

John Beverungen - Case # 2014-0100-A

*Motion for
Reconsideration
Granted
1-22-14*

From: John Beverungen
To: Brian.Mcnabb@ang.af.mil
Date: 1/22/2014 1:07 PM
Subject: Case # 2014-0100-A
CC: Debra Wiley; Lionel Van Dommelen; Sherry Nuffer; wwcahill@comcast.net

Mr. McNabb,

By email dated January 16, 2014, you sought clarification of the Order issued in the above case on December 30, 2013. Specifically, you indicated that you will relocate your deck to comply with zoning requirements, but requested some flexibility in doing so given the harsh weather. Since it was received within 30 days of the Order in this case, I will treat your request as a motion for reconsideration under the Zoning Commissioners Rules.

In light of the circumstances, I believe a "grace period" is warranted, to provide you with sufficient time in which to relocate the freestanding deck.

Accordingly, the Petitioners shall have until **March 31, 2014** to relocate the deck in compliance with the zoning regulations. After this date, the Petitioners would be subject to civil penalties imposed by the County's code enforcement bureau, which has an open case (CO 0131807) for the property.

Though this correspondence is informal in nature, it constitutes an amendment of the December 30, 2013 Order in the above case, and a copy shall be included in the case file. I have copied Mr Van Dommelen (the Director of the Code Enforcement Bureau) so that he is aware of this amendment.

John Beverungen
ALJ

IN RE: PETITION FOR VARIANCE

(4318 Cottington Road)

11th Election District

5th Councilman District

Brian F. & Patricia McNabb

Petitioners

*

*

*

*

*

BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2014-0100-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Brian & Patricia McNabb, the legal owners of the subject property. The Petitioners are requesting variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing rear yard freestanding deck with a zero ft. side setback in lieu of the required 2.5 ft. setback. 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.

Appearing at the public hearing in support of the requests was Brian F. McNabb. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Mr. & Mrs. Cahill, the next door neighbors, attended the hearing and opposed the relief.

The only Substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP) dated December 6, 2013, and it noted the County had issued a code enforcement citation against the Petitioners.

Testimony and evidence revealed that the subject property is approximately 2,357 square feet and is zoned DR 5.5. The Petitioners constructed a freestanding deck/patio area in their back yard, as shown on the site plan (Exhibit 1) and photographs (Exhibit 2). The improvements are

ORDER RECEIVED FOR FILING

Date 12/30/13

By Sen

situated on the property line, and the adjoining neighbors filed a complaint with Baltimore County, at which time the Petitioners were advised that variance relief was needed to keep the deck in its current location.

Based upon the testimony and evidence presented, I will deny the petition for variance. To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, petitioner will experience a practical difficulty or hardship.

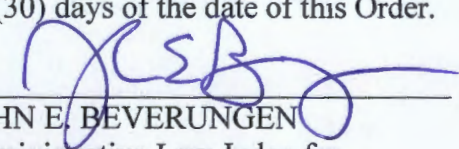
Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Although Mr. McNabb testified extensively about the deck and other projects he also completed within the last two years in his rear yard, no testimony, evidence and/or exhibits were offered to prove the subject property is unique. This is an indispensable element of a variance case, and without evidence on this issue the petition must be denied.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be DENIED.

THEREFORE, IT IS ORDERED, this 30th day of December, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing rear yard freestanding deck with a zero ft. side setback in lieu of the required 2.5 ft. setback, be and is hereby DENIED.

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:slm

ORDER RECEIVED FOR FILING

Date

2
By

12/30/13
slm

KEVIN KAMENETZ
County Executive



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

December 30, 2013

Brian and Patricia McNabb
4318 Cottingham Road
Nottingham, Maryland 21236

RE: Petition for Variance
Property: 4318 Cottingham Road
Case No.: 2014-0100-A

Dear Mr. and Mrs. McNabb:

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", followed by a long horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Mr. & Mrs. William Cahill, 4316 Cottingham Road, Nottingham, Maryland 21236



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approval and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 4318 COTTINGTON RD which is presently zoned _____
Deed References: 26076 / 587 10 Digit Tax Account # 2000008446
Property Owner(s) Printed Name(s) BRIAN MCNABB / PATRICIA ROBEL MCNABB

(SELECT THE HEARING(S) BY MARKING ☒ AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ☐ a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

2. ☐ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☒ a Variance from Section(s)

BCZR: 400.1 → To permit an existing rear yard freestanding deck with a zero foot side setback in lieu of the required 2.5 feet setback.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

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

I, or we, agree to pay expenses of above petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Date

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

BRIAN F MCNABB PATRICIA MCNABB

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

4318 COTTINGTON RD NOTTINGHAM MD

Mailing Address

City

State

21236 4439046272 B.MCNABB@YAHOO.COM

Zip Code

Telephone #

Email Address

Representative to be contacted:

BRIAN F MCNABB

Name - Type or Print

Signature

4318 COTTINGTON RD NOTTINGHAM MD

Mailing Address

City

State

21236 4439046272 B.MCNABB@YAHOO.COM

Zip Code

Telephone #

Email Address

CASE NUMBER 2014-0100-A

Filing Date 10/21/13

Do Not Schedule Dates: _____

Reviewer JS

Zoning Property Description

Address – 4318 Cottington Road

County – Baltimore

Zip Code - 21236

State – Maryland

Zoning Property Description for 4318 Cottington Road, beginning at a point on the North side of Cottington Road which is 60 feet in width of right of way, at the distance of 385 feet (+ or -) North of centerline of nearest intersection of Danshire Road and Cottington Road.

