



Board of Appeals of Baltimore County

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SECOND FLOOR, SUITE 203
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TOWSON, MARYLAND, 21204
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April 17, 2015

Mr. Wade C. Henninger
4013 Briar Point Road
Baltimore, Maryland 21220

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 220
Towson, Maryland 21204

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-15-003861
In the Matter of: Thomas and Victoria Baird
Board of Appeals Case Nos.: 14-283-SPH

Dear Mr. Henninger and Mr. Schmidt:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on April 9, 2015 by Wade Henninger in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. Mr. Henninger, having taken the appeal, is responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

Courtsmart was the official record of the hearings before the Board. The disk(s) will be copied by this office and provided to you for transcription. The transcriptionist must meet the requirements set forth in Maryland Rule 16-406d(B) which states: "*a stenographer, court reporter, or transcription service designated by the court for the purpose of preparing an official transcript from the recording.*" The Board of Appeals can assist in obtaining a qualified transcriptionist upon request.

**IN RE: PETITION FOR SPECIAL
HEARING**

4009 Blair Point Road
(The Subject Property)

15Th Election District
6Th Councilmanic District

Petitioners/Appellees
Thomas Baird
Victoria Baird

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**BEFORE THE
BOARD OF APPEALS
OF
BALTIMORE COUNTY**

Case No.: 14-283-SPH

* * * * *

OPINION

Upon consideration of the evidence and testimony in a de novo appeal held on December 9, 2014 and upon public deliberations held on January 22, 2015, the Board of Appeals of Baltimore County (the "Board") enters the following Opinion and Order upon the Petition for Special Hearing and other relief.

BACKGROUND

Thomas Baird and Victoria Baird (the "Petitioners") are the owners of 4009 Blair Point Road, Baltimore County, Maryland (the "Subject Property"). Petitioners seek approval by way of special hearing to permit the construction of a proposed replacement dwelling on a lot size of 1.078 acres in lieu of the required 1.5 acres pursuant to Section 1A04.3.B.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, pursuant to B.C.Z.R. Section 1A04.3.B.2.b, the Petitioners seek approval for a side yard setback of 18 feet; in lieu of the required 50 Feet, and an open projection side yard setback of 12 feet; in lieu of 37 Feet.

The Subject Property at issue and requested relief is more particularly described on the site plan submitted and marked into evidence as Petitioners' Exhibit 3. The Subject Property is located in the Bowleys Quarters area of Baltimore County and is zoned R.C. 5 (Rural Residential). In an Opinion and Order dated August 28, 2014, Administrative Law Judge John E. Beverungen,

pursuant to a Petition for Special Hearing under Section 500.7 of the B.C.Z.R., granted the Petitioners' requests to deviate the Subject Property's lot size and setbacks subject to certain conditions. Wade Henninger, the co-owner of 4013 Briar Point Road, appealed Judge John E. Beverungen decision.

The Subject Property is a waterfront property located in Bowleys Quarters and has a lot size of 1.078 acres. Said lot is long and narrow. Its dimensions are approximately 110 feet in width and 541 feet in depth. The Petitioners purchased the Subject Property in April of 2014. There is an existing dwelling on the Subject Property, which was damaged by hurricane Isabel, and as a result of the damage, has been unoccupied for a number of years. The Petitioners intend to raze the existing dwelling and build a single family dwelling in its stead. The Petitioners do not intent to construct the new dwelling in the same footprint as the existing dwelling. Wade Henninger, the co-owner of 4013 Briar Point Road, and Frank Orzolek, owner of 4005 Briar Point Road (collectively sometimes referred to as the "Protestants") objected to the Petitioners' proposed replacement dwelling claiming that the location of the proposed dwelling would block their "panoramic view" of the Chesapeake Bay.

FACTS

Mr. Baird, a Petitioner, testified that he and Victoria Baird, his wife, purchased the Subject Property at public auction in April of 2014. On the Subject Property there exists a two-story brick colonial house, with an attached garage, and sunroom. Near the existing house is a concrete patio and a detached shed. Mr. Baird testified that he intends to raze the existing dwelling and build a new two-story home with a car garage below the livable space. The livable space of the new home is approximately 3200 square feet.

Without objection, Mr. Baird submitted into evidence 14 photographs of the Subject

Property and adjoining areas that depicted the current condition of the existing dwelling, several views of the immediate area, the waterfront and other neighboring lots. See, Petitioners' Exhibits 1A through 1M. The Photographs showed the Petitioners' existing red brick dwelling on the Subject Property and other properties and lots viewed from the Subject Property. The photographs showed mature trees on Mr. Henninger's property and his home, a tan rancher. The photographs also showed views from the Subject Property to Mr. Orzolek's house, several mature trees and his yellow shed. One photograph shows that from the Petitioners' existing dwelling you will see Mr. Henninger's mature trees and Mr. Orzolek's shed in front of the waterfront. Mr. Baird submitted a photograph that showed another neighbor to the left side of the Subject Property, the Wetzberger property, who had situated his house closer to the waterfront than Mr. Orzolek's house. Mr. Baird also submitted a photograph that showed a second neighbor to the right side of the Subject Property, the Murphy property, who had situated his house closer to the waterfront than Mr. Henninger's house.

Without objection, Mr. Baird submitted into evidence four photographs of the proposed dwelling. See, Petitioners' Exhibits 2A through 2D. The photographs show how the dwelling; including the side porch, will look after it is completed. The Photographs also show the proposed elevations of the proposed dwelling. Mr. Baird testified that copies of the elevation drawings have been provided to the Department of Planning.

There was no cross examination of Mr. Baird by the Protestants.

The Petitioners called Bernadette Moskunas as a witness. Ms. Moskunas is the Project Manager for Site Rite Surveying ("Site Rite"). Site Right prepared the site plan for the Subject Property. Ms. Moskunas testified that she has worked for Site Rite for 20 years. It was proffered that she has previously testified before this Board, as an expert witness, concerning Baltimore

County Zoning Regulations and as a project manager for Site Rite. Without objection, Ms. Moskunas was offered by the Petitioner as an expert witness who would be offering her opinion on the management of the project and the application of the Baltimore County Zoning Regulations as they related to the Subject Property.

Ms. Moskunas testified that the Site Plan for the Subject Property was prepared by Site Rite under her supervision and that the Site Plan was prepared by a professional land surveyor in the state of Maryland. Ms. Moskunas reviewed the Site Plan, Petitioners' Exhibit 3, and testified that the size of the Subject Property from side property line to side property line is 100 feet and the eastern border of the Subject Property is 440 feet and the western border of the Subject Property is 540 feet. She testified that the Subject Property is rectangular in shape. Ms. Moskunas testified that because the Subject Property is located in an RC5 Zoning district and is only 100 feet wide, you could not build a house on it with a 50-Foot setback as prescribed by Baltimore County Zoning Regulations.

