

**BOARD OF APPEALS**

**August 30, 2023**

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

**AGENDA**

**AP2023-039:** An appeal was filed by Robert & Sherri Goetz Jr. for a variance from the residential density requirement of 1 dwelling unit per 50 acres with the AP/O (d) overlay to 1 dwelling unit per 7.19 acres to increase the density to allow the subdivision of a 14.38-acres parcel into two lots and a variance from the residential side yard setback of 50 ft. for lots 5 acres or greater in size to 15 ft. for future dwelling. The property is owned by the appellant and located at the vacant property west of 14014 Marsh Pike Parcel 27031021, Hagerstown, Zoned Agricultural Rural District with the Airport Overlay Zone.

**AP2023-040:** An appeal was filed by Jeremy Kriner for a variance from the 50 ft. rear yard setback requirement to 37 ft. for future addition to existing single-family dwelling on property owned by the appellant and located at 13949 McIntosh Circle, Clear Spring, Zoned Agricultural Rural District.

**AP2023-041:** An appeal was filed by Thomas J. Mills for a special exception to establish a banquet/reception facility in an existing barn on property owned by the appellant and located at 9827 Downsville Pike, Hagerstown, Zoned Agricultural Rural District.

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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 August 21, 2023. 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.

Jay Miller, 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: Robert & Sherri Goetz Jr.
19807 Marcia Court
Boonsboro MD 21713
Appellant: Robert & Sherri Goetz Jr.
19807 Marcia Court
Boonsboro MD 21713
Docket No: AP2023-039
Tax ID No: 27031021
Zoning: A(R)
RB Overlay: No
Zoning Overlay: AP/O (d)
Filed Date: 07/31/2023
Hearing Date: 08/30/2023

Property Location: Lot West of 14014 Marsh Pike
Hagerstown, MD 21742

Description Of Appeal: Variance from the residential density requirement of 1 dwelling unit per 50 acres with the AP/O (d) overlay to 1 dwelling unit per 7.19 acres to increase the density to allow the subdivision of a 14.38-acre parcel into two lots; Variance from the residential side yard setback of 50 ft. for lots 5 acres or greater in size to 15 ft. for future dwelling.

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 Section: 21.3 (d) & 5A.7, 4

Reason For Hardship: Subdivision to allow aging parents/in-laws to live in own dwelling and close in proximity.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Vacant Lot Proposed Use: Subdivision for Two Residential Lots

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 Appellant]

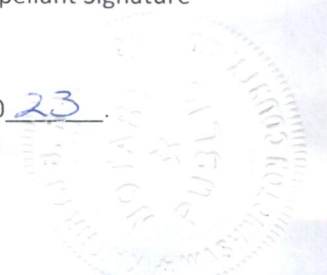
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 2 day of August, 2023.



[Handwritten signature of Notary Public]



My Commission Expires

Notary Public

MY COMMISSION EXPIRES NOVEMBER 07, 2022  
MARYLAND  
WASHINGTON COUNTY  
NOTARY PUBLIC  
Kathryn B Ralston



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: AP2023-039

State of Maryland Washington County, To Wit:

On 7/31/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Frederick, Seibert & Associates Inc and made oath in due form of law as follows:

Frederick, Seibert & Associates 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 08/30/2023, 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.

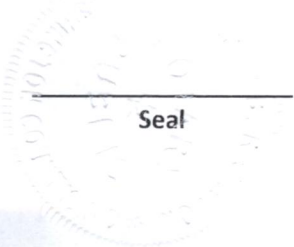
Sign(s) will be posted on 08/15/2023 and will remain until after the above hearing date.

Frederick, Seibert & Associates Inc

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

**Kathryn B Rathvon**  
NOTARY PUBLIC  
WASHINGTON COUNTY  
MARYLAND  
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public



Seal

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

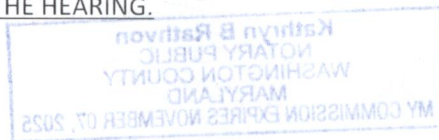
### ATTENTION!

### 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.



**Project Name:** BJ & Sherri Goetz

**Owner/Applicant:** BJ & Sherri Goetz

**Project Address:** S/S of Air View Road and W/S of Marsh Pike

**Tax Map** 25 **Grid** 2 **Parcel** 816

**Account #** 27031021

**Zoning:** A(r) with AP/O in a Rural Area

**Variance requests:**

1. This request is from Section 21.3 AP/O (d) of the Washington County Zoning Ordinance which indicates the density of residential development shall be limited to no more than one (1) dwelling unit per fifty (50) acres of land owned in the A(r) zoning district with AP/O overlay.

The variance requested is to increase the density to allow the subdivision of a 14.38 acre parcel into two (2) lots increasing the density to 1 dwelling unit per 7.19 acres.

The majority of the property is in the overlay district by approximately 800' however the frontage along Marsh Pike back 400' is not within the overlay district.

While the applicants understand the spirit of the ordinance and protecting future homeowners from the effects of an airport, one dwelling per 50 acres seems excessive. Looking an aerial view of existing lots under 1 acre within the overlay district, a ratio of 1 dwelling per 7.19 acres appears to be a low density.

The applicants intend to keep both lots, lot 1 will be for themselves and lot 2 will be for aging parents/in-laws.

The hardship in this case is that if the variance is not granted the applicants will not be able to care for aging parents/in-laws and be within such a close proximity. The parents/in-laws will not have the comfort of living in their own home while enjoying retirement.

2. This variance request is from Section 5A.7 Special Provisions item #4 which indicates side yard setbacks for residential use lots shall be a minimum of 50 ft for lots five (5) acres or greater in size. This is in contrast to lots less than five (5) acres having a minimum side yard setback of fifteen (15) feet.

Applicants request is to allow the side yards perpendicular to Airview Road maintain a minimum fifteen (15) foot setback.

**Rational to allow the variance are as follows:**

- 1. Geographic features such as stream buffers limit the building area on each lot.**
- 2. Lot 1 western most side property line is adjacent to a railroad right of way in excess of 66 feet wide which limits the incompatibility of residential land uses with agricultural land uses and visa versa.**
- 3. Lot 2 eastern most property line is adjacent to a parking lot for a nursing home in the RB zoning district with the closest building being 250 feet from the applicants property line.**
- 4. The new line of division line between lots 1&2 or the common property line will benefit both of the lots with a greater building envelope yet not be subject to some of the unpleasant effects of an intense agricultural operation.**



# Washington County Board of Zoning Appeals Owner's Representative Affidavit

This is to certify that ED SCHREIBER  
is authorized to file an appeal with the Washington County Board of Appeals for \_\_\_\_\_  
- VARIANCE -  
on property located SOUTH SIDE OF AIRVIEW RD & WEST SIDE OF MARSA PIKE  
The said work is authorized by ROBERT GOETZ JR  
the property owner in fee.

### PROPERTY OWNER

ROBERT GOETZ JR  
Name

19007 MARCIA CT  
Address

BEENS BORO MD 21713  
City, State, Zip Code

\* [Signature]  
Owner's Signature

Sworn and subscribed before me this 11<sup>th</sup> day of July, 2023.

\* [Signature]  
Notary Public

My Commission Expires:

CHRISTY M. LAUTENSLAGER  
Notary Public - State of Maryland  
Washington County  
My Commission Expires Mar 28, 2026

### AUTHORIZED REPRESENTATIVE

ED SCHREIBER  
Name

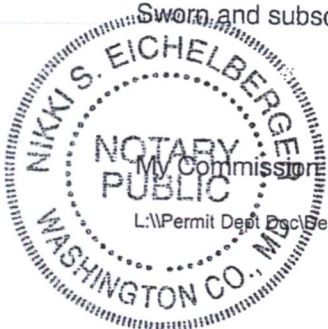
128 S. POTOMAC ST  
Address

HAGERSTOWN MD 21740  
City, State, Zip Code

[Signature]  
Authorized Representative's Signature

Sworn and subscribed before me this 11 day of July, 2023.

[Signature]  
Notary Public



My Commission Expires: 9/15/2024




## ARTICLE 21 "AP" AIRPORT DISTRICT<sup>132</sup>

### Section 21.0 Purpose

The four (4) Airport District zoning designations are established to provide a safe environment for airport operations and surrounding land uses. They are also intended to promote Hagerstown Regional Airport (Airport) as an economic development resource and to permit land uses which would benefit from or have a need to be located in proximity to a source of air transportation or a related business. They are established to monitor and prevent creation of uses or structures near or adjacent to the Airport which would result in a detriment or hazard to aircraft operations.

### Section 21.1 Airport Districts

The four (4) Airport Districts are:

- (a) **AP/C Airport Clear Zone** - An overlay district that places height restrictions on uses permitted by the underlying district. This zone also prevents construction of buildings within a designated area at the end of an airport runway. The purpose of the AP/C District is to prevent the creation of obstructions to air traffic.
-  (b) **AP/O - Airport Overlay Zone** - This district is intended to reduce the limiting effects on Airport operations and improvements that incompatible residential development can create. This overlay district limits the density of residential development within its boundaries. The overlay has different requirements determined by location in the Urban Growth Area or the Rural Area as designated by the Comprehensive Plan.
- (c) **AP - Airport District** - A traditional zoning classification which regulates land use.
- (d) **AP/HW - Airport Hazardous Wildlife Attractant Management District** - An area that is defined by and adheres to the principles, guidance, and recommendations contained in Federal Aviation Administration (FAA) Advisory Circular (AC) No. 150/5200-33B (or latest revision) Hazardous Wildlife Attractants on or Near Airports (FAA AC No. 150/5200-33B). This district provides a mechanism to advise the Airport managing authority and the Planning Commission of land use changes near the Airport in order to implement the recommendations of the above-referenced FAA AC No. 150-5200-33B.

### Section 21.2 AP/C Airport Clear Zone


- (a) The Airport Clear Zone is established to prevent the creation of obstructions or hazards to air navigation near the Hagerstown Regional Airport.

<sup>132</sup>

Revision 17, Article 21 deleted and replaced, 4/17/12, eff. 7/1/12 (RZ-10-005/ORD-2012-07)

- (h) Under no circumstances shall the Board of Appeals grant a variance from the height restrictions of the AP/C Zone described in Section 21.2.

Section 21.3 AP/O - Airport Overlay<sup>133</sup>

- (a) The district boundaries encompass the area of typical traffic patterns and the area most often over flown and therefore most often impacted by aircraft approaching and departing Hagerstown Regional Airport.
- (b) **Boundaries** - The boundaries of the Airport Overlay District are set at seven thousand (7,000) feet from and parallel to both sides of the centerline of runway 9/27 and a distance of seven thousand (7,000) feet from and perpendicular to the ends of Runway 9-27 at the Hagerstown Regional Airport.
- (c) **Urban Growth Area** - In the AP/O District in the Urban Growth Area designated by the adopted Washington County Comprehensive Plan, mixed use districts MXR, MXC, or MXE are not permitted.
-  (d) **Rural Areas** - In the AP/O District in the Rural Area designated by the adopted Washington County Comprehensive Plan, the density of residential development shall be limited to no more than one (1) dwelling unit per fifty (50) acres of land owned. Exemption lots as described in Section 5A.4, 5B.4, or 5C.4 of this Ordinance are not permitted.
- (e) **Advisories** - All subdivision plats and site plans that are approved for development within the AP/O District shall contain prominent notations that:
  - 1. Advise future owners of the affected property that it is located within the AP/O District and may be subject to effects and limitations relating to aircraft operations; and
  - 2. Contain recommendations for additional insulation and other sound deadening measures for residential construction.
- (f) **Appeals** - In the deliberation on any appeal to the requirements of the AP/O District, the Board of Appeals shall consider the purpose of the AP/O District to reduce the limiting effects of residential development and seek input from the Airport Director or managing authority prior to making a decision.

