

IN RE: PETITION FOR ADMIN. VARIANCE

NE side of Tickwood Road, 1560 feet NE
of the c/l of Greyhound Road
15th Election District
6th Councilmanic District
(2337 Tickwood Road)

William N. and Jo Ann B. Loeliger
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* Case No. 2011-0306-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, William N. and Jo Ann B. Loeliger for property located at 2337 Tickwood Road. The variance request is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed addition (garage) to have a side yard setback of 5 feet and a combination of side yard setbacks of 17 feet in lieu of the minimum required 10 feet and 25 feet, respectively. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct a new attached garage containing 873 square feet and measuring 30 feet x 28 feet. The existing garage is in poor condition. The only place to attach the garage to the dwelling is adjacent to the south property line which gets narrower towards the street. This makes attaching the garage to the house impossible without a variance. Petitioners state the existing garage will be razed.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Sustainability dated May 13, 2011. The subject property is located within the Chesapeake Bay Critical Area. According to B.C.Z.R. Section 500.14, no decision shall be rendered on any

ORDER RECEIVED FOR FILING

Date 5-19-11

By [Signature]

petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands.

The subject property is located within a Limited Development Area and is subject to Critical Area lot coverage requirements. To minimize impacts on water quality, lot coverage cannot exceed the existing amount. According to the applicant's plan, lot coverage is proposed to be decreased with the removal of the existing garage for re-establishment to vegetated area, and this will account for the new lot coverage areas of the proposed garage and driveway. By meeting the lot coverage requirements, allowing the side yard setback relief requested by the applicant will result in minimal impacts to water quality. It is recommended that the zoning item be conditioned to require the proposed removal of the existing garage and the establishment of that area to vegetative cover.

2. Conserve fish, wildlife, and plant habitat.

It appears that the required Critical Area buffer may cover the entire property based on the location of tidal waters and tidal wetlands to the east and south, and the existence of greater than 5% slopes in an area of highly erodible soils. The current development of the property prevents the buffer from fulfilling water quality and habitat functions. These areas are subject to DEPS's Critical Area law, and to Critical Area Buffer requirements found in COMAR 27.01.09.01. The applicant's proposal for a replacement garage attached to the roadside of the home may require a Critical Area Administrative Variance (CAAV) from DEPS. It is recommended that the zoning petition be conditioned to require conformance with any CAAV required by DEPS and to meet requirements of COMAR 27.01.09.01 to offset water quality impacts associated with the new garage and driveway, which will improve buffer functions and conserve fish habitat in Middle River.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The applicant's proposal to replace a garage on the roadside of the dwelling over mostly existing lot coverage with no increase of lot coverage on the site is consistent with this goal. The side yard setbacks requested will be consistent with established land-use policies provided that the applicants meet the conditions listed in comments 1 and 2 above.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 24, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

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Date 5-19-11 2

By [Signature]

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 19th day of May, 2011 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed addition (garage) to have a side yard setback of 5 feet and a combination of side yard setbacks of 17 feet in lieu of the minimum required 10 feet and 25 feet, respectively be and is hereby GRANTED, subject to the following:

1. The 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, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners shall remove the existing garage and the removal area shall be restored to vegetative cover.
3. Development of this property may require a Critical Area Administrative Variance (CAAV) from Department of Environmental Protection and Sustainability, and the project shall conform to any CAAV requirements of the Department of Environmental Protection and Sustainability.

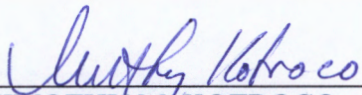
ORDER RECEIVED FOR FILING

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By X

4. Development of this property is subject to the Department of Environmental Protection and Sustainability's Critical Area Law, and to Critical Area Buffer requirements found in COMAR 27.01.09.01. Said development shall meet the requirements of COMAR 27.01.09.01 to offset water quality impacts.

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


TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz

ORDER RECEIVED FOR FILING

Date 5-19-11 4
By 



CEA *FLD*

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2337 TICKWOOD ROAD

which is presently zoned DR 3.5

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 - to permit a

proposed addition (garage) to have a side yard setback of 5 feet and a combination of side yard setbacks of 17 feet in lieu of the minimum required 10 and 25, respectively.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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

City

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

WILLIAM N. LOELIGER

Name - Type or Print

Signature

JOANN B. LOELIGER

Name - Type or Print

Signature

2337 TICKWOOD ROAD

410-574-0088

Address

Telephone No.

BALTIMORE,

MARYLAND

21221

State

Zip Code

Representative to be Contacted:

WILLIAM N. BAFITIS, P.E. (BAFITIS & ASSOCIATES)

Name

1249 ENGLEBERTH ROAD

410-391-2336

Address

Telephone No.

BALTIMORE

MARYLAND

21221

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this day of _____, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 2011-0306-A

Reviewed By RJD

Date 4/4/11

REV 9/15/98

Estimated Posting Date 4/24/11

ORDER RECEIVED FOR FILING

Date 5-19-11

By [Signature]

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 2337 TICKWOOD ROAD
Address
BALTIMORE MARYLAND 21221
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

THE EXISTING GARAGE IS IN NEED OF ALOT OF REPAIRS. THEREFORE, WE DECIDED TO BUILD A NEW GARAGE ATTACHED TO THE EXISTING HOUSE AND RAZE THE EXISTING GARAGE WHICH WILL HELP TO EXPAND OUR EXISTING SPETIC FIELD AREA. HOWEVER, THE ONLY PLACE TO ATTACH THE GARAGE TO THE HOUSE IS ADJACENT TO THE SOUTH PROPERTY LINE WHICH GETS NARROWER TOWARDS THE STREET. THIS MAKES ATTACHING THE GARAGE TO THE HOUSE IMPOSSIBLE WITHOUT NEEDING A VARIANCE.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

William N. Loeliger
Signature

WILLIAM N. LOELIGER

Name - Type or Print

Joann B. Loeliger
Signature

JOANN B. LOELIGER

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 8th day of April, 2011, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal

4-8-11
Date

Linda B. Blythe
Notary Public

My Commission Expires 10-31-2011

Item #0306

Approval for Zoning Variance

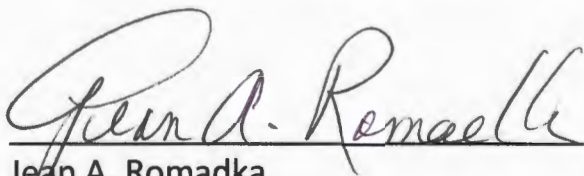
Re: 2337 Tickwood Road
Baltimore, Maryland 21221
Deed Ref: 14396/336
Tax No. : 19-00006114

A petition for zoning variance is being submitted for the construction of an attached garage to the property at 2337 Tickwood Road and currently owned by William N. and Jo Ann B. Loeliger.

The zoning variance would include:

1. To allow a 5 ft. +/- sideyard setback in lieu of the required 10 ft. sideyard setback required in a DR 3.5 zone per section 1B02.3C1.
2. To allow a 17 ft. +/- total sum of sideyard width in lieu of the required 25 ft. minimum sum of sideyard width required in a DR 3.5 zone per section 1B02.3C1.

The undersigned, being a near adjacent property owner, has no objection to this zoning variance as stated above or to the construction of the attached garage.



Jean A. Romadka
2339 Tickwood Road
Baltimore, Maryland 21221

4/3/11
Date

Owner of adjacent parcel:
Deed: 12213/436
Tax No: 22-00014045

Item #0306



Bafitis & Associates, Inc.

ZONING DESCRIPTION
FOR
#2337 TICKWOOD ROAD
BALTIMORE, MARYLAND 21221
ELECTION DISTRICT 15TH

Beginning at a point on the north side of Tickwood Road; and 1,562' ± northeasterly from the centerline intersection of Greyhound Road 30' wide;

1. Thence leaving said Tickwood Road, North 59°-50'-22", East 254.91' to a point in the waters of Middle River;
2. Thence running in the waters of Middle River, South 44°-02'-38", East 6.70' to a point;
3. Thence, South 21°-02'-38", East 112.28 to a point;
4. Thence leaving said waters, South 69°-27'-22", West 239.21' to a point; on the north side of Tickwood Road;
5. Thence running along said road, North 32°-17'-38", West 77.46" to the point of beginning.

Containing 24,175 s.f. or 0.555 acres more or less.

Deed Reference, Liber 14396 Folio 336.



