

7178 Columbia Gateway Drive, Columbia MD 21046  
(410) 313-2640 Fax (410) 313-2648  
TDD (410) 313-2323 Toll Free 1-866-313-6300  
website: [www.hchealth.org](http://www.hchealth.org)

**Peter L. Beilenson, M.D., M.P.H., Health Officer**

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**MEMORANDUM**

**TO:** George Beisser, Chief  
Division of Planning & Zoning Administration

**FROM:** Sara Sappington, R.S.  
Well and Septic Program

**RE:** File Number: BA 09-022 C& V  
Title: 13306 Rt 108

**DATE:** August 3, 2009

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The Health Department has no objection to the conditional use request; however the following must be completed prior to the release of a building permit:

1. The existing well must be properly abandoned and documentation sent to the Health Dept.
2. A new well must be drilled and approved by the Health Dept.
3. The existing septic system must be properly abandoned and documentation sent to the Health Dept.
4. Existing shed must be removed
5. A revised percolation certification plan must be sent to the Health Dept due to the well and septic area changes shown on the conditional use plan submittal received at the Health Dept on June 26, 2009.

**Department of Planning and Zoning  
Howard County, Maryland  
Recommendations/Comments**

Date: 6/26/09

Hearing Examiner 8/10/09

Planning Board \_\_\_\_\_ Board of Appeals \_\_\_\_\_ Zoning Board \_\_\_\_\_

Petition No. BA 09-022C&V Map No. 40 Block 5 Parcel 66 Lot \_\_\_\_\_

Petitioner: Rajesh Chopra

Petitioner's Address: 10308 Castlefield Street, Ellicott City, MD 21042

Address of Property: 13306 MD 108, Highland, MD 20777

Return Comments by 7/20/09 to Public Service and Zoning Administration

Owner: (if other than applicant) \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Petition: See application

\*\*\*\*\*

- To:
- \_\_\_\_\_ MD Department of Education – Office of Child Care
  - \_\_\_\_\_ 3300 N. Ridge Road, Ste. 190, EC, MD 21043 (Louis Valenti)
  - \_\_\_\_\_  Bureau of Environmental Health
  - \_\_\_\_\_ Development Engineering Division
  - \_\_\_\_\_ Department of Inspections, Licenses and Permits
  - \_\_\_\_\_ Department of Recreation and Parks
  - \_\_\_\_\_ Department of Fire and Rescue Services
  - \_\_\_\_\_ State Highway Administration
  - \_\_\_\_\_ Sgt. Karen Shinham, Howard County Police Dept.
  - \_\_\_\_\_ James Irvin, Department of Public Works
  - \_\_\_\_\_ Office on Aging, Terri Hansen (senior assisted living)
  - \_\_\_\_\_ Police Dept., Animal Control, Deborah Baracco, (kennels)
  - \_\_\_\_\_ Susan Fitzpatrick, Health Dept. (Nursing & Res. Care)
  - \_\_\_\_\_ Land Development - (Religious Facility & Age-Restricted Adult Housing)
  - \_\_\_\_\_ Housing and Community Development
  - \_\_\_\_\_ Economic Development
  - \_\_\_\_\_ Route 1 Cases – DCCP – Dace Blaumanis

COMMENTS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



For DPZ Office use only:  
 BA CASE NO. BA 09-022 CV  
 Date Submitted \_\_\_\_\_

**CONDITIONAL USE PETITION  
 TO THE HOWARD COUNTY HEARING AUTHORITY**

(This application will only be accepted after a pre-submission meeting. See attached info.)

**1. Conditional Use Request**

Conditional Use Category Nursing Homes and Residential Care Facilities

Section 131.N. 37.

Specific Use Requested 16 bed assisted living facility plus an apartment for the resident manager

**2. Name of Petitioner** Rajesh Chopra

Trading as (If applicable) \_\_\_\_\_

Mailing Address 10308 Castlefield Street, Ellicott City, Maryland 21042

Phone Number(s) \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Name of Principal Contact (If different) \_\_\_\_\_

**3. Counsel for Petitioner** Sang W. Oh, Talkin & Oh, LLP

Mailing Address 5100 Dorsey Hall Drive, Ellicott City, Maryland 21042

Phone Number(s) 410-964-0300

E-Mail Address soh@talkin-oh.com

**4. Conditional Use Site Description**

Address/Street for Property 13306 Route 108, Highland, Maryland 20777

Tax Map 40 Grid/Block 5 Parcel 66 Lot \_\_\_\_\_

Department of Assessments and Taxation Account No. 05-343569

Total Land Area of Property 1.15 (  Acres ) ( \_\_\_\_\_ Square Feet ) Check one.

Election District 5th Zoning of Property RR-DEO

Subdivision Name and Plat No. (If Applicable) \_\_\_\_\_

Total Land Area of Use (If different than above) 1.15 (  Acres ) ( \_\_\_\_\_ Square Feet )

09 JUN 10 PM 2 13

**5. Petitioner's Interest in Subject Property**

- OWNER (Including joint ownership)  
 OTHER (Described and give name and address of owner)

Name of Owner \_\_\_\_\_

Mailing Address \_\_\_\_\_

**If the Petitioner is not the owner, written authorization for this petition from the owner must be submitted.**

**6. Conditional Use Plan Requirements**

If the petition is approved, the conditional use plan will be made a part of the Hearing Examiner's Decision and Order, subject to modifications and conditions required by the Hearing Examiner. The conditional use plan must be drawn to scale and must include the items listed below:

- (a) Courses and distances of outline boundary lines and the size of the property
- (b) North arrow
- (c) Zoning of subject property and adjoining properties
- (d) Scale of plan
- (e) Existing and proposed uses, structures, natural features and landscaping
- (f) Location and surface material of existing and proposed parking spaces, driveways, and points of access; number of existing and proposed parking spaces
- (g) Same as (e) and (f) above, of adjoining properties
- (h) Location of existing and/or proposed well and private septic easement area, if property is to be served by private water and septic facilities
- (i) Election District in which the subject property is located
- (j) Tax Map and Parcel Number(s) of the subject property
- (k) Name of local community in which the subject property is located or name of nearby community
- (l) Name, mailing address, telephone number (and e-mail address, if any) of the Petitioner
- (m) Name, mailing address, telephone number (and e-mail address, if any) of Counsel
- (n) Name, mailing address, telephone number of property owner
- (o) Floor area and height of structures, setback distances from property lines, and other numerical values necessary for the examination of the petition
- (p) Location of subject property in relation, by approximate dimension, to the center line of nearest intersection of two public roads
- (q) Ownership of abutting roads, right-of-way width, and existing pavement width
- (r) Any other information as may be necessary for full and proper consideration of the petition

**7. Additional Information Requirements**

- a. Information regarding noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions resulting from the use.
- b. Supporting documentation, such as traffic studies, market studies, and noise studies as may be required by the Department of Planning and Zoning or by the Zoning Regulations.
- c. For expansions and enlargements, previous case number(s) and information regarding compliance with previous requirements and conditions.

8. Summary of Request

The following items should be answered by summary statements. If additional space is needed, please attach a Supplement to this petition.

- a. The present use of the subject property Residential single-family dwelling  
\_\_\_\_\_  
\_\_\_\_\_
  
- b. Details of the proposed use, including, **where applicable:** types of indoor and outdoor activities; hours of operation; number of employees, occupants, and/or customers; quantity and types of vehicles or equipment used; outdoor lighting to be used; quantities and capacities of materials stored; etc.  
There is a 16 bed assisted living facility proposed plus an apartment for the resident manager.  
Indoor and outdoor activities will be as expected in a typical residential community. Outdoor lighting will comply with the Zoning Regulations. Floor plans and basic building designs are attached hereto.  
\_\_\_\_\_  
\_\_\_\_\_
  
- c. Any additional information which will be useful in the evaluation of whether the conditional use complies with the specific criteria for the conditional use category within Section 131.N.  
The project will be compatible in scale and character with the surrounding residential development.  
\_\_\_\_\_  
\_\_\_\_\_
  
- d. Will the conditional use generate any physical conditions such as noise, dust, fumes, odors, lighting, or vibrations, which would be discernible from abutting and vicinal properties?  
The assisted living facility will not create noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions that would be greater than those associated with the adverse effects typically associated with the proposed use. The adjacent properties are residentially zoned and this project will be compatible with the use of the surrounding properties.  
\_\_\_\_\_

9. **Prior Petitions**

Has any petition for the same, or substantially the same, conditional use as noted above for the subject property been denied by the Hearing Examiner within twenty four (24) months of the date of this petition?

( ) Yes ( X ) No

If yes, and six (6) months have elapsed since the last hearing, an affidavit must be attached which states the new and different grounds on which this re-submittal is based.

10. **Additional Materials, Fees, Posting and Advertising Requirements**

a. Supplemental pages may be attached to the petition. You must submit one original petition with original signatures, and one original of any other signed documents. The following number of sets including petitions, plans and supplemental pages must be submitted:

- *If the subject property adjoins a State road- original and 20 copies (application & plans)*
- *If the subject property adjoins a County road- original and 18 copies (application & plans)*

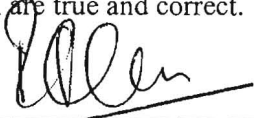
b. The Petitioner signing below hereby agrees to furnish such additional plats, plans, reports or other material as may be required by the Department of Planning and Zoning and/or the Hearing Examiner in connection with this petition.

c. The Petitioner hereby agrees to pay all costs in accordance with the current schedule of fees.

d. The Petitioner hereby agrees to properly post the property at least thirty (30) days immediately prior to the Hearing Examiner public hearing; to maintain the public notice posters until the public hearing is concluded; and to submit an affidavit of posting at, or before the time of the initial public hearing. The Petitioner also hereby agrees to advertise the public hearing by means of legal notices as prepared and approved by the Department of Planning and Zoning to be published one (1) time in at least two (2) newspapers of general circulation in Howard County, at least thirty (30) days prior to the Hearing Examiner public hearing, and to pay for such advertising costs; and agrees to submit two (2) approved certificates of the text and publication date(s) of the advertisement at or before the time of the hearing.

11. **Signatures**

The Petitioner hereby affirms that he/she has read the instructions on this form, filing herewith all of the required accompanying information, and affirms that all of the statements and information contained in, or filed with, this petition are true and correct.



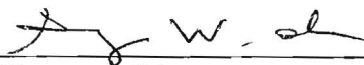
6/16/09

Signature of Petitioner

Date

Rajesh Chopra

Print Name of Petitioner



5-12-09

Signature of Attorney

Date

Sang W. Oh

Print Name of Attorney

## 12. General Standards for Conditional Uses

All requests for conditional uses must meet the following general standards set forth in Section 131.B. of the Zoning Regulations for approval:

1. The proposed conditional use plan will be in harmony with the land uses and policies indicated in the Howard County General plan for the district in which it is located. In Evaluating the plan under this standard, the Hearing Examiner shall consider:
  - a. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site; and
  - b. If a conditional use is combined with other conditional uses or permitted uses on a site, the overall intensity and scale of uses on the site is appropriate given the adequacy of proposed buffers and setbacks.
2. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the plan under this standard, the Hearing Examiner shall consider whether:
  - a. The impact of adverse effects such as noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions will be greater at the subject site than it would generally elsewhere in the zone or applicable other zones.
  - b. The location, nature and height of structures, walls and fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the development and use of adjacent land and structures more at the subject site than it would generally in the zone or applicable other zones.
  - c. Parking areas will be of adequate size for the particular use. Parking areas, loading areas, driveways and refuse areas will be properly located and screened from public roads and residential uses to minimize adverse impacts o adjacent properties.
  - d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate.

In addition to the specific requirements of the appropriate subsection within Section 131.N of the Zoning Regulations, conditional uses within residential developments in the R-ED, R-SC, R-SA-8, R-A-15, R-MH or R-VH districts are subject to the standards enumerated in Section 131.C.

PETITIONER Rajesh Chopra

ADDRESS 10308 Castlefield Street, Ellicott City, Maryland 210424

Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended:

The person(s) signing below hereby declare(s) that no officer or employee of Howard County, whether elected or appointed, has received prior hereto or will receive subsequent hereto, any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or award of the attached petition to the Hearing Examiner for a conditional use as requested.

I, we, do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my, our, knowledge, information and belief.

RAJESH CHOPRA

Kelley L. Wagner  
Witness

[Signature] 6/10/09  
Signature Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature Date

\*\*\*\*\*

Application Fee: \$500.00      Poster Fee: \$20.00 per sign/poster

Make check payable to: Director of Finance.

<b>For DPZ use only:</b>	
Hearing fee:	\$ _____
Poster fee:	\$ _____
Total:	\$ _____
Receipt No. _____	

**PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION.**

T:\shared\PubSer\Applications\CondUse

Revised 10/07

RAJESH CHOPRA  
c/o 5100 Dorsey Hall Drive  
Ellicott City, Maryland 21042

Notice of Pre-Submission Community Meeting

This is notice that Rajesh Chopra, Petitioner, intends to submit a Conditional Use Petition for an assisted living facility. The property consists of approximately 1.15 acres, more or less, and is located at 13306 Route 108, Highland, Maryland 20777 (Tax Map 40, Grid 5, Parcel 66).

You are invited to attend a pre-submission community meeting to meet with the Petitioner, who will provide information concerning the Petition, and to ask questions, make comments and discuss this project.

The meeting will be held at Schooley Mill Park, 12975 Hall Shop Road, Highland, Maryland 20777 on Monday, April 27, 2009 at 6:00 p.m.

List of Adjoining and Confronting Property Owners/Rajesh Chopra

Subject Property: 13306 Route 108  
Highland, Maryland 20777  
Tax Map 40, Grid 5, Parcel 66

Adjoiners:

Parcel 264: Tracy L. Bonsal  
Glenn Price  
13290 Route 108  
Highland, Maryland 20777-9703

Parcel 514: Dana Kerr  
Thomas Denault  
12840 Highland Road  
Highland, Maryland 20777-9713

Parcel 85: Highland Crossing, LLC  
13356 Clarksville Pike, Condo Unit 2  
Highland, Maryland 20777

Mailing address: 14190 Twisting Lane  
Dayton, Maryland 21036-1229

Parcel 74: John Paul Bolduc  
13325 Clarksville Pike  
Clarksville, Maryland 21029

Mailing address: 13237 Westmeath Lane  
Clarksville, Maryland 21029-1349

Parcel 72: James T. and Annette R. Hausch  
13303 Clarksville Pike  
Highland, Maryland 20777-9702

MEETING MINUTES  
CHOPRA PROPERTY  
CONDITIONAL USE  
RESIDENTIAL CARE FACILITY

MEETING DATE: APRIL 27, 2009

ATTENDANCE:

DEVELOPER REPRESENTATIVE: Joseph Rutter

COMMUNITY: See sign in sheet attached

The meeting was called to order at 6:10.

Mr. Rutter began with an overview of the property and the history. Both Mr. Souder and Ms. Westerlund were familiar with the property. Mr. Rutter showed drawings of the proposed building as well as the proposed floor plan. He explained the proposal to reduce the front setback to 50 feet and place parking in the side yard in order to better comply with the intent of the Highland design guidelines even though those guidelines do not apply to property zoned residential.

While there were few questions and the two individuals in attendance were familiar with the process and the proposal, Mr. Rutter stayed until approximately 7:00 pm to see if anyone else from the surrounding community would attend. No one came.

Knowing of the Highland Community group, Mr Rutter contacted Mr. O'Leary in early March and offered to schedule an informal community meeting to brief the immediate neighbors prior to the required pre-submission community meeting. Mr. O'Leary hosted a meeting on Friday March 20, 2009 at his home. At that time Mr. Rutter went over the plans in detail and answered questions.

PRESUBMISSION COMMUNITY MEETING  
Held on April 27, 2009

Chopra Property

List of Attendees

Terri Westerlund 6285 Linkythorn Lane, Clarksville, MD [terri@westerlundrealestate.com](mailto:terri@westerlundrealestate.com)

Donald Souder 14190 Twisting Lane, Dayton, MD

CERTIFICATION OF NOTICE AND POSTING

Conditional Use Petition of Rajesh Chopra, Petitioner

STATE OF MARYLAND)

COUNTY OF HOWARD)

I, Joseph Rutter, Planning Consultant for petitioner, HEREBY CERTIFY that to the (name, relationship to petitioner)

best of my information, knowledge and belief, a pre-submission community meeting was held in accordance with the following requirements set forth in Section 16.205 of the Howard County Code:

1. The Petitioner provided at least 3 weeks' written notice regarding the date, time and location of the pre-submission community meeting to:

- (1) All adjoining property owners as identified in the records of the Maryland State Department of Assessments and Taxation, by mail;
(2) The Department of Planning and Zoning;
(3) The Howard County Council; and
(4) Any community association that represents the area of the subject property or any adjacent properties.

2. The Petitioner posted the property with posters provided by and at locations specified by the Department of Planning and Zoning, and made a reasonable effort to maintain the posters for at least the 3 weeks immediately prior to the meeting.

3. The purpose of the pre-submission community meeting was to allow the Petitioner to provide information to the community regarding the proposed conditional use petition and to allow community residents to ask questions and discuss any issues they have concerning the proposal.

