

IN RE: PETITION FOR VARIANCE

SE side Bellona Avenue, 290 feet SW
of Seminary Avenue
9th Election District
3rd Councilmanic District
(1433 and 1435 Bellona Avenue)

Estate of Leroy Y. Haile, Jr. and
Leroy Y. Haile, III
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2011-0179-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed on behalf of the Estate of Leroy Y. Haile, Jr. (Leroy Y. Haile, III, personal representative) the legal owners of the subject property. Petitioner requested Variance relief as follows:

- 1433 and 1435 Bellona Avenue (existing dwellings): From Section 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a front yard setback of 20 feet in lieu of the required 25 feet for two existing dwellings. At the time of the hearing, Petitioner amended his request to allow the 20 feet front yard setback in lieu of 28 feet required pursuant to front yard depth averaging per B.C.Z.R. 303.1.
- 1433 Bellona Avenue (existing dwelling): From Section 1B02.3.C.1 of the B.C.Z.R. to allow a side yard setback of 6 feet in lieu of the required 10 feet for an existing dwelling.

The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Leroy Y. Haile, III, personal representative, on behalf of the Estate of Leroy Y. Haile, Jr., property owner,

ORDER RECEIVED FOR FILING

Date 1-26-14

By PS

and Bruce E. Doak with Gerhold, Cross & Etzel, Ltd., the professional land surveyor who prepared the site plan and is also assisting the Petitioners in the permitting process.

Testimony and evidence offered revealed that the properties are rectangular in shape and contain existing one story dwellings. Lot 1 known as 1433 Bellona Avenue contains 7,774 square feet or 0.178 acres more or less. Lot 2 known as 1435 Bellona Avenue contains 8,123 square feet or 0.186 acres more or less.

Further testimony set out that the subject structures were built in the 1950s and were purchased by the Petitioner in the latter part of the 1970s.

Additionally, it was noted that the structure at 1433 Bellona Avenue, being constructed prior to the Zoning Regulations being imposed, already existed when the present setback requirements were instituted. Finally, it was revealed that Bellona Avenue directly fronting the subject properties had been greatly expanded as part of a highway widening project. As a result, the depth of the available frontage of the subject properties had been significantly reduced.

Petitioner then stated that these properties are presently the subject of a major subdivision development process. Any development related issues can and must be resolved during that review process. However, if the existing dwellings are to be razed, the Planning Office requested that the new dwellings conform to the Lutherville Community Plan Guidelines for new residential development.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated December 9, 2010 which indicate that the Office supports the requested zoning relief for the existing dwellings on proposed lots. It appears that any development related issues can be resolved during that review process, but it should be noted that if the existing dwellings are to be razed then the Planning

ORDER RECEIVED FOR FILING

Date 1-26-11

Office requests that the new dwellings conform to the Lutherville Community Plan guidelines for new residential development.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The taking of significant ground as a result of the Bellona Avenue widening project certainly altered the subject lots in comparison with others in the area, rendering them unique. Moreover, the lots and existing dwellings predate the applicable Zoning Regulations and were thus placed in a unique position vis-a-vis the present day side yard setbacks.

Additionally, I find that strict enforcement of the B.C.Z.R. would cause the Petitioner to suffer practical difficulty and undue hardship. It is impossible to conform with the present front yard setbacks as a result of the unique configuration which the properties were placed in as a result of the Bellona Avenue widening; the side yard cannot be altered without removing a significant dwelling which has been in place for over 50 years.

I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety, and general welfare. Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioners' variance request should be granted.

ORDER RECEIVED FOR FILING

Date 1-26-10

By 

THEREFORE, IT IS ORDERED this 26th day of January, 2011 by this Administrative Law Judge that Petitioners' Variance requests as follows:

- 1433 and 1435 Bellona Avenue (existing dwellings): From Sections 1B02.3.C.1 and 303.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a front yard setback of 20 feet in lieu of the required 28 feet for two existing dwellings; and
 - 1433 Bellona Avenue (existing dwelling): From Section 1B02.3.C.1 of the B.C.Z.R. to allow a side yard setback of 6 feet in lieu of the required 10 feet for an existing dwelling
- be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The new dwellings shall conform to the Lutherville Community Plan Guidelines for new residential development.

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


LAWRENCE M. STAHL
Administrative Law Judge
for Baltimore County

LMS:pz

ORDER RECEIVED FOR FILING

Date 1-26-11

By [Signature]



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

January 26, 2011

LEROY Y. HAILE, III
1511-A PROVIDENCE ROAD
TOWSON MD 21286

Re: Petition for Special Hearing and Variance
Case No. 2011-0179-A
Property: 1433 and 1435 Bellona Avenue

Dear Mr. Haile:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file with the Department of Permits, Applications and Inspections an appeal within thirty (30) days from the date of this Order. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Stahl", is written over a horizontal line.

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/pz

Enclosure

c: Bruce E. Doak, Gerhold Cross & Etzel Ltd., 320 Towsontown Blvd. #100, Towson MD 21286



Petition for Variance

AND 1435
to the Zoning Commissioner of Baltimore County for the property
located at #1433 ~~2100~~ Bellona Avenue
which is presently zoned D.R. 5.5

Deed Reference: 5907 / 133 Tax Account # 0923001573

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)

1B02.3.C.1

For # 1433 BELLONA AVENUE

To allow a front yard setback of 20 feet in lieu of the required 25 feet for two existing dwellings.

