

**IN RE: PETITIONS FOR SPECIAL EXCEPTION *
AND VARIANCE**

(9333 Belair Road)

11th Election District

5th Council District

Rosario and Filippo Caccamisi

Legal Owners

Creative Tots Learning & Childcare Center

Contract Purchaser/Lessee

BEFORE THE

THE OFFICE

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No: 2024-0080-XA

Petitioners

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Exception and Variance filed on behalf of Rosario and Filippo Caccamisi, legal owner, and Creative Tots Learning Childcare Center, lessee, (the “Petitioners”) for the property known as 9333 Belair Road, Nottingham (the Property”). A Petition for Special Exception was filed pursuant to Baltimore County Zoning Regulations (“BCZR”), §§ 202.3.B and 1B01.1.C.6, to permit a Class B group child care center providing for up to 40 children.

Petition for Variances were filed as follows:

- (1) BCZR § 424.7A for a 0.344 of an acre lot in lieu of the required 1.0 acre for the first 40 children;
- (2) BCZR § 424.7.B for a side setback of 5 feet for an existing building in lieu of the required 50 ft., from the property line, with a 0-foot vegetative buffer;
- (3) From BCZR § 424.7.B for a rear setback of 5 feet for an existing building in lieu of the required 50 ft., from the property line, with a 0-foot vegetative buffer area;
- (4) From BCZR § 424.7.C to permit an existing parking area to be located in the front in lieu of the side yards;
- (5) From BCZR § 424.7E to permit the maximum impervious surface area for two exiting building and existing macadam parking greater than 25% of the gross area;
- (6) From BCZR § 424.1.B to permit an existing chain link fence with a height of 4 feet and 0 feet from the property line, in lieu of the minimum 5-foot wood stockade or panel

fence being 20 feet from the property line;

- (7) From § BCZR § 1B01.1.B.1.e (3&5) to permit a 0-foot Residential Transition Area (“RTA”) setback in lieu of the required 75-foot RTA setback;
- (8) From BCZR § 1B01.1.B.1.e (3&5) to permit a 0-foot RTA buffer in lieu of the required 50-foot RTA buffer.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing on May 1, 2024. The Petitions were properly advertised and posted. The Petitioner, Tori Stennett appeared at the hearing along with Bruce Doak, a licensed property line surveyor of Bruce E. Doak Consulting, LLC, appeared and prepared a site plan (the “Site Plan”). (Pet. Ex. 1). Owner of the subject property, Rosario Caccamisi was also present. Protestants and adjacent neighbors to the subject property, Michael Mandish and Kim Franke also attended the hearing.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) Development Plans Review (“DPR”), and Building Plans Review (“BPR”) these agencies did not oppose the requested relief.

The subject property is approximately .344 acres and is zoned ROA and DR 3.5. The site is located on Belair Road in the Nottingham area. The road fronting the subject property is comprised of two lanes heading northeast, two heading southwest, and a center turn lane. (Pet. Ex. 1) The Baltimore County Fire Department occupies the adjacent parcel to the southwest, while a CPA office owned by Protestant, Michael Mandish occupies the parcel to the northeast, situated on the corner of Darnall Road and Belair Road. Protestant, Kim Franke owns 4209 Darnall Road, the parcel to the rear of the subject site. The subject site is currently owned by Rosario and Fillipo Caccamisi, who has leased the building on the rear of the subject site to Tori Stennett of Creative Tots Learning and Childcare Center for the last two years.

Mr. Doak explained that the subject site is improved with two buildings, a 2,221 sq. ft., two story brick building, which is used as an office space and a 1,020 sq. ft., one-story wood frame building, which is the subject of the case at bar. The two-story brick building was previously a photography studio but is currently vacant. Ms. Stennett has been leasing the rear building and making improvements pending Maryland State licensing and County zoning approvals. This building was previously used as an office building and a music lessons studio. Mr. Doak explained that the Petitioner wishes to use the rear building as a Class B group child care center and is proposing to have up to 20 children and 3 employees. The facility is proposed to be open Monday through Friday, 7 am. to 6 pm. Mr. Doak noted that the Fire Station to the southwest is significantly screened from the subject property by dense trees. The parking lot of Mr. Mandish's property is separated from the subject property by a wooden rail fence. (Prot. Ex. 1) Per the site plan, the drive aisle leading to the rear of the property is located in the fire station side of the property. Mr. Doak explained that this drive aisle is 12 ft. in length, making it possible for only one car to enter and exit from the rear of the property at one time. The site plan also notes that child drop-off will take place in the rear of the property, in front of the one-story wood frame structure. To the side of this structure, and bordering Ms. Franke's fence line, will be a proposed outdoor play area that is currently surrounded by Ms. Franke's 6-foot fence in the rear and a 4 ft. chain link fence on the side and in the front. Mr. Doak noted that he is not requesting any physical changes to the subject site, but rather has requested zoning relief to bring the property in compliance with current zoning regulations for the proposed use.

Ms. Stennett testified that she has been in the childcare industry since 2015 and currently has 8 children in her home daycare, 4 of which are in one family. She currently accepts children from ages 2 to 5 and intends to continue this age group in the proposed subject location. She

explained that she has invested significant funds in attempting to get the building in compliance with State Department of Education requirements. She further explained that she will have three adults on site, including herself and that children will be dropped-off at staggered times in the morning between 7:00 am and 9:30 am due to varying parent work schedules and pick-up in the afternoon will be staggered as well. She explained that she uses an APP for pick-up so that parents do not have to leave their cars during pick-up times. When asked how she foresaw multiple cars traveling in opposite directions using the one-way drive aisle leading to the rear of the building, she explained that she foresaw vehicles having to pull in front of the office building until the lane was clear. Ms. Stennett noted that outside play time will range from 10:00 am to 1:00 pm and will occur in the outside play area, weather permitting.

Subject property owner, Rosario Caccamisi testified that the front office building was previously used as a photography studio and that the building needs work and he is not sure what type of business may occupy it in the future. He confirmed that the rear building was there when his family purchased the property and that a music lesson studio occupied the building for several years. He noted that Ms. Stennett has invested considerable time and money into the rear building and hoped that she would be able to start her daycare operation.

Protestant, Michael Mandish testified that he purchased the property at 9335 Belair Road in June of 2021. He explained that he uses it as a CPA office and hosts client meetings at the location at different times throughout the work day. He explained that his primary concern is with the possibility of parents using his parking lot to access the proposed daycare and the possibility of the children's outdoor playtime being a significant interruption to the operations of his office, specifically during client meetings.

Protestant, Kim Franke testified that she has lived at 4209 Darnall Road since 2011. She expressed concern with the proposed daycare due to the fact that her back deck is situated in a location that it looks directly into the proposed play area. She has dogs and an above-ground swimming pool which gives her added concern about having children playing directly on the other side of her fence. She also expressed concern about added noise and trash being generated from the subject property if the daycare is approved. She also noted that traffic is heavy in the morning on Belair Road and that left turn are prohibited onto her street in the morning hours. She believes that parents dropping off and picking up children will only add to this traffic.

RTA

BCZR § 1B01.1.B.1.a (2) states:

(2) the purpose of the RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.

Variances of the RTA may not be granted “unless the hearing officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.” BCZR, § 1B01.1.B.1.c (2)

An exception to the enforcement of RTA standards is set forth in BCZR, § 1B01.1.B.1.g (11) which provides:

. . . provided that the Zoning Commissioner determines, during the special exception process that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

In the case at bar, if the RTA regulations were strictly enforced a 50-ft. buffer would be required between Ms. Franke’s property and the subject property with an additional 75 ft., setback buffer. The Petitioner has requested a 0-ft setback and a 0-ft buffer due to the existing conditions

on the subject property. While the ALJ is given discretion in granting variances to RTA regulations, the relief requested in the case at bar is extreme with a 0-ft. buffer a 0-ft set-back is being requested. Such variance relief cannot be granted “unless the hearing officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.” While a modest reduction in setback and buffer may not constitute an adverse impact, the 0 ft. buffer and setback cause a group child care center to be directly adjacent to the property of Ms. Franke. While the noise from a group child care center is not unforeseen or prohibited, the adherence to RTA mandated buffers would move it significantly farther from Ms. Franke’s property and would achieve the very purpose of the RTA in the first place. Additionally, due to the fact that the subject property does not comply with the bulk standards of BCZR §424.7, the subject property does not qualify for an exemption found in BCZR § 1B01.1.B.1.g (11).

VARIANCES

The remaining Variance requests from the bulk standards of BCZR, §424.7 and the R.O.A. and D.R. 3.5 zones involve 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) ; *See also Mueller v. People's Counsel for Baltimore County*, 177 Md.App. 43, 70, 934 A.2d 974 (2007) (stating that the uniqueness factor for obtaining a variance "requires a finding that the property whereon structures are to be placed (or uses conducted) is — in and of itself — unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the

zoning provision to impact disproportionately upon that property.") (*quoting Cromwell, supra*, 102 Md.App. at 694-95, 651 A.2d 424).

Mr. Doak described the subject property as being narrow and deep, but not dissimilar to other lots in the immediate area. Mr. Doak argued that while the subject property is not "unique" in its topography, it is "unique" in its circumstances, in that the setbacks and other zoning features are already established on the subject site and that without zoning relief the structure on the rear of the property could not be utilized. It is important to note that the variance relief requested is not just for bulk standards for ROA ("Residential-Office, Class A Office") and DR.3.5 zones, but rather are specific to bulk regulations found in BCZR § 424.7 dealing with group child care centers. As noted in *Cromwell*, the issue of "uniqueness" to be determined deals "with the property whereon structures are to be placed (or uses conducted)," not the structures in the property themselves. It is true that the Petitioner finds herself in a unique situation in that the *status quo* conditions on the property include the subject building straddling the property line in an RTA zone. However, these conditions do not constitute the type of "uniqueness" contemplated in the *Cromwell* analysis. While the issue of "uniqueness" is often subject to varying interpretation, in this instance, the bulk standards of BCZR § 424.7 have a specific legislative intent regarding issues of child safety and deviations therefrom require a strict interpretation of the law. While it is clear that the Petitioner would experience a practical difficulty if variance relief is denied, the "uniqueness" standard found in *Cromwell* has not been met in the instance case. Accordingly, all of the Petitioner's requests for variance relief must be denied.

SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1, 11 (1981). The *Schultz* standard

was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the Court of Appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

In reviewing the requirements of BCZR, § 502.1, Mr. Doak testified that the proposed Special Exception will not be detrimental to the health, safety and general welfare of the locality, will not tend to create congestion in the roads, streets and alleys in that the proposed development, will not create potential hazard from fire, panic or other danger, will not tend to overcrowd land and cause undue concentration of population, will not interfere with adequate provisions of schools, parks, water, sewerage, transportation or other public requirements, and that the proposed use is permitted by Special Exception in the Zoning Regulations, thus is not inconsistent with the property's zoning classification nor in any other way inconsistent with the spirit and intent of those regulations.

In that the proposed Class B group child care center is to occupy a non-residential, preexisting building with no alterations being made to the lot itself, I am in agreement with all of Mr. Doak conclusions but one: the creation of congestion in streets road and alleys. The issue of the 12 ft. drive aisle leading to the rear of the property is a significant hurdle that has not been overcome. Baltimore County Code mandates that a minimum width for drive aisles drive shall be at least 22 feet in width for two-way movements. No testimony has been presented as to how cars entering and leaving the daycare area at the same time will deal with this problem. Ms. Stennett opined that one car will obviously have to pull over and wait, but this plan assumes that all drivers will be vigilant and courteous when confronted with such an occurrence. While the staggered times for drop-off

somewhat alleviates concerns of traffic from Belair Road, such a schedule still does not solve the peril created by a one-way entrance/ exit when dealing with the drop-off and pick -up of small children. Mr. Doak noted that such narrow drive aisles in similar properties which commercial uses, I find that a drive aisle for a group childcare care center requires strict vigilance in maintaining the minimum drive aisle width requirement.

Additionally, as previously discussed, while it is reasonable to assume that the County Council anticipated child- related noise when allowing group child care establishments in DR3.5 and ROA zones, it was not foreseen that such establishments would be permitted to have a 0 ft. setback and buffer in an RTA zone and would be accessible only by a one-way 12-ft. wide drive aisle. To allow such a special exception would be inconsistent with the spirit and intent of RTA regulations. Consequently, the Petitioner's request for Special exception is denied.

THEREFORE, IT IS ORDERED this 20th day of **May, 2024**, by this Administrative Law Judge, that the Petition for Special Exception filed pursuant to BCZR, §§ 202.3.B and 1B01.1.C.6, to permit a Class B group child care center providing for up to 40 children. be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, § 424.7A for a 0.344 of an acre lot in lieu of the required 1.0 acre for the first 40 children; be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, § 424.7.B for a side setback of 5 feet for an existing building in lieu of the required 50 ft., from the property line, with a 0-foot vegetative buffer; be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, § 424.7.B for a rear setback of 5 feet for an existing building in lieu of the required 50 ft., from the property line,

with a 0-foot vegetive buffer area; be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, §424.7.C to permit an existing parking area to be located in the front in lieu of the side yards; be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, §424.7E to permit the maximum impervious surface area for two exiting building and existing macadam parking greater than 25% of the gross area; be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, § 424.1.B to permit an existing chain link fence with a height of 4 feet and 0 feet from the property line, in lieu of the minimum 5-foot wood stockade or panel fence being 20 feet from the property line; be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, § 1B01.1.B.1.e (3&5) to permit a 0 foot RTA setback in lieu of the required 75 foot RTA setback; be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, § 1B01.1.B.1e (3&5) to permit a 0-foot RTA buffer in lieu of the required 50-foot RTA buffer be, and it is hereby **DENIED**.

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



ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlm



PETITION FOR ZONING HEARING(S)

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

To the Office of Administrative Law of Baltimore County for the property located at:

Address 9333 BELAIR ROAD which is presently zoned ROA DR 3.5
Deed References: 11452/381 10 Digit Tax Account # 1101085126
Property Owner(s) Printed Name(s) ROSARIO R. CACCAMISI, TRUSTEE
FILIPPO E. CACCAMISI, TRUSTEE

(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

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

SEE ATTACHED PAGE

3. ☒ a Variance from Section(s)

SEE ATTACHED PAGE

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

TO BE PRESENTED AT THE HEARING

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

TOBI STEINMETZ
CREATIVE TOTS LEARNING AND CHILDCARE
Name- Type or Print CENTER
☒ Tobi Steinmetz
Signature

8156 GLEN ARBOR DRIVE ROSEDALE MD
Mailing Address City State

21237 / 443-973-0432 /
Zip Code Telephone # Email Address

CREATIVETOTS-LEARNING.COM
Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

ROSARIO R. CACCAMISI / FILIPPO E. CACCAMISI
Name #1 - Type or Print Name #2 - Type or Print
☒ Rosario R. Caccamisi ☒ Filippo E. Caccamisi
Signature #1 Signature #2

16 LIBERTY RIDGE COURT OWINGS MILLS MD
Mailing Address City State

21117 / 410-916-8568 / (RUSS CACCAMISI)
Zip Code Telephone # Email Address

RUSS.CACCAMISI@ERICKSON.COM
Representative to be contacted:

BRUCE E. DOAK
BRUCE E. DOAK CONSULTING, LLC
Name - Type or Print

Bruce E. Doak
Signature

3801 BAKER SCHOOLHOUSE ROAD FREELAND MD
Mailing Address City State

21053 / 410-419-4906 /
Zip Code Telephone # Email Address

BD@BRUCEDOAKCONSULTING.COM

CASE NUMBER 2024-0080-XA Filing Date 3/26/2024 Do Not Schedule Dates: Reviewer UF

Zoning Hearing Petitions Being Requested

Special Exception to permit a Class B group child care center providing for up to 40 children per Section 202.3.B BCZR

Variances

Variance for a 0.344 of an acre lot in lieu of the required 1.0 acre lot for the first 40 children per Section 424.7.A BCZR

Variance for a side setback of 5 feet for an existing building in lieu of the required 50 feet from the property line, with a 0 foot vegetative buffer per Section 424.7.B BCZR

Variance for a rear setback of 5 feet for an existing building in lieu of the required 50 feet from the property line, with a 0 foot vegetative buffer per Section 424.7.B BCZR

Variance to permit an existing parking area to be located in the front in lieu of the side or rear yards per Section 424.7.C BCZR

Variance to permit the maximum impervious surface area for two existing buildings and existing macadam parking greater than 25% of gross area per Section 424.7.E BCZR

Variance to permit an existing chain link fence with a height of 4 feet and 0 feet from the property line, in lieu of the minimum 5 foot wood stockade or panel fence being 20 feet from the property line per Section 424.1.B BCZR

Variance to permit a 0 foot RTA setback in lieu of the required 75 foot RTA setback per Section 1B01.1.B.1.e (3&5)

Variance to permit a 0 foot RTA buffer in lieu of the required 50 foot RTA buffer per Section 1B01.1.B.1.e (3&5)

2024-0089-XA



Zoning Description

9333 Belair Road-0.344 Acre Parcel
Eleventh Election District Fifth Councilmanic District
Baltimore County, Maryland

Beginning at a point on the south side of Belair Road, approximately 90 feet west of the centerline of Darnall Road, thence leaving Belair Road and running on the outlines of the subject property, the three following courses and distances, viz 1) South 41 degree 30 minutes 00 seconds East 200.00 feet, 2) South 48 degrees 30 minutes 00 seconds West 75.00 feet and 3) North 41 degrees 30 minutes 00 seconds West 200.00 feet to the south side of Belair Road, thence running on the south side of Belair Road and continuing to run on the outlines of the subject property 4) North 48 degrees 30 minutes 00 seconds East 75.00 feet to the point of beginning.

Containing 0.344 of an acre of land, more or less.

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



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

2024-0080-XA

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: April 9, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0080-XA
Address: 9333 BELAIR RD.
Legal Owner: Rosario Caccamisi, Flipppo Caccamisi

Zoning Advisory Committee Meeting of April 9, 2024.

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

Additional Comments:

Reviewer: Earl D. Wrenn

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: April 8, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0080-XA

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: If Zoning Relief is granted a Landscape Plan is required per the requirements of the Landscape Manual. A Lighting Plan is also required

Recreations & Parks: No Greenways affected.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: 4/11/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0080-XA

INFORMATION:

Property Address: 9333 Belair Road
Petitioner: Rosario R. Caccamisi, Filippo E. Caccamisi
Zoning: ROA, DR 3.5
Requested Action: Special Exception, Variance

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

Special Exception -

1. To permit a Class B group child care center providing for up to 40 children per Section 202.3.B. of the Baltimore County Zoning Regulations (BCZR);

Variance(s) -

2. For a 0.344 of an acre lot in lieu of the required 1.0 acre lot for the first 40 children per Section 424.7.A of the BCZR;
3. For a side yard setback of 5' for an existing building in lieu of the required 50' from the property line, with a 0' vegetative buffer per Section 424.7.B of the BCZR;
4. For a rear setback of 5' for an existing building in lieu of the required 50' from the property line, with a 0' vegetative buffer per Section 424.7.B of the BCZR;
5. To permit an existing parking area to be located in the front yard in lieu of the side or rear yards per Section 424.7.C of the BCZR;
6. To permit the maximum impervious surface area for two existing buildings and existing macadam parking greater than 25% of gross area per Section 424.7.E of the BCZR;
7. To permit an existing chain link fence with a height of 4' and 0' from the property line in lieu of the minimum 5' wood stockade or panel fence being 20' from the property line per Section 424.1.B of the BCZR;
8. To permit a 0' RTA setback in lieu of the required 75' RTA setback per Section 1B01.1.B.1.e (3 and 5); and
9. To permit a 0' RTA buffer in lieu of the required 50' RTA buffer per Section 1B01.1.B.1.e (3 and 5).

The subject site is an approximately 0.344 acre parcel on Belair Road in the Nottingham area. It is improved with two buildings – a 2,221 square foot, two-story brick building, which is used as an office and a 1,020 square foot, one-story wood frame building, which is the subject of this Zoning Case – and

associated parking. Also on the site is an existing shed and an existing chain link fence. The subject site has one ingress/egress point from Belair Road. Per the petition and submitted site plan, the Petitioner wishes to convert the rear, one-story wood frame building into a Class B group child care center. Per the site plan, the facility is proposed to have up to 20 children and 3 employees at any one time. The facility is proposed to be open Monday through Friday, 7 AM to 6 PM.

Uses surrounding the subject site vary. Along Belair Road, uses are primarily commercial and include a fire station, a CPA tax office, a doctor's office, various insurance agencies, and an assisted living facility. Behind the subject site, along Darnall Road, uses are primarily residential dwellings. The dwellings range in size from one to two stories and appear to be well maintained, per Google Streetview from July of 2022.

The site is within the boundary of the Perry Hall Community Plan, adopted February 22nd, 2011. The plan provides background information on the plan area, as well as recommendations on building strong neighborhoods, improving mobility, being environmental stewards, providing outstanding school learning centers, and creating a strong sense of place. The plan calls out the "family-friendly atmosphere" and the existence of multiple churches, schools, recreation centers, and senior centers, however, it does not provide guidance specific to daycare facilities within the plan area boundary (page 15).

The Department of Planning contacted the representative for the petition via email on April 5th, 2024 seeking additional information on the petition. In a April 6th, 2024 reply, the representative explained that the rear building is currently vacant and has been updated by the proposed daycare owner; the existing 4' tall, chain link fences are proposed to be maintained because they are in very good shape; and there is a natural vegetative buffer around the building, all of which will be maintained. In the email reply, the representative provided photos of the building, vegetative buffer, and existing fence, which are included at the end of this memo.

While the Department of Planning has no objections to the existing location of the fence, the Department recommends the existing 4' tall chain link fence be replaced with a 5' tall wooden stockade or panel fence. The fence appears to be adjacent to a split rail fence and parking lot at 9335 Belair Road and a vinyl privacy fence at 4209 Darnall Road. The replacement of the chain link fence with a wooden stockade fence will increase privacy for the child care facility outdoor play area and will improve the overall visual appearance of the site.

The Department of Planning has no objections to the requested Special Exception or any of the remaining Variance requests. The use appears to fit with its surroundings, which are a mix of commercial and residential uses. Further, many of the requests are for existing conditions; approval of the Variances will allow for the Petitioner to revitalize the vacant structure.

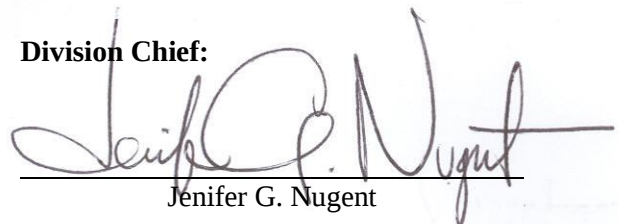
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

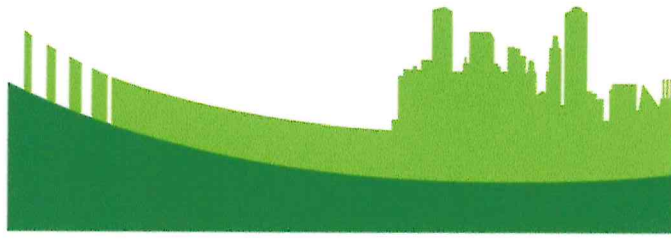
SL/JGN/KP

c: Bruce E. Doak
Ainsley Pressl, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

Photos provided by the representative for the petition via email on April 6th, 2024:







CERTIFICATE OF POSTING

April 09, 2024

_____ amended for second inspection

Re:

Zoning Case No.2024-0080-XA

Legal Owner: Rosario & Filippo Caccamisi

Hearing date: May 01, 2024

Baltimore County Department of Permits, Approvals & Inspections

County Office Building

111 West Chesapeake Avenue, Room 111

111 West Chesapeake Avenue Towson, MD 21204

Attention: Jeff Perlow

Ladies and Gentlemen,

This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at **9333 Belair Road**.

The signs were initially posted on **April 9, 2024**.

The subject property was also inspected on _____.

Sincerely,

A handwritten signature in blue ink that reads "Bruce E. Doak". The signature is stylized with a large "B" and "D".

Bruce E. Doak

MD Property Line Surveyor #531

See the attached sheets for the photos of the posted signs

Bruce E. Doak Consulting, LLC

3801 Baker Schoolhouse Road

Freeland, MD 21053

410-419-4906 cell / 443-900-5535 office

bdoak@bruceedoakconsulting.com

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 # 2024-0080-XA

9333 Belair Road Nottingham, MD 21236
(SS of Belair Road, 90 ft. W of Darnell Road)
Council District 5, Election District 11
Rosario Caccamisi & Filippo Cassamisi

PETITION REQUEST: Special Exception: From the Baltimore County Zoning Regulations ("BCZR") Section 202.3.B and 1B01.1.C.6 to permit a Class B group childcare center providing for up to 40 children. **Variance:** For a 0.344 of an acre lot in lieu of the required 1.0 acre lot for the first 40 children per Section 424.7.A BCZR. For a side setback of 5 ft. for an existing building in lieu of the required 50 ft. from the property line, with a 0 ft. vegetative buffer per Section 424.7.B BCZR. To permit an existing parking area to be located in the front in lieu of the side or rear yards per Section 424.7.C BCZR. To permit the maximum impervious surface area for two existing buildings and existing macadam parking greater than 25% of gross area per Section 424.7.E BCZR. To permit a chain link fence with a height of 4 ft. and 0 ft. from the property line, in lieu of the minimum of 5 ft. wood stockade or panel fence being 20 ft. from the property line per Section 424.1.B BCZR. To permit a 0 ft. RTA setback in lieu of the required 75 ft. RTA setback per Section 1B01.1.B.1. (3&5). To permit a 0 ft. RTA buffer in lieu of the required 50 ft. RTA buffer per Section 1B01.1.B.1.e (3&5).

Hearing Date: Wednesday, May 1, 2024 at 1:30 p.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 410-887-1308 ext 1

Email: administrativehearings@balto.org

1A-SPR-2024-0080-XA

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HANDICAPPED ACCESSIBLE

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

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HANDICAPPED ACCESSIBLE

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

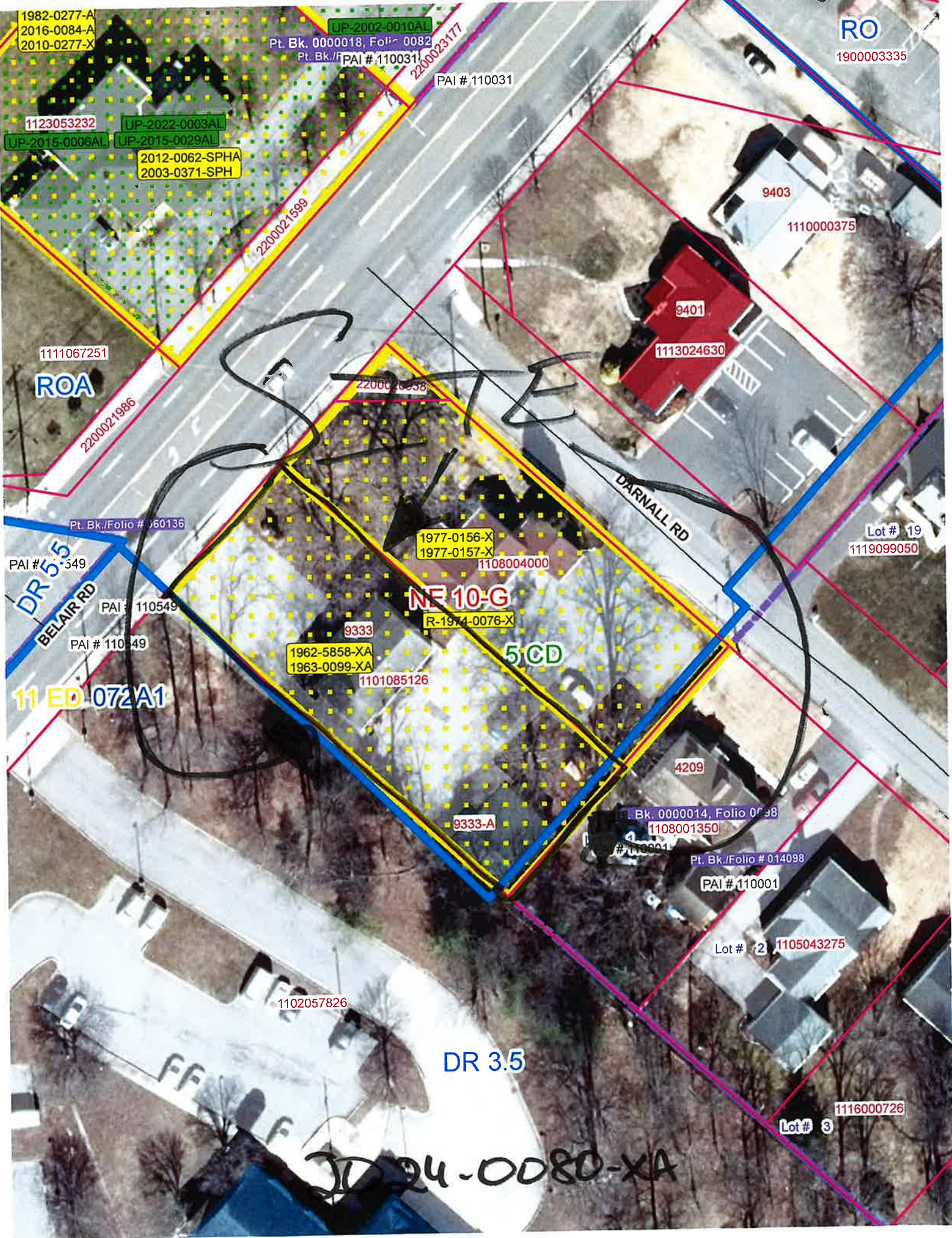
DATE: March 28, 2024

FROM: Derek M. Chastain
Bureau of Building Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0080-A

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

BPR: If building is closer than 5' from property line, please provide a 1-hour fire resistive rated wall in accordance with International Building Code, 2015 edition, Table 602.



1982-0277-A
2016-0084-A
2010-0277-X

UP-2002-0010AL

Pt. Bk. 0000018, Folio 0082
Pt. Bk. / PAI # 110031

PAI # 110031

RO

1900003335

1123053232

UP-2022-0003AL

UP-2015-0029AL

2012-0062-SPHA
2003-0371-SPH

2200021599

1111067251

ROA

2200021986

Pt. Bk./Folio # 060136

PAI # 110549

PAI # 110549

PAI # 110549

11 ED 072A1

1977-0156-X
1977-0157-X

1108004000

NE 10-G

R-1974-0076-X

5CD

9333

1962-5858-XA
1963-0099-XA

1101085126

9333-A

4209

Bk. 0000014, Folio 0038
1108001350

1108001

Pt. Bk./Folio # 014098

PAI # 110001

Lot # 2 1105043275

1102057826

DR 3.5

1116000726

Lot # 3

ID 24-0080-XA

**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-CD80-XA

Property Address: 9333 BELAIR ROAD

Property Description: 0.344 AC. SOUTH SIDE OF BELAIR ROAD - 90'±
WEST OF 4 DARNALL ROAD

Legal Owners (Petitioners): ROSARIO R. CACCAMISI TRUSTEE & FILIPPO E.

Contract Purchaser/Lessee: N/A CACCAMISI TRUSTEE

PLEASE FORWARD ADVERTISING BILL TO:

Name: BRUCE E. DOAK

Company/Firm (if applicable): BRUCE E. DOAK CONSULTING LLC

Address: 3801 BAKER SCHOOLHOUSE ROAD
FREELAND MO 21053

Telephone Number: 410-419-4906

Revised 5/20/2014

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

No. 229855

Date: 3-26-2024

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		0150				1000.00

Total: 1000.00

Rec From: 9333 Belair Rd

For: 2023-0080-XA

RA, AR35

DISTRIBUTION

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

**CASHIER'S
VALIDATION**

CF 24-0243

282111107 NEW 01/21 8810004306

HOLD DOCUMENT AT ANGLE TO VIEW ARTIFICIAL WATERMARK ON BACK

CHASE

CASHIER'S CHECK

HOLD DOCUMENT AT ANGLE TO VIEW ARTIFICIAL WATERMARK ON BACK

2008600272 25-3
440

Date 03/09/2024

Void after 7 years

Remitter: TORI LACHELLE STENNETT

Pay To The Order Of: BALTIMORE COUNTY MD

Pay: ONE THOUSAND DOLLARS AND 00 CENTS

\$\$\$ 1,000.00 **

Do not write outside this box

Memo:

Note: For information only. Comment has no effect on bank's payment.

Drawer: JPMORGAN CHASE BANK, N.A.

Rebecca Griffin

Rebecca Griffin, Chief Administrative Officer
JPMorgan Chase Bank, N.A.
Columbus, OH



⑈ 2008600272⑈ ⑆044000037⑆ 758661318⑈

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

View Map View GroundRent Redemption View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 11 Account Number - 1101085126

Owner Information

Owner Name: CACCAMISI ROSARIO R TRUSTEE Use: COMMERCIAL
CACCAMISI FILIPPO E TRUSTEE Principal Residence: NO

Mailing Address: 16 LIBERTY RIDGE CT Deed Reference: /11452/ 00381
OWINGS MILLS MD 21117-4619

Location & Structure Information

Premises Address: 9333 BELAIR RD Legal Description: .344 AC
0-0000 75 SW DARNALL RD

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0072 0008 0403 10000.04 0000 2022 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1958 2,221 SF 900 SF 15,000 SF 06

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements
Split Foyer YES SPLIT FOYER BRICK/ 4 2 full/ 1 half

Value Information

	Base Value	Value		
		As of 01/01/2022	As of 07/01/2023	As of 07/01/2024
Land:	202,500	202,500		
Improvements	118,100	213,500		
Total:	320,600	416,000	384,200	416,000
Preferential Land:	0	0		

Transfer Information

Seller: GREMPLE REALTY INC	Date: 02/28/1996	Price: \$165,000
Type: ARMS LENGTH IMPROVED	Deed1: /11452/ 00381	Deed2:
Seller: ASTON JOSEPH W	Date: 06/29/1987	Price: \$200,000
Type: ARMS LENGTH IMPROVED	Deed1: /07592/ 00819	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:

2024-0080-XA

GENERAL SITE INFORMATION

- Ownership: Rosario R. Caccamisi, Trustee & Filippo E. Caccamisi, Trustee
16 Liberty Ridge Court Owings Mills, MD 21117
- Address: 9333 Belair Road Nottingham, MD 21236
- Deed references: 11452/381
- Area: 0.344 acres (per deed & SDAT)
- Tax Map / Parcel / Tax account #: 72 / 403 / 11-01-085126
- Election District: 11 Councilmanic District: 5
ADC Map: GIS tile: 072A1 Position sheet: 40NE28
Census tract: 411303 Census block: 24005411303
Schools: Perry Hall ES Perry Hall MS Perry Hall HS
- The boundary shown hereon is from the deed recorded in the Land Records of Baltimore County. All other information shown hereon was taken from Baltimore County GIS tile 072A1 and the information provided by Baltimore County on the internet.
- Improvements: (2) buildings & parking lot. The existing buildings and parking lot will remain.

OFFICE OF ZONING

Zoning: ROA & DR 3.5

Section 202.3.B BCZR (ROA) Uses permitted by special exception and as limited in DR 3.5 zones.
Section 1801.1.C.6 BCZR (DR) Principal use Class A and Class B group child care centers providing for up to 40 children, if located in a residential transition area.

Zoning History:

Case #1962-5858-XA	Withdrawn
Case #1963-0099-XA	Denied
Case #R 1957-4316	Petition for Reclassification

Residential Transition Area (RTA)

The entire subject property lies within the residential transition area (RTA)

Setbacks for Group Centers in DR Zones (Section 424.7 BCZR)

Front: 25 feet from street line or average setback of adjacent dwellings
Side: 50 feet from the property line, with 20 feet of perimeter vegetative buffer
Rear: 50 feet from the property line, with 20 feet of perimeter vegetative buffer

ENVIRONMENTAL IMPACT

Watershed: Gwynns Falls URDL land type: 1

- The existing buildings are served by public water and sewer.
- There are no underground storage tanks on the subject property.
- The subject property is not in the Chesapeake Bay Critical Area.
- The subject property is not located within a 100 year flood plain.

OFFICE OF PLANNING

Regional Planning District: Perry Hall / White Marsh District Code: 317

- The subject buildings are not historic. The subject property is not in a historic district.

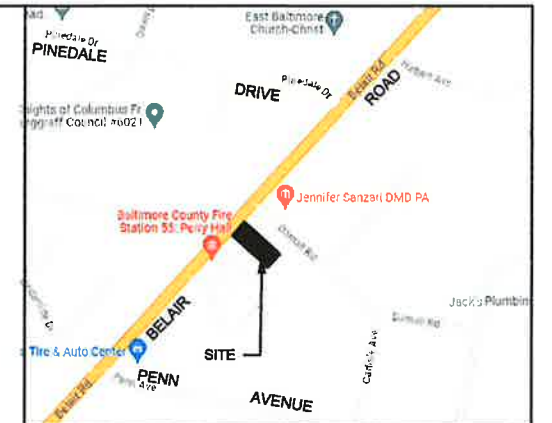
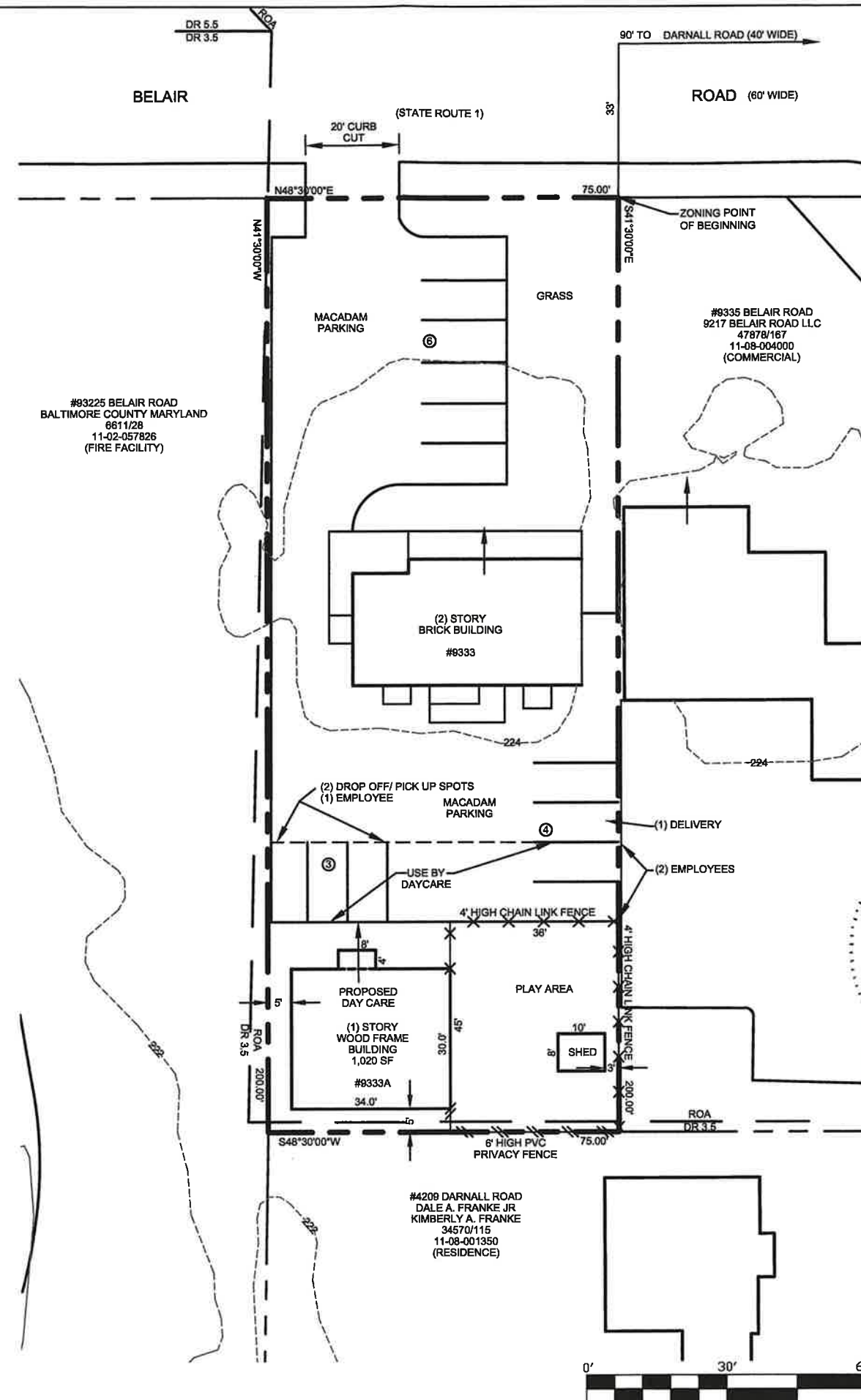
PROPOSED DEVELOPMENT

To utilize the rear one story building and 5 parking spaces as a Class B Group Child-Care Center for up to 40 children. The play area has been fenced in with a 4' high chain link fence.

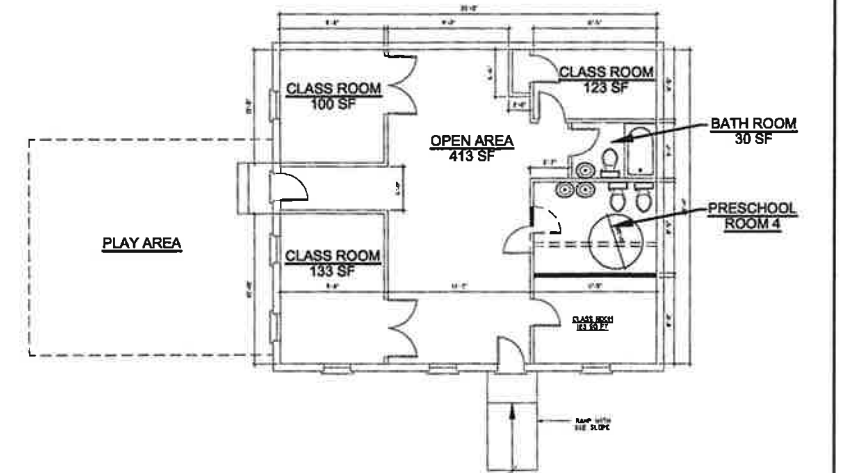
Number of children: 20
Number of Employees: 3 at any one time
Hours of Operation: M-F 7am- 6pm

EXISTING USES & PARKING CALCULATIONS FOR 9333 BELAIR ROAD

Building	Office	2,221 sf	8 parking spaces req.
Building	Group Child-Care Center	1,020 sf	5 parking spaces req.
Total required and requested parking spaces:			13 parking spaces
Total parking spaces provided:			13 parking spaces
Estimated number of daily trips: 32 (these trips are staggered throughout the day)			



Vicinity Map - Scale: 1" = 800'



FLOOR PLAN



Bruce E. Doak Consulting, LLC
Land Use Expert and Surveyor
3801 Baker Schoolhouse Road
Fresland, MD 21053
o 443-900-5535 m 410-419-4906
bdoak@bruceedoakconsulting.com

PLAN TO ACCOMPANY
A ZONING PETITION
FOR
#9333 BELAIR ROAD

BALTIMORE COUNTY, MARYLAND
11th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT

Date: 6/22/2023

Scale: 1"=30'

REVISION
3/24/24 AMEND PER ZONING REVISION

2024-0080-XA