Ms. Moskunas testified that the proposed replacement dwelling will be a two-story dwelling that will be located 113 feet from the waterfront bulkhead and the covered porch will be located 95 feet from the waterfront bulkhead. Ms. Moskunas testified that the dwelling and the covered porch are allowed within the buffer management area. She testified that the Subject Property is with the Chesapeake Bay Critical Area ("CBCA") because the Subject Property is within 1000 feet of the Chesapeake Bay. Any property within the CBCA requires a buffer management of 100 feet from the waterfront bulkhead to a dwelling so as to protect the Chesapeake Bay and its tributaries. Ms. Moskunas testified that the proposed dwelling complies with CBCA's buffer management requirements and no variance will be required to build the proposed dwelling in the location set forth in the Site Plan. Ms. Moskunas testified that the proposed dwelling

complied with the fifteen-percent (15%) lot size area in a CBCA. Ms. Moskunas also testified that the proposed dwelling, as identified in the Site Plan, does not violate any Baltimore County or State of Maryland environmental laws or regulations. Ms. Moskunas testified that the proposed dwelling will not require the issuance of a zoning variance and that such dwelling, as proposed, complies with Baltimore County Zoning Regulations.

Ms. Moskunas reviewed and testified about a copy of the Environmental Map (the "Map"), Petitioners' Exhibit 4, that she obtained from the "My Neighborhood" website which shows an aerial view of the existing dwellings that are adjacent to the Subject Property. Ms. Moskunas testified that she identified each house on the Map and by using information obtained from Maryland's State Department of Taxation and Assessment ("SDAT") she determined when each home on the Map was built. She testified that Murphy Property, 4017 Briar Point Road, was rebuilt in 2004 and that the owners obtained a variance from Baltimore County. She also testified that other houses identified on the Map that were rebuilt had been granted variances from Baltimore County. Ms. Moskunas testified that the lot of record for the Subject Property was created in 1965.

On cross examination, Ms. Moskunas testified that the existing dwelling on the Subject Property was unoccupied at the time Site Rite performed the survey. Ms. Moskunas also testified that she was unaware of any landfill extensions to the Subject Property near the waterfront bulkhead; however, pursuant to the property description contained in the deed, the Subject Property has lost land mass due to erosion.

Counsel for the Petitioners', without objection, introduced into evidence Petitioners' Exhibit 5 (Letter from David Lykens, Department of the Environment and Sustainability ("DEPS"), to Managing ALJ Office of Administrative Hearings dated August 19, 2014) and

Petitioners' Exhibit 6 (Sewer Profile in Miami Beach and Bay Drive dated July 18, 2002). Counsel for the Petitioners, without objection, proffered that Exhibit 6 listed three comments relevant to the proceeding state that (1) the Subject Property is within the buffer management area of the CBCA, (2) the Subject Property is restricted from impervious structures or surfaces within 100 feet landward from the mean high water line of tidal waters or tidal wetlands (the "100 Foot Buffer") and that the plan [Site Plan] indicates that the proposed lot area coverage is below the 15% limit and (3) that DEPS concluded that Petitioners' requested side and front setbacks, and the lot coverage areas for the proposed dwelling are consistent the land use policies, provided that the Petitioners meet and Land Development Area ("LDA") or Buffer Management Area ("BMA") requirements applicable to the proposal. As such, the Petitioners' request, if granted, will avoid environmental impacts. The Department of Planning ("DOP") reviewed the Petitioners' request for a special hearing and the Site Plan. The DOP did not oppose the Petitioners' request.

Frank Orzolek, co-owner of 4005 Briar Point Road (the "Orzolek Property"), a pro se Protestant, testified that he does not currently live at the Orzolek Property but intends to move in there once the house renovated in the coming spring; however, he and his family have enjoyed the use of the property for many years. Mr. Orzolek testified that the properties in the area are unique because of their beautiful views from both the bay side and road side. He testified that he wants to keep the current panoramic views of the Chesapeake Bay and that the Petitioners should build their new dwelling in the existing footprint of the existing house to ensure that his view of the Chesapeake Bay will not be obstructed. Mr. Orzolek testified that because the Petitioners are building a new home, they should adhere to the existing standards of the area by building in the footprint of the existing dwelling. Mr. Orzolek testified that Wade Henninger, a Pro Se Protestant, will lose most of his view of the Chesapeake Bay if the Petitioners build their dwelling in the

proposed location.

On cross examination, Mr. Orzolek admitted that if he looks in the direction of the Subject Property, a shed located on his property, which is 30 feet long and 10 feet wide, impedes his view of the Chesapeake Bay. Mr. Orzolek testified that although he and his sister, a co-owner of the Orzolek Property, visit the property regularly, no one lives there permanently. Mr. Orzolek testified that on each side of the Orzolek Property there are ten mature trees. Mr. Orzolek testified that he was unfamiliar with any easement, covenant or other written instrument that provides him with any legal right to use or look across the Subject Property.

Wade Henninger, the co-owner of 4013 Briar Point Road (the "Henninger Property"), testified that he does not object to the Petitioners building a new home so long as it does not block his views. Mr. Henninger, with objection, submitted into evidence several photographs which depict the views from the Henninger Property and surrounding area. See, Protestant Henninger's Exhibits 1A through 1H. Among other things, the photographs show a view of Hart Miller Island, several trees on the Orzolek Property, views of the Chesapeake Bay and a clear line of sight from the Henninger Property across the Subject Property to the Chesapeake Bay. Mr. Henninger testified that he would like to keep the properties open so that all residents can have a wide-open view of the Chesapeake Bay. Mr. Henninger testified that if the Petitioners were allowed to build their new dwelling as proposed, at a distance of 100 feet from the waterfront bulkhead, their home would be closer to the water than any other house in the immediate area. Mr. Henninger testified that he is concerned that in the event of a storm the Petitioners' new dwelling will suffer water damage because it will be too close to the waterfront bulkhead. Mr. Henninger testified that in addition to impeding his view, the Petitioners new dwelling, if built, will decrease the value of the Henninger Property. He further testified that he believes that he lost a sale for the Henninger

Property when a potential buyer lost interest after he informed him that the proposed location of the Petitioners' new dwelling would be in front of his home and block the view.

