

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
(542 Back River Neck Road) *
15th Election District * OFFICE OF
7th Council District *
Henry Nooft, Jr. & Jeffrey Nooft * ADMINISTRATIVE HEARINGS
Legal Owners *
Petitioners * FOR BALTIMORE COUNTY
* **Case No. 2017-0175-SPH**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Henry & Jeffrey Nooft, legal owners ("Petitioners"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to approve a replacement dwelling with an existing detached accessory structure (pole building) to be located in the front yard of the proposed dwelling and to amend the prior zoning Case No. 2014-0009-SPHA for the location, size and height of the accessory structure.

Henry and Jeffrey Nooft and professional engineer William Bafitis appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS). That agency indicated Petitioners would need to comply with Critical Area Regulations prior to issuance of permits.

The subject property is 57,727 square feet (1.33 acres) in size and zoned D.R. 3.5. The property is improved with a single-family dwelling which is in poor condition. Initially, Petitioners intended to restore the existing home, and were granted zoning relief to allow an existing garage to remain in the side yard. *See* Case # 2014-0009-SPHA. Petitioners have decided

ORDER RECEIVED FOR FILING

Date 2/23/17
By Sen

to raze the existing house and construct in its place a new single-family dwelling. Based on the revised plans and the orientation on the lot of the new dwelling, the existing garage would now be located in the front yard of the proposed new home. Petitioners were instructed to seek zoning relief to amend the 2014 order in this regard.

THEREFORE, IT IS ORDERED this 23rd day of **February, 2017** by this Administrative Law Judge, that the Petition for Special Hearing to approve a replacement dwelling with an existing detached accessory structure (pole building) to be located in the front yard of the proposed dwelling, to amend the prior zoning Case No. 2014-0009-SPHA for the location, size and height of the accessory structure and for the existing garage to have a footprint larger than the proposed dwelling, be and is hereby GRANTED.

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

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must comply with the January 13, 2017 ZAC comment submitted by DEPS, a copy of which is attached hereto and incorporated herein.

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

JEB:slh



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING

Date 2/23/17
By slh



KEVIN KAMENETZ
County Executive

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

February 23, 2017

Henry Nooft
Jeffrey Nooft
538 Back River Neck Road
Essex, Maryland 21221

RE: Petition for Special Hearing
Case No. 2017-0175-SPH
Property: 542 Back River Neck Road

Dear Petitioners:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c:

William Bafitis, 1249 Engleberth Road, Essex, Maryland 21221

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

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

DATE: January 13, 2017

SUBJECT: DEPS Comment for Zoning Item # 2017-0175-SPH
Address 542 Back River Neck Road
(Nooft, Henry Jr. & Jeffrey Property)

Zoning Advisory Committee Meeting of January 16, 2017.

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

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

The subject property is located within a Limited Development Area and is subject to Critical Area lot coverage requirements. The applicant is proposing to construct a replacement dwelling with an existing detached accessory structure in the front yard. Based on the size of this property, lot coverage is limited to a maximum of 15% of the area of the property. If the lot coverage requirements can be met for the entire property, the relief requested by the applicant will result in minimal impacts to water quality. Lot coverage is defined in State of Maryland Natural Resources Article §8-1802(a)(17). The plans need to accurately show all existing and proposed lot coverage. The proposed lot coverage indicated is very close to the maximum allowed on the property.

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

This property is open field and a few years ago was documented to meet the 15% forest cover requirement with trees along the edges and in the southeastern part of the property. The applicant's plan accompanying this zoning petition shows the proposed dwelling location in an area of no trees, but there are no existing trees shown, and no limit of disturbance shown to allow for a current

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By JSN

assessment of possible impacts. Provided that all Critical Area requirements are met, including replacement of any impacted trees, the planting of native trees to comply with the forest requirements, and any other required mitigation as determined by EPS, existing water quality impacts can be minimized.

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

The applicant's proposal to construct a replacement dwelling as indicated is consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

Reviewer: Paul Dennis – Environmental Impact Review (EIR)

ORDER RECEIVED FOR FILING

Date 2/23/17
By Sen



CBCA

PETITION FOR ZONING HEARING(S)

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

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

Address 542 Back River Neck Road which is presently zoned DR-3.5

Deed References: 37711/266 10 Digit Tax Account # 15-14650250

Property Owner(s) Printed Name(s) Henry Nooft Jr. & Jeffrey Nooft

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

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

1. ☒ a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve a replacement dwelling with an existing detached accessory structure (pole building) to be located in the front yard of the proposed dwelling and to amend the prior zoning case order number 2014-0009-SPHA, for the location, size, and height of the accessory structure.
2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
3. ☐ a **Variance** from Section(s)

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

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

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

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Henry Nooft Jr & Jeffrey Nooft

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

538 Back River Neck Road - Baltimore, Maryland

Mailing Address City State

21221 / 410-686-3363 /

Zip Code Telephone # Email Address

Representative to be contacted:

William N. Bafitis, P.E.

Name - Type or Print

Signature

1249 Engleberth Road Baltimore Maryland

Mailing Address City State

21221 / 410-391-2336 / bafitisassoc@comcast.net

Zip Code Telephone # Email Address

CASE NUMBER 2017-0175-SPH Filing Date 1.4.17

Do Not Schedule Dates: Reviewer AT

420

Tests



Bafitis & Associates, Inc.

ZONING DESCRIPTION
FOR
542 BACK RIVER NECK ROAD
BALTIMORE, MARYLAND 21221
15TH ELECTION DISTRICT

Beginning at a point on the Southside of a stone driveway; 473' ± Southwesterly from the centerline intersection of Back River Neck Road 50' wide;

Thence leaving said driveway the following two courses and distances:

1. South 39°-08'-43" East 131.27 feet to a point;
2. Thence South 42°-54'-27" West 130.78 feet to a point on the East side of Southeast Boulevard (MD. RT. 702) 200 feet R/W
3. Thence binding on said Boulevard a curve to the right with a radius of 1,809.86 feet and an Arc length of 345.14 feet and an cord bearing of North 45°-58'-27" West and chord distance of 345.10 feet to a point;

Thence leaving said Boulevard the following two courses and distances:

4. North 44°-37'-15" East 172.09 feet to a point;
5. Thence South 39°-08'-43" East 235.39 feet to the point of beginning.

Containing 47, 727 Square Feet or 1.33 Acres more or less.

Deed Ref: 37711/266


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



Seal

2017-0175-SPH

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

No. 141441

Date: 01/04/17

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
1/06/2017 1/04/2017 11:14:13 1

NO. 141441
G WSO1 WALKIN LJR
RECEIPT # 701354 1/04/2017 OFLN

Dept 5 528 ZONING VERIFICATION

Recpt Tot \$75.00
\$75.00 CK \$1.00 CA
Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				\$75-

Total: \$75-

Rec From:

For: 542 BACK RIVER NECK RD.

2017-0175-SPH

DISTRIBUTION

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

CASHIER'S
VALIDATION



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 4747364

Sold To:

Henry Nooft, Jr. - CU00582677
538 Back River Neck Rd
Essex, MD 21221-4604

Bill To:

Henry Nooft, Jr. - CU00582677
538 Back River Neck Rd
Essex, MD 21221-4604

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

Feb 02, 2017

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: # 2017-0175-SPH
542 Back River Neck Road
SW/s Back River Neck Road, 180 ft. NE to centerline of Cape May Road
15th Election District - 7th Councilmanic District
Legal Owner(s) Henry Nooft, Jr. & Jeffrey Nooft

SPECIAL HEARING: to determine whether or not the Administrative Law Judge should approve a replacement dwelling with an existing detached accessory structure (pole building) to be located in the front yard of the proposed dwelling and to amend the prior zoning case Order #2014-0009 SPHA for the location, size, and height of the accessory structure.

Hearing: Wednesday, February 22, 2017 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.

2/013 Feb. 2 4747364

CERTIFICATE OF POSTING

Date: February 1, 2017

RE: Project Name: Public Hearing
Case Number /PAI Number: 2017-0175-SPH
Petitioner/Developer: Henry Nooft Jr. & Jeffrey Nooft
Date of Hearing/Closing: February 22, 2017

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 542 Back River Neck Rd.
Baltimore, MD. 21221

The sign(s) were posted on February 1, 2017

(Month, Day, Year)

ZONING NOTICE

CASE # 2017-0175-SPH

542 Back River Neck Road

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 / TIME: Wednesday February 22, 2017 at 1:30 p.m.

Special Hearing to determine whether or not the Administrative Law Judge should approve a replacement dwelling with an existing detached accessory structure (pole building) to be located in the front yard of the proposed dwelling and to amend the prior Zoning Case Order #2014-0009-SPHA for the location, size, and height of the accessory structure.

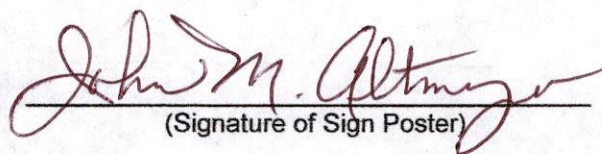
HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3368.

FOR INFORMATION CONCERNING THE FILE AND/OR HEARING CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DO NOT REMOVE THIS SIGN OR POST UNTIL THE DAY AFTER THE HEARING UNDER PENALTY OF LAW.

HANDICAPPED ACCESSIBLE

02/01/2017


(Signature of Sign Poster)

John M. Altmeyer

(Printed Name of Sign Poster)

21722 Orwig Rd.

(Street Address of Sign Poster)

Freeland, MD. 21053

(City, State, Zip Code of Sign Poster)

410-382-6580

(Telephone Number of Sign Poster)

**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 twenty (20) 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: 2017-0175-SPH

Property Address: 542 Back River Neck Road

Property Description: Single Family Dwelling

Legal Owners (Petitioners): Henry Nooft Jr. & Jeffrey Nooft

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Henry Nooft Jr.

