IN RE:	PETITION FOR VARIANCE
	(7517 Rossville Blvd.)
	14 th Election District
	6 th Councilman District
	G. W. Site Services, Inc.
	Petitioner

BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2014-0113-A

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Galen Wallace on behalf of G. W. Site Services, Inc., the legal owner of the subject property. The Petitioner is requesting variance relief from Section 1B01.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.), (1) to permit a proposed dwelling with a front yard setback of 23 ft. and a rear yard setback of 23 ft. in lieu of the required 30 ft. each; and (2) to amend the Final Development Plan (FDP) of Cedar Lane Farms, Phase 1, Lot 25 only. 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 Galen Wallace, principal of G.W. Site Services, Inc., legal owner. Neil Lanzi, Esquire, appeared and represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance and the file does not contain any letters of opposition. There were no substantive Zoning Advisory Committee (ZAC) comments received.

The subject property is approximately 17,641 square feet (0.4 acres), and is zoned DR 3.5.

The property is unimproved, and the Petitioner proposes to construct a single family dwelling on site. Given the configuration of the lot, variance relief is needed before it can do so.

ORDER RECEIVED FOR FILING

Ву.

Based upon the testimony and evidence presented, I will grant 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).

Petitioner has met this test. The lot is irregularly shaped (pie-shaped) and the building envelope is constrained by environmental features.

If the B.C.Z.R. were strictly interpreted, the Petitioner would indeed suffer a practical difficulty, given it would be unable to construct on the lot an appropriate single family dwelling (i.e., one that is approximately 3,000 square feet, which is the size of the other homes in the subdivision). Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

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 granted.

THEREFORE, IT IS ORDERED, this 31st day of December, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 1B01.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.): (1) to permit a proposed dwelling with a front yard setback of 23 ft. and a rear yard setback of 23 ft. in lieu of the required 30 ft. each; and (2) to amend the Final Development Plan (FDP) of Cedar Lane Farms, Phase 1, Lot 25 only (to reflect the variance relief granted above), be and is hereby GRANTED.

ORDER RECEIVED FOR FILING

By_

The relief granted herein shall be subject to the following:

Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its 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.

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

ORDER RECEIVED FOR FILING

ARYLAND

KEVIN KAMENETZ County Executive LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

December 31, 2013

Neil Lanzi, Esquire 409 Washington Avenue Suite 617 Towson, Maryland 21204

RE: Petition for Variance

Property: 7517 Rossville Blvd.

Case No.: 2014-0113-A

Dear Mr. Lanzi:

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,

JOHN B. BEVERUNGEN Administrative Law Judge for Baltimore County

JEB:sln Enclosure



CASE NUMBER 2014-0113-

PETITION FOR ZONING HEAR. IG(S) To be filed with the Department of Permits, Approvals and Inspections To the Office of Administrative Law of Baltimore County for the property located at: ROSSVILLE BLUD ZIZ37 which is presently zoned D 2 3-Address 1517 Deed References: 3434Z 10 Digit Tax Account # Z 4 0 0 0 0 1 3 C Property Owner(s) Printed Name(s) 6. W SITE SERVICES (SELECT THE HEARING(S) BY MARKING X 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: a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for Variance from Section(s) Section 1B01.2.C.1.b - to permit a proposed dwelling with a front yard setback of 23 feet and a rear yard setback of 23 feet in lieu of the required 30 feet each; and to amend the final development plan of Cedar Lane Farms, Phase 1, lot 25 only. 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) to be presented at hearing 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). Legal Owners (Petitioners): Contract Purchaser/Lessee: BRUICES INC. Name- Type or Print Name #2 - Type or Print Signature # 2 229 LIAID State Mailing Address City 21286 Zip Code Telephone # Email Address Representative to be contacted:

Signature Mailing Address Petitioner:

Name-Type or Print RECEVED FOR FILING

Signature Signature 229 Dausaa MO LIMDON Mailing Address City State Mailing Address City BA 21286 Zip Code **Email Address** Zip Code Address Telephone #

Filing Date

Do Not Schedule Dates:

Reviewe

ZONING PROPERTY DESCRIPTION FOR 7517 Rossville Boulevard, Baltimore, MD 21237

Beginning at a point on the north side of Rossville Boulevard which is eighty feet wide at a distance of five-hundred and ten feet east of the centerline of the nearest improved intersecting street Cedar Pond Lane which is fifty feet wide.

Being Lot 25 in the subdivision of Phase 1, Cedar Lane Farms as recorded in Baltimore County Plat Book S.M. 75 Folio 4 containing 0.405 Acres of land. Located in the 14th Election District and 6th Councilmanic District.

Item # 10113

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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. <u>For those petitions which require a public hearing</u>, 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:, 2014 - 0113 - A
Petitioner: G.W. SITE GERVICES INC
Address or Location: 75/7 ROSSVILLE BLVD BALL NO ZIZ37. PLEASE FORWARD ADVERTISING BILL TO:
Name: G.W. SITE SERVICES INC.
Address: 229 LINDEN AVE-
TOWSON MO ZIZES
Telephone Number: 443 470 0868

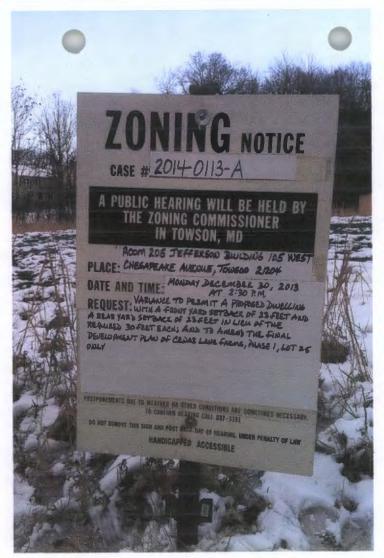
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RTIFICATE OF POSTING