On cross examination, Mr. Henninger testified that he and his wife have lived on the Henninger Property for two and one-half years and it is their primary residence. He testified that his residence was on the market for sale from July to November of 2014. He testified that his home is a one-level brick ranger and that he did lose the sale of his home due to his inability to obtain flood insurance. He testified that he currently has a flood insurance policy for his home. Mr. Henninger testified that he has a concrete patio adjacent to his home but no elevated deck. Mr. Henninger testified that trees on the Subject Property and the Orzolek Property affect his westward view of the Chesapeake Bay. He further testified that the dwelling on the Murphy Property is closer to the water than his home and the dwelling on the Murphy Property also impede his view of the water. Mr. Henninger testified that he was unfamiliar with any easement, covenant or other written instrument that provides him with any legal right to use or look across the Subject Property.

Counsel for the Petitioners called Ms. Moskunas as a rebuttal witness. Ms. Moskunas testified that since the year 2000 the properties along Briar Point Road now are served by public water and sewage. Prior to the year 2000, the properties were served by wells and septic systems. Ms. Moskunas opined that the houses built along Briar Point Road were built closer to the road so that gravity could accommodate the private septic systems built in the rear of the houses. She further proffered that because of the abandonment of the private septic systems and the introduction public water and sewage newer homes could be built closer to the water. Ms. Moskunas testified that Petitioners' Exhibit 6 (Sewer Profile in Miami Beach and Bay Drive dated July 18, 2002) shows the configuration of the public water and sewage and private septic systems

for properties along Briar Point Road and that the Subject Property is served by public water and sewage.

DISCUSSION

The facts show that the lot for 4009 Briars Point Road, (the "Subject Property") was created in 1965 in a section of Baltimore County known as Bowleys Quarters. The Subject Property is not in a subdivision. The Subject Property is currently zoned RC 5 (Rural Residential). The Petitioners purchased the Subject Property, at public auction, in April of 2014.

The current lot area size of the Subject Property is approximately 1.078 acres and, it is 110 feet in width and 541 feet in depth. Pursuant to uncontroverted expert testimony, due to the narrow rectangular shape of the property, with its 110-foot width from side to side, it is not possible to build a residential dwelling on the Subject Property and also comply with the 50-foot side yard setback requirement enumerated in B.C.Z.R. Section 1A04.3.b.2.b.

Although the Protestants do not object to the mere building of the proposed dwelling or the side yard setbacks, they are opposed to the proposed location of the Petitioners' dwelling, as indicated in the Site Plan, because the dwelling will impede their views of the Chesapeake Bay. The Protestants acknowledged that there is no easement, covenant or other written instruments that provide them any legal right to use or look across the Subject Property. The Protestants admitted that in some cases their views of the Chesapeake Bay were obstructed by trees, the dwelling on the Murphy Property, which was rebuilt pursuant to a variance granted in 2003, and other structures, such as Mr. Orzolek's shed.

Section 1A04.3.B.1.a of the B.C.Z.R. states that "A lot having an area of less than 1.5 acres may not be created in an R.C.5 zone." Section 1A04.3.B.1.b of the B.C.Z.R. states that "the owner of a single lot of record that is not in a subdivision and that is in existence prior to September 2,

2003, but does not meet the minimum acreage requirement, or does not meet the setback requirement of Paragraph 2, may apply for a Special Hearing under Article 5 [Section 500.7 of the B.C.Z.R.] to alter the minimum lot size requirement. However, the provisions of Section 1A04.4 (Performance Standards) may not be varied.”

The evidence shows that the lot of the Subject Property was created in 1965 and it not a part of a subdivision. The evidence also shows that the Petitioners would not be able to build a residential dwelling on the Subject Property and also comply with the 50-foot side yard setback requirement enumerated in Baltimore County Zoning Regulations applicable to R.C. 5 zones. The Petitioners purchased the Subject Property so that they could build their new principal residence and have submitted their Site Plan to DOP which did not oppose the Petitioners’ request for relief pursuant to a special hearing. With respect to Section 1A04.4 of the B.C.Z.R. (Performance Standards), in a letter dated August 6, 2014, the DOP indicated how the proposed construction complied with the R.C. 5 requirements as it relates to the building material and the compatibility of the proposed dwelling to existing dwellings in the area in terms of size and architectural detail; including, the general designs of the proposed dwelling. In addition, DOP was aware that the Site Plan called for the replacement dwelling to be moved approximately 125 feet closer to the water. Furthermore, Section 1A04.4 of the B.C.Z.R does not, in and of itself, restrict the placement of a dwelling to a particular location on a lot.

The Subject Property is within 1000 feet of the Chesapeake Bay and therefore, is located within the Chesapeake Bay Critical Area (“CBCA”). Also, the Subject Property is located within a Buffer Management Area (“BMA”). The BMA requirements state that there shall be no impervious structures or surfaces within the 100 Foot Buffer and that the proposed lot area coverage is below the 15% limit. After reviewing the Site Plan, DEPS determined that the

Petitioners complied with the BMA requirements.

The Protestants do not oppose the Petitioners' request for a reduced lot size or reduced side yard setbacks. Instead, they oppose the location of the proposed dwelling, as depicted in the Site Plan, because they believe the proposed dwelling will block their panoramic views of the Chesapeake Bay. The Protestants admit that neither of them has the benefit of an easement, covenant nor other written instrument to permit them make use of or look across the Subject Property. Without such an easement, covenant or government restriction that protects the viewing site lines of an individual, the Protestants cannot prevent the placement of the proposed dwelling at the proposed location on the Site Plan. The law does not guarantee one's right to an unobstructed view of the water, unless the owner has obtained specific rights by way of a "view easement" or similar grant. Chesley v. City of Annapolis, 176 Md. App. 413 (2007).

ORDER

IT IS THIS 10th day of March, 2015, by the Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Hearing relief requested be approved as follows:

1. Pursuant to Section 1A04.3.B.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.), the Petitioners are permitted to construct a proposed replacement dwelling on a lot size of 1.078 acres in lieu of the required 1.5 acres, in accordance with Petitioners' Exhibit 3, the Site Plan;
2. Pursuant to Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.), the Petitioners are permitted to establish side yard setbacks of 18 feet and 12 feet in lieu of 37 feet, in accordance with Petitioners' Exhibit 3, the Site Plan; and
3. Petitioners shall comply with the August 19, 2014 Zoning Advisory Committee

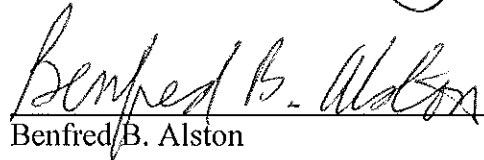
Comments of DEPS, DOP and DPR which are incorporated herein and attached hereto.

