

IN RE: PETITIONS FOR SPECIAL HEARING *

AND VARIANCE

(1233 Piney Hill Road) *

8th Election District *

3rd Council District *

Helen E. Scharat *

Legal Owner

Petitioner *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2017-0242-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 Helen E. Scharat, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed accessory structure to be used as a studio/office. In addition, as originally filed a Petition for Variance seeks to permit a proposed accessory structure with a height of 35 ft. in lieu of the maximum allowed 15 ft. Petitioner indicated this was in fact a mistake, and the proposed height of the structure would be 21 ft. in lieu of the maximum 15 ft., and the Petition was amended accordingly and initialed by the undersigned. A site plan was marked and accepted into evidence as Petitioner's Exhibit 1.

Steve Yelick and Lee Giroux appeared in support of the requests. Dino C. LaFiandra, Esq. represented the Petitioner. Petitioner's neighbor (William Lally) initially opposed the request, believing the accessory structure was proposed to be 35 ft. in height. Upon learning the request was for a maximum height of 21 ft., Mr. Lally submitted to the undersigned an email indicating he was "much more comfortable with the request submitted by the petitioner and no longer have any substantial opposition." The Petition was advertised and posted as required by the Baltimore

ORDER RECEIVED FOR FILING

Date 7-3-17

By SW

County Zoning Regulations. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing county agencies.

SPECIAL HEARING

The subject property is approximately 5.78 acres in size and zoned RC-7. The property is improved with a single family dwelling constructed in 1986. Petitioner proposes to construct a one-story accessory building (25 ft. x 45 ft.) in the rear yard of the property. Mr. Yelik (who lives at the property) explained the building would be used as a studio to mix and produce digital music recordings. He explained he has done this work for many years in California, and that he has worked with and produced recordings for popular recording artists.

The RC-7 regulations expressly permit accessory structures, offices or studios to be used by (among others) "artists, musicians or other professionals." Even so, the same regulation states such studio or office must be "within the same building as that serving the professional person's primary residence." B.C.Z.R. § 1A08.3.A.7.c. The Petition for Special Hearing was filed to allow the studio to be within an accessory building rather than within the single family dwelling. Petitioner explained there would be essentially no vehicular travel generated by his studio, as would be the case for doctors, dentists and lawyers, all of whom may have offices within their home in the RC-7 zone. The site is nearly six (6) acres, and I do not believe the studio operation in the proposed accessory building (the design and construction of which will be overseen by an architect) would have a detrimental impact upon the community. As such, the Petition for Special Hearing will be granted, although certain restrictions will be included in the order below to help ensure the use does not have a negative impact upon adjacent properties.

VARIANCES

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

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Date 7-3-17

By low

- (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).

This large parcel has an irregular shape and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because she would be unable to construct the proposed studio. Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of community and/or Baltimore County opposition.

Mike Pierce submitted a letter dated June 23, 2017, wherein he noted the Department of Planning's ZAC comment stated the accessory structure shall not be used for commercial purposes. That is the generally applicable rule, and even in the RC-7 zone the commercial operations permitted (i.e., offices or studios of certain professionals) are required to be within the dwelling rather than an accessory building. Of course, Petitioner filed the Petition for Special Hearing to waive this requirement, and based on the size of the site and the lack of traffic or other obvious signs of commercial activity at the site, I believe the Petition should be granted.

Mr. Pierce also raised an issue concerning a minimum building setback line as shown on the plat for this property, recorded at PB 55, page 5. I reviewed the plat and confirmed it does contain such setback lines, and the proposed accessory building would intrude upon this setback. Such minimum building setback lines are required to be shown on all plats, per the Baltimore County Code (B.C.C.) § 32-4-271(g)(2). The Petition does not mention or seek relief from the

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Date 7-3-17

By lw

minimum building setback line (assuming such relief is required in the case of an accessory building) and nothing in the order below modifies or alters those requirements.

THEREFORE, IT IS ORDERED this 3rd day of **July, 2017**, 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.") to permit a proposed accessory structure to be used as a studio/office, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeks to permit a proposed accessory structure with a height of 21 ft. in lieu of the maximum allowed 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to 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 her 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. The accessory building shall not contain any sleeping quarters, living area, and/or kitchen facilities.
3. The accessory building interior walls must be double thickness and triple insulated, and sound dispersion panels must be used in the structure to absorb sound.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

ORDER RECEIVED FOR FILING

Date 7-3-17

By [Signature]



KEVIN KAMENETZ
County Executive

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

July 3, 2017

Dino C. LaFinadra, Esq.
Pessin Katz Law, P.A.
901 Dulaney Valley Road, Suite 400
Towson, MD 21204

RE: Petitions for Special Hearing and Variance
Case No. 2017-0242-SPHA
Property: 1233 Piney Hill Road

Dear Mr. LaFiandra:

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,

A handwritten signature in black ink, appearing to read "JEB", is written over a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: William Lally, 1239 Piney Hill Road, Monkton, MD 21111
Mike Pierce, 7448 Bradshaw Road, Kingsville, MD 21087



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 1233 Piney Hill Rd. which is presently zoned RC-7 (vested RC5)

Deed References: 36456000311 10 Digit Tax Account # 2049799543

Property Owner(s) Printed Name(s) HELEN E. SCHARAT

(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

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)

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)

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):

HELEN E. SCHARAT

Name #1 - Type or Print

Name #2 - Type or Print

Helen E. Scharat

Signature #1

Signature #2

1233 PINEY HILL RD, MONKTON, MD

Mailing Address

City

State

21111, 410-357-5255, HSCHARAT57@

Zip Code

Telephone #

Email Address

COMCAST.NET

Representative to be contacted:

Lee Gironx

Name - Type or Print

Lee Gironx

Signature

15850 MAONOLIA DR. New Freedom, PA

Mailing Address

City

State

17349, 413-564-8875, Gironx.lee@gmail.com

Zip Code

Telephone #

Email Address

CASE NUMBER 2017-0240-SP4A Filing Date 3/10/17

Do Not Schedule Dates:

Reviewer JS

2017-0242-SPHA

1233 Piney Hill Road

Requested Relief

Variance:

BCZR: 400.3 → To permit a proposed accessory structure with a height of 35 feet in lieu of the maximum allowed 15 feet.

21
X

JSB
6-30-17

Special Hearing:

BCZR: 500.7 → To permit a proposed accessory structure to be used as a studio/office.

ZONING DISCRIPTION FOR -

1233 Piney Hill Rd.

Beginning at a point on the

~~WEST~~ SOUTH side of Piney Hill Rd.

ROW which is 50' wide at the distance of

1,222'- of the centerline of the nearest improved

intersection street

Piney Creek Ct. which is 30' ft. wide.

Being Lot #

1

Block

B

Section #

1

in the subdivision of

RICHLAND ESTATES

as recorded in Baltimore County Plate Book # 55 Folio # 5.

5.78 A

Containing

~~5.78 A~~

. Also known as

1233 Piney Hill Rd.

and located in

the

8

Election District

3RD

Councilmanic District.

577'

1222'

№ 148672

Date: 3/10/17

RECEIVED

BUSINESS	ACTUAL	TIME	DEPT
3/10/2017	3/10/2017	11:53:14	5

REG 1305 WALKIN LRG

>>RECEIPT # 890464 3/10/2017 6FLN

Rept 5 528 ZONING VERIFICATION
CR NO. 148672

Recpt Tot \$150.00
\$150.00 OK \$.00 CA
Baltimore County, Maryland

Total: \$150.00

For: 2017-0242-SHA

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

**CASHIER'S
VALIDATION**

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 5/12/2017

Case Number: 2017-0242-SPHA

Petitioner / Developer: LEE GIROUX ~ HELEN SCHARDT

Date of Hearing (Closing): JUNE 1, 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:
1233 PINEY HILL ROAD

The sign(s) were posted on: MAY 12, 2017



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)



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 4941603

Sold To:

Helen Schardt - CU00598066
1233 Piney Hill Rd
Monkton, MD 21111-1405

Bill To:

Helen Schardt - CU00598066
1233 Piney Hill Rd
Monkton, MD 21111-1405

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

May 11, 2017

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: 2017-0242-SPHA

1233 Piney Hill Road
S/s Piney Hill Road, 1222 ft. E/of centerline of Piney Hill
Creek Court
8th Election District - 3rd Councilmanic District
Legal Owner(s): Helen Schardt

Special Hearing to permit a proposed accessory structure to be used as a studio/office.

Variance to permit a proposed accessory structure with a height of 35 ft. in lieu of the maximum allowed 15 ft.

Hearing: Thursday, June 1, 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.

5-045 May 11

4941603

The Baltimore Sun Media Group

By

S. Wilkinson

Legal Advertising

TO: PATUXENT PUBLISHING COMPANY
Thursday, May 11, 2017 Issue - Jeffersonian

Please forward billing to:
Helen Schardt
1233 Piney Hill Road
Monkton, MD 21111

410-357-5255

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: 2017-0242-SPHA

1233 Piney Hill Road

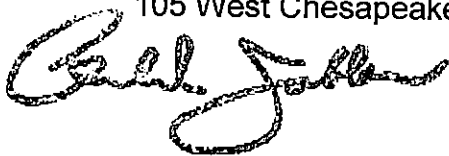
S/s Piney Hill Road, 1222 ft. E/of centerline of Piney Hill Creek Court

8th Election District -- 3rd Councilmanic District

Legal Owners: Helen Schardt

Special Hearing to permit a proposed accessory structure to be used as a studio/office.
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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*

April 24, 2017

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: 2017-0242-SPHA

1233 Piney Hill Road

S/s Piney Hill Road, 1222 ft. E/of centerline of Piney Hill Creek Court

8th Election District – 3rd Councilmanic District

Legal Owners: Helen Schardt

Special Hearing to permit a proposed accessory structure to be used as a studio/office.

Variance to permit a proposed accessory structure with a height of 35 ft. in lieu of the maximum allowed 15 ft.

Hearing: Thursday, June 1, 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: Helen Schardt, 1233 Piney Hill Road, Monkton 21111
Lee Giroux, 15852 Magnolia Drive, New Freedom PA 17349

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, MAY 12, 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.**

**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: 2017-0242-SPHA

Property Address: 1233 PINEY HILL RD.

Property Description: _____

Legal Owners (Petitioners): Helen E. Scharat

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Helen SCHARAT

Company/Firm (if applicable): _____

Address: 1233 Piney Hill Rd.
Monkton, Md. 21111

Telephone Number: 410-357-5255

Revised 7/9/2015



KEVIN KAMENETZ
County Executive

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

May 24, 2017

Helen E Scharat
1233 Piney Hill Road
Monkton MD 2111

RE: Case Number: 2017-0242 SPHA, Address: 1233 Piney Hill Road

Dear Ms. Scharat:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 10, 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
Lee Giroux, 15852 Magnolia Drive, New Freedom PA 17349

Date: 4/17/17

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. 2017-0242-SPHA

*Special Hearing Variance
Helen E Scharet
1233 Piney Hill 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,



Wendy Wolcott, PLA
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: 5/22/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-242

INFORMATION:

Property Address: 1233 Piney Hill Road
Petitioner: Helen E. Scharat
Zoning: RC 7
Requested Action: Special Hearing, Variance

The Department of Planning has reviewed the petition for a special hearing and variance to determine whether or not the Administrative Law Judge should approve a proposed accessory structure to be used as a studio/office having a height of 35 feet in lieu of the required maximum allowed 15 feet.

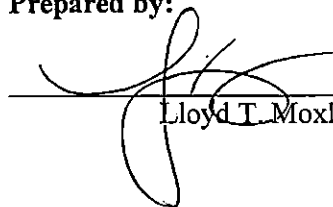
A site visit was conducted on April 28, 2017.

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

- The proposed structure shall not be used as a residence or for commercial purposes.

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

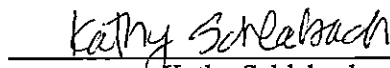
Prepared by:



Lloyd T. Moxley

AVA/KS/LTM/ka

Division Chief:



Kathy Schlabach

c: Kaylee Justice
Lee Giroux
Office of the Administrative Hearings
People's Counsel for Baltimore County

TO WAR

20BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For April 24, 2017
Item No. 2017-0242, 0273, 0275, 0276 and 0277

DATE: April 26, 2017

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\ZAC04242017.doc

6-1

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

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

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-242

DATE: 5/22/2017



INFORMATION:

Property Address: 1233 Piney Hill Road
Petitioner: Helen E. Scharat
Zoning: RC 7
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The Department of Planning has reviewed the petition for a special hearing and variance to determine whether or not the Administrative Law Judge should approve a proposed accessory structure to be used as a studio/office having a height of 35 feet in lieu of the required maximum allowed 15 feet.

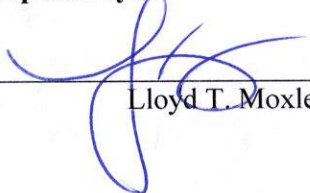
A site visit was conducted on April 28, 2017.

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

- The proposed structure shall not be used as a residence or for commercial purposes.

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

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Kaylee Justice
Lee Giroux
Office of the Administrative Hearings
People's Counsel for Baltimore County

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
AND VARIANCE		
1233 Piney Hill Road; S/S Piney Hill Road,	*	OF ADMINSTRATIVE
1222' E of c/line Piney Hill Creek Court		
8 th Election & 3 rd Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Helen E. Scharat		
Petitioner(s)	*	BALTIMORE COUNTY
	*	2017-242-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.

RECEIVED

APR 21 2017

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April, 2017, a copy of the foregoing Entry of Appearance was mailed to Lee Giroux, 15852 Magonia Drive, New Freedom, PA 17349, 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: August 3, 2017
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2017-0242-SPHA – Appeal Period Expired

The appeal period for the above-referenced case expired on August 2, 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

- **Debra Wiley**

From: John E. Beverungen
Sent: Thursday, June 08, 2017 2:45 PM
To: Verizon
Cc: Debra Wiley
Subject: RE: Zoning Case # 2017-0242-A

Mr. Lally,

A court reporter is not present at administrative hearings to transcribe testimony. Instead, our office uses an audio recording system to record proceedings. In this instance, there was no witness testimony presented on June 1. Rather, Petitioner's attorney described on the record the proposed improvements and submitted several documents, including a May 25, 2017 letter distributed to neighbors along with architectural elevations and photos. If you were interested in listening to the recording of the June 1 proceeding or reviewing the case file you can make arrangements to do so by contacting the Office of Administrative Hearings at 410-887-3868.

John Beverungen
ALJ

From: Verizon [mailto:bill3606@verizon.net]
Sent: Thursday, June 08, 2017 1:09 PM
To: John E. Beverungen <jbeverungen@baltimorecountymd.gov>
Subject: Re: Zoning Case # 2017-0242-A

Mr. Beverungen,

Thank you for this notification. Is there anyway to obtain a copy of the transcript of the testimony presented at the hearing? This would assist us in making a determination in how to move forward.

Regards

Bill Lally

Sent from my iPhone

On Jun 8, 2017, at 11:13 AM, John E. Beverungen <jbeverungen@baltimorecountymd.gov> wrote:

Mr. Lally,

The above zoning case was scheduled for hearing on June 1, 2017. However, you sought and were granted a postponement by the Department of Permits, Approvals and Inspections (PAI). Unfortunately, no one notified the Petitioner or her counsel of that fact, and they appeared at the Office of Administrative Hearings on June 1 as originally scheduled. At counsel's request I agreed to open the hearing and allow Petitioner to describe in general terms the relief she was seeking. Counsel clarified that the request is in fact for an accessory building height of 21 feet in lieu of the maximum 15 feet, even though the zoning notice indicated the proposed height was 35 feet. In any event, the record in the above case has been left open, and if you oppose the zoning requests I am amenable to scheduling another hearing at which you, or others, can voice their concerns. If you would like to reschedule the

hearing in this case, please contact Kristen Lewis (copied on this email) at PAI and she will assign a new hearing date. As I informed counsel on June 1, no additional posting or advertisement is required.

John Beverungen
AU



CONNECT WITH BALTIMORE COUNTY



www.baltimorecountymd.gov

Debra Wiley

From: Kristen L Lewis
Sent: Wednesday, June 21, 2017 10:43 AM
To: Debra Wiley
Subject: FW: Zoning Case # 2017-0242-A

What does this mean?

Kristen Lewis
PAI – Zoning Review
410-887-3391

From: Bill Lally [mailto:bill3606@verizon.net]
Sent: Wednesday, June 21, 2017 10:36 AM
To: sas.bengston@gmail.com; mschret@comcast.net; grandmasandy100@msn.com; jaist1962@gmail.com; eric.wenck@gmail.com
Cc: Kristen L Lewis <klewis@baltimorecountymd.gov>; John E. Beverungen <jbeverungen@baltimorecountymd.gov>
Subject: Re: Zoning Case # 2017-0242-A

Hi all,

After reviewing the documents contained in the variance request file at the Office of Administrative Hearings, I am confident that the variance in the allowable maximum height is now 21 feet, not the 35 feet originally requested. This being the case, I am much more comfortable with the request submitted by the petitioner and no longer have any substantial opposition. If the project would not be jeopardized by building the new structure so that it meets the setback requirements from Piney Hill Road, I think this would minimize any impact on the scenery so valued in this community. However, that issue is ultimately between the petitioner and the County and defer to the process. As it stands right now, the variance hearing is still considered "open". This means that if you wish to oppose, make comment, etc., you may request a postponement of the case. In order to do so, you must contact Ms. Kristen Lewis at the Department of Permits, Approvals and Inspections (PAI). She can be reached at klewis@baltimorecountymd.gov or 410-887-3353.

Regards,

Bill

Bill Lally
bill3606@verizon.net

Debra Wiley

From: John E. Beverungen
Sent: Thursday, June 08, 2017 11:14 AM
To: Bill3606@verizon.net
Cc: Dino La Fiandra; Debra Wiley; Kristen L Lewis; Sherry Nuffer
Subject: Zoning Case # 2017-0242-A

Mr. Lally,

The above zoning case was scheduled for hearing on June 1, 2017. However, you sought and were granted a postponement by the Department of Permits, Approvals and Inspections (PAI). Unfortunately, no one notified the Petitioner or her counsel of that fact, and they appeared at the Office of Administrative Hearings on June 1 as originally scheduled. At counsel's request I agreed to open the hearing and allow Petitioner to describe in general terms the relief she was seeking. Counsel clarified that the request is in fact for an accessory building height of 21 feet in lieu of the maximum 15 feet, even though the zoning notice indicated the proposed height was 35 feet. In any event, the record in the above case has been left open, and if you oppose the zoning requests I am amenable to scheduling another hearing at which you, or others, can voice their concerns. If you would like to reschedule the hearing in this case, please contact Kristen Lewis (copied on this email) at PAI and she will assign a new hearing date. As I informed counsel on June 1, no additional posting or advertisement is required.

John Beverungen
ALJ

Sherry Nuffer

From: John E. Beverungen
Sent: Wednesday, June 07, 2017 11:12 AM
To: Dino La Fiandra
Cc: Sherry Nuffer
Subject: Case No. 2017-0242-A

Mr. LaFiandra,

I am writing to see if you or your clients have had an opportunity to speak with Mr. Lally, who resides at 1239 Piney Hill Road? Please let me know so I can determine how to proceed with this case.

John Beverungen
ALJ

Subject: Studio building

Date: Sunday, May 28, 2017 at 4:17:29 PM Eastern Daylight Time

From: Stephen Bengston

To: steve@yelick.com

Hi Steve...thanks for the info package. It answered a lot of questions.

Steve

Steve Yelick & Helen Schardt
1233 Piney Hill Rd.
Monkton, MD. 21111

Phone: 410-357-5255
Email: steve@yelick.com

Date: 05/25/2017

Dear Neighbors,

We wanted to take the time and give you an update on the situation regarding our home addition.

The legal zoning sign and its description is somewhat misleading as the description might lead you to envision a structure that does not correspond to what our intentions are.

1. The height allocated on the most recent architect rendering show a height of +/- 20ft not 35ft.
2. The exterior will match the exterior of the house, as will the windows.
3. The building, as per plan, will be tucked back 5ft off the rear fence line in the area now occupied by the chicken house, which will be removed.
4. The building will be used as my office, audio mixing space and private music instruction space. Seeing that I normally work alone I do not foresee any additional traffic and we have off street parking.
- 5.) To abate sound leakage the interior walls of the building are to be double thickness and triple insulated. There also will be placed within the room sound dispersion panels that as well absorb sound.

* This is the fourth building of this type I have planned and constructed. One was in the center of a major city, one in a residential area and one on four acres of land. Not in one case was there ever an issue of neighbors being disturbed by sound emitted from the buildings.

Copy as sent!

Please look over the drawings and should you have any questions whatsoever please contact the lady facilitating my permits:

Lee Giroux

Phone: 443-564-8875

Email: giroux.lee@gmail.com

Best regards,

Steve Yelick

5/24/17
TO KL
OK to PR

May 18, 2017

Baltimore County, Maryland

111 W. Chesapeake Ave.

Towson, MD 21204

Attn: Mr. Arnold Jablon

Director, Permits and Inspections

Re: Request for Postponement

Zoning Case # 2017-0242-A

1233 Piney Hill Road, Monkton MD 21111



Mr. Jablon,

On behalf of the neighbors and citizens in the Monkton community that are affected by the zoning variance request filed under the above mentioned case number, I would respectfully request that the current hearing on the matter, currently set for June 1, 2017 at 2:30pm, be postponed. This postponement is necessary for those concerned with this variance request to obtain legal counsel, gather information and resources, and prepare the appropriate response to this request. This matter is being investigated by the office of Mr. Wade Kach, Councilman for Baltimore County, District 3 for zoning issues, and the Baltimore County Department of Environmental Preservation and Sustainability for the impact that the proposed construction would have on Piney Creek which abuts the subject property. If granted, this postponement would be the first for this case and is necessary to ensure that all involved are afforded due process on this matter.

Respectfully Submitted,

William Lally

1239 Piney Hill Road

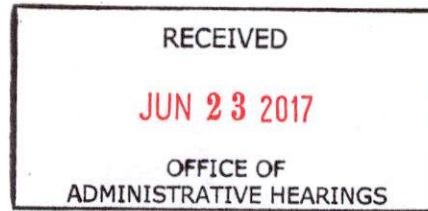
Monkton, MD 21111

443-506-5712

Bill3606@verizon.net

June 23, 2017

Mr. John Beverungen
Office of Administrative Law
105 W Chesapeake
Towson, MD 21204



Re: Case 2017-0242-SPHA, 1233 Piney Hill Rd

Dear Mr. Beverungen,

As I believe you will remember, I appeared for a hearing in this case at the announced date/time on June 1 at 1:30pm. After waiting for 20 minutes (with the petitioner and their counsel) I went to your office and learned that the hearing had been postponed. I went back to the hearing room with your aid where the petitioner was informed, and then I left.