. 49	
	RE: CASE NO: 2014-0113-A
	PETITIONER/DEVELOPER
	C.W. SITE SERVICES LLC
	DATE OF HEARING/CLOSING:
BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMEN COUNTY OFFICE BUILDING, ROOM 111 111 WEST CHESAPEAKE AVENUE	IT
ATTENTION:	
LADIES AND GENTLEMEN:	
THIS LETTER IS TO CERITFY UNDER T NECESSARY SIGN(S) REQUIRED BY LAW PROPERTY AT	
1517 ROSSVILL	e BLVD
THIS SIGN(S) WERE POSTED ON Tuesd	Lay Dicember 10 2013
	SINCERELY, 12/10/13 SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE (SIGN POSTER) 60 CHELMSFORD COURT BALTIMORE, MD 21220 (ADDRESS)

PHONE NUMBER: 443-629-3411



December 10,2013



Baltimore, Maryland 21278-0001

December 12, 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 December 10, 2013

The Jeffersonian

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinst

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: #2014-0113-A
Z517 Posciille Parlayard

7517 Rossville Boulevard N/s Rossville Blvd., 510 ft. East of centerline of Cedar Pond

Lane
14th Election District - 6th Councilmanic District
Legal Owner(s): G. W. Site Services, LLC
Variance: to permit a proposed dwelling with a front yard
setback of 23 feet and a rear yard setback of 23 feet in lieu
of the required 30 feet each; and to amend the final development plan of Cedar Lane Farms, Phase 1, lot 25 only.
Hearing: Monday, December 30, 2013 at 2:30 p.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 12/655 December 10 961232



KEVIN KAMENETZ
County Executive

November 29, 2013

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

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: 2014-0113-A

7517 Rossville Boulevard

N/s Rossville Blvd., 510 ft. East of centerline of Cedar Pond Lane

14th Election District – 6th Councilmanic District

Legal Owners: G.W. Site Services, LLC

Variance to permit a proposed dwelling with a front yard setback of 23 feet and a rear yard setback of 23 feet in lieu of the required 30 feet each; and to amend the final development plan of Cedar Lane Farms, Phase 1, lot 25 only.

Hearing: Monday, December 30, 2013 at 2:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Arnold Jabion

Director

AJ:kl

C: G.W. Site Services, LLC, 229 Linden Avenue, Towson 21286

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, DECEMBER 10, 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.

PATUXENT PUBLISHING COMPANY TO:

Tuesday, December 10, 2013 Issue - Jeffersonian

Please forward billing to:

G.W. Site Services, LLC Galen Wallace 229 Linden Avenue Towson, MD 21286

443-470-0868

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2014-0113-A

7517 Rossville Boulevard

N/s Rossville Blvd., 510 ft. East of centerline of Cedar Pond Lane 14th Election District – 6th Councilmanic District

Legal Owners: G.W. Site Services, LLC

Variance to permit a proposed dwelling with a front yard setback of 23 feet and a rear yard setback of 23 feet in lieu of the required 30 feet each; and to amend the final development plan of Cedar Lane Farms, Phase 1, lot 25 only.

Hearing: Monday, December 30, 2013 at 2:30 p.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 ACCOMODATIONS, 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.

MEMORANDUM

DATE:

January 31, 2014

TO:

Zoning Review Office

FROM:

Office of Administrative Hearings

RE:

Case No. 2014-0113-A - Appeal Period Expired

The appeal period for the above-referenced case expired on January 30, 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

7517 Rossville Boulevard; N/S Rossville

Boulevard, 510' E of c/line Cedar Pond Lane

14th Election & 6th Councilmanic Districts

Legal Owner(s): G.W. Site Services, Inc

Petitioner(s)

BEFORE THE OFFICE

OF ADMINSTRATIVE

HEARINGS FOR

* BALTIMORE COUNTY

* 2014-113-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 15 2013

Peter Max Zummerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO

Carle S Ventio

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 15th day of November, 2013, a copy of the foregoing Entry of Appearance was mailed to Galen Wallace, 229 Linden Avenue, Towson, MD 21286, Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CASE NO. 2014-0113-A

CHECKLIST

Comment Received	<u>Department</u>	Support/Oppose/ Conditions/ Comments/ No Comment
11/90	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent)	MC
	DEPS (if not received, date e-mail sent)	
	FIRE DEPARTMENT	
	PLANNING (if not received, date e-mail sent)	
11/15	STATE HIGHWAY ADMINISTRATION	NO 0P1
	TRAFFIC ENGINEERING	
	COMMUNITY ASSOCIATION	
National St. St. Co. Co.	ADJACENT PROPERTY OWNERS	
ZONING VIOLATI		
PRIOR ZONING	(Case No. 96-113-A (CC	Find Copy)
NEWSPAPER ADV	CILMICE	, CGIE
SIGN POSTING	Date: 1010	by USLE
PEOPLE'S COUNS	EL APPEARANCE Yes No 🗆	
PEOPLE'S COUNS	EL COMMENT LETTER Yes No	
Comments, if any: _		



KEVIN KAMENETZ County Executive

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

December 30, 2013

G.W. Site Services, Inc. 229 Linden Avenue Towson MD 21286

RE: Case Number: 2014-0113 A, Address: 7517 Rossville Boulevard

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on November 7, 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,

U. Cal Richal D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: jaf

Enclosures

c: People's Counsel
Galen Wallace, 229 Linden Avenue, Towson MD 21286



Martin O'Malley, Governor Anthony G. Brown, Lt. Governor James T. Smith, Jr., Secretary Melinda B. Peters, Administrator

Date: 11-15-13

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

RE: **Baltimore County**

Item No 2014-0113-A.

Vovience 6. W. Site Services Inc. 7517 Rossvillo Barlevars.

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. 2014-0113-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

From:

galen wallace <galen_52657@yahoo.com>

To:

"crichards@baltimorecountymd.gov" < crichards@baltimorecountymd.gov>

Date:

12/2/2013 6:48 AM

Subject:

Petition for Variance 2014-113-A; 7517 Rossville Blvd. 21237

Dear Mr. Richards,

I submitted variance paperwork for the above referenced zoning case on November 6th. I have received in the mail a copy of the People's Counsel Entry of Appearance but I have yet to receive the letter from your office with the property posting instructions and hearing date. It's been over three weeks.

When can I expect this paperwork? I would like to break ground in the spring. Should it take three weeks plus to send out a letter?

Please advise.

Sincerely,

Galen Wallace, President G.W. Site Services, Inc. 229 Linden Ave. Towson, MD 21286 443-470-0868

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: November 20, 2013

Department of Permits, Approvals

And Inspections

FROM:

Dennis A. Kennedy, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For November 18, 2013

Item No. 2014-0078, 0106, 0107, 0109, 0110, 0111, 0112, 0113 and

0114

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\ZAC11182013 -.doc

Real Property Data Search (w2)

Search Result for BALTIMORE COUNTY

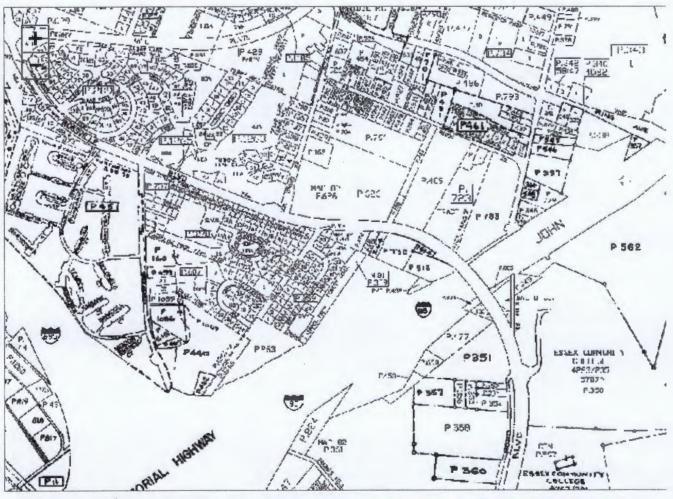
Search Help

<u>View Map</u> <u>View GroundRent Redemption</u>				View GroundRent Registration				
Account Identifier: District - 14 Account Number				_				
		Owner Info	rmation					
Owner Name: GW SITE SERVICE		TCES INC Use: Principal Resid		sidence	RESIDENTIAL idence: NO			
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	b District: Subdivision:	Section:	Block:			ent Year:	Plat No:	
0081 0018 1263	0000	T		25	2012		Plat Ref:	0075/0004
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Primary Structure Built	Above Grade Enclosed A	rea Fini	shed Ba	sement	t Area	Property 17,641 SI	Land Area	County Use 04
Stories Basement	Type Exterior Fu	ll/Half Bath		Gara	age	Last Major	Renovation	
		Value Info	rmation					
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State:	000		0.00					
Municipal:	000		0.00 0	.00		0.00 0.0	00	
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Exempt Class:	NON		Y					
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Baltimore County

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

District: 14 Account Number: 2400001307



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (http://www.plats.net).

Property maps provided courtesy of the Maryland Department of Planning @2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (http://www.mdp.state.md.us/OurProducts/OurProducts.shtml).



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

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PLEASE PRINT CLEARLY

CASE NAME 7517, NOSSUILL BUD CASE NUMBER 2014-0113-A DATE 12/30/13

PETITIONER'S SIGN-IN SHEET

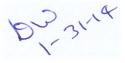
NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL		
Galey Wallace.	229 Linden Ave.	Towson MD ZIZEC.	galen 52657@ Jahoo. Oc		
NEIL Canzi	409 Washington Gove #617	Towson mb 21204	NCanzi e Conzilau. Com		
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Case No.:

2014-0113-A

Exhibit Sheet

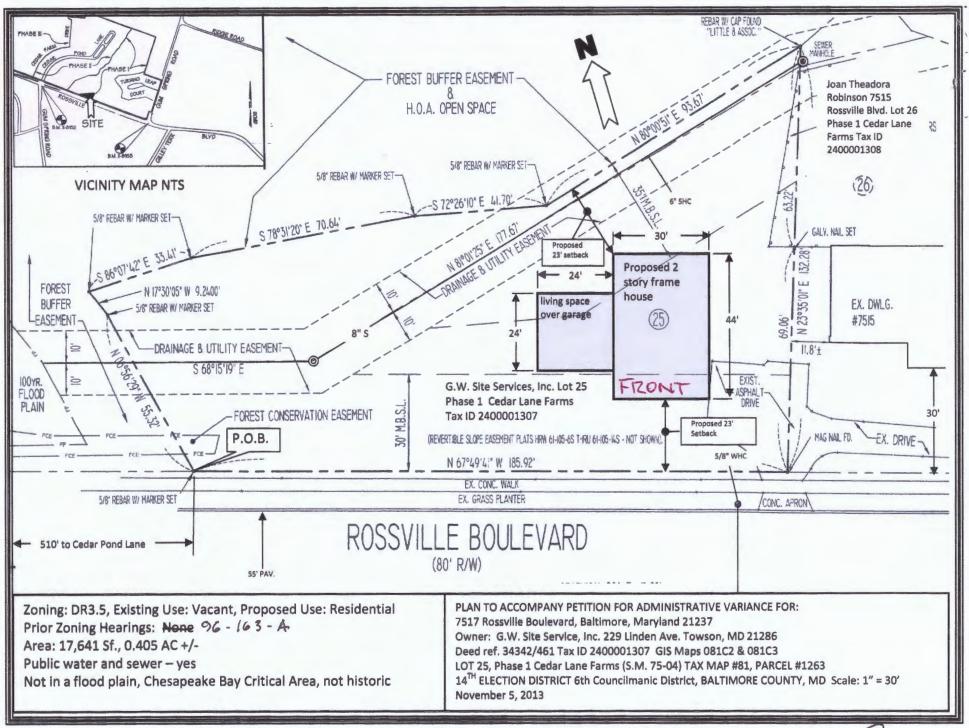
Petitioner/Developer



Protestants

12/31/13 pen

No. 1	Site plan
No. 2	Order in No. 96-163-A
No. 3	3A-3C Color photos
No. 4	Google photo-aerial
No. 5	Letter 12-6-13 From neighbor Robinson
No. 6	Letter 12-5-13 from Gardina
No. 7	
No. 8	
No. 9	
No. 10	
No. 11	
No. 12	



Ex. 1 Item #0113

300

ECEIVED FOR FILING

IN RE: DEVELOPMENT PLAN HEARING and

PETITION FOR VARIANCE

(Cedar Lane Farms) N of

Rossville Blvd., W of Gumspring Rd

14th Election District

6th Councilmanic District

* BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case Nos. XIV-342 & 96-163-A

James P. McDonagh, Owner; Cedar Lane, Inc., Developer

* * * * * * * * *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner as a combined hearing, pursuant to Section 26-206.1 of the Baltimore County Code, wherein approval is sought of a development plan prepared by George W. Stephens, Jr. and Associates, Inc., for the proposed Planned Unit Development (PUD-R-1) of the subject property by James P. McDonagh, Owner, and his corporation, Cedar Lane, Inc., Developer, with 36 single family dwellings and 189 townhouses, in accordance with the development plan submitted and marked into evidence as Developer's Exhibit 1. In addition to development plan approval, the Owner/Developer seeks variance relief from Section 1B01.2.C.1.c of the Baltimore County Zoning Regulations (B.C.Z.R.), and from Section 11A of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a distance of 15 feet from a side building face of a group house to a public street right-of-way in lieu of the required 25 feet for Lots 1, 8, 18, 19, 31, 56, 73, 74, 94, 95, 110, 111, 124, 136, 149, and 155. Variance relief is also requested from Section 1801.2.C.1.b of the B.C.2.R. and Section 11A of the C.M.D.P. to permit a setback of an additional 5 feet for buildings located adjacent to arterial roadways in lieu of the required 20 feet for single family Lots 25 and 26. The PUD-R-1 authorization plan (development plan) and plat to accompany the Petition for Variance was submitted into evidence as Developer's and

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Petitioner's Exhibit 1A. That plan depicts the specifics of the development plan proposed and also shows the variance requests at issue.

Appearing at the public hearing required for this project were James McDonagh and Kevin McDonagh, representatives of Cedar Lane, Inc., Owner/Developer of the subject property, and Brent Petersen and David Martin, Professional Engineers with G. W. Stephens, Jr. & Associates, Inc., the engineering firm which prepared the plan. Mr. Martin was the principal consultant in the development of the plan. Mickey Cornelius, Traffic Engineering expert with The Traffic Group, Inc., and Robert A. Hoffman, Esquire, attorney for the Owner/Developer, also appeared. ous representatives of the various Baltimore County/State reviewing agencies attended the hearing, including Carol McEvoy from the Office of Planning and Zoning, Larry Pilson from the Department of Environmental Protection and Resource Management (DEPRM), Lee Dreiger from the Storm Water Management Section of DEPRM, James R. Logan from the Department of Permits and Development Management (DPDM), and Kurt Kugelberg, Project In addition, numerous residents from the surrounding Manager with DPDM. community appeared, all of whom signed the Citizen Sign-In Sheet. those individuals who testified were Amos G. Harvey, Preston Snedegar, John Greely, and Melvin W. Inners.

The plan at issue has proceeded through the development review process as codified in Title 26 of the Baltimore County Code (BCC). The subject plan required referral to and approval by the Planning Board of Baltimore County in that same was submitted as a PUD (Planned Unit Development) R-1. In fact, the Planning Board approved this development plan on January 19, 1995. PUDs are the tools of the planning process which are defined within Section 430 of the B.C.Z.R. A PUD-R-1 is a planned unit

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development with a minimum tract size of 5 acres. In adopting the PUD legislation, the County Council expressed the intent to provide flexibility in the application of the land use regulations and to allow alternative review processes. These processes were to encourage development of creatively designed neighborhoods which would provide a higher degree of project design then through the conventional application of the regulations. A PUD plan should be utilized to provide a development which will ensure compatibility with surrounding existing and proposed land uses and will not be detrimental to the surrounding locale. A series of stringent standards are established for all PUDs within Section 430.4 of the B.C.Z.R. Moreover, the Hearing Officer in reviewing a PUD plan must make certain findings with respect to the merits of the plan, as more fully set forth in Section 26-206(r) of the BCC.