Any Petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

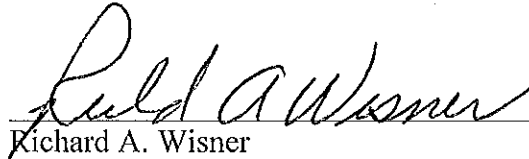
**BOARD OF APPEALS
OF BALTIMORE COUNTY**

A handwritten signature in cursive script, appearing to read "Maureen E. Murphy", written over a horizontal line.

Maureen E. Murphy, Panel Chairman

A handwritten signature in cursive script, appearing to read "Benfred B. Alston", written over a horizontal line.

Benfred B. Alston

A handwritten signature in cursive script, appearing to read "Richard A. Wisner", written over a horizontal line.

Richard A. Wisner



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
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March 10, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

Wade C. Henninger
4013 Briar Point Road
Baltimore, Maryland 21220

RE: *In the Matter of: Thomas and Victoria Baird*
Case No.: 14-283-SPH

Dear Mr. Schmidt and Mr. Henninger:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review** filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,


Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: Thomas and Victoria Baird
Bernadette Moskunus/Site Rite Surveying, Inc.
Frank Orzolek
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney/Office of Law
Michael Field, County Attorney/Office of Law

Please be advised that the ORIGINAL transcript must be provided to the Board of Appeals no later than JUNE 8, 2015 so that it may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,



Tammy A. McDiarmid
Legal Secretary

Duplicate Original Cover Letter
Enclosure

c: Thomas and Victoria Baird
Bernadette Moskunus/Site Rite Surveying, Inc.
Frank Orzolek
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
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Nancy West, Assistant County Attorney/Office of Law
Michael Field, County Attorney/Office of Law

KEVIN KAMENETZ
County Executive



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

September 9, 2014

RECEIVED
SEP 09 2014

BALTIMORE COUNTY
BOARD OF APPEALS

Bernadette Moskunas
200 E. Joppa Road
Room 101
Towson, Maryland 21286

RE: APPEAL TO BOARD OF APPEALS
Case No. 2014-0283-SPH
Location: 4009 Briar Point Road

Dear Mrs. Moskunas:

Please be advised that an appeal of the above-referenced case was filed in this Office on September 5, 2014. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Stahl", is written over the word "Sincerely,".

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
Wade Henninger, 4013 Briar Point Road, Baltimore, MD 21220
Frank Orzolek, 4005 Briar Point Road, Baltimore, MD 21220
Thomas & Victoria Baird, 10 Wildon Court, Kingsville, MD 21087

JB
8/21/14

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(4009 Briar Point Road)		
15 th Election District	*	OFFICE OF
6 th Councilmanic District		
Thomas & Victoria Baird	*	ADMINISTRATIVE HEARINGS
Petitioners	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0283-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of the legal owners. The Petition was filed pursuant to §1A04.3.B.1.b.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed replacement dwelling with side yard setbacks of 18 ft. and an open projection side setback of 12 ft. in lieu of the required 50 ft. and 37.5 ft., respectively.

Appearing at the public hearing in support of the requests was Thomas & Victoria Baird. Bernadette Moskunas with Site Rite Surveying, Inc. appeared with the Petitioners. The neighbors on either side of the subject property attended the hearing and objected to the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP), the Bureau of Development Plans Review (DPR), and the Department of Environmental Protection and Sustainability (DEPS).

Following the hearing, Ms. Moskunas notified the OAH that the Zoning Office failed to include in the Petition (which it drafted, according to Ms. Moskunas) the minimum lot size (i.e., 1.078 acres in lieu of the required 1.5 acres) as an aspect of special hearing relief being sought. Even so, the hearing notice substantially complied with the BCZR, and alerted the community

that Petitioners sought to construct a new dwelling on the lot. Accordingly, the Petition will be amended to reflect that relief is also sought regarding the lot size.

The subject property is 1.078 acres and is zoned RC 5. The property is improved with a single family dwelling, and the Petitioners stated that it suffered storm damage in Hurricane Isabel, and has been vacant for nearly 10 years. They propose to raze the existing dwelling and construct a new single family dwelling. The new dwelling would be positioned much closer to the waterfront (according to the Plan, approximately 113' from the shore line). The adjoining neighbors (Wade Henninger and Frank Orzolek) objected to the proposal, fearing that the placement of the dwelling at the location proposed would block their view of the Chesapeake Bay.

The procedure for altering the minimum lot size and setbacks in an RC 5 zone is somewhat confusing. The Regulations provide that if an owner "does not meet the minimum acreage requirement, or does not meet the setback requirement..." special hearing relief can be obtained "to alter the minimum lot size requirement." B.C.Z.R. §1A04.3.B.1.b. Despite the ambiguous nature of this regulation, prior administrative practice and interpretation have permitted special hearing relief for both lot size and setbacks.

The alterations referenced in B.C.Z.R. §1A04.3.B.1.b. are not "variances" per se, and therefore the Petitioners do not need to satisfy B.C.Z.R. § 307, and cases interpreting that provision. It is unclear exactly what must be shown to obtain "special hearing" relief, although prior practice seems to suggest that Petitioners must make a showing similar to that required for a special exception; i.e., that the proposed use would not adversely impact the health, safety and welfare of the community.

In that regard, it seems clear (with one exception) that the Petitioners are entitled to special hearing relief. The property is improved with a dwelling that does not satisfy the current R.C. 5 regulations as to lot size or setbacks. Indeed, with a lot width of approximately 112 ft., there is no way that a dwelling could be constructed if the 50 ft. side yard setbacks were imposed. Petitioners propose to construct a new dwelling that would in fact be no more "nonconforming" than the existing home, and their lot is the same or similarly sized to those in the neighborhood.

The concern is that Petitioners propose to move the home closer to the waterfront. As shown on the site plan, the proposed location is much closer to the waterfront than adjoining homes. The neighbors complain that their view of the bay would be obstructed, and I am sympathetic to that concern. But the law does not guarantee one's right to an unobstructed view of the water, unless the owner has obtained specific rights by way of a "view easement" or similar grant. Chesley v. City of Annapolis, 176 Md. App. 413 (2007). The R.C. 5 regulations do however require that buildings be arranged and oriented to "complement those in the surrounding vicinity." B.C.Z.R. §1A04.4.D.1.e. In my opinion, positioning the new home no closer than 150 ft. to the existing wooden bulkhead shown on the plan would help to accomplish the goals of the R.C.5 zone site planning regulations.

THEREFORE, IT IS ORDERED this 28th day of August 2014, 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") to permit a lot size of 1.078 acres in lieu of the required 1.5 acres, and a proposed replacement dwelling with side yard setbacks of 18 ft. and an open projection side setback of 12 ft. in lieu of the required 50 ft. and 37.5 ft., respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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 his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Petitioners must comply with the ZAC comments of DEPS, DOP and DPR which are incorporated herein and attached hereto.
- Any dwelling constructed on the lot must be no closer than 150 ft. to the existing wooden bulkhead.

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



KEVIN KAMENETZ
County Executive

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

August 14, 2014

Thomas & Victoria Baird
10 Wildon Court
Kingsville MD 21087

RE: Case Number: 2014-0283 SPH, Address: 4009 Briar Point Road

Dear Mr. & Ms. Baird:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 25, 2014. 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
Bernadette Moskunus, Site Rite Surveying Inc., 200 E. Joppa Road, Room 101, Towson MD 21286



RECEIVED

AUG 20 2014

OFFICE OF ADMINISTRATIVE HEARINGS

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

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

DATE: 8/19/14

SUBJECT: DEPS Comment for Zoning Item # 2014-0283-SPH
Address 4009 Briar Point Road
(Baird Property)

Zoning Advisory Committee Meeting of June 23, 2014.

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area (LDA), and is subject to Critical Area lot coverage requirements. Critical Area lot coverage differs from BCZR lot coverage and is defined in Natural Resources Article §8-1802(a)(17), as follows:

(17) (i) "Lot coverage" means that percentage of total lot or parcel that is:

- 1. Occupied by a structure, parking area, driveway, walkway, or roadway; or*
- 2. Covered with gravel, stone, shell impermeable decking, a paver, permeable pavement, or any manmade material*

(ii) "Lot coverage" includes the ground area covered or occupied by a stairway or impermeable deck.

(iii) "Lot coverage" does not include:

1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;
3. A wood mulch pathway; or
4. A deck with gaps to allow the water to pass freely.

In order to minimize impacts on water quality, the applicant should comply with the LDA lot coverage requirement, which, for a property this size, is 15%. The property is also located within a Buffer Management Area (BMA), which further restricts impervious surfaces and structures within 100 feet landward of mean high tide (100 foot buffer). According to the plan submitted for this review, the proposed lot coverage is below the 15% limit, however, a proposed driveway is not shown on the plan and the distance from the road to the proposed dwelling is approximately 280 feet. Impacts to the Critical Area Buffer are proposed, therefore, minimization and/or mitigation must be addressed. By allowing the items requested by the petitioner, impacts on water quality will be minimized by addressing any LDA and BMA requirements.

2. Conserve fish, wildlife, and plant habitat; and

The current development proposal for the property will be reviewed for application of the LDA and BMA requirements, which will improve buffer functions, and conserve fish, wildlife and plant habitat in Galloway Creek.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The side and front yard setbacks and lot coverage areas requested will be consistent with established land use policies, provided that the applicants meet any LDA and BMA requirements applicable to the proposal. The request, if granted, will avoid environmental impacts.

Reviewer: Thomas Panzarella; Environmental Impact Review

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



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

Date: 6/30/14

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

RE: Baltimore County
Item No 2014-0283-SPH
Special Hearing
Thomas & Victoria Baird
4009 Briar Point 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. 2014-0283-SPH.

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,

A handwritten signature in black ink, appearing to read "Steven D. Foster".

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

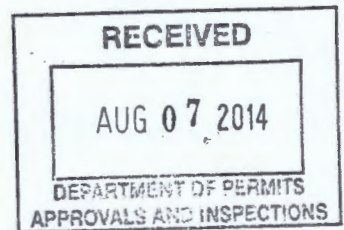
SDF/raz

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

8/7/14
WU

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE



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

DATE: August 4, 2014

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 4009 Briar Point Road

INFORMATION:

Item Number: 14-283

Petitioner: Thomas and Victoria Baird

Zoning: RC 5

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner is requesting a special hearing, per section 1A04.3.B.b (Area regulations/Exceptions to minimum lot size, RC 5 zone) to permit a proposed replacement dwelling with a side yard setback of 18 feet and an open projection side set back of 12 feet in lieu of the required 50 feet and 37.5 feet respectively.

The lot at 4009 Briar Point Road is 110 feet wide and 541 feet deep. The existing dwelling will be razed and the proposed replacement dwelling will be moved approximately 125 feet closer to the water.

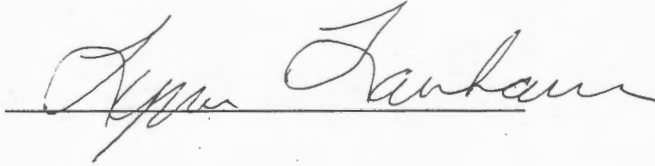
The Department of Planning does not oppose the requests. However, this department is required to provide a statement of finding to the Administrative Law Judge indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this department:

1. Submit building elevations (all sides) of the proposed dwelling to this department for review and approval prior to the hearing. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the proposed building(s) uses the same finish materials and architectural details on the front, side, and rear elevations. Use of quality material such as brick, stone, or cedar is encouraged.
2. Design all decks, balconies, windows, dormers, chimneys, and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.
3. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch, and style.

Furthermore, there is some concern regarding the Critical Area requirements. This department defers to DEPS regarding this matter.

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

Division Chief:
AVA/LL

A handwritten signature in cursive script, appearing to read "Amy Fankam", is written over a horizontal line.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For July 07, 2014
Item No. 2014-0283

DATE: July 08, 2014

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment.

Prior to building permit application, the petitioner must contact the office of the Director of Public Works to determine the flood protection elevation so that the lowest floor elevation can be set.

* * * * *

DAK:CEN
cc:file

ZAC-ITEM NO 14-0283-07072014.doc

CBCA

FLOOR



PETITION FOR ZONING HEARING(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:

Address 4009 Briar Point Road which is presently zoned RCS
 Deed References: 34955/207 10 Digit Tax Account # 15 040 02310
 Property Owner(s) Printed Name(s) Thomas and Victoria Baird

(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:

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 Section 1A04.3 B.6 - To permit a proposed replacement dwelling with a side yard back of 18 feet and an open projection side set back of 12 feet in lieu of the required 50 feet and 37.5 feet, respectively
2. ☐ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for
3. ☐ a Variance from Section(s)

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).

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

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Thomas Baird, Victoria Baird

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

Bernadette Moskunas Site Rite Surveying Inc.

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

CASE NUMBER 2014-0293-SH Filing Date 6/25/14

Do Not Schedule Dates:

Reviewer G.H

ZONING PROPERTY DESCRIPTION
#4009 Briar Point Road

BEGINNING on the south side of Briar Point Road which has a variable right of way width* at the distance of 920 feet east of the centerline of Miami Beach Road which is 30 feet wide. Thence the following courses and distances: North 55 degrees 24 minutes 00 seconds East, 112.51 feet, South 61 degrees 52 minutes 00 seconds East, 442.78 feet, South 03 degrees 03 minutes 00 seconds West, 110.41 feet and North 61 degrees 52 minutes 00 seconds West, 541.14 feet to the point of beginning as recorded in Deed Liber 34955, folio 207, containing 1.078 acres, more or less. Located in the 15th Election District and 6th Councilmanic District.