Imagine my surprise to be told by others later that you held a hearing with the petitioner after I had left, in the absence of the known opponents, who had requested and been granted a postponement. When I left, I may have given the impression that I did not need to be involved in the matter further.

I would certainly be within my rights to insist that this matter be reheard in full, with everyone present. However, not being a nearby neighbor, I recognize that it would not be proper, even though permissible based on your ruling in Case 2014-0048-A, for me to object to the height variance or the nature of the home occupation. I am curious, though, on how you resolve the comment by the Department of Planning that they have "no objection ... conditional on ... shall not be used for commercial use", when the petitioner's comments refer to a "recording studio" and that the "home addition" will be used for "private music instruction".

However, I do want to question one item. The petitioner's plan depicts the new structure, a substantial one for which the height variance is being sought, being built very close to Piney Hill Rd (about 40' from the center line), with almost the entire building being outside of the approved building envelope (shown on the plan and plat 55:5 as "Minimum Building Setback Line") In speaking to the petitioner's counsel while waiting, it appeared that they believe that only the primary structure (the residence) is subject to this building envelope, thus, their petition did not seek relief from this restriction. I believe this understanding is incorrect.

The original petition noted correctly that the property is zoned RC-7, but also contains a note added to the effect that it is "vested" as RC-5. I'll leave it to you to sort out which section of the BCZR applies.

In any case, BCZR 1A08.2 (for RC-7) defines Building Envelope as:

"the area on a lot within which all structures except wells, septic systems, stormwater management systems, driveways or fences are permitted to be built."

The definitions in the sections for RC-6 and RC-8 are similar. There is no explicit definition in the section for RC-5, but it must be presumed to be the same. The term "minimum building setback line" on the plan and plat should be self-explanatory.

It is my understanding that such a building envelope can only be modified via a Development Plan hearing, which, if it had been requested, would have been combined with this hearing. It was not.

June 23, 2017

Thus, I believe it is essential that any Order that grants relief in the requested matters of building height and home occupation must make it clear that the Order is neither addressing the subject of the required "minimum building setback line" nor providing any relief from it.

Regards,



Michael Pierce
7448 Bradshaw Rd
Kingsville, MD 21087

cc: Peter Max Zimmerman, People's Counsel
Dino Giroux, 901 Dulaney Valley Dr, Towson, MD 21204

CERIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of June, 2017, a copy of the foregoing Letter was hand-delivered to the following:

Peter Max Zimmerman, People's Counsel for Baltimore County
and mailed by 1st class postage to:

Dino Giroux, 901 Dulaney Valley Dr, Towson, MD 21204



Michael A Pierce

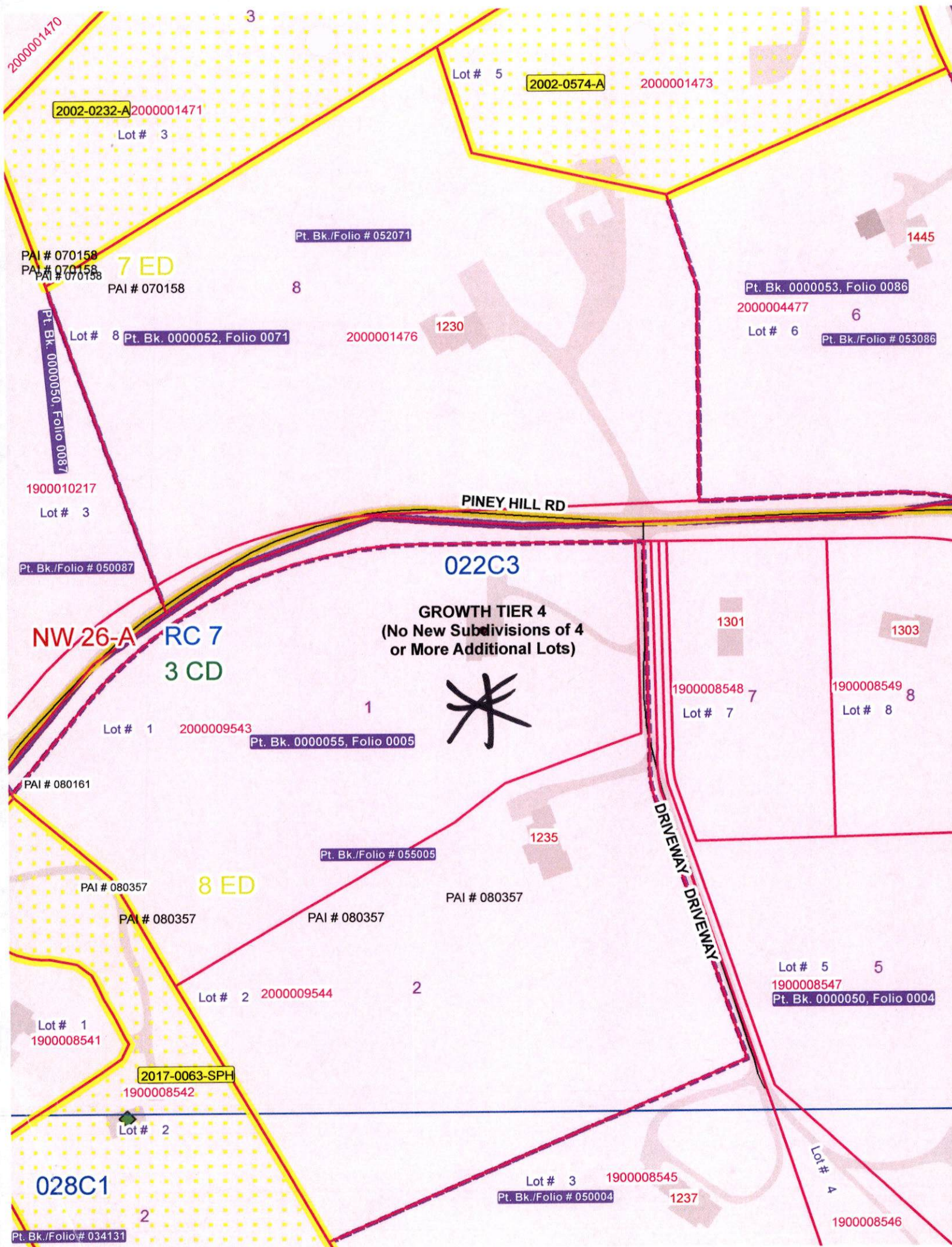
Real Property Data Search (w2) Guide to searching the database

