

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
W/S Old York Road; 750' S of		
Graystone Road	*	OFFICE OF ADMINISTRATIVE
(19836 Old York Road)		
7 th Election District	*	HEARINGS FOR
3 rd Election District		
	*	BALTIMORE COUNTY
James A. Baseman		
Petitioner	*	CASE NO. 2012-0043A

* * * * *

ORDER AND OPINION

This matter comes before the Administrative Law Judge as a Petition for Administrative Variance filed by the legal owner of the property, James A. Baseman. The Petitioner is requesting Variance relief pursuant to Section 400.1 [1955; Bill No. 27-1963] of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed accessory building to be located in the side and front yard in lieu of the required rear yard. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1. The Petitioner desires to construct an accessory building 24' x 40' x 15' in size. The subject property has been a location of a "choose and cut" Christmas tree operation for approximately 20 years, and the site of the accessory building will be positioned approximately 40' from the septic tank and approximately 172' from the water well. The position of the accessory building is restricted by the location of the existing dwelling, electrical utilities, septic system and associated plumbing, water well, Christmas trees, and operation of the farm. In addition, photographs submitted by Petitioner show that the proposed building will be located 1,000' from the existing two-story dwelling and just off the 20' wide driveway that starts at Old York Road. The accessory building will be surrounded by several acres of trees that would not be visible to neighboring properties or to motorists from the main road. This location provides

ORDER RECEIVED FOR FILING

Date

9-19-11

By

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the best access for customers and for farm machinery to and from the field. The subject property is 7.413 acres, zoned R.C.2 and is located in the White Hall area of Baltimore County.

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.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on August 26, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has 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.

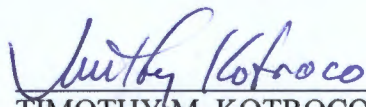
Although the Office of Planning did not make any recommendations related to the accessory building usage, I will impose conditions that the accessory structure not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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, this 19th day of September, 2011 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 400.1 [1955; Bill No. 27-1963] to permit a proposed accessory building to be located in the side and front yard in lieu of the required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.


TIMOTHY M. KOTROCO
Administrative Law Judge for
Baltimore County

TMK:dlw

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Date

9-19-11

By

DS



KEVIN KAMENETZ
County Executive

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

September 19, 2011

James A. Baseman
19836 Old York Road
White Hall, Maryland 21161

RE: **PETITION FOR VARIANCE**
W/S Old York Road; 750' S of Graystone Road
(19836 Old York Road)
7th Election District - 3rd Election District
James A. Baseman – Petitioner
CASE NO. 2012-0043-A

Dear Mr. Baseman:

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,

A handwritten signature in cursive script, reading "Timothy M. Kotroco".

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:dlw
Enclosure

ORIGINAL KEEP INTIME

Petition for Administrative Variance



to the Zoning Commissioner of Baltimore County for the property

located at 19836 Old York Road

which is presently zoned RC 2

Deed Reference: 80921212 Tax Account # 2100008904

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)

BCER 1955 Bill No 27-1963,

AND Section 400.1 ~~XXXXXX~~

TO PERMIT A PROPOSED ACCESSORY BUILDING TO BE LOCATED IN THE SIDE AND FRONT YARD IN LIEU OF THE REQUIRED REAR YARD,

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):

James A. Baseman

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

City

baseman@verizon.net State

Representative to be Contacted:

James A. Baseman

Name

Address

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. 2012-0043-A

Reviewed By JL

Date 8/17/11

ORDER RECEIVED FOR FILING

Estimated Posting Date 8/28/11

Date 9-19-11

By low

Rev 3/09

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 19836 Old York Road
 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) Strict compliance with the zoning regulation

would result in the loss of use of my back yard. I would also have to relocate the septic tank & associated plumbing, relocate my driveway (extend) & parking area, and destroy several landscaping trees (too big to move). My property is a parhandle lot, the proposed site of the accessory building would not be visible to neighbors or motorists as it is 1000 ft. from the road and surrounded by trees. (please see attached)

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.

James Baseman
 Signature

Signature

James Baseman
 Name- print or type

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 15th 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): James A. Baseman

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Linda McLaughlin Nori 08/30/2014
 Name of Notary Public Commission expires



This request for variance is made for relief from the BCZR requirement for an accessory building at 19836 Old York Road, White Hall, which states, in part, that accessory buildings in residential zones shall be located only in the rear yard. The subject property is zoned RC2 and has been the location of a choose and cut Christmas tree operation for approximately 20 years. The location of the accessory building is restricted by the location of the existing dwelling, electrical utilities, septic system, water well, Christmas trees, and operation of the farm. The relief requested would permit the accessory building to be located on the side of the existing dwelling.

The subject property is unique in that, unlike neighboring properties, it is a panhandle lot with essentially no road frontage except for the 20 foot wide driveway that starts at Old York Road, 1000 feet from the dwelling. The regulation would protect other properties from unsightly structures being constructed in the front and side yards but poses an undue impact on the subject property because the proposed location is removed and isolated from the neighboring properties. The proposed location is approximately 1000 feet from the road and surrounded by several acres of trees. The area is not visible to neighboring properties or to travelers passing by. The proposed location will not impede the safe operation of motor vehicles onto or exiting Old York Road.

Strict compliance with the regulation to locate the building to the rear of the dwelling's foundation would require relocation of the septic tank and associated plumbing, and the destruction of several large landscaping trees. Furthermore, the existing driveway and parking area was constructed to provide access to an accessory building in the proposed side location. This location provides the best access for customers and for farm machinery to and from the field. Strict compliance with the regulation would be unnecessarily burdensome in that access to the existing driveway and Christmas trees would be through the rear yard.

The requested variance is within the spirit and intent of the regulation. Relief from the regulation is without injury to public health, safety, and general welfare as the subject property is not visible to the public or neighboring properties.

ZONING HEARING PROPERTY DESCRIPTION

0043

Part A

Zoning Property Description for 19836 Old York Road, White Hall, MD 21161. Beginning at a point on the west side of Old York Road which is 20 feet wide at the distance of 750 feet south of the centerline of the nearest improved intersecting street Graystone Road which is 18 feet wide.

PART

B. THENCE WESTERLY 942.25'; THEN SOUTHERLY 767.39'; THEN EASTERLY 352.20 FT. THEN NORTHERLY 735.58 FT. THEN EASTERLY 461.94 FT, THEN NORTHERLY 20.11, FT. BACK TO THE POINT OF BEGINNING.

CONTAINING 7.4131 ACRES, LOCATED IN THE 7TH ED, 3RD CD.

Certificate of Posting

RE: Case NO. 2012-0043-A

Petitioner/Developer _____

James Baseman

Date of Hearing/Closing 9/12/11

Baltimore County
Department of Permits and Development Managements
County Office Building – Room 111
111 W. Chesapeake Ave.
Towson, Md. 21204

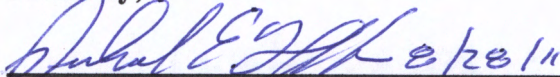
Attention:

This letter is to certify, under penalties of perjury, that the necessary sign as required by law, was posted conspicuously on the property located at _____

19836 Old York Road

The sign(s) were posted on 8/28/11
(Month, Day, Year)

Sincerely,

 8/28/11
(Signature of sign Poster and date)

Richard E. Hoffman
(Printed Name)

904 Dellwood Drive
(Address)

Fallston, Md. 21047
(City, State, Zip Code)

410-879-3122
(Telephone Number)

See Attached
Photograph

Certificate of Posting
Photograph Attachment

Re: 2012-0043-A

Petitioner/Developer: _____

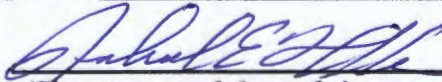
James Baseman

Date of Hearing/Closing: 9/12/11



19836 Old York Rd.

Posting Date: 8/28/11


(Signature and date of sign poster)

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 0043 A

Petitioner: James A. Baseman

Address or Location: 19836 Old York Rd White Hall MD 21161

PLEASE FORWARD ADVERTISING BILL TO:

Name: James A. Baseman

Address: 19836 Old York Rd
White Hall, MD 21161

Telephone Number: 410-576-6585

Revised 2/17/11 DT

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2012- 0043 -A

Address 19836 OLD YORK RD

Contact Person: John Lewis
Planner, Please Print Your Name

Phone Number: 410-887-3391

Filing Date: 8/17/11

Posting Date: 8/28/11

Closing Date: 9/12/11

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- 0043 -A

Address 19836 OLD YORK RD

Petitioner's Name JAMES BASEMAN

Telephone _____

Posting Date: 8/28/11

Closing Date: 9/12/11

Wording for Sign: To Permit A PROPOSED ACCESSORY BUILDING IN A SIDE AND FRONT YARD IN LIEU OF THE REQUIRED REAR YARD

Revised 7/06/11



KEVIN KAMENETZ
County Executive

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

September 7, 2011

Mr. James Baseman
19836 Old York Road
White Hall, MD 21161

RE: Case Number 2012-0043-A, 19836 Old York Road

Dear Mr. Baseman,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 17, 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, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel

AV 9/12

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

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SEP 13 2011



OFFICE OF ADMINISTRATIVE HEARINGS

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

FROM: David Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: September 13, 2011

SUBJECT: DEPS Comment for Zoning Item # 12-043-A
Address 19836 Old York Road
(Baseman Property)

Zoning Advisory Committee Meeting of August 22, 2011.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Jeff Livingston; Development Coordination

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: August 26, 2011

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

SUBJECT: Zoning Advisory Committee Meeting
For September 06, 2011
Item Nos. 2012-040, 041, 043
And 044

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

DAK:CEN

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-09062011 -NO COMMENTS.doc

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 8-24-11

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

RE: Baltimore County
Item No. 2012-0043-A
Administrative Variance
James Baseman
19836 Old York Road.

