

IN RE: PETITION FOR ADMIN. VARIANCE

N side of Morning Dove Way, 40 feet
W of the c/l of Bella Brook Way
11th Election District
5th Councilmanic District
(5108 Morning Dove Way)

David J. and Elisabeth Perry
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2012-0061-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, David J. and Elisabeth Perry for property located at 5108 Morning Dove Way. The variance request is from Sections 259.9.B.4.e and 301.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a rear yard setback of 35 feet in lieu of the required 37.5 feet for a deck. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct a deck of a reasonable size. Existing French doors lead to the proposed deck area. A deck smaller than proposed would not be of sufficient size to allow the Petitioners to have a table, chairs and a grill on the deck. Petitioners would be unable to enjoy reasonable use of the property, suffering further practical difficulty.

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 Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 11, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

ORDER RECEIVED FOR FILING

Date 10-4-11

By [Signature]

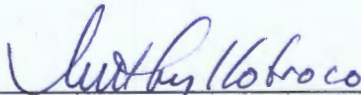
The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public 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 4th day of October, 2011 that a variance from Sections 259.9.B.4.e and 301.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a rear yard setback of 35 feet in lieu of the required 37.5 feet for a deck, 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.

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 10-4-11

By mg



KEVIN KAMENETZ
County Executive

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

October 4, 2011

DAVID J. AND ELISABETH PERRY
5108 MORNING DOVE WAY
PERRY HALL MD 21128

Re: Petition for Administrative Variance
Case No. 2012-0061-A
Property: 5108 Morning Dove Way

Dear Mr. and Mrs. Perry:

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".

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:pz

Enclosure

c: J.D. Abrams, 725 North Hickory Avenue, Bel Air MD 21014



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County for the property
located at 5108 MORNING DOVE WAY
which is presently zoned DR 3.5H

Deed Reference: 30464/193 Tax Account # 2400009534

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) 259.9.B.4.e & 301.1; BCZR,

TO PERMIT A ^{35ft.} REAR YARD SETBACK FOR A DECK IN LIEU OF THE REQUIRED 37.5ft.

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

Date Address Telephone No.

By City State Zip Code

Legal Owner(s):

DAVID PERRY

Name - Type or Print

Signature

ELISABETH PERRY

Name - Type or Print

Signature

5108 MORNING DOVE WAY 4103078632

Address

Telephone No.

PERRY HALL

MD

21128

City

State

Zip Code

Representative to be Contacted:

JD ABRAMS

Name

725 N. HICKORY AVE

(410) 420-0740

Address

Telephone No.

BEL AIR

MD

21014

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. 2012-0061-A

Reviewed By JCM Date 8.31.11

Estimated Posting Date 9/11/11

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 5108 MORNING DOVE WAY
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)

TO EXTEND THE ALLOWABLE LENGTH OF
THE DECK 2.5 FEET IN ORDER TO BUILD A USABLE
DECK. THIS IS CONSISTENT WITH THE
LENGTHS OF THE SURROUNDING NEIGHBORS USABLE
DECKS AND PATIOS.

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.

[Signature]
Signature

DAVID PERRY
Name- print or type

[Signature]
Signature

ELISABETH PERRY
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 30th 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): David J. Perry and Elisabeth Perry
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Bonnie Marie Campanelli 8.21.2012
Name of Notary Public Commission expires

PLACE SEAL HERE:

Zoning Description

ZONING DESCRIPTION FOR 5108 MORNING DOVE WAY
(address)

Beginning at a point on the NORTH side of
(north, south, east or west)

MORNING DOVE WAY which is 55 FEET

(name of street on which property fronts) (number of feet of right-of-way width)

wide at the distance of the 40 FEET WEST
(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street BELLA BROOK WAY
(name of street)

which is 55 FEET wide. *Being Lot# 8
(number of feet of right-of-way width)

Block _____, Section# _____ in the subdivision of MISTY MEADOWS
(name of subdivision)

as recorded in Baltimore County Plat Book # 77 Folio # 37

containing 8101 SQUARE FEET. Also known as 5108 MORNING DOVE WAY
(square feet or acres) (property address)

and located in the 11th Election District, 5th Councilmanic District.

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

No. **73661**

Date: **8.31.11**

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
001	806	0000		6150					75.00

Total: **75.00**

Rec
 From: **D. Perry**

For: **2012-0061-A**

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

Certificate of Posting

RE: Case NO. 2012-0061-A

Petitioner/Developer _____

David Perry

Date of Hearing/Closing 9/26/11

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

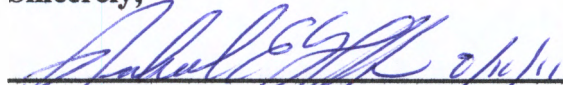
Attention:

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 _____

5108 Morning Dove Way

The sign(s) were posted on 9/11/11
(Month, Day, Year)

Sincerely,


(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: 2012-0061-A

Petitioner/Developer: _____

David Perry

Date of Hearing/Closing: 9/26/11



5108 Morning Dove Way

Posting Date: 9/11/11

David Perry 9/11/11
(Signature and date of sign poster)

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2012- 0061 -A Address 5108 MORNING DOVE WAY

Contact Person: J. MERREY Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 8.31.11 Posting Date: 9/11 Closing Date: 9/26

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- 0061 -A Address 5108 MORNING DOVE WAY

Petitioner's Name DAVID PERRY Telephone 410-303-8632

Posting Date: 9/11/11 Closing Date: 9/26/11

Wording for Sign: TO PERMIT A REAR YARD SETBACK OF 35ft. FOR
A DECK IN LIEU OF THE REQUIRED 37.5ft.

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: 2012-0061-A

Petitioner: DAVID + ELISABETH PERRY

Address or Location: 5108 MORNING DOVE WAY PERRY HALL, MD 21128

PLEASE FORWARD ADVERTISING BILL TO:

Name: _____

Address: _____

SAME

✓ Telephone Number: (410) 303-8632



KEVIN KAMENETZ
County Executive

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

September 21, 2011

Mr. & Mrs. Perry
5108 Morning Dove Way
Perry Hall, MD 21128

RE: Case Number: 2012-0061-A, 5108 Morning Dove Way

Dear Mr. & Mrs. Perry,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 31, 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.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
J. D. Abrams, 725 N. Hickory Avenue, Bel Air, MD 21014

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 9-12-11

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

RE: Baltimore County
Item No. 2012-0061-A
Administrative Variance
David & Elisabeth Perry
5108 Morning Dove Way

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. 2012-0061-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 dark ink, appearing to read "Steven D. Foster".
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

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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 19, 2011

SUBJECT: DEPS Comment for Zoning Item # 12-0061-A
Address: 5108 Morning Dove Way
(Perry Property)

Zoning Advisory Committee Meeting of September 12, 2011.

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

Reviewer: *Jeff Livingston; Development Coordination*

Maryland Department of Assessments and Taxation
Real Property Data Search (vw5.1A)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent](#)
[Redemption](#)
[GroundRent](#)
[Registration](#)

Account Identifier:

District - 11 Account Number - 2400009534

Owner Information

Owner Name: PERRY DAVID J
PERRY ELISABETH RUTH
Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 5108 MORNING DOVE WAY
PERRY HALL MD 21128-9844
Deed Reference: 1) /30464/ 00193
2)

Location & Structure Information**Premises Address**

5108 MORNING DOVE WAY
0-0000

Legal Description

.1999 AC
5108 MORNING DOVE WAY NS
MISTY MEADOWS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0072	0017	0251		0000			8	3	Plat Ref: 0078/0032

Special Tax Areas
Town NONE
Ad Valorem Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2006	3,756 SF	8,707 SF	04

Stories	Basement	Type	Exterior
2.000000	YES	STANDARD UNIT SIDING	

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2009	07/01/2011	07/01/2012
Land	144,700	144,700		
Improvements:	342,900	342,900		
Total:	487,600	487,600	487,600	
Preferential Land:	0			

Transfer Information

Seller:	Date:	Price:
PERRY DAVID J	02/03/2011	\$0
Type: NON-ARMS LENGTH OTHER	Deed1: /30464/ 00193	Deed2:
HELLMAN DOROTHY ARLENE ELIZABETH	09/28/2009	\$545,000
Type: ARMS LENGTH IMPROVED	Deed1: /28688/ 00224	Deed2:
K HOVNANIAN HOMES OF	06/28/2007	\$575,000
Type: ARMS LENGTH IMPROVED	Deed1: /25869/ 00536	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2011	07/01/2012
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	

Tax Exempt:**Special Tax Recapture:****Exempt Class:**







BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For September 26, 2011
Item Nos. 2012-061, 063, 064, 065
And 066

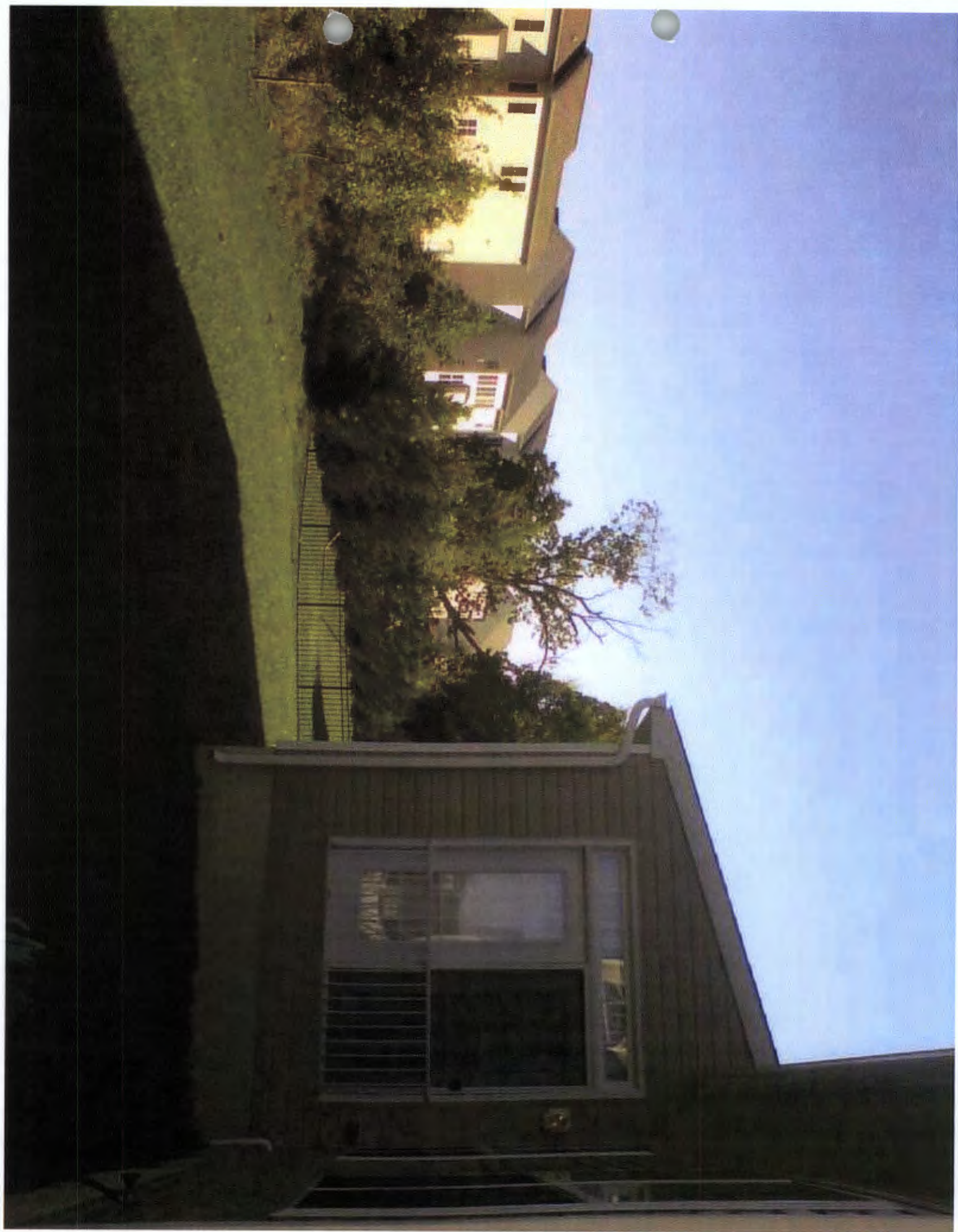
DATE: September 15, 2011

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-09262011 -NO COMMENTS.doc









9111

9109

Lot # 34
2400007764

2400007763 Lot # 33

2400007762 Lot # 32

2400007761 Lot # 31

PDM # 110728

HONEYGO RUN SUBAREA

Pt. Bk./Folio # 077037

MOORES MEADOWS (PDM File/Project # 11-728)

Lot # 30
2400007760

2400007766
Pt. Bk. 77, Folio 37

Lot # 0

2400009532
Lot # 6

5112

NE 10-I

DR 3.5 H

072C2

11 ED

5 CD

2400009533 Lot # 7

5110

2400009534 Lot # 8

5108

2400009535 Lot # 9

5106

Lot # 10

5104

2400009536

BIRD RIVER SUBAREA

MORNING DOVE WAY

MISTY MEADOWS (PDM File/Project # 11-946)

Pt. Bk./Folio # 078032

20040297

PDM # 110946

5111

2400009531
Lot # 5

2400009530 Lot # 4

5109

2400009529 Lot # 3

2400009527

Lot # 1 5107

BELLA BROOK WAY

2400009542 Lot # 0

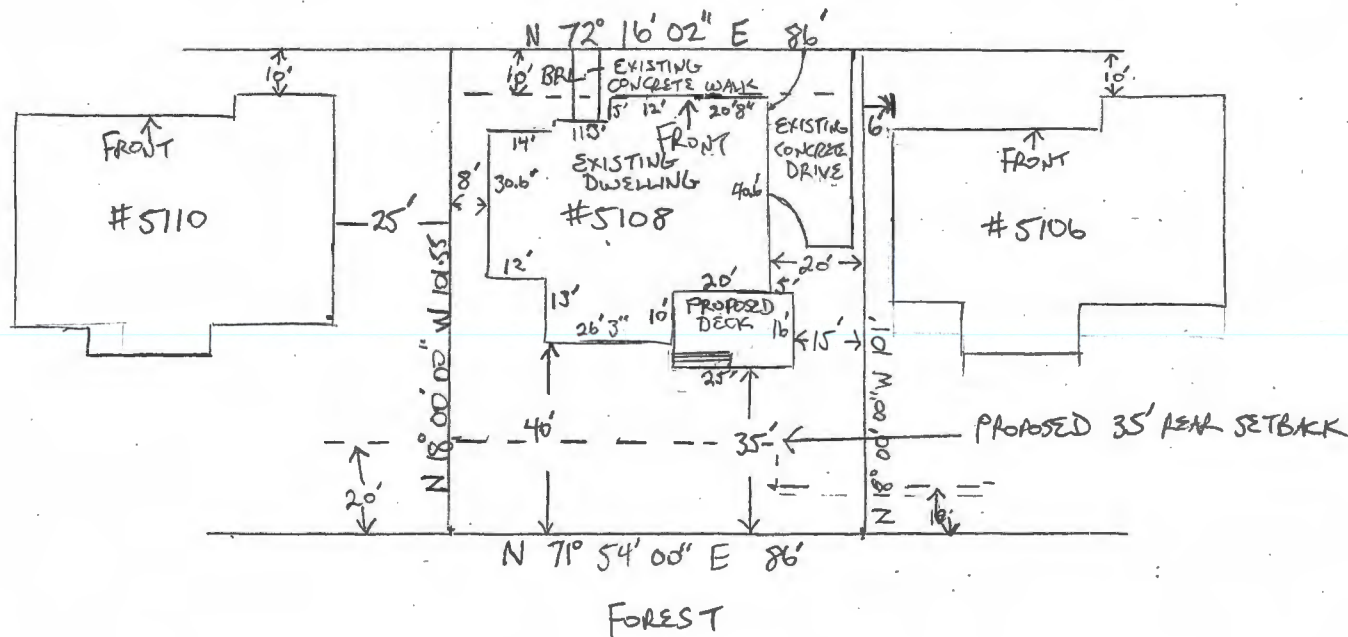
Pt. Bk. 78, Folio 32

NE 9-I

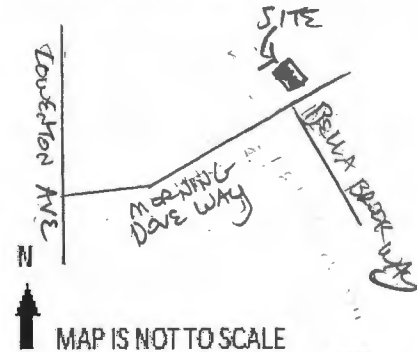
Lot # 2

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)
 ADDRESS 5708 MORNING DOVE WAY OWNER(S) NAME(S) DAVID + ELISABETH PERRY
 SUBDIVISION NAME MISTY MEADOWS LOT# 8 BLOCK# _____ SECTION# _____
 PLAT BOOK # 77 FOLIO # 37 10 DIGIT TAX # 2400009534 DEED REF. # 30464/00193

MORNING DOVE WAY



SITE VICINITY MAP



ZONING MAP# 072C2
 SITE ZONED DR 3.5 H
 ELECTION DISTRICT 11
 COUNCIL DISTRICT 5
 LOT AREA ACREAGE .2
 OR SQUARE FEET 8707
 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

VIOLATION CASE INFO:

PLAN DRAWN BY JD ABRAMS DATE 8/30/11 SCALE: 1 INCH = 40 FEET