4. The pre-submission community meeting was held on Monday, April 27, 2009 at 6:00 pm at Schooley Mill Park, 12975 Hall Shop Road, Highland, Maryland 20777. Minutes of the meeting are attached to this certification.

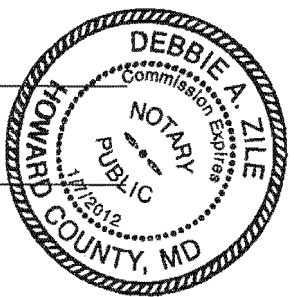
Subscribed and sworn to before me on this 15th day of May, 2009.

Petitioner's/Agent's Signature

Handwritten signature of Joseph Rutter over a horizontal line.

Notary Public: Debbie A. Zile

My Commission expires:





DPZ Office use only:

CASE NO. BA 09-022C5V

DATE FILED \_\_\_\_\_

**RESIDENTIAL DISTRICT VARIANCE PETITION  
TO THE HOWARD COUNTY HEARING EXAMINER**

**1. VARIANCE REQUEST**

SECTION 105.E.4.b.(1) of the Zoning Regulations to reduce front setback to a major collector roadway future right-of-way line from 75' to 50' for a building and 27' for a privacy fence.

**2. PETITIONER'S NAME** Rajesh Chopra

TRADING AS (IF APPLICABLE) \_\_\_\_\_

ADDRESS 10308 Castlefield Street, Ellicott City, Maryland 21042

PHONE NO. (W) \_\_\_\_\_ (H) \_\_\_\_\_

EMAIL \_\_\_\_\_

09 JUN 10 PM 2:18

**3. COUNSEL FOR PETITIONER** Sang W. Oh, Talkin & Oh, LLP

COUNSEL'S ADDRESS 5100 Dorsey Hall Drive, Ellicott City, Maryland 21042

COUNSEL'S PHONE NO. (410) 964-0300

EMAIL soh@talkin-oh.com

**4. PROPERTY IDENTIFICATION**

ADDRESS OF SUBJECT PROPERTY 13306 Route 108, Highland, Maryland 20777

ELECTION DISTRICT 5th ZONING DISTRICT RR-DEO ACREAGE 1.15

TAX MAP # 40 GRID # 5 PARCEL # 66 LOT # \_\_\_\_\_

SUBDIVISION NAME (if applicable) Community of Highland

PLAT NUMBER AND DATE \_\_\_\_\_

**5. PETITIONER'S INTEREST IN SUBJECT PROPERTY**

- OWNER (including joint ownership)
- OTHER (describe and give name and address of owner)

If the Petitioner is not the owner of the subject property, documentation from the owner authorizing the petition must accompany this petition.

**PLEASE READ CAREFULLY  
DATA TO ACCOMPANY PETITION**

**6. VARIANCE PLAN**

No application for a variance shall be considered complete unless the plan indicates the required setback or other requirement, and the requested variance from the subject setback or other requirement. The submitted plans shall be folded to approximately 8 ½ x 14 inches.

**The plan must be drawn to scale and must include the items listed below:**

- (a) Courses and distances of outline boundary lines and the size of the property
- (b) North arrow
- (c) Zoning of subject property and adjoining property
- (d) Scale of plan
- (e) Existing and proposed uses, structures, natural features and landscaping
- (f) Location and surface material of existing and proposed parking spaces, driveways, and points of access; number of existing and proposed parking spaces
- (g) Location of all building and use restriction lines
- (h) Same as (a) through (g) above, of any adjoining, confronting and vicinal properties as necessary for proper examination of the petition, or, if applicable, a copy of the subdivision plat for the community
- (i) Location of well and private sewerage easement area, if property is to be served by private water and sewer
- (j) Election District in which the subject property is located
- (k) Tax Map and parcel number on which the subject property is located
- (l) Name of local community in which the subject property is located or name of nearby community
- (m) Name, mailing address, telephone number (and e-mail address, if any) of the petitioner
- (n) Name, mailing address, telephone number (and e-mail address, if any) of attorney, if any
- (o) Name and mailing address of property owner
- (p) Floor area and height of structures, setback distances from property lines, and other numerical values necessary for the examination of the petition
- (q) Location of subject property in relation, by approximate dimension, to the center line of nearest intersection of two public roads
- (r) Ownership of affected roads
- (s) A detailed description of all exterior building materials for all proposed structures
- (t) Any other information as may be necessary for full and proper consideration of the

petition

7. VARIANCE

A) Describe why the application of the Zoning Regulations in question to your particular property would result in practical difficulties or unnecessary hardships in complying strictly with the bulk requirements:

1. The physical character of the property is different from the character of the surrounding properties because of its ( ) narrowness, ( ) shallowness, ( ) shape, ( ) topography, (X) other; explain: The Subject Property is 1.15 acres and, therefore, a smaller RR-DEO property. The Subject Property is also burdened by having frontage on Route 108 with the probability of having to dedicate property for an additional right-of-way as well as a 75' setback to that ultimate right-of-way.
2. The uniqueness of the property prevents me from making a reasonable use of the property because: Give the size of the Subject Property, the dedication requirement, the size of the septic fields and the various setbacks to adjacent properties, the building box is excessively small and results in an unnecessary hardship in accommodating a building that could support the proposed conditional use.

B) The intended use of the property, in the event the petition is granted: Nursing home and residential assisted care facility and parking in connection with the operation of a nursing home.

C) Any other factors which the Petitioner desires to have considered: Grant of variance would have no adverse impact on the neighborhood. A reduced setback is also more harmonious with Highland Road's Design Manual, which requires commercial buildings to be closer to major roads.

D) Explain why the requested variance is the minimum necessary to afford relief: A lesser variance would not allow the property to be properly utilized.

E) Is the property connected to: public water?:  Y  N; public sewer?:  Y  N

F) If the variance is granted, would it impact the water and/or septic/sewer on the site?  Y  N

G) If the variance is granted, would it increase the intensity of uses on the site?  Y  N; if yes, explain: \_\_\_\_\_

H) If the requested variance is granted, would it increase traffic to or from the site?  Y  N; if yes, explain: only minimally.

- I) Describe in detail all means of vehicular access onto the site (i.e. width, type of paving, etc.):  
Access to the site is gained by way of Clarksville Pike (Maryland Route 108).
- J) Describe the topography of the site: generally flat.
- K) Will the existing or proposed structure be visible from adjacent properties?  Y  N; if yes, describe any proposed buffering or landscaping: Landscaping will be in accordance with the Howard County Landscape Manual.
- L) Describe any existing buffering or landscaping: There is an existing tree line along the permimeter of the property and landscaping will be in accordance with the Howard County Landscape Manual

**8. PRIOR PETITIONS**

Has any petition for the same variance, or substantially the same variance as contained herein, for the same property as the subject of this petition, been disapproved by the Hearing Examiner within twenty four (24) months of the date of this petition?  YES  NO

If yes, and six (6) months have elapsed since the last hearing, an affidavit setting forth new and different grounds on which re-submittal is based must be attached.

**9. ADDITIONAL MATERIAL, FEES, POSTING, AND ADVERTISING**

- a) If desired, supplemental pages may be attached to the petition. The following number of petitions, plans and supplemental pages must be submitted:
- *If the subject property adjoins a State road- original and 19 copies (application & plans)*
  - *If the subject property adjoins a County road- original and 16 copies (application & plans)*
- b) The undersigned agrees to furnish such additional plats, plans, reports or other material as may be required by the Department of Planning and Zoning and/or the Hearing Examiner in connection with the filing of this petition.
- c) The undersigned agrees to pay all costs in accordance with the current schedule of fees.
- d) The undersigned agrees to properly post the property at least fifteen (15) days prior to the hearing and to maintain the property posters as required, and submit an affidavit of posting at, or before the time of the hearing.
- e) The undersigned agrees to insert legal notices, to be published one (1) time in at least two (2) newspapers of general circulation in Howard County, as prepared and approved by the Department of Planning and Zoning, within at least fifteen (15) days prior to the hearing, and to pay for such advertising costs; and further agrees to submit two (2) approved certificates of the

text and publication date(s) of the advertisement at or before the time of the hearing.

**10. PLANNING BOARD REVIEW**

The Hearing Examiner may, at its discretion, refer a residential district variance petition to the Planning Board for review and a recommendation.

**11. SIGNATURES**

The undersigned hereby affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.

Rajesh Chopra  
Petitioners Name (please print)

  
Petitioner's Signature

6/10/09  
Date

Sang W. Oh  
Counsel's Name (please print)

  
Counsel's Signature

6-8-09  
Date

\*\*\*\*\*

**For DPZ office use only: (Filing fee is \$300.00 plus \$20.00 per poster.)  
(Make checks payable to "Director of Finance")**

Hearing fee: \$ \_\_\_\_\_  
Poster fee: \$ \_\_\_\_\_  
TOTAL: \$ \_\_\_\_\_

Receipt No. \_\_\_\_\_

**PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION**

**County Website: [www.howardcountymd.gov](http://www.howardcountymd.gov)**

Revised: 10/07

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PETITIONER Rajesh Chopra

PROPERTY ADDRESS 13306 Route 108, Highland, Maryland 20777

Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended.

THE UNDERSIGNED DOES HEREBY DECLARE THAT NO OFFICER OR EMPLOYEE OF HOWARD COUNTY, WHETHER ELECTED OR APPOINTED, HAS RECEIVED PRIOR HERETO OR WILL RECEIVE SUBSEQUENT HERETO, ANY MONETARY OR MATERIAL CONSIDERATION, ANY SERVICE OR THING OF VALUE, DIRECTLY OR INDIRECTLY, UPON MORE FAVORABLE TERMS THAN THOSE GRANTED TO THE PUBLIC GENERALLY IN CONNECTION WITH THE SUBMISSION, PROCESSING, ISSUANCE, GRANT OR AWARD OF THE ATTACHED APPLICATION FOR A RESIDENTIAL DISTRICT VARIANCE AS REQUESTED FOR THE PROPERTY REFERENCED ABOVE.

I WE, DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE AFOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY, OUR, KNOWLEDGE, INFORMATION AND BELIEF.

Kelly L. Wagner  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

RAJESH CHOPRA

[Signature]

Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

6/10/09

Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## HOW A REQUEST FOR A VARIANCE IS EVALUATED

All requests for variances are evaluated based upon the following criteria of Section 130.B.2.a.(1) through (5) of the Howard County Zoning Regulations:

- (1) That there are unique physical conditions, including irregularity, narrowness or shallowness of lot or shape, exceptional topography or other existing features peculiar to the particular lot; and that as a result of such unique physical conditions, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.
- (2) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.
- (3) That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
- (4) That within the intent and purpose of these regulations, the variance, if granted, is the minimum variance necessary to afford relief.
- (5) That no variance be granted to the minimum criteria established in Section 131 for special exception uses, except where specifically provided therein or in an historic district. Nothing herein shall be construed to prevent the granting of variances in any zoning district other than to the minimum criteria established in Section 131 except as provided therein.

**To be approved, a variance request must comply with all of the criteria noted above. For a general explanation of what the criteria mean from a legal standpoint and how they are viewed by the Hearing Examiner, please read the attached Variances: The Exception to the Zoning Rule.**

For an explanation of the official procedures that are followed in the processing, hearing and decision-making of a variance request, you may obtain a copy of the Rules of Procedure of the Hearing Examiner from the Department of Planning and Zoning.

# Variances: The Exception to the Zoning Rule

by  
Thomas P. Carbo

So, Mr. Joe Homeowner, you've finally decided to build that family room addition you've talked about. Your house just isn't big enough for your growing family. Since you can't afford to move, expansion is the only way to go.

You've decided that the best place for the addition is on the side of your house, because you put a deck on the back last year. Besides, who wants to use up more of that spacious back yard? You hire a contractor to draw up plans and he assures you that his work will meet all governmental requirements. Then, he tells you that you have one little problem – the planned family room will encroach into the side yard setback. Before he can get a building permit and start work, you'll have to get a zoning variance.

"A variance," you ask, "what's that?" "Don't worry," he replies, "you fill out some forms, submit them to the County, they have a little hearing, and you've got your variance." Piece of cake, right?

Sorry, Joe, but it's not that easy. It is a common misconception that variance approvals flow from local zoning authorities like water. This may be because, once upon a time, they practically did. Recent Maryland case law, however, has instructed that the free-flow of variances is contrary to the letter and intent of the zoning laws.

A variance is an exception to the area requirements of the local zoning laws, such as front, side, or rear yard setbacks, height restriction, building size, lot widths, or the like. A variance must be reviewed and approved by the local Board of Appeals after a public hearing.

Maryland's courts have directed that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances. The reason for such stringency is rooted in the very purpose of the zoning laws. Zoning is the process whereby the local jurisdiction's comprehensive land use plan is put into effect. It divides an area into zones and defines, among other things, the permitted uses and area requirements of each zone. Zoning presumes that each district is peculiarly suitable for certain uses and, therefore, demands a high degree of uniformity within the zone. With respect to setback requirements, for example, zoning presumes that a certain amount of space between uses is necessary for the public benefit.

A variance on the other hand, allows that which is otherwise prohibited and is presumed to be detrimental to the public. Moreover, a variance erodes the uniformity of the zoning district. If variances were easily or lightly granted, the zoning ordinance would be emasculated and zoning would be rendered meaningless.

Consequently, variances must be regarded as the exception rather than the rule. An applicant for a variance bears the burden of overcoming the presumption that the proposed use is unsuitable. That is done, if at all, by fully satisfying the statute authorizing the variance.

Howard County's variance criteria are typical of most zoning ordinances. Generally, a variance applicant must show that (1) the applicant's property is disproportionately impacted by the zoning restriction to the applicant's detriment, and (2) the variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

Many variance applications fail because they cannot meet the first of these tests. In order to show that a property is disproportionately impacted by the zoning regulations, the applicant must first prove that the lot is "unique" or "peculiar" – that is, the physical condition of the property, such as its size, narrowness, shallowness, topography, or environmental conditions, must be different from the nature of surrounding properties. Moreover, the uniqueness of the property must cause a "practical difficulty" in complying with the zoning restriction. In other words, the applicant must show that the peculiarity of the site prevents him from making a reasonable and permitted use of the property in compliance with the zoning regulations.

Zoning law includes several important caveats to the "disproportionate impact" test:

- The alleged hardship must relate to the land itself and not to the personal circumstances of the owner. Family or financial circumstances may not be taken into consideration.
- "Uniqueness" does not refer to the extent of the improvements upon the property – so that the location of a house restricting the buildable area on the land is not cause for a variance.
- Any claimed hardship cannot be "self-created." For example, an applicant (or a previous owner) may not erect an improvement within a setback and then claim that it would be a "practical difficulty" to remove the structure.
- The variance must be the minimum reasonably necessary to afford relief. This means that the encroachment must be minimized and the improvement must be of reasonable and customary size.

Joe Homeowner is not likely to get his variance. First, the fact that Joe has a growing family and "needs" a new family room is a personal consideration and not relevant to his variance request. Second, if he is not able to meet his burden of proving that his lot is different from others in the neighborhood – for example, that it is peculiarly narrow or small compared to others in his area – then the inquiry will end there. Even then, he must show that the peculiarity causes a practical difficulty in erecting a reasonable addition to his house. Because his lot has ample room to build in the rear, however, it is not likely that he can establish the necessary hardship or that his variance is the minimum necessary to afford relief. What's more, he won't be able to argue that the location of the deck prevents him from building at the rear of the house because its prior construction will likely be regarded as "self-created" and not the type of "unique" condition warranting a variance.

Unwary homeowners, like Joe, need to be made aware that Howard County's Board of Appeals is, for its part, attempting to follow the courts' lead and stem the tide of unwarranted variance approvals. While this trend is perhaps not to our friend Joe's liking, it is good news for the preservation of the County's comprehensive land use plans.



**GENERAL NOTES:**

1. THE CONTOURS AND ELEVATIONS SHOWN HEREON ARE BASED ON A FIELD RUN SURVEY PERFORMED BY ROBERT H. VOGEL ENGINEERING INC., APRIL 2008.
2. THE BOUNDARY LINES SHOWN HEREON ARE BASED ON A BOUNDARY SURVEY PREPARED BY ROBERT H. VOGEL ENGINEERING, DATED APRIL 2008.
3. PROJECT IS LOCATED IN THE COMMUNITY OF HIGHLAND, HOWARD COUNTY, MARYLAND.
4. ALL LIGHTING SHALL BE DIRECTED DOWN AND AWAY FROM RESIDENTIAL PROPERTIES. LIGHTING TO CONFORM TO SECTION 134 OF THE REGULATIONS. THERE IS NO PARKING LOT LIGHTING PROPOSED.
5. THERE ARE 16 BEDS PROPOSED.
6. THE GROSS AREA OF THE PARCEL IS 50,630 SF OR 1.16 AC.
7. THE NORTHEAST SETBACK TO RESIDENTIAL PROPERTY TO BE REDUCED TO 28' FOR PARKING, PER SECTION 131.N.37.(2) OF THE ZONING REGULATIONS.
8. 50' PARKING AREA SETBACK TO RESIDENTIAL AS REDUCED BY HEARING AUTHORITY TO 28' (FENCE AND LANDSCAPE REQUIRED)
9. AREA WITHIN THE BUILDING ENVELOPE IS 17,282 SF. GREEN SPACE REQUIRED WITHIN THE BUILDING ENVELOPE IS 3,450 SF, OR 20% OF THE BUILDING ENVELOPE. GREEN SPACE PROVIDED WITHIN THE BUILDING ENVELOPE IS 11,673 SF, OR 67.7% OF THE TOTAL BUILDING ENVELOPE.
10. THERE WILL NOT BE A LIGHTED SIGN.

**CONDITIONAL USES REQUEST:**

1. 131.N.37 NURSING HOMES AND RESIDENTIAL CARE FACILITIES.

**VARIANCES REQUESTED:**

1. SECTION 105.E.4.b.(1) - REDUCE FRONT SETBACK TO A MAJOR COLLECTOR ROADWAY FUTURE RIGHT-OF-WAY LINE FROM 75' TO 50' FOR A BUILDING, AND 27' FOR A PRIVACY FENCE.

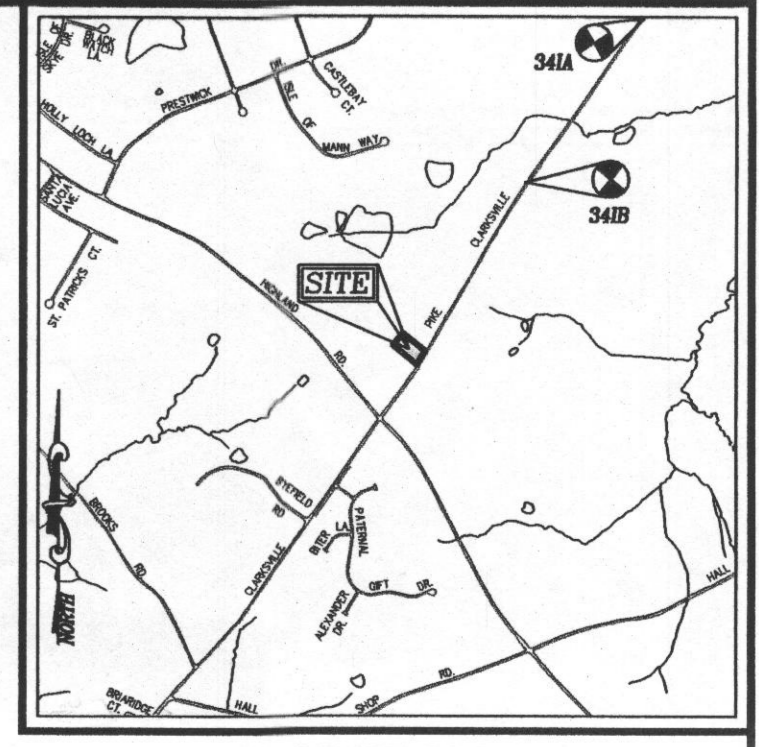
**PARKING REQUIREMENTS:**

1. PARKING SPACE PER 2 BEDS
- 16 BEDS / 2 = 8 SPACES REQUIRED
- 8 SPACES PROVIDED

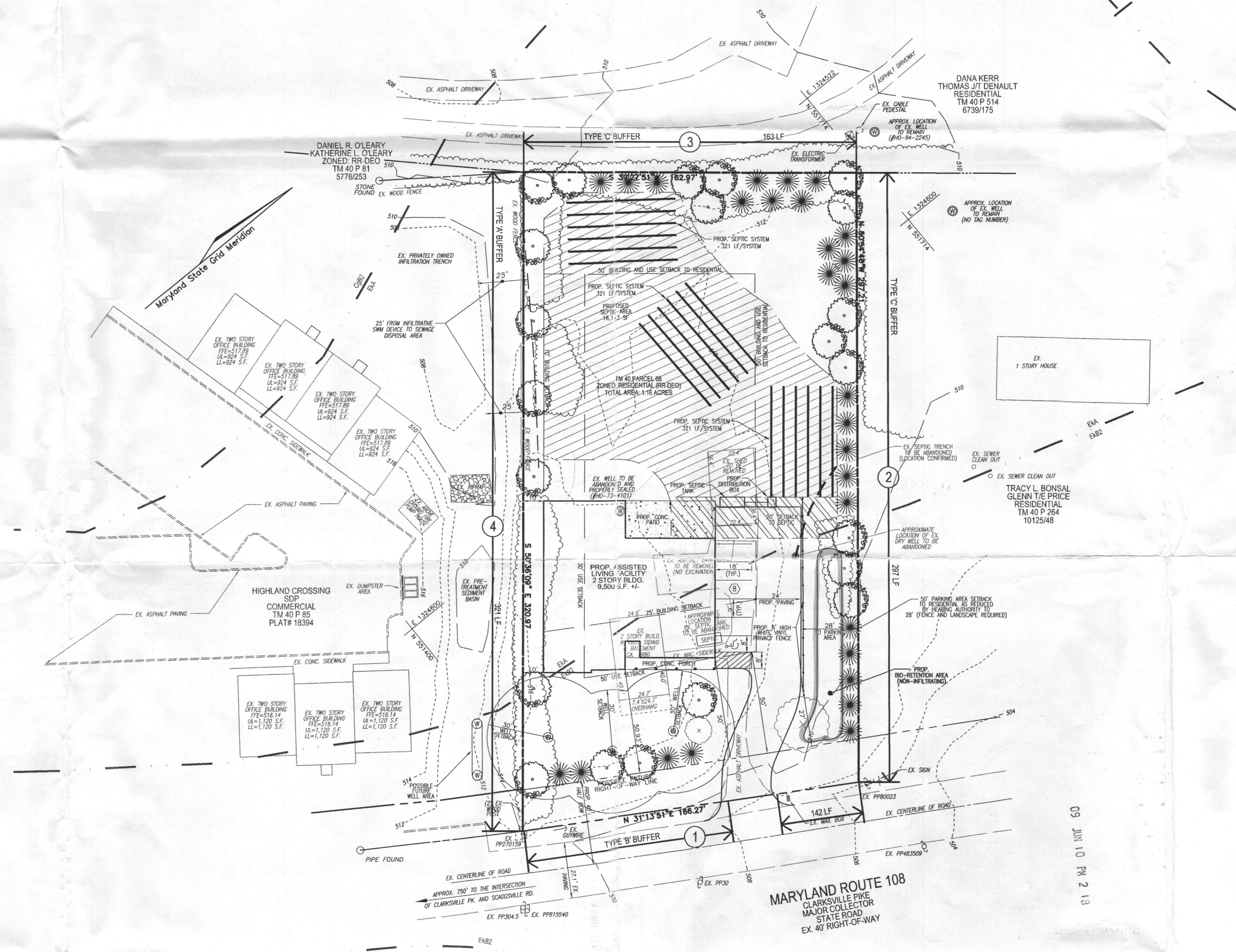
**BENCHMARKS**

NO.	NORTHING	EASTING	ELEVATION
341A	553271.91	1325838.75	471.94
341B	554973.52	1327078.77	442.80

341A - CONCRETE MONUMENT WITH BRASS DISC, LOCATED ON THE EAST SIDE OF ROUTE 108, 7' BACK FROM THE EDGE OF THE PAVEMENT, AND 0.1' BELOW SURFACE.  
341B - CONCRETE MONUMENT WITH BRASS DISC, LOCATED ON THE WEST SIDE OF ROUTE 108, 2' BACK FROM THE EDGE OF THE PAVEMENT, AND 0.1' BELOW SURFACE.



**VICINITY MAP**  
SCALE: 1"=2,000'  
ADC MAP COORDINATE: PG. 14 / C-12



**LEGEND**

RIGHT-OF-WAY LINE	---
BOUNDARY LINE	---
ADJACENT BOUNDARY LINE	---
EXISTING CONTOURS	---382--- ---380---
EXISTING TREE LINE	~~~~~
SOIL BOUNDARY	CgB2 EKA
PROPOSED WELL	⊙
EXISTING WELL	⊕
EXISTING TREES	⊙ ⊕
EXISTING UTILITY POLE AND GUYWIRE	⊕ →
EXISTING STREET SIGN	⊕
PROP. LANDSCAPE BUFFER	①
PROP. SHADE TREE	⊙
PROP. EVERGREEN TREE	⊙

**PROPERTY ADDRESS**  
13306 CLARKSVILLE PIKE  
HIGHLAND, MARYLAND 20777

**ATTORNEY**  
SANG OH, ESQUIRE  
5100 DORSEY HALL DRIVE  
ELLCOTT CITY, MD 21044  
(410) 964-0300

**OWNER**  
RAJESH CHOPRA  
10308 CASTLEFIELD STREET  
ELLCOTT CITY, MD 21042

**DEVELOPER**  
LAND DESIGN AND DEVELOPMENT  
JOSEPH RUTTER  
5300 DORSEY HALL DRIVE  
ELLCOTT CITY, MD 21042  
443-367-0422

**PERIMETER LANDSCAPE SCHEDULE**

BUFFER #	LANDSCAPE EDGE TYPE	LANDSCAPE CHARACTER	SHADE TREES (REQUIRED)	EVERGREEN TREES (REQUIRED)	SHADE TREES (PROVIDED)	EVERGREEN TREES (PROVIDED)
1	'B' BUFFER	MODERATE	1:50 3	1:40 4	3	4
2	'C' BUFFER	HEAVY	1:40 7	1:20 15	8	15
3	'C' BUFFER	HEAVY	1:40 4	1:20 8	5	9
4	'A' BUFFER	LIGHT	1:60 5	0	6	0

**SOILS LEGEND**

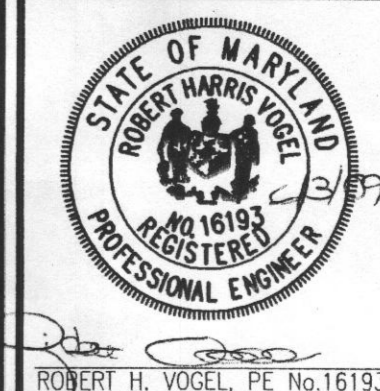
SYMBOL	NAME / DESCRIPTION	TYPE
CgB2	CHESTER GRAVELLY SILT LOAM, 3 TO 8 PERCENT SLOPES, MODERATELY ERODED	B
EKA	ELIOAK SILT LOAM, 0 TO 3 PERCENT SLOPES	B
EKB2	ELIOAK SILT LOAM, 3 TO 8 PERCENT SLOPES	B

**SITE PLAN**  
SCALE: 1"=30'

NO.	REVISION	DATE

**CONDITIONAL USE PLAN**  
**RESIDENTIAL CARE FACILITY**  
CHOPRA PROPERTY  
13306 ROUTE 108  
L 10409/F 493  
TAX MAP 40, BLOCK 5, PARCEL 66  
ZONED: RR-DEO  
5TH ELECTION DISTRICT  
HOWARD COUNTY, MARYLAND

**ROBERT H. VOGEL, INC.**  
ENGINEERS • SURVEYORS • PLANNERS  
8407 MAIN STREET  
ELLCOTT CITY, MD 21043  
TEL: 410.461.7666  
FAX: 410.461.8961



**PROFESSIONAL CERTIFICATE**  
DESIGN BY: RHV  
DRAWN BY: JMR  
CHECKED BY: RHV  
DATE: MARCH, 2009  
SCALE: AS SHOWN  
W.O. NO.: 07-21

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 16193, EXPIRATION DATE: 09-27-2010.

1 SHEET OF 1