

normal residential appearance. These peculiarities are character-defining and, along with the historic "Sycamore Store" sign, greatly contribute to the historic nature of the property.

The Petitioner will not expand the size of the existing structure nor in any way increase the usable area of the primary structure, beyond the enclosure of the existing screened porch and erection of an exterior stair from the existing rear balcony. The Petitioner will restore and maintain the structure in accordance with applicable Historic Preservation Ordinances.

The Petitioner will demolish an existing accessory structure (detached garage) and will not erect any new accessory structure for parking or garaging of vehicles on the premises or for any other purpose. A small retaining wall, incorporated into the garage to be demolished, will be re-established in stone, similar to the main wall, and will be relocated along the property line, per the site development plan. The main retaining wall in the rear and side yards of the property will be maintained and/or replaced in the current location and will not be relocated.

The MacArthur Boulevard right-of-way (currently owned by the Army Corps of Engineers) between the property line and the paved street, is landscaped in a residential manner, providing the appearance of a residential front yard for the property. The Petitioner will continue routine landscape maintenance of the yard and will not enter into a lease or other agreement for any use of this area, including the parking of vehicles. Landscape improvements are proposed in accordance with the attached Landscaping Plan.

Signage:

The Petitioner will preserve the historic "Sycamore Store" sign in its present location. If the internal lighting of the sign is restored, such lighting will not operate between the hours of 9:00pm and 7:00am, daily. The Petitioner will erect no more than one additional Occupant Sign,

in accordance with all applicable laws and such sign will have no internal lighting. External lighting of the Occupant sign will not operate between the hours of 9:00pm and 7:00am daily.

Proposed Staffing, Primary Services, and Hours of Operation:

This office will primarily provide architectural services to local homeowners. Primary office hours will be 7:00am - 5:30pm, Monday – Friday. Extended public hours will not exceed 2 evenings per week, until 7:00pm. A maximum of 4 staff members will be present at any time outside of primary office hours.

Brenneman & Pagenstecher is a business in which customer service is critical and fluctuations in workload are common. It is, therefore, reasonable to expect as with any other demanding business enterprise, that there will be occasions when an individual employee will work late at night, or arrive earlier than 7:00 a.m. to complete a “rush” project. However, these incidents of expanded work hours are more the exception than the rule and the primary office hours described above represent the overwhelming number of man hours realized during any extended time period.

Staff employed at this location will include one principal architect, two project architects, one architectural drafter, two administrative staff and one business partner in charge of construction and execution of the firm’s designs. The Petitioner operates on a flex-schedule, staggering the comings and goings of staff, whose typical schedules are as follows:

Position	Avg. workday...		Avg.hrs/day in office *
	Begin	End	
Principal Architect **	8:30am	6:30pm	5
Project Architect 1**	6:00am	4:30pm	5
Project Architect 2**	8:00am	5:00pm	7
Architectural Drafter**	9:30am	6:30pm	8
Office Manager	9:00am	5:30pm	8.5

Bookkeeper/Admin. Asst.	8:30am	5:00pm	8.5
Partner – Production**	6:00am	4:00pm	4

\* Professional staff work more than 8 hrs per day Monday-Thursday, but have every-other Friday off, or work a ½ day every Friday, at their discretion.

\*\* Avg. workday begin and end times do not match avg. hrs/day in office because staff spends the balance of time in the field. Actual office arrival and departure times vary significantly from day-to-day.

Other Facilities:

The Petitioner maintains a separate contracting office @ 11145 Liberty Mills Road, Orange, Virginia, 22960, accommodating the estimating, purchasing, and contracting staff associated with the construction of the firm's work. Receipt and storage of building materials occurs primarily at client's job-sites, but the Petitioner also maintains a storage facility @ 3700 Plyers Mill Road, Kensington, MD, 20895.

The Petitioner also leases space in a storage lot in Kensington, MD for overnight parking of one large construction vehicle. No trucks and vans utilized by field-personnel, nor any vehicles displaying business signage, will be parked overnight on the subject property.

