

BOARD OF APPEALS

December 6, 2023

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

AGENDA

AP2023-047: An appeal was filed by Martin & Nicole Boese for a special exception to establish a second single-family dwelling on a parcel improved with a dwelling and a variance from the required 50 ft. side yard setback for residential use lots when the lot is 5 acres or greater in size to 15 ft. for East property line for proposed single-family dwelling. Also a variance from the required 50 ft. side yard setback to 16 ft. for constructed accessory structure. The property is owned by the appellant and located at 14005 Misty Glen Lane, Hagerstown, Zoned Agricultural Rural. **POSTPONED TO DECEMBER 20 HEARING.**

AP2023-049: An appeal was filed by Dominion Realty LLC for a variance requesting a parking reduction of the required 35 spaces to 17 spaces for proposed change of space from retail use to a restaurant use on property owned by the appellant and located at 18117 Maugans Avenue, Hagerstown, Zoned Highway Interchange. **-GRANTED**

AP2023-050: An appeal was filed by Austin Brad for a variance from the required 400 ft. setback to 147 ft. from the North property line, 39 ft. from the West property line, 293 ft. from the East property line for new boarding facility with outdoor runs on property owned by Marcie McCleary and located at 18126 Lappans Road, Fairplay, Zoned Agricultural Rural. - **GRANTED**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than November 27, 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: Martin & Nicole Boese
816 Dewey Avenue
Hagerstown MD 21742

Appellant: Martin & Nicole Boese
816 Dewey Avenue
Hagerstown MD 21742

Property Location: 14005 Misty Glen Lane
Hagerstown, MD 21742

Description Of Appeal: Special exception to establish a second single-family dwelling on a parcel improved with a dwelling and a variance from the side yard setback of 50 ft. for residential use lots of 5 acres or greater in size to 15 ft. for the East property line for proposed single-family dwelling. Variance from the required 50 ft. side yard setback to 16 ft. for constructed accessory structure.

Appellant's Legal Interest In Above Property:

Owner:	Yes
Lessee:	No
Other:	

Docket No: AP2023-047
Tax ID No: 09017712
Zoning: A(R)
RB Overlay: No
Zoning Overlay:
Filed Date: 10/17/2023
Hearing Date: 12/06/2023

Contract to Rent/Lease: No
Contract to Purchase: No

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 4.5 & 5A.7 (4.)

Reason For Hardship: Irregular shape of existing lot

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Single Family Dwelling

Proposed Use: Second Single Family Dwelling

Previous Use Ceased For At Least 6 Months:

Date Ceased:

Area Devoted To Non-Conforming Use -

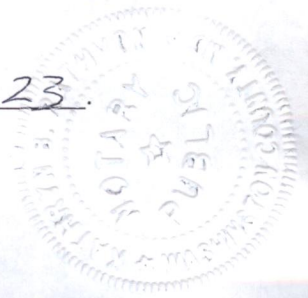
Existing:
Proposed:

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

Appellant Signature

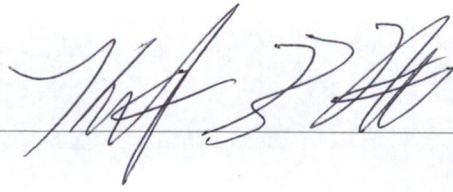
State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 16 day of November, 2023.



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

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

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2023-047

State of Maryland Washington County, To Wit:

On 10/17/2023, 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 12/06/2023, 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 11/21/2023 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



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that ED SCHREIBER
is authorized to file an appeal with the Washington County Board of Appeals for
SPECIAL EXCEPTION FOR 2nd Dwelling & SIDE YARD VARIANCE on property
located 14005 MISTY GLEN LN, HAGERSTOWN MD 21742
The said work is authorized by NICOLE BOESE
the property owner in fee.

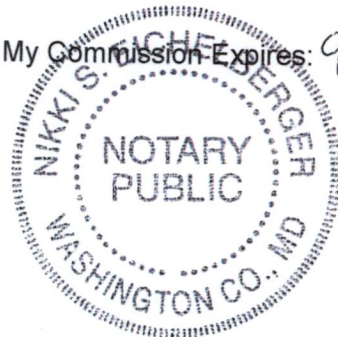
PROPERTY OWNER

Nicole M. Boese
Name
816 Dewey Ave
Address
Hagerstown MD 21742
City, State, Zip Code
N. Boese
Owner's Signature

Sworn and subscribed before me this 28 day of September, 2023.

Nikki S. Echelberger
Notary Public

My Commission Expires: 9/15/2024



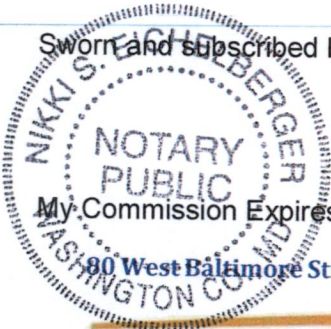
AUTHORIZED REPRESENTATIVE

ED SCHREIBER c/o 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 28 day of September, 2023.

Nikki S. Echelberger
Notary Public

My Commission Expires: 9/15/2024



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

Project Name: Martin & Nicole Boese Special Exception/Side Yard Variance

Owner/Applicant: Martin & Nicole Boese

Project Address: 14005 Misty Glen Lane

Tax Map 26 **Grid** 7 **Parcel** 417

Account # 09017712

Zoning: A(R) Agricultural Rural

Reason for filing:

This is a request for a Special Exception from section 4.5 of the Washington County Zoning Ordinance. Among other regulations this section states that "All lots, parcels or tracts either created prior to or after the adoption of this ordinance which are located in the A(R), EC, P, RV, RB, RT, RS, or RU districts shall be limited to one principal permitted residential use on a lot, parcel or tract".

The applicants desire to construct an 1,100 SF house on their 14 acre property which is currently improved with the applicants personal home. Aging in-laws would like to downsize from their current 3,000 SF residence, the 2nd dwelling is intended to allow the in-laws to live in said home and be close to the immediate family. Reciprocal healthcare/child care is also a driving factor that is further explained in a memo prepared by the applicant and enclosed with this application.

The variance request is for a right-side yard setback variance to 15' from the required 50' setback as specified in Section 5A.7(4) under special provisions. This is a little known provision that was written into the ordinance during the 2005 comprehensive map amendment. This states that side yard setbacks for residential use lots shall be a minimum of 50' for lots 5 acres in size or greater. I can understand this requirement for lots created after the 2005 comprehensive rezoning, such lots can be designed to accommodate the greater setback and the greater setback can be shown on the plan. To retrofit 50' building restriction lines on large lots does not always work. This lot is a perfect instance, the 14.15 acre lot is comprised of 10.07 acres of floodplain meaning the house well and septic have to be pushed up towards the front of the pie shaped lot. Once you remove 10.07 acres of floodplain you are left with 4.08 acres, under the threshold that requires the 50' setback. The subdivision plat that created this lot, plat 8328, shows 15' setbacks and no mention of 50' setbacks if over 5 acres in size.

The variance hardship is the irregular shape of the existing lot which portrays the appearance of the area for the 2nd house to be built as already existing as a separate lot. No different then the dozen lots immediately to the west on Leiters Mill Road, all which have 15' side yard setbacks. The existing house is over 400' off of Leiters Mill Road and about 12' lower than the proposed 2nd dwelling which will front directly on Leiters Mill Road and use an existing access. The Health Department has been contacted and will allow the 2nd dwelling to be hooked up to the existing system with minor modifications and use of the existing well is permitted. The applicants have met with all of the adjacent property owners to explain what their intentions are.

October 13, 2023

Dear Members of the Zoning Board of Appeals,

We are requesting a special exception to permit an accessory dwelling unit (ADU) on our property located at 14005 Misty Glen Lane, Hagerstown MD 21742.

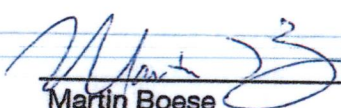
Nicole's parents, Steven and Jill Silas, are in their late 70's. While both Steven and Jill are in relatively good health, Steven is a cancer survivor and Jill has a family history of strokes and heart disease. As they age, it would be beneficial for our family if they lived nearby, but still maintained their own space and dignity. Our property is shaped with an approximate 1/4-1/3 acre exclave on the opposite side of our main lot, separated by a common driveway, that would easily fit a small retirement cottage. This area would be ideal for Nicole's parents to live out their golden years.

Meanwhile, our eldest daughter is autistic and suffers from treatment resistant depression. She has bouts of severe depression requiring electric convulsive therapy and sometimes psychiatric hospitalization. We have high hopes that she can lead a functional life - she is highly intelligent - but she may be unable to live without continued support. In the distant future, having a separate-yet-attached ADU on our property may be essential.

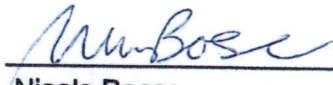
Thank you for your consideration.

