

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 6, 2024

Mark Powers – <u>mpowers@powershomes.com</u> 12412 Hunters Glen Owings Mills, MD 21117

RE:

Petition for Variance

Case No. 2023-0260-A

Property: 12412 Hunters Glen

Dear Petitioner:

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,

ANDREW M. BELT Administrative Law Judge for Baltimore County

AMB:dlm Enclosure

Bruce E. Doak - bdoak@bruceedoakconsulting.com

IN RE: PETITION FOR VARIANCE (12412 Hunters Glen)

4th Election District 2nd Council District Mark Powers Legal Owner * BEFORE THE

* OFFICE OF ADMINISTRATIVE

* HEARINGS OF

* BALTIMORE COUNTY

Petitioner * CASE NO. 2023-0260-A

* * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") as a Petition for Variance filed by the legal owner, Mark Powers ("Petitioner") for property located at 12412 Hunters Glen, Owings Mills (the "Property"). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations ("BCZR") § 400.3 to permit an accessory building (garage) to have a height of 22 ft., in lieu of the required maximum height of 15 ft.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. The Petitioner appeared in support of the Petition along with Bruce E. Doak, a licensed surveyor, of Bruce E. Doak Consulting, LLC, who prepared and sealed a site plan (the "Site Plan"). (Pet. Ex. 1). There were no Protestants or other interested persons who appeared at the hearing.

Zoning Advisory Comments were received from the Department of Planning ("DOP") and from the Department of Plans Review ("DPR")/Department of Public Works & Transportation ("DPW&T"). DOP had no opposition, while DPW&T commented that they were in opposition due to the proposed garage's location depicted on Petitioner's plan and its proximity to a 10-foot drainage and utility easement on the property.

The Property is 1.5 acres +/- on which a 2-story residential dwelling is now under

Petitioner testified that he had purchased the lot ten years prior in a subdivision that is now approximately 15 years old. Petitioner testified that he has communicated with his surrounding neighbors who are not in opposition to his proposed garage. There were no neighbors in attendance at the hearing in opposition to the proposed relief.

As proffered by Mr. Doak, the Petitioner is proposing a three-bay garage that will reach a maximum height of 22 ft. (Pet. Ex. 7) There will be no second story. As explained by Mr. Doak, approximately 11 ft. of the 22 ft. height will consist of the gabled roof that has been designed to match the roof pitch of the principal structure. (Pet. Ex. 7) Additionally, Mr. Doak noted using the method for determining height found in the Zoning Commissioner's Policy Manual, if such a calculation was taken using the highest point at grade for the proposed garage, the maximum height would only be approximately 17 ft. (Pet. Ex. 8) High grading presently exists around the rear and side of the proposed garage's foundation, making it appear to be lower to the surrounding neighbors. (Pet. Ex. 5J) Also, as noted by Mr. Doak the location of the proposed garage will be completely screened by large pine trees on the neighboring property. (Pet. Ex. 5I)

In response to the DPW&T comment regarding the location of the proposed garage in relation to the existing drainage and utility easement on the property, Mr. Doak proffered that he has addressed this concern and the foundation of the garage has been placed in keeping with DPW&T comments. (Pet. Ex. 6)

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).

I find that the Property is unique due to the sloping topography in the area in which the proposed garage will be located. This sloping topography results in the rear and sides of the proposed structure to be surrounded by higher grading, thus resulting in a reduction in visible height by the surrounding properties. Additionally, the proposed height of the garage is in keeping with the pitch of the principal dwelling now under construction. The Petitioner explained that the higher garage will be used for the storage of larger vehicles and that practical difficulty would exist if the requested variance relief were to be denied.

THEREFORE, IT IS ORDERED, this 6th day of February 2024, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from BCZR § 400.3 to permit an accessory building (garage) to have a height of 22 ft., in lieu of the required maximum height of 15 ft. be, and they are each hereby, **GRANTED**.

The relief granted herein shall be subject to the following:

- 1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at 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. Petitioner and/or subsequent owners shall not convert the accessory structure/garage into a dwelling unit or apartment. The proposed accessory structure/garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- 3. The accessory structure/garage shall also not be used for commercial or industrial purposes.
- 4. The accessory structure/garage shall not have a separate utility or electric connection and shall connect to the electrical/utility in the home. The accessory structure/garage shall not have separate water connection and shall connect to the water in the home.

5. The Petitioner must comply with the DPR/DPW&T ZAC comment of which is attached hereto and made a part hereof.

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



CASE NUMBER 2023 - 0260-A

PETITION FOR ZONING HEARING(S)

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

To the Office of Administrative Law of Baltimore County for the property located at: HUNTERS CTLEN which is presently zoned **Deed References:** 10 Digit Tax Account # 2 5 0000/5/3 29376 /253 Property Owner(s) Printed Name(s) (SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST) The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for: a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve 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 PAGE 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) TO BE PRESENTED AT THE HEARING Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County. Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s). Contract Purchaser/Lessee: Legal Owners (Petitioners): Name- Type or Print Name #2 - Type or Print Signature Signature #2 TERSTOWN Mailing Address City State 21136 910-977-3/72 Email Address Zip Code Email Address Telephone # Zip Code Telephone # MPOWERS @ POWERSHOMES. COM Representative to be contacted: Attorney for Petitioner: Name-Type or Print Signature Signature BAKER Mailing Address City State Mailing Address 410-419-4906 2/053 Zip Code Zip Code Telephone # Email Address **Email Address** BOOKE @ BRUCE ENDAKCONSULTING. COM

Filing Date 7/3/2073 Do Not Schedule Dates:

Reviewer moth

Zoning Hearing Petitions Being Requested

Variance to permit an accessory building (garage) to have height of 22 feet in lieu of the required maximum height of 15 feet per Section 400.3 BCZR



Zoning Description

12412 Hunters Glen
Fourth Election District Second Councilmanic District
Baltimore County, Maryland

Beginning at a point on the southwesterly side of Hunters Glen, northwesterly 975 feet, more or less, from the centerline extension of Worthington Road

Being Lot 36 as shown on the plat dated September 21, 2006 and entitled "First Amended Final Plat One Worthington Valley" recorded in the Baltimore County Land Records in Plat Book SM 78, page 166.

Containing 1.4998 acres of land, more or less.

This description is part of a zoning hearing petition and is not intended for any conveyance purposes.

STATE OF WAR STATE

Bruce E. Doak Consulting, LLC 3801 Baker Schoolhouse Road Freeland, MD 21053 410-419-4906 cell / 443-900-5535 office bdoak@bruceedoakconsulting.com

2023-0260-4

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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 fifteen (15) 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 - 0360 - A
Property Address: 12412 HUNTERS CILEN
Property Description: Lor 36 PB 78 / 166
Legal Owners (Petitioners): Mark Powers Contract Purchaser/Lessee: N/A
PLEASE FORWARD ADVERTISING BILL TO:
Name: Bruce E. Dosk
Company/Firm (if applicable): Bayes E. Dosk Consumus LLC
Address: 3801 BAKER SCHOOLHOUSE ROAD
FREELAND MO 21053
Telephone Number:

Revised 5/20/2014

OFFI	CE OF BU	DGET AN	MARYLAN D FINANC I RECEIPT	Έ		No.	2294	138	
Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Date:		3/2023	-
001	806	6000	Sub Unit	0bj 6150	Sub Obj	Dept Obj	BS Acct	Amount # 75.	-
									_
Rec From:									
For:									
DISTRIBUTION CASHIER'S									
	WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING PLEASE PRESS HARD!!!!								

OFFI	CE OF BU	DGET AN	MARYLAN D FINANC I RECEIPT	Έ		No.	2294	138	
Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Date:		3/2023	-
001	806	6000	Sub Unit	0bj 6150	Sub Obj	Dept Obj	BS Acct	Amount # 75.	-
									_
Rec From:									
For:									
DISTRIBUTION CASHIER'S									
	WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING PLEASE PRESS HARD!!!!								

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Peter Gutwald, Director

Department of Permits, Approvals

DATE: January 9, 2024

FROM:

Vishnu Desai, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For January 9, 2024 Item No. 2023-0260-A

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

DPW-T: DPWT feels the variance should be denied. The plan shows a 10-foot drainage and utility easement on the property that contains an existing 15" storm drain found on Baltimore County Drawing Number 2005-2043. The proposed garage and retaining wall are shown right up to the easement boundary. The proposed garage and wall with their respective foundations must be moved so that the zone of influence is not in the easement. The proposed garage and wall and their respective foundations must also be a minimum distance from the closest edge of the storm drain using the following formula: the depth of the storm drain times 2 plus 3-feet. These two distances should be compared and the greater must be used.

DPR: N/C

Landscape: N/C

Rec & Parks: N/C & No Greenways affected

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director DATE: January 9, 2024

Department of Permits, Approvals

FROM: Vishnu Desai, Supervisor

Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting

For January 9, 2024 Item No. 2023-0260-A

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DPR: N/C

Landscape: N/C

Rec & Parks: N/C & No Greenways affected

VKD: JK cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge

Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and

Sustainability (EPS) - Development Coordination

DATE: January 9, 2024

SUBJECT: DEPS Comment for Zoning Item # 2023-0260-A

Address: 12412 HUNTERS GLEN

Legal Owner: Mark Powers

Zoning Advisory Committee Meeting of January 9, 2024.

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

Additional Comments:

Reviewer: Earl D. Wrenn



CERTIFICATE OF POSTING

January 9, 2024
amended for second inspection
Re: Zoning Case No. 2023-0260-A Legal Owner: Mark Powers Hearing date: February 5, 2024
Baltimore County Department of Permits, Approvals & Inspections County Office Building 111 West Chesapeake Avenue, Room 111 111 West Chesapeake Avenue Towson, MD 21204
Attention: Jeff Perlow
Ladies and Gentlemen,
This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at 12412 Hunters Glen.
The signs were initially posted on January 8, 2024.
The subject property was also inspected on
Sincerely,

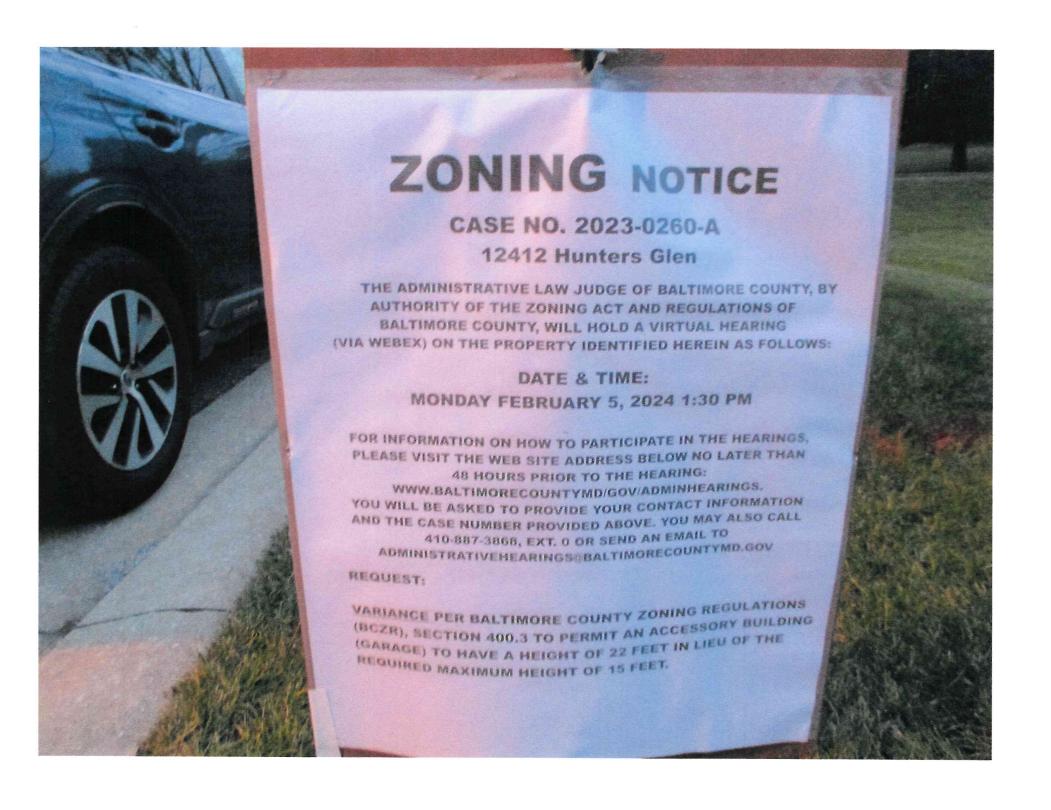
See the attached sheets for the photos of the posted signs

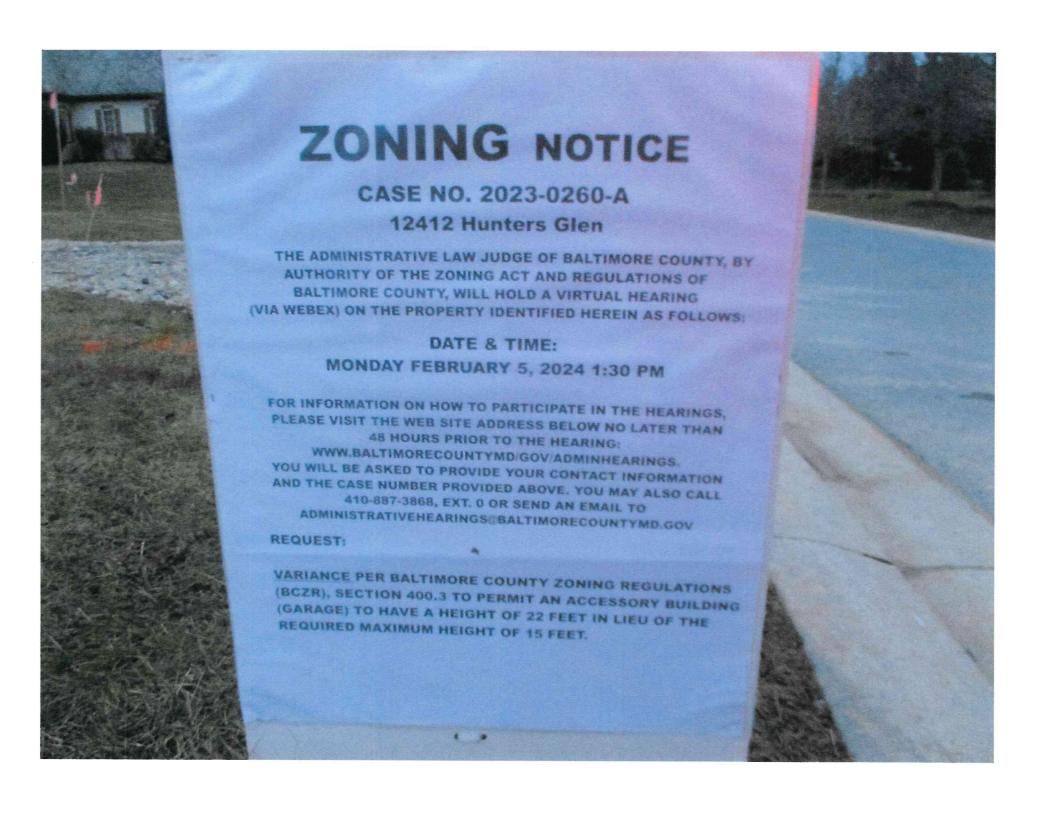
Bruce E. Doak

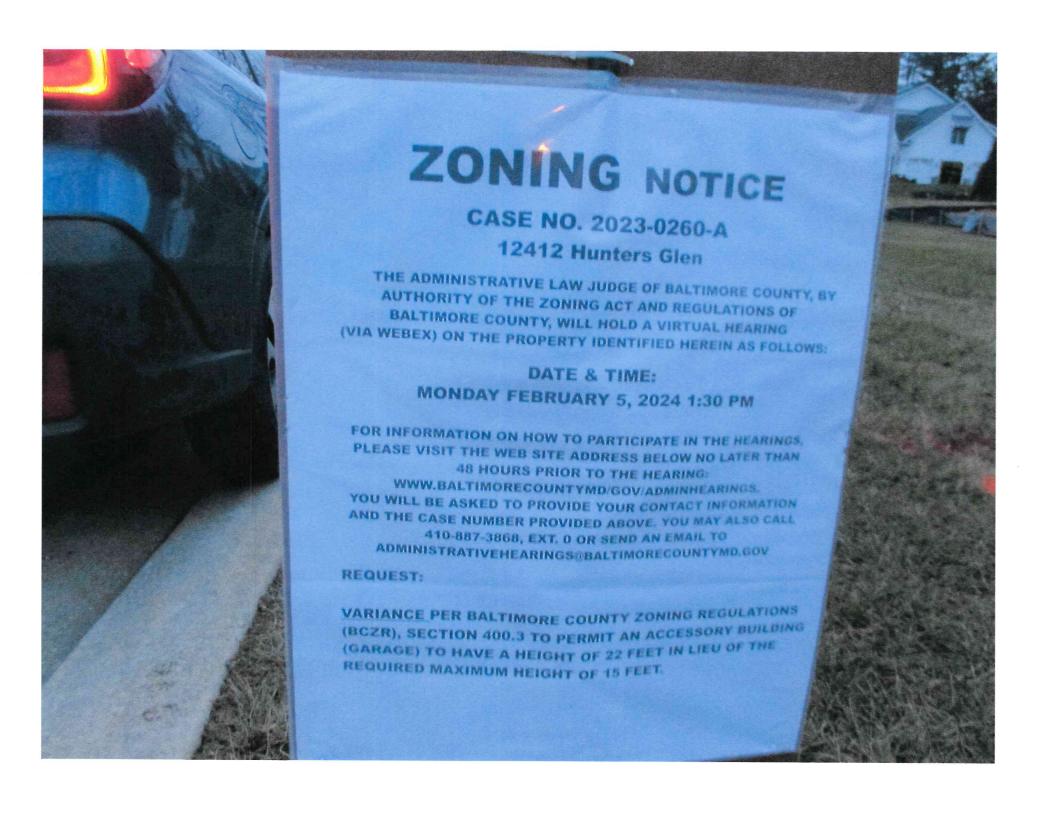
MD Property Line Surveyor #531

Bruce E. Doak Consulting, LLC 3801 Baker Schoolhouse Road Freeland, MD 21053 410-419-4906 cell / 443-900-5535 office bdoak@bruceedoakconsulting.com









BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald DATE: 1/5/2024

Director, Department of Permits, Approvals and Inspections

FROM: Steve Lafferty

Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case Number: 2023-260-A

INFORMATION:

Property Address: 12412 Hunters Glen

Petitioner: Mark Powers

Zoning: RC 5 **Requested Action:** Variance

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

Variance:

1. To permit an accessory building (garage) to have a height of 22 feet in lieu of the required maximum height of 15 feet per Section 400.3 BCZR.

The subject property is located in the Owings Mills area of Baltimore County. The property consists of an approximately 1.49+/- acre parcel undergoing construction for a 2-story residential dwelling. Rural residential dwellings, forest conservation and farms surround the property.

The R.C.5 zoning classification was established in response to concerns over wasteful and disorderly rural-residential development and inadequate lot sizes for on-lot sewer and water systems. These issues could result in undue financial hardships and negatively affect the safety and welfare of citizens. In identifying specific areas suitable for rural-residential development, the aim is to direct future growth towards these areas and prevent disorderly development patterns. The R.C.5 zoning classification serves to provide suitable areas for rural-residential development, minimize encroachments on natural resource areas, and provide a minimum lot size for proper on-lot sewer and water system functioning.

According to the Representative, the proposed 22 feet garage does not have a second story.

The proposed development does not alter the character of the RC5 zone. It should be noted that this site is subject to the RC 5 performance standards as listed in Section 1A04.4 BCZR. The Department recommends approval based on the following conditions:

- 1. The Petitioners or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area or kitchen facilities.
- 2. The accessory structure shall not be used for commercial or industrial purposes.

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

Prepared by:

Krystle Patchak

Division Chief:

enifer G. Nugent

SL/JGN/KP

c: Bruce Doak, Bruce E Doak Consulting LLC. - Representative Abigail Rogers, Community Planner Jeff Perlow, Zoning Review Kristen Lewis, Zoning Review Office of Administrative Hearings 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 - 04 Account Number - 2500001513

Owner Information

Owner Name:

POWERS MARK

RESIDENTIAL

Mailing Address:

Principal Residence:NO Deed Reference:

/29376/ 00253

113 WESTMINSTER RD REISTERSTOWN MD 21136-1026

Location & Structure Information

Premises Address:

12412 HUNTERS GLEN

Legal Description: 1.4998 AC

12412 HUNTERS GLEN SS WORTHINGTON VALLEY

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 1

0050 0013 0010 4050043.04

0000

36 2022

Plat Ref: 0078/ 0166

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements

Value Information

	Base Value	Value	Phase-in Assessments	
		As of 01/01/2022	As of 07/01/2023	As of 07/01/2024
Land:	382,500	382,500		
Improvements	0	0		
Total:	382,500	382,500	382,500	382,500
Preferential Land:	0	0		

Transfer Information

Seller: LEELAND RICHARD W
Type: ARMS LENGTH VACANT
Seller: WORTHINGTON C C LLC

Date: 04/19/2010 Deed1: /29376/ 00253

Price: \$400,000 Deed2:

Type: ARMS LENGTH VACANT

Date: 05/08/2007 Deed1: /25596/ 00211

Price: \$600,000 Deed2:

Seller:

Date: Deed1: Price: Deed2:

Exemption Information

Partial E	Exem
County:	
State:	

Municipal:

Type:

npt Assessments:Class 000 000 000

07/01/2023 0.00 0.00 0.00|0.00

07/01/2024

0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application

Date:

2023-0260-A

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW OFFICE

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Name: Bruce E. Dosk
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Address: 3801 BAKER SCHOOLHOUSE ROAD
FREELAND MO 21053
Telephone Number:

Revised 5/20/2014

Real Property Data Search () Search Result for BALTIMORE COUNTY

View Map

View GroundRent Redemption

View GroundRent Registration

Special Tax Recapture: None

Account Identifier:

District - 04 Account Number - 2500001513

Owner Information

Owner Name:

POWERS MARK

RESIDENTIAL

Mailing Address:

Principal Residence:NO Deed Reference:

/29376/ 00253

113 WESTMINSTER RD REISTERSTOWN MD 21136-1026

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Legal Description: 1.4998 AC

12412 HUNTERS GLEN SS WORTHINGTON VALLEY

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0050 0013 0010 4050043.04

0000

36 2022

Plat Ref: 0078/ 0166

Town: None

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Seller: WORTHINGTON C C LLC

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Price: \$400,000 Deed2:

Type: ARMS LENGTH VACANT

Date: 05/08/2007 Deed1: /25596/ 00211

Price: \$600,000 Deed2:

Seller:

Date: Deed1: Price: Deed2:

Exemption Information

Partial E	Exem
County:	
State:	

Municipal:

Type:

npt Assessments:Class 000 000 000

07/01/2023 0.00 0.00 0.00|0.00

07/01/2024

0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application

Date:

2023-0260-A