Company/Firm (if applicable): _____

Address: 538 Back River Neck Road
Baltimore, Maryland 21221

Telephone Number: 410-686-3363

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 2, 2017 Issue - Jeffersonian

Please forward billing to:
Henry Nooft, Jr.
538 Back River Neck Road
Baltimore, MD 21221

410-686-3363

NOTICE OF ZONING HEARING

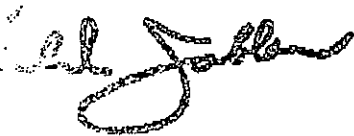
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CASE NUMBER: 2017-0175-SPH

542 Back River Neck Road
SW/s Back River Neck Road, 180 ft. NE to centerline of Cape May Road
15th Election District – 7th Councilmanic District
Legal Owners: Henry Nooft, Jr. & Jeffrey Nooft

Special Hearing to determine whether or not the Administrative Law Judge should approve a replacement dwelling with an existing detached accessory structure (pole building) to be located in the front yard of the proposed dwelling and to amend the prior zoning case Order # 2014-0009 SPHA for the location, size, and height of the accessory structure.

Hearing: Wednesday, February 22, 2017 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

January 23, 2017

NOTICE OF ZONING HEARING

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542 Back River Neck Road
SW/s Back River Neck Road, 180 ft. NE to centerline of Cape May Road
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Legal Owners: Henry Nooft, Jr. & Jeffrey Nooft

Special Hearing to determine whether or not the Administrative Law Judge should approve a replacement dwelling with an existing detached accessory structure (pole building) to be located in the front yard of the proposed dwelling and to amend the prior zoning case Order # 2014-0009 SPHA for the location, size, and height of the accessory structure.

Hearing: Wednesday, February 22, 2017 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Henry Nooft, Jr., & Jeffrey Nooft, 538 Back River Neck Road, Baltimore 21221
William Bafitis, 1249 Engleberth Road, Baltimore 21221

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, FEBRUARY 2, 2017.**
- (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.**



KEVIN KAMENETZ
County Executive

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

February 15, 2017

Henry Nooft Jr.
Jeffrey Nooft
538 Back River Neck Road,
Baltimore MD 21221

RE: Case Number: 2017-0175 SPH, Address: 542 Back River Neck Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on January 4, 2017. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
William N Bafitis, P E, 1249 Engleberth Road, Baltimore MD 21221

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



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

Date: 1/11/17

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.

2017-0175-SPH
Special Hearing
Henry Noft Jr. & Jeffrey Noft
542 Back River Neck 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,

A handwritten signature in blue ink, appearing to read "Richard Zeller".

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

WW/RAZ

2-22

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

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

DATE: 2/8/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-175



INFORMATION:

Property Address: 542 Back River Neck Road
Petitioner: Henry Nooft, Jr., Jeffrey Nooft
Zoning: DR 3.5
Requested Action: Special Hearing

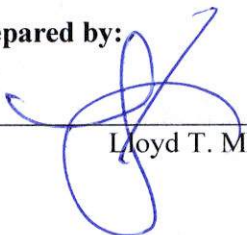
The Department of Planning has reviewed the petition for special hearing to determine whether or not the Zoning Commissioner should approve a replacement dwelling with an existing detached accessory structure (pole barn) to be located in the front yard of the proposed dwelling and to amend the prior zoning case order number 2014-0009 SPHA, for the location, size, and height of the accessory structure.

A site visit was conducted on January 19, 2017.

The Department of Planning has no objection to granting the petitioned zoning relief.

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

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Krystle Patchak
William N. Bafitis, P.E.
Office of the Administrative Hearings
People's Counsel for Baltimore County

0007

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: January 19, 2017

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

SUBJECT: Zoning Advisory Committee Meeting
For January 16, 2017
Item No. 2017-0170, 0171, 0172, 0173, 0174, 0175 and 0178

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

DAK:CEN

cc:file

G:\DevPlanRev\ZAC -No Comments\ZAC01162017.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

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

DATE: January 13, 2017

SUBJECT: DEPS Comment for Zoning Item # 2017-0175-SPH
Address 542 Back River Neck Road
(Nooft, Henry Jr. & Jeffrey Property)

Zoning Advisory Committee Meeting of January 16, 2017.

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assessment of possible impacts. Provided that all Critical Area requirements are met, including replacement of any impacted trees, the planting of native trees to comply with the forest requirements, and any other required mitigation as determined by EPS, existing water quality impacts can be minimized.

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The applicant's proposal to construct a replacement dwelling as indicated is consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

Reviewer: Paul Dennis – Environmental Impact Review (EIR)

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
542 Back River Neck Road; SW/S Back River *
Neck Road, 180' NE of c/line Cape May Road * OF ADMINISTRATIVE
15th Election & 7th Councilmanic Districts *
Legal Owner(s): Henry & Jeffrey Nooft * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2017-175-SPH

* * * * *

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

JAN 12 2017

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of January, 2017, a copy of the foregoing Entry of Appearance was mailed to William Bafitis, 1249 Engleberth Road, Baltimore, Maryland 21221, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

M E M O R A N D U M

DATE: March 28, 2017
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2017-0175- SPH – Appeal Period Expired

The appeal period for the above-referenced case expired on March 27, 2017. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: / Case File
Office of Administrative Hearings