Sincerely,

Martin & Nicole Boese



Martin Boese



Nicole Boese

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

SITE

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 09 Account Number - 017712

Owner Information

Owner Name: BOESE MARTIN LEWIS Use: RESIDENTIAL
BOESE NICOLE M Principal Residence: NO
Mailing Address: 816 DEWEY AVENUE Deed Reference: /07211/ 00329
HAGERSTOWN MD 21742-

Location & Structure Information

Premises Address: 14005 MISTY GLEN LN Legal Description: LOT 5 14.12 ACRES
HAGERSTOWN 21742-0000 14005 MISTY GLEN LANE
MISTY GLEN

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 8326
0026 0007 0417 9010142.22 0000 5 2022 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
14.1200 AC 000000

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	As of
		01/01/2022	07/01/2023	07/01/2024
Land:	112,800	112,800		
Improvements	0	0		
Total:	112,800	112,800	112,800	112,800
Preferential Land:	0	0		

Transfer Information

Seller: MISTY KNOLLS LLC	Date: 03/16/2023	Price: \$217,500
Type: ARMS LENGTH VACANT	Deed1: /07211/ 00329	Deed2:
Seller: TOUSA HOMES INC	Date: 01/16/2007	Price: \$1,000,000
Type: NON-ARMS LENGTH OTHER	Deed1: /03203/ 00666	Deed2:
Seller: MISTY GLEN DEVELOPMENT LLC	Date: 08/01/2005	Price: \$1,125,000
Type: ARMS LENGTH MULTIPLE	Deed1: /03203/ 00659	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2023	07/01/2024
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00 0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

1082

Salisbury, McLister & Foley, LLP
File No. 23-34051ACW
Tax ID # 09-017712
Property Address - 14005 Misty Glen Lane, Hagerstown, MD 21742

This Deed, made this 8th day of March, 2023, by and between **Misty Knolls, LLC**, GRANTOR, and **Martin Lewis Boese and Nicole M. Boese**, GRANTEES.

Witnesseth –

That in consideration of the sum of Two Hundred Seventeen Thousand Five Hundred and 00/100 Dollars (\$217,500.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt of which is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantees, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

All that lot or parcel of land situate, lying and being in Washington County, Maryland and being more particularly described as follows:

Being known and designated as Lot 5, as shown on the plat entitled "Combined Preliminary/Final Plat, Lots 1-5, Misty Glen, situate along the north side of Leiter's Mill Road, Election District 9", and recorded among the Plat Records of Washington County, Maryland in Plat Number 8326.

BEING part of the fee simple property which, by Deed dated December 22, 2006, and recorded in the Land Records of the County of Washington, Maryland, in Liber 3203, Folio 666, was granted and conveyed by Touse Homes, Inc. unto Misty Knolls, LLC.

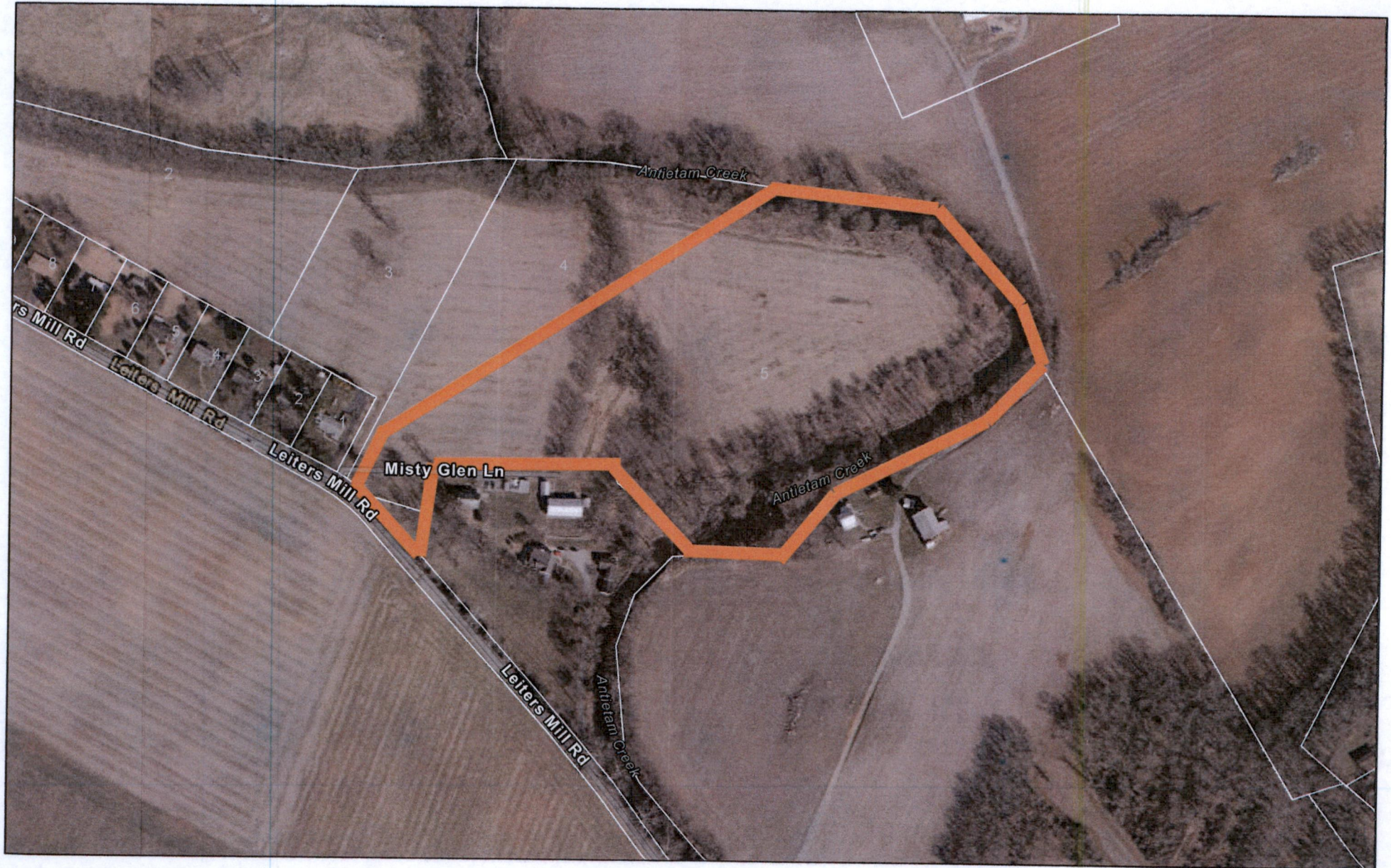
Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Martin Lewis Boese and Nicole M. Boese, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple.

And the Grantor hereby covenants that it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that it will warrant Specially the property hereby granted; and that it will execute such further assurances of the same as may be requisite.

000324

Frederick Seibert & Associates, Inc.

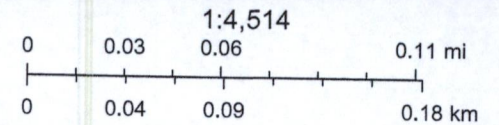


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World Transportation

Parcels

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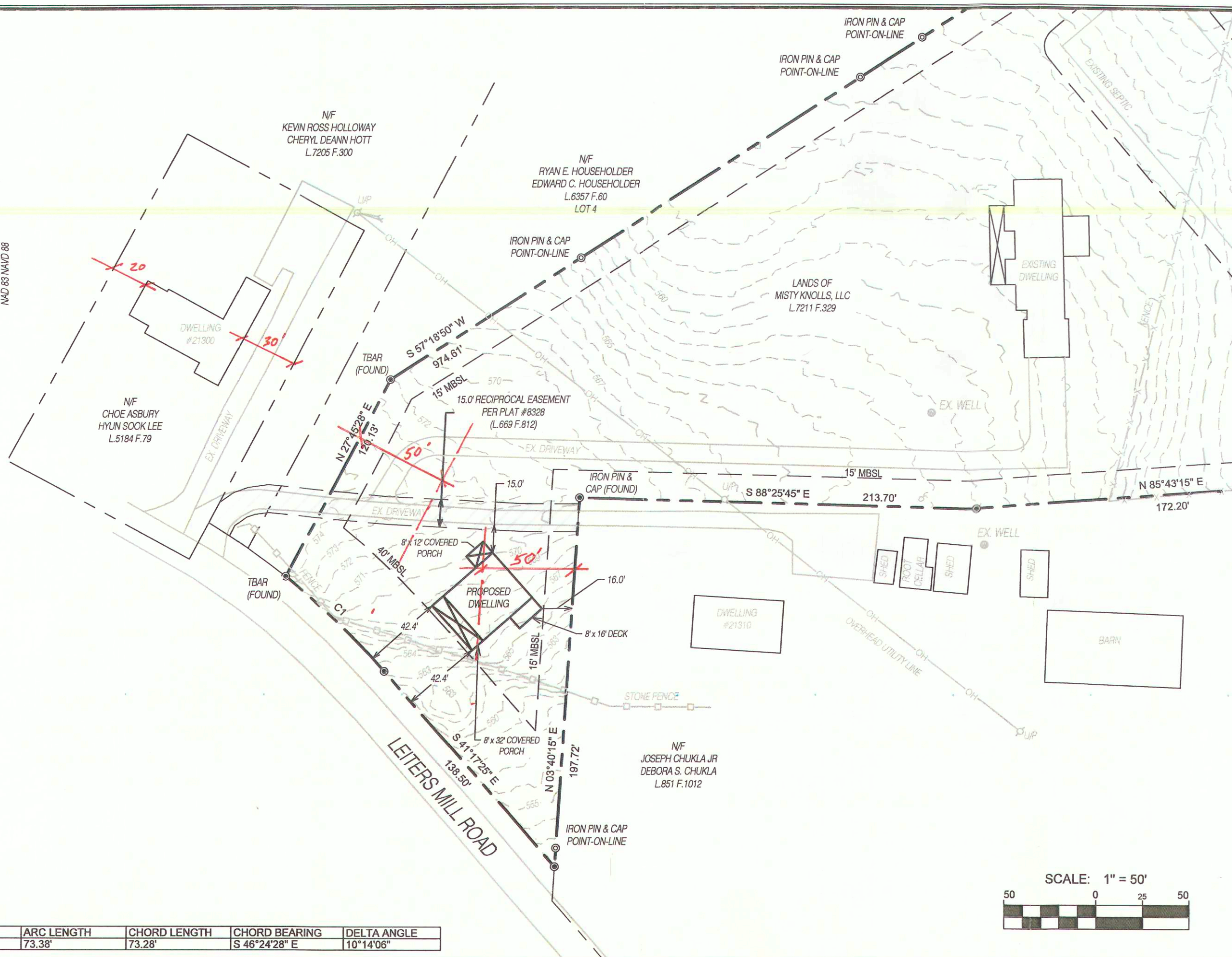
Esri, HERE, IPC, Esri Community Maps Contributors, Frederick County, WashCo MD, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

Web AppBuilder for ArcGIS

Maxar | MD iMAP, DoIT | Hagerstown MD | Washington County Planning Department | Source: USDA NRCS, Esri | MD iMAP, USDA | Esri, HERE, IPC | Esri Community Maps Contributors, Frederick County, WashCo MD, © OpenStreetMap, Microsoft, Esri, HERE,

Adjacent Owners List, Boese Special Exception

[illegible]



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	410.76'	73.38'	73.28'	S 46°24'28" E	10°14'06"

SCALE: 1" = 50'



**FREDERICK
SEIBERT &
ASSOCIATES, INC.**

2023

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS
128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740
20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225
505 SOUTH HANOVER STREET, CARLISLE, PENNSYLVANIA 17013
22021 SPRING ROAD, SUITE 3, SHERMANSDALE, PENNSYLVANIA 17090
(301) 791-3850

FAX (301) 739-4956

717) 597-1007

301) 416-7478

(301) 791-3650

Preliminary / Final Plat
PLOT PLAN

FOR

MARTIN LEWIS BOESE
& NICOLE M. BOESE

14005 MISTY GLEN LANE
HAGERTSOWN MD 21742

WASHINGTON COUNTY, MARYLAND

JOB NUMBER:
202

2023-0028.2

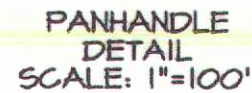
TAX MAP 26-7-417 DISTRICT 09

DRAWING NUMBER 1 OF 1

DRAWN BY: MTJ	DATE: 10-04-2023
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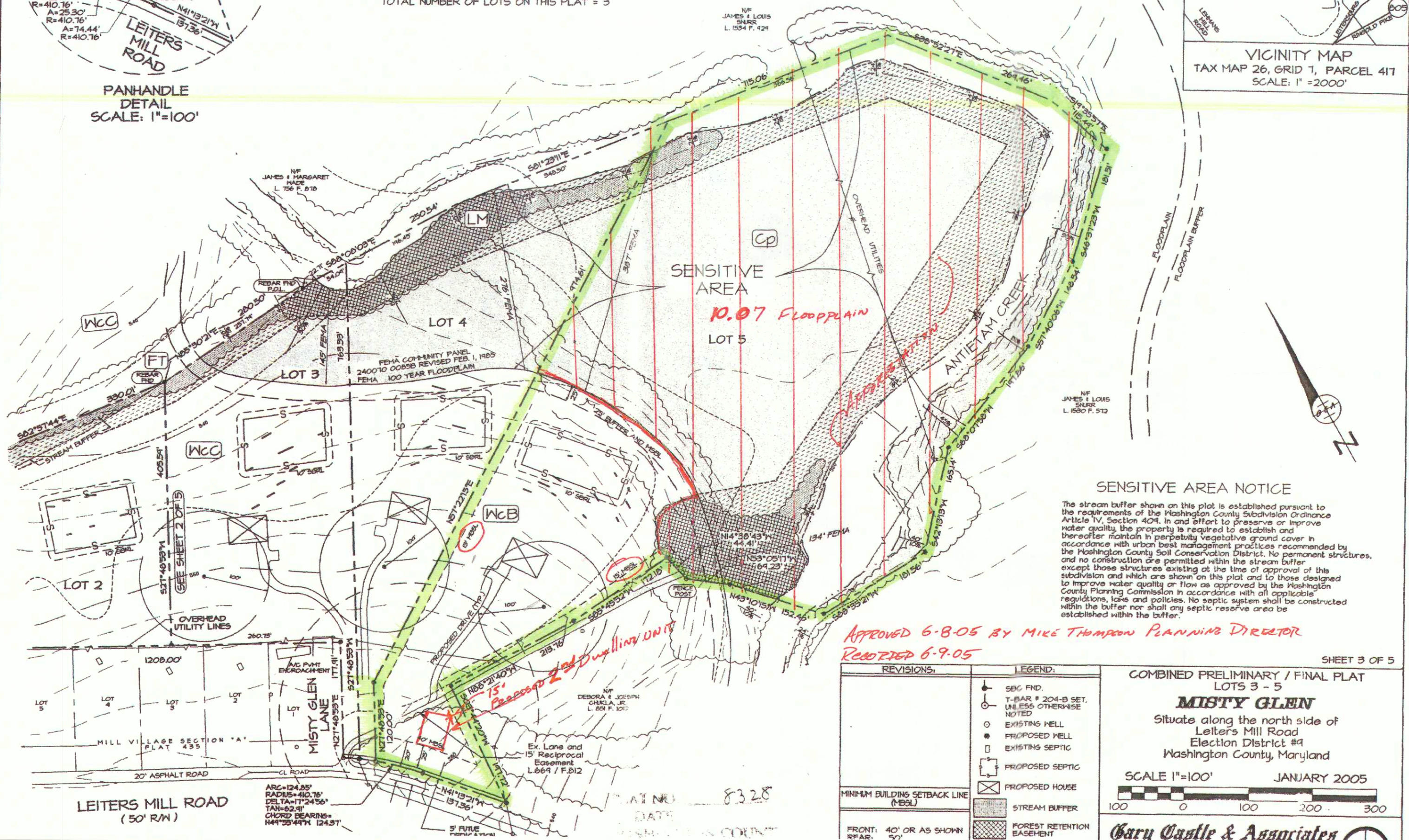
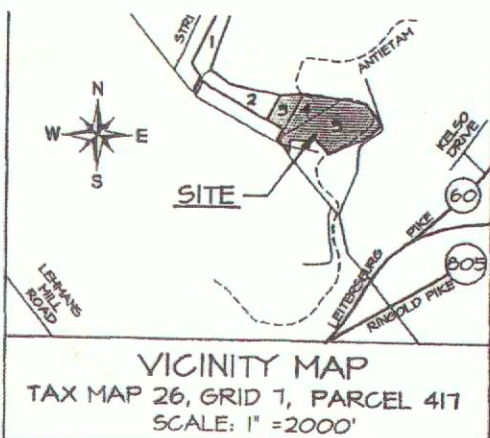
CHECKED BY:	DATE:
EJS	10-04-2023

SCALE: $1'' = 50'$



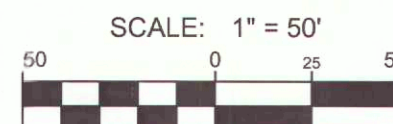
TOTAL NUMBER OF LOTS ON THIS PLAT = 3

4. There are no habitats of threatened or endangered species identified by the U. S. Fish and Wildlife Service per 50 CRF 17, as required to be shown by section 306, 307 and 314 of the Subdivision Ordinance and Section 4.21 of the Zoning Ordinance.
5. There were no wetlands observed on this site outside of the Antietam Creek banks.





CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	410.76'	73.38'	73.28'	S 46°24'28" E	10°14'06"



**FREDERICK
SEIBERT &
ASSOCIATES, INC.**

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS
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0 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225
05 SOUTH HANOVER STREET, CARLISLE, PENNSYLVANIA 17013
2001 SPRING ROAD, SUITE 3, SHERMANSDALE, PENNSYLVANIA 17090
301.791.3650

06/01/2011

ADAM, F.

2011

201 01 11
301) 791-3650

JOB NUMBER:
2023-0028.2

BZA
EXHIBIT
FOR
*MARTIN LEWIS BOESE
& NICOLE M. BOESE*
14005 MISTY GLEN LANE
HAGERTSOWN MD 21742
WASHINGTON COUNTY, MARYLAND



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

ZONING APPEAL

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816 Dewey Avenue
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Appellant: Martin & Nicole Boese
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Property Location: 14005 Misty Glen Lane
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Description Of Appeal: Special exception to establish a second single-family dwelling on a parcel improved with a dwelling.

Docket No: AP2023-047

Tax ID No: 09017712

Zoning: A(R)

RB Overlay: No

Zoning Overlay:

Filed Date: 10/17/2023

Hearing Date: 11/08/2023

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Lessee: No

Other:

Contract to Rent/Lease: No

Contract to Purchase: No

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 4.5

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

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Proposed Use: Second 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 23 day of October, 2023.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY

My Commission Expires **NOVEMBER 07, 2025**

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

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

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
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My Commission Expires

Project Name: Martin & Nicole Boese Special Exception

Owner/Applicant: Martin & Nicole Boese

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Tax Map 26 **Grid** 7 **Parcel** 417

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The shape of the existing lot portrays the appearance of the area for the 2nd house to be built as already existing as a separate lot. The existing house is over 400' off of Leiters Mill Road and about 12' lower than the proposed 2nd dwelling which will front directly on Leiters Mill Road and use an existing access. The Health Department has been contacted and will allow the 2nd dwelling to be hooked up to the existing system with minor modifications and use of the existing well is permitted. The applicants have met with all of the adjacent property owners to explain what their intentions are.

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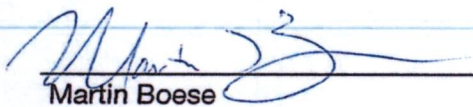
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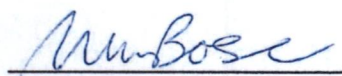
Thank you for your consideration.

Sincerely,

Martin & Nicole Boese



Martin Boese



Nicole Boese



Washington County MARYLAND

BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

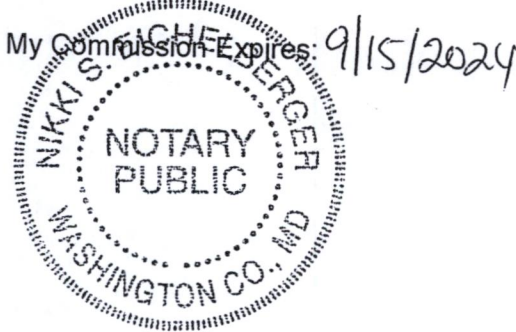
This is to certify that ED SCHREIBER
is authorized to file an appeal with the Washington County Board of Appeals for
SPECIAL EXCEPTION FOR 2nd DWELLING on property
located 14005 MISTY GLEN LN, HAGERSTOWN MD 21742
The said work is authorized by NICOLE BOESE
the property owner in fee.

PROPERTY OWNER

Nicole M. Boese
Name
816 Dewey Ave
Address
Hagerstown MD 21742
City, State, Zip Code
Nicole Boese
Owner's Signature

Sworn and subscribed before me this 28 day of September, 2023.

Nikki S. Echelberger
Notary Public

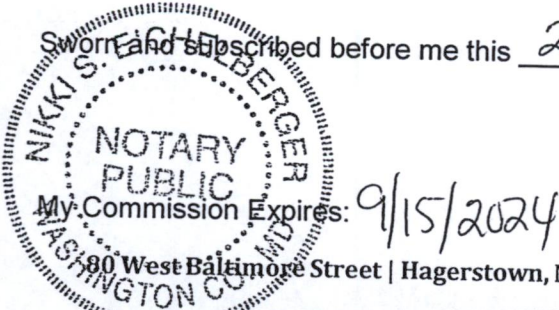


AUTHORIZED REPRESENTATIVE

ED SCHREIBER c/o 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 28 day of September, 2023.

Nikki S. Echelberger
Notary Public



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

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

SITE

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 09 Account Number - 017712

Owner Information

Owner Name: BOESE MARTIN LEWIS Use: RESIDENTIAL
BOESE NICOLE M Principal Residence: NO
Mailing Address: 816 DEWEY AVENUE Deed Reference: /07211/ 00329
HAGERSTOWN MD 21742-

Location & Structure Information

Premises Address: 14005 MISTY GLEN LN Legal Description: LOT 5 14.12 ACRES
HAGERSTOWN 21742-0000 14005 MISTY GLEN LANE
MISTY GLEN

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 8326
0026 0007 0417 9010142.22 0000 5 2022 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
14.1200 AC 000000

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

Value Information

	Base Value	Value As of 01/01/2022	Phase-in Assessments As of 07/01/2023	As of 07/01/2024
Land:	112,800	112,800		
Improvements	0	0		
Total:	112,800	112,800	112,800	112,800
Preferential Land:	0	0		

Transfer Information

Seller: MISTY KNOLLS LLC	Date: 03/16/2023	Price: \$217,500
Type: ARMS LENGTH VACANT	Deed1: /07211/ 00329	Deed2:
Seller: TOUSA HOMES INC	Date: 01/16/2007	Price: \$1,000,000
Type: NON-ARMS LENGTH OTHER	Deed1: /03203/ 00666	Deed2:
Seller: MISTY GLEN DEVELOPMENT LLC	Date: 08/01/2005	Price: \$1,125,000
Type: ARMS LENGTH MULTIPLE	Deed1: /03203/ 00659	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2023	07/01/2024
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00

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:

1082

Salisbury, McLister & Foley, LLP
 File No. 23-34051ACW
 Tax ID # 09-017712
 Property Address - 14005 Misty Glen Lane, Hagerstown, MD 21742

This Deed, made this 8th day of March, 2023, by and between Misty Knolls, LLC, GRANTOR, and Martin Lewis Boese and Nicole M. Boese, GRANTEES.

Witnesseth –

That in consideration of the sum of Two Hundred Seventeen Thousand Five Hundred and 00/100 Dollars (\$217,500.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt of which is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantees, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

All that lot or parcel of land situate, lying and being in Washington County, Maryland and being more particularly described as follows:

Being known and designated as Lot 5, as shown on the plat entitled "Combined Preliminary/Final Plat, Lots 1-5, Misty Glen, situate along the north side of Leiter's Mill Road, Election District 9", and recorded among the Plat Records of Washington County, Maryland in Plat Number 8326.

BEING part of the fee simple property which, by Deed dated December 22, 2006, and recorded in the Land Records of the County of Washington, Maryland, in Liber 3203, Folio 666, was granted and conveyed by Touse Homes, Inc. unto Misty Knolls, LLC.

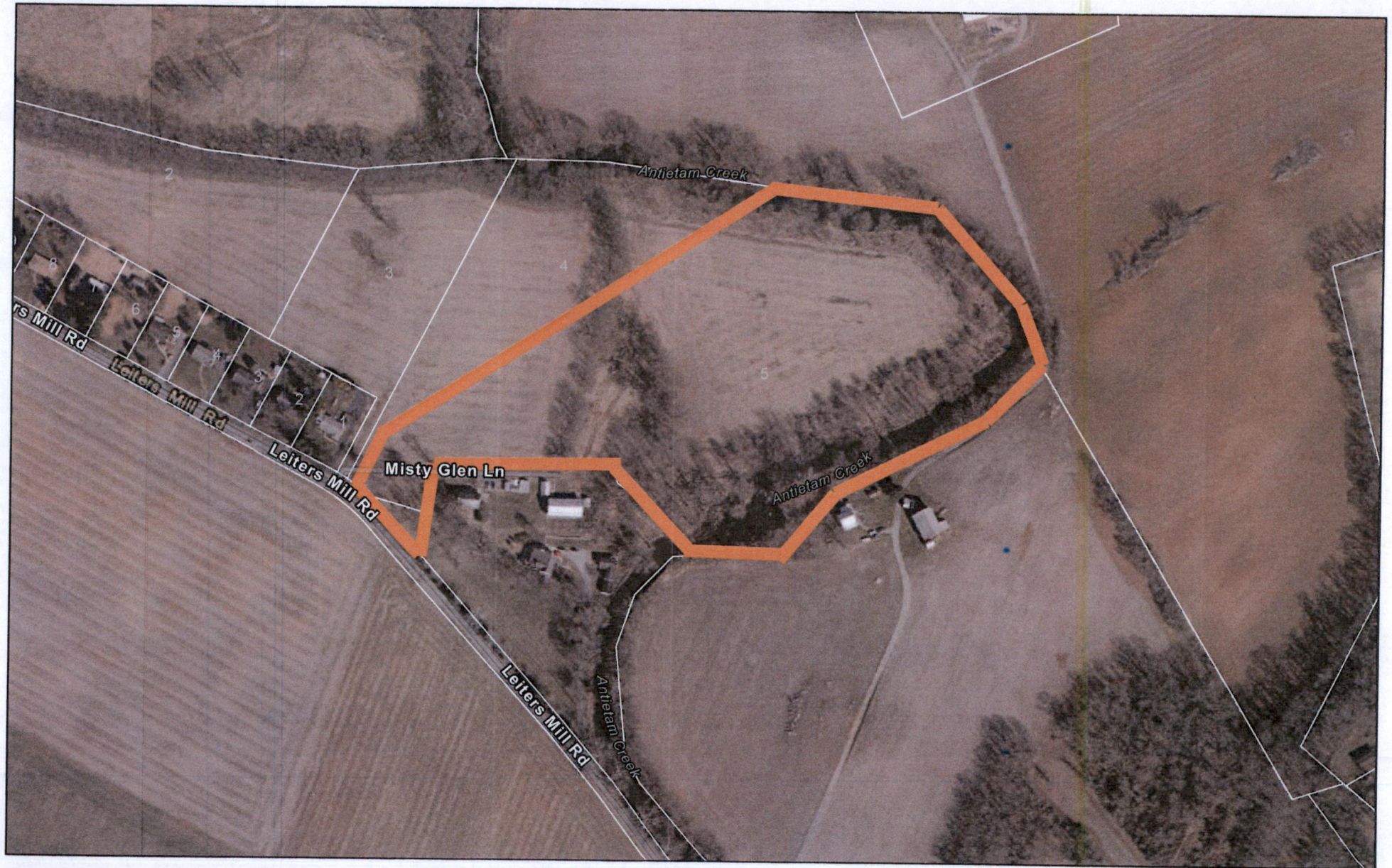
Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Martin Lewis Boese and Nicole M. Boese, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple.

And the Grantor hereby covenants that it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that it will warrant Specially the property hereby granted; and that it will execute such further assurances of the same as may be requisite.

000324

Frederick Seibert & Associates, Inc.

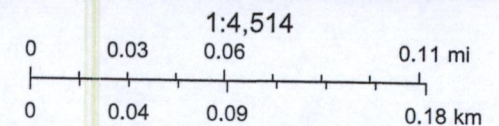


10/12/2023, 3:45:05 PM

World Transportation

Parcels

MD_SixInchImagery



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Web AppBuilder for ArcGIS

Maxar | MD IMAP, DoIT | Hagerstown MD | Washington County Planning Department | Source: USDA NRCS, Esri | MD IMAP, USDA | Esri, HERE, IPC | Esri Community Maps Contributors, Frederick County, WashCo MD, © OpenStreetMap, Microsoft, Esri, HERE,

Adjacent Owners List, Boese Special Exception

[illegible]



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	410.76'	73.38'	73.28'	S 46°24'28" E	10°14'06"



TAX MAP 26-7-417 DISTRICT 09

DRAWING NUMBER 1 OF 1

DRAWN BY:	DATE:
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CHECKED BY:	DATE:
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	SCALE	

**FREDERICK
SEIBERT &
ASSOCIATES, INC.**

©2023

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS
128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740
200 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225
6065 SOUTH HANOVER STREET, CARLISLE, PENNSYLVANIA 17013
SUITE 3, SHERMANSDALE, PENNSYLVANIA 17090

FAX (301) 739-4856

(717) 597-1007

(301) 416-7478

Preliminary / Final Plat
PLOT PLAN

FOR

MARTIN LEWIS BOESE

& NICOLE M. BOESE

4005 MISTY GLEN LANE

HAGERTSOWN MD 21742

WASHINGTON COUNTY, MARYLAND



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

ZONING APPEAL

Property Owner: Dominion Realty LLC
14627 Cearfoss Pike
Hagerstown MD 21740

Appellant: Dominion Realty LLC
14627 Cearfoss Pike
Hagerstown MD 21740

Property Location: 18117 Maugans Avenue
Hagerstown, MD 21740

Description Of Appeal: Variance requesting a parking reduction of the required 35 spaces to 17 spaces for proposed change of space from retail use to a restaurant use.

Docket No: AP2023-049
Tax ID No: 13010757
Zoning: HI
RB Overlay: No
Zoning Overlay:
Filed Date: 10/25/2023
Hearing Date: 12/06/2023

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): AP2023-022, AP2019-015

Applicable Ordinance Sections: Washington County Zoning Ordinance Section: 22.12 (b)

Reason For Hardship: Unusual and unique shape of the property

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Shopping Center **Proposed Use:** Restaurant Use

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 25 day of October, 2023.

Notary Public

My Commission Expires

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND

MY COMMISSION EXPIRES NOVEMBER 07, 2025



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: AP2023-049

State of Maryland Washington County, To Wit:

On 10/25/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Dominion Realty LLC and made oath in due form of law as follows:

Dominion Realty LLC will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 12/06/2023, 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 11/21/2023 and will remain until after the above hearing date.

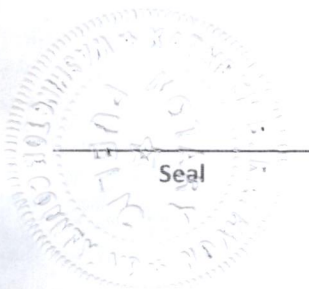
Dominion Realty LLC

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

Notary Public



My Commission Expires



Project Name: Dominion Realty, LLC

Owner / Applicant: Dominion Realty, LLC c/o Michael Godinez

Project Address: 18117 Maugans Ave, Hagerstown, MD 21740

Tax Map 243 **Grid** _____ **Parcel** 1378

Account #: 13010757

Zoning: HI

Variance Request: The applicant is requesting a parking reduction of the required 35 spaces to 17 spaces. The new building requiring the parking is comprised of the following:

Warehouse: 4,994 Square Feet

Office: 2,000 Square Feet

Restaurant: 1,800 Square Feet (proposed change from Retail)

This variance is from section 22.12(b) of the Washington County Zoning Ordinance. The owner/appliant will demonstrate "Practical Difficulty" due to the unusual and unique shape of the property. Please see previous cases AP 2019-015 and AP 2023-002.

Neighboring Properties (18117 Maugans Ave Hagerstown, MD 21740)

See below for a list of each of the neighboring properties. Also included is the SDAT data for each of the properties listed.

#1 - 18145 Maugans Ave
Board of Education of Washington County
10435 Downsville Pike
Hagerstown, MD 21740-00

#2 - 13803 Sunrise Dr
Long Keith J & Kimberly S
13803 Sunrise Dr
Hagerstown, MD 21740-1602

#3 - Seneca Ridge Dr
Washington County Commissioners Board
100 W Washington St
Hagerstown, MD 21740-0000

#4 - Maugans Ave
Washington County Commissioners Board
100 W Washington St
Hagerstown, MD 21740-0000

#5 - 18131 Maugans Ave
International Union United
18131 Maugans Ave
Hagerstown, MD 21740-1664

Businesses Located On Complete Premises

See below for a list of each of the businesses located at the subject property including their number of employees and hours of operation.

#1 - Appalachian Reptiles & Aquatics
18113 Maugans Ave Suite 100
Hagerstown, MD 21740
Monday: Closed;
Tuesday-Sunday: 12:00 - 8:00 PM
3 Employees

#2 - Garden Dominion Supply
18113 Maugans Ave Suite 101
Hagerstown, MD 21740
Monday: Friday: 8:00 - 5:00 PM
3 Employees

#3 - K&A Tax&Accounting
18113 Maugans Ave Suite 102
Hagerstown, MD 21740
**Tax Season Only (Jan - May)*
Monday - Friday: 9:00 - 5:00 PM
1 Employee

#4- Native LLC
18113 Maugans Ave Suite 103
Hagerstown, MD 21740
**By Appointment Only*
2 Employees

#5 - Garden Dominion Supply
18117 Maugans Ave Suite 200
Hagerstown, MD 21740
**Used for storage, no walk-in*
Monday - Friday: 9:00 - 5:00 PM
0 Employee

#6 - Gio's Pizzeria (Proposed)
18117 Maugans Ave Suite 201
Hagerstown, MD 21740
Monday - Sunday: 8:00 - 9:00 PM
3 Employees

TOTAL PARKING ON SHARED PREMISES: **38 SPACES**

TOTAL EMPLOYEES PARKING (IF ALL AT ONCE): **11 SPACES**

REMAINING SPACES FOR CUSTOMERS (WORST CASE): **27 SPACES**

Businesses Located At 18117 Maugans Ave Hagerstown, MD 21740

See below for a list of each of the businesses located at the subject property including their number of employees and hours of operation.

#1 - Garden Dominion Supply
18117 Maugans Ave Suite 200
Hagerstown, MD 21740

**Used for storage, no walk-in*
Monday - Friday: 9:00 - 5:00 PM
0 Employee

#2 - Gio's Pizzeria (Proposed)
18117 Maugans Ave Suite 201
Hagerstown, MD 21740

Monday - Sunday: 8:00 - 9:00 PM
3 Employees

#3 - Office Space Empty
18117 Maugans Ave Suite 202
Hagerstown, MD 21740

**figures are assumed*
Monday-Friday: 9:00 - 5:00 PM
2 Employees

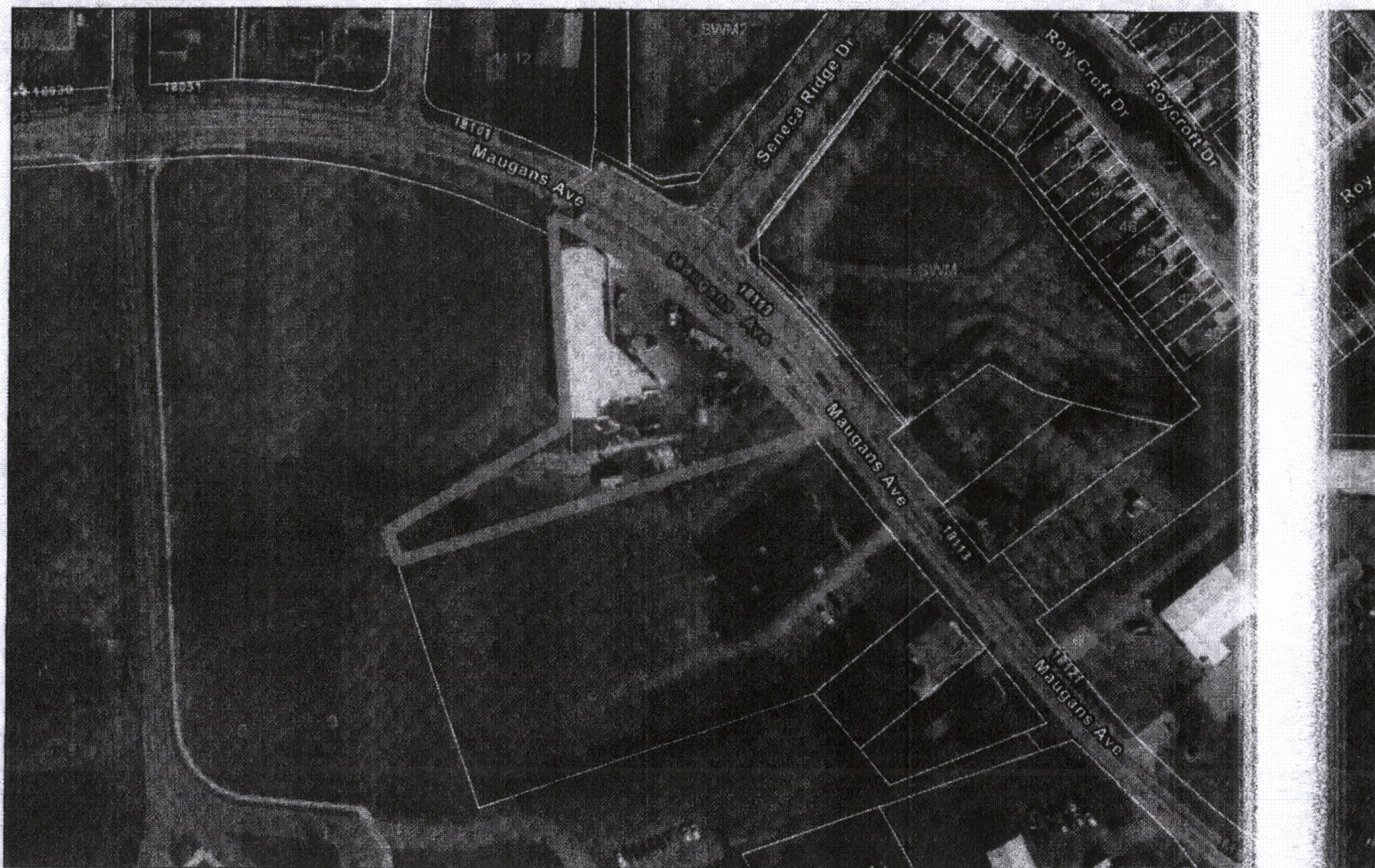
TOTAL PARKING BEING CONSIDERED: 17 SPACES

TOTAL EMPLOYEES PARKING (IF ALL AT ONCE): 5 SPACES

REMAINING SPACES FOR CUSTOMERS (WORST CASE): 12 SPACES*

**not including sharing the adjacent parking lot which is mostly unused.*

Frederick Seibert & Associates, Inc.



5/1/2023, 12:43:22 PM

World Transportation

Parcels

MD_SixInchImagery

1:2,257

0 0.01 0.03 5 ml

0 0.02 0.04 0.09 km

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Web <http://www.esri.com> for ArcGIS

[illegible]

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

* Subject Property

View Map View Property Tax Information View County Tax Information

Account Identifier: District = 13 Account Number = 010757

Owner Information

Owner Name: DOMINION REALTY LLC Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 14627 CEARFOSS PIKE Deed Reference: /06017/ 00226
HAGERSTOWN MD 21740-0000

Location & Structure Information

Premises Address: 18113 MAUGANS AVE Legal Description: 1.21 ACRES
HAGERSTOWN 21740-0000 18113 MAUGANS AVE
MAUGANSVILLE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: M790
C243 0000 1378 30000.22 0000 2021 Plat Ref:
Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
10,432 SF 1,2100 AC

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements
STORAGE WAREHOUSE/ C3 2020

Value Information

	Base Value	Value As of 01/01/2021	Phase-In Assessments As of 07/01/2022 As of 07/01/2023	
Land:	211,800	211,800		
Improvements	368,200	370,800		
Total:	580,000	582,400	581,600	582,400
Preferential Land:	0	0		

Transfer Information

Seller: MARTIN CALEB H	Date: 07/12/2019	Price: \$365,000
Type: ARMS LENGTH IMPROVED	Deed1: /06017/ 00226	Deed2:
Seller:	Date:	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /00561/ 00235	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:



Real Property Data Search ()
Search Result for WASHINGTON COUNTY

View Map

View GroundRent Redemption

View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 13 Account Number - 002819

Owner Information

Owner Name: BOARD OF EDUCATION OF WASHINGTON COUNTY Use: EXEMPT COMMERCIAL
Mailing Address: 10435 DOWNSVILLE PIKE Principal Residence: NO
HAGERSTOWN MD 21740-0000 Deed Reference: /02172/ 00488

*neighboring property

Location & Structure Information

Premises Address: 18145 MAUGANS AVE Legal Description: 28.49 ACRES
HAGERSTOWN 21740-0000 18145 MAUGANS AVE
MAUGANSVILLE ELEM SCHOOL

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 9671
0024 0015 0514 30000.22 0000 2021 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
2008 91,586 SF 28.4900 AC

Stories/Basement Type: ELEMENTARY SCHOOL / Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements: C5

Value Information

	Base Value	Value As of 01/01/2021	Phase-In Assessments As of 07/01/2022 As of 07/01/2023	
Land:	2,136,700	2,136,700		
Improvements	16,891,800	16,884,400		
Total:	18,828,500	19,021,100	18,956,900	19,021,100
Preferential Land:	0	0		

Transfer Information

Seller:	Date:	Price:
CHARLTON CORAM	10/30/2003	\$515,000
Type: ARMS LENGTH IMPROVED	Deed1: /02172/ 00488	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:	440	18,956,900.00	19,021,100.00
State:	440	18,956,900.00	19,021,100.00
Municipal:	440	0.00/0.00	0.00/0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homesteaders' 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 - 13 Account Number - 000948

Owner Information

Owner Name: LONG KEITH J & KIMBERLY S Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 13803 SUNRISE DR Deed Reference: /01640/ 00556
HAGERSTOWN MD 21740-1602

Location & Structure Information

Premises Address: 13803 SUNRISE DR Legal Description: LTS 11&12 0.63 AC
HAGERSTOWN 21740-0000 13803 SUNRISE DRIVE
MAUGANSVILLE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0243 0005 1384 13020333.22 0000 11 12 2023 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1957 1,792 SF 27,325 SF

StoriesBasementType ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements
1 YES STANDARD UNITBRICK/ 4 1 full/ 1 half 1Att/1Det

Value Information

	Base Value	Value	Phase-In Assessments	
		As of	As of	As of
		01/01/2023	07/01/2022	07/01/2023
Land:	58,800	56,800		
Improvements	191,900	292,600		
Total:	248,700	349,400	248,700	282,267
Preferential Land:	0	0		

Transfer Information

Seller: LONG KEITH J & KIMBERLY S	Date: 03/30/2001	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /01640/ 00556	Deed2:
Seller: LONG KEITH J &	Date: 10/02/2000	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /01601/ 00312	Deed2:
Seller: MARTIN DEAN E & DARLENE F	Date: 06/16/1997	Price: \$114,900
Type: ARMS LENGTH MULTIPLE	Deed1: /01342/ 00147	Deed2:

Exemption Information

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

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: Approved 05/15/2008

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:



* Neighboring Property.

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

View Map View GroundRent Redemption View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 13 Account Number - 033595

Owner Information

Owner Name: WASH CO COMMISSIONERS BOARD OF Use: EXEMPT
Principal Residence: NO
Mailing Address: 100 W WASHINGTON ST
HAGERSTOWN MD 21740-0000 Deed Reference: /04479/ 00053

Location & Structure Information

Premises Address: SENECA RIDGE DR
HAGERSTOWN 21740-0000 Legal Description: SWM AREA #2 1.0383 ACRES
SENECA RIDGE DRIVE
SENECA RIDGE SUBDIVISION

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 10166
0024 0009 1191 13020347.22 0186 SWM2 2023 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1.0383 AC 000000

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

Value Information

	Base Value	Value	Phased Assessments
Land	0	0	0
Improvements	0	0	0
Total	0	0	0
Preferential Land:	0	0	0

Transfer Information

Seller: MAGNUM CENTER LLC	Date: 02/28/2013	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /04479/ 00053	Deed2:
Seller:	Date:	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /01906/ 00458	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2022	07/01/2023
County: 502	0.00	0.00
State: 502	0.00	0.00
Municipal: 502	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:

#3

* neighboring parcel

#4

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

View Map

View GroundRent Redemption

View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 13 Account Number - 011133

Owner Information

Owner Name: WASH CO COMMISSIONERS BOARD OF Use: EXEMPT
Principal Residence: NO
Mailing Address: 100 W WASHINGTON ST
HAGERSTOWN MD 21740-0000 Deed Reference: /04479/ 00053

* neighboring property

Location & Structure Information

Premises Address: MAUGANS AVE
HAGERSTOWN 21740-0000 Legal Description: SWM AREA #1 1.9976 ACRES
MAUGANS AVE
E/S MAUGANSVILLE RD

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 10156
0243 0012 1190 13010330.22 0000 SWM 2023 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1.9976 AC

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

Value Information

	Base Value	Value As of 01/01/2023	Phase-In Assessments As of 07/01/2022 As of 07/01/2023	
Land:	0	0		
Improvements	0	0		
Total:	0	0	0	0
Preferential Land:	0	0		

Transfer Information

Seller: MAGNUM CENTER LLC	Date: 02/26/2013	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /04479/ 00053	Deed2:
Seller: HORST NORMAN A & LOIS H	Date: 01/12/2004	Price: \$150,000
Type: NON-ARMS LENGTH OTHER	Deed1: /02230/ 00091	Deed2:
Seller: MARTIN CHARLES E & SARAH	Date: 12/04/1989	Price: \$93,750
Type: NON-ARMS LENGTH OTHER	Deed1: /00936/ 01023	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2022	07/01/2023
County: 502	0.00	0.00
State: 502	0.00	0.00
Municipal: 502	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:

#5

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 13 Account Number - 008620

Owner Information

Owner Name: INTERNATIONAL UNION UNITED Use: COMMERCIAL

Principal Residence: NO

Mailing Address: 18131 MAUGANS AVENUE Deed Reference: /00523/ 00030
HAGERSTOWN MD 21740-1664

Location & Structure Information

Premises Address: MAUGANS AVE Legal Description: 3.03 ACRES SW/S
MAUGANSVILLE 21767-0000 MAUGANSVILLE SCHOOL RD
MAUGANSVILLE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0243 0000 1378 30000.22 0000 2021 Plat Ref:

Town: None

Primary Structure Built: 1981 Above Grade Living Area: 8,661 SF Finished Basement Area: 131,686 SF Property Land Area: 131,686 SF County Use:

Stories Basement Type: CLUB HOUSE Exterior Quality Full/Half Bath: C2 Garage Last Notice of Major Improvements:

Value Information

	Base Value	Value			Phase-in Assessments	
		As of 01/01/2021	As of 07/01/2022	As of 07/01/2023		
Land:	757,500	757,500				
Improvements	374,500	402,300				
Total:	1,132,000	1,159,800	1,150,533	1,159,800		
Preferential Land:	0	0				

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	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: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

MD STATE PLANE
NAD 83 NAVD 88

+ N:738708.51
E:1103860.49

N/F
BOARD OF EDUCATION OF
WASHINGTON COUNTY
TM: 0024-0015-0514
L: 2172 F. 488
28.49 AC.

BUILDING (10,381 SF)
FFE 638.4+

LANDS OF
DOMINION REALTY LLC
#18113 MAUGANS AVENUE
TM: 0243-0000-1378
L: 6017 F. 226
1.28 AC.

PARKING VARIANCE
APPROVED UNDER
AP2019-15

SD JUNCTION BOX
TS 638.45
INV: 633.37

21' A-EED
DRAINAGE
EASEMENT

DRAINAGE EASEMENT
PER PLAT 790

PARKING VARIANCE THIS
REQUEST

RESTAURANT (1,800 SF)
OFFICE (2,000 SF)

PROP. BUILDING
7239 S.F.
FFE: 638.72
#18117
MAUGANS AVE.
WAREHOUSE
4,994 SF

+ N:738535.71
E:1104060.57

N/F
UNITED INTERNATIONAL UNION
TM: 0243-0000-1376
L: 523 F. 30
3.03 AC.

MACADAM
PARKING LOT

MAUGANS AVENUE
(ROW VARIES)

WATER METER

U/P C&P #1

EX S/S
LATERAL

U/P #H9821

MH SD15-331

U/P C&P #8

INV: 634.21

MH SD15-332

ELECTRIC
BOX

GUY
WIPE

DRAINAGE EASEMENT
PER PLAT 790

PROPOSED DRAINAGE
EASEMENT 18.25'

HEADWALL
INV: 632.38

STREAM

S 59°01'58" W
245.30'

100-YR FLOODPLAIN
PER FSA FLOOD STUDY

S 71°19'38" W
459.80'

+ N:738533.25
E:1103751.38

24' FT
STEER

LAWN

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

DOMINION REALTY, LLC

Appellant

*

*

*

Appeal No.: AP2023-049

* * * * *

OPINION

Dominion Realty, LLC (hereinafter “Appellant”) requests a variance to reduce the required parking spaces from 35 to 17 spaces for proposed change from a retail use to a restaurant use at the subject property. The subject property is located at 18117 Maugans Avenue, Hagerstown, Maryland and is zoned Highway Interchange. The Board held a public hearing in this matter on December 6, 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 18117 Maugans Avenue, Hagerstown, Maryland. The subject property is zoned Highway Interchange.
2. The subject property has a triangular, dog-legged shape and is situated on the bend in the roadway along Maugans Avenue.
3. The subject property is currently improved by a large commercial type of building which currently houses Appellant’s business, a tax and accounting office, hair salon and a reptile and aquatics store.

4. The existing uses were the subject of a variance request to reduce parking requirements in AP2019-015. The Board granted the variance relief in that case, reducing the required parking spaces from 52 to 21 for the building.¹

5. Appellant constructed a new building consisting of approximately 4,994 square feet of warehouse use, 2,000 square feet of retail use and 1,800 square feet of office space use.

6. The County determined that the new building would be treated separately from the original building for purposes of parking spaces. The new building as proposed prior to construction required twenty (20) parking spaces.

7. Appellant sought and obtained a parking variance reducing the required parking spaces from twenty (20) to seventeen (17) for the new building in AP2023-022.

8. Appellant now proposes to use the retail space for a restaurant which will primarily provide delivery and carryout services, with two (2) to three (3) tables inside for dining.

9. Based on the change in use, Appellant is required to have thirty-five (35) parking spaces at the subject property.

10. The restaurant business would have approximately three (3) to five (5) employees with two employees working in the kitchen, another working the front counter and 1 to 2 delivery drivers.

11. From inception, the parking lot serving the subject property has never been full and is significantly underutilized. The existing businesses have staggered hours of operation and varying needs for customer and employee parking.

12. There was no opposition presented to this appeal.

¹ Known as 18113 Murgans Avenue, Hagerstown, Maryland 21740.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.² “Practical Difficulty” may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 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 instate case, the subject property has an extremely irregular shape which makes it unique. It is located along a significant curve in the roadway which further limits site design, access and the location of buildings. Although Appellant is responsible for having constructed an addition to the existing building, Appellant did not configure the property lines. Appellant now proposes to change from retail use to a restaurant use in the new building which requires thirty-five (35) parking spaces pursuant to the Ordinance.

The Board finds that Appellant has satisfied the criteria for a variance based on practical difficulty. As we noted in the previous appeal related to the building at issue

² “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).

here, Appellant has proposed the maximum number of spaces that can fit on the property, given the existing construction. The lot shape and size will not accommodate anything more and presents a practical difficulty in establishing a permitted use on the property. Appellant provided testimony that the property's utilization of existing parking spaces is below capacity and that the uses in the building would only increase traffic minimally to the property. Furthermore, the nature of the restaurant proposed is mostly delivery and carryout, resulting in visits of short duration rather than long-term parking for the use. The Board noted in the Opinion for AP2019-015, "the minimum requirements for parking spaces often do not take into consideration actual use of the property." This was reiterated in the Board's subsequent decision to reduce the parking requirement upon construction of this new building on the subject property. Although there are multiple tenants and multiple buildings, customer traffic and parking needs for staff are well below the required minimums in the Ordinance. The relaxation of the parking requirements affords Appellant the necessary relief and avoids the unreasonable and unfair result of limiting what is otherwise a permitted use of the subject property.

Accordingly, the variance request to reduce the required minimum parking spaces from 35 to 17 spaces at the subject property is GRANTED, by a vote of 5-0. Said variance request is 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: January 3, 2024

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: Marcie McCleary
18126 Lappans Road
Fairplay MD 21733

Appellant: Austin Brad
1592 Wilkson Lane
Charmersburg PA 17202

Property Location: 18126 Lappans Road
Fairplay, MD 21733

Description Of Appeal: Variance from the required 400 ft. setback to 147 ft. from the North property line, 39 ft. from the West property line, 293 ft. from the East property line for new boarding facility with outdoor runs.

Docket No: AP2023-050
Tax ID No: 12003811
Zoning: A(R); RV
RB Overlay: No
Zoning Overlay:
Filed Date: 11/15/2023
Hearing Date: 12/06/2023

Appellant's Legal Interest In Above Property:

Owner:	No	Contract to Rent/Lease:	No
Lessee:	No	Contract to Purchase:	Yes
Other:			

Previous Petition/Appeal Docket No(s): AP96-140, AP2001-045, AP2013-002, AP2023-043

Applicable Ordinance Sections: Washington County Zoning Ordinance Table 3.3 (1) M, Section 4.9

Reason For Hardship: Setback requirement would prevent the dog kennel expansion from being done.

If Appeal of Ruling, Date Of Ruling:


Ruling Official/Agency:

Existing Use: Dog Kennel Business **Proposed Use:** Dog Kennel Expansion

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

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

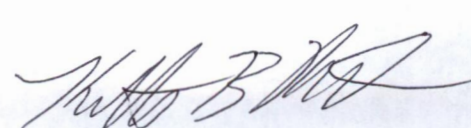
I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

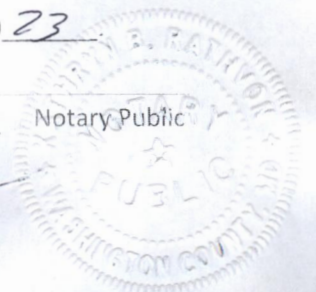

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 15 day of November, 20 23

My Comm. Expires
Kathryn B. Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025


Notary Public





WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2023-050

State of Maryland Washington County, To Wit:

On 11/15/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Austin Brad and made oath in due form of law as follows:

Austin Brad 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 12/06/2023, 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 11/21/2023 and will remain until after the above hearing date.

Austin Brad

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

Notary Public

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

My Commission Expires



Seal



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

BOARD OF ZONING APPEALS

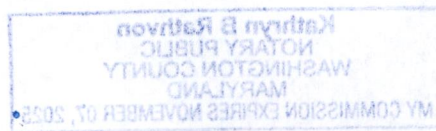
ATTENTION!

Posting Instructions

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

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

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





BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired:

7-1-1 WWW.WASHCO-MD.NET

Appeal for Variance

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

Location 18126 Lappans Road Fairplay, MD 21733

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

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

☒ Contract to Purchase ☐ Other _____

Specify the Ordinance section and subsection from which the variance is desired:

Section 4.9 Distance Requirements and Section 25.56 Variances

Specify the particular requirement(s) from which a variance is desired in that section or subsection:

Kennels shall be subject to two times the distance requirements of 200' in section 4.9

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:

We would like to build a new 61'X216' pet boarding facility (161'X216' w/fencing)

Desired setbacks: Back - 145', West - 40', East - 290'

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

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☒ Yes ☐ No

If yes, list docket number(s): AP 2023 - 043

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

Austin Bard
Signature of Appellant

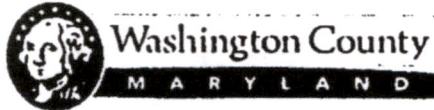
austin@camfinancialllc.com
Email of Appellant

1592 Wilkson Ln Chambersburg, PA 17202
Address and of Appellant

717-360-4514
Phone Number of Appellant

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

Strict compliance to the distance requirement of 400 feet, 200 feet as stated in section 4.9 and two times that for a kennel as stated in Table No. 3.3(1), would unreasonably prevent the use of the property for a permitted purpose. Conformity to this requirement would prevent us from building a new larger kennel to satisfy the increased demand for pet boarding in the state of Maryland. The proposed location for the new building alleviates the practical difficulty of having to locate the new building in a different location on the property. By co-locating the new building alongside the existing kennel, we will be able to maintain the natural flow of the property while also utilizing the current infrastructure such as septic and water, thus eliminating unnecessary disturbance and environmental impact to the surrounding area. We feel strongly that the proposed orientation of the new building compliments the current landscape of the property while maintaining the spirit of the ordinance in question. We ask that you grant us the variance and we look forward to serving the local community.



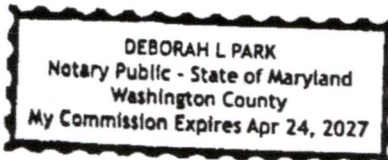
BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Austin Bard
is authorized to file an appeal with the Washington County Board of Appeals for
Building setback Variance on property
located 18126 Lappans Road Fairplay, MD 21733
The said work is authorized by Marcie McCleary
the property owner in fee.

PROPERTY OWNER

Marcie McCleary
Name
18126 Lappans Rd.
Address
Fairplay MD 21733
City, State, Zip Code
Marcie McCleary
Owner's Signature



Sworn and subscribed before me this 14 day of November, 2023.

[Signature]
Notary Public

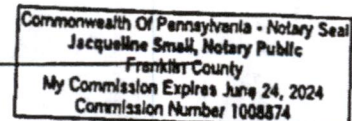
My Commission Expires:

AUTHORIZED REPRESENTATIVE

Austin Bard
Name
1592 Wilkeson Lane
Address
Chambersburg, PA 17202
City, State, Zip Code
[Signature]
Authorized Representative's Signature

Sworn and subscribed before me this 14 day of November, 2023.

Jacqueline Small
Notary Public



My Commission Expires: 6-24-2024

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

WWW.WASHCO-MD.NET

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

AUSTIN BARD

Appellant

*

*

Appeal No.: AP2023-050

*

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

OPINION

Austin Bard (hereinafter “Appellant”) requests a variance to reduce the required setback from 400 feet to 147 feet on the north property line, from 400 feet to 39 feet on the west property line and from 400 feet to 293 feet on the east property line for a new boarding facility at the subject property. The subject property is located at 18126 Lappans Road, Fairplay, Maryland and is zoned Rural Village and Agricultural, Rural. The Board held a public hearing on the matter on December 6, 2023.

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. Marcie McCleary owns the subject property located at 18126 Lappans Road, Fairplay, Maryland which is also known as Widow’s Mite Farm. The property is zoned Rural Village and Agricultural, Rural.
2. The subject property consists of a farm and residence, as well as an existing kennel building for Ms. McCleary’s dog kennel business. The subject property spans both parcels 185 and 277, with the residence and business primarily located on parcel 185, and parcel 277 being mostly farmland.
3. The two parcels meet at a valley where the topography dips considerably and is not suitable for building.

4. In 1996, the subject property was the subject of a special exception request to establish the dog kennel business. The Board granted the special exception and a variance for a freestanding sign in case AP96-140.

5. Since 1997, the dog kennel business has operated at the subject property. It has had capacity for up to fifty (50) dogs although is rarely at full capacity at any given time.

6. Appellant proposes to expand the business by constructing a 41 by 192-foot building for an additional fifty (50) kennel stalls which connect to outdoor runs. The total capacity for the business would then be up to 100 kennel spaces. The front of the building would have a 24 by 61-foot office space.

7. The proposed building would be located just beyond the existing parking area and would run in the same direction as the existing kennel building. As a result, the building would be located approximately 147 feet from the northern boundary line, 39 feet from the west boundary line and 293 feet from the east boundary line. This location was chosen because it is relatively flat and the most feasible location for building a structure.

8. Appellant is in the business of commercial kennel operations and operates kennels in Pennsylvania and elsewhere in Maryland. They are committed to cleaning kennels and runs every day when occupied and they have a practice of letting only two (2) dogs out at a time for run time.

9. The proposed use and a variance for the north property line were the subject of an appeal to the Board in AP2023-043 in September 2023. The Board granted the special exception request for the kennel operation and the variance for the north property line reducing the required setback from 400 feet to 276 feet.

10. During the initial phases of permitting and construction, it was discovered the Appellant made an error in his calculations for the location of the building. Appellant

admitted he was using the incorrect computer program which resulted in an incorrect layout of the proposed building relative to the boundary lines.

11. The closest residence to the proposed building is approximately 400 feet away.

12. 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 25.56.¹ “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, the required setback for the proposed use is 400 feet, given the nature of the use and nearby residential properties. Appellant proposes to locate a new

¹ “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).

kennel building inside of that setback requirement as to the north, west and east boundary lines. approximately 276 feet from the northern property line and thus, seeks this variance. Appellant testified that his use of the incorrect program for laying out the building on the property resulted in significant miscalculations related to the boundary lines. Appellant's previous request included only relief from the north property line, but instead needed relief on three (3) sides of the proposed structure. The new calculations placed the proposed kennel building much closer to the north and west property line and inside the east boundary setback.

Appellant rejected the notion that the building could be turned to reduce the need for variance relief. He testified that doing so would make the new building inconsistent with the position of the other existing buildings on the property. Moreover, it would result in the outdoor run area being more exposed to the northern boundary line and neighboring properties. The proposed location of the new building attempts to mitigate the outdoor run areas by having them open to the east and west sides of the subject property, further from neighboring properties and uses.

Likewise, Appellant rejected the suggestion that the building be constructed across the interior lot line between the two parcels. Despite the fact that Appellant has purchased both parcels, there is no intention of vacating the interior lot line and thus the setback requirements would remain in effect. Moreover, said location would require building in a valley where the two properties join, which would mean additional grading and excavation costs. Appellant testified that the topography is not suitable for building or financially feasible for development.

Appellant's variance request is designed to address the practical difficulty imposed while at the same time providing for efficient and orderly co-location with the exiting kennel building. It does not confer any special benefit upon Appellant and will help to mitigate any concerns or impact that additional dogs may have on neighboring

properties. Under the circumstances, the Board finds that Appellant has satisfied the criteria for variance relief and the request should be granted.

Accordingly, the request for variance to reduce the required setback from 400 feet to 147 feet on the north property line, from 400 feet to 39 feet on the west property line and from 400 feet to 293 feet on the east property line for a new boarding facility at the subject property are hereby GRANTED, by a vote of 5 to 0. Said variance relief is granted with the standard condition that the use be consistent with the testimony and evidence presented to the Board.

BOARD OF APPEALS

By: Jay Miller, Chair

Date Issued: January 3, 2024

Notice of Appeal Rights

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