Being known and designated as Lot #89 as shown on the Plat entitled "Second Two, Silver Spring Station", which Plat is recorded among the land records of Baltimore County in Plat Book 54, Folio 119. Containing 7357 Square Feet (+ or -) in lot. Located in the 11th Election District, and 5th Council District.

Being the same property which, by Deed dated 23rd day of April 2007, and recorded among the Land Records of the County of Baltimore, State of Maryland, in Liber no 19398, Folio 072, by and between Patricia Robel McNabb and Brian Francis McNabb.

Brian F McNabb

2014-0100-A

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: ~~XXXXXXXXXX~~ 2014-0100-A
Petitioner: BRIAN F McNABB
Address or Location: 4318 COTTINGTON ROAD, NOTTINGHAM MD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: BRIAN F McNABB
Address: 4318 COTTINGTON ROAD
NOTTINGHAM, MARYLAND
21236
Telephone Number: 443-904-6272

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

No. **105017**

Date: **10/21/13**

PAID RECEIPT

BUSINESS ACTUAL TIME INH
 10/21/2013 10/21/2013 11:12:36 B
 REC W904 WALKIN SHIL SAH
 >>RECEIPT # 597340 10/21/2013 OFLN
 Dept. 5 520 ZONING VERIFICATION
 CR NO. 105017

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept Obj	BS Acct	Amount
00	806	0000		650						\$ 75.00

Recpt Tot \$75.00
 \$.00 CK 100.00 CA
 \$5.00- CG
 Baltimore County, Maryland

Total: **\$ 75.00**

Rec From: **MCNABB**

For: **2014-0100-A**

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

Letter of Transmittal

William D. Gulick, Jr.

Consultant to Land Development and Industry

Commercial and Residential

2944 Edgewood Avenue

Baltimore, MD 21234

Phone - 410-530-6293

E-mail - wdgjr@comcast.net

To: Zoning Office, Attn. Ms Kristen Lewis

We Are Sending You: ☒ Attached ☐ Under separate cover the following items:

☐ Copy of Letter ☒ Prints ☒ Documents ☐ Other

No. of Copies Date Description

1	Nov. 30, 2013	Certificate Of Posting
2	Nov. 30, 2013	Site Photos

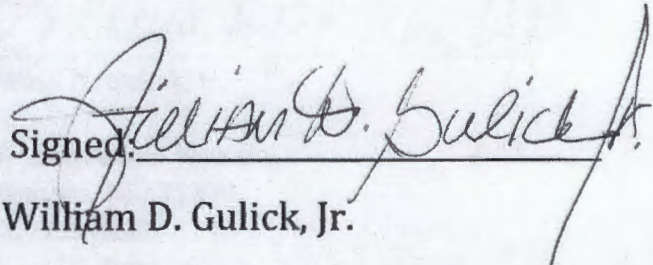
Transmittals are as checked below:

☐ For approval ☒ For your use ☐ As requested ☒ For review & content

Project: Case No.: 2014-0100-A

Remarks:

4318 Cottingham Road

Signed: 

William D. Gulick, Jr.

Project Manager

Certificate of Posting

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

Date: Nov. 30, 2013

Attention: Ms. Kristen Lewis

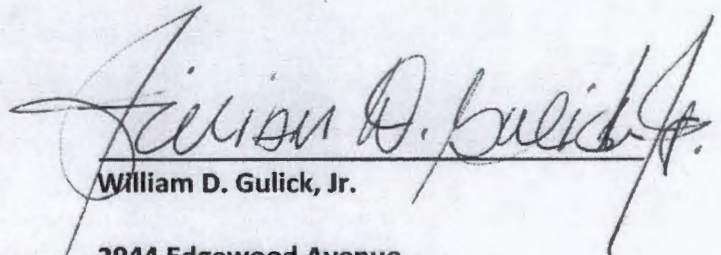
Re: Case Number: 2014-0100-A

Petitioner/Developer: Brian & Patricia McNabb

Date of Hearing/Closing: Dec. 20, 2013

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: 4318 Cottingham Road

The sign(s) were posted on: Nov 30, 2013



William D. Gulick, Jr.

