



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

August 21, 2023

Jason and Dana Simick – jasonsimick@gmail.com
106 Windtree Valley Road
Parkton, MD 21120

RE: Petition for Special Hearing
Case No. 2023-0135- SPH
Property: 106 Windtree Valley Road

Dear Petitioners:

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

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink that reads "Paul M. Mayhew".

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm

Enclosure

C: David Ransone – dransone@yahoo.com
James Ralls & Diana P. Woltereck – dwoltereck@hotmail.com

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(106 Windtree Valley Road)		
7 th Election District	*	OFFICE OF
3 rd Council District		
Jason and dana Simick	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2023-0135-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing filed by Jason & Dana Simick (“Petitioners”) for the property located at 106 Windtree Valley Road, Parkton (the “Property”). The Special Hearing was filed pursuant to Baltimore County Zoning Regulations (“BCZR”) §500.7: for an accessory in-law apartment in a detached accessory building (garage) on the property pursuant to BCZR § 400.4.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Petitioners, Jason and Dana Simick appeared at the hearing in support of the Petition. Also in attendance were Raymond and Sharon Bastianelli, the parents of Dana Simick and the persons who intend to reside in the proposed accessory structure. The builder, David Ransone, also appeared and assisted the Petitioners. Five letters of support from the surrounding homeowners were submitted and accepted into evidence as Petitioners’ Exhibits G through K.

A Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) they did not oppose the requested relief subject to certain conditions which will be incorporated into this Order.

The Property is located in Parkton. It is approximately 1.5205 acres and is zoned RC 5. Mr. Simick submitted and explained the site plan and a series of site photographs which were

admitted as Petitioners' Exhibits A through F. These exhibits demonstrate that the proposed accessory apartment will be well buffered from the surrounding properties. A draft Declaration of Understanding was also submitted attesting that the Bastianellis will be the sole occupants of the apartment and that it will be no greater than 1200 sq. ft. and will otherwise be in conformance with BCZR § 400.

SPECIAL HEARING

A hearing to request special zoning relief is proper under BCZR §500.7 as follows:

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). And, "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations." *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. App. (Sept. Term 2016).

Based on the evidence, I find that the Special Hearing relief should be granted in this case. I specifically find that the relief is within the spirit and intent of the zoning regulations and specifically conforms with the requirements of BCZR § 400.4.

THEREFORE, IT IS ORDERED this 21st day of **August, 2023** by this Administrative Law Judge, that the Petition for Special Hearing under BCZR §500.7 for an accessory in-law apartment in a detached accessory building (garage) on the property pursuant to BCZR §400.4 is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. The proposed accessory apartment shall not be used for commercial or industrial purposes.
3. Prior to issuance of permits, Petitioners must comply with the ZAC comment submitted by DOP, a copy of which is attached hereto and made a part hereof.
4. The accessory apartment shall not be converted into a second dwelling beyond the scope of BCZR, §400.4. The accessory apartment shall only be utilized by the Petitioners and by those family members permitted in the definition of "Accessory Apartment" in BCZR, §101.1, and may not be occupied by any person other than those permitted therein for any other reason including non-permitted family members. When the accessory apartment is no longer occupied by the persons named in the Use Permit, or if the Property is sold, the use permit shall terminate. Upon termination, the improvements used in the accessory apartment shall be removed and the accessory structure shall be restored to a storage space/garage.
5. The accessory apartment shall not have separate utility meters.
6. Prior to the issuance of the Use Permit, Petitioners shall file and record at their expense, an executed and notarized Declaration of Understanding along with a property description, a copy of the proposed detailed floor plan and the Zoning Hearing Site Plan (Pet. Ex. A) as well as a copy of this Order, in the Land Records of Baltimore County, and shall file a copy of the same with the Department of Permits, Approvals and Inspections.

7. Petitioners shall renew the Use Permit with Department of Permits, Approvals and Inspections every two (2) years by filing a renewal on a form approved by Department of Permits, Approvals and Inspections, to be dated from the month of the Order herein, and shall list the name of any person occupying the accessory apartment.

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/dlm

DECLARATION OF UNDERSTANDING

This Declaration of Understanding (Hereinafter referred to as "Declaration") is made on this _____ day of _____, by and between JASON C. SIMICK and DANA R. SIMICK (hereinafter referred to as the "Declarant") and the Department of Permits, Approvals and Inspections (hereinafter referred to as "PAI").

106 Windtree Valley Road, Parkton MD 21120 3rd Council Dist. / 7th Election Dist.
Address Zip Code

Accessory apartments submitted: One, located in a Detached Accessory Building
Special Hearing Case No.: 2023-0135-SPH Approved: Yes/No

Will owner receive compensation: NO.

Recitals

- A. The Declarants, who are also the owners of this property, have filed an application for a use permit and special hearing to construct a 1,200 square foot Detached Accessory Building in the rear yard of the existing dwelling located on the property. The property being located at: 106 Windtree Valley Road, Parkton MD 21120 and is more particularly described by metes and bounds in **Exhibit A** (The Property) and **Exhibit B** (hearing plan) attached hereto and made a part hereof. The property is zoned RC-5, which is the particular zone in which the property is located..
- B. PAI (or) The Administrative Law Judge has approved the Declaration request to create an Accessory Apartment completed with dedicated bathing and cooking facilities, located on this owner-occupied property with an overall square footage of 1,200 square feet. The accessory apartment will provide housing for Raymond Bastianelli and Sharon A. Bastianelli, who are husband and wife and the parents of Dana R. Simick.
- C. The current residents of the existing dwelling are Dana R. Simick and her husband, Jason C. Simick, daughter and son-in-law of Raymond Bastianelli and Sharon A. Bastianelli.
- D. The use permit must be renewed with PAI every two years by filing a renewal on a PAI approved form, to be dated from the month of the initial approval.
- E. As a condition of approval of the Declarants request, Bill No. 49-11 and Bill 7-23 requires the filing of the Declaration among the Land Records of Baltimore County, to provide notice to any future owners, subsequent bona fide purchasers or users of the Property that no part of any improvements or addition on the Property may be used for separate living quarters and that all such improvements shall only be used as a single-family residence, unless otherwise approved by and at the discretion of PAI.

2023-0135-SPH

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarants and PAI hereby declare as follows:

1. Any and all improvements now existing or to be constructed on the Property shall be used only as a single-family residence. No such improvements or additions shall ever be used as a separate living quarter or second residential unit. The kitchen of the Accessory Apartment will be constructed as part of the Property and shall be accessory to the principal use of the Property as a single-family residence. The Accessory Apartment shall house only the immediate family members listed in this Declaration and it is not to be used as an independent residential unit, nor is it to be used for compensation, and it shall not be used by any other person or for any other reason. The use permit and the Declaration are subject to the order, conditions or restrictions of any required zoning hearing. The hearing order is to be made part of this Declaration when it is recorded in Land Records.
2. Once the Accessory Apartment is no longer occupied by the persons named in this Declaration or if the property is sold, or the use permit has not been renewed within the 2 year temporary use permit time limit, the use permit shall terminate, and any proposed changes in occupancy to the Accessory Apartment by the property owner or subsequent purchaser shall require a new request for a use permit.
3. Upon use permit termination:
 - A. In the Accessory Apartment in the accessory building use permit termination requires removal of the kitchen and possibly other residential elements, at the discretion of PAI.
 - B. The Declarants upon termination of the use permit will provide written notification to PAI for the closing of the Department file.
 - C. The Declarant(s) upon termination of the use permit will provide written notification to PAI for the closing of the Department file.
4. The covenants, conditions, and restrictions stated above shall run with and bind the Property and shall be enforceable by Baltimore County, MD and by the owners of all or any portion of the Property.
5. Enforcement of the Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of the covenants, either to restrain in the violation or to recover damages.

2023-0135-SP14

IN WITNESS WHEREOF, the parties hereto have duly executed this Declaration under seal on the date first above written.

Owner(s): _____
JASON C. SIMICK

DANA R. SIMICK

State of Maryland, County of Baltimore to wit:

I HERBY CERTIFY that on this ____ day of _____ before the Subscriber, a Notary Public of State of Maryland, personally appeared Jason C. Simick and Dana R. Simick, the Declarants herein, who are also the owners of the property, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and who acknowledged that they executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

2023-0135-SPH

**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: 2023-0135-SPH
Property Address: 106 WINDTREE VALLEY ROAD PARKTON MD 21120
Legal Owners (Petitioners): JASON C. SIMICK & DANA R. SIMICK
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): JASON SIMICK
Address: 106 WINDTREE VALLEY ROAD
PARKTON MD
21120
Telephone Number: 443-465-5060