As to the plan's progress through the review process, it is to be noted that an initial concept plan conference for this development was conducted on October 17, 1994. As required, a community input meeting was held on December 19, 1994 at the White Marsh Branch Library. Subsequently, a development plan was submitted and a conference held thereon on November 15, 1995. Following the submission of that plan, development plan comments were submitted by the appropriate agencies of Baltimore County and a revised development plan incorporating these comments was submitted at the hearing held before me on December 5, 1995.

The hearing was bifurcated to consider the development plan case and requested variances separately. An overall view of the plan shows that the subject property consists of 58.96 acres, split zoned D.R. 3.5 (45.17 acres), D.R. 5.5 (11.29 acres), and D.R. 10.5 (2.5 acres). The property is located on the north side of Rossville Boulevard, between

Gumspring Road and Perry Hall Boulevard in White Marsh. Presently, the site contains an existing dwelling, barn and outbuildings, and has been utilized on a temporary basis as a golf driving range. The existing structures are to be razed and the golf driving range use discontinued. The Owner/Developer proposes constructing 36 single family dwellings and 189 townhouse units as shown on the plan. Essentially, the townhouses are grouped to the north and west portions of the site, near the intersection of Perry Hall Boulevard and Rossville Boulevard. The single family homes are will be located on the south and east portions of the site. A cul-desac, around which 10 single family houses are proposed to be constructed, will be accessed via Gumspring Road. The balance of the single family houses will be built off of an internal roadway within the site.

In addressing the development plan issues, it is to be noted that Section 26-206 of the Baltimore County Code (BCC) requires the Hearing Officer to identify all open/unresolved development plan agency issues or comments at the onset of the hearing. In this regard, Mr. Hoffman, on behalf of the Owner/Developer, proffered that many of the issues had been resolved by red-lined amendments to the development plan and identified those issues that remained outstanding. In terms of resolved issues, Mr. Hoffman noted that a revised landscape plan had been submitted pursuant to a request from the Office of Planning and Zoning (OPZ), that sidewalks were now shown on the plan adjacent to Rossville Boulevard, that the location of the tot lot had been shifted out of the forest buffer easement area, and that the plan had been amended to show that pedestrian paths would be paved or covered in wood chips within the forest buffer and homeowners' association easement areas. As to other open OPZ issues, Mr. Hoffman testified that a note was added to the plan to reflect the fact

that grading in local open space areas would be fully resolved on the final grading plan, that the fronts of the dwellings on single family Lots 27 and 36 will be screened, and alternatives will be shown on the plan to allow the houses on those lots to be oriented either towards Gumspring Road or the internal cul-de-sac. As to the issues raised by DEPRM which had been resolved, Mr. Hoffman observed that the red-lined plan now shows a 75-foot forest buffer easement near the location of the tot lot, that the foot path arrangement through the forest buffer easement area has been modified and approved, and that forest conservation and buffer easements have been labeled and shown on the plan. As to resolved issues relating to storm water management, inlets to assure water quality have been shown on Lots 25 and 26 and preliminary hydrology computations have been approved by Lee Dreiger in DEPRM's Storm Water Management section.

Mr. Hoffman also proffered that the concerns voiced by the Department of Recreation and Parks relating to the equipment to be utilized on the tot lot had been resolved and that certain technical additions and corrections to the plan would be made to satisfy the concerns raised by the Department of Permits and Development Management (DPDM).

The County/State agency representatives who were present at the hearing corroborated Mr. Hoffman's testimony that the above-identified issues have been resolved and that the amended, red-lined development plan marked as Developer's Exhibit 1A, was largely in compliance with the development regulations, policies and rules contained within the BCC. However, both Mr. Hoffman and Mr. James Logan, on behalf of the Department of Public Works (DPW) agreed that three County issues remained outstanding. One of these issues relates to the paving width of the road within that part of the proposed development which features the townhouse units.

Specifically, the plan shows a 22-foot wide paving in certain areas of the road adjacent to perpendicular parking. Mr. Logan believes that public works standards requiring a 24-foot wide paving should be strictly adhered to in this case. Secondly, the Developer and County have not come to an agreement regarding the extension of public sewer north of the subject site. The Developer has shown a sewer extension to the property line, however, the County would prefer that the extension be continued in a northerly direction off site. Lastly, the specific layout of the extension of the public sewer from the south is unclear. But for these three issues, the Developer and County concur that the development plan is in compliance with the rules, regulations and policies codified in Title 26 of the B.C.C.

Turning first to the issue of the width of the road paving, it is to be noted that waivers of public works standards can be granted by this Hearing Officer, pursuant to Section 26-172 of the B.C.C. That Section offers an alternative test which the Developer must satisfy for a waiver to be granted. Specifically, a waiver can be granted upon a finding by a Hearing Officer that the size, scope and nature of the proposed development does not justify strict compliance with these regulations; that the waiver would be within the scope, purpose and intent of the regulations; and, that all other County laws, ordinances, and regulations have been satisfied. In the alternative, a waiver can be granted if a showing is made that compliance with the regulations would cause unnecessary hardship.

In this case, there can be no claim of unnecessary hardship.

Testimony proferred at the hearing is that the plan could be amended to reflect the 24-foot paving width requirement. Thus, this project can be

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built out, in the manner proposed, with either 22-foot or 24-foot wide internal roadways.

In addressing the requirements of the alternate test, the Developer believes that a 22-foot road will be more compatible with the scheme of the proposed development. The Developer's Engineer noted that the PUD regulations call for a development of high caliber design and that the proposal integrates a design criteria which would be best suited with 22-foot roads.

Mr. Logan, in explaining his Department's position, notes that the 24-foot road widths are required to address public safety concerns. He notes that vehicles will be backing from perpendicular parking spaces provided in front of the townhouses and that the additional 2 feet of road width will provide further clearance. Moreover, when guests of residents are on site, additional curb parking area will be provided and traffic congestion lessened if the road is the full 24 feet in width.

This is a difficult issue. The Developer has clearly designed a high quality project. However, in the end, the considerations of public safety win out. The additional 2 feet will provide more maneuvering and parking area. This is a large tract, which will feature in excess of 200 homesites. The expected traffic generation figures are sufficient to support a finding that the size and scope of this project mandate strict compliance with the public works standards.

As to the sewer connections, the proposed connection to the south is easiest to address in that the preferred resolution of same is agreed to by all concerned. The plan shows that sewer access can be provided from the south by a line in the bed of Gumspring Road. However, there was significant testimony that a more practical extension would be to place

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the sewer line along the stream valley system adjacent to that roadway. This would eliminate certain difficulties in design and construction and would provide sewer availability to other properties. Unfortunately, at the time of the hearing, it was unclear whether the preferred system could be implemented, owing to the fact that off-site right-of-way acquisitions need be made. Under the circumstances, I will approve the project as submitted in that it is clear that adequate access to public sewer can be provided in the method shown on the plan through Gumspring Road. However, this Order shall not be construed so as to prohibit the subsequent adoption of the preferred approach and the construction of a sewer line through the stream valley. If such a system can be installed, it is clearly preferable.

The remaining issue raised by the County relates to the extension of the sewer line in a northerly direction, towards Perry Hall Boulevard. The submitted development plan shows an extension of the sewer line to the tract boundary line, as required under the Code. The County would prefer further extension so as to tie the sewer into an existing line in the bed of Perry Hall Boulevard. Although such an extension is clearly warranted and preferable, I do not find that this Developer should be required to make such an off-site extension. This plan complies with the development regulations and the policies adopted thereto. I believe it inequitable to, in effect, require this Developer to make extensive off-site improvements to solve regional problems. In this case, the Developer's compliance with the letter of the law is acceptable and the plan should be approved on that basis.

Having addressed the County's concerns, attention is next turned to the concerns raised by the community representatives. These concerns

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generally related to a feared potential increase in traffic, the impact of the proposed development on public utilities, concerns on overcrowding of schools, and a general opposition to the size and scale of this project.

I am understanding of the community's concerns. This is a big project which will entail the construction of a significant number of homes. I am unconvinced, however, that these concerns warrant a denial or modification of the plan. In my judgment, the plan is of high quality and has been carefully developed and reviewed. This is a large tract that is located in an area which can support development. The property is near major arterial streets and the testimony and report by Mr. Cornelius, the Developer's traffic engineering expert, was persuasive. None of the testimony and evidence offered by the Protestants was convincing to rebut that produced by the Developer and its experts.

Having therefore addressed all of the concerns and issues raised, it is clear that the development plan should be approved, as modified herein. The testimony and evidence presented was persuasive that the plan sufficiently complies with the development regulations as codified in the Baltimore County Code (B.C.C.). Moreover, I find that the Developer has satisfied and met those standards for approval of this PUD-R-1 plan as set forth in Section 26-206(r) of the B.C.C. For all of these reasons, I will approve the plan, consistent with the comments set forth herein.

Attention is next then turned to the Petition for Variances. The series of variances from Section 1B01.2.C.1(c) relate to a number of the individual townhouse units. These variances are necessary due to the uniqueness of the property and constraints resulting in part, from the proposed PUD development. The variances are all internal in nature and do not affect surrounding properties. The record of the case will reflect

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I am persuaded that the Petitioner has addred the requisite testimony and evidence to support a finding that the variance standards set forth within Section 307.1 of the B.C.Z.R. have been satisifed.

The other variance request relates to single family Lots 25 and 26. These two individual lots will feature houses which front Rossville Boulevard. The variance requested is appropriate here due to site constraints and the existence of the forest buffer easement immediately to the rear of these lots. The testimony of Mr. Martin was uncontradicted and persuasive that these variances should be granted.

Therefore, pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property and public hearing held thereon, the development plan shall be approved and the Petition for Variance granted, consistent with the comments contained herein and the restrictions set forth hereinafter. Moreover, I find that the Developer has satisfied and met those standards for approval of this PUD-R-1 plan as set forth in Section 26-206 of the B.C.C. For all of these reasons, I will approve the plan, consistent with the comments set forth herein.

THEREFORE, IT IS ORDERED by this Hearing Officer/Zoning Commissioner and Hearing Officer for Baltimore County this 20 day of December, 1995 that the development plan for Cedar Lane Farms, identified herein as Developer's Exhibit 1, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1801.2.C.1.c of the Baltimore County Zoning Regulations (B.C.Z.R.), and from Section 11A of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a distance of 15 feet from a

side building face of a group house to a public street right-of-way in lieu of the required 25 feet for Lots 1, 8, 18, 19, 31, 56, 73, 74, 94, 95, 110, 111, 124, 136, 149. and 155. Variance relief is also requested from Section 1B01.2.C.1.b of the B.C.Z.R. and Section 11A of the C.M.D.P. to permit a setback of an additional 5 feet for buildings located adjacent to arterial roadways in lieu of the required 20 feet on single family Lot Nos. 25 and 26, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