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

ZONING NOTICE

CASE # 2014-0100-A

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

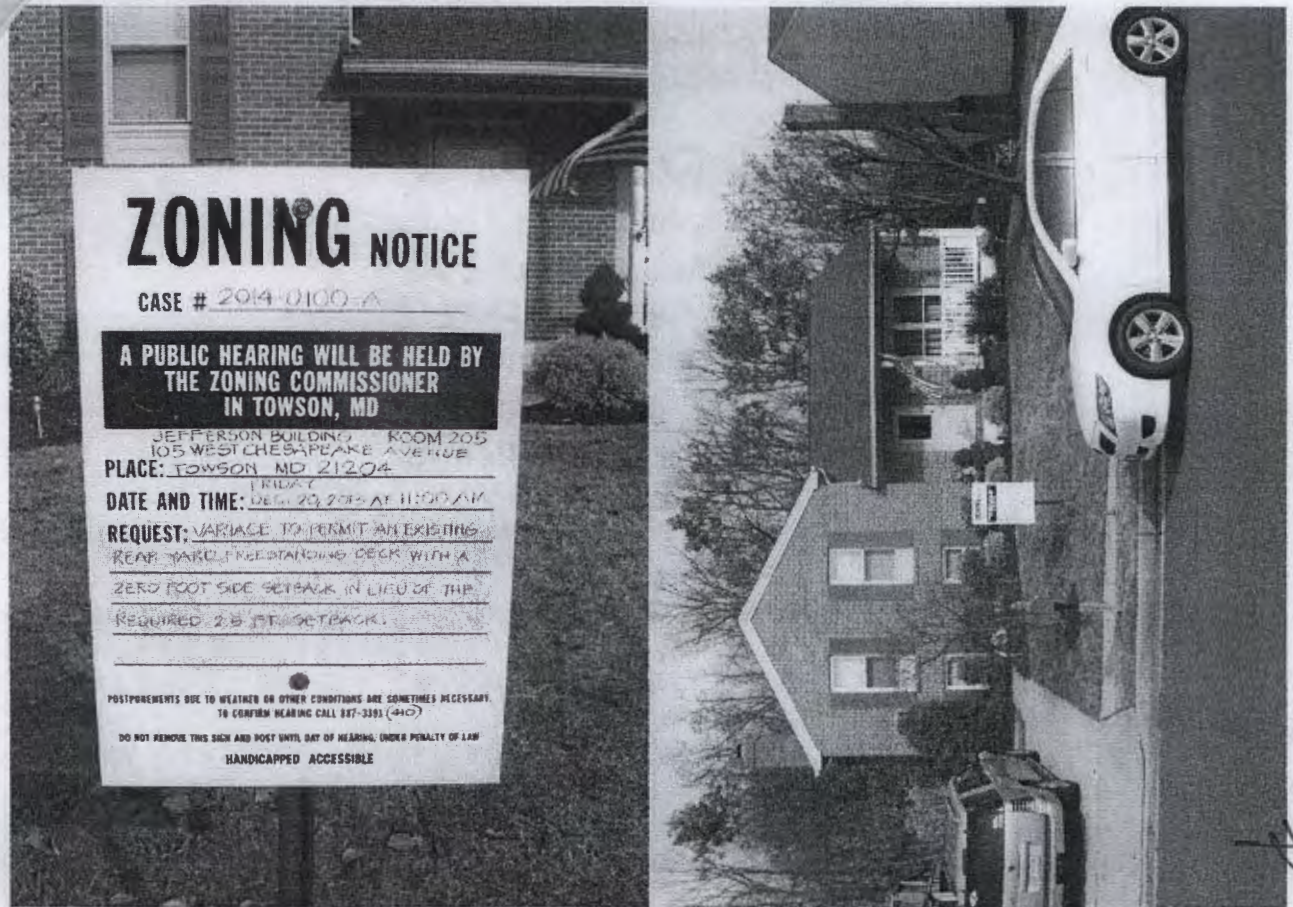
JEFFERSON BUILDING ROOM 205
105 WEST CHESAPEAKE AVENUE
PLACE: TOWSON MD 21204

DATE AND TIME: FRIDAY, DEC. 20, 2014 AT 11:00 AM

REQUEST: VARIANCE TO PERMIT AN EXISTING
REAR YARD FREESTANDING DECK WITH A
ZERO FOOT SIDE SETBACK IN LIEU OF THE
REQUIRED 2.5 FT. SETBACK.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 877-3381 (410)

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING. UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE



ROAD

COTTINGTON



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

November 28, 2013

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on November 26, 2013

☐ The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #2014-0100-A

4318 Cottingham Road

N/s Cottingham Road, 385 ft. N/of centerline of intersection with Danshire Road

11th Election District - 5th Councilmanic District

Legal Owner(s): Brian & Patricia McNabb

Variance: to permit an existing rear yard freestanding deck with a zero foot side setback in lieu of the required 2.5 ft. setback.

Hearing: Friday, December 20, 2013 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 11/807 Nov. 26

959516



KEVIN KAMENETZ
County Executive

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

November 13, 2013

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2014-0100-A

4318 Cottington Road

N/s Cottington Road, 385 ft. N/of centerline of intersection with Danshire Road

11th Election District – 5th Councilmanic District

Legal Owners: Brian & Patricia McNabb

Variance to permit an existing rear yard freestanding deck with a zero foot side setback in lieu of the required 2.5 ft. setback.

Hearing: Friday, December 20, 2013 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over a horizontal line.

Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. McNabb, 4318 Cottington Road, Nottingham 21236

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SAT., NOVEMBER 30 2013.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 26, 2013 Issue - Jeffersonian

Please forward billing to:

Brian McNabb
4318 Cottingham Road
Nottingham, MD 21236

443-904-6272

NOTICE OF ZONING HEARING

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CASE NUMBER: 2014-0100-A

4318 Cottingham Road

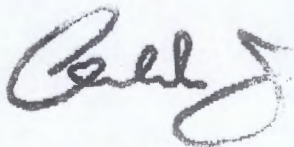
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Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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MEMORANDUM

DATE: February 25, 2014
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2014-0100-A - Appeal Period Expired

The appeal period for the above-referenced case expired on February 24, 2014. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