William N. Bafitis, P.E., M.D. License No. 11641

3/30/2011
Date

Item #0306

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

MAY 16 2011

TO: Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Dave Lykens, Department of Environmental Protection and Sustainability (EPS) –
Development Coordination

DATE: May 13, 2011

SUBJECT: DEPS Comment for Zoning Item # 11-306-A
Address 2337 Tickwood Road
(Loeliger Property)

OFFICE OF ADMINISTRATIVE HEARINGS

Zoning Advisory Committee Meeting of April 18, 2011.

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area and is subject to Critical Area lot coverage requirements. To minimize impacts on water quality, lot coverage cannot exceed the existing amount. According to the applicant's plan, lot coverage is proposed to be decreased with the removal of the existing garage for re-establishment to vegetated area, and this will account for the new lot coverage areas of the proposed garage and driveway. By meeting the lot coverage requirements, allowing the side yard setback relief requested by the applicant will result in minimal impacts to water quality. It is recommended that the zoning item be conditioned to require the proposed removal of the existing garage and the establishment of that area to vegetative cover.

2. Conserve fish, wildlife, and plant habitat; and

It appears that the required Critical Area buffer may cover the entire property based on the location of tidal waters and tidal wetlands to the east and south, and the existence of greater than 5% slopes in an area of highly erodible soils. The current development of the property prevents the buffer from fulfilling water quality and habitat functions. These areas are subject to EPS's Critical Area law, and to Critical Area Buffer requirements found in COMAR 27.01.09.01. The applicant's proposal for a replacement garage attached to the roadside of the home may require a Critical Area administrative variance (CAAV) from EPS. It is recommended that the zoning petition be conditioned to require conformance with any CAAV required by EPS and to meet requirements of COMAR 27.01.09.01 to offset water quality impacts associated with the new garage and driveway, which will improve buffer functions and conserve fish habitat in Middle River.

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3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The applicant's proposal to replace a garage on the roadside of the dwelling over mostly existing lot coverage with no increase of lot coverage on the site is consistent with this goal. The side yard setbacks requested will be consistent with established land-use policies provided that the applicants meet the conditions listed in comments 1 and 2 above.

