



KATHERINE A. KLAUSMEIER
County Executive

March 20, 2025

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

Stephen and Lisa Durst torchrunner@msn.com
1503 Green Valley Court
Bel Air MD 21015

RE: Petition for Variance
Case No. 2025-0020-A
Property: 2124 Rosalie Avenue

Dear Petitioners:

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,

DEREK J. BAUMGARDNER
Administrative Law Judge
for Baltimore County

DJB:dlm
Enclosure

c: Kim Skarda kim@shorelineconstruction.com
Bernadette Moskunas siteriteinc@aol.com
Kevin McDonough kevinmcdonough@comcast.net
People's Counsel peoplescounsel@baltimorecountymd.gov
Sheila Beall lilollie@hotmail.com

IN RE: PETITION FOR VARIANCE
(2124 Rosalie Avenue)
15th Election District
7th Council District
Stephen and Lisa Durst
Legal Owners

Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS OF
* BALTIMORE COUNTY
* **CASE NO. 2025-0020-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Stephen and Lisa Durst (“Petitioners”), owners of the property located at 2124 Rosalie Avenue (the “Property”). Petitioners request variance relief from Baltimore County Zoning Regulations (“BCZR”) §1B02.3.C.1, to permit the construction of a proposed replacement dwelling on a lot of record 50 ft. wide in lieu of the required 70 ft. minimum lot width, with a lot area of 8,050 sq. ft. in lieu of the required minimum lot area of 10,000 sq. ft., with a side yard setback of only 10 ft. in lieu of the required 15 ft. minimum side yard setback, and a sum of side yard setback of 20 ft. in lieu of the required 25 ft minimum sum requirement. The Petition further requests a variance from BCZR §400.1, to permit a proposed accessory structure (pool) to be located in the front yard in lieu of the required rear yard.

A public hearing was conducted on March 12, 2025, using the virtual platform WebEx in lieu of an in-person hearing. The Petition was properly advertised and posted. Petitioners appeared at the hearing and were assisted by Jon Skarda of Shore-Line Construction Enterprises, Inc. Kevin McDonough on behalf of the Rockaway Beach/Turkey Point Improvement Associations appeared in opposition to the Petition. The Office of People’s Counsel for Baltimore County noted their appearance and, having filed written objections, submitted on same.

Petitioners submitted the following exhibits which were admitted into the record: (1) Site Plan; (2) narrative statement; and (3) GIS map. The following Zoning Advisory Committee (“ZAC”) comments were received from county agencies: (1) Department of Planning (“DOP”); (2) Department of Plans Review (“DPR”) on behalf of DPR/DPWT/Rec & Parks; and (3) Department of Environmental Protection & Sustainability (“DEPS”). Formal comments from the Office of People’s Counsel were received and marked as County Exhibit 4. The following exhibits were received from the Rockaway Beach/Turkey Point Improvement Associations: (1) narrative; (2) SDAT report; (3) plat (pp. 1-3); (4) property deed; (5) aerial photographs (a-b); (6) OAH Opinion & Order in Case No. 2022-0140-SPHA; (7) SDAT report for 2122 Rosalie Avenue; (8) property deed for 2122 Rosalie Avenue; (9) obituary for Mrs. Jane Louise Brashears; (10) Register of Wills search database for Jane L. Brashears; (11) Register of Wills search database for George Brashears; (12) Last Will & Testament of George Brashears; (13) photographs (a-m); and (14) GIS (a-b).

Findings of Fact

The Property is approximately 8,050 sq. ft. in lot area and is zoned DR 3.5. Located in the Rockaway Beach subdivision, the property was platted in 1915 prior to the enactment of zoning regulations in Baltimore County. Due to its elevation and slope, although a waterfront lot, the majority of the property is not located within the boundaries of a regulated floodplain. Pet. Exhibit 1. The Property is 50 feet wide and 173 feet in depth. *Id.* Petitioners propose construction of a new single-family dwelling with accessory pool to replace an existing single-family dwelling on the lot. The surrounding community is single-family residential in nature.

Mr. Jon Skarda of Shore-Line Construction assisted Petitioners in their presentation. Mr. Skarda outlined the site plan and lot requirements as well as provided commentary on site

conditions and building restrictions. Petitioners, Mr. & Mrs. Durst, also testified in support of their Petition. They explained the history of the property and their taking of title to it for the express purposes of building a home for themselves. Mrs. Durst also expressed the desire to “build our waterfront dream house” and to enjoy the amenities of the community. Mrs. Durst further expressed the desire to improve the neighborhood with the planned construction on the lot. The Dursts also explained the title history to the adjacent lot located at 2122 Rosalie Avenue and that ownership was vested jointly in both Mrs. Hurst and her brother through their parents estate.

Mr. McDonough testified on behalf of the Rockaway Beach/Turkey Point Community associations. Reiterating the narrative statement submitted and received into evidence, Mr. McDonough expressed the Associations’ objections to the relief requested in the Petition and opined that the property could not satisfy the variance standards under BCZR and common law or the collateral relief standards outlined in BCZR §304. Mr. McDonough expressed the Associations’ view that the property could continue to be utilized for a single-family home but that all bulk regulations should be applied to the lot. Mr. McDonough further opined that while most of the lots in this community are only 50 ft. wide (as shown by the 1915 plat), many other properties in this community have “double lots” in order to conform to DR 3.5 [or the prior DR 5.5] regulations. In rebuttal, Mr. Skarda offered that other properties in the community had been granted similar variance relief in previous cases.

Conclusions of Law

Variance Relief under BCZR § 307.1

Petitioners request variance relief from Baltimore County Zoning Regulations (“BCZR”) §1B02.3.C.1, to permit the construction of a proposed replacement dwelling on a lot of record 50 ft. wide in lieu of the required 70 ft. minimum lot width; a lot area of 8,050 sq. ft. in lieu of the

required minimum lot area of 10,000 sq. ft.; with a side yard setback of only 10 ft. in lieu of the required 15 ft. minimum side yard setback and a sum of side yard setback of 20 ft. in lieu of the required 25 ft minimum sum requirement. The Petition further requests a variance from BCZR §400.1, to permit a proposed accessory structure (pool) to be located in the front yard in lieu of the required rear yard.

Pursuant to BCZR § 307.1, "...the [Administrative Law Judge] shall have ...the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare..." 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).

The Property was platted in 1915 prior to the enactment of zoning regulations in Baltimore County and improved with a single-family home since at least 1974 in what is presumed to be by-right development. The lot is waterfront, located within the Limited Development Area ("LDA") of the Chesapeake Bay Critical Area ("CBCA"), and steeply sloped – so much so that, even though it lies directly adjacent to Middle River, its elevation removes it from the floodplain. Previously

zoned DR 5.5, it was downzoned in 1996 to DR 3.5. While its current zoning and location within the CBCA limit its development, construction is not barred outright. For all these reasons, I find that the property is unique under the *Cromwell* standard. Denial of the requested variances for the accessory structure (pool), minimum lot width, and minimum lot area would cause Petitioners to experience a practical difficulty or hardship and the peculiarity of the land itself necessitates variance relief. Moreover, I find that these variances are within the spirit and intent of the BCZR and they will not harm the public health, safety or welfare. Petitioners propose to use the property for a single-family dwelling in a subdivision comprised almost entirely of single-family dwellings. This serves to further the purpose and intent of both BCZR and the original platted subdivision.

However, with respect to side yard setbacks, there has been no showing in this record of practical difficulty or hardship with respect to those side yard setback requirements. “The burden of showing facts to justify ... [a] variance rests upon the applicant[.]” *Chesley v. City of Annapolis*, 176 Md. App. 413, 427–28, 933 A.2d 475, 484 (2007) (citing 428 *Easter v. Mayor of Baltimore*, 195 Md. 395, 400, 73 A.2d 491 (1950)). In *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 734 A.2d 227 (1999), the Court of Appeals recognized that the purpose of zoning restrictions is “to prevent exceptions as far as possible,” so that the specific need for the variance “must be substantial and urgent and not merely for the convenience of the applicant[.]” *Id.* at 276, 734 A.2d 227 (citing *Carney v. City of Baltimore*, 201 Md. 130, 137, 93 A.2d 74 (1952)). *Chesley v. City of Annapolis*, 176 Md. App. 413, 432, 933 A.2d 475, 486–87 (2007).

The property remains improved with a single-family dwelling that can be renovated, razed, or reconstructed with a by-right single-family home, albeit on a more limited footprint than desired by Petitioners. Absent relevant facts and circumstances indicating otherwise, the mere desire for a larger home constitutes self-created hardship that is expressly prohibited as grounds for granting

a variance. “As these cases make clear, the critical issue in determining whether a hardship is self-created is whether the property owner could have avoided the need for a variance.” *Chesapeake Bay Found., Inc. v. DCW Dutchship Island, LLC*, 439 Md. 588, 623, 97 A.3d 135, 156 (2014). There was no testimony or evidence offered to suggest that a single-family dwelling could not be constructed on this property while adhering to setback requirements and the mere desire for a larger home is a self-created hardship. For that reason, the request for side setback variances does not meet the second prong of the *Cromwell* standard and, accordingly, is denied. Further, I find that the requested side yard setback variances are not within the spirit and intent of the BCZR. This community was downzoned in 1996 with the express purpose of controlling overall density and impact on neighboring properties. Granting variances to setback requirements for this property would not serve the spirit and intent of the DR 3.5 zone.

Paraphrasing ALJ Mayhew in OAH Case No. 2022-0140-SPHA, as a dwelling can be constructed on the subject lot which meets the setback requirements, community members are entitled to the enforcement of these setbacks because “citizens [of a given county or municipality] are entitled to strict enforcement of the existing zoning regulations.” *Salisbury Bd. Of Zoning Appeals v. Bounds*, 240 Md. 547, 555-56 (1965). Moreover “the specific need for the variance must be substantial and urgent and not merely for the convenience of the applicant.” *Mueller*, 177 Md. App. at 70.

Collateral Relief under BCZR § 304

This case can be dually analyzed under BCZR § 304 where the high-bar standards of uniqueness and practical difficulty/hardship need not be met if the facts establish protection under the regulation’s express language. *See Mueller v. People’s Counsel*, 177 Md. App. 43, 86-87 (2007). Evaluation through BCZR §307.1 and common law can be harmonized with BCZR §304

as detailed more thoroughly below. BCZR §304 provides as follows:

Except as provided in Section 4A03, a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;

B. All other requirements of the height and area regulations are complied with;
and

C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

I find that the instant case satisfies the three requirements of BCZR § 304. The Property was platted in 1915 and has existed with a 50 ft. lot width and 8,050 lot area since that time, satisfying BCZR § 304.A. Further, it appears that the lot can be developed without the need for additional variances for setbacks or other bulk regulations in satisfaction of BCZR § 304.B. The denial of the side yard setback variance requested under this Petition relegates this lot to by-right development which merely needs to conform to Baltimore County's development and building regulations therefore satisfying BCZR § 304.C. Lastly, as in *Mueller*, supra, Petitioner, Lisa Durst, does not own sufficient *undeveloped* adjoining land to allow the subject lot to conform with the DR 3.5 width and area requirements. The adjacent lot at 2122 Rosalie Avenue has been improved by a single-family dwelling since 1956. Title passed to Mrs. Durst in joint tenancy through the estate of her father in 2024. Therefore, while adjacent, Mrs. Durst does not have sufficient excess width or area to convey to the subject lot in order to make it conforming, nor does she possess fee simple title in her name only to allow her to exercise full control over the adjacent lot. For these reasons, the express requirements of BCZR § 304A-B are satisfied with respect to lot width and area.

THEREFORE, IT IS ORDERED, this 20th day of **March, 2025**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR, Section

1B02.3.C.1 to permit the construction of a proposed replacement dwelling on a lot of record 50 ft. wide in lieu of the required 70 ft., with a lot area of 8,050 sq. ft. in lieu of the required 10,000 sq. ft., and from BCZR Section 400.1 to permit a proposed accessory structure (pool) to be located in the front yard in lieu of the required rear yard be, and are hereby, **GRANTED**; and

IT IS FURTHER ORDERED, that the Petition for Variance pursuant to BCZR, Section 1B02.3.C.1 to have an individual side yard setback of 10 ft. in lieu of the required 15 ft., and the sum of side yard setback of 20 ft. in lieu of the required 25 ft. be, and are hereby **DENIED**.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition;
2. Petitioners must comply with Planning, DEPS, ad DPR comments, copies of which are attached hereto and made a part hereof; and
3. Petitioners must revise and resubmit a redlined Site Plan to OAH with copies to Planning and DPR indicating modifications in conformance with this Opinion & Order. Said Site Plan is hereby incorporated into this Opinion & Order.

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



DEREK J. BAUMGARDNER
Administrative Law Judge for
Baltimore County

DJB/dlm

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 13, 2025

SUBJECT: DEPS Comment for Zoning Item # 2025-0020-AFPH
Address: 2124 ROSALIE AVENUE
Legal Owner: Stephen & Lisa Durst

Zoning Advisory Committee Meeting of February 18, 2025.

The Department of Environmental Protection and Sustainability has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area (LDA) and is subject to Critical Area requirements. The applicant is proposing to permit a replacement dwelling on a lot of record 50 feet wide in lieu of the required 70 feet, with a lot area of 8,050 square feet (SF) in lieu of the required 10,000 SF, and to have an individual side yard setback of 10 feet in lieu of the required 15 feet and the sum of side yard setbacks of 20 feet in lieu of the required 25 feet. The lot is waterfront and is within a Modified Buffer Area (MBA). Any proposed development must meet all LDA and MBA requirements, including lot coverage limits, MBA mitigation, and afforestation requirements. Lot coverage is limited to a maximum of 31.25% (2,516 SF), with mitigation required for any new lot coverage between 25% and 31.25%.

The submitted plan proposes 2,340 SF of lot coverage, which is permissible with mitigation for the lot coverage above 25%. 15% afforestation (2 trees) may be required depending on the number of existing trees. Mitigation for any new

impacts to the MBA will be required and no buffer impacts are permitted within 25 feet of the water without an approved Critical Area Variance. Total impact from accessory structures and additions in the MBA cannot exceed 1,000 SF within 100 feet of the water, 750 SF within 75 feet of the water, and 500 SF within 50 feet of the water. The quantity of proposed impacts to the MBA have not been provided. If the lot coverage, afforestation, and MBA mitigation requirements are met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This property is waterfront and is within a Modified Buffer Area (MBA). The property must meet all lot coverage, afforestation requirements, and any MBA mitigation requirements. If lot coverage, afforestation, and MBA mitigation requirements are met, this request will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

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;

Provided that the applicants meet their lot coverage, afforestation, and MBA mitigation requirements, then the relief requested will be consistent with the established land-use policies

Additional Comments:

All requirements of the approved CAAV (Tracking #07-24-4212) must be met prior to approval of any future permits for this property by EIR.

Reviewer: Art Garcia

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: February 11, 2025

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2025-0020-AFPM

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

DPR: Petitioner must demonstrate how they have met all Considerations for Variances as outlined in Baltimore County Code 32-8-703.

DPW-T: The proposed site is North of the coordinates described in County Code 32-8-201(J)(2) so the tidal base flood elevation is 8.5. All proposed living spaces must be elevated above the base flood elevation plus the required freeboard as outlined in Bill 6-24, the current County Code. Any area below this elevation cannot be used for living space, storage only, or flood proof materials must be used. The LiMWA is not on the property.

Landscaping: No comment.

Recreations & Parks: No comment LOS & No Greenways affected.

**BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM**

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

DATE: 2/24/2025

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

INFORMATION: Case Number: 2025-0020-A
Property Address: 2124 Rosalie Avenue, Essex
Petitioner: Stephen and Linda Durst
Zoning: DR 3.5
Requested Action: Variance

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

Variance(s) -

1. From Section 1B02.3.C.1 of the Zoning Regulations of Baltimore County, to permit the construction of a proposed replacement dwelling on a lot of record 50 feet wide in-lieu of the required 70 feet, with a lot area of 8,050 square feet in-lieu of the required 10,000 square feet; and to have an individual side yard setback of 10 feet in lieu of the required 15 feet, and the sum of the side yard setback of 20 feet in-lieu of the required 25 feet.
2. From Section 400.1 of the Zoning Regulations of Baltimore County, to permit a proposed accessory structure (pool) to be located in the front yard in-lieu of the required rear yard.

The subject site is a 50-foot-wide undersized lot, a common characteristic in the Essex area. It is currently developed with a one-story, single-family dwelling, a shed, and a parking pad, all of which are slated for removal. According to the site plan, the owner proposes to construct a new single-family dwelling with a front porch, a concrete patio, a parking pad, and a pool in the front yard facing the Middle River.

A portion of the 9,147-square-foot lot falls within the Chesapeake Bay Critical Area (CBCA), which permits a maximum lot coverage of 31.25%, or 2,515.6 square feet. However, the proposed improvements are situated outside the CBCA, and the total proposed lot coverage of 2,340 square feet, or 29.07%, remains within the allowable CBCA constraints.

The lot's narrow width of 50 feet and limited area impose building constraints and make it difficult to meet the required side setbacks for the proposed dwelling. In this situation, enforcing the required 15-foot side setbacks and a combined 25-foot total side yard setback would create an undue hardship. Furthermore, the proposed side setbacks are typical for an undersized lot such as this and are compatible with adjacent properties in the neighborhood.

Regarding the request to situate the pool in the front yard, waterfront properties typically have both the front of the house and the front yard facing the water, unlike traditional lots where the front faces a public road. In this case, the request to position the pool in the front yard facing the water is consistent with the neighborhood and a common practice for waterfront properties.

The Department of Planning has no objections to the requests.

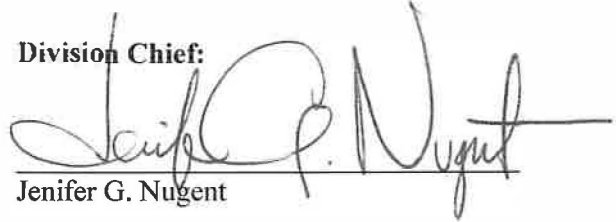
For further information concerning the matters stated herein, please contact Shawn Frankton at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Site Rite Surveying, Inc. c/o Bernadette Moskunas, Petitioner's Representative
Maria Mougridis, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County



PETITION FOR PUBLIC 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:

FOR OFFICE USE ONLY

CASE NUMBER 2025-0020-A Filing Date 1/27/2025 Do Not Schedule Dates: _____ Reviewer CF

Address 2124 Rosalie Avenue Currently Zoned DR3.5

Deed Reference 49189 / 192 10 Digit Tax Account # 1513554110

Owner(s) Printed Name(s) Stephen and Lisa Durst

(SELECT THE HEARING TYPE(S) BY MARKING AN X NEXT TO THE APPROPRIATE SELECTION(S) AND ADDING THE SPECIFIC PETITION REQUEST FOR EACH HEARING TYPE):

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the property description and plan/plat attached hereto and made a part hereof, hereby petition for:

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

If you need additional space for the special hearing petition requests above, you may add an attachment to this petition and check the "SEE ATTACHMENTS" box below:

SEE ATTACHMENTS (if box is checked)

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

If you need additional space for the special exception petition requests above, you may add an attachment to this petition and check the "SEE ATTACHMENTS" box below:

SEE ATTACHMENTS (if box is checked)

3. a **Variance** pursuant to the Zoning Regulations of Baltimore County Section(s)
see attached

If you need additional space for the variance petition requests above, you may add an attachment to this petition and check the "SEE ATTACHMENTS" box below:

SEE ATTACHMENTS (if box is checked)

(For Variance item 3 above, indicate below what is unique about your property resulting in hardship or practical difficulty or indicate below "UNIQUENESS AND HARDSHIP OR PRACTICAL DIFFICULTY TO BE PRESENTED AT HEARING").

see attached

If you need additional space describing what is unique about your property resulting in hardship or practical difficulty, you may add an attachment to this petition and check the "SEE ATTACHMENTS" box below:

SEE ATTACHMENTS (if box is checked)

2025-0020-A



Page 2 of Petition for Public Hearing(s)

~~4. X a Floodplain Management Variance pursuant to Baltimore County Code Section(s) 32-8-701 to permit a proposed replacement building/structure upon the petitioner demonstrating to the Administrative Law Judge (ALJ) that strict application of the requirements of these floodplain management provisions would not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the requirements of the provisions would result in unnecessary hardship.~~

~~If you need additional space for the floodplain management variance petition requests above, you may add an attachment to this petition and check the "SEE ATTACHMENTS" box below:~~

SEE ATTACHMENTS (if box is checked)

Property is to be posted and advertised as prescribed by the Zoning Regulations and/or Baltimore County Code. I/we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the laws and restrictions of the Zoning Regulations and/or Baltimore County Code.

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

Contract Purchaser/Lessee:

Legal Owners (Petitioners):

Name- Type or Print _____

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ / Telephone # _____ / Email Address _____

Stephen Durst / Lisa Durst
 Name #1 - Type or Print _____ Name #2 - Type or Print _____

Stephen Durst / *Lisa Durst*
 Signature #1 _____ Signature #2 _____

1503 Green Valley Court Bel Air, MD
 Mailing Address _____ City _____ State _____

21015 / 4439873749 / TorchRunner @
 Zip Code _____ Telephone # _____ Email Address _____ MSN.COM

Attorney for Petitioner:

Representative to be contacted:

Name- Type or Print _____

Signature _____

Mailing Address _____ City _____ State _____

Zip Code _____ / Telephone # _____ / Email Address _____

Site Rite Surveying, Inc c/o Bernadette Moskunus
 Name - Type or Print _____

Bernadette Moskunus
 Signature _____

200 E. Joppa Road, Room 105 Towson MD
 Mailing Address _____ City _____ State _____

21286 / 410-339-5413 / siteriteinc@aol.com
 Zip Code _____ Telephone # _____ Email Address _____

#2124 Rosalie Avenue Petition Attachment

Section 1B02.3.C.1 (BCZR) to permit the construction of a proposed replacement dwelling on a lot of record 50 feet wide in lieu of the required 70 feet, with a lot area of 8,050 square feet in lieu of the required 10,000 square feet, to have an individual side yard setback of 10 feet in lieu of the required 15 feet and the sum of side yard setback of 20 feet in lieu of the required 25 feet.

Section 400.1 BCZR to permit a proposed accessory structure (pool) to be located in the front yard in lieu of the required rear yard

~~Floodplain Management Variance pursuant to Baltimore County Code Section 32-8-701 to permit a proposed replacement building/structure upon the petitioner demonstrating to the Administrative Law Judge (ALJ) that strict application of the requirements of these floodplain management provisions would not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the requirements of the provisions would result in unnecessary hardship.~~

For such other and further relief as may be deemed necessary by the Administrative Law Judge

ZONING PROPERTY DESCRIPTION FOR #2124 ROSALIE AVENUE

Beginning at a point on the north side of Rosalie Avenue which is 40 feet wide at a distance of 760 feet east of the centerline of Greyhound Road which is 40 feet wide. Being Lot #94, in the subdivision of "Rockaway Beach" as recorded in Baltimore County Plat Book #4, Folio #171, containing 8,050 square feet, more or less. Located in the 15th Election District and 7th Council District.

This description is for zoning purposes only.

Michael V. Moskunas
Professional Land Surveyor
Reg. NO. 21175
Site Rite Surveying, Inc
200 E. Joppa Road
Room 105
Towson, MD 21286
(410)339-5413

2025-0020-A

**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: 2025-0020-A
Property Address: 2124 Rosalie Avenue
Legal Owners (Petitioners): Stephen and Lisa Durst
Contract Purchaser/Lessee: n/a

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Stephen Durst
Address: 1503 Green Valley Cour
Bel Air, MD 21015

Telephone Number: 443-987-3749

*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.

BACKGROUND

- Subject property is located on the north side of Rosalie Avenue (dead-end), east of Greyhound Road
- This is waterfront property improved with an existing one story dwelling in disrepair and not habitable (built 1974).
- Property is Lot 94 shown on a record plat originally dated 1915
- Property was purchased June 2024
- The lot road frontage of 50' and water frontage of 50' +/-
- As described in the General Notes on the plan exhibit.
 - Zoned DR3.5 with a lot area of 8,050 sq ft (SDAT)
 - Located in the Limited Development Area of the Chesapeake Bay Critical Area
 - Located in the Modified Buffer Area
 - Partially located in the Flood Plain area, need to comply with Flood Regulations
- No prior Zoning Hearings or contiguous ownership
- Environmental, Critical Area, Buffer Management and Flood Plain Regulations issues create a hardship for this property.
- The allowable lot coverage is 31.25% under the Critical Area Regulations grandfathered exceptions with mitigation required above 25%
- The area is served by public water and sewer

UNIQUENESS

- This property is in DR3.5 zoning classification presently existing was not imposed at the conception of the record plat (plat existed prior to the adoption of the 1945 Zoning regulations)
- The proposed replacement dwelling does not increase the allowable density units and is compatible with the neighborhood development.
- Although the lots shown on the plat are predominately 50' wide, the lot areas differ due to the water edge and sea wall configurations
- This area is riddled with zoning relief whether applied for under a variance or special hearing. It is clear that the current zoning has created a hardship and practical difficulty.
- The variance relief requested is within the spirit and intent of the BCZR and can be granted without injury to the health and safety of the surrounding neighborhood.

OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 235180

Date: 1-28-2025

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					75.00
001	806	0000		6150					75.00
Total:									150.00

Rec From: 2124 Rosalie Ave

For: 20250020.A

DR 3.5

DISTRIBUTION

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

CASHIER'S VALIDATION

CF 25-0057

SECURITY FEATURES INCLUDE TRUE WATERMARK PAPER, HEAT SENSITIVE ICON AND FOIL HOLOGRAM.



SHORE-LINE CONSTRUCTION
ENTERPRISES INC
4713B FORGE RD
PERRY HALL, MD 21128

M & T BANK
7-11/520

17984

FRALDARMOR

1/7/25

PAY TO THE ORDER OF

Baltimore County
Seventy five

\$ 75-

DOLLARS

MEMO

Dorst 2124 Rosalie Ave
21001



AUTHORIZED SIGNATURE

SITE RITE SURVEYING INC

200 E JOPPA RD STE 105
TOWSON, MD 21286-3106

05-00

8621

DATE 28 Jan. 25

15-3/540
403

CHECK ARMOR

PAY TO THE ORDER OF

Baltimore County, MD

\$ 75⁰⁰

Seventy five dollars and no cents

DOLLARS

PNC BANK

PNC Bank, N.A. 040

FOR Rosalie PP Fee

Bernadette Mostannas

Photo Safe Deposit Details on back



Certificate of Posting

Case# 2025-0020-A

Petitioner/Developer

Kim SKARDA

Shoreline Construction

Date of Hearing/Closing

March 12, 2025

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

2124 Rosalie Avenue on February 19, 2025 Signs 1A & 1B

Sincerely, Martin Ogle

Martin Ogle

9912 Maidbrook Road

Parkville, Md. 21234

443-629-3411

**BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM**

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

DATE: 2/24/2025

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

INFORMATION: Case Number: 2025-0020-A
Property Address: 2124 Rosalie Avenue, Essex
Petitioner: Stephen and Linda Durst
Zoning: DR 3.5
Requested Action: Variance

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

Variance(s) -

1. From Section 1B02.3.C.1 of the Zoning Regulations of Baltimore County, to permit the construction of a proposed replacement dwelling on a lot of record 50 feet wide in-lieu of the required 70 feet, with a lot area of 8,050 square feet in-lieu of the required 10,000 square feet; and to have an individual side yard setback of 10 feet in lieu of the required 15 feet, and the sum of the side yard setback of 20 feet in-lieu of the required 25 feet.
2. From Section 400.1 of the Zoning Regulations of Baltimore County, to permit a proposed accessory structure (pool) to be located in the front yard in-lieu of the required rear yard.

The subject site is a 50-foot-wide undersized lot, a common characteristic in the Essex area. It is currently developed with a one-story, single-family dwelling, a shed, and a parking pad, all of which are slated for removal. According to the site plan, the owner proposes to construct a new single-family dwelling with a front porch, a concrete patio, a parking pad, and a pool in the front yard facing the Middle River.

A portion of the 9,147-square-foot lot falls within the Chesapeake Bay Critical Area (CBCA), which permits a maximum lot coverage of 31.25%, or 2,515.6 square feet. However, the proposed improvements are situated outside the CBCA, and the total proposed lot coverage of 2,340 square feet, or 29.07%, remains within the allowable CBCA constraints.

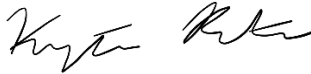
The lot's narrow width of 50 feet and limited area impose building constraints and make it difficult to meet the required side setbacks for the proposed dwelling. In this situation, enforcing the required 15-foot side setbacks and a combined 25-foot total side yard setback would create an undue hardship. Furthermore, the proposed side setbacks are typical for an undersized lot such as this and are compatible with adjacent properties in the neighborhood.

Regarding the request to situate the pool in the front yard, waterfront properties typically have both the front of the house and the front yard facing the water, unlike traditional lots where the front faces a public road. In this case, the request to position the pool in the front yard facing the water is consistent with the neighborhood and a common practice for waterfront properties.

The Department of Planning has no objections to the requests.

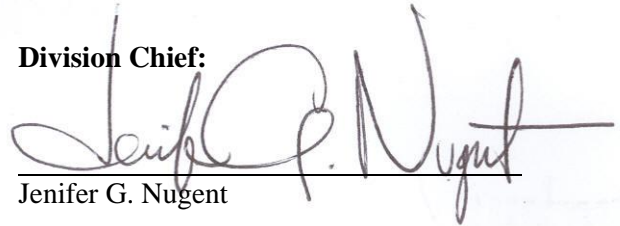
For further information concerning the matters stated herein, please contact Shawn Frankton at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Site Rite Surveying, Inc. c/o Bernadette Moskunas, Petitioner's Representative
Maria Mougridis, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: February 11, 2025

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2025-0020-AFPM

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

DPR: Petitioner must demonstrate how they have met all Considerations for Variances as outlined in Baltimore County Code 32-8-703.

DPW-T: The proposed site is North of the coordinates described in County Code 32-8-201(J)(2) so the tidal base flood elevation is 8.5. All proposed living spaces must be elevated above the base flood elevation plus the required freeboard as outlined in Bill 6-24, the current County Code. Any area below this elevation cannot be used for living space, storage only, or flood proof materials must be used. The LIMWA is not on the property.

Landscaping: No comment.

Recreations & Parks: No comment LOS & No Greenways affected.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: February 13, 2025

SUBJECT: DEPS Comment for Zoning Item # 2025-0020-AFPH
Address: 2124 ROSALIE AVENUE
Legal Owner: Stephen & Lisa Durst

Zoning Advisory Committee Meeting of February 18, 2025.

The Department of Environmental Protection and Sustainability has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area (LDA) and is subject to Critical Area requirements. The applicant is proposing to permit a replacement dwelling on a lot of record 50 feet wide in lieu of the required 70 feet, with a lot area of 8,050 square feet (SF) in lieu of the required 10,000 SF, and to have an individual side yard setback of 10 feet in lieu of the required 15 feet and the sum of side yard setbacks of 20 feet in lieu of the required 25 feet. The lot is waterfront and is within a Modified Buffer Area (MBA). Any proposed development must meet all LDA and MBA requirements, including lot coverage limits, MBA mitigation, and afforestation requirements. Lot coverage is limited to a maximum of 31.25% (2,516 SF), with mitigation required for any new lot coverage between 25% and 31.25%.

The submitted plan proposes 2,340 SF of lot coverage, which is permissible with mitigation for the lot coverage above 25%. 15% afforestation (2 trees) may be required depending on the number of existing trees. Mitigation for any new

impacts to the MBA will be required and no buffer impacts are permitted within 25 feet of the water without an approved Critical Area Variance. Total impact from accessory structures and additions in the MBA cannot exceed 1,000 SF within 100 feet of the water, 750 SF within 75 feet of the water, and 500 SF within 50 feet of the water. The quantity of proposed impacts to the MBA have not been provided. If the lot coverage, afforestation, and MBA mitigation requirements are met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This property is waterfront and is within a Modified Buffer Area (MBA). The property must meet all lot coverage, afforestation requirements, and any MBA mitigation requirements. If lot coverage, afforestation, and MBA mitigation requirements are met, this request will help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

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;

Provided that the applicants meet their lot coverage, afforestation, and MBA mitigation requirements, then the relief requested will be consistent with the established land-use policies

Additional Comments:

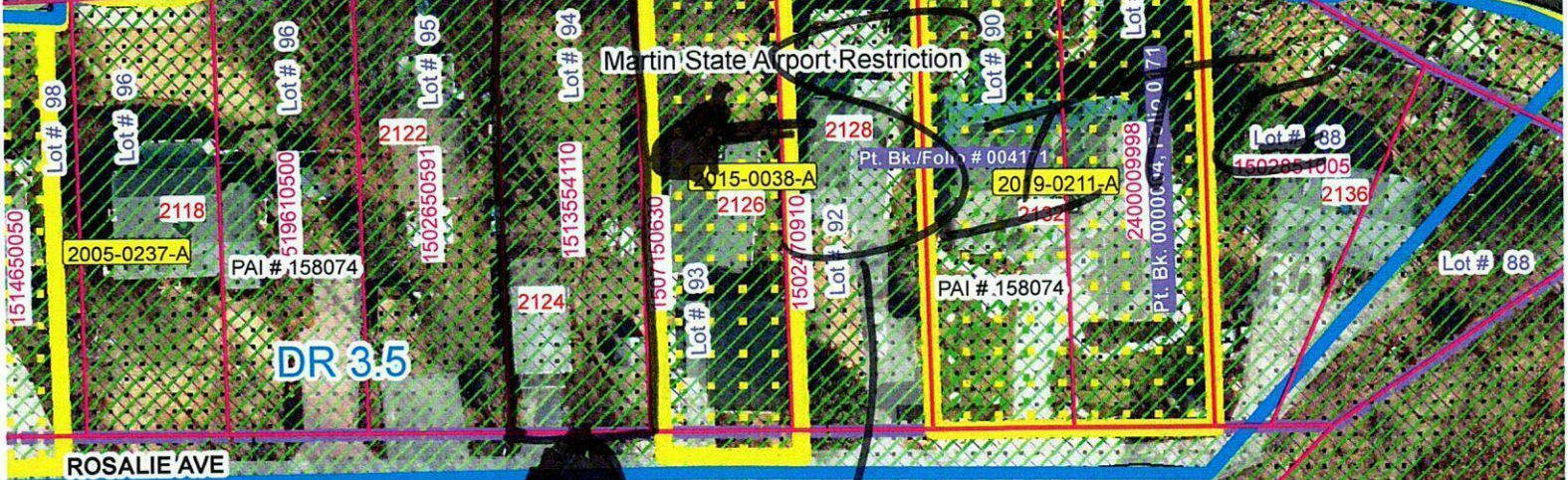
All requirements of the approved CAAV (Tracking #07-24-4212) must be met prior to approval of any future permits for this property by EIR.

Reviewer: Art Garcia

098B2

NE 1-J

Martin State Airport Restriction



DR 3.5

ROSALIE AVE

Back River Neck District

7 CD

15 ED

Bowleys Quarters-Back River Neck Area

PAI # 158073

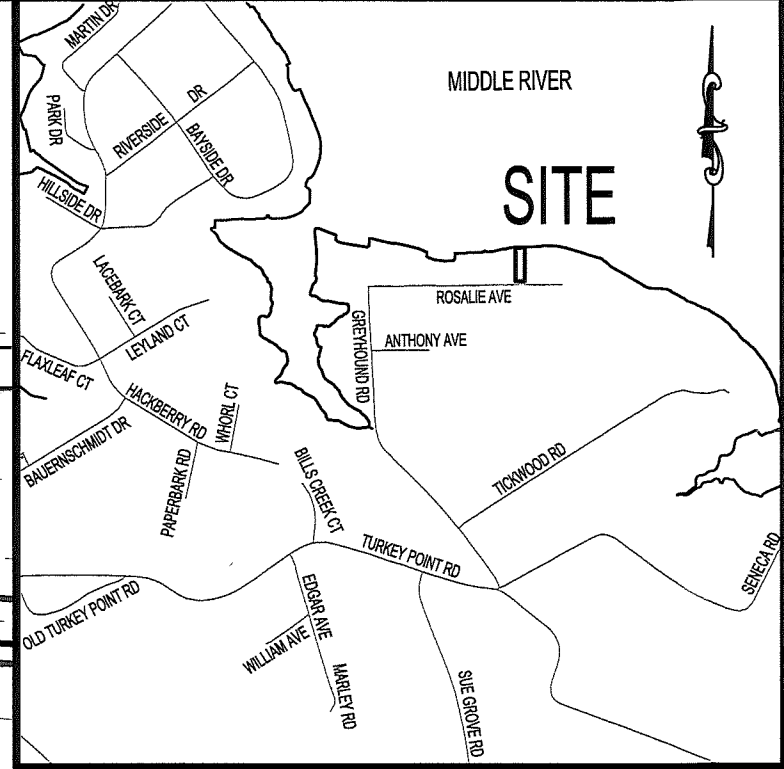
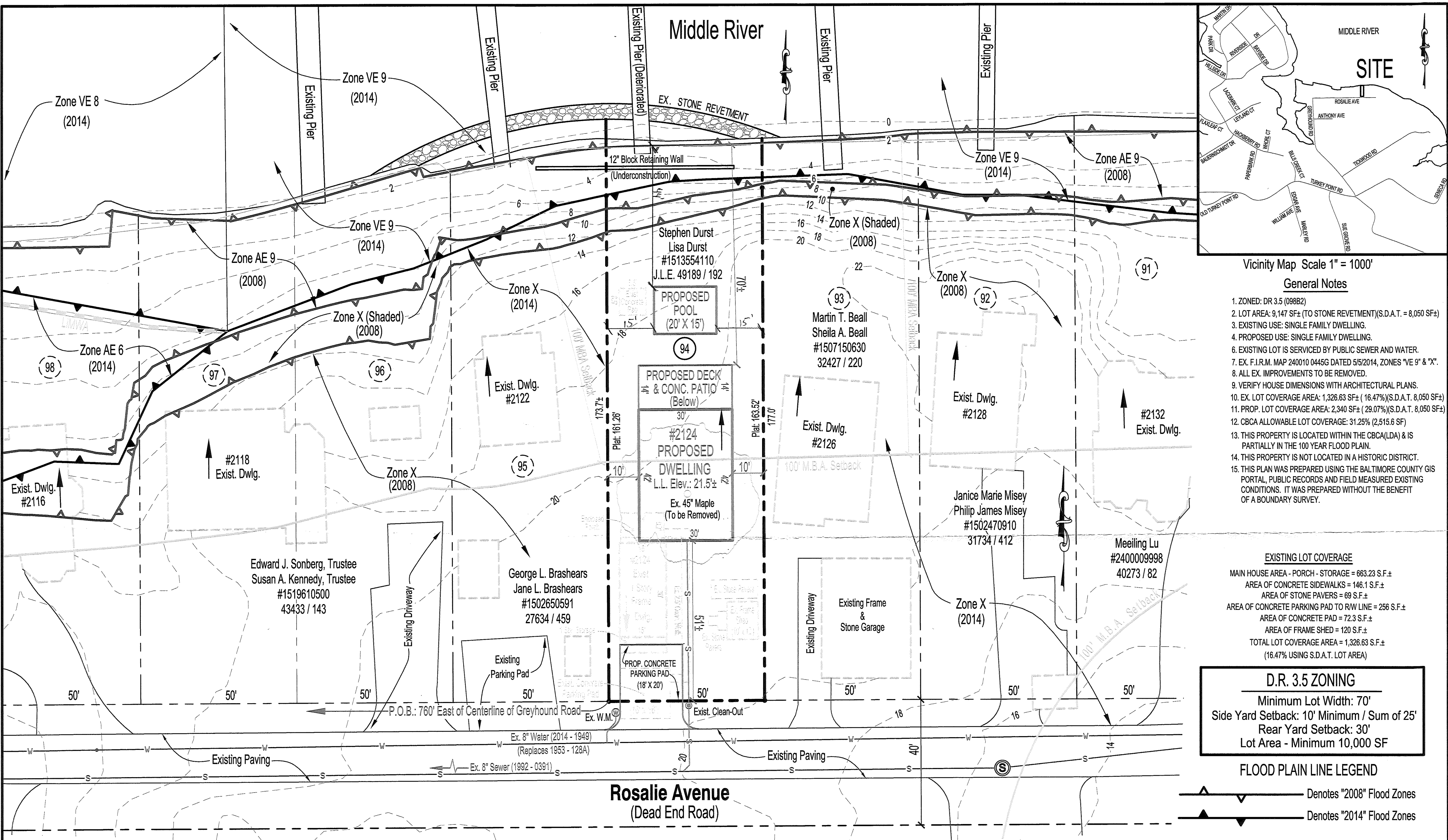
RC 20

Pt. Bk./Folio # 007112B

1502191002

PAI # 158073

2025-05-20A



Vicinity Map Scale 1" = 1000'

General Notes

1. ZONED: DR 3.5 (088B2)
2. LOT AREA: 9,147 SF± (TO STONE REVETMENT)(S.D.A.T. = 8,050 SF±)
3. EXISTING USE: SINGLE FAMILY DWELLING.
4. PROPOSED USE: SINGLE FAMILY DWELLING.
6. EXISTING LOT IS SERVICED BY PUBLIC SEWER AND WATER.
7. EX. F.I.R.M. MAP 240010 0445G DATED 5/5/2014, ZONES "VE 9" & "X".
8. ALL EX. IMPROVEMENTS TO BE REMOVED.
9. VERIFY HOUSE DIMENSIONS WITH ARCHITECTURAL PLANS.
10. EX. LOT COVERAGE AREA: 1,326.63 SF± (16.47%)(S.D.A.T. 8,050 SF±)
11. PROP. LOT COVERAGE AREA: 2,340 SF± (29.07%)(S.D.A.T. 8,050 SF±)
12. CBCA ALLOWABLE LOT COVERAGE: 31.25% (2,515.6 SF)
13. THIS PROPERTY IS LOCATED WITHIN THE CBCA(LDA) & IS PARTIALLY IN THE 100 YEAR FLOOD PLAIN.
14. THIS PROPERTY IS NOT LOCATED IN A HISTORIC DISTRICT.
15. THIS PLAN WAS PREPARED USING THE BALTIMORE COUNTY GIS PORTAL, PUBLIC RECORDS AND FIELD MEASURED EXISTING CONDITIONS. IT WAS PREPARED WITHOUT THE BENEFIT OF A BOUNDARY SURVEY.

EXISTING LOT COVERAGE

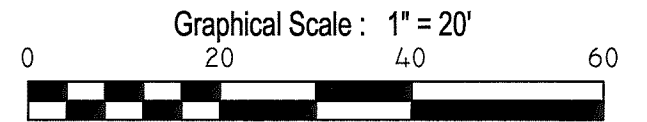
- MAIN HOUSE AREA - PORCH - STORAGE = 663.23 S.F.±
- AREA OF CONCRETE SIDEWALKS = 146.1 S.F.±
- AREA OF STONE PAVERS = 69 S.F.±
- AREA OF CONCRETE PARKING PAD TO R/W LINE = 256 S.F.±
- AREA OF CONCRETE PAD = 72.3 S.F.±
- AREA OF FRAME SHED = 120 S.F.±
- TOTAL LOT COVERAGE AREA = 1,326.63 S.F.± (16.47% USING S.D.A.T. LOT AREA)

D.R. 3.5 ZONING

- Minimum Lot Width: 70'
- Side Yard Setback: 10' Minimum / Sum of 25'
- Rear Yard Setback: 30'
- Lot Area - Minimum 10,000 SF

FLOOD PLAIN LINE LEGEND

- Denotes "2008" Flood Zones
- Denotes "2014" Flood Zones



Baltimore County Department of Recreation & Parks
#1502191002
4632 / 128

Zoning Relief being Requested from Section 1B02.3.C.1
 * Variance: Lot Area of 8,050 SF (S.D.A.T.) in Lieu of the required 10,000 sf.
 * Lot Width of 50' in Lieu of the required 70'.
 * Side Yard Setback 10' min. in Lieu of the required 15' and 20' in Lieu of the required sum of Side Yard of 25'
 * Accessory Structure located in the Front Yard in Lieu of the required Rear Yard.(Section 400.1)
 * Full Flood Plain Relief

Plan to Accompany Petition for Variance
#2124 ROSALIE AVENUE
 LOT-94 - "Plat of Turkey Point Farm" Plat W.P.C. 4/171
"ROCKAWAY BEACH"
 Tax Map: 98 Grid: 15 Parcel: 211
 Tax ID #1513554110 Deed Reference: J.L.E. 49189 / 192
 15th Election District, 7th Councilmanic District
 Baltimore County, Maryland

Scale: 1" = 20'	Date: 12/18/2024	JOB #9963-2024
Drawn: M.V.M.	Checked: B.L.M.	SURVEY'D: J.K.

siterite INC.
SURVEYING
 Phone: (410)339-5413
 Email: siteriteinc@aol.com
 200 E. JOPPA RD
 SUITE 105
 TOWSON, MD 21286

Michael V. Moskunas
 Michael V. Moskunas
 Professional Land Surveyor #21175
 License Expires: 6/25/2025

2025-0020-A