

M E M O R A N D U M

DATE: February 11, 2020
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2019-0511-SPH - Appeal Period Expired

The appeal period for the above-referenced case expired on February 10, 2020. 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.'

/dlw

c: ✓ Case File
Office of Administrative Hearings

Miscellaneous Note Form

Miscellaneous Note

ALJ Mayhew AMENDED ORDER on January 10, 2020 to correctly reflect ONLY the month of Order (should have been January, 2020 --- not December, 2020).

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1848 Circle Road)		
9 th Election District	*	OFFICE OF
2 nd Council District		
Gregory Milligan, Appointed Receiver	*	ADMINISTRATIVE HEARINGS
For Kevin B. Merrill		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2019-0511-SPH

* * * * *

AMENDED OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Gregory Milligan, Appointed Receiver for Kevin B. Merrill, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to modify the conditions imposed in Case Number 2016-0223-A to permit an existing bathroom and a half to remain in the existing pole barn/garage structure. A site plan was marked and admitted as Petitioner’s Exhibit 1.

Gregory Milligan appeared in support of the petition. Adam M. Rosenblatt, Esq. represented Petitioner. John B. Gontrum, Esq. appeared on behalf of the Ruxton-Riderwood-Lake Roland Improvement Association, Inc. (RRLRAI). The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (“DOP”), which did not object to the requested relief.

SPECIAL HEARING

This case has a short but somewhat tortured history. In Case No. 2016-0223-A, Administrative Law Judge John Beverungen granted a variance for the construction of the garage at issue with a height of 28 feet in lieu of the required 15 feet. As a condition of that approval the ALJ stated that “[t]he Petitioner or subsequent owners shall not convert the pole barn garage into

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By Sen

a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.” Subsequently the Petitioner, Kevin Merrill, in contravention of the Order, did in fact install kitchen and bathroom facilities in the garage.

By letter dated August 22, 2019 Adam Rosenblatt, Esquire wrote a “spirit and intent” letter to Judge Beverungen explaining that “my client [the Receiver, Mr. Milligan] took possession of the Property in its current condition and is attempting to ensure that the property is in compliance with your 2016 zoning order.” Mr. Rosenblatt explained that both kitchen and bathroom fixtures had been installed by the previous owner but that his client would be willing to remove all the kitchen appliances and maintain only the bathroom facilities and would confirm that the garage would be used for “private residential use only” if these measures would be deemed sufficient to comply with the Order. Subject to these conditions ALJ Beverungen signed the spirit and intent letter. *See*, Petitioner’s Exhibit 3.

Subsequently, by letter dated August 28, 2019, John Gontrum, Esquire, on behalf of the Ruxton-Riderwood-Lake Roland Improvement Association, Inc. (RRLRAI), wrote ALJ Beverungen. In this correspondence Mr. Gontrum explains that his client had just become aware of Rosenblatt’s spirit and intent letter, which the ALJ had just signed. Mr. Gontrum noted that a real estate broker was currently marketing the property as having an “au pair or in law apartment” in the garage, in direct contravention to the restrictions in the 2016 Order. *See*, Petitioner’s Exhibit 4.

On September 23, 2019 ALJ Lawrence Stahl, construed Mr. Gontrum’s letter as a motion to reconsider ALJ Beverungen’s approval of the spirit and intent letter, and he rescinded that approval. ALJ Stahl then reimposed the original conditions of the Order in Case No. 2016-0223-A and ordered the owner to remove *both* the kitchen *and* bathroom facilities. *See*, Petitioner’s

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By slr

Exhibit 5.

Subsequently, counsel for the parties have negotiated an agreement by which the existing “home gym,” and bathroom facilities will remain in the garage structure, subject to various “agreed-upon restrictions.” *See*, Petitioner’s Exhibit 6. The parties have further agreed to execute and file a “Restrictive Covenant Agreement” among the land records of Baltimore County if the Special Hearing relief in this case is granted. *See*, Petitioner’s Exhibit 7.

I am satisfied that the agreement memorialized in Exhibits 6 and 7, which will allow the “home gym” and bathroom facilities to remain in the garage, but which require the removal of all kitchen appliances, are in keeping with the spirit and intent of the BCZR, and will not harm the public health, safety, and general welfare. I appreciate the good faith efforts of counsel and the parties to reach an amicable resolution of these issues.

THEREFORE, IT IS ORDERED this **10th day of January, 2020** by this Administrative Law Judge, that the Petition for Special Hearing to modify the conditions imposed in Case Number 2016-0223-A, so as to permit an existing bathroom and a half to remain in the existing pole barn/garage structure, be and hereby is, GRANTED.

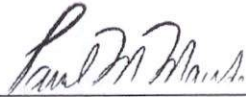
The relief granted herein shall be subject to the following:

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 his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. The appliances, facilities, and uses of the structure shall be limited strictly to those set forth in the “Agreed-Upon Conditions,” (Pet. Exh. 6) and “Restrictive Covenant Agreement,” (Pet. Exh. 7), which are expressly incorporated herein, and which shall be appended to this Order.

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Date 1/10/20
By Sen

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:sln

ORDER RECEIVED FOR FILING

Date 1/10/20

By sln

AGREED-UPON CONDITIONS

THEREFORE, IT IS ORDERED, this 10th day of ~~December~~ January, 2020, by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing to modify the conditions imposed in Case No. 2016-0223-A to permit an existing bathroom-and-a-half to remain in the existing pole barn/garage structure is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Garage will not be rented, leased, or otherwise used as a second living space on the Property or contain a bedroom. The Garage will only be used as a recreational room, home gym area, or other area for private, personal use of the residents living in the single-family dwelling on the Property and not as a bedroom.
2. The kitchen areas on the first and second floors of the Garage shall be stripped of all kitchen equipment including all refrigerators, dish washers, and sink areas. Only cabinets and countertop space will remain in the area of the second floor that was previously used as a kitchen area. The Owner agrees that no kitchen equipment will be reinstalled on the first or second floors of the Garage. The bathroom on the first floor of the Garage will be promptly removed by Owner, its successors or assigns if a permitted breezeway is not completed between the Garage and the dwelling within one year of the date of this Agreement.
3. Owner and its successors or assigns will permit Baltimore County, upon reasonable notice of at least three (3) days, to inspect the Garage every three (3) years to ensure that it is not converted into an apartment, bedroom or living space or that kitchen equipment has been reinstalled.

PETITIONER'S
EXHIBIT NO. 6

ORDER RECEIVED FOR FILING

Date 1/10/20
By ser

RESTRICTIVE COVENANT AGREEMENT

THIS RESTRICTIVE COVENANT AGREEMENT (this "Agreement") is made this ____ day of December, 2019, by and between GREGORY S. MILLIGAN, court appointed receiver (the "Owner"), and THE RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC., a Maryland Corporation ("RRLRAIA"). The Owner and RRLRAIA are collectively referred to as the "Parties."

RECITALS:

A. Owner was appointed as the receiver for the Property in the Ruxton area of Baltimore County (the "County") known as 1848 Circle Road with a Tax Identification Number of 0915540100 (the "Property"). Owner intends to sell the Property and is entering into this Agreement to ensure that the RRLRAIA is satisfied with certain improvements that the prior owner of the Property made to an existing detached garage structure on the Property

B. RRLRAIA is an association of residents in the area surrounding the Property interested in preserving the existing character of the area in the vicinity of the Property and protecting the community from inappropriate types of land uses.

C. The Property was the subject of zoning variance Case No. 2016-0223-A, wherein the prior owner of the Property sought and obtained a variance to construct a detached pole barn/garage (the "Garage") with a high of 28 feet in lieu of the maximum permitted 15 feet. A copy of the zoning order (the "Zoning Order") is attached hereto as Exhibit A. The Administrative Law Judge imposed a condition in the Zoning Order stating that the prior and subsequent owners "shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities."

D. When the Owner took possession of the Property, the prior owner had installed an exercise room, full bathroom, open carpeted area, and kitchen area on the second floor of the Garage and a half bathroom and kitchen area on the first floor of the Garage.

E. In an effort to bring the Property into compliance with the Baltimore County Zoning Regulations ("BCZR"), the Owner filed a petition for special hearing (the "Special Hearing Request") to modify the conditions imposed in the Zoning Order to permit the bathrooms and exercise room to remain in the Garage. The petition for special hearing was assigned Case No. 2019-0511-SPH and set in for a public hearing on December 23, 2019 (the "Zoning Hearing").

F. RRLRAIA has expressed a willingness to support the Special Hearing Request provided that certain safeguards are put in place to ensure that the Garage is not converted into an apartment or living space in violation of the BCZR.

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PETITIONER' S

Date

1/10/20

EXHIBIT NO.

7

By

sen

WITNESSETH

NOW THEREFORE, in consideration of the mutual agreements and understandings contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Agreements.**

A. To the Parties knowledge, the foregoing Recitals are true and correct and are incorporated herein by reference.

B. Subject to the timely satisfaction of the Condition Precedent (as defined below), the Owner agrees that:

i. The Garage will not be rented, leased, or otherwise used as a second living space on the Property or contain a bedroom. The Garage will only be used as a recreational room, home gym area, or other area for private, personal use of the residents living in the single-family dwelling on the Property and not as a bedroom.

ii. The kitchen areas on the first and second floors of the Garage shall be stripped of all kitchen equipment including all refrigerators, dish washers, and sink areas. Only cabinets and countertop space will remain in the area of the second floor that was previously used as a kitchen area. The Owner agrees that no kitchen equipment will be reinstalled on the first or second floors of the Garage. The bathroom on the first floor of the Garage will be promptly removed by Owner, its successors or assigns if a permitted breezeway is not completed between the Garage and the dwelling within one year of the date of this Agreement.

iii. Owner and its successors or assigns will permit Baltimore County, upon reasonable notice of at least three (3) days, to inspect the Garage every three (3) years to ensure that it is not converted into an apartment, bedroom or living space or that kitchen equipment has been reinstalled.

iv. Owner will request that the provisions of Paragraph B of this Agreement be imposed as conditions to approval of the Special Hearing Request.

C. The RRLRAIA agrees that:

i. It will appear, through counsel, at the Zoning Hearing to support the Special Hearing Petition provided that the provisions outlined in Paragraph B of this Agreement are made conditions of approval.

ii. It shall not appeal or otherwise support any appeal of a decision approving the Special Hearing Petition. If an appeal is filed to the Special Hearing Petition, the RRLRAIA will not oppose the Owner throughout the appeal provided that the provisions outlined in Paragraph B of this Agreement are made conditions of approval of the Special Hearing Petition.

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Date 1/10/20
By sen

iii. It shall not initiate or support any code enforcement, zoning enforcement, or other legal action against the Owner or the Property related to the Garage provided that the Owner and any future owners comply with the terms of this Agreement.

iv. It shall not object to or oppose any petition for variance filed by a future owner of the Property that seeks to connect the Garage and the single-family dwelling on the Property via a breezeway.

2. **Condition Precedent.** This Agreement shall not be effective unless and until the Administrative Law Judge issues a decision approving the Special Hearing Petition and the appeal period passes so that the decision is final and unappealable (the "Condition Precedent").

3. **Binding Effect.** Within ten (10) days of the satisfaction of the Condition Precedent, Owner shall record this Agreement among the Land Records of Baltimore County, at Owner's sole expense. This Agreement and the Parties' rights and obligations hereunder shall run with and bind the Property and shall be binding upon and inure to the benefit of the Parties' personal representatives, heirs, successors, and assigns. Upon the assignment or sale by Owner of the Property, Owner shall be relieved of all liabilities hereunder, but all purchasers and assignees shall be bound by the terms hereof. Owner shall promptly provide, at its own cost, a copy of the recorded Agreement to the RRLRAIA. If Owner fails to timely record this Agreement within forty-five (45) days following satisfaction of the Condition Precedent, then the RRLRAIA may do so and the Owner shall reimburse the RRLRAIA for their actual costs within thirty (30) days of Owner's receipt of the bill for such costs.

4. **Enforcement.** If any of the Parties is required to institute legal action to enforce the terms of this Agreement and is successful thereafter (whether by judgment or by settlement) in obtaining enforcement of this Agreement, the successful party shall be entitled to recover reasonable attorneys' fees and other reasonable costs of the action from the party against whom enforcement is obtained. However, as a prerequisite to recovery of fees and costs under this paragraph, the party seeking enforcement shall serve the alleged violator of this Agreement with written notice of the violation, and only if the alleged violator has failed to remedy or make substantial progress toward remedying the violation within thirty (30) days after receipt of this notice may legal action be instituted. Failure in any instance to enforce any of the covenants, restrictions, and conditions contained in this Agreement shall in no way constitute a waiver or estoppel of the right to enforce the same or any other covenant, restriction, or condition of this Agreement.

6. **Notices.** All notices required by this Agreement shall be hand-delivered or sent by certified mail, postage prepaid, return receipt requested or by nationally recognized overnight delivery service, to the following addresses:

Owner: Gregory Milligan
P.O Box 90099
Austin, TX 78709

ORDER RECEIVED FOR FILING

Date 11/10/20

By Sen

cc: Adam M. Rosenblatt
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, MD 21204

RRLRAIA: The Ruxton-Riderwood-Lake Roland Improvement Association, Inc.
8013 Bellona Avenue
Towson, Maryland 21204
Attn: Current President

If via USPS:
P. O. Box 204
Riderwood, MD 21139

cc: John B. Gontrum, Esq.
Whiteford Taylor Preston, LLP
1 Pennsylvania Avenue, Suite 300
Towson, MD 21204

Each of the Parties is responsible for updating the other party of any changes in the parties/addresses provided above, and any changes to the identified notice parties/addresses shall be made in writing to the other party.

7. Miscellaneous.

A. This Agreement may be amended only by written instrument executed by the Parties or any subsequent owner of the Property and RRLRIA.

B. The Parties hereto warrant and represent that they have taken all necessary action required to be taken by their respective governing documents to authorize the execution of this Agreement.

C. This Agreement, which may be executed in separate counterparts, contains the entire understanding of the Parties.

D. The Parties each warrant that they have carefully read and understand this Agreement, are cognizant of its terms, and have had ample time to consult with counsel of their choice regarding their respective rights and obligations in connection herewith.

[Signatures Appear on Following Pages]

ORDER RECEIVED FOR FILING

Date 1/10/20
By sen

IN WITNESS THEREOF, the parties have executed this Agreement as of the date of the last acknowledgement.

WITNESS:

OWNER:

By: _____

Name:

Title:

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2019, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared _____, _____ of _____ known to me, or satisfactorily proven, to be the party whose name is subscribed to the within instrument, and that she executed the foregoing instrument for the purposes therein contained, by signing her name as such _____ of the entity.

AS WITNESS my hand and Notarial Seal.

Notary Public

My commission expires: _____.

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Date 1/10/20

By Sen

WITNESS:

THE RUXTON-RIDERWOOD-LAKE ROLAND
AREA IMPROVEMENT ASSOCIATION, INC

By: _____

Name:

Title:

STATE OF MARYLAND, COUNTY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY, that on this _____ day of December, 2019, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared _____, _____ of THE RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC, known to me, or satisfactorily proven, to be the party whose name is subscribed to the within instrument, and that he executed the foregoing instrument for the purposes therein contained, by signing his name as such _____ of the corporation.

AS WITNESS my hand and Notarial Seal.

Notary Public

My commission expires: _____.

ORDER RECEIVED FOR FILING

Date 11/10/20

By sen

AGREED-UPON CONDITIONS

THEREFORE, IT IS ORDERED, this 10th day of January, 2020, by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing to modify the conditions imposed in Case No. 2016-0223-A to permit an existing bathroom-and-a-half to remain in the existing pole barn/garage structure is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Garage will not be rented, leased, or otherwise used as a second living space on the Property or contain a bedroom. The Garage will only be used as a recreational room, home gym area, or other area for private, personal use of the residents living in the single-family dwelling on the Property and not as a bedroom.
2. The kitchen areas on the first and second floors of the Garage shall be stripped of all kitchen equipment including all refrigerators, dish washers, and sink areas. Only cabinets and countertop space will remain in the area of the second floor that was previously used as a kitchen area. The Owner agrees that no kitchen equipment will be reinstalled on the first or second floors of the Garage. The bathroom on the first floor of the Garage will be promptly removed by Owner, its successors or assigns if a permitted breezeway is not completed between the Garage and the dwelling within one year of the date of this Agreement.
3. Owner and its successors or assigns will permit Baltimore County, upon reasonable notice of at least three (3) days, to inspect the Garage every three (3) years to ensure that it is not converted into an apartment, bedroom or living space or that kitchen equipment has been reinstalled.

PETITIONER' S

EXHIBIT NO. 6

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RECITALS:

A. Owner was appointed as the receiver for the Property in the Ruxton area of Baltimore County (the "County") known as 1848 Circle Road with a Tax Identification Number of 0915540100 (the "Property"). Owner intends to sell the Property and is entering into this Agreement to ensure that the RRLRAIA is satisfied with certain improvements that the prior owner of the Property made to an existing detached garage structure on the Property

B. RRLRAIA is an association of residents in the area surrounding the Property interested in preserving the existing character of the area in the vicinity of the Property and protecting the community from inappropriate types of land uses.

C. The Property was the subject of zoning variance Case No. 2016-0223-A, wherein the prior owner of the Property sought and obtained a variance to construct a detached pole barn/garage (the "Garage") with a high of 28 feet in lieu of the maximum permitted 15 feet. A copy of the zoning order (the "Zoning Order") is attached hereto as Exhibit A. The Administrative Law Judge imposed a condition in the Zoning Order stating that the prior and subsequent owners "shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities."

D. When the Owner took possession of the Property, the prior owner had installed an exercise room, full bathroom, open carpeted area, and kitchen area on the second floor of the Garage and a half bathroom and kitchen area on the first floor of the Garage.

E. In an effort to bring the Property into compliance with the Baltimore County Zoning Regulations ("BCZR"), the Owner filed a petition for special hearing (the "Special Hearing Request") to modify the conditions imposed in the Zoning Order to permit the bathrooms and exercise room to remain in the Garage. The petition for special hearing was assigned Case No. 2019-0511-SPH and set in for a public hearing on December 23, 2019 (the "Zoning Hearing").

F. RRLRAIA has expressed a willingness to support the Special Hearing Request provided that certain safeguards are put in place to ensure that the Garage is not converted into an apartment or living space in violation of the BCZR.

PETITIONER' S

EXHIBIT NO. 7

WITNESSETH

NOW THEREFORE, in consideration of the mutual agreements and understandings contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Agreements.**

A. To the Parties knowledge, the foregoing Recitals are true and correct and are incorporated herein by reference.

B. Subject to the timely satisfaction of the Condition Precedent (as defined below), the Owner agrees that:

i. The Garage will not be rented, leased, or otherwise used as a second living space on the Property or contain a bedroom. The Garage will only be used as a recreational room, home gym area, or other area for private, personal use of the residents living in the single-family dwelling on the Property and not as a bedroom.

ii. The kitchen areas on the first and second floors of the Garage shall be stripped of all kitchen equipment including all refrigerators, dish washers, and sink areas. Only cabinets and countertop space will remain in the area of the second floor that was previously used as a kitchen area. The Owner agrees that no kitchen equipment will be reinstalled on the first or second floors of the Garage. The bathroom on the first floor of the Garage will be promptly removed by Owner, its successors or assigns if a permitted breezeway is not completed between the Garage and the dwelling within one year of the date of this Agreement.

iii. Owner and its successors or assigns will permit Baltimore County, upon reasonable notice of at least three (3) days, to inspect the Garage every three (3) years to ensure that it is not converted into an apartment, bedroom or living space or that kitchen equipment has been reinstalled.

iv. Owner will request that the provisions of Paragraph B of this Agreement be imposed as conditions to approval of the Special Hearing Request.

C. The RRLRAIA agrees that:

i. It will appear, through counsel, at the Zoning Hearing to support the Special Hearing Petition provided that the provisions outlined in Paragraph B of this Agreement are made conditions of approval.

ii. It shall not appeal or otherwise support any appeal of a decision approving the Special Hearing Petition. If an appeal is filed to the Special Hearing Petition, the RRLRAIA will not oppose the Owner throughout the appeal provided that the provisions outlined in Paragraph B of this Agreement are made conditions of approval of the Special Hearing Petition.

iii. It shall not initiate or support any code enforcement, zoning enforcement, or other legal action against the Owner or the Property related to the Garage provided that the Owner and any future owners comply with the terms of this Agreement.

iv. It shall not object to or oppose any petition for variance filed by a future owner of the Property that seeks to connect the Garage and the single-family dwelling on the Property via a breezeway.

2. **Condition Precedent.** This Agreement shall not be effective unless and until the Administrative Law Judge issues a decision approving the Special Hearing Petition and the appeal period passes so that the decision is final and unappealable (the "Condition Precedent").

3. **Binding Effect.** Within ten (10) days of the satisfaction of the Condition Precedent, Owner shall record this Agreement among the Land Records of Baltimore County, at Owner's sole expense. This Agreement and the Parties' rights and obligations hereunder shall run with and bind the Property and shall be binding upon and inure to the benefit of the Parties' personal representatives, heirs, successors, and assigns. Upon the assignment or sale by Owner of the Property, Owner shall be relieved of all liabilities hereunder, but all purchasers and assignees shall be bound by the terms hereof. Owner shall promptly provide, at its own cost, a copy of the recorded Agreement to the RRLRAIA. If Owner fails to timely record this Agreement within forty-five (45) days following satisfaction of the Condition Precedent, then the RRLRAIA may do so and the Owner shall reimburse the RRLRAIA for their actual costs within thirty (30) days of Owner's receipt of the bill for such costs.

4. **Enforcement.** If any of the Parties is required to institute legal action to enforce the terms of this Agreement and is successful thereafter (whether by judgment or by settlement) in obtaining enforcement of this Agreement, the successful party shall be entitled to recover reasonable attorneys' fees and other reasonable costs of the action from the party against whom enforcement is obtained. However, as a prerequisite to recovery of fees and costs under this paragraph, the party seeking enforcement shall serve the alleged violator of this Agreement with written notice of the violation, and only if the alleged violator has failed to remedy or make substantial progress toward remedying the violation within thirty (30) days after receipt of this notice may legal action be instituted. Failure in any instance to enforce any of the covenants, restrictions, and conditions contained in this Agreement shall in no way constitute a waiver or estoppel of the right to enforce the same or any other covenant, restriction, or condition of this Agreement.

6. **Notices.** All notices required by this Agreement shall be hand-delivered or sent by certified mail, postage prepaid, return receipt requested or by nationally recognized overnight delivery service, to the following addresses:

Owner: Gregory Milligan
P.O Box 90099
Austin, TX 78709

cc: Adam M. Rosenblatt
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, MD 21204

RRLRAIA: The Ruxton-Riderwood-Lake Roland Improvement Association, Inc.
8013 Bellona Avenue
Towson, Maryland 21204
Attn: Current President

If via USPS:
P. O. Box 204
Riderwood, MD 21139

cc: John B. Gontrum, Esq.
Whiteford Taylor Preston, LLP
1 Pennsylvania Avenue, Suite 300
Towson, MD 21204

Each of the Parties is responsible for updating the other party of any changes in the parties/addresses provided above, and any changes to the identified notice parties/addresses shall be made in writing to the other party.

7. Miscellaneous.

A. This Agreement may be amended only by written instrument executed by the Parties or any subsequent owner of the Property and RRLRIA.

B. The Parties hereto warrant and represent that they have taken all necessary action required to be taken by their respective governing documents to authorize the execution of this Agreement.

C. This Agreement, which may be executed in separate counterparts, contains the entire understanding of the Parties.

D. The Parties each warrant that they have carefully read and understand this Agreement, are cognizant of its terms, and have had ample time to consult with counsel of their choice regarding their respective rights and obligations in connection herewith.

[Signatures Appear on Following Pages]

IN WITNESS THEREOF, the parties have executed this Agreement as of the date of the last acknowledgement.

WITNESS:

OWNER:

By: _____

Name:

Title:

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2019, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared _____, _____ of _____ known to me, or satisfactorily proven, to be the party whose name is subscribed to the within instrument, and that she executed the foregoing instrument for the purposes therein contained, by signing her name as such _____ of the entity.

AS WITNESS my hand and Notarial Seal.

Notary Public

My commission expires: _____.

WITNESS:

THE RUXTON-RIDERWOOD-LAKE ROLAND
AREA IMPROVEMENT ASSOCIATION, INC

By: _____

Name:

Title:

STATE OF MARYLAND, COUNTY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY, that on this _____ day of December, 2019, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared _____, _____ of THE RUXTON-RIDERWOOD-LAKE ROLAND AREA IMPROVEMENT ASSOCIATION, INC, known to me, or satisfactorily proven, to be the party whose name is subscribed to the within instrument, and that he executed the foregoing instrument for the purposes therein contained, by signing his name as such _____ of the corporation.

AS WITNESS my hand and Notarial Seal.

Notary Public

My commission expires: _____.



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 1848 Circle Road which is presently zoned DR 1
Deed References: 35683/383 10 Digit Tax Account # 0 9 1 5 5 4 0 1 0 0
Property Owner(s) Printed Name(s) Gregory Milligan, appointed Receiver for Kevin B. Merrill

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

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

- 1. **X** a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve
SEE ATTACHED
- 2. _____ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
- 3. _____ a **Variance** from Section(s)

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:

N/A
Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Adam M. Rosenblatt
Name- Type or Print

Signature

Venable, 210 W. Pennsylvania Ave, Suite 500, Towson, MD

Mailing Address City State

21204 / 410-494-6271 / amrosenblatt@venable.com
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

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

Signature #1 Signature #2

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

Adam M. Rosenblatt
Name - Type or Print

Signature

Venable, 210 W. Pennsylvania Ave., Suite 500, Towson, MD

Mailing Address City State

21204 / 410-494-6271 / amrosenblatt@venable.com
Zip Code Telephone # Email Address

CASE NUMBER 2019-0511-504 Filing Date 11/8/19 Do Not Schedule Dates: _____ Reviewer JS

**ATTACHMENT TO
PETITION FOR ZONING RELIEF**

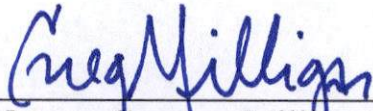
REQUESTED RELIEF

PETITION FOR SPECIAL HEARING

1. To modify the conditions imposed in Case No. 2016-0223-A to permit an existing bathroom-and-a-half to remain in the existing pole barn/garage structure.
2. Also, for such further relief as the Administrative Law Judge may require.

**ATTACHMENT TO
ZONING PETITION**

Legal Owner:

By: 
Name: Gregory Milligan
Title: Appointed Receiver

ZONING DESCRIPTION

**1848 Circle Road
Baltimore County, Maryland**

Beginning from a point on the southeast side of Circle Road, which has a variable right-of-way width, at the distance of 995 feet southwest of the centerline of Roland Run Road, which has a variable right-of-way width, and maintaining the following bearings and distances (based on Baltimore County GIS):

- (1) South 38 degrees 24 minutes 52 seconds East 203.22 feet
- (2) South 17 degrees 10 minutes 52 seconds West 26.30 feet
- (3) North 59 degrees 08 minutes 27 seconds East 169.85 feet
- (4) South 41 degrees 02 minutes 05 seconds East 460.46 feet
- (5) South 83 degrees 44 minutes 32 seconds West 421.33 feet
- (6) North 47 degrees 51 minutes 19 seconds West 25.41 feet
- (7) North 34 degrees 59 minutes 10 seconds West 417.44 feet
- (8) North 27 degrees 31 minutes 14 seconds East 14.25 feet
- (9) North 41 degrees 52 minutes 04 seconds East 45.95 feet

Back to the Point of Beginning containing 3.05 acres but saving and excepting the area of the private drive running southeast from Circle Road and providing access to the subject property, all located within the 2nd Councilmanic District and 9th Election District.

2019-0511-SPH

CERTIFICATE OF POSTING

2019-0511-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Gregory Milligan

December 23, 2019

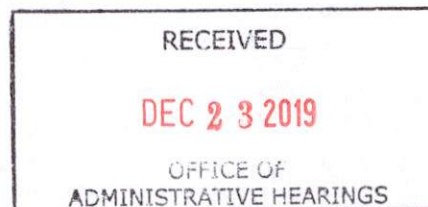
Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____



1848 Circle Road **SIGN 2 Recertification**

December 3, 2019

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

December 20, 2019

(Signature of Sign Poster) (Date)

Robert Black
SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

The Daily Record

200 St. Paul Place Suite 2480

Baltimore, Maryland 21202

1 (443) 524-8100

www.thedailyrecord.com


Order #: 11818686
Case #: 2019-0511-SPH
Description:

NOTICE OF ZONING HEARING - CASE NUMBER:
2019-0511-SPH

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in The Daily Record, a daily newspaper published in the State of Maryland 1 times on the following dates:

12/3/2019



Darlene Miller, Public Notice Coordinator
(Representative Signature)

Baltimore County

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: 2019-0511-SPH

1848 Circle Road

SE/s of Circle Road, s/west of centerline of Roland Run Road

9th Election District - 2nd Councilmanic District

Legal Owners: Gregory Milligan

Special Hearing to modify the conditions imposed in Case 2016-0223-A to permit an existing bathroom and a half to remain in the existing pole barn/garage structure. Also, for such other and further relief as the Administrative Law Judge may require.

Hearing: Monday, December 23, 2019 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Michael Mallinoff

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 410-837-3868.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-837-3391.

d3

CERTIFICATE OF POSTING

2019-0511-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Gregory Milligan

December 23, 2019

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

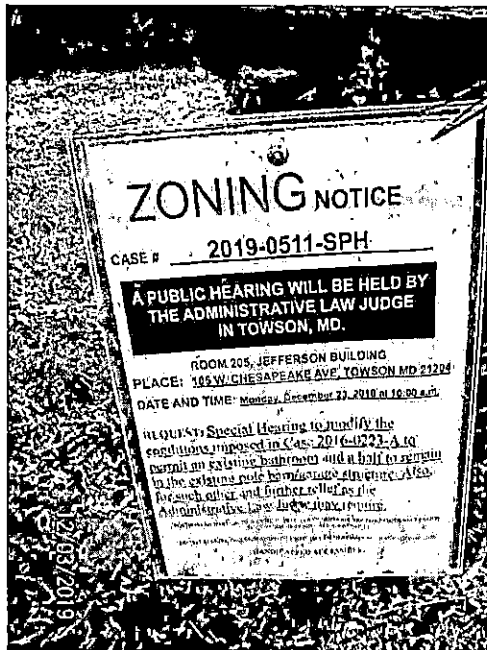
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1848 Circle Road

SIGN 1

December 3, 2019

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

December 3, 2019

(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

CERTIFICATE OF POSTING

2019-0511-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Gregory Milligan

December 23, 2019

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

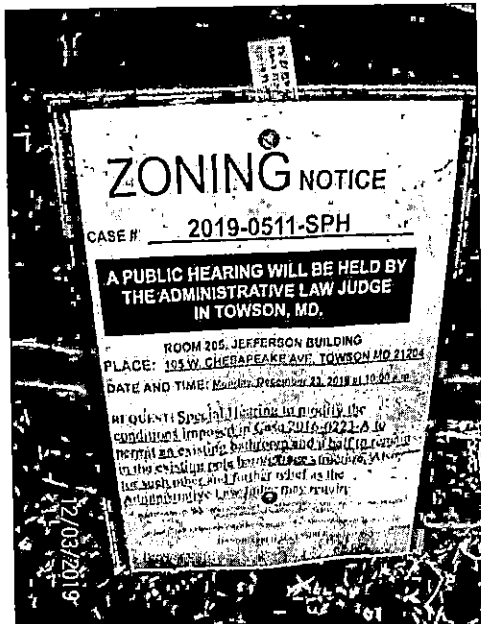
Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1848 Circle Road **SIGN 1**

December 3, 2019

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

 **December 3, 2019**
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
 1848 Circle Road; SE/S of Circle Road, * OF ADMINISTRATIVE
 995' SW of c/line of Roland Run Road * HEARINGS FOR
 9th Election & 2nd Councilmanic Districts * BALTIMORE COUNTY
 Legal Owner: Gregory Milligan, Appointed Receiver *
 Petitioner(s) * 2019-511-SPH

* * * * *

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

NOV 21 2019

Peter Max Zimmerman

PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

Carole S Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 2019, a copy of the foregoing Entry of Appearance was mailed to Adam Rosenblatt, Esquire, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

November 19, 2019

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: 2019-0511-SPH

1848 Circle Road

SE/s of Circle Road, s/west of centerline of Roland Run Road

9th Election District – 2nd Councilmanic District

Legal Owners: Gregory Milligan

Special Hearing to modify the conditions imposed in Case 2016-0223-A to permit an existing bathroom and a half to remain in the existing pole barn/garage structure. Also, for such other and further relief as the Administrative Law Judge may require.

Hearing: Monday, December 23, 2019 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 "Michael Mallinoff".

Michael Mallinoff
Director

MM:kl

C: Adam Rosenblatt, 210 W. Pennsylvania Avenue, Ste. 500, Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, DECEMBER 3, 2019**
- (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: THE DAILY RECORD
Tuesday, December 3, 2019 – Issue

Please forward billing to:
Barbara Lukasevich
Venable, LLP
210 W. Pennsylvania Avenue, Ste. 500
Towson, MD 21204

410-494-6200

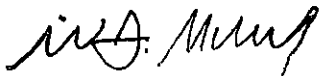
NOTICE OF ZONING HEARING

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: 2019-0511-SPH
1848 Circle Road
SE/s of Circle Road, s/west of centerline of Roland Run Road
9th Election District – 2nd Councilmanic District
Legal Owners: Gregory Milligan

Special Hearing to modify the conditions imposed in Case 2016-0223-A to permit an existing bathroom and a half to remain in the existing pole barn/garage structure. Also, for such other and further relief as the Administrative Law Judge may require.

Hearing: Monday, December 23, 2019 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Michael Mallinoff
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: 2019-0511-SPH

Property Address: 1848 Circle Road

Property Description: _____

Legal Owners (Petitioners): Gregory Milligan, appointed receiver for Kenn B. Merrill

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Barbara Lukasevich

Company/Firm (if applicable): Venable, LLP

Address: 210 W. Penn. Ave Ste 500
Towson, MD 21204

Telephone Number: 410 494 6200



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

December 10, 2019

Adam M. Rosenblatt
210 W. Pennsylvania Ave Ste 500
Towson MD 21204

RE: Case Number: 2019-0511-SPH, 1848 Circle Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on November 5, 2019. 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, appearing to read "W. Carl Richards, Jr.", is written over a faint, larger version of the same signature.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR/kl

Enclosures

c: People's Counsel

12-16

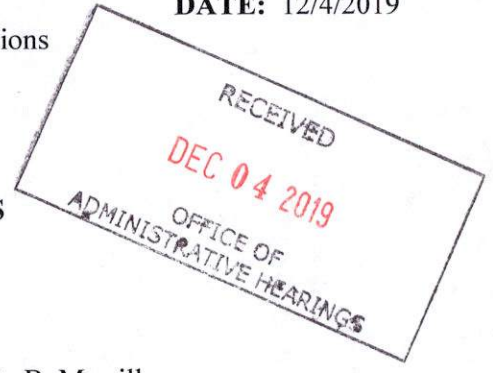
BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: Michael D. Mallinoff
Director, Department of Permits, Approvals and Inspections

FROM: C. Pete Gutwald
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-511

DATE: 12/4/2019



INFORMATION:

Property Address: 1848 Circle Road
Petitioner: Gregory Milligan, Appointed Receiver for Kevin B. Merrill
Zoning: DR 1
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for special hearing to determine whether the administrative law judge should modify the conditions imposed in Case No. 2016-0223-A to permit an existing bathroom-and-a-half to remain in the existing pole barn/garage structure.

A site visit was not conducted for this case. The property is located within the Ruxton residential Design Review Panel (DRP) area. The structure was not subject to DRP review. According to documents housed in the Office of Administrative Hearings, the structure was constructed with a kitchen area and bathroom. The building permit (B915223) only lists plumbing for a utility sink. The photographs contained within the file show an area that could be converted to an apartment or some form of rental unit.

According to the petitioner's representative, stronger conditions will be proposed and would prohibit the structure from being used for sleeping quarters in any form.

This Department has no objections to the requested relief conditioned upon the following:

1. The structure shall not be used for sleeping quarters of any kind and shall not be converted into a dwelling/apartment unit nor any type of rental unit where occupants can sleep.
2. The stronger conditions shall apply to the current and any subsequent owner of the property.

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

Division Chief:

Jenifer G. Nugent

CPG/JGN/LTM/

c: Bill Skibinski
Adam M. Rosenblatt
Office of the Administrative Hearings
People's Counsel for Baltimore County

12-10-17

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 22, 2019

SUBJECT: DEPS Comment for Zoning Item # 2019-0511-SPH
Address 1848 Circle Road
(Milligan Property)

Zoning Advisory Committee Meeting of **November 15, 2019**.

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

Reviewer: Steve Ford

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: 11/20/19

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
111 West Chesapeake Avenue
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. *2019-0511-SPH*

*Special Hearing
Gregory Milligan
1848 Circle 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@mdot.maryland.gov).

Sincerely,



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

WW/RAZ

2019-0511-01
12-16-19 @ 10 Am

4-11-16
MFR 8-22-19

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1848 Circle Road)		
9 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Kevin B. Merrill	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0223-A

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter originally came before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the prior owner of the property at that time, Kevin B. Merrill (“Petitioner”). The Petitioner requested Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft.

The original petition for the Administrative Variance states:

“At grade we propose a standard garage style structure, with an additional 2nd floor to house the overflow home storage, exercise equipment and wood working hobby tools.”

In Administrative Law Judge (“ALJ”) John Beverungen’s Order, dated April 15, 2016, he imposed conditions on the proposed pole barn garage, stating:

“The Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.”

On August 22, 2019, a Spirit and Intent determination was received from Adam M. Rosenblatt, Esq., on behalf of the new owners, Ziad and Elisabeth Bakri, attempting to ensure that the property is in compliance with the 2016 Order. It appears that the new owners will

remove all kitchen fixtures as the refrigerator, dishwasher, and sink, leaving only a countertop and cabinet space for storage. The new owners are seeking confirmation that the exercise room, carpeted area and bathroom areas can remain as within the spirit and intent of the relief granted in ALJ Beverungen's Order provided that the garage is never rented and its use limited to private residential use only. ALJ Beverungen signed the Spirit and Intent letter with the conditions stated which indicated was within the spirit and intent of the relief granted.

On August 28, 2019, correspondence was received from John B. Gontrum, Esq. representing the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. opposing the determination of the Spirit and Intent letter. I will treat this correspondence as a Motion for Reconsideration. Mr. Gontrum indicates that ALJ Beverungen's Order of April 15, 2016 could not have been clearer in that the Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment, shall not contain any sleeping quarters, living area, and **kitchen or bathroom facilities**. Mr. Gontrum further indicated that this wording, particularly in the context of the previous listings of the property for a living apartment, might be construed to allow just such use, which was expressly forbidden in the original Order.

The relief proposed for the Administrative Variance specifically limited that which was requested. Based upon that proposal, that did not include a kitchen or bathroom, the Administrative Variance was granted. Quite properly, the limitations imposed in ALJ Beverungen's April 15, 2016 Order were meant to ensure that no facilities or uses beyond that requested would occur.

It is clear that those limitations were ignored and exceeded. Although the August 22, 2019 Spirit and Intent request pledges to "remove all kitchen fixtures" it seeks confirmation that the bathroom areas and structures could remain. That is clearly, and without question, beyond

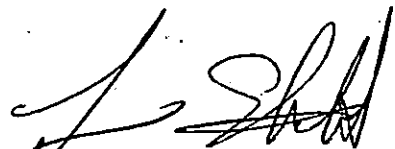
that originally requested in the Petition for Administrative Variance and is in violation of the conditions of ALJ Beverungen's April 15, 2016 Order.

THEREFORE, IT IS ORDERED, this 23rd day of **September, 2019**, by the Administrative Law Judge for Baltimore County, that the determination of the Spirit and Intent letter seeking confirmation that the exercise room, carpeted area and bathroom areas remain and are within the spirit and intent of the relief granted in the original Order dated April 15, 2016, be and is hereby RESCINDED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities; and that the facilities including those related to the kitchen or bathroom shall be removed within ninety (90) days of this Order.

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



LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS:dlw

JB (AV) A-11-16

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1848 Circle Road)		
9 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Kevin B. Merrill	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0223-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Kevin B. Merrill ("Petitioner"). The Petitioner is requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.) to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

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

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on March 26, 2016, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (B.C.C.). Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general

welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Although the Department of Planning did not make any recommendations related to the pole barn garage height and usage, I will impose conditions that the proposed pole barn garage shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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

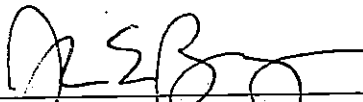
THEREFORE, IT IS ORDERED, this 15th day of April, 2016, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.) to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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

Order.



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

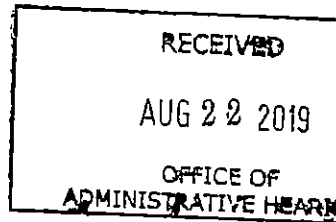
JEB:dlw

Spirit + Intent

August 22, 2019

Hon. John E. Beverungen
Office of Administrative Hearings
Jefferson Building, first floor
105 W. Chesapeake Avenue
Towson, MD 21204

Re: 1848 Circle Road
Case No. 2016-0223-A
Spirit and Intent Determination



Copy for our records
Original sent to zoning for file on 8-23-19
Recorded in zoning database 9-5-19
DW

Judge Beverungen:

I am writing to request confirmation as to whether certain improvements made to an accessory structure (garage) on the above-referenced property (the "Property") are within the spirit and intent of the zoning relief granted in Case No. 2016-0223-A.

Specifically, the prior owner of the Property sought and obtained a variance to construct a detached accessory garage with a high of 28 feet in lieu of the maximum permitted 15 feet. In your Order approving the variance, you imposed a condition that the prior and subsequent owners "shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities." It has been my experience that, unless specifically addressed in a variance application, you place this condition on any administrative variance granted for accessory structures such as garages and pool houses.

My client took possession of the Property in its current condition and is attempting to ensure that the Property is in compliance with your 2016 zoning order. I am attaching photographs of the garage that was constructed by the prior owner. The first floor appears to be a standard garage with a cement floor and space for parking vehicles and storing household items. The upstairs contains an exercise room, full bathroom, open carpeted area, and a kitchen area. Photographs of each section of the upstairs are attached for your review.

As we discussed, my client will remove all kitchen fixtures such as the refrigerator, dishwasher, and sink, leaving only a countertop and cabinet space for storage. We are seeking confirmation that the exercise room, carpeted area, and bathroom areas can remain and are within the spirit and intent of the relief granted in Case No. 2016-0223-A provided that the garage is never rented and its use limited to private residential use only.

Hon. John E. Beverungen
August 22, 2019
Page 2

We would greatly appreciate your input as to whether the garage, with the conditions stated in this letter, is within the spirit and intent of the relief granted in Case No. 2016-0223-A. We have prepared this letter for your countersignature in the event that you wish to sign your approval rather than drafting a separate email or letter for this issue.

Thank you for your time and consideration.

Sincerely,



Adam M. Rosenblatt

AGREED AND ACCEPTED:



Hon. John E. Beverungen
Administrative Law Judge

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1848 Circle Road)		
9 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Kevin B. Merrill	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0223-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Kevin B. Merrill (“Petitioner”). The Petitioner is requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

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

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on March 26, 2016, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (B.C.C.). Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general

welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Although the Department of Planning did not make any recommendations related to the pole barn garage height and usage, I will impose conditions that the proposed pole barn garage shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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

THEREFORE, IT IS ORDERED, this 15th day of **April, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R") to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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

Order.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>11/22</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>NO Comment</u>
<u>12/4</u>	DEPS (if not received, date e-mail sent _____)	<u>No Objection w/ conditions</u>
<u>11/20</u>	FIRE DEPARTMENT PLANNING (if not received, date e-mail sent _____)	<u>NO Objection</u>
	STATE HIGHWAY ADMINISTRATION TRAFFIC ENGINEERING	
	COMMUNITY ASSOCIATION	
	ADJACENT PROPERTY OWNERS	

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. 2016-0223-A)

NEWSPAPER ADVERTISEMENT Date: 12/3/19

SIGN POSTING (1st) Date: 12/3/19 by SSG Black

SIGN POSTING (2nd) Date: 12-20-19 by "

PEOPLE'S COUNSEL APPEARANCE Yes No

PEOPLE'S COUNSEL COMMENT LETTER Yes No

Comments, if any: _____

PM 12-23-19
10 AM

Debra Wiley

From: SGT ROBERT BLACK <1opie@comcast.net>
Sent: Saturday, December 21, 2019 6:13 PM
To: Barbara Lukasevich; amrosenblatt@venable.com; DKarceski@Venable.com;
Administrative Hearings
Subject: Recertification's For 2019-0511-SPH
Attachments: Re-Cert 1 2019-0511-SPHdoc.doc; Re-Cert 2 2019-0511-SPHdoc.doc

CAUTION: This message from 1opie@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Recertification's for 1848 Circle Road. Thanks and ***Merry Christmas*** to all !!!

RECEIVED
DEC 23 2019
OFFICE OF
ADMINISTRATIVE HEARINGS

CERTIFICATE OF POSTING

2019-0511-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Gregory Milligan

December 23, 2019

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

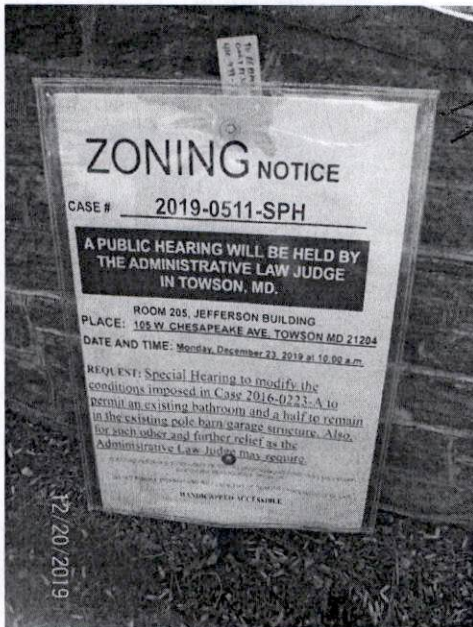
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____



1848 Circle Road **SIGN 1 Recertification**

December 3, 2019

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

 _____
(Signature of Sign Poster) December 20, 2019
(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration				
Tax Exempt: None		Special Tax Recapture: None								
Exempt Class: None										
Account Identifier:		District - 09 Account Number - 0915540100								
Owner Information										
Owner Name:		MERRILL KEVIN B			Use:		RESIDENTIAL			
Mailing Address:		1848 CIRCLE RD TOWSON MD 21204			Principal Residence:		YES			
					Deed Reference:		/35683/ 00383			
Location & Structure Information										
Premises Address:		1848 CIRCLE RD 0-0000			Legal Description:		3.054 AC SWS CIRCLE NR RUXTON STATION			
Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0069	0015	0331	9010008.04	0000				2020	Plat Ref:	
Special Tax Areas: None					Town:		None			
					Ad Valorem:		None			
					Tax Class:		None			
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use		
1869		7,455 SF				3.0500 AC		04		
Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements			
3	YES	STANDARD UNIT	SIDING/	6	3 full/ 2 half	1 Detached				
Value Information										
		Base Value		Value		Phase-in Assessments				
				As of		As of		As of		
				01/01/2017		07/01/2019		07/01/2020		
Land:		457,900		457,900						
Improvements		607,700		607,700						
Total:		1,065,600		1,065,600		1,065,600				
Preferential Land:		0								
Transfer Information										
Seller: ONNEN PATRICIA P				Date: 12/22/2014			Price: \$935,000			
Type: ARMS LENGTH IMPROVED				Deed1: /35683/ 00383			Deed2:			
Seller: ONNEN FERDINAND H				Date: 07/27/1992			Price: \$0			
Type: NON-ARMS LENGTH OTHER				Deed1: /02623/ 00566			Deed2:			
Seller:				Date:			Price:			
Type:				Deed1:			Deed2:			
Exemption Information										
Partial Exempt Assessments:		Class		07/01/2019		07/01/2020				
County:		000		0.00						
State:		000		0.00						
Municipal:		000		0.00		0.00				
Tax Exempt: None		Special Tax Recapture: None								
Exempt Class: None										

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application

Date:

IN RE: PETITION FOR ADMIN. VARIANCE (1848 Circle Road) 9 th Election District 2 nd Council District Kevin B. Merrill Petitioner	* * * * * *	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY CASE NO. 2016-0223-A
--	----------------------------	---

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Kevin B. Merrill ("Petitioner"). The Petitioner is requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

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

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on March 26, 2016, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioner has filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (B.C.C.). Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general

PETITIONER' S

EXHIBIT NO. 2

welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Although the Department of Planning did not make any recommendations related to the pole barn garage height and usage, I will impose conditions that the proposed pole barn garage shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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

THEREFORE, IT IS ORDERED, this 15th day of **April, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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

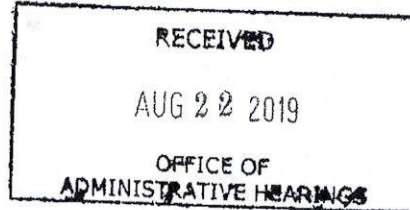
Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw

T 410.494.6271
F 410.821.0147
amrosenblatt@venable.com

August 22, 2019

Hon. John E. Beverungen
Office of Administrative Hearings
Jefferson Building, first floor
105 W. Chesapeake Avenue
Towson, MD 21204



Re: 1848 Circle Road
Case No. 2016-0223-A
Spirit and Intent Determination

Judge Beverungen:

I am writing to request confirmation as to whether certain improvements made to an accessory structure (garage) on the above-referenced property (the "Property") are within the spirit and intent of the zoning relief granted in Case No. 2016-0223-A.

Specifically, the prior owner of the Property sought and obtained a variance to construct a detached accessory garage with a high of 28 feet in lieu of the maximum permitted 15 feet. In your Order approving the variance, you imposed a condition that the prior and subsequent owners "shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities." It has been my experience that, unless specifically addressed in a variance application, you place this condition on any administrative variance granted for accessory structures such as garages and pool houses.

My client took possession of the Property in its current condition and is attempting to ensure that the Property is in compliance with your 2016 zoning order. I am attaching photographs of the garage that was constructed by the prior owner. The first floor appears to be a standard garage with a cement floor and space for parking vehicles and storing household items. The upstairs contains an exercise room, full bathroom, open carpeted area, and a kitchen area. Photographs of each section of the upstairs are attached for your review.

As we discussed, my client will remove all kitchen fixtures such as the refrigerator, dishwasher, and sink, leaving only a countertop and cabinet space for storage. We are seeking confirmation that the exercise room, carpeted area, and bathroom areas can remain and are within the spirit and intent of the relief granted in Case No. 2016-0223-A provided that the garage is never rented and its use limited to private residential use only.

PETITIONER' S

EXHIBIT NO. 3

Hon. John E. Beverungen
August 22, 2019
Page 2

We would greatly appreciate your input as to whether the garage, with the conditions stated in this letter, is within the spirit and intent of the relief granted in Case No. 2016-0223-A. We have prepared this letter for your countersignature in the event that you wish to sign your approval rather than drafting a separate email or letter for this issue.


Thank you for your time and consideration.

Sincerely,



Adam M. Rosenblatt

AGREED AND ACCEPTED:



8-23-2019

Hon. John E. Beverungen
Administrative Law Judge

WHITEFORD, TAYLOR & PRESTON L.L.P.

JOHN B. GONTRUM
DIRECT LINE (410) 832-2055
DIRECT FAX (410) 339-4058
JGontrum@wtplaw.com

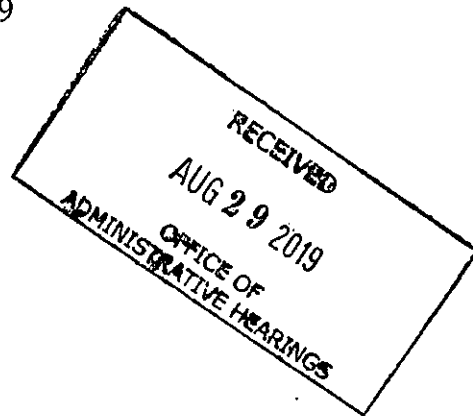
TOWSON COMMONS, SUITE 300
ONE WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5025
MAIN TELEPHONE (410) 832-2000
FACSIMILE (410) 832-2015

DELAWARE*
DISTRICT OF COLUMBIA
KENTUCKY
MARYLAND
MICHIGAN
NEW YORK
PENNSYLVANIA
VIRGINIA

WWW.WTPLAW.COM
(800) 987-8705

August 28, 2019

Honorable John E. Beverungen, Esquire
Office of Administrative Hearings
Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204



Re: 1848 Circle Road
Case No. 2016-0223-A
Spirit and Intent Letter 8/22/2019

PETITIONER'S
4
EXHIBIT NO.

Dear Judge Beverungen:

Our office represents the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. We understand that the above referenced matter has been the subject of certain email correspondence as well as conversations in order to discern the issues. Our client apparently corresponded with you late last month when the property was advertised for sale with an "au pair or in law apartment" referring to what is now called an exercise room above the garage. I am attaching copies of the July correspondence and your response, most recently August 16.

The Improvement Association has just become aware of Mr. Rosenblatt's correspondence to you of the 22nd instant and your acceptance that "the exercise room, carpeted area, and bathroom areas can remain and are within the spirit and intent of the relief granted in Case No. 2016-0223-A provided that the garage is never rented and its use is limited to private residential use only." [bold and underline in original] Unfortunately, this wording, particularly in the context of the previous listings of the property for a living apartment, might be construed to allow just such use, which was expressly forbidden in your original order. Indeed, your original Order expressly forbid a bathroom, which did not prevent the then petitioner from going ahead and installing one and a full kitchen under the permit auspices of putting in plumbing for a utility sink. Your Order's wording could not have been clearer: "The Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or

Honorable John E. Beverungen, Esquire

August 28, 2019

Page 2

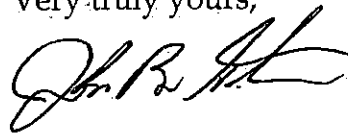
apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities."

Also enclosed is a copy of an email to you from a broker who claims to represent the buyer of the subject property. Contrary to the spirit and intent letter she states that the space over the garage contains both a full and a half bath. In addition, she states the clear desire of her client to have the property occupied by a person working for her client. The subsequent spirit and intent letter does not appear to deny this intent.

My client believes given the wording of the original order, the clear, intentional, subsequent violation of the Order by the owner, and the marketing of the space as an apartment, as well as the correspondence to you from the realtor in July that appears to contradict the spirit and intent letter, that a special hearing would be warranted to modify the order and to clearly limit the usage so that it does not become an apartment or living quarters, with or without a kitchen and/or bathroom.

We would respectfully request that you rescind your spirit and intent letter in that it might appear to contradict the explicit terms of the original order. The meaning of limited use to non- rental property and to "private residential use only" is unclear especially given the context in which it appears. It is certainly unclear to the Improvement Association and is causing great concern. Establishing living space for anyone, whether rented or not, in accessory structures is not what it thought was intended when the original Order was signed approving the variance.

Very truly yours,



John B. Gontrum

JBG:jg

Attachments

cc: Adam M. Rosenblatt, Esquire
Ward Classen, Esquire
Padraic McSherry Morton, Esquire
Peggy Squitieri

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1848 Circle Road)		
9 th Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Council District		
Kevin B. Merrill	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0223-A

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

This matter originally came before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the prior owner of the property at that time, Kevin B. Merrill (“Petitioner”). The Petitioner requested Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft.

The original petition for the Administrative Variance states:

“At grade we propose a standard garage style structure, with an additional 2nd floor to house the overflow home storage, exercise equipment and wood working hobby tools.”

In Administrative Law Judge (“ALJ”) John Beverungen’s Order, dated April 15, 2016, he imposed conditions on the proposed pole barn garage, stating:

“The Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.”

On August 22, 2019, a Spirit and Intent determination was received from Adam M. Rosenblatt, Esq., on behalf of the new owners, Ziad and Elisabeth Bakri, attempting to ensure that the property is in compliance with the 2016 Order. It appears that the new owners will

PETITIONER’ S

EXHIBIT NO. 5

remove all kitchen fixtures as the refrigerator, dishwasher, and sink, leaving only a countertop and cabinet space for storage. The new owners are seeking confirmation that the exercise room, carpeted area and bathroom areas can remain as within the spirit and intent of the relief granted in ALJ Beverungen's Order provided that the garage is never rented and its use limited to private residential use only. ALJ Beverungen signed the Spirit and Intent letter with the conditions stated which indicated was within the spirit and intent of the relief granted.

On August 28, 2019, correspondence was received from John B. Gontrum, Esq. representing the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc. opposing the determination of the Spirit and Intent letter. I will treat this correspondence as a Motion for Reconsideration. Mr. Gontrum indicates that ALJ Beverungen's Order of April 15, 2016 could not have been clearer in that the Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment, shall not contain any sleeping quarters, living area, and **kitchen or bathroom facilities**. Mr. Gontrum further indicated that this wording, particularly in the context of the previous listings of the property for a living apartment, might be construed to allow just such use, which was expressly forbidden in the original Order.

The relief proposed for the Administrative Variance specifically limited that which was requested. Based upon that proposal, that did not include a kitchen or bathroom, the Administrative Variance was granted. Quite properly, the limitations imposed in ALJ Beverungen's April 15, 2016 Order were meant to ensure that no facilities or uses beyond that requested would occur.

It is clear that those limitations were ignored and exceeded. Although the August 22, 2019 Spirit and Intent request pledges to "remove all kitchen fixtures" it seeks confirmation that the bathroom areas and structures could remain. That is clearly, and without question, beyond

that originally requested in the Petition for Administrative Variance and is in violation of the conditions of ALJ Beverungen's April 15, 2016 Order.

THEREFORE, IT IS ORDERED, this 23rd day of **September, 2019**, by the Administrative Law Judge for Baltimore County, that the determination of the Spirit and Intent letter seeking confirmation that the exercise room, carpeted area and bathroom areas remain and are within the spirit and intent of the relief granted in the original Order dated April 15, 2016, be and is hereby RESCINDED.

The relief granted herein shall be subject to the following:

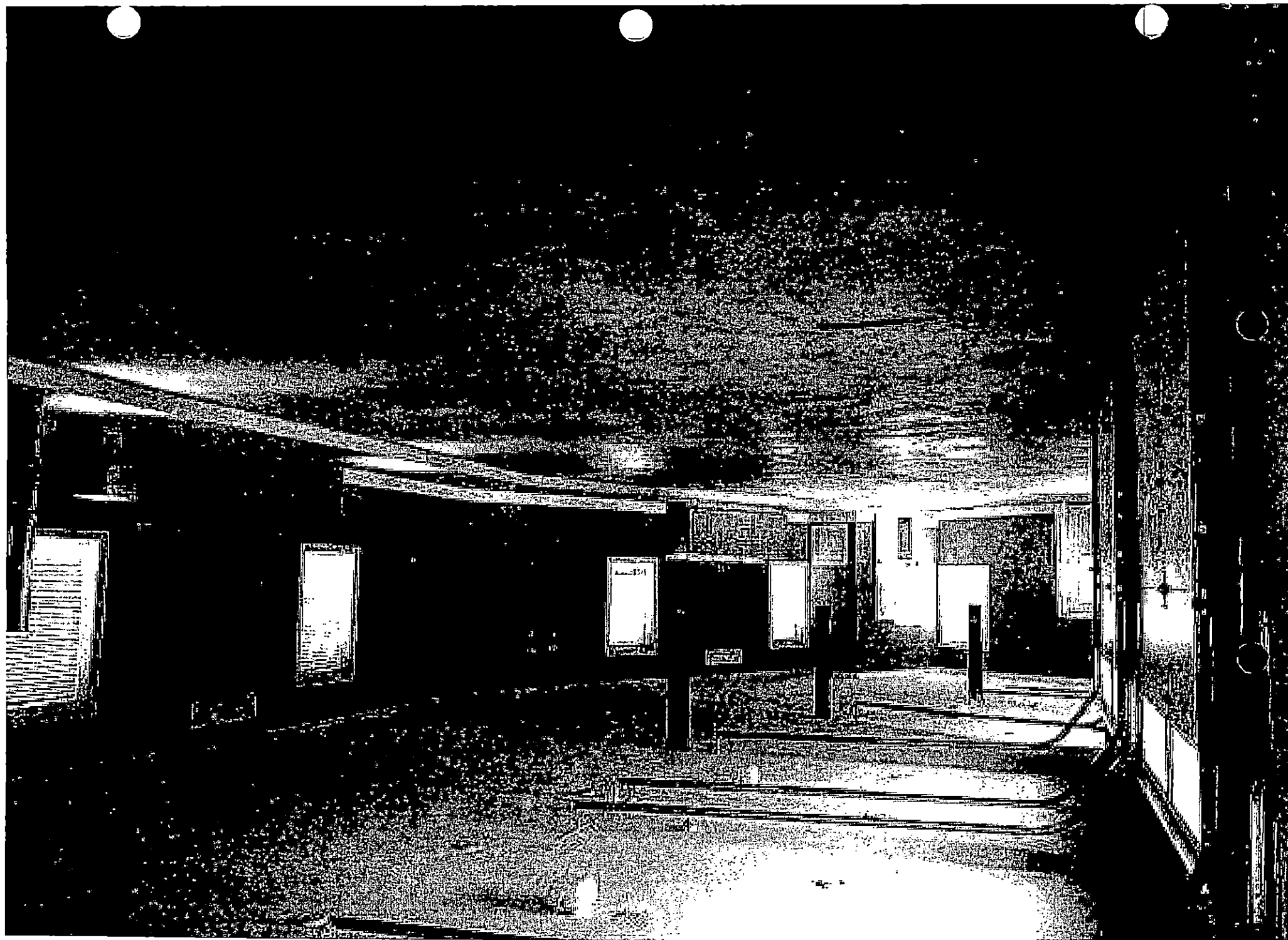
1. Petitioners may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities; and that the facilities including those related to the kitchen or bathroom shall be removed within ninety (90) days of this Order.

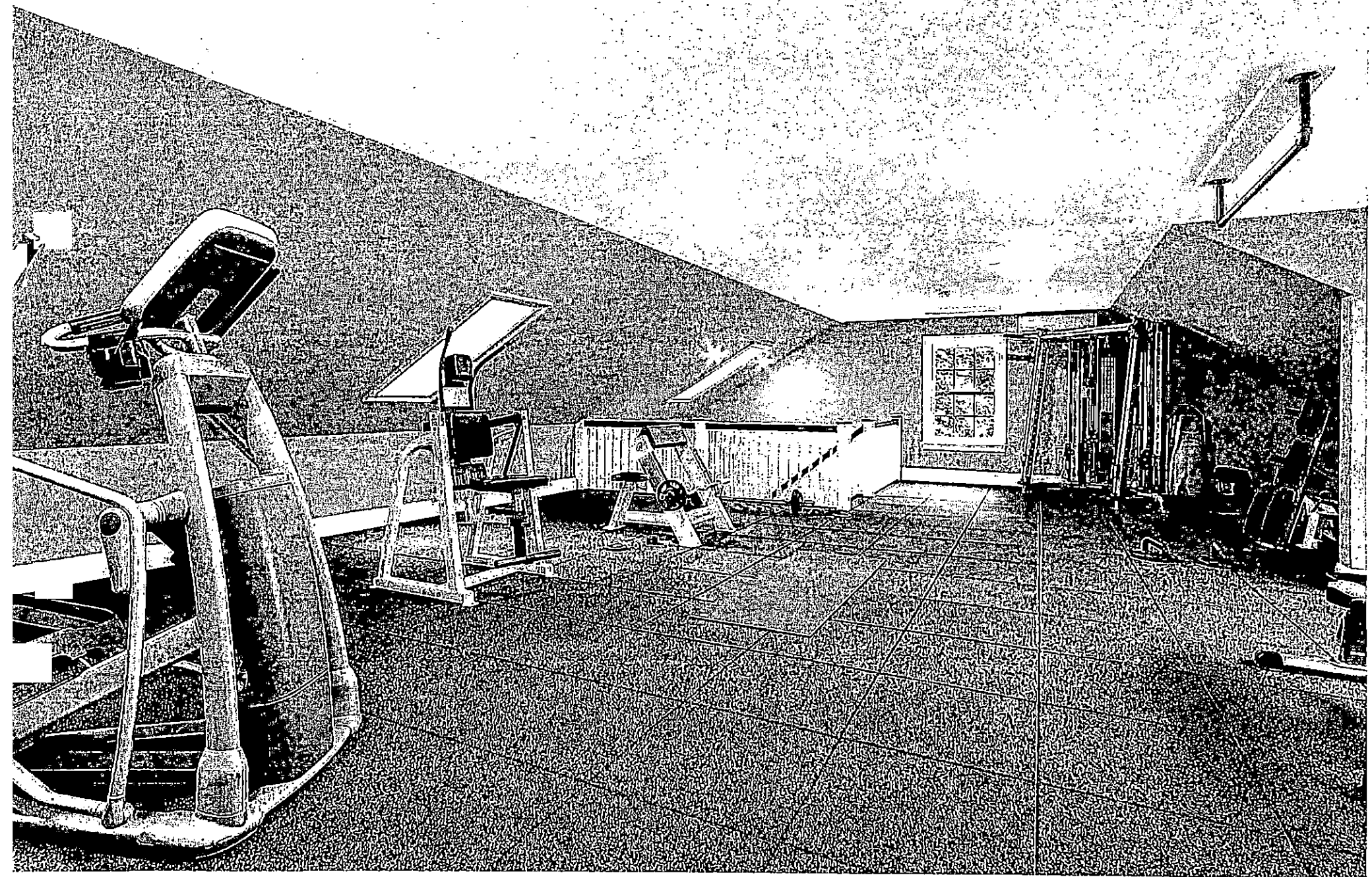
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

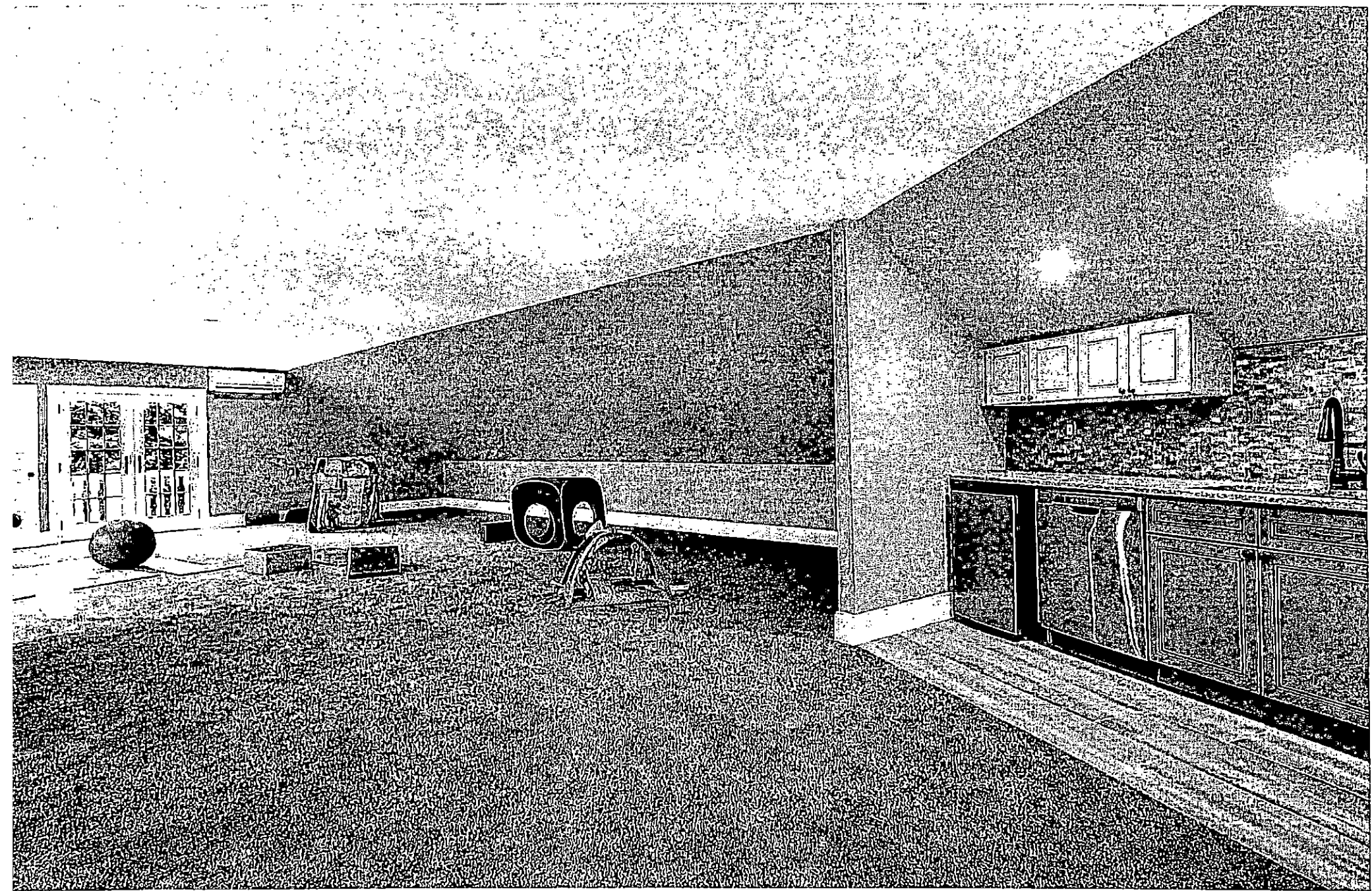


LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS:dlw

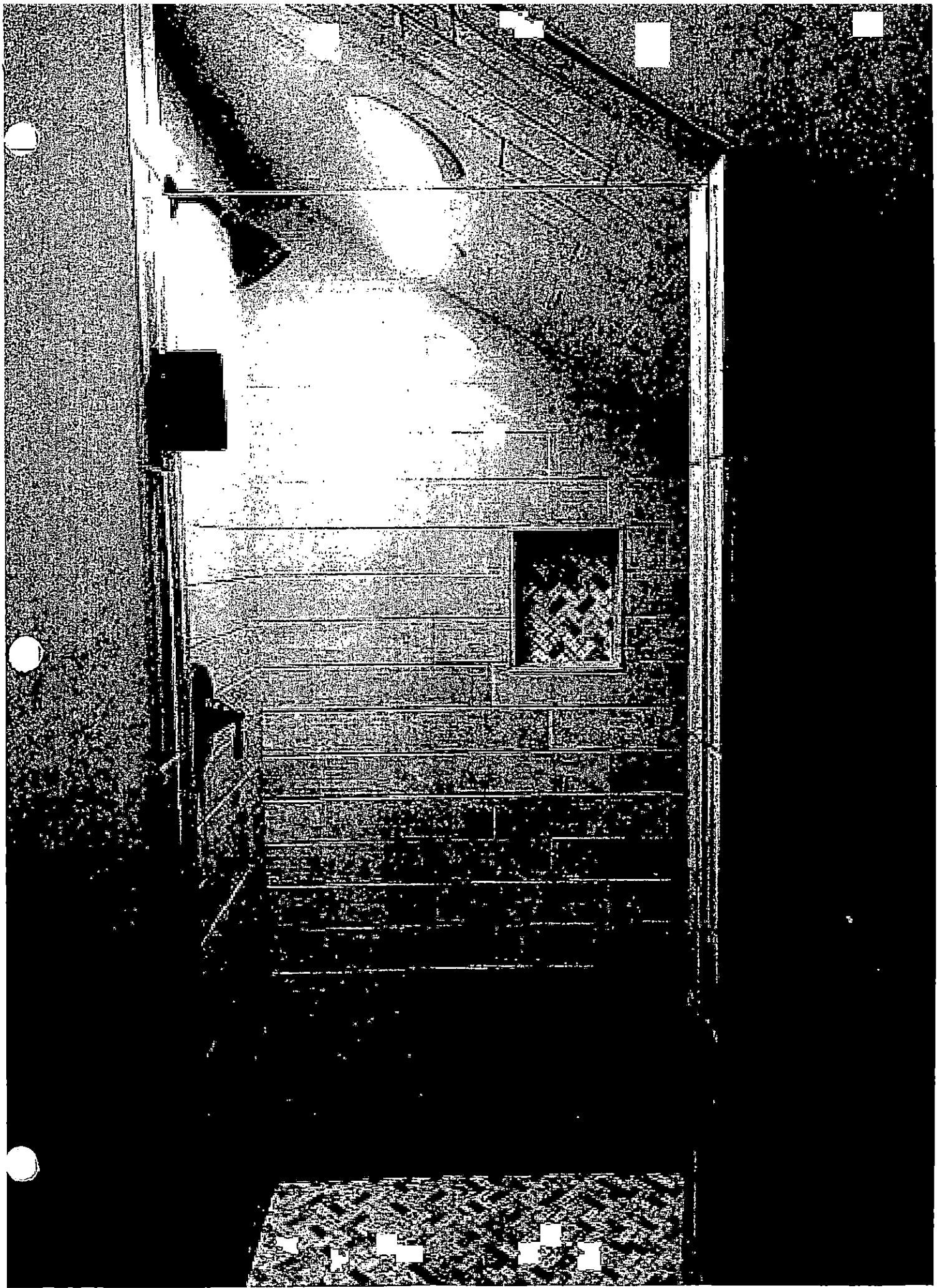


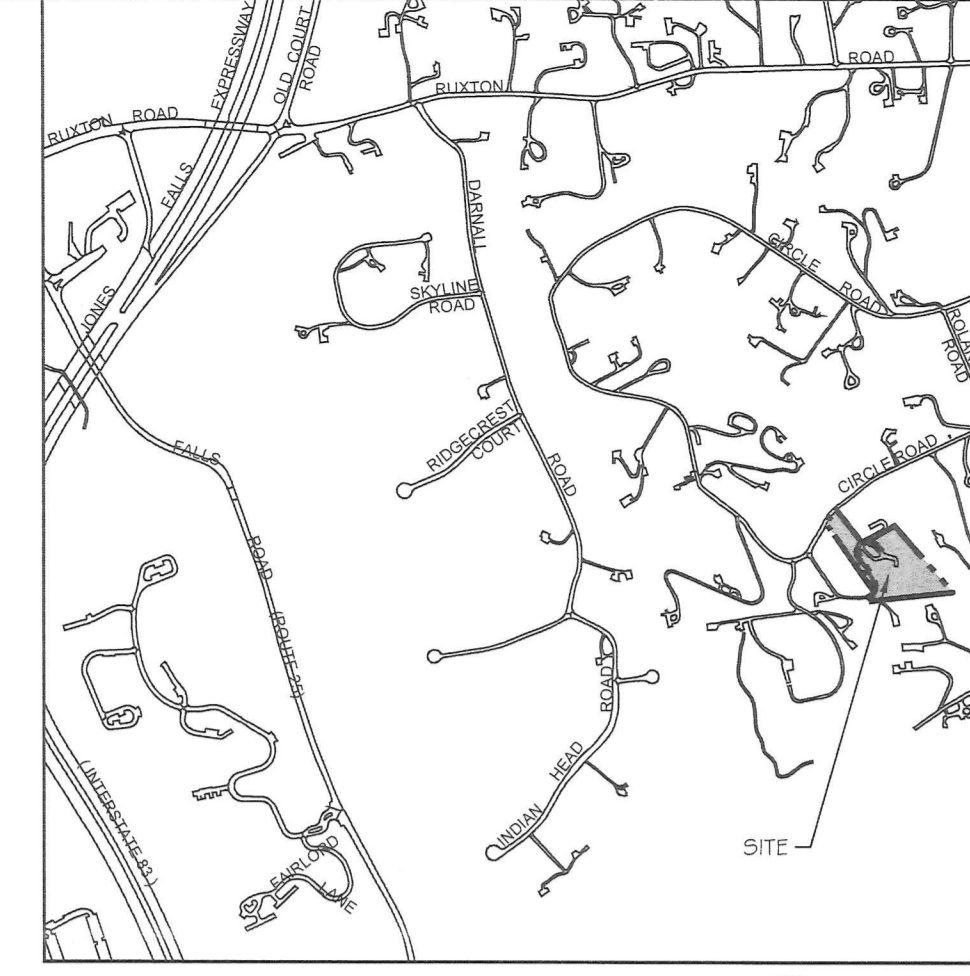












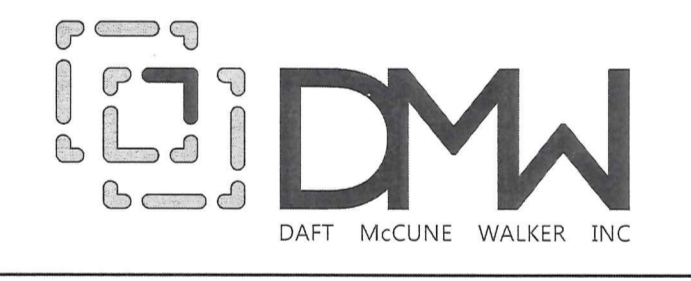
VICINITY MAP
SCALE: 1" = 1,000'

LEGEND

---	PROPERTY BOUNDARY
- - - -	ADJACENT LOT LINE
---	EX. MAJOR CONTOUR
- - - -	EX. MINOR CONTOUR
---	EX. BUILDING
---	EX. ROAD
---	EX. TREELINE
---	STREAM CENTERLINE
---	EX. B
---	EX. L
---	SOILS

- GENERAL NOTES**
- OWNER/ADDRESS: GREGORY MILLIGAN, APPOINTED RECEIVER FOR: KEVIN MERRILL, 1848 CIRCLE ROAD, TOWSON, MD 21204
 - TAX ACCOUNT NUMBER: 0915540100
 - DEED REFERENCE: 35663 / 0363
 - TAX MAP: 0069, GRID: 0015, PARCEL: 0331
 - ACREAGE: 3.05 AC
 - ZONING CLASSIFICATION: DR I, 200 SCALE GRID: 069B2
 - FOR ZONING CASE HISTORY, SEE CASE NUMBER 2016-0223-A.
 - THE PROPERTY HAS A PRIVATE SEWER SYSTEM, BUT IS SERVED BY PUBLIC WATER AND IS WITHIN THE URBAN RURAL DEMARCATION LINE (URDL).

- DATA SOURCE:**
- EXISTING TOPOGRAPHIC, ROAD, STRUCTURE, ZONING, AND PROPERTY INFORMATION SHOWN HEREON IS BASED UPON MAPS PROVIDED BY THE BALTIMORE COUNTY OFFICE OF INFORMATION TECHNOLOGY GEOGRAPHIC INFORMATION SYSTEMS (GIS) DATED 9/8/2018. ZONING HEARING PLAN FROM CASE NO. 2016-0223-A. PLAN INFORMATION FROM DEPS.
 - THE PROPERTY LINES SHOWN HEREON ARE BASED UPON INFORMATION OBTAINED FROM AVAILABLE GIS RECORDS ONLY, AND DO NOT REFLECT THE RESULT OF A BOUNDARY SURVEY.



PLAN

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
(1848 Circle Road)
9th Election District
2nd Council District
Kevin B. Merrill
Petitioner

OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
CASE NO. 2016-0223-A

THEREFORE, IT IS ORDERED, this 23rd day of September, 2019, by the Administrative Law Judge for Baltimore County, that the determination of the Spirit and Intent letter seeking confirmation that the exercise room, carpeted area and bathroom areas remain and are within the spirit and intent of the relief granted in the original Order dated April 15, 2016, be and is hereby RESCINDED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- The Petitioners or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities; and that the facilities including those related to the kitchen or bathroom shall be removed within ninety (90) days of this Order.

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

Lawrence M. Stahl
LAWRENCE M. STAHL
Administrative Law Judge for Baltimore County

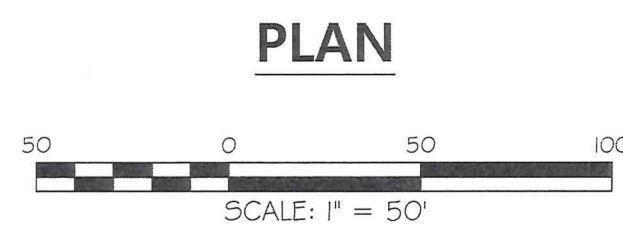
THEREFORE, IT IS ORDERED, this 14th day of April, 2016, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.) to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 10-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- The Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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

John E. Beverungen
JOHN E. BEVERUNGEN
Administrative Law Judge for Baltimore County



- GENERAL NOTES (CONT.)**
- THE SITE/BUILDING IS NOT HISTORIC.
 - THE SITE IS NOT WITHIN A HISTORIC DISTRICT.
 - THE SITE IS NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
 - THE SITE IS NOT WITHIN A FLOODPLAIN.

PETITIONER'S EXHIBIT NO. 1

DATE	BY	REVISIONS

ISSUE DATES	BASE: ZNT
REVIEW: 1/1	DRAWN: ZNT
BID:	DESIGNED: MJK/ZNT
PERMIT:	CHECKED BY:
CONSTRUCTION:	DATE CHECKED:
SCALE: 1" = 50'	DRAWING:
PROJECT NO: 19037	1 of 1



VICINITY MAP
SCALE: 1" = 1,000'

LEGEND

---	PROPERTY BOUNDARY
---	ADJACENT LOT LINE
---	EX. MAJOR CONTOUR
---	EX. MINOR CONTOUR
---	EX. BUILDING
---	EX. ROAD
---	EX. TREETRINE
---	STREAM CENTERLINE
---	SOILS

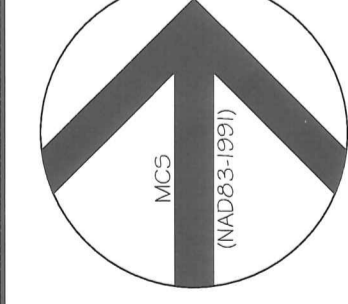
- GENERAL NOTES**
- OWNER/ADDRESS: GREGORY MILLIGAN, APPOINTED RECEIVER FOR: KEVIN MERRILL, 1848 CIRCLE ROAD, TOWSON, MD 21204
 - TAX ACCOUNT NUMBER: 0915540100
 - DEED REFERENCE: 35623 / 0363
 - TAX MAP: 0069, GRID: 0015, PARCEL: 0331
 - ACREAGE: 3.05 AC
 - ZONING CLASSIFICATION: DR I, 200 SCALE GRID: 069B2
 - FOR ZONING CASE HISTORY, SEE CASE NUMBER 2016-0223-A
 - THE PROPERTY HAS A PRIVATE SEWER SYSTEM, BUT IS SERVED BY PUBLIC WATER AND IS WITHIN THE URBAN RURAL DEMARCATION LINE (URDL).

- DATA SOURCE:**
- EXISTING TOPOGRAPHIC, ROAD, STRUCTURE, ZONING, AND PROPERTY INFORMATION SHOWN HEREON IS BASED UPON MAPS PROVIDED BY THE BALTIMORE COUNTY OFFICE OF INFORMATION TECHNOLOGY, GEOGRAPHIC INFORMATION SYSTEMS (GIS) DATED 9/30/2019, ZONING HEARING PLAN FROM CASE NO. 2016-0223-A, PLAN INFORMATION FROM DEPS
 - THE PROPERTY LINE(S) SHOWN HEREON ARE BASED UPON INFORMATION OBTAINED FROM AVAILABLE GIS RECORDS ONLY, AND DO NOT REFLECT THE RESULT OF A BOUNDARY SURVEY.

501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

PLAN TO ACCOMPANY SPECIAL HEARING REQUEST
1848 CIRCLE ROAD TOWSON, MD 21204

ELECTION DISTRICT 9 COUNCILMANIC DISTRICT 2



DATE	BY	REVISIONS

ISSUE DATES	BASE: ZNT
REVIEW: 1/1	DRAWN: ZNT
BID:	DESIGNED: MJK/ZNT
PERMIT:	CHECKED BY:
CONSTRUCTION:	DATE CHECKED:
SCALE: 1" = 50'	DRAWING:
PROJECT NO: 19037	

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
(1848 Circle Road)
9th Election District
2nd Council District
Kevin B. Merrill
Petitioner

* OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
* CASE NO. 2016-0223-A

THEREFORE, IT IS ORDERED, this 23rd day of September, 2019, by the Administrative Law Judge for Baltimore County, that the determination of the Spirit and Intent letter seeking confirmation that the exercise room, carpeted area and bathroom areas remain and are within the spirit and intent of the relief granted in the original Order dated April 15, 2016, be and is hereby RESCINDED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- The Petitioners or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities; and that the facilities including those related to the kitchen or bathroom shall be removed within ninety (90) days of this Order.

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

L. Stahl
LAWRENCE M. STAHL
Administrative Law Judge for Baltimore County

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
(1848 Circle Road)
9th Election District
2nd Council District
Kevin B. Merrill
Petitioner

* OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY
* CASE NO. 2016-0223-A

THEREFORE, IT IS ORDERED, this 15th day of April, 2016, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R") to permit a proposed pole barn garage with a maximum height of 28 ft. in lieu of the required 15 ft., be and is hereby GRANTED.

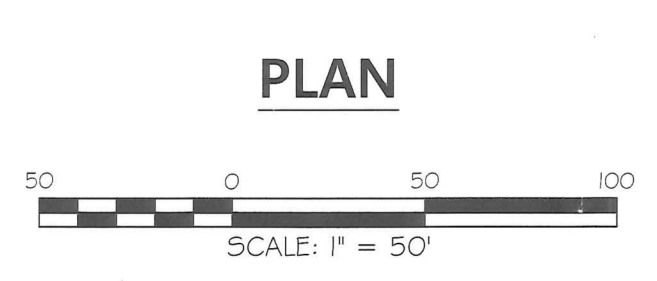
The relief granted herein shall be subject to the following:

- Petitioner may apply for any appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- The Petitioner or subsequent owners shall not convert the pole barn garage into a dwelling unit or apartment. The pole barn garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for Baltimore County

JEB:dhw



- GENERAL NOTES (CONT.)**
- THE SITE/BUILDING IS NOT HISTORIC.
 - THE SITE IS NOT WITHIN A HISTORIC DISTRICT.
 - THE SITE IS NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
 - THE SITE IS NOT WITHIN A FLOODPLAIN.

2019-0511-514