Parking capacity and setbacks:

The structure contains approximately 2,500 square feet of habitable area. Section 59-E-3.7 of the Ordinance requires 2.5 parking spaces per 1,000 Square Feet, or 6.25 parking spaces total. The petitioner proposes a parking area for seven (7) vehicles, to be located on the north side of the building, roughly in the location of the current gravel parking area and garage. However, Section 59-E-2.83(b) of the Ordinance requires that each parking and loading facility, including each entrance and exit driveway, must be set back a distance not less than the

applicable building front and rear yard and twice the building sideyard required in the zone. In the R-90 zone for lots platted before 1928 (See Section 59-B-5.3(a) of the Zoning Ordinance), the rear yard setback is 20 feet, so the requirement for a parking facility rear yard setback would be 20 feet. (For the subject property, Mac Arthur Boulevard has been identified as the front yard so the common property line with adjacent Lot 32 is deemed to be the "rear yard".) Further, the front yard setback requirement would be 25 feet. In this case, the driveway and parking spaces as proposed do not meet the setback requirement of Section 59-E-2.83(b) for the front and rear yards. The layout of the lot is such, however, that it is not possible to move the parking area in order to comply with the setback requirement while still preserving the historic structure.

In order to place the parking area at this location, therefore, Petitioner requests that the Board grant a waiver of the normal parking standards, pursuant to Section 59-E-4.5 of the Montgomery County Zoning Ordinance. 59-E-4.5 provides as follows:

*"The Director, Planning Board, or Board of Appeals may waive any requirement in this Article not necessary to accomplish the objectives in Section 59-E-4.2, and in conjunction with reductions may adopt reasonable requirements above the minimum standards. Any request for a waiver under this Section must be referred to all adjoining property owners and affected citizen associations for comment before a decision on the requested waiver."*

The objectives set out in Section 59-E-4.2 include the protection of the health, safety and welfare of those who use the adjoining land (including control of noise, glare, reflection, lights, fumes, etc.) by the use of landscaping, walls, fences, etc; safety of pedestrians and motorists; safe circulation; and appropriate lighting. In this case, there would be no adverse impact on private residences, as the adjoining residential property is a steeply sloped lot with a house situated over

30' above the grade of the parking area. This severe change in grade as well as a fence at the top of the hill, a stone retaining wall, and vegetation on the slope itself provides adequate separation between Petitioner's property and the adjacent residence on Lot 32. Petitioner therefore believes that it is reasonable for the Board grant a waiver of the provision of 59-E-4.2 for the following reasons:

1. The setback requirement of 59-E-2.83 (b) is intended to ensure compatibility when allowing a non-residential use in an established residential zone. The non-residential use of this property was established long before the development of adjacent residences and the adoption of current zoning codes. Nonetheless, the proposed change to a lower intensity professional office use is inherently more compatible with a residential zone than was the previous commercial use. In addition, the preservation of the residential character of the property is ensured via historic designation and review.
2. Effective screening, in the form a steep slope capped with a board-on-board fence and existing plantings, already accomplishes the objectives of 59-E-4.2, including the reduction of glare, screening, etc. A new stone retaining wall along the adjoining property line will further reduce impact.
3. The adjacent residence utilizes two parking spaces, informally paved in the public right-of-way, immediately adjacent to the lot line. This has maintained and reinforced the traditional pattern of parking along Walhonding road in this area; so no compatibility issues arise.
4. The layout does meet the requirements for setback for a main building in the R-90 zone and the setback requirements that would otherwise apply to a parking facility within or adjoining a residential zone that is not subject to a special exception (59-E-2.81).

### Routine Visitor Traffic and Parking:

Routine visitor traffic to the Petitioner's office is expected to be light. In a typical week, one or two clients will visit the office for an architectural meeting. Most client meetings are held at clients' homes. In addition, the Petitioner averages one miscellaneous meeting a week with a business associate (attorney/accountant/vendor/field employee, etc.); these meetings typically last between one and two hours. Lastly, there are the normal assortment of incidental pick-ups and deliveries (US Mail, UPS, FedEx and a company driver). These visits average 2-3 per day and last less than 15 minutes.

Visits to the office by field personnel average about twice a month. Professional staff communicates with field personnel via email, telephone, fax, and frequent jobsite visits. Field personnel (both Petitioner's staff and subcontractors) will not report to the Petitioner's offices for daily instructions, as they are expected to report directly to jobsites.

Since Petitioner's professional staff operates on a flex-schedule, spend a substantial amount of time on jobsites, and routinely telecommute via the Internet, they are typically not all in the office at the same time. Accordingly, routine visitor parking will generally be accommodated on-site. While the Petitioner cannot forbid parking in the public parking lot across MacArthur Boulevard, it will actively discourage the use of this lot by staff and visitors.

### Occasional Peak Visitor Parking:

The Petitioner typically holds a lunch meeting with all office staff and 2-3 field staff every other Wednesday, from 12:00 – 1:30pm. The Petitioner also typically holds a full-company meeting on the alternate Wednesdays from 3:30 – 5:30pm. On these occasions, as well as any others that generate unusual parking requirements, the Petitioner will organize ridesharing, off-site shuttles, or alternative means to prevent parking congestion.