Section 21.4 AP - Airport District

The Airport District is a traditional land use zoning classification. It will specify permitted as well as prohibited uses and guidelines to be followed in the development of properties in the AP zone. It is designed to accommodate all aspects of Airport operations, permit uses that rely on proximity to the Airport, permit uses that provide

<sup>133</sup>

Revision 18, Article 21.3(d) amended 10/14/14, eff. 10/14/14, (RZ-14-003/ORD-2014-17)

# Frederick Seibert & Associates, Inc.



7/11/2023, 1:09:44 PM

World Transportation

Parcels

MD\_SixInchImagery

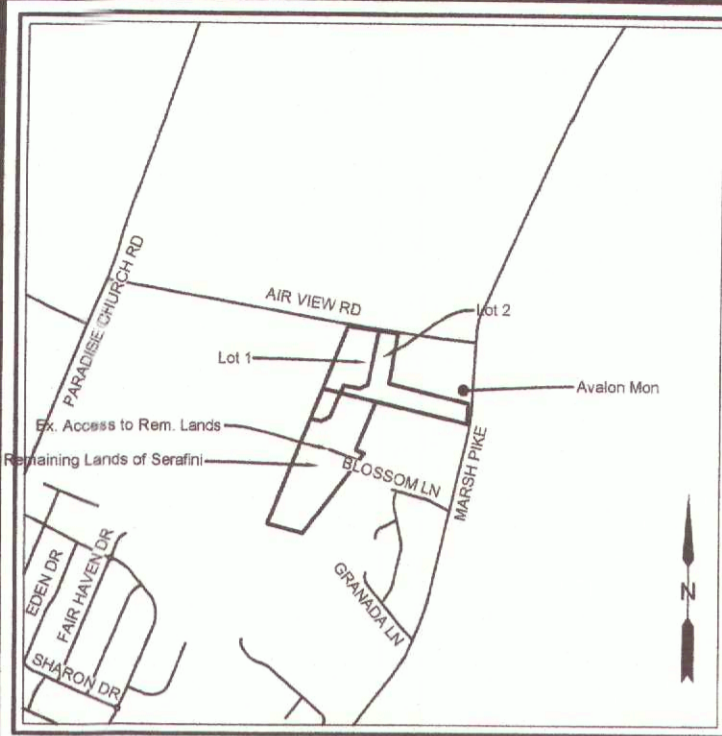
1:36,112

0 0.23 0.45 0.9 mi

0 0.38 0.75 1.5 km

Esri, HERE, MD iMAP, DoIT, WashCo MD, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau,

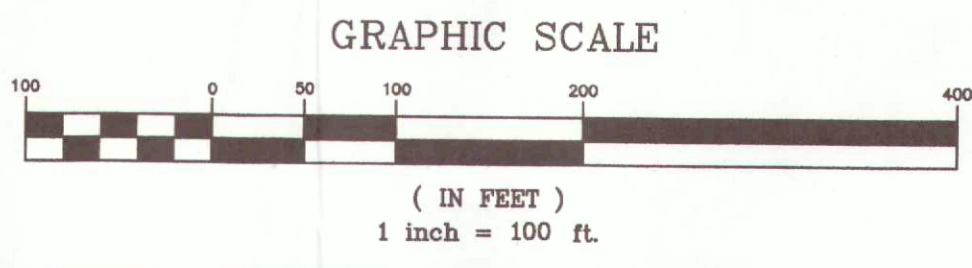
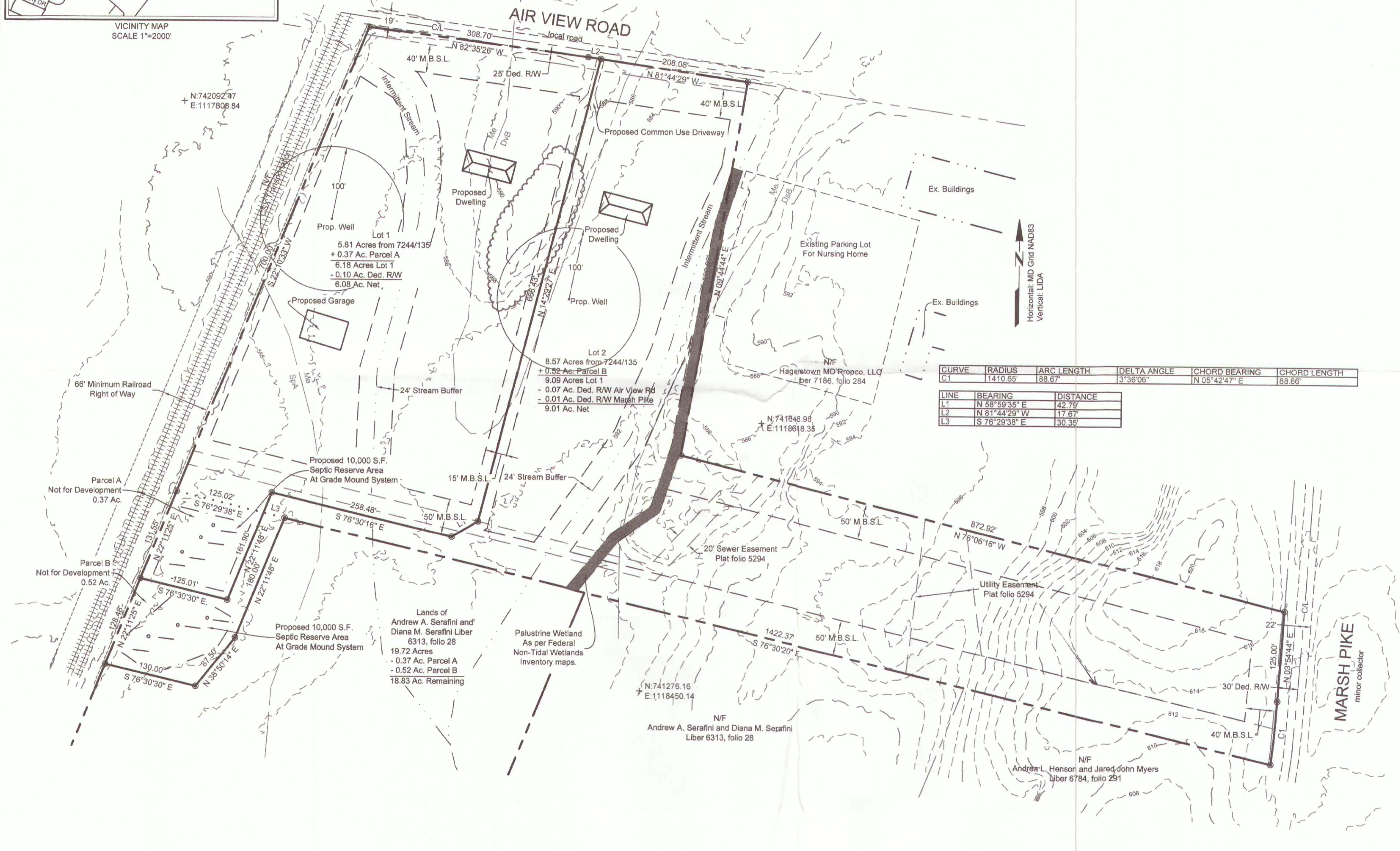
Web AppBuilder for ArcGIS



VICINITY MAP  
SCALE 1"=2000'

**LEGEND**

- = PROPERTY LINE
- - - = PROPOSED PROPERTY LINE
- ..... = PROPERTY LINE TO BE VACATED
- - - - - = RIGHT OF WAY
- = PROPERTY CORNER
- = TEST PIT; PERC



Sheet Index  
Sheet 1 - Subdivision Plan  
Sheet 2 - Notes

PLAT NO \_\_\_\_\_  
DATE \_\_\_\_\_  
WASHINGTON COUNTY

Owners:  
Robert Goetz and Sherri Goetz  
19807 Marcia Court  
Boonsboro MD 21713

Owners:  
Andrew Serafini and Diana Serafini  
13915 Marsh Pike  
Hagerstown MD 21742

PRELIMINARY/FINAL PLAT OF SUBDIVISION OF LOT 1 AND LOT 2  
AND  
SIMPLIFIED PLAT OF SUBDIVISION OF PARCEL A AND PARCEL B  
FOR  
ROBERT E. GOETZ, JR. AND SHERRI R. GOETZ &  
ANDREW A. SERAFINI AND DIANA M. SERAFINI  
SITUATE ALONG THE SOUTH SIDE OF AIR VIEW ROAD, THE WEST SIDE OF MARSH PIKE,  
AND THE EAST SIDE OF CSX TRANSPORTATION  
WASHINGTON COUNTY, MARYLAND

PROJECT NO. 2023-0118

DWN BY	DATE
LEJ	6.14.2023

PROJECT MANAGER EJS  
EMAIL ESchreiber@fisa-inc.com  
ELECTION DISTRICT 27  
PROPERTY INFORMATION 25-2-816  
ACCOUNT NO. 27-031021  
SCALE 1" = 100'  
SHEET TITLE

PLAT OF  
SUBDIVISION  
SHEET 01 OF 02

**FSAI**  
FREDERICK, SEIBERT & ASSOCIATES, INC. © 2023  
CIVIL ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS • LAND PLANNERS

128 SOUTH POTOMAC STREET  
HAGERSTOWN, MD 21740  
301.791.3626

20 WEST BALTIMORE STREET  
GREENCASTLE, PA 17226  
717.597.1007

526 SOUTH HANOVER STREET  
CARLSLE, PA 17013  
717.610.6111

15 EAST MAIN STREET  
NEW BLOOMFIELD, PA 17089  
717.275.0201

fisa-inc.com

Tracking Notes

- 1. This residential subdivision plat is subject to all applicable local, state and federal laws and regulations. Any further potential of subdivision of any lots or remaining lands created by this subdivision is subject to the requirements of the Maryland Annotated Code, Environment Article, Section 9-206 and all applicable local, state and federal laws and regulations.
2. In accordance with the requirements of the Maryland Annotated Code, Environment Article, Section 9-208, upon recordation of this plat, a total of 2 residential lots, plats, building sites, or other division of land have been created from the parent parcel or tract since October 1, 2012. In accordance with Maryland Annotated Code, Environment Article, Section 9-206, and subject to all other applicable local, state and federal laws, there are not more than 5 (remaining) residential lots, plats, building sites, or other divisions of land allowed as a subdivision.
3. This residential minor subdivision may not be resubdivided or further subdivided into an additional building lot(s). Please note, for a simplified plat, notes 1 and 2 will apply. However, any new lot created under a simplified plat and denoted "not for development" will not be counted toward the 7 lot limit until such lot is submitted as a residential subdivision final plat.

Address Assignments

Lot 1 -
Lot 2 -

Note: Each address is based on the entrance as shown on this plat. If the driveway is constructed at a different location from that shown hereon, the address listed above may VOID and the owner/developer of the lot must reapply to the Planning Commission for a new address assignment.

Soil Table

Table with 3 columns: Soil, Area, %
DsB 4.8 Ac. 31.2
DvB 1.5 Ac. 9.9
Me 7.2 Ac. 47.5
SpA 1.8 Ac. 11.5

Land Surveyor's Certification

I hereby certify that the plan shown hereon is correct, that it is a subdivision of the lands conveyed by Perini Services, Inc., to Robert E. Goetz, Jr. and Sherri R. Goetz, by deed dated May 1, 2023, and recorded in the Land Records of Washington County, Maryland in Liber No. 7244, folio 135 and of part of the lands conveyed by Andrew A. Serafini and Diana M. Serafini, to Andrew A. Serafini and Diana M. Serafini, by deed dated June 26, 2020, and recorded in the Land Records of Washington County, Maryland in Liber 6313, folio 28; and that stones marked O and/or bars marked O have been placed as indicated.
I hereby certify that these documents were prepared by me or under my responsible charge, and that I am a duly licensed Professional Land Surveyor under the Laws of the State of Maryland, License No. LS-10731 Expiration Date 11/16/2024.

6.23.2023
Date
Professional Land Surveyor



Certificate of Approval of Individual Water Supply and Individual Sewage System
I hereby certify that the minimum ownership area complies with the minimum width and minimum area requirements specified in C.O.M.A.R. 26.04.03.03. Such minimum ownership shall remain equal to the minimum width and minimum area set forth in C.O.M.A.R. 26.04.03.A (2) until community sewerage and water have been made available. Not more than one principle building may be erected or constructed on a lot or lots contained in the minimum ownership areas established by C.O.M.A.R. 26.04.03.A (2) until community sewerage has been made available.

