IN THE MATTER OF WADKINS CONSTRUCTION, INC. 5301 Bush Street 11th Election District; 5th Councilmanic District	*	BEFORE THE BOARD OF APPEALS
RE: Petition for Variance and Lot Line Adjustment	*	OF BALTIMORE COUNTY
	*	Case Nos. 17-313-A and CBA-18-024

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

OPINION

This matter comes to the Board on appeal by Wadkins Construction, Inc. (the "Petitioner") of the Opinion and Order issued by an Administrative Law Judge dated July 11, 2017 denying a Petition for Variance with respect to Lot 2 located at 5301 Bush Street (the "Property"). Petitioner also appealed a denial by the Director of Permits, Approvals and Inspections ("PAI") of Petitioner's request for a lot line adjustment exemption from the development process under Baltimore County Code ("BCC") §32-4-106(a)(1)(viii). The cases were consolidated here.

In the proceedings before the Board, Lawrence E. Schmidt, Esquire, represented the Petitioner; the Protestants, Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch, appeared *pro se*; and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, participated in the hearing.

The Board held hearings on June 20, 2018 and October 4, 2018 and a public deliberation was held on March 14, 2019.

STATEMENT OF FACTS

The subject property is 1.13 acres +/- and is zoned D.R.2 (density residential). It consists of two (2) separate lots originally designated as Lot 8, and part of Lot 7. The lots are shown on the Plat of Forge Acres which plat was recorded in Land Records of Baltimore County in 1948.

In the 1950s, Lot 7 was divided into 3 tracts and totaled 40,018 sq. ft. At some point, 10,018 sq. ft. of Lot 7 became part of Lot 8. (Pet. Exs. 6A-6E). In 2014, a request for a limited exemption from the development process was filed pursuant to BCC, §32-4-106(a)(1)(viii) in which Lot 8 was renamed Lot 1, and Lot 7 was renamed Lot 2. (Pet. Ex. 7). PAI granted the exemption on the condition that an area and setback variance be granted. No appeal was filed.

On September 29, 2016, the Petitioner bought the property and filed a variance request for Lot 2 seeking a lot width of 94.61 ft. in lieu of 100 ft., a total lot area of 18,922 sq. ft. in lieu of 20,000 sq. ft.., and if necessary, to permit a side yard setback of 35 ft, along Winkler Street in lieu of the 40 ft. front yard setback requirement. On July 11, 2017, the ALJ denied the variance on the basis that the Property lacked the required element of uniqueness and this appeal was filed.

On or about December 7, 2017, the Petitioner filed another request for limited exemption for a lot line adjustment under BCC, §32-4-106(a)(1)(viii). (Pet. Ex. 9). (PC Ex. 7). On December 22, 2017, PAI provisionally found that the requirements for the lot line adjustment were met but requested that the setback line on Lot 2 be corrected. On January 18, 2018, PAI issued a revised decision reversing the December 22, 2017 decision, and holding that a Special Hearing must be granted to amend a previously approved development plan and proposed lot line division. (Pet. Ex. 9). On February 8, 2018, Petitioner filed a timely appeal of this decision.

EVIDENCE

Petitioner had several witnesses who testified on its behalf:

1. Kenneth Wells – Land Surveyor.

Kenneth Wells was accepted by the Board as an expert in land surveying, in the BCZR and in the development regulations contained in the BCC. Mr. Wells testified about the ownership of the Property beginning with the Plat of Forge Acres in 1948. (Pet. Ex. 1, 6A-6E). He explained that Lots 7 and 8 are described as separate lots of record in each of the deeds. (Pet. Exs. 6A-6E). In 2014, at the request of a prior property owner, he filed a request for limited exemption from the development process. (Pet. Ex. 7). An exemption under BCC, §32-4-106(a)(1)(viii) was provisionally granted upon approval of an undersized lot and setback variance.

In December of 2017, he filed another lot line exemption for the Petitioner to alter the 2014 approved lot line. In this most recent request, the lot line proposed a "zig zag" such that each lot would meet the 100 ft. required width at the front building line. The 2017 exemption also proposed that the 20,000 sq. ft. area requirement would be met with the purchase of an additional 1,200 sq. ft. of land from an adjacent neighbor. This exemption, if granted, would eliminate the need for an area and setback variance.

In furtherance of this case, Mr. Wells testified that the proposed lot line adjustment met each of the required factors for the exemption as set forth in BCC, §32-4-106(a)(1)(viii). Additionally, Mr. Wells also advocated that Lot 2 was unique for variance purposes because no other lot in Forge Acres measured 94 ft. wide or 18,064 sq. ft. in area. He also researched and presented to the Board a summary of variances in area, which had been previously granted.

2. Howard Wadkins.

Howard Wadkins testified that he is the owner of the Petitioner, which owns Lots 1 and 2. He also presented this Board with the Contract of Sale for the purchase of 1,200 sq. ft. of land from the Koenigs.

3. Jeffrey Perlow – Zoning Office.

Jeffrey Perlow has been with the Zoning Office for 30 years. His job duties include reviewing site plans. He testified that the policy of the Zoning Office since prior to 1969 is to measure the width of a lot at the front building line. This was the law prior to the enactment of Bill 100 in 1970s, which, although the front building width measurement language was not carried over into the law at that time, the Zoning Office has continually applied that measurement.

4. Carl Richards – Zoning Office.

Carl Richards is a Zoning Supervisor. Mr. Richards acknowledged that, following customary office policy when reviewing requests for limited exemptions, the December 22, 2017 decision by PAI to provisionally grant the limited exemption was made prior to the DRC meeting on January 18, 2018. Mr. Richards also confirmed that the lot width is measured across the front building line and both Lots meet the 100' width requirement. In his view, both Lot 1 and Lot 2 also meet the minimum lot size of 20,000 sq. ft. due to the purchase of the additional 1,200 sq. ft. as presented by the Petitioner.

People's Counsel also had several witness testify in its case:

1. John Lochary.

John Lochary, 5219 Bush Street, is a certified public accountant. He purchased his home in 2013. Mr. Lochary testified that he is concerned that precedent will be set in this case for

properties to be subdivided in order to increase density. In 2013, the Property was a large lot with a single family home and a garage, similar to his property.

2. Diane Brazil.

Diane Brazil, 5205 Bush Street, has lived in her home for 30 years. Her property consists of 4 lots measuring about 4 acres. Mrs. Brazil attended the January 18, 2018 DRC meeting in which the requested exemption was discussed. When she received the December 22 approval letter, she wrote an email opposing it on December 30, 2017. (PC Exh. 8 and 9). She believes that approval was granted with an incorrect plan.

3. Angela Cioka.

Angela Cioka, 5303 Bush Street, purchased her home in October of 2016. Her home is a 2-story Cape Cod.

4. John Amrhein.

John Amrhein, 1 Heathrow Manor Court, Perry Hall, MD 21236, has been a Fire Captain with Baltimore County for 27 years. Mr. Amrhein presented the Board with Rule 8 papers indicating that he is the President of the Perry Hall Improvement Association. That Association has 200 members. The Association is opposed to having two (2) separate homes on these lots. While admitting on cross-examination that the neighborhood consists of mixed 1 and 2 story buildings, the Association finds the lots here are too small. Thus, 2 homes would be out of character with the neighborhood. Perry Hall is a conservation area, not a growth area.

DECISION

Having consolidated the appeals in this case, Petitioner proposes that this Board either grant the variance relief for Lot 2 or, in the alternative, for a lot line adjustment between Lots 1 and 2 wherein the common property line would be configured in a zigzag such that each lot would

meet the 100 ft. width requirement. In addition, Petitioner has contracted to purchase from a neighboring property located at 5304 Palomino Street (Koenig) an additional 1,200 sq. ft. of land and combine it with Lot 2 to meet the 20,000 sq. ft. minimum area requirement. If the lot line is granted, the variance request is rendered moot.

1. Petition for Variance.

Pursuant to BCZR §307.1, the Board has the power to grant a variance from the BCZR's area regulations "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship." In addition, "any such variance shall be granted only if in strict harmony with the spirit and intent of said . . . area . . . regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare." BCZR § 307.1.

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

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

Cromwell, 102 Md. App. at 694-95, 651 A.2d at 426.

The Board concludes that the Petitioner has failed to satisfy the requirements established in *Cromwell* to obtain a variance for Lot 2. Specifically, the evidence presented did not support

a finding that Lot 2 was "unique" as that term has been defined in *Cromwell*. Lot 2 is simply an undersized, rectangularly shaped lot. It does not have any typographical features or atypical shape different from other properties in the area. The Plat of Forge Acres confirms that the majority of the properties are either square or rectangular shape. Some properties are the same size and some are larger. Indeed, as originally plotted, Lot 7 (like Lots 4, 5, 6, 10, 11, 12 and 13) measured 200' by 200'. It was only after the Petitioner's predecessor filed for the 2014 lot line exemption that Lot 7 was reduced in size to make Lot 8 larger. Such a request to reduce the size of Lot 7 in order to obtain approval for that exemption does not make it unique.

Accordingly, having determined that the Property is not unique, we need not address the remaining factor as to whether the Petitioner would experience a practical difficulty or an unreasonable hardship if the BCZR's setback regulations were applied strictly to Lot 2.

For all of the foregoing reasons, the Board denies the Petition for Variance requested by the Petitioner in connection with Lot 2.

2. Lot Line Adjustment under BCC, §32-4-106(a)(1)(viii).

In order to satisfy the requirement for a limited exemption under Subsection (a)(1)(viii), the evidence must show:

> (a)(1)(viii) - Lot line adjustments in residential zones for lots that are not part of an approved Development Plan under this title or an approved Development Plan under Article 1B of the Baltimore County Zoning Regulations. For purposes of this subsection, "lot line adjustment" means one or more alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of the owners, provided that the alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole;
> * * * *

The testimony by Kenneth Wells confirmed that Lots 1 and 2 are not part of an approved Development Plan under either Title 32 or Article 1B of BCZR. The proposal here is to alter

the divisional property line between Lots 1 and 2 which lots are both owned by the Petitioner. Mr. Wells testified that the 2014 lot line adjustment decision (which was not appealed) established that the total number of lots and density units is two (2). With the proposed zigzag lot line adjustment, the total number of lots and density units remains at two (2).

In accordance with the holding in *Beth Tfiloh Congregation of Baltimore City, Inc. v. Glyndon Community Association, Inc.*, 152 Md. App. 97, 831 A.2d 93 (2003), the Petitioner here is entitled to the limited exemption sought under BCC, §32-4-106(a)(1)(viii) having met all of the requirements set forth therein. In fact, the Court of Special Appeals explained "an exemption can [not] be denied if the requirements of BCC section [32-4-106] have been met." *Id.* at 104.

Not only did the Court in *Beth Tfiloh* clarify that the Petitioner is "statutorily entitled to the exemption", the Court emphasized that even "a measureable degree of community interest" is not a proper basis for PAI, or this Board on appeal, to deny a requested exemption where all the factors have been met. *Id.* at 104.

We are not convinced by the argument of People's Counsel that a contract between the Petitioner and the Koenigs, owner of 5304 Palomino Street for 1,200 sq. ft. of land which is pending the outcome of this case and which may be subject to an easement for use by the Koenigs, does not satisfy the 20,000 sq. ft. area requirement. It is more typical than not for contracts for sale of land to be conditioned upon the zoning or other approvals. If the limited exemption were denied, the Petitioner would not need to purchase, and the Koenigs would not need to sell, the 1,200 sq. ft. of land. Further, if the Petitioner elects to provide the Koenigs with an easement over the land sold, that is the prerogative of the owner. The existence of an easement does not invalidate the sale of land. Thus, we do not find that the purchase of land by

the Petitioner is a "transactional charade" because the Petitioner will pay consideration to the Koenigs and the Petitioner will pay property taxes on the land purchased. (PC Post Hearing Memorandum, p. 4).

As to the minimum lot widths, BCZR, §1B02.3.C requires that each lot zoned DR 2 have a minimum 100 feet in width at the front building line. The uncontradicted testimony presented to this Board by Carl Richards and Jeffrey Perlow of the Zoning Office, was that the lot width is measured at the front building line, not the front boundary line as People's Counsel contends. We find their testimony on this issue credible.

Accordingly, the Petitioner shall be granted a limited exemption under BCC, §32-4-106(a)(1)(viii).

ORDER

THEREFORE, it is this 16th day of May, 2019, by the Board of Appeals of Baltimore County,

ORDERED, that the Petition for Variance with regard to Lot 2: (a) To permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft. (b) to permit a minimum net area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and (c) if necessary, for Lot 1, to permit a side yard setback of 35' along Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement, be and it is hereby **DENIED**, for the reasons set forth herein; and

IT IS FURTHER ORDERED, that the request for limited exemption under BCC, §32-4-106(a)(1)(viii) for lot line adjustment be and hereby is **GRANTED** for the reasons set forth herein.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Maureen E. Murphy, Panel Chair

Kendra Randall Jolivet/KC
Kendra Randall Jolivet

Deborah C. Dopkin
Deborah C. Dopkin

Board of Appeals of Baltimore County

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SECOND FLOOR, SUITE 203,
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May 16, 2019

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

RE: *In the Matter of: Wadkins Construction, Inc.*
Case Nos.: 17-313-A and CBA-18-024

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hay

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Howard Wadkins/Wadkins Construction, Inc.
Kenneth J. Wells/kjWells Inc.
Lawrence M. Stahl, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
W. Carl Richards, Jr., Zoning Supervisor/PAI
Jan Cook, Development Manager/PAI
Michael Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law
Scott Ayre
Steven Zdziera
Jack Amrhein
Karen Harms
John and Katherine Lochary
Angela M. Cioka
Donna Welch
Diane Brazil

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Howard Wadkins testified that he is the owner of the Petitioner, which owns Lots 1 and 2. He also presented this Board with the Contract of Sale for the purchase of 1,200 sq. ft. of land from the Koenigs.

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Jeffrey Perlow has been with the Zoning Office for 30 years. His job duties include reviewing site plans. He testified that the policy of the Zoning Office since prior to 1969 is to measure the width of a lot at the front building line. This was the law prior to the enactment of Bill 100 in 1970s, which, although the front building width measurement language was not carried over into the law at that time, the Zoning Office has continually applied that measurement.

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Carl Richards is a Zoning Supervisor. Mr. Richards acknowledged that, following customary office policy when reviewing requests for limited exemptions, the December 22, 2017 decision by PAI to provisionally grant the limited exemption was made prior to the DRC meeting on January 18, 2018. Mr. Richards also confirmed that the lot width is measured across the front building line and both Lots meet the 100' width requirement. In his view, both Lot 1 and Lot 2 also meet the minimum lot size of 20,000 sq. ft. due to the purchase of the additional 1,200 sq. ft. as presented by the Petitioner.

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Angela Cioka, 5303 Bush Street, purchased her home in October of 2016. Her home is a 2-story Cape Cod.

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DECISION

Having consolidated the appeals in this case, Petitioner proposes that this Board either grant the variance relief for Lot 2 or, in the alternative, for a lot line adjustment between Lots 1 and 2 wherein the common property line would be configured in a zigzag such that each lot would

meet the 100 ft. width requirement. In addition, Petitioner has contracted to purchase from a neighboring property located at 5304 Palomino Street (Koenig) an additional 1,200 sq. ft. of land and combine it with Lot 2 to meet the 20,000 sq. ft. minimum area requirement. If the lot line is granted, the variance request is rendered moot.

1. Petition for Variance.

Pursuant to BCZR §307.1, the Board has the power to grant a variance from the BCZR's area regulations "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship." In addition, "any such variance shall be granted only if in strict harmony with the spirit and intent of said . . . area . . . regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare." BCZR § 307.1.

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

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

Cromwell, 102 Md. App. at 694-95, 651 A.2d at 426.

The Board concludes that the Petitioner has failed to satisfy the requirements established in *Cromwell* to obtain a variance for Lot 2. Specifically, the evidence presented did not support

a finding that Lot 2 was "unique" as that term has been defined in *Cromwell*. Lot 2 is simply an undersized, rectangularly shaped lot. It does not have any typographical features or atypical shape different from other properties in the area. The Plat of Forge Acres confirms that the majority of the properties are either square or rectangular shape. Some properties are the same size and some are larger. Indeed, as originally plotted, Lot 7 (like Lots 4, 5, 6, 10, 11, 12 and 13) measured 200' by 200'. It was only after the Petitioner's predecessor filed for the 2014 lot line exemption that Lot 7 was reduced in size to make Lot 8 larger. Such a request to reduce the size of Lot 7 in order to obtain approval for that exemption does not make it unique.

Accordingly, having determined that the Property is not unique, we need not address the remaining factor as to whether the Petitioner would experience a practical difficulty or an unreasonable hardship if the BCZR's setback regulations were applied strictly to Lot 2.

For all of the foregoing reasons, the Board denies the Petition for Variance requested by the Petitioner in connection with Lot 2.

2. Lot Line Adjustment under BCC, §32-4-106(a)(1)(viii).

In order to satisfy the requirement for a limited exemption under Subsection (a)(1)(viii), the evidence must show:

> (a)(1)(viii) - Lot line adjustments in residential zones for lots that are not part of an approved Development Plan under this title or an approved Development Plan under Article 1B of the Baltimore County Zoning Regulations. For purposes of this subsection, "lot line adjustment" means one or more alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of the owners, provided that the alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole;
> * * * *

The testimony by Kenneth Wells confirmed that Lots 1 and 2 are not part of an approved Development Plan under either Title 32 or Article 1B of BCZR. The proposal here is to alter

the divisional property line between Lots 1 and 2 which lots are both owned by the Petitioner. Mr. Wells testified that the 2014 lot line adjustment decision (which was not appealed) established that the total number of lots and density units is two (2). With the proposed zigzag lot line adjustment, the total number of lots and density units remains at two (2).

In accordance with the holding in *Beth Tfiloh Congregation of Baltimore City, Inc. v. Glyndon Community Association, Inc.*, 152 Md. App. 97, 831 A.2d 93 (2003), the Petitioner here is entitled to the limited exemption sought under BCC, §32-4-106(a)(1)(viii) having met all of the requirements set forth therein. In fact, the Court of Special Appeals explained "an exemption can [not] be denied if the requirements of BCC section [32-4-106] have been met." *Id.* at 104.

Not only did the Court in *Beth Tfiloh* clarify that the Petitioner is "statutorily entitled to the exemption", the Court emphasized that even "a measureable degree of community interest" is not a proper basis for PAI, or this Board on appeal, to deny a requested exemption where all the factors have been met. *Id.* at 104.

We are not convinced by the argument of People's Counsel that a contract between the Petitioner and the Koenigs, owner of 5304 Palomino Street for 1,200 sq. ft. of land which is pending the outcome of this case and which may be subject to an easement for use by the Koenigs, does not satisfy the 20,000 sq. ft. area requirement. It is more typical than not for contracts for sale of land to be conditioned upon the zoning or other approvals. If the limited exemption were denied, the Petitioner would not need to purchase, and the Koenigs would not need to sell, the 1,200 sq. ft. of land. Further, if the Petitioner elects to provide the Koenigs with an easement over the land sold, that is the prerogative of the owner. The existence of an easement does not invalidate the sale of land. Thus, we do not find that the purchase of land by

the Petitioner is a "transactional charade" because the Petitioner will pay consideration to the Koenigs and the Petitioner will pay property taxes on the land purchased. (PC Post Hearing Memorandum, p. 4).

As to the minimum lot widths, BCZR, §1B02.3.C requires that each lot zoned DR 2 have a minimum 100 feet in width at the front building line. The uncontradicted testimony presented to this Board by Carl Richards and Jeffrey Perlow of the Zoning Office, was that the lot width is measured at the front building line, not the front boundary line as People's Counsel contends. We find their testimony on this issue credible.

Accordingly, the Petitioner shall be granted a limited exemption under BCC, §32-4-106(a)(1)(viii).

ORDER

THEREFORE, it is this 16th day of May, 2019, by the Board of Appeals of Baltimore County,

ORDERED, that the Petition for Variance with regard to Lot 2: (a) To permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft. (b) to permit a minimum net area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and (c) if necessary, for Lot 1, to permit a side yard setback of 35' along Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement, be and it is hereby **DENIED,** for the reasons set forth herein; and

IT IS FURTHER ORDERED, that the request for limited exemption under BCC, §32-4-106(a)(1)(viii) for lot line adjustment be and hereby is **GRANTED** for the reasons set forth herein.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Maureen E. Murphy, Panel Chair

Kendra Randall Jolivet/kc
Kendra Randall Jolivet

Deborah C. Dopkin
Deborah C. Dopkin

Board of Appeals of Baltimore County

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

May 16, 2019

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

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

RE: *In the Matter of: Wadkins Construction, Inc.*
Case Nos.: 17-313-A and CBA-18-024

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Sunny Cannington Hag

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Howard Wadkins/Wadkins Construction, Inc.
Kenneth J. Wells/kjWells Inc.
Lawrence M. Stahl, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
W. Carl Richards, Jr., Zoning Supervisor/PAI
Jan Cook, Development Manager/PAI
Michael Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law
Scott Ayre
Steven Zdziera
Jack Amrhein
Karen Harms
John and Katherine Lochary
Angela M. Cioka
Donna Welch
Diane Brazil

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Wadkins Construction, Inc. 17-313-A and CBA-18-024

DATE: March 14, 2019

BOARD/PANEL: Maureen E. Murphy, Panel Chairman
Deborah C. Dopkin
Kendra Randall Jolivet

RECORDED BY: Sunny Cannington/Administrator

PURPOSE: To deliberate the following:

1. Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:
    1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
    2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
    3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
    4) For such other and further relief as may be required.

2. Appeal of Director Letter finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board briefly discussed the history of this matter. The Petitioners are requesting a Variance as described above or in the alternative, a Limited Exemption for a lot line adjustment.
- The Board noted that in 2014 a Limited Exemption was provisionally granted for 2 lots. In 2016 Petitioners purchased the property and applied for a variance which was denied by the ALJ. Petitioners found that if they could purchase property from the neighbor and zig-zagged the property line they would not need the variance. They also applied for a Limited Exemption for a lot line adjustment.
- The Board discussed that the DRC originally provided conditional approval recommending corrections to the plan and later revoked the approval.
- The Board determined that the purchase of the 1200 square feet and lot line adjustment eliminate the net area and lot width issues. While People's Counsel argued that the Petitioners were trying to circumvent the law by purchasing the 1200 square feet then

granting the neighbors an easement to use that space, the Board determined that the Petitioners were trying to comply with the regulations.

- The Board also noted that the *Beth Tfiloh* decision is clear that if the property owner meets the regulations, the County must grant the request.
- The Board determined they did not need to consider the variance request but if they did so, there was no evidence that the subject property is unique.

CONCLUSION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Limited Exemption for the lot line adjustment.

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

Respectfully Submitted,

Sunny Cannington

Sunny Cannington

Board of Appeals of Baltimore County

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

February 13, 2019

NOTICE OF PUBLIC DELIBERATION

IN THE MATTER OF: Wadkins Construction, Inc.
5301 Bush Street
17-313-A 11th Election District; 5th Councilmanic District
and CBA-18-024

Agenda: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:

1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

and: Appeal of Director Letter finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC.

1/12/18 Letter from Director of PAI finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend and grant the plan he denied and approve an unusual lot line division.

This matter having been heard on June 20 and concluded on October 4, 2018, a public deliberation was assigned for February 12, 2019 and cancelled due to inclement weather. The public deliberation has been rescheduled for the following:

DATE AND TIME: **MARCH 14, 2019 at 9:00 a.m.**

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

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. ATTENDANCE IS NOT REQUIRED AND PARTICIPATION IS NOT ALLOWED. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER THE CONCLUSION OF THE DELIBERATION. A COPY OF THAT OPINION AND ORDER WILL BE SENT TO ALL PARTIES.

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

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.
Diane Brazil

Jan Cook, Development Manager/PAI
Jeff Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Mike Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel
W. Carl Richards, Jr, Zoning Supervisor/PAI

Board of Appeals of Baltimore County

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

December 19, 2018

NOTICE OF PUBLIC DELIBERATION

IN THE MATTER OF: Wadkins Construction, Inc.
5301 Bush Street
17-313-A 11th Election District; 5th Councilmanic District
and CBA-18-024

Agenda: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:

1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

and: Appeal of Director Letter finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC.

1/12/18 Letter from Director of PAI finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend and grant the plan he denied and approve an unusual lot line division.

This matter having been heard on June 20 and concluded on October 4, 2018, a public deliberation had been assigned for December 4, 2018 and was postponed by the Board. The public deliberation has been rescheduled for the following:

DATE AND TIME: **FEBRUARY 12, 2019 at 9:00 a.m.**

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

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. ATTENDANCE IS NOT REQUIRED AND PARTICIPATION IS NOT ALLOWED. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER THE CONCLUSION OF THE DELIBERATION. A COPY OF THAT OPINION AND ORDER WILL BE SENT TO ALL PARTIES.

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

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants *(pro se)* : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.
Diane Brazil

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Jan Cook, Development Manager/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel
W. Carl Richards, Jr, Zoning Supervisor/PAI

Krysundra Cannington

From: Krysundra Cannington
Sent: Friday, November 30, 2018 8:16 AM
To: Lawrence Schmidt, Esquire; Peter Max Zimmerman; 'jtlochary@verizon.net'; 'brazilfam@comcast.net'; 'karen@harmshomes.com'; 'drummergurl1381@aol.com'; 'penelopepitstop1@aol.com'; 'pmjpa@aol.com'
Cc: 'Alyssa Moyers'; Wheatley, Rebecca
Subject: Wadkins Construction 17-313-A and CBA-18-024
Attachments: Postponement of Deliberation.pdf

Good morning,

Attached please find a Notice of Postponement which is going out in today's mail. Please be advised that due to unforeseen circumstances, the public deliberation scheduled for Tuesday, December 4, 2018 is being postponed and will be rescheduled to a later date.

We apologize for any inconvenience.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
Phone: 410-887-3180
Fax: 410-887-3182

Confidentiality Statement

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Board of Appeals of Baltimore County

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November 30, 2018

NOTICE OF POSTPONEMENT

IN THE MATTER OF: Wadkins Construction, Inc.
17-313-A 5301 Bush Street
11th Election District; 5th Councilmanic District

Re: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:
1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

and: Appeal of Director Letter finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC.

1/12/18 Letter from Director of PAI finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend and grant the plan he denied and approve an unusual lot line division.

This matter was heard on June 20, 2018 and October 4, 2018. A public deliberation was scheduled to be held on December 4, 2018. Due to unforeseen circumstances, the public deliberation in this matter is being postponed and will be rescheduled to a later date.

NOTICE:

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

- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

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

Krysundra "Sunny" Cannington, Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

People's Counsel for Baltimore County : Peter M. Zimmerman, Esquire

Kenneth J. Wells/kjWells, Inc.

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

John T. Lochary

5219 Bush Street
White Marsh, MD 21162
410-203-0280 H
410-419-8125 C
jtlochary@verizon.net

November 3, 2018

Board of Appeals of Baltimore County
105 W Chesapeake Ave., Suite 203
Towson, MD 21204-4711

In the matter of: Watkins Construction, Inc.
5301 Bush Street
11th Election District; 5th Councilmanic District
17-313-A and CBA-18-024

To the Members of the Board of Appeal:

I reside on Bush Street immediately across Winkler Street from the proposed development by Wadkins Construction, Inc. (the petitioner). As such, I am extremely interested in this project and its impact on our well established neighborhood.

The petitioner is requesting multiple variances as to lot width, net lot area, and side yard setback. Further, the petitioner is seeking approval of an unusual lot line division to meet current county codes for setback between the houses. The zoning code sets the general ground rules governing how a property may be developed. To grant the many variances/exceptions requested by the petitioner makes a mockery of the zoning process.

The unusual lot division proposed by the petitioner is particularly troubling. While the petitioner is attempting to meet the literal setbacks required by the code, it is an attempt to circumvent the spirit and intent of the code to provide adequate space between housing in a DR 2 residential area. If this unusual lot line is approved, what are the limits in establishing unusual lot line divisions to circumvent set back requirements?

The record shows that the petitioner has shown an interest in the captioned property since at least 2014, and knew, or should have known as an established builder/developer, that the property was not adequate in size for its plans when the petitioner purchased the property in 2016. Therefore, the petitioner should not be granted any zoning variances, or lot line adjustment, on the basis of monetary hardship.

Sincerely,

John T. Lochary

c: Lawrence E, Schmidt, Esquire (Counsel for Petitioner)
Peter Max Zimmerman (Office of People's Counsel)

RECEIVED
NOV 07 2018
BALTIMORE COUNTY
BOARD OF APPEALS

RE: PETITION FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE
5301 Bush Street; SE corner of Bush Street & Winkler Road	*	BOARD OF APPEALS
11th Election & 5th Councilmanic Districts	*	FOR
Legal Owner(s): Wadkins Construction, Inc. Petitioner(s)	*	BALTIMORE COUNTY
	*	2017-313-A & CBA-18-024

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

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

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RE: PETITION FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE
5301 Bush Street; SE corner of Bush Street & Winkler Road	*	BOARD OF APPEALS
11th Election & 5th Councilmanic Districts	*	FOR
Legal Owner(s): Wadkins Construction, Inc. Petitioner(s)	*	BALTIMORE COUNTY
	*	2017-313-A & CBA-18-024

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

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

People's Counsel for Baltimore County files this post-hearing memorandum. We build and highlight, in part, from the previous interim memorandum.

Background

Statement of the Case and History

"Long road sometime shortest way to end of journey." Charlie Chan at the Racetrack (1936)

In 2016, Petitioner Wadkins Construction, Inc. ("Wadkins") acquired Lot 8 and Part of Lot 7 in the Forge Acres subdivision. The address is 5301 Bush Street. It is at the corner of Winkler Road. The location is prominent, a virtual gateway to the neighborhood. It is zoned D.R. 2 (Density Residential), a low density suburban zone.

There was a single-family dwelling built in 1951 and in use for many years. There was a garage straddling the Lot 8/Pt Lot 7 lot line. Wadkins razed the dwelling and garage. Wadkins now wishes to place two dwellings on the property. But the BCZR Sec. 1B02.3.C Small Lot Schedule requires 20,000 square feet lot area and 100 feet lot width per dwelling lot. The Wadkins property falls short.

The Forge Acres subdivision was platted in 1948 and developed shortly thereafter. It is in the northeast section of Perry Hall. The current area zoning is split between D.R. 1 and D.R. 2. P.C. Exhs. 12, 13.

The subdivision plat presents 117 lots. Pet. Exh. 1 Aerial photos and testimony and show most lots are sizable. P.C. Exh. 5. The majority of the dwellings date from the 1950s. They are mostly ranchers.

John Lochary resides at 5219 Bush Street, another corner lot, directly across Winkler Street from the subject property. His lot is about an acre in size. He produced a helpful chart of the 117 lots, showing lot areas, above ground building square feet, if primary residence, year built, and any variances granted. P.C. Exh. 6. We count 51 large lots as between 20,000 and 40,000 square feet. The listed average is 26,225 square feet. Lochary shows several variances granted, but mainly for additions.

Wadkins' consultant, Kenneth Wells observed there appear to have been a few lots subdivided, along Bush Street and elsewhere. Pet. Exh. 12A-C, 13. But out of 117 original lots, these are no more than a handful.

In sum, the Forge Acres subdivision has survived mainly intact and stable as to structure and character.

The Dueling Cases, Ultimately Consolidated

The legal issues involve area limits set forth in the Baltimore County Zoning Regulation (BCZR) 1B02.3.C Bill 100, 1970. P.C. Exh. 2. This is known as the "Small Lot Schedule." To repeat, the D.R. 2 Zone minimum lot area is 20,000 square feet. The minimum lot width is 100 feet. Wadkins applied for variances from them in 2017.

Wadkins had applied to the Development Review Committee for a "Lot Line Adjustment" in 2014. But the DRC granted just a provisional "DRC" approval, subject to compliance with zoning standards.

It was not until May, 2017 that Wadkins filed the current petition for zoning minimum lot area and width variances to secure zoning approval for two (2) dwelling lots. Administrative Law Judge John Beverungen denied the variances in July, 2017. There ensued Wadkins' zoning appeal to the County Board of Appeals (CBA).

While the zoning appeal was pending, Kenneth Wells, Wadkins' consultant, renewed the DRC application In December, 2017. The Zoning Supervisor initially approved the application, but without any notice or DRC meeting. After citizen e-mails and protests, and a DRC meeting, the Zoning Supervisor denied the application, again requiring a zoning hearing. This took place in January, 2018. The PAI Director initialed the disapproval. Another Wadkins appeal followed.

The CBA consolidated the zoning and DRC appeals. This led to two days of *de novo* trial hearings, recently concluded.

People's Counsel's Position and the Public Interest

"*Truth, like football, receive many kicks before reaching goal.*" Charlie Chan at the Olympics (1937), quoted in Y. Huang, Charlie Chan, xvi (2010)

Our office defends the comprehensive zoning maps in the public interest. This includes variances and special hearings for legal interpretations. Baltimore County Charter Sec. 524.1. See Riffin v. People's Counsel 137 Md. App. 90, cert. denied 363 Md. 660 (2001); Trinity Assembly of God v. People's Counsel 407 Md. 53 (2008); People's Counsel v. Md. Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683 (1989); Antwerpen v. Baltimore County 163 Md. App. 194 (2005).

We disagree with Wadkins' *post hoc* claims that they now comply with the Small Lot Schedule requirements for minimum lot area and lot width. We also believe the evidence is insufficient, as a matter of law, to justify any variances, based on the BCZR Sec. 307.1 "uniqueness/practical difficulty/public health-safety-welfare" standards.

What began as one of hundreds of variance cases at the Administrative Law Judge (ALJ) level has ascended to the County Board of Appeals. Remarkably, this case has evolved in magnitude to present significant precedential issues of public interest.

The variance issues are critical to the character of Forge Acres and other comparable neighborhoods. This is a proposed subdivision at a gateway location. It is the first such subdivision variance case for this established neighborhood and so is a precedent. It also may be a precedent for variance cases in other established neighborhoods with similar characteristics.

The *post hoc* legal interpretation issues are also precedential. Wadkins has tried to satisfy the minimum lot area standard by adding a small portion of his neighbor's property which they claim is just enough to meet the standard. But Wadkins is leaving the neighbor and his family (including children and their survivors without limit) an easement agreement for full use. Pet. Exh. 16. So far as we can recall, this is an issue of first impression at the CBA and in the courts. As noted below, the CBA addressed a

somewhat similar issue in the Oberst case, but that involved a longstanding right-of-way, not one manufactured contemporaneously with the case.

Wadkins also claims that the lot width is measured at the front building line. This involves an issue of statutory construction. While the relevant legal sources go all the way back to the 1955 Zoning Regulations and their amendment by Bill 100, 1970, this also appears to be an issue of first impression for the CBA and the judiciary.

This has become a very important case for Forge Acres, for subdivision variances generally, and for the interpretation of the minimum lot area and lot width criteria.

Questions Presented

1. As a matter of zoning law, can the potential added Koenig's 1200 square feet be counted toward Small Lot Schedule minimum lot area, where subject to such a property easement for full use by the adjacent property owner's family for the indefinite future.

2. Does the Small Lot Table "Minimum Lot Width" place the measurement at the front boundary rather than the "front building line?"

3. Was there a Lot 8/Pt Lot 7 merger for zoning purposes; so in any event Wadkins is ineligible for a DRC "lot line adjustment," said lot line having disappeared?

4. As a matter of law, does the proposal fail to satisfy the variance tests of "uniqueness" and requisite nexus to "practical difficulty?

We shall state material facts relevant to each argument.

Argument

I. As a matter of zoning law, the potential additional "Koenig" 1200 square feet cannot be counted toward Small Lot Schedule minimum lot area, because it is subject to an easement for full use by the Koenig family for the indefinite future.

Pandora's Box

Wadkins' proposes to secure subdivision density by acquiring adjacent property, but subject to a full easement for the seller's family. This play opens a Pandora's Box. It would enable any property owner to pay off an adjacent property a modest amount to gain density by acquiring property subject to full easement. The realistic land use does not change. It is a transactional charade to subvert legislative zoning controls.

Transactional status; contract but no deed

The KJ Wells December 7, 2017 DRC application shows an added 1200 square feet rectangle of property to the rear of Lot 2 in an effort to meet the 20,000 square feet minimum lot area. But it failed to represent that the property was owned by John and Antoinette Koenig or describe any potential contract.

Wadkins submitted at the June 20, 2018 CBA hearing a conditional contract of sale and easement agreement, between Wadkins and the Koenigs, notarized January 19, 2018. Pet. CBA Exh. 16. There is no witness to Wadkins' signature. It is uncertain whether the contract will be consummated. The Koenigs never appeared. Many contracts fail to go to settlement.

Note on area calculation; the SDAT Data

The KJ Wells CAD calculation of 38,800 square feet for the entire property appears to include the imaginary curve at the corner. In contrast, the SDAT Real Property Data identifies the area as 36,839 SF. P.C. Exh. 3. This leaves Wadkins short even if the 1200 square feet is included. Kenneth Wells dismisses the SDAT as unreliable, but neither Wadkins nor any prior owner ever disputed it to the tax authorities.

The addition cannot properly count for lot area because subject to this easement

Anyway, we shall assume the contract will be consummated and that Wells' estimate of 38,800 square feet is accurate. The contract still includes the easement for the Koenigs, and their children and survivors, to have full use of the 1200 square feet area, until they sell the property to a third party. There is no dispute that this easement area is required for Wadkins to meet the 20,000 square feet minimum lot area standard.

Zoning Supervisor Carl Richards also accepted the addition of the 1200 square feet at face value. But Wadkins did not present him with information about the easement. Nor did he analyze their legal implications.

As a matter of zoning law, this property cannot properly be counted for lot area. To begin, zoning deals with the use of the property, not with the form of ownership. The Court wrote in City of Baltimore v. Poe 224 Md. 428 (1961):

> "The Zoning Ordinance is concerned with use, not with ownership, and designed to protect against uses deemed objectionable to the general public."

The legislative purpose of the minimum lot area standard is to provide an area considered necessary to control density in the zone. The Koenig easement precludes Wadkins and its successors from making use of this area consistent with this purpose. Any use by Wadkins would effectively interfere with the full use by the Koenigs. Realistically, this reduces the area available for Watkins' use of the land.

In a comparable context, the CBA ruled that a platted 40-feet right of way, which the County had not formally acquired or used, could not count as lot area for the pertinent private property because the County might claim a prescriptive right. Oberst, 809 Cold Spring Road, Case No. 04-522-A (2005). The CBA wrote, in pertinent part, at page 11,

> "This Board also agreed that it could not consider the 40-foot right-of-way as part of this property. It appears on County maps as recently as 1999 (People's Counsel Exhibit 10). In addition, as Mr. Rockel, from the Baltimore County Bureau of Land Acquisition testified, the County could claim a prescriptive right to the entire right-of-way, since it have been in use some 90 years. It is not up to this Board to determine whether Ms. Oberst's property includes this right-of-way, or whether the County has such a prescriptive right."

Wadkins' proposal is more aggravating because the deed/easement provides the Koenigs a more immediate and substantial use. It is a fabrication to evade the zoning law.

There also comes to mind another failed effort to utilize a deed to gain density and trump the legislative intent of the zoning law. Freeland Community Association v. HZ Properties, 229 Md. App. 723 (2016), unreported, 2016 WL 4987462.

BCZR Sec. 102.2 is also apt. This provides, in pertinent part,

> "No yard space or minimum area required for a building or use shall be considered as any part of the yard space or minimum area of another building or use, …."

The added 1200 square feet would be minimum yard space for both properties. Indeed, the realistic effective use remains with the Koenigs' easement. BCZR Sec. 102.2 prohibits such manipulation of yard space.

Correspondingly, Zoning Commissioner's Policy Manual Section 102.2 requires a zoning division line where there are separate uses with separate structures on a parcel. Page 1-42.1, attached. Apx. 2. In other words, two such separate uses cannot both count the same area for zoning purposes.

The national case law is in accord. These appellate cases make similar points: Clarks Lane Garden Apartments v. Schloss 197 Md. 457 (1951); Sommers v. Mayor and City Council of Baltimore 215 Md. 1 (1957); Loveladies Property Owners Assoc. v. Barnegat City Service Co. 159 A.2d 417 (N.J. Super. 1960); Bankers Trust Co. v. Zoning Board of Appeals of Town of Weston 345 A.2d 544 (Conn. 1974).

II. The small lot schedule "minimum lot width" places the measurement at the front boundary rather than the "front building line"

A Zoning Office Has Got to Know Its Limitations

This involves a classic case of statutory construction. The Court of Appeals recapitulated in In re J.J. 456 Md. 428, 449 (2017),

> Our analysis begins with the statute itself. In *Phillips v. State*, we summarized the rules of statutory interpretation, noting that we "focus[ ] primarily on the language of the statute to determine the purpose and intent of the General Assembly." 451 Md. 180, 196, 152 A.3d 712 (2017). To effectuate that intent, "[w]e begin our analysis by first looking to the normal, plain meaning of the language of the statute [.]" *Id.* (quoting *Douglas v. State*, 423 Md. 156, 178, 31 A.3d 250 (2011)). To ascertain the plain meaning of the language, "[w]e view the plain language of a statute in the context of the statutory scheme to which it belongs." *See Brown v. State*, 454 Md. 546, 551, 165 A.3d 398 (2017). **"We neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute with 'forced or subtle interpretations' that limit or extend its application." *State v. Bey*, 452 Md. 255, 265, 156 A.3d 873 (2017) (quoting *State v. Johnson*, 415 Md. 413, 421, 2 A.3d 368 (2010)); *see also State v. Adams–Bey*, 449 Md. 690, 702, 144 A.3d 1200 (2016) (declaring that this Court will not read words into a statute "to extend or limit the statute's meaning").** Where statutory language is "clear and unambiguous, we need not look beyond the statute's provisions and our analysis ends." *Phillips*, 451 Md. at 197, 152 A.3d 712." Emphasis supplied.

As we survey the complexity of eight different site plans which sprouted at various stages in this litigation, there persist several key points about lot width. Notably, as a matter of jurisdiction, Wadkins is bound by what its zoning petition and zoning site plans show. See People's Counsel v. Mangione 85 Md. App. 738, 746 (1991).

There are two zoning site plans: Pet. ALJ Exh. 11 and Pet. CBA Exh. 3. They both recognize the need for variances from the 100 feet minimum for each lot. They both show the lot width at Bush Street by the numbers, rounding off, 75' Lot 1 plus 95' Lot 2, which add to 170', well short for two lots.

However, their petition and plan notes inflate this number to 192' by extending an imaginary straight line to the Winkler Street corner. To do this, they disregard the curvature of the road corner. The ALJ Plan doesn't even show the 25' R, while the CBA Plan does. Both zoning plans show the rear width as 100' for Lot 1 and 94' for Lot 2. This is more than the front because of the straight line rear boundary, but still short of what is necessary.

Neither zoning site plan even describes the lot width as measured at the front building line. Based on Mangione, this concession is conclusive.

ALJ Beverungen denied the requested variances in July, 2017. Wadkins appealed. Wadkins then made its "front building line" move on their December 7, 2017 DRC "lot adjustment" plan. This *post hoc* argument to gain an advantageous measure of lot width at the front building line brings to mind the classic Bill Murray film Groundhog Day.

At the CBA hearing, they presented zoning staff member Jeffrey Perlow to give a favorable opinion. Perlow relied on the 1955 reference to "width at the front building line" for the then "R" Zones. P.C. Exh. 4. We attach relevant 1955 zoning text excerpts, including Secs. 202.1, 205.1, and 208.1, and 211.1.

But Perlow admitted County Council Bill 100, 1970 repealed the "R" Zones and this language. He recognized Bill 100's BCZR Sec. 1B02.3.C.1 Small Lot Schedule omits the "front building line" language. We attach Bill 100 excerpts, pages 1-4, 31-34, 73-74. Apx. 13-17. Notably, this contrasts with the retention of the "Width of lot at Front Building Line" language in the current BCZR Sec. 402.1 dwelling conversion table, previously 1955 Sec. 402.2. Apx. 12.

Perlow opined the County Council made a mistake and "forgot" to retain the front building line language when they enacted Bill 100. He conceded the "lot width" language in the BCZR Sec. 1B02.3.C.1 Small Lot Schedule (P.C. Exh. 2) still omits the former "front building line" language, but thought it made no difference.

There is no documentary or other basis for Perlow's opinion. There is nothing in the Zoning Commissioner's Policy Manual or any other manual. There is no evidence

anyone in any county office ever critiqued, questioned, or objected to the County Council's repeal of the front building line delineation of lot width.

Zoning Supervisor Carl Richards echoed Perlow's testimony that zoning office policy placed lot width measurement at the front building line. But he also had no legal basis. He likewise admitted there was no relevant source document.

To solve the definitional issue, we begin with BCZR Sec. 101.1. Apx. 19. This refers to Webster's Third New World International Dictionary where there is no BCZR definition. The key distinction is that Webster's definition of "**width**" (emphasis supplied) begins with "**1.** a distance measured from side to side: **measure taken at right angles to length ....**" Apx. 20. This shows that Bill 100 did move the delineation of lot width to the street boundary. The measures on the zoning plan, 75' for Lot 1 and 95' for Lot 2 are the measures at right angles.

It is elemental that the zoning office has no authority to rewrite legislation. They may not usurp the County Council's representative function. This is basic to the separation of powers between the legislative and executive branches of our republic.

More specifically, an administrative agency may not make law under the guise of interpretation. Thanner Enterprises v. Baltimore County 414 Md. 265, 274-81 (2010). The bald assertion of zoning staff opinion must not displace legislative prerogative and action. Administrative agencies may not supply what the legislature omits. They may not disregard the clear meaning of the 1970 statutory repeal and replacement of the "front building lot" language. Otherwise stated, a zoning office has to know its limitations.

III. There was a zoning merger of Lot 8 and Pt Lot 7 zoning; so, in any event, Wadkins is ineligible for a "lot line adjustment," said lot line having disappeared.

Chameleon Territory

There is a palpable zoning merger problem. Where a property spanning two or multiple lots is used integrally, they merge for zoning purposes. Remes v. Montgomery County 387 Md. 52, 63-70 (2005). The internal lot line(s) then disappear. There are no longer any lot lines to "adjust." There must be a new subdivision. The CBA applied Remes in William Lagna, Petitioner, 3920-4002 Chestnut Road, Case No. 12-239-SPH

(2013); affirmed Lagna v. People's Counsel 226 Md. App. 721, 2016 WL 327029, Section II (2016), attached. Apx. 21-28.

Tracking Remes and Lagna, the physical evidence alone compels a finding of merger. The 5301 Bush Street property was used as one single-family residence for over 60 years. The GIS aerial photos, circa 2014, show the garage straddling the internal lot between lot 8 and part of 7. P.C. CBA Exh. 5, Pet. ALJ Exh. 5; Pet. CBA Exh. 13. KJ Wells' 3/21/ DRC plan shows the dwelling and garage (straddling the lot line) to be razed. The redlined July 8, 2014 plan shows them razed. Pet. ALJ Exh. 10, 11.

The SDAT data show the entire property taxed in a single account, with the principal residence built in 1951. Pet. ALJ Exh. 6.

As a matter of law, therefore, there were no longer any two lots to "adjust." As in Remes, there would have to be a new subdivision process to establish two new lots. The so-called lot line adjustment is a nullity. The chameleon is no longer hidden.

IV. As A Matter Of Law, The Proposal Fails To Satisfy The Variance Standards.

The Statutory Context

To begin, BCZR Sec. 102.1 states

> "No land shall be used or occupied and no building or structure shall be erected, altered, located or sued excerpt in conformity with these regulations and this shall include any extension of a lawful nonconforming use."

See Kowalski v. Lamar 25 Md. App. 493, 496-501 (1975); People's Counsel v. Surina 400 Md. App. 662, 688 (2007).

BCZR Sec. 307.1 enables the Zoning Commissioner (ALJ) to grant variances,

> "The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations **only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare. They shall have no power to grant any other**

variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance." Emphasis supplied.

The Threshold Density Variance Conflict

The threshold problem is that a variance to minimum lot area here effectively allows an increase in residential density beyond the maximum 2.0 dwellings per acre allowed in the D.R. 2 Zone. BCZR Sec. 1B02.2.A. To satisfy the density standard for two dwellings, the property would have to be at least 1 acre or 43,560 square feet. By any measure, this property falls short. The petition is thus disqualified at the starting line because it involves and requires a density variance.

Area Variances Generally

For the sake of completeness, we shall also analyze the case from the point of view of area variances generally. Wadkins still does not qualify. The essential elements are the peculiarity of the property, i.e. "uniqueness," and resulting "practical difficulty." McLean v. Soley 270 Md. 208, 213-15 (1973); Cromwell v. Ward 102 Md. App. 691 (1995). Trinity Assembly of God v. People's Counsel 407 Md. 53, 79-85 (2008).

Judge Cathell began his discussion in Cromwell,

> "The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances. *See, e.g.,* A. Rathkopf, 3 The Law of Zoning and Planning §38 (1979)." 102 Md. App. at 703.

He explained the "uniqueness" element, 102 Md. App. at 710,

> "In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.'
>
> 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

Judge Cathell summarized,

> "We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been-a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists."

Even if there is the requisite uniqueness, the unique characteristic must relate to and cause "practical difficulty." Often misunderstood or overlooked, the law has been settled that an essential element of a variance case is this causal connection.

As long ago as Easter v. Mayor & City Council 195 Md. 395 (1950), the Court of Appeals described the heavy burden of proof on an applicant for a variance,

> "The burden of showing facts to justify an exception or variance rests upon the applicant, and it must be shown that the hardship affects the particular premises and is not common to other property in the neighborhood."

In Marino v. City of Baltimore, 215 Md. 206 (1957), the Court explained:

> "The expression 'practical difficulties or unnecessary hardships' means difficulties which are peculiar to the situation of the applicant for the permit and are not necessary to carry out the spirit of the ordinance and which are of such a degree of severity that their existence amounts to a substantial and unnecessary injustice to the applicant."

> "[I]t was incumbent upon the Marinos to have shown... (ii) that the difficulties or hardships were peculiar to the property in question in contrast with those of other property owners in the same district."

Judge Harrell revisited variance law in Trinity Assembly,

> "In *Umerley v. People's Counsel for Balto. County,* the Court of Special Appeals opined that a zoning authority must determine, as part of its uniqueness inquiry, whether 'the uniqueness or peculiarity of the property causes the zoning provision [at issue] to have a disproportionate impact.' 108 Md. App. 497, 506 ... (1996). Assuming that a disproportionate impact must be found before a local zoning authority may grant a variance, it is a logical fallacy to say that Board erred on this score. The disproportionate impact consideration, if viable, exists because of the notion that it is not enough for a landowneror user to show merely that the property is somehow physically peculiar or unique; she, he, or it also must prove, to the satisfaction of the tribunal, a connection between the property's inherent characteristics and the manner in which the zoning law hurts the landowner or user. Where a property's physical characteristics do not cause the landowner to suffer disproportionately due to application of the zoning enactment in question, the property is not 'unique' in the law of variances. For example, if a property has physical characteristics that might justify variance relief

from drainage or sewage regulation, those attributes probably would have no bearing on how that property is affected by an ordinance establishing the maximum height for a fence. Here, the Board concluded simply that the physical attributes of the Property are not distinguishing. That conclusion is supported by substantial evidence." 407 Md. at 82-83.

Judge Harrell identified the "practical difficulty" criteria. 407 Md. App. at 83-85. He reviewed McLean 270 Md. 208, 213-15 (1973), where the Court had "... adopted from Professor Rathkopf's treatise a three-part inquiry to guide local zoning authorities in determining whether a landowner established this element:

> "1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
>
> 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
>
> 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

Carney v. Baltimore 201 Md. 130, 137 (1952), another setback case, stated,

> "'The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant, inasmuch as the aim of the ordinance is to prevent exceptions as far as possible, and a liberal construction allowing exceptions for reasons that are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance. * * *
>
> 'The expression 'practical difficulties or unnecessary hardships' means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are not necessary to carry out the spirit of the ordinance and which are of such a degree of severity that their existence amounts to a substantial and unnecessary injustice to the applicant.'"

The essential purpose of variance law is to allow relief so a property owner has some reasonable use of his property. See 2 Salkin, American Law of Zoning 5th, § 13:.1 (2017). A property owner's inability to comply with zoning law for an advantageous expansion or selection of a desired use does not justify a variance. Otherwise, a variance would have to be granted in every case; and zoning law would collapse.

Uniqueness

There is no genuine dispute here about the facts material to uniqueness. The Forge Acres subdivision was platted in 1948 as a low-density residential development in an outlying area of Perry Hall. It was semi-rural at the time. It is still at the edge of Perry Hall, outside the more intense growth area.

There is nothing peculiar or unique about this property. The combined Lot 8 and Pt Lot 7 --- measured at 38,800 square feet, per Kenneth Wells, or 36,839, per SDAT --- is within the range of Mr. Lochary's Forge Acres subdivision lot chart. Most of these large lots have a single dwelling. It may be that the few divided lots predated apt restrictions.

North v. St. Mary's County 99 Md. App. 502, 514-20 (1994) foreshadowed Cromwell in reversing the grant of a mean high water mark setback variance for a gazebo of approximately 234 square feet. The property had an existing ranch home and outbuildings. The petitioner claimed a deprivation of property rights because he needed the gazebo to enhance his view, to contemplate, to read, and (presumably) for shade and protection from rain. The applicant also argued other property owners had built closer to the water. Judge Cathell noted these were probably nonconforming. He covered, among other things, the uniqueness test and found nothing unique about the property.

Umerley v. People's Counsel 108 Md. App. 497, 504-09, cert. denied 342 Md. 584 (1996) is also apt. Umerley sought to expand his Philadelphia Road trucking facility He sought a special exception and six variances, including setback variances from the road, wetlands, and a residential zone. The CBA granted the relief. The Circuit Court reversed. The Court of Special Appeals affirmed the reversal, thereby denying the petition. The analysis centered on "uniqueness." Umerley cited the narrowness of the property and the relatively short rear yard adjoining a B. & O. railroad track. Umerley claimed the property was too small to comply with the trucking facilities law and that their business contributed significantly to the Baltimore County economy, consistent with one of the purposes of the trucking facilities law. But this did not constitute substantial evidence of any inherently unique characteristic of the property, which had a location in common with many other Philadelphia Road properties backing up to the railroad.

Riffin v. People's Counsel 137 Md. App. 90, cert. denied 363 Md. 660 (2001) involved a special exception and variances for a bungee jumping operation and office building expansion. With echoes of Umerley, Riffin's Greenspring Drive property backed up to the MTA light rail track. In affirming the CBA denial of several variances. The CSA sustained the CBA's denial of the variances. Judge Moylan quoted,

> "*It is this Board's finding that the proposed site is in no way unique, unusual or different from the other properties that are existent in this M.L.-I.M. zone.* The Maryland Department of Assessments and Taxation, real Property System map, shows just how similar in size and shape all of the properties are along Greenspring Drive. Testimony by Mr. Patton indicated that this property was consistent with others in the community, and he noted that the gentle slope off of Greenspring Drive was consistent with other properties, further noting that some chose to fill in their properties before building and have entrances at the rear of their locations.... At no time in the hearing did the appellant entertain any historical significance to the site nor were environmental or subsurface conditions documented. Mr. Riffin did testify as to the damage to the interior of his building but did not document the same with photographic exhibits, receipts for repairs or documentation by some authority regarding the nature or extent of this damage. There was no testimony or evidence regarding abutting properties restricting his activities or imposing any unique characteristics upon his site. *In the absence of an initial finding of uniqueness, the inquiry under Section 307.1 stops and, in this case, the three variances must be denied.*"

Uniqueness and practical difficulty: the transitional nexus

It is customary to review initially whether or not the property in question is unique and then to proceed with review of any practical difficulty alleged to arise from the zoning law. But the relationship may also be viewed conversely. If the alleged difficulty is common to many properties in the neighborhood, then this reflects the lack of requisite uniqueness. The remedy then lies with the legislature rather than the variance process.

Judge Friedman explained this in Dan's Mountain Wind Force v. Allegany County Board of Zoning Appeals 236 Md. App. 483, 490-99 (2018). He wrote,

> "The purpose of the uniqueness or unusual element of the variance test is to determine whether the zoning law's effect on a property is particularized to that given property. We can identify three principal reasons for this requirement. *First*, if the allegedly restrictive effect of the zoning law is not unusual, and a characteristic is shared by many properties, the problem ought to be addressed by legislation, not variances:
>
> > The claimed hardship may be caused by general neighborhood conditions that cause the property to be unusable as zoned. If that is the basis of the owner's claim, it is unlikely that only the owner's parcel will be affected; in fact it is likely

> that many other parcels in the neighborhood will be affected. ... In theory, then, an owner's appropriate remedy in cases where the hardship is not unique is to seek a rezoning.
>
> 3 Rathkopf's The Law of Zoning and Planning § 58:11 (4th ed. 2017). This purpose for the uniqueness requirement has been recognized by some of our sister state courts. *Arndorfer v. Sauk Cnty. Bd. of Adjustment*, 162 Wis.2d 246, 469 N.W.2d 831, 834 (1991); *Clark v. Bd. of Zoning App. of Town of Hempstead*, 301 N.Y. 86, 92 N.E.2d 903, 904 (1950) ("If there be a hardship, which ... is common to the whole neighborhood, the remedy is to seek a change in the zoning ordinance itself."). A property that is affected uniquely may be entitled to relief through a variance, while a property owner experiencing a more common problem must seek a legislative remedy.[10] *Second*, and similarly, the uniqueness analysis guarantees that a granted variance cannot act as a precedent in an application regarding another property. If the effects of the zoning law operate similarly to the way in which they operate on a separate applicant property, the uniqueness requirement is likely not satisfied. *Finally*, in an analogous situation, the Court of Appeals has noted that uniformity of the application of zoning laws—accomplished in part by requiring that properties exempt from those laws be unique—performs a "critically essential function," by "protect[ing] the landowner from favoritism towards certain landowners within a zone by the grant of less onerous restrictions than are applied to others within the same zone." *Mayor and Council of Rockville v. Rylyns Enters.*, 372 Md. 514, 536, 814 A.2d 469 (2002) (discussing piecemeal zoning)."

Here, the Small Lot Schedule lot restrictions apply comparably to over 50 Forge Acres lots with between 20,000 and 40,000 square feet. This negates any claim of particularity.

Practical Difficulty

Even were the Wadkins property unique, there is no nexus to practical difficulty. We evaluate each of the applicable criteria in turn.

> **"1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."**

The property can nicely accommodate a single family detached dwelling. Indeed, that was the integrated use of the merged lots for sixty years. Soon after acquisition, Wadkins razed the dwelling and garage.

Usually, a petitioner appears to testify to some difficulty. Nobody from Wadkins even appeared to testify here. They just produced consultant Ken Wells to promote their plan in any way he could.

It is apparent that Wadkins acquired the property to subdivide and make money. That was its choice. Financial concerns do not justify a variance. Burns v. Mayor and City Council 251 Md. 554 (1968). But there is anyway no claim here of financial suffering. This is a play for bigger profits. To gain additional perspective, we discuss several classic cases rejecting variances just for additions and/or accessory uses.

Montgomery County v. Rotwein 169 Md. App. 716 (2006) illuminated this criterion in another setback variance case. Judge Krauser wrote, 169 Md. at 733,

> "But Rotwein has not demonstrated that, unless her application is granted it will be 'impossible [for her] to make reasonable use of the property.' *Id.* Indeed, she has made more reasonable use of the property, as it houses not only her residence, but, among other things, a swimming pool and a tennis court."

Rotwein, moreover, had made a sympathy argument based on her physical limitations. As a matter of law, however, this did not justify the setback variances.

Chesley v. City of Annapolis 176 Md. App. 413 (2007) is also apt. The Chesleys built a new 5000 sq. ft. house and swimming pool to replace an existing dwelling on their one-third of an acre lot. They also desired a garage. They needed a front yard setback variance and were able to secure the support of the Planning Staff. They claimed that the garage would help when their wheelchair-bound adult son visited. They also claimed that other area properties had garages within a few feet of the street.

The Zoning Board denied the variance, finding among other things that there was nothing unique about the property, because "... the typical constraints of waterfront development within the critical area and the view cone covenant do not in and of themselves necessitate the requested variance." The CSA affirmed the denial. Turning to the issue of difficulty or hardship under analogous Chesapeake Bay Critical Area variance provisions, Judge Adkins wrote, 176 Md. App. at 435,

> "Rather, the essence of the Chesleys' argument is that a garage would make loading more convenient, and that a variance will allow them to locate the garage where the City's Planning Department preferred. The City Code requires more than a showing of "mere inconvenience [.]" *See* former Code § 21.80.030(A). As the Court of Appeals has recognized, it generally is not a hardship to be without a desired convenience or amenity on one's property, because zoning restrictions are to be enforced in the absence of a "substantial and urgent" need for a variance. *See Belvoir Farms Homeowners Ass'n,* 355 Md. at 261, 734 A.2d 227. When a variance would be required to build within the

critical area buffer, for example, the fact that a particular improvement would enhance the owner's enjoyment of the property did not establish that it would be a hardship to continue using the property without the variance. *See, e.g., Citrano v. North,* 123 Md.App. 234, 717 A.2d 960 (1998)(fact that proposed deck created "pleasant amenity" did not create hardship); *North v. St. Mary's County,* 99 Md. App. 502, 519, 638 A.2d 1175 (owner's desire to build gazebo to read and view creek is not evidence of hardship), *cert. denied sub nom. Enoch v. North,* 336 Md. 224, 647 A.2d 444 (1994). The City Code's distinction between "mere inconvenience" and true hardship reflects the application of this principle to setback variances."

"2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners."

Diane Brazil, John Lochary, Angela Cioka and Jack Amreihn, Perry Hall Community Association President, all testified convincingly to the adverse visual impact and precedent of a subdivision at this gateway location. An aggravating factor is Wadkins' failure and refusal to provide any specific plan or architectural features for the proposed dwellings. This failure alone should disqualify the variances.

The CSA in Chesley recognized similar testimony by neighbors concerning visual impact and property values. 176 Md. App. at 441-45. One of the neighbors posited that, "overbuilding and overcrowding loom on the horizon ...." The Court accepted, among other things, the legitimate concerns about overcrowding and imposing structures which harm the views and enjoyment of the neighborhood.

"3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

This criterion overlaps with the balance of substantial justice between the applicant and other property owners in the district. There is a public interest in adherence to the standards, even where the requested variances are not large in scale.

Easter v. Mayor & City Council 195 Md. 395 (1950) involved a front yard and occupancy variance for a one-story and basement addition for a tavern and dwelling on Belair Road. The proposed addition varied the minimum front yard setback of 10 feet. The zoning board had granted the variances, finding the "The lot in question is of very

shallow depth and irregular in shape ...." They also had found "... several buildings constructed up to the front lines of the lot and the proposed addition would not affect access for light and air to any neighboring properties, nor would it even cut off the view up and down the street." The Court of Appeals reversed, stating that the irregularity of the lot and the existence even of nonconforming or possibly illegal neighboring buildings did not justify deviation from the general zoning plan. Judge Henderson observed,

> "But we think the detriment to the applicant must be weighed against the benefit to the community in maintaining the general plan. 'It is by these gradual encroachments, individually or relative insignificance, that the integrity of the general scheme is undermined and ultimately shattered. One departure serves as justification for another * * *"

Chester Haven Beach Partnership v. Board of Appeals 103 Md. App. 324, 337-41 (1995) followed Cromwell. The petitioner appealed the denial of a conditional use and variances for a residential subdivision. The primary alleged difficulty involved serious Chesapeake Bay Critical Area environmental constraints. The professional staff supported the development based on these environmental factors. It was again Judge Cathell who wrote the opinion. Notwithstanding the staff support, Judge Cathell observed there was no evidence that the environmental constraints were unique to this critical area property. He went further and criticized the professional staff, stating that the staff "... abdicated its responsibility in its role in respect to conditional uses and variances." 103 Md. App. at 340. Despite environmental constraints much more serious than any alleged constraints on Folio's residential use, Judge Cathell continued,

> "It is not, however, the function of staff to make such policy decisions in the absence of legislative action. We do not perceive that it was the legislative intention in passing the State or local critical area legislation that zoning variance procedures would be prostituted in order to alleviate the harshness of environmental regulation. If that is the intention of the legislative entities, they have the power to express clearly that intention."

In sum, from any point of view, there is an absence not only of uniqueness, but also practical difficulty. Wadkins likely came to recognize the weakness of their position on the variances. This accounts for their *post hoc* efforts to acquire property from the Koenigs and interject the "front building line" claim. As we have explained, however, these claims are without merit.

Conclusion: Law and Justice

This case has spawned many legal issues. We have addressed them consistent with relevant legal principles and standards. We also believe that substantial justice calls for denial of the petition, with respect both to the legal issues and the variances.

Wadkins is a developer which seeks to subdivide a property which for over fifty years had one single-family dwelling. This is purely for additional revenue.

The location is a key gateway location for the established Forge Acres community. Both the subdivision and open-ended indeterminate plan are incompatible with the essential character of the neighborhood. The proposal also puts in play dangerous precedents for the neighborhood, for subdivision variances generally, and for the key issues of legal interpretation.

From every perspective, the CBA should reject Wadkins' arguments and moves to avoid the variances. Accordingly, the CBA should effectively affirm the PAI/DRC denial of the request for subdivision approval via "lot line adjustment" or any other theory. The CBA should then deny the variances.

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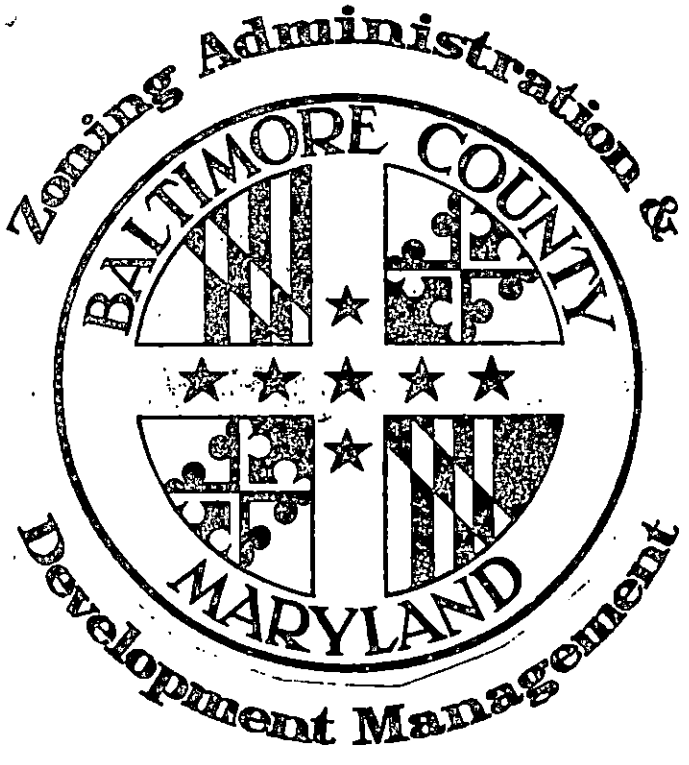
CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 7th day of November, 2018, that a copy of this Post-Hearing Memorandum of People's Counsel For Baltimore County was mailed to Lawrence Schmidt, Esquire, Smith, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s) and, to facilitate communication, e-mailed to Diane Brazil, John Lochary and Angela Cioka on record.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

1992 Edition

Baltimore County
Zoning Commissioner's Policy Manual



amended May 13, 1992

adopted May 21, 1991

Administrative Supplement to the Baltimore County Zoning Regulations

ZONING COMMISSIONER'S POLICY MANUAL

SECTION 102.2

A. MIXED USES ON ONE PROPERTY

1. If several uses are proposed as separate structures on one property, each use must meet the zoning requirements as if it was a separate parcel.

2. Even if subdivision of the property is not proposed, the Zoning Commissioner may require that a line of division either a lease line or a zoning use division line between each use be shown on the plat.

   a. Conditions: The following guidelines have been formulated so that this matter can be handled consistently:

      i. Both existing and proposed uses, as divided, must be able to meet the B.C.Z.R. requirements with respect to area, density, parking, setbacks between buildings and to the division lines as if they were property lines.

      ii. Residential density may be calculated on the overall property acreage if all uses are residential and is allowed in that zone.

   b. Interpretation: This determination may be subject to a Special Hearing at the discretion of the Zoning Commissioner.

B. SETBACKS AND BUILDINGS ACROSS ZONE LINES

1. If the property is bisected by a zone or a use and setback limitation line, the required applicable setbacks (for a building legally located in one of these zones) would be measured to the property or street right of way line and not the zone line.

   The only exceptions to this method of measuring setbacks would be:

   a. If there is a specific use limitation within a certain distance of a particular zone, then the distance would have to be maintained, or if possible, a variance may be applied for.

   b. If there are 2 principal buildings proposed in different zones, on the same property, in close proximity, then the greatest distance between principal buildings will have to be maintained or a variance granted.

2. If a building is proposed across a zone or use and setback limitation line, regardless of what percentage of the building is on each side, the setbacks for each section of the building will be determined and applied separately, according to each separate zone or zone proximity requirement.

APX. 2

APPROVED MAY 13 1992

BALTIMORE COUNTY

ZONING REGULATIONS

ADOPTED BY

COUNTY COMMISSIONERS

OF

BALTIMORE COUNTY

March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition).

1955

Michael J. Birmingham
President

Robert B. Hamill
Augustine J. Muller
County Commissioners of Baltimore County

Francis T. Peach
County Solicitor

George M. Berry
Deputy Solicitor

Wilsie H. Adams
Zoning Commissioner

APX. 3

PREFACE

The first Zoning Regulations to be adopted in Baltimore County went into effect in 1945. These Regulations served well enough until the tremendous growth of the County beginning about 1950 made it obvious that these Regulations were not sufficiently comprehensive to give adequate protection to the public in the large Metropolitan area which rapidly began to take shape throughout the entire suburban area of the County.

Shortly after the Election of 1950 a County administration requested the then Planning Commissioner to undertake studies looking toward the adoption of complete new and more comprehensive zoning regulations. These studies, under the direction and supervision of Mr. Malcolm H. Dill, then Planning Commissioner, in cooperation with Mr. Augustine J. Muller, the then Zoning Commissioner, later succeeded as Zoning Commissioner by Mr. Wilsie H. Adams, continued over a period of several years. The services of Mr. Flavell Shurtleff, a zoning consultant of recognized national standing were obtained and he participated in many conferences and discussions leading up to the adoption of the new Regulations.

Many varied interests were also brought into consultation including numerous architects, engineers, builders, developers and real estate brokers, all of whom contributed substantially to the Regulations as finally adopted and who are entitled to the thanks of the public for their contribution to this important undertaking. The Director of Planning and the Zoning Commissioner studied many zoning regulations from other jurisdictions and incorporated in these Regulations ideas gleaned from these sources.

After a Preliminary draft of the Regulations had been completed numerous further meetings and discussions were had with various architects, builders and developers in which Mr. Malcolm H. Dill, as Director of Planning, Mr. Wilsie H. Adams, as Zoning Commissioner, Mr. Augustine J. Muller, as a member of the Board of County Commissioners, and former Zoning

Commissioner, and Mr. George M. Berry, Deputy County Solicitor, participated.

As a result of these many conferences a final draft of the new Regulations was prepared and finally adopted by the County Commissioners on March 30, 1955. We have now had more than two years of experience with these new Regulations. Some amendments have been found necessary and undoubtedly further amendments will be found desirable from time to time. On the whole, however, we believe that these Regulations have provided the people of Baltimore County with a sound basis for the protection of property values and the general welfare of the public.

Realizing that future amendments are a certainty and in order to afford an easy and economical method of keeping these Regulations up-to-date, the loose-leaf form was adopted. Recognizing the importance of keeping the public informed of current amendments and revisions these Regulations will be sold on a subscription basis, with the initial cost to include loose-leaf re-prints of any amendments or revisions during the subscription period. The subscription period begins with the date of publication and terminates five years thereafter at which time the service will be made available on some different basis at a nominal cost.

The County authorities wish to extend their sincere thanks to the many persons who gave so generously of their time and effort in making these Regulations as effective and useful as we believe they are.

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BALTIMORE COUNTY ZONING REGULATIONS

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APX. 6

RESOLUTION AND ORDER OF THE COUNTY COMMISSIONERS OF BALTIMORE COUNTY

WHEREAS, the Zoning Commissioner of Baltimore County, pursuant to the power and authority vested in him by Section 366(c) of the Code of Public Local Laws of Baltimore County (1948 Edition), and the laws therein codified, prepared a Preliminary Report with respect to the amendment, supplement and repeal of the Zoning Regulations and Restrictions for Baltimore County, and in accordance with the provision of said Section published notice of public hearings thereon, and,

WHEREAS, the Zoning Commissioner of Baltimore County conducted public hearings on said Preliminary Report, and on January 18, 1955 submitted to the County Commissioners of Baltimore County his Final Report with respect to the proposed amendment, supplement and repeal of said Zoning Regulations and Restrictions, and,

WHEREAS, the County Commissioners of Baltimore County, after having received said Final Report gave at least 15 days public notice in newspapers of general circulation throughout Baltimore County, of the place and time of a public hearing on said Final Report, and,

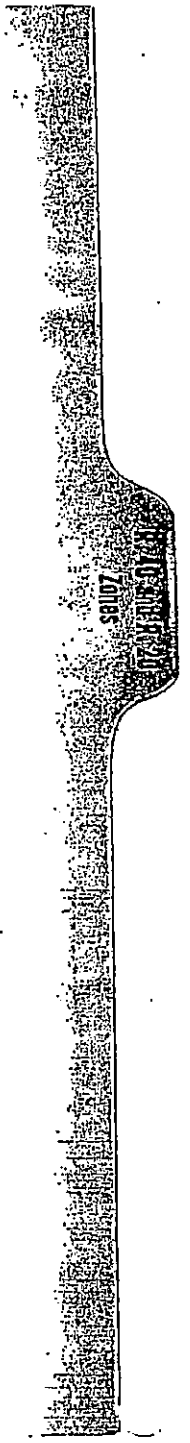
WHEREAS, pursuant to said public notice the County Commissioners of Baltimore County on February 5, 1955 held a public hearing thereon, and thereafter deliberated upon and considered said Final Report,

NOW, THEREFORE, it is this 30th day of March, 1955, ORDERED by the County Commissioners of Baltimore County that in order to promote the health, safety, morals and general welfare of the community the Zoning Regulations and Restrictions in effect in Baltimore County as of the date of the adoption of this Order be, and the same hereby are repealed, and it is further ORDERED that the following Zoning Regulations for Baltimore County be and they are hereby adopted and promulgated in the place and stead of the Zoning Regulations and Restrictions in effect prior to the adoption of this Order:

R. 40 and R. 20

Residence Zone, One Family

APX. 7



ARTICLE 2—ZONES: USE, HEIGHT, AND AREA REGULATIONS

R. 40 Zone—Residence, One-Family

Section 200—USE REGULATIONS

The following uses only are permitted:

200.1—One-family detached dwellings.

200.2—Conversion of a one-family dwelling as conditioned in Section 402.

200.3—Churches and other buildings for religious worship, including church schools and private schools.

200.4—Trailers, as limited by Section 415.

200.5—Country club, golf course, or other outdoor recreation clubs, including club house, and quasi-public camps, including day camps, but no such use shall be located on less than 3 acres, and no building or parking lot thereon shall be located within 60 feet of any property line.

200.6—Community building, swimming pool, or other structural or land use devoted to civic, social, recreational and educational activities of the community.

3/30/55 7-0 9/19/70 (5.11=100 1970 200.7—Offices of a doctor or dentist but with no hospital facilities, and offices or studios of a lawyer, architect, engineer, or artist, when these or offices of similar professions are situated in the same dwelling used by any of the foregoing persons as his residence. Not more than 25% of the floor area of the dwelling shall be used for offices or studios; not more than one non-resident professional associate and two non-resident employees shall be permitted. Signs are prohibited except as noted in Section 413.

200.8—Home occupations, as heretofore defined in Section 101, provided that no sign shall be displayed except as noted in Section 413.

200.9—Accessory buildings and uses as limited by Section 400.

200.10—Hospitals, Class A, as defined in Section 101 and as limited by Section 407.

200.11—Public utility uses as follows:

a. Telephone and telegraph lines.

b. Electric light and power lines, including transformers and transformer banks, when located on poles, on or contiguous

to public highways, alleys, rear lot lines, railroad rights-of-way or if carrying less than 35,000 volts.

c. Conduits, cables; gas, sewer, storm drain, and water mains—all located underground.

d. Railroad.

200.12—Farming, as defined in Section 101 and as conditioned in Section 404.

200.13—Signs in accordance with the provisions of Section 413.

200.14—Excavations, uncontrolled.

200.15—Special Exceptions: The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Airport;
Boarding or rooming houses;
Boat yard and/or marine railway;
Cemetery (see Section 401);
Conservatory, music and the arts;
Convalescent home;
Conversion of a dwelling into a tea room or restaurant as conditioned in Section 402;
Excavations, controlled (see Section 403);
Funeral establishment;
Golf driving range, miniature golf, and baseball batting range;
Hospital, Class B (see Section 407);
Kennel, but not on a lot of less than 3 acres, and not closer than 50 feet to a property line;
Laboratory;
Poultry, commercial killing of, but only on a farm (see Section 404);
Private colleges, nursery or dancing schools, dormitories, and fraternity and sorority houses, but excluding business and trade schools;
Public utility uses other than those noted in Section 200.11 (see Section 411);
Race track, commercial;
Radio studio;
Riding stable, commercial;
Sanitary landfill (see Section 412);
Shooting range;
Television studio;

Theatre, drive-in;
Tourist home;
Trailer park;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 201—HEIGHT REGULATIONS

No building shall exceed a height of 35 feet or 3 stories, except as provided in ARTICLE 3.

Section 202—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width at the front building line of not less than 150 feet, except that for two or more lots in the same ownership, and in the same tract, a minimum lot area of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 square feet or more. A wedge shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 feet (see Section 304).

202.2—Front Yard—For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings—70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3—Side Yards—For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street; for other principal buildings—40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4—Rear Yard—50 feet deep.

R. 20 Zone—Residence, One-Family

Section 203—USE REGULATIONS

The following uses only are permitted:

203.1—Uses permitted and as limited in R. 40 Zone.

203.2—Special Exceptions—Same as in R. 40 Zone, Section 200.15, except airports and laboratories which are not permitted (see Sections 270 and 502).

Section 204—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 205—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

205.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 20,000 square feet, and a width at the front building line of not less than 100 feet, except that for four or more lots in the same ownership, and in the same tract, a minimum lot area of 15,000 square feet is permitted if an average of all the lot sizes in the same ownership and in the same tract equals 20,000 square feet or more, but not more than thirty per cent of the lots may have an area less than 20,000 square feet (see Section 304).

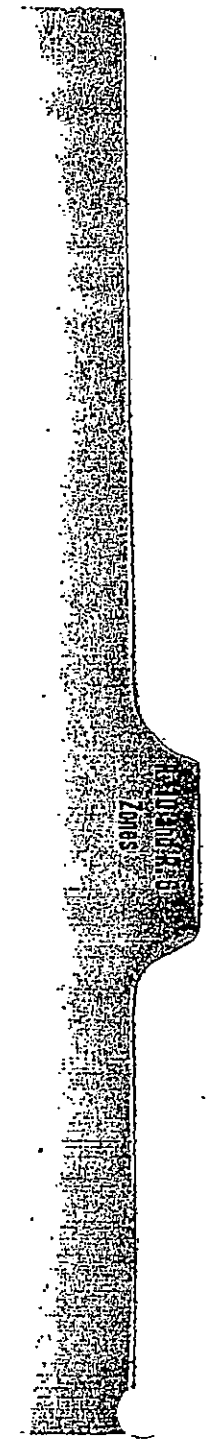
205.2—Front Yard—For dwellings, the front building line shall be not less than 40 feet from the front lot line and not less than 65 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—60 feet from the front lot line and not less than 85 feet from the center line of the street, except as in Section 303.1.

205.3—Side Yards—For dwellings, 15 feet wide, except that for a corner lot the building line along the side street shall be not less than 40 feet from the side lot line and not less than 65 feet from the center line of the street; for other principal buildings—30 feet wide, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street.

205.4—Rear Yard—40 feet deep.

R. 10—Residence Zone, One Family

R. 6—Residence Zone, One and Two Family



R. 10 Zone—Residence, One-Family

Section 206—USE REGULATIONS

The following uses only are permitted:

206.1—Uses permitted and as limited in R. 40 Zone.

206.2 — Special Exceptions — The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Boat yard and/or marine railway;
Boarding or rooming houses;
Cemetery;
Conservatory, music and arts;
Convalescent home;
Excavations, controlled (see Section 403);
Funeral establishment;
Hospital, Class B (see Section 407);
Kennel, as limited in Section 200.15;
Poultry, commercial killing of, but only on a farm (see Section 404);
Private colleges, nursery or dancing schools, dormitories, fraternity and sorority houses, but excluding business and trade schools;
Public Utility uses other than those noted in Section 200.11 (see Section 411);
Radio studio;
Sanitary landfill (see Section 412);
Television studio;
Tourist home;
Trailer Park, conditioned as in Section 414;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 207—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 208—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

208.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 10,000 square feet and a width at the front building line of not less than 70 feet, except that for seven or more lots in the same ownership, and in the same tract, a minimum lot area of 8,000 square feet is permitted, if the average of all the lot sizes in the same ownership and in the same tract equals 10,000 square feet or more, but not more than fifteen

per cent of the lots may have an area less than 10,000 square feet (see Section 304).

208.2—Front Yard—For dwellings, the front building line shall be not less than 30 feet from the front lot line and not less than 55 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—50 feet from the front lot line and not less than 75 feet from the center line of the street, except as specified in Section 303.1.

208.3—Side Yards—For dwellings, 10 feet wide for one side yard and not less than 25 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 30 feet from the side lot line and not less than 55 feet from the center line of the street; for other principal buildings—20 feet wide, except that for a corner lot the building line along the side street shall be not less than 35 feet from the side lot line and not less than 60 feet from the center line of the street.

208.4—Rear Yard—30 feet deep.

R. 6 Zone—Residence, One and Two-Family

Section 209—USE REGULATIONS

The following uses only are permitted:

209.1—Uses permitted and as limited in R. 40 Zone;

209.2—Two family dwellings, as defined in Section 101;

209.3—Special Exceptions—Same as R. 10 Zone, except sanitary landfills and trailer parks which are not permitted (see Sections 270 and 502).

Section 210—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 211—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

211.1 — Lot Area and Width — Each one-family dwelling and each other principal non-residential building hereafter erected shall be located on a lot having an area of not less than 6,000 square feet and a width at the front building line of not less than 55 feet; each two-family dwelling hereafter erected shall be located on a lot(s) having an area of not less than

10,000 square feet and a width at the front building line of not less than 80 feet for a duplex dwelling and 90 feet for the pair of lots occupied by a semi-detached dwelling (see Section 304).

211.2—Front Yard—For dwellings, the front building line shall be not less than 25 feet from the front lot line and not less than 50 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—40 feet from the front lot line and not less than 65 feet from the center line of the street, except as specified in Section 303.1.

211.3 — Side Yards — For one-family dwellings, 8 feet wide for one side yard and not less than 20 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 25 feet from the side lot line and not less than 50 feet from the center line of the side street; for two-family dwellings, side yards shall be as provided in Sections 214:1 and 214.3; for other principal buildings, same as in Section 208.3.

211.4—Rear Yard—30 feet deep.

402.1—The converted dwelling must be located on a lot that will meet the dimensional requirements shown in the schedule which follows.

402.2—Separate cooking facilities and a separate bathroom shall be provided for each family unit.

CONVERSION OF ONE-FAMILY DWELLINGS MINIMUM DIMENSIONS

Zone	Width of Lot in Feet at Front Building Line			Lot Area in Square Feet		Side Yards—Feet	
	Duplex	Semi-Detached	Ea. Add. Family	Two Families	Ea. Add. Family	Min. for One	Sum of Both
R. 40	175	175	25	50,000	10,000	Int.—25 Cor.—50	Int.—50 Cor.—75
R. 20	125	125	25	25,000	7,500	Int.—20 Cor.—35	Int.—50 Cor.—60
R. 10	90	100	15	12,500	4,000	Int.—20 Cor.—30	Int.—40 Cor.—50
R. 6	80	90	15	10,000	3,000	Int.—15 Cor.—25	Int.—35 Cor.—40
R. G.	70	80	10	Interior 8,050 Corner 9,200	2,500	Int.—15 Cor.—25	Int.—30 Cor.—40
R. A.	70	80	10	Interior 8,050 Corner 9,200	2,500	Int.—15 Cor.—25	Int.—30 Cor.—30

For tea room or restaurant use:

402.3—To be converted for tea room or restaurant use in a R. 40 or R. 20 zone as a Special Exception, the following requirements must be met:

a. Meals may be served only at tables, indoors or on an outdoor terrace, and not to persons remaining in cars;
b. At least one parking space per table shall be provided;
c. Only one business sign shall be permitted (see Section 413.1, d);
d. The minimum lot size shall be one acre;
e. Service shall be provided only at mealtimes.

Section 403—EXCAVATIONS, CONTROLLED

Applications for Special Exceptions hereunder, accompanied by five sets of detailed plans showing

proposed use of land during excavation and grading plans after excavation shall be directed to the Zoning Commissioner. Any Special Exception granted hereunder may include the right to erect and operate buildings, machinery, and equipment for a temporary period, consistent with other provisions of the order of the Zoning Commissioner, or the Board of Zoning Appeals, on appeal. All pertinent requirements of the Baltimore County Health Department Regulations and the Baltimore County Building Code shall be incorporated by the Zoning Commissioner and the Board of Zoning Appeals, on appeal, in approving any application hereunder.

Section 404—FARMING

404.1—Any farming use, or combination of uses, as defined in Section 101, must be located on at least 3 acres of land.

404.2—All accessory buildings except farmers' roadside stands shall be governed by the same area requirements as those applicable to a principal building in the zone in which the farm is located.

404.3—Commercial reduction of inedible animal or vegetable matter and commercial slaughtering, except killing of poultry produced on the premises, are prohibited.

404.4 — Commercial piggeries (hog raising for other than family use) are permitted only on a farm of at least 10 acres, and no hogs shall be permitted within 150 feet of any land zoned or used for residential purposes.

404.5—Manure must be stored in places removed at least 100 feet from all boundary lines of the lot.

404.6—Farmers' roadside stands must be set back at least 35 feet from the nearer edge of the street pavement.

Section 405—FILLING STATIONS

405.1—Lighting—All lighting installations shall be such and be so arranged as not to increase traffic hazards or to cause direct or glaring reflection into residential premises.

405.2—Pump islands shall be located not less than 12 feet from the street right-of-way line. The Zoning Commissioner, however, before granting any Special

County Council of Baltimore County Maryland

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Introduced by Mr. Bartenfelder, Councilman

(Request of County Executive)

By the County Council, July 6, 1970.

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100. 1. A. 2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 108.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations" and the subtitle, "R.40 Zone-Residence, One-Family" and enacting in lieu thereof a new designation and title as follows:

"ARTICLE 2—ELEVATOR—APARTMENT RESIDENCE ZONES, BUSINESS AND MANUFACTURING ZONES, AND DISTRICTS"; by repealing Sections 200 to 217 (inclusive) and enacting in lieu thereof new Sections 200, 201 and 202; by repealing and re-enacting Subsection 232.5; by redesignating existing Section 232A as Section 232B; by redesignating existing Subsections 232A.1 to 232A.6 (inclusive) as 232B.1 to 232B.6 (inclusive); by adding new Section 232A; by redesignating existing Section 235A as Section 235B; by redesignating existing Subsections 235A.1 to 235A.6 (inclusive) as 235B.1 to 235B.6 (inclusive); by adding new Section 235A; by adding new Section 238A; by redesignating existing Section 238A as Section 238B; by redesignating existing subsections 238A.1 to 238A.5 (inclusive) as 238B.1 to 238B.5 (inclusive); by deleting Section 253 and enacting in lieu thereof, new Section 253; by repealing and re-enacting with amendments Subparagraph 405.2.A.4 and Paragraph d of Subsection 409.2; by adding new Section 480; by adding new Subsection 502.4 and by adding new Section 504; all being provisions of said Baltimore County Zoning Regulations, 1955, as amended.

WHEREAS, the amendments to the zoning regulations which are contained in this Bill, having been formulated in accordance with the procedure specified in sections 22-20 and 22-21 of the Baltimore County Code, 1968, the said several public hearings required by said sections having been held after the required public notice; now, therefore

SECTION 1. *Be it enacted by the County Council of Baltimore County, Maryland,* That subsection 100.1.A.2 be and it is hereby repealed and re-enacted with amendments as follows:

2. Zones are as follows: R.D.P. Zones—Rural: Deferred-Planning; R.S.C. Zones—Rural-Suburban: Conservation; D.R. 1 Zones—Density Residential, 1.0 Dwelling Units per Acre; D.R. 2 Zones—Density Residential, 2.0 Dwelling Units Per Acre; D.R. 3.5 Zones—Density Residential, 3.5 Dwelling Units Per Acre; D.R. 5.5 Zones—Density Residential, 5.5 Dwelling Units Per Acre; D.R. 10.5 Zones—Density Residential, 10.5 Dwelling Units Per Acre; D.R. 16 Zones—Density Residential, 16.0 Density Units Per Acre; R.A.E. 1 Zones—Residential, 40.0 Density Units Per Acre; R.A.E. 2 Zones—Residential, 80.0 Density Units Per Acre; B.L. Zones—Business, Local; B.M. Zones—Business, Major; B.R. Zones—Business, Roadside; M.R. Zones—Manufacturing, Restricted; M.L.R. Zones—Manufacturing, Light Restricted; M.L. Zones—Manufacturing, Light; M.H. Zones—Manufacturing, Heavy.

SECTION 2. *And be it further enacted,* That Article 1 be and it is hereby amended by adding sub-section 100.3A, said new sub-section to read as follows:

100.3A—The residential zones and zoning classifications as previously changed in Subsection 100.3 are further changed; the R.40, R.20, R.10, R.6, R.G., and R.A. zones and zoning classifications established before the effective date of this subsection by the official zoning maps and amendments thereto and by Subsection 100.1 as previously enacted are also changed; and all of them are redesignated on the effective date of this subsection as set forth below. Any requirement, stipulation, or designation with respect to said classifications in any law, ordinance, regulation, private agreement, or official zoning map shall be applied to or construed as the corresponding D.R. zoning classification, as follows, to the full extent of consistent applicability:

Zones heretofore classified as R.40 are now classified as D.R. 1;
Zones heretofore classified as R.20 are now classified as D.R. 2;
Zones heretofore classified as R.10 are now classified as D.R. 3.5;
Zones heretofore classified as R.6 are now classified as D.R. 5.5;
Zones heretofore classified as R.G. are now classified as D.R. 10.5;
Zones heretofore classified as R.A. are now classified as D.R. 16.

SECTION 3. *And be it further enacted*, That Section 101 be and it is hereby amended by deleting the following terms and definitions thereof:

"Acreage, Gross Residential; Density, Gross Residential; Density, Net; Dwelling, Duplex; Dwelling, Group House; Dwelling, One-Family; Dwelling, Semi-Detached; Dwelling, Two-Family; Hospital, Class A; Hospital, Class B; Street; Subdivision, Cluster" and by adding thereto in alphabetical order the following terms and definitions:

Accessory use or structure: A use or structure which-(a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use.

Apartment building: A dwelling containing three or more apartments.

Apartment, group-house: A dwelling unit which differs from a group house only in that it is situated on the same lot as the other dwelling units in the row.

Bedroom: The term "bedroom" includes a bedroom, any other room used principally for sleeping purposes, an "all-purpose room," a study, or a den, provided that no room having less than 100 square feet of floor area shall be considered a bedroom.

Community: A coherent urban area generally comprising three to five neighborhoods and a central concentration of public facilities and commercial uses necessary or appropriate to serve the population of the area as a whole, usually including a middle, junior-high or high school (or school-recreation center) and a variety store.

Density unit: An expression of extent or density of dwelling use as related to number of rooms in, or type of, dwelling unit, so that:

Each efficiency apartment is equivalent to 0.50 density unit;
Each 1-bedroom dwelling unit is equivalent to 0.75 density unit;
Each 2-bedroom dwelling unit is equivalent to 1.00 density unit;
Each dwelling unit with 3 or more bedrooms is equivalent to 1.50 density units.

Group house: Any one of a group of not less than three and not more than six attached dwelling units which have been constructed together in a lateral row surrounded by yard space, each dwelling unit separated from another by a party wall and situated on a separate lot.

Lot of record: A parcel of land with boundaries as recorded in the Land Records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof.

Neighborhood: A coherent urban area generally comprising the dwellings for a residential population of approximately 1,000 to 3,000 families and a more-or-less central concentration of the public facilities and business uses serving their everyday or frequent needs, usually including an elementary school (or school-recreation center) and a supermarket or grocery store.

Principal use: A main use of land, as distinguished from an accessory use.

Sewerage system, public: A sewerage system which is operated by the County or a public agency of metropolitan or regional jurisdiction, and which is owned by or meets design and performance standards whereby it is eligible for ownership by the County or such agency, whether or not it is part of or connected with the physical facilities of the metropolitan or regional sewerage system.

Street: A motorway which is not a freeway or expressway, but which has a right of way more than 20 feet in width.

1B02.2—Regulations, Standards, and Controls for Density, Bulk, Open Space, and Parking.

A. Dwellings. The maximum gross residential densities and height of dwellings, the minimum per cent of gross site area which must be in local open space tracts, and the minimum number of offstreet parking spaces required with respect to residential development in D.R. zones shall be as prescribed in the table below; provided, however, that higher or additional standards for the provision of other amenity open space, standards and methods for the inclusion and equitable apportionment of public amenity open space within the calculations of gross areas of tracts abutting the open space, and standards providing for greater heights of buildings in appropriate circumstances, all as more particularly set forth in Section 504, shall control when adopted pursuant to the authority of said section.

Zoning Classification	Maximum Gross Residential Density, in Dwelling or Density Units per Acre	Maximum Height of Buildings, in Feet	Minimum Per Cent of Gross Site Area at Least Open Space Tracts*	Maximum Number of Offstreet Parking Spaces per Dwelling or Density Unit, Except for Housing for the Elderly	Minimum Number of Offstreet Parking Spaces per Dwelling or Density Unit for Housing for the Elderly
D.R. 1	1.0 dwelling units/acre	50	0	2.0 per dwelling unit	1.0 per dwelling unit
D.R. 2	2.0 dwelling units/acre	50	0	2.0 per dwelling unit	1.0 per dwelling unit
D.R. 3.5	3.5 dwelling units/acre	50	0	2.0 per dwelling unit	1.0 per dwelling unit
D.R. 5.5	5.5 dwelling units/acre	50	0	2.0 per dwelling unit	1.0 per dwelling unit
D.R. 10.5	10.5 dwelling units/acre	50	25	1.75 per dwelling unit	1.0 per dwelling unit
D.R. 16	16.0 density units/acre	50	35	1.63 per density unit but not less than 1.0 per dwelling unit	1.15 per density unit

*Land within 35 feet of a window or other opening in a residential structure in a D.R. zone is not considered local open space.

B. Other Principal Uses. Density, bulk, open space, and parking regulations, standards, or controls for principal uses other than dwellings within zones of different classification shall be governed by provisions adopted pursuant to the authority of Section 504.

C. In a D.R. 16 zone, no building shall be constructed within 75 feet of land which is in any zone classified as D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5, or D.R. 10.5 and which is not within the same development tract.

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1B02.3—Special Regulations for Certain Existing Developments or Subdivisions and for Small Lots or Tracts in D.R. Zones.

A. In D.R. zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy, and development of, the alteration or expansion of structures upon, and administrative procedures with respect to:

1. Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Baltimore County Planning Commission and which has been used, occupied, or improved in accordance with the approved subdivision plan;

2. Any land in a subdivision tract which was laid out in accordance with the regulations of residence zoning classifications now rescinded, for which a subdivision plan tentatively approved by the Planning Board remains in effect, and which has not been used, occupied, or improved in accordance with such plan;

3. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in Subparagraph 1 or 2 and which is too small in gross area to accommodate six dwelling or density units in accordance with the maximum permitted density in the D.R. zone in which such tract is located; or

4. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in Subparagraph 1 or 2 and which is less than one-half acre in area, regardless of the number of dwelling or density units that would be permitted at the maximum permitted density in the zone in which it is located.

5. Any lot, or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission.

B. Standards Applicable to Existing Developments Etc. The minimum standards for net lot area, lot width, front-yard depth, single-side-yard width, sum of widths of both side yards, rear-yard depth, and height with respect to each use in a development described in Subparagraph A.1, above, shall be as prescribed by the zoning regulations applicable to such use at the time the plan was approved by the Planning Board or Commission; however, the same or similar standards may be codified and comparable bulk (height or area) standards for different permitted uses may be established and codified under Section 504, and these standards shall thereupon control in such existing developments. Development of any subdivision described in Subparagraph A.2 shall be in accordance with the tentatively approved subdivision plan therefor. Standards for development of lots or tracts described in Subparagraphs A.3, A.4 or A.5 shall be as set forth in Paragraph C, below.

C. Development Standards for Small Lots or Tracts.

1. Any dwelling hereafter constructed on a lot or tract described in Subparagraph A.3 or A.4 shall comply with the requirements of the following table:

Zoning Classification	Minimum Net Lot Area per Dwelling Unit	Minimum Lot Width, in Feet	Minimum Front Yard Depth, in Feet	Minimum Width of Individual Side Yard, in Feet	Minimum Sum of Side Yard Widths, in Feet	Minimum Rear Yard Depth, in Feet
D.R.1	40,000 square feet	150	50	30	80	50
D.R. 2	20,000 square feet	100	40	25	60	40
D.R. 3.5	10,000 square feet	70	30	20	50	30
D.R. 5.5	6,000 square feet	55	25	20	—	30
D.R. 10.5	3,000 square feet	30	20	20	—	30
D.R. 16	2,500 square feet	25	15	20	—	30

2. Other standards for development of small lots or tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504.

D. An amendment to any part of a development plan involving only property subject to the provisions of this subsection shall not be subject to the provisions of Paragraph D of Subsection 1B01.3.

Section 6. *And be it further enacted,* That the title to Article 2 "ZONES: USE, HEIGHT, AND AREA REGULATIONS" and the subtitle, "R-40 Zone-Residence, One-Family" thereunder be and it is hereby repealed and re-enacted with amendments, as follows:

ARTICLE 2.—ELEVATOR-APARTMENT RESIDENCE ZONES, BUSINESS AND MANUFACTURING ZONES, AND DISTRICTS

Section 7. *And be it further enacted,* That Article 2 is hereby amended by deleting all of Sections 200-217 (inclusive) and any and all interjacent undesignated provisions and titles, and by adding the following new sections in lieu thereof:

Section 200—*R.A.E. 1 Zones-Residence, Apartment, Elevator.*

200.1—General Provisions.

A. Statement of Legislative Policy. R.A.E. 1 zones provide for development of elevator-apartment buildings at moderate density.

These zones may be situated only near adequate community or town-center commercial facilities, particularly within convenient walking distance thereof. It is not intended that any R.A.E. 1 zones shall be established in such proximity or relation to an interchange that undue congestion would occur as a result of development within the zone.

This regulations are intended to encourage the best possible building designs and site planning.

B. Locational Requirement. Any R.A.E. 1 zone must be entirely located within 1000 feet of a C.C.C. district or within a town center as defined as Section 101.

200.2—Use Regulations in R.A.E. 1 Zones.

A. Uses Permitted. The following uses, only, are permitted:

1. Apartment buildings;

2. Offices: business, professional, governmental or institutional, in any apartment building of 25 or more dwelling units, with no accessory storage of merchandise (goods for sale), and subject to the limitations of Paragraph B;

3. The following retail or service uses, in any apartment building of 50 or more dwelling units, subject to the limitations of Paragraph B:

1. Barbershops
2. Beauty shops
3. Catering establishments, in any apartment building of 150 or more dwelling units
4. Chiropodists' offices
5. Clinics or group medical centers (including the practice of dentistry)
6. Delicatessens
7. Drug stores
8. Florist shops
9. Food stores
10. Health clubs
11. Laundromats, retail laundry and dry-cleaning collection and distribution stations, or dry-cleaning and pressing establishments
12. News stands
13. Opticians' or optometrists' offices

procedures which are not inconsistent with these regulations and which further the purposes hereof, as specified in the preceding sections of these regulations and as set forth below. However, no such policy or procedure, or amendment thereto, may hereafter be adopted except by a resolution which has been entered on and appended to the advance tentative agenda for a regular meeting of the Planning Board and thereafter approved at such meeting without amendment, all as shall be more particularly prescribed in the bylaws of the Planning Board.

504.2—Comprehensive Manual. The Office of Planning and Zoning shall compile and codify, in an appropriate and practical form, a comprehensive manual of the Planning Board's land-use and development policies and zoning resolutions. The manual shall include the statements of all policies and procedures adopted under Subsection 504.1 and all other formal Planning Board actions taken pursuant to these Zoning Regulations, the Subdivision Regulations, and such other land-use and development regulations as may hereafter be effected, except actions on subdivision plans or other routine actions in individual cases. The form of the manual may be such as to include, in addition, provisions of these Zoning Regulations, of the Subdivision Regulations, or of other rules, regulations, or laws, with the sources of all such provisions clearly identified. Such provisions may be printed together as they were promulgated, and placed in separate sections of the manual, or they may be separated and integrally codified with other manual provisions or statements, placed in order according to subject or other logical arrangement. The manual also may include such other matter as the Office of Planning and Zoning or the Planning Board deems relevant.

504.3—OPEN-SPACE MAINTENANCE POLICIES. NO PLAN FOR A UNIT DEVELOPMENT AND NO OTHER PLAN COVERING COMMON OPEN SPACE (INCLUDING LOCAL OPEN SPACE) MAY BE APPROVED UNDER THESE REGULATIONS UNLESS THE COUNTY HAS AGREED TO ACCEPT TITLE TO AND MAINTAIN THE OPEN SPACE OR HAS OTHERWISE AGREED TO PROVIDE CONTINUING MAINTENANCE OF THE OPEN SPACE, OR UNLESS CONTINUING MAINTENANCE IS ASSURED BY OTHER MEANS AS SET FORTH IN POLICIES ADOPTED IN ACCORDANCE WITH SUBSECTION 504.1, ABOVE. TO AFFORD THE LATTER ALTERNATIVE WITHIN A REASONABLE TIME, THE PLANNING BOARD SHALL FORMULATE AND ADOPT POLICIES REGARDING THE CONTINUING MAINTENANCE OF COMMON OPEN SPACE WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION.

~~Section 19. And be it further enacted, That this Act shall take effect March 31, 1971.~~

SECTION 19. *AND BE IT FURTHER ENACTED*, THAT EVERY PART OF EVERY SECTION AND ZONING REGULA-

TION OF THIS ACT ARE ENACTED INDEPENDENTLY AND ARE, THEREFORE, SEVERABLE; IF ANY PART IS DECLARED INVALID BY A COURT OF COMPETENT JURISDICTION, THE REST OF THIS ACT REMAINS VALID.

SECTION 20. *AND BE IT FURTHER ENACTED*, THAT ANY AMENDMENTS HEREIN, OR ANY NEW ZONING CLASSIFICATIONS PROVIDED FOR IN THIS BILL SHALL NOT BE PROMULGATED AS TO ANY EXISTING ZONING MAPS, BUT SHALL BE EFFECTIVE ONLY UPON THE ADOPTION BY THE COUNTY COUNCIL OF ANY NEW ZONING MAPS ON OR BEFORE MARCH 31, 1971.

SECTION 21. *AND BE IT FURTHER ENACTED*, THAT THIS ACT SHALL TAKE EFFECT FORTY-FIVE DAYS AFTER ITS ENACTMENT.

READ AND PASSED this 3rd day of August, 1970.

By Order:

Herbert Hohenberger, Secretary

PRESENTED to the County Executive, for his approval this 4th day of August, 1970.

Herbert Hohenberger, Secretary

APPROVED AND ENACTED: August 6, 1970.

Dale Anderson,

County Executive

I HEREBY CERTIFY THAT BILL NO. 100 IS TRUE AND CORRECT AND WILL TAKE EFFECT ON SEPTEMBER 19, 1970.

Harry J. Bartenfelder,

Chairman, County Council

Baltimore County, MD
Thursday, June 21, 2018

ARTICLE 4. Special Regulations

SECTION 402. Conversion of Dwellings

§ 402.1. For residential use.

For residential use:

A. The converted dwelling must be located on a lot that will meet the dimensional requirements shown in the schedule which follows.

B. Separate cooking facilities and a separate bathroom shall be provided for each family unit.

CONVERSION OF ONE-FAMILY DWELLINGS MINIMUM DIMENSIONS

	Width of Lot in Feet at Front Building Line			Lot Area In Square Feet		Side Yards (feet)	
Zone	Duplex[1]	Semi-Detached[1]	Each Add. Family	Two Families	Each Add. Family	Min. For One	Sum of Both
D.R.1	175	175	25	50,000	10,000	Int. 25 Cor. 50	Int. 60 Cor. 75
D.R.2	125	125	25	25,000	7,500	Int. 20 Cor. 35	Int. 50 Cor. 60
D.R.3.5	90	100	15	12,500	4,000	Int. 20 Cor. 30	Int. 40 Cor. 50
D.R.5.5	80	90	15	10,000	3,000	Int. 15 Cor. 25	Int. 35 Cor. 40
D.R.10.5	70	80	10	Interior 8,050 Corner 9,200	2,500	Int. 15 Cor. 25	Int. 30 Cor. 40
D.R.16	70	80	10	Interior 8,050 Corner 9,200	2,500	Int. 15 Cor. 25	Int. 30 Cor. 40

NOTES:

[1] The original BCZR 1955 definitions of "dwelling, duplex" and "dwelling, semi-detached" were deleted from Section 101 by Bill No. 100-1970. The entries previously read as follows:

"Dwelling, Duplex: A two-family detached building with one housekeeping unit over the other.

"Dwelling, Semi-detached: A building that has two one-family housekeeping units erected side by side on adjoining lots, separated from each other by an approved masonry party wall extending from the basement or cellar floor to the roof along the dividing lot line, and separated from any other building by space on all sides."

Baltimore County, MD
Friday, June 29, 2018

ARTICLE 1. General Provisions

SECTION 101. Definitions

[BCZR 1955]

§ 101.1. Word usage; definitions.

[Bill No. 149-1987]
Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these regulations, certain terms and words are defined below.
Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged.

ACCESSORY APARTMENT

A second living quarters within a principal single-family detached dwelling or within an accessory building situated on the same lot as the principal single-family detached dwelling and in compliance with Section 400, with dedicated bathing and cooking facilities, and located on owner-occupied property, subject to the following:
[Bill No. 49-2011]

A. The owner may occupy either the principal dwelling or the accessory apartment;

B. The occupant(s) of the accessory apartment and the occupant(s) of the principal single-family detached dwelling shall be immediate family, related as grandparents, parents, or parents' children by blood, marriage or adoption;

C. The accessory apartment is provided without compensation; and

D. The accessory apartment, whether located within the principal dwelling or in the accessory building, shall comply with all laws, regulations, and codes affecting residential occupancy.

ACCESSORY BUILDING

One which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building.

ACCESSORY USE OR STRUCTURE

A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or

IN THE MATTER OF WILLIAM M. LAGNA – Legal Owner/Petitioner 3920, 3922, 4000 AND 4002 CHESTNUT ROAD BALTIMORE, MD 21220	*	BEFORE THE BOARD OF APPEALS FOR
RE: Petition for Special Hearing to approve the legal non-conforming status of an existing private boat club with piers and 3 existing single family dwellings	*	BALTIMORE COUNTY Case No. 12-239-SPH

* * * * * * * * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Office of Administrative Hearings in which the Administrative Law Judge ("ALJ") denied the Petitioner, William M. Lagna's request for Special Hearing pursuant to Baltimore County Zoning Regulations ("B.C.Z.R.") §500.7 ("Lagna") to approve the legal non-conforming status of a private boat club with piers and 3 existing single family dwellings.

A hearing was held before this Board on February 5, 2013 and on April 17, 2013. The Petitioner was represented by Michael McCann, Esquire and Peter Max Zimmerman, People's Counsel for Baltimore County participated. A public deliberation was held on July 16, 2013.

Procedural History

The request for relief here was initiated as a zoning violation case (Civil Citation No. 103205) in which Mr. Lagna was given 90 days to obtain non-conforming use status of his Property as a "boat club." (PC. Ex. 3).

Appeals of Baltimore County 262 Md. 265 (1971). In general, the law does not favor nonconforming uses and contemplates their gradual disappearance. *Gardner, supra.*

2. Zoning Merger.

The merger of lots for zoning purposes occurs when one lot is used in service to another lot and both lots are held under common ownership. *Remes v. Montgomery County*, 387 Md. 52, 64 (2005). Merger is derived from the common owner's intent as evidenced by "integra[ting] or utilize[ing] the contiguous lots in the service of a single structure or project...." *Id.* at 65. Intent is to be derived from the facts. *Id.*

In *Remes*, the Court of Appeals emphasized that each case must be examined on its own facts. The facts which swayed the Court of Appeals in finding merger was that the owners received a building permit to construct a swimming pool on the vacant lot as "an accessory use to their home on Lot 12;" the swimming pool violated the prescribed setbacks from the street and from the adjoining lot (unless the swimming pool was dedicated to the improved lot); the owners received a building permit to construct an addition on the house which encroached upon the vacant lot's setback requirements; there was a circular driveway that traversed both lots; and, for over 30 years, the lots had been assessed for tax purposes as one lot.

The *Remes* Court explained that the setback encroachments were significant in finding merger:

> Thus, even if the elder Duffies might have imagined that Lot 11 would "absorb" the setback deficiencies by their Lot 11 pool and Lot 12 home additions, the

> setback requirements delineated in Montgomery County's zoning ordinance prohibit such adjacent lot encumbrance and Lot 11 never actually fulfilled this role in service of Lot 12. What respondents fail to acknowledge is that the zoning merger that occurred in this case forestalled the creation of a nonconformity on Lot 12. Without the use of Lot 11 as accessory to Lot 12, the uses of both lots would have violated the zoning ordinance.

Id. at 73.

Decision

1. Non-conforming Use as a Boat Club.

After reviewing all of the testimony and evidence presented, the Board has determined that Mr. Lagna's storage and collection of his boats on his Property does not qualify as a non-conforming existing boat club. In this Board's view of the evidence, Mr. Lagna did not provide evidence that a boat or swim club has existed on the Property since 1937. Even if the evidence showed such use continuously since 1937, Mr. Lagna failed to prove that a boat club has existed since 1994.

We were provided only scant information as to the nature or extent of either the Lauraville Swim and Boat Club or the Seneca Creek Maritime Club as either may have originated or existed in the 1930s or 1960s. There was no testimony by anyone with knowledge for either club of: the activities of either club; the years in existence; whether the use was as a boat club, swim club or men's club or some or all of those; whether the use(s) existed continuously and without interruption for 1 year; the number boats on the Property; the location of boats on the Property; the membership payments; or the

organizational structure of the club(s). More importantly, there was no evidence presented as to whether either of these clubs existed continuously without interruption between the 1937 (Lauraville Swim Club) or later from 1963 (SCMC) until Mr. Lagna's purchase in 1994 as required by BCZR 104.1.

Even if we were convinced that a boat/swim/men's club was conducted at the Property between 1937 or 1963 through 1994 when Mr. Lagna purchased the Property, the evidence produced by Mr. Lagna was that the club was abandoned in 1993 and therefore the use was extinguished even before Mr. Lagna's purchase in 1994. (Pet. Ex. 11).

Even if the club(s) were not abandoned, we do not find, based on the evidence, that Mr. Lagna has been operating a boat club on the Property without any cessation or abandonment of activities for one year or longer since 1994. He did not produce any evidence from the community that a boat club has ever existed at the Property between 1994-2013. Credible testimony from neighbors who have lived in the neighborhood for decades was provided – that no club of any kind has existed at the Property since Mr. Lagna's purchase. The testimony was that, other than Mr. Lagna and his daughter taking an occasional boat out, the Property is dormant on the weekends, with "no signs of life." We would expect that a boat club would be the most active on weekends during summer months. Moreover, the deterioration of the main house and piers supports this testimony as neither the building or piers are safe for conducting any club activities.

We would also expect that if a boat club had existed since 1994, evidence would have been presented of the organizational structure of a corporation which entity would

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be filing its own tax returns. Instead, Mr. Lagna has been claiming either a profit or loss for a combination of "boat club, rentals and internet security products." (Pet. Ex. 13). In further examining his Schedule Cs, we note that in 2005, he fails to list "boat club" but files the Schedule for "real estate rentals, internet, marina". We find this to be an admission by Mr. Lagna that any "boat club" use by him terminated in 2005. .

Further examination of his 2007 Schedule C reveals that Mr. Lagna does not list "boat club" but rather he continues to identify his business as a "marina." As pointed out by People's Counsel, while the RC 5 zone initially allowed marinas and boatyards by special exception, that use was repealed shortly after the 1972 enactment of the business maritime zones.

This Board would also expect that a boat club would have insurance, a separate bank account, advertisements or a website, or at least a sign on the Property notifying people of its existence. We would expect that it would be common knowledge in the neighborhood if a boat club really existed. We considered the evidence presented in light of the fact that the request here was to legitimize a non-conforming which arose out of a zoning violation. Had the operation of a boat club on the Property been the goal, we believe that Mr. Lagna would have sought approval of a non-conforming use in 1994.

Finally, even if the facts proved Mr. Lagna's intent to operate a boat club, we find that his current use is an intensification and change from the original boat, swim and/or men's club. By the aerial photos, we can see the increase in the number of boats stored all over the Property. (People's Counsel Ex. 1B, 16B and 16C).

For all the foregoing reasons, we find that Mr. Lagna's use of the Property does not satisfy the non-conforming use standard.

2. Merger of 4 Lots

Under the present RC5 zoning, BCZR §415A permits only one recreational boat for each lot occupied by a single-family detached dwelling, except for boats under 16 feet which may be kept if not mounted on a trailer. It reads as follows:

> Contrary provisions of these regulations notwithstanding, one recreational vehicle may be stored on a residential lot as set forth below. Such vehicle, except a truck camper, shall have a current license, may not be lived in, or otherwise occupied, when stored on a lot and shall be mechanically ready to be moved at any time. A recreational boat, whether mounted on a trailer or stored on land with or without the use of supports, is subject to these provisions. A boat less than 16 feet in length is not subject to these provisions, except when such boat is mounted on a trailer. The space occupied by such a recreational vehicle or boat may be counted as a required parking space.
>
> > A. On a lot occupied by a single-family detached or semi-detached dwelling, one such vehicle may be stored 2 1/2 feet from any rear or side lot line; however, when in a side yard it must be situated at least eight feet to the rear of a lateral projection of the front foundation line of the dwelling. Such vehicle may be stored in any garage.

Piers are restricted under §415.A.2 which provides:

> A residentially used or vacant residentially zoned waterfront lot shall have no more than one pier (whether fixed or floating). As of November 15, 1993, the number of boats, not including those smaller than 16 feet, permitted to be stored at a pier, slip, buoy or any other mooring device in the water at such a lot shall be limited in accordance with the following schedule:

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Waterside Lot Line	Number of Boats Permitted
0 to 50 feet	4
51 to 100 feet	5
Over 100 feet	6

Applying the holding in *Remes*, Mr. Lagna owns all 4 lots. Other than Ron Robbins who has been renting one of the bungalows since 1995, the other buildings on the Property have not been occupied since Mr. Lagna's purchase in 1994. Mr. Lagna has continued to live at 221 Bowleys Quarters Road. Even if Mr. Lagna wanted to rent the main house, the photographs reveal that it is not habitable. (People's Counsel Ex. 16A). The 4 buildings are not contained within the 4 lot lines. (Pet. Ex. 2). As set forth herein, buildings straddle the lot lines. *Id.*

Mr. Lagna's storage of boats across the 4 lots is indicative of his intent to integrate and use the lots as one single property. There was no evidence presented that since Mr. Lagna's purchase, there has been any separation of the four lots for residences or other uses.

Consequently, applying *Remes* to the facts of the present case, we find that based on the evidence, the 4 lots have merged into one single property for zoning purposes. Accordingly, under BCZR §415.A, Mr. Lagna is entitled to store 1 recreational boat on the Property with the exception of boats under 16 feet in length unless such boat is

mounted to a trailer. Under BCZR, 415.A.2, the Property shall have no more than one pier.

ORDER

THEREFORE, IT IS THIS 12th day of September, 2013 by the County Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Hearing seeking relief pursuant to §500.7 of the Baltimore County Zoning Regulations to approve a legal non-conforming status of an existing private boat club with piers and 3 existing single family dwellings, be, and the same is hereby, DENIED; and it is further,

ORDERED that the 4 lots have merged into one single Property for zoning purposes; and it is further,

ORDERED that the Petitioner shall comply with BCZR §415 with regard to the number of boats and piers permitted for one single Property.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Andrew M. Belt, Chairman

Maureen E. Murphy

Wendell H. Grier

2016 WL 327029

Only the Westlaw citation is currently available.
UNREPORTED
Court of Special Appeals of Maryland.

William LAGNA
v.
PEOPLE'S COUNSEL for BALTIMORE COUNTY.

No. 0036, Sept. Term, 2015.
Jan. 27, 2016.

WOODWARD, ARTHUR, and ROBERT A. ZARNOCH (Retired, Specially Assigned), JJ.

Opinion

ARTHUR, J.

*1 In an effort to legitimize out-of-water boat storage on his residentially-zoned property, landowner William Lagna petitioned to establish the right to use his property for a nonconforming use as a "private boat club." Both the Baltimore County Office of Administrative Hearings and the Baltimore County Board of Appeals denied his request after hearings. The Circuit Court for Baltimore County affirmed the Board's decision. Concluding that there is no basis for reversal, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

A. *The Lagna Property*

This case concerns a waterfront property, slightly less than one acre in size, along Seneca Creek in the Bowley's Quarters area of eastern Baltimore County. Lot lines originally platted in the 1920s run north and south, dividing the property into four narrow lots. The original owners of the four lots disregarded those divisions and built four structures, each straddling the interior lot lines.

Two bungalow-style dwellings stand near the southern property line along Chestnut Road. A larger house is located closer to the northern property line along Seneca Creek. Another, smaller structure is located to the east of the main house.[1] Over time, the property's owners added a gazebo, a shed, a boat ramp, and two large piers extending from the western edge of the property into Seneca Creek.

In the early twentieth century, the property was used both for residential purposes and for recreational purposes. As was common for waterfront properties in the area during that time period, the property served as the site of a small private club. The Lauraville Boat and Swim Club first operated on the property in 1937, followed by the Blue Diamond Boat Club in or around 1952, and then the Seneca Creek Mariners Club in or around 1963. The popularity of water-oriented clubs in Bowley's Quarters declined significantly in the 1950s, after the opening of the first span of the Chesapeake Bay Bridge allowed direct driving access to the Eastern Shore.

Lagna and his wife purchased the property and its various improvements in January 1994. In the deed, the Lagnas affirmed: "the land conveyed in said Deed is residentially-improved owner-occupied real property and that residence will be occupied by us." Lagna, however, did not follow through on his plans to use the property as his residence. He continued to reside at an inland property.[2]

B. *Code Enforcement Action Against Lagna*

The zoning classification for Lagna's property is R.C.5, "Resource Conservation—Rural Residential." Under the Baltimore County Zoning Regulations ("BCZR"), the owner of R.C.5 property is permitted as a matter of right to use the property for a single-family detached dwelling. BCZR § 1A04.2(A). In the past, zoning regulations permitted owners to obtain a special exception to use R.C.5 property for boatyards or marinas, but those uses are no longer permitted in an R.C.5 zone even by special exception. *See* BCZR § 1A04.2(B).[3]

*2 The BCZR limits the number of boats and other recreational vehicles that may be stored on residential lots. *See* BCZR § 415A.[4] In 2011, a Baltimore County Code Enforcement Officer issued Lagna a citation for storing recreational boats on his property in excess of the maximum number of such boats permitted in an R.C.5 zone. An administrative law judge ("ALJ") of the Baltimore County Office of Administrative Hearings held a hearing regarding Lagna's "out-of-water boat storage on residential property" and his alleged "failure to cease operation of a Marina in [an R.C.5] zone—not allowed by Right or Special Exception[.]" In his defense, Lagna argued that the property historically served as the site of a "boat club" since before the initial adoption of zoning regulations in 1945. Lagna presented testimony and exhibits in an effort to show that various social and boat-related activities had continued on the property without interruption since 1937 under different club names.

On February 8, 2012, the ALJ issued written findings of fact and conclusions of law. The ALJ found: "Absent a ruling by an appropriate authority that the subject property is, in fact a permitted non-conforming use as a marina or other boat[-]related entity, the Inspector has established that the number of boats clearly stored on the site exceeded that permitted under its existing RCS zoning." The ALJ imposed a penalty of $1,000 and ordered Lagna to bring his property in compliance with the zoning regulations. The ALJ suspended the penalty, however, and directed Lagna to file a petition for special hearing within 90 days "to determine and resolve the zoning use and status of the so-called 'Seneca Creek Mariners Club' property."

C. *Lagna's Petition for Special Hearing*

On March 3, 2012, Lagna petitioned for a special hearing to determine "the legal nonconforming status of an existing private boat club with piers & 3 existing single family detached dwelling[s]." In an attachment to his filing, Lagna asserted "that the entire property was, and continues to be, mixed use residential with boat club and that the piers and boat ramp may be used by the four (4) residences ... and a private boat club with ... additional storage of boats on trailers up to the maximum allowed per lot for each of the four (4) residential lots."

As additional relief, Lagna asked for an order adjusting the interior lot lines. He attached a site plan with three alternative sketch plans, each of which would subdivide the property so that each of the four structures would be located on its own separate lot.

After review of Lagna's proposal, the Baltimore County Department of Planning recommended that his requests be denied. Based on aerial photographs from 2002, 2005, and 2008, the Department of Planning found that boat storage on Lagna's property had "intensified significantly from 2002 to the present." According to the Department's report, inspection of the property revealed that the accumulation of boats and trailers on the property gave it "the appearance of a commercial boatyard" which was "not compatible with the rural waterfront character of the surrounding residential community."

*3 After a hearing, an ALJ issued an opinion and order denying Lagna's petition. The ALJ concluded that, even though Lagna had offered some evidence that "at one time a men's club or boat club of some sort was conducted on the premises," he had not demonstrated that "that since 1993 he ha[d] consistently operated a 'boat club' on the premises, without a cessation or abandonment of activities for one year or longer[.]"

The ALJ also rejected Lagna's request for a lot-line adjustment on the grounds that a re-subdivision of the property was not the proper subject of a zoning hearing. The ALJ further wrote, "it would seem ... that if anything, the four lots owned by Mr. Lagna have merged under the doctrine of zoning merger, so as to create (for zoning purposes at least) one lot where there had been four."[5] Because the original developers of the property had disregarded the interior lot lines and testimony that Lagna had expressed his intention at the time he acquired the property to build a new home on the premises, the ALJ concluded that "the owners' intent was to treat the property as a single lot." Accordingly, the ALJ determined that Lagna was required to comply with the boat storage restrictions for a single waterfront lot as set forth in BCZR § 415A.

D. *Hearing Before the Baltimore County Board of Appeals*

Lagna appealed from the ALJ's decision to the Baltimore County Board of Appeals. The Board heard the matter de novo on February 5, 2013, and April 17, 2013.

At the hearing, Lagna withdrew his request for a lot-line adjustment and continued to seek a determination regarding the status of a nonconforming use on the property. He then attempted to establish, through a combination of circumstantial evidence and direct testimony, that the property had been used continuously since 1937 both for residential purposes and as a "boat club" and that he had continued to operate a club on the property after he acquired it in 1994.

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lost." *Id.* at 270. The owner in that case had established a valid nonconforming use of residentially-zoned lots as a general parking facility for nearby businesses (*id.* at 265–67), but the proprietor later extended his use to include truck storage for a freight hauling business, while expanding his operations in intensity, volume, and area. *Id.* at 269. This Court directed the Board on remand to determine whether those expansions represented an "actual change" from the preexisting uses of the lots, by considering the following factors: "(1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use; (2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind; (3) does the current use have a substantially different effect upon the neighborhood; (4) is the current use a 'drastic enlargement or extension' of the original non-conforming use." *Id.* at 269–70.

In the present case, even crediting testimony that Lagna continued to operate a "club" of some sort and even accepting that the clubs of both Lagna and his predecessors to some extent involved boat-related activities, the record still supported the Board's conclusion that Lagna's right to continue any such nonconforming use had terminated upon a "change from such nonconforming use to any other use whatsoever[.]" BCZR § 104.1. The right to continue a nonconforming use depends on the continuity of the substantive characteristics of the use, not the mere continuity of a label such as "club," "boat club" or even "Seneca Creek Mariners Club." *See McKemy*, 39 Md.App. at 269 (explaining that, in determining whether owner's use had exceeded scope of preexisting use, "the Board was not required to assume, and should not have assumed, that the lowest common denominator was 'parking,' or even 'parking' in conjunction with a business across the street").

Testimony from Lagna's neighbors, which the Board expressly credited, supported the conclusion that Lagna's use of the property differed in character, nature, and effect from the use of the property by his predecessors. Prior owners had operated primarily a social club and incidentally stored a few boats near the buildings on the northern portion of the property; over time, Lagna transformed the site into what appeared to be predominantly an out-of-water boat storage facility, both as a business and for a personal collection, extending to the southern portions of the property along Chestnut Road. In light of the factors outlined in *McKemy*, 39 Md.App. at 269–70, the Board's determination that Lagna had transformed the prior use of the property into "any other use whatsoever" (BCZR § 104.1) was at least fairly debatable.[11]

II.

*13 After denying Lagna's request to approve the use of the property as a private boat club, the Board of Appeals also declared that the four lots subject to his petition had "merged into one single [p]roperty for zoning purposes," and thus that Lagna must "comply with BCZR § 415 with regard to the number of boats and piers permitted for one single [p]roperty." Wishing to treat his property as four separate properties for the purposes of boat storage, Lagna now asks this Court to negate that declaration. He contends: that the Board lacked authority to decide issues of lot merger or boat storage; that the evidence was legally insufficient for the Board to conclude that the lots had merged; and that the zoning merger of the lots amounts to an unconstitutional confiscation of his property. For various reasons, all of these arguments fail.

Lagna first argues that the Board should not have even considered whether his lots should be treated as a single property for the purpose of determining the number of boats permitted on his property, because he says that those issues were not properly before the Board. He relies on BCZR § 500.7, which grants "any interested person" the right to petition for a special hearing "to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations." Lagna argues that his petition "obviously[ ] sought only the former type of relief" regarding nonconforming use, and therefore that the scope of the hearing did not include his other rights with respect to the property.

The record does not support Lagna's assertions that the Board unilaterally "took it upon itself to address and affirmatively rule upon" the matters of lot merger and boat storage under BCZR § 415A. Lagna first filed his petition at the direction of an ALJ who had suspended a penalty against Lagna for his violations of BCZR § 415A. In an attachment to his petition, Lagna asserted that his

property could "be used by the four (4) residences ... and a private boat club with, as provided by Section 415c [sic], additional storage of boats on trailers up to the maximum allowed per lot for each of the four (4) residential lots." In his supporting memorandum, Lagna explained that his petition sought "essentially four categories of relief": confirmation of his rights regarding nonconforming use; confirmation of his rights regarding nonconforming structures; a lot-line adjustment re-subdividing his property into four separate lots; and finally "confirmation regarding the maximum number of boats allowed at the property." His memorandum went on to argue that, "[b]ased on the lot lines of the four lots at the subject property," BCZR § 415A permitted Lagna to store "a substantial number of boats" on land and on the piers at his property. The ALJ, recognizing that Lagna had requested "a determination of the number of boats [Lagna] may keep on the premises," concluded that the property should be treated as a single property for zoning purposes, based on the doctrine of lot merger.

*14 Dissatisfied with the ALJ's decision regarding boat storage, Lagna then attempted to narrow the scope of his petition by withdrawing his request for a lot-line adjustment. At the de novo hearing, People's Counsel argued that the Board should affirm the ALJ's finding that the lots had merged into one lot for the purposes of the boat storage limits in BCZR § 415A. At one point, Lagna objected to a question posed by People's Counsel to Lagna's expert witness regarding merger of the lots (on the ground that the question fell outside of the scope of the proceeding). The Board did not rule on the objection, but the Chairman informed Lagna that "[t]he reason we're here is because we have a lot of boats on this property." In his post-hearing memorandum, Lagna did not ask the Board to exclude the lot-merger issue from its decision. Instead, Lagna affirmatively argued that the ALJ's determination that the lots had merged was incorrect on the merits, asserting that "the doctrine of zoning merger" was "not applicable" because Lagna had "never intended to merge these four lots[.]"

In sum, Lagna himself introduced the issue of "the maximum number of boats allowed at the property," and that issue involved a determination of whether the property should be treated as four separate lots. Lagna's post-hearing brief reflects that he knew and had reason to know that the Board would make a determination on lot merger. Instead of using that opportunity to bring an argument about the proper scope of the hearing to the Board's attention, Lagna waived any such objection when he asked the Board to reverse the ALJ's lot-merger determination on the merits. The issue that Lagna seeks to raise here cannot be resurrected in the subsequent action for judicial review. *See Anne Arundel Cnty. v. Nes*, 163 Md.App. 515, 535 (2005) (holding that landowner waived any claim that board of appeals had erred in failing to grant waiver of certain requirements by expressly abandoning that position before the board); *Capital Commercial Props., Inc. v. Montgomery Cnty. Planning Bd.*, 158 Md.App. 88, 102 (2004) (holding that party failed to preserve issue of whether planning board's decision would violate provision of zoning ordinance by failing to raise that argument to the board); *id.* at 104–05 (where party's argument "involve[d] the construction of the ordinances administered by the Board," holding that the issue "should have been presented for decision by the Board in the first instance" rather than being raised for the first time in an action for judicial review); *Brzowski v. Maryland Home Improvement Comm'n*, 114 Md.App. 615, 637–38 (1997) (holding that party waived argument that agency's action exceeded its authority where party brought a number of objections to agency's attention without presenting that argument to the agency).[12]

Before the Board, however, Lagna did argue that the doctrine of lot merger should not apply to his property when he asserted that he did not intend to merge the four lots. The Board rejected that assertion, finding that, in addition to actions of the prior owners in building structures that straddled the interior lot lines, "Lagna's storage of boats across the 4 lots is indicative of his intent to integrate and use the lots as one single property." In addition, the Board emphasized that Lagna had not presented evidence of "any separation of the four lots for residences or other uses." On appeal, Lagna concedes that evidence that "structures are sited across lot lines" and evidence of "storage of a boat across a property line" could indicate an owner's intent to merge the lots, but he asserts that this evidence was "insufficient ..., as a matter of law, to supply the intent necessary to merge the lots." He identifies no legal authority supporting this assertion.

*15 Historically, the doctrine of zoning merger emerged in many jurisdictions to advance the legislative goal of restricting undersized parcels. *See Friends of the Ridge v. Baltimore Gas & Elec. Co.*, 352 Md. 645, 653 (1999).[13] The Court of Appeals first recognized the doctrine of

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zoning merger in *Friends of the Ridge*, a Baltimore County zoning case, which held "that a landowner who clearly desires to combine or merge several parcels or lots of land into one larger parcel may do so" by "integrat[ing] or utiliz [ing] the contiguous lots in the service of a single structure or project[.]" *Id.* at 658. Generally, a finding that adjacent lots under common ownership have merged for zoning purposes "require[s] that the intent of the owner to merge the parcels be expressed, though little evidence of that intent is required." *Id.* at 653. The Court has emphasized that the owner's "[i]ntent is to be derived from the facts." (*Remes v. Montgomery Cnty.*, 387 Md. 52, 66 (2005)), and "[e]ach case must be examined on its own." *Id.* at 68. For example, in *Remes*, the Court of Appeals held that a vacant lot merged into the adjacent, developed lot by operation of law, even without any formal request for a replatting, where the common owner installed a swimming pool on the vacant lot as an accessory to the house on the other lot and built a semi-circular driveway over both lots. *Id.* at 82.

This Court will not set aside a local zoning board's determination regarding lot merger, as long as the decision is at least fairly debatable and not the product of a clear error. *See Mueller v. People's Counsel for Baltimore Cnty.*, 177 Md.App. 43, 94 (2007). In the instant case, the record included substantial evidence that Lagna intended to use his four contiguous lots in the service of a single project. Like the former owners who had made improvements across the internal lot lines, Lagna himself disregarded the internal lot lines in his use of the property. His stated intent, in the deed through which he acquired the property, was to use the four lots for a single-family residence. In his memorandum to the Board, Lagna raised the confusing argument that he never intended to merge the lots because "he and his predecessors have always used the four lots *in combination for the fulfillment of [a] single use.*" (Emphasis added.) This statement alone serves as an admission of his intent to merge the lots. See Remes, 387 Md. at 82 (emphasizing that common owner's "use" of two adjacent lots "in concert is consistent with zoning merger") (second emphasis added). Indeed, the premise underlying Lagna's petition was never that he had operated four different boat clubs on the four different lots, but that he was using all four lots in service of a single club, without regard to any subdivision. The Board nonetheless found that Lagna's combined use of the four lots for storage and collection of boats was not the same use as the prior combined use of the lots by the former owners as a "boat, swim, and/or men's club."

[16] As a final issue, Lagna contends separately that the Board's merger of the four lots for zoning purposes constituted an unconstitutional "confiscation" of his property. Despite the opportunity to raise any such constitutional concerns when he argued to the Board that lot merger was inapplicable, Lagna failed to raise these arguments to the Board. His request to raise new constitutional issues on appeal is "contrary to the well-established" rule that "constitutional challenges involving a question of fact must be raised before the agency to prevent waiver." *Haliel v. City of Gaithersburg*, 180 Md.App. 238, 255 (2008).

In any event, Lagna's unpreserved argument invokes constitutional issues in name only. He contends that "in the absence of sufficient proof" the Board was "not constitutionally authorized to deprive Mr. Lagna of his right to operate the boat club or his right to four lots." In essence, Lagna seeks to recycle his challenge to the Board's factual determination as a "constitutional" issue. We reject this "attempt to conjure a constitutional violation out of a routine" factual determination committed to the agency's discretion. *McAllister v. McAllister*, 218 Md.App. 386, 406 (2014). As stated above, the record was adequate to support the Board's conclusion that the four lots had merged into one for zoning purposes.

CONCLUSION

We affirm the circuit court's judgment affirming the decision of the Board of Appeals.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

All Citations

Not Reported in A.3d, 2016 WL 327029

Footnotes

* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1–104.

1 The two bungalows are known as 3920 and 3922 Chestnut Road, the larger house is known as 4000 Chestnut Road, and the final structure is known as 4002 Chestnut Road.

2 In reaching the decision under review here, the Board of Appeals took notice of the fact that Lagna's residence at 221 Bowley's Quarters Road had been the subject of a prior appeal before this Court. In 1989, Lagna obtained a variance to keep five recreational boats on his Bowley's Quarters Road property in lieu of the maximum of one such vehicle permitted by zoning regulations. In 2006, a hearing officer fined Lagna for storing as many as 30 vehicles on that property, finding that Lagna had transformed the premises into "a marine storage yard or salvage yard[,] ... something far different tha[n] the five (5) small boats considered in the [V]ariance." Lagna failed to take an administrative appeal from a zoning commissioner's 2007 decision, which found that Lagna had abandoned the variance. This Court then upheld a 2011 decision of the Baltimore County Board of Appeals, which found that the 2007 decision was final with respect to the issue of Lagna's abandonment of the variance. *William Lagna v. Baltimore Cnty.*, No. 2367, Sept. Term 2011 (filed Apr. 2, 2013) (unreported).

3 BCZR § 101.1 defines a "boatyard" as "[a] commercial or nonprofit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, berthing, securing, fueling and general servicing of marine craft of all types." A "marina" is defined as "[a] modern boat basin, restricted to recreational marine craft of all types, with facilities for one or more of the following: berthing, launching and securing such craft, and permitting incidental minimum provision for refueling and emergency servicing, as well as the incidental sale of boats and also land (out-of-water) storage as provided in [BCZR §] 417.7." BCZR § 101.1.

4 BCZR § 415A.1 limits the number of recreational vehicles that may be stored on land or mounted on a trailer to one recreational vehicle per residential lot. Recreational boats, other than boats less than 16 feet in length that are not mounted on a trailer, are subject to the limitation of one recreational vehicle per residential lot. A residential waterfront lot may have no more than one pier, and an owner may store between four to six boats at a pier, depending on the length of the waterside lot line. BCZR § 415A.2. Out-of-water boat storage is permitted on residential waterfront lots from November 1 through March 31, for up to two or three boats, depending on the length of the waterside lot line. BCZR § 415A.3(A).

5 *See generally Remes v. Montgomery Cnty.*, 387 Md. 52, 63–68 (2005). "Merger, in the context of land use, is the joining of contiguous parcels under common ownership, so that they are viewed as a single parcel for purposes of zoning regulations." *Mueller v. People's Counsel for Baltimore Cnty.*, 177 Md.App. 43, 94 (2007).

6 Zoning regulations applicable within the Chesapeake Bay Critical Area define a "yacht club" as: "A use of waterfront land by a social club which provides recreational facilities, including boat docking, for members and their guests." BCZR § 101A.1. Yacht clubs are permitted in some zones, but not in an R.C.5 zone. See BCZR § 1A04.2.

7 One witness offered an aerial photograph from 1995 showing only two boats stored near the houses at the northern border of the property. More recent photos taken from the air and from the ground revealed approximately 30 boats across the property. On cross-examination, Lagna admitted that he personally owned 23 of 29 boats stored on the property.

8 The questions in Lagna's brief are:

A. Did the Board of Appeals err in concluding that there was "no evidence" supporting that the boat club at the property is a legal nonconforming use?

B. Was there substantial evidence to support the conclusion that the boat club was operating in 1945 when the zoning regulations were adopted and, thus, constituted a legal nonconforming use?

C. Was there substantial evidence to support the conclusion that Mr. Lagna has not changed, discontinued or abandoned the legal nonconforming use under 104.1 of the zoning regulations?

D. Was there substantial evidence to support that the boat club was not in existence in 1988 such that it was grandfathered under section 103.5 of the zoning regulations?

E. Did the Board of Appeals err in addressing the issue of lot merger when that issue was not presented in Mr. Lagna's Petition for Special Hearing?

F. Even if the Board of Appeals had authority to address the issue of lot merger, did the Board err in concluding that the four lots had merged?

G. Was the Board's decision that the four lots are merged an unconstitutional confiscation of Mr. Lagna's property?

9 Maryland Rule 8–504(a)(5) requires that every appellate brief must include a "concise statement of the applicable standard of review for each issue, which may appear in the discussion of the issue or under a separate heading placed before the argument[.]" A single footnote in Lagna's brief includes a quotation describing the substantial evidence test.

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10 In his brief, Lagna protests that the Board "ignored" testimony from his witnesses, because the Board failed to discuss some of that evidence in its opinion. Lagna also insists that the Board erred when it stated: "[I]n this Board's view of the evidence, Mr. Lagna did not provide evidence that a boat or swim club has existed on the Property since 1937." We agree with Lagna that it would be an overstatement to say that he produced "no evidence" in support of his assertions. Viewing the decision in a light favorable to the agency, however, it is apparent that the Board considered the evidence presented by Lagna and that the Board's decision relied only on the evidence that the Board found to be credible and persuasive.

11 Before the Board, Lagna relied only on BCZR §§ 101.1 and 104.1, general provisions regarding nonconforming use. Before this Court, Lagna attempts to raise the argument that use of the property as a boat club is "grandfathered" by a separate provision applicable to properties within the Chesapeake Bay Critical Area, which states that "[t]he county shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on June 13, 1988." BCZR § 103.5(C). The Board did not address the applicability of this provision because Lagna failed to raise the issue to the Board. In any event, his new argument fails on appeal because we uphold the Board's determinations that Lagna did not continue the preexisting uses of the property after his acquisition in 1994, or alternatively that he had intensified and changed the use during his ownership.

12 If we were to reach this issue, we would see no error in issuing a declaration regarding Lagna's rights to boat storage on the property under the zoning regulations, as that issue was part of the relief that he requested in his initial petition.

13 In the present case, it is undisputed that the four lots owned by Lagna, each approximately one-quarter acre in size, are all undersized. *See* BCZR § 1A04.3(B)(1) (prohibiting creation of lots with an area less than one-and-a-half acres in an R.C.5 zone).

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RE: PETITION FOR SPECIAL HEARING AND VARIANCE	* BEFORE THE
	* BOARD OF APPEALS
5301 Bush Street SE corner of Bush Street & Winkler Road	* OF
11th Election 5th Councilmanic Districts	* BALTIMORE COUNTY
	* **Case No.: 2017-313-A & CBA-18-024**
Wadkins Construction, Inc. Petitioner/Legal Owner	*

* *

PETITIONER'S CLOSING MEMORANDUM IN LIEU OF CLOSING ARGUMENT

The property owner, Wadkins Construction Co., Inc. ("Appellant" or "Petitioner"), by and through its attorneys Lawrence E. Schmidt and Smith, Gildea & Schmidt, LLC, submit this Closing Memorandum in Lieu of Closing Argument in support of its request for a lot line adjustment or, in the alternative, a variance request.

INTRODUCTION

This matter comes before the Board of Appeals of Baltimore County (the "Board") as two separate appeals; namely an appeal of the Development Review Committee's denial (on January 12, 2018) of requested lot line adjustments and an appeal of the ALJ Beverungen's denial (on July 11, 2017) of variance relief. These appeals were consolidated for hearing at the Board. For both matters, the Board is to apply the *de novo* standard of review (as opposed to an "on the record" standard). In applying the *de novo* standard, the Board's findings of fact and conclusions of law will be the record made before it. As a result, it is critical that the Board make sufficient findings of fact and adequately explain how it interprets and applies the applicable law.

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It must further be noted that, despite having combined the two appeals involving the same property into one hearing, the issues presented require consideration of different provisions of law. In essence, the Petitioner is proposing development on the properties under two difference theories. The grant of relief under either theory would permit development of the two lots at issue with a detached single family dwelling on each.

STATEMENT OF THE CASE

In March of 2014, the Development Review Committee ("DRC") met and provisionally approved a request for a lot line adjustment for properties located at 5301 Bush Street (the "Property"). This lot line adjustment realigned Lot 8 & the portion of Lot 7 that had previously been created as a separate lot as show on the site plan (Petitioner's Exhibit 7).[1] Lot 8 & the portion of Lot 7 were renumbered as Lots 1 and 2 of the Jones Property by the 2014 lot line adjustment and are referred to as Lots 1 and 2 hereinafter. The lot line adjustment was approved with the requirement noted that Lot 2 receive variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("BCZR") for lot width and lot area requirements (Petitioner's Exhibit 7) in order to be developed.

As mandated by the DRC's approval in 2014, Petitioner sought variance relief (Case No. 2017-0313-A) in July 2017 to permit a lot width less than 100 feet and a net lot area of less than 20,000 square feet for Lot 2. On July 11, 2017, ALJ Beverungen denied the requested variance relief based on the lack of the property not being "unique" (Petitioner's Exhibit 8). On August 10, 2017, Petitioners filed a timely appeal to the Board of the ALJ's decision in accordance with Baltimore County Code § 32-3-401.

In view of the variance denial and to remedy the issues regarding lot width and net area requirements for Lot 2 (which would make the variance request moot in Case No. 2017-0313-A),

[1] The lots at issue were originally known as lots 7 & 8 on the original plat of Forge Acres.

Petitioner filed a lot line adjustment request with the DRC on December 7, 2017 to reconfigure each lot to provide a 100 foot width, complying with the average front yard setback requirements (Petitioner's Exhibit 9). Petitioner further negotiated with an adjacent property owner, located at 5304 Palomino Street (5304 Neighbor), to buy a small portion (1,200 square feet) of their property and combine it with Lot 2, which would satisfy the minimal net lot area requirement (Petitioner's Exhibit 16). These two lot line adjustments, if approved, would cure any deficiency and the lots would thereafter be fully compliant with all zoning requirements.

The DRC initially approved the lot line adjustments by letter dated December 22, 2017 (Petitioner's Exhibit 9). Carl Richards (Zoning Supervisor) was subsequently made aware of two dimensional errors on the plan that accompanied the lot line adjustment application.[2] The DRC thereafter issued a revocation of its approval and denied the lot line adjustments on January 12, 2018 (Petitioner's Exhibit 9). On February 8, 2018, Petitioner filed a timely appeal of the January 12, 2018 denial to the Board for Baltimore County in accordance with Baltimore County Code §32-3-401.

On March 16, 2018, Case 2017-0313-A (zoning variance relief) and the appeal of the DRC's January 11, 2018 denial (request of lot line adjustments) were consolidated. Both appeals, as provided by Sections 602 and 603 of the Baltimore County Charter ("Charter"), are subject to a de novo standard of review.[3] The evidentiary hearing on the respective appeals was held on June 20, 2018 and October 4, 2018. The Board requested that both parties submit a closing memorandum in lieu of closing arguments.

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[2] These two dimensional errors had nothing to do with the reason for the DRC request (i.e. the insufficient lot width and lot area). Instead, the dimensional errors incorrectly stated a building setback and property line length.

[3] The Baltimore County Charter vests the Board as the administrative entity ultimately tasked with the authority to decide all issues related to zoning and development, and the Board is widely recognized as having expertise in the field of Baltimore County zoning and development.

STATEMENT OF FACTS

The property at issue is known as 5301 Bush Street (the "Property"). It is located at the intersection of Winkler Street and Bush Street, with frontage on Bush Street. The Property is approximately 1.13 acres in gross area (0.89 acres in net area) and zoned DR-2 (Density Residential). The Property lies inside the Urban Rural Demarcation Line ("URDL") and is currently served by public water and sewer. A single-family dwelling was constructed on the Property in 1951, although Petitioner has since razed that structure, which was apparently in very poor condition. The Property was comprised of all of Lot 8 and a portion of Lot 7 as shown on a record plat entitled "Forge Acres" (recorded in 1948) and is recorded in Plat Book 14 folio 88 (Petitioner's Exhibit 1). Those lots have been described separately in the Land Records repeatedly since their creation in the 1948 plat. The included portion of Lot 7 was once part of a larger tract which was subdivided into 3 tracts in the early 1950's. The entirety of the original Lot 7, which included properties, now known as 5301, 5303, and 5305 Bush Street, totaled 40,018 sf. The portion of Lot 7 included in the subject property, prior to 2014, was 10,018 sf. and was considered an undersized single-family lot as a result of changes to Baltimore County's zoning laws.

The Property was the subject of Item DRC #042214-LLA wherein a lot line adjustment was conditionally approved in 2014 per BCC §32-4-106(a)(1)(viii). This lot line adjustment created Lots 1 and 2 of the Jones property as shown on the Petitioner's site plan. Lot 1 (originally Lot 8) was reduced by the maximum extent possible as to still comply with zoning regulations for lot width and lot area. Lot 2 (originally a portion of Lot 7), as shown on the site plan, became 94.64 ft. wide in lieu of the required 100 ft. The lot line adjustment increased Lot 2's net lot area to 18,922 sq. ft. in lieu of the required 20,000 sf. As a condition of DRC's

approval, Petitioner required variance relief to construct a dwelling on Lot 2 as Lot 2 did not meet zoning requirements for lot width and lot area. The DRC's approval was not appealed. The DRC found that the request met the definition of a lot line adjustment as stated in BCC § 32-4-106(a)(1)(viii); to wit, that the request constituted "one or more alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of the owners, provided that the alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole". It is vital to emphasize that the condition of approval by the DRC was only as to the area/width requirements in the BCZR and that the DRC's 2014 findings as to density and number of lots were conclusive and not appealed.

The Property was purchased by Petitioner from Brenda Dark, William Burnham, Walter R. Jones and Terri L. Yeager, as reflected in a deed dated September 29, 2016, which is recorded in the Land Records of Baltimore County in Liber 38186, Folio 23 (Petitioner's Exhibit 6). In 2016, Petitioner received razing permits to demolish the existing improvements located on the Property. The Petitioner sought to construct single family dwellings on both Lots 1 and 2, which is a permitted use in the DR 2 zone.

As mandated by the DRC's 2014 conditional approval (lot line adjustments), Petitioner sought variance relief (Case No. 2017-0313-A) from § 1B02.3.C.1 of the BCZR as follows: (1) for lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) for Lot 2 as shown on the site plan, to permit a minimum new lot area of 18,922 sq. ft. in lieu of the required 20,000 sf. Ft.; and (3) if necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement. Professional land surveyor Kenneth J. Wells

appeared in support of the Petition. Several members of the community opposed the requests. The Zoning Advisory Committee (ZAC) comments from the Department of Planning (DOP) did not oppose the requests but suggested certain façade treatments would be required for the proposed dwellings (Petitioner's Exhibit 10). In a decision dated July 11, 2017, ALJ Beverungen denied the Petition based on lack of the Property not being "unique."

To remedy the issues regarding the lot width and net area requirements (which would make the variance request moot), Petitioner revised the site plan and requested additional lot line adjustments on December 7, 2017. The first lot line adjustment requested from the DRC was to reconfigure the common property line between lots 1 and 2 in a "zig-zag" configuration so that each lot met the 100 foot width. Secondly, by way of contract, Petitioner negotiated with the 5304 Neighbor to purchase a rectangular parcel of land measuring 24 feet by 50 feet, containing 1200 square feet, located in the rear northwesterly corner of the Property. A lot line adjustment adding this acreage would satisfy net lot area requirements for Lot 2. Petitioner's contract was made conditional on the approval of the requested lot line adjustments.

The DRC initially approved the lot line adjustments by letter of December 22, 2017. However, Carl Richards (Zoning Supervisor) was subsequently made aware of two dimensional errors on the plan that accompanied the lot line adjustments. The first error involved the length of the southern (rear) property line of Lot 2 (show incorrectly as 107.21 ft. as opposed to 95.05 ft.) and the second was an error of the proposed building setback (shown incorrectly as 24.5 feet instead of 25.3 ft.). Ken Wells (the surveyor who prepared the plan) then submitted a revised redlined plan correcting those errors. The DRC thereafter issued a revocation of its approval and denied the lot line adjustments on January 12, 2018. The two dimensional errors involved incorrect dimensions of the dwelling setback and the rear property line, which did not bear upon

the substantive issue considered by the DRC. On February 8, 2018, Petitioner filed a timely appeal to the Board in accordance with Baltimore County Code § 32-3-401.

QUESTIONS PRESENTED

I. Whether The Petitioner Is Entitled To The Proposed Lot Line Adjustment.

II. Whether The Petitioner Is Entitled To Variance Relief.

ARGUMENT

I. THE PETITIONER IS ENTITLED TO AN APPROVAL OF LOT LINE ADJUSTMENTS IN ACCORDANCE WITH BCC § 32-4-106(a)(1)(viii)

The first issue for the Board's consideration relates to the proposed and requested lot line adjustments. Petitioner is requesting a limited exemption as provided in BCC § 32-4-106(a)(1)(viii). This is the same section under which the DRC conditionally approved the lot line adjustment in 2014. This section allows for an exemption from development review and approval process for lot line adjustments in residential zones as described therein. A brief discussion of the relevant regulations is necessary.

A. BCC § 32-4-106(a)(1)(viii) Exemption

The process by which development is approved is fully set out in Article 32, Title 4 of the BCC. Among other things, the process includes public input, community meetings and a hearing before the County's Office of Administrative Hearings. However, the regulations provide for "exemptions" from the process; identified in Code Section 32-4-106. Code Section 32-4-106 (a)(viii) establishes an exemption for lot line adjustments

Section 32-4-106 (a)(viii) specifically provides as follows:

> "Lot line adjustments in residential zones for lots that are not part of an approved Development under this title or an approved Development Plan under Article 1B of the Baltimore County Zoning Regulations. For purposes of this subsection, "lot line adjustment" means one or more alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of owners, *provided that the*

alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole..." (emphasis added)

The criteria listed above for lot line adjustment exemptions under 32-4-106(a)(viii) has been identified and upheld by the Court of Special Appeals in *Kehoe v. Arthur* (Board of Appeals Case No. 11-061-SPH; Court of Special Appeals No. 1448, September 2013). That is, that the individual lots must be under common ownership, that there is no increase in overall density, that there is no increase in the number of lots, etc.

The DRC is the body that accepts and considers requests for exemption. See Baltimore County Department of Permits and Development Management Policy Manual, p. 4-6. The DRC then recommends if an exemption should be granted. This recommendation is then forwarded to the Director of PAI for review and a final decision, although the recommendation of the DRC is typically followed. The ultimate decision of the Director of PAI can be appealed to the Board.

Petitioner filed an application for lot line adjustments to the DRC on December 7, 2017 to obtain the § 32-4-106(a)(viii) exemption. Petitioner's application requested two lot line adjustments. The first lot line adjustment proposed adjusting the lot line between Lots 1 and 2 to create a zig-zag lot line which would configure each lot with a 100 foot width measured by the front building line pursuant to BCZR § 1B02.3.C.1.[4] As testified to by Carl Richards, the Zoning Office has historically determined lot width at the front building line of the building. As Mr. Richards explained, this is a practical and appropriate interpretation of the BCZR, citing examples supporting this interpretation, including the measurement of panhandle lots, pie shaped lots, or other irregularly configured properties. For example, such a lot may have a narrow frontage on the adjacent public street but widen significantly towards the rear. In that, these lots

[4] BCZR § 1B02.3.C. requires that each lot zoned DR 2 be a minimum 100 feet in width at the front building line.

do not have a uniform width, Mr. Richards concluded that the determination of width should be at the front building line. This is also consistent with language in the BCZR (BCZR § 402.1.B).

The second lot line adjustment proposed an extension of Lot 2 by way of Petitioner purchasing 1,200 sf. from the 5304 Neighbor. The additional 1,200 sf would place Lot 2 in compliance with net lot area requirements as required by BCZR § 1B02.3.C.1.

The Property was not a part of an existing development plan. The term "Development Plan," as used in § 32-4-106(a)(1)(viii), is defined under the Code as "a written and graphic representation of a proposed development prepared in compliance with [the Development Regulations]." BCC §32-4-101(q). Further, Lots 1 and 2 are under common ownership by the Petitioner. The above-mentioned 1,200 sf. piece is legitimized by and through an agreement of Petitioner and the 5304 Neighbor. For the reasons set forth below, this Property qualifies for the aforementioned exemption.

B. The Requested Lot Line Adjustment Do Not Increase/Decrease the Number of Lots or Density Units

Petitioner's proposed lot line adjustments are in compliance with Section 32-4-106 (a)(viii). First, Petitioner's requested "lot line adjustments" will not increase or decrease the number of lots. A "lot of record" is defined under the BCZR § 1A01.3.B.1 as a "parcel of land with boundaries as recorded in the land records of Baltimore County." The Property's deed, which is recorded in the Land Records of Baltimore County in Liber 38186, Folio 23, separately describes Lots 1 and 2 (originally 8 and a portion of 7). As shown on the site plan, there are two existing lots on the Property and there are two reconfigured lots subsequent to the lot line adjustments. The relocated lot lines would adjust only the acreage of Lots 1 and 2. The number of lots (two) will not be altered and will remain the same.

Second, Petitioner's requested "lot line adjustments" do not increase density. As noted above, this conclusion was first needed by the DRC in 2014 and was not appealed. The density of the subdivision known as Forge Acres was established when the community was created by plat in 1948. At that time, the Baltimore County Zoning Regulations were in their infancy, having been created in 1945. Only rudimentary regulations existed. The DR zoning classification was not created until the enactment of Bill 100-70 in 1970. The two lots at issue (as well as the subdivision as a whole) have had its current "density" since the early 1950's. The requested lot line adjustments do not increase the "total residential density" of the subdivision.

As noted above, the Property is 1.13 acres in gross acreage. It is well settled that density is computed upon the gross acreage of the tract. In this case, the gross acreage of the Property is computed by including that area to the center line of the adjacent public street (See page 1.4 Zoning Commissioner Manual).

At the Board's hearing, Petitioner's expert, Kenneth J. Wells testified that the proposal met the definitional requirements in BCC § 32-4-106(a)(1)(viii). Interestingly, although he had signed the DRC's denial letter, Zoning Supervisor Carl Richards testified that the lot line adjustment requests met each prong of the definition and could not offer any explanation as to why it was denied.

C. Lots 1 And 2 Did Not Merge For Zoning Purposes

People's Counsel argue that Lots 1 and 2 have functionally merged for zoning purposes pursuant to the Court of Appeals decision in *Friends of the Ridge v. Baltimore Gas & Elec. Co.*, 352 Md. 645, 724 A.2d 34 (1999). Therein the Court recognized the existence of the doctrine of zoning merger in Maryland. People's Counsel reliance on *Ridge* in the instant matter is misplaced and misinterprets the principle of zoning merger.

The principle of zoning merger is described as the merger for zoning purposes of two or more lots held in common ownership where one lot is used in service to one or more of the other common lots solely to meet zoning requirements. In *Ridge,* a utility company owned three contiguous parcels of land and was planning to enlarge its substation. *Id.* at 649. Though the existing substation was located on a single parcel, "[t]he new, enlarged substation was planned to extend onto a contiguous parcel." *Id.* The issue before the Court of Appeals was whether, under the applicable zoning ordinance, the utility company was "required ... to obtain a variance to use the three parcels as one parcel." *Id.* Ultimately, the *Ridge* Court held that "no variance is required for respondent to utilize the entire parcel for its proposal, so long as setback requirements are met from the exterior property lines of respondent's combined parcel." *Id.* at 650. In so holding, the Court, for the first time, announced that the doctrine of zoning merger applies in Maryland. In order for two or more parcels to merge for zoning purposes, the following elements must be satisfied, according to *Ridge*: (1) the parcels must be under common ownership; (2) the parcels must be contiguous; and (3) *there must be some evidence of intent by the owner to merge. Id.* at 653-62 (emphasis added).

The Court of Appeals reaffirmed the intent element for zoning merger in *Remes v. Montgomery County,* 387 Md. 52, 64 (2005). There, the Court of Appeals explained that zoning merger requires that the property owner intend to merge the lots. *Id.* at 66. "Intent is to be derived from the facts." *Id.*

Conclusive from both holdings in *Ridge and Remes*, zoning merger requires intent by the property owner to merge two parcels. People's Counsel's reference that the lots have been merged as one is unsupported by the evidence. Moreover, to the contrary, the properties have always been described separately in the Land Records. Petitioner purchased the property in 2016

and subsequently applied and received a razing permit in 2016 to demolish the existing buildings. Clearly, the Petitioner did not intend to merge Lots 1 and 2. Petitioner did not intend to integrate and use the lots as one single property. There is simply no evidence before this Board that the Petitioner, or any prior owners, intended to merge these lots. Thus, the Board should find that the doctrine of zoning merger is inapplicable to the present matter. Most significantly, however, is that the DRC's decision in 2014 effectively resolved this issue. The DRC permitted a lot line adjustment in 2014. By definition, a lot line adjustment can only occur between "two or more lots". (BCC § 32-4-106(a)(1(viii). If the lots had merged (as People's Counsel claims), then there could not have been "2 or more lots" in 2014. The DRC's decision in 2014 approving a lot line adjustment would not have been allowed if the lots had previously merged into a single lot.

D. Easements Do Not Affect Lot or Density Measurements

Petitioner negotiated with the adjacent property owner located at 5304 Palomino Street to buy a small portion (1,200 square feet) of their property and combine it with Lot 2 to satisfy net lot area requirements. Following the purchase, Petitioner will convey an easement to the property owner of 5304 Palomino Street. Importantly, Petitioner proposes to acquire the 1,200 square foot area in fee simple and become the title owner.

At the Board's hearing, People's Counsel incorrectly argued that the area covered by the easement can not be included in calculating lot area measurements. The area of a property is based upon the metes and bounds description of what the owner holds in fee, whether it is subject to an easement or not. Moreover, 32-4-106(a)(viii) permits lot line adjustments unless they "result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole." There is no limitation due to an existing or future easement. The number of lots hinges on the recordation of the lot.

The owner of a property that is encumbered by an easement or right of way can still use the acreage of property on which the easement or right of way exists in complying with both area and density requirements. For example, if a property owner owns five acres, and one acre is encumbered with an environmental easement and a second acre encumbered with a right of way providing access for a neighbor, that property owner still has five acres (not three) upon which density (and lot area) is calculated. Moreover, in the definition of gross acreage in the ZC's Policy Manual, it is provided that a property owner can utilize to the center line of an adjacent road (public or private) in terms of calculating acreage for density. To the contrary, a property owner cannot use the acreage of fee simple property owned by another for density.

II. PETITIONER IS ENTITLED TO VARIANCE RELIEF

The Board should also conclude that Petitioner is entitled to variance relief in the instant case. Petitioner seeks relief from BCZR 1B02.3.C.1 to permit a lot width of 94.64 ft. for Lot 2 in lieu of the required 100 ft., a lot area of 18,922 sq. ft. for Lot 2 in lieu of the required 20,000 sf. ft., and if necessary to permit a side yard setback of 35 ft. along the Winkler Street right-of-way for Lot 1, in lieu of 40 ft. front yard setback requirement.[5] As indicated by the ZAC comments, the Department of Planning does not oppose the Petitioner's request for variance relief.

The third prong of variance relief (35 ft. setback) is in Petitioner's judgment, unnecessary. It was requested out of an abundance of caution. It relates to proposed Lot 1, which is a corner lot. The variance plan (Petitioner's Exhibit 4) shows the front of the dwelling facing Bush Street and side of the dwelling facing Winkler Street. The setbacks shown (44 ft. to the front and 35 ft. to the side) meet the setback requirements in BCZR 1B02.3.C.1. This variance

[5] The variance plan (Petitioner's Exhibit 3) is different than the DRC plan (Petitioner's Exhibit 4). The variance plan does not show the 1,200 sf area to be acquired or the "zig-zag" property line. If variance relief is granted, this acquisition and lot line adjustment are not necessary.

request was filed in the event the ALJ below (or Board on appeal) determines that front yard setbacks are required for yard areas adjacent to all public streets.

In Baltimore County, zoning variances are permitted and analyzed under BCZR § 307 and the case law interpreting that provision. Significantly, to obtain a zoning variance in Baltimore County requires a two-pronged analysis showing that:

(1) The property is unique; and
(2) If variance relief is denied, petitioner will experience a practical difficulty or unreasonable hardship. BCZR § 307.1; *Cromwell v. Ward,* 102 Md. App. 691, 694-95 (1995).

Petitioner is entitled to variance relief because the Property is unique and Petitioner would experience a practical difficulty and unreasonable hardship if the variance is denied.

A. The Property is Unique

In the instant case, due to the events that led to the creation and configuration of the Property, special circumstances and conditions exist which make the Property unique.

The Court in *Cromwell* defined the term "uniqueness" and stated:

> In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., it shape, topography, subsurface condition, environmental factors, historical significance, access or not-access to navigable waters, practical restrictions imposed by abutting properties (such as obstruction) or other similar restrictions. *Cromwell v. Ward,* 102 Md.App. 691, 651 A.2d 424 (1995).

The testimony of Mr. Wells at the Board's hearing, along with the neighborhood aerials entered into evidence (Petitioner's Exhibit 13), show that the Property is substantially different than other properties in the area with differences in size and shape. That is, the fact that this is a narrow, yet deep parcel, and was created over 70 years ago drives the need for variance relief. No other property in the vicinity has these precise dimensions. Mr. Wells testified that at 18,922

sq. ft. in area, the size of Lot 2 is different from other properties in the vicinity. Additionally, Lot 2 was created prior to modern zoning laws, meaning Lot 2 will be impacted by BCZR 1B02.3.C.1 in a different way than other lots in the neighborhood that were created subsequent to the regulations. Combined with the unique shape and size of the Property, the lack of feasible building area is exacerbated by the combination of these factors. Lot 2's physical peculiarities will cause Petitioner to suffer disproportionately due to the application of BCZR 1B02.3.C.1 As such, the Property has an inherent characteristic not shared by other properties in the area and satisfies the "unique" test required under *Cromwell v. Ward.*

It is important to note that the prior subdivision that created Lot 2 (previously Lot 8) was not at the hands of the Petitioner, but rather a predecessor in title, which leads to the second step in this process with respect to practical difficulty/unreasonable hardship.

B. If The Variance Is Denied, Petitioner Will Experience A Practical Difficulty Or Unreasonable Hardship

Courts have interpreted the "practical difficulty or unreasonable hardship" standard to be disjunctive, meaning that satisfaction of either of the conditions may warrant a variance. *Loyola Loan Ass'n v. Buschman,* 227 Md. 243, 250-51, 176 A.2d 355 (1961). The Court in *Mclean v. Soley,* 270 Md. 216 (1973) established criteria for determining practical difficulty or unreasonable hardship:

(1) Whether compliance with the strict letter of the restrictions governing various variances would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessary burdensome.
(2) Whether a grant of the variance applied would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
(3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Furthermore, the practical difficulty or unreasonable hardship must not be self-imposed. *Richard Roeser Prof'l Builder, Inc. v. Anne Arundel Cnty.*, 368 Md. 294, 314 (2002).

The undersized nature of Lot 2 and strict application of BCZR 1B02.3.C.1 would unreasonably prevent Petitioner from using the Property for the permitted purpose of a single-family dwelling. The imposition of the new regulations, i.e. BCZR 1B02.3.C.1 impacts Lot 2, which was apart of an existing subdivision, disproportionately as compared to lots in the area laid out in accord with the regulations. A denial of the variance would deprive the Petitioner of the right to reasonably develop his property in accordance with regulations and would constitute a practical difficulty under these circumstances. Mr. Wells testified that the Petitioner in this case will suffer practical difficulty if his request to construct a dwelling is denied, because there is no location on the property where a residence could be constructed in conformance with the BCZR. In actuality, it is not possible for Lot 2 to conform to current zoning laws[6] without either a lot line adjustment or a variance.

As articulated by the Court of Appeals in *Richard Rosser Professional Builder, Inc. v. Anne Arundel County,* 368 Md. 294, 793 A.2d 545 (2002), "the types of hardships that are normally considered to be self-created in cases of this type cannot arise from purchase or knowledge of zoning restrictions when purchased but arise from those actions of the land owner himself or herself that *create the hardship after purchase*, rather than the hardship impact, if any, under zoning ordinance of the property." (emphasis added). In the instant matter, the practical difficulty or unreasonable hardship is not self-imposed because the subdivision which created Lot 2 occurred some 70 years ago; Petitioner purchased the Property in 2016.

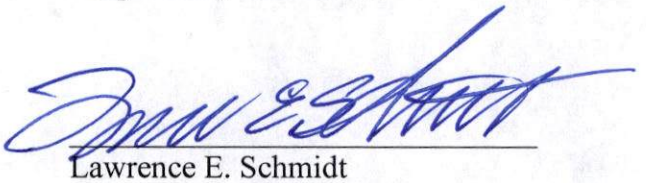
[6] In 1970, the zoning ordinance was amended again to add area and density provisions to its zoning scheme for the purpose of improving the health, safety, and general welfare of its citizens. At that time, the present minimum width and minimum area requirements were established.

Further, a grant of the relief will not detrimentally impact adjacent properties. Mr. Wells testified that considering the surrounding neighborhood and site constraints at issue, the construction of the proposed dwellings would be consistent with DR 2 zoning regulations and would not cause injury to the public health, safety, or general welfare. Lots 1 and 2 (and the proposed dwellings thereon) are entirely consistent with the character of this neighborhood and the Forge Acres subdivision. The adjoining lots to the northeast of the Property, the Vogt and King properties, contained dwellings and are both 0.34 acres in lot area and 75 feet in width. The subject lots are larger and the proposal does not constitute an over crowding of the Property or area. As such, Petitioner will experience practical difficulty or unreasonable hardship if the requested variances are not granted because Lot 2 would be rendered unusable for residential purposes.

CONCLUSION

The testimony and evidence presented to the Board supports the Petitioner's request for lot line adjustments and/or variance relief. The zig-zag lot line adjustment and 1,200 sf. lot line adjustment are separate requests, yet both are warranted. The DRC initially approved the lot line adjustments by letter of December 22, 2017. The DRC's subsequent revocation of approval was unwarranted, as the dimensional errors were non-material to the lot line adjustment application. The subject property, due to circumstances beyond the Petitioner's control, is unique and clearly the Petitioner would be faced with an undue hardship that is not self-imposed. The Petitioner is only reconfiguring two separate existing lots of record in accordance with the BZCR and BCC. For the reasons stated above, the requested lot line adjustments should be granted. Moreover, in the alternative, variance relief should be approved.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 7th day of November, 2018, a copy of the foregoing Closing Memorandum in Lieu of Closing Argument was mailed, postage pre-paid, to:

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People's Counsel for Baltimore County
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And, for ease of communication to:

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Board of Appeals
Jefferson Building
105 W. Chesapeake Ave, Suite 203
Towson, MD 21204

November 1, 2018
RE: Wadkins Construction, Inc.

Dear Board of Appeals Members:

I am writing in regards to 5301 Bush Street, the Wadkins Construction property. I know you are very familiar with the case, so I don't want to waste your time summarizing the history. I do want to point out that Mr. Wadkins of Wadkins Construction, Inc. requested a DRC meeting for the LLA, which was provisionally granted subject to zoning, two years before purchasing 5301 Bush Street. He knew this property was not of sufficient square acreage and was not zoned for his intended development plan (two single family houses) from the outset. There were other developers that looked into the property, likely with the same development plan intentions, but did not purchase because of zoning restrictions.

It is now over four years later and three hearings/courts denying the zoning variances needed to build two houses on the property. Please remember this developer did not need to purchase this land. This developer knew it was not zoned appropriately for his development plan and a LLA was not granted due to zoning. It was not family property. This developer does not care about the Forge Acres community. Upon purchasing the property, he excavated it to bare dirt, destroying everything on the lot even mature trees. The first summer he received code enforcements citations due to the condition of the property. I request that the board not show any pity for this developer. He did his homework yet decided to take the gamble.

Our neighborhood consists mostly of rancher type houses on larger lots. As real estate turns over, I am concerned that if this property is allowed to be over-developed, over-development of other properties will follow. Please do not set this as precedent for our Forge Acres community.

Thank you so very much for taking the time to learn about this complicated case and listening to all of the facts.

Respectfully yours,

Diane Brazil

Diane Brazil

CC: Office of People's Counsel of Baltimore County
Lawrence E. Schmidt, Esquire

Angela M. Cioka

5303 Bush St.

White Marsh, MD 21162

RECEIVED
NOV 2 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Board of Appeals

Jefferson Building

105 W. Chesapeake Ave, Suite 203

Towson, MD 21204

RE: Wadkins Construction Lot Line Adjustment and Zoning Case No. 2017-0313-A

November 1, 2018

Dear Members of the Board,

This letter is to support and maintain the level of concern in regards to the 5301 Bush St. property that is currently owned by Wadkins Construction. The following will address some key points that are relevant to this case.

- Mr. Wadkins purchased this property knowing that the lot was undersized for two separate dwellings. While I admire his tenacity as a business man regarding this situation, it will be the citizens of the community that will be left to endure the outcome. Mr. Wadkins is not a part of the said community and the property was not part of a family property. The purchase of the property was for pure business.

- The original dwelling was razed and the lot was cleared before any of the zoning requests had been approved for development.

- The decision in this case could affect other cases that may go before the board regarding zoning regulations in our neighborhood. A majority of the homes in this neighborhood are one story rancher type homes of which are situated on acre and half acre lots. We do not want this decision to set precedence for other contractors to come into our neighborhood and over develop our community.

- Historically, this property has had only one single family home since the neighborhood was established in the late 1950's, early 1960's.

- The Forge Acres area is part of the White Marsh and Perry Hall area that is currently being highly developed. There is no need for additional development, especially in our small neighborhood. I believe that families that currently live in Forge Acres sought out this neighborhood for certain reasons with one of them being the current design and layout of the neighborhood. Our intent is to preserve our small community of Forge Acres from over development and to maintain its current visual and physical appeal. Too many of these neighborhoods are being saturated with over development.

In closing, what is being asked for by the defendant is an exception to the rule, otherwise a case would not be needed. There is nothing unique about this property that should grant an exception to current laws. I would hope that some of these points will be taken into consideration when a decision is made in regards to the unusual lot line adjustment and zoning requests and to help the citizens of Forge Acres protect what they love about their neighborhood with the same compassion as if this were happening in your very own neighborhood.

Kind Regards,

Angela Cioka

Board of Appeals of Baltimore County

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

October 18, 2018

NOTICE OF PUBLIC DELIBERATION

IN THE MATTER OF: Wadkins Construction, Inc.
5301 Bush Street
17-313-A 11th Election District; 5th Councilmanic District
and CBA-18-024

Agenda: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:

1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

and: Appeal of Director Letter finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC.

1/12/18 Letter from Director of PAI finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend and grant the plan he denied and approve an unusual lot line division.

This matter having been heard on June 20 and concluded on October 4, 2018, a public deliberation has been scheduled for the following:

DATE AND TIME: **DECEMBER 4, 2018 at 9:30 a.m.**

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

NOTE: Closing briefs are due on **Wednesday, November 7, 2018 by 3:00 p.m.**
(Original and three [3] copies)

NOTE: PUBLIC DELIBERATIONS ARE OPEN WORK SESSIONS WHICH ALLOW THE PUBLIC TO WITNESS THE DECISION-MAKING PROCESS. ATTENDANCE IS NOT REQUIRED AND PARTICIPATION IS NOT ALLOWED. A WRITTEN OPINION AND ORDER WILL BE ISSUED BY THE BOARD WITHIN A REASONABLE TIMEFRAME AFTER THE CONCLUSION OF THE DELIBERATION. A COPY OF THAT OPINION AND ORDER WILL BE SENT TO ALL PARTIES.

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

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.
Diane Brazil

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Jan Cook, Development Manager/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel
W. Carl Richards, Jr, Zoning Supervisor/PAI

Board of Appeals of Baltimore County

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

July 18, 2018

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Wadkins Construction, Inc.
5301 Bush Street
17-313-A 11th Election District; 5th Councilmanic District

Re: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:
1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

----------SET WITH----------

Wadkins Construction, Inc.
CBA-18-024 c/o 1605 Honeysuckle Court
Annapolis, Maryland 21401
DRC # 010218-LLA2 (5301 Bush Street)
11th Election District; 5th Councilmanic District

Re: Appeal of Director Letter finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC.

1/12/18 Letter from Director of PAI finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend and grant the plan he denied and approve an unusual lot line division.

This matter was began as assigned on June 20, 2018 and did not conclude. An additional hearing date has been

ASSIGNED FOR: **OCTOBER 4, 2018, AT 9:00 A.M. – Day 2**

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

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
- Parties must file one (1) original and three (3) copies of all Motions, Memoranda, and exhibits (including video and PowerPoint) with the Board unless otherwise requested.
- Projection equipment for digital exhibits is available by request. A minimum of forty-eight (48) hours-notice is required. Supply is limited and not guaranteed.

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

Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

People's Counsel for Baltimore County : Peter M. Zimmerman, Esquire

Kenneth J. Wells/kjWells, Inc.
Diane Brazil

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Jan Cook, Development Manager/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
W. Carl Richards, Jr, Zoning Supervisor/PAI

IN THE MATTER OF:	*	BEFORE THE
Wadkins Construction, Inc.	*	BOARD OF APPEALS
5301 Bush Street	*	OF
11th Election District	*	BALTIMORE COUNTY
5th Councilmanic District	*	CASE NO.: 17-313-A

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

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Custodian of Records
Department of Permits,Approvals & Inspections
111 W. Chesapeake Avenue, Room 123
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (X) Personally appear and produce documents or objects; in **Hearing Room 2, The Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204 on** October 4, 2018 **at** 9:00 a.m. **a.m./p.m.**

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated):

Produce the January 4, 2018 Department of PAI "Drop Off" sign in sheet signed by C. Vendetti from KJ Wells Inc.

SUBPOENA REQUESTED BY:
Lawrence E. Schmidt
(Name of Party/Attorney)
Smith, Gildea & Schmidt, LLC
(Address/Telephone #)
600 Washington Ave., Suite 200
Towson, MD 21204

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

RECEIVED
SEP 26 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Sunny Cannington
Board of Appeals for Baltimore County

S...ITH, GILDEA & SCH...DT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
DUKE MAY, V
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

July 18, 2018

Sent Via Email and First Class Mail
Krysundra Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
JUL 23 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Wadkins Construction, Inc.
5301 Bush Street
Case Nos. 2017-0313-A and CBA-2018-024

Dear Ms. Cannington:

I correspond in reference to the above matter.

In addition to Peter Max Zimmerman's email sent to the Board at 1:53 p.m. on Friday, June 29, 2018, I have received a copy of Mr. Zimmerman's twelve page memorandum (plus exhibits) that he has recently filed in this case. I freely admit that I am most confused about the procedural status of this case and I look to the Board as to the next necessary steps.

By way of recap, my recollection is that the Board conducted an evidentiary hearing on this matter on June 20, 2018, at which time all parties (i.e. the Petitioner, People's Counsel and interested citizens who appeared without legal representation) had the opportunity to present testimony and evidence regarding the appeals at issue. There are two appeals for the Board's consideration; namely, an appeal of the ALJ Beverungen's denial of certain requested variances and an appeal of the Development Review Committee's denial (on January 12, 2018) of a requested lot line adjustment. These appeals were consolidated for hearing at the Board. As the hearing was concluding, the Board raised a question/issue about the identity of the plan that the DRC denied. This issue had initially been identified by Ms. Brazil (a neighbor) who testified that the plan initially submitted by the Petitioner to the DRC contained an error. She stated that when she originally reviewed the plan in December 2017, she discovered that the dimension of the rear property line was incorrectly stated. She further testified that when she discovered this incorrect dimension, that she contacted Carl Richards in the Zoning Office and reported it to him.

In response to this testimony, Mr. Wells (Petitioner's surveyor) explained his recollection. He said that Mr. Richards had indeed contacted him and informed him of the error identified by Ms. Brazil. Additionally, Mr. Richards said that there was a second error that he (Mr. Richards) discovered. This error was as to the setback distance shown from the proposed dwelling on the property. Mr. Wells further observed that although the rear property line dimension was incorrectly labeled, if one were to measure the distance based on the drawing's scale, that the proper distance was in fact shown. In other words, the drawing properly showed the distance schematically, but the dimension stated was wrong.

Due to these errors, Mr. Wells indicated that he submitted a corrected/revised plan. Mr. Wells opined that he believed that the initial plan (with the errors) was submitted on December 7, 2017 and that it was the plan approved by the DRC on December 22, 2017 (by letter signed by Mr. Richards). He recalled that he submitted the revised plan in early January 2018 after his conversation with Mr. Richards. This was consistent with Ms. Brazil's testimony, that she contacted Mr. Richards in late December 2017/early January 2018.

As I have previously stated, I believe this all to be a tempest is a tea pot; primarily because this matter is a de novo proceeding before the Board (and thus the Board is considering the plans submitted to it and not any prior plan). Additionally, from a substantive standpoint, the errors are insignificant and do not alter the nature of the relief requested.

Notwithstanding my view, I respect the Board's position and desire to clarify the plan considered (and denied) by the DRC. In answering this question, I first direct the Board to its own file. Therein are the documents forwarded to the Board by PAI after the DRC appeal was filed. Your file contains both the initial ("erroneous") plan and the revised/corrected plan. The fact that these two plans are in the Board's file and were sent to you after the appeal was filed seems to be clear evidence that the DRC had both when they made their denial (i.e. the action appealed from).

As further confirmation, my letter of June 27, 2018 included a copy of a "transmittal or cover letter" by Mr. Wells dated January 4, 2018. This letter accompanied the revised/corrected plan that Mr. Wells submitted on that date. This transmittal/cover letter certainly resolves the question of when the revised plan was submitted (People's Counsel's protests to the contrary). Thus, it is apparent that the plan considered (and denied) on January 12, 2018 was the revised plan submitted on January 4, 2018.

As further proof, I have obtained the "drop off log" maintained by the DRC dated January 4, 2018. It is attached hereto. It shows that a DRC plan from KJWells, Inc. was dropped off for 5301 Bush Street (the Wadkins property) on January 4, 2018, thus, consistent with Mr. Wells' recollection and his transmittal letter. Thus, the log from PAI shows that it received the

revised/corrected plan on January 4, 2018; eight days before they considered and denied the lot line adjustment request.

If the Board finds it necessary, I have no objection to the Board reconvening its hearing to take additional evidence on this issue. I will produce as a witness, Mr. Wells' administrative assistant. She will testify that based upon the computer records of the company and her personal recollection, that she prepared the transmittal letter on January 4, 2018 and personally delivered the letter and revised plan on that date. I can also produce a representative of the Department of Permits, Approvals and Inspections. He/she can testify that the log attached hereto is authentic, if Mr. Zimmerman believes the attachment to be a forgery.

Thus, if the Board needs to reconvene the hearing to take this testimony and solve the mystery of when the revised plan was submitted and confirm that it in fact was the one considered (and denied) by the DRC, I am pleased to appear. But this simply appears to be overkill based on the overwhelming documentary evidence. But if a hearing is needed, please schedule one expeditiously.

If the Board is satisfied that this mystery is solved to its satisfaction, then (as was discussed at the conclusion of the hearing) I am pleased to submit a memorandum outlining my position as to the substantive issues involved; to wit, the merits of the requested variances, the denial of the lot line adjustment by the DRC, the question of merger, etc. I would propose submitting my memorandum within thirty days.

Please let me know how the Board wishes to proceed.

Very truly yours,

Lawrence E. Schmidt/am

Lawrence E. Schmidt

LES/am
Enclosure
cc: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Diane Brazil, 5205 Bush Street, White Marsh, MD 21162
Miranda Hewitt, 5300 Bush Street, White Marsh, MD 21162
Donna Welch, 5300 Bush Street, White Marsh, MD 21162
John Lochary, 5219 Bush Street, White Marsh, MD 21162
Norman and Angela M. Cioka, 5303 Bush Street, White Marsh, MD 21162
Wadkins Construction, LLC

JAN 4 2018

DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS

PERMITS, APPROVALS AND INSPECTIONS

SIGN IN SHEET FOR **DROP-OFF**

DATE: _____

SHEET _____ OF _____

ENGINEERING FIRM NAME	TYPE OF PLAN AND PAI NO.	NAME OF THE PERSON DROPPING OFF PLAN	ENGINEER PHONE NO. AND EMAIL ADDRESS	PROJECT NAME
CNA	PLAN: Grading Plan PAI/DRC NO.: ESC plan + Mylar	KARLA	PHONE: (443) 652-6141 EMAIL:	Rodgers Forge phase 3
Pennoni	PLAN: Phase2 Concept SWM Plan. report PAI/DRC NO.: 09-711	Jeff Livingston (EPS) for Josh Behun (Pennoni)	PHONE: (410) 997-8900 EMAIL: jbehun@pennoni.com	Goucher College Hoffberger Hall Expansion
NB&C	PLAN: Site Plan Filing DRC PAI/DRC NO.:	Jim Calabrese CAbruce@NBCLLC.com	PHONE: (410) 712-7282x1024 EMAIL: Abull@NBCLLC.com	LEXINGTON
Bohler	PLAN: Landscape PAI/DRC NO.: 02-740	Jen Bess	PHONE: (410) 821 7900 EMAIL:	SMO Liberty Road
DST+A	PLAN: OS Waiver PAI/DRC NO.: 14-0497	Stacy MSatty	PHONE: 410, 944-3647 EMAIL:	Martin Farms
" "	PLAN: FLS PAI/DRC NO.: 04-742	" "	PHONE: ( ) " " EMAIL:	Assoc. Way
KGWellsInc	PLAN: SWM PAI/DRC NO.:	CNordfelt	PHONE: (410) 512 8800 EMAIL:	Ewings
"	PLAN: DLC PAI/DRC NO.:	"	PHONE: (") EMAIL:	5301 Buckeystown
CNA	PLAN: ESC-PLAN PAI/DRC NO.:	JOHN Bullock	PHONE: (443 67-6383 EMAIL:	BGE-Towson PH #3
CNA	PLAN: GRADING PLAN PAI/DRC NO.:	JOHN Bullock	PHONE: 443) 67-6383 EMAIL:	BGE-Towson PH #3
	PLAN: PAI/DRC NO.:		PHONE: ( ) EMAIL:	
	PLAN: PAI/DRC NO.:		PHONE: ( ) EMAIL:	

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SC
MICHAEL G. J
JASON T. V

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
DUKE MAY, V
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

July 18, 2018

Class Mail
dministrator
hore County

ıe, Suite 203

of: Wadkins Construction, Inc.
Street
os. 2017-0313-A and CBA-2018-024

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Very truly yours,

Lawrence E. Schmidt/am

Lawrence E. Schmidt

LES/am
Enclosure
cc: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Diane Brazil, 5205 Bush Street, White Marsh, MD 21162
Miranda Hewitt, 5300 Bush Street, White Marsh, MD 21162
Donna Welch, 5300 Bush Street, White Marsh, MD 21162
John Lochary, 5219 Bush Street, White Marsh, MD 21162
Norman and Angela M. Cioka, 5303 Bush Street, White Marsh, MD 21162
Wadkins Construction, LLC

JAN 4 2018

PERMITS, APPROVALS AND INSPECTIONS

SIGN IN SHEET FOR **DROP OFF**

DATE: _____

SHEET _____ OF _____

ENGINEERING FIRM NAME	TYPE OF PLAN AND PAI NO.	NAME OF THE PERSON DROPPING OFF PLAN	ENGINEER PHONE NO., AND EMAIL ADDRESS	PROJECT NAME
CNA	PLAN: Grading Plan PAI/DRC NO.: ESC Plan + Mylar	Karla	PHONE: (443) 652-6141 EMAIL:	Rodgers Forge Phase 3
Pennoni	PLAN: Phase 2 Concept SWM Plan trust PAI/DRC NO.: 09-711	Jeff Livingston (EPS) for Josh Behun (Pennoni)	PHONE: (410) 997-8900 EMAIL: jbehun@pennoni.com	Goucher College Hoffberger Hall Expansion
NBaC	PLAN: Site Plan Filing PAI/DRC NO.: DRC-1	Jim Colmorgen CABull@NBCLLC.com	PHONE: (410) 712-7282 X1024 EMAIL: Abull@NBCLLC.com	Lexington
Bohler	PLAN: Landscape PAI/DRC NO.: 02-740	Jen Bess	PHONE: (410) 821 7900 EMAIL:	SMO Liberty Road
DST+A	PLAN: OS Waiver PAI/DRC NO.: 14-0497	Amy Nisbet	PHONE: 410) 944-3647 EMAIL:	Marin Farms
" "	PLAN: FLS PAI/DRC NO.: 04-742	" "	PHONE: ( ) EMAIL:	Assoc. Way
Ig wilson inc	PLAN: SWM PAI/DRC NO.:	C Nordfelt	PHONE: (410) 512 8800 EMAIL:	Ewings
"	PLAN: DLC PAI/DRC NO.:	"	PHONE: (") EMAIL:	5301 Buckeystown
CNA	PLAN: ESC-PLAN PAI/DRC NO.:	JOHN Bullock	PHONE: (443) 67-6383 EMAIL:	BGE-Towson PH #3
CNA	PLAN: GRADING PLAN PAI/DRC NO.:	JOHN Bullock	PHONE: (443) 67-6383 EMAIL:	BGE-Towson PH #3
	PLAN: PAI/DRC NO.:		PHONE: ( ) EMAIL:	
	PLAN: PAI/DRC NO.:		PHONE: ( ) EMAIL:	

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
DUKE MAY, V
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

July 18, 2018

Sent Via Email and First Class Mail
Krysundra Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: In the Matter of: Wadkins Construction, Inc.
5301 Bush Street
Case Nos. 2017-0313-A and CBA-2018-024

Dear Ms. Cannington:

I correspond in reference to the above matter.

In addition to Peter Max Zimmerman's email sent to the Board at 1:53 p.m. on Friday, June 29, 2018, I have received a copy of Mr. Zimmerman's twelve page memorandum (plus exhibits) that he has recently filed in this case. I freely admit that I am most confused about the procedural status of this case and I look to the Board as to the next necessary steps.

By way of recap, my recollection is that the Board conducted an evidentiary hearing on this matter on June 20, 2018, at which time all parties (i.e. the Petitioner, People's Counsel and interested citizens who appeared without legal representation) had the opportunity to present testimony and evidence regarding the appeals at issue. There are two appeals for the Board's consideration; namely, an appeal of the ALJ Beverungen's denial of certain requested variances and an appeal of the Development Review Committee's denial (on January 12, 2018) of a requested lot line adjustment. These appeals were consolidated for hearing at the Board. As the hearing was concluding, the Board raised a question/issue about the identity of the plan that the DRC denied. This issue had initially been identified by Ms. Brazil (a neighbor) who testified that the plan initially submitted by the Petitioner to the DRC contained an error. She stated that when she originally reviewed the plan in December 2017, she discovered that the dimension of the rear property line was incorrectly stated. She further testified that when she discovered this incorrect dimension, that she contacted Carl Richards in the Zoning Office and reported it to him.

In response to this testimony, Mr. Wells (Petitioner's surveyor) explained his recollection. He said that Mr. Richards had indeed contacted him and informed him of the error identified by Ms. Brazil. Additionally, Mr. Richards said that there was a second error that he (Mr. Richards) discovered. This error was as to the setback distance shown from the proposed dwelling on the property. Mr. Wells further observed that although the rear property line dimension was incorrectly labeled, if one were to measure the distance based on the drawing's scale, that the proper distance was in fact shown. In other words, the drawing properly showed the distance schematically, but the dimension stated was wrong.

Due to these errors, Mr. Wells indicated that he submitted a corrected/revised plan. Mr. Wells opined that he believed that the initial plan (with the errors) was submitted on December 7, 2017 and that it was the plan approved by the DRC on December 22, 2017 (by letter signed by Mr. Richards). He recalled that he submitted the revised plan in early January 2018 after his conversation with Mr. Richards. This was consistent with Ms. Brazil's testimony, that she contacted Mr. Richards in late December 2017/early January 2018.

As I have previously stated, I believe this all to be a tempest is a tea pot; primarily because this matter is a de novo proceeding before the Board (and thus the Board is considering the plans submitted to it and not any prior plan). Additionally, from a substantive standpoint, the errors are insignificant and do not alter the nature of the relief requested.

Notwithstanding my view, I respect the Board's position and desire to clarify the plan considered (and denied) by the DRC. In answering this question, I first direct the Board to its own file. Therein are the documents forwarded to the Board by PAI after the DRC appeal was filed. Your file contains both the initial ("erroneous") plan and the revised/corrected plan. The fact that these two plans are in the Board's file and were sent to you after the appeal was filed seems to be clear evidence that the DRC had both when they made their denial (i.e. the action appealed from).

As further confirmation, my letter of June 27, 2018 included a copy of a "transmittal or cover letter" by Mr. Wells dated January 4, 2018. This letter accompanied the revised/corrected plan that Mr. Wells submitted on that date. This transmittal/cover letter certainly resolves the question of when the revised plan was submitted (People's Counsel's protests to the contrary). Thus, it is apparent that the plan considered (and denied) on January 12, 2018 was the revised plan submitted on January 4, 2018.

As further proof, I have obtained the "drop off log" maintained by the DRC dated January 4, 2018. It is attached hereto. It shows that a DRC plan from KJWells, Inc. was dropped off for 5301 Bush Street (the Wadkins property) on January 4, 2018, thus, consistent with Mr. Wells' recollection and his transmittal letter. Thus, the log from PAI shows that it received the

revised/corrected plan on January 4, 2018; eight days before they considered and denied the lot line adjustment request.

If the Board finds it necessary, I have no objection to the Board reconvening its hearing to take additional evidence on this issue. I will produce as a witness, Mr. Wells' administrative assistant. She will testify that based upon the computer records of the company and her personal recollection, that she prepared the transmittal letter on January 4, 2018 and personally delivered the letter and revised plan on that date. I can also produce a representative of the Department of Permits, Approvals and Inspections. He/she can testify that the log attached hereto is authentic, if Mr. Zimmerman believes the attachment to be a forgery.

Thus, if the Board needs to reconvene the hearing to take this testimony and solve the mystery of when the revised plan was submitted and confirm that it in fact was the one considered (and denied) by the DRC, I am pleased to appear. But this simply appears to be overkill based on the overwhelming documentary evidence. But if a hearing is needed, please schedule one expeditiously.

If the Board is satisfied that this mystery is solved to its satisfaction, then (as was discussed at the conclusion of the hearing) I am pleased to submit a memorandum outlining my position as to the substantive issues involved; to wit, the merits of the requested variances, the denial of the lot line adjustment by the DRC, the question of merger, etc. I would propose submitting my memorandum within thirty days.

Please let me know how the Board wishes to proceed.

Very truly yours,

Lawrence E. Schmidt/am

Lawrence E. Schmidt

LES/am
Enclosure
cc: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Diane Brazil, 5205 Bush Street, White Marsh, MD 21162
Miranda Hewitt, 5300 Bush Street, White Marsh, MD 21162
Donna Welch, 5300 Bush Street, White Marsh, MD 21162
John Lochary, 5219 Bush Street, White Marsh, MD 21162
Norman and Angela M. Cioka, 5303 Bush Street, White Marsh, MD 21162
Wadkins Construction, LLC

JAN 4 2018

Khash
10-24

PERMITS, APPROVALS AND INSPECTIONS

SIGN IN SHEET FOR DROP OFF

DATE: _____

SHEET _____ OF _____

ENGINEERING FIRM NAME	TYPE OF PLAN AND PAI NO.	NAME OF THE PERSON DROPPING OFF PLAN	ENGINEER PHONE NO. AND EMAIL ADDRESS	PROJECT NAME
CNA	PLAN: Grading Plan PAI/DRC NO.: ESC Plan & Mypc	KARLA	PHONE: (443) 452-6141 EMAIL:	Rodgers forge Phase 3
Pennoni	PLAN: Phase2 Concept SWM Plan PAI/DRC NO.: 09-711	Jeff Livingston (EPS) for Josh Behun (Pennoni)	PHONE: (410) 997-8900 EMAIL: jbehun@pennoni.com	Goucher college Hoffberger Hall Expansion
NB&C	PLAN: Site Plan Filing PAI/DRC NO.: DRC	Jim Calabrese CAbruic@NBCLLC.com	PHONE: (410) 713-7282 x104 EMAIL: Abdul@NBCLLC.com	Lexington
Bohler	PLAN: Landscape PAI/DRC NO.: 02-740	Jen Bess	PHONE: (410) 821 7900 EMAIL:	SMO Liberty Road
DST/A	PLAN: OS Waiver PAI/DRC NO.: 14-0497	Amy MSDAY	PHONE: 410, 944-3647 EMAIL:	Marin Ferry
" "	PLAN: FLS PAI/DRC NO.: 04-742	" "	PHONE: ( ) " " EMAIL:	Assoc. Way
KG Wells Inc	PLAN: SWM PAI/DRC NO.:	C Nardelli	PHONE: (410) 512 8800 EMAIL:	Ewing
"	PLAN: DLC PAI/DRC NO.:	"	PHONE: (") EMAIL:	5301 Buckeystown
CNA	PLAN: ESC-PLAN PAI/DRC NO.:	JOHN Bullock	PHONE: (443) 627-6383 EMAIL:	BGE-Towson PH #3
CNA	PLAN: GRADING PAI/DRC NO.: PLAN	JOHN Bullock	PHONE: (443) 627-6383 EMAIL:	BGE-Towson PH #3
	PLAN: PAI/DRC NO.:		PHONE: ( ) EMAIL:	
	PLAN: PAI/DRC NO.:		PHONE: ( ) EMAIL:	

Krysundra Cannington

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Wednesday, July 18, 2018 3:07 PM
To: Krysundra Cannington
Cc: Peoples Counsel; Lawrence Schmidt
Subject: Wadkins Construction, Inc., Case Nos. 2017-313-A and CBA 2018-024
Attachments: Letter to BOA encl. PAI_DRC's 1.4.18 drop-off log.PDF

Please see the attached.

Alyssa Fiore Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
amoyers@sgs-law.com | www.sgs-law.com

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Board of Appeals of Baltimore County

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

July 18, 2018

Arnold Jablon, Esquire
Deputy County Administrative Officer
and Director of the Department of
Permits, Approvals and Inspections
111 W. Chesapeake Avenue, Room 105
Towson, Maryland 21204

Re: In the matter of: Wadkins Construction, Inc.
Case No: 17-313-A and CBA-18-024
DRC # 010218-LLA2

Dear Mr. Jablon:

The Board kindly requests that you select someone from your agency or a division of your agency to testify at the hearing before the Board of Appeals on October 4, 2018 at 9:00 a.m. Please see the enclosed Subpoena.

Should you have any questions, please do not hesitate to contact our office.

Very truly yours,

Sunny Cannington

Krysundra "Sunny" Cannington
Administrator

Enclosures:
Subpoena
Notice of Assignment

IN THE MATTER OF:	*	BEFORE THE
Wadkins Construction, Inc. 5301 Bush Street DRC No: 010218-LLA2	*	BOARD OF APPEALS OF
11th Election District 5th Councilmanic District	*	BALTIMORE COUNTY
	*	CASE NO.: 17-313-A and CBA-18-024

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

SUBPOENA

Pursuant to Board of Appeals Practice and Procedure Rules 5a and b, we hereby issue a Subpoena to the following named witness(es) to appear before the Board of Appeals of Baltimore County at the hearing for the above captioned matter currently scheduled on **October 4, 2018 at 9:00 a.m.** in Hearing Room 2, Suite 206, The Jefferson Building, located at 105 W. Chesapeake Avenue, Towson, Maryland 21204, and continuing day to day thereafter as necessary for such witness' testimony and as scheduled by the Board.

Witness: A representative(s) from PAI or division of PAI who can testify about the requested refinement to the CRG Plan under Baltimore County Code Section 32-4-106(a)(1) and to produce all documents necessary for, and/or incidental to, that testimony.

Address: Department of Permits, Approvals and Inspections
111 W. Chesapeake Avenue
Towson, Maryland 21204

Requested by: The Board of Appeals for Baltimore County
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, Maryland 21204

The witness named above is hereby ORDERED to so appear before the Board of Appeals of Baltimore County.

Sunny Cannington
Board of Appeals for Baltimore County

RECEIVED
JUL 18 2018
BALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED
JUL 11 2018
BALTIMORE COUNTY
BOARD OF APPEALS

RE: PETITION FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE
5301 Bush Street; SE corner of Bush Street & Winkler Road	*	BOARD OF APPEALS
11th Election & 5th Councilmanic Districts	*	FOR
Legal Owner(s): Wadkins Construction, Inc. Petitioner(s)	*	BALTIMORE COUNTY
	*	2017-313-A & CBA-18-024

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

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY IN OPPOSITION TO PETITIONER'S REQUEST FOR CANCELLATION OF HEARING

People's Counsel for Baltimore County opposes Petitioner/Appellant Wadkins Construction, Inc.'s ("Wadkins'") request that the County Board of Appeals (CBA) reverse its June 20 ruling to hold a second day of hearing to examine and illuminate the 2017-18 Development Review Committee (DRC) process. This memorandum covers the good reasons for another hearing day and many issues to be sorted and disentangled.

Overview

This litigation should involve just the relatively familiar "garden variety" zoning variances. These are "garden variety" because subject to the BCZR Sec. 307.1 "uniqueness/practical difficulty/public health-safety-welfare" standards. See McLean v. Soley 270 Md. 208 (1973); Cromwell v. Ward 102 Md. App. 691 (1995); Trinity Assembly of God v. People's Counsel 407 Md. 53 (2008); and, recently, Dan's Mountain Wind Force v. Allegany County Board of Zoning Appeals 236 Md. App. 483 (2018).

But Wadkins has persistently tried to circumvent zoning review via the DRC process. They did this first in 2014, under the aegis of the prior Jones, et al. ownership but were referred for zoning compliance. After suffering ALJ denial of their request for zoning variances midsummer 2017, they tried the DRC again in late 2017, ultimately denied once again because of the need for zoning compliance.

Wadkins' 2017 DRC application has generated complications and confusion. This is due in part to the obscure aspects of the DRC process and in part to Wadkins' effort to escape and "moot" zoning conflicts under the guise of "lot line adjustment."

The CBA rightfully decided to hold another hearing to figure out what happened. As we review the record, we find the DRC process here to be even more problematic. Accordingly, we reject Wadkins' latest attempt to shorten and divert attention from the major zoning problems which their DRC application threatened to obscure. It is in the interest of justice to illuminate the DRC process and reflect on the zoning context.

We reserve on the insufficiency of the variance requests for a final memorandum.

I. The Development Review Committee Process in Perspective

The DRC is a creature of policy, now an arm of the Director of Permits, Approval, and Inspections (PAI). Its source is the Development Management Policy Manual (DMPM), drafted in 1992 during the former County Review Group (CRG) era, and adopted in 1993. The current edition is dated 2002 and available online.

We attach pages 1-17. The DRC has authority to review applications for development exemptions, refinements, waivers, and minor subdivisions. The PDM Director chairs the committee, comprised of various departments. Notice of meetings shall be posted 19 days in advance of the meeting room in a public hallway and posted on the County website. Page 4. There is no formal provision for citizen participation. The DRC makes recommendations to the Director, who customarily adopts them as decisions.

There do not seem to be any rules of procedure, docket; notice record; meeting tape; minutes; or findings of fact and legal reasoning. .

(The DMPM still refers to the former CRG, Department of Permits and Development Management (PDM), and Titles 22 and 26 of the Baltimore County Code, going back more than 20 years, reflecting former nomenclatures and codifications. It is in need of updating. We shall assume it acceptable to implement the policy based on current departmental iterations and recodification of the Code).

II. Appellate Jurisdiction; *De Novo* Hearing; Burden of Proof

The Director's decisions, adopting DRC recommendations, are appealable *de novo* to the CBA under Charter Sec. 603 and current County Code Sec. 32-3-401(a). Nevertheless, the CBA exercises appellate jurisdiction. UPS v. People's Counsel 336 Md. 569, 585-87 (1993). It is important, therefore, to understand precisely the application

reviewed by the DRC and the decisional context. It should also be kept in mind that the burden of proof remains with the applicant. See Grasslands Plantation v. Frizz-King Enterprises 410 Md. 191, 204-17 (2009).

Accordingly, upon review of the appeal of the 2018 "DRC" denial here, the CBA exercises appellate jurisdiction. The burden of proof is on the applicant.

III. The DRC; Procedural Due Process; Notice; Participation

The hallway posting/website notice is not true public notice. Agencies must observe the basic rules of fairness relating to notice and opportunity to be heard. Ottenheimer Publishers v. Employment Sec. Admin. 275 Md. 514, 520 (1975); Mayor and City Council of Rockville v. Woodmont C.C. 348 Md. 572, 590-92 (1998). Area citizens understandably lacked notice of the 2014 DRC application.

Even when citizens are on guard, or check the County website, (as John Lochary reportedly did for the 2017 application), the citizens, as noted, have no formal right to participate. The DRC apparently received Diane Brazil's e-mails, which identified errors in the application, and the pending zoning appeal and issues. The DRC then corrected its initial precipitous approval by referring the matter again for a zoning hearing.

IV. Context and Timeline

We have re-examined the complex DRC and Zoning files and multiple exhibits, including a dizzying array of zoning and DRC plans. We find it helpful to sort out the following history for 5301 Bush Street, having in mind that Wadkins is bound by its petitions and site plans:

2014: The Jones Property DRC Case

March 28, 2014, Jones property DRC application filed by Kenneth Wells; stamped received by PAI April 1, 2014. Pet. CBA Exh. 7.

March 21, 2014 DRC Plan included with application: "Plat to Accompany DRC Request," ALJ Exh. 10, July 11, 2017 ALJ Hearing. Subsequently, "Approved DRC Plan", Pet. CBA Exh. 2, filed at CBA. Both show Bush Street front lot width 120' existing Lot 8, 50' Pt Lot 7; rear, 145' Lot 7, 50' Lot 8. The ALJ Exhibit shows existing

dwelling and garage straddling internal lot line, both "to be razed." CBA Exh. 2 erases this information.

April 18, 2014: PAI approves DRC application provisionally, subject to zoning review. There does not appear to have been the required 19-day notice of any kind. There is no documentation of DRC meeting. Pet. CBA Exh. 7.

September 29, 2016: Jones, et al. sell property to Wadkins. Pet. CBA Exh. 6E.

2017: Wadkins Petition for Zoning Variances: ALJ Level: Case 2017-313-A

May 22, 2017: Wadkins files petition for zoning variances: for Lot 2, 94.61 feet in lieu of the required 100 feet lot width for Lot 2, and a net lot area of 18,922 square feet in lieu of the required 20,000 square feet, per BCZR Sec. 1B02.3.C.1; and for Lot 1, a 35 feet setback along Winkler Street in lieu of the required 40 feet setback.

Jul 11, 2017: 7/8/17 Wadkins "Plat to Accompany Zoning Hearing" submitted to ALJ. Pet. ALJ Zoning Exh. 11 shows front width, Bush Street: Proposed Lot 1, 75', Lot 2, 94', R (Curve) 25'; rear, Lot 1, 100', Lot 2, 94. Variances: 94' front lot width for Lot 1 (assumes curve included); 18,922 SF for Lot 2 lot area (assumes curve included for Lot 1 to meet 20,000 SF. Shows razed dwelling/garage. There is no showing or measurement for width at front building line.

July 11, 2017: 3/21/14 "Plat to Accompany DRC Request" submitted to ALJ. Pet. ALJ Exh. 10. Shows front width, Bush Street, 120' Lot 7, 50' Pt Lot 8; rear, 145' Lot 7, 50' Pt Lot 8. Shows existing dwelling and garage to be razed. Does not show width at front building line, just shows lots.

July 11, 2017: ALJ Hearing on zoning variances; exhibits admitted; ALJ opinion and order denies variances.

August 10, 2017: Wadkins appeals to the CBA.

Current DRC Case: DRC 2017-00185; CBA Case 18-024.

December 7, 2017: Despite zoning denial and pendency of zoning appeal, KJ Wells submits DRC application, again requesting lot line adjustment. Applicant now listed as Wadkins Construction, Inc. DRC #010218-LLA2. DRC File.

The site plan is dated November 9. It is stamped received by PAI on December 7, 2017. DRC File. As with the zoning plan, it shows front lot width at Bush Road as 70' on 1 and 100' Lot 2 (170'), and R 25', as in the zoning petition. Erroneously, it shows an excessive 107' for the rear of Lot 1, with 50' + 50' for Lot 2. It adds 1200 square feet in the rear from the Koenig property (but does not disclose this property was not yet even under contract with the Koenigs, albeit conditional, and that there would be an easement.)

The plan shows the razed dwelling and garage.

For the first time, this plan shows front building line width at 100' for each lot.

December, 2017, date uncertain. Notice posted online for January 2, 2018 DRC meeting. The notice is not in the file, but may be inferred from Diane Brazil's January 30, 2018 e-mail below, and testimony that John Lochary saw the online notice.

December 22, 2017: Carl Richards signs DRC approval letter, with initials under Director Arnold Jablon's approval, possibly per Mr. Richards. DRC File.

December 30, 2017: Diane Brazil sends e-mail to Darryl Putty, county PAI staff, and Jan Cook, development manager, expressing concerns. P.C. Exh, 8. She refers to the DRC meeting scheduled January 2, 2018. She recites the zoning history, objecting to the precipitous December 17 approval, advising that Wadkins has not closed on the Koenig property, advising of the property area discrepancy with SDAT records. There is no dispute Ms. Brazil sent the e-mail. But her e-mail is not in the DRC file at the CBA.

January 2, 2018. DRC meeting occurs. But there is no record in the file.

January 3, 2018: Diane Brazil sends another e-mail, adding Arnold Jablon, PAI Director, along with Jan Cook and Darryl Putty. She summarized the history, notes the earlier 2014 DRC application was filed before Wadkins acquired the property, and was provisionally granted subject to zoning review. She reviewed the ALJ zoning variance denial. She described the January 2, 2018 DRC meeting and enumerated many concerns.

Again, it is undisputed Ms. Brazil sent the e-mail. But it is not in the DRC file.

January 4, 2018 forward: There is no indication of any further notice to Diane Brazil or area residents. There is no record of any further public notice or DRC meeting.

January 12, 2018/revised January 23, 2018: PAI Director denies DRC application. This is signed by Carl Richards, with AJ's independent signature, apparently reviewed by both Mr. Richards and Mr. Jablon. DRC File. The denial states:

> "Does not meet the requirements of a limited exemption under Section 32-4-106(a)(1), BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend & grant the plan he denied and approve an unusual Lot Line division.

The PAI decision does not mention any January 4 or revised submittal.

February 8, 2018: Wadkins Construction appeals DRC denial to the CBA.

2018: County Board of Appeals Hearing

June 20, 2018: CBA consolidates zoning and DRC appeals for *de novo* hearing.

Pet. CBA Exh. 3: June 18, 2018 Wadkins "Zoning Hearing Plan", Different from "Plat to Accompany Zoning Hearing" submitted 7/11/17 as ALJ Exh. 11. Still shows Bush Street Front 75' Lot 1, 94' Lot 2, but does not show R (curve); rear same at 100' Lot 1, 94' Lot 2. Still no showing of width at front building line. Erases notes on razed dwelling and garage. Still requires variances. Includes Wadkins property only.

Pet. CBA Exh. 4: June 18, 2018: Wadkins "Approved/Denied DRC Plan," Shows Bush Street front 70' Lot 1, 100' Lot 2, 25' R; rear, 95' Lot 1, 100' Lot 2.

No buildings shown, no front lot width at building line.

Adds Koenig 1200' rectangle, but does not disclose Koenig still owns it, conditional contract status, or easement.

Wadkins' June 27, 2018 Letter

June 27, 2018 Wadkins' letter to the CBA encloses an unsigned January 4 letter of KJ Wells to the DRC with another application for review and comment, with plan. But this letter is not in the DRC file at the CBA. The letter is stated to be hand-delivered; but there is no stamp that it was received by PAI. There is no indication of additional notice of any kind, or any subsequent DRC meeting.

Wadkins' June 27 letter also makes reference to a KJ Wells January 3, 2018 DRC plan, with revisions, as apparently going along with the January 4, 2018 transmittal. There is a loose copy in the CBA file. But there is no stamp that it was received by PAI.

V. It is Questionable whether the January 4 Wells Transmittal was Reviewed by PAI and/or Was Eligible for Review

The injected January 4 KJ Wells Transmittal is dated after the January 2 DRC meeting, unsigned, not stamped "received" (unlike the initial DRC application), and not in the DRC file.. There was no new public notice. There was no new DRC meeting. It is, to say the least, questionable whether it was reviewed or eligible for review.

By mid-January, 2018, in light of zoning problems identified in Diane Brazil's e-mails, it appears the DRC and PAI Director recognized major zoning problems which precluded DRC approval and caused referral of the matters for a zoning hearing.

An additional CBA hearing directed at the DRC process may help sort out what happened and what is under appellate jurisdiction review. The confusion here compounds the distraction caused by the 2017 DRC application filed amid the zoning appeal process.

VI. Procedural Due Process: Wadkins' Submission of New Evidence: Our Right to Cross-Examine

Wadkins' latest effort to avoid the Board's decision to have a new hearing involves submission of new evidence --- the KJ Wells January 4, 2018 transmittal. This raises procedural due process problems. As noted, it is not in the DRC file; and there are questions regarding its status.

As the Court of Appeals ruled in an analogous setting, with new evidence submitted on reconsideration, there is a right to cross-examination. Maryland State Police v. Zeigler 330 Md. 540, 559-62 (1993). We have a right to cross-examine Mr. Wells. It is also appropriate to hear evidence from others who may shed light on the situation, as the CBA recognized at the conclusion of the June 20, 2018 hearing.

VII. Relationship of Zoning to Development; Zoning Compliance Is a Prerequisite to Development Approval

We turn to the intertwined zoning problems which Wadkins has tries to avoid. A key point is that zoning has priority. All development must comply with zoning law. County Code Secs. 32-4-104(b); 32-4-114(a)(b), BCZR Sec. 600. People's Counsel v. Surina 400 Md. 662, 688-95; see Miller v. Forty West Builders 62 Md. App. 320, 333-35.

The relatively informal DRC process --- with such abbreviated public notice and narrowed citizen participation --- may become a vehicle to avoid zoning review, including with the substantial public notice and due process hearing rights provided for zoning cases. See County Code Sec. 32-3-302, variances; BCZR Sec. 500.5, special exceptions; BCZR Sec. 500.7, special hearings.

Here, the DRC and PAI Director recognized zoning problems with the March 28, 2014 DRC application. They did not initially recognize such problems with the December 7, 2017 application. Alerted by Diane Brazil, some of the problems came to their attention, leading to the denial.

VIII. Zoning Problems with the DRC Application(s) Here

There are many zoning issues which warrant further inquiry as to the extent, if any, of DRC review. They are as follows:

a. Timing; Second DRC Application while Zoning Appeal Pending

There is the anomalous timing of filing a DRC development application without zoning compliance. At best, this is putting the cart before the horse. At worst, it is a tactic to slide development approval by without regard to zoning law. The DRC misuse is flagrant here because of the pending zoning appeal after variance denials.

If Wadkins' renewed 2017 DRC application been approved, Wadkins would likely have gone for building permits. The zoning law conflicts could have escaped review.

Wadkins has persisted in its efforts to divert attention from zoning. This surfaced in Wadkins' counsel's February 8, 2018 DRC appeal letter. It suggests that the DRC appeal, in the event of the CBA's "... approval of that [lot line] adjustment may well have made moot the zoning variance requests in Case 2017-313-A." This statement turns the law on its head, upside down. Unless Wadkins satisfies the zoning law, the so-called lot line adjustment is disqualified as a matter of law.

b. Zoning Merger; Integral Use of Property; Garage Straddling Internal Lot Line; Unitary Tax Record

There is a palpable zoning merger problem. Where a property spanning two or multiple lots is used integrally, they merge for zoning purposes. Remes v. Montgomery

County 387 Md. 52, 63-70 (2005). The internal lot line(s) disappear for zoning purposes. There must then be a new subdivision. There is no eligibility for "lot line adjustment."

It is undisputed that the subject property was used as single-family residence with a garage for over 60 years. The SDAT records show a principal residence built in 1951. Pet. ALJ Exh. 6. Even more than in Remes, the physical evidence here compels a finding of merger. The many GIS aerial photos, circa 2014, show the garage straddling the internal lot between lot 8 and part of 7. P.C. CBA Exh. 5, Pet. ALJ Exh. 5; Pet. CBA Exh. 13. KJ Wells' 3/21/ DRC plan shows the dwelling and garage (straddling the lot line) to be razed, and the redlined July 8, 2014 plan shows them razed. Pet. ALJ Exh. 10, 11. The SDAT exhibits show the property taxed as a single property. For zoning purposes, the property was always used as a single lot.

The CBA recognized and applied zoning merger in a comparable situation. William Lagna, Petitioner, 3920-4002 Chestnut Road, Case No. 12-239-SPH (2013); affirmed Lagna v. People's Counsel 226 Md. App. 721, 2016 WL 327029, Section II (2016), excerpts attached.

It is appropriate for the CBA to explore to what extent, if any, the DRC considered the merger doctrine in its determination that the zoning hearing should take precedence.

c. Ownership; Subsequent Contract but No Deed

The KJ Wells December 7, 2017 DRC application for Wadkins purports to add a 1200 square feet rectangle of property to the rear of Lot 2 in an effort to meet the 20,000 square feet minimum lot area. But it fails to represent that the property was (and still is) owned by John and Antoinette Koenig.

Wadkins eventually submitted at the June 20, 2018 CBA hearing a conditional contract of sale, with attached easement, from the Koenigs to Wadkins, with a notary date of January 19, 2018. Pet. CBA Exh. 16. There is no witness to Wadkins' signature.

Even if the January 19, 2018 contract is considered, it is uncertain whether it will be consummated. The current status of the contract is open to question. Many contracts fail to go to settlement for many reasons. Anyway, the contract includes a full use easement for the Koenigs. This cannot be counted for the Wadkins lot area. We explain.

d. The Easement Cannot Properly Count for the Wadkins Lot 2 Area

The contractual easement is for the Koenigs and their children, for their lifetimes, to have full use of the 1200 square feet area, until they sell the property to a third party. This easement cannot properly be counted for the Wadkins lot area.

In another setting, the CBA has ruled that a platted 40-feet right of way, which the County had not acquired or used (and which had private structures on it nearby), could not count as lot area for the pertinent private property because the County could claim a prescriptive right. Oberst, 809 Cold Spring Road, Case No. 04-522-A (2005), attached. See, e.g. Clarks Lane Garden Apartments v. Schloss 197 Md. 457 (1951); Sommers v. Mayor and City Council of Baltimore 215 Md. 1 (1957); Loveladies Property Owners Assoc. v. Barnegat City Service Co. 159 A.2d 417 (N.J. Super. 1960); Bankers Trust Co. v. Zoning Board of Appeals of Town of Weston 345 A.2d 544 (Conn. 1974).

There is no dispute that the easement area is required for Wadkins to meet the 20,000 square feet minimum lot area standard. This is required whether the CBA accepts the KJ Wells CAD calculation of 38,800 square feet for the entire property (which includes the imaginary curve at the corner), which contradicts the 36,839 SF on the SDAT (which Wadkins casually dismisses, but which no owner has ever disputed).

e. Lot Width; Statutory Construction; Bill 100, 1970

As we survey the eight variable site plans which have sprouted in this litigation, we discern several key points as to lot width. It should be kept in mind, as an aspect of appellate jurisdiction, that Wadkins is bound by what its zoning petition and site plans show. See People's Counsel v. Mangione 85 Md. App. 738, 746 (1991).

There are two zoning site plans: Pet. ALJ Exh. 11 and Pet. CBA Exh. 3. Both of them recognize the need for variances from the 100 feet minimum for each lot. They both actually show the front lot width at Bush Street by the numbers, rounding off, 75' Lot 1 plus 95' Lot 2, which add to 170', well short for two lots. Their petition and plan notes inflate this number to 192' by extending an imaginary straight line to the Winkler Street corner, disregarding the curvature of the county road. The ALJ Plan doesn't even show the 25' R, while the ALJ Plan does. Both zoning plans show the rear width as 100' for

Lot 1 and 94' for Lot 2, more than the front because of the straight line Winkler Street boundary, but still short of what is necessary.

Neither of the site plans even describe, much less claim, that the lot width is measured at the front building line. This concession itself is conclusive.

Having been denied the variances by the ALJ (and properly so) in July, 2017, Wadkins attempted to escape the variances by shifting the goalposts. They tried this with the minimum lot area, addressed above. They are trying it as well with the lot width.

They fashioned a *post hoc* argument that they can measure the lot width at the front building line. Reminiscent of the classic film Groundhog Day, they came out with this front building lot width measure on their December 7, 2017 DRC Plan. Their contract with the Koenigs does not affect the width at all. So they produced zoning employee Jeffrey Perlow at the last minute to give a favorable opinion.

Mr. Perlow cited the 1955 area reference to "width at the front building line" for the then "R" Zones. PC. Exh. 4. We attach relevant Secs. 202.1, 205.1, and 208.1 (1955). Mr. Perlow said the County Council in 1970 (Bill 100) "forgot" to retain the front building line language for lot width when they repealed these sections. He conceded the "lot width" language in the BCZR Sec. 1B02.3.C.1 Small Lot Table (P.C. Exh. 2) does not retain the former "front building line" language. We attach relevant Bill 100 excerpts, pages 1-4, 331-34, 73-74, showing repeal of the R. Zones delineation and addition of the Small Lot Table. This contrasts with retention of the "Width of lot at Front Building Line" language in the 1955 BCZR Sec. 402.1 dwelling conversion table, attached.

His idea to put the "front building line" language back in the BCZR Sec. 1B02.3.C.1 table is erroneous. Administrative agencies may not supply what the legislature omits. They may not disregard the clear purpose of a statutory repeal. This is especially true here where the Council retained the contrasting BCZR Sec. 402.1 front building line definition of lot width for conversion of dwellings. Attached. It is also noteworthy that there is no zoning office documentation for this opinion. There is no evidence anyone in the County government ever critiqued, questioned, or objected to the County Council's repeal of the front building line delineation of front lot width. An

administrative agency may not make law under the guise of interpretation. Thanner Enterprises v. Baltimore County 414 Md. 265, 274-81 (2010). Mr. Perlow's assertion of zoning staff opinion may not properly displace legislative prerogative and action. Indeed, Mr. Perlow likely would have been in elementary school in 1970, 48 years ago.

Significantly, BCZR Sec. 101.1, attached, refers to Webster's Third New World International Dictionary where there is no BCZR definition. The attached Webster's definition of "**width**" (emphasis supplied) begins with "**1.** a distance measured from side to side: **measure taken at right angles to length ....**" The numbers of the zoning plan, 75' for Lot 1 and 95' for Lot 2 are the measures at right angles. So it all fits.

It should be repeated, moreover, that Wadkins is bound by their zoning petition and site plan, which the front lot width at Bush Street and the need for variances. Indeed, they inflated the lot width by extending an imaginary line to the corner.

To sum up, they still need the variances for lot width as well as lot area. The more the facts come out, the more the DRC looks like a sideshow. We need to understand the DRC situation better. The CBA was right and wise to decide on an additional hearing day. We look forward to the further inquiry. We shall review the variance issues later, after the case concludes, either by oral argument or further memorandum.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of July, 2018, a copy of the foregoing Memorandum Of People's Counsel For Baltimore County In Opposition To Petitioner's Request For Cancellation Of Hearing was mailed to Lawrence Schmidt, Esquire, Smith, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s) and, for ease of communication, e-mailed to Diane Brazil, John Lochary and Angie Cioka at their e-mails on record.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY

DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT

DEVELOPMENT MANAGEMENT POLICY MANUAL

Baltimore County

Department of Permits and Development Management

Development Management Policy Manual

2002 Edition
Originally Printed as Amended Through April 2002

Timothy M. Kotroco, Director
Department of Permits and
Development Management

Adopted July 1, 1993
Revised 11/95, 07/98, 09/99, 05/00, 02/02, 03/02, 04/02

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DEVELOPMENT REGULATIONS
COMPREHENSIVE MANUAL OF ADMINISTRATIVE POLICIES
(CMAP)

AMENDMENTS TO APPROVED COUNTY REVIEW GROUP PLAN

I. Material Amendment

A. Under Sections 22-55, Baltimore County Code (BCC), a plan is defined as follows:

"The plan shall set forth an informative, conceptual and schematic representation of the proposed development by means of maps, graphs, charts or other written or drawn documents so as to enable the county and all reviewing agencies an opportunity to make reasonably informed decisions regarding the development."

B. Under Sections 22-63, BCC, "any material amendment to an approved plan shall be reviewed and approved in the same manner as the original plan."

C. An amendment or combination of amendments to any of the plan items set out in Sections 22-55(b), BCC, shall be considered a "material amendment" if it or they:
   1. Represents a fundamental departure from or material alteration of the original county review group (CRG) concept; or
   2. Has a significant effect on neighboring property, or the neighborhood at large, different from the approved plan.

II. Non-Material Amendment

A. Under Sections 22-43, BCC, amendments to an approved plan which do not materially alter the proposed development may be approved by the Baltimore County Planning Board, with a waiver of CRG meeting, if the director of the Office of Planning finds that:
   1. The size, scope, and nature of a proposed development does not justify strict compliance with these regulations; and
   2. A waiver would be within the scope, purpose and intent of these regulations; and
   3. All other county laws, ordinances, and regulations have been complied with.

B. Thus, a "non-material amendment," which may be approved by the Planning Board with a waiver of CRG meeting, would be any change to an approved plan which does NOT:
   1. Materially alter the original plan concept; or
   2. Have any additional and significant impact on neighboring property or the neighborhood at large.

III. Plan Refinements

A. In order to further clarify the "Plan Amendment Process" it is proposed that slight, minor or insignificant changes to an approved plan, which have no significant impact on the site or on adjacent properties or the neighborhood at large may be considered as "Plan Refinements" fully in keeping with the informative, conceptual and schematic nature of the CRG plan. Plan refinements would not require a CRG meeting or a waiver by the Planning Board. The refinements would include, but not be limited to, minor changes in the following:
   1. Number of dwellings.
   2. Unit type and location.
   3. Square footage or buildings.
   4. Location and area of grading.
   5. Area, location, and function of open space.
   6. Parking and driveways.
   7. Location of streets, fire hydrants and streetlights.
   8. Location and areas of storm water management facilities.
   9. Sewer and water lines and easements.
   10. Soil type and location.
   11. Location and area of flood plain.

B. Proposed non-material amendments to specific details or elements of an approved plan which were the subject of concern at the original CRG meeting may not be considered plan refinement. They may, however, be approved by the Planning Board with a waiver of CRG meeting. In such a case, the director of the Office of Planning shall mail notice of the date, time, and place of the meeting of the Planning Board at least 15 days prior to the date of such meeting to those persons who provided their names and addresses to the CRG and attended the CRG meeting or submitted written comments on the plan.

IV. Plan Corrections – In most instances, corrections to the following items on a CRG plan would not require a CRG meeting or waiver action by the Planning Board.

A. Address.
B. Lot lines.
C. Ownership.
D. Dimensions.
E. Scale, north arrow, etc.
F. Bearings and distances.
G. Election district, councilmanic district, and census tract.
H. Water and sewer shed.
I. Acreage.

V. Approved Plans

A. All changes to an approved plan, whether amendments, refinements, or corrections, will necessitate an updated, approved (by signature) CRG plan.
B. In the case of refinements and corrections, "red lining" of approved plans will probably be acceptable.

Pursuant to Baltimore County Code, Section 22-49, Rules of Procedure, this policy is adopted as part of the CRG Comprehensive Manual of Administrative Procedures (CMAP).

(Original Signed by Gene Neff)	*5/25/87*
Gene Neff, Acting Director	Date
Department of Public Works	
(Original Signed by Norman E. Gerber)	*5/25/87*
Norman E. Gerber, AICP, Director	Date
Office of Planning and Zoning	

DEVELOPMENT REVIEW COMMITTEE

All requests for changes to an approved development plan must be reviewed by the development review committee (DRC). The committee will determine, in accordance with the policies contained herein, if the change requested is a material amendment or non-material amendment, or refinement. See Comprehensive Manual of Administrative Policy (CMAP), Department of Permits and Development Management (PDM) Development Management Policy Manual Policy No. I.a. In addition, all requests for development plan extensions, as well as certain other requests concerning the development process, will be reviewed by the committee.

The committee shall be comprised of members from the Office of Planning, the Department of Permits and Development Management, the Department of Recreation and Parks, and the Department of Environmental Protection and Resource Management, and any other department or office that may be appropriate. The committee shall be chaired by the department of PDM.

Notice of the meeting shall be posted 19 days in advance, outside of the meeting room in a public hallway, listing all projects to be reviewed and stating the nature of the request. Similar notice will provided on the Baltimore County web site at www.co.ba.md.us.

Approved Plans

All changes to an approved plan, whether amendments or corrections, will necessitate an updated plan. In the case of corrections, "red lining" of approved plans may be permitted, subject to certification, pursuant to Sections 26-203(b)(11) and 26-206(1), Baltimore County Code.

EXEMPTIONS FROM DEVELOPMENT PROCESS

Section 26-171, Baltimore County Code (BCC), provides for certain exemptions from the development process.

Most of the exemptions are obvious and require no written review or debate. If a formal request is made, it will be in the form of a letter to the director of the department of Permits and Development Management (PDM), outlining the proposal and the reasons why the applicant believes the proposal meets one or more of the exemptions. A fee to be paid in the amount of $40 is required for such requests. The director will then respond in writing.

Where exemptions are not so obvious and require interpretation and review, particularly, Subsections (a)(7), (b)(3), (b)(7), (b)(8), and (b)(9), BCC, the director shall confirm the exemption as follows:

Subsection (a)(7) - The construction of residential accessory structures or minor commercial structures.

There are two parts to this exemption, and they will be treated separately. While interpretations of accessory structures are an integral part of zoning, the two parts should not be reviewed in the same fashion. Interpretations as to whether a proposal is a residential or commercial accessory structure should be made by the PDM Zoning Office. Interpretations as to whether a proposal is a minor commercial structure, but not an accessory, should be made by the development review committee (DRC). In determining whether a proposed addition or independent commercial structure should be exempted, the following guideline should be utilized:

up to 25,000 square feet (not to exceed 50 percent of the existing size) and measurable degree of community interest.

Subsection (b)(3) - Amendments to an approved plan or plat that do not materially alter the proposed development.

Determinations shall be made by DRC, using as its guide the standards adopted as part of county review group (CRG) Comprehensive Manual of Administrative Procedures (CMAP).

Subsection (b)(7) - The construction of accessory structures.

Interpretations of accessory structures shall be made by zoning, for the same reason as stated previously—accessory structures and uses are an integral part of zoning. If an applicant should disagree with zoning's interpretation of what is or what is not an accessory structure, the applicant may then file a petition for special hearing and a hearing will be held before the zoning commissioner. This would enable the existing

framework to be utilized. Equally, if someone other than the applicant should disagree with an interpretation, a petition could be filed under Section 500.7, Baltimore County Zoning Regulations (BCZR) and a hearing held before the zoning commissioner. This differs from minor commercial structures inasmuch as Subsection (a)(7) is not necessarily limited to commercial accessory structures.

Subsection (b)(8) - The subdivision of land or building in a planned office or industrial park for which a development plan has been approved in accordance with these regulations.

While there is no ambiguity contained in this section which should ordinarily require interpretation, the DRC ought to have the opportunity to confirm the existence of either a planned office or industrial park and the existence of a plan. While there is a definition contained in Section 26-168, BCC, for a planned industrial park, there is none for a planned office park. Therefore, if there were an issue presented as to the latter, the committee ought to have the opportunity to review.

Subsection (b)(9) - A minor development, as defined in Section 26-168, BCC, not to exceed a total of three lots.

While it is clear that the law exempts any project that satisfies the definition, proposed minor developments will be reviewed by the DRC. If a minor development otherwise requires a zoning hearing, i.e., special exception or variance, then it would be exempted from the community input meeting and development plan hearing. If no zoning hearing were otherwise required, then the DRC would utilize the same guideline as described above in Subsection (a)(7) for minor commercial structures. The purpose is to insure that if there is community interest, there be at least an opportunity for the community to be heard.

The director of the PDM will do confirmations of all other exemptions. If an applicant files requests for waivers, and pays the fee, only later to be informed that the proposed project is in fact exempt, the fee should not be returned. The applicant has attempted to beat the system by filing early without input from the county, and therefore should bear the cost of doing so. If the applicant requests confirmation, either from this office or from the DRC, a $40 fee should be charged.

It is important that where an agency knows that community interest is intense about a particular project, such interest is brought to the attention of this office and of the DRC.

PDM - POLICY NO. I.d

DEVELOPMENT PLANS RECEIVING WAIVERS TO HEARING OFFICER'S HEARING

Section 26-172, Baltimore County Code (BCC), "Waivers of the Development Regulations," states that a waiver of development plan and hearing officer's hearing (other than limited exemptions) may be granted by the Baltimore County Planning Board.

In general, a waiver of hearing officer's hearing will be considered favorably upon successful completion of the community input meeting (CIM), however, in most cases a development plan will be required. In those instances where a waiver of the hearing officer's hearing is granted and a plan is required, a development plan should be circulated to each agency and department for comments.

Upon receipt of comments, the Department of Permits and Development Management will require the engineer/architect/developer to sign and seal the development plan certifying that all county comments have been addressed. The project manager should note on the plan the date the development plan was accepted by the county and that this plan was not subject to a hearing. The county then has a plan on file and the applicant can proceed to Phase II, the "permit" process.

PDM - POLICY NO. I.e

CHANGES TO APPROVED DEVELOPMENT PLANS

Pursuant to Section 26-206, Baltimore County Code (BCC), all proposed development, as that term is defined in Section 26-168, BCC, must be approved by the zoning commissioner after a public hearing, subject to certain limitations contained therein, and excepting for certain types of development as more particularly delineated in Section 26-171, BCC.

Section 26-211, BCC, sets out the law for amending an approved plan.

After consultation with the zoning commissioner, it has been determined that the past process for amending county review group (CRG) plans shall be extended to amending approved development plans. The policies as set out in the Comprehensive Manual of Administrative Policies (CMAP) shall continue to be applied by the development review committee (DRC).

Section 26-206(1), BCC, requires that all plans reviewed for approval after the development plan is approved shall be sealed and certified by the developer's consultant that they are in accord with the development plan. It is the responsibility of the consultant and developer to ensure that all subsequent plans conform to the plan as approved by the zoning commissioner.

If a change to the development plan is made necessary because of the grading plan, for example, then it is the responsibility of the developer to request of the DRC a determination whether the change is a refinement or material change. The DRC will review the request; if the change is a refinement, then the DRC will approve it by stamping the changed plan. If the change is determined to be material, then the matter shall be referred to the Department of Permits and Development Management (PDM) for the scheduling of a public hearing before the zoning commissioner to amend the plan. If it is a change to a vested CRG plan, it will be referred to a reconvened CRG meeting.

If the plan is to be referred to the zoning commissioner, the developer shall file a petition for special hearing to amend the development plan, subject to all requirements of PDM. The project manager will assure that all who were identified to be notified for the development hearing shall be notified as to the new hearing, and the property shall be posted for 15 days, pursuant to Section 26-206(d), BCC.

Fees shall be charged, pursuant to the schedule already in place.

Diligence must be exercised to ensure that there is compliance with Section 26-206(1), BCC. While the county should accept certification of compliance, it must be emphasized that the consultant will be held accountable if conformity is ignored.

The consultant and developer must ensure that subsequent plans, more detailed than the development plan, and the development plan conform. For example, if trees are marked on the development plan as being preserved, but the grading plan approves their removal, the consultant and developer are thereupon charged with the responsibility to bring the development plan in line with the grading plan or vice versa, before the trees are removed. Failure to do so may result in referral to the PDM Code Inspections and Enforcement Division for potential civil penalties and injunctive relief to restore the property to its original condition.

It must be emphasized that all plans must comply with Section 26-206(1), BCC.

LIMITED EXEMPTIONS

All revised limited exemption plans submitted for approval signature will be required to include one if the following notations located within the seal block:

SEAL

This revised plan is sealed and certified to be in accordance with all agency comments.

OR

SEAL

I hereby certify that I have reviewed with due diligence the _____ dated _____, and have prepared with due diligence this _____, pursuant to _____.

EXPLANATION: Limited exemption plans prepared pursuant to Section 26-171(b), Baltimore County Code, will normally receive one review cycle. Agency comments will be collected and distributed to the engineer through the Department of Permits and Development Management (PDM). Following the resolution of agency comments, ten copies of the revised plan including the certification noted above must be submitted for final approval to PDM.

PROCEDURE FOR MINOR SUBDIVISION

1. Initially, in accordance with the attached filing procedure, 20 copies of the plan should be submitted to the Department of Permits and Development Management (PDM), County Office Building, Room 123, along with the review fee for all minor subdivisions, and the basic filing certification. The processing fees are:

one-lot subdivision	$282
two-lot subdivision	$435
three-lot subdivision	$527

   These processing fees are subject to change.

2. Prints will be distributed to the reviewing agencies within three working days to allow for the first review, and will have a 15-workday response deadline. It will be made clear that the responses not received by the deadline will be considered approvals during the final certification review by PDM.

3. The agencies' comments will be returned to the surveyor via the pick-up bin three days after the due date, along with a cover letter outlining the county's commitment and the responsibility of the surveyor for the second plan submission. Contact between the surveyor and the county agencies is encouraged. This will not eliminate the need for subsequent reviews, but could expedite plan approval. The surveyor (and professional engineer, if required) will be responsible for the resolution of agency comments and the submission of the revised plans to PDM.

4. The plans are forwarded to the Zoning Review Office planner who will disperse to the agencies for second review. This person will act as "project manager" for the minor subdivision and should be contacted for all questions regarding the status for the subdivision. The telephone number is 410-887-3391. The second review will also have a 15-workday response deadline.

5. Plan approval must come within one year of submittal or the file will be purged. If the plan is not approved after the third formal review, or if the file is inactive for a period of 90 days, as determined by the planner, the plan will be denied, the file will be purged and returned to the applicant. A new application and fee must be submitted to restart the review process.

6. Once approved, the "project manager" will contact the surveyor to request an original and three prints. These must be submitted to PDM, County Office Building, Room 123.

These will be forwarded to the Zoning Review Office and to the Department of Environmental Protection and Resource Management (DEPRM) for signature. Final approval is in about a week. The surveyor will be responsible for providing PDM with eight copies of the signed plan for distribution to the agencies for inclusion into their files. The original mylar will be returned to the surveyor, unless it is to be recorded in the Minor Subdivision/Greenway Plan Book.

Revised plans will not be accepted for review without the revision date and reasons for revisions being included on the plans.

PDM – POLICY NO. II.b

RECORDING OF MINOR SUBDIVISION PROCEDURES

Minor subdivision plans, intended to be recorded, may be recorded in the Minor Subdivision/Greenway Plan Book; a record plat is not required. The plans must also be presented in an acceptable form for recording, i.e., original ink on mylar with original signatures, reprographic "washoff" mylar with original signatures or other media approved for recording. Prints, diazo mylars, sepias, xerox copies, sticky backs, etc., will not be accepted. All plans submitted for recordation shall be processed through the Department of Permits and Development Management (PDM) and accompanied by the appropriate fees. An alternative to this process is to attach a reduced copy directly to the deeds.

Transfers of properties should be accomplished via metes and bounds descriptions whether or not the minor subdivision has been placed on record. Transfers referencing plan titles and lot numbers only may not be permitted as the plans recorded among the Minor Subdivision/Greenway Plan Book do not typically meet the requirements of the Annotated Code of Maryland.

There has been a recurring problem of deeds being written for minor subdivisions setting out road widenings as separate parcels/lots. Please be aware that Baltimore County does not encourage separate parcels for road widening strips unless the county has commented on the road-widening strip during approval process.

Deeds, plats or plans referencing subdivision of land, merging or dividing lots or parcels, shall not be recorded among the land records of Baltimore County without accompanying documentation showing approval by PDM of any such subdivision of land. Such documentation must be attached to a deed if a record plat is not utilized. If a record plat is utilized, all relevant deeds must reference the plat. See Sections 26-174 and 26-175, Baltimore County Code.

PDM – POLICY NO. II.c

MINOR SUBDIVISION FILING

I. First Submission:

Prior to preparing the plan, it is practically mandatory, and at the very least strongly advised, that the surveyor should contact the following agencies for pertinent data that may be required by that particular agency:

A. Department of Environmental Protection and Resource Management (See Basic Filing Certification)	410-887-3980
B. Fire Department	410-887-4880
C. Department of Permits and Development Management	
Development Plans Review	410-887-3751
Land Acquisition	410-887-3280
Street Names and Addresses	410-887-3710
Zoning Review Office	410-887-3391
D. Office of Planning	410-887-3480
E. Department of Recreation and Parks	410-887-3807
F. Department of Public Works, Solid Waste Management	410-887-3188
G. Maryland State Highway Administration	410-545-5600
H. Maryland Department of Assessments	410-512-4900

NOTE: It is incumbent upon the surveyor, and in the best interest of the owner/developer, to provide essential basic information and resolve any lengthy or serious conflicts up front, prior to the first submission of a plan for circulation and the beginning of the 90-day timeline. In addition to the basic filing certification that is described below, there are also three plan preparation checklists that are provided within these policies that should be used in preparing a minor subdivision plan.

THE ATTACHED BASIC FILING CERTIFICATION MUST BE COMPLETED AND SIGNED INDICATING THAT THE ESSENTIAL BASIC INFORMATION IS IN PLACE.

II. Second Submission:

Prior to resubmittal for a second review, the professional should make personal contact with any reviewers having unresolved issues and get their approval initials and date on one plan. This second personal contact by the surveyor with the reviewing agency may reduce or eliminate the need for a time consuming second plan circulation. If the first review issues are resolved and initialed by the agencies on one plan, it will be certified without a second circulation. The certification planner may check minor plan changes and notes with agency

reviewer without a second circulation. If outstanding issues are resolved, the second plan submission will be certified. The second plan submission should be within ten days of receipt of agency comments.

III. Timelines:

A. Ninety-day maximum certification processing time.
B. Resubmission after receipt of agency comments within ten working days. Agency sign-offs could eliminate second review cycle.
C. No more than two reviews prior to certification.
D. Sixty-day maximum time for inactive file, as determined by the certification planner after agency comments have been made and remain unresolved.

NOTE: The plan certification may be disapproved, the file purged and returned to the applicant if the timelines are exceeded. After a denial, a new application must be made and fee paid to continue the review process with a new timeline.

MINOR SUBDIVISION BASIC FILING CERTIFICATION AND SUBMITTAL CHECKLIST

To be initialed, signed, and sealed only by the surveyor. Submit 20 copies of the plan with the filing fee and this certification to:

Department of Permits and Development Management
Attn: Minor Subdivision Coordinator
County Office Building
111 West Chesapeake Avenue, Room 123
Towson, MD 21204

Pertinent data has been obtained from the reviewing agencies regarding this subdivision and the following basic information is in place:

_____ 1. Existing improvements, including buildings, uses, water and sewer designations, mains, wells, septics, and underground tanks.
_____ 2. Topography and soils.
_____ 3. Streams and floodplains, wetlands, and forest buffers.
_____ 4. Forest conservation requirements resolved.
_____ 5. Perc tests completed.
_____ 6. Existing and proposed right of ways, paving, and improvements including utilities.
_____ 7. Zoning and overall density calculations since last zoning change.
_____ 8. If zoned R.C.2 and the property to be subdivided has not been separately described in deed or separately recorded in a subdivision prior to November 25, 1979, a devolution of the title must be approved by the PDM Zoning Review Office prior to filing the minor subdivision. The planner must initial the plan.
_____ 9. If zoned R.C.4 and prior to filing the distribution of the conservancy and building areas must be determined by meeting with DEPRM and the Office of Planning.
_____ 10. If located within the Chesapeake Bay Critical Area, the findings plan must be submitted to DEPRM and resolved prior to filing the minor subdivision.

_____ 11. Contact the Office of Planning before submitting any minor subdivision panhandle plans. See additional information and checklist contained in these policies regarding panhandles.

_____ 12. Provide adequate space on the plan to allow for the following certification stamp:

CERTIFICATION STAMP

BALTIMORE COUNTY MINOR SUBDIVISION PROJECT NO.: _____
DEVELOPMENT REGULATIONS _____ Exempt from Division 2 _____ Panhandle exempt from Sections 26-202 and 26-206, BCC
PDM CERTIFICATION _____ Approved _____ Disapproved By: _____ Date: _____
APPROVED DEPRM By: _____ Date: _____

_____
Signature of Surveyor

Address _____

_____

Telephone No. _____

SEAL

IN THE MATTER OF WILLIAM M. LAGNA – Legal Owner/Petitioner 3920, 3922, 4000 AND 4002 CHESTNUT ROAD BALTIMORE, MD 21220	*	BEFORE THE BOARD OF APPEALS FOR
RE: Petition for Special Hearing to approve the legal non-conforming status of an existing private boat club with piers and 3 existing single family dwellings	*	BALTIMORE COUNTY Case No. 12-239-SPH

* * * * * * * * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Office of Administrative Hearings in which the Administrative Law Judge ("ALJ") denied the Petitioner, William M. Lagna's request for Special Hearing pursuant to Baltimore County Zoning Regulations ("B.C.Z.R.") §500.7 ("Lagna") to approve the legal non-conforming status of a private boat club with piers and 3 existing single family dwellings.

A hearing was held before this Board on February 5, 2013 and on April 17, 2013. The Petitioner was represented by Michael McCann, Esquire and Peter Max Zimmerman, People's Counsel for Baltimore County participated. A public deliberation was held on July 16, 2013.

Procedural History

The request for relief here was initiated as a zoning violation case (Civil Citation No. 103205) in which Mr. Lagna was given 90 days to obtain non-conforming use status of his Property as a "boat club." (PC. Ex. 3).

Appeals of Baltimore County 262 Md. 265 (1971). In general, the law does not favor nonconforming uses and contemplates their gradual disappearance. *Gardner, supra.*

2. Zoning Merger.

The merger of lots for zoning purposes occurs when one lot is used in service to another lot and both lots are held under common ownership. *Remes v. Montgomery County*, 387 Md. 52, 64 (2005). Merger is derived from the common owner's intent as evidenced by "integra[ting] or utilize[ing] the contiguous lots in the service of a single structure or project...." *Id.* at 65. Intent is to be derived from the facts. *Id.*

In *Remes*, the Court of Appeals emphasized that each case must be examined on its own facts. The facts which swayed the Court of Appeals in finding merger was that the owners received a building permit to construct a swimming pool on the vacant lot as "an accessory use to their home on Lot 12;" the swimming pool violated the prescribed setbacks from the street and from the adjoining lot (unless the swimming pool was dedicated to the improved lot); the owners received a building permit to construct an addition on the house which encroached upon the vacant lot's setback requirements; there was a circular driveway that traversed both lots; and, for over 30 years, the lots had been assessed for tax purposes as one lot.

The *Remes* Court explained that the setback encroachments were significant in finding merger:

> Thus, even if the elder Duffies might have imagined that Lot 11 would "absorb" the setback deficiencies by their Lot 11 pool and Lot 12 home additions, the

> setback requirements delineated in Montgomery County's zoning ordinance prohibit such adjacent lot encumbrance and Lot 11 never actually fulfilled this role in service of Lot 12. What respondents fail to acknowledge is that the zoning merger that occurred in this case forestalled the creation of a nonconformity on Lot 12. Without the use of Lot 11 as accessory to Lot 12, the uses of both lots would have violated the zoning ordinance.

Id. at 73.

Decision

1. Non-conforming Use as a Boat Club.

After reviewing all of the testimony and evidence presented, the Board has determined that Mr. Lagna's storage and collection of his boats on his Property does not qualify as a non-conforming existing boat club. In this Board's view of the evidence, Mr. Lagna did not provide evidence that a boat or swim club has existed on the Property since 1937. Even if the evidence showed such use continuously since 1937, Mr. Lagna failed to prove that a boat club has existed since 1994.

We were provided only scant information as to the nature or extent of either the Lauraville Swim and Boat Club or the Seneca Creek Maritime Club as either may have originated or existed in the 1930s or 1960s. There was no testimony by anyone with knowledge for either club of: the activities of either club; the years in existence; whether the use was as a boat club, swim club or men's club or some or all of those; whether the use(s) existed continuously and without interruption for 1 year; the number boats on the Property; the location of boats on the Property; the membership payments; or the

organizational structure of the club(s). More importantly, there was no evidence presented as to whether either of these clubs existed continuously without interruption between the 1937 (Lauraville Swim Club) or later from 1963 (SCMC) until Mr. Lagna's purchase in 1994 as required by BCZR 104.1.

Even if we were convinced that a boat/swim/men's club was conducted at the Property between 1937 or 1963 through 1994 when Mr. Lagna purchased the Property, the evidence produced by Mr. Lagna was that the club was abandoned in 1993 and therefore the use was extinguished even before Mr. Lagna's purchase in 1994. (Pet. Ex. 11).

Even if the club(s) were not abandoned, we do not find, based on the evidence, that Mr. Lagna has been operating a boat club on the Property without any cessation or abandonment of activities for one year or longer since 1994. He did not produce any evidence from the community that a boat club has ever existed at the Property between 1994-2013. Credible testimony from neighbors who have lived in the neighborhood for decades was provided – that no club of any kind has existed at the Property since Mr. Lagna's purchase. The testimony was that, other than Mr. Lagna and his daughter taking an occasional boat out, the Property is dormant on the weekends, with "no signs of life." We would expect that a boat club would be the most active on weekends during summer months. Moreover, the deterioration of the main house and piers supports this testimony as neither the building or piers are safe for conducting any club activities.

We would also expect that if a boat club had existed since 1994, evidence would have been presented of the organizational structure of a corporation which entity would

be filing its own tax returns. Instead, Mr. Lagna has been claiming either a profit or loss for a combination of "boat club, rentals and internet security products." (Pet. Ex. 13). In further examining his Schedule Cs, we note that in 2005, he fails to list "boat club" but files the Schedule for "real estate rentals, internet, marina". We find this to be an admission by Mr. Lagna that any "boat club" use by him terminated in 2005. .

Further examination of his 2007 Schedule C reveals that Mr. Lagna does not list "boat club" but rather he continues to identify his business as a "marina." As pointed out by People's Counsel, while the RC 5 zone initially allowed marinas and boatyards by special exception, that use was repealed shortly after the 1972 enactment of the business maritime zones.

This Board would also expect that a boat club would have insurance, a separate bank account, advertisements or a website, or at least a sign on the Property notifying people of its existence. We would expect that it would be common knowledge in the neighborhood if a boat club really existed. We considered the evidence presented in light of the fact that the request here was to legitimize a non-conforming which arose out of a zoning violation. Had the operation of a boat club on the Property been the goal, we believe that Mr. Lagna would have sought approval of a non-conforming use in 1994.

Finally, even if the facts proved Mr. Lagna's intent to operate a boat club, we find that his current use is an intensification and change from the original boat, swim and/or men's club. By the aerial photos, we can see the increase in the number of boats stored all over the Property. (People's Counsel Ex. 1B, 16B and 16C).

For all the foregoing reasons, we find that Mr. Lagna's use of the Property does not satisfy the non-conforming use standard.

2. Merger of 4 Lots

Under the present RC5 zoning, BCZR §415A permits only one recreational boat for each lot occupied by a single-family detached dwelling, except for boats under 16 feet which may be kept if not mounted on a trailer. It reads as follows:

> Contrary provisions of these regulations notwithstanding, one recreational vehicle may be stored on a residential lot as set forth below. Such vehicle, except a truck camper, shall have a current license, may not be lived in, or otherwise occupied, when stored on a lot and shall be mechanically ready to be moved at any time. A recreational boat, whether mounted on a trailer or stored on land with or without the use of supports, is subject to these provisions. A boat less than 16 feet in length is not subject to these provisions, except when such boat is mounted on a trailer. The space occupied by such a recreational vehicle or boat may be counted as a required parking space.
>
> > A. On a lot occupied by a single-family detached or semi-detached dwelling, one such vehicle may be stored 2 1/2 feet from any rear or side lot line; however, when in a side yard it must be situated at least eight feet to the rear of a lateral projection of the front foundation line of the dwelling. Such vehicle may be stored in any garage.

Piers are restricted under §415.A.2 which provides:

> A residentially used or vacant residentially zoned waterfront lot shall have no more than one pier (whether fixed or floating). As of November 15, 1993, the number of boats, not including those smaller than 16 feet, permitted to be stored at a pier, slip, buoy or any other mooring device in the water at such a lot shall be limited in accordance with the following schedule:

Waterside Lot Line	Number of Boats Permitted
0 to 50 feet	4
51 to 100 feet	5
Over 100 feet	6

Applying the holding in *Remes*, Mr. Lagna owns all 4 lots. Other than Ron Robbins who has been renting one of the bungalows since 1995, the other buildings on the Property have not been occupied since Mr. Lagna's purchase in 1994. Mr. Lagna has continued to live at 221 Bowleys Quarters Road. Even if Mr. Lagna wanted to rent the main house, the photographs reveal that it is not habitable. (People's Counsel Ex. 16A). The 4 buildings are not contained within the 4 lot lines. (Pet. Ex. 2). As set forth herein, buildings straddle the lot lines. *Id.*

Mr. Lagna's storage of boats across the 4 lots is indicative of his intent to integrate and use the lots as one single property. There was no evidence presented that since Mr. Lagna's purchase, there has been any separation of the four lots for residences or other uses.

Consequently, applying *Remes* to the facts of the present case, we find that based on the evidence, the 4 lots have merged into one single property for zoning purposes. Accordingly, under BCZR §415.A, Mr. Lagna is entitled to store 1 recreational boat on the Property with the exception of boats under 16 feet in length unless such boat is

mounted to a trailer. Under BCZR, 415.A.2, the Property shall have no more than one pier.

ORDER

THEREFORE, IT IS THIS 12th day of September, 2013 by the County Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Hearing seeking relief pursuant to §500.7 of the Baltimore County Zoning Regulations to approve a legal non-conforming status of an existing private boat club with piers and 3 existing single family dwellings, be, and the same is hereby, **DENIED**; and it is further,

ORDERED that the 4 lots have merged into one single Property for zoning purposes; and it is further,

ORDERED that the Petitioner shall comply with BCZR §415 with regard to the number of boats and piers permitted for one single Property.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Andrew M. Belt, Chairman

Maureen E. Murphy

Wendell H. Grier

2016 WL 327029

Only the Westlaw citation is currently available.
UNREPORTED
Court of Special Appeals of Maryland.

William LAGNA
v.
PEOPLE'S COUNSEL for BALTIMORE COUNTY.

No. 0036, Sept. Term, 2015.
|
Jan. 27, 2016.

WOODWARD, ARTHUR, and ROBERT A. ZARNOCH (Retired, Specially Assigned), JJ.

Opinion

ARTHUR, J.

*1 In an effort to legitimize out-of-water boat storage on his residentially-zoned property, landowner William Lagna petitioned to establish the right to use his property for a nonconforming use as a "private boat club." Both the Baltimore County Office of Administrative Hearings and the Baltimore County Board of Appeals denied his request after hearings. The Circuit Court for Baltimore County affirmed the Board's decision. Concluding that there is no basis for reversal, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

A. *The Lagna Property*

This case concerns a waterfront property, slightly less than one acre in size, along Seneca Creek in the Bowley's Quarters area of eastern Baltimore County. Lot lines originally platted in the 1920s run north and south, dividing the property into four narrow lots. The original owners of the four lots disregarded those divisions and built four structures, each straddling the interior lot lines.

Two bungalow-style dwellings stand near the southern property line along Chestnut Road. A larger house is located closer to the northern property line along Seneca Creek. Another, smaller structure is located to the east of the main house.[1] Over time, the property's owners added a gazebo, a shed, a boat ramp, and two large piers extending from the western edge of the property into Seneca Creek.

In the early twentieth century, the property was used both for residential purposes and for recreational purposes. As was common for waterfront properties in the area during that time period, the property served as the site of a small private club. The Laurayille Boat and Swim Club first operated on the property in 1937, followed by the Blue Diamond Boat Club in or around 1952, and then the Seneca Creek Mariners Club in or around 1963. The popularity of water-oriented clubs in Bowley's Quarters declined significantly in the 1950s, after the opening of the first span of the Chesapeake Bay Bridge allowed direct driving access to the Eastern Shore.

Lagna and his wife purchased the property and its various improvements in January 1994. In the deed, the Lagnas affirmed: "the land conveyed in said Deed is residentially-improved owner-occupied real property and that residence will be occupied by us." Lagna, however, did not follow through on his plans to use the property as his residence. He continued to reside at an inland property.[2]

B. *Code Enforcement Action Against Lagna*

The zoning classification for Lagna's property is R.C.5, "Resource Conservation—Rural Residential." Under the Baltimore County Zoning Regulations ("BCZR"), the owner of R.C.5 property is permitted as a matter of right to use the property for a single-family detached dwelling. BCZR § 1A04.2(A). In the past, zoning regulations permitted owners to obtain a special exception to use R.C.5 property for boatyards or marinas, but those uses are no longer permitted in an R.C.5 zone even by special exception. *See* BCZR § 1A04.2(B).[3]

*2 The BCZR limits the number of boats and other recreational vehicles that may be stored on residential lots. *See* BCZR § 415A.[4] In 2011, a Baltimore County Code Enforcement Officer issued Lagna a citation for storing recreational boats on his property in excess of the maximum number of such boats permitted in an R.C.5 zone. An administrative law judge ("ALJ") of the Baltimore County Office of Administrative Hearings held a hearing regarding Lagna's "out-of-water boat storage on residential property" and his alleged "failure to cease operation of a Marina in [an R.C.5] zone—not allowed by Right or Special Exception[.]" In his defense, Lagna argued that the property historically served as the site of a "boat club" since before the initial adoption of zoning regulations in 1945. Lagna presented testimony and exhibits in an effort to show that various social and boat-related activities had continued on the property without interruption since 1937 under different club names.

On February 8, 2012, the ALJ issued written findings of fact and conclusions of law. The ALJ found: "Absent a ruling by an appropriate authority that the subject property is, in fact a permitted non-conforming use as a marina or other boat[-]related entity, the Inspector has established that the number of boats clearly stored on the site exceeded that permitted under its existing RC5 zoning." The ALJ imposed a penalty of $1,000 and ordered Lagna to bring his property in compliance with the zoning regulations. The ALJ suspended the penalty, however, and directed Lagna to file a petition for special hearing within 90 days "to determine and resolve the zoning use and status of the so-called 'Seneca Creek Mariners Club' property."

C. *Lagna's Petition for Special Hearing*

On March 3, 2012, Lagna petitioned for a special hearing to determine "the legal nonconforming status of an existing private boat club with piers & 3 existing single family detached dwelling[s] ." In an attachment to his filing, Lagna asserted "that the entire property was, and continues to be, mixed use residential with boat club and that the piers and boat ramp may be used by the four (4) residences ... and a private boat club with ... additional storage of boats on trailers up to the maximum allowed per lot for each of the four (4) residential lots."

As additional relief, Lagna asked for an order adjusting the interior lot lines. He attached a site plan with three alternative sketch plans, each of which would subdivide the property so that each of the four structures would be located on its own separate lot.

After review of Lagna's proposal, the Baltimore County Department of Planning recommended that his requests be denied. Based on aerial photographs from 2002, 2005, and 2008, the Department of Planning found that boat storage on Lagna's property had "intensified significantly from 2002 to the present." According to the Department's report, inspection of the property revealed that the accumulation of boats and trailers on the property gave it "the appearance of a commercial boatyard" which was "not compatible with the rural waterfront character of the surrounding residential community."

*3 After a hearing, an ALJ issued an opinion and order denying Lagna's petition. The ALJ concluded that, even though Lagna had offered some evidence that "at one time a men's club or boat club of some sort was conducted on the premises," he had not demonstrated that "that since 1993 he ha[d] consistently operated a 'boat club' on the premises, without a cessation or abandonment of activities for one year or longer[.]"

The ALJ also rejected Lagna's request for a lot-line adjustment on the grounds that a re-subdivision of the property was not the proper subject of a zoning hearing. The ALJ further wrote, "it would seem ... that if anything, the four lots owned by Mr. Lagna have merged under the doctrine of zoning merger, so as to create (for zoning purposes at least) one lot where there had been four."[5] Because the original developers of the property had disregarded the interior lot lines and testimony that Lagna had expressed his intention at the time he acquired the property to build a new home on the premises, the ALJ concluded that "the owners' intent was to treat the property as a single lot." Accordingly, the ALJ determined that Lagna was required to comply with the boat storage restrictions for a single waterfront lot as set forth in BCZR § 415A.

D. *Hearing Before the Baltimore County Board of Appeals*

Lagna appealed from the ALJ's decision to the Baltimore County Board of Appeals. The Board heard the matter de novo on February 5, 2013, and April 17, 2013.

At the hearing, Lagna withdrew his request for a lot-line adjustment and continued to seek a determination regarding the status of a nonconforming use on the property. He then attempted to establish, through a combination of circumstantial evidence and direct testimony, that the property had been used continuously since 1937 both for residential purposes and as a "boat club" and that he had continued to operate a club on the property after he acquired it in 1994.

lost." *Id.* at 270. The owner in that case had established a valid nonconforming use of residentially-zoned lots as a general parking facility for nearby businesses (*id.* at 265–67), but the proprietor later extended his use to include truck storage for a freight hauling business, while expanding his operations in intensity, volume, and area. *Id.* at 269. This Court directed the Board on remand to determine whether those expansions represented an "actual change" from the preexisting uses of the lots, by considering the following factors: "(1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use; (2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind; (3) does the current use have a substantially different effect upon the neighborhood; (4) is the current use a 'drastic enlargement or extension' of the original non-conforming use." *Id.* at 269–70.

In the present case, even crediting testimony that Lagna continued to operate a "club" of some sort and even accepting that the clubs of both Lagna and his predecessors to some extent involved boat-related activities, the record still supported the Board's conclusion that Lagna's right to continue any such nonconforming use had terminated upon a "change from such nonconforming use to any other use whatsoever[.]" BCZR § 104.1. The right to continue a nonconforming use depends on the continuity of the substantive characteristics of the use, not the mere continuity of a label such as "club," "boat club" or even "Seneca Creek Mariners Club." *See McKemy*, 39 Md.App. at 269 (explaining that, in determining whether owner's use had exceeded scope of preexisting use, "the Board was not required to assume, and should not have assumed, that the lowest common denominator was 'parking,' or even 'parking' in conjunction with a business across the street").

Testimony from Lagna's neighbors, which the Board expressly credited, supported the conclusion that Lagna's use of the property differed in character, nature, and effect from the use of the property by his predecessors. Prior owners had operated primarily a social club and incidentally stored a few boats near the buildings on the northern portion of the property; over time, Lagna transformed the site into what appeared to be predominantly an out-of-water boat storage facility, both as a business and for a personal collection, extending to the southern portions of the property along Chestnut Road. In light of the factors outlined in *McKemy*, 39 Md.App. at 269–70, the Board's determination that Lagna had transformed the prior use of the property into "any other use whatsoever" (BCZR § 104.1) was at least fairly debatable. [11]

II.

*13 After denying Lagna's request to approve the use of the property as a private boat club, the Board of Appeals also declared that the four lots subject to his petition had "merged into one single [p]roperty for zoning purposes," and thus that Lagna must "comply with BCZR § 415 with regard to the number of boats and piers permitted for one single [p]roperty." Wishing to treat his property as four separate properties for the purposes of boat storage, Lagna now asks this Court to negate that declaration. He contends: that the Board lacked authority to decide issues of lot merger or boat storage; that the evidence was legally insufficient for the Board to conclude that the lots had merged; and that the zoning merger of the lots amounts to an unconstitutional confiscation of his property. For various reasons, all of these arguments fail.

Lagna first argues that the Board should not have even considered whether his lots should be treated as a single property for the purpose of determining the number of boats permitted on his property, because he says that those issues were not properly before the Board. He relies on BCZR § 500.7, which grants "any interested person" the right to petition for a special hearing "to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations." Lagna argues that his petition "obviously[ ] sought only the former type of relief" regarding nonconforming use, and therefore that the scope of the hearing did not include his other rights with respect to the property.

The record does not support Lagna's assertions that the Board unilaterally "took it upon itself to address and affirmatively rule upon" the matters of lot merger and boat storage under BCZR § 415A. Lagna first filed his petition at the direction of an ALJ who had suspended a penalty against Lagna for his violations of BCZR § 415A. In an attachment to his petition, Lagna asserted that his

property could "be used by the four (4) residences ... and a private boat club with, as provided by Section 415c [sic], additional storage of boats on trailers up to the maximum allowed per lot for each of the four (4) residential lots." In his supporting memorandum, Lagna explained that his petition sought "essentially four categories of relief": confirmation of his rights regarding nonconforming use; confirmation of his rights regarding nonconforming structures; a lot-line adjustment re-subdividing his property into four separate lots; and finally "confirmation regarding the maximum number of boats allowed at the property." His memorandum went on to argue that, "[b]ased on the lot lines of the four lots at the subject property," BCZR § 415A permitted Lagna to store "a substantial number of boats" on land and on the piers at his property. The ALJ, recognizing that Lagna had requested "a determination of the number of boats [Lagna] may keep on the premises," concluded that the property should be treated as a single property for zoning purposes, based on the doctrine of lot merger.

*14 Dissatisfied with the ALJ's decision regarding boat storage, Lagna then attempted to narrow the scope of his petition by withdrawing his request for a lot-line adjustment. At the de novo hearing, People's Counsel argued that the Board should affirm the ALJ's finding that the lots had merged into one lot for the purposes of the boat storage limits in BCZR § 415A. At one point, Lagna objected to a question posed by People's Counsel to Lagna's expert witness regarding merger of the lots (on the ground that the question fell outside of the scope of the proceeding). The Board did not rule on the objection, but the Chairman informed Lagna that "[t]he reason we're here is because we have a lot of boats on this property." In his post-hearing memorandum, Lagna did not ask the Board to exclude the lot-merger issue from its decision. Instead, Lagna affirmatively argued that the ALJ's determination that the lots had merged was incorrect on the merits, asserting that "the doctrine of zoning merger" was "not applicable" because Lagna had "never intended to merge these four lots[.]"

In sum, Lagna himself introduced the issue of "the maximum number of boats allowed at the property," and that issue involved a determination of whether the property should be treated as four separate lots. Lagna's post-hearing brief reflects that he knew and had reason to know that the Board would make a determination on lot merger. Instead of using that opportunity to bring an argument about the proper scope of the hearing to the Board's attention, Lagna waived any such objection when he asked the Board to reverse the ALJ's lot-merger determination on the merits. The issue that Lagna seeks to raise here cannot be resurrected in the subsequent action for judicial review. *See Anne Arundel Cnty. v. Nes*, 163 Md.App. 515, 535 (2005) (holding that landowner waived any claim that board of appeals had erred in failing to grant waiver of certain requirements by expressly abandoning that position before the board); *Capital Commercial Props., Inc. v. Montgomery Cnty. Planning Bd.*, 158 Md.App. 88, 102 (2004) (holding that party failed to preserve issue of whether planning board's decision would violate provision of zoning ordinance by failing to raise that argument to the board); *id.* at 104–05 (where party's argument "involve[d] the construction of the ordinances administered by the Board," holding that the issue "should have been presented for decision by the Board in the first instance" rather than being raised for the first time in an action for judicial review); *Brzowski v. Maryland Home Improvement Comm'n*, 114 Md.App. 615, 637–38 (1997) (holding that party waived argument that agency's action exceeded its authority where party brought a number of objections to agency's attention without presenting that argument to the agency). [12]

Before the Board, however, Lagna did argue that the doctrine of lot merger should not apply to his property when he asserted that he did not intend to merge the four lots. The Board rejected that assertion, finding that, in addition to actions of the prior owners in building structures that straddled the interior lot lines, "Lagna's storage of boats across the 4 lots is indicative of his intent to integrate and use the lots as one single property." In addition, the Board emphasized that Lagna had not presented evidence of "any separation of the four lots for residences or other uses." On appeal, Lagna concedes that evidence that "structures are sited across lot lines" and evidence of "storage of a boat across a property line" could indicate an owner's intent to merge the lots, but he asserts that this evidence was "insufficient ..., as a matter of law, to supply the intent necessary to merge the lots." He identifies no legal authority supporting this assertion.

*15 Historically, the doctrine of zoning merger emerged in many jurisdictions to advance the legislative goal of restricting undersized parcels. *See Friends of the Ridge v. Baltimore Gas & Elec. Co.*, 352 Md. 645, 653 (1999). [13] The Court of Appeals first recognized the doctrine of

zoning merger in *Friends of the Ridge*, a Baltimore County zoning case, which held "that a landowner who clearly desires to combine or merge several parcels or lots of land into one larger parcel may do so" by "integrat[ing] or utiliz [ing] the contiguous lots in the service of a single structure or project[.]" *Id.* at 658. Generally, a finding that adjacent lots under common ownership have merged for zoning purposes "require[s] that the intent of the owner to merge the parcels be expressed, though little evidence of that intent is required." *Id.* at 653. The Court has emphasized that the owner's "[i]ntent is to be derived from the facts." (*Remes v. Montgomery Cnty.*, 387 Md. 52, 66 (2005)), and "[e]ach case must be examined on its own." *Id.* at 68. For example, in *Remes*, the Court of Appeals held that a vacant lot merged into the adjacent, developed lot by operation of law, even without any formal request for a replatting, where the common owner installed a swimming pool on the vacant lot as an accessory to the house on the other lot and built a semi-circular driveway over both lots. *Id.* at 82.

This Court will not set aside a local zoning board's determination regarding lot merger, as long as the decision is at least fairly debatable and not the product of a clear error. *See Mueller v. People's Counsel for Baltimore Cnty.*, 177 Md.App. 43, 94 (2007). In the instant case, the record included substantial evidence that Lagna intended to use his four contiguous lots in the service of a single project. Like the former owners who had made improvements across the internal lot lines, Lagna himself disregarded the internal lot lines in his use of the property. His stated intent, in the deed through which he acquired the property, was to use the four lots for a single-family residence. In his memorandum to the Board, Lagna raised the confusing argument that he never intended to merge the lots because "he and his predecessors have always used the four lots *in combination for the fulfillment of [a] single use.* " (Emphasis added.) This statement alone serves as an admission of his intent to merge the lots. See Remes, 387 Md. at 82 (emphasizing that common owner's "use" of two adjacent lots "in concert is consistent with zoning merger") (second emphasis added). Indeed, the premise underlying Lagna's petition was never that he had operated four different boat clubs on the four different lots, but that he was using all four lots in service of a single club, without regard to any subdivision. The Board nonetheless found that Lagna's combined use of the four lots for storage and collection of boats was not the same use as the prior combined use of the lots by the former owners as a "boat, swim, and/or men's club."

*16 As a final issue, Lagna contends separately that the Board's merger of the four lots for zoning purposes constituted an unconstitutional "confiscation" of his property. Despite the opportunity to raise any such constitutional concerns when he argued to the Board that lot merger was inapplicable, Lagna failed to raise these arguments to the Board. His request to raise new constitutional issues on appeal is "contrary to the well-established" rule that "constitutional challenges involving a question of fact must be raised before the agency to prevent waiver." *Halici v. City of Gaithersburg*, 180 Md.App. 238, 255 (2008).

In any event, Lagna's unpreserved argument invokes constitutional issues in name only. He contends that "in the absence of sufficient proof" the Board was "not constitutionally authorized to deprive Mr. Lagna of his right to operate the boat club or his right to four lots." In essence, Lagna seeks to recycle his challenge to the Board's factual determination as a "constitutional" issue. We reject this "attempt to conjure a constitutional violation out of a routine" factual determination committed to the agency's discretion. *McAllister v. McAllister*, 218 Md.App. 386, 406 (2014). As stated above, the record was adequate to support the Board's conclusion that the four lots had merged into one for zoning purposes.

CONCLUSION

We affirm the circuit court's judgment affirming the decision of the Board of Appeals.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

All Citations

Not Reported in A.3d, 2016 WL 327029

Footnotes

* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1–104.

1 The two bungalows are known as 3920 and 3922 Chestnut Road, the larger house is known as 4000 Chestnut Road, and the final structure is known as 4002 Chestnut Road.

2 In reaching the decision under review here, the Board of Appeals took notice of the fact that Lagna's residence at 221 Bowley's Quarters Road had been the subject of a prior appeal before this Court. In 1989, Lagna obtained a variance to keep five recreational boats on his Bowley's Quarters Road property in lieu of the maximum of one such vehicle permitted by zoning regulations. In 2006, a hearing officer fined Lagna for storing as many as 30 vehicles on that property, finding that Lagna had transformed the premises into "a marine storage yard or salvage yard[,] ... something far different tha[n] the five (5) small boats considered in the [V]ariance." Lagna failed to take an administrative appeal from a zoning commissioner's 2007 decision, which found that Lagna had abandoned the variance. This Court then upheld a 2011 decision of the Baltimore County Board of Appeals, which found that the 2007 decision was final with respect to the issue of Lagna's abandonment of the variance. *William Lagna v. Baltimore Cnty.*, No. 2367, Sept. Term 2011 (filed Apr. 2, 2013) (unreported).

3 BCZR § 101.1 defines a "boatyard" as "[a] commercial or nonprofit boat basin with facilities for one or more of the following: sale, construction, repair, storage, launching, berthing, securing, fueling and general servicing of marine craft of all types." A "marina" is defined as "[a] modern boat basin, restricted to recreational marine craft of all types, with facilities for one or more of the following: berthing, launching and securing such craft, and permitting incidental minimum provision for refueling and emergency servicing, as well as the incidental sale of boats and also land (out-of-water) storage as provided in [BCZR §] 417.7." BCZR § 101.1.

4 BCZR § 415A.1 limits the number of recreational vehicles that may be stored on land or mounted on a trailer to one recreational vehicle per residential lot. Recreational boats, other than boats less than 16 feet in length that are not mounted on a trailer, are subject to the limitation of one recreational vehicle per residential lot. A residential waterfront lot may have no more than one pier, and an owner may store between four to six boats at a pier, depending on the length of the waterside lot line. BCZR § 415A.2. Out-of-water boat storage is permitted on residential waterfront lots from November 1 through March 31, for up to two or three boats, depending on the length of the waterside lot line. BCZR § 415A.3(A).

5 *See generally Remes v. Montgomery Cnty.*, 387 Md. 52, 63–68 (2005). "Merger, in the context of land use, is the joining of contiguous parcels under common ownership, so that they are viewed as a single parcel for purposes of zoning regulations." *Mueller v. People's Counsel for Baltimore Cnty.*, 177 Md.App. 43, 94 (2007).

6 Zoning regulations applicable within the Chesapeake Bay Critical Area define a "yacht club" as: "A use of waterfront land by a social club which provides recreational facilities, including boat docking, for members and their guests." BCZR § 101A.1. Yacht clubs are permitted in some zones, but not in an R.C.5 zone. See BCZR § 1A04.2.

7 One witness offered an aerial photograph from 1995 showing only two boats stored near the houses at the northern border of the property. More recent photos taken from the air and from the ground revealed approximately 30 boats across the property. On cross-examination, Lagna admitted that he personally owned 23 of 29 boats stored on the property.

8 The questions in Lagna's brief are:

A. Did the Board of Appeals err in concluding that there was "no evidence" supporting that the boat club at the property is a legal nonconforming use?

B. Was there substantial evidence to support the conclusion that the boat club was operating in 1945 when the zoning regulations were adopted and, thus, constituted a legal nonconforming use?

C. Was there substantial evidence to support the conclusion that Mr. Lagna has not changed, discontinued or abandoned the legal nonconforming use under 104.1 of the zoning regulations?

D. Was there substantial evidence to support that the boat club was not in existence in 1988 such that it was grandfathered under section 103.5 of the zoning regulations?

E. Did the Board of Appeals err in addressing the issue of lot merger when that issue was not presented in Mr. Lagna's Petition for Special Hearing?

F. Even if the Board of Appeals had authority to address the issue of lot merger, did the Board err in concluding that the four lots had merged?

G. Was the Board's decision that the four lots are merged an unconstitutional confiscation of Mr. Lagna's property?

9 Maryland Rule 8–504(a)(5) requires that every appellate brief must include a "concise statement of the applicable standard of review for each issue, which may appear in the discussion of the issue or under a separate heading placed before the argument[.]" A single footnote in Lagna's brief includes a quotation describing the substantial evidence test.

10 In his brief, Lagna protests that the Board "ignored" testimony from his witnesses, because the Board failed to discuss some of that evidence in its opinion. Lagna also insists that the Board erred when it stated: "[I]n this Board's view of the evidence, Mr. Lagna did not provide evidence that a boat or swim club has existed on the Property since 1937." We agree with Lagna that it would be an overstatement to say that he produced "no evidence" in support of his assertions. Viewing the decision in a light favorable to the agency, however, it is apparent that the Board considered the evidence presented by Lagna and that the Board's decision relied only on the evidence that the Board found to be credible and persuasive.

11 Before the Board, Lagna relied only on BCZR §§ 101.1 and 104.1, general provisions regarding nonconforming use. Before this Court, Lagna attempts to raise the argument that use of the property as a boat club is "grandfathered" by a separate provision applicable to properties within the Chesapeake Bay Critical Area, which states that "[t]he county shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on June 13, 1988." BCZR § 103.5(C). The Board did not address the applicability of this provision because Lagna failed to raise the issue to the Board. In any event, his new argument fails on appeal because we uphold the Board's determinations that Lagna did not continue the preexisting uses of the property after his acquisition in 1994, or alternatively that he had intensified and changed the use during his ownership.

12 If we were to reach this issue, we would see no error in issuing a declaration regarding Lagna's rights to boat storage on the property under the zoning regulations, as that issue was part of the relief that he requested in his initial petition.

13 In the present case, it is undisputed that the four lots owned by Lagna, each approximately one-quarter acre in size, are all undersized. *See* BCZR § 1A04.3(B)(1) (prohibiting creation of lots with an area less than one-and-a-half acres in an R.C.5 zone).

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IN THE MATTER OF THE APPLICATION OF JANICE OBERST – LEGAL OWNER; DR. HARLAN AND AMANDA ZINN – C.P. / PETITIONERS FOR VARIANCE ON PROPERTY LOCATED ON THE E/S OF COLD SPRING RD, 640' +/- S OF CHESAPEAKE AVENUE (809 COLD SPRING ROAD) 15TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 04-522-A

* * * * * * * * *

OPINION

This matter comes as an appeal of a Deputy Zoning Commissioner Order in which the requested variance relief was denied. The variance request is for property at 809 Cold Spring Road. Petitioners requested relief from § 1B02.3.C.1 of the *Baltimore County Zoning Regulations* (BCZR) to allow a lot containing 5,092 square feet, a front yard of 23 feet and a rear yard of 2 feet, in lieu of the required 10,000 square feet, 30 feet, and 30 feet respectively. Petitioners also request approval of the lot as an undersized lot per § 304 of the BCZR.

A public, *de novo* hearing was held before the Board of Appeals on February 24 and May 25, 2005. Petitioners Janice Oberst, legal owner, and Dr. Harlan Zinn, contract purchaser, were represented by John B. Gontrum, Esquire. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel. The Board publicly deliberated this case on July 28, 2005.

Background

The subject property, Lot 304, was first platted in 1914 as part of Plan "C" of the Long Beach Estates subdivision (see Petitioner's Exhibit 1). It is an undeveloped parcel of land fronting Galloway Creek, off Cold Spring Road. According to the Maryland Department of Assessments and Taxations Real Property Data Search, the property consists of 5,396 square feet (Petitioner's Exhibit 5A). Lot 304 was bought by the family of Ms. Janice Oberst around 1954, following their purchase of 810 Cold Spring Road, which was their residence. In 1992, the

family purchased an adjoining 900 square foot parcel from Bowley's Quarters Improvement Association, giving Lot 304 a total of 6,296 sq. ft. A survey by J.S. Dallas, Inc., however, describes the combined square footage as 5,092 (People's Counsel Exhibit 11). According to Ms. Oberst's testimony, during the 50 years her family has owned Lot 304, they kept a small sailboat, and her father operated a charter business. They maintained a storage shed on the lot. The property was also connected to public water and sewer, on which the family paid property taxes. (See Petitioner's Exhibit 8, a copy of the tax bill for Lot 304.) The lot had been improved with a pier and bulkhead, but since Hurricane Isabel, only the bulkhead remained. In 2003, it was transferred from Ms. Ann Schuman (Petitioner's mother) to Ms. Oberst (Petitioner's Exhibit 5C), and in 2004, Ms. Schuman sold the house at 810 Cold Spring Road to Mr. Robert Kroll.

Ms. Oberst testified that her mother, Ann Schuman, had granted permission to County garbage trucks to use the property as a turnaround, since Cold Spring Road ended in a cul de sac. This permission was formalized in 1998, when Ms. Schuman (then Ann Kratzer) signed a statement allowing the Baltimore County Department of Public Works, Bureau of Solid Waste Management to pave the turnaround (Petitioner Exhibit 7).

The property has been re-zoned several times since it was platted in 1914. In 1971, it was zoned Rural Deferred Planning, which required a minimum 1-acre lot for development. In 1976, the area was rezoned D.R. 5.5, which required a minimum 6,000 square feet for development. In 1992, the area was rezoned D.R. 3.5, which required a minimum 10,000 square feet, and which remains the zoning today.

Issues Presented

1. Can the Board consider the revised variance request and how should be setbacks be

measured?

2. Does the property satisfy the requirements of BCZR § 307 and the standards of *Cromwell v. Ward*?

3. Does the proposed house, and the change in the placement of the turnaround, present a public safety issue?

Testimony and Evidence

1. Can the Board consider the revised variance request and how should the setbacks be measured?

Ms. Oberst first sought a Petition for Variance for this property in 2003 in Case 03-500-A. The Zoning Commissioner denied relief because he determined that the property was too small upon which to build.

In 2004, with a new contract purchaser and revised proposal for the property, Ms. Oberst again requested a variance. The Petition was denied by the Deputy Zoning Commissioner, and subsequently, an appeal was made to this Board. Prior to the hearing before the Board, the Petition was amended. Petitioner's Exhibit 4 presents the revised Site Plan, which shows the footprint of a house measuring 16 feet long by 46 feet wide. In addition, the property lines are redrawn to include a portion of the 40-foot right-of-way known as Cold Spring Road. The inclusion of the right-of-way would bring the square footage of the property to 7,504 and the rear setback, from the house to the road pavement, to 25 feet. The front yard setback remains 23 feet.

Mr. Scott Dallas, of J.S. Dallas, Inc., was accepted as an expert in zoning and surveying and testified that he had checked with the Baltimore County Bureau of Land Acquisition and found there was no record of a County taking or deed for the 40-foot right-of-way. He opined that since the right-of-way was never formally taken by the County it was, therefore, retained by

the property owner. He stated that the revised lot size was comparable in size to other lots in the neighborhood.

Mr. Mitchell Kellman, of Daft, McCune, Walker, Inc., was accepted as an expert in zoning and development regulations. He produced a number of photos (Petitioner's Exhibits 10A-P), showing neighboring houses with fences, boats, plantings, etc. within the 40-foot right-of-way of Cold Spring Road and pointed out that along this stretch of Cold Spring Road there were no sidewalks, and that other houses in the area seemed to use the unpaved portion of the right-of-way as an extension of their properties.

In rebuttal, Mr. Eric Rockel, from the Baltimore County Bureau of Land Acquisition, supported the Petitioner's position in part, stating that a review of County records revealed that Baltimore County did not own the 40-foot right-of-way known as Cold Spring Road. He went on to point out, however, that the County could claim a prescriptive right to the road, because it had been in open and continuous use for many years. Prescriptive rights, he noted, had to be determined by a Circuit Court ruling. Further, on cross-examination, he referred to the County's sewer construction plan (People's Counsel Exhibit 10), dated 1999, on which the 40-foot right-of-way was clearly marked.

On cross-examination, Mr. Rockel also opined that, even though the Bowley's Quarters Improvement Association had sold the "road end" parcel—900 sq. ft.—to Ms. Oberst's family, the community still had the right to use the parcel, and it could not be built upon.

Mr. Mark Cunningham, a Community Review Planner with the Baltimore County Office of Planning, testified for People's Counsel regarding the front and rear setbacks. He had reviewed the original petition and site plan for variance and submitted comments on them in

2004. In regard to the 2-foot setback from the right-of-way, he stated that it would result in potential liability, because of the cul de sac and turnaround issues. He also stated that houses along Cold Spring Road were set back farther than 2 feet from the right-of-way, so it would not be consistent with the neighborhood.

On cross-examination, Mr. Cunningham was shown the revised petition (Exhibit 4) which increased the lot size and the rear yard setback by utilizing part of the right-of-way. He noted that, had he an opportunity to review this site plan, his comments might have been different. The larger square footage would make the property more compatible with the neighborhood, and a rear setback of 22 feet was preferable to a 2-foot setback. However, he noted that those changes would not necessarily have meant the plan would have been approved, as there were other County officials who had to look at and approve a site plan. He reiterated that he still would not recommend building a house "two feet from a fire truck or snow plow."

On direct examination, the witness also testified that Petitioners had used the wrong standard in calculating the front yard setbacks (between the house and the water). BCZR § 303.1 requires that front yards in a D.R. 3.5 zone be averaged, although they are not required to be setback more than 50 feet. Since the properties north and south of Lot 304 averaged more than 50 feet, the front yard setback on Lot 304 would need to be 50 feet, not 30 feet as Petitioners argued. Petitioners would have to request a variance from the use of front-yard averaging, which they had not done, according to Mr. Cunningham. Cross-examined on this point, Cunningham was asked to consider the fact that 800 Cold Spring Road, the property south of Lot 304, had a larger than average setback, due to being on the point. He reiterated that this setback would still have to be used in the averaging, under BCZR 303.1.

In testimony for People's Counsel regarding the neighborhood and use of the right of way, Mr. Richard Pitz, of 808 Cold Spring Road, pointed out that his house and many others in the area were built on double or triple lots. He also stated that, while some property owners might make use the Cold Spring Road right-of-way, no one had built in it, and he opposed building a house in the 40-foot right-of-way.

2. *Does the property satisfy the requirements of BCZR Section 307 and standards of* Cromwell v. Ward*?*

In making the Petitioners' argument for uniqueness, Mr. Scott Dallas stated that he believed that the property was unique because of its shape. Under cross-examination, however, Mr. Dallas stated that the lot did meet the width requirements of the zoning regulations, and that if it had also met the area requirement of 10,000 sq. ft., it would have been a buildable lot under the current zoning. Mr. Dallas was unsure of all the uses possible for this property if a house could not be built there, but agreed that a pier was a legitimate use for recreation activities, noting that the lot had, in fact, been used for years as a place to both launch and store a boat.

Mr. Kellman also testified regarding the property's uniqueness, referring to Petitioner's Exhibit 3B, a letter from the State of Maryland Critical Area Commission, which granted a variance approval from the 25-foot Critical Area Setback due to the "unusual configuration of this lot." He stated that the irregular shape of this lot makes it unique; that it is wider than it is long, compared to other lots in the area. He also opined that without variances, the owner would not be able to build, creating a practical difficulty.

Upon cross-examination, Mr. Kellman conceded that there were other developed lots in the area of similar size as Lot 304, which had been built on under previous zoning, so that based on size, Lot 304 was not unique. Directed to People's Counsel Exhibit 1 (a GIS map of the area),

Mr. Kellman conceded that there were other lots that were of similar shape as Lot 304. He also agreed with People's Counsel that Lot 304 stood out from the others on the original plat, Exhibit 1, in that it was not numbered in sequence. All the other lots on the East side of the peninsula are numbered 199-220, with Lot 304 following 199.

In his testimony Mr. Cunningham stated that there was nothing unusual about this property, and that it had other civic and social uses. He stated that, according the Zoning Commissioner's Policy Handbook, waterfront property could be improved with piers and be used for recreational purposes, even if the lot was unimproved with a dwelling.

Two neighborhood property owners testified regarding the use of Lot 304. Mr. Pritz testified that the site had always been used for recreational purposes in the past, and thought it should remain as such. Mr. Robert Kroll, who purchased 810 Cold Spring Road from Ms. Shuman, also testified that he had been interested in purchasing Lot 304, but that it was too expensive.

3. *Does the proposed house and the change in the placement of the turnaround present a public safety issue?*

Dr. Harlan Zinn, the contract purchaser of Lot 304, testified regarding the house he plans to build on site should the requested variances be granted. He noted that in compliance with flood plain regulations, and based on discussions with DEPRM, the site would be properly landscaped, with additional trees planted. Dr. Zinn further testified that he understood the need for the turnaround in the interests of safety of the community, and stated that he intended to keep it but would move it to a more accessible location (Petitioner's Exhibit 2). He stated that all County and commercial trucks using Cold Spring Road might use the turnaround.

Mr. Richard Pritz, Ms. Nancy Huber of 810 Cold Spring Road, and Mr. Robert Kroll, all

owners of properties adjacent to or across the street from Lot 304, testified against allowing a house to be built on what they considered to be too small a parcel of land. They also expressed concerns regarding the turnaround. Mr. Pitz and Mr. Kroll, particularly, were concerned because their properties are immediately across from Lot 304, relating that, even now, they often have trucks backing up into their driveways and on their properties. Their concern was that once a house is built on Lot 304, such incidents would increase, because drivers would miss the turnaround.

Decision

This Board first considered the question of whether this Petition for Variance should be reviewed, or whether it was barred by *res judicata* and collateral estoppel, as Deputy People's Counsel Demilio argues in her closing memo. She notes that in 2003, the Zoning Commissioner decided against a similar Petition for Variance relief, finding that there was nothing unique about the property and that, due to its size, it would not support the proposed dwelling and would be detrimental to the neighborhood. People's Counsel argues that since nothing about the property had changed since 2003, "it cannot be found unique in the instant case under the legal principle of *res judicata*." This Board believes, however, that since the hearing before it is *de novo*, we should properly consider the merits of Petitioners' current Petition for Variance.

This Board also agreed that Lot 304 would not qualify as an undersized lot, as defined in BCZR § 304. Although the lot was recorded prior to 1955, as required by § 304.1A, it does not comply with "all the other requirements of the height and area regulations" as required by § 304.1B without the requested variance relief.

Variances are rare and difficult to grant. They must meet a very stringent test placed

upon them by the zoning regulations, as interpreted by the Maryland Court of Special Appeals. The Court, in *Cromwell v. Ward* 102 Md. App. 691 (1994), notes that "The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances" (at 702). The Court notes further that a review of cases in Maryland since the state zoning enabling act in 1927 found only five reported Maryland cases in which the grant of a variance had been affirmed or the denial of one reversed.

Section 307 of the *Baltimore County Zoning Regulations* permits granting a variance from height and area regulations "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request" and where strict compliance with the zoning regulations would "result in practical difficulty or unreasonable hardship." Furthermore, according to § 307, "any such variance shall be granted only if in strict harmony with the spirit and intent" of said regulations and "only in such manner as to grant relief without injury to public health, safety and general welfare."

These conditions for granting a variance have been interpreted by the Court of Special Appeals in a number of cases, most particularly *Cromwell v. Ward*. According to *Cromwell*, Petitioners must first prove that their property is unique. This condition must be met as a prerequisite to considering whether or not practical difficulty even exists.

Uniqueness

In *Cromwell*, the Court referred to the definition of "uniqueness" provided in North v. St. Mary's County, 99 Md. App at 512,638 A.2d 1175:

> In the zoning context, the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restriction.

The Court goes on to cite a number of cases in *Cromwell* supporting the conclusion that uniqueness must pertain to the property in question and cannot be a general condition shared by other properties in the area. In addition the uniqueness of the property must be tied to the request for variances.

In testimony, the arguments for uniqueness were made by Mr. Dallas and Mr. Kellman. They both pointed to the shape of the property as being its unique feature. Mr. Kellman pointed specifically to the fact that the property is wider than it is long. However, Mr. Dallas admitted during cross-examination that the lot meets the width requirements of the zoning regulation, and both he and Mr. Kellman admitted that the subject site was in fact similar to other properties in the immediate area. He also acknowledged that, if the lot had also met the area and front and back yard setback requirements, it would not need variances. Therefore, the fact that the property is wider than it is long was not sufficient to establish uniqueness. Variances are needed for this lot because it is not long enough to build without them.

In Petitioners' Closing Memo, a number of other arguments are made for uniqueness, but this Board did not find them credible. For instance, the memo states that "all waterfront properties have the unique feature that the water (not the road) is considered the front of the property" (Petitioner's Memo, p. 3). However, by the criteria set forth in § 307 and *Cromwell*, the fact that "all waterfront properties" share this feature means the property is not unique in this regard. *Cromwell* and succeeding cases are clear that the uniqueness must be as to the subject property itself. Furthermore, the fact that the property is on the waterfront is not a sufficient

reason for the variance request. Houses can be built on waterfront property, if they meet zoning requirements. This property, although on the waterfront, simply does not meet the area and setback zoning requirements.

Petitioners' Memorandum also argues that the property is unique because the 40-foot right-of-way at the rear of the property is not in actuality 40 feet, but only the 18 feet of paved surface. Petitioners' Memo also argues that the lot size is a unique characteristic, because the right-of-way is not considered in the total square footage. However, if either of these arguments were true, they would also apply to every lot along Cold Spring Road, and again, would not meet § 307 or *Cromwell's* definition of uniqueness. Furthermore, by adding the area from the 40-foot right-of-way to the area of the subject property, the size of the property is no longer a unique feature; it becomes similar in size to the other properties in the community, as Mr. Kellman pointed out in cross-examination. Petitioners cannot claim the property is unique because of small size and at the same time add the area from the 40-foot right-of-way to increase the rear setback.

This Board also agreed that it could not consider the 40-foot right-of-way as part of this property. It appears on County maps as recently as 1999 (People's Counsel Exhibit 10). In addition, as Mr. Rockel, from the Baltimore County Bureau of Land Acquisition testified, the County could claim a prescriptive right to the entire right-of-way, since it has been in use some 90 years. It is not up to this Board to determine whether Ms. Oberst's property includes this right-of- way, or whether the County has such a prescriptive right. That determination has to be made by a Circuit Court. We must consider the property as platted in 1914. In addition, according to Mr. Rockel's testimony, we also cannot consider the 900 square-foot, end-of-road

parcel purchased by Ms. Oberst's mother as part of the buildable portion of this property.

This leaves the original 5,396 square foot property (per Exhibit 5A) to be considered, which requires variances for a rear setback of 2 feet and a front setback of 23 feet. No evidence was presented by Petitioners to show that the size of this property made it unique under § 307 and/or *Cromwell.* In fact, various witnesses pointed out that Lot 304 was similar in size to others in the area, except that some houses were built on double and triple lots. As People's Counsel's Memo points out, any houses built on single lots of similar size to Lot 304 under previous zoning regulations are nonconforming and protected. Those houses were legal when constructed. The fact that this property is wider than it is long is not what causes the need for a variance. The subject property needs variances because it is too small – which itself is not a unique feature. It is of similar size to other properties in the area, but they were developed during earlier zoning eras. This Board concludes therefore that this lot is not unique as required by BCZR 307 and *Cromwell.*

Practical Difficulty

Once the Board of Appeals finds that there is no uniqueness to the property causing the need or a granting of a variance, it need go no further. The Court of Special Appeals in *Cromwell* writes:

> The first step requires a finding that the property whereon the structures are to be placed (or uses conducted) is--in and of itself—unique . . . Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. (Id at 695)

However, during deliberations this Board recognized clearly that in denying variances for this property, it was, in effect, concluding that it was an unbuildable

property, thus limiting greatly the owner's use of it. We therefore considered all aspects of the granting of a variance, including the practical difficulty and whether a variance request would be in keeping with the spirit and intent of the zoning ordinance.

Cromwell notes that BCZR § 307 requires that, were the property to be found unique, the question of practical difficulty is then addressed. The Court in *Cromwell* is explicit that the practical difficulty must result from "the disproportionate impact of the ordinance *caused* by the property's uniqueness..." (*Cromwell* at 695, italics in original). The standard to be applied is set out in *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 MD.App.28, 37-39. According to the Court of Special Appeals in that case, there are three criteria for a showing of practical difficulty:

> 1. Whether compliance with the strict letter of the restrictions governing area, setbacks . . . would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
>
> 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district....
>
> 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. (Id at 39)

In their Memorandum, Petitioners argue that being denied the requested variances would impose a practical difficulty because "Compliance with the strict letter of the area restriction would unreasonably prevent the owner from using the Property for a permitted purpose or would render conformity with regulations unnecessarily burdensome. . . . Without the variance there is no open area left for a house of any size. A true practical difficulty exists if the Property cannot

be used" (Petitioner's Memo, p. 21).

But, as People's Counsel points out, and as the evidence establishes, the property can be used and has been used for other legal purposes, but not residential. People's Counsel points out that "a property owner is not entitled to every use in the zone, only a reasonable use" (People's Counsel Memo, p. 15).

Petitioners argue that "there is no sound reason why [they] should be denied the right to reside on their property when their neighbors have not been denied the same right on similarly sized lots" (Petitioner's Memo, p. 15). But, as noted earlier, the neighbors' houses are nonconforming and therefore protected.

Given the zoning history of Lot 304, this Board found that Petitioners would not meet the practical difficulty test, even if it had found the property unique. Since zoning was first imposed on this area 10 years before the property was purchased by Ms. Oberst's family, Lot 304 has never conformed to any zoning requirements for development. Ms. Oberst's family knew, or should have known, from the time they purchased the property that their ability to develop it was limited, based on the zoning codes. The Courts have consistently held that, when a landowner purchases a property knowing the zoning restrictions, he may not then complain of his self-imposed predicament.

We conclude, therefore, that this petition would fail on the second prong of the Variance test: practical difficulty.

Spirit and Intent of the Zoning Regulations

This request for variances asks the Board to consider 5,396 square feet in lieu of 10,000 square feet, 23 feet front yard setback in lieu of either 30 or 50 (depending on which argument

for measurement is accepted), and 2 feet rear setback in lieu of 30 feet. In almost all cases, the request is for a variance half that required by the zoning regulations.

Petitioner attempts to argue that under a previous zoning scheme, D.R. 5.5, which was the zoning from 1976 until 1992, this property was buildable. However, under that zoning scheme the property still would have required variances, and the setback requests would still have been half of what was required. But, more importantly, property owners cannot pick the zoning scheme most preferable for their interests.

Zoning regulations are imposed for the benefit of an entire community, and must be abided by except in very unique circumstances. "The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances." (*Cromwell*, at 702).

It is impossible to view these setback requests as being in the spirit and intent of the zoning regulations. The only request even remotely acceptable is the front yard setback, which was allowed by the Chesapeake Bay Critical Area Commission, and conforms somewhat to other setbacks north of the property. But the property is so narrow that a 23-foot front yard setback and 2 foot rear yard setback only leaves 16-foot depth for the house, an unacceptable result.

Therefore, this Board finds that none of the conditions as required by § 307 of the BCZR or *Cromwell* in order to grant the request for variance have been met. The subject property is not unique. It has never met the zoning requirements to build on, and it can be used for other legal purposes, so the zoning regulations do not impose a practical difficulty. Finally, the variance request, being half of what is required by the zoning regulations, would not meet the spirit and intent of the BCZR.

ORDER

THERFORE IT IS ORDERED, this 20 day of December, 2005, that the Petitioners' request for variance from § 1B02.3.C.1 of the *Baltimore County Zoning Regulations*, to allow a lot containing 5,092 sq. ft., a front yard of 23 ft. and a rear yard of 2 ft., in lieu of the required 10,000 sq. ft., 30 ft., and 30 ft., respectively, and to approve an undersized lot pursuant to § 304 of the B.C.Z.R. be and is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence M. Stahl, Chairman

Margaret Brassil, Ph.D.

John P. Quinn

BALTIMORE COUNTY

ZONING REGULATIONS

ADOPTED BY

COUNTY COMMISSIONERS

OF

BALTIMORE COUNTY

March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition).

1955

Michael J. Birmingham
President

Robert B. Hamill
Augustine J. Muller
County Commissioners of Baltimore County

Francis T. Peach
County Solicitor

George M. Berry
Deputy Solicitor

Wilsie H. Adams
Zoning Commissioner

PREFACE

The first Zoning Regulations to be adopted in Baltimore County went into effect in 1945. These Regulations served well enough until the tremendous growth of the County beginning about 1950 made it obvious that these Regulations were not sufficiently comprehensive to give adequate protection to the public in the large Metropolitan area which rapidly began to take shape throughout the entire suburban area of the County.

Shortly after the Election of 1950 a County administration requested the then Planning Commissioner to undertake studies looking toward the adoption of complete new and more comprehensive zoning regulations. These studies, under the direction and supervision of Mr. Malcolm H. Dill, then Planning Commissioner, in cooperation with Mr. Augustine J. Muller, the then Zoning Commissioner, later succeeded as Zoning Commissioner by Mr. Wilsie H. Adams, continued over a period of several years. The services of Mr. Flavell Shurtleff, a zoning consultant of recognized national standing were obtained and he participated in many conferences and discussions leading up to the adoption of the new Regulations.

Many varied interests were also brought into consultation including numerous architects, engineers, builders, developers and real estate brokers, all of whom contributed substantially to the Regulations as finally adopted and who are entitled to the thanks of the public for their contribution to this important undertaking. The Director of Planning and the Zoning Commissioner studied many zoning regulations from other jurisdictions and incorporated in these Regulations ideas gleaned from these sources.

After a Preliminary draft of the Regulations had been completed numerous further meetings and discussions were had with various architects, builders and developers in which Mr. Malcolm H. Dill, as Director of Planning, Mr. Wilsie H. Adams, as Zoning Commissioner, Mr. Augustine J. Muller, as a member of the Board of County Commissioners; and former Zoning

Commissioner, and Mr. George M. Berry, Deputy County Solicitor, participated.

As a result of these many conferences a final draft of the new Regulations was prepared and finally adopted by the County Commissioners on March 30, 1955. We have now had more than two years of experience with these new Regulations. Some amendments have been found necessary and undoubtedly further amendments will be found desirable from time to time. On the whole, however, we believe that these Regulations have provided the people of Baltimore County with a sound basis for the protection of property values and the general welfare of the public.

Realizing that future amendments are a certainty and in order to afford an easy and economical method of keeping these Regulations up-to-date, the loose-leaf form was adopted. Recognizing the importance of keeping the public informed of current amendments and revisions these Regulations will be sold on a subscription basis, with the initial cost to include loose-leaf re-prints of any amendments or revisions during the subscription period. The subscription period begins with the date of publication and terminates five years thereafter at which time the service will be made available on some different basis at a nominal cost.

The County authorities wish to extend their sincere thanks to the many persons who gave so generously of their time and effort in making these Regulations as effective and useful as we believe they are.

BALTIMORE COUNTY ZONING REGULATIONS

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RESOLUTION AND ORDER OF THE COUNTY COMMISSIONERS OF BALTIMORE COUNTY

WHEREAS, the Zoning Commissioner of Baltimore County, pursuant to the power and authority vested in him by Section 366(c) of the Code of Public Local Laws of Baltimore County (1948 Edition), and the laws therein codified, prepared a Preliminary Report with respect to the amendment, supplement and repeal of the Zoning Regulations and Restrictions for Baltimore County, and in accordance with the provision of said Section published notice of public hearings thereon, and,

WHEREAS, the Zoning Commissioner of Baltimore County conducted public hearings on said Preliminary Report, and on January 18, 1955 submitted to the County Commissioners of Baltimore County his Final Report with respect to the proposed amendment, supplement and repeal of said Zoning Regulations and Restrictions, and,

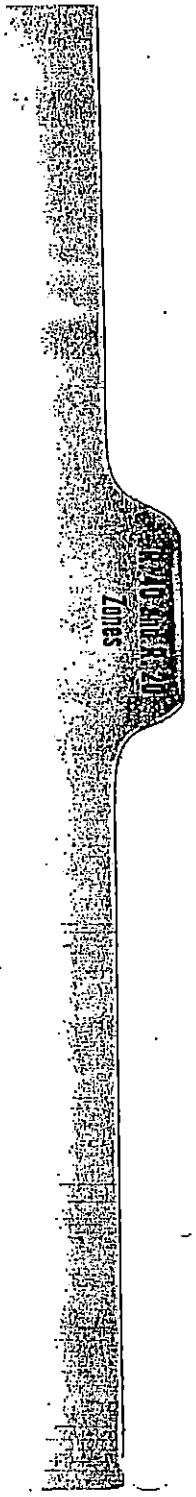
WHEREAS, the County Commissioners of Baltimore County, after having received said Final Report gave at least 15 days public notice in newspapers of general circulation throughout Baltimore County, of the place and time of a public hearing on said Final Report, and,

WHEREAS, pursuant to said public notice the County Commissioners of Baltimore County on February 5, 1955 held a public hearing thereon, and thereafter deliberated upon and considered said Final Report,

NOW, THEREFORE, it is this 30th day of March, 1955, ORDERED by the County Commissioners of Baltimore County that in order to promote the health, safety, morals and general welfare of the community the Zoning Regulations and Restrictions in effect in Baltimore County as of the date of the adoption of this Order be, and the same hereby are repealed, and it is further ORDERED that the following Zoning Regulations for Baltimore County be and they are hereby adopted and promulgated in the place and stead of the Zoning Regulations and Restrictions in effect prior to the adoption of this Order:

R. 40 and R. 20

Residence Zone, One Family



ARTICLE 2—ZONES: USE, HEIGHT, AND AREA REGULATIONS

R. 40 Zone—Residence, One-Family

Section 200—USE REGULATIONS

The following uses only are permitted:

200.1—One-family detached dwellings.

200.2—Conversion of a one-family dwelling as conditioned in Section 402.

200.3—Churches and other buildings for religious worship, including church schools and private schools.

200.4—Trailers, as limited by Section 415.

200.5—Country club, golf course, or other outdoor recreation clubs, including club house, and quasi-public camps, including day camps, but no such use shall be located on less than 3 acres, and no building or parking lot thereon shall be located within 60 feet of any property line.

200.6—Community building, swimming pool, or other structural or land use devoted to civic, social, recreational and educational activities of the community.

3/30/55 9/19/70 1"=100' 1970

200.7—Offices of a doctor or dentist but with no hospital facilities, and offices or studios of a lawyer, architect, engineer, or artist, when these or offices of similar professions are situated in the same dwelling used by any of the foregoing persons as his residence. Not more than 25% of the floor area of the dwelling shall be used for offices or studios; not more than one non-resident professional associate and two non-resident employees shall be permitted. Signs are prohibited except as noted in Section 413.

200.8—Home occupations, as heretofore defined in Section 101, provided that no sign shall be displayed except as noted in Section 413.

200.9—Accessory buildings and uses as limited by Section 400.

200.10—Hospitals, Class A, as defined in Section 101 and as limited by Section 407.

200.11—Public utility uses as follows:

a. Telephone and telegraph lines.

b. Electric light and power lines, including transformers and transformer banks, when located on poles, on or contiguous

to public highways, alleys, rear lot lines, railroad rights-of-way or if carrying less than 35,000 volts.

c. Conduits, cables; gas, sewer, storm drain, and water mains—all located underground.

d. Railroad.

200.12—Farming, as defined in Section 101 and as conditioned in Section 404.

200.13—Signs in accordance with the provisions of Section 413.

200.14—Excavations, uncontrolled.

200.15—Special Exceptions: The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Airport;
Boarding or rooming houses;
Boat yard and/or marine railway;
Cemetery (see Section 401);
Conservatory, music and the arts;
Convalescent home;
Conversion of a dwelling into a tea room or restaurant as conditioned in Section 402;
Excavations, controlled (see Section 403);
Funeral establishment;
Golf driving range, miniature golf, and baseball batting range;
Hospital, Class B (see Section 407);
Kennel, but not on a lot of less than 3 acres, and not closer than 50 feet to a property line;
Laboratory;
Poultry, commercial killing of, but only on a farm (see Section 404);
Private colleges, nursery or dancing schools, dormitories, and fraternity and sorority houses, but excluding business and trade schools;
Public utility uses other than those noted in Section 200.11 (see Section 411);
Race track, commercial;
Radio studio;
Riding stable, commercial;
Sanitary landfill (see Section 412);
Shooting range;
Television studio;

Theatre, drive-in;
Tourist home;
Trailer park;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 201—HEIGHT REGULATIONS

No building shall exceed a height of 35 feet or 3 stories, except as provided in ARTICLE 3.

Section 202—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width at the front building line of not less than 150 feet, except that for two or more lots in the same ownership, and in the same tract, a minimum lot area of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 square feet or more. A wedge shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 feet (see Section 304).

202.2—Front Yard—For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings—70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3—Side Yards—For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street; for other principal buildings—40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4—Rear Yard—50 feet deep.

R. 20 Zone—Residence, One-Family

Section 203—USE REGULATIONS

The following uses only are permitted:

203.1—Uses permitted and as limited in R. 40 Zone.

203.2—Special Exceptions—Same as in R. 40 Zone, Section 200.15, except airports and laboratories which are not permitted (see Sections 270 and 502).

Section 204—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 205—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

205.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 20,000 square feet, and a width at the front building line of not less than 100 feet, except that for four or more lots in the same ownership, and in the same tract, a minimum lot area of 15,000 square feet is permitted if an average of all the lot sizes in the same ownership and in the same tract equals 20,000 square feet or more, but not more than thirty per cent of the lots may have an area less than 20,000 square feet (see Section 304).

205.2—Front Yard—For dwellings, the front building line shall be not less than 40 feet from the front lot line and not less than 65 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—60 feet from the front lot line and not less than 85 feet from the center line of the street, except as in Section 303.1.

205.3—Side Yards—For dwellings, 15 feet wide, except that for a corner lot the building line along the side street shall be not less than 40 feet from the side lot line and not less than 65 feet from the center line of the street; for other principal buildings—30 feet wide, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street.

205.4—Rear Yard—40 feet deep.

R. 10—Residence Zone, One Family

R. 6—Residence Zone, One and Two Family

Section 206—USE REGULATIONS

The following uses only are permitted:

206.1—Uses permitted and as limited in R. 40 Zone.

206.2 — Special Exceptions — The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Boat yard and/or marine railway;
Boarding or rooming houses;
Cemetery;
Conservatory, music and arts;
Convalescent home;
Excavations, controlled (see Section 403);
Funeral establishment;
Hospital, Class B (see Section 407);
Kennel, as limited in Section 200.15;
Poultry, commercial killing of, but only on a farm (see Section 404);
Private colleges, nursery or dancing schools, dormitories, fraternity and sorority houses, but excluding business and trade schools;
Public Utility uses other than those noted in Section 200.11 (see Section 411);
Radio studio;
Sanitary landfill (see Section 412);
Television studio;
Tourist home;
Trailer Park, conditioned as in Section 414;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 207—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 208—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

208.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 10,000 square feet and a width at the front building line of not less than 70 feet, except that for seven or more lots in the same ownership, and in the same tract, a minimum lot area of 8,000 square feet is permitted, if the average of all the lot sizes in the same ownership and in the same tract equals 10,000 square feet or more, but not more than fifteen

per cent of the lots may have an area less than 10,000 square feet (see Section 304).

208.2—Front Yard—For dwellings, the front building line shall be not less than 30 feet from the front lot line and not less than 55 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—50 feet from the front lot line and not less than 75 feet from the center line of the street, except as specified in Section 303.1.

208.3—Side Yards—For dwellings, 10 feet wide for one side yard and not less than 25 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 30 feet from the side lot line and not less than 55 feet from the center line of the street; for other principal buildings—20 feet wide, except that for a corner lot the building line along the side street shall be not less than 35 feet from the side lot line and not less than 60 feet from the center line of the street.

208.4—Rear Yard—30 feet deep.

R. 6 Zone—Residence, One and Two-Family

Section 209—USE REGULATIONS

The following uses only are permitted:

209.1—Uses permitted and as limited in R. 40 Zone;

209.2—Two family dwellings, as defined in Section 101;

209.3—Special Exceptions—Same as R. 10 Zone, except sanitary landfills and trailer parks which are not permitted (see Sections 270 and 502).

Section 210—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 211—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

211.1 — Lot Area and Width — Each one-family dwelling and each other principal non-residential building hereafter erected shall be located on a lot having an area of not less than 6,000 square feet and a width at the front building line of not less than 55 feet; each two-family dwelling hereafter erected shall be located on a lot(s) having an area of not less than

10,000 square feet and a width at the front building line of not less than 80 feet for a duplex dwelling and 90 feet for the pair of lots occupied by a semi-detached dwelling (see Section 304).

211.2—Front Yard—For dwellings, the front building line shall be not less than 25 feet from the front lot line and not less than 50 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—40 feet from the front lot line and not less than 65 feet from the center line of the street, except as specified in Section 303.1.

211.3 — Side Yards — For one-family dwellings, 8 feet wide for one side yard and not less than 20 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 25 feet from the side lot line and not less than 50 feet from the center line of the side street; for two-family dwellings, side yards shall be as provided in Sections 214:1 and 214.3; for other principal buildings, same as in Section 208.3.

211.4—Rear Yard—30 feet deep.

ACCESSORY BUILDINGS IN RESIDENCE ZONES

402.1—The converted dwelling must be located on a lot that will meet the dimensional requirements shown in the schedule which follows.

402.2—Separate cooking facilities and a separate bathroom shall be provided for each family unit.

CONVERSION OF ONE-FAMILY DWELLINGS MINIMUM DIMENSIONS

	Width of Lot in Feet at Front Building Line			Lot Area in Square Feet		Side Yards—Feet	
Zone	Duplex	Semi-Detached	Ea. Add. Family	Two Families	Ea. Add. Family	Min. for One	Sum of Both
R. 40	175	175	25	50,000	10,000	Int.—25 Cor.—50	Int.—60 Cor.—75
R. 20	125	125	25	25,000	7,500	Int.—20 Cor.—35	Int.—50 Cor.—60
R. 10	90	100	15	12,500	4,000	Int.—20 Cor.—30	Int.—40 Cor.—50
R. 6	80	90	15	10,000	3,000	Int.—15 Cor.—25	Int.—35 Cor.—40
R. G.	70	80	10	Interior 8,050 Corner 9,200	2,500	Int.—15 Cor.—25	Int.—30 Cor.—40
R. A.	70	80	10	Interior 8.050 Corner 9,200	2,500	Int.—15 Cor.—25	Int.—30 Cor.—30

For tea room or restaurant use:

402.3—To be converted for tea room or restaurant use in a R. 40 or R. 20 zone as a Special Exception, the following requirements must be met:

a. Meals may be served only at tables, indoors or on an outdoor terrace, and not to persons remaining in cars;
b. At least one parking space per table shall be provided;
c. Only one business sign shall be permitted (see Section 413.1, d);
d. The minimum lot size shall be one acre;
e. Service shall be provided only at mealtimes.

Section 403—EXCAVATIONS, CONTROLLED

Applications for Special Exceptions hereunder, accompanied by five sets of detailed plans showing

proposed use of land during excavation and grading plans after excavation shall be directed to the Zoning Commissioner. Any Special Exception granted hereunder may include the right to erect and operate buildings, machinery, and equipment for a temporary period, consistent with other provisions of the order of the Zoning Commissioner, or the Board of Zoning Appeals, on appeal. All pertinent requirements of the Baltimore County Health Department Regulations and the Baltimore County Building Code shall be incorporated by the Zoning Commissioner and the Board of Zoning Appeals, on appeal, in approving any application hereunder.

Section 404—FARMING

404.1—Any farming use, or combination of uses, as defined in Section 101, must be located on at least 3 acres of land.

404.2—All accessory buildings except farmers' roadside stands shall be governed by the same area requirements as those applicable to a principal building in the zone in which the farm is located.

404.3—Commercial reduction of inedible animal or vegetable matter and commercial slaughtering, except killing of poultry produced on the premises, are prohibited.

404.4 — Commercial piggeries (hog raising for other than family use) are permitted only on a farm of at least 10 acres, and no hogs shall be permitted within 150 feet of any land zoned or used for residential purposes.

404.5—Manure must be stored in places removed at least 100 feet from all boundary lines of the lot.

404.6—Farmers' roadside stands must be set back at least 35 feet from the nearer edge of the street pavement.

Section 405—FILLING STATIONS

405.1—Lighting—All lighting installations shall be such and be so arranged as not to increase traffic hazards or to cause direct or glaring reflection into residential premises.

405.2—Pump islands shall be located not less than 12 feet from the street right-of-way line. The Zoning Commissioner, however, before granting any Special

County Council of Baltimore County Maryland

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Introduced by Mr. Bartenfelder, Councilman

(Request of County Executive)

By the County Council, July 6, 1970.

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100. 1. A. 2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 103.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations" and the subtitle, "R.40 Zone-Residence, One-Family" and enacting in lieu thereof a new designation and title as follows:

"ARTICLE 2—ELEVATOR—APARTMENT RESIDENCE ZONES, BUSINESS AND MANUFACTURING ZONES, AND DISTRICTS"; by repealing Sections 200 to 217 (inclusive) and enacting in lieu thereof new Sections 200, 201 and 202; by repealing and re-enacting Subsection 232.5; by redesignating existing Section 232A as Section 232B; by redesignating existing Subsections 232A.1 to 232A.6 (inclusive) as 232B.1 to 232B.6 (inclusive); by adding new Section 232A; by redesignating existing Section 235A as Section 235B; by redesignating existing Subsections 235A.1 to 235A.6 (inclusive) as 235B.1 to 235B.6 (inclusive); by adding new Section 235A; by adding new Section 238A; by redesignating existing Section 238A as Section 238B; by redesignating existing subsections 238A.1 to 238A.5 (inclusive) as 238B.1 to 238B.5 (inclusive); by deleting Section 253 and enacting in lieu thereof, new Section 253; by repealing and re-enacting with amendments Subparagraph 405.2.A.4 and Paragraph d of Subsection 409.2; by adding new Section 430; by adding new Subsection 502.4 and by adding new Section 504; all being provisions of said Baltimore County Zoning Regulations, 1955, as amended.

WHEREAS, the amendments to the zoning regulations which are contained in this Bill, having been formulated in accordance with the procedure specified in sections 22-20 and 22-21 of the Baltimore County Code, 1968, the said several public hearings required by said sections having been held after the required public notice; now, therefore

SECTION 1. *Be it enacted by the County Council of Baltimore County, Maryland,* That subsection 100.1.A.2 be and it is hereby repealed and re-enacted with amendments as follows:

2. Zones are as follows: R.D.P. Zones—Rural: Deferred-Planing; R.S.C. Zones—Rural-Suburban: Conservation; D.R. 1 Zones—Density Residential, 1.0 Dwelling Units per Acre; D.R. 2 Zones—Density Residential, 2.0 Dwelling Units Per Acre; D.R. 3.5 Zones—Density Residential, 3.5 Dwelling Units Per Acre; D.R. 5.5 Zones—Density Residential, 5.5 Dwelling Units Per Acre; D.R. 10.5 Zones—Density Residential, 10.5 Dwelling Units Per Acre; D.R. 16 Zones—Density Residential, 16.0 Density Units Per Acre; R.A.E. 1 Zones—Residential, 40.0 Density Units Per Acre; R.A.E. 2 Zones—Residential, 80.0 Density Units Per Acre; B.L. Zones—Business, Local; B.M. Zones—Business, Major; B.R. Zones—Business, Roadside; M.R. Zones—Manufacturing, Restricted; M.L.R. Zones—Manufacturing, Light Restricted; M.L. Zones—Manufacturing, Light; M.H. Zones—Manufacturing, Heavy.

SECTION 2. *And be it further enacted,* That Article 1 be and it is hereby amended by adding sub-section 100.3A, said new sub-section to read as follows:

100.3A—The residential zones and zoning classifications as previously changed in Subsection 100.3 are further changed; the R.40, R.20, R.10, R.6, R.G., and R.A. zones and zoning classifications established before the effective date of this subsection by the official zoning maps and amendments thereto and by Subsection 100.1 as previously enacted are also changed; and all of them are redesignated on the effective date of this subsection as set forth below. Any requirement, stipulation, or designation with respect to said classifications in any law, ordinance, regulation, private agreement, or official zoning map shall be applied to or construed as the corresponding D.R. zoning classification, as follows, to the full extent of consistent applicability:

Zones heretofore classified as R.40 are now classified as D.R. 1;
Zones heretofore classified as R.20 are now classified as D.R. 2;
Zones heretofore classified as R.10 are now classified as D.R. 3.5;
Zones heretofore classified as R.6 are now classified as D.R. 5.5;
Zones heretofore classified as R.G. are now classified as D.R. 10.5;
Zones heretofore classified as R.A. are now classified as D.R. 16.

SECTION 3. *And be it further enacted,* That Section 101 be and it is hereby amended by deleting the following terms and definitions thereof:

"Acreage, Gross Residential; Density, Gross Residential; Density, Net; Dwelling, Duplex; Dwelling, Group House; Dwelling, One-Family; Dwelling, Semi-Detached; Dwelling, Two-Family; Hospital, Class A; Hospital, Class B; Street; Subdivision, Cluster" and by adding thereto in alphabetical order the following terms and definitions:

Accessory use or structure: A use or structure which-(a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use.

Apartment building: A dwelling containing three or more apartments.

Apartment, group-house: A dwelling unit which differs from a group house only in that it is situated on the same lot as the other dwelling units in the row.

Bedroom: The term "bedroom" includes a bedroom, any other room used principally for sleeping purposes, an "all-purpose room," a study, or a den, provided that no room having less than 100 square feet of floor area shall be considered a bedroom.

Community: A coherent urban area generally comprising three to five neighborhoods and a central concentration of public facilities and commercial uses necessary or appropriate to serve the population of the area as a whole, usually including a middle, junior-high or high school (or school-recreation center) and a variety store.

Density unit: An expression of extent or density of dwelling use as related to number of rooms in, or type of, dwelling unit, so that:

Each efficiency apartment is equivalent to 0.50 density unit;
Each 1-bedroom dwelling unit is equivalent to 0.75 density unit;
Each 2-bedroom dwelling unit is equivalent to 1.00 density unit;
Each dwelling unit with 3 or more bedrooms is equivalent to 1.50 density units.

Group house: Any one of a group of not less than three and not more than six attached dwelling units which have been constructed together in a lateral row surrounded by yard space, each dwelling unit separated from another by a party wall and situated on a separate lot.

Lot of record: A parcel of land with boundaries as recorded in the Land Records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof.

Neighborhood: A coherent urban area generally comprising the dwellings for a residential population of approximately 1,000 to 3,000 families and a more-or-less central concentration of the public facilities and business uses serving their everyday or frequent needs, usually including an elementary school (or school-recreation center) and a supermarket or grocery store.

Principal use: A main use of land, as distinguished from an accessory use.

Sewerage system, public: A sewerage system which is operated by the County or a public agency of metropolitan or regional jurisdiction, and which is owned by or meets design and performance standards whereby it is eligible for ownership by the County or such agency, whether or not it is part of or connected with the physical facilities of the metropolitan or regional sewerage system.

Street: A motorway which is not a freeway or expressway, but which has a right of way more than 20 feet in width.

1B02.2—Regulations, Standards, and Controls for Density, Bulk, Open Space, and Parking.

A. Dwellings. The maximum gross residential densities and height of dwellings, the minimum per cent of gross site area which must be in local open space tracts, and the minimum number of offstreet parking spaces required with respect to residential development in D.R. zones shall be as prescribed in the table below; provided, however, that higher or additional standards for the provision of other amenity open space, standards and methods for the inclusion and equitable apportionment of public amenity open space within the calculations of gross areas of tracts abutting the open space, and standards providing for greater heights of buildings in appropriate circumstances, all as more particularly set forth in Section 504, shall control when adopted pursuant to the authority of said section.

Zoning Classification	Maximum Gross Residential Density, in Dwelling or Density Units per Acre	Maximum Height of Buildings, in Feet	* Minimum Per Cent of Gross Site Area as Local Open Space Tracts	Maximum Number of Offstreet Parking Spaces per Dwelling or Density Unit, Except for Housing for the Elderly	Minimum Number of Offstreet Parking Spaces per Dwelling or Density Unit for Housing for the Elderly
D.R. 1	1.0 dwelling units/acre	50	0	2.0 per dwelling unit	1.5 per dwelling unit
D.R. 2	2.0 dwelling units/acre	50	0	2.0 per dwelling unit	1.5 per dwelling unit
D.R. 3.5	3.5 dwelling units/acre	50	5	2.2 per dwelling unit	1.6 per dwelling unit
D.R. 5.5	5.5 dwelling units/acre	50	5	2.75 per dwelling unit	1.8 per dwelling unit
D.R. 10.5	10.5 dwelling units/acre	50	22	2.75 per dwelling unit	1.8 per dwelling unit
D.R. 16	16.0 density units/acre	50	15	2.53 per density unit but not less than 1.5 per dwelling unit	2.15 per density unit

*Land within 35 feet of a window or other opening in a residential structure in a D.R. zone is not considered local open space.

B. Other Principal Uses. Density, bulk, open space, and parking regulations, standards, or controls for principal uses other than dwellings within zones of different classification shall be governed by provisions adopted pursuant to the authority of Section 504.

C. In a D.R. 16 zone, no building shall be constructed within 75 feet of land which is in any zone classified as D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5, or D.R. 10.5 and which is not within the same development tract.

1B02.3—Special Regulations for Certain Existing Developments or Subdivisions and for Small Lots or Tracts in D.R. Zones.

A. In D.R. zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy, and development of, the alteration or expansion of structures upon, and administrative procedures with respect to:

1. Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Baltimore County Planning Commission and which has been used, occupied, or improved in accordance with the approved subdivision plan;

2. Any land in a subdivision tract which was laid out in accordance with the regulations of residence zoning classifications now rescinded, for which a subdivision plan tentatively approved by the Planning Board remains in effect, and which has not been used, occupied, or improved in accordance with such plan;

3. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in Subparagraph 1 or 2 and which is too small in gross area to accommodate six dwelling or density units in accordance with the maximum permitted density in the D.R. zone in which such tract is located; or

4. Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in Subparagraph 1 or 2 and which is less than one-half acre in area, regardless of the number of dwelling or density units that would be permitted at the maximum permitted density in the zone in which it is located.

5. Any lot, or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission.

B. Standards Applicable to Existing Developments Etc. The minimum standards for net lot area, lot width, front-yard depth, single-side-yard width, sum of widths of both side yards, rear-yard depth, and height with respect to each use in a development described in Subparagraph A.1, above, shall be as prescribed by the zoning regulations applicable to such use at the time the plan was approved by the Planning Board or Commission; however, the same or similar standards may be codified and comparable bulk (height or area) standards for different permitted uses may be established and codified under Section 504, and these standards shall thereupon control in such existing developments. Development of any subdivision described in Subparagraph A.2 shall be in accordance with the tentatively approved subdivision plan therefor. Standards for development of lots or tracts described in Subparagraphs A.3, A.4 or A.5 shall be as set forth in Paragraph C, below.

C. Development Standards for Small Lots or Tracts.

1. Any dwelling hereafter constructed on a lot or tract described in Subparagraph A.3 or A.4 shall comply with the requirements of the following table:

Zoning Classification	Minimum Net Lot Area per Dwelling Unit	Minimum Lot Widths, in Feet	Minimum Front-Yard Depth, in Feet	Minimum Width of Individual Side Yard, in Feet	Minimum Sum of Side-Yard Widths, in Feet	Minimum Rear-Yard Depth, in Feet
D.R. 1	40,000 square feet	150	50	20	50	50
D.R. 2	20,000 square feet	100	40	15	40	40
D.R. 3.5	10,000 square feet	70	30	10	25	30
D.R. 5.5	6,000 square feet	55	25	10	—	30
D.R. 10.5	3,000 square feet	20	10	10	—	30
D.R. 16	2,500 square feet	20	10	25	—	30

2. Other standards for development of small lots or tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504.

D. An amendment to any part of a development plan involving only property subject to the provisions of this subsection shall not be subject to the provisions of Paragraph D of Subsection 1B01.3.

Section 6. *And be it further enacted,* That the title to Article 2 "ZONES: USE, HEIGHT, AND AREA REGULATIONS" and the subtitle, "R.40 Zone-Residence, One-Family" thereunder be and it is hereby repealed and re-enacted with amendments, as follows:

ARTICLE 2.—ELEVATOR-APARTMENT RESIDENCE ZONES, BUSINESS AND MANUFACTURING ZONES, AND DISTRICTS

Section 7. *And be it further enacted,* That Article 2 is hereby amended by deleting all of Sections 200-217 (inclusive) and any and all interjacent undesignated provisions and titles, and by adding the following new sections in lieu thereof:

Section 200—*R.A.E. 1 Zones-Residence, Apartment, Elevator.*

200.1—General Provisions.

A. Statement of Legislative Policy. R.A.E. 1 zones provide for development of elevator-apartment buildings at moderate density.

These zones may be situated only near adequate community or town-center commercial facilities, particularly within convenient walking distance thereof. It is not intended that any R.A.E. 1 zones shall be established in such proximity or relation to an interchange that undue congestion would occur as a result of development within the zone.

The regulations are intended to encourage the best possible building designs and site planning.

B. Locational Requirement. Any R.A.E. 1 zone must be entirely located within 1000 feet of a C.C.C. district or within a town center as defined as Section 101.

200.2—Use Regulations in R.A.E. 1 Zones.

A. Uses Permitted. The following uses, only, are permitted:

1. Apartment buildings;

2. Offices: business, professional, governmental or institutional, in any apartment building of 25 or more dwelling units, with no accessory storage of merchandise (goods for sale), and subject to the limitations of Paragraph B;

3. The following retail or service uses, in any apartment building of 50 or more dwelling units, subject to the limitations of Paragraph B:

1. Barbershops

2. Beauty shops

3. Catering establishments, in any apartment building of 150 or more dwelling units

4. Chiropodists' offices

5. Clinics or group medical centers (including the practice of dentistry)

6. Delicatessens

7. Drug stores

8. Florist shops

9. Food stores

10. Health clubs

11. Laundromats, retail laundry and dry-cleaning collection and distribution stations, or dry-cleaning and pressing establishments

12. News stands

13. Opticians' or optometrists' offices

procedures which are not inconsistent with these regulations and which further the purposes hereof, as specified in the preceding sections of these regulations and as set forth below. However, no such policy or procedure, or amendment thereto, may hereafter be adopted except by a resolution which has been entered on and appended to the advance tentative agenda for a regular meeting of the Planning Board and thereafter approved at such meeting without amendment, all as shall be more particularly prescribed in the bylaws of the Planning Board.

504.2—Comprehensive Manual. The Office of Planning and Zoning shall compile and codify, in an appropriate and practical form, a comprehensive manual of the Planning Board's land-use and development policies and zoning resolutions. The manual shall include the statements of all policies and procedures adopted under Subsection 504.1 and all other formal Planning Board actions taken pursuant to these Zoning Regulations, the Subdivision Regulations, and such other land-use and-development regulations as may hereafter be effected, except actions on subdivision plans or other routine actions in individual cases. The form of the manual may be such as to include, in addition, provisions of these Zoning Regulations, of the Subdivision Regulations, or of other rules, regulations, or laws, with the sources of all such provisions clearly identified. Such provisions may be printed together as they were promulgated, and placed in separate sections of the manual, or they may be separated and integrally codified with other manual provisions or statements, placed in order according to subject or other logical arrangement. The manual also may include such other matter as the Office of Planning and Zoning or the Planning Board deems relevant.

504.3—OPEN-SPACE MAINTENANCE POLICIES. NO PLAN FOR A UNIT DEVELOPMENT AND NO OTHER PLAN COVERING COMMON OPEN SPACE (INCLUDING LOCAL OPEN SPACE) MAY BE APPROVED UNDER THESE REGULATIONS UNLESS THE COUNTY HAS AGREED TO ACCEPT TITLE TO AND MAINTAIN THE OPEN SPACE OR HAS OTHERWISE AGREED TO PROVIDE CONTINUING MAINTENANCE OF THE OPEN SPACE, OR UNLESS CONTINUING MAINTENANCE IS ASSURED BY OTHER MEANS AS SET FORTH IN POLICIES ADOPTED IN ACCORDANCE WITH SUBSECTION 504.1, ABOVE. TO AFFORD THE LATTER ALTERNATIVE WITHIN A REASONABLE TIME, THE PLANNING BOARD SHALL FORMULATE AND ADOPT POLICIES REGARDING THE CONTINUING MAINTENANCE OF COMMON OPEN SPACE WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION.

~~Section 19. *And be it further enacted,* That this Act shall take effect March 31, 1971.~~

SECTION 19. *AND BE IT FURTHER ENACTED,* THAT EVERY PART OF EVERY SECTION AND ZONING REGULATION OF THIS ACT ARE ENACTED INDEPENDENTLY AND ARE, THEREFORE, SEVERABLE; IF ANY PART IS DECLARED INVALID BY A COURT OF COMPETENT JURISDICTION, THE REST OF THIS ACT REMAINS VALID.

SECTION 20. *AND BE IT FURTHER ENACTED,* THAT ANY AMENDMENTS HEREIN, OR ANY NEW ZONING CLASSIFICATIONS PROVIDED FOR IN THIS BILL SHALL NOT BE PROMULGATED AS TO ANY EXISTING ZONING MAPS, BUT SHALL BE EFFECTIVE ONLY UPON THE ADOPTION BY THE COUNTY COUNCIL OF ANY NEW ZONING MAPS ON OR BEFORE MARCH 31, 1971.

SECTION 21. *AND BE IT FURTHER ENACTED,* THAT THIS ACT SHALL TAKE EFFECT FORTY-FIVE DAYS AFTER ITS ENACTMENT.

READ AND PASSED this 3rd day of August, 1970.

By Order:

Herbert Hohenberger, Secretary

PRESENTED to the County Executive, for his approval this 4th day of August, 1970.

Herbert Hohenberger, Secretary

APPROVED AND ENACTED: August 5, 1970.

Dale Anderson,

County Executive

I HEREBY CERTIFY THAT BILL NO. 100 IS TRUE AND CORRECT AND WILL TAKE EFFECT ON SEPTEMBER 19, 1970.

Harry J. Bartenfelder,

Chairman, County Council

Baltimore County, MD
Thursday, June 21, 2018

ARTICLE 4. Special Regulations

SECTION 402. Conversion of Dwellings

§ 402.1. For residential use.

For residential use:

A. The converted dwelling must be located on a lot that will meet the dimensional requirements shown in the schedule which follows.

B. Separate cooking facilities and a separate bathroom shall be provided for each family unit.

CONVERSION OF ONE-FAMILY DWELLINGS MINIMUM DIMENSIONS

	Width of Lot in Feet at Front Building Line			Lot Area In Square Feet		Side Yards (feet)	
Zone	Duplex[1]	Semi-Detached[1]	Each Add. Family	Two Families	Each Add. Family	Min. For One	Sum of Both
D.R.1	175	175	25	50,000	10,000	Int. 25 Cor. 50	Int. 60 Cor. 75
D.R.2	125	125	25	25,000	7,500	Int. 20 Cor. 35	Int. 50 Cor. 60
D.R.3.5	90	100	15	12,500	4,000	Int. 20 Cor. 30	Int. 40 Cor. 50
D.R.5.5	80	90	15	10,000	3,000	Int. 15 Cor. 25	Int. 35 Cor. 40
D.R.10.5	70	80	10	Interior 8,050 Corner 9,200	2,500	Int. 15 Cor. 25	Int. 30 Cor. 40
D.R.16	70	80	10	Interior 8,050 Corner 9,200	2,500	Int. 15 Cor. 25	Int. 30 Cor. 40

NOTES:

[1] The original BCZR 1955 definitions of "dwelling, duplex" and "dwelling, semi-detached" were deleted from Section 101 by Bill No. 100-1970. The entries previously read as follows:

"Dwelling, Duplex: A two-family detached building with one housekeeping unit over the other.

"Dwelling, Semi-detached: A building that has two one-family housekeeping units erected side by side on adjoining lots, separated from each other by an approved masonry party wall extending from the basement or cellar floor to the roof along the dividing lot line, and separated from any other building by space on all sides."

Baltimore County, MD
Friday, June 29, 2018

ARTICLE 1. General Provisions

SECTION 101. Definitions

[BCZR 1955]

§ 101.1. Word usage; definitions.

[Bill No. 149-1987]
Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these regulations, certain terms and words are defined below.
Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged.

ACCESSORY APARTMENT

A second living quarters within a principal single-family detached dwelling or within an accessory building situated on the same lot as the principal single-family detached dwelling and in compliance with Section 400, with dedicated bathing and cooking facilities, and located on owner-occupied property, subject to the following:
[Bill No. 49-2011]

A. The owner may occupy either the principal dwelling or the accessory apartment;

B. The occupant(s) of the accessory apartment and the occupant(s) of the principal single-family detached dwelling shall be immediate family, related as grandparents, parents, or parents' children by blood, marriage or adoption;

C. The accessory apartment is provided without compensation; and

D. The accessory apartment, whether located within the principal dwelling or in the accessory building, shall comply with all laws, regulations, and codes affecting residential occupancy.

ACCESSORY BUILDING

One which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building.

ACCESSORY USE OR STRUCTURE

A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or

exchange transactions) through pneumatic tubes **2** : an unnamed article considered for purposes of hypothetical example as the typical product of a company (showing the manufacturer to deduct the fair market value of the ~s —*Harvard Law Rev.*)

wid-ish \'widish, -dēsh\ *adj* (*wide* + *-ish*) : somewhat wide (~ shoulders) (a ~ collection)

wid-man-stadt-ite figures \'widmanˌstät-ˌīt, 'vitmanˌ(t)h]\ *also* **wid-man-stat-ti-an figures** \'widˌman(ˌ)stä-tē-ən\ *n pl, usu cap W* [*Widmanstadtian* or alter. Aloys B. *Widmannstätten* †1849 Austrian mineralogist; *widmanstaettian* fr. Aloys B. *Widmannstätten* + E *-an*] : figures that appear on etched meteoric iron and exhibit its crystalline structure

wid-ow \'wi(ˌ)dō, -dəw, -dō; -dow, -dō+V\ *n* -S [ME *widewe, widwe*, fr. OE *widewe, wudewe*; akin to OHG *wituwa, witawa* widow, Goth *widuwo*, L *vidua* widow, *viduus* to separate, Gk *eithear* unmarried youth, Skt *vidhavā* widow, *vidhura* separated from, *vindhate* he lacks] **1 a** : a woman who has lost her husband by death and has not since remarried — often used as if a title before a woman's marriage name (the ~ Jones) (a tavern kept by ~ Smith) **b** : a particular woman identified as having survived her husband and often as having thereby acquired legal rights that are not lost by subsequent remarriage by her though they may sometimes be lost by decree, statute, or construction (as on account of the survivor's desertion or adultery) **c** *dial Brit* : WIDOWER **d** : a woman whose husband deserts her or spends much time (as in a sports activity) away from her : GRASS WIDOW **2** — usu. used with a qualifying word (poker ~) (fishing ~) (club ~); compare GOLF WIDOW **2** : one of a special class of women in the early Christian church serving as deaconesses in the performance of works of charity and in some liturgical offices (as the baptism of women) **3** : an extra hand or part of a hand of cards that is dealt face down and unseen, placed at the disposal of the highest bidder — see KITTY, SKAT **4 a** : a short line ending a paragraph and appearing at the top of a printed page or column **b** : a short line at the foot of a page or column

²widow \"\ *vt* -ED/-ING/-S **1** : to cause to become a widow (~ her; bereave (a person) of a spouse) (women ~*ed* by the war) (he hath ~*ed* and unchilded many a one —Shak.) **2** : to survive as the widow of (let me be married to three kings : . and ~ them all—Shak.) **3** : to deprive of something greatly loved or needed : make desolate — usu. used with *of* (the ~*ed* isle —John Dryden) (tank supporters . . . ~*ed* of tanks —A.J. Liebling)

widow-bench \'(ˌ)ō,e\ *n* : the portion besides her jointure allowed to a widow from her deceased husband's estate in English law — compare FREE BENCH

widow bewitched *n, chiefly dial* : a woman separated from her husband : GRASS WIDOW **2**

widow bird *or* **widow finch** *n* [so called fr. its dark plumage and long black tail feathers like a widow's veil] : WHYDAH

widow duck *n* : a West Indian tree duck (*Dendrocygna viduata*)

wid-ow-er \'widəwə(r), -dōə-\ *n* -S [ME *widewer*, fr. *widewe* widow + *-er*] **1** : a man who has lost his wife by death and has not married again **2** : a particular man identified as having survived his wife and often as having thereby acquired legal rights that are not lost by subsequent remarriage by him though they may sometimes be lost by decree, statute, or construction (as on account of the survivor's desertion or adultery)

wid-ow-ered \-ərd\ *adj* : made a widower (his ~ father —William Humphrey)

wid-ow-er-hood \-ə(r),hůd\ *n* **1** : the quality or state of being a widower **2** : the period during which a man remains a widower

widowhead *n* [ME *widewehed*, fr. *widewe* widow + *-hed* -hood (akin to ME *-had, -had* -hood)] *obs* : WIDOWHOOD

wid-ow-hood \'widəˌhůd\ *n* [ME *widewehod, widewehad*, fr. *widewe* widow + *-had, -had* -hood — more at WIDOW] **1** : the quality or state of being a widow (destined to an early ~) **2** : the period during which a person remains a widow (married again after a brief ~)

widow lady *n, chiefly dial* : WIDOW

wid-ow-ly *adj* : of, relating to, or befitting a widow (~ grief)

widow-maker \'widəˌmāə\ *n* : something dangerous to a worker's life or health; *specif* : a loose limb hanging in or falling from a tree in logging

widow man \-ˌman\ *n, pl* **widowmen** *chiefly dial* : WIDOWER

widow monkey *n* : a So. American titi (*Callicebus torquatus*) that is black except for dull whitish arms, neck, and face and a ring of pure white around the face

widow right *n* : a widow's right (as dower, quarantine, or statutory share) in her deceased husband's estate

widows *pl of* WIDOW, *pres 3d sing of* WIDOW

widow's chamber *n* : the bedchamber apparel and furniture passing to the widow of a freeman of London by a custom formerly recognized in English law

widow's-cross \'(ˌ)ō,e's\ *pl* **widow's-crosses** : an evergreen fleshy-leaved herb (*Sedum pulchellum*) of the eastern U.S. often cultivated for its rosy purple showy flowers

widow's frill *n* : STARRY CAMPION

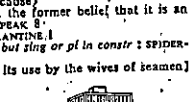
widow's mite *n* [so called fr. the widow who cast two mites (a farthing) into the Temple treasury (Mark 12:42)] : a small contribution that is willingly given and is all one can afford (gave his *widow's mite* to the cause)

widow's peak *n* [so called fr. the former belief that it is an omen of early widowhood] : PEAK **3**

widow's quarantine *n* : QUARANTINE **1**

widow's-tears \'ō,(ə)z'i\ *n pl but sing or pl in constr* : SPIDERWORT **1a**

widow's walk *n* [so called fr. its use by the wives of seamen] **1** : a railed observation platform built above the roof of a coastal dwelling (or an unobstructed outlook to sea — called also *captain's walk* **2** : a balustraded roof area


widow's walk

widow woman *n, chiefly dial* : WIDOW

width \'width, -itth, *chiefly subtand* -ith\ *n, pl* **widths** \'s, -idts, -it(t)s\ (*wide* + *-th*) **1** : a distance from side to side : measure taken at right angles to length : BREADTH (the ~ of a ribbon) (the ~ of a printed letter) (carpeting available in several ~*s*) (traveled across the ~ of the country) **2 a** : largeness or greatness in extent : SPACIOUSNESS, SCOPE, RANGE (gives you no idea of the ~ and the depth of his knowledge —K.C.Wheare) (the ~ of his imaginative —H.J.Laski) **b** : FULLNESS, AMPLITUDE (give ~ to a sleeve) **c** : freedom from narrowness, constraint, or limitation : COMPREHENSIVENESS, LIBERALITY (a ~ of view) (concerned to give medical education a greater cultural ~ —Walter Moberly) **3** : a measured and cut piece of material (a ~ of calico) (a ~ of carpet) **4** : girth at the widest part — used of a shoe last and usu. given by a letter designating a standard size (wears an E ~ shoe)

widthways \'ˌsˌ\ *adv* : WIDTHWISE

widthwise \'ˌsˌ\ *adv* : in the direction of the width : LATITUDINALLY (trimmings placed ~ —*Women's Wear Daily*)

wie-de-mann effect \'wēdəˌmän-, 'wēdəman-\ *n, usu cap W* [after Gustav H. *Wiedemann* †1899 Ger. physicist] : twisting of a ferromagnetic rod due to the joint action of a longitudinal current in the rod and a longitudinal magnetic field — compare MAGNETOSTRICTION

wiedemann-franz law \'frän(t)s-, -ſran(t)s-\ *n, usu cap W&F* [after Gustav H. *Wiedemann* †1899 and Rudolph *Franz* †1902 Ger. physicists] : a statement in physics: at a given temperature the ratio of the thermal to the electrical conductivity has nearly the same value for most metals and approximately is proportional to the absolute temperature of the metal

wiegela *syn of* WEIGELA

wield \'wēld, *esp before pause or consonant* -ēəld\ *vt* -ED/-ING/-S [ME *welden* to have power over, control, fr. OE *weldan*; akin to OHG *waltan* to rule, ON *valda* to rule, wield, Goth *waldan* to rule, dominate, OIr *flaith* power, rule, *ulaithe* to be strong, be well, be worth, Lith *veldėti* to rule, Toch B *walo* king] **1** *chiefly dial* : to deal successfully with : MANAGE (weighty work, which he cannot ~ by himself —Thomas Fuller) **2** : to use (as a tool or instrument) esp. with due command or power (~ a sample, manipulate, control (~ a broom) (~ a paintbrush) (~*ed* a pen with clerkly precision —T.B.Costain) (~*ed* languages with facility) **3 a** : to show or exert one's or authority by means of : GOVERN, RULE (those who e bureaucratic machine —Hugh Seton-Watson) **b** : to (as power, authority, sovereignty) : EMPLOY (~ influence) (a highly centralized executive ~ing absolute power —Aldous Huxley) **4** *obs* : EXPRESS (I love you more than word can ~ the matter —Shak.) syn see HANDLE

wield-er \-də(r)\ *n* -S : one that wields (as a weapon or implement)

wieldy \'wēd, -dī\ *adj* **1** : capable of wielding : STRONG (entrusted to ~ hands —Anthony Harris) **2** : capable of being wielded : MANAGEABLE (is a large but ~ book —*New Republic*)

wien bridge \'wēn-, 'wən-\ *n, usu cap W* [after Max *Wien* †1938 Ger. physicist] : a bridge for measuring or comparing capacitances — compare MAXWELL BRIDGE

wie-ner *or* **wei-ner** \'wēnə(r)\ *n* -S [*wiener* short for *wienerwurst*; *weiner* alter. of *wiener*] : FRANKFURTER

wie-ner schnit-zel \'vēnə(t),shnitsəl, 'wēnə(r),sn-\ *n, usu cap W* [G, lit., Vienna cutlet] : a thin breaded veal cutlet served with a garnish (as lemon wedges, capers, or a fried egg)

wie-ner-wurst \'wēnə(r),ə — *last syllable as at* LIVERWURST\ *n* [G, fr. *Wiener* of Vienna (fr. *Wien* Vienna) + *wurst* sausage, fr. OHG — more at WURST] **1** : VIENNA SAUSAGE **2** : FRANKFURTER

wie-nie *or* **wee-nie** \'wēnē, 'winē, -nī\ *n* -S [*wienie* fr. *wiener* + *-ie*; *weenie* alter. of *wiener*] *slang* : WIENER

wien's displacement law \'wēnz-, 'wēnz-\ *n, usu cap W* [after Wilhelm *Wien* †1928 Ger. physicist] : a statement in physics: the wavelength of thermal radiation most copiously emitted by a blackbody is inversely proportional to the absolute temperature of the body

wies-ba-den \'wēs,bäd°n, 'vis-\ *adj, usu cap* [fr. *Wiesbaden*, Germany] : of or from the city of Wiesbaden, Germany : of the kind or style prevalent in Wiesbaden

wie-sen-bo-den \'vēzºn,bōdºn\ *n* -S [G, meadow soil, fr. *wiesen* (pl. of *wiese* meadow, fr. OHG *wisa* + *boden* ground, soil, fr. OHG *bodam* bottom; akin to OE *wāse* mud, mire — more at OOZE, BOTTOM] : any of an intrazonal group of dark brown to black meadow soils rich in organic matter with gray underlayers developed through poor drainage in humid or subhumid grassy or sedgy regions

wife \'wī\ *n, pl* **wives** \'wīvz\ [ME *wif*, fr. OE *wīf*; akin to OHG *wīb* woman, wife, ON *vīf* woman, peth. akin to OHG *veipr* head covering — more at WIPE] **1 a** *dial* : WOMAN — compare OLD WIFE **b** : a woman acting in a specified capacity — used in combination: as (1) : one who sells something : VENDER (a fishwife) (an oysterwife) (2) : one who has charge of something : KEEPER (housewife) (3) : a woman worker (washerwife) (hostlerwife) **2 a** : a married woman (a ~ can take credit for the good in her husband —Lenard Kaufman) **b** : a woman who on the basis of her tribal or societal institutions is married (in general polygyny when a man married all the eldest daughter each of her sisters became his ~ also) **3** : the female of a pair of mated animals (a new ~ for the gander is introduced into the pen)

²wife \"\ *vb* -ED/-ING/-S [ME *wifen*, fr. *wif* wife] : WIVE

wife-hood \'wīf,hůd\ *n* [ME *wifhod, wifhade*, fr. OE *wīfhād* womanhood, fr. *wīf* woman, wife + *-hād* -hood] : the quality or state of being a wife (achieved the status of ~)

wife-less \'līəs\ *adj* [ME *wiflees*, fr. OE *wīflēas*, fr. *wīf* wife + *-lēas* -less] : having no wife (the only ~ man in the group of old classmates)

¹wifelike \'ī,ˌ\ *adv* : in a wifely manner (laid, ~, her hand in one of his —Alfred Tennyson)

²wifelike \'ī,ˌ\ *adj* : WIFELY

wife-li-ness \'wīfēnəs, -līn-\ *n* -ES : the quality or state of being wifely (vague piecemeal efforts at ~ —Martha Gellhorn)

wife-ly *adj* [ME *wifly*, fr. OE *wīflic*, fr. *wīf* wife + *-lic* -ly] **1** : of, relating to, or befitting a wife (~ virtues) (~ duty) (a ~ act) **2** : having the character or look of a wife (stout and ~ in her classic cambric nightgown —Ellen Glasgow)

wife's equity \'wīfs- *sometimes* -īvz-\ *n* : the equitable right of a married woman prior to the married women's separate property acts as against her husband or his assignees or creditors to a reasonable provision (as by way of settlement) out of her choses in action or out of any property of hers under the jurisdiction of the court of chancery for the support of herself and her children

wife-sey *or* **wif-sy** \'wīfsē, -īl\ *n* : WIFE — not often in formal use

wif-ish \'-fish, -ſesh\ *adj* : WIFELY

twig \'wig\ *n* -S [ME *wigge*, fr. MLG, wedge, wedge-shaped cake; akin to MD *wegge* wedge, OHG *weggi, weckī* — more at WEDGE] *Brit* : a bun flavored with spices and caraway seeds

²wig \"\ *n* -S [short for *periwig*] **1 a** : a manufactured covering of hair for the head usu. made of human hair that is woven or attached to the crown of a skullcap and worn as a cover for baldness or thin hair or as part of theatrical costume, official or professional dress, or fashionable attire (London barristers wearing ~*s*) (the elaborately curled and powdered ~*s* of the 18th century) — see PERUKE **b** : TOUPEE **2** : a person wearing a wig (as a judge or lawyer) **b** : DIGNITARY, stowed **3** : an act of wigging : REBUKE **4 a** : the coarse fur on the shoulders of a large male hooded seal **b** : a male fur seal — wigs on the green : a bitter dispute : FUSS, CLASH (feared ... *wigs on the green* at the annual stockholders' meeting —*Time*)

³wig \"\ *vt* wigged; wigged; wigging; wigs **1** : to supply with a wig **2** : to scold severely : CENSURE, REBUKE (*wigged* me for being there the other night —*Dellenator*) syn see SCOLD

wig-an \'wigən\ *n* -S [fr. *Wigan*, Lancashire, England, where it was orig. manufactured] : a plain weave fabric with a stiff finish used for interlining (as tailored coats or jackets)

wig block *n* : a round-topped block for making, dressing, or holding a wig

wigeon *var of* WIDGEON

wigged \'wigd\ *adj* : wearing a wig (the judge, all ~ and robed)

wig-gon *or* **wig-gin** \'wigən\ *n* -S [alter. of *tquicken*] *dial* : ROWAN TREE **1**

wig-ger \'-gə(r)\ *n* -S : WIGMAKER

wig-gery \'-gərē, -rī\ *n* -ES **1** : the use of wigs (preferred ~ to baldness —Anthony Trollope) **2** : a business dealing in wigs (a visit to a nearby theatrical ~ —P.G.Wodehouse)

wig-ging \'-gin, -gēŋ\ *n* -S [*wig* + *-ing*] **1** : severe censure from one in authority : DRESSING DOWN, SCOLDING (the ~ I received from my editor —C.A.Lejeune) **2** *Austral* : the removal of wool from around the eyes of sheep to prevent obstruction of vision : wool so removed — usu. used in pl. (~*s* ... mixed with good-quality lambs' wool —R.G.Montgomery)

wig-gle \'wigəl\ *vb* wiggled; wiggled; wiggling \'g(ə)liŋ\ wiggles [ME *wiglen, wigelen*, of LG or D origin; akin to MLG *wiggelen* to totter, reel, MFlem *wigelen* to totter, reel, rock, MD *wiegele* cradle, akin to OHG *wiga* cradle, OE *wegan* to move — more at WAY] *vi* **1** : to move back and forth or up and down with quick jerky or shaking motions : JIGGLE, OSCILLATE (a compass needle *wiggling* crazily) (the screen ... image ~*s* —M.C.Faught) (high heels that make a woman ~ ... when she walks —Wolcott Gibbs) **2** : to proceed with twisting and turning movements : WRIGGLE, WORM (~ through a crowd) (has an unimaginable gift of *wiggling* in wherever he wants to —O.W.Holmes †1935) ~ *vt* : to cause to wiggle (*wiggled* his eyebrows —John Fountain) (*wiggled* his toe and *wiggled* it —Winifred Bambrick)

²wiggle \"\ *n* -S **1** : the motion of one that wiggles (she was all ~*s* and ~*s* coming down the broad stairs —Calvin Kentfield) **2** : shellfish or fish in cream sauce with peas (shrimp ~) — get a wiggle on *slang* : hurry up : HUSTLE (better *get a wiggle on* or we'll be late)

wiggle nail *n* : CONFIGURATED FASTENER

wig-gler \'g(ə)lə(r)\ *n* -S (*wiggle* + *-er*] **1** : one that wiggles **2** : the larva or pupa of the mosquito — called also *wriggler* **3** : a tool for positioning work centers accurately by exaggerating deviations

wiggle-tail cultivator *n* : a riding row-crop cultivator designed

wiggle-waggle \'wi,ˌ\ *n* : WAGGLE (of crooked rows

¹wiggle-waggle \'wi,ˌ\ *adj* : ...*waggle* and cannot be per-...ded to be categorie... Hale)

²wiggle-waggle \"\ *vi* : ... of *twiggle*] : to move jerkily back and forth ; wigg... gle from one thing to another : VACILLATE (*wiggle-waggle* ... ...een appeals for charity and irresponsible state action —*Nation*)

wiggle-waggle \'ˌ\ *or* **wiggle-woggle** \'ˌ,ˌ\ *n* : something (as an amusement park contrivance) that wiggle-waggles (flips flaps, switchbacks, *wiggle-woggles* —Rose Macaulay)

wig-gly \'wig(ə)lē, -lī\ *also* **wiggly-waggly** \'ˌ(ˌ)ˌ\ *adj* : tending to wiggle : WIGGLING, WRIGGLY (follow a ~ course) (~ lines) (~ worms)

wig-gy \'wigē\ *adj* -ER/-EST [*wig* + *-y*] **1** : marked by excessive gravity and formality : POMPOUS (a dried up, ~ . . . little scandalmonger —Richard Dehan) **2** : SEWINGED

¹wight \'wīt, *usu* -īd-+V\ *n* -S [ME *wight, wiht*, creature, thing, fr. OE *wiht*; akin to OHG *wiht* creature, thing, ON *vætt* creature, being, Goth *waihts* thing, OSlav *vešti*] **1** : a living being : CREATURE, MAN (no patriarch he ... but a withered, anxious, crabbed —Compton Mackenzie) (yonder a maid and her ~ —Thomas Hardy) (one of those benighted ~*s* —Norman Cousins) (any luckless ~ who gets his wife in bad with her boss —G.W.Target) **2** *archaic* : a behavioral being (as a fairy or witch) (protection against uncouth ~*s* —William Morris)

²wight \"\ *adj* [ME *wight, wiht*, of Scand origin; akin to ON *vigr* skilled in fighting, in fighting condition (neuter *vīgt*), *vīg* fight — more at VICTORY] **1** *archaic* : VALIANT, STALWART **2** *dial* **a** : STRONG **b** : LIVELY

³wight \"\ *adv* [ME *wight, wiht*, fr. OE *wihte*, fr. *wiht, wiht* strong, swift; *wightly* fr. ME, fr. *wight, wiht* strong, swift + *-ly*] *dial* **1** : STRONGLY **2** : SWIFTLY

wig-less \'wiglēs\ *adj* : having or wearing no wig (tumbles headlong and ~ to the floor —James Keppler)

wigmaker \'wi,ˌ\ *n* : one that makes or deals in wigs

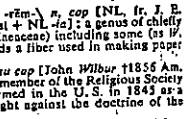
wigs *pl of* WIG, *pres 3d sing of* WIG

wig-some-ness \'wigsəmnəs, -ſsi(ə)n-, -ſsōn-\ *or* **wigtown** *adj, usu cap* [fr. *Wigtownshire* or *Wigtown*, Scotland] : of or from the county of Wigtown, Scotland : of the kind or style prevalent in Wigtown

wig-wag \'wi,gwag, -as(ə)g,-aig\ *vb* [E dial. *wig* to move, shake (prob. back-formation fr. E *twiggle*) + E *twag*] *vi* **1** : to signal by waving a flag or portable light according to a code in which movements to the right and left are the elements of the code alphabet and a movement to the front indicates the end (as of a word or message) **2** : to make a signal (as with the hand or arm) through the window of his office —*advt* ~ *vt* **1** : to cause to wigwag (*wigwagged* the white flags —*Blue Bk.*) **2** : to signal by —Harland Manchester) (the ~ system) **b** : a wigwagged message **2** : a polishing device used by watchmakers and clockmakers in which the polished bar has a back-and-forth motion

wigwag signal *n* : a signal at a railway grade crossing that indicates the approach of a train by the horizontal swinging of a disk

wig-wam \'wi,gwīm *also* -gwōm\ *n* -S [Abnaki & Massachuset *wikiwām*, lit., their dwelling] **1 a** : a hut of the Indians of the region of the Great Lakes and northward having typically an arched top and consisting of a framework of poles overlaid with bark, rush mats, or hides — compare LODGE **2** : a large building serving as the headquarters or meeting place (as convention hall) of a U.S. political organization (as the convention hall of the Republican Party in 1860 or any of the successive buildings housing the Tammany Society of New York) **3** : a moderate brown that is yellower, lighter, and stronger than chestnut brown, auburn, bay, or tobacco and redder, lighter, and stronger than coffee


wigwam

wik-ite \'wikˌīt\ *n* -S [Sw *wiikit*, fr. F. J. *Wiik* †1909 Finnish chemist-geologist + Sw *-it* -ite] : a mineral consisting probably of a mixture of samarskite, betafite, and perhaps ilmenite and occurring in pegmatite in Impilakhti parish on Lake Ladoga, Finland

wiis method \'vīs-\ *n, usu cap W* [after Jacob T. Alexander *Wiis* †1942 Dutch analytical chemist] : a method for determining the iodine number (as of an oil or fat) that consists in adding a solution of iodine monochloride in glacial acetic acid and estimating the excess of unused halogen by titration with sodium thiosulfate

wi-ke-no \'wēˈkē,(ˌ)nō\ *n, pl* **wikeno** *or* **wikenos** *usu cap* **1** : a Beothukan people of British Columbia **2** : a member of the Wikeno people

wi-ki-wi-ki \'wēkēˌwēkē\ *adv* [Hawaiian] *Hawaii* : QUICKLY, FAST

wik-stroe-mia \wikˈströmēə, -rēm-\ *n, cap* [NL, fr. J. E. *Wikström* †1856 Swed. botanist + NL *-ia*] : a genus of chiefly Asiatic shrubs (family Thymelaeaceae) including some (as *W. canescens*) with bark that yields a fiber used in making paper and cloth

wil-bur-ite \'wilbəˌrīt\ *n -s usu cap* [John *Wilbur* †1856 Am. Quaker preacher + E *-ite*] : a member of the Religious Society of Friends (Conservative) formed in the U.S. in 1845 as a protest in behalf of Inner Light against the doctrine of the Gurneyites

wil-co \'wil(ˌ)kō\ *interj* [short for the phrase *will-comply*] — used esp. in radio and signaling to indicate that a message received will be complied with

¹wild \'wīld, *esp before pause or consonant* 'wīləd\ *adj* -ER/-EST [ME *wilde*, fr. OE; akin to OHG *wildi* wild, ON *villr* wild, gone astray, bewildered, Goth *wiltheis* wild, *W gwyllt*, Corn *gwyls* astray, bewildered, Goth *wiltheis* wild, *W gwyllt*, Corn *gwyls* astray, bewildered] **1 a** (1) : living in a state of nature : inhabiting natural haunts (as the forest or open field) : not tamed or domesticated (a ~ ox) — ~ duck) (2) : being one of a kind not ordinarily subjected to domestication (the tame ~ goose finally flew away) — compare FERAL (3) : SHY **1a b** (1) : growing or produced without the aid and care of man : not cultivated : brought forth by unassisted nature or by animals not domesticated : NATIVE (~ flora) (the closest ~ relative of cultivated corn —P.C.Mangelsdorf) (~ honey) (2) : related to or resembling a corresponding cultivated or domesticated organism — used in vernacular names of plants and animals; see WILD OAT, WILD ONION **c** : not living near or associated with man — used esp. of a mosquito that does not breed near human habitations in distinction from one that habitually does so **d** : of or belonging to organisms in a state of nature : typical of undomesticated animals or uncultivated plants (the ~ laity) (~ nature) **2 a** : not inhabited or cultivated (the only profit in — land was to clear and plant it with one's own hands or to sell it —*Amer. Guide Series: N.Y.*) **b** : not being or to sell it —*Amer. Guide Series: N.Y.*) **b** : not being or appearing amenable to human habitation or cultivation : ROUGH, WASTE, DESOLATE (becomes much ~*er* as the trees give place to bare granite crags —S.P.B.Mais) **3 a** (1) : not subjected to restraint or regulation : UNCONTROLLED, INORDINATE, UNGOVERNED (habits are ~, unpredictable, vicious, and insanely cruel when aroused —P.I.Wellman) (the ~ frenzy of a ~ exuberance —Louis Bromfield) (2) : abandoned to or overcome by passion, desire, or emotion (the frenzied old man, ~ with hatred and insane with baffled desire —W.M. Thackeray) (~ with grief); *also* : passionately eager, enthusiastic, desirous, or angry (he was ~ to own a toy train —J.C.Furnas) (his sponsors . . . are ~ about him as a stiletto —Howard Taubman) (boys ~ for the venture —Marjory S. Douglas) (straining and ~ to take to the air —Kay Boyle) (was ~ at people talking, and upsetting him —Sheila Kaye-Smith) (3) : not amenable to control, restraint, or domestication : UNRULY, UNGOVERNABLE, RECKLESS (bars and bowling alleys full of ~ youths breezily and brutally telling each other off —Robert Lowry) (a rabble of ~ country lads —W.B.

Krysundra Cannington

From: Peter Max Zimmerman
Sent: Friday, June 29, 2018 1:53 PM
To: Krysundra Cannington
Cc: Lawrence Schmidt; John Lochary; brazilfam@comcast.net; drummergurl1381@aol.com
Subject: Wadkins Construction, Inc., Case Nos. 2017-313-A and CBA 2018-024

Dear Ms. Krysundra Cannington, County Board of Appeals Administrator

We have today received in our office the letter dated June 27, 2018 from the attorney for Petitioner, Lawrence Schmidt, regarding the above case.

We disagree with Petitioner's interim request, outside the normal course of the hearing process, that the County Board of Appeals reverse its considered ruling and cancel the second day of hearing, which the CBA properly determined to be necessary. Petitioner's request is procedurally irregular, without merit, and conflicts with procedural due process of law.

We intend to respond with reasons, and ask, in view of our other pending cases, and the upcoming independence day holiday, that we have 15 days to respond, which be Monday, July 16 (carried over from Saturday July 14).
Diane Brazil, John Lochary, and Angie Cioka may also wish to respond.

Preliminarily, Petitioner's letter is essentially a reiteration, pounding and prolix extension of the oral argument made at the end of the June 20 CBA hearing to try to resist the CBA's proper recognition of the need for further evidence and evaluation of the DRC process. It should be kept in mind that Petitioner's errant application --- followed by the DRC's initial precipitous, premature, and errant approval --- set the matter on a problematic path for which they bear responsibility. It will be in the interest of justice for all parties to have the opportunity to explore further just what happened and how the DRC and/or Carl Richards or others made or participated in their final decision properly to deny the application. This will include testimony, likely from Carl Richards, and, moreover, cross-examination of Mr. Wells if any further evidence is to be presented as to his correspondence.

It is necessary to add that the copy of Petitioner's counsel's letter received by our office does not include any attached letter from Kenneth Wells, such as is mentioned on page 2 of Petitioner's counsel's letter. While we wish to see the letter, and ask that it be sent promptly to all parties, we can tell by the description that it will not alter or mitigate our objections to the proposed reiteration of the request for cancellation. Indeed, it will just add to the reasons which require another hearing, as it will be necessary to cross-examine Mr. Wells, and we shall further object to this in the absence of the right to cross-examination.

Thank you in advance for your attention to this matter. We should appreciate the Board's allowance of 15 days to reply.

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

Board of Appeals of Baltimore County

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

12/7/17 Spoke with Alyssa - please keep on hold.

November 7, 2017

NOTICE OF POSTPONEMENT

IN THE MATTER OF: Wadkins Construction, Inc.
17-313-A 5301 Bush Street
11th Election District; 5th Councilmanic District

Re: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:

1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

This matter was scheduled for November 15, 2017 and has been postponed. This matter will be rescheduled to a later date.

NOTICE:

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

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

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

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

Krysundra "Sunny" Cannington, Administrator

c: Counsel for Petitioner : Christopher Corey, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.

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

S[illegible]TH, GILDEA & SCH[illegible]DT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MICHAEL H. BOWMAN
CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
WILLIAM L. RODOWSKY
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
*Admitted in MD, FL, PA

November 2, 2017

Sent Via Hand Delivery
Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
NOV - 3 2017
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Wadkins Construction, Inc.
5301 Bush Street
Case No. 2017-0313-A

Dear Sunny,

I understand that the above referenced matter has been scheduled for a hearing on Wednesday, November 15, 2017 beginning at 10:00 a.m. Unfortunately, the attorney handling this matter, Christopher Corey, is unavailable through the end of the month. As such, we would appreciate this matter being postponed to a later date in December or January at the convenience of the Board.

Thank you for your courtesy. I look forward to hearing from you.

Very truly yours,

Lawrence E. Schmidt

LES/amf
cc: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Councilman David Marks
Scott Ayre
Steven Zdziera
Jack Amrhein
Karen Harms
John and Katherine Lochary
Angela M. Cioka
Donna Welch

Board of Appeals of Baltimore County

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

September 27, 2017

NOTICE OF POSTPONEMENT AND REASSIGNMENT

IN THE MATTER OF: Wadkins Construction, Inc.
17-313-A 5301 Bush Street
11th Election District; 5th Councilmanic District

Re: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:

1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

This matter was scheduled for November 8, 2017 and has been postponed. This matter has been

REASSIGNED FOR: NOVEMBER 15, 2017, AT 10:00 A.M.

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

NOTICE:

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

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

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

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

Krysundra "Sunny" Cannington, Administrator

c: Counsel for Petitioner : Christopher Corey, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.

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

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MICHAEL H. BOWMAN
CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
WILLIAM L. RODOWSKY
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
*Admitted in MD, FL, PA

September 25, 2017

RECEIVED
SEP 25 2017
BALTIMORE COUNTY
BOARD OF APPEALS

Sent Via Hand Delivery
Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: In the Matter of: Wadkins Construction, Inc.
5301 Bush Street
Case No. 2017-0313-A

Dear Sunny,

I am in receipt of the Board's Notice of Postponement and Reassignment in connection with the above referenced matter.

I understand that this matter has been rescheduled for a hearing on Wednesday, November 8, 2017 beginning at 10:00 a.m. Unfortunately, I am scheduled to be out of town the week of November 6-10th on a preplanned, prepaid family vacation, and as such would appreciate this matter being postponed to a later date at the convenience of the Board.

Thank you for your courtesy. I look forward to hearing from you.

Very truly yours,

Chris Corey

Christopher W. Corey

CWC/amf
cc: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Councilman David Marks
Scott Ayre
Steven Zdziera
Jack Amrhein
Karen Harms
John and Katherine Lochary
Angela M. Cioka
Donna Welch

Board of Appeals of Baltimore County

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

September 19, 2017

NOTICE OF POSTPONEMENT AND REASSIGNMENT

IN THE MATTER OF: Wadkins Construction, Inc.
17-313-A 5301 Bush Street
11th Election District; 5th Councilmanic District

Re: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:

1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

This matter was scheduled for October 17, 2017 and has been postponed. This matter has been

REASSIGNED FOR: NOVEMBER 8, 2017, AT 10:00 A.M.

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

NOTICE:

- This appeal is an evidentiary hearing. Parties should consider the advisability of retaining an attorney.
- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
- No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).
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For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington, Administrator

c: Counsel for Petitioner : Christopher Corey, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.

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

Krysundra Cannington

From: Diane Brazil <brazilfam@comcast.net>
Sent: Wednesday, September 06, 2017 10:47 AM
To: Krysundra Cannington
Cc: Peter Max Zimmerman; ccorey@sgs-law.com; John Lochary; Angie; kimberlyahewitt@aol.com; Nitsa Zdziera; Karen PHIA Harms; pmjpa@aol.com; pkeller57 @verizon.net
Subject: 5301 Bush St. - Request for appeal postponement case # 17- 313-A
Attachments: 5301 Bush St. - Request for appeal postponement - Lochary.pdf; ATT00001.txt

Ms. Cannington,

I live in the neighborhood of 5301 Bush St. and would very much like to attend the appeal hearing.

Attached is a letter Mr. Lochary sent to the Board of Appeals asking for a postponement for the hearing for 5301 Bush St White Marsh 21162 case # 17-313-A.

I agree with the request for the changing the October 17, 2017 date. This date is is an inconvenient date for me as well. I take care of my 84-year-old aunt and she is scheduled for surgery that day.

I look forward to hearing from you.

Thank you,

Diane Brazil
5205 Bush St
White Marsh, MD 21162
410-428-2283

John T. Lochary
Katherine L. Lochary

5219 Bush Street
White Marsh, MD 21162
410-203-0280 H
jtlochary@verizon.net
410-419-8125 C
klochary@verizon.net
443-831-0073 C

September 5, 2017

RECEIVED
SEP 06 2017
BALTIMORE COUNTY
BOARD OF APPEALS

Board of Appeals of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

In the matter of: 17-313-A
Wadkins Construction, Inc.
5301 Bush Street
11th Election District; 5th Councilmanic District

To the Board of Appeals of Baltimore County:

An appeals hearing in the above captioned matter is currently scheduled to be heard on October 17, 2017 at 10:30 AM. We are Protestants in the original hearing on this matter.

We are seeking postponement of this matter to a future date. We have long standing plans with two other couples to be in Bethany, Delaware for the week of October 15 through October 21. This hearing is important to us as we live across Winkler Street from the proposed construction. We are prepared to provide testimony opposing the granting of the variances requested by the Petitioner and provided testimony to this effect at the original hearing.

Sincerely,

John T. Lochary

Katherine L. Lochary

c: Counsel for the Petitioner — Christopher Corey, Esquire
Petitioner — Wadkins Construction, Inc.
Protestants — Scott Ayre, Steven Zdiera, Jack Amrhein, Karen Harms, Angela Cioka, Donna Welch
Peter Max Zimmerman, Esquire — People's Counsel for Baltimore County

S...ITH, GILDEA & SCH...DT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
DUKE MAY, V
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

June 27, 2018

Sent Via Hand Delivery
Honorable Maureen Murphy, Esquire
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
JUN 27 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Wadkins Construction, Inc.
5301 Bush Street
Case Nos. 2017-0313-A and CBA-2018-024

Dear Chairwoman Murphy and Panel Members Dopkin and Jovilet:

This is in reference to and to follow up the hearing before you on June 20, 2018 regarding the above matter. As you recall, that hearing concerned the consolidated appeals of the matters related to the proposed improvement of my client's (Wadkins Construction Co., Inc.) properties located adjacent to the intersection of Winkler Street and Bush Street in the White Marsh community of northeastern Baltimore County.

As you recall, as the result of the testimony offered by Diane Brazil (neighbor) and Ken Wells (the surveyor who prepared the plan) there was some confusion over which copy of the plan the County's Development Review Committee ("DRC") reviewed and ultimately denied on January 12, 2018.[1] It was this appeal of the DRC's denial of a requested lot line adjustment as shown on that plan that is one of the matters before you. The other matter is the appeal of the decision of ALJ Beverungen which denied certain variances related to the properties.

[1] The DRC initially approved the limited exemption by letter of December 22, 2017. Later, on January 12, 2018, it retracted that decision. Its letter of retraction also indicates that the decision was reversed and dated January 23, 2018. January 23, 2018 was the next meeting date of the DRC as of January 12, 2018. See Petitioner's Exhibit No. 9.

I believe that the collective testimony offered was that Mr. Wells submitted a DRC application, cover letter and plan (Petitioner's Exhibit No. 9) on or about December 7, 2017. The DRC initially approved this submittal by letter of December 22, 2017. (Petitioner's Ex. 9) As Ms. Brazil testified at the Board, in response to her inquiry to Mr. Carl Richards (Zoning Supervisor) about this matter, he sent to her a copy of the entire submittal package, including the plan that was submitted on December 7, 2017. She reviewed that material and advised Mr. Richards of an error on the plan. Mr. Richards reviewed the plan and contacted Mr. Wells to advise that there were two errors on the plan. The first was an error of the length of the southern (rear) property line of Lot 8 (shown incorrectly as 107.21 ft. as opposed to 95.05 ft.) and the second was an error of the proposed building setback (shown incorrectly as 24.5 feet instead of 25.3 ft.). Mr. Wells confirmed that Mr. Richards contacted him and advised of these errors. Mr. Wells then submitted a revised redlined plan correcting those errors. The DRC thereafter issued a revocation of its approval and denied the lot line adjustment. The Board's hearing adjourned without confirmation of when that revised redlined plan was submitted and whether the DRC considered/denied the initial plan with the errors **or** the corrected plan.

As I stated at the hearing, I believe that which plan the DRC considered/denied is a distinction without a difference, in that the issue before the DRC was a requested lot line adjustment to address the area of the lots and the width of the lots. The initial plan was accurate insofar as depicting those measurements and thus, in my view, which version of the plan was considered had no impact on the DRC's decision. That is, they denied the request for a lot line adjustment, which was filed to address the lot width (at the building envelope) and the lot area. The incorrect dimensions for the dwelling setback and the rear property line did not bear upon the substantive issue considered by the DRC. Moreover, and as significantly, the hearing before the Board is de novo and the Board is bound to consider the evidence (and plans) offered before it.

Nonetheless, I certainly appreciate that the Board may not share my view and thus since the hearing adjourned, Mr. Wells has searched his files for evidence to clarify the issue. He has located his transmittal letter dated January 4, 2018 which accompanied the corrected/redlined plan that he submitted to Baltimore County. A copy of that letter is attached hereto. In that the date of the DRC's denial (i.e. the action appealed from) was January 12, 2018 (or, more accurately, formally issued at its meeting of January 23, 2018) it is apparent that the DRC had the corrected plan before it when it denied the Petitioner's request. As further evidence of this fact, I have reviewed the Board's file. Contained therein are the documents (including plans) that were forwarded to the Board by the Department of Permits, Approvals and Inspections following my filing of the DRC appeal. The Board's file in fact contains both the original plan and the corrected/redlined plan with the changes to the dimensions to the rear property line and building setback. In that both these plans were forwarded to the Board as the "County file" and record of the case, it is further evident that the DRC had both the original plan and corrected/redlined plan when it made its

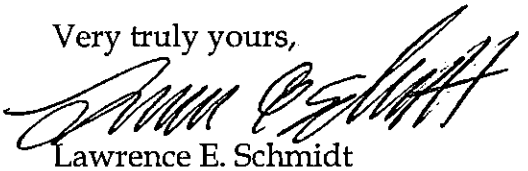
decision/denial on January 12, 2018/January 23, 2018. I therefore trust that this issued is resolved to the Board's satisfaction.

I also wanted to take this opportunity to further comment upon another issue regarding plans/evidence to avoid any possible confusion as the Board deliberates this matter. You will recall that at the onset of the hearing I commented/requested that the documents in the Board's file (i.e. the material that had been forwarded by PAI both in connection with the DRC appeal and the appeal of ALJ Beverungen's denial of the requested variances) was "part of the record of the case and per the Board's practice, can therefore be considered as evidence in the case." Your comments from the bench confirmed that the material in your file is evidence. As part of the record of this case transmitted by PAI is the plan to accompany zoning hearing considered by ALJ Beverungen (marked ALJ hearing Petitioner's Exhibit No. 11) and (as noted above) the initial and corrected plans that were before by the DRC. In the hearing before the Board, I offered Petitioner's Exhibit No. 3 (the plan to support the zoning variance request) and Petitioner's Exhibit No. 4 (the plan to support the lot line request). As I stated at the hearing, we request that the Board grant the lot line adjustment (shown on Petitioner's Exhibit No. 4) and/or the variance (shown on Petitioner's Exhibit No. 3). The grant of either will allow my client to build two dwellings on the properties, assuming that they will otherwise be compliant with all applicable zoning, environmental and building code requirements.

However, out of an abundance of caution, I wanted to now advise that Petitioner's Exhibits 3 and 4 are slightly different than the plan's offered below. Specifically, as was testified at the hearing, the subject property was at one time improved with a dwelling and garage. These improvements have been removed. Given the de novo nature of your hearing and as importantly, the requirement that plans accurately depict the property in its condition as the time the plans are submitted/considered, Petitioner's Exhibits No. 3 and 4 do not show the house/garage because these improvements no longer exist. These footprints of these improvements were shown on the zoning plan and DRC plans submitted below. Quite candidly, we did not want to be accused of not accurately depicting the current state of the property so I directed Mr. Wells to delete the house/garage as they are no longer there. Most importantly, the actual issue in this case (the lot width and the lot area) has not in any manner changed and the proposed lot lines, widths and areas are the same on all plans. I identify this issue at this time in the interest of full disclosure and due to the discussion described above which generated this letter to begin with. If the Board determines to grant relief, it can approve either and/or Petitioner's Exhibits 3 and 4. If, for whatever reason, the Board believes that it must consider only the originally submitted plans to the DRC/ALJ (i.e. plans showing the previous house/garage locations) it may do so as those plans are in evidence.

I trust that with the submission of the enclosed, that the hearing for this matter can be closed and that no further evidence is necessary. However, I certainly respect the right of Mr. Zimmerman and the protestants from the area to express their thoughts on this letter. Obviously, I will be guided by whatever the Board decides. If the evidentiary portion of this matter is concluded, I would appreciate the opportunity to submit a memorandum regarding the substantive issues presented (e.g. whether the grant of a variance is appropriate and whether a lot line adjustment is warranted, etc.) I would propose submittal of memorandum by the close of business on Friday, August 3, 2018; again subject to the agreement of Mr. Zimmerman and the neighbors who appeared. All parties are copied below.

Very truly yours,



Lawrence E. Schmidt

LES/am
Enclosures
cc: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Diane Brazil, 5205 Bush Street, White Marsh, MD 21162
Miranda Hewitt, 5300 Bush Street, White Marsh, MD 21162
Donna Welch, 5300 Bush Street, White Marsh, MD 21162
John Lochary, 5219 Bush Street, White Marsh, MD 21162
Norman and Angela M. Cioka, 5303 Bush Street, White Marsh, MD 21162
Wadkins Construction, LLC

kjWellsInc
Land Surveying, Site Planning and Landscape Architecture
7403 New Cut Road
Kingsville, Md. 21087-1132
Telephone: (410) 592-8800
Fax: Call prior to transmission

TRANSMITTAL LETTER

ATTENTION: Carl Richards

DATE: January 4, 2018

TO: Baltimore County, Maryland
Permits, Approvals and Inspections
Zoning Review Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: 5301 Bush Street
Project Number: 2016-033

WE ARE SENDING YOU Attached Under separate cover via Hand Delivered

DESCRIPTION
2 prints Plan to Accompany DRC Request

THESE ARE TRANSMITTED as checked below

	For approval	Approved as submitted	Resubmit copies for approval
	For your use	Approved as noted	Submit copies for distribution
	As requested	Returned for corrections	Return corrected prints
X	For review & comment		Return prints to us
	For bids due		
	Other explanation:		

REMARKS:

COPY TO: SIGNED:

IF ENCLOSURES ARE NOT AS NOTED, KINDLY NOTIFY US AT ONCE.

Providing Professional Services in Maryland since 1984

Board of Appeals of Baltimore County

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

April 2, 2018

NOTICE OF POSTPONEMENT AND REASSIGNMENT

IN THE MATTER OF: Wadkins Construction, Inc.
5301 Bush Street
17-313-A 11th Election District; 5th Councilmanic District

Re: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:
1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

----------**SET WITH**----------

Wadkins Construction, Inc.
CBA-18-024 c/o 1605 Honeysuckle Court
Annapolis, Maryland 21401
DRC # 010218-LLA2 (5301 Bush Street)
11th Election District; 5th Councilmanic District

Re: Appeal of Director Letter finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC.

1/12/18 Letter from Director of PAI finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend and grant the plan he denied and approve an unusual lot line division.

This matter was assigned for hearing on May 15, 2018 and has been postponed. This matter has been

REASSIGNED FOR: JUNE 20, 2018, AT 10:00 A.M.

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

NOTICE:

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- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
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Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.
Diane Brazil

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Jan Cook, Development Manager/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel
W. Carl Richards, Jr, Zoning Supervisor/PAI

S TH, GILDEA & SCH DT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
CARMELO D. MORABITO
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

March 26, 2018

Sent Via First Class Mail
Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
MAR 28 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Wadkins Construction, Inc.
5301 Bush Street
Case Nos. 2017-0313-A and CBA-2018-024

Dear Sunny,

I am in receipt of the Board's Notice of Postponement and Reassignment in connection with the above referenced matters. We appreciate that the Board has agreed to consolidate these two matters.

I understand that this matter has been rescheduled for a hearing on May 15, 2018 beginning at 10:00 a.m. Unfortunately, I am scheduled to be out of the Country on a preplanned, prepaid family vacation from May 10th through May 25th, and as such would appreciate this matter being postponed to a later date at the convenience of the Board.

Thank you for your courtesy. I look forward to hearing from you.

Very truly yours,

Lawrence E. Schmidt

LES/amf
cc: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Councilman David Marks
Scott Ayre
Steven Zdziera
Jack Amrhein
Karen Harms
John and Katherine Lochary
Angela M. Cioka
Donna Welch

Board of Appeals of Baltimore County

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

March 16, 2018

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Wadkins Construction, Inc.
5301 Bush Street
17-313-A 11th Election District; 5th Councilmanic District

Re: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:
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2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
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7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

----------SET WITH----------

Wadkins Construction, Inc.
CBA-18-024 c/o 1605 Honeysuckle Court
Annapolis, Maryland 21401
DRC # 010218-LLA2 (5301 Bush Street)
11th Election District; 5th Councilmanic District

Re: Appeal of Director Letter finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC.

1/12/18 Letter from Director of PAI finding that the request for a lot line adjustment does not meet the requirements of a limited exemption under Section 32-4-106(a)(1) of the BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend and grant the plan he denied and approve an unusual lot line division.

ASSIGNED FOR: MAY 15, 2018, AT 10:00 A.M.

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

NOTICE:

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- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
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- If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

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

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

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

Krysundra "Sunny" Cannington,
Administrator

c: Counsel for Petitioner : Lawrence E. Schmidt, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants *(pro se)* : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.
Diane Brazil

Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Director/PAI
Jan Cook, Development Manager/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Nancy West, Assistant County Attorney
Office of People's Counsel
W. Carl Richards, Jr, Zoning Supervisor/PAI

1/31/18 2:28pm

DRC case is coming up - will ask to consolidate.

Chris Corey is no longer at firm.

- Alyssa

(410) 821-0070

Watkins Construction

update

S...TH, GILDEA & SCHI...DT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
*Admitted in MD, FL, PA

February 8, 2018

Sent Via Hand Delivery
Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
FEB 08 2018
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Wadkins Construction, Inc.
5301 Bush Street
Case No. 2017-0313-A

Dear Ms. Cannington:

I am writing in referenced to the above matter that is pending at the Board. This matter is an appeal of a decision by Administrative Law Judge Beverungen which denied the request for certain variance relief sought my client, Wadkins Construction, Inc (hereinafter "Wadkins"). At the hearing below before ALJ Beverungen, Wadkins was represented by Christopher W. Corey of this office, however Mr. Corey is no longer with the firm and I will be handling this matter moving forward. Previously, our office requested (and the Board granted) a continuance of any hearing on this matter, in order for related proceedings (as are described below) to be concluded.

Specifically, these proceedings included a request by Wadkins Construction Inc. of a lot line adjustment by the Development Review Committee. An approval of that adjustment may well have made moot the zoning variance requests in Case 2017-0313-A. The DRC has considered the lot line adjustment request and has denied the same by letter of January 11, 2018. On behalf of my client, I have filed an appeal of that denial to the Board. I enclose herewith a copy of that Notice of Appeal of a DRC denial which was filed with the Director of Permits, Approvals and Inspections today.

As both the prior zoning case and DRC action both relate to the same property, impact the same parties and present common questions of fact and law; I hereby request that these separate appeals be consolidated for hearing and consideration by the Board. Essentially, due to Judge Beverungen's denial of the requested variances, the property owner instituted an alternate approach in an effort to develop the properties. This approach has been denied by the DRC.

Please schedule these matters at your earliest convenience. Please note that I have copied all parties of record with this letter; in addition to the Office of People's Counsel. Please do not hesitate to contact me should you have any questions or require further information. As always, your courtesy and attention to this request are appreciated.

Very truly yours,

Lawrence E. Schmidt

LES/amf
Enclosures
cc: Peter Max Zimmerman, Esquire
Councilman David Marks
Scott Ayre
Steven Zdziera
Jack Amrhein
Karen Harms
John and Katherine Lochary
Angela M. Cioka
Donna Welch

Board of Appeals of Baltimore County

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

August 25, 2017

NOTICE OF ASSIGNMENT

IN THE MATTER OF: Wadkins Construction, Inc.
17-313-A 5301 Bush Street
11th Election District; 5th Councilmanic District

Re: Petition for Variance relief pursuant to § 1B02.3.C.1 of the BCZR as follows:

1) For Lot 2 as shown on site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; and
2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and
3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35' along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and
4) For such other and further relief as may be required.

7/11/17 Opinion and Order of the Administrative Law Judge wherein the Petition for Variance was DENIED.

ASSIGNED FOR: OCTOBER 17, 2017, AT 10:00 A.M.

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

NOTICE:

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

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

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Krysundra "Sunny" Cannington, Administrator

c: Counsel for Petitioner : Christopher Corey, Esquire
Petitioner : Wadkins Construction, Inc.

Protestants (*pro se*) : Scott Ayre, Steven Zdziera, Jack Amrhein, Karen Harms, John and Katherine Lochary, Angela Cioka, Donna Welch

Kenneth J. Wells/kjWells, Inc.

Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

KEVIN KAMENETZ
County Executive

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

August 15, 2017

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

RECEIVED
AUG 15 2017
BALTIMORE COUNTY
BOARD OF APPEALS

RE: **APPEAL TO BOARD OF APPEALS**
Petition for Variance
Case No. 2017-0313-A
Property: 5301 Bush Street

Dear Mr. Corey:

Please be advised that an appeal of the above-referenced case was filed in this Office on August 10, 2017. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

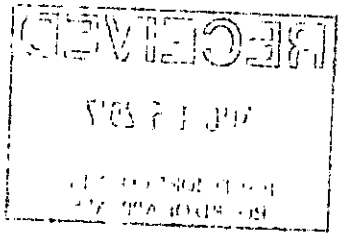
If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c:
Baltimore County Board of Appeals
People's Counsel



Karen Harms, 4916 Forge Road, Perry Hall, MD 21125
John & Katherine Lochary, 5219 Bush Street, White Marsh, MD 21162
Angela M. Cioka, 5303 Bush Street, White Marsh, MD 21162
Donna Welch, 5300 Bush Street, White Marsh, MD 21162
Scott Ayre, 5300 Bush Street. White Marsh, MD 21162
Steven Zdziera, 5210 Bush Street, White Marsh, MD 21162
Jack Amrhein, 1 Heathrow Manor Ct., Nottingham, MD 21236

APPEAL

Petition for Variance
(5301 Bush Street)
11th Election District – 5th Councilmanic District
***Legal Owner*: Wadkins Construction, Inc.**
Case No. 2017-0313-A

Petition for Variance Hearing (May 22, 2017)

Zoning Description of Property

Notice of Zoning Hearing (June 9, 2017)

Certificate of Publication (June 20, 2017)

Certificate of Posting (June 20, 2017) – Linda O'Keefe

Entry of Appearance by People's Counsel –June 6, 2017

Petitioner(s) Sign-in Sheet – 1 Sheet
Citizen(s) Sign-in Sheet – 1 Sheet

Zoning Advisory Committee (ZAC) Comments

Petitioner(s) Exhibits:

1. Ken Wells CV
2. DRC lot line approval
3. Aerial photo of neighborhood
4. Plat of Forge Acres
5. Aerial photo of lot
6. SDAT record
7. 7A-7C Deeds
8. Photos-houses in neighborhood
9. DOP Subdivision lot report
10. DRC Exemption Plan
11. Site Plan
12. Prior zoning Orders

Protestant(s) Exhibits:

1. Petition of opposition signed by neighbors

Miscellaneous (Not Marked as Exhibits)- Letter from Arnold Jablon,e-mails and opposition letters.

Administrative Law Judge Order and Letter (DENIED – July 11, 2017)

Notice of Appeal & Receipt – August 10, 2017 from Christopher W. Corey, Esq. from Smith, Gildea & Schmidt, LLC

RECEIVED
AUG 1 5 2017
BOARD OF APPEALS

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

Nº 143339

Date: 8/10/17

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

Total: 265.00

Rec From: Smith, Gildea & Schmidt, LLC

For: 5301 Bush Street

2017-0313-A

CKH 1498

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

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
8/11/2017	8/10/2017	11:17:28	3

REG WS03 WALKIN CAM
>>RECEIPT # 736997 8/10/2017 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 143339
Recpt Tot $265.00
$265.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

RECEIVED
AUG 10 2017
OFFICE OF
ADMINISTRATIVE HEARINGS

CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
*Admitted in MD, FL, PA

August 10, 2017

Via Hand Delivery
Arnold Jablon, Esquire
Director, Baltimore County Department of Permits, Approvals and Inspections
111 West Chesapeake Ave, Suite 105
Towson, MD 21204

Re: Notice of Appeal
Property: 5301 Bush Street
Case No. 2017-0313-A

Dear Mr. Jablon,

Enclosed herewith please find a Notice of Appeal on behalf of Appellant, Wadkins Construction, Inc., to be filed in the above referenced matter. Also enclosed, please find a check in the amount of $265.00 to cover the filing fee for such appeal.

Please contact me should you have any questions.

Very truly yours,

Chris Corey

Christopher W. Corey

CWC/amf
Enclosures
cc: Administrative Law Judge John E. Beverungen
Peter Max Zimmerman, Esquire
Krysundra Cannington, Board of Appeals
Councilman David Marks
Scott Ayre
Steven Zdziera
Jack Amrhein
Karen Harms
John and Katherine Lochary
Angela M. Cioka
Donna Welch

IN RE: **PETITION FOR VARIANCE** **5301 Bush Street**	*	BEFORE THE COUNTY BOARD OF APPEALS
11th Election District 5th Councilmanic District	*	OF BALTIMORE COUNTY
	*	
Wadkins Construction Inc. *Appellant/Petitioner*	*	**Case No.: 2017-0313-A**
	*	
	*	

* *

NOTICE OF APPEAL

The Appellant, Wadkins Construction Inc., by and through its attorneys, Christopher W. Corey and Smith, Gildea, and Schmidt, LLC, feeling aggrieved by the decision of the Administrative Law Judge for Baltimore County from the Opinion and Order dated July 11, 2017, in the above-captioned matter, hereby note this appeal to the County Board of Appeals for Baltimore County in accordance with Baltimore County Code §32-3-401, by filing this Notice of Appeal with the Director of the Baltimore County Department of Permits, Approvals & Inspections.

Respectfully submitted,

CHRISTOPHER W. COREY
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Appellant
Wadkins Construction Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of **August, 2017,** a copy of the foregoing Notice of Appeal was mailed first-class pre-paid postage to:

John E. Beverungen, Esquire
Administrative Law Judge for
Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, MD 21204

Councilman David Marks
Baltimore County Council
400 Washington Avenue
Towson, MD 21204

Scott Ayre
5300 Bush Street
White Marsh, MD 21162

Steven Zdziera
5210 Bush Street
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Jack Amrhein
1 Heathrow Manor Court
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John and Katherine Lochary
5219 Bush Street
White Marsh, MD 21162

Angela M. Cioka
5303 Bush Street
White Marsh, MD 21162

Donna Welch
5300 Bush Street
White Marsh, MD 21162

Chris Corey

CHRISTOPHER W. COREY

IN RE: PETITION FOR VARIANCE (5301 Bush Street) 11th Election District 5th Council District Wadkins Construction, Inc. *Legal Owner* Petitioner	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **CASE NO. 2017-0313-A**

* * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Christopher Corey, Esq., on behalf of Wadkins Construction, Inc., the legal owner of the subject property ("Petitioner"). Petitioner is requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and (4) For such other and further relief as may be required by the Administrative Law Judge (ALJ) for Baltimore County. A site plan was marked as Petitioner's Exhibit 11.

Professional land surveyor Kenneth J. Wells appeared in support of the petition. Christopher Corey, Esq. represented the Petitioner. Several members of the community opposed the requests. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the requests but suggested certain façade treatments would

be required for the proposed dwellings.

The site is approximately 0.89 acres in size and zoned DR 2. A single-family dwelling was constructed on the property in 1951, although Petitioner has since razed that structure, which was apparently in very poor condition. The subject property is comprised of all of Lot 8 and a portion of Lot 7 as shown on the Plat of Forge Acres (recorded in 1948). Petitioner's Exhibit 4. The properties were the subject of Development Review Committee (DRC) Item DRC #042214-LLA wherein a lot line adjustment was granted in 2014. Petitioner's Exhibit 2. This lot line adjustment (as shown on the DRC Plan admitted as Exhibit 10) created Lot 1 and Lot 2 as shown on the redlined site plan. Petitioner proposes to construct a single-family dwelling and garage on each lot but requires variances to do so.

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

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

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

Based on a review of the site plan and the testimony of Mr. Wells, I do not believe the property is "unique" as that term is used in Maryland case law. In the zoning context "unique" has a "customized meaning" to include shape, topography, subsurface conditions, environmental factors, historical significance, etc. *North v. St. Mary's County*, 99 Md. App. 502, 512 (1994). The lots are rectangular in shape and are very similar to other lots in the vicinity. There simply are no unique or defining attributes of the property that would support a finding of uniqueness.

In a contested variance case the petitioner faces an uphill battle. Indeed, I was unable to locate a Maryland appellate court opinion from the last twenty years which upheld the grant of a

variance. Under Maryland law, a variance should be granted "sparingly" since it is "an authorization for [that] ...which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699. As such, I believe the petition must be denied.

THEREFORE, IT IS ORDERED, this 11th day of **July, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement, be and is hereby DENIED.

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

JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI

CHRISTOPHER W. COREY
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH
SARAH A. ZADROZNY
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
*Admitted in MD, FL, PA

August 10, 2017

Via Hand Delivery
Arnold Jablon, Esquire
Director, Baltimore County Department of Permits, Approvals and Inspections
111 West Chesapeake Ave, Suite 105
Towson, MD 21204

Re: Notice of Appeal
Property: 5301 Bush Street
Case No. 2017-0313-A

Dear Mr. Jablon,

Enclosed herewith please find a Notice of Appeal on behalf of Appellant, Wadkins Construction, Inc., to be filed in the above referenced matter. Also enclosed, please find a check in the amount of $265.00 to cover the filing fee for such appeal.

Please contact me should you have any questions.

Very truly yours,

Christopher W. Corey

CWC/amf
Enclosures
cc: Administrative Law Judge John E. Beverungen
Peter Max Zimmerman, Esquire
Krysundra Cannington, Board of Appeals
Councilman David Marks
Scott Ayre
Steven Zdziera
Jack Amrhein
Karen Harms
John and Katherine Lochary
Angela M. Cioka
Donna Welch

RECEIVED
AUG 10 2017
BALTIMORE COUNTY
BOARD OF APPEALS

IN RE: **PETITION FOR VARIANCE** **5301 Bush Street**	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
11th Election District 5th Councilmanic District	*	OF
	*	BALTIMORE COUNTY
	*	
Wadkins Construction Inc. *Appellant/Petitioner*	*	**Case No.: 2017-0313-A**
	*	
	*	

* *

NOTICE OF APPEAL

The Appellant, Wadkins Construction Inc., by and through its attorneys, Christopher W. Corey and Smith, Gildea, and Schmidt, LLC, feeling aggrieved by the decision of the Administrative Law Judge for Baltimore County from the Opinion and Order dated July 11, 2017, in the above-captioned matter, hereby note this appeal to the County Board of Appeals for Baltimore County in accordance with Baltimore County Code §32-3-401, by filing this Notice of Appeal with the Director of the Baltimore County Department of Permits, Approvals & Inspections.

Respectfully submitted,

Chris Corey

CHRISTOPHER W. COREY
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410) 821-0070
Attorney for Appellant
Wadkins Construction Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of **August, 2017,** a copy of the foregoing Notice of Appeal was mailed first-class pre-paid postage to:

John E. Beverungen, Esquire
Administrative Law Judge for
Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, MD 21204

Councilman David Marks
Baltimore County Council
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5303 Bush Street
White Marsh, MD 21162

Donna Welch
5300 Bush Street
White Marsh, MD 21162

Chris Corey

CHRISTOPHER W. COREY

IN RE: PETITION FOR VARIANCE (5301 Bush Street) 11th Election District 5th Council District Wadkins Construction, Inc. *Legal Owner* Petitioner	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **CASE NO. 2017-0313-A**

* * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Christopher Corey, Esq., on behalf of Wadkins Construction, Inc., the legal owner of the subject property ("Petitioner"). Petitioner is requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and (4) For such other and further relief as may be required by the Administrative Law Judge (ALJ) for Baltimore County. A site plan was marked as Petitioner's Exhibit 11.

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Based on a review of the site plan and the testimony of Mr. Wells, I do not believe the property is "unique" as that term is used in Maryland case law. In the zoning context "unique" has a "customized meaning" to include shape, topography, subsurface conditions, environmental factors, historical significance, etc. *North v. St. Mary's County,* 99 Md. App. 502, 512 (1994). The lots are rectangular in shape and are very similar to other lots in the vicinity. There simply are no unique or defining attributes of the property that would support a finding of uniqueness.

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variance. Under Maryland law, a variance should be granted "sparingly" since it is "an authorization for [that] ...which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699. As such, I believe the petition must be denied.

THEREFORE, IT IS ORDERED, this 11th day of July, 2017, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement, be and is hereby DENIED.

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

JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln

KEVIN KAMENETZ
County Executive

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

July 11, 2017

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

RE: Petition for Variance
Case No. 2017-0313-A
Property: 5301 Bush Street

Dear Mr. Corey:

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: Karen Harms, 4916 Forge Road, Perry Hall, MD 21125
John & Katherine Lochary, 5219 Bush Street, White Marsh, MD 21162
Angela M. Cioka, 5303 Bush Street, White Marsh, MD 21162
Donna Welch, 5300 Bush Street, White Marsh, MD 21162
Scott Ayre, 5300 Bush Street. White Marsh, MD 21162
Steven Zdziera, 5210 Bush Street, White Marsh, MD 21162
Jack Amrhein, 1 Heathrow Manor Ct., Nottingham, MD 21236

IN RE: PETITION FOR VARIANCE (5301 Bush Street) 11th Election District 5th Council District Wadkins Construction, Inc. *Legal Owner* Petitioner	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **CASE NO. 2017-0313-A**

* * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Christopher Corey, Esq., on behalf of Wadkins Construction, Inc., the legal owner of the subject property ("Petitioner"). Petitioner is requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and (4) For such other and further relief as may be required by the Administrative Law Judge (ALJ) for Baltimore County. A site plan was marked as Petitioner's Exhibit 11.

Professional land surveyor Kenneth J. Wells appeared in support of the petition. Christopher Corey, Esq. represented the Petitioner. Several members of the community opposed the requests. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the requests but suggested certain façade treatments would

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By

be required for the proposed dwellings.

The site is approximately 0.89 acres in size and zoned DR 2. A single-family dwelling was constructed on the property in 1951, although Petitioner has since razed that structure, which was apparently in very poor condition. The subject property is comprised of all of Lot 8 and a portion of Lot 7 as shown on the Plat of Forge Acres (recorded in 1948). Petitioner's Exhibit 4. The properties were the subject of Development Review Committee (DRC) Item DRC #042214-LLA wherein a lot line adjustment was granted in 2014. Petitioner's Exhibit 2. This lot line adjustment (as shown on the DRC Plan admitted as Exhibit 10) created Lot 1 and Lot 2 as shown on the redlined site plan. Petitioner proposes to construct a single-family dwelling and garage on each lot but requires variances to do so.

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

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

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

Based on a review of the site plan and the testimony of Mr. Wells, I do not believe the property is "unique" as that term is used in Maryland case law. In the zoning context "unique" has a "customized meaning" to include shape, topography, subsurface conditions, environmental factors, historical significance, etc. *North v. St. Mary's County*, 99 Md. App. 502, 512 (1994). The lots are rectangular in shape and are very similar to other lots in the vicinity. There simply are no unique or defining attributes of the property that would support a finding of uniqueness.

In a contested variance case the petitioner faces an uphill battle. Indeed, I was unable to locate a Maryland appellate court opinion from the last twenty years which upheld the grant of a

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By

variance. Under Maryland law, a variance should be granted "sparingly" since it is "an authorization for [that] …which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699. As such, I believe the petition must be denied.

THEREFORE, IT IS ORDERED, this **11th** day of **July, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement, be and is hereby DENIED.

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

JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln

ORDER RECEIVED FOR FILING
Date 7/11/17
By sln

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 5301 Bush Street **which is presently zoned** DR2

Deed References: 38186/00023 10 Digit Tax Account # 1110047720

Property Owner(s) Printed Name(s) Wadkins Construction, In

(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

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)**

TO BE PRESENTED AT HEARING

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

ORDER RECEIVED FOR FILING
Date 7/11/17
By AON

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Wadkins Construction, Inc

Name #1 – Type or Print Name #2 – Type or Print

Howard Wadkins

Signature #1 Signature # 2

1605 Honeysuckle Court Annapolis MD

Mailing Address City State

21410 443-762-3094 wadkinscoinc@yahoo.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Christopher Corey, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 (410) 821-0070 ccorey@sgs-law.com

Zip Code Telephone # Email Address

Representative to be contacted:

Christopher Corey, Smith, Gildea & Schmidt, LLC

Name – Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 (410) 821-0070 ccorey@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2017-0313A **Filing Date** 5/22/17 **Do Not Schedule Dates:** _____ **Reviewer** GH

REV. 10/4/11

ATTACHMENT TO PETITION FOR ZONING HEARING

5301 Bush Street

Variance Relief:

1. For Lot 2 as shown on the attached Site Plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft. pursuant to BCZR § 1B02.3.C.1;

2. For Lot 2 as shown on the attached Site Plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft. pursuant to BCZR § 1B02.3.C.1;

3. If necessary, for Lot 1 as shown on the attached Site Plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement imposed under BCZR § 1B02.3.C.1; and

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

kjWellsInc

Land Surveying, Site Planning & Landscape Architecture

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

May 5, 2017

Zoning Description
of
5301 Bush Street

Baltimore County
Maryland
11th Election District
5th Councilmanic District

Being all of Lot 8 and a portion of Lot 7 in the subdivision of "Forge Acres" as recorded in Baltimore County Land Records in Plat Book 18 folio 44, containing 38,768 square feet or 0.8900 acres of land. - South East corner of Bush ST and Winkler Street.

Kenneth J. Wells

KEVIN KAMENETZ
County Executive

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

June 9, 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: 2017-0313-A
5301 Bush Street
SE corner of Bush Street and Winkler Road
11th Election District – 5th Councilmanic District
Legal Owners: Wadkins Construction, Inc.

Variance 1. For Lot 2 as shown on the attached Site Plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft. 2. For Lot 2 as shown on the attached Site Plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.. 3. If necessary, for Lot 1 as shown on the attached Site Plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement imposed under BCZR section 1B02.3.C.1; and 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Monday, July 10, 2017 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director

AJ:kl

C: Christopher Corey, 600 Washington Avenue, Ste. 200, Towson 21204
Howard Wadkins, 1605 Honeysuckle Court, Annapolis 21410

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JUNE 20, 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.

THE BALTIMORE SUN MEDIA GROUP

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

WE HEREBY CERTIFY, that the annexed advertisement of Order No 5019703

Sold To:
Howard Wadkins - CU00605098
1605 Honeysuckle Court
Annapolis,MD 21401

Bill To:
Howard Wadkins - CU00605098
1605 Honeysuckle Court
Annapolis,MD 21401

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

Jun 20, 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: # 2017-0313-A
5301 Bush Street
SE corner of Bush Street and Winkler Road
11th Election District - 5th Councilmanic District
Legal Owner(s) Wadkins Construction, Inc.

Variance: 1. For Lot 2 as shown on the attached Site Plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft. 2. For Lot 2 as shown on the attached Site Plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft. 3. If necessary, for Lot 1 as shown on the attached Site Plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line in lieu of the 40ft. front yard setback requirement imposed under BCZR section 1B02.3.C.1; and 4. For such other relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Monday, July 10, 2017 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

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

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

JT 6/704 June 20 5019703

The Baltimore Sun Media Group

By S. Wilkinson

Legal Advertising

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS
DATE: 6/20/2017
Case Number: 2017-0313-A
Petitioner / Developer: CHRISTOPHER COREY, ESQ. ~ HOWARD WADKINS
Date of Hearing (Closing): JULY 10, 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:
5301 BUSH STREET

The sign(s) were posted on: JUNE 20, 2017

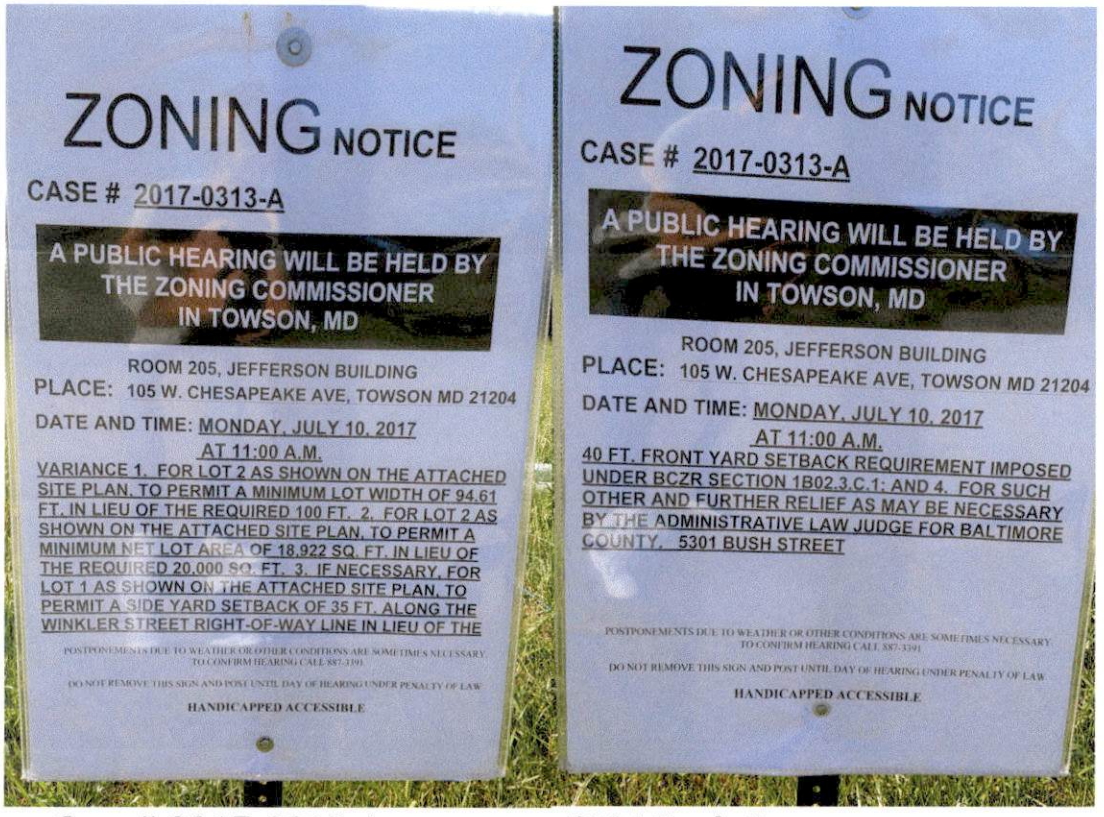
Linda O'Keefe
(Signature of Sign Poster)

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)



Case # 2017-0313-A

5301 Bush Street

RE:	PETITION FOR SPECIAL HEARING AND VARIANCE	*	BEFORE THE OFFICE
	5301 Bush Street; SE corner of Bush Street & Winkler Road	*	OF ADMINSTRATIVE
	11th Election & 5th Councilmanic Districts	*	HEARINGS FOR
	Legal Owner(s): Wadkins Construction, Inc Petitioner(s)	*	BALTIMORE COUNTY
		*	2017-313-A

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

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of June, 2017, a copy of the foregoing Entry of Appearance was mailed to Christopher Corey, Esquire, Smith, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
JUN 06 2017

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

MARYLAND DEPARTMENT OF TRANSPORTATION

STATE HIGHWAY ADMINISTRATION

Pete K. Rahn, **Secretary**
Gregory Slater, **Administrator**

Date: 6/7/17

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. 2017-0313-SPHA
Variance
Wadkins Construction Inc., Howard Wadkins
5301 Bush Street

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

Sincerely,

Richard A Zeller

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

WW/RAZ

7-10-17
11Am

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 7/3/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED
JUL 05 2017
OFFICE OF
ADMINISTRATIVE HEARINGS

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 17-313

INFORMATION:
Property Address: 5301 Bush Street
Petitioner: Wadkins Construction, Inc.
Zoning: DR 2
Requested Action: Variance

The Department has reviewed the petition for a variance to permit a lot (Lot 2) to have a width of 94.61 feet with an area of 18,922 square feet in lieu of the required 100 feet and 20,000 square feet respectively and to permit a lot (Lot 1) to have a side yard setback (street building line setback) of 35 feet in lieu of the required 40 feet.

The site is located within the Honeygo plan. The properties were the subject of Development Review Committee item DRC #042214-LLA wherein a lot line adjustment was granted.

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

- The side façade for any dwelling situated on Lot 1 facing Winkler Street shall incorporate architectural treatments to include but not limited to windows, shutters and doors. The Department will not support a blank façade.
- The Department will not support the location of a garage on the Winkler Street side of any dwelling proposed for Lot 1.

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

Prepared by:

Lloyd T. Moxley

Division Chief:

Kathy Schlabach

AVA/KS/LTM/ka
c: Ngone Seye Diop
Christopher Corey, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

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

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

DATE: June 6, 2017

SUBJECT: DEPS Comment for Zoning Item # 2017-0313-SPHA
Address 5301 Bush Street
(Wadkins Property)

Zoning Advisory Committee Meeting of **June 12, 2017.**

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

Reviewer: Steve Ford Date: 6-6-2017

C:\Users\jwisnom\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\XEGA1Q0V\ZAC 17-0313-SPHA 5301 Bush Street.doc

PLEASE PRINT CLEARLY

CASE NAME 2017-313-A
CASE NUMBER
DATE 7-10-2017

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Chris Corey	600 Washington Ave., Ste 4	Towson, MD 21204	CCorey@SGS-Law.com
Ken Wells	7403 New Cut Road	Kingsville MD 21087	KWells@KJWells.com
Howard Wadkins	1605 Honeysuckle Ridge ct	Annapolis MD 21401	

PLEASE PRINT CLEARLY

CASE NAME 2017-313-A
CASE NUMBER
DATE 7-10-2017

CITIZEN'S SIGN - IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
Karen Harms	4916 Forge Rd	Berry Hall, MD 21125	karen@harmshomes.com
Katherine L. Lochary	5219 Bush St	White Marsh, MD 21162	KLOCHARY@verizon.net
JOHN T. LOCHARY	5219 BUSH ST	WHITE MARSH, MD 21162	JTLOCHARY@VERIZON.NET
Angela M. Cioka	5303 Bush St.	White Marsh, MD 21162	drummergurl1381@aol.com
Donna Welch	5300 Bush St	White Marsh MD 21162	penelopepitstop1@aol.com
Scott Ayre	5300 Bush St	White Marsh, MD 21162	none
Steven Zdziarski	5210 Bush St	White Marsh, MD 21162	N/A
JACK Amrhein	#1 Heathrow Manor Ct	Nottingham MD 21236	pmjpa@aol.com

7-10-17
11Am

John T. Lochary

5219 Bush Street
White Marsh, MD 21162
410-203-0280 H
410-419-8125 C
jtlochary@verizon.net

July 1, 2017

The Honorable John E. Beverungen
Administrative Law Judge
Jefferson Building
Towson, MD 21204

RECEIVED
JUL 05 2017
OFFICE OF
ADMINISTRATIVE HEARINGS

RE: Case #2017-0313-A

Dear Judge Beverungen:

I oppose the granting of any variances for a proposed minor subdivision at 5301 Bush Street as requested in the case referenced above. My opposition is based on the following issues:

1. Prior to the recent purchase of the property by the petitioner, the two lots on which the petitioner proposes to build two residences was used as a single, combined parcel from approximately 1951 to the present. The single parcel is usable without violating zoning provisions. One of the separate, nonconforming lots may not then, or thereafter be, considered nonconforming, nor may a variance be granted for that separate parcel. This is consistent with the "zoning merger doctrine" as decided in a number of court cases.

2. The zoning designation of the property is DR 2 allowing for a density of 2 residences per acre. The land in question is 0.85 acre which allows for the construction of only one residence.

3. The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, can grant variances from height and area regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The petitioner, a construction business, should not be granted a variance merely to maximize its profits. No special circumstances exist that are unique or particular to the land that would provide a basis to grant the variances requested.

4. The petitioner is requesting multiple variances from area regulations. This is a further indication that the construction proposed by the petitioner is inappropriate for the site.

5. Section 304 of the Zoning Regulations for Baltimore County provides that "a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:
   A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;
   B. All other requirements of the height and area regulations are complied with; and

C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations."

In the referenced case, the petitioner owns sufficient adjoining land to conform to the width and area requirements. This would also be in conformity with the prior use of the land.

Again, I oppose the granting of any variance to the petitioner for the property known as 5301 Bush Street as granting such variances would not appear to be in conformity with the Zoning Regulations for Baltimore County.

Thank you for considering these issues.

Sincerely,

John T. Lochary

Cc: David Marks
Councilman, Fifth District
Council5@baltimorecountymd.gov

Karen Harms
Vice President, Perry Hall Improvement Association
Karen@HarmsHomes.com

JS 7-10-17
11 AM

DIANE BRAZIL
5205 Bush St., White Marsh, MD 21162 410-428-2283

July 2, 2017

RE: Case 2017-0313 A

RECEIVED
JUL 07 2017
OFFICE OF
ADMINISTRATIVE HEARINGS

The Honorable John E. Beverungen
Administrative Law Judge
Jefferson Building
Towson, MD 21204

Dear Judge Beverungen:

I am writing to express my opposition to the granting of the requested variances in the above-referenced case.

It is my understanding that a variance might be considered if the associated developer can plead to the court that the subject site is in any way peculiar, unusual or unique when compared to other properties in the neighborhood.

5301 Bush St is a flat, rectangular lot, on the corner of two streets in Forge Acres in White Marsh. This property is not peculiar, unusual or unique from the others in the Forge Acres area.

Properties immediately adjacent to and near the subject site are classified as **Community Conservation Area**. The potential increase in impermeable surfaces that would result from over development of this lot and the lot's high elevation (situated at top of a steep hill) would negatively impact the surrounding environment.

According to the current zoning, this property is not large enough to accommodate two four-bedroom houses, each with a deck and a garage. Current zoning regulations were in existence and, therefore, the developer knew the property was not large enough to accommodate his proposed development plan **before** purchasing the land, destroying mature trees, and excavating the lot to bare dirt.

I have been a member of this neighborhood for over 30 years. When public sewage came to the area the floodgates opened to allow building of thousands of houses, all shapes and sizes. We have numerous houses on the market at all times available to prospective new residents of the community. The developer of 5301 Bush St should not be granted **special permission** to pursue development plans that are not in accordance with current zooming regulations. The granting of a variance would offer no benefits to the residents of our community, and would set a precedent for other similar properties.

I have talked to almost everyone in the area concerning this issue and I helped with asking our neighbors to sign the opposing petition. Every individual whom we approached regarding the issue eagerly signed the opposing petition. I would be at the hearing July 10, 2017, but my family's vacation was planned months ago.

Again, I oppose the granting of these variances for the developer of 5301 Bush St. One house is sufficient!

Sincerely,

Diane Brazil

Diane Brazil

Thank you for your time.

~~ok~~ 6/27/17
to pp

Diane Brazil
5205 Bush Street
White Marsh, MD 21162
brazilfam@comcast.net
410-428-2283
June 27, 2017

Case to be heard per Kristen Lewis and Ms Brazil.

Mr. Arnold Jablon
Zoning Review Office
111 W. Chesapeake Ave. Room 111
Towson, MD 21204

RE: Case # 2017-0313 A

Dear Mr. Jablon:

I am a concerned neighbor of 5301 Bush Street. A public hearing for zoning variances is scheduled for July 10, 2017 at 11 AM.

I am writing this letter to ask if this date can be rescheduled. I very much would like to attend the hearing, but we have a family vacation scheduled.

Thank you so much for considering this change.

Best,

Diane Brazil

Diane Brazil

CC: Kristen Lewis

KEVIN KAMENETZ
County Executive

April 18, 2014

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

Kenneth J. Wells
7403 New Cut Road
Kingsville, MD 21087-1132

Re: Jones Property, 5301 Bush Street, 21162, Dist. 11c5
DRC Number: 042214-LLA (2014-00055)

Dear Sir/Madam:

Pursuant to Section 32-4-106(a)(1) of the Baltimore County Code, this letter constitutes an administrative order and decision on the request you filed with this department.

Your request has been submitted for careful review and consideration to the Director and Zoning Office. It has been determined that your proposal:

☒ Provisionally meets the requirements of a limited exemption under Section 32-40-106(a)(1)(viii) BCC (An undersize lot & setback variance must be granted.) Also record plat must be amended.

☐ Meets the requirements of a limited exemption under Section 32-4-106(a)(1)(ii) or (a)(1)(v)(No development or building and all future uses will require Zoning and Development approval)

☐ does not meet the requirements of a limited exemption under Section 32-4-106(a)(1)BCC. You will be notified if your project can be scheduled for the next open DRC meeting and any additional requirements for review. (Need DEPS approval for new access)

☐ needs additional materials/information for review. Contact Carl Richards or Joseph Merrey at 410-887-3391.

☐ does not reach the scope or extent that would require Baltimore County development approval.

☐ all or a portion of the property is located within the Chesapeake Bay Critical Area, therefore prior to recording deeds or submitting a record plat you are required to apply for Lot Consolidation and Reconfiguration through the Dept. of Environmental Protection and Sustainability (Comar 27.01.02.08)

When recording deeds in the land records, please attach this letter and the survey plat as exhibits. Also, if the property(s) are improved or any Baltimore County permits are applied for or anticipated in the future, the following approval agencies should be contacted to resolve any possible development issues: Development Plans Review – 410-887-3751, Planning 410-887-3480, Environmental Protection & Sustainability – 410-887-5859

Sincerely,

Arnold Jablon Initial

W. Carl Richards, Jr.
Zoning Supervisor

Debra Wiley

From: Debra Wiley
Sent: Friday, July 07, 2017 7:59 AM
To: 'Kelly Benton' (Schmidt / Dieda)
Subject: Case No. 2017-0313-A
Attachments: 20170707081148333.pdf

Hi Kelly,

Per your request, please find attached ZAC comments for the above. In addition, I've included two letters from the community.

Have a great weekend.

-----Original Message-----
From: adminhearingscpr@baltimorecountymd.gov [mailto:adminhearingscpr@baltimorecountymd.gov]
Sent: Friday, July 07, 2017 8:12 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Admin Hearings Copier

This E-mail was sent from "RNP002673903BB1" (MP 3054).

Scan Date: 07.07.2017 08:11:48 (-0400)
Queries to: adminhearingscpr@baltimorecountymd.gov

Debra Wiley

From: Debra Wiley
Sent: Wednesday, July 05, 2017 9:34 AM
To: John E. Beverungen; Lawrence Stahl; Sherry Nuffer
Cc: Kristen L Lewis
Subject: Changes to July Calendar (Monday, July 10th)

Good Morning,

Case 2017-0314-SPHA set for 7/10 @ 10 AM has been postponed (no sign posting) and will be reset for 8/2.

Case 2017-0313-A set for 7/10 @ 11 AM is back on (petitioner coming off of vacation and wasn't sure she could make it) but has decided to proceed. Per. Kristen 7-5

Please mark your calendars accordingly. Thanks.

Debra Wiley
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Debra Wiley

Park 7-5 Back on

7/10 11AM Back on

From: Kristen L Lewis
Sent: Thursday, June 29, 2017 3:21 PM
To: Debra Wiley
Subject: RE: CORRECTION -- FW: Change to July Calendar

Please hold on removing this, I just received a call from the person requesting the postponement, she may want to let it go for July 10th.

Kristen Lewis
PAI – Zoning Review
410-887-3391

From: Debra Wiley
Sent: Thursday, June 29, 2017 1:34 PM
To: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: FW: CORRECTION -- FW: Change to July Calendar

FYI

From: Debra Wiley
Sent: Thursday, June 29, 2017 1:18 PM
To: John E. Beverungen <jbeverungen@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; Sherry Nuffer <snuffer@baltimorecountymd.gov>
Cc: 'Kristine Henry Carlson' <kristine.henry@gmail.com>
Subject: CORRECTION -- FW: Change to July Calendar

CORRECTION – my mistake – July 10th - not 19th.

Sorry.

From: Debra Wiley
Sent: Thursday, June 29, 2017 1:16 PM
To: John E. Beverungen <jbeverungen@baltimorecountymd.gov>; Lawrence Stahl <lstahl@baltimorecountymd.gov>; Sherry Nuffer <snuffer@baltimorecountymd.gov>
Cc: Kristen L Lewis <klewis@baltimorecountymd.gov>
Subject: Change to July Calendar

Please see Kristen's email below regarding July 19th @ 11 AM and mark your calendars accordingly.

Thanks.

From: Kristen L Lewis
Sent: Thursday, June 29, 2017 11:39 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>; Sherry Nuffer <snuffer@baltimorecountymd.gov>
Subject: Postponement

Good morning ladies,

Please mark case 2017-0313-A set for July 10th at 11 a.m. as postponed. It will be set in for August sometime. Thanks,

Kristen Lewis
PAI – Zoning Review
410-887-3391

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(5301 Bush Street)		
11th Election District	*	OF ADMINISTRATIVE
5th Council District		
Wadkins Construction, Inc.	*	HEARINGS FOR
Legal Owner		
	*	BALTIMORE COUNTY
Petitioner		
	*	**CASE NO. 2017-0313-A**

* * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Christopher Corey, Esq., on behalf of Wadkins Construction, Inc., the legal owner of the subject property ("Petitioner"). Petitioner is requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and (4) For such other and further relief as may be required by the Administrative Law Judge (ALJ) for Baltimore County. A site plan was marked as Petitioner's Exhibit 11.

Professional land surveyor Kenneth J. Wells appeared in support of the petition. Christopher Corey, Esq. represented the Petitioner. Several members of the community opposed the requests. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the requests but suggested certain façade treatments would

be required for the proposed dwellings.

The site is approximately 0.89 acres in size and zoned DR 2. A single-family dwelling was constructed on the property in 1951, although Petitioner has since razed that structure, which was apparently in very poor condition. The subject property is comprised of all of Lot 8 and a portion of Lot 7 as shown on the Plat of Forge Acres (recorded in 1948). Petitioner's Exhibit 4. The properties were the subject of Development Review Committee (DRC) Item DRC #042214-LLA wherein a lot line adjustment was granted in 2014. Petitioner's Exhibit 2. This lot line adjustment (as shown on the DRC Plan admitted as Exhibit 10) created Lot 1 and Lot 2 as shown on the redlined site plan. Petitioner proposes to construct a single-family dwelling and garage on each lot but requires variances to do so.

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

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

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

Based on a review of the site plan and the testimony of Mr. Wells, I do not believe the property is "unique" as that term is used in Maryland case law. In the zoning context "unique" has a "customized meaning" to include shape, topography, subsurface conditions, environmental factors, historical significance, etc. *North v. St. Mary's County*, 99 Md. App. 502, 512 (1994). The lots are rectangular in shape and are very similar to other lots in the vicinity. There simply are no unique or defining attributes of the property that would support a finding of uniqueness.

In a contested variance case the petitioner faces an uphill battle. Indeed, I was unable to locate a Maryland appellate court opinion from the last twenty years which upheld the grant of a

variance. Under Maryland law, a variance should be granted "sparingly" since it is "an authorization for [that] ...which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699. As such, I believe the petition must be denied.

THEREFORE, IT IS ORDERED, this **11th** day of **July, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement, be and is hereby DENIED.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln

KEVIN KAMENETZ
County Executive

December 22, 2017

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

Kenneth J. Wells
7403 New Cut Road
Kingsville, MD 21087

Re: Wadkins Construction, 5301 Bush Street, 21162, Dist. 11c5
DRC Number: 010218-LLA2 (042214-LLA)

Dear Sir/Madam:

Pursuant to Section 32-4-106(a)(1) of the Baltimore County Code (BCC), this letter constitutes an administrative order and decision on the request you filed with this department.

Your request has been submitted for careful review and consideration to the Director and Zoning Office. It has been determined that your proposal:

☒ Provisionally meets the requirements of a limited exemption under Section 32-4-106(a)(1)(viii), BCC. (Adjust E/s Lot 2 setback to 25' in lieu of 24.5') (Amend record plat)

☐ Provisionally meets the requirements of a limited exemption under Section 32-4-106(a)(1)(ii) or (a)(1)(v), BCC.

☐ Does not meet the requirements of a limited exemption under Section 32-4-106(a)(1), BCC. You will be notified if your project can be scheduled for the next open DRC meeting and any additional requirements for review. (Contact Jennifer Nugent in Planning)

☐ Needs additional materials/information for review. Contact Carl Richards or Joseph Merrey at 410-887-3391. Zoning density hearing required prior to final Zoning approval. Also contact Jeff Livingston at 410-887-5859.

☐ does not reach the scope or extent that would require Baltimore County development approval.

☐ All or a portion of the property is located within the Chesapeake Bay Critical Area, therefore prior to any County action you are required to apply for and receive approval of Lot Consolidation and Reconfiguration through the Dept. of Environmental Protection and Sustainability (Comar 27.01.02.08) After receiving approval, resubmit your application for LLA with documentation of DEPS approval.

When recording deeds in the land records, please attach this letter and the survey plat as exhibits. Also, if the property(s) are improved or any Baltimore County permits are applied for or anticipated in the future, an existing record plat may be required to be amended and the following approval agencies should be contacted to resolve any possible development issues: Development Plans Review – 410-887-3751, Planning 410-887-3480, Environmental Protection & Sustainability – 410-887-5859

Sincerely,

AJ
Arnold Jablon Initial

W. Carl Richards, Jr.
Zoning Supervisor

BALTIMORE COUNTY
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS
DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC# 010218-LLA2 Tracking# DRC-2017-00185
County Use Only County Use Only

RECEIVED
DEC 07 2017
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS

This application must be accompanied by the following:

Filing Date: _____
Stamp in w/PAI date stamp here

1. **One copy of the completed DRC checklist.**
2. **Three copies of this DRC application, completed in full.**
3. **Three copies of a letter of request (attach one to each DRC application).**
4. **Nine copies of the plan folded to 8 ½ x 11 inches.**
5. **$100 fee for limited exemption request; $375 for waiver request (check made payable to Baltimore County, MD and are non-refundable; Applicant shall deliver check to County Finance Office cashier. Submit paid receipt w/package.**

Project Name: Wadkins Construction, Inc. Property PAI File No.: _____

Project Address: 5301 Bush Street Zip Code: 21162 ADC Map #: 30 A 4

Councilmanic District: 5 Election District: 11 Project Acreage: Lot 1 0.66 and Lot 2 0.23 (original)

Tax Account No(s): 1110047220 Zoning: DR2

Engineer: kjWellsInc N/A: ____ Engineer's Phone No.: 410-592-8800

Address: 7403 New Cut Road (City) Zip 21087 Email: kwells@kjwellsinc.com

Applicant: Howard Wadkins Applicant's Phone No.: 443-623-3094

Address: 1605 Honeysuckle Court (City) Zip 21410 Email: wadkinscoinc@yahoo.com

Attorney: _____ N/A: ____ Attorney's Phone No.: _____

Address: _____ (City) Zip _____ Email: _____

Is this a tower? ☐ Yes ☑ No If "Yes" check one of the following: Cellular ____ (CAC) Water Tower ____ (WTC) MonoPole ____ (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

(County Use only)
Action: _____

- ◉ Limited Exemption under Section 32-4-106 (a) (1) (viii)
- ○ Plan Refinement
- ○ Planned Shopping Center Designation under Section 101 of BCZR
- ○ Waiver under Section 32-4-107 (____) (____) (____)
- ○ Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
- ◉ Lot Line Adjustment (LLA)
- ○ Other _____

This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request. A copy of the checklist must be completed and included along with this DRC application. Please note that a DRC application form and checklist is available in room 123 of the County Office Building and on the County web site www.baltimorecountymd.gov/Agencies/permits/pdm_devmanage/pdmfdmgt.html
Please see page 2 for the checklist of complete submittal requirements

c: Council, Planning, DEPS, Zoning

KEVIN KAMENETZ
County Executive

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

August 15, 2017

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

RECEIVED
AUG 15 2017
BALTIMORE COUNTY
BOARD OF APPEALS

RE: **APPEAL TO BOARD OF APPEALS**
Petition for Variance
Case No. 2017-0313-A
Property: 5301 Bush Street

Dear Mr. Corey:

Please be advised that an appeal of the above-referenced case was filed in this Office on August 10, 2017. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to contact the Board at 410-887-3180.

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/sln

c:
Baltimore County Board of Appeals
People's Counsel

Karen Harms, 4916 Forge Road, Perry Hall, MD 21125
John & Katherine Lochary, 5219 Bush Street, White Marsh, MD 21162
Angela M. Cioka, 5303 Bush Street, White Marsh, MD 21162
Donna Welch, 5300 Bush Street, White Marsh, MD 21162
Scott Ayre, 5300 Bush Street. White Marsh, MD 21162
Steven Zdziera, 5210 Bush Street, White Marsh, MD 21162
Jack Amrhein, 1 Heathrow Manor Ct., Nottingham, MD 21236

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 5301 Bush Street **which is presently zoned** DR2

Deed References: 38186/00023 10 Digit Tax Account # 1110047720

Property Owner(s) Printed Name(s) Wadkins Construction, In

(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

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)**

TO BE PRESENTED AT HEARING

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

ORDER RECEIVED FOR FILING
Date 5/22/17
By

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Wadkins Construction, Inc

Name #1 – Type or Print Name #2 – Type or Print

Howard Wadkins

Signature #1 Signature # 2

1605 Honeysuckle Court Annapolis MD

Mailing Address City State

21410 443-762-3094 wadkinscoinc@yahoo.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Christopher Corey, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 (410) 821-0070 ccorey@sgs-law.com

Zip Code Telephone # Email Address

Representative to be contacted:

Christopher Corey, Smith, Gildea & Schmidt, LLC

Name – Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 (410) 821-0070 ccorey@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2017-0313-A Filing Date 5/22/17 Do Not Schedule Dates: _____ Reviewer GH

REV. 10/4/11

ATTACHMENT TO PETITION FOR ZONING HEARING

5301 Bush Street

Variance Relief:

1. For Lot 2 as shown on the attached Site Plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft. pursuant to BCZR § 1B02.3.C.1;

2. For Lot 2 as shown on the attached Site Plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20.000 sq. ft. pursuant to BCZR § 1B02.3.C.1;

3. If necessary, for Lot 1 as shown on the attached Site Plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement imposed under BCZR § 1B02.3.C.1; and

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

kjWellsInc

Land Surveying, Site Planning & Landscape Architecture

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

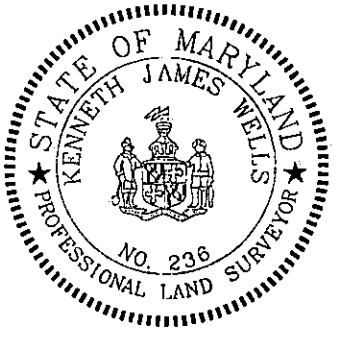
7403 New Cut Road
Kingsville, Md. 21087-1132

May 5, 2017

Zoning Description
of
5301 Bush Street

Baltimore County
Maryland
11th Election District
5th Councilmanic District

Being all of Lot 8 and a portion of Lot 7 in the subdivision of "Forge Acres" as recorded in Baltimore County Land Records in Plat Book 18 folio 44, containing 38,768 square feet or 0.8900 acres of land. - South East corner of Bush ST and Winkler Street.



CASE NO. 2017- 0313-A

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
_____	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	_____
6-6	DEPS (if not received, date e-mail sent _____)	NC
_____	FIRE DEPARTMENT	_____
7-5	PLANNING (if not received, date e-mail sent _____)	No obj. w/Cond.
6-7	STATE HIGHWAY ADMINISTRATION	No obj.
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
7-5	ADJACENT PROPERTY OWNERS (John Lochary, 5219 Bush St.)	Oppose

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 6-20-17

SIGN POSTING Date: 6-20-17 by O'Keefe

PEOPLE'S COUNSEL APPEARANCE Yes ☑ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: * See ltr. 4-18-14 from Jablon

Real Property Data Search (w3) **Guide to searching the database**

Search Result for BALTIMORE COUNTY

View Map **View GroundRent Redemption** **View GroundRent Registration**

Account Identifier: **District - 11 Account Number - 1110047220**

Owner Information

Owner Name:	WADKINS CONSTRUCTION INC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	1605 HONEYSUCKLE RIDGE CT ANNAPOLIS MD 21401-	**Deed Reference:**	/38186/ 00023

Location & Structure Information

Premises Address:	5301 BUSH ST WHITE MARSH 21162-	**Legal Description:**	LT 8 PT LT 7 FORGE ACRES

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0073	0001	0341		0000		E	8	2015	Plat Ref:	0014/ 0088

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

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
1951	1,227 SF		36,839 SF	04

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
1	NO	STANDARD UNIT	FRAME	1 full	1 Detached	

Value Information

	Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	92,900	92,900		
Improvements	65,300	67,000		
Total:	158,200	159,900	159,333	159,900
Preferential Land:	0			0

Transfer Information

Seller: JONES JAMES E SR	**Date: 10/28/2016**	**Price: $157,000**
Type: ARMS LENGTH IMPROVED	**Deed1: /38186/ 00023**	**Deed2:**
Seller: JONES JAMES E,SR	**Date: 08/19/2005**	**Price: $0**
Type: NON-ARMS LENGTH OTHER	**Deed1: /22399/ 00693**	**Deed2:**
Seller: JONES JAMES E,SR	**Date: 03/16/2005**	**Price: $0**
Type: NON-ARMS LENGTH OTHER	**Deed1: /21570/ 00298**	**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

8. [illegible] while we have confidence in

6-10 6-10-17 10 AM PP

Duplicate

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
JUN 06 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: June 6, 2017

SUBJECT: DEPS Comment for Zoning Item # 2017-0313-SPHA
Address 5301 Bush Street
(Wadkins Property)

Zoning Advisory Committee Meeting of **June 12, 2017.**

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

Reviewer: Steve Ford Date: 6-6-2017

C:\Users\snuffer\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\WPHS9SSK\ZAC 17-0313-SPHA 5301 Bush Street.doc

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 20, 2017 Issue - Jeffersonian

Please forward billing to:
Howard Wadkins
1605 Honeysuckle Court
Annapolis, MD 21410

443-762-3094

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: 2017-0313-A
5301 Bush Street
SE corner of Bush Street and Winkler Road
11th Election District – 5th Councilmanic District
Legal Owners: Wadkins Construction, Inc.

Variance 1. For Lot 2 as shown on the attached Site Plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft. 2. For Lot 2 as shown on the attached Site Plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.. 3. If necessary, for Lot 1 as shown on the attached Site Plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement imposed under BCZR section 1B02.3.C.1; and 4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Monday, July 10, 2017 at 11:00 a.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.

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: 2017-0313-A

Property Address: 5301 Bush Street

Property Description: South East Corner of Bush ST and Winkler Street

Legal Owners (Petitioners): Wadkin

Contract Purchaser/Lessee: —

PLEASE FORWARD ADVERTISING BILL TO:

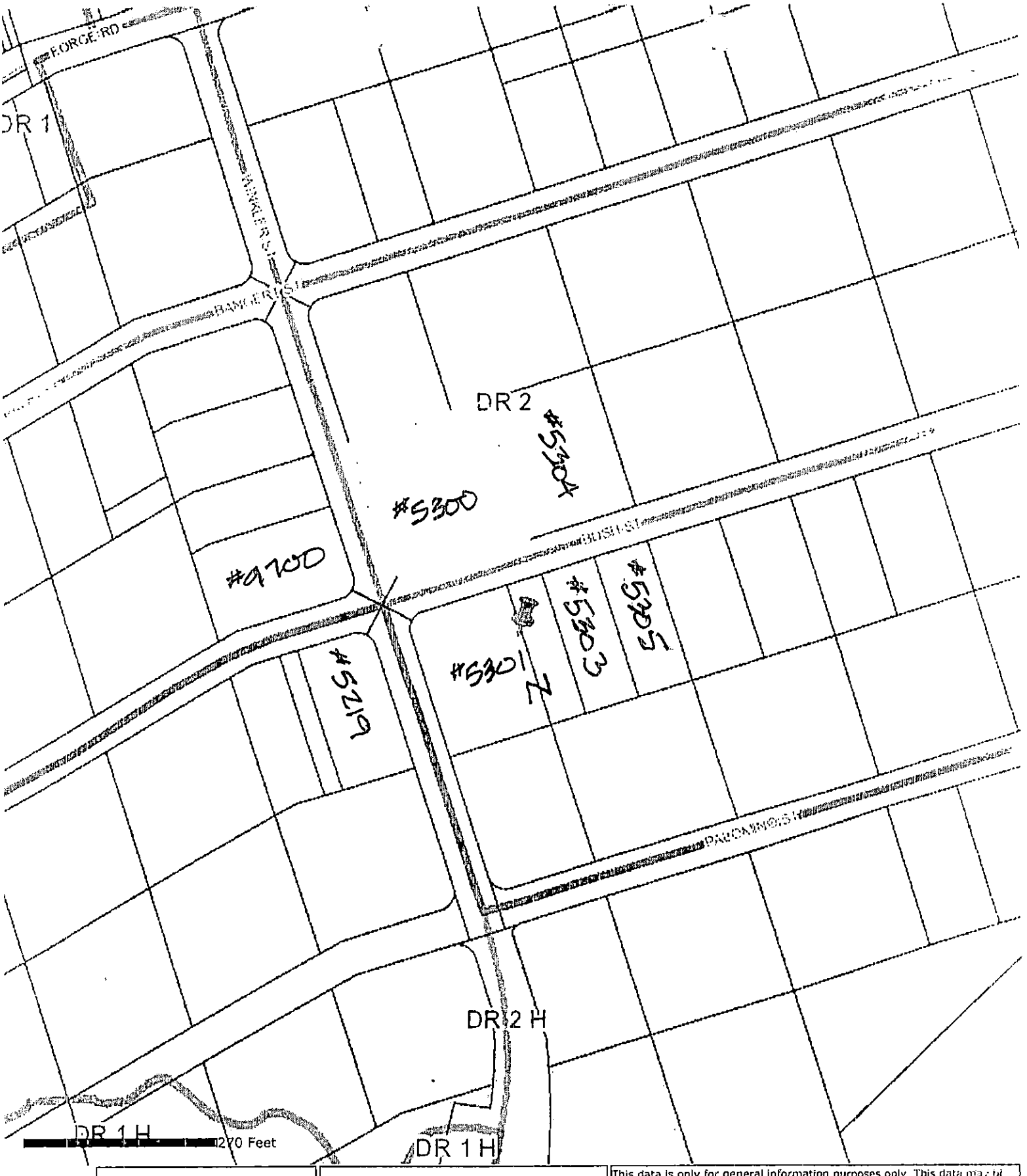
Name: Howard Wadkins

Company/Firm (if applicable):

Address: 1605 Honeysuckle Court
Annapolis, MD 21410

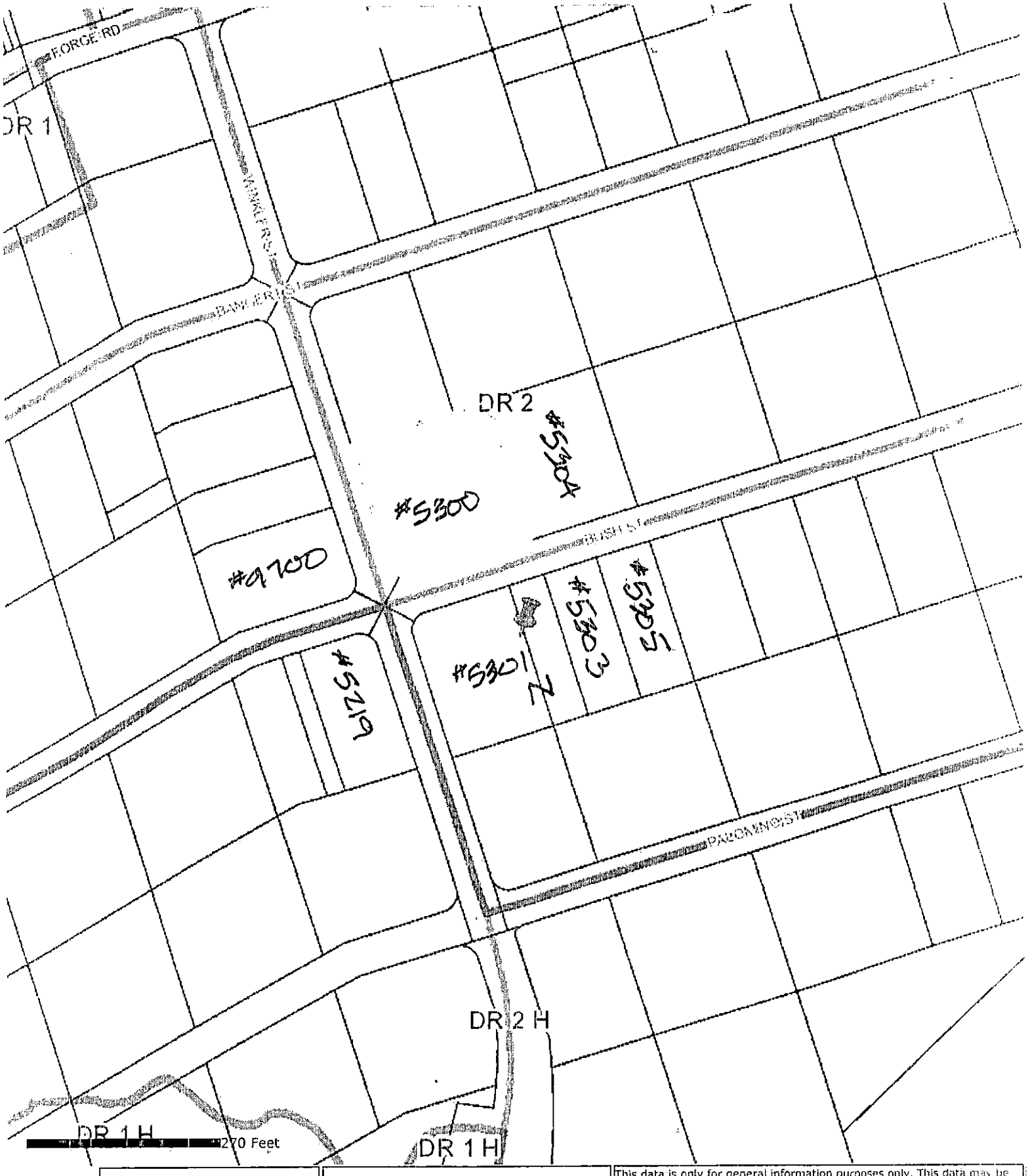
Telephone Number: 443-762-3094

Revised 7/9/2015



My Neighborhood Map	Created By Baltimore County My Neighborhood	This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.

Printed 5/5/2017



My Neighborhood Map	Created By Baltimore County My Neighborhood	This data is only for general information purposes only. This data may be inaccurate or contain errors or omissions. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and disclaims all warranties with regard to the data, including but not limited to, all warranties, express or implied, of merchantability and fitness for any particular purpose. Baltimore County, Maryland disclaims all obligation and liability for damages, including but not limited to, actual, special, indirect, and consequential damages, attorneys' and experts' fees, and court costs incurred as a result of, arising from or in connection with the use of or reliance upon this data.

Printed 5/5/2017

WINKLER ST
BUSH ST
PALOMINO ST
Lot # 9 1119033825
Lot # 9A 1118048250
1102004020
Lot # 12 1102003780
Lot # 10 1102087550
5300
Lot # 11 1113076400
5304
Lot # 12 1105088400
5308
Lot # 13 1119053300
Lot # 12 1102038010
2017-0197-A
DR 2
5301
Lot # 8 1110047220
PAI # 110002
Lot # 8
5303
Lot # 7 1122045430
Lot # 7 1123017440
5305
5307
Lot # 6 1107060670
PAI # 110934
Pt. Bk./Folio # MP03022
Lot # 6 PAI # 110934
PAI # 110934
PAI # 110934
5 CD
Eastern Subarea
PAI # 110002
Pt. Bk./Folio # 014088F
NE 11-J
11 ED
073A1
Lot # 1 1119028221
1114011110
1119028220
Lot # 1
2006-0182-SPH
Lot # 1
Lot # 11 1119061600
5308
Lot # 10 1108032870
Pt. Bk. 0000014, Folio 0088
5304
Lot # 9 1108081551
5300
9600
Lot # 12 1115002000
1123035452
DR 2-H
Lot # 1 1123053930
5301
Lot # 5 1123036510
Lot # 4 1107059960
5305
Lot # 3 1112074240

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

No 153073

Date: 5/22/17

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	528	0000		6150				150.00

Total: 150.00

Rec From: Smith, Gildea, ~~Schmidt~~ Schmidt

For: ~~Add~~ Variance ~~&~~ ~~Special Hearing~~

2017-0313A

5301 Bush St

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

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
5/23/2017	5/22/2017	09:47:54	2

REG #502 WALKIN JEE
>>RECEIPT # 010136 5/22/2017 / OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 153073
Recpt Tot $150.00
$150.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

Board of Appeals

17-313-A
Case No: CBA-18-024 Case Name: Watkins Construction, Inc.

Exhibit List

Party: People's Counsel Date: 6/20/18

Exhibit No:	Description:
✓ 1	Sign-In Sheet for People's Counsel
✓ 2	Article 1B Density Residential Zones
✓ 3	SDAT Real Prop. Data Search for 5301 Bush St
✓ 4	R.40 Zone Regulations § 201-§ 208.1
✓ 5	My Neighborhood Aerial Map
✓ 6	Mr. Lochary's Chart - Forge Acres Data with Build Dates
✓ 7	DRC Application + Plan provided
✓ 8	12/30/17 Email from Diane Brazil
✓ 9	1/3/18 Email from Diane Brazil
NOT admitted on 10/4/18 ✓ 10A + B	Rule 8 Papers 6/19/18 Hr. + Resolution from Perry Hall Improvement Assoc.
✓ 11	Standard Highway Map p. 55
✓ 12	My Neighborhood DRZ Zoning Boundaries
✓ 13	Zoning History for 5301 Bush St.
✓ 14	1994 Honeygo Plan w/ Landuse excerpts
	VERIFIED BY KC DATE: 6/21/18

People's Counsel Sign-In Sheet

Case Name: Wadkins Construction
Case No.: 2017-313-A
Date: June 20, 2018

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

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
✓	JOHN LOCHARY	5219 BUSH ST, 21162	410-419-8125	JTLOCHARY@VERIZON.NET	RESIDENT	OVERDEVELOPMENT
✓	Angie Cioka	5303 Bush St.	443-250-4032	drummerguri1391@aol.com	Resident	Overdevelopment
	NORMAN CIOKA	932 Rosedale Ave	443-831-9553		Bush STREET	support DAUGHTER
	DianeBrazil	5205 Bush St	4104282283	brazilfam@comcast.net		Overdevelopment
	Donna Welch	5300 Bush St	443-629-2354	penelopepitstop1@aol.com		overdel
	Miranda Hewith	" "	"	"		"

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Baltimore County, MD
Wednesday, June 20, 2018

ARTICLE 1B. Density Residential (D.R.) Zones

SECTION 1B02. Use, Parking, Bulk Density and Open Space Regulations, Standards and Controls Applied According to Zoning Classification

§ 1B02.3. Special regulations for certain existing or proposed developments or subdivisions and for small lots or tracts in D.R. Zones.

A. In D.R. Zones, contrary provisions of this article notwithstanding, the provisions of or pursuant to this subsection shall apply to the use, occupancy and development of; alteration or expansion of structures upon; and administrative procedures with respect to:

1. Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Planning Commission and which has been used, occupied or improved in accordance with the approved subdivision plan;

2. Any land in a subdivision tract which was laid out in accordance with the regulations of residence zoning classifications now rescinded, for which a subdivision plan tentatively approved by the Planning Board remains in effect and which has not been used, occupied or improved in accordance with such plan;

3. Any lot or tract of lots in single ownership which is not in an existing development or subdivision, as described in Subsection A.1 or A.2, and which is too small in gross area to accommodate six dwelling or density units in accordance with the maximum permitted density in the D.R. Zone in which such tract is located;

4. Any lot or tract of lots in single ownership which is not in an existing development or subdivision, as described in Subsection A.1 or A.2, and which is less than 1/2 acre in area, regardless of the number of dwelling or density units permitted at the maximum permitted density in the zone in which it is located; or

5. Any lot or tract of lots in single ownership which is in a duly recorded subdivision plat not approved by the Baltimore County Planning Board or Planning Commission.

B. Standards applicable to existing developments, etc. The minimum standards for net area, lot width, front yard depth, single-side-yard width, sum of widths of both side yards, rear yard depth and height with respect to each use in a development described in Subsection A.1 above, shall be as prescribed by the zoning regulations applicable to such use at the time the plan was approved by the Planning Board or Commission; however, the same or similar standards may be codified under Section 504, and these standards shall thereupon control in such existing developments. Development of any subdivision described in Subsection A.2 shall be in accordance with the tentatively approved subdivision plan therefor. Standards for development of lots or tracts described in Subsection A.3, A.4 or A.5 shall be as set forth in Subsection **C** below.

C. Development standards for small lots or tracts.

1. Any dwelling hereafter constructed on a lot or tract described in Subsection A.3 or A.4 shall comply with the requirements of the following table:

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Zoning Classification	Minimum Net Lot Area per Dwelling Unit (square feet)	Minimum Lot Width (feet)	Minimum Front Yard Depth (feet)	Minimum Width of Individual Side Yard (feet)	Minimum Sum of Side Yard Widths (feet)	Minimum Rear Yard Depth (feet)
D.R.1	40,000	150	50	20	50	50
D.R.2	20,000	100	40	15	40	40
D.R.3.5	10,000	70	30	10	25	30
D.R.5.5	6,000	55	25	10	—	30
D.R.10.5	3,000	20	10	10	—	50
D.R.16	2,500	20	10	25	—	30

2. Other standards for development of small lots on tracts as so described shall be as set forth in provisions adopted pursuant to the authority of Section 504.

D. An amendment to any part of a development plan involving only property subject to the provisions of this subsection shall not be subject to the provisions of Section 1B01.3.A.7.

E. Notwithstanding any provision of these regulations to the contrary, the bulk regulations and building setback requirements applicable to an approved development plan for a condominium regime shall be the only bulk regulations and building setback requirements applicable to a subsequent conversion of the entire condominium regime, or a portion thereof, to individual lots of record, so long as the approved condominium regime is located on a lot, tract, or parcel zoned D.R. 3.5, D.R. 5.5, D.R. 10.5, and/or D.R. 16 that is within the Chesapeake Bay Critical Area.
[Bill Nos. 78-2010; 71-2011]

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map | View GroundRent Redemption | View GroundRent Registration

Account Identifier: **District - 11 Account Number -** 1110047220

Owner Information

Owner Name:	WADKINS CONSTRUCTION INC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	1605 HONEYSUCKLE RIDGE CT ANNAPOLIS MD 21401-	**Deed Reference:**	/38186/ 00023

Location & Structure Information

Premises Address:	5301 BUSH ST WHITE MARSH 21162-	**Legal Description:**	LT 8 PT LT 7 FORGE ACRES

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0073	0001	0341		0000		E	8	2018	Plat Ref:	0014/ 0088

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

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
			36,839 SF	04

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

Value Information

	Base Value	Value	Phase-in Assessments	
		As of 01/01/2015	As of 07/01/2017	As of 07/01/2018
Land:	92,900	92,900		
Improvements	0	0		
Total:	92,900	92,900	92,900	
Preferential Land:	0			

Transfer Information

Seller: JONES JAMES E SR	**Date:** 10/28/2016	**Price:** $157,000
Type: NON-ARMS LENGTH OTHER	**Deed1:** /38186/ 00023	**Deed2:**
Seller: JONES JAMES E,SR	**Date:** 08/19/2005	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /22399/ 00693	**Deed2:**
Seller: JONES JAMES E,SR	**Date:** 03/16/2005	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /21570/ 00298	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2017	07/01/2018
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: NONE

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**

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Baltimore County

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

District: **11** Account Number: **1110047220**

The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (http://www.plats.net).

Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (http://www.mdp.state.md.us/OurProducts/OurProducts.shtml).

alleys, rear lot lines,
ay or if carrying less

is, sewer, storm drain,
l located underground.

ed in Section 101 and

ce with the provisions

ntrolled.
s: The following uses
otions (see Sections 270

houses;
arine railway;
1 401);
and the arts;

ling into a tea room or
litioned in Section 402;
d (see Section 403);
t;
iniature golf, and base-

Section 407);
lot of less than 3 acres,
n 50 feet to a property

killing of, but only on a
404);
sery or dancing schools,
fraternity and sorority
ding business and trade

ther than those noted in
e Section 411);
ial;

ercial;
Section 412);

1955
1963
1969
Regs

Theatre, drive-in;
Tourist home;
Trailer park;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 201—HEIGHT REGULATIONS

No building shall exceed a height of 35 feet or 3 stories, except as provided in ARTICLE 3.

Section 202—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

202.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 40,000 square feet and a width at the front building line of not less than 150 feet, except that for two or more lots in the same ownership, and in the same tract, a minimum lot area of 30,000 square feet is permitted if the average of all the lot sizes in the same ownership and in the same tract equals 40,000 square feet or more. A wedge shaped lot at the end of a cul-de-sac street may have a width at the front building line of not less than 100 feet (see Section 304).

202.2—Front Yard—For dwellings, the front building line shall be not less than 50 feet from the front lot line and not less than 75 feet from the center line of the street; for other principal buildings—70 feet from the front lot line and not less than 95 feet from the center line of the street.

202.3—Side Yards—For dwellings, 20 feet wide for one side yard and not less than 50 feet for the sum of both, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street; for other principal buildings—40 feet wide, except that for a corner lot the building line along the side street shall be not less than 65 feet from the side lot line and not less than 90 feet from the center line of the street.

202.4—Rear Yard—50 feet deep.

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R. 20 Z< Residence, One-Family

Section 203—USE REGULATIONS

The following uses only are permitted:

203.1—Uses permitted and as limited in R. 40 Zone.

203.2—Special Exceptions—Same as in R. 40 Zone, Section 200.15, except airports and laboratories which are not permitted (see Sections 270 and 502).

Section 204—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 205—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

205.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 20,000 square feet, and a width at the front building line of not less than 100 feet, except that for four or more lots in the same ownership, and in the same tract, a minimum lot area of 15,000 square feet is permitted if an average of all the lot sizes in the same ownership and in the same tract equals 20,000 square feet or more, but not more than thirty per cent of the lots may have an area less than 20,000 square feet (see Section 304).

205.2—Front Yard—For dwellings, the front building line shall be not less than 40 feet from the front lot line and not less than 65 feet from the center line of the street, except as specified in Section 303.1; for other principal buildings—60 feet from the front lot line and not less than 85 feet from the center line of the street, except as in Section 303.1.

205.3—Side Yards—For dwellings, 15 feet wide, except that for a corner lot the building line along the side street shall be not less than 40 feet from the side lot line and not less than 65 feet from the center line of the street; for other principal buildings—30 feet wide, except that for a corner lot the building line along the side street shall be not less than 50 feet from the side lot line and not less than 75 feet from the center line of the street.

205.4—Rear Yard—40 feet deep.

R. 10 Zone = Residence-

Section 206—USE REGULATIONS

The following uses only are permitted:

206.1—Uses permitted and as limited in R. 40 Zone.

206.2 — Special Exceptions — The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Boat yard and/or marine railway;
Boarding or rooming houses;
Cemetery;
Conservatory, music and arts;
Convalescent home;
Excavations, controlled (see Section 403);
Funeral establishment;
Hospital, Class B (see Section 407);
Kennel, as limited in Section 200.15;
Poultry, commercial killing of, but only on a farm (see Section 404);
Private colleges, nursery or dancing schools, dormitories, fraternity and sorority houses, but excluding business and trade schools;
Public Utility uses other than those noted in Section 200.11 (see Section 411);
Radio studio;
Sanitary landfill (see Section 412);
Television studio;
Tourist home;
Trailer Park, conditioned as in Section 414;
Volunteer fire company;
Wireless transmitting and receiving structure.

Section 207—HEIGHT REGULATIONS:

Same as R. 40 Zone.

Section 208—AREA REGULATIONS

Minimum requirements, except as provided in ARTICLE 3, shall be as follows:

208.1—Lot Area and Width—Each principal building hereafter erected shall be located on a lot having an area of not less than 10,000 square feet and a width at the front building line of not less than 70 feet, except that for seven or more lots in the same ownership, and in the same tract, a minimum lot area of 8,000 square feet is permitted, if the average of all the lot sizes in the same ownership and in the same tract equals 10,000 square feet or more, but not more than fifteen

Forge Acres Data With Build Dates

	Forge Acres Development Northwest of I-95											
	Source: Baltimore County "My Neighborhood"											
Ser	# / Street	Above Ground Sq Feet	Lot Square Feet	Prime Res.	Date of Vaiance Granted	Nature of Variance						Year Built
1	5201 Bangert St	1,140	19,900	Yes	1979	Variance requested for addition of a garage to existing house						1958
2	5203 Bangert St	1,620	19,303	Yes	2005	Variance requested for addition to existing house						1953
3	5205 Bangert St	1,440	13,286	Yes	1978	Variance requested for addition to existing house						1953
4	5206 Bangert St	1,651	19,500	Yes								1959
5	5207 Bangert St	1,351	20,000	Yes								1957
	5208 Bangert St	1,604	19,500	Yes	2006	Variance for construction of an in-law addition						1957
	5209 Bangert St	1,534	30,000	Yes								1950
8	5209 Bangert St	1,128	20,000	Yes								1950
9	5210 Bangert St	1,330	19,500	Yes								1953
10	5211 Bangert St	1,400	28,000	Yes								1959
11	5212 Bangert St	980	28,368	Yes								1955
12	5213 Bangert St	1,260	22,500	Yes								1952
13	5213 Bangert St	1,891	32,000	Yes								1952
14	5214 Bangert St	1,710	16,000	Yes								1963
15	5216 Bangert St	1,275	24,000	Yes								1952
16	5217 Bangert St	2,007	16,000	Yes								1952
17	5218 Bangert St	1,008	20,000	Yes								1963
18	5220 Bangert St	1,372	20,000	Yes								1960
19	5224 Bangert St	1,577	34,221	Yes								1954
	5300 Bangert St	1,504	23,049	Yes								1953
21	5302 Bangert St	1,428	18,128	Yes								1961
22	5303 Bangert St	2,059	40,075	Yes								1954
23	5304 Bangert St	1,064	26,872	Yes								1953
24	5306 Bangert St	1,584	15,000	Yes								1961
25	5307 Bangert St	1,632	40,075	Yes								1947
26	5308 Bangert St	1,593	15,000	Yes								1962
27	5310 Bangert St	1,020	15,000	Yes								1956
28	5311 Bangert St	1,750	40,075	Yes								1953
29	5312 Bangert St	1,256	15,000	No								1971
30	5315 Bangert St	1,378	38,000	Yes								1955
31	5316 Bangert St	1,242	40,075	Yes								1952
32	5318 Bangert St	1,170	20,000	Yes								1956

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6

	Forge Acres Development Northwest of I-95											
	Source: Baltimore County "My Neighborhood"											
Ser	# / Street	Above Ground Sq Feet	Lot Square Feet	Prime Res.	Date of Vaiance Granted	Nature of Variance						Year Built
33	5319 Bangert St	950	21,624	Yes								1952
34	5400 Bangert St	1,200	20,100	Yes								1956
35	5402 Bangert St	1,784	24,400	Yes								1954
36	5404 Bangert St	1,140	24,304	Yes								1956
37	5405 Bangert St	2,496	20,255	Yes	1993	Variance for constuction DENIED						1999
[illegible]	5411 Bangert St	1,212	18,228	No								1949
	5412 Bangert St	1,188	30,000	Yes	1975	Variance requested for addition a carport to existing house						1971
40	5413 Bangert St	1,540	57,063	No								1952
41	5414 Bangert St	2,697	20,000	Yes	2006	Variance requested for addition to existing house						1957
42	5415 Bangert St	1,664	20,000	Yes								1953
43	5416 Bangert St	1,660	20,000	Yes	2009	Variance requested for addition of garage						1954
44	5417 Bangert St	1,740	20,000	Yes								1972
45	5200 Bush St	2,007	38,606	Yes								1952
46	5205 Bush St	2,060	80,150	Yes								1954
47	5206 Bush St	1,458	60,112	Yes								1953
48	5209 Bush St	3,020	81,021	Yes	2001	Variance requested due to wetlands						2003
49	5210 Bush St	4,812	40,075	Yes								2007
50	5211 Bush St	2,360	40,000	Yes								1953
51	5212 Bush St	2,003	40,075	No								1952
	5215 Bush St	768	20,000	Yes								1952
53	5217 Bush St	706	15,000	Yes	2006	Variance requested due to garage larger than house						1958
54	5219 Bush St	1,812	43,218	Yes								1958
55	5300 Bush St	1,588	38,612	Yes								1953
56	**5301 Bush St**	**1686**	**36,839**		**SUBJECT PROPERTY**	Dwelling Rized in 2017						1951
57	5303 Bush St	1,260	15,000	Yes								1960
58	5304 Bush St	2,352	30,000	Yes								1953
59	5305 Bush St	1,209	15,000	Yes								1959
60	5307 Bush St	1,170	20,000	Yes								1954
61	5308 Bush St	1,676	40,075	Yes								1955
62	5309 Bush St	1,450	20,000	Yes								2004
63	5311 Bush St	1,350	18,000	No								1962
64	5312 Bush St	1,956	40,075	Yes								1953

	Forge Acres Development Northwest of I-95											
	Source: Baltimore County "My Neighborhood"											
Ser	# / Street	Above Ground Sq Feet	Lot Square Feet	Prime Res.	Date of Vaiance Granted	Nature of Variance						Year Built
65	5313 Bush St	1,599	22,000	No								1957
66	5315 Bush St	2,002	40,075	Yes								1954
67	5316 Bush St	1,559	40,070	Yes								1952
68	5400 Bush St	1,816	32,634	Yes								1955
69	5401 Bush St	912	20,696	Yes								1954
--	5403 Bush St	2,560	19,900	Yes								1959
	5404 Bush St	1,204	17,000	Yes								1961
72	5405 Bush St	1,215	20,000	Yes								1959
73	5406 Bush St	976	15,000	Yes								1973
74	5407 Bush St	1,414	50,529	Yes								1954
75	5408 Bush St	1,776	15,000	Yes								1973
76	5410 Bush St	2,904	31,914	Yes								1954
77	5123 Forge Rd	1,040	16,770	Yes	1993	Variance requested for construction due to septic system						1993
78	5125 Forge Rd	1,136	14,600	Yes	1992	Variance requested for construction due to septic system						1993
79	5201 Forge Rd	1,810	29,200	Yes								1955
80	5207 Forge Rd	1,215	13,468	Yes								1959
81	5219 Forge Rd	896	36,309	Yes								1953
82	5301 Forge Rd	2,080	28,959	Yes								1952
83	5307 Forge Rd	2,080	21,750	Yes								1949
	5309 Forge Rd	1,248	15,000	Yes	2012	Variance for pigeon coop						1949
85	5311 Forge Rd	2,418	20,000	Yes								2003
86	5313 Forge Rd	1,020	20,000	Yes								1956
87	5315 Forge Rd	3,240	20,000	Yes								1956
88	5317 Forge Rd	1,980	15,000	Yes								1950
89	5319 Forge Rd	1,628	15,000	Yes								1958
90	5321 Forge Rd	1,359	15,000	Yes								1955
91	5323 Forge Rd	1,848	14,500	Yes								1957
92	5401 Forge Rd	1,721	19,008	No								1955
93	5403 Forge Rd	2,032	16,502	Yes								2014
94	5407 Forge Rd	1,984	22,496	Yes								1957
95	5411 Forge Rd	1,176	18,750	Yes								1957
96	5413 Forge Rd	1,746	15,000	Yes	2000	Variance requested to construct addition to existing house						1958

	Forge Acres Development Northwest of I-95											
	Source: Baltimore County "My Neighborhood"											
Ser	# / Street	Above Ground Sq Feet	Lot Square Feet	Prime Res.	Date of Vaiance Granted	Nature of Variance						Year Built
97	5415 Forge Rd	1,579	15,000	Yes								1955
98	5417 Forge Rd	1,623	15,000	Yes								1954
99	5419 Forge Rd	1,960	15,000	Yes	2005	Variance requested to construct a garage addition						1961
100	9704 Gaylord St	2,686	38,612	Yes								1952
101	9708 Gaylord St	3,060	18,624	Yes								1953
[illegible]	9710 Gaylord St	1,268	19,700	Yes								1953
	5300 Palomino St	1,456	24,684	Yes								1953
104	5301 Palomino St	1,840	27,300	Yes								1954
105	5304 Palomino St	1,268	40,075	Yes								1953
106	5305 Palomino St	1,788	40,075	Yes								1953
107	5308 Palomino St	3,236	40,075	Yes								1952
108	5309 Palomino St	2,198	20,000	Yes								1996
109	5311 Palomino St	3,200	20,000	Yes								2006
110	5312 Palomino St	1,512	40,075	No								1954
111	5314 Palomino St	2,064	41,817	Yes								1945
112	9600 Winkler St	2,128	38,809	Yes								2001
113	9700 Winkler St	2,013	24,034	Yes	2017	Variance requested for side yard setback						2017
114	9702 Winkler St	1,188	15,000	Yes								1961
115	9704 Winkler St	1,298	19,000	Yes								1959
	9706 Winkler St	2,688	19,109	Yes								2007
[illegible]	9707 Winkler St	1,352	27,974	Yes								1953
	Average	1,683	26,225									
	Median	1,588	20,000									
16	Variance requests											
5	Variance requests for construction of new residence											
2	To allow for septic system (prior to public sewer)											
1	To allow for wetlands											
1	Side yard setback - reconstruction of rancher - childhood home of owner											

	Forge Acres Development Northwest of I-95										
	Source: Baltimore County "My Neighborhood"										
Ser	# / Street	Above Ground Sq Feet	Lot Square Feet	Prime Res.	Date of Vaiance Granted	Nature of Variance					Year Built
1	Setbacks protested by neighbors - denied										
11	To allow for additions to existing homes										

BALTIMORE COUNTY
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS
DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC# 010218-LLA2 Tracking# DRC-2017-00185
County Use Only County Use Only

RECEIVED
DEC 07 2017
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS

Filing Date: _____
Stamp in w/PAI date stamp here

This application must be accompanied by the following:

1. **One copy of the completed DRC checklist.**
2. **Three copies of this DRC application, completed in full.**
3. **Three copies of a letter of request (attach one to each DRC application).**
4. **Nine copies of the plan folded to 8 ½ x 11 inches.**
5. **$100 fee for limited exemption request; $375 for waiver request (check made payable to Baltimore County, MD and are non-refundable; Applicant shall deliver check to County Finance Office cashier. Submit paid receipt w/package.**

Project Name: Wadkins Construction, Inc. Property PAI File No.: _____

Project Address: 5301 Bush Street Zip Code: 21162 ADC Map #: 30 A 4

Councilmanic District: 5 Election District: 11 Project Acreage: Lot 1 0.66 and Lot 2 0.23 (original)

Tax Account No(s): 1110047220 Zoning: DR2

Engineer: kjWellsInc N/A: ____ Engineer's Phone No.: 410-592-8800

Address: 7403 New Cut Road (City) Zip 21087 Email: kwells@kjwellsinc.com

Applicant: Howard Wadkins Applicant's Phone No.: 443-623-3094

Address: 1605 Honeysuckle Court (City) Zip 21410 Email: wadkinscoinc@yahoo.com

Attorney: _____ N/A: ____ Attorney's Phone No.: _____

Address: _____ (City) Zip _____ Email: _____

Is this a tower? ☐ Yes ☑ No If "Yes" check one of the following: Cellular ____ (CAC) Water Tower ____ (WTC) MonoPole ____ (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

(County Use only)
Action: _____

- ◉ Limited Exemption under Section 32-4-106 (a) (1) (viii)
- ○ Plan Refinement
- ○ Planned Shopping Center Designation under Section 101 of BCZR
- ○ Waiver under Section 32-4-107 (____) (____) (____)
- ○ Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
- ◉ Lot Line Adjustment (LLA)
- ○ Other _____

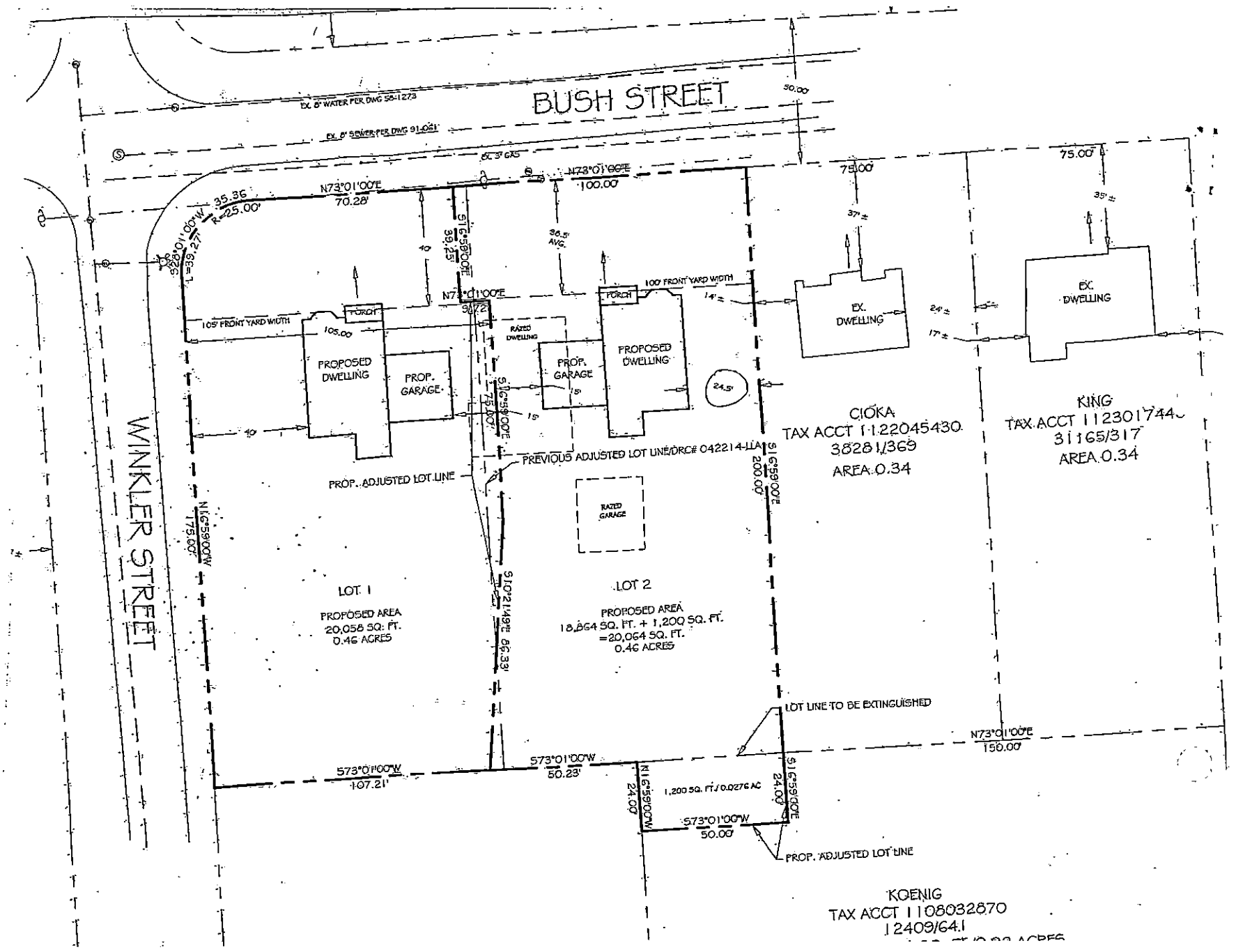
This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request. A copy of the checklist must be completed and included along with this DRC application. Please note that a DRC application form and checklist is available in room 123 of the County Office Building and on the County web site www.baltimorecountymd.gov/Agencies/permits/pdm~devmanage/pdmfdmgt.html

Please see page 2 for the checklist of complete submittal requirements

c: Council, Planning, DEPS, Zoning

People's Counsel
CBA Exhibit
7

07/13


BUSH STREET
EX. 8" WATER PER DWG 56-1273
EX. 8" SEWER PER DWG 91-061
EX. 3" GAS
50.00
N73°01'00"E
70.28'
35.35
R=25.00'
S16°59'00"E
39.25'
N73°01'00"E
100.00'
75.00'
36.5' AVG.
40'
105' FRONT YARD WIDTH
105.00'
PORCH
PROPOSED DWELLING
PROP. GARAGE
RAZED DWELLING
PROP. GARAGE
PROPOSED DWELLING
100' FRONT YARD WIDTH
PORCH
EX. DWELLING
EX. DWELLING
37'±
35'±
24'±
17'±
14'±
24.5'
15'
15'
40'
S16°59'00"E
175.00'
S16°59'00"E
200.00'
PREVIOUS ADJUSTED LOT LINE/DRC# 042214-LIA
PROP. ADJUSTED LOT LINE
RAZED GARAGE
N16°59'00"W
175.00'
S10°21'49"E
66.33'
LOT 1
PROPOSED AREA
20,058 SQ. FT.
0.46 ACRES
LOT 2
PROPOSED AREA
18,864 SQ. FT. + 1,200 SQ. FT.
=20,064 SQ. FT.
0.46 ACRES
CIOKA
TAX ACCT 1122045430
3828 1/369
AREA 0.34
KING
TAX ACCT 1123017440
3116 5/317
AREA 0.34
LOT LINE TO BE EXTINGUISHED
S73°01'00"W
107.21'
S73°01'00"W
50.23'
N16°59'00"W
24.00'
1,200 SQ. FT./0.0276 AC
S16°59'00"E
24.00'
S73°01'00"W
50.00'
N73°01'00"E
150.00'
PROP. ADJUSTED LOT LINE
KOENIG
TAX ACCT 1108032870
12409/641

From: **Diane Brazil** brazilfam@comcast.net
Subject: Opposing 5301 Bush St LLA granting
Date: December 30, 2017 at 8:48 PM
To: peter Max Zimmerman pzimmerman@baltimorecountymd.gov, ajablon@baltimorecountymd.gov, Darryl D Putty dputty@baltimorecountymd.gov, jmcook@baltimorecountymd.gov
Bcc: angie Acioka@albancat.com, drummergurl1381@aol.com, **Karen PHIA Harms** Karen@HarmsHomes.com, **Jack Amrhein** pmjpa@aol.com, **John & Cathy Lochary** jtlochary@verizon.net, **Steve Zdziera** stevenzdziera@gmail.com, **Nitsa Zdziera** ellie025@aol.com, judyearle@hotmail.com, **Donna Welch** penelopepitstop1@aol.com, kimberlyahewitt@aol.com, **pluemer greg** gpluemer@cbmove.com, **diane Winkler** winklerfive@hotmail.com

I am writing about a case that is scheduled **Tuesday Jan 2, 2018 at 2 PM - 3 PM**. I **strongly oppose** the Lot Line Adjustment approval for:

Wadkins Construction, Inc.
5301 Bush Street
White Marsh, MD 21162
DRC # 010218-LLA2
Tracking # DRC-2017

The developer, Mr. Wadkins, purchased this land 10/28/2016. One individual house occupied the lot with a detached garage. Back in 4/18/2014, before the purchase, he requested a Lot Line Adjustment which was **provisionally granted subject to the zoning**. Before proper zoning or approval he excavated the lot to bare dirt destroying everything on the lot even mature trees.

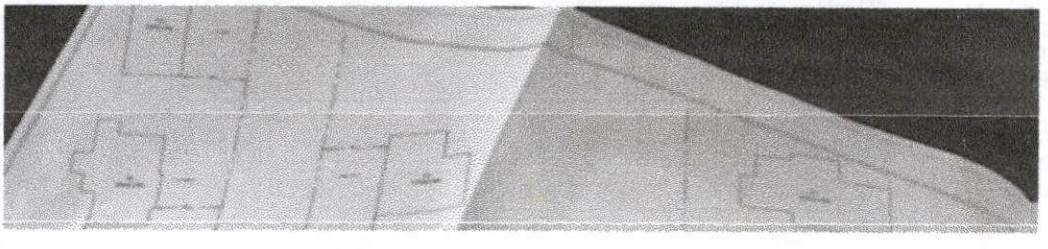
July 10, 2017 Judge Beverungen of the Office of Administrative Hearing, **Denied** the petition for zoning variances. Case No. 2017-0313-A

After doing research, I was told by Baltimore County, Wadkins Construction Inc. acquired additional land. A piece of land 24' X 50' 1,200 sq. ft. from Mr. Koenig at 5304 Palomino St., south of the property. After more research I was told W. Carl Richards Jr. already wrote a letter approving that no variances is needed now the lot is bigger, therefore, the Lot Line Adjustment can be granted.

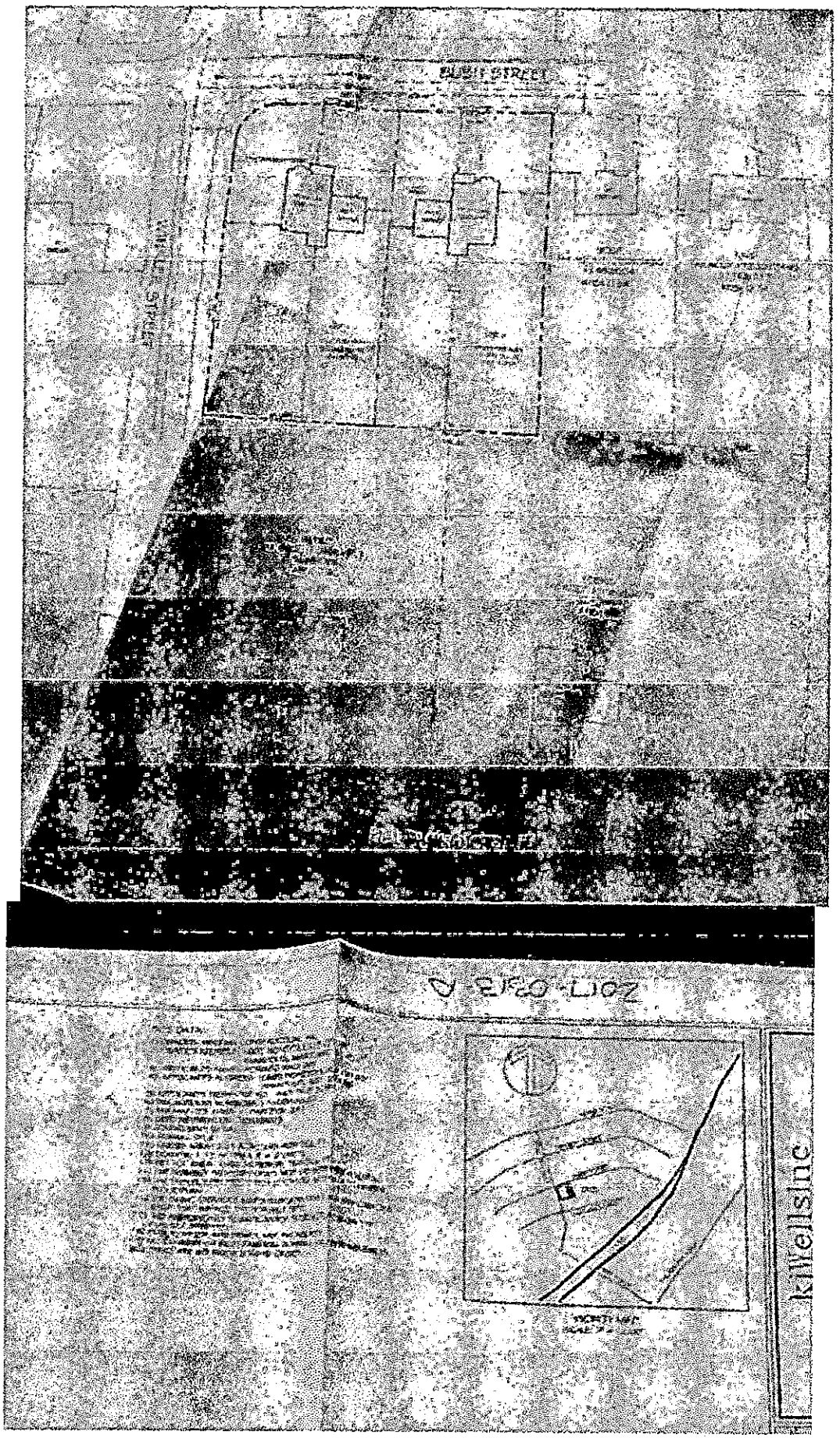
I spoke to Mr. Koenig today and he told me he did not sell his land to Mr. Wadkins. They did agree on a dollar amount, BUT he does not have a closing date.

Even with the additional 1,200 square feet, if it is actually purchased, the public records (Assessment & Taxation) show the original property land area is 36,839 sq. feet. This does not add up to 40,000 sq. ft. that is needed to build two houses, not to mention how does a small rectangle piece of property **IF** purchased in the back of the corner of the lot satisfy the set back variance once asked for and denied. Please see a copy of the lot with the property lines below. You can see just a small amount of Mr. Koenig's property touches Mr. Wadkins property. I just don't understand.

I feel, because this lot is located in a mature community that does not have sidewalks or curbs, when the measurements of the property is calculated net lot area should be used NOT gross area or any other amount of land that is sometimes used.



People's Counsel
CBA Exhibit
8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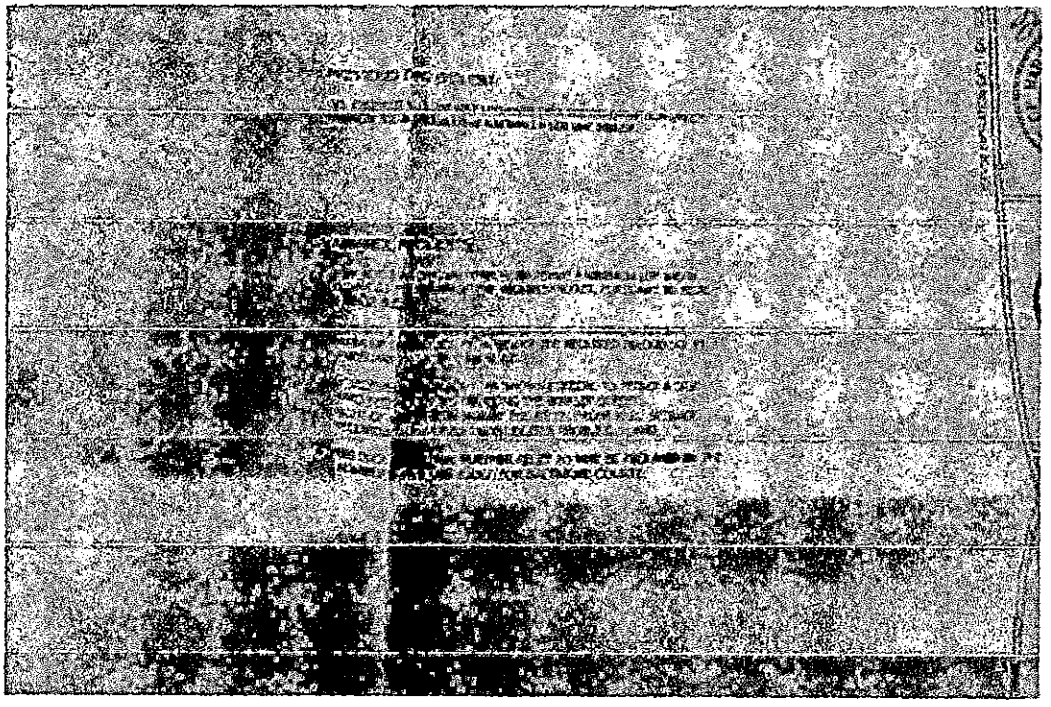


This is a very important matter for our neighborhood. The area is mostly ranchers on large lots. Please do not allow over development without proper zoning and not enough land. If this is permitted it will give the green light to this developer and others developers to do the same throughout Baltimore County.

Thanks you for your time.
Diane Brazil
410-428-2283

From: Diane Brazil brazilfam@comcast.net
Subject: 5301 Bush St. Watkins Construction
Date: January 3, 2018 at 10:30 PM
To: ajablon@baltimorecountymd.gov, Jan Cook jmcook@baltimorecountymd.gov, Darryl D Putty dputty@baltimorecountymd.gov, peter Max Zimmerman pzimmerman@baltimorecountymd.gov
Cc: john & Cathy Lochary jtlochary@verizon.net, Steve Zdziera stevenzdziera@gmail.com, Nitsa Zdziera ellie025@aol.com, Angie Acioka@albancat.com, kimberlyahewitt@aol.com, Donna Welch penelopepitstop1@aol.com, judy Earle judyearle@hotmail.com, diane Winkler winklerfive@hotmail.com, PHIL WINKLER prw3823@msn.com, pluemer greg gpluemer@cbmove.com, Karen PHIA Harms Karen@HarmsHomes.com, Jack Amrhein pmjpa@aol.com
Bcc: Al Brazil Albert.W.Brazil@bge.com, Amy Brazil amybrazil5@gmail.com

Mr Jablon,

I am writing to you in regards to 5301 Bush St. the Wadkins Construction property. It is my understanding you are somewhat familiar with the case. I just wanted to summarize the history of the case and my concerns in one email and ask you to explain what is going on. Mr. Richards was kind enough to try and explain it to me in the past two emails, but I just don't understand.

April 18, 2014 BEFORE Mr. Wadkins purchased the property Mr. Wadkins requested a DRC meeting for a LLA which was provisionally granted subject to the zoning.

October 28, 2016 Mr. Wadkins purchased the property. One individual house occupied the lot with a detached garage.

March 2017 the property was excavated to bare dirt destroying everything on the lot even mature trees.

July 10, 2017 Judge Beverungen of the Office of Administrative Hearing Denied the petition for all zoning variances.

1. For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu or the required 100 ft.
2. For Lot 2 as shown on the site plan, to permit a minimum met lot area of 18,922 sq. ft. in lieu of the required 20,000
3. If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement.
4. For such other further relief as may be required by the ALJ for Baltimore County

Fall of 2017 - There were many postponement and reassignment dates for the Board of Appeal Hearing with the last one scheduled for November 15, 2017 which was postponed. This case has no scheduled reassignment date.

Jan 2, 2018 A new DRC meeting for the LLA is held. Mr. Wadkins claims he acquired additional land. A 24" X 50" 1,200 sq ft piece from Mr. Koenig at 5304 Palomino St., south back corner of the property. Zoning, Mr. Richards, wrote a letter saying the variance are met due to acquiring the additional land. Mr. Wadkins submitted a new plan.

MY CONCERNS:

1. The claimed additional piece of land Mr. Wadkins states he purchased is not purchased. Mr. Koenig did not sell Mr. Wadkins the property. They did agree of a dollar amount, that is it. No closing date.

2. Baltimore County Tax and Assessment records state the size of the property is 36,839 sq ft. Mr. Wadkins' surveyor states it is 38,864 sq. ft. There is no listed property size on the last

People's Counsel
CBA Exhibit
9

two recorded deeds for 5301 Bush St. This figure is 2,000 sq. ft. in favor of Mr. Wadkins. If the Baltimore Co. tax and assessment record is correct the additional claimed purchased land amount still is not enough land to satisfy #2 requested variance - the minimum met lot area.

3. If the additional property is purchased, it is on the back of the property. How does this satisfy #1 requested variance - minimum lot width? How can adding a rectangle on the very back corner change the width of the property and satisfy Baltimore County's width requirement of 100 ft.

Attached is a copy of Judge Beverungen's denial notice. The original site plan. And the second site plan. I have copies of everything else that I mentioned in this email if you would like me to send them to you.

A group of my neighbors and myself have been watching this case very closely. We are very concerned with the proposed 2 large houses on the corner, basically the entranceway into our neighborhood. This developer knew from the beginning the property was not properly zoned for his extravagant plans. Judge Beverungen denied what he was asking for in July. Mr Wadkins knew he was not going to win the appeal with the opposition from 15 plus neighbors, the local community association support, as well as the help from the Baltimore County People's Counsel. Mr. Wadkins is now attempting to expedite his plan through the DRC meeting. Can you please help me to understand my above stated concerns? If it would be easier I can come into your office at your convenience. Please don't allow this developer to have his plans approved if it does not meet all of Baltimore County zoning requirements.

I truly appreciate you looking into this case.

Diane Brazil
410-428-2283

Diane Brazil
410-428-2283

variance. Under Maryland law, a variance should be granted "sparingly" since it is "an authorization for [that] ...which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 669. As such, I believe the petition must be denied.

THEREFORE, IT IS ORDERED, this 11th day of July, 2017, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as

PERRY HALL IMPROVEMENT ASSOCIATION, INC.
P.O. Box 63, Perry Hall, Maryland 21128-0063 perryhallmail@gmail.com
www.perryhallmaryland.org

June 19, 2018

Mr Pete Zimmerman

Re: Zoning Case 2017-0313-A

Mr Zimmerman

My name is Jack Amrhein, and I am the president of The Perry Hall Improvement Association.

I am out of town at a work related convention and unable to attend the zoning hearing meeting on June 20, 2018.

I believe you have copies of both my previously submitted letter of opposition as well as the affidavit stating our opposition to the variance request for the property 5301 Bush St.

It was then, and still is, our position that the property does not qualify for a variance.

In citing *Cromwell v Ward*, we don't believe this is a unique property including its shape, topography, subsurface conditions, environmental factors or historical significance.

In the Baltimore County Master Plan, the Perry Hall / White Marsh area is no longer a designated growth area, rather it is now a conservation area. The community is an older, quiet neighborhood and the building of 2 newer, taller, out of character houses would change the scenic vista of this community, especially as the property is located at what could be considered an 'entrance' to the community.

Based on the current zoning, the property does not meet the size requirements for 2 single family dwellings. I am also aware there was the potential that the land owner was attempting to purchase additional land to add to the property, but it is my understanding that this did not happen. That being said, it is the position of the PHIA in this and generally all other variance requests that current zoning laws be followed and enforced and that no variance is issued for this property.

If you have any questions, please don't hesitate to contact me.

Very truly yours,

Jack Amrhein
Jack Amrhein
President, Perry Hall Improvement Association

People's Counsel
CBA Exhibit
10A

Perry Hall Improvement ASSOCIATION

RESOLVED: That at the BOARD October ~~12~~ meeting of the Perry Hall Improvement Association held on October 12, 2017 [DATE], it was decided by the Association that responsibility for review and action on all zoning matters for the period 2017 / 2019 be placed in the (Board of Directors) (Zoning Committee) consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

Jack Amrien
Karen Harms
Renee Papavasiliou
Tom Benisch
Salim Barrouk
Jose Rivas

AS WITNESS OUR HANDS AND SEAL THIS 12th day of October, 2017

ATTEST: Perry Hall Improvement Association

Renee Papavasiliou
Secretary

President

People's Counsel
CBA Exhibit
10

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the (Board of Directors) (Zoning Committee) of the Perry Hall Improvement Association Association.

ATTEST: Perry Hall Improvement Association

Secretary

President

DATE: 10-12-2017

Penn Hall Improvement ASSOCIATION

RESOLVED: That the position of the PHIA Association as adopted by the (Board of Directors) (Zoning Committee) on the zoning matter known as:

is that:

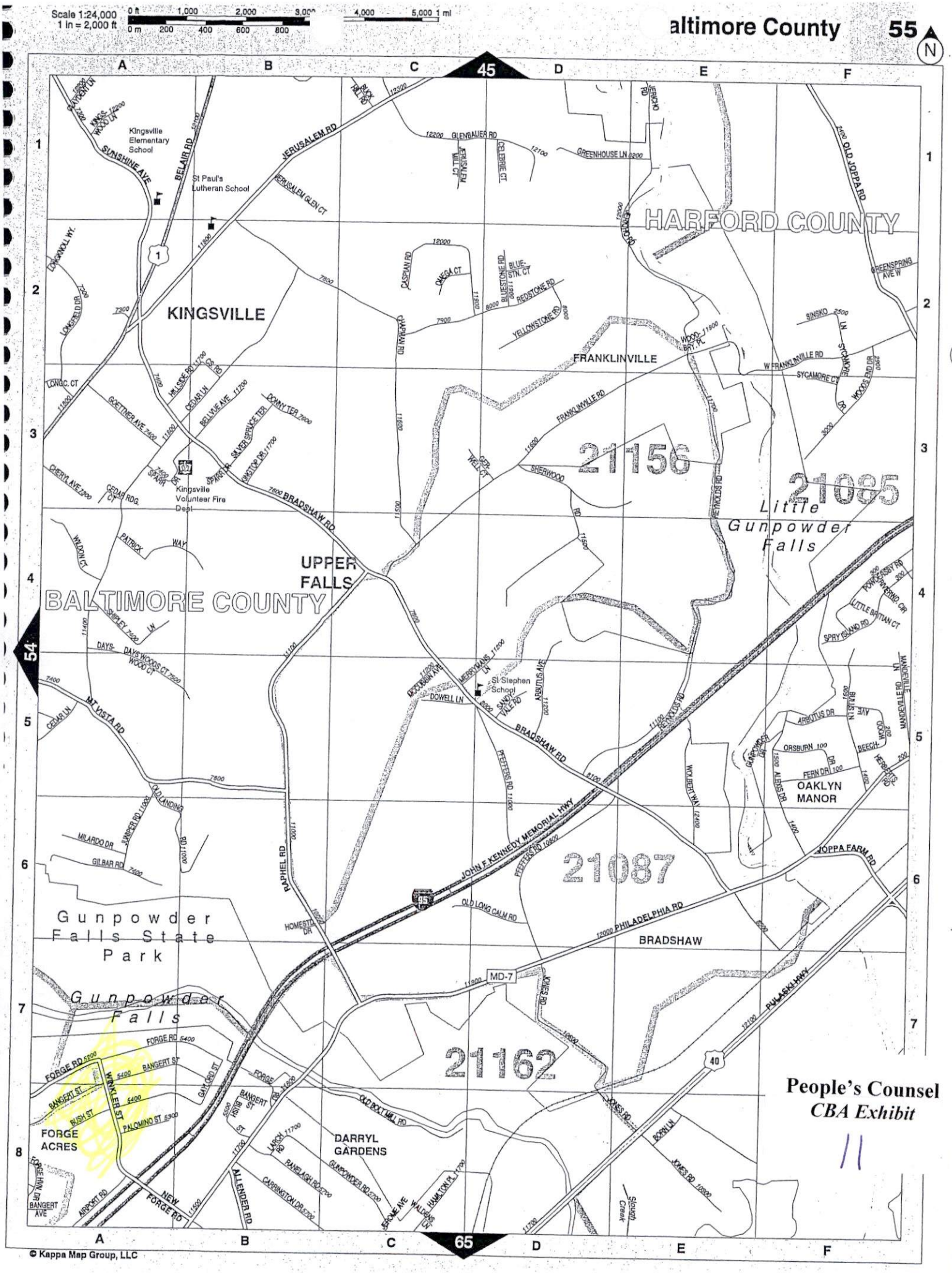
Support existing zoning and rules and do not support the variance

AS WITNESS OUR HANDS AND SEAL THIS 12TH day of October, 2017.

ATTEST: PHIA Association

Renee Lapradelion
Secretary

President


Scale 1:24,000
1 In = 2,000 ft
0 ft 1,000 2,000 3,000 4,000 5,000 1 mi
0 m 200 400 600 800
altimore County
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N
45
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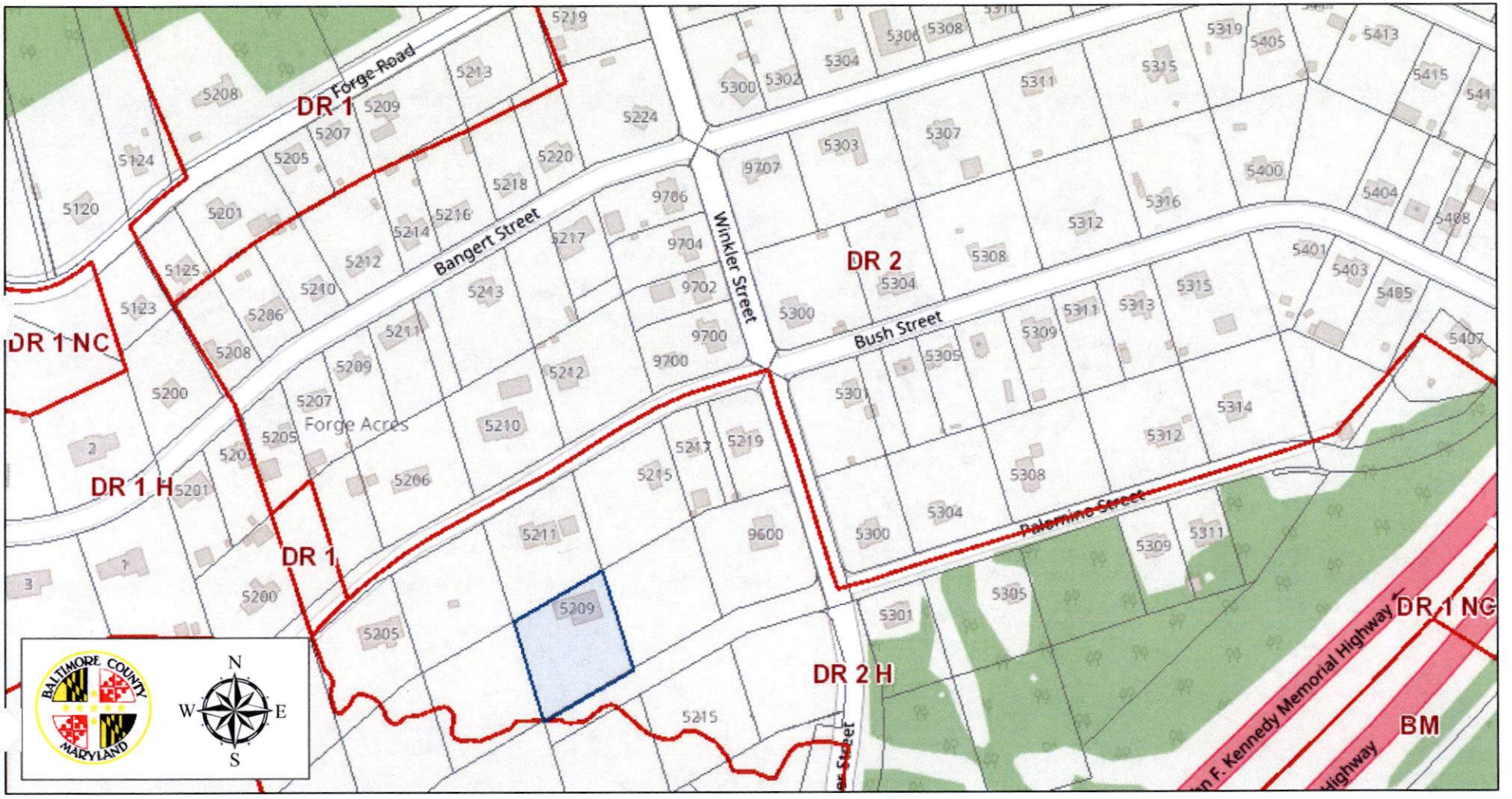
A B C D E F
1 2 3 4 5 6 7 8
HARFORD COUNTY
BALTIMORE COUNTY
KINGSVILLE
FRANKLINVILLE
UPPER FALLS
BRADSHAW
OAKLYN MANOR
DARRYL GARDENS
FORGE ACRES
Gunpowder Falls State Park
Gunpowder Falls
Little Gunpowder Falls
21156
21085
21087
21162
Kingsville Elementary School
St Paul's Lutheran School
Kingsville Volunteer Fire Dept
St Stephen School
JERUSALEM RD
BELAIR RD
BRADSHAW RD
PAPHEL RD
JOHN F KENNEDY MEMORIAL HWY
PHILADELPHIA RD
OLD LONG CALM RD
OLD BOLT MILL RD
JOPPA FARM RD
PULASKI HWY
MD-7
People's Counsel
CBA Exhibit
11
© Kappa Map Group, LLC

Baltimore County - My Neighborhood



October 26, 2017

Legend

- House Numbers
- Zoning
- Property
- County Boundary

0 0.035 Miles

1 inch = 376 feet

People's Counsel
CBA Exhibit
12

Robert David Duvall

From: Peoples Counsel
Sent: Monday, October 30, 2017 1:07 PM
To: Robert David Duvall
Subject: Zoning History Request for 5301 Bush Street, White Marsh MD 21162

Mr. Duvall,

Our office kindly requests the zoning history from 1976 to present for 5301 Bush Street. 21162. Please include copies of each four year map for the property.

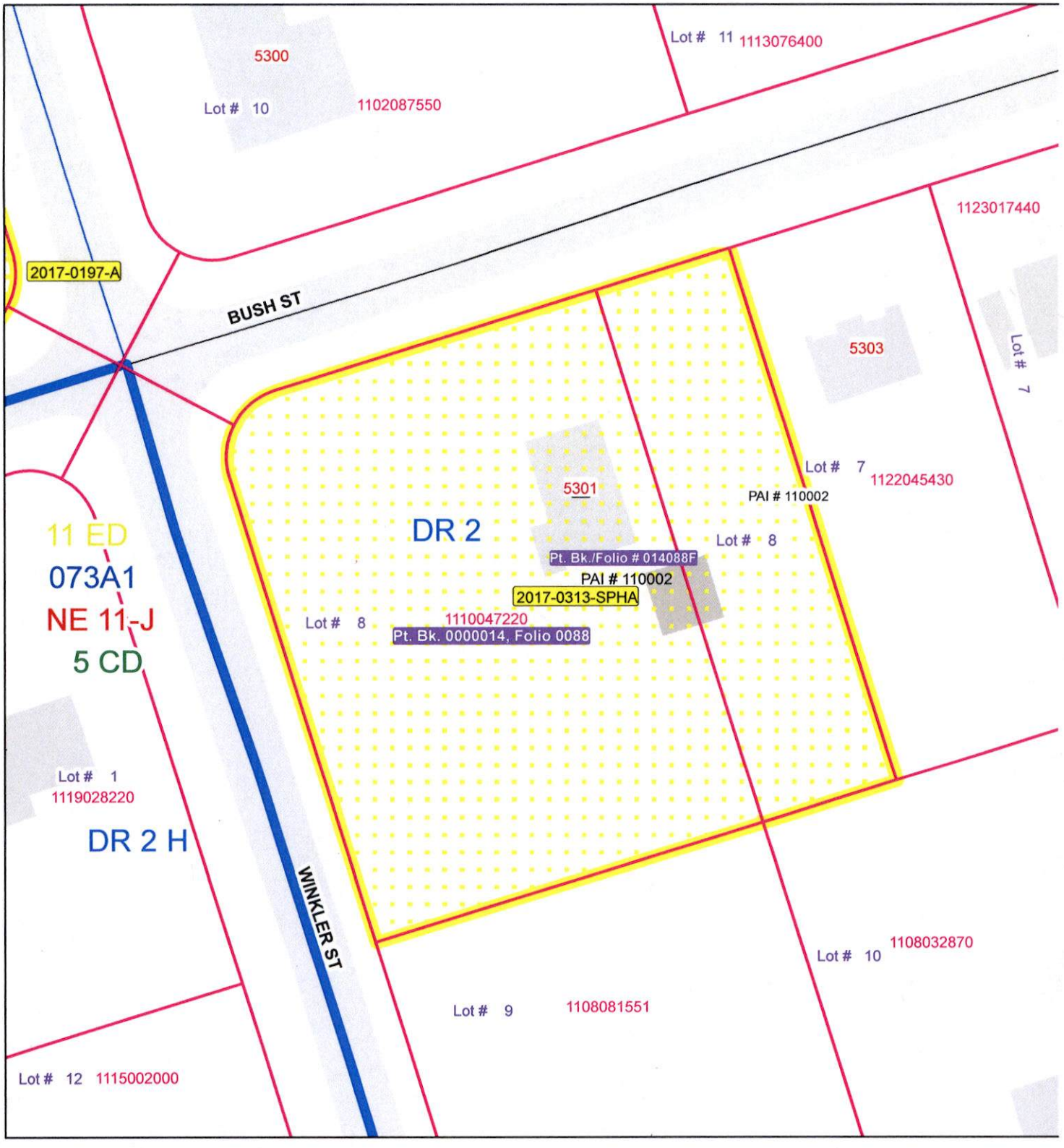
The tax account for the property is 1110007220. The property is owned by Wadkins Construction, Inc. Please let me know if you need further information. The Board of Appeals hearing is November 15, 2017 so we would like the history by November 13, 2017.

Thank you in advance for your consideration.

Rebecca M. Wheatley, Legal Secretary
People's Counsel for Baltimore County
105 West Chesapeake Avenue, Suite 204
Towson, Maryland 21204
(410) 887-2189 Direct Dial
(410) 887-2188 Office
(410) 823-4236 Fax

People's Counsel
CBA Exhibit
13

5301 Bush Street



Publication Date: 10/30/2017

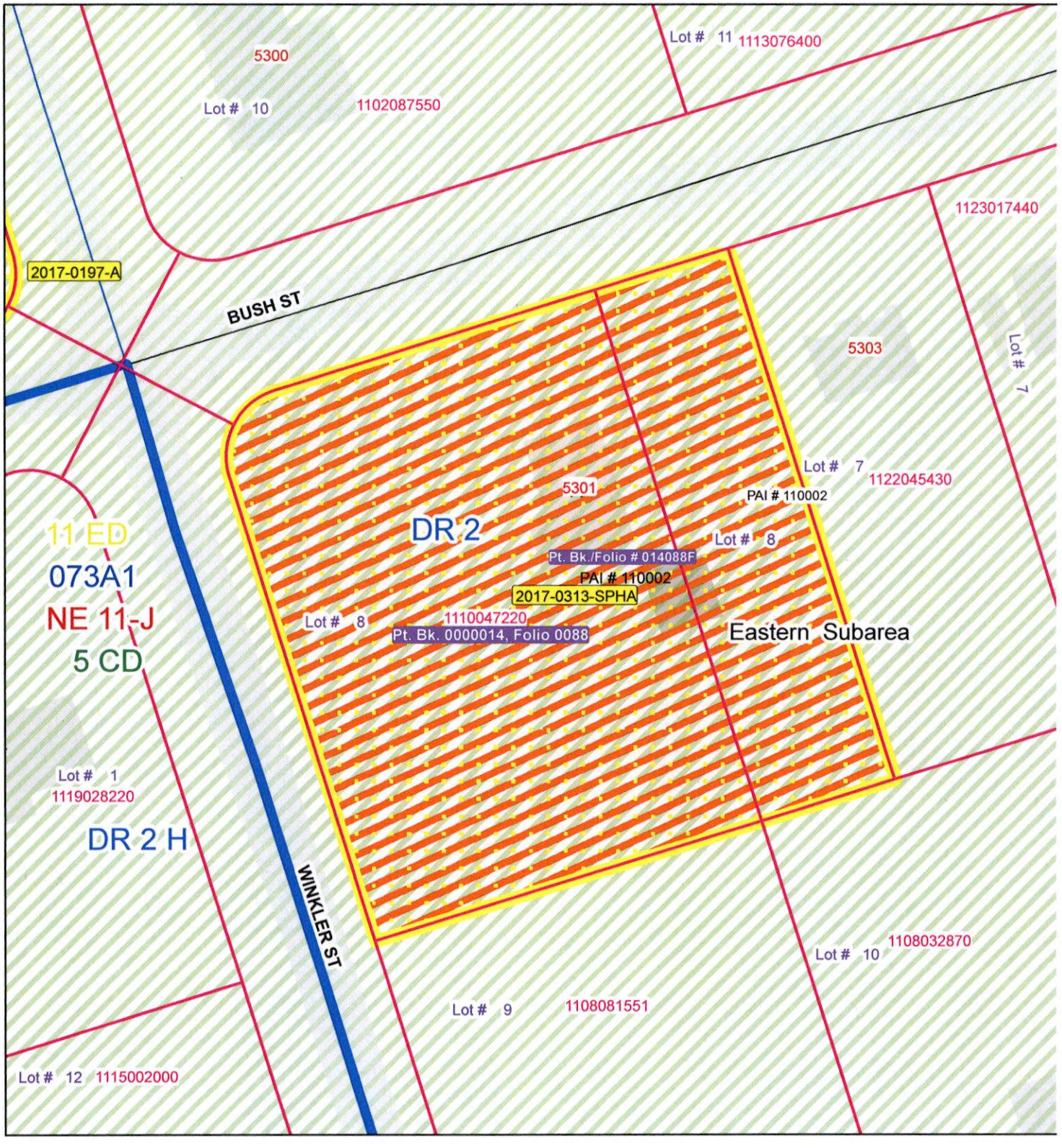
Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

N
W E
S

0 12.525 50 75 100 Feet

1 inch = 50 feet

5301 Bush Street



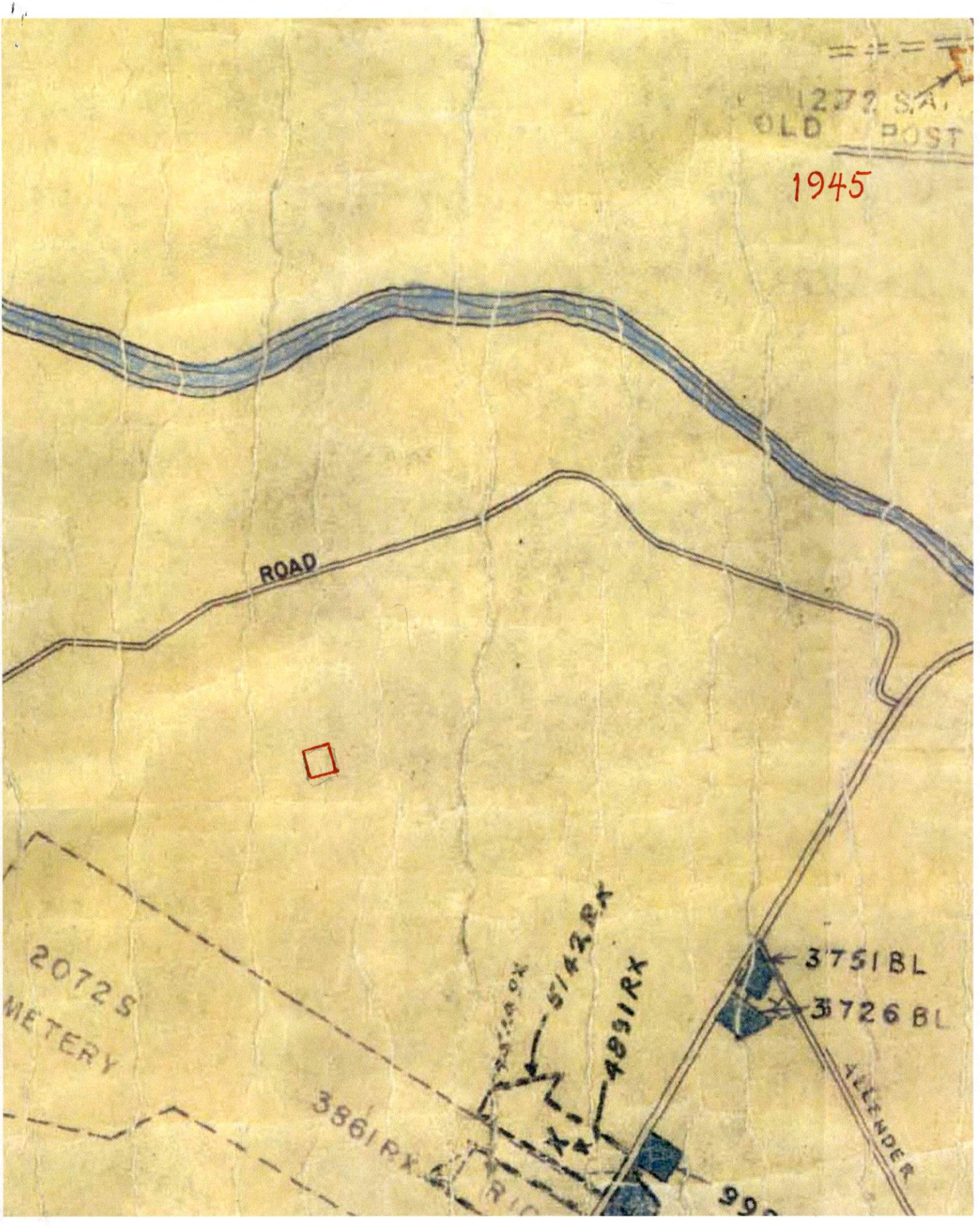
Publication Date: 10/30/2017

Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

N W E S

0 12.525 50 75 100 Feet

1 inch = 50 feet


1272 S.A.
OLD POST
1945
ROAD
2072 S
METERY
3861 RX
5142 RX
4891 RX
3751 BL
3726 BL
ALEXANDER

PART OF ZONING DISTRICT NO. 11

ZONING DEPARTMENT ÷ BALTIMORE COUNTY

USE DISTRICT MAP

ELEVENTH ELECTION DISTRICT OF BALTIMORE COUNTY
SECTION "C"

SCALE

0 1000 2000 3000 4000

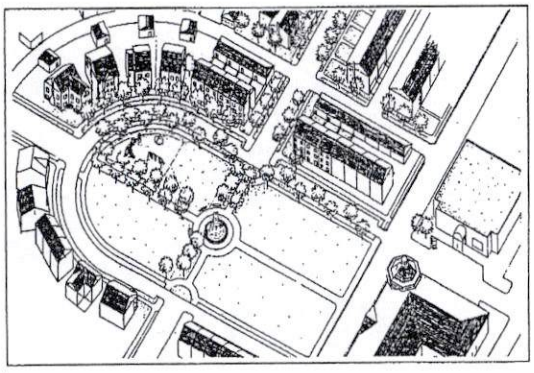
1000 FEET TO ONE INCH

LEGEND

- "A" RESIDENCE ZONE - R 6
- "B" RESIDENCE ZONE - R 6
- "C" RESIDENCE ZONE - R A
- "D" RESIDENCE ZONE - R G
- "E" COMMERCIAL ZONE - B L
- "F" INDUSTRIAL ZONE - M L
- "G" " " - M H
- "S" SPECIAL - - - - - X

MAP PREPARED & PLO
BY STANLEY J. KROLL
SENIOR

THE HONEYGO PLAN



JULY 5, 1994

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1994, LEGISLATIVE DAY NO. 13
RESOLUTION NO. 55-94

MR. VINCENT J. GARDINA, COUNCILMAN

BY THE COUNTY COUNCIL, JUNE 20, 1994

A RESOLUTION of the Baltimore County Council to adopt the Honeygo Plan as part of the Baltimore County Master Plan 1989-2000.

WHEREAS, the Baltimore County Council adopted the Baltimore County Master Plan 1989-2000 on February 5, 1990; and

WHEREAS, the Master Plan expresses the County's commitment to the basic concepts of the Growth Areas and the determination to make the Perry Hall-White Marsh area an exemplary, attractive and fully functional place for living and working; and

WHEREAS, County Council Resolution 42-92 recognized that the Honeygo area is unique and that detailed planning, coordination of facilities, and phasing of utilities and development are needed, and requested the preparation of a Honeygo area plan and implementing programs as an update of the Perry Hall-White Marsh Growth Area Plan for adoption as an amendment to the Master Plan; and

WHEREAS, Resolution 42-92 specified factors to be considered in the preparation of a plan for the Honeygo area, which is a logical unit for planning in Baltimore County, and established a Steering Committee chaired by the County Administrative Officer and including representatives of the Administration, County Council, Planning Board, property owners and local community organizations; and

WHEREAS, the draft of the Honeygo Plan, as recommended and submitted by the Steering Committee on March 3, 1994, was discussed in Committee meetings on March 3, April 7, and April 21, 1994, and was the subject of a public hearing by the Planning Board on March 24, 1994; and

WHEREAS, by Resolution adopted April 21, 1994, the Baltimore County Planning Board adopted the Honeygo Plan to constitute a part of and an amendment to the Master Plan; and

WHEREAS, the County Council held a public hearing on the recommended Honeygo Plan on June 6, 1994.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the Honeygo Plan, a copy of which is attached hereto and made part hereof, be and it is hereby adopted and incorporated into the Baltimore County Master Plan 1989-2000 to be a guide for the development of the Honeygo area of Baltimore County, subject to such further modifications as deemed advisable by the County Council.

THE HONEYGO PLAN

Adopted by
the Baltimore County Council
July 5, 1994

County Executive
Roger B. Hayden

Baltimore County Council
William A. Howard IV, Chairman (1994)
Councilman Sixth District
Berchie Lee Manley
Councilwoman First District
Melvin G. Mintz
Councilman Second District
C.A. "Dutch" Ruppersberger III
Councilman Third District
Douglas B. Riley
Councilman Fourth District
Vincent J. Gardina
Councilman Fifth District
Donald C. Mason
Councilman Seventh District

Prepared by
Baltimore County
Office of Planning and Zoning
Department of Environmental Protection
and Resource Management
Department of Public Works

People's Counsel
CBA Exhibit
14

Baltimore County Government
Planning Board

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Towson, MD 21204

(410) 887-3211
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RESOLUTION
Adopting and Recommending
THE HONEYGO PLAN

WHEREAS, the Baltimore County Master Plan 1989-2000 expresses the County's "committ[ment] to the basic concepts of the Growth Areas, and...determin[ation] to make the Perry Hall - White Marsh area an exemplary, attractive, fully functional place for living and working"; and

WHEREAS, County Council Resolution No. 42-92, "recogn[izing] that the Honeygo Area is unique and that detailed planning, coordination of facilities, and phasing of utilities and development are needed...", requested the preparation of a Honeygo area plan and implementing programs "as an update of the Perry Hall - White Marsh Growth Area Plan for adoption as an amendment to the Master Plan"; and

WHEREAS, Resolution 42-92 specified factors to be considered in the preparation of a plan for the Honeygo area, which is a logical unit for planning in Baltimore County, and established a Steering Committee chaired by the County Administrative Officer and including representatives of the Administration, County Council, Planning Board, property owners and local community organizations; and

WHEREAS, during the process of preparing The Honeygo Plan, the Steering Committee met in open session in June and November 1992, April, August and December 1993, and February 1994, as well as conducting Town/Public meetings in December 1992, March and December 1993 and January 1994; and

WHEREAS, the draft of The Honeygo Plan, as recommended and submitted by the Steering Committee on March 3, 1994, was discussed in Committee meetings on March 3, April 7, and April 21, 1994, and was the subject of a public hearing by the Planning Board on March 24, 1994;

NOW, THEREFORE, BE IT RESOLVED, pursuant to Section 26-81 of the Baltimore County Code, 1988, that the Baltimore County Planning Board hereby adopts The Honeygo Plan, March 3, 1994, as amended April 21, 1994, to constitute a part of and an amendment to the Baltimore County Master Plan 1989-2000; and

BE IT FURTHER RESOLVED, that The Honeygo Plan shall be transmitted to the Baltimore County Council for adoption in accordance with Section 523(a) of the Baltimore County Charter.

DULY ADOPTED by vote of the Planning Board
this 21st day of April 1994

Dave Fields

P. David Fields
Secretary to the Planning Board

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Introduction and Summary of Goals

The goals of the Honeygo Plan are to

- Preserve and protect the natural environment.
- Design and build a community, not just a collection of subdivisions and houses.
- Construct public infrastructure and facilities in advance of development.
- Place zoning and dwelling types, with design standards, in locations that implement the plan.

Study Ar a History and Planning Proc ss

In 1979, Baltimore County, through its Master Plan, established the framework for a county-wide growth management program. The essence of this program was to direct new residential development into existing communities, town centers, and designated growth areas, thereby diverting significant new development away from rural, agricultural, and watershed protection areas. The cornerstone of this program was the designation of two new, growth areas – Owings Mills and Perry Hall-White Marsh – which, for a variety of reasons, were found to be the most suitable areas for higher density residential and commercial development.

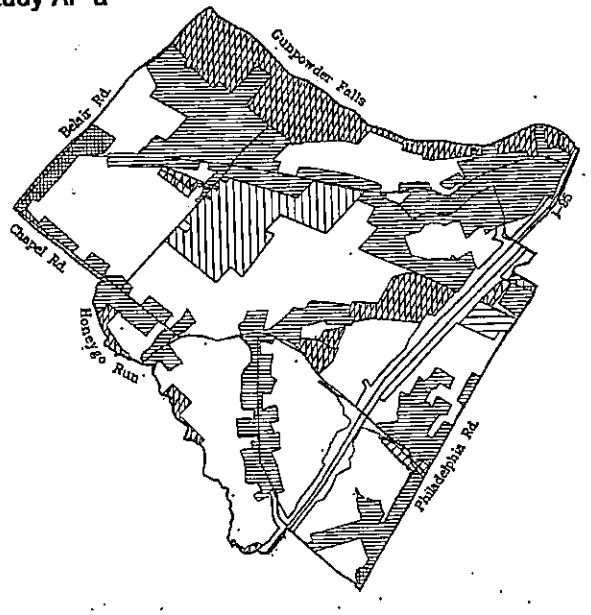
A land use and infrastructure (i.e., roads, sewer, and water) plan for the Perry Hall-White Marsh Growth Area was adopted on February 4, 1985 and the zoning was changed accordingly. In the northern portion of the Growth Area, which for purposes of this study is called the Honeygo Area, the zoning changed from fairly uniform low densities of DR 2 and 3.5 to a pattern of high density residential (DR 5.5, 10.5, and 16) surrounding a commercial core. The study area is shown on the Existing Land Use and Existing Zoning maps on the following two pages.

Over the next decade, development and for the most part, infrastructure improvements in the southern two-thirds of the Perry Hall-White Marsh Growth Area proceeded according to the plan and the zoning. However, by the late 1980s it became apparent to County agencies, developers, and the public that serious problems were developing. Important infrastructure improvements were deleted from the County's Capital Improvements Program and other projects, most notably Honeygo Boulevard and the Honeygo Sewer Interceptor, were significantly delayed because of funding constraints and other competing projects in the rest of the County. Essential open space and recreational areas within the Growth Area were not purchased and it was projected that there would be a 700 acre parkland deficit based on the State standard for open space. The elementary, middle, and high schools were either overcapacity or going to be overcapacity with little immediate relief in sight. New comprehensive environmental regulations to protect wetlands, stream systems, steep slopes, forest cover, and existing vegetation were adopted by Federal, State, and local governments, significantly affecting the development potential of the land. And finally, because of overzoning and the lack of design standards, the area was not becoming a cohesive, well-designed community. To many, the Perry Hall-White Marsh Growth Area has not developed as a planned community, but rather as an unconnected series of residential subdivisions that are out pacing key public services and facilities.

The Baltimore County Master Plan 1989-2000 recognized these issues and while reaffirming the essential growth management strategy structured on growth areas, the Master Plan further recognized that times have changed since the adoption of the original Perry Hall-White Marsh Plan. In particular, the population projections have not materialized, potentially underscoring the need for large amounts of high density zoning previously put in place to meet the projected demand. This, combined with the shift in public policy away from the growth at any cost philosophy and the reality of limited tax revenues, led the County to recommend a systematic evaluation of the various growth management policies, with particular emphasis placed on the effectiveness of the two designated Growth Areas. The Baltimore County Master Plan 1989-2000 strongly recommended that "...an objective examination of both areas is in order to ascertain the need for any mid-course corrections" (Baltimore County Master Plan 1989-2000, pg. 47). Specifically, the Plan recommended an update of the Perry Hall-White Marsh Plan with particular focus on scheduling development so that the full range of necessary services were provided before developments were occupied.

In addition, the Master Plan recommended that "[u]rban design and architectural standards, marketing strategies and other means for achieving a clearer, distinctive high quality identity for the Perry Hall-White Marsh Growth Area [will] be prepared by the County in cooperation with the development industry and community organizations." (Baltimore County Master Plan 1989-2000, p. 110)

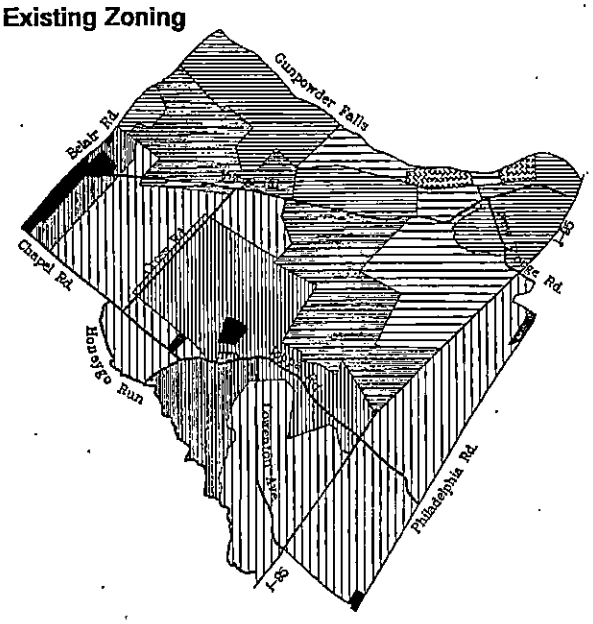
Study Ar a



Honeygo Study Area
Existing Land Use

Existing	Pipeline
Single Family Detached	Single Family Detached
Commercial	Multifamily
Parks	
Undeveloped	

Existing Zoning



Honeygo Study Area
Existing Zoning

RC5	DR5.5
DR1	DR10.5
DR2	DR16
DR3.5	NON RESIDENTIAL

In 1992, the Office of Planning and Zoning and the local community proposed rezoning about 870 acres of land zoned for high density residential use to lower density residential use in the Honeygo Area. In response to that action, the County Executive and County Council adopted a resolution on June 1, 1992 calling for a voluntary moratorium on development pending the adoption of a comprehensive plan for the Honeygo Area. This Plan proposes recommendations on land use, zoning, infrastructure, design, funding, and phasing; it also meets the requirement of the resolution for the County administration to submit a plan to the Planning Board within 2 years of the moratorium's adoption.

Process

The moratorium resolution established a Steering Committee which was chaired by the County Administrative Officer and composed of representatives from the Administration, County Council, Planning Board, property owners, home builders, and local community associations. This group met every three months to review the County's progress on the Plan. After every two meetings with the Advisory Group, town meetings were held at the Joppa View Elementary School to keep the public informed. Additionally, progress reports were submitted to the County Executive and County Council every six months. The Northeast Reporter, Baltimore Sun, The Avenue and other local newspapers periodically published articles about the Plan's preparation.

For nearly 18 months, County agencies performed extensive background studies on infrastructure, design, and environmental issues; evaluated the development potential of various subareas; and field surveyed the study area with the Army Corps of Engineers and the Maryland Department of Natural Resources to obtain concurrence on corridors for the sewer interceptors and Honeygo Boulevard. Four land use alternatives were then developed based on the findings of these studies and field investigations. The alternatives ranged from the existing zoning (10,550 units) to a high density alternative (8,775 units) to a "neotraditional" mixed unit scenario (7,510 units) to a low density single-family alternative (5,310 units). Based upon comments from the Steering Committee and public as well as an evaluation against the Plan objectives, a preferred alternative was developed.

The preferred alternative proposal and attendant infrastructure, design, and zoning policies are discussed in this Honeygo Plan. The Plan was introduced to the Planning Board on March 3, 1994, and will be the subject of a Planning Board public hearing on March 24, 1994. After this hearing the Board will review the Plan, propose any modifications or changes, and then forward their recommendations to the County Council. The Council will also hold a public hearing and then review and act upon the Plan. If adopted, the Plan will be an amendment to the Baltimore County Master Plan 1989-2000 and implemented through the zoning, capital funding, and development review mechanisms outlined in this Plan.

Plan Obj ctives

Design

The primary objective of the Honeygo Plan is to create a high quality community based upon the historic model of a town. This includes a true town center surrounded by well designed residential neighborhoods that are built around neighborhood parks and connected to each other by landscaped streets and open spaces. Rather than replicate conventional development patterns found in recent Baltimore County developments that are a series of independent subdivisions reflecting a particular building niche, the Honeygo Plan intends to link neighborhoods, design community focal points, and provide access to useable open space. Models that were selected to be emulated included residential communities such as Oak Forest Park in Catonsville, Sudbrook Park in Pikesville, Rodgers Forge and Stoneleigh in Towson, Dundalk Center, and Homeland in Baltimore City. Contemporary examples include Kentlands in Montgomery County and the commercial infill within Historic Laurel.

Environmental Protection

The rapid pace of development during the last several decades has fostered an increased awareness of the environmental impacts of development. Beginning with storm water management and then most recently the adoption of the State Forest Conservation legislation, development in Baltimore County has been affected by increased environmental regulations. The result has been that an increasing percentage of the County's land mass has become unbuildable. Floodplains, wetlands, steep slopes, erodible soils, and forests are now under regulation. Density on these undevelopable areas can be applied to other areas of a site that are buildable with the development then appearing much more dense than was originally intended. There is also less flexibility on the buildable portion to accommodate site design that reinforces a sense of community. The outcome is invariably an overcrowded development with buildings, parking lots, and roads covering all the buildable area and minimal, often leftover, useable open space.

The Honeygo Plan identifies, to the extent possible, all environmentally sensitive areas which cannot be developed. Wetlands and buffers were field delineated so that road and sewer alignments could be designed. Floodplains, wetlands, and buffers not located in projected road or sewer alignments were also identified in order to assess the limits of development. These areas should not be overzoned in order to

1) ensure protection of the resources and the water quality of the Bird River and Gunpowder River;

2) facilitate design quality; and

3) ensure realistic assessments of development potential.

Additionally, the preservation, maintenance, or in some cases, the reestablishment of environmentally sensitive areas needs to be assured. At the time of development, all environmentally sensitive areas should be dedicated to Baltimore County at no cost. Their dedication will help protect them from disturbance and will allow the County to reestablish areas that have been degraded. The Honeygo Area is also targeted to use innovative concepts such as wetlands and forest banking. The reforestation of areas should occur along I-95 in the vicinity of the Sky Park not only to provide reforestation, but to also serve as a noise and visual buffer.

Infrastructure

In the Honeygo Area, infrastructure should be provided prior to development rather than during development, or as so often happens in the case of schools and parks, after development. An infrastructure phasing schedule must be provided to enable the County to address demand for services prior to the actual demand taking place and should be adopted as part of the Plan. This can be addressed through the Capital Improvements Program which provides a six year schedule of where and when the County intends to make infrastructure improvements throughout the County. It must be recognized, however, that other capital priorities will be competing with the Honeygo Area including the completion of projects currently underway in other growth areas and the need to rehabilitate existing roads, water, sewer lines, and parks located in the County's older communities. The County's commitment to its older communities will take precedence over competing capital funding interests. The County Executive has called for the creation of an urban community conservation plan, and the County Council has endorsed his action. The Council has publicly committed itself to a program of capital funding for the County's school system and the infrastructure for the older communities which are the backbone of the County.

Financial Impact

As alluded to in the previous section, Baltimore County is facing serious financial constraints and the fiscal consequences of any land use alternative for the Honeygo Area must be evaluated. Over the last decade, the County authorized approximately $30 million for public improvements to serve the Perry Hall-White Marsh Growth Area. Some capital projects are key to the success of the growth area, such as the Honeygo Boulevard and Sewer Interceptor, and must be considered regardless of the land use alternative proposed for the Honeygo Area. All funding for the capital projects must be balanced against the County's commitment to minimize borrowing and maintain stable tax rates.

At first glance, it would appear that the tax revenues generated by higher densities would best offset the costs of needed infrastructure. However, with increased densities, there is also a concomitant increase in demand for more facilities and services. Higher densities also result in fewer tax dollars per dwelling without a similar reduction in the demand for services.

Various alternative financing techniques for funding capital improvements have been evaluated by the County. Impact fees, which require the developer to contribute either all or a portion of the necessary funding at the time of issuing building permits and are pro-rated on a per unit basis over all the units expected to be built in the area, have two major problems. First, the County by law cannot levy impact fees without State approval. State enabling legislation would be required before the County could assess fees. Secondly, the use of impact fees compels the County to spend the necessary funds at the time of development. If the County is compelled to fund projects, then County-wide priorities may have to be adjusted so that these projects are funded. The creation of a special taxing district was also considered. The use of a taxing district essentially acts an additional tax over an area so that these funds can be used to retire debt on loans. The County still has to borrow the money, which may conflict with other County funding priorities, and taxes are dependent upon the economy. Finally, taxing districts also raise questions of equity regarding services provided to other parts of the County.

Transportation Analysis

Introduction

The purpose of the transportation analysis was to determine how well the proposed transportation network can accommodate travel demands generated by the recommended land use plan. Policy recommendations are made to ensure that the transportation system is adequate for the Honeygo study area.

A computerized traffic forecasting model (MINUTP) was the primary tool to conduct this analysis. MINUTP uses the traditional four step transportation planning process to develop traffic forecasts.

The model first calculates the number of trips generated by the land use scenario to determine the total travel demand. The second step requires the model to determine what the destinations will be for the trips generated by the various land uses.

In the third analysis step, the model estimates what the likely mode of travel will be: auto driver, auto passenger, or transit passenger. The fourth step requires the model to determine the shortest path over the highway network between sets of origins and destinations, while calculating the total number of vehicles traveling over a particular segment of roadway. During the analysis process estimates were developed for the amount of congestion likely to occur over 41 key segments of roadway (see the table on page 22 titled "Projected 2010 Traffic Volumes and Estimated Levels-of-Service For Selected Land Use Alternatives") and at four key intersections.

Honeygo Boulevard

Honeygo Boulevard is the largest and most important road within the study area, and will serve as a gateway to the Honeygo community.

If the existing (1992) zoning remains in place Honeygo Boulevard, north of Joppa Road is forecasted to carry approximately 34,000 vehicles on an average day in the year 2010. Again, under existing zoning Honeygo Boulevard, south of Joppa Road is forecasted to carry approximately 26,000 vehicles daily in the year 2010.

As in the recommended plan, Honeygo Boulevard will be able to accommodate the traffic generated by the existing zoning. Also, except for the intersection of Honeygo Boulevard and Belair Road, all of the intersections along Honeygo Boulevard are forecasted to function at level-of-service "C" or better. However, if the Honeygo area builds out under the existing zoning the intersection of Honeygo and Belair Road is likely to function at level-of-service: "D". This means that there will be times when all of the vehicles stopped at the red light will not be able to proceed through the intersection on the next green light.

Joppa Road

Joppa Road will continue to be the primary means of access to and from points east and west of the Honeygo area.

If the existing (1992) zoning were to remain in place, it is projected that traffic volumes along Joppa Road east of Honeygo will rise to nearly 14,000 vehicles a day. Average daily traffic on Joppa west of Honeygo would likely increase to 20,000 trips per day.

At this level of average-daily-trips, Joppa Road would be carrying more traffic than it was designed for and the County would need to consider traffic engineering or capacity enhancement measures to alleviate congestion. Construction of the new circumferential collector road would be more critical in this alternative.

Traffic volumes along Joppa Road east of I-95 are projected to be approximately 7,300 daily, compared to current estimates of 2,200. These lower projected volumes are consistent with the lower density housing recommended for parcels adjacent to this portion of Joppa Road.

West of I-95 the projected traffic volumes rise slightly to about 9,000 a day. The number of trips generated by the existing zoning is projected to be twenty percent higher than the recommended alternative over these portions of Joppa Road.

Projected 2010 Traffic Volumes and Estimated Levels-of-Service
For Selected Land Use Alternatives

		EST 1993 ADT	ALT 3 2010 REFINED TRAFFIC COUNTS	ALT 3 2010 L-O-S	ALT 2 2010 REFINED TRAFFIC COUNTS	ALT 2 2010 L-O-S	ALT 1 2010 REFINED TRAFFIC COUNTS	ALT 1 2010 L-O-S	ALT 4 2010 REFINED TRAFFIC COUNTS	ALT 4 2010 L-O-S
Beaconsfield Dr	West of Honeygo	7,849								
Belair Road	North of Forge	30,400	50,032	D	47,030	C	49,031	C	49,552	D
Belair Road	South of Forge	28,055	42,215	C	39,850	B	40,102	B	40,524	B
Belair Road	North of Joppa Rd	29,730	50,910	C	54,838	B	50,162	B	50,201	B
Belair Road	South of Joppa Rd	33,275	48,441	D	42,726	D	44,119	D	45,512	D
Belair Road	South of Ebenezer	41,819	59,363	F	53,102	E	55,527	E	57,779	F
Belair Road	South of Silver Sp	43,000	64,037	E	50,249	E	52,011	E	53,468	E
Carlisle Ave	North of Ebenezer	5,105								
Carlisle Ave	North of Joppa	2,370								
Carlisle Ave	South of Joppa	3,606								
Chapel Road	East of Belair	5,307	11,500	B	8,092	A	8,330	B	10,472	B
Chapel Road	West of Joppa	3,390	8,631	B	8,068	B	8,280	B	8,188	B
Coventon Ave	West of MD 7	9,274	15,056	D	11,292	D	12,006	D	13,592	C
Coventon Ave	South of Joppa	9,274	13,478	C	10,109	B	10,515	B	11,458	B
Coventon Ave	North of Joppa		14,600	C	10,950	B	11,388	B	13,724	C
Coventon Ave	West of I95	8,784	15,056	D	11,292	B	12,006	C	13,592	C
Coventon Ave	West of US 40	8,784	19,638	E	12,874	C	15,097	D	16,215	D
Ebenezer Rd	East of Belair	13,782	15,600	D	15,300	D	15,500	D	15,700	D
Ebenezer Rd	East of Carlisle	9,210	10,580	B	10,900	B	10,800	B	10,600	B
Forge Road	East of Belair	3,398								
Forge Road	East of Honeygo		13,500	C	8,370	B	10,125	B	11,340	B
Forge Road	West of I95		10,644	B	6,403	B	8,515	B	9,047	B
Gunview Blvd	West of Belair		18,600	E	8,472	B	11,788	B	13,114	C
Honeygo Blvd	North of MD 43		38,478	E	35,015	D	35,554	D	37,324	E
Honeygo Blvd	North of Joppa		34,201	D	29,071	C	30,781	C	31,807	C
Honeygo Blvd	South of Joppa		28,140	C	22,219	C	24,049	C	24,633	C
Honeygo Blvd	East of Belair		21,025	C	19,553	C	20,184	C	20,594	C
JFK Mem Hwy	North of MD 43	130,089	148,507	D	147,022	D	147,818	D	147,913	D
Joppa Road	East of Belair	4,217	14,095	C	10,430	B	11,540	C	13,109	C
Joppa Road	East of Carlisle		15,900	D	11,765	C	13,356	C	14,787	C
Joppa Road	East of Chapel		20,155	E	15,083	C	17,098	E	18,930	E
Joppa Road	East of Coventon		12,200	C	9,029	B	10,248	C	11,349	C
Joppa Road	East of Honeygo		13,900	C	10,681	B	11,675	C	13,208	C
Joppa Road	West of I95	2,187	9,850	B	7,346	B	7,523	B	7,877	B
Joppa Road	West of Silver Sp	25,473	41,768	E	40,535	E	40,953	E	41,371	E
Joppa Road	West of Belair	21,758	42,210	F	38,833	E	40,100	E	41,788	E
Perry Hall Blvd	South of Silver Sp	24,574	31,063	D	28,154	D	29,135	D	29,509	D
Philadelphia Rd	South of Joppa	9,163	15,934	C	14,567	C	14,884	C	15,517	C
Silver Spring	East of Belair	21,541	25,449	D	24,888	D	24,940	D	25,165	D
Silver Spring	West of Honeygo	7,006	10,164	D	17,430	C	16,397	D	18,580	D
White Marsh Cl	West of I95	25,000	53,806	D	49,345	C	50,954	D	52,027	D

Pr f rr d Alt rnativ

The four alternatives were reviewed by County agencies, the Steering Committee, landowners, and the public and based on their comments and the previously described evaluation, a preferred alternative was generated. This land use proposal is essentially a hybrid of Alternatives 1 and 2. The land use plan and zoning map are shown on the following pages.

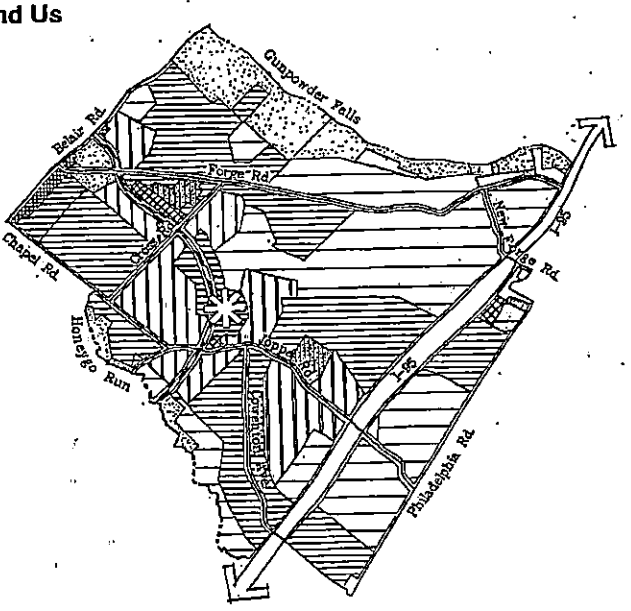
In this proposal, the commercial area remains at the currently zoned location and higher density residential (DR 10.5 for apartments, condominiums, or town houses) radiates from the center and along a portion of Honeygo Boulevard, north of the center. This Neighborhood Center, which includes both the commercial and high density residential uses, is to be the focus of the Honeygo Community. As such, it is essential that it be of the highest design quality. The center should be an integrated mix of uses, not isolated pods of retail, office, and residential uses which stand alone and are surrounded by parking. Uses can be vertically or horizontally mixed. For example, office uses can be on top of retail uses with the residential uses interspersed or otherwise integrated into the design plan. The key to the success of this area, as with the entire Honeygo Plan, is building relationships so that the individual projects blend in and reinforce each other. The Neighborhood Center should be "pedestrian friendly" with linkages to the surrounding community, including dispersed parking, pedestrian amenities, etc. The signage and building design should reflect a consistent theme and the landscaping should be superlative.

Around the Neighborhood Center and along portions of Honeygo Boulevard and Joppa Road is medium density residential land zoned DR 3.5 with a unique, for Baltimore County, mix of single-family houses and a maximum of 40% town houses. In the rest of the Honeygo Area, residential densities are generally DR 3.5 and decrease at the outer edges. The housing type is predominantly single-family detached. This zoning is realistic for the type of development envisioned – a tightly developed community of single-family houses integrated with town houses surrounded by larger lot single-family development focusing on a Neighborhood Center and linked by public open spaces and well landscaped interconnecting roads. This design concept builds upon the tradition in eastern Baltimore County of strong neighborhood identity and community commitment. Following the Zoning map is the Design Concept illustration and detail.

About 37 acres are designated for park/recreational use near the highly visible and accessible intersection of Forge Road, Belair Road, and Honeygo Boulevard. Interim private recreational uses, such as a driving range, indoor athletic field, ice skating rink, swimming club, or tennis center, would be allowed in areas zoned for residential uses, but designated as park and open space on the Land Use plan. The commercial strip along Belair Road near Chapel Road and the area of high density residential behind it are to remain. This area is easily accessible to the main arterial of Belair Road and the high density residential serves as a transition from the highway oriented commercial uses to the medium density residential farther down Chapel Road. This area could also be an excellent location for specialized housing or luxury apartments as it is near an entry into the Honeygo community. Special attention should be given to this and other entries that are the gateways into the Honeygo community.

No new school sites have been identified as the Board of Education maintains that future school age populations can be served by additions into the existing Chapel Hill Elementary School and the construction of a multi-storied elementary school at the slightly expanded Crossroads site. Also, no additional police or fire stations will be needed. An indoor recreational facility should be located in the Honeygo community, preferably at the Honeygo Park, to provide additional recreational opportunities. This facility should be multi-purpose and be capable of offering activities for a wide range of ages and athletic abilities. Additional access points into the Gunpowder State Park should also be provided.

Land Us



Honeygo Study Area
Recommended Land Use

- Commercial Development
- High Density Townhouse, Apartment, or Condominium
- Commercial Center
- Medium-High Density Single Family Detached and Townhouse Mix
- Medium-Low Density Single Family Detached
- Low Density Single Family Detached
- Parks
- Schools
- Religious Institutions

D sign Conc pt

It is essential that the Honeygo Plan create memorable spaces in the public realm. Roads, open space, and site design become the primary elements of the Plan. The intent is to unify the separate developments by design to create a community based on traditional design concepts found in the most successful communities around the country. The design guidelines and standards needed to foster this type of development (e.g., streetscaping, houses oriented toward the street, interconnecting roads and sidewalks) will be in the district overlay and the Comprehensive Manual of Development Policies. Refer to Appendix B.

RECOMMENDED PLAN			
LAND USE	ZONING	acres	units
Large Lot SF	DR 1	100	100
Single Family	DR 2	332	664
Single Family	DR 3.5	435	1,305
SF/TH Mix	DR 3.5	485	1,700
APT/Condo	DR 10.5	56	560
CRG's[1] PHF and Apperson		186	1,227
Commercial	BL	9	
Parks		37	
Institutional		35	
Total Res.		1,675	5,556

Transportation Findings

The transportation analysis revealed that construction of the proposed system of Master Plan road improvements within the Honeygo study area will be adequate to handle traffic generated by the selected land use plan that recommends the construction of approximately 5,600 units. Traffic volumes along Joppa Road west of Honeygo may increase to a level that will require extra capacity enhancements not currently programmed.

The private automobile will remain the overwhelming transportation mode of choice, but every effort should be made to provide alternative mobility choices for Honeygo residents. A key mobility choice will be provided by 2010 when rail transit service is extended to the White Marsh Mall area. This line will provide access to numerous destinations: Johns Hopkins Hospital, BWI Airport, the Inner Harbor, Hunt Valley, and Owings Mills.

The Honeygo community should be designed in a manner that will maximize the potential for transit usage and connections to the White Marsh area rail transit station. Additionally, commercial nodes, transit stops, and recreation areas within the Honeygo community should be linked by bike and pedestrian paths. The establishment of a telecommuting center in the Honeygo community is an option that should be considered.

The transportation study effort also examined future traffic impacts on some of the adjacent communities. Portions of the existing Perry Hall and White Marsh communities that are currently experiencing traffic congestion will continue to have congestion problems in the future. However, implementation of the recommended land use plan could result in a reduction of projected volumes by about ten percent over the existing (1992) zoning.

Honeygo Boulevard

Honeygo Boulevard, north of Joppa Road is forecasted to carry approximately 29,000 vehicles on an average day in the year 2010. South of Joppa Road, Honeygo Boulevard is forecasted to carry approximately 22,000 vehicles daily in the year 2010. The proposed construction of Honeygo Boulevard with four travel lanes and a center turn lane will be able to easily accommodate these number of vehicles. Honeygo Boulevard from Joppa Road to Belair Road could be designed with a landscaped median.

It is also forecasted that all of the signalized intersections along Honeygo Boulevard (e.g. Belair, Joppa, Ebenezer, etc.) will function at level-of-service "C" or better. This means that any traffic stopped at the intersection when the traffic light turns red will be able to move through the intersection on the next green light.

It is also imperative that the County, in their design of roads, especially Honeygo Boulevard, respect the intent of the Plan and reinforce the efforts of private development. To this end, Honeygo Boulevard should include a landscaped median, all public roads should be streetscaped, and public parks should be landscaped.

Joppa Road

Joppa Road, east and west of Honeygo Boulevard is projected to carry volumes of approximately 11,000 and 15,000 respectively on an average day in the year 2010 if the recommended land use plan is adopted. Although this represents a significant increase from current levels of approximately 4,000 vehicles a day, implementation of the proposed Master Plan improvements will enable Joppa Road to handle this level of traffic.

The estimated 15,000 vehicles a day on Joppa Road west of Honeygo may begin to provide some minor capacity problems to Joppa Road. As a result, the circumferential collector road proposed in the design concept between Honeygo Boulevard and Chapel Road should be constructed. This will reduce some of the traffic entering the intersection of Joppa and Honeygo, and along the section of Joppa west of Honeygo.

Other Area Roads

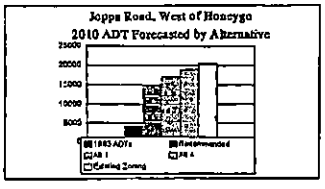
Implementation of the recommended land use alternative is likely to increase traffic along Chapel Road east of Belair Road from approximately 5,300 to 8,100 in 2010. Although the traffic volumes will be lower over the portion of Chapel Road west of Joppa Road, the projected percentage increase from approximately 3,400 vehicles daily in 1993 to 6,100 daily in 2010 will be greater.

The projected traffic volumes and travel characteristics along other area roads show a similar pattern throughout the study area. Projected traffic on Forge, Cowenton, Chapel, and Cross Roads will be significantly higher than current daily volumes, but if the recommended Master Plan improvements are implemented, the improved street network will be able to handle the traffic increases resulting from the recommended land use alternative.

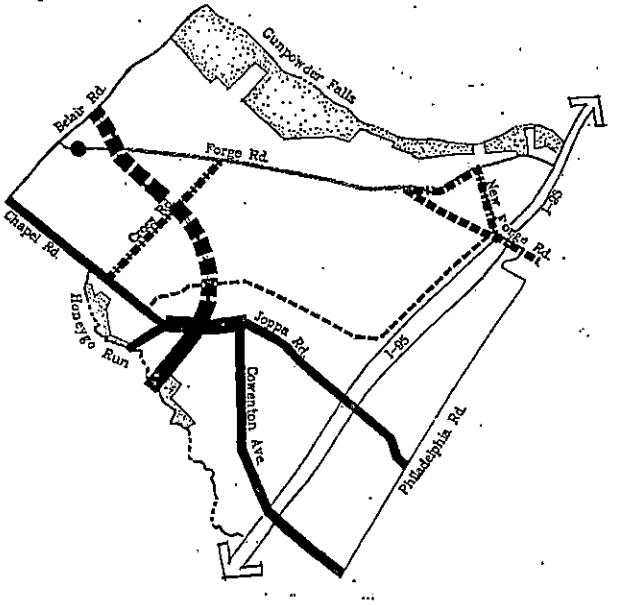
Traffic along Cowenton Road will rise from current levels of approximately 6,200 a day to an estimated 10,000 daily in 2010. Traffic volumes along Forge Road will increase from about 3,400 to 8,400 in the vicinity of Cross Road. Along Forge Road east of Cross Road, traffic volumes are projected to be approximately 6,500 a day in 2010.

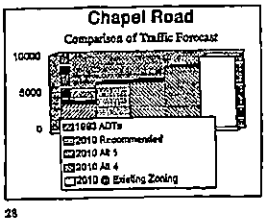
Forecasted 2010 Levels-Of-Service For Selected Honeygo Area Intersections

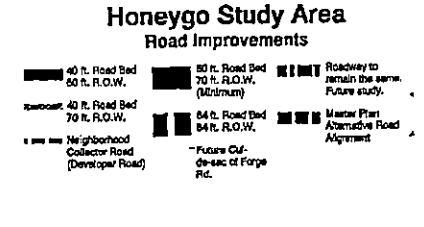
Intersection	Recommended Alternative	Existing Zoning
Belair Road and Ebenezer/Joppa	E	F
Belair and Honeygo	C	D
Cowenton and Joppa	A	A
Honeygo and Joppa	C	C



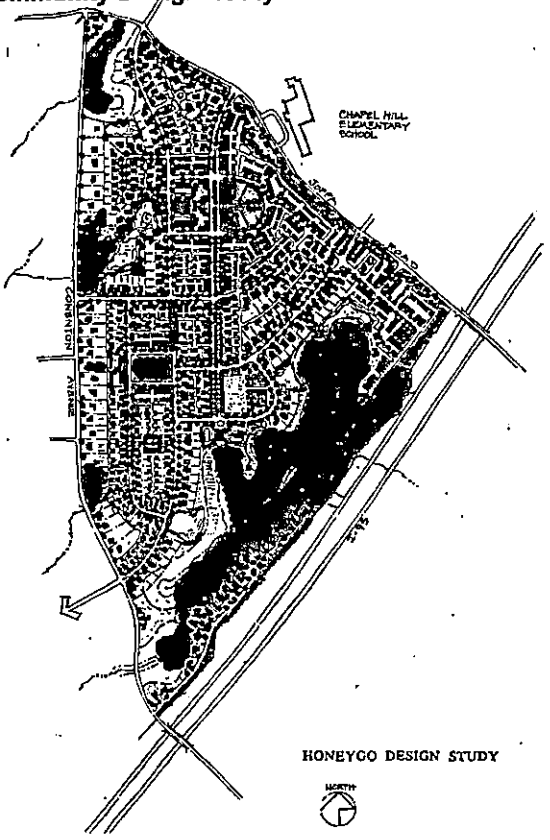
Transportation R comm ndations







Community D sign Study



Implementation

Introduction

In order to realize the goals and objectives of this Plan, the zoning maps, zoning regulations, and Comprehensive Manual of Development Policies must be amended. Funding allocations through phasing and prioritization in the County Capital Improvements Program will also have to be adopted. Finally, open space and environmentally sensitive areas will have to be protected and maintained, preferably through public ownership. These implementing mechanisms are briefly described in this section of the Honeygo Plan. Some of the mechanisms require immediate adoption, while others will be developed and adopted at later dates.

Zoning Maps

It is recommended that once the Honeygo Plan is adopted, the new zoning be enacted outside of the County's four year comprehensive zoning process. The County Executive and Council, through Joint Resolution 42-92, recognized the difficulty inherent in dovetailing the adoption of the Honeygo Plan with the enactment of implementing zoning because of the limitations imposed by the County's four year zoning process. According to the Resolution, the Council may enact a Development Moratorium on a waiver and emergency basis if development is proposed that is in conflict with the approved Honeygo Plan. This avoids most of the potential problems; however, there are areas, most notably the Baltimore Air Park, where the proposed zoning is higher than the existing zoning. Changing the zoning immediately after the Plan's adoption provides the certainty that property owners and developers need to proceed with their development plans.

In order for the zoning maps to be amended outside of the quadrennial process, the County Council will have to pass a resolution to confirm the Council's intent that the Honeygo Comprehensive Plan should include zoning recommendations and to establish a procedure containing necessary due process standards. The Council will also have to amend the law on comprehensive zoning procedures to clarify the County Council's authority to authorize the Planning Board and Council to conduct a comprehensive zoning process other than on a county-wide basis (i.e., to implement an adopted area/community plan) and outside the regular (every fourth year) schedule.

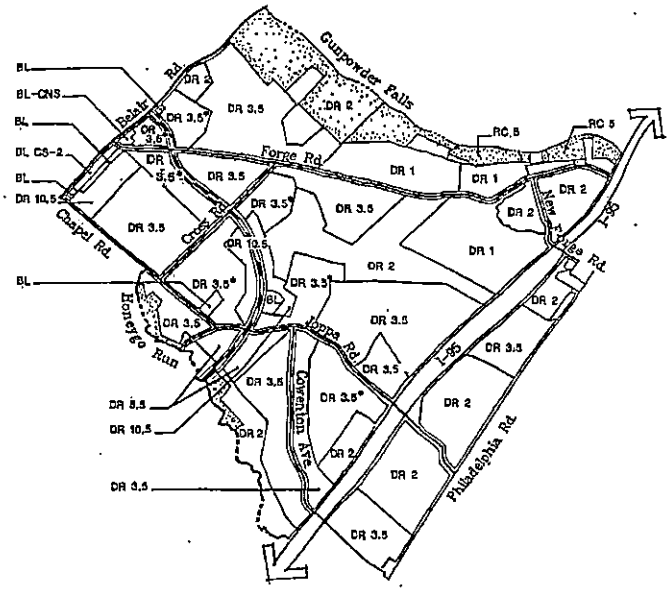
District Overlay

The Baltimore County Zoning Regulations as presently written do not allow the County to adequately enable the Design Objectives outlined in this Plan. The primary objective of the Honeygo Plan is to establish uniform design criteria for the entire area and the existing zoning is not adequate to assure that the design parameters will be met. Several options which would enable stronger design were discussed and reviewed. These options included 1) new PUD legislation that would cover the entire area; 2) new zones; and 3) a new overlay district. The creation of a new PUD was determined to be questionable because the area is not under single ownership or control. The PUD, in the absence of a single owner, effectively became an overlay district. Creating new zones for this particular area of the County appeared unnecessarily redundant. Other than design criteria, the vast bulk of the existing regulations would still apply. The most desirable option, therefore, was the overlay district. Through the use of an overlay district, the existing zoning regulations remain in effect, while additional design criteria can be adopted which will ensure the desired design quality. A summary of the elements to be included in the overlay district can be found in Appendix A.

The actual Honeygo District Overlay would have to be enacted and the zoning maps for the Honeygo Area would need to be amended accordingly (with the new district) during the rezoning process.

The recommended zoning map changes (actual zone changes as well as the district overlays) would need to be reviewed by the Planning Board with recommendations for final action by the County Council. Both the Planning Board and County Council would hold public hearings and the affected property owners would be duly notified.

Zoning



Honeygo Study Area
Recommended Zoning

BL
Commercial Development

DR 10.5
Townhouse, Apartment, or Condominium

DR 3.5*
Single Family Detached and Townhouse Mix 60 % SF/40% TH

DR 3.5
Single Family Detached

DR 2
Single Family Detached

DR 1
Single Family Detached

Design Guidelines

The standards in the District Overlay need to be augmented by design guidelines to be adopted as part of the Comprehensive Manual of Development Policies (CMDP). The guidelines are intended to demonstrate how and what form development should take in terms of site layout and character. They are based upon work completed by Cho, Wilks, and Benn entitled "Neighborhood Design Guidelines" and have been modified for inclusion in the CMDP. Refer to Appendix B.

Funding

Infrastructure improvements in the Honeygo Area will cost approximately 58 million dollars. As it is anticipated that 5,500 dwelling units will be constructed within the study area, this expenditure represents approximately $10,700 per dwelling unit.

In the current capital program for fiscal year '94 and '95, no Honeygo Plan capital projects are funded. Funds for the Forge Acres sewer project were previously allocated to complete this project by summer 1995. Under the new capital budget and program process, projects for which funds are not encumbered by the end of fiscal year 95 must be reappropriated. This includes Honeygo Boulevard (Phase II) and the accompanying water main and the Honeygo Sewer Interceptor. These projects will need to be reappropriated in the fiscal year '95 capital budget and program.

Included in this Plan is an inventory of all capital projects (roads, sewer, water, parks, schools) that will need to be constructed. In response to issues raised by the Steering Committee, the needed capital improvements have been grouped in phases which show the capital projects that will be required at various stages of development. This phasing schedule will allow the necessary schools, parks, roads, water and sewer projects to be in place when the development occurs, not after the development has taken place. The proposed capital program is divided into three functional areas:

A. Pre-Honeygo Development. These four capital projects must be underway to take care of existing problems before development in the Honeygo Area begins. The capital budget unit count should not apply to the following:

1) any development project approved before the effective date of Resolution 42-92; however, any development pursued under authority of such a plan is limited to a maximum of 300 dwelling units;

2) public utilities;

3) minor residential or commercial permits;

4) religious institutions; or

5) a dwelling on a lot of record as of the effective date of this plan.

B. Area-wide Improvements. These four capital projects are related to the area-wide Honeygo development. Implementation of each is related to the total number of building permits issued in the are regardless of land area phasing. The contracts for each capital project must be let before additional permits are released.

C. Land Area Phasing. Each of the recommended four development phases have specific capital projects related to the site area for development. The number of permits/units allowed before each improvement needs to be made are listed. The contract for that project must be let before additional permits are released for that phase.

Once the Honeygo Plan is approved, needed capital projects will have to be staged for the 1996 referendum and beyond.

Case No.: 2017-0313-A

Exhibit Sheet

7-11-17
SLH

	Petitioner/Developer	Protestants
No. 1	Ken Wells CV	Petition of opposition signed by neighbors
No. 2	DRC lot line approval	
No. 3	Aerial photo of neighborhood	
No. 4	Plat of Forge Acres	
No. 5	Aerial photo of Lot.	
No. 6	SDAT record	
No. 7	7A-7C Deeds	
No. 8	Photos - houses in neighborhood.	
No. 9	DOP Subdivision lot report	
No. 10	DRC Exemption Plan	
No. 11	Site plan	
No. 12	Prior Zoning orders	

Ex 1

kjWellsInc

Land Surveying and Site Planning

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

Resume' of Kenneth J. Wells, R.P.L.S.

Prepared on April 10, 2012

Education:
Attended Catonsville Community College from 1974 to 1978 and completed the Surveying Technology Curriculum. The curriculum included courses on how to read, interoperate and apply zoning and development regulations as they relate to land.

Previous Experience:
Employed with surveying and engineering firms beginning in 1966 thorough 1984, excepting for time in military, were the responsibilities entail being a member of a survey field crew, chief of surveys, performed boundary line and topographic surveys, prepared plans and documents for construction and performed as a site planner to determine the best land use along with the preparation of plans and documents for the subdivision of land.

Professional Background:
I am the principal of kjWellsInc that was formed in 1984 which provides land surveying and site planning services on a wide variety of public and private projects that entail boundary line and topographic surveys. I have been accepted as an expert witness to testify in matters relating to land surveying, zoning and site planning before the Baltimore County Zoning Commissioner and Members of the Board of Appeals of Baltimore County on matters relating to variances, special hearings and special exceptions. I have also testified as an expert witness before the Hearing Officer of Baltimore County on a number of major subdivisions and have prepared numerous minor subdivision plans and related documents.

Licensed to Practice Land Surveying:
Registered as a Property Line Surveyor in January of 1983.

Professional Organizations Membership:
Maryland Society of Surveyors
American Congress on Surveying and Mapping
National Society of Professional Surveyors

Ex 2

KEVIN KAMENETZ
County Executive

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

April 18, 2014

Kenneth J. Wells
7403 New Cut Road
Kingsville, MD 21087-1132

Re: Jones Property, 5301 Bush Street, 21162, Dist. 11c5
DRC Number: 042214-LLA (2014-00055)

Dear Sir/Madam:

Pursuant to Section 32-4-106(a)(1) of the Baltimore County Code, this letter constitutes an administrative order and decision on the request you filed with this department.

Your request has been submitted for careful review and consideration to the Director and Zoning Office. It has been determined that your proposal:

☒ Provisionally meets the requirements of a limited exemption under Section 32-40-106(a)(1)(viii) BCC (An undersize lot & setback variance must be granted.) Also record plat must be amended.

☐ Meets the requirements of a limited exemption under Section 32-4-106(a)(1)(ii) or (a)(1)(v)(No development or building and all future uses will require Zoning and Development approval)

☐ does not meet the requirements of a limited exemption under Section 32-4-106(a)(1)BCC. You will be notified if your project can be scheduled for the next open DRC meeting and any additional requirements for review. (Need DEPS approval for new access)

☐ needs additional materials/information for review. Contact Carl Richards or Joseph Merrey at 410-887-3391.

☐ does not reach the scope or extent that would require Baltimore County development approval.

☐ all or a portion of the property is located within the Chesapeake Bay Critical Area, therefore prior to recording deeds or submitting a record plat you are required to apply for Lot Consolidation and Reconfiguration through the Dept. of Environmental Protection and Sustainability (Comar 27.01.02.08)

When recording deeds in the land records, please attach this letter and the survey plat as exhibits. Also, if the property(s) are improved or any Baltimore County permits are applied for or anticipated in the future, the following approval agencies should be contacted to resolve any possible development issues: Development Plans Review – 410-887-3751, Planning 410-887-3480, Environmental Protection & Sustainability – 410-887-5859

Sincerely,

Arnold Jablon Initial

W. Carl Richards, Jr.
Zoning Supervisor

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 - 11 Account Number - 1110047220

Owner Information

Owner Name:	WADKINS CONSTRUCTION INC	Use:	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	1605 HONEYSUCKLE RIDGE CT ANNAPOLIS MD 21401-	Deed Reference:	/38186/ 00023

Location & Structure Information

Premises Address:	5301 BUSH ST WHITE MARSH 21162-	Legal Description:	LT 8 PT LT 7 FORGE ACRES

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0073	0001	0341		0000		E	8	2015	Plat Ref:	0014/ 0088

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

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
1951	1,227 SF		36,839 SF	04

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation
1	NO	STANDARD UNIT	FRAME	1 full	1 Detached	

Value Information

	Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016	As of 07/01/2017
Land:	92,900	92,900		
Improvements	65,300	67,000		
Total:	158,200	159,900	159,333	159,900
Preferential Land:	0			0

Transfer Information

Seller: JONES JAMES E SR	Date: 10/28/2016	Price: $157,000
Type: ARMS LENGTH IMPROVED	Deed1: /38186/ 00023	Deed2:
Seller: JONES JAMES E,SR	Date: 08/19/2005	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /22399/ 00693	Deed2:
Seller: JONES JAMES E,SR	Date: 03/16/2005	Price: $0
Type: NON-ARMS LENGTH OTHER	Deed1: /21570/ 00298	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

EX 6

LIBER 2144 PAGE 34

THIS DEED, Made this 15th day of July 1952, by Albert T. Rayner and Rita Rayner, his wife, of Baltimore County, State of Maryland.

WITNESSETH: That in consideration of the sum of five dollars and other good and valuable considerations, the said Albert T. Rayner and Rita Rayner, his wife, do hereby grant and convey unto Edward T. Ormsby and Fern F. Ormsby, his wife, as tenants by the entireties, their assigns, the survivor of them, and the heirs and assigns of the survivor, in fee simple, all that parcel of ground situate, lying and being in the 11th District of Baltimore County, Maryland, and described as follows:

BEGINNING for the same at the point in the center line of Forge Road distant north 73 degrees 01 minutes east 100.47 feet from the intersection of the center line of Forge Road with the westerly line of all farm lot No. 8 in Loreley Farms as shown on a Plat of the Loreley property prepared by J. Spence Howard, Registered Surveyor in 1938, thence binding on the easterly lines of Lot 13, Block B and of Lots 9 and 10 Block D as shown on Plat now being prepared for registration according to a survey made by Howard C. Sutton, Registered Surveyor number 758, south 16 degrees 59 minutes east 875 feet to the southerly line of Bush Street, 50 feet wide as shown on said plat which is the point of beginning of the lot to be surveyed, thence with and binding on the southerly side of said Bush Street, south 73 degrees 01 minutes west 200 feet, thence with and binding on the easterly line of lot number 8, Block E. in said plat, south 16 degrees 59 minutes east 200 feet, thence with and binding on the northerly line of lot 10, Block E in said plat, north 73 degrees 01 minutes east 200 feet, thence with and binding on the westerly line of lot 6, Block E in said plat north 16 degrees 59 minutes west 200 feet to the place of beginning. BEING lot No. 7 in Block E. in the plat of Forges Acres

Ex 7A

BALTIMORE COUNTY CIRCUIT COURT (Land Records) CLB 2144, p. 0034, MSA_CE62_1999. Date available 02/25/2008. Printed 07/10/2017.

now being prepared and intended to be recorded among the Land Records of Baltimore County, Maryland.

BEING the same lot of ground and premises which by deed dated the 15th day of June, 1952, and intended to be recorded immediately prior hereto among the Land Records of Baltimore County was conveyed by Ernest R. Glab and Ruth Glab, his wife, to the said Albert T. Rayner, in fee simple.

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.

TO HAVE AND TO HOLD the said described lot of ground and premises above described and mentioned and hereby intended to be conveyed; unto and to the proper use and benefit of the said Edward T. Ormsby and Fern F. Ormsby, his wife, as tenants by the entireties, their assigns, the survivor of them, and the heirs and assigns of the survivor, in fee simple.

AND the said grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed; that they will warrant specially the property hereby granted and conveyed; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of said grantors.

John J. Butt

Albert T. Rayner (SEAL)

Rita Rayner (SEAL)

STATE OF MARYLAND, BALTIMORE County, TO WIT:

I HEREBY CERTIFY that on this 15 day of July 1952, before me, the subscriber, a Notary Public of the State of Maryland in and for Baltimore County aforesaid personally appeared Albert T. Rayner and Rita Rayner, his wife, and they acknowledged the aforegoing deed to be their act.

WITNESS my hand and Notarial Seal.

John J. Butt
Notary Public

Deed prepared without title exam.
judgment search etc.
Milton Tolle, Atty.

John J Butt

REC'D FOR RECORD July 22, 1952 11 A M & RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY, LIBER G. L. B. 2144 FOLIO 34 GEORGE L. BYERLY, CLERK.

LIBER 3457 PAGE 379

REAL ESTATE TITLE CO.
Keyser Building
Baltimore, Md.
LExington 9-3212

TITLES INSURED by Lawyers Title Insurance Corporation Richmond, Virginia

STATE OF MARYLAND RECORDATION TAX DEC 5'58 2090

SIMPLE DEED

This Deed, Made this 25th day of November

in the year one thousand nine hundred and fifty-eight by and between

EDWARD T. ORMSBY and FERN F. ORMSBY, his wife, of Baltimore County, State of Maryland, parties of the first part; and HERMAN F. ELTERMAN and JANE C. ELTERMAN, his wife, of Baltimore County, State of Maryland, parties of the second part.

BALTIMORE COUNTY

WITNESSETH that in consideration of the sum of Five ($5.00) Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part - - -

LIBER 3457 PAGE 380

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 any wise appertaining.

TO HAVE AND TO HOLD the land and premises; above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs and assigns in fee-simple.

AND the said parties of the first part - - -

THIS DEED, Made this 29th day of September, in the year two thousand sixteen, by and between **BRENDA DARK, WILLIAM BURNHAM, WALTER R. JONES AND TERRI L. YEAGER**, parties of the first part, Grantors, and **WADKINS CONSTRUCTION, INC., a Maryland Corporation**, party of the second part, Grantee.

WITNESSETH, That in consideration of the sum of **$157,000.00** and other valuable considerations, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant, convey, and assign unto the said Grantee, its successors and assigns, in fee simple, all that lot of ground situate in Baltimore County in the State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as all of Lot No. 8 and the Westernmost 50 feet of Lot No. 7 immediately adjacent to said Lot No. 8, Block E, as shown on the Plat of "FORGE ACRES", which Plat is recorded among the Land Records of Baltimore County in Plat Book R.J.S. No. 14 folio 88. The improvements thereon known as **No. 5301 Bush Street.**

BEING the property which by Deed dated July 25th, 2005, and recorded among the Land Records of Baltimore County in Liber S.M. No. 22399 folio 693, was conveyed by James E. Jones, Sr. to Brenda Dark, William Burnham, Walter R. Jones and Terri L. Yeager, wherein James E. Jones, Sr., reserved a life estate. The said James E. Jones, Sr., since departed this life on April 2nd, 2011.

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

TO HAVE AND TO HOLD the said lot of ground and premises unto and to the use of the said Grantee, its successors and assigns, in fee simple.

AND the said Grantors hereby covenant that the Grantors have not done or suffered to be done any act, matter or thing whatever to encumber the property hereby conveyed; and to warrant specially the property hereby granted and to execute such further assurances of the same as may be requisite.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

7C

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38186, p. 0023. MSA_CE62_38043. Date available 11/07/2016. Printed 01/10/2017.

WITNESS the hands and seals of said Grantors.

WITNESS:

Brenda Dark (SEAL)
BRENDA DARK

William Burnham (SEAL)
WILLIAM BURNHAM

Walter R. Jones (SEAL)
WALTER R. JONES

Terri L. Yeager (SEAL)
TERRI L. YEAGER

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

I HEREBY CERTIFY, that on this 29th day of September, 2016, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Brenda Dark, William Burnham, Walter R. Jones and Terri L. Yeager known (or satisfactorily proven) to me to be the persons whose names are subscribed to the within Deed and acknowledged the foregoing Deed to be their act and in my presence signed and sealed the same, and further acknowledged that the consideration as stated above is true and correct.

AS WITNESS my hand and Notarial Seal.

Lisa M.L. Eisemann, Notary Public

LISA M.L. EISEMANN NOTARY PUBLIC BALTIMORE COUNTY, MD

My Commission Expires: 8/17/30

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney.

Lisa M.L. Eisemann, Attorney

RECORD AND RETURN TO:

WADKINS CONSTRUCTION, INC.
1605 Honeysuckle Ridge Court
Annapolis, MD 21401
File #16-0438

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38186, p. 0024, MSA_CE62_38043. Date available 11/07/2016. Printed 01/10/2017.

PET. #8

Google Earth

feet 10
meters 5

#5300 BUSH ST.

Google Earth

feet 10

meters 4

#5301 BUSH ST.

Google Earth

feet 10
meters 5

#9700 WINKLER ST.

Google Earth feet 10 meters 4

#5219 BUSH ST.

Google Earth

feet 10
meters 5

#5219 BUSH ST
(SIDE)

Google Earth

feet 10
meters 4

#5305 BUSH ST.

Google Earth feet 10 meters 4

#5303 BUSH ST.

Baltimore County
Department of Planning

Quarterly Subdivision Report

Third Quarter

July 1, 2016 – September 30, 2016

EX 9

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Nicely Property 19

Northwest Hospital Center 20

Quarry Place PUD 21

Security Station 22

Windlass Run Business Park 23

Introduction

This issue of the Quarterly Subdivision Report summarizes Baltimore County development for residential and non-residential activities for the time period beginning July 1, 2016 and ending September 30, 2016. The Report utilizes Baltimore County Department of Permits, Approvals, and Inspections (PAI) data as of November 2016. Detailed information on each of the approved development plans in the reporting quarter is presented in the Appendix. The Report addresses the following key elements:

- Development type
- Development location
- Development acreage
- Zoning classifications
- Housing unit type and number of units
- Building permits by dwelling type
- Non-residential square footage of proposed improvements

Policy Framework

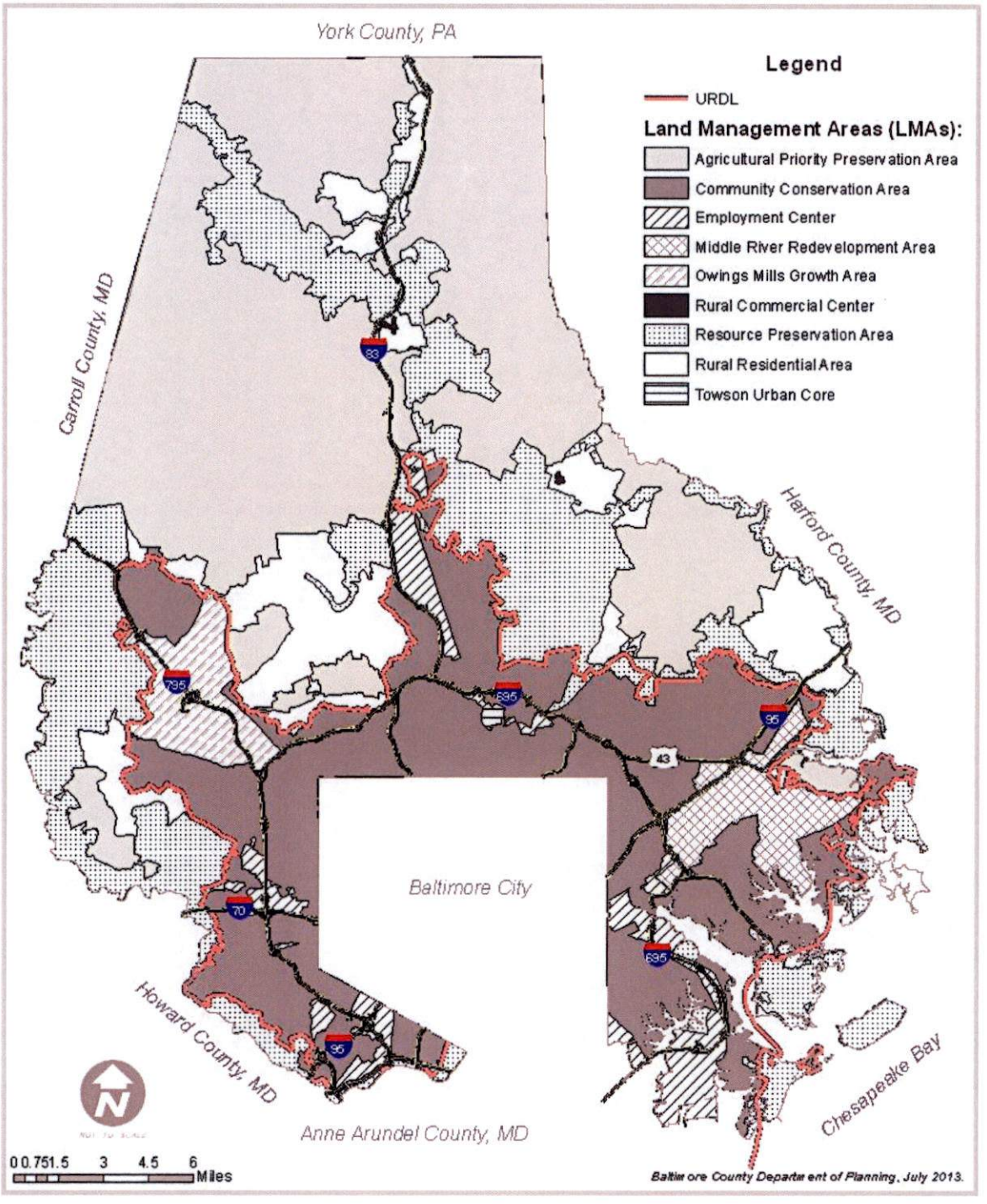
Baltimore County, Maryland, instated growth management policies in the late 1960s. These policies are established by the master planning process, and are essential to sustainable development and ensuring the continued health, safety and resource preservation for communities and constituents in Baltimore County.

The Baltimore County Urban Rural Demarcation Line (URDL) established in 1967 identifies the urban area of the County receiving public water and sewer infrastructure thereby allowing denser residential, commercial and industrial development. The urban area inside the URDL accommodates the majority of the population living and working in the County. Conversely, in the rural areas, reliance on individual on-site well and septic systems limits the capacity for development. The URDL increases the efficiency of county revenues while supporting agricultural use and preservation, low-density residential uses and natural resource protection in the rural County.

The Quarterly Subdivision Report tracks the County's progress in the application of the *Master Plan 2020* analyzing where development is occurring in relation to the URDL, Land Management Areas and Growth Tiers.

The following map and table illustrates the relationship between the URDL and Land Management Areas (LMAs). The LMAs were established in *Master Plans 2000 and 2010* and revised in *Master Plan 2020* to add the Middle River Redevelopment Area and remove the White Marsh-Perry Hall Growth Area that is fully built.

Urban-Rural Demarcation Line and Land Management Areas
Baltimore County



LMA Code	LMA Name	URDL Location
CCA	Community Conservation Area	Urban
EC	Employment Center	Urban
EC HV	Employment Center - Hunt Valley	Urban
MRRA	Middle River Redevelopment Area	Urban
OMGA	Owings Mills Growth Area	Urban
TUC	Towson Urban Center	Urban
APPA	Agricultural Priority Preservation Area	Rural
RCC	Rural Commercial Center	Rural
RPA	Resource Preservation Area	Rural
RRA	Rural Residential Area	Rural

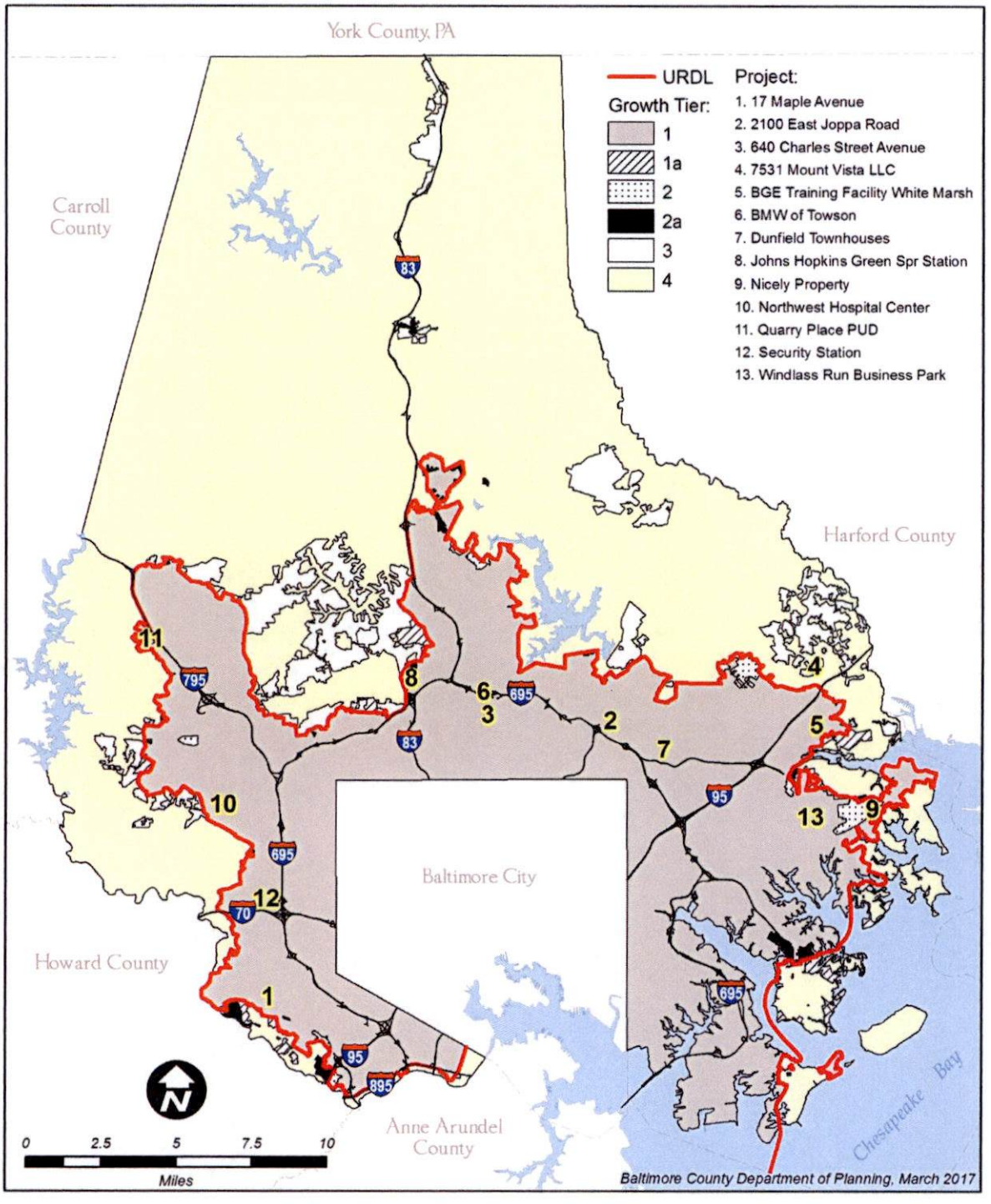
Development Summary

During the 3rd quarter of 2016, Baltimore County approved 13 development plans. During this reporting period, one major development, one PUD development, three minor developments and eight limited developments were approved (Figure 1). All but one of the approved development plans are within the urban LMAs and Growth Tier 1. The map on Page 5 locates each development plan relative to the Growth Tier area and the URDL.

Figure 1. Approved Development Plans, 3rd Quarter, 2016

Map Key	Project Name	Track	Type	Zoning	Acreage	LMA	Growth Tier
1	17 MAPLE AVE	MINOR	SFD	DR 3.5, DR 2	1.9457	CCA	1
2	2100 EAST JOPPA ROAD	LIMITED	OFFICE	BL	0.409	CCA	1
3	640 CHARLES STREET AVE	MINOR	SFD	DR 3.5	0.5290	CCA	1
4	7531 MOUNT VISTA LLC	MINOR	SFD	RC 5	12.190	RRA	4
5	BGE TRAINING FACILITY WHITE MARSH	LIMITED	OFFICE	ML M43, BR-AS	19.30	MRRA	1
6	BMW OF TOWSON	LIMITED	COMMERCIAL	BM	7.072	EC	1
7	DUNFIELD TOWNHOUSES	LIMITED	OTHER	DR 16	19.930	CCA	1
8	JOHNS HOPKINS AT GREEN SPRING STATION PAVILION 3	LIMITED	INSTITUTION	O3	5.580	CCA	1
9	NICELY PROPERTY	LIMITED	COMMERCIAL	BM	2.137	CCA	1
10	NORTHWEST HOSPITAL CENTER	LIMITED	INSTITUTION	DR 16, O3, BL	1.986	CCA	1
11	QUARRY PLACE PUD	PUD	COMMERCIAL	OR 2, BM	7.600	OMGA	1
12	SECURITY STATION	LIMITED	COMMERCIAL	BL, DR 16	3.700	CCA	1
13	WINDLASS RUN BUSINESS PARK	MAJOR	MIXED	ML-IM	58.410	EC	1

Approved Development Plans, 3rd Quarter, 2016



Residential Development

In the 3rd quarter of 2016, Baltimore County approved 8 housing units, 100% being single-family detached units. (See Figure 2). There were no single family attached, single-family semi-detached or multi-family units developed in the reporting quarter. All of the units are in land management areas that are inside the URDL and are Growth Tier 1. (See Figures 2 & 3).

Figure 2. Units by Type in Approved Development Plans, 3rd Quarter 2016.

Map Key	Project Name	LMA	Growth Tier	Track	Type	SFD	SFSD	SFA	MF	Total
1	17 MAPLE AVE	CCA	1	MINOR	SFD	3	0	0	0	3
3	640 CHARLES STREET AVE	CCA	1	MINOR	SFD	2	0	0	0	2
4	7531 MOUNT VISTA LLC	RRA	4	MINOR	SFD	3	0	0	0	3
					SUM:	8	0	0	0	8
					Percentage:	100.00%	0.00%	0.00%	0%	100%

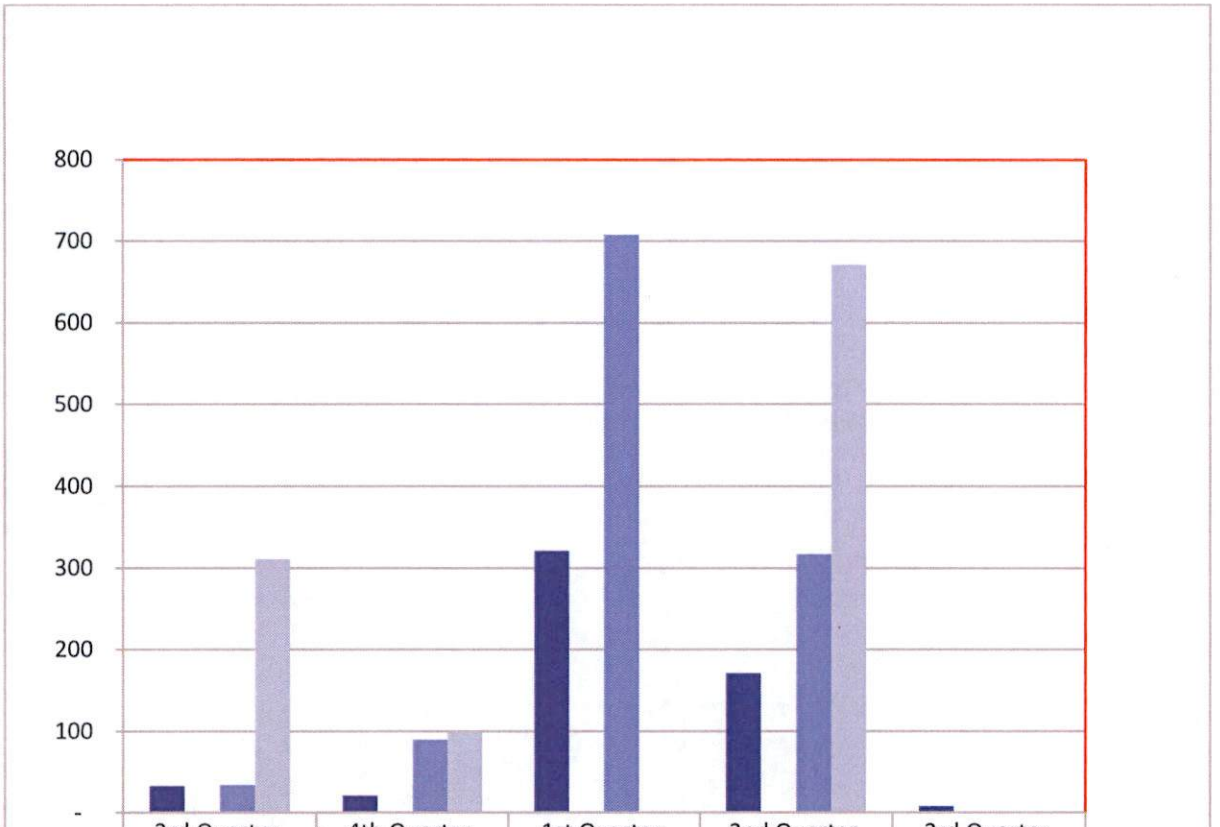
Source: Baltimore County Government,November 2016.
SFD: Single family detached. SFA: Single family attached.
SFSD: Single family semi-detached. MF: Multi-family.

Figure 3. Number of Units by LMA in Approved Development Plans, 3rd Quarter, 2015 - 3rd Quarter, 2016

LMA Code	LMA Name	3rd Quarter, 2015	4th Quarter, 2015	1st Quarter, 2016	2nd Quarter, 2016	3rd Quarter, 2016	Total
APPA	Agricultural Priority Preservation Area	6	7	10	4	0	27
CCA	Community Conservation Area	336	42	19	426	5	828
EC	Employment Center	34	62	0	192	0	288
EC-HV	Employment Center-Hunt Valley	0	0	0	0	0	0
MRRA	Middle River Redevelopment Area	0	0	997	0	0	997
OMGA	Owings Mills Growth Area	0	99	2	56	0	157
RCC	Rural Commercial Center	0	0	0	0	0	0
RPA	Resource Preservation Area	0	0	0	0	0	0
RRA	Rural Residential Area	2	0	1	2	3	8
TUC	Towson Urban Center	0	0	0	479	0	479
	Total	378	210	1,029	1,159	8	2,784

Source: Baltimore County Government, November 2016

Figure 4. Units by Type in Approved Development Plans 3rd Quarter 2015- 3rd Quarter 2016



	3rd Quarter, 2015	4th Quarter, 2015	1st Quarter, 2016	2nd Quarter, 2016	3rd Quarter, 2016
SFD	33	21	321	171	8
SFSD	-	-	-	-	-
SFA	34	90	708	317	-
MF	311	99	-	671	-

The graph in Figure 4 shows the approved development plans by type over the period beginning with the 3rd quarter of 2015 continuing through the 3rd quarter of 2016.

The report also compiles the number of occupancy permits for residential units approved in the quarter. These new residential units are a part of development plans approved and recorded prior to the reporting quarter or for existing legal lots of record. The approved occupancy permits act as indicators of development trends in Baltimore County and how successfully the growth management objectives of the Master Plan are being applied.

In the period from 3rd quarter 2015 to 3rd quarter 2016, 1,289 units were approved for occupancy. Of them, 90% were single family structures (See Figure 5). The table in Figure 6 illustrates that during the

3rd quarter of 2016, over 77% of new units with approved occupancy permits are within the URDL and Growth Tier 1.

Figure 5. Units in Occupancy Permits, 3rd Quarter, 2015 – 3rd Quarter, 2016

Housing Type	3rd Quarter, 2015	4th Quarter, 2015	1st Quarter, 2016	2nd Quarter, 2016	3rd Quarter, 2016	Total
SFD	127	122	95	129	148	621
SFSD	-	2	2	6	4	14
SFA	149	128	34	79	137	527
MF	-	127*	-	-	-	127
Sum	276	379	131	214	289	1,289

***= Senior Apartment Buildings**

Figure 6. Units in Occupancy Permits by LMA , 3rd Quarter, 2016

LMA	SFD	SFSD	SFA	MF	Total
APPA	7	-	-	-	7
EC	2	-	1	-	3
CCA	70	4	58	-	132
MRRA	30	-	8	-	38
OMGA	14	-	43	-	57
RPA	13	-	27	-	40
RRA	12	-	-	-	12
TUC	-	-	-	-	0
Sum	148	4	137	0	289

Policy Area Type	# of Units	% Share of Total
Urban LMA	230	79.58%
Rural LMA	59	20.42%

Occupancy Permits by Growth Tier, 3rd Quarter 2016

Growth Tier	SFD	SFSD	SFA	MF	Total	% Share of Total
1	119	4	100	-	223	77.16%
1a	2	-	-	-	2	0.69%
2	1	-	37	-	38	7.96%
2a	-	-	-	-	0	0.00%
3	8	-	-	-	8	2.77%
4	18	-	-	-	18	6.23%
Sum	148	4	137	0	289	100%

Non-Residential Developments

There were ten non-residential development plans approved in the 3rd quarter of 2016 (Figure 7). The largest development consisted of a 107,676 square foot institution limited exemption development approved within the Community Conservation Area (CCA) LMA.

Figure 7. Approved Non-Residential/Mixed Development Plans, 3rd Quarter, 2016

Map Key	Project Name	LMA	Use Type	Track	Type	Industrial	Institution	Office	Restaurant	Retail	Other	Total
2	2100 EAST JOPPA ROAD	CCA	Proposed reduction of building	Limited	Office	-	-	5,426sf	-	-	-	5,426sf
5	BGE TRAING FACILITY WHITE MARSH	MRRA	Proposed addition	Limited	Office	-	-	750sf	-		-	750sf
6	BMW OF TOWSON	EC	Proposed addition to showroom	Limited	Commercial	-	-	-	-	1,438sf	-	1,438sf
7	DUNFIELD TOWNHOUSES	CCA	Proposed two story community center	Limited	Other	-	-		-	-	3,288sf	3,288sf
8	JOHNS HOPKINS AT GREEN SPRING STATION PAVILION 3	CCA	Proposed healthcare and surgery center	Limited	Institution	-	107,676sf	-	-	-	-	107,676sf
9	NICELY PROPERTY	CCA	Proposed warehouse	Limited	Commercial	-	-	-	-		9,900sf	9,900sf
10	NORTHWEST HOSPITAL CENTER	CCA	Proposed 3 story medical office building	Limited	Institution	-	55,099sf		-	-	-	55,099sf
11	QUARRY PLACE PUD	OMGA	Proposed grocery store, restaurant and pharmacy	PUD	Commercial	-		-	60,200sf	9,800sf		70,000sf
12	SECURITY STATION	CCA	Proposed Dunkin Donuts	Limited	Commercial	-	-			2,400sf		2,400sf
13	WINDLASS RUN BUSINESS PARK	EC	Proposed elimination of development on lots 1 through 4	Major	Mixed	-	-	-	-	-	-	0sf
					SUM:	0sf	162,775sf	6,176sf	60,200sf	13,638sf	13,188sf	255,977sf
					Percentage:	0%	63.59%	2.41%	23.52%	5.33%	5.15%	100%

Source: Baltimore County Government, November 2016.

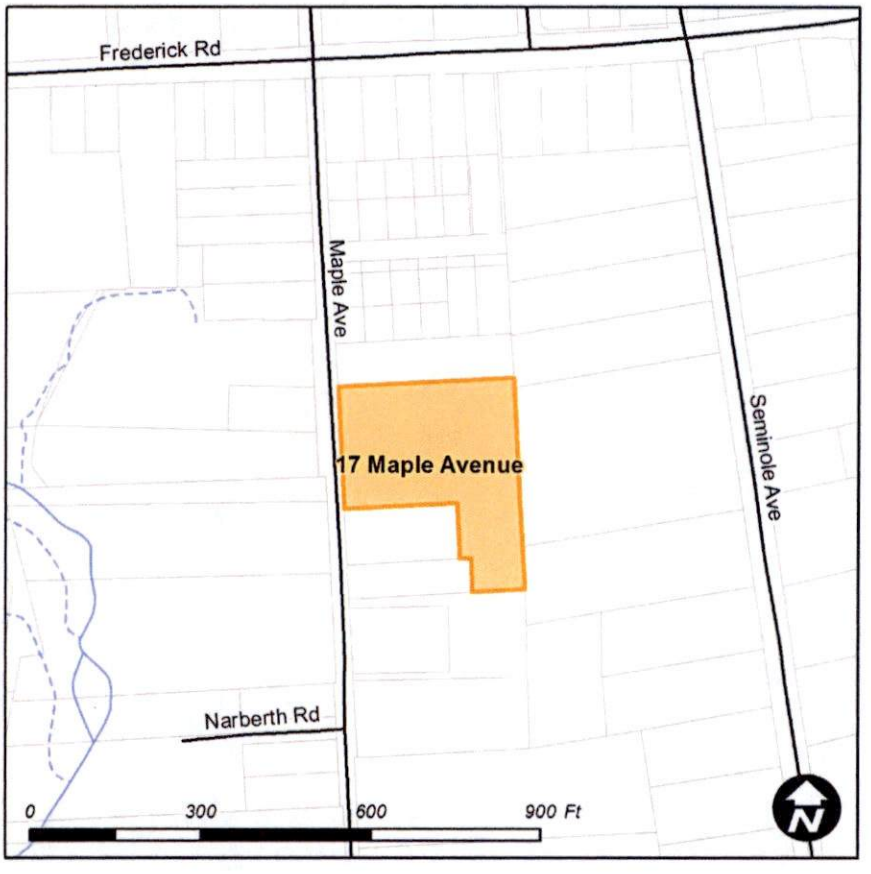
Appendix

Definitions:

REFERENCE #.....	File number from Permits, Applications, and Inspections (PAI)
DEVELOPMENT TRACK.....	The development track of the project (MAJOR, MINOR, LIMITED, OR PUD)
MINOR SUB #.....	The 5-digit reference assigned to minor subdivisions by PAI
COUNCIL DISTRICT.....	County Councilmanic District
LOCATION.....	Address of project
TAX MAP / BLOCK / PARCEL...	Tax map reference numbers
DEVELOPMENT TYPE.....	Type of development proposed
PROPOSED UNITS / LOTS.....	Number of proposed lots / units for a project
SFD.....	Single family detached units, also includes sfd condominiums
SFSD.....	Single family semi-attached units, duplex
SFA.....	Single family attached units, also includes sfa condominiums
MULTI FAM.....	Apartments, condominium buildings, elderly housing apartments
SPECIAL.....	Special units – assisted living
OTHER.....	Commercial, industrial, office & lots with no proposed development
DEVELOPED UNITS / LOTS....	Number of developed lots / units so far, includes existing to remain
PLAN SUBMITTED.....	The date the plan was received by the Department of Planning
PLAN APPROVAL.....	The date the plan was approved
TOTAL ACREAGE.....	Acreage of entire project
ZONING 1.....	Largest zoning area on site with its acreage
ZONING 2.....	2nd largest zoning area with its acreage
ZONING 3.....	3rd largest zoning area with its acreage
EXISTING LOTS / UNITS.....	Existing lots / units to remain
LMA.....	Land Management Areas
GROWTH TIER I.....	Served by public sewer and inside the URDL
GROWTH TIER IA.....	Served by public sewer and outside the URDL
GROWTH TIER II.....	Planned for public sewer and inside the URDL
GROWTH TIER IIA.....	Planned for public sewer and outside the URDL
GROWTH TIER III.....	Large lot developments on septic
GROWTH TIER IV.....	Preservation and conservation areas. No major subdivisions on septic.

17 Maple Ave

DEVELOPMENT TRACK:	Minor	PAI #	10585				
DEVELOPMENT TYPE:	SFD	MINOR SUB #:	15005M				
		LIMITED #					
LOCATION:	17 Maple Ave						
MAP	10	COUNCIL DISTRICT	1	PLAN SUBMITTED	2/25/2015		
BLOCK	18	LMA	CCA	PLAN APPROVAL	7/5/2016		
PARCEL	408	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	3	UNITS/LOTS	1	ZONING1	DR 3.5	ACRES	1.9457
SFD	3	DVLP SFD	1	ZONING2		ACRES	
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	1.9457
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	0	DVLP OTHER	0				

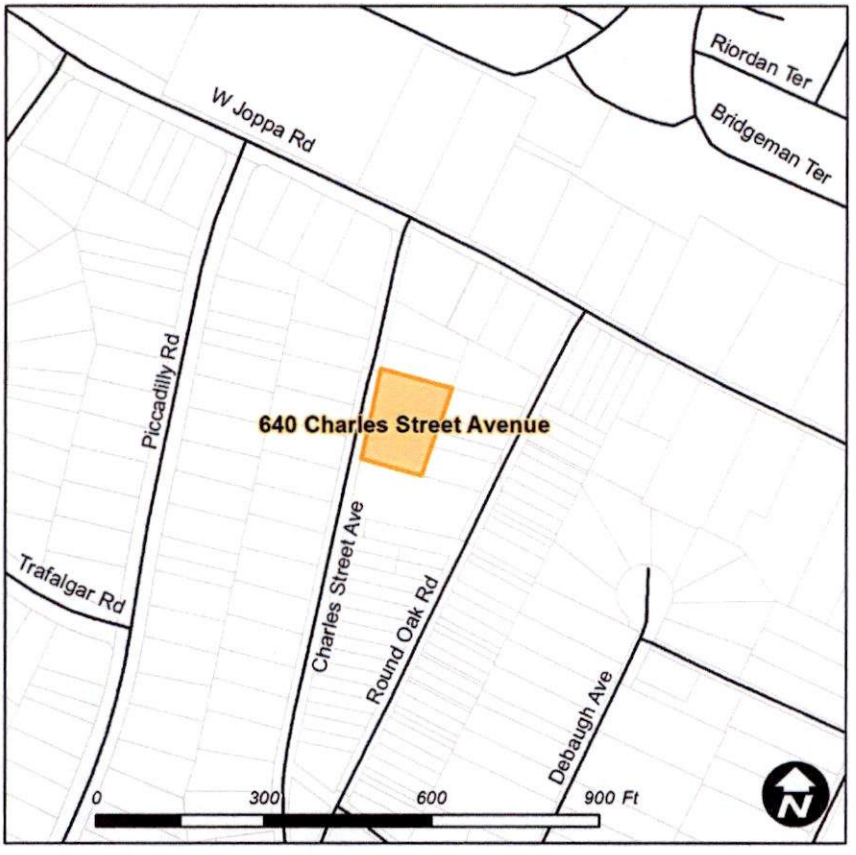


2100 East Joppa Road- 1st Refinement

DEVELOPMENT TRACK:	Limited	PAI #	90848				
DEVELOPMENT TYPE:	Office	MINOR SUB #:					
		LIMITED #					
LOCATION:	2100 East Joppa Road						
MAP	71	COUNCIL DISTRICT	5	PLAN SUBMITTED	4/12/2016		
BLOCK	8	LMA	CCA	PLAN APPROVAL	8/29/2016		
PARCEL	1,205	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	1	UNITS/LOTS	0	ZONING1	BL	ACRES	0.409
SFD	0	DVLP SFD	0	ZONING2		ACRES	
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	0.409
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	1	DVLP OTHER	0				

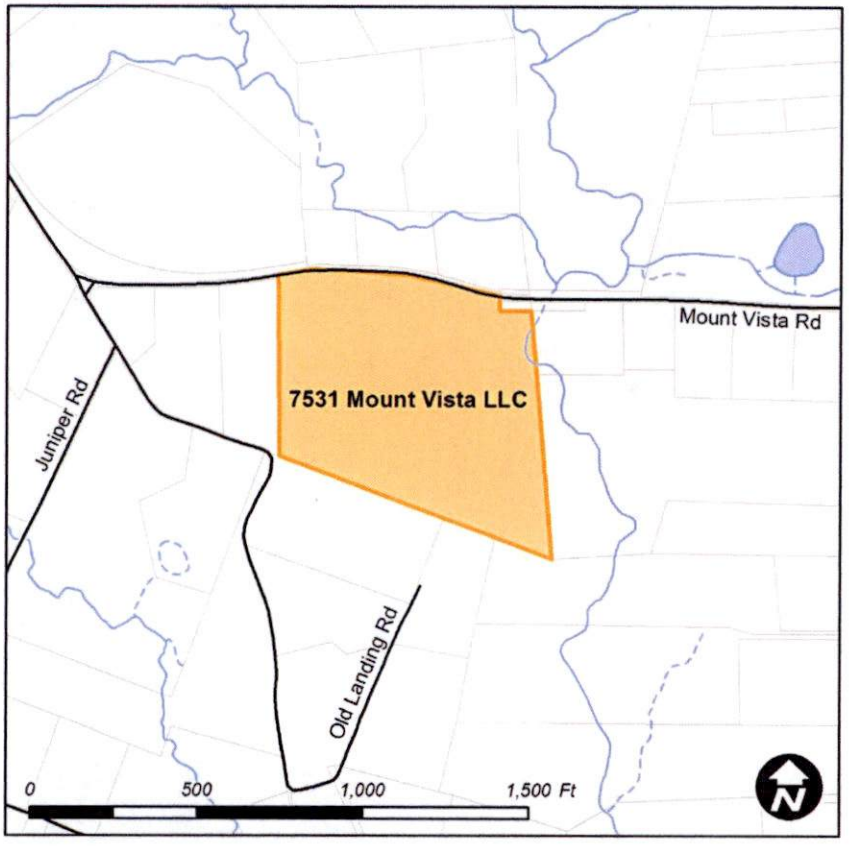
640 Charles Street Ave

DEVELOPMENT TRACK:	Minor	PAI #	90850				
DEVELOPMENT TYPE:	SFD	MINOR SUB #:	14049M				
		LIMITED #					
LOCATION:	640 Charles St. Ave.						
		COUNCIL		PLAN			
MAP	69	DISTRICT	5	SUBMITTED	11/14/2014		
				PLAN			
BLOCK	6	LMA	CCA	APPROVAL	7/1/2016		
PARCEL	166	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	2	UNITS/LOTS	0	ZONING1	DR 3.5	ACRES	0.529
SFD	2	DVLP SFD	0	ZONING2		ACRES	
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	0.529
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	0	DVLP OTHER	0				



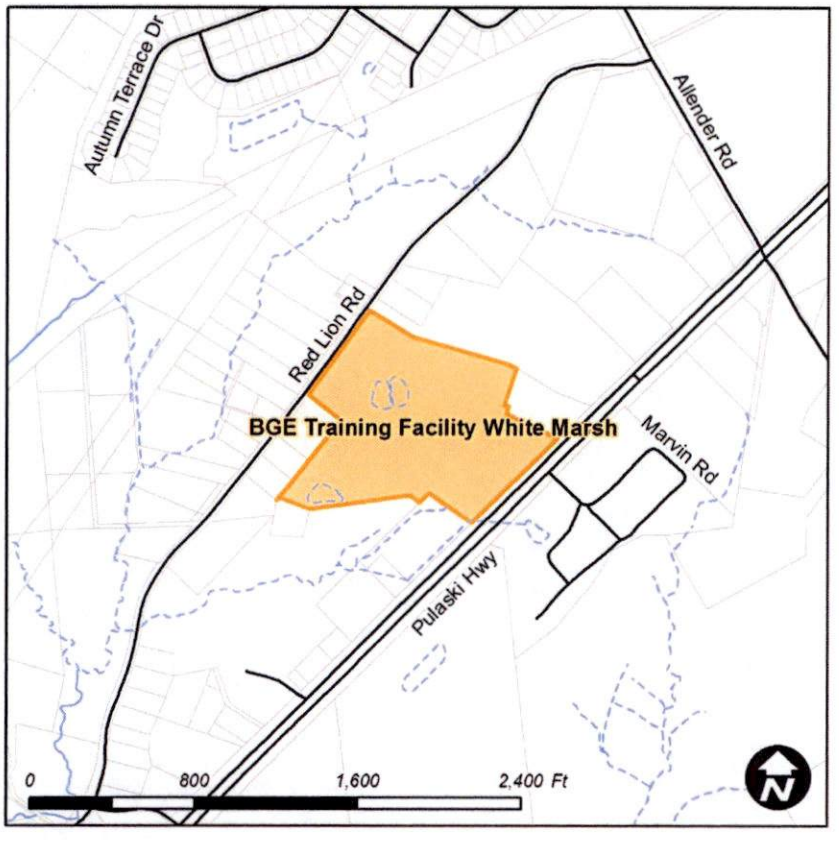
7531 Mount Vista LLC

DEVELOPMENT TRACK:	Minor	PAI #	111126				
DEVELOPMENT TYPE:	SFD	MINOR SUB #:	14020M				
		LIMITED #					
LOCATION:	7531 Mount Vista Rd.						
MAP	64	COUNCIL DISTRICT	5	PLAN SUBMITTED	6/13/2014		
BLOCK	14	LMA	RRA	PLAN APPROVAL	9/13/2016		
PARCEL	198	Growth Tier	4				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	3	UNITS/LOTS	1	ZONING1	RC 5	ACRES	12.19
SFD	3	DVLP SFD	1	ZONING2		ACRES	
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	12.19
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	0	DVLP OTHER	0				



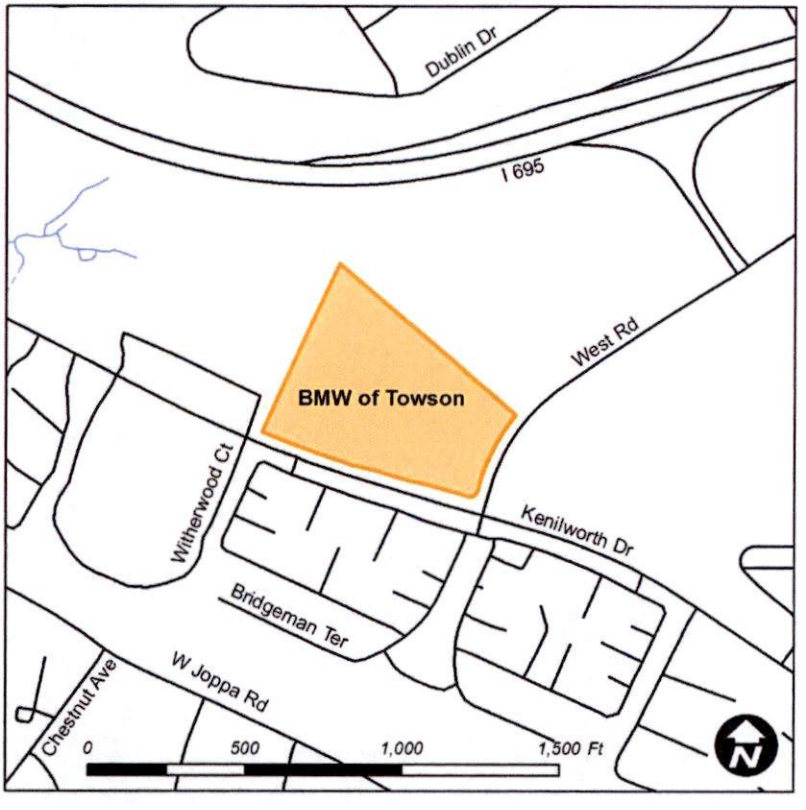
BGE Training Facility White Marsh

DEVELOPMENT TRACK:	Limited	PAI #	110870			
DEVELOPMENT TYPE:	Office	MINOR SUB #:				
		LIMITED #				
LOCATION:	NW Pulaski Hwy, SW Allender Rd					
		COUNCIL		PLAN		
MAP	73	DISTRICT	5	SUBMITTED	5/10/2016	
				PLAN		
BLOCK	14	LMA	MRRA	APPROVAL	7/1/2016	
PARCEL	40	Growth Tier	1			
#PROPOSED:		#DEVELOPED:				
UNITS/LOTS	1	UNITS/LOTS	1	ZONING1	ML M43	ACRES
SFD	0	DVLP SFD	0	ZONING2	BR-AS	ACRES
SFSD	0	DVLP SFSD	0	ZONING3		ACRES
SFA	0	DVLP SFA	0			TOTAL
MULTIFAM	0	DVLP MFAM	0			
SPECIAL	0	DVLP SPECIAL	0			
OTHER	1	DVLP OTHER	1			



BMW of Towson- 4th Refinement

DEVELOPMENT TRACK:	Limited	PAI #	90713				
DEVELOPMENT TYPE:	Commercial	MINOR SUB #:					
		LIMITED #					
LOCATION:	NW COR Kenilworth Dr and West Rd						
MAP	70	COUNCIL DISTRICT	5	PLAN SUBMITTED	8/22/2016		
BLOCK	20	LMA	EC	PLAN APPROVAL	9/13/2016		
PARCEL	1	Growth Tier	1				
#PROPOSED:	359	#DEVELOPED:					
UNITS/LOTS	1	UNITS/LOTS	0	ZONING1	BM	ACRES	7.0719
SFD	0	DVLP SFD	0	ZONING2		ACRES	
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	7.0719
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	1	DVLP OTHER	0				



Dunfield Townhouses- 1st Amendment

DEVELOPMENT TRACK:	Amendment	PAI #	110754				
DEVELOPMENT TYPE:	Other	MINOR SUB #:					
		LIMITED #					
LOCATION:	55 Insley Way						
MAP	71	COUNCIL DISTRICT	5	PLAN SUBMITTED	5/12/2016		
BLOCK	23	LMA	CCA	PLAN APPROVAL	8/11/2016		
PARCEL	519	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	1	UNITS/LOTS	0	ZONING1	DR 16	ACRES	19.93
SFD	0	DVLP SFD	0	ZONING2		ACRES	
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	19.93
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	1	DVLP OTHER	0				

Johns Hopkins at Green Spring Station Pavilion 3

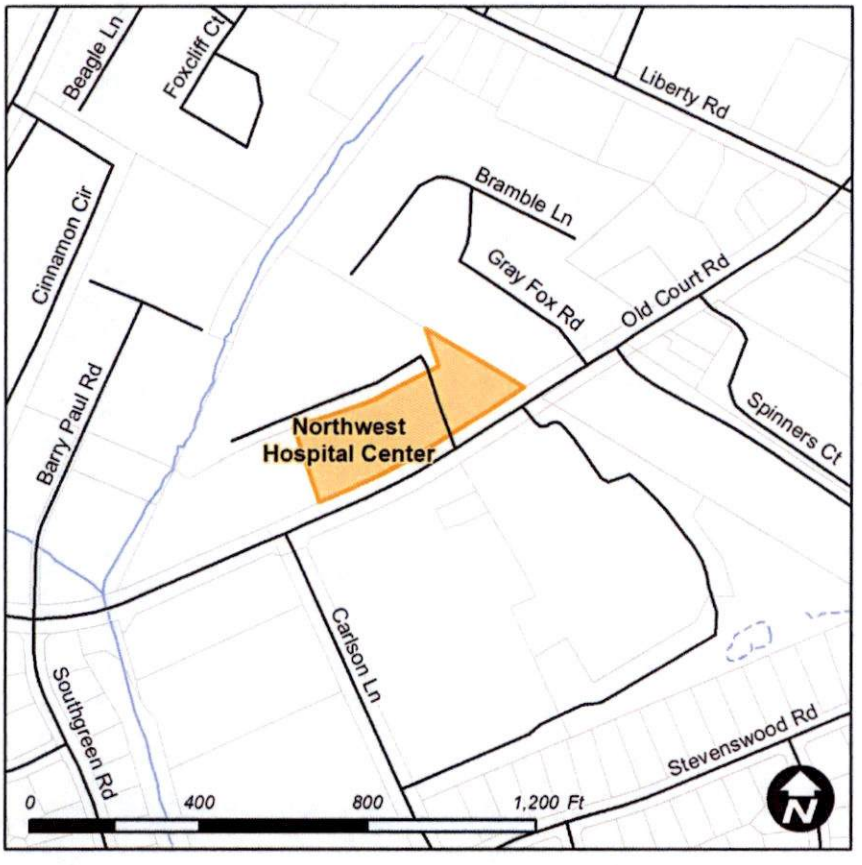
DEVELOPMENT TRACK:	Limited	PAI #	80897				
DEVELOPMENT TYPE:	Institution	MINOR SUB #:					
		LIMITED #					
LOCATION:	10803 Falls Rd						
MAP	60	COUNCIL DISTRICT	2	PLAN SUBMITTED	12/11/2015		
BLOCK	2	LMA	CCA	PLAN APPROVAL	7/21/2016		
PARCEL	67	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	1	UNITS/LOTS	0	ZONING1	O3	ACRES	5.58
SFD	0	DVLP SFD	0	ZONING2		ACRES	
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	5.58
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	1	DVLP OTHER	0				

Nicely Property

DEVELOPMENT TRACK:	Limited	PAI #	150990			
DEVELOPMENT TYPE:	Commercial	MINOR SUB #:				
		LIMITED #				
LOCATION:	12216-12222 Eastern Ave.					
MAP	83	COUNCIL DISTRICT	6	PLAN SUBMITTED	4/29/2014	
BLOCK	23	LMA	CCA	PLAN APPROVAL	9/27/2016	
PARCEL	496	Growth Tier	1			
#PROPOSED:		#DEVELOPED:				
UNITS/LOTS	1	UNITS/LOTS	0	ZONING1	BM	ACRES
SFD	0	DVLP SFD	0	ZONING2		ACRES
SFSD	0	DVLP SFSD	0	ZONING3		ACRES
SFA	0	DVLP SFA	0			TOTAL
MULTIFAM	0	DVLP MFAM	0			
SPECIAL	0	DVLP SPECIAL	0			
OTHER	1	DVLP OTHER	0			

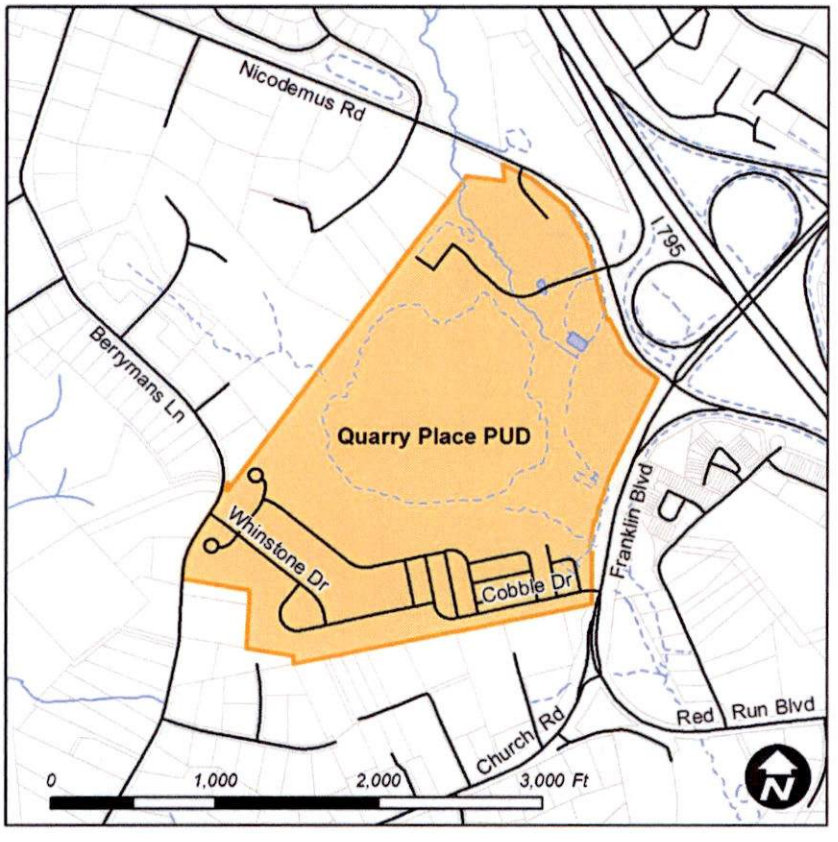
Northwest Hospital Center

DEVELOPMENT TRACK:	Limited	PAI #	20782				
DEVELOPMENT TYPE:	Institution	MINOR SUB #:					
		LIMITED #					
LOCATION:	5330 Old Court Rd.						
MAP	77	COUNCIL DISTRICT	4	PLAN SUBMITTED	1/6/2016		
BLOCK	15	LMA	CCA	PLAN APPROVAL	9/21/2016		
PARCEL	844	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	2	UNITS/LOTS	1	ZONING1	DR 16	ACRES	1.13
SFD	0	DVLP SFD	0	ZONING2	O3	ACRES	0.53
SFSD	0	DVLP SFSD	0	ZONING3	BL	ACRES	0.32
SFA	0	DVLP SFA	0			TOTAL	1.986
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	2	DVLP OTHER	1				



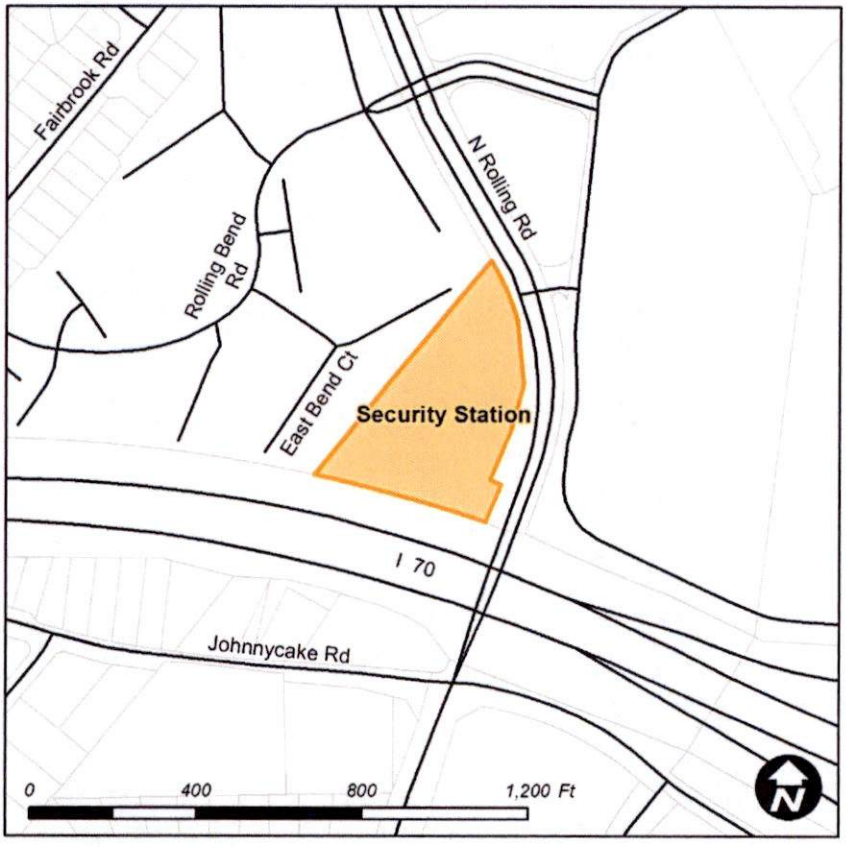
Quarry Place PUD

DEVELOPMENT TRACK:	PUD	PAI #	40700				
DEVELOPMENT TYPE:	Commercial	MINOR SUB #:					
		LIMITED #					
LOCATION:	501 Quarry View Court.						
MAP	57	COUNCIL DISTRICT	4	PLAN SUBMITTED	3/31/2016		
BLOCK	11	LMA	OMGA	PLAN APPROVAL	9/8/2016		
PARCEL	626	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	4	UNITS/LOTS	0	ZONING1	OR 2	ACRES	5.67
SFD	0	DVLP SFD	0	ZONING2	BM	ACRES	1.93
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	7.6
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	4	DVLP OTHER	0				



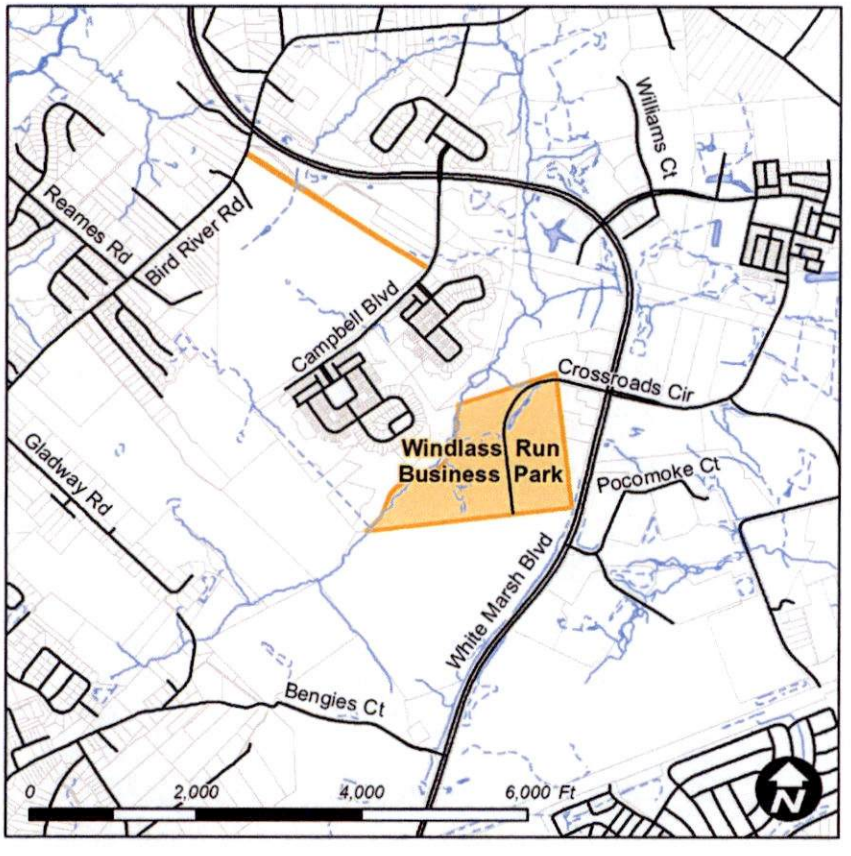
Security Station- 2nd CRG Refinement Plan

DEVELOPMENT TRACK:	Limited	PAI #	10365				
DEVELOPMENT TYPE:	Commercial	MINOR SUB #:					
		LIMITED #					
LOCATION:	1700-1750 N Rolling Rd.						
MAP	94	COUNCIL DISTRICT	1	PLAN SUBMITTED	7/28/2016		
BLOCK	6	LMA	CCA	PLAN APPROVAL	9/6/2016		
PARCEL	16	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	1	UNITS/LOTS	1	ZONING1	BL	ACRES	3.6
SFD	0	DVLP SFD	0	ZONING2	DR 16	ACRES	0.12
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	3.7
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	1	DVLP OTHER	1				



Windlass Run Business Park- 3rd Refinement

DEVELOPMENT TRACK:	Major	PAI #	150811				
DEVELOPMENT TYPE:	Mixed	MINOR SUB #:					
		LIMITED #					
LOCATION:	S of Bird River Rd.						
MAP	83	COUNCIL DISTRICT	6	PLAN SUBMITTED	6/3/2016		
BLOCK	19	LMA	EC	PLAN APPROVAL	8/3/2016		
PARCEL	360	Growth Tier	1				
#PROPOSED:		#DEVELOPED:					
UNITS/LOTS	5	UNITS/LOTS	0	ZONING1	ML-IM	ACRES	58.41
SFD	0	DVLP SFD	0	ZONING2		ACRES	
SFSD	0	DVLP SFSD	0	ZONING3		ACRES	
SFA	0	DVLP SFA	0			TOTAL	58.41
MULTIFAM	0	DVLP MFAM	0				
SPECIAL	0	DVLP SPECIAL	0				
OTHER	5	DVLP OTHER	0				



Ex 12

IN RE: PETITION FOR ADMIN. VARIANCE 11th Election District 5th Councilmanic District **(9700 Winkler Street)** Jovita Biemer Petitioner	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **Case No. 2017-0197-A**

* * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Jovita Biemer ("Petitioner"). The Petitioner is requesting Variance relief pursuant to § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow for a side setback to a street of 29 ft. in lieu of the required 40 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

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

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on February 10, 2017, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

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

Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the 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 **17th** day of **March, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow for a side setback to a street of 29 ft. in lieu of the required 40 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
S/S Bush Street, 150' W of the c/l
Winkler Street * ZONING COMMISSIONER
(5217 Bush Street)
11th Election District * OF BALTIMORE COUNTY
5th Council District
* Case No. 06-182-SPH
Catherine S. Tien and Frank Mazzella
Petitioners *

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Catherine S. Tien and Frank Mazzella. The Petitioners request a special hearing to approve an accessory structure (detached garage) with an area greater than the principal structure (dwelling) (896 sq.ft. and 729 sq.ft., respectively). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Frank Mazzella, property owner, and Bob Infussi and David Billingsley, the zoning consultants who assisted the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped parcel located on the south side of Bush Street, just west of its intersection with Winkler Street in the Forge Acres community near White Marsh. The property contains a gross area of 0.344 acres, more or less, zoned D.R.2-H, and is improved with a small single-family dwelling, which was built in 1958. The Petitioners have owned and resided on the property since May 2001. Mr. Mazzella is a collector of antique cars and has apparently enjoyed the pursuit of this hobby for several years. He currently stores a valuable Porsche roadster off premises; however, desires to provide a more secure storage area at his residence. Thus, the Petitioners propose constructing a 32' x 28' detached garage in the rear yard of their property. As shown on the site plan, the garage

ORDER RECEIVED FOR FILING
Date 12/21/05
By

will be located in the rear yard of the property and will meet all setback and height requirements. However, given the small size of the existing home, the requested special hearing is necessary. In this regard, testimony indicated that upon completion of the garage, the Petitioners intend to raise the existing dwelling and replace it with a larger home.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested special hearing relief. There were no adverse comments submitted by any County reviewing agency and the neighbors have no objections to the proposal. However, the Office of Planning has requested that building elevation drawings of the proposed structure be submitted for their review and approval prior to the issuance of any permits to insure compatibility with the Honeygo District development standards. Said plans shall reflect the exact floor area of the proposed structure and include detailed landscaping treatments sufficient to screen the garage from the adjacent neighbors who reside at 9600 Winkler Street and 5219 Bush Street. Finally, the garage shall be limited to uses accessory to the residential use of the property and no portion thereof shall be converted for use as a second dwelling unit and/or apartments. There shall be no kitchen, bathroom or living quarters provided within the structure.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of December 2005 that the Petition for Special Hearing to approve the area of a proposed accessory structure (detached garage) to exceed the size of the principal structure, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

ORDER RECEIVED FOR FILING
Date 12/21/05
By

2) The Petitioners shall submit building elevation drawings of the proposed garage, including exact floor area, to the Office of Planning for review and approval prior to the issuance of any permits. Said plans shall include detailed landscaping treatments sufficient to screen the garage from the adjacent neighbors at 9600 Winkler Street and 5219 Bush Street.

3) The garage shall be limited to uses accessory to the residential use of the property. It shall not be used to support a business or for commercial purposes. Moreover, the Petitioner shall not allow or cause the garage to be converted to a second dwelling unit and/or apartments. There shall be no living quarters contained therein, and no kitchen or bathroom facilities.

4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 12/21/05
By JGP

IN RE: PETITION FOR ADMIN. VARIANCE SE/S of Bangert Street, 1,180 ft. +/- NE centerline of Randell Avenue 11th Election District 5th Councilmanic District **(5203 Bangert Street)** Lisa M. & Alfred G. Jones *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 05-652-A

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Lisa M. & Alfred G. Jones. The administrative variance is requested for property located at 5203 Bangert Street in the eastern area of Baltimore County. The administrative variance request is from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an addition with a front yard setback of 25 ft. in lieu of the required 40 ft. and a side yard setback of 5 ft. and a sum of both side yards of 31 ft. +/- in lieu of the required 15 ft. and 40 ft. respectively. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 19, 2005, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated June 29, 2005, a copy of which is attached hereto and made a part hereof.

Applicable Law

Section 307 of the B.C.Z.R. – ***Variances***.

FILMED RECEIVED FOR FILING
7/14/05
By

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the 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, I find that the requested variance should be GRANTED.

THEREFORE, IT IS ORDERED, this 14 day of July, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for administrative variance from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an addition with a front yard setback of 25 ft. in lieu of the required 40 ft. and a side yard setback of 5 ft. and a sum of both side yards of 31 ft. +/- in lieu of the required 15 ft. and 40 ft. respectively, be and is hereby

CASH RECEIVED FOR FILING
7/14/05
By

GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;

2. The Petitioners shall comply with the ZAC comments submitted by the Office of Planning dated June 29, 2005, a copy of which is attached hereto and made a part hereof;

3. When applying for a building permit, the site plan field must reference this case and set forth and address the restrictions of this Order.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

RECEIVED FOR FILING
7/14/05
By

IN RE: PETITION FOR ZONING VARIANCE
N/S Forge Road, 310 ft. E
of c/l Randall Avenue
5106 Forge Road
11th Election District
5th Councilmanic District
Thomas L. Raines, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-409-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 5106 Forge Road in Perry Hall. The Petition is filed by Thomas L. Raines and Linda G. Raines, his wife, property owners. Variance relief is requested from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to allow a front yard setback of 40 ft., a side yard setback of 10 ft., and a sum of the side yard setbacks of 30.51 ft., in lieu of the minimum required 50 ft., 20 ft., and 50 ft., respectively. The subject property and requested relief are more particularly shown on the plat to accompany the Petition for Variance, marked as Petitioners' Exhibit No. 1.

Appearing at the public hearing held for this case were Thomas L. Raines and Linda Raines, property owners. There were no Protestants or other interested persons present.

Uncontradicted testimony and evidence presented was that Mr. and Mrs. Raines have owned the lot since 1991. When acquired, the parcel was unimproved. In July of 1995, the Raines began construction of a single family dwelling on the lot. The construction of the house is nearly complete, however, the Petitioners request variance relief in order to construct an attached garage. The Petitioners further observed that delay in construction on the subject lot was occasioned by a delay in obtaining public sewerage to the property. However, the sewer line has been completed and the connection made.

ORDER RECEIVED FOR FILING
Date 5/30/96
By W. Wright

MICROFILMED

Furthermore, a review of the site plan shows that the property is approximately one acre in area and is zoned D.R.1. This is a flag shaped lot, with a lengthy stem of approximately 473 ft. which leads from Forge Road to the interior of the site. As shown on the site plan, the Petitioners are constructing their house so as to maintain a 41 ft. front yard setback and a 50 ft. rear yard setback. Two side yard setbacks, caused by the unusual shape of the site, are 10 ft. and 20.51 ft., respectively. The sum of the side yard setbacks is 30.51 ft.

Based upon the testimony and evidence offered, all of which was uncontradicted, I am persuaded to grant the Petition for Variance. The testimony and evidence offered on behalf of the Petitioner is persuasive. I am convinced that the Petitioner has satisfied the requirements of Section 307 of the BCZR and the case law. The grant of variance relief, as requested, is appropriate particularly in view of the nature of the surrounding locale. Moreover, it is clear that the required variance relief is consistent with the BCZR and will not be detrimental to surrounding properties.

ORDER RECEIVED FOR FILING
Date 5/30/96
By M. Rood

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of May, 1996 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to allow a front yard setback of 40 ft., a side yard setback of 10 ft., and a sum of the side yard setbacks of 30.51 ft., in lieu of the minimum required 50 ft., 20 ft., and 50 ft., respectively, be and is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk

MICROFILMED

until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mmn

ORDER RECEIVED FOR FILING
Date 5/30/96
By M. Gank

MICROFILMED

IN RE: PETITION FOR ZONING VARIANCE
N/S Forge Road, 625' E of the c/l of Randall Avenue
(5114 Forge Road)
11th Election District
5th Councilmanic District
John O. Goodwin, Jr.
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-168-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 79.77 feet in lieu of the required 250 feet and to permit side yard setbacks of 10 feet each in lieu of the minimum required 20 feet and a combined sum of the side yards of 30 feet in lieu of the required combined sum of 50 feet, for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioner appeared and testified. Appearing as a Protestant in the matter was Lorraine E. Shifflett.

Testimony indicated that the subject property, known as 5114 Forge Road, consists of 21,600 sq.ft. zoned D.R. 1 and is presently unimproved. Petitioner testified he purchased the subject property in January 1989 with the intention of constructing a dwelling thereon. Testimony indicated that he was advised at that time by the previous owner that he had a building permit for the property. Petitioner currently resides with his parents who have rented the adjoining property, known as 5112 Forge Road, for the past 25 years. Said property is owned by the Protestant, Lorraine E. Shifflett. Testimony indicated that as a result of an existing 15-foot BG & E right-of-way easement running along the east side property line, and there being no available adjoining property on the west side

ORDER RECEIVED FOR FILING
Date ____
By ____

from which to obtain the additional land needed to meet zoning requirements, the relief requested is necessary in order to develop the property as proposed. Petitioner testified the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community and to require strict compliance with the zoning regulations will create practical difficulty and unreasonable hardship for him.

Lorraine Shifflett, property owner of 5112 Forge Road, appeared and testified as a Protestant. Ms. Shifflett testified that she was concerned about the value of her property being adversely affected by the proposed development of this property and that in her opinion, the relief requested was for too great a variance.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. Nelson v. Bailey, 270 Md. 308 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, as hereinafter modified, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to

- 2 -

ORDER RECEIVED FOR FILING
Date ____
By ____

the public health, safety, and general welfare. In the opinion of this Deputy Zoning Commissioner, a variance of 17 feet for the side yard adjoining 5112 Forge Road will sufficiently meet Petitioner's needs without creating practical difficulty and unreasonable hardship for him and at the same time, provide a greater combined sum of the side yards required.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested, as modified, should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 5th day of December, 1991 that the Petition for Zoning Variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 79.77 feet in lieu of the required 250 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded and Petitioner would be required to return and be responsible for returning said property to its original condition.

2) Prior to the issuance of any permits, Petitioner shall submit for review and approval by the Deputy Zoning Commissioner, a revised site plan incorporating the modified relief granted herein.

- 3 -

ORDER RECEIVED FOR FILING
Date ____
By ____

3) There shall be no structures of any kind permitted in the front yard of the subject property.

4) There shall be no further subdivision of the subject property.

5) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 1B02.3.C.1 of the B.C.Z.R. to permit side yard setbacks of 10 feet each in lieu of the minimum required 20 feet and a combined sum of the side yards of 30 feet in lieu of the required combined sum of 50 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date ____
By ____

- 4 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

December 5, 1991

Mr. John O. Goodwin, Jr.
5112 Forge Road
Perry Hall, Maryland 21128

RE: PETITION FOR ZONING VARIANCE
N/S Forge Road, 625' E of the c/l of Randall Avenue
(5114 Forge Road)
11th Election District - 5th Councilmanic District
John O. Goodwin, Jr. - Petitioner
Case No. 92-168-A

Dear Mr. Goodwin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance, as modified, has been granted in accordance with the attached Order.

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 Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Ms. Lorraine E. Shifflett
4124 Ashleton Road, Baltimore, Md. 21236

People's Counsel

Petition for Variance

92-168-A

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1B02.3.C.1.a. to allow a lot width of 79.77' in lieu of the required 250' and to allow side yard setbacks of 10' and a combination of 30' in lieu of the required 20' and a combination of 50'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

1. To have adequate space for a septic system the proposed house should face this street.

2. The proposed house with present zoning (due to the width of the property) can't be placed on the lot so that it faces Forge Rd.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, 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.

I/We do 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 Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.: _____

Legal Owner(s):

John O. Goodwin, Jr.
(Type or Print Name)

John O. Goodwin, Jr.
Signature

(Type or Print Name)

Signature

5112 Forge Rd. 256-3803
Address Phone No.

Perry Hall, MD. 21128
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address Phone No.

City and State

ESTIMATED LENGTH OF HEARING -1/2HR. +HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER
REVIEWED BY: _____ DATE _____

188

ZONING DESCRIPTION

92-168-A

Beginning on the north side Forge Road 30' wide at a distance approximately 625' easterly from the center line of Randall Avenue, containing 1 acre +/- located in the 11th Election District, 5th Councilmanic District, also known as 5114 Forge Road.

CERTIFICATE OF PUBLICATION

11/7, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/7, 1991.

THE JEFFERSONIAN,

S. Zeke Orlinsky

Publisher

$70.76

CERTIFICATE OF PUBLICATION

11/7, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/7, 1991.

NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

S. Zeke Orlinsky

Publisher

$70.76

CERTIFICATE OF PUBLICATION

11/7, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/7, 1991.

NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

S. Zeke Orlinsky

Publisher

$70.76

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Ave.
Towson, Maryland 21204

receipt

Date

Received from

Petition

Please Make Checks Payable To: Baltimore County

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Delmas G. Goddard, legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof,

hereby petition for a variance from Section 1 B02.3C1 to permit a side setback of 6.5' (instead of the required 10' and a combination of 16.0' instead of the required 30' and 35.1 to permit a front setback of 20.5 instead of the required 41' - in a D.R.5.5 Zone

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Need parking space for car, truck and camper to protect said vehicles from speeding cars on Bangert Street that swerve off the road and enter onto our property. (One car has already been totalled due to a speeding driver.)

Due to present layout of house, garage should be built on this side to conform with the design of other houses in the neighborhood.

Cannot afford to relocate at present prices of property at this time.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Delmas G. Goddard
Carolyn E. Goddard
Contract purchaser — Legal Owner

Address 674 BANGERT AVENUE
White Marsh, Md 21162

Petitioner's Attorney — Protestant's Attorney

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of July, 1978, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 31st day of July, 1978 at 10:15 o'clock A.M.

Deputy Zoning Commissioner of Baltimore County

Date 7-11-78

ORDER RECEIVED FOR FILING

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna, Zoning Commissioner — Date: July 11, 1978

FROM: Leslie H. Graef, Director of Planning

SUBJECT: Petition 79-21-A, Petition for Variances
South side of Bangert Street, 1200 feet West of Winkler Street
Petitioner - Delmas G. and Carolyn E. Goddard

11th District

HEARING: Monday, July 31, 1978 (10:15 A.M.)

There are no comprehensive planning factors requiring comment on this petition.

Leslie H. Graef
Director of Planning

LHG:JGHsw

IN RE: PETITION FOR VARIANCE
E/S of Bangert St., 1200' W of Winkler St., 11th District
DELMAS G. GODDARD, et ux, Petitioners

: BEFORE THE ZONING COMMISSIONER
: OF BALTIMORE COUNTY
: Case No. 79-21-A

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therein, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Deputy People's Counsel

John W. Hessian, III
People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 26th day of July, 1978, a copy of the aforegoing Order was mailed to Mr. and Mrs. Delmas G. Goddard, 674 Bangert Avenue, White Marsh, Maryland 21162, Petitioners.

John W. Hessian, III

JUL 27 '78 PM

BOARD OF APPEALS

SECTION 1.

1. See attached plat.
2. See attached plat.
3. Election District 11.
4. See attached plat.
5. DR2-Zoning.
6. See attached plat.
7. Winkler Street-1,200 feet from Northeast corner of property line of Lot 6A of L.
8,10. 50' right-of-way with 30' tarred and chipped road. 10' grass walk-way on each side.
11. 16' entrance in Northeast corner of Lot 6A-L. Property across street-entrance across from center of my property has. Property to east, known as Lot 6A - divides--their entrance is on west side, approximately 40' off my east property line. Property to west-driveway is approximately 63' off my west property line.
12. See attached plat.
13. Proposed addition is 30' x 35' on west side of Lot 6A-L as marked with dotted lines on attached plat.
14. See attached plat for location of dwellings on Lots 6 and 7L.
Lot 7 south of Lot 6A--1 story brick house sets back 125'.
Lot across the street from Lot 6A--L--is a one story frame dwelling which sits back 50' from right of way.
19. See attached plat.
20. Baltimore City water, sewerage disposal is septic system located north of the main dwelling on Lot 6A-L with 175' drain field.
21. Volunteer Fire Department. Fire-Hydrant located in Northeast corner of Lot 5L.

S. ERIC DINENNA
ZONING COMMISSIONER

George J. Martiak
Deputy Zoning Commissioner

August 16, 1978

Mr. & Mrs. Delmas G. Goddard
674 Bangert Avenue
White Marsh, Maryland 21162

RE: Petition for Variances
S/S of Bangert Street, 1200' W of Winkler Street - 11th Election District
Delmas G. Goddard, et ux - Petitioners
NO. 79 21-A (Item No. 249)

Dear Mr. & Mrs. Goddard:

I have this date passed my Order in the above referenced matter, in accordance with the attached.

Very truly yours,

GEORGE J. MARTIAK
Deputy Zoning Commissioner

GJMiw

Attachment

cc: John W. Hessian, III, Esquire
People's Counsel

Beginning at a point on the South side of Bangert Street approximately 1200' west of Winkler Street, and thence running south 89°14' 30" west 100', thence south 27°36'50", east 199.04.5' thence north 89°14' 30" west 100', thence north 27°36' 50" west 199.045' to the beginning point.

Also known as 674 Bangert Street.

Mr. & Mrs. Delmas Goddard
674 Bangert Avenue
White Marsh, Maryland 21162

Item No. 249

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Ave.
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 6th day of June, 1978.

S. ERIC DINENNA
Zoning Commissioner

Petitioner Goddard et ux
Petitioner's Attorney — Reviewed by: Nicholas B. Commodari, Chairman, Zoning Plans Advisory Committee

Pursuant to the advertisement, posting of property, and public hearing on the above Petition and it appearing that by reason of the following finding of facts that strict compliance with the Baltimore County Zoning Regulations would result in practical difficulty and unreasonable hardship upon the Petitioners, the Variance should be granted and it further appearing that by reason of the granting of the Variances requested not adversely affecting the health, safety, and general welfare of the community, Variances to permit a side yard setback of 6.5' (at one point) in lieu of the required 20 feet, with a combination of 18 feet in lieu of the required 50 feet, and a front yard setback of 28.5 feet in lieu of the required 40 feet, the average, at least should be granted.

THIS DAY, ... DECEMBER, 1978 that the herein Petition for the aforementioned Variances should be and the same is GRANTED, from and after the date of this Order, subject to the approval of a site plan by the Department of Public Works and the Office of Planning and Zoning.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

The above Variance should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this ... day of ..., 197 ..., that the above Variance be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
DATE ...
By ...

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

WILLIAM D. COMMODARI
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

July 20, 1978

Mr. & Mrs. Delmas Goddard
674 Bangert Avenue
White Marsh, Maryland 21162

RE: Variance Petition
Item No. 249
Petitioner - Goddard

Dear Mr. & Mrs. Goddard:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on-site field inspection of the property. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Because of your proposal to construct an addition to the side of the existing dwelling in conflict with the Baltimore County Zoning Regulations, this Variance is required.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30 nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:mmr

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baltimore county
department of public works
TOWSON, MARYLAND 21204

THORNTON M. MOURSUND, P.E.
DIRECTOR

July 12, 1978

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #249 (1977-1978)
Property Owner: Delmas & Carolyn Goddard
S/S Bangert St. 1200' W. Winkler St.
Existing Zoning: D.R. 2
Proposed Zoning: Variance to permit a side setback of 6.5' and a sum of the side yards of 18' in lieu of the required 15' & 40' respectively and a front setback of 28.5' in lieu of the average 41'.
Acres: 0.457 District: 11th

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Bangert Street, an existing public road, is proposed to be further improved in the future as a 30-foot closed section roadway on the present 40-foot right-of-way.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

A future drainage and utility easement is required through this property.

Item #249 (1977-1978)
Property Owner: Delmas & Carolyn Goddard
Page 2
July 12, 1978

Water and Sanitary Sewers

Public water supply is serving this property, which is utilizing a private onsite sewage disposal system.

The Baltimore County Sewerage Plan, as amended, indicates "Planned Service" in 2 to 5 years.

Very truly yours,

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss

cc: D. Grise
J. Somers

Q-NE Key Sheet
42 NE 37 Pos. Sheet
NE 13 A Topo
73 Tax Map

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baltimore county
office of planning and zoning
TOWSON, MARYLAND 21204
494-3211

WILLIAM D. COMMODARI
DIRECTOR

July 10, 1978

Mr. Eric S. DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #249, Zoning Advisory Committee Meeting, June 1, 1978, are as follows:

Property Owner: Delmas and CarolynGoddard
Location: S/S Bangert Street 1200' W. Winkler St.
Existing Zoning: D.R.2
Proposed Zoning: Variance to permit a side setback of 6.5' and a sum of the side yards of 18' in lieu of the required 15' and 40' respectively and a front setback of 28.5' in lieu of the average 41'.
Acres: 0.457
District: 11th

This office has review of the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

This plan has been reviewed and there are no site-planning factors requiring comment.

Very truly yours,

John L. Wimbley
Planner III
Current Planning and Development

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baltimore county
department of health
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

July 11, 1978

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #249, Zoning Advisory Committee Meeting of June 1, 1978, are as follows:

Property Owner: Delmas & Carolyn Goddard
Location: S/S Bangert St. 1200' W Winkler St.
Existing Zoning: D.R. 2
Proposed Zoning: Variance to permit a side setback of 6.5' and a sum of the side yards of 18' in lieu of the required 15' & 40' respectively and a front setback of 28.5' in lieu of the average 41'.
Acres: 0.457
District: 11th

Metropolitan water exists on the site and the proposed addition will not interfere with the location of the sewage disposal system. Therefore, as long as the dwelling remains a single family residence, the Health Department recommends the approval of the proposed variance.

Very truly yours,

Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

tmm/hjr/rh

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baltimore county
department of traffic engineering
TOWSON, MARYLAND 21204
(301) 494-3550

STEPHEN E. COLLINS
DIRECTOR

June 21, 1978

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 249 - ZAC - June 1, 1978
Property Owner: Delmas & Carolyn Goddard
Location: S/S Bangert St. 1200' W Winkler St.
Existing Zoning: D.R. 2
Proposed Zoning: Variance to permit a side setback of 6.5' and a sum of the side yards of 18' in lieu of the required 15' & 40' respectively and a front setback of 28.5' in lieu of the average 41'.
Acres: 0.457
District: 11th

Dear Mr. DiNenna:

The variance should have no effect on traffic.

Very truly yours,

Stephen E. Weber
Engineer I

SEW/dm

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baltimore county
fire department
TOWSON, MARYLAND 21204
494-3987

Paul H. Reincke
Chief

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: W. Commodari, Chairman
Zoning Advisory Committee

Re: Property Owner: Delmas & Carolyn Goddard
Location: S/S Bangert St. 1200' W Winkler St.
Item No. 249 Zoning Agenda Meeting of 6/

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or ... feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at ...
EXCEEDS the maximum allowed by the Fire Department.

( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.

( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1970 Edition prior to occupancy.

( ) 6. Site plans are approved as drawn.

(x) 7. The Fire Prevention Bureau has no comments, at this time.

Reviewer: ... Date: ...
Fleming Grimm
Special Inspection Division

Noted and Approved: ...
Fire Prevention Bureau

PROT. No-1

Petition to oppose the granting of any variances at 5301 Bush St. White Marsh MD 21162

Petition summary and background	Case # 2017-0313 A is an undersized lot variance and a variance for setbacks.
Action petitioned for	not granting of any variances for 5301 Bush St. White Marsh, MD 21162

Printed Name	Signature	Address	Comment	Date
DIANE Brazil	Diane Brazil	5205 Bush St	This property is NOT unique or unusual 6,721 sf short of an acre!	7/1/2017
Diane Karpus	Diane Karpus	5404 Bush St.	This property should not be changed any variance	7/1/2017
William Karpus		5404 Bush St.	This should not be any other than these	7/1/2017
Kimberly Hewitt	Kim Hewitt	5300 Bush St 21162	I live across the street. We don't need two houses or a small lot	7/1/2017
Donna Welch	Donna Welch	5300 Bush St 21162	ON Road @ 5300 Bush	7-1-17
JOHN BRUCHEY	John Bruchey	5215 BUSH 21162		
Katherine Lochary	Katherine Lochary	5219 Bush St 21162	No need for 2 homes on one property.	7-1-17
JOHN T. LOCHARY		5219 BUSH ST 21162		7-1-17
Steve Smith	Steven Smith	5304 Bush St 21162	Not big enough or zoned for two homes	7/1/17
Robin Smith	Robin Smith	5304 Bush St		7/1/17
John Hartman	John Hartman	5309 Bush St 21162	Not large enough	7/1/17
Carl Smiley		5313 Bush St	too many houses	7-1-17

Petition to oppose the granting of any variances at 5301 Bush St. White Marsh MD 21162

Petition summary and background	Case # 2017-0313 A is an undersized lot variance and a variance for setbacks.
Action petitioned for	not granting of any variances for 5301 Bush St. White Marsh, MD 21162

Printed Name	Signature	Address	Comment	Date
CARLA SMITLEY	Carla R. Smitley	5312 BUSH ST		7/1/17
Elena Parris		5313 Bush ST		7/1/17
Betty Bailey	Betty Bailey	5401 Bush ST.	Don't Need any more houses	7-1-17
Bill VEAUX	Bill Veaux	5403 Bush ST.		7-1-17
Deb Veaux	Deborah Veaux	5403 Bush St		7/1/17
Heather Rauch	Heather Rauch	5406 Bush St.	Don't WANT TWO	7/1/17
Paul Wingerd		5410 Bush St	One lot	7/1/17
Jolene Wingerd		5410 Bush St.		7/1/17
K. Stamatiadis	Kelly Stamis	9708 Gaylord st	One lot	7-1-17
Nick Stamatiadis		9708 GAYLORD St	One LoT	7-1-17
Rick Henry		5419 FORGE Rd	ONE LOT KEEP IT SMALL	7-1-17
Gloria Wessey	Gloria Wessey	9710 Gaylord st	one Lot.	7-1-17

Petition to oppose the granting of any variances at 5301 Bush St. White Marsh MD 21162

Petition summary and background	Case # 2017-0313 A is an undersized lot variance and a variance for setbacks.
Action petitioned for	not granting of any variances for 5301 Bush St. White Marsh, MD 21162

Printed Name	Signature	Address	Comment	Date
TODD MICELI		5416 BANGERT ST.		7/1/17
Conrad A. Kenney		5413 Bangert St		7/1/17
Wm E. GOUGH, JR.		5404 BANGERT ST.		7/1/17
Mike Gorsuch		5400 Bangert street		7/1/17
Jen Gorsuch		5400 Bangert Street		7/1/17
Linda Newell		5319 Bangert St.		7/1/17
James Newell		5319 Bangert St		7/1/17
JAMES SIBLOWSKI		9704 WINKLER ST		7/1/17
Roy E. Miller		9702 WINKLER St		7/1/17
Roy E. Miller		9702 WINKLER St.		7/17/17
Walter Willson		9600 Winkler St.		7/1/17
FRANK BOBER		5300 PALOMINO ST		7-1-17

Petition to oppose the granting of any variances at 5301 Bush St. White Marsh MD 21162

Petition summary and background	Case # 2017-0313 A is an undersized lot variance and a variance for setbacks.
Action petitioned for	not granting of any variances for 5301 Bush St. White Marsh, MD 21162

Printed Name	Signature	Address	Comment	Date
Robert Marks	Robert M. Marks	5314 Palomino St		7/1/17
Kathy Marks	Kathy Marks	5314 Palomino St		7/1/17
Sarah Windes	Sarah Windes	5211 Bush St		7-3-17
John A. DAVIS		5206 Bush St.		7-5-17
Albert W. Brazil	Albert W. Brazil	5205 Bush St		7-5-17
Angela Cioka	Angela M. Cioka	5303 Bush St.		7-9-17

STANDARD CONTRACT OF SALE

This is a Legally Binding Contract; If Not Understood, Seek Competent Advice

This Agreement of Sale, Made this _____ day of January, 20 18, between **JOHN G. KOENIG, III and ANTOINETTE M. KOENIG, husband and wife,** collectively, SELLER, and **WADKINS CONSTRUCTION, INC.**, BUYER.

WITNESS that the said Seller does hereby bargain and sell unto the said Buyer, and the latter does hereby purchase from the **former a rectangular parcel of land measuring 24 feet by 50 feet, containing 1200 square feet, located in the rear northwesterly corner of the property known as 5304 Palomino Street** as shown on the attached plan prepared by kjWells, Inc., said property situate and lying in BALTIMORE COUNTY, at and for the price of Seventeen Thousand and 00/100 Dollars **($17,000.00)**, of which One Hundred and 00/100 Dollars ($100.00) have been paid prior to the signing hereof, and the balance to be paid, by wired funds or attorney escrow check, at the time of settlement, which shall be within thirty (30) days after Wadkins Construction, Inc. obtains a non-appealable lot line adjustment from Baltimore County, which will be evidenced by the recording of a Revised Subdivision Plat. and variance to erect two dwellings on the property to which this parcel is attached.

H.D.W

Warranty Deed — Upon payment as above provided of the unpaid purchase money, a deed for the property containing covenants of special warranty and further assurance shall be executed at the Buyer's expense by the Seller, which shall convey the property to Buyer.

Title — Title to the property shall be good and merchantable, free of liens and encumbrances except as specified herein and except: Use and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the subdivision in which the property is located, and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the property.

Adjustments — Ground rent, rent and water rent shall be adjusted and apportioned as of date of settlement, and all taxes, general or special, and all other public or governmental charges or assessments against the premises which are or may be payable on an annual basis (including Metropolitan District, Sanitary Commission or other benefit charges, assessments, liens or encumbrances for sewer, water, drainage or other public improvements completed or commenced on or prior to the date hereof, or subsequent thereto), are to be adjusted and apportioned as of the date of settlement and are to be assumed and paid thereafter by Buyer, whether assessments have been levied or not as of date of settlement.

Possession — An Easement Agreement, a copy of which is attached hereto as Exhibit A will be executed and recorded along with the Deed at time of Settlement.

Entire Agreement — This Contract contains the final and entire Agreement between the parties hereto, and neither they nor their Agents shall be bound by any terms, conditions or representations not herein written.

Time of Essence — Time shall be of essence of this Agreement.

Pet No 16

Petitioner
CBA Exhibit
16

Stamps, Recordation and Transfer Taxes	The cost of all documentary stamps, required by law, recordation tax and transfer tax where required by law, shall be paid by Buyer.
Counterpart Signatures	It is agreed and understood that any counterpart and/or electronic or facsimile signature is considered to be one and the same as an original.
Agency	There are no real estate agents/brokers involved in this transaction.

The marginal captions of this Contract are for convenience and reference only and in no way define or limit the intent, rights or obligations of the parties hereunder.

The parties hereto hereby bind themselves, their heirs, personal representatives, successors and assigns for the faithful performance of this Contract.

WITNESS, the hands and seals of the parties hereto the day and year first above written.

WITNESS:

Joanne Heddinger

_____ (SEAL)
JOHN G. KOENIG, III

_____ (SEAL)
ANTOINETTE M. KOENIG

WADKINS CONSTRUCTIN, INC.

_____

By Howard Wadkins (SEAL)
HOWARD WADKINS, President

EXHIBIT A

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT, is made this _____ day of _____, 20____, by and between **WADKINS CONSTRUCTION, INC, a Maryland corporation** (hereinafter known as "WADKINS", and **JOHN G. KOENIG, III and ANTOINETTE M. KOENIG, husband and wife** (hereinafter collectively known as "KOENIG").

WHEREAS, KOENIG, by Deed of even date herewith, and recorded or intended to be recorded among the Land Records of Baltimore County immediately prior hereto, conveyed to WADKINS a parcel of land measuring 24 feet by 50 feet as described and shown therein; and

WHEREAS, the parties hereto agree to allow KOENIG and their children, if their children acquire from either or both parents title to the property to which the said parcel of land measuring 24 feet by 50 feet had been a part (5304 Palomino Street), to full use of said parcel for their respective lifetimes or until the sale of 5304 Palomino Street to any other party, whichever shall first occur.

NOW, THEREFORE, THIS EASEMENT AGREEMENT WITNESSETH: That in consideration of the sum of $1.00 and other valuable considerations, WADKINS hereby grants and conveys an easement to KOENIG to use of the rectangular parcel of land measuring 24 feet by 50 feet as described and shown in the above referred Deed, for and during their respective lifetimes and the lifetimes of any of their children who may acquire title from KOENIG or the survivor of them or their personal representatives, or until KOENIG or any children of them who may acquire title from them shall divest themselves of title to 5304 Palomino Street, whichever shall first occur.

WITNESS the hands and seals of KOENIG and the hand and seal of Howard Wadkins, President of Wadkins Construction, Inc. (WADKINS), the parties hereto:

WITNESS:

Joanne Headinger

as to both

John G. Koenig, III (SEAL)

Antoinette M. Koenig (SEAL)

WADKINS CONSTRUCTION, INC.

By: Howard Wadkins (SEAL)
Howard Wadkins, President

STATE OF MARYLAND, CITY/COUNTY OF Baltimore ; TO WIT:

I HEREBY CERTIFY, that on this 19th day of January, 2018, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared JOHN G. KOENIG, III and ANTOINETTE M. KOENIG, known or personally proven to me to be two of the persons whose names are subscribed to the within instrument, and acknowledged the same to be their act, and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: 12/26/2020

Mindy A. Longo
My Commission Expires
Notary
Public
12/26/2020
Baltimore County, MD

STATE OF MARYLAND, CITY/COUNTY OF _____; TO WIT:

I HEREBY CERTIFY, that on this day of _____, 20____, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared HOWARD WADKINS, who acknowledged himself to be the President of WADKINS CONSTRUCTION, INC., and that he, as such President, being authorized so to do, executed the foregoing Easement Agreement for the purposes therein contained by signing, in my presence, the name of the said corporation by himself as President.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:

This is to certify that the within instrument was prepared by or under the supervision of the undersigned Maryland attorney.

Richard E. Lattanzi, Attorney

RECORD AND RETURN TO:
Moore, Carney, Ryan & Lattanzi, LLC
9649 Belair Road, Suite 302
Nottingham, MD 21236
File No. REL/Wadkins Constr

STANDARD CONTRACT OF SALE

This is a Legally Binding Contract; If Not Understood, Seek Competent Advice

This Agreement of Sale, Made this _____ day of January, 20 18 between JOHN G. KOENIG, III and ANTOINETTE M. KOENIG, husband and wife, collectively, SELLER, and WADKINS CONSTRUCTION, INC., BUYER.

WITNESS that the said Seller does hereby bargain and sell unto the said Buyer, and the latter does hereby purchase from the former a rectangular parcel of land containing 24 feet by 50 feet, containing 1200 square feet, located in the rear northeasterly corner of the property known as 8304 Palomino Street as shown on the attached plan prepared by KJWelk, Inc., said property situate and being in TOWSON COUNTY, as said for the price of Seventeen Thousand and 00/100 Dollars ($17,000.00), of which One Hundred and 00/100 Dollars ($100.00) have been paid prior to the signing hereof, and the balance to be paid, by wired funds or attorney escrow check, at the time of settlement, which shall be within thirty (30) days after Watkins Construction, Inc. obtains a non-appealable lot line adjustment from Baltimore County, which will be evidenced by the recording of a Revised Subdivision Plat and variance to erect two dwellings on the property to which this parcel is attached.

H.O.W
JGK | AMK
III

Warranty Deed Upon payment as above provided of the agreed purchase money, a deed for the property containing covenants of special warranty and further assurance shall be executed at the Buyer's expense by the Seller, which shall convey the property to Buyer.

Title Title to the property shall be good and marketable, free of liens and encumbrances except as specified herein and except that this conveyance is subject to such public control which are generally applicable to properties in the immediate neighborhood or the subdivision in which the property is located, and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the property.

Adjustments Ground rent, rent and water rent shall be adjusted and apportioned as of date of settlement, and all taxes, general or special, and all other public or governmental charges or assessments against the premises which are or may be payable on an annual basis (including Metropolitan District, Sanitary Commission or other benefit charges, assessments, fees or deficiencies for sewer, water, drainage or other public improvements completed or commenced on or prior to the date hereof, or subsequent thereto), are to be adjusted and apportioned as of the date of settlement and are to be assumed and paid thereafter by Buyer, whether assessments have been levied or not as of date of settlement.

Procedure An Electrical Agreement, a copy of which is attached hereto as Exhibit A will be executed and recorded along with the Deed at date of Settlement.

Entire Agreement This Contract contains the full and entire Agreement between the parties hereto, and neither they nor their Agents shall be bound by any terms, conditions or representations not herein written.

Time of Essence Time shall be of essence of this Agreement.

JAN 4 2018

Khash
10-24

PERMITS, APPROVALS AND INSPECTIONS

SIGN IN SHEET FOR **DROP OFF**

DATE: _____

SHEET _____ OF _____

ENGINEERING FIRM NAME	TYPE OF PLAN AND PAI NO.	NAME OF THE PERSON DROPPING OFF PLAN	ENGINEER PHONE NO. AND EMAIL ADDRESS	PROJECT NAME
CNA	PLAN: Grading Plan PAI/DRC NO.: ESC Plan + Mylar	KARLA	PHONE: (443) 632-6141 EMAIL:	Rodgers Forge phase 3
Pennoni	PLAN: Phase 2 Concept SWM Plan + ESD PAI/DRC NO.: 09-711	Jeff Livingston (EPS) for Josh Behun (Pennoni)	PHONE: (410) 997-8900 EMAIL: jbehun@pennoni.com	Goucher College Hoffberger Hall Expansion
NBC	PLAN: Site Plan Filing PAI/DRC NO.: DRC-1	Jim Calabrese CABuild@NBCLLC.com	PHONE: (410) 712-7292 x1024 EMAIL: ABuild@NBCLLC.com	Lexington
Bohler	PLAN: Landscape PAI/DRC NO.: 02-740	Jen Bess	PHONE: (410) 821 7900 EMAIL:	SMO Liberty Road
DSTA	PLAN: OS Waiver PAI/DRC NO.: 14-0497	Stacy Mosher	PHONE: 410, 944-3647 EMAIL:	Martin Farms
" "	PLAN: FLS PAI/DRC NO.: 04-742	" "	PHONE: ( ) " " EMAIL:	Assoc. Way
KG Wells Inc	PLAN: SWM PAI/DRC NO.:	C Nardelli	PHONE: (410) 512 8800 EMAIL:	Ennis
"	PLAN: DLC PAI/DRC NO.:	"	PHONE: (") EMAIL:	5301 Buckstown
CNA	PLAN: ESC - PLAN PAI/DRC NO.:	JOHN Bullock	PHONE: (443 67-6383 EMAIL:	BGE - Towson PH #3
CNA	PLAN: GRADING PLAN PAI/DRC NO.:	JOHN Bullock	PHONE: 443 67-6383 EMAIL:	BGE - Towson PH #3
	PLAN: PAI/DRC NO.:		PHONE: ( ) EMAIL:	
	PLAN: PAI/DRC NO.:		PHONE: ( ) EMAIL:	

Petitioner
CBA Exhibit
17

kjWellsInc
Land Surveying, Site Planning and Landscape Architecture
7403 New Cut Road
Kingsville, Md. 21087-1132
Telephone: (410) 592-8800
Fax: Call prior to transmission

TRANSMITTAL LETTER

ATTENTION: Carl Richards

DATE: January 4, 2018

TO: Baltimore County, Maryland
Permits, Approvals and Inspections
Zoning Review Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: 5301 Bush Street
Project Number: 2016-033

WE ARE SENDING YOU Attached Under separate cover via Hand Delivered

DESCRIPTION
2 prints Plan to Accompany DRC Request

THESE ARE TRANSMITTED as checked below

	For approval	Approved as submitted	Resubmit copies for approval
	For your use	Approved as noted	Submit copies for distribution
	As requested	Returned for corrections	Return corrected prints
X	For review & comment		Return prints to us
	For bids due		
	Other explanation:		

REMARKS:

COPY TO: SIGNED:

IF ENCLOSURES ARE NOT AS NOTED, KINDLY NOTIFY US AT ONCE.

Providing Professional Services in Maryland since 1984

Petitioner
CBA Exhibit
18

Petitioner
CBA Exhibit
15A-K

EXHIBIT
A

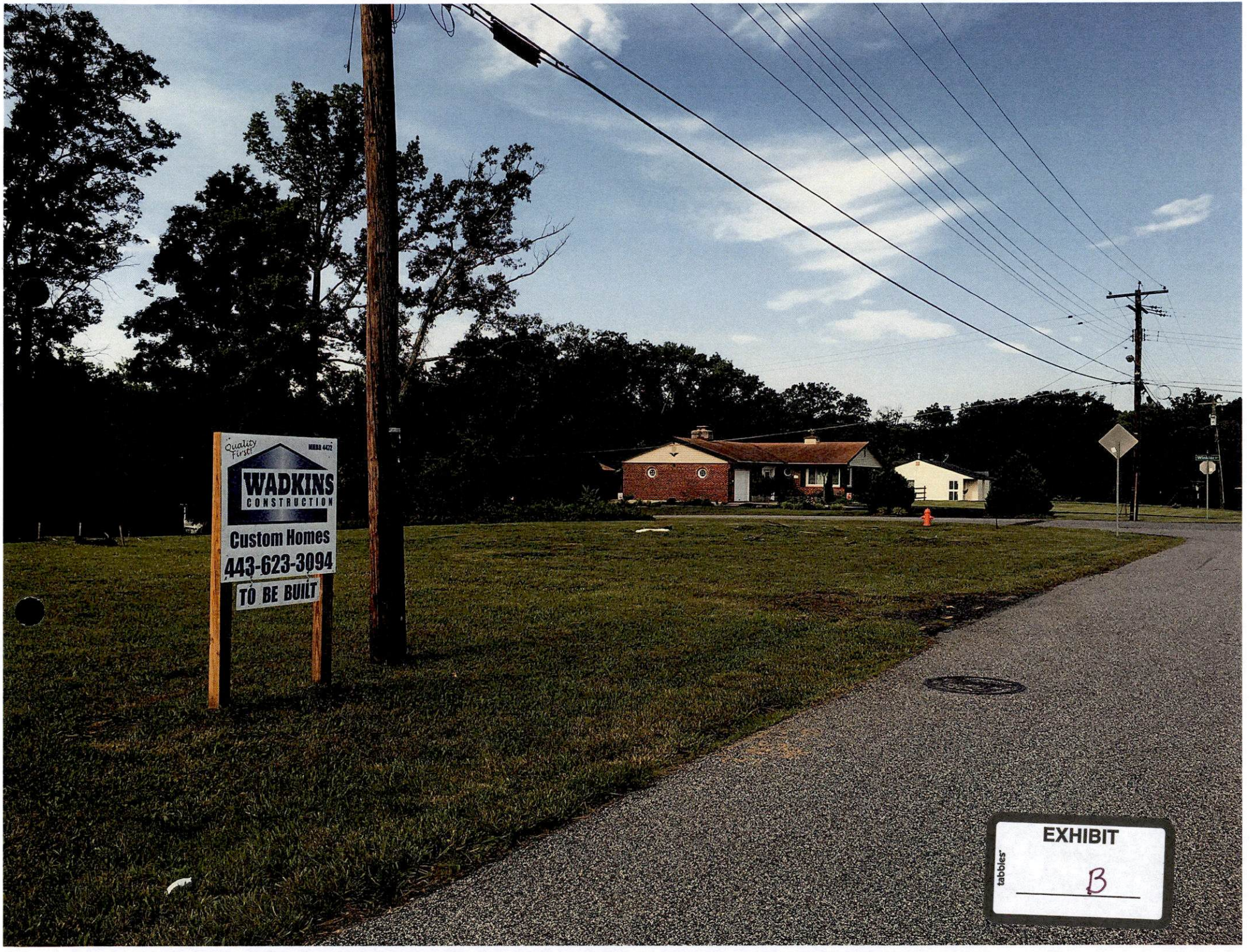
Quality First!
MHBR 4432
WADKINS
CONSTRUCTION
Custom Homes
443-623-3094
TO BE BUILT
EXHIBIT
tabbies
B

EXHIBIT
tabbies
C

EXHIBIT
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OUTLET
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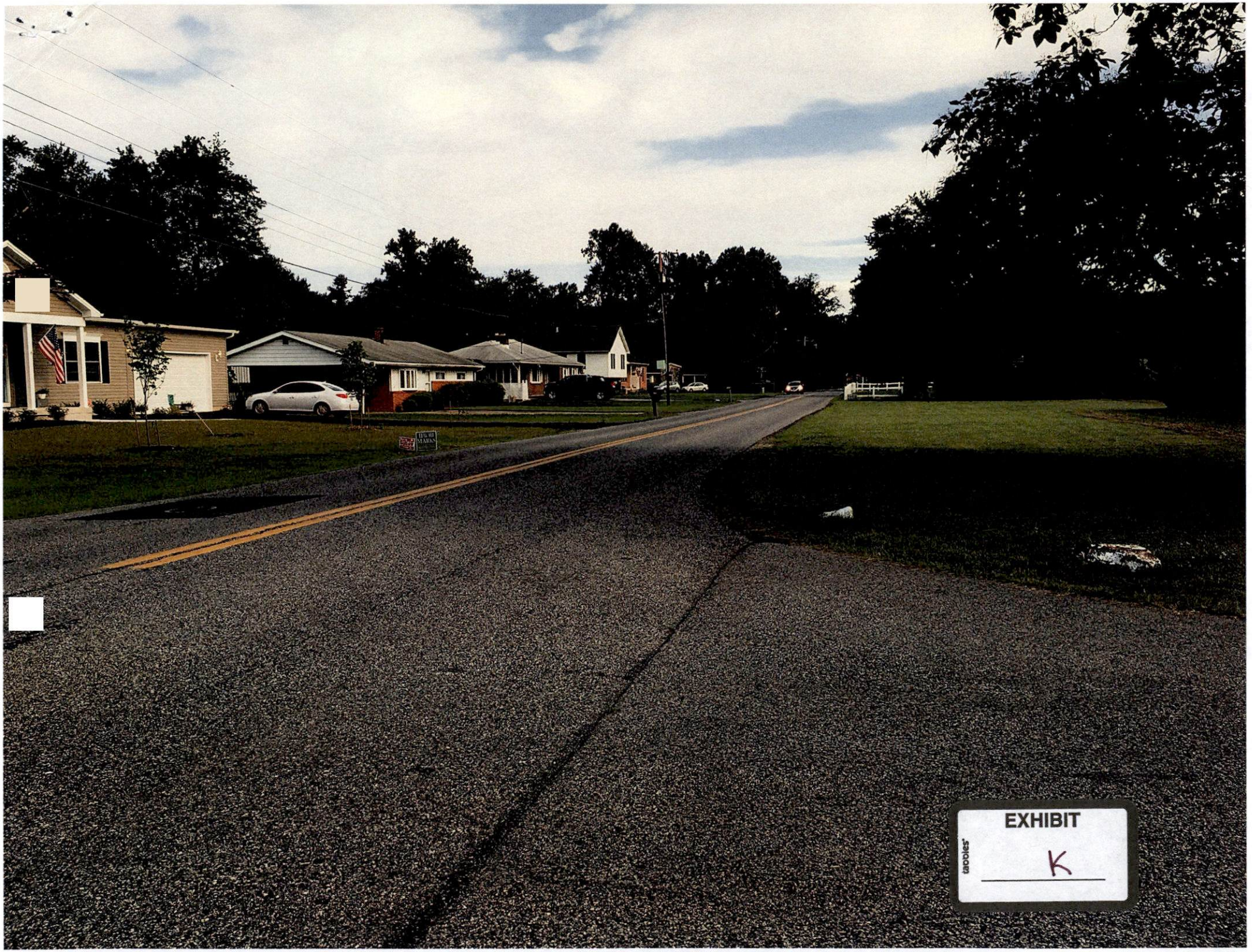
EXHIBIT
K

Variances Granted Around Bush Street Neighborhood

Biemer **9700 Winkler Street** (corner of Bush and Winkler)

- Case No. 17-197-A
- Variance to permit side yard setback to a street of 29 ft in lieu of the required 40 ft.

Tien/Mazzella **5217 Bush Street** (not opposed by 5219 Bush Street – not in compliance with side yard 15ft setback)

- Case No. 06-182-SPH
- Special Hearing to approve an accessory structure greater than principal dwelling on a .344 acre lot zoned DR 2. Petitioners intend to raise existing small dwelling and replace it with a larger home.

Jones **5203 Bangert Street**

- Case No. 05-652-A
- Variance to permit a 25 ft. front yard setback in lieu of the required 40 ft. and a side yard set back of 5 ft. in lieu of the 15 ft. required.

Raines **5106 Forge Road**

- Case No. 96-409-A
- Variance to allow front of 40 ft, side of 10 ft in lieu of minimum required 50 ft. and 20 ft.
- Construction of a house with an attached garage on a vacant lot

Goodwin **5114 Forge Road**

- Case No. 92-188-A
- To permit a lot width of 77.77 ft. in lieu of the required 150 ft. and side yard setbacks of 10 ft. each in lieu of the minimum required 20 ft. for a proposed dwelling

Goddard **674 Bangert Street**

- Case No. 79-21-A
- Variance granted to permit a side yard setback of 6.5 ft. in lieu of 20 ft. and 28.5 ft. in lieu of 41 ft. for a dwelling

Pet No 14

Petitioner
CBA Exhibit
14

IN RE: PETITION FOR ADMIN. VARIANCE 11th Election District 5th Councilmanic District **(9700 Winkler Street)** Jovita Biemer Petitioner	* * * * *	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **Case No. 2017-0197-A**

* * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owner of the property, Jovita Biemer ("Petitioner"). The Petitioner is requesting Variance relief pursuant to § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow for a side setback to a street of 29 ft. in lieu of the required 40 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

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

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on February 10, 2017, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

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

Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the posting of the property and the provisions of both the 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 17th day of **March, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow for a side setback to a street of 29 ft. in lieu of the required 40 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE
S/S Bush Street, 150' W of the c/l
Winkler Street * ZONING COMMISSIONER
(5217 Bush Street)
11th Election District * OF BALTIMORE COUNTY
5th Council District
* Case No. 06-182-SPH
Catherine S. Tien and Frank Mazzella
Petitioners *

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Catherine S. Tien and Frank Mazzella. The Petitioners request a special hearing to approve an accessory structure (detached garage) with an area greater than the principal structure (dwelling) (896 sq.ft. and 729 sq.ft., respectively). The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Frank Mazzella, property owner, and Bob Infussi and David Billingsley, the zoning consultants who assisted the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered disclosed that the subject property is a rectangular shaped parcel located on the south side of Bush Street, just west of its intersection with Winkler Street in the Forge Acres community near White Marsh. The property contains a gross area of 0.344 acres, more or less, zoned D.R.2-H, and is improved with a small single-family dwelling, which was built in 1958. The Petitioners have owned and resided on the property since May 2001. Mr. Mazzella is a collector of antique cars and has apparently enjoyed the pursuit of this hobby for several years. He currently stores a valuable Porsche roadster off premises; however, desires to provide a more secure storage area at his residence. Thus, the Petitioners propose constructing a 32' x 28' detached garage in the rear yard of their property. As shown on the site plan, the garage

ORDER RECEIVED FOR FILING
Date 12/21/05
By

will be located in the rear yard of the property and will meet all setback and height requirements. However, given the small size of the existing home, the requested special hearing is necessary. In this regard, testimony indicated that upon completion of the garage, the Petitioners intend to raise the existing dwelling and replace it with a larger home.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested special hearing relief. There were no adverse comments submitted by any County reviewing agency and the neighbors have no objections to the proposal. However, the Office of Planning has requested that building elevation drawings of the proposed structure be submitted for their review and approval prior to the issuance of any permits to insure compatibility with the Honeygo District development standards. Said plans shall reflect the exact floor area of the proposed structure and include detailed landscaping treatments sufficient to screen the garage from the adjacent neighbors who reside at 9600 Winkler Street and 5219 Bush Street. Finally, the garage shall be limited to uses accessory to the residential use of the property and no portion thereof shall be converted for use as a second dwelling unit and/or apartments. There shall be no kitchen, bathroom or living quarters provided within the structure.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of December 2005 that the Petition for Special Hearing to approve the area of a proposed accessory structure (detached garage) to exceed the size of the principal structure, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

ORDER RECEIVED FOR FILING
Date 12/21/05
By

2) The Petitioners shall submit building elevation drawings of the proposed garage, including exact floor area, to the Office of Planning for review and approval prior to the issuance of any permits. Said plans shall include detailed landscaping treatments sufficient to screen the garage from the adjacent neighbors at 9600 Winkler Street and 5219 Bush Street.

3) The garage shall be limited to uses accessory to the residential use of the property. It shall not be used to support a business or for commercial purposes. Moreover, the Petitioner shall not allow or cause the garage to be converted to a second dwelling unit and/or apartments. There shall be no living quarters contained therein, and no kitchen or bathroom facilities.

4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:bjs

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 12/21/05
By BJS

IN RE: PETITION FOR ADMIN. VARIANCE SE/S of Bangert Street, 1,180 ft. +/- NE centerline of Randell Avenue 11th Election District 5th Councilmanic District **(5203 Bangert Street)** Lisa M. & Alfred G. Jones *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 05-652-A

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Lisa M. & Alfred G. Jones. The administrative variance is requested for property located at 5203 Bangert Street in the eastern area of Baltimore County. The administrative variance request is from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an addition with a front yard setback of 25 ft. in lieu of the required 40 ft. and a side yard setback of 5 ft. and a sum of both side yards of 31 ft. +/- in lieu of the required 15 ft. and 40 ft. respectively. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 19, 2005, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated June 29, 2005, a copy of which is attached hereto and made a part hereof.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

FILMED RECEIVED FOR FILMING
7/26/05
BY

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the 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, I find that the requested variance should be GRANTED.

THEREFORE, IT IS ORDERED, this 14 day of July, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for administrative variance from Section 1B02.3C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an addition with a front yard setback of 25 ft. in lieu of the required 40 ft. and a side yard setback of 5 ft. and a sum of both side yards of 31 ft. +/- in lieu of the required 15 ft. and 40 ft. respectively, be and is hereby

SIGN RECEIVED FOR FILING
Date 7/14/05
By Rcg

GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;

2. The Petitioners shall comply with the ZAC comments submitted by the Office of Planning dated June 29, 2005, a copy of which is attached hereto and made a part hereof;

3. When applying for a building permit, the site plan field must reference this case and set forth and address the restrictions of this Order.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

PETITION RECEIVED FOR FILING
Date 7/14/05
By Rec'd

IN RE:	PETITION FOR ZONING VARIANCE N/S Forge Road, 310 ft. E of c/l Randall Avenue 5106 Forge Road 11th Election District 5th Councilmanic District Thomas L. Raines, et ux Petitioners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 96-409-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 5106 Forge Road in Perry Hall. The Petition is filed by Thomas L. Raines and Linda G. Raines, his wife, property owners. Variance relief is requested from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to allow a front yard setback of 40 ft., a side yard setback of 10 ft., and a sum of the side yard setbacks of 30.51 ft., in lieu of the minimum required 50 ft., 20 ft., and 50 ft., respectively. The subject property and requested relief are more particularly shown on the plat to accompany the Petition for Variance, marked as Petitioners' Exhibit No. 1.

Appearing at the public hearing held for this case were Thomas L. Raines and Linda Raines, property owners. There were no Protestants or other interested persons present.

Uncontradicted testimony and evidence presented was that Mr. and Mrs. Raines have owned the lot since 1991. When acquired, the parcel was unimproved. In July of 1995, the Raines began construction of a single family dwelling on the lot. The construction of the house is nearly complete, however, the Petitioners request variance relief in order to construct an attached garage. The Petitioners further observed that delay in construction on the subject lot was occasioned by a delay in obtaining public sewerage to the property. However, the sewer line has been completed and the connection made.

ORDER RECEIVED FOR FILING
Date 5/30/96
By

MICROFILMED

Furthermore, a review of the site plan shows that the property is approximately one acre in area and is zoned D.R.1. This is a flag shaped lot, with a lengthy stem of approximately 473 ft. which leads from Forge Road to the interior of the site. As shown on the site plan, the Petitioners are constructing their house so as to maintain a 41 ft. front yard setback and a 50 ft. rear yard setback. Two side yard setbacks, caused by the unusual shape of the site, are 10 ft. and 20.51 ft., respectively. The sum of the side yard setbacks is 30.51 ft.

Based upon the testimony and evidence offered, all of which was uncontradicted, I am persuaded to grant the Petition for Variance. The testimony and evidence offered on behalf of the Petitioner is persuasive. I am convinced that the Petitioner has satisfied the requirements of Section 307 of the BCZR and the case law. The grant of variance relief, as requested, is appropriate particularly in view of the nature of the surrounding locale. Moreover, it is clear that the required variance relief is consistent with the BCZR and will not be detrimental to surrounding properties.

ORDER RECEIVED FOR FILING
Date 5/30/96
By M. Morris

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of May, 1996 that a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (BCZR) to allow a front yard setback of 40 ft., a side yard setback of 10 ft., and a sum of the side yard setbacks of 30.51 ft., in lieu of the minimum required 50 ft., 20 ft., and 50 ft., respectively, be and is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk

MICROFILMED

until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mmn

ORDER RECEIVED FOR FILING
Date 5/30/96
By M. Ozark

MICROFILMED

IN RE: PETITION FOR ZONING VARIANCE
N/S Forge Road, 625' E of the c/l of Kendall Avenue
(5112 Forge Road)
11th Election District
5th Councilmanic District
John O. Goodwin, Jr.
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-168-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 77.77 feet in lieu of the required 150 feet and to permit side yard setbacks of 18 feet each in lieu of the minimum required 20 feet and a combined sum of the side yards of 36 feet in lieu of the required combined sum of 50 feet, for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioner appeared and testified. Appearing as a Protestant in the matter was Lorraine E. Shifflett.

Testimony indicated that the subject property, known as 5112 Forge Road, consists of 43,560 sq.ft. zoned D.R. 5 and is presently unimproved. Petitioner testified he purchased the subject property in January 1993 with the intention of constructing a dwelling thereon. Testimony indicated that he was advised at that time by the previous owner that he had a building permit for the property. Petitioner currently resides with his parents who have owned the adjoining property, known as 5110 Forge Road, for the past 25 years. Said property is owned by the Protestant, Lorraine E. Shifflett. Testimony indicated that as a result of an existing thirty (30) ft.± right-of-way easement running along the west side property line, and there being no available adjoining property on the west side

ORDER RECEIVED FOR FILING
Date 12/7/93
By JAJ

from which to obtain the additional land needed to meet zoning requirements, the relief requested is necessary in order to develop the property as proposed. Petitioner testified the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community and to require strict compliance with the zoning regulations will create practical difficulty and unreasonable hardship for him.

Lorraine Shifflett, property owner of 5112 Forge Road, appeared and testified as a Protestant. Ms. Shifflett testified that she was concerned about the value of her property being adversely affected by the proposed development of this property and that in her opinion, the relief requested was too great a variance.

An area variance may be granted where strict application of the zoning regulations would create practical difficulty to the Petitioner and his property. Price v. Foley, 270 Md. 264 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, no harm to the public will ensue. The variances requested will not be inconsistent with the spirit and intent of the B.C.Z.R. and will not result in substantial detriment to

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Date 12/7/93
By JAJ

the public health, safety, and general welfare. In the opinion of this Deputy Zoning Commissioner, a variance of 17 feet for the side yard adjoining 5112 Forge Road will sufficiently meet Petitioner's needs without creating practical difficulty and unreasonable hardship for him and at the same time, provide a greater combined sum of the side yards required.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested, as modified, should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 7th day of December, 1993 that the Petition for Zoning Variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 77.77 feet in lieu of the required 150 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a side yard setback of 18 feet on the east side property line and 17 feet on the west side property line in lieu of the minimum required 20 feet for each and a combined sum of the side yards of 35 feet in lieu of the required combined sum of 50 feet, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded and Petitioner would be required to return and be responsible for returning said property to its original condition.

2) Prior to the issuance of any permits, Petitioner shall submit for review and approval by the Deputy Zoning Commissioner, a revised site plan incorporating the modified relief granted herein.

ORDER RECEIVED FOR FILING
Date 12/7/93
By JAJ

3) There shall be no structures of any kind permitted in the front yard of the subject property.

4) There shall be no further modifications of the subject property.

5) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 1B02.3.C.1 of the B.C.Z.R. to permit side yard setbacks of 18 feet each in lieu of the minimum required 20 feet and a combined sum of the side yards of 36 feet in lieu of the required combined sum of 50 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

December 7, 1993

Mr. John O. Goodwin, Jr.
5112 Forge Road
Perry Hall, Maryland 21128

RE: PETITION FOR ZONING VARIANCE
N/S Forge Road, 625' E of the c/l of Kendall Avenue
(5112 Forge Road)
11th election district - 5th Councilmanic District
John O. Goodwin, Jr. - Petitioner
Case No. 93-168-A

Dear Mr. Goodwin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance, as modified, has been granted in accordance with the attached Order.

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 Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Ms. Lorraine E. Shifflett
5126 Ashton Road, Baltimore, Md. 21236

People's Counsel
file

Petition for Variance

to the Zoning Commissioner of Baltimore County 92-168-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1B02.3.C.1.a. to allow a lot width of 77.77' in lieu of the required 150' and to allow side yard setbacks of 18' and a combination of 36' in lieu of the required 20' and a combination of 50'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

1. To have adequate space for a septic system the proposed house should face the street.

2. The proposed house with present zoning (one to the width of the property) can't be placed on the lot so that it faces Forge Rd.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do 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 Petition.

Contract Purchaser/Lessee:
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
Attorney's Telephone No.:

Legal Owner(s):
John O. Goodwin, Jr.
(Type or Print Name)
John O. Goodwin Jr.
Signature
(Type or Print Name)
Signature
5112 Forge Rd. 256-5803
Address
Perry Hall, MD. 21128
City and State
Name, address and phone number of legal owner, con-tract purchaser or representative to be contacted
Address
Phone No.

ESTIMATED LENGTH OF HEARING
UNAVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER
REVIEWED BY: Date

199

CERTIFICATE OF POSTING

RE: Case No. 93-168-A
Petitioner: John O. Goodwin, Jr.
Location: N/S Forge Road, 625' E of the c/l of Kendall Avenue (5112 Forge Road)
Date of Hearing: November 5, 1993
Posting Date: October 21, 1993
Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Petitioner: John O. Goodwin, Jr.
Location: N/S Forge Road, 625' E of the c/l of Kendall Avenue (5112 Forge Road)
Posted by: [signature] Date of return: October 29, 1993

ZONING DESCRIPTION

92-168-A

Beginning on the north side Forge Road 20' wide at a distance approximately 625' easterly from the center line of Kendall Avenue, containing 1 acre +/- located in the 11th Election District, 5th Councilmanic District, also known as 5112 Forge Road. JAJ

CERTIFICATE OF PUBLICATION

11/7, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/7, 1993.

NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

S. Zeke Orlan
Publisher

$70.76

CERTIFICATE OF PUBLICATION

11/7, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/7, 1993.

THE JEFFERSONIAN,

S. Zeke Orlan
Publisher

$70.76

Baltimore County
Zoning Commissioner
Office of Planning
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Please make Checks Payable to: Baltimore County

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Delmas G. Carolyn S. Goddard, legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof,

hereby petition for a Variance from Section(s) 1 B02.3C1 the parcel(s) also

Sub. 1 B7.1

to the zoning regulations of Baltimore County, for the reasons set forth below:

Petitioner seeks relief from Section(s) 400.1 to permit a front setback of 32.5 instead of the required minimum 40' (on a B.R.C.) basis

of the Zoning Regulations of Baltimore County, for the Zoning Law of Baltimore County for the following reasons: (indicate hardship or practical difficulty)

Road parking space for car, truck and bumper to protect said vehicles from speeding cars on Bangert Street that swerve off the road and enter onto our property. (One car has already been totalled due to a speeding driver.)

Due to present layout of house, garage should be built on this side to conform with the design of other houses in the neighborhood.

Cannot afford to relocate at present prices of property at this time.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract purchaser — Legal Owner

Address: 674 Bangert Avenue

White Marsh, Md 21162

Petitioner's Attorney — Protestant's Attorney

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of June, 1978, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through out Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 31st day of July, 1978 at 10:15 o'clock A.M.

Deputy Zoning Commissioner of Baltimore County

Date 6/6/78

IN RE: PETITION FOR VARIANCE
S/S of Bangert St., 1200' W of Winkler St., 11th District
DELMAS G. GODDARD, et ux, Petitioners

: BEFORE THE ZONING COMMISSIONER
: OF BALTIMORE COUNTY
: Case No. 79-21-A

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Deputy People's Counsel

John W. Hessian, III
People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 14th day of July, 1978, a copy of the aforegoing Order was mailed to Mr. and Mrs. Delmas G. Goddard, 674 Bangert Avenue, White Marsh, Maryland 21162, Petitioners.

John W. Hessian, III

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

S. ERIC DINENNA
ZONING COMMISSIONER

August 14, 1978

George J. Martinak
Deputy Zoning Commissioner

Mr. & Mrs. Delmas G. Goddard
674 Bangert Avenue
White Marsh, Maryland 21162

RE: Petition for Variances
S/S of Bangert Street, 1200' W of
Winkler Street - 11th Election District
Delmas G. Goddard, et ux - Petitioners
NO. 79-21-A (Item No. 249)

Dear Mr. & Mrs. Goddard:

I have this date passed my Order in the above referenced matter, in accordance with the attached.

Very truly yours,

GEORGE J. MARTINAK
Deputy Zoning Commissioner

GJM:mr

Attachment

cc: John W. Hessian, III, Esquire
People's Counsel

Beginning at a point on the South side of Bangert Street approximately 1200' west of Winkler Street, and thence running south 89°14' 30" west 100', thence south 27°36'50", east 141.04.5' thence north 89°24' 30" west 100', thence north 27°36' 50" west 199.04.5' to the beginning point.

Also known as 674 Bangert Street.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna, Zoning Commissioner — Date: July 11, 1978

FROM: Ira N. Gamd, Director of Planning

SUBJECT: Petition #79-21-A, Petition for Variances

South side of Bangert Street, 1200 feet West of Winkler Street
Petitioner - Delmas G. and Carolyn S. Goddard

11th District

HEARING: Monday, July 31, 1978 (10:15 A.M.)

There are no comprehensive planning factors requiring comment on this petition.

Director of Planning

IMG:JGHorne

SECTION 1.

1. See attached plat.
2. See attached plat.
3. Election District 11.
4. See attached plat.
5. DR2-Zoning.
6. See attached plat.
7. Winkler Street-1,200 feet from Northeast corner of property line of Lot 6A of L.
8&12. 50' right-of-way with 30' tarred and chipped road, 10' grass walk-way on each side.
11. 16' entrance in Northwest corner of Lot 6A-L. Property across Street-entrance across from center of my property 6A-L. Property to east, known as Lot 6A-L, driveway-their entrance is on west side, approximately 400' off my east property line. Property to west-driveway is approximately 8±' off my west property line.
12. See attached plat.
13. Proposed addition is 20' x 35' on west side of Lot 6A-L as marked with dotted lines on attached plat.
14. See attached plat for location of dwellings on Lots 6 and 7A.
Lot 7 south of Lot 6A-1 story brick house sets back 120'.
Lot across the street from Lot 6A-L--is a one story frame dwelling which sets back 50' from right of way.
19. See attached plat.
20. Baltimore city water, sewerage disposal is septic system located north of the main dwelling on Lot 6A-L with 375' drain field.
22. Volunteer Fire Department. Fire-Hydrant located in Northeast corner of lot 5L.

BALTIMORE COUNTY

ZONING ADVISORY COMMITTEE

Mr. & Mrs. Delmas Goddard — Item No. 249
674 Bangert Avenue
White Marsh, Maryland 21162

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Ave.
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 6th day of June, 1978.

Petitioner Goddard
Petitioner's Attorney — Reviewed by

Chairman, Zoning Plans Advisory Committee

Pursuant to the advertisement, posting of property, and public hearing on the above Petition and it appearing that by reason of the following finding of facts that strict compliance with the Baltimore County Zoning Regulations would result in practical difficulty and unreasonable hardship upon the Petitioners, the Variance should be granted and it further appearing that by reason of the granting of the Variance requested not adversely affecting the health, safety, and general welfare of the community, the Variance is necessary for the reasonable use of the property, and that the Variance to permit a side setback of 6.5 feet with a combination of 18 feet in lieu of the required 30 feet, with a combination of 85 feet in lieu of the required 80 feet, and a front yard setback of 28.5 feet in lieu of the required average of 41 feet should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 1st day of August, 1978, that the herein Petition for the aforementioned Variance should be and the same is GRANTED, from and after the date of this Order, subject to the approval of a site plan by the Department of Public Works and Deputy Zoning Commissioner of Baltimore County Planning and Zoning.

DATE 8/1/78

... in the advertisement, posting of property and public hearing on the above petition ... ing that by reason of ...

the above Variance should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this ... day of ..., 197..., that the above Variance be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Stanley D. Eisenhart
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building & Department
Board of Education
Zoning Administration
Industrial Development

July 20, 1978

Mr. & Mrs. Delmas Goddard
676 Bongert Avenue
White Marsh, Maryland 21162

RE: Variance Petition
Item No. 249
Petitioner - Goddard

Dear Mr. & Mrs. Goddard:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on-site field inspection of the property. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Because of your proposal to construct an addition to the side of the existing dwelling in conflict with the Baltimore County Zoning Regulations, this Variance is required.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30 nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:mwn

Baltimore County
Department of Public Works
TOWSON, MARYLAND 21204

THORNTON M. MOURNING, P.E.
DIRECTOR

July 19, 1978

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #249 (1977-1978)
Property Owner: Delmas & Carolyn Goddard
S/S Bongert Rd. 1200' W. Winkler Rd.
Existing Zoning: D.R. 2
Proposed Zoning: Variance to permit a side setback of 6.5' and a sum of the side yards of 18' in lieu of the required 15' & 40' respectively and a front setback of 28.5' in lieu of the average 41'.
Acres: 0.457 District: 11th

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Bongert Street, an existing public road, is proposed to be further improved in the future as a 30-foot closed section roadway on the present 50-foot right-of-way.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisance or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

A future drainage and utility easement is required through this property.

Item #249 (1977-1978)
Property Owner: Delmas & Carolyn Goddard
Page 2
July 19, 1978

Water and Sanitary Sewer:

Public water supply is serving this property, which is utilizing a private onsite sewage disposal system.

The Baltimore County Sewerage Plan, as amended, indicates "planned service" in 3 to 5 years.

Very truly yours,

Elsworth N. Diver, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss

cc: B. Cotton
J. Somers

Q-NE Key Sheet
42 NW 37 Pos. Sheet
NW 11 J Topo
73 Tax Map

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 494-3211

July 10, 1978

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #249, Zoning Advisory Committee Meeting, June 1, 1978, are as follows:

Property Owner: Delmas and Carolyn Goddard
Location: S/S Bongert Sweet 1200' W. Winkler St.
Existing Zoning: D.R.2
Proposed Zoning: Variance to permit a side setback of 6.5' and a sum of the side yards of 18' in lieu of the required 15' and 40' respectively and a front setback of 28.5' in lieu of the average 41'.
Acres: 0.457
District: 11th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

This plan has been reviewed and there are no site-planning factors requiring comment.

Very truly yours,

John L. Wimbley
Planner III
Current Planning and Development

Baltimore County
Department of Public Works
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

July 12, 1978

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #249, Zoning Advisory Committee Meeting of June 1, 1978, are as follows:

Property Owner: Delmas & Carolyn Goddard
Location: S/S Bongert St. 1200' W Winkler St.
Existing Zoning: D.R. 2
Proposed Zoning: Variance to permit a side setback of 6.5' and a sum of the side yards of 18' in lieu of the required 15' & 40' respectively and a front setback of 28.5' in lieu of the average 41'.
Acres: 0.457
Districts: 11th

Metropolitan water exists on the site and the proposed addition will not interfere with the location of the sewage disposal system. Therefore, as long as the dwelling remains a single family residence, the Health Department recommends the approval of the proposed variance.

Very truly yours,

Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

THD/RIP/fth

Baltimore County
Department of Traffic Engineering
TOWSON, MARYLAND 21204
(301) 494-3550

STEPHEN E. COLLINS
DIRECTOR

June 21, 1978

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 249 - ZAC - June 1, 1978
Property Owner: Delmas & Carolyn Goddard
Location: S/S Bongert St. 1200' W Winkler St.
Existing Zoning: D.R. 2
Proposed Zoning: Variance to permit a side setback of 6.5' and a sum of the side yards of 18' in lieu of the required 15' & 40' respectively and a front setback of 28.5' in lieu of the average 41'.
Acres: 0.457
Districts: 11th

Dear Mr. DiNenna:

The variance should have no effect on traffic.

Very truly yours,

Stephen E. Weber
Engineer I

SEW/dm

Baltimore County
Fire Department
TOWSON, MARYLAND 21204
(301) 494-3987

Paul H. Reincke
Chief

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: S. Commodari, Chairman
Zoning Advisory Committee

Re: Property Owner: Delmas & Carolyn Goddard
Location: S/S Bongert St. 1200' W Winkler St.
Item No. 249 Zoning Agenda Meeting of 6/1/78

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or ... feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead-end condition shown at ...
EXCEEDS the maximum allowed by the Fire Department.

( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.

( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

( ) 6. Site plans are approved as drawn.

(X) 7. The Fire Prevention Bureau has no comments, at this time.

Reviewed by: K.L. Jones Date: 6/21/78
Fire Prevention Bureau
Special Inspection Division

Noted and Approved: George M. Kegerreis
Fire Prevention Bureau

BALTIMORE COUNTY, MARYLAND
INTRA-OFFICE MEMORANDUM

TO: Lloyd Moxley
Development Review Section

DATE: December 4, 2017

FROM: Ngone Seye Diop
Sector Planner, Neighborhood Response Team

SUBJECT: Lot Line Adjustment Proposal – Planning Support Request prior to filing DRC

INFORMATION:
Property Address: 5301 Bush Street
Petitioner: Howard Wadkins
Zoning: DR 2
Requested Action: Planning Support

I have reviewed the request for the lot line adjustment proposal at 5301 Bush Street. The proposed plan was received by Baltimore County Department of Planning on November 21, 2017. The plan proposes to re-adjust the previous adjusted lot line at DRC# 042214-LLA to alleviate the need for setback variances.

The applicant proposes to construct a dwelling with attached garage on 5301 Bush St. With the proposed adjusted lot line, the proposed area will be 20,064 square feet and the proposed dwelling will meet all setbacks.

Staff does not anticipate a negative comment regarding the proposed lot line adjustment as displayed on the plan received on November 21, 2017.

Please be advised that the Department of Planning comments on the zoning case # 17-313 will remain:

- The side façade for any dwelling situated on Lot 1 facing Winkler Street shall incorporate architectural treatments to include but not limited to windows, shutters and doors. The Department will not support a blank façade.
- The Department will not support the location of a garage on the Winkler Street side of any dwelling proposed for Lot 1.

Prepared by:

Ngone Seye Diop

Let 10

Petitioner
CBA Exhibit
10

S:\Planning\Neighborhood Response\Central Sector\5301 Bush Street.docx

(i) Offer recreational opportunities close to home;

(ii) Enhance the appearance of neighborhoods through the preservation of natural green spaces;

(iii) Counteract the effects of urban congestion; and

(iv) Encourage participation by all age groups in the use and care of local open space tracts;

(16) To ensure an adequate supply of land suitable for development; and

(17) To simplify and clarify the development review and approval process.

(b) *Fulfillment of development policies and purposes.* Compliance with this title and the Comprehensive Manual of Development Policies fulfills the development policies and purposes set forth in § 32-4-102 of this subtitle and subsection (a) of this section, respectively.
(1988 Code, § 26-167) (Bill No. 1, 1992, § 2; Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-104. SCOPE OF TITLE.

(a) *Applicability of title.* This title shall apply to the process of review for approval of all development.

(b) *Present zoning classification.* Proposed development shall be in compliance with the present zoning classification on the property to be developed.
(1988 Code, § 26-169) (Bill No. 18, 1990, § 2; Bill No. 1, 1992, § 2; Bill No. 79-01, § 2, 7-1-2004; Bill No. 24-06, § 1, 3-17-2006)

***Annotation**–Former § 26-169 (1988) cited in Meadows of Greenspring Homeowners Association, Inc. v. Foxleigh Enterprises, Inc., 133 Md.App. 510, 758 A.2d 611 (2000).*

§ 32-4-105. GENERAL EXEMPTIONS.

(a) *Voluntary Cleanup Program exemption.* The creation of a separate lot of record for the sole purpose of applying for or participating in the Voluntary Cleanup Program under Title 7, Subtitle 5 of the Environment Article of the Annotated Code of Maryland is exempt from Articles 32 and 33 of this Code and from the Baltimore County Zoning Regulations for the period of time that the lot is subject to the requirements of the state law.

(b) *Agricultural exemption.* Subject to compliance with all applicable Baltimore County Zoning Regulations, the subdivision of land for agricultural purposes is exempt from this title if no new streets are involved.
(1988 Code, § 26-170) (Bill No. 18, 1990, § 2; Bill No. 79-01, § 2, 7-1-2004; Bill No. 150-05, § 1, 3-5-2006)

§ 32-4-106. LIMITED EXEMPTIONS.

(a) *Exemption from development review and approval process.*

(1) The following proposed development is exempt from compliance with Subtitle 2 of this title:

Petitioner
CBA Exhibit
11

(i) The building or preparation of land for building a dwelling for one or two families on a single lot or tract that is not part of a recorded plat;

(ii) The building or preparation of land for building on a lot of record lawfully in effect at the time of the building or preparation of the land for building, provided the lot of record did not result from a subdivision of land exempt under § 32-4-105 of this subtitle;

(iii) The construction of one tenant house or the location of one trailer on a farm tract;

(iv) The subdivision of property in accordance with a court order, a will, or the laws of intestate succession;

(v) The resubdivision or lot line adjustment of industrially zoned or commercially zoned parcels of land that have been the subject of a previously approved Development Plan and recorded plat;

(vi) The construction of residential accessory structures or minor commercial structures;

(vii) The construction of a building owned and operated by a county volunteer fire, ambulance, or rescue company that is used primarily for:

1. Storage or training purposes;
2. Fund-raising activities; or
3. Other purposes related to rescue or fire-suppression activities;

(viii) Lot line adjustments in residential zones for lots that are not part of an approved Development Plan under this title or an approved Development Plan under Article 1B of the Baltimore County Zoning Regulations. For purposes of this subsection, "lot line adjustment" means one or more alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of the owners, provided that the alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole;

(ix) Subdivision of land that was recorded before January 26, 1990 into three or fewer lots; and

(x) Except as provided in paragraph (2) of this subsection, subdivision of land into three or fewer lots for residential single-family dwellings provided that the lots are not served by a panhandle driveway.

(2) If a lot is served by a panhandle driveway, the subdivision of land into three or fewer lots for residential single-family dwellings is only exempt from:

(i) The concept plan requirements under §§ 32-4-211 through 32-4-217 of this title; and

(ii) The county review requirements under §§ 32-4-226 and 32-4-227 of this title.

(3) All development exempted under this subsection shall comply with Subtitles 3, 4, and 5 of this title and all applicable Baltimore County Zoning Regulations.

(b) *Exemption from community input meetings and Hearing Officer's hearing.* The following development is exempt from the community input meeting and the Hearing Officer's hearing under Subtitle 2 of this title:

(1) Lot line adjustments, including the combination of lots or parcels;

(2) Amendments to an approved Development Plan or plat that do not materially alter the proposed development;

Ref 9

KEVIN KAMENETZ
County Executive

December 22, 2017

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

Kenneth J. Wells
7403 New Cut Road
Kingsville, MD 21087

Re: Wadkins Construction, 5301 Bush Street, 21162, Dist. 11c5
DRC Number: 010218-LLA2 (042214-LLA)

Dear Sir/Madam:

Pursuant to Section 32-4-106(a)(1) of the Baltimore County Code (BCC), this letter constitutes an administrative order and decision on the request you filed with this department.

Your request has been submitted for careful review and consideration to the Director and Zoning Office. It has been determined that your proposal:

☒ Provisionally meets the requirements of a limited exemption under Section 32-4-106(a)(1)(viii), BCC. (Adjust E/s Lot 2 setback to 25' in lieu of 24.5') (Amend record plat)

☐ Provisionally meets the requirements of a limited exemption under Section 32-4-106(a)(1)(ii) or (a)(1)(v), BCC.

☐ Does not meet the requirements of a limited exemption under Section 32-4-106(a)(1), BCC. You will be notified if your project can be scheduled for the next open DRC meeting and any additional requirements for review. (Contact Jennifer Nugent in Planning)

☐ Needs additional materials/information for review. Contact Carl Richards or Joseph Merrey at 410-887-3391. Zoning density hearing required prior to final Zoning approval. Also contact Jeff Livingston at 410-887-5859.

☐ does not reach the scope or extent that would require Baltimore County development approval.

☐ All or a portion of the property is located within the Chesapeake Bay Critical Area, therefore prior to any County action you are required to apply for and receive approval of Lot Consolidation and Reconfiguration through the Dept. of Environmental Protection and Sustainability (Comar 27.01.02.08) After receiving approval, resubmit your application for LLA with documentation of DEPS approval.

When recording deeds in the land records, please attach this letter and the survey plat as exhibits. Also, if the property(s) are improved or any Baltimore County permits are applied for or anticipated in the future, an existing record plat may be required to be amended and the following approval agencies should be contacted to resolve any possible development issues: Development Plans Review – 410-887-3751, Planning 410-887-3480, Environmental Protection & Sustainability – 410-887-5859

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

AS
Arnold Jablon Initial

Petitioner
CBA Exhibit
9

30A4

KEVIN KAMENETZ
County Executive

January 12, 2018

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

Kenneth J. Wells
7403 New Cut Road
Kingsville, MD 21087

Re: Wadkins Construction, 5301 Bush Street, 21162, Dist. 11c5
DRC Number: 010218-LLA2 (042214-LLA) (1/23/18 Old Business)
REVISED Zoning Decision 1/23/18

Dear Sir/Madam:

Pursuant to Section 32-4-106(a)(1) of the Baltimore County Code (BCC), this letter constitutes an administrative order and decision on the request you filed with this department.

Your request has been submitted for careful review and consideration to the Director and Zoning Office. It has been determined that your proposal:

☐ Provisionally meets the requirements of a limited exemption under Section 32-4-106(a)(1)(viii), BCC.

☐ Provisionally meets the requirements of a limited exemption under Section 32-4-106(a)(1)(ii) or (a)(1)(v), BCC.

☒ Does not meet the requirements of a limited exemption under Section 32-4-106(a)(1), BCC. Prior to any Zoning approval a Special Hearing must be granted by the ALJ to amend & grant the plan he denied and approve an unusual Lot Line division.

☐ Needs additional materials/information for review. Contact Carl Richards or Joseph Merrey at 410-887-3391. Zoning density hearing required prior to final Zoning approval. Also contact Jeff Livingston at 410-887-5859.

☐ does not reach the scope or extent that would require Baltimore County development approval.

☐ All or a portion of the property is located within the Chesapeake Bay Critical Area, therefore prior to any County action you are required to apply for and receive approval of Lot Consolidation and Reconfiguration through the Dept. of Environmental Protection and Sustainability (Comar 27.01.02.08) After receiving approval, resubmit your application for LLA with documentation of DEPS approval.

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Sincerely,

Arnold Jablon Initial

W. Carl Richards, Jr.
Zoning Supervisor

kjWellsInc
Land Surveying, Site Planning & Landscape Architecture

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

December 7, 2017

Letter to Accompany DRC Request

Re: Wadkins Construction, Inc Property
Lot 8 and a Portion of Lot 7 "Forge Acres"

Dear Committee Members:

In March of 2014 a DRC request for a lot line adjust was granted. For background the following Letter of Explanation was provided:

"Both properties are located within a record plat entitled "Forge Acres" recorded in Plat Book 14 folio 88. One of the properties comprises of Lot 8 Block 'E' in its entirely. The other subject property is a portion of Lot 7 and is 50 feet wide. Forge Acres was recorded in 1948 and Lot 8 was conveyed by the developer, Powers, unto Ormsby in January of 1952. Ormsby then purchased a 50 foot wide portion of the adjoining Lot 7 from Rayner in July of 1952. Those lots have been described separately and have remained intact under one ownership including the current owner. The properties' zoning classification is DR-2. Lot 7 would be considered an undersized single-family lot as it meets those regulations cited in Section 304.1 of the BCZR.

It is the desire of my client to adjust the lot line between the subject properties. Lot 8 currently exceeds the zoning requirements as established in the Small Tract Table of the BCZR. It is the intent to reduce Lot 8 by the maximum extent possible and still comply with the current zoning regulations. This would allow the adjoining undersize lot to increase its area from 0.23 acres to 0.43 acres, near the required 0.46 acres, and change the current width of 50 feet to 94.61 feet, near the required 100 feet. This would not be out of character with the neighborhood as the next two lots to the northeast, the Vogt and King properties, are 0.34 acres and 75 feet in width. Both existing structures (dwelling and garage) on the subject lots would be razed and new dwelling constructed."

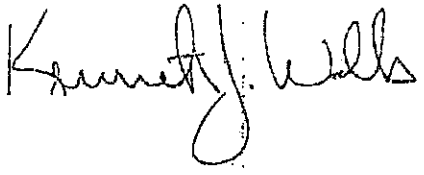
In July 2017 a zoning hearing was conducted and a subsequent order was issued based on a request for a variance to allow a lot width less than 100 feet and the net lot area of less than 20,000 square feet was denied based on the lack of the property not being "unique".

To remedy the issues regarding the lot width and net area requirements we have revised the plan to alleviate any need for variances. The requested adjusted lot line is now configured to provide each lot with a 100 foot width based on complying with the average front yard setback requirements which is demonstrated and shown on the revised plan. To comply with the net lot area requirement my client has negotiated with an adjoining property owners who are willing to

convey a small portion (1,200 square feet) of their property to the subject property which in turn would meet the net lot area requirements for both lots. It should be noted that no densities are being transferred with this conveyance.

Prior to this request being submitted for a revision to the previously approved lot line adjustment we reached out to Carl Richards of Zoning Review and Ngone Diop of the Office of Planning for their initial position as it regards this request. Both agencies found that the request is acceptable and is conditioned with comments made by the Office of Planning.

Thank you in advance for your consideration.



Kenneth J. Wells

CC: H. Wadkins

kjWellsInc
Land Surveying, Site Planning & Landscape Architecture

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

March 28, 2014

Letter to Accompany DRC Request

Re: Jones Property
Lot 8 and a Portion of Lot 7

Dear Committee Members:

Both properties are located within a record plat entitled "Forge Acres" recorded in Plat Book 14 folio 88. One of the properties comprises of Lot 8 Block 'E' in its entirely. The other subject property is a portion of Lot 7 and is 50 feet wide. Forge Acres was recorded in 1948 and Lot 8 was conveyed by the developer, Powers, unto Ormsby in January of 1952. Ormsby then purchased a 50 foot wide portion of the adjoining Lot 7 from Rayner in July of 1952. Those lots have been described separately and have remained intact under one ownership including the current owner. The properties' zoning classification is DR-2. Lot 7 would be considered an undersized single-family lot as it meets those regulations cited in Section 304.1 of the BCZR.

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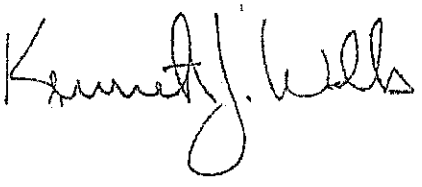
Upon approval of the adjusted lot line, razing permits will be filed and an application for a building permit will be made for the undersized lot. The application for the building permit requires the approval of an undersized lot by the Office of Planning prior to its issuance.

Thank you in advance for your consideration.



Kenneth J. Wells

BALTIMORE COUNTY
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS
DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC#_____/Tracking#_____
County Use Only County Use Only

This application must be accompanied by the following:

1. One copy of the completed DRC checklist.
2. Three copies of this DRC application, completed in full.
3. Three copies of a letter of request (attach one to each DRC application).
4. Nine copies of the plan folded to 8 ½ x 11 inches.
5. $100 fee for limited exemption request; $375 for waiver request (check made payable to Baltimore County, MD and are non-refundable; Applicant shall deliver check to County Finance Office cashier. Submit paid receipt w/package.

Filing Date:_____
Stamp in w/PAI date stamp here

Project Name: Wadkins Construction, Inc. Property PAI File No.:_____

Project Address: 5301 Bush Street Zip Code: 21162 ADC Map #: 30 A 4

Councilmanic District: 5 Election District: 11 Project Acreage: Lot 1 0.66 and Lot 2 0.23

Tax Account No(s): 1110047220 Zoning: DR2

Engineer: kjWellsInc N/A:____ Engineer's Phone No.: 410-592-8800

Address: 7403 New Cut Road Zip 21087 Email: kwells@kjwellsinc.com
(City)

Applicant: Howard Wadkins Applicant's Phone No.: 443-623-3094

Address: 1605 Honeysuckle Court Zip 21410 Email: wadkinscoinc@yahoo.com
(City)

Attorney:_____ N/A:____ Attorney's Phone No.:_____

Address:_____ Zip_____ Email:_____
(City)

Is this a tower? ☐ Yes ☑ No If "Yes" check one of the following: Cellular ____ Water Tower ____ MonoPole ____
(CAC) (WTC) (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

(County Use only)
Action:_____

- ◉ Limited Exemption under Section 32-4-106 (a) (1) (viii)
- ○ Plan Refinement
- ○ Planned Shopping Center Designation under Section 101 of BCZR
- ○ Waiver under Section 32-4-107 (_____) (_____) (_____)
- ○ Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
- ◉ Lot Line Adjustment (LLA)
- ○ Other_____

This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request. A copy of the checklist must be completed and included along with this DRC application. Please note that a DRC application form and checklist is available in room 123 of the County Office Building and on the County web site www.baltimorecountymd.gov/Agencies/permits/pdm_devmanage/pdmfdmgt.html

Please see page 2 for the checklist of complete submittal requirements

c: Council, Planning, DEPS, Zoning

BALTIMORE COUNTY
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS

Development Review Committee (DRC)
Application Form Checklist

All applications to the DRC must include the following:

- [x] 1. Three copies of the DRC Application.
- [x] 2. Three copies (one attached to each DRC Application) of a letter of request to the DRC containing the following:
  - [x] a. Name, address and phone number of the applicant
  - [x] b. Explanation of the request to the DRC.
  - [x] c. Signature of the applicant.
- [x] 3. Nine copies of a plan*** showing the following:
  - [x] a. A plan title box noting "Plan to accompany DRC request."
  - [x] b. North arrow.
  - [x] c. Vicinity map.
  - [x] d. Election district.
  - [x] e. Councilmanic district.
  - [x] f. Property tax account numbers.
  - [x] g. Site property owner's name and address.
  - [x] h. Scale of the drawing.
  - [x] i. Boundaries of the property lines shown in heavy bold lines.
  - [x] j. Lengths of property lines
  - [x] k. Area of project site in square feet and acreage.
  - [x] l. Proposed structures, heights and dimensions.
  - [x] m. Setbacks.
  - [x] n. Location of existing wells and septic systems.
  - [x] o. Zoning information:
    - [x] 1. Current zoning on the property.
    - [x] 2. Case numbers of any zoning hearings.
    - [x] 3. Dates of zoning orders.
    - [x] 4. Indication of what was granted or denied by the zoning commissioner.
    - [x] 5. Copies of zoning orders attached to the DRC Application.

***Note: For refinements and material changes to previously approved plans you must use copies of the last approved plan to show items 3a-o listed above. Please show all changes in red.

- [x] 4. One copy of this checklist completed and signed by the applicant or the consultant.
- [x] 5. Check for $100 for limited exemption request or check for $375 for waiver request , payable to Baltimore County, MD-non-refundable. **(Do not staple check to forms) Applicant shall deliver payment to County Finance Office cashier. Submit paid receipt with this package.**

I have reviewed the DRC application and plan using this checklist to insure that the application and plan are complete. I understand that an incomplete application or plan may cause the DRC to delay its action on this request.

Signed _____ 12/07/2017
Date

Print Name Kenneth J. Wells

KEVIN KAMENETZ
County Executive

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

July 11, 2017

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

RE: Petition for Variance
Case No. 2017-0313-A
Property: 5301 Bush Street

Dear Mr. Corey:

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: Karen Harms, 4916 Forge Road, Perry Hall, MD 21125
John & Katherine Lochary, 5219 Bush Street, White Marsh, MD 21162
Angela M. Cioka, 5303 Bush Street, White Marsh, MD 21162
Donna Welch, 5300 Bush Street, White Marsh, MD 21162
Scott Ayre, 5300 Bush Street. White Marsh, MD 21162
Steven Zdziera, 5210 Bush Street, White Marsh, MD 21162
Jack Amrhein, 1 Heathrow Manor Ct., Nottingham, MD 21236

Petitioner
CBA Exhibit
8

IN RE: PETITION FOR VARIANCE (5301 Bush Street) 11th Election District 5th Council District Wadkins Construction, Inc. *Legal Owner* Petitioner	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY **CASE NO. 2017-0313-A**

* * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Christopher Corey, Esq., on behalf of Wadkins Construction, Inc., the legal owner of the subject property ("Petitioner"). Petitioner is requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement; and (4) For such other and further relief as may be required by the Administrative Law Judge (ALJ) for Baltimore County. A site plan was marked as Petitioner's Exhibit 11.

Professional land surveyor Kenneth J. Wells appeared in support of the petition. Christopher Corey, Esq. represented the Petitioner. Several members of the community opposed the requests. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the requests but suggested certain façade treatments would

be required for the proposed dwellings.

The site is approximately 0.89 acres in size and zoned DR 2. A single-family dwelling was constructed on the property in 1951, although Petitioner has since razed that structure, which was apparently in very poor condition. The subject property is comprised of all of Lot 8 and a portion of Lot 7 as shown on the Plat of Forge Acres (recorded in 1948). Petitioner's Exhibit 4. The properties were the subject of Development Review Committee (DRC) Item DRC #042214-LLA wherein a lot line adjustment was granted in 2014. Petitioner's Exhibit 2. This lot line adjustment (as shown on the DRC Plan admitted as Exhibit 10) created Lot 1 and Lot 2 as shown on the redlined site plan. Petitioner proposes to construct a single-family dwelling and garage on each lot but requires variances to do so.

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

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

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

Based on a review of the site plan and the testimony of Mr. Wells, I do not believe the property is "unique" as that term is used in Maryland case law. In the zoning context "unique" has a "customized meaning" to include shape, topography, subsurface conditions, environmental factors, historical significance, etc. *North v. St. Mary's County*, 99 Md. App. 502, 512 (1994). The lots are rectangular in shape and are very similar to other lots in the vicinity. There simply are no unique or defining attributes of the property that would support a finding of uniqueness.

In a contested variance case the petitioner faces an uphill battle. Indeed, I was unable to locate a Maryland appellate court opinion from the last twenty years which upheld the grant of a

variance. Under Maryland law, a variance should be granted "sparingly" since it is "an authorization for [that] ...which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699. As such, I believe the petition must be denied.

THEREFORE, IT IS ORDERED, this 11th day of **July, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) For Lot 2 as shown on the site plan, to permit a minimum lot width of 94.61 ft. in lieu of the required 100 ft.; (2) For Lot 2 as shown on the site plan, to permit a minimum net lot area of 18,922 sq. ft. in lieu of the required 20,000 sq. ft.; and (3) If necessary, for Lot 1 as shown on the site plan, to permit a side yard setback of 35 ft. along the Winkler Street right-of-way line, in lieu of the 40 ft. front yard setback requirement, be and is hereby DENIED.

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

JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln

Lot 7

KEVIN KAMENETZ
County Executive

April 18, 2014

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

Kenneth J. Wells
7403 New Cut Road
Kingsville, MD 21087-1132

Re: Jones Property, 5301 Bush Street, 21162, Dist. 11c5
DRC Number: 042214-LLA (2014-00055)

Dear Sir/Madam:

Pursuant to Section 32-4-106(a)(1) of the Baltimore County Code, this letter constitutes an administrative order and decision on the request you filed with this department.

Your request has been submitted for careful review and consideration to the Director and Zoning Office. It has been determined that your proposal:

☒ Provisionally meets the requirements of a limited exemption under Section 32-40-106(a)(1)(viii) BCC (An undersize lot & setback variance must be granted.) Also record plat must be amended.

☐ Meets the requirements of a limited exemption under Section 32-4-106(a)(1)(ii) or (a)(1)(v)(No development or building and all future uses will require Zoning and Development approval)

☐ does not meet the requirements of a limited exemption under Section 32-4-106(a)(1)BCC. You will be notified if your project can be scheduled for the next open DRC meeting and any additional requirements for review. (Need DEPS approval for new access)

☐ needs additional materials/information for review. Contact Carl Richards or Joseph Merrey at 410-887-3391.

☐ does not reach the scope or extent that would require Baltimore County development approval.

☐ all or a portion of the property is located within the Chesapeake Bay Critical Area, therefore prior to recording deeds or submitting a record plat you are required to apply for Lot Consolidation and Reconfiguration through the Dept. of Environmental Protection and Sustainability (Comar 27.01.02.08)

When recording deeds in the land records, please attach this letter and the survey plat as exhibits. Also, if the property(s) are improved or any Baltimore County permits are applied for or anticipated in the future, the following approval agencies should be contacted to resolve any possible development issues: Development Plans Review – 410-887-3751, Planning 410-887-3480, Environmental Protection & Sustainability – 410-887-5859

Sincerely,

Arnold Jablon Initial

W. Carl Richards, Jr.
Zoning Supervisor

Petitioner
CBA Exhibit
7

kjWellsInc

Land Surveying, Site Planning & Landscape Architecture

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

March 28, 2014

Letter to Accompany DRC Request

Re: Jones Property
Lot 8 and a Portion of Lot 7

Dear Committee Members:

Both properties are located within a record plat entitled "Forge Acres" recorded in Plat Book 14 folio 88. One of the properties comprises of Lot 8 Block 'E' in its entirely. The other subject property is a portion of Lot 7 and is 50 feet wide. Forge Acres was recorded in 1948 and Lot 8 was conveyed by the developer, Powers, unto Ormsby in January of 1952. Ormsby then purchased a 50 foot wide portion of the adjoining Lot 7 from Rayner in July of 1952. Those lots have been described separately and have remained intact under one ownership including the current owner. The properties' zoning classification is DR-2. Lot 7 would be considered an undersized single-family lot as it meets those regulations cited in Section 304.1 of the BCZR.

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Upon approval of the adjusted lot line, razing permits will be filed and an application for a building permit will be made for the undersized lot. The application for the building permit requires the approval of an undersized lot by the Office of Planning prior to its issuance.

Thank you in advance for your consideration.

Kenneth J. Wells

BALTIMORE COUNTY
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS
DEVELOPMENT REVIEW COMMITTEE (DRC) APPLICATION

DRC# 042214-uA Tracking# DRC-2014-00055
County Use Only County Use Only

RECEIVED
APR 1 2014
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

Filing Date: _____
Stamp in w/PAI date stamp here

This application must be accompanied by the following:

1. One copy of the completed DRC checklist.
2. Three copies of this DRC application, completed in full.
3. Three copies of a letter of request (attach one to each DRC application).
4. Nine copies of the plan folded to 8 ½ x 11 inches.
5. $100 fee for limited exemption request; $375 for waiver request (check made payable to Baltimore County, MD and are non-refundable; Applicant shall deliver check to County Finance Office cashier. Submit paid receipt w/package.

Project Name: Jones Property PAI File No.: _____

Project Address: 5301 Bush Street Zip Code: 21162 ADC Map #: 4582D5

Councilmanic District: 5 Election District: 11 Project Acreage: Lot 1 0.66 and Lot 2 0.23

Tax Account No(s): 1110047220 Zoning: DR2

Engineer: kjWellsInc N/A:____ Engineer's Phone No.: 410-592-8800

Address: 7403 New Cut Road Zip 21087 Email: kwells@kjwellsinc.com
(City)

Applicant: Howard Wadkins Applicant's Phone No.: 443-623-3094

Address: 1605 Honeysuckle Court Zip 21410 Email: wadkinscoinc@yahoo.com
(City)

Attorney: _____ N/A:____ Attorney's Phone No.: _____

Address: _____ Zip _____ Email: _____
(City)

Is this a tower? ☐ Yes ☑ No If "Yes" check one of the following: Cellular ____ Water Tower ____ MonoPole ____
(CAC) (WTC) (CFC)

REQUESTED ACTION (TO BE COMPLETED BY THE APPLICANT)

(County Use only)
Action: _____

- ◉ Limited Exemption under Section 32-4-106 (a) (vii) ( )
- ○ Plan Refinement
- ○ Planned Shopping Center Designation under Section 101 of BCZR
- ○ Waiver under Section 32-4-107 ( ) ( ) ( )
- ○ Requires a Zoning ( ) Special Hearing; ( ) Special Exception; ( ) Variance
- ◉ Lot Line Adjustment (LLA)
- ○ Other _____

This application must be accompanied by a written request. That request must be in the form of a letter, legibly printed or typed, and signed by the applicant. The letter must contain the name, address and telephone number of the applicant and must provide details of the request. A copy of the checklist must be completed and included along with this DRC application. Please note that a DRC application form and checklist is available in room 123 of the County Office Building and on the County web site www.baltimorecountymd.gov/Agencies/permits/pdm_devmanage/pdmfdmgt.html
Please see page 2 for the checklist of complete submittal requirements

c: Council, Planning, DEPS, Zoning

BALTIMORE COUNTY
DEPARTMENT OF PERMITS APPROVALS AND INSPECTIONS

Development Review Committee (DRC)
Application Form Checklist

All applications to the DRC must include the following:

X 1. Three copies of the DRC Application.
X 2. Three copies (one attached to each DRC Application) of a letter of request to the DRC containing the following:
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- X b. Explanation of the request to the DRC.
- X c. Signature of the applicant.

X 3. Nine copies of a plan*** showing the following:
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- X g. Site property owner's name and address.
- X h. Scale of the drawing.
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- X j. Lengths of property lines
- X k. Area of project site in square feet and acreage.
- X l. Proposed structures, heights and dimensions.
- X m. Setbacks.
- X n. Location of existing wells and septic systems.
- X o. Zoning information:
  - X 1. Current zoning on the property.
  - N/A 2. Case numbers of any zoning hearings.
  - N/A 3. Dates of zoning orders.
  - N/A 4. Indication of what was granted or denied by the zoning commissioner.
  - N/A 5. Copies of zoning orders attached to the DRC Application.

***Note: For refinements and material changes to previously approved plans you must use copies of the last approved plan to show items 3a-o listed above. Please show all changes in red.

X 4. One copy of this checklist completed and signed by the applicant or the consultant.
X 5. Check for $100 for limited exemption request or check for $375 for waiver request , payable to Baltimore County, MD-non-refundable. **(Do not staple check to forms) Applicant shall deliver payment to County Finance Office cashier. Submit paid receipt with this package.**

I have reviewed the DRC application and plan using this checklist to insure that the application and plan are complete. I understand that an incomplete application or plan may cause the DRC to delay its action on this request.

Signed Kenneth J. Wells 3/28/2014
Date

Print Name Kenneth J. Wells

THIS DEED, Made this 29th day of September, in the year two thousand sixteen, by and between **BRENDA DARK, WILLIAM BURNHAM, WALTER R. JONES AND TERRI L. YEAGER**, parties of the first part, Grantors, and **WADKINS CONSTRUCTION, INC., a Maryland Corporation**, party of the second part, Grantee.

WITNESSETH, That in consideration of the sum of **$157,000.00** and other valuable considerations, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant, convey, and assign unto the said Grantee, its successors and assigns, in fee simple, all that lot of ground situate in Baltimore County in the State of Maryland, and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as all of Lot No. 8 and the Westernmost 50 feet of Lot No. 7 immediately adjacent to said Lot No. 8, Block E, as shown on the Plat of "FORGE ACRES", which Plat is recorded among the Land Records of Baltimore County in Plat Book R.J.S. No. 14 folio 88. The improvements thereon known as **No. 5301 Bush Street.**

BEING the property which by Deed dated July 25th, 2005, and recorded among the Land Records of Baltimore County in Liber S.M. No. 22399 folio 693, was conveyed by James E. Jones, Sr. to Brenda Dark, William Burnham, Walter R. Jones and Terri L. Yeager, wherein James E. Jones, Sr., reserved a life estate. The said James E. Jones, Sr., since departed this life on April 2nd, 2011.

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

TO HAVE AND TO HOLD the said lot of ground and premises unto and to the use of the said Grantee, its successors and assigns, in fee simple.

AND the said Grantors hereby covenant that the Grantors have not done or suffered to be done any act, matter or thing whatever to encumber the property hereby conveyed; and to warrant specially the property hereby granted and to execute such further assurances of the same as may be requisite.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38186, p. 0023, MSA_CE62_38043. Date available 11/07/2016. Printed 01/10/2017.

Petitioner
CBA Exhibit
6E

WITNESS the hands and seals of said Grantors.

WITNESS:

Brenda Dark (SEAL)
BRENDA DARK

William Burnham (SEAL)
WILLIAM BURNHAM

Walter R. Jones (SEAL)
WALTER R. JONES

Terri L. Yeager (SEAL)
TERRI L. YEAGER

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

I HEREBY CERTIFY, that on this 29th day of September, 2016, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Brenda Dark, William Burnham, Walter R. Jones and Terri L. Yeager known (or satisfactorily proven) to me to be the persons whose names are subscribed to the within Deed and acknowledged the foregoing Deed to be their act and in my presence signed and sealed the same, and further acknowledged that the consideration as stated above is true and correct.

AS WITNESS my hand and Notarial Seal.

Lisa M.L. Eisemann, Notary Public

LISA M.L. EISEMANN NOTARY PUBLIC BALTIMORE COUNTY, MD

My Commission Expires: 8/17/30

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney.

Lisa M.L. Eisemann, Attorney

RECORD AND RETURN TO:

WADKINS CONSTRUCTION, INC.
1605 Honeysuckle Ridge Court
Annapolis, MD 21401
File #16-0438

BALTIMORE COUNTY CIRCUIT COURT (Land Records) JLE 38186, p. 0024, MSA_CE62_38043. Date available 11/07/2016. Printed 01/10/2017.

FEE-SIMPLE DEED—CODE—City or County—40

LIBER 2077 PAGE 419

This Deed, Made this 25th day of January

in the year one thousand nine hundred and fifty-two , by and between

Walter W Powers and Susie Grey Powers, his wife,

of Baltimore City in the State of Maryland, of the first part, and

Edward T Ormsby and Fern N Ormsby, his wife,
of Baltimore County, Md.
of the second part.

Witnesseth, that in consideration of the sum of Ten Dollars

the said Walter W Powers and Susie Grey Powers, his wife,

do grant and convey unto the said Edward T. Ormsby and Fern N. Ormsby, his wife, as tenants by the entireties, the survivor, his or her

heirs and assigns, in fee simple, all that parcel of ground, situate, lying and being in

11th District, Baltimore County, Md. , aforesaid, and described as follows, that is to say:—

Beginning for the Lot numbered Eight (8) in Block "E" in FORGE ACRES, according to the Plat thereof recorded in Book 14 of Plats, Page 88, Baltimore County Records.

Being a portion of the land which Ethel C. Haxall, unmarried, et al, conveyed to Walter W. Powers and wife, by deed dated August 1, 1947, and recorded in Liber 1603, folio 55, Baltimore County Records.

See also Confirmatory Deed recorded in Liber TBS 1734, folio 521, Baltimore County Records.

Pet 6B

Petitioner
CBA Exhibit
6B

Subject to the following Covenants and Restrictions:

1. That no part of said lot shall be sold or rented to or occupied by negroes or any person or negro descent. This shall not exclude bona fide servants of any occupant of said land.

2. That no dwelling shall be placed on said lot or any portion thereof having an original cost of construction of less than Three Thousand ($3,000.00) Dollars, exclusive of out buildings or detached garage, all dwellings shall set back at least 35 feet from the road or street on which they respectively abut.

3. That no outbuilding or garage shall be used or occupied for residence purposes. All plumbing used shall be of a modern type; no outhouses or chemical toilets.

4. That no part of said property shall be used for commercial use or business purposes, excepting such portions as front on the Old Philadelphia Road.

5. That no portion of said land shall be used for manufacturing purposes, or for any use which will be a nuisance.

6. That, excepting Old Philadelphia Road frontage, no part of said land shall be used except for residential purposes and for farming purposes.

7. That no pigs or hogs shall be raised on the premises.

8. That the restrictions in this agreement set forth shall be covenants running with the land and shall continue for a period of twenty (20) years from the date hereof, and after said twenty years shall be renewable for 10-year periods, except that after the expiration of the 20-year period, said restrictions and covenants can be changed by the consent in writing of three - fourths of the owners of the tract of which the lot to be affected by the change is a part.

Subject to the zoning Restrictions of Baltimore County, to the rights of way of electric transmission companies, of the Gas & Electric Company, and of the Telephone Company, and to the improvement widening and maintenance of the street on which the said lot abuts.

9. That the second parties by their act in recording this deed specifically waive all claims against the first parties, the sellers, for any construction, improvement and/or maintenance of any streets or roads in said Forge Acres Subdivision, in consideration of the low price at which lots were sold.

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

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Edward T Ormsby and Fern N Ormsby, his wife, as tenants by the entireties, the survivor, his or her

heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

TEST:

Stanley Mills

Walter W Powers (SEAL)

Susie Grey Powers (SEAL)

County of Santa Clara
STATE OF ~~MARYLAND~~ CALIFORNIA to wit:

I HEREBY CERTIFY, That on this 25th day of January in the year one thousand nine hundred and fifty-two, before me, the subscriber, a Notary Public of the State of ~~Maryland~~ California in and for County and State aforesaid, personally appeared Walter W. Powers and Susie Grey Powers, his wife,

the above named grantors, and severally acknowledged the foregoing Deed to be his and her act.

As witness my hand and Notarial Seal.

Stanley Mills
Notary Public.
Stanley Mills

RECORD Feb. 26, 1952 - 11:40 A.M. & RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY, LIBER G.L.B. 2077, FOLIO 419, GEORGE L. BYERLY, CLERK.

LIBER 3172 PAGE 465

THIS DEED, Made this 6th day of June, in the year one thousand nine hundred and fifty-seven, between Edward T. Ormsby and Fern F. Ormsby, his wife, of the County of Baltimore, in the State of Maryland, of the first part, Grantors and Gordon L. Ely and Marion V. Ely, his wife, of the County of Baltimore, in the State of Maryland, of the second part, Grantees.

WITNESSETH, that in consideration of the sum of Five Dollars, and other good and valuable considerations, the receipt of which is hereby acknowledged, the said Edward T. Ormsby and Fern F. Ormsby, his wife, do grant and convey unto the said Gordon L. Ely and Marion V. Ely, his wife, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs and assigns, in fee simple, all that lot of ground situate, lying and being in Baltimore County, State of Maryland, aforesaid, and described as follows, that is to say:

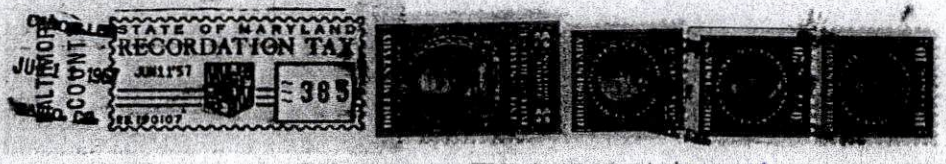
BEGINNING for the same at a point on the South side of Bush Street at its intersection with the dividing line between Lot No. 6 and Lot No. 7, Block E as shown on the Plat of Forge Acres which said Plat is recorded among the Land Records of Baltimore County in Plat Book No. 14 folio 88, running thence and binding on the South Side of Bush Street South 73 degrees 01 minutes West 150 feet to a point, running thence leaving the South side of Bush Street South 16 degrees 59 minutes East 200 feet to intersect the dividing line between Lot No. 7 and Lot No. 10, Block E, as shown on said plat, running thence binding on the last mentioned dividing line North 73 degrees 01 minutes East 150 feet to intersect the dividing line between Lot No. 7 and Lot No. 6, Block E as shown on said Plat, running thence and binding on the last mentioned dividing line North 16 degrees 59 minutes West 200 feet to the place of beginning

BEING and intending to convey the easternmost 150 feet of Lot No. 7, Block E, as shown on the aforesaid Plat of Forge Acres having a frontage of 150 feet on the South side of Bush Street and an even and equal depth of 200 feet.

BEING a part of all that parcel of land which by a Deed dated July 15, 1952 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2144 folio 34 was granted and conveyed by Albert T. Rayner and wife to Edward T. Ormsby and Fern F. Ormsby, his wife the Grantors herein.

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

TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Gordon L. Ely and Marion V. Ely, his wife, as tenants by the entireties, their assigns, the survivor of them and the



Ref 6C

Petitioner
CBA Exhibit
6C

survivor's heirs and assigns, in fee simple.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of the said Grantors the day and year first above written.

TEST:

E. Scott Moore

Edward T. Ormsby (SEAL)
Edward T. Ormsby

Fern F. Ormsby (SEAL)
Fern F. Ormsby

STATE OF MARYLAND, COUNTY OF BALTIMORE, To wit:

I HEREBY CERTIFY, That on this 9th day of June, in the year one thousand nine hundred and fifty-seven, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Baltimore, aforesaid, personally appeared Edward T. Ormsby and Fern F. Ormsby, his wife, the above named Grantors, and they acknowledged the foregoing Deed to be their act.

Ormsby S. Moore
NOTARY PUBLIC

ORMSBY S. MOORE NOTARY PUBLIC BALTIMORE CO., MD.

Rec'd for Record JUN 11 1957 at 2 51 P.M.
Per George L. Byerly, Clerk.
Mailed to E. Scott Moore

LIBER 3457 PAGE 379

REAR ESTATE TITLE CO.
Keyser Building
Baltimore, Md.
LExington 9-3212

STATE OF MARYLAND RECORDATION TAX DEC 5'58 2090

TITLES INSURED by Lawyers Title Insurance Corporation Richmond, Virginia

SIMPLE DEED

This Deed, Made this 25th day of November

in the year one thousand nine hundred and fifty-eight by and between

BALTIMORE COUNTY

EDWARD T. ORMSBY and FERN F. ORMSBY, his wife, of Baltimore County, State of Maryland, parties of the first part; and HERMAN F. ELTERMAN and JANE C. ELTERMAN, his wife, of Baltimore County, State of Maryland, parties of the second part.

WITNESSETH that in consideration of the sum of Five ($5.00) Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part - - -

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 any wise appertaining.

TO HAVE AND TO HOLD the land and premises; above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them and the survivor's heirs and assigns in fee-simple.

AND the said parties of the first part - - -

LIBER 2144 PAGE 34

THIS DEED, Made this 15th day of July 1952, by Albert T. Rayner and Rita Rayner, his wife, of Baltimore County, State of Maryland.

WITNESSETH: That in consideration of the sum of five dollars and other good and valuable considerations, the said Albert T. Rayner and Rita Rayner, his wife, do hereby grant and convey unto Edward T. Ormsby and Fern F. Ormsby, his wife, as tenants by the entireties, their assigns, the survivor of them, and the heirs and assigns of the survivor, in fee simple, all that parcel of ground situate, lying and being in the 11th District of Baltimore County, Maryland, and described as follows:

BEGINNING for the same at the point in the center line of Forge Road distant north 73 degrees 01 minutes east 100.47 feet from the intersection of the center line of Forge Road with the westerly line of all farm lot No. 8 in Loreley Farms as shown on a Plat of the Loreley property prepared by J. Spence Howard, Registered Surveyor in 1938, thence binding on the easterly lines of Lot 13, Block B and of Lots 9 and 10 Block D as shown on Plat now being prepared for registration according to a survey made by Howard C. Sutton, Registered Surveyor number 758, south 16 degrees 59 minutes east 875 feet to the southerly line of Bush Street, 50 feet wide as shown on said plat which is the point of beginning of the lot to be surveyed, thence with and binding on the southerly side of said Bush Street, south 73 degrees 01 minutes west 200 feet, thence with and binding on the easterly line of lot number 8, Block E. in said plat, south 16 degrees 59 minutes east 200 feet, thence with and binding on the northerly line of lot 10, Block E in said plat, north 73 degrees 01 minutes east 200 feet, thence with and binding on the westerly line of lot 6, Block E in said plat north 16 degrees 59 minutes west 200 feet to the place of beginning. BEING lot No. 7 in Block E. in the plat of Forges Acres

6A

Petitioner
CBA Exhibit
6A

BALTIMORE COUNTY CIRCUIT COURT (Land Records) CLB 2144, p. 0034, MSA_CE62_1999. Date available 02/25/2008. Printed 07/10/2017.

now being prepared and intended to be recorded among the Land Records of Baltimore County, Maryland.

BEING the same lot of ground and premises which by deed dated the 15th day of June, 1952, and intended to be recorded immediately prior hereto among the Land Records of Baltimore County was conveyed by Ernest R. Glab and Ruth Glab, his wife, to the said Albert T. Rayner, in fee simple.

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.

TO HAVE AND TO HOLD the said described lot of ground and premises above described and mentioned and hereby intended to be conveyed; unto and to the proper use and benefit of the said Edward T. Ormsby and Fern F. Ormsby, his wife, as tenants by the entireties, their assigns, the survivor of them, and the heirs and assigns of the survivor, in fee simple.

AND the said grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed; that they will warrant specially the property hereby granted and conveyed; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of said grantors.

John J. Butt
John J. Butt

Albert T. Rayner (SEAL)
Albert T. Rayner

Rita Rayner (SEAL)
Rita Rayner

STATE OF MARYLAND, BALTIMORE County, TO WIT:

I HEREBY CERTIFY that on this 15 day of July, 1952, before me, the subscriber, a Notary Public of the State of Maryland in and for Baltimore County aforesaid personally appeared Albert T. Rayner and Rita Rayner, his wife, and they acknowledged the aforegoing deed to be their act.

WITNESS my hand and Notarial Seal.

John J. Butt
Notary Public
John J Butt

Deed prepared without title exam. judgment search etc.
Milton Tolle, Atty.

REC'D FOR RECORD July 22, 1952 11 A M & RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY, LIBER G.L.B. 2144 FOLIO 34 GEORGE L. BYERLY, CLERK.

kjWellsInc

Land Surveying and Site Planning

Telephone: (410) 592-8800
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

Resume' of Kenneth J. Wells, R.P.L.S.

Prepared on April 10, 2012

Education:
Attended Catonsville Community College from 1974 to 1978 and completed the Surveying Technology Curriculum. The curriculum included courses on how to read, interoperate and apply zoning and development regulations as they relate to land.

Previous Experience:
Employed with surveying and engineering firms beginning in 1966 thorough 1984, excepting for time in military, were the responsibilities entail being a member of a survey field crew, chief of surveys, performed boundary line and topographic surveys, prepared plans and documents for construction and performed as a site planner to determine the best land use along with the preparation of plans and documents for the subdivision of land.

Professional Background:
I am the principal of kjWellsInc that was formed in 1984 which provides land surveying and site planning services on a wide variety of public and private projects that entail boundary line and topographic surveys. I have been accepted as an expert witness to testify in matters relating to land surveying, zoning and site planning before the Baltimore County Zoning Commissioner and Members of the Board of Appeals of Baltimore County on matters relating to variances, special hearings and special exceptions. I have also testified as an expert witness before the Hearing Officer of Baltimore County on a number of major subdivisions and have prepared numerous minor subdivision plans and related documents.

Licensed to Practice Land Surveying:
Registered as a Property Line Surveyor in January of 1983.

Professional Organizations Membership:
Maryland Society of Surveyors
American Congress on Surveying and Mapping
National Society of Professional Surveyors

Petitioner
CBA Exhibit
5

Pet No 5

Board of Appeals

Case No: 17-313-A Case Name: Wadkins

Exhibit List

Party: _____ Date: _____

Exhibit No:	Description:
✓ 15A-K	Pictures
✓ 16	1/20/18 Contract of Sale from Kaenig to Wadkins Const.
	10/4/18 Hearing (Day 2)
✓ 17	1/4/18 Permits, Approvals & Inspections sign in sheet (Log)
✓ 18	1/4/18 Transmittal letter from KJ Wells Inc. to PA
✓ 19	12/7/17 plan submitted to ~~PA~~ w/ applicatio
✓ 20	11/19/17 revised on 1/3/18 plan from ~~PA~~ file to BOA
	VERIFIED BY KC DATE: 6/21/18

KC 10/5/18

Board of Appeals

Case No: 17-313-A CBA-18-024 Case Name: Watkins Construction, Inc.

Exhibit List

Party: Watkins Construction, Inc. (Pet.) Date: 6/20/18

Exhibit No:	Description:
✓ 1.	Plat from Land Records in 1948
✓ 2	DRC 2014 Action document
✓ 3	Wells Drawing for Zoning Hearing (Zoning Plan)
✓ 4	Plan accompanying DRC application
✓ 5	CV of Kenneth J. Wells, R.P.L.S.
✓ 6A-6E	Deeds
✓ 7	2014 DRC application & 4/18/14 decision
✓ 8	ALJ Decision & Cover letter
✓ 9	2017 DRC application, 1/12/18 decision & 12/22/17 decision
✓ 10	12/4/17 DRC Planning Support of Lot Line Proposal
✓ 11	Balt. Co. Code § 32-4-104 to 106
✓ 12A-12C	My Neighborhood maps 6/19/18 5307 & 5309 Bush St.
✓ 13	My neighborhood map - Aerial of Forge Acres
✓ 14	Variances granted around Bush St. neighborhood
	VERIFIED BY KC DATE: 6/21/18

1960s

11R403

11R404

11R207

11R402

11R208

11R407

11R403

11BL37

11RA25

11R108

11BR4

11BL33

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS			SCALE	LOCATION	SHEET
	BY	DATE	1" = 200'	NORTHEASTERN AREA LORELEY	N. E. 11 - J
DATE OF PHOTOGRAPHY APRIL 1953					

Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION - PHILADELPHIA, PA.

1976

(SHEET SE 12)
N 44,000
E 84,000
E 85,000
E 86,000
E 87,000
N 43,000
N 42,000
N 41,000
N 40,000
E 83,000
E 84,000
E 85,000
E 86,000
STA. 6
STA. 29
STA. 30
STA. 31
STA. 5
R.C.5
D.R. 1
D.R. 2
D.R. 3
D.R. 5.5
D.R. 3.5
B.M.
B.L.
B.R.
GUNPOWDER
RIVER
PRIVATE ROAD
FOREST ROAD
SINCLAIR STREET
BANGERT STREET
BUSH STREET
OAKFORD ROAD
PALOMINO STREET
JOHN F. KENNEDY MEMORIAL HIGHWAY
LARCH ROAD
HARKLEIGH ROAD
CUL-DE-SAC
CAMPAIGN ROAD
JAMESTOWN ROAD
WALTHAM ROAD
WILLIAMSBURG DRIVE
YORKTOWN ROAD
LEXINGTON ROAD
CONCORD ROAD
SALISBURY ROAD
FOUND
POOL
79-21 A
N 41,000
E 84,900
(SHEET NE 11)
(SHEET NE 12)
Q-SE QQ-SW
M-NE MM-NW
1976 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
ON OCT. 7, 1976 & OCT. 8, 1976
BILLS NOS. 108-76, 109-76, 111-76,
112-76, 113-76, and 114-76
CHAIRMAN COUNTY COUNCIL
PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP
REVISIONS
BY
DATE
SCALE
1" = 200'
DATE OF PHOTOGRAPHY
APRIL, 1953
AERO SERVICE CORPORATION-PHILADELPHIA, PA.
LOCATION
LORELEY
SHEET
N.E.

PLAN HOLD

1971

PEEL PROTECTIVE STRIP TO EXPOSE ADHESIVE. POSITION EDGE OF PRINT ON THIS LINE AND PLUG TO ADHERE.

PLAN HOLD CORPORATION • TORRANCE • CALIFORNIA
REORDER BY NO. 07024-A

NE-11-J

(SHEET N.E. 12-J)

N 44,000 E 54,000 E 55,500 E 57,000 E 58,500 E 60,000

R. D. P.

GUNPOWDER FALLS

D.R. 1 D.R. 2

G.B.E. CO. P.L.

STA 30 STA 31 STA. 29 STA. 6 STA. 5

RUINS

N 43,000

858

90-164-A 72-133 A N 42,600 E 55,445

ROAD

1765

WINKLER STREET

70-119-A

BARGERT FOUND.

99-156-A

FORGE 175'

D.R. 1 94-188-A

99-311-A N 42,000

82-34-A 93-155-A

POOL

BUSH ROAD

D.R. 2

FOUND.

01-160-SPHA

STREET

PALOMINO

HIGHWAY

JOHN F. KENNEDY MEMORIAL

N 41,000

BM

5142 RX

03-357-A 68-19 RX

N 574,000 E 40,000

D.R. 1

D.R. 5.5

BR

E 55,500 E 57,000

(SHEET N.E. 10-J)

4891

D.R. 3.5

BALTIMORE BLVD.

30-430-A 75-137A N 42,500 E 57,250

1198 S

EQ

STREET

67-240XA

5809

GAYLORD

99-227-SPH

PRIVATE ROAD

150'

99-001-SPH 75-4X N 43,060 E 59,600

97-384-SPH 85-358-X 97-411-SPH 89-477-X

N 877,000

N 44,000

N 42,000

(SHEET N.E. 11-K)

D.R. 2

R. D. P.

N 43,000

PRIVATE ROAD

86-248-A

LARCH RD.

GUNPOWDER

G.B.E. CO. P.L.

ROAD

RANELAGH

01-598-A

N 41,000

86-350-A

ALLENDER

PHILADELPHIA ROAD

3751 97-187-X 97-384-SPH 85-358-X 97-411-SPH 89-477-X 3726

B.L.

275'

CABRINGTON

03-552-A

ROAD

D.R. 2

DRIVE

N 574,000 E 60,000

N 40,000

D.R. 3.5

G.B.E. CO. P.L.

ROAD 175'

POND

E 58,500

89-477-X

BALTIMORE BLVD.

Q-SE QQ-SW
M-NE MM-NW

ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
MARCH 24, 1971
BY BILLS NOS. 28, 29, 30, 31, and 32

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP

REVISIONS			SCALE	LOCATION	SHEET
	BY	DATE	1" = 200'	LORELEY	N. E.
			DATE OF PHOTOGRAPHY APRIL 1953		RE II-J

Compiled By: Photogrammetric Methods
AERO SERVICE CORPORATION-PHILADELPHIA, PA.

1980

R.C.5

GUNPOWDER

D. R. 1

D. R. 2

R.C.5

D. R. 1

BANGERT

FOUND

D. R. 2

FOUND

C. S. PEET

RACONNO

JOHN F. KENNEDY MEMORIAL HIGHWAY

BM

PHILADELPHIA ROAD

ALLENGR.

BL

D. R. 1

D.R. 5.5

B R

D.R. 3.5

BL

DR 3.5

D. R. 2

N 44,000

N 43,000

N 42,000

N 41,000

N 40,000

E 60,000

E 59,000

E 58,000

GUNPOWDER

RANGE

Q - SE QQ - SW
M - NE MM - NW

1980 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
OCT. 14, 1980
BILL NOS. 184-80, 185-80, 186-80,
187-80, 188-80, 189-80 AND 190-80

CHAIRMAN, COUNTY COUNCIL

(SHEET N E 10-J)

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP

REVISIONS | BY | DATE

SCALE
1" = 200'

DATE OF PHOTOGRAPHY
APRIL 1953

Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION - PHILADELPHIA, PA.

LOCATION
LORELEY

SHEET
N E
11 - J

DRAWING NUMBER

PLANIMETRIC CORPORATION - IRVINE, CALIFORNIA
REPRODUCTION PROHIBITED WITHOUT PERMISSION

1984

DRAWING NUMBER

PLANIMETRIC CORPORATION - IRVINE, CALIFORNIA
REPRODUCTION PROHIBITED WITHOUT PERMISSION

DRAWING NUMBER

PLANIMETRIC CORPORATION - IRVINE, CALIFORNIA
REPRODUCTION PROHIBITED WITHOUT PERMISSION

NE 11-J

R.C.5

GUNPOWDER

D.R. 1

D.R. 2

R.C.5

PRIVATE ROAD

D.R. 1

WINKLER STREET

BANGERT ROAD

FOUND

POOL

D.R. 2

PALOMINO STREET

FOUND

JOHN F. KENNEDY MEMORIAL HIGHWAY

FOUND

D.R. 1

BM

BL

PHILADELPHIA ROAD

ALLENDER ROAD

D.R. 5.5

BR

D.R. 3.5

BL

D.R. 3.5

D.R. 2

D.R. 2

DRIVE

LARKIN HILL ROAD

GUNPOWDER ROAD

RANELAGH ROAD

HARRINGTON ROAD

STA 6

STA 5

N 44,000

N 43,000

N 42,000

N 41,000

N 40,000

E 57,000

E 58,500

E 59,000

E 59,500

E 60,000

E 60,500

85-358-X
N 43870
E 60000

81-246-A

81-350-A

(SHEET NE)

(SHEET NE 10-J)

(SHEET NE 11-J)

Q - SE QQ - SW
M - NE MM - NW

1984 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
NOV. 13, 1984.
BILL NOS. 133-84, 134-84, 135-84,
136-84, 137-84, 138-84 AND 139-84

CHAIRMAN, COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP

REVISIONS		SCALE	LOCATION	SHEET
BY	DATE	1" = 200'	LORELEY	N.E.
		DATE OF PHOTOGRAPHY APRIL 1953		

Compiled By Photogrammetric Methods

VOK

11-J

(SHEET N.E. 12-J)

N 44,000 | E 54,000 | E 55,500 | E 57,000 | E 58,500 | N 44,000 STA. 6 | E 60,000

R.C. 5 | R.C. 5 | R.C. 5 | R.C. 5

GUNPOWDER FALLS

D.R.1 | R.C.5 | D.R.2

GBE CO. PL.

STA. 30 | STA 31

N 43,000 | STA. 29 | N 43,000

D.R.1 | D.R.2 | D.R.2

90-164-A

FORGE ROAD | WINKLER STREET | BANGERT AVE. | HIGHWAY | FORGE ROAD | PHILADELPHIA ROAD

D.R.1 | D.R.2 | D.R.2

92-188-A | 92-54-A

N 42,000 | N 42,000

D.R.2 | BUSH STREET | PALOMINO STREET | BUSH ST. | D.R.2

D.R.2 | MEMORIAL AVE. | BM | LARCH RD. | GUNPOWDER ROAD | RANELAGH ROAD | G.B.E. CO. PL. | D.R.2

D.R.1 | N 41,000 | N 41,000

D.R.1 | BM | D.R.2 | STA. 5 | CARRINGTON ROAD

FORGE ROAD | JOHN F. KENNEDY | PHILADELPHIA ROAD | ALLENDER ROAD | G.B.E. CO. P.L.

N 40,000 | D.R.5.5 | BL | DR 3.5 | D.R.2 | N 40,000

BANGERT AVE. | BR | BM | BL | DRIVE

(SHEET N.E. 10-J)

Q-SE QQ-SW
M-NE MM-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	LORELEY	N. E. 11-J
DATE OF PHOTOGRAPHY JANUARY 1986		

DRAWING NUMBER

1988

DRAWING NUMBER

DRAWING NUMBER

DRAWING NUMBER

NE 11-J

DRAWING NUMBER

1992

DRAWING NUMBER

DRAWING NUMBER

DRAWING NUMBER

NE 11-J

(SHEET N.E. 12-J)

N 44,000 E 54,000 E 55,500 E 57,000 E 58,500 N 44,000 STA. 6 E 60,000

E 874,000 N 877,000 E 878,500

R.C. 5 R.C. 5 R.C. 5 R.C. 5

GUNPOWDER FALLS

D.R.1 D.R.2 D.R.2 D.R.2

G.B.E. CO. PL.

STA. 30 STA 31

N 43,000 STA. 29 N 43,000

D.R.1 D.R.2 D.R.2

FORGE ROAD

WINKLER STREET

BANGERT AVE.

PHILADELPHIA ROAD

HIGHWAY

RAILROAD ST.

BUSH STREET

D.R.1 D.R.2 D.R.2 R.C.5

93-155-A

N 42,000 N 42,000

(SHEET N.E. 11-I) (SHEET N.E. 11-K)

D.R.2 D.R.2

PALOMINO STREET

MEMORIAL AVE.

D.R.2 BUSH ST.

LARCH RD.

GUNPOWDER G.B.E. CO. PL.

D.R.1 BM D.R.2

RANELAGH ROAD

N 41,000 N 41,000

STA. 5

FORGE ROAD

D.R.1 BM

PHILADELPHIA ROAD

ALLENDER ROAD

CARRINGTON ROAD

JOHN F. KENNEDY

BL

G.B.E. CO. PL.

N 874,000 E 874,000

BANGERT AVE.

E 54,000 E 55,500 E 57,000 E 58,500 E 60,000

D.R. 5.5 BL BR BM BL DR 3.5 D.R.2

N 40,000 (SHEET N.E. 10-J) N 40,000

Q-SE QQ-SW
M-NE MM-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Bill Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92

William A. Howard IV
Chairman, County Council

SCALE	LOCATION	SHEET
1" = 200'±	LORELEY	N.E. 11-J
DATE OF PHOTOGRAPHY JANUARY 1986		

DRAWING NUMBER

1995

DRAWING NUMBER

DRAWING NUMBER

DRAWING NUMBER

NE 11-J

(1994)

(SHEET N.E. 12-J)

(SHEET N.E. 11-I)

(SHEET N.E. 11-K)

(SHEET N.E. 10-J)

N 44,000 STA. 6

E 54,000 E 55,600 E 57,000 E 58,600 E 60,000

N 43,000 N 42,000 N 41,000 N 40,000

E 674,000 E 677,000

R.C. 5

R.C. 5

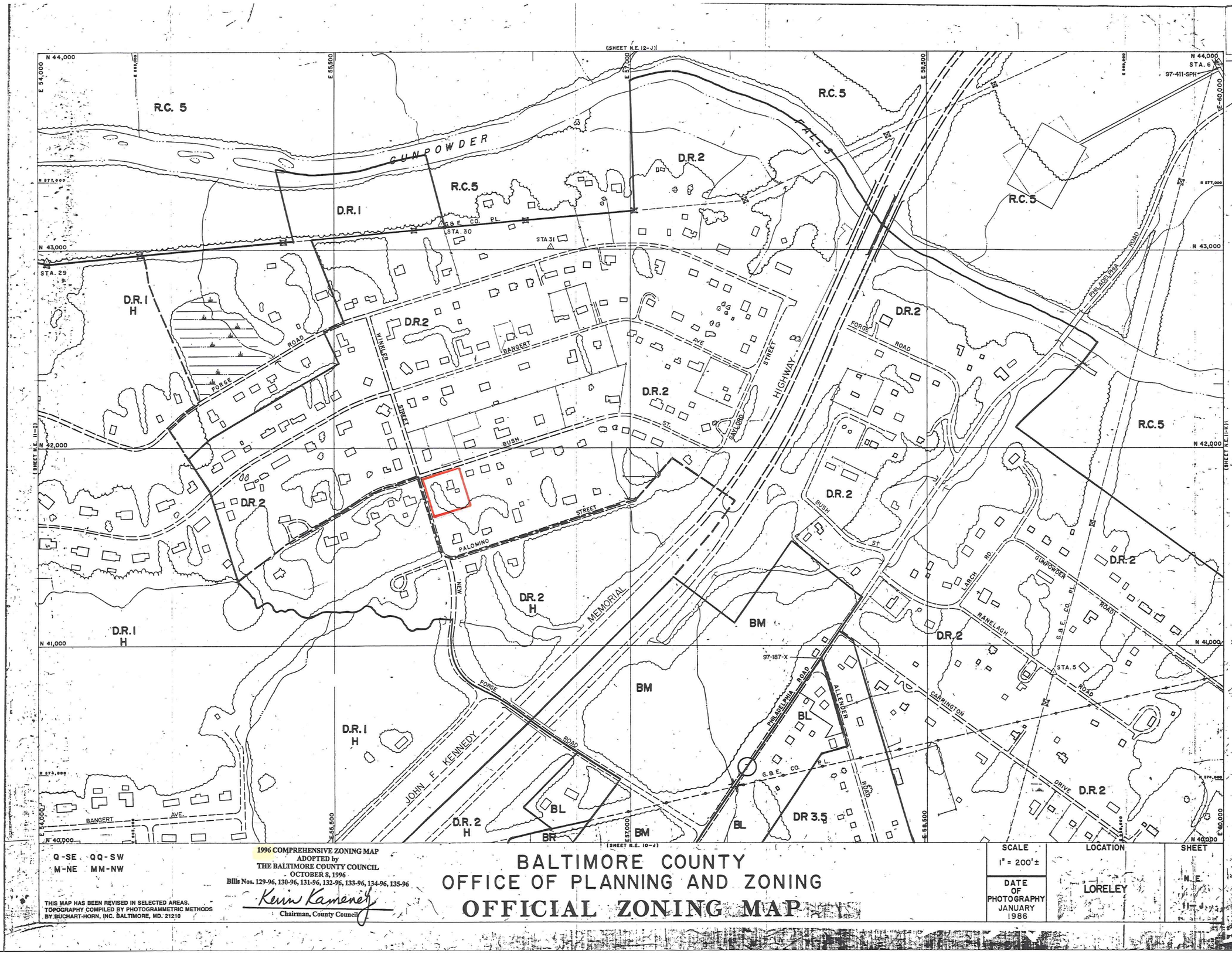
R.C. 5

R.C. 5

D.R.2

D.R.2

D.R.2



Q-SE QQ-SW
M-NE MM-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1996 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
- OCTOBER 8, 1996
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

Kevin Kamenetz
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	LORELEY	N.E. 11-J
DATE OF PHOTOGRAPHY JANUARY 1986		

DRAWING NUMBER

1996

DRAWING NUMBER

DRAWING NUMBER

NE 11-J

DRAWING NUMBER

http://www.vidmail.com
Created by TIFF to PDF trial version, to remove this mark, please register this software.

2000

(SHEET N.E. 12-J)

N 44,000 E 54,000 E 55,500 E 57,000 E 58,500 E 60,000 N 44,000 STA. 6

N 877,000 E 893,000 E 894,000 N 877,000

N 43,000 STA. 29 STA. 30 STA. 31 N 43,000

N 42,000 N 42,000

N 41,000 N 41,000

N 874,000 E 894,000 E 895,000 N 874,000

N 40,000 N 40,000

(SHEET N.E. 11-I) (SHEET N.E. 11-K)

(SHEET N.E. 10-J)

R.C. 5 R.C. 2 R.C. 5 R.C. 5 R.C. 5 R.C. 2 R.C. 5

D.R. 1 D.R. 1 H D.R. 2 D.R. 2 D.R. 2 D.R. 1 D.R. 2 D.R. 2 D.R. 2 D.R. 2 D.R. 2 D.R. 2 D.R. 2 D.R. 2 D.R. 2 D.R. 2 D.R. 1 H D.R. 1 H D.R. 1 H D.R. 2 H D.R. 2 H D.R. 3.5 D.R. 2 D.R. 3.5

BM BM BM BL-AS BL BL BR

GUNPOWDER FALLS

G.B.E. CO. P.L.

FORGE ROAD

WINKLER STREET

BANGERT AVE.

BUSH STREET

PALOMINO STREET

MEMORIAL AVE.

NEW FORGE ROAD

JOHN F. KENNEDY HIGHWAY

GILLOOD ST.

PHILADELPHIA ROAD

ALLENDER ROAD

LARCH RD.

RANELAGH ROAD

CARRINGTON DRIVE

STA. 5

Q-SE QQ-SW
M-NE MM-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
- OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00

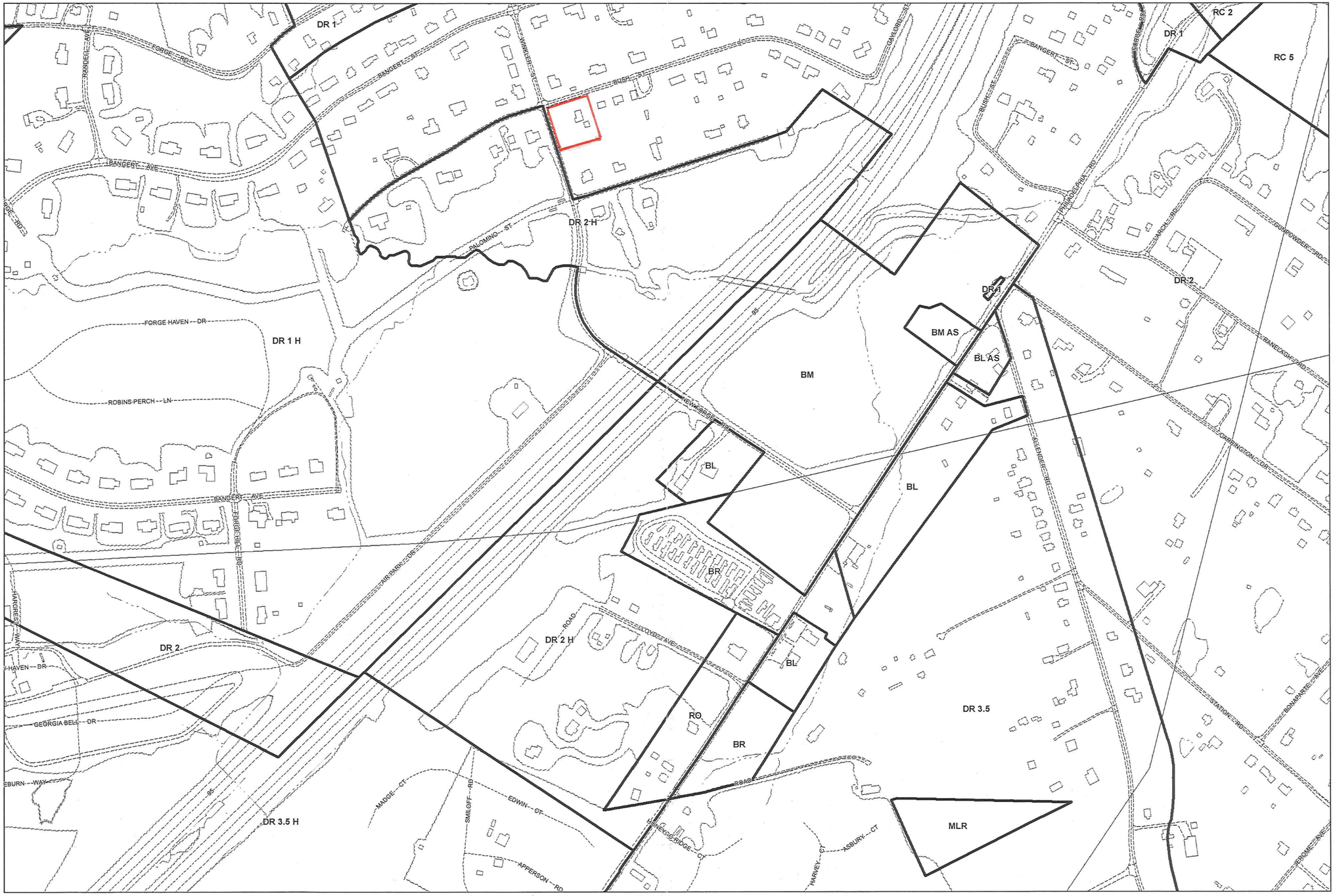
Joseph Bartenfelder
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	LORELEY	N.E. 11-J
DATE OF PHOTOGRAPHY JANUARY 1986		

NE 11 J

2004



Plan Sheet: *073A1*

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

Zoning — Streams — Vegetation
Buildings — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

063B3	063C3	064A3	064B3	064C3
072B1	072C1	073A1	073B1	073C1
072B2	072C2	073A2	073B2	073C2

Scale

1" = 200'

0 100 200 400 Feet

N

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

2008

DR 1
DR 2 H
DR 1 H
DR 2
DR 3.5 H
DR 3.5
BM
BL AS
BL
BR
RO
MLR
RC 2
RC 5
FORGE RD
BANCROFT AVE
SALOMINO ST
FORGE HAVEN DR
ROBINS PERCH LN
GEORGIA BELLE DR
HARVEY CT
ASBURY CT
AUBREE LN
URSCOMB WAY
BOWMAN RD
BROOKFIELD AVE
BARCLAY RD
PENNSYLVANIA AVE

Plan Sheet: *073A1*

Note:
The zoning depicted in this application incorporates the actions associated with 2008 Comprehensive Zoning Map Process, zoning changes associated with an adopted Community Plan and Baltimore County Board of Appeals actions through December 31, 2008.

Legend

Buildings — Streams — Vegetation
Zoning — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

063B3	063C3	064A3	064B3	064C3
072B1	072C1	073A1	073B1	073C1
072B2	072C2	073A2	073B2	073C2

Scale

1" = 200'

0 100 200 400 Feet

N

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2008

2016

Plan Sheet: *073A1*

Note:
The zoning depicted in this map incorporates the actions associated with 2016 Comprehensive Zoning Map Process and Baltimore County Board of Appeals actions through November 18, 2016.

Legend

Zoning — Streams — Rail Lines
Buildings — Roads — Vegetation

Baltimore County
Department of Planning
Official Zoning Map

063B3	063C3	064A3	064B3	064C3
072B1	072C1	073A1	073B1	073C1
072B2	072C2	073A2	073B2	073C2

Scale
1" = 200'
0 100 200 400 Feet

N

Data Sources:
Buildings/Streams/Roads - Baltimore County OIT/GIS Services Unit
1:2400, from 2014 photography
Vegetation - Baltimore County OIT/GIS Services Unit
1:2400, from 2008 photography
Zoning - Baltimore County Dept of Planning
1:2400, 2016

DIVISION LINE BETWEEN LOT No 6 AND LOT No 8 THE SECURITIES CORPORATION MORTGAGE

P.C. E. 1923.89 N. 8168.89

E. 1189.38 N. 7944.56

P.C.C. E. 2350.55 N. 8199.24

P.T. E 2578.57 N 8130.50

DIVISION LINE BETWEEN LOT No 8 AND LOT No 10 THE SECURITIES CORPORATION MORTGAGE

ZERO

1000 E

2000 E

3000 E

4000 E

8000 N

7000 N

6000 N

N 73° 01' E 768.00'

Rad. 960' Arc. 433.40'

S 65° 03' E 1384.43'

N 73° 01' E 482.45'

E. 727.77 N. 7803.64

E. 473.75 N. 7665.28

E. 60.89 N 7422.66

N 49° 14' 30" E 249.25'

N 59° 33' 30" E 478.87

N 61° 26' 30" E 289.43'

W. 127.91 N. 7259.93

E. 672.77 N. 6727.10

E. 1382.00 N. 7228.85

E. 918.52 N. 7208.35

E. 1214.25 N. 6828.15

E. 1189.30 N. 7125.74

E. 1055.30 N. 6779.60

E. 1345.69 N. 6397.27

E. 1192.08 N. 6350.85

E. 1200.52 N. 6138.91

E. 1630.59 N. 5927.74

E. 2627.80 N. 5431.44

E. 509.97 N. 5250.79

E. 204.20 N. 6213.90

E. 810.54 N. 6132.92

E. 752.12 N. 6324.21

E. 737.09 N. 6373.17

E. 477.22 N. 6449.92

E. 332.09 N. 6873.41

E. 672.7 N. 6716.10

E. 3519.00 N 6611.42

E 3400.79 N 6437.85

E. 3728.77 N. 6949.77

E. 3555.61 N. 2811.85

E. 3899.80 N. 7346.51

E. 2792.85 N 7771.65

E. 2745.21 N 7363.64

E. 2741.76 N 7363.64

E. 2553.88 N 7845.34

E. 2207.28 N 7834.50

E. 1968.54 N 7881.34

E. 1795.75 N 7811.34

E. 1389.30 N 7125.74

E. 1055.30 N 6779.60

E. 918.52 N. 7208.35

E. 672.77 N. 6727.10

E. 332.09 N. 6873.41

E. 204.20 N. 6213.90

E. 810.54 N. 6132.92

E. 752.12 N. 6324.21

E. 737.09 N. 6373.17

E. 477.22 N. 6449.92

E. 1192.08 N. 6350.85

E. 1200.52 N. 6138.91

E. 1630.59 N. 5927.74

E. 2627.80 N. 5431.44

E. 509.97 N. 5250.79

E. 3519.00 N 6611.42

E 3400.79 N 6437.85

E. 3728.77 N. 6949.77

E. 3555.61 N. 2811.85

E. 3899.80 N. 7346.51

N 11° 36' 50" W 2107.97'

N 37° 52' W 1125'

N 69° 38' W 1113'

1593'

480'

S 51° 46' 10" E 1673.54'

N 34° 15' 50" E 1168.88'

N 38° 20' 55" E 1168.88'

S 51° 46' 10" E 191.30'

N 34° 15' 50" E 160'

N 34° 15' 50" E 1168.88'

N 34° 15' 50" E 1168.88'

N 34° 15' 50" E 1168.88

My Neighborhood Map

Created By
Baltimore County
My Neighborhood

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SCALE: 1" = 100'

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8600

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 6/1/2017

STATE OF MARYLAND ★ KENNETH J. WELLS ★ 21087 ★ PROFESSIONAL LAND SURVEYOR
SEAL

REVISIONS:

NO.	DATE

AERIAL MAP OF FORGE ACRES
WADKINS CONSTRUCTION, INC. PROPERTY

5301 BUSH STREET BALTIMORE COUNTY, MARYLAND
ELECTION DISTRICT 11 COUNCILMANIC DISTRICT 5

DRAWN BY: CAV
CHECKED BY: KJW
DATE: 6/28/2017

PROJECT NO.:
2014-009

SHEET 1 OF 1

DIVISION LINE BETWEEN LOT N°8 AND LOT N°10 THE SECURITIES CORPORATION MORTGAGE

P.C. E. 2352.55 N. 8179.24

P.T. E. 2578.57 N. 8130.50

Arc. 433.40'

P.C. E. 1923.89 N. 8168.89

DIVISION LINE BETWEEN LOT N°8 AND LOT N°6 THE SECURITIES CORPORATION MORTGAGE E. 1189.38 N. 7944.56

N 73°01'E 768.06'

482.45'

E. 727.77 N. 7803.64

E. 473.75 N. 7665.28

E. 60.89 N. 7422.66

N 61°26'30"E 289.43'

N 49°14'30"E 249.29'

N 39°43'30"E 478.87'

W. 127.91 N. 7259.73

W. 72.48 N. 7085.17

8000 N

7000 N

6000 N

5000 N

8400 N

ZERO

1000 E

2000 E

3000 E

4000 E

BANGERT STREET

BUSH STREET

PALOMINO ROAD

WINKLER ROAD

FORGE ROAD

CARRINGTON DRIVE

PHILADELPHIA ROAD

BLOCK A

BLOCK B

BLOCK C

BLOCK D

BLOCK E

BLOCK F

BLOCK G

BLOCK H

BLOCK J

BLOCK K

BLOCK L

BLOCK M

N 73°01'E

N 77°01'E

S 65°03'E 1384.43'

S 65°05'E

S 55°05'E

N 34°20' S 55°E

N 40°21'W

N 11°55'50"W 1910.79'

N 37°52'W 1125'

N 63°38'W 1113'

1593'

180'

E. 1630.59 N. 5925.74

E. 1200.52 N. 6138.91

E. 1192.06 N. 6350.85

E. 810.54 N. 6132.93

E. 752.12 N. 6324.21

E. 737.17 N. 6379.17

E. 204.20 N. 6213.90

E. 507.97 N. 5250.79

E. 2627.80 N. 5431.44

E. 3519.00 N. 6611.42

E. 3400.79 N. 6437.88

E. 3677.80 N. 7546.51

E. 3855.66 N. 6811.85

E. 3855.66 N. 6811.85

E. 2714.22 N. 7536.36

E. 2727.85 N. 7711.34

E. 2727.85 N. 7771.55

E. 2106.27 N. 6226.23

E. 1214.25 N. 6228.25

E. 1082.83 N. 7259.25

E. 918.52 N. 7208.35

E. 1055.30 N. 6779.60

E. 1345.57 N. 6399.57

E. 1189.30 N. 7125.74

E. 1167.98 N. 7175.76

E. 332.09 N. 6873.41

E. 497.32 N. 6449.52

E. 488.61 N. 6564.45

E. 1244.28 N. 6228.25

E. 1200.52 N. 6138.91

E. 1630.59 N. 5925.74

My Neighborhood Map

Created By
Baltimore County
My Neighborhood

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SCALE: 1" = 100'

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8600

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 6/1/2017

STATE OF MARYLAND ★ KENNETH JAMES WELLS ★ 21087 ★ PROFESSIONAL LAND SURVEYOR
SEAL

REVISIONS:

NO.	DATE

AERIAL MAP OF FORGE ACRES
WADKINS CONSTRUCTION, INC. PROPERTY

5301 BUSH STREET BALTIMORE COUNTY, MARYLAND
ELECTION DISTRICT 11 COUNCILMANIC DISTRICT 5

DRAWN BY: CAV
CHECKED BY: KJW
DATE: 6/28/2017

PROJECT NO.:
2014-009

SHEET 1 OF 1

My Neighborhood Map

Created By
Baltimore County
My Neighborhood

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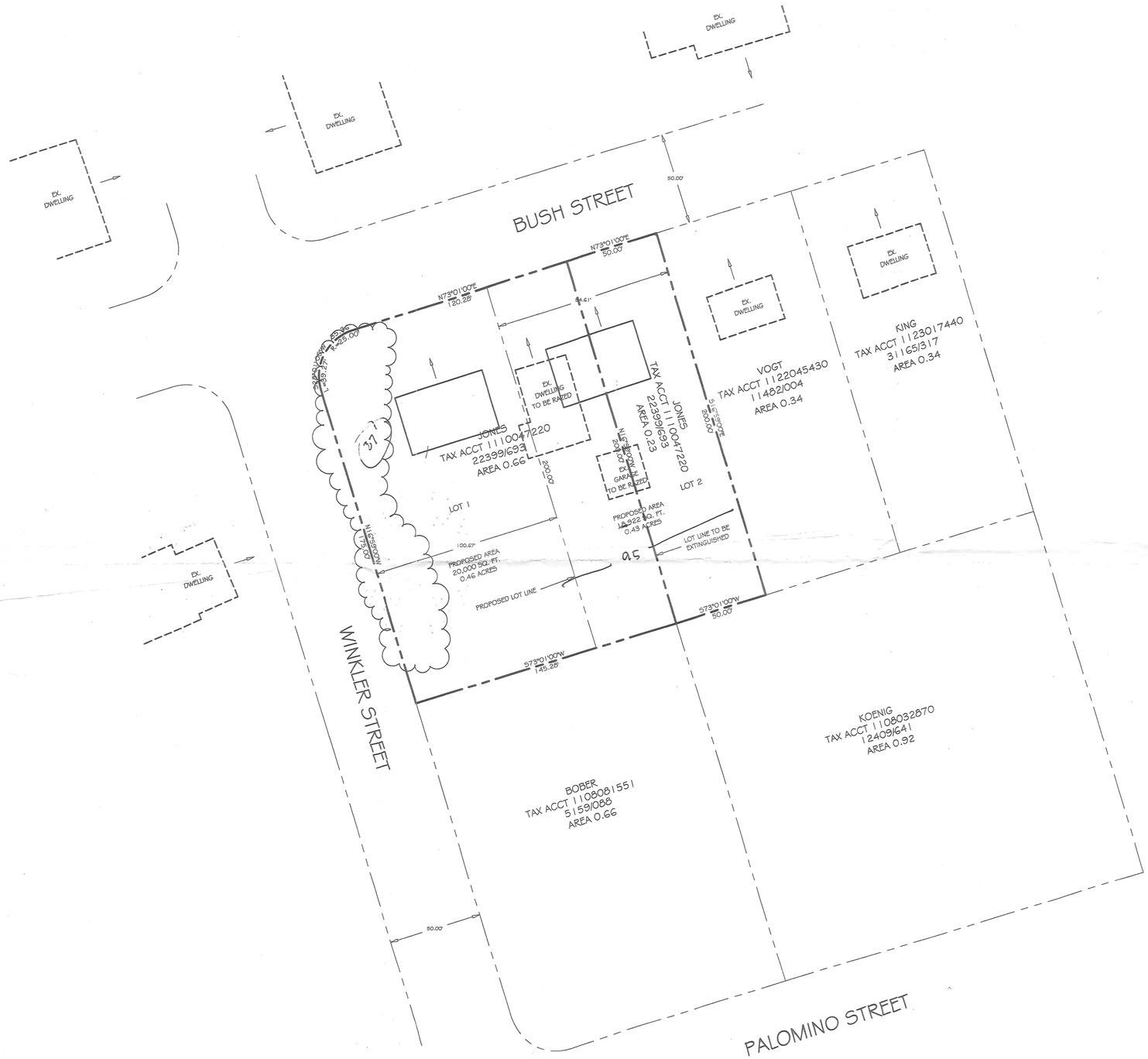
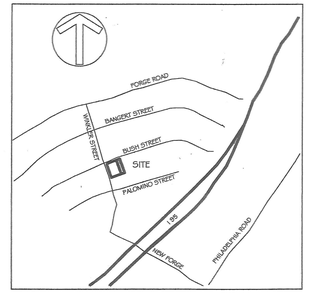
Printed 7/7/2017

EXHIBIT
5





VICINITY MAP
SCALE: 1" = 1,000'

SITE DATA:

1) OWNERS: JAMES JONES, SR
2) OWNERS ADDRESS: 9531 HORN AVENUE
BALTIMORE, MARYLAND 21236
3) APPLICANTS NAME: HOWARD WADKINS
4) APPLICANTS ADDRESS: 1605 HONEYSUCKLE COURT
ANNAPOLIS, MD 21410
5) APPLICANTS TELEPHONE NO.: 443-762-3094
6) TAX ACCOUNT NUMBERS: 1110047220
7) TAX MAP: 73 GRID: 1 PARCELS: 341
8) DEED REFERENCES: 22399/693
9) LOT AREA: 0.89 ACRES/38,762 SQ. FT.
10) GROSS AREA: 1.13 ACRES/49,409 SQ. FT.
11) ZONING MAP: 073A1
12) ZONING: DR 2
13) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
14) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
15) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE. THE SUBJECT PROPERTY IS LOCATED WITHIN A LEVEL 'D' TRANSPORATION SERVICE AREA.
16) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
17) PUBLIC WATER AND SEWER ARE PROVIDED.
18) LOT 2 REQUIRES APPROVAL AS AN UNDERSIZE LOT.

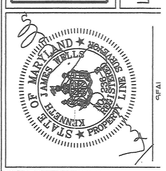
GRAPHIC SCALE
30 0 15 30 60 120
(IN FEET)
1 inch = 30 ft.

Ex 10

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8900

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 7/02/2015



PLAT NORTH

REVISIONS:

NO.	DATE

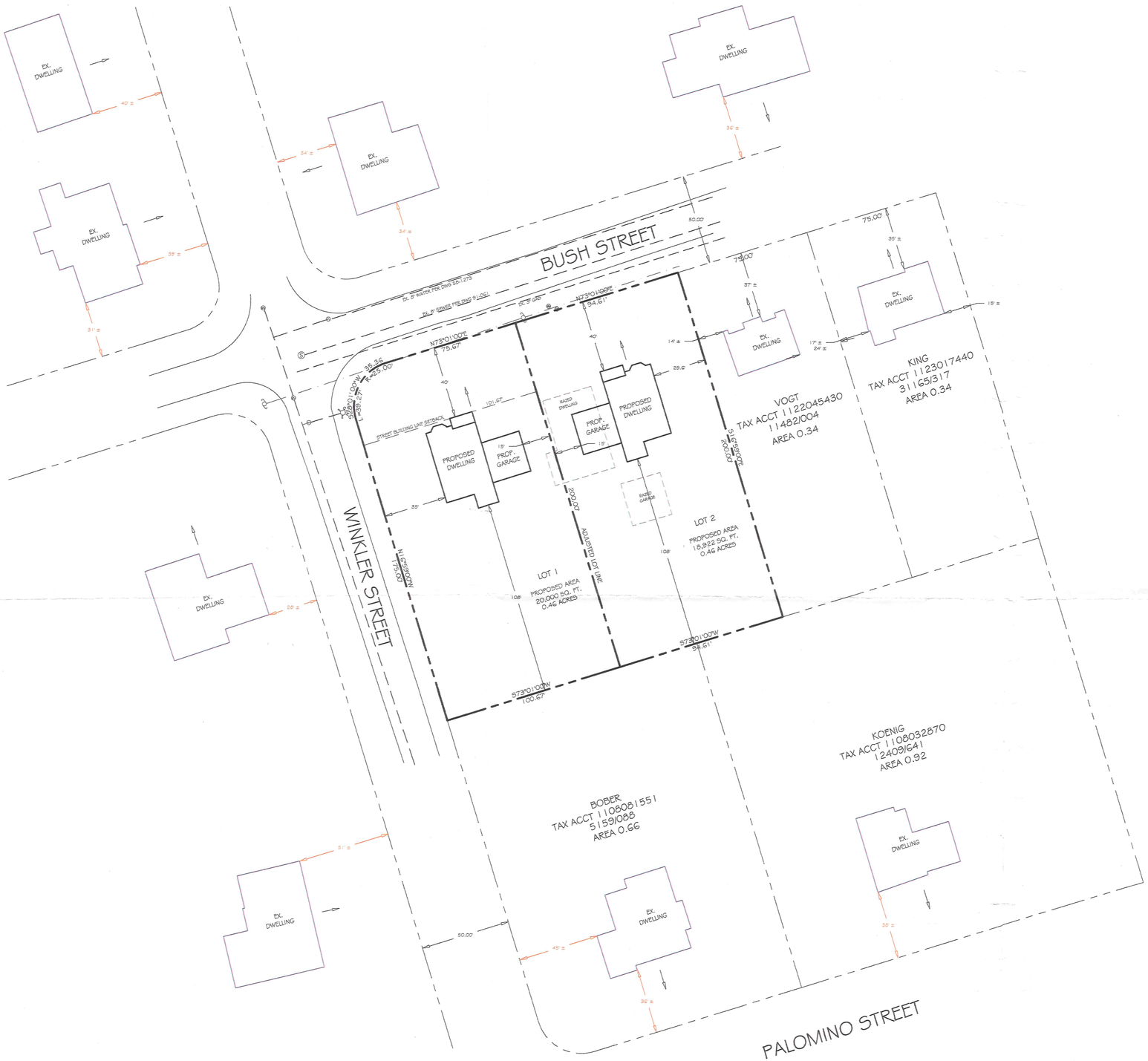
Plan to Accompany DRC Request

Election District 11 Councilmanic District 5
Jones Property
5301 Bush Street
Baltimore County, Maryland

RECEIVED
APR 1 2014
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

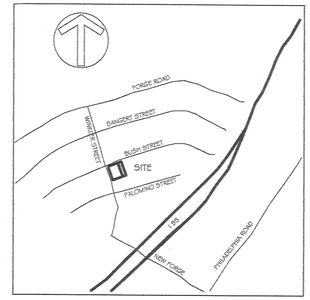
DRAWN BY: CAV
CHECKED BY: KJW
DATE: 3/21/2014
PROJECT NO.: 2014-009
SHEET 1 OF 1

042214-LLA



SITE DATA:

1) OWNERS: WADKINS CONSTRUCTION, INC
2) OWNERS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MARYLAND 21401
3) APPLICANT'S NAME: HOWARD WADKINS
4) APPLICANT'S ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MD 21410
5) APPLICANT'S TELEPHONE NO.: 443-762-3084
6) TAX ACCOUNT NUMBERS: 1110047220
7) TAX MAP: 73 GRID: 1 PARCELS: 341
8) DEED REFERENCES: 22399/693
9) LOT AREA: 0.89 ACRES/38,768 SQ. FT.
10) GROSS AREA: 1.13 ACRES/49,409 SQ. FT.
11) ZONING MAP: 073A1
12) ZONING: DR 2
13) DENSITY: 1.13 X 2 = 2 UNITS
13) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
14) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
15) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE.
16) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
17) PUBLIC WATER AND SEWER ARE PROVIDED.
18) NO CURRENT OR OUTSTANDING ZONING VIOLATIONS EXISTS.
19) THERE ARE NO PRIOR ZONING CASES.



VICINITY MAP
SCALE: 1" = 1,000

PREVIOUS DRC REQUEST:

THE REQUEST MET THE REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 32-4-106(a)(1)(vii) ALLOWING A LOT LINE ADJUST.

VARIANCE REQUESTS:

1. FOR LOT 2 AS SHOWN ON THE ATTACHED SITE PLAN, TO PERMIT A MINIMUM LOT WIDTH OF 94.61 FT. IN LIEU OF THE REQUIRED 100 FT. PURSUANT TO BCZR § 1B02.3.C.1;

2. FOR LOT 2 AS SHOWN ON THE ATTACHED SITE PLAN, TO PERMIT A MINIMUM NET LOT AREA OF 18,922 SQ. FT. IN LIEU OF THE REQUIRED 20,000 SQ. FT. PURSUANT TO BCZR § 1B02.3.C.1;

3. IF NECESSARY, FOR LOT 1 AS SHOWN ON THE ATTACHED SITE PLAN, TO PERMIT A SIDE YARD SETBACK OF 35 FT. ALONG THE WINKLER STREET RIGHT-OF-WAY LINE, IN LIEU OF THE 40 FT. FRONT YARD SETBACK REQUIREMENT IMPOSED UNDER BCZR § 1B02.3.C.1; AND

4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY. .

LEGEND:

- SANITARY SEWER MANHOLE
- CLEAN OUT
- UTILITY POLE
- WATER METER
- WATER VALVE
- FIRE HYDRANT

Pet. No. 11

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 6/1/2017

STATE OF MARYLAND ★ 21087 ★ KENNETH JAMES WELLS ★ PROFESSIONAL LAND SURVEYOR

SEAL

PLAT NORTH

REVISIONS:

NO.	DATE
1	7/06/2017

PLAN TO ACCOMPANY ZONING HEARING
5301 BUSH STREET

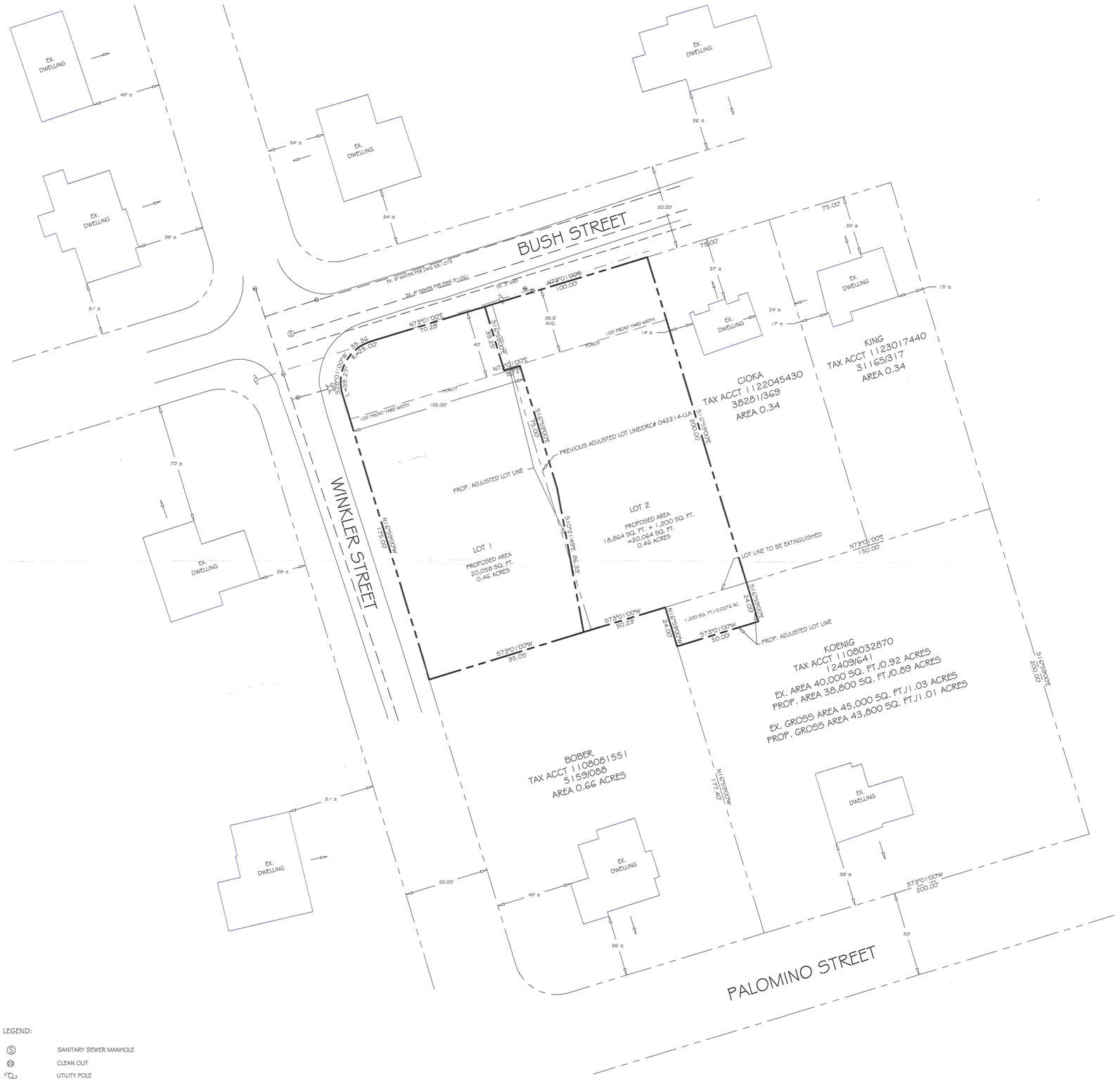
BALTIMORE COUNTY
MARYLAND
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

DRAWN BY: CAV
CHECKED BY: KJW
DATE: 3/21/2014

PROJECT NO.:
2014-009

SHEET 1 OF 1

Pet. 11

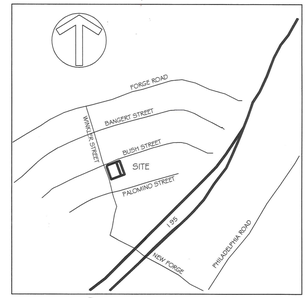


LEGEND:

- SANITARY SEWER MANHOLE
- CLEAN OUT
- UTILITY POLE
- WATER METER
- WATER VALVE
- FIRE HYDRANT

SITE DATA:

1) OWNERS: WADKINS CONSTRUCTION, INC
2) OWNERS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MARYLAND 21401
3) APPLICANTS NAME: HOWARD WADKINS
4) APPLICANTS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MD 21410
5) APPLICANTS TELEPHONE NO.: 443-762-3094
6) TAX ACCOUNT NUMBERS: 1110047220
7) TAX MAP: 73 GRID: 1 PARCELS: 341
8) DEED REFERENCES: 22393/693
9) LOT AREA: 0.88 ACRES/38,766 SQ. FT.
10) GROSS AREA: 1.13 ACRES/49,409 SQ. FT.
11) ZONING MAP: 073A1
12) ZONING: DR 2
13) DENSITY: 1.13 X 2 = 2 UNITS
14) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
16) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
16) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE.
17) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
18) PUBLIC WATER AND SEWER ARE PROVIDED.
19) NO CURRENT OR OUTSTANDING ZONING VIOLATIONS EXISTS.



VICINITY MAP
SCALE: 1" = 1,000'

PREVIOUS DRC REQUEST:

THE REQUEST MET THE REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 32-4-106(a)(1)(vii) ALLOWING A LOT LINE ADJUST.

PREVIOUS ZONING HEARING:

CASE NO. 2017-0313-A THE VARIANCE REQUEST FOR A 94.61 FOOT LOT WIDTH IN LIEU OF 100 FEET AND FOR AN LOT AREA OF 18,922 SQUARE FEET IN LIEU OF 20,000 SQUARE FEET WAS DENIED.

Petitioner
CBA Exhibit
4

Pet. No 4

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8600

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 6/1/2017

KENNETH JAMES WELLS No. 21087 STATE OF MARYLAND PROFESSIONAL ENGINEER SURVEYOR

SEAL

PLAT NORTH

REVISIONS:

NO.	DATE

APPROVED/DENIED DRC PLAN
5301 BUSH STREET

BALTIMORE COUNTY
MARYLAND
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

DRAWN BY: CAV/KJW
CHECKED BY: KJW
DATE: 6/18/2018

PROJECT NO.:
2014-009

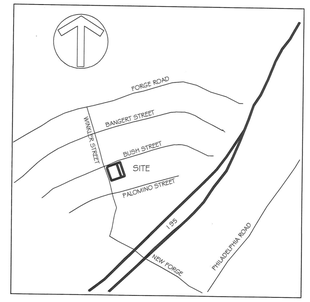
SHEET 1 OF 1

LEGEND:

- FRONT ORIENTATION
- SANITARY SEWER MANHOLE
- CLEAN OUT
- UTILITY POLE
- WATER METER
- WATER VALVE
- FIRE HYDRANT
- OHUL OVERHEAD UTILITY LINE

SITE DATA:

1) OWNERS: WADKINS CONSTRUCTION, INC
2) OWNERS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MARYLAND 21401
3) APPLICANT'S NAME: HOWARD WADKINS
4) APPLICANT'S ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MD 21410
5) APPLICANT'S TELEPHONE NO.: 443-762-3094
6) TAX ACCOUNT NUMBERS: 1111004722O
7) TAX MAP: 73 GRID: 1 PARCELS: 341
8) DEED REFERENCES: 22339/693
9) ZONING MAP: 073A1
10) ZONING: DR 2
11) GROSS AREA: 1.13 ACRES/49,409 SQ. FT.
12) DENSITY: 1.13 ACRES X 2 = 2 UNITS
13) NET LOT AREA: 0.89 ACRES/38,756 SQ. FT.
14) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
15) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
16) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE.
17) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
18) PUBLIC WATER AND SEWER ARE PROVIDED.
19) NO CURRENT OR OUTSTANDING ZONING VIOLATIONS EXISTS.
20) THERE ARE NO PRIOR ZONING CASES.



VICINITY MAP
SCALE: 1" = 1,000'

PREVIOUS DRC REQUEST:

THE REQUEST MET THE REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 32-4-106(a)(1)(vii) ALLOWING A LOT LINE ADJUST.

VARIANCE REQUESTS:

1. FOR LOT 2 AS SHOWN HEREON, TO PERMIT A MINIMUM LOT WIDTH OF 94.61 FT. IN LIEU OF THE REQUIRED 100 FT. PURSUANT TO BCZR § 1B02.3.C.1;
2. FOR LOT 2 AS SHOWN HEREON, TO PERMIT A MINIMUM NET LOT AREA OF 18,922 SQ. FT. IN LIEU OF THE REQUIRED 20,000 SQ. FT. PURSUANT TO BCZR § 1B02.3.C.1;
3. IF NECESSARY, FOR LOT 1 AS SHOWN HEREON, TO PERMIT A SIDE YARD SETBACK OF 35 FT. ALONG THE WINKLER STREET RIGHT-OF-WAY LINE, IN LIEU OF THE 40 FT. FRONT YARD SETBACK REQUIREMENT IMPOSED UNDER BCZR § 1B02.3.C.1; AND
4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

Petitioner
CBA Exhibit
3

Pet. No 3

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 6/1/2017

STATE OF MARYLAND ★ KENNETH JAMES WELLS ★ NO. 22326 ★ PROFESSIONAL LAND SURVEYOR ★ SEAL

PLAT NORTH

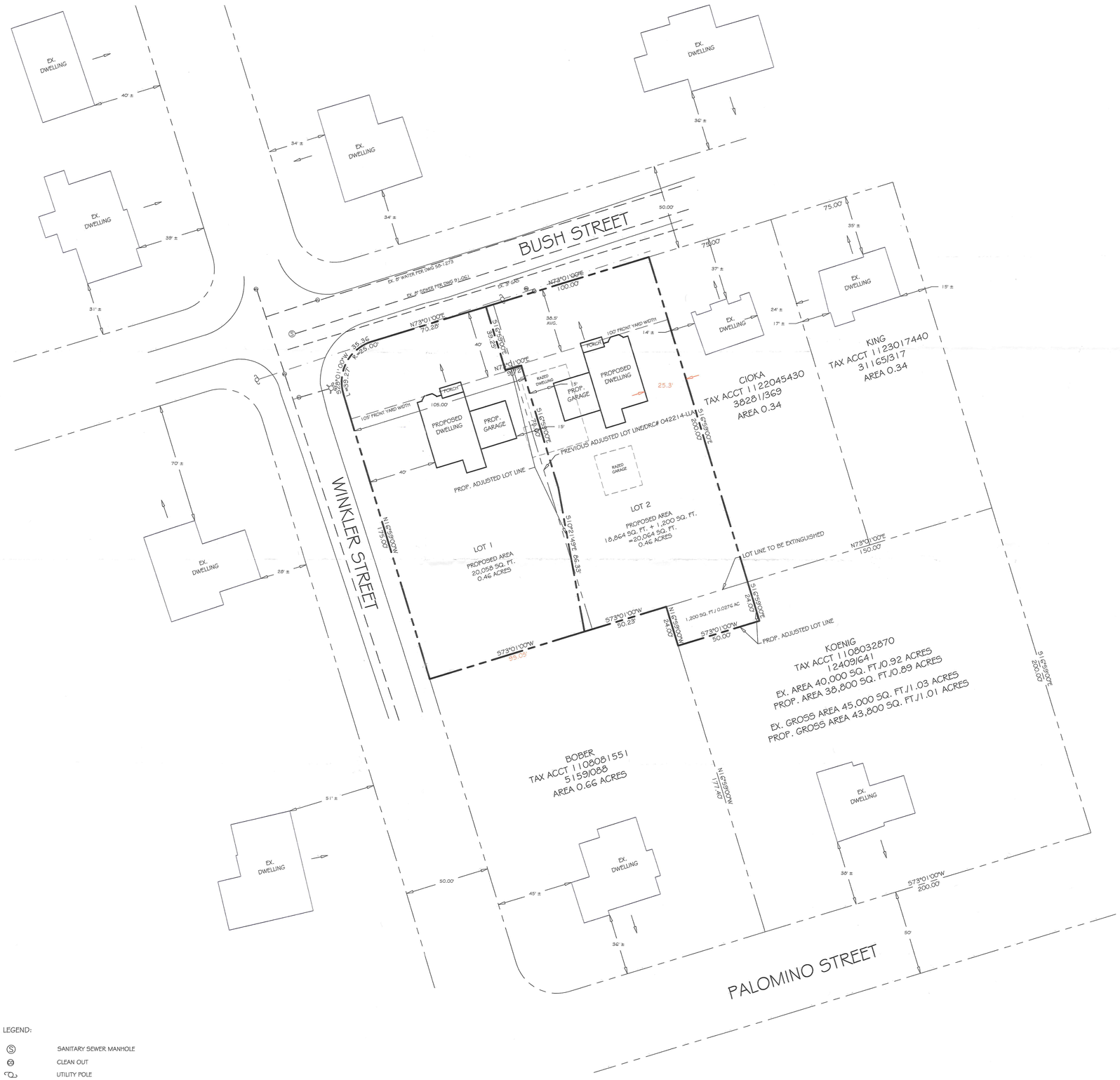
REVISIONS:

NO.	DATE

ZONING HEARING PLAN
5301 BUSH STREET

BALTIMORE COUNTY
MARYLAND
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

DRAWN BY: CAV/KJW
CHECKED BY: KJW
DATE: 6/18/2018
PROJECT NO.: 2014-009
SHEET 1OF 1

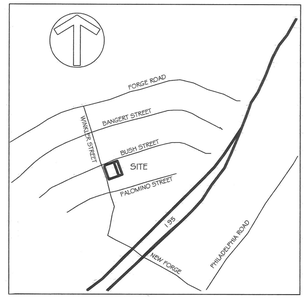


LEGEND:

- SANITARY SEWER MANHOLE
- CLEAN OUT
- UTILITY POLE
- WATER METER
- WATER VALVE
- FIRE HYDRANT

SITE DATA:

1) OWNERS: WADKINS CONSTRUCTION, INC
2) OWNERS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MARYLAND 21401
3) APPLICANT'S NAME: HOWARD WADKINS
4) APPLICANT'S ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MD 21410
5) APPLICANT'S TELEPHONE NO.: 443-762-3094
6) TAX ACCOUNT NUMBERS: 1110047220
7) TAX MAP: 73 GRID: 1 PARCELS: 341
8) DEED REFERENCES: 22399/693
9) LOT AREA: 0.89 ACRES/38,768 SQ. FT.
10) GROSS AREA: 1.13 ACRES/49,409 SQ. FT.
11) ZONING MAP: 073A1
12) ZONING: DR 2
13) DENSITY: 1.13 X 2 = 2 UNITS
14) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
16) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
16) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE.
17) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
18) PUBLIC WATER AND SEWER ARE PROVIDED.
19) NO CURRENT OR OUTSTANDING ZONING VIOLATIONS EXISTS.



VICINITY MAP
SCALE: 1" = 1,000'

PREVIOUS DRC REQUEST:

THE REQUEST MET THE REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 32-4-106(a)(1)(vii) ALLOWING A LOT LINE ADJUST.

PREVIOUS ZONING HEARING:

CASE NO. 2017-0313-A THE VARIANCE REQUEST FOR A 94.61 FOOT LOT WIDTH IN LIEU OF 100 FEET AND FOR AN LOT AREA OF 18,922 SQUARE FEET IN LIEU OF 20,000 SQUARE FEET WAS DENIED.

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

Petitioner
CBA Exhibit
20

Ref No 20

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 6/1/2017

STATE OF MARYLAND * KENNETH JAMES WELLS * No. 22527 * PROFESSIONAL LAND SURVEYOR
SEAL

PLAT NORTH

REVISIONS:

NO.	DATE
1	1/03/2018

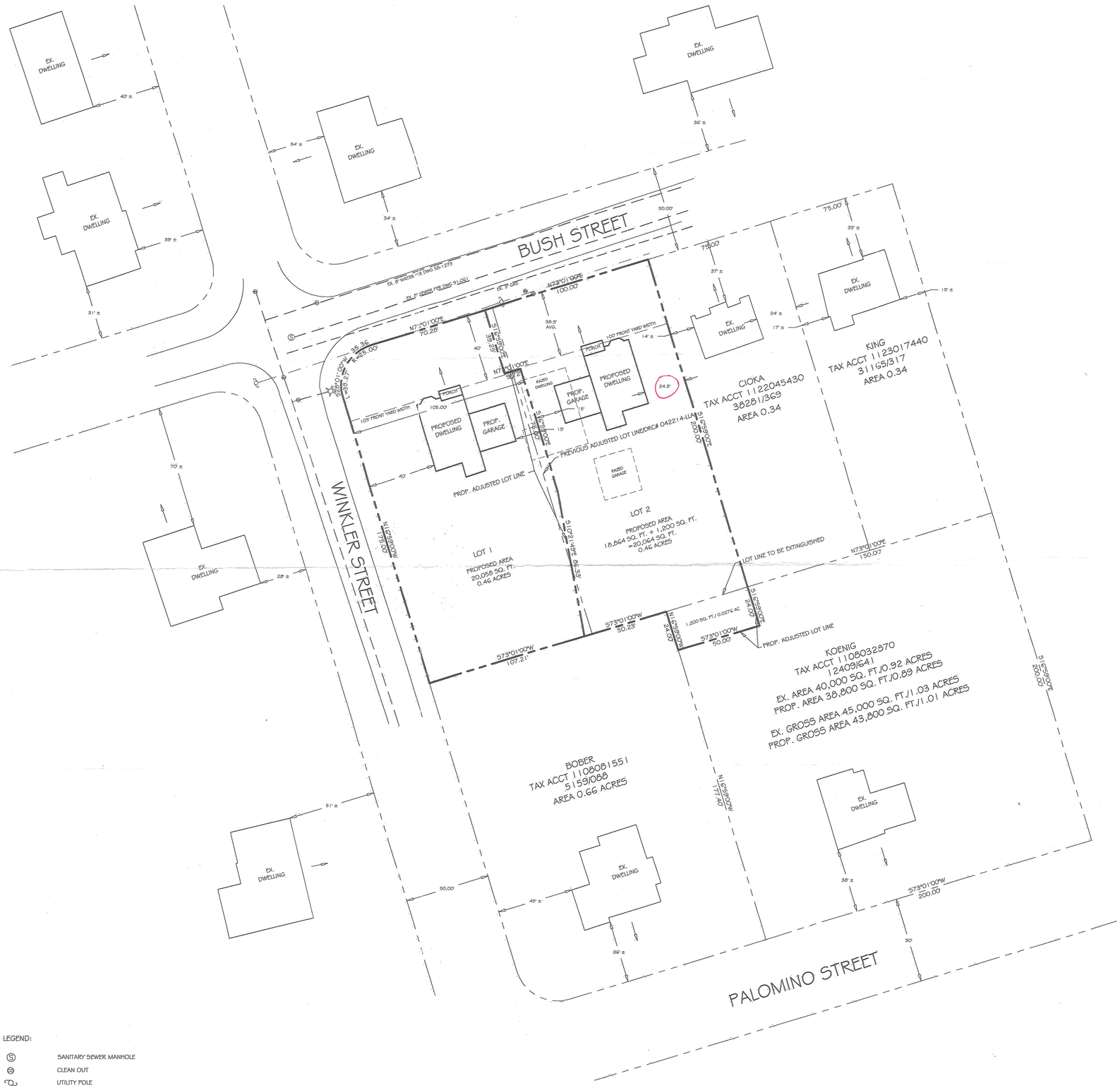
PLAN TO ACCOMPANY DRC REQUEST
5301 BUSH STREET

BALTIMORE COUNTY
MARYLAND
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

DRAWN BY: CAV/KJW
CHECKED BY: KJW
DATE: 11/09/2017

PROJECT NO.:
2014-009

SHEET 1 OF 1

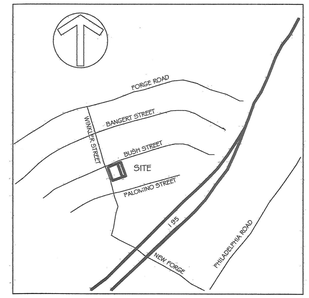


LEGEND:

- SANITARY SEWER MANHOLE
- CLEAN OUT
- UTILITY POLE
- WATER METER
- WATER VALVE
- FIRE HYDRANT

SITE DATA:

1) OWNERS: WADKINS CONSTRUCTION, INC
2) OWNERS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MARYLAND 21401
3) APPLICANTS NAME: HOWARD WADKINS
4) APPLICANTS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MD 21410
5) APPLICANTS TELEPHONE NO.: 443-762-3034
6) TAX ACCOUNT NUMBERS: 1110047220
7) TAX MAP: 73 GRID: 1 PARCELS: 341
8) DEED REFERENCES: 22399/693
9) LOT AREA: 0.89 ACRES/38,729 SQ. FT.
10) GROSS AREA: 1.13 ACRES/49,409 SQ. FT.
11) ZONING MAP: 073A1
12) ZONING: DR 2
13) DENSITY: 1.13 X 2 = 2 UNITS
14) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
15) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
16) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE.
17) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
18) PUBLIC WATER AND SEWER ARE PROVIDED
19) NO CURRENT OR OUTSTANDING ZONING VIOLATIONS EXISTS.



VICINITY MAP
SCALE: 1" = 1,000'

PREVIOUS DRC REQUEST:

THE REQUEST MET THE REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 32-4-106(a)(1)(iii) ALLOWING A LOT LINE ADJUST.

PREVIOUS ZONING HEARING:

CASE NO. 2017-0313-A THE VARIANCE REQUEST FOR A 94.61 FOOT LOT WIDTH IN LIEU OF 100 FEET AND FOR AN LOT AREA OF 18,922 SQUARE FEET IN LIEU OF 20,000 SQUARE FEET WAS DENIED.

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

Petitioner
CBA Exhibit
19

DRC # 010218-LLA2 (See 042214-LLA)

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8000

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 6/1/2017

STATE OF MARYLAND ★ JAMES KJELL WELLS ★ 21346 ★ REGISTERED PROFESSIONAL LAND SURVEYOR

SEAL

PLAT NORTH

REVISIONS:

NO.	DATE

Pet. No 19

PLAN TO ACCOMPANY DRC REQUEST
5301 BUSH STREET
BALTIMORE COUNTY
MARYLAND
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

RECEIVED
DEC 07 2017
DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

DRAWN BY: CAV/KJW
CHECKED BY: KJW
DATE: 11/09/2017
PROJECT NO.: 2014-009
SHEET 1 OF 1

Petitioner
CBA Exhibit
12C

Baltimore County - My Neighborhood

Ped 12B

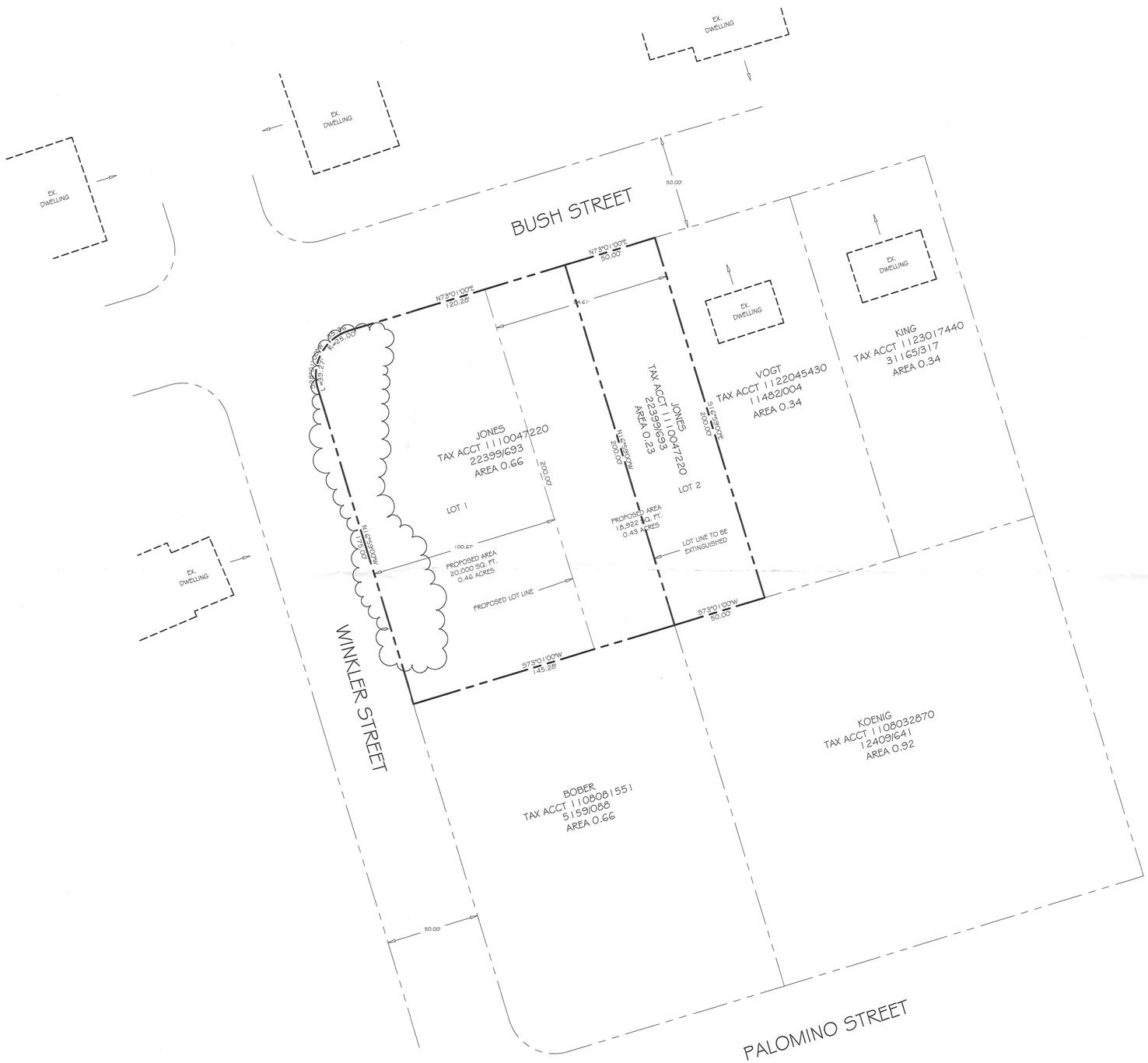
Petitioner
CBA Exhibit
12B

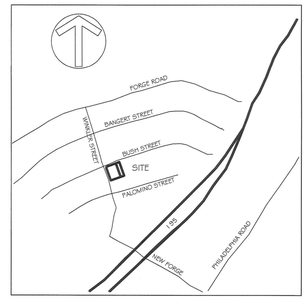
Baltimore County - My Neighborhood

Petitioner
CBA Exhibit
12A

Baltimore County - My Neighborhood

FORGE RD
FORGE RD
FORGE RD
PARK CREST
PARK CREST
PARK CREST





VICINITY MAP
SCALE: 1" = 1,000'

SITE DATA:

1) OWNERS: JAMES JONES, SR
2) OWNERS ADDRESS: 9531 HORN AVENUE
BALTIMORE, MARYLAND 21236
3) APPLICANT'S NAME: HOWARD WADKINS
4) APPLICANT'S ADDRESS: 1605 HONEYSUCKLE COURT
ANNAPOLIS, MD 21410
5) APPLICANT'S TELEPHONE NO.: 443-762-3084
6) TAX ACCOUNT NUMBERS: 1110047220
7) TAX MAP: 73 GRID: 1 PARCELS: 341
8) DEED REFERENCES: 22399/693
9) LOT AREA: 0.89 ACRES/38,768 SQ. FT.
10) GROSS AREA: 1.13 ACRES/49,409 SQ. FT.
11) ZONING MAP: 073A1
12) ZONING: DR.2
13) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
14) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
15) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE. THE SUBJECT PROPERTY IS LOCATED WITHIN A LEVEL 'D' TRANSPORATION SERVICE AREA.
16) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
17) PUBLIC WATER AND SEWER ARE PROVIDED.

Petitioner
CBA Exhibit
2

Pet. No. 2

GRAPHIC SCALE
30 0 15 30 60 120
(IN FEET)
1 inch = 30 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying, Site Planning & Landscape Architecture

LICENSE EXPIRATION DATE: 7/02/2014

STATE OF MARYLAND * KENNETH JAMES WELLS * 21087 * PROPERTY LINE SURVEYOR
SEAL

PLAT NORTH

REVISIONS:

NO.	DATE

APPROVED DRC PLAN

Election District 11 Councilmanic District 5
Jones Property
5301 Bush Street
Baltimore County, Maryland

DRAWN BY: CAV
CHECKED BY: KJW
DATE: 3/21/2014

PROJECT NO.:
2014-009

SHEET 1 OF 1

DIVISION LINE BETWEEN LOT No 6 AND LOT No 8 THE SECURITIES CORPORATION MORTGAGE

DIVISION LINE BETWEEN LOT No 8 AND LOT No 10 THE SECURITIES CORPORATION MORTGAGE

LOT No 6 THE SECURITIES CORPORATION MORTGAGE

LOT No 8 THE SECURITIES CORPORATION MORTGAGE

LOT No 11

PLAT OF PROPERTY CONVEYED BY MORTGAGE FROM THE LORELEY COMPANY TO THE SECURITIES CORPORATION Nov. 15, 1917 LIBER W.P.C. No. 527 FOLIO 78

PREPARED BY J. SPENCE HOWARD CIVIL + CONS. ENGR. JUNE - 1931

TO BE RECORDED

I HEREBY CERTIFY THAT I AM THE OWNER OF THE LOTS SHOWN ON THIS PLAT AND THAT ALL OF THE REQUIREMENTS OF CHAPTER 1016 OF THE ACTS OF ASSEMBLY, 1945 WILL BE COMPLIED WITH

Walter W. Powers

WALTER W. POWERS
6007 WAKEHURST WAY
BALTIMORE - 12 - MARYLAND

NOTE:— CURVES AT ALL STREET INTERSECTIONS ARE 25 FT. RADIUS.— ARCS = 39.27 Ft. TANGENTS = 25 FEET — Δ 90° — CHORDS = 35.35 Ft.

"FORGE ACRES"

OWNED AND DEVELOPED BY
W. W. POWERS
6007 WAKEHURST WAY
BALTIMORE - 12 - MD.
TELEPHONE CLIFTON 2300

PLAT OF SURVEY OF LOTS Nos. 6, 8 AND 10 OF MORTGAGE TO THE SECURITIES CORPORATION ELEVENTH DISTRICT — BALTIMORE CO.

Scale = 200 FEET TO ONE INCH.

A. J. Martinet & Co
Surveyors & Civil Engrs
Date DECEMBER 14, 1948
By Howard C. Sutton Reg. No. 758.

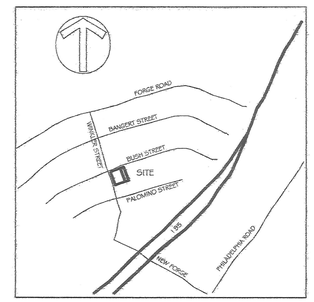
Pet. No 1

Petitioner
CBA Exhibit
1

2017-0213-A

SITE DATA:

1) OWNERS: WADKINS CONSTRUCTION, INC.
2) OWNERS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MARYLAND 21401
3) APPLICANTS NAME: HOWARD WADKINS
4) APPLICANTS ADDRESS: 1605 HONEYSUCKLE COURT ANNAPOLIS, MD 21410
5) APPLICANTS TELEPHONE NO.: 443-762-3094
6) TAX ACCOUNT NUMBERS: 1111047220
7) TAX MAP: 73 GRID: 1 PARCELS: 341
8) DEED REFERENCES: 22393/293
9) ZONING MAP: 073A1
10) ZONING: DR 2
11) GROSS AREA: 1.13 ACRES/49,409 SQ. FT.
12) DENSITY: 1.13 ACRES X 2 = 2 UNITS
13) NET LOT AREA: 0.83 ACRES/36,768 SQ. FT.
14) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
15) THE SUBJECT PROPERTY NOT LOCATED WITHIN A 100-YEAR FLOODPLAIN.
16) THE BASIC SERVICES MAPS INDICATE THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE.
17) NO HISTORICALLY SIGNIFICANTLY STRUCTURES ON THE SUBJECT PROPERTY.
18) PUBLIC WATER AND SEWER ARE PROVIDED.
19) NO CURRENT OR OUTSTANDING ZONING VIOLATIONS EXISTS.
20) THERE ARE NO PRIOR ZONING CASES.



VICINITY MAP
SCALE: 1" = 1,000'

PREVIOUS DRC REQUEST:

THE REQUEST MET THE REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 32-4-106(a)(1)(vi) ALLOWING A LOT LINE ADJUST.

VARIANCE REQUESTS:

1. FOR LOT 2 AS SHOWN HEREON, TO PERMIT A MINIMUM LOT WIDTH OF 94.61 FT. IN LIEU OF THE REQUIRED 100 FT. PURSUANT TO BCZR § 1B02.3.C.1;
2. FOR LOT 2 AS SHOWN HEREON, TO PERMIT A MINIMUM NET LOT AREA OF 18,922 SQ. FT. IN LIEU OF THE REQUIRED 20,000 SQ. FT. PURSUANT TO BCZR § 1B02.3.C.1;
3. IF NECESSARY, FOR LOT 1 AS SHOWN HEREON, TO PERMIT A SIDE YARD SETBACK OF 35 FT. ALONG THE WINKLER STREET RIGHT-OF-WAY LINE, IN LIEU OF THE 40 FT. FRONT YARD SETBACK REQUIREMENT IMPOSED UNDER BCZR § 1B02.3.C.1; AND
4. FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

LEGEND:

- FRONT ORIENTATION
- SANITARY SEWER MANHOLE
- CLEAN OUT
- UTILITY POLE
- WATER METER
- WATER VALVE
- FIRE HYDRANT
- OHUL — OVERHEAD UTILITY LINE

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-0600

Land Surveying, Site Planning & Landscape Architecture

STATE OF MARYLAND * KENNETH JAMES WELLS * No. 21391 * PROFESSIONAL LAND SURVEYOR

SEAL

LICENSE EXPIRATION DATE: 6/1/2017

PLAT NORTH

REVISIONS:

NO.	DATE

PLAN TO ACCOMPANY ZONING HEARING
5301 BUSH STREET

BALTIMORE COUNTY
MARYLAND
11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

DRAWN BY: CAV/KJW
CHECKED BY: KJW
DATE: 5/25/2017

PROJECT NO.:
2014-009

SHEET 1 OF 1

Prepared by Geographic Information Services
Baltimore County Office of Information Technology
Date: September 6, 2017
2014 Imagery

1 Inch = 60 Feet

0 62.5 125 250 Feet

People's Counsel
CBA Exhibit
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