Neighborhood Compatibility:

The Petitioner has conducted an extensive process of community consultation including: community information meetings, informational mailings, public hearings, and an informational Internet website: [www.sycamorestore.com](http://www.sycamorestore.com). Many of the representations made herein were developed in the course of these exchanges and made in deference to the residential character of the surrounding communities.

Residents of the surrounding neighborhoods of Glen Echo Heights, Mohican Hills, and the Glen Echo area at-large have expressed overwhelming support for the Petitioner's proposed preservation, restoration and adaptive re-use of the Sycamore Store. In addition, all homeowners in the immediate proximity of the subject property support this Special Exception. One local resident testified in opposition of a non-residential use of the Sycamore Store property. That person is not a directly effected neighbor and did not represent the majority view. The Planning Board and the County Council, in deliberating Zoning Text Amendment 05-01, considered the testimony of this person and unanimously approved the Amendment.

Conclusion:

The Petitioner proposes a low-impact non-residential use for this unique property, ensuring financial viability for the restoration and upkeep of this historic landmark. Great care has been taken, via historic designation as well as the conditions included in this application, to ensure neighborhood compatibility for both the immediate future and the long-term. The Petitioner has sought and received significant support for this use from the community as an alternative to the mounting trend of teardowns and redevelopment of older properties. The petitioner welcomes the opportunity to reinvigorate this local landmark for generations to come.



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan  
County Executive

Robert C. Hubbard  
Director

March 25, 2005

Jody S. Kline, Esquire  
Miller, Miller & Canby  
200-B Monroe Street  
Rockville, Maryland 20850

Dear Mr. Kline: *Jody*

Thank you for your letter Of March 1, 2005 requesting an interpretation of the definition professional as it related to nonresidential professional office.

I have reviewed the information in your letter and concur that Brenneman & Pagenstecher, Inc. would be viewed as and qualify as a nonresident professional office. The Department of Permitting Services would expect that professional offices would have support staff.

If you need additional information please contact me at 240-77-6255.

Sincerely,

*Susan*

Susan Scala-Demby  
Permitting Services Manager  
Zoning





LAW OFFICES

# MILLER, MILLER & CANBY

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CHARTERED

200-B MONROE STREET  
ROCKVILLE, MARYLAND 20850

(301) 762-5212  
FAX (301) 762-6044

JAMES R. MILLER, JR.\*  
PATRICK C. MCKEEVER  
JAMES L. THOMPSON  
LEWIS R. SCHUMANN  
JODY S. KLINE  
ELLEN S. WALKER  
MAURY S. EPNER  
JOSEPH P. SUNTUM  
SUSAN W. CARTER  
ROBERT E. GOUGH  
DONNA E. MCBRIDE  
MICHAEL G. CAMPBELL  
SOO LEE-CHO  
W. CHRISTOPHER ANDREWS  
*\*Of Counsel*

March 1, 2005

Ms. Susan Scala-Demby  
Montgomery County Department of Permitting Services  
255 Rockville Pike, 2nd Floor  
Rockville, MD 20850

RE: Request for Interpretation of the Definition of "Professional"  
as it is found in Sections 59-A-1 and Section 59-G-2.58

Dear Susan:

Our client, Brenneman & Pagenstecher, Inc., wishes to locate its offices in an existing (but now vacant) building (the "Sycamore Store"), located in a residential zone, by special exception, as an "office, professional, nonresidential". The purpose for this letter is to verify that Brenneman & Pagenstecher, Inc. would qualify as an office of professionals and thus would be eligible to petition for a special exception pursuant to Section 59-G-2.38 (attached) of the Montgomery County Zoning Ordinance.

Dean Brenneman (architect) and Peter Pagenstecher (builder) originally had their own firms – Dean and his associates creating remodeling plans for residences while Peter was in the business of reconstructing residences, sometimes those designed by Dean's firm. They merged their firms in 1997 to create a combined company dedicated to the art and craft of residential remodeling using a process the principals call "Architecture/Build" which they believe is significantly more sophisticated and more integrated than "Design/Build" as typically practiced.

By way of background, Mr. Pagenstecher's firm was formed in 1981. At the time of merger, his office staff consisted of only two full time employees and a part-time employee, all working out of a single room above one of the owner's garage. All other employees were carpenters or laborers who worked exclusively at job sites.

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In 1997, Mr. Brenneman's firm had six full time and one part-time employee, all working in a single office. The merger of the respective firms allowed for not only the creation of a "seamless" process between design conception and product delivery but also for more efficiency in operation by consolidating administrative (i.e., bookkeeping, contract administration, etc.) functions.

