

IN RE: PETITION FOR ADMIN. VARIANCE

S side of Mineral Avenue, 91 feet E of the
c/l Francis Avenue
13th Election District
1st Councilmanic District
(5753 Mineral Avenue)

Cathleen A. and Arthur E. Vail, Jr.
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* Case No. 2012-0030-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, Cathleen A. and Arthur E. Vail, Jr. for property located at 5753 Mineral Avenue. The variance request is from Sections 1B02.3.B and 303.1 to permit an addition with a front yard setback of 28 feet, a side yard setback of 10 feet, and a sum of side yards of 23 feet in lieu of the required front yard average of 37 feet, side yard setback of 15 feet, and sum of side yards of 25 feet, respectively. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct a two story addition to accommodate their elderly parents. The proposed addition will have an elevator. Due to the layout of the house and the placement of the dwelling on the property, this is the only location where the addition can be constructed. The property is irregular in shape (triangular) and encumbered with a 12 feet private sewer and water right-of-way and a 10 feet drainage and utility easement. The property contains 0.262 acres and is served by private water and sewer.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

ORDER RECEIVED FOR FILING

Date

By

9-15-11
193

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 14, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

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 15th day of September, 2011 that a variance from Sections 1B02.3.B and 303.1 to permit an addition with a front yard setback of 28 feet, a side yard setback of 10 feet, and a sum of side yards of 23 feet in lieu of the required front yard average of 37 feet, side yard setback of 15 feet, and sum of side yards of 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.

ORDER RECEIVED FOR FILING

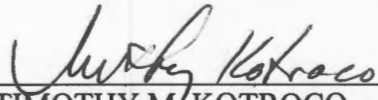
Date

9-15-11

By

103

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 9-15-11

By 123



KEVIN KAMENETZ
County Executive

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

September 15, 2011

CATHLEEN A. AND ARTHUR E. VAIL, JR.
5753 MINERAL AVENUE
HALETHORPE MD 21227

Re: Petition for Administrative Variance
Case No. 2012-0030-A
Property: 5753 Mineral Avenue

Dear Mr. and Mrs. Vail:

Enclosed please find the decision rendered in the above-captioned case. The petition for Administrative Variance has been granted in accordance with the enclosed Order.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Kotroco", is written over a light blue horizontal line.

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:pz

Enclosure



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County for the property
located at 5753 MINERAL AVENUE
which is presently zoned DR 3.5

Deed Reference: 084481046 Tax Account # 1900011870

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.

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

I, or we, agree to pay expenses of above Administrative 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): *artvail@verizon.net*

ARTHUR E. VAIL JR.
Name - Type or Print _____
Signature *Arthur E. Vail Jr.* _____
CATHLEEN A. VAIL
Name - Type or Print _____
Signature *Cathleen A. Vail* _____
5753 MINERAL AVE 410-247-4281
Address _____ Telephone No. _____
HALETHORPE MD 21227
City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____
Address _____ Telephone No. _____
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. 2012-0030-A Reviewed By BR Date 8/1/11

ORDER RECEIVED FOR FILING

Estimated Posting Date 8/1/11

FRM476_09

Date 9-15-11

Rev 3/09

By [Signature]

1B02.3.B and 303.1 to permit an addition with a front yard setback of 28 ft., a side yard setback of 10 ft., and a sum of side yards of 23 ft. in lieu of the required front yard average of 37 ft., side yard setback of 15 ft. and sum of side yards of 25 ft., respectively.

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 own and reside at 5753 MINERAL AVENUE
Address number Road or Street name

and that this address is the subject of this variance request as required by law.

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 the hardship or practical difficulty; attach an additional sheet if needed) WE ARE REQUESTING THIS PETITION FOR THE FOLLOWING REASONS: WE ANTICIPATE THE POSSIBILITY OF MOVING MY ELDERLY MOTHER (AGE 83) INTO OUR HOUSE IN THE FUTURE AND THE CURRENT LAYOUT OF OUR HOUSE IS NOT CONDUCTIVE TO THIS. TO MAKE THIS SPACE HAVE PRACTICAL USE (WITH THE PLAN OF A FUTURE ELEVATOR WITHIN THE PROPOSED ADDITION), IT WILL REQUIRE BUILDING IT CLOSER TO OUR REAR PROPERTY LINE (WHICH IS ANGLED IN RELATION TO THE PLACEMENT OF OUR EXISTING HOUSE) THAN COUNTY CODE, AS WELL AS IMPINGE TWO FEET INTO THE FRONT 30' SET BACK.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, and the Affiant(s) desire to proceed with their variance request, they will be responsible for reposting the property and for payment of the advertising fees. They also understand that they may be required to provide additional information.

Arthur E. Vail
Signature

ARTHUR E. VAIL
Name- print or type

Cathleen A. Vail
Signature

CATHEEN A. VAIL
Name- print or type

A Notary Public must complete the following section prior to the filing appointment.

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, this 1st day of August, 2011, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared:

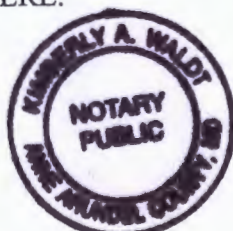
(Name Affiant(s) here): Arthur E. Vail & Cathleen A. Vail
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Kimberly A. Waldt
Name of Notary Public

9/16/2011
Commission expires

PLACE SEAL HERE:



Zoning Property Description for **5753 Mineral Avenue**

Beginning at a point on the south side of Mineral Avenue, which is a 50' right of way at a distance of 91' east of the centerline of Francis Avenue, which is a 60' right of way.

Being Lot No. 5, as shown on the Revised Plat Map of Bunny Hill as recorded in the Baltimore County Plat Book No. 51, Folio 27, containing .262 acres, saving and excepting there from 0.059 acres conveyed out as recorded in Liber S.M. No. 7745, Folio 082.

Said property, 5753 Mineral Avenue, is located in the 13th Election District and 1st Council District of Baltimore County.

Certificate of Posting

Department of Permits, Approval, and Inspections
Baltimore County
111 W. Chesapeake Avenue
Room 111
Towson, MD 21204

Date: Aug. 14, 2011

Attention: Zoning Office, Ms. Kristen Lewis

Re: Case Number: 2012-0030-A

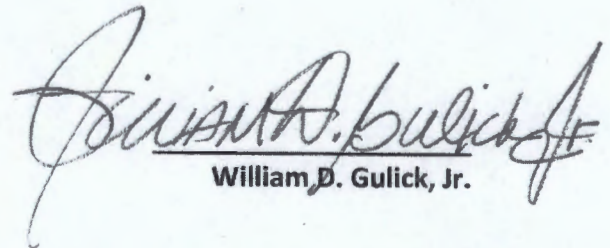
Petitioner/Developer: Arthur Vail, Jr.

Date of Hearing/Closing: Aug. 29, 2011

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 5753 Mineral Ave. Balto. MD 21227

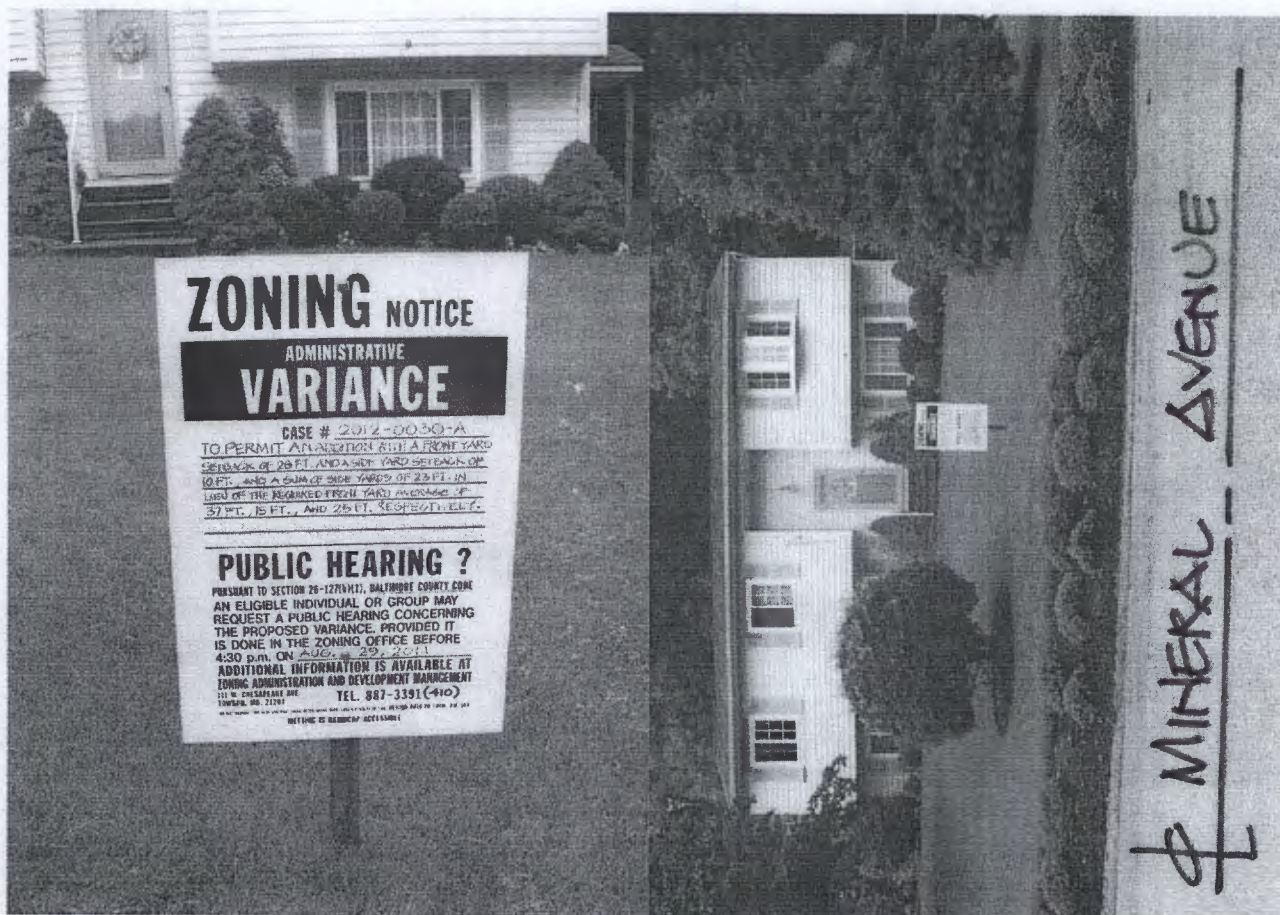
The sign(s) were posted on:

Aug. 14, 2011



William D. Gulick, Jr.

2944 Edgewood Avenue
Baltimore, MD 21234
(410) 530-6293



ZONING NOTICE

ADMINISTRATIVE VARIANCE

CASE # 2012-0030-A
TO PERMIT AN ADJUNCTION WITH A FRONT YARD
SETBACK OF 20 FT. AND A REAR YARD SETBACK OF
10 FT., AND A SIDE YARD SETBACK OF 25 FT. IN
LIEU OF THE REQUIRED FRONT YARD SETBACK OF
37 FT., 15 FT., AND 25 FT., RESPECTIVELY.

PUBLIC HEARING ?

PURSUANT TO SECTION 16-127(V)(1), BALTIMORE COUNTY CODE
AN ELIGIBLE INDIVIDUAL OR GROUP MAY
REQUEST A PUBLIC HEARING CONCERNING
THE PROPOSED VARIANCE, PROVIDED IT
IS DONE IN THE ZONING OFFICE BEFORE
4:30 p.m. ON AUGUST 29, 2011.

ADDITIONAL INFORMATION IS AVAILABLE AT
ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVE.
TOWSON, MD 21204
TEL. 887-3391(410)

NOTHING IS GUARANTEED

MINERAL AVENUE

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2012- 0030 -A Address 5753 Mineral Ave.

Contact Person: Bruno Rudaitis Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 8/1/11 Posting Date: 8/14/11 Closing Date: 8/29/11

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

- POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
- DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
- ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied; or will go to public hearing. The order will be mailed to you by First Class mail.
- POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2012- 0030 -A Address 5753 Mineral Ave.

Petitioner's Name Arthur Vail, Jr. Telephone _____

Posting Date: 8/14/11 Closing Date: 8/29/11

Wording for Sign: To Permit an addition with a front yard setback of 28 ft.
and a side yard setback of 10 ft., and a sum of side yards of 23 ft.
in lieu of the required front yard average of 37 ft., 15 ft., and 25 ft.
respectively.

Revised 7/06/11

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

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: 2012 - 0030 - A

Petitioner: ARTHUR VAIL

Address or Location: 5753 MINERAL AVENUE HALETHORPE, MD 21227

PLEASE FORWARD ADVERTISING BILL TO:

Name: ARTHUR VAIL

Address: 5753 MINERAL AVENUE

HALETHORPE, MD 21227

Telephone Number: 410 - 247 - 4281



KEVIN KAMENETZ
County Executive

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

August 19 2011

Mr. & Mrs. Arthur Vail, Jr.
5753 Mineral Avenue
Baltimore, MD 21227

RE: Case Number 2012-0030-A, 5753 Mineral Avenue

Dear Mr. & Mrs. Vail, Jr.,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 1, 2011. 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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is stylized with a large, flowing "W" and a prominent "J" at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel

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



Beverley K. Swaim-Staley, Secretary
Darrell B. Mobley, Acting Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 8-9-11

Ms. Kristen Matthews
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2012-0030-A
Administrative Variance
Arthur & Cathleen Vail, Jr.
5753 Mineral Avenue

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. 2012-0030-A.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us). Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steven D. Foster".

Steven D. Foster, Chief
Access Management Division

SDF/rz



KEVIN KAMENETZ
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

August 4, 2011

County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Zoning Review

Distribution Meeting of: **August 8, 2011**

Item No.:

Administrative Variance: 2012-0026A, 2012-0028A, 2012-0030A – 0032A.

Variance: 2012-0027A.

Special Hearing: 2012-0029-SPH.

Comments:

The Baltimore County Fire Marshal's Office has no comments on the above case numbers at this time.

Don W. Muddiman, Inspector
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov
cc: File

Patricia Zook - Case 2012-0030-A

From: Patricia Zook
To: Kennedy, Dennis
Date: 8/31/2011 4:03 PM
Subject: Case 2012-0030-A

Hi Dennis -

I have another case file that is missing comments from your office.

CASE NUMBER: 2012-0030-A

5753 Mineral Avenue

Location: S side of Mineral Avenue, 91 feet E of the c/l Francis Avenue

13th Election District, 1st Council District

Legal owner: Cathleen A. and Arthur E. Vail, Jr.

ADMINISTRATIVE VARIANCE to permit an addition with a front yard setback of 28 feet, a side yard setback of 10 feet, and a sum of side yards of 23 feet in lieu of the required front yard average of 37 feet, side yard setback of 15 feet, and sum of side yards of 25 feet, respectively.

Closing 8/29/2011

If you don't have a comment, just reply to this e-mail and I'll place it in the file.

Again, thanks for your help.

Patti Zook
Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson MD 21204
410-887-3868
pzook@baltimorecountymd.gov

CONFIDENTIALITY NOTICE: The information contained in this ELECTRONIC MAIL transmission is legally privileged and confidential. It may also be subject to the attorney-client privilege or be privileged work product or proprietary information. This information is intended for the exclusive use of the addressee(s). If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee(s)), copying or taking of any action because of this information is strictly prohibited.

Photographs of Existing Dwelling at 5753 Mineral Avenue



Front view from Mineral Avenue of existing house.



View of common driveway for adjacent properties (5749 Mineral Ave. and 5751 Mineral Ave.) on East side of existing house and property.



View of common driveway leading up to 5751 Mineral Avenue on East side of property.



View of adjacent property (5749 Mineral Avenue).



Rear view of existing house showing East side of property and rear of property. (Note that existing split rail fencing is within my property boundaries and run parallel to angled rear property. The rear fence is located at the edge of the easements that traverse the property.)



View of existing house from East side of property.



View of West side of front yard showing existing driveway and neighbor's lot. (Split rail fence is located on the West side property line.) Structure in front of vehicle is a small shed 8' x 10' that is going to be demolished and not replaced.



Side view of existing house from West side of property.
(This is where proposed addition will be located.)
The shed visible on the edge of the property is slated for
demolition at the time of construction.



Additional side view of West side of property
where proposed addition is to be built.
(Photo taken from neighbor's lot.)



View of existing house from Northeast corner of
property showing existing driveway and portion of
side yard.

1204

131135000

1308002701

1308001452

Pt. Bk./Folio # 061107
Pt. L.A. 61, Folio 107
2200002164

PDM # 130077

19640030

1207

1309200010

FRANCIS AVE

MINERAL AVE

1306100070

2100014915

13 ED

1 CD

1900011870 Lot # 5

DR 3.5

108C2

SW 6-D

5749

1900011868 Lot # 3

PDM # 130090

Pt. Bk./Folio # 051027

1105

2100014914

1900011867

Lot # 1 Pt. Bk. 51, Folio 27

Lot # 4 1900011869

20040593

5751

1311770331

5747

Pt. Bk. 50, Folio 8

Lot # 2

1323350020

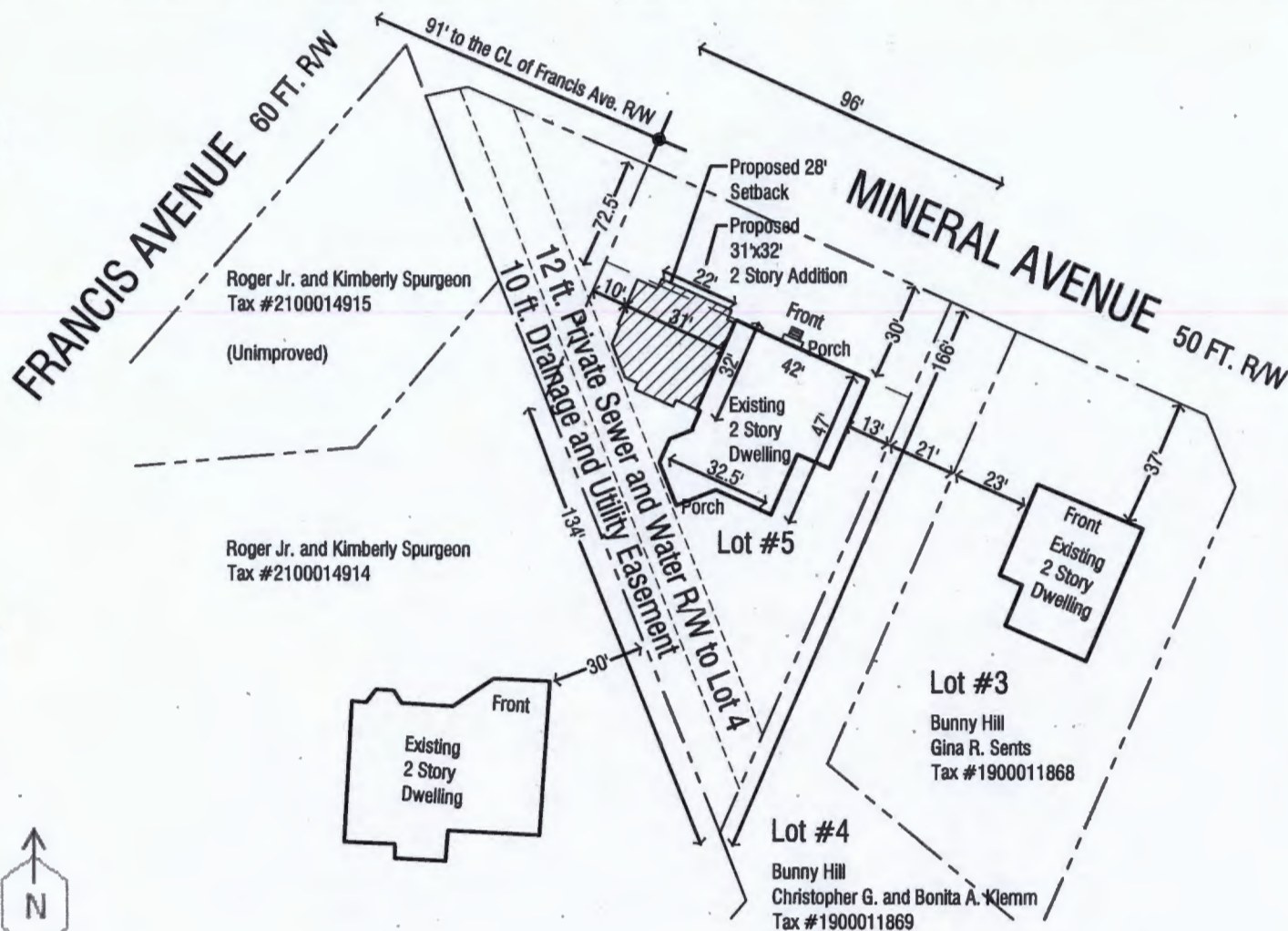
199

1900010312

Lot # 2

Lot # 1

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)
 ADDRESS 5753 Mineral Avenue OWNER(S) NAME(S) Arthur E. Jr. and Cathleen A. Vail
 SUBDIVISION NAME 5753 Mineral Avenue LOT # 5 BLOCK # _____ SECTION # _____
 PLAT BOOK # 0051 FOLIO # 0027 10 DIGIT TAX # 190 001 1870 DEED REF. # 08448 / 00046



SITE VICINITY MAP



ZONING MAP# 108C2
 SITE ZONED DR 3.5
 ELECTION DISTRICT 13
 COUNCIL DISTRICT 1
 LOT AREA ACREAGE 0.262
 OR SQUARE FEET _____
 HISTORIC ? NO
 IN CBCA ? NO
 IN FLOOD PLAIN ? NO
 UTILITIES ? MARK WITH X
 WATER IS: _____
 PUBLIC X PRIVATE _____
 SEWER IS: _____
 PUBLIC X PRIVATE _____
 PRIOR HEARING ? NO
 IF SO GIVE CASE NUMBER
 AND ORDER RESULT BELOW

PLAN DRAWN BY Andrew Mundroff DATE 7/8/11 SCALE: 1 INCH = 50 FEET

VIOLATION CASE INFO: