

## BOARD OF APPEALS

April 1, 2026

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

### AGENDA

**AP2026-009:** An appeal was filed by Carl & Leslie Rutherford for a variance from the required 50 ft. setback to 15 ft. for proposed detached garage on property owned by the appellants and located at 17423 Da Wrong Lane, Hagerstown, Zoned Agricultural Rural District.-**GRANTED**

**AP2026-010:** Appeal is scheduled for the April 15 hearing. Additional information will be included on the April 15 agenda.

**AP2026-011:** An appeal was filed by Sean & Tracy Hayden for a variance from the required 40 ft. setback from the road right-of-way to 6.5 ft. for construction of a replacement dwelling on property owned by the appellants and located at 6346 Zittlestown Road, Middletown, Zoned Preservation District.-**GRANTED**

**AP2026-004:** An appeal was filed by The Towers LLC for a variance from the minimum setback of a distance equaling the total height of the tower and equipment of 199 ft. to 150 ft. from the western property line on property owned by Boonsboro First Hose Fire Company and located at 3413 Rohrsersville Road, Rohrsersville, Zoned Preservation District. – **GRANTED**

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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 March 23, 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: Carl & Leslie Rutherford
17423 Da Wrong Lane
Hagerstown MD 21740
Appellant: Carl & Leslie Rutherford
17423 Da Wrong Lane
Hagerstown MD 21740

Docket No: AP2026-009
Tax ID No: 02007754
Zoning: A(R)
RB Overlay: No
Zoning Overlay:
Filed Date: 03/02/2026
Hearing Date: 04/01/2026

Property Location: 17423 Da Wrong Lane
Hagerstown, MD 21740

Description Of Appeal: Variance from the required 50 ft. setback to 15 ft. for proposed detached garage.

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

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Article 5A Section 5A.7
Special Provisions 4.

Reason For Hardship: Location would make turn around area and access to barn difficult. Location of utilities is next to existing barn. To remove trees and rocks from the wooded area beside barn would be costly.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Residential/Agricultural Proposed Use: Detached Garage

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.

Handwritten signature of Carl Rutherford over a horizontal line, with 'Appellant Signature' printed below.

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 2 day of March, 2026.

Handwritten date 'Nov 7, 2029' over a horizontal line, with 'My Commission Expires' printed below.

Handwritten signature of Notary Public over a horizontal line, with 'Notary Public' printed below. Includes a circular notary seal for Washington County, Maryland.



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: AP2026-009

**State of Maryland Washington County, To Wit:**

On 3/2/2026, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Carl & Leslie Rutherford and made oath in due form of law as follows:

Carl & Leslie Rutherford 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 04/01/2026, 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 03/17/2026 and will remain until after the above hearing date.

Carl & Leslie Rutherford

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

Notary Public

Nov. 7, 2029

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.



To: BOARD of zoning  
From: Carl + Leslie Rutherford

17423 PA Wagon  
Hagerstown, MD 21740

2 Car garage 30<sup>w</sup> x 32D 960  
square  
feet

Request 15 feet from

Property Boundary

Instead of 50 feet which would  
be blocking <sup>on safety</sup> Access to and from  
Home <sup>and</sup> to BARN. we would have

no turn around since for farm

equipment and vehicles. ~~Area next~~

Left front corner of Barn is underground Utilities.

Entrance Lane is raised with  
Woods on left side + Farmed Land  
on Right. Do not want to take  
trees down due to Habitat +  
Land is very ~~to~~ filled with Rock Veins.

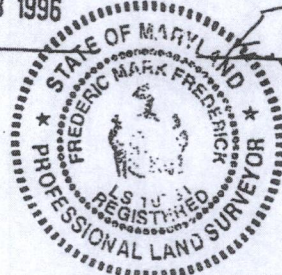
LOCATION SURVEY  
FOR  
LESLIE A. AND CARL M. RUTHERFORD  
LOCATED AT  
17423 DA WRONG LANE  
HAGERSTOWN, MD

NOTE: Dwelling does not lie in the 100 year flood plain per FEMA Flood Insurance Rate Map, Community Panel No. 240070 0155A, dated May 1, 1978, Flood Zone C.

SURVEYOR'S CERTIFICATION

I hereby certify that the dwelling and/or improvements shown hereon are within the metes and bounds of the lands conveyed to Francis J. Licari and Debra S. Licari, his wife by Kathryn L. Kershner by deed dated June 29, 1987 and recorded in the Land Records of Washington County, Maryland in Liber 849, folio 1129 and that the improvements shown hereon were located by accepted field practices and include permanent visible structures and surface encroachments if any that exist on the subject property at the date of survey dated July 2, 1996. This plat is not for determining property lines, but prepared for exclusive use of present owners of property and also those who purchase, mortgage, or guarantee the title thereto at this time of settlement and as to them I warrant the accuracy of this plat. No title report furnished.

JUL 03 1996



DOWNSVILLE PIKE - MD. RTE. 632

DA WRONG LANE

Saving & Excepting, L. 587 F. 361  
N 39° 21' 38" E

REMAINING LANDS  
of L. 849 F. 1129  
13.4 Ac. ±

839.30'  
N 27° 38' 30" E 299.80'  
Saving & Excepting  
L. 1013 F. 1017  
PARCEL A

N 65° 35' 00" W  
102.44'

N 29° 01' E 300'

Saving & Excepting  
L. 791 F. 428  
Lot 3

251.40'

267.45'

S 29° 01' W

Saving & Excepting  
L. 756  
F. 1073

202.39'  
S 63° 01' E

450'

15 FT.

330'

20' Right of Way

N 27° 38' E 390.0'

N 13° 57' E 118.72'

N 27° 21' E 380'

Saving & Excepting  
L. 813 F. 120  
Lot 2

Saving & Excepting  
L. 708 F. 673  
Lot 1

117.2'

102.65'

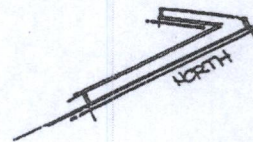
102.65'

102.65'

117.2'

Not to Scale

#17423  
2 1/2 STORY  
BRICK  
D.W.L.G.  
Proposed garage  
Basin gravel lane



THIS DOCUMENT IS FOR THE SOLE BENEFIT AND USE OF THE PARTIES NAMED HEREIN AND IS NOT TO BE PUBLISHED OR RECORDED WITHOUT THE EXPRESS WRITTEN CONSENT OF FREDERICK, SEIBERT AND ASSOCIATES, INC.

Drawing No: 1 of 1	
Tax Map: 57-19-2	
District: 2	
Drawn By: DHH	Date: 7-3-96
Checked By: DHH	Date: 7-3-96
Scale: 1" = 200'	

FREDERICK, SEIBERT & ASSOCIATES, INC.

Carl Rutherford  
Leslie Rutherford

Civil Engineers = Surveyors = Landscape Architects = Land Planners  
128 South Potomac Street  
(301) 791-3650  
Hagerstown, Maryland 21740  
(301) 416-7478  
Greencastle, Pennsylvania 17225  
(717) 597-1007

PA-2146-HL 2.0



**BARN**

**Garage  
15 Feet**



Utilities drawn on picture





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: Sean & Tracy Hayden
6346 Zittlestown Road
Middlestown MD 21769
Appellant: Sean & Tracy Hayden
6346 Zittlestown Road
Middlestown MD 21769
Property Location: 6346 Zittlestown Road
Middlestown, MD 21769
Description Of Appeal: Variance from the 40 ft. setback from the road right-of-way to 9.5 ft. for construction of a replacement dwelling.

Docket No: AP2026-011
Tax ID No: 06008496
Zoning: P
RB Overlay: No
Zoning Overlay:
Filed Date: 03/11/2026
Hearing Date: 04/01/2026

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

Previous Petition/Appeal Docket No(s): AP2026-001
Applicable Ordinance Sections: Washington County Zoning Ordinance Section 5C.5

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Dwelling Proposed Use: Replacement Dwelling

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.

[Handwritten Signature]
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 11 day of March, 2026.

Nov. 7, 2026
My Commission Expires

[Handwritten Signature]
Notary Public





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: AP2026-011

State of Maryland Washington County, To Wit:

On 3/11/2026, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared C.R. Rensberger Builder and Family LLC and made oath in due form of law as follows:

C.R. Rensberger Builder and Family LLC 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 04/01/2026, 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.

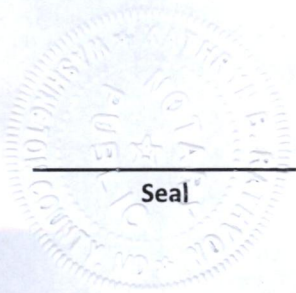
Sign(s) will be posted on 03/17/2026 and will remain until after the above hearing date.

C.R. Rensberger Builder and Family LLC

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

Notary Public

My Commission Expires



Seal



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

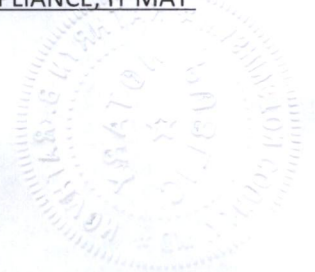
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BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Rose Borisow is authorized to file an appeal with the Washington County Board of Appeals for Tracy and Sean Hayden on property located 6346 Zittlestown Rd, Middletown MD 21769. The said work is authorized by Tracy and Sean Hayden the property owner in fee.

PROPERTY OWNER

Tracy and Sean Hayden

Name

6346 Zittlestown Rd

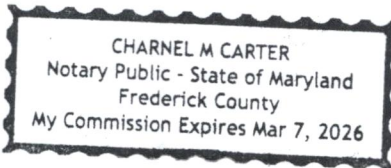
Address

Middletown MD 21769

City, State, Zip Code

x

Owner's Signature



Sworn and subscribed before me this 27 day of February, 2026.

Charnel M Carter  
Title Insurance Producer  
105 Swallow Pointe Court  
Frederick, Maryland 21702  
3003668355

Charnel M. Carter, Notary Public  
Notary Public

My Commission Expires:  
March 7, 2026

AUTHORIZED REPRESENTATIVE

ROSE BORISOW

Name

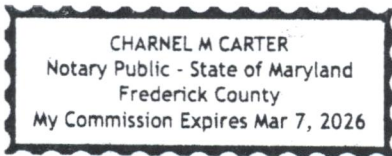
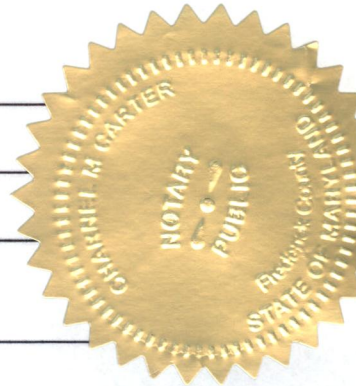
S. MAIN STREET

Address

WOODSBORO MD 21798

City, State, Zip Code

Authorized Representative's Signature



Sworn and subscribed before me this 27 day of February, 2026.

Charnel M Carter  
Title Insurance Producer  
105 Swallow Pointe Court  
Frederick, Maryland 21702  
3003668355

Charnel M. Carter, Notary Public  
Notary Public

My Commission Expires:



MHBR #6677

MHIC #130127

**Date:** March 6, 2026

**To:** Washington County, Board of Zoning Appeals

**From:** Joel Rensberger

**Cc:** Rose Borisow

**Regarding:** Variance Request: 6346 Zittlestown Rd., Middletown, MD (**changes in bold below**)

Dear Chairperson and Members,

Thank you for considering our **revised** appeal. On behalf of Sean and Tracy Hayden, longtime Washington County owners and residents, we respectfully ask that you allow us to rebuild their home closer to the road than the zoning ordinance allows for new construction typically, but farther back than the current home.

The home we seek to replace is a failing 1915 structure with lead paint, lead-soldered plumbing work, and has a septic system that currently discharges into the creek. It's time it be addressed, is our feeling.

This request is unique; our project cannot comply with the ordinance. This home predates the zoning ordinance. If forced to comply with the letter of the ordinance, an undue hardship would immediately befall the family. A hardship such that we cannot proceed forward.

A. Practical Difficulty

Strict compliance would push the new planned home further into the hill, adding 17 feet of vertical foundation construction to the foundation. As such, a new 2<sup>nd</sup> lower story and an unimaginable number of steps for the Owners would be required. Strict compliance would add roughly 125k to the cost of the project, as well as trigger additional SWM/ESD requirements of unknown cost (as of this writing)

Denying the variance would do substantial injustice to the applicant. Such would render the project unbuildable for their finances. Such would mean that we cannot remove and replace the family home with a new suitable and safe dwelling.

Granting of the variance will be consistent with the spirit and intent of the zoning ordinance. The family site plan places the new home **at its current location but further from the road**, replaces the septic system, and drills a new well. As is typical for old Washington County, it remains close to the road, but further back than today, consistent with zoning spirit.

B. Undue Hardship

Strict compliance does restrict the Applicant from securing an undue return and reasonable use. The Hayden family seeks to replace their family home with a new safe one. Zoning setbacks of today, if strictly applied, mandate a 17' rise in foundation costs, which makes the project fail for them/unbuildable.

The hardships are unique to this property (when compared to most new construction). The current home is just 24' from the center of road, **with concrete steps 18" from pavement. This new plan has the home 31.8 feet from the center of the road (or 19.3 feet from the edge of right-of-way). The new stairs planned are to be 22'+/- from the center of roadway (or 9.5' from the edge of right-of-way).** This district and this road are replete with homes very close to the road, we seek to improve in all regards.

The hardship is not the result of any action by the applicant, except for that they seek to improve their living condition, for themselves and their daughters.



Joel Rensberger

Owner/Builder

*Joel@CERensbergerBuilder.com*

*1 South Main Street, Woodsboro, MD 21798 (301) 370-4042*

PAGE 1 OF 1  
 DRAWN DATE  
 FILE: L:\P\2171\2171.stn  
 PROJ. No. 25-033  
 SCALE: 1" = 100'  
 DRAWING DATE: 10/7/2025  
 FIELD DATE: 4/22/2025

6FFA71507C214DB  
 Reg. No. 21701, Exp. 07/1/2027  
 Documented by:  
  
 SITUATED AT 6346 ZITTLSTOWN ROAD  
 WASHINGTON COUNTY, MARYLAND

SITE PLAN  
 L.2540, F.689

LAVELLE & ASSOCIATES  
 INCORPORATED  
 PLANNERS • SURVEYORS  
 P.O. Box 372, Friendsville, Maryland 21725  
 TEL: (301) 988-9722, FAX: (301) 988-9766

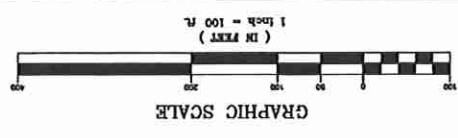
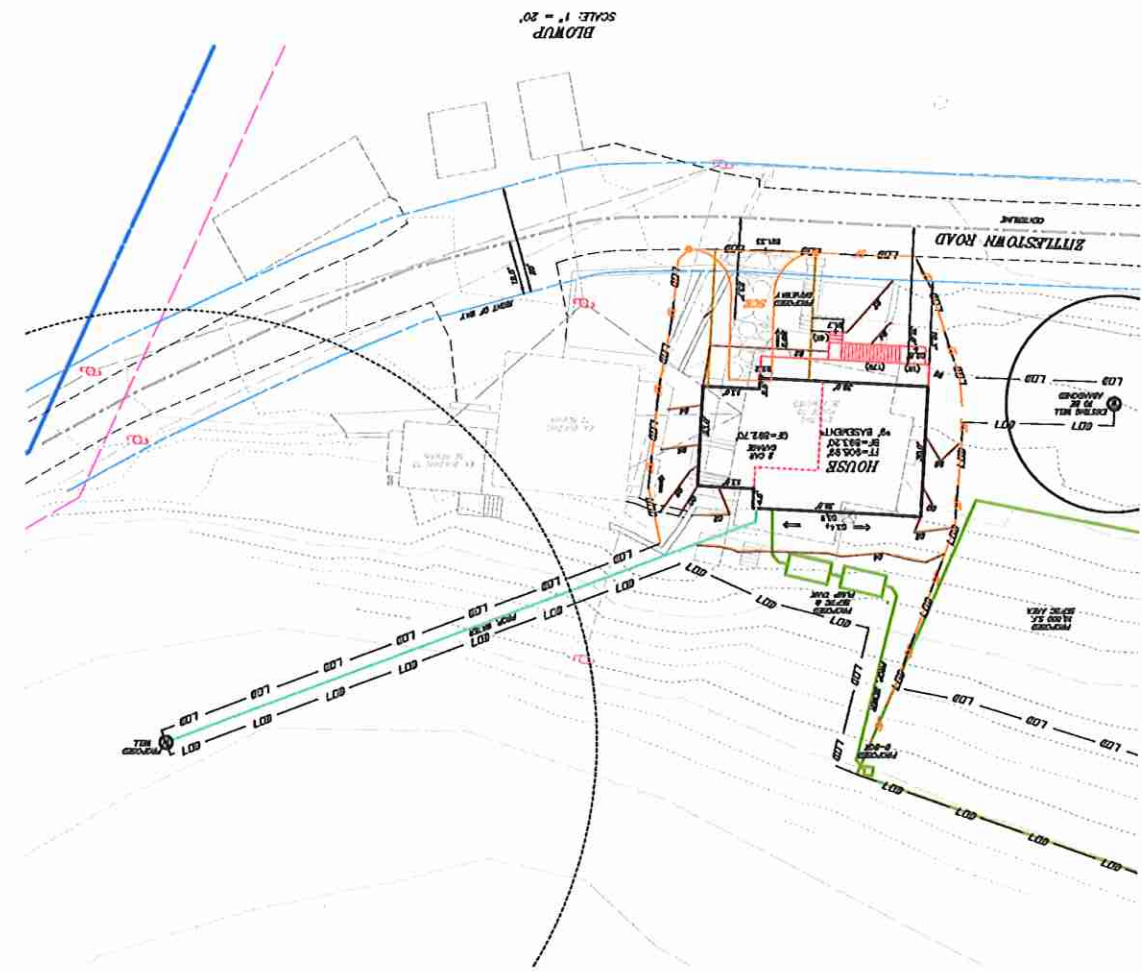
**OWNERS**  
 SCAN & TRACY HAYDON  
 6346 ZITTLSTOWN ROAD  
 ROCKLETON, MD 21789

A LICENSEE EITHER PERSONALLY  
 PREPARED THIS SITE PLAN OR HAS IN  
 RESPONSIBLE CHARGE THE  
 PREPARATION AND THE SURVEYING WORK  
 REFLECTED IN IT. ALL IN COMPLIANCE  
 WITH REQUIREMENTS SET FORTH IN  
 REGULATION OR ORDER OF THE CODE  
 OF MARYLAND REGULATIONS (COMAR)

FIELD DATE: 4/22/2025  
 DRAWING DATE: 10/7/2025  
 SCALE: 1" = 100'  
 PROJ. No. 25-033  
 FILE: L:\P\2171\2171.stn  
 DRAWN DATE

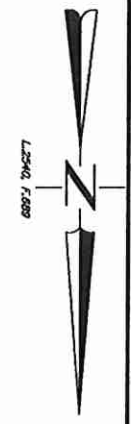
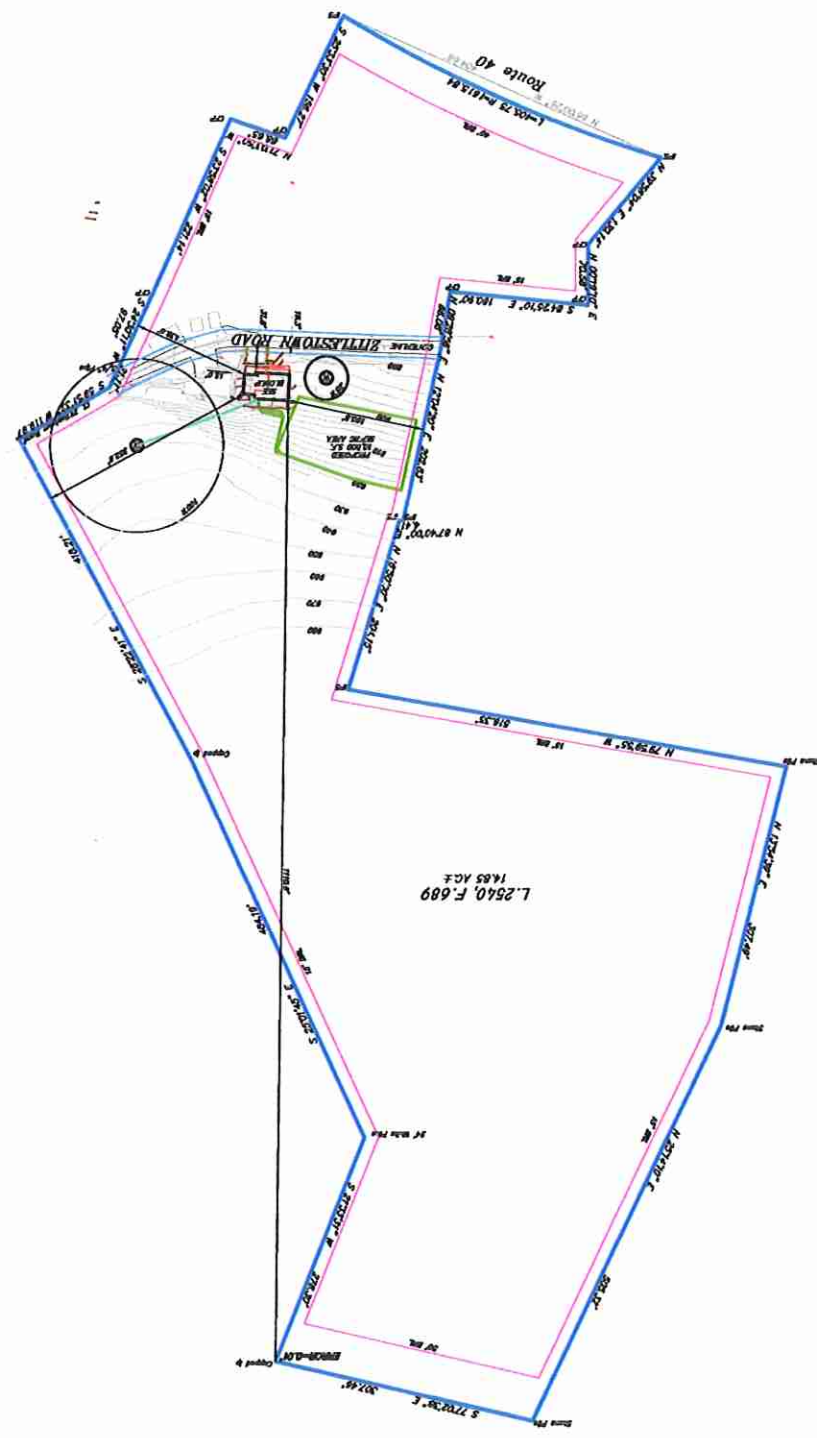
SITE PLAN  
 L.2540, F.689

LAVELLE & ASSOCIATES  
 INCORPORATED  
 PLANNERS • SURVEYORS  
 P.O. Box 372, Friendsville, Maryland 21725  
 TEL: (301) 988-9722, FAX: (301) 988-9766



**NOTES:**

- CURRENT DEED REFERENCE: L.2540, F.689
- EXISTING PROPERTY BASED ON FIELD SURVEY CONDUCTED BY LAVELLE & ASSOC. INC. ON 4/22/2025.
- THE PROPERTY OF THE PROPERTY SHOWN IN THIS FLOOD HAZARD MAP IS SHOWN IN ZONE X (ANNUAL FLOOD HAZARD OUTSIDE THE STRIP, OR 100-YEAR FLOOD AREA) & THE (ANNUAL FLOOD HAZARD OUTSIDE THE STRIP, OR 100-YEAR FLOOD AREA) FOR THIS MAP NUMBER 02-PR0001-ANNUAL-CHANCE (ON 500-YEAR FLOOD) FOR THIS MAP NUMBER.
- THE PORTION OF THE PROPERTY SHOWN DOES NOT CONTAIN ANY WEIRADS PER US FISH AND WILDLIFE SERVICE NATIONAL WEIRADS INVENTORY.
- EXISTING UTILITY LOCATIONS NOT KNOWN, UNLESS SHOWN.
- EXISTING UTILITIES WERE PERFORMED AS PART OF THIS DESIGN. IT IS RECOMMENDED THAT A GEOTECHNICAL ENGINEER BE CONSULTED TO VERIFY THAT THE PROPOSED IMPROVEMENTS AS SHOWN ARE SATISFACTORY FOR THE SITE.
- ALL NOTES SHOWN ARE ASSIGNED TO BE 6" HIGH.
- STORMWATER TREATMENT METHOD:  
 STORMWATER MANAGEMENT TO BE PROVIDED USING A COMBINATION OF ROOFTOP CONNECTED AS SHOWN & NON-ROOFTOP FOR THE PAVED SURFACES (DRIVWAYS/SIDEWALKS).
- STORMWATER DESIGN CRITERIA:  
 1. STREET FLOW MUST BE MAINTAINED IN AREAS RECEIVING DISCONNECTED RUNOFF. 2. STORMWATER TREATMENT SHALL BE PROVIDED TO MAINTAIN A MINIMUM OF 15% OF THE FLOW CAPACITY OF THE MAIN DRAINAGE SYSTEM. 3. STORMWATER TREATMENT SHALL BE PROVIDED TO MAINTAIN A MINIMUM OF 15% OF THE FLOW CAPACITY OF THE MAIN DRAINAGE SYSTEM. 4. STORMWATER TREATMENT SHALL BE PROVIDED TO MAINTAIN A MINIMUM OF 15% OF THE FLOW CAPACITY OF THE MAIN DRAINAGE SYSTEM.
- ADDITIONS MAY BE NEEDED FOR OTHER CLIMATE SCENARIOS.  
 CONSTRUCTION SCHEDULING THE STRIP OR ROTATING THE SOIL TO A DEPTH OF FOUR FEET SHALL BE PROVIDED TO MAINTAIN THE SOIL TO A DEPTH OF FOUR FEET. 2. SHOULD ALSO PROVIDE ASSOCIATED RUNOFF RECORD COMPLETED USING STONES, TILES, OR CARBON BLENDS.  
 MAINTAIN SLOPES. THESE TREATMENTS MAY BE NEARLY CONSTRUCTED OR LANDSCAPING SLOPES ARE 100 SLOPES OR GREATER. 3. STORMWATER TREATMENT SHALL BE PROVIDED TO MAINTAIN A MINIMUM OF 15% OF THE FLOW CAPACITY OF THE MAIN DRAINAGE SYSTEM.





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: Boonsboro First Hose Fire Company
Appellant: The Towers, LLC
Property Location: 3413 Rohrersville Road
Description Of Appeal: Variance from the minimum setback of a distance equaling the total height of the tower and equipment of 199 ft. to 150 ft. from the western property line.

Appellant's Legal Interest In Above Property: Owner: No, Lessee: No, Other:
Contract to Rent/Lease: Yes, Contract to Purchase: No
Previous Petition/Appeal Docket No(s): AP2025-004
Applicable Ordinance Sections: Washington County Zoning Ordinance Section 4.22 Commercial Communication Towers, A. Designed requirements, 1
Reason For Hardship: Larger than normal size of the road right-of-way
If Appeal of Ruling, Date Of Ruling:
Ruling Official/Agency:
Existing Use: Fire Station, Proposed Use: Commercial Communication Tower
Previous Use Ceased For At Least 6 Months: 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.

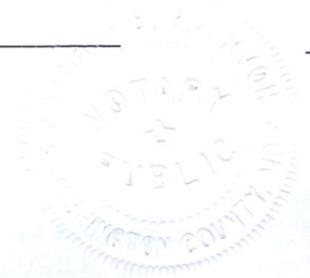
[Signature]
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 12 day of Feb., 2026.

Nov. 7, 2029
My Commission Expires

[Signature]
Notary Public





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: AP2026-004

State of Maryland Washington County, To Wit:

On 2/12/2026, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Saul Ewing LLP and made oath in due form of law as follows:

Saul Ewing LLP 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 03/04/2026, 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 02/17/2026 and will remain until after the above hearing date.

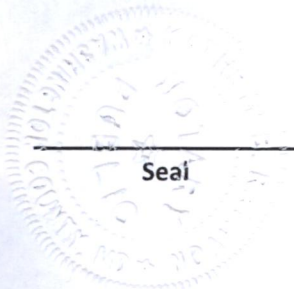
Saul Ewing LLP KR

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

Notary Public

Nov. 7, 2029

My Commission Expires



Seal



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

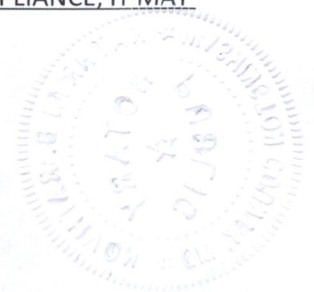
### ATTENTION!

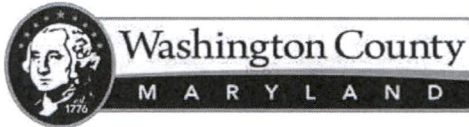
### Posting Instructions

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.





**BOARD OF ZONING APPEALS**

80 West Baltimore Street | Hagerstown, MD 21740 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1

WWW.WASHCO-MD.NET

**Appeal for Variance**

Appeal is hereby made for a variance from a requirement of the Washington County Zoning Ordinance as follows:

Location 3417 Rohrsersville Road, Rohrsersville, MD 21779

Appellant's present legal interest in above property: (Check One)

Owner (Including Joint Ownership)     Lessee     Contract to rent/lease  
 Contract to Purchase     Other

Specify the Ordinance section and subsection from which the variance is desired:  
Ordinance § 4.22(A)(1)

Specify the particular requirement(s) from which a variance is desired in that section or subsection:  
The Applicant is requesting a variance to reduce the setback of 199' (the height of the proposed monopole) from 199' to 150' from the western parcel boundary due to an abnormally large state-owned right-of-way.

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:  
The proposed monopole will be 150' from the western parcel boundary, but 262' from the edge of Rohrsersville Road. There is no privately owned parcel or dwelling in the right-of-way. If the right-of-way was not abnormally large, no variance would be required.

Describe reason(s) why the Ordinance requirement(s) in question would result in peculiar and/or unusual practical difficulties to or would impose exceptional or undue hardship upon the owner of the property if the requested variance were not granted:

**Provide Detailed Explanation on Separate Sheet**

Has any previous petition or appeal involving this property been made to the Board?  
 Yes     No

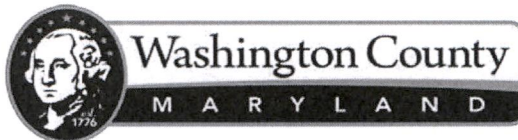
If yes, list docket number(s): BZA Appeal No. AP2025-004

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

  
Signature of Appellant  
Douglas.sampson@saul.com  
Email of Appellant

Saul Ewing LLP, 1001 Fleet Street, 9th Floor,  
Baltimore, MD 21202  
Address and of Appellant  
410-332-8661  
Phone Number of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



**BOARD OF ZONING APPEALS**

**OWNER REPRESENTATIVE AFFIDAVIT**

This is to certify that The Towers, LLC, Saul Ewing LLP, and Site Link Wireless, LLC  
is authorized to file an appeal with the Washington County Board of Appeals for  
a variance of 49' from the setback restrictions set forth in Ordinance Sect. 4.22(A)(1) \_\_\_\_\_ on property  
located on proeprty owned by the Boonsboro F.D. at 3417 Rohrersville Road, Rohrersville, MD 21779  
The said work is authorized by \_\_\_\_\_  
the property owner in fee.

PROPERTY OWNER

The First Hose Company of Boonsboro  
Name  
3417 Rohrersville Road  
Address  
Rohrersville, MD 21779  
City, State, Zip Code  
George Amyle, President  
Owner's Signature

Sworn and subscribed before me this 11 day of February, 2026

Kimberly Adkins  
Notary Public

My Commission Expires 7-8-2027

AUTHORIZED REPRESENTATIVE

Douglas A, Sampson, Saul Ewing LLP  
Name  
1001 Fleet Street, 9th Floor  
Address  
Baltimore, MD 21202  
City, State, Zip Code  
Dgha S  
Authorized Representative's Signature

Sworn and subscribed before me this 11<sup>th</sup> day of February, 2026

Lynne Mello-Hickok  
Notary Public



My Commission Expires

747 Northern Avenue Hagerstown, MD 21742 240.313.2430 240.313.2461

My Commission Expires 2/7/29

**Appeal for a Special Exception and Variances  
to Construct a 199' Monopole Telecommunications Facility  
at 3417 Rohrersville Road, Rohrersville, Maryland 21779**

**Adjacent Parcel Mailing List**

Owner(s)	Parcel ID	Mailing Address
Alice Orzechowski Scott Mitcell Hoyman Jr.	08-009146	20312 Townsend Road, Rohersville, MD 21779
Mark Layton	08-002703	20327 Townsend Rd., Rohrersville, MD 21779-1250
Kody Lucero Kimberly Kerdthap Lucerdo	08-013462	3443 Rohrersville Rd., Rohrersville, MD 21779-0000
Pamela Denise Shaw Loren Eugene Shaw Jr.	08-003246	20331 Townsend Rd. Rohrersville, MD 21779-1250
Kody Lucero Kimberly Kerdthap Lucerdo	08-014019	3443 Rohrersville Rd. Rohrersville, MD 21779
Carl L Palmer Jr. Destinee L Palmer	08-012830	20402 Gap Ct. Rohrersville, MD 21779-0000
Jeffrey A. Hutzell Joann Hutzell	08-013322	3345 Gapland Rd. Rohrersville, MD 21779-1206
Jeffrey A. Hutzell Joann Hutzell	08-005087	3345 Gapland Rd. Rohrersville, MD 21779-1206
Alice Orzechowski Scott Mitcell Hoyman Jr.	08-005117	20312 Townsend Road, Rohersville, MD 21779
Pleasant Valley Baptist Church	08-011982	3346 Gapland Rd. Rohrersville, MD 21779-1205
Charlotte J Mullendore, et al Elizabeth A. Nemanic	08-006709	1141 Chaucer Dr. Greensburg, PA 15601
Odella Diane Hagan Jones	08-007721	3416 Gapland Rd. Gapland, MD 21779-1207
Fitzgerald Family Revocable Living Trust James F. Fitzgerald, Trustee	08-012814	3452 Kaetzel Rd. Rohrersville, MD 21779-1225

**Statement of Justification in support of Appeal for Variance from Setback Requirement  
for a 199' Monopole Telecommunications Facility  
at 3417 Rohrersville Road, Rohrersville, Maryland 21779**

Applicant: The Towers, LLC  
750 Park of Commerce Drive, Suite 200  
Boca Raton, Florida 33487  
561-948-6367

Property Owner: Fire Co. Boonsboro Fire Hose  
5 Saint Paul Street  
Boonsboro, Maryland 21713-1319

Representative: Douglas A. Sampson, Saul Ewing LLP  
1001 Fleet Street, 9<sup>th</sup> Floor  
Baltimore, MD 21202  
(410) 332-8661  
[Douglas.Sampson@saul.com](mailto:Douglas.Sampson@saul.com)

Renée Frustaci, Site Link Wireless, LLC  
(410) 299-4364  
[rfrustaci@sitelinkwireless.com](mailto:rfrustaci@sitelinkwireless.com)

Address: 3417 Rohrersville Road, Rohrersville, Maryland 21779  
Jurisdiction: Washington County, Maryland  
District: 08  
Parcel Tax Acct #: 013454  
SDAT Property Info: Map 0084, Grid 0001, Parcel 0329  
Lot Size: 7.26 Acres  
Zoning: P (Preservation)  
Current Use: Exempt Commercial – Fire Station

Pursuant to the Washington County Zoning Ordinance (the “Ordinance”) § 25.56 The Towers, LLC d/b/a Vertical Bridge (“Applicant”), by its agents Saul Ewing LLP and Site Link Wireless, LLC, hereby requests a variance from the setback requirements set forth in Ordinance § 4.22(A)(1). The Applicant is building a new telecommunication facility that includes a 199’ monopole (the “Facility”) on a portion of property located at 3417 Rohrersville Road, Rohrersville, Maryland 21779, Tax ID# 08013454 (the “Property”). This honorable Board granted a special exception for the Facility in BZA Appeal No. AP2025-004.

The Applicant requests a variance from the setback from the western Property boundary. Under Ordinance § 4.22(A)(1), the proposed tower should be set back from all property lines a distance equal to the height of the tower (199’). Here, the Facility is setback 262 feet from the edge of Rohrersville Road to the west. However, due to an abnormally large state-owned right-of-way (approximately 125’ from the road’s centerline), the County determined the western boundary of the parcel is 150’ from the Facility. The Applicant requests a setback variance of 49 feet, for the Facility to be located 150’ from the Property line – but 262 feet from Rohrersville Road.

The Applicant respectfully requests that the Washington County Board of Zoning Appeals approve the requested variance from the setback requirements in Ordinance § 4.22(A)(1). This document and attached Exhibits provide justification for the requested variance.

### EXHIBITS

- Exhibit 1: Board of Zoning Appeals Order No. AP2025-004
- Exhibit 2: Letter of Support- The First Hose Company of Boonsboro, Inc.
- Exhibit 3: Site Plans in 8.5” x 11”
- Exhibit 4: Engineering Certification Letter
- Exhibit 5: Letter from Washington County Department of Planning

#### **I. The Approved Special Exception and Variances**

On May 1, 2025, this honorable Board issued an opinion (“Opinion”) granting a special exception and two setback variances. (See Board of Zoning Appeals Order No. AP2025-004 attached as **Exhibit 1**). In the Opinion, the Board accepted the testimony of the Appellant’s engineers that the fall radius in the result of a catastrophic failure was 150 feet, and was unlikely to exceed 100 feet. (See Ex. 1, at 3). The Board found that “that the proposed use is consistent with the purpose and vision of the Ordinance.” (See Ex. 1, at 5). The Board also made a factual finding that the Facility “is intended to address a gap in coverage that exists between the mountain ridges and along the Route 67 corridor.” (See Ex. 1 at 2).

In approving the variances, the Board found that:

The subject property is oddly shaped and shallow, with boundary lines cut at angles and juxtaposed to adjacent properties. The existing fire station building is located toward the middle of the property and the proposed communications facility would be located in close proximity to avoid disruption to the land, and to maximize distance from the surrounding properties. . . there is no location where this commercial communications facility could be constructed that would avoid the need for variance relief.

(See Ex. 1 at 7-8).

The Property is owned by the Boonsboro Fire Department, which has authorized the Applicant and its agents to pursue this Variance and any other zoning relief, permits, or applications required. The Property is home to Station 8 of the Boonsboro Fire Department. The Property is zoned Preservation (P) and is currently an exempt commercial use as a fire station.

The First Hose Company of Boonsboro wants the new Facility to improve wireless and broadband services for first responders. The Fire Department has expressed that wireless coverage is inadequate in this portion of Washington County, which leads to failed or dropped called by people who may be in need of emergency assistance. (See Letter of Support- The First Hose Company of Boonsboro, Inc., dated March 31, 2025 attached as **Exhibit 2**). “The proposed tower’s location next to the station ensures it will be appropriately situated for optimal use and have

minimal impact on the surrounding areas.” (See Ex. 2). The improved wireless and broadband services will also enhance the Fire Department’s own communications infrastructure to respond to emergency situations.

## **II. The Proposed Telecommunications Facility**

The Facility consists of a 199’ tall monopole (195’ pole, with a 4’ lightning rod) within a 50’ x 50’ (2,500 square feet) equipment compound surrounded by an 8’ tall fence (7’ chain link fence with barbed wire on top). (See Site Plan attached as Exhibit 3 at C-2 and C-3). The monopole will allow Verizon Wireless to locate its antennas with a centerline of 190’ above ground level (AGL) and will accommodate up to three future carriers to locate antennas at 180’ AGL, 170’ AGL, and 160’ AGL. (See Ex. 3 at C-3). The Facility will be built on already-graded land on the parcel and will be adjacent to the existing fire house building which will minimize the amount of land disturbance. The Facility will utilize and expand the existing utilize paved accessway to access the Facility and reduce the impervious surface. (See Ex. 3 at Z-3).

The Property is an ideal location for the Facility given its location and zoning district. The Property is a non-residential use in the middle of an area of residential and agricultural zoning districts, predominantly composed of single-family homes and farmland.

The Applicant’s engineer certified that the tower will be designed such, that in the unlikely case of a catastrophic failure, the tower would fall within a radius of 150 feet and would pose no risk to adjacent properties or buildings. (See Engineering Certification Letter attached as Exhibit 4). The Facility will have no adverse impact on the health, safety, or welfare of residents or workers in the area. The Facility will be free of odors, fumes, light, glare, and noise.

## **III. Requested Variance**

Because the Facility will be located 262 feet from Rohrersville Road, the Applicant believed it complied with setbacks to the west. On December 19, 2025, the Applicants received a letter from the Washington County Department of Planning & Zoning rescinding the site plan approval (SP-25-029) for the Facility, because it found that the Facility is only 150 feet from the western border of the Property. (See Letter from Washington County Department of Planning, dated December 19, 2025 attached as Exhibit 5).

The proposed Facility is 262 feet from Rohrersville Road. Due to an abnormally large 250 wide state-owned right-of-way (approximately 125 feet to either wide of the centerline of Rohrersville Road), the County made a finding that the distance from the western boundary of the Property is only 150 feet.<sup>1</sup> The Boonsboro Fire Department maintains the 112 feet of grass and land between its parcel boundary and Rohrersville Road and obtains ingress and egress to the fire

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<sup>1</sup> There is an argument that the Facility already complies with the Ordinance. Section 4.22(A)(1) reads: “Subject to a minimum setback of a distance equaling the total height of the tower and equipment. The setback shall be measured from the base of the tower to the boundary line of the property owned, leased, or **controlled by easement by the applicant.**” *See* Ordinance § 4.22(A)(1) (emphasis added). The Boonsboro Fire Department controls the grassy area between its western Property boundary and the edge of Rohrersville Road, including cutting the grass, obtaining ingress and egress over the right-of-way, and having a sign in the right-of-way. However, in order to avoid any doubt, the Applicant agreed to submit this appeal for a variance.

station through this right-of-way. The Applicant requests a variance reducing the required setback from the western Property boundary by 49 feet from 199 feet to 150 feet. The Applicant is requesting a variance from the setback requirements of Ordinance § 4.22(A)(1): a reduction of the 1-to-1 height setback (199' tower height) from the western Property boundary to 150 feet. The Facility meets all other setback requirements set forth in Ordinance § 4.22(A)(1).

Due to the shape of the parcel, there is no place on the Property where the proposed Facility can meet all required setbacks in Ordinance § 4.22(A). The location of the proposed Facility was chosen to be adjacent to the existing fire station, which limits the area of disturbance and reduces visual impact on the surrounding area. (*See Ex. 3*). The Applicant considered alternative locations on the parcel, but no location would have completely eliminated the need for variances.

#### **IV. Compliance with Ordinance Section 25.56**

##### *Section 25.56 Variances*

*A variance may be granted by the Board upon a showing of criteria of practical difficulty or undue hardship described below respectively:*

##### *A. Practical Difficulty*

*1. Strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;*

- **Applicant's Response:** A telecommunications facility is permitted in the P (Preservation) district with a special exception, which has already been approved by this honorable Board. (*See Ex. 1*). The Board has already found that there is no location on the Property where the proposed Facility could meet all setbacks and, therefore, not require at least one variance. (*See Ex. 1 at 7-8*). The abnormally large state-owned right-of-way also creates a practical difficulty. The Facility will be set back 262 feet from Rohrersville Road. The strip of land between Rohrersville Road and the western boundary of the Property is state owned, uninhabited, and undeveloped.

*2. Denying the variances would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and*

- **Applicant's Response:** Requiring strict compliance with the Code would cause substantial injustice to the Applicant and would likely eliminate the proposed Facility from ever being built. Indeed, the Board previously approved two variances from the RV district and the nearest dwelling. The requested variance does not affect any private property owner. The variance relief requested, reduces the setback from a state-owned right-of-way with no building or development of any kind. The right-of-way is unusually large (125' from the centerline of the roadway). If the right-of way was typical in Maryland (~30 feet from the centerline), no variance would be required – which is why no variance was originally requested. The requested relief will cause no harm or adverse effect. The Applicant's engineers have confirmed that the fall zone for

the Facility is 150 feet. (*See Ex. 4*). In the unlikely event of a catastrophic failure, the proposed monopole would not fall outside of the boundary of the Property.

*3. Granting the variance would observe the spirit of the Ordinance and secure public safety and welfare.*

- **Applicant's Response:** Granting the requested variance would observe the spirit of the Ordinance. The adjacent state-owned right-of-way has no building and no development. It is maintained by the Boonsboro Fire Department and the fire department uses the strip of land for ingress and egress to its Property. Therefore, there is no adverse impact to any adjacent property owners if the requested variance is granted. This area of Washington County has a significant need for improved emergency and non-emergency wireless services. (*See Ex. 1*). Bringing necessary emergency and non-emergency communications services to the area provides a significant benefit to secure public safety and welfare.

*B. Undue Hardship*

*1. Strict compliance with the Ordinance would prevent the applicant from securing a reasonable return from or to make reasonable use of the property; and*

- **Applicant's Response:** Strict compliance with the setback provisions of Ordinance § 4.22(A)(1) will likely prevent the Applicant from building the Facility. The height of the Facility (199') is necessary to bring adequate emergency and non-emergency wireless services to this area of Washington County. As testified to in the special exception application, a reduced height would not meet Verizon's coverage needs and would render co-location opportunities moot. If the variance is denied, the Facility is unlikely to be built. Additionally, the abnormally large right-of-way would eliminate a reasonable use of the Property.

*2. The difficulties or hardships are peculiar to the property and contrast with those of other property owners in the same district; and*

- **Applicant's Response:** The Property is unique in that it is home to the Boonsboro Fire Department. It provides a location for a telecommunications Facility on a parcel that has a non-residential use surrounded by other residential properties. Locating the Facility on the fire department's Property will increase emergency and non-emergency communications for the community including the first responders located at the Property. It also provides a location that is a public use, rather than imposing the burden on a privately owned parcel. There is no location on the Property where the Applicant can proceed without any variances. (*See Ex. 1 at 7-8*). The difficulties are also peculiar to this Property due to the abnormally wide state-owned right-of-way. If the right-of-way was typical in Maryland (~30 feet from the centerline), no variance would be required..

3. *The hardship is not the result of the applicant's own actions.*

- **Applicant's Response:** The hardship is not the result of the applicant's actions. The Applicant choose a location to minimize the variance requests and reduce the burden on adjacent properties to the maximum extent. The existence of an unusually large state-owned right-of-way pre-dates the Boonsboro Fire Department's ownership of the parcel. Were the right-of-way a typical thirty feet from the road's centerline, no variance would be required here. The Property is unique in that there is no location on the Property where the proposed Facility could be located to meet a setback from the state-owned right-of-way, and meet (or maximize) the other required setbacks and approved setback variances.

## VII. Conclusion

The Applicant respectfully requests that the Washington County Board of Appeals grant the requested Variance for reduced setback from the western Property boundary. We look forward to presenting this and additional information as necessary at an upcoming hearing, and improving the wireless services for the residents, businesses, and visitors to Washington County. If you need further information, please contact our zoning attorney Doug Sampson at 410-332-8661 or [douglas.sampson@saul.com](mailto:douglas.sampson@saul.com).

# **EXHIBIT 1**

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

**THE TOWERS, LLC**

**Appeal No.: AP2025-004**

**Appellant**

\* \* \* \* \*

**OPINION**

The Towers, LLC (hereinafter “Appellant”) requests a special exception for a proposed 199-foot monopole-style commercial communications facility at the subject property. Appellant also requests variance to reduce the minimum required setback from a dwelling from 399 feet to 329 feet, and a variance to reduce the minimum required setback from the Rural Village Zoning district from 399 feet to 291 feet at the subject property. The subject property is located at 3417 Rohrersville Road, Rohrersville, Maryland 21779 and is zoned Preservation. The Board held a public hearing in this matter on April 2, 2025. Appellant was represented by Douglas A. Sampson, Esq. at the hearing.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

**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. Boonsboro First Hose Fire Co. is the owner of the subject property located at 3417 Rohrersville Road, Rohrersville, Maryland. The subject property is zoned Preservation.
2. Appellant is the contract lessee for a portion of the subject property to be

used as a commercial communications tower and is authorized to pursue this appeal.

3. The subject property consists of approximately 7.26 acres, improved by a commercial building and garage space operated as Station 8 of the Boonsboro First Hose Fire Company. The garage building houses emergency vehicles and there is surface parking surrounding the building. It is adjacent to agricultural and residential properties, with screening from trees to the south, southeast and across Rohrersville Road to the west.

4. Appellant proposes to construct a 199-foot monopole-style commercial communications tower with a 4-foot lightning rod on top. The facility will consist of the monopole and an accessory building. It will be accessed by expanding the current access to the property and will require visits from a technician approximately four (4) times per year for routine inspection and maintenance.

5. The communications tower will be designed so that in the event of failure or damage, the fall radius would be limited to 150 feet.

6. The commercial communications facility will be located 329 feet from the nearest dwelling and 291 feet from the adjacent Rural Village zoning district.

7. The proposed commercial communications facility is intended to address a gap in coverage that exists between the mountain ridges and along what Route 67 corridor. The nearest communication towers are in Boonsboro, Keedysville and Harpers Ferry. Appellant found that data speeds were significantly slower in and around the proposed site due to blocked signals and gaps in the coverage area.

8. Due to the height, the monopole tower is not required to have a beacon for aircraft. Appellant indicated it would agree to install a beacon if that was made a condition of approval.

9. Appellant has confirmed that there are no suitable buildings, water tanks, utility structures or existing telecommunications facilities that could serve the coverage area through co-location. Verizon already co-locates on facilities located to the north and

the south of the subject property.

10. Boonsboro First Hose Fire Co. supports this project and believes it will address call drops and communication issues for the area.

11. There was opposition presented to this appeal by adjacent property owners.

### **Rationale**

Appellant presented evidence, including expert testimony regarding the need for additional communication infrastructure in the area of the subject property. Area residents often complain of dropped connections or lack of service altogether.

Several adjacent property owners testified in opposition to the proposed project. They raised concerns about the viewshed, having to see that monopole communications tower from their homes, which are situated above the subject property. The opposition noted concerns for property values, citing that research suggested up to a twenty percent reduction in value when located near a commercial communications facility. The Board heard testimony regarding nearby historic buildings, and the rural character of the area that would be negatively impacted by the location of a communications tower at the subject property. At least one of the opposition witnesses testified that she was concerned about the health risks of such a facility located so close to homes. Lastly, the opposition raised questions about the safety of such a facility in the event of storm damage or failure, given its proximity to other properties.

Appellant called upon its engineers to respond to the concerns raised during the hearing. In its supporting documentation submitted with the application, Appellant asserted that the fall radius in the event of a catastrophic event or failure was 150 feet. Appellant's engineer testified that the fall radius was likely not to exceed 100 feet. The monopole is designed to crumple and bend over, rather than shear off at the bottom. Appellant noted that EMF emissions are closely regulated by the Federal Government and that the proposed project would fall well within the regulated limits.

### *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.

The subject property is located in a rural area and although there are residences

nearby, the population is moderate to low in the surrounding area. The subject property will continue to be used as a fire station. The testimony presented was that the proposed facility will not produce any noise, odor, gas, smoke, fumes, or vibrations upon the surrounding properties.

Although the opponents to this appeal raised concerns about property values, it was based on their belief that property values would decrease. They did not present any documentation or cite specific studies or research that would substantiate these beliefs. Common sense might dictate that residing in close proximity to a commercial communications tower is not desirable, but the same can also be true for residing in close proximity to a fire station. Depending on the intensity of its operations, the fire station could be significantly more disruptive to peace and enjoyment of one's property than having to look at a communications tower.

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. Appellant provided evidence and testimony of the need for the proposed communications facility to address a large gap in coverage in the area. There is no evidence that it will create dangerous traffic or other safety concerns within the surrounding area. The Board finds that the proposed use is consistent with the purpose and vision of the Ordinance.

The nearest school is Pleasant Valley Elementary which is approximately 3.8 miles away and will not be affected by this project. Although there are a number of churches

nearby, the proposed facility does not create additional traffic to the area or impact access to gatherings or events that may be held at locations in the surrounding area.

The Board notes that any use of property has some impact on the surrounding neighborhood. The test is not whether there is adverse impact, but whether the nature of the specific property or area exacerbates that impact. A monopole communications tower near residential property would have many of the same adverse effects raised by the opposition, regardless of its location in the zoning district. To the extent it is aesthetically displeasing and may affect property values, those things are not unique to the subject property herein. Rather, they are characteristic of the use in general, when located among agricultural and residential uses.

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). For all these reasons, we conclude that this appeal meets the criteria for a special exception, and Appellant’s request should be granted.

### *Variance Requests*

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.<sup>1</sup> “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

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<sup>1</sup> “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)

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 4.22(A)(2), the required setback for a commercial communications tower from the nearest dwelling is equal to the height of the tower plus 200 feet. In this case, that would make the setback requirement 399 feet from the nearest dwelling which is located on the Lucero property to the northeast. Pursuant to Section 4.22(A)(2) of the Ordinance, the required setback for a commercial communications tower from the Rural Village zoning district is also equal to the height of the tower plus 200 feet. In this case, that would make the setback requirement 399 feet from the Rural Village zoning district which is located adjacent to the subject property. Appellant is requesting variances to reduce those setbacks to 329 feet and 291 feet, respectively.

The subject property is oddly shaped and shallow, with boundary lines cut at angles and juxtaposed to adjacent properties. The existing fire station building is located toward the middle of the property and the proposed communications facility would be located in close proximity to avoid disruption to the land, and to maximize distance from the surrounding properties. The proposed location complies with the setback requirements on two (2) sides and is situated 291 feet from the Rural Village zoning district and 329 feet from the nearest dwelling. Given the shape, size and characteristics

of the subject property, there is no location where this commercial communications facility could be constructed that would avoid the need for variance relief. It is clear from the testimony that variance requests herein are the minimum necessary to afford relief and were carefully chosen to balance setback distances from all properties. The resulting setbacks are still significant and exceed the total height of the proposed tower. The Board finds that strict compliance with the setback requirements would unreasonably prevent the use of the property for a permitted purpose. Appellant cannot move the tower on the property to alleviate the setback requirements and cannot reduce the height without significantly impacting the viability and utility of the proposed facility. Therefore, practical difficulty exists, and the requested variances are both appropriate and necessary.

Accordingly, the request for a special exception for a proposed 199-foot monopole-style commercial communications facility at the subject property is hereby GRANTED, by a vote of 3 to 2. The variance request to reduce minimum required setback from a dwelling from 399 feet to 329 feet, and the request to reduce the minimum required setback from the Rural Village Zoning district from 399 feet to 291 feet at the subject property are GRANTED, by a vote of 3 to 2. The special exception and variances 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

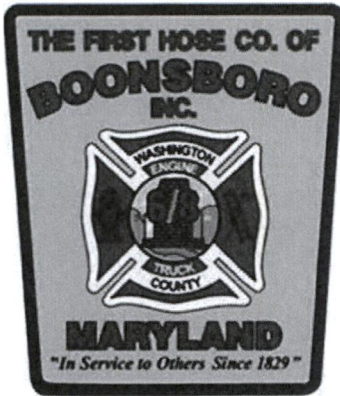
By: Tracie Felker, Chair

**Date Issued: May 1, 2025**

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.

# **EXHIBIT 2**



## The First Hose Company of Boonsboro, Inc.

*Boonsboro Station 6*  
5 St. Paul St.  
Boonsboro, MD 21713  
Phone: 301-432-2348  
Fax: 301-432-2438

*Rohrersville Station 8*  
3417 Rohrersville Road  
Rohrersville, MD 21779  
Phone: 301-432-8120  
Fax: 301-432-5120

March 31, 2025

### Washington County Board of Zoning Appeals

747 Northern Ave  
Hagerstown, MD 21742

To the Members of the Board of Zoning Appeals,

I hope this letter finds you well. We are writing to express our strong support for the proposed installation of a communications tower next to First Hose Company of Boonsboro; Rohrersville Road, Station 8. As we are responsible for the essential services provided by our local volunteer fire department, we believe this project will provide tremendous benefits to both the department and the greater community.

The installation of the communications tower will serve as a crucial resource for enhancing the effectiveness of our fire department's operations. The tower will ensure improved communication capabilities for emergency response, which is vital for saving lives and protecting property. In addition, this tower will generate significant revenue for the department, which is largely volunteer-based and faces continual funding challenges. The additional revenue will directly contribute to covering operational expenses, purchasing necessary equipment, and improving training for the dedicated volunteers who serve our community.

We are aware that some members of the public have expressed concerns about the installation of the tower. However, we firmly believe that the benefits far outweigh any potential drawbacks. The fire department plays a critical role in public safety, and this project is an investment in the future of our community. The proposed tower's location next to the station ensures it will be appropriately situated for optimal use and have minimal impact on surrounding areas.

Moreover, the revenue generated will help alleviate the financial strain on the department, enabling them to continue providing the high level of service we have come to rely on. Given the increasing demands on emergency services and the financial challenges volunteer organizations face, we are confident that this project is in the best interest of our community's safety and well-being.

We strongly encourage the approval of this communications tower installation and ask that you consider the positive impact it will have on both the fire department and our local residents. Thank you for your time and consideration of this important request.

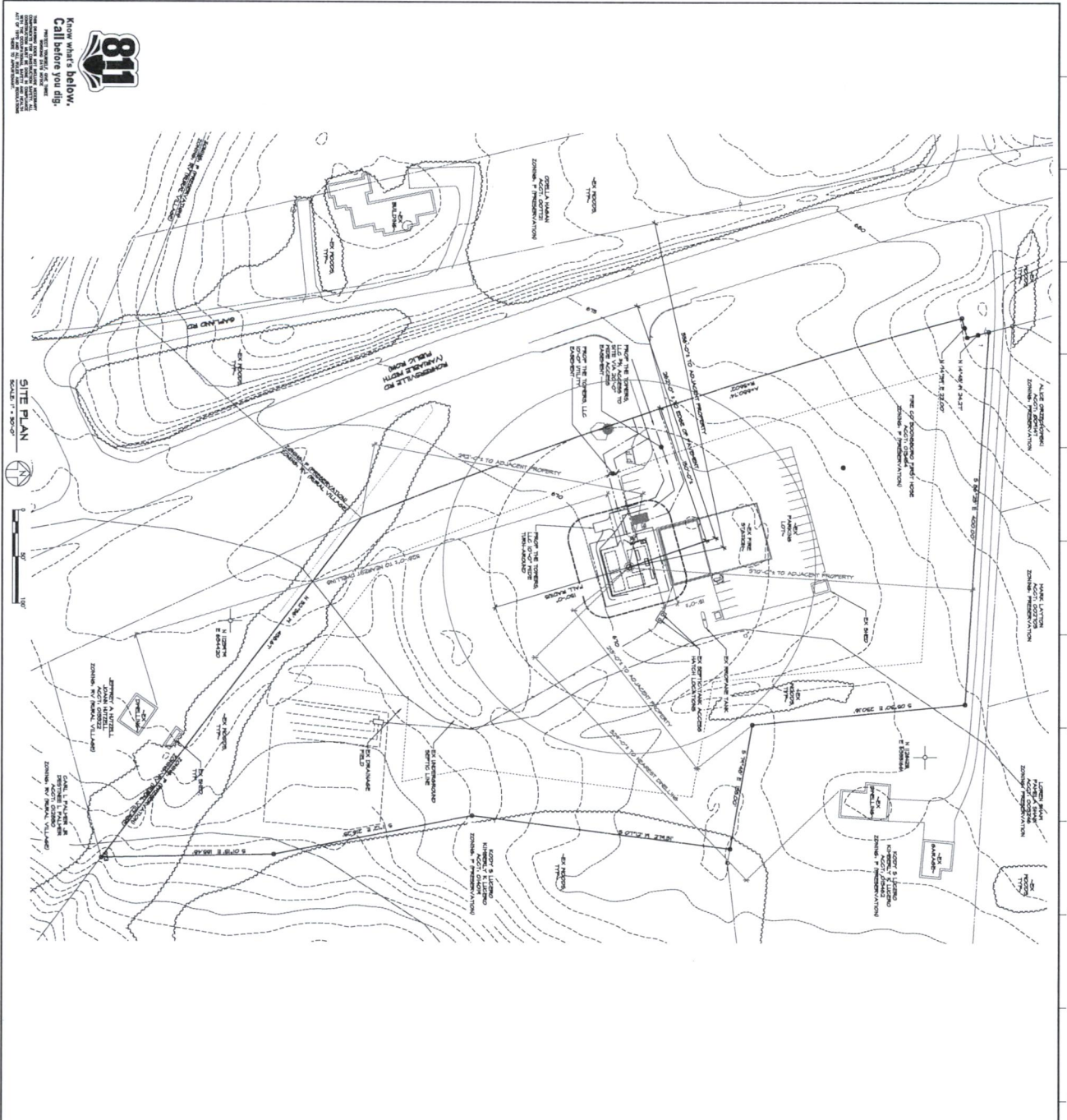
Sincerely,

**George Meyer, President**

**Vern Wachter, Chief**

# **EXHIBIT 3**





**SITE PLAN**  
SCALE: 1" = 20'-0"

- GENERAL NOTES:**
1. THE CONTRACTOR SHALL VERIFY THE EXISTING UTILITIES AND RECORD THEM ON THE SITE PLAN. ALL UTILITIES SHALL BE DEEPENED TO A MINIMUM OF 48" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
  2. THE CONTRACTOR SHALL VERIFY THE EXISTING CONCRETE DRIVEWAY AND RECORD IT ON THE SITE PLAN. ALL CONCRETE DRIVEWAYS SHALL BE REPAIRED TO ORIGINAL CONDITION OR BETTER.
  3. THE CONTRACTOR SHALL VERIFY THE EXISTING SIDEWALKS AND RECORD THEM ON THE SITE PLAN. ALL SIDEWALKS SHALL BE REPAIRED TO ORIGINAL CONDITION OR BETTER.
  4. THE CONTRACTOR SHALL VERIFY THE EXISTING UTILITY LINES AND RECORD THEM ON THE SITE PLAN. ALL UTILITY LINES SHALL BE DEEPENED TO A MINIMUM OF 48" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
  5. THE CONTRACTOR SHALL VERIFY THE EXISTING PAVEMENT AND RECORD IT ON THE SITE PLAN. ALL PAVEMENT SHALL BE REPAIRED TO ORIGINAL CONDITION OR BETTER.
  6. THE CONTRACTOR SHALL VERIFY THE EXISTING FOUNDATIONS AND RECORD THEM ON THE SITE PLAN. ALL FOUNDATIONS SHALL BE REPAIRED TO ORIGINAL CONDITION OR BETTER.
  7. THE CONTRACTOR SHALL VERIFY THE EXISTING STRUCTURES AND RECORD THEM ON THE SITE PLAN. ALL STRUCTURES SHALL BE REPAIRED TO ORIGINAL CONDITION OR BETTER.
  8. THE CONTRACTOR SHALL VERIFY THE EXISTING ROADS AND RECORD THEM ON THE SITE PLAN. ALL ROADS SHALL BE REPAIRED TO ORIGINAL CONDITION OR BETTER.
  9. THE CONTRACTOR SHALL VERIFY THE EXISTING UTILITIES AND RECORD THEM ON THE SITE PLAN. ALL UTILITIES SHALL BE DEEPENED TO A MINIMUM OF 48" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
  10. THE CONTRACTOR SHALL VERIFY THE EXISTING CONCRETE DRIVEWAY AND RECORD IT ON THE SITE PLAN. ALL CONCRETE DRIVEWAYS SHALL BE REPAIRED TO ORIGINAL CONDITION OR BETTER.
  11. THE CONTRACTOR SHALL VERIFY THE EXISTING SIDEWALKS AND RECORD THEM ON THE SITE PLAN. ALL SIDEWALKS SHALL BE REPAIRED TO ORIGINAL CONDITION OR BETTER.

**verticalbridge**  
THE TOWERS, LLC

**ROHRSVILLE**  
3418 ROHRSVILLE ROAD  
ROHRSVILLE, VA 22655

**MR2**  
MORRIS & RICHIE  
ARCHITECTS

DATE: 10/15/2024

PROJECT NO: 10417-018

DESIGNED BY: CMB

REVIEWED BY: EMS

SCALE: 1" = 20'-0"

SHEET: C-1





# **EXHIBIT 4**

# MORRIS & RITCHIE ASSOCIATES, INC.

ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS,  
AND LANDSCAPE ARCHITECTS



January 15, 2025

Ms. Laura Hughes  
The Towers, LLC  
750 Park of Commerce Drive, Suite 200  
Boca Raton, FL 33487-3650

Re: US-MD-5101 - Rohrsersville  
3417 Rohrsersville Road  
Rohrsersville, MD 21779 (Washington Co)  
Latitude: 39.407964° Longitude: -77.659722°  
MRA Job No. 19847.015

Dear Laura:

The purpose of this letter is to certify that the proposed 195'-0" monopole structure will be designed by the manufacturer to meet the requirements of the 2018 International Building Code (2021 IBC) and the ANSI/TIA-222-H Standard.

Per the TIA-222-H Standard, ASCE 7-16, and 2021 IBC requirements, the monopole shall be designed under the following minimum loading conditions:

TIA-222-H: 115 mph Wind (3-second gust) + No Ice  
TIA-222-H: 40 mph Wind (3-second gust) + 1" Radial Ice

Note: The monopole shall also be designed to resist seismic loading per TIA-222-H in conjunction with site specific soil parameters determined from a geotechnical investigation.

In addition to the minimum loading conditions above, we note that the monopole shall also be designed by the manufacturer such that should failure of the monopole occur under extreme weather conditions, the maximum "fall zone" radius will not exceed **150'-0"** from the center of the monopole's base. While failure is extremely rare in any kind of tower, it is especially so for monopoles. The proposed monopole shall be designed by the manufacturer such that if failure were to occur, it would occur in a specific portion of the monopole to meet the maximum "fall zone" radius requirement previously defined.

We also note that in addition to the above, the monopole will be designed to support a maximum of four (4) wireless carriers.

1220-B East Joppa Road, Suite 400K, Towson, MD 21286 (410) 821-1690 Fax: (410) 821-1748 [www.mragta.com](http://www.mragta.com)

Abingdon, MD ♦ Baltimore, MD ♦ Laurel, MD ♦ Towson, MD ♦ Georgetown, DE ♦ New Castle, DE ♦ Leesburg, VA ♦ Raleigh, NC  
(410) 515-9000 (410) 935-5050 (410) 792-9792 (410) 821-1690 (302) 855-5734 (302) 326-2200 (703) 674-0161 (984) 200-2103

The Towers, LLC  
Re: US-MD-5101 - Rohrsersville  
January 15, 2025  
Page 2

Monopole design documents shall be submitted from the manufacturer as part of the Building Permit submission. If you should have any questions or require any additional information, please do not hesitate to call our office.

Sincerely,  
MORRIS & RITCHIE ASSOCIATES, INC.



Brian E. Siverling, PE  
Principal

V:\bg\_PROJECTS\19800-19899\19847 - Vertical Bridge Projects\19847.015 US-MD-5101 - Rohrsersville\Site Information\Special Exception Docs\Rohrsersville Monopole Fall Letter.doc

# **EXHIBIT 5**



DEPARTMENT OF PLANNING & ZONING  
PLANNING | ZONING | LAND PRESERVATION | FOREST CONSERVATION | GIS

December 19, 2025

Doug Sampson  
Saul Ewing LLP  
1001 Fleet Street, 9th Floor  
Baltimore, Maryland 21202

Re: Notice of Rescission of Site Plan Approval for SP-25-029

Dear Doug,

I am writing to notify you that your site plan submission for the monopole commercial communication tower located at 3417 Rohrsersville Road, Rohrsersville, Maryland 21779 fails to comply with the Washington County Zoning Ordinance (the "Ordinance"), and therefore, the County must rescind the site plan approval.

Specifically, Section 4.22(A)(1) of the Ordinance provides:

Design requirements

In addition to the applicable requirements for a site plan as specified in Section 4.11, the applicant shall provide the following information as part of the site plan submittal. These provisions shall apply to towers in all districts where permitted as a principal permitted or special exception use:

1. Subject to a minimum setback of a distance equaling the total height of the tower and equipment. The setback shall be measured from the base of the tower to the boundary line of the property owned, leased, or controlled by easement by the applicant.

Here, your site plan submission shows that distance from the tower to the western border of your property line is only 150 feet, whereas the total height of the tower and equipment proposed totals 199 feet. Thus, the proposed tower location violates the setback requirement established in Section 4.22(A)(1) of the Ordinance by 49 feet. Accordingly, the County must rescind its approval of your site plan, and you must resubmit a site plan which fully complies with the Ordinance.

Sincerely,

Jennifer D. Kinzer  
Interim Planning Director