

IN RE: PETITION FOR SPECIAL	*	BEFORE THE
HEARING AND VARIANCE		
7311-7315 Hughes Ave	*	OFFICE OF ADMINISTRATIVE
15th Election District		
7th Council District	*	HEARINGS FOR
Gerald Roub Trustee, by Bryan Roub		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
<i>Petitioner</i>		
	•	Case No. 2023-150-SPHA

* * * * *

**REQUEST TO WITHDRAW ONLY THE UNDERSIZED LOT PETITIONS
FILED IN THE ABOVE REFERENCED CASE**

The Petitioner, by and through its undersigned counsel, files this request to withdraw, without prejudice, the request for undersize lot petitions filed in the above referenced case, (filed pursuant to section 304 of the BCZR), leaving intact the variances approved by the ALJ for all three lots:

1. By Order dated the 11th day of October 2023 your Honor granted all of the relief requested, (both undersized lot approval and variance relief requested) for lots 226, 227 & 228 of the Chesapeake Terrace Plat, Section B, said lots being located on Hughes Avenue in Sparrows Point, Maryland. (See attached Order)

2. The relief requested by the Petitioner was filed “in the alternative” whereas the approval of either of the requested relief would serve the Petitioner’s goal of having all three lots approved as buildable lots.

3. The Petitioners hereby request that the undersize lot relief filed pursuant to section 304 of the BCZR, for lots 226 & 228 be withdrawn, without prejudice, leaving intact the variance approvals for all three lots, 226, 227 & 228.

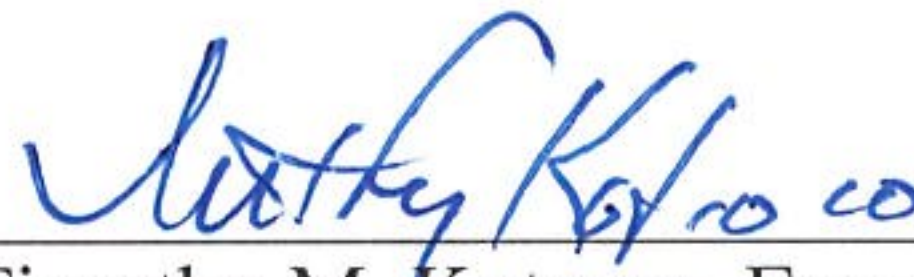
4. Pursuant to this request to withdraw the undersized lot petitions, we would request that the ALJ allow the withdrawal of the undersized lot petitions for lots 226 & 228, (without prejudice) and leave intact the variance relief granted for all three lots.

5. It is respectfully requested that a new Order be issued by the ALJ approving the withdrawal of the undersized lot requests for lots 226 & 228 Hughes Avenue.

Respectfully Submitted,



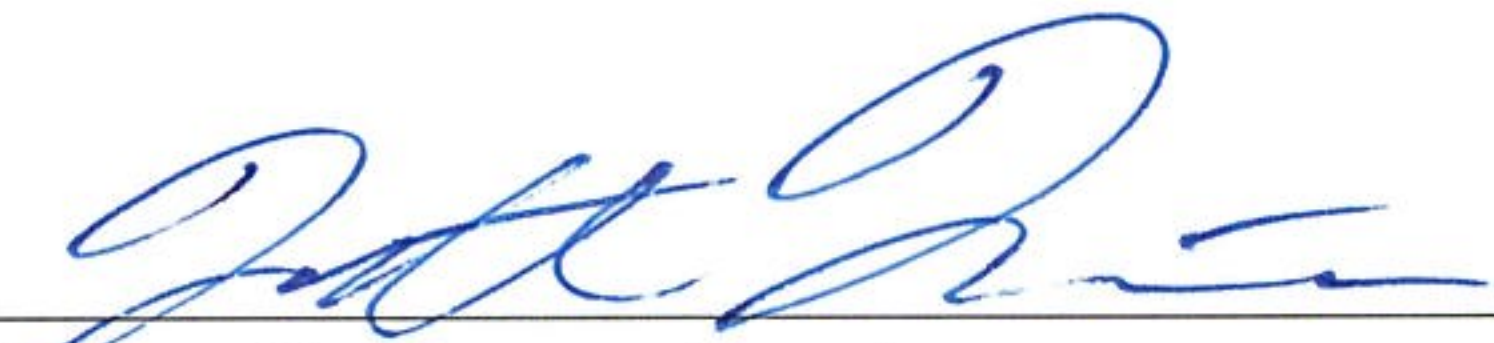
Matthew T. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2954



Timothy M. Kotroco, Esquire
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-2943

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 23rd day October, 2023 a copy of the foregoing **RESPONSE** was emailed to Peter M. Zimmerman, People's Counsel for Baltimore County, pzimmerman@baltimorecountymd.gov and Mr. Jeff Perlow, Zoning Supervisor at jperlow@baltimorecountymd.gov.



Matthew T. Kotroco, Esquire



JOHN A. OLSZEWSKI, JR.
County Executive

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

October 11, 2023

Timothy Kotroco, Esquire – tkotroco@gmail.com
Matthew T. Kotroco, Esquire – mattkotroco@gmail.com
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: **AMENDED OPINION AND ORDER**
Case No. 2023-0150-SPHA
Property: 7311, 7313 and 7315 Hughes Avenue

Dear Counsel:

Enclosed please find a copy of the Amended Order 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: Bryan Roub – bryanroub@icloud.com
Stephanie Bender – stephanie.bender@cignahealthcare.com
Eric Hadaway – ehadaway@dmw.com
John Upright – jaupright@gmail.com

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(7311, 7313 and 7315 Hughes Avenue)	*	OFFICE OF
15 th Election District		
7 th Council District	*	ADMINISTRATIVE HEARINGS
Bryan Roub, Trustee of Gerald Roub		
Legal Owner	*	FOR BALTIMORE COUNTY
 Petitioner	 *	 Case No. 2023-0150-SPHA

* * * * *

AMENDED OPINION AND ORDER¹

This matter came before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Bryan Roub, the Representative of Gerald Roub, Trustee (“Petitioner”), the legal owner for the property located at 7311, 7313 and 7315 Hughes Avenue, Sparrows Point (the “Property”). The following relief was requested:

SPECIAL HEARING:

7311 Hughes - to approve an undersized lot pursuant to the Baltimore County Zoning Regulations (“BCZR”), §304 (lot does not have sufficient adjoining land). Or in the alternative, a variance from the development standards for small lots or tracts (BCZR § 1B02.3.C.1) to permit a front yard minimum lot width of 50 ft. in lieu of the required 55 ft.

VARIANCE:

7313 Hughes - to approve an existing dwelling on a lot in a DR 5.5 zone with a minimum lot width of 50 ft. in lieu of the required 55 ft., side yard setbacks of approximately 9 ft. and 5 ft. in lieu of the required 10 ft. and for such other and further relief as the nature of this case may require (BCZR §1B02.3.C.1).

SPECIAL HEARING: 7315 Hughes - to approve an undersized lot pursuant to BCZR § 304 (lot does not have sufficient adjoining land). Or in the alternative, a variance from the development standards for small lots or tracts (BCZR § 1B02.3.C.1) to permit a front yard minimum lot width of 50 ft. in lieu of the required 55 ft.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Bryan Roub appeared at the hearing in support of the

¹ The original Opinion and Order in this case was issued on September 11, 2023. People’s Counsel filed a Motion for Reconsideration on September 22, 2023. Petitioner filed a Response thereto on September 26, 2023. Both Motions have been fully considered.

Petition. Timothy Kotroco, Esquire and Matthew Kotroco, Esquire represented the Petitioner. Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), the Department of Public Works and Transportation (“DPW&T”), and the Department of Environmental Protection and Sustainability (“DEPS”). Subject to proposed conditions they did not oppose the requested relief. John and Kim Upright, the adjacent neighbors at 7317 Hughes Avenue also attended the hearing. They expressed concerns about the request for reduced side yard setbacks for the adjoining lot at 7315 Hughes Avenue. As discussed in the original Opinion and Order, no such variance relief was actually requested and this Order will ensure that no such variances can be granted in the future.

Mr. Kotroco made a detailed proffer of the following facts. The property consists of three contiguous lots – Lot 226, Lot 227, and Lot 228 from the “Chesapeake Terrace” subdivision plat that was recorded in 1919. The lots are zoned DR 5.5 which requires a minimum lot width of 55 feet. The lots in the Chesapeake Terrace subdivision are all only 50 feet wide, which was common at the time, before the enactment of the zoning regulations.

The Roub family purchased the three lots in 1960. In the original Opinion and Order in this case the undersigned incorrectly stated that the Roubs constructed a dwelling on Lot 227 (7313 Hughes Ave.) after purchasing the lots. As Petitioner points out in their Response to People’s Counsel’s Motion for Reconsideration, the actual facts are that the dwelling on Lot 227 was built in 1950 by the previous property owner.² At the time the Roubs purchased the three lots the side yard setbacks of the existing dwelling on Lot 227 were approximately 5 ft. and 9 ft. As such they

² The authority of the ALJ to correct this factual error is analogous to a Circuit Court judge’s revisory power under Md. Rule 2-535 (b), which provides that “[o]n motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, *mistake*, or irregularity.” In addition to correcting the factual record in this case Petitioner’s counsel also noted that contrary to People’s Counsel’s assertion, the Petition *did* request variance relief in the alternative to the relief sought under BCZR Sec. 304.1 for lots 226 and 228. And the reviewing agencies *did* review the requested variance relief and did not oppose it, subject to proposed conditions.

did not meet the then applicable zoning regulations and they do not meet the current 10 ft. side yard setbacks required in the DR 5.5 zone. This necessitates the requested side yard setback variances for lot 227. The special hearing relief requests a finding that Lots 226 and 228 are valid buildable lots under the grandfathering provisions of BCZR § 304.1. In the alternative the Petition seeks a variance for Lots 226 and 228 to allow a minimum lot width of 50 ft. in lieu of the required 55 ft. No other variance relief is requested. As explained at the hearing, the three Roub sons each inherited one of the lots from their parents, who have passed away. There are no current plans to build on Lot 226 or Lot 228 but they want to preserve the right for them or their children to do so in the future. They acknowledged that, other than the lot width, they must meet all setback regulations if and when they build.

SPECIAL HEARING

A “special hearing” request under BCZR §500.7 “is, in legal effect, a request for a declaratory judgment.” *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). This regulation gives the Administrative Law Judge the authority to interpret the county zoning regulations and to grant appropriate relief based on those interpretations. Further, “the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing [request] 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). As explained below, I find that the special hearing relief in this case is compatible with the community and is within the spirit and intent of BCZR § 304.1. It should therefore be granted.

BCZR § 304.1

§ 304.1. - Types of dwellings allowed; conditions.

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

A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;

B. All other requirements of the height and area regulations are complied with; and

C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

As Mr. Kotroco explained, all three of these requirements are met for both Lot 226 and Lot 228. First, as stated above, the lots are on the Chesapeake Terrace plat that was recorded in 1919. As for the second requirement, other than the 55-foot width requirement, all other height and area regulations are met. No setbacks are requested and both lots far exceed the 6,000 sq. ft. minimum lot size. Indeed, 7311 Hughes Avenue (Lot 226) is 10,021 sq. ft. and 7315 Hughes Avenue (Lot 228) is 10,000 sq. ft.

Finally, the middle lot, 7313 Hughes Avenue (Lot 227) is also only 50 feet wide and at the time the Roubs purchased the lots in 1960 there was an existing dwelling on this lot with side yard setbacks of 5 ft. and 9 ft. Therefore, although all three lots are presently owned by the same Trust, this lot does not have any excess or spare width that it could convey to either adjoining Lot 226 or adjoining Lot 228. I therefore find that both Lots 226 and 228 meet all the requirements of BCZR § 304.1 and are “grandfathered” buildable undersized lots.

VARIANCE

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

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

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

As explained above, the current DR 5.5 zoning for these lots requires side yard building setbacks of a minimum of 10 feet. As also noted above, the existing dwelling on Lot 227 – 7313 Hughes Avenue – has side yard setbacks of only 9.66 ft. from Lot 226, and 5.85 ft. from Lot 228. Variance relief is therefore required in order to make this a lawful conforming lot.

I find that each of the lots is unique in a zoning sense because they are very narrow and deep and have water frontage. Further, they are part of a subdivision plat that was recorded in 1919, far before the first Baltimore County Zoning Regulations were enacted. If the variances were denied the Petitioner would suffer practical difficulty and hardship because they would have to partially demolish the existing dwelling and rebuild a slightly narrower structure on Lot 227. Even if they were to do so the lot widths of Lot 226 and 228 would still be only 50 feet – like the majority of lots in the neighborhood, many of which have dwellings. I further find that the variances are within the spirit and intent of the zoning regulations and that it will not harm the public health, safety, and welfare. Indeed, the only properties that will be impacted by these side yard variances are the adjoining lots, which are owned by members of the same family. In addition, as noted by the DOP, narrow lots and side yard variances are common throughout this neighborhood.

THEREFORE, IT IS ORDERED this 11th day of **October, 2023** by this Administrative Law Judge, that the Petition for Special Hearing to approve undersized lots for 7311 Hughes Avenue and 7315 Hughes Avenue pursuant to BZCR § 304.1 are hereby **GRANTED**;

IT IS FURTHER ORDERED, in the alternative, that the variance requests for these lots to allow a lot width of 50 ft. in lieu of the required 55 ft. are hereby also **GRANTED**;

IT IS FURTHER ORDERED, that the side yard setback variances for 7313 Hughes Avenue are also **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 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, Petitioner would be required to return the subject property to its original condition.
2. Prior to issuance of permits, Petitioner must comply with the ZAC comments submitted by DOP, DEPS, and DPW&T, copies of which are attached hereto and made a part hereof.
3. No further variances shall be granted for any of these three properties.

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

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

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

DATE: 8/10/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-0150-SPHA

INFORMATION:

Property Address: 7311, 7313, and 7315 Hughes Avenue

Petitioner: Bryan L. Roub

Zoning: DR 5.5

Requested Action: Special Hearing, Variance

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

7311 Hughes Avenue

1. A Special Hearing to approve an undersized lot pursuant to Section 304 of the Baltimore County Zoning Regulations (BCZR) (lot does not have sufficient adjoining land);
2. Or, in the alternative, a Variance from the development standards for small lots or tracts (BCZR 1B02.3.C.1) to permit a front yard width of 50' in lieu of the required 55'.

7313 Hughes Avenue

1. A Variance to approve an existing dwelling on a lot in a DR 5.5 zone with a minimum width of 50' in lieu of the required 55'; side yard setbacks of approximately 9' and 5' in lieu of the required 10'; and for such other and further relief as the nature of this cause may require (BCZR 1B02.3.C.1).

7315 Hughes Avenue

1. A Special Hearing to approve an undersized lot pursuant to Section 304 of the BCZR (lot does not have sufficient adjoining land);
2. Or, in the alternative, a Variance from the development standards for small lots or tracts (BCZR 1B02.3.C.1) to permit a front yard width of 50' in lieu of the required 55'.

The subject sites are three separate parcels in the Edgemere area near Jones Creek. The west-most parcel, 7311 Hughes Avenue, is approximately 10,021 square feet and is currently vacant. The center parcel, 7313 Hughes Avenue, is approximately 10,714 square feet and is improved with a single family detached dwelling with covered front and back porches, an asphalt driveway, and three wood sheds. The east-most parcel, 7315 Hughes Avenue, is approximately 10,000 square feet; while the parcel does not have any structures on it, the asphalt driveway at 7313 Hughes Avenue is encroaching on the property and crosses the property line. All three of the lots measure 50' in width at Hughes Avenue.

The surrounding neighborhood is primarily composed of single family detached dwellings. The majority of the surrounding dwellings are situated on relatively narrow lots. Per Baltimore County's GIS, most of the surrounding lots measure 50' in width at Hughes Avenue. Some dwellings – including 7309, 7329, and 7333 Hughes Avenue – are on double lots that measure approximately 100' in width, total, at Hughes Avenue. Because many surrounding lots at 50' in width, multiple nearby properties have had similar Special Hearing or Variance requests as the petition at hand.

The subject sites are within the boundaries of the following adopted community plans: the Greater Dundalk-Edgemere Community Conservation Plan, the Eastern Baltimore Revitalization Strategy, and the Eastern Baltimore County Pedestrian and Bicycle Access Plan. The Greater Dundalk-Edgemere Community Conservation Plan discusses the importance of the waterfront and emphasizes the need to keep homeowners in the area, as well as attract new buyers to move in.

The Department of Planning has no objections to the request relief for the three parcels, as the request is common for the neighborhood. Approval of the Special Hearing and/or Variance requests will allow the lots to be developable.

As a note, the Tax ID and property owner for Lot 228 are incorrect in County GIS software. County GIS shows a Tax ID of 1512840230 and that the property owners are Kimberly and John Upright, the same owners as 7317 Hughes Avenue. The submitted site plan, however, shows a Tax ID of 1518471000 and that the lot is owned by the Roub family. The Department of Planning contacted the representative for the petition via email on August 7th, 2023 regarding the discrepancies. In an August 9th, 2023 reply, the representative for the petition explained that the information on the site plan was correct. The representative provided a copy of the plat map for the area, the 2014 deed for the three Roub properties, and the 2007 deed for the Upright's property to the Department of Planning to confirm the correct Tax ID and property owner for Lot 228.

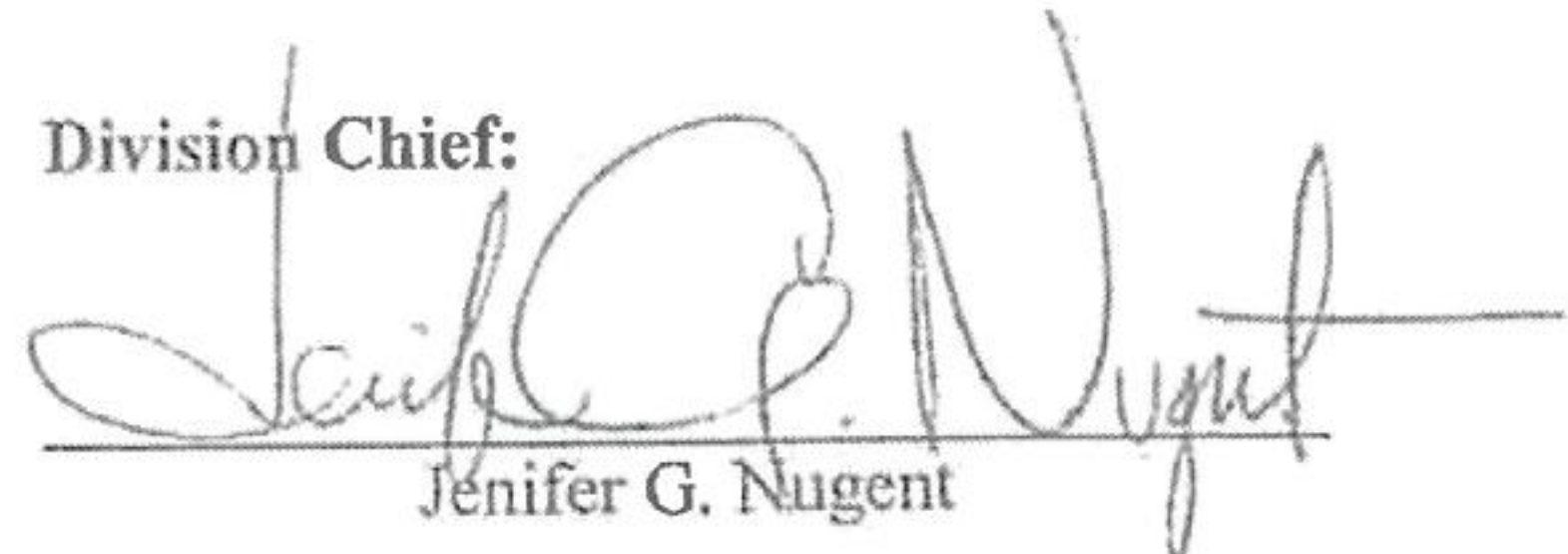
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Matt Kotroco
David Birkenthal, Community Planner
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



RECEIVED

JUL 31 2023

OFFICE OF
ADMINISTRATIVE HEARINGS

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 31, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0150-SPHA
Address: 7311-7315 HUGHES AVE
Legal Owner: Bryan Roub, Trustee, Geral Roub, Representative

Zoning Advisory Committee Meeting of July 31, 2023.

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

The Department of Environmental Protection and Sustainability has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject properties are located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area and are subject to Critical Area requirements. The applicant is proposing to permit three undersized lots with a minimum lot width of 50 feet each in lieu of the required 55 feet. One property contains an existing single family dwelling, and the applicant is proposing to permit the existing side yard setbacks of 9 feet and 5 feet in lieu of the required 10 feet. These lots are waterfront and within a non-modified Critical Area Buffer area. Any proposed development must meet all LDA and buffer requirements, including lot coverage limits and afforestation requirements. Lot coverage is limited to a maximum of 31.25% for each lot, with mitigation required for any new lot coverage between 25% and 31.25%. Proposed lot coverage information

has not been provided. There is a 15% afforestation requirement in the LDA. On lots of this size, three (3) trees are required per lot. No impact to the 100-foot Critical Area Buffer is permitted. If the lot coverage, afforestation, and buffer requirements are met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This properties are waterfront and within a non-modified Critical Area Buffer area. The properties must meet all lot coverage, afforestation, and buffer requirements. If lot coverage, afforestation, and buffer requirements are met, this request will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts;

These are grandfathered lots. Provided that the applicants meet their lot coverage, afforestation, and buffer requirements, then the relief requested will be consistent with the established land-use policies.

Additional Comments:

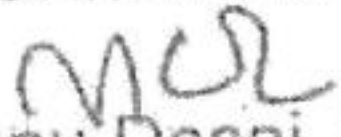
Reviewer: Libby Errickson 7/31/23

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: July 31, 2023

FROM: 
Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 31, 2023
Item No. 2023-0150-SPHA

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPW&T Comments:

- A) A portion of the property is within the Tidal Special Flood Hazard Area Zone AE (BFE=7.7) per panel FIRM 2400100555F dated 9/26/08. Must comply with Flood Plain Ordinance, See County Bill 40-15 (the latest edition of the Baltimore County Code) and Bill 42-15, and Section 32-4-414 of Article 32, Title 4 of the Baltimore County Code, 2003, as amended. The LIMWA is not on the property.

VKD: JK
cc: file



JOHN A. OLSZEWSKI, JR.
County Executive

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

October 11, 2023

Timothy Kotroco, Esquire – tkotroco@gmail.com
Matthew T. Kotroco, Esquire – mattkotroco@gmail.com
305 Washington Avenue, Suite 502
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RE: **AMENDED OPINION AND ORDER**
Case No. 2023-0150-SPHA
Property: 7311, 7313 and 7315 Hughes Avenue

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Sincerely,

A handwritten signature in cursive script, reading "Paul M. Mayhew".

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm
Enclosure

C: Bryan Roub – bryanroub@icloud.com
Stephanie Bender – stephanie.bender@cignahealthcare.com
Eric Hadaway – ehadaway@dmw.com
John Upright – jaupright@gmail.com

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* * * * *

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SPECIAL HEARING: 7315 Hughes - to approve an undersized lot pursuant to BCZR § 304 (lot does not have sufficient adjoining land). Or in the alternative, a variance from the development standards for small lots or tracts (BCZR § 1B02.3.C.1) to permit a front yard minimum lot width of 50 ft. in lieu of the required 55 ft.

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The Roub family purchased the three lots in 1960. In the original Opinion and Order in this case the undersigned incorrectly stated that the Roubs constructed a dwelling on Lot 227 (7313 Hughes Ave.) after purchasing the lots. As Petitioner points out in their Response to People’s Counsel’s Motion for Reconsideration, the actual facts are that the dwelling on Lot 227 was built in 1950 by the previous property owner.² At the time the Roubs purchased the three lots the side yard setbacks of the existing dwelling on Lot 227 were approximately 5 ft. and 9 ft. As such they

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SPECIAL HEARING

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BCZR § 304.1

§ 304.1. - Types of dwellings allowed; conditions.

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

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

As Mr. Kotroco explained, all three of these requirements are met for both Lot 226 and Lot 228. First, as stated above, the lots are on the Chesapeake Terrace plat that was recorded in 1919. As for the second requirement, other than the 55-foot width requirement, all other height and area regulations are met. No setbacks are requested and both lots far exceed the 6,000 sq. ft. minimum lot size. Indeed, 7311 Hughes Avenue (Lot 226) is 10,021 sq. ft. and 7315 Hughes Avenue (Lot 228) is 10,000 sq. ft.

Finally, the middle lot, 7313 Hughes Avenue (Lot 227) is also only 50 feet wide and at the time the Roubs purchased the lots in 1960 there was an existing dwelling on this lot with side yard setbacks of 5 ft. and 9 ft. Therefore, although all three lots are presently owned by the same Trust, this lot does not have any excess or spare width that it could convey to either adjoining Lot 226 or adjoining Lot 228. I therefore find that both Lots 226 and 228 meet all the requirements of BCZR § 304.1 and are “grandfathered” buildable undersized lots.

VARIANCE

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

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

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

As explained above, the current DR 5.5 zoning for these lots requires side yard building setbacks of a minimum of 10 feet. As also noted above, the existing dwelling on Lot 227 – 7313 Hughes Avenue – has side yard setbacks of only 9.66 ft. from Lot 226, and 5.85 ft. from Lot 228. Variance relief is therefore required in order to make this a lawful conforming lot.

I find that each of the lots is unique in a zoning sense because they are very narrow and deep and have water frontage. Further, they are part of a subdivision plat that was recorded in 1919, far before the first Baltimore County Zoning Regulations were enacted. If the variances were denied the Petitioner would suffer practical difficulty and hardship because they would have to partially demolish the existing dwelling and rebuild a slightly narrower structure on Lot 227. Even if they were to do so the lot widths of Lot 226 and 228 would still be only 50 feet – like the majority of lots in the neighborhood, many of which have dwellings. I further find that the variances are within the spirit and intent of the zoning regulations and that it will not harm the public health, safety, and welfare. Indeed, the only properties that will be impacted by these side yard variances are the adjoining lots, which are owned by members of the same family. In addition, as noted by the DOP, narrow lots and side yard variances are common throughout this neighborhood.

THEREFORE, IT IS ORDERED this 11th day of **October, 2023** by this Administrative Law Judge, that the Petition for Special Hearing to approve undersized lots for 7311 Hughes Avenue and 7315 Hughes Avenue pursuant to BZCR § 304.1 are hereby **GRANTED**;

IT IS FURTHER ORDERED, in the alternative, that the variance requests for these lots to allow a lot width of 50 ft. in lieu of the required 55 ft. are hereby also **GRANTED**;

IT IS FURTHER ORDERED, that the side yard setback variances for 7313 Hughes Avenue are also **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 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, Petitioner would be required to return the subject property to its original condition.
2. Prior to issuance of permits, Petitioner must comply with the ZAC comments submitted by DOP, DEPS, and DPW&T, copies of which are attached hereto and made a part hereof.
3. No further variances shall be granted for any of these three properties.

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



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections
To the Office of Administrative Hearings for Baltimore County for the property located at:

Address 7311-7315 Hughes Avenue, Sparrows Point, MD 21219 Currently Zoned DR 5.5
Deed Reference 34696 / 00313 10 Digit Tax Account # 1518471000 1512840230
Owner(s) Printed Name(s) Roub Gerald L Trustee

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

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. X **a Variance** from Section(s)

See Attached

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

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

Contract Purchaser/Lessee:

Name - Type or Print
Signature
Mailing Address City State
Zip Code Telephone # Email Address

Legal Owners (Petitioners): Gerald L. Roub Trustee
Bryan L. Roub, Representative

Name #1 - Type or Print Name #2 - Type or Print
Signature #1 Signature #2
Mailing Address City State
Zip Code Telephone #'s (Cell and Home) Email Address

Attorney for Petitioner:

Timothy M. Kotroco, Esq. Matthew T. Kotroco, Esq.
Name - Type or Print
Signature
305 Washington Ave STE 502 Towson MD
Mailing Address City State
21204 / 410-299-9453 mattkotroco@gmail.com
Zip Code Telephone # Email Address

Representative to be contacted:

Matthew T. Kotroco, Esq.
Name - Type or Print
Signature
305 Washington Ave STE 502 Towson MD
Mailing Address City State
21204 / 410-299-9453 mattkotroco@gmail.com
Zip Code Telephone # Email Address

Case Number 2023 0150-SMHA Filing Date 7 / 12 / 2023 Do Not Schedule Dates Reviewer mjc

TIMOTHY M. KOTROCO, Esq.

305 Washington Avenue, Suite 502

Towson, Maryland 21204

410-299-2943

Tkotreco@gmail.com

Relief Requested:

- 7311 Hughes Avenue
 - A special hearing to approve an undersized lot pursuant to BCZR section 304 (lot does not have sufficient adjoining land).
 - Or in the alternative, a variance from the development standards for small lots or tracts (BCZR 1B02.3.C.1) to permit a front yard width of 50' in lieu of the required 55'
- 7313 Hughes Avenue
 - A variance to approve an existing dwelling on a lot in a DR 5.5 zone with a minimum lot width of 50 feet in lieu of the required 55 feet, side yard setbacks of approximately 9 feet and 5 feet in lieu of the required 10 feet and for such other and further relief as the nature of this cause may require. (BCZR 1B02.3.C.1)
- 7315 Hughes Avenue
 - A special hearing to approve an undersized lot pursuant to BCZR section 304 (lot does not have sufficient adjoining land).
 - Or in the alternative, a variance from the development standards for small lots or tracts (BCZR 1B02.3.C.1) to permit a front yard width of 50' in lieu of the required 55'



Zoning Description

To Accompany a Petition for Zoning Variance

0.230 Acres Parcel

Tax Map 111, Parcel 128, Lot 226

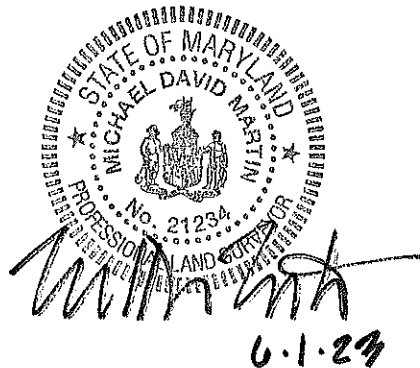
Baltimore County, Maryland

Commencing for the same at a point formed by the centerline of Hughes Avenue with the centerline of Murray Avenue, thence leaving said point and running with the centerline of said Hughes Avenue 280 feet more or less, thence leaving said centerline and running in a southerly direction 15' more or less to the point of beginning, thence leaving said point of beginning and running with a portion of the southern right of way line of said Hughes Avenue; thence N 85°47'33" E 50.00 feet; thence 2) S 04°13'49" E 206.71 feet; thence 3) N 75°46'46" W 9.49 feet; thence 4) N 82°42'37" W 32.57 feet; thence 5) N 73°26'25" W 9.71 feet; thence 6) N 04°13'49" W 193.78 feet to the point of beginning, having an area of 10,021 square feet or 0.230 acres, more or less, as now described by Daft-McCune-Walker inc.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

February 22, 2023

Project No. 22035.00 (L22035.00)





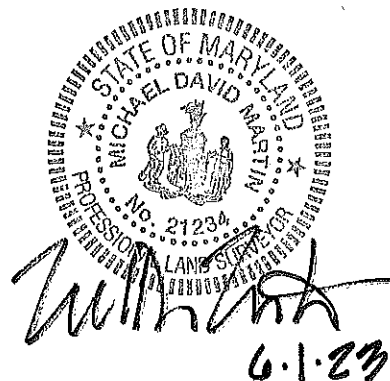
Zoning Description
To Accompany a Petition for Zoning Variance
0.246 Acres Parcel
Tax Map 111, Parcel 128, Lot 227
Baltimore County, Maryland

Commencing for the same at a point formed by the centerline of Hughes Avenue with the centerline of Murray Avenue, thence leaving said point and running with the centerline of said Hughes Avenue 330 feet more or less, thence leaving said centerline and running in a southerly direction 15' more or less to the point of beginning, thence leaving said point of beginning and running with a portion of the southern right of way line of said Hughes Avenue; thence 1) N 85°47'33" E 50.00 feet; thence 2) S 04°13'49" E 219.15 feet; thence 3) S 88°27'30" W 6.10 feet; thence 4) N 84°51'12" W 14.90 feet; thence 5) N 75°46'46" W 30.79 feet; thence 6) N 04°13'49" W 206.71 feet to the point of beginning, having an area of 10,714 square feet or 0.246 acres, more or less, as now described by Daft-McCune-Walker, Inc.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

February 22, 2023

Project No. 22035.00 (L22035.00)





Zoning Description

To Accompany a Petition for Zoning Variance

0.230 Acres Parcel

Tax Map 111, Parcel 128, Lot 228

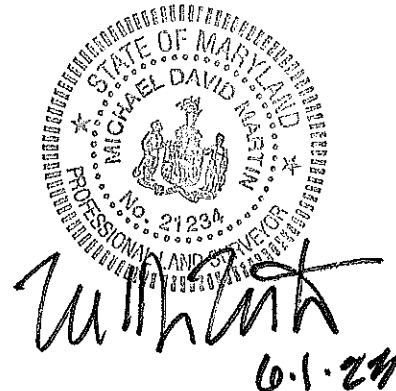
Baltimore County, Maryland

Commencing for the same at a point formed by the centerline of Hughes Avenue with the centerline of Murray Avenue, thence leaving said point and running with the centerline of said Hughes Avenue 380 feet more or less, thence leaving said centerline and running in a southerly direction 15' more or less to the point of beginning, thence leaving said point of beginning and running with a portion of the southern right of way line of said Hughes Avenue; thence 1) N 85°47'33" E 50.00 feet; thence 2) S 04°13'49" E 200.00 feet; thence 3) S 85°47'33" W 50.00 feet; thence 4) N 04°13'49" W 200.00 feet to the point of beginning, having an area of 10,000 square feet or 0.230 acres, more or less, as now described by Daft-McCune-Walker inc.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

February 22, 2023

Project No. 22035.00 (L22035.00)



**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Case Number: 2023-0150-SPHA

Property Address: 7311-7315 Hughes Avenue

Property Description: South Side of Hughes Avenue
300 feet East of the Centerline of Murray Avenue

Legal Owners (Petitioners): Bryan L. Roub, Representative

Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Timothy Kotroco

Company/Firm (if applicable): Kotroco & Associates, LLC

Address: 305 Washington Ave Suite 502
Towson, MD 21204

Telephone Number: 410 299 2943

Revised 7/9/2015

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

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

DATE: 8/10/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-0150-SPHA

INFORMATION:

Property Address: 7311, 7313, and 7315 Hughes Avenue

Petitioner: Bryan L. Roub

Zoning: DR 5.5

Requested Action: Special Hearing, Variance

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

7311 Hughes Avenue

1. A Special Hearing to approve an undersized lot pursuant to Section 304 of the Baltimore County Zoning Regulations (BCZR) (lot does not have sufficient adjoining land);
2. Or, in the alternative, a Variance from the development standards for small lots or tracts (BCZR 1B02.3.C.1) to permit a front yard width of 50' in lieu of the required 55'.

7313 Hughes Avenue

1. A Variance to approve an existing dwelling on a lot in a DR 5.5 zone with a minimum width of 50' in lieu of the required 55'; side yard setbacks of approximately 9' and 5' in lieu of the required 10'; and for such other and further relief as the nature of this cause may require (BCZR 1B02.3.C.1).

7315 Hughes Avenue

1. A Special Hearing to approve an undersized lot pursuant to Section 304 of the BCZR (lot does not have sufficient adjoining land);
2. Or, in the alternative, a Variance from the development standards for small lots or tracts (BCZR 1B02.3.C.1) to permit a front yard width of 50' in lieu of the required 55'.

The subject sites are three separate parcels in the Edgemere area near Jones Creek. The west-most parcel, 7311 Hughes Avenue, is approximately 10,021 square feet and is currently vacant. The center parcel, 7313 Hughes Avenue, is approximately 10,714 square feet and is improved with a single family detached dwelling with covered front and back porches, an asphalt driveway, and three wood sheds. The east-most parcel, 7315 Hughes Avenue, is approximately 10,000 square feet; while the parcel does not have any structures on it, the asphalt driveway at 7313 Hughes Avenue is encroaching on the property and crosses the property line. All three of the lots measure 50' in width at Hughes Avenue.

The surrounding neighborhood is primarily composed of single family detached dwellings. The majority of the surrounding dwellings are situated on relatively narrow lots. Per Baltimore County's GIS, most of the surrounding lots measure 50' in width at Hughes Avenue. Some dwellings – including 7309, 7329, and 7333 Hughes Avenue – are on double lots that measure approximately 100' in width, total, at Hughes Avenue. Because many surrounding lots at 50' in width, multiple nearby properties have had similar Special Hearing or Variance requests as the petition at hand.

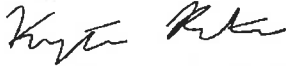
The subject sites are within the boundaries of the following adopted community plans: the Greater Dundalk-Edgemere Community Conservation Plan, the Eastern Baltimore Revitalization Strategy, and the Eastern Baltimore County Pedestrian and Bicycle Access Plan. The Greater Dundalk-Edgemere Community Conservation Plan discusses the importance of the waterfront and emphasizes the need to keep homeowners in the area, as well as attract new buyers to move in.

The Department of Planning has no objections to the request relief for the three parcels, as the request is common for the neighborhood. Approval of the Special Hearing and/or Variance requests will allow the lots to be developable.

As a note, the Tax ID and property owner for Lot 228 are incorrect in County GIS software. County GIS shows a Tax ID of 1512840230 and that the property owners are Kimberly and John Upright, the same owners as 7317 Hughes Avenue. The submitted site plan, however, shows a Tax ID of 1518471000 and that the lot is owned by the Roub family. The Department of Planning contacted the representative for the petition via email on August 7th, 2023 regarding the discrepancies. In an August 9th, 2023 reply, the representative for the petition explained that the information on the site plan was correct. The representative provided a copy of the plat map for the area, the 2014 deed for the three Roub properties, and the 2007 deed for the Upright's property to the Department of Planning to confirm the correct Tax ID and property owner for Lot 228.

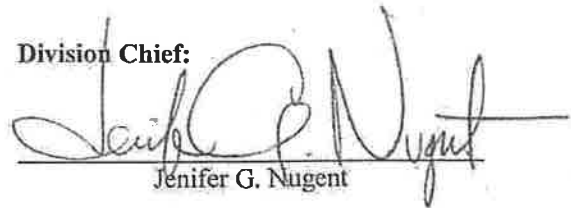
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



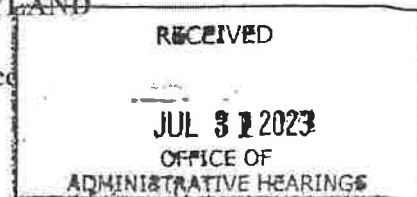
Jenifer G. Nugent

SL/JGN/KP

c: Matt Kotroco
David Birkenthal, Community Planner
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 31, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0150-SPHA
Address: 7311-7315 HUGHES AVE
Legal Owner: Bryan Roub, Trustee, Geral Roub, Representative
Zoning Advisory Committee Meeting of July 31, 2023.

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

The Department of Environmental Protection and Sustainability has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject properties are located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area and are subject to Critical Area requirements. The applicant is proposing to permit three undersized lots with a minimum lot width of 50 feet each in lieu of the required 55 feet. One property contains an existing single family dwelling, and the applicant is proposing to permit the existing side yard setbacks of 9 feet and 5 feet in lieu of the required 10 feet. These lots are waterfront and within a non-modified Critical Area Buffer area. Any proposed development must meet all LDA and buffer requirements, including lot coverage limits and afforestation requirements. Lot coverage is limited to a maximum of 31.25% for each lot, with mitigation required for any new lot coverage between 25% and 31.25%. Proposed lot coverage information

has not been provided. There is a 15% afforestation requirement in the LDA. On lots of this size, three (3) trees are required per lot. No impact to the 100-foot Critical Area Buffer is permitted. If the lot coverage, afforestation, and buffer requirements are met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This properties are waterfront and within a non-modified Critical Area Buffer area. The properties must meet all lot coverage, afforestation, and buffer requirements. If lot coverage, afforestation, and buffer requirements are met, this request will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts;

These are grandfathered lots. Provided that the applicants meet their lot coverage, afforestation, and buffer requirements, then the relief requested will be consistent with the established land-use policies.

Additional Comments:

Reviewer: Libby Errickson 7/31/23

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

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

SUBJECT: Zoning Advisory Committee Meeting
For July 31, 2023
Item No. 2023-0150-SPHA

DATE: July 31, 2023

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPW&T Comments:

- A) A portion of the property is within the Tidal Special Flood Hazard Area Zone AE (BFE=7.7) per panel FIRM 2400100555F dated 9/26/08. Must comply with Flood Plain Ordinance, See County Bill 40-15 (the latest edition of the Baltimore County Code) and Bill 42-15, and Section 32-4-414 of Article 32, Title 4 of the Baltimore County Code, 2003, as amended. The LIMWA is not on the property.

VKD: JK
cc: file



JOHN A. OLSZEWSKI, JR.
County Executive

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

September 11, 2023

Timothy Kotroco, Esquire – tkotroco@gmail.com
Matthew T. Kotroco, Esquire – mattkotroco@gmail.com
305 Washington Avenue, Suite 502
Towson, MD 21204

RE: Petitions for Special Hearing & Variance
Case No. 2023-0150-SPHA
Property: 7311, 7313 and 7315 Hughes Avenue

Dear Counsel:

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: Bryan Roub – bryanroub@icloud.com
Stephanie Bender – stephanie.bender@cignahealthcare.com
Eric Hadaway – ehadaway@dmw.com
John Upright – jaupright@gmail.com

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(7311, 7313 and 7315 Hughes Avenue)	*	OFFICE OF
15 th Election District		
7 th Council District	*	ADMINISTRATIVE HEARINGS
Bryan Roub, Trustee of Gerald Roub		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
 Petitioner	*	 Case No. 2023-0150-SPHA
 * * * * *		 * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Bryan Roub, the Representative of Gerald Roub, Trustee (“Petitioner”), the legal owner for the property located at 7311, 7313 and 7315 Hughes Avenue, Sparrows Point (the “Property”). The following relief is requested:

SPECIAL HEARING:

7311 Hughes - to approve an undersized lot pursuant to the Baltimore County Zoning Regulations (“BCZR”), §304 (lot does not have sufficient adjoining land). Or in the alternative, a variance from the development standards for small lots or tracts (BCZR § 1B02.3.C.1) to permit a front yard minimum lot width of 50 ft. in lieu of the required 55 ft.

VARIANCE:

7313 Hughes - to approve an existing dwelling on a lot in a DR 5.5 zone with a minimum lot width of 50 ft. in lieu of the required 55 ft., side yard setbacks of approximately 9 ft. and 5 ft. in lieu of the required 10 ft. and for such other and further relief as the nature of this case may require (BCZR §1B02.3.C.1).

SPECIAL HEARING:

7315 Hughes - to approve an undersized lot pursuant to BCZR § 304 (lot does not have sufficient adjoining land). Or in the alternative, a variance from the development standards for small lots or tracts (BCZR § 1B02.3.C.1) to permit a front yard minimum lot width of 50 ft. in lieu of the required 55 ft.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Bryan Roub appeared at the hearing in support of the

Petition. Timothy Kotroco, Esquire and Matthew Kotroco, Esquire represented the Petitioner. Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), the Department of Public Works and Transportation (“DPW&T”), and the Department of Environmental Protection and Sustainability (“DEPS”). Subject to proposed conditions they did not oppose the requested relief. John and Kim Upright, the adjacent neighbors at 7317 Hughes Avenue also attended the hearing. They expressed concerns about the request for reduced side yard setbacks for the adjoining lot at 7315 Hughes Avenue. As discussed below, no such variance relief was actually requested and this Order will ensure that no such variances can be granted in the future.

Mr. Kotroco made a detailed proffer of the following facts. The property consists of three contiguous lots – Lot 226, Lot 227, and Lot 228 from the “Chesapeake Terrace” subdivision plat that was recorded in 1919. The lots are zoned DR 5.5 which requires a minimum lot width of 55 feet. The lots in the Chesapeake Terrace subdivision are all only 50 feet wide, which was common at the time, before the enactment of the zoning regulations.

The Roub family purchased the three lots in 1960 and constructed a dwelling on the middle lot (227). The existing side yard setbacks for that dwelling are approximately 5 feet and 9 feet, which do not meet the DR 5.5 zoning, which requires a minimum of 10 feet. This necessitates the requested side yard setback variances; which are requested for this lot only. The special hearing relief requests a finding that Lots 226 and 228 are valid buildable lots under the grandfathering provisions of BCZR § 304.1. As explained at the hearing, the three Roub sons each inherited one of the lots from their parents, who have passed away. There are no current plans to build on Lot 226 or Lot 228 but they want to preserve the right for them or their children to do so in the future. They are not seeking any variance relief for these two lots.

SPECIAL HEARING

A “special hearing” request under BCZR §500.7 “is, in legal effect, a request for a declaratory judgment.” *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). This regulation gives the Administrative Law Judge the authority to interpret the county zoning regulations and to grant appropriate relief based on those interpretations. Further, “the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing [request] 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). As explained below, I find that the special hearing relief in this case is within the spirit and intent of BCZR § 304.1 and that it should therefore be granted.

BCZR § 304.1

§ 304.1. - Types of dwellings allowed; conditions.

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

A . Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;

B. All other requirements of the height and area regulations are complied with; and

C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

As Mr. Kotroco explained, all three of these requirements are met for both Lot 226 and Lot 228. First, as stated above, the lots are on the Chesapeake Terrace plat that was recorded in 1919. As for the second requirement, other than the 55-foot width requirement, all other height and area regulations are met. No setbacks are requested and both lots far exceed the 6,000 sq. ft. minimum

lot size. Indeed, 7311 Hughes Avenue (Lot 226) is 10,021 sq. ft. and 7315 Hughes Avenue (Lot 228) is 10,000 sq. ft.

Finally, the middle lot, 7313 Hughes Avenue (Lot 227). is also only 50 feet wide. Therefore, although all three lots are presently owned by the same Trust, this lot does not have any excess or spare width that it could convey to either adjoining Lot 226 or adjoining Lot 228. I therefore find that both Lots 226 and 228 meet all the requirements of BCZR § 304.1 and are “grandfathered” buildable undersized lots.

VARIANCE

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

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

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

As explained above, the current DR 5.5 zoning for these lots requires side yard building setbacks of a minimum of 10 feet. As also noted above, the existing dwelling on Lot 227 – 7313 Hughes Avenue – has side yard setbacks of only 9.66 ft. from Lot 226, and 5.85 ft. from Lot 228. Variance relief is therefore required in order to make this a lawful conforming lot.

I find that the Property is unique in a zoning sense because it is very narrow and deep and has an existing dwelling on it that necessitates the requested variances. If the variances were denied the Petitioner would suffer practical difficulty and hardship because they would essentially have to demolish the existing dwelling and rebuild a slightly narrower structure. I further find that the variance is within the spirit and intent of the zoning regulations and that it will not harm the public health, safety, and welfare. Indeed, the only properties that will be impacted by these side

yard variances are the adjoining lots, which are owned by members of the same family. In addition, as noted by the DOP, narrow lots and side yard variances are common throughout this neighborhood.

THEREFORE, IT IS ORDERED this 11th day of **September, 2023** by this Administrative Law Judge, that the Petition for Special Hearing to approve undersized lots for 7311 Hughes Avenue and 7315 Hughes Avenue pursuant to BZCR § 304.1 are hereby **GRANTED**;

IT IS FURTHER ORDERED, that the side yard setback variances for 7313 Hughes Avenue are also **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 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, Petitioner would be required to return the subject property to its original condition.
2. Prior to issuance of permits, Petitioner must comply with the ZAC comments submitted by DOP, DEPS, and DPW&T, copies of which are attached hereto and made a part hereof.
3. No further variances shall be granted for any of these three properties.

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 8/10/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-0150-SPHA

INFORMATION:

Property Address: 7311, 7313, and 7315 Hughes Avenue

Petitioner: Bryan L. Roub

Zoning: DR 5.5

Requested Action: Special Hearing, Variance

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

7311 Hughes Avenue

1. A Special Hearing to approve an undersized lot pursuant to Section 304 of the Baltimore County Zoning Regulations (BCZR) (lot does not have sufficient adjoining land);
2. Or, in the alternative, a Variance from the development standards for small lots or tracts (BCZR 1B02.3.C.1) to permit a front yard width of 50' in lieu of the required 55'.

7313 Hughes Avenue

1. A Variance to approve an existing dwelling on a lot in a DR 5.5 zone with a minimum width of 50' in lieu of the required 55'; side yard setbacks of approximately 9' and 5' in lieu of the required 10'; and for such other and further relief as the nature of this cause may require (BCZR 1B02.3.C.1).

7315 Hughes Avenue

1. A Special Hearing to approve an undersized lot pursuant to Section 304 of the BCZR (lot does not have sufficient adjoining land);
2. Or, in the alternative, a Variance from the development standards for small lots or tracts (BCZR 1B02.3.C.1) to permit a front yard width of 50' in lieu of the required 55'.

The subject sites are three separate parcels in the Edgemere area near Jones Creek. The west-most parcel, 7311 Hughes Avenue, is approximately 10,021 square feet and is currently vacant. The center parcel, 7313 Hughes Avenue, is approximately 10,714 square feet and is improved with a single family detached dwelling with covered front and back porches, an asphalt driveway, and three wood sheds. The east-most parcel, 7315 Hughes Avenue, is approximately 10,000 square feet; while the parcel does not have any structures on it, the asphalt driveway at 7313 Hughes Avenue is encroaching on the property and crosses the property line. All three of the lots measure 50' in width at Hughes Avenue.

The surrounding neighborhood is primarily composed of single family detached dwellings. The majority of the surrounding dwellings are situated on relatively narrow lots. Per Baltimore County's GIS, most of the surrounding lots measure 50' in width at Hughes Avenue. Some dwellings – including 7309, 7329, and 7333 Hughes Avenue – are on double lots that measure approximately 100' in width, total, at Hughes Avenue. Because many surrounding lots at 50' in width, multiple nearby properties have had similar Special Hearing or Variance requests as the petition at hand.

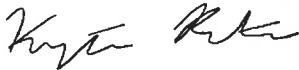
The subject sites are within the boundaries of the following adopted community plans: the Greater Dundalk-Edgemere Community Conservation Plan, the Eastern Baltimore Revitalization Strategy, and the Eastern Baltimore County Pedestrian and Bicycle Access Plan. The Greater Dundalk-Edgemere Community Conservation Plan discusses the importance of the waterfront and emphasizes the need to keep homeowners in the area, as well as attract new buyers to move in.

The Department of Planning has no objections to the request relief for the three parcels, as the request is common for the neighborhood. Approval of the Special Hearing and/or Variance requests will allow the lots to be developable.

As a note, the Tax ID and property owner for Lot 228 are incorrect in County GIS software. County GIS shows a Tax ID of 1512840230 and that the property owners are Kimberly and John Upright, the same owners as 7317 Hughes Avenue. The submitted site plan, however, shows a Tax ID of 1518471000 and that the lot is owned by the Roub family. The Department of Planning contacted the representative for the petition via email on August 7th, 2023 regarding the discrepancies. In an August 9th, 2023 reply, the representative for the petition explained that the information on the site plan was correct. The representative provided a copy of the plat map for the area, the 2014 deed for the three Roub properties, and the 2007 deed for the Upright's property to the Department of Planning to confirm the correct Tax ID and property owner for Lot 228.

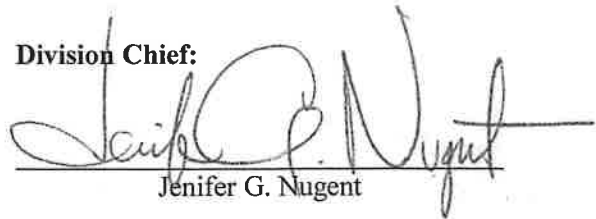
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



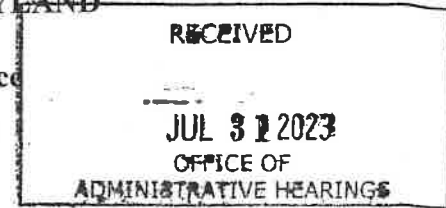
Jenifer G. Nugent

SL/JGN/KP

c: Matt Kotroco
David Birkenthal, Community Planner
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 31, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0150-SPHA
Address: 7311-7315 HUGHES AVE
Legal Owner: Bryan Roub, Trustee, Geral Roub, Representative
Zoning Advisory Committee Meeting of July 31, 2023.

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

The Department of Environmental Protection and Sustainability has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject properties are located within a Limited Development Area (LDA) of the Chesapeake Bay Critical Area and are subject to Critical Area requirements. The applicant is proposing to permit three undersized lots with a minimum lot width of 50 feet each in lieu of the required 55 feet. One property contains an existing single family dwelling, and the applicant is proposing to permit the existing side yard setbacks of 9 feet and 5 feet in lieu of the required 10 feet. These lots are waterfront and within a non-modified Critical Area Buffer area. Any proposed development must meet all LDA and buffer requirements, including lot coverage limits and afforestation requirements. Lot coverage is limited to a maximum of 31.25% for each lot, with mitigation required for any new lot coverage between 25% and 31.25%. Proposed lot coverage information

has not been provided. There is a 15% afforestation requirement in the LDA. On lots of this size, three (3) trees are required per lot. No impact to the 100-foot Critical Area Buffer is permitted. If the lot coverage, afforestation, and buffer requirements are met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This properties are waterfront and within a non-modified Critical Area Buffer area. The properties must meet all lot coverage, afforestation, and buffer requirements. If lot coverage, afforestation, and buffer requirements are met, this request will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts;

These are grandfathered lots. Provided that the applicants meet their lot coverage, afforestation, and buffer requirements, then the relief requested will be consistent with the established land-use policies.

Additional Comments:

Reviewer: Libby Errickson 7/31/23

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

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

SUBJECT: Zoning Advisory Committee Meeting
For July 31, 2023
Item No. 2023-0150-SPHA

DATE: July 31, 2023

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPW&T Comments:

- A) A portion of the property is within the Tidal Special Flood Hazard Area Zone AE (BFE=7.7) per panel FIRM 2400100555F dated 9/26/08. Must comply with Flood Plain Ordinance, See County Bill 40-15 (the latest edition of the Baltimore County Code) and Bill 42-15, and Section 32-4-414 of Article 32, Title 4 of the Baltimore County Code, 2003, as amended. The LiMWA is not on the property.

VKD: JK
cc: file

CERTIFICATE OF POSTING

CASE NO. 2023-0150-SPH

PETITIONER/DEVELOPER

Matthew

Kotroco Esq.

DATE OF HEARING/CLOSING

September 7, 2023

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

LADIES AND GENTLEMEN:

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

7311 – 7315 Hughes Avenue

Sign 3



THE SIGN(S) POSTED ON August 18, 2023

(MONTH, DAY, YEAR)

SINCERLEY,

MARTIN OGLE

MARTIN OGLE

9912 MAIDBROOK RD.

PARKVILLE, MD 21234

443-629-3411

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 8/10/2023

FROM: Steve Lafferty
Director, Department of Planning

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Petitioner: Bryan L. Roub

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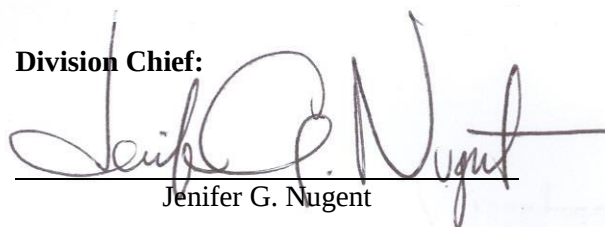
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Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Matt Kotroco
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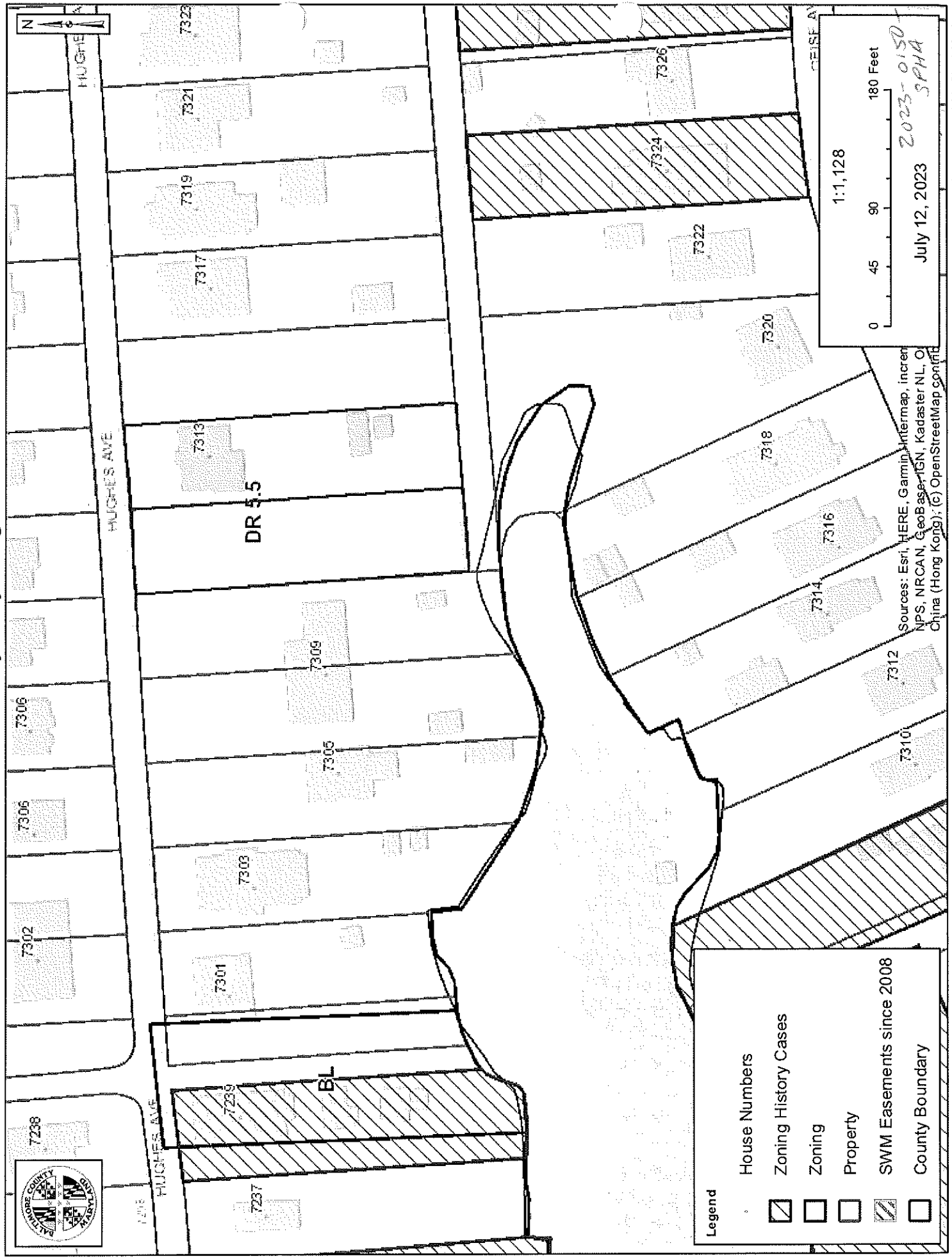
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Additional Comments:

Reviewer: Libby Errickson 7/31/23

Baltimore County - My Neighborhood



Legend

- House Numbers
- Zoning History Cases
- Zoning
- Property
- SWM Easements since 2008
- County Boundary

1:1,128

0 45 90 180 Feet

July 12, 2023

2023-0150-3PHA

Sources: Esri, HERE, Garmin, Intermap, increment p, LISGS, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri, DeLorme, NAVTEQ, Swisstopo, UGC, U.S. Geological Survey, Bing Maps, China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 15 Account Number - 1518471000

Owner Information

Owner Name: ROUB GERALD L TRUSTEE Use: RESIDENTIAL
Principal Residence: YES

Mailing Address: 7313 HUGHES AVE Deed Reference: /34696/ 00313
BALTIMORE MD 21219-2013

Location & Structure Information

Premises Address: 7313 HUGHES AVE Legal Description: LT 226,227,228
BALTIMORE 21219-2013 7313 HUGHES AVE
CHESAPEAKE TERRACE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0111 0016 0128 15130120.04 0000 B 226 2021 Plat Ref: 0005/ 0036

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1950 917 SF 27,000 SF 04

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements
1 1/2 YES STANDARD UNITSIDING/3 1 full

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2021	07/01/2022	07/01/2023
Land:	78,700	78,700		
Improvements	79,000	120,500		
Total:	157,700	199,200	185,367	199,200
Preferential Land:	0	0		

Transfer Information

Seller: ROUB GERALD L	Date: 02/18/2014	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /34696/ 00313	Deed2:
Seller: ROUB GERALD L	Date: 01/13/2000	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /14260/ 00592	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

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

Special Tax Recapture: None

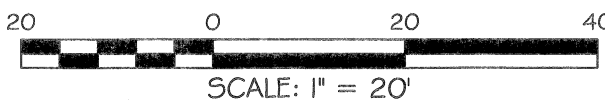
Homestead Application Information

Homestead Application Status: Approved 07/08/2009

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2023-0150-SPHA

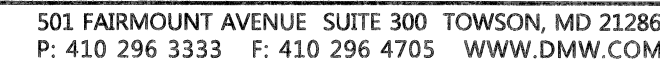


SCALE: 1" = 1000'

 PROPERTY BOUNDARY
 ADJACENT LOT LINE
 EX. MAJOR CONTOUR
 MINOR CONTOUR
 EX. BUILDING
 EX. ROAD / DRIVEWAY
 EX. SANITARY SEWER
 EX. WATER
 EX. CREEK EDGE / CENTERLINE
 100-YEAR FLOODPLAIN
 (EL. 6) PER FEMA
 MAP # 240010C05556,
 MAY 5, 2014

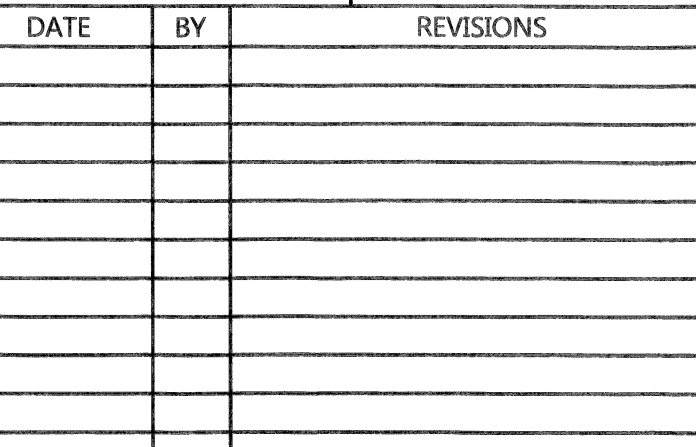
- I. OWNER: GERALD L ROUB TRUSTEE
2. ADDRESS: 7313 HUGHES AVENUE
3. TAX MAP: 011
4. SUBDIVISION: CHEESAPEAKE TERRACE
5. PLAT BOOK REF: 05/36
6. THE PROPERTY DWELLING IS NOT HISTORIC NOR WITHIN A HISTORIC DISTRICT.
7. THE SITE IS SERVED BY PUBLIC WATER AND SEWER.
8. THE SITE IS INSIDE THE URBAN - RURAL DEMARCATION LINE.
9. ZONING: DR 5.5;
10. SITE IS WITHIN THE CHEESAPEAKE BAY CRITICAL AREA (LDA)
- II. NO STORM DRAIN IN SHOWN AREA

"A VARIANCE TO APPROVE AN EXISTING HOME IN A DR 5.5 ZONE WITH A MINIMUM LOT WIDTH OF 50 FEET IN LIEU OF THE REQUIRED 55 FEET, SIDE YARD SETBACKS OF APPROXIMATELY 9 FEET AND 5 FEET IN LIEU OF THE REQUIRED 10 FEET AND FOR SUCH OTHER AND FURTHER RELIEF AS THE NATURE OF THIS CAUSE MAY REQUIRE. "



TAX MAP 111, GRID 16, PARCEL 128
COUNCILMANIC DISTRICT 7

5 ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND



Scale: 1"=20'	Field Crew: A.C.	
	Processed by: C.S.	
Date: 3/1/2023	Drawn by: B.E.N.	
	Project Manager: M.D.M.	
Project No: 22035	Checked by:	Date:

