IN RE: PETITION FOR ADMIN. VARIANCE * (1309 Ruxton Road)

9th Election District 2nd Council District Allen and Julie P. Shutt Petitioners BEFORE THE

OFFICE OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2017-0279-A

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Allen and Julie P. Shutt ("Petitioners"). The Petitioners are requesting Variance relief pursuant to § 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R"), to permit a proposed in-ground pool (accessory structure) on a corner lot located on the 1/3 closest to the street side in lieu of the farther 1/3 from the street side. 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.

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

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on April 23, 2017, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (B.C.C.). Based upon the information available, there is no evidence in ORDER RECEIVED FOR FILING

Date	-15-11
Ву	(Su)

the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this <u>15th</u> day of **May**, **2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") to permit a proposed in-ground pool (accessory structure) on a corner lot located on the 1/3 closest to the street side in lieu of the farther 1/3 from the street side, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

 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.

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

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KEVIN KAMENETZ County Executive

LAWRENCE M. STAHL

Managing Administrative Law Judge
JOHN E. BEVERUNGEN

Administrative Law Judge

May 15, 2017

Allen and Julie P. Shutt 1309 Ruxton Road Towson, MD 21204

RE: Petition for Administrative Variance

Case No. 2017-0279-A

Property: 1309 Ruxton Road

Dear Petitioners:

Enclosed please find a copy of the Order 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 Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN Administrative Law Judge for Baltimore County

JEB:dlw Enclosure

c: John Krawczyls, 1016 Joyce Drive, Crownsville, MD 21032



ADMINISTRATIVE ZONING PETIT. N

FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Hearings for Baltimore County for the property located at: Address 1309 RUXTON RD Deed Reference 36888 / 00475 Currently zoned DR-Z 10 Digit Tax Account # 6 9 2 3 5 6 7 5 6 6 Owner(s) Printed Name(s) TOLLE P. STUTT (SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST) For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized. The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an: 1. × ADMINISTRATIVE VARIANCE from Section(s) 400.1 BCZR: To permit a
DODOSED in ground pool (accessory-structure) on a corner lot
located on the 1/3 closest to the street side in lieu of farther of the zoning regulations of Baltimore County, to the zoning law of Baltimore County ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building) of the Baltimore County Code, to the development law of Baltimore County, Property is to be posted and advertised as prescribed by the zoning regulations. I/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County. Owner(s)/Petitioner(s): Name #2-Type or Print Signature # 2 NO 1309 RUXTON PR Mailing Address 21204 PERRYSHUTTI @ Representative to be contacted: Attorney for Owner(s)/Petitioner(s): JOHO KRAWCZYS Name Type or Print Name-Type or Print Signature State City Mailing Address Email Address Telephone # Zip Code A PUBLIC HEARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore that the subject matter of this petition be set for a public hearing, advertised, and re-posted as day of County, this required by the zoning regulations of Baltimore County. Administrative Law Judge for Baltimore County 2079 A Filling Date 4 14 17 Estimated Posting Date 42317 Reviewer ORDER RECEIVED FOR FILING

Affidavit in Support of Administrative Variance (THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

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

Address:	1309 RUXTON Int or Type Address of property	PS TOWSON	MD State	21204	Zip Code
	n personal knowledge, the live Variance at the above				
Pass	UNBULLATBLE	E WHERE B	EQUIPET	2	
(If additio	onal space for the petition re	quest or the above stater	ment is needed,	label and attach it	to this Form)
Signature of C	Dwner (Affiant) Pews Shytt	.,	Signature of Own	er (Affiant)	and the state of t
Name- Print o	or Type		Name- Print or Ty		
-1	The following information i			he State of Maryla	nd
STATE OF	MARYLAND, COUNTY	OF BALTIMORE; to v	vit:		
	CERTIFY, this 7** County aforesaid, personally	_day of Apr.:/ y appeared:	2017, befo	ore me a Notary of	Maryland, in
Print name(s) here:	Julie P. S	hult			
the Affiant(s) herein, personally known	or satisfactorily identified	to me as such	Affiant(s).	
AS WITNES	SS my hand and Notaries Se	M. Mola	£	Andrew Comment	
		Notary Public 11-24	-2019		