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

2023-0135-SPH

Revised 3/2022

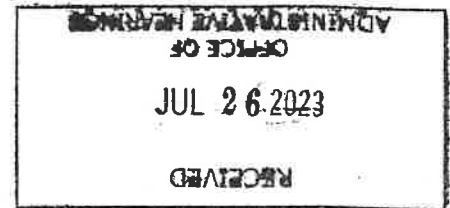
BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: C: Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 7/25/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-0135-SPH



INFORMATION:

Property Address: 106 Windtree Valley Road
Petitioner: Jason C. Simick & Dana Simick
Zoning: RC 5
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for the following:

Special Hearing - To allow an accessory in-law apartment in a separate accessory building (garage) on the property.

The property is located on Windtree Valley Road within the Parkton region. It is positioned between Andrews Court and York Road (MD 45). Spanning approximately 1.52 acres, the property is zoned RC 5 and features a single-family residential dwelling. Rural residential dwellings, farms, and forest conservation characterize the surrounding area.

This requested relief is to enable in-laws to age in place comfortably. Due to health conditions, the applicant feels that this arrangement is essential. The applicant intends to convert the accessory apartment to storage space whenever they no longer need the in-law apartment.

The establishment of the RC 5 zoning classification was prompted by concerns regarding haphazard and wasteful development in rural-residential areas, as well as insufficient lot sizes for on-lot sewer and water systems. These issues had the potential to impose financial burdens and adversely impact the well-being and safety of residents. By identifying specific areas suitable for rural-residential development, the goal is to guide future growth in a directed manner and prevent chaotic development patterns. The RC 5 zoning classification serves the purpose of designating suitable regions for rural-residential development, minimizing encroachments on natural resources, and mandating a minimum lot size to ensure proper functioning of on-lot sewer and water systems.

The Department of Planning has no objections to the relief sought. If the Administrative Law Judge decides to grant the requested relief, the Department asks that the following conditions be included in the approval.

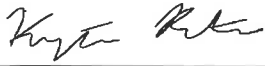
- The proposed development should adhere to certain performance standards established in BCZR Section 1A04.4, especially Section 1A04.4.G.1.d. To maintain a cohesive look, ensure that the scale of the structures is appropriate compared to the main dwelling. Use consistent finish

materials and architectural details on all front, side, and rear elevations of the buildings. This consistency should also extend to the exteriors of all buildings, with the same finish materials and architectural details used on all front, side, and rear elevations. .

- The use of the accessory apartment should be limited to immediate family members as defined in Section 101, and any person other than an immediate family member for any reason should not utilize it. Any proposed changes in occupancy to the accessory apartment by the property owner or subsequent purchaser would require a new request for a use permit as applicable under Subsection 400.4.A or B.

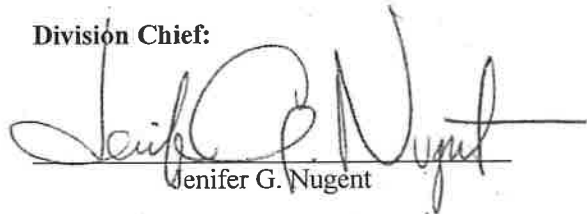
For further information, concerning the matters stated herein, please contact Henry Ayakwah at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jennifer G. Nugent

SL/JGN

c: David Ransone

Joseph Wiley and Abigail Rogers, Community Planners

Ngone Seye Diop, Community Planning Division Chief

Jeff Perlow, Zoning Review

Kristen Lewis, Zoning Review

Office of Administrative Hearings

People's Counsel for Baltimore County

Maryland The Daily Record
200 St. Paul Place
Baltimore, MD, 21202
Phone: 4435248100

MARYLAND
THE DAILY RECORD

Affidavit of Publication

To: Jason Simick -
106 Windtree Valley Road
Parkton, MD, 21120

Re: Legal Notice 2525519,
CASE NUMBER: 2023-0135-SPH

We hereby certify that the annexed advertisement was
published in Maryland The Daily Record, a Daily newspaper
published
in the State of Maryland 1 time(s) on the following date(s):
07/28/2023

By



Joy Hough
Authorized Designee of the Publisher

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 virtual hearing on the property identified herein as follows:

CASE NUMBER: 2023-0135-SPH

106 Windtree Valley Road

Northside of Windtree Valley Road, 320 feet Southwest of York Road

7th Election District - 3rd Councilmanic District

Legal Owners: Jason & Dana Simick

Special Hearing for an accessory in-law apartment in a detached accessory building (garage) on the property.