As you review below the unique characteristics of Brenneman & Pagenstecher, Inc., keep in mind that most professional architecture firms administer the construction of their designs. Some architects accomplish this function through oversight of a general contractor. Others – such as Brenneman & Pagenstecher – retain more direct control over the construction work by negotiating and administering contracts directly with the various trades. They then regularly visit job sites to ensure that construction is proceeding in accordance with the design conceived and the plans prepared in the home office.

We recognize that a pure “builder” must locate its base of operations in space classified as “general office use”. For that reason, we have tried to explain above how Brenneman & Pagenstecher is, at its core, a professional architecture firm. Residential construction management is an integral part of the firm’s architectural product, but it is a function which is conducted almost exclusively outside of the home office.

To further ensure that use of the Sycamore Store will be devoted to professionals, Brenneman & Pagenstecher will structure its operations, and its special exception petition, so that the Sycamore Store will be used and occupied almost exclusively by those persons specifically identified in the Zoning Ordinance as “professionals” (registered, licensed or graduate architects and their associated administrative staff). Below is a detailed breakdown of B & P’s entire staff, their job functions and their work location.

**Main Office Staff (Sycamore Store):**

Qty	Position	Qualification/Job Function
1	Principal Architect	Registered Architect/oversees architectural process
3	Architectural Designers	Graduate Architects/prepare architectural plans & specifications
1	Office Manager	Assists Principal Architect & Manages office
1	Admin/Bookkeeping Asst.	General office assistance and bookkeeping
1	Principal Builder	Licensed Builder/oversees estimating and field staff

**Contracting Office Staff (Orange, VA):**

Qty.	Position	Qualification/Job Function
1	Estimator	Graduate Architect/estimates project costs and negotiates contracts
1	Assistant Estimator	Graduate Accountant/assists Estimator

**Field Staff:**

Qty	Position	Qualification/Job Function
1	Production Coordinator	Graduate Architect/facilitates communication between client, field staff, subs, suppliers & office
4	Lead Carpenters	Schedule subs & suppliers; manage jobsites
1	Customer Care Carpenter	Service past client needs
6	Carpenters	Perform carpentry under direction of Leads
1	Laborer/Driver	Haul materials and debris to/from jobsites

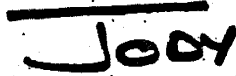
Note that four of the seven employees based in the home office are design professionals with degrees in Architecture. Two employees are administrative staff typically associated with the operation of an architect's office. Peter Pagenstecher, co-owner of the company ("Principal Builder"), will have a desk in the Sycamore Store from which he will participate in the collaborative design process when he is not in the field supervising B & P's own employees (listed) or firms with which it has contracted to perform specified work (e.g., stonework, plumbing, electrical, etc.). Although the "contracting office" is also run by "professionals", that operation is based in Orange, Virginia. The various employees involved with the actual construction of residences to be remodeled ("Field Staff") travel from home directly to job sites, will have no locker room facilities at Sycamore Grocery and will visit the headquarters offices infrequently.

In summary, we have tried to explain in this letter how Brenneman & Pagenstecher, Inc. is an integrated firm of design professionals and how its proposed use of the Sycamore Store would qualify as a nonresident professional office. What we are seeking is your office's confirmation of our understanding of Sections 59-A-1 (attached) and 59-G-2.38 of the Zoning Ordinance. Of course, should you require further information in order to respond to this request, we would be pleased to provide such information.

Thank you for your consideration of this letter.

Sincerely yours,

MILLER, MILLER & CANBY



Jody S. Kline

JSK/dlt

Enclosures

cc: Dean Brenneman

MONTGOMERY COUNTY CODE  
ZONING ORDINANCE  
Chapter 59

§59-G-2.37

Article 59-G

- (f) An application for a special exception for this use must include an expansion plan showing the location and form of any expansions expected to be made in the future on the same site.
- (g) Any nursing home, or domiciliary care home for more than 16 residents lawfully established prior to November 22, 1977, is not a nonconforming use, and may be extended, enlarged or modified by special exception subject to the provisions set forth in this section.
- (h) Any application for nursing home and/or care home which is pending at the Board of Appeals as of February 24, 1997 at the request of the applicant, may be processed under the applicable provisions of the Zoning Ordinance in effect at the time the application was filed.

(Legislative History: Ord. No. 8-55, § 12; Ord. No. 13-47, § 13.)

Editor's note—Section 59-G-2.37 is cited in Concerned Citizens of Great Falls v. Constellation-Potomac, 122 Md. App. 700, 716 A.2d 353 (1998).

Cross references—Group residential care facilities, ch. 23A; hospitals, sanitariums, nursing and care homes, ch. 25.

**Sec. 59-G-2.38. Offices, professional, nonresidential.**

An existing single-family structure may be used for professional office purposes by any member or members of a recognized profession, such as doctors, lawyers, architects, accountants, engineers, veterinarians, but not including the following:

- (a) medical, dental or veterinarian clinics
- (b) in-patient treatment facilities
- (c) general business offices, such as the offices of insurance companies, trade associations, manufacturing companies, investment concerns, banks or real estate companies.

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The property must be:

- (a) located in a central business district that is designated as being suitable for the transit station-residential (TS-R) zone on an approved and adopted sector plan; or,

MONTGOMERY COUNTY CODE  
ZONING ORDINANCE  
Chapter 59

Article 59-G

- (b) designated as being suitable for nonresidential professional offices in the R-60 zone on an approved and adopted master or sector plan and is located along a major highway with an existing right-of-way width of no less than 90 feet or along that portion of an arterial road designated as a boundary of a central business district.

The Board must find that the property meets the following criteria:

- (a) Such use will not constitute a nuisance because of traffic or physical activity;
- (b) Such use will not affect adversely the use and development of adjacent properties;
- (c) A minimum of 25 percent of the lot area shall be devoted to green area;
- (d) The board may allow the exterior of the premises to be changed, altered or modified provided the single-family character and the basic residential appearance of the building is retained.

(Legislative History: Ord. No. 8-83, § 2; Ord. No. 9-37, § 1; Ord. No. 10-32, § 18; Ord. No. 13-76, §1; Ord. No. 14-47, § 1.)

**Sec. 59-G-2.38.1. Offices, general.**

A special exception may be granted for general offices subject to the following provisions:

- (a) In the I-4 zone, a general office use may be allowed upon a finding, in addition to the general findings required in Division 59-G-1, that the following 2 conditions are met:
  - (1) The location of such proposed use is adequately accessible by means of existing and proposed roads and public transportation facilities, and the proposed use will not have an unacceptably adverse effect on nearby roads. The location shall be deemed adequately accessible via roads and public transportation facilities if any of the following conditions are present:
    - (i) Existing publicly maintained, all-weather roads are adequate to accommodate the traffic that would be generated by the proposed use, in addition to existing traffic and traffic that will be generated by other development on existing recorded lots; or
    - (ii) Any additional roads, necessary in combination with existing roads to accommodate the additional traffic that would be generated by the proposed use, are proposed on an adopted master plan and are programmed for completion in the first 3 years of either the current

Article 59-A

**Nursing home:** A facility licensed, funded, certified, or registered by the State of Maryland or the County devoted primarily to the maintenance and operation of resources for the treatment and care of persons suffering from illness, disease, aging, or injury, not requiring extensive or intensive care that is normally provided in a hospital, but who require care in excess of room and board and who need the on-site availability of medical, nursing, convalescent or chronic care. A nursing home is not a "group home."

**Office, general:** An office for the use of (a) professional persons such as doctors, lawyers, accountants, etc., or (b) general business offices such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

**Office, professional, nonresidential:** An existing single-family structure used for professional office purposes by any member or members of a recognized profession, such as, but not limited to, doctors, lawyers, architects, accountants, engineers and veterinarians, but not including medical, dental or veterinarian clinics or inpatient treatment facilities. Professional offices do not include general business offices, such as the offices of insurance companies, trade associations, manufacturing companies, investment concerns, banks or real estate companies.

**Office, professional, residential:** See "home occupation" and "home health practitioner's office."

**Opportunity housing project:** A housing project developed pursuant to chapter 2, article IX, public facility area development, Montgomery County Code, as amended, and reviewed and approved by the district council in accordance with the procedure set forth in section 59-A-6.8.

**Overlay zone:** A geographic area that constitutes a mapped district superimposed over the underlying base zone on the official zoning map. An overlay zone includes development regulations and standards that either add to or modify the requirements of the underlying zone.

**Paddock:** A fenced area, internal to an equestrian facility, where horses are exercised or pastured. Paddock fencing is not perimeter fencing of an equestrian facility.

~~**Parent:** A parent includes a father or mother related to a child by blood or by adoption, including a father or mother of a legitimate or illegitimate child. A parent does not include a stepparent, a foster parent or grandparent.~~

**Parking facility:** See "automobile parking facility."

**Parking lot:** See "automobile parking lot, commercial."