

## DECLARATION OF UNDERSTANDING

THIS DECLARATION OF UNDERSTANDING (hereinafter referred to as "Declaration") is made on this 24<sup>th</sup> day of JUNE 2014, by and between George Richardson Gabell and Linda Elizabeth Gabell (hereinafter referred to as the "Declarants") and the Department of Permits, Approvals, and Inspections (hereinafter referred to as "PAI").

### Recitals

- A. The Declarants who are also the owners of this property have filed an application for a use permit and special hearing to construct the ordinary and necessary improvements on and within the footprint of the existing accessory building to create an accessory in-law apartment. The 1,056 s.f. second floor of the accessory building is currently used for storage. The work required within the existing space will include the construction of approx. 80 l.f. of drywall partitions to create a combined living room and dining room, one (1) bedroom, 1 ½ bathrooms, laundry and closet spaces. The proposed work also includes the construction of an approx. 10' x 12' addition over the existing covered porch on the south side of the existing accessory building. This work will include new floor, wall and roof wood framing, sheathing, insulation and roofing meeting all applicable building and energy codes. Incidental work will include all necessary plumbing, electrical and HVAC work to make the space functional. The accessory building is currently served with a 200 amp subpanel not separately metered from the primary residence and an existing well and septic system. The heating, water heating, cooking and clothes drying is currently planned to be powered by liquid propane. That fuel source will be extended via buried piping from the existing 1,000 gallon LPG tank to the accessory building.

The property being located at 16306 Old York Road, Monkton, Maryland 21111 and is more particularly described by metes and bounds in Exhibit A (The Property) and Exhibit B (The use permit or hearing plans) attached hereto and made a part hereof. The property is zoned RC2, which is the particular zone in which the property is located.

- B. PAI has approved the Declaration request to create an Accessory Apartment complete with dedicated bathing and cooking facilities, located on this owner-occupied property. The accessory apartment will be housing for Sarah and Wesley Gilbert, the daughter and son in law of the Declarants. The use permit must be renewed with PAI every two years by filing a renewal on a PAI approved form, to be dated from the month of the initial approval.
- C. As a condition of approval of the Declarants' request, Bill No. 49-11 requires the filing of this Declaration among the Land Records of Baltimore County, to provide notice to any future owners, subsequent bona fide purchasers or users of the Property that no part of any improvements or addition on the Property may be used for separate living quarters and that all such improvements shall only be used as a single-family residence, unless otherwise approved by and at the discretion of PIA.

### Declarations

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarants and PIA hereby declare as follows:

1. Any and all improvements now existing or to be constructed on the Property shall be used only as a single-family residence. No such improvements or additions shall ever be used as a separate living quarter or second residential unit. The kitchen for the Accessory Apartment will be constructed as part of the Property and shall be accessory to the principal use of the Property as a single-family residence. The Accessory Apartment shall house only the immediate family member listed in this Declaration and it is not to be used as an independent residential unit, nor is it to be used for compensation, and it shall not be used by any other person or for any other reason. The use permit and this Declaration are subject to the order, conditions or restrictions of any required zoning hearing. The hearing order is to be made part of this Declaration when it is recorded in Land Records.

**Declaration of Understanding for George R. & Linda E. Gabell**  
**16306 Old York Road, Monkton, Md.**

2. Once the Accessory Apartment is no longer occupied by the persons named in this Declaration or if the property is sold, or the use permit has not been renewed within the 2 year temporary use permit time limit, the use permit shall terminate, and any proposed changes in occupancy to the Accessory Apartment by the property owner or subsequent purchaser shall require a new request for a use permit.
3. The size of the in-law apartment may not exceed 1,200 square feet, and shall comply with the requirements of Section 400 of the Baltimore County Zoning Regulations.
4. The in-law apartment may not be used as a separated dwelling unit or apartment once the family member for which this request is made no longer resides in the apartment.
5. Upon use permit termination of the Accessory Apartment in the accessory building it shall:
  - a. Require removal of the kitchen and bathroom facilities, at the discretion of the PAI and
  - b. The Declarants will provide written notification to PAI for the closing of the Department file.
6. The accessory building shall not be used for commercial use.
7. The covenants, conditions, and restrictions stated above shall run with and bind the Property and shall be enforceable by Baltimore County, MD and by the owners of all or any portion of the Property.
8. Enforcement of the Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of the covenants, either to restrain the violation or to recover damages.

IN WITNESS WHEREOF, the parties hereto have duly executed this Declaration under seal on the date first above written.

WITNESS:

James H. Egbert  
James H. Egbert

George Richardson Gabell  
George Richardson Gabell  
Linda Elizabeth Gabell  
Linda Elizabeth Gabell

State of Maryland, County of Baltimore to wit:

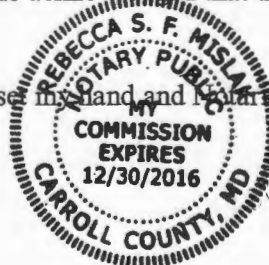
I HEREBY CERTIFY that on this 24<sup>th</sup> day of June, 2014 before the Subscriber, a Notary Public of State of Maryland, personally appeared

George Richardson Gabell, Linda Elizabeth Gabell

The Declarants herein, who are also the owners of this property, known to me to be the persons whose names are subscribed to the within instrument, and who acknowledged that they executed for the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, have hereunto set my hand and Notarial Seal.

My Commission Expires: 12/30/16



Rebecca S. F. Mislan

Notary Public

## **EXHIBIT A**

**BEGINNING FOR THE SAME** at a point on the west side of Old York Road which is 40 feet wide (the right of way width) at the distance of 2,650 feet east to the centerline of the nearest improved intersecting street Markoe Road running thence with the courses of this description referred to north 68 degrees 25 minutes 40 seconds west 284.35 feet, south 16 degrees 34 minutes 40 seconds west 158.84 feet, south 68 degrees 25 minutes 40 seconds east 270.52 feet and north 21 degrees 34 minutes 20 seconds east 158.24 feet to the place of the beginning.

The improvements being known as 16306 Old York Road.

**BEING THE SAME** lot of ground which by Deed dated December 18, 1998 and recorded among the land Records of Baltimore County in Liber 541, folio 6464, was granted and conveyed by Hollyday P. Compton unto George R. Gabell and Linda E. Gabell, his wife, the Grantors herein.

2014-0149-SPH



RC2

RC-2

029C1

16306

OLD YORK RD

105 Feet

2014-0149-SPH



My Neighborhood Map

Created By  
Baltimore County  
My Neighborhood

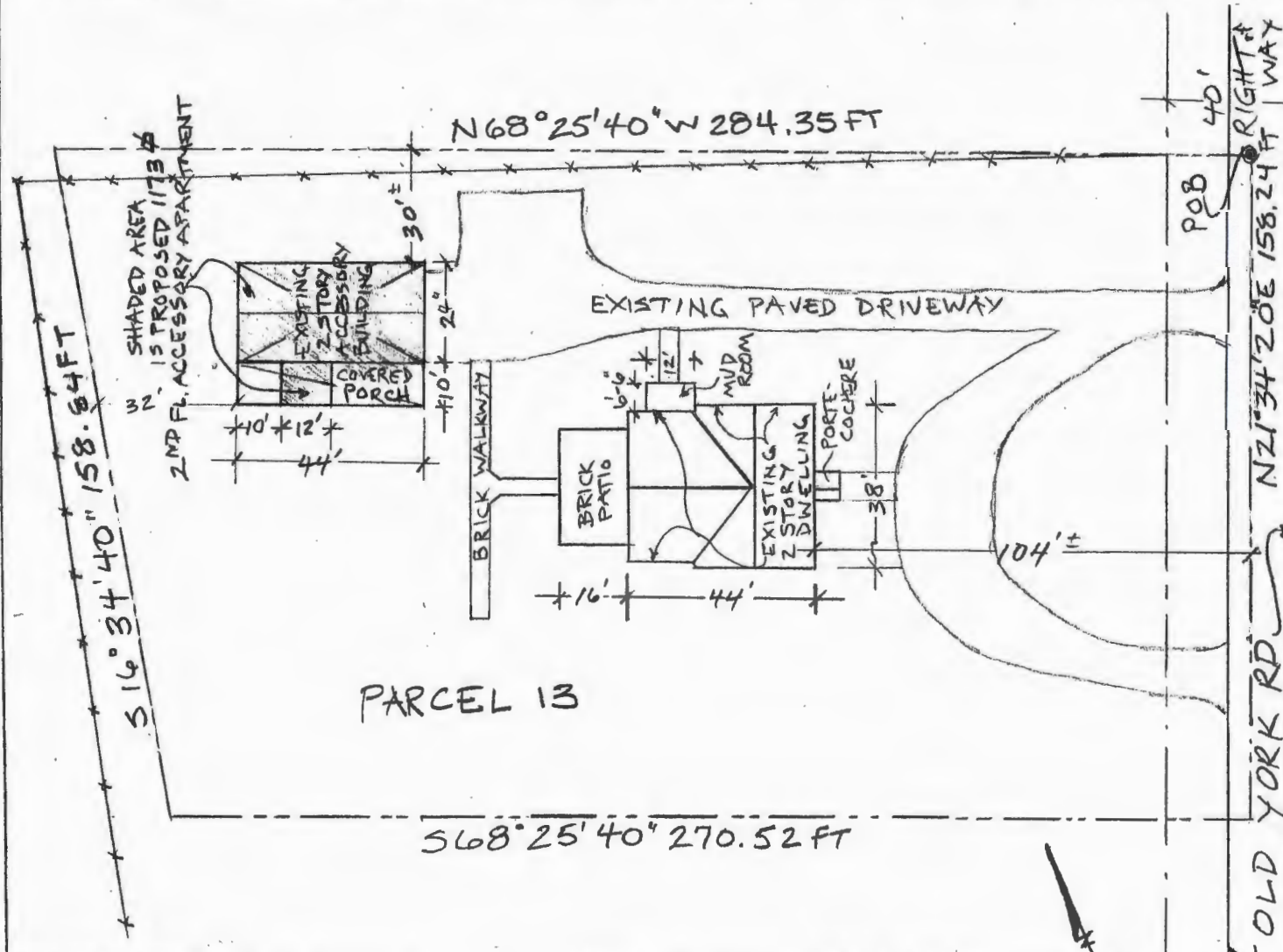


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Printed 12/1/2013

# EXHIBIT "B"

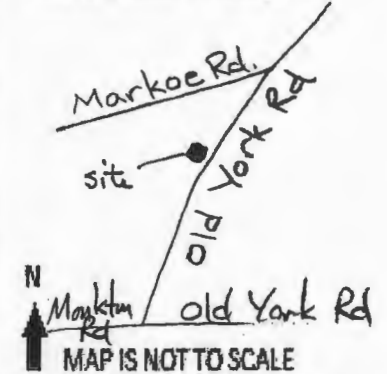
ZONING HEARING PLAN FOR VARIANCE        FOR SPECIAL HEARING X (MARK TYPE REQUESTED WITH X)  
 ADDRESS 16306 Old York Road OWNER(S) NAME(S) George R. & Linda E. Gabell  
 SUBDIVISION NAME N/A LOT # N/A BLOCK # N/A SECTION # N/A  
 PLAT BOOK # N/A FOLIO # 6464 10 DIGIT TAX # 10 19085 1 00 DEED REF. # 133871-688



PLAN DRAWN BY G.R. Gabell

DATE 12-2-13 SCALE: 1 INCH = 40 FEET

## SITE VICINITY MAP



ZONING MAP# NE25C  
 SITE ZONED RC2  
 ELECTION DISTRICT 10  
 COUNCIL DISTRICT 43  
 LOT AREA ACREAGE 1.0±  
 OR SQUARE FEET 43,560±  
 HISTORIC? NO  
 IN CBCA? NO  
 IN FLOOD PLAIN?         
 UTILITIES? MARK WITH X  
 WATER IS:  
 PUBLIC        PRIVATE X  
 SEWER IS:  
 PUBLIC        PRIVATE X  
 PRIOR HEARING? YES  
 IF SO GIVE CASE NUMBER  
 AND ORDER RESULT BELOW  
2005-0028-A  
Variance Granted  
for height &  
set back.  
 VIOLATION CASE INFO:

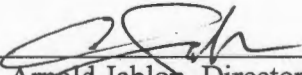


The Declaration of Understanding for the Accessory Apartment at:

16303 OLD YORK ROAD, MONKTON, MD 21111

Address of property

is approved:

  
Arnold Jablon, Director-PAI

6/24/11  
Date

KEVIN KAMENETZ  
County Executive



LAWRENCE M. STAHL  
Managing Administrative Law Judge  
JOHN E. BEVERUNGEN  
Administrative Law Judge

March 6, 2014

George R. Gabell  
Linda E. Gabell  
16306 Old York Road  
Monkton, Maryland 21111

RE: Petition for Special Hearing  
Property: 16306 Old York Road  
Case No.: 2014-0149-SPH

Dear Mr. & Mrs. Gabell:

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 Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over the typed name.

JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:slm  
Enclosure



|                                       |   |                         |
|---------------------------------------|---|-------------------------|
| IN RE: PETITION FOR SPECIAL HEARING   | * | BEFORE THE              |
| (16306 Old York Road)                 |   |                         |
| 10 <sup>th</sup> Election District    | * | OFFICE OF               |
| 3 <sup>rd</sup> Councilmanic District |   |                         |
| George R. And Linda E. Gabell         | * | ADMINISTRATIVE HEARINGS |
| <i>Legal Owners</i>                   |   |                         |
| Petitioners                           | * | FOR BALTIMORE COUNTY    |
|                                       | * | Case No. 2014-0149-SPH  |

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by George and Linda Gabell, legal owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), seeking approval for an accessory apartment (in-law) to be located within an accessory building (detached garage).

Appearing at the public hearing in support of the requests was George and Linda Gabell. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance at the hearing. Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) dated February 20, 2014. DOP does not oppose the Petitioners' request providing the following conditions are met:

1. The size of the in-law apartment may not exceed 1,200 square feet, and shall comply with the requirements of Section 400 of the B.C.Z.R.
2. The in-law apartment may not be used as a separate dwelling unit or apartment once the family member for which this request is made no longer resides in the apartment. At that time all kitchen and bathroom facilities shall be removed.
3. The accessory building shall not be used for commercial purposes.



The subject property is 1 acre in size and is zoned RC-2. The property is improved with a single family dwelling and a garage. The Petitioners propose to convert the second story of the garage into an accessory apartment for their daughter and her husband.

Accessory apartments are permitted under the B.C.Z.R., upon a finding by the Administrative Law Judge (ALJ) that the Petitioners in essence satisfy the standards for special exception relief under B.C.Z.R. § 502.1. Here, the photos in the file show that the garage is attractive and well constructed. The apartment's floor area would be 1,176 S.F. (Ex. No. 3), and the structure would not have separate utility meters and would not be served by a separate water/sewer system. The nearest dwellings to either side of Petitioners' property are at least 1,000 feet away, assuring a more than adequate buffer for the use. The setting is rural and bucolic, and there is no indication whatsoever that the accessory apartment would be detrimental to the health, safety and/or welfare of the community. As such, and based upon the testimony and evidence presented, I will grant the petition.

Pursuant to the advertisement, posting of the property, and the public hearing, I find that Petitioners' Special Hearing and use permit requests should be granted, subject to the conditions noted below.

THEREFORE, IT IS ORDERED this 7<sup>th</sup> day of March 2104, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), seeking approval for an accessory apartment (in-law) to be located within an accessory building (detached garage), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this

Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Petitioners must comply with the ZAC comments of the DOP (dated February 20, 2014).
3. Petitioners must apply for and receive from the Department of Permits, Approvals and Inspections (PAI) all necessary permits and approvals, and must file with PAI and among the County's land records the Declaration referenced in B.C.Z.R. § 400.4.

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

Order.

  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB/sln