



Department of Planning, Housing, and Zoning

ADMINISTRATIVE HEARING

County Commissioners Hearing Room
400 High Street
Chestertown, Maryland

Members of the public are welcome to attend meetings in person or listen to the meeting via the audio-only phone number and conference identification number listed below.

1. Dial **1-872-239-8359**
2. Enter Conference ID: **584 252 61#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

AGENDA

January 12, 2023
10:00 AM

APPLICATIONS FOR REVIEW:

- 22-87 William Sinton – Administrative Variance – Buffer
14283 Gregg Neck Road, Galena – First Election District – Critical Area Residential (CAR)
- 22-90 Frank Rhodes – Administrative Variance – Front Yard Setback
535 Morgnec Road, Chestertown – Fourth Election District – Commercial (C)

APPLICANT OR REPRESENTATIVE MUST BE PRESENT

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Administrative Hearing may be held in closed session under the authority of the MD Open Meetings Law. Meetings are subject to audio and video recordings.

Applicants will be given the time necessary to assure full public participation and a fair and complete review of all projects. Items on this Agenda are subject to change due to cancellation of projects.

If you require communication assistance, please contact the Maryland Relay Service at www.mdrelay.org or 7-1-1 Voice/TDD.



Kent County Department of Planning, Housing, and Zoning

PRELIMINARY STAFF REPORT

TO: Kent County Planning, Housing, and Zoning
FROM: Mark Carper, Associate Planner
SUBJECT: 22-87, William R. Sinton
Administrative Variance – Septic System in the Buffer
District 1, Map 7, Parcel 57
DATE: January 4, 2023

DESCRIPTION OF PROPOSAL

Mr. William R. Sinton is requesting a variance from buffer requirements to install a septic system within the 100-foot buffer of the Critical Area. Construction of the existing dwelling predates Critical Area Law, and the structure and much of the property is within the 100-foot buffer. The parcel is within the modified buffer area, and the existing structure is proposed to be demolished and replaced with a new structure with a proposed landward expansion of 163 square feet, which is to be mitigated at a ratio of 3:1. The Kent County Health Department requires a B.A.T. septic system, as is proposed, and the new system will replace an existing one that is failing. Much of the property is within the floodplain, and the tanks of the proposed septic system will have to be anchored and the new structure will have to be elevated and vented. The 0.487-acre property is located at 14283 Gregg Neck Road in the First Election District and is zoned Critical Area Residential (CAR).

RELEVANT ISSUES

I. Permitted and Accessory Uses

- A. *Applicable Law:* Article V, Section 5 of the *Kent County Land Use Ordinance* establishes permitted and accessory uses and structures within the Critical Area Residential District.
- B. *Staff and TAC Comments:* The applicant is proposing to install a septic system for a detached, single-family dwelling within the 100-foot buffer.

II. Variance

- A. *Applicable Law:* Article IX, Section 2.1 of the *Kent County Land Use Ordinance* authorizes the Planning Director, or the Planning Director's designee, to grant variances from the buffer requirements on parcels that existed on or before December 1, 1985, in order to repair, replace, or install septic systems for the applicable zoning district so as to relieve unwarranted hardships or other injustices arising out of the strict application of the provisions of this Ordinance.

Such granting of a variance shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

In order to grant a variance, the Planning Director, or the Planning Director's designee, must find all the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.

- b. That the *variance* will not change the character of the neighborhood or district.
- c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
- e. That the practical difficulty or other injustice was not caused by the applicants' own actions.
- f. That within the Critical Area for variances from the buffer requirements on parcels that existed on or before December 1, 1985, in order to repair, replace, or install septic systems:
 - i. The granting of a variance will be in harmony with the general spirit and intent of the Critical Area Law and the regulations adopted by Kent County.
 - ii. That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.
 - iii. That the application for a variance will be made in writing with a copy provided to the Critical Area Commission.
 - iv. That the strict application of the Ordinance would produce an unwarranted hardship.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such variance will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County.
 - viii. That the granting of a variance will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or structures.
 - ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of this Ordinance would result in unwarranted hardship to the applicant.
 - x. The Planning Director, or Planning Director's designee, finds that the applicant has satisfied each one of the variance provisions.
 - xi. Without the variance, the applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the critical area program.
- g. In considering an application for a *variance*, the Planning Director, or the Planning Director's designee, shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.
- h. In considering an application for a *variance*, the Planning Director, or the Planning Director's designee, shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
- i. The Planning Director, or the Planning Director's designee, may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.

B. Staff and TAC Comments:

- Practical difficulty is caused by the limited size of the parcel that was improved prior to establishment of Critical Area Law, resulting in nearly the entirety of the property being within the 100-foot buffer.
- The variance will not cause a detriment to adjacent or neighboring properties as the septic system will be installed underground and will not be visible.
- Granting of the variance will be in harmony with the spirit and intent of the Critical Area Law and Kent County regulations.
- By installing a more effective septic system, the water quality, fish, wildlife, and plant habitat will not be adversely impacted.
- A strict application of the Ordinance would produce an unwarranted hardship by making a residential property unusable as a residence.
- This hardship is generally not shared by other properties in the vicinity or the same zoning district.
- A granting of the variance will not confer upon the applicant any special privilege
- The request is consistent with the Critical Area Law. The proposed development is a reasonable use of the property.
- The Kent County Health Department has no objections to this proposal.

STAFF RECOMMENDATION

Staff recommends approval of the variance from buffer requirements to install a septic system within the 100-foot buffer of the Critical Area. Recommended conditions include:

1. That the location where the system is to be installed is returned to pre-activity condition, such as through the placement of topsoil and seeding.
2. That the tanks and any associated equipment be installed in compliance with floodplain regulations.
3. That the variance hereby granted would lapse after one year if no substantial construction in accordance with the plans herein presented were to occur.

WILLIAM M. CROWDING SURVEYS, LLC
25237 PORTERS GROVE ROAD
WORTON, MARYLAND 21678
410-778-2622

November 11, 2022

The Kent County Department of Planning, Housing and Zoning
County Government Center
400 High Street
Chestertown, Maryland 21620

Attention: Carla Gerber, Deputy Director of Planning, Housing and Zoning

Dear Deputy Director,

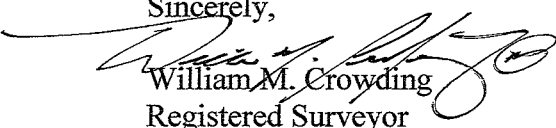
Mr. William R. Sinton is the owner of a 0.487 acre parcel of land located at 14283 Gregg Neck Road and indicated as Parcel 57 on Tax Map 7. The property is zoned Critical Area Residential, it is located in a buffer modified area and is improved with a one story single family residence as well detached sheds, and structures. The dwelling was constructed sometime around 1937 and has fallen into a state of much needed repair. After meeting with contractors it has been decided to just replace the existing dwelling with a new dwelling constructed on the same footprint. The replacement dwelling will not extend any further towards the water than the existing dwelling, it will be energy efficient and environmentally friendly. The dwelling will have a new septic system installed which the Kent County Dept., of Health is requiring to be constructed completely within the 100 foot shore line buffer, it will be required to be a B.A.T. System which should have a positive effect on the waters of the Sassafra River. To that end Mr. Sinton is requesting an Administrative Variance to construct the septic system within the 100 shore buffer.

I have attached the following for you review.

- 1) Administrative Hearing Application along with the required application fee.
- 2) Copy of the Existing Conditions Plat indicating all existing improvements.
- 3) Copy of the Proposed Conditions Plat.
- 4) Copy of the of the Gmail from the Kent County Health Department indicating where the proposed septic system must be located.
- 5) Findings of fact

Please do not hesitate to contact me at 410-778-2622 if you have any questions or comments.

Sincerely,


William M. Crowding
Registered Surveyor

ADMINISTRATIVE HEARING APPLICATION

Kent County Department of Planning, Housing, and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7475 (phone) • 410-810-2932 (fax)

**IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)**

William R. Sinton

14283 Gregg Neck Road

Galena, Md. 21635

Email: _____

For Office Use Only:

Case Number: _____

Date Filed: _____

Filed by: _____

Applicant: _____

Date of Hearing: _____

Parties Notified: _____

Notice in Paper: _____

Property Posted: _____

TO THE DEPARTMENT OF PLANNING, HOUSING AND ZONING: In accordance with Article IX Section 2.1 of the Kent County Land Use Ordinance, as amended, request is hereby made for an Administrative Hearing for:

X Variance _____ Special Exception _____ Determination of Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 14283 Gregg Neck Road

In the First Election District of Kent County.

Size of lot or parcel of Land: 0.487 acres

Map: 7 Parcel: 57 Lot #: n/a Deed Ref: M.L.M. 973/158

List buildings already on property: One Story Frame Dwelling (5) Frame Storage Sheds

Subdivision name and address, if applicable: Gregg Neck Park

PRESENT ZONING OF PROPERTY: C.A.R. (Critical Area Residential)

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) Requesting a 33 foot variance from the 100 setback requirement from the approximate water line of Mill Creek and Sassafras River in order to construct within the 100 foot shore buffer of Mill Creek and Sassafras River, 3 Low Pressure Dosage Septic Trenches, a 250 Gal. B.A.T. System, 1,000 Gal. Top Seam Septic Tank, and the associated septic lines.

Present owner of property: Applicant Telephone 610-637-4203

If Applicant is not owner, please indicate your interest in this property: _____

Has property involved ever been subject to a previous application? No

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Sassafras River

Owner(s) on the South: Gregg Neck Road, Andrew and Elizabeth Vanden

Owner(s) to the East: Jeffrey and Elizabeth Pepin

Owner(s) to the West: Mill Creek

Homeowners Association, name and address, if applicable: N/A

BY SIGNING THIS APPLICATION I GRANT THE DEPARTMENT OF PLANNING, HOUSING AND ZONING THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION


Signature of Owner/Applicant/Agent or Attorney

11/11/21
Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$200.00** filing fee made payable to the Department of Planning, Housing & Zoning. If you have any questions, contact the Kent County Department of Planning, Housing and Zoning.

NOTICE: The Department of Planning, Housing and Zoning is not required to make out this application. Application should be filled in by Applicant or its agent. If the Planning Office assists you, they cannot be held responsible for its contents.

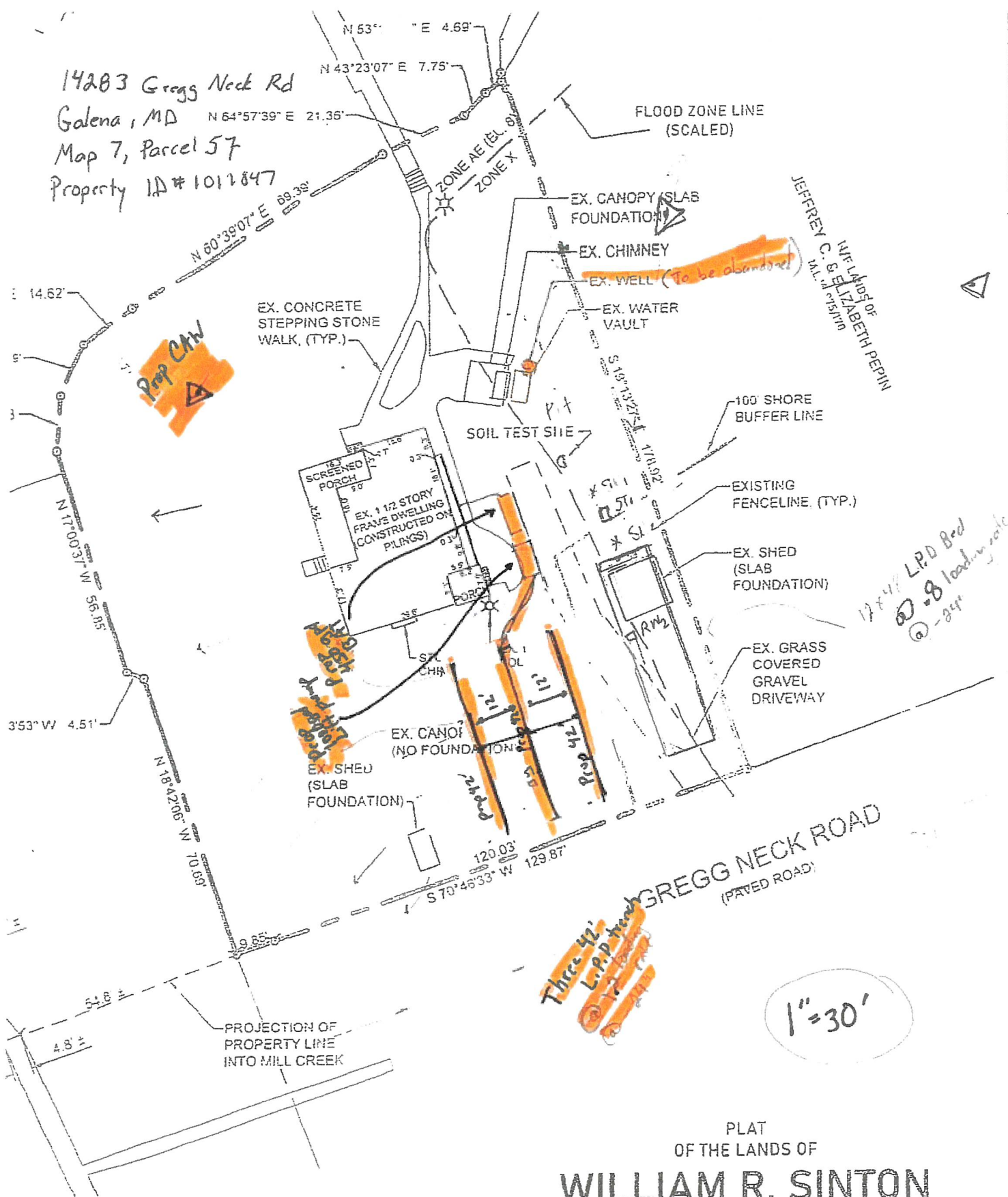
Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

REFERENCE: William R. Sinton

FINDINGS OF FACT:

- a.** This variance will not cause any detriment to adjacent neighboring properties.
The proposed septic system will be installed under the ground surface. The new system will replace an existing septic system which is not functioning properly. The neighborhood predominantly consists of a mix of new and older single family dwelling units which are all very well maintained. Other properties in this zoning district have similar septic systems within the 100 buffer.
- b.** This variance will be in harmony with the character of the neighborhood and district.
The proposed septic system location will be consistent with other dwellings in the neighborhood. Because of the properties configuration the proposed replacement septic system is being located in the only acceptable area as defined by the Kent County Department of Environmental Health.
- c.** This variance is consistent with the comprehensive plan as the replacement sanitary system will be a nitrogen removal septic system it is being installed replacing an aged and outdated system which will theoretically reduce the amount of pollutants entering into the Chesapeake Bay and its tributaries.
- d.** The practical difficulty is caused by the fact that the property is almost entirely located within the 100 foot buffer as measured from the approximate waterline of Mill Creek and the Sassafras River.
- e.** The practical difficulty exist because of the size and configuration of the property.
That the Kent County Department of Environmental Health determined that the area designated for the proposed septic system is the only suitable location.
The property is almost entirely located within the 100 foot buffer as measured from the approximate waterline of Mill Creek and the Sassafras River.

14283 Gregg Neck Rd
 Galena, MD
 Map 7, Parcel 57
 Property ID # 1012847



PLAT
 OF THE LANDS OF
WILLIAM R. SINTON

FIRST ELECTION DISTRICT, KENT COUNTY, MARYLAND
 SCALE 1" = 30' JANUARY 2022

TAX MAP 7 PARCEL 57

WILLIAM M. CROWDING SURVEYS, LLC
 WILLIAM M. CROWDING, II
 REGISTERED SURVEYOR
 WORTON, MARYLAND
 410-778-2622

WATER ROAD.
 AREA RESIDENTIAL)
 PREPARED WITHOUT THE BENEFIT
 OF THE FINDINGS THEREIN.
 THAT AFFECT THE SURVEYED
 LOTS, BUT NOT LIMITED TO
 EASEMENTS, COVENANTS AND



Bill Crowding <crowdingbill@gmail.com>

Fwd: Scanned from a Xerox Multifunction Printer

1 message

Ryan W. Worden -MDH- <ryanw.worden@maryland.gov>
To: Bill Crowding <crowdingbill@gmail.com>

Fri, Oct 28, 2022 at 2:28 PM

14283 Gregg Neck Road.

Bill,

See attached permit and site plan. The proposed septic system must go where the trenches and tanks are shown on the site plan.

Thank you,

Ryan

----- Forwarded message -----

From: <KCHD_EH_scanner@maryland.gov>
Date: Fri, Oct 28, 2022 at 2:25 PM
Subject: Scanned from a Xerox Multifunction Printer
To: <ryanw.worden@maryland.gov>

Please open the attached document. It was scanned and sent to you using a Xerox Multifunction Device.

Attachment File Type: pdf, Multi-Page

For more information on Xerox products and solutions, please visit <http://www.xerox.com>

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Ryan Worden
Kent Environmental Health
[125 South Lynchburg Street](#)
[Chestertown, Md 21620](#)
410-778-1361

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193K



CA

KENT COUNTY HEALTH DEPARTMENT
 Environmental Programs
 125 S. Lynchburg Street
 Chestertown, MD 21620
 Phone 410-778-1361 Fax 410-778-7017



APPLICATION TO CONSTRUCT AN ON-SITE SEWAGE SYSTEM

OWNER'S NAME: WILLIAM R. SINTON
 PROPERTY ADDRESS: 14283 GREGG NECK RD.
GALENA, MD. 21635
 Email: SINTONB@450 PHONE: 610-637-4203
 SEPTIC INSTALLER: TJ SAN BASS SMALL.COM 1/15/21 SMALL.COM 1/15/21
 LICENSE#: 026 PHONE: 1-410-708-4058 E-MAIL: tabass@kentcounty.net
 CHECK ALL THAT APPLY: A. New house B. Repair C. I/A D. BAT E. OTHER _____
 # OF BEDROOMS: 3 BASEMENT: Y/N

TAX MAP/PARCEL: 7/57
 PROPERTY ID: 1011847
 DATE ISSUED: 4/28/22
 DATE EXPIRES: 4/29/23
 APPROVED BY: R. W. ...
 DATE INSPECTED: _____
 INSPECTED BY: _____
 PERMIT#: K5-5625

(To be completed By KCHD)

SEPTIC CONTRACTOR TO SUBMIT SITE PLAN OF PROPOSED SEPTIC SYSTEM REPAIR
 SITE PLAN TO INCLUDE: PROPOSED & EXISTING SEPTIC SYSTEM, PROPOSED & EXISTING WELLS, HOUSE LOCATION, DRIVEWAY, BURIED
 UTILITY'S, SURROUNDING WELLS & SEPTICS WITHIN 100', and PROPERTY LINES
 I, WILLIAM R. SINTON, 1/15/21 HEREBY APPLY TO CONSTRUCT AN ON-SITE SEWAGE SYSTEM,
 AGREE TO CONTACT THE KENT COUNTY HEALTH DEPARTMENT 24 hours PRIOR TO STARTING CONSTRUCTION OF SYSTEM, GRANT KENT COUNTY HEALTH
 DEPARTMENT OFFICIALS THE RIGHT TO ENTER THE PROPERTY TO COMPLETE THE INSPECTION, AND SHALL COMPLY WITH ALL REQUIREMENTS
 OF OTHER STATE AND LOCAL JURISDICTIONS.

(To be completed by Homeowner, return with \$400 Check Payable to KCHD)

(To be completed By KCHD)

Three 42' LPD trenches

TYPE OF SYSTEM: A. Trench B. Sand mound C. At grade D. Holding tank E. Other _____ USE A Single Family B. Commercial C. OTHER _____

SEPTIC TANK: CAPACITY: 450gpd BAT TYPE: _____ FILTER BAFFLE: _____ Add Risers Above Grade

METHOD OF DISTRIBUTION: A. Distribution Box B. Low Pressure Drip C. Drip D. OTHER _____ PUMP STATION: Y/N TYPE: Topseam SIZE: 1000gpd

BACKFILL: Conventional Y/N Approved Stone Backfill Non-Conventional Y/N Approved Sand Sieve Analysis: Y/N

DRAIN FIELD: LENGTH: 126' WIDTH: 3 DEPTH: 24" INVERT ELEVATION: -18"

CONTACT KCHD 24 HOURS PRIOR TO BEGINNING CONSTRUCTION

PROVIDE FINAL GRADE TO DIVERT SURFACE WATER AWAY FROM ONSITE WASTE DISPOSAL SYSTEM

BRF GRANT RECIENT: Y/N BAT UNIT: _____ A&E RECORDED Y/N

COMAR 26.04.02.03(K)

The Maryland Department of the Environment recommends septic tanks, BAT and other pretreatment units be pumped at a frequency
 ensure that solids are not discharged to the disposal area

SYSTEM DEPTHS MAY VARY DEPENDING ON SOIL CONSISTENCY WITHIN AN APPROVED SDA.
 IN ACCORDANCE WITH COMAR 26.04.02 YOU ARE REQUIRED TO INSTALL THE SYSTEM INTO A MINIMUM OF 12 INCHES OF
 PERMEABLE SOILS.

CONTACT KCHD IF YOU HAVE QUESTIONS.

* Existing well must be abandoned and sealed by licensed well driller, before septic installation
 * Agreement and Easement must be signed and recorded before septic installation.



KENT COUNTY
HEALTH DEPARTMENT



COUNTY OF KENT

WILLIAM WEBB, HEALTH OFFICER
125 S. LYNCHBURG STREET, CHESTERTOWN, MD 21620 • 410-778-1350

STATE OF MARYLAND

Well or Septic Variance/Deviation Request

March 8, 2022

Property (911) Address: 14283 Gregg Neck Road Galena, MD 21635

Property ID: 1011847 Map 7, Parcel 57

I, **William Sinton**, am requesting a variance/deviation from the requirements set forth in the COMAR Sewage Disposal (26.04.02), Subdivision (26.04.03), or Well Construction (26.04.04) Regulations. Specifically, I wish to reduce the setback from the septic, under permit number **KE-5625** and need a variance/ deviation for the following reasons: BAT unit and septic system will be less than 100' from the water.

William Sinton 11 MAR 22
Applicant's Signature Date

610-637-4203
Telephone Number:

I confirm that the necessity for this variance/deviation does exist.

William Sinton 11 MAR 22
Applicant's Signature Date

" " "
Telephone Number:

-----Kent County Health Department Use Only-----

Reviewed By: *Lya Word* 4/11/22
KCHD Staff Date

Recommendation: ☒ Grant Approval ☐ Deny Approval

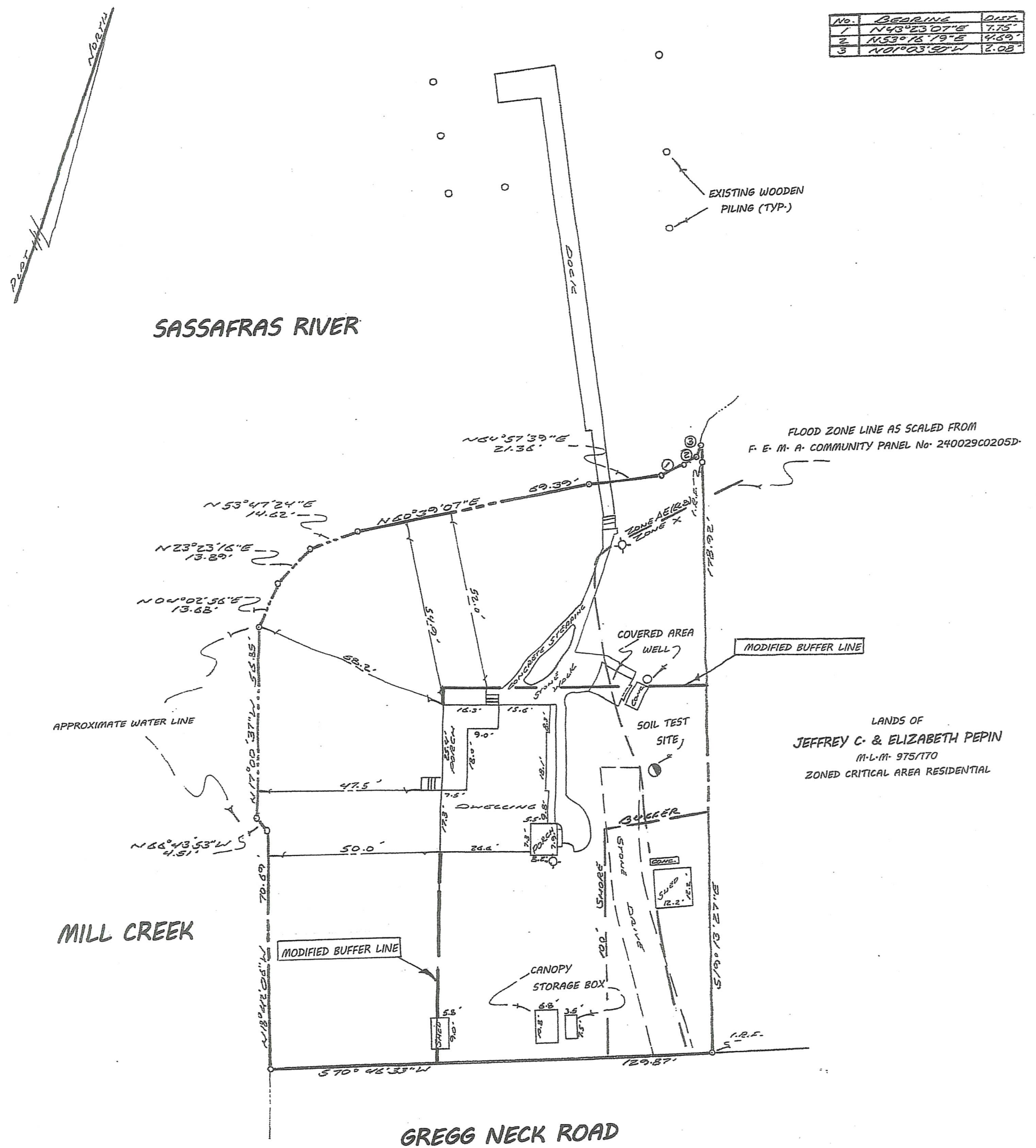
Comments/Conditions:

Approved By: _____

MDE Consultant: *[Signature]* KCHD Staff #1409
(if applicable)

Date *4/11/22*
Date

NO.	BEARING	DIST.
1	N43°23'07"E	7.75'
2	N53°18'19"E	4.69'
3	N01°03'50"W	2.08'



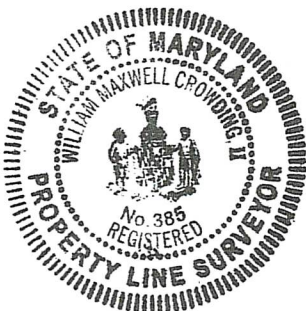
AREA = 0.487 AC. ±

LEGEND:
I.R.F. DENOTES IRON ROD FOUND
○ DENOTES LIGHT POLE
NOTE:

1. PROPERTY ADDRESS: 14283 GREGG NECK ROAD.
2. PROPERTY IS ZONED C-A-R. (CRITICAL AREA RESIDENTIAL)
3. THE DWELLING INDICATED ON THE LOT SHOWN HEREON APPEARS TO EXIST WITHIN FLOOD ZONE "AE" (EL. 8) AS SCALED FROM F. E. M. A. COMMUNITY PANEL No. 240029C0205D. NO ON SITE ELEVATION TAKEN TO VERIFY CONDITIONS.
4. THIS SURVEY AND PLAT HAVE BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND ARE SUBJECT TO THE FINDINGS THEREIN. DOCUMENTS OF RECORD MAY EXIST THAT AFFECT THE SURVEYED PROPERTY REFLECTED HEREON INCLUDING BUT NOT LIMITED TO EASEMENTS, ENCUMBRANCES, RESTRICTIVE COVENANTS AND PLAT RESTRICTIONS.

SURVEYORS CERTIFICATION:
I HEREBY CERTIFY THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF, THE BOUNDARY SURVEY SHOWN HEREON WAS PREPARED BY THE UNDERSIGNED REGISTERED SURVEYOR AND IS IN COMPLIANCE WITH THE REQUIREMENTS STATED IN REGULATION 09-13-06-12 OF THE MINIMUM STANDARDS FOR SURVEYORS.

William M. Crowding, II
PROPERTY LINE SURVEYOR
EXPIRES 11-03-2022

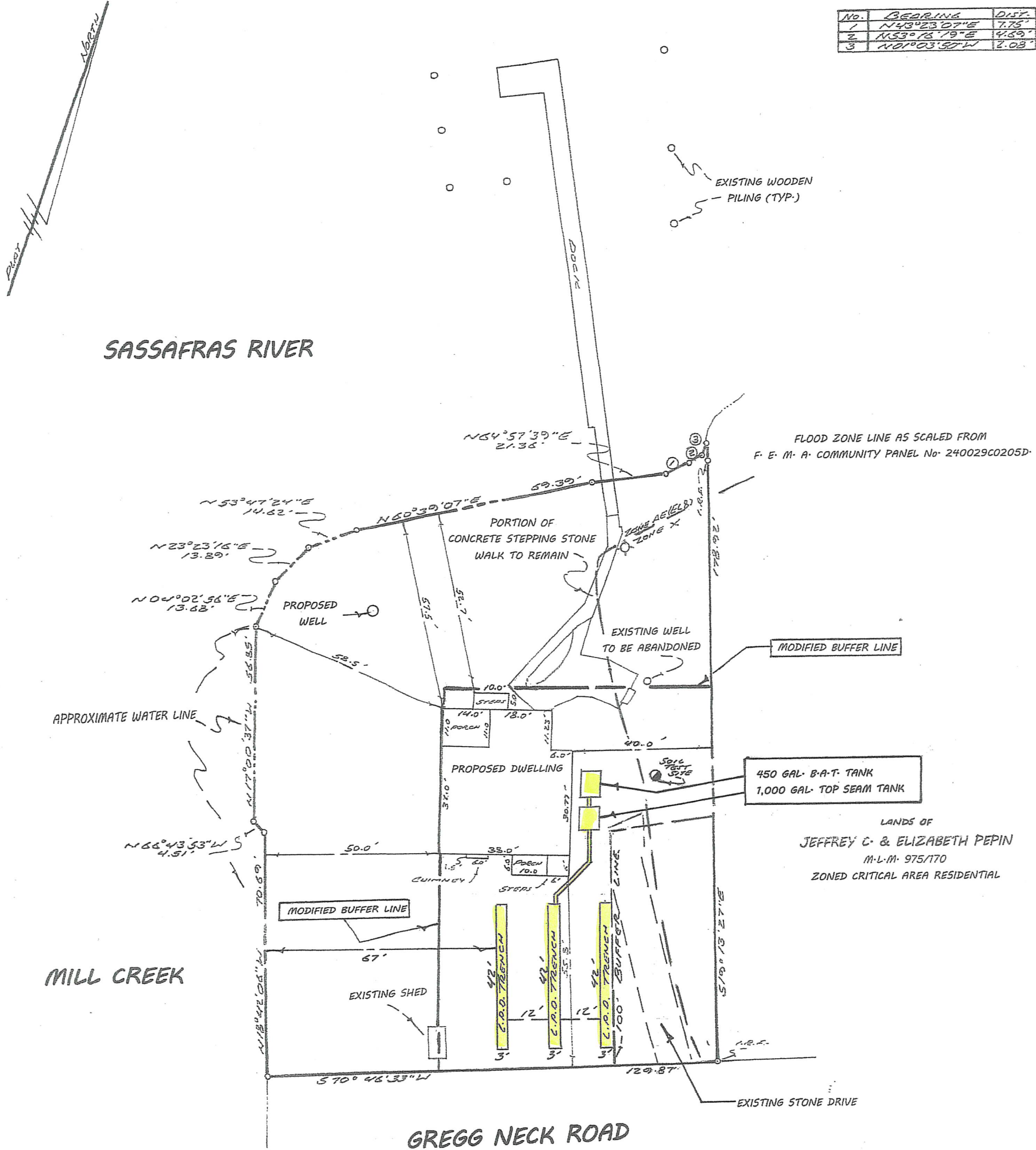


EXISTING CONDITIONS PLAT
ON THE LANDS OF
WILLIAM R. SINTON
FIRST ELECTION DISTRICT, KENT CO., MARYLAND
SCALE 1" = 30' OCTOBER 2022
TAX MAP 7 PARCEL 57

DEPARTMENT OF
PLANNING, HOUSING & ZONING
RECEIVED 11/14/22 CS

WILLIAM M. CROWDING SURVEYS, LLC
WILLIAM M. CROWDING, II
REGISTERED SURVEYOR
WORTON, MARYLAND
410-778-2622

No.	BEARING	DIST.
1	N43°23'07"E	7.75'
2	N53°16'19"E	4.69'
3	N01°03'57"W	2.08'



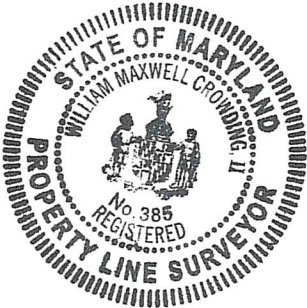
AREA = 0.487 AC. ±

- LEGEND:
- I-R-F. DENOTES IRON ROD FOUND.
 - ⊙ DENOTES LIGHT POLE
- NOTE:
1. PROPERTY ADDRESS: 14283 GREGG NECK ROAD.
 2. PROPERTY IS ZONED C.A.R. (CRITICAL AREA RESIDENTIAL)
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PROPERTY LINE SURVEYOR
EXPIRES 11-03-2022



PROPOSED CONDITIONS PLAT
ON THE LANDS OF
WILLIAM R. SINTON
FIRST ELECTION DISTRICT, KENT CO., MARYLAND
SCALE 1" = 30'
OCTOBER 2022
TAX MAP 7 PARCEL 57

WILLIAM M. CROWDING SURVEYS, LLC
WILLIAM M. CROWDING, II
REGISTERED SURVEYOR
WORTON, MARYLAND
410-778-2622

RECEIVED 11/14/22

REVISED 11-10-2022



Kent County Department of Planning, Housing, and Zoning

PRELIMINARY STAFF REPORT

TO: Kent County Planning, Housing, and Zoning
FROM: Mark Carper, Associate Planner
SUBJECT: 22-90, Frank B. Rhodes
Administrative Variance – Front Yard Setback
District 4, Map 37, Parcel 39
DATE: January 6, 2023

DESCRIPTION OF PROPOSAL

Mr. Frank B. Rhodes is requesting a 16.5-foot variance from the minimum 50-foot front yard setback in order to construct a 24-foot by 36-foot storage building. The accessory structure will be used for the storage of wood for the on-site furniture reproduction and restoration enterprise. Due to the configuration of existing structures, drive, and parking, alternative placement of the building to that proposed is not feasible. The proposed structure will not encroach on the front yard setback any further than two of the existing structures on site already do. The 1.3-acre property is located at 535 Morgnec Road in the Fourth Election District and is zoned Commercial (C).

RELEVANT ISSUES

I. Permitted and Accessory Uses

- A. *Applicable Law:* Article V, Section 11 of the *Kent County Land Use Ordinance* establishes permitted and accessory uses and structures within the Commercial District.
- B. *Staff and TAC Comments:* The applicant is proposing to construct an accessory structure for the storage of wood for commercial purposes.

II. Density, Height, Width, Bulk, and Fence Requirements

- A. *Applicable Law:* Article V, Section 11.5 of the *Kent County Land Use Ordinance* establishes the density, height, width, bulk, and fence requirements for the Commercial District.

Minimum Yard

Front	50 feet
Side & Rear	30 feet from ... I[ndustrial] ...which may be reduced to 0 ... if the adjoining property is a compatible use.

Height

Commercial structure	45 feet
Residential structure	38 feet

- B. *Staff and TAC Comments:* The site plan indicates that the proposed structure is to be placed a minimum of 33.67 feet from the front property line and 15 feet from the east side property line. The adjacent property to the east is zoned Industrial (I) and operates as a pre-cast concrete manufacturing facility.

III. Variance

- A. *Applicable Law*: Article IX, Section 2.1 of the *Kent County Land Use Ordinance* authorizes the Planning Director, or the Planning Director's designee, to grant variances from the yard (front, side, or rear) requirements in an amount that does not exceed 50% of the required yard for the applicable zoning district so as to relieve practical difficulties or other injustices arising out of the strict application of the provision of the Ordinance.

Such granting of a variance shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

In order to grant a variance, the Planning Director, or the Planning Director's designee, must find all the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
 - b. That the *variance* will not change the character of the neighborhood or district.
 - c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
 - d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
 - e. That the practical difficulty or other injustice was not caused by the applicants' own actions.
 - f. ...
 - g. In considering an application for a *variance*, the Planning Director, or the Planning Director's designee, shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.
 - h. In considering an application for a *variance*, the Planning Director, or the Planning Director's designee, shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
 - i. The Planning Director, or the Planning Director's designee, may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.
- B. Staff and TAC Comments:
- MDOT SHA, the Kent County Department of Public Works, and the Kent County Health Department have reviewed this application and have no comments or objections to the proposed project.
 - Surrounding properties are zoned either Commercial, Industrial, or Agricultural (across the road), and the variance will not cause a substantial detriment to adjacent or neighboring properties.
 - The proposed structure will relate harmoniously with existing buildings on site and the character of the enterprise.

- The variance is consistent with the Comprehensive Plan and the strategy of retaining and promoting existing businesses and assisting in their growth.
- The practical difficulty is caused by spatial constraints of the property to accommodate an established and growing business. Existing structures were installed prior to current bulk standards, and the proposed addition will not set any closer to the front yard than those already in place.
- Site access, parking, and space for cargo loading adhere to specific design standards in the Commercial District.
- Front and side yard landscaping is fully established, and landscaping requirements for commercial development are waived.
- The proposed development is a reasonable use of the property.

STAFF RECOMMENDATION

Staff recommends approval of a 16.5-foot variance from the minimum 50-foot front yard setback to construct a 24-foot by 36-foot storage building for storage with the following conditions:

1. Exterior lighting on the proposed structure is to be dark sky compatible.
2. That the variance hereby granted would lapse after one year if no substantial construction in accordance with the plans herein presented were to occur.

ADMINISTRATIVE HEARING APPLICATION

Kent County Department of Planning, Housing, and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)

Frank Rhodes
535 Morgynec Rd
Chestertown, Md 21620
Email: wp.chrysler@FrankRhodes.com

For Office Use Only:

Case Number: _____
Date Filed: _____
Filed by: _____
Applicant: _____
Date of Hearing: _____
Parties Notified: _____
Notice in Paper: _____
Property Posted: _____

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: _____

TO THE DEPARTMENT OF PLANNING, HOUSING AND ZONING: In accordance with Article _____
Section _____ of the Kent County Land Use Ordinance, as amended, request is hereby made for an

Administrative Hearing for:

☒ Variance ☐ Special Exception ☐ Determination of Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) # 535 Morgynec Road

In the 04 Election District of Kent County.

Size of lot or parcel of Land: _____

Map: _____ Parcel: _____ Lot #: _____ Deed Ref: _____

List buildings already on property: wood shop, 1 photo studio + show room, wood and machines
store, Haver

Subdivision name and address, if applicable: _____

PRESENT ZONING OF PROPERTY: Commercial

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) Need more wood storage - Car 5

Present owner of property: Frank + Susan Newton Rhodes Telephone: 410-208-3591

If Applicant is not owner, please indicate your interest in this property: _____

Has property involved ever been subject to a previous application? Yes

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.
List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Clark Farm 339' North

Owner(s) on the South: Gillette pre rail

Owner(s) to the East: Gillette pre rail

Owner(s) to the West: Think big

Homeowners Association, name and address, if applicable: _____

