

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(18707 Upper Beckleysville Road)	*	OFFICE OF
5th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Brandon and Brittany Collier		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2023-0252-SPHA
* * * * *		* * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as Petitions for Special Hearing and a Variance filed by the legal owners, Brandon and Brittany Collier (“Petitioners”) for the property located at 18707 Upper Beckleysville Road, Hampstead (the “Property”). A Petition for Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”):

From §400.4 to permit an accessory apartment not within the principal dwelling and to allow a one level accessory apartment that is 1,540 sq. ft. in area in lieu of the required 1,200 sq. ft. (amended from originally requested variance of 2,250 sq. ft.).

In addition, a Petition for Variance relief was filed as follows:

1. From the BCZR §400.3, to allow a new barn containing an accessory apartment to be 34.6 ft. in height in lieu of the required 15 ft. on a 9-acre farm to allow a first-floor farm equipment storage area and a 2nd floor apartment.
2. From BCZR §400.1 to allow an accessory structure to be located within the side yard in lieu of the required rear yard on a 9-acre farm.
3. To allow an accessory barn and apartment structure to be larger than the principal structure, and for such other and further relief as the nature of this cause may require.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. The Petitioners attended the hearing along with Mr. and Mrs. Stan Dabkowski, parents/in-laws of the Petitioners and prospective residents of the accessory structure at issue. Timothy Kotroco, Esquire represented the Petitioners. Surveyor Craig Rodgers, who prepared the Petitioners' site plan was also present. Northern Baltimore County resident, Lynne Jones, attended the hearing and expressed her concerns with the requested relief.

Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") and the Department of Environment Protection and Sustainability ("DEPS.") DEPS did not oppose the relief but commented that a Perc Application approval by Ground Water Management would be required. DOP commented that while they did not oppose the proposed inclusion of an accessory apartment in the proposed structure, they did object to the size of the original 2,250 sq. ft. variance. (This variance has now been amended to 1,540 sq. ft. in lieu of the maximum 1,200 sq. ft.)

The case proceeded by way of proffer from Mr. Kotroco. The property is approximately 9.26 acres in the RC 2 zone in the Hampstead area of Baltimore County. The Petitioners are proposing the construction of an accessory structure that will house farm equipment on the ground floor, with an accessory apartment on the second floor. The Petitioners intend their parents/in-laws to occupy this apartment in keeping with the definition of "immediate family member" found in BCZR, §101.1 and in keeping with requirements of BCZR, §400.4.

Stan Dabkowski, father of Brittany Collier is the owner/operator of Spring Meadow Farm located on Hanover Pike in Upperco, Maryland which sells produce, flowers, and other items. Mrs. Collier is also involved in this business, while her husband is a fireman and in the Air Force

Reserves. Mr. Kotroco proffered that it was the Petitioners' intention to start using part of their property for a farming operation that will grow flowers and produce that will be ultimately sold at Spring Meadow Farm. (Pet. Ex 2Q). In conjunction with this new operation, the first floor of the proposed accessory building will be used to house farm machinery related to this enterprise. A portion of the first floor will also be occupied by a water tank used for fire prevention purposes and an elevator to the second floor to assist Mr. and Mrs. Dabkowski in later years. Mr. Kotroco explained that Mr. Collier is sometimes deployed abroad as a result of his Air Force service and having the parents/in-laws residing on the property provided extra familial support for childcare when Mr. Collier is away.

The portion of the second floor that will be utilized by Mr. and Mrs. Dabkowski is 1,540 sq. feet. This square footage includes a bedroom, bathroom, kitchen, walk in closet/laundry area and great room. (The walk-in closet and laundry area constitutes approximately 168 square feet.) An additional area of the second floor consisting of a bedroom, closet, bathroom, stairs and elevator will be separated from the in-law living quarters. (Pet. Ex. 8A) The accessory structure will have a 12 ft. x 12 ft., gabled roof causing its total height to reach 34.6 feet, which is in keeping with the height of the principal dwelling on the property. In prior Case No. 2023-0214-A, an Administrative Variance was granted for the subject property allowing a barn to replace a previously existing barn on the side yard in lieu of the rear. This previous barn was damaged by a fallen tree. The Order for the Administrative Variance noted that the property was unique in its shape and configuration. Mr. Kotroco noted this uniqueness in explaining that the proposed accessory structure would also have to be located on the side yard due to steep slopes in the rear and front of the property, thus requiring building to be limited to the plateau on either side of the principal dwelling. (Pet. Ex. 1A).

Mr. Kotroco proffered that the building footprint of the existing principal residence is approximately 2,195.8 sq ft. (Pet. Ex. 8B) The building footprint for the proposed structure is 2,170 sq. ft. when factoring in the offset created by the fact that the footprint is not a perfect rectangle. Mr. Kotroco has requested a variance allowing the proposed structure to be slightly larger in the event that calculations using an alternative methodology would generate different total numbers. (Pet. Ex. 8A).

While DOP would prefer that the proposed building not have separate utility meters or water or sewer services, DEPS comment requires a Perc Application approved by Growth Water Management. Additionally, while Mr. Kotroco proffered that the Petitioners' plan on using the same utility meters as the principal dwelling, a second circuit meter may be required during the permitting process due to modern electrical standards.

Petitioners provided photographs depicting that the forested nature of the subject property prevents the proposed structure from being seen from Beckleysville Road. (Pet. Ex. 2A-Q) Additionally, Mr. Kotroco proffered that the Colliers had spoken to the neighbors nearest to their property who are not in opposition to the proposed relief.

In confirming that the requirements of BCZR, §502.1 have been satisfied in accordance with BCZR, §400.4(B)(3), Mr. Kotroco proffered that the proposed accessory building and apartment will not be detrimental to the health, safety or general welfare of the locality involved, tend to create congestion in the roads, streets or alleys therein, create a potential hazard from fire, panic or other danger, tend to overcrowd land and cause undue concentration of population, interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements, interfere with adequate light and air, be inconsistent with the purposes of the property's zoning classification nor in any other way

inconsistent with the spirit and intent of these Zoning Regulations, be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains.

Northern Baltimore County resident, Lynne Jones, attended the hearing and expressed her concerns with Petitioners' requested Variance relief. Ms. Jones primary concern was that the granting of 1,540 sq. ft. for the accessory apartment in lieu of the 1,200 sq. ft. maximum required in BCZR, §400.4(B)(2)(a) may create an unwanted precedent for other properties in the area. Ms. Jones expressed her skepticism as to how the County will police and regulate the use of such accessory apartments and prevent property owners from converting such apartments into multi-bedroom living quarters that might ultimately be used by larger family units outside the definition of "immediate family members." Ms. Jones also expressed her concern with residential living areas being located on top of barn-type areas containing farm equipment. Ms. Jones explained that through her experience living in an agricultural area, barn fires are not uncommon and such fires could quickly consume living quarters located above. In response to Ms. Jones' concerns on this matter, Mr. Kotroco proffered that the proposed structure will include a separate water tank and sprinkler system and that ceiling separating the two floors will contain extra fire-retardant features.

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 established in prior Case No. 2023-0214-A, the Petitioners' property is unique in its shape and configuration, surrounded by steep slopes, leaving a limited plateaued area to build on the side yard of the property. Consequently, to deny an accessory structure to be located within the side yard in lieu of the required rear yard would cause the Petitioners to experience practical difficulty and hardship.

While the maximum height for an accessory structure is 15 ft., such a height restriction proves impractical in regards to a hybrid farm building/accessory apartment structure as the one being proposed by the Petitioners and that is in keeping with the intent of the County Executive Housing Reform legislative package encouraging family member use of accessory dwelling units. ("ADUs").¹ It is also important to note that if the proposed structure was strictly a farm building that the 15-ft. height limit would not apply. As proffered by the Petitioners, the 34.6 ft. height of the proposed accessory structure is in keeping with the height of the principal dwelling and will likely be shielded from the view of surrounding properties by the forested nature of the property. To deny the accessory structure to be 34.6 ft. in height in lieu of the maximum allowed 15 ft. would cause the Petitioners to experience practical difficulty and hardship.

Petitioners have requested a variance to allow an accessory apartment with square footage totaling 1,540 sq. ft. in lieu of the 1,200 sq. ft. maximum. It is noteworthy that the maximum square footage for the same apartment if it were to be located within a principal dwelling is 2,000 sq. ft. BCZR, §400.4(A)(1)(a). While the legislative intent behind this distinction is open to debate, the

¹As noted by DOP's comment dated 12/20/23, County Council Bill No. 7-23 made changes in the definition of the term "immediate family" as found in §101.1 and the parameters for such persons occupying accessory apartments pursuant to §400.4. This bill was in keeping with the County Executive's Foundational Housing Reform legislative package announced in January 12, 2023 which included reference to "Updating County Zoning Regulations to Expand Family Use of Accessory Apartment (Accessory Dwelling Units ("ADUs").

requested square footage clearly falls within these two numbers. It is also noteworthy that approximately 168 sq. ft. of the requested 1,540 sq. ft. will be used for a closet and a washer/dryer area that is not easily converted into additional living space as noted in Ms. Jones' concerns. While Ms. Jones' concerns regarding the possible misuse of this type of accessory apartment is valid, we must adjudicate such variance requests on an individual basis and on the unique facts of each case. In keeping with Ms. Jones' concerns, the Petitioners have agreed to amend their architectural plan to fully separate the remaining square footage of the second floor from the 1,540 sq. ft. residential portion by extending an interior wall and removing doors other than the entrance to be used by Mr. and Mrs. Dabkowski near the steps and elevator. (Pet. Amended Ex.4E-F).

In that Mr. Kotroco has proffered that the building footprint of the existing principal residence is approximately 2,195.8 sq ft. and the building footprint for the proposed structure is 2,170 sq. ft., and in that no contrary figures are in evidence at this time, it appears that there is no need for variance relief in this regard at this time. In the event that the building footprint depicted in Pet. Ex. 8A were by an alternative calculating methodology be found to be greater than that of the principal dwelling, various relief is granted to permit such a minor deviation.

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).

BCZR §400.4(B)(4) mandates that accessory apartments may not have separate utility meters or water and sewerage services unless approved by the Office of Administrative Hearings. In this matter, it is the opinion of DOP that the proposed structure be required to have a Perc Application approval by Ground Water Management implying that it is to have its own septic field separate from the principal dwelling. I defer to DOP's opinion on this issue and find that such a separate septic field is permissible. Additionally, in the event that is later determined that an additional utility meter or circuit panel is needed for updating and modernization purposes, I find that this is permissible as well.

The Petitioners' request for Special Hearing is in keeping with the requirements of BCZR, §400.4(B) for accessory apartments to be occupied by immediate family members. The Petitioners have executed a Declaration of Understanding regarding the permitted use of the accessory apartment by "immediate family" only, and have designated Mr. and Mrs. Dabkowski as such. This use will be compatible with the community and generally consistent with the spirit and intent of the zoning regulations. Additionally, the requested relief is in keeping with the County Executive's initiative to update the County's regulations to expand family-member use of accessory apartments to increase opportunities to keep families together and allow older adults more opportunities to age in place with family members nearby. Accordingly, the Petitioners' request for Special Hearing relief is granted.

THEREFORE, IT IS ORDERED, this 8th day of **February, 2024**, by the Administrative Law Judge for Baltimore County that the Petition for Special Hearing from §400.4 to permit an accessory apartment not within the principal dwelling and to allow a one level accessory apartment that is 1,540 sq. ft. in area in lieu of the required 1,200 sq. ft. (amended from originally requested variance of 2,250 sq. ft.) be and is hereby **GRANTED**; and

IT IS FURTHER ORDERED; that the Petition for Variance seeking relief as follows:

From the BCZR §400.3, to allow a new barn containing an accessory apartment to be 34.6 ft. in height in lieu of the required 15 ft. on a 9-acre farm to allow a first-floor farm equipment storage area and a 2nd floor apartment be and is hereby **GRANTED**; and

IT IS FURTHER ORDERED, from BCZR §400.1 to allow an accessory structure to be located within the side yard in lieu of the required rear yard on a 9-acre farm be and is hereby **GRANTED**; and

IT IS HEREBY ORDERED, to allow an accessory barn and apartment structure to be larger than the principal structure be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

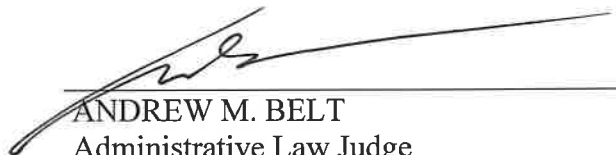
1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Petitioners shall comply with the DEPS ZAC comments, dated December 13, 2023 and December 15, 2023 respectively; copies of which are attached hereto, during the development process as required by the County agencies.
3. The accessory apartment shall not be used for commercial purposes.
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 persons named in the Use Permit who are immediate family members as defined in BCZR, §101.1, and may not be used by any persons not named in the Use Permit

for any other reason (including family members not otherwise named). 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 renovations constructed for the accessory apartment will be removed and the accessory building will be restored to its original condition.

5. 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 and a site plan showing the proposed improvements, along with a copy of this Order, in the Land Records of Baltimore County, and file a copy of the same with the Department of Permits, Approvals and Inspections.

6. 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(s) occupying the accessory apartment.

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



ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB/dlm



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

February 8, 2024

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. 2023-0252-SPHA
Property: 18707 Upper Beckleysville Road

Dear Mr. Kotroco:

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, appearing to read "A. M. Belt", is written over a horizontal line.

ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm
Enclosure

C: Brandon and Brittany Collier – brandonjcollier@outlook.com
Lynne Jones – dryad101@hotmail.com



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 18707 Upper Beckleysville Road, Hampstead, MD 21074 Currently Zoned RC2
Deed Reference 44253 / 296 10 Digit Tax Account # 2100001211
Owner(s) Printed Name(s) Brandon and Brittany Collier

(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 _____

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 _____

Legal Owners (Petitioners):

Brandon Collier / Brittany Collier
Name #1 - Type or Print _____ Name #2 - Type or Print _____
Signature #1 _____ Signature #2 _____
18707 Upper Beckleysville Rd. Hampstead MD
Mailing Address _____ City _____ State _____
21074 / 443-417-0646 / 443-632-8005 / brandonjcollier@outlook.com
Zip Code _____ Telephone #'s (Cell and Home) _____ 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 2023-0252-A Filing Date 12 / 7 / 2023 Do Not Schedule Dates _____ Reviewer [Signature]

Matthew T. Kotroco, Esq.

Kotroco & Associates, LLC
305 Washington Avenue, Suite 502
Towson, Maryland 21204
410-299-9453
mattkotroco@gmail.com

Relief Requested

Special Hearing:

A special hearing to permit an accessory apartment not within the principal dwelling per section 400.4 BCZR.

Variance:

Variance relief from section 400.4.B.2 to allow a one level accessory apartment that is 2250 square feet in area in lieu of the required 1200 sq ft.

Variance relief from section 400.3 BCZR to allow a new barn containing an accessory apartment to be 34.6 feet in height in lieu of the required 15 feet on a 9 acre farm to allow a first floor farm equipment storage area and a 2nd floor apartment .

Variance relief from section 400.1 to allow an accessory structure to be located within the side yard in lieu of the required rear yard on a 9 acre farm.

Variance to allow an accessory barn and apartment structure to be larger than the principal structure.

And for such other and further relief as the nature of this cause may require.

ZONING PROPERTY DESCRIPTION FOR 18707 UPPER BECKLEYSVILLE ROAD

Beginning at a point on the south side of Upper Beckleysville Road which is 50 feet wide at a distance of 1390 feet southwest of the centerline of Brick Store Road which is variable in width, Being Lot #2 in the "Subdivision of the Joseph W. & Ira M. Dingus Property" as recorded in Baltimore County Plat Book #57, Folio #93, containing 9.26 Acres. Located in the 5th Election District and 3rd Council District.

2023 - 0252-SPHA

**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: 2023-0252-SP4A

Property Address: 18707 Upper Beckleysville Road

Property Description: South Side of Upper Beckleysville Road
1390-foot southwest centerline of Brick Store Road

Legal Owners (Petitioners): Brandon & Brittany Collier

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

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

No. 229432

Date: 12/7/2023

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					\$150.00

Total: \$150.00

Rec
From:

Timothy W. Kotraco

For:

Residential Variance & Special Hearing
18707 Upper Backleyville Road
Zoning Case 2023-0252-SPHA

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

[Signature]

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: December 15, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0252-A
Address: 18707 Upper Beckeysville Rd
Legal Owner: Brandon & Brittany Collier

Zoning Advisory Committee Meeting of December 19, 2023.

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

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

A Single Lot Declaration of Intent may be filed to address Forest Conservation Law provided no more than 20,000 square feet of forest would be cleared for the proposed barn.

Reviewer: Glenn Shaffer

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: December 13, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0252-A
Address: 18707 Upper Beckeysville Rd.
Legal Owner: Brandon & Brittany Collier

Zoning Advisory Committee Meeting of December 19, 2023.

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

1. If the zoning variance is granted, Ground Water Management requests that it be conditioned to include the following:

- a. Perc Application approval by Ground Water Management is required.

Additional Comments:

Reviewer: Rochelle V. Underwood



Certificate of Posting

Case# 2023-0252-SPHA
 Petitioner/Developer
Matt Kotroco

Date of Hearing/Closing
January 29, 2024

Baltimore County Department of Permits and Management
 County Office Building Room 111; 111 West Chesapeake Ave. Towson Md. 21204
 Attention:

Ladies and Gentlemen:

This is to certify under penalties of perjury that the necessary sign/signs required by law were posted conspicuously on the [property located at 18707 Upper Beckleysville Rd. on January 7, 2024 Signs 1A & 1B

Sincerely, Martin Ogle

Martin Ogle
 9912 Maidbrook Road
 Parkville, Md. 21234
 443-629-3411

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: December 13, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0252-A
Address: 18707 Upper Beckeysville Rd.
Legal Owner: Brandon & Brittany Collier

Zoning Advisory Committee Meeting of December 19, 2023.

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1. If the zoning variance is granted, Ground Water Management requests that it be conditioned to include the following:

- a. Perc Application approval by Ground Water Management is required.

Additional Comments:

Reviewer: Rochelle V. Underwood

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: December 15, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0252-A
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Legal Owner: Brandon & Brittany Collier

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Additional Comments:

A Single Lot Declaration of Intent may be filed to address Forest Conservation Law provided no more than 20,000 square feet of forest would be cleared for the proposed barn.

Reviewer: Glenn Shaffer

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For December 19, 2023
Item No. 2023-0252-SPHA

DATE: December 19, 2023

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

DPW-T: N/C

DPR: N/C

Landscape: N/C

Rec & Parks: N/C & No Greenways affected

VKD: JK
cc: file

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 12/20/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-0252 - A

INFORMATION:

Property Address: 18707 Upper Beckleysville Road,

Petitioner: Brandon and Brittany Collier

Zoning: RC-2

Requested Action: Special Hearing and Variance

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

Special Hearing - To permit an accessory apartment not within the principal dwelling per section 400.4 BCZR.

Variance(s) -

- i. Relief from section 400.4.B.2 to allow a one level accessory apartment that is 2250 square feet in area in lieu of the required 1200 sq ft.
- ii. Relief from section 400.3 BCZR to allow a new barn containing an accessory apartment to be 34.6 feet in height in lieu of the required 15 feet on a 9-acre farm to allow a first-floor farm equipment storage area and a 2nd floor apartment.
- iii. Relief from section 400.1 to allow an accessory structure to be located within the side yard in lieu of the required rear yard on a 9-acre farm.
- iv. To allow an accessory barn and apartment structure to be larger than the principal structure.
- v. And for such other and further relief as the nature of this cause may require.

The subject property is consisting of a single-family dwelling on a 9-acre property zoned RC-2 in the Hampstead area of Baltimore County. Rural residential dwellings, forest conservation and agricultural purposes surround the property.

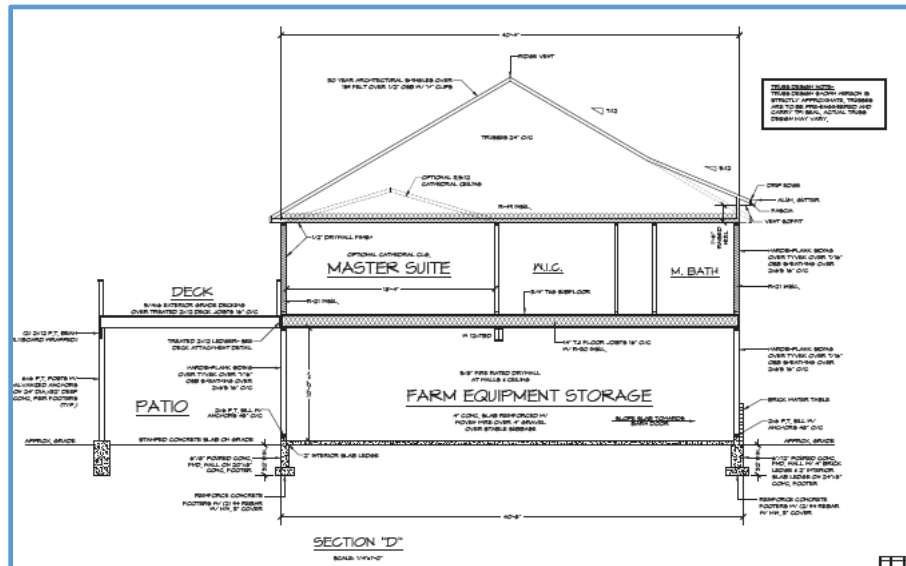
The RC-2 zone is a zoning district established to preserve the rural character of the area and promote low-density residential development. This district is intended to maintain the natural beauty and peacefulness of the surrounding countryside, while providing for compatible land uses and development patterns. The proposed relief is in harmony with the spirit and intent of the RC-2 zoning regulations.

As a justification for the requested relief, the applicant stated the following:

- A. The structure is planned as a permanent "accessory dwelling unit" in line with County Executive Olszewski's housing reform package. This detail is important because it aligns the project with current county housing policies. The project is presented as being in line with the County

Executive's policy on foundational housing, indicating that it meets current local government objectives

- B. The accessory apartment is intended for the property owner's relatives (elderly relatives), facilitating "one level living" for them in their older age.
- C. The structure is meant to serve both as an accessory apartment for elderly relatives and as a storage space for agricultural equipment. This dual functionality is a key point in the applicant's zoning request.



- D. According to the applicant, agricultural buildings are generally exempt from zoning regulations and often larger and located differently than principal structures. This point suggests that the proposed structure, while unusual, is not out of character for the area.

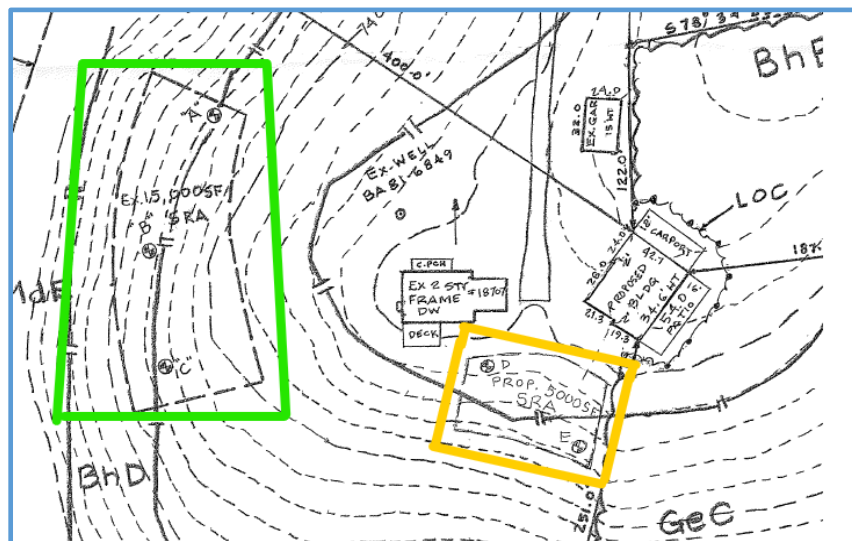
The Department of Planning does not oppose to the County Executive's "Updating County Zoning Regulations to Expand Family Member Use of Accessory Apartments (Accessory Dwelling Units ("ADUs")." This new legislation modernizes Baltimore County's current law, which restricts residency to immediate family members, by expanding the definition to include individuals related by blood, adoption, or marriage to the inhabitants of the primary residence. However, the new legislation does not state that accessory dwellings should be made for permanent use like the application is suggesting in his justification instead of the temporary use as stated in Section 400.4 – Accessory apartments –

"An accessory apartment is permitted as a temporary use within a principal single-family detached dwelling or within an accessory building situated on the same owner-occupied lot as the principal dwelling in any zone that permits single-family dwellings, subject to the following requirements" (§ 400.4.)

The Department does not object to the use of the accessory dwelling for both accessory residential and storage. However, it is unclear that the proposed development can be categorized as an agricultural building. Until the applicant provides the justification that the proposed building is an agricultural building, the Department would consider the proposed development as an accessory residential structure with a storage space included. Therefore, the applicant may reword statements in the Variance request to refer to the proposed accessory dwelling as accessory in-law apartment instead of a barn.

According to (§ 400.4.B.4), “The accessory apartment may not have separate utility meters or water and sewerage services unless approved by the Office of Administrative hearings based on specific findings of necessity for the accessory building.” Below is an image of the site plan submitted by the applicant indicating a proposed septic of 5000 SF (marked in yellow) in addition to an existing 15000 SF (marked in green). This proposed septic does not conform to the Baltimore County Code regarding accessory dwellings / apartments. In addition, it indicates this is intended to be a permanent use rather than temporary as allowed by the law.

The proposed dimensions of the accessory dwelling (in-law apartment), which are 2250 square feet instead of the required 1200 SF with height of 34.6 SF in place of the required 15 F, both exceed more than twice the necessary size and height. The Department feels the overall size and height should be decreased.



In closing, the Department concludes that as presented by the applicant, no proposed development is exempt from zoning regulations and codes in Baltimore County. The Department does not oppose the intended use but does oppose it as presented. The Department will defer the final decision making to the Administrative Law Judge.

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

Prepared by:

Krystle Patchak

Krystle Patchak

Division Chief:

Jenifer G. Nugent

Jenifer G. Nugent

SL/JGN/KP

c: Timothy Kotroco
Megan Benjamin, Community Planner

Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

RE: PETITION FOR VARIANCE * BEFORE THE OFFICE
18707 Upper Beckleysville Rd; S/S of Upper *
Beckleyville Rd, 1390' SW of Brick Store Rd * OF ADMINISTRATIVE
5th Election & 3rd Councilmanic Districts
Legal Owner(s): Brandon & Brittany Collier * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2023-252-A

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman/rmw
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio/rmw
CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Suite 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188
peoplescounsel@baltimorecountymd.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of December, 2023, a copy of the foregoing Entry of Appearance was emailed to Timothy Kotroco, Esquire, tkotroco@gmail.com and Matt Kotroco, Esquire, mattkotroco@gmail.com, 305 Washington Avenue, Suite 502, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman/rmw
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 05 Account Number - 2100001211

Owner Information

Owner Name: COLLIER BRANDON JAMES Use: RESIDENTIAL
COLLIER BRITTANY Principal Residence: YES
Mailing Address: 18707 UPPER BECKLEYSVILLE RD Deed Reference: /44253/ 00296
HAMPSTEAD MD 21074-2835

Location & Structure Information

Premises Address: 18707 UPPER BECKLEYSVILLE RD Legal Description: 9.2628 AC
HAMPSTEAD 21074-2835 18707 UPPER BCKLYVLE RD
JOSEPH W & IVA N DINGUS

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0014 0006 0037 5030002.04 0000 2 2023 Plat Ref: 0057/ 0093

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1991	3,392 SF		9.2600 AC	04

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

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2023	07/01/2023	07/01/2024
Land:	137,900	159,600		
Improvements	383,000	396,400		
Total:	520,900	556,000	532,600	544,300
Preferential Land:	0	0		

Transfer Information

Seller: HELLER LAURA L	Date: 03/08/2021	Price: \$548,000
Type: NON-ARMS LENGTH OTHER	Deed1: /44253/ 00296	Deed2:
Seller: HELLER LAURA	Date: 09/24/2002	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /16856/ 00001	Deed2:
Seller: VAYDA STEPHEN	Date: 09/25/2001	Price: \$324,500
Type: ARMS LENGTH IMPROVED	Deed1: /15599/ 00707	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2023	07/01/2024
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

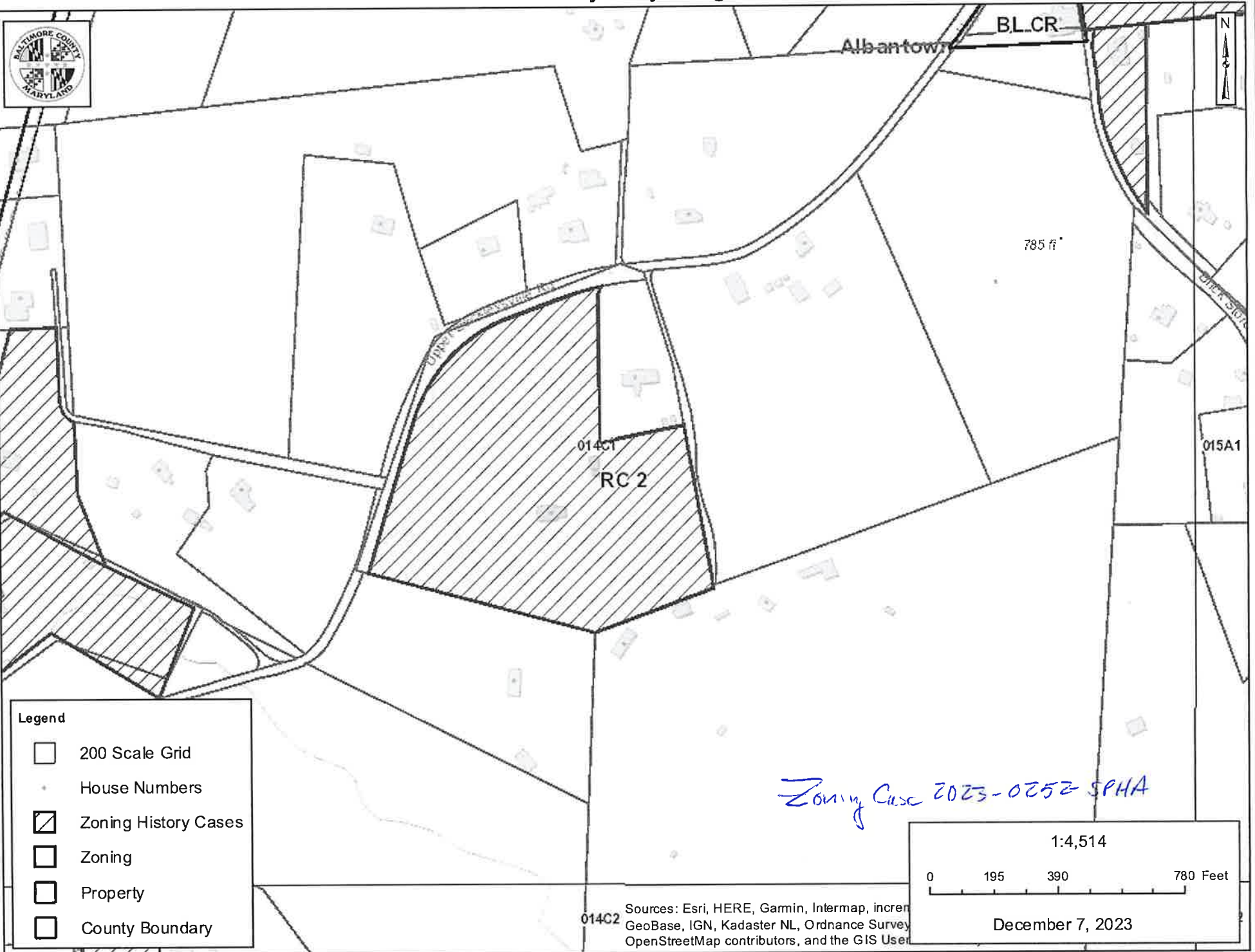
Homestead Application Status: Approved - 06/25/2022

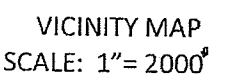
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

Zoning Case 2023-0252-SPHA

Baltimore County - My Neighborhood





- PLAN TO ACCOMPANY
SPECIAL HEARING FOR AN
ACCESSORY APARTMENT
NOT WITHIN THE PRINCIPLE
DWELLING PER SECTION 400.4 BCZR.
VARIANCE RELIEF, PER SECTION 400.4.B.2
TO ALLOW AN ACCESSORY APARTMENT
WITH 2,250 S.F. IN LIEU OF THE
PERMITTED 1,200 S.F.; AND
PER SECTION 400.1 BCZR TO ALLOW AN
ACCESSORY BUILDING WITH A HEIGHT OF
34.6 FT. IN LIEU OF THE REQUIRED 15 FT.
TO BE LOCATED WITHIN THE SIDE YARD
IN LIEU OF THE REAR YARD; AND FOR SUCH
OTHER AND FURTHER RELIEF AS THE NATURE
OF THIS CAUSE MAY REQUIRE.
18707 UPPER BECKLEYSVILLE RD.
ELECTION DISTRICT 5
COUNCIL DISTRICT 3
DEED REF: 44253/296
TAX ACCT NO.: 2100001211
TAX MAP 14, GRID 6, PARCEL 37
LOT 2, PLAT OF SUBDIVISIONS OF
THE JOSEPH W. & IVA M. DINGUS
PROPERTY (PB 57/93)

SCALE: 1" = 60' DATE: 10/30/23