LAWRENCE E SCHMIDT

Zoning Commissioner/Hearing Officer for Baltimore County *

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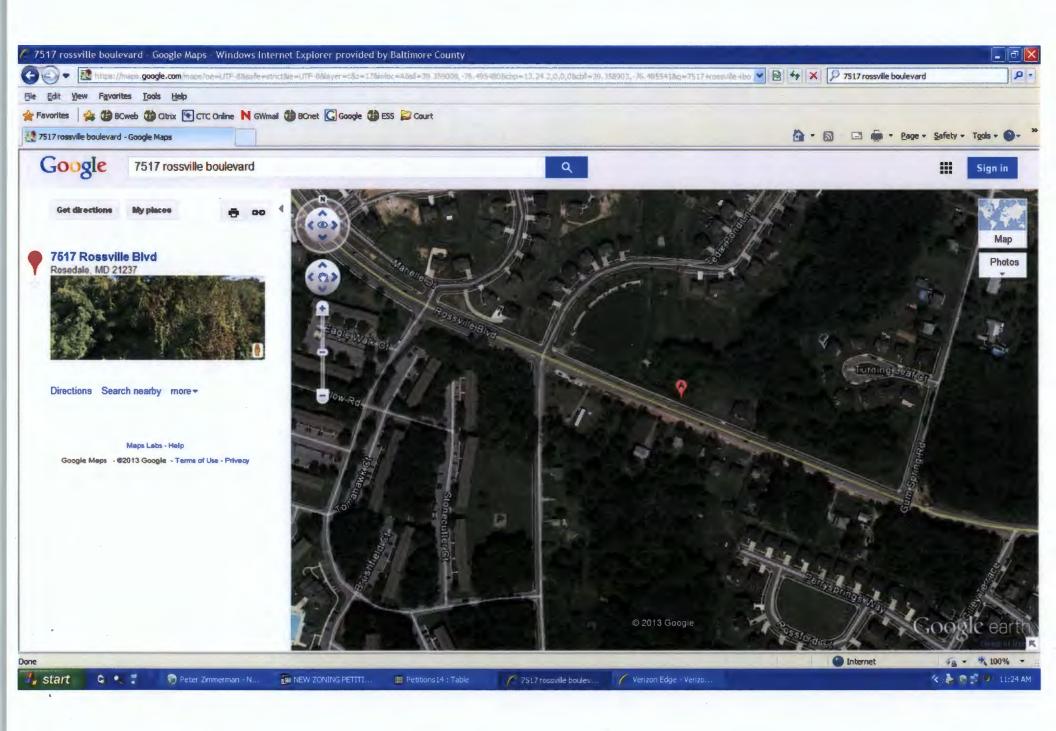
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T. Joan Robinson, PhD 7515 Rossville Boulevard Baltimore, MD 21237

December 6, 2013

Mr. Arnold Jablon Baltimore County Permits, Approvals and Inspections 111 West Chesapeake Avenue Towson, MD 21286

Subject: Zoning Case No. 2014-0113-A, 7517 Rossville Boulevard

Dear Mr. Jablon,

I own the property contiguous to and situated east of the property referenced above. I purchased my home in 2006.

I fully support the setback variance requested by the owner of 7517 Rossville Boulevard. I would prefer a larger house rather than a smaller house as a new neighbor. The Cedar Lane Farms homes are all around three thousand square feet. Anything substantially smaller would look out of place and negatively affect my property value. Also the variance would permit the new house to be sited farther from our common property boundary so we would both enjoy a degree of privacy. Please note my support for the variance request and enter my comments into the case file for 2014-0113-A.

Sincerely,

oan Robinson, Ph



KEVIN KAMENETZ
County Executive

VINCENT J. GARDINA, Director Department of Environmental Protection and Sustainability

December 5, 2013

Mr. Galen Wallace GW Site Services Inc. 229 Linden Ave. Towson MD 21286

> Re: 7517 Rossville Blvd. 21237 Lot 25, Cedar Lane Farms Phase I Forest Buffer Variance Tracking No. 06-13-1714

Dear Mr. Wallace:

A request for a variance from Baltimore County Code Article 33, Title 3, Protection of Water Quality, Streams, Wetlands and Floodplains was received by this Department on November 8, 2013. This request proposes to impact 266 square feet of the 35-foot principal structure forest buffer setback for construction of a dwelling. The requested reduction results in a 23-foot setback off the northwestern corner of the proposed dwelling, and a 27-foot setback off the northwestern corner of the proposed garage. The applicant proposes installation of a permanent fence on the rear property line that is also the forest buffer easement limit.

This Department has reviewed your request, and has determined that a practical difficulty and unreasonable hardship exists in that the building envelope on this lot is not large enough to accommodate a practical house and garage and meet all the required setbacks. The forest buffer is already in an easement and there will be no encroachment into the buffer. In addition, an existing drainage and utility easement runs along the forest buffer limits and includes 5 to 6-feet within the forest buffer. In an effort to minimize the principal structure forest buffer setback impacts, the applicant also proposes reduction of the front setback required by the Department of Permits, Approvals and Inspections. Therefore, this Department finds that the potential for impacts to water quality and aquatic resources as a result of this proposal are minimized.

Based on this review, the development of this residential property with the proposed impacts to the principal structure forest buffer setback meets the requirements of Baltimore County Code Section 33-3-106. The approval is subject to the following conditions to minimize water quality impacts:

1. The following note must appear on all plans submitted for this project:

"On December 5, 2013, a variance was granted by the Baltimore County Department of Environmental Protection and Sustainability from Baltimore County Code Article 33, Title 3, Protection of Water Quality, Streams, Wetlands and Floodplains for impacts to the principal structure forest buffer setback for the dwelling located on lot 25, Cedar Lane Farms Phase I. Conditions were placed on this variance to minimize water quality impacts."

Mr. Galen Wallace 7517 Rossville Blvd. Lot 25, Cedar Lane Farms Phase I Forest Buffer Variance Tracking No. 06-13-1714 December 5, 2013 Page 2

- 2. The Forest Buffer "Do Not Disturb" signs shall remain along the forest buffer easement limits. Because of the presence of the sanitary sewer, and the drainage and utility easement that is partially within the buffer, the permanent fence will not be required by this Department.
- 3. The proposed reduction of the setback on the Rossville Boulevard side of the property requires Baltimore County Zoning approval. Please contact the Zoning Review section of the Department of Permits, Approvals and Inspections at 410-887-3391 concerning this matter.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require approval of an amended variance request.

Please have the property owner sign the statement at the end of this letter, and return the signed original of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Paul Dennis at (410) 887-3980.

Sincerely yours,

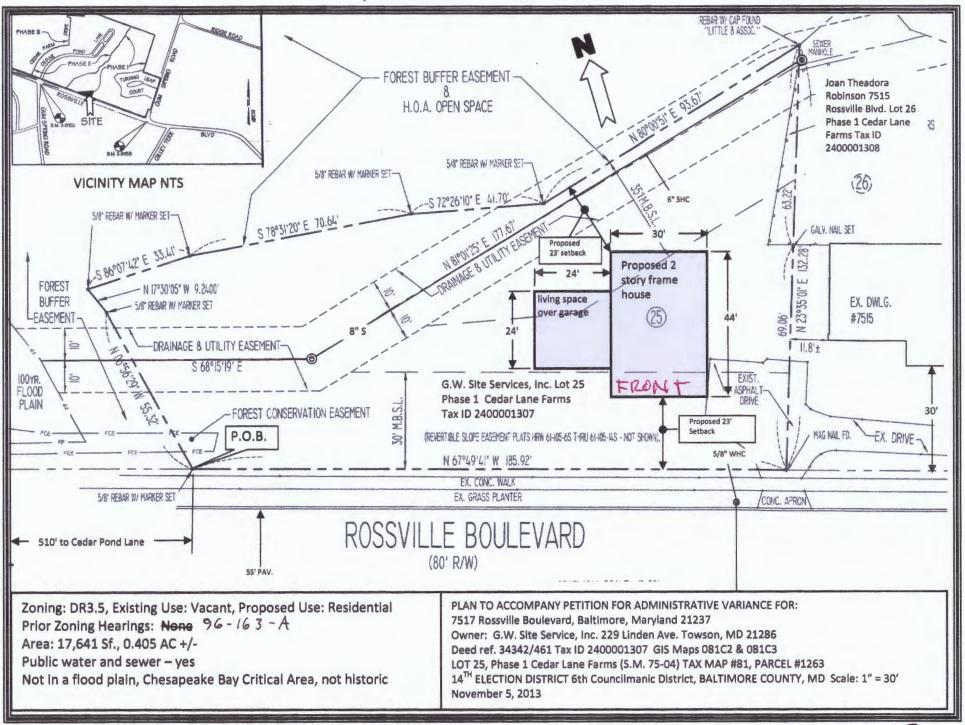
Vincent J. Gardina
Director

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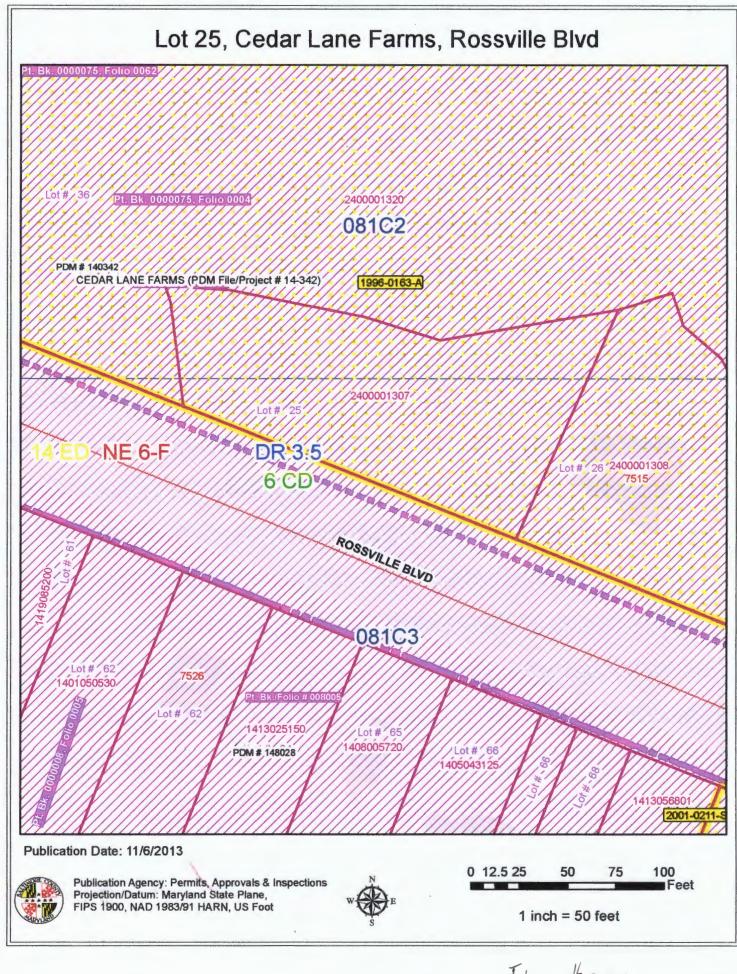
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I/we agree to the above conditions to bring my/our property into compliance with Baltimore County Code Article 33. Environmental Protection And Sustainability, Title 3. Protection Of Water Quality, Streams, Wetlands, And Floodplains:

Property Owner/Developer	Date	Property Owner/Developer	Date	
Printed Name		Printed Name		



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