Hearing: Friday, August 18, 2023 at 10:00 a.m.

For information on how to participate in the hearings please go to www.baltimorecountymd.gov/admnl/hearings no later than 48 hours prior to the hearing. You will be asked to provide your contact information and the case number provided above. You may also call 410-587-3868, ext. 0.
_ly28 2525519

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 7/27/2023

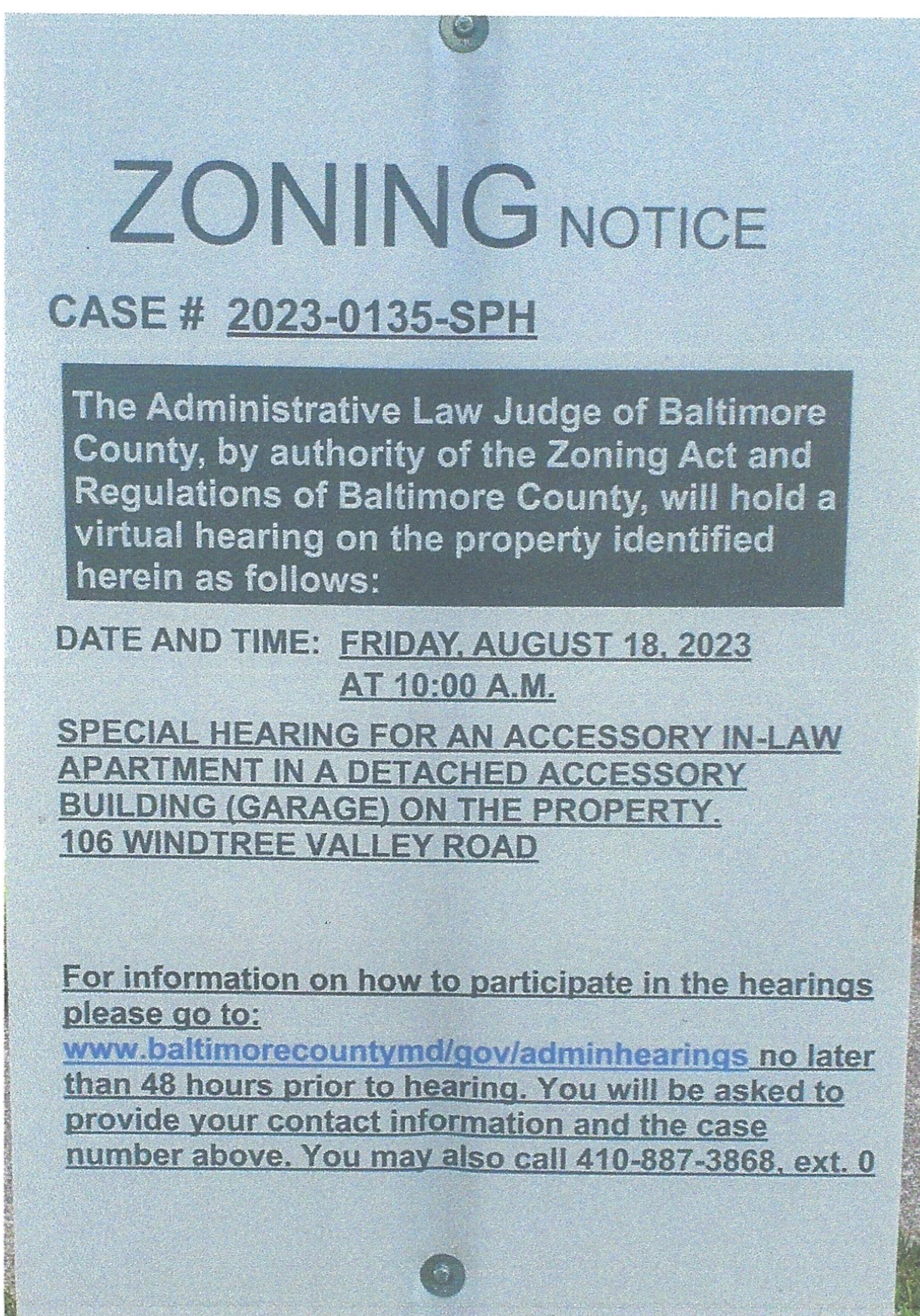
Case Number: 2023- 0135-SPH

Petitioner / Developer: DAVID RANSONE~ JASON & DANA SIMICK

Date of Hearing: AUGUST, 18, 2023

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

The sign(s) were posted on: JULY 27, 2023



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, MD 21030
(City, State, Zip of Sign Poster)

410-666-5366
(Telephone Number of Sign Poster)



Background Photo 1st Sign @ 106 Windtree Valley Road ~ 7/27/2023



Background Photo 2nd Sign @ 106 Windtree Valley Road ~ 7/27/2023
CASE # 2023-0135-SPH

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 7/25/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
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materials and architectural details on all front, side, and rear elevations of the buildings. This consistency should also extend to the exteriors of all buildings, with the same finish materials and architectural details used on all front, side, and rear elevations. .

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For further information, concerning the matters stated herein, please contact Henry Ayakwah at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jennifer G. Nugent

SL/JGN

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Ngone Seye Diop, Community Planning Division Chief
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

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

DATE: July 17, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0135-SPH
Address: 106 WINDTREE VALLEY RD
Legal Owner: Jason & Dana Simick

Zoning Advisory Committee Meeting of July 3, 2023.

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

Additional Comments:

Reviewer: Earl D. Wrenn

ELEMENTARY
SCHOOL

0702057276

110

Site

104

2100010912

(New Major Subs. of 4 or More Additional
Lots Req. Plan. Bd. Approval)

Lot # 2 2100010910

PAI # 070224

Pt. Bk. 0000060, Folio 0004 2100010913

Lot # 5

108

Lot # 3 2100010911

100

2023-0135-SPH
1998-0161-A

1998-0161-A

Lot # 43

2100010950

Lot # 44 2100010951

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
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Special Tax Recapture: None

Account Identifier: District - 07 Account Number - 2100010912

Owner Information

Owner Name: SIMICK JASON C Use: RESIDENTIAL
SIMICK DANA R Principal Residence: YES

Mailing Address: 106 WINDTREE VALLEY RD Deed Reference: /45353/ 00425
PARKTON MD MD 21120-9296

Location & Structure Information

Premises Address: 106 WINDTREE VALLEY RD Legal Description: 1.5205 AC
PARKTON MD 21120-9296 106 WINDTREE VALLEY RD
WINDTREE VALLEY

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0007 0021 0017 7020006.04 0000 4 2023 Plat Ref: 0060/ 0004

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1999	2,888 SF	300 SF	1.5200 AC	04

Stories	Basement Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2	YES	STANDARD UNITS	SIDING/4	3 full	1 Attached

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2023	07/01/2022	07/01/2023
Land:	142,000	152,500		
Improvements	344,400	401,500		
Total:	486,400	554,000	486,400	508,933
Preferential Land:	0	0		

Transfer Information

Seller: MILLER CHRISTOPHER L	Date: 08/19/2021	Price: \$581,000
Type: ARMS LENGTH IMPROVED	Deed1: /45353/ 00425	Deed2:
Seller: JOHNSON DEAN E	Date: 04/11/2017	Price: \$495,000
Type: ARMS LENGTH IMPROVED	Deed1: /38826/ 00292	Deed2:
Seller: SHELLEY CUSTOM HOMES INC	Date: 10/12/1999	Price: \$315,915
Type: ARMS LENGTH IMPROVED	Deed1: /14080/ 00069	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2022	07/01/2023
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00 0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: Application received

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2023-0135-SP14

Board of Education of Baltimore County
#20300 York Road Acct#: 702057276

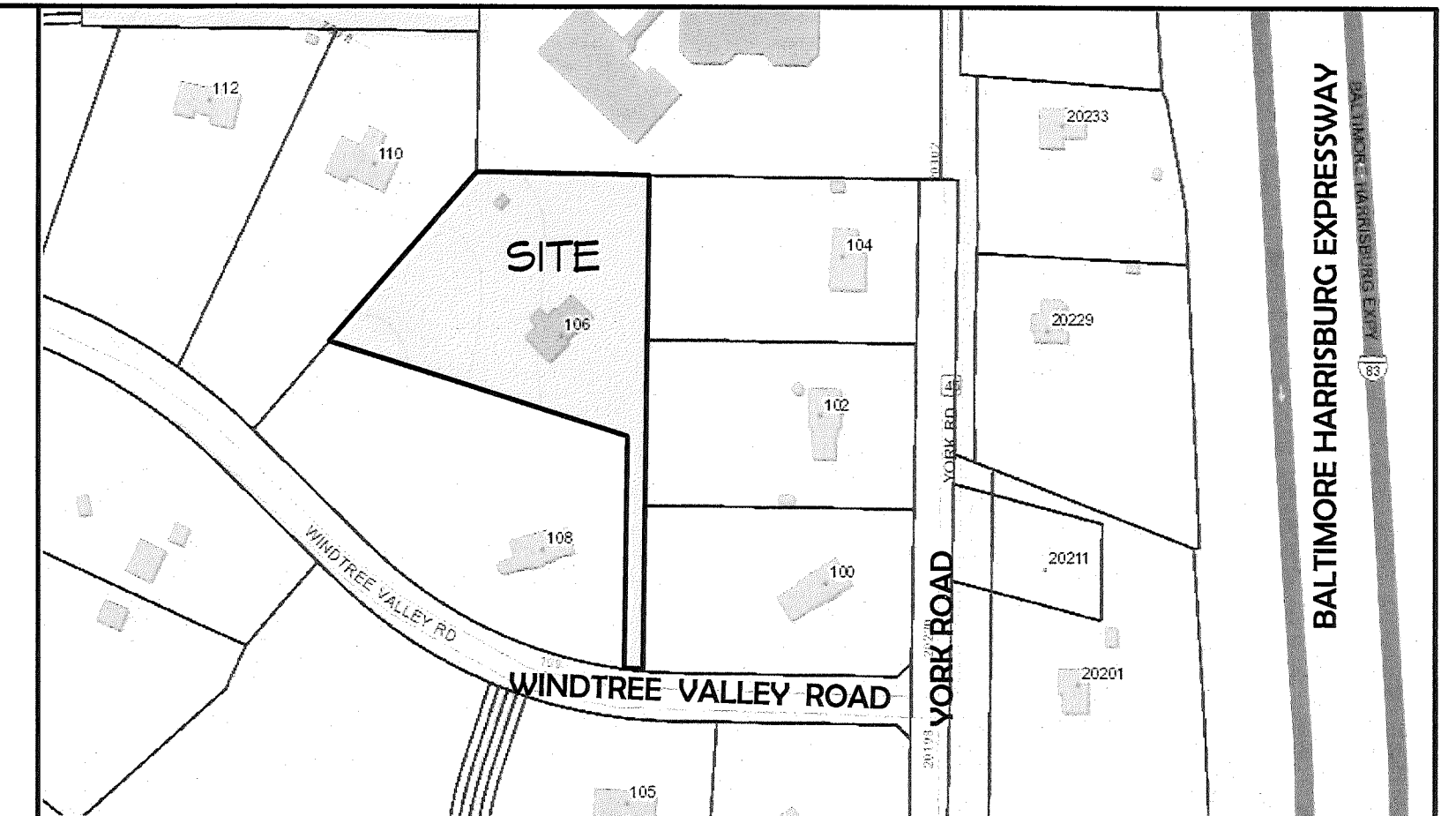
Lot 1 #104 Windtree Valley Road
Kaitlin Santos & Victor Kit Acct#: 2100010909

Lot 2 #102 Windtree Valley Road
Samuel & Carolyn Jaffa Acct#: 2100010910

Lot 3 #100 Windtree Valley Road
Carolyn Roberts Acct#: 2100010911

Lot 5 #108 Windtree Valley Road
Fred & Nancy Medinger Acct#: 2100010913

Lot 6 #110 Windtree Valley Road
David & Jill Lawrence Acct#: 2100010914



LOCATION - N.T.S.

ZONING PLAN FOR SPECIAL HEARING

LOT 4 PLAT OF WINDTREE VALLEY
PLATBOOK SM No. 60 folio 4

Scale: 1" = 50' JUNE 7, 2023

Owner: Jason C Simick, Dana R Simick
106 Windtree Valley Road
Parkton MD 21120
Ph:443-465-5060
Email: raymusic@verizon.net

Acct #: 2100010912
Deed ref: JLE No. 45353 folio 425
Zoned RC-5
GIS MAP 07B3

7th Election District
3rd Councilmanic District

Property does not lie in a CBCA
Property does not lie in a Historic District
Property does not lie in a floodplain

No active zoning violations
No prior zoning cases

Private water and sewer

Existing principal dwelling =2888 sf
Proposed In-Law Apartment = 1200 sf or 0.415%.

2023-0135-SH4