



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
*Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections*

September 27, 2012

ASC Partnership, LLC
Anthony Nicholas O' Brien
1304 Concourse Drive, Suite 120
Linthicum, Maryland 21090

Dear Mr. O' Brien:

RE: 1304 Ruxton Road, Spirit and Intent, Case No. 2011-0047-A

Your June 6, 2012 letter addressed to Mr. Arnold Jablon, Director of Permits, Approvals, and Inspections requesting a Spirit and Intent opinion regarding the above referenced case has been referred to this Office for reply.

In your letter you have requested approval to change the location of the swimming pool from the location represented in the referenced case.

Your request has been carefully reviewed by this Office. Mr. Carl Richards Zoning Supervisor, has determined that in consideration of the letter received by this office from adjoining neighbor Mr. and Mrs. Murray consenting to the change, this office will approve your proposed modification to the site plan in case No. 2011-0047-A.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Hucik", is written over a faint, larger version of the same signature.

Gary Hucik
Zoning Review

c.c. File- Zoning Case no.2011-0047-A
12-279

IN RE: **PETITION FOR VARIANCE**
N/S Malvern Road, 30' E of c/line of
Ruxton Road
(1304 Ruxton Road)
9th Election District
2nd Council District

Anthony O'Brien, et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 2011-0047-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, Anthony O'Brien and his wife, Eva Simmons-O'Brien. The Petitioners request variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (swimming pool) and ancillary uses in the front and side yards in lieu of the required rear yard and in lieu of the third of the rear yard farthest removed from any street. The subject property and relief requested are more particularly described on the site plan(s) submitted which was accepted and marked into evidence as Petitioners' Exhibits 1 and 2.

Appearing at the requisite public hearing in support of the request were Petitioner Anthony O'Brien and James D. Grammer, on behalf of McKee & Associates, Inc., the consultants who prepared the site plan. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a rectangularly shaped corner lot located on the northeast corner of Malvern and Ruxton Roads in the Murray subdivision of Towson. The property consists of 1.24 acres (54,014 square feet), more or less, zoned D.R.2 and is improved with a 2-½ story brick dwelling built in 2007. Petitioners

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Date

By

10-13-10

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purchased the property in May of this year. In addition to the dwelling, the property also features a detached garage, approximately 24' x 36' in dimension located in the northwest corner of the rear yard. The developable area of the property is impacted by substantial Forest Conservation and Forest Buffer Easement(s) on the eastern portion of the property and occupy approximately one third of the lot restricting improvements in that area. The topography in the third of the rear yard farthest removed from the street is steeply sloped.

As noted, the subject of the variance request relates to the placement/location of a swimming pool and hot tub. B.C.Z.R. Section 400.1 pertains to accessory structure locations and states:

"Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. *On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third.* In no case shall they be located less than 2 1/2 feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirements for such a building." (Emphasis Added)

The issue presented is whether there is some unique characteristic of the property which creates a practical difficulty in complying with the zoning regulations. *Cromwell v. Ward*, 102 Md. App. 691 (1995). In addressing this issue, factors such as environmental conditions, topography and lot configuration are relevant.

The location and orientation of the existing dwelling and topography on this site are very real issues. The forest buffer generates a setback of 35 feet. There is a negligible rear yard for an accessory structure. There is literally no place in the rear of the dwelling where a pool could be placed without intruding into the adjacent neighbor's privacy. The house is situated on

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By

the lot to face Malvern Avenue but as the many photographs submitted (Petitioners' Exhibits 3A through 3I) demonstrate it is oriented to front on Ruxton Road. The GIS aerial photograph (Exhibit 4) confirms this layout and shows a driveway and walkway leading from Ruxton Road to the home. The Maryland Department of Assessments and Taxation (MDAT) Real Property records maintain a mailing address of 1304 Malvern Avenue, however, the post office address, as noted above, is 1304 Ruxton Road. The facts presented here are similar to those found in *Swoboda v. Wilder*, 173 Md. App. 615 (2007). While the front door faces towards Malvern Avenue, it is my opinion the home with its distinctive features is oriented toward Ruxton Road. While this Malvern orientation severely limits the depth of the rear yard, it is nonetheless a distinction without a difference. The lot is bordered by two (2) streets and a forest buffer easement, and the house is skewed to all of them. The rear yard is small and has topographical limitations. I find the imposition of zoning on this property disproportionately impacts it as compared to others in the zoning district.

Based on my review of the site plan, the elevations of the pool and ancillary uses shown on Exhibit 2, as well as testimony offered, I find that the subject property is so constrained that it causes a unique condition that creates a practical difficulty in the strict adherence to Section 400.1 of the B.C.Z.R. I also find that the relief sought is within the spirit and intent of the zoning regulations and indeed, without the relief sought, an accessory pool would lack the proportionality and design characteristics that create the desired harmony with the primary structure. In this area of Towson, justifiably one of the finer residential areas in the metropolitan area, it is important that the structures be well placed and well proportioned in order to maintain the character of this neighborhood. The improvements have been designed to provide the least impact to the surrounding neighbors and community. The elevation from

ORDER RECEIVED FOR FILING

Date

10-13-10

By

023

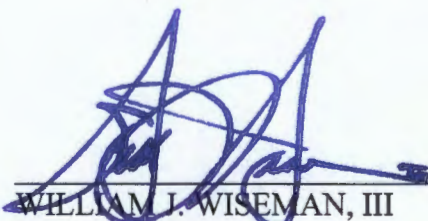
Malvern Avenue to the pool's location rises up some 16 feet. The entire area is well buffered with mature trees. The Office of Planning has made a very positive comment on the proposed variance but would like assurances that the wooded buffer along Malvern be maintained and a dark colored security fence be utilized around the pool.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 13th day of October 2010 that the Petition for Variance seeking relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (swimming pool) and ancillary uses in the front and side yards in lieu of the required rear yard and in lieu of the third of the rear yard farthest removed from any street, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED subject to the following restrictions:

1. The Petitioners may apply for their permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
2. Compliance with the ZAC comments submitted by DEPRM, dated September 8, 2010, and the Office of Planning, dated August 30, 2010. Copies of those comments have been attached hereto and made a part hereof.

Any appeal of this decision shall be entered within thirty (30) days of the date hereof.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date

10-13-10

By

WJW:dlw



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

October 13, 2010

Anthony O'Brien
Eva Simmons-O'Brien
1304 Ruxton Road
Towson, Maryland 21204

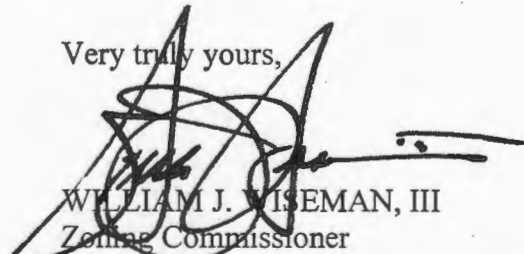
RE: **PETITION FOR VARIANCE**
N/S Malvern Road, 30' E of c/line of Ruxton Road
(1304 Ruxton Road)
9th Election District - 2nd Council District
Anthony O'Brien, et ux – Petitioners
Case No. 2011-0047-A

Dear Mr. and Mrs. O'Brien:

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

In the event any party finds the decision rendered is unfavorable, any party 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 Department of Permits and Development Management office at 887-3391.

Very truly yours,


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: James D. Grammer, McKee & Associates, Inc., 5 Shawan Road, Suite 1,
Cockeysville, MD 21030
Chesapeake Bay Critical Area Commission, 1804 West Street, Suite 100,
Annapolis, MD 21401
People's Counsel; DEPRM; Office of Planning



Petition for Variance

to the **Zoning Commissioner of Baltimore County** for the property
located at 1304 RUXTON ROAD
which is presently zoned DR-2

Deed Reference: 29498 / 012 Tax Account # 2400002497

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty.)

SEE ATTACHED

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

I, or we, agree to pay expenses of above Variance, 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.

I/We do 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 Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Name - Type or Print _____
Signature _____
Company _____
Address _____ Date _____ Telephone No. _____
City _____ By _____ State _____ Zip Code _____

Legal Owner(s):

Anthony O'Brien
Name - Type or Print _____
Signature Anthony O'Brien
Eva Simmons-O'Brien
Name - Type or Print _____
Signature Eva Simmons-O'Brien
1304 RUXTON ROAD (410) 694-9333
Address Telephone No.
Towson MD 21204
City State Zip Code

Representative to be Contacted:

McKee and Associates, Inc. James Grammer
Name _____
5 Shawan Road, Suite 1 (410) 527-1555
Address Telephone No.
Cockeysville MD 21030
City State Zip Code

Case No. 2011-0047-A

Office Use Only

Estimated Length of Hearing _____
Unavailable For Hearing _____
Reviewed by D.T. Date 7/29/10

*James Grammer
McKee &
Associates*



McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

**1304 RUXTON ROAD
9TH ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD**

REQUESTED ZONING VARIANCE:

1. Requesting a variance from Section 400.1 of the B.C.Z.R. to permit an accessory structure (swimming pool) and ancillary uses in the front yard and side yard, in-lieu of the required rear yard, and in-lieu of the third of the rear yard farthest removed from any street.
2. For such other and further relief as deemed necessary by the Zoning Commissioner.

PRACTICAL DIFFICULTY AND HARDSHIP:

1. The location and orientation of the existing dwelling and garage limit the area available to locate any accessory structures.
2. The lot is a corner lot and the third of the rear yard farthest removed from any street is restricted in size.
3. The topography in the third of the rear yard farthest removed from the street is steeply sloping.
4. Other good and sufficient testimony to be provided at the hearing.

2011-0047-A

The logo for McKee & Associates, Inc. features the company name in a bold, serif font, centered between two horizontal lines. Above the name are two small, dark, circular icons. Below the name, the company's services are listed in a smaller, italicized font.

McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

ZONING DESCRIPTION 1304 RUXTON ROAD BALTIMORE COUNTY, MD

Beginning at a point being situated at the intersection of the north side of Malvern Avenue, having a future width of 60-feet, with the east side of Ruxton Road, having a future width of 50-feet and then running with and binding on the east side of Ruxton Road N 21° 57 ' 18" W, 170.00', then leaving said east side and running N 68° 02 ' 42" W, 329.57', then S 29° 49 ' 17" E, 132.28' to a point on the north side of Malvern Avenue, then running with and binding on said north side S 54° 58 ' 47" W, 86.74', S 60° 40 ' 47" W, 171.16' and S 69° 37' 47" W, 93.47' to the point of beginning. Containing 1.24 acres of land, more or less. Also known as 1304 Ruxton Road and located in the 9th Election District, 2nd Councilmanic District.

P:\SDSK\Proj\10-061 (See also 06-131)\Zoning Info\10-061 Zoning Description.doc

2011-0047-A

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • www.mckeeinc.com

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

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 petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the 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:

Item Number or Case Number: 2011-0047-A
Petitioner: ANTHONY O'BRIEN, EVA SIMMONS-O'BRIEN
Address or Location: 1304 RUXTON ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: ANTHONY O'BRIEN
Address: C/O ASC PARTNERS, LLC
1304 CONCOURSE DRIVE, SUITE 120
LINTHICUM, MD 21090
Telephone Number: (410) 694-9333

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

No. **58663**

Date: **7/29/10**

PAID RECEIPT

BUSINESS ACTUAL TIME
 7/29/2010 7/29/2010 11:01:11

REC W006 WALKIN TTRY YST
 >>RECEIPT # 657647 7/29/2010

Dept 5-550 MISCELLANEOUS - IN
 NO. 058663

Recpt Tot \$65.00
 \$65.00 CR \$1.00 CB
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				65.00

Total: **65.00**

Rec From: **McKEE + ASSOC.**
 For: **2011-0047-A**
1304 RUXTON RD.
D. THOMPSON

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 2011-0047-A

1304 Ruxton Road

N/side of Malvern Road, 30 feet east of the centerline of Ruxton Road

9th Election District-2nd Councilmanic District

Legal Owner(s): Anthony & Eva O'Brien

Variance: to permit an accessory structure (swimming pool) and ancillary uses in the front yard and side yard, in lieu of the third of the rear yard farthest removed from any street. For such and other further relief as deemed necessary by the Zoning Commissioner.

Hearing: Friday, October 1, 2010 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

CERTIFICATE OF PUBLICATION

9/16/, 2010

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/16/, 2010.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No 2011-0047-A

Petitioner/Developer TIM
GRAMMER MCKEE'S ASSOC.

Date Of Hearing/Closing: 10/1/10

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue

Attention:

Ladies and Gentlemen

This letter is to certify under penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property
at 1304 RUXTON RD

This sign(s) were posted on September 15, 2010
Month, Day, Year
Sincerely,

Martin Ogle 9/15/10
Signature of Sign Poster and Date
Martin Ogle
60 Chelmsford Court
Baltimore, Md, 21220
443-629-3411



TO: PATUXENT PUBLISHING COMPANY
Thursday, September 16, 2010 Issue - Jeffersonian

Please forward billing to:

Anthony O'Brien
c/o ASC Partners, LLC
1304 Concourse Drive, Ste. 120
Linthicum, MD 21090

410-694-9333

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2011-0047-A

1304 Ruxton Road

N/side of Malvern Road, 30 feet east of the centerline of Ruxton Road

9th Election District – 2nd Councilmanic District

Legal Owners: Anthony & Eva O'Brien

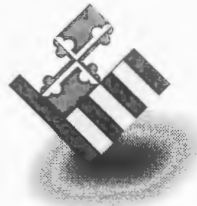
Variance to permit an accessory structure (swimming pool) and ancillary uses in the front yard and side yard, in lieu of the third of the rear yard farthest removed from any street. For such other and further relief as deemed necessary by the Zoning Commissioner.

Hearing: Friday, October 1, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
August 24, 2010

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2011-0047-A

1304 Ruxton Road

N/side of Malvern Road, 30 feet east of the centerline of Ruxton Road

9th Election District – 2nd Councilmanic District

Legal Owners: Anthony & Eva O'Brien

Variance to permit an accessory structure (swimming pool) and ancillary uses in the front yard and side yard, in lieu of the third of the rear yard farthest removed from any street. For such other and further relief as deemed necessary by the Zoning Commissioner.

Hearing: Friday, October 1, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in cursive script that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:kl

C: Mr. & Mrs. O'Brien, 1304 Ruxton Road, Towson 21204
McKee & Associates, 5 Shawan Road, Ste. 1, Cockeysville 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURS., SEPTEMBER 16, 2010**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

September 22, 2010

Anthony & Eva O'Brien
1304 Ruxton Rd.
Towson, MD 21204

Dear: Anthony & Eva O'Brien

RE: Case Number 2011-0047-A, 1304 Ruxton Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 29, 2010. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
McKee & Assoc. Inc; 5 Shawan Rd, Ste. 1; Cockeysville, MD 21030

10/11 9am 104 ✓

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

SEP 08 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: September 8, 2010

SUBJECT: Zoning Item # 11-047-A
Address 1304 Ruxton Road
(O'Brien Property)

Zoning Advisory Committee Meeting of August 9, 2010

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Additional Comments:

1. The limit of disturbance for the variance area shown 2.5 feet from the Forest Buffer Easement (FBE) shall not impact the FBE or permanent fence along the FBE that was a condition of variance approval.

Reviewer: J. Russo

Date: 8/20/10

ORDER RECEIVED FOR FILING

Date: 10-13-10

By: 02

10/1 9am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: August 20, 2010

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 1304 Ruxton Road

INFORMATION:

Item Number: 11-047

Petitioner: Anthony & Eva Simmons O'Brien

Zoning: DR 2

Requested Action: Variance

The petitioners request a variance to allow an accessory structure (swimming pool) to be constructed in the front and side yard in lieu of the rear yard and in lieu of the third of the rear yard farthest removed from the side street. There is a step embankment along Malvern Avenue and property is wooded along the shared property line with 1206 Malvern Avenue.

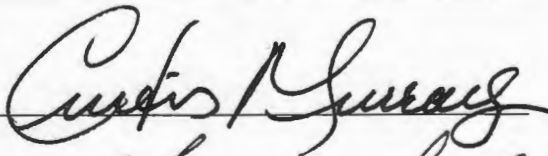
SUMMARY OF RECOMMENDATIONS:

If the applicant demonstrates hardship or practical difficulty and the variance is granted, this should not be considered as a precedent for other zoning variances.

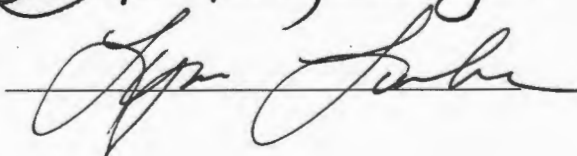
- A limit of disturbance should be indicated on future plans.
- The wooded buffer along the south and east side of the property should be maintained.
- Provide a dark colored fence around the pool.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by:



Division Chief:
AFK/LL: CM



RECEIVED

AUG 23 2010

ZONING COMMISSIONER

ORDER RECEIVED FOR FILING

Date

10-13-10



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

August 12, 2010

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Zoning Review

Distribution Meeting of: August 9, 2010

Item No.: **Variance:** 2011-0028SPHA, 2011-0032A, 2011-0047A – 0049A, 2011-0026SPHXA

Administrative Variance: 2011- 0050A, 2011-0052 - 0053A, 2011-0055A – 0056A.

Special Hearing: 2011-0028SPHA, 2011-0051SPH, 2011-0057SPH, 2011-026SPHXA

Special Exception: 2011-0026SPHXA

Pursuant to your request, the referenced plans have been reviewed by the **Baltimore County Fire Marshal's Office** and the comment below is applicable for the above listed properties.

Comments:

The Fire Marshal's Office has no comments at this time.

Don W. Muddiman, Acting Lieutenant
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
410-887-4880
Mail Stop: 1102

cc: File



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: August 18, 2010

Ms. Kristen Matthews
Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2011-0047-A
1304 Ruxton Rd
O'BRIEN PROPERTY
VARIANCE -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2011-0047-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-5593 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

A handwritten signature in dark ink, appearing to read "Michael P. Bailey" or similar, written over the typed name.

Fon¹ Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.sha.maryland.gov

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: August 10, 2010

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For August 23, 2010
Item Nos. 2011- 026, 028, 032, 047,
048, 049, 050, 051, 052, 053, 054,
055, 056 and 057

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

DAK:CEN:cab

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-08232010 -NO COMMENTS.doc

RE: PETITION FOR VARIANCE * BEFORE THE
1304 Ruxton Road; N/S Malvern Road, *
30' E c/line Ruxton Road * ZONING COMMISSIONER
9th Election & 2nd Councilmanic Districts *
Legal Owner(s): Anthony & Eva O'Brien * FOR
Petitioner(s) * BALTIMORE COUNTY
* 2011-047-A

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of August, 2010, a copy of the foregoing Entry of Appearance was mailed to McKee & Associates, 5 Shawn Road, Suite 1, Cockeysville, MD 21030, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED

AUG 23 2010

.....

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ No Comment</u>
<u>8-10</u>	DEVELOPMENT PLANS REVIEW	<u>None</u>
<u>9-8</u>	DEPRM (if not received, date e-mail sent _____)	<u>Comments</u>
<u>8-12</u>	FIRE DEPARTMENT	<u>None</u>
<u>8-23</u>	PLANNING (if not received, date e-mail sent _____)	<u>Comments</u>
<u>8-18</u>	STATE HIGHWAY ADMINISTRATION	<u>No objection</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: <u>9-16-10</u>	
SIGN POSTING	Date: <u>9-15-10</u>	
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any:

Tap Act. # listed for MDAT lists
1304 Maerns Ave.; however, petition
petition + plat are reflective of 1304 Ruston Rd.
which is correct?

Maryland Department of Assessments and Taxation
Real Property Data Search (vw3.1)
BALTIMORE COUNTY

Go Ba
View N
New Se

Account Identifier:

District - 09 Account Number - 2400002497

Owner Information

Owner Name: OBRIEN ANTHONY
SIMMONS-OBRIEN EVA Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 1304 MALVERN AVE
BALTIMORE MD 21204-6722 Deed Reference: 1) /29498/ 12
2)

Location & Structure Information

Premises Address
1304 MALVERN AVE

Legal Description
1.2431 AC
1304 MALVERN AVE NS
COR OF RUXTON AVE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
69	16	1295						2	Plat Ref

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2007	6,791 SF	1.24 AC	04

Stories	Basement	Type	Exterior
2 1/2	YES	STANDARD UNIT	BRICK

Value Information

	Base Value	Value As Of 01/01/2008	Phase-in Assessments As Of 07/01/2010	As Of 07/01/2011
Land	358,400	358,400		
Improvements:	1,577,480	1,577,480		
Total:	1,935,880	1,935,880	1,935,880	NOT AVAIL
Preferential Land:	0	0	0	NOT AVAIL

Transfer Information

Seller:	Date:	Price:
CANDLEWICK ROAD LLC	05/24/2010	\$1,950,000
Type: IMPROVED ARMS-LENGTH	Deed1: /29498/ 12	Deed2:
Seller: RUXTON LAND COMPANY LLC	Date: 06/20/2006	Price: \$750,000
Type: UNIMPROVED ARMS-LENGTH	Deed1: /24036/ 162	Deed2:
Seller: MURRAY KENNETH J/SANDRA J	Date: 01/03/2003	Price: \$500,000
Type: UNIMPROVED ARMS-LENGTH	Deed1: /17313/ 290	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2010	07/01/2011
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

CASE NAME 1304 RUXTON ROAD
CASE NUMBER 2011-0047-A
DATE OCTOBER 1, 2010

[illegible]

Case No.: 2011-0047-A

1304 Ruxton RD

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site PLAN	
No. 2	Colorized Plan of Proposed Structure/Pool	
No. 3 Aerial I	Photographs.	
No. 4	Aerial View	
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



WEST ELEVATION



FROM RUXTON ROAD TOWARDS REAR OF GARAGE

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT

PETITIONER' S

EXHIBIT NO. 3
3A thru 3I

3 A



FROM EXISTING DRIVEWAY, NORTHERLY ALONG RUXTON ROAD



FROM EXISTING DRIVEWAY TOWARDS # 1401 CURVING ROAD

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT



VIEW FROM RUXTON ROAD, EASTERLY ALONG MALVERN AVENUE



VIEW FROM RUXTON ROAD, WESTERLY ALONG MALVERN AVENUE

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT



VIEW FROM SOUTH SIDE OF MALVERN AVE, TOWARDS
PROPOSED POOL AREA



VIEW FROM RUXTON ROAD, SOUTHERLY
TOWARDS #1309 MALVERN AVENUE

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT



FROM MALVERN AVENUE TOWARDS PROPOSED POOL LOCATION



EXISTING GARAGE

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT



ROOF CONNECTION FROM DWELLING TO GARAGE



EASTERLY ALONG REAR OF GARAGE

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT



SOUTHERLY ALONG REAR OF EXISTING DWELLING



FROM NORTHEAST CORNER OF DWELLING TOWARDS
DWELLING AT #1310 RUXTON ROAD

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT



FROM PROPOSED POOL AREA TOWARDS MALVERN AVENUE



TYPICAL VIEW ALONG EXISTING FOREST BUFFER EASEMENT

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT



WESTERLY ALONG FRONT (MALVERN AVE.) ELEVATION



FROM PROPOSED POOL AREA TOWARDS EXISTING DWELLING

CASE NO.:2011-0047-A
1304 RUXTON ROAD
9TH ELECTION DISTRICT



1304 RUXTON ROAD
2011-0047-A

PETITIONER'S

EXHIBIT NO.

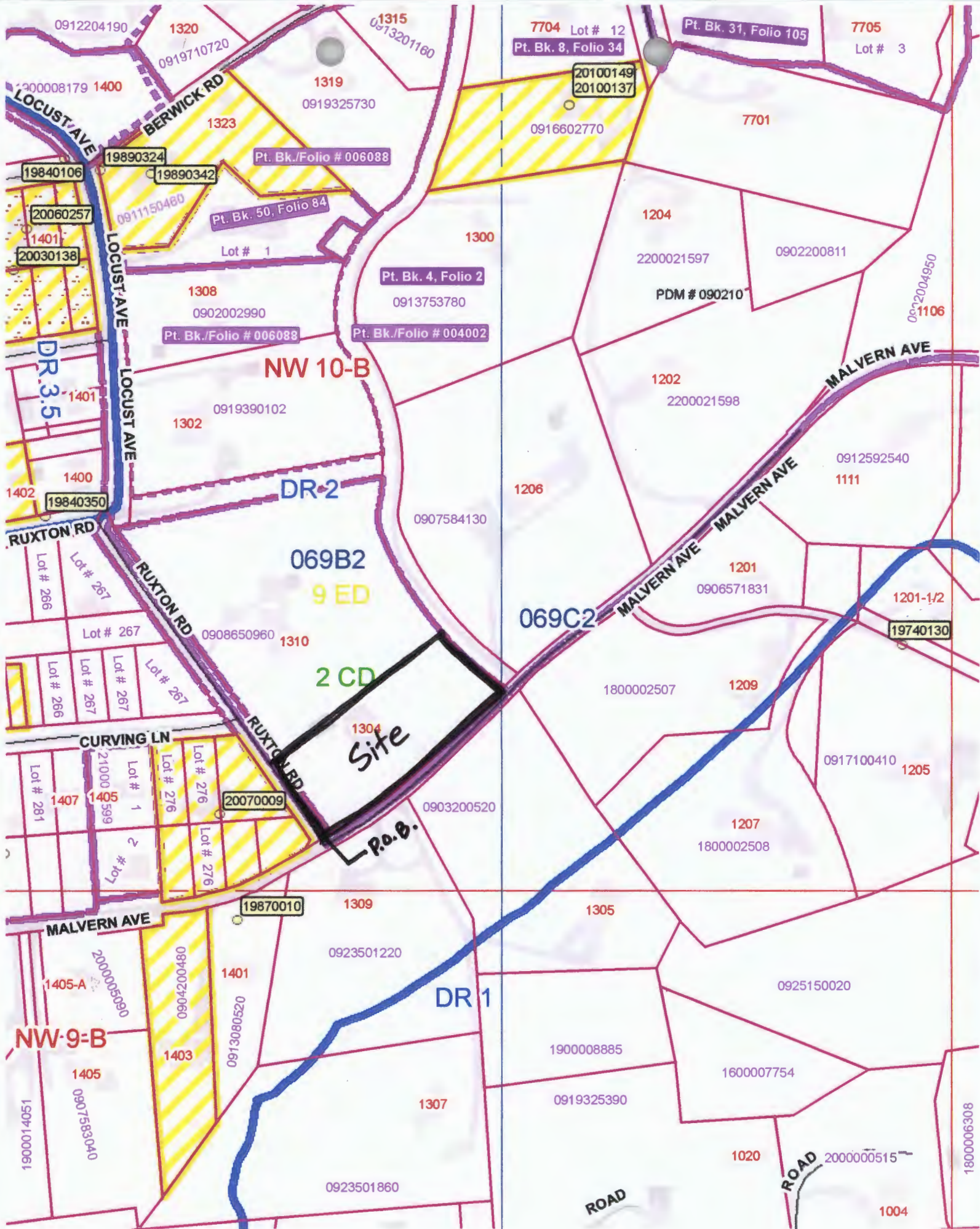
4

O'BRIEN RESIDENCE
 1304 RUXTON ROAD RUXTON, MD 21204
MASTERPLAN

PROJ. NO.:
 DATE: JUNE 2010
 SCALE: 1/8"=1'-0"
 DRAWN: TR
 CHECKED: SO
 REVISIONS

SHEET





2011-0047-A

GENERAL NOTES

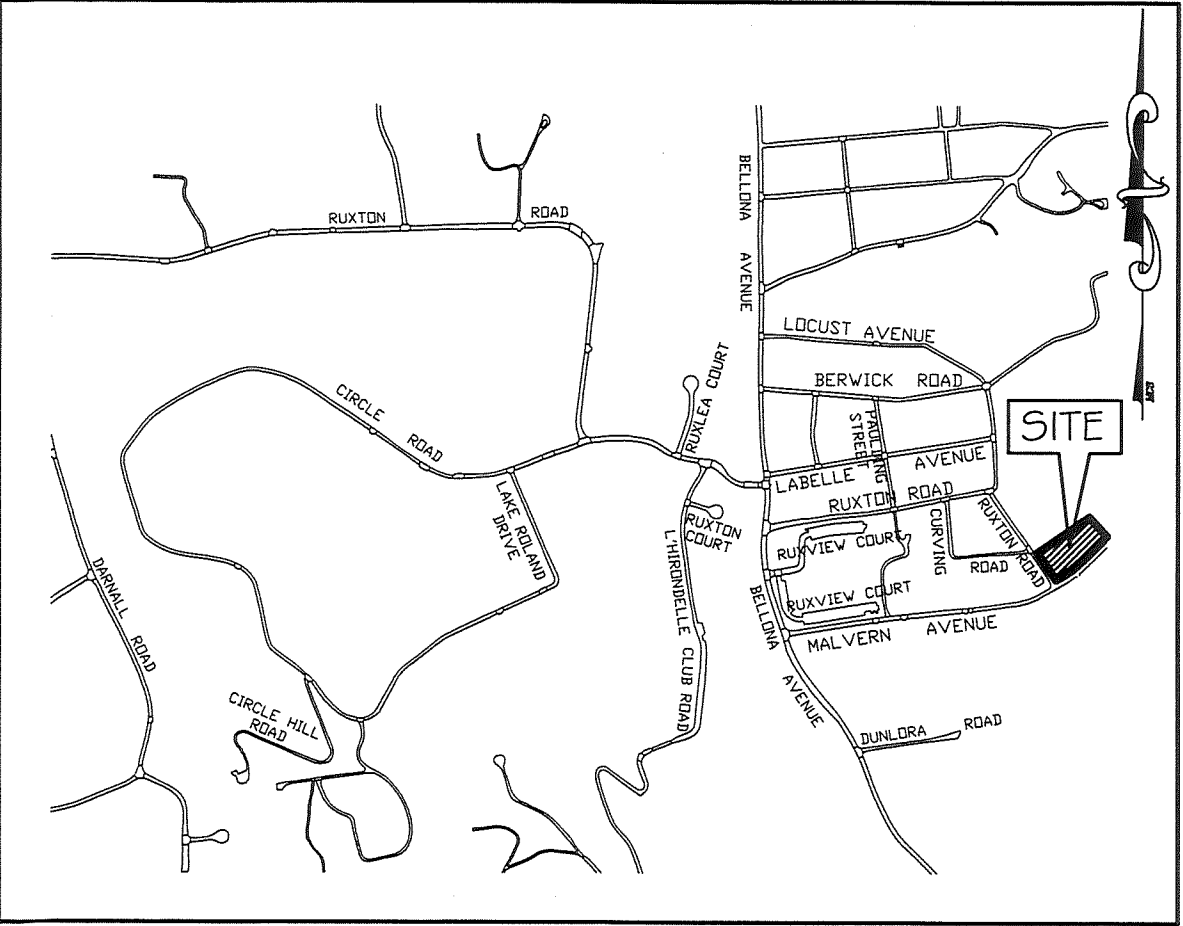
- 1. EXISTING LAND COVER IS LAWN AND FOREST.
- 2. THERE ARE NO KNOWN PRIOR ZONING CASES FOR THE PROPERTY.
- 3. EXISTING SITE USE IS RESIDENTIAL.
- 4. MAXIMUM BUILDING HEIGHT PERMITTED FOR PRINCIPAL STRUCTURES IN DR-2 ZONING IS 50 FEET.
- 5. THERE ARE NO ZONING LINES WITHIN 200 FEET OF THIS PROPERTY UNLESS OTHERWISE SHOWN.
- 6. THIS SITE IS NOT LOCATED IN ANY DEFICIENT AREAS ON THE BALTIMORE COUNTY BASIC SERVICE MAPS.

RELIEF REQUESTED

TO LOCATE A PROPOSED ACCESSORY STRUCTURE (SWIMMING POOL AND ANCILLARY USES) IN THE SIDE AND FRONT YARD IN THE VARIANCE AREA SHOWN.

LEGEND

- EX. CONTOURS
- EX. STREAM
- EX. BOUNDARY
- EX. ROAD CENTERLINE
- PROP. VARIANCE AREA



VICINITY MAP
SCALE: 1"= 1000'

LOCATION INFORMATION

ELECTION DISTRICT: 9TH
COUNCILMANIC DISTRICT: 2ND
1" = 200' SCALE MAP No.: 069B2
PRESENT ZONING: DR-2

LOT SIZE:	1.24 ACREAGE	54,014 SQUARE FEET
	PUBLIC	PRIVATE
WATER	☒	☐
SEWER	☒	☐
	YES	NO
CHESAPEAKE BAY CRITICAL AREA:	☐	☒
100-YEAR FLOOD PLAIN:	☐	☒
HISTORIC PROPERTY/ BUILDING:	☐	☒
PRIOR ZONING HEARINGS:	☐	☒
OWNER INFORMATION:	NAME: ANTHONY O'BRIEN & EVA SIMMONS-O'BRIEN	
ADDRESS:	1304 RUXTON ROAD TOWSON, MD 21204	
PHONE No.:	(410)694-9333	
DEED REFERENCE:	29498/12	
PROPERTY TAX ACCT. No.:	24-00-002497	

PLAT TO ACCOMPANY PETITION FOR
ZONING VARIANCE

#1304 RUXTON ROAD

9TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND
SCALE: 1"=30' DATE: JULY 29, 2010

PETITIONER'S
EXHIBIT No. 1

McKEE & ASSOCIATES, INC.
Engineering - Land Planning - Land Surveying
Natural Resource Planning - Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563

COMPUTED BY: JDG DRAWN BY: REK CHECKED BY: JDG JOB No.: 10-061