



JOHN A. OLSZEWSKI, JR.
County Executive

C. PETE GUTWALD, AICP
*Director, Department of Permits,
Approvals and Inspections*

March 25, 2024

Bruce E. Doak
Bruce E. Doak Consulting, LLC
3801 Baker Schoolhouse Rd
Freeland, MD 21053

RE: Spirit and Intent Request
2018-0031-A
13414 Longnecker Rd
Election District 4, Councilmanic District 4

Dear Mr. Smith,

The Department of Permits, Approvals & Inspections (PAI) has referred your letter dated February 29, 2024, addressed to Peter Gutwald, Director, for my response. You requested confirmation regarding a previously granted variance. Specifically, you inquired whether locating a pool and accessory buildings in the side and front yard, along with a 20-foot height variance for the accessory buildings, would be considered within the "spirit and intent" of the referenced variance and the accompanying site plan.

After careful review of the Zoning Order for the referenced case, the Site Plan (which shows the previously approved pool and accessory buildings), your latest exhibit showing the newly proposed pool and accessory buildings, please be advised of the following.

The Baltimore County Zoning Review Office (Zoning) will consider the building permit (of the newly proposed pool and accessory buildings as shown on your submitted exhibit) to be within the spirit and intent of Zoning Case No. 2018-0031-A, subject to the following conditions:

1. Only the Pool and Pool house with Studio shall be permitted, not the garage.

2. All other Baltimore County Regulations and Department requirements (including the Department of Environmental Protection and Sustainability) shall be complied with.

THE FOREGOING IS MERELY AN INFORMAL ZONING OPINION; IT IS NOT AN EXPERT OR LEGAL OPINION. IT IS NOT INTENDED TO BE RELIED ON AS EXPERT OR LEGAL ADVICE, AND IS NOT LEGALLY OR FACTUALLY BINDING ON BALTIMORE COUNTY OR ANY OF ITS OFFICIALS, AGENTS, OR EMPLOYEES. BALTIMORE COUNTY EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE INFORMATION PROVIDED IN THIS DOCUMENT, OR ANY INTERPREATION THEREOF.

If you have any questions or concerns, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "Jesse Krout".

Jesse Krout
Zoning Review

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

No. 229832

Date: 3/25/24

				Rev	Sub			
				Source/	Rev/			
Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept Obj	BS Acct	Amount
								200.00

Total: 200.00

Rec From: Bruce Doak

For: 13414 Longnecker Rd SE 1 Letter

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

BRUCE E DOAK 12-12
BRUCE E DOAK CONSULTING
3801 BAKER SCHOOLHOUSE RD
FREELAND, MD 21053-9738

Pay to the Order of Baltimore County Maryland

Two Hundred and 00/100 Dollars

2/29/24 Date

\$ 200.00

BCE

For 501 REQUEST FEE SMOGNESS

PNC BANK PNC Bank, N.A. 040

⑆054000030⑆ 5336741067⑈ 3117

3117 15-3/540 429

M E M O R A N D U M

DATE: October 30, 2017
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2018-0031-A - Appeal Period Expired

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

c: Case File
Office of Administrative Hearings

IN RE: PETITION FOR VARIANCE

(13414 Longnecker Road)
4th Election District
3rd Council District
Richard T. & Karen T. Shortess
Legal Owners

Petitioners

*

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*

*

*

BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2018-0031-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Richard & Karen Shortess, the legal owners of the subject property ("Petitioners"). Petitioners are requesting variance relief from §§ 400.1 and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) to permit two proposed accessory structures (studio and pool house), existing shed and a pool to be located in the side and front yards in lieu of the required rear yard; and (2) to permit two accessory structures (studio and pool house) with a height of 20 ft. in lieu of the required 15 ft. A site plan was marked as Petitioners' Exhibit 1.

Richard and Karen Shortess and surveyor Bruce Doak appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS).

The site is approximately 59.516 acres in size and zoned RC-2. The property is improved with a single family dwelling constructed in 1977. Petitioners propose to construct a pool and two accessory structures at the site, although zoning relief is required to do so.

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

ORDER RECEIVED FOR FILING

Date

By

9/27/17
Sen

- (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).

The large rural property has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed accessory structures.

Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of community and/or Baltimore County opposition. Also, this 60 acre lot has only one dwelling, and the proposed additions will not overcrowd the site or impact in any way neighboring properties.

THEREFORE, IT IS ORDERED, this 27th day of **September, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §§400.1 and 400.3 as follows: (1) to permit two proposed accessory structures (studio and pool house), existing shed and a pool to be located in the side and front yards in lieu of the required rear yard; and (2) to permit two accessory structures (studio and pool house) with a height of 20 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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

ORDER RECEIVED FOR FILING

Date 9/27/17
By Sen

2. Petitioners must comply with the ZAC comment of DEPS, a copy of which is attached hereto.

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:slh

ORDER RECEIVED FOR FILING

Date 9/27/17

By slh

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

AUG 04 2017

OFFICE OF
ADMINISTRATIVE HEARINGS

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

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

DATE: August 4, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0031-A
Address 13414 Longnecker Road
(Shortess Property)

Zoning Advisory Committee Meeting of **August 7, 2017**.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

1. Ground Water Management must review any building permit(s) for a proposed pool house, pool, etc., since the property is served by well and septic.

Reviewer: Dan Esser

Date: 8/2/17

ORDER RECEIVED FOR FILING

Date

By



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 13414 LONGNECKER ROAD which is presently zoned RC2
 Deed References: 25030 / 324 10 Digit Tax Account # 0413013560
 Property Owner(s) Printed Name(s) RICHARD T. SHORTESS & KAREN T. SHORTESS

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

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

1. a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

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

3. ☒ a **Variance** from Section(s)

SEE ATTACHED PAGE

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 THE HEARING

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

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

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

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

RICHARD T. SHORTESS KAREN T. SHORTESS
 Name #1 - Type or Print Name #2 - Type or Print

[Signature] [Signature]
 Signature #1 Signature #2

13414 LONGNECKER ROAD GLYNDEN MD
 Mailing Address City State

21136 410-429-4714
 Zip Code Telephone # Email Address
TKSHORTESS@YAHOO.COM

Representative to be contacted:

BRUCE DOAK
BRUCE E. DOAK CONSULTING, LLC.
 Name - Type or Print

[Signature]
 Signature

3801 BAKER SCHOOLHOUSE ROAD FREELAND MD
 Mailing Address City State

21053 410-419-4906
 Zip Code Telephone # Email Address

BD@BRUCEDOAKCONSULTING.COM

CASE NUMBER 2018-0031-A Filing Date 7/25/17 Do Not Schedule Dates: Reviewer JE

ORDER RECEIVED FOR FILING

Date 9/27/17

By [Signature]

Petitions Requested

Variances:

To permit two accessory structures (studio and a pool house) and a pool to be located in the side and front yards in lieu of the required rear yard per Section 400.1 BCZR

To permit two accessory structures (studio and a pool house) with a height of 20 feet in lieu of the required 15 feet per Section 400.3 BCZR

Bruce Doak Consulting, LLC

3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

Zoning Description

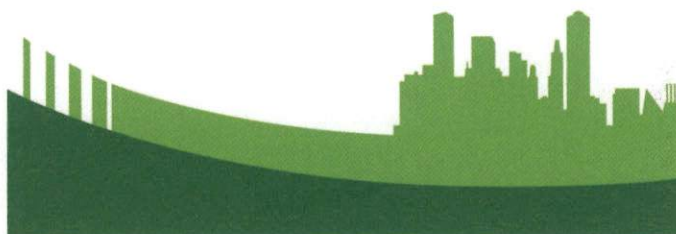
13414 Longnecker Road- 59.516 Acres
Fourth Election District Third Councilmanic District
Baltimore County, Maryland

Beginning at a point in the center of Longnecker Road, approximately 2,950 feet +- Northerly of the centerline of Butler Road, thence leaving Longnecker Road and binding on the outlines of the subject property, the ten following courses and distances, viz.

- 1) South 87 degrees 05 minutes 21 seconds West 2,257.29 feet
- 2) South 78 degrees 22 minutes 05 seconds West 690.42 feet
- 3) North 15 degrees 22 minutes 31 seconds West 161.91 feet
- 4) South 85 degrees 14 minutes 03 seconds West 222.77 feet
- 5) North 12 degrees 22 minutes 09 seconds East 1,184.62 feet
- 6) North 69 degrees 33 minutes 34 seconds East 1,383.00 feet
- 7) South 34 degrees 16 minutes 03 seconds East 317.55 feet
- 8) South 31 degrees 44 minutes 59 seconds East 858.90 feet
- 9) South 32 degrees 26 minutes 57 seconds East 543.53 feet
- 10) South 79 degrees 13 minutes 47 seconds East 70.59 feet and
- 11) North 87 degrees 08 minutes 07 seconds 803.62 feet to a point in Longnecker Road, thence running in the center of Longnecker Road and continuing to bind on the outlines of the subject property 12) South 20 degrees 03 minutes 57 seconds West 54.29 feet to the point of beginning

Containing 59.516 acres of land, more or less.

This description is part of a zoning hearing petition and is not intended for any conveyance purposes.



Land Use Expert and Surveyor





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 5162159

Sold To:

Richard Shortess - CU00616894
13414 Longnecker Rd
Reisterstown, MD 21136-4839

Bill To:

Richard Shortess - CU00616894
13414 Longnecker Rd
Reisterstown, MD 21136-4839

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

Sep 05, 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: # 2018-0031-A
13414 Longnecker Road
W/s Longnecker Road, 2,950 ft. N/of Butler Road
4th Election District - 3rd Councilmanic District
Legal Owner(s) Richard & Karen Shortess

Variance: to permit two accessory structures (studio and a pool house) and a pool to be located in the side and front yards in lieu of the required rear yard. To permit two accessory structures (studio and a pool house) with a height of 20 ft. in lieu of the required 15 ft.

Hearing: Monday, September 25, 2017 at 10:00 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 9/620 Sep. 5 5162159

The Baltimore Sun Media Group

By *S. Wilkinson*
Legal Advertising

Bruce E. Doak Consulting, LLC

3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

CERTIFICATE OF POSTING

September 6, 2017

Re:

Zoning Case No. 2018-0031-A

Legal Owner: Richard & Karen Shortess

Hearing date: September 25, 2017

Baltimore County Department of Permits, Approvals & Inspections
County Office Building
111 West Chesapeake Avenue, Room 111
111 West Chesapeake Avenue Towson, MD 21204

Attention: Kristen Lewis

Ladies and Gentlemen,

This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at **13414 Longnecker Road**.

The sign was posted on **September 4, 2017**.

Sincerely,



Bruce E. Doak
MD Property Line Surveyor #531

See the attached sheet(s) for the photos of the posted sign(s)



Land Use Expert and Surveyor

ZONING NOTICE

CASE NO. 2018-0031-A

13414 Longnecker Road

**A PUBLIC HEARING WILL BE HELD BY THE
ADMINISTRATIVE LAW JUDGE
IN TOWSON MARYLAND**

**PLACE: Room 205 JEFFERSON BUILDING
105 W. CHESAPEAKE AVENUE TOWSON, MD
21204**

DATE & TIME: Monday September 25, 2017 10:00 AM

**VARIANCES TO PERMIT TWO ACCESSORY STRUCTURES
(STUDIO AND A POOL HOUSE) AND A POOL TO BE LOCATED
IN THE SIDE AND FRONT YARDS IN LIEU OF THE REQUIRED
REAR YARD. TO PERMIT TWO ACCESSORY STRUCTURES
(STUDIO AND A POOL HOUSE) WITH A HEIGHT OF 20 FEET
IN LIEU OF THE REQUIRED 15 FEET.**

**POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY. TO CONFIRM THE HEARING CALL 410-887-3391.**

**DO NOT REMOVE THIS SIGN AND POST UNTIL THE DAY OF THE HEARING UNDER
PENALTY OF LAW.
THE HEARING IS HANDICAPPED ACCESSIBLE**

ZONING NOTICE

CASE NO. 2018-0014-A

100% CHESAPEAKE AVENUE TOWNSHIP, MD

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KEVIN KAMENETZ
County Executive

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

August 9, 2017

NOTICE OF ZONING HEARING

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CASE NUMBER: 2018-0031-A

13414 Longnecker Road
W/s Longnecker Road, 2,950 ft. N/of Butler Road
4th Election District – 3rd Councilmanic District
Legal Owners: Richard & Karen Shortess

Variance to permit two accessory structure (studio and a pool house) and a pool to be located in the side and front yards in lieu of the required rear yard. To permit two accessory structures (studio and a pool house) with a height of 20 ft. in lieu of the required 15 ft.

Hearing: Monday, September 25, 2017 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. Shortess, 13414 Longnecker Road, Glyndon 21136
Bruce Doak, 3801 Baker Schoolhouse Road, Freeland 21053

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, SEPTEMBER 5, 2017.
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ
County Executive

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

August 9, 2017

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Hearing: Monday, September 25, 2017 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. Shortess, 13414 Longnecker Road, Glyndon 21136
Bruce Doak, 3801 Baker Schoolhouse Road, Freeland 21053

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TO: PATUXENT PUBLISHING COMPANY
Tuesday, September 5, 2017 Issue - Jeffersonian

Please forward billing to:
Richard Shortess
13414 Longnecker Road
Glyndon, MD 21136

410-429-4714

NOTICE OF ZONING HEARING

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13414 Longnecker Road
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Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

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

RE: PETITION FOR VARIANCE * BEFORE THE OFFICE
13414 Longnecker Rd; W/S Longnecker Road, *
2,950' N of the c/line Butler Road * OF ADMINISTRATIVE
4th Election & 3rd Councilmanic Districts *
Legal Owner(s): Richard & Karen Shortess * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2018-031-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.

RECEIVED
AUG 08 2017

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of August, 2017, a copy of the foregoing Entry of Appearance was mailed to Bruce Doak, 3801 Baker Schoolhouse Road, Freeland, Maryland 21053, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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: 2018-0031-A
Property Address: 13414 LONGNECKER ROAD
Property Description: 59.516 AC WEST SIDE OF LONGNECKER ROAD
2950' NORTH OF BUTLER ROAD
Legal Owners (Petitioners): RICHARD T. & KAREN T. SHORTESS
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: RICHARD SHORTESS
Company/Firm (if applicable): N/A
Address: 13414 LONGNECKER ROAD
GLYNDAW MO 21136
Telephone Number: 410-429-4714

Revised 7/9/2015

№ 154864

Date: 1/23/17

PAID RECEIPT

BUSINESS ACTUAL TIME 00:01
7/25/2017 7/25/2017 09:26:23 1

REC'D SOL WALKIN LIR
RECEIVED # 734272 7/25/2017

Dept. 5 528 ZONING CERTIFICATE
OF NO. 15/934

Rec'd Tot	175.00
STANDARD	1.00

Baltimore County, Maryland

[illegible]

Total: 700

Rec: _____
From: BRUCE DOAK

For 13414 Longrock Rd.
Co. A 2DUE - CAGI-A

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

**CASHIER'S
VALIDATION**



KEVIN KAMENETZ
County Executive

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

September 20, 2017

Richard T & Karen T Shortess
13414 Longnecker Road
Glyndon MD 21136

RE: Case Number: 2018-0031 A, Address: 13414 Longnecker Road

Dear Mr. & Ms. Shortess:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on July 25, 2017. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is fluid and cursive.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Bruce E Doak Consulting, 3801 Baker Schoolhouse Road, Freeland MD 21053

Date: 8/2/17

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. 2018-0031-A

Variance
Richard T. & Karen T. Shortess
13414 Longneckor Road

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 18-031



INFORMATION:

Property Address: 13414 Longnecker Road
Petitioner: Richard T. Shortess, Karen T. Shortess
Zoning: RC 2
Requested Action: Variance

The Department of Planning has reviewed the petition for a variance to permit two accessory structures with a height of 20 feet (studio and a pool house) and a pool to be located in the side and front yards in lieu of the required maximum 15 foot height and rear yard respectively.

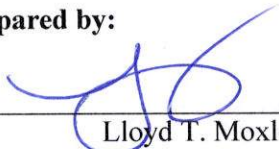
A site visit was conducted on August 10, 2017.

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

Be advised that the accessory structure may not be used for principal residential or commercial purposes.

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

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

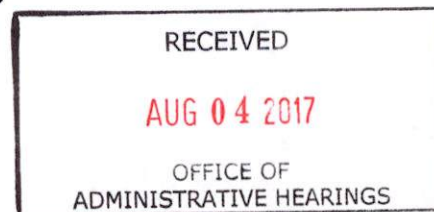
AVA/KS/LTM/ka

c: Joseph Wiley
Bruce E. Doak, Bruce E. Doak Consulting, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

9-25

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: August 4, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0031-A
Address 13414 Longnecker Road
(Shortess Property)

Zoning Advisory Committee Meeting of **August 7, 2017**.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

1. Ground Water Management must review any building permit(s) for a proposed pool house, pool, etc., since the property is served by well and septic.

Reviewer: Dan Esser Date: 8/2/17

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 8/21/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 18-031

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Property Address: 13414 Longnecker Road
Petitioner: Richard T. Shortess, Karen T. Shortess
Zoning: RC 2
Requested Action: Variance

The Department of Planning has reviewed the petition for a variance to permit two accessory structures with a height of 20 feet (studio and a pool house) and a pool to be located in the side and front yards in lieu of the required maximum 15 foot height and rear yard respectively.

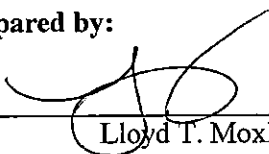
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The Department has no objection to granting the petitioned zoning relief.

Be advised that the accessory structure may not be used for principal residential or commercial purposes.

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

Prepared by:


Lloyd T. Moxley

Division Chief:


Kathy Schlabach

AVA/KS/LTM/ka

c: Joseph Wiley
Bruce E. Doak, Bruce E. Doak Consulting, 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: August 4, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0031-A
Address 13414 Longnecker Road
(Shortess Property)

Zoning Advisory Committee Meeting of **August 7, 2017.**

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

1. Ground Water Management must review any building permit(s) for a proposed pool house, pool, etc., since the property is served by well and septic.

Reviewer: Dan Esser Date: 8/2/17

CASE NAME SHORTLESS
CASE NUMBER 2018-0031-A
DATE 9/25/17

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
------	---------	------------------	----------

[illegible]

C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
_____	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	_____
<u>8/4</u>	DEPS (if not received, date e-mail sent _____)	<u>Comment</u>
_____	FIRE DEPARTMENT	_____
<u>8/22</u>	PLANNING (if not received, date e-mail sent _____)	<u>NO Obj</u>
<u>8/2</u>	STATE HIGHWAY ADMINISTRATION	<u>NO Obj</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: <u>9/5/17</u>	
SIGN POSTING	Date: <u>9/4/17</u>	by <u>DOAK</u>
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration			
Account Identifier:		District - 04 Account Number - 0413013560							
Owner Information									
Owner Name:		SHORTESS RICHARD T SHORTESS KAREN T			Use:		AGRICULTURAL		
Mailing Address:		13414 LONGNECKER RD GLYNDON MD 21136-4839			Principal Residence:		YES		
					Deed Reference:		/25030/ 00324		
Location & Structure Information									
Premises Address:		13414 LONGNECKER RD GLYNDON 21136-4839			Legal Description:		59.516 AC 13414 LONGNECKER RD SWS 3000 NW BUTLER RD		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0040	0013	0015		0000				2016	Plat Ref:
Special Tax Areas:				Town:			NONE		
				Ad Valorem:					
				Tax Class:					
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use	
1977		6,964 SF		2000 SF		59.5100 AC		05	
Stories	Basement	Type		Exterior	Full/Half Bath	Garage		Last Major Renovation	
1 1/2	YES	STANDARD UNIT		STONE	4 full/ 2 half	1Att/1Carport			
Value Information									
		Base Value		Value		Phase-in Assessments			
				As of 01/01/2016		As of 07/01/2017		As of 07/01/2018	
Land:		243,300		243,300					
Improvements		1,160,500		1,141,600					
Total:		1,403,800		1,384,900		1,384,900		1,384,900	
Preferential Land:		18,300						18,300	
Transfer Information									
Seller: ELLIN MARVIN				Date: 01/08/2007			Price: \$1,875,000		
Type: ARMS LENGTH IMPROVED				Deed1: /25030/ 00324			Deed2:		
Seller: ELLIN MARVIN				Date: 02/27/2006			Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /23443/ 00417			Deed2:		
Seller: BROOKS DAVID LEE AG USE 83-84				Date: 01/28/1983			Price: \$725,000		
Type: ARMS LENGTH IMPROVED				Deed1: /06482/ 00676			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		0.00 0.00			
Tax Exempt:		Special Tax Recapture:							

Case No.:

2018-0031-A

Sen
9-27-17

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	site plan	
No. 2	aerial photo	
No. 3	3A-3K photos w/ Key sheet	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



June 29, 2021

Adam M. Rosenblatt

T 410.494.6271

F 410.821.0147

amrosenblatt@Venable.com

Via Email and Hand Delivery

Hon. Paul M. Mayhew
Office of Administrative Hearings
Jefferson Building, first floor
105 W. Chesapeake Avenue
Towson, MD 21204

Re: Case No. 2018-030-X
1139 Monkton Road
Request for Extension of Time

Judge Mayhew:

This firm represents the solar company developing a ground mounted solar facility on the above-referenced property located in the Monkton area of Baltimore County (the "Property"). On May 16, 2019, we successfully obtained a special exception in Case No. 2018-030-X to develop a portion of the Property with a solar facility. The Order is attached hereto for your convenience.

The Order did not specify a time by which the special exception must be utilized to prevent it from expiring. Pursuant to Section 502.3 of the Baltimore County Zoning Regulations ("BCZR"), when an order does not specify a time for expiration, a special exception which has not been utilized within a period of 2 years from the date of the final order shall thereafter be void. I am writing: (1) to confirm that this special exception is still valid due to an Executive Order passed by the Governor of Maryland, and (2) to request an extension of time of 1 year for the owner to utilize, and therefore vest, the special exception.

To say that the events of the past year have been unprecedented is an understatement. As you can imagine, the owner had no concept when we obtained his special exception that the world would essentially shut down a year after the relief was granted. Had we anticipated the events of 2020, it would have been easy to request an extension of time to utilize this special exception for a period of up to 5 years from the date of the original order. However, there were no signs of the impending global crisis, so we did not make any request at our hearing with respect to timing.

Fortunately, Governor Hogan took action through Executive Order to extend the time for utilization of all licenses, permits, and other authorizations issued by local governments such as Baltimore County. Order No. 21-03-09-03, which is attached hereto for your convenience,

June 29, 2021

Page 2

extends the time for any such authorizations that would have expired on or after March 12, 2020 to June 30, 2021. In this case, the special exception, if not utilized, would have expired on May 16, 2021 two years from the date of the Order granting the relief. Governor Hogan's Executive Order extends the date to utilize the special exception until June 30, 2021.

While the owner is diligently working to utilize the special exception, we are respectfully requesting an extension of time of a period of one year to ensure that our client can finalize the approvals needed to begin site work and formally utilize the special exception. This request is consistent with Section 502.3 of the BCZR, which allows the Administrative Law Judge to issue one or more extensions of time to utilize a special exception, provided the total time is not extended for a period of more than 5 years from the date of the final order. Here, extending the time for utilization to June 30, 2022 would provide a total of approximately 3 years from the date of the final order, well within the time provided in BCZR Section 502.3.

If you are in agreement that the time for utilization of the special exception in Case No. 2018-030-X should be extended until June 30, 2022, we would greatly appreciate your countersigning this letter so that it can be provided as needed during the owner's permitting process. As suggested, we contacted the Office of People's Counsel, who, through their Deputy, consented to this requested extension.

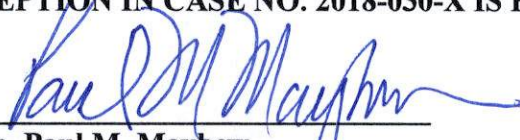
Thank you for your time and consideration.

Sincerely



Adam M. Rosenblatt

**AGREED AND ACCEPTED. THE TIME FOR UTILIZATION OF THE SPECIAL
EXEPTION IN CASE NO. 2018-030-X IS HEREBY EXTENDED UNTIL JUNE 30, 2022.**



**Hon. Paul M. Mayhew
Managing Administrative Law Judge**

Donna Mignon

From: Paul Mayhew
Sent: Wednesday, June 30, 2021 10:26 AM
To: Donna Mignon
Subject: FW: Letter Requesting Extension (1139 Monkton)
Attachments: Letter Requesting Extension (1139 Monkton)(52697740.1).pdf; Hogan Permit License Extensions.pdf; ONEENERGY MONKTON ORDER.PDF

Paul M. Mayhew
Managing Administrative Law Judge
105 West Chesapeake Ave., Suite 103
Towson, Maryland 21204
410-887-3868
pmayhew@baltimorecountymd.gov

From: Rosenblatt, Adam M. <AMRosenblatt@Venable.com>
Sent: Wednesday, June 30, 2021 9:39 AM
To: Paul Mayhew <pmayhew@baltimorecountymd.gov>; Carole Demilio <cdemilio@baltimorecountymd.gov>
Subject: Letter Requesting Extension (1139 Monkton)

CAUTION: This message from AMRosenblatt@venable.com originated from a non-Baltimore County Government or non-BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Judge,

I have another request for extension of a special exception. Copying Ms. Demilio, who was personally involved in this case. We discussed this request before this filing.

Thank you both.

Adam M. Rosenblatt, Esq. | Venable LLP
t 410.494.6271 | f 410.821.0147 | m 410.294.9430
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

AMRosenblatt@Venable.com | www.Venable.com

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The State of Maryland

Executive Department

ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND

No. 21-03-09-03

AMENDING AND RESTATING THE ORDER OF JUNE 19, 2020, EXTENDING CERTAIN LICENSES, PERMITS, REGISTRATIONS, AND OTHER GOVERNMENTAL AUTHORIZATIONS, AND AUTHORIZING SUSPENSION OF LEGAL TIME REQUIREMENTS

- WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, October 6, October 29, November 25, and December 23, 2020, and January 21 and February 19, 2021, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;
- WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed throughout Maryland;
- WHEREAS, The U.S. Centers for Disease Control and Prevention ("CDC") has advised employers, such as the State of Maryland, to prepare for increased employee absence and alternative working arrangements (such as teleworking) in response to an outbreak of COVID-19;
- WHEREAS, Increased employee absence and alternative working arrangements within the State of Maryland's workforce may impact the State's ability to timely process renewals of expiring permits, licenses, registrations, and other governmental authorizations;
- WHEREAS, The CDC and the Maryland Department of Health ("MDH") recommend social distancing to reduce the spread of COVID-19;
- WHEREAS, Renewal of expiring permits, licenses, registrations, and other governmental authorizations often requires the public to enter public buildings and interact with State employees and other persons, which may be contrary to prudent social distancing; and

WHEREAS,

To reduce the threat to human health caused by transmission of COVID-19 in Maryland, and to protect and save lives, it is necessary and reasonable that permits, licenses, registrations, and other governmental authorizations be extended until after the state of emergency and catastrophic health emergency has ended;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

- I. Amendment and Restatement. The Order of the Governor of the State of Maryland, dated March 12, 2020, entitled "Extending Certain Licenses, Permits, Registrations, and Other Government Authorizations, and Authorizing Suspension of Legal Time Requirements" (the "Original Order"), as amended and restated on June 19, 2020 by Order Number 20-06-19-01 (together with the Original Order, the "Prior Versions"), is further amended and restated in its entirety as set forth herein.
- II. Extension of Certain Licenses, Permits, Registrations and Authorizations.
 - a. This Order applies to all licenses, permits, registrations, and other authorizations issued by the State of Maryland, any agency of the State of Maryland, or any political subdivision of the State of Maryland, including, without limitation, driver's licenses, vehicle registrations, and professional licenses (collectively, the "Covered Authorizations"), that would otherwise:
 - i. expire prior to June 30, 2021 during the state of emergency and catastrophic health emergency; and
 - ii. be renewable during the state of emergency and catastrophic health emergency under applicable laws and regulations.
 - b. The expiration date of each Covered Authorization (other than Covered Authorizations excluded pursuant to paragraph II.c below) is hereby extended to June 30, 2021.
 - c. The head of each unit of State or local government may opt to exclude any Covered Authorization from paragraph II.b above; provided, that the unit head shall provide reasonable public notice of each exclusion pursuant to this paragraph II.c.

III. Suspension of Legal Time Requirements.

- a. Paragraph III.a of the Prior Versions of this Order, which authorized the head of each unit of State or local government to suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule, or regulation (each, a "Timeframe Suspension"), is no longer in effect.
- b. Notwithstanding anything herein to the contrary, each Timeframe Suspension in effect immediately prior to this Order shall continue in effect until the earlier of (i) the date the applicable unit head elects to end the Timeframe Suspension, or (ii) June 30, 2021. The applicable unit head shall provide reasonable public notice regarding the end of each Timeframe Suspension.
- c. For avoidance of doubt, no new Timeframe Suspensions may be made on or after the date of this Order.

IV. Virtual Hearings and Meetings.

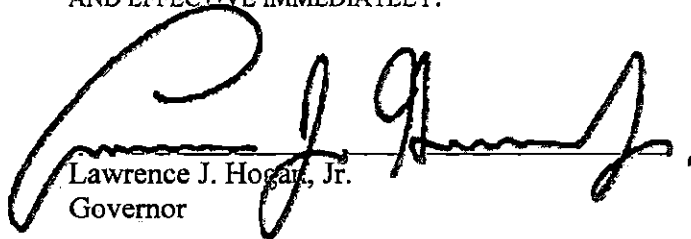
- a. To the extent any statute or rule or regulation of an executive branch agency of the State or a political subdivision requires a hearing or meeting to be conducted in-person or at a particular physical location, such statute, rule, or regulation is suspended to the extent necessary to permit the applicable unit of State or local government to elect to conduct such hearing or meeting, in whole or in part, using videoconferencing, teleconferencing, or other communication technology ("Virtual Meeting Technology"); *provided* that for each such hearing or meeting that is conducted, in whole or in part, using Virtual Meeting Technology, the applicable unit shall:
 - i. give notice of, and conduct such hearing or meeting in a manner that satisfies the due process requirements and/or other relevant constitutional requirements applicable to the hearing or meeting, if any; and
 - ii. conduct the hearing or meeting in a manner that allows for an exchange of information among the participants that is substantially equivalent to the exchange of information that would reasonably be expected to occur if the hearing or meeting was conducted in the manner prescribed by the applicable statute, rule, or regulation.
- b. For avoidance of doubt, nothing in this Order:

- i. requires any unit of State or local government to conduct a hearing or meeting using Virtual Meeting Technology; or
- ii. relieves any unit of State or local government of its obligations to comply with the Open Meetings Act.

V. General Provisions.

- a. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order is hereby suspended to the extent of the inconsistency.
- b. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.
- c. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.

ISSUED UNDER MY HAND THIS 9TH DAY OF MARCH, 2021,
AND EFFECTIVE IMMEDIATELY.



Lawrence J. Hogan, Jr.
Governor



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

Adam M. Rosenblatt, Esquire
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, Maryland 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16925 York Road
Monkton, Maryland 21111

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

RE: *In the Matter of: HHK Farms, LLC – Legal Owner*
OneEnergy Development, LLC – Lessee
Case No.: 18-030-X

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,

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Multiple Original Cover Letters

c: See Attached Distribution List

In Re: HHK Farms, LLC – Legal Owner
OneEnergy Development, LLC – Lessee
18-030-X

Distribution List
May 16, 2019
Page 2

Stephanie Ann Rexroth, Managing Member/HHK Farms, LLC
Travis Bryan, Chief Operating Officer/OneEnergy Development, LLC
Sparks-Glencoe Community Planning Counsel
Freeland Legacy Alliance, Inc.
Beverly and Salvatore Scavone
Louis Jeanne Bowman
Scott Dykes
Richard Ryan
Wendy McIver
Lynne Jones
Lisa Arthur
Kathleen Pieper
Timothy Edwards
Nicole Earp
Renee Hamidi
Kirsten Burger
Matt Pappas
Lawrence M. Stahl, Managing Administrative Law Judge
C. Pete Gutwald, Director/Department of Planning
Michael Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

IN THE MATTER OF
HHK Farms, LLC - Legal Owner

OneEnergy Development, LLC - Lessee
1139 Monkton Road
Hereford, MD

RE: Petition for a Solar Facility

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 18-030-X

* * * * *

OPINION

This case comes before the Board on appeal of the final decision of the Administrative Law Judge ("ALJ") in which the ALJ granted a Petition for a Solar Facility by Opinion and Order dated May 7, 2018. Protestants, Sparks-Glencoe Community Planning Council, Freeland Legacy Alliance, Inc., Richard Ryan, Lois Jean Bowman, Scott Dykes, Beverly and Salvatore Scavone, Wendy McIver, Lynne Jones, Kathleen Pieper (collectively the "Protestants") filed an appeal.

A *de novo* hearing was held before this Board on December 11 and 12, 2018, and January 19, 2019. The Petitioners, HHK Farms, and One Energy Development LLC (the "Petitioners") were represented by Adam Rosenblatt, Esquire, and Venable, LLP. The Protestants were represented by H. Barnes Mowell, Esquire. People's Counsel also participated in the hearing. A public deliberation was held on March 5, 2019.

Factual Background

The subject property is located at 1139 Monkton Road and consists of 98.49 acres+/- on the south side of Monkton Road, in the Hereford Area of Baltimore County (the "Property"). It is split-zoned RC2, RC4 and RC7. Monkton Road is a designated scenic route. The Property was previously a farm but no farming activities presently take place there. The proposed Special Exception is 19 acres, with 13 acres being used for the actual solar array on a cleared area of the

Property pursuant to Baltimore County Zoning Regulations ("BCZR"), Article 4F. The solar facility will generate no more than 2 megawatts of alternating current of electricity.

The Property contains a single, uninhabitable structure and is largely cleared and open in the center, having previously been farmed for many years. The entire southern, eastern, and western borders of the Property are wooded. An additional area of vegetation lines the northern boundary along Monkton Road. Testimony was presented that the Petitioners had previously obtained approval of forest stand delineation, wetland delineation and steep slope and erodible soils analysis, delineating forest buffers. (Pet. Ex. 21).

Solar Facilities Law

On July 17, 2017, the County Council enacted Bill 37-17 permitting solar facilities by special exception in certain zones, including RC2, RC4, RC5, and RC8. BCZR, §4F-102.A. The County Council imposed limits on the number of facilities per councilmanic district (*i.e.* 10 per district), and on the maximum area for each facility (*i.e.* the amount of acreage that produces no more than 2 megawatts alternating current (AC) of electricity). BCZR, §4F-102.B.1 and 2.

In addition to the special exception factors, there are 10 requirements set forth in BCZR, §4F-104.A:

1. The land on which a solar facility is proposed may not be encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement.
2. The land on which a solar facility is proposed may not be located in a Baltimore County historic district or on a property that is listed on the Baltimore County Final Landmarks List.
3. The portion of land on which a solar facility is proposed may not be in a forest conservation easement, or be in a designated conservancy area in an RC 4 or RC 6 Zone.
4. Above ground components of the solar facility, including solar collector panels, inverters, and similar equipment, must be set back a minimum of 50 feet from the tract boundary. This setback

does not apply to the installation of the associated landscaping, security fencing, wiring, or power lines.

5. A structure may not exceed 20 feet in height.

6. A landscaping buffer shall be provided around the perimeter of any portion of a solar facility that is visible from an adjacent residentially used property or a public street. Screening of state and local scenic routes and scenic views is required in accordance with the Baltimore County Landscape Manual.

7. Security fencing shall be provided between the landscaping buffer and the solar facility.

8. A solar collector panel or combination of solar collector panels shall be designed and located in an arrangement that minimizes glare or reflection onto adjacent properties and adjacent roadways, and does not interfere with traffic or create a safety hazard.

9. A petitioner shall comply with the plan requirements of § 33-3-108 of the County Code.

10. In granting a special exception, the Administrative Law Judge, or Board of Appeals on appeal, may impose conditions or restrictions on the solar facility use as necessary to protect the environment and scenic views, and to lessen the impact of the facility on the health, safety, and general welfare of surrounding residential properties and communities, taking into account such factors as the topography of adjacent land, the presence of natural forest buffers, and proximity of streams and wetlands.

There are also provisions regarding maintenance of the facilities:

§ 4F-106. - Maintenance.

A. All parties having a lease or ownership interest in a solar facility are responsible for the maintenance of the facility.

B. Maintenance shall include painting, structural repairs, landscape buffers and vegetation under and around solar panel structures, and integrity of security measures. Access to the facility shall be maintained in a manner acceptable to the Fire Department. The owner, operator, or lessee are responsible for the cost of maintaining the facility and any access roads.

C. Appropriate vegetation is permitted under and around the solar collector panels, and the tract may be used for accessory

agricultural purposes, including grazing of livestock, apiculture, and similar uses.

D. The provisions on this section shall be enforced in accordance with Article 3, Title 6 of the County Code.

A solar facility which has reached the end of its useful life must be removed in accordance with §4F-107 which states:

§ 4F-107. - Abandonment; removal.

- A. A solar facility that has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the County by certified mail of the proposed date of discontinued operations and plans for removal.
- B. Removal shall consist of the:
 - 1. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;
 - 2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
 - 3. Stabilization or revegetation of the site as necessary to minimize erosion.
- C. If the owner or operator fails to remove the facility within 150 days of abandonment, the County retains the right to enter and remove the facility. As a condition of special exception approval, the petitioner and landowner agree to allow entry to remove an abandoned facility.
- D. The Code Official may issue a citation to the owner or operator for removal of a solar facility if:
 - 1. The Code Official determines that the solar facility has not been in actual and continuous use for 12 consecutive months;
 - 2. The owner or operator failed to correct an unsafe or hazardous condition or failed to maintain the solar facility under Section 4F-106 within the time prescribed in a correction notice issued by the Code Official; or
 - 3. The owner or operator has failed to remove the solar facility in accordance with Paragraph C.

In order to grant a request for a special exception under BCZR, §502.1, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

In *Schultz v. Pritts*, 291 Md. 1, 22-23, 432 A.2d at 1331 (1981), the Court of Appeals held that “the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and therefore should be denied, is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.”

The Court of Appeals in *People's Counsel for Baltimore County v. Loyola College in Md.* 406 Md. 54, 106, 956 A.2d 166 (2008) upheld that longstanding *Shultz* analysis, explaining that a special exception use has “certain [inherent] adverse effects...[which] are likely to occur”. In its analysis, the *Loyola* Court observed that “[t]he special exception adds flexibility to a comprehensive legislative zoning scheme by serving as a ‘middle ground’ between permitted use and prohibited uses in a particular zone.” *Id.*, 406 Md. at 71, 956 A.2d at 176 (2008).

The *Schultz* and *Loyola* Courts, and more recently in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, 285 (2017) have expressly recognized that “[a] special exception is presumed to be in

the interest of the general welfare, and therefore a special exception enjoys a presumption of validity.” (See also *Loyola*, 406 Md. at 84, 88; 105 *Schultz*, 291 Md. at 11). Based on this standard, once an applicant puts on its *prima facie* evidence in support of a special exception, the opponents must then “set forth sufficient evidence to indicate that the proposed [use] would have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard.” *Attar*, 451 Md. at 287. (See *Montgomery County v. Butler*, 417 Md.271, 276-77 (2010) (opponent must show “non-inherent adverse effects” to “undercut the presumption of compatibility enjoyed by a proposed special exception use”). (See also, *Clarksville Residents Against Mortuary Defense Fund, Inc. v. Donaldson Properties*, 453 Md. 516, 543 (2017) (“there is a presumption that the [special exception] use is in the interest of the general welfare, a presumption that may only be overcome by probative evidence of unique adverse effects”).

Motions For Judgment

Plan Compliance with BCC, §33-3-108(c).

At the close of the Petitioner’s case in chief, Protestants, through counsel, orally moved for judgment on the basis that Article 4F-104.A.9 requires the Site Plan to comply with BCC, §33-3-108, and that the Site Plan failed to list some of the items required in Subsection 33-3-108(c)1-18. We deny this Motion to Judgment for the reasons set forth below.

Evidence

The Petitioner had several witnesses who testified on its behalf in the merits of the case:

1. Marni Carroll – OneEnergy.

Marni Carroll is the Director of Project Development and outreach for OneEnergy Renewable headquartered in Washington D.C. (Pet. Ex. 3) (“Company” or “OneEnergy Renewable”). Trillium Solar Energy, LLC is a wholly-owned subsidiary of OneEnergy

Renewable. OneEnergy Renewable has developed several solar projects throughout Maryland. (T.15-16), Ms. Carroll submitted a PowerPoint presentation that provided information about the Company, the materials and panels that will be installed, and the methods used for potential site locations. (Pet. Ex 4, (T. 29-32); *see also* Pet. Ex 6).

Ms. Carroll testified that the panels are nontoxic, nonflammable, and do not contain any cadmium. (T. 18). Through an industry standard glare study, she provided evidence that the proposed facility will not cause any glare on surrounding roads and properties. (T. 35-38; *see also* Pet Ex 8.) She further testified that the solar panels are mounted on galvanized steel posts and have an aluminum and steel frame. (T. 19). She noted that the supporting posts are driven into the ground without any cement or permanent impact to the land. *Id.* The land beneath the panels will be planted with pollinator habitat that absorbs runoff and provides the possibility for the production of agricultural products such as honey. (T. 21; *see also* Pet. Ex 5). The panels rotate with the sun and are approximately nine feet tall at their highest point. (T. 18). Once installed, the panels will be remotely monitored throughout the life of the 35 year lease. (T. 20). At the end of the lease, OneEnergy is required to remove all equipment to three feet below the ground and to restore the ground to its previous condition. (T. 23). All of the materials can either be recycled or reused by the solar industry. *Id.* A site plan for the proposed facility showed the area in which the solar panel array will encompass. (Pet. Ex. 1).

Maintenance of the solar panel facility will take place once a quarter or as needed if an issue arises.

2. David Martin – Landscape Architect.

David Martin, a landscape architect with Daft, McCune and Walker, was admitted as an expert in the area of landscape architecture and land planning. (Pet. Ex. 10). Mr. Martin prepared

a Schematic Landscape Plan based on information he obtained from the Baltimore County GIS system. (Pet. Ex 2). Mr. Martin provided the Board with a presentation of photographs of the subject area. (Pet. Ex. 11). With regard to landscaping, testimony from David Martin confirmed that Petitioners worked with the Department of Planning and the County's Landscape Architect to develop a landscape plan that satisfies all requirements and provides additional screening to the neighbors that live on the north side of Monkton Road. (T. 145-149; *see also* Pet. Ex 12). Mr. Martin explained that the focus for landscaping is on the northern side of the Property because the southern, western, and eastern sides are all surrounded by natural forests and there are no immediately adjacent residences. (T. 149-50; *see also* Pet. Exs. 1 and 2).

Due to the fact that Monkton Road is a county scenic road, Mr. Martin explained that the Department of Planning asked him to reinforce the existing landscaping and to provide selective views into the Property rather than simply to wall it off with an artificial row of landscaping. (T. 147). Mr. Martin further explained that while many trees and other plants will be added to the site, no trees will be removed as part of this project. (T. 115).

3. Matthew Durette— Mechanical Engineer/Installation of Solar Facilities.

The Petitioners provided the testimony of Matthew Durette, a mechanical engineer with expertise in the installation of solar facilities. Mr. Durette testified that the facility will consist of just under 13 acres of solar panels in a special exception area that is approximately 19 acres in size. (T. 96). Specifically, the facility will consist of: (i) galvanized steel posts driven directly into the ground in a north to south orientation; (ii) an aluminum racking system placed on top of the piles; (iii) photovoltaic solar panels with an antireflective coating that are connected to the racking system; (iv) wiring connecting the panels to an inverter, transformer, and, ultimately, to

external power lines; (v) fencing placed around the facility for security (with no barb wire); and (vi) additional landscaping. (T. 89-93).

With respect to the panels, Mr. Durette explained that the Petitioners are proposing a "single-axis tracker" panel array that is designed to move with (*i.e.*, "track") the position of the sun to provide maximum exposure of the panels to the sun. (T. 88-89). The panels are three feet by six feet in size, are no taller than nine feet when they are tilted towards the sun, and are constructed of an aluminum frame and a glass top that is designed to minimize glare. (T. 88-90). Mr. Durette testified that there are no toxic chemicals in the solar panels, and there are no chemicals or other substances used to clean the panels. (T. 90). He further explained that the solar panels "self-clean" as rainfall in the region is typically sufficient to wash off any dust and dirt from the panels. (T. 100).

Mr. Durette explained that ground disturbance during construction consisted of the driving of piles to form the foundation of the tracker system, and some initial trenching for underground wiring. (T. 97). He further testified that he did not foresee any noise coming from the motors that operate the panel tracker system. (T. 118).

4. Eric Hadaway: Environmental Regulations

Petitioners provided the testimony of Eric Hadaway, an expert in environmental regulations in Baltimore County employed by Daft McCune Walker. Mr. Hadway testified that as there is no development history for the Property, there were no delineated environmental resources or recorded buffers on the Property prior to this request for a special exception. (T. 192). Testimony from Eric Hadaway revealed that Petitioners have performed a fully approved wetland and forest stand delineation and a steep and erodible soils analysis, so that if the special exception is approved, the environmental resources will be protected for the first time with

recorded buffers. (T. 192-193; *see* Pet. Exs. 1 and 21). The majority of the buffers are forested, but portions do extend into a cleared area that has been farmed over time. (T. 197-198). Additionally, all components of the solar facility, including the perimeter fence, are outside of the buffers. (T. 199). Mr. Hadaway opined that there will not be “any negative impact on the wetlands and streams on the property.” (T. 202).

5. David Straitman: Real Estate Appraiser

Petitioners provided the testimony of real estate appraiser, David Straitman. Mr. Straitman testified in response to concerns expressed by several Protestants regarding the impact that the proposed solar facility will have on property value. Mr. Straitman presented an economic impact analysis regarding the proposed use generally; a solar facility in Howard County; and (3) examples where homeowners voluntarily put ground mounted solar panels on their properties. *Id.* Based on his economic analysis, Mr. Straitman opined that the proposed use will not have any negative impact on surrounding property values.

6. Mitchell Kellman: Expert Land Planner

Petitioners provided the testimony of Mitchell Kellman, an expert land planner, employed at Daft McCune Walker. Mr. Kellman testified that the proposed facility meets the requirements of BCZR § 502.1, Article 4F of the BCZR, and all legal requirements for obtaining a special exception. (T. 277-278). He testified that, in the Third Council District, the limit of ten (10) solar facilities has not yet been met. (T. 257). Additionally, Mr. Kellman confirmed that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement and that the property is not located in a Baltimore County historic district, nor is the property listed on the Baltimore County Final Landmarks List. (T. 258; *see also* Prot. Ex. 11). Additionally, Mr. Kellman confirmed that the aboveground components

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of the solar facility, including solar collector panels, inverters, and similar equipment, will be set back at least 50 feet from the tract boundary. (T. 259). Finally, Mr. Kellman confirmed that no equipment associated with the solar facility will exceed 20 feet in height. (T. 259). Mr. Kellman also opined that the Site Plan complied with the plan requirements in BCC, §33-3-108. (§4F-104.A.9). Mr. Kellman presented a letter from Department of Environmental Protection and Sustainability ("DEPS") approving the forest stand delineation, wetland delineation and steep slope and erodible soils analysis, delineating forest buffers. (Pet. Ex. 21). Mr. Kellman explained that, in his experience, the Petitioner must first obtain special exception relief before the DEPS will review the plan for the requirements listed in Section 33-3-108(c). Mr. Kellman provided the Board with the Baltimore County Zoning Review checklist which is required to be included in plan submitted for zoning review. (Pet. Ex 20.)

Mr. Kellman also testified about the remaining special exceptions factors and in doing so, he opined that the solar facility use meets all of the factors. He described this use as a "passive" use, in that there is no impact on utilities, county structures, parks, schools. There is no density associated with the use nor is any traffic associated with the use. Nor is there any effects like dust smell, or noise.

As to BCZR, §502.1.F, given that the maximum height of the solar panels when tilted toward the sun is eleven feet, and the facility will be installed in the clear field of the Property away from neighboring residences as shown on Pet. Ex. 1, Mr. Kellman testified that the project would not interfere with adequate light or air or cause congestion.

Mr. Kellman testified that that the Baltimore County Council allowed for solar facility by Special Exception in the RC 2 zone and, therefore, is consistent with the spirit and intent of the zone, and noted the possibility of honey production on the site.

Relying on Mr. Hadaway's testimony as the basis for his opinion, Mr. Kellman noted that the proposed project was consistent with impermeable surface and vegetative retention provisions of §502.1.H, and the environmental and natural resources of the site under BCZR, §502.1.I, Mr. Kellman deferred to.

In summary, Kellman opined that there are no adverse effects from this use above and beyond those inherent in solar facilities and that it would not have any greater impact in this location versus any other location on the RC2 zone.

Protestants' Case

The Protestants had several witnesses who testified in the merits of the case:

1. Timothy Edwards.

Protestants offered the testimony of Timothy Edwards, who owns 1132 Monkton Road, directly across from the entrance to the proposed solar facility. Mr. Edwards, testified that he had lived on the property for most of his life and that the house on the property had been standing since 1852. Mr. Edwards expressed his concerns regarding the impact that the proposed solar facility would have on the scenic view along Monkton Road, and more obviously, the view from his house onto the proposed solar field. Using photo simulations provided by OneEnergy, Mr. Edwards testified that he would like to see some additional landscaping between his property and the proposed facility to try to block his view to the greatest extent possible. (Prot. Ex 7). Mr. Edwards stated that he was pleased that a housing development was not being built on the property, but did not look forward to having to look at the solar field for the next 30 to 35 years.

2. Nicholas Federici.

Protestants provided the testimony of Nicholas Federici, who resides at 1200 Monkton Road. Mr. Federici owns a home remodeling business and provided lay testimony regarding his

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concerns with run-off and storm water management. Mr. Federici testified that in his approximation that the proposed solar array would create over 160,000 square feet of new surface area. He further commented that he believed that such a surface area would cause serious problems with storm water management during sustained rain falls. Mr. Federici also shared his concerns that the proposed landscape plan was insufficient to properly screen the solar field from the road.

3. Wendy McIver.

Protestants presented the testimony of Wendy McIver, who lives 23 Manor Brook Road, approximately a mile and a half from the proposed solar facility and has lived in the area for over 39 years. Ms. McIver is the secretary of the Sparks-Glencoe Community Planning Council and is presently a Baltimore County Historic Landmark Commissioner. Ms. McIver testified as to her concerns with the possible adverse effects the proposed solar facility would have on the many surrounding historical sites. Ms. McIver presented an exhibit to the Board, outlining the many historical sites in the area. (Prot. Ex 11).

4. Lynne Jones.

Protestants provided the testimony of Lynne Jones, who lives at 815 State Church Rd., Parkton, MD. Her home is a 150 acre farm where her family has lived for 7 generations beginning in 1745. Ms. Jones testified individually and as President of Sparks-Glencoe Community Planning Council ("Sparks-Glencoe Council"). (Prot. Ex 12 -13). Sparks-Glencoe Council, a party to this case, has 400 members and its boundaries run in a heart-shaped pattern from Hunt Valley in the south, to the Harford County/Baltimore County line in the east, to the Carroll County/Baltimore County line in the west. The proposed solar facility is within these boundaries. (Prot. Ex 14). Sparks Glencoe Council submitted a letter, signed by Ms. Jones, which

described general opposition to solar facilities on farmland in northern Baltimore County. (Prot. Ex. 13).

She expressed her concerns about water runoff, flooding and the negative impact on the agriculture industry created by using farmland for solar facilities. Her testimony centered on her dissatisfaction with the enactment of Bill 37-17 and development in general. Ms. Jones believes that solar facilities should be located in business and manufacturing zones. She is worried that the language in Bill 37-17 is not strong enough with regard to the issuance of a bond for maintenance and dismantling of the facility. Ms. Jones offered a body of exhibits emphasizing the agricultural strengths on this site within the context of the locality. These exhibits included documents, photographs, Master Plan 2020 excerpts and maps of the Agricultural Priority Preservation Areas.

5. Kathleen Pieper.

Protestants provided the testimony of Kathleen Pieper, who lives at 4310 Beckeysville Rd., Hampstead, MD, not in close proximity to the proposed site. Ms. Pieper is the president of the North County Community Group and has been involved as a community activist regarding the issue of solar farms in northern Baltimore county, but testified as a concerned citizen in this proceeding. She has lived in the vicinity for 30 years.

Ms. Pieper, who has been involved in the farming industry in the past, testified as to her concerns regarding the decreasing amount of farmland in Baltimore County which affects the livelihood of those who farm for a living. Ms. Pieper expressed a concern that the proposed special exception area is composed of prime and productive soils, and that solar facilities in general remove available farmland and crop production. She noted that the area where the solar array is proposed consists of Glenelg loam soil types, making it some of the finest prime and

productive farmland. (Prot. Ex. 41). Additionally, Ms. Piper presented evidence illustrating the amount of acreage used for solar arrays in other solar projects in the county and pointed out that it was possible to utilize less acreage and still produced two megawatts of energy. (Prot. Ex 43). Ms. Pieper offered into evidence the Maryland Department of the Environment's storm water guidelines for solar facilities and expressed her concerns that she felt that insufficient evidence had been presented regarding storm water management for the proposed site. (Prot. Ex. 45). Finally, Ms. Pieper provided examples of alternative locations where solar facilities could be located on land that was not prime and productive farmland. (Prot. Exs. 44a-d).

6. Ruth Masacri.

The Protestants presented the testimony of Ruth Mascari, who resides at 17210 Whitely Road, approximately, two miles from the proposed solar facility. Ms. Mascari testified that she has been active in the northern Baltimore county community for the past 45 years. She noted that she serves on Baltimore County's Landmarks Preservation Commission with Mr. Kellman. She expressed her concerns with the project and its impact on the "My Lady's Manor" national register historic district, which is near the proposed site. She is also concerned with the proposed site being near White Acres House, another local landmark. In addition to concerns regarding landmark preservation, Ms. Mascari is also concerned with whether the proposed solar facility will be properly screened from view along Monkton Road, a scenic road.

7. Adam Brown.

Protestants offered the testimony of Adam Brown, who resides at 1146 Monkton Road, where he has lived for 20 years. Mr. Brown provided photographs of the view from Monkton Road looking onto the proposed site. Mr. Brown testified to his displeasure with the speed in which a decision was being reached regarding the proposed project. He expressed his opinion

that he didn't believe farmland was the best place for such facilities and suggested that a landfill may be a more appropriate location. Additionally, Mr. Brown expressed his concern that the presence of the proposed solar facility may have a detrimental effect on surrounding property values. Finally, Mr. Brown expressed his concern that with the rapid development of technology, the technology on the proposed site may in time prove obsolete, leading to the projects abandonment.

8. Greg Volpitta.

Protestant provided the testimony of Greg Volpitta, who resides at 1220 Monkton Road, across the road from where the proposed solar facility will be located. He has lived at that location for 32 years. Mr. Volpitta expressed his concerns about being able to see the proposed facility when the leaves were off the trees in winter months. He also commented that the area was extremely quiet and that noise carried across the field. He worries that the sound of the inverter, even if it is as quiet as a hairdryer, may be heard from his home. Additionally, Mr. Volpitta shared the concerns of other neighbors regarding what effect the proposed site may have on surrounding property values. Finally, Mr. Volpitta expressed his preference that any new power line coming from the proposed site be run underground rather than using an above ground new utility pole, to connect with the line over Monkton Road.

9. Paul Colison.

The Protestants presented the testimony of Paul Colison, who resides at 1152 Monkton Road. Mr. Colison has lived at this address for 32 years. Mr. Colison testified that he is concerned that the present vegetation along Monkton Road is too thin to shield the proposed facility from view. He also expressed his concerns about the possible increased level of run off created by the proposed project. He explained that he currently has problems with water on his

property and fears that the proposed project would exacerbate this problem. Mr. Colison also expressed concerns about how the proposed project may affect local wildlife and shared in his neighbors' concerns regarding possible effects to surrounding real estate values.

Decision

As set forth above in BCZR, §4F-102.A, solar facilities are only permitted by special exception under the factors set forth in BCZR §502.1. The testimony of Mr. Martin, Mr. Kellman, Mr. Durette and Mr. Hadaway support the Petitioner's position that the proposed solar facility would not be detrimental to the health, safety or general welfare of the locality involved. To the contrary, the Protestants' collective concerns are impacts which are inherent with this particular use. It was apparent that the Protestants' complaints center on their dissatisfaction with the County Council's enactment of Bill 37-17 which is codified in BCZR, Article 4F. Understandably, the Protestants want the land in RC zones to remain farm land.

However, it is beyond the jurisdiction of this Board to rewrite Bill 37-17 or Article 4F. Applying the standard in *Shultz*, *Loyola* and *Attar*, the Protestants were required to present evidence that the adverse effects stemming from this solar facility, at this location, are unique and different than the inherent impacts associated with this use in general. We did not have such evidence here.

As described in detail above, Ms. Carroll and Mr. Durette testified that the solar facility would not create congestion in the roads as it is not a use that generates traffic into or out of the Property. (BCZR, §502.1.B.) Further, Ms. Carroll confirmed that there are no flammable materials used in this solar facility. Mr. Durette testified that it was unlikely for there to be a fire at the facility. Mr. Kellman testified that the Hereford Volunteer Fire company was in close proximity to the site. (T. 273; BCZR, §502.1.C.) As with the lack of traffic, Ms. Carroll and Mr.

Kellman explained that this use does not generate people and therefore it would not tend to overcrowd the land or cause an undue concentration of population. (T. 272; BCZR, §502.1.D.) Additionally, Ms. Carroll, Mr. Martin and Mr. Kellman confirmed that this use does not interfere with schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. (BCZR, §502.1.E.)

Mr. Durette confirmed that the height of the facility will be nine feet and would therefore not interfere with adequate light or air. (BCZR, §502.1.F.) The facility will stand in the cleared area of the Property, removed from any adjacent homes. Accordingly, the Board finds that shadowing and air circulation are not areas of concern.

As to the consistency of this use with the purposes of the RC zones and with the spirit and intent of the BCZR, solar facilities are consistent uses because they are temporary and are removed at the end of a lease term. There was testimony and argument about removing "prime and productive" soil from the agriculture industry. However, the evidence showed that the soil type remains the same before, during and after removal.

The County Council deemed solar facilities are uses consistent within the RC zone, provided they meet the special exception standard, as explained in *Shultz, Loyola* and *Attar*. The Protestants' argument that farming is the primary use and therefore is consistent with the RC zones, is an argument which should be directed to the County Council. This Board is not required to determine whether a solar facility is detrimental to agricultural uses. Our authority to approve this use is contained in Article 4F and §502.1 factors. Moreover, even if this Property contains "prime and productive" soil (an alleged fact which we are not deciding), the owner cannot be compelled to farm, or to lease the Property to a farmer.

Ms. Carroll and Mr. Hadaway explained that the use is consistent with impermeable surface and vegetative retention provisions of the BCZR because there will not be any clearing or grading of land, and no tree removal. Rain will propel off the solar panels and soak into the ground between the rows. Mr. Hadaway testified that the DEPS will determine whether any further storm water management retention measures are needed. (T.209)

Finally, Mr. Hadaway testified that this use, at this location, would not be detrimental to the environmental or natural resources of the Property, including the forest, streams, wetlands, aquifers and floodplains.

Having analyzed the special exception factors, the requirements of BCZR, §4F-102.B.1 and BCZR, §4F-104.A. 1-9 must also be satisfied by the Petitioner. Mr. Durette testified that the 19 acre special exception area and 13 acre solar panel array is the minimum acreage needed to produce approximately 2 megawatts AC of electricity. (BCZR, §4F-102.B.1.) The Protestants, through the testimony of Ms. Pieper, urged us to consider special exception areas and electricity generated in other recently approved solar facility cases and requested that the special exception area here should be restricted to 13 acres.

While Ms. Pieper's testimony was admitted as evidence at the request of Protestants, since this case is heard *de novo*, the ALJ's decisions in prior cases are factually specific to those cases is not part of the record and his analysis is not binding on the Board. Based on the evidence presented to the Board through the expert testimony of Mr. Durette, we find that there was no compelling evidence by the Protestants here, which contradicts the Petitioner's plan that 19 acre special exception area is the minimum area needed to produce less than 2 megawatts AC electricity. The Protestants did not have an expert testify on this issue. Accordingly, we find that the Petitioner has met this burden.

Mr. Kellman testified that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement or rural legacy easement, nor is it in a Baltimore County historic district or on the Baltimore County Final Landmarks list. (BCZR, §§4F-104.A.1 and 2.) In addition, as with the special exception factors, Mr. Kellman testified that the solar facility will not be located in the forest conservation easement or designated conservancy area. (BCZR, §§4F-104.A.3.) There was no evidence by the Protestants which contradicted either of these requirements.

As to the setback and height requirements, Ms. Carroll and Mr. Kellman made clear that the facility at its highest peak will not exceed 9 ft. and will not be located within 50 ft. from the tract boundary. (BCZR, §§4F-104.A.4 and 5.) Accordingly, both the height and setback requirements have been met. There was no evidence by the Protestants which contradicted either of these requirements.

As testified to by Mr. Martin, the Petitioners will provide a landscaping buffer around the perimeter of the Property in areas where the solar facility may be visible from an adjacent residential property or public street. Due to Monkton Road's designation as a Baltimore County scenic route, views from the road will be screened in accordance with the Baltimore County Landscape Manual to the satisfaction of the County's Department of Planning and Landscape Architect. (Pet. Ex. 11). A schematic Landscaping Plan in support of its Petition was reviewed by the County. (Pet. Ex. 12). The Site Plan proposes a chain link fence without barbed wire between the landscape buffer and the solar facility. (BCZR, §4F-104.7). We find that these requirements have been satisfied.

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collisions and safety hazards. (BCZR, §4F-104.8). In this case, the Petitioners'

representative, Marni Carroll testified regarding the findings of a glare study using the a ForgeSolar software tool utilized in the industry which concluded that solar facility was designed to minimize glare and that no glare would interfere with traffic or create a safety hazard. (Pet. Ex. 8). The Protestants did not present an expert to contradict Ms. Carroll. The glare study indicated that there would be no glare produced by the solar panels here. Thus, we find that this requirement is satisfied.

Finally, the Site Plan must comply with BCC, §33-3-108. (BCZR, §4F-104.A.9). The Protestants argued in their Motion for Judgment that the Petition should be denied because the Site Plan failed to list each of the 18 elements in Subsection (c). In our review of BCC, §33-3-108, we find the that language in Subsection (a) is unambiguous. That Subsection requires the DEPS (as defined in §33-3-101(f)), to approve the Site Plan. Further, Subsection (b) directs that the Site Plan shall generally include such information (graphs, charts, etc.) to enable EPS to “make a reasonably informed decision regarding the proposed activity.” Additionally, a plan submitted to DEPS for approval must also contain the information listed in Subsection (c).

In our view, the specific items listed in Subsection (c) must be considered by DEPS when it reviews and approves the Site Plan under that Section, not this Board. The testimony of Mr. Kellman was that DEPS’ policy is that it will not approve a site plan until after the special exception relief is granted. We find his testimony to be consistent with the language in Section 33-3-105 (1) and (2) which provides that DEPS is “responsible for enforcing the provisions of [Title 33]” and the Director of DEPS “may adopt policies and regulations as necessary to implement the provisions of [Title 33].”

Given the express wording of Section 33-3-108 that DEPS shall approve the Site Plan, and that DEPS is responsible for ensuring that the Site Plan comply with both the general and

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specific requirements of Subsections (b) and (c), we find that the appropriate resolution for this Board is to place a condition in the Order reiterating the words of §4F-104.A.9, that the Petitioner shall comply with Section 33-3-108. To do otherwise would be to overstep this Board's statutory authority.

Conclusion

After reviewing all of the testimony and evidence presented, the Board finds that Petition for Special Exception pursuant to BCZR, Article 4F should be granted.

ORDER

THEREFORE, IT IS THIS 16th day of May, 2019, by the Board of Appeals of Baltimore County,

ORDERED that the Protestant's oral Motion for Judgment be and the same is hereby **DENIED** for the reasons set forth herein, and it is further

ORDERED that the Petition for Special Exception for a solar facility pursuant to BCZR, Article 4F as set forth on the Site Plan (Pet. Ex. 1), be, and the same is hereby **GRANTED**, subject to the following conditions under the Board's authority in §4F-104.A.10:

1. Petitioners shall submit for approval by Baltimore County a landscape plan for the Property demonstrating appropriate screening and vegetation is provided along Middletown Rd, a scenic route, as required by the Landscape Manual and as set forth in the Zoning Advisory Committee Comments dated November 28, 2017 (Pet. Ex. 12) and as under BCZR, §4F-104.A.6.
2. Petitioners shall install a 7 ft. high, security fence, without barbed wire, between the landscaping buffer and the solar facility as required by BCZR, §4F-104.A.7. Attached to the fence in a conspicuous place, while the solar facility is in operation, shall be the current contact information (name, address, 24-hour telephone

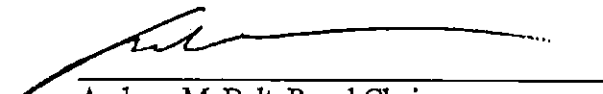
In the matter of: HHK Farms, LLC - Legal Owner
OneEnergy Development, LLC - Lessee
Case No: 18-030-X

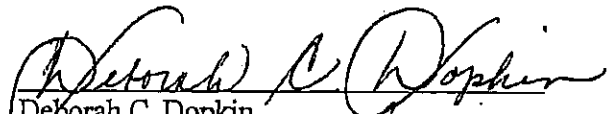
number, website and email address) of the operator of the solar facility.

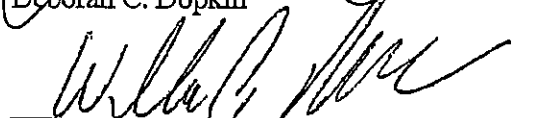
3. Prior to the issuance of a building permit, Petitioner must satisfy the environmental regulations set forth in BCC, §33-3-108 pertaining to the protection of water quality, streams, wetlands and floodplains and obtain approval of the Site Plan from the Department of Environmental Protection and Sustainability as required in that Section.

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, Panel Chair


Deborah C. Dopkin


William A. McComas























1988-0314-SPH

13628

1971-0253-X
1972-0099-X
1988-0210-SPH

1988-0314-SPH

2014-0041-A 13632

2014-0041-A

NW 19-I

13626

13630

DRIVEWAY

13624

040A2

GROWTH TIER 4
(No New Subdivisions of 4
or More Additional Lots)

13414

13500

↖ SITE 5 ↗

13418

NW 18-I

2006-0356-SPH

Pt. Bk. 0000070, Folio 0085

Pt. Bk./Folio # 070085

PAI # 040146
PAI # 040146
PAI # 040146
PAI # 040146

NW 18-J

1996-0080-SPH

040A3

13304

1990-0112-A

3 CD
RC 2
4 ED

039C2

039C3

GENERAL SITE INFORMATION

1. Ownership: Richard T. Shortess & Karen T. Shortess
13414 Longnecker Road, Glyndon, MD 21136
2. Address: 13414 Longnecker Road, Glyndon, MD 21136
3. Deed references: SM 25030/ 324
4. Area: 59.516 acres (per SDAT)
5. Tax Map / Parcel / Tax account #: 40 / 15 / 04-13-013560
6. Election District: 4 Councilmanic District: 3
ADC Map: 4458C1 GIS title: 040A2 & 040A3
Position sheets: 71NW35, 71NW36, 72NW34, 72NW35, 72NW36, 73NW35 & 73NW36
Census tract: 40402 Census block: 24005404021000
Schools: Franklin ES Franklin MS Franklin HS
7. The boundary shown hereon is from the deed recorded in the Land Records of Baltimore County. All other information shown hereon was taken from Baltimore County GIS titles 040A2 & 040A3 and the information provided by Baltimore County on the Internet.
8. Improvements: Single family dwelling. The existing dwelling will remain.

OFFICE OF ZONING

Zoning: RC 2 There are no previous zoning cases on the subject parcel.

Parking Calculations

Required parking spaces: 2
Parking spaces provided on site: 2

R.C. 2 setbacks for dwellings

Front: 75 feet from the centerline of the road
Side / Rear: 35 feet from the property line

ENVIRONMENTAL IMPACT

Watershed: Loch Raven Reservoir URDL Land type: 1

1. The existing dwelling is currently serviced by a private well and septic system.
2. There are no underground storage tanks on the subject property.
3. The subject property is not in the Chesapeake Bay Critical Area.
4. The subject property is not located within a 100 year flood plain.

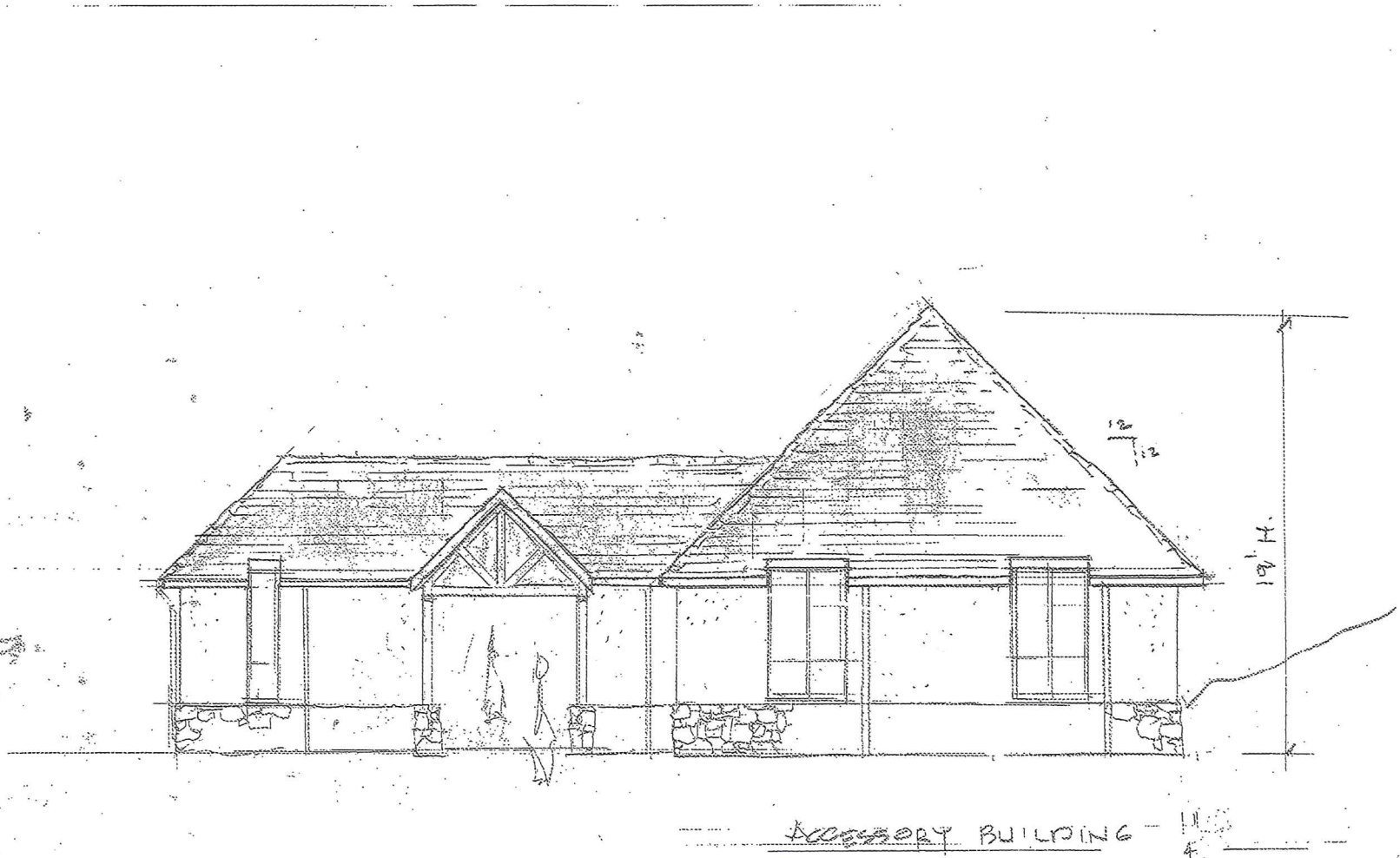
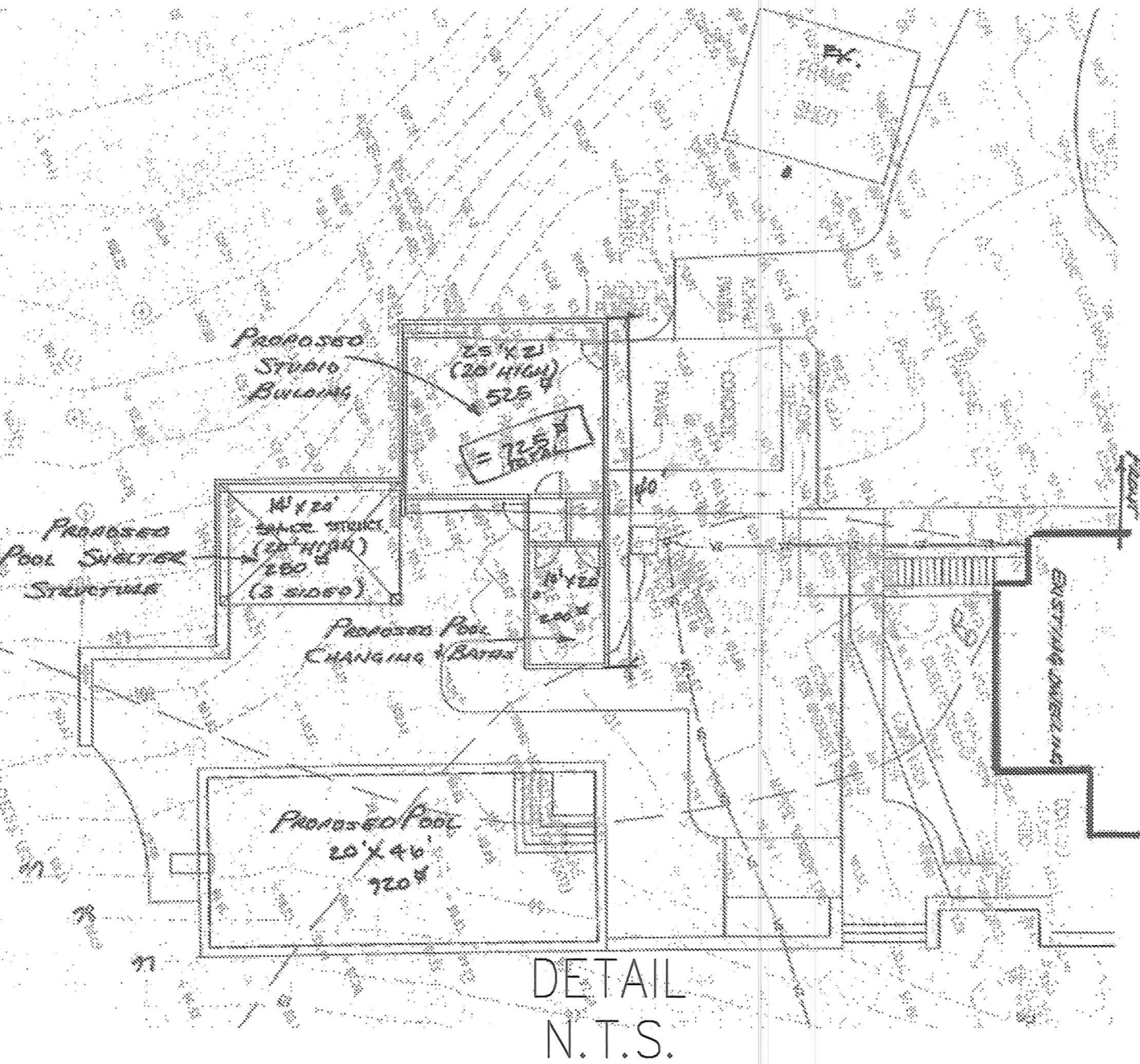
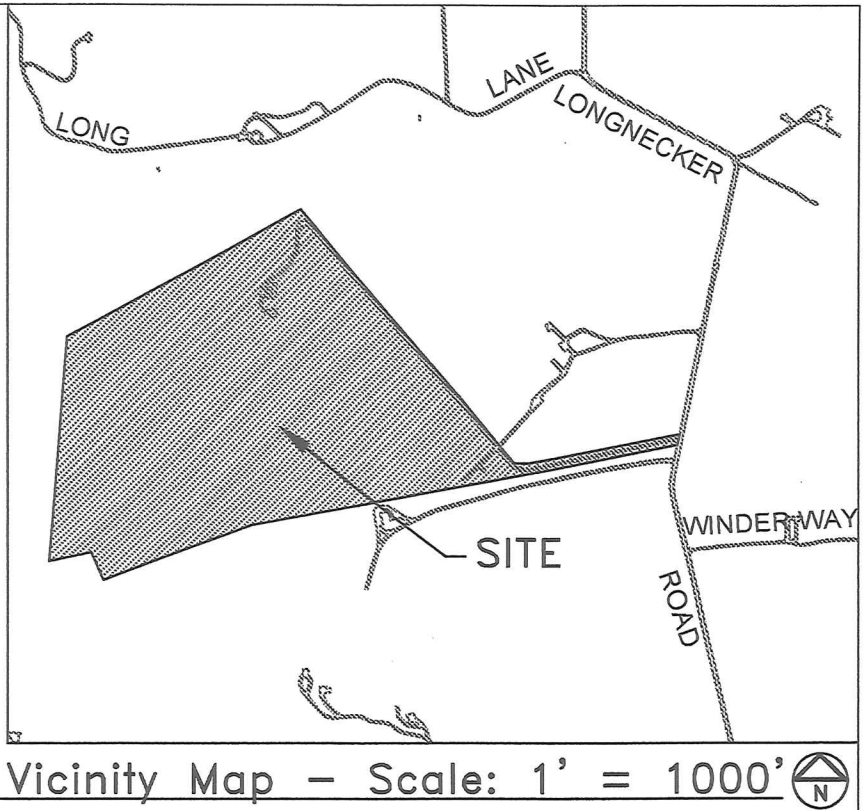
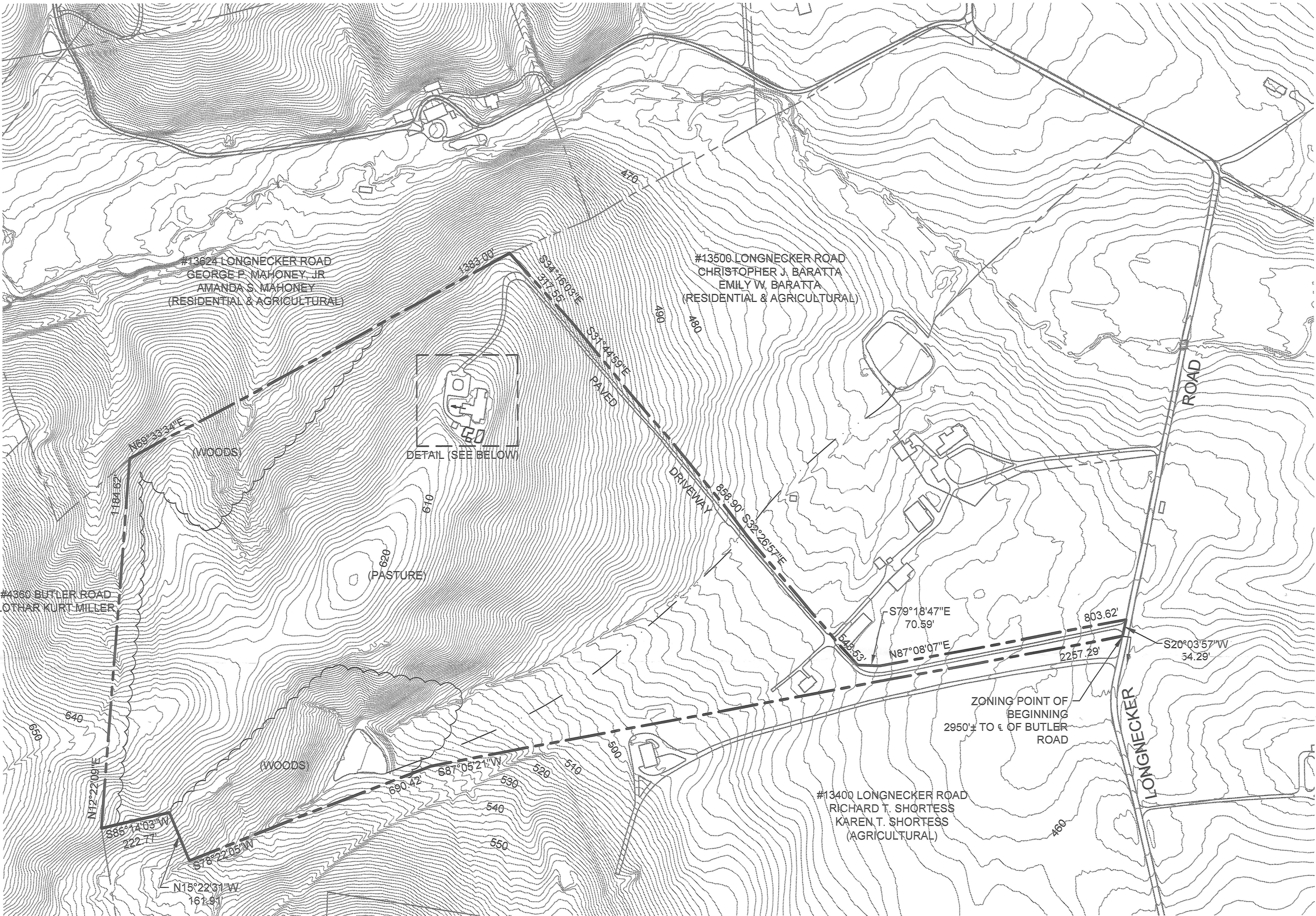
OFFICE OF PLANNING

Regional Planning District: Reisterstown/ Owings Mills District Code: 306

1. The subject dwelling is not historic. The subject property is located in the Worthington Valley National Register Historic District.

PROPOSED DEVELOPMENT

The construction of a pool and an accessory structure



ELEVATION



REVISION

PETITIONER'S

EXHIBIT NO. 1

Bruce E. Doak Consulting, LLC
Land Use Expert and Surveyor
3801 Baker Schoolhouse Road
Freeland, MD 21053
o 443-900-5595 m 410-419-4906
bdoak@bruceedoakconsulting.com

PLAN TO ACCOMPANY
A ZONING PETITION
FOR THE
SHORTLESS PROPERTY
#13414 LONGNECKER ROAD
BALTIMORE COUNTY, MARYLAND
4th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT



Date: 7/24/17
Scale: 1"=200'

Shortess Property- 13414 Longnecker Road



September 10, 2017

- Legend
- Red: Band_1
 - Green: Band_2
 - Blue: Band_3
 - House Numbers
 - Zoning History Cases
 - Zoning
 - Property
 - County Boundary

0 0.05 Miles
1 inch = 376 feet

PETITIONER' S

EXHIBIT NO. 2

GENERAL SITE INFORMATION

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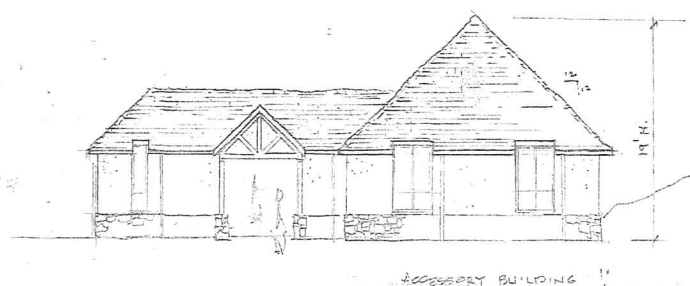
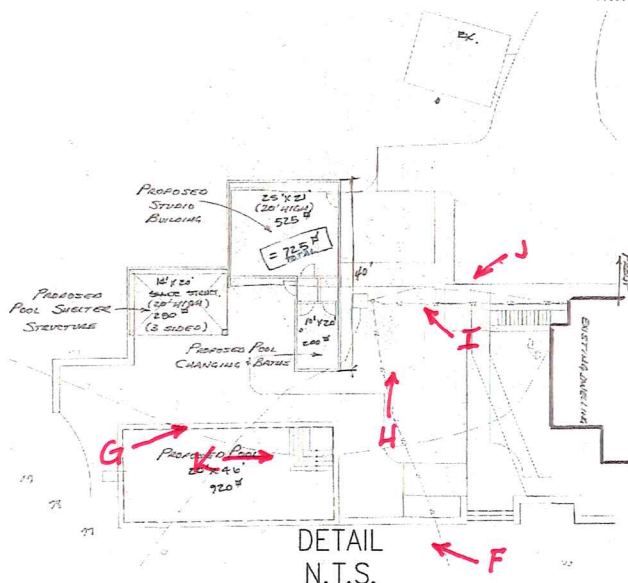
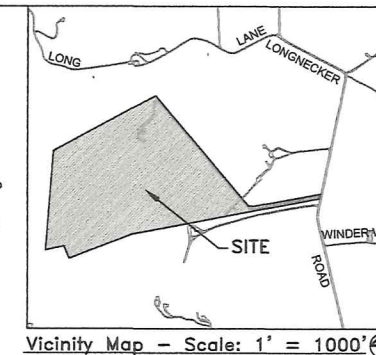
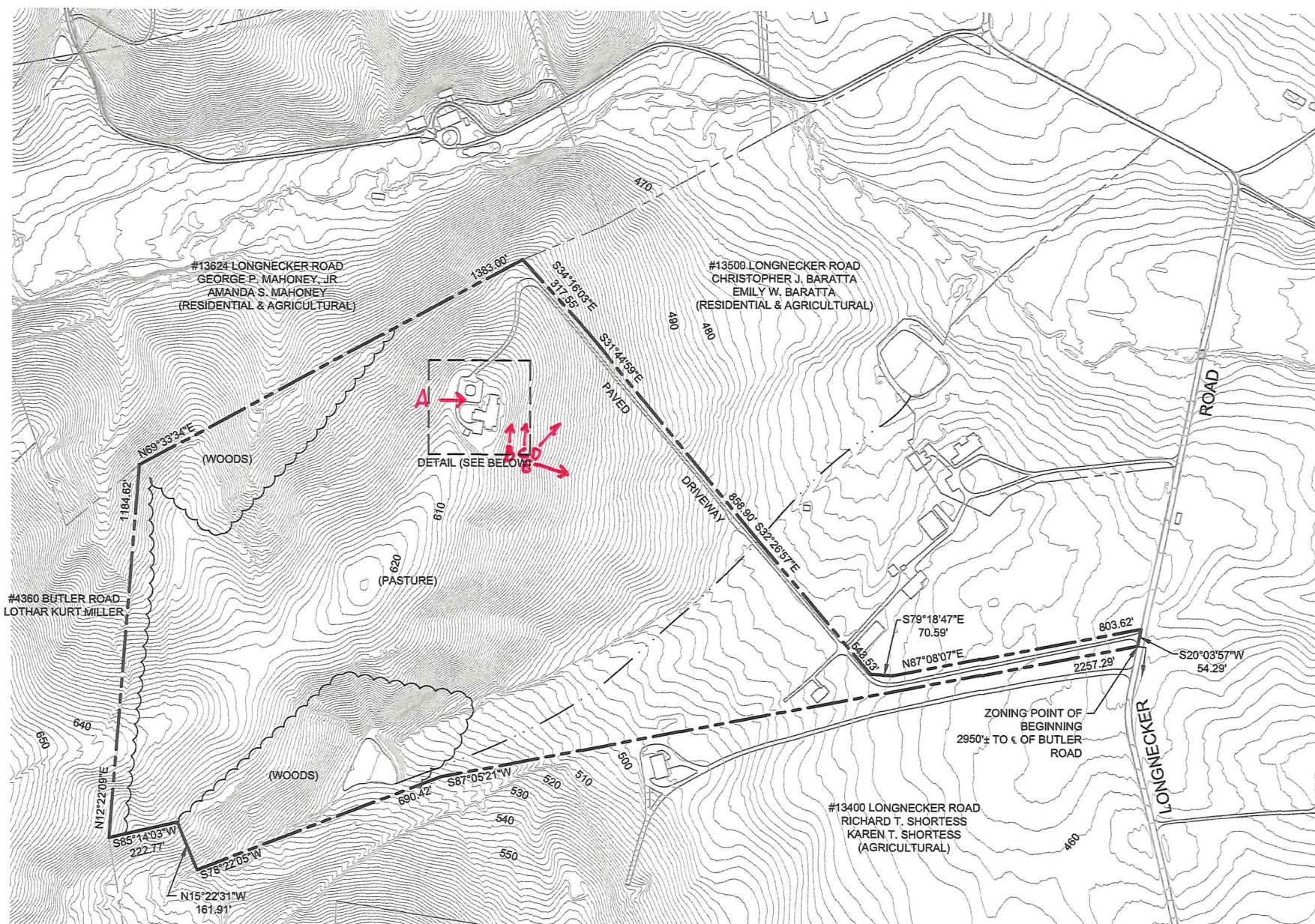
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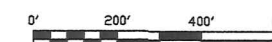
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ELEVATION

PLAN TO ACCOMPANY
PHOTOGRAPHS



REVISION

Bruce E. Doak Consulting, LLC
Land Use Expert and Surveyor
3801 Baker Schoolhouse Road
Fresenc, MD 21058
p 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

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EXHIBIT NO.

PHOTOS A-K

3