To allow a side yard setback of 6 feet in lieu of the required 10 feet for an existing dwelling. ~~REASON FOR VARIANCE~~
(FUTURE SUBDIVISION PENDING)

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

TO BE DETERMINED AT HEARING

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 _____ Telephone No. _____
City _____ State _____ Zip Code _____

Legal Owner(s):

The Estate of Leroy Y. Haile, Jr. (Leroy Y. Haile, 3rd)
Name - Type or Print _____ POWER OF ATTORNEY
Signature _____
Name - Type or Print Leroy Y. Haile III

Signature _____
1511 Providence Road (410)-828-0575
Address Telephone No.
Towson, Maryland 21286-1524
City State Zip Code

Representative to be Contacted:

Bruce E. Doak (Gerhold, Cross & Etzel, Ltd.)
Name _____
320 E. Towsontown Blvd. Suite 100 (410)823-4470
Address Telephone No.
Towson, Maryland 21286
City State Zip Code

Case No. 2011 0179 A

Office Use Only

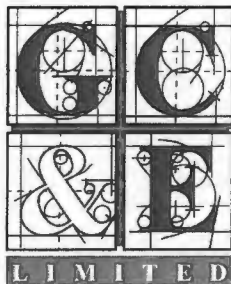
Estimated Length of Hearing 1 HR
Unavailable For Hearing _____

REV 8/20/07 ORDER RECEIVED FOR FILING

Reviewed by SL Date 11/12/10

Date 1-26-11

By [Signature]



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

0179

October 19, 2010

ZONING DESCRIPTION

Haile Property

Tax ID: 09-23-001573

#1433 ~~with 1439~~ Bellona Avenue
Baltimore County, Maryland

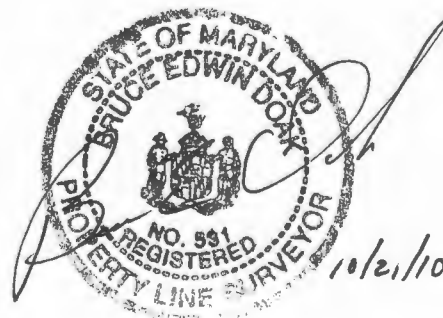
B. DOAK

All that piece or parcel of land situate, lying and being in the Ninth Election District, Third Councilmanic District of Baltimore County, Maryland and described as follows to wit:

Beginning at a point on the southeast side of Bellona Avenue, 290' more or less westerly along the southeast side of Bellona Avenue from its intersection with the southwest side of Seminary Avenue, thence running along said road,

- 1) South 49 degrees 44 minutes 42 seconds West 47.17 feet,
- 2) By a curve to the right having a radius of 571.00 feet and an arc distance of 219.66 feet and being subtended by a chord South 60 degrees 45 minutes 56 seconds West 218.30 feet, thence leaving said road and running
- 3) South 22 degrees 13 minutes 08 seconds East 101.01 feet
- 4) North 73 degrees 50 minutes 32 seconds East 183.21 feet,
- 5) North 76 degrees 57 minutes 18 seconds East 76.60 feet,
- 6) North 16 degrees 20 minutes 42 seconds East 67.55 feet, and
- 7) North 39 degrees 49 minutes 18 seconds West 126.96 feet, to the place of beginning.

Containing 0.834 Acres of land, more or less.



Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance.

**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 - 0179 - A
Petitioner: Leroy Y. Haile, 3rd
Address or Location: #1433 - ~~#1433~~ Bellona Avenue

PLEASE FORWARD ADVERTISING BILL TO:

Name: Leroy Y. Haile, 3rd
Address: 1511 Providence Road
Towson, Maryland 21286-1524
Telephone Number: (410) - 828-0575

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

No. **61118**

Date: **11/12/10**

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 11/12/2010 11/12/2010 13:54:01 2

REG WSDS WALKIN DOOL DND
 >>RECEIPT # 552606 11/12/2010 OFLN

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

Dept 5 528 ZONING VERIFICATION

PER # 61118

Recpt Tot \$130.00
 \$130.00 CR \$0.00 CA
 Baltimore County, Maryland

Total: **65.00**

Rec From: **Gerald Chase & Ethel**

For: **1433 BELLONA AVE**

2011 0179 A Res Van Filing

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
 PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286

Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: Case#2011-0179-A

PETITIONER: Estate of Leroy Haile,
Jr.

DATE OF HEARING: January 24, 2011

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY
SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

(see page 2 for full size photo)

LOCATION:

1433 & 1435 Bellona Avenue

SIGNATURE OF SIGN POSTER

Bruce E. Doak

GERHOLD, CROSS & ETZEL, LTD

SUITE 100

320 EAST TOWSONTOWN BLVD

TOWSON, MARYLAND 21286

410-823-4470 PHONE

410-823-4473 FAX

POSTED ON: 1/07/11

ZONING NOTICE

CASE #:2011-0179-A

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.**

PLACE: Room 104 Jefferson Building
TIME & 105 West Chesapeake Avenue, Towson, MD
DATE : 9:00 am Monday January 24,2011

**Variance for 1433 Bellona Ave. to allow a
front yard setback of 20 feet in lieu of the re-
quired 25 feet for the two existing dwellings.
To allow a side yard setback of 6 feet in lieu
of the required 10 feet for the existing
dwelling (future subdivision pending).**

ZONING NOTICE

CASE #:2011-0179-A

CASE #: 2011-0770
A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE: Room 104 Jefferson Building
105 West Chesapeake Avenue, Towson, MD
TIME &
DATE: 9:00 am Monday January 24, 2011
1433 Bellona Ave. to allow a
feet in lieu of the re-
dwellings.

TIME & DATE : 9:00 am Monday January 14, 2013

Variance for 1433 Bellona Ave. to allow a front yard setback of 20 feet in lieu of the required 25 feet for the two existing dwellings. To allow a side yard setback of 6 feet in lieu of the required 10 feet for the existing dwelling (future subdivision pending).

FOR OTHER CONDITIONS ARE SOMETIME
SHOULD HEARING DATE
THE OFFICE OF SAN
SSIBLE

OR OTHER CONDITIONS ARE SOMETIMES
SCHEDULED HEARING DATE:
OF THE COURT OF THE COUNTY OF SAN
FEDELLI

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 11, 2011 Issue - Jeffersonian

Please forward billing to:
Leroy Haile, III
1511 Providence Road
Towson, MD 21286

410-828-0575

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: 2011-0179-A

1433 & 1435 Bellona Avenue

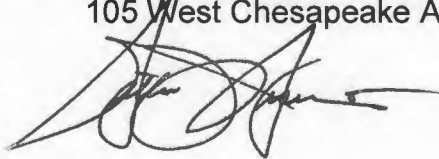
S/east side of Bellona Avenue, 290 feet s/west of Seminary Avenue

9th Election District – 3rd Councilmanic District

Legal Owners: Estate of Leroy Haile, Jr.

Variance for 1433 Bellona to allow a front yard setback of 20 feet in lieu of the required 25 feet for two existing dwellings. To allow a side yard setback of 6 feet in lieu of the required 10 feet for an existing dwelling (future subdivision pending).

Hearing: Monday, January 24, 2011 at 10:00 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

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

December 29, 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: 2011-0179-A

1433 & 1435 Bellona Avenue

S/east side of Bellona Avenue, 290 feet s/west of Seminary Avenue

9th Election District – 3rd Councilmanic District

Legal Owners: Estate of Leroy Haile, Jr.

Variance for 1433 Bellona to allow a front yard setback of 20 feet in lieu of the required 25 feet for two existing dwellings. To allow a side yard setback of 6 feet in lieu of the required 10 feet for an existing dwelling (future subdivision pending).

Hearing: Monday, January 24, 2011 at 10:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



George Klunk
Acting Director

GK:kl

C: Leroy Haile, III, 1511 Providence Road, Towson 21286
Bruce Doak, 320 E. Towsontown Blvd., Ste. 100, Towson 21286

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JANUARY 10, 2011.**
- (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.

RE: PETITION FOR VARIANCE * BEFORE THE
1433 -1435 Bellona Avenue; SE/S Bellona *
Avenue, 290' SW of Seminary Avenue * ZONING COMMISSIONER
9th Election & 3rd Councilmanic Districts *
Legal Owner(s): Estate of Leroy Y. Haile, Jr.* FOR
Petitioner(s) *
* BALTIMORE COUNTY
*
* 2011-179-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.

RECEIVED

DEC 08 2010

.....]

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 8th day of December, 2010, a copy of the foregoing Entry of Appearance was mailed to Bruce Doak, Gerhold, Cross & Etzel, 320 E Towsontowne Boulevard, Suite 100, Towson, Maryland 21286, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Hearing Files 2011-0178 and 0179

Bruce Doak (applicant) states that the power of attorney verification doc's will be placed in files ASAP 11/12/10 JLL.

FOR LARRY

CASE # 2011-179-A

FROM BRUCE
410-823-4470

EXCEPTIONS TO HEIGHT AND AREA REQUIREMENTS

§ 301.1

§ 303.1

- B. Notwithstanding the provisions of Subsection A, open projections in the side yard are permitted in residential large tract subdivisions only in accordance with Section 504 and the standards as set forth in the Comprehensive Manual of Development Policies. [Bill No. 2-1992]

§ 301.2. Bay windows, chimneys, vestibules, balconies and eaves.

Projections such as bay windows, chimneys, entrances, vestibules, balconies, eaves and leaders may extend into any required yard not more than four feet, provided that such projections (excepting eaves) are not over 10 feet in length.

§ 301.3. Side or rear lines abutting railroad rights-of-way. [Bill No. 56-1961]

No side and/or rear yard is required for a business or manufacturing use in that portion of any property located in a B.R., M.R., M.L.R., M.L. or M.H. Zone if such side and/or rear line abuts on a railroad right-of-way or siding, to either of which it uses rail access.

SECTION 302

Height and Area Regulations for New Residences in Business and Manufacturing Zones
[BCZR 1955; Resolution, November 21, 1956]

§ 302.1. Adherence to regulations for adjoining zone.

Residences hereafter erected in business and manufacturing zones shall be governed by all height and area regulations for the predominant residence zone which immediately adjoins, or by D.R.5.5 Zone² regulations if no residence zone immediately adjoins.

SECTION 303

Front Yard Depths in Residence and Business Zones
[BCZR 1955]

→ § 303.1. Standards for D.R.2, D.R.3.5 and D.R.5.5 Zones. [Resolution, November 21, 1956]

In D.R.2, D.R.3.5 and D.R.5.5 Zones,³ the front yard depth of any building hereafter erected shall be the average of the front yard depths of the lots immediately adjoining on each side, provided such adjoining lots are improved with principal buildings situate within 200 feet of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall be not less than the average depth of the front yards of all improved lots within 200 feet on each side thereof, provided that no dwelling shall be required to be set back more than 60 feet in D.R.2 Zones, 50 feet in D.R.3.5 Zones and 40 feet in D.R.5.5 Zones. In no case, however, shall

2. Editor's Note: In this section, the R.6 Zone was redesignated as the D.R.5.5 Zone pursuant to Section 100.3A.

3. Editor's Note: In this section, the R.20, R.10 and R. 6 Zones have been redesignated as D.R.2, D.R.3.5 and D.R.5.5, respectively, pursuant to Section 100.3A.

LS 11/24 10am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

DEC 23 2010

ZONING COMMISSIONER

TO: Zoning Commissioner's Office
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: December 22, 2010
SUBJECT: Zoning Item # 11-179-A
Address 1433-1435 Bellona Avenue
(Estate of Leroy Y. Haile, Jr.)

Zoning Advisory Committee Meeting of November 15, 2010.

X The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

Reviewer: JWL Date: 12/22/10

LS 1/24 10am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: George Klunk, (Acting Director)
Department of Permits and
Development Management

DATE: December 9, 2010

FROM: Jeff Mayhew
(Acting) Director, Office of Planning

RECEIVED

SUBJECT: 1433-1435 Bellona Avenue

DEC 10 2010

INFORMATION:

ZONING COMMISSIONER

Item Number: 11-179

Petitioner: The Estate of Leroy Y. Haile, Jr.

Zoning: DR 5.5

Requested Action: Variance

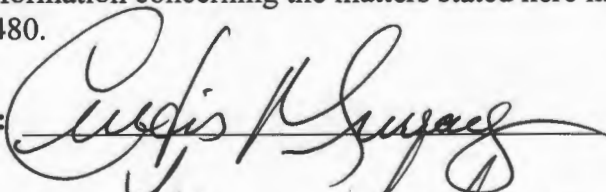
The petitioner requests a variance from Section 1B02.3.C.1 of the BCZR for 1433 Bellona Ave to allow a front yard setback of 20 feet in lieu of the required 25 feet for two existing dwellings and to allow a side yard setback of 6 feet in lieu of the required 10 feet for an existing dwelling; future subdivision pending.

SUMMARY OF RECOMMENDATIONS:

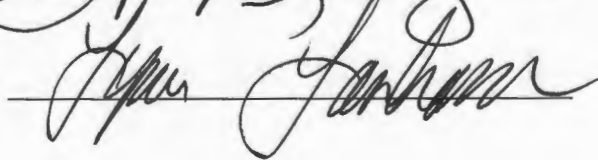
The Office of Planning supports the petitioner's requests for zoning relief for four existing dwellings on proposed lots. The applicant has indicated that future subdivision is pending. It appears that any development related issues can be resolved during that review process, but it should be noted that if the existing dwellings are to be raised then the Office of Planning requests that the new dwellings conform to the Lutherville Community Plan guidelines for new residential development.

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

Prepared by:



Division Chief:
JM/LL: CM



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: November 29, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For November 29, 2010
Item Nos. 2011- 160, 161, 162, 163,
164, 165, 166, 167, 168, 169, 170,
171, 173, 174, 175, 177, 178 and 179

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-11292010 -NO COMMENTS.doc



KEVIN KAMENETZ
County Executive

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

January 19, 2011

Leroy Y. Haile III
1511 Providence Road
Towson, Maryland 21204

Dear Mr. Haile:

RE: Case Number 2011-0179 Address 1433 & 1435 Bellona Avenue

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 12, 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:rjc

Enclosures

c: People's Counsel
Bruce E. Doak Gerhold, Cross & Etzel, LTD 320 E. Towsontown Blvd. Ste. 100 Towson
Maryland 21204



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

State Highway
Administration

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

Maryland Department of Transportation

Date: Nov. 24, 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 2011-0179-A
1433-1435 BELLONA AVE
HAILE 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. 2011-0179-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

For Steven D. Foster, Chief
Access Management 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.marylandroads.com

Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500



Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

November 24, 2010

Dept of PDM
Room 111, County Office Building
111 West Chesapeake Ave.
Towson, MD 21204
MS #1105

Attention Kristen Matthews

The Fire Marshal's office has no comment on the following zoning cases:

2011-0159-A, 2011-0160-A, 2011-0161-A, 2011-0162-A, 2011-0163-A, 2011-0163-A,
2011-0165-A, 2011-0166-A, 2011-0167-A, 2011-0168-SPH, 2011-0169-A, 2011-0170-A
2011-0171-XA, 2011-0172-A, 2011-0173-SPH, 2011-0174-A, 2011-0175-A,
2011-0176-SPH, 2011-0177-A, 2011-0178-A, 2011-0179-A.

Thank you,


Steven Judlick, Fire Marshal
Baltimore County Fire Department
Office of the Fire Marshal
410-887-4880

Visit the County's Website at www.baltimorecountyonline.info



Printed on Recycled Paper

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

Account Identifier: District - 09 Account Number - 0923001573

Owner Information			
Owner Name:	HAILE LEROY Y, JR	Use:	RESIDENT
		Principal Residence:	NO
Mailing Address:	1503 PROVIDENCE RD TOWSON MD 21286-1524	Deed Reference:	1) / 5907/ 1 2)

Location & Structure Information			
Premises Address	Legal Description		
1435 BELLONA AVE	.835 AC SES BELLONA 220 SW SEMINARY AV		

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Pl
60	24	536						2	Pl

Special Tax Areas
Town Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County U
1968	928 SF	36,372.00 SF	04

Stories	Basement	Type	Exterior
1	YES	STANDARD UNIT	ASBESTOS SHINGLE

Value Information				
	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2011	07/01/2010	07/01/2011
Land	246,090	246,000		
Improvements:	271,880	238,600		
Total:	517,970	484,600	517,970	484,600
Preferential Land:	0	0	0	0

Transfer Information				
Seller:	WADSWORTH ELWOOD L	Date:	07/06/1978	Price: \$70,0
Type:	IMPROVED ARMS-LENGTH	Deed1:	/ 5907/ 133	Deed2:
Seller:		Date:		Price:
Type:		Deed1:		Deed2:
Seller:		Date:		Price:
Type:		Deed1:		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 Special Tax Recapture: * NONE *

CASE NAME HAILE PROP. - BELLONA PROP.
CASE NUMBER 2011-0179-A
DATE 1/29/11

[illegible]















k./Folio # MP01062

Pt. Bk./Folio # MP05039

Lot # 3
2500001635

DR 2
PDM # 080822

2500001634

Lot # 2

DR 3.5

215-B

Lot # 9

Pt. Bk./Folio # 014087

2300009023
Pt. Bk. 14, Folio 87

Lot # 1

PDM # 088031

DR 5.5

0919510100

9 ED

0905190000

0179

0902571451

NW 11-A

2300009026

211-A

Lot # 2
2300009024

211-B

Lot # 3
2300009025

PDM # 080745

Pt. Bk./Folio # MP00004

213

211

209

0801002175

207

0807030160

2100001342
201

8 ED

19584377

1700005105

1443

1441

1439

0908000472

NW 12-A

Pt. Bk. 78, Folio 313

060C3

BELLONA AVE

1437

1435

0923001573

1433

1429

0903470280

1427

0903470140

1425

0903470130

0179

3 CD

124

0902003220

1600007516

1600007517

0908000471

LINCOLN AVE

128

126

122

0818013200

0823003600

Pt. Bk./Folio # 008057

0810048710

0812040625

Pt. Bk. # 00001

204

0810048710

W SEMINARY AVE

2200008889

1600012073

0801013100

0823003150

0805019200

1434

1426

1422

0819052530

Lot # 4

Lot # 8

Lot # 7

Lot # 5

Lot # 5

Lot # 5

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OPEN SPACE PROPOSAL

OPEN SPACE REQUIREMENT	ACRES
FOREST BUFFER EASEMENT	0
FOREST CONSERVATION EASEMENT	0
FOREST BUFFER & FOREST CONSERVATION EASEMENT	0
TOTAL	0

ADDITIONAL INFORMATION

ANTICIPATED ACTIONS:

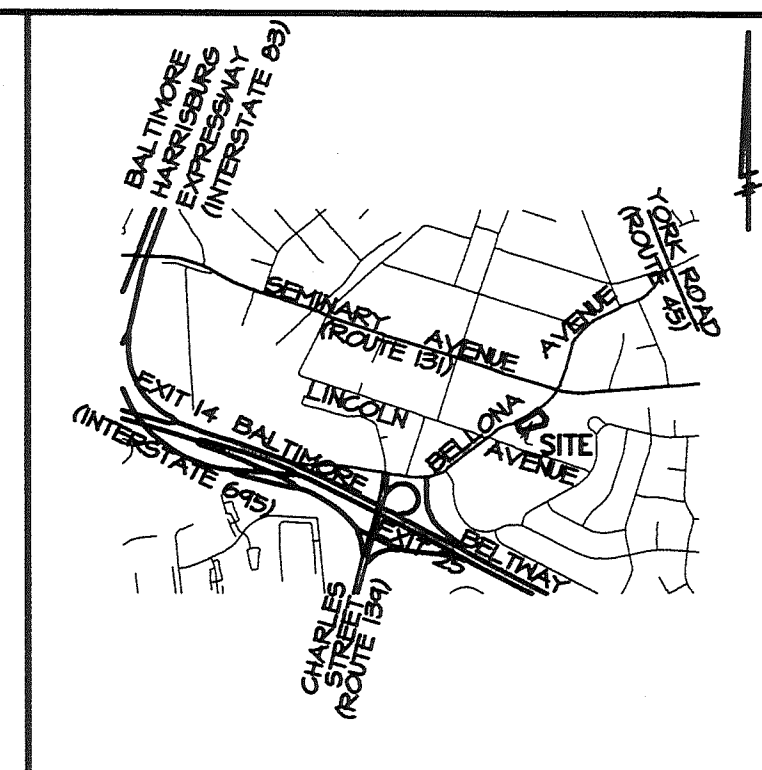
Variances: A variance may be required for Lot 1 #1433 Bellona Avenue requesting a sideyard setback of 6' in lieu of the required 10' for an existing dwelling.

Waivers:

Special Exceptions:

Other:

Consistency with design manuals



Vicinity Map 1" = 2000'

GENERAL NOTES

- THE BOUNDARY SHOWN HEREON IS FROM A BOUNDARY SURVEY BY GERHOLD, CROSS, & ETZEL, LTD.
- THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 060C3.
- THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM THE NRCS WEB SOIL SURVEY.
- GENESIS TRACT: 400200 A.D.C. MAP & GRID: 21 A3 WATERSHED: JONES FALLS SUBWERSHED: 57N REGIONAL PLANNING DISTRICT: 300
- SCHOOL DISTRICT: ELEMENTARY - LUTHERVILLE ES; MIDDLE - RIDGELY M.S.; HIGH - TOWSON H.S.
- THERE ARE NO KNOWN UNDERGROUND FUEL STORAGE TANKS ON THE SUBJECT PROPERTY.
- THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
- THE SUBJECT PROPERTY IS LOCATED WITHIN THE LUTHERVILLE HISTORIC DISTRICT.
- THE SUBJECT PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN.
- ALL LOTS SHOWN HEREON ARE TO BE SERVED BY PUBLIC WATER AND SEWER SERVICE.
- THE ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES, AND PROJECTIONS INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE BUT MUST COMPLY WITH SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS).
- ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARDS CANNOT BE LOCATED IN FLOOD PLAIN AREAS OR HYDRIC SOILS.
- LOCAL OPEN SPACE REQUIRED FOR 4 UNITS IS 4,000 SQ. FT. OR 0.092 ACRES. OPEN SPACE REQUIRED - 2,800 SQ. FT. ACTIVE AND 1,400 SQ. FT. PASSIVE; OPEN SPACE PROVIDED - 0 SF. A FEE-IN-LIEU OF OPEN SPACE WILL BE REQUESTED.
- AVERAGE DAILY TRIPS $4(1018) \times 12.4 = 44.6$
- HIGHWAY, SLOPE EASEMENTS, DRAINAGE AND UTILITIES EASEMENTS, ACCESS EASEMENTS AND STORM WATER MANAGEMENT AREAS, NO MATTER HOW ENTITLED, SHOWN HEREON ARE RESERVED TO THE OWNER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND.
- BALTIMORE COUNTY MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE RIGHT OF ANY PRESENT OR FUTURE OWNER OF ANY LOT SHOWN ON THIS PLAN TO USE ALL OR ANY PART OF THAT LAND DESIGNATED AS PRIVATE RIGHT OF WAY FOR THE PURPOSE OF INGRESS, EGRESS, OR THE RIGHT TO OPEN OR EXCAVATE THE AFORESAID RIGHT OF WAY FOR THE PURPOSES OF INSTALLING, CONSTRUCTING AND MAINTAINING UTILITIES SUCH AS BUT NOT LIMITED TO WATER, SEWER, ELECTRICAL, TELEPHONE OR CABLE T.V.
- THIS PROPERTY, AS SHOWN HEREON, HAS BEEN HELD INTACT SINCE JUNE 26, 1970. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
- THE SUBJECT PROPERTY, IS LESS THAN 40,000 SQ. FT. AND THEREFORE EXEMPT FROM FOREST CONSERVATION REQUIREMENTS.
- EXISTING USE: 4 SINGLE FAMILY DWELLINGS; PROPOSED USE: 4 SINGLE FAMILY DWELLINGS

VARIANCES REQUESTED

BALTIMORE COUNTY ZONING REGULATIONS:

SECTION 1B02.3.C.1

FOR #1433 & #1435 BELLONA AVENUE (EXISTING DWELLINGS) TO ALLOW A FRONT YARD SETBACK OF 20' IN LIEU OF THE REQUIRED 25' FOR TWO EXISTING DWELLINGS.

FOR #1433 BELLONA AVENUE (EXISTING DWELLING) TO ALLOW A SIDE YARD SETBACK OF 6' IN LIEU OF THE REQUIRED 10' FOR AN EXISTING DWELLING.

PETITIONER'S

EXHIBIT NO. 1



ZONING CASE #2011-0179-A PLAN TO ACCOMPANY A PETITION FOR VARIANCE OF THE HAILE PROPERTY

#1433 & #1435 BELLONA AVENUE
Deed Ref: E.H.K., Jr. No. 5907 folio 133
Tax Account No.: 09-23-001513
Zoned DR- 5.5; GIS Tile 060C3
Tax Map 60; Grid 24; Parcel 536
9th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 20'

DATE: OCTOBER 12, 2010

GERHOLD, CROSS & ETZEL, LTD
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Towson Town Boulevard
Towson, Maryland 21286
(410) 823-4470

SYMBOLS LEGEND

- WATER METER
- CLEANOUT
- GAS VALVE
- GAS METER
- MAILBOX
- TELEPHONE BOX
- SANITARY SEWER MANHOLE

- EXISTING DWELLING
- SOIL LINE
- WOODS LINE
- ZONING LINE
- PROPERTY LINE
- CONTOURS



SOIL TYPES & LIMITATIONS

TYPE	SEPTIC TANK ABSORPTION FIELDS	DWELLINGS WITH BASEMENTS	LOCAL ROADS & STREETS
CoD	Vary Limited: Slow Water Movement (1.00); Slope (0.16)	Somewhat Limited: Slope (0.16)	Somewhat Limited: Frost action (0.30); Slope (0.16)
SHD	Vary Limited: Slow Water Movement (1.00); Slope (0.24)	Somewhat Limited: Slope (0.24)	Somewhat Limited: Frost action (0.30)

SITE DATA

EXISTING ZONING AND MAXIMUM DENSITY PERMITTED

ZONE	ACRES	UNITS ALLOWED	UNITS PROPOSED
D.R. 5.5	0.834	4	4
TOTAL	0.834	4	4

SITE DEVELOPMENT PROPOSAL

DWELLING TYPE	PROPOSED UNITS	PARKING REQUIRED	PARKING PROVIDED	AVERAGE DAILY TRIPS
SINGLE FAMILY	4	2 PER DWELLING	8	49.6
TOTAL	4	8	8	49.6

D.R. 5.5 BUILDING SETBACKS

MINIMUM NET LOT AREA PER DWELLING UNIT (sq. ft.)	6,000
MINIMUM LOT WIDTH (feet)	35
MINIMUM FRONT YARD DEPTH (feet)	25
MINIMUM WIDTH OF INDIVIDUAL SIDE YARD (feet)	10
MINIMUM SUM OF SIDE YARD WIDTHS (feet)	-
MINIMUM REAR YARD DEPTH (feet)	30

D.R. 5.5 DENSITY CALCULATIONS

GROSS AREA	0.834 Ac. ±
HIGHWAY WIDENING	0.0 Ac. ±
NET AREA	0.834 Ac. ±
LOTS PERMITTED 5.5 LOT PER AC. @ 0.834 Ac. = 4 Lots	
LOTS PROPOSED	4

OWNER

THE ESTATE OF
LEROY Y. HAILE, JR.
1503 PROVIDENCE ROAD
TOWSON, MD 21286-1524

DEVELOPER

LEROY Y. HAILE, 3RD
1511 PROVIDENCE ROAD
TOWSON, MD 21286-1524
(410)-828-0575

REVISION

DATE

PLOT DATE: 11/12/2010

TECHNICIAN: M.E.A.

FILE NAME: X:\HAILE BELLONA\ZONING.prt

OPEN SPACE PROPOSAL

OPEN SPACE REQUIREMENT	ACRES
FOREST BUFFER EASEMENT	0
FOREST CONSERVATION EASEMENT	0
FOREST BUFFER & FOREST CONSERVATION EASEMENT	0
TOTAL	0

ADDITIONAL INFORMATION

ANTICIPATED ACTIONS:

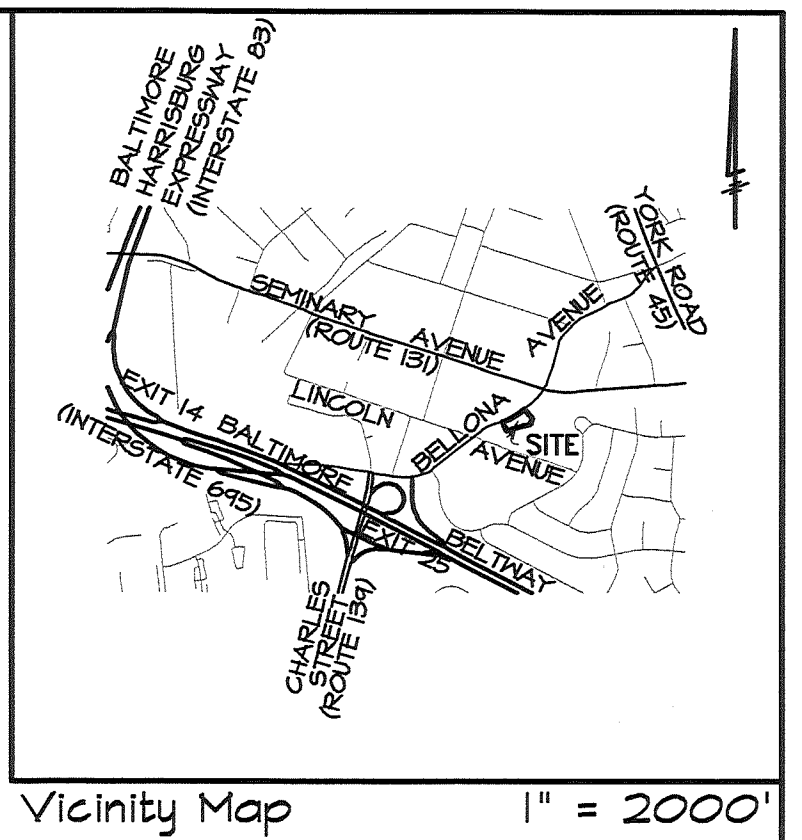
Variances: A variance may be required for Lot 1 #1433 Bellona Avenue requesting a sideyard setback of 6' in lieu of the required 10' for an existing dwelling.

Waivers:

Special Exceptions:

Other:

Consistency with design manuals



GENERAL NOTES

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- THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 06003.
- THE SOIL TYPES SHOWN HEREON WERE TAKEN FROM THE NRCS WEB SOIL SURVEY.
- CENSUS TRACT: 440200 A.D.C. MAP & GRID: 27 A3
- WATERSHED: JONES FALLS SUBWERSHED: 57N
- REGIONAL PLANNING DISTRICT: 300
- SCHOOL DISTRICT: ELEMENTARY - LUTHERVILLE E.S.; MIDDLE - RIDGELY M.S.; HIGH - TOWSON H.S.
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- AVERAGE DAILY TRIPS 4(lots) x 12.4 = 49.6
- HIGHWAY, SLOPE EASEMENTS, DRAINAGE AND UTILITIES EASEMENTS, ACCESS EASEMENTS AND STORM WATER MANAGEMENT AREAS, NO MATTER HOW ENTITLED, SHOWN HEREON, ARE RESERVED UNTO THE OWNER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND.
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VARIANCES REQUESTED

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SECTION 1B02.3.C.1

FOR #1433 & #1435 BELLONA AVENUE (EXISTING DWELLINGS) TO ALLOW A FRONT YARD SETBACK OF 20' IN LIEU OF THE REQUIRED 25' FOR TWO EXISTING DWELLINGS.

FOR #1433 BELLONA AVENUE (EXISTING DWELLING) TO ALLOW A SIDE YARD SETBACK OF 6' IN LIEU OF THE REQUIRED 10' FOR AN EXISTING DWELLING.

Plan to Accompany Photographs

ZONING CASE #2011-0179-A PLAN TO ACCOMPANY A PETITION FOR VARIANCE OF THE HAILE PROPERTY

#1433 & #1435 BELLONA AVENUE
Deed Ref: E.H.K., Jr. No. 5907 folio 133
Tax Account No.: 09-23-001573
Zoned DR- 5.5; GIS Tile 06003
Tax Map 60; Grid 24; Parcel 536
9th ELECTION DISTRICT
3rd COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 20'

DATE: OCTOBER 12, 2010

GERHOLD, CROSS & ETZEL, LTD
REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

REVISION

DATE

PLOT DATE: 1/17/2011

TECHNICIAN: M.E.A.

FILE NAME: X

PETITIONER'S

EXHIBIT NO. 3

MARYLAND COORDINATE SYSTEM
NAD 83/91

SYMBOLS LEGEND

- WATER METER
- CLEANOUT
- GAS VALVE
- GAS METER
- MAILBOX
- TELEPHONE BOX
- SANITARY SEWER MANHOLE

- EXISTING DWELLING
- SOIL LINE
- WOODS LINE
- ZONING LINE
- PROPERTY LINE

- CONTOURS

- SLOPES ≥ 25%

SOIL TYPES & LIMITATIONS

TYPE	SEPTIC TANK ABSORPTION FIELDS	DWELLINGS WITH BASEMENTS	LOCAL ROADS & STREETS
CoD	Very Limited: Slow Water Movement (1.00); Slope (0.16)	Somewhat Limited: Slope (0.16)	Somewhat Limited: Frost action (0.30); Slope (0.16)
SHD	Very Limited: Slow Water Movement (1.00); Slope (0.84)	Somewhat Limited: Slope (0.84)	Somewhat Limited: Slope (0.84); Frost action (0.30)

SITE DATA

EXISTING ZONING AND MAXIMUM DENSITY PERMITTED

ZONE	ACRES	UNITS ALLOWED	UNITS PROPOSED
D.R. 5.5	0.834	4	4
TOTAL	0.834	4	4

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MINIMUM SUM OF SIDE YARD WIDTHS (feet)	-
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HIGHWAY WIDENING	0.0 Ac.±
NET AREA	0.834 Ac.±
LOTS PERMITTED 5.5 LOT PER AC. @ 0.834 Ac.=4 Lots	
LOTS PROPOSED	4

OWNER

THE ESTATE OF
LEROY Y. HAILE, JR.
1503 PROVIDENCE ROAD
TOWSON, MD 21286-1524

DEVELOPER

LEROY Y. HAILE, SRD
1511 PROVIDENCE ROAD
TOWSON, MD 21286-1524
(410)-828-0575

REVISION

DATE

PLOT DATE: 1/17/2011

TECHNICIAN: M.E.A.

FILE NAME: X

PETITIONER'S

EXHIBIT NO. 3