RE: PETITION FOR VARIANCE
4318 Cottington Road; N/S Cottinton Road,
385' N of c/line of Danshire Road
11th Election & 5th Councilmanic Districts
Legal Owner(s): Brian & Patricia McNabb
Petitioner(s)

* BEFORE THE OFFICE
* OF ADMINSTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* 2014-100-A

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

RECEIVED

NOV 07 2013

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of November, 2013, a copy of the foregoing Entry of Appearance was mailed to Brian McNabb, 4318 Cottington Road, Nottingham, MD 21236, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CASE NO. 2014- 0100-A

C H E C K L I S T

Support/Oppose/
Conditions/
Comments/
No Comment

Comment
Received

Department

11/7

DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)

N/C

DEPS
(if not received, date e-mail sent _____)

FIRE DEPARTMENT

12/6

PLANNING
(if not received, date e-mail sent _____)

C

11/6

STATE HIGHWAY ADMINISTRATION

No Obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. CO 0131807)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: 11/26/13

SIGN POSTING

Date: 11/30/13

by Gulick

PEOPLE'S COUNSEL APPEARANCE

Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes ☐ No ☐

Comments, if any: _____



KEVIN KAMENETZ
County Executive

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

December 12, 2013

Brian F & Patricia McNabb
4318 Cottington Road
Nottingham MD 21236

RE: Case Number: 2014-0100 A, Address: 4318 Cottington Road

Dear Mr. & Ms. McNabb:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 21, 2013. 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: jaf

Enclosures

c: People's Counsel

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



Maryland Department of Transportation

James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

Date: 11-6-13

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

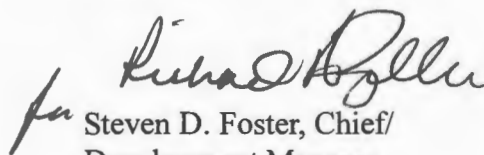
RE: Baltimore County
Item No 2014-0100-A
Variance
Brian F. & Patricia McNabb
4318 Cottingham Road

Dear Ms. Lewis:

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. 2014-0100-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).

Sincerely,


Steven D. Foster, Chief/
Development Manager
Access Management Division

SDF/raz

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

John Beverungen - Case # 2014-0100-A

From: John Beverungen
To: Brian.Mcnabb@ang.af.mil
Date: 1/22/2014 1:07 PM
Subject: Case # 2014-0100-A
CC: Debra Wiley; Lionel Van Dommelen; Sherry Nuffer; wwcahill@comcast.net

Mr. McNabb,

By email dated January 16, 2014, you sought clarification of the Order issued in the above case on December 30, 2013. Specifically, you indicated that you will relocate your deck to comply with zoning requirements, but requested some flexibility in doing so given the harsh weather. Since it was received within 30 days of the Order in this case, I will treat your request as a motion for reconsideration under the Zoning Commissioners Rules.

In light of the circumstances, I believe a "grace period" is warranted, to provide you with sufficient time in which to relocate the freestanding deck.

Accordingly, the Petitioners shall have until **March 31, 2014** to relocate the deck in compliance with the zoning regulations. After this date, the Petitioners would be subject to civil penalties imposed by the County's code enforcement bureau, which has an open case (CO 0131807) for the property.

Though this correspondence is informal in nature, it constitutes an amendment of the December 30, 2013 Order in the above case, and a copy shall be included in the case file. I have copied Mr Van Dommelen (the Director of the Code Enforcement Bureau) so that he is aware of this amendment.

John Beverungen
ALJ

From: Administrative Hearings
To: Beverungen, John
Date: 1/21/2014 5:14 PM
Subject: Fwd: Internet Inquiry - Case No. 2014-0100-A

John,

This was received in the "Administrative Hearings" email box. I'm not sure if you had a hearing on this one or not since I'm not in the office to obtain the sufficient details.

Deb

>>> "McNabb, Brian F SMSgt USAF ANG 175 MOF/MXOOM" 01/16/14 2:02 PM >>>
To: The Honorable Mr. John Beverungen

Case No: 2014-0100-A

From: Mr. Brian McNabb

Date: 16 Jan 2014

Sir

I received notice of your decision not to grant a variance permit for freestanding deck located on property of 4318 Cottingham Road.

I will comply with your decision but request that I be allow flexibility with the adjustment considering the foul weather and needed time to make adjustments. I am aware the Deck needs to be adjusted 2 1/2 feet from existing fence and will do so when weather allows. I make this request so that I do not have more problems with neighbor and inspectors. Please send written authorization via email or postal service so that I can meet all requirements in a timely matter.

I thank you for your help in this matter

Respectfully Submitted

Brian McNabb
4318 Cottingham Road
Nottingham, Maryland 21236

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: November 7, 2013

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For November 4, 2013
Item No. 2014-0094, 0100, 0102 and 0104

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\ZAC11042013 -.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: December 6, 2013

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 4318 Cottingham Road

INFORMATION:

Item Number: 14-100

Petitioner: Brian and Patricia McNabb

Zoning: DR 5.5 and RAE 1

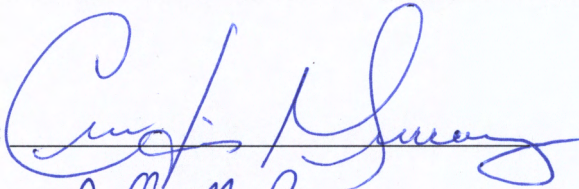
Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner requests a variance to permit a rear yard freestanding deck with a zero foot setback in lieu of the required 2.5 foot setback. The property was cited with a code violation as the subject deck is causing drainage issues for neighboring properties that is resulting in flooding. The Administrative Judge hearing the violation case ordered that the drainage issue be resolved. The Department of Planning concurs with such order and has no further comments.