ALL that lot of ground situate, lying and being in Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING for the same at a point formed by the intersection of the northerly side of Millard Avenue and the southwesterly side of Ruxton Road as shown on the Plat of Ruxton Heights recorded among the Land Records of Baltimore County in Plat Book J.W.S. No. 1, folio 64, and running thence westerly binding on the northerly side of Millard Avenue, 258 feet 7 inches, more or less, to the end of the seventh or South 03 degrees 45 minutes 00 seconds West 290.32 foot line in the Deed from David W. Barton and wife to R. Gerard Willse, Jr. and wife dated October 20, 1960, and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3771, folio 272, thence leaving Millard Avenue and binding reversely on said seventh line North 03 degrees 45 minutes 00 seconds East 290.32 feet to the southerly side of Ruxton Road, thence running easterly on the southerly side of Ruxton Road 90.73 feet, more or less, to an angle in said road, thence running southeasterly binding on the southwesterly side of Ruxton Road 343 feet 9 inches, more or less, to the place of beginning. Being Lots No. 267, 269, 273, 274 and 275 and parts of Lots 266, 268 and 272 on the aforesaid Plat of Ruxton Heights. The improvements thereon being known as No. 1309 Ruxton Road.

BEING the same property conveyed by 1309 Ruxton Road LLC, a Maryland limited liability company, to Julie P. Shutt by a Deed dated November 9_, 2105, and intended to be recorded among the Land Records of Baltimore County, Maryland immediately prior hereto.

TOGETHER with the buildings and improvements thereon erected, made or being; and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.

2017-0279-A

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CERTIFICATE OF POSTING

Date: 4-23-17 RE: Case Number: 2017-0279-A Petitioner/Developer: allen Shutt Date of Hearing/Closing: 5 8 17 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 1309 Ruston Rd 4-23-17 (Month, Day, Year) The signs(s) were posted on (Signature of Sign Poster) J. LAWRENCE PILSON (Printed Name of Sign Poster) ATTACH PHOTGRAPH 1015 Old Barn Road (Street Address of Sign Poster) Parkton, MD 21120 (City, State, Zip Code of Sign Poster) 410-343-1443

(Telephone Number of Sign Poster)

PURSUANT TO SECTION 26-127(b)(1), BALTIMORE COUNTY CODE;

AN ELIGIBLE INDIVIDUAL OR GROUP MAY REQUEST A PUBLIC HEARING CONCERNING THE PROPOSED VARIANCE, PROVIDED THE REQUEST IS RECEIVED IN THE ZONING REVIEW BUREAU BEFORE 5:00 P.M. ON 5/8/1/3

ADDITIONAL INFORMATION IS AVAILABLE AT THE DEPARTMENT OF ADDITIONAL INFORMATION MANAGEMENT, COUNTY OFFICE BUILDING,

BALTIMORE COUNTY, MARYLAND

RECEIVED

Inter-Office Correspondence

MAY 04 2017

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:

May 4, 2017

SUBJECT:

DEPS Comment for Zoning Item

2017-0279-A

Address

1309 Ruxton Road

(Shutt Property)

Zoning Advisory Committee Meeting of May 8, 2017.

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

Reviewer:

Steve Ford

Date: 5-4-2017

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES									
Case Number 2017- 0279 -A Address 1309 Ruxton Rd									
Contact Person: Gary Houk Phone Number: 410-887-3391									
Filing Date: 41417 Posting Date: 42317 Closing Date: 51817									
Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.									
1. POSTING/COST : The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.									
2. <u>DEADLINE:</u> The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.									
3. ORDER: After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.									
4. POSSIBLE PUBLIC HEARING AND REPOSTING: In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.									
(Detach Along Dotted Line)									
Petitioner: This Part of the Form is for the Sign Poster Only									
USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT									
Case Number 2017- 0279 -A Address Bog Buxton Rd									
Petitioner's Name Allen Shutt Telephone 443-415-85 82									
Posting Date: $4/3/17$ Closing Date: $5/8/17$									
Wording for Sign: To Permit a proposed ingrand swimming pool									
(accessory structure) on a corner lot worker located on the									
1/3 closest to the street side in New of 1/3 farthest									



KEVIN KAMENETZ County Executive

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

May 9, 2017

Julie P. Shutt 1309 Ruxton Road Towson MD 21204

RE: Case Number: 2017-0279 A, Address: 1309 Ruxton Road

Dear Ms. Shutt:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on April 14, 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

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel John Krawczyls, 1016 Joyce Drive, Crownsville MD 21032





Date: 5/1/17

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. 2017-0219-A

Adminiotrative Variance Fulie P. Shutt 1309 Ruxton 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 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:

May 4, 2017

SUBJECT:

DEPS Comment for Zoning Item

2017-0279-A

Address

1309 Ruxton Road

(Shutt Property)

Zoning Advisory Committee Meeting of May 8, 2017.

