



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

June 17, 2024

Adam Baker, Esquire – abaker@rosenbergmartin.com
Rosenberg Martin Greenberg, LLP
25 S. Charles Street, 21st Floor
Baltimore, MD 21201

RE: Petitions for Special Hearing & Variance
Case No. 2024-0045- SPHA
Property: 9522 Burton Avenue

Dear Mr. Baker:

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, flowing style.

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dlm
Enclosure
c: See next page -

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Case No: 2024-0045-SPHA

John B. Gontrum, Esquire - jgontrum@wtplaw.com

Samantha Walters – swalters@baltimorecountymd.gov

Carol Wood – 9535 Burton Avenue, Parkville, MD 21234

John and Deborah Thate, 9503 Burton Avenue, Parkville, MD 21234

Matt Stevens – 9510 Burton Avenue, Parkville, MD 21234

Sarah Walter – 9512 Burton Avenue, Parkville, MD 21234

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(9522 Burton Avenue)	*	OFFICE OF
11th Election District		
5th Council District	*	ADMINISTRATIVE HEARINGS
Abida Kazmi		
Legal Owner	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No: 2024-0045-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 the legal owner Abida Kazmi (“Petitioner”) for the property located at 9522 Burton Avenue, Parkville (the “Property”). The Petition for Special Hearing was filed pursuant to Baltimore County Zoning Regulations (“BCZR”), §500.7 to permit an exception to the required Residential Transition Area (“RTA”) for a new church or other building for religious worship under BCZR, §1B01.1.B.1.g.6. Additionally, Variance relief was requested from the following BCZR:

1. §409.9.A.1, to allow a landscape setback of 0 ft. in lieu of the required 15 ft.
2. §1B01.2.C.1.a, to allow side yard setbacks of 10.5 ft. and 10.7 ft. in lieu of the required 20 ft.
3. §409.4.A, to permit a drive aisle width of 10.7 ft. in lieu of the required 20 ft.
4. §1B01.1.B.1, to allow a Residential Transition Area setback of 10.5 ft. in lieu of the required 100 ft., or in the alternative for the Special Hearing relief.

An in-person/hybrid public WebEx hearing was conducted on May 7, 2024 at 1:30 pm. The Petition was properly advertised and posted. Zahara Kazmi, appeared on behalf of her sister, the Petitioner, along with Michael Gessell, PE of Bohler, the civil engineering firm who prepared a site plan (the “Site Plan”). (Pet. Ex. 1). Adam Baker, Esquire of Rosenberg Martin Greenberg,

LLP represented the Petitioner. John Gontrum, Esquire of Whiteford, Taylor and Preston represented Protestants, Larry Durrer and Patricia Durrer, who reside in the adjoining property at 9524 Burton Avenue. There were other Protestants and neighboring property owners who testified in opposition.

A Zoning Advisory Committee (“ZAC”) comment was received from the Department of Environmental Protection and Sustainability (“DEPS”) which agency did not oppose the requested relief. A ZAC comment was received from the Department of Planning (“DOP”) which agency opposed the requested relief for lack of uniqueness and for a hardship which is self-imposed. Additionally, the DOP reasoned that the Property is only 0.3 acres in size and the proposed use is overdevelopment in this community. Influencing the DOP recommendation to deny the Variance was the conversion of the rear yard into a parking lot, without landscaping setback, green space, or buffer. DOP found that approval of the Variance relief would negatively impact the surrounding residences and was incompatible with the Carney-Cub Hill-Parkville Community Plan.

EVIDENCE

The Property was created as Lots 58, 59 and 60 on the Plat of Carney Grove, recorded in the Land Records of Baltimore County on October 14, 1921 (Liber WPC 7, folio 20). (Prot. Ex. 8). The Property is zoned Density Residential (DR 3.5). Aerial photographs from My Neighborhood show the Property is rectangularly-shaped and fronts on Burton Ave. It is situated between identical residential lots at 1920 Burton Rd. (Ferguson) and 1924 Burton Rd. (Durrer), all of which are the exact same shape and size (13,200 sf). (Pet. Ex. 8). (Prot. Ex. 7). (SDAT – See File). Each of these 3 properties are also improved with 1-story single family dwellings with finished basements, of equal size (1,086 sf – 1,386 sf). (SDAT – See File). Each of these 3 dwellings was constructed in 1955, and each have the same front, back and side yards setbacks.

(SDAT). Since their construction, each of these homes have been used as residences. My Neighborhood zoning map for the Property reveals that the pavement of Burton Ave., is a 16 ft. wide +/-, on a 25 ft. right-of-way. Unlike Ridge Ave., which, in part, parallels Burton Ave. and is a thru-street, Burton Ave. is a dead-end street, with its only access at Joppa Rd. via a stop sign. It does not meet the standards for even a rural street under the Department of Public Works (“DPWT”) Design Manual for Roadways (18 ft. minimum width). (Prot. Ex. 9). Burton Ave. does not have any sidewalks or curbs. (Prot. Ex. 9).

The first witness to testify for the Petitioner was her sister, Zahara Kazmi, who explained that the Property was purchased on July 13, 2023 as a residence for her uncle. Unfortunately, soon thereafter, her uncle died. Shortly after the purchase of the Property, a 6 ft. tall fence was erected in the side and rear yards without a fence permit. According to the County Code Enforcement record, only 14 days after the purchase of the Property, on July 27, 2023, a Complaint was received which alleged a community center was being operated at the Property during the hours of 8:00-8:30 pm, with 60-80 people in attendance. The Complaint further alleged that there was a shuttle picking up people from, and dropping off people at the Property from another parking location. On August 1, 2023, a Code Enforcement Inspector visited the Property and observed a side/rear yard fence had been installed without a permit, as well as the operation of religious gatherings/activities. On that date, the Code Enforcement Inspector issued a Correction Notice to cease all religious activities and to obtain a fence permit with a compliance date of August 22, 2023. Photographs in the Code Enforcement case show vehicles parked in the front yard. On August 23, 2023, upon reinspection, the Code Enforcement Inspector observed the same religious activities were taking place and that trees in the rear yard had been removed, gravel parking surface installed, and the entire rear yard was being used as a

parking lot. As of August 23, 2023, no fence permit had been obtained. Consequently, on August 23, 2023, a Citation was issued with a hearing date of September 14, 2023. On August 29, 2023, photographs dated August 25, 2023 and August 27, 2023 were provided by complainants who requested Code Enforcement take action because the religious gatherings were continuing, notwithstanding the Citation issued, with vehicles parked in both the front and rear yards of the Property. Vehicles attending the services also parked in the Durrer driveway (1924 Burton Ave.). (Prot. Exs. 4A-4F). On September 11, 2023, a pre-hearing inspection was conducted at which time the Code Enforcement Inspector observed the same violations. On September 14, 2023, a fence permit was issued. (Pet. Ex. 3).

On October 3, 2023, a Code Enforcement Hearing was held and at time it was established and conceded that religious gatherings were being held at the Property and that the parking lot in the rear yard had been created for vehicles coming for religious services. The Code Enforcement case was held *sub curia* by ALJ Mayhew to allow the Petitioner 45 days to obtain required permits/approvals.

Ms. Kazmi testified at the zoning hearing that on November 25, 2023, Petitioner set up a meeting at the White Marsh Library and invited the neighbors to discuss the rezoning of the Property into a community center. For that event, fliers were created and distributed to neighboring property owners. (Pet. Ex. 1). The fliers stated that other services would take place at the Property including: (1) free SAT/ACT, College Prep and tutoring for students of all ages; and (2) youth volunteering programs and service-learning hour opportunities. (Prot. Ex. 1). Ms. Kazmi confirmed that no one came to the meeting.

On January 11, 2024, Code Enforcement checked to see if zoning relief and required permits had been applied for but discovered that they had not. As a result, a second Citation

was issued in the amount of \$3,000.00 and a Code Enforcement hearing was scheduled for February 1, 2024. (Pet. Ex. 2). According to a Final Order dated March 3, 2024, after a postponement of the February 1, 2024 scheduled hearing, a Code Enforcement hearing was held before ALJ Belt on February 14, 2024. The Final Order indicates that by February 8, 2024, Petitioner had filed for the zoning relief requested herein and, as a result, the full fine of \$3,000.00 was imposed, but suspended in full.

At the zoning hearing, Ms. Kazmi testified that she is the Program Manager and Comptroller for Zamin-e-Haider Islamic Center (the “Center”) which had previously been operating from leased space on Putty Hill Avenue. (Prot. Ex. 2). Because the shared space at the Putty Hill location was no longer feasible, the operations and programs for the Center were moved to the Property. She further testified that Center activities included a mosque, weekly prayer services, and other religious programs. Services would be held each Thursday evening from 6:00 pm – 8:00 pm, at which 20-25 people would attend, and each Saturday afternoon from 1:00 pm – 4:00 pm. She anticipated that 9 vehicles would be parked at the Property. During the services, speakers are invited to the Property to provide programs, which speeches will be live-streamed for women attending on the first floor by use of a microphone and television.

Moreover, as set forth in Petitioner’s Post Hearing Memorandum and as explained by Ms. Kazmi at the zoning hearing, there are plans to hold services annually at the Property during Muharram which marks the beginning of Islamic Lunar Calendar. In 2024, Muharram will begin on July 8 and will be observed over the course of 10-12 days with daily programs and services. The number of people coming to the Property to attend Muharram will be 50-60 people. (Petitioner’s Post Hearing Memorandum, p. 4). In addition to Muharram, Ms. Kazmi conceded

that there are 5-6 other annual events to be held at the Property and, at times, there will be 80-85 people attending such services.

Following the Code Enforcement hearing, Petitioner made arrangements for off-site parking at SCN Accounting & Tax Services (3340 E. Joppa Rd.) between April 16 through December 31 (outside of tax season) whereby a shuttle would pick up and drop off people at the Property. (Pet. Exs. 4-6). Petitioner also anticipates using a public park and ride parking lot located on Harford Rd. (Pet. Exs. 4-6). Otherwise, members of the Center who live near the Property can walk and/or get dropped off. The rear yard was converted to a gravel parking lot and does not have any striping.

Michael Gessell, PE of Bohler was accepted as an expert in zoning and development. (Pet. Ex. 7). Mr. Gessell prepared and sealed the Site Plan. Mr. Gessell testified that due to the size of the Property, there is no space for the required landscaping setback, or buffer in the rear yard and no space for the 100 ft. Residential Transition Area ("RTA") which would include a 75 ft. setback for parking and a 50 ft. landscaped buffer. The only buffer proposed here is the existing 6 ft. fence which is located on the Property line. There are 18 parking spaces shown on the Site Plan. (Pet. Ex. 1). While the number of seats for the mosque was not provided on the Site Plan, Mr. Gessell acknowledged that given the number of required parking spaces is 1 space for every 4 seats, this equates to a religious center with 72 seats/people. Mr. Gessell opined that a gravel parking lot meets the requirement for a 'durable and dustless' parking area. (BCZR, §409.8.A.2). The required lighting of the parking lot has not been addressed. (BCZR, §409.8.A.3). Rather than request Variance relief to reduce the number of parking spaces for the proposed 20-25 people who are anticipated to attend weekly services and thereby provide some landscape buffer, Mr. Gessell acknowledged that Petitioner converted the entire rear yard to provide 18 spaces.

It was Mr. Gessell's opinion that the proposed use meets the requirements for the RTA exception for a new place for religious worship in that, in his view, it was compatible with the character and general welfare of the surrounding residential premises. Mr. Gessell stated that the proposed use would have no adverse impact on the surrounding community. He further opined that, in his view, the Property was unique under BCZR, §307.1 and *Cromwell v. Ward*, 102 Md. App. 691 (1995), because it was long and narrow (60 ft. wide). He believes that the Petitioner would suffer a practical difficulty if the reduced setbacks, drive aisle, and landscaping were not granted because the proposed non-residential use could not be operated from the Property.

On cross examination, Mr. Gessell agreed that, if the zoning relief was denied, the Property could still be used as a dwelling and that, as a dwelling, it meets the 10 ft. side yard setback in BCZR, §1B02.3.C.1. He acknowledged that as a principal, non-residential building, it did not meet the 20 ft. side yard setbacks. He also agreed that the Property is undersized even for residential use in that DR 3.5 zone also requires a lot width of 70 ft. and sum of the side yard setbacks of 25 ft. He further conceded that Variance relief #1, #2, and #3 are only needed because the desired use is non-residential. Mr. Gessell also acknowledged that there is no turn-around for a shuttle or other vehicles coming to the Property other than backing in and out of the driveway.

Protestant Larry Durrer and other neighboring property owners testified in opposition to the zoning relief including Carol Wood, 9535 Burton Ave.; Emily Moore, John and Deborah Thate, 9503 Burton Ave.; Matt Stevens, 9510 Burton Ave.; and Sarah Walter, 9512 Burton Ave.

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).

Petitioner needs the landscaping, side yard setbacks and drive aisle Variance relief width solely due to wanting a non-residential use, and the requisite parking associated with that non-residential use. The Carney Grove record plat, aerial photographs of Burton Ave., My Neighborhood information, and SDAT information confirm that the Property, and adjoining properties, are the same. They are comprised of rectangularly-shaped lots measuring 13,200 sf (1920) (1924); with the same front, side and rear yard dimensions; each with 1-story homes of the same size constructed in 1955 and facing Burton Ave. Based on this evidence, I find that there are no unique features about the Property or about the home which would satisfy *Cromwell, supra*. In addition, there is no unreasonable hardship or practical difficulty suffered by the Petitioner which is not self-imposed due to the desire for a non-residential use. Petitioner's conversion of a grass-covered rear yard to a gravel parking lot has created the need for the landscape parking set back and drive aisle width.

The law is clear that self-inflicted hardship cannot form the basis for a claim of practical difficulty. Speaking for the Court in *Cromwell, supra*, Judge Cathell noted:

Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively, not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that

practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

Cromwell, at 722. See also *Chesley v. Annapolis*, 933 A.2d 475, 176 Md. App. 413 (Md. App. 2007). *Ad + Soil, Inc. v. County Comm'rs of Queen Anne's County*, 307 Md. 307, 316, 340, 513 A.2d 893 (1986) (construction that violated setbacks was self-inflicted condition creating need for requested variance request); *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 554-55, 214 A.2d 810 (1965) (construction without building permit was self-inflicted condition creating variance request); *Wilson v. Mayor of Elkton*, 35 Md. App. 417, 428, 371 A.2d 443 (1977) (addition of unit to nonconforming apartment building was self-inflicted condition creating need for setback variance).

Moreover, there is no practical difficulty where the Petitioner can continue to use the Property for residential purposes. The evidence was uncontroverted that all of the homes along Burton Ave., and within the surrounding neighborhood, have been used as homes. Indeed, the Petitioner in this Case purchased the Property as a home. In *Anderson v. Bd. of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 39 (1974), the Appellate Court of Maryland explained that practical difficulty includes proving that the Property could not be used for a permitted purpose (*i.e.* as a home):

1. That compliance with the strict letter of the restriction would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
2. Whether the grant of the variance applied for would do substantial justice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Lastly, the granting of relief for a zero-foot landscaping setback around the now-gravel parking lot, and for a 10.7 ft. residential driveway to serve as a two-way drive aisle to and from the parking lot, does not do substantial justice to the neighboring properties owners, and is not within the spirit or intent of BCZR, §409 because, relaxation of the standards does not promote public safety, and does not protect the welfare of the residential community. To the contrary, the purpose of a 20-foot drive aisle for a non-residential use, allows vehicles to safely pass one another. If granted in this Case, no vehicle could safely pass another without driving on the grass or onto neighboring properties. The street view photos show wall-to-wall vehicles in the rear yard which gives a clear indication of the amount of traffic and people who would be coming to and from this Property on high holy days and on the specific occasions. Moreover, the 18 parking spaces shown on the Site Plan equates to 72 people who could be coming to the Property on a regular basis, and Ms. Kazmi admitted that upwards of 80 people would be coming annually on high holy days and special occasions. Burton Ave. is a narrow, dead-end, quiet street with no sidewalks, and no curbs. These existing roadway conditions will cause walkers to traverse into Burton Ave. or to walk on private property. There is the additional safety issue with the lack of a turn-around for a shuttle transporting people from an off-site parking lot to the Property. The shuttle would have to pull in and back out of the 10 ft wide driveway which is proposed to simultaneously be used by vehicles entering and exiting the parking lot.

It is also not lost that the use began without the proper permits and approvals, forcing Code Enforcement to repeatedly inspect the Property. The former grassy, rear yard for this home is now filled with gravel, which is completely out of character for this residential neighborhood where rear yards are used for personal use and enjoyment. The complete lack of any landscape setback between the rear yard parking lot and the neighboring properties will be detrimental to the welfare of the neighborhood. A parking lot for 18 vehicles also brings automotive noises and smells will negatively impact this residential neighborhood. For these reasons, the Variance relief must be denied.

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). Special hearing relief is properly granted if it is within the spirit and intent of the zoning regulations and will not harm the public health, safety, or welfare. Given the denial of the requested Variance relief, there is no need to address the Special Hearing relief, and it will be dismissed as moot.

THEREFORE, IT IS ORDERED this 17th day of **June, 2024**, by this Administrative Law Judge that the Petition for Variance relief from the BCZR, §409.9.A.1, to allow a landscape setback of 0 ft. in lieu of the required 15 ft., be and is hereby **DENIED**; and

IT IS FURTHER ORDERED that, Petition for Variance relief from BCZR, §1B01.2.C.1.a, to allow side yard setbacks of 10.5 ft. and 10.7 ft. in lieu of the required 20 ft. be, and it is hereby, **DENIED**; and

IT IS FURTHER ORDERED, that Petition for Variance relief from BCZR, §409.4.A, to permit a drive aisle width of 10.7 ft. in lieu of the required 20 ft., be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED that Petition for Variance relief from BCZR, §1B01.1.B.1, to allow a Residential Transition Area setback of 10.5 ft. in lieu of the required 100 ft., be, and it is hereby **DISMISSED AS MOOT**; and

IT IS FURTHER ORDERED that the Petition for Special Hearing pursuant to BCZR, §1B01.1.B.1.g.6, to permit an exception to the required Residential Transition Area for a new church or other building for religious worship be, and the same is hereby, **DISMISSED AS MOOT**; and

IT IS FURTHER ORDERED that the gravel parking lot shall be removed within thirty (30) days of the date of this Order.

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



MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dlm



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 9522 Burton Avenue

which is presently zoned DR 3.5

Deed References: 48221 / 0234

10 Digit Tax Account # 1 1 0 7 0 4 1 5 6 0

Property Owner(s) Printed Name(s) Abida Kazmi

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

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

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

3. ☒ a **Variance** from Section(s)

please see attached

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 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:

Adam Baker - Rosenberg Martin Greenberg LLP

Name- Type or Print

Signature

25 S. Charles Street, 21st FL Baltimore MD
Mailing Address City State

21201 / 410-727-6600 / abaker@rosenbergmartin.com
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Abida Kazmi

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

9522 Burton Avenue Parkville MD
Mailing Address City State

21234 / 410-491-9809 / abbas.sakina05@gmail.com
Zip Code Telephone # Email Address

Representative to be contacted:

Adam Baker - Rosenberg Martin Greenberg LLP

Name - Type or Print

Signature

25 S. Charles Street, 21st FL Baltimore MD
Mailing Address City State

21201 / 410-727-6600 / abaker@rosenbergmartin.com
Zip Code Telephone # Email Address

2024-00455 PHA

Date: 2/13/24

Planner: MTK

Attachment to Zoning Petition for 9522 Burton Avenue

1. Variance from Section 409.8.A.1 of the Baltimore County Zoning Regulations to allow a landscape setback of 0 feet in lieu of the required 15 feet;
2. Variance from Section 1B01.2.C.1.a of the Baltimore County Zoning Regulations to allow side yard setbacks of 10.5 feet and 10.7 feet in lieu of the required 20 feet;
3. Variance from Section 409.4.A of the Baltimore County Zoning Regulations to permit a drive aisle width of 10.7 feet in lieu of the required 20 feet;
4. Variance from Section 1B01.1.B.1 of the Baltimore County Zoning Regulations to allow a Residential Transition Area setbacks of 10.5 feet in lieu of the required 100 feet, or, in the alternative,
5. Special Hearing pursuant to Section 1B01.1.B.1.g.6 of the Baltimore County Zoning Regulations to permit an exception to the required Residential Transition for a new church or other building for religious worship; and
6. For such other and further relief as may be deemed necessary by the Administrative Law Judge.

4865-6575-5297, v. 1

2024-0045-SP4A

ZONING DESCRIPTION – VARIANCE REQUEST AREA
TAX MAP 71, PARCEL 1142, LOTS 58, 59, 60
THE LAND OF
ABIDA KAZMI
LIBER 48221 FOLIO 234
11TH ELECTION DISTRICT
BALTIMORE COUNTY, MD

BEGINNING AT A POINT ON THE WESTERN RIGHT-OF-WAY LIMITS OF BURTON AVE (25-FOOT WIDTH RIGHT-OF-WAY), WHICH IS 508.2 FEET SOUTH OF THE INTERSECTION OF SAID BURTON AVE AND E. JOPPA ROAD (VARIABLE WIDTH RIGHT-OF-WAY), THENCE DEPARTING SAID WESTERN RIGHT-OF-WAY LIMITS AND WITH THE DIVISION LINE BETWEEN BURTON AVE ON THE EAST AND THE LAND OF ABIDA KAZMI (LIBER 48221 FOLIO 234) ON THE WEST;

1. SOUTH 10 DEGREES – 32 MINUTES – 15 SECONDS WEST, 60.00 FEET TO A POINT, THENCE;
2. CONTINUING NORTH 79 DEGREES – 27 MINUTES – 45 SECONDS WEST, 220.00 FEET TO A POINT, THENCE;
3. CONTINUING NORTH 10 DEGREES – 32 MINUTES – 15 SECONDS EAST, 60.00 FEET TO A POINT, THENCE;
4. CONTINUING SOUTH 79 DEGREES – 27 MINUTES – 45 SECONDS EAST, 220.00 FEET TO THE POINT OF BEGINNING FOR THE VARIANCE AREA.

CONTAINING 13,200 SQUARE FEET OR 0.303 ACRES.



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

No. 229521

Date: 2/8/2024

Fund	Dept	Unit	Sub Unit	Rev		Sub		Amount
				Source/	Obj	Sub	Rev/	
061	806	0600		6150				\$1,000

Total: \$1,000

Rec From: Rosenberg Martin Greenberg
For: Vername and Special Hearing
2024-0045-SPHA
9522 Burton Avenue

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!

CASHIER'S
VALIDATION

mm

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:

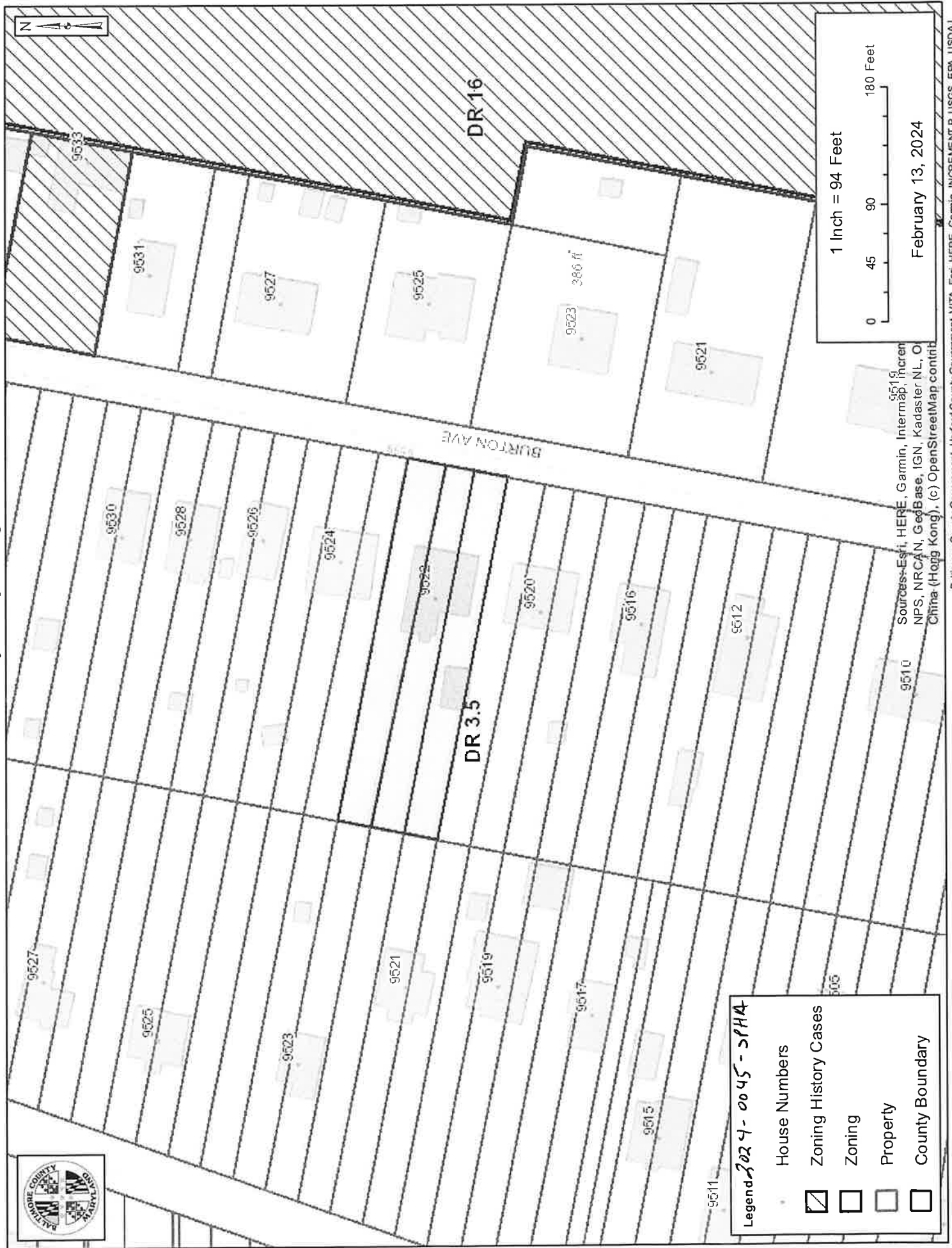
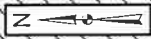
Case Number: 2024 - 0045 - SPHA
Property Address: 9522 Burton Avenue
Legal Owners (Petitioners): Abida Kazmi
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Rosenberg Martin Greenberg LLP c/o Adam Baker
Address: 25 S. Charles St. 21st Floor
Balto. MD 21201
Telephone Number: 410-727-6600

*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.

2024-0045-584A



Baltimore County Government! Harford County Government! VITA Fesri HERE Gamin INCREMENT B USGS EPA USDA!

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 11 Account Number - 1107041560

Owner Information

Owner Name: KAZMI ABIDA Q Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 9522 BURTON AVE Deed Reference: /48221/ 00234
BALTIMORE MD 21234-3302

Location & Structure Information

Premises Address: 9522 BURTON AVE Legal Description: LT 58,59,60
BALTIMORE 21234-3302 9522 BURTON AVE
CARNEY GROVE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0071 0016 1142 11040036.04 0000 58 2024 Plat Ref: 0007/ 0020

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1955	1,386 SF	650 SF	13,200 SF	04

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

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2024	07/01/2023	07/01/2024
Land:	78,500	83,100		
Improvements	232,000	268,000		
Total:	310,500	351,100	310,500	324,033
Preferential Land:	0	0		

Transfer Information

Seller: OTT STEPHEN C	Date: 07/13/2023	Price: \$340,000
Type: ARMS LENGTH IMPROVED	Deed1: /48221/ 00234	Deed2:
Seller: NORMAND DAVID	Date: 06/24/2017	Price: \$258,000
Type: ARMS LENGTH IMPROVED	Deed1: /39134/ 00213	Deed2:
Seller: SALASI JAHANGIR	Date: 05/06/2014	Price: \$259,900
Type: ARMS LENGTH IMPROVED	Deed1: /34934/ 00427	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2023	07/01/2024
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2024-0645-SPHA



Certificate of Posting

Case# 2024-0045-SPHA

Petitioner/Developer

Rosenberg Martin Greenberg

Adam Baker

Date of Hearing/Closing

May 7, 2024

Baltimore County Department of Permits and Management

County Office Building Room 111; 111 West Chesapeake Ave. Towson Md. 21204

Attention:

Ladies and Gentlemen:

This is to certify under penalties of perjury that the necessary sign/signs required by law were posted conspicuously on the property located at

9522 Burton Avenue on April 14, 2024. Signs 1A & 2A

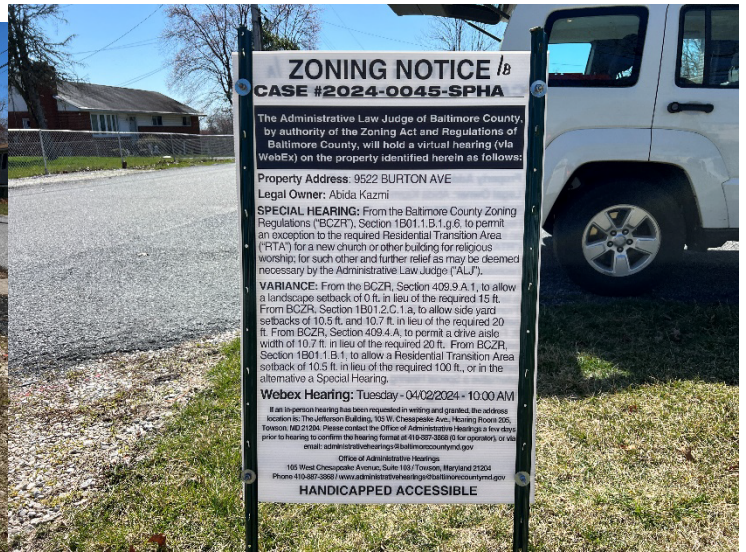
Sincerely, Martin Ogle

Martin Ogle

9912 Maidbrook Road

Parkville, Md. 21234

443-629-3411



Certificate of Posting

Case# 2024-0045-SPHA

Petitioner/Developer

Rosenberg Martin Greenberg

Jennifer Busse

Date of Hearing/Closing

April 2, 2024

Baltimore County Department of Permits and Management

County Office Building Room 111; 111 West Chesapeake Ave. Towson Md. 21204

Attention:

Ladies and Gentlemen:

This is to certify under penalties of perjury that the necessary sign/signs required by law were posted conspicuously on the property located at

9522 Burton Avenue on March 11, 2024. Signs 1A & 1B

Sincerely, Martin Ogle

Martin Ogle

9912 Maidbrook Road

Parkville, Md. 21234

443-629-3411

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge
Office of Administrative Hearings

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

DATE: February 23, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0045-SPHA
Address: 9522 BURTON AVE
Legal Owner: Abida Kazmi

Zoning Advisory Committee Meeting of February 23, 2024.

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

Additional Comments:

Reviewer: Earl D Wrenn

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: February 21, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0045-SPH

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

DPR: No comment.

DPW-T: No Exception taken

Landscaping: If Special Hearing and Zoning Relief is granted a Landscape Plan is required per the requirements of the Landscape Manual. A Lighting Plan is also required.

Recreations & Parks: No Greenways affected.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 2/27/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0045-SPHA

INFORMATION:

Property Address: 9522 Burton Avenue

Petitioner: Abida Kazmi

Zoning: DR 3.5

Requested Action: Variance, Special Hearing

The Department of Planning has reviewed the petition for the following:

Variance(s) -

1. From Section 409.8.A.1 of the BCZR to allow a landscape setback of 0 feet in lieu of the required 15 feet;
2. From Section 1B01.2.C.1.a of the BCZR to allow side yard setbacks of 10.5 feet and 10.7 feet in lieu of the required 20 feet;
3. From Section 409.4.A of the BCZR to permit a drive aisle width of 10.7 feet in lieu of the required 20 feet; and
4. From Section 1B01.1.B.1 of the BCZR to allow a Residential Transition Area setback of 10.5 feet in lieu of the required 100 feet, or, in the alternative:

Special Hearing -

1. Under pursuant to Section 1B01.1.B.1.g.6 of the Baltimore County Zoning Regulations (BCZR) to permit an exception to the required Residential Transition Area for a new church or other building for religious worship; and
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge.

The subject site is an approximately 13,200 square foot property in the Parkville/Carney area. The property is currently improved with a one-story, single family detached residential dwelling and a detached shed. Per the site plan submitted with the petition, the Petitioner wishes to convert the dwelling into a church, house of worship, or religious assembly, and convert the backyard into a parking lot with eighteen parking spaces.

Uses immediately surrounding the subject site are single family detached residential dwellings. Burton Avenue is located off of Joppa Road and is an approximately 20 foot wide dead-end street. Burton Avenue appears to have approximately 20 dwellings. Dwellings on the west side of Burton Avenue – primarily 9530, 9528, 9526, 9524, 9522, 9520, and 9516 Burton Avenue – appear to be closer together

and have smaller side yard setbacks than that of the properties on the east side of Burton Avenue. The dwellings on Burton Avenue range in size from one- to two-stories, and appear to have similar front yard setbacks. In reviewing Google Streetview of Burton Avenue from May 2022, the street and dwellings appear well maintained. Based on information on the State Department of Assessment and Taxation website, many of the dwellings on Burton Avenue appear to have been built in the 1950's; the subject site was constructed in 1955 and was purchased by the Petitioner in 2023.

The site is the subject of a 2024 Comprehensive Zoning Map Process (CZMP) Issue, Issue Number 5-159. The Issue was raised by the County Council, and was raised same-to-same, meaning the existing and requested zoning are both DR 3.5. The justification for the submission of the Issue, available online here: <https://bcgis.baltimorecountymd.gov/Images/CZMP2024/5-159.pdf>, states that "Councilman Marks is raising this issue so the County Council can determine the appropriate level of development here and throughout this region of Baltimore County. Councilman Marks looks forward to a productive dialogue with residents and stakeholders throughout the Comprehensive Zoning Map Process."

The site has been the subject of four past Code Enforcement Complaints since July of 2023, all related to use of the single family detached dwelling as a community care center. Of the four complaints, two are marked as Duplicate Review and one is marked as No Violation. The remaining complaint, Case CC2310113, is marked as Citation Mailed. Photos on file with the complaint show ten or more vehicles parked in the front yard of the dwelling. In reviewing the Citations on file for the complaint on Citizen's Access, the Citation was issued on August 1st, 2023 for failure to obtain a fence permit and for illegal home occupation. The Citation directs the property owner to obtain a fence permit and states that "All gatherings and religious activities at this residence must be ceased immediately. Permits must be obtained to have religious gatherings or activity." A Citation available on Citizen's Access shows that a virtual Code Enforcement Hearing was scheduled for February 14th, 2024.

The subject site is within the boundary of the East Joppa Road Corridor Community Plan and the Carney-Cub Hill-Parkville Community Plan. The East Joppa Road Corridor Community Plan, adopted May 3rd, 2004, provides information on traffic and infrastructure, land use and zoning, streetscape, economic development, open space and green areas, and design standards for new development and redevelopment within the plan boundary area. The plan calls for streetscape improvements to Joppa Road near Burton Avenue, including the planting of street trees along both sides of Joppa Road, however, no additional guidance specific to Burton Avenue is provided in the plan (Figure 6, page 34). The Carney-Cub Hill-Parkville Community Plan, adopted May 3rd, 2010, provides information on the plan area boundary; offers recommendations on a variety of topics; and provides lists of strengths, weaknesses, opportunities, and threats to the plan area. Some of the strengths listed include: quiet communities; convenient location and proximity to major highways, shopping, services, schools, churches, etc.; primarily individual homes with well-kept yards; well established, stable neighborhoods; and sense of community (page G-1). Some of the threats listed include: additional commercialization; infill development occurring on small properties and in backyards; incompatible residential infill development; and decreasing open space (page G-4). In regards to infill development, the plan recommends that "infill development within [single family detached areas] be consistent with the established character of the areas and compatible with surrounding homes" (page 35).

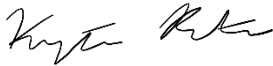
The Department of Planning has no objections to the requested Variance for the existing side yard setbacks of 10.5 and 10.7 feet in lieu of the required 20 feet. These setbacks are for the existing dwelling at 9522 Burton Avenue, which has existing as such since 1955.

The Department of Planning does not support the requested Variance to allow a landscape setback of 0 feet and an RTA of 10.5 feet, and does not support the requested Special Hearing to permit an exception to a required RTA for the following reasons:

1. The necessary relief and hardships appear to be self-imposed. The lot, dwelling, and surrounding dwellings have been in existence since prior to the 1960's, and were as such when the Petitioner purchased the property in 2023. Although the Department understands the Petitioners desire to use the property as a new church or other building for religious worship, the subject site is not irregular or unlike any of those immediately surrounding it. The lot, dwelling, existing setbacks, and site layout are very typical for this side of Burton Avenue.
2. The Department is concerned about the increased traffic. As stated, Burton Avenue is a relatively narrow, dead-end residential street with only approximately 20 dwellings. The site plan does not state how many seats the church will have, but states that 1 parking space is required for every 4 seats, and that 18 parking spaces are provided, implying the church will have approximately 72 seats. The Department is concerned that this many vehicles, traveling down a dead-end residential street, will cause traffic concerns and is not in keeping with the neighborhood.
3. The Department is concerned regarding the overdevelopment of the property, which is only approximately 0.3 acres in size. While the Department appreciates the Petitioner is not proposing changes to the front yard of the property, the proposal of converting the rear yard into the parking lot for the church will significantly change the rear of the property. The proposal leaves no room for green space or a yard, and no room for landscaping to screen the proposed development from the neighbors, especially those immediately abutting the property at 9524 Burton Avenue, 9520 Burton Avenue, and 9523 Ridgely Avenue.
4. The Department of Planning is concerned that the approval of the requests will have a negative impact on the surrounding residences and is incompatible with the goals and threats outlined in the Carney-Cub Hill-Parkville Community Plan. The Baltimore County Zoning Regulations state that "the purpose of an RTA is to assure...that adequate buffers and screening are provided between dissimilar housing types" (BCZR Section 1B01.1.B(2)). Decreasing the required RTA by approximately 90 feet and providing no landscaping between the facility parking lot and the adjacent residential backyards eliminates the ability to have an adequate buffer and proper screening. This does not create infill development consistent with the established character of Burton Avenue and/or infill development compatible with the surrounding homes, as required in the Carney-Cub Hill-Parkville Community Plan.

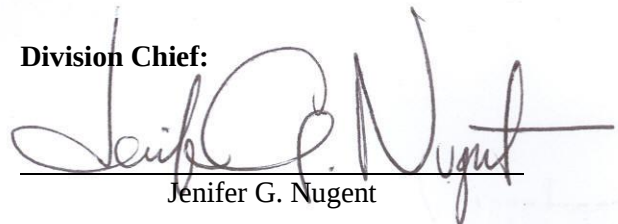
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

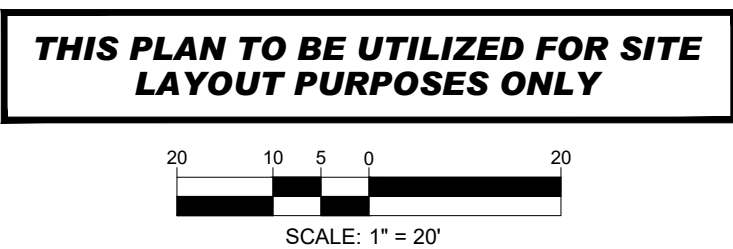
Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Adam Baker – Rosenberg, Martin, Greenberg LLP
Ainsley Pressl & David Birkenthal, Community Planners
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County



THE INFORMATION AND BOUNDARY LOCATION SHOWN ARE BASED ON THE LATEST BALTIMORE COUNTY GIS DATA IN ADDITION TO THE ABOVE REFERENCED SURVEY.

7. BULK REQUIREMENTS:	<u>REQUIRED</u>	<u>PROVIDED</u>
BUILDING SETBACKS		
FRONT YARD (BURTON AVE)	50'	50.8'
SIDE YARD (NORTH)	20'	10.5'
SIDE YARD (SOUTH)	20'	10.7'
REAR YARD (WEST)	30'	107.2'
LANDSCAPE SETBACKS		
FRONT YARD (BURTON AVE)	20'	50.8'
SIDE YARD (NORTH)	15'	0'
SIDE YARD (SOUTH)	15'	0'
REAR YARD (WEST)	15'	0'
8. PARKING REQUIRED: 1 PER 4 SEATS PARKING PROVIDED: 18		
9. RTA REQUIRED: 100' RTA PROVIDED: 10.5'		
10. PRIOR COMMERCIAL PERMIT HISTORY: NONE		
11. PRIOR DRC APPROVALS: NONE		
12. PRIOR CRG HISTORY: NONE		
13. PRIOR ZONING HISTORY: NONE		
14. MAXIMUM BUILDING HEIGHT NOT TO EXCEED 50 FEET.		
15. WITHIN THE RTA BUFFER: THE MAXIMUM HEIGHT OF ANY LIGHTING FIXTURES SHALL BE 16 FEET PARKING LOTS OR STRUCTURES, EITHER AS PRINCIPLE OR ACCESSORY USE SHALL NOT EXCEED 35 FEET		
16. NO PART OF THIS PROPERTY IS WITHIN A 100 YEAR FLOODPLAIN ACCORDING TO FEMA COMMUNITY PANEL 240010-0388-F EFFECTIVE DATE NOVEMBER 2, 2023.		
17. NO PORTION OF THE SITE IS LOCATED WITHIN A DESIGNATED AREA OF CRITICAL STATE CONCERN, AND NO PORTION OF THE SITE IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.		
18. THERE ARE NO WETLANDS, STREAMS, SEEPS, PONDS, OR OTHER WATER BODIES ON OR WITHIN 200 FEET OF THE DEVELOPMENT SITE AND AS SUCH, COMPLIANCE WITH BALTIMORE COUNTY FOREST BUFFER REGULATIONS IS NOT REQUIRED. THIS SITE IS EXEMPT FROM THE FOREST CONSERVATION ACT.		
19. THERE ARE NO SIGNIFICANT REGULATED PLANT OR WILDLIFE COMMUNITIES ONSITE.		
20. THERE ARE NO KNOWN HISTORIC STRUCTURES OR SITES AS PER LANDMARKS PRESERVATION COMMISSION AND THE MARYLAND HISTORICAL TRUST INVENTORY.		
21. ANY ILLUMINATION OF OFF-STREET PARKING WILL NOT REFLECT INTO RESIDENTIAL LOTS.		
22. THIS SITE IS NOT LOCATED WITHIN WATER OR SEWER DEFICIENT AREAS PER THE CURRENT APPROVED BASIC SERVICES MAP. THIS SITE IS CURRENTLY LOCATED IN A LEVEL - OF - SERVICE 'D' AREA ON THE BASIC SERVICES MAP FOR TRANSPORTATION.		

ORG. DATE - 12/01/2023