Michael V. Moskunas
Professional Land Surveyor
Reg. No. 21175

Site Rite Surveying, Inc.
200 E. Joppa Road
Suite 101
Towson MD 21286
(410) 828-9060

FILE: 4009 briar point road\2014 ZONING DESC

- The variable right of way pertains to the existing 20' right of way referenced and the adjacent property deeds calling a 5' reservation on the south side and 10' on the north.

2014-0283-SPW



CBCA

FLOOD

PETITION FOR ZONING HEARING(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:

Address 4009 Briar Point Road which is presently zoned PCS
Deed References: 34955/207 10 Digit Tax Account # 15 04 00 2310
Property Owner(s) Printed Name(s) Thomas and Victoria Baird

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

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- ☐ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for
- ☐ a Variance from Section(s)

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).

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 _____

Mailing Address _____ City _____ State _____

Zip Code _____ Telephone # _____ Email Address _____

Legal Owners (Petitioners):

Thomas Baird, Victoria Baird

Name #1 - Type or Print _____ Name #2 - Type or Print _____

Signature #1 _____ Signature #2 _____

10 W. Hon Ct Kensington MD

Mailing Address _____ City _____ State _____

21087, 410 592-5165, tbairdmd@comcast.net

Zip Code _____ Telephone # _____ Email Address _____

Representative to be contacted:

Bernadette Moskunas Site Rite Surveying Inc.

Name - Type or Print _____

Signature _____

200 E. Joppa Road Room 101 Towson, MD

Mailing Address _____ City _____ State _____

21286, 410 828 9060, siteRITE@aol.com

Zip Code _____ Telephone # _____ Email Address _____

CASE NUMBER 2014-0283-SPH Filing Date 6/25/14

Do Not Schedule Dates

ORDER RECEIVED FOR FILING

REV. 10/4/11

Date 8/28/14

By Den

ZONING PROPERTY DESCRIPTION
#4009 Briar Point Road

BEGINNING on the south side of Briar Point Road which has a variable right of way width* at the distance of 920 feet east of the centerline of Miami Beach Road which is 30 feet wide. Thence the following courses and distances: North 55 degrees 24 minutes 00 seconds East, 112.51 feet, South 61 degrees 52 minutes 00 seconds East, 442.78 feet, South 03 degrees 03 minutes 00 seconds West, 110.41 feet and North 61 degrees 52 minutes 00 seconds West, 541.14 feet to the point of beginning as recorded in Deed Liber 34955, folio 207, containing 1.078 acres, more or less. Located in the 15th Election District and 6th Councilmanic District.



Michael V. Moskunus
Professional Land Surveyor
Reg. No. 21175

Site Rite Surveying, Inc.
200 E. Joppa Road
Suite 101
Towson MD 21286
(410) 828-9060

FILE: 4009 briar point road\2014 ZONING DESC

- The variable right of way pertains to the existing 20' right of way referenced and the adjacent property deeds calling a 5' reservation on the south side and 10' on the north.

2014-0283-SPH

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighbor 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 legal owner/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 legal owner/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:

Case Number: 2014-0283-SPH
Property Address: #4009 Briar Point Road
Property Description: South Side of Briar Point Rd
920 feet East of the center line of Miami Beach Rd
Legal Owners (Petitioners): Thomas and Victoria Baird
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Thomas and Victoria Baird
Company/Firm (if applicable): _____
Address: 10 Wildon Court
Kingsville, MD 21087
Telephone Number: 410 592 5165

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

No. **113818**

Date: **6/25/14**

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
6/25/2014 6/25/2014 10:02:17 3

REG 4503 WALKIN AGHA AND
> RECEIPT # 657689 6/25/2014 OFLN

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	100	0000		6150				75.00

Reg 5 529 ZONING VERIFICATION
CR NO. 113818

Receipt Tot 175.00
175.00 CX \$0.00 CA
Baltimore County, Maryland

Total: **75.00**

Rec From: **Thonias and Victoria Baird**

For: **4007 Bridge Point Rd**

Special Training

2014-0283 SPH

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 31, 2014 Issue - Jeffersonian

Please forward billing to:
Thomas & Victoria Baird
10 Wildon Court
Kingsville, MD 21087

410-592-5165

NOTICE OF ZONING HEARING

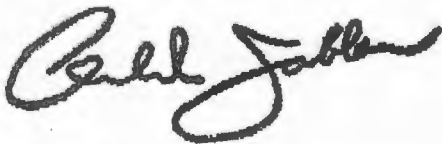
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2014-0283-SPH

4009 Briar Point Road
S/s Briar Point Road, 920 ft. e/of the centerline of Miami Beach Road
15th Election District – 6th Councilmanic District
Legal Owners: Thomas & Victoria Baird

Special Hearing to permit a proposed replacement dwelling with a side yard setback of 18 ft. and an open projection side setback of 12 ft. in lieu of the required 50 ft. and 37.5 ft. respectively.

Hearing: Thursday, August 21, 2014 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 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.



KEVIN KAMENETZ
County Executive

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

July 21, 2014

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: 2014-0283-SPH

4009 Briar Point Road

S/s Briar Point Road, 920 ft. e/of the centerline of Miami Beach Road

15th Election District – 6th Councilmanic District

Legal Owners: Thomas & Victoria Baird

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105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. Baird, 10 Wildon Court, Kingsville 21087
Bernadette Moskunus, 200 E. Joppa Rd., Rm. 101, Towson 21286

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, AUGUST 1, 2014.
- (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.

Sherry Nuffer - I just received the files for scheduled hearings on Thursday August 21, 2014. Case No.: 2014-0283-SPH and 2014-0287-A are in CBCA and there are no DEPS ZAC comment. Please advise.

From: Sherry Nuffer
To: Lykens, David
Date: 8/15/2014 3:25 PM
Subject: I just received the files for scheduled hearings on Thursday August 21, 2014. Case No.: 2014-0283-SPH and 2014-0287-A are in CBCA and there are no DEPS ZAC comment. Please advise.

I just received the files for scheduled hearings on Thursday August 21, 2014. Case No.: 2014-0283-SPH and 2014-0287-A are in CBCA and there are no DEPS ZAC comment. Please advise.