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

Reviewer:

Steve Ford

Date: 5-4-2017

MEMORANDUM

DATE:

June 15, 2017

TO:

Zoning Review Office

FROM:

Office of Administrative Hearings

RE:

Case No. 2017-0279-A - Appeal Period Expired

The appeal period for the above-referenced case expired on June 14, 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

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PREPARED WITHOUT TITLE EXAMINATION. BASED UPON INFORMATION PROVIDED BY THE PARTIES HERETO.

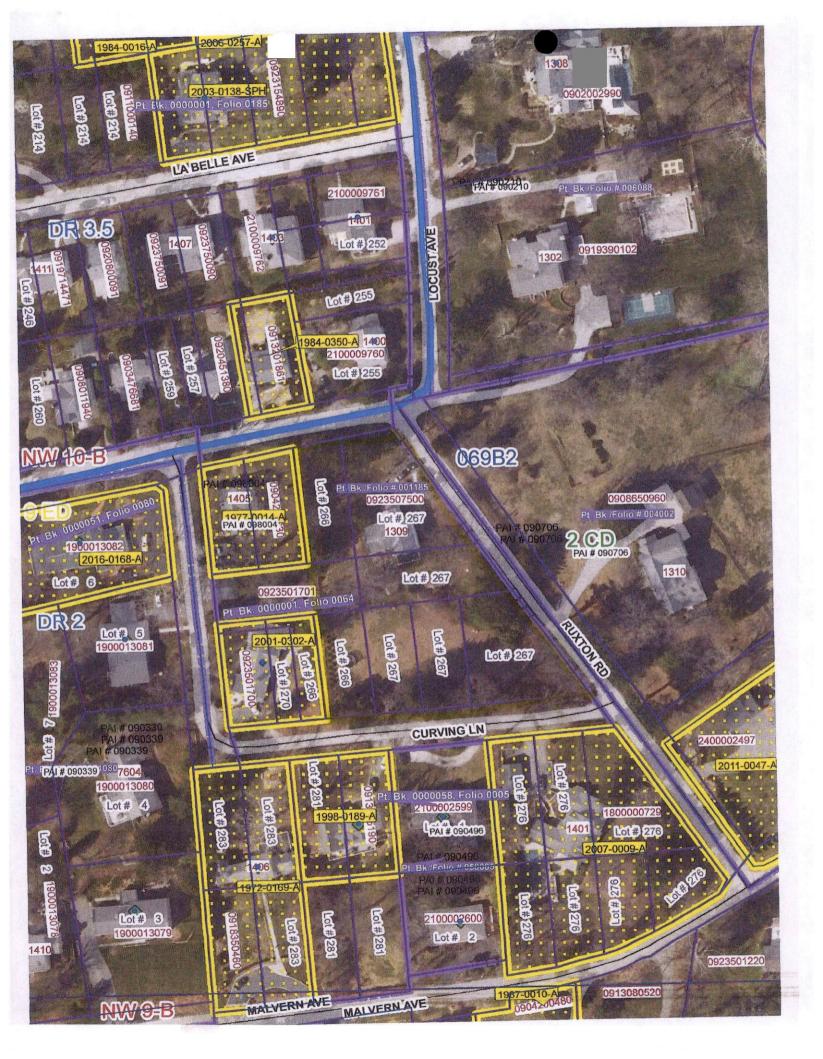
THIS DEED, made this <u>9</u> day of November, 2015, by and between JULIE P. SHUTT ("Grantor"); and ALLEN SHUTT and JULIE P. SHUTT, his wife ("Grantees").

WHEREAS, Grantor is the owner of all that property generally known as 1309 Ruxton Road, located in Baltimore County, Maryland (the "Property"), and more particularly described in a Deed to Grantor dated November 9, 2015, and intended to be recorded among the Land Records of Baltimore County, Maryland immediately prior hereto; and

WHEREAS, Grantor desires to convey the Property to Grantees as tenants by the entireties; and

WHEREAS, this conveyance is a transfer of property between spouses for no consideration and is therefore exempt from recordation and transfer taxes pursuant to §12-108(d), §13-207(a)(3) and §13-403 of the Tax-Property Article of the Annotated Code of Maryland.

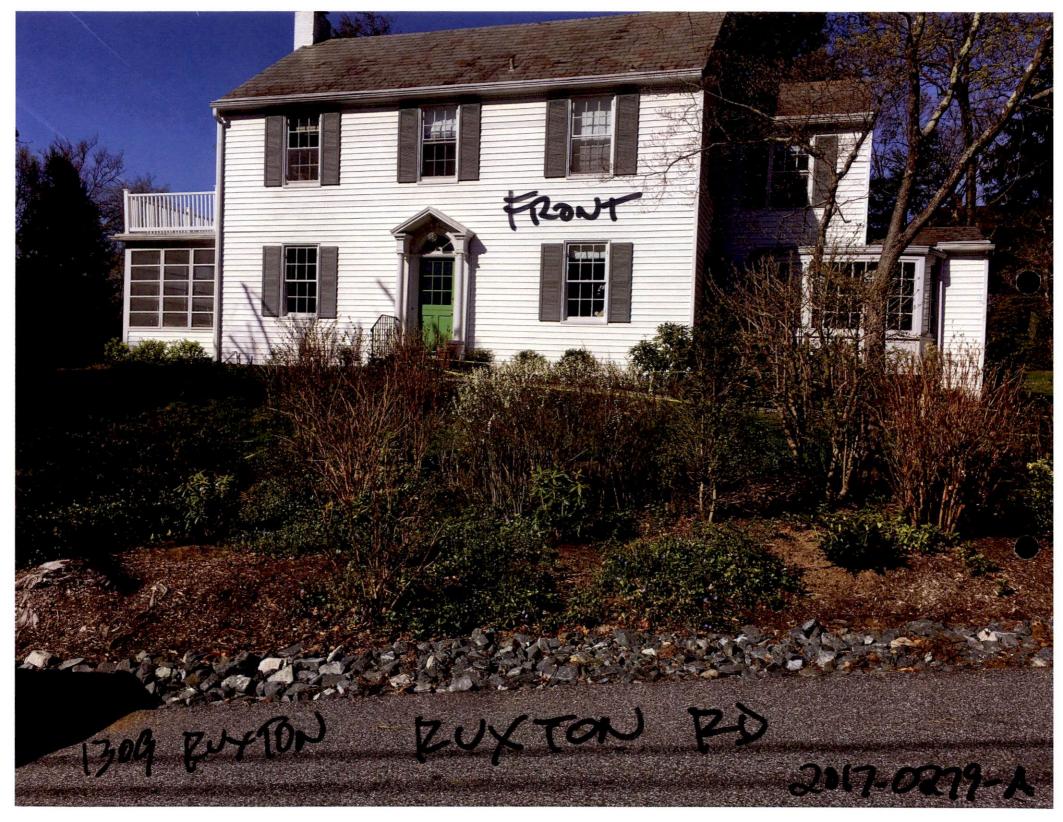
NOW, THEREFORE, WITNESSETH, that FOR NO CONSIDERATION, Grantor hereby grants and conveys to Grantees, as tenants by the entireties, their assigns, and to the survivor of them, his or her personal representatives, heirs and assigns, in fee simple, all that property situate, lying and being in Baltimore County, Maryland, and more particularly described as follows:

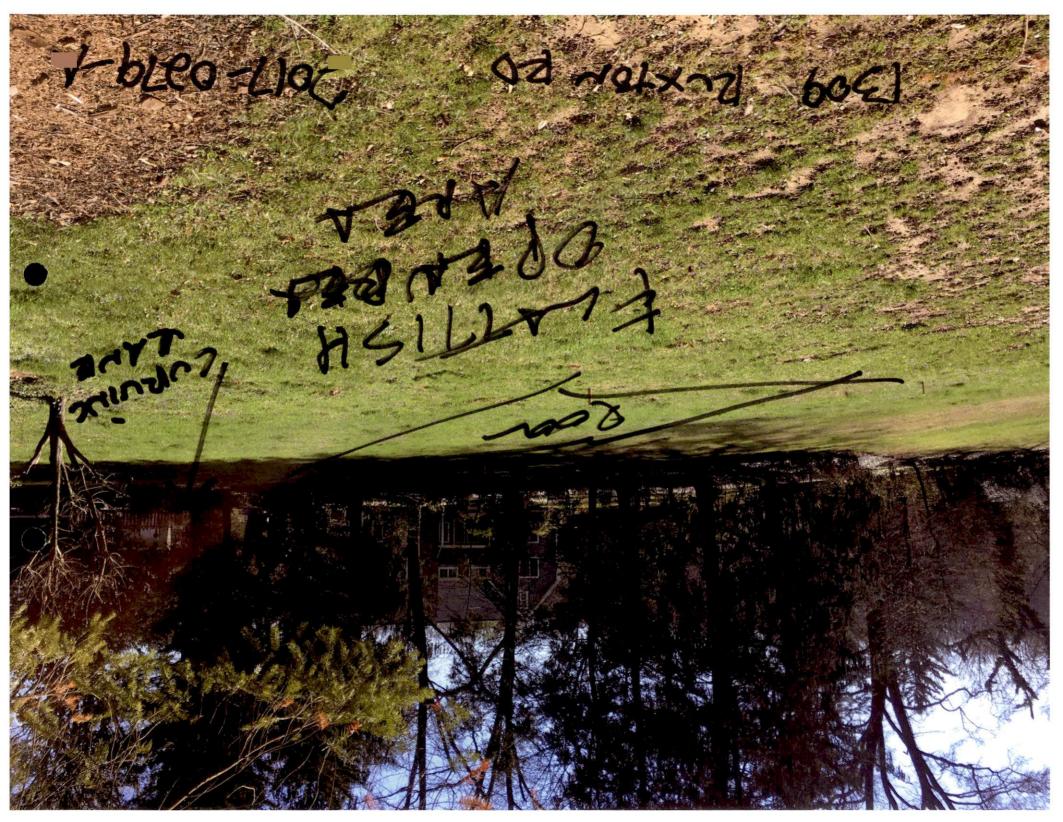


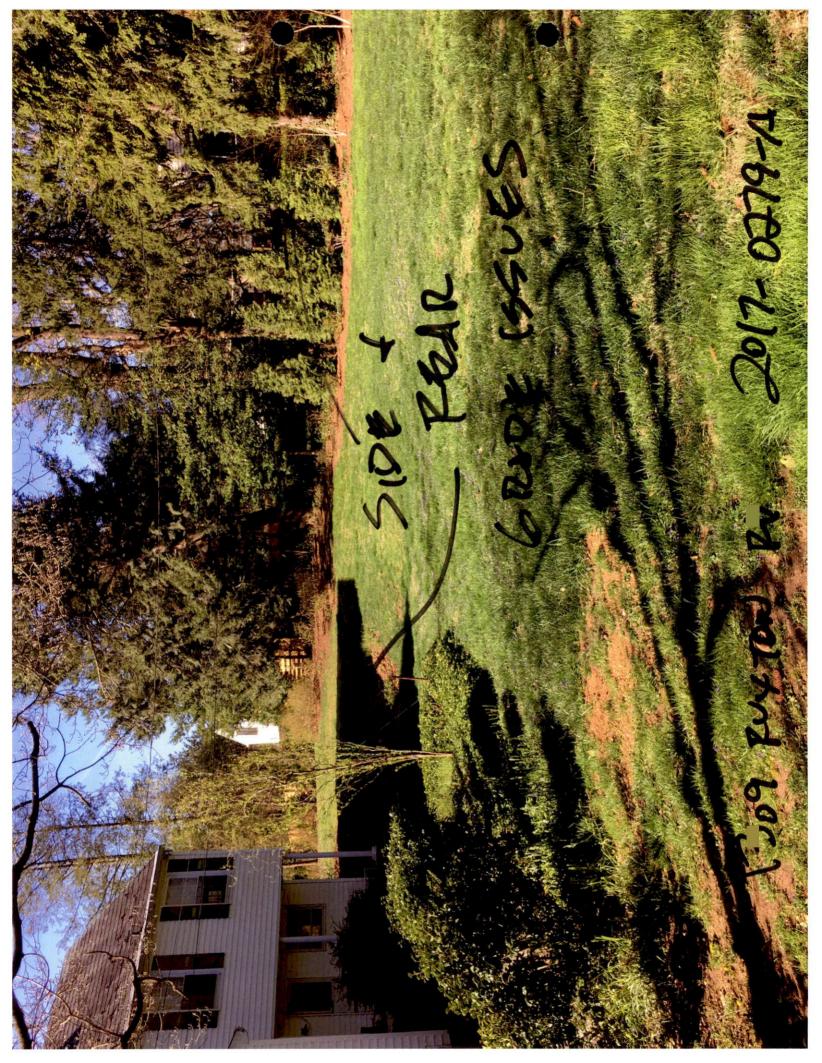
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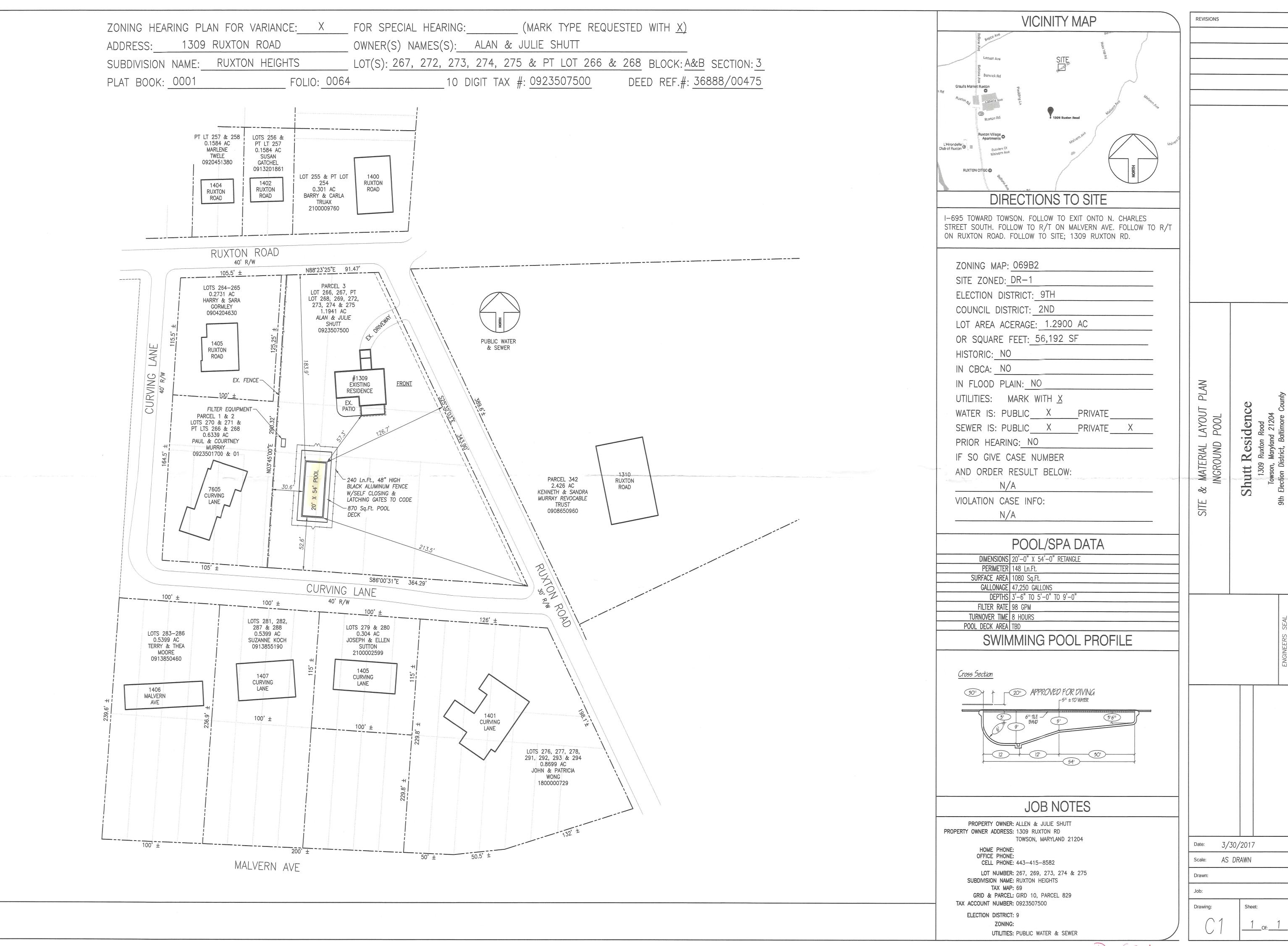






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WILLSEPROP



Pet. Ed. 1 2017 - 0279-13