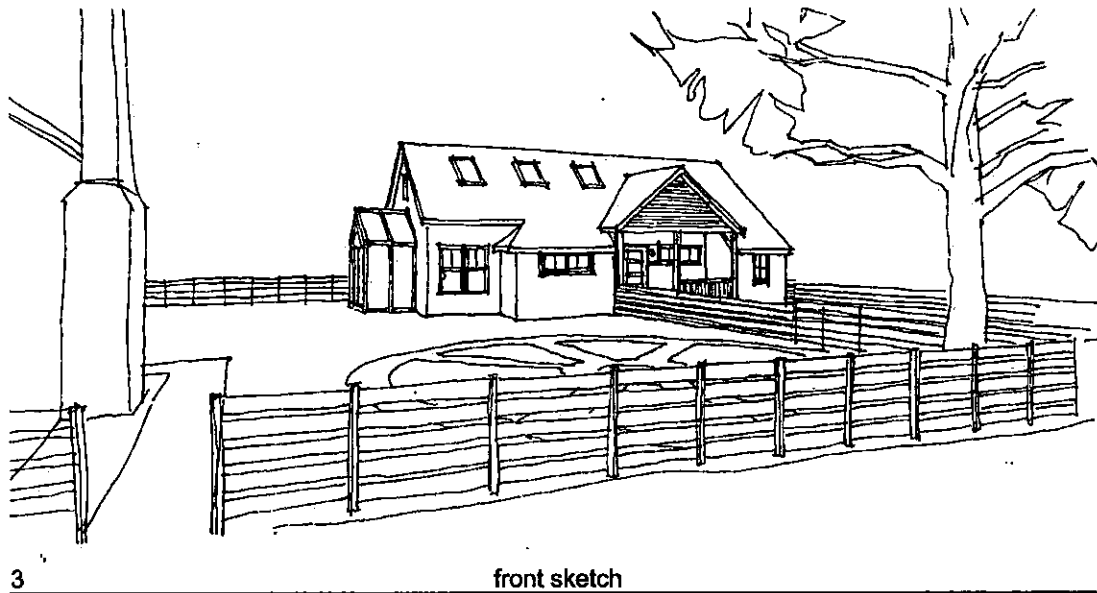
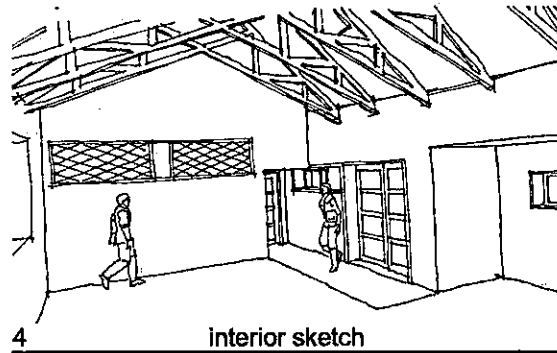
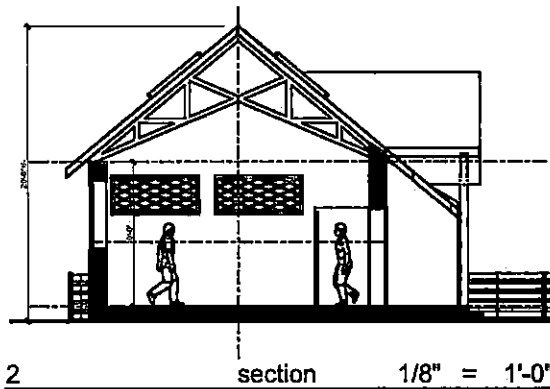
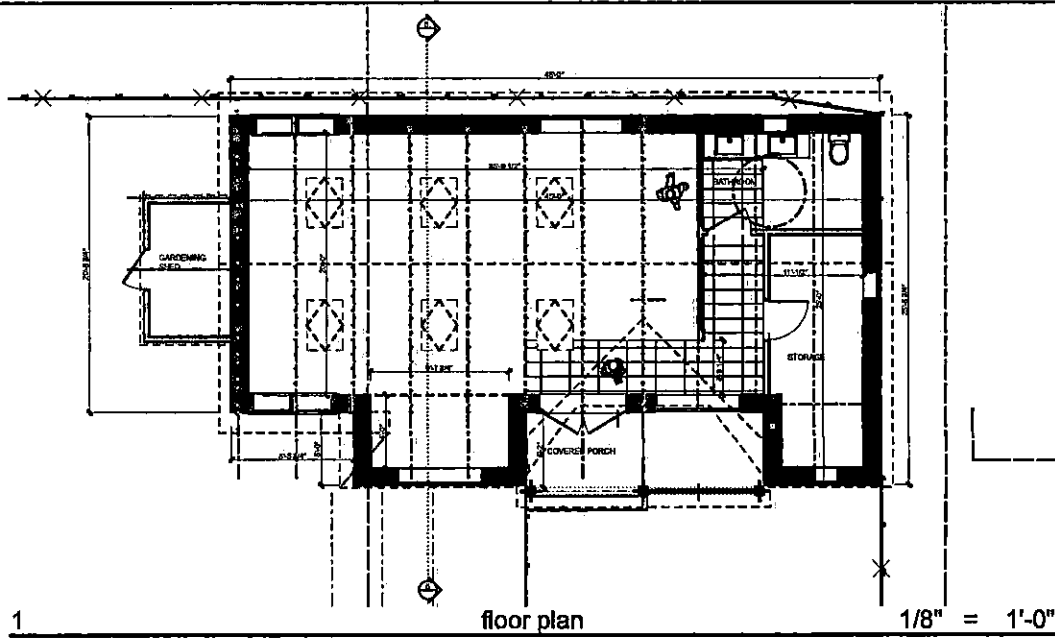
Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 08 Account Number - 2000009543			
Owner Information					
Owner Name:		SCHARDT HELEN ELIZABETH		Use:	RESIDENTIAL
Mailing Address:		1233 PINEY HILL RD MONKTON MD 21111-1405		Principal Residence:	YES
				Deed Reference:	/36456/ 00211
Location & Structure Information					
Premises Address:		1233 PINEY HILL RD MONKTON 21111-1405		Legal Description:	5.7805 AC RICHLAND ESTATES
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot:
0022	0023	0428		0000	1 B 1
				Assessment Year:	2017
				Plat No:	
				Plat Ref:	0055/0005
Special Tax Areas:			Town:		
			NONE		
			Ad Valorem:		
			Tax Class:		
Primary Structure Built	Above Grade Enclosed Area		Finished Basement Area		Property Land Area
1986	2,440 SF				5.7800 AC
County Use					
04					
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
2	YES	STANDARD UNIT	SIDING	2 full/ 1 half	1 Attached
Last Major Renovation					
Value Information					
Base Value		Value		Phase-in Assessments	
		As of		As of	
		01/01/2017		07/01/2016	
				As of	
				07/01/2017	
Land:	191,400	201,400			
Improvements	225,200	341,000			
Total:	416,600	542,400		416,600	458,533
Preferential Land:	0				0
Transfer Information					
Seller: BOEHL DONALD J		Date: 07/24/2015		Price: \$575,000	
Type: ARMS LENGTH IMPROVED		Deed1: /36456/ 00211		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					

3. This information is provided for informational purposes only. It is not intended to be used for legal or tax purposes. While we have confidence in







Sheet No:

A2

Date

25 May 2017

Project:

SCHARDT-YELICK HOUSE
1233 Piney Hill Road
Monkton, MD 21111

place architecture:design

t: 410.337.5299
c: 410.370.6848
www.placearchitecture.com



CASE NAME Schardt Property
CASE NUMBER 2017-0242-SPHA
DATE 6/1/17

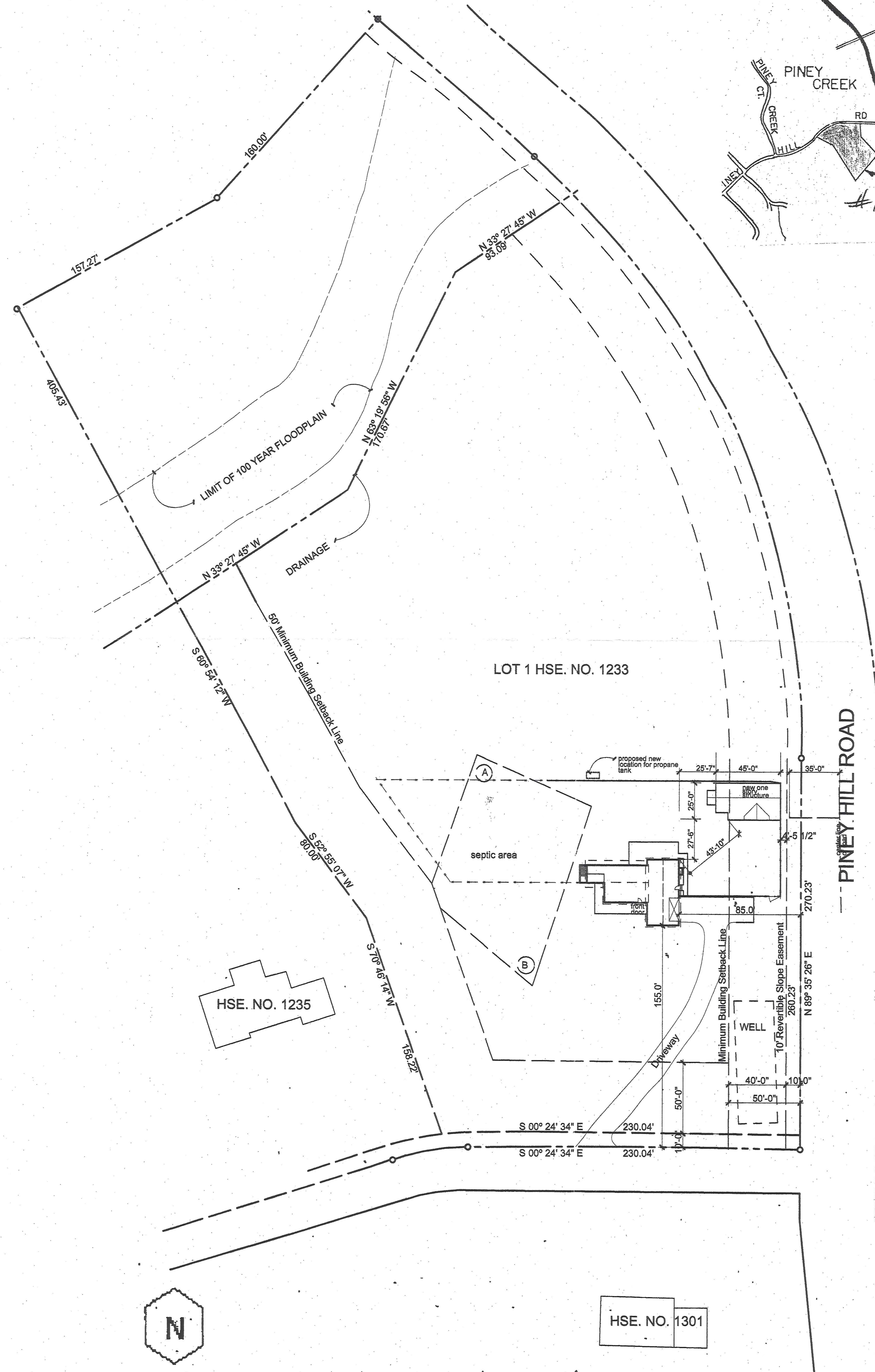
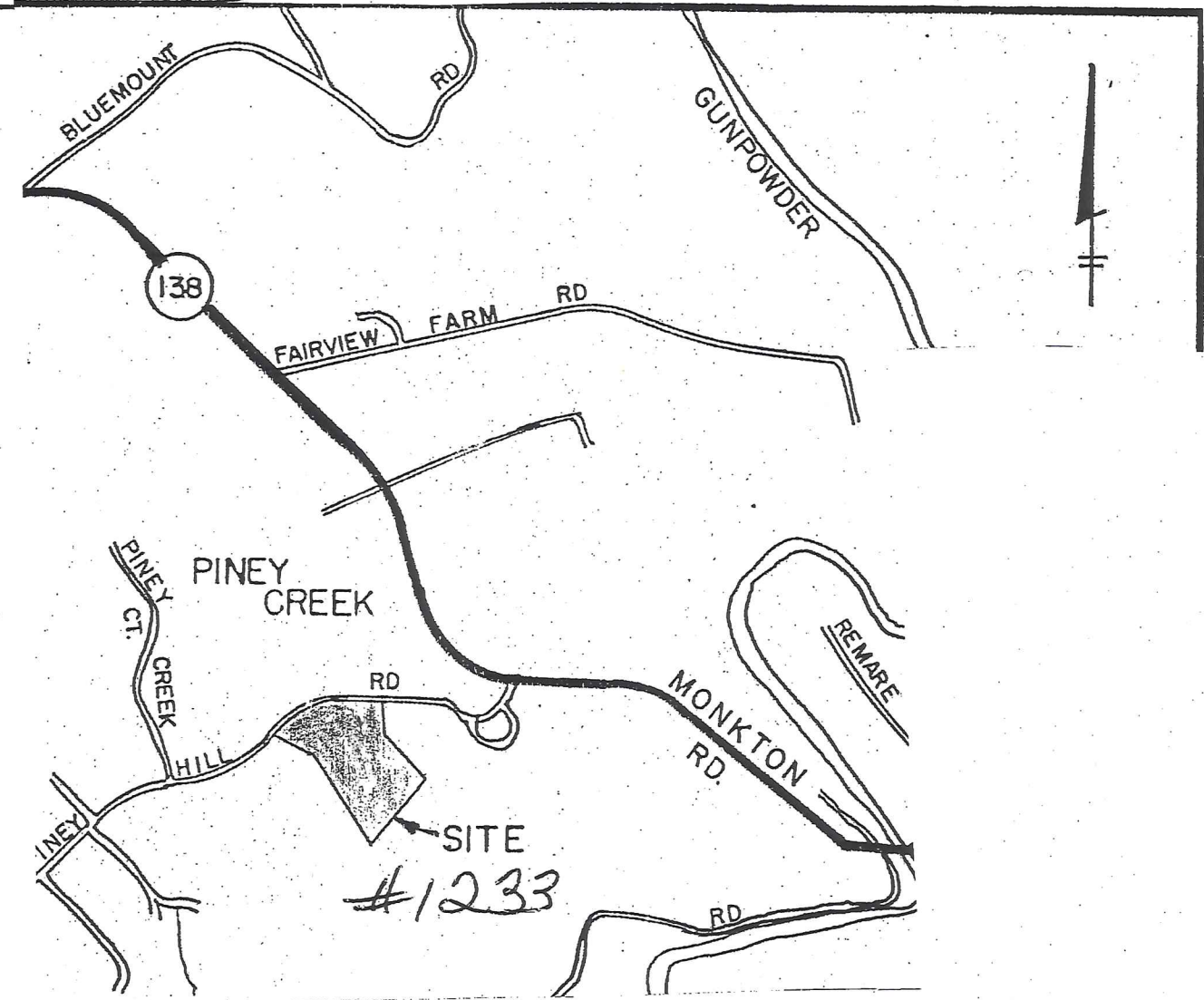
[illegible]

CASE NAME _____
CASE NUMBER 2017 - 0242
DATE _____

[illegible]

ZONING HEARING PLAN FOR VARIANCE ☒ FOR SPECIAL HEARING ☒ (MARK TYPE REQUESTED WITH X)
ADDRESS 1233 Piney Hill Rd. OWNER(S) NAME(S) Helen SCHARAT
SUBDIVISION NAME Richland Estates LOT # 1 BLOCK # B SECTION # 1
PLAT BOOK # 55 FOLIO # 5 1D DIGIT TAX # 240009543 DEED REF. # 36454 00211

SITE VICINITY MAP



N
MAP IS NOT TO SCALE
ZONING MAP# 022C3
SITE ZONED RC-7/Varied RC-5
ELECTION DISTRICT 8th
COUNCIL DISTRICT 3rd
LOT AREA ACREAGE 5.780
OR SQUARE FEET
HISTORIC? No
IN CBCA? NO
IN FLOOD PLAIN?
UTILITIES? MARK WITH X
WATER IS: PUBLIC PRIVATE ☒
SEWER IS: PUBLIC PRIVATE ☒
PRIOR HEARING?
IF SO GIVE CASE NUMBER
AND ORDER RESULT BELOW
N/A
VIOLATION CASE INFO: