

24 MS. DOPKIN: At a location other than
25 8202 Pulaski Highway?

1 MR. SHAHZAD: I used to work for some
2 shops because we have a towing company and I used
3 to work for someone for a little bit.

4 MS. DOPKIN: But not now?

5 MR. SHAHZAD: Not now, but I can
6 inspect my car myself.

7 MS. DOPKIN: Please continue, Mr.
8 Mirabile.

9 Q You've been in business on Pulaski
10 Highway then would you say for two years?

11 A About four years now.

12 Q Four years now. Okay. And you have
13 it partitioned off so you can sell cars there as
14 Judge Beverungen gave you permission; is that
15 correct?

16 A Yes, sir.

17 Q How many cars have you sold out of
18 that lot?

19 A Around --

20 MR. KETTERER: Irrelevant.

21 MR. MIRABILE: It's very relevant.

22 MS. DOPKIN: Is that an objection?

23 MR. KETTERER: That's an objection.
24 It's irrelevant.

25 MS. DOPKIN: Mr. Mirabile, what

1 relevance does that have to the petition before
2 us?

3 MR. MIRABILE: Well, he has -- the
4 relevancy is he was given permission to sell off
5 of that lot. He's never used that lot. I have
6 photographs of that lot. And now he wants to
7 expand his business, but he hasn't even --

8 MS. DOPKIN: Whoa, whoa, whoa, wait.

9 MR. MIRABILE: Whoa, whoa, what?

10 MS. DOPKIN: He was given permission
11 to sell cars and you asked him if he sold cars
12 there and how many.

13 MR. MIRABILE: Yes.

14 MS. DOPKIN: And he said he sold cars
15 there. The numbers doesn't particularly matter,
16 does it?

17 MR. MIRABILE: Yes, it does.

18 MS. DOPKIN: Why?

19 MR. MIRABILE: If he sold one car
20 there and he's asking for -- to bring up more --
21 make it a lot smaller then, you know -- this was
22 -- has all been -- this wasn't going on like he
23 found out he needed this, he needed that. This
24 has been going on for a couple of years. He's
25 changing the use.

1 MS. DOPKIN: I'm going to sustain the
2 objection. I don't think how many cars he's sold
3 is terribly relevant to what's before us.

4 But we can -- what's your next
5 question?

6 MR. MIRABILE: Am I allowed to ask him
7 how many cars does he have on his lot to sell?

8 MS. DOPKIN: How many cars do you have
9 on your lot to sell, Mr. Shahzad?

10 MR. SHAHZAD: So far in this lot I
11 think I have -- I think eight cars and three for
12 repairs. So far I think that 11, because the car
13 prices are so high, most of them, we sell it back
14 to the auction. So it's come and go.

15 MS. DOPKIN: So you have some turnover
16 of the number of cars?

17 MR. SHAHZAD: Yes. Because the prices
18 of the cars are so high so when you buy the car
19 you need to know what -- how much money you're
20 spending on it and how you sell it.

21 So the APR go up now, the price --
22 don't buy it now, wait for the time when you have
23 time to buy it and then sell it. So this is how
24 the business goes. It's not you have money and
25 you just throw it and you lose money. You've got

1 to be smart and invest in the business.

2 MS. DOPKIN: Mr. Mirabile, what's your
3 next question.

4 Q Mr. Shahzad, have you ever heard of
5 the term in your business of curb siding?

6 A Curb siding?

7 Q Curb siding or curb stoning? Have you
8 ever heard of that term?

9 A No.

10 Q Okay.

11 MR. MIRABILE: I'd like to admit a
12 couple of exhibits, please.

13 MS. DOPKIN: And what are you
14 introducing?

15 MR. MIRABILE: I'm introducing
16 photographs of his lot as a sales lot.

17 MS. DOPKIN: That's not what's before
18 us on the screen.

19 MR. MIRABILE: I haven't shown it yet
20 to Ms. --

21 MS. DOPKIN: What exhibit number are
22 you offering?

23 MR. MIRABILE: It's 50 plus. I'm
24 offering a couple of them.

25 MS. DOPKIN: This is -- whoa, whoa,

1 whoa, whoa. One at a time, please.

2 MR. MIRABILE: Sure.

3 MS. DOPKIN: What is the first one
4 you're offering?

5 MR. MIRABILE: 51.

6 MS. DOPKIN: This is 51?

7 MR. MIRABILE: Yes, ma'am. This is a
8 photograph of, I guess it would be the west side
9 of the parking lot that Mr. Shahzad has and there
10 are no cars there for sale.

11 MS. DOPKIN: Wait a minute. That's
12 not a question.

13 MR. MIRABILE: I know. Well, I'm
14 describing it for you.

15 MS. DOPKIN: Okay. And what is it
16 intended to demonstrate?

17 MR. MIRABILE: That it's not being
18 used as for a used car lot, number one, just on
19 the west side.

20 MS. DOPKIN: And what's your next
21 exhibit? And I know 51 plus shows a chain link
22 gate and a truck and some parking -- paved areas.

23 The next exhibit is number what?

24 MR. MIRABILE: 28, ma'am. That was
25 submitted by Mr. Doak.

1 MS. DOPKIN: So it's Petitioner's
2 Exhibit 28?

3 MR. MIRABILE: I think, yeah,
4 Petitioner's Exhibit, it looks like 6G.

5 MS. DOPKIN: Protestant's 28. And
6 what is this intended to show?

7 MR. MIRABILE: Also there are no cars
8 for sale on that lot. The car sitting in front of
9 that lot is Mr. Doak's car. He described that.

10 MS. DOPKIN: And what is your next
11 exhibit?

12 MR. MIRABILE: It's coming up now,
13 ma'am. The next one ma'am is 36B.

14 MS. DOPKIN: And what is this supposed
15 to show?

16 MR. MIRABILE: It also shows well, the
17 now defunct fence, but it also shows that the lot
18 has just tow trucks there.

19 MR. KETTERER: That's factually
20 inaccurate from the face of the photograph.

21 MS. DOPKIN: Well, Mr. Mirabile, did
22 you take these pictures?

23 MR. MIRABILE: Yes, ma'am, I did.
24 That's me in the silhouette in number 36B.

25 MS. DOPKIN: And did you take what was

1 51 plus and 28?

2 MR. MIRABILE: Let me see here.

3 MS. DOPKIN: I need you to
4 authenticate them as to who took them, when and
5 what --that they fairly and accurately represent
6 what you're alleging they represent.

7 MR. MIRABILE: Okay. 51 plus it was
8 an exhibit by Mr. Doak and it looks like 6L. And
9 also it represents no calls for sale on the lot.

10 MS. DOPKIN: 36B you took.

11 MR. MIRABILE: 36B I took.

12 MS. DOPKIN: And when did you take it?

13 MR. MIRABILE: That was taken
14 approximately, around November of '21 because I
15 incorporated that zoning sign there on what is,
16 contesting right now.

17 MS. DOPKIN: And this is intended to
18 show what?

19 MR. MIRABILE: That it's not a typical
20 lot, sales lot, automobiles being here.

21 MS. DOPKIN: What's your next exhibit?

22 MR. MIRABILE: Exhibit 28 was
23 Petitioner's Exhibit 6G.

24 MS. DOPKIN: Yes, you told us that.

25 MR. MIRABILE: And the next one,

1 ma'am, is Exhibit 36A.

2 MS. DOPKIN: And did you take this
3 picture?

4 MR. MIRABILE: Yes, ma'am. Same day.

5 MS. DOPKIN: In November of '21?

6 MR. MIRABILE: Approximately. Yes,
7 ma'am. Yes.

8 And this one is atypical, you'll see a
9 car on the right-hand side.

10 MR. KETTERER: I'll object here. He's
11 trying to introduce these exhibits through my
12 witness and he is doing the testimony himself.

13 MR. MIRABILE: I'm explaining it.

14 MS. DOPKIN: I'm going to allow the
15 exhibits just because they show whatever they
16 show. And if you're going to question the witness
17 about them, you need to do so and tell us, you
18 know, as it relates to the pictures you're putting
19 up.

20 (Exhibits 51, 28, 36A-B were admitted
21 into evidence)

22 MR. MIRABILE: Okay. Is it okay if I
23 ask him about the last one, 36A?

24 MS. DOPKIN: That's before us. Yes.

25 Q Mr. Shahzad, I'd like to look at

1 Exhibit 36A since it's on the screen and Judge
2 Murphy had indicated and Judge Beverungen, there's
3 not supposed to be any vehicles that were --
4 needed major repair or basically to clutter up the
5 place to make it look like a junk yard.

6 This photograph here indicates that
7 how many cars do you have like that at this lot?

8 MR. KETTERER: I'm going to object to
9 the form of that question.

10 MS. DOPKIN: Why don't you ask him a
11 question about the picture.

12 MR. MIRABILE: Okay.

13 Q This picture indicates major --

14 MS. DOPKIN: That's not a question.

15 Q Is major work being done to this
16 vehicle?

17 A No.

18 Q Okay. Do you recognize that vehicle?

19 A I can barely see that. I'm on the
20 phone. There is some vehicle I can look at it
21 like I inspect myself and then take it to the
22 inspector for inspection. Because then I have to
23 bring it back and take it somewhere for repair.
24 That's a waste of time. Before I take it to the
25 inspector, I do inspect myself visually the car.

1 Sometimes.

2 Q Do you store vehicles on this lot for
3 sale to show the general public?

4 A Yes.

5 Q Okay. Is it typical of this
6 photograph of the vehicles being shown for the
7 general public?

8 A I try to keep in my fence because
9 people kept cutting the catalytic converter and
10 other stuff, the wheels, they steal it. Last
11 month someone steal our truck dollies, cut the
12 fence and also cut the locks on our dollies and
13 steal away. So that's why I have tried to keep
14 inside the fence.

15 Q But this photograph--

16 MS. DOPKIN: I think the question was,
17 do you keep vehicles for sale on the lot in the
18 fenced area? It was a yes or no question.

19 MR. SHAHZAD: Yes. The cars are for
20 sale.

21 MS. DOPKIN: What's your next
22 question, Mr. Mirabile?

23 Q Is this a typical sale site of how you
24 do the selling? Because I don't see them in line.

25 MR. KETTERER: I object again to the

1 relevancy.

2 MS. DOPKIN: What's -- he's answered
3 the question. What's your next question?

4 MR. MIRABILE: That's fine.

5 Q The next question. On Petitioner's
6 Exhibit 6G which is Mr. Doak's and it would be
7 my--

8 MS. DOPKIN: Do you want to put that
9 up on the screen, please.

10 MR. MIRABILE: It's Exhibit 28.

11 MS. DOPKIN: Okay. This is a picture,
12 Mr. Mirabile (sic) of your property, it looks like
13 it was taken from the corner of your property
14 nearest the golf cart repair shop looking back at
15 your building and yard.

16 MR. MIRABILE: Yes.

17 Q Do you have -- you do not have stripes
18 on the -- where would your parking lots and where
19 would your customers park on this lot, on this
20 particular photograph?

21 A Customers can park anywhere in the
22 front. I asked Mr. Doak we can make the lines
23 where the customer parking is. He says, it's
24 fairly open on the front. They can park anywhere.
25 So you doesn't need it. So -- you doesn't need

1 the lines, that's fine, because it's open for the
2 public. You can park anywhere.

3 Q Are you aware that Judge Murphy and
4 Judge Beverungen made that a requirement that they
5 have to be striped?

6 MR. KETTERER: I object. And we're on
7 appeal. That hasn't been finalized yet.

8 MS. DOPKIN: There's an objection.
9 And Mr. Ketterer is right, that was a prior case.

10 MR. MIRABILE: Okay. Let me cut back
11 to 36A one more time, please.

12 MS. DOPKIN: Mr. Shahzad, this is
13 picture of the front of your property, again from
14 your entrance, the entrance on Pulaski Highway
15 looking at your building.

16 What is your question?

17 MR. MIRABILE: My question is--

18 Q In order for you to get the public,
19 the general public to come into your place of
20 business, I see there's a fence drawn across your
21 entranceway. I notice that the chain link, or
22 that chain across that highway has been there for
23 a long time. How do customers come in to your
24 property?

25 A On the side entrance. It was open for

1 a long time, but 50 feet tractor trailer they try
2 to make a u-turn and go back to the east side and
3 they broke our asphalt and hit that pole, too.
4 They still hit the pole, too, on this side and in
5 order to avoid that the 50 feet tractor trailer go
6 over the curb and break the stuff, that's why we
7 put that one.

8 And the customer can come in this
9 side. Even the Earlbeck, customers park here, he
10 don't have any problem. It's empty. They can go
11 inside and they can do whatever they want and they
12 come back. So we have no problem. So people can
13 come in this way.

14 Q Do I understand you said Mr. Earlbeck
15 uses that parking lot?

16 A No, no, some of the customer on this
17 side they forgot, they think they can go through
18 this way. They just park the vehicle, they come
19 in and ask inside, can we go see. I have no
20 problem, you can go.

21 MR. MIRABILE: All right. I don't
22 have any further questions, Your Honor. I think
23 it kind of speaks for itself.

24 MS. DOPKIN: Thank you. Mr. Ketterer,
25 do you have any questions for Mr. Shahzad or are

1 you going to reserve?

2 MR. KETTERER: I'll just do some brief
3 questioning.

4 CROSS EXAMINATION

5 BY MR. KETTERER:

6 Q Mr. Shahzad, as the property is right
7 now, you're currently under a special exception
8 and variance permitting you to operate a used
9 vehicle sales; correct?

10 A Yes.

11 Q And as it stands right now, if you
12 find one of those used vehicles to be inoperable,
13 you have to take it to a third -- or another
14 location to have it repaired?

15 A If repair is needed. Yes.

16 Q Yes, that was my question. I just
17 wanted to clarify that, that as it stands right
18 now if you find one of your vehicles needs
19 repairs, you would have to take it somewhere else.

20 A Yes.

21 Q Okay. And you have the back of the
22 property fenced in for security of your property?

23 A Yes.

24 MR. KETTERER: I have no further
25 questions.

1 MS. DOPKIN: Okay. Mr. Mirabile, do
2 you have any further witnesses?

3 MR. MIRABILE: No, ma'am --

4 MS. DOPKIN: Or any further questions
5 for Mr. Shahzad?

6 MR. MIRABILE: Yes, I do. One other
7 question, according to what Mr. Ketterer said.

8 REDIRECT EXAMINATION

9 BY MR. MIRABILE:

10 Q The fence is on the front of the
11 property, not the rear property for vandalism or
12 stealing; is that correct?

13 A I have fence on the front, on the
14 right side and the left side and in the back I
15 have a wood fence in the back. When we purchased
16 the property, the ex-landlord, Mr. Leonard, he had
17 that fence in the back. That is a wood fence.
18 Yes.

19 Q Okay. How many total vehicles have
20 you had on that parking lot for sale?

21 MR. KETTERER: Objection.

22 MS. DOPKIN: That was asked and
23 answered -- it was not allowed earlier. So let's
24 not revisit it.

25 MR. MIRABILE: Okay. All right.

1 Okay. All right. I don't have any more questions
2 for Mr. Shahzad. He's happy. Look at that. He's
3 very happy. That's good.

4 MS. DOPKIN: Thank you, Mr. Shahzad.
5 I'm going to make -- move you back to a -- I'm
6 going to try to move you back to -- well, I guess
7 I'm not.

8 Does that conclude your case, Mr.
9 Mirabile?

10 MR. MIRABILE: Yes. I just want to
11 make a matter of record that Mr. Doak was --
12 refused his subpoena and I had a lot of questions
13 for him. So I would just like to make that a
14 matter of record. And it's in the record, if I
15 can pull it up, I can put it in the record. It's
16 really simple --

17 MR. KETTERER: Mr. Doak was available
18 for cross examination on the first day of the
19 hearing.

20 MR. SAMPSON: Well, no, no --

21 MS. DOPKIN: You'll have your
22 opportunity.

23 MR. MIRABILE: Well, I --

24 MS. DOPKIN: Mr. Sampson -- Mr.
25 Mirabile.

1 Mr. Sampson.

2 MR. SAMPSON: I don't believe that's
3 correct. I believe that we said at the end of the
4 first hearing that Mr. Doak would have to be made
5 available and he is on the line. So it's not true
6 -- whether he was available or not the first day,
7 we made it clear that he was to be back.

8 And so Mr. --

9 MS. DOPKIN: And he is.

10 MR. SAMPSON: --Mr. Mirabile is not
11 foreclosed from asking Mr. Doak questions.

12 MR. MIRABILE: Okay. I would like to
13 have Mr. Broyles next to me so -- because it's
14 going to be engineer and surveying issues and he's
15 not here in this room. Could I take a five minute
16 break and see if he's outside and then I'll be
17 prepared for questions for Mr. Doak?

18 MR. SAMPSON: You're the one asking
19 the questions. What are you asking that if you
20 can tag team questions of Mr. Doak?

21 MS. DOPKIN: Mr. Broyles can't
22 question Mr. Doak, only you can.

23 MR. MIRABILE: I understand that.

24 MS. DOPKIN: And we're not going to
25 have Mr. Broyles feeding you questions for Mr.

1 Doak. Either you have prepared questions for Mr.
2 Doak that you can ask him yourself or you don't.

3 MR. MIRABILE: Right. Mr. Broyles
4 isn't going to feed me anything. What I want to
5 basically do -- if you bring Mr. Doak up, I'll ask
6 him -- I'm only going to ask him a couple of
7 questions. That's all.

8 MR. KETTERER: If Mr. Doak is being
9 called to testify, I would ask Mr. Broyles leave
10 the room because I do not believe that he will not
11 talk to Mr. Mirabile.

12 MS. DOPKIN: Well --

13 MR. MIRABILE: That's a credibility
14 issue. That's not right.

15 MR. SAMPSON: Hold on. Mr. Mirabile.

16 MR. MIRABILE: Yes, sir.

17 MR. SAMPSON: Pause. Chair Dopkin
18 gets to talk.

19 MS. DOPKIN: I'm going to allow him to
20 stay and if we feel that Mr. Broyles is -- or Mr.
21 Mirabile is being inappropriate we will deal with
22 it at the time.

23 It seems, you know, as I said before,
24 Mr. Mirabile is not a lawyer. He clearly didn't
25 understand that Mr. Doak is available based on the

1 Board's prior ruling at the conclusion of the
2 hearing.

3 I have just made Mr. Doak a panelist
4 and maybe we'll get to see him if he'll give us
5 some video if he's still available.

6 MR. DOAK: I am.

7 MS. DOPKIN: I hear you. Will we get
8 to see you? Your smiling face, Mr. Doak?

9 There he is.

10 Now, Mr. Mirabile --

11 MR. MIRABILE: Yes.

12 MS. DOPKIN: --we're going to have Mr.
13 Doak sworn and you may ask him questions.

14 MR. MIRABILE: Okay.

15 MS. DOPKIN: No one else can ask him
16 questions.

17 Mr. Lauer.

18 MR. LAUER: Yes. Mr. Doak, please
19 raise your right hand, please.

20 Whereupon

21 BRUCE DOAK,
22 called as a witness, having been first duly sworn
23 to tell the truth, the whole truth, and nothing
24 but the truth, was examined and testified as
25 follows:

1 MR. LAUER: Please give us your name
2 and your title, position and address if you would,
3 for the record.

4 MR. DOAK: My name is Bruce E. Doak,
5 D-o-a-k. I'm a Maryland property line surveyor
6 number 531. My address is 3801 Baker Schoolhouse
7 Road, Freeland, Maryland 21053.

8 MS. DOPKIN: All right. And I believe
9 you were previously admitted as an expert.

10 MR. DOAK: Yes, ma'am.

11 MS. DOPKIN: Okay. I just want to
12 make sure we're all aware.

13 Mr. Mirabile, do you have a question
14 for Mr. Doak?

15 MR. MIRABILE: Yes, ma'am.

16 DIRECT EXAMINATION

17 BY MR. MIRABILE:

18 Q Mr. Doak, did you hear Mr. Broyles'
19 testimony and explanation?

20 A Yes, sir, I did.

21 Q All right. Is there anything there
22 that you disagree with?

23 A One thing to keep in mind is, Mr.
24 Broyles is a very good professional, been at it a
25 long time like I have. But he also understands

1 that the checklist is a guidance versus a
2 requirement.

3 So having done, I'll say this year
4 probably more zoning hearings than anybody, other
5 professional, not always do I make sure that each
6 and everything on the checklist is on there. It's
7 the things that would be important to that case.

8 So, that would be all I would say
9 about Mr. Broyles and his testimony.

10 MS. DOPKIN: Mr. Mirabile, do you have
11 another question for Mr. Doak?

12 MR. MIRABILE: Yeah. Sure. I do.
13 Yeah.

14 Q Is there anything that Mr. Broyles had
15 said in his lengthy conversation that you
16 disagreed with?

17 A Yes, sir.

18 MS. DOPKIN: He just answered that
19 question.

20 Q How about specifically, then. I mean,
21 Mr. Broyles went through a very elongated
22 explanation of everything.

23 A Yes, he did. And a very good job he
24 did. But he also, I don't think that he read well
25 enough the first, the 2019 opinion which addressed

1 the setback of the parked cars to the front and to
2 the sides.

3 Also, he addressed the parking. And
4 also a lot of it was placed -- was in the
5 discussion and the hearing about the cars for sale
6 not needing to meet any sort of parking standards,
7 aisle widths or anything like that, so --

8 MS. DOPKIN: Thank you. Mr. Mirabile,
9 do you have another question?

10 MR. MIRABILE: Yes, ma'am.

11 Could I put up an exhibit, number 41,
12 please.

13 MS. DOPKIN: Has this been entered or
14 is it a new exhibit?

15 MR. MIRABILE: It's a new exhibit,
16 ma'am.

17 MS. DOPKIN: And what are you showing
18 us, Exhibit 41?

19 MR. MIRABILE: Yes, ma'am.

20 MS. DOPKIN: And what does this show?

21 MR. MIRABILE: This shows an imaginary
22 fence -- this was created by -- first I should ask
23 Mr. Doak if he recognizes this. It was one of his
24 petitions, but we didn't have a number on it.

25 A Yes, sir. I did prepare that.

1 Q Okay. And did you prepare that for, I
2 believe it was for Judge Murphy, to indicate that
3 when the fence was moved in, you see you have
4 additional fencing there. You notice that.

5 And on the side you have plenty of
6 access if needed. Can you explain that, if that's
7 the middle of the right of way does somebody like
8 Mr. Earlbeck is he supposed to ask somebody if he
9 can use that right of way?

10 MR. KETTERER: I object to the form of
11 that question and the relevancy of it.

12 MR. MIRABILE: Well, he submitted
13 the--

14 MS. DOPKIN: I'm going to allow it
15 because it does involve the roadway and that is
16 something that is in my view relevant.

17 A This was not a depiction of a legal
18 determination. This was nothing more than showing
19 that over the years and current at that time, that
20 people were not driving on the one half of the 30
21 foot right of way, but they were driving down the
22 adjoining property to the roadway. That's all
23 this was showing.

24 Q Okay. But you still submitted that as
25 evidence; is that correct?

1 A Yes, sir.

2 Q Now, let's say if people were driving
3 down the adjoining property which would be the
4 liquor store, not King Liquors, but I think it's
5 On Lok Liquor Store, if that gentleman decided to
6 put a fence up, where would Mr. -- where would the
7 vehicles go then?

8 A They would have to drive down the 30
9 foot wide roadway.

10 Q Right. But Mr. Shahzad had a fence up
11 there until October 8th of this year.

12 A Yes, sir.

13 Q Okay. And did you ever explain to Mr.
14 Shahzad as you're an engineer or surveyor about
15 that was in common use?

16 A No, sir.

17 Q You never told him that?

18 A No, sir.

19 Q Do you think that was important to
20 tell the man?

21 A He didn't ask.

22 Q But you were the engineer. You put in
23 a site plan that --

24 MR. KETTERER: Object. Argumentative.

25 MS. DOPKIN: I agree. I'm going to

1 sustain it. Do you have another question for Mr.
2 Doak?

3 MR. MIRABILE: Yeah, sure. I have a
4 couple more questions. Yes, I do.

5 Q Do you see the mobile home park there?

6 A What's the question? I don't see what
7 you're saying.

8 Q I said, do you see the mobile home
9 park there in the background? This is your
10 photograph.

11 A Yes, sir.

12 Q Okay. It's to the left.

13 A I'm guessing that you're talking about
14 the two trailers above the double Es in needed.
15 Is that what you're talking about?

16 Q Yes. There's about 17 trailers in
17 there.

18 A Okay.

19 Q Okay.

20 A I didn't -- I've never gone past the
21 end of Mr. Shahzad's property--

22 Q Oh.

23 A --so I wouldn't know.

24 Q Would you be willing to say that if
25 those mobile homes had to come out of there, they

1 needed all 30 feet width?

2 A No, sir, I would not. I have no idea
3 what that -- the extension of that roadway going
4 the other way provides.

5 Q Well, the extent -- you visited the
6 site, didn't you?

7 A I just said, I haven't gone any
8 further than that parked car you see there at the
9 end of his fence line.

10 Q Okay. You didn't go on Mr. Earlbeck's
11 property line to see what he was doing?

12 A I think you asked and I answered that
13 three times now. No, sir.

14 Q Okay. As an engineer or as a
15 surveyor, do you think you should have done that?

16 A No, sir.

17 Q Okay.

18 MR. MIRABILE: I'd like to put in
19 Exhibit 50 plus, madam.

20 MS. DOPKIN: It's already been
21 entered--

22 MR. MIRABILE: Okay.

23 MS. DOPKIN: Wait. 50 plus has not
24 been. I think 51 plus was admitted.

25 MR. SAMPSON: Right.

1 MS. DOPKIN: And what is 50 plus
2 intended to show?

3 MR. MIRABILE: This shows to -- it's
4 actually Petitioner's Exhibit 6N as in Nancy.

5 MS. DOPKIN: So are you saying that
6 Mr. Doak took this?

7 MR. MIRABILE: He submitted it as
8 evidence, ma'am.

9 MS. DOPKIN: And what is your question
10 for Mr. Doak?

11 MR. MIRABILE: The question is, you
12 see --

13 Q You took the photograph and you see
14 the power lines over top, the lines over top of
15 the property there?

16 A Yes, sir.

17 Q Okay. Did you ever have -- did you
18 ever read the BGE rules about putting buildings --
19 actually it's the foundations within 10 to 15 feet
20 of that, those power lines?

21 A No, sir. That's for an engineer or an
22 architect.

23 Q Okay.

24 A That was something Mr. Shahzad was
25 working with.

1 Q He was working with an engineer?

2 A No. He was working on that issue.

3 That's not something I was dealing with.

4 Q But your site plans indicated that's
5 where the building should go, back along right to
6 the property line.

7 A Yes, sir.

8 Q Okay. Well, if the BGE says you can't
9 do it, why didn't you do your homework and do
10 this?

11 A Did BGE say that or are you just
12 surmise they're going to say that?

13 Q No, I have --

14 A If Mr. Shahzad wants to spend enough
15 money--

16 MS. DOPKIN: All right. Mr. Doak,
17 let's not get into an argument. He asks
18 questions, you answer them.

19 MR. DOAK: Yes, ma'am.

20 MS. DOPKIN: And Mr. Mirabile, we are
21 not here to be argumentative, we are here to ask
22 questions that will adduce information useful to
23 the Board in reaching its decision.

24 MR. MIRABILE: I agree with you 100
25 percent, ma'am. And I did ask a straight

1 question. And sometimes I know I get over excited
2 about it. But this is a question that I think was
3 important. It was on the site line, it was
4 presented to -- it will have a major effect on
5 this whole area and I think he should have been
6 accurate.

7 Now, if I may, I have one other item I
8 have to get in my pile over here, ma'am, that's
9 very important. Same sign, same photograph. I
10 didn't expect Mr. Doak -- like I said, he refused
11 the service. But since he's here, it's fine. But
12 I'd like to have a second to get the -- something
13 he just mentioned about, if that's okay. It will
14 only take me a minute.

15 MS. DOPKIN: Are you presenting
16 another exhibit for us?

17 MR. MIRABILE: Yes, ma'am. It's very
18 important, too.

19 MS. DOPKIN: Was it previously
20 entered?

21 MR. MIRABILE: No, ma'am. I don't
22 believe it was. No.

23 MS. DOPKIN: And what exhibit are you
24 offering?

25 MR. MIRABILE: Well, the first one is

1 61R as in rascal and if I may go over to the other
2 side of the desk here, I'm looking for another
3 one.

4 MR. SAMPSON: Could you double check
5 your numbers there just to make sure -- I do see
6 you on the screen have a 61R. Your list has a --
7 okay. Asterisk 61R, BC real estate compliance.
8 Is that it? Okay. I've got it.

9 MS. DOPKIN: Yeah, that's -- and what
10 is the purpose of this exhibit, Mr. Mirabile?

11 MR. MIRABILE: This basically, ma'am,
12 shows once again for the alleyway there or for the
13 roadway according to Baltimore County Real Estate
14 compliance, this has to be filled out before
15 anything could be on the site plan or anything
16 else that you're closing that road, or using that
17 road.

18 It's an in common road, use in common.

19 MS. DOPKIN: Well, you're testifying.
20 Do you have a question for Mr. Doak based on the
21 exhibit?

22 MR. MIRABILE: Yes. Yes.

23 Q Mr. Doak, could you read the top of
24 that, please.

25 MS. DOPKIN: That's not a question.

1 Well, it is a question, but we can read what it
2 says.

3 MR. MIRABILE: Okay.

4 MS. DOPKIN: So what is your question
5 for Mr. Doak?

6 MR. MIRABILE: Yes.

7 Q Did you fill this application out
8 before you did your site plan?

9 A No, sir. Why would I need to?

10 Q Because it says this is a Baltimore
11 County Real Estate Compliance, application for
12 closure and opening of a roadway. You told -- you
13 submitted a site plan saying you're going to close
14 half the roadway by putting that fence up.

15 This is something you should have had
16 before, right before you did that. That's why.

17 MS. DOPKIN: Do you have another
18 question for Mr. Doak?

19 MR. MIRABILE: Yes, I do, ma'am.

20 The second thing is 70 plus. I'm not
21 sure if we did that.

22 MS. DOPKIN: And we're going to admit
23 61R. It's a public document available on the
24 internet.

25 (Exhibit 61R was admitted into

1 evidence)

2 MR. MIRABILE: All right. Thank you
3 very much. I'll be putting this one in, too.

4 MS. DOPKIN: 71 plus. What are you
5 offering into evidence? What number?

6 MR. MIRABILE: This is supposed to be
7 70 plus. Did I say 71? I'm sorry. If I said 71,
8 it's my mistake. Or this has 71 over here. Okay.

9 MS. DOPKIN: 70 plus is in front of
10 us.

11 MR. MIRABILE: Yes, ma'am.

12 MS. DOPKIN: And it is a document on
13 BGE letterhead saying construction guidelines,
14 equipment placement.

15 MR. MIRABILE: Right.

16 MS. DOPKIN: Okay. What's your
17 question for Mr. Doak?

18 MR. MIRABILE: Along the same lines,
19 ma'am. This is a construction guideline from BGE
20 that basically expresses there's a 10 foot stay
21 away.

22 Q Did you read this before?

23 A No, sir.

24 Q Are you required to do that when you
25 submit plans? Site plans?

1 A Site plans for zoning? No, sir.

2 Q If that was approved -- you didn't
3 submit this -- and you didn't read this; is that
4 correct?

5 A No, sir.

6 Q And you don't think it's important
7 that you should be aware of that, what BGE's rules
8 are?

9 A That would be the next step once
10 approved. But we're not going to go and do a plan
11 for BGE and everything prior to finding out if we
12 get approval for a building. And there's nothing
13 to say that Mr. Shahzad will pay to have those
14 lines buried or placed elsewhere.

15 Q If the Board approves that and you
16 didn't do your homework on this one here because
17 you didn't feel it was necessary and you would
18 drag BGE into saying why can't you build because
19 you'll wave your permit around; is that correct?

20 MS. DOPKIN: Mr. Mirabile, what is the
21 question?

22 MR. MIRABILE: The question.

23 Q Would you tell BGE you have -- you've
24 been approved to put the building up so they have
25 to move it, their lines?

1 A Mr. Mirabile --

2 Q Yes, sir.

3 A --if this is granted through the
4 Board, that does not give me the right to put the
5 building up. It gives me the right to be within
6 zero feet of the property line.

7 If I am not able to build it within
8 zero feet of the property line, I will have to
9 come back or I'll have to face that at that time.
10 But I'm not getting approval for anything but a
11 variance today.

12 Q Okay. Well, the variance that you're
13 requesting, correct me if I'm wrong, is within
14 that 10 foot line. You're requesting zero
15 footage.

16 A That's correct.

17 Q That's within BGE.

18 The next one I have, well, we already
19 went through that -- we didn't go through that,
20 but we'll go through it.

21 MS. DOPKIN: Are you introducing
22 another exhibit?

23 MR. MIRABILE: Ma'am, I don't think I
24 am, but I want to check to make sure if that's
25 okay with you all.

1 MS. DOPKIN: Check your papers?

2 MR. MIRABILE: Yeah. Once again, Mr.
3 Doak didn't respond to the subpoena and I didn't
4 know he was going to be here. If I had known
5 that, I would have had -- I would have been a
6 little more sharper on this. But that's okay.

7 I'd like to bring the photograph Mr.
8 Earlbeck has of the -- of the zoning notice.

9 MS. DOPKIN: Was this previously
10 introduced?

11 MR. MIRABILE: Yes, ma'am.

12 MS. DOPKIN: It would be exhibit --
13 what was the exhibit number?

14 MR. MIRABILE: That's what I'm trying
15 to find out. Exhibit --

16 MR. SAMPSON: While Mr. Mirabile is
17 looking for that, I would just like to say, based
18 on my recollection, Mr. Doak agreed to be here
19 today. He even cooperated in scheduling his
20 availability. That was made known at the end of
21 the last hearing. So I'm sorry if you
22 misunderstood that, Mr. Mirabile, but Mr. Doak
23 volunteered to be here at the end of the last
24 hearing. So everybody else expected him to be
25 here, so he's here.

1 MR. MIRABILE: Thank you for that.

2 But I will say that he didn't respond
3 to a subpoena.

4 MR. SAMPSON: It's not relevant.

5 MR. MIRABILE: It's not relevant?

6 MR. SAMPSON: No, sir. So go on with
7 your next exhibit.

8 MR. MIRABILE: Do we have that?

9 MS. DOPKIN: You wanted us to see
10 Exhibit 18A, a photograph taken of the zoning
11 notice from November, 2021.

12 MR. MIRABILE: Right.

13 Q Do you see that notice, Mr. Doak?

14 A Yes, sir, I do.

15 Q Okay. Did you hang that sign up
16 there?

17 A Yes, sir, I did.

18 Q Okay. What date? Do you remember, if
19 possible what date you signed that?

20 A Yes, sir, I do. Give me one second.
21 I posted that sign on September 23rd, 2021.

22 Q And what was that served for, what
23 date?

24 A That was for the zoning hearing
25 scheduled for October 14th, 2021.

1 Q And was that extended to November 3rd,
2 that hearing?

3 A You had requested -- you requested a
4 postponement. I opposed it. It was granted.

5 MS. DOPKIN: So are you telling me,
6 Mr. Doak, that the zoning notice was accurate when
7 it was posted, but that the Protestants requested
8 a postponement and then the date of the hearing
9 changed?

10 MR. DOAK: Yes, ma'am.

11 And I was told by the Office of Zoning
12 that I did not need to post a new sign since the
13 person that had opposed or was requesting the
14 postponement knew about it. So in turn they felt
15 that I did not need to repost.

16 I went back out there and did another
17 certification of the posting on October 3rd, 2021
18 to make sure that the sign was still there for the
19 upcoming hearing, postponed hearing.

20 MS. DOPKIN: Mr. Mirabile, do you have
21 another question for Mr. Doak?

22 MR. MIRABILE: Yeah, sure.

23 Q Do you think Mr. Earlbeck who did not
24 see your sign and he took a photograph of that
25 sign when he did see it, do you think he missed

1 that sign?

2 A I would have no idea.

3 Q Okay. Do you have a copy of what you
4 just mentioned about the posting from the Board
5 telling you you don't have to redo it? Because
6 I'm not the only person that inquired about it. I
7 never received a confirmation. So, do you have a
8 copy of that?

9 A Of what?

10 Q Of the fact that you don't have to
11 change the sign for the date?

12 A It was a verbal conversation with the
13 head of Zoning.

14 Q And which is that? Whom is that?

15 A That was Jeff Perlow.

16 Q I want to make sure I get this right.
17 Just for Russ Mirabile only who requested a 30 day
18 extension and I didn't hear back from anybody,
19 number one.

20 Number two, Mr. Earlbeck or the
21 general public they didn't know there was a zoning
22 change, it doesn't have to be retagged or
23 rescheduled for the public notice?

24 A I'm not sure which is testimony and
25 which is a question for me.

1 Q Well, the question -- that's a
2 question. It's very easy. I guess to ask you.
3 Are you explaining to me and the Board and
4 everybody that you were informed that because
5 there was a date changed you didn't have to repost
6 it?

7 A That's correct.

8 Q So Mr. Earlbeck and everybody else,
9 the general public in that vicinity didn't know
10 there was an extension. How would they know?

11 A They would call in. There would not
12 be a hearing, the Zoning Office would give them
13 the new date. But also the postponement was
14 requested by the Rosedale Community Association.

15 And you knew that. So I guess in
16 their mind you should have informed your -- the
17 people that surround that and you represent.

18 Q Yeah, well, thank you for that. But I
19 was never informed of anything, okay. That's why
20 we're here.

21 MS. DOPKIN: We're not here to argue.

22 MR. MIRABILE: I appreciate what you
23 all have done and cooperated, but I don't like the
24 side stepping of I should have known and the rest
25 of the people in the world should have known.

1 This is why we're here today because there are a
2 lot of things in there, which I have documents on
3 to show that this is all wrong.

4 So I appreciate you all--

5 MS. DOPKIN: Mr. Mirabile --

6 MR. MIRABILE: Yes.

7 And I want you all to know, I'm a
8 volunteer.

9 MS. DOPKIN: Do you have other
10 questions for Mr. Doak?

11 MR. MIRABILE: Let me see. One thing.
12 I think I might go back to one more from -- do you
13 have Paul's letter and affidavit?

14 I'm trying to get Paul King's
15 affidavit.

16 While we're on that one there, Madam,
17 I'd like to ask Mr. Doak a question.

18 Q You signed that you -- you signed
19 under penalty of perjury the affidavit -- the
20 affidavit as signed that the date was accurate; is
21 that correct?

22 MR. MIRABILE: We'll bring it up. Can
23 you bring that up again. That's Paul King. I'm
24 looking for Mr. Doak signed that--

25 MS. EARLBECK: I have no idea where to

1 find that.

2 MS. DOPKIN: I think you're talking
3 about the certificate of posting that was part of
4 the record below from our first day that Mr.
5 Doak--

6 MR. MIRABILE: Yes. Mr. Doak signed
7 an affidavit stating that under penalty of perjury
8 -- under penalty of perjury everything is correct.
9 And, yes, that's what I'm trying to find. Yes.

10 MS. DOPKIN: And what is your question
11 for Mr. Doak?

12 MR. MIRABILE: My question is, he
13 signed it under penalty of perjury and it was
14 dated for October 14th when he actually knew it
15 was November 3rd and he didn't change that sign,
16 so basically under the penalty of perjury, the
17 date was wrong.

18 MR. DOAK: Is that a question?

19 MR. SAMPSON: Hold on. Let me try to
20 help you. There's no question.

21 I believe you're looking for your
22 Exhibit 36 which you've identified and already put
23 into evidence as Doak posting sign penalty of
24 perjury. 36.

25 MR. MIRABILE: Okay. Thank you, sir.

1 I appreciate that.

2 MS. DOPKIN: What is your question for
3 Mr. Doak?

4 MR. MIRABILE: He said -- the sign
5 basically said, Ma'am, he said he inspected it
6 again on the 3rd of the 2021 year. But it doesn't
7 state anywhere on there that the postponement to
8 November 4th.

9 But Mr. Earlbeck wasn't there. The
10 sign wasn't even there. So I want to ask Mr. Doak
11 how did that happen? How did what you're
12 testifying to be different from a photograph dated
13 and time-wise by Mr. Earlbeck. How does that
14 differ?

15 MR. KETTERER: I don't follow the
16 question and I believe it is argumentative and
17 it's been asked and answered as well.

18 MR. MIRABILE: I didn't hear an answer
19 on that.

20 MR. KETTERER: Mr. Doak has testified
21 as to when he posted it and when he made the
22 changes (inaudible) should be a posting.

23 MR. MIRABILE: My question again,
24 Ma'am, if I may ask it one more time.

25 Why is it that Mr. Doak signed that

1 letter stating affidavit under penalty of perjury
2 that was date and that was there.

3 Mr. Earlbeck has a photograph with the
4 date and time on it that says differently.

5 MS. DOPKIN: What Mr. Doak testified
6 to in this certificate is that two signs were
7 posted conspicuously on the property and they were
8 posted on September 23rd and inspected again on
9 November 3rd.

10 It does -- and that's what he
11 certified to. And I think that's what he's
12 testified to. And I think this question that
13 you're asking is why he didn't put a new date on
14 or why he testified -- why the certificate might
15 have occurred after the postponement.

16 But that's -- I think he's answered
17 your question. And I'm not sure what value asking
18 it differently has in what his -- I don't think
19 he's going to answer it differently.

20 We can ask him. Mr. Doak, would you
21 answer the question any differently this time than
22 you did before?

23 MR. DOAK: No, ma'am.

24 MR. MIRABILE: That's all right. I
25 understand it, Ms. Dopkin. I appreciate that. I

1 appreciate it. I sometimes have difficulty with
2 photographs that show something different than
3 what statements are.

