IN THE MATTER OF BIRD RIVER GROVE, LLC 11319 Bird River Grove Road 15th Election District; 6th Councilmanic District	*	BEFORE THE BOARD OF APPEALS OF
RE: Petitions for Special Hearing and Variance to confirm 4 lots of record, and setbacks for building 3 single family dwellings	*	BALTIMORE COUNTY Case No. 17-122-SPHA

* * * * * * * * * * * *

OPINION

This matter comes to the Board of Appeals on appeal by Richard Pitz (the "Protestant") of the portion of the Opinion and Order issued by John E. Beverungen, Administrative Law Judge for Baltimore County (the "ALJ"), dated December 30, 2016 granting Petitions for Variance with respect to Lots 1 and 2 that are owned by Bird River Grove, LLC (the "Petitioner"), located at 11319 Bird River Grove Road, White Marsh, Maryland 21162 (the "Property").

In the proceedings before the Board, the Petitioner was represented by Lawrence E. Schmidt, Esquire and the Protestant appeared *pro se*. In addition, Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, appeared at, and participated in, the hearing.

A hearing was held before the Board on April 13, 2017, and the Board conducted a public deliberation on May 9, 2017.

STATEMENT OF FACTS

The Property, which is approximately ¾ of an acre in size in total, is zoned R.C.2 (Agricultural) and consists of four separate lots (Lot 1, Lot 2, Lot 3, and Lot 4). The lots are part of the Bird River Grove subdivision, which dates to 1925.

By way of background, the Petitioner originally filed Petitions for Special Hearing to confirm that Lot 1 and Lot 2 are "lots of record" that can be developed with detached single family dwellings on each lot and to permit the consolidation of Lot 3 and Lot 4 as lots of record so that the consolidated lot also could be improved with a third single family dwelling. In addition, the Petitioner filed Petitions for Variance from the setbacks for the proposed single family dwellings and proposed decks on Lot 1, Lot 2, and combined Lots 3 and 4. The ALJ granted the Petition for Special Hearing in part, ruling that Lot 1 and Lot 2 are lots of record and can be developed with detached single family dwellings as non-conforming lots of record, and granted the Petition for Variance in connection with the proposed setbacks for the planned single family dwellings and decks on Lot 1 and Lot 2. The ALJ denied the Petition for Special Hearing seeking to permit the consolidation of Lot 3 and Lot 4 as two existing lots of record to become a single lot to be improved with a single family dwelling and denied the Petition for Variance in connection with Lot 3 and Lot 4. As set forth above, the Protestant only appealed the Variances granted in connection with Lot 1 and Lot 2, and the Petitioner did not file an appeal.

The Petitioner filed a Motion to Dismiss the Protestant's appeal, arguing that the Protestant could not file an appeal on behalf of the "Essex Middle River Civic Counsel" or the adjacent neighbors. The Motion also requested that this Board hear all issues presented before the ALJ, and not limit the proceedings on appeal to the Variances granted in connection with Lot 1 and Lot 2, in the event that the Board denied the Motion to Dismiss.

This Board denied the Motion to Dismiss, ruling that the Protestant had standing to appeal the ALJ's decision in his individual capacity, but not in a representative capacity. In addition, based on the holdings in *Daihl v. County Board of Appeals*, 258 Md. 157 (1970), *County Fed. Sav. and Loan Ass'n v. Equitable Sav. and Loan Ass'n*, 261 Md. 246 (1971), and *Halle Cos. v. Crofton*

Civic Ass'n, 339 Md. 131 (1994), among other cases, the Board determined that the scope of a *de novo* hearing is restricted to the specific issue or issues which have been appealed and not on every matter litigated below before the ALJ. Based on the foregoing cases, only the Petitions for Variance for Lot 1 and Lot 2 are, therefore, at issue on appeal before the Board.

Lot 1 is 0.368 acres in size and is located at the end of a peninsula along Bird River Creek in eastern Baltimore County, with water on three sides. There currently is a dilapidated and uninhabitable single family dwelling and a deteriorated boat ramp on Lot 1. Petitioner proposes to raze the existing house and construct a new, two-story single family dwelling on approximately the same location as the existing structure. Lot 2 is 0.145 acres in size and is irregularly shaped with water along one side. There are no existing structures on Lot 2, although there is evidence that there may have been a house or other building at one time on this parcel based on the Plat of Bird River Grove dated March 26, 1925 (the "Plat"). (Pet. Ex. 2). Petitioner also proposes building a two-story single family dwelling on Lot 2.

Both Lot 1 and Lot 2 are lots of record since they were created in 1925 pursuant to the recordation of the Plat, long before the adoption of the Baltimore County Zoning Regulations ("BCZR") and the creation of the R.C.2 zone in 1979. *See* BCZR 101.1 (defining "lot of record" as "[a] parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision or other condition thereof"). As noted by Judge Beverungen, Lot 1 and Lot 2, as lots of record, "can be improved with dwellings, provided that all other zoning, development, and environmental regulations are satisfied."

Under Section 1A01.3.B.3 of the BCZR, "[n]o principal structure or dwelling (whether or not it is a principal structure) in an R.C.2 Zone may be situated within 75 feet of the center line of

any street or within 35 feet of any lot line other than a street line." Section 301.1 of the BCZR further provides that, "[i]f attached to the main building, . . . a one-story open porch, with or without a roof, may extend into any required yard not more than 25% of the minimum required depth of a front or rear yard or of the minimum required width of a side yard." The Petitioner seeks variances in connection with Lot 1, in relevant part, as follows:

> (a) To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.;
>
> (b) To allow a principal building (dwelling) with a setback to the street centerline of 30 ft. +/- in lieu of the required 75 ft.; and
>
> (c) To allow an open projection (deck) to extend into the yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.).

With regard to Lot 2, the Petitioner seeks variance relief, in relevant part, as follows:

> (a) To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22 ft. +/- to a property line in lieu of the required 35 ft.;
>
> (b) To allow a principal building (dwelling) with a setback to the street centerline of 34.5 ft. in lieu of the required 75 ft.; and
>
> (c) To allow an open projection (deck) to extend into the yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.)

DECISION

Pursuant to BCZR § 307.1, the Board has the power to grant a variance from the BCZR's area regulations "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship." In addition, "any such variance shall be granted only if in strict harmony with the spirit

and intent of said . . . area . . . regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare." BCZR § 307.1.

The Court of Special Appeals has set forth the analytical framework for considering a request for a variance:

> [I]t is at least a two-step process. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is – in and of itself – unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, *i.e.*, a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance *caused by* the property's uniqueness, exists.

Cromwell, 102 Md. App. 691, 694-95 (1995).

The Board concludes that the Petitioner has satisfied the requirements established in *Cromwell* to obtain the variances sought for Lot 1 and Lot 2. Specifically, Lot 1 is uniquely shaped and is located at the end of a peninsula extending into Bird Creek, surrounded on water by three sides. Lot 2 also is irregularly shaped and has water on one side. Due to their shape, size, location, and shoreline, these lots are unique. In addition, the Petitioner would experience practical difficulty and/or unreasonable hardship if the BCZR's setback regulations were applied strictly to Lot 1 and Lot 2 in that the Petitioner would be unable to build dwellings with reasonably sized decks on the lots.

Moreover, the Board finds no evidence that a grant of the variance relief sought by the Petitioner would be in any way injurious to public health, safety, and general welfare. In fact, the evidence presented at the hearing demonstrates that the lots in question are littered with debris and

trash along the shoreline and that the house on Lot 1 is uninhabitable, with a large, visible hole in its roof. (*See, e.g.,* Pet. Exs. 5P and 7A – 7J). Based on the Petitioner's plans for Lot 1 and Lot 2, the public health, safety, and general welfare of the community should be substantially enhanced by the cleanup and improvement of Lot 1 and Lot 2. Moreover, no County agency has opposed the Petitioner's requested variances and Michael Rhea, the only neighbor to testify at the hearing, articulated no objection to the Petitioner's plans for Lots 1 and 2.

For all of the foregoing reasons, the Board grants variances requested by the Petitioner in connection with Lot 1 and Lot 2.

ORDER

THEREFORE, it is this 10th day of July, 2017, by the Board of Appeals of Baltimore County,

ORDERED, that the Petition for Variance with regard to Lot 1: (a) To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to the street centerline of 30 ft. +/- in lieu of the required 75 ft.; and (c) To allow an open projection (deck) to extend into the yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.), be and hereby is **GRANTED.**

IT IS FURTHER ORDERED, that the Petition for Variance with regard to Lot 2: (a) To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to the street centerline of 34.5 ft. in lieu of the required 75 ft.; and (c) To allow an open projection (deck) to extend into the yard area by a distance of 10 ft. in lieu of the maximum

permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.), be and hereby is **GRANTED**.

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

Maureen Murphy /kc
Maureen E. Murphy, Panel Chairman

Joseph L. Evans

JHW
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Board of Appeals of Baltimore County

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July 6, 2017

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RE: In the Matter of: *Bird River Grove, LLC – Legal Owner*
Case No.: 17-122-SPHA

Dear Messrs. Schmidt, Pitz and Zimmerman:

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,

Sunny Cannington Ham

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Multiple Original Cover Letters

c: Dan Koch/Bird River Grove, LLC
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Deputy Administrative Officer, and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law
Tim Prestianni
Michael Rhea
Janet and Peter Terry
Bill Bafitis, P.E.

4/3/17

RE: PETITION FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE
11319 Bird River Grove Road; E/S Bird River Grove Road, 6,428' SE of Ebenezer Road	*	BOARD OF
15th Election & 6th Councilmanic Districts	*	APPEALS FOR
Legal Owner(s): Bird River Grove LLC		
Petitioner(s)	*	BALTIMORE COUNTY
	*	2017-122-SPHA

* * * * * * * * * * * * *

PRE-HEARING MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

People's Counsel for Baltimore County, as a party in interest, files this memorandum to assist the County Board of Appeals in its review of the status of the appeal, the legitimacy of Richard Pitz's appeal, and the issues raised by Petitioner Bird River Grove, LLC's Motion to Dismiss.

I. Richard Pitz's Entitlement to Appeal

Petitioner claims in Paragraph 5.C. that, among other things, Richard Pitz does not have a sufficient personal interest to take an appeal.

Richard Pitz is entitled to take an appeal even though he does not live adjacent to the subject property and might not qualify as an "aggrieved person" if that were the standard. He is entitled to appeal under the relaxed county appeal provision.

The relevant rule here is Baltimore County Code Sec. 32-3-401, which states

> "A person aggrieved or feeling aggrieved by a decision of the Zoning Commissioner --now the ALJ per Sec. 3-12-104(b) -- … may appeal the decision or order to the Board of Appeals."

The addition of "feeling aggrieved" to "aggrieved" allows appeals by any person with an interest in the matter, even if they do not have the specific interest, typically involving proximity, to satisfy the stricter standard applicable to aggrieved persons.

Recently, the Court of Appeals explained this distinction instructively in another context. Accoceek v. Mattawoman, Piscataway Community Council v. Public Service Comm'n 351 Md. 1, 15 (2016). Judge Wilner addressed an appeal under a statute which

permits "a party or person in interest ... that is dissatisfied by a final order of the Commission [to] seek judicial review of the decision or order." He explained,

> "It does not require that a person be 'aggrieved' to seek judicial review. As long as the party may provide reasons for judicial review, then the party is 'dissatisfied.'

The same is true for the "feeling aggrieved' criterion under Code Sec. 32-3-401. It is apparent from the record, including ALJ John Beverungen's decision and Mr. Pitz's February 11, 2017 letter that he has reasons to oppose the variances which were granted.

II. Richard Pitz's Appeal is Legitimate

Petitioner contends in paragraph 5.B. that Mr. Pitz filed his appeal in a representative capacity, and as if he were an attorney, in violation of Maryland law, which makes the unauthorized practice of law a misdemeanor and subject to prosecution and fine. Petitioner also alleges in Paragraph 5.C. that Mr. Pitz's appeal cannot be read to encompass an appeal on Mr. Pitz's own behalf, which they would have to respect.

We do not read Mr. Pitz's appeal in this very harsh way. We respectfully disagree with Petitioner for several reasons.

First of all, as to the format of Richard Pitz's "citizens" appeal, it is reasonable to read it as including his own appeal as a citizen. The addition at the bottom of the page, with a hyphen and located like a footnote, of the word "representing" for the Essex-Middle River Civic Council and adjacent neighbors, is best understood as surplusage and superfluous, reflecting his active role and leadership with the Essex-Middle River Civic Council and adjacent neighbors as at the ALJ hearing..

Secondly, CBA Rule 3a requires the appeal "shall state the names and addresses of the persons taking the appeal." Mr. Pitz is the only one who signed the appeal and provided an address. There is no address for the Essex-Middle River Civic Council or anyone else. His reference to "we" necessarily includes himself as individual, as the only signatory. His reference to the original hearing is consistent with his individual participation at the ALJ level, taking a leadership role. He is not here purporting to act as an attorney. He did not act as an attorney for others at the ALJ level. He understands well that he may not and will not do so at the CBA. Rather, as at the ALJ hearing, he may take

an active role, while other citizens and the Essex-Middle River Civic Council may also attend, participate, and/or testify as interested parties.

In this context, the Court of Appeals has consistently held that the rules for participation in appeals are relaxed. Unless a statute or rule provides to the contrary, any person expressing an interest in the proceedings may participate as a party. The rule is much more lenient than the "standing" doctrine requisite for petitions in court. One of the landmark cases which explains this distinction is Dorsey v. Bethel AME Church 375 Md. 59, 72-74 (2003), attached. The case law goes back to such cases as Brashears v. Lindenbaum 189 Md. 619 628-29 (1948); Morris v. Howard Research and Development 278 Md. 417, 424-25 (1976) and extends to Md. Nat'l v. Smith 333 Md. 3, 10 (1993) and Sugarloaf Citizens v. Dep't of Environment 344 Md. 271, 286-87 (1996).

To sum up, as we understand it, the gist of Richard Pitz's appeal is that he has appealed individually. At the same time, he has an active leadership role, which he exercised rightly at the CBA and is in position to repeat at the CBA.

Petitioner's attempt to dismiss Richard Pitz' appeal is excessive, harsh and unfair, compounded with the claim that Mr. Pitz is guilty of a misdemeanor and subject to criminal prosecution. Petitioner's construction is an overly strict, slanted, and technical reading of the language and context. Such an approach is unwarranted, especially in the administrative law setting. It would be against law and justice to dismiss the appeal.

III. Mr. Pitz Was Not Required to Serve Petitioner with a Copy of His Appeal

Petitioner contends in Paragraph 5.A. that Mr. Pitz's appeal should be dismissed because he did not serve them a copy. They claim the appeal is a "pleading" which must be served. They say they were prejudiced and might have filed a cross-appeal had they been so served. But the Maryland Rules for service do not apply to administrative proceedings, including appeals to the County Board of Appeals. Maryland Rule 1-101(a).

Petitioner claims Mr. Pitz did not send them a copy of his timely appeal of the ALJ order when he filed it on January 26, 2017. As is customary, the Managing Administrative Law Judge promptly notified all parties by letter dated January 27, 2017. There is no requirement in the County Code for an appellant here to notify the other

parties directly. Code Sec. 32-3-401(c)(2). Nor is there any such requirement in the Rules of the Zoning Commissioner. BCZR Appendix G. In turn, CBA Rule 1.d. states,

> "All appeals to the board from decisions of the zoning commissioner or deputy zoning commissioner shall be in conformance with the rules of the zoning commissioner of Baltimore County with respect to the form of the appeal …."

In sum, there is nowhere in the Code or the respective rules a requirement for the appellant to notify the other parties directly and immediately. To be sure, it may be done as a courtesy, and this is our office's practice; but it is not required.

The longstanding practice is for the Office of Administrative Hearings is to notify all parties that an appeal has been taken. There have often been appeals where the first time our office finds out about is when Managing ALJ Stahl sends his written notice.

In a split judgment situation, if a party's decision to appeal may depend on whether the other side appeals, it is up to each party to check the docket and/or file its own appeal at least as a precaution.

In contrast, it is noteworthy that the Maryland Rules for judicial review of administrative agency decisions do provide in Rule 7-203(b),

> "If one party files a timely petition, any other party may filed a petition within ten days after the date the agency mailed notice of the filing of the first petition, or within the period set forth in section(a), which is later."

As noted, there is no such provision in the County Code to extend time for filing after the first petition is filed. Perhaps the County Council should consider enactment of such a provision. In any event, even if the CBA had equitable discretion to extend the filing period in a way comparable to Rule 7-203(b), it is now more than 2 months since Mr. Pitz's appeal was filed and Judge Stahl sent out his office's notice. It is now too late for a cross-appeal under any reasonable scenario.

IV. The Scope of Richard Pitz's Appeal: As Limited to the ALJ Grant of Variances on Lots 1 and 2

Petitioner contends in paragraph 5.D. that if the CBA accepts Mr. Pitz's appeal of the variances granted, then they should be able to litigate the issues denied. This contention is incorrect.

The Court of Appeals resolved long ago that it is permissible for a party to appeal a part of a split judgment of the Baltimore County Zoning Commissioner to the County Board of Appeals, even though there is *de novo* appellate jurisdiction. Daihl v. County Board of Appeals 265 Md. 227, 229 (1970). In a comparable situation, the Deputy Zoning Commissioner had granted a rezoning and variances to Lots 10 through 19 but denied the requested variances for Lots 22, 23, and 24. The protestants there filed a timely appeal which referred specifically to the part of the DZC judgment order granting the rezoning and partially granting the variances. Petitioners there did not appeal the partial denial of the variances. One of the questions presented related to the scope of the CBA appeal, whether limited to the Protestants' issues or carried forward as to all issues for both sides. Judge Finan wrote,

> "It certainly makes no sense or logic to argue that the protestants in perfecting their appeal intended to take an appeal from any action of the Deputy Commissioner other than that portion of his opinion granting the rezoning and variances to Lots 10 through 19, for the simple reason that the issues involving Lots Nos. 22, 23 and 24 were resolved in their favor. The wording of the following notice of appeal filed by the protestants with the Zoning Commissioner supports this reasoning:
>
> > 'Please note an Appeal from the portions of said Order granting the requested rezoning and variances to the Board of Appeals of Baltimore County on behalf of Earl S. Jones, et al., residents and protestants.' (Emphasis supplied.)"

After further discussion of the relevant zoning regulations, he added,

> "We think that the context in which the term de novo is used in Section 501.6 and 501.3 (both quoted above) means that on appeal there shall be a de novo hearing on those issues which have been appealed and not on every matter covered in the application. In this sense de novo means that the Board of Appeals may hear testimony and consider additional evidence pertaining to the issue or issues presented on appeal. See Vol. 2, The Law of Zoning and Planning, Rathkopf, ch. 65-30, s 7. The original nature of a de novo hearing with its quality of newness is in contradistinction to a review upon the record as exists where matters are heard on certiorari. 73 C.J.S. Public Administrative Bodies and Procedure s 204.
>
> * * *
>
> In the absence of any precedent to guide us, we think the more sensible interpretation of the meaning of the scope of a de novo hearing as used in relation to an appeal heard by the County Board of Appeals, from a decision of the Zoning Commissioner, is that it is restricted to the specific issue or issues resolved by the Commissioner from which an appeal has been taken. By exclusion, this may not encompass all issues which may have been resolved by the Commissioner in his decision, when more than one issue is involved. We think it is consonant with the concept of appeal, that it be coextensive with

> those issues concerning which the moving party or parties feel aggrieved. We are also buttressed in our reasoning on this matter by the knowledge that such hearings are adversary in nature and are ofttimes complicated. Furthermore, we are of the strong belief that an orderly procedural disposition of these matters requires specificity of the adverse ruling concerning which the aggrieved party seeks review.
>
> Accordingly, we are of the opinion that the County Board of Appeals did not have jurisdiction to review the Deputy Zoning Commissioner's denial of the petition for the reclassification in variances pertaining to Lots Nos. 22, 23 and 24, and that it was error to reverse his decision concerning this westernmost parcel."

Shortly thereafter, the Court confirmed and quoted Daihl in County Federal Sav. & Loan Assoc. v. Equitable Sav. & Loan Ass'n 261 Md. 246, 251-55 (1971). In another context, the Court quoted Daihl with approval and cited County Federal as confirmatory. Halle v. Crofton Civic Ass'n 339 Md. 131, 141-44 (1995).

There have been no material changes to the County Charter or zoning law regarding this issue. The CBA recently resolved a similar procedural controversy in the same way, declining to review the part of a split judgment which was not appealed. In the Matter of Richard and Susan Lehmann, Case No. 16-060-SPH. March 23, 2017 public deliberation minutes attached. The case awaits the opinion and order. Indeed, the Petitioners there had an equitable argument because ALJ Beverungen had decided against them on an issue which was not raised, briefed or argued.

In sum, the scope of the CBA's *de novo* appellate jurisdiction here is limited to the determination of whether it is appropriate to grant the petitioner's request for variances as to Lots 1 and 2. There is no jurisdiction to review the ALJ judgment on matters denied.

Conclusion

The County Board of Appeals should deny Petitioner Bird River Grove, LLC's motion to dismiss Richard Pitz' appeal as an individual. Mr. Pitz has not acted as an attorney or violated Maryland law. The scope of the *de novo* appeal is limited to review of the ALJ denial of the variances for Lots 1 and 2.

3/1/17

IN THE MATTER OF:	*	**BEFORE THE**
BIRD RIVER GROVE, LLC		
11319 Bird River Grove Road	*	**BOARD OF APPEALS**
15TH Election District	*	**OF**
6TH Councilmanic District		
	*	**BALTIMORE COUNTY**
Re: Appeal of Variances on Lots 1 & 2	*	**CBA-17-122 SPHA**

* * * * * * * * * * * * *

MOTION TO DISMISS

Bird River Grove, LLC, Appellee/Petitioner/Property Owner, by and through its attorneys Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, files this Motion to Dismiss the appeal of Rich Pitz, Appellant/Protestant, and for reasons states:

1. On December 30, 2016, Administrative Law Judge ("ALJ") John E. Beverungen of Baltimore County's Office of Administrative Hearings issued an Opinion and Order granting, in part, and denying, in part, zoning Petitions for Special Hearing and Variance for Property owned by the Petitioner and generally known as 11319 Bird River Grove Road.

2. On January 26, 2017, the Appellant filed a timely notice of appeal of ALJ Beverungen's Opinion and Order to the Board of Appeals ("Board"). That the single page letter evidencing the appeal was filed with the Office of Administrative Hearings and contains no certificate of service, verifying that the appeal was delivered to the Petitioner or its counsel. Indeed, the Petitioner (through its counsel) first learned of this

appeal on February 1, 2017 (33 days after the date of ALJ Beverungen's order) via the courtesy of the Board of Appeals.

3. The appeal states that it is instituted by certain "citizens". Later, the appeal identifies the "citizens" as "the Essex Middle River Civic Counsel and the adjacent neighbors".

4. The appeal further states that the matter appealed is the "petition for variances on lots 1 and 2".

5. The appeal is defective and should be summarily dismissed by the Board for the following reasons:

A. The letter of appeal was not served upon all interested parties. Notice of the appeal is akin to a pleading in a matter before the courts of this State. The Petitioner is prejudiced by this failure to provide notice of the appeal as it could not timely file a cross appeal.

B. Upon information and belief, Rich Pitz is not a member of the Bar of Maryland. He is not listed as such in the 2017 Maryland Lawyers Manual which lists those individuals "who are authorized to practice in the State." As such, he cannot "represent" other natural persons (i.e. the "adjacent neighbors") in matters before the Board. Neither can he represent other legal persons or entities (i.e. the Essex Middle River Civic Counsel). Pursuant to MD. Code Ann., Business Occupations and Professions ("BOP"), Sec. 10-206, only a member of the Bar can practice law in this State. The unauthorized practice of law is a misdemeanor and is subject to prosecution and fine (See BOP Sec. 10-606). The "practice of law" includes, "representing another person

before a unit of the State government or of a political subdivision" (BOP 10-101 (h) (1) (ii)). Thus, since there was no appeal filed by any individual (including the unidentified "adjacent neighbors") and no appeal filed by any attorney on behalf of the Essex Middle River Civic Counsel or anyone else, the appeal is defective and must be dismissed.

C. It is anticipated that Mr. Pitz may contend that the appeal was also filed on behalf of himself personally. But the letter of the appeal does not state such. Again, it notes that the appeal is filed by Mr. Pitz in a representative capacity; i.e. "representing the Essex Middle River Civic Counsel and the adjacent neighbors as mentioned in the original hearing." Admittedly, the standard for an individual to be an appellant in an administrative proceeding is easily attained, particularly when compared with the standing required to seek review in a court (See. *Anne Arundel Co. v. Bell,* 442 Md. 539 (2015). However, it is difficult to ascertain any personal interest that Mr. Pitz may have in this matter. His address is given as 808 Cold Spring Lane, Baltimore Maryland 21220. Upon information and belief, that is over seven miles (as the crow flies) from the subject property.

D. Finally, the appeal is purportedly only as to specific issues (i.e. the granting of variances for lots 1 and 2). The appeal to the Board is, obviously, de novo. (See Baltimore County Charter §603). As is well settled, de novo appeals to the Board result in a hearing and consideration by the Board of all issues relevant to the underlying petitions. Thus, the issues presented below (in their entirety) are subject to the Board's review and the Appellant cannot limit his appeal to specific issues, only. The Petitioner should be permitted to raise any issue anew (including the relief denied

by ALJ Beverungen) before the Board. A cross appeal is not required. Moreover, as indicated herein above, it could not be filed because the Appellant did not properly deliver a copy of the appeal to the Petitioner and/or its counsel.

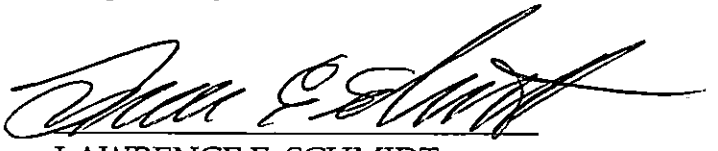
WHEREFORE; the Petitioner requests:

1. That the appeal filed by Rich Pitz of the Opinion and Order of ALJ John E. Beverungen dated December 30, 2016 be DISMISSED, with prejudice; or,

2. If the appeal is allowed to move forward, that the Appellant be identified as Rich Pitz, individually, only and that the appeal be considered de novo, so that the Petitioner can raise all issues as raised below to the Board; and/or,

3. For such other and further relief as the nature of its cause may require.

Respectfully Submitted,



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(410) 821-0070
Attorneys for Bird River Grove, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 1st day of March, 2017, a copy of the foregoing Motion to Dismiss was mailed, postage pre-paid, to:

Mr. Rich Pitz
808 Cold Spring Road
Baltimore, MD 21220

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue
Towson, MD 21204

LAWRENCE E. SCHMIDT

12/30/16

IN RE: **PETITIONS FOR SPECIAL HEARING AND VARIANCE**	*	BEFORE THE
(11319 Bird River Grove Road)	*	OFFICE OF
15th Election District		
6th Council District	*	ADMINISTRATIVE HEARINGS
Bird River Grove, LLC.		
Owner	*	FOR BALTIMORE COUNTY
Petitioner		
	*	**Case No. 2017-0122-SPHA**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Brid River Grove, LLC, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) as follows: (1) Lot 1: (a) To confirm Lot 1 is a "lot record"; (b) To confirm Lot 1 is not being created; and (c) To confirm Lot 1 can be approved [sic] with a detached single family dwelling as a non-conforming lot of record; (2) Lot 2: (a) To confirm Lot 2 is a "lot of record"; (b) To confirm Lot 2 is not being created; and (c) To confirm Lot 2 can be approved [sic] with a detached single family dwelling as a non-conforming lot of record; and (3) Lots 3 and 4: (a) To permit the consolidation of two existing lots of record to become a single lot which can be improved with a detached single family dwelling.

In addition, a Petition for Variance seeks: (a) Lot 1: (a) To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to a street centerline of 30 ft. +/- in lieu of the required 75 ft.; (c) To allow an open projection (deck) to extend into yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.); and (d) As an alternative to the Special Hearing Relief, to allow a lot with an area of 16,031 sq. ft. (0.368 acres) in lieu of the required 1 acre; (2) Lot 2: (a) To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22

ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to a street centerline of 34.5 ft. in lieu of the required 75 ft.; (c) As an alternative to the Special Hearing Relief, to allow a lot with an area of 6,316 sq. ft. (0.144 acres) in lieu of the required 1 acre; and (d) To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.); and (3) Lots 3 and 4: (a) To allow a principal building (dwelling) with a setback of 14 ft. +/- and 20 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to a street centerline of 25 ft. +/- in lieu of the required 75 ft.; (c) To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 8 ft. +/- in lieu of the required 26.25.ft.); and (d) As an alternative to the Special Hearing Relief, to allow a lot with an area of 10,598 sq. ft. (0.243 acres) in lieu of the required 1 acre. A site plan was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the requests was Dan Koch and professional engineer William Bafitis. Lawrence E. Schmidt, Esq. represented the Petitioner. Several neighbors attended the hearing and opposed the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR), the Department of Environmental Protection and Sustainability (DEPS) and the Department of Planning (DOP). None of these agencies opposed the requests, although they provided proposed conditions for inclusion in the final order.

The subject property is 32,945 square feet, or approximately ¾ acre in size. The property is zoned RC-2, and is part of the Bird River Grove subdivision, the plat for which was recorded in 1925. The property is improved with a single-family dwelling which is uninhabitable. Petitioner proposes to subdivide the property into 4 lots and to construct 3 new single-family

dwellings thereon. The subdivision of the property would be accomplished through the County's development process. This case is essentially one for a declaratory judgment, in that Petitioner seeks a determination of the number of lots which can be created on the subject property.

SPECIAL HEARING

Petitioner's presentation focused on each of the four proposed lots, although I believe for purposes of the analysis which follows Lots 1 and 2 can be considered together, as can proposed Lots 3 and 4. Both Lots 1 (0.368 AC.) and 2 (0.145 AC.) shown on the site plan prepared by Mr. Bafitis (Petitioner's Ex. No. 1) were created in 1925 by the Plat of Bird River Grove (Petitioner's Ex. No. 2). This was long before the adoption of the B.C.Z.R. and, more specifically, the R.C. 2 category in 1979. As such, both Lots 1 and 2 are "lots of record" which can be improved with dwellings, provided all other zoning, development and environmental regulations are satisfied.

As noted above, Lot 1 is improved with a single-family dwelling which will be razed, and Petitioner proposes to construct a new dwelling on roughly the same footprint. Tax records show the house was constructed in 1950, and I believe the nonconforming dilapidated structure can be rebuilt under B.C.Z.R. §104 without any zoning relief. Even so, Petitioner has requested certain setback variances in connection with the proposed dwelling on Lot 1 which are discussed in the next section of this memorandum.

Lot 2 is also shown on the 1925 plat, and a structure of some sort apparently existed on this lot when the plat was recorded. At present the lot is unimproved although Petitioner proposes to construct thereon a 1,200 sq. ft. two-story dwelling. Since the lot was created long before adoption of the RC-2 regulations, I believe Petitioner is entitled to construct a dwelling on the lot even though it does not satisfy the minimum lot size in the current R.C.2 regulations. As with

Lot 1, Petitioner requests certain setback variances in connection with this proposed dwelling, which are discussed below.

I believe proposed lots 3 & 4 stand on entirely different footing. These lots are not shown on the 1925 Bird River Grove plat, and it does not appear as if the plat was ever amended to add these additional lots. According to Petitioner these "lots" are comprised of accreted land which was adversely possessed by its predecessors in title. Lot 3 is first described in confirmatory and quitclaim deeds recorded in 1982 and 1983. Petitioner's Ex. No. 6 (Liber 6428, folio 274 and 6592/703). Lot 4 is first described in a 1987 quitclaim deed recorded at Liber 7562, folio 450. As such, these do not qualify as "lots of record" under B.C.Z.R. §101.1, since they were created after the 1979 "effective date of the zoning regulation [i.e., R.C.2] which governs the use, subdivision or other condition thereof." Proposed lots 3 (0.068 AC.) and 4 (0.175 AC.) do not comply with current R.C. 2 zoning requirements and cannot be improved with dwellings.

VARIANCE

A variance request involves a two-step process, summarized as follows:

(1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
(2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. Lot Nos. 1 and 2 are waterfront and irregularly shaped. As such they are unique. Petitioner would experience practical difficulty if the regulations were strictly interpreted because it would be unable to construct dwellings on the lots. Finally, I do not believe granting the requests would have a detrimental impact upon the community. This is demonstrated

by the lack of County agency opposition, and the resulting density would not exceed that envisioned by the 1925 Plat.

THEREFORE, IT IS ORDERED this **30th** day of December**, 2016**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) as follows: (1) Lot 1: (a) To confirm Lot 1 is a "lot record"; (b) To confirm Lot 1 is not being created per B.C.Z.R. §1A01.3.B.2.; and (c) To confirm Lot 1 can be improved with a detached single-family dwelling as a non-conforming lot of record; (2) Lot 2: (a) To confirm Lot 2 is a "lot of record"; (b) To confirm Lot 2 is not being created per B.C.Z.R. §1A01.3.B.2; and (c) To confirm Lot 2 can be improved with a detached single-family dwelling as a non-conforming lot of record, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Special Hearing as to proposed Lots 3 and 4, to permit the consolidation of two existing lots of record to become a single lot which can be improved with a detached single family dwelling, be and is hereby DENIED.

IT IS FURTHER ORDERED that the petition for variance: Lot 1: (a) To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to a street centerline of 30 ft. +/- in lieu of the required 75 ft.; and (c) To allow an open projection (deck) to extend into yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.; Lot 2: (a) To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to a street centerline of 34.5 ft. in lieu of the required 75 ft.; and (c) To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the

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The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Prior to issuance of permits Petitioner must comply with critical area and flood protection regulations.

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

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

ORDER RECEIVED FOR FILING
Date 12/30/16
By SLN

1 / 10 AU-16
JB

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(11319 Bird River Grove Road)	*	OFFICE OF
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maximum permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: Lots 3 and 4: (a) To allow a principal building (dwelling) with a setback of 14 ft. +/- and 20 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to a street centerline of 25 ft. +/- in lieu of the required 75 ft.; (c) To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 8 ft. +/- in lieu of the required 26.25.ft.); and (d) As an alternative to the Special Hearing Relief, to allow a lot with an area of 10,598 sq. ft. (0.243 acres) in lieu of the required 1 acre, be and is hereby DENIED.

The relief granted herein shall be subject to and conditioned upon the following:

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JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

by the lack of County agency opposition, and the resulting density would not exceed that envisioned by the 1925 Plat.

THEREFORE, IT IS ORDERED this 30th day of December, **2016**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) as follows: (1) Lot 1: (a) To confirm Lot 1 is a "lot record"; (b) To confirm Lot 1 is not being created per B.C.Z.R. §1A01.3.B.2.; and (c) To confirm Lot 1 can be improved with a detached single-family dwelling as a non-conforming lot of record; (2) Lot 2: (a) To confirm Lot 2 is a "lot of record"; (b) To confirm Lot 2 is not being created per B.C.Z.R. §1A01.3.B.2; and (c) To confirm Lot 2 can be improved with a detached single-family dwelling as a non-conforming lot of record, be and is hereby GRANTED.

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CBCA

PETITION FOR ZONING HEARING(S)

FLOOD

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 11319 Bird River Grove Road **which is presently zoned** RC 2

Deed References: 24000/00425 10 Digit Tax Account # 1513750330, 1513750331, 1900007212, 2500000033

Property Owner(s) Printed Name(s) Bird River Grove LLC

(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

Please see attached.

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

3. ✓ **a Variance** from Section(s)

Please see attached.

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

ORDER RECEIVED FOR FILING
Date 12/30/16
By DSR

Legal Owners (Petitioners):

Dan Koch, Authorized Rep. of Bird River Grove, LLC
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

7909 Greenspring Avenue Baltimore MD
Mailing Address City State

21208 410-580-1122 greenspringservices@gmail.com
Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD
Mailing Address City State

21204 (410) 821-0070 lschmidt@sgs-law.com
Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Name – Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD
Mailing Address City State

21204 (410) 821-0070 lschmidt@sgs-law.com
Zip Code Telephone # Email Address

CASE NUMBER 2017-0122-SPHA **Filing Date** 10/28/2016 **Do Not Schedule Dates:** _____ **Reviewer** JNS

REV. 10/4/11

ATTACHMENT TO PETITION FOR ZONING HEARING

11319 Bird River Grove Road
15th Election District
6th Councilmanic District

Special Hearing:

1. **Lot 1**
   a. To confirm Lot 1 is a "lot of record" per BCZR § 101.1;

   b. To confirm Lot 1 is not being created per BCZR §1A01.3.B.2;

   c. To confirm Lot 1 can be approved with a detached single family dwelling as a non-conforming lot of record; and

2. **Lot 2**
   a. To confirm Lot 2 is a "lot of record" per BCZR § 101.1;

   b. To confirm Lot 2 is not being created per BCZR §1A01.3.B.2;

   c. To confirm Lot 2 can be approved with a detached single family dwelling as a non-conforming lot of record; and

3. **Lots 3 and 4**
   a. To permit the consolidation of two existing lots of record to become a single lot which can be improved with a detached single family dwelling; and

4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Variance:

1. **Lot 1**
   a. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a setback of 16 feet +/- and 34 feet +/- to a property line in lieu of the required 35 feet;

   b. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a setback to a street centerline of 30 feet +/- in lieu of the required 75 feet;

2017-0122-SPHA

c. Per BCZR §301.1 to allow an open projection (deck) to extend into yard area by a distance of 18.5 feet in lieu of the maximum permitted 8.75 feet; (with a setback of 17 feet +/- in lieu of 26.25 feet)

d. As an alternative to the Special Hearing Relief, pursuant to BCZR § 1A01.3.B.2, to allow a lot with an area of 16,031 square feet (0.368 acres) in lieu of the required 1 acre; and

2. Lot 2

a. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a setback of 14 feet +/-, 17 feet +/- and 22 feet +/- to a property line in lieu of the required 35 feet;

b. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a setback to a street centerline of 34.5 feet in lieu of the required 75 feet;

c. As an alternative to the Special Hearing Relief, pursuant to BCZR § 1A01.3.B.2, to allow a lot with an area of 6,316 square feet (0.144 acres) in lieu of the required 1 acre.

d. Per BCZR §301.1 to allow an open projection (deck) to extend into yard area by a distance of 10 feet in lieu of the maximum permitted 8.75 feet; (with a setback as little as 14 feet in lieu of the required 26.25 feet)

3. Lots 3 and 4

a. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a setback of 14 feet +/- and 20 feet +/- to a property line in lieu of the required 35 feet;

b. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a setback to a street centerline of 25 feet +/- in lieu of the required 75 feet;

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d. As an alternative to the Special Hearing Relief, pursuant to BCZR § 1A01.3.B.2, to allow a lot with an area of 10,598 square feet (0.243 acres) in lieu of the required 1 acre.

4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

2017-0122-SPHA

Bafitis & Associates, Inc.

ZONING DESCRIPTION
FOR
BIRD RIVER GROVE, LLC
LOT NO. 1

Beginning at a point on the East side of Bird River Grove Road 25' (R/W), and 6,428' ± Northwesterly to the centerline intersection of Ebenezer Road (R/W) varies;

Being Lot No. 1, Section A in the Subdivision Bird River Grove as recorded in Baltimore County Plat Book 07, Folio 189,

Containing 16,031 S.F. or 0.368 AC, ± located in the 15th Election District and the 6th Council District.

STATE OF MARYLAND
WILLIAM NICHOLAS BAFITIS
No. 11641
PROFESSIONAL ENGINEER

William N. Bafitis, P.E. Md. Reg . #11641

Seal

2017-0122-SPHA

Bafitis & Associates, Inc.

ZONING DESCRIPTION
FOR
BIRD RIVER GROVE, LLC
LOT NO. 2

Beginning at a point on the East side of Bird River Grove Road 25' (R/W), and 6,363' ± Northwesterly to the centerline intersection of Ebenezer Road (R/W varies.

Being Lot 2, Section A in the Subdivision Bird River Grove as recorded in Baltimore County Plat Book 07, Folio 189.

Containing 6,316 S.F. or 0.145 AC. ±, located in the 15th Election District and the 6th Council District.

William N. Bafitis, P.E. Md. Reg. No. 11641

Seal

2017-0122-SPHA

Bafitis & Associates, Inc.

ZONING DESCRIPTION
FOR
BIRD RIVER GROVE, LLC
LOT NO. 3 & 4

Beginning at a point on the South side of Bird River Grove Road 25' (R/W), and 6,174' ± Northwesterly to the centerline intersection of Ebenezer Road (R/W) varies;

Thence leaving said point of beginning and running along Bird River Grove Road the following three courses and distances;

1) South 61°-21'-30" East 34.19' to a point;

2) South 14°-35'-45" East 35.39' to a point;

3) South 15°-34'-19" West 151.90 ' to a point;

Thence leaving said road;

4) North 54°-32'-40" West 61.34' to a point; along the waters of Bird River;

Thence running along said river the following two courses and distances;

5) North 04°-55'-36" West 81.00' to a point;

6) North 04°-41'-27' West 24.55' to a point;

Thence leaving said river;

7) North 28°-38'-30" East 81.62' to the point of beginning;

Containing 10,598 S.F. or 0.243 Ac. ±

William N. Bafitis P.E. Md. Reg. No. 11641

Seal

2017-0122-SPHA

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

Nº 143322

Date: 1/26/17

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				265.00

Total: 265.00

Rec From: Lynda & Timothy Prestianni

For: 2017-0122-SPHA (Variance only)
11319 Bird River Grove Rd
CK# 5162

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

PAID RECEIPT
BUSINESS ACTUAL TIME
1/27/2017 1/26/2017 12:26:57
REG WS02 WALKIN JEE
>>RECEIPT # 998888 1/26/2017 OFLH
Dept 5 528 ZONING VERIFICATION
CR NO. 143322
Recpt Tot $265.00
$265.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

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

No 145730

Date: 10/28/2016

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				450.00

Total: 450.00

Rec From: Smith, Gildea & Schmidt, LLC

For: SPHA - 11319 Bird River Grove Rd. (Lots 1-4)
2017-0122-SPHA (Bird River Grove, LLC)

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

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
10/31/2016	10/28/2016	10:51:31	3

REG WS03 WALKIN CAM
>>RECEIPT # 702663 10/28/2016 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 145730
Recpt Tot $450.00
$450.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS
DATE: 12/1/2016
Case Number: 2017-0122-SPHA
Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. ~ DAN KOCH
Date of Hearing (Closing): DECEMBER 20, 2016

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:
11319 BIRD RIVER GROVE ROAD

The sign(s) were posted on: NOVEMBER 30, 2016

SIGN # (A)

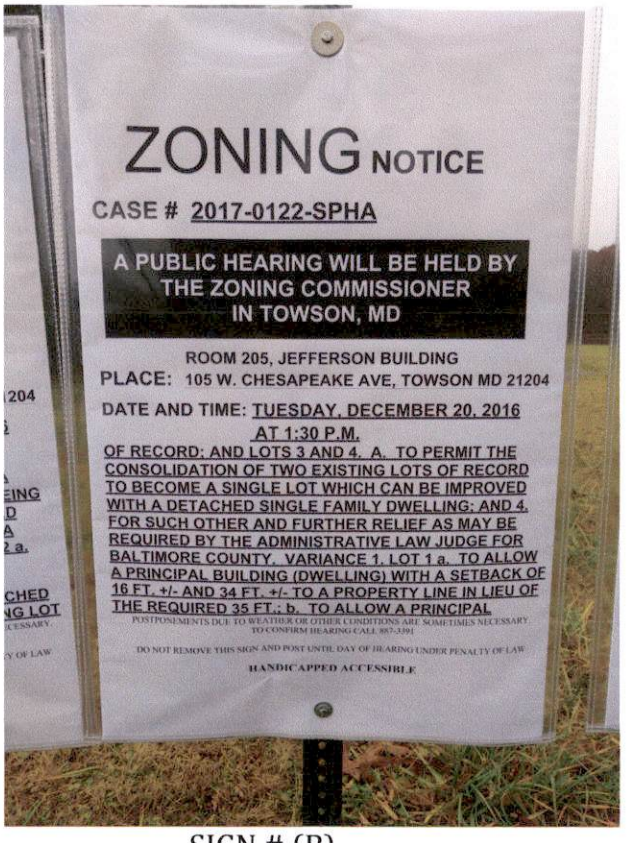
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

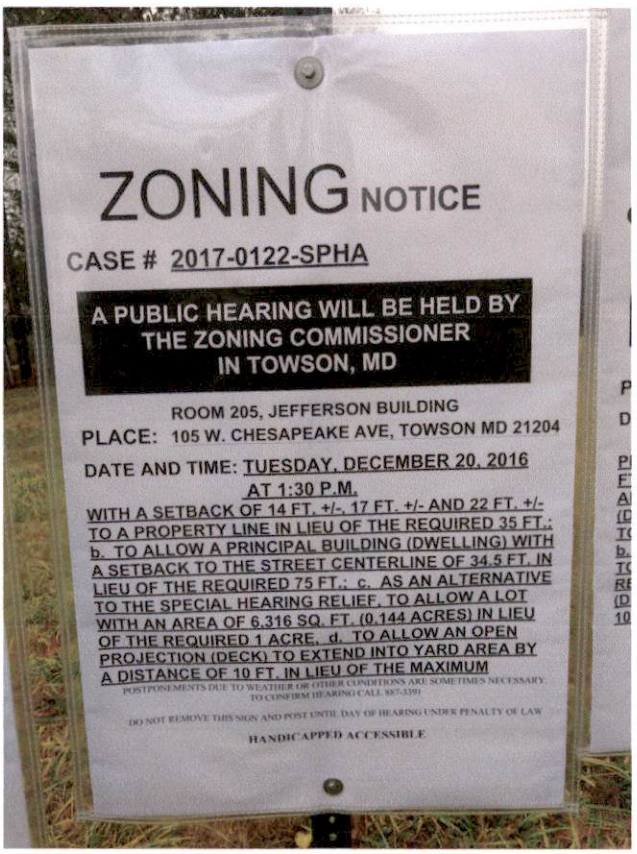
410 – 666 – 5366
(Telephone Number of Sign Poster)


ZONING NOTICE
CASE # 2017-0122-SPHA
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
DATE AND TIME: TUESDAY, DECEMBER 20, 2016 AT 1:30 P.M.
OF RECORD; AND LOTS 3 AND 4. A. TO PERMIT THE CONSOLIDATION OF TWO EXISTING LOTS OF RECORD TO BECOME A SINGLE LOT WHICH CAN BE IMPROVED WITH A DETACHED SINGLE FAMILY DWELLING; AND 4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY. VARIANCE 1. LOT 1 a. TO ALLOW A PRINCIPAL BUILDING (DWELLING) WITH A SETBACK OF 16 FT. +/- AND 34 FT. +/- TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35 FT.; b. TO ALLOW A PRINCIPAL
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY. TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

SIGN # (B)


ZONING NOTICE
CASE # 2017-0122-SPHA
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
DATE AND TIME: TUESDAY, DECEMBER 20, 2016 AT 1:30 P.M.
BUILDING (DWELLING) WITH A SETBACK TO A STREET CENTERLINE OF 30 FT. +/- IN LIEU OF THE REQUIRED 75 FT.; c. TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO YARD AREA BY A DISTANCE OF 18.5 FT. IN LIEU OF THE MAXIMUM PERMITTED 8.75 FT. (WITH A SETBACK OF 17 FT. +/- IN LIEU OF 26.25 FT.; d. AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, TO ALLOW A LOT WITH AN AREA OF 16, 031 SQ. FT. (0.368 ACRES) IN LIEU OF THE REQUIRED 1 ACRE; AND 2. LOT 2 A. TO ALLOW A PRINCIPAL BUILDING (DWELLING)
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY. TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

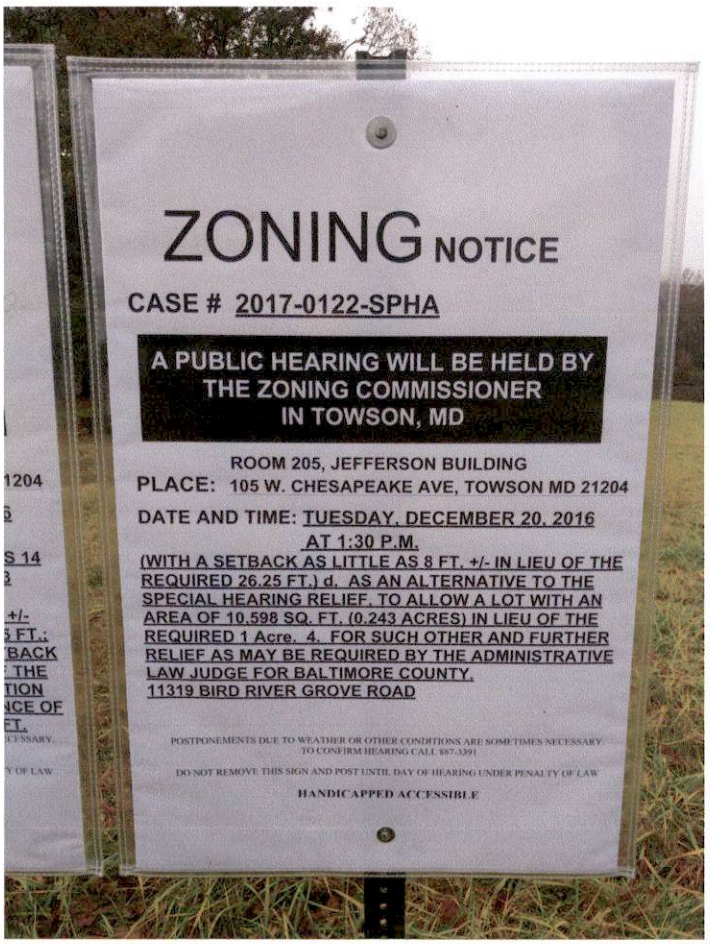
SIGN # (C)


ZONING NOTICE
CASE # 2017-0122-SPHA
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
DATE AND TIME: TUESDAY, DECEMBER 20, 2016 AT 1:30 P.M.
WITH A SETBACK OF 14 FT. +/-, 17 FT. +/- AND 22 FT. +/- TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35 FT.; b. TO ALLOW A PRINCIPAL BUILDING (DWELLING) WITH A SETBACK TO THE STREET CENTERLINE OF 34.5 FT. IN LIEU OF THE REQUIRED 75 FT.; c. AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, TO ALLOW A LOT WITH AN AREA OF 6,316 SQ. FT. (0.144 ACRES) IN LIEU OF THE REQUIRED 1 ACRE, d. TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO YARD AREA BY A DISTANCE OF 10 FT. IN LIEU OF THE MAXIMUM
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

SIGN # (D)


ZONING NOTICE
CASE # 2017-0122-SPHA
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
DATE AND TIME: TUESDAY, DECEMBER 20, 2016 AT 1:30 P.M.
PERMITTED 8.75 FT. (WITH A SETBACK AS LITTLE AS 14 FT. IN LIEU OF THE REQUIRED 26.25 FT.) 3. LOTS 3 AND 4. A. TO ALLOW A PRINCIPAL BUILDING (DWELLING) WITH A SETBACK OF 14 +/- AND 20 FT. +/- TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35 FT.; b. TO ALLOW A PRINCIPAL DWELLING WITH A SETBACK TO A STREET CENTERLINE OF 25 FT. +/- IN LIEU OF THE REQUIRED 75 FT. c. TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO YARD AREA BY A DISTANCE OF 10 FT. IN LIEU OF THE MAXIMUM PERMITTED 8.75 FT.
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

SIGN # (E)


ZONING NOTICE
CASE # 2017-0122-SPHA
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
ROOM 205, JEFFERSON BUILDING
PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204
DATE AND TIME: TUESDAY, DECEMBER 20, 2016 AT 1:30 P.M.
(WITH A SETBACK AS LITTLE AS 8 FT. +/- IN LIEU OF THE REQUIRED 26.25 FT.) d. AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, TO ALLOW A LOT WITH AN AREA OF 10,598 SQ. FT. (0.243 ACRES) IN LIEU OF THE REQUIRED 1 Acre. 4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.
11319 BIRD RIVER GROVE ROAD
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

SIGN # (F)

11319 BIRD RIVER GROVE ROAD

THE BALTIMORE SUN MEDIA GROUP

501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 4616601

Sold To:
Smith Gildea & Schmidt LLC - CU00433777
600 Washington Ave Ste 200
TOWSON,MD 21204

Bill To:
Smith Gildea & Schmidt LLC - CU00433777
600 Washington Ave Ste 200
TOWSON,MD 21204

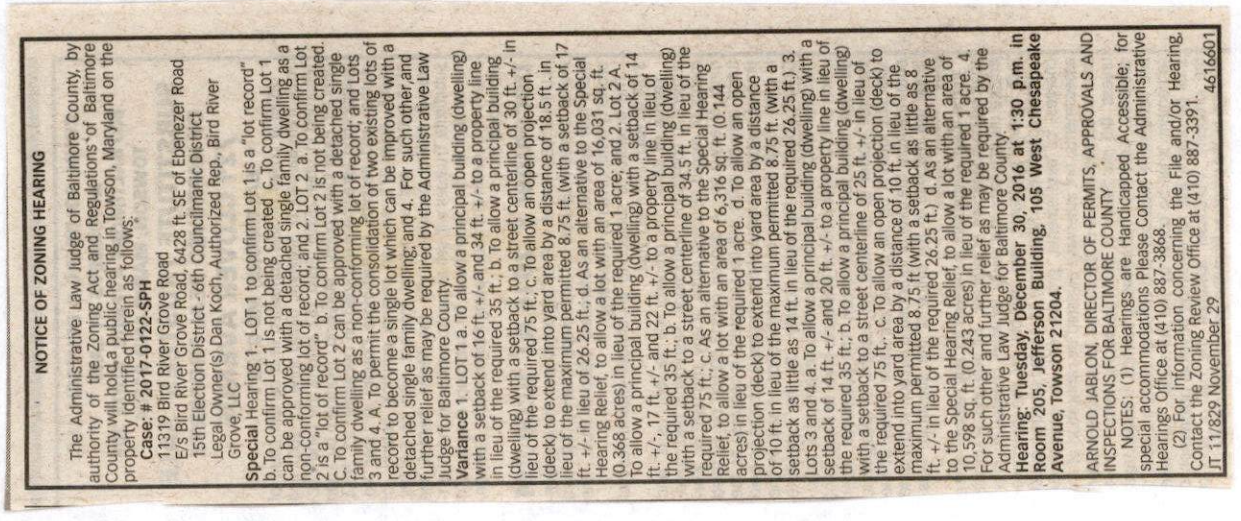
Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Nov 29, 2016

The Baltimore Sun Media Group

By S. Wilkinson

Legal Advertising



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: # 2017-0122-SPH
11319 Bird River Grove Road
E/s Bird River Grove Road, 6428 ft. SE of Ebenezer Road
15th Election District - 6th Councilmanic District
Legal Owner(s) Dan Koch, Authorized Rep., Bird River Grove, LLC

Special Hearing 1. LOT 1 to confirm Lot 1 is a "lot record" b. To confirm Lot 1 is not being created c. To confirm Lot 1 can be approved with a detached single family dwelling as a non-conforming lot of record; and 2. LOT 2 a. To confirm Lot 2 is a "lot of record" b. To confirm Lot 2 is not being created. C. To confirm Lot 2 can be approved with a detached single family dwelling as a non-conforming lot of record; and Lots 3 and 4. A. To permit the consolidation of two existing lots of record to become a single lot which can be improved with a detached single family dwelling; and 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Variance 1. LOT 1 a. To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 30 ft. +/- in lieu of the required 75 ft.; c. To allow an open projection (deck) to extend into yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.; d. As an alternative to the Special Hearing Relief, to allow a lot with an area of 16,031 sq. ft. (0.368 acres) in lieu of the required 1 acre; and 2. Lot 2 A. To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 34.5 ft. in lieu of the required 75 ft.; c. As an alternative to the Special Hearing Relief, to allow a lot with an area of 6,316 sq. ft. (0.144 acres) in lieu of the required 1 acre. d. To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.) 3. Lots 3 and 4. a. To allow a principal building (dwelling) with a setback of 14 ft. +/- and 20 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 25 ft. +/- in lieu of the required 75 ft.; c. To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft (with a setback as little as 8 ft. +/- in lieu of the required 26.25 ft.) d. As an alternative to the Special Hearing Relief, to allow a lot with an area of 10,598 sq. ft. (0.243 acres) in lieu of the required 1 acre. 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, December 30, 2016 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

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

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

JT 11/829 November 29 4616601

TO: PATUXENT PUBLISHING /PANY
Tuesday, November 29, 2016 Issue - Jeffersonian

Please forward billing to:
Lawrence Schmidt 410-821-0070
Smith, Gildea & Schmidt
600 Washington Avenue, Ste. 200
Towson, MD 21204

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: 2017-0122-SPH
11319 Bird River Grove Road
E/s Bird River Grove Road, 6428 ft. SE of Ebenezer Road
15th Election District – 6th Councilmanic District
Legal Owners: Dan Koch, Authorized Rep., Bird River Grove, LLC

Special Hearing 1. LOT 1 to confirm Lot 1 is a "lot record" b. To confirm Lot 1 is not being created c. To confirm Lot 1 can be approved with a detached single family dwelling as a non-conforming lot of record; and 2. LOT 2 a. To confirm Lot 2 is a "lot of record" b. To confirm Lot 2 is not being created. C. To confirm Lot 2 can be approved with a detached single family dwelling as a non-conforming lot of record; and Lots 3 and 4. A. To permit the consolidation of two existing lots of record to become a single lot which can be improved with a detached single family dwelling; and 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County. **Variance** 1. LOT 1 a. To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 30 ft. +/- in lieu of the required 75 ft.; c. To allow an open projection (deck) to extend into yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.; d. As an alternative to the Special Hearing Relief, to allow a lot with an area of 16,031 sq. ft. (0.368 acres) in lieu of the required 1 acre; and 2. Lot 2 A. To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 34.5 ft. in lieu of the required 75 ft.; c. As an alternative to the Special Hearing Relief, to allow a lot with an area of 6,316 sq. ft. (0.144 acres) in lieu of the required 1 acre. d. To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.) 3. Lots 3 and 4. a. To allow a principal building (dwelling) with a setback of 14 ft. +/- and 20 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 25 ft. +/- in lieu of the required 75 ft. c. To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 8 ft. +/- in lieu of the required 26.25.ft.) d. As an alternative to the Special Hearing Relief, to allow a lot with an area of 10,598 sq. ft. (0.243 acres) in lieu of the required 1 acre. 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, December 20, 2016 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

KEVIN KAMENETZ
County Executive

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

November 21, 2016

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: 2017-0122-SPHA
11319 Bird River Grove Road
E/s Bird River Grove Road, 6428 ft. SE of Ebenezer Road
15th Election District – 6th Councilmanic District
Legal Owners: Dan Koch, Authorized Rep., Bird River Grove, LLC

Special Hearing 1. LOT 1 to confirm Lot 1 is a "lot record" b. To confirm Lot 1 is not being created c. To confirm Lot 1 can be approved with a detached single family dwelling as a non-conforming lot of record; and 2. LOT 2 a. To confirm Lot 2 is a "lot of record" b. To confirm Lot 2 is not being created. C. To confirm Lot 2 can be approved with a detached single family dwelling as a non-conforming lot of record; and Lots 3 and 4. A. To permit the consolidation of two existing lots of record to become a single lot which can be improved with a detached single family dwelling; and 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County. **Variance** 1. LOT 1 a. To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 30 ft. +/- in lieu of the required 75 ft.; c. To allow an open projection (deck) to extend into yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.; d. As an alternative to the Special Hearing Relief, to allow a lot with an area of 16,031 sq. ft. (0.368 acres) in lieu of the required 1 acre; and 2. Lot 2 A. To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 34.5 ft. in lieu of the required 75 ft.; c. As an alternative to the Special Hearing Relief, to allow a lot with an area of 6,316 sq. ft. (0.144 acres) in lieu of the required 1 acre. d. To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.) 3. Lots 3 and 4. a. To allow a principal building (dwelling) with a setback of 14 ft. +/- and 20 ft. +/- to a property line in lieu of the required 35 ft.; b. To allow a principal building (dwelling) with a setback to a street centerline of 25 ft. +/- in lieu of the required 75 ft. c. To allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 8 ft. +/- in lieu of the required 26.25.ft.) d. As an alternative to the Special Hearing Relief, to allow a lot with an area of 10,598 sq. ft. (0.243 acres) in lieu of the required 1 acre. 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, December 20, 2016 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director

AJ:kl

C: Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
Dan Koch, Bird River Grove, LLC, 7909 Greenspring Avenue, Baltimore 21208

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, NOVEMBER 30, 2016.**

(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.

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

February 16, 2017

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Bird River Grove, LLC
11319 Bird River Grove Road
17-122-SPHA 15th Election District; 6th Councilmanic District

Re: Petitions for Special Hearing and Variance to confirm 4 lots of record, and setbacks for building 3 single family dwellings.

12/30/16 Opinion and Order issued by the Administrative Law Judge wherein the requested relief was granted in part and denied in part.

1/26/17 Notice of Appeal filed by Citizen/Protestants with regard to Petition for Variances on Lots 1 and 2 which were granted by the Administrative Law Judge.

ASSIGNED FOR: **THURSDAY, APRIL 13, 2017, AT 10:00 A.M.**

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

NEW! Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.

NEW! Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington, Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner/Legal Owner : Bird River Grove, LLC

Protestants : Rich Pitz, Tim Prestianni, Michael Rhea, Janet and Peter Terry, and the Essex Middle River Civic Counsel

William Bafitis, P.E., Bafitis & Associates, Inc.

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

April 19, 2017

NOTICE OF PUBLIC DELIBERATION

IN THE MATTER OF: Bird River Grove, LLC
11319 Bird River Grove Road
17-122-SPHA 15th Election District; 6th Councilmanic District

Re: Petitions for Special Hearing and Variance to confirm 4 lots of record, and setbacks for building 3 single family dwellings.

12/30/16 Opinion and Order issued by the Administrative Law Judge wherein the requested relief was granted in part and denied in part.

1/26/17 Notice of Appeal filed by Citizen/Protestants with regard to Petition for Variances on Lots 1 and 2 which were granted by the Administrative Law Judge.

This matter having been heard on and concluded on April 13, 2017, a public deliberation has been scheduled for the following:

DATE AND TIME: TUESDAY, MAY 9, 2017 at 9:30 a.m.

LOCATION: Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. ATTENDANCE IS NOT REQUIRED AND PARTICIPATION IS NOT ALLOWED. A WRITTEN OPINION AND/OR ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner/Legal Owner : Bird River Grove, LLC

Protestants : Rich Pitz, Tim Prestianni, Michael Rhea, Janet and Peter Terry, and the Essex Middle River Civic Counsel

William Bafitis, P.E., Bafitis & Associates, Inc.

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

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/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 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: 2017-0122-SPHA

Property Address: 11319 Bird River Grove Road

Property Description: Lots 1-4

Legal Owners (Petitioners): Bird River Grove, LLC

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Lawrence E. Schmidt, Esquire

Company/Firm (if applicable): Smith, Gildea & Schmidt, LLC

Address: 600 Washington Avenue, Suite 200

Towson, MD 21204

Telephone Number: 410-821-0070

Revised 5/20/2014

KEVIN KAMENETZ
County Executive

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

December 15, 2016

Bird River Grove LLC
Dan Koch
7909 Greenspring Avenue
Baltimore MD 21208

RE: Case Number: 2017-0122 SPHA, Address: 11319 Bird River Grove Road

Dear Mr. Koch:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 28, 2016. 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Lawrence E Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson MD 21204

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

State Highway Administration
Maryland Department of Transportation

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

Date: 11/9/16

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

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. 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 Case No. 2017-0122-SPHA -
Special Hearing Variance
Bird River Grove LLC, Don Koch
11319 Bird River Grove Road.

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,

Richard A. Zeller

Wendy Wolcott, PLA
Acting Metropolitan District Engineer – District 4
Baltimore & Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 12/7/2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 17-122

INFORMATION:
Property Address: 11319 Bird River Grove Road
Petitioner: Dan Koch
Zoning: RC 2
Requested Action: Special Hearing, Variance

The Department of Planning has reviewed the petition for a special hearing to determine whether or not the Administrative Law Judge should confirm Lots 1 and 2 are a "lot of record", are not being created per Section 1A01.3.B.2 of the BCZR, can be approved with a detached single family dwelling as a non-conforming lot of record and to permit the consolidation of lots 3 and 4, two existing lots of record, to become a single lot which can be improved with a detached single family dwelling. The Department also reviewed the petition for variance as listed on the attachment submitted in support of the petition.

A site visit was conducted on November 15, 2016.

No certified deed history or mosaic for the subject lots showing the integrity of their boundaries since 1979 was submitted in support of the petition. The Department defers all matters raised by the petition for special hearing to the decision and order of the Administrative Law Judge for Baltimore County arrived at through the hearing process.

The Department has no objection to granting the petitioned variance relief conditioned upon the following:

- The petitioners shall indicate on the plan the front orientations for the proposed dwellings and submit along with façade elevations for all proposed dwellings to the contact Sector Planner listed below prior to building permit issuance.
- The petitioners shall submit a landscape plan to the contact Sector Planner listed below prior to building permit issuance. Such a plan shall provide screening between the front facades of Lots 1 and 2 and the side and rear of Lot 4 or in the alternative if all new dwellings face the water, screening shall be provided between the rear facades and the public r-o-w.

Be advised that due to its location within the flood zone, first floor elevations may be higher than what is typical thereby raising the elevations for the entire proposed two story structure. This may present a situation requiring a variance to the 35' height limit in the R.C.2 zone.

For further information concerning the matters stated herein, please contact Ngone Seye Diop, Sector Planner at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Deputy Director:

Jeff Mayhew

AVA/KS/LTM/ka

c: Ngone Seye Diop
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

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: November 14, 2016

SUBJECT: DEPS Comment for Zoning Item # 2017-0122-SPHA
Address 11319 Bird River Grove Road
(Koch Property)

Zoning Advisory Committee Meeting of **November 14, 2016**

EPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

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 four properties are located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and are subject to Critical Area requirements. The applicant is proposing to construct three new dwellings with less setbacks and lot area than permitted and to combine lots 3 and 4. The proposed dwellings are within the 100-foot buffer. The site plan does not show the lot lines extending to the current shoreline around the perimeter of the lots. The lots are waterfront, and the proposed dwellings must meet all LDA and MBA requirements, including lot coverage limits, forest clearing, afforestation, and buffer. It appears Critical Area buffer variances may be necessary for the dwelling locations on lots 1 and 2. If the lot coverage, forest clearing, afforestation, MBA and any Critical Area variance requirements can be met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

These properties are waterfront. If the lot coverage, forest clearing, afforestation, MBA, and any Critical Area variance requirements can be met, then that will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

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;

   If the lot coverage, forest clearing, afforestation, MBA, and any Critical Area variance requirements can be met, then the relief requested will be consistent with established land-use policies.

Reviewer: Regina Esslinger Date: November 9, 2016

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: November 23, 2016

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

SUBJECT: Zoning Advisory Committee Meeting
For November 14, 2016
Item No. 2017-0122

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

If it is determined that lot # 2 is buildable, the Engineer must contact the office of the Director of Public Works for the flood protection elevation so that the lowest floor elevation can be set.

* * * * * *

DAK:CEN
Cc:file
ZAC-ITEM NO 17-0122-11142016.doc

RE: PETITION FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE OFFICE
11319 Bird River Grove Road; E/S Bird River Grove Road, 6,428' SE of Ebenezer Road	*	OF ADMINSTRATIVE
15th Election & 6th Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Bird River Grove LLC Petitioner(s)	*	BALTIMORE COUNTY
	*	2017-122-SPHA

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S Demilio

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

RECEIVED
NOV 14 2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November, 2016, a copy of the foregoing Entry of Appearance was mailed to Lawrence Schmidt, Esquire, Smith, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

1/27/17

KEVIN KAMENETZ
County Executive

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

January 27, 2017

RECEIVED
JAN 27 2017
BALTIMORE COUNTY
BOARD OF APPEALS

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

RE: **APPEAL TO BOARD OF APPEALS (on Variance only)**
Case No. 2017-0122-SPHA
Location: 11319 Bird River Grove Road

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed in this Office on January 26, 2017. 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,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
Rich Pitz, 808 Cold Spring Road, Baltimore, MD 21220
Tim Prestianni, 11308 Bird River Grove Road, Baltimore, MD 21162
Michael Rhea, 11306 Bird River Grove Road, Baltimore, MD 21162
Janet and Peter Terry. 1216 Stumpfs Road, Baltimore, MD 21220

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of April 2017, a copy of the foregoing Pre-Hearing Memorandum of People's Counsel for Baltimore County was sent via email and first class mail to Richard Pitz, 808 Cold Spring Road, Middle River, Maryland 21220 and Lawrence Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
Deputy People's Counsel for Baltimore County

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Richard and Susan Lehmann 16-060-SPH

DATE: March 23, 2017

BOARD/PANEL: Maureen E. Murphy, Panel Chairman
James H. West
Joseph L. Evans

RECORDED BY: Tammy A. McDiarmid, Legal Secretary

PURPOSE: To deliberate the following:

1) Protestants' Motion to Dismiss Petition for Special Hearing; or, alternatively, Motion for Summary Judgment/Decision filed by Richard C. Burch, Esquire; and
2) Motion to Dismiss Appeal filed by Dino C. La Fiandra, Esquire on behalf of Petitioners.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the Motions to Dismiss and discussed the reasoning for each request. The ALJ denied the Petitioner's Petition for Special Hearing for waiver to rebuild an existing enclosed porch in a riverine floodplain, but determined that pursuant to BCC a waiver is not required for reconstruction and repair of existing buildings as long as it does not exceed 50% of fair market value of the structure.
- The Board discussed the question of what issue is before the Board? The Petitioners did not appeal the denial of their Petition for Special Hearing. However, the Protestants filed an appeal, but did not specify what they were appealing. The appeal was filed under Section 500.10, as being aggrieved by the ALJ's Decision. The Board agreed to that the only issue before it was whether a waiver was necessary.
- The Board determined that when the ALJ hears a case, he has the authority to interpret regulations and therefore can expand the issue filed in the Petitioner under the *Halle* case. The Board has the same authority granted to the ALJ and therefore we can hear that issue.
- The Board noted that this case is to be heard *de novo*, and the Board will make written findings of fact.

FINAL DECISION: After thorough review of the facts and law in the matter, the Board unanimously agreed to DENY the Motion to Dismiss, and hold a hearing to take evidence and testimony on the waiver issue only.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

/s/
Tammy A. McDiarmid

Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

Maureen E Murphy

Mon 12/13/2021 10:53 AM

To: bafitisassoc@comcast.net <bafitisassoc@comcast.net>;

Cc: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>;

1 attachments (11 MB)

BirdRiver.ReqSpiritIntentLetter.pdf;

Mr. Bafitis - I am in receipt of a letter from you to me requesting a Spirit and Intent letter to change an Opinion and Order dated July 6, 2017 issued by the Board of Appeals (BOA) in which I was assigned as one of three panel members to decide. I note that People's Counsel was not copied on your recent request but was involved in the case at the de novo hearing before the BOA. Accordingly, I have copied him here and have attached your request as well as the BOA decision and email from People's Counsel dated December 1, 2016.

Please provide me with the legal authority that you believe I have as an ALJ to change a BOA decision via a Spirit & Intent letter. I will wait to hear from you.

Maureen E. Murphy
Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
mmurphy@baltimorecountymd.gov

Bafitis & Associates

RECEIVED
NOV 17 2021
OFFICE OF
ADMINISTRATIVE HEARINGS

LETTER OF TRANSMITTAL

TO: BALTIMORE COUNTY
ADMINISTRATIVE LAW JUDGE
ATT: MAUREEN MURPHY
105 WEST CHESAPEAKE AVE.
SUITE 103 TOWSON, MD. 21204

DATE: NOVEMBER 16, 2021
REF: 11320 BIRD RIVER GROVE ROAD
SPIRIT OF INTENT LETTER
FOR ZONING CHANGE

WE ARE SENDING:

☐ ORIGINAL TRACING(S)
☐ SEPIA TRANSPARENCIES
☐ PHOTOSTAT(S)
☐ SKETCH(ES)

☐ HEREWORTH

☒ BLACK LINE PRINT(S)
☐ BLUE LINE PRINT(S)
☐ SHOP DRAWING(S)
☐ SPECIFICATIONS

☐ UNDER SEPARATE COVER

☐ PHOTOGRAPH(S)
☒ LETTER(S)
☐ SAMPLE(S)
☐ ESTIMATE(S)
☐ REPORT(S)
☐ MAP(S)
☐ AGREEMENT(S)
☐ AS NOTED BELOW

PREPARED BY: _____

APPROVED: _____

THESE ARE FOREWARDED:

☐ AS REQUESTED
☐ FOR APPROVAL
☐ FOR COMMENT
☐ FOR PAYMENT
☐ FOR CORRECTIONS
☐ FOR CONSTRUCTION
☐ YOUR INFORMATION
☐ AS NOTED BELOW
☐ REVIEWED AND ACCEPTED
☐ REVIEWED AND ACCPETED AS NOTED
☐ REVIEWED AND RETURNED FOR REVISION

DRAWINGS NO.	NO. OF COPIES	LATEST DATE	DESCRIPTION
	1 COPY		SPIRIT OF INTENT LETTER
	1 COPY		SITE PLAN
	1 COPY		ZONING CASE PLAN

SENT VIA:

☐ SPECIAL DELIVERY
☐ CERTIFIED MAIL
☐ FIRST CLASS MAIL
☐ AIR MAIL
☐ PARCEL POST
☐ BUS
☐ YOUR MESSENGER
☒ OUR MESSENGER
☐ UNITED PARCEL
☐ EXPRESS
☐ INSURED
☐ AS NOTED BELOW

NOTES:

Very truly yours,

NICHOLAS BAFITIS

Copy To:

Bafitis & Associates

November 16, 2021

Mr. Maureen E. Murphy
Administrative Law Judge
for Baltimore County
105 West Chesapeake Avenue
Suite 103 Towson, Maryland 21204

Dear Mr. Murphy;

Ref: #11320 Bird River Grove Road, Zoning Case No. 2017-122-SPHA, Zoning Special Hearing, Request "Letter Spirit of Intent"

This writing is to request a minor change to the previously approved Plan to Accompany Petition for Special Hearing and Zoning Variances referenced above. The change will consist of moving the proposed house closer to the road. The existing front yard setback from the centerline of the road is 34.5' which we are changing it to 28'± in-lieu of the required 75'.

The reason for the change is Environmental Impact Review wants the water front side of the proposed house to be in line with existing house next door which is #11318 Bird River Grove Road.

For your review please see attached site plan showing the above mentioned changes.

If you have any questions or require additional information, please do not hesitate to contact this office.

Very truly yours,
BAFITIS & ASSOCIATES, LLC.

William N. Bafitis, P.E.
Managing Partner

RECEIVED
NOV 17 2021
OFFICE OF
ADMINISTRATIVE HEARINGS

79 S.F. OR 32.91%

NG.

OR

FLOOD NOTE FOR BUILDING

THIS SITE IS SITUATED IN A AE FLOOD ZONE ACCORDING TO F.E.M.A. FIRM MAP 240010-0295G DATED 05/05/14 AND THE BASE FLOOD ELEVATION IS 6.0 & 7.0 BALTIMORE COUNTY BUILDING CODE USE; F.E.M.A. FLOOD STUDY NO. 240010V000B DONE IN 09/26/08. THE BASE FLOOD ELEVATION IS 8.5 AND THE FLOOD PROTECTION ELEVATION IS 9.5. PER BALTIMORE COUNTY POLICY.

DISTURBED AREA: 4,607 S.F. OR 0.105 AC.

Bafitis & Associates

1249 Engleberth Rd. Baltimore, MD 21221

William N. Bafitis, P.E.

Civil Engineers/Land Planners
SURVEYORS

(410) 391-2336

PLAN TO ACCOMPANY BUILDING PERMIT APPLICATION FOR #11320 BIRD RIVER GROVE ROAD

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND
WILLIAM NICHOLAS BAFITIS
No. 11641
PROFESSIONAL ENGINEER

WILLIAM N. BAFITIS, P.E.

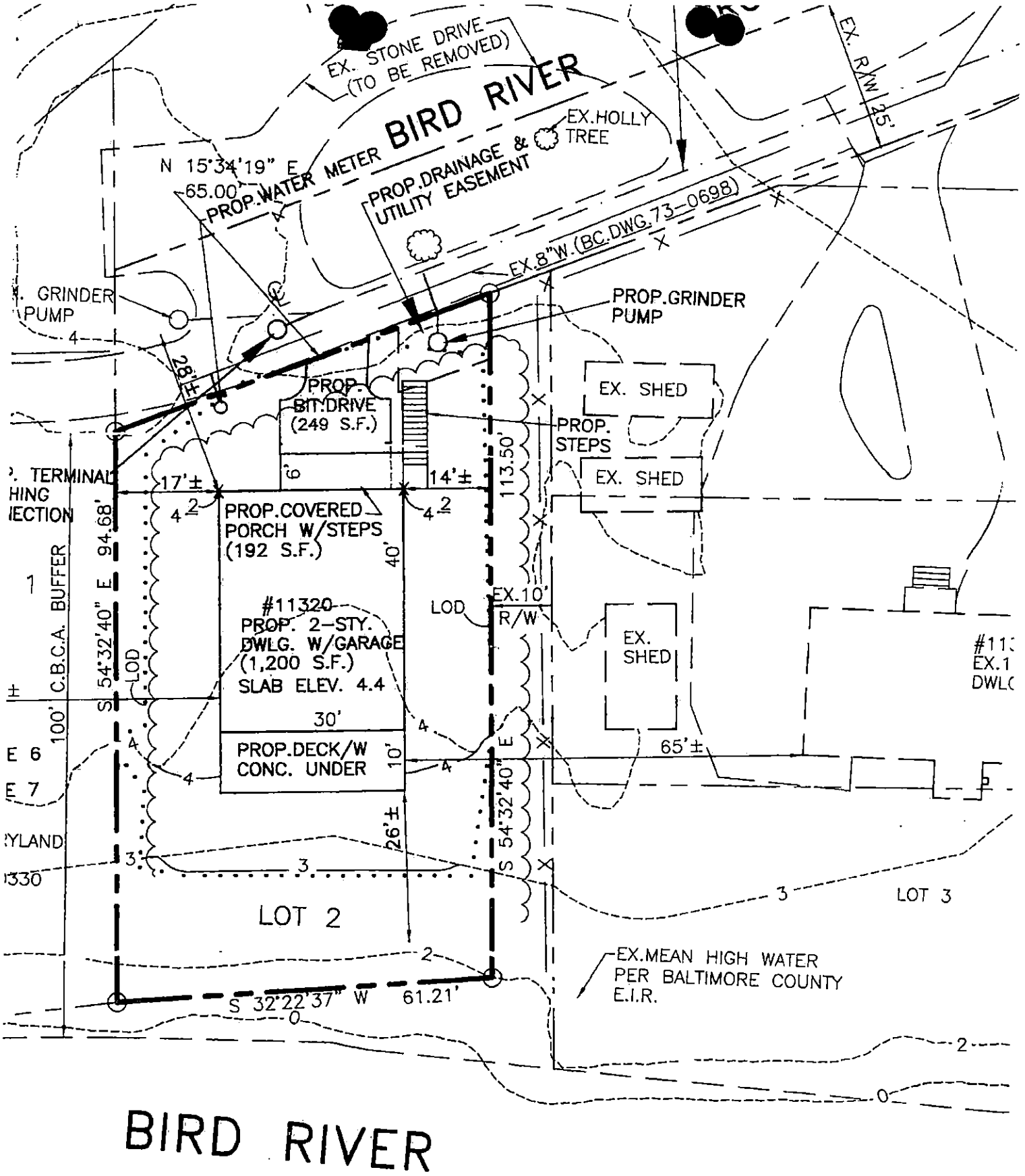
Professional Certification. I hereby certify that these documents were perpared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland. License No. 11641 Expiration Date: 09/09/2023

1

SHEET 1 OF 1

SCALE:	1" = 20'
JOB ORDER NO:	21607
DATE:	10/27/21
CHECKED:	W.N.B.
DRAWN:	N.W.B.

NO.	REVISIONS	DATE


EX. STONE DRIVE (TO BE REMOVED)
BIRD RIVER
EX. R/W 45'
EX.HOLLY TREE
N 15°34'19" E
65.00'
PROP.WATER METER
PROP.DRAINAGE & UTILITY EASEMENT
EX.8"W.(BC.DWG.73-0698)
GRINDER PUMP
PROP.GRINDER PUMP
28'±
PROP. BIT.DRIVE (249 S.F.)
EX. SHED
PROP. STEPS
EX. SHED
TERMINAL
HING
IECTION
17'±
14'±
PROP.COVERED PORCH W/STEPS (192 S.F.)
113.50'
40'
94.68'
S 54°32'40" E
100' C.B.C.A. BUFFER
#11320
PROP. 2-STY. DWLG. W/GARAGE (1,200 S.F.)
SLAB ELEV. 4.4
LOD
EX.10' R/W
EX. SHED
30'
PROP.DECK/W CONC. UNDER
10'
65'±
26'±
S 54°32'40" E
LOT 2
LOT 3
EX.MEAN HIGH WATER PER BALTIMORE COUNTY E.I.R.
S 32°22'37" W 61.21'
BIRD RIVER

7/9/17

IN THE MATTER OF BIRD RIVER GROVE, LLC 11319 Bird River Grove Road 15th Election District; 6th Councilmanic District	*	BEFORE THE BOARD OF APPEALS OF
RE: Petitions for Special Hearing and Variance to confirm 4 lots of record, and setbacks for building 3 single family dwellings	*	BALTIMORE COUNTY
	*	Case No. 17-122-SPHA
	*	

* * * * * * * * * * * *

OPINION

This matter comes to the Board of Appeals on appeal by Richard Pitz (the "Protestant") of the portion of the Opinion and Order issued by John E. Beverungen, Administrative Law Judge for Baltimore County (the "ALJ"), dated December 30, 2016 granting Petitions for Variance with respect to Lots 1 and 2 that are owned by Bird River Grove, LLC (the "Petitioner"), located at 11319 Bird River Grove Road, White Marsh, Maryland 21162 (the "Property").

In the proceedings before the Board, the Petitioner was represented by Lawrence E. Schmidt, Esquire and the Protestant appeared *pro se*. In addition, Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, appeared at, and participated in, the hearing.

A hearing was held before the Board on April 13, 2017, and the Board conducted a public deliberation on May 9, 2017.

STATEMENT OF FACTS

The Property, which is approximately ¾ of an acre in size in total, is zoned R.C.2 (Agricultural) and consists of four separate lots (Lot 1, Lot 2, Lot 3, and Lot 4). The lots are part of the Bird River Grove subdivision, which dates to 1925.

By way of background, the Petitioner originally filed Petitions for Special Hearing to confirm that Lot 1 and Lot 2 are "lots of record" that can be developed with detached single family dwellings on each lot and to permit the consolidation of Lot 3 and Lot 4 as lots of record so that the consolidated lot also could be improved with a third single family dwelling. In addition, the Petitioner filed Petitions for Variance from the setbacks for the proposed single family dwellings and proposed decks on Lot 1, Lot 2, and combined Lots 3 and 4. The ALJ granted the Petition for Special Hearing in part, ruling that Lot 1 and Lot 2 are lots of record and can be developed with detached single family dwellings as non-conforming lots of record, and granted the Petition for Variance in connection with the proposed setbacks for the planned single family dwellings and decks on Lot 1 and Lot 2. The ALJ denied the Petition for Special Hearing seeking to permit the consolidation of Lot 3 and Lot 4 as two existing lots of record to become a single lot to be improved with a single family dwelling and denied the Petition for Variance in connection with Lot 3 and Lot 4. As set forth above, the Protestant only appealed the Variances granted in connection with Lot 1 and Lot 2, and the Petitioner did not file an appeal.

The Petitioner filed a Motion to Dismiss the Protestant's appeal, arguing that the Protestant could not file an appeal on behalf of the "Essex Middle River Civic Counsel" or the adjacent neighbors. The Motion also requested that this Board hear all issues presented before the ALJ, and not limit the proceedings on appeal to the Variances granted in connection with Lot 1 and Lot 2, in the event that the Board denied the Motion to Dismiss.

This Board denied the Motion to Dismiss, ruling that the Protestant had standing to appeal the ALJ's decision in his individual capacity, but not in a representative capacity. In addition, based on the holdings in *Daihl v. County Board of Appeals*, 258 Md. 157 (1970), *County Fed. Sav. and Loan Ass'n v. Equitable Sav. and Loan Ass'n*, 261 Md. 246 (1971), and *Halle Cos. v. Crofton*

Civic Ass'n, 339 Md. 131 (1994), among other cases, the Board determined that the scope of a *de novo* hearing is restricted to the specific issue or issues which have been appealed and not on every matter litigated below before the ALJ. Based on the foregoing cases, only the Petitions for Variance for Lot 1 and Lot 2 are, therefore, at issue on appeal before the Board.

Lot 1 is 0.368 acres in size and is located at the end of a peninsula along Bird River Creek in eastern Baltimore County, with water on three sides. There currently is a dilapidated and uninhabitable single family dwelling and a deteriorated boat ramp on Lot 1. Petitioner proposes to raze the existing house and construct a new, two-story single family dwelling on approximately the same location as the existing structure. Lot 2 is 0.145 acres in size and is irregularly shaped with water along one side. There are no existing structures on Lot 2, although there is evidence that there may have been a house or other building at one time on this parcel based on the Plat of Bird River Grove dated March 26, 1925 (the "Plat"). (Pet. Ex. 2). Petitioner also proposes building a two-story single family dwelling on Lot 2.

Both Lot 1 and Lot 2 are lots of record since they were created in 1925 pursuant to the recordation of the Plat, long before the adoption of the Baltimore County Zoning Regulations ("BCZR") and the creation of the R.C.2 zone in 1979. *See* BCZR 101.1 (defining "lot of record" as "[a] parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision or other condition thereof"). As noted by Judge Beverungen, Lot 1 and Lot 2, as lots of record, "can be improved with dwellings, provided that all other zoning, development, and environmental regulations are satisfied."

Under Section 1A01.3.B.3 of the BCZR, "[n]o principal structure or dwelling (whether or not it is a principal structure) in an R.C.2 Zone may be situated within 75 feet of the center line of

any street or within 35 feet of any lot line other than a street line." Section 301.1 of the BCZR further provides that, "[i]f attached to the main building, . . . a one-story open porch, with or without a roof, may extend into any required yard not more than 25% of the minimum required depth of a front or rear yard or of the minimum required width of a side yard." The Petitioner seeks variances in connection with Lot 1, in relevant part, as follows:

> (a) To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.;
>
> (b) To allow a principal building (dwelling) with a setback to the street centerline of 30 ft. +/- in lieu of the required 75 ft.; and
>
> (c) To allow an open projection (deck) to extend into the yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.).

With regard to Lot 2, the Petitioner seeks variance relief, in relevant part, as follows:

> (a) To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22 ft. +/- to a property line in lieu of the required 35 ft.;
>
> (b) To allow a principal building (dwelling) with a setback to the street centerline of 34.5 ft. in lieu of the required 75 ft.; and
>
> (c) To allow an open projection (deck) to extend into the yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.)

DECISION

Pursuant to BCZR § 307.1, the Board has the power to grant a variance from the BCZR's area regulations "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship." In addition, "any such variance shall be granted only if in strict harmony with the spirit

and intent of said . . . area . . . regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare." BCZR § 307.1.

The Court of Special Appeals has set forth the analytical framework for considering a request for a variance:

> [I]t is at least a two-step process. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is – in and of itself – unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, *i.e.*, a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance *caused by* the property's uniqueness, exists.

Cromwell, 102 Md. App. 691, 694-95 (1995).

The Board concludes that the Petitioner has satisfied the requirements established in *Cromwell* to obtain the variances sought for Lot 1 and Lot 2. Specifically, Lot 1 is uniquely shaped and is located at the end of a peninsula extending into Bird Creek, surrounded on water by three sides. Lot 2 also is irregularly shaped and has water on one side. Due to their shape, size, location, and shoreline, these lots are unique. In addition, the Petitioner would experience practical difficulty and/or unreasonable hardship if the BCZR's setback regulations were applied strictly to Lot 1 and Lot 2 in that the Petitioner would be unable to build dwellings with reasonably sized decks on the lots.

Moreover, the Board finds no evidence that a grant of the variance relief sought by the Petitioner would be in any way injurious to public health, safety, and general welfare. In fact, the evidence presented at the hearing demonstrates that the lots in question are littered with debris and

trash along the shoreline and that the house on Lot 1 is uninhabitable, with a large, visible hole in its roof. (*See, e.g.*, Pet. Exs. 5P and 7A – 7J). Based on the Petitioner's plans for Lot 1 and Lot 2, the public health, safety, and general welfare of the community should be substantially enhanced by the cleanup and improvement of Lot 1 and Lot 2. Moreover, no County agency has opposed the Petitioner's requested variances and Michael Rhea, the only neighbor to testify at the hearing, articulated no objection to the Petitioner's plans for Lots 1 and 2.

For all of the foregoing reasons, the Board grants variances requested by the Petitioner in connection with Lot 1 and Lot 2.

ORDER

THEREFORE, it is this 26th day of July, 2017, by the Board of Appeals of Baltimore County,

ORDERED, that the Petition for Variance with regard to Lot 1: (a) To allow a principal building (dwelling) with a setback of 16 ft. +/- and 34 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to the street centerline of 30 ft. +/- in lieu of the required 75 ft.; and (c) To allow an open projection (deck) to extend into the yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. +/- in lieu of 26.25 ft.), be and hereby is **GRANTED.**

IT IS FURTHER ORDERED, that the Petition for Variance with regard to Lot 2: (a) To allow a principal building (dwelling) with a setback of 14 ft. +/-, 17 ft. +/- and 22 ft. +/- to a property line in lieu of the required 35 ft.; (b) To allow a principal building (dwelling) with a setback to the street centerline of 34.5 ft. in lieu of the required 75 ft.; and (c) To allow an open projection (deck) to extend into the yard area by a distance of 10 ft. in lieu of the maximum

permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.), be and hereby is **GRANTED.**

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

Maureen Murphy /kc
Maureen E. Murphy, Panel Chairman

Joseph L. Evans

James H. West

Rebecca Wheatley

From: Peter Max Zimmerman
Sent: Thursday, December 01, 2016 10:26 AM
To: Kathy Schlabach; Lloyd Moxley; Jeffery Livingston; Regina A. Esslinger
Subject: Zoning Case No. 2017-122, 11319 Bird River Grove Road, Petitioner Bird River Grove, LLC
Attachments: Webbert Robert CBA Opinion 99-11-SPH.pdf

December 1, 2016

Dear Colleagues,

This extremely complicated zoning petition, beneath the surface, appears to involve a request for approval of a resubdivision involving 3 dwellings on 4 lots on property which totals 32,945 square feet., or .756 acre. The site is zoned R.C. 2., Agricultural.

There are proposed dwellings on lots 1 and 2 and a dwelling on a stated combination of 3 and 4, for a total of 3 dwellings as I read the site plan.

The site plan shows an existing dwelling and boat ramp on lot 1. The proposed 2-story dwelling has ground coverage of 2205 sf, compared to the listed existing coverage of 834 sf for a 1.5 story dwelling. There is also proposed on lot 1 a large covered deck. So far as I can tell, the remainder of the property is vacant. We do not know if the existing dwelling is occupied, or is in good condition.

Petitioner Bird River Grove, LLC is a limited liability corporation which was formed in 2006 and which acquired this property in 2006, so far as State records show. The history of the use of the entire property is not shown.

No lot of record in the R.C.2 Zone which has less than 2 acres may be subdivided. BCZR Sec. 1A03.1.B.1. The minimum lot size in the R.C. 2 Zone is 1 acre. BCZR 1A01.3.B.2

The 1925 subdivision plat for Bird River Grove, Section A, shows lot 1 and lot 2 as delineated on the site plan, but it does not show proposed site plan lots 3 and 4 as dwelling lots. The area named now as Lots 3 and 4 shows just as a blank on the 1925 plat. The actual plat shows lots 3 and 4 as parts of property owned now by James and Valerie Dimmer, adjoining owners.

We looked at the deed history, and it is also complicated. The unnumbered "lots" 3 and 4 appear to be the subject of a 1999 quitclaim deed history, release of claims. The 2006 deed has an exhibit showing them as "accreted land."

There is no indication on the site plan as to the source for the newly named lots 3 and 4. However, there are four different tax numbers. But this would result from the deed recordation, not a legal subdivision. The SDAT data sheets for the named lots 3 and 4 do not show lot numbers. They do not appear to be recorded lots.

Even if we assume lots 1 and lot 2 predate the law, they are still undersized lots. It seems to me the proposed dwellings must be reviewed under the BCZR Sec. 307.1 area variance standards or (although not requested in the petition) under BCZR Sec. 304 for undersized lots. It may be that no more than 1 dwelling may satisfy legal standards in the context of a replacement dwelling.

As for proposed lots 3 and 4, I do not see how these undersized lots can be approved as they were not shown as such on the subdivision plat and are way undersized. In addition, the supposed combination of named lots 3 and 4 is itself a

resubdivision, a creation of a new lot, but it is undersized relating to both. The obscure deed history involving quitclaim, release of claims, and accreted land further weighs against their use for an additional dwelling.

For your information, I attach a case involving somewhat similar R.C. 2 Zone issues: In the Matter of Webbert, CBA No. 99-11-SPH 1999. It also involved a proposed resubdivision with an undersized old R.C. 2 lot. The CBA denied the proposal.

The instant case is also subject to zoning and development review for Chesapeake Bay Critical Area standards relevant generally and to the Limited Development Area. The site plan shows the property to be in a buffer management area and refers to a CBCA reservation. It is also in an AE Flood Zone. DEPS review will be important, including Code Secs. 33-2-204, 33-2-402, 403.

The LDA has impervious surface limits. Code Sec. 33-2-603. Lot 2 appears to exceed the 25% maximum under Code Sec. 33-2-603.

Upon review of the DEPS website variance link, I did not see any CBCA variance requests. Under the circumstances, it appears at this preliminary juncture doubtful that any variances or other sorts of waivers would be warranted if the site conflicts with reservation/easement, buffer management area, and/or impervious surface standards. It is also appears doubtful that this proposal could meet CBCA zoning standards. BCZR Sec. 500.14.

It is also unclear whether this project is undergoing development review as a minor subdivision or resubdivision proposal.

I trust you will find these observations helpful. Thank you in advance for your interest in this matter. If you have any questions, comments, or critique, please let me know.

The hearing is scheduled before the Administrative Law Judge on December 20, 2016 at 1:30 PM.

Sincerely, Peter Zimmerman, People's Counsel 410 887-2188

IN THE MATTER OF THE THE APPLICATION OF ROBERT F. WEBBERT, ET UX - PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE SE/S STRINGTOWN ROAD, 4850' NE OF FALLS ROAD (2119 STRINGTOWN ROAD) 5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 99-11-SPH

* * * * * * * * * *

OPINION

This matter comes before the Board on appeal filed by the Office of People's Counsel for Baltimore County from the decision of the Deputy Zoning Commissioner dated October 1, 1998 in which Petition for Special Hearing granted the confirmation and redistribution of development rights among three contiguous parcels of R.C. 2-zoned property in northern Baltimore County.

The Petitioners, Robert and Barbara Webbert, were represented by Howard L. Alderman, Jr., Esquire. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel. This matter was heard by this Board de novo on June 2, 1999. In lieu of final argument, both counsel submitted memorandums on July 16, 1999. Public deliberation was held on August 26, 1999, due notice of which was provided to all interested parties.

The subject property, known as 2119 Stringtown Road and consisting of approximately 11.6 acres, is zoned Rural Conservation (R.C.2) and is improved with a detached single-family dwelling. The subject property, which dates back to 1925, involved several minor in and out conveyances of land which are recorded among the Land Records of Baltimore County (Petitioner's Exhibits No. 2

through No. 8). These conveyances form the subject property which the Webberts purchased in 1996 by recorded deed (Petitioner's Exhibit No. 9). The Webberts themselves do not reside on the subject site but instead rent the existing homesite.

Petitioners claim there are four buildable lots associated with the property, but only wish to subdivide and develop this site into three parcels of roughly uniform size. The lot containing the existing dwelling would contain 3.104 acres, while the two proposed dwelling lots would consist of 3.335 acres and 4.723 acres, as shown on the Plat to Accompany Special Hearing (Petitioner's Exhibit #1). This is the matter on appeal as the Office of People's Counsel for Baltimore County contends that the subject site can only be subdivided into two buildable lots.

Mr. Douglas Myers, a licensed surveyor with 27 years experience and accepted as an expert in the field of surveying, testified on behalf of the Petitioners. Mr. Myers testified that he prepared the site plan (Petitioner's Exhibit No. 1), stating the existing house, lot lines, and proposed dwellings are all accurately shown. Mr. Myers also stated that his profession requires him to be familiar with the Baltimore County Zoning Regulations (BCZR). He opined that four dwelling rights exist on the subject site. Two exist on the lot outlined in red which contains roughly 10.391 +/- acres based on the R.C. 2 zoning classification. One dwelling right exists on the pink parcel (.306 +/- acre) based on Petitioner's Exhibit #2, Recorded Deed dated May 26, 1934, with the remaining dwelling right coming from the yellow

Re: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

Maureen E Murphy

Mon 12/13/2021 12:08 PM

Sent Items

To: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>;

Cc: Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>; bafitisassoc@comcast.net <bafitisassoc@comcast.net>; Jeffrey N Perlow <JPerlow@baltimorecountymd.gov>;

I have the file. Please let me know if you need the file to review the case. I am fine with December 16 or thereafter for you to respond. Thank you.

Maureen E. Murphy
Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
mmurphy@baltimorecountymd.gov

From: Peter Max Zimmerman
Sent: Monday, December 13, 2021 11:51:57 AM
To: Maureen E Murphy
Cc: Debra Wiley; Donna Mignon; bafitisassoc@comcast.net; Jeffrey N Perlow
Subject: RE: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

Dear Judge Murphy,

Thank you for sending me a copy of Mr. William Bafitis' request for a "spirit and intent" letter requesting an amendment to the County Board of Appeals (CBA) Order in Case No. 2017-122-SPHA approving variances for Lot 2 of the Bird River Grove Subdivision.

As I understand it, per the R.C. Zone requirements, the request is to allow a front yard setback variance of 28 feet instead of 34.5 feet from the street centerline. A very preliminary look at the CBA Order on page 6 also reveals that a variance was also granted to place the proposed dwelling 14, 17, and 22 feet from the lot line. It looks like the 14 and 17 feet refer to side yard setbacks, while the 22 feet was for the front lot line setback. The amendment requested appears to place the dwelling about 16 feet from the front lot line. So there is actually here a request to amend two variances to place the dwelling closer both to the lot line and street centerline.

I will promptly review that matter in more detail and provide a just response. I anticipate filing a response this week, on or before Thursday, December 16 if that is acceptable to you.

I am also sending a copy to Jeffrey Perlow, Zoning Supervisor, to put him in the loop.

Sincerely, Peter Max Zimmerman, People's Counsel. 410 887-2188

From: Maureen E Murphy <mmurphy@baltimorecountymd.gov>
Sent: Monday, December 13, 2021 10:53 AM
To: bafitisassoc@comcast.net
Cc: Peter Max Zimmerman <pzimmerman@baltimorecountymd.gov>; Debra Wiley <dwiley@baltimorecountymd.gov>; Donna Mignon <dmignon@baltimorecountymd.gov>
Subject: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

Mr. Bafitis - I am in receipt of a letter from you to me requesting a Spirit and Intent letter to change an Opinion and Order dated July 6, 2017 issued by the Board of Appeals (BOA) in which I was assigned as one of three panel members to decide. I note that People's Counsel was not copied on your recent request but was involved in the case at the de novo hearing before the BOA. Accordingly, I have copied him here and have attached your request as well as the BOA decision and email from People's Counsel dated December 1, 2016.

Please provide me with the legal authority that you believe I have as an ALJ to change a BOA decision via a Spirit & Intent letter. I will wait to hear from you.

Maureen E. Murphy
Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
mmurphy@baltimorecountymd.gov

Donna Mignon

From: bafitisassoc@comcast.net
Sent: Tuesday, December 14, 2021 12:25 PM
To: Maureen E Murphy
Cc: Peter Max Zimmerman; Debra Wiley; Donna Mignon
Subject: Re: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

Ms. Murphy;

I finally realized what you were sending to me that you don't really have the authority with this particular process. I apologize for taking up your time and effort in this matter. But I appreciate your response because I have learned a lot.

So thank you very much and please disregard the Spirit and Intent Letter for the referenced case.

Bill

William N. Bafitis, P.E.
Bafitis & Associates
1249 Engleberth Road
Baltimore, MD 21221
410-391-2336

> On 12/13/2021 3:23 PM Maureen E Murphy <mmurphy@baltimorecountymd.gov> wrote:
>
> Mr. Bafitis -
>
> Please provide me with all citations to BCC, BCZR, and/or all other policy manuals upon which you rely for your position that I have the legal authority as an ALJ to alter an Opinion and Order of the BOA via a Spirit & Intent Letter.
>
> *Maureen E. Murphy*
>
> *Administrative Law Judge*
>
> *105 West Chesapeake Ave., Suite 103*

Towson, Maryland 21204

410-887-3868

mmurphy@baltimorecountymd.gov

From: bafitisassoc@comcast.net <bafitisassoc@comcast.net>
Sent: Monday, December 13, 2021 2:02 PM
To: Maureen E Murphy
Cc: Peter Max Zimmerman; Debra Wiley; Donna Mignon
Subject: Re: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

Dear Judge Murphy;

I believe you have the legal authority as an Administrative Law Judge to change a Board of Appeals decision via a Spirit & Intent Letter.

If you need anything else, please let me know.

Also, Mr. Peter Zimmerman is correct to identify that we need to request to amend a second variance to place the dwelling 16 foot ± front the front property line in lieu of the approved 22 feet ±

If you have any questions please let me know.

Thanks
Bill

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Bafitis & Associates
1249 Engleberth Road
Baltimore, MD 21221
410-391-2336

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Maureen E. Murphy

Administrative Law Judge

105 West Chesapeake Ave., Suite 103

Towson, Maryland 21204

410-887-3868

mmurphy@baltimorecountymd.gov

Donna Mignon

From: Maureen E Murphy
Sent: Monday, December 13, 2021 3:24 PM
To: bafitisassoc@comcast.net
Cc: Peter Max Zimmerman; Debra Wiley; Donna Mignon
Subject: Re: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

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Maureen E. Murphy
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105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
mmurphy@baltimorecountymd.gov

From: bafitisassoc@comcast.net <bafitisassoc@comcast.net>
Sent: Monday, December 13, 2021 2:02 PM
To: Maureen E Murphy
Cc: Peter Max Zimmerman; Debra Wiley; Donna Mignon
Subject: Re: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

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William N. Bafitis, P.E.
Bafitis & Associates

1249 Engleberth Road
Baltimore, MD 21221
410-391-2336

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105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
mmurphy@baltimorecountymd.gov

Donna Mignon

From: bafitisassoc@comcast.net
Sent: Monday, December 13, 2021 2:03 PM
To: Maureen E Murphy
Cc: Peter Max Zimmerman; Debra Wiley; Donna Mignon
Subject: Re: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

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Maureen E. Murphy

Administrative Law Judge

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Towson, Maryland 21204

410-887-3868

mmurphy@baltimorecountymd.gov

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/

Donna Mignon

From: Peter Max Zimmerman
Sent: Monday, December 13, 2021 11:52 AM
To: Maureen E Murphy
Cc: Debra Wiley; Donna Mignon; bafitisassoc@comcast.net; Jeffrey N Perlow
Subject: RE: Bird River - Case No.: 2017-122-SPHA - Request for Spirit and Intent Letter

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410-887-3868
mmurphy@baltimorecountymd.gov

Real Property Data Search Guide to searching t... ...abase

Search Result for BALTIMORE COUNTY

View Map View GroundRent Redemption View GroundRent Registration

Account Identifier: District - 15 Account Number - 1502004130

Owner Information

Owner Name:	RHEA MICHAEL RHEA CATHERINE PEARL	**Use:** **Principal Residence:**	RESIDENTIAL YES
Mailing Address:	11306 BIRD RIVER GR RD WHITE MARSH MD 21162-1802	**Deed Reference:**	/08835/ 00223

Location & Structure Information

Premises Address:	11306 BIRD RIVER GROVE RD 0-0000 Waterfront	**Legal Description:**	BIRD RIVER GROVE

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0073	0020	0324		0000	A		10	2015	Plat Ref:	0007/ 0189

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
2005	1,632 SF		4,545 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
2	YES	STANDARD UNIT	SIDING	2 full	1Att/1Det	

Value Information

	Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	174,500	174,500		
Improvements	185,400	170,500		
Total:	359,900	345,000	345,000	345,000
Preferential Land:	0			0

Transfer Information

Seller: BAKER RAYMOND R	Date: 06/25/1991	Price: $120,900
Type: ARMS LENGTH IMPROVED	Deed1: /08835/ 00223	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2016	07/01/2017
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 05/11/2011

Petitioner
CBA Exhibit
9

Bafitis & Associates

RECEIVED
NOV 17 2021
OFFICE OF
ADMINISTRATIVE HEARINGS

LETTER OF TRANSMITTAL

TO: BALTIMORE COUNTY
ADMINISTRATIVE LAW JUDGE
ATT: MAUREEN MURPHY
105 WEST CHESAPEAKE AVE.
SUITE 103 TOWSON, MD. 21204

DATE: NOVEMBER 16, 2021
REF: 11320 BIRD RIVER GROVE ROAD
SPIRIT OF INTENT LETTER
FOR ZONING CHANGE

WE ARE SENDING: ☐ **HEREWORTH** ☐ **UNDER SEPARATE COVER**

☐ ORIGINAL TRACING(S)	☒ BLACK LINE PRINT(S)	☐ PHOTOGRAPH(S)	☐ REPORT(S)
☐ SEPIA TRANSPARENCIES	☐ BLUE LINE PRINT(S)	☒ LETTER(S)	☐ MAP(S)
☐ PHOTOSTAT(S)	☐ SHOP DRAWING(S)	☐ SAMPLE(S)	☐ AGREEMENT(S)
☐ SKETCH(ES)	☐ SPECIFICATIONS	☐ ESTIMATE(S)	☐ AS NOTED BELOW

PREPARED BY: _____

APPROVED: _____

THESE ARE FOREWARDED:

☐ AS REQUESTED	☐ FOR CORRECTIONS	☐ REVIEWED AND ACCEPTED
☐ FOR APPROVAL	☐ FOR CONSTRUCTION	☐ REVIEWED AND ACCPETED AS NOTED
☐ FOR COMMENT	☐YOUR INFORMATION	☐ REVIEWED AND RETURNED FOR REVISION
☐ FOR PAYMENT	☐ AS NOTED BELOW	

DRAWINGS NO.	NO. OF COPIES	LATEST DATE	DESCRIPTION
	1 COPY		SPIRIT OF INTENT LETTER
	1 COPY		SITE PLAN
	1 COPY		ZONING CASE PLAN

SENT VIA:

☐ SPECIAL DELIVERY	☐ AIR MAIL	☐ YOUR MESSENGER	☐ EXPRESS
☐ CERTIFIED MAIL	☐ PARCEL POST	☒ OUR MESSENGER	☐ INSURED
☐ FIRST CLASS MAIL	☐ BUS	☐ UNITED PARCEL	☐ AS NOTED BELOW

NOTES:

Very truly yours,

Copy To:

NICHOLAS BAFITIS

Bafitis & Associates

November 16, 2021

Mr. Maureen E. Murphy
Administrative Law Judge
for Baltimore County
105 West Chesapeake Avenue
Suite 103 Towson, Maryland 21204

Dear Mr. Murphy;

Ref: #11320 Bird River Grove Road, Zoning Case No. 2017–122–SPHA, Zoning Special Hearing, Request "Letter Spirit of Intent"

This writing is to request a minor change to the previously approved Plan to Accompany Petition for Special Hearing and Zoning Variances referenced above. The change will consist of moving the proposed house closer to the road. The existing front yard setback from the centerline of the road is 34.5' which we are changing it to 28'± in–lieu of the required 75'.

The reason for the change is Environmental Impact Review wants the water front side of the proposed house to be in line with existing house next door which is #11318 Bird River Grove Road.

For your review please see attached site plan showing the above mentioned changes.

If you have any questions or require additional information, please do not hesitate to contact this office.

Very truly yours,
BAFITIS & ASSOCIATES, LLC.

William N. Bafitis, P.E.
Managing Partner

APPEAL (on VARIANCE only)

Petitions for Special Hearing and Variance
(11319 Bird River Grove Road)
15th Election District – 6th Councilmanic District
***Legal Owners*: Bird River Grove, LLC.**
Case No. 2017-0122-SPHA

Petition for Variance Hearing (October 28, 2016)

Zoning Description of Property

Notice of Zoning Hearing (November 21, 2016)

Certificate of Publication (November 29, 2016)

Certificate of Posting (November 30, 2016) –Linda O'Keefe

Entry of Appearance by People's Counsel – November 14, 2016

Petitioner(s) Sign-in Sheet – One
Citizen(s) Sign-in Sheet – One

Zoning Advisory Committee (ZAC) Comments

Petitioner(s) Exhibits:

1. Plan
2. Plat-Bird River Grove
3. A & B: Aerial photos
4. SDAT Records
5. 5A-5R Photos of vicinity
6. Title deeds

Protestants' Exhibits:

1. Hearing Notes submitted by R. Pitz
2.

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED in part; DENIED in part)

Notice of Appeal – January 26, 2017 by Linda and Timothy Prestianni and Rich Pitz

(Appeal on Variance only)

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Bird River Grove, LLC 17-122-SPHA

DATE: May 9, 2017

BOARD/PANEL: Maureen E. Murphy, Panel Chairman
James H. West
Joseph L. Evans

RECORDED BY: Tammy A. McDiarmid, Legal Secretary

PURPOSE: To deliberate the Petition for Variance as follows:

(1) Lot 1:
   (a) to allow a principal building (dwelling) with a setback of 16 ft. ± and 34 ft. ± to a property line in lieu of the required 35 ft.;
   (b) to allow a principal building (dwelling) with a setback to a street centerline of 30 ft. ± in lieu of the required 75 ft.;
   (c) to allow an open project (deck) to extend into yard area by a distance of 18.5 ft. in lieu of the maximum permitted 8.75 ft. (with a setback of 17 ft. ± in lieu of 26.25 ft.); and
   (d) as an alternative to the Special Hearing Relief; to allow a lot with an area of 16,031 sq. ft. (0.368 acres) in lieu of the required 1 acre
(2) Lot 2:
   (a) to allow a principal building (dwelling) with a setback of 14 ft. ±, 17 ft. ± and 22 ft. ± to a property line in lieu of the required 35 ft.;
   (b) to allow a principal building (dwelling) with a setback to a street centerline of 34.5 ft. in lieu of the required 75 ft.;
   (c) as an alternative to the Special Hearing Relief, to allow a lot with an area of 6,316 sq. ft. (0.144 acres) in lieu of the required 1 acre; and
   (d) to allow an open projection (deck) to extend into yard area by a distance of 10 ft. in lieu of the maximum permitted 8.75 ft. (with a setback as little as 14 ft. in lieu of the required 26.25 ft.).

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board held a *de novo* hearing.
- The Board discussed the multiple setback variance requests for Lots 1 and 2. A house currently exists on Lot 1, and the property is located in the RC-2 zone.
- The Board noted that this request is an area variance and must meet the uniqueness and practical difficulty test.
- The Board reviewed the Plat for the property, which is located on a peninsula. Lot 1 is surrounded on three sides by water, and Lot 2 is oddly shaped with water on one side. There are no other lots in the area of the same size. The Board found Lots 1 and 2 to be unique.
- The Board discussed the practical difficulty standard and found that strict compliance with the zoning regulations would be unduly burdensome on the Petitioners.

- The Board also noted that Petitioner's Exhibit 7, photographs of the subject property, shows a property in disrepair and littered with trash. It is reasonable to expect that the clean-up of the property with two new homes will be a benefit to the neighborhood.

DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the requested relief.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Tammy A. McDiarmid

BIRD RIVER GROVE, LLC – LEGAL OWNER **17-122-SPHA**
11319 BIRD RIVER GROVE ROAD
15th E; 6th C

Re: Petition for Special Hearing pursuant to § 500.7 of the BCZR to:
(1) Lot 1:
(a) to confirm Lot 1 is a "lot record";
(b) to confirm Lot 1 is not being created; and
(c) to confirm Lot 1 can be approved with a detached single family dwelling as a non-confirming lot of record
(2) Lot 2:
(a) to confirm Lot 2 is a "lot record";
(b) to confirm Lot 2 is not being created; and
(c) to confirm Lot 2 can be approved with a detached single family dwelling as a non-confirming lot of record
(3) Lots 3 and 4:
(a) to permit the consolidation of two existing lots of record to become a single lot which can be improved with a detached single family dwelling.

Petition for Variance seeking numerous impacts to the setback requirements.
(See Petition for Variance or Opinion and Order of the ALJ for complete list)

12/30/16 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Hearing for Lots 1 and 2 were GRANTED, and the proposed Lots 3 and 4 were DENIED; and Petition for Variance for Lots 1 and 2 were GRANTED, and relief for Lots 3 and 4 were DENIED.

1/26/17 Notice of Appeal to the Petition for Variances for Lots 1 and 2 filed by Rich Pitz on behalf of The Essex Middle River Civic Council, and the adjacent neighbors, Protestants/Appellants.

1/27/17 Appeal received by the Board.

BIRD RIVER GROVE, LLC – LEGAL OWNER **17-122-SPHA**
11319 BIRD RIVER GROVE ROAD
15th E; 6th C

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(b) to confirm Lot 2 is not being created; and
(c) to confirm Lot 2 can be approved with a detached single family dwelling as a non-confirming lot of record
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1/27/17 Appeal received by the Board.

John E. Beverungen

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Thursday, December 22, 2016 12:16 PM
To: Peter Max Zimmerman; John E. Beverungen
Cc: RICHARD
Subject: RE: Zoning Case No. 2017-122, 11319 Bird River Grove Road, Petitioner Bird River Grove, LLC

Judge Beverungen: I have received Mr. Zimmerman's email of this date. It certainly would have been appreciated if I had known of Mr. Zimmerman's interest in this matter on December 1, 2016 (the date of his email) rather than having first been advised at the hearing on December 20, 2016 and then getting his email today. I would have been pleased to communicate with him in advance.

Insofar as any substantive response, I believe that I addressed the issues identified during the presentation of Petitioner's case, even without knowledge of the concerns expressed in the email. However, if you wish me to address any particular issue or believe that a closing written memorandum from me is necessary, please advise and I would be pleased to submit something in writing. If not, I will submit on the record of the case.

The County agencies have submitted their ZAC comments and they are part of the record of this case. Many of Mr. Zimmerman's observations are wrong (factually and/or legally) and as he did not see fit to submit them in advance and/or appear at the hearing, I respectfully request that they be disregarded.

Thank you.

Larry Schmidt

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

John E. Beverungen

From: Peter Max Zimmerman
Sent: Thursday, December 22, 2016 11:58 AM
To: John E. Beverungen
Cc: Lawrence Schmidt; RICHARD
Subject: FW: Zoning Case No. 2017-122, 11319 Bird River Grove Road, Petitioner Bird River Grove, LLC
Attachments: Webbert Robert CBA Opinion 99-11-SPH.pdf

December 22, 2016

Dear Judge Beverungen,

Pursuant to your request which came up at the hearing on this case on December 20, 2016, I am providing and forwarding to you the e-mail which I sent on December 1, 2016 to planning department and DEPS colleagues to provide information and my preliminary perspective on this case. Because of the complicated nature of the case, I thought it might be helpful to the departments to identify various issues. I also became aware that area citizens had concerns about the case, including Richard Pitz, a zoning leader for the Essex-Middle River Council.

I am sending a copy now to the attorney for petitioner, Lawrence Schmidt, and trust that he will have a reasonable opportunity to comment and respond further to these issues.

Sincerely, Peter Zimmerman, People's Counsel 410 887-2188

From: Peter Max Zimmerman
Sent: Thursday, December 01, 2016 10:26 AM
To: Kathy Schlabach <kschlabach@baltimorecountymd.gov>; Lloyd Moxley <lmoxley@baltimorecountymd.gov>; Jeffery Livingston <jlivingston@baltimorecountymd.gov>; Regina A. Esslinger <resslinger@baltimorecountymd.gov>
Subject: Zoning Case No. 2017-122, 11319 Bird River Grove Road, Petitioner Bird River Grove, LLC

December 1, 2016

Dear Colleagues,

This extremely complicated zoning petition, beneath the surface, appears to involve a request for approval of a resubdivision involving 3 dwellings on 4 lots on property which totals 32,945 square feet., or .756 acre. The site is zoned R.C. 2., Agricultural.

There are proposed dwellings on lots 1 and 2 and a dwelling on a stated combination of 3 and 4, for a total of 3 dwellings as I read the site plan.

The site plan shows an existing dwelling and boat ramp on lot 1. The proposed 2-story dwelling has ground coverage of 2205 sf, compared to the listed existing coverage of 834 sf for a 1.5 story dwelling. There is also proposed on lot 1 a large covered deck. So far as I can tell, the remainder of the property is vacant. We do not know if the existing dwelling is occupied, or is in good condition.

Petitioner Bird River Grove, LLC is a limited liability corporation which was formed in 2006 and which acquired this property in 2006, so far as State records show. The history of the use of the entire property is not shown.

No lot of record in the R.C.2 Zone which has less than 2 acres may be subdivided. BCZR Sec. 1A03.1.B.1. The minimum lot size in the R.C. 2 Zone is 1 acre. BCZR 1A01.3.B.2

The 1925 subdivision plat for Bird River Grove, Section A, shows lot 1 and lot 2 as delineated on the site plan, but it does not show proposed site plan lots 3 and 4 as dwelling lots. The area named now as Lots 3 and 4 shows just as a blank on the 1925 plat. The actual plat shows lots 3 and 4 as parts of property owned now by James and Valerie Dimmer, adjoining owners.

We looked at the deed history, and it is also complicated. The unnumbered "lots" 3 and 4 appear to be the subject of a 1999 quitclaim deed history, release of claims. The 2006 deed has an exhibit showing them as "accreted land."

There is no indication on the site plan as to the source for the newly named lots 3 and 4. However, there are four different tax numbers. But this would result from the deed recordation, not a legal subdivision. The SDAT data sheets for the named lots 3 and 4 do not show lot numbers. They do not appear to be recorded lots.

Even if we assume lots 1 and lot 2 predate the law, they are still undersized lots. It seems to me the proposed dwellings must be reviewed under the BCZR Sec. 307.1 area variance standards or (although not requested in the petition) under BCZR Sec. 304 for undersized lots. It may be that no more than 1 dwelling may satisfy legal standards in the context of a replacement dwelling.

As for proposed lots 3 and 4, I do not see how these undersized lots can be approved as they were not shown as such on the subdivision plat and are way undersized. In addition, the supposed combination of named lots 3 and 4 is itself a resubdivision, a creation of a new lot, but it is undersized relating to both. The obscure deed history involving quitclaim, release of claims, and accreted land further weighs against their use for an additional dwelling.

For your information, I attach a case involving somewhat similar R.C. 2 Zone issues: In the Matter of Webbert, CBA No. 99-11-SPH 1999. It also involved a proposed resubdivision with an undersized old R.C. 2 lot. The CBA denied the proposal.

The instant case is also subject to zoning and development review for Chesapeake Bay Critical Area standards relevant generally and to the Limited Development Area. The site plan shows the property to be in a buffer management area and refers to a CBCA reservation. It is also in an AE Flood Zone. DEPS review will be important, including Code Secs. 33-2-204, 33-2-402, 403.

The LDA has impervious surface limits. Code Sec. 33-2-603. Lot 2 appears to exceed the 25% maximum under Code Sec. 33-2-603.

Upon review of the DEPS website variance link, I did not see any CBCA variance requests. Under the circumstances, it appears at this preliminary juncture doubtful that any variances or other sorts of waivers would be warranted if the site conflicts with reservation/easement, buffer management area, and/or impervious surface standards. It is also appears doubtful that this proposal could meet CBCA zoning standards. BCZR Sec. 500.14.

It is also unclear whether this project is undergoing development review as a minor subdivision or resubdivision proposal.

I trust you will find these observations helpful. Thank you in advance for your interest in this matter. If you have any questions, comments, or critique, please let me know.

The hearing is scheduled before the Administrative Law Judge on December 20, 2016 at 1:30 PM.

Sincerely, Peter Zimmerman, People's Counsel 410 887-2188

Rebecca Wheatley

From: Peter Max Zimmerman
Sent: Thursday, December 01, 2016 10:26 AM
To: Kathy Schlabach; Lloyd Moxley; Jeffery Livingston; Regina A. Esslinger
Subject: Zoning Case No. 2017-122, 11319 Bird River Grove Road, Petitioner Bird River Grove, LLC
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The hearing is scheduled before the Administrative Law Judge on December 20, 2016 at 1:30 PM.

Sincerely, Peter Zimmerman, People's Counsel 410 887-2188

IN THE MATTER OF THE THE APPLICATION OF ROBERT F. WEBBERT, ET UX - PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE SE/S STRINGTOWN ROAD, 4850' NE OF FALLS ROAD (2119 STRINGTOWN ROAD) 5TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 99-11-SPH

* * * * * * * * * *

O P I N I O N

This matter comes before the Board on appeal filed by the Office of People's Counsel for Baltimore County from the decision of the Deputy Zoning Commissioner dated October 1, 1998 in which Petition for Special Hearing granted the confirmation and redistribution of development rights among three contiguous parcels of R.C. 2-zoned property in northern Baltimore County.

The Petitioners, Robert and Barbara Webbert, were represented by Howard L. Alderman, Jr., Esquire. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel. This matter was heard by this Board de novo on June 2, 1999. In lieu of final argument, both counsel submitted memorandums on July 16, 1999. Public deliberation was held on August 26, 1999, due notice of which was provided to all interested parties.

The subject property, known as 2119 Stringtown Road and consisting of approximately 11.6 acres, is zoned Rural Conservation (R.C.2) and is improved with a detached single-family dwelling. The subject property, which dates back to 1925, involved several minor in and out conveyances of land which are recorded among the Land Records of Baltimore County (Petitioner's Exhibits No. 2

through No. 8). These conveyances form the subject property which the Webberts purchased in 1996 by recorded deed (Petitioner's Exhibit No. 9). The Webberts themselves do not reside on the subject site but instead rent the existing homesite.

Petitioners claim there are four buildable lots associated with the property, but only wish to subdivide and develop this site into three parcels of roughly uniform size. The lot containing the existing dwelling would contain 3.104 acres, while the two proposed dwelling lots would consist of 3.335 acres and 4.723 acres, as shown on the Plat to Accompany Special Hearing (Petitioner's Exhibit #1). This is the matter on appeal as the Office of People's Counsel for Baltimore County contends that the subject site can only be subdivided into two buildable lots.

Mr. Douglas Myers, a licensed surveyor with 27 years experience and accepted as an expert in the field of surveying, testified on behalf of the Petitioners. Mr. Myers testified that he prepared the site plan (Petitioner's Exhibit No. 1), stating the existing house, lot lines, and proposed dwellings are all accurately shown. Mr. Myers also stated that his profession requires him to be familiar with the Baltimore County Zoning Regulations (BCZR). He opined that four dwelling rights exist on the subject site. Two exist on the lot outlined in red which contains roughly 10.391 +/- acres based on the R.C. 2 zoning classification. One dwelling right exists on the pink parcel (.306 +/- acre) based on Petitioner's Exhibit #2, Recorded Deed dated May 26, 1934, with the remaining dwelling right coming from the yellow

March 10, 2017

Board of Appeals of Baltimore County

Jefferson Building, Suite 203

101 W. Chesapeake Ave.

Towson, Md. 21204

Re: CBA 17-122-SPHA

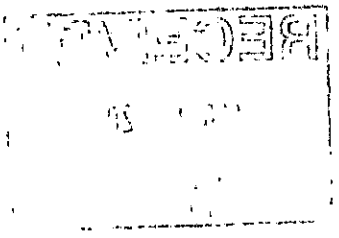
11319 Bird River Grove Rd.

Appeal of Variances on Lots 1 & 2

In receipt of Mr. Lawrence E. Schmidt's (attorney for Bird River Grove LLC) Motion to Dismiss notification I feel it necessary to better explain my actions and reasons when I filed the appeal letter on Jan 26, 2017. As a layperson with no legal training (and having never filed an appeal previously) I called the BOA office to inquire about the proper procedures in filing an appeal. I was informed that I needed to submit a letter detailing whether I was appealing the entire decision of the ALJ or only part of the decision as there was a different fee structure based upon my intentions. I was told that the fee for appealing the entire decision was $530 and the fee for a partial appeal was $265 which met my intentions of only appealing the variances for Lots 1 & 2. The partial appeal was noted on your appeal notification letter dated January 27, 2017. At no point during the phone call was I notified that I also needed to notify the Petitioner's attorney as a courtesy. The crude, printed appeal letter that I submitted was a result of my printer being down.

I filed the appeal as an individual and I am a waterfront property owner (albeit in Bowley's Quarters) concerned about the health and the ongoing abuse of our waterways feeding into our precious Chesapeake Bay estuary. I serve on the Executive Board of the Essex Middle River Civic Council (umbrella organization for 18 community/civic groups in the 6th and 7th councilmanic district which includes our waterfront properties) as the watchdog for variances/development projects and we routinely discuss these issues and often take a yea or nay position as we also do during the CZMP process every 4 years. My mention of the EMRCC name on the appeal letter was indicative of their having taken a position on this issue and my relating their position. I am also on the Board of the Bowley's Quarters Improvement Association and likewise, we discuss and take positions on development projects and CZMP issues in our immediate area; however, I did file the appeal here as an individual, feeling aggrieved that county property guidelines are being circumvented.

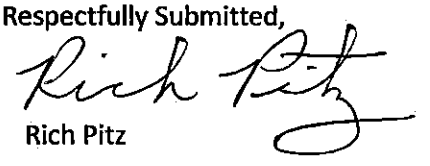
My use of the term "representing" in the appeal letter was meant to be understood in a generic sense and certainly not intended in a legal context. At no point during the ALJ hearing did I act or speak in a manner intended as an attorney would conduct his or herself; had I done that I'm sure both Mr. Schmidt and Judge Beverungen would have stopped me immediately and instructed that it was illegal for me to represent anyone as their legal counsel without any Maryland Bar standing. I asked no questions of the other protestants and everyone spoke freely.



I have attended many ALJ hearings and Zoning hearings going back to 2003, some of which directly affected my property on Cold Spring Rd; thus, I have some experience (surely not expertise) so I was able to inform the immediate neighbors on Bird River Grove Rd of their need to appear at these proceedings to voice their concerns. I hope you believe as I do that, as a private citizen, I have every right to appear at these hearings and for having filed the appeal. I will not be representing any neighboring citizens who may elect to appear at the hearing on their own behalf, as they appeared at the ALJ hearing.

I hope this letter adequately answers any concerns you may have regarding my actions and my involvement in this matter. I would respectfully request that you deny the Motion to Dismiss as submitted by Mr. Schmidt and for the BOA hearing to proceed as you notified all parties in your February 16, 2017 Notice of Assignment.

Respectfully Submitted,



Rich Pitz

808 Cold Spring Rd.

Balto. Md. 21220

Cc: Lawrence E. Schmidt, Esq.

Smith, Gildea & Schmidt, LLC

600 Washington Ave, Suite 200

Towson, Md. 21204

Peter Max Zimmerman, Esq.

People's Counsel for Baltimore County

Jefferson Building

105 W. Chesapeake Ave.

Towson, Md. 21204

March 13, 2017

Board of Appeals of Baltimore County

Jefferson Building, Suite 203

101 W. Chesapeake Ave.

Towson, Md. 21204

Re: CBA 17-122-SPHA

11319 Bird River Grove Rd. (RC-2 Agricultural Zoning)

Appeal of Variances on Lots 1 & 2

- Balto. County defines RC-2 zoning classification thusly:
  - Purpose: To foster and protect agriculture
  - Permitted Uses: Preferred use agriculture; **Limited Residential Development**
  - Lot Area: 1 acre minimum

- Lot 1 land area is .37 ac ; Lot 2 land area is .14 ac; Lots 3 & 4 combined land area .25 ac

- 11319 Bird River Rd. is the very end of a peninsula with 374 ft water frontage on Bird River and Windlass Run with Bird River one of the most silted over, ecologically endangered tributaries feeding into the Chesapeake Bay (per the Chesapeake Bay Foundation)

- This property lies in an AE Flood Zone, a Limited Development Area and a Modified Buffer Area (requiring lot coverage/impervious surface standards) and subject to Chesapeake Bay Critical Area standards (where are the CBCA variance requests?)

- The house still standing on Lot 1 is the only house that has ever stood on the combined properties. The community would be acceptable to the cleaning up of the combined lots with a single home being grandfathered and built on Lots 1 & 2.

- At the ALJ hearing in Dec, Dan Koch stated that as an Authorized Representative of Bird River Grove, LLC he had every intention to live at the property. The community is not attempting to impose any hardship or practical difficulty on Mr. Koch and would welcome him as a neighbor. The neighbors would love to see the property cleaned up with a single home built at 11319 Bird River Rd.

- The core of my appeal in this case are the variances that the petitioner has requested for lots 1 & 2. I have read many decisions of the ALJ and prior to that the Zoning Commissioner from hearings related to variance requests and often I have read that variances are difficult to obtain in Balto. County. The petitioner is requesting most if not all of the types of variances needed for any property and the magnitude of the lot size requests and the setback reduction distances is eye-opening; additionally, significant variances are needed for both Lots 1 & 2.

Lot 1 Requests

- Setback from property line of 16 feet is only **46 %** of the required 35 feet
- Setback from the street centerline of 30 feet is only **40 %** of the required 75 feet
- Open projection deck extending into yard 18.5 feet exceeds by **50 %** the maximum permitted 8.75 feet with a setback from the property line of 17 feet, only **65 %** of the required 26.25 feet
- To allow a lot size of .368 acres **(36.8 %)** in lieu of the required 1 acre

Lot 2 Requests

- Setback from the property line of 14 feet, 17 feet and 22 feet in lieu of the required 35 feet. These setback reduction distances are only **40 %, 49 % and 63 %** of the required standard.
- Setback from the street centerline of 34.5 feet is only **47 %** of the required 75 feet.
- Setback of an open projection deck from the property line of 14 feet is only **54 %** of the required 26.25 feet.
- To allow a lot size of .144 acres **(14.4 %)** in lieu of the required 1 acre.

Those of us fortunate to live on the waterfront in eastern Balto. County have an inherent responsibility to respect and protect these tributaries that feed the Chesapeake Bay that once was the richest estuary in the United States; not so sure we can make that lofty claim any longer. This is all that we ask Balto. County to do.....enforce the existing zoning guidelines and promote smart growth while respecting the quality of life of existing homeowners, not to agree to develop every parcel of land that exists.

The zoning guidelines do not differentiate between land-locked property and waterfront, yet it should, and be even more sensitive to granting development along our vulnerable and precious waterways.

The variance requests in this case are substantial because the property is simply too small for 2 houses, yet not for a single house.....**RC-2.....Limited Residential Development !**

I am a Board Member of the Essex Middle River Civic Council and I function to keep the membership appraised of zoning and development issues in our geographic area. We routinely discuss and take yea or nay positions on zoning matters as we do during the CZMP process every 4 years. This issue today was discussed at our General Meeting on March 1, 2017, a vote was taken with the result being to unanimously oppose the building of multiple homes at 11319 Bird River Grove Rd. The proper Rule 8 form was submitted today to allow me to present their opposition.

Respectfully,

Richard Pitz

Richard Pitz

1-26-2017

OFFICE OF ADMINISTRATIVE HEARINGS
105 W. CHESAPEAKE AVE, RM 103
TOWSON, MD. 21204

RE: CASE# 2017-0122 SPHA

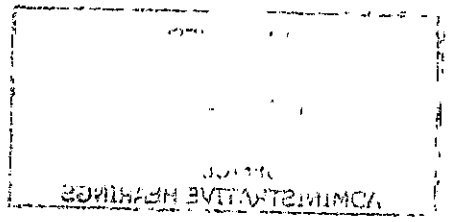
THE CITIZENS ARE FILING AN APPEAL OF THE DECISION ISSUED ON DEC 30, 2016 FOR THE ABOVE REFERENCED CASE.

SPECIFICALLY, WE ARE APPEALING THE PETITION FOR VARIANCES ON LOTS 1 AND 2.

SINCERELY,

RICH PITZ
808 COLD SPRING RD
BALTO. MD 21220

- REPRESENTING THE ESSEX MIDDLE RIVER CIVIC COUNCIL AND THE ADJACENT NEIGHBORS AS MENTIONED IN THE ORIGINAL HEARING


ADMINISTRATIVE HEARINGS

Real Property Data Search | Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: **District - 15 Account Number - 1513750330**

Owner Information

Owner Name:	BIRD RIVER GROVE LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	7909 GREENSPRING AVE BALTIMORE MD 21208-	**Deed Reference:**	/24000/ 00425

Location & Structure Information

Premises Address:	11319 BIRD RIVER GROVE RD 0-0000 Waterfront	**Legal Description:**	11319 BIRD RIVER GROVE R BIRD RIVER GROVE

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0073	0020	0324		0000	A		1	2015	Plat Ref:	0007/ 0189

Special Tax Areas:		**Town:**	NONE
		Ad Valorem:	
		Tax Class:	

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
1950	960 SF		18,088 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
1 1/2	NO	STANDARD UNIT	SIDING	1 full/ 1 half		

Value Information

	Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	179,200	179,200		
Improvements	16,300	15,200		
Total:	195,500	194,400	194,400	194,400
Preferential Land:	0			0

Transfer Information

Seller: CHERNYAKHOVSKY VITA	Date: 06/14/2006	Price: $500,000
Type: ARMS LENGTH MULTIPLE	Deed1: /24000/ 00425	Deed2:
Seller: HEINZERLING FRANZ D	Date: 06/17/2004	Price: $272,000
Type: ARMS LENGTH MULTIPLE	Deed1: /20259/ 00425	Deed2:
Seller: CHAMBERS BARRY EDWARD	Date: 02/25/1999	Price: $150,500
Type: ARMS LENGTH MULTIPLE	Deed1: /13552/ 00514	Deed2:

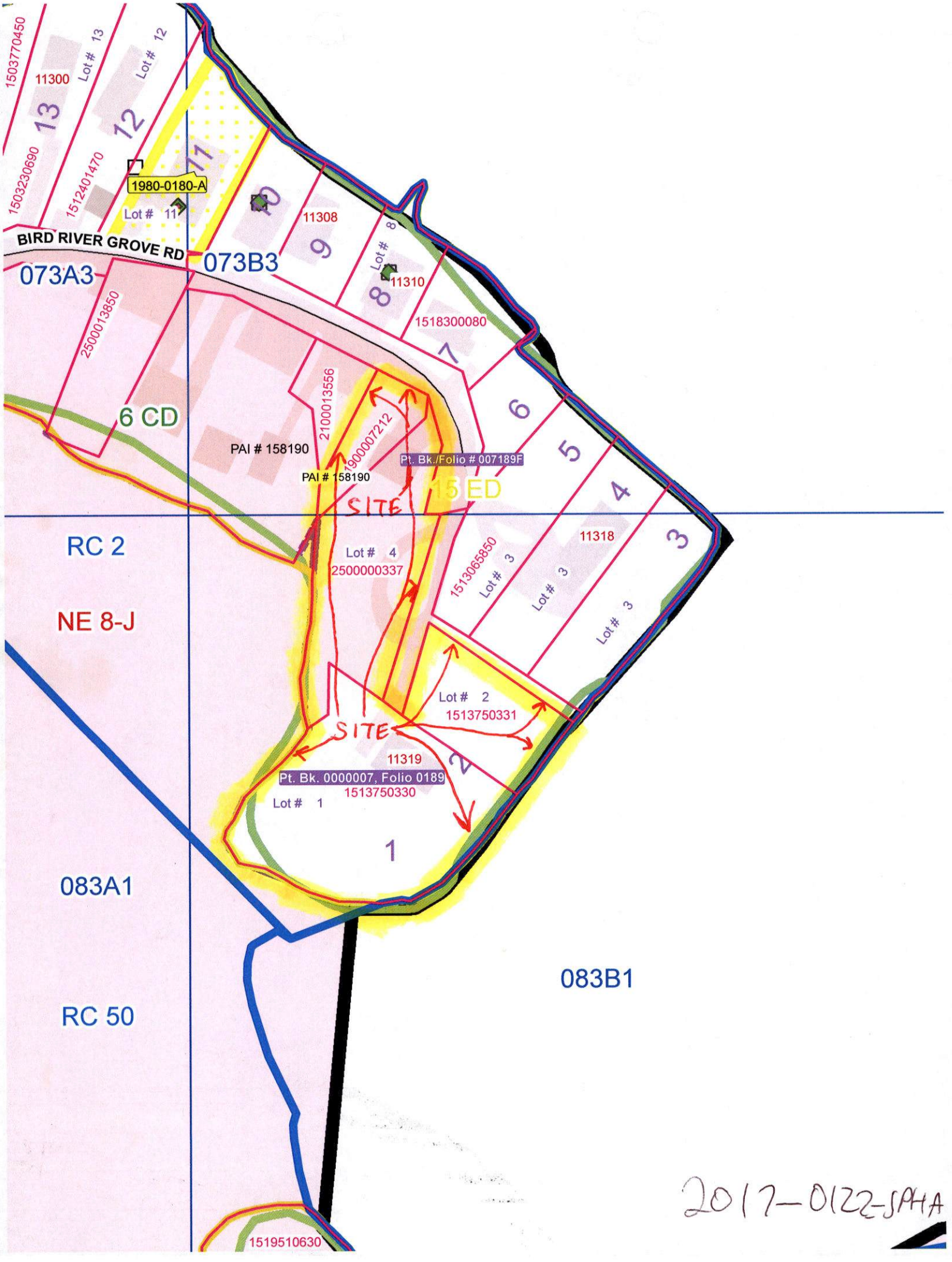
Exemption Information

Partial Exempt Assessments:	Class	07/01/2016	07/01/2017
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: No Application



2017-0122-SPHA

PLEASE PRINT CLEARLY

CASE NAME Bad Axe Grove
CASE NUMBER 2017-122-SPHA
DATE 12/20/17

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
LAURENCE E. SCHMIDT	600 WASHINGTON AVE	TOWSON, MD 21204	lschmidt@sgs-law.com
WILLIAM BAFITIS	1249 ENGLEBERTH RD	ESSEX MD. 21221	BAFITIS ASSOC @ comcast.net
Dan Koch	7909 Greenspring ave,	Baltimore MD 21208	GreenSpringServices@Gmail.com

PLEASE PRINT CLEARLY

11319 BIRD RIVER GROVE RD.

CASE NAME 2017-0122-SPHA
CASE NUMBER
DATE 12-20-16

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
RICH PITZ	868 COLD SPRINGS RD	BALTO. MD 21220	PITZ868@COMCAST.NET
TIM PRESTIANNI	11304 BIRD RIVER GROVE RD	WHITE MARSH MD 21162	
M. RIVERA	11306 " " " "	" " " "	———
Janet Terry	1216 Stumpfs Rd.	Balto. MD 21220	KavaKava1216@msn.com
PETER TERRY	" " "	" " "	" " " "

Board of Appeals

Case No: 17-122-SPHA Case Name: 11319 Bird River Grove

Exhibit List

Party: Protestants Date: 4/13/17

Exhibit No:	Description:
✓ 1	Memo from Pitz
	VERIFIED BY KC DATE: 4/14/17

March 13, 2017

Board of Appeals of Baltimore County

Jefferson Building, Suite 203

101 W. Chesapeake Ave.

Towson, Md. 21204

Re: CBA 17-122-SPHA

11319 Bird River Grove Rd. (RC-2 Agricultural Zoning)

Appeal of Variances on Lots 1 & 2

- Balto. County defines RC-2 zoning classification thusly:
  - Purpose: To foster and protect agriculture
  - Permitted Uses: Preferred use agriculture; **Limited Residential Development**
  - Lot Area: 1 acre minimum

- Lot 1 land area is .37 ac ; Lot 2 land area is .14 ac; Lots 3 & 4 combined land area .25 ac

- 11319 Bird River Rd. is the very end of a peninsula with 374 ft water frontage on Bird River and Windlass Run with Bird River one of the most silted over, ecologically endangered tributaries feeding into the Chesapeake Bay (per the Chesapeake Bay Foundation)

- This property lies in an AE Flood Zone, a Limited Development Area and a Modified Buffer Area (requiring lot coverage/impervious surface standards) and subject to Chesapeake Bay Critical Area standards (where are the CBCA variance requests?)

- The house still standing on Lot 1 is the only house that has ever stood on the combined properties. The community would be acceptable to the cleaning up of the combined lots with a single home being grandfathered and built on Lots 1 & 2.

- At the ALJ hearing in Dec, Dan Koch stated that as an Authorized Representative of Bird River Grove, LLC he had every intention to live at the property. The community is not attempting to impose any hardship or practical difficulty on Mr. Koch and would welcome him as a neighbor. The neighbors would love to see the property cleaned up with a single home built at 11319 Bird River Rd.

Protestant
CBA Exhibit
1

Case No.: 2017-0122-SPHA

Exhibit Sheet

Petitioner/Developer

Protestants

Den 12-30-16

No. 1	Plan	Hearing Notes submitted by R. Pitz
No. 2	Plat - Bird River Grove	
No. 3	3A, 3B > Aerial photos	
No. 4	SDAT records	
No. 5	5A-5R Photos of vicinity	
No. 6	Title deeds	
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

#2017-0127-SPHA
11319 BIRD RIVER GROVE RD 12-20-16

* RC-2 (AGRICULTURAL/LIMITED RESIDENTIAL DEVELOPMENT)

- LOT 1 & 2 - NO ARGUMENT LOT OF RECORD
- " 3&4 - QUESTIONABLE, QUIT CLAIM DEEDS, ADVERSE POSSESSION
- 1925 PLAT

- LOT 1
  SETBACK
  - 16' Vs 35' TO PROP LINE - LESS THAN 50%
  - 34' TO WATER (50' NOT 35') ONLY 70%
  - 30' Vs 75' TO ROAD CENTERLINE " 40%
  - 18.5' Vs 8.75' DECK EXCEEDS BY 100%
  - SET BACK OF 14' Vs 26.25' - LESS THAN 55%
- .368 AC Vs 1 AC - 36.8% OF STANDARD

- LOT 2
  SETBACKS
  - 14' & 17' Vs 35' TO PROP LINE - 40% & 50%
  - 22' TO WATER Vs 50' - 45%
  - 34.5' Vs 75' ROAD CENTER - 47%
  - SETBACK 14' Vs 26.25' DECK - LESS THAN 55%
- .144 AC Vs 1AC - 14.4% OF STANDARD

- LOT 3/4
  SETBACKS
  - 20' Vs 35' TO PROP LINE - 58%
  - 14' Vs 50' TO WATER - 28%
  - 25' Vs 75' TO ROAD CENTER - 33%
  - DECK SETBACK 8' Vs 26.25' - 31%
- .243 AC Vs 1AC - 24.3% OF STANDARD

- LOT 1 + 2 + 3/4 = .368 + .144 + .243 = .755
  75.5%

TOTAL LOT ACREAGE .755 AC
NEED SINGLE LOT ACREAGE OF 1 AC

PROTESTANT'S EXHIBIT NO. ____

Board of Appeals

Case No: 17-122-SPHA Case Name: 11319 Bird River Grocery Store

Exhibit List

Party: People's Counsel Date: 4/13/17

Exhibit No:	Description:
✓ 1	Comment - Dept of Environment
✓ 2	Aerial View
✓ 3	Sign in Sheet
✓ 4	Road Map
✓ 5	Aerial Pict
✓ 6.	Zoning MAP
✓ 7	Miniature ~~Photos~~ of Ex 2
	VERIFIED BY KC DATE: 4/14/17

12-20

People's Counsel
CBA Exhibit
1

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

NOV 14 2016

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: November 14, 2016

SUBJECT: DEPS Comment for Zoning Item # 2017-0122-SPHA
Address 11319 Bird River Grove Road
(Koch Property)

Zoning Advisory Committee Meeting of **November 14, 2016**

EPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

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 four properties are located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and are subject to Critical Area requirements. The applicant is proposing to construct three new dwellings with less setbacks and lot area than permitted and to combine lots 3 and 4. The proposed dwellings are within the 100-foot buffer. The site plan does not show the lot lines extending to the current shoreline around the perimeter of the lots. The lots are waterfront, and the proposed dwellings must meet all LDA and MBA requirements, including lot coverage limits, forest clearing, afforestation, and buffer. It appears Critical Area buffer variances may be necessary for the dwelling locations on lots 1 and 2. If the lot coverage, forest clearing, afforestation, MBA and any Critical Area variance requirements can be met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

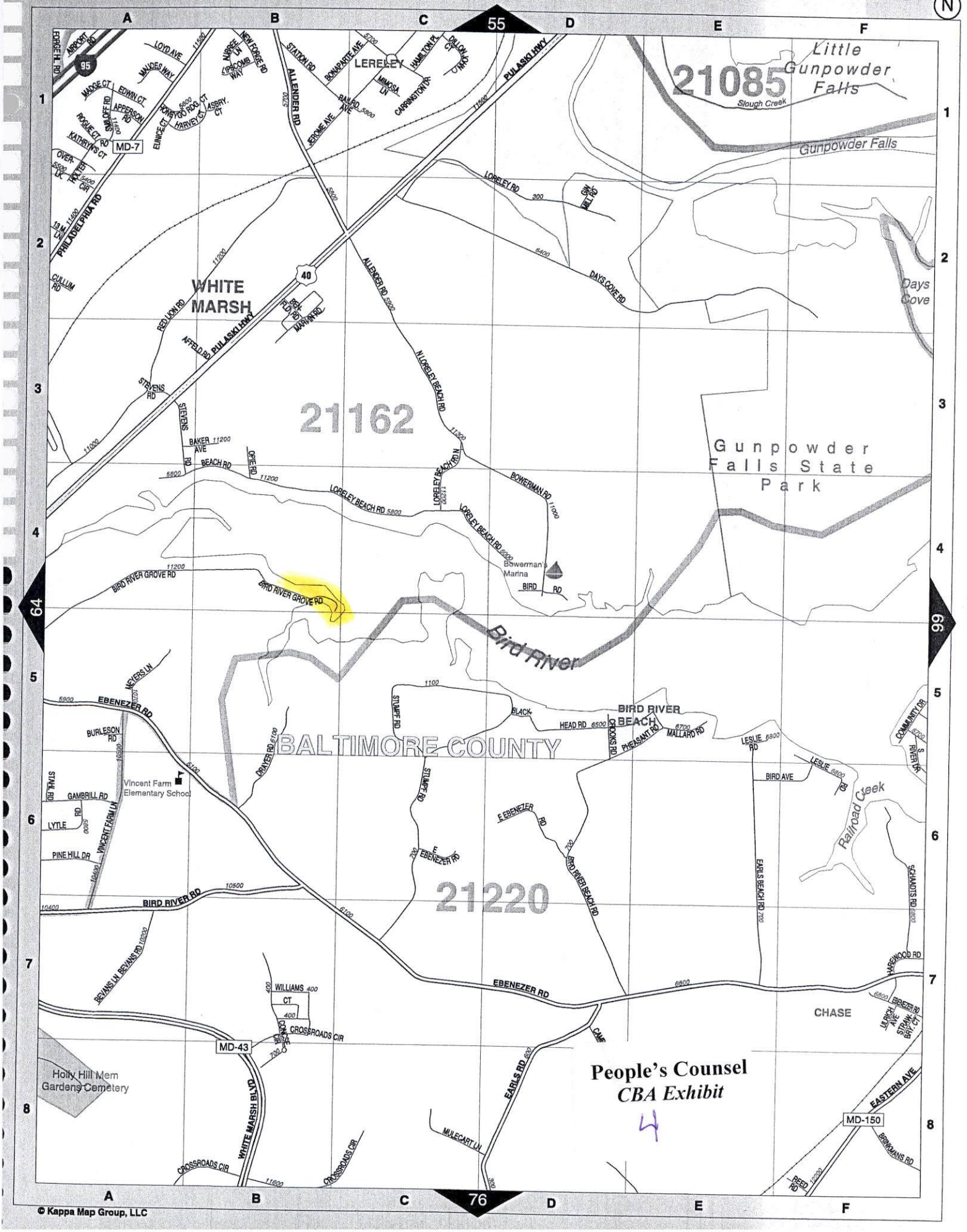
People's Counsel Sign-In Sheet

Case Name: Bird River Grove, LLC
Case No.: 2017-122-SPHA
Date: April 13, 2017

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
✓	RICHARD PITZ	808 COLD SPRING RD	4103350267	PITZ8[illegible]COMCAST	SELF/EMRCC	VARIANCES
	TIMOTHY PROSTRANIK	1130 BIRD RIVER GROVE RD	410-335-4340			
✓	MICHAEL RAMOS	1130 " " " "	410-335-3891	—	S	"
	Janet Terry	1216 Stumpfs Rd 21220	410 335 8915	Kaukaua1216@msn.com	Self Bird River	Restoration Campaign
	Peter Terry	" "	"	"	"	"

People's Counsel
CBA Exhibit
3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1 In = 2,000 ft
0 ft 1,000 2,000 3,000 4,000 5,000 1 mi
0 m 200 400 600 800
21085
Little Gunpowder Falls
Slough Creek
Gunpowder Falls
LORELEY
WHITE MARSH
21162
Gunpowder Falls State Park
Days Cove
Bowerman's Marina
Bird River
BALTIMORE COUNTY
BIRD RIVER BEACH
21220
Railroad Creek
CHASE
Vincent Farm Elementary School
Holly Hill Mem Gardens Cemetery
PHILADELPHIA RD
PULASKI HWY
ALLENDER RD
LORELEY BEACH RD
BIRD RIVER GROVE RD
EBENEZER RD
BIRD RIVER RD
MD-7
MD-43
MD-150
People's Counsel
CBA Exhibit
4
© Kappa Map Group, LLC

People's Counsel
CBA Exhibit
5

lap

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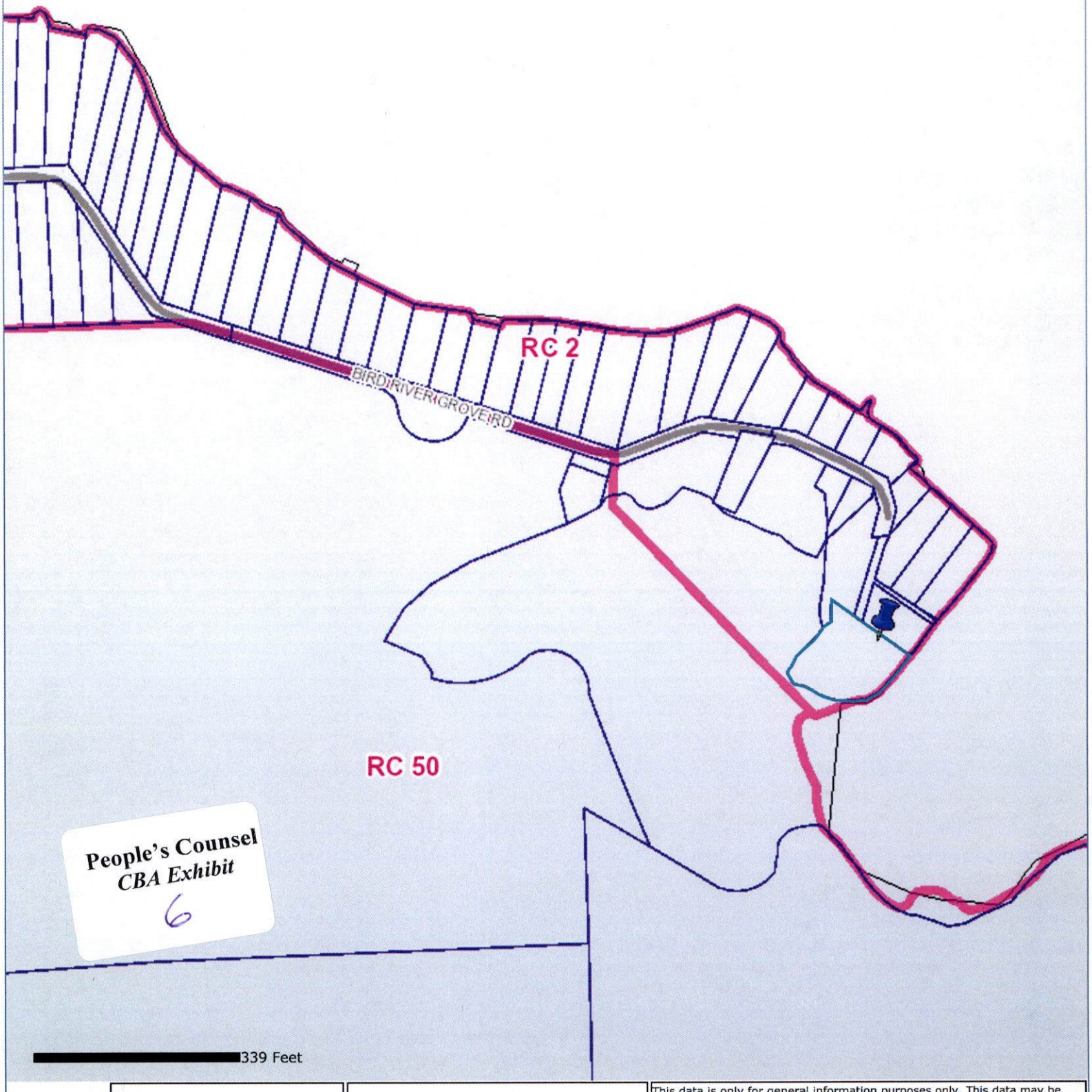
Baltimore County
My Neighborhood

Printed 4/13/2017



My Neighborhood Map

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Baltimore County
My Neighborhood

Printed 4/13/2017

People's Counsel
CBA Exhibit
7

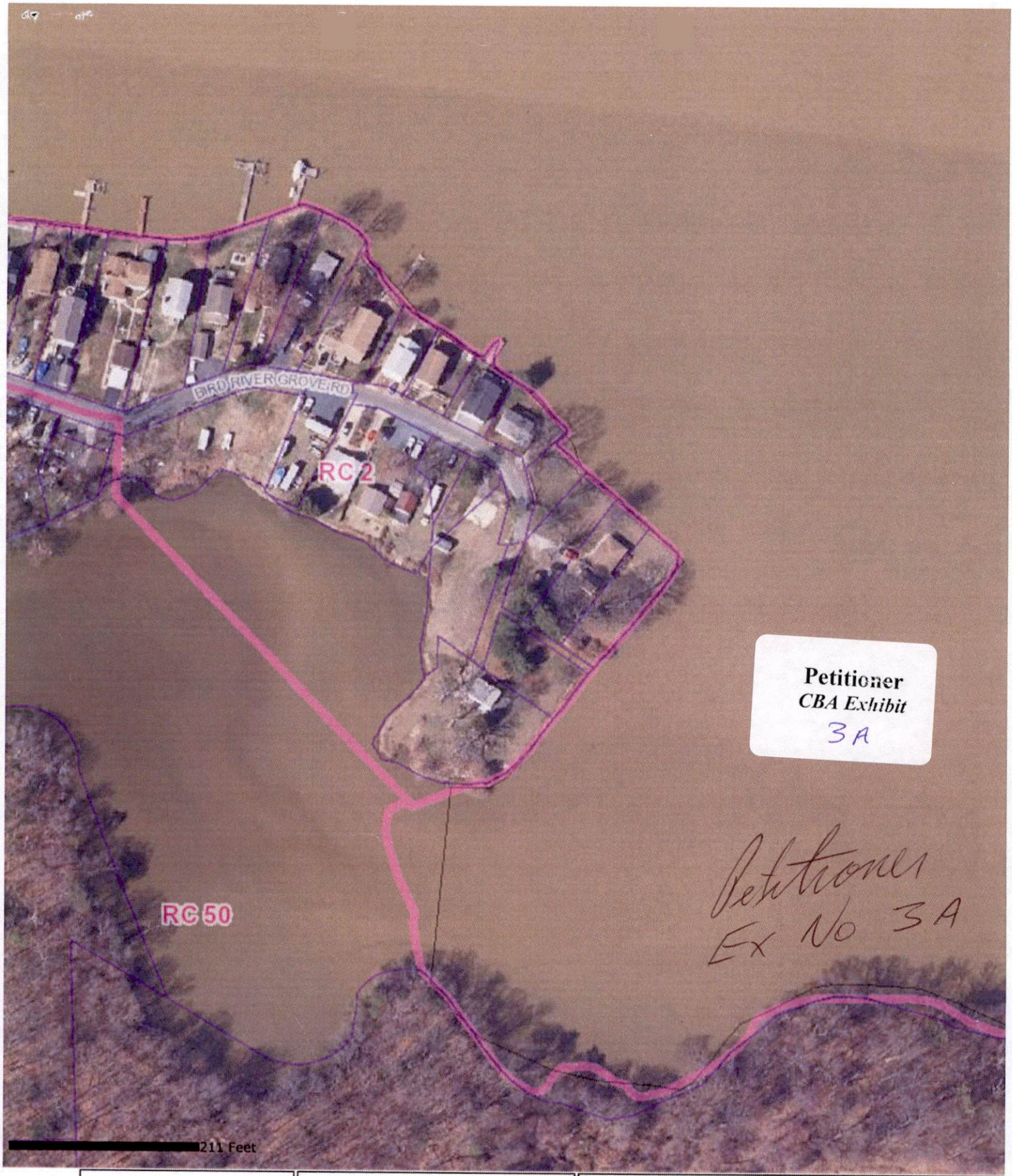
Board of Appeals

Case No: 2017-122-SPHA Case Name: 11319 Bird River Grove

Exhibit List

Party: Petitioner Date: 4/13/17

Exhibit No:	Description:
✓ 1	Plan
✓ 2	Larger Plat
✓ 3	Aerial Photos
✓ 4	SDAT for each lot
✓ 5	5A-5E Photos & Vicinity
✓ 6	Title Deeds
✓ 7A-7K	Photos 7A-
✓ 8A-8K	Photos 8A-
PC 1	DEPT of Environmental Protection & Sustainability Comment
~~PROT~~	Photos from Pit 2
✓ 9	SDAT re Rhea
	VERIFIED BY KC DATE: 4/14/17

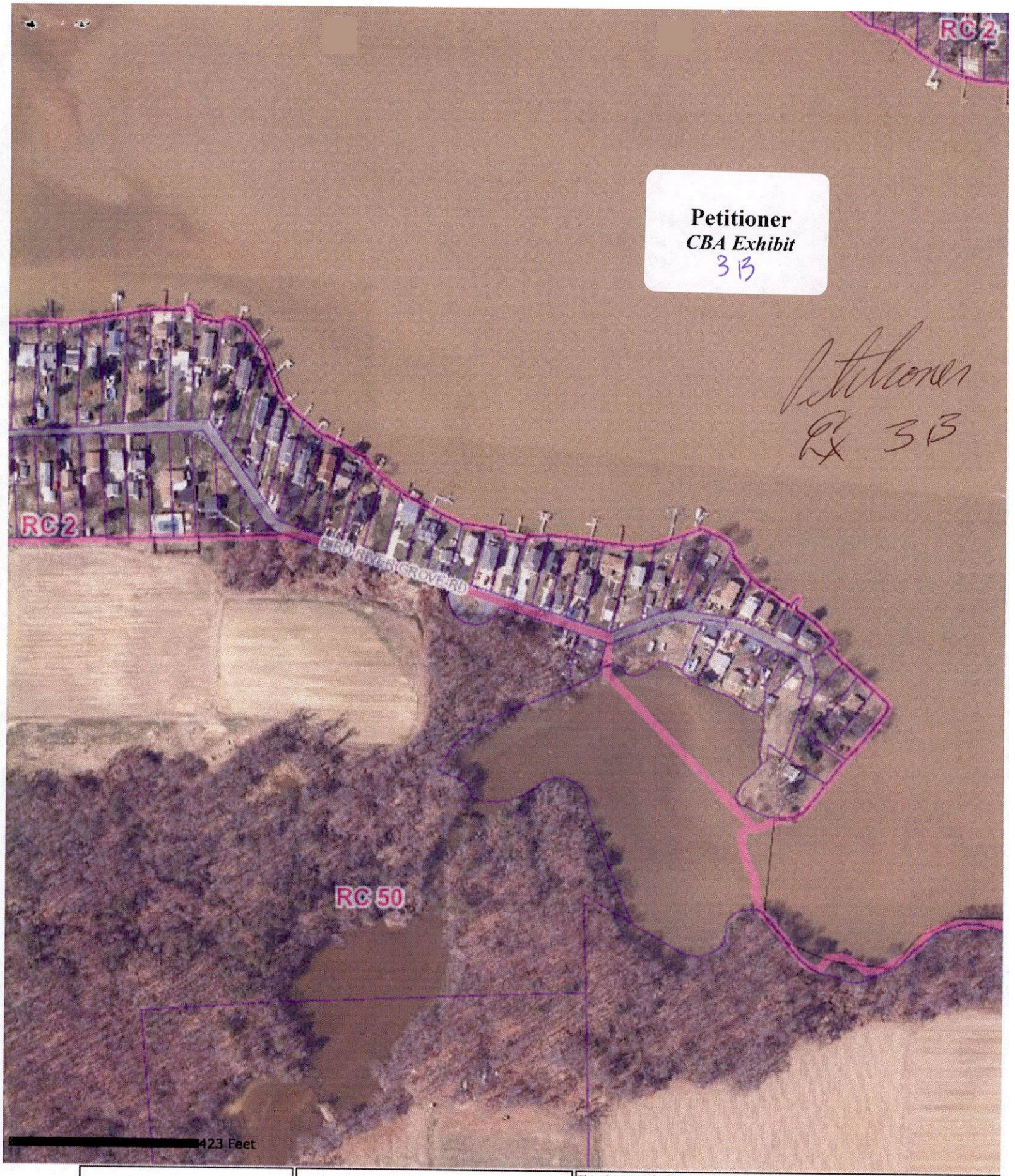


Petitioner
CBA Exhibit
3A

Petitioner
Ex No 3A

My Neighborhood Map

Created By
Baltimore County
My Neighborhood



My Neighborhood Map

Created By
Baltimore County
My Neighborhood

Lot 1

Real Property Data Search (w2) — Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: **District - 15 Account Number - 1513750330**

Owner Information

Owner Name:	BIRD RIVER GROVE LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	C/O HOWARD CASTLEMAN 100 HARBORVIEW DRIVE PH-1B BALTIMORE MD 21230-	**Deed Reference:**	/24000/ 00425

Location & Structure Information

Premises Address:	11319 BIRD RIVER GROVE RD 0-0000 Waterfront	**Legal Description:**	11319 BIRD RIVER GROVE R BIRD RIVER GROVE

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0073	0020	0324		0000	A		1	2015	Plat Ref:	0007/ 0189

Special Tax Areas: **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
1950	960 SF		18,088 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
1 1/2	NO	STANDARD UNIT	SIDING	1 full/ 1 half		

Value Information

	Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	179,200	179,200		
Improvements	16,300	15,200		
Total:	195,500	194,400	194,400	194,400
Preferential Land:	0			0

Transfer Information

Seller: CHERNYAKHOVSKY VITA Type: ARMS LENGTH MULTIPLE	Date: 06/14/2006 Deed1: /24000/ 00425	Price: $500,000 Deed2:
Seller: HEINZERLING FRANZ D Type: ARMS LENGTH MULTIPLE	Date: 06/17/2004 Deed1: /20259/ 00425	Price: $272,000 Deed2:
Seller: CHAMBERS BARRY EDWARD Type: ARMS LENGTH MULTIPLE	Date: 02/25/1999 Deed1: /13552/ 00514	Price: $150,500 Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2016	07/01/2017
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: No Application

1. This screen allows you to search the Real Property database and display property records.
2. Click **here** for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

Petitioners Ex No. 4

Lot 2

Real Property Data Search (w2) | Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: **District - 15 Account Number - 1513750331**

Owner Information

Owner Name:	BIRD RIVER GROVE LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	715 SE 10TH ST DELRAY BEACH FL 33483-	**Deed Reference:**	/24000/ 00425

Location & Structure Information

Premises Address:	BIRD RIVER GROVE RD 0-0000 Waterfront	**Legal Description:**	BIRD RIVER GROVE

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0073	0020	0324		0000	A		2	2015	Plat Ref:	0007/ 0189

Special Tax Areas: NONE

Town:
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
			6,758 SF	34

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation

Value Information

	Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	6,700	6,700		
Improvements	0	0		
Total:	6,700	6,700	6,700	6,700
Preferential Land:	0			0

Transfer Information

Seller: CHERNYAKHOVSKY VITA	Date: 06/14/2006	Price: $500,000
Type: ARMS LENGTH MULTIPLE	Deed1: /24000/ 00425	Deed2:
Seller: HEINZERLING FRANZ D	Date: 06/17/2004	Price: $272,000
Type: ARMS LENGTH MULTIPLE	Deed1: /00000/ 00000	Deed2:
Seller: CHAMBERS BARRY EDWARD	Date: 02/25/1999	Price: $150,500
Type: ARMS LENGTH MULTIPLE	Deed1: /13552/ 00514	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2016	07/01/2017
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00|0.00	0.00|0.00

Tax Exempt:
Exempt Class:

Special Tax Recapture:
NONE

Homestead Application Information

Homestead Application Status: No Application

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2. Click here for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

Lot "3"

Real Property Data Search (w2) | Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: **District - 15 Account Number - 1900007212**

Owner Information

Owner Name:	BIRD RIVER GROVE LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	100 HARBORVIEW DR PHIB BALTIMORE MD 21230-5415	**Deed Reference:**	/24000/ 00425

Location & Structure Information

Premises Address:	BIRD RIVER GROVE RD 0-0000	**Legal Description:**	LT SWS BIRD RIVER GROVE RD 2305 FT E EBENEZER RD

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0073	0020	0417		0000				2015	Plat Ref:

Special Tax Areas:		**Town:**	NONE
		Ad Valorem:	
		Tax Class:	

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
			4,416 SF	04

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation

Value Information

	Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	1,100	1,100		
Improvements	900	900		
Total:	2,000	2,000	2,000	2,000
Preferential Land:	0			0

Transfer Information

Seller: CHERYAKHOVSKY VITA	Date: 06/14/2006	Price: $500,000
Type: ARMS LENGTH MULTIPLE	Deed1: /24000/ 00425	Deed2:
Seller: HEINZERLING FRANZ	Date: 06/17/2004	Price: $272,000
Type: ARMS LENGTH MULTIPLE	Deed1: /21687/ 00539	Deed2:
Seller: CHAMBERS BARRY E	Date: 02/25/1999	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /13552/ 00526	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2016	07/01/2017
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: No Application

1. This screen allows you to search the Real Property database and display property records.
2. Click here for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

Lot "4"

Real Property Data Search (w2) — Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: **District - 15 Account Number -** 2500000337

Owner Information

Owner Name:	BIRD RIVER GROVE LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	715 SE 10TH ST DELRAY BEACH FL 33483-	**Deed Reference:**	/24000/ 00425

Location & Structure Information

Premises Address:	BIRD RIVER GROVE RD 0-0000	**Legal Description:**	.175 AC BIRD RIVER GROVE RD SWS BIRD RIVER GROVE

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0073	0020	0417		0000	A		4	2015	Plat Ref:	0007/ 0189

Special Tax Areas: — **Town:** NONE
Ad Valorem:
Tax Class:

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
			7,263 SF	04

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation

Value Information

	Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	1,800	1,800		
Improvements	0	0		
Total:	1,800	1,800	1,800	1,800
Preferential Land:	0			0

Transfer Information

Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2016	07/01/2017
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: No Application

1. This screen allows you to search the Real Property database and display property records.
2. Click here for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
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ROAD
END
Petitioner
CBA Exhibit
5A
EXHIBIT
5A


Petitioner
CBA Exhibit
5B
EXHIBIT
5B


Petitioner
CBA Exhibit
5C
EXHIBIT
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Petitioner
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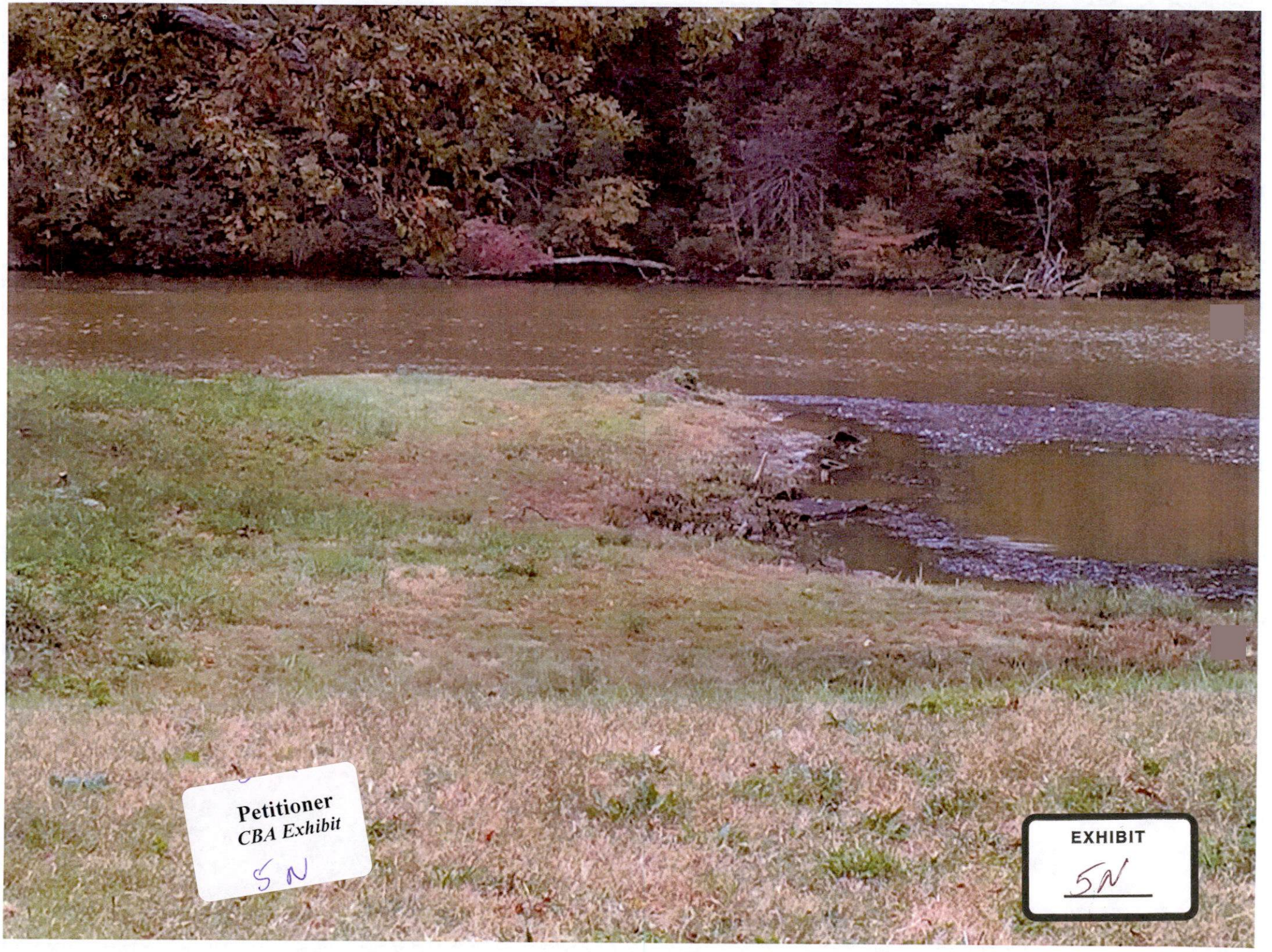
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11319 Bird River Grove Road (4 lots)

Lot 1			
Date	**Liber/Folio**	**Grantor**	**Grantee**
November 25, 1924	WPC 606/234	John T. Bevins and Wife	William H. Milling
		William H. Milling	
April 12, 1948	TBS 1646/393	William A. Sullivan	Joshua E. Knight and Anna M. Knight
May 15, 1967	4755/99	Anna M. Knight, widow	David Moon and Grace Moon
July 28, 1981	6317/518	Grace Moon	Barry Edwards Chambers and Cynthia M. Chambers
February 16, 1999	13552/514	Barry Edwards Chambers and Cynthia M. Chambers	Franz D. Heinzerling
May 28, 2004	20259/425	Franz D. Heinzerling	Vita Chernyakhovsky
May 31, 2006	24000/425	Vita Chernyakhovsky	Bird River Grove LLC

Lot 2			
Date	**Liber/Folio**	**Grantor**	**Grantee**
December 2, 1948	1708/567	William H. and Catherine M. Tuten	Joshua E. and Anna M. Knight
May 15, 1967	4755/99	Anna M. Knight, widow	David Moon and Grace Moon
July 28, 1981	6317/518	Grace Moon	Barry Edwards Chambers and Cynthia M. Chambers
February 16, 1999	13552/514	Barry Edwards Chambers and Cynthia M. Chambers	Franz D. Heinzerling
May 28, 2004	20259/425	Franz D. Heinzerling	Vita Chernyakhovsky
May 31, 2006	24000/425	Vita Chernyakhovsky	Bird River Grove LLC

Petitioner
CBA Exhibit
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Petitioner's Ex. No. 6

Lot 3			
Date	**Liber/Folio**	**Grantor**	**Grantee**
April 22, 1959	3517/103	Herman B. Parsons and Georgia P. Parsons	John J. Rhoades and Dorothy V. Rhoades
September 2, 1983	6592/703	John J. Rhoades and Dorothy V. Rhoades	Barry Edwards Chambers and Cynthia M. Chambers
February 16, 1999	13552/526	Barry Edwards Chambers and Cynthia M. Chambers	Franz D. Heinzerling
March 15, 2005	21687/539	Franz D. Heinzerling	Vita Chernyakhovsky
May 31, 2006	24000/425	Vita Chernyakhovsky	Bird River Grove LLC

Lot 4			
Date	**Liber/Folio**	**Grantor**	**Grantee**
August 24, 1976	5670/413	George J. Betz	David V. Sparks and Joann Sparks
May 8, 1987	7562/444 and 7562/450	David V. Sparks and Joann Sparks	Gary C. Parker
December 8, 1989	8375/480	Gary C. Parker	John A. Bena Jr., John A. Bena, Sr. and Eloise Bena
February 15, 1999	13552/508	John A. Bena Jr., John A. Bena, Sr. and Eloise Bena	Barry E. Chambers and Cynthia M. Chambers
			Franz Heinzerling
March 15, 2005	21687/539	Franz D. Heinzerling	Vita Chernyakhovsky
May 31, 2006	24000/425	Vita Chernyakhovsky	Bird River Grove LLC


Petitioner
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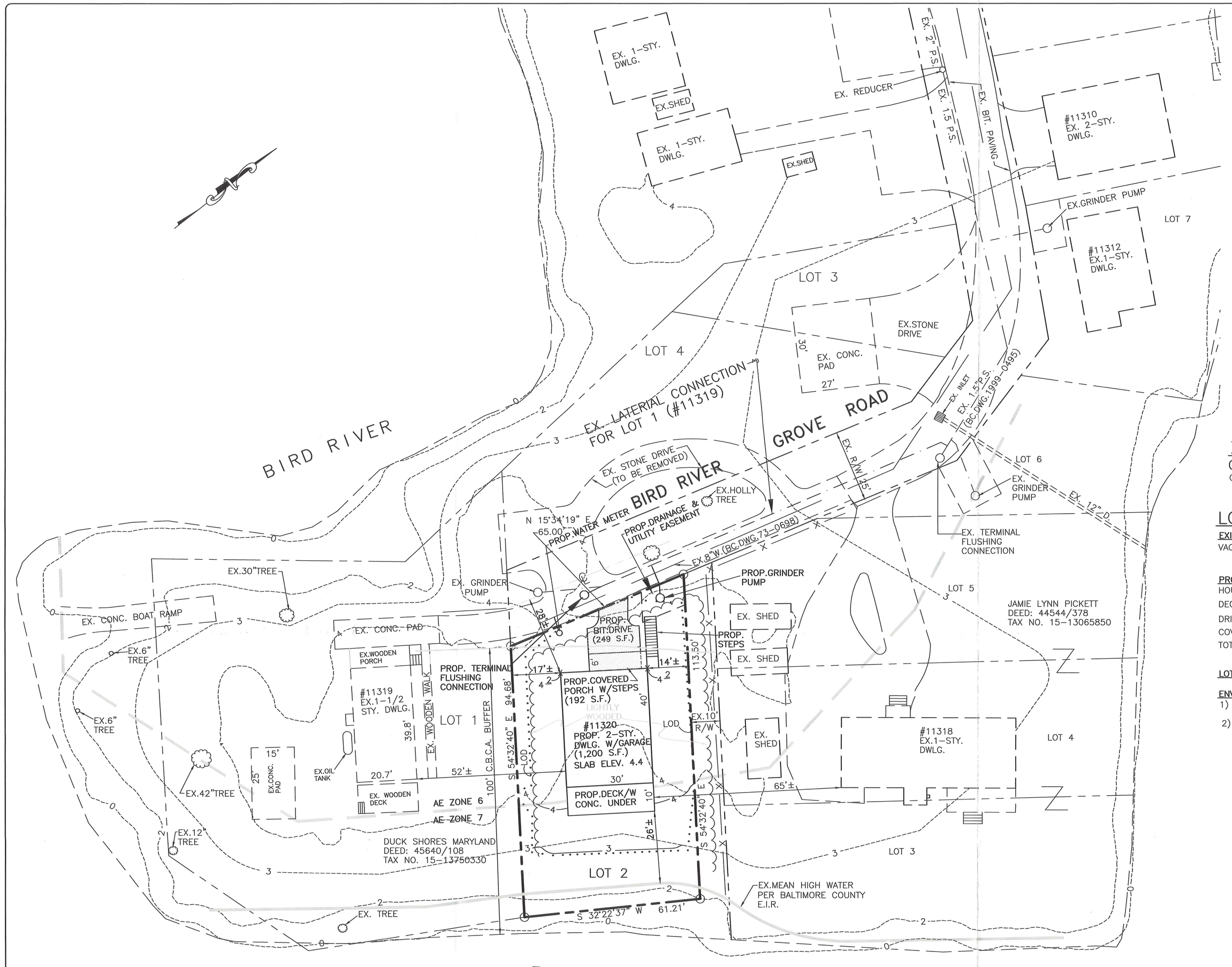


NOTES

1. Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey. (JULY 2016)
2. The Firm Insurance Rate Map, 240010-0295 G indicates this is situated within flood Zone AE 6 & 7 F.E.M.A. indicates a Flood Elevation of 8.5 NAVD 88 based on a Flood Insurance Study Number 240010V000B. A minimum first floor elevation 10.5 NAVD 88.
3. Property lines shown hereon were established by boundary survey by Leonard Buarhous, Property Line Surveyor #349.
4. This site is situated within the Chesapeake Bay Critical Areas and is classified by land use as Limited Development Area (LDA) (MAP 73).
5. There shall be no clearing, grading, construction or disturbance of vegetation within the 100' Buffer Area except as permitted by the Baltimore County Department of Environmental Protection and Sustainability.
6. Any Critical Area easement shown hereon is subject to protective coveriants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.
7. This site is situated within a Modified Buffer Area of the Chesapeake Bay Critical Areas.
8. There are no forest or developed woodlands on this site.
9. There are no Tidal & Non-Tidal Wetlands shown on this site.
10. There is no significant plant or animal habitat on this site.
11. There are no slopes greater than 15% on this site.
12. There are no known wells on this site.
13. There are no known underground storage tanks or septic systems on this site.
14. There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
15. There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
16. The site has 61'± of water frontage.
17. Public Water and sewer serve this site.
18. Caution underground utilities may exist in Bird River Grove Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
19. Proposed dwelling height 40' MAX.

ZONING HISTORY

CASE NO. 2017-122-SPHA
GRANTED DATE: JULY 06, 2017

LOT COVERAGE AREAS

EXISTING COVERAGE FOR LOT 2

VACANT	0 S.F.

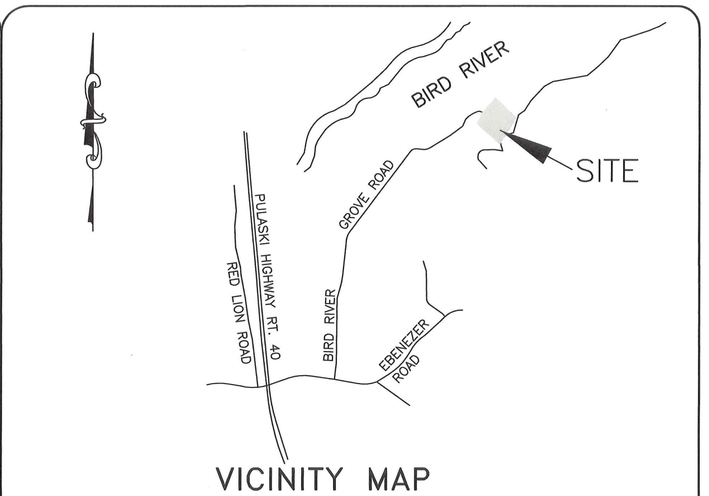
PROPOSED COVERAGE FOR LOT 2

HOUSE	1,200 S.F.
DECK W/CONC.UNDER	300 S.F.
DRIVE (BIT.PAVING)	249 S.F.
COVERED PORCH/STEPS	192 S.F.
TOTAL	1,941 S.F./6,316 S.F. = 30.79%

LOT COVERAGE ALLOWED FOR LOT 2 = 25% + 500 S.F. = 2,079 S.F. OR 32.91%

ENVIRONMENTAL NOTES

1) OWNER WILL PAY FEE-LIEU-OF $661.50 INSTEAD OF PLANTING.
2) OWNER WILL PLANT 2 NATIVE DECIDUOUS 5'-6" TALL TREES OR PLANT 6 SHRUBS PER 15% AFFORESTATION REQUIREMENT.



VICINITY MAP
(SCALE: 1" = 2000')

SITE DATA

1) OWNER: DUCK SHORES MARYLAND, LLC.
#1114 CHATELAINE DRIVE
FALLSTON, MARYLAND 21162
TELEPHONE 410-530-1892

2) DEED REF: 45640/108
3) TAX ACC. NO.: 15-13750331
4) TAX MAP: 73 PARCEL: 324 & 417 LOT: 2
5) PLAT REF: BIRD RIVER GROVE BOOK 07 FOLIO 189
6) ELECTION DISTRICT: 15TH
7) COUNCILMANIC DISTRICT: 6TH
8) REGIONAL PLANNING DISTRICT: 322B
9) CENSUS TRACT: 4517.02
10) ZONING: RC 2
11) ZONING MAP: 073B3
12) USE: EXISTING: RESIDENTIAL, SINGLE FAMILY DWELLING
PROPOSED: RESIDENTIAL, SINGLE FAMILY DWELLING WITH GARAGE
13) SITE AREAS: 6,316 S.F. OR 0.145 AC.

FLOOD NOTE FOR BUILDING

THIS SITE IS SITUATED IN A AE FLOOD ZONE ACCORDING TO F.E.M.A. FIRM MAP 240010-0295G DATED 05/05/14 AND THE BASE FLOOD ELEVATION IS 6.0 & 7.0 BALTIMORE COUNTY BUILDING CODE USE; F.E.M.A. FLOOD STUDY NO. 240010V000B DONE IN 09/26/08. THE BASE FLOOD ELEVATION IS 8.5 AND THE FLOOD PROTECTION ELEVATION IS 9.5. PER BALTIMORE COUNTY POLICY.

DISTURBED AREA: 4,607 S.F. OR 0.105 AC.

Bafitis & Associates
William N. Bafitis, P.E.
Civil Engineers/Land Planners
SURVEYORS
1249 Engleberth Rd. Baltimore, MD 21221
(410) 391-2336

PLAN TO ACCOMPANY BUILDING PERMIT APPLICATION FOR #11320 BIRD RIVER GROVE ROAD

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND · WILLIAM NICHOLAS BAFITIS · NO. 11641 · PROFESSIONAL ENGINEER

WILLIAM N. BAFITIS, P.E.

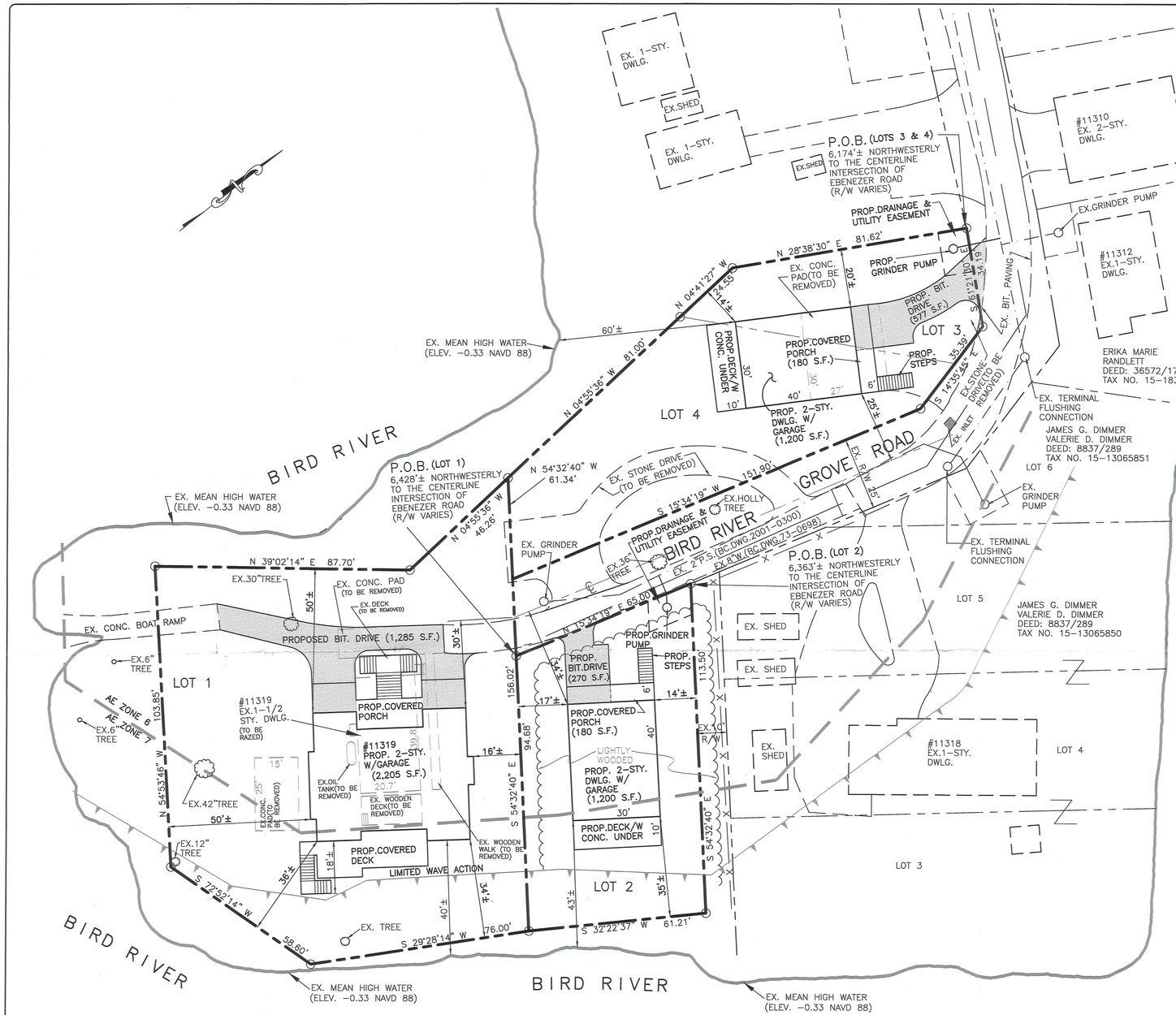
Professional Certification. I hereby certify that these documents were perpared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland. License No. 11641 Expiration Date: 09/09/2023

1

SHEET 1 OF 1

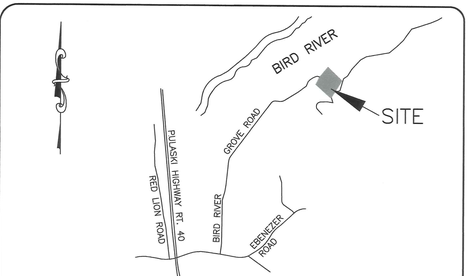
SCALE:	1" = 20'
JOB ORDER NO:	21607
DATE:	10/27/21
CHECKED:	W.N.B.
DRAWN:	N.W.B.

NO.	REVISIONS	DATE



NOTES

1. Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey. (JULY 2016)
2. The Firm Insurance Rate Map, 240010-0295 G indicates this is situated within flood Zone AE 6 & 7 F.E.M.A. indicates a Flood Elevation of 8.5 NAVD 88 based on a Flood Insurance Study Number 240010V000B. A minimum first floor elevation 10.5 NAVD 88.
3. Property lines shown hereon were established by boundary survey by Leonard Buarhous, Property Line Surveyor #349.
4. This site is situated within the Chesapeake Bay Critical Areas and is classified by land use as Limited Development Area (LDA) (MAP 73).
5. There shall be no clearing, grading, construction or disturbance of vegetation within the 100' Buffer Area except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
6. Any Critical Area easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.
7. This site is situated within a Mapped Buffer Management Area of the Chesapeake Bay Critical Areas.
8. There are no forest or developed woodlands on this site.
9. There are no Tidal & Non-Tidal Wetlands shown on this site.
10. There is no significant plant or animal habitat on this site.
11. There are no slopes greater than 15% on this site.
12. There are no known wells on this site.
13. There are no known underground storage tanks or septic systems on this site.
14. There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
15. There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
16. The site has 374'± of water frontage.
17. Public Water and sewer serve this site.
18. Caution underground utilities may exist in Bird River Grove Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
19. Proposed dwelling height < 35'.



VICINITY MAP
(SCALE: 1" = 2000')

SITE DATA

1) OWNER: BIRD RIVER GROVE LLC.
#11319 BIRD RIVER GROVE ROAD
WHITE MARSH, MARYLAND 21162
2) DEED REF: 24000/425
3) TAX ACC. NO.: 15-13750330, 15-13750331 & 19-00007212, 25-00000337
4) TAX MAP: 73 PARCEL: 324 & 417 LOTS: 1-4
5) PLAT REF: BIRD RIVER GROVE BOOK 07 FOLIO 189
6) ELECTION DISTRICT: 15TH
7) COUNCILMANIC DISTRICT: 6TH
8) REGIONAL PLANNING DISTRICT: 322B
9) CENSUS TRACT: 4517.02
10) ZONING: RC 2
11) ZONING MAP: 073B3
12) USE: EXISTING: RESIDENTIAL, SINGLE FAMILY DWELLING
PROPOSED: RESIDENTIAL, SINGLE FAMILY DWELLING & TWO STORY DETACHED GARAGE
13) SITE AREAS:

LOT 1 =	16,031 S.F. OR	0.368 AC.
LOT 2 =	6,316 S.F. OR	0.145 AC.
LOT 3 =	2,975 S.F. OR	0.068 AC.
LOT 4 =	7,623 S.F. OR	0.175 AC.
TOTAL =	32,945 S.F. OR	0.756 AC.

ZONING HISTORY

THERE ARE NO ZONING CASES FOR THESE SITES.

SPECIAL HEARING REQUEST

1. LOT 1
   - A) TO CONFIRM LOT 1 IS A "LOT OF RECORD" PER BCZR SECTION 101.1;
   - B) TO CONFIRM LOT 1 IS NOT BEING CREATED PER BCZR SECTION 1A01.3.B.2;
   - C) TO CONFIRM LOT 1 CAN BE APPROVED WITH A DETACHED SINGLE FAMILY DWELLING AS A NON-CONFORMING LOT OF RECORD; AND
2. LOT 2
   - A) TO CONFIRM LOT 2 IS A "LOT OF RECORD" PER BCZR SECTION 101.1;
   - B) TO CONFIRM LOT 2 IS NOT BEING CREATED PER BCZR SECTION 1A01.3.B.2;
   - C) TO CONFIRM LOT 2 CAN BE APPROVED WITH A DETACHED SINGLE FAMILY DWELLING AS A NON-CONFORMING LOT OF RECORD; AND
3. LOTS 3 AND 4
   - A) TO PERMIT THE CONSOLIDATION OF TWO EXISTING LOTS OF RECORD TO BECOME A SINGLE LOT WHICH CAN BE IMPROVED WITH A DETACHED SINGLE FAMILY DWELLING; AND
4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

VARIANCE REQUEST

1. LOT 1
   - A) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK OF 16'± AND 34'± TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35';
   - B) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK TO A STREET CENTERLINE OF 30'± IN LIEU OF THE REQUIRED 75';
   - C) PER BCZR SECTION 301.1 TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO A YARD AREA BY A DISTANCE OF 18.5' IN LIEU OF THE MAXIMUM PERMITTED 8.75' AND WITH A SETBACK 17'± IN LIEU OF 26.25';
   - D) AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, PURSUANT TO BCZR SECTION 1A01.3.B.2, TO ALLOW A LOT WITH AN AREA OF 16,031 S.F. (0.368 AC.) IN LIEU OF THE REQUIRED 1 AC.;AND
2. LOT 2
   - A) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK OF 14'±, 17'± AND 22'± TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35';
   - B) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK TO A STREET CENTERLINE OF 34.5' IN LIEU OF THE REQUIRED 75';
   - C) AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, PURSUANT TO BCZR SECTION 1A01.3.B.2, TO ALLOW A LOT WITH AN AREA OF 6,316 S.F. (0.144 AC.) IN LIEU OF THE REQUIRED 1 AC.;AND
   - D) PER BCZR SECTION 301.1 TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO A YARD AREA BY A DISTANCE OF 10' IN LIEU OF THE MAXIMUM PERMITTED 8.75' (WITH A SETBACK AS LITTLE AS 14' IN LIEU OF THE REQUIRED 26.25')
3. LOTS 3 AND 4
   - A) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK OF 14'± AND 20'± TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35';
   - B) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK TO A STREET CENTERLINE OF 25'± IN LIEU OF THE REQUIRED 75';
   - C) PER BCZR SECTION 301.1 TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO A YARD AREA BY A DISTANCE OF 10' IN LIEU OF THE MAXIMUM PERMITTED 8.75' (WITH A SETBACK AS LITTLE AS 8'± IN LIEU OF THE REQUIRED 26.25')
   - D) AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, PURSUANT TO BCZR SECTION 1A01.3.B.2, TO ALLOW A LOT WITH AN AREA OF 10,598 S.F. (0.243 AC.) IN LIEU OF THE REQUIRED 1 AC.;AND
4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

FLOOD NOTE FOR BUILDING

THIS SITE IS SITUATED IN A AE FLOOD ZONE ACCORDING TO F.E.M.A. FIRM MAP 240010-0295G DATED 05/05/14 AND THE BASE FLOOD ELEVATION IS 6.0 & 7.0 BALTIMORE COUNTY BUILDING CODE USE; F.E.M.A. FLOOD STUDY NO. 240010V000B DONE IN 09/26/08. THE BASE FLOOD ELEVATION IS 8.5 AND THE FLOOD PROTECTION ELEVATION IS 9.5. PER BALTIMORE COUNTY POLICY.

LOT COVERAGE AREAS

EXISTING COVERAGE FOR LOT 1

HOUSE	834 S.F.
BOAT RAMP	185 S.F.
CONCRETE PADS	735 S.F.
DRIVE (STONE)	251 S.F.
TOTAL	2,005 S.F./16,031 S.F. = 12.50%

PROPOSED COVERAGE FOR LOT 1

HOUSE	2,205 S.F.
BOAT RAMP	185 S.F.
COVERED DECK/STEPS	599 S.F.
DRIVE (BIT.PAVING)	1,285 S.F.
COVERED PORCH/STEPS	725 S.F.
TOTAL	4,999 S.F./16,031 S.F. = 31.18%

EXISTING COVERAGE FOR LOT 2

VACANT	0 S.F.

PROPOSED COVERAGE FOR LOT 2

HOUSE	1,200 S.F.
DECK W/CONC.UNDER	300 S.F.
DRIVE (BIT.PAVING)	270 S.F.
COVERED PORCH/STEPS	240 S.F.
TOTAL	2,010 S.F./6,316 S.F. = 31.82%

LOT COVERAGE ALLOWED FOR LOT 2 = 25% + 500 S.F. = 2,079 S.F. OR 32.91%

EXISTING COVERAGE FOR LOTS 3 & 4

CONCRETE PAD	810 S.F.
STONE DRIVE	2,542 S.F.
TOTAL	3,352 S.F./10,598 S.F. = 31.62%

PROPOSED COVERAGE FOR LOTS 3 & 4

HOUSE	1,200 S.F.
DECK W/CONC.UNDER	300 S.F.
DRIVE (BIT.PAVING)	577 S.F.
COVERED PORCH/STEPS	240 S.F.
TOTAL	2,317 S.F./10,598 S.F. = 21.86%

LOT COVERAGE ALLOWED FOR LOTS 3 & 4 = 31.25%

Bafitis & Associates, Inc.
1249 Engleberth Rd. Baltimore, MD 21221
William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
(410) 391-2336

PLAN TO ACCOMPANY PETITION FOR VARIANCES AND SPECIAL HEARING

LOTS 1-4 FOR BIRD RIVER GROVE, LLC.

Petitioner
CBA Exhibit 1

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND · WILLIAM NICHOLAS BAFITIS · No. 11641 · PROFESSIONAL ENGINEER

WILLIAM N. BAFITIS, P.E.

Professional Certification. I hereby certify that these documents were perpared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland. License No. 11641 Expiration Date: 09/09/2017

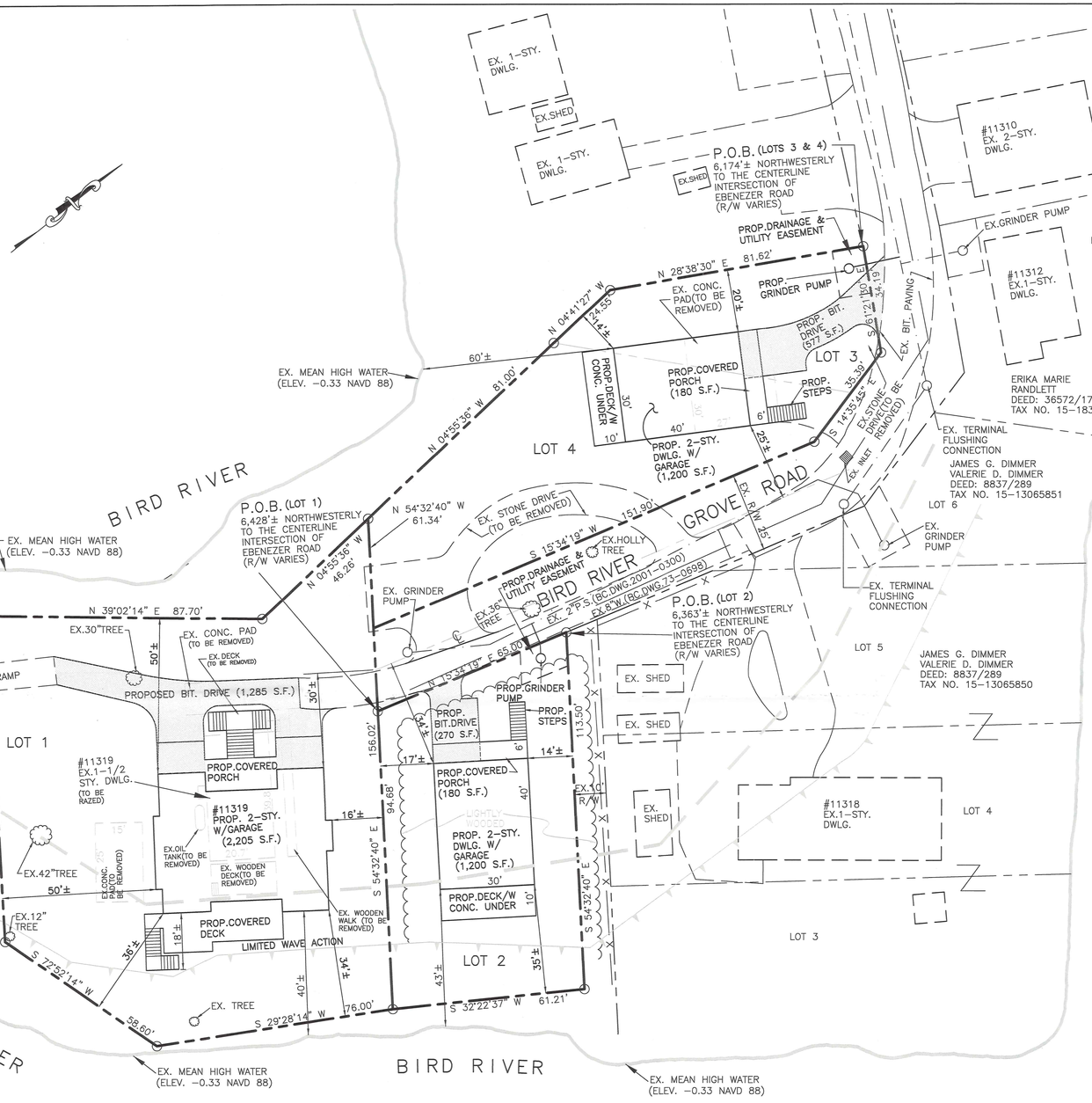
1

SHEET 1 OF 1

SCALE:	1" = 20'
JOB ORDER NO:	21607
DATE:	10/27/16
CHECKED:	W.N.B.
DRAWN:	N.W.B.

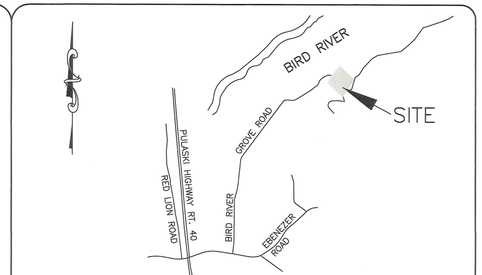
NO.	REVISIONS	DATE
	REVISED PETITION FOR BALTIMORE COUNTY ZONING	12/13/16

Petitioner's Ex No 1



NOTES

1. Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey. (JULY 2016)
2. The Firm Insurance Rate Map, 240010-0295 G indicates this is situated within flood Zone AE 6 & 7 F.E.M.A. indicates a Flood Elevation of 8.5 NAVD 88 based on a Flood Insurance Study Number 240010V000B. A minimum first floor elevation 10.5 NAVD 88.
3. Property lines shown hereon were established by boundary survey by Leonard Buarhaus, Property Line Surveyor #349.
4. This site is situated within the Chesapeake Bay Critical Areas and is classified by land use as Limited Development Area (LDA) (MAP 73).
5. There shall be no clearing, grading, construction or disturbance of vegetation within the 100' Buffer Area except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
6. Any Critical Area easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.
7. This site is situated within a Mapped Buffer Management Area of the Chesapeake Bay Critical Areas.
8. There are no forest or developed woodlands on this site.
9. There are no Tidal & Non-Tidal Wetlands shown on this site.
10. There is no significant plant or animal habitat on this site.
11. There are no slopes greater than 15% on this site.
12. There are no known wells on this site.
13. There are no known underground storage tanks or septic systems on this site.
14. There are no known potentially hazardous materials on this site as defined by Title 7-Health and Environmental Article, Annotated Code of Maryland, except as noted.
15. There are no buildings or property within this site that are included on the Maryland Historical Trust Inventory, The Baltimore County Landmarks List, the National Register of Historic Places, the Maryland Archeological Survey or is a Baltimore County Historical District.
16. The site has 374'± of water frontage.
17. Public Water and sewer serve this site.
18. Caution underground utilities may exist in Bird River Grove Road & onsite, contact Miss Utility (800-257-7777) prior to any construction.
19. Proposed dwelling height < 35'.



VICINITY MAP
(SCALE: 1" = 2000')

SITE DATA

1) OWNER: BIRD RIVER GROVE LLC.
#11319 BIRD RIVER GROVE ROAD
WHITE MARSH, MARYLAND 21162
2) DEED REF: 24000/425
3) TAX ACC. NO.: 15-13750330, 15-13750331 & 19-00007212, 25-00000337
4) TAX MAP: 73 PARCEL: 324 & 417 LOTS: 1-4
5) PLAT REF: BIRD RIVER GROVE BOOK 07 FOLIO 189
6) ELECTION DISTRICT: 15TH
7) COUNCILMANIC DISTRICT: 6TH
8) REGIONAL PLANNING DISTRICT: 322B
9) CENSUS TRACT: 4517.02
10) ZONING: RC 2
11) ZONING MAP: 073B3
12) USE: EXISTING: RESIDENTIAL, SINGLE FAMILY DWELLING
PROPOSED: RESIDENTIAL, SINGLE FAMILY DWELLING & TWO STORY DETACHED GARAGE
13) SITE AREAS:

LOT 1 =	16,031 S.F. OR	0.368 AC.
LOT 2 =	6,316 S.F. OR	0.145 AC.
LOT 3 =	2,975 S.F. OR	0.068 AC.
LOT 4 =	7,623 S.F. OR	0.175 AC.
TOTAL =	32,945 S.F. OR	0.756 AC.

ZONING HISTORY

THERE ARE NO ZONING CASES FOR THESE SITES.

SPECIAL HEARING REQUEST

1. LOT 1
   - A) TO CONFIRM LOT 1 IS A "LOT OF RECORD" PER BCZR SECTION 101.1;
   - B) TO CONFIRM LOT 1 IS NOT BEING CREATED PER BCZR SECTION 1A01.3.B.2;
   - C) TO CONFIRM LOT 1 CAN BE APPROVED WITH A DETACHED SINGLE FAMILY DWELLING AS A NON-CONFORMING LOT OF RECORD; AND
2. LOT 2
   - A) TO CONFIRM LOT 2 IS A "LOT OF RECORD" PER BCZR SECTION 101.1;
   - B) TO CONFIRM LOT 2 IS NOT BEING CREATED PER BCZR SECTION 1A01.3.B.2;
   - C) TO CONFIRM LOT 2 CAN BE APPROVED WITH A DETACHED SINGLE FAMILY DWELLING AS A NON-CONFORMING LOT OF RECORD; AND
3. LOTS 3 AND 4
   - A) TO PERMIT THE CONSOLIDATION OF TWO EXISTING LOTS OF RECORD TO BECOME A SINGLE LOT WHICH CAN BE IMPROVED WITH A DETACHED SINGLE FAMILY DWELLING; AND
4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

VARIANCE REQUEST

1. LOT 1
   - A) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK OF 16'± AND 34'± TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35';
   - B) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK TO A STREET CENTERLINE OF 30'± IN LIEU OF THE REQUIRED 75';
   - C) PER BCZR SECTION 301.1 TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO A YARD AREA BY A DISTANCE OF 18.5' IN LIEU OF THE MAXIMUM PERMITTED 8.75' AND WITH A SETBACK 17'± IN LIEU OF 26.25';
   - D) AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, PURSUANT TO BCZR SECTION 1A01.3.B.2, TO ALLOW A LOT WITH AN AREA OF 16,031 S.F. (0.368 AC.) IN LIEU OF THE REQUIRED 1 AC.;AND
2. LOT 2
   - A) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK OF 14'±, 17'± AND 22'± TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35';
   - B) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK TO A STREET CENTERLINE OF 34.5' IN LIEU OF THE REQUIRED 75';
   - C) AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, PURSUANT TO BCZR SECTION 1A01.3.B.2, TO ALLOW A LOT WITH AN AREA OF 6,316 S.F. (0.144 AC.) IN LIEU OF THE REQUIRED 1 AC.;AND
   - D) PER BCZR SECTION 301.1 TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO A YARD AREA BY A DISTANCE OF 10' IN LIEU OF THE MAXIMUM PERMITTED 8.75' (WITH A SETBACK AS LITTLE AS 14' IN LIEU OF THE REQUIRED 26.25')
3. LOTS 3 AND 4
   - A) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK OF 14'± AND 20'± TO A PROPERTY LINE IN LIEU OF THE REQUIRED 35';
   - B) PER BCZR SECTION 1A01.3.B.3 TO ALLOW A PRINCIPLE BUILDING (DWELLING) WITH A SETBACK TO A STREET CENTERLINE OF 25'± IN LIEU OF THE REQUIRED 75';
   - C) PER BCZR SECTION 301.1 TO ALLOW AN OPEN PROJECTION (DECK) TO EXTEND INTO A YARD AREA BY A DISTANCE OF 10' IN LIEU OF THE MAXIMUM PERMITTED 8.75' (WITH A SETBACK AS LITTLE AS 8'± IN LIEU OF THE REQUIRED 26.25')
   - D) AS AN ALTERNATIVE TO THE SPECIAL HEARING RELIEF, PURSUANT TO BCZR SECTION 1A01.3.B.2, TO ALLOW A LOT WITH AN AREA OF 10,598 S.F. (0.243 AC.) IN LIEU OF THE REQUIRED 1 AC.;AND
4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

LOT COVERAGE AREAS

EXISTING COVERAGE FOR LOT 1

HOUSE	834 S.F.
BOAT RAMP	185 S.F.
CONCRETE PADS	735 S.F.
DRIVE (STONE)	251 S.F.
TOTAL	2,005 S.F./16,031 S.F. = 12.50%

PROPOSED COVERAGE FOR LOT 1

HOUSE	2,205 S.F.
BOAT RAMP	185 S.F.
COVERED DECK/STEPS	599 S.F.
DRIVE (BIT.PAVING)	1,285 S.F.
COVERED PORCH/STEPS	725 S.F.
TOTAL	4,999 S.F./16,031 S.F. = 31.18%

EXISTING COVERAGE FOR LOT 2

VACANT	0 S.F.

PROPOSED COVERAGE FOR LOT 2

HOUSE	1,200 S.F.
DECK W/CONC.UNDER	300 S.F.
DRIVE (BIT.PAVING)	270 S.F.
COVERED PORCH/STEPS	240 S.F.
TOTAL	2,010 S.F./6,316 S.F. = 31.82%

LOT COVERAGE ALLOWED FOR LOT 2 = 25% + 500 S.F. = 2,079 S.F. OR 32.91%

EXISTING COVERAGE FOR LOTS 3 & 4

CONCRETE PAD	810 S.F.
STONE DRIVE	2,542 S.F.
TOTAL	3,352 S.F./10,598 S.F. = 31.62%

PROPOSED COVERAGE FOR LOTS 3 & 4

HOUSE	1,200 S.F.
DECK W/CONC.UNDER	300 S.F.
DRIVE (BIT.PAVING)	577 S.F.
COVERED PORCH/STEPS	240 S.F.
TOTAL	2,317 S.F./10,598 S.F. = 21.86%

LOT COVERAGE ALLOWED FOR LOTS 3 & 4 = 31.25%

FLOOD NOTE FOR BUILDING

THIS SITE IS SITUATED IN A AE FLOOD ZONE ACCORDING TO F.E.M.A. FIRM MAP 240010-0295G DATED 05/05/14 AND THE BASE FLOOD ELEVATION IS 6.0 & 7.0 BALTIMORE COUNTY BUILDING CODE USE; F.E.M.A. FLOOD STUDY NO. 240010V000B DONE IN 09/26/08. THE BASE FLOOD ELEVATION IS 8.5 AND THE FLOOD PROTECTION ELEVATION IS 9.5. PER BALTIMORE COUNTY POLICY.

Bafitis & Associates, Inc.
William N. Bafitis, P.E.
PRESIDENT
Civil Engineers/Land Planners
SURVEYORS
1249 Engleberth Rd. Baltimore, MD 21221
(410) 391-2336

PLAN TO ACCOMPANY PETITION FOR VARIANCES AND SPECIAL HEARING

LOTS 1-4 FOR BIRD RIVER GROVE, LLC.

15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND WILLIAM NICHOLAS BAFITIS NO. 11641 PROFESSIONAL ENGINEER

WILLIAM N. BAFITIS, P.E.

Professional Certification. I hereby certify that these documents were perpared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland. License No. 11641 Expiration Date: 09/09/2017

1

SHEET 1 OF 1

SCALE:	1" = 20'
JOB ORDER NO:	21607
DATE:	10/27/16
CHECKED:	W.N.B.
DRAWN:	N.W.B.

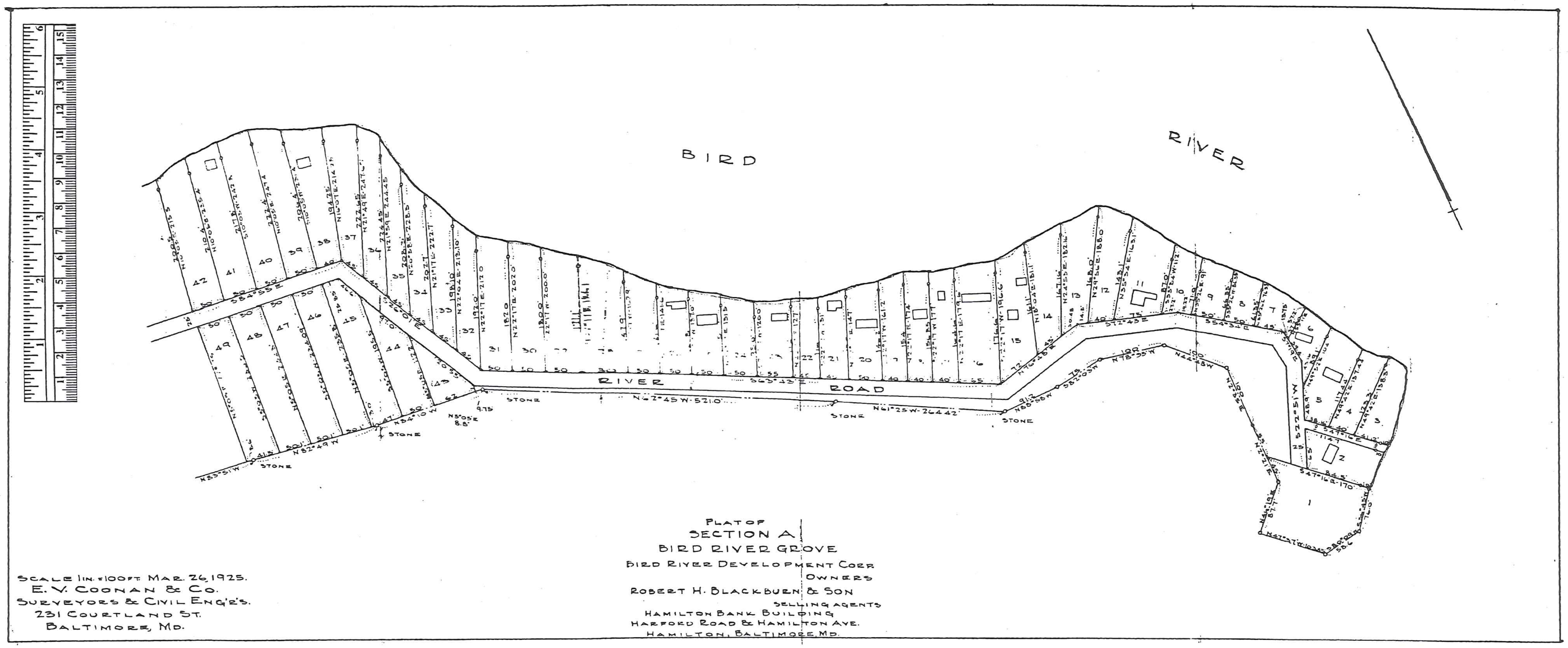
NO.	REVISIONS	DATE
	REVISED PETITION FOR BALTIMORE COUNTY ZONING	12/13/16

PLAT OF
SECTION A
BIRD RIVER GROVE
BIRD RIVER DEVELOPMENT CORP.
OWNERS
ROBERT H. BLACKBURN & SON
SELLING AGENTS
HAMILTON BANK BUILDING
HARFORD ROAD & HAMILTON AVE.
HAMILTON, BALTIMORE, MD.

SCALE 1 IN. = 100 FT. MAR. 26, 1925.
E. V. COONAN & CO.
SURVEYORS & CIVIL ENG'R'S.
231 COURTLAND ST.
BALTIMORE, MD.

Petitioner
CBA Exhibit
2

Petitioner's
Ex. No 2



Petitioner
CBA Exhibit
2 (cont.)

Petitioner Ex.
No. 2

People's Counsel
CBA Exhibit
2

VER GROVE RD
IN YVONNE

11240 BIRD RIVER GROVE RD
MCGILTON LARRY JOE
MCGILTON CAROLYN E

11242 BIRD RIVER GROVE RD
PARSONS THOMAS JAMES
PARSONS VIRGINIA LOIS

11244 BIRD RIVER GROVE RD
LUTZ ROBERT C SR TRUSTEE
LUTZ DENISE LUPO TRUSTEE

11300 BIRD RIVER GROVE RD
MUNDIE JOHN W SR
MUNDIE MARLENE E

11302 BIRD RIVER GROVE RD
MUNDIE JENNIFER M
MUNDIE AMY M

11304 BIRD RIVER GROVE RD
WOOD RICHARD G
WOOD DEBORAH E

11306 BIRD RIVER GROVE RD
RHEA MICHAEL
RHEA CATHERINE PEARL

11308 BIRD RIVER GROVE RD
PRESTIANNI TIMOTHY J
PRESTIANNI LINDA A

11310 BIRD RIVER GROVE RD
BENA JOHN A JR

11312 BIRD RIVER GROVE RD
RANDLETT ERIKA MARIE

BIRD RIVER GROVE RD

ER GROVE RD
N LARRY JOE
N CAROLYN E

R GROVE RD
LARRY JOE
CAROLYN E

BIRD RIVER GROVE RD
WOOD DEBORAH E

BIRD RIVER GROVE RD
BENA JOHN A JR BENA JOHN A SR
BENA ELOISE

BIRD RIVER GROVE RD
BIRD RIVER GROVE LLC

BIRD RIVER RD
DIMMER JAMES G
DIMMER VALERIE D

11318 BIRD RIVER GROVE RD
DIMMER JAMES G
DIMMER VALERIE D

11318 BIRD RIVER GROVE RD
DIMMER JAMES G
DIMMER VALERIE D

11318 BIRD RIVER GROVE RD
DIMMER JAMES G
DIMMER VALERIE D

BIRD RIVER GROVE RD
BIRD RIVER GROVE LLC

11319 BIRD RIVER GROVE RD
BIRD RIVER GROVE LLC

ZONING: RC 2

ZONING: RC 50

MEYERS LN
DAT SHIRLEY A

Prepared by Geographic Information Services
Baltimore County Office of Information Technology
Date: November 28, 2016
2014 Imagery

1 Inch = 20 Feet
0 20 40 80 Feet

N W E S