

M E M O R A N D U M

DATE: December 1, 2015
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2016-0084-A – Appeal Period Expired

The appeal period for the above-referenced case expired on November 30, 2015. 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

IN RE: PETITION FOR ADMIN. VARIANCE *
(4112 Pine Hill Road)
11th Election District *
5th Council District *
Joyce A. Smith *
Petitioner *

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2016-0084-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Joyce A. Smith ("Petitioner"). The Petitioner is requesting Variance relief from § 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure to be located in the front yard in lieu of the required rear yard. 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.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments submitted from any of the County reviewing agencies.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on October 7, 2015, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code (B.C.C.). Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply

ORDER RECEIVED FOR FILING

Date 10-29-15

By lw

with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

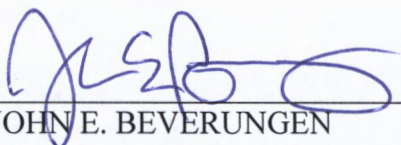
Pursuant to the posting of the property and the provisions of both the B.C.C. and the B.C.Z.R., and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 29th day of **October, 2015**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from § 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure to be located in the front yard in lieu of the required rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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

ORDER RECEIVED FOR FILING

Date 10-29-15

By DLW



ADMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING

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

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

Address 4112 Pine Hill Road, Nottingham, MD 21236 Currently zoned DR 3.5 & ROA
 Deed Reference 5616 / 184 10 Digit Tax Account # 1103003740
 Owner(s) Printed Name(s) Joyce A Smith

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. X ADMINISTRATIVE VARIANCE from Section(s) 900.1; BC2R, TO PERMIT AN ACCESSORY STRUCTURE TO BE LOCATED IN THE FRONT YARD IN LIEU OF THE REQUIRED REAR YARD.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

2. _____ ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building)

of the Baltimore County Code, to the development law of Baltimore County.

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

I/we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Owner(s)/Petitioner(s):

Joyce A Smith
 Name #1 – Type or Print Name #2 – Type or Print
Joyce A Smith
 Signature #1 Signature #2
4112 Pine Hill Road Nottingham MD
 Mailing Address City State
21236 / 410-256-8259 / dsmith@smitharchitects
 Zip Code Telephone # Email Address .net

Attorney for Owner(s)/Petitioner(s):

None
 Name- Type or Print
 Signature
 Mailing Address
 City State
 Zip Code Telephone # Email Address

Representative to be contacted:

Donald D Smith
 Name – Type or Print
Donald D Smith
 Signature
4112 Pine Hill Road Nottingham MD
 Mailing Address City State
21236 / 410.256.4472 / dsmith@smitharchitects.net
 Zip Code Telephone # Email Address

A PUBLIC HEARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore County, this 10 day of October, 2015 that the subject matter of this petition be set for a public hearing, advertised, and re-posted as required by the zoning regulations of Baltimore County.

Administrative Law Judge for Baltimore County

CASE NUMBER 2016-0084-A Filing Date 10/2/15 Estimated Posting Date 10/11/15 Reviewer JCM

Affidavit in Support of Administrative Variance

(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

The undersigned hereby affirms under the penalties of perjury and upon personal knowledge to the Administrative Law Judge for Baltimore County, that the information herein given is true and correct and that the undersigned is/are competent to testify in the event that a public hearing is scheduled in the future with regard thereto. In addition, the undersigned hereby affirms that the property is not the subject of an active Code Enforcement case and that the residential property described below is owned and occupied by the undersigned.

Address: 4112 Pine Hill Road Nottingham MD 21236
Print or Type Address of property City State Zip Code

Based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address. (Clearly state practical difficulty or hardship here)

Please see attachment

(If additional space for the petition request or the above statement is needed, label and attach it to this Form)

Joyce A. Smith
Signature of Owner (Affiant)

Joyce A Smith

Name- Print or Type

Signature of Owner (Affiant)

Name- Print or Type

The following information is to be completed by a Notary Public of the State of Maryland

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 30th day of September, 2015, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Joyce A Smith

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notaries Seal

Eva Farley
Notary Public

My Commission Expires

EVA FARLEY

NOTARY PUBLIC STATE OF MARYLAND

My Commission Expires June 16, 2016

REV. 5/8/2014

Attachment to Zoning Petition for Administration Variance

The property at 4112 Pine Hill Road, the SMITH residence, was the original structure on property known as the Koffenberger Estate. As far as sketchy records can be traced back, the house was built on the property around 1920. At that time the Koffenberger property extended from Pine Hill Road to Pinedale Avenue; from Dawn Drive to Belair Road. Over the years, Koffenberger donated part of the property to the Boy Scouts to create a pavilion—it has now become a meeting and rental hall for the Fr. Burgraff Knights of Columbus. Remaining portions of the property were subdivided and sold off for development, probably in part to pay taxes.

When Donald and Joyce Smith bought the residence in 1976, the property had dwindled to 0.79 Acres. The original house had been built with a full front porch facing Belair Road, but previous owners had enclosed the porch and converted it to a sunroom, with a front door facing Pine Hill Road and a side door oriented to a carport access. Continuing renovations to the property have maintained the front door on the east end of the house, but it has no access and is not utilized for entry or egress. For all practical purposes, the front of the house has become the south facade, which faces Pine Hill Road.

The property remaining after subdivision is an unusual cone shaped configuration. The property is 68 feet at the front and 225 feet at the rear. The house is situated on the property such that access, parking, future garage etc. needs to be in the front of the house, as the only rear access is from the private driveway belonging to the Knights. In 1982, the County granted a variance for a swimming pool in the side yard, and construction of same at basement level prohibits any access along that side.

In 1983, the County granted a permit for renovation and additions to the house. Those additions included a garage attached to the front of the house, and a storage shed in the front to be connected by trellis. However, lack of funds prevented those elements from being constructed, and still prevent undertaking to build the garage. That permit has expired long ago. But in 2013 a paved driveway was installed to provide parking for SMITH's architectural business (and to make Mrs. Smith happy).

So now that there is a driveway, there is a need to remove snow in the winter time. But without a garage, there is no place to store a snow blower except in a shed near the access to the house, and adjacent to the driveway. To ask a 72 year old man to store such equipment down steps and/or in the rear yard places a severe hardship and a practical difficulty on him. The shed structure is designed architecturally to be compatible with the design of the house, and in respect for the neighborhood.

Page 2

I would point out that the house was situated on the property long before there was zoning, and long before the adjacent properties were built to approved setbacks. The Smith residence actually sits so far back from the street, that the proposed shed would be in the rear yard if located in an adjacent lot. Not to mention the fact that the proposed location would actually be in the rear yard as the house was originally oriented.

I would also point out that the way that the County has permitted development of the Lassahn property, the Smiths are forced to enjoy the view of rear yard detritus and haphazard storage on properties directly across the street from our front yard. And on both sides.

ZONING PROPERTY DESCRIPTION FOR 4112 Pine Hill Road

Beginning at a point on the north side of Pine Hill Road which is 30 feet wide at the distance of 175.9 feet North 79 degrees 04 minutes west from the westernmost side of Belair Road, US Route 1, which is 60 feet wide at the intersection.

Thence the following courses and distances: N.42 25' E. 265.78', N.75 30' 11" W. 75.78', N.63 06' 11" W. 151.52', S.02 52' W. 101.0', S.10 56' W. 172.08', S.79 04' E. 68.42', back to the point of beginning as recorded in Deed Liber 5616, Folio 184, containing 0.79 acres more or less. Located in the Eleventh Election District and the Fifth Councilmanic District

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

No. 128768

Date: 9/30/15

PAID RECEIPT

BUSINESS ACTUAL TIME DRN
9/30/2015 9/30/2015 09:48:57 4
NO. 0504 WALKIN KSHI KMS
>> RECEIPT # 605791 9/30/2015 OFLN
Dept 5 528 ZONING VERIFICATION
UNID. 128768
Recpt Tot 175.00
175.00 CK 1.00 CA
Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept Obj	BS Acct	Amount
001	006	0000		6150				75.00

Total: 75.00

Rec From: JOYCE SMITH

For: ZONING CASE

2016-0084A

DISTRIBUTION

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

CASHIER'S
VALIDATION

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2016-0084-A

Petitioner: JOYCE SMITH

Address or Location: 4112 PINE HILL RD., NOTTINGHAM, MD. 21236

PLEASE FORWARD ADVERTISING BILL TO:

Name: JOYCE SMITH

Address: _____

SAME

Telephone Number: 410-256-8259

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2016- 0084 -A Address 4112 PINE HILL RD.
Contact Person: J. MERREY Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 10.2.15 Posting Date: 10.11.15 Closing Date: 10.26.15

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2016- 0084 -A Address 4112 PINE HILL RD.
Petitioner's Name JOYCE SMITH Telephone 410-256-8259
Posting Date: 10.11.15 Closing Date: 10/26/15
Wording for Sign: To Permit AN ACCESSORY STRUCTURE TO BE LOCATED
IN THE FRONT YARD IN LIEU OF THE REQUIRED
REAR YARD.

CERTIFICATE OF POSTING

Date: OCTOBER 7, 2015

RE: Project Name: 4112 PINE HILL ROAD
Case Number /PAI Number: 2016-0084-A
Petitioner/Developer: JOYCE SMITH
Date of Hearing/Closing: OCTOBER 26, 2015

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 4112 PINE HILL ROAD

The sign(s) were posted on OCTOBER 7, 2015

(Month, Day, Year)

David W. Billingsley

(Signature of Sign Poster)

DAVID W. BILLINGSLEY

(Printed Name of Sign Poster)

601 CHARWOOD COURT

(Street Address of Sign Poster)

EDGEWOOD, MD. 21040

(City, State, Zip Code of Sign Poster)

(410) 679-8719

(Telephone Number of Sign Poster)

ZONING NOTICE

ADMINISTRATIVE VARIANCE
CASE NO. 2016-0084-A

REQUEST: TO PERMIT AN ACCESSORY
STRUCTURE TO BE LOCATED IN THE FRONT
YARD IN LIEU OF THE REQUIRED REAR YARD.

Pursuant to Section 26-127(b)(1), Baltimore County Code, an eligible individual or group may request a public hearing concerning the proposed variance, provided the request is received in the Zoning Review Office before 5 P.M. on:
OCTOBER 26, 2015

Additional information is available at the Department of Permits, Approvals and Inspections, Baltimore County Office Building, 111 West Chesapeake Avenue, Towson, MD. 21204
(410) 887-3391

UNDER PENALTY OF LAW,
DO NOT REMOVE THIS SIGN UNTIL AFTER THE ABOVE DATE

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For October 12, 2015
Item No. 2016-0077, 0079, 0080, 0081, 0082, 0083 and 0084

DATE: October 22, 2015

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK
cc:file

G:\DevPlanRev\ZAC -No Comments\ZAC10122015.doc

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>10-22</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>NC</u>
<u>10-19</u>	DEPS (if not received, date e-mail sent _____)	<u>NC</u>
_____	FIRE DEPARTMENT	_____
_____	PLANNING (if not received, date e-mail sent _____)	_____
<u>10-5</u>	STATE HIGHWAY ADMINISTRATION	<u>No objection</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. <u>2010-0277-X (attached)</u> <u>1982-0277-A</u>)	<i>-- use prop. for office of archit. practice for Mr. Smith</i>
NEWSPAPER ADVERTISEMENT	Date: _____	
SIGN POSTING	Date: <u>10-7-15</u> by <u>Billingley</u>	
PEOPLE'S COUNSEL APPEARANCE	Yes ☐ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

Real Property Data Search (w4)

Guide to searching the database

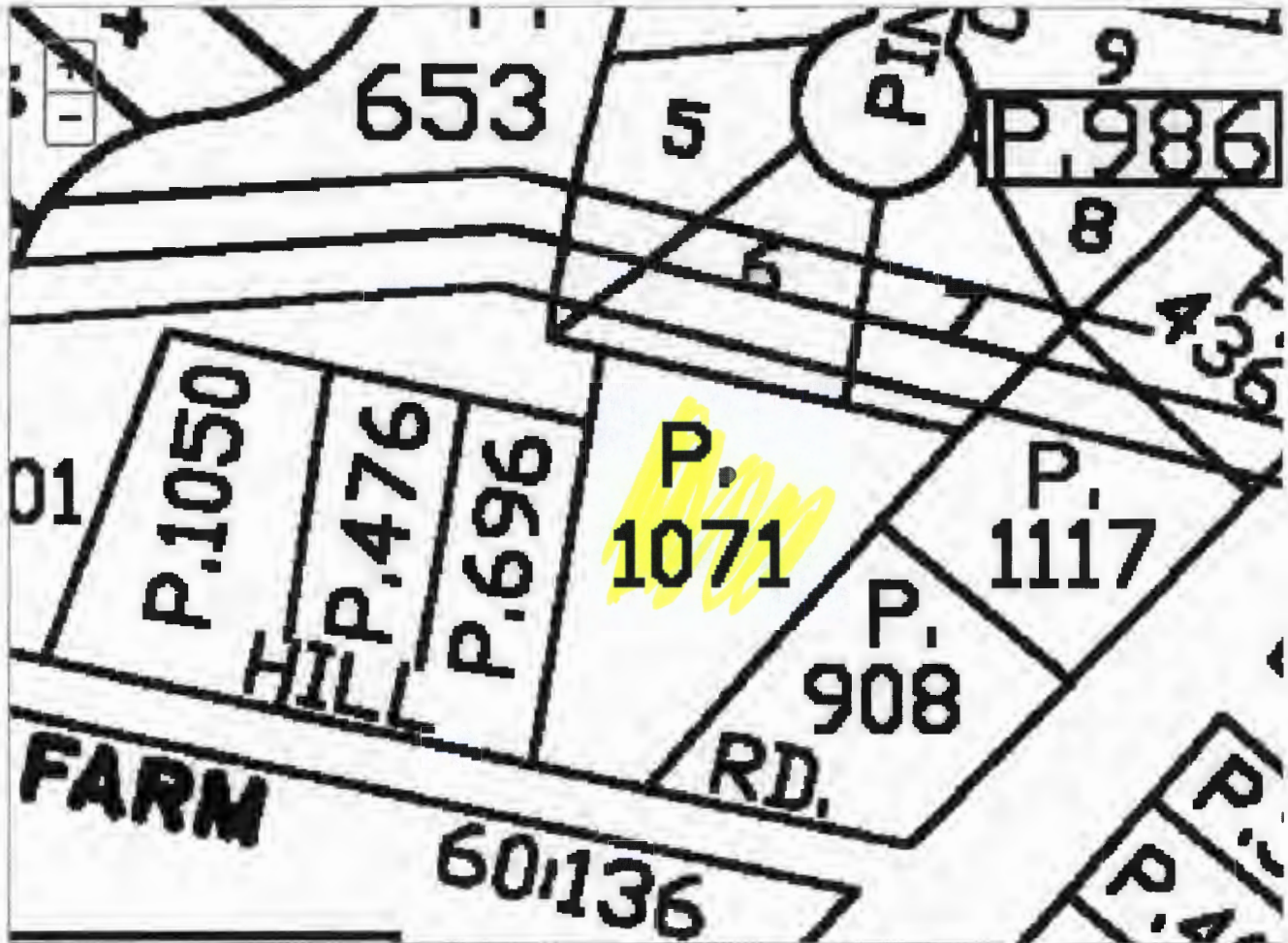
Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 11 Account Number - 1103003740			
Owner Information					
Owner Name:		SMITH JOYCE A		Use:	RESIDENTIAL
Mailing Address:		4112 PINE HILL RD BALTIMORE MD 21236-1609		Principal Residence:	YES
				Deed Reference:	/14444/ 00059
Location & Structure Information					
Premises Address:		4112 PINE HILL AVE 0-0000		Legal Description:	.79 AC 4112 PINE HILL AVE 175FT W OF BELAIR RD
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot: Assessment Year: Plat No: Plat Ref:
0072	0008	1071		0000	2015
Special Tax Areas:			Town: Ad Valorem: Tax Class:		
			NONE		
Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use	
1924	2,319 SF		34,410 SF	04	
Stories	Basement	Type	Exterior SIDING	Full/Half Bath	Garage Last Major Renovation
1 1/2	YES	STANDARD UNIT		2 full	
Value Information					
		Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2015 As of 07/01/2016	
Land:		98,600	98,600		
Improvements		87,400	110,200		
Total:		186,000	208,800	193,600	201,200
Preferential Land:		0			0
Transfer Information					
Seller: SMITH DONALD D		Date: 05/03/2000		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /14444/ 00059		Deed2:	
Seller: CARL JOHN B		Date: 03/18/1976		Price: \$54,000	
Type: ARMS LENGTH IMPROVED		Deed1: /05616/ 00184		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2015		07/01/2016	
County:	000	0.00			
State:	000	0.00			
Municipal:	000	0.00 0.00		0.00 0.00	
Tax Exempt:		Special Tax Recapture:			
Exempt Class:		NONE			
Homestead Application Information					
Homestead Application Status: Approved 01/12/2010					

Baltimore County

New Search (<http://sdat.dat.maryland.gov/RealProperty>)

District: 11 Account Number: 1103003740



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.

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>).



View of property at 4112 Pine Hill Road from entrance at Pine Hill Road



View of SMITH property along the western side which abuts the entrance drive to the Knights of Columbus driveway. Proposed shed will be located behind the bushes and forsythia seen in the foreground of this photograph. Cones were placed by the Knights to discourage their guests from parking along the side of the 12' wide road.



Cutair residence at 4110 Pine Hill Road is on the other side of the entrance drive from Pine Hill Road from the SMITH property. The proposed shed is juxtaposed from the rear yard of the Cutair residence.



McNeil and Most residence at 4111 Pine Hill Road. Property is directly across the road from 4112 Pine Hill Road, and entrance road to the Knights of Columbus.



Milan Residence at Southwest corner of Pine Hill and Belair Road. View is from the entrance of the SMITH Property at 4112 Pine Hill Road.



Residence of Dan Angelonga residence at 4114 Pine Hill Road



South facade of SMITH residence at 4112 Pine Hill Road faces Pine Hill. Right side of house where door is visible was once a front porch that faced Belair Road. Current access to residence and to SMITH Architects is through brick wall on left and back to kitchen door, or down steps to office door.



View of Angelonga garage from front yard of 4112 Pine Hill Road



Location of Proposed Shed is intended architecturally to define the arrival point and to define the decision to enter the house, or to proceed down the ramp to the swimming pool.



Location of Proposed Shed is intended architecturally to define the arrival point and to control the decision to enter the house, or to proceed down the ramp to the swimming pool.



Ramp access to the Swimming Pool will pass between the shed and the patio wall. An overhead open portico frame will connect the shed to the house.

**IN RE: PETITION FOR SPECIAL
EXCEPTION**

N side of Pine Hill Road;
of Belair Road
11th Election District
5th Councilmanic District
(4112 Pine Hill Road)

Joyce A. Smith
Petitioner

John - ~~A~~
See comment
+ response.
(Pg. 4)

BEFORE THE
DEPUTY ZONING
COMMISSIONER
BALTIMORE COUNTY

Prior
Zoning
Bestwick
June
2010

*

*

Case 2010-0277-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Exception filed by the legal owner of the subject property, Joyce A. Smith. Petitioner is requesting a Special Exception to use the property for the office of an architectural practice within the primary residence of the architect-owner of the practice; the office area will occupy 22% (891 square feet of the total 4,040 square feet) of the residence, within the basement. The subject property and requested relief are more fully described on the revised site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requested special exception was Petitioner Joyce A. Smith and her husband, Donald D. Smith, a registered architect and the subject of the instant special exception request. Also appearing as counsel to Petitioner was Gerald W. Soukup, Esquire. Appearing as an interested citizen in support of Petitioner's request was Mr. Ronald Goetzke who resides at 4108 Pine Hill Road. No Protestants or other interested persons attended the hearing.

Testimony and evidence offered revealed that the subject property is irregular in shape, much like a trapezoid, and contains approximately .79 acre of land (34,415 square feet), more or

less, zoned predominantly D.R.3.5 (.714 acre) with a small part of the property zoned R.O.A. (.076 acre). The property is located on the north side of Pine Hill Road, approximately 200 feet northwest of Belair Road, in the Perry Hall area of Baltimore County. The property's ingress/egress is via frontage on Pine Hill Road. It then tapers outward toward the rear property line. The property is improved with an existing two and a half-story residence¹ with a one and a half-story addition together comprising 4,040 square feet where Petitioner and her husband have resided since 1976. The property is further improved with a swimming pool in the side/rear yard, which was the subject of prior zoning relief². According to Petitioner's revised site plan, the property also contains several species of trees, including English Walnut, Cedar, Pine, Maple and Oak.

Pursuant to Section 1B01.1.C.12 of B.C.Z.R., Petitioner's husband, Mr. Donald Smith, proposes to maintain an office for an architecture practice in the basement of the residence. Such a use is permitted by special exception pursuant to the aforementioned section of the B.C.Z.R., subject to certain criteria set forth in Section 502.1 of the B.C.Z.R. The proposed office would be established in the lower level of the residence and would consist of 891 square feet out of the total 4,040 square feet (22%). Adequate parking of five spaces is to be provided as indicated on the revised site plan. The current footprint of the residence would not be altered.

Mr. Smith, who was accepted as an expert in architecture, proffered testimony that he has been a registered architect since 1972 upon completing a three year internship with an architecture firm. Mr. Smith graduated from the University of Cincinnati with a Bachelors degree in Architecture and has been in private practice since 1975. From 1990 to 1998, Smith

¹ According to a Maryland Department of Assessments and Taxation Real Property Data Search, the primary structure was constructed in 1924.

² Case No. 82-277-A, decided in July, 1982.

Architects, P.A. was located on St. Paul Street in Baltimore City. From 1998 to present, Mr. Smith's architecture firm has been located in the 3100 block of Elm Avenue in the Hampden neighborhood of Baltimore City. Mr. Smith's current work involves designing public facilities, though he has also designed projects in private development in the past.

At this juncture, he desires to relocate his Smith Architects, P.A. office to the subject property in order to consolidate the operation of the firm within the home, due to the recent economic downturn and subsequent financial constraints. Mr. Smith asserted that he has two non-resident employees that would work in the basement office most weekdays. Meetings and other trips by the employees are performed in the morning prior to the employee's arrival at work. Furthermore, clients would not normally come to the office as most work is performed in the field. The hours of operation for the business are Monday through Friday, 8:30 a.m. until 7:00 p.m. Mr. Smith also stated that the establishment of the practice would not be a detriment to the health, safety and general welfare of the surrounding community, indicating there would be an almost immeasurable impact in regards to traffic, with the occasional UPS-type delivery. Mr. Smith offered his expert opinion that the requested special exception use of the property would comply with the limitations stated in Section 1B01.1.C.12, as well as the relevant criteria contained in Section 502.1 of the B.C.Z.R.

Also appearing in support of the requested relief was Mr. Ronald Goetzke. Mr. Goetzke, who resides at 4108 Pine Hill Road, testified in support of Petitioner's request and stated that to his knowledge there was no opposition in the community.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated May 11, 2010 which indicate that the character of the Bel Air corridor is in flux between a previously

residential corridor and a commercial corridor. A number of properties have tried to rezone their properties to commercial zoning and have been unsuccessful in the last zoning cycle. This property is only one property away from Belair Road and threatens to encroach an office land use on a solidly residential street. Therefore, the Office of Planning recommends a condition that any approval for an office be limited to the current business and property owner and not for the entire property itself. If the office or property owner moves or relocates, the special exception would be voided. If the request is approved, the Planning Office suggests several conditions to include, retaining existing trees near the street, provide hours of operation on the site plan, limited signage, and removing "future garage" from the site plan.

Still remains same on site plan?

In response to these comments Petitioner's attorney, Mr. Soukup, indicated that the site plan had been revised with the hours of operation and the removal of the "future garage." Moreover, it was indicated that existing trees would be retained and that no signs are planned for the property. It was further stipulated that the special exception, if granted, would be personal to Petitioner and her husband and would not run with the land.

In regard to the requested special exception, subject to the criteria set forth in Section 502.1 of the B.C.Z.R., such a use as described above is permitted pursuant to Section 1B01.1.C.12 of the B.C.Z.R., with certain limitations. In particular, this section states as follows:

Office or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's primary residence at the time of application; does not occupy more than 25% of the total floor area of such residence; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees.

Considering the testimony and evidence provided, I am persuaded to grant the special exception request to use the subject property as a home office for an architecture practice. The uncontroverted testimony from Mr. Smith indicates that the proposed use would not have any detrimental impacts on the required 502.1 criteria and would likewise meet the requirements of Section 1B01.1.C.12. Further consideration of the evidence shows that this use would not have a negative impact on the residential nature of Pine Hill Road. As proposed, the practice would be contained completely within the residence and there would be no outward indication of a professional office within. In addition, the office would not occupy more than 25% of the total floor area of the residence and would not involve the employment of more than two other nonresident employees. Moreover, the nature of the practice indicates a benign use, with the design and drafting of architectural plans and specifications using primarily computer aided design software. Therefore, I am convinced that the use proposed at the subject location would not have any adverse effects above and beyond those inherently associated with such a special exception use, irrespective of its location within the zone. *See, Schultz v. Pritts*, 291 Md. 1 (1981); *see also People's Counsel v. Loyola College*, 406 Md. 54 (2008).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's special exception request should be granted with conditions.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 8th day of June, 2010 that Petitioner's request for a Special Exception pursuant to Section 1B01.1.C.12 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to use the property for the office of an architectural practice within the primary residence of the architect-

owner occupying 22% of the residence, be and is hereby **GRANTED**, subject to the following conditions:

1. Petitioners may apply for their necessary building or use permits, as applicable, and be granted same upon receipt this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The existing trees near the street shall be preserved.
3. Signage shall be limited as per Section 450.4.5(m) of the Baltimore County Zoning Regulations.
4. The Special Exception use granted herein shall be *in gross*, and is to be personal to Petitioner and her husband and is not to run with the land upon devise, trust, descent or arms-length sale in fee simple. Hence, upon the discontinuance of Mr. Smith's architecture practice, or if the property is sold, leased, or otherwise converted or transferred, the said Special Exception use shall be terminated and considered null and void. Any successor would be required to file a separate Petition for Special Exception for the proposed use.

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED



OCT 19 2015

OFFICE OF ADMINISTRATIVE HEARINGS

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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: October 19, 2015

SUBJECT: DEPS Comment for Zoning Item # 2016-0084-A
Address 4112 Pine Hill Road
(Smith Property)

Zoning Advisory Committee Meeting of October 5, 2015.

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



KEVIN KAMENETZ
County Executive

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

October 27, 2015

Joyce A Smith
4112 Pine Hill Road
Nottingham MD 21236

RE: Case Number: 2016-0084 A, Address: 4112 Pine Hill Road

Dear Ms. Smith:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 2, 2015. 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: jaw

Enclosures

c: People's Counsel
Donald D Smith, 4112 Pine Hill Road, Nottingham MD 21236

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor



Pete K. Rahn, Secretary
Gregory C. Johnson, P.E., Administrator

Date: 10/5/15

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

RE: Baltimore County
Item No. 2016-0084-A
Administrative Variance
Joyce A. Smith
4112 Pine Hill 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. 2016-0084-A

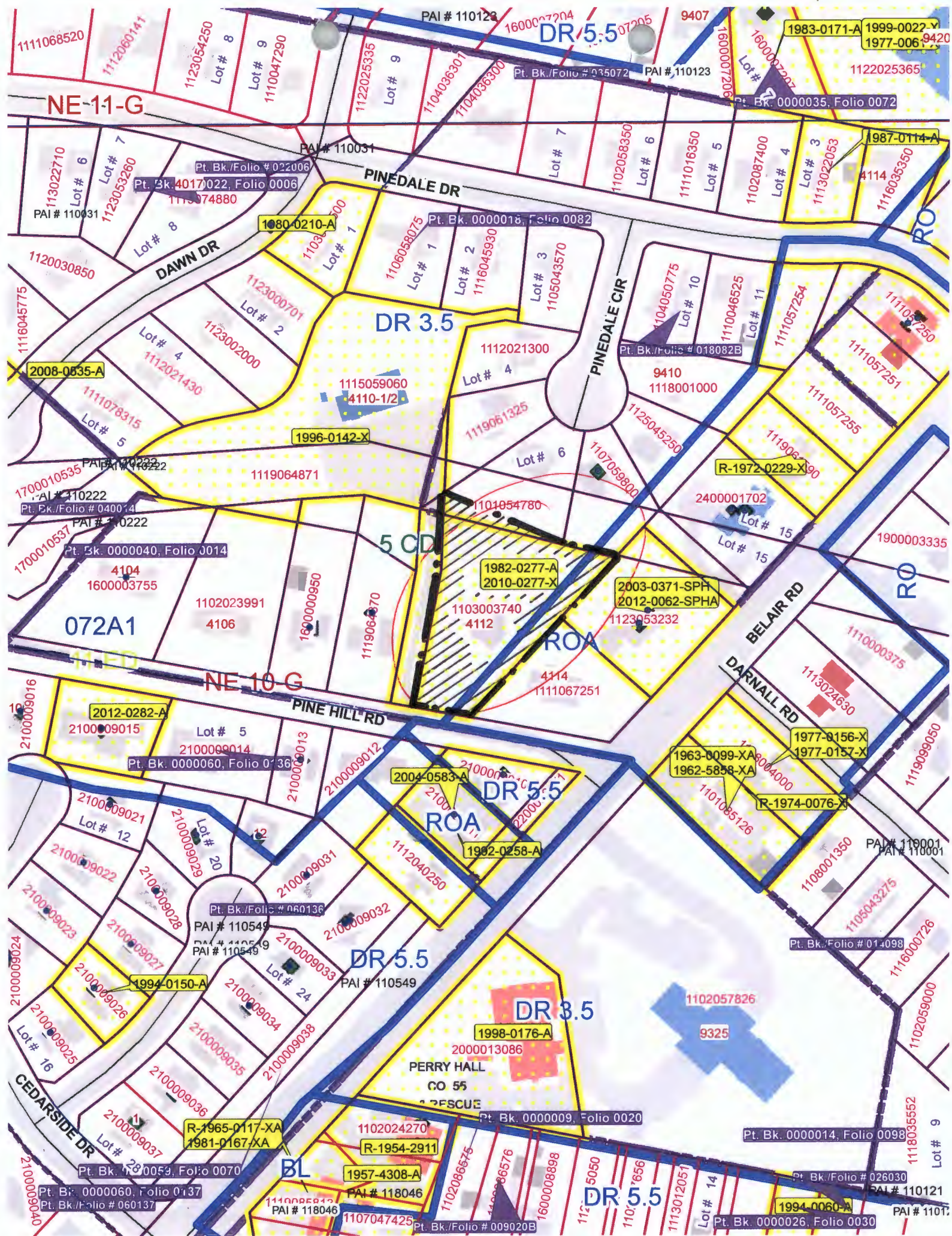
Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

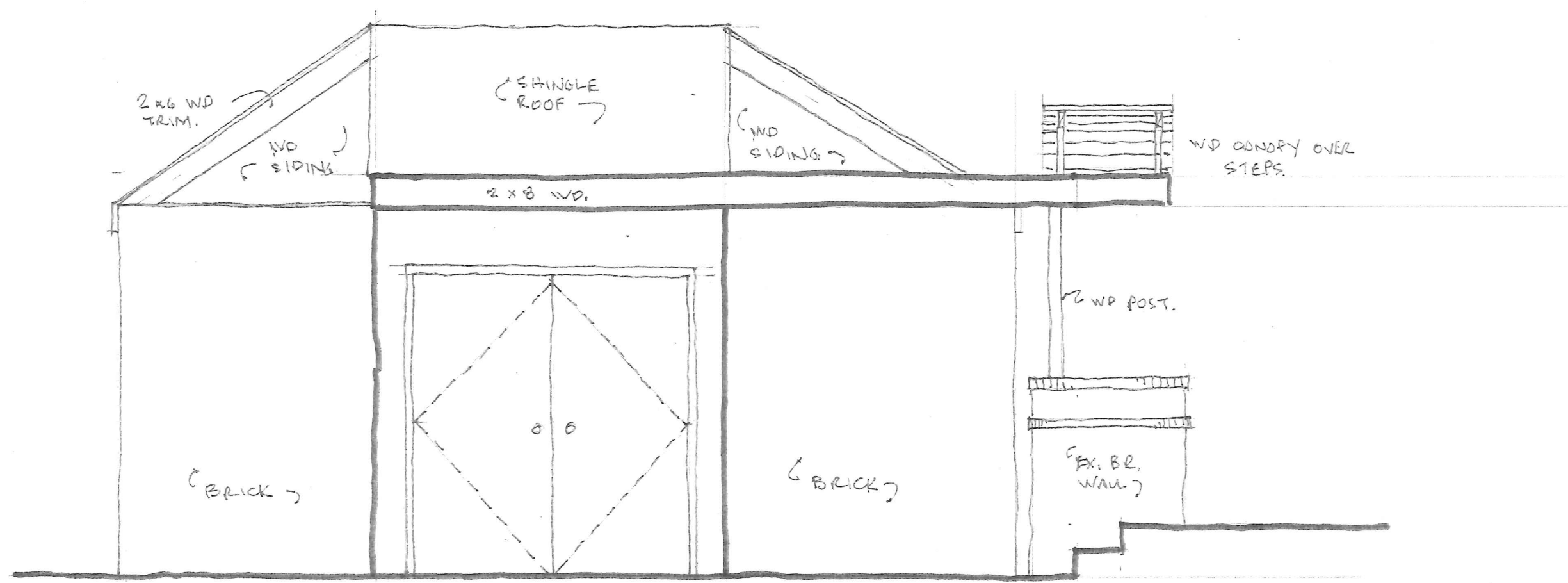
Sincerely,

A handwritten signature in blue ink, appearing to read 'David W. Peake'.

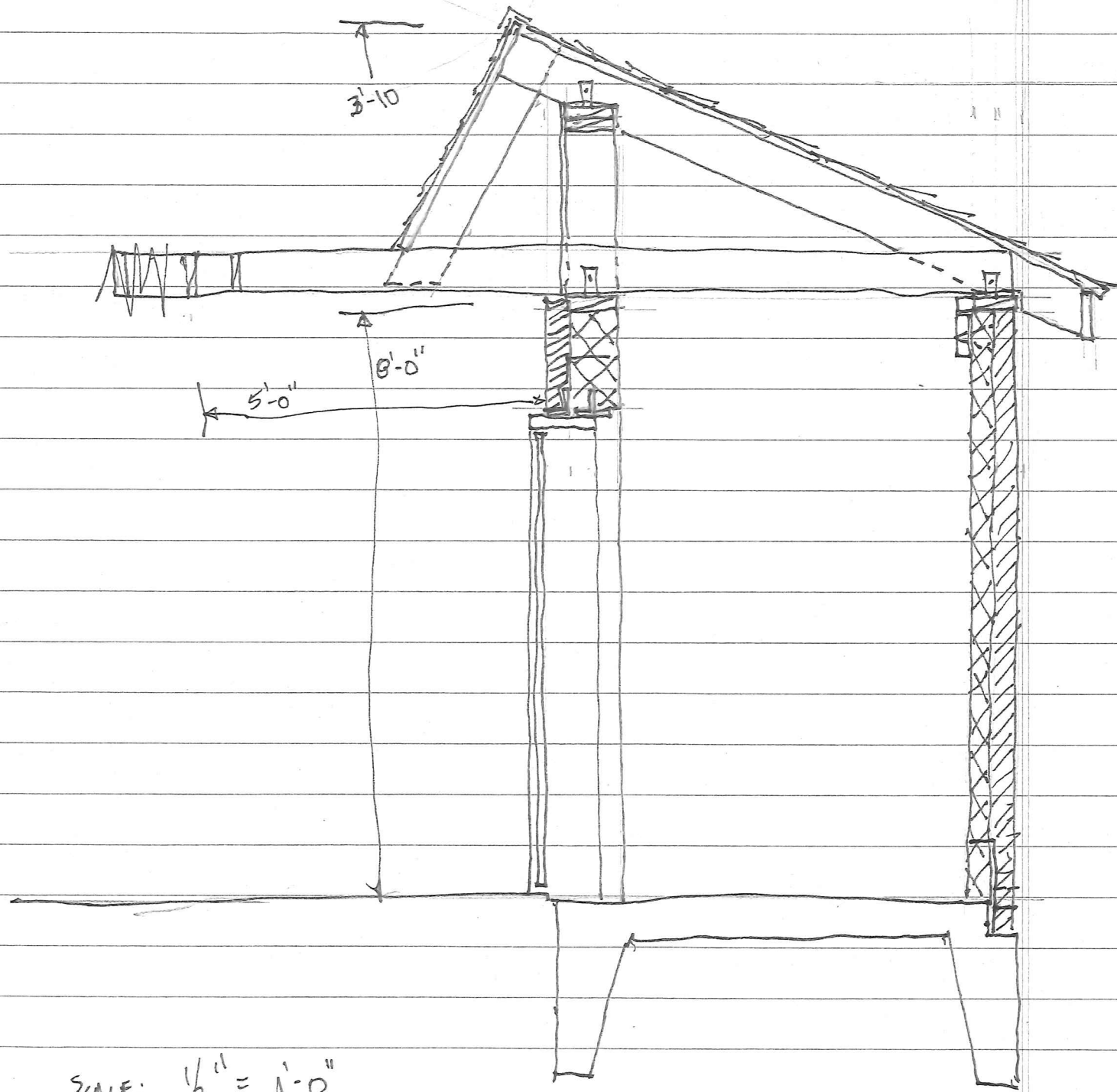
David W. Peake
Metropolitan District Engineer – District 4
Baltimore & Harford Counties

DWP/RAZ

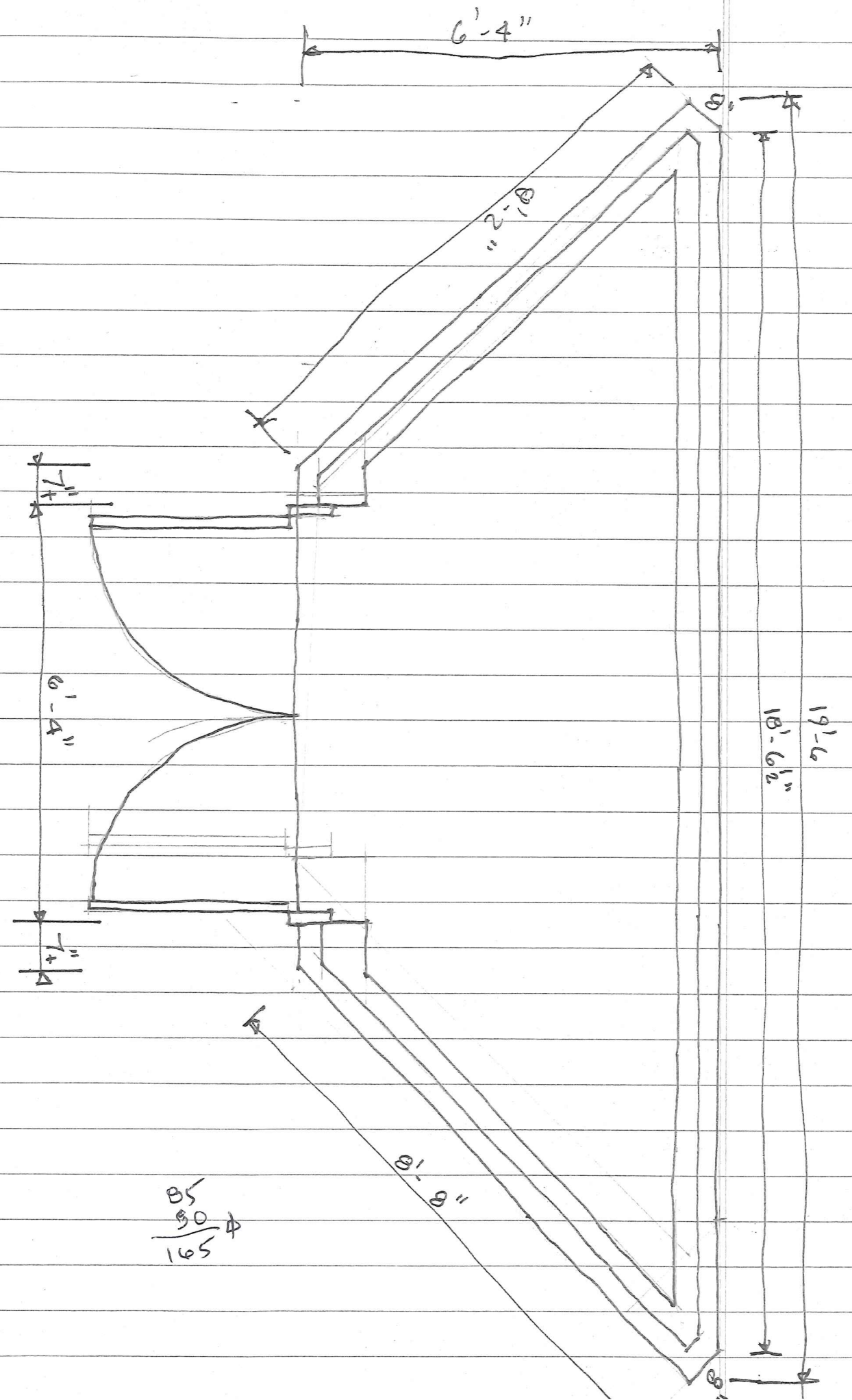




SCALE: $\frac{3}{8}" = 1'-0"$



SCALE: $\frac{1}{2}" = 1'-0"$



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A-1