4 I'd also like to ask, there's an
5 affidavit by King Liquors, if that was -- what
6 number would that be.

7 Would you please read that application
8 -- affidavit. I'm sorry.

9 MR. KETTERER: I object to my client's
10 basis of knowledge as to the truth or veracity of
11 this document. He did not write it.

12 MS. DOPKIN: And the affidavit speaks
13 for itself. We can see it. Mr. Doak can see it.

14 What is your question about it?

15 MR. MIRABILE: My question is do you
16 think, Mr. Doak, this application -- affidavit,
17 I'm sorry, is wrong?

18 A I -- wrong?

19 Q You're wrong?

20 A I believe that Mr. King is speaking --
21 has written what he believed to be true.

22 Q Okay.

23 A But I can tell you I've been posting
24 signs for over 25 years, since we were -- since
25 the public was required to do it on their own. I

1 have gone out there, put the signs in, taken
2 photographs of them, prepared a certificate and
3 provided that to the County on both times that I
4 was out there.

5 If it differs from his opinion, I
6 don't know what to tell you.

7 Q Okay. Thank you for being there for
8 25 years. But my question to you is the fact that
9 you read this and you disagree with this
10 affidavit; is that correct?

11 MS. DOPKIN: That's not what he said.
12 He answered your question.

13 MR. MIRABILE: Okay. Do you have the
14 other affidavit from that guy, Russ Mirabile.

15 Q Mr. Doak --

16 MS. DOPKIN: Wait a minute. You're
17 offering.

18 MR. MIRABILE: I'm sorry, ma'am.
19 HHH5.

20 MS. DOPKIN: And this is an affidavit
21 dated November 24th, 2021 by you, Mr. Mirabile.

22 MR. MIRABILE: Yes.

23 MS. DOPKIN: And it relates to the
24 posting of the notice.

25 MR. MIRABILE: Yes.

1 MS. DOPKIN: And we can see it and Mr.
2 Doak can see it.

3 What is your question for Mr. Doak?

4 MR. MIRABILE: I'm going to ask him
5 first to read that.

6 MR. SAMPSON: While he reads it, let
7 me ask clarification. You've marked it there on
8 the screen HHH5. On your corrected four page
9 exhibit list there's a 75HHH affidavit Russ
10 Mirabile, President RCA. Is that what this is?

11 MR. MIRABILE: No, sir. I signed one
12 as President of the Association and also
13 individually as Russ Mirabile. I thank you for
14 picking that up.

15 MS. DOPKIN: But this one is not
16 listed on your exhibit list --

17 MR. SAMPSON: Correct.

18 MS. DOPKIN: I think that's the point
19 that Mr. Sampson is making.

20 MR. MIRABILE: Let me check to make
21 sure because they were all -- I was there when it
22 was stamped in. If I may have a second here.

23 MS. DOPKIN: We see that on your list
24 your affidavit is President of the Rosedale
25 Community Association, but we do not see HHH5.

1 MR. MIRABILE: If I may bring that up
2 then, ma'am, I'll put that aside. If I may bring
3 up the one as President of Rosedale Community
4 Association, I would appreciate that.

5 MS. DOPKIN: That would be HHH75 --
6 75HHH.

7 MR. MIRABILE: We're trying to get it
8 up now. Ms. Alison doesn't have a copy of it
9 right now. Can I check the other end of the
10 table, ma'am?

11 MS. DOPKIN: Sure.

12 MR. MIRABILE: Okay.

13 MS. DOPKIN: I want to, while you're
14 doing that, mention that I have an absolute stop
15 time of 4:00 p.m. today.

16 And Mr. Ketterer, do you have any idea
17 how long your rebuttal case will take?

18 MR. KETTERER: Well, since Mr. Doak is
19 on the stand I will ask him a few questions and I
20 will have no rebuttal.

21 MS. DOPKIN: So we should be able to
22 meet that 4:00 deadline? Presumably?

23 MR. KETTERER: I would hope so.

24 MS. DOPKIN: Why thank you.

25 Mr. Mirabile, do you have your

1 exhibit?

2 MR. MIRABILE: No, I have to go to the
3 other end. I wanted to make sure I heard Mr.
4 Ketterer if you asked me for a response, I didn't
5 want to holler across the room.

6 MS. DOPKIN: Okay.

7 MR. MIRABILE: One second, please.

8 MR. SAMPSON: I'll try to help you
9 out, Mr. Mirabile. It might be included in what
10 you've numbered as 17.

11 MR. MIRABILE: A. Yes, sir. We just
12 found that. Thank you very much.

13 MS. DOPKIN: Is that already in your
14 folder or do I have to resubmit that now?

15 MR. SAMPSON: I believe we have what
16 you submitted.

17 MR. MIRABILE: Okay. Fine. I just
18 wanted to ask Mr. Doak about that.

19 Can you read that, please, Mr. Doak?
20 Can you raise that up a little bit because the
21 writing is small.

22 Thank you.

23 MS. DOPKIN: What is your question for
24 Mr. Doak?

25 MR. MIRABILE: My question, ma'am, is

1 does Mr. Doak, if he finishes reading it, does he
2 agree with that or not.

3 A I noticed in photographs the -- yes,
4 sir, I've read it.

5 Q Okay. Do you agree with that?

6 A I find no reason to disbelieve it.

7 MR. MIRABILE: That's all. I don't
8 have any other questions on it, ma'am.

9 MS. DOPKIN: Do you have -- that is
10 your last question for Mr. Doak?

11 MR. MIRABILE: Yeah. Unless you want
12 me to go on. But I think we've done it. I think
13 we've squeezed the orange enough.

14 MS. DOPKIN: And do you have any
15 further witnesses -- well, I'm going to let Mr.
16 Ketterer cross examine Mr. Doak.

17 But for purposes of scheduling, do you
18 have anybody else you want to testify?

19 MR. MIRABILE: Ma'am, I can say they
20 all abandoned me. No, I do not. This was it.

21 MS. DOPKIN: Thank you. I know you've
22 spent a lot of time preparing for this hearing.
23 And I'm going to let Mr. Ketterer, you have cross
24 examination for Mr. Doak?

25 MR. MIRABILE: Ma'am, may I make a

1 response to what you just said about the
2 time-wise? I want to let the Board know and Mr.
3 Ketterer and everybody, I appreciate once again
4 everything you all did. I don't usually say this
5 because I keep my personal business to myself, I
6 had a major heart disease and I just found out
7 recently that the -- and this is the reason why
8 Mr. Broyles was going to help me to avoid another
9 postponement.

10 I have an appointment with Mayo
11 Clinic, they (inaudible) about four months and I
12 told them I can't go beyond this date, Thursday.
13 So they accommodated me, I told Mr. Broyles that I
14 had to be at Mayo Clinic up in Rochester,
15 Minnesota and I said I need some help with this.
16 And I was all ready to go but for the last three
17 weeks I've been scurrying around to get prepared
18 to go there, testing and everything else.

19 So I just want you all to know that
20 people have tried to support me in this. They
21 weren't trying to influence me in any way, shape
22 or form. So I do appreciate you all. I have to
23 go to Minnesota, which I don't like, and it's the
24 only place they can try. So that's about it.

25 MS. DOPKIN: Well, we wish you all the

1 best with that and we do try to accommodate the
2 needs of the parties as they appear and we
3 appreciate all that you've done.

4 MR. MIRABILE: Yeah. I wasn't going
5 to ask for another postponement. I stretched it
6 out and that's just about it. I didn't want
7 anybody to think I was trying to cheat on this
8 hearing or anything else. But like I said, Mr.
9 Broyles was very nice to --

10 MS. DOPKIN: As I said, Mr. Broyles is
11 a professional who's known to the Board. And we
12 do not question how he conducts himself or his
13 intentions.

14 MR. MIRABILE: I understand. He was
15 not -- everybody wasn't trying to interfere, I
16 just want everybody to know that.

17 MS. DOPKIN: Well thank you.

18 MR. MIRABILE: Thank you all.

19 MS. DOPKIN: Mr. Ketterer, it's your
20 witness.

21 MR. KETTERER: Thank you. And I wish
22 you the best of health, Mr. Mirabile.

23 MR. MIRABILE: Oh, thank you.

24 CROSS EXAMINATION

25 BY MR. KETTERER:

1 Q Mr. Doak, just some very brief
2 questions. In regards to the BGE issue with the
3 power lines, how long -- you said you've been
4 doing this for what, 25 years?

5 A No, I've been doing this for 45 years,
6 36 years in this County.

7 Q And in your experience, have you ever
8 had to have a letter in hand from a utility
9 provider to either committing or agreeing to the
10 moving or termination of utilities that may be
11 impacted by a variance when you go to a variance
12 hearing?

13 A No, sir, I've never had.

14 Q And the effect of a granting of a
15 variance in this matter would permit us or permit
16 our client, my client, to build within zero feet
17 of the lot setbacks or the lot line.

18 A That's all it would.

19 Q And just to try and clarify. So there
20 still has to be -- they still have to get
21 permitted, and there's still more work to be done
22 here?

23 A There are many, many steps still
24 remaining. The next step would go to BGE, the
25 next would then be to look at other utilities,

1 look at architecture, design of the building and
2 then when all of that is satisfied then come to
3 Baltimore County through the DRC, the development
4 review committee asking -- or presenting our case
5 there.

6 And then based on review comments,
7 then in turn we would move forward with a site
8 plan for the building permit and then after that's
9 reviewed then we would be provided a building
10 permit.

11 So we're talking about months, if not
12 a year or more away. And, you know, and dozens
13 and dozens of steps to get to that point.

14 Q And if for some reason Mr. Shahzad
15 approaches BGE and either offers to pay them money
16 to bury the lines or otherwise move the electrical
17 lines or BGE agrees to move them on their own
18 accord or does not, I should say -- if for some
19 reason BGE says no, what would the effect be for
20 Mr. Shahzad?

21 A Then we would have to redesign the
22 proposed building from being zero setback to
23 whatever would be required.

24 Q That would not necessitate another
25 variance hearing?

1 A That would be up to this Board and it
2 may be the case that we do it under what they call
3 a spirit and intent letter. And what that is is
4 we write a letter to the Office of Zoning. They
5 in turn with the cooperation of the Zoning, the
6 ALJ, will make a determination.

7 But keep in mind, if we're approved
8 for zero foot setback then most likely we're going
9 to be approved for a, I'm making this up, a 10
10 foot setback.

11 So it's most likely that that would be
12 approved.

13 Q Understood. And then I believe you
14 testified to this at the first day of the hearing
15 and I was not there, and I apologize if I'm
16 requesting you to repeat testimony.

17 You have been involved in variance
18 hearings along this stretch of Pulaski Highway
19 before?

20 A Many times. Yes, sir.

21 Q And have similarly situated buildings
22 in your experience requested this kind of variance
23 relief from the setbacks to the lot line?

24 A Yes, they have.

25 Q And in your experience, do those tend

1 to be granted?

2 A Yes, they are. With certain small
3 conditions and restrictions. Yes, sir.

4 Q Understood. And I guess one final
5 question.

6 How many other automotive repair shops
7 are you aware of along this stretch of Pulaski
8 Highway?

9 A I have never counted, but if anybody
10 that has lived in Baltimore for very long and
11 driven up and down Pulaski Highway they will know
12 that there are dozens of used car lots, repair
13 facilities, transmission places, anything that is
14 automotive related.

15 Q Understood.

16 MR. KETTERER: I have no further
17 questions.

18 MS. DOPKIN: Mr. Mirabile, do you have
19 any followup questions?

20 MR. MIRABILE: What's been presented
21 has been presented.

22 MS. DOPKIN: So that would be a no?

23 MR. MIRABILE: No. Yes, ma'am.

24 MS. DOPKIN: Thank you.

25 Do the Board members have any

1 questions for Mr. Doak?

2 MR. SAMPSON: I do not.

3 MR. LAUER: No, thank you.

4 MS. DOPKIN: I have a small question,
5 Mr. Doak -- or two.

6 MR. DOAK: It's like sort of like Mr.
7 Mirabile's couple of questions he had?

8 MR. SAMPSON: Well that makes Mr.
9 Mirabile more like a lawyer than not, as you know.
10 Number of questions and amount of time. So he's
11 in good company on that one.

12 MR. DOAK: Yes.

13 MR. MIRABILE: You all can't imagine
14 all the material I still had, so that's all right.

15 EXAMINATION

16 BY MS. DOPKIN:

17 Q Do you envision the necessity of a
18 road closing or a portion of Batavia Farm Road?

19 A Batavia -- that will be determined by
20 my client how vigorously he wants to pursue this.

21 That road was never dedicated to
22 Baltimore County, it was only shown on a record
23 plat. If I have no received any kind of -- I have
24 not pursued and received a legal opinion from
25 Baltimore County concerning that.

1 But because he moved his fence back,
2 you know, on his own, I would say that he is
3 willing at this time to live with not burdening
4 any of the roadway, the 30 foot right of way.
5 Even though his in fee ownership goes to the
6 center of that roadway, I would say that no, he's
7 not going to pursue that at this time.

8 Q And is -- if you know, does Batavia
9 Farm Road extend from Pulaski Highway to
10 Philadelphia Road without interruption?

11 A The right of way does as shown on the
12 previous -- the old recorded subdivision plat. I
13 can't tell you whether physically you can drive
14 from one to the other.

15 If you look at the -- if I may. If
16 you look at the aerial photographs you can see
17 that there are many places that you would pursue
18 -- I presume that it would be blocked or would be
19 quite impeded.

20 MS. DOPKIN: Okay. That was my only
21 other question.

22 Would real estate compliance issue
23 that in their comments if they wanted it closed,
24 would they tell you?

25 MR. DOAK: Real estate compliance does

1 not review Zoning petitions and therefore they
2 would not be included in the ZAC comments.

3 MS. DOPKIN: At the DRC level?

4 MR. DOAK: Oh, no I'm sorry. At the
5 DRC level, but not at the petition or the hearing
6 level.

7 MS. DOPKIN: But if you're not
8 encroaching on the traveled section it's not
9 likely they would issue a comment one way or the
10 other?

11 MR. DOAK: No, ma'am.

12 MS. DOPKIN: Thank you very much.

13 Does anyone have any further questions
14 for this witness?

15 MR. KETTERER: I do not.

16 MS. DOPKIN: Then you will be excused,
17 Mr. Doak. Thank you for your testimony.

18 Mr. Mirabile, you've closed your case.
19 Mr. Ketterer, do you have any further witnesses in
20 rebuttal?

21 MR. KETTERER: No rebuttal, just
22 argument if necessary.

23 MS. DOPKIN: Ordinarily this Board
24 asks the parties to submit written memoranda in
25 lieu of closing arguments. I think it would only

1 be fair to the Protestants and I'll leave this for
2 Mr. Mirabile to address, to submit a written
3 memoranda with their argument enumerating their
4 explicit points for this Board to consider.

5 Now, as I said, Mr. Mirabile who's
6 done a yeoman's job as layman, would you be able
7 to submit such written submission to the Board or
8 would you prefer today to make a closing argument
9 with your legal points?

10 I want to make this as easy and
11 complete for you to make your case as possible.

12 MR. MIRABILE: I understand. I think
13 we've belabored the points long enough. If it's
14 okay with you and in agreement with everybody
15 else, I would just rather submit something. I
16 just need some -- what length of time could you
17 give me to do that because I'm preparing, as I
18 mentioned, to --

19 MS. DOPKIN: You're taking a little
20 vacation to Minnesota.

21 MR. MIRABILE: It's no vacation,
22 believe me. It's no vacation.

23 MS. DOPKIN: Well today being October
24 26th, tell us when you may be able to get us
25 something. Would it be two weeks, four weeks,

1 five weeks?

2 MR. MIRABILE: Well --

3 MS. DOPKIN: We'll give you as much
4 time as you need within reason.

5 MR. MIRABILE: I would say give me
6 about three weeks. Three weeks I think I should
7 be able to do it. I will not try to make it
8 lengthy.

9 MS. DOPKIN: I'm going to make it --

10 MR. MIRABILE: Can I ask you a
11 question. How would I be able to get a copy of
12 this proceeding? In other words, do you have a
13 disk that I would be able to order and have it
14 transcribed?

15 MS. DOPKIN: You can contact our
16 office and talk to either Ms. Cannington or Ms.
17 Zahner.

18 MR. MIRABILE: Okay.

19 MS. DOPKIN: And they will help you.

20 Now Thanksgiving day is November 24th.
21 So why don't we say let everybody get through the
22 holiday, that the closing memoranda, I'm going to
23 give you until November -- Monday, November 28th
24 at the close of the day which for us is going to
25 be 3:00 p.m. so everybody gets it and it can get

1 posted.

2 Is that acceptable or is that a
3 problem, Mr. Mirabile?

4 MR. MIRABILE: No, I think that's
5 acceptable. But before we go, I want everybody to
6 thank Alison and Mr. Earlbeck for allowing this to
7 happen so we didn't have the same things that we
8 did back when. I appreciate their help and this
9 is definitely a great way of doing this.

10 MS. DOPKIN: And I thank them for
11 their technical assistance as well.

12 Mr. Ketterer, how is that timing? If
13 you want I can push it to the end of the week if
14 that's better. I don't -- we like them
15 simultaneously submitted.

16 MR. KETTERER: That should be fine on
17 my end.

18 MS. DOPKIN: All right. Monday,
19 November 28th, 3:00 p.m. for closing memoranda.

20 What happens following the submission
21 of closing memoranda, we will review them and set
22 a date for a public deliberation where we will
23 address the issues and reach a decision.

24 That decision will then be reduced to
25 writing, though it sometimes takes us a couple --

1 several weeks to get out a written decision
2 depending on the issues that were raised.

3 And with that, I am going to conclude
4 this hearing.

5 Thank you, Mr. Mirabile, as I said.
6 It was a lot of work on your part and we
7 appreciate your attention.

8 MR. MIRABILE: May I ask Mr. Ketterer.
9 This is off the record. Mr. Hartman is well? He
10 was with us from the beginning.

11 MR. KETTERER: Yes. Everyone is fine.
12 I'm the associate who took over.

13 MR. MIRABILE: Oh, okay. All right.

14 MS. DOPKIN: And thank you both for
15 your professionalism and I'm going off the record
16 and ending this proceeding at this time.

17 So thank you all.

18 MR. MIRABILE: Thank you.

19 MR. KETTERER: Thank you.

20 MS. DOPKIN: Wish you the best, Mr.
21 Mirabile and hope all goes well for you.

22 MR. MIRABILE: Thank you very much.

23 (Proceedings concluded)
24
25

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4 I hereby certify that the
5 above-entitled proceedings heard before the Board
6 of Appeals for Baltimore County on the
7 above-mentioned date were held via WebEx and
8 recorded by means of audio and video recording.

9 I certify that the foregoing is a true
10 and accurate transcription of the proceedings
11 indicated as transcribed by me.

12 I further certify that I am not a
13 relative of or an employee of any of the parties
14 herein and that I have no interest in the outcome
15 of the proceedings.

16 As witness whereof, I have affixed my
17 signature this 4th day of November, 2022.

18
19 *Paula J. Eliopoulos*
20 _____

21 Paula J. Eliopoulos

22 Court Reporter/Transcriber

23
24 My Commission Expires:

25 June 15, 2024

BALTIMORE COUNTY BOARD OF APPEALS

IN RE: FAZAL, LLC

8202 Pulaski Highway

21-201 SPHA

A Public Deliberation in the
above-entitled matter was held virtually via WebEx
at 9:40 a.m. on March 29, 2022 amongst Deborah
Dopkin, Chairman and Fred Lauer, Adam Sampson
Board Members.

Transcribed from WebEx video by:

Paula J. Eliopoulos

PROCEEDINGS

CHAIRMAN DOPKIN: Thank you, Ms. Cannington. It is March 29th, 2022 around 9:40 a.m. This is a Deliberation of the Baltimore County Board of Appeals in case number 21-201 SPH in the matter of Fazal, LLC, for 8202 Pulaski Highway involving petition for special hearing and variances.

We are here deliberating a request for a continuance by the Protestants, the Rosedale Community Association and Russell Mirabile their President who was having some of his own technical difficulties at our hearing on March 16th.

And I believe Mr. Mirabile has been in touch with the Board and is I think coming up to speed on finding a way to join us in the technicalities should we continue the hearing. So it is my inclination to grant the continuance. We want as much participation as possible and these have been really challenging for a lot of people.

So that would be where I'm coming from. Mr. Lauer, do you have an opinion?

MR. LAUER: Yes, ma'am, I do. I'm wondering if we can solve this by asking Mr. Mirabile and the Petitioners to submit a memo. He

1 could then include his exhibits with that memo
2 possibly and then we could move to deliberation
3 possibly a little sooner. I don't know if that
4 works or procedurally that works. But that was a
5 thought I had after the letter was received that I
6 looked at from the 16th.

7 CHAIRMAN DOPKIN: My concern is that
8 he is pro se and that puts an additional burden on
9 him. Mr. Sampson?

10 MR. SAMPSON: I think the continuance
11 is warranted here for the reasons that I was -- I
12 think explicitly but perhaps implicitly stating at
13 the hearing. I don't think that a memorandum
14 would cure or substitute the right to call
15 witnesses and to cross examine Mr. Doak.

16 I think that Mr. Mirabile is entitled
17 to use exhibits of his own in his cross
18 examination of Mr. Doak. Anticipating another
19 issue with Mr. Doak, I think Mr. Doak has to
20 appear at the continuance just like he would and
21 did appear at the initial hearing. He's subject
22 to cross examination. He's still in the case in
23 chief of the Developer. The quirk here is that we
24 moved beyond that in order to complete remaining
25 parts of the hearing that day subject to a

1 decision on how to handle Mr. Mirabile's inability
2 to present exhibits that day.

3 So I'm sort of going a little bit
4 beyond just a continuance because this issue came
5 up about payment and subpoenas and so on. And
6 it's my view that like any continuance, for some
7 reason that day things got sideways when the
8 Developer's lawyer in my view made certain
9 objections, you know, he's entitled to do. But I
10 think the appropriate response in that regard is
11 Mr. Doak needs to appear.

12 So if his calendar needs to be
13 coordinated, fine. That's at the expense of the
14 Developer just like when the Developer puts on its
15 case. The only thing different is we're taking a
16 cross examination out of turn and Mr. Mirabile is
17 entitled to use his exhibits.

18 We will address issues of each
19 exhibit, in my view, as they arise. And, for
20 example, for guidance where we went sideways on
21 Mr. Mirabile attempting to ask Mr. Doak about the
22 authentic signature of whomever I think it was a
23 neighbor, but it's not important I think for the
24 deliberation. The important point is Mr. Doak can
25 be asked if he knows if that's an authentic

1 signature on the document that Mr. Doak relied
2 upon.

3 He can say yes or no. And he can say
4 the basis of that.

5 Mr. Mirabile then in his own case can
6 put in whatever exhibit he has to suggest that the
7 signature is not authentic. But we're not going
8 to get in -- we shouldn't be getting into a
9 situation where we have Mr. Mirabile and Mr. Doak
10 arguing over foundations of exhibits. Mr. Doak
11 either does or doesn't have familiarity with the
12 specific signature and Mr. Mirabile either has or
13 doesn't have his own testimony or exhibits or
14 witnesses to challenge it.

15 So I think we have to have a
16 continuance. I think that Mr. Mirabile is
17 entitled to that cross and then he's entitled to
18 put on his own witnesses and exhibits. And that's
19 how I would rule.

20 CHAIRMAN DOPKIN: And I concur.

21 MR. LAUER: I concur also. I was only
22 confused by the letter that said he agreed to Rule
23 8 and I didn't quite understand what that meant in
24 the letter. But I do concur with both of you.

25 MR. SAMPSON: I'm guessing here. I

1 think what Mr. Mirabile -- I'm totally guessing,
2 but I think Mr. Mirabile made it clear his -- at
3 the prior hearing his displeasure with the process
4 and the suggestion that he had to himself use
5 technology to present his exhibits and that had we
6 been in a courtroom he would just present those
7 exhibits.

8 I think what he was saying in his
9 letter is he now concedes that he will comply with
10 the procedural method of these Zoom hearings and
11 that he will present his exhibits electronically.
12 That's how I read it.

13 MR. LAUER: Okay. Great.

14 CHAIRMAN DOPKIN: So with that we're
15 in agreement to grant the continuance. We will
16 ask Ms. Cannington to try to coordinate that with
17 Mr. Doak and Mr. Mirabile and the Petitioner's
18 attorney.

19 And we will continue the case at such
20 time as schedules are put on and we can do that.

21 And that concludes this deliberation.
22 Thank you, Mr. Sampson. I'm sorry that we didn't
23 get to see your face today. I'm happy you're
24 here. And thank you Ms. Cannington and everyone
25 for attending.

1 MR. SAMPSON: May I just add one more
2 thing, I'm sorry. Just for balance. I don't want
3 the Developer to think that this is solely about
4 Mr. Mirabile. But you did mention pro se and I
5 think we're all sensitive to timing and delay and
6 cost and expense and the need for decisions that
7 the Developer has an interest in.

8 So I don't want the Developer to think
9 there's a slight there. The unusual nature of how
10 this hearing began and proceeded has captured more
11 of the attention. But I do think that Ms.
12 Cannington, as always, will attempt to get this in
13 as quickly as schedules can coordinate and there's
14 no disrespect to the Developer's position in that
15 regard.

16 Sorry, Madam Chair, I just wanted to
17 make sure I said that.

18 CHAIRMAN DOPKIN: No. I appreciate
19 that. I'm glad you made the point. Thank you
20 again.

21 And if that's all, I'm going to ask
22 Ms. Cannington to end this event.

23 (Proceedings concluded)

24

25

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10 indicated as transcribed by me.

11 I further certify that I am not a
12 relative of or an employee of any of the parties
13 herein and that I have no interest in the outcome
14 of the proceedings.

15 As witness whereof, I have affixed my
16 signature this 12th day of April, 2023.

17
18 *Paula J. Eliopoulos*
19 _____

20 Paula J. Eliopoulos

21 Court Reporter/Transcriber

22
23 My Commission Expires:24 June 15, 2024
25

BALTIMORE COUNTY BOARD OF APPEALS

IN RE: FAZAL, LLC

8202 Pulaski Highway

21-201 SPHA

A hearing in the above-entitled matter
was held virtually via WebEx on Wednesday March
16, 2022 before Deborah Dopkin, Chairman, Adam
Sampson and Fred Lauer, Board Members.

On Behalf of the Petitioner:

Edward Hartman, Esquire

On Behalf of the Appellant:

Russell Mirabile

Transcribed from WebEx video by:

Paula J. Eliopoulos

PROCEEDINGS

MS. DOPKIN: Today is Wednesday, March 16th, 2022. This is a de novo hearing before the Board of Appeals for Baltimore County in the matter -- in case number 21-201SPHA in the Matter of --

MR. MIRABILE: Excuse me, Judge, can you hear me? Russ Mirabile?

MS. DOPKIN: Yes, I can. But I'm going to mute you for the moment.

So as I was saying, this is in the matter of Fazal, LLC, case number 21-201SPHA 8202 Pulaski Highway with regard to a petition for special hearing to amend the opinion and Order in case number 2019 0171XA and for variance relief from Baltimore County Zoning Regulation Section 238.2 to permit a zero foot setback from the rear and side property lines for an 18 foot high building addition in lieu of the required 30 foot minimum rear and side yard setbacks.

This is an appeal of a November 15th, 2021 Opinion and Order of the Administrative Law Judge wherein the petition for special hearing amending prior order was granted and the variance

1 for the setbacks was also granted.

2 This hearing is being held remotely
3 and virtually because of the Coronavirus shutdown
4 on in person hearings and is being recorded.

5 My name is Deborah Dopkin and with me
6 are Board members Fred Lauer and Adam Sampson.

7 Anyone in attendance please mute
8 yourself unless you are speaking to the Board. if
9 you are attending by audio or telephone only, we
10 will ask you to state your area code and the first
11 three digits of your phone number when identifying
12 yourself. And if you are expected to testify, I'm
13 sure the representatives of your party will let us
14 know.

15 Having said all of that, I will ask
16 Mr. -- the parties to identify themselves. Mr.
17 Hartman.

18 MR. HARTMAN: Good morning. I'm
19 Edward Hartman with Hartman Attorneys at Law on
20 behalf of Fazal, LLC and Qaisair Shahzad.

21 MS. DOPKIN: Thank you. And Mr.
22 Mirabile.

23 MR. MIRABILE: Yes, ma'am. Russ
24 Mirabile from the Rosedale Community Association.
25 I am President of it, and I'm basically

1 representing the community, on residential and
2 businesses in reference to this issue -- or these
3 issues.

4 MS. DOPKIN: Thank you. Mr. Hartman,
5 are there any preliminary matters you wish to
6 raise with the Board?

7 MR. HARTMAN: No, Your Honor. Not to
8 my knowledge.

9 MS. DOPKIN: And Mr. Mirabile, any
10 preliminary matters before Mr. Hartman presents
11 his case?

12 MR. HARTMAN: No, ma'am. Other than
13 the fact I'd like to read into the record things
14 that ought to be following in this hearing. And I
15 also would like to point out, I am not computer
16 literate. This is my first time on something like
17 this, so I would ask all of you to be a little bit
18 patient with me because I'm very nervous.

19 MS. DOPKIN: Well just relax. We have
20 all been struggling with computer issues during
21 this pandemic and our staff is available to help
22 you if we find that we need -- if you find you
23 need assistance.

24 But having said all of that, you will
25 be given an opportunity to present your case after

1 Mr. Hartman presents his. So having said that, we
2 will proceed. I'm going to mute everyone but Mr.
3 Hartman.

4 It's your case, Mr. Hartman.

5 MR. HARTMAN: Thank you, Your Honor.
6 My client, Fazal, LLC is before this Board seeking
7 a variance for the subject property which is 8202
8 Pulaski Highway, Rosedale, Maryland 21237.

9 His intention is to construct an
10 addition to the only existing structure on the
11 property, the purpose of which is to repair
12 vehicles that intends to sell. To this end, he is
13 seeking variances regarding the setback
14 requirements and existing Opinion and Order
15 regarding the keeping of damaged and/or disabled
16 vehicles on the premises.

17 As it stands, the Opinion and Order
18 has been issued for the property on certain
19 conditions. This would be that they may not store
20 any damaged or disabled vehicles on the premises.
21 Mr. Shahzad's intention is to keep vehicles in
22 there and have them repaired and then have them
23 sold. It is not his intention to junk up the
24 entire property with damaged and broken down
25 vehicles.

1 He only wants to move in the ones that
2 he intends to sell. Very few -- it is his
3 intention not to create a junkyard. It's our
4 opinion and has been the opinion of this Court
5 before that this is a unique property and with the
6 Rules of *Cromwell v. Ward*, as it is unlike
7 surrounding properties and that the uniqueness and
8 peculiarity necessitates a variance relief.

9 Given the size of the property and the
10 already kind of penned in nature and how it is
11 close up to the highway, it is impractical for
12 this property to have to follow the original
13 setbacks.

14 And variance relief should be granted
15 in order to permit it to work under those
16 circumstances. As if this relief is not granted,
17 it will create a practical hardship on to Mr.
18 Shahzad and Fazal, LLC in its attempt to conduct
19 its business in this manner.

20 As it stands, the surrounding area is
21 an industrial off highway area. The neighbors are
22 a buggy repair, an auto repair shop and a liquor
23 store. So it is not going to alter or affect the
24 surrounding area in any way to have another
25 building which is all that will be visible from

1 any view, to have another building added and to
2 have the setback requirements waived.

3 Additionally, as it stands there is a
4 paper road that runs adjacent to the property
5 where Mr. Shahzad's fence currently is infringing
6 upon. Mr. Shahzad is stating that he intends to
7 pull that fence back so that the paper road
8 remains open and does not cause any kind of
9 difficulty with his neighbors around him.

10 And, Your Honor, I'd ask -- at this
11 time I would like to put on a witness or wait for
12 a cross.

13 MS. DOPKIN: Please put on your first
14 witness, please.

15 MR. HARTMAN: At this time I would
16 like to call Mr. Bruce Doak to the stand.

17 MS. DOPKIN: Okay. We will have to
18 have him sworn in.

19 Whereupon

20 BRUCE DOAK,
21 called as a witness, having been first duly sworn
22 to tell the truth, the whole truth, and nothing
23 but the truth, was examined and testified as
24 follows:

25 MR. SAMPSON: Would you please state

1 your name and your business address for the
2 record, please.

3 THE WITNESS: My name is Bruce E.
4 Doak. My address is 3801 Baker Schoolhouse Road,
5 Freeland, Maryland 21053.

6 MR. SAMPSON: Can you spell your last
7 name for us, please.

8 THE WITNESS: D-o-a-k.

9 MR. SAMPSON: Thank you.

10 THE WITNESS: You're welcome.

11 DIRECT EXAMINATION

12 BY MR. HARTMAN:

13 Q Mr. Doak, have you had the opportunity
14 to survey the subject property?

15 A It was surveyed by another firm, but
16 I've performed and prepared all of the zoning
17 plans and all of the petitions for not only the
18 case we're here for but the case two years ago.

19 Q And it is -- you're aware of the
20 variance, correct, that is being requested by Mr.
21 Shahzad and Fazal, LLC?

22 A Yes, sir, I am.

23 Q Would you please explain to the Court
24 what you did regarding the variance and your
25 expert opinions thereon.

1 A Yes, sir.

2 I prepared a zoning plan which would
3 have been Petitioner's Exhibit 1 in the case
4 below. It shows the subject property on the north
5 side of Pulaski Highway.

6 The subject property is --

7 MS. DOPKIN: Mr. Doak, I'm going to
8 interrupt you.

9 Mr. Hartman, will you be sharing your
10 screen to present these exhibits?

11 MR. HARTMAN: I would actually like --
12 Mr. Doak is far more qualified to take care of
13 that than I, if that's all right with the Court.

14 MS. DOPKIN: Mr. Doak?

15 THE WITNESS: Yes, ma'am.

16 MS. DOPKIN: How are you?

17 THE WITNESS: I'm well and you?

18 MS. DOPKIN: I'm here to hear what you
19 have to say.

20 Are you in a position to present your
21 exhibits and share them with us?

22 THE WITNESS: I can do my best if you
23 give me the baton.

24 MR. SAMPSON: And I want to ask a
25 question for clarification as well. Mr. Doak

1 referred to the first Exhibit as Exhibit 1 from
2 the case below. Are you going to be using the
3 same exhibits -- what I need to track is the
4 exhibits that we're using here. So Exhibit 1 here
5 going to be 1 below, 2 here, 2 below and so on?
6 Are they the same?

7 THE WITNESS: And I'm going to use
8 them -- not only are they going to be the same,
9 but they're going to be in the same order.

10 MR. SAMPSON: I assumed so, I just
11 wanted to confirm. Thank you, sir.

12 THE WITNESS: You're sure welcome.

13 MS. DOPKIN: Mr. Doak, before you go
14 any further, can you -- you gave us your address.
15 And Mr. Hartman asked, you surveyed the property.
16 What are your qualifications?

17 THE WITNESS: My qualification is I'm
18 a Maryland property line surveyor number 531. And
19 I have been in front of the ALJ and the Board of
20 Appeals probably over 200 times. I would say over
21 100, but I need it to be a little higher than
22 that. But, yeah.

23 MS. DOPKIN: Okay. Thank you. I'm
24 sorry to interrupt. Please continue.

25 THE WITNESS: No, no, no. Not at all.

1 I'm just trying to get this to sync up with the
2 share and it's not wanting to do it.

3 MS. DOPKIN: Tell us about the
4 property while you do that, if you would, please.

5 THE WITNESS: Yes, ma'am. The
6 property is pretty much, we'll call it a square,
7 it's close enough.

8 It is 0.396 of an acre, so a little
9 over a third of an acre. It is improved with one
10 -- it's improved with one building.

11 Can you see the plat at this time?

12 MS. DOPKIN: Yes. Thank you.

13 THE WITNESS: You're quite welcome.

14 So I'll zoom in just a little bit more
15 to give you the flavor. So it's improved with one
16 32 by 50 block building in the center. That block
17 building used to be a drive-in restaurant like an
18 A&W Root Beer. And in turn it had a small amount
19 of parking around it.

20 It has two entrances, one directly off
21 of Pulaski Highway in the front and then one on to
22 the gravel roadway to the west or the left of the
23 property. That's all the improvements that are
24 still on it.

25 The owner did enclose we'll say the

1 northern half of the property into a -- with an 8
2 foot high chain link fence to protect the vehicles
3 that he does have on this.

4 MS. DOPKIN: Mr. Doak, where is that
5 fence on the property? You said the northern
6 half.

7 THE WITNESS: Yes, ma'am. So the
8 fence, it is -- across the front face of the
9 building and extends to the eastern property line
10 and then extends westerly now due to the center of
11 the 30 foot road, it's a paper road there.

12 MS. DOPKIN: Is that what is marked on
13 your plan as alley?

14 THE WITNESS: Yes, ma'am. Yes, it is.
15 And I'll go into that much further.

16 It is a paper road on a very old
17 subdivision plat which I will talk more about. It
18 follows -- and now keep in mind that this fence is
19 on the property line. The roadway, the 30 foot
20 wide road, the center of it is also the property
21 line to the subject property. So it follows in a
22 northerly direction back on the property line, the
23 fence does, and then goes -- and then there's a
24 board fence at that point that goes along the
25 northern line up to and then back -- and then the

1 chain link back down the eastern side.

2 And there's photographs that I have
3 that will show that as well, okay.

4 This property is zoned BR-AS, so it is
5 the right to have a car lot. It has a right to
6 have auto service.

7 So -- and that is what the intent,
8 what he intends to do with the property and the
9 buildings that are there and we are hoping to
10 build.

11 This zone requires a --

12 MS. DOPKIN: Mr. Hartman, are you
13 offering the site plan into evidence?

14 MR. HARTMAN: That's right, Your
15 Honor. I'd like to offer the site plan which is
16 Petitioner's Exhibit 1 into evidence at this time.

17 MS. DOPKIN: If there's no objection,
18 it will be admitted.

19 (Petitioner's Exhibit 1 was admitted
20 into evidence)

21 MS. DOPKIN: Please continue.

22 THE WITNESS: Thank you.

23 As Mr. Hartman said, this is along
24 Pulaski Highway. Pulaski Highway is mixed
25 commercial, manufacturing and very, very, very

1 little residential use in this area of Pulaski
2 Highway. There is some, up that alley roadway
3 there are some trailers that people use
4 residentially.

5 But as you can -- on my Petitioner's
6 Exhibit 1 you'll see to the east there is a
7 commercial building there that they repair and
8 sell golf carts. To the north of our property is
9 a very large building and it has -- it's auto
10 repair and the entire property and even into the
11 alleyway is covered with cars in all shapes and
12 sizes and conditions.

13 Across the gravel roadway, the
14 alleyway is a retail liquor store with parking
15 there on the side of it.

16 Across the street there is a motel and
17 then a vacant building that's there and a couple
18 other things that are commercial as well. This is
19 a four lane, two on each side, highway. So it is
20 -- and things are moving at 50 to 70 miles an hour
21 usually on this roadway.

22 I think that's -- the requirements
23 that were brought up in the prior case required us
24 to address parking. We are proposing to use --

25 MS. DOPKIN: Excuse me. The prior

1 case meaning the case below or the 2019 case?

2 THE WITNESS: Both. I apologize for
3 that very much. Thanks for the clarification.

4 Both required us to address parking.
5 In the 2019 case we were asserting that we would
6 be using -- having 50 cars for sale on this and
7 along with customer and employee parking. That
8 was approved.

9 In the '21 case, we changed the -- as
10 part of the special hearing we changed the number
11 of cars that we were requesting. We were
12 requesting now 30 cars for sale and any car -- and
13 the customer and employee parking was required to
14 be shown on there in stripe and that is in the --
15 along the eastern side. It shows four parking
16 spaces there and labeled customer and employee
17 spaces striped.

18 The number -- the reason we lessened
19 the number of cars that will be sold there is
20 because the owner wishes to build the -- an
21 addition to the building, the reason we're here
22 today, so he can repair cars that he is only
23 proposing to sell. And in turn because of the
24 size of the building, we have less area to park
25 cars for sale.

1 Now that building will be used to park
2 cars but they will be as a requirement, be cars
3 that are in disrepair or are being repaired and
4 then will be sold.

5 So if I could please move on to
6 Petitioner's Exhibit -- is there anything else
7 that the Court -- the Board has in reference to
8 Petitioner's Exhibit 1?

9 MS. DOPKIN: Mr. Lauer, Mr. Sampson?

10 MR. SAMPSON: Nothing thank you.

11 MR. LAUER: No, thank you.

12 THE WITNESS: Thank you. I'll move on
13 to Petitioner's Exhibit 2.

14 It's very self explanatory. It is the
15 SDAT report. It shows the Fazal, LLC as the
16 ownership, the address, the acreage at 0.396
17 acres. Shows that the building is 1600 square
18 feet, built in 1975.

19 I usually include this just to show
20 that there's no discrepancies in what I'm showing
21 and what the State has in their records.

22 And if we could, would you like to
23 have these brought in by Mr. Hartman one at a time
24 or at the end?

25 MS. DOPKIN: We can do them at the end

1 since you're following the Exhibits below and we
2 can move them as a group when you are done.

3 Thank you for asking.

4 THE WITNESS: You're welcome.

5 MR. HARTMAN: Thank you, Your Honor.

6 THE WITNESS: Petitioner's 3 is the My
7 Neighbor GIS. This shows that the subject
8 property is outlined in blue and it is labeled as
9 subject.

10 And you can see to the left of it that
11 the zone that we have here is BR-AS. It also
12 shows that the addresses and the outlines of the
13 buildings.

14 One thing that is peculiar and I'm not
15 sure how they deal with it is that our subject
16 property and the one to the east has the same
17 address. So I just thought I'd bring that up just
18 to point it out to you.

19 Petitioner's 4 is once again Baltimore
20 County My Neighborhood. It is the GIS aerial
21 photograph. Our property is outlined once again
22 in blue and labeled as subject.

23 You'll see the one block building
24 that's on our property, the vehicles that are
25 parked there is the owner's roll off. He has a

1 towing business and so in turn those are the roll
2 offs that he utilizes for that.

3 To the east or the right is the golf
4 cart repair and sales building. You'll see that
5 he has his, the vehicles that he works on and his
6 inventory like we would around the building.

7 MS. DOPKIN: Mr. Doak, I'm sorry to
8 interrupt you. Can you briefly show us on this
9 area the outline of the proposed addition.

10 THE WITNESS: Yes, ma'am, I can.

11 Are you able to see my cursor?

12 MS. DOPKIN: Yes.

13 THE WITNESS: It's in the middle of
14 the building right now. Can you see it?

15 MS. DOPKIN: Yes.

16 MR. SAMPSON: Yes.

17 MR. LAUER: Yes.

18 THE WITNESS: Okay. I will start on
19 the -- outlining our building because it is an
20 addition to this building so it will go up along
21 the east side of our building. It will follow --
22 it will be an addition to the northern side of the
23 existing building.

24 At that point it will follow an
25 extension of the face, the western face of the

1 building and will go up to the property line.

2 It will then at 90 degrees and
3 parallel with the northern side will come down
4 very close to the property line or on the property
5 line.

6 Once it does that, it will go in a
7 southerly direction, once again parallel with the
8 east side of the existing building until it is an
9 extension of the front face or the southern face.
10 And then it will come back into the corner of the
11 existing building.

12 So it's an L-shaped right there that
13 will fill in that portion of the lot. It will
14 have -- I'm sorry, did you want to say something?

15 MS. DOPKIN: Thank you. That was
16 helpful.

17 THE WITNESS: Good.

18 It will have two doors on the southern
19 portion of the addition and it will have two doors
20 on the western face of the addition so they can
21 drive through as well.

22 So that leaves -- what that leaves is
23 the western side from the building to the edge of
24 the 30 foot road. And then everything in the
25 front as well.

1 So back to what I was saying about the
2 neighborhood. You'll see the very large building
3 that's in the rear. You'll see that it's closer
4 than the 30 feet to the property line as well and
5 it is a car repair business as well. And you can
6 see there, there are different -- the vehicles
7 they have there in different conditions.

8 And also you'll see that they, then at
9 the time of this picture and every time I've been
10 there which has been about a half dozen times,
11 their vehicles are also in the 30 foot road as
12 well. So that's about all I have for Petitioner's
13 Exhibit 4.

14 Petitioner's Exhibit 5 is the boundary
15 survey plat. As you can see, it was performed by
16 BPR, I know the firm, it's a very good firm. And
17 in turn they surveyed the property and they set
18 each of the property corners, they located the
19 improvement, the building, which is all there is,
20 and the paved parking.

21 I in turn added the, what is in red.
22 It is the 30 foot road that is shown on the
23 subdivision plat that was recorded in plat book
24 12, page 41. So that was there and you'll see
25 that the dark lines that I'm outlining with the

1 cursor are the property lines.

2 So you'll see that 15 feet of the
3 subject property that they own in fee is in the --
4 that 30 foot width, okay.

5 And like Mr. Hartman said, they are
6 now agreeable to moving the fence back from the
7 property line which would be the center of that 30
8 foot road back to the edge of the 30 foot road
9 allowing use in common of the 30 foot road by
10 anybody that wishes to use it.

11 Real quickly, I'll point out on this
12 plat the grassy areas that you see in the front,
13 they're kind of circular, those were as a
14 condition of the approval from down under, those
15 were to be planted with shrubs and some
16 landscaping there to kind of beautify it a little
17 bit.

18 So I just thought I'd point that out
19 as well.

20 Petitioner's 6 is, starts out with the
21 aerial photograph that I showed you before. In
22 red I have the photograph letter and the -- where
23 it was taken from. So let's take for example A,
24 was taken from the -- that grassy area looking
25 straight down the property line. So I have these

1 exhibits to show you as well.

2 So this is the key sheet. This is
3 looking down the eastern property line. So this
4 -- you'll see the building to the left and then
5 the property line where the fence is, it was put
6 on the property line after the survey was done, so
7 we know that's accurate.

8 So -- and the fence that you see
9 across the front there is pretty much the face of
10 the proposed building and then it would go down
11 the property line that the eastern side and then
12 into the back.

13 So you can just imagine that where the
14 fenced in area will be a -- will be the new
15 addition and that will be -- that's an 8 foot
16 fence so it will be approximately twice as high as
17 that fence. The reason for the height is to allow
18 the repair shop to have lifts to be able to lift
19 the car up and work on them from underneath.

20 And 18 feet is the minimum you can
21 have to be able to have lifts that you can stand
22 under.

23 MS. DOPKIN: And is that grassy strip
24 entirely within the property?

25 THE WITNESS: Yes, ma'am, it is.

1 MS. DOPKIN: So that the building
2 would extend to where your cursor is sitting?

3 THE WITNESS: Yes, ma'am, it would.

4 MS. DOPKIN: Thank you.

5 THE WITNESS: You're welcome.

6 MR. SAMPSON: May I ask, what is the
7 size of the current building, the height of the
8 current building, please.

9 THE WITNESS: It's about 14 feet. And
10 I'm not counting the chimney either. So, sir, the
11 fence is 18. So proportionally if you look at the
12 building and the slope on the roof and everything
13 you've got approximately 14 feet.

14 MR. SAMPSON: Thank you.

15 THE WITNESS: You're welcome. So it's
16 just going to be a little bit higher than the
17 existing building. Okay.

18 To the right of the fence, the
19 property line to the east you'll see the storage
20 for the golf cart repair and sales there.

21 And Petitioner's Exhibit 6B, I'm
22 scanning -- I'm rotating to the -- in a clockwise
23 direction. You'll see the building where they
24 sell the golf carts and repair them. Very well
25 maintained, you know. It's one of the nicer

1 places, and kept up places along this part of the
2 highway.

3 Now I'm giving you a shot down Pulaski
4 Highway. It's hard to differentiate between it,
5 but I promise you that everything you see and
6 everything going down here is either commercial or
7 light industrial. There's a motel.

8 MS. DOPKIN: Is that a concrete
9 median?

10 THE WITNESS: Yes, ma'am, it is. And
11 it has -- it has also different places it has
12 guardrails in the middle and it also has places
13 that you can cross. And I'll -- we are at a
14 light. So this is directly across the street.
15 The last time I was out there it was vacant. But
16 you'll see the concrete wall there in between the
17 lanes.

18 And like I said, you'll see the
19 right-hand side, we are at a light. So if you are
20 coming out and you were going west then in turn
21 it's easy to get out and go. But if you want to
22 turn east, you come out of the western side of our
23 parking lot on to the gravel road and then you're
24 at the light you can go and turn left with the
25 light.

1 There's the intersection I'm talking
2 about. And you'll see it's got not only Jersey
3 barriers, but it's got guardrails in between as
4 well. So where you see that down at the bottom
5 right-hand corner where I'm point at, that's the
6 -- where you can come out, sit there and wait for
7 the light and then cross. So it's very, very,
8 very safe and convenient there for this lot for
9 people, customers, anybody coming in and out of
10 this lot.

11 This is Exhibit 6F. This is the front
12 of our property. This is the subject building
13 here that you can see to the right and then the
14 front parking.

15 This is the entrance that goes
16 straight on to Pulaski Highway there. So there's
17 plenty of room to park. This is my Subaru sitting
18 in front of the place so they've got -- you can
19 put many, many cars especially parking them for
20 retail sales you don't have to meet the parking
21 requirements, you can park them as close as
22 somebody can get them in and out.

23 So once again this is the front of the
24 building. Remember that pretty much the fence
25 there would be the addition and it would be

1 approximately almost as -- or about as high or a
2 little higher than the existing building.

3 Something else I wanted to point out
4 is that proposed addition would be in line with
5 the existing building which is also in line with
6 the building to the east. So in turn this
7 wouldn't stick out, it wouldn't be any more
8 noticeable than the faces of the existing
9 buildings.

10 Another photograph of the fence and
11 where the building would be. Once again, just
12 getting you a little closer shot of that.

13 Now we're on the other side of the
14 building now. You'll see that the fence extends
15 all the way over to the property line and the
16 center of the 20 -- or the 30 foot road. That
17 fence line on the west side would be brought into
18 this grassy median right there and would be --
19 which would be on the edge of the 30 foot road.

20 So he would be losing a little bit of
21 parking, a little bit of area where the grassy
22 strip is and a little bit of parking on the other
23 side of the grassy strip.

24 This is the building on the other
25 side. Once again -- I'm sure the gate would go

1 and it will be different there but this is all
2 going to be parking for the retail car sales.

3 Looking into the property from the
4 edge of the fence you can see that there's a lot
5 of parking there for the retail and where you see
6 that big truck and the white cab right there, that
7 will be where the doors are that allow you to
8 enter the proposed addition from there.

9 This is the back property line. The
10 back property line has chain link up for a little
11 bit of it and then the rest is wood board fence.
12 Over the years that wood board fence, it has grown
13 up and provides a very adequate visual buffer
14 there as well. We don't really have to worry
15 about noise. The proposed use will be inside, and
16 it is the same noise that you would hear from what
17 occurs in the rear property line, Earl Beck's Auto
18 Repair as well.

19 And here a little differently, but
20 here also from the golf cart repair. So that's
21 Petitioner's Exhibit 6.

22 Petitioner's Exhibit 7 is a letter --

23 MR. SAMPSON: Mr. Doak, excuse me one
24 second. I'm sorry.

25 THE WITNESS: Yes, sir.

1 MR. SAMPSON: I didn't get the last
2 letter. So it's 6A through what was the final
3 letter?

4 THE WITNESS: I'm sorry, sir. N as in
5 Nancy.

6 MR. SAMPSON: N. Thank you, sir.

7 THE WITNESS: You're quite welcome.

8 Am I all right to proceed?

9 MS. DOPKIN: Yes.

10 THE WITNESS: Okay. Thank you.

11 This is Exhibit 7. My client went
12 around and talked to all the owners and the one
13 that was most -- could be most impacted would be
14 the man that owns the business for the golf cart
15 repair and sales and he wrote a letter of support
16 that we submitted down under.

17 So that would be all of the
18 Petitioner's Exhibits that I have and that were
19 submitted below.

20 MS. DOPKIN: Before we proceed. On
21 Exhibit 6, your photographs.

22 THE WITNESS: Yes, ma'am.

23 MS. DOPKIN: Did you take these
24 yourself?

25 THE WITNESS: Yes, ma'am, I did.

1 MS. DOPKIN: And when did you take
2 them? Approximately.

3 THE WITNESS: About three weeks from
4 the hearing down below. So I'm sorry I don't
5 remember the date of it. I apologize for that. I
6 don't remember. But towards the fall of last
7 year. And nothing has changed on the subject
8 property since then, because I was just out there.

9 MS. DOPKIN: So do they accurately
10 represent the conditions at the site?

11 THE WITNESS: Yes, ma'am, they do.

12 MS. DOPKIN: Okay. Thank you.

13 And do you have more exhibits to
14 present to us?

15 THE WITNESS: You would have to ask
16 Mr. Hartman, ma'am.

17 MS. DOPKIN: Mr. Hartman, are you
18 going to move Petitioner's Exhibits 2 through 7?

19 MR. HARTMAN: Yes, Your Honor. At
20 this time I would like to have them moved into
21 evidence as Petitioner's Exhibits 1 through 7 --
22 or 2 through 7.

23 MS. DOPKIN: Any -- if there are no
24 objections we will admit Petitioner's Exhibit 2
25 through 7 into evidence.

1 MR. MIRABILE: No objections, Your
2 Honor.

3 MS. DOPKIN: Thank you.

4 (Petitioner's Exhibits 2 through 7
5 were admitted into evidence)

6 MS. DOPKIN: Mr. Hartman, please
7 proceed.

8 MR. HARTMAN: Thank you, Your Honor.

9 As Mr. Doak explained in depth as to
10 the condition not only of the property at the time
11 but also what is expected to be the condition and
12 experience of the property upon completion of the
13 addition, it's quite clear that the neighboring
14 properties will not be impacted in the slightest.

15 That this is in keeping with the tone
16 and feel of the community, that this is a
17 manufacturing, industrial, commercial area and --

18 MS. DOPKIN: Mr. Hartman, is that a
19 question?

20 MR. HARTMAN: No, ma'am. It's just --
21 I'm sorry. I have no more questions for Mr. Doak
22 at this time.

23 MS. DOPKIN: Thank you.

24 Mr. Mirabile, do you have any
25 questions for Mr. Doak?

1 MR. MIRABILE: Yes, ma'am, I do.

2 Your Honor, I submitted my exhibits
3 but they're not in the same order as Mr. Doak's
4 originally would be. But I tried to write them
5 down, so I will probably have different exhibit
6 numbers --

7 MS. DOPKIN: When you present your
8 case, you will be able to introduce your exhibits.

9 MR. MIRABILE: Okay. Some of them
10 will reflect on what Mr. Doak -- I would have to
11 cross examine Mr. Doak with my exhibits. Should I
12 do it now or later on?

13 MS. DOPKIN: You will have to question
14 him based on what he has presented to the Board so
15 far.

16 MR. MIRABILE: Okay. Yes. And I
17 would like to reserve the opportunity to question
18 him on the exhibits that I have that he also
19 should be aware of that's relating to this matter.
20 I just don't want Mr. Doak to leave and I won't
21 have the opportunity to present my case through my
22 side.

23 MR. HARTMAN: Your Honor, if it's not
24 going to be within the scope of the direct
25 examination, I don't see how it can be done.

1 MS. DOPKIN: Nor do I. You want to --

2 MR. SAMPSON: If I may make a
3 suggestion. All that means then is that Mr. Doak
4 is going to have to stay around and somebody is
5 going to be paying him while he waits until he
6 gets called in Mr. Mirabile's case. That may not
7 -- if that's how you want to proceed, I would
8 recommend -- that's your choice, but I don't know
9 that's the efficient way to go.

10 MS. DOPKIN: What would you suggest,
11 Mr. Sampson, so that we can be most efficient?

12 MR. SAMPSON: Well, I don't know what
13 questions Mr. Mirabile is going to ask, but I
14 would assume in all likelihood that the questions
15 he has and the exhibits he has are somehow going
16 to be within the cross of -- I mean within the
17 scope of the direct. It's pretty broad, but I
18 don't know what he's going to ask.

19 So I think -- what I'm suggesting is
20 if Mr. Hartman wants to stand on his assertion not
21 knowing or maybe he has a better idea than me what
22 Mr. Mirabile is going to ask, if he wants to stand
23 on this that Mr. Mirabile cannot ask questions or
24 use exhibits outside the scope of direct then I
25 said then Mr. Doak is just going to have to wait

1 around. Maybe that's only five minutes. And then
2 Mr. Mirabile is going to have to call Mr. Doak in
3 Mr. Mirabile's case.

4 So it's just either Mr. Doak does it
5 now or he wears a different hat and does it in a
6 little while.

7 MS. DOPKIN: Well, Mr. Mirabile, why
8 don't you ask Mr. Doak your questions using the
9 exhibits he's presented so far and if you're not
10 able to make your points we'll ask Mr. Doak to be
11 available or on call.

12 But his exhibits were fairly
13 illustrative of the conditions of the property to
14 our knowledge. So please, let's get these
15 questions asked and we'll make a determination if
16 you're not able to make the points you want to,
17 because you might be able to make them yourself
18 when you present your case.

19 MR. MIRABILE: Okay. All right. I
20 tried to keep up with him, but I'll do the best I
21 can. But I still would like to cross examine him
22 with -- as I mentioned before, with my exhibits.
23 I feel a little more comfortable with that. But
24 that's not a problem.

25 Would you be able to pull up the My

1 Neighborhood exhibit that we had. I think it was
2 Exhibit 5, I believe.

3 MR. SAMPSON: It's either Exhibit 3 or
4 4.

5 MR. MIRABILE: Okay. If I may see --
6 I'll say number 3.

7 CROSS EXAMINATION

8 BY MR. MIRABILE:

9 Q Mr. Doak, the subject property was
10 8202 along the Batavia Farm Roadway. I know you
11 extended it, but there's really nothing unique
12 about that at this -- it's just, in relationship
13 to the other ones it's the same thing.

14 MR. HARTMAN: Objection. That's not a
15 question.

16 MR. MIRABILE: Okay. Is it unique.

17 MS. DOPKIN: I was going there. Mr.
18 Mirabile, this is -- you can ask Mr. Doak
19 questions based on everything he's told us so far
20 and on the exhibits he's presented.

21 MR. MIRABILE: Thank you.

22 MS. DOPKIN: So try to --

23 MR. MIRABILE: I will. Okay.

24 MS. DOPKIN: --ask questions.

25 Q Okay. Mr. Doak, you said you have

1 been to hearings over 200 times; is that correct?

2 A Yes, sir.

3 Q Okay. And everything that you present
4 at hearings, and even this last hearing, it's the
5 same fashion and model that you've done 200 some
6 times?

7 A It's similar but different. It's site
8 specific, but it's the same method that I present
9 things in each hearing. Yes, sir.

10 Q Okay. And you also mentioned that
11 with this hearing that the paper road there,
12 everybody calls it a paper road which is actually
13 a roadway --

14 MR. HARTMAN: Objection. He's
15 presenting facts, he needs to ask a question.

16 Q Okay. The paper roadway is a 30 foot
17 right of way; is that correct?

18 A Yes, sir, it is.

19 Q Okay. And you're aware that the fence
20 is still there. Are you still aware that the
21 fence is still up as we speak now?

22 A Yes, sir. The owner has agreed to
23 move the fence within 90 days of the approval of
24 this petition.

25 Q Okay. If they don't approve it, would

1 he still remove it?

2 MR. HARTMAN: Objection. It's a
3 hypothetical question and it's calling for
4 speculation for someone else's decision.

5 Q Well, it's either going to be removed
6 -- you're only going to remove the fence if your
7 petition is granted; is that correct?

8 MR. HARTMAN: Objection. He's still
9 asking a hypothetical question.

10 MR. SAMPSON: It's an expert. He can
11 ask hypotheticals of an expert.

12 MR. HARTMAN: Even of another person's
13 perspective?

14 MR. SAMPSON: It's a hypothetical.
15 You can ask an expert a hypothetical.

16 A Mr. Mirabile, that's not for me to
17 decide, that's for the owner to decide. I am the
18 professional in this case, I'm not the owner that
19 would make it.

20 Q Okay. So it's up to the owner, not up
21 to you. Or it's up to this court hearing; is that
22 correct?

23 A It's not up to this court.
24 Unfortunately it's a civil matter, not a zoning
25 matter.

1 Q Okay. Exhibit 7 that you have which
2 is the letter of improvement with the golf court.
3 Did you ask -- did you have anything -- did you
4 get this letter from Mr. Zelner or did you -- did
5 you get this letter from Mr. Zelner?

6 A It was given to my client the owner
7 prior to the last hearing. Yes.

8 Q Okay. Did you know that Mr. Zelner
9 did not sign that letter?

10 A It has a signature there. The
11 signature matches the name that's on it so in turn
12 I wouldn't believe anything different.

13 MR. MIRABILE: Okay. I have -- I
14 guess on my time on my evidence, Your Honors, that
15 I would have to submit a letter indicating from
16 Mr. Zelner that he did not give permission nor was
17 that his handwriting.

18 So I can wait either when my turn
19 comes and recall Mr. Doak or put it in now.

20 MR. HARTMAN: I don't see how Mr. Doak
21 can have any input on handwriting analysis.

22 MS. DOPKIN: Mr. Sampson?

23 MR. SAMPSON: What I believe Mr.
24 Mirabile is proposing would be impeachment
25 evidence and I think he can use it. I think it's

1 subject to the objections that Mr. Hartman just
2 said. But obviously Mr. Doak -- if Mr. Doak is
3 familiar and aware of the handwriting of this
4 person, Mr. Zelner then he can say so and he can
5 say if that's his signature.

6 I believe Mr. Doak has already said or
7 if he hasn't he will say he's not familiar with
8 that handwriting. I don't know how Mr. Mirabile
9 can authenticate it. I think that's Mr. Hartman's
10 objection.

11 But this is a Board. We have
12 discretion. I would suggest to move this along
13 that Mr. Mirabile can present that document and we
14 can give it whatever weight it's entitled to.

15 I'm going to stop jumping in your
16 shoes there, Chair Dopkin, sorry.

17 MS. DOPKIN: Oh, no, please. You're
18 my expert on this stuff. Please don't stop.

19 Mr. Mirabile.

20 MR. MIRABILE: Yes.

21 MS. DOPKIN: Can you identify your
22 impeachment evidence that you're referring to?

23 MR. MIRABILE: Yes, ma'am. It's,
24 according to my exhibit number 16.

25 MR. LAUER: Madam Chair, does he need

1 to be sworn in if he's going to do it at this
2 time?

3 MR. HARTMAN: Does who need to be
4 sworn in?

5 MR. LAUER: Mr. Mirabile.

6 MR. MIRABILE: I can be sworn in.

7 MR. SAMPSON: Well, I do think now
8 we're getting afield here. What is it that you're
9 going to present here, Mr. Mirabile?

10 MR. MIRABILE: I'm going to present a
11 letter from BMore Buggies which is Mike Stroh that
12 his letter indicates with my exhibit that is a
13 false signature and he did not approve of anything
14 that what Mr. Doak had just testified to.

15 MR. SAMPSON: Okay.

16 MR. HARTMAN: He would need a witness
17 to authenticate it.

18 MR. SAMPSON: Yeah. I'm going to
19 reverse myself. I think Mr. Mirabile is going to
20 have to lay the proper foundation for all of this
21 in his own case and then he's going to have to use
22 it with Mr. Doak if he chooses.

23 Because you can't be in the business
24 of testifying as a witness and -- you can lay a
25 proper foundation for a document that you're going

1 to use but you need a witness to do it. And if
2 that witness is you, that's going to come later in
3 your case.

4 MR. MIRABILE: Okay.

5 Q Mr. Doak on number 6F, you indicated
6 that the trucks are parked outside the properties.
7 The tow trucks that are going to be parked inside
8 the properties, do you know the measurements of
9 those two trucks, how long they are?

10 A No, sir. I mean, I've never measured
11 them. I unfortunately as of last Sunday I was on
12 the back of one of them so I'm guessing they're
13 probably about 40 feet long.

14 Q Okay. About right. 35, 40 feet. Did
15 you incorporate that into the space that I think
16 -- I'm not sure how many tow trucks Mr. Shahzad
17 has, but did you incorporate that into the spaces
18 of the building, the customers and the sales car
19 lot?

20 A He won't have those on that site,
21 he'll place those elsewhere or he'll park them on
22 the outside of the fence in the 30 foot road.

23 Q Okay. If, if the Court decides to
24 give this these improvements, the 30 foot roadway
25 may have -- may not be able to be -- in other

1 words what I'm saying is that, I will explain that
2 in mine, is the fact that this 30 foot right of
3 way could have stop signs on it; am I correct, at
4 any time in the future?

5 MR. HARTMAN: Objection. It's not a
6 question.

7 MR. SAMPSON: It's a question.

8 MS. DOPKIN: I think there was a
9 question.

10 Q The question is, in the future the 30
11 foot right of way that Mr. Doak is indicating
12 could have some stop signs -- no stop signs on
13 there for the other businesses.

14 A Why would it have a stop sign on it if
15 it has a street light at the end of it?

16 Q Why would it what?

17 MR. SAMPSON: Hold on. Hold on. Mr.
18 Doak, you're a seasoned professional here and I
19 know this is a little bit unorthodox how this is
20 proceeding, but you can answer his question or
21 not, but don't ask a question back.

22 THE WITNESS: Yes, sir.

23 A Mr. Mirabile, I do not understand your
24 question.

25 Q All right. It is my understanding

1 that there are going to be stop signs requested by
2 the owners surrounding this property so there
3 won't be any -- no parking there. Did you
4 incorporate that into your subject property to the
5 Board so far? Did you take that into
6 consideration?

7 A No. Because there's nothing like that
8 now that exists.

9 Q Okay.

10 A And if you'll see on Petitioner's
11 Exhibit 4, if that's done Earl Becks in the rear
12 of our property would have to move quite a bit of
13 cars, parts and everything out of the 30 foot road
14 as well.

15 Q Okay. Not to belabor this. I'll
16 address that when I'm able to ask questions on my
17 exhibits just so I don't hold everything up here
18 since I have, Mr. Sampson gave me that option.

19 MR. SAMPSON: Mr. Mirabile, you'll
20 have an opportunity to do two things. You're
21 going to be able to present argument, which is
22 separate from questioning and that's at the end of
23 the case.

24 And then you're going to be able to
25 call whatever witnesses that you intend to call

1 that you have lined up that are prepared to be
2 here. And if Mr. Doak is one of them, then you
3 have the right to ask him questions in your case.

4 The purpose of what you're allowed to
5 do right now should be to ask Mr. Doak questions
6 that relate to what he's testified to already in
7 response to Mr. Hartman's questions.

8 You're not going to waive your right
9 to ask him questions in your case or make argument
10 on what you think your testimony means or what you
11 think his testimony means.

12 MR. MIRABILE: Okay.

13 MR. SAMPSON: So try to narrow your
14 focus here to that so that Mr. Hartman can
15 conclude his case and then we'll get to yours.

16 MR. MIRABILE: Okay. Thank you. I
17 just have one or two more questions, that's all.

18 That's okay. I'll just waive it until
19 I get my turn. I'll just waive it. But I'd like
20 for Mr. Doak to be around so I can ask him
21 questions from my exhibits, please.

22 MS. DOPKIN: Okay. We will ask Mr.
23 Doak to stick around.

24 Mr. Hartman, do you have any followup
25 with Mr. Doak?

1 MR. HARTMAN: Just one or two
2 questions.

3 REDIRECT EXAMINATION

4 BY MR. HARTMAN:

5 Q Mr. Doak, in your professional
6 opinion, has the property changed at all since the
7 last trial, the one that this is appeal of?

8 A No, sir, it hasn't.

9 MR. HARTMAN: No more questions.

10 MS. DOPKIN: Call your next witness,
11 Mr. --

12 MR. LAUER: I have a couple of
13 questions if we might, Madam Chair.

14 MS. DOPKIN: Yes. Mr. Lauer. Please.

15 EXAMINATION

16 BY MR. LAUER:

17 Q Mr. Doak, I'd like to hear something
18 about the uniqueness or a little more about the
19 uniqueness of this property and the practical
20 difficulty and unnecessary hardship. I'm sure
21 you're familiar with those terms.

22 Would you please elaborate a little
23 more on that?

24 A Yes, sir. As I stated with the 2019
25 case, which -- and the 2021 case, both I had to

1 prove uniqueness, practical difficulty and
2 hardship.

3 This is -- even though it's similar to
4 the one to the east, this is a -- one of a smaller
5 pieces of property in this area commercially used.

6 By having the building in the middle,
7 it does make it difficult to use it. It is not
8 able to be built on to because of the foundation
9 and the structure there. So anything that needs
10 to be built on, built higher and everything would
11 have to be outside of the existing building.

12 So in turn -- and then if, as to the
13 practical difficulty, if we were not able to get a
14 variance of the 30 foot setback, then in turn we
15 wouldn't be able to build a building at all other
16 than what's there, no addition to the building
17 itself. So in turn they would be left with just
18 the use of the building, no ability to be able to
19 repair cars in it and so in turn we feel -- and
20 the prior two different judges have felt that
21 there was a uniqueness here and a practical
22 difficulty and hardship.

23 MR. LAUER: Thank you.

24 MR. MIRABILE: May I ask Mr. Doak a
25 question on that?

1 MS. DOPKIN: Let's see if the Board
2 has any -- Mr. Sampson, do you have any questions
3 for Mr. Doak?

4 MR. SAMPSON: I do not. Thank you.

5 MS. DOPKIN: You may, Mr. Mirabile,
6 but only based on his answers to Mr. Lauer.

7 MR. MIRABILE: Okay.

8 RECROSS EXAMINATION

9 BY MR. MIRABILE:

10 Q Where would the vehicles be parked
11 once the building is up? Did you take that into
12 consideration for a parking space?

13 A Please clarify which cars you're
14 talking about.

15 Q I'm talking at the rear of the subject
16 property.

17 A Which cars are you speaking of?

18 Q Customer's cars. People that you're
19 going to be selling for and cars that are going to
20 be repaired and worked on.

21 A The only cars that will be repaired
22 or, as you say worked on, will be those that are
23 being sold. You cannot -- you will not be able to
24 bring a car in there and have an oil change.

25 You will not be able to come in there

1 and have any repairs done on your car. The owner
2 will purchase cars wherever he sees fit. He will
3 -- if they do need repairs, he will bring those
4 here to this site, he will repair them and then he
5 will place them outside of the building for retail
6 sales.

7 He currently does it off-site now but
8 it's very, very, very inconvenient because he has
9 to transport them back and forth each and every
10 time that he needs to repair it.

11 MS. DOPKIN: Now, Mr. --

12 Q Sometimes those repairs it takes
13 months and months for insurance companies or to
14 get parts, especially in today's time.

15 MS. DOPKIN: Is that a question, Mr.
16 Mirabile?

17 MR. SAMPSON: It's more argument, Mr.
18 Mirabile.

19 Q Okay. Are you aware about how long it
20 would take to get parts for cars, vehicles that
21 have to be parked there and would be inoperative?

22 A The long term -- the long term storage
23 of a vehicle that needs parts and everything, if
24 that was the case, would be to his own detriment
25 because it would take up space inside of the

1 building.

2 No cars that are inoperable or need
3 repair will be outside of the building. They'll
4 all be inside.

5 So that will be one less space that he
6 has to put another car inside his building if it's
7 sitting there for a long period of time.

8 Q So in other words, according to that,
9 if he has a three -- if the three bays are
10 granted, he only can have three cars in that
11 parking lot inside the building when he takes it
12 out or put it back in?

13 A No. There's three bays with a lift.
14 There's other storage room for other cars. You'll
15 see how large that is, the proposed building is
16 much larger than just three cars. It's three
17 repair bays and additional storage for the kind of
18 cars that you're speaking of that might have to be
19 there longer than days, maybe even weeks.

20 Q What is the address that he has of the
21 other -- where his other storage lot is? Where is
22 that?

23 A I don't recall off the top of my head.
24 He testified in the last hearing of this.

25 MS. DOPKIN: I think we're straying

1 from the testimony. Though Mr. Doak did mention
2 another facility, he doesn't know the address. Do
3 you have any further questions?

4 MR. MIRABILE: No, ma'am. Thank you.

5 Mr. Sampson, did you have any
6 questions?

7 MR. SAMPSON: I do not. Thank you.

8 MS. DOPKIN: Mr. Doak, I have a couple
9 of questions.

10 THE WITNESS: Yes, ma'am.

11 EXAMINATION

12 BY MS. DOPKIN:

13 Q There's some trees along the west
14 property line.

15 A Yes, ma'am.

16 Q Will they remain?

17 A I -- if I may say, they may. And I
18 don't mean anything by that. They're not
19 landscape caliper trees, they are scrub trees.
20 You'll see them right here on this photograph.

21 They may, but that also is where the
22 new fence line will go. So I can't say that for
23 sure.

24 Q And is it your testimony that all the
25 uses you're proposing are permitted in the zone?

1 A Yes, ma'am, they are.

2 They're either permitted or they have
3 been approved in the 2019 hearing.

4 Q And if you know, just to give the
5 Board some background. Do you have any idea how
6 this property was used before it was purchased by
7 Petitioner in 2018, was it?

8 A Yes, ma'am.

9 When I started on the property which
10 was soon after he purchased it, the parking lot
11 was empty and the inside of the building looked
12 like it was the remains of what was a restaurant.
13 And like I said it was a fast food, A&W type root
14 beer place. It didn't have all the cooking
15 machinery and counters and all of that stuff.

16 But you could see where it was used as
17 such.

18 Q Do you know how long it had been
19 unused?

20 A No, ma'am, I don't.

21 Q And just to orient me. This would be
22 on the north side of Pulaski Highway south of 695?

23 A Yes, ma'am.

24 Q So it's inside the Beltway?

25 A Yes, ma'am, it is. Yes, ma'am, it is.

1 MS. DOPKIN: I have no other questions
2 for Mr. Doak. Mr. Doak, we're going to excuse you
3 but ask that you remain available when Mr.
4 Mirabile puts his case on.

5 MR. SAMPSON: Can I just interrupt. I
6 want to put something on the record.

7 Mr. Hartman had objected to Mr.
8 Mirabile's questioning of Mr. Doak using Mr.
9 Mirabile's exhibits. We made a decision on that,
10 essentially an agreement. Because certainly Mr.
11 Mirabile can use his own exhibits to cross examine
12 a witness.

13 He's not bound by the exhibits that
14 the calling party of the witness uses. He is
15 bound to remain within the scope.

16 So what I attempted to do, which is
17 what we did, is we sort of struck an agreement,
18 it's just not usual. So Mr. Doak, because Mr.
19 Hartman didn't want Mr. Mirabile using Mr.
20 Mirabile's exhibits to question Mr. Doak, Mr.
21 Mirabile is going to have to call Mr. Doak in his
22 own case which is not typical.

23 So I just want to say that before we
24 proceed. Because if Mr. Hartman wants to object
25 to that and wants to go back and change his mind

1 and have Mr. Mirabile use Mr. Mirabile's exhibits
2 now, I think we should do it.

3 But if Mr. Hartman is agreeing that
4 Mr. Mirabile can now call Mr. Doak in his own
5 case, then I want that stated on the record,
6 please.

7 MS. DOPKIN: Thank you, Mr. Sampson.
8 Mr. Hartman?

9 MR. HARTMAN: I have no objection to
10 Mr. Mirabile cross examining Mr. Doak. My concern
11 and my objection came from Mr. Mirabile's
12 admission that he was going to go outside of the
13 scope of the direct which I -- the Rules of
14 Evidence state that cross examination has to be
15 limited to the scope of the direct.

16 MR. SAMPSON: And that is true and
17 I'll agree with you on that part. That's going to
18 be a discernment for us as we go question by
19 question. But we also have the discretion to
20 handle this in any way -- not in any way, but
21 we're not formally bound by the Rules of Evidence,
22 but they are an important guide here.

23 And you can appreciate maybe with some
24 frustration when we have pro se or community
25 association representatives leading the

1 questioning it can be -- it presents different
2 challenges.

3 So I agree with you that our job is
4 going to be made more difficult. We have to try
5 to keep him cabined to a degree within the
6 confines of the scope. But I think that's
7 probably pretty broad, but I see from Mr.
8 Mirabile's questions how that can get beyond the
9 scope.

10 So that's a long way of saying we
11 agree about the scope of cross. The question is,
12 if we -- Mr. Mirabile proceeds now rather than
13 releasing Mr. Doak, Mr. Mirabile may use exhibits
14 of his own to the extent they are within or asking
15 questions either within the scope or for
16 impeachment.

17 That's probably the better way to
18 proceed, but if you agree you don't want to
19 proceed that way, you want Mr. Mirabile to call
20 Mr. Doak in his own case and then he's not bound
21 by your cross then we'll proceed that way.

22 MR. HARTMAN: I am in agreement with
23 you and your analysis of the situation. I would
24 say in interest of practicality to be honest, I
25 have no objection to Mr. Mirabile calling Mr. Doak

1 as his witness right now.

2 MR. SAMPSON: Okay.

3 MR. HARTMAN: I have no further
4 witnesses to bring and I have concluded my
5 examination of Mr. Doak. So if Mr. Mirabile wants
6 to call him, and we can just swing right into it,
7 I have no objection with that.

8 And then once he is finished then I
9 can cross Mr. Doak.

10 MR. SAMPSON: Madam Chair is that okay
11 with you?

12 MS. DOPKIN: I would rather continue
13 with Mr. Mirabile questioning Mr. Doak as cross
14 examination before he presents his case. We need
15 some preliminary matters before he can present his
16 case.

17 And I need to have them addressed in
18 terms --

19 THE WITNESS: Ms. Dopkin, may I ask a
20 question, please?

21 MS. DOPKIN: Yes, Mr. Doak, what is
22 your question?

23 THE WITNESS: Am I required to testify
24 for Mr. Mirabile?

25 MS. DOPKIN: If he calls you as a

1 witness you should, yes, you would be considered a
2 hostile witness, I believe. Is that correct, Mr.
3 Sampson?

4 MR. SAMPSON: Yes. I think Mr. Doak
5 is probably more interested in Rule 2 is what I
6 think he's asking about.

7 THE WITNESS: Uh-huh. Yes, sir, it
8 is.

9 MR. SAMPSON: I mean the simple
10 solution is, I think we've already agreed, whether
11 you call it now cross or direct, it sounds like
12 we're going to proceed with Mr. Mirabile cross
13 examining you and using whatever exhibits he has
14 that are within the scope of your direct.

15 If I understand it correctly, that's
16 where we are. Because you're going to take the
17 position that you need to be paid for your time if
18 you're called in his case in chief. And Mr.
19 Hartman is likely going to take the position that
20 he's not paying you. So the simple resolution to
21 that is, you're still going to be subject to cross
22 examination by Mr. Mirabile, if that's how the
23 Chair wants to proceed.

24 MS. DOPKIN: Yes, it is.

25 MR. SAMPSON: Okay.

1 Mr. Mirabile, do you understand what
2 has been said here? So you don't get to just ask
3 any old questions that you want, and as I said
4 earlier, you're not able to argue here. The
5 Board, except for myself, is somewhat
6 sophisticated and understands the issues here.
7 Just like you pointed out that Mr. Doak has
8 testified many times, this Board has heard this
9 many times.

10 So what you have to ask and offer is
11 important and you have the right to do that, but
12 you are required to stay within the scope of what
13 Mr. Doak said. So you can't just start bringing
14 things out of the blue sky here to ask him.

15 You took notes, you paid attention to
16 what he testified to. You're now going to ask him
17 questions to challenge him on what he's already
18 testified to and what you've already asked. Don't
19 go back and ask what you've already asked, okay,
20 sir?

21 I think you're muted, sir. I cannot
22 hear you.

23 MR. MIRABILE: I said I'm able to
24 cross examine him on uniqueness.

25 MR. SAMPSON: Are you asking me a

1 question?

2 MR. MIRABILE: Well, I'm asking you if
3 I can do that.

4 MR. SAMPSON: I'll defer to the Chair,
5 but I believe you can. And I believe one of our
6 Board members already asked a similar question.

7 MR. MIRABILE: Okay.

8 MS. DOPKIN: And what Mr. Sampson is
9 saying is if you wish to use your exhibits when
10 you are continuing your cross examination of Mr.
11 Doak now, you will be able to do so.

12 But even using your exhibits, the
13 subject matter of your questioning should relate
14 to the testimony that Mr. Doak has given.

15 MR. MIRABILE: Okay. If I may --

16 MR. HARTMAN: Real quick. I'd also
17 like to remind the Board and Mr. Mirabile that if
18 he's bringing in his own exhibits, there will need
19 to be a foundation laid for them.

20 I understand that the Rules of
21 Evidence are not strictly applied here and I
22 appreciate that. I would just like --

23 MS. DOPKIN: Well, you'll get a chance
24 to question them as he tries to introduce them.

25 MR. HARTMAN: Thank you.

1 MR. MIRABILE: My exhibits pertain to
2 the subject property and the 30 foot right of way
3 and the -- and some have been used before and
4 previous but also the impeachment purposes as
5 well.

6 So it's all encompassing in that, but
7 I just can't throw out -- if you're going to have
8 a beef stew, you can't throw out the carrots and
9 say it's all the same.

10 MS. DOPKIN: Mr. Mirabile, will you be
11 able to share your exhibits on screen with us?

12 MR. MIRABILE: Yes. 100 percent. I
13 submitted them to the Board Monday.

14 MS. DOPKIN: Yes. But you will have
15 to, from where you are sitting, put them -- here's
16 -- you will be given the opportunity to present,
17 to share your screen and show the exhibits to Mr.
18 Doak that you wish to question him about.

19 MR. MIRABILE: Okay.

20 MS. DOPKIN: So if you're going to
21 continue your cross examination based on your
22 exhibits, please bring those exhibits up on your
23 screen for us to see.

24 MR. MIRABILE: Okay. Your Honor, may
25 I ask for about a five minute -- I thought that

1 this was all going to be part of the hearing. In
2 other words, I could bring up my exhibits numbers
3 by just stating that.

4 But can I take a five minute break
5 here to try to get that on this computer because
6 I'm not computer literate and I have to get
7 somebody to help me with that.

8 MS. DOPKIN: Is there someone there
9 who can help you with that?

10 MR. MIRABILE: Yes, ma'am.

11 MS. DOPKIN: Do you have any objection
12 to a five minute break, Mr. Hartman?

13 MR. MIRABILE: Ma'am, are you able to
14 bring up my exhibits since I was able to -- I had
15 to have them in to the Board of Appeals Monday?
16 Because that's why I submitted them.

17 MS. DOPKIN: Mr. Mirabile, if you're
18 familiar -- if you have read our rules and the
19 notices, each party is responsible for its own
20 exhibits. And because your exhibits were not
21 numbered when they were submitted --

22 MR. MIRABILE: They were numbered,
23 ma'am.

24 MS. DOPKIN: --when they were
25 submitted to us. They're not numbered and we're

1 not in a position to do that easily you will have
2 to do it yourself.

3 And I'm going to take five minutes and
4 suspend the recording. It is now 11:22. We'll be
5 back in five minutes at 11:27 and would like you
6 to be prepared to share your exhibits and complete
7 your cross exam.

8 MR. MIRABILE: Ma'am, if I may say. I
9 submitted these so we can bring them up through
10 the Board of Appeals. I was totally not aware of
11 the fact that I have to produce them twice. If I
12 had known that, I would have done a different
13 thing. But the requirement was to have them 48
14 hours beforehand.

15 It all should be a matter of record of
16 the system on the Board's side.

17 MS. DOPKIN: Mr. --

18 MR. MIRABILE: I can only do -- I did
19 what I was told to do.

20 MS. DOPKIN: And we are asking that
21 you then share them with us through your computer
22 as part of your cross examination.

23 MR. MIRABILE: Am I able to hold it up
24 in front of the screen like this?

25 MS. DOPKIN: We can't really see it

1 that way.

2 Mr. Sampson --

3 MR. SAMPSON: If you pass me the
4 token, I'll see if I can do it. This is not our
5 responsibility and I'm going to make that clear on
6 the record and I'm not obligated to do it.

7 If you pass me the ability to share,
8 I'll see if I can. Or do I already have the
9 ability. Oh, there were go. All right. Let me
10 see if I can do this.

11 MS. DOPKIN: Mr. Mirabile, please ask
12 your question and identify the exhibit so Mr.
13 Sampson might be able to assist you.

14 MR. SAMPSON: Just let me try one
15 first because I don't think I know how to do it.

16 None of these look like they're it.

17 MS. DOPKIN: What number exhibit are
18 you trying to introduce, Mr. Mirabile?

19 MR. MIRABILE: I have 42 exhibits.
20 They all overlap. I just have them, make sure we
21 had them presented.

22 MR. SAMPSON: What exhibits do you
23 intend to use with Mr. Doak, sir? What numbers?

24 MR. MIRABILE: The first one would be,
25 3, is one of them. Mr. Doak, my exhibit would be

1 number 2, my exhibit 3, 3A.

2 MR. SAMPSON: I don't know how to do
3 it.

4 MR. HARTMAN: I'm open to the five
5 minute break to see if someone more savvy can aid
6 Mr. Mirabile.

7 MR. SAMPSON: It's definitely not me,
8 Mr. Hartman.

9 MR. HARTMAN: I don't blame you.

10 MS. DOPKIN: Okay. Having said that,
11 we are pausing the record to take a five minute
12 break. We'll be back at 11:30.

13 Mr. Mirabile, please have your
14 technical difficulties in hand so we can proceed.

15 MR. MIRABILE: If I can. But I don't
16 understand why the requirements are to hand this
17 in so it's all put into your system and now you
18 can't bring them up.

19 MR. SAMPSON: We're members of the
20 Board who are tasked with deciding evidence, not
21 presenting evidence, sir.

22 MR. MIRABILE: That's what I have,
23 evidence.

24 MR. SAMPSON: You're not putting it on
25 the screen so we don't have it unless you present

1 it.

2 MR. MIRABILE: I can't do that. All
3 right.

4 MR. SAMPSON: We're very accommodating
5 of you, Mr. Mirabile, so I don't appreciate that
6 you're now going to turn on this and start to
7 complain. These are our rules, this is our
8 procedure we've been doing it two years. This is
9 not a first time thing for us.

10 We rely on the person presenting
11 evidence. Just like if we were in the actual
12 courtroom, you'd have to present it to us. We
13 don't present it.

14 MR. MIRABILE: Well, I agree with you.
15 And this is the problem with being virtual.

16 MR. SAMPSON: Okay.

17 MR. MIRABILE: And this should have
18 been in the hearing room. It should not have been
19 virtual.

20 MS. DOPKIN: Mr. Mirabile, I'm going
21 to stop you.

22 MR. MIRABILE: Okay.

23 MS. DOPKIN: We are not arguing about
24 our rules. They are what they are.

25 And you indicated you had someone who

1 can help you. We're going to take a break. If
2 you have someone there who can help you, I suggest
3 you get that help and we will proceed at 11:30.

4 We're off the record.

5 (Off the record)

6 MS. DOPKIN: It is 11:30. As soon as
7 Mr. Sampson rejoins us we will resume. And we are
8 on the record. Mr. Doak needs to show up.

9 MR. LAUER: Madam Chair, since we're
10 on the record, I would --

11 MS. DOPKIN: Wait. Mr. Hartman and
12 Mr. Doak aren't here.

13 MR. LAUER: Oh, I beg your pardon.

14 MS. DOPKIN: Mr. Hartman. We need Mr.
15 Hartman to resume.

16 Mr. Doak, do you have any idea what
17 happened to Mr. Hartman?

18 MR. DOAK: No, ma'am. He texted me
19 something but it was just a quick question if I
20 thought I was finished and I said yes. And that's
21 all I've heard or seen of him.

22 MS. DOPKIN: Would you please ask him
23 to rejoin us so this hearing can continue?

24 MR. DOAK: He said he's trying to.
25 He's evidently having trouble getting back on.

1 MS. DOPKIN: He should call Ms. Zauner
2 at our office, 887-3180 to see if she can assist
3 him.

4 MR. DOAK: Did you say 3810?

5 MS. DOPKIN: I said 3180.

6 MR. DOAK: Dyslexia kicking in.

7 MS. DOPKIN: Thank you.

8 MR. DOAK: You're welcome.

9 MS. DOPKIN: In the meantime I'm going
10 to make Mr. Mirabile the presenter so he can
11 attempt to share the screen while we are waiting
12 to make sure he has the ability to do so.

13 Perhaps he can put up the exhibit he
14 wishes to have you address while we're waiting for
15 Mr. Hartman.

16 Mr. Doak, would you suggest that Mr.
17 Hartman call in if he's unable to rejoin us
18 visually. The call in number is on the website.

19 MR. DOAK: He texted me and said
20 having computer problems. Trying to fix as soon
21 as possible.

22 I'm telling him to call in now while
23 fixing, okay?

24 MS. DOPKIN: And that was we can
25 proceed.

1 MR. DOAK: Yes, ma'am. I understand.

2 I've never had to do this before.

3 This is interesting.

4 MS. DOPKIN: We're here to make your
5 life interesting.

6 MR. DOAK: Good. I can use a little
7 interesting.

8 MS. DOPKIN: We'd like to get this
9 hearing and move forward.

10 MR. DOAK: Yes, ma'am.

11 MS. DOPKIN: And we're having too
12 many--

13 MR. DOAK: And I'm here to make your
14 lives easier.

15 MS. DOPKIN: Thank you, Mr. Doak. We
16 appreciate that.

17 Mr. Mirabile, we had passed you the
18 baton to share your screen and I have not seen
19 anything being shared.

20 MR. MIRABILE: That's accurate.
21 You're correct.

22 The reason is that I wasn't prepared
23 for the situation. I was, clearly understood that
24 everything would have been -- once I gave
25 everything to the Board of Appeals everything was

1 going to be scanned in and I found out now while
2 we have the break they weren't scanned in.

3 So they're scanned in, but I just
4 can't access to them. And that's it. This is --
5 I want you to know and the panel -- maybe I should
6 wait for the other attorney to come back. But
7 this is -- this happened, the same thing, two
8 judges ruled the second time with Judge Murphy. I
9 was never notified of the date.

10 MS. DOPKIN: I'm going to stop you
11 until it is your opportunity to present your case.

12 MR. MIRABILE: Okay.

13 MS. DOPKIN: And we need Mr. Hartman
14 one way or the other. I've asked Ms. Zauner to
15 give him the call in number if he doesn't have it.

16 Ms. Zauner has given Mr. Hartman the
17 call in number, but I don't -- oh, I think he has
18 -- Mr. Doak, can you --

19 MR. DOAK: Yes, ma'am?

20 MS. DOPKIN: Mr. Hartman?

21 MR. DOAK: There you go.

22 MR. HARTMAN: Yes, ma'am.

23 MS. DOPKIN: You are now unmuted so
24 you can continue.

25 You are an attendee until you get back

1 on at which point we'll try to get you installed.

2 Mr. Mirabile has advised us that he is
3 unable to share his screen so that I am going to
4 suggest that we cannot proceed with continuing his
5 cross examination.

6 But want to know if you have concluded
7 your case?

8 MR. HARTMAN: The evidentiary portion
9 of my case? Yes, ma'am. All that's left is my
10 closing argument.

11 MS. DOPKIN: Thank you.

12 Mr. Mirabile, in that you cannot share
13 your exhibits with us, I'm going to conclude
14 Petitioner's case except for closing argument and
15 ask you to present your case.

16 You have appealed this petition on
17 behalf of the Rosedale Community Association. And
18 before you can testify for the Association, we
19 will need your Rule 8 documents presented to us.

20 I don't know how you intend to do
21 that.

22 MR. MIRABILE: Well, yeah, Your Honor,
23 you're 100 percent right. You all put me at a
24 very bad point and a bad position.

25 But I want you to know, even if I was

1 to go forward -- if you allowed us to go forward,
2 there was a case of Dorsey versus Bethel A.M.E.
3 Church, 375-59 that even -- anybody can really
4 testify or present a case. That's what my
5 understanding is if it's not.

6 But the Rules have pretty much
7 handcuffed me. I did what I was told to do when I
8 was shown what to do, and I have no idea why my
9 exhibits had to be put in and presented to the
10 County Board of Appeals that if you don't put them
11 into the system to we can refer to them.

12 MS. DOPKIN: Have you filed your Rule
13 8 documents?

14 MR. MIRABILE: Not on this case, no, I
15 did not.

16 MS. DOPKIN: How can you testify if
17 you do not have -- you haven't presented them, so
18 nobody has scanned them in. Not the Board, not
19 you?

20 MR. MIRABILE: Well I was there in
21 person. Somebody had to scan them in. They said
22 they had to be in by --

23 MS. DOPKIN: No, no. I'm asking you
24 the documents that authorize you to speak on
25 behalf of the Rosedale Community Association.

1 MR. MIRABILE: No, I do not have that
2 but I relied on the Dorsey versus Bethel A.M.E.
3 Church, 375 Md. 59 where a member of the community
4 can testify and that's what I was going to do.

5 MS. DOPKIN: But you are not -- we
6 need to have at least one valid appellant. So are
7 you suggesting that you will testify personally
8 and not on behalf of the Association?

9 MR. MIRABILE: It would have to be on
10 -- I would be a member of the Association. But I
11 don't think -- this is all wrong. I mean, this is
12 -- I'm sorry. There's no pandemic now -- this is
13 wrong. This is all wrong. Very wrong.

14 And the second portion is, this is the
15 second time the system has done this. The hearing
16 in front of Judge Murphy, I was not notified when
17 it was. I have evidence here for impeachment,
18 that hearing should never have been -- should
19 never have been held. But you're blocking me.

20 So if we have to go the next step up,
21 up with the Circuit Court, I mean, we'll have to
22 do that. That's all I can say.

23 But this is a sham. I'm not blaming
24 you. I want you to know that. I'm not blaming
25 the other two attorneys, but the system is flawed.

1 And it's flawed against me and I'm a taxpayer and
2 I'm also representing the community.

3 This is wrong. That's all I can say.
4 I did what I was ordered to do in writing. I did
5 it. And for whatever reason, you all should have
6 my -- all my exhibits. That's all I can say.

7 I also relied on the competence of the
8 system, and that's how I look at it. And this
9 pandemic is over with. I think these hearings
10 should be in person. This virtual is kind of
11 getting out of hand. I'm not blaming you, Your
12 Honor. I'm not blaming the other Honors, I'm not
13 blaming anybody. I'm blaming the system. I want
14 you all to know that.

15 I've been cheated twice and the
16 community has been cheated twice. That's it.
17 Don't get mad at me.

18 And I think if you were in my shoes
19 you would be the same.

20 MS. DOPKIN: Do you have a statement
21 to make regarding the case before us?

22 MR. MIRABILE: That was my sworn
23 statement --

24 MS. DOPKIN: Excuse me. Mr. Lauer.
25 Whereupon

1 RUSSELL MIRABILE,
2 called as a witness, having been first duly sworn
3 to tell the truth, the whole truth, and nothing
4 but the truth, was examined and testified as
5 follows:

6 MR. LAUER: Please state your name and
7 your address for the record.

8 MR. MIRABILE: Russ Mirabile.
9 M-i-r-a-b-i-l-e. My address is Post Office Box
10 70285 from the Rosedale Community Association,
11 Baltimore, Maryland 21237.

12 MR. LAUER: Thank you.

13 MS. DOPKIN: Mr. Mirabile, are you
14 testifying personally?

15 MR. MIRABILE: Yes. I have no choice
16 at this point.

17 MS. DOPKIN: Could you give us your
18 home address, please.

19 MR. MIRABILE: 7932 Oakdale,
20 O-a-k-d-a-l-e Avenue. Rosedale, Maryland 21237.

21 MS. DOPKIN: Thank you. Would you
22 proceed.

23 MR. MIRABILE: Sure. Since I've been
24 handcuffed and limited to what I can present to
25 this hearing, I will have one thing in reference

1 to the variance process, quoting from case law,
2 Cromwell versus Ward, case summary.

3 Basically I should say a variance
4 process is a multi-step process. The first step
5 is in regard to a determination of whether the
6 property is unique or peculiar in characteristic.

7 For example, a topography, narrowness,
8 abnormal surfaces, characteristic, historical or
9 architectural significance not shared generally by
10 other similarly located properties in the area so
11 that the Ordinance impact on the subject property
12 is more severe than the impact upon neighboring
13 property. Generally that the requirement of the
14 first step uniqueness and peculiarity are not met,
15 no further steps are taken. Practical difficulty
16 or unreasonableness, hardship and the variance
17 must summary be denied.

18 This, according to Mr. Doak's 2, I
19 believe it is, his exhibit I believe it was, is
20 the fact that the uniqueness that he's applying
21 for is created by his own tenant, by his own
22 client.

23 His client did not have to buy this
24 property. He did not, he had choices. And the
25 bottom line, I guess, it didn't fit. But now he's

1 trying to change around. But the adjacent and
2 adjoining properties are the same and similar as
3 his. He has just bought a smaller piece of
4 property and this should not be beared upon on the
5 community.

6 And I also will say that his
7 uniqueness is the fact that he can't fit all those
8 vehicles in there. No matter what -- no matter
9 what you have as a garage, these properties are
10 not unique because that's the type of business
11 they're in. They never have enough room. Never.

12 And that's it. We're trying to
13 squeeze a size 6 shoe into a size 4 and that
14 doesn't work. And he did this upon himself. That
15 was the end. And I object to the way this was
16 presented through these computers. I just think
17 it's wrong.

18 And I'll see if we can undo this
19 virtual system and get back to in person systems.
20 I think it's a lot better. But I do not hold this
21 against you, Your Honor, nor the other two Your
22 Honors at all. I want that clearly understood.

23 I understand you're just following
24 what the system is. We have to change it. And I
25 will be attempting to do that.

1 Okay. That's it.

2 MS. DOPKIN: And you -- would you,
3 just so I understand what your exhibits were
4 intended to demonstrate. Can you tell us?

5 MR. MIRABILE: Well, yeah, I can tell
6 you since I can't show you, I certainly can tell
7 you.

8 MS. DOPKIN: Mr. Sampson?

9 MR. SAMPSON: I just want to make sure
10 we're clear on the record. Is Mr. Hartman still
11 on the phone because I don't see any
12 acknowledgment of him on my screen. Is he
13 participating with us?

14 MS. DOPKIN: He is on the phone.

15 MR. SAMPSON: Okay.

16 MR. HARTMAN: I'm back.

17 MR. SAMPSON: Secondly for clarity --
18 perhaps I'll make more unclarity.

19 I believe we have Mr. Mirabile's
20 exhibits. The issue is, he cannot present them in
21 this hearing using his computer. I do believe,
22 unless I'm corrected, he has adequately or
23 accurately stated that he has provided them to the
24 Board. I'm looking at them.

25 Mr. Mirabile, the challenge, the

1 problem is it's not enough for us individually to
2 have them on our screen. You need to be able to
3 present it to Mr. Doak when you're going to ask
4 him a question and he doesn't have them because
5 he's not part of the County.

6 So I don't want -- I understand your
7 position, but I'm clarifying that we have them.
8 You've provided them to the Board. The second
9 piece that the Board requires that you apparently
10 didn't know and aren't prepared to meet is you
11 have to then present them in this hearing using
12 your computer.

13 So that's the clarification I wanted
14 to make.

15 MS. DOPKIN: And if we were --

16 MR. MIRABILE: Yes, sir.

17 MS. DOPKIN: --in a live hearing, Mr.
18 Hartman would be given the opportunity to see
19 those exhibits and question you about them before
20 they are admitted into evidence. So he is not
21 being given that opportunity and that is something
22 that is your responsibility as a party to this
23 case.

24 And that would be normal in any
25 proceeding.

1 MR. MIRABILE: Ma'am, I accept what
2 you said. This is not a normal proceeding by
3 virtual, that's number one. Number 2, Mr. Hartman
4 is not even present right now.

5 Number 3, I'm going to ask you for a
6 continuance because of this whole debacle. I mean
7 it's just not accurate, it's not right that this
8 is happening again the second time around. It's
9 not right.

10 And to have the Courts, the Circuit
11 Court involved in this thing at this point, I
12 think is just erroneous because the Community
13 Association, me or anybody and the adjacent
14 members of the business association they should
15 not be burdened with this for another couple of
16 years.

17 And Mr. Doak has presented some things
18 that I have to -- that would discount that. And
19 it's just -- it's just not right. We can't with a
20 rubber stamp say well, Mr. Mirabile couldn't do
21 this even though he followed what he was supposed
22 to do, but he didn't do the other thing because I
23 didn't know about it. It's just not right. It's
24 not the way, in my opinion of doing courts.

25 I mean, people are complaining about

1 the courts now. So we're just here about
2 property. But I'm just creating my statement on
3 the variances, that was caused by Mr. Doak's
4 client, Fazal, but I think you should ask for a
5 continuance. Number 1, Mr. Hartman is not here
6 and the fact that -- I'd like to fulfill my
7 obligation to the system that I was totally
8 unaware of.

9 And this system is just -- it's
10 flawed. It is crazy. And basically you're saying
11 well if you're not educated in computers you can't
12 bring it to court. That's not right. I think you
13 know that, Your Honor. That's it.

14 I don't blame you. Again, I'm not
15 blaming you or the judges. But I really think
16 you maybe should have huddled together and said
17 let's give this guy or this community a
18 continuance because this is going to be a
19 disaster --

20 MR. DOAK: No way.

21 MR. MIRABILE: -- a total -- I'm sure
22 Mr. Doak's comment is no way because he's going to
23 be put on the hot seat. You can see these 42
24 things here and I have to tell you --

25 MR. SAMPSON: Okay. Mr. Mirabile, we

1 heard you once.

2 MS. DOPKIN: Mr. Mirabile.

3 MR. MIRABILE: Yes, ma'am.

4 MS. DOPKIN: Mr. Sampson.

5 MR. SAMPSON: I just -- we've heard
6 from Mr. Mirabile. We understand his position.
7 So I just wanted to now hear from you.

8 MR. MIRABILE: I'm requesting a
9 continuance. I think I'm entitled to it. And the
10 community is entitled to it. And the taxpayers
11 are entitled to that. That's all I'm going to
12 say.

13 MR. SAMPSON: Mr. Mirabile.

14 MR. MIRABILE: Yes, I understand.

15 MR. SAMPSON: You want to be in a
16 courtroom and I assure you if you were in a
17 courtroom you would not be allowed to continue in
18 the way you are so I'm going to ask you to please
19 stop.

20 We have heard your position. You have
21 asked for a continuance. You have stated your
22 concerns. We've heard them. It's now time for us
23 to respond.

24 MR. MIRABILE: Okay.

25 MR. SAMPSON: Please do not interrupt

1 the chairman when she speaks.

2 MR. MIRABILE: I will not do that.

3 MR. SAMPSON: Thank you.

4 MS. DOPKIN: Thank you, Mr. Sampson.

5 Mr. Mirabile, there was notice of this
6 hearing given many weeks ago.

7 The Board staff is always available to
8 help and explain as would have been the ALJ's
9 office. In addition, People's Counsel will often
10 make themselves available to assist communities in
11 navigating the system that is not always easy to
12 navigate.

13 There was a lot of time to prepare for
14 this before 48 hours ago and to understand what is
15 expected of you.

16 And though it may be burdensome, an
17 attorney who is familiar with the system could
18 have given you a lot of guidance.

19 I'm not unsympathetic to the
20 frustrations of the virtual hearing system. As
21 Mr. Sampson said, we've been doing this for two
22 years and have been able to successfully manage
23 our hearings and the public and the communities
24 have also been able to educate themselves to
25 participate in a meaningful way.

1 We are not in any way trying to
2 preclude your involvement or your ability to
3 participate and present your evidence. But you
4 also, as an Association and as individuals, and so
5 far you're the only individual we have heard from,
6 have a certain duty to equip yourself to
7 participate meaningfully.

8 Having said that, I am going to ask
9 Mr. Hartman to give us his closing argument and I
10 will give you an opportunity for a brief closing
11 statement.

12 What happens next is that the Board
13 will schedule a public deliberation where we will
14 take your request for a continuance as well as the
15 subject matter of the hearing under consideration.

16 So on that basis, unless Mr. Sampson
17 and Mr. Lauer has anything to add, I am going to
18 -- Mr. Sampson, do you have anything to add?

19 MR. SAMPSON: I do not.

20 MS. DOPKIN: Mr. Lauer?

21 MR. LAUER: I'd just like to hear from
22 Mr. Hartman regarding the continuance request.

23 MS. DOPKIN: Well I would like to hear
24 from Mr. Hartman regarding the continuance request
25 and then his closing argument.

1 Mr. Hartman, you're on.

2 MR. HARTMAN: Thank you. I was able
3 to get on -- can you hear me?

4 MS. DOPKIN: We can.

5 MR. HARTMAN: I was able to get on
6 through another laptop after mine decided to die
7 very suddenly. But I don't know if I can be seen.
8 Is there a way to -- I'm an attendee. Can I get
9 back into panelist?

10 MS. DOPKIN: You will have to mute
11 your phone so we don't get feedback.

12 MR. HARTMAN: My phone is muted. You
13 should be hearing me through the computer.

14 MS. DOPKIN: We do. We don't see you.

15 MR. HARTMAN: Is that going to be a
16 problem? Am I going to be able to --

17 MS. DOPKIN: No. Just please proceed.

18 MR. HARTMAN: So under the law, under
19 *Cromwell v. Ward*, the first issue that needs to be
20 determined is the issue of uniqueness. This
21 property has already been found to be unique in
22 the earlier case --

23 MS. DOPKIN: Mr. Hartman?

24 MR. HARTMAN: Yes, ma'am.

25 MS. DOPKIN: Mr. Lauer wanted you to

1 respond to the request for continuance.

2 MR. HARTMAN: Oh, I'm sorry.

3 MS. DOPKIN: And then we will hear
4 your closing argument.

5 MR. HARTMAN: I apologize. I will
6 address that first.

7 I strongly object to a continuance.
8 As you've said yourself, this is not a sudden
9 hearing. This has been on the books for weeks and
10 there was every opportunity to prepare as I did
11 and to be ready to present as Mr. Doak and myself
12 were both prepared.

13 So I strongly object. I see no
14 reason, no need for a continuance to drag this
15 process out even further. So I ask the Board to
16 deny it.

17 MR. SAMPSON: I have a question for
18 you though, Mr. Hartman.

19 Substance aside, I take it it's your
20 position from what you just said therefore that
21 the submission by Mr. Mirabile of his written
22 paper exhibits 48 hours ago is charitably his lack
23 of understanding out procedure that requires him
24 to submit -- further submit those electronically
25 by posting them on his screen during the hearing,

1 that you believe that to be an insufficient basis
2 for a continuance, whether that continuance is for
3 a week, a month, irrespective of the timing.

4 You simply think that his inability to
5 put those exhibits on the screen is his fault and
6 doesn't warrant a continuance; is that correct?

7 MR. HARTMAN: That is correct. And I
8 would add that were we in an ordinary courtroom,
9 he would still be expected to bring paper exhibits
10 to present to the Court. He would not be able to
11 submit them beforehand and then wait for you all
12 to produce them for him.

13 There are always steps in every
14 courtroom that require preparation beyond. And
15 the preparation -- the presentation is what it is.
16 Knowing --

17 MR. SAMPSON: In fairness, he did
18 offer to -- he's got them with him. He did offer
19 to hold them up in court. But that's not the same
20 as making them in the -- readily available on the
21 screen that would be easier for us all to see.

22 I don't recall how we handled that
23 other than the fact that obviously we did not
24 elect to proceed that way. Do you believe that
25 would be an adequate way to proceed?

1 MR. HARTMAN: With him holding them up
2 and trying to describe them?

3 MR. SAMPSON: Yes.

4 MR. HARTMAN: I have seen documents
5 tried to be shown that way and it is beyond
6 impossible to understand what's going on,
7 especially while someone is trying to talk and
8 then try to show what's going -- it's a farce when
9 it occurs and it would drag this down
10 immeasurably.

11 MR. SAMPSON: Do you think that our
12 denying a continuance for the grounds -- on the
13 grounds put forth by Mr. Mirabile is simply going
14 to get this case sent back to us?

15 MR. HARTMAN: Are you asking me to
16 predict the higher court? I can say I would not
17 think so. I see no reason why it should. It's a
18 procedural rule like anything else and if you
19 don't follow it, you don't follow it.

20 MR. SAMPSON: Well, there are
21 procedural rules that have greater weight than
22 others and there is some discretion, we certainly
23 have it here.

24 MR. HARTMAN: And I'd say that you're
25 using your discretion.

1 MR. SAMPSON: Right. What -- the
2 reason I'm asking you my questions isn't for
3 sport. It's we can take a very hard line approach
4 but those of us who are members of the Bar and who
5 have had proceedings in various courts and on
6 appeal, you've probably had far more in this forum
7 than I have, I'm certain of it. But I've been in
8 court many time is and what I would prefer to
9 avoid is taking a hard line, though certainly
10 within our right to do, approach only to have --
11 it's going to cause you the delay.

12 The case goes up on an appeal and the
13 court says you should have let this guy have a
14 continuance so that he could submit his exhibits.

15 There may be other reasons that he
16 doesn't prevail in this case and so I'm trying to
17 tease that out to suggest that -- so that my
18 colleagues and I can consider whether in the
19 spirit of the rules but also the efficiency of
20 trying to determine ultimately if this is -- if we
21 make an error in denying the continuance that this
22 just comes back to us because the Court says you
23 need to let him have his day in your court and put
24 his exhibits in.

25 MR. HARTMAN: I understand that. And

1 in response I would say that you did let him have
2 his day and he had the same opportunity as
3 everyone else.

4 You even gave him an opportunity to
5 enlist aid of those around him to try to present
6 them the same way that we did. Which in and of
7 itself is a very small continuance

8 To my knowledge, he has not made any
9 effort during the course of this proceeding to try
10 to fix or change the situation.

11 MR. SAMPSON: Well, respectfully he
12 did in one sense. I think they left their video
13 and their audio on and I say they because there's
14 someone in the room with Mr. Mirabile and he took
15 over the controls there and tried to do it himself
16 and he couldn't. Even to the frustrating point
17 of some colorful language that was used.

18 MR. HARTMAN: I can understand that.
19 I had some colorful language myself when my
20 computer went down.

21 MR. SAMPSON: Yeah. Let me ask you
22 this question and then I'll be done because we all
23 have plenty of work to do and this case is as
24 important as any, but I don't want to belabor
25 points.

1 You're now here on the screen. When
2 you were only able to call in it wouldn't have
3 mattered if Mr. Mirabile had the exhibits on the
4 screen or not because your technical error
5 prevented you from seeing them in any event. Do
6 you agree?

7 MR. HARTMAN: I do. And that would
8 have been one, my failing. And that would have
9 hampered me and my ability to represent and to
10 advocate. And I would have pushed strongly to try
11 to prevent it, but to an extent we're all at the
12 mercy of our tools.

13 And whether I don't make court because
14 my car breaks down, I still didn't make court.

15 MR. SAMPSON: Well, I'm going to end
16 here. But respectfully, again, those are not
17 automatic decisions that a court makes when
18 someone has emergencies and particularly when you
19 have someone who's from the community, whether the
20 lawyers like it or not, someone from the community
21 who doesn't have the same level of experience with
22 these proceedings.

23 But thank you for those responses to
24 my questions.

25 Madam Chair, I have a procedural

1 question. We have to deliberate -- so right now
2 we have two things before us.

3 There's a motion for a continuance
4 that we would have to rule on, whether we deny it
5 or we grant it. And then we -- if we deny it, we
6 have a public deliberation required on the merits.

7 MR. HARTMAN: If I may jump in with
8 one, something that just occurred to me is --

9 MS. DOPKIN: Let's let Mr. Sampson
10 finish his question, please.

11 MR. HARTMAN: Oh, I apologize. I
12 thought he had. I apologize.

13 MR. SAMPSON: I'm trying to balance
14 the obstacles that Mr. Mirabile is facing but also
15 the concern certainly by Mr. Hartman and his
16 client for being able to get a ruling so that they
17 can proceed with their project.

18 I don't think we have Ms. Zauner or
19 Ms. Kannington on the computer here, but I wonder
20 if we can --

21 MS. DOPKIN: I can get Ms. Zauner back
22 on.

23 MR. SAMPSON: I wonder if there's an
24 opportunity to get this -- let's assume the public
25 deliberation might not happen for a month any way

1 based on scheduling.

2 I wonder if there's a way to possibly
3 get, if we grant the continuance, to get this in
4 between now and when we would have a public
5 deliberation any way just thinking for us. I want
6 to make sure that we tease out all the angles.

7 But those are my thoughts.

8 MS. DOPKIN: Hold on. I'm trying to
9 find our calendar to see --

10 MR. LAUER: Madam Chair, I just have a
11 question of Mr. Hartman.

12 Mr. Hartman, if you had a copy of the
13 exhibits e-mailed to you as they were to Board
14 members at this point, would you have any
15 objection to Mr. Mirabile's presenting them even
16 though he couldn't put them on the screen? Do you
17 understand what I'm saying, sir?

18 MR. HARTMAN: I do. If they were made
19 available to me.

20 MR. LAUER: Yes.

21 MR. HARTMAN: That would, again, still
22 be the decision of the Board as to whether that
23 was sufficient.

24 MR. LAUER: I'm asking if you would
25 consider it sufficient or not, sir.

1 MR. HARTMAN: I would abide by the
2 Board's decision on whether that was sufficient.
3 I would certainly make due with what the Board
4 decided.

5 Furthermore, something that has
6 occurred to me during this conversation is that
7 Mr. Mirabile did not have the Rule 8 document and
8 he is not -- so if he is not here as the
9 Appellant, does he even have the standing to make
10 a motion for a continuance?

11 MR. SAMPSON: Well, I do appreciate
12 that statement and that was something that I was
13 alluding to when I said substantive issues aside,
14 you now focus to the more procedural issues. So I
15 appreciate that.

16 MS. DOPKIN: I looked at that briefly
17 and we will rule on that. But it appears that the
18 Association properly filed their appeal in a
19 manner consistent with our rules so that we would
20 have a legitimate, valid appellant in this case.

21 We may not have someone -- we may or
22 may not have someone who has been Rule 8 qualified
23 to testify, because Rule 8 only addresses
24 someone's ability to testify.

25 But once we had a valid appellant

1 under I believe the Crown case, the Crown
2 Development, our rules of standing are very broad.

3 So we give a lot of latitude,
4 especially to community members and I believe that
5 Mr. Mirabile would be able to testify personally
6 at this hearing or a subsequent hearing on his own
7 behalf.

8 Whether or not someone is in a
9 position to testify for the association is a
10 different question.

11 However, there are a few other
12 concerns regarding a continuation in that at this
13 time it would be virtual and unless Mr. Mirabile
14 or the Association can overcome their technical
15 issues, we would be exactly in the same position.

16 We will take that into consideration.
17 We have the ability to deliberate now on the
18 continuance or to take it under advisement.

19 The next time Mr. -- from a scheduling
20 point of view, Mr. Sampson, Mr. Lauer and I will
21 both be at a 9:00 a.m. deliberation on March 29th.

22 MR. SAMPSON: I'm looking. I can be
23 available that morning.

24 MS. DOPKIN: From 9:00 to 10:00
25 because there is a 10:00 a.m. hearing following

1 that.

2 So what I am going to propose, and I
3 believe Ms. Zauner is listening, is that we let
4 Mr. Hartman do his closing argument. We
5 deliberate, we schedule a deliberation on March
6 29th at which time we will consider the request
7 for continuance and/or -- and possibly the merits
8 of the case depending on our determination on the
9 continuance.

10 I will have to ask Mr. Mirabile that
11 if our continuance is granted and is also on
12 computer, will you be able to overcome these
13 technical issues to present, and it will give you
14 at least between -- the continuance would not
15 occur until some time after March 29th. But you
16 would have to be fully prepared to go forward if
17 we do so.

18 Will you be able to do that?

19 MR. MIRABILE: Yes, ma'am. Now that I
20 know the roadway, I will be prepared for that.
21 Yes, ma'am.

22 MS. DOPKIN: If that is -- thank you.

23 MR. SAMPSON: Let me make clear, Chair
24 Dopkin, so we're all on the same page. Mr. Doak
25 will not be required to be at that proceeding

1 unless I suppose Mr. Mirabile wants to pay him --
2 not that proceeding, but if there's a continuance
3 granted whatever parameters you set I don't
4 believe that Mr. Doak can be required to be there.
5 He's here. He's being paid.

6 So it would be limited to Mr. Mirabile
7 presenting his case through whatever witnesses he
8 is able to secure by agreement or I suppose he can
9 follow the subpoena process. Do you agree?

10 MS. DOPKIN: I do. And I think Mr.
11 Lauer does as well.

12 MR. LAUER: I do.

13 MS. DOPKIN: All right. Mr. Mirabile,
14 do you understand what Mr. Sampson is saying?

15 MR. MIRABILE: I want to clarify that.
16 If I subpoena Mr. Doak, will I have to pay him?

17 MS. DOPKIN: I do not believe --

18 MR. SAMPSON: That's a good question.

19 MS. DOPKIN: I can't answer that.

20 MR. MIRABILE: Because subpoena power
21 demands a person to be there. He'll have to
22 defend himself with these exhibits.

23 MR. SAMPSON: Well he doesn't have to
24 defend himself. He's not accused of anything.
25 He's a witness. He doesn't have to defend

1 himself.

2 MS. DOPKIN: Well, you may want to
3 consult with an attorney about how to proceed or
4 perhaps with People's Counsel, but we can't give
5 you legal advice.

6 MR. MIRABILE: I understand that. I'm
7 sorry. I don't mean to interrupt. I'm sorry. I
8 understand that.

9 MS. DOPKIN: You'll have time to sort
10 that out.

11 MR. MIRABILE: Ma'am, can I ask Mr.
12 Doak right now, he's listening in --

13 MR. SAMPSON: No.

14 MR. MIRABILE: I can't -- what his
15 hourly rate is?

16 MS. DOPKIN: Oh. No. You can pursue
17 all of that outside of these proceedings.

18 MR. MIRABILE: Okay.

19 MS. DOPKIN: All right. I think we
20 are now at a point where Mr. Hartman can offer his
21 closing argument.

22 MR. HARTMAN: Thank you, Your Honor.

23 In order for a variance to be granted,
24 there must be a showing under *Cromwell v. Ward*
25 that the property is unique in a manner which

1 makes it unlike the surrounding properties and
2 that uniqueness or peculiarity must necessitate
3 variance relief.

4 In this situation the issue of
5 uniqueness, the factual determination of the
6 uniqueness of this property has already been found
7 twice by two different judges.

8 What makes this property unique is
9 that it was originally designed and set up to be a
10 fast food restaurant to allow traffic to circle
11 and to -- customers to approach from the front and
12 then leave quickly.

13 This makes it very difficult to be
14 used as a car dealer and -- used as a car
15 dealership. To that end, the variance was granted
16 to allow many of these rules to not apply to the
17 property beforehand.

18 What Mr. Shahzad is asking now is to
19 expand with an addition that would allow him to
20 further pursue his business, to expand that
21 business into repairs that would not in any strong
22 way alter the property's effect on the surrounding
23 community.

24 It would still be properly zoned. It
25 would still be doing exactly what it's doing now

1 only better, which would be better for everyone.

2 If the uniqueness property is found
3 which it should be as it has been before -- sorry.
4 If the variance relief is denied, the Petitioner
5 will experience a practical difficulty or
6 hardship. That is the second part of the Cromwell
7 v. Ward test. In this situation, as it was
8 explained by Mr. Doak, not granting it would
9 continue to keep Mr. Shahzad ferrying and
10 transporting his vehicles in need of repair back
11 and forth from wherever it is he has to have them
12 repaired which does create a practical hardship.

13 Moving cars is its own business, it's
14 so difficult. So the idea that he has to then tow
15 his own cars, to have them replaced, to bring them
16 back, to have them fixed is just extremely
17 difficult and needlessly and impractically
18 difficult.

19 The ability to take a care in need of
20 repair and just slide it into the addition out of
21 sight, out of mind, have it fixed, sell it would
22 be -- overcome that hardship greatly and easily.

23 With regard to the issue of the road
24 which has been brought up and addressed many
25 times. The paper road here is -- one is already

1 being used a great deal as a parking lot, or a
2 junk yard essentially by the property behind it.

3 But Mr. Shahzad has already agreed and
4 empowered me to state to the Board that he has
5 agreed to move his fence back to actually open up
6 that road which is not being used as a road, to
7 any kind of through traffic that would require it.
8 That is a big demonstration of what he's willing
9 to do in order to comply with the need of the
10 community and try to make his business more
11 amenable to those around him.

12 And I think that needs to be
13 considered.

14 The permit variances that were
15 requested at the trial that was appealed was the
16 addition of the -- the addition and the lowering
17 of the number of cars that would be present on the
18 lot from 50 to 30. Now this should be a greater
19 of a decision because this is essentially asking
20 for less. This is a concession that he is making
21 because if he were to try to keep 50 vehicles in
22 the property with the addition then it would
23 become quite unsightly as, it just being
24 completely junked up with so many cars.

25 He acknowledges that. He doesn't want

1 that to happen. He wants -- so he's agreed to 30
2 cars on his lot which should satisfy this Board as
3 it satisfied the ALJ before.

4 In conclusion, the granting of this
5 variance seems very straightforward when you get
6 down to the substance of facts.

7 What Mr. Doak presented was an in
8 depth, very specific examination of the facts of
9 this case, of this property and how it would
10 change. And the reality of that is that the
11 change of the addition benefits Mr. Shahzad and
12 does not harm anyone else, does not infringe on
13 anyone else.

14 And the earlier issue of these
15 non-functional cars not being allowed in view has
16 been addressed by having them taken indoors to be
17 fixed. There's no appearance of a junk yard and
18 it is in keeping with the properties around it
19 which is a golf cart repair and an auto shop and a
20 liquor store. Nothing is being affected. No one
21 should be objecting to any of this.

22 It's our conclusion, again, I would
23 ask that the Court -- that the Board grant this
24 petition.

25 Thank you.

1 MS. DOPKIN: Thank you, Mr. Hartman.

2 Mr. Mirabile, do you have a closing argument you
3 wish to present?

4 MR. MIRABILE: Yes, ma'am. I won't be
5 able to really -- due to the situation, I will not
6 be able to give a full closing argument because of
7 the reason we just discussed. And in fact I want
8 everybody to know, I have also put a lot of work
9 into this and when I'm -- when and if I'm allowed,
10 whether it's before you, your Board or the Circuit
11 Court, will show that many things have been -- are
12 different than what have been presented to this
13 Board.

14 I also want to say that -- I wrote
15 something down -- that's about it, really. I
16 would appreciate if you could honestly consider
17 this because -- continuance because I did what,
18 everything I thought I had to do according to the
19 rules.

20 And that's it. That's really all I
21 can say. I cannot give an adequate debate on that
22 or adequate response because I've not been able to
23 present my case. And I think once this court or
24 another court should hear my case, I think you
25 would be -- I think your mindsets would be swayed

1 about -- towards what I would have to present.

2 That's about it. That's all I can
3 say.

4 MS. DOPKIN: Thank you.

5 MR. MIRABILE: Your Honor, again, I do
6 not blame you or the other judges for the
7 situation that's at hand because of the pandemic,
8 but I do think it's over with. I think we should
9 go on with in person and the one judge is right.
10 I think in court we wouldn't be presented with
11 this situation of why I was a little bit upset
12 about the procedures here.

13 But I don't blame you or the other
14 judges and I appreciate your interest in
15 everything. I do. All of you.

16 MS. DOPKIN: Thank you, Mr. Mirabile.
17 Unless the Board members have anything to add, I'm
18 going to conclude this hearing. We have scheduled
19 a deliberation on March 29th, probably at 9:30.
20 And if there's nothing further, Mr. Sampson, Mr.
21 Lauer.

22 MR. SAMPSON: Nothing further. Thank
23 you, Madam Chair.

24 MR. LAUER: Nothing further. Thank
25 you.

1 MS. DOPKIN: I'm going off the record.
2 Thank you all for your participation and I look
3 forward to the next one.

4 Thank you. Have a good day.

5 (Proceedings concluded)
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1 CERTIFICATE OF TRANSCRIBER

2 STATE OF MARYLAND

3 BALTIMORE COUNTY:

4 I hereby certify that the
5 above-entitled proceedings heard before the
6 Baltimore County Board of Appeals on the
7 above-mentioned date were recorded by means of
8 video recording and conducted via WebEx.

9 I certify that the foregoing is a true
10 and accurate transcription of the proceedings
11 indicated as transcribed by me.

12 I further certify that I am not a
13 relative of or an employee of any of the parties
14 herein and that I have no interest in the outcome
15 of the proceedings.

16 As witness whereof, I have affixed my
17 signature this 18th day of March, 2022.

18
19 *Paula J. Eliopoulos*
20 _____

21 Paula J. Eliopoulos

22 Court Reporter/Transcriber

23
24 My Commission Expires:

25 June 15, 2024

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