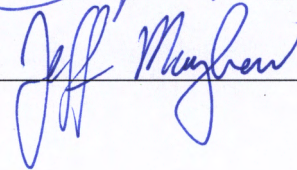
For further information concerning the matters stated here in, please contact Krystle Patchak at 410-887-3480.

Prepared By:



Division Chief:

AVA/LL:cjm



RECEIVED

DEC 12 2013

OFFICE OF ADMINISTRATIVE HEARINGS

Real Property Data Search (w4)

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registr
Account Identifier:	District - 11 Account Number - 2000008446	
Owner Information		
Owner Name:	ROBEL PATRICIA MCNABB BRIAN	Use: RESIDENTIAL
Mailing Address:	4318 COTTINGTON RD BALTIMORE MD 21236-2434	Principal Residence: YES
		Deed Reference: 1) /26076/ 00587 2)
Location & Structure Information		
Premises Address:	4318 COTTINGTON RD 0-0000	Legal Description: .168 AC 4318 COTTINGT SILVER SPRING
Map: 0072	Grid: 0014	Parcel: 1207
Sub District:	Subdivision: 0000	Section: 2
Block:	Lot: 89	Assessment Year: 2012
Plat No:	Plat Ref: NONE	
Special Tax Areas:		
Town:		
Ad Valorem:		
Tax Class:		
Primary Structure Built 1987	Above Grade Enclosed Area 1,600 SF	Finished Basement Area 7,309 SF
Stories 2.000000	Basement NO	Type SPLIT LEVEL
Exterior SIDING	Full/Half Bath 2 full	Garage
Last Major Renov		
Value Information		
	Base Value	Value As of 01/01/2012
Land:	100,300	100,300
Improvements	162,400	128,200
Total:	262,700	228,500
Preferential Land:	0	0
Transfer Information		
Seller: ROBEL PATRICIA	Date: 08/21/2007	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /26076/ 00587	Deed2:
Seller: KAHL STEVEN J	Date: 01/07/2004	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /19398/ 00072	Deed2:
Seller: CHEN GENE GOON	Date: 05/28/1998	Price: \$148,000
Type: ARMS LENGTH IMPROVED	Deed1: /12892/ 00009	Deed2:
Exemption Information		
Partial Exempt Assessments:	Class	07/01/2013
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00
Tax Exempt:	Special Tax Recapture:	
Exempt Class:	NONE	
Homestead Application Information		
Homestead Application Status: Approved 12/31/2012		

New Search (<http://sdat.resiusa.org/RealProperty>)

Order the **TAX MAP** [click here...](#)

(<http://imsweb05.mdp.state.md.us/website/mosp/>)

→

DATE _____

12-20-2013

[illegible]

DATE 12-20-2013

[illegible]

Case No.: 2014-0100-A

Exhibit Sheet

DW 2-25-14
+ 30-14

slw
12-30-13

Petitioner/Developer

Protestants

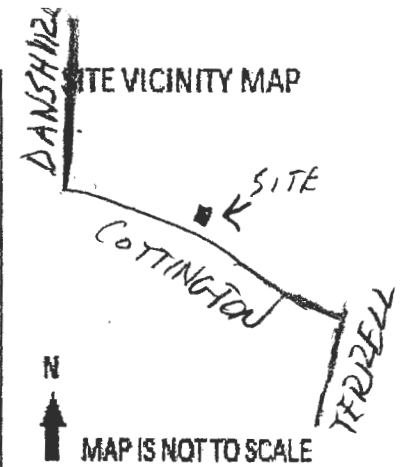
No. 1	plan	photos
No. 2	photographs	hearing statement
No. 3		time line
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)