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 - 1514650250							
Owner Information									
Owner Name:		NOOFT HENRY JR NOOFT DONNA M ETAL				Use:		RESIDENTIAL	
Mailing Address:		538 BACK RIVER NECK RD BALTIMORE MD 21221-4604				Principal Residence:		NO	
						Deed Reference:		/37711/ 00266	
Location & Structure Information									
Premises Address:		542 BACK RIVER NECK RD BALTIMORE 21221-4604				Legal Description:		1.5123 AC WSR BCK RIVR NK RD RER480FT 100 N CAPE MAY RD	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0097	0018	0303		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	
1985		1,248 SF				1.5100 AC		04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
1	YES	STANDARD UNIT	SIDING	1 full/ 1 half	1 Detached				
Value Information									
			Base Value	Value	Phase-in Assessments				
				As of	As of		As of		
				01/01/2015	07/01/2016		07/01/2017		
Land:			62,000	62,000					
Improvements			140,100	135,000					
Total:			202,100	197,000	197,000		197,000		
Preferential Land:			0		0				
Transfer Information									
Seller: NOOFT HENRY JR				Date: 06/30/2016			Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /37711/ 00266			Deed2:		
Seller: NOOFT HENRY				Date: 03/07/1979			Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /05996/ 00102			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									

PLEASE PRINT CLEARLY

CASE NAME

CASE NUMBER 2017-0175-SH

DATE Feb. 22, 2017

PETITIONER'S SIGN-IN SHEET

[illegible]

JB
9-6-13

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(542 Back River Neck Road)	*	OFFICE OF
15 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
Henry John & Donna Marie Nooft		
Petitioners	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0009-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Henry John & Donna Marie Nooft, legal owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit an accessory structure (pole-barn) larger than the principal building (single family dwelling). The Variance petition seeks relief from B.C.Z.R. §§400.1 and 400.3 to permit an accessory structure (pole-barn) to be located in the side yard in lieu of the required rear yard, with a height of 22 ft. in lieu of the maximum permitted 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests was Norbert M. Porter, the contractor hired by the Petitioners. The file reveals that the Petition was advertised and the site was posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability indicating that the property is located within the Chesapeake Bay Critical Area. As such, the Petitioners must comply with the Critical Area regulations.

The subject property is approximately 0.7 acres in size and is improved with a single family dwelling constructed in 1985. The Petitioner owns heavy equipment and trailers he uses for business and pleasure. He would like to construct a pole barn (70' x 30') to store this equipment, but needs zoning relief to do so.

As explained by Mr. Porter, the State Highway Administration (SHA) acquired through condemnation a large portion of the property that once belonged to the Petitioners, and constructed Md. Rt. 702, as shown on the plan. The Petitioners' property, situated at the end of a private gravel drive, abuts this highway. In these circumstances, I do not believe that the size of the pole barn (relative to the Petitioners' home) would negatively impact any of the surrounding neighbors. As such, the Special Hearing relief will be granted

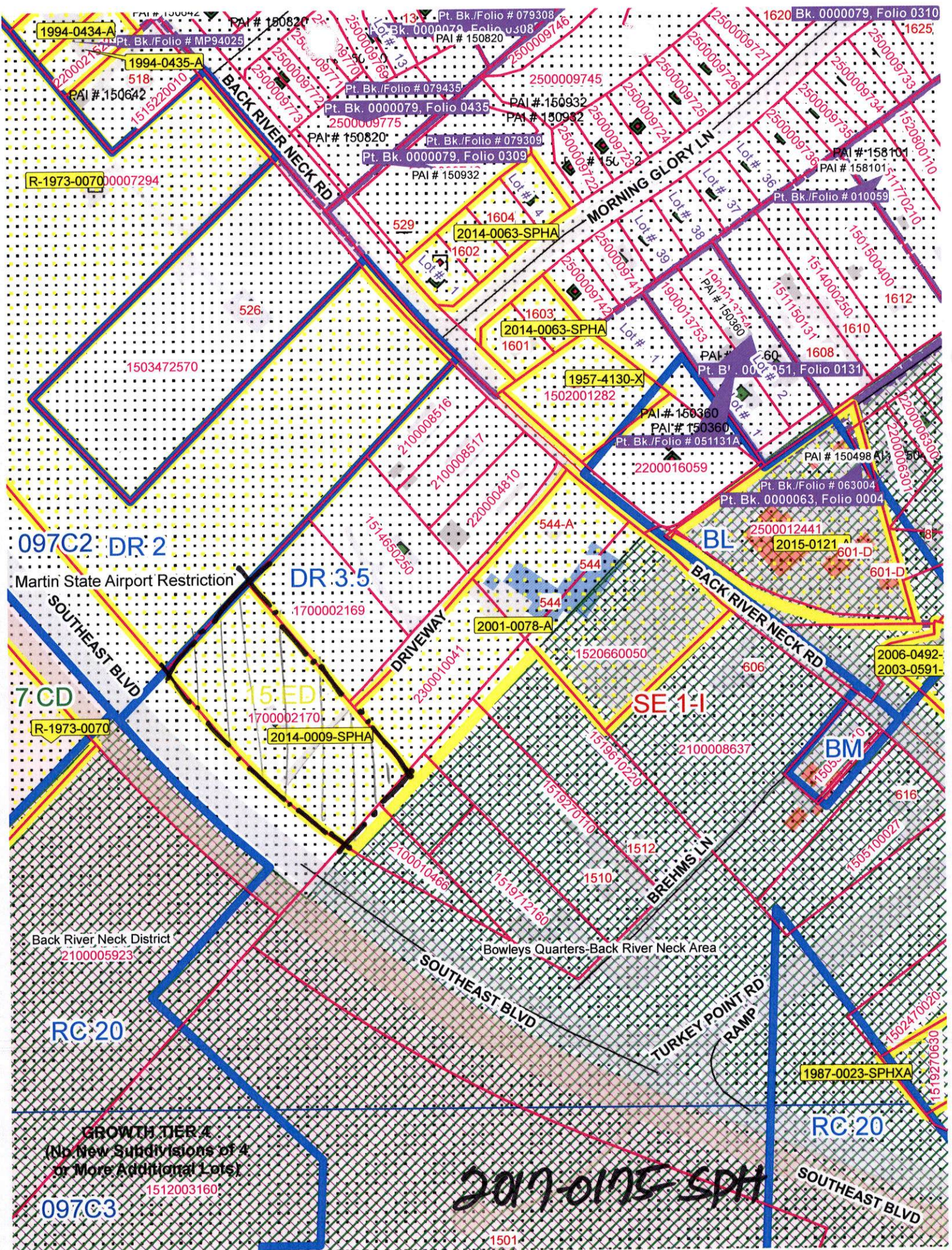
Based upon the testimony and evidence presented, I will also grant the petition for variance. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

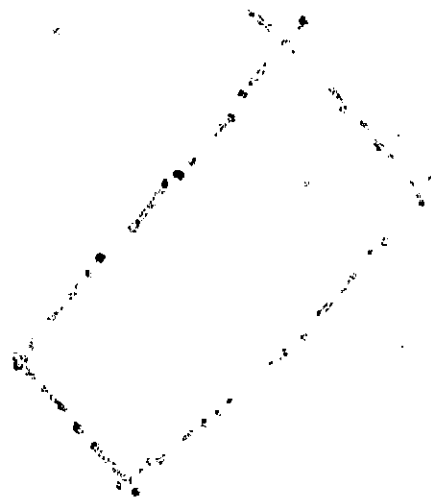
- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

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

The Petitioners have met this test. The parcel is of irregular dimensions, and is therefore unique. If the regulations were strictly interpreted the Petitioners would experience a practical difficulty given they would be unable to construct the accessory building in the location proposed.

Pursuant to the advertisement, posting of the property, and the public hearing, and after considering the testimony and evidence offered, I find that Petitioners' Special Hearing and Variance requests should be granted.





NO. 2110-105

Real Property Data Search (w1) Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 15 Account Number - 1700002170			
Owner Information					
Owner Name:		NOOFT HENRY JOHN NOOFT DONNA MARIE		Use:	RESIDENTIAL
Mailing Address:		538 BACK RIVER NECK RD BALTIMORE MD 21221-4604		Principal Residence:	YES
				Deed Reference:	/37711/ 00259
Location & Structure Information					
Premises Address:		538 BACK RIVER NECK RD BALTIMORE 21221-4604		Legal Description:	.659 AC WSR 201 FT BACK RIVER NECK CAPE MAY RD
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot:
0097	0018	0924		0000	
				Assessment Year:	Plat No:
				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
1909		1,470 SF			28,750 SF
				County Use	04
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
2	NO	STANDARD UNIT		1 full	
Value Information					
		Base Value	Value As of 01/01/2015	Phase-in Assessments	
				As of 07/01/2016	As of 07/01/2017
Land:		55,100	55,100		
Improvements		60,900	55,600		
Total:		116,000	110,700	110,700	110,700
Preferential Land:		0			0
Transfer Information					
Seller: NOOFT HENRY		Date: 06/30/2016		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /37711/ 00259		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 07/19/2016					

2. The Baltimore County Department of Planning and Zoning has reviewed the information provided and has determined that the information is accurate and reliable. While we have confidence in the information provided, it is the responsibility of the applicant to ensure the accuracy of the information provided.

2017-0175-SPH

H92-2010-010-S

Case No.:

2017-0175-SPH

Exhibit Sheet

Petitioner/Developer

DO
3-28-17

Protestant

Sen
2-23-17

No. 1	Plan	
No. 2	Plan w/ photos	
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



①



②



3



4



5



6



7



8



9



10

EXISTING LOT COVERAGE

HOUSE	1,133 S.F.
GARAGE (POLE BARN)	2,100 S.F.
CONTAINER	268 S.F.
CONTAINER	134 S.F.
STONE DRIVE	4,785 S.F.
TOTAL	8,420 S.F./57,727 S.F. =
	0.1458 X 100 = 14.58%

(15% LOT COVERAGE ALLOWED)

PROPOSED LOT COVERAGE

HOUSE	1,657 S.F.
GARAGE (POLE BARN)	2,100 S.F.
PORCH W/ROOF	158 S.F.
C/W & STEPS	113 S.F.
STONE DRIVE	4,397 S.F.
TOTAL	8,425 S.F./57,727 S.F. =
	0.1459 X 100 = 14.59%

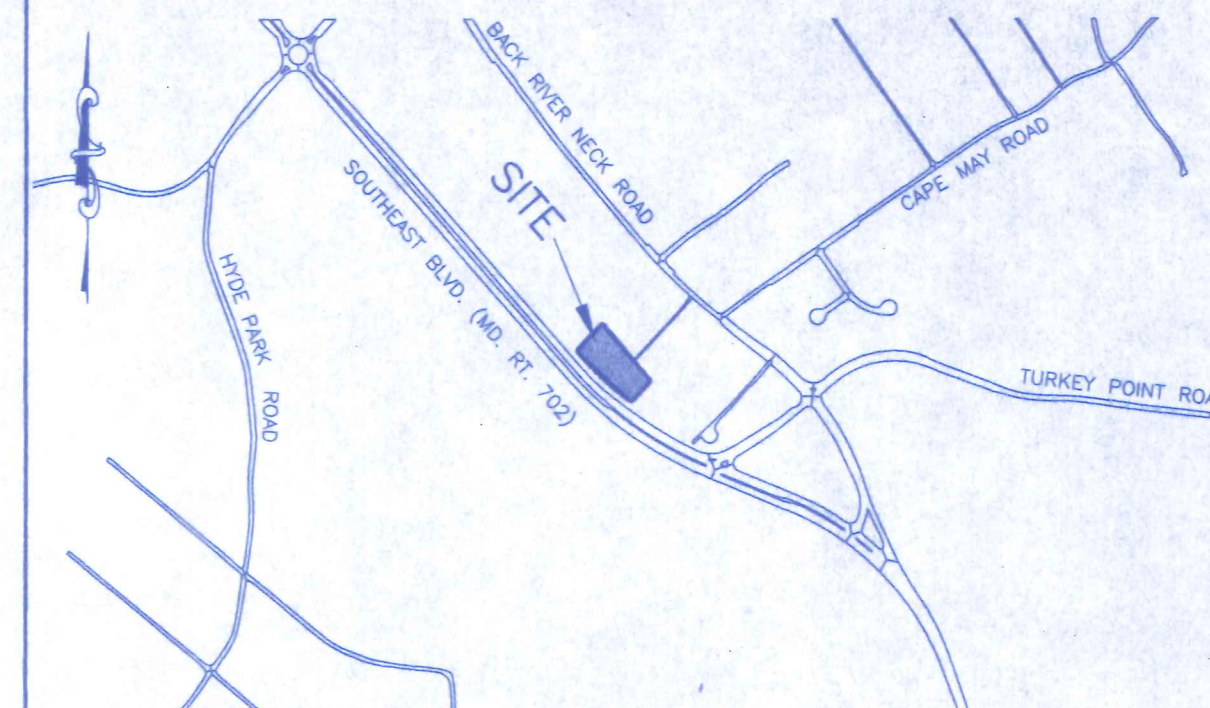
(15% LOT COVERAGE ALLOWED)

ZONING HISTORY

CASE NO. 2014-0009-SPHA
ORDER GRANTED DATED: 09/09/13
TO PERMIT AN ACCESSORY STRUCTURE, (POLE BARN)
TO BE LOCATED IN THE SIDE YARD IN LIEU OF THE
REQUIRED REAR YARD, AND WITH A HEIGHT OF
22 FT. IN LIEU OF THE MAXIMUM PERMITTED 15 FT.

NOTE

- Topography shown hereon was taken from Baltimore County GIS Topography & Updated by field survey, (Dec. 2016)
- The Firm Insurance Rate Map, 240010-0445 G indicates this is NOT situated within flood Zone X.
- Property lines shown hereon were established by public information.
- This site is situated within the Chesapeake Bay Critical Area and is classified by land use as Limited Development Area (LDA) (MAP 97).
- There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.
- There are no forest or developed woodlands on this site.
- There are no Tidal & Non-Tidal Wetlands shown on this site.
- There is no significant plant or animal habitat on this site.
- There are no slopes greater than 15% on this site.
- There are no known wells on this site.
- There are no known underground storage tanks or septic systems on this site.
- 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.
- 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.
- Public Water and sewer serve this site.
- Caution underground utilities may exist in Back River Neck Road & Stone Driveway & onsite, contact Miss Utility (800-257-7777) prior to any construction.
- Proposed dwelling height < 50'.



VICINITY MAP

(SCALE: 1" = 1000')

SITE DATA

- OWNER: HENRY NOOFT JR. & DONNA M. NOOFT & JEFFREY NOOFT
#538 BACK RIVER NECK ROAD
BALTIMORE, MARYLAND 21221
- DEED REF: 37711/266
- TAX ACC. NO.: 15-14650250
- TAX MAP: 97 PARCEL: 303 LOT: NONE
- PLAT REF: NONE
- ELECTION DISTRICT: 15TH
- COUNCILMANIC DISTRICT: 7TH
- REGIONAL PLANNING DISTRICT: 328
- CENSUS TRACT: 4511
- ZONING: DR-3.5
- ZONING MAP: 097C2
- USE: EXISTING: RESIDENTIAL, TWO-STORY DWELLING
PROPOSED: RESIDENTIAL, TWO-STORY DWELLING
- SITE AREA: 57,727 S.F. OR 1.33 AC.±



Bafitis & Associates, Inc.

William N. Bafitis, P.E.
PRESIDENT

Civil Engineers/Land Planners
SURVEYORS

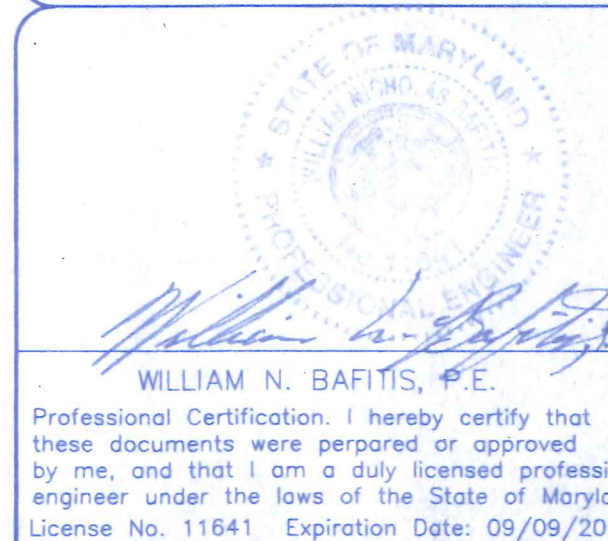
1249 Engleberth Rd. Baltimore, MD 21221

(410) 391-2336

PLAN TO ACCOMPANY PETITION TO AMEND SPECIAL HEARING FOR CASE NO. 2014-0009-SPHA FOR #542 BACK RIVER NECK ROAD

15TH ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND



WILLIAM N. BAFITIS, P.E.
Professional Certification: I hereby certify that these documents were prepared 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

SCALE:

1" = 30'

JOB ORDER NO:

21610

DATE:

01/02/17

CHECKED:

W.N.B.

DRAWN:

N.W.B.

NO.	REVISIONS	DATE

Ex. 1

2017-0175-SPH

DR-3.5
RC-20

MD. RT. 702
(SOUTHEAST BLVD.)
(EXISTING R/W 200')

EX. 10' DRAINAGE
& UTILITY EASEMENT

HONDA-RIDGE LLC.
DEED: 30437/482
TAX NO. 16-00007294

HONDA-RIDGE LLC.
DEED: 30437/482
TAX NO. 16-00007294

#542
EX. 2-STY.
DWLG.
(1,133 S.F.)

CHARLES E. STUMPF
DEED: 37711/248
TAX NO. 17-00002169

(VACANT)

EX. 1-STY.
GARAGE

BRUCE S. MARTIN
DEED: 18036/716
TAX NO. 21-00008516

#536
EX. 1-STY.
DWLG.

EX. SHED

FRANK JOSEPH PROTANI
& JUNE MARIE PROTANI
DEED: 8213/484
TAX NO. 21-00008517

#536A
EX. 1-STY.
DWLG.

SUE FRANCES JARRETT
DEED: 8602/128
TAX NO. 22-00004810

#536B
EX. 1-STY.
DWLG.

EX. 22' R/W
DEED: 8601/261

HENRY JOHN NOOFT
& DONNA MARIE NOOFT
DEED: 37711/259
17-00002170

EX. STONE DRIVEWAY

TRUSTEES OF BACK RIVER
METHODIST CHURCH INC.
DEED: 15990/410
TAX NO. 23-00010041

TRUSTEES OF BACK RIVER
METHODIST CHURCH INC.
DEED: 15990/410
TAX NO. 23-00010041

EX. 1-STY.
DWLG.

EX. BIT.
PAVING

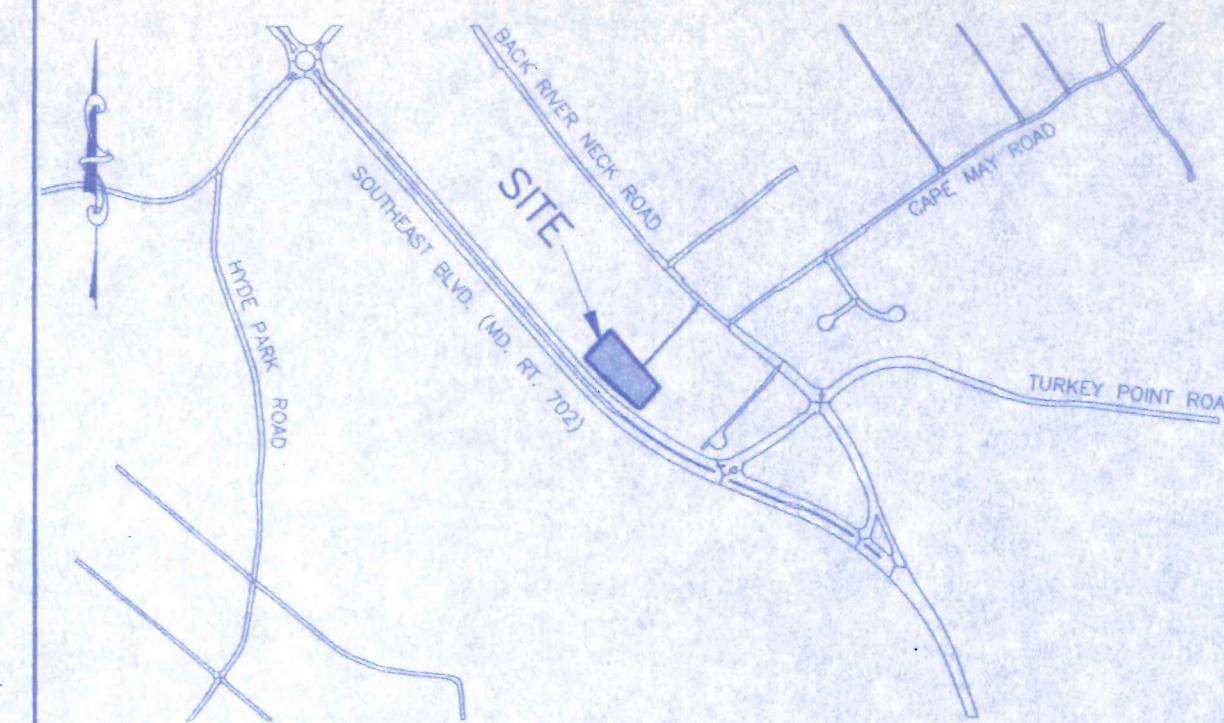
#544
EX. 1-STY. BRICK
BUILDING

BRIDGET OCHS
DEED: 36929/388
TAX NO. 15-14100280

#1508
(BREHMS LANE)
BRIDGET OCHS
DEED: 36929/388
TAX NO. 15-19712160

EX. SHED

EX. 1-STY.
DWLG.



VICINITY MAP
(SCALE: 1" = 1000')

SITE DATA

- 1) OWNER: HENRY NOOFT JR. & DONNA M. NOOFT & JEFFREY NOOFT
#538 BACK RIVER NECK ROAD
BALTIMORE, MARYLAND 21221
- 2) DEED REF: 37711/266
- 3) TAX ACC. NO.: 15-14650250
- 4) TAX MAP: 97 PARCEL: 303 LOT: NONE
- 5) PLAT REF: NONE
- 6) ELECTION DISTRICT: 15TH
- 7) COUNCILMANIC DISTRICT: 7TH
- 8) REGIONAL PLANNING DISTRICT: 328
- 9) CENSUS TRACT: 4511
- 10) ZONING: DR-3.5
- 11) ZONING MAP: 097C2
- 12) USE: EXISTING: RESIDENTIAL, TWO-STORY DWELLING
PROPOSED: RESIDENTIAL, TWO-STORY DWELLING
- 13) SITE AREA: 57,727 S.F. OR 1.33 AC.±



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
PHOTOGRAPHS FOR
PETITION TO AMEND SPECIAL HEARING
FOR CASE NO. 2014-0009-SPHA
FOR
#542 BACK RIVER NECK ROAD
15TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND



1

SHEET 1 OF 1

SCALE:
1" = 30'
JOB ORDER NO:
21610
DATE:
02/14/17
CHECKED:
W.N.B.
DRAWN:
N.W.B.

NO.	REVISIONS	DATE

DR-2

DR-3.5

N 44°37'15" E

172.09'

N 40°30'39" W
23.89'

L = 345.14'

#542
PROP.
1-STY. DWLG.
(1,657 S.F.)

#542
EX. 2-STY.
DWLG.
(1,133 S.F.)

21.86'

160'±

50'±

51.82'

60.08'

27.58'

50'±

EX. STONE
DRIVE (TO BE
REMOVED)
(388 S.F.)

PROP. C/W
& STEPS
(113 S.F.)

7.5'

55'±

EX. STONE DRIVE
(4,397 S.F.)

PROP. PORCH
W/ROOF
(158 S.F.)

EX. 1-STY.
GARAGE
(2,100 S.F.)

EX. CONTAINER
(TO BE REMOVED)
(134 S.F.)

EX. CONTAINER
(TO BE REMOVED)
(268 S.F.)

176'±

30'

70'

EX. BGF
#263729

S 39°08'43" E
131.27'

P.O.B.

473'± SOUTHWESTERLY FROM
THE CENTERLINE INTERSECTION
OF BACK RIVER NECK ROAD
50' R/W

APPROX. LOC. EX. 1" WATER
(PRIVATE)

EX. 12' R/W
DEED: 1702/101

CHARLES E. STUMPF
DEED: 37711/248
TAX. NO. 17-0000216

(VACANT)

BRIDGET OCHS
DEED: 36929/388
TAX NO. 15-14100280

#1508
(BREHMS LANE)
BRIDGET OCHS
DEED: 36929/388
TAX NO. 15-19712160

EX. SHED

EX. 1-STY.
DWLG.

(EXISTING R/W 200')