

Tax Map/Block/Parcel
No. 39-19-508

Building Permit/Zoning
Certificate No. 98-0083

Case 4295

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPELLANT: Westminster Bank and Trust
71 East Main Street
Westminster, Maryland 21157

ATTORNEY: Charles O. Fisher, Jr., Esquire
179 East Main Street
Westminster, Maryland 21157

REQUEST: An appeal of the Carroll County Planning and Zoning Commission's decision approving the "Second Amended Plan" - Carroll Plaza Shopping Center - Papa John's Carryout

LOCATION: West of Englar Road and South of Maryland Route 140 on property zoned "B-G" General Business District in Election District 7

BASIS: Article 17, Section 17.2(a); Ordinance 1E (The Carroll County Zoning Ordinance)

On February 27, 1998, the Carroll County Board of Zoning Appeals, (the "Board"), convened to hear the appeal filed by Westminster Bank and Trust Company of Carroll County of the decision of the Carroll County Planning and Zoning Commission approving the site plan titled "Second Amended Plan" - Carroll Plaza Shopping Center - Papa John's Carryout (S97-007J), dated December 16, 1997. The appellant was represented by Charles O. Fisher, Jr., Esquire. Also present was the owner and developer, Mr. Wayne Smith, a principal in Carroll Plaza, LLC.

Carroll Plaza Shopping Center was developed following approval of the site development plan by the Carroll County Planning and Zoning Commission in 1967. Since then the shopping center has been before the Board of Zoning Appeals several times. Two cases, 2970 and 3437, involve variances to the minimum parking requirements.

In Case 2970, the Board conditionally authorized reduction of the minimum required parking spaces from 435 spaces to 399 spaces for the entire shopping center as depicted by a site plan identified as "Scheme B." (Appellant's Exhibit #2). In Case 3437, the Board authorized a second variance to allow establishment of a photo service kiosk without providing three required parking spaces.

The shopping center is completely developed. The proposed use is a substitution of a pizza carryout restaurant with no dining facility for the photo service kiosk authorized in Case 3437. In many ways this request is similar to the Case 3634 (also affecting the subject property) request for a variance for the required parking to authorized the erection of a similar type business. The Board denied the variance request of Case 3634 for a reduction of the number of parking space requirements as authorized. To alleviate the need for a second variance request, the owner/developer redesigned the total retail area of the center. The redesign reduced the retail area sufficiently so as to comply with the parking requirements. The new site plan approved by the Planning Commission, (Appellant's #1), modifies the traffic pattern near one of the entrances to the site.

The appellants raised three issues on appeal: 1) The Planning Commission erred in approving the proposed site because the site plan did not conform to "Scheme B" approved in Case 2970; 2) the Planning Commission erred in approving the site plan because it authorized a traffic pattern which does not conform to the subdivision regulations; and, 3) the Planning Commission erred in approving the site plan because it created an dangerous traffic condition for the pedestrians in the area.

The following are the Board's findings and conclusions. The modification suggested to the traffic pattern are minor and insignificant. The Board finds that the proposed site conforms to "Scheme B" and no variance is required. The differences noted by the appellant between the site plan and "Scheme B" are not so significant as to warrant a variance or modification to the Board's prior decision.

The Board finds that by some slight modifications to the proposed site plan, the appellants other concerns can be addressed. The appellant argues that the proposed traffic pattern has three lanes of traffic in a 25 foot area. The lane of traffic adjacent to the Monroe Street leading to the bank drive through is 25 foot wide. With two lanes of traffic devoted to the drive through and a third lane for through traffic, the appellants argue that there should be at least 33 feet available. The Board notes that "Scheme B" is identical in appearance as the proposed plan. The problem contemplated by the appellants can be resolved by stripping one lane for the bank drive through window traffic and by striping one lane for all other through traffic. Persons wishing to use the drive through would form a single line which would feed into the 2 drive through bays. In addition, the appellants propose to modify the nearby existing entrance by widening the entrance to permit three lanes of traffic, one lane entering the center, one lane right turn exit only, and the third lane left turn exit only. (See attached drawing). The Board finds the proposal to be an improvement warranting its implementation. In addition, the Board requires the installation of a sign as depicted on the attached

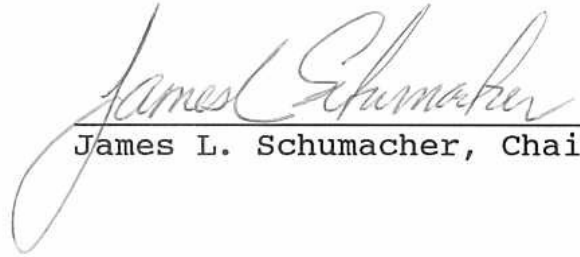
drawing.

The Board hereby remands the site plan to the Carroll County Planning and Zoning Commission for considering implementation of the required modifications.

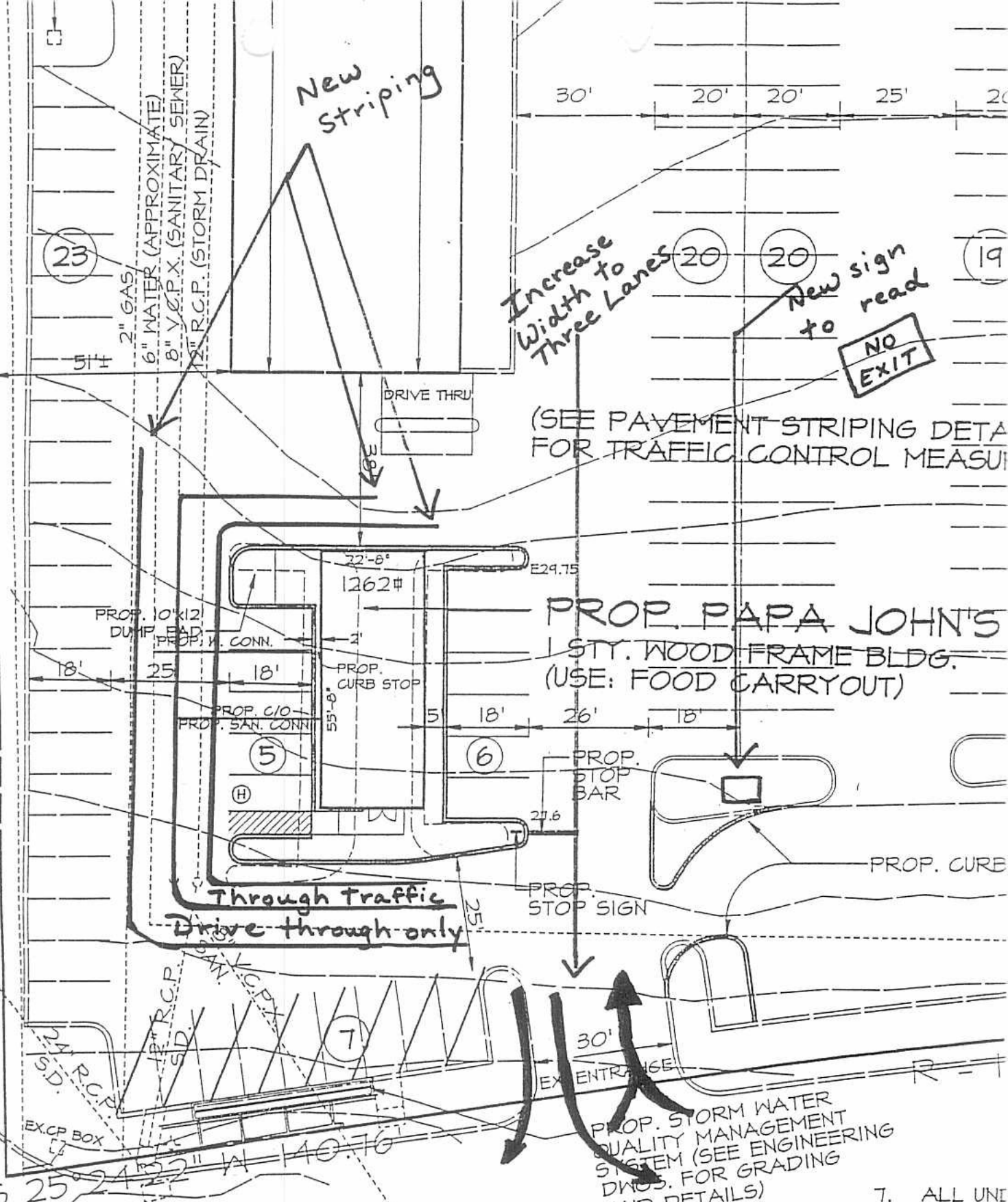
March 20, 1998

Date

IM/bmh/c4295dec.bmh
March 19, 1998


James L. Schumacher, Chairman

N 57°17'4"W 515.44'



NOTES:

1. THE PROPERTY HEREON IS OWNED BY: C. WAYNE SMITH, BY DEED DATED 2/21/96, RECORDED AMONG THE LAND RECORDS OF CARROLL COUNTY IN LIBER 1770 FOLIO 0199.
2. THE LOCATION OF EXISTING UTILITIES SHOWN HEREON ARE APPROXIMATE ONLY. CONTRACTOR SHALL VERIFY THE EXISTENCE, LOCATION, AND DEPTH OF ANY EXISTING UTILITIES AND SHALL NOTIFY THE ENGINEER OF ANY DISCREPANCIES PRIOR TO BEGINNING WORK.
3. THE CONTRACTOR SHALL NOTIFY "MISS UTILITY" AT 1-800-257-7777 THREE

7. ALL UNDE
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CITY OF PUBLIC