



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

March 6, 2024

Lawrence E. Schmidt, Esquire – lschmidt@sgs-law.com
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

RE: Petitions for Special Hearing & Variance
Case No. 2024-0013-SPHA
Property: 11218 Bird River Grove Road

Dear Mr. Schmidt:

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 "Maureen E. Murphy".

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dlm

Enclosure

C: Jeff Vornadore – vanallenhomes@gmail.com
Scott Dallas – jsdinc@aol.com

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(11218 Bird River Grove Road)	*	OFFICE OF
15 th Election District		
5th Council District	*	ADMINISTRATIVE HEARINGS
Russel F. Robertson		
Legal Owner	*	FOR BALTIMORE COUNTY
Jeff Vornadore		
Contract Purchaser/Lessee	*	Case No. 2024-0013-SPHA

Petitioners

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as Petitions for Special Hearing and Variance filed by legal owner, Russel F. Robertson and contract purchaser/lessee Jeff Vornadore, (the “Petitioners”) for the property located at 11218 Bird River Grove Road, White Marsh (the “Property”). Special Hearing was requested pursuant to the Baltimore County Zoning Regulations (“BCZR”), §500.7 to:

- (1) confirm Lot 27 is a “lot of record”;
- (2) confirm Lot 27 is not being “created” under BCZR, §1A01.3.B.2;
- (3) confirm Lot 27 can be approved with a detached single-family dwelling as a non-conforming lot of record.

Variance relief was also filed from BCZR, §1A01.3.B.3 to allow a principal building (dwelling):

- (1) with side yard setbacks (both sides) of 9.5 ft. +/- to a property line in lieu of the required 35 ft;
- (2) with a setback to a street centerline of 61 ft +/- in lieu of the required 75 ft;
- (3) with a height of 39 ft +/- in lieu of the maximum permitted 35 ft.

As an alternative to the Special Hearing relief, pursuant to BCZR, §1A01.3.B.2 to allow a lot with an area of 7,169 sf (0.165 acres) in lieu of the required 1 acre.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Petitioner, Jeff Vornadore appeared at the hearing in support of the Petition along with J. Scott Dallas, a registered property line surveyor with J.S. Dallas, Inc. who prepared and sealed a site plan (the "Site Plan"). (Pet. Ex. 1). Lawrence E. Schmidt, Esquire of Smith Gildea Schmidt, LLC represented the Petitioner. There were no Protestants or interested citizens that appeared at the hearing.

Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") which agency did not oppose the requested relief. The Department of Environmental Protection and Sustainability ("DEPS") issued a comment that the Property is located within a Limited Development Area (LDA) is therefore subject to the Chesapeake Bay Critical Area ("CBCA") regulations.

The Property is a vacant, waterfront lot created as Lot 27 on the Plat of Section A Bird River Grove as recorded in the Land Records of Baltimore County on April 23, 1925 (Plat Book WPC 7, p. 189). (Pet. Ex. 2). Lot 27 is 0.165 acres +/- (7,169 sf) and is served by public water and sewer. (Pet. Ex. 1). The Property is zoned Agricultural (RC 2). Aerial photographs of Lot 27 and the adjacent lots depict Lot 27 as irregularly shaped at the shoreline. (Pet. Exs. 3A, 3B, 3C). Petitioner is the owner of the adjoining improved lot on the eastern property line at 11220 Bird River Grove Rd. The property on the western boundary line at 11216 Bird River Grove Rd. is improved with a new dwelling constructed pursuant to Variance relief granted in Case No.: 2013-0069-A for reduced front and side yard setbacks and a reduced lot size. (Pet. Ex. 8). Street view photographs of the homes on Bird River Grove Rd. were provided. (Pet. Exs. 4A-4N).

As proposed, the new home on Lot 27 would be set back from Bird River equidistant with the home at 11216. Petitioner is proposing to construct a 2,351sf, 3-story home to provide for

garage space on the ground level. There is no accessory structure being constructed at this time.

SPECIAL HEARING

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

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

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

Based on the Plat of Section A Bird River Grove, I find that Lot 27 is a lot of record as defined in BCZR, §101.1:

LOT OF RECORD — A parcel of land with boundaries as recorded in the land records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision or other condition thereof.

The Plat as recorded in Land Records of Baltimore County on April 23, 1925 created Lot 27. In my view, there is no need for Special Hearing relief to determine that Lot 27 is a lot of record or that it is now being created and that Special Hearing relief will be dismissed as moot. Additionally, the Special Hearing relief requesting approval of Lot 27 as a non-conforming lot of

record upon which a new home can be built will be addressed with the granting of the Variance relief below and therefore, that relief will also be dismissed as moot.

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).

I find that the Property is unique due to its irregular shape. The uniqueness of the Property and application of the CBCA regulations, limits the developable area of the Property for any residence. Lot 27, which only measures 7,169 sf, was created prior to the enactment of the BCZR in 1945, and as such, cannot support any modest-sized, modern house without Variance relief. The additional 4 ft. in height for the new home is needed due to the prohibition on having livable space on the ground level in a flood hazard zone. As a result, I find that the Petitioner would suffer a practical difficulty if all of the requested Variance relief is not granted because a new home could not be constructed. Moreover, the application of the Agricultural RC2 zoning, which controls the bulk regulations, typically contemplates private well and septic systems. However, this Property, although zoned RC2, is served by public water and sewer. I find that the requested Variance relief can be granted in strict harmony with the spirit and intent of the BCZR and without injury to the health, safety or general welfare, particularly in light of the lack of opposition.

THEREFORE, IT IS ORDERED, this 6th day of **March 2024**, by the Administrative Law Judge for Baltimore County that the Petition for Special Hearing pursuant to BCZR, §101.1 to confirm Lot 27 is a “lot of record” be, and it is hereby, **DISMISSED AS MOOT**; and

IT IS FURTHER ORDERED, that the Petition for Special Hearing pursuant to BCZR §1A01.3.B.2 to confirm Lot 27 is not being “created” be, and it is hereby, **DISMISSED AS MOOT**; and

IT IS FURTHER ORDERED, that to confirm Lot 27 can be approved with a detached single-family dwelling as a non-conforming lot of record be, and it is hereby, **DISMISSED AS MOOT**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, §1A01.3.B.3 to allow a principal building (dwelling) with side yard setbacks (both sides) of 9.5 ft. +/- to a property line in lieu of the required 35 ft., be, it is hereby **GRANTED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from the BCZR, §1A01.3.B.3 to allow a principal building (dwelling) with a setback to a street centerline of 61 ft. +/- in lieu of the required 75 ft., be, and it is hereby, **GRANTED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from the BCZR, §1A01.3.B.3 to allow a principal building (dwelling) with a height of 39 ft. +/- in lieu of the maximum permitted 35 ft. be, and it is hereby, **GRANTED**; and

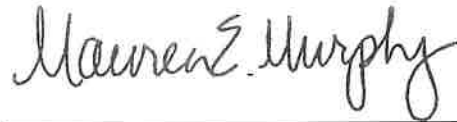
IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, §1A01.3.B.2 to allow a lot with an area of 7,169 sf (0.165 acres) in lieu of the required 1 acre, be, and it is hereby, **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

2. Petitioners must comply with the DPR/DPWT and DEPS ZAC comments, copies of which are attached hereto and made a part hereof.
3. The Site Plan (Pet. Ex. 1) is attached hereto and incorporated herein.

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

A handwritten signature in cursive script that reads "Maureen E. Murphy". The signature is written in dark ink and is positioned above a horizontal line.

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dlm

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
Case 2024-0013-SPHA

DATE: February 7, 2024

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

DPR: No comment.

DPW-T: The property is within the Tidal Special Flood Hazard Area Zone AE (BFE=8.5) per panel FIRM 2400100295F 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 proposed accessory structure is landward of the LiMWA.

Landscaping: No comment.

Recreations & Parks: No Greenways affected.

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: February 23, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0013-SPHA
Address: 11218 BIRD RIVER GROVE RD
Legal Owner: Russell F. Robertson

Zoning Advisory Committee Meeting of February 6, 2024.

EPS 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 property is located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and is subject to Critical Area requirements. The applicant is seeking approval to permit a principal dwelling with side yard setbacks of 9.5 feet in lieu of the required 35 feet, a setback to a street centerline of 61 feet in lieu of the required 75 feet, and a height of 39 feet in the lieu of the maximum height requirement of 35 feet. In addition, the applicant is seeking approval to allow a lot with an area of 7,169 square feet in lieu of the required 1 acre. The proposed development must meet LDA requirements and the 15% afforestation requirement. The maximum lot coverage allowed for this property is 2,292.25 square feet. If the proposed development can comply with the lot coverage restrictions and the 15% afforestation requirement, the relief requested can result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This is a waterfront lot with a 100-foot Critical Area buffer extending onto the property from Bird River. The buffer consists of a maintained grass lawn. There are no existing structures within the buffer. Part of the proposed house and concrete patio will be located inside the buffer and will require mitigation. Meeting the MBA requirements, lot coverage requirements, and the 15% afforestation requirement will aid in the conservation of fish, plant, and wildlife habitat in the watershed.

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.

If the proposed development can be designed to meet the MBA, lot coverage, and afforestation requirements, the relief requested will be consistent with established land-use policies.

Reviewer: Gris Batchelder

NOTES

1. OWNER:
RUSSELL F ROBERTSON
1188 BIRD RIVER GROVE RD
WHITE MARSH, MD. 21163-1904

2. SITE AREA (COMPUTED TO SITE SIDE OF SEAWALL) 7169 SQ. FT. @ 186 AC.

3. PROPOSED DWELLING AREA: 6251 SQ. FT.

4. UTILITY TIE:
PUBLIC WATER
PUBLIC SEWER

5. COORDINATES SHOWN HEREON PER BALTIMORE COUNTY "MY NEIGHBORHOOD" WEBSITE

6. SITE LIES WITHIN CHESAPEAKE BAY CRITICAL AREA (CBCA)

7. PER BALTIMORE COUNTY "TIDAL FLOOD ZONE BOUNDARIES - NOTE 1" EXHIBIT,
SITE APPEARS TO BE ELEV. 8.5 NAVD83

8. DEED REFERENCE: JLE 40858-201

9. TAX ACCOUNT NO. 100800000

10. CO INCORPORATING DISTRICT 15TH ELECTION DISTRICT 15TH

11. CENSUS TRACT: 451702

12. WATER SHED: BIRD RIVER

13. ZONING: R1C2

14. MINIMUM LOT AREA: 1 ACRE

15. MINIMUM FRONT YARD DEPTH: 75 TO CL RD

16. MINIMUM REAR YARD: 30'

17. MINIMUM REAR YARD DEPTH: 30'

18. MAXIMUM DWELLING HEIGHT: 30'

19. TAZ MAP 0073 DRD 0029 PARCEL 034 LOT 27

20. NO KNOWN PREVIOUS ZONING CASES OR OUTSTANDING ZONING CITATIONS/VIOLATIONS ON FILE

21. NO KNOWN PERMITS ON FILE

22. THERE ARE NO HISTORIC FEATURES ON THE SITE

23. NOR BEING SITE ITSELF HISTORIC

24. NO KNOWN PREVIOUS SITE MEETINGS

25. NO KNOWN PREVIOUS SITE GRADING CHANGES

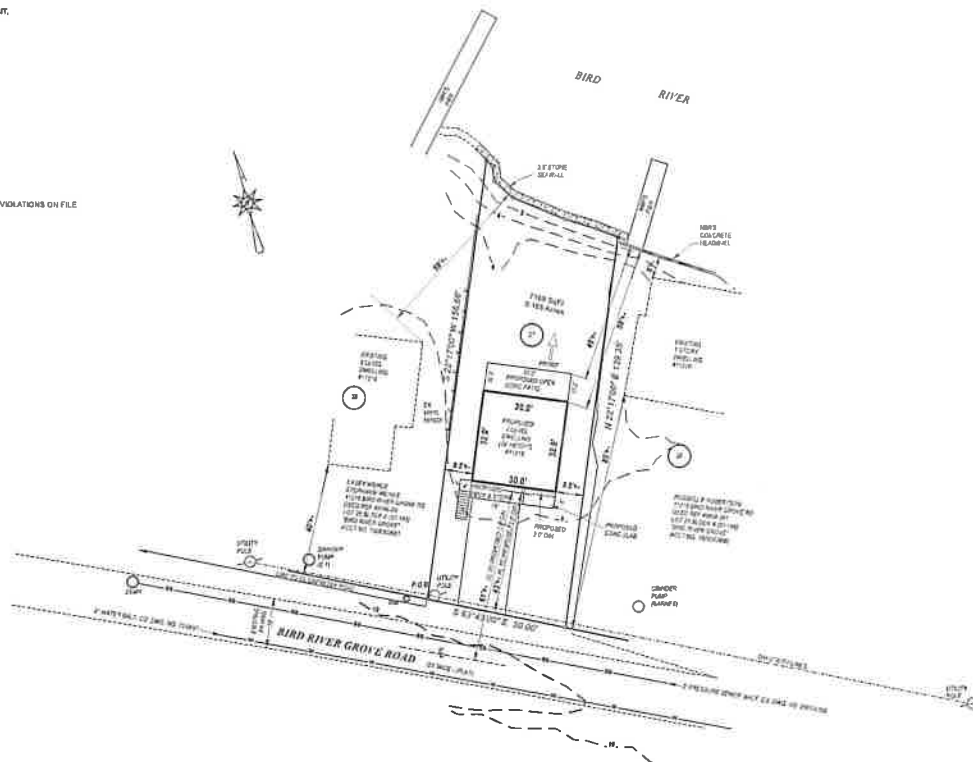
26. EXISTING USE OF LOT VACANT

27. PROPOSED USE OF LOT 2 LEVEL SINGLE FAMILY DWELLING (27' HEIGHT)

28. ZONING MAP NUMBER: 075A3

29. NEIGHBORHOOD: 101000100

30. PROPOSED DWELLING HEIGHT 28'



VICINITY MAP
1"=2000'

J.S. DALLAS, INC.
SURVEYING & ENGINEERING
P.O. BOX 26
BALDWIN, MD.
(410)-817-4600



12-21-2023
DATE



Petitioner's
Exhibit 1

SITE PLAN TO ACCOMPANY
PETITION FOR ZONING HEARING
111218 BIRD RIVER GROVE RD.
DEED REFERENCE JLE 40858-201
LOT 27 (07-189)
"SECTION A", BIRD RIVER GROVE"
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MD.
SCALE: 1"=20' DATE: 12-21-2023

FILE NAME	DATE	DRAWN BY
21-10-2023 BIRD RIVER GROVE 11-18-189	10-21-2023	M.S.G.
SCALE	1"=20'	DATE
FILE	11-18-189	11-18-189

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: February 23, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0013-SPHA
Address: 11218 BIRD RIVER GROVE RD
Legal Owner: Russell F. Robertson

Zoning Advisory Committee Meeting of February 6, 2024.

EPS 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 property is located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and is subject to Critical Area requirements. The applicant is seeking approval to permit a principal dwelling with side yard setbacks of 9.5 feet in lieu of the required 35 feet, a setback to a street centerline of 61 feet in lieu of the required 75 feet, and a height of 39 feet in the lieu of the maximum height requirement of 35 feet. In addition, the applicant is seeking approval to allow a lot with an area of 7,169 square feet in lieu of the required 1 acre. The proposed development must meet LDA requirements and the 15% afforestation requirement. The maximum lot coverage allowed for this property is 2,292.25 square feet. If the proposed development can comply with the lot coverage restrictions and the 15% afforestation requirement, the relief requested can result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This is a waterfront lot with a 100-foot Critical Area buffer extending onto the property from Bird River. The buffer consists of a maintained grass lawn. There are no existing structures within the buffer. Part of the proposed house and concrete patio will be located inside the buffer and will require mitigation. Meeting the MBA requirements, lot coverage requirements, and the 15% afforestation requirement will aid in the conservation of fish, plant, and wildlife habitat in the watershed.

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.

If the proposed development can be designed to meet the MBA, lot coverage, and afforestation requirements, the relief requested will be consistent with established land-use policies.

Reviewer: Gris Batchelder



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 11218 Bird River Grove Road Currently Zoned RC 2
Deed Reference 40858 / 00201 10 Digit Tax Account # 1508303680
Owner(s) Printed Name(s) Russell F. Robertson

(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. ☒ **a Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Please see attached.

2. ☐ **a Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☒ **a Variance** from Section(s)

Please 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)

TO BE PRESENTED AT HEARING

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:

Jeff Vornadore, Authorized Rep of Duck Shores Maryland, LLC

Name - Type or Print

Jeff Vornadore
Signature

1114 Chatelaine Drive Fallston MD

Mailing Address City State

21047 / Vanallenhomes@gmail.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Esquire

Name - Type or Print

Lawrence E. Schmidt
Signature

600 Washington Ave., Ste 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Russell F. Robertson

Name #1 - Type or Print

Name #2 - Type or Print

Russell F. Robertson
Signature #1

Signature #2

11220 Bird River Grove Road

White Marsh MD

Mailing Address

City State

21162 / (336) 932-5238

rfrobertson1@gmail.com

Zip Code Telephone #'s (Cell and Home)

Email Address

Representative to be contacted:

Lawrence E. Schmidt Esquire

Name - Type or Print

Lawrence E. Schmidt
Signature

600 Washington Ave., Ste 200 Towson MD

Mailing Address

City State

21204 / (410) 821-0070

lschmidt@sgs-law.com

Zip Code Telephone #

Email Address

Case Number 2024-0013-SPA Filing Date 1-8-2024 Do Not Schedule Dates Reviewer CF

ATTACHMENT TO PETITION FOR ZONING HEARING

Lot 27, Plat 07, 189; 11218 Bird River Grove Road

15th Election District

6th Councilmanic District

Special Hearing:

1. To confirm Lot 27 is a "lot of record" per BCZR § 101.1;
2. To confirm Lot 27 is not being "created" per BCZR §1A01.3.B.2;
3. To confirm Lot 27 can be approved with a detached single-family dwelling as a non-conforming lot of record; and
4. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Variance:

1. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with side yard setbacks (both sides) of 9.5 feet +/- to a property line in lieu of the required 35 feet;
2. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a setback to a street centerline of 61 feet +/- in lieu of the required 75 feet;
3. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a height of 39 feet +/- in lieu of the maximum permitted 35 feet
4. As an alternative to the Special Hearing Relief, pursuant to BCZR § 1A01.3.B.2, to allow a lot with an area of 7,169 square feet (0.165 acres) in lieu of the required 1 acre; and
5. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

2024-0013-SPHA

J.S. DALLAS, INC.

Surveying & Engineering

P.O. Box 26
Baldwin, MD 21013
(410)817-4600
FAX (410)817-4602

ZONING DESCRIPTION FOR #11218 BIRD RIVER GROVE ROAD

BEGINNING at a point on the northeast side of Bird River Road which is 25 feet wide at the distance of 5380 feet southeast from the centerline of Ebenezer Road.

BEING Lot # 27 as shown on the Plat of "Section 'A' Bird River Grove" recorded as recorded in Baltimore County Plat Book Number 7 folio 189.

CONTAINING 7169 square feet or 0.165 acres of land, more or less.

LOCATED the 15th Election District, 5th Councilmanic District.



2023-0013-SPHA

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: February 7, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0013-SPHA

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

DPR: No comment.

DPW-T: The property is within the Tidal Special Flood Hazard Area Zone AE (BFE=8.5) per panel FIRM 2400100295F 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 proposed accessory structure is landward of the LiMWA.

Landscaping: No comment.

Recreations & Parks: No Greenways affected.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 2/5/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0013-SPHA

INFORMATION:

Property Address: 11218 Bird River Grove
Petitioner: Russell F. Robertson
Zoning: RC-2
Requested Action: Special Hearing and Variance

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

Special Hearing -

- a. To confirm Lot 27 is a "lot of record" per BCZR § 101.1;
- b. To confirm Lot 27 is not being "created" per BCZR §1A01.3. B.2;
- c. To confirm Lot 27 can be approved with a detached single-family dwelling as a non-conforming lot of record; and
- d. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Variance(s) -

- a. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with side yard setbacks (both sides) of 9.5 feet + / -to a property line in lieu of the required 35 feet;
- b. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a setback to a street centerline of 61 feet + / -in lieu of the required 75 feet;
- c. Per BCZR § 1A01.3.B.3 to allow a principal building (dwelling) with a height of 39 feet + / -in lieu of the maximum permitted 35 feet
- d. As an alternative to the Special Hearing Relief, pursuant to BCZR § 1A01.3.B.2, to allow a lot with an area of 7,169 square feet (0.165 acres) in lieu of the required 1 acre; and
- e. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

The subject property consists of 7,169 SF (0.165 acres) in the White Marsh area of Baltimore County. The 0.165 acres property is currently unimproved. The proposal calls for a 3-story dwelling. The Bird River, Lightwood creek and residential dwellings, forest conservation, and farms surrounds the subject 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 appears to be in harmony with the spirit and intent of the RC-2 zoning regulations. The requested use adheres to the zoning requirements and standards since it does not seek to alter the existing approved design. Therefore, the proposed use ensures that the rural character of the area remains uncompromised. The relief also maintains the low-density residential character of the area and upholds the requirements of the Section 1A01 BCZR.

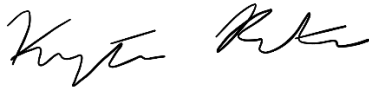
It is worth noting that the proposed reliefs are consistent with the characteristics of the surrounding residential dwellings. Even though this is zoned RC 2, this is a waterfront property along Bird River, and is an atypical RC2 property, but is of typical size and shape of the neighboring waterfront lots. The waterfront area is utilizing public water and sewer (per the plan) and the 1-acre minimum size is no need for a septic system.

The petitioner has indicated that they intend to present a demonstration of unreasonable hardship or practical difficulty as required to grant this variance at the hearing for this request. No such unreasonable hardship or practical difficulty is readily identifiable through provided documents or accessible information. Yet, the information gathered through the review of potentially relevant guidance, such as community plans, does not require that the requested special hearing and variance be denied.

The Department of Planning does not object to the requested relief and defer all decision makings to the Administrative Law Judge.

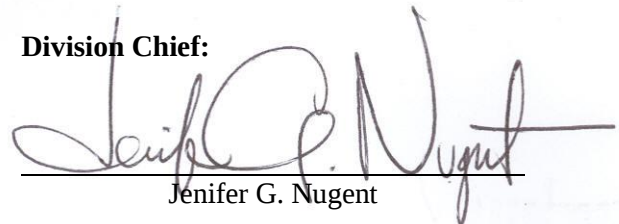
For further information concerning the matters stated herein, please contact Henry Ayakwah at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Lawrence E. Schmidt Esquire
Joseph Wiley and Abigail Rogers, Community Planners
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 2/13/2024

Case Number: 2024-0013-SPHA

Petitioner / Developer: SMITH, GILDEA & SCHMIDT, LLC ~

RUSSEL F. ROBERTSON ~ JEFF VORNADORE

Date of Hearing: MARCH 4, 2024

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
11218 BIRD RIVER GROVE ROAD

The sign(s) were posted on: FEBRUARY 13, 2024

ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a hearing virtually via WebEx, and /or in-person upon request (see below) for the property identified herein as follows:

CASE # 2024-0013-SPHA
11218 BIRD RIVER GROVE RD
WHITE MARSH, MARYLAND 21162
N/E Side of Bird River Grove Rd. S/W of Ebenezer Rd.
Council District 5 Election District 15
Legal Owners: Russel F. Robertson

PETITION REQUEST: VARIANCE: From the Baltimore County Zoning Regulations ("BCZR"), Section 1A01.3.B.3 to allow a principal building (dwelling) with side yard setbacks (both sides) of 9.5 ft. +/- to a property line in lieu of the required 35 ft. From the BCZR Section 1A01.3.B.3 to allow a principal building (dwelling) with a setback to a street centerline of

Hearing Date: Monday, March 4, 2024 at 11:00 a.m.

If an in-person hearing has been requested in writing and granted, the hearing location is: The Jefferson Building, 105 W. Chesapeake Ave., Hearing Room 205, Towson, MD 21204. Please Contact the Office of Administrative Hearings a few days prior to the hearing to confirm the hearing format at the phone number or email address shown below.

Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103 / Towson, Maryland 21204 / Phone 410-887-3868, ext.0
Email: administrativehearings@baltimorecountymd.gov

HANDICAPPED ACCESSIBLE

Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

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

ZONING HEARING

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CASE # 2024-0013-SPHA

**11218 BIRD RIVER GROVE RD
WHITE MARSH, MARYLAND 21162**
N/E Side of Bird River Grove Rd. S/W of Ebenezer Rd.
Council District 5 Election District 15
Legal Owners: Russel F. Robertson

61 ft. +/- in lieu of the required 75 ft. From the BCZR Section 1A01.3.B.3 to allow a principal building (dwelling) with a height of 39 ft. +/- in lieu of the permitted 35 ft. As an alternative to the Special Hearing relief, pursuant to BCZR, Section 1A01.3.B.2 to allow a lot with an area of 7,169 sq. ft. (0.165 acres) in lieu of the required 1 acre; for such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing Date: Monday, March 4, 2024 at 11:00 a.m.

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CASE # 2024-0013-SPHA

**11218 BIRD RIVER GROVE RD
WHITE MARSH, MARYLAND 21162**
N/E Side of Bird River Grove Rd. S/W of Ebenezer Rd.
Council District 5 Election District 15
Legal Owners: Russel F. Robertson

SPECIAL HEARING: From BCZR Section 101.1 to confirm Lot 27 is a "lot of record". From the BCZR Section 1A01.3.B.2 to confirm Lot 27 is not being "created". To confirm Lot 27 can be approved with a detached single-family dwelling as a non-conforming lot of record; and for such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing Date: Monday, March 4, 2024 at 11:00 a.m.

If an in-person hearing has been requested in writing and granted, the hearing location is: The Jefferson Building, 105 W. Chesapeake Ave., Hearing Room 205, Towson, MD 21204. Please Contact the Office of Administrative Hearings a few days prior to the hearing to confirm the hearing format at the phone number or email address shown below.

Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103 / Towson, Maryland 21204 / Phone 410-887-3868, ext.0
Email: administrativehearings@baltimorecountymd.gov

HANDICAPPED ACCESSIBLE

SIGN #2

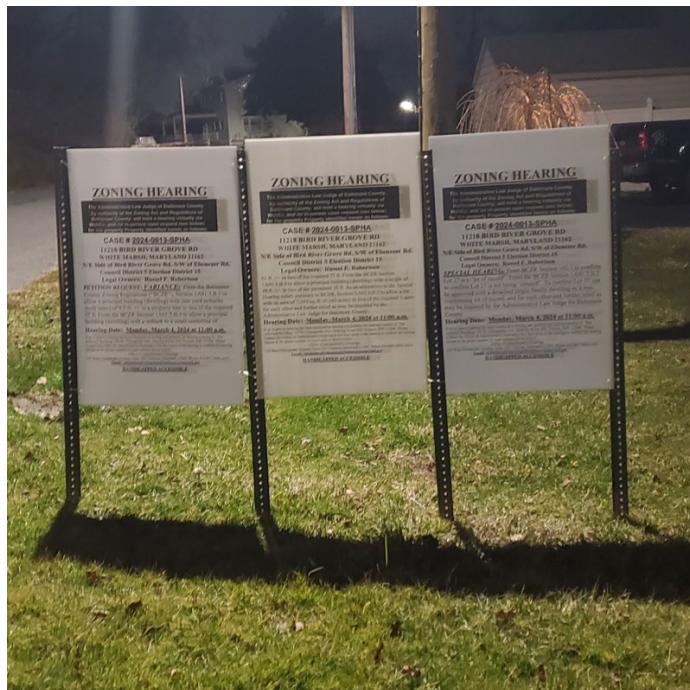
SIGN #3

POSTED @ 11218 BIRD RIVER GROVE ROAD ~ 2/13/2024

CASE # 2024-0013-SPHA



Group Photo 1st set of Signs @ 11218 Bird River Grove Rd. ~ 2/13/2024



Group Photo 2nd set of Signs @ 11218 Bird River Grove Rd. ~ 2/13/2024

CASE # 2024-0013-SPHA



Lot # 30
1520200140

2009-0286-A

11214

1504350020
Lot # 29

RC 2

Pt. Bk. 0000007, Folio 0189

PAI # 158190

5 CD

Lot # 28
1508303681
2013-0069-A

11216

PAI # 158190

15 ED

11218

1508303680
Lot # 27

NE 8-J

073A3

11220

1516152090
Lot # 26

Pt. Bk./Folio # 007189F

11222

1518100870
Lot # 24

2009-0071-A

Lot # 24

RC 50

1513400790

GROWTH TIER 4
(No New Subdivisions of 4
or More Additional Lots)

BIRD RIVER GROVE RD

2024 0013 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 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: 2024-0013-SPAA

Property Address: 11218 Bird River Grove Road

Property Description: _____

Legal Owners (Petitioners): Russell F. Robertson

Contract Purchaser/Lessee: Duck Shores Maryland, LLC

PLEASE FORWARD ADVERTISING BILL TO:

Name: Jeff Vornadore

Company/Firm (if applicable): Duck Shores Maryland, LLC

Address: 1114 Chatelaine Drive

Fallston, MD 21047

Telephone Number: vanallenhomes@gmail.com or (443) 243-0134

Revised 5/20/2014

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

No. 229488

Date: 1-8-2024

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	806	2000		0150					1,000.00

Total: 1,000.00

Rec

From: 11218 3RD RIVER GROVE RD

For: 2024-0013-SHA

RC2

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

CF 24-0015

SMITH, GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE
SUITE 200
TOWSON, MD 21204



First National Bank
60-1809/433



Jan 02, 2024

PAY TO THE
ORDER OF

Baltimore County, Maryland

\$ 1,000.00

*** One Thousand ****

00/100 DOLLARS

Baltimore County, Maryland
Office of Budget & Finance
400 Washington Avenue, Room 152
Towson, MD 21204



Jason T. Velt
AUTHORIZED SIGNATURE

MEMO

003284 0433180921 96633903

SMITH, GILDEA & SCHMIDT, LLC

3284

Date: Jan 02/24 Amount \$1,000.00

Fee for Petition for Zoning Relief

Paid to: Baltimore County, Maryland

Matter No. 4528-002

Van Allen Homes, LLC

Re: Van Allen Homes - 11218 Bird River Grove Road

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 - 1508303680

Owner Information

Owner Name: ROBERTSON RUSSELL F Use: RESIDENTIAL
Principal Residence: NO

Mailing Address: 11220 BIRD RIVER GROVE RD Deed Reference: /40858/ 00201
WHITE MARSH MD 21162-1804

Location & Structure Information

Premises Address: 11218 BIRD RIVER GROVE Legal Description: 3395 E EBENEZER RD
WHITE MARSH 21162- BIRD RIVER GROVE
Waterfront

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0073 0020 0324 15010001.04 0000 A 27 2024 Plat Ref: 0007/ 0189

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
7,550 SF 34

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

Value Information

	Base Value	Value As of 01/01/2024	Phase-in Assessments	
			As of 07/01/2023	As of 07/01/2024
Land:	70,500	93,700		
Improvements	0	0		
Total:	70,500	93,700	70,500	78,233
Preferential Land:	0	0		

Transfer Information

Seller: WASILEWSKI EDWARD STANLEY JR	Date: 11/09/2018	Price: \$281,000
Type: ARMS LENGTH MULTIPLE	Deed1: /40858/ 00201	Deed2:
Seller: MASON ELIZABETH D/AUDREY G	Date: 07/19/1995	Price: \$125,000
Type: ARMS LENGTH MULTIPLE	Deed1: /11131/ 00208	Deed2:
Seller: PERSINGER GARY C	Date: 06/27/1972	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /05278/ 00544	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: No Application

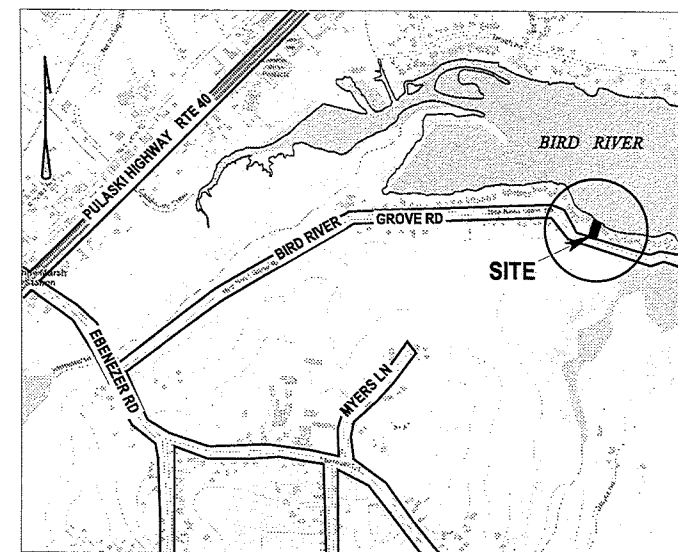
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

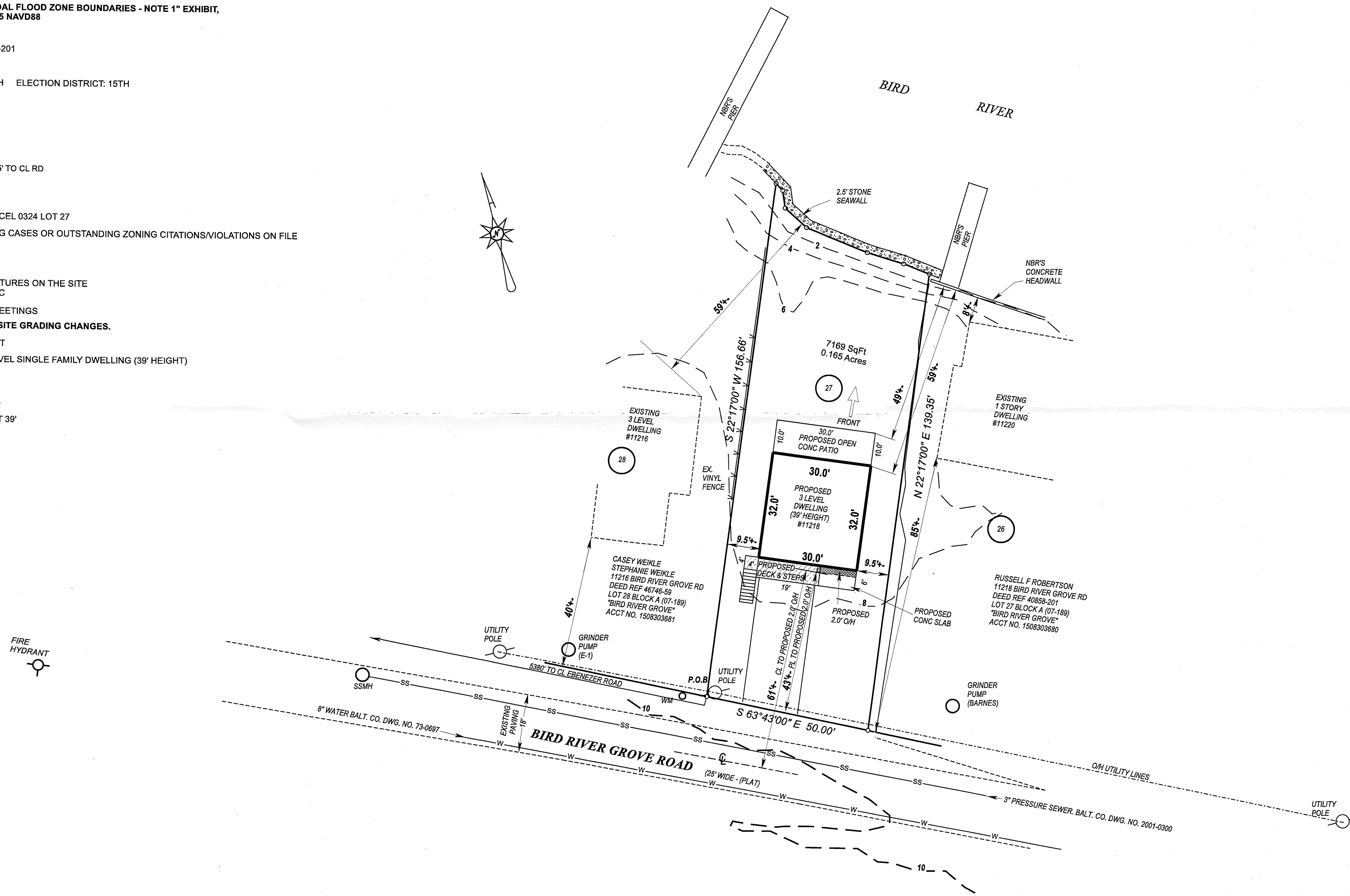
2024-0013-SPHA

NOTES

1. OWNER:
RUSSELL F ROBERTSON
11220 BIRD RIVER GROVE RD.
WHITE MARSH, MD. 21162-1804
2. SITE AREA: (COMPUTED TO SITE SIDE OF SEAWALL) 7169 SQ. FT. 0.165 AC. +/-
3. PROPOSED DWELLING AREA: 2351 SQ. FT.
4. UTILITIES:
PUBLIC WATER
PUBLIC SEWER
5. CONTOURS SHOWN HEREON PER BALT. COUNTY "MY NEIGHBORHOOD" WEBSITE
6. SITE LIES WITHIN CHESAPEAKE BAY CRITICAL AREA (LDA)
7. PER BALTIMORE COUNTY "TIDAL FLOOD ZONE BOUNDARIES - NOTE 1" EXHIBIT,
BFE APPEARS TO BE ELEV. 8.5 NAVD88
MIN FF ELEV 10.5 NAVD88
8. DEED REFERENCE: JLE 40858-201
9. TAX ACCOUNT NO. 1508303680
10. COUNCILMANIC DISTRICT: 5TH ELECTION DISTRICT: 15TH
11. CENSUS TRACT: 451702
12. WATERSHED: BIRD RIVER
13. ZONING: RC2
SETBACKS: (RC2)
MINIMUM LOT AREA: 1 ACRE
MINIMUM FRONT YARD DEPTH: 75' TO CL RD
MINIMUM SIDE YARD: 35'
MINIMUM REAR YARD DEPTH: 35'
MAXIMUM DWELLING HEIGHT: 35'
14. TAX MAP 0073 GRID 0020 PARCEL 0324 LOT 27
15. NO KNOWN PREVIOUS ZONING CASES OR OUTSTANDING ZONING CITATIONS/VIOLATIONS ON FILE
16. NO KNOWN PERMITS ON FILE
17. THERE ARE NO HISTORIC FEATURES ON THE SITE
NOR IS THE SITE ITSELF HISTORIC
18. NO KNOWN PREVIOUS DRC MEETINGS
19. NO PROPOSED SIGNIFICANT SITE GRADING CHANGES.
20. EXISTING USE OF LOT: VACANT
21. PROPOSED USE OF LOT: 3 LEVEL SINGLE FAMILY DWELLING (39' HEIGHT)
22. ZONING MAP NUMBER: 073A3
23. NEIGHBORHOOD: 15010001.04
23. PROPOSED DWELLING HEIGHT 39'



VICINITY MAP
1"=2000'



J.S. DALLAS, INC.
SURVEYING & ENGINEERING
P.O. BOX 26
BALDWIN, MD.
(410)-817-4600



12-21-2023
DATE

SITE PLAN TO ACCOMPANY
PETITION FOR ZONING HEARING
#11218 BIRD RIVER GROVE RD.
DEED REFERENCE JLE 40858-201
LOT 27 (07:189)
"SECTION "A", BIRD RIVER GROVE"
15TH ELECTION DISTRICT
BALTIMORE COUNTY, MD.
SCALE: 1"=20' DATE: 12-21-2023

FILE NAME 23-1944 BIRD RIVER GROVE 11218.trv		
SCALE 20 Ft/In	DATE 12-21-2023	DRAWN BY R.N.G.
JOB B.R.G.	REVISION 1/1	SHEET 1/1

2024-0013-SPAA