



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

April 2, 2024

Donna M. Berdych, Esquire – dking@dking-law.com
303 W. Pennsylvania Avenue
Towson, MD 21204

RE: Petition for Special Hearing
Case No: 2024-0025-SPH
Property: 2900 Topaz Road

Dear Ms. Berdych:

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". The signature is written in a cursive style with a large, stylized "M" and "E".

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dln
Enclosure

C: Linda and Calvin J. Wilhide – cwilhide3@gmail.com
Kristen – Kirsten.eaton@kimley-horn.com
Thomas Wynn – wynnt@nih.gov
Fabiola – fabiola22816@gmail.com

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(2900 Topaz Road)		
9 th Election District	*	OFFICE OF
6 th Council District		
Calvin and Linda Wilhide	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
Petitioners		
	*	Case No. 2024-0025-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Hearing filed on behalf of the legal owners, Calvin and Linda Wilhide (“Petitioners”) for the property located at 2900 Topaz Road, Parkville, MD (the “Property”). The Petition for Special Hearing was filed under Baltimore County Zoning Regulations (“BCZR”), §1B01.1.A.1.b and c to permit long-standing use of this property as three apartment units.

A hearing was conducted remotely via WebEx. The Petition was advertised and posted as required by the BCZR. The Petitioners appeared in support of the Petition. Donna Berdych, Esquire represented the Petitioners. Thomas Wynn, 2914 Topaz Rd. appeared as an interested property owner.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Development Plans Review (“DPR”), Department of Public Works and Transportation (“DPWT”) and Department of Environmental Protection and Sustainability (“DEPS”) which agencies did not oppose the requested relief.

The Petition here sought relief for a “ruling” for a “long standing use...as three apartment units”, and cited BCZR, §1B01.1.A.1.b and c. Upon review of the relief, and the BCZR references, it was confirmed at the hearing that the Petitioners were actually requesting approval for a non-

conforming use under BCZR, §104.1. After Petitioners' presentation of the Case on the merits, it was requested that Counsel for Petitioners obtain the zoning history on the Property from the Office of Zoning Review ("OZR") as a starting point for consideration of the non-conforming use status. By letter from Counsel for Petitioners dated April 1, 2024, OZR referred Counsel to the Opinion and Order in Case No. 2021-0278-SPH for the property located at 2830 Topaz Rd. (the "2830 Zoning Order").

Upon review of the 2830 Zoning Order and the exhibits in that Case, it is apparent that, not only was the Special Hearing relief requested for a non-conforming use for a 4-unit apartment building there, but the evidence provided was persuasive to prove that the 4-unit apartment building was constructed prior to the enactment of the BCZR in 1945. The evidence in that Case showed that 2830 Topaz Rd. was initially created as Lot 8 on a Plat of Shady Oaks dated August 7, 1946 (the "1946 Shady Oaks Plat"). The 1946 Shady Oaks Plat shows the Property as being initially created as Lot 7. Both were corner lots on Topaz Rd. and Opal Rd. (also known as "School Rd."). At some point, the Lots were reconfigured and/or renumbered as part of a plat (the "Canton Company Plat") because SDAT records now have the Property labeled as 'Part of Lot 108', and 2830 Topaz Rd. labeled as 'Part of Lot 109'.

Significantly, the 1946 Shady Oaks Plat confirms that, as of August 7, 1946, the 4-unit apartment building already existed at 2830 Topaz Rd., and a 2-unit apartment building already existed on the Property here. That date conflicts with a 1947 building construction date in the SDAT records. Also existing as of August 7, 1946 was a 2-unit apartment building on Lot 4 (2908 Topaz Rd.), and a 2-unit apartment building on Lot 24 (2901-2903 Topaz Rd.). The 1946 Shady Oaks Plat also verified that 1½ story brick homes existed between and among those apartment buildings, while other semi-detached homes along Topaz Rd. were in planning stages, pending

zoning approval.

The Petitioner in Case No.: 2021-0278-SPH also submitted the 1946, 1960 and 1971 Zoning Maps. (Case No.: 2021-0278-SPH, Pet. Exs. 10A-10C). The former Zoning Maps show the Property was originally zoned as an A Residence in 1945 when the BCZR were first enacted (1945 – 1955). The Property was then zoned RC 6 zone from 1955-1971; and the DR 5.5 zone from 1971 to present.

The evidence presented in this Case was that the Property measures 5,658 sf +/- and is zoned Density Residential (DR 5.5). Petitioners testified that they have owned the Property since August 1994 and that they have rented out 3 units: basement; first floor and second floor. (Pet. Ex. 1). Prior to owning the Property, Petitioner Linda Wilhide lived in the basement unit beginning in 1988 until 1991, when the Petitioners were married and first moved into the second-floor unit, and then the first-floor unit. The current tenants provided letters disclosing their tenancy and rent payments. (Pet. Exs. 5). The basement tenant (2900-A) began renting space on October 31, 2002 pursuant to the Lease dated October 27, 2002. (Pet. Ex. 6). The first-floor tenant began renting that space on June 1, 2004. (Pet. Ex. 6). The second-floor tenant began leasing that unit in July of 2020. (Pet. Exs. 5). Petitioners and tenants emphasize that the rent is affordable and that it would be a hardship on the tenants to evict one of them as there are issues of disability, affordability and age.

Street view photographs of the Property and a hand-drawn site plan (the “Site Plan”) were submitted. (Pet. Exs. 2, 3). The photographs confirm that the front façade facing Topaz Rd. has 2 separate front doors (left side 2900; right side 2902), 2 walk ways approaching those front doors. (Pet. Ex. 3). The first and second floor units each measure 1,100 sf and are each 2-bedroom units. One of the photographs shows that the basement apartment unit (2900-A) is accessed via the rear

stairs. They described the basement unit (1,000 sf) as having 1 bedroom, 1 bathroom and a kitchen. There is a parking pad in the rear yard. Petitioners testified that during their 30-year ownership, all 3 apartment units have been rented and that such use during that time period has not been discontinued or abandoned. Petitioners urge that tenants are low-income, disabled and/or elderly tenants and that, as a result, not only has the rent remained the same, but the Petitioners pay the utilities, notwithstanding an assertion that there are 3 separate utility meters.

Petitioners explained that they have obtained the requisite rental housing licenses as required under Baltimore County Code. However, when they applied for the most recent license, they were informed by OZR that the Property could only have 2 apartment units, not 3. Petitioners highlight that 2901-2903 Topaz Rd. is a 2-unit apartment building, and 2830 Topaz Rd. has 5 apartment units because the building has 5 utility meters. There are no Code violations against the Property.

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).

In Baltimore County, the law regarding nonconforming uses is set forth in BCZR, §104.1, provides:

A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate.

The definition of non-conforming use in BCZR, §101.1 is:

NONCONFORMING USE — A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective "nonconforming" is a nonconforming use.

The two questions to be resolved in this case are: (1) Whether or not the use of the Property as 3 apartment units existed prior to the inception of a zoning regulation prohibiting that use; and (2) If so, whether that use continued uninterruptedly and not abandoned or discontinued for a period of one year or more.

The evidence is uncontroverted that a 2-unit apartment building has been in use continuously, without abandonment or discontinuance, since 1946. While the SDAT record inaccurately provides a construction date for the building as 1947, I take judicial notice of the 1946 Shady Oaks Plat which confirms that the building already existed and was being used as a 2-unit apartment building. (A copy of the 1946 Shady Oaks Plat is contained in the file). This use as a 2-unit apartment building was legal under both A Residence zone and the R6 zone. The use of a 2-unit apartment building became illegal in 1971 with the enactment of the DR 5.5 zone.

However, because the 2-unit apartment building use (first floor and second floor) have not been changed, been abandoned or discontinued for a period of one year or more since 1946, Petitioners have the right to continue the nonconforming use as a 2-unit apartment building until it no longer qualifies under the BCZR. I find that the street view photographs confirm that the nonconforming 2-unit apartment building have not been extended more than 25 percent of the ground floor area as prohibited in BCZR, §104.3, in that there have been no additions to the building since it was originally constructed.

With regard to the use of the building as 3-apartment units, having confirmed the zoning history, at no time were 3 apartment units legally permitted under the BCZR on this Property. As a result, the 3-unit apartment building fails to meet the definition of non-conforming use under BCZR, §101.1. The facts in Case No.: 2021-0278-SPH supported the approval of the 4-apartment units (not 5) at 2830 Topaz Rd. based on the evidence that building was constructed as a 4-unit apartment building, and that it existed as of August 7, 1946. Conversely, the 1946 Shady Oaks Plat confirms the building on this Property was a 2-unit apartment building, not 3. At some point after August 7, 1946, but before 1988 when Mrs. Wilhide rented the basement unit, the basement unit was illegally added. The fact that it was not discovered until this Case does not validate the illegal use.

While the use of the building as a 3-unit apartment building must terminate, I find that given the fact that the basement unit has been rented to the current tenant for 21 years, and given his disability and need for an affordable place to live, that the current tenant, Anthony Palmere, should be permitted to remain as a tenant in the basement unit during his lifetime, unless terminated sooner by the Petitioners or subsequent owners. On the date that Anthony Palmere is no longer a tenant, the basement unit shall terminate, and the bedroom, bathroom, kitchen and all other living

facilities shall be removed from the Property within 60 days of the vacancy by him. This will be a condition of the Order and shall be binding on all future owners of the Property.

THEREFORE, IT IS ORDERED this **2nd** day of April, **2024** by this Administrative Law Judge, that the Petition for Special Hearing from BCZR 1B01.1A.1B and c to permit long-standing use of this property as three apartment units be, and it is hereby **DISMISSED**; and

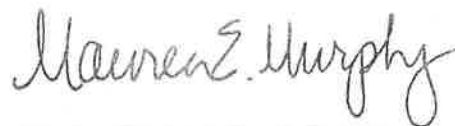
IT IS FURTHER ORDERED, that the amended Petition for Special Hearing to approval a 3-unit apartment building as a non-conforming use pursuant to BCZR, §104.1, be, and it is hereby **DENIED**, except for the specific condition set forth below; and

IT IS FURTHER ORDERED, that the amended Petition for Special Hearing to approval a 2-unit apartment building as a non-conforming use pursuant to BCZR, §104.1, 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 register all rental units with the Baltimore County Rental Registration department and shall at all times maintain such registrations.
3. With regard to the basement unit (2900-A), the current tenant, Anthony Palmere, may continue to lease the basement unit during his lifetime unless terminated sooner by the Petitioners and/or subsequent owners. When Anthony Palmere no longer occupies and/or leases the basement unit, the basement unit shall terminate as an apartment unit and all living facilities and/or quarters including, without limitation, the kitchen, bathroom(s), and bedroom(s), shall be removed from the building within 60 days of vacancy. Thereafter, the building may continue to be used as a 2-unit apartment until such time that it no longer qualifies as a non-conforming 2-unit apartment building.

Any appeal of this decision must be filed 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



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 2900 TOPAZ ROAD, PARKVILLE 21234 Currently Zoned DR S.5
Deed Reference 10687 / 00439 10 Digit Tax Account # 0919581061
Owner(s) Printed Name(s) CALVIN C. WILHIDE, 3rd, LINDA J. WILHIDE

(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.
Request for ruling permitting long-standing use of this property as three apartment units, pursuant to section 1B01.1.A.1.b. and c.
2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
3. ☐ a **Variance** from Section(s)

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:

DONNA M. BERDYCH
Name - Type or Print
Donna Berdych
Signature
303 W. PENNSYLVANIA AVE.
Mailing Address City State
21204, 410-494-1005, jking@jking-law.com
Zip Code Telephone # Email Address
Case Number 2024-0025-SPH Filing Date 1, 29, 24 Do Not Schedule Dates

Legal Owners (Petitioners):

LINDA J. WILHIDE CALVIN C. WILHIDE, 3rd
Name #1 - Type or Print Name #2 - Type or Print
Linda J. Wilhide Calvin Wilhide
Signature #1 Signature #2
213 BRACKENWOOD CT. LUTHERVILLE MD
Mailing Address City State
21093, 410-561-7357, jwilhide24@gmail.com
Zip Code Telephone #'s (Cell and Home) Email Address

Representative to be contacted:

DONNA M. BERDYCH
Name - Type or Print
Donna Berdych
Signature
303 W. PENNSYLVANIA AVE, TOWSON, MD
Mailing Address City State
21204, 410-494-1005, jking@jking-law.com
Zip Code Telephone # Email Address
Reviewer JS

PROPERTY DESCRIPTION
2900 TOPAZ ROAD, PARKVILLE, MARYLAND 21234

BEGINNING FOR THE SAME at the corner formed by the intersection of the northeast side of Topaz Road forty feet wide, with the southeast side of Opal Road, forty feet wide; running thence and referring the courses of this description to the True Meridian as established by the Baltimore County Metropolitan District, and binding on the northeast side of Topaz Road south 45 degrees, 28 minutes east 50 feet; thence leaving Topaz Road, and running parallel to Opal Road north 44 degrees, 32 minutes east 127.47 feet; thence binding on the southwest side of a reservation ten feet wide, north 44 degrees, 54 minutes west 50.01 feet to the southeast side of Opal Road; running thence and binding on the southeast side of Opal Road south 44 degrees, 32 minutes west 127.96 feet to the place of beginning. The improvements thereon being known as Nos. 2900 and 2902 Topaz Road.

BEING the same lot of ground described in a Deed dated September 16, 1971, and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5219, folio 664, from Jerome F. Snyder and Phyllis R. Snyder, to the Grantors herein, in fee simple.

SAVING AND EXCEPTING THEREFROM so much of said property as described in a Deed dated March 8, 1977 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 5743, folio 374, from Alvin L. Warner, III and Suzane C. Warner, his wife, and Calvert Savings and Loan Association, Inc., to Baltimore County, Maryland, for public highway purposes.

2024-0025-SP4

Zoning Hearing Plan for Variance _____ for Special Hearing ☒ Mark Type Requested with (X)
Address 2900 TOPAZ ROAD 21234 Owners(s) Name(s) Calvin C. Wilhite, Jr., Linda Wilhite
Subdivision Name CANTON COMPANY PLAT Lot # 108 Block # _____ Section # _____
Plat Book # _____ Folio # _____ 10 Digit Tax # 0919581261 Deed Reference # 10687100439

2024-0025-5PH

Zoning Map # 81
Zoning DR 5.5
Election District 9
Council District 9
Lot Area Acreage _____
Lot Square Footage 5,658
Historic (Yes or No) _____
CBCA (Yes or No) _____
Flood Plain (Yes or No) _____
Utilities - Mark with (X) _____
Water is: _____
Public ☒ Private _____
Sewer is: _____
Public ☒ Private _____
Prior Hearing (Yes or No) No
If (Yes) list Case Number(s) and order result(s) below: _____

Violation Case Number(s) _____

**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: 2024-0025-SPH
Property Address: 2900 Topaz Road, Parkville, MD 21234
Legal Owners (Petitioners): Calvin C. Wilhide, 3rd, Linda Wilhide
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Calvin C. and Linda Wilhide
Address: 213 Brackenwood Ct.
Lutherville, MD 21093

Telephone Number: Calvin 443-797-2126, Linda 443-797-2127

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

Revised 3/2022

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

No. 228985

Date: 1/29/24

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				\$ 75.00

Total: \$ 75.00

Rec

From: WILHIDE / DONNA KING

For: 2024-0075-SPH

2900 TOPAZ RD

SS 24-0059

**CASHIER'S
VALIDATION**

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

LAW OFFICE OF DONNA M B KING LLC

303 W PENNSYLVANIA AVE
TOWSON, MD 21204

4406

PAY
TO THE
ORDER OF

DATE

12/14/23

7-11/520

Baltimore County, Maryland \$ 75.00

Seventy Five and 00/100

DOLLARS

M&T Bank

FOR

Wilhide, 2900 Topaz Road

Donna Bersych



⑈004406⑈ ⑆052000113⑆

9845348300⑈

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

View Map

View GroundRent Redemption

View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 09 Account Number - 0919581061

Owner Information

Owner Name:

WILHIDE CALVIN C 3RD
WILHIDE LINDA J

Use: RESIDENTIAL
Principal Residence:NO

Mailing Address:

213 BRACKENWOOD CT
LUTHERVILLE MD 21093-2617

Deed Reference: /10687/ 00439

Location & Structure Information

Premises Address:

2900 TOPAZ RD
0-0000

Legal Description: PT LT 108
2900-2902 TOPAZ RD NS
CANTON COMPANY PLAT

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

0081 0002 0675 9140194.04 0000 108 2023 Plat Ref:

Town: None

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

1947 2,032 SF 500 SF 5,658 SF 04

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements

2 YES STANDARD UNITBRICK/ 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:

64,300 64,300

Improvements

175,200 220,200

Total:

239,500 284,500 254,500 269,500

Preferential Land:

0 0

Transfer Information

Seller: WARNER ALVIN L,3RD Date: 08/05/1994 Price: \$134,000

Type: ARMS LENGTH IMPROVED Deed1: /10687/ 00439 Deed2:

Seller: SNYDER JEROME F Date: 09/22/1971 Price: \$21,000

Type: ARMS LENGTH IMPROVED Deed1: /05219/ 00664 Deed2:

Seller: Date: Price:

Type: Deed1: 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

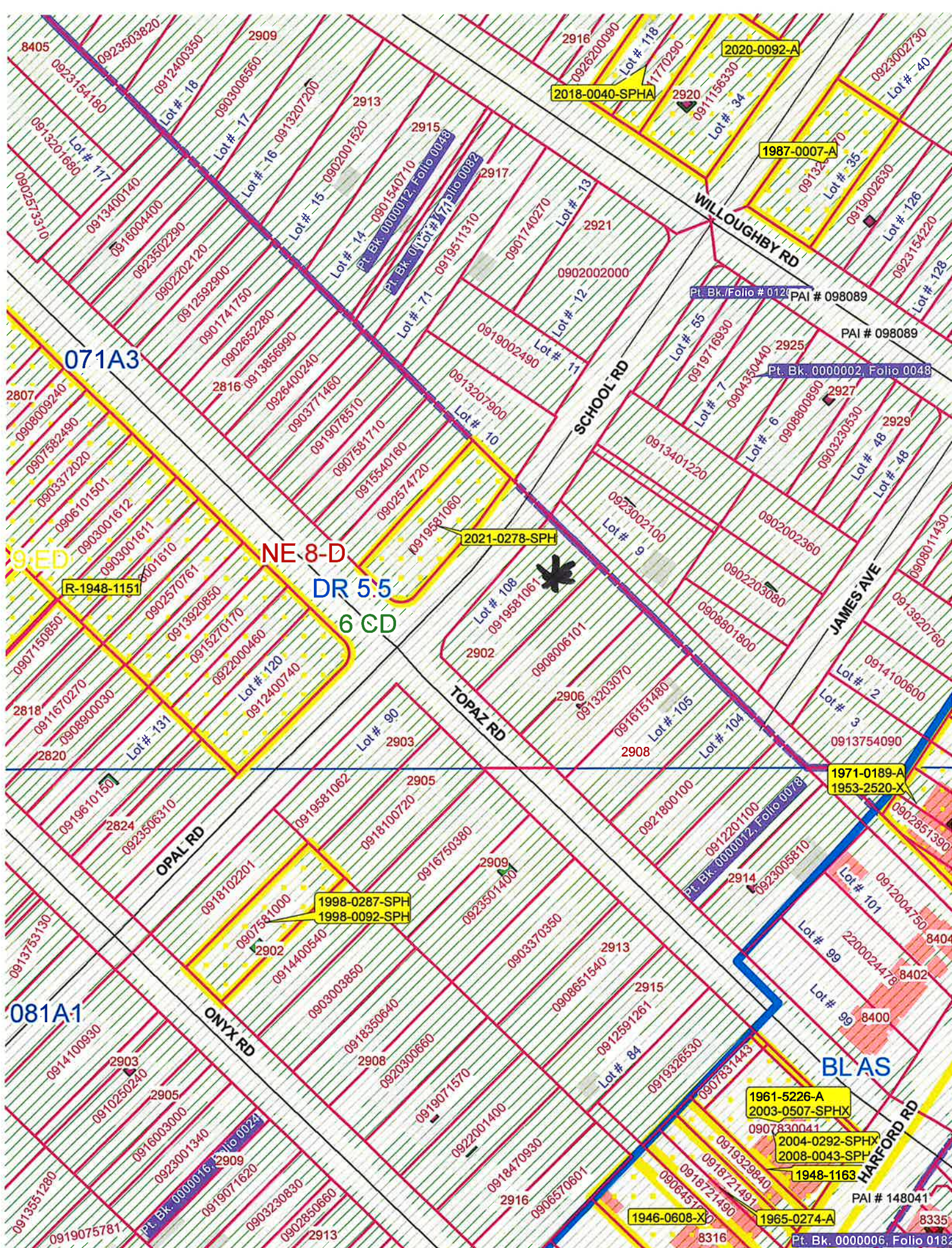
Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

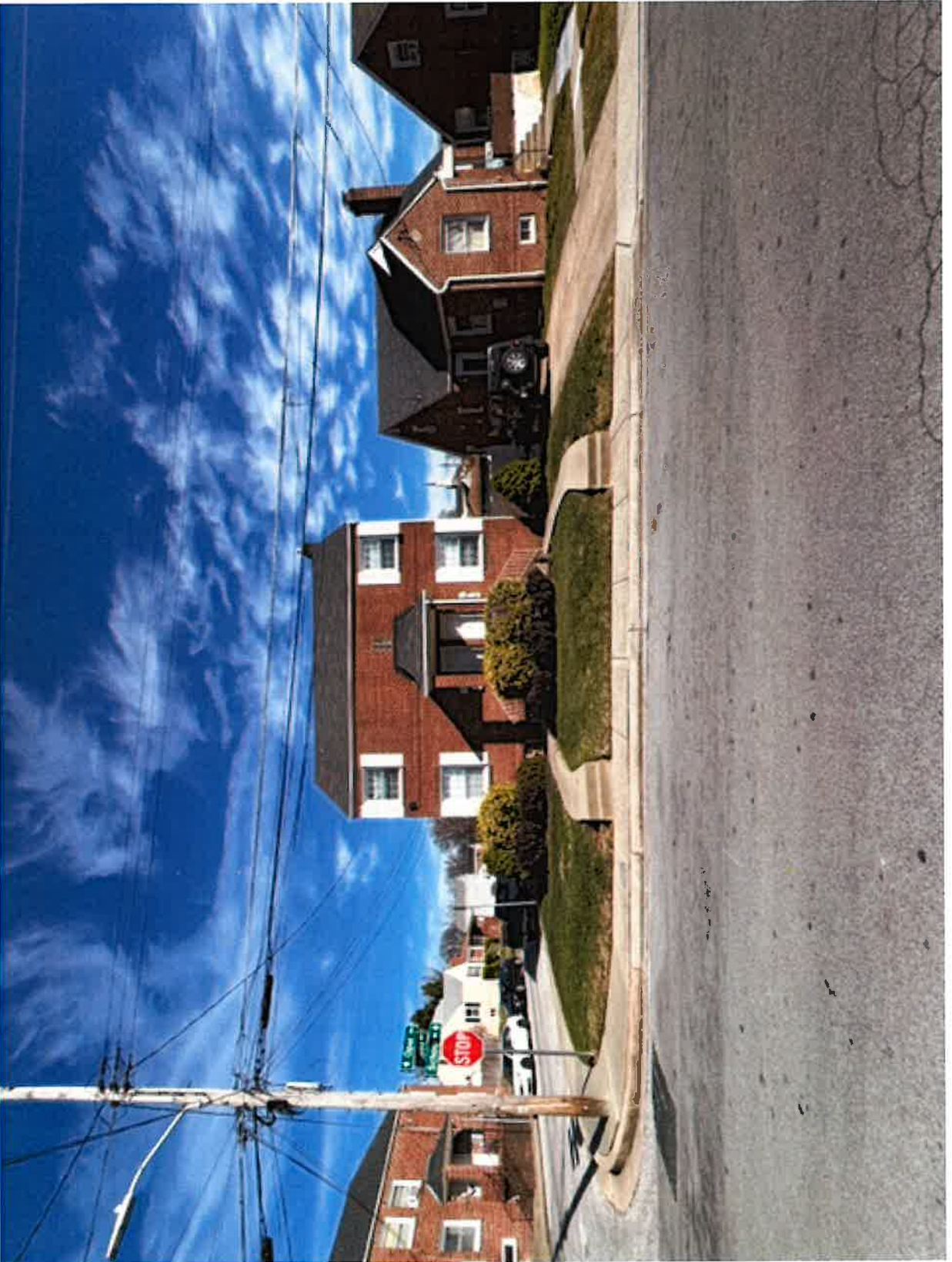
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:





HVS-5000-4006



MS-500-1202





WIS-5800-4E02



2024-0025-SPH



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 2900 TOPAZ ROAD, PARKVILLE 21234 Currently Zoned DR S.5
Deed Reference 10687 / 00439 10 Digit Tax Account # 0919581061
Owner(s) Printed Name(s) CALVIN C. WILHIDE, 3rd, LINDA J. WILHIDE

(SELECT THE HEARING(S) BY MARKING ☒ 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:

- ☒ a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve.
Request for ruling permitting long-standing use of this property as three apartment units, pursuant to section 1B01.1.A.1.b. and c.
- ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
- ☐ a **Variance** from Section(s)

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:

DONNA M. BERDYCH
Name - Type or Print _____
Donna Berdych
Signature _____
303 W. PENNSYLVANIA AVE.
Mailing Address _____ City _____ State _____
21204, 410-494-1005, dking@dking-law.com
Zip Code _____ Telephone # _____ Email Address _____
Case Number 2024-0025-SAH Filing Date 1, 29, 24 Do Not Schedule Dates _____ Reviewer JS

Legal Owners (Petitioners):

LINDA J. WILHIDE CALVIN C. WILHIDE, 3rd
Name #1 - Type or Print _____ Name #2 - Type or Print _____
Linda J. Wilhide Calvin Wilhide
Signature #1 _____ Signature #2 _____
213 BRACKENWOOD CT. LUTHERVILLE MD
Mailing Address _____ City _____ State _____
21093, 410-561-7357, jwilhide24@gmail.com
Zip Code _____ Telephone #'s (Cell and Home) _____ Email Address _____

Representative to be contacted:

DONNA M. BERDYCH
Name - Type or Print _____
Donna Berdych
Signature _____
303 W. PENNSYLVANIA AVE, TOWSON, MD
Mailing Address _____ City _____ State _____
21204, 410-494-1005, dking@dking-law.com
Zip Code _____ Telephone # _____ Email Address _____

PROPERTY DESCRIPTION
2900 TOPAZ ROAD, PARKVILLE, MARYLAND 21234

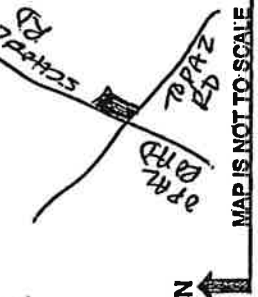
BEGINNING FOR THE SAME at the corner formed by the intersection of the northeast side of Topaz Road forty feet wide, with the southeast side of Opal Road, forty feet wide; running thence and referring the courses of this description to the True Meridian as established by the Baltimore County Metropolitan District, and binding on the northeast side of Topaz Road south 45 degrees, 28 minutes east 50 feet; thence leaving Topaz Road, and running parallel to Opal Road north 44 degrees, 32 minutes east 127.47 feet; thence binding on the southwest side of a reservation ten feet wide, north 44 degrees, 54 minutes west 50.01 feet to the southeast side of Opal Road; running thence and binding on the southeast side of Opal Road south 44 degrees, 32 minutes west 127.96 feet to the place of beginning. The improvements thereon being known as Nos. 2900 and 2902 Topaz Road.

BEING the same lot of ground described in a Deed dated September 16, 1971, and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5219, folio 664, from Jerome F. Snyder and Phyllis R. Snyder, to the Grantors herein, in fee simple.

SAVING AND EXCEPTING THEREFROM so much of said property as described in a Deed dated March 8, 1977 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 5743, folio 374, from Alvin L. Warner, III and Suzane C. Warner, his wife, and Calvert Savings and Loan Association, Inc., to Baltimore County, Maryland, for public highway purposes.

2024-0025-SP4

Site Vicinity Map



MAP IS NOT TO SCALE

Zoning Map # 81

Zoning DR 5.5

Election District 9

Council District 9

Lot Area/Acreage _____

Lot Square Footage 5,658

Historic (Yes or No) _____

CBCA (Yes or No) _____

Flood Plain (Yes or No) _____

Utilities – Mark with (X)

Water is:

Public ☒ Private _____

Sewer is:

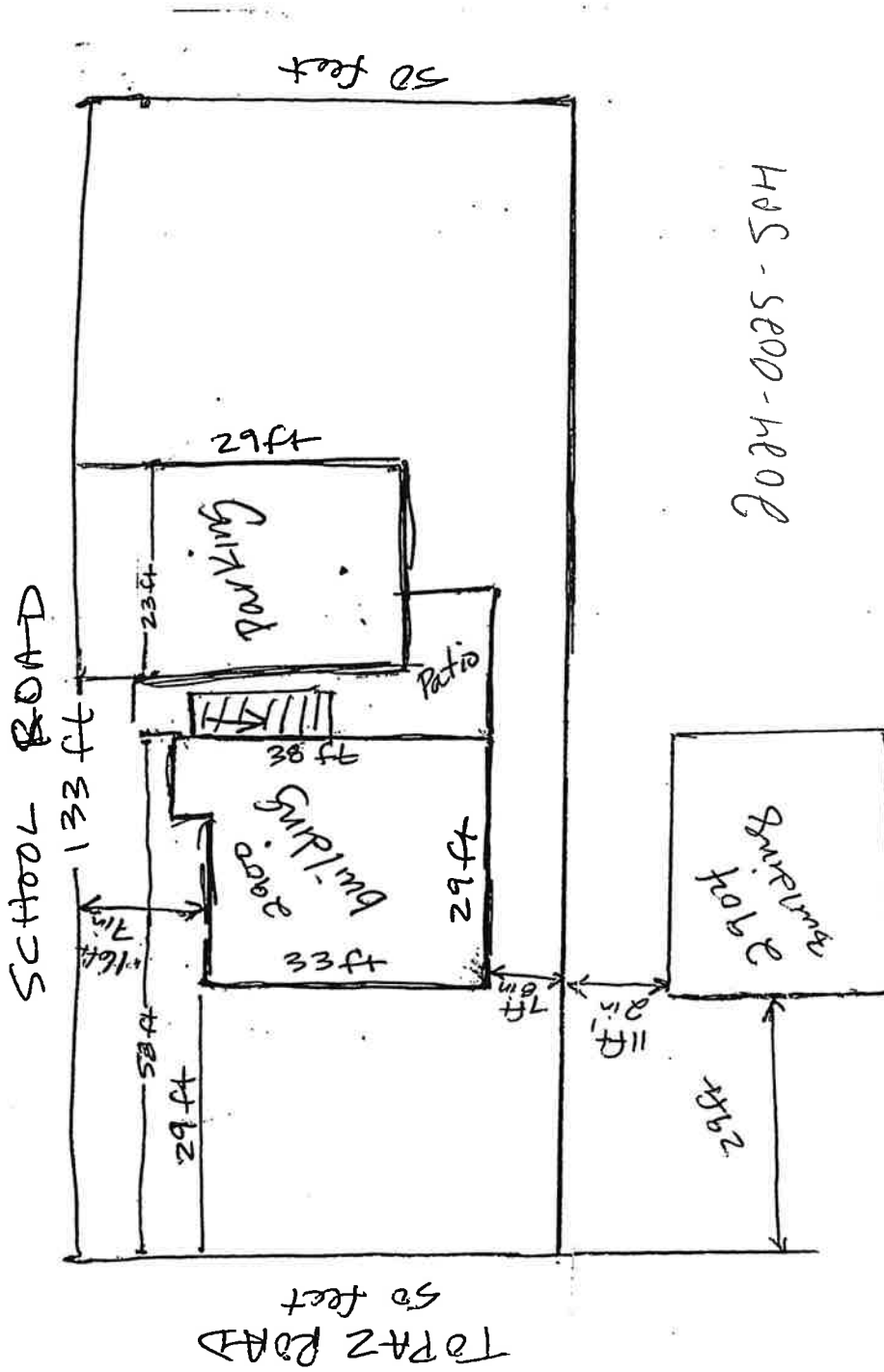
Public ☒ Private _____

Prior Hearing (Yes or No) N/D

If (Yes) list Case Number(s) and order result(s) below:

Violation Case Number(s)

Mark Tyne Requested with (X)



measurements are
as marked.

1 inch = 20 Feet

Date: 12/1/23 as marked.. Scale: 1-Inch = 20 Feet

Scale: 1 inch = 20 Feet

Plan Drawn By: Linda Wilbur

Plan Drawn By:

14

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 2/15/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0025-SPH

INFORMATION:

Property Address: 2900 Topaz Road
Petitioner: Linda J. Wilhide, Calvin C. Wilhide, 3rd
Zoning: DR 5.5
Requested Action: Special Hearing

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

Special Hearing -

1. For a request for ruling permitting long-standing use of this property as three apartment units, pursuant to Section 1B01.1.A.1.b and c.

The subject site is an approximately 5,658 square foot parcel in the Parkville area. It is a corner lot located at the intersection of Topaz Road and School Lane. The site is improved with a two-story brick dwelling with a small parking pad in the rear. The subject site has no past Code Enforcement complaints and has been owned by the Petitioner since 1994, per the State Department of Assessments and Taxation. Uses immediately surrounding the site are primarily residential with both single family attached and detached dwellings.

Based on Baltimore County GIS data available to the Department, the subject site had three rental registrations that expired July 3rd, 2023. Many nearby properties also have active or recently expired rental registrations – including 2830, 2821, 2819, 2815, 2813, 2812, and 2803 Topaz Road.

The subject site is within the boundary of the Carney-Cub Hill-Parkville Community Plan, adopted May 3rd, 2010. The plan offers goals and recommendations for within the plan area boundary, but does not speak specifically to rentals of single family detached dwellings within the plan area.

The Department of Planning contacted the representative for the petition via email on February 12th, 2024 seeking information on what prompted the requested relief. In a same-day reply, the representative explained that the Petitioners were told they needed the Special Hearing relief when recently renewing their rental license.

The Department of Planning contacted the Petitioner via phone call on February 14th, 2024 seeking further information on the request. During the phone call, the Petitioner explained that he and his wife were tenants of the apartment building prior to them purchasing it at auction in 1994. He explained that

the units had been updated over the years, but the dwelling had remained used as three apartments since prior to their ownership. The Petitioner also explained the hardship necessitating the petition: two of the three tenants – one who is in their 80's and one who is on disability – have lived in their units for over twenty years, and the Petitioners have never raised their rent; the Petitioner stated he worries where they would go if the Special Hearing was not approved.

The use appears to be consistent with the immediate surrounding neighborhood, the Petitioner previously appropriately registered the rental as such with the County, and the site has no past Code Complaints. Further, the structure has been used as three apartment units since prior to 1994. Because of this, the Department of Planning has no objections to the requested Special Hearing, subject to the following condition:

1. The Petitioner shall obtain any required rental registration(s).

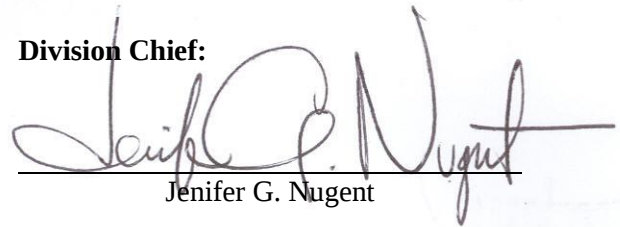
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Donna Berdych
David Birkenthal, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. 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 12, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0025-SPH
Address: 2900 TOPAZ RD
Legal Owner: Calvin & Linda Wilhide

Zoning Advisory Committee Meeting of February 12, 2024.

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

Additional Comments:

Reviewer: Earl D. Wrenn

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

DPR: No comment.

BALTIMORE COUNTY, MARYLAND

DPW-T: No Exception taken

INTEROFFICE CORRESPONDENCE

Landscaping
Recreations
TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: February 9, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0025-SPH

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

DPR: No comment.

DPW-T: No Exception taken

Landscaping: No comment.

Recreations & Parks: No Greenways affected.

Landscaping:

Recreations & Parks:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM:

TO:

SUBJECT:

FROM: