

M E M O R A N D U M

DATE: March 23, 2018
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2018-0137-SPHA – Appeal Period Expired

The appeal period for the above-referenced case expired on March 22, 2018. 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



KEVIN KAMENETZ
County Executive

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

February 20, 2018

Nick Nicholson
8015 Shore Road
Baltimore, Maryland 21222

RE: **Motion for Reconsideration**
Case No. 2018-0137-SPHA
Property: 10131 Bird River Road

Dear Mr. Nicholson:

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over the typed name.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: Ruth Rose, 10127 Bird River Road, Baltimore, Maryland 21220
Sandy Magsamen, 10132 Bird River Road, Baltimore, Maryland 21220

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(10131 Bird River Road)	*	OFFICE OF
15 th Election District		
6 th Council District	*	ADMINISTRATIVE HEARINGS
Advantage Homes, Inc.	*	FOR BALTIMORE COUNTY
Legal Owner		
	*	Case No. 2018-0137-SPHA
Petitioner		
* * * * *		

OPINION AND ORDER ON MOTION FOR RECONSIDERATION

Now pending is a Motion for Reconsideration filed by Petitioner. At issue is Condition No. 2 in the February 9, 2018 Order issue in the above matter, which required the razing of an accessory structure at the rear of the property at 10135 Bird River Road. Mr. Nicholson stated in the Motion that the structure will not be used as an accessory apartment or dwelling, but would be used as a garage/workshop for the new owner. Petitioner is amenable to a restriction prohibiting living quarters in that structure.

THEREFORE, IT IS ORDERED this 20th day of **February, 2018**, by this Administrative Law Judge, that the Motion for Reconsideration be and is hereby GRANTED.

IT IS FURTHER ORDERED that Condition No. 2 in the February 9, 2018 Order in the above case be stricken in its entirety. In its place, the following conditions will be included:

2. The accessory structure at the rear of 10135 Bird River Road shall not contain living quarters, kitchen facilities or a bathroom. The garage shall not be used for commercial purposes.
3. Prior to issuance of permits Petitioner must submit for approval by the DOP elevation drawings or renderings of the accessory structure, to ensure the exterior siding used on the garage will complement the design and materials used on the new dwelling proposed for the lot.

IT IS FURTHER ORDERED that all other terms and conditions in the February 9, 2018 Order in the above case shall continue in full force and effect.

ORDER RECEIVED FOR FILING

Date 2/20/18

By SEN

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 02/20/18
By slh

IN RE: PETITIONS FOR SPECIAL HEARING *
AND VARIANCE

(10131 Bird River Road) *
15th Election District *
6th Council District *

Advantage Homes, Inc. *
Legal Owner *

Petitioner

* * * * *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2018-0137-SPHA

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Advantage Homes, Inc., legal owners ("Petitioners"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("BCZR") to allow a proposed dwelling to be built on a property that is 15,246 sq. ft. in area with a 50 ft. lot width in lieu of the minimum required 20,000 sq. ft. with a lot width of 100 ft.

In addition, a petition for variance seeks to permit a proposed dwelling to have side setbacks of 10 ft. and 10 ft. (20 ft. combined) in lieu of the minimum required 40 ft. combined. A site plan was marked and accepted into evidence as Petitioner's Exhibit 1.

Nick Nicholson appeared in support of the requests. Two neighbors attended the hearing to obtain additional information in reference to the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning ("DOP"). That agency opposed the requests.

SPECIAL HEARING

I believe the special hearing requests were improperly filed in this case. Perhaps
Petitioner (as did the DOP) believes the special hearing requests would be encompassed by

ORDER RECEIVED FOR FILING

Date 2/9/18

By Del

B.C.Z.R. §304. However, that undersized lot regulation only addresses deficient lot width and/or area. B.C.Z.R. §304 is not applicable if yard variances are requested, as they are in this case. As such, all of the above requests should be considered under B.C.Z.R. §307.

VARIANCES

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

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The subject property is narrow and extremely deep (50' x 337') and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed dwelling. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare.

Sandy Magsamen, of the Bird River Road Neighborhood Association, attended the hearing and in an e-mail sent on February 7, 2018 she indicated her association met and does not oppose the variance requests. Even so, I share the DOP's concern regarding the accessory apartment structure situated on the adjacent lot (10135 Bird River Road), which is also owned by Petitioner. A condition will be included in the Order below requiring that structure to be razed, which will prevent the "over intensification" of the site, as noted in DOP's December 7, 2017 ZAC comment.

THEREFORE, IT IS ORDERED this 9th day of **February, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("BCZR") to allow a proposed dwelling to be built on a property that is 15,246 sq. ft. in area with a 50 ft. lot width in lieu of the minimum required 20,000 sq. ft. with a lot width

ORDER RECEIVED FOR FILING

Date 2/9/18
By Sen

of 100 ft., be and is hereby DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Petition for Variance to permit a proposed dwelling with side setbacks of 10 ft. and 10 ft. (20 ft. combined) in lieu of the minimum required 40 ft. combined, lot width of 50 ft. in lieu of the 100 ft. required, and lot area of 15,246 sq. ft. in lieu of 20,000 sq. ft. minimum lot size, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Prior to issuance of permits Petitioner must raze the accessory structure situated to the rear of the dwelling at 10135 Bird River Road.

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



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln

ORDER RECEIVED FOR FILING

Date 2/9/18

By sln



PETITION FOR ZONING HEARING(S)

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

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

Address 10131 Bird River Road which is presently zoned DR2
 Deed References: 39430 / 00297 10 Digit Tax Account # 1523501291
 Property Owner(s) Printed Name(s) ADVANTAGE HOMES INC.

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

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

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

To allow a proposed dwelling to be built on a property that is 15,246 square feet in area with a 50 feet lot width in lieu of the minimum required 20,000 square feet with a lot width of 100 feet.

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

3. ☒ **a Variance** from Section(s)

BCZR: 1b02.3.c.1 → To permit a proposed dwelling to have side setbacks of 10 feet and 10 feet (20 feet combined) in lieu of the minimum required 40 feet combined.

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

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

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

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

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

ADVANTAGE HOMES, INC.

Name #1 - Type or Print Name #2 - Type or Print

Signature #1

Signature #2

8015 Shore Road Baltimore MD

Mailing Address City State

21222 410-284-0004 Nick@advantagehomesmd.com

Zip Code Telephone # Email Address

Representative to be contacted:

Nick Nicholson

Name - Type or Print

Signature

SAME

Mailing Address City State

Zip Code Telephone # Email Address

CASE NUMBER 2018-0137-SP4A Filing Date 11 / 16 / 17

Do Not Schedule Dates: Reviewer JS

ZONING PETITION PROPERTY DESCRIPTION

Zoning Property Description for 10131 Bird River Road

Beginning at a point on the east side of Bird River Road which is twenty five feet wide, at a distance of 1250' NE of the centerline of Reames Road which is fifty feet wide. Thence following the following courses and distances:

S33 degrees 52' East 337 feet to a point, then N 9 degrees 42' East 72.41' to a point, then N 33 degrees 52' West 281.53' to a point, and then S 59 degrees 49' West 50' to the point of beginning. Containing 0.35 of an acre of land. Located in the Election District 15 and Council District 6.

2018-0137-SP4A

SCHEDULE A

Beginning for the same in the center of Bird River Road at the same distance of 172.75 feet South 53 degrees 28' West and 87.25 feet South 59 degrees 49' West from the end of the first line of the 5.845 acre tract of land which by Deed dated June 26, 1946 and recorded among the Land Records of Baltimore County in Liber RJS No. 1466, folio 505, was conveyed by Minnie Elder and husband to George D. Magsamen and wife and George S. Magsamen and wife, said point of beginning being at the western outline of the 0.5 acre tract of land heretofore conveyed by Magsamen to Withrow; and running thence binding on the center of Bird River Road South 33 degrees 52' East 337 feet to intersect the eastern outline of the whole tract of land of which the land now being described is a part; thence running with and binding on part of said outline North 9 degrees 42' East 72.40 feet to the western outline of the parcel of land outline as now surveyed North 33 degrees 52' West 281.53 feet to the place of beginning. Containing 0.35 of an acre, more or less.

Beginning for the same in the center of Bird River Road at the end of the second line of the 30/100 acre tract of land heretofore conveyed by Magsamen to Baker, running thence binding reversely on said line South 34 degrees 04' East 168-20/100 feet to the Eastern .. outline of the whole tract of land of which the land now being described is a part, thence running and binding on part of said outline South 9 degrees 30' West 145-10-100 feet, and thence running for a new division line North 34 degrees 04' West 273-33/100 feet from the centre of Bird River Road and thence running and binding on the centre of Bird River Road North 55 degrees 56' East 100 feet to the place of beginning. Containing 50/100 acres of land.

CERTIFICATE OF POSTING

CASE NO. 2018-0137-SPHA

PETITIONER/DEVELOPER

NICK NICHOLSON

ADVANTAGE HOMES INC.

DATE OF HEARING/CLOSING

2/1/18

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE
ATTENTION :

LADIES AND GENTLEMAN :

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) EQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

10131 BIRD RIVER RD

THIS SIGN(S) POSTED ON

January 12, 2018
(MONTH, DAY, YEAR)

SINCERELY,

Martin Ogle 1/12/18
SIGNATURE OF SIGN POSTER

MARTIN OGLE

9912 MAIDBROOK ROAD

PARKVILLE, MD. 21234

443-629-3411

ZONING NOTICE

CASE # 2018-0137-SPHA

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

PLACE: Room 205, Jefferson Building
105 W. Chesapeake Ave, Towson MD 21204

DATE AND TIME: THURSDAY, FEBRUARY 1, 2018 AT 10:00 A.M.

REQUEST: Special Hearing TO ALLOW A PROPOSED DWELLING
TO BE BUILT ON A PROPERTY THAT IS 15,246 SQ. FT. IN AREA
WITH A 50 FT. LOT WIDTH IN LIEU OF THE MINIMUM REQUIRED
20,000 SQ. FT. WITH A LOT WIDTH OF 100 FT. VARIANCE TO
PERMIT A PROPOSED DWELLING TO HAVE SIDE SETBACKS OF
10 FT. AND 10 FT. (20 FT. COMBINED) IN LIEU OF THE
MINIMUM REQUIRED 40 FT. COMBINED.

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

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

James G. 1/12/18



KEVIN KAMENETZ
County Executive

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

January 3, 2018

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2018-0137-SPHA

10131 Bird River Road

Se/s of Bird River Road, 1250 ft. NE of centerline of Reames Road

15th Election District – 6th Councilmanic District

Legal Owners: Advantage Homes, Inc.

Special Hearing to allow a proposed dwelling to be built on a property that is 15,246 sq. ft. in area with a 50 ft. lot width in lieu of the minimum required 20,000 sq. ft. with a lot width of 100 ft. Variance to permit a proposed dwelling to have side setbacks of 10 ft. and 10 ft. (20 ft. combined) in lieu of the minimum required 40 ft. combined.

Hearing: Thursday, February 1, 2018 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Nick Nicholson, Advantage Homes, Inc., 8015 Shore Road, Baltimore 21222

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, JANUARY 12, 2018.**
- (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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, January 11, 2018 Issue - Jeffersonian

Please forward billing to:
Nick Nicholson
Advantage Homes, Inc.
8015 Shore Road
Baltimore, MD 21222

410-284-0004

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2018-0137-SPHA

10131 Bird River Road

Se/s of Bird River Road, 1250 ft. NE of centerline of Reames Road

15th Election District – 6th Councilmanic District

Legal Owners: Advantage Homes, Inc.

Special Hearing to allow a proposed dwelling to be built on a property that is 15,246 sq. ft. in area with a 50 ft. lot width in lieu of the minimum required 20,000 sq. ft. with a lot width of 100 ft. Variance to permit a proposed dwelling to have side setbacks of 10 ft. and 10 ft. (20 ft. combined) in lieu of the minimum required 40 ft. combined.

Hearing: Thursday, February 1, 2018 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 ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
AND VARIANCE * OF ADMINISTRATIVE
10131 Bird River Road; SE/S Bird River Road,*
250' NE of the c/line of Reames Road *
15th Election & 6th Councilmanic Districts * HEARINGS FOR
Legal Owner(s): Advantage Homes, Inc *
by Robert A. Nicholson * BALTIMORE COUNTY
Petitioner(s) *
2018-137-SPHA

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

NOV 21 2017

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 2017, a copy of the foregoing Entry of Appearance was mailed to Nick Nicholson, 8015 Shore Road, Baltimore, Maryland 21222, 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/neighbor 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: 2018-0137-SPHA
Property Address: 10131 BIRD RIVER ROAD
Property Description: _____
Legal Owners (Petitioners): ADVANTAGE HOMES
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Nick Nicholson
Company/Firm (if applicable): ADVANTAGE HOMES
Address: 8015 Shore Road
BALTIMORE MD 21222
Telephone Number: 410-284-0004

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

N2 160536

Date: 11/16/17

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept Obj	BS Acct	Amount
				Source/	Rev/			
001	206	0000		610				\$ 150.00

Total: \$ 150.00

Rec From: ADVANTAGE HOMES INC.

For: 2018-0137 SP-A

DISTRIBUTION

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

PAID RECEIPT

BUSINESS ACTUAL TIME DAY
 11/17/2017 11/16/2017 11:05:16 2
 REG 0502 - WALTON JEE
 >>RECEIPT # 035520 11/16/2017 OFLN
 Dept 5 528 ZONING VERIFICATION
 CR NO. 160536
 Recpt Tot \$150.00
 \$150.00 CK \$.00 CA
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**



KEVIN KAMENETZ
County Executive

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

January 29, 2018

Advantage Homes, Inc.
Robert A Nicholson
8015 Shore Road
Baltimore MD 21222

RE: Case Number: 2018-0137 SPHA, Address: 10131 Bird River Road

Dear Mr. Nicholson:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on November 16, 2017. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours, .

A handwritten signature in black ink, reading "W. Carl Richards, Jr." The signature is written in a cursive style with a large, stylized "J" at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel

Date: 11/21/17

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. 2018-0137-SHA.

*Special Hearing, Variance
Advantage Homes, Inc. Robert A. Nicholson
10131 Bird River 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 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: November 29, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0137-SPHA
Address 10131 Bird River Road
(Advantage Homes, Inc. Property)

Zoning Advisory Committee Meeting of **November 27, 2017.**

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

Reviewer: Steve Ford

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 12/7/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 18-137



INFORMATION:

Property Address: 10131 Bird River Road
Petitioner: Advantage Homes, Inc.
Zoning: DR 2
Requested Action: Special Hearing, Variance

The Department of Planning has reviewed the petition for special hearing to determine whether or not the Administrative Law Judge should approve a proposed dwelling to be built on a property that is 15,246 square feet in area with a 50 feet lot width in lieu of the minimum required 20,000 square feet with a lot width of 100 feet. The Department also reviewed the petition for variance to permit a proposed dwelling to have side setbacks of 10 feet and 10 feet (20 feet combined) in lieu of the minimum required 40 feet combined.

A site visit was conducted on November 29, 2017.

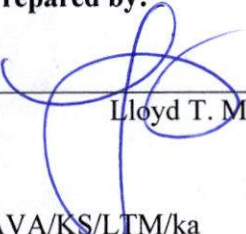
The Department opposes granting the petitioned zoning relief.

- The Department holds that BCZR § 304.1 is the appropriate context within which to consider this case. That notwithstanding, whether applicable or not, the protections the regulations offer the community remain valid. The petitioners must demonstrate to the satisfaction of the Administrative Law Judge how this proposal meet the requirements of BCZR § 304.1.
- The majority established pattern of residential development on this part of Bird River Road in the vicinity of the subject property is of single family dwellings situated on larger lots. Though not shown on the site plan, field inspection reveals that the subject site currently follows that pattern. 10135 Bird River Road currently supports an existing single family dwelling and also a detached accessory apartment located at the rear of same. The two parcels, held under common ownership having a total area of 0.75 acres more or less, when considered in aggregate yield an available D.R.2 density of 1.5 dwellings or in practice a single dwelling. Establishing a third residence on the combined parcels through this zoning petition is contrary to the goals set by the County Council when establishing the D.R. 2 zone and will not integrate well into the surrounding neighborhood as proposed. The Department recognizes several improved lots to the south of the site having a lot width less than what is required but advises that these lots were improved at the time of or well before Council Bill No. 100-1970 established the D.R. 2 zone class with its minimum 100' lot width. The existence of those lots does not justify the approval of the instant case nor do they mitigate in any way the over intensification of the current and proposed use of the subject site.

Date: 12/7/2017
Subject: ZAC # 18-137
Page 2

For further information concerning the matters stated herein, please contact Lloyd T. Moxley at 410-887-3480.

Prepared by:



Lloyd T. Moxley

AVA/KS/LTM/ka

c: Ngone Seye Diop
Nick Nicholson
Office of the Administrative Hearings
People's Counsel for Baltimore County

Deputy Director:



Jeff Mayhew

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

FROM: *MD*
Vishnu Desai, Supervisor
Bureau of Development Plans Review

DATE: December 12, 2017

SUBJECT: Zoning Advisory Committee Meeting
For November 27, 2017
Item No. 2018-0132-A, 0133-X, 0135-A, 0136-A, 0137-SPHA

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

* * * * *

VKD: efc
cc: file

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: 18-137

DATE: 12/7/2017

INFORMATION:

Property Address: 10131 Bird River Road
Petitioner: Advantage Homes, Inc.
Zoning: DR 2
Requested Action: Special Hearing, Variance

The Department of Planning has reviewed the petition for special hearing to determine whether or not the Administrative Law Judge should approve a proposed dwelling to be built on a property that is 15,246 square feet in area with a 50 feet lot width in lieu of the minimum required 20,000 square feet with a lot width of 100 feet. The Department also reviewed the petition for variance to permit a proposed dwelling to have side setbacks of 10 feet and 10 feet (20 feet combined) in lieu of the minimum required 40 feet combined.

A site visit was conducted on November 29, 2017.

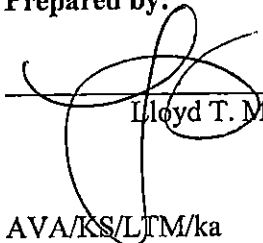
The Department opposes granting the petitioned zoning relief.

- The Department holds that BCZR § 304.1 is the appropriate context within which to consider this case. That notwithstanding, whether applicable or not, the protections the regulations offer the community remain valid. The petitioners must demonstrate to the satisfaction of the Administrative Law Judge how this proposal meet the requirements of BCZR § 304.1.
- The majority established pattern of residential development on this part of Bird River Road in the vicinity of the subject property is of single family dwellings situated on larger lots. Though not shown on the site plan, field inspection reveals that the subject site currently follows that pattern. 10135 Bird River Road currently supports an existing single family dwelling and also a detached accessory apartment located at the rear of same. The two parcels, held under common ownership having a total area of 0.75 acres more or less, when considered in aggregate yield an available D.R.2 density of 1.5 dwellings or in practice a single dwelling. Establishing a third residence on the combined parcels through this zoning petition is contrary to the goals set by the County Council when establishing the D.R. 2 zone and will not integrate well into the surrounding neighborhood as proposed. The Department recognizes several improved lots to the south of the site having a lot width less than what is required but advises that these lots were improved at the time of or well before Council Bill No. 100-1970 established the D.R. 2 zone class with its minimum 100' lot width. The existence of those lots does not justify the approval of the instant case nor do they mitigate in any way the over intensification of the current and proposed use of the subject site.

Date: 12/7/2017
Subject: ZAC # 18-137
Page 2

For further information concerning the matters stated herein, please contact Lloyd T. Moxley at 410-887-3480.

Prepared by:

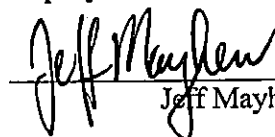


Lloyd T. Moxley

AVA/KS/LTM/ka

c: Ngone Seye Diop
Nick Nicholson
Office of the Administrative Hearings
People's Counsel for Baltimore County

Deputy Director:



Jeff Mayhew

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: November 29, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0137-SPHA
Address 10131 Bird River Road
(Advantage Homes, Inc. Property)

Zoning Advisory Committee Meeting of **November 27, 2017**.

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

Reviewer: Steve Ford



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 5385776

Sold To:

Advantage Homes, Inc - CU00634220
8015 Shore Rd
Dundalk, MD 21222-4737

Bill To:

Advantage Homes, Inc - CU00634220
8015 Shore Rd
Dundalk, MD 21222-4737

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

Jan 11, 2018

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: # 2018-0137-SPHA
10131 Bird River Road
Se/S of Bird River Road, 250 ft. NE of centerline of Reames Road
15th Election District - 6th Councilmanic District
Legal Owner(s) Advantage Homes, Inc.

Special Hearing: to allow a proposed dwelling to be built on a property that is 15,246 sq. ft. in area with a 50 ft. lot width in lieu of the minimum required 20,000 sq ft. with a lot width of 100 ft.

Variance to permit a proposed dwelling to have side setbacks of 10 ft. and 10 ft. (20 ft. combined) in lieu of the minimum required 40 ft. combined.

Hearing: Thursday, February 1, 2018 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.

1/037 January 11 5385776

The Baltimore Sun Media Group

By *S. Wilkinson*
Legal Advertising

Case No.: 2018-0137-SHA

Exhibit Sheet

Petitioner/Developer

PW
3-23-18

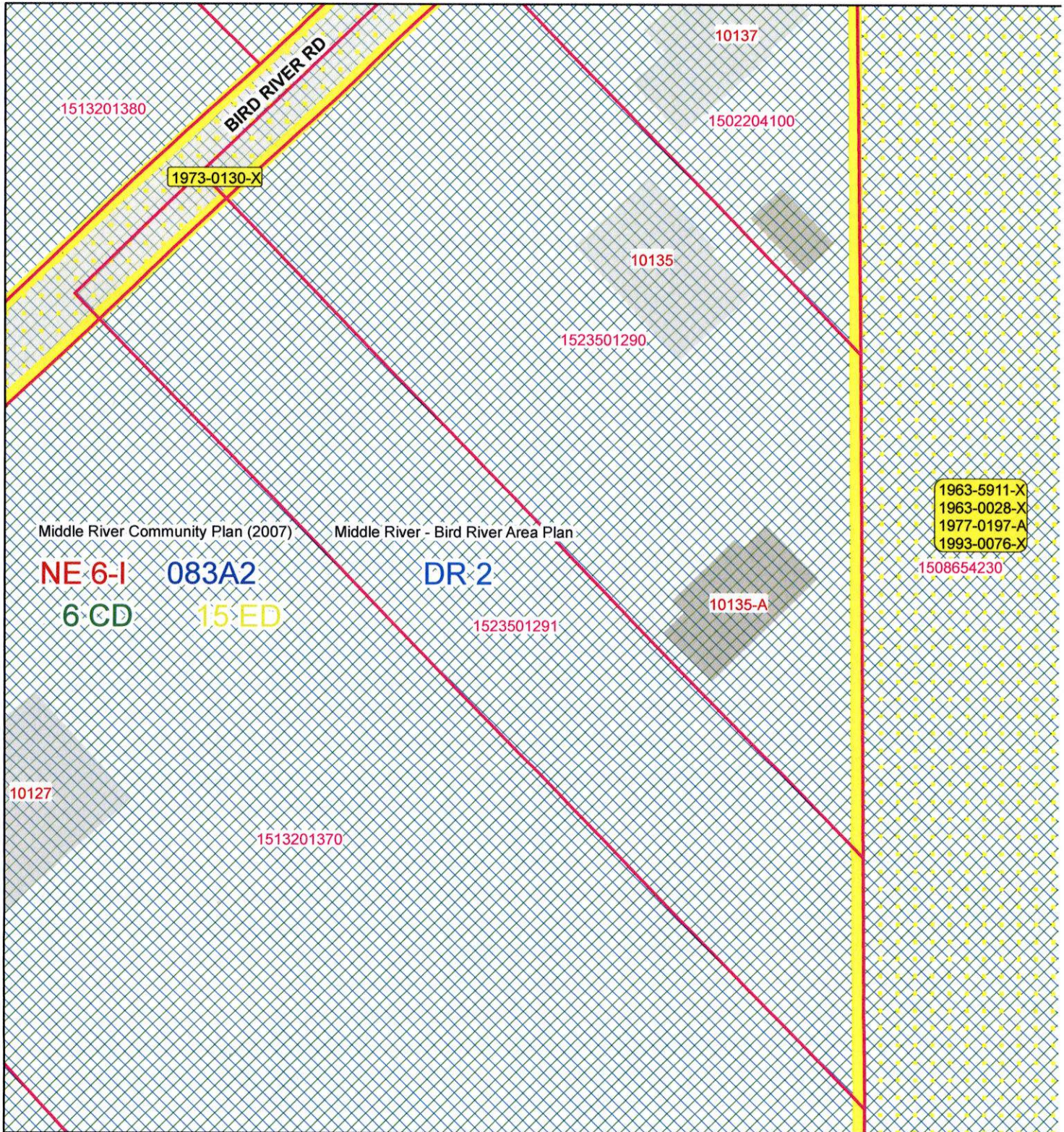
Protestant

SLW
2-9-18

No. 1	Plan	
No. 2	Zoning map w/ lot widths	
No. 3	My Neighborhood Map	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Enter Property Address Here

10131 BIRD RIVER ROAD



Publication Date: 10/31/2017



Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 10 20 40 60 80 Feet

1 inch = 40 feet

2018-0137-SP4A

Search Result for BALTIMORE COUNTY

2018-0137-SPHA

CASE NAME

CASE NUMBER 2018-0137-SPHA

DATE 2-1-18

CITIZEN'S SIGN - IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

John E. Beverungen

From: Sandra Magsamen <smagsamen20@gmail.com>
Sent: Wednesday, February 07, 2018 2:50 PM
To: John E. Beverungen
Subject: Re: Case No. 2018-137-SPHA

Judge Beverungen,

Thank you for giving us this opportunity to voice our concerns regarding Case No. 2018-137-SPHA. Mr. Nicholson just meet with Ruth and Russell Rose and me so Mr. Rose could discuss the adjacent property as he is unable to get out to attend meetings. Our community organization (Bird River Road Neighborhood Association) was in agreement with the Roses decision and so we are pleased to say there are no concerns from any of us about the variance and plans for 10131 and 10135 Bird River Road.

We appreciate your time and the cooperation from your office.

Sandra Magsamen
10132 Bird River Road

On Thu, Feb 1, 2018 at 11:21 AM, John E. Beverungen <jbeverungen@baltimorecountymd.gov> wrote:

As discussed at today's hearing, please provide me within the next week an update on your discussions concerning the above-captioned case. Ms. Magsamen indicated her neighborhood association was meeting tonight, so please also let me know if a vote is taken to support/oppose the zoning requests.

Thank you.

John Beverungen

ALJ



CONNECT WITH BALTIMORE COUNTY



www.baltimorecountymd.gov

John E. Beverungen

From: John E. Beverungen
Sent: Thursday, February 01, 2018 11:21 AM
To: 'nick@advantagehomesmd.com'; 'smagsamen20@gmail.com'
Cc: Sherry Nuffer (snuffer@baltimorecountymd.gov)
Subject: Case No. 2018-137-SPHA

As discussed at today's hearing, please provide me within the next week an update on your discussions concerning the above-captioned case. Ms. Magsamen indicated her neighborhood association was meeting tonight, so please also let me know if a vote is taken to support/oppose the zoning requests.

Thank you.

John Beverungen
ALJ

SECTION 304: Use of Undersized Single-Family Lots

[BCZR 1955; Bill No. 47-1992]

§ 304.1 Types of dwellings allowed; conditions.

[Bill Nos. 64-1999; 28-2001]

Except as provided in Section 4A03, a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;
- B. All other requirements of the height and area regulations are complied with; and
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

§ 304.2 Building permit application.

[Bill Nos. 122-2010; 55-2011]

- A. Any person desiring to erect a dwelling pursuant to the provisions of this section shall file with the Department of Permits, Approvals and Inspections, at the time of application for a building permit, plans sufficient to allow the Department of Planning to prepare the guidelines provided in Subsection B below. Elevation drawings may be required in addition to plans and drawings otherwise required to be submitted as part of the application for a building permit. Photographs representative of the neighborhood where the lot or tract is situated may be required by the Department of Planning in order to determine appropriateness of the proposed new building in relation to existing structures in the neighborhood.
- B. At the time of application for the building permit, as provided above, the Director of Permits, Approvals and Inspections shall request comments from the Director of the Department of Planning (the "Director"). Within 15 days of receipt of a request from the Director of Permits, Approvals and Inspections, the Director shall provide to the Department of Permits, Approvals and Inspections written recommendations concerning the application with regard to the following:
 - 1. Site design. New buildings shall be appropriate in the context of the neighborhood in which they are proposed to be located. Appropriateness shall be evaluated on the basis of new building size, lot coverage, building orientation and location on the lot or tract.
 - 2. Architectural design. Appropriateness shall be evaluated based upon one or more of these architectural design elements or aspects:
 - a. Height.
 - b. Bulk or massing.
 - c. Major divisions, or architectural rhythm, of facades.
 - d. Proportions of openings such as windows and doors in relation to walls.
 - e. Roof design and treatment.
 - f. Materials and colors, and other aspects of facade texture or appearance.

CHECKLIST

<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>11/29</u>	DEPS (if not received, date e-mail sent _____)	<u>no comment</u>
_____	FIRE DEPARTMENT	_____
<u>12/7</u>	PLANNING (if not received, date e-mail sent _____)	<u>opposed comment</u>
<u>11/21</u>	STATE HIGHWAY ADMINISTRATION	<u>no objection</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION (Case No. _____)		
PRIOR ZONING (Case No. _____)		
NEWSPAPER ADVERTISEMENT	Date: <u>1/11/18</u>	
SIGN POSTING	Date: <u>1/12/18</u>	by <u>OGF</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 - 15 Account Number - 1523501291							
Owner Information										
Owner Name:		ADVANTAGE HOMES INCORPORATED				Use:		RESIDENTIAL		
Mailing Address:		8015 SHORE RD BALTIMORE MD 21222-				Principal Residence:		NO		
						Deed Reference:		/39430/ 00297		
Location & Structure Information										
Premises Address:		BIRD RIVER RD MIDDLE RIVER 21220-				Legal Description:		.35 AC SS BIRD RIVER RD 1250 NE REAMES RD		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No: Plat Ref:	
0083	0013	0156		0000				2018		
Special Tax Areas:				Town:		NONE				
				Ad Valorem:						
				Tax Class:						
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use		
						15,246 SF		04		
Stories	Basement	Type	Exterior	Full/Half Bath		Garage	Last Major Renovation			
Value Information										
			Base Value		Value		Phase-in Assessments			
					As of 01/01/2018		As of 07/01/2017		As of 07/01/2018	
Land:			3,800		3,800					
Improvements			0		0					
Total:			3,800		3,800		3,800		3,800	
Preferential Land:			0						0	
Transfer Information										
Seller: THE BANK OF NEW YORK MELLON TRUSTEE				Date: 09/22/2017				Price: \$95,000		
Type: NON-ARMS LENGTH OTHER				Deed1: /39430/ 00297				Deed2:		
Seller: LEDDON LIZETTE				Date: 12/01/2016				Price: \$184,000		
Type: NON-ARMS LENGTH OTHER				Deed1: /38339/ 00009				Deed2:		
Seller: RODREGUEZ WILFREDO				Date: 11/20/2006				Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /24792/ 00109				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:						
Exempt Class:				NONE						
Homestead Application Information										
Homestead Application Status: No Application										

Debra Wiley

*Council
woman
Bevins
Office*

From: James Almon
Sent: Monday, January 29, 2018 11:35 AM
To: Debra Wiley
Subject: RE: Case No. 2018-0137-SPHA - 10131 Bird River Road

Debra,

This is great, thank you so much for help with this I really appreciate it.

Jim Almon

-----Original Message-----

From: Debra Wiley
Sent: Monday, January 29, 2018 11:31 AM
To: James Almon <jaalmon@baltimorecountymd.gov>
Subject: Case No. 2018-0137-SPHA - 10131 Bird River Road

Jim.

Per our telephone conversation, please find attached information pertaining the above-referenced hearing scheduled for Feb. 1st.

Let me know if I can be of any further assistance.

-----Original Message-----

From: adminhearingscpr@baltimorecountymd.gov [mailto:adminhearingscpr@baltimorecountymd.gov]
Sent: Monday, January 29, 2018 11:44 AM
To: Debra Wiley <dwiley@baltimorecountymd.gov>
Subject: Admin Hearings Copier

This E-mail was sent from "RNP002673903BB1" (MP 3054).

Scan Date: 01.29.2018 11:44:05 (-0500)
Queries to: adminhearingscpr@baltimorecountymd.gov

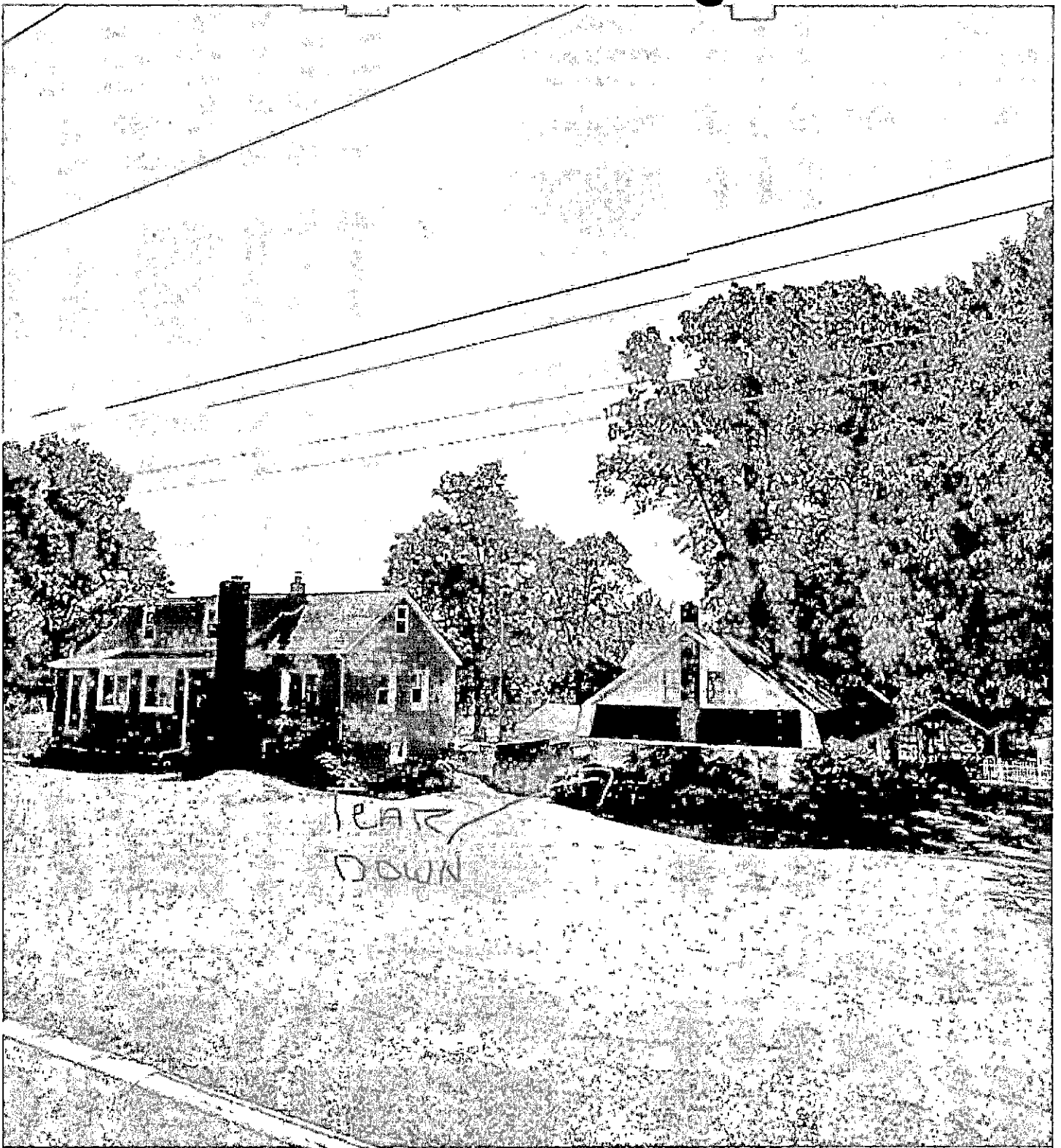
John E. Beverungen

From: Nick Nicholson <nick@advantagehomesmd.com>
Sent: Tuesday, February 13, 2018 2:16 PM
To: John E. Beverungen
Subject: 10131 Bird River Road

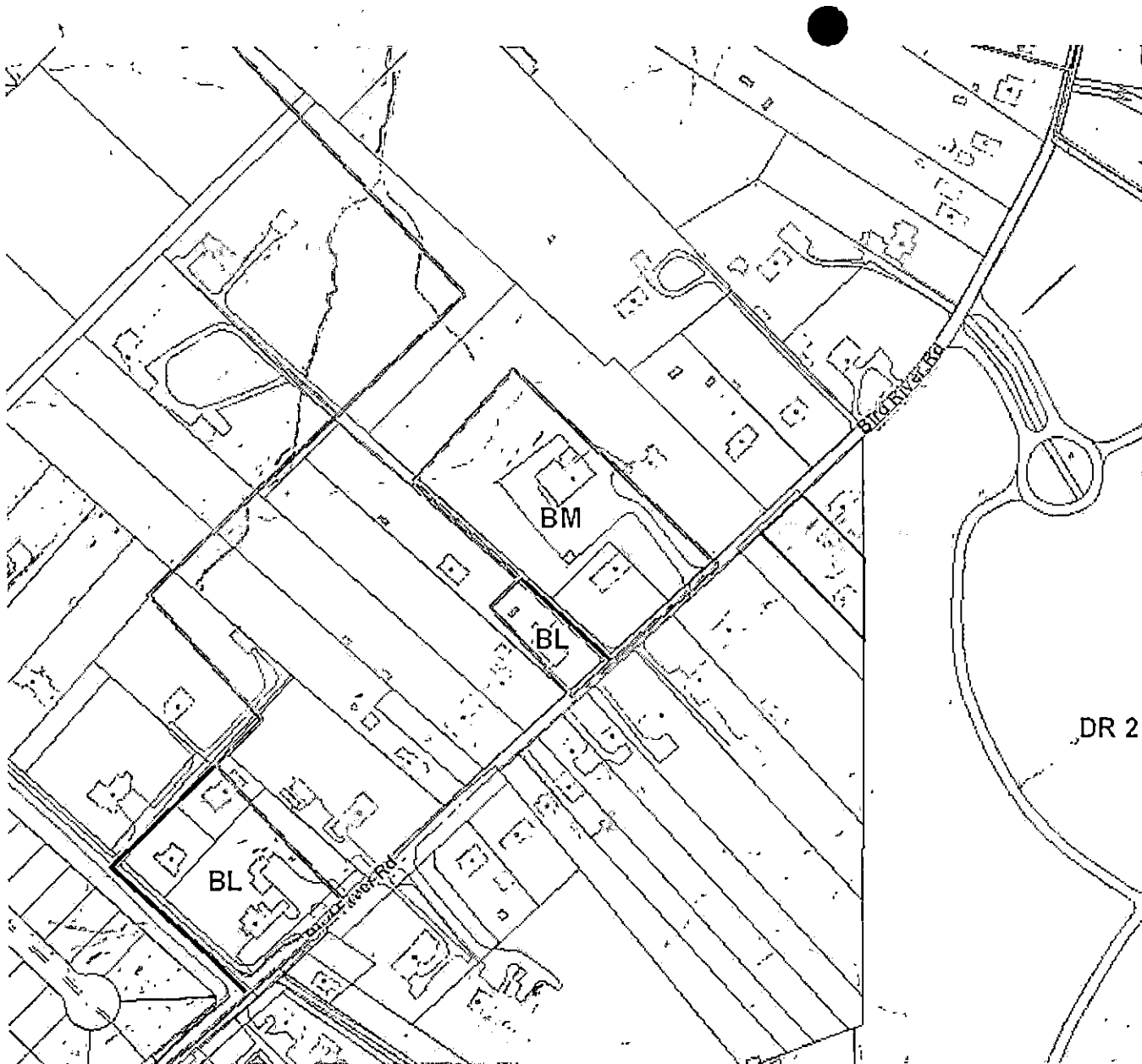
Judge Beverungen,

I received your decision yesterday and believe there are things that require clarification for you. The Accessory structure shown on the site plan at the rear of 10135 Bird River Road is actually a garage – workshop with an area above that may have been used as an efficiency apartment or possibly a home office. There is no way for me to know what it may have been used for. It is one open room with a bathroom. The primary use of this structure is a garage-workshop. Looking closely at how it is structured, it appears that when it was built long ago it may have even been a barn with a loft.

Here is a Google Earth street view. The pool and fencing have already been torn out by the bank, but if you look closely you will see the garage bay door directly in the center of the first floor. That is a substantial garage – workshop.



I currently have a gentleman interested in the property who will be spending over \$475,000 for a new home that also has a separate garage –workshop, as he owns 3 classic Corvettes and needs storage for the cars. This structure would cost over \$40,000 to replace and there is no restriction on having a separate garage on a property. To tear it down and then get a permit to build him another garage – workshop seems to make no common sense. There is also no possibility that he would be renting living space out above his very expensive car collection. Would it be possible for you to merely require that the cooking facilities are removed from the building and / or that a non-conversion agreement be recorded?



This is a current view from Baltimore County's GIS. You will note that there are many freestanding garage or storage buildings all up and down Bird River Road.

Lastly, I took time to speak with Mrs. Magsamen and Mrs. Rose today to see if there were any objections to the garage being there. Both of them indicated that they were ok with it, but that they wanted something done with how it looks. I assured them that we were going to redo the exterior siding to match the siding on the new home we will build, as well as new gutters, downspouts, roofing, garage door, etc. The building will get a good cleaning up and a facelift inside and out, but no changes to the structure, size, of the structure, etc. would be made.

I would ask that you reconsider the razing and apply restrictions to prohibit the use of the structure as living space.

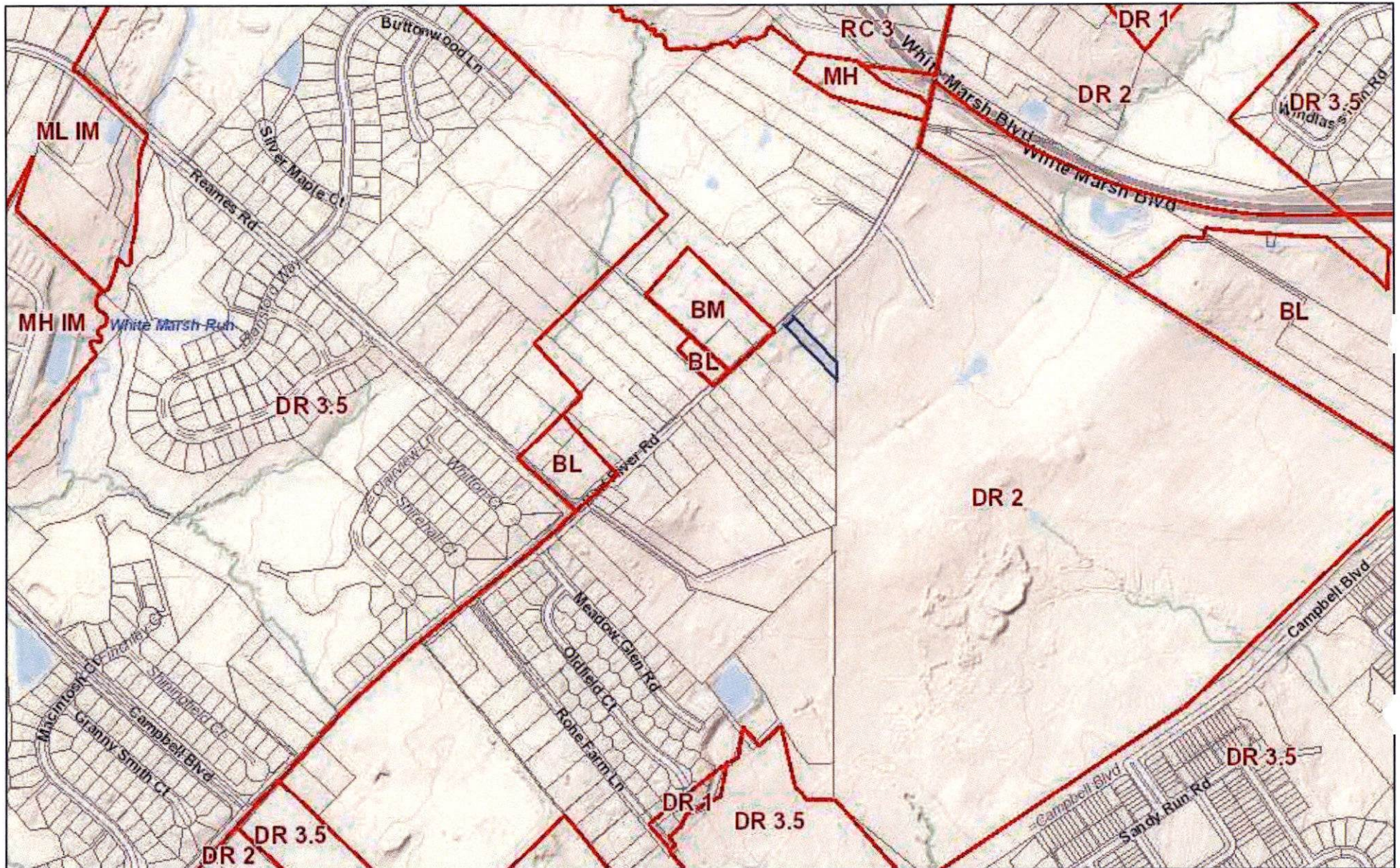
Thank you,

Nick Nicholson



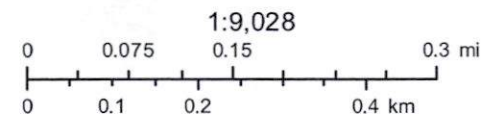
Robert A. Nicholson, Jr.
President
Advantage Homes, Inc.
8015 Shore Road
Baltimore, MD 21222
Office: 410-284-0004
Fax: 410-284-0004
www.advantagehomesmd.com

Baltimore County - My Neighborhood



January 4, 2018

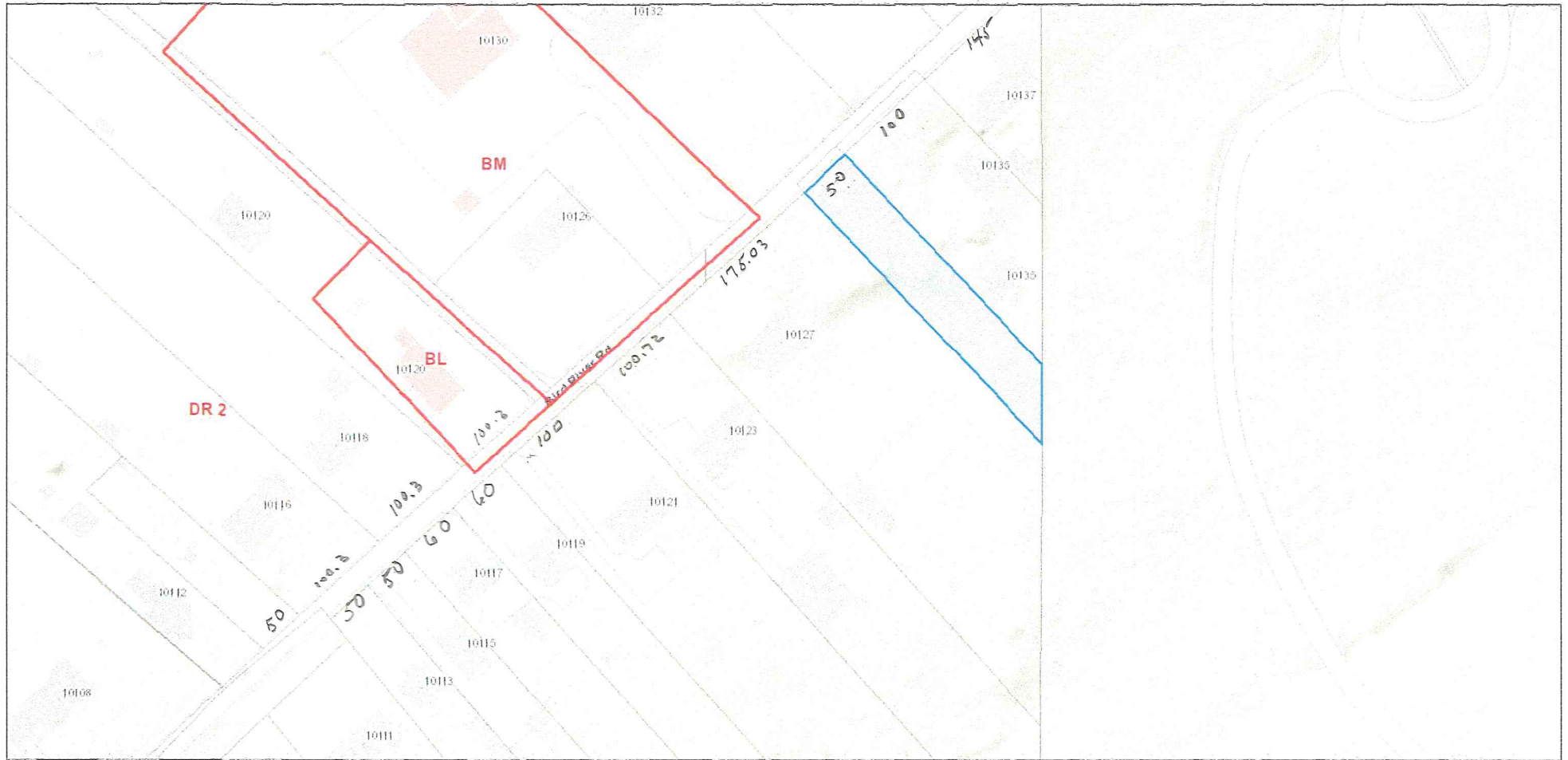
- Zoning
- Property
- County Boundary



Pet. No. 3

Baltimore County GIS - Web Application

Baltimore County - My Neighborhood



January 4, 2018

- House Numbers
- Zoning
- Property
- County Boundary

1:1,377
0 0.015 0.03 0.06 mi
0 0.025 0.05 0.1 km

Baltimore County GIS - Web Application

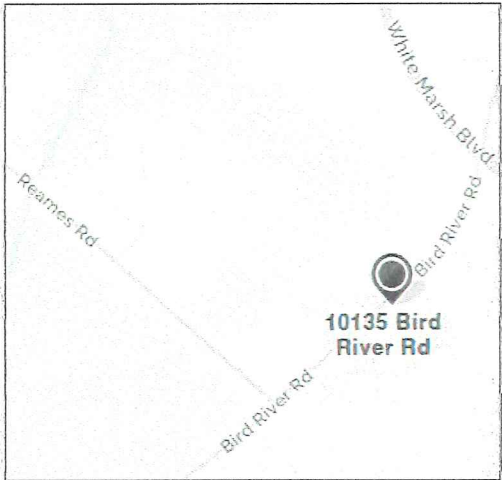
Pet. No. 2

ZONING HEARING PLAN FOR VARIANCE

ADDRESS: 10131 BIRD RIVER ROAD
DEED REFERENCE: 39430/00297
TAX MAP 83 PARCEL 156

OWNER: ADVANTAGE HOMES
TAX ACCOUNT: 1523501291

SITE VICINITY MAP



NTS. Pin Dropped on Adjacent Address.

BIRD RIVER ROAD



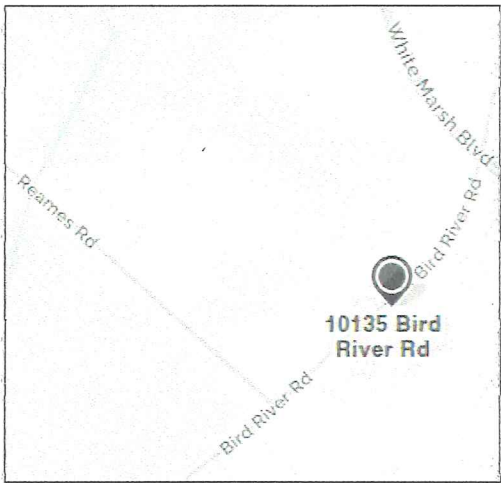
2018-0137-SP4A

Scale: 1" = 50'	Historic: NO
Drawn By: RAN	In CBCA: NO
Date: 11/3/2017	In Flood Plain: NO
Zoning Map #083A2	Public Water
Zoning: DR 2	Public Sewer
Election District: 15	Prior Hearing: NO
Council District: 6	
Lot Area Acreage: .35	
Lot Area Square Feet: 15,246	

ZONING HEARING PLAN FOR VARIANCE

ADDRESS: 10131 BIRD RIVER ROAD OWNER: ADVANTAGE HOMES
DEED REFERENCE: 39430/00297 TAX ACCOUNT: 1523501291
TAX MAP 83 PARCEL 156

SITE VICINITY MAP



NTS. Pin Dropped on Adjacent Address.

BIRD RIVER ROAD



2018-0137-SPHA

Scale: 1" = 50'	Historic: NO
Drawn By: RAN	In CBCA: NO
Date: 11 / 3 / 2017	In Flood Plain: NO
Zoning Map #083A2	Public Water
Zoning: DR 2	Public Sewer
Election District: 15	Prior Hearing: NO
Council District: 6	
Lot Area Acreage: .35	
Lot Area Square Feet: 15,246	

Pet. No. 1