Date
County Health Officer

SENSITIVE AREA NOTICE

The stream buffers shown hereon are established pursuant to the requirements of the Washington County Subdivision Ordinance Article IV, Section 409. In an effort to preserve or improve water quality, the property owner is required to establish and thereafter maintain in perpetuity vegetative ground cover in accordance with urban best management practices recommended by the Washington County Soil Conservation District. No permanent structures or construction are permitted within the stream buffer except those designed to improve water quality or flow as approved by the Washington County Planning Commission in accordance with all applicable regulations, laws, and policies. No septic systems shall be constructed within the buffer nor shall any reserve area be established within the buffer.

General Notes

- 1. 10,000 square feet is hereby reserved for sewage disposal. No permanent physical objects are permitted in this area.
2. There is a 10 ft. wide drainage and utilities easement along all front lot lines and an 8 ft. wide drainage and utilities easement along all side and rear lot lines hereby reserved unless otherwise shown hereon.
3. Bearings, distances and coordinates are based on MD Grid NAD83.
4. Soil types are as shown hereon.
5. Minimum Building Setbacks: front yard-40'; side yard-15'; rear yard-50'. Minimum Building Setback Lines are based on the current Washington County Zoning Ordinance. Accessory structures may be constructed in accordance with Section 4.10 and Section 23.5 (b). Accessory Structures are not permitted without the placement of the principal permitted structure. Zoned (A/R) - Agricultural (Rural).
6. Total upstream watershed affecting this subdivision: is less than 400 Acres.
7. This parcel does not lie in the 100 year flood plain per FEMA Flood Insurance Rate Map, Community Panel No. 24043C0128D and Community Panel No. 24043C0133D dated August 15, 2017, Flood Zone X.
8. Contours based on Washington County Aerial Topography and boundary is based on a field survey performed by FSA, Inc.
9. There are no floodplains, streams, steep slopes, and other related buffers, or habitat of threatened or endangered species as required to be shown by Sections 305, 307 and 314 of the Washington County Subdivision Ordinance and Section 4.21 (CAD) of the Washington County Zoning Ordinance. This subdivision is not within 1000' of the Appalachian Trail.
10. This subdivision is not within the Edgemont Reservoir Watershed, Smithsburg Reservoir Watershed, or the Upper Beaver Creek Drainage Basin per Washington County Watershed Mapper.
11. No other wells or septic systems lie within 100 feet of the Lot Lines except as shown hereon.
12. All grading on each lot, done either before or after the construction of a dwelling or their appurtenances, shall be the full responsibility of the lot owner.
13. No permanent structures (fences, sheds, play equipment, retaining walls, etc.) shall be permitted within any storm drainage easement, either shown or described, on the Final Plat of Subdivision.
14. This plat has been reviewed and approved per the A(R) Zoning District. Any development/construction shall be in accordance with the Washington County Zoning Ordinance currently being enforced.
15. This plat was prepared without the benefit of a title report and therefore may not indicate all encumbrances on this property.
16. Any development must comply with the Washington County Stormwater Management, Grading, Soil Erosion and Sediment Control Ordinance.
17. The proposed structure(s) shown hereon is for general purposes only and are not to be construed as the only approved location for a proposed structure(s).
18. An additional right of way 25 feet in width as measured from the centerline of Air View Road is hereby dedicated for the purpose of future road widening. An additional right of way 30 feet in width as measured from the centerline of Marsh Pike is hereby dedicated for the purpose of future road widening.
19. Regarding the Washington County APFO, this plan meets the requirements of a "Minor Subdivision" as defined in section 2.3.12.1 and therefore is exempt under section 4.1.1 and 5.2.(d) of the Washington County Adequate Public Facilities Ordinance.
20. Regarding Parcels A and B, no development shall mean that building or zoning permits, including Residential, will not be issued until such a time as a development plat is submitted in accordance with the provision of all applicable ordinances and approved by the Washington County Planning Commission.
21. The 15' side yard setbacks shown hereon are per Board of Zoning Appeals variance APXXXXXX dated August 30, 2023. This variance is for principle permitted uses and typical accessory structures but is not to include any barns or structures that house farm animals. If the structure is being used for farm animals then it must comply with the animal husbandry ordinance.

Intrafamily Transfer Declaration of Intent (Lot 1 and Lot 2)
Account # 27-031021 District 27 Map 25 Grid 2 Parcel 818
Property Owner(s) Name(s): Robert E. Goetz, Jr. and Sherri R. Goetz
Permanent Mailing Address: 19807 Marcia Court, Boonsboro, MD 21713
Recipients Name(s):
Recipients Relationship to Owner(s):
Property Location: Situate along the south side of Air View Road
Current deed reference(s): Liber 7244, folio 135

I (We), the owner(s) of the real property located at the above referenced location, and described in the above referenced deed(s) hereby declare my (our) intention to invoke the intrafamily transfer exemption for the above property, in accordance with the provisions of the Washington County Forest Conservation Program and COMAR 08.19.01.04, for a period of at least five (5) consecutive full taxable years following this date. This declaration grants an exemption for the purpose of constructing a dwelling house intended for the use of the owner, or an immediate family member of the owner based on the Washington County Forest Conservation Program. If the lands does not remain in the possession of an immediate family member for a period of five (5) years the Owner must notify the Washington County Planning Commission and may lose this exemption. If the Owner makes application for an activity regulated under the Forest Conservation Program, clears more than 20,000 square feet of forest, or violates the requirements of a previous Forest Conservation Plan all or part of the lot within the five (5) year period, Washington County may require the owner to meet the forest conservation threshold established in the Forest Conservation Program and COMAR 08.19.03, and may also assess a noncompliance fee for forested areas cut in violation of this exemption.

I (we) declare, under the penalties of law, that this declaration, including any accompanying forms and statements, has been examined by me (us) and the information contained herein, to the best of my (our) knowledge, information and belief, is true, correct and complete.
Signature(s):

6/23/23 Robert E. Goetz, Jr. (Seal)
6/23/23 Sherri R. Goetz (Seal)
6/23/23 Robert E. Goetz, Jr. (Seal)
Date Recipient: Robert E. Goetz, Jr.

Dedication for Individuals (Lot 1 and Lot 2)

I/we do hereby certify, for ourselves and our personal representatives, heirs and assigns, that I/we are the legal and true owner(s) of the property shown and described on this plat and that I/we hereby adopt the plan of subdivision shown hereon, hereby establish the minimum building restriction lines shown hereon, hereby dedicate to public use all utility and drainage easement areas and all alley, street, and road rights of way designated on this plat, hereby agree to keep open all spaces and recreation areas shown hereon and hereby agree that said dedication shall not impose any responsibility on the Board of County Commissioners of Washington County regarding the subjects of such dedications until legal acceptance thereof by said Board, and I/we hereby reserve the fee simple title to the land underlying said easements, rights of way, open spaces and recreation areas and with regard to said easements and rights of way, hereby agree to convey the same to said Board for the use of said Washington County, without consideration, upon the legal acceptance of said easements and/or rights of way by said Board. This deed and agreement of dedication shall be binding upon my/our grantees, assigns, successors, heirs, and personal representatives. There are no suits, actions at law, leases, liens, mortgages, trusts, easements, or rights of way affecting the property included on this plan of subdivision except the following:

and all parties having an interest therein have here unto affixed their signatures, indicating their assent to this plan of subdivision.
I/We do hereby assent to this plan of subdivision.

Witness our hands and seals
6/23/23 Robert E. Goetz, Jr. (Seal)
6/23/23 Sherri R. Goetz (Seal)
Witness

Owner's Statement (Parcel A and Parcel B)

Application is hereby made for approval of the indicated transfer of land for enlargement purposes only and not for development except as indicated hereon. Any development of this land other than permitted accessory uses or any future separation of the parcels combined hereon will be submitted in the regular manner for approval in accordance with the provisions of the existing Subdivision Ordinance.

6/22/23 Andrew A. Serafini (Seal)
6/22/23 Diana M. Serafini (Seal)
6/23/23 Robert E. Goetz, Jr. (Seal)
6/23/23 Sherri R. Goetz (Seal)
Date Owner (Parcels A and B): Andrew A. Serafini
Date Owner (Parcels A and B): Diana M. Serafini
Date Purchaser (Parcels A and B): Robert E. Goetz, Jr.
Date Purchaser (Parcels A and B): Sherri R. Goetz

Interim Facilities Provision Certification (Lot 1 and Lot 2)

In compliance with C.O.M.A.R. 26.03.01.05 B (1) and (2), the individual water supply and individual sewer systems are hereby permitted on a temporary interim basis. Future lot owners are advised that the individual systems serving the lot(s) indicated on this plat are of a temporary interim nature and that connection to a future community system shall be made within one (1) year or less after the system become available.

Robert E. Goetz, Jr. (Seal)
6/23/23 Sherri R. Goetz (Seal)
Owner: Robert E. Goetz, Jr.
Owner: Sherri R. Goetz

CERTIFICATE OF APPROVAL (PARCEL A AND PARCEL B) FINAL APPROVAL GRANTED

Date
By
Washington County Planning Commission Final Approval good for one hundred eighty (180) days from the above date
Approved as a division of land, not for development, with the stipulation that the foregoing Owner's Statement be made a part of the deed conveyance

Certificate of Approval (Lot 1 and Lot 2) FINAL APPROVAL GRANTED

Date:
By:
Washington County Planning Commission
Final Approval good for one hundred eighty (180) days from above date

PLAT NO
DATE
WASHINGTON COUNTY

ESAI logo and contact information for Frederick, Seibert & Associates, Inc. and Landscape Architects • Land Planners. Includes address: 15 East Main Street, New Bloomfield PA 17068.

PRELIMINARY/FINAL PLAT OF SUBDIVISION OF LOT 1 AND LOT 2 AND SIMPLIFIED PLAT OF SUBDIVISION OF PARCEL A AND PARCEL B FOR ROBERT E. GOETZ, JR. AND SHERRI R. GOETZ & ANDREW A. SERAFINI AND DIANA M. SERAFINI. SITUATE ALONG THE SOUTH SIDE OF AIR VIEW ROAD, THE WEST SIDE OF MARSH PIKE, AND THE EAST SIDE OF CSX TRANSPORTATION WASHINGTON COUNTY, MARYLAND

PROJECT NO: 2023-0118
DWN BY: LEJ DATE: 6.14.2023
PROJECT MANAGER: EJS
EMAIL: ESchreiber@esa-inc.com
ELECTION DISTRICT: 27
PROPERTY INFORMATION: 25-2-816
ACCOUNT NO: 27-031021
SCALE: 1" = 100'
SHEET TITLE

PLAT OF SUBDIVISION
SHEET 02 OF 02





Real Property Data Search ( )  
 Search Result for WASHINGTON COUNTY

[View Map](#)      [View GroundRent Redemption](#)      [View GroundRent Registration](#)

**Special Tax Recapture: AGRICULTURAL TRANSFER TAX**

Account Identifier: District - 27 Account Number - 001122

**Owner Information**

Owner Name: SERAFINI ANDREW A      Use: AGRICULTURAL  
 SERAFINIA DIANA M      Principal Residence: NO  
 Mailing Address: 13918 MARSH PIKE      Deed Reference: /06313/ 00028  
 HAGERSTOWN MD 21742-0000

**Location & Structure Information**

Premises Address: MARSH PIKE      Legal Description: PAR 1 20.44 ACRES  
 HAGERSTOWN 21742-0000      W/S MARSH PIKE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:  
 0025 0008 0716 27010230.22 0000      2022      Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
 20.4400 AC

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements  
 /

**Value Information**

	Base Value	Value		
		As of	Phase-in Assessments	
		As of	As of	As of
Land:	10,200	01/01/2022	07/01/2022	07/01/2023
Improvements	0	10,200		
Total:	10,200	10,200	10,200	10,200
Preferential Land:	10,200	10,200		