Thank you,

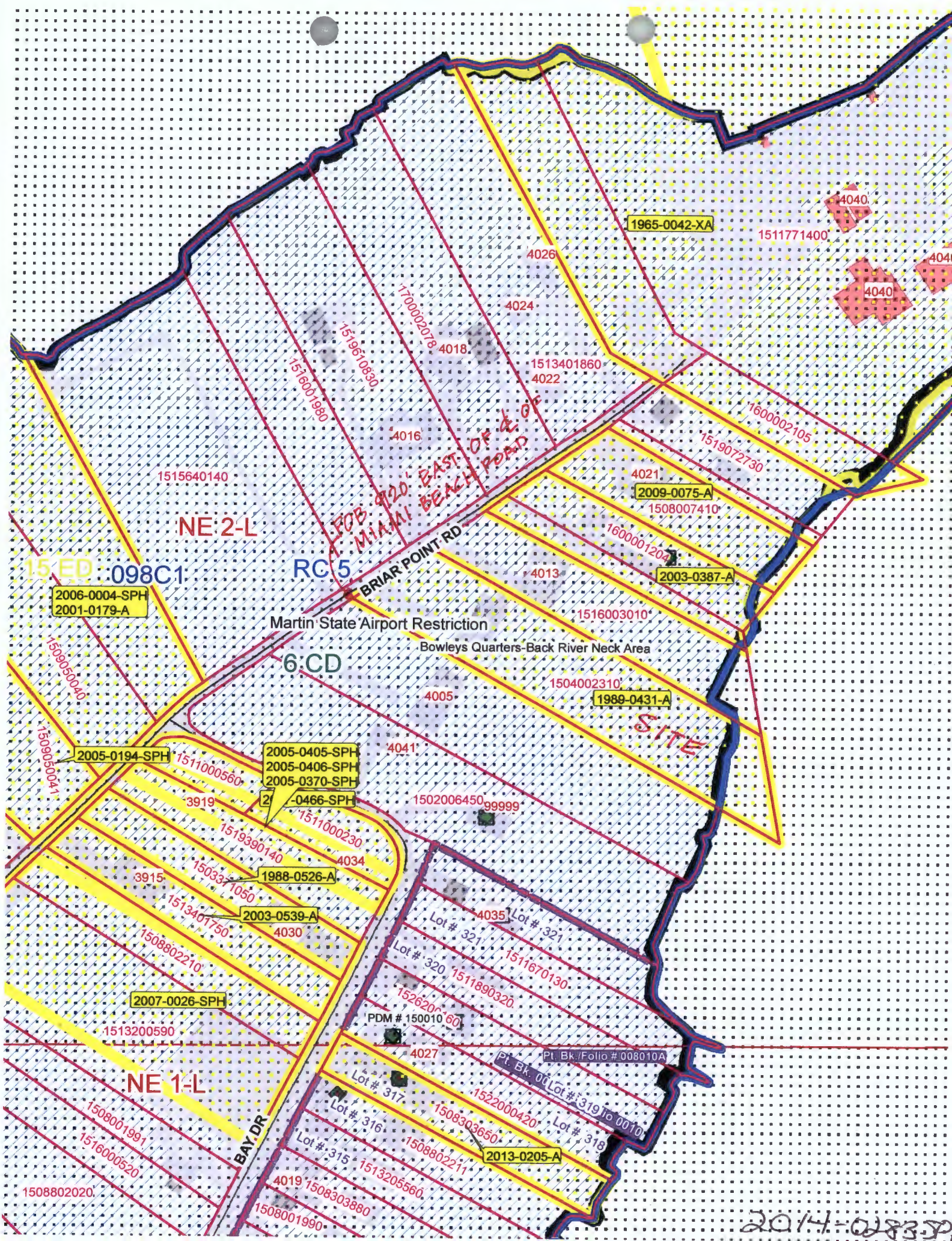
Sherry Nuffer
Legal Assistant
Office of Administrative Hearings
105 W. Chesapeake Avenue
Room 103
Towson, Maryland 21204
410-887-3868
Fax: 410-877-3468

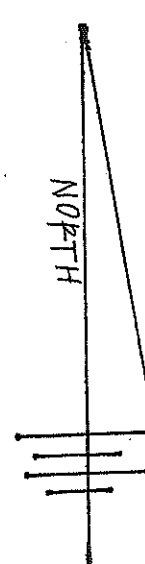
Real Property Data Search (w1)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 15 Account Number - 1504002310			
Owner Information					
Owner Name:		BAIRD THOMAS JOHN BAIRD VICTORIA S		Use: Principal Residence: RESIDENTIAL NO	
Mailing Address:		10 WILDON CT KINGVILLE MD 21087-		Deed Reference: /34955/ 00207	
Location & Structure Information					
Premises Address:		4009 BRIAR POINT RD 0-0000 Waterfront		Legal Description: 1.078 AC GOOSE CREEK	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot: Assessment Year: Plat No: Plat Ref:
0098	0006	0359		0000	2015
Special Tax Areas:			Town: NONE Ad Valorem: NONE Tax Class:		
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area	
1967		1,305 SF		1.0800 AC	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage Last Major Renovation
1.000000	YES	SPLIT FOYER	BRICK	1 full/ 1 half	1 Attached
Value Information					
Base Value		Value As of 01/01/2012		Phase-in Assessments As of 07/01/2014 As of 07/01/2015	
Land:		297,000		297,000	
Improvements		133,600		133,600	
Total:		430,600		430,600	
Preferential Land:		0			
Transfer Information					
Seller: DABROWSKI CECILIA C		Date: 05/12/2014		Price: \$422,500	
Type: ARMS LENGTH IMPROVED		Deed1: /34955/ 00207		Deed2:	
Seller: DABROWSKI BERNARD A		Date: 03/19/2003		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /17697/ 00231		Deed2:	
Seller: DABROWSKI BERNARD A		Date: 05/30/1992		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /09196/ 00387		Deed2:	
Exemption Information					
Partial Exempt Assessments:		Class		07/01/2014 07/01/2015	
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: No Application					





EX 3" L.P. SEWER
(PRWG. NO. 2000-0370)

BRIAR POINT ROAD

(FORMERLY KNOWN AS BURKE ROAD)

20' R/W

16' PAVING

*ROAD DEADENDS AT MARINA

N 35° 24' 00" E
RD B. 920' EAST OF THE BEACH ROAD
CENTERLINE OF MARINA BEACH ROAD

EX. MACADAM DRIVE

EX. 9P
EX. 9/0

EX. CONC.
EX. DWLG. TO BE
RAISED
4' 6"
CONC.

EX. SHED
TO BE
RELOCATED

#4013
EX. DWLG.
"WATER-FRONT"

WADE & NICOLE
HENNINGER
1516003210
32173/71

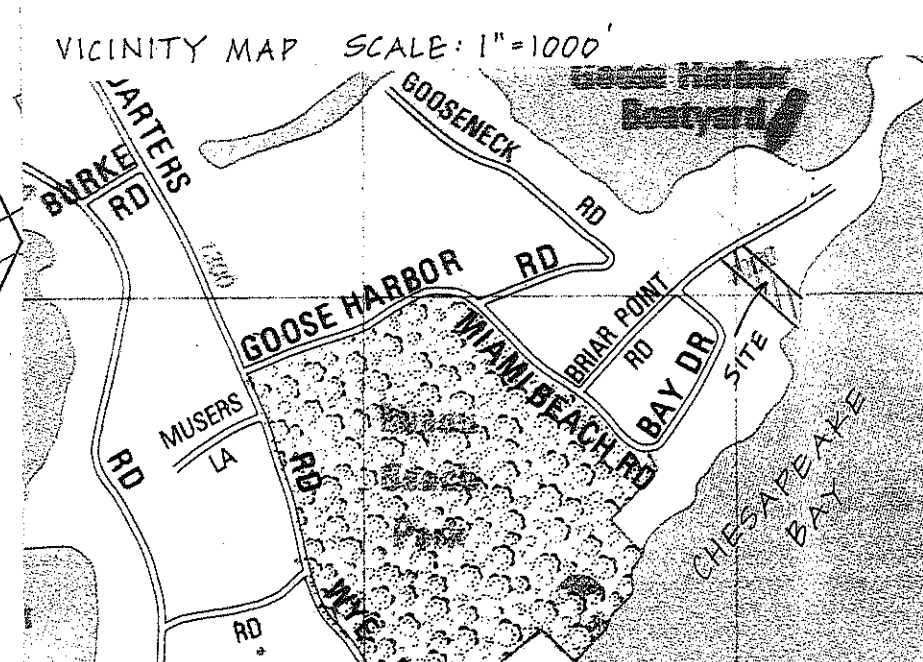
#4017
EX. DWLG.
"WATER-FRONT"

THOMAS MURPHY
1600001204
15080/416

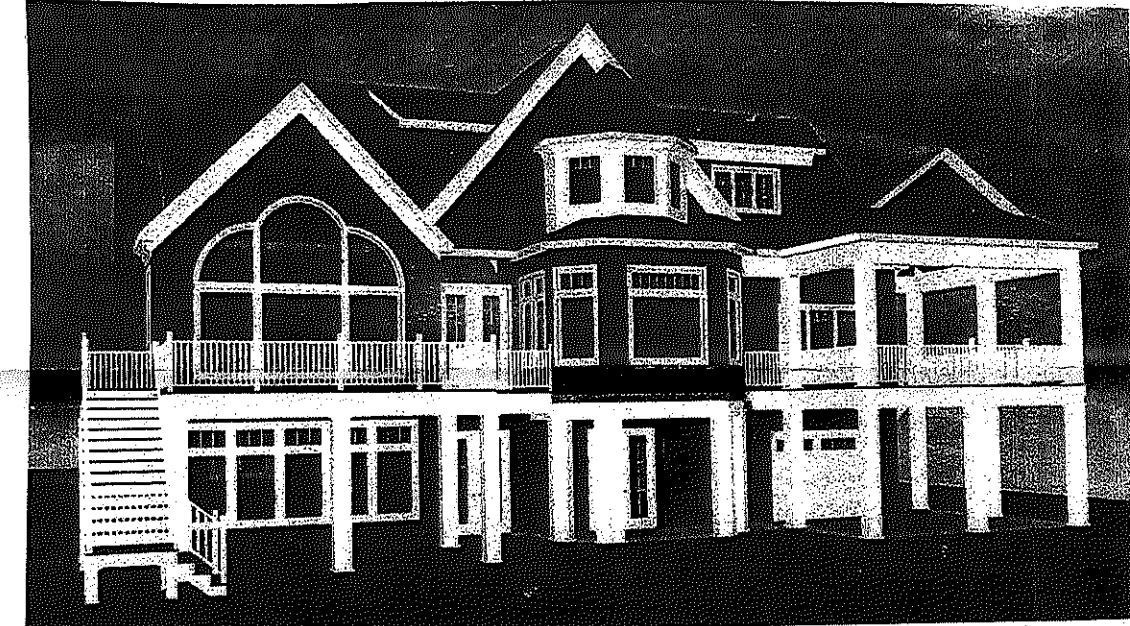
#4005
EX. DWLG.
"WATER-FRONT"
JOSEPH & JULIA ORZOLEK
1515640140
11330/173

#4041
EX. DWLG.
"WATER-FRONT"
ROY & JANET WEIZBARGER
1502006450
6321/840

CHESAPEAKE BAY



ROAD ELEVATION*
(NOT TO SCALE)



WATER ELEVATION* (N.T.S.)

*THESE ELEVATIONS ARE PROPOSED AND SUBJECT TO CHANGE
BASED ON FINAL ARCHITECTURAL DRAWINGS.

GENERAL NOTES:

1. Existing Zoning: RC5 (098C1)
2. Lot Area: 1.078 Ac. +/- (Real Property) or 46,957.68 Sq. Ft. +/-
3. Existing Use: Single Family Dwelling to be razed
Proposed Use: Replacement Dwelling
4. This property is located in the Chesapeake Bay Critical Area (LDA) and 100 Year Flood Plain Area (Community Panel No. 2400100465G Zone: "AE" & "X")
5. This property is not located in an Historic Area
6. This property is serviced by public sewer and water
7. There is prior zoning history Case No. 1989-431-A to permit an existing accessory structure in the side yard in lieu of the required rear yard (shed)-Granted
8. There are no current or outstanding zoning violations
9. This plan was prepared with the use of Public Records: title deeds, record plat, GIS Portal & Utility drawings. No Boundary Survey was completed by this firm; although, the field improvements were measured.
10. There is no contiguous ownership.
11. This property is located in the Martin State Airport Restriction Area.
12. Existing lot coverage: 5967.5 sq. ft (12%)
13. Allowable lot coverage: 7043.65 sq. ft (15%)
14. Proposed lot coverage: NOT TO EXCEED 15% OF LOT AREA

OWNER: Thomas and Victoria Baird
10 Wildon Court
Kingsville, MD 21087
410-592-5165

2014-0283-SPH
PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING
#4009 Briar Point Road
TAX MAP: 98 GRID: 6 PARCEL: 359
TAX ACCT. NO. 1504002310
DEED REF.: 34955/207
ELECTION DISTRICT NO. 15 C6
BALTIMORE COUNTY, MD
SCALE: 1" = 30'
JOB #10287