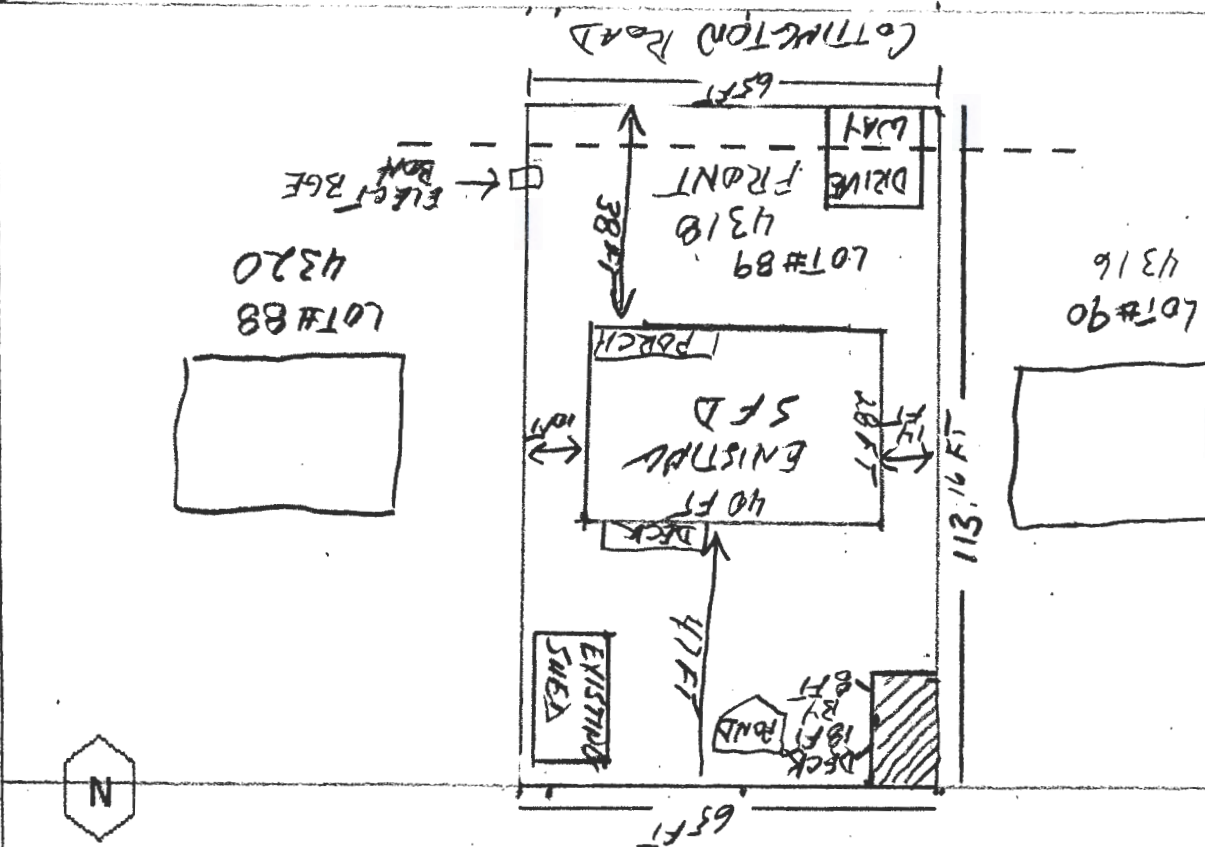
ADDRESS 4318 COTTINGTON ROAD OWNER(S) NAME(S) BRIAN & PATRICIA McNABB

SUBDIVISION NAME SILVER SPRING STATION LOT # 89 BLOCK # N/A SECTION # 2

PLAT BOOK # 54113 FOLIO # 119 10 DIGIT TAX # 2000008446 DEED REF. # 26076100587



MAP IS NOT TO SCALE
ZONING MAP# 072A2
SITE ZONED DR.S. RAE I
ELECTION DISTRICT 11
COUNCIL DISTRICT 5
LOT AREA ACREAGE _____
OR SQUARE FEET 7357
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 BRIAN McNABB DATE 20 OCT 2013 SCALE: 1 INCH = 30 FEET

VIOLATION CASE INFO:
0131807

2014-0100-A

Petitioner No 1

Variance Hearing – 4318 Cottingham Road

December 20, 2013, 11a.m.

26 Years ago my wife and I purchased our home and picked what we thought to be the perfect lot for us which gave us a great view of the wooded area behind us. For all these years we have had this perfect view, that is until our neighbor at 4618 Cottingham Road decided to build this contested structure.

This spring Mr McNabb asked if I had my property surveyed before I had my fence installed 20 years ago and I told him that we had. He then told me he was going to replace his fence, which separates our properties, and replace it with a 6 foot PVC fence. Which I told him we do not have any objections.

He started the project by putting (3) 4x4 posts in the ground along the fence line, extending 10 feet in the air to which he then attach 2x10 framing at the ground line. Mr McNabb installed the 6 foot fence panel between these posts leaving a 4 inch space above the top of the 2x10 frame which is then 14 inches above the ground line. Having done this, he has installed a fence that is now 7 feet 2 inches high and the post have been capped off at a height of about 10 feet. *(At this time I told him I thought county code only allowed a 6 foot fence between houses, and for every foot higher it had to go in 2 feet with a maximum of 10 feet in a residential area. But he ignored me)*

Posts reaching approximately 12 feet above ground were then placed further into their yard and we later realized they were actually building a deck. When we became aware of this I told him I thought he had to build it with a setback like I did for my shed and as well as the people did for his shed, which we were very aware of because he told us the builder had him measure the setback for the foundation area he had to prepare before they would install it on his property. He just looked at me and walked away.

Protestant No. 2

After a hard rain on June 13, 2013 I walked in my backyard near the fence our neighbor installed and sunk several inches in the mud. Trying to find out why the water was backing up and not running off as it has done for the last 26 years, I used a shovel to dig along the fence line to make a trench when I struck something very solid. This is when I discovered he had poured a concrete barrier, hidden behind the 2x10 framing. The barrier was placed in such a way that it appears its only purpose is to prevent the water from draining down through the swale on its natural path. On June 14, 2013 I approached Mr. McNabb once again and this time tried to explain to him that he cannot purposely prevent the natural flow of the runoff. When I told him that the barrier he had constructed was flooding me out, he said "He had to do that to keep the water on my property from running onto his". I told him that was the way it works, water goes downhill. I told him that if he didn't fix it I was going to call the county and they would make him fix it. Mr. McNabb replied with, "Yeah, well we'll see"

On June 17, 2013 I contacted Mr. Matt Gawel with "Baltimore County Sediment Control" and made a complaint. On June 18, 2013 Mr. Gawel inspected the structure in question and informed me that he saw so many violations he didn't know where to start. I believe a citation was issued at this time and apparently ignored.

On June 28, 2013 even after receiving the citation Mr. McNabb began placing the framing for a roof on the structure. I approached him again and told him that that *"I can save you some money before you put that roof on"* then tried to explain to him that he is not allowed to put a roof on it causing the runoff to fall in our yard. He just looked at me then walked away. He continued putting 2x2's up across a 2x8" framing then placed fabric across them which quickly became "obviously moldy" but it remained until the weather became cold and they finally removed it.

Our rear fence line is the center of a drainage swale. Beneath is a French drain which was put in by the developer according to Baltimore County approved plans. When we get a good rain the swale can grow to 10 feet wide. Half in our yards and half up the hill to the woods line. Sometimes it looks like a river. I

should not be made to suffer because after all these years of the system working correctly because Mr. McNabb decided to put in a deck, a sandy beach, a garden and a pond in the middle of a drainage. The appearance of my backyard should not suffer because of his mistakes. There is not one person who comes into my yard who doesn't ask "What is that things".

Our ground consist of 2 to 3 inches of dirt that was put down by the builder and beneath that white clay as hard as concrete. Most of the rain water runs on top of the ground. I do not believe that the 2x10's on the ground or the area beneath the deck, filled solid with gravel, will allow the water to run free. I believe the barrier was built for one thing and that was as a retaining wall to keep the rain from flowing freely. I request the entire structure be removed and if replaced Mr. McNabb be made to follow the rules in accordance with county code.

Made Complaint on June 17

Second Citation on Sept 19

First Hearing on Oct 23

Second Hearing on Dec 4

Matt Gawel Baltimore County Sediment Control 410-887-4586

410-887-3226

During construction told Brian fence couldn't be more than 6' tall. Told him there was a setback for deck. Told him he couldn't put a roof on and drain into my yard.

Rained sometime around Thur, 13th, found problem.

Emailed with Question on Friday, 6/14 Matt emailed right back, needed more info

Talked to Brian 6/15 about the wall. He said he had to do it or the rain water would come down on his property. I told him if he didn't fix it I would call the County and they would make him take it down. He said we'll see..

Called Mon, 6/17 and made complaint to Matt.

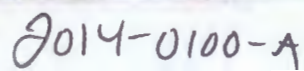
Matt came out around Tue, 6/18. Said he saw numerous violations. I think he spoke to someone there that day.

With no work being done I called Matt on Tue, 6/25 to see what was going on. Said he had appointment with Brian the next day, Wed 6/26 at 1100.

With no work being done, I emailed Matt on Fri, 7/5 to see what the time line was. He said he would wait a week or two and come out to see if work was being done. If not might fine Brian. Possibility he would file for variance. I told him that would be fine. I would not let it stay. Matt said he would think that board would make him take the whole thing down.

With NO response from Matt from The email on 7/5 I again emailed him on 7/15 and ask him if he thought he couldn't help what my next step should be.

Protestant No. 3

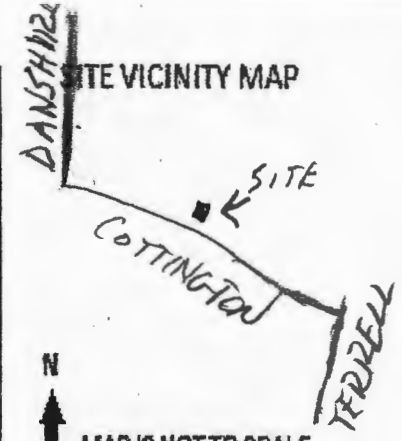


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SUBDIVISION NAME SILVER SPRING STATION LOT # 89 BLOCK # N/A SECTION # 2

PLAT BOOK # 54113 FOLIO # 119 10 DIGIT TAX # 2000008446 DEED REF. # 26076100587



N
MAP IS NOT TO SCALE

ZONING MAP# 072A2

SITE ZONED DR.S. RAE

ELECTION DISTRICT 11

COUNCIL DISTRICT 5

LOT AREA ACREAGE _____

OR SQUARE FEET 7357

HISTORIC? NO

IN CBCA? NO

IN FLOOD PLAIN? NO

UTILITIES? MARK WITH X

WATER IS:

PUBLIC X PRIVATE _____

SEWER IS:

PUBLIC X PRIVATE _____

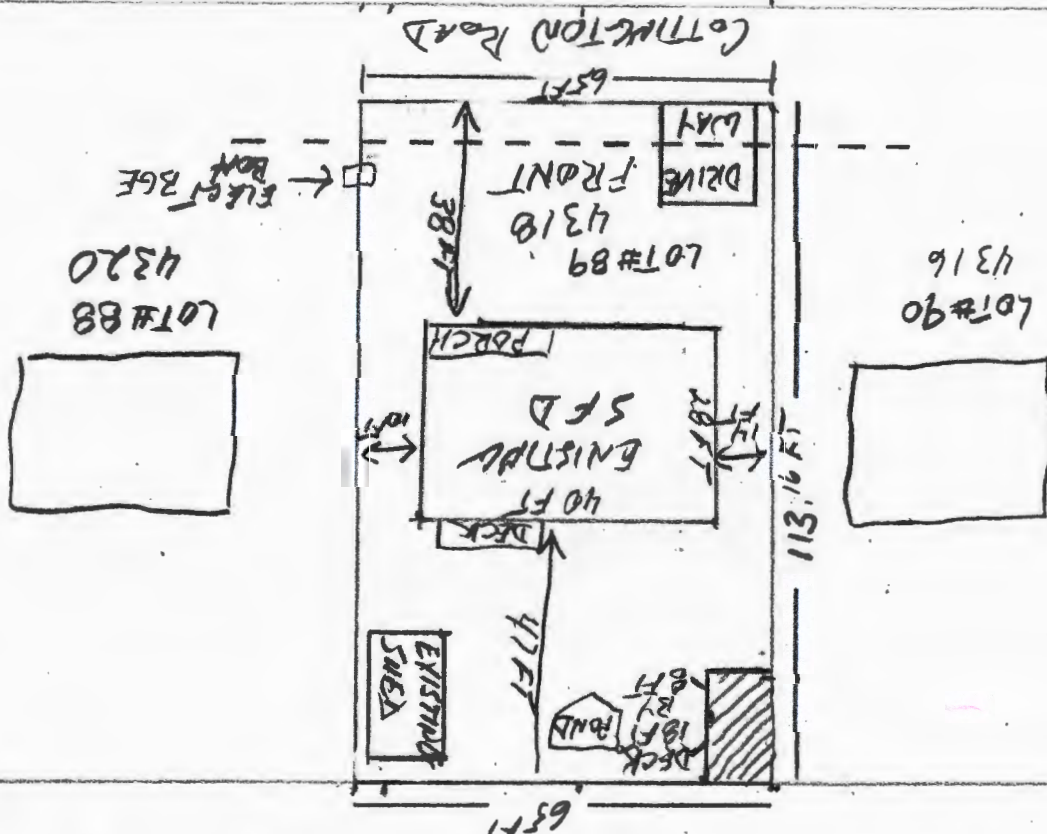
PRIOR HEARING? NO

IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

VIOLATION CASE INFO:

0131807



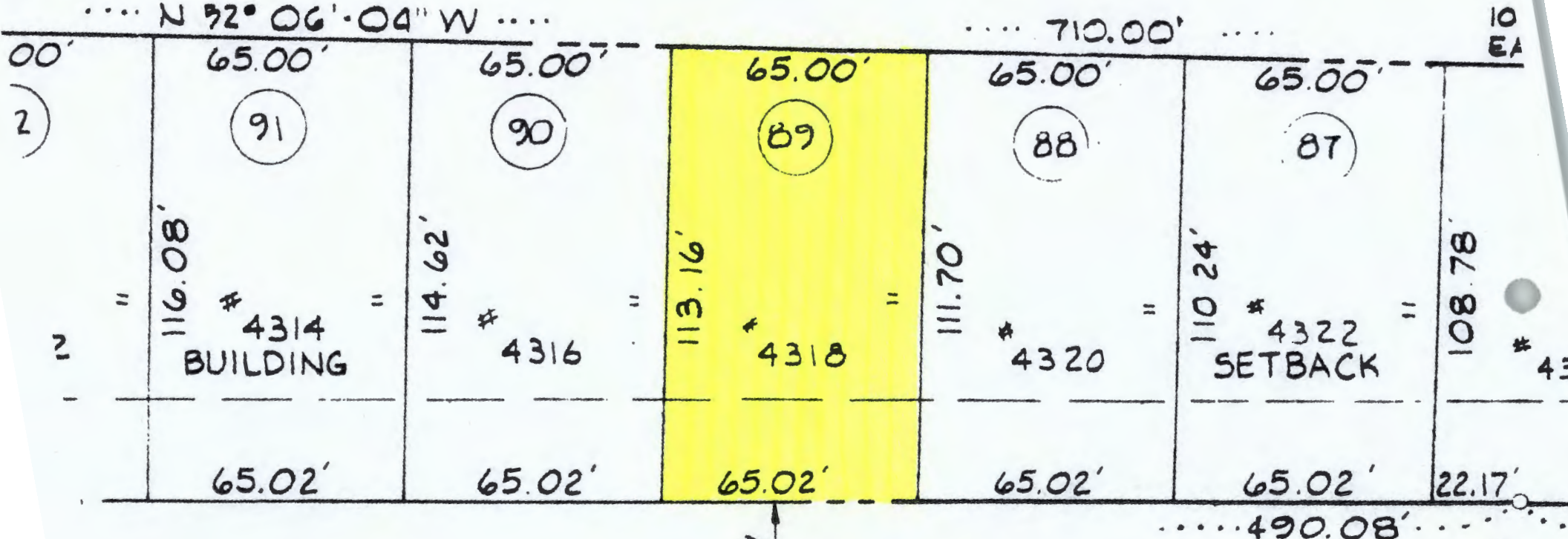
PLAN DRAWN BY BRIAN McNABB DATE 20 OCT 2013 SCALE: 1 INCH = 30 FEET

2014-0100-A

200	100	513.00	10 03 17	60.03			
180	204A	1975.00	07° 46' 15"	267.86	134.14	N 46° 12'	
1087	1088	2379.40	02° 53' 20"	119.97	59.99	S 91° 56' 40" E	11.

-- 1049.95 ----

.... N 92° 06' 04" W



200-0100-A

10 EA

185

GTON

60' R/W