**Transfer Information**

Seller: SERAFINI ANDREW A      Date: 07/24/2020      Price: \$0  
 Type: NON-ARMS LENGTH OTHER      Deed1: /06313/ 00028      Deed2:  
 Seller: PERINI SERVICES INC      Date: 03/04/2020      Price: \$200,000  
 Type: ARMS LENGTH MULTIPLE      Deed1: /06195/ 00208      Deed2:  
 Seller: AVALON HOME INC      Date: 12/03/1998      Price: \$0  
 Type: NON-ARMS LENGTH OTHER      Deed1: /01458/ 00356      Deed2:

**Exemption Information**

Partial Exempt Assessments: Class      07/01/2022      07/01/2023  
 County: 000      0.00  
 State: 000      0.00  
 Municipal: 000      0.00|0.00      0.00|0.00

**Special Tax Recapture: AGRICULTURAL TRANSFER TAX**

**Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application      Date:



Real Property Data Search ( )  
 Search Result for WASHINGTON COUNTY

[View Map](#)      [View GroundRent Redemption](#)      [View GroundRent Registration](#)

**Special Tax Recapture: AGRICULTURAL TRANSFER TAX**

Account Identifier: District - 27 Account Number - 011292

**Owner Information**

Owner Name: HORST DEAN J      Use: AGRICULTURAL  
 HORST ETHEL R      Principal Residence: YES  
 Mailing Address: 19419 AIR VIEW ROAD      Deed Reference: /04242/ 00122  
 HAGERSTOWN MD 21740-0000

**Location & Structure Information**

Premises Address: 19419 AIR VIEW RD      Legal Description: 118.5 ACRES  
 HAGERSTOWN 21742-0000      19419 AIR VIEW RD

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:  
 0025 0007 0202 27020241.22 0000      2022      Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
 1946      2,040 SF      118.5000 AC

StoriesBasementType      ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements  
 2      YES      STANDARD UNITBRICK/ 4      1 full/ 1 half

**Value Information**

	Base Value	Value		
		As of	Phase-in Assessments	
		01/01/2022	07/01/2022	07/01/2023
Land:	126,200	126,200		
Improvements	247,700	275,300		
Total:	373,900	401,500	383,100	392,300
Preferential Land:	46,200	46,200		

**Transfer Information**

Seller: MARTIN MANAGEMENT COMPANY LLC      Date: 03/06/2012      Price: \$915,000  
 Type: NON-ARMS LENGTH OTHER      Deed1: /04242/ 00122      Deed2:  
 Seller: MARTIN HENRY I & IVA M      Date: 12/28/2005      Price: \$0  
 Type: NON-ARMS LENGTH OTHER      Deed1: /02887/ 00560      Deed2:  
 Seller: MARTIN HENRY I      Date: 11/04/2005      Price: \$0  
 Type: NON-ARMS LENGTH OTHER      Deed1: /02837/ 00440      Deed2:

**Exemption Information**

Partial Exempt Assessments: Class      07/01/2022      07/01/2023  
 County: 000      0.00  
 State: 000      0.00  
 Municipal: 000      0.00|0.00      0.00|0.00

**Special Tax Recapture: AGRICULTURAL TRANSFER TAX**

**Homestead Application Information**

Homestead Application Status: Approved 05/08/2012

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application      Date:

Real Property Data Search ( )  
 Search Result for WASHINGTON COUNTY

[View Map](#)      [View GroundRent Redemption](#)      [View GroundRent Registration](#)

**Special Tax Recapture: AGRICULTURAL TRANSFER TAX**

Account Identifier: District - 27 Account Number - 004709

**Owner Information**

Owner Name: DILLER GAIL L      Use: AGRICULTURAL  
 Principal Residence:NO  
 Mailing Address: 20140 LEITERSBURG PIKE      Deed Reference: /01486/ 01008  
 HAGERSTOWN MD 21742-1449

**Location & Structure Information**

Premises Address: 19516 AIR VIEW RD      Legal Description: 104.26 ACRES  
 HAGERSTOWN 21742-0000      19516 AIR VIEW RD  
 1.5 MI N OF HAGERSTOWN

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:  
 0025 0002 0208 27020241.22 0000 2022 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
 1880 2,540 SF 104.2600 AC

StoriesBasementType ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements  
 2 YES STANDARD UNITBRICK/ 4 2 full 1 Detached

**Value Information**

	Base Value	Value		
		As of 01/01/2022	As of 07/01/2022	As of 07/01/2023
Land:	126,400	126,400		
Improvements	227,200	251,800		
Total:	353,600	378,200	361,800	370,000
Preferential Land:	46,400	46,400		

**Transfer Information**

Seller: DILLER HAROLD H      Date: 04/08/1999      Price: \$0  
 Type: NON-ARMS LENGTH OTHER      Deed1: /01486/ 01008      Deed2:  
 Seller: EBY RICHARD G      Date: 12/02/1980      Price: \$240,000  
 Type: ARMS LENGTH IMPROVED      Deed1: /00710/ 00537      Deed2:  
 Seller:      Date:      Price:  
 Type:      Deed1:      Deed2:

**Exemption Information**

Partial Exempt Assessments:Class      07/01/2022      07/01/2023  
 County: 000      0.00  
 State: 000      0.00  
 Municipal: 000      0.00|0.00      0.00|0.00

**Special Tax Recapture: AGRICULTURAL TRANSFER TAX**

**Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application      Date:

Real Property Data Search ( )  
 Search Result for WASHINGTON COUNTY

[View Map](#)      [View GroundRent Redemption](#)      [View GroundRent Registration](#)

**Special Tax Recapture: AGRICULTURAL TRANSFER TAX**

Account Identifier: District - 27 Account Number - 001076

**Owner Information**

Owner Name: FOSTER JULIE A      Use: AGRICULTURAL  
 Mailing Address: 107 DINKEL AVE      Principal Residence: NO  
 BRIDGEWATER VA 22812-1317      Deed Reference: /02979/ 00227

**Location & Structure Information**

Premises Address: MARSH PIKE      Legal Description: 11.52 ACRES  
 HAGERSTOWN 21742-0000      COR EDEN RD & MARSH PIKE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:  
 0025 0002 0210 27010230.22 0000      2022      Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
 11.5200 AC

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements  
 /

**Value Information**

	Base Value	Value	Phase-in Assessments	
			As of	As of
Land:	3,000	3,000	01/01/2022	07/01/2023
Improvements	0	0		
Total:	3,000	3,000	3,000	3,000
Preferential Land:	3,000	3,000		

**Transfer Information**

Seller: BEARD DORIS E      Date: 04/18/2006      Price: \$0  
 Type: NON-ARMS LENGTH OTHER      Deed1: /02979/ 00227      Deed2:

Seller:      Date:      Price:  
 Type:      Deed1:      Deed2:

Seller:      Date:      Price:  
 Type:      Deed1:      Deed2:

**Exemption Information**

Partial Exempt Assessments: Class	07/01/2022	07/01/2023
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00      0.00 0.00

**Special Tax Recapture: AGRICULTURAL TRANSFER TAX**

**Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application      Date:

Real Property Data Search ( )  
 Search Result for WASHINGTON COUNTY

[View Map](#)      [View GroundRent Redemption](#)      [View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 27 Account Number - 006787

**Owner Information**

Owner Name: HAGERSTOWN MD PROPCO LLC      Use: COMMERCIAL  
 Mailing Address: 440 SYLVAN AVE      Principal Residence: NO  
 STE 240      Deed Reference: /07188/ 00284  
 ENGLEWOOD CLIFFS NJ 07632-

**Location & Structure Information**

Premises Address: 14014 MARSH PIKE      Legal Description: 11 ACRES REM  
 HAGERSTOWN 21742-0000      14014 MARSH PIKE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 5294  
 0025 0008 0211 10000.22 0000 2022      Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
 78,042 SF      11.0000 AC

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements  
 CONVALESCENT HOSPITAL/ C4 2015

**Value Information**

	Base Value	Value As of 01/01/2022	Phase-in Assessments	
			As of 07/01/2022	As of 07/01/2023
Land:	2,860,000	2,860,000		
Improvements	16,489,300	8,022,900		
Total:	19,349,300	10,882,900	10,882,900	10,882,900
Preferential Land:	0	0		

**Transfer Information**

Seller: SABRA HAGERSTOWN LLC      Date: 02/02/2023      Price: \$19,314,142  
 Type: ARMS LENGTH IMPROVED      Deed1: /07188/ 00284      Deed2:  
 Seller: MARSH PIKE LLC      Date: 12/07/2015      Price: \$58,850,000  
 Type: ARMS LENGTH IMPROVED      Deed1: /05119/ 00483      Deed2:  
 Seller: AVALON HOME INC      Date: 12/14/2006      Price: \$0  
 Type: NON-ARMS LENGTH OTHER      Deed1: /03180/ 00238      Deed2:

**Exemption Information**

Partial Exempt Assessments: Class      07/01/2022      07/01/2023  
 County: 000      0.00  
 State: 000      0.00  
 Municipal: 000      0.00|0.00      0.00|0.00

Special Tax Recapture: None

**Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application      Date:



Real Property Data Search ( )  
 Search Result for WASHINGTON COUNTY

[View Map](#)      [View GroundRent Redemption](#)      [View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 27 Account Number - 030440

**Owner Information**

Owner Name: HENSON ANDREA L      Use: RESIDENTIAL  
 MYERS JARED JOHN      Principal Residence: YES  
 Mailing Address: 13936 MARSH PIKE      Deed Reference: /06784/ 00291  
 HAGERSTOWN MD 21742-

**Location & Structure Information**

Premises Address: 13936 MARSH PIKE      Legal Description: LOT 1 3.50 ACRES  
 HAGERSTOWN 21742-0000      13936 MARSH PIKE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 4482  
 0025 0008 0809 27010230.22 0000 1 2022      Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
 2005 4,606 SF 994 SF 3.5000 AC 000000

StoriesBasementType ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements  
 2 YES STANDARD UNITBRICK/ 6 4 full/ 1 half 1 Attached  
 SIDING

**Value Information**

	Base Value	Value		
		As of 01/01/2022	As of 07/01/2022	As of 07/01/2023
Land:	103,700	103,700		
Improvements	346,800	747,000		
Total:	450,500	850,700	583,900	717,300
Preferential Land:	0	0		

**Transfer Information**

Seller: HOFFMAN DONALD L      Date: 10/06/2021      Price: \$895,000  
 Type: ARMS LENGTH IMPROVED      Deed1: /06784/ 00291      Deed2:  
 Seller: STRICKLAND RICHARD G JR      Date: 11/09/1994      Price: \$68,250  
 Type: ARMS LENGTH VACANT      Deed1: /01186/ 00957      Deed2:  
 Seller:      Date:      Price:  
 Type:      Deed1:      Deed2:

**Exemption Information**

Partial Exempt Assessments:	Class	07/01/2022	07/01/2023
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

**Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application      Date:

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

**ROBERT GOETZ, JR. & SHERRI GOETZ**

**Appellant**

**Appeal No.: AP2023-039**

\* \* \* \* \*

**OPINION**

Robert Goetz, Jr. and Sherri Goetz (hereinafter “Appellants”) request a variance to reduce the minimum residential density requirement from one (1) dwelling unit per fifty (50) acres to one (1) dwelling unit per 7.19 acres and a variance to reduce the side yard setback from fifty (50) feet to fifteen (15) feet for the resulting subdivided lots at the subject property. The subject property is located at a lot west of 14014 March Pike, Hagerstown, Maryland and also identified as Parcel 816 on Tax Map 25, Grid 2 and is zoned Agricultural, Rural. The Board held a public hearing in this matter on August 30, 2023.

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. Appellants are the owners of the subject property located at a lot west of 14014 March Pike, Hagerstown, Maryland and also identified as Parcel 816 on Tax Map 25, Grid 2. The subject property is zoned Agricultural, Rural.

2. Most of the subject property lies within the Airport Overlay zone for Hagerstown Regional Airport, although the property is more than one (1) mile from the runway.

3. The subject property consists of approximately 14.38 acres of unimproved land on a flag-shaped lot. The narrow portion of the property has frontage along Marsh Pike while the wider, "flag" portion has frontage along Airview Road.

4. The subject property is adjacent to a nursing home and other residences.

5. The Zoning Ordinance provides for the density in the Agricultural, Rural district to be one (1) dwelling unit per fifty (50) acres of land.

6. The Zoning Ordinance provides for the side yard setbacks to be fifty (50) feet for lots that are five (5) acres or greater in size.

7. Appellants plan to subdivide the subject property into two (2) lots. On one side they will construct their principal residence and on the other will be a residence for Mrs. Goetz's aging parents.

8. Appellants propose to construct the dwellings closer than fifty (50) feet from the line of subdivision.

9. Although there is road frontage along March Pike, Appellants plan to access the property via a shared driveway extending from Airview Road.

10. There was no opposition presented to this appeal.

### **Rationale**

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.<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

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<sup>1</sup> "When the terms unnecessary hardship (or one of its synonyms) and practical difficulties 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 difficulties 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).



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. § 25.56(A).

Practical difficulty and undue hardship are 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.)

Appellant Robert Goetz, Jr. testified at the hearing about his plan to subdivide the subject property into two (2) lots in order to build homes for his family and his in-laws. Appellants intend for both properties to remain in their name so that they could remain in the family, perhaps for their children. The plan is consistent with a growing trend among families who are taking on the responsibility of caring for their parents by having them move in with, or adjacent to them. As Mr. Goetz testified, the resulting 7-acre lots would still be larger than much of the residential properties in the surrounding neighborhood. To that end, the variance request would not confer any special benefit upon the subject property, since many other properties in the area are much smaller in size. In addition, Mr. Frederick pointed out that the property is on the very edge of the Airport Overlay area and although the density requirements apply, their application more than one (1) mile from the airport runway is suspect compared to those properties much closer to the airport operations.

Mr. Goetz testified in support of his request to reduce the side yard setbacks. The Ordinance calls for 50 feet because the lot size is greater than 5 acres. Mr. Goetz’s plan is to construct neighboring residences for the convenience of being able to care for and

support his wife's elderly parents. He expects that the houses will be much closer together than the required 100 feet, for that very purpose. Mr. Frederick noted that the requested side yard setback is consistent with most residential setbacks in the Ordinance and would not cause the same potential problems because Appellants will own both properties.

The testimony and evidence presented at the hearing support a finding that strict compliance with the Ordinance would result in practical difficulty. Appellants have sought the minimum necessary relief to achieve their stated plan to make appropriate use of the subject property. The Board finds that for both requests, Appellant has satisfied the criteria for a variance and the relief requested should be granted.

Accordingly, the variance to reduce the minimum residential density requirement from one (1) dwelling unit per fifty (50) acres to one (1) dwelling unit per 7.19 acres at the subject property is GRANTED, by a vote of 5-0. Likewise, the variance to reduce the side yard setback from fifty (50) feet to fifteen (15) feet for the resulting subdivided lots at the subject property is GRANTED, by a vote of 5-0. Said variance requests are granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: September 28, 2023**

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.



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:** Jeremy Kriner  
13949 Mcintosh Circle  
Clear Spring MD 21722

**Appellant:** Jeremy Kriner  
13949 Mcintosh Circle  
Clear Spring MD 21722

**Property Location:** 13949 Mcintosh Circle  
Clear Spring, MD 21722

**Description Of Appeal:** Variance from the 50 ft. rear yard setback requirement to 37 ft. for future addition to existing single-family dwelling.

**Docket No:** AP2023-040  
**Tax ID No:** 04013514  
**Zoning:** A(R)  
**RB Overlay:** No  
**Zoning Overlay:**  
**Filed Date:** 08/02/2023  
**Hearing Date:** 08/30/2023

**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: Section 5A.5

**Reason For Hardship:** Meeting setback would cause considerably more in construction cost due to the orientation of the existing dwelling.

**If Appeal of Ruling, Date Of Ruling:**

**Ruling Official/Agency:**

**Existing Use:** Single Family Dwelling **Proposed Use:** Addition to Single Family 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.

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 2 day of August, 2023.



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: AP2023-040

State of Maryland Washington County, To Wit:

On 8/2/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Frederick, Seibert & Associates Inc and made oath in due form of law as follows:

Frederick, Seibert & Associates 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 08/30/2023, 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.

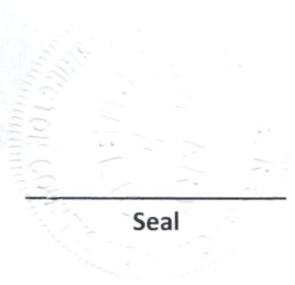
Sign(s) will be posted on 08/15/2023 and will remain until after the above hearing date.

Frederick, Seibert & Associates Inc

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

**Kathryn B Rathvon**  
NOTARY PUBLIC  
WASHINGTON COUNTY  
MARYLAND  
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public



Seal

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

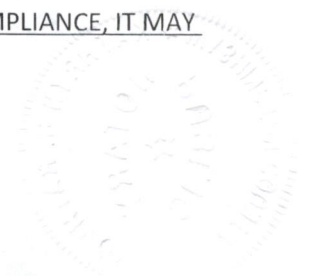
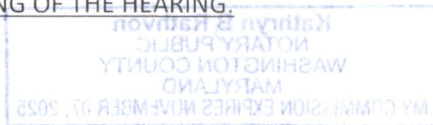
### ATTENTION!

### 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.



**Project Name:** Kriner, Lot 3 Orchard Meadows

**Owner/Applicant:** Jeremy & Kayla Kriner

**Project Address:** 13949 McIntosh Cir, Clear Spring MD 21722

**Tax Map** 8 **Grid** 19 **Parcel** 46

**Account #** 04013514

**Zoning:** A(r)

**Variance request:**

The requested variance is to reduce the rear yard building setback as enumerated in the Washington County Zoning Ordinance Section 5A.5 from the required 50 feet to that of 37' feet for the construction of a 24'x28' addition to the left side of the existing house.

**Rational:**

1. The 10,000 SF reserve is directly in the middle of the lot with an odd configuration. The shape of the septic area is not parallel and perpendicular with the lot lines and therefore creating the need for the existing house to be sited similar to the septic area. The existing house is oriented with an angle to the back yard. The most logical direction to expand the house is to the left side of the house which protrudes into the rear yard setback vs. the left side setback to the angle of the existing house.
2. An addition to the right side of the house would require the need for a right side yard variance and considerably more construction costs. An addition to the front would interfere with the septic reserve area and an addition to the rear would most likely require a variance plus is not conducive to the existing floorplan.
3. The location of the proposed addition creates the most space for a growing family and creates very or no disturbance to the existing neighborhood.



# Washington County Board of Zoning Appeals Owner's Representative Affidavit

This is to certify that ED SCHREIBER  
is authorized to file an appeal with the Washington County Board of Appeals for REAR YARD SETBACK VARIANCE  
on property located 13949 McINTOSH CIR, CLEAR SPRING MD 21722.  
The said work is authorized by JEREMY KRINER  
the property owner in fee.

### PROPERTY OWNER

✓ Jeremy Kriner  
Name  
✓ 13949 McIntosh Circle  
Address  
✓ Clear Spring MD 21722  
City, State, Zip Code  
✓ [Signature]  
Owner's Signature

Sworn and subscribed before me this 29<sup>th</sup> day of July, 2023.

✓ Kelly A Stine  
Notary Public

KELLY A STINE  
NOTARY PUBLIC  
WASHINGTON COUNTY  
MARYLAND

My Commission Expires: 5/25/2027

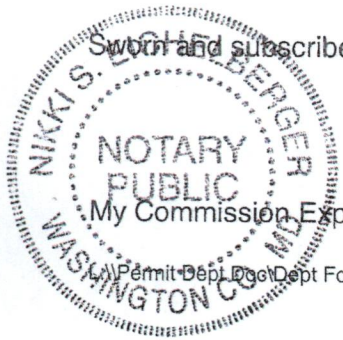
My Commission Expires May 25, 2027

### AUTHORIZED REPRESENTATIVE

✓ ED SCHREIBER, FSA  
Name  
128 S. POTOMAC ST  
Address  
HAGERSTOWN MD 21740  
City, State, Zip Code  
[Signature]  
Authorized Representative's Signature

Sworn and subscribed before me this 31 day of July, 2023.

✓ Nikki S. Echelberger  
Notary Public



My Commission Expires: 9/15/2024

# Frederick Seibert & Associates, Inc.

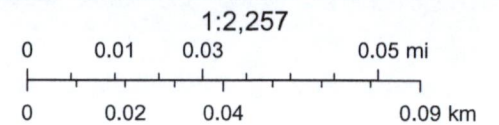


6/6/2023, 11:34:59 AM

World Transportation  
MD\_SixInchImagery

● FSA Database  
● HL Database

Parcels



Esri Community Maps Contributors, WashCo MD, West Virginia GIS, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

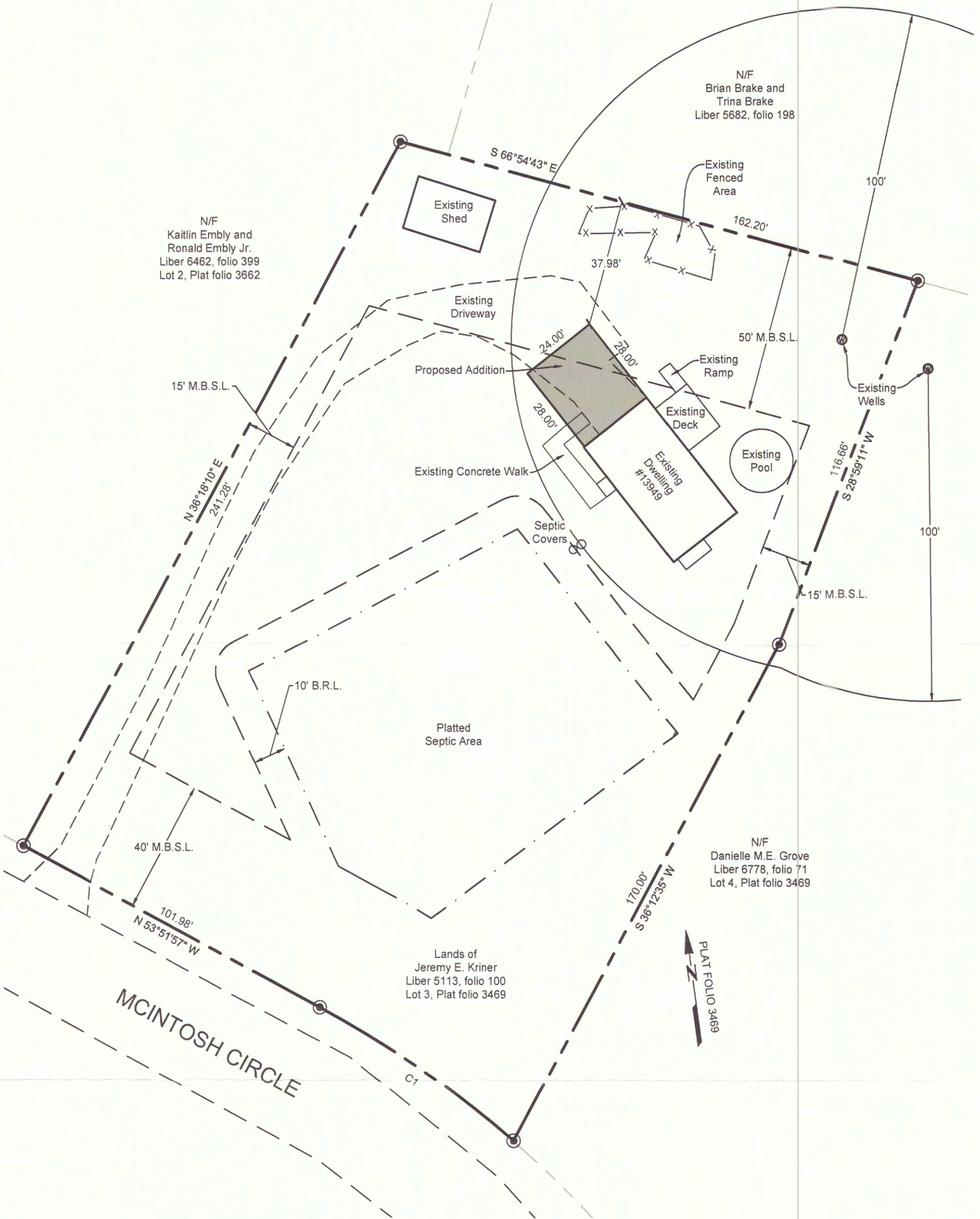
Web AppBuilder for ArcGIS



**General Notes**

1. Parcel is zoned A(R).
2. Building setback lines are as follows: Front - 40'; Rear - 50'; Side - 15'
3. Requested Modification of rear lot line minimum building setback lines from 50 feet to 37 feet.

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	325.00'	71.61'	12°37'28"	N 47°33'13" W	71.46'



PROPERTY INFORMATION	
8-19-46	
DWN BY	DATE
CTF	07-18-2023
PROJECT MANAGER	EMAIL
EJS	eschreiber@fsa-inc.com
SCALE	
1" = 30'	
SHEET 01 OF 01	

**BZA EXHIBIT**

Situate at  
13949 McIntosh Circle  
Clear Spring  
Washington County, MD

Diana Crosby  
13949 McIntosh Circle  
Clear Spring, MD 21722

**FSA** 

FREDERICK, SEIBERT & ASSOCIATES, INC. © 2023 fsa-inc.com

**CIVIL ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS • LAND PLANNERS**

128 SOUTH POTOMAC STREET HAGERSTOWN, MD 21740 301.791.3650	20 WEST BALTIMORE STREET GREENCASTLE, PA 17225 717.597.1007	505 SOUTH HANOVER STREET CARLISLE, PA 17013 717.701.8111	15 EAST MAIN STREET NEW BLOOMFIELD, PA 17068 717.275.7531
--	---	--	---

PROJECT NO.  
5607.13

Real Property Data Search ( )  
 Search Result for WASHINGTON COUNTY

View Map      View GroundRent Redemption      View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 04 Account Number - 013891

**Owner Information**

Owner Name: SHIFLER JOHN MICHAEL      Use: RESIDENTIAL  
 Principal Residence: YES  
 Mailing Address: 13804 MCINTOSH CIR      Deed Reference: /01151/ 00429  
 CLEAR SPRING MD 21722-1134

**Location & Structure Information**

Premises Address: 13804 MCINTOSH CIR      Legal Description: LOT 24 SEC A 0.984AC  
 CLEAR SPRING 21722-0000      E/S STAYMAN DRIVE  
 ORCHARD MEADOWS

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 3465  
 0008 0019 0046 4010023.22 0104 A 24 2021 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
 1993 1,560 SF 42,841 SF

StoriesBasementType ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements  
 1 1/2 YES STANDARD UNITSIDING/3 2 full 1 Attached

**Value Information**

	Base Value	Value		
		As of 01/01/2021	As of 07/01/2022	As of 07/01/2023
Land:	74,800	74,800		
Improvements	83,900	92,300		
<b>Total:</b>	<b>158,700</b>	<b>167,100</b>	<b>164,300</b>	<b>167,100</b>
Preferential Land:	0	0		

**Transfer Information**

Seller: OLIVER JOHN R      Date: 02/03/1994      Price: \$125,115  
 Type: ARMS LENGTH IMPROVED      Deed1: /01151/ 00429      Deed2:  
 Seller:      Date:      Price:  
 Type:      Deed1:      Deed2:  
 Seller:      Date:      Price:  
 Type:      Deed1:      Deed2:

**Exemption Information**

Partial Exempt Assessments: Class 07/01/2022 07/01/2023  
 County: 000 0.00  
 State: 000 0.00  
 Municipal: 000 0.00|0.00 0.00|0.00

Special Tax Recapture: None

**Homestead Application Information**

Homestead Application Status: Approved 10/20/2008

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application      Date:

Real Property Data Search ( )  
Search Result for WASHINGTON COUNTY

[View Map](#)[View GroundRent Redemption](#)[View GroundRent Registration](#)**Special Tax Recapture: None**

Account Identifier: District - 04 Account Number - 013867

**Owner Information**

Owner Name: EMBLY KAITLIN Use: RESIDENTIAL  
EMBLY RONALD JR Principal Residence: YES  
Mailing Address: 14705 STAYMAN DR Deed Reference: /06462/ 00399  
CLEAR SPRING MD 21722-0000

**Location & Structure Information**

Premises Address: 14705 STAYMAN DR Legal Description: LOT 2 SEC A 1.132 AC  
CLEAR SPRING MD 21722-0000 14705 STAYMAN DR  
ORCHARD MEADOWS

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 3662  
0008 0019 0046 4010023.22 0104 A 2 2021 Plat Ref:

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1992	1,056 SF	840 SF	1.1300 AC	

Stories	Basement Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
1	YES	STANDARD UNITS	SIDING/3	1 full	1 Attached

**Value Information**

	Base Value	Value		
		As of	Phase-in Assessments	
		01/01/2021	As of	As of
Land:	76,300	76,300	07/01/2022	07/01/2023
Improvements	85,000	123,300		
Total:	161,300	199,600	186,833	199,600
Preferential Land:	0	0		

**Transfer Information**

Seller: BUSSARD KAITLIN	Date: 12/23/2020	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /06462/ 00399	Deed2:
Seller: A A MANAGEMENT LLC	Date: 04/10/2018	Price: \$202,000
Type: ARMS LENGTH IMPROVED	Deed1: /05725/ 00219	Deed2:
Seller: MYERS JOHN D & MELISSA A	Date: 10/11/2017	Price: \$106,000
Type: NON-ARMS LENGTH OTHER	Deed1: /05608/ 00307	Deed2:

**Exemption Information**

Partial Exempt Assessments:	Class	07/01/2022	07/01/2023
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

**Special Tax Recapture: None****Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application Date:

Real Property Data Search ( )  
Search Result for WASHINGTON COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 04 Account Number - 013603

### Owner Information

Owner Name: TRIGGS KRISTA L & MONTE H Use: RESIDENTIAL  
Principal Residence: YES  
Mailing Address: 13942 MCINTOSH CIR Deed Reference: /02182/ 00734  
CLEAR SPRING MD 21722-1135

### Location & Structure Information

Premises Address: 13942 MCINTOSH CIR Legal Description: LOT 34 SEC A 0.974AC  
CLEAR SPRING MD 21722-0000 13942 MCINTOSH CIR  
ORCHARD MEADOWS

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 3469  
0008 0019 0046 4010023.22 0104 A 34 2021 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
1996 1,056 SF 42,432 SF

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements  
1 YES STANDARD UNITSIDING/3 1 full

### Value Information

	Base Value	Value		
		As of 01/01/2021	As of 07/01/2022	As of 07/01/2023
Land:	74,700	74,700		
Improvements	68,300	82,800		
Total:	143,000	157,500	152,667	157,500
Preferential Land:	0	0		

### Transfer Information

Seller: TRIGGS KRISTA L	Date: 11/10/2003	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /02182/ 00734	Deed2:
Seller: DRURY JERRY LEE II & KRISTA LYN	Date: 11/10/2003	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /02182/ 00728	Deed2:
Seller: OLIVER JOHN R	Date: 06/07/1996	Price: \$91,609
Type: ARMS LENGTH IMPROVED	Deed1: /01276/ 00407	Deed2:

### Exemption Information

Partial Exempt Assessments: Class		07/01/2022	07/01/2023
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

### Homestead Application Information

Homestead Application Status: No Application

### Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

Real Property Data Search ( )  
Search Result for WASHINGTON COUNTY

[View Map](#)[View GroundRent Redemption](#)[View GroundRent Registration](#)**Special Tax Recapture:** None**Account Identifier:** District - 04 Account Number - 004752**Owner Information**

**Owner Name:** BRAKE BRIAN & BRAKE TRINA  
**Mailing Address:** 11335 SHIMPSTOWN RD  
MERCERSBURG PA 17236-0000

**Use:** RESIDENTIAL  
**Principal Residence:** NO  
**Deed Reference:** /04577/ 00280

**Location & Structure Information**

**Premises Address:** 13907 DRY RUN RD  
CLEAR SPRING 21722-0000

**Legal Description:** 1.86 ACRES  
13907 DRY RUN RD

**Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:**  
0008 0019 0038 4010023.22 0000 2021 Plat Ref:

Town: None

**Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use**  
1890 1,240 SF 1.8600 AC

**StoriesBasementType ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements**  
2 YES STANDARD UNITSIDING/3 1 full 1 Detached

**Value Information**

	Base Value	Value		
		As of 01/01/2021	Phase-in Assessments As of 07/01/2022	As of 07/01/2023
Land:	83,600	83,600		
Improvements	53,100	62,700		
<b>Total:</b>	<b>136,700</b>	<b>146,300</b>	<b>143,100</b>	<b>146,300</b>
Preferential Land:	0	0		

**Transfer Information**

<b>Seller:</b> KECKLER ROBERT C <b>Type:</b> NON-ARMS LENGTH OTHER	<b>Date:</b> 07/01/2013 <b>Deed1:</b> /04577/ 00280	<b>Price:</b> \$120,000 <b>Deed2:</b>
<b>Seller:</b> <b>Type:</b> NON-ARMS LENGTH OTHER	<b>Date:</b> <b>Deed1:</b> /00552/ 00283	<b>Price:</b> \$0 <b>Deed2:</b>
<b>Seller:</b> <b>Type:</b>	<b>Date:</b> <b>Deed1:</b>	<b>Price:</b> <b>Deed2:</b>

**Exemption Information**

<b>Partial Exempt Assessments: Class</b>		07/01/2022	07/01/2023
<b>County:</b>	000	0.00	
<b>State:</b>	000	0.00	
<b>Municipal:</b>	000	0.00 0.00	0.00 0.00

**Special Tax Recapture:** None**Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application Date:

Real Property Data Search ( )  
 Search Result for WASHINGTON COUNTY

[View Map](#)      [View GroundRent Redemption](#)      [View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 04 Account Number - 013514

**Owner Information**

Owner Name: KRINER JEREMY E      Use: RESIDENTIAL  
 Principal Residence: YES  
 Mailing Address: 13949 MCINTOSH CIR      Deed Reference: /05113/ 00100  
 CLEAR SPRING MD 21722-1135

**Location & Structure Information**

Premises Address: 13949 MCINTOSH CIR      Legal Description: LOT 3 SEC A 1.021 AC  
 CLEAR SPRING MD 21722-0000      13949 MCINTOSH CIR  
 ORCHARD MEADOWS

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 3469  
 0008 0019 0046 4010023.22 0104 A 3 2021      Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
 1995      1,056 SF      900 SF      1.0200 AC

StoriesBasementType      ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements  
 1 YES STANDARD UNITSIDING/3      1 full

**Value Information**

	Base Value	Value	Phase-in Assessments	
			As of	As of
Land:	75,200	75,200	01/01/2021	07/01/2023
Improvements	86,000	104,400		
Total:	161,200	179,600	173,467	179,600
Preferential Land:	0	0		

**Transfer Information**

Seller: MILLS KRISTA L      Date: 11/25/2015      Price: \$170,000  
 Type: ARMS LENGTH IMPROVED      Deed1: /05113/ 00100      Deed2:  
 Seller: MILLS CHARLES G JR      Date: 08/11/2014      Price: \$0  
 Type: NON-ARMS LENGTH OTHER      Deed1: /04807/ 00421      Deed2:  
 Seller: OLIVER JOHN R      Date: 10/13/1995      Price: \$97,727  
 Type: ARMS LENGTH IMPROVED      Deed1: /01235/ 00136      Deed2:

**Exemption Information**

Partial Exempt Assessments: Class      07/01/2022      07/01/2023  
 County: 000      0.00  
 State: 000      0.00  
 Municipal: 000      0.00|0.00      0.00|0.00

Special Tax Recapture: None

**Homestead Application Information**

Homestead Application Status: Approved 01/05/2016

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application      Date:

Real Property Data Search ( )  
Search Result for WASHINGTON COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 04 Account Number - 013522

### Owner Information

Owner Name: GROVE DANIELLE M E Use: RESIDENTIAL  
Principal Residence: YES  
Mailing Address: 13943 MCINTOSH CIR Deed Reference: /06778/ 00071  
CLEAR SPRING MD 21722-1135

### Location & Structure Information

Premises Address: 13943 MCINTOSH CIR Legal Description: LOT 4 SEC A 1.156 AC  
CLEAR SPRING 21722-0000 13943 MCINTOSH CIR  
ORCHARD MEADOWS

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 3469  
0008 0019 0046 4010023.22 0104 A 4 2021 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
1995 1,122 SF 540 SF 1.1500 AC

Stories BasementType ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements  
Split FoyerYES SPLIT FOYERSIDING/3 1 full 1 Carport

### Value Information

	Base Value	Value		
		As of 01/01/2021	Phase-in Assessments As of 07/01/2022	As of 07/01/2023
Land:	76,500	76,500		
Improvements	95,300	102,700		
Total:	171,800	179,200	176,733	179,200
Preferential Land:	0	0		

### Transfer Information

Seller: GROVE RYAN S & Type: NON-ARMS LENGTH OTHER	Date: 10/01/2021 Deed1: /06778/ 00071	Price: \$0 Deed2:
Seller: GROVE RYAN S Type: NON-ARMS LENGTH OTHER	Date: 06/20/2012 Deed1: /04307/ 00197	Price: \$0 Deed2:
Seller: KELLER MARK A & MARY C Type: NON-ARMS LENGTH OTHER	Date: 05/30/2012 Deed1: /04293/ 00184	Price: \$146,000 Deed2:

### Exemption Information

Partial Exempt Assessments: Class	07/01/2022	07/01/2023
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00 0.00 0.00

Special Tax Recapture: None

### Homestead Application Information

Homestead Application Status: No Application

### Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

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

**JEREMY KRINER**

**Appellant**

\*

\*

**Appeal No.: AP2023-040**

\*

\*

\* \* \* \* \*

**OPINION**

Jeremy Kriner (hereinafter "Appellant") requests a variance to reduce the rear yard setback from fifty (50) feet to thirty-seven (37) feet for a future addition to a single-family dwelling at the subject property. The subject property is located at 13949 Mcintosh Circle, Clear Spring, Maryland and is zoned Agricultural, Rural. The Board held a public hearing in this matter on August 30, 2023.

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. Appellant is the owner of the subject property located at 13949 Mcintosh Circle, Clear Spring, Maryland. The subject property is zoned Agricultural, Rural.
2. The subject property consists of approximately 1.02 acres improved by a single-family dwelling. The septic reserve area is in the middle of the property and the dwelling is located toward rear of the property and turned on an angle. In additions, there is a slope on the east side of the property.
3. The driveway is located on the left side of the property, extending back and turning toward the residence.



4. The Zoning Ordinance provides for the side yard setbacks to be fifty (50) feet for lots that are five (5) acres or greater in size.

5. Appellant plans to construct a 24-foot by 28-foot addition on the northwest side of the home to create living space for his wife's grandmother.

6. Appellant consulted his adjacent neighbors, none of whom expressed any objection to the project.

7. There was no opposition presented to this appeal.

### **Rationale**

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.<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 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. § 25.56(A).

Practical difficulty and undue hardship are 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).

In the instant case, Appellant seeks to construct an addition to his home so that his

---

<sup>1</sup> "When the terms unnecessary hardship (or one of its synonyms) and practical difficulties 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 difficulties 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).

wife's grandmother can move in. Appellant appears to be following an increasing trend of relocating elderly family members to reside with the family unit rather than in nursing home or assisted living facilities. Appellant testified that the house turned at an angle and that the east side (right side) slopes, making construction impossible on that side. The Board also notes that the east side of the home is much closer to the side yard setback as well. Appellant further testified that the septic reserve area occupies most of the front yard, leaving only the northwest side (left side) of the house for an addition.

The combination of the setback requirements, the house being turned on an angle and the topography and septic reserve area, result in an unusual building envelope. Appellant seeks the minimum necessary to accommodate his plan for an addition large enough for another adult. Appellant claims practical difficulty which is readily apparent from the testimony and illustrations of the property. Maintaining strict compliance with the setback requirements would deny Appellant the reasonable use of an addition for an elderly family member. Under the circumstances, the requested variance relief is warranted. The Board finds that Appellant has satisfied the criteria for a variance and the relief requested should be granted.

Accordingly, the variance to reduce the rear yard setback from fifty (50) feet to thirty-seven (37) feet for a future addition to a single-family dwelling at the subject property is GRANTED, by a vote of 5-0. Said variance requests are granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: September 26, 2023**

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.



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: Evan Lee Wiles Personal Representative Docket No: AP2023-041
Thomas Joseph Mills
9741 Downsville Pike Tax ID No: 02002396
Hagerstown MD 21740 Zoning: A(R)
Appellant: Shawn Bianco RB Overlay: No
9741 Downsville Pike Zoning Overlay:
Hagerstown MD 21740 Filed Date: 08/08/2023
Hearing Date: 08/30/2023
Property Location: 9827 Downsville Pike
Hagerstown, MD 21740

Description Of Appeal: Special exception to establish a banquet/reception facility in an existing barn on property.

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

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 3.3(1) B

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Residential Proposed Use: Banquet Facility and Residential Use to Maintain on Property

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

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

I hearby 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 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires

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

ZONING APPEAL

Property Owner: EVAN LEE WILES PERSONAL REPRESENTATIVE
MILLS THOMAS JOSEPH
9741 DOWNSVILLE PIKE
HAGERSTOWN MD 21740
Docket No: AP2023-041
Tax ID No: 02002396

Appellant:
Zoning: A(R)
RB Overlay: No
Zoning Overlay:
Filed Date: 08/08/2023
Hearing Date: 08/30/2023

Property Location: 9827 DOWNSVILLE Pike
HAGERSTOWN, MD 21740

Description Of Appeal: Special exception to establish a banquet/reception facility in an existing barn

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

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections:

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Residential Proposed Use: Banquet Facility and Residential Use to Maintain on Property

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 Shaw Brown, Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 8th day of August, 2023.

Handwritten date 4-11-25, My Commission Expires, Handwritten signature of Debra Sue Eckard, 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

# OWNER'S REPRESENTATIVE AFFIDAVIT FOR ZONING APPEALS

**Docket No:** AP2023-041

This is to certify that is authorized to file an appeal with the Washington County Board of Zoning Appeals for: Special exception to establish a banquet/reception facility in an existing barn on property located at 9827 DOWNSVILLE PIKE.

The said appeal is authorized by EVAN LEE WILES PERSONAL REPRESENAT the property owner in fee.

**Property Owner:**

EVAN LEE WILES PERSONAL REPRESENAT  
MILLS THOMAS JOSEPH  
9741 DOWNSVILLE PIKE  
HAGERSTOWN MD 21740

\_\_\_\_\_  
EVAN LEE WILES PERSONAL REPRESENAT

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 8<sup>th</sup> day of August, 2023.

4-11-25  
My Commission Expires

Debra Sue Eckard  
Notary Public

**Applicant:**

Thomas Braune

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 8<sup>th</sup> day of August, 2023.

4-11-25  
My Commission Expires

Debra Sue Eckard  
Notary Public



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Shawn Bianco is authorized to file an appeal with the Washington County Board of Appeals for banquet facility / wedding venue on property located 9847 Downsville Pike, Hagerstown MD 21740. The said work is authorized by Thomas Mills the property owner in fee.

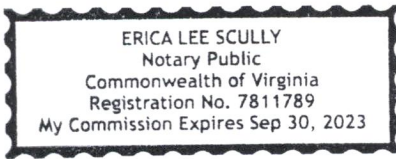
PROPERTY OWNER

Thomas Mills  
Name

9741 Downsville Pike  
Address

Hagerstown, Md. 21740  
City, State, Zip Code

Thomas Mills  
Owner's Signature



Sworn and subscribed before me this 2nd day of August, 2023.

E. J. [Signature]  
Notary Public

My Commission Expires: 09/30/2023

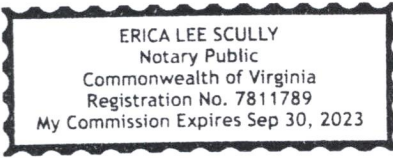
AUTHORIZED REPRESENTATIVE

Shawn Bianco  
Name

9741 Downsville Pike  
Address

Hagerstown, MD 2174  
City, State, Zip Code

Shawn Bianco  
Authorized Representative's Signature



Sworn and subscribed before me this 2 day of August, 2023.

E. J. [Signature]  
Notary Public

My Commission Expires: 09/30/2023



PLAN REVIEW APPLICATION FORM

CONTACT INFORMATION

Consultant Company: \_\_\_\_\_ Phone: \_\_\_\_\_

Consultant Address: \_\_\_\_\_

Consultant Name: Thomas mills Email: shawnman1209@gmail.com

Developer Contact: 9741 Downsville Pike Phone: \_\_\_\_\_

Developer Address: Hagerstown, MD 21740 301-573-1395

PROJECT INFORMATION

Project Name: \_\_\_\_\_

Project Location: \_\_\_\_\_

8-Digit Parcel Tax ID No.: \_\_\_\_\_ (list additional parcels in "Notes")

Project Description: \_\_\_\_\_

PLAN SUBMITTAL TYPE (SELECT ONE)

Site Plan \_\_\_ Residential \_\_\_ Non-Residential \_\_\_ Redline

Subdivision Plat \_\_\_ Preliminary \_\_\_ Final \_\_\_ Combined Prelim/Final \_\_\_ Replat \_\_\_ Simplified

Preliminary Plat/Site Plan \_\_\_ Residential \_\_\_ Non-Residential

Forest Conservation Plan \_\_\_ Preliminary \_\_\_ Final \_\_\_ Combined Prelim/Final \_\_\_ Exemption

PUD/MX Development Plan \_\_\_ Preliminary \_\_\_ Final \_\_\_ Combined Prelim/Final

Other Plan \_\_\_ Prelim. Consultation \_\_\_ Cluster Plan \_\_\_ Forest Stand Delineation

\_\_\_ Grading Plan \_\_\_ Standard Grading Plan \_\_\_ Standard Stormwater Plan

\_\_\_ Stormwater Concept Plan \_\_\_ 2-Year Update \_\_\_ Town Plan \_\_\_ Traffic Study

PARCEL DATA (enter "NA" if not applicable for project type)

Gross Acreage: \_\_\_\_\_ Disturbed Acreage: \_\_\_\_\_

Subdivided Acreage: \_\_\_\_\_

Current No. Lots: \_\_\_\_\_ Current No. Units/Dwellings: \_\_\_\_\_

Proposed No. Lots: \_\_\_\_\_ Proposed No. Units/Dwellings: \_\_\_\_\_

SUBMITTAL REQUIREMENTS

\_\_\_ Plan/Plat (see Record Type Guidelines)

\_\_\_ Completed Plan Review Fee Summary

\_\_\_ Fee check made out to "Washington County Treasurer"

\_\_\_ Completed Land Use and/or Engineering Checklists Checklist

\_\_\_ Soils Map (8.5" x 11") w/ site delineated

\_\_\_ Other applicable materials such as Stormwater Report, Geotechnical Report, Hydrology & Hydraulics Analsis, Sight Distance Worksheet

APPLICANT NOTES

Empty box for applicant notes

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

**Special Tax Recapture:** None

**Account Identifier:** District - 02 Account Number - 002396

### Owner Information

**Owner Name:** EVAN LEE WILES PERSONAL REPRESENTATIVE OF THE ESTATE OF LETA MARGARET WILES ETAL  
 MILLS THOMAS JOSEPH  
**Mailing Address:** 9741 DOWNSVILLE PIKE  
 HAGERSTOWN MD 21740-

**Use:** RESIDENTIAL  
**Principal Residence:** NO  
**Deed Reference:** /07183/ 00005

### Location & Structure Information

**Premises Address:** 9827 DOWNSVILLE PIKE  
 HAGERSTOWN 21740-0000  
**Legal Description:** LOT 3 2.99 ACRES  
 9827 DOWNSVILLE PIKE

Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	Plat Ref:
0056	0024	0162	2010080.22	0000			3	2021	8250	

**Town:** None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1900	3,282 SF		2.9900 AC	

Stories	Basement	Type	Exterior	Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2	YES	STANDARD UNIT	BRICK/	4	2 full		

### Value Information

	Base Value	Value	Phase-in Assessments	As of
Land:	122,400	122,400		07/01/2023
Improvements	137,400	146,600		
<b>Total:</b>	<b>259,800</b>	<b>269,000</b>	265,933	269,000
Preferential Land:	0	0		

### Transfer Information

Seller:	Date:	Price:
EVAN LEE WILES PERSONAL REPRESENTATIVE OF THE ESTATE OF LETA MARGARET WILES ETAL	01/24/2023	\$0
<b>Type:</b> NON-ARMS LENGTH OTHER	<b>Deed1:</b> /07183/ 00005	<b>Deed2:</b>
WILES ROBERT EARL ET AL	08/23/2022	\$0
<b>Type:</b> NON-ARMS LENGTH OTHER	<b>Deed1:</b> /07088/ 00436	<b>Deed2:</b>
WILES ROBERT CECIL ET AL	11/23/2009	\$0
<b>Type:</b> NON-ARMS LENGTH OTHER	<b>Deed1:</b> /03933/ 00417	<b>Deed2:</b>

### Exemption Information

Partial Exempt Assessments:	Class	07/01/2022	07/01/2023
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

**Special Tax Recapture:** None

### Homestead Application Information

**Homestead Application Status:** No Application

### Homeowners' Tax Credit Application Information

**Homeowners' Tax Credit Application Status:** No Application

**Date:**



# Special Exception Request

9827 Downsville Pike

Hagerstown, MD 21740

Thomas Mills  
Shawn Bianco  
9741 Downsville Pike  
Hagerstown, MD 21740  
(301)573-1395  
(540)247-3278



## **Executive Summary**

Sunrise Valley Farm is the proposed name for business to be located at 9827 Downsville Pike, Hagerstown, Maryland 21740. The expectation for this business is that we will provide small seasonal weddings, anniversary parties and other gatherings. This is a beautiful historic site with farmland and trees around the property.

## **Business Mission**

Our goal is to provide a lovely setting to create the perfect day for their event. We will be putting together a list of preferred vendors to use local businesses that our clients can work with.

In the future, we would like to expand the facility to include a small market and a commercial kitchen. We would like to include private label beef sales, from the cattle on our adjacent farm. Baked goods, baked on site and honey that is harvested on our farm would be included as well.

We will start with the only employees being ourselves and as we add more add employees as needed.

## **Current Purpose**

Sunrise Valley Farm wants to provide a barn setting that is rustic and beautiful.

We will only be booking seasonally. April through early November. Currently there is no heat or air conditioning in the barn. In the future we would like to install a unit to provide year-round facilities.

The existing barn floor is 3420 sq feet. We will only be utilizing 2432 sq feet for this facility. The rest will be used for storage currently and in the future hopefully for the expansion of the business. There are 2 big doors on the front that can be opened as well as a door off the back of the barn.

We will have to have the electricity upgraded and change out the light fixtures as well as add lights to the parking areas. We have mapped out two parking areas to allow for 50 vehicles. There will be 2 handicapped spaces in the area closest to the barn. We will be adding walkways to allow easier access to the inside.

Our events will be limited to 100 guests. They can be seated comfortably and allow room for a caterer and bartender to set up.

We will be renting restroom trailers for the event. They will include water, heat or AC, generator and dumping tanks. They bring them, set them up and pick them up after the event. Nothing is required from the venue.

All events will be required to be over by 9PM Sunday evening or weekdays. On Fridays and Saturdays, it will be 10 PM. Those times mean cleaning up and off the property. No music speakers will be permitted outside, and music will be kept to a low enough level that it will not disturb anyone. That conforms to the noise ordinances currently in place.

We would like to work with local businesses to provide catering, baking, florals, music and overnight accommodations for the events. I will put together a list of local things to do for out-of-town guests at the events, which will promote local attractions and businesses.

We will be putting in two small rooms inside to allow the bride and groom to have separate areas prior to the wedding to get ready.

### **Business Goals**

We would like it to be open by the summer of 2024, with the goal of booking 10 events before the season ends.

We will promote our business on social media and joining local groups to promote ourselves. Our target area for clients will be Maryland, West Virginia, Pennsylvania and Virginia.

### **Conclusion**

This beautiful historic barn built in 1900 will provide a beautiful setting for gatherings. It is the perfect spot to hold events. Close to major roads and many local attractions.

By requiring caterers and trailered restrooms we are compliant with the health codes.

- (a) The number of people residing or working in the immediate area concerned.  
*This location is already on a major road. There are several small family businesses on the road and a new warehouse.*
- (b) The orderly growth of the community  
*Our events will be over by 9PM on weekdays and 10PM on Friday and Saturday. There will not be any loud music as we will not allow speakers outside and will keep the volume controlled.*
- (c) Traffic conditions  
*This venue will not impede the flow of traffic on Downsville Pike*
- (d) The effect of such use upon the peaceful enjoyment of people in their homes  
*Our events will be over early enough to comply with the noise ordinance in the area. The volume of music will be kept to a minimum. Our neighbors are far enough away that the parking lot lights are far enough away not to shine directly in their windows.*
- (e) The conservation of property values  
*This will not affect property values in the area. We are maintaining the integrity of the barn as it stands now. The inside will be changed and parking areas added. Our events will be kept quiet with a maximum of 2 events a week.*
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare or noise to the surrounding property values  
*Our business will not affect any of these things*
- (g) The most appropriate use of land and structure  
*Providing an event space on this property is an appropriate use for this barn due to its size and location.*
- (h) Decision of the Courts  
*N/A*
- (i) The purpose of these regulations as set forth herein  
*N/A*
- (j) Type of structures in the vicinity where public gatherings may be held, such as schools, churches and the like  
*N/A*

Thomas Mills

DOWNSVILLE PIKE

X Proposed  
Location  
Location

PROPOSED  
SIDE  
SIDE

EXISTING

B&L

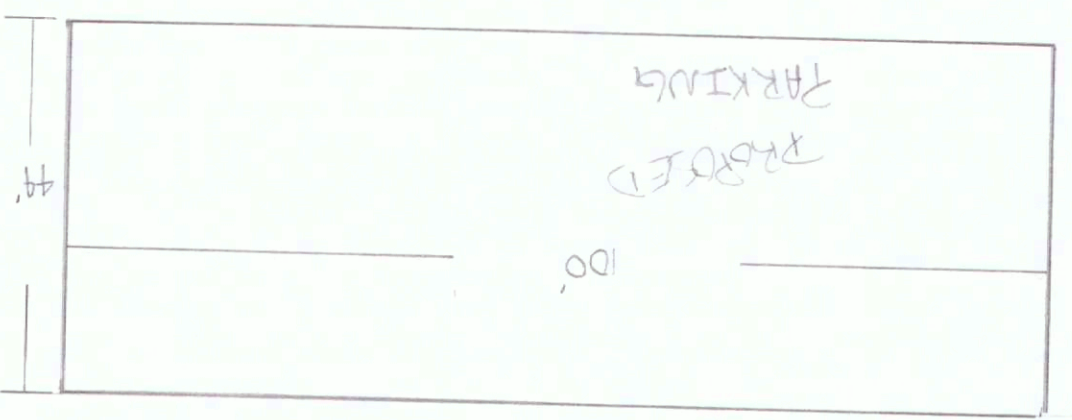
200'

60'

15'

PROPOSED  
PARKING

B&L



EX  
WELL

EXISTING  
RESERVE

9837

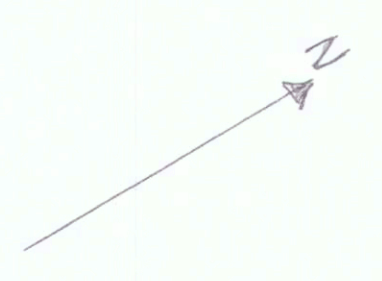
EX  
WELL

B&L

EX GETTING  
RESERVE  
10,000 sq

10'

15'



533'

EX  
Dwellings

5/24/20

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

SHAWN BIANCO

**Appellant**

\*      **Appeal No.: AP2023-041**

\*      \*      \*      \*      \*      \*      \*      \*      \*      \*      \*      \*

**OPINION**

Shawn Bianco (hereinafter “Appellant”) requests a special exception to establish a banquet/reception hall in the existing barn at the subject property. The subject property is located at 9827 Downsville Pike, Hagerstown, Maryland and is zoned Agricultural, Rural. The Board held a public hearing in this matter on August 30, 2023.

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. The Estate of Evan Lee Wiles is the owner of the subject property located at 9827 Downsville Pike, Hagerstown, Maryland. The subject property is zoned Agricultural, Rural.
2. Thomas Mills is the Personal Representative for the Estate of Evan Lee Wiles and has given Appellant permission to pursue this appeal.
3. The subject property consists of approximately 3.99 acres improved by a farmhouse and a barn structure built circa 1900. The farm to the rear is approximately 93 acres which is also owned by the estate.

4. Appellants plan to establish a banquet facility for weddings and events in the existing barn. The business will be called Sunrise Valley Farm and will operate seasonally from April to November with a maximum of two (2) events per week.

5. The facility would have maximum capacity of 100 guests and Appellant plans to have approximately fifty (50) parking spaces. There will be no outdoor amplified music or sound and events will end at 9:00 p.m. on weekdays and 10:00 p.m. on weekends.

6. The farmhouse is a rental property and not part of Appellant's business plan.

7. Appellant plans to make upgrades to the electric service and install lighting for the parking areas. They will bring in restroom trailers for events as there is no running water.

8. Appellants plan to partner with local businesses for catering, music and entertainment, decoration, and overnight accommodations for guests.

9. There was no opposition presented at the hearing for this appeal.

## **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.

Based on Appellant's testimony, there does not appear to be any noise, gas, odors, dust, or other byproducts of the proposed use that would affect the surrounding properties. There are a limited number of people residing or working in the immediate area and they likely will not be unreasonably affected by the proposed use. Appellant testified that based on the proposed hours, the limited number of guests and other rules of operation, they will limit the outward effect of any noise or light on neighboring properties. Given the times of operation, the proposed use is unlikely to affect public gatherings. Appellant's testimony underscores her desire to make use of the beautiful rural setting as a backdrop for weddings and family celebrations. This both an appropriate use of the property and contributes to the orderly and reasonable growth of the community.



The impact on traffic was raised as a concern in correspondence to the Board. Appellant testified that the events will be in the evenings and on weekends, during non-peak travel hours for Downsville Pike. The Board took notice of the traffic conditions during rush hour on a weekday versus the much lighter traffic conditions, particularly on weekends. Although Appellant should always be mindful of traffic as it relates to events, the use as proposed is not likely to have a detrimental effect on current traffic conditions in the area.

In the instant case, the proposed business makes use of the existing elements of the property and constitutes an appropriate re-use of the property. The proposed events will be small, intimate gatherings at off-peak traffic times in a rural setting. 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 secures public safety and welfare and upholds the spirit of the Ordinance.

Accordingly, the request for a special exception to establish a banquet/reception facility in the existing barn at the subject property is GRANTED, by a vote of 4-1. The application is granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

**Date Issued: September 26, 2023**

BOARD OF APPEALS

By: Jay Miller, Chair

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.