



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

May 17, 2024

Christopher DeCarlo, Esquire – cdecarlo@wtplaw.com
John Gontrum, Esquire – jgontrum@wtplaw.com
Whiteford, Taylor and Preston
1 W. Pennsylvania Avenue, Suite 300
Towson, MD 21204

RE: Petitions for Special Hearing & Variance
Case No. 2024-0060-SPHA
Property: 1999 Rocky Point Road

Dear Mr. DeCarlo and Mr. Gontrum:

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, flowing style.

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM :dlm
Enclosure

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(1999 Rocky Point Road)	*	OFFICE OF
15th Election District		
7th Council District	*	ADMINISTRATIVE HEARINGS
Norbert M. Porter and Sandra Porter		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No: 2024-0060-SPHA
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owners Norbert M. Porter and Sandra Porter (“Petitioners”) for the property located at 1999 Rocky Point Rd., Essex (“Property”). The Petition for Special Hearing seeks a determination of the impact of Council Bill 128-2005 on the minimum lot size requirement provided in Baltimore County Zoning Regulations (“BCZR”), §1A04.3.B.1.a. A Petition for Variance relief from BCZR, §1A04.3.B.1.a to allow a 1-acre lot in lieu of a 1.5-acre lot in the event it is determined that the 1.5-acre minimum lot size requirement applies.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Petitioner, Norbert Porter, appeared in support of the Petition along with J. Scott Dallas, a Maryland registered property line surveyor who prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 2). Christopher DeCarlo, Esquire of Whiteford Taylor and Preston represented the Petitioners. There were no Protestants or interested citizens who appeared at the hearing.

A Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) which agency opposed the requested relief on the basis that a lot which is less

than 1.5 acres cannot be created in a RC 5 zone, and that any hardship alleged by the Petitioner is self-imposed given that a new 1.5-acre lot can be created from the larger adjoining parcel also owned by the Petitioners. The Department of Environmental Protection and Sustainability (“DEPS”) provided a ZAC comment that the Property must comply with the Chesapeake Bay Critical Area (“CBCA”) regulations. Development Plans Review (“DPR”)/Department of Public Works and Transportation, (“DPW&T”) provided the following comment:

DPWT: The property is within the Tidal Special Flood Hazard Area Zone AE (BFE-8.5) per panel FIRM 2400100445F dated 9/26/08. Must comply with Flood Plain Ordinance, See County Bill 40-15 (the latest edition of the Baltimore County Code) and Bill 42-15, and Section 32-4-414 of article 32, Title 4 of the Baltimore County Code, 2003, as amended. The LiMWA is on the property.

The Property was originally part of a 10.16 acre +/- parcel of land as depicted on an Amended Subdivision Plat recorded in Land Records of Baltimore County dated March 28, 1983 (Plat Book EHK, Jr. 49, page 146) wherein Norbert J. Porter, and Oriole E. Porter, his then-wife, created a 3-lot subdivision on the adjoining property. (Pet. Ex. 2) (See File for Amended Plat). One of the three lots (2003 Rocky Point Rd.) measured 2.252 acres; Lot 1 measured 1.000 acres; and Lot 2 measured 1.808 acres. In 1983, the entire 10.16-acre parcel was zoned Resource Conservation (RC5) but, at that time, BCZR, §1A04.3.B.1 permitted the creation of 1 acre lots in RC5 zones. (Pet. Ex. 8). The current deed for the Property which was recorded in Land Records of Baltimore County on January 26, 2005 (Liber 21263, folio 241) reads that the remainder of a 9.21-acre parcel as previously referenced in a Deed dated June 24, 1971 (Liber 5191, folio 924) by and between Porter Bros., Inc. and Norbert J. Porter and Oriole E. Porter, his wife, was reduced to 6.246 acres +/-.

As of this hearing, the entire Property as shown on the Site Plan now measures 6.246 acres +/-, notwithstanding that the metes and bounds description filed with the Petition for Special

Hearing and Variance only outlines the proposed 1.106-acre lot +/-, not the entire Property. The Property is waterfront property on Hawk Cove, and is improved with a 1-story dwelling as well as several outbuildings. According to the DEPS ZAC comment and as shown on the Site Plan, the waterfront side of the Property is largely in a floodplain. The Property is still zoned RC5. The Property is served by public water and sewer.

Petitioners desire to create a 1.106 acre +/- lot for their son to construct a home. The Petitioners would then own the remaining 5.14 acre +/- parcel. Petitioners acknowledge that by way of County Council Bill 55-04, the minimum required lot size for a newly created RC5 lot was increased from 1 acre to 1.5 acres. However, Petitioners argue that, because this Property is located in Back River Neck, it was exempted from the 1.5-acre minimum lot size based on Section 5 of Bill 55-04 which language is now located in Editor's Note 9 of BCZR, §1A04.3. (Pet. Ex. 9). Petitioners also highlight that in Bill 128-05, the same language regarding properties located in Back River Neck appears in Section 3 of Bill 55-04.

Petitioners further acknowledge that the language in Editor's Note 9 of BCZR, §1A04.3 further defines that alleged Back River Neck exemption as those Back River Neck properties defined in BCZR, §4A03.13. Petitioners agree that this Property has not applied for Growth Allocation pursuant to BCZR, §4A03.13. At the end of the hearing, the record was held open for Counsel to submit prior Opinions and Orders in support of their legal position that BCZR, §1A04.3.B.1.a permits the alteration of the required minimum 1.5 acre lot size - when no 'lot of record' exists - by way of filing a Petition for Special Hearing and/or Variance; to provide evidence that Growth Allocation was filed for the Property pursuant to BCZR, §4A03.13 as required in the Editor's Note; and to provide legal support regarding the effect of the Editor's

Notes contained in a County Council Bill but not codified in BCZR. By email dated May 10, 2024, Counsel for Petitioner provided supplemental information. (See File).

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). Special hearing relief is properly granted if it is within the spirit and intent of the zoning regulations and will not harm the public health, safety, or welfare.

1. Special Hearing Relief in BCZR, §500.7.

As set forth above, a Petition for Special Hearing set forth above in BCZR, §500.7 permits the Zoning Commissioner to interpret and/or determine rights of an interested person in regard to provisions contained in the BCZR. In this Case, however, Petitioners seek an interpretation of Bill 128-2005, and specifically confirmation that they are entitled to a purported Back River Neck exemption of the 1.5-acre minimum lot size requirement based on Section 3 of Bill 128-2005. It is undisputed that the purported Back River Neck exemption contained in Section 3 of Bill 128-2005 (and previously Section 5 of Bill 55-04), was never codified in BCZR, §1A04.3. In my view, BCZR, §500.7 does not authorize OAH to interpret County Council Bill language when the

County Council chose not to codify language from a Bill into the BCZR. While legislative history contained in County Council Bills are considered where there is an ambiguity in a statute or regulation, there is no ambiguity, but rather the absence such language in the BCZR after 2 opportunities to do so in 2004 and 2005. I am not aware of any previous Opinions and Orders authorizing the interpretation of County Council Bills and none were provided.

In the event that BCZR, §500.7 provides for the interpretation of County Council Bills, Editor's Note 9 in BCZR, §1A04.3 does state that "it would not apply to the Back River Neck District as defined in Section 4A03.13 of the Baltimore County Zoning Regulations." Petitioners contend that the Property meets BCZR, §4A03.13 because it is located in the Back River Neck District defined in the map attached as Exhibit A and incorporated by reference into that Section. However, there is an additional factor set forth in BCZR, §4A03.13.A.3 that requires the property to have received growth allocation in accordance with the BCC and State Critical Area Law before the purported exemption applies. The process for receiving Growth Allocation is found in BCC, §32-9-106 which requires an application and approval by either the County Council, or the Board of Appeals. Accordingly, setting aside whether a purported exemption in an Editor's Note has the same weight as a statute or regulation, the County Council made clear that only properties meeting the 3 factors in BCZR, §4A03.13.A were exempt from the minimum lot size requirement. There was no evidence produced here that the Property applied for Growth Allocation or proceeded through the development process.

Petitioners further cite the development plan approved for the Vandermast Property Subdivision wherein lots smaller than 1.5 acres were approved as part of the development process. (See Petitioners' Supplemental Information in File). It is correct that, in Case No. CBA-08-111 (PDM No. 15-919), the Board of Appeals granted the Vandermast Property

Application for Reclassification of the Growth Allocation. However, from the plain reading of BCZR, §4A03.13.A, the Application for Growth Allocation appears to be required. As a result, even if Editor's Note 9 can be interpreted by OAH under its Special Hearing authority in BCZR, §500.7, the Property does not meet required factors in BCZR, §4A03.13.

For these reasons, the Petition for Special Hearing relief will be denied.

2. Case No.: 08-031-SPHA.

The facts in Case No.: 08-031-SPHA are notably different than those in the instant Case in that the Deputy Zoning Commissioner found that the property in Case No.: 08-031-SPHA was already a "single lot of record, as that term is defined in Section 101 of the BCZR." Moreover, Case No.: 08-031-SPHA is further distinguishable in that the proposed "Lot 1" was split-zoned RC5 (1.966 acres) and RC 20 (0.3690 acres), was improved with a single-family dwelling, and had been used as two (2) separate properties for over 50 years. Based on those facts, Deputy Zoning Commissioner concluded that "the overall property is a single lot of record" and that the Office of Zoning Review had on 3 separate occasions recognized that the overall tract of land had effectively contained 2 separate building lots and 2 dwellings.

In this Case, the proposed 1.106-acre lot - which is entirely zoned RC5 - does not already exist, and therefore does not meet the BCZR, §101.1 definition:

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.

Reading BCZR, §1A04.3 in its entirety, it is notable that the County Council did provide that single lots of record which *are in existence prior to September 2, 2003* and which do not meet the minimum acreage requirement, may apply for a Special Hearing to alter the minimum lot size

requirement. Given that this limited remedy was carved-out for pre-September 2, 2003 single lots of record, the Special Hearing relief here to alter the minimum lot size is not available for this Property. Moreover, while public water and sewer service is in part, the underlying reason for the minimum 1.5-acre lot size in the RC5 zone, and those facts do weigh heavily where an existing lot of record already exists, they do not justify the creation of this undersized lot.

Additionally, I find that the facts and legal issues in this Case are similar to the Board of Appeals decision dated January 12, 2005, in Case No.: 03-566-SPH, *In the Application of Thomas Pearse*, wherein that property was 0.610 acres and was zoned RC5. Petitioners in *Pearse* requested the Board of Appeals to approval the creation of 2 undersized lots. As Bill 55-04 went into effect on June 11, 2004, the Board addressed the application of the new law on the issue of minimum lot size requirement for newly created lots in RC5 zone, denied the relief, aptly writing the following:

At the time the Petition was filed, the proposal did not conform to the minimum acreage, density, and dwelling per lot requirements of the RC5 zone (see §1A04.3.B of the Baltimore County Zoning Regulations). By enacting Bill 55-04, the County Council strengthened those requirements. When a relevant law is passed while litigation is pending, the new law applies. (See *Powell v. Calvert County*, 368 Md. 400 [2002].)

Bill 55-04 provided, in BCZR 1A[0]4.3.B.1, that:

A lot having an area less than [ONE ACRE] ONE AND ONE-HALF ACRES may not be created in an RC 5 zone. The maximum gross residential density is .667 dwelling per acre.

THE OWNER OF A SINGLE LOT OF RECORD THAT IS NOT A SUBDIVISION AND THAT IS IN EXISTENCE PRIOR TO SEPTEMBER 2, 2003 BUT DOES NOT MEET THE MINIMUM AGREAGE REQUIREMENT, OR DOES NOT MEET THE SERBACK REQUIREMENT OF PARAGRAPH 2, MAY APPLY FOR A SPECIAL HEARING UNDER

ARTICLE 5 TO ALTER THE MINIMUM LOT SIZE REQUIREMENT....

The new law, in BCZR §1A04.3B.2, provided for substantial minimum building setbacks from roads and the borders of RC2 and RC7 zone lines. Moreover, it did not affect the provision that “No more than one dwelling is permitted on any lot in the RC5 zone.” (BCZR 1A04.3B.5).

* * * *

In 1979 RC5 was applied to the property precluding the subdivision of the land. After the fact of subdivision, the proposal here exceeds the .667 maximum density under BCZR, §1A04.3.B.1 and therefore must be denied even before reaching the area variances on the merits under *Cromwell v. Ward*, 102 Md. App. 691 (1995).

For these reasons, the Petition for Special Hearing to create a 1.106-acre lot will be denied.

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).

Petitioner filed for alternative Variance relief to reduce the 1.5-acre lot size requirement to 1.106-acre lot. Again, in BCZR, §1A04.3.B.1.b(1), the County Council provided Special Hearing relief can be filed for pre-September 2, 2003 single lots of record, and by doing so, precluded Petitions for Variance of the RC5 lot size. To the extent that a reviewing Court would disagree with that interpretation, based on the evidence, I find that the Property fails to meet the uniqueness test under *Cromwell, supra*, as it does not have unique physical features from other properties in the area. While arguably the larger 6.24-acre parcel is uniquely shaped, the proposed 1.106-acre

lot is not as its shape and size were directed by the Petitioners. Even if it is determined to be unique, any practical difficulty results from self-imposed hardship in the Petitioners' desire to create a 1.106-acre lot for their son. As highlighted by DOP in their ZAC comment, the Petitioners have more than enough land to create a 1.5-acre lot which would eliminate the need for Variance relief. While the Petitioners would prefer for the proposed lot be farther removed from their existing single-family dwelling, that preference is also self-imposed. The law is clear that self-inflicted hardships cannot form the basis for a claim of practical difficulty. Speaking for the Court in *Cromwell*, *supra*, Judge Cathell noted:

Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively, not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

Cromwell, at 722. (See also, *Richard Roeser Profl Builder, Inc. v. Anne Arundel County*, 368 Md. 294, 793 A.2d 545 (2002); *Stansbury v. Jones*, 372 Md. 172, 812 A.2d 312 (2002); and *Lewis v. Dep't of Natural Resources*, 377 Md. 382, 833 A.2d 563 (2003)).

Lastly, on the issue of the lack of practical difficulty and unreasonable hardship here, the Petitioners have available to them the construction of a detached accessory apartment for their son pursuant to BCZR, §400.4. Given this additional option for remedying any alleged hardship, the Variance relief will be denied.

THEREFORE, IT IS ORDERED this 17th day of **May, 2024**, by this Administrative Law Judge that the Petition for Special Hearing from BCZR, §1A04.3.B.1a to determine the impact of Council Bill 128-2005 on the minimum lot size requirement, be, and it is hereby **DENIED** and;

IT IS FURTHER ORDERED that Variance relief from BCZR, §1A04.3.B.1.a to allow a 1-acre lot in lieu of a 1.5-acre lot in the event it is determined that the 1.5-acre minimum lot size requirement applies be, and it is hereby, **DENIED**.

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

A handwritten signature in black ink, reading "Maureen E. Murphy". The signature is written in a cursive, flowing style.

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 of Baltimore County for the property located at:

Address 1999 Rocky Point Road

which is presently zoned RC5

Deed References: 21263/238

10 Digit Tax Account # 1516601763

Property Owner(s) Printed Name(s) Michael Norbert Porter & Sandra Ann Porter

(SELECT THE HEARING(S) BY MARKING ☒ 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:

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

See Attached Supplement to Petition

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

3. ☒ a Variance from Section(s) See Attached Supplement to Petition.

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, 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:

Name - Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

John B. Gontrum, Esq / Christopher M. DeCarlo, Esq.

Name - Type or Print

Signature

Signature

Whiteford, Taylor & Preston

1 W. Pennsylvania Ave., Ste. 300, Towson

MD

Mailing Address

City

State

21204

410-832-2055

jgontrum@wtplaw.com

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

Norbert Michael Porter

Michael Norbert Porter

Sandra Ann Porter

Name #1

Name #2 - Type or Print

Signature #1

Signature #2

1999 Rocky Point Road, Baltimore, MD

Mailing Address

City

State

21221

410-682-9032

Zip Code

Telephone #

Email Address

Representative to be contacted:

Name - Type or Print

Zip Code

Telephone #

Email Address

CASE NUMBER 2024-0060-SP11A Filing Date 3/6/2024

Do Not Schedule Dates:

Reviewer TR

REV. 8/2022

**SUPPLEMENT TO PETITION
FOR SPECIAL HEARING & VARIANCE**

Petitioner: Michael Norbert Porter and Sandra Ann Porter

Property Address: 1999 Rocky Point Road, Essex, Maryland 21221

Case Number:

The Petitioner is seeking the following:

1. A Special Hearing to determine the impact of Council Bill 128-2005 on the minimum lot size requirement provided in Section 1A04.3.B.1.a. of the BCZR.
2. In the event it is determined that the 1.5 acre minimum lot size requirement applies, a variance from Section 1A04.3.B.1.a of the BCZR to allow a 1 acre lot in lieu of a 1.5 acre lot.

2024-0060-611A

J.S. DALLAS, INC.

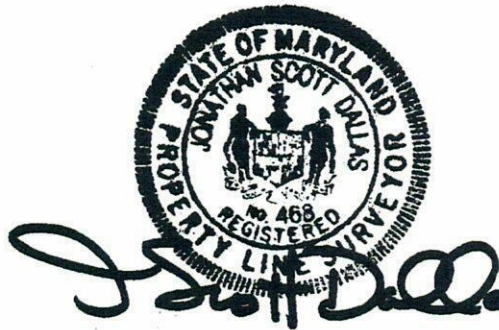
Surveying & Engineering
P.O. Box 26
Baldwin, MD 21013
(410)817-4600
FAX (410)817-4602

ZONING DESCRIPTION – 1.106 ACRE PORTION OF MS 21263-238 **(#1999 ROCKY POINT ROAD ROAD)**

BEGINNING for the same at the center of Rocky Point Road at the beginning of the first line of 21263 folio 238 ("parcel") distant 1067 feet+- southeasterly from the center of Barrison Point Road thence running with all of the first line and part of the second line of said parcel: **(1)** South 17 degrees 24 minutes 55 seconds East 153.47 feet and **(2)** North 76 degrees 54 minutes 05 seconds East 314.75 feet thence for a new line of division across said parcel **(3)** North 17 degrees 24 minutes 55 seconds West 153.47 feet thence binding on part of the last line of said parcel to the end thereof **(4)** South 76 degrees 54 minutes 05 seconds West 314.75 feet to the place of beginning.

CONTAINING 48165 square feet (or 1.106 acres of land, more or less.)

LOCATED in the 15th Election District, 7th Councilmanic District.



Note: Description above compiled from deeds, plats, and plans by others
And not the result of a Maryland Boundary Survey.

2024-0060-SPHA

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID

For Newspaper Advertising:

Case Number: 2024-0061-SPHA

Property Address: 1999 ROCKY POINT ROAD

Legal Owners (Petitioners): NORBERT MICHAEL PORTER / SANGRA ANN PORTER

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): _____

Address: _____

Telephone Number: _____

*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.

BALTIMORE COUNTY DEPARTMENTS OF PERMITS APPROVALS & INSPECTIONS

APPROVED SIGN POSTERS

John Altmeyer
Cell: 410-382-6580
jaltmeyer@aol.com

J. Lawrence Pilson, R.S.
Cell: 443-834-8162
lpilson@hotmail.com

Richard Hoffman
Cell: 443-243-7360
dick_e@comcast.net

Linda O'Keefe
Work: 410-666-5366
Cell: 443-604-6431
luckylinda1954@yahoo.com

Eric Hadaway
Work: 410-296-3333
ehadaway@dmw.com

Bruce E. Doak
Work: 443-900-5535
Cell: 410-419-4906
bdoak@bruceedoakconsulting.com

David Billingsley
Work: 410-679-8719
dwb0209@yahoo.com

Martin Ogle
Cell: 443-629-3411
mert1114@aol.com

Sgt. Robert A. Black
Cell: 410-499-7940
1opie@comcast.net

The petitioner must use one of the sign posters on this approval list. Any reposting must also be done by one of these approved posters. If you wish to select a poster not listed on the list above, prior approval by the Department of Permits, Approvals and Inspections/Zoning is required.

This department is not associated with any of the above posters, nor do we recommend any specific one. We do suggest that you contact a number of them to compare prices, since their charges may vary.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

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OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID

For Newspaper Advertising:

Case Number: 2024-0061-SPHA

Property Address: 1999 ROUSBY POINT ROAD

Legal Owners (Petitioners): NORBERT MICHAEL PORTER / SANGRA ANNE PORTER

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): _____

Address: _____

Telephone Number: _____

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Cell: 443-243-7360
dick_e@comcast.net

Linda O'Keefe
Work: 410-666-5366
Cell: 443-604-6431
lucky linda1954@yahoo.com

Eric Hadaway
Work: 410-296-3333
ehadaway@dmw.com

Bruce E. Doak
Work: 443-900-5535
Cell: 410-419-4906
bdoak@bruceedoakconsulting.com

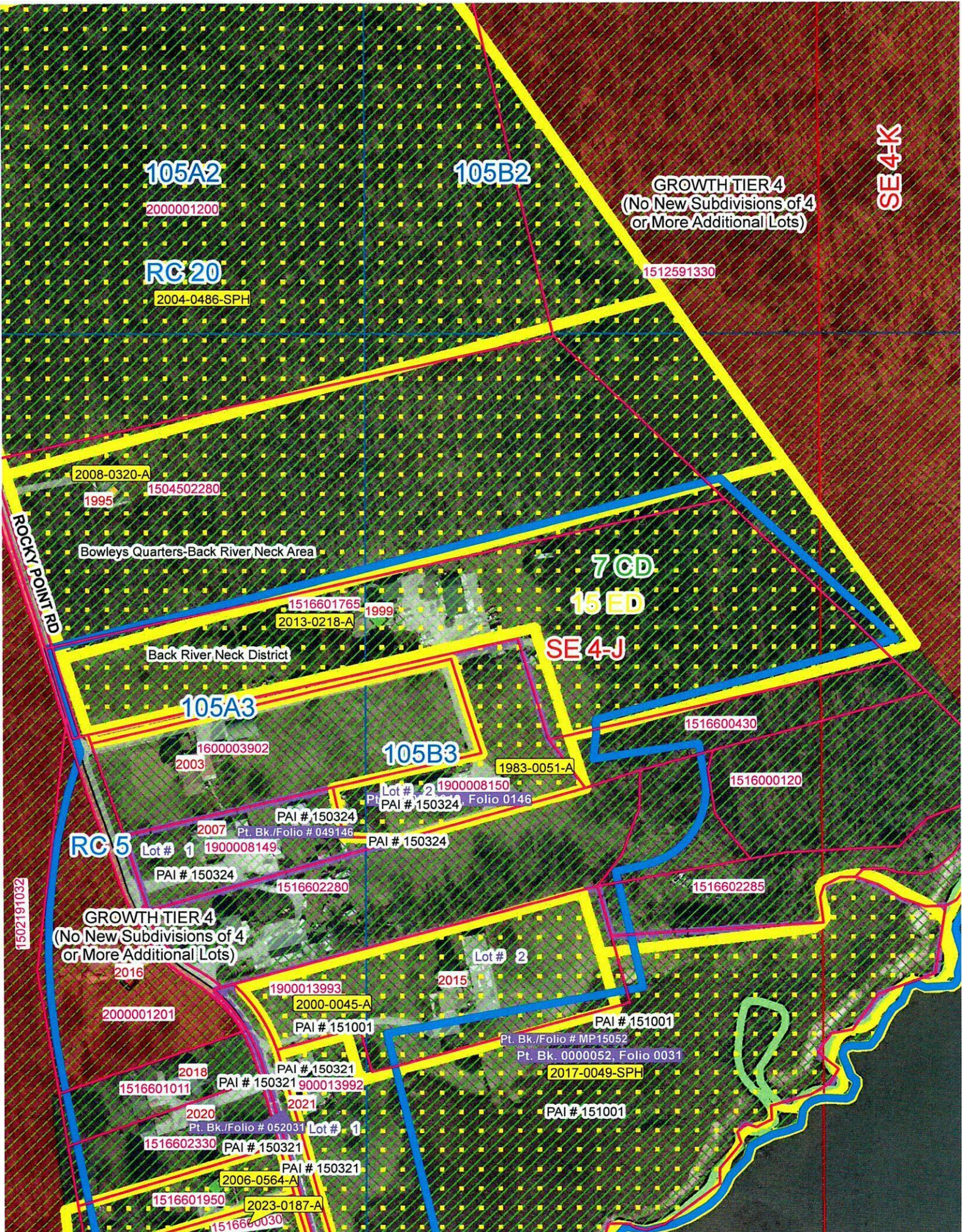
David Billingsley
Work: 410-679-8719
dwb0209@yahoo.com

Martin Ogle
Cell: 443-629-3411
mert1114@aol.com

Sgt. Robert A. Black
Cell: 410-499-7940
1opie@comcast.net

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105A2

2000001200

RC 20

2004-0486-SPH

105B2

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

1512591330

SE 4-K

2008-0320-A

1995

1504502280

Bowleys Quarters-Back River Neck Area

1516601765

2013-0218-A

1999

Back River Neck District

7 CD

15 ED

SE 4-J

105A3

1600003902

2003

105B3

1983-0051-A

Lot # 2
Pt. Bk./Folio # 0146
PAI # 150324

PAI # 150324

2007 Pt. Bk./Folio # 049146

Lot # 1

1900008149

PAI # 150324

PAI # 150324

1516602280

RC 5

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

2016

2000001201

1900013993

2000-0045-A

PAI # 151001

PAI # 150321

PAI # 150321 900013992

1516601011

2018

Pt. Bk./Folio # 052031

1516602330

PAI # 150321

2020

PAI # 150321

2006-0564-A

1516601950

2023-0187-A

151660030

2015

Lot # 2

Pt. Bk./Folio # MP15052

Pt. Bk. 0000052, Folio 0031

2017-0049-SPH

PAI # 151001

PAI # 151001

2024-SPH4-0060

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
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Special Tax Recapture: None

Account Identifier: District - 15 Account Number - 1516601765

Owner Information

Owner Name: PORTER NORBERT MICHAEL Use: RESIDENTIAL
PORTER SANDRA ANN Principal Residence: YES

Mailing Address: 1999 ROCKY POINT RD Deed Reference: /21263/ 00238
BALTIMORE MD 21221-6417

Location & Structure Information

Premises Address: 1999 ROCKY POINT RD Legal Description: 6.246 AC ES
BALTIMORE 21221-6417 ROCKY POINT RD
1085 S BARRISON POINT RD

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0105	0015	0072	15080078.04	0000				2024	
									Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2005	2,308 SF		6.3000 AC	04

Stories	Basement Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
1	YES	STANDARD UNITS	SIDING/4	2 full/ 1 half	1 Detached

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2024	07/01/2023	07/01/2024
Land:	58,600	144,300		
Improvements	328,400	437,600		
Total:	387,000	581,900	387,000	451,967
Preferential Land:	0	0		

Transfer Information

Seller: PORTER NORBERT J	Date: 10/22/2004	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /21263/ 00238	Deed2:
Seller: PORTER BROTHERS INC	Date: 06/24/1971	Price: \$13,804
Type:	Deed1: /05195/ 00924	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: Approved 05/04/2009

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2024-0060-SPHA

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
(DEPS) – Development Coordination

DATE: March 22, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0060-SPHA
Address: 1999 ROCKY POINT ROAD
Legal Owners: Norbert Michael Porter
Sandra Ann Porter

Zoning Advisory Committee Meeting of March 18, 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 majority of this property is located within a Limited Development Area (LDA) , but there may be small edge areas located within a Resource Conservation Area (RCA). Any proposed development of this property must comply with a maximum 15 percent lot coverage limit for the area of the entire property above mean high tide, and outside of any state tidal wetlands. Critical Area lot coverage is defined in State of Maryland Natural Resources Article §8-1802(a)(17). If the applicant can comply with lot coverage requirements, the relief requested can result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

A Critical Area Easement to protect forest, tidal waters, and wetlands exists at the eastern end of the property. If any proposed development can comply with all Critical Area buffer (within the existing Critical Area Easement) and meet all forest

requirements, this can 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 any proposed development can be designed to meet the Critical Area defined lot coverage requirements, and meet all Critical Area buffer and forest requirements, the relief requested can be consistent with established land-use policies.

Reviewer: Paul Dennis Date: March 22, 2024

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: March 14, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0060-SPHA

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

DPR: Proposed new lot is partially in Tidal Special Flood Hazard Area Zone AE BFE 8.5.

DPW-T: The property is within the Tidal Special Flood Hazard Area Zone AE (BFE=8.5) per panel FIRM 2400100445F dated 9/26/08. Must comply with Flood Plain Ordinance, See County Bill 40-15 (the latest edition of the Baltimore County Code) and Bill 42-15, and Section 32-4-414 of Article 32, Title 4 of the Baltimore County Code, 2003, as amended. The LiMWA is on the property.

Landscaping: If Special Exception, Special Hearing, and Zoning Relief is granted a Landscape Plan is required per the requirements of the Landscape Manual.

Recreations & Parks: No Greenways affected.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 3/12/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0060-A

INFORMATION:

Property Address: 1999 Rocky Point Road
Petitioner: Michael Norbert and Sandra Ann Porter
Zoning: RC 5
Requested Action: Special Hearing and Variance

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

Special Hearing -

1. To determine the impact of Council Bill 128-2005 on the minimum lot size requirement provided in Section 1A04.3.B.1.a. of the BCZR.

Variance -

1. In the event it is determined that the 1.5-acre minimum lot size requirement applies, a variance from Section 1A04.3.B.1.a of the BCZR to allow a 1-acre lot in lieu of a 1.5-acre lot.

The subject property is located along Rocky Point Road at the intersection with Seneca Road in the Essex area of Baltimore County. The property consists of an approximately 6.25-acre parcel zoned RC-5 improved with an existing detached dwelling. The proposed property is surrounded by the Hawk Cove, Rocky Point Park, detached residential dwellings and forest conservation.

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.

Section 1A04.3.B.1.a. of the BCZR states the following: “A lot having an area of less than one and one-half acres may not be created in an R.C.5 Zone. The maximum gross residential density is 0.5 dwelling per acre.”

Bill 128-2005 states: [In summary] Bill 128-2005 is focused on standardizing residential density in the R.C. 5 Zone to 0.5 dwelling per acre, reaffirming the 1 ½-acres minimum lot size, and includes provisions to protect certain plans and areas from being affected by these changes.

Addressing the requested relief, the Department of Planning attests that originally, the Section 1A04.3.B.1.a. stipulated a minimum lot area of 1 ½-acres to prevent the creation of smaller lots in the R.C. 5 Zone, with a maximum gross residential density of 0.5 dwelling per acre.

The amendment made by Council Bill 128-2005 does not alter the minimum lot size requirement of 1 ½-acres. Instead, it reaffirms the maximum gross residential density as 0.5 dwelling per acre for a lot of record in an R.C. 5 Zone, where there appears to be an attempt to adjust or clarify the density but ultimately retains the 0.5 dwelling per acre density. Therefore, the impact of Bill 128-2005 on the minimum lot size requirement provided in Section 1A04.3.B.1.a. of the BCZR is essentially null in terms of changing the lot size; it maintains the existing requirement that a lot in an R.C. 5 Zone must not be less than 1 ½-acres with the specified density control remaining as stated.

Based on the information provided in Bill 128-2005 and the specific text from Section 1A04.3.B.1.a. of the Baltimore County Zoning Regulations (BCZR), the 1.5-acre minimum lot size requirement explicitly states that a lot having an area of less than 1 ½-acres may not be created in an R.C. 5 Zone. This regulation effectively prohibits the creation or allowance of a 1-acre lot in lieu of the required 1.5-acre minimum lot size in an R.C. 5 Zone. The regulation is clear in maintaining the minimum lot size to ensure the density and use consistency within the zone, and Bill 128-2005 does not amend this specific requirement to permit a 1-acre lot as an exception to the 1.5-acre minimum standard.

In discussions with the representative, the applicant appears to be under the impression that the location of the property within the Back River Neck District provides a basis for exemption from the stipulated requirement of 1.5-acres, as outlined in Section 1A04.3.B.1.a., referencing lines 13 through 15 of Bill No 128-05 and Editor's Notes 9 and 10 of Section 1A04. Despite acknowledging the property's location in the Back River Neck District, the Department of Planning disagrees with the rationale for seeking approval for 1-acre, in lieu of the required 1.5-acres. The applicant believes meeting the required 1.5-acres will put the proposed property line too close to the existing house. Moreover, upon reviewing the submitted plans, the Department finds no substantial hardship that would prevent compliance with the RC5 performance standard on the required 1.5-acres.

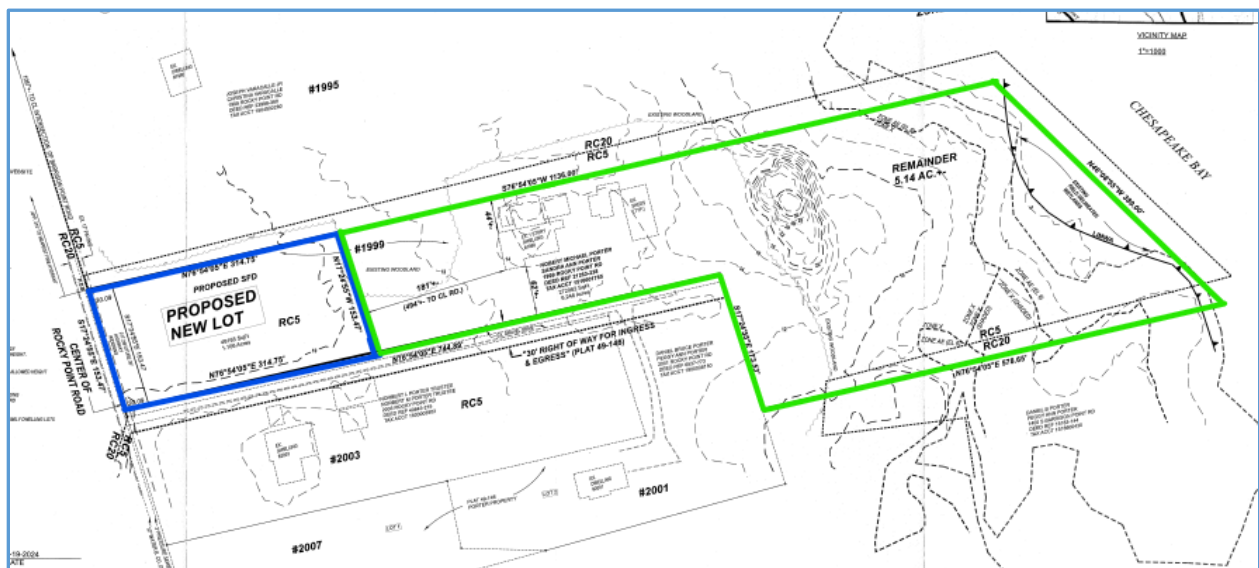


Image indication the proposed lot (in blue) and the remaining lot (in green)

Reading from the site plan above, the applicant has enough land left (green) to meet the required 1.5-acres. The Department does not support the requested relief. However, since the relief request suggests

legal interpretation, the Department of Planning will defer all decision makings to the Administrative Law Judge.

The Department requests that an approval by the Administrative Law Judge must include the following conditions:

- a. The site is subject to the RC 5 performance standards as listed in Section 1A04.4 BCZR.
- b. A sufficient demonstration of unreasonable hardship or practical difficulty is presented as determined by the Administrative Law Judge.
- c. Any future accessory structures shall not be used for commercial or industrial purposes.

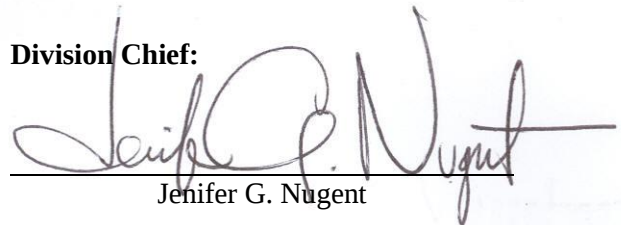
For further information concerning the matters stated herein, please contact Henry Ayakwah at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: John B. Gontrum, Esq
Maria Mougridis, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County



Certificate of Posting

Case# 2024-0060-SPHA

Petitioner/Developer

Whiteford Law

Chris Decarlo

Date of Hearing/Closing

April 29, 2024

Baltimore County Department of Permits and Management

County Office Building Room 111; 111 West Chesapeake Ave. Towson Md. 21204

Attention:

Ladies and Gentlemen:

This is to certify under penalties of perjury that the necessary sign/signs required by law were posted conspicuously on the property located at

1999 Rocky Point Rd April 6, 2024. Signs 1A & 2A

Sincerely, Martin Ogle

Martin Ogle

9912 Maidbrook Road

Parkville, Md. 21234

443-629-3411