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. 2012-0043-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,

for Richard D. Zeller
Steven D. Foster, Chief
Access Management Division

SDF/rz

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.roads.maryland.gov



KEVIN KAMENETZ
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

August 23, 2011

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

ATTENTION: Zoning Review

Distribution Meeting of: **August 22, 2011**

Item No.:

Administrative Variance: 2012-0040A – 0041A, 2012-0043A

Variance: 2012-0039-SPHXA, 2012-0042A

Special Hearing: 2012-0039-SPHXA

Special Exception: 2012-0039-SPHXA

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

Proposed site facing East



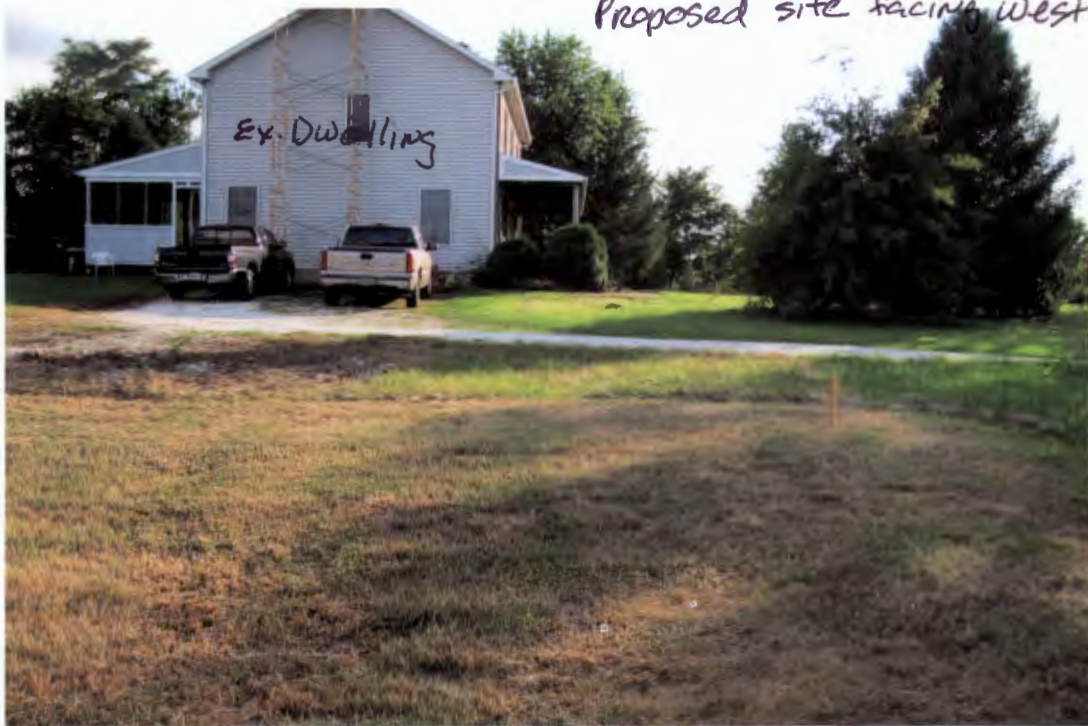
Proposed site facing S-SE



Proposed site facing North



Proposed site facing West



2000014175
Pl. 5A, Folio 87
Lot # 1
Pt. PDM # 078003

19842

OLD YORK RD

19831 0702001190

19832

2100010182

BASEMAN, JAMES PROPERTY (PDM File/Project #)

0702086390

19828

2100008904
19836

SITE
0043

2500005232

013B1

0715096025

99999

7 ED
RC 2
3 CD

NE 34-B

013B2

2500005231

NE 34-A

PLAT BOOK # _____ FOLIO # _____ 10 DIGIT TAX # 2100008904 DEED REF. # 8092/212

PLAN DRAWN BY James A. Baseman DATE 8/14/11 SCALE: 1 INCH = 200 FEET

2012-0043-A

AND ORDER RESULT BELOW

NONE