

BOARD OF APPEALS

January 21, 2026

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

AP2025-034: An appeal was filed by BMLS LLC, for a special exception for banquet/reception facility use and variance from the pavement requirement for off-street parking on property owned by Donna Anderson and located at 20659 National Pike, Boonsboro, Zoned Rural Village and Agricultural Rural District. **GRANTED**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than January 12, 2026. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Tracie Felker, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Donna Anderson
20659 National Pike
Boonsboro MD 21713
Appellant: BMLS LLC
975 Mt. Aetna Road
Hagerstown MD 21740
Property Location: 20659 National Pike
Boonsboro, MD 21713
Description Of Appeal: Special exception for banquet/reception facility use and variance from the pavement requirement for off-street parking.

Docket No: AP2025-034
Tax ID No: 16013811
Zoning: A(R); RV
RB Overlay: No
Zoning Overlay:
Filed Date: 12/17/2025
Hearing Date: 01/21/2026

Appellant's Legal Interest In Above Property: Owner: No
Contract to Rent/Lease: No
Lessee: No
Contract to Purchase: Yes
Other:

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance: Article 3. Table No. 3.3 (1), B Article 22. Section 22.12 (f) (10) (iv)

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Proposed Use: Event Venue

Previous Use Ceased For At Least 6 Months: Date Ceased:

Area Devoted To Non-Conforming Use - Existing: Proposed:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

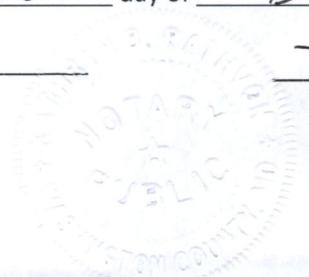
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 23 day of Dec, 2025.

Notary Public Signature and My Commission Expires Nov. 7, 2029

Notary Public Signature





WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

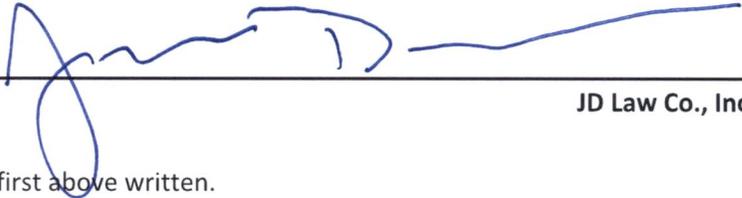
Docket No: AP2025-034

State of Maryland Washington County, To Wit:

On 12/17/2025, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared JD Law Co., Inc and made oath in due form of law as follows:

JD Law Co., Inc will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 01/21/2026, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 01/06/2026 and will remain until after the above hearing date.

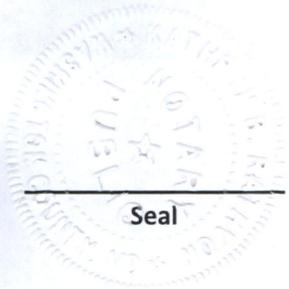


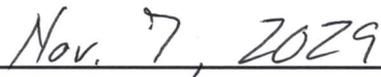
JD Law Co., Inc

Sworn and subscribed before me the day and year first above written.



Notary Public





My Commission Expires



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

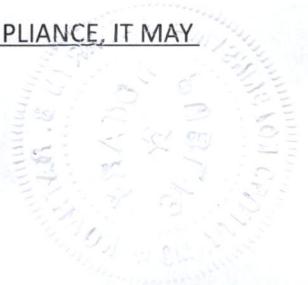
ATTENTION!

Posting Instructions

The premises MUST be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing
Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.





Department of Planning & Zoning Owner's Representative Affidavit

This is to certify that REBECCA PEARL KELLINGER of BMLS, LLC and Henson & Son, Inc. (the contract purchaser of our property) and its legal or civil engineering representative(s) is/are authorized to file with the Washington County Department of Planning and Zoning, an application for **Special Exception for Banquet / Reception Facility and related Variances** with regard to the property located at 20659 National Pike, Boonsboro, Maryland 21713 containing +/- 20 acres which is owned in fee simple by the undersigned.

PROPERTY OWNER:

DocuSigned by:

Donna Anderson

58C958CCC11D40E

Donna Anderson
20659 National Pike
Boonsboro, MD 21713

Date: 11/14/2025 | 06:47 PST

AUTHORIZED REPRESENTATIVE:

Rebecca Kellinger

11/14/2025

Rebecca Pearl Kellinger
BMLS LLC / Henson & Son Inc.
975 Mt. Aetna Road
Hagerstown, MD 2170

December 15, 2025

Board of Zoning Appeals
747 Northern Avenue
Hagerstown, MD 21740

**Re: Special Exception & Parking Surface Variance
+/- 20 ac. Property Located at 20659 National Pike, Boonsboro, Maryland
(TM 63; Parcel 237) (the "Property")**

Dear Board Members:

The Applicant, Rebecca Pearl Kellinger of BMS, LLC, a Maryland limited liability company is the contract purchaser of the above referenced Property located on the southside of U.S. Rte. 40 (National Pike) approximately 1,000 ft. to the west of its intersection with Md. Rte. 66. See attached aerial photograph.

The Property is split zoned a combination of RV (Rural Village) along the U.S. Rte. 40 frontage and A(R) (Agricultural, Rural) to the rear of the Property. See attached zoning map.

The surrounding area is primarily rural in character with several "Rural Business" overlay districts in the immediate vicinity of the Property (Flea Market & Sheetz) and to the northeast around the U.S. Rte. 40 / Md. Rte. 66 intersection.

The Property is currently improved with a large, stone farmhouse and numerous accessory agricultural / commercial buildings previously used to support the business of David M. Merchant excavating contractor who owned the property before his passing in 2021. See attached aerial photo.

Proposed Use

The Applicant is not currently in the business of organizing or providing banquets, receptions or other special events and intends to reside on the Property as a primary residence.

However, essentially as an accessory use to this primary purpose, the Applicant would like to put the existing buildings, paved/gravel areas and large open grassy areas on the Property to good use as a "Banquet/Reception Facility" as defined by and permitted by Special Exception in both the RV and A(R) zoning districts. See attached.

At this time, as shown and identified on the notated Aerial Photograph attached, Applicant's intent is to utilize a large semi-rigid tent structure measuring approximately 40 Ft X 60 Ft; self-contained, temporary bathroom trailer; and food trucks or other means of providing and serving prepared food and refreshments at hosted events. However, they would like to have the flexibility to construct and install a commercial grade kitchen / food prep area and/or a permanent enclosed or semi-enclosed structure should the need arise.

There will be no full-time employees and no "regular" operating hours for the Property; the days and hours of operation will vary depending upon the needs of the particular event but will not extend beyond 10 p.m. and not be more frequent than 4 events per month.

Maximum attendance for banquets, receptions or other special events is anticipated to be 150 or fewer.

As per Section 22.1 of the Zoning Ordinance, the Off-Street Parking Requirement for "Banquet Halls, Dance Halls, Exhibition Halls, and Assembly Halls", which presumably is how the proposed Special Exception use will be viewed, is 1 space per 50 square feet of Gross Floor Area.

However, since no permanent building is proposed as part of the Special Exception, the number of parking spaces that will be required to support the proposed use is uncertain and may need to be determined by the Zoning Administrator as per § 22.12(b) of the Zoning Ordinance which provides that: "If a specific use is not listed, the Zoning Administrator shall have the right to determine the required off-street parking requirements, based on the most similar use(s) listed."

No matter the requirement, Applicant is confident that sufficient parking can be provided in the grassy area shown and identified on the additional, notated Aerial Photograph attached.

There will be no permanent exterior lighting or signage installed, only temporary lighting as needed and directional signs on the days there are events to be held.

In Maryland, a use permitted by Special Exception carries with it a presumption of compatibility with the surrounding area.

As the Courts have guided, to overcome this presumption there must be facts or circumstances demonstrating that the proposed use will have greater adverse effects at THIS location than on any other property with the same RV / A(R) zoning.

In this case, there are no such facts or circumstances. To the contrary; this Property seems particularly suited for the proposed Special Exception use given its size, proximity to other Rural Business / Commercial uses, availability of existing buildings and improvements, the location of those buildings and improvements within the interior of the Property, and accessibility from an adequate, primary roadway (U.S. Rte. 40).

Parking Surface Variance

In addition to the request for Special Exception, Applicant also requests a variance from the Off-Street Parking design requirement in §22.12(f)(10)(iv) of the Zoning Ordinance that parking and access lanes / aisles with a total area greater than 3,400 sf. be paved.

As explained above, the minimum number of parking spaces that will be required for the proposed Banquet / Reception Facility is uncertain, but it will more than likely require a parking area in excess of 3,400 sf. and thus be required to be paved.

As shown on the notated aerial photo attached, the handicap accessible spaces will be located adjacent to the venue space and will be paved. However, for all additional spaces required to be provided, the proposal is to use the large grass area to the north of the venue space and internal access drive which the Applicant should not be required to pave.

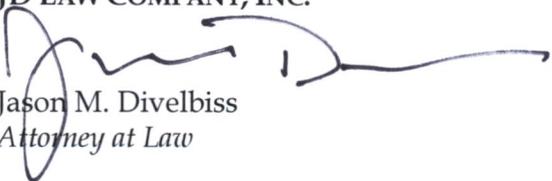
In support of this request, the Applicant respectfully contends that conformance with § 22.12(f)(10)(iv) would be unnecessarily burdensome and create a substantial injustice due to (i) the periodic nature of the requested "Banquet / Reception Facility" which will not utilize or create a demand for the required level of parking on a regular basis, and (ii) the importance of reducing or eliminating the visual and environmental impact from impervious surfaces whenever possible.

As referenced above, this Property is located in a predominantly rural area; adding additional paved, impervious surface that will only be used on a limited, temporary basis would negatively impact not only the nature and character of this Property, but potentially the surrounding area as well.

Conclusion

I look forward to discussing the particular facts and circumstances of the proposed use and this request for Special Exception and variances with you at the Board's next regularly scheduled hearing.

Very truly yours,
JD LAW COMPANY, INC.

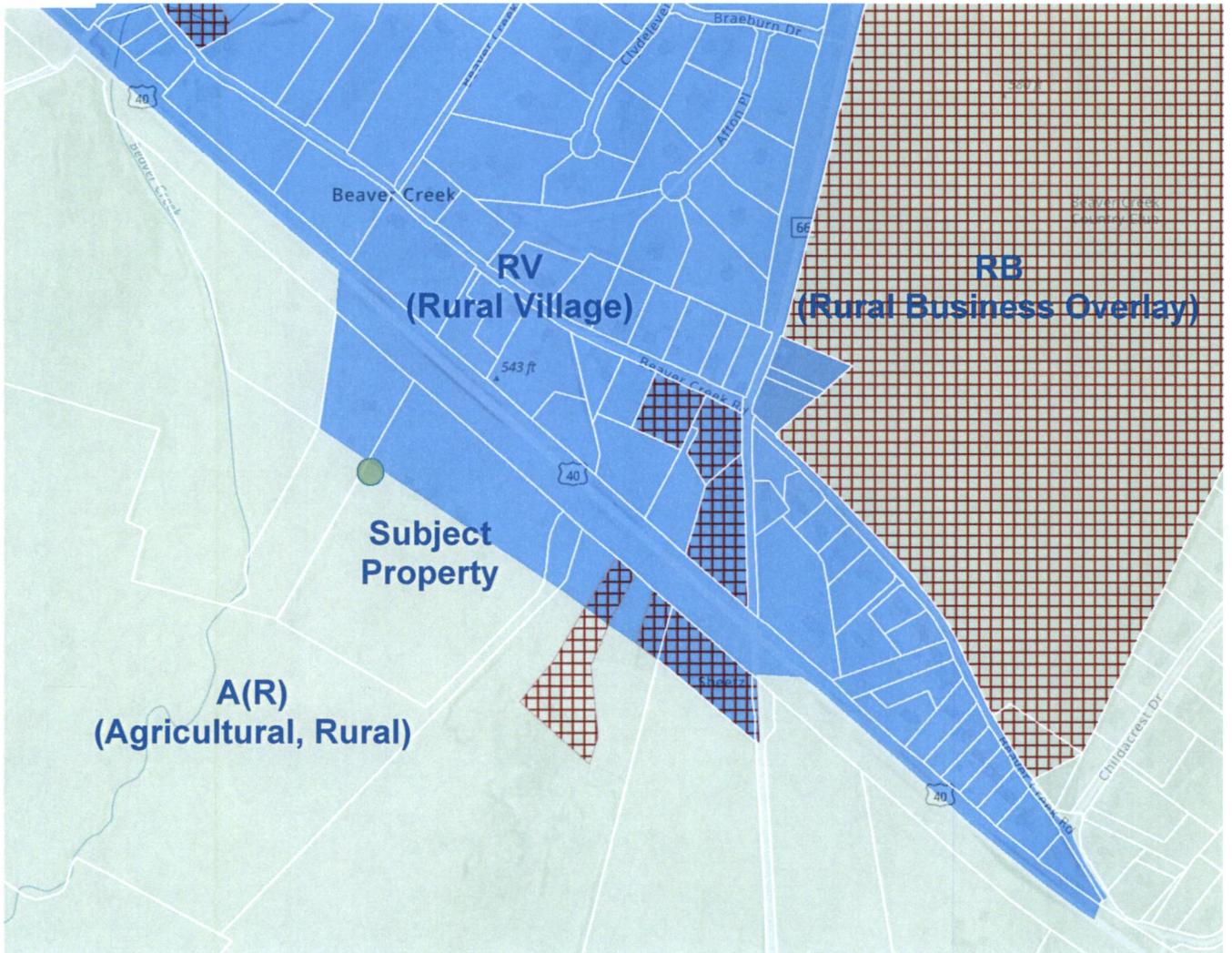

Jason M. Divelbiss
Attorney at Law

Email: jdivelbiss@divelbisslaw.com

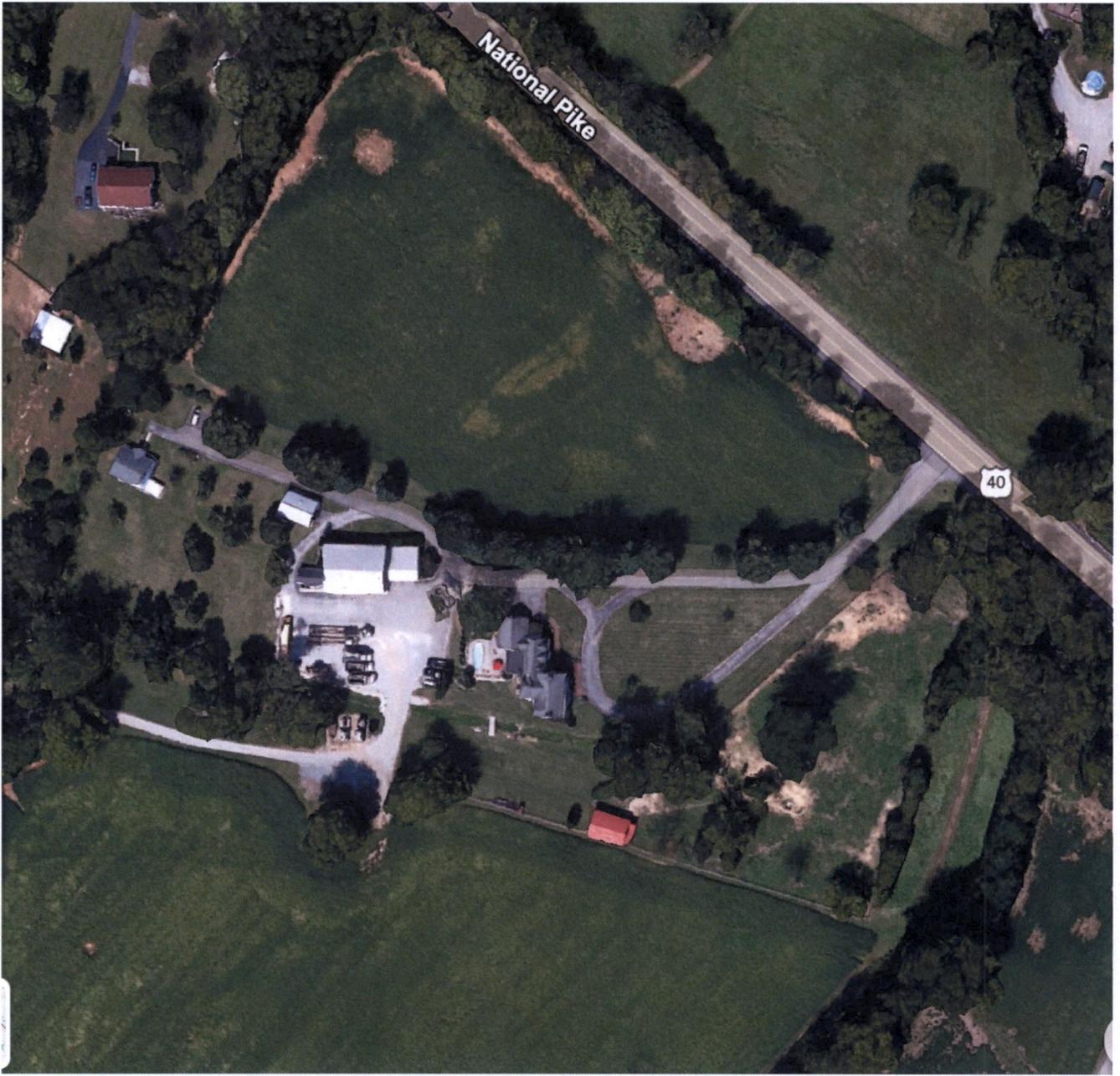
Aerial Photo
(Surrounding Area)



Zoning Map



Aerial Photo
(Property Improvements)



Definition of “Banquet/Reception Facility”

servicing and minor repairs are provided. Uses at a service station do not include major mechanical and body work, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in such stations. A service station is not a repair and service garage or a body shop.

Banquet/Reception Facilities:^{214 215}

Commercial establishment engaged in the provision of meeting or congregation facilities for special events such as weddings, parties, public meetings, and social gatherings. Such facilities may include on-site catering services. Restaurants are not included as part of this definition.

Bed & Breakfast:^{216 217}

An owner-occupied residential structure providing rooms for temporary, overnight lodging, with or without meals, for paying guests. Such uses shall be limited to no more than five (5) guest rooms.

Board:

The Board of Appeals.

Boarding House:²¹⁸

A private dwelling unit in which, for compensation, lodging and possibly meals are provided to no more than four (4) roomers/boarders by a resident family. Rooms are offered on a single-room occupancy basis and sanitary facilities may be shared. A common cooking area may be provided. Lodging is provided on no less than a month-to-month basis.

Brewery, Commercial:²¹⁹

An establishment with facilities for manufacturing and bottling malt beverages for sale on-site or through wholesale or retail outlets in accordance with a valid Class 5 manufacturing license from the State of Maryland. A commercial brewery is a brewery that does not meet the definition of a Farm Brewery. Accessory uses may include beer tasting rooms at which beer tasting occurs, accessory food sales related to the beer tasting, and the sale of beer produced on site. The area for beer tasting, accessory food sales related to the beer tasting, and sales of beer produced on-site shall not exceed 25 percent of the area of the structures located on-site and being used for manufacturing and bottling.

²¹⁴ Revision 17, definition added 4/23/13 (RZ-12-002/ORD-2013-13)

²¹⁵ Revision 18, definition amended 1/16/18 (RZ-17-007/ORD-2018-03)

²¹⁶ Revision 18, definition amended 10/11/16 (RZ-13-003/ORD-2016-18)

²¹⁷ Revision 18, definition amended 1/16/18 (RZ-17-007/ORD-2018-03)

²¹⁸ Revision 18, definition amended 1/16/18 (RZ-17-007/ORD-2018-03)

²¹⁹ Revision 17, definition added 4/23/13 (RZ-12-002/ORD-2013-13)

Zoning Ordinance – Land-Use Chart

A(R)-Agriculture (Rural)
 EC-Environmental Conservation
 P-Preservation
 RV-Rural Village
 RB-Rural Business
 IM-Industrial Mineral

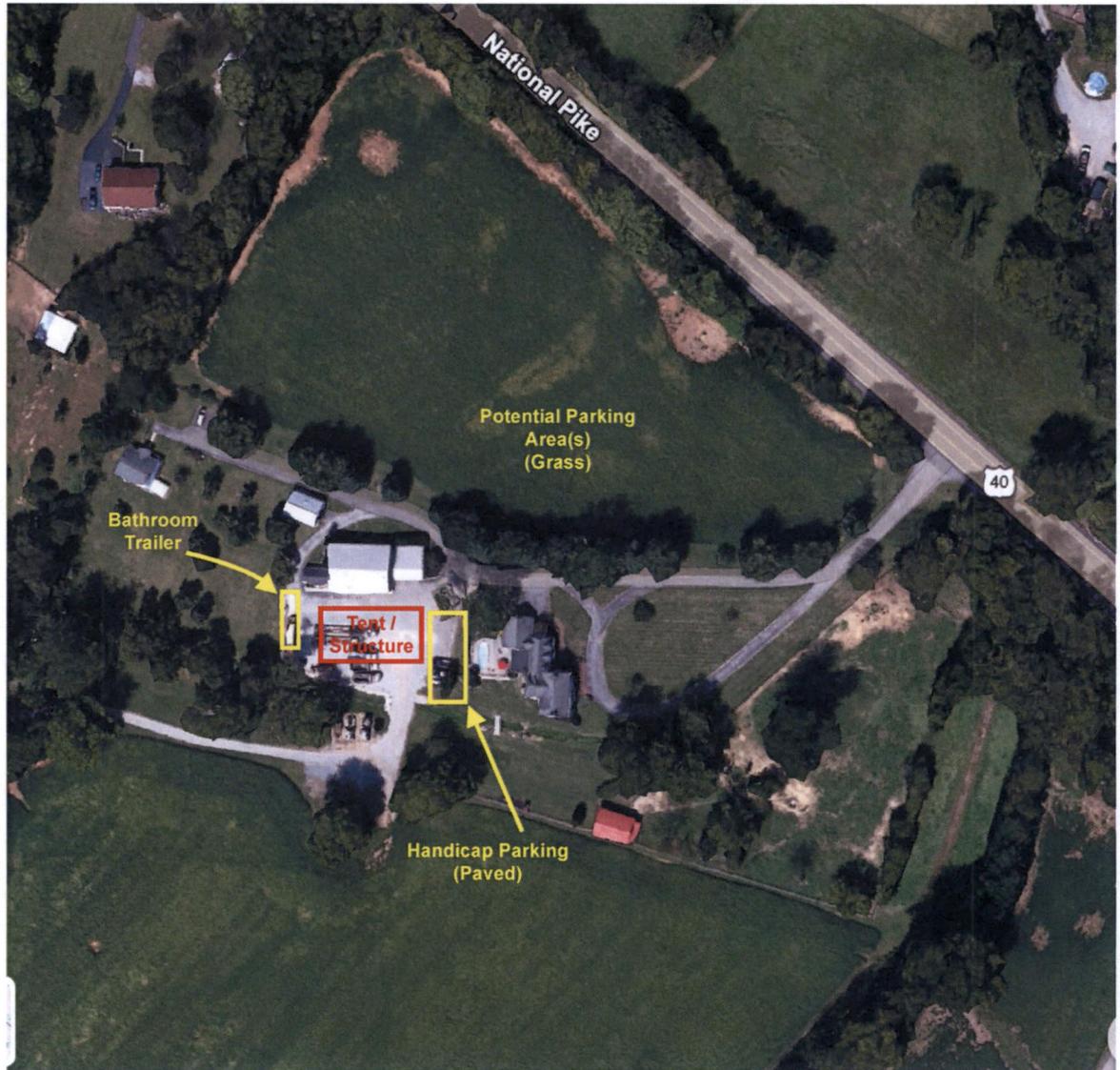
Table No. 3.3(1)^{6 7}
TABLE OF LAND USE REGULATIONS
(RURAL AREA USES)

LAND USES	A(R)	EC	P	RV	RB	IM	Intensity of Use
A. Accessory							
Guest house in an accessory building	SE	SE	SE	SE	N	N	N/A
Private stables as defined in Article 28A shall be subject to the requirements set forth in Article 4 Section 4.13	A	A	A	A	A	N	N/A
Swimming pools, tennis and other similar courts and other recreational facilities, when accessory to a residence	A	A	A	A	A	N	N/A
Uses and structures customarily accessory and incidental to any principal permitted use or special exception, including business signs pertaining to "use on the premises" (provided, that such signs are located as regulated in Section 22.2.), and a single-family dwelling unit in the same building with a principal use	A	A	A	A	A	A	N/A
B. Accommodation and Food Services^{8 9}							
Banquet/Reception Facilities	SE	SE	SE	SE	P	N	HIGH
Bed and Breakfast, up to five (5) guest rooms	A	A	A	SE	P	N	MODERATE
Boarding or rooming houses	SE	SE	SE	P	P	N	MODERATE
Conference Centers	SE	SE	SE	SE	P	N	HIGH
Country Inn	SE	SE	SE	SE	P	N	
Hotels and apartment hotels, including motels	N	N	N	N	P	N	MODERATE
Restaurants with drive-in, drive thru service	N	N	N	N	P	N	MODERATE
Restaurants without drive-in, drive-thru service	N	N	N	N	P	N	MODERATE
Resorts	N	N	N	N	P	N	HIGH
Taverns	N	N	N	N	P	N	HIGH
C. Administrative and Support and Waste Management and Remediation Services							
Building and dwelling services as defined in Article 28A	N	N	N	N	P	N	MODERATE
Landscaping Contractor	P	P	P	P	P	N	MODERATE

⁶ Table No. 3.3(1) amended 9/19/06 (RZ-06-007/ORD-06-09)
⁷ Table No. 3.3(1) amended 8/4/09 (RZ-09-001/ORD-09-08)
⁸ Revision 17, Table No. 3.3(1)B. amended 4/23/13 (RZ-12-002/ORD-2013-13)
⁹ Revision 18, Table No. 3.3(1)B. amended 1/16/18 (RZ-17-007/ORD-2018-03)

P-Permitted
 SE-Special Exception
 A-Accessory
 N-Not Permitted

Aerial Photo (notated with structure and parking locations)

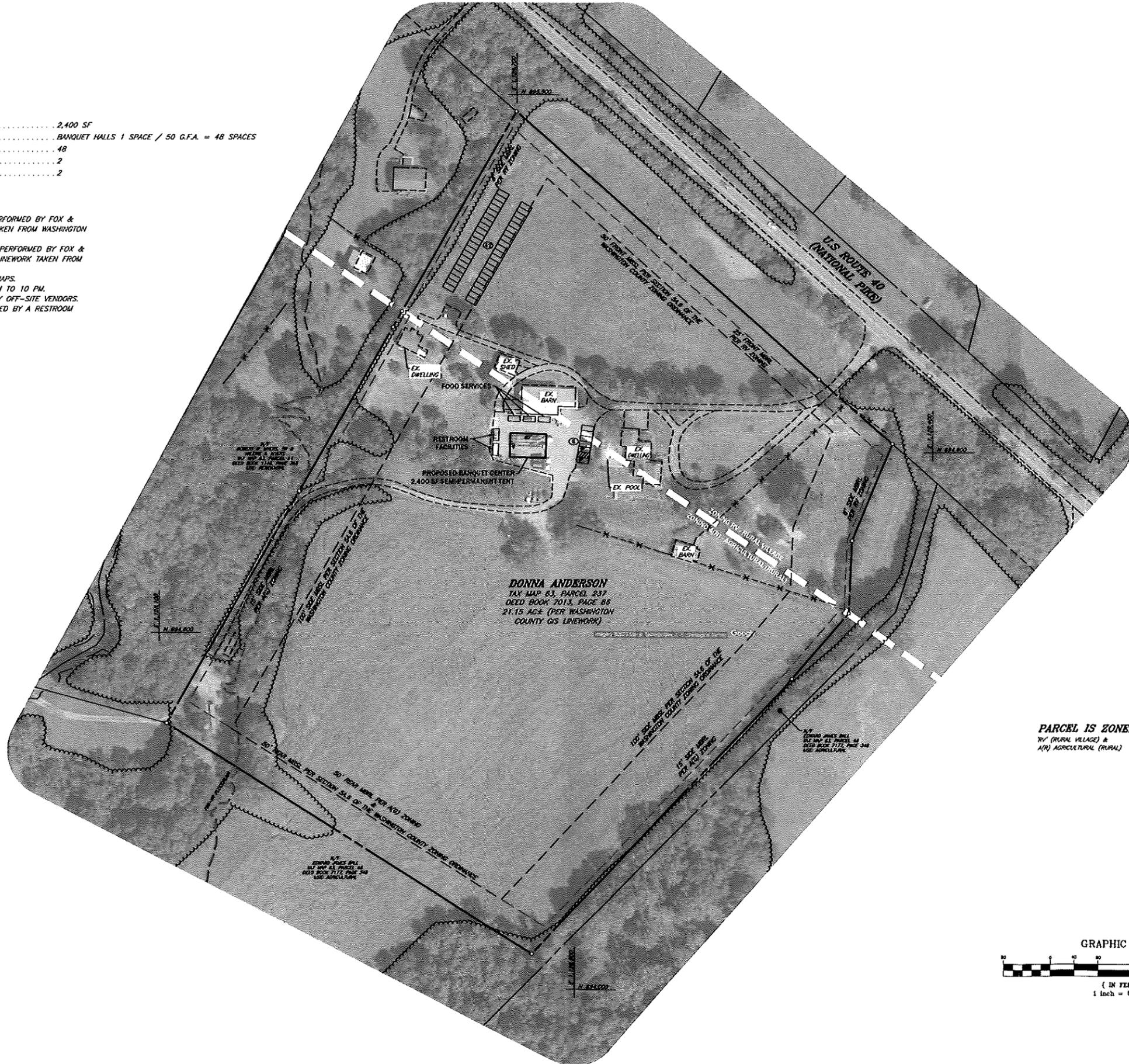


SITE DATA

PROPOSED BANQUET AREA.....	2,400 SF
PARKING REQUIRED.....	BANQUET HALLS 1 SPACE / 50 G.F.A. = 48 SPACES
PARKING PROVIDED.....	48
HANDICAP PARKING REQUIRED.....	2
HANDICAP PARKING PROVIDED.....	2

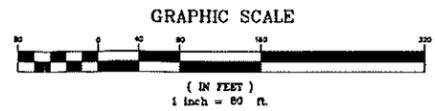
NOTES

1. NO BOUNDARY SURVEY HAS BEEN PERFORMED BY FOX & ASSOCIATES, INC. PROPERTY LINES TAKEN FROM WASHINGTON COUNTY GIS DATA.
2. NO TOPOGRAPHIC SURVEY HAS BEEN PERFORMED BY FOX & ASSOCIATES, INC. EXISTING FEATURE LINEWORK TAKEN FROM WASHINGTON COUNTY GIS DATA.
3. AERIAL IMAGE TAKEN FROM GOOGLE MAPS.
4. HOURS OF OPERATION WILL BE 10 AM TO 10 PM.
5. FOOD SERVICES WILL BE PROVIDED BY OFF-SITE VENDORS.
6. RESTROOM FACILITIES WILL BE PROVIDED BY A RESTROOM TRAILER RENTAL VENDOR.



DONNA ANDERSON
 TAX MAP 63, PARCEL 237
 DEED BOOK 7013, PAGE 85
 21.15 AC± (PER WASHINGTON
 COUNTY GIS LINEWORK)

PARCEL IS ZONED
 RV (RURAL VILLAGE) &
 AR (AGRICULTURAL (RURAL))



FOX & ASSOCIATES, INC.
 ENGINEERS • SURVEYORS • PLANNERS
 82 WORMANS MILL COURT
 FREDERICK, MD. 21701
 PHONE (301) 414-7250
 FAX (301) 253-8008
 www.foxandassociates.com

PROJECT NO.	25-32281
DRAWING NO.	DCM
DATE	DECEMBER 2025
DRAWN BY	DCM
CHECKED BY	GSP
DRAWN BY	BOYSSON
DATE	

B.Z.A. EXHIBIT
20657 & 20659 NATIONAL PIKE
 SITUATED AT 20657 & 20659 NATIONAL PIKE
 ELECTION DISTRICT 16
 WASHINGTON COUNTY, MARYLAND

SCALE: 1"=80'

PROJECT NO. 25-32281
 DRAWING NO. DCM
 DATE: DECEMBER 2025
 DRAWN BY: DCM
 CHECKED BY: GSP

SHEET 1 OF 1

WASHINGTON COUNTY, MARYLAND - 2025 DECEMBER 15, 2025 10:00 AM EST
 100% COMPLETE

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

BMLS, LLC

* **Appeal No.: AP2025-034**

APPELLANT

*

*

* * * * * * * * * * * * *

OPINION

BMLS, LLC (hereinafter “Appellant”) requests a special exception to establish a banquet/reception facility use and a variance to reduce the pavement requirement for off-street parking at the subject property. The subject property is located at 20659 National Pike, Boonsboro, Maryland 21713 and is zoned Agricultural, Rural and Rural Village. The Board held a public hearing in this matter on January 21, 2026.¹ Appellant was represented by Jason Divelbiss, Esq. at the hearing.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon notice to the parties and general public as required. Kathryn Rathvon provided the Staff Report indicating that proper notice of the hearing was given to adjacent property owners by letter, publication was made in the newspaper, and the subject property was properly posted.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Appellant is the contract purchaser of the subject property located at 20659 National Pike, Boonsboro, Maryland. The subject property is split-zoned Agricultural, Rural and Rural Village.
2. The owner of the subject property is Donna Anderson who has granted Appellant permission to pursue this case.

¹ The Board had a quorum of four (4) members and Appellant was given the choice to proceed or request a postponement due the potential for a tie vote. Appellant elected to proceed with the hearing.

3. The subject property consists of approximately twenty (20) acres situated on the south side of Old National Pike, and approximately 1,000 feet west of the intersection with Maryland Route 66. The subject property is improved with a large stone farmhouse and several accessory agricultural and commercial buildings.

4. The subject property was previously the site for David M. Merchant's excavating and contracting business. The property immediately to the east is a former flea market next to the Sheetz property, and Funk Electrical Services is located just north of the intersection with Maryland Route 66.

5. Ms. Kellinger intends to use the existing farmhouse as her primary residence and is looking to add an accessory use for banquets and receptions.

6. Appellant proposes to utilize temporary structures such as tents, temporary bathroom trailers and food trucks to service the events. As a secondary alternative, Appellant proposes to use the existing buildings for events at the subject property.

7. Appellant's proposed use will not have any full-time employees, no regular hours and will not have more than four (4) events in any given month. Events will be limited to a maximum of 150 attendees and will not be permitted beyond 10:00 p.m.

8. Appellant plans to use the large grass area for parking and limit paving to that which is necessary for handicapped accessible spaces.

9. The Historic District Commission reviewed Appellant's request and found that it would not adversely impact the historic resources but cautioned that Appellant should consult the Design Guidelines for Historic Structures before commencing any work. There were no other comments received from other agencies or departments.

10. There was no opposition presented.

Rationale

Special Exception

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as "a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the

existing neighborhood.” Article 28A. In addition, Section 25.6 sets forth the limitations, guides, and standards in exercise of the board’s duties and provides:

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

- (a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth of a community.
- (c) Traffic conditions and facilities
- (d) The effect of such use upon the peaceful enjoyment of people in their homes.
- (e) The conservation of property values.
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
- (g) The most appropriate use of the land and structure.
- (h) Decision of the courts.
- (i) The purpose of these regulations as set forth herein.
- (j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches, and the like.

For the reasons set forth herein, the Board concludes that the special exception should be granted.

Mr. Divelbiss presented Appellant’s case and Ms. Kellinger testified in support. They laid out the plan for the special events use as an accessory use highlighting the agricultural aspects of the subject property. Mr. Divelbiss noted that the proposed use would be less intensive than the previous excavating and contracting business that was on the property for years. Ms. Kellinger noted that it was her preference to utilize temporary buildings for the events as needed, but she was looking for the flexibility to use the buildings if something changed. Regardless, the scale of the events would not change. Both witnesses testified that there would be no adverse effects on the surrounding properties.

The Board finds that the proposed use will not create dangerous traffic or other safety concerns within the surrounding area. Certainly, appropriate care should be taken to manage ingress and egress during events, but given their limited occurrence, any impact on traffic would be minimal. Moreover, the Board finds no cause for concern regarding the number of people residing or working in the area which is relatively small, or the impact on nearby public gatherings as it appears to be minimal.

The proposed use does not conflict with the character of the neighborhood, and it is not inconsistent with the existing uses in the area. Appellant presented testimony that the proposed use will not produce any noise, odor, gas, smoke, fumes, or vibrations upon the surrounding properties. There was no evidence presented that the proposed use would have any effect on property values or the peace and enjoyment of nearby homes.

The Board finds that the proposed use is an appropriate use of land and/or structure. The Board recognizes there may be other appropriate uses for the property, but the proposed use is permitted by special exception. There is an inherent appropriateness to such use as deemed by the Board of County Commissioners, subject to review of the criteria to evaluate the impact on surrounding properties.

Notwithstanding the analysis pursuant to *Schultz v. Pritts* and the related appellate opinions, there are no judicial decisions directly affecting the subject property.

The proposed project is consistent with the orderly growth of the community. The proposed use does not require any variances for setback requirements. Thus, the proposed project can be completed and still maintain the other requirements of the Ordinance. The Board finds that the proposed use is consistent with the purpose and vision of the Ordinance.

Having considered the testimony and evidence presented and having further considered the criteria set forth in the Ordinance, the Board finds that the proposed use at the subject property will have no greater "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Schultz v. Pritts*, 291 Md. 1, 15 (1981). Any impact would result from the proposed use would have similar impact regardless of the location in the zoning district and thus it is not unique to the subject property. For all these reasons, we conclude that this appeal meets the criteria

for a special exception, and Appellant's request should be granted.

Variance Request

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship as set forth in Section 25.2 and 25.56 of the Ordinance.² "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. Section 25.56(A).

Practical difficulty and undue hardship are typically the result of a property being unique. "'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *North v St. Mary's Cnty.*, 99 Md.App. 502, 514 (1994).

Pursuant to Section 22.12(f)(10)(iv) of the Ordinance, "parking and access lanes/aisles with a total area greater than 3,400 sq. ft. shall be paved," in the Agricultural, Rural and Rural Village zoning districts. This would require Appellant to pave a significant area of grass and natural land in order to maintain compliance. Appellant presented testimony that the plan was to utilize the natural grass areas for attendee parking, not only to be environmentally conscious, but also to maintain the agricultural nature of the property. The proposal for banquets and special events is predicated upon making use of the existing characteristics of

² "When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

the subject property. Creating a large impervious surface for parking would change the nature of the property drastically and would be costly.

The Board finds Appellant's request to eliminate the paved parking requirement to be appropriate under the circumstances. Aside from the expense of creating a paved parking lot for guests and attendees, it would eliminate a large natural grass area and be detrimental to the environment. The Board also finds that imposing the paved parking requirement is inconsistent with the character of the property and the concept of the proposed use as an agricultural backdrop for special events. The variance does not confer any special privilege and is consistent with other agricultural banquet and reception uses approved by the Board previously. Appellant's request appears to be the minimum necessary to facilitate practical use of the property. The Board finds that relaxation of the parking design requirements is necessary and remains consistent with the spirit and intent of the Ordinance. The variance request should be granted.

Accordingly, the request for a special exception to establish a banquet/reception facility use at the subject property is hereby GRANTED, by a vote of 4 to 0. The request for a variance to reduce the required impervious parking area is hereby GRANTED, by a vote of 4 to 0. The special exception and variance relief are granted subject to the standard condition that the use is consistent with the testimony and evidence presented during the hearing before the Board.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: February 19, 2026

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.