2337 Tickwood Road



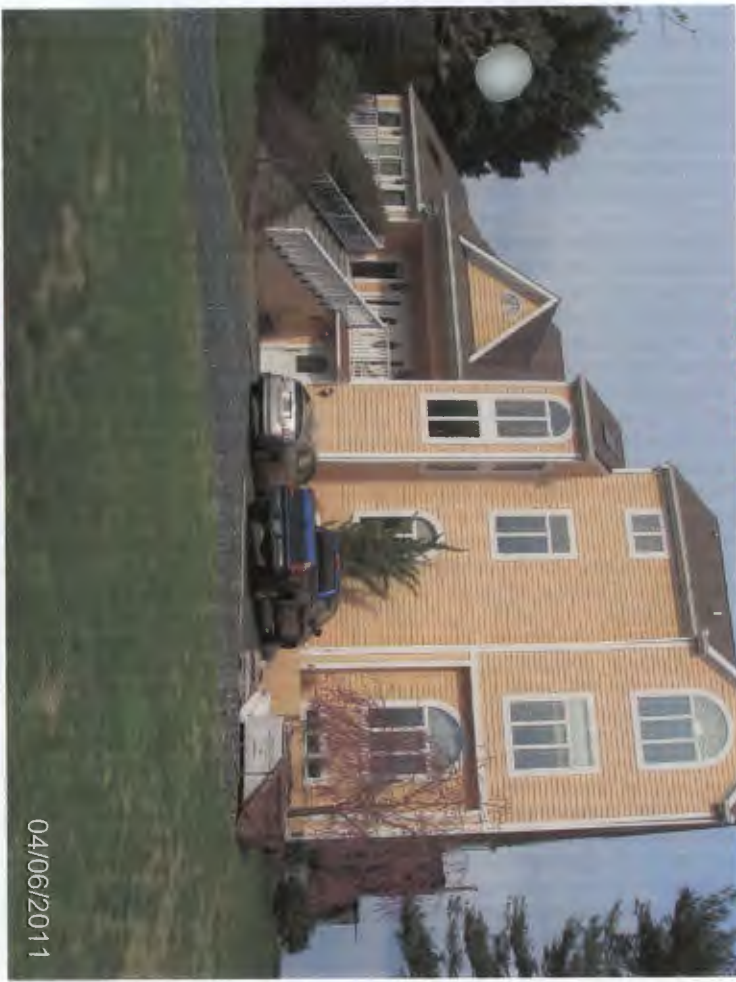
04/06/2011

Photo 1



04/06/2011

Photo 2



04/06/2011

Photo 3



04/06/2011

Photo 4

Item #0306



Photo 5

04/06/2011



Photo 7

04/06/2011



Photo 6

04/06/2011



Photo 8

04/06/2011

Item # 0306

CERTIFICATE OF POSTING

2011-0306-A

RE: Case No.: _____

Petitioner/Developer: _____

W & J Loeliger

May 9, 2011

Date of Hearing/Closing: _____

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: 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: _____

2337 Tickwood Road

April 24, 2011

The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,



April 27, 2011

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

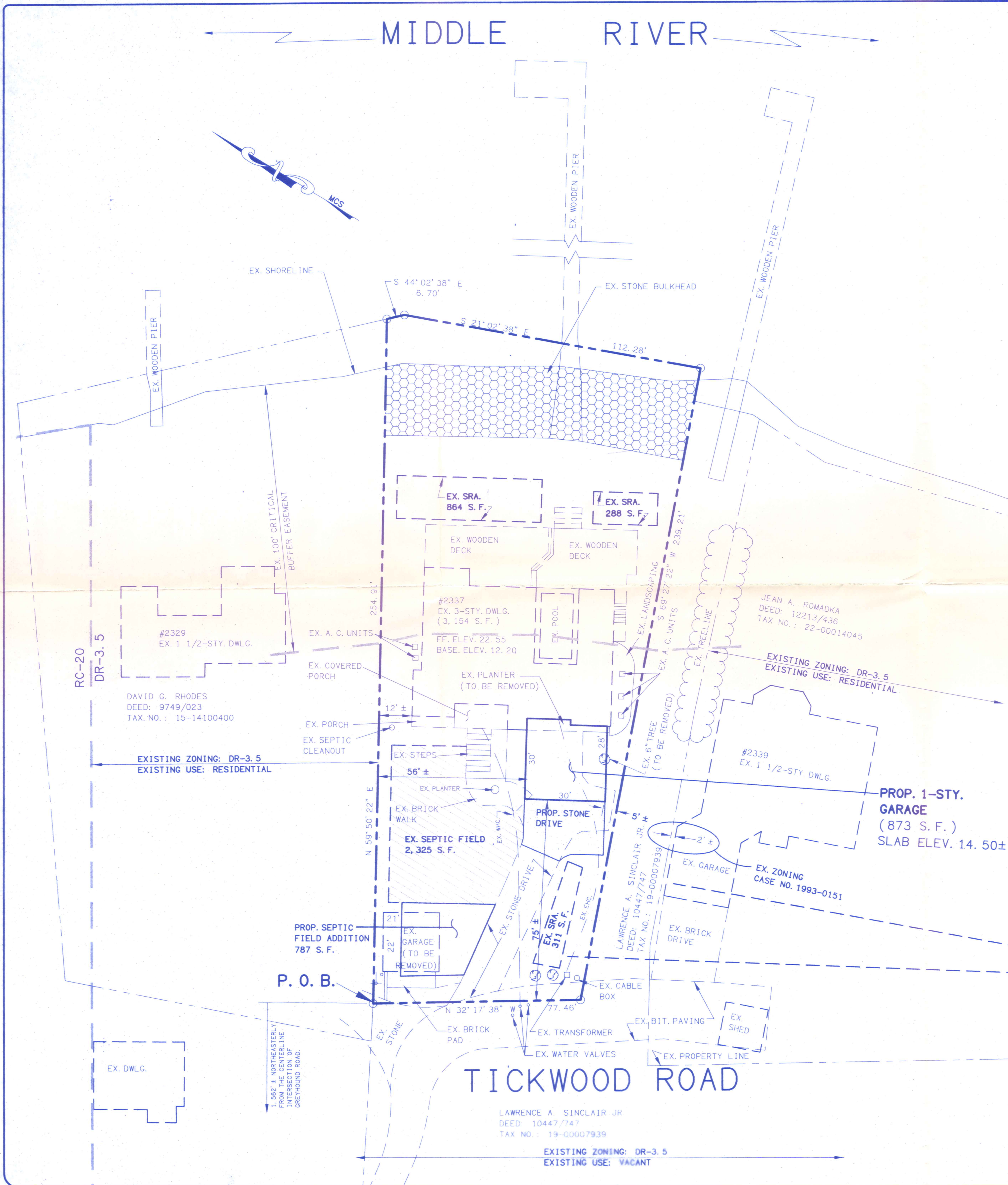
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



NOTES

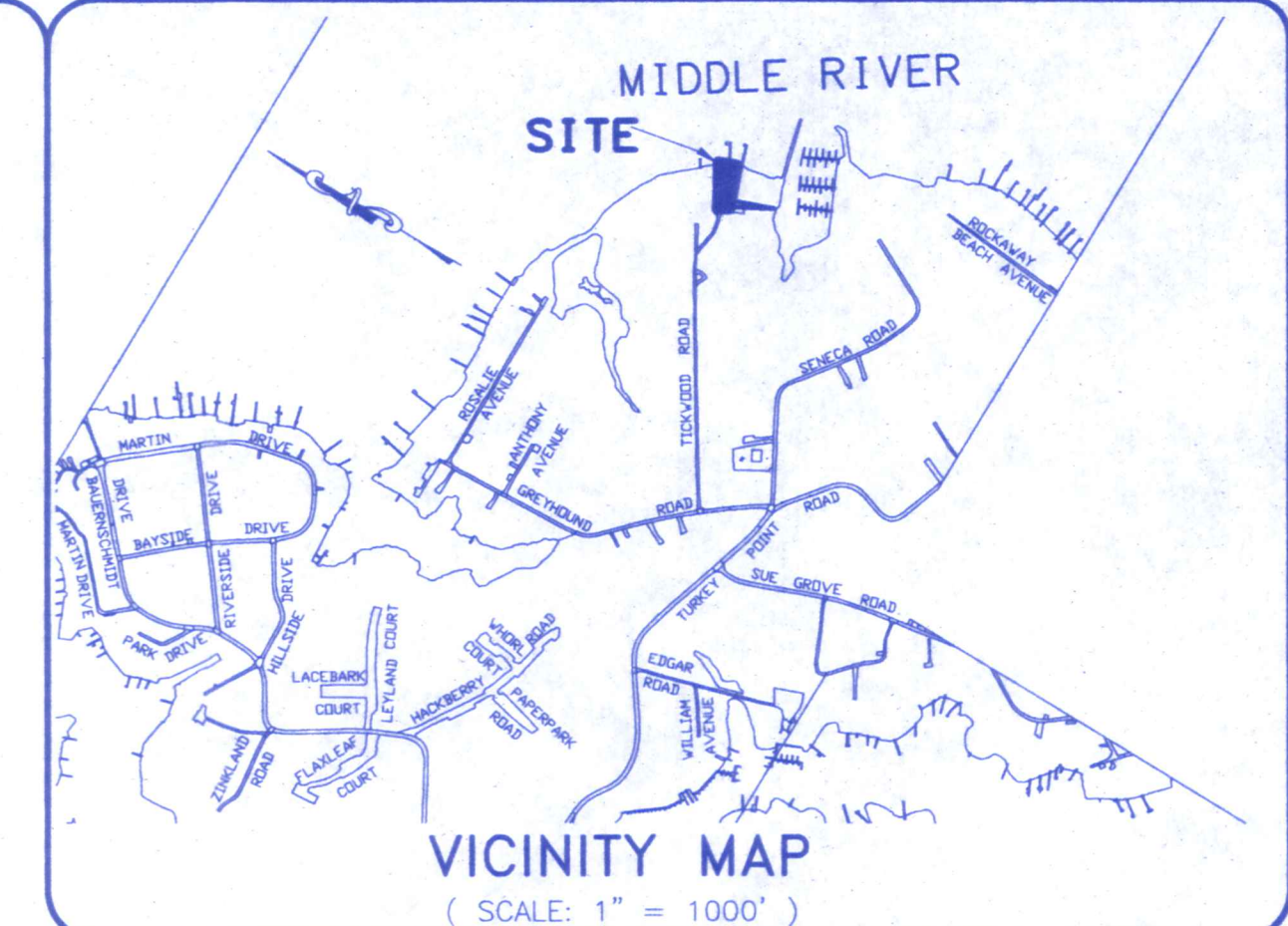
1. Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey. (FEB. 2011)
2. The Firm Insurance Rate Map, 240010-0445 F indicates this is situated within flood Zone AE. F.E.M.A. indicates a Flood Elevation of 8.5 NAVD 88 based on a Flood Insurance Study Number 240010V000B. A minimum first floor elevation 10.5 NAVD 88.
3. Property lines shown hereon were established by public information.
4. This site is situated within the Chesapeake Bay Critical Areas and is classified by land use as Limited Development Area (LDA) (MAP 98).
5. There shall be no clearing, grading, construction or disturbance of vegetation within the 100' Buffer Area except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
6. This site is not situated within a Mapped Buffer Management Area of the Chesapeake Bay Critical Areas.
7. There are no forest or developed woodlands on this site.
8. There are no Tidal & Non-Tidal Wetlands shown on this site.
9. There is no significant plant or animal habitat on this site.
10. There are no slopes greater than 15% on this site except as shown along Middle River.
11. There are no known wells on this site.
12. There are underground storage tanks or septic systems on this site.
13. There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
14. There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
15. The site has 117' ± of water frontage.
16. Public Water serves this site.
17. Caution underground utilities may exist in Tickwood Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
18. Proposed dwelling height Max. 50' allowed.
19. All Septic Repair Areas are shown on site from a drawing from EPS.

ZONING HISTORY

THERE ARE NO ZONING CASES FOR THIS SITE.

ZONING VARIANCE

1. TO ALLOW A 5 FT. ± SIDEYARD SETBACK IN LIEU OF THE REQUIRED 10 FT. SIDEYARD SETBACK REQUIRED IN A DR 3.5 ZONE PER SECTION 1B02.3C1.
2. TO ALLOW A 17 FT. ± TOTAL SUM OF SIDEYARD WIDTH IN LIEU OF THE REQUIRED 25 FT. MINIMUM SUM OF SIDEYARD WIDTH REQUIRED IN A DR 3.5 ZONE PER SECTION 1B02.3C1.



BENCH MARK

GIS #8

MONUMENT FOUND ON THE SOUTHSIDE OF TICKWOOD ROAD AND EASTSIDE OF GREYHOUND ROAD; 24.73' FROM THE CENTERLINE OF TICKWOOD ROAD AND 21.05' FROM THE CENTERLINE OF GREYHOUND ROAD.
N. 593745.99
E. 1480353.73
ELEV. 29.24

SITE DATA

- 1) OWNER: WILLIAM N. LOELIGER & JOANN B. LOELIGER
#2337 TICKWOOD ROAD
BALTIMORE, MARYLAND 21221
- 2) DEED REF: 14396/336
- 3) TAX ACC. NO.: 19-00006114
- 4) TAX MAP: 98 PARCEL: 456 LOT: NONE
- 5) PLAT REF: NONE
- 6) ELECTION DISTRICT: 15TH
- 7) COUNCILMANIC DISTRICT: 6TH
- 8) REGIONAL PLANNING DISTRICT: 328
- 9) CENSUS TRACT: 4509
- 10) ZONING: DR-3.5
- 11) ZONING MAP: 098B2
- 12) USE: EXISTING: RESIDENTIAL, SINGLE FAMILY DWELLING
PROPOSED: RESIDENTIAL, ATTACHED GARAGE
- 13) SITE AREA:
LAND AREA: 22,883 S.F. OR 0.525 AC.
WATER AREA: 1,292 S.F. OR 0.030 AC.
TOTAL: 24,175 S.F. OR 0.555 AC.

Bafitis & Associates, Inc.
1249 Engleberth Rd. Baltimore, MD 21221
(410) 391-2336

William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS

PLAN TO ACCOMPANY PETITION FOR ADMINISTRATIVE VARIANCE FOR #2337 TICKWOOD ROAD

15TH ELECTION DISTRICT		BALTIMORE COUNTY, MARYLAND	
		SCALE: 1" = 20'	JOB ORDER NO: 21102
		DATE: 04/04/11	CHECKED: R.W.S.
		DRAWN: N.W.B.	SHEET 1 OF 1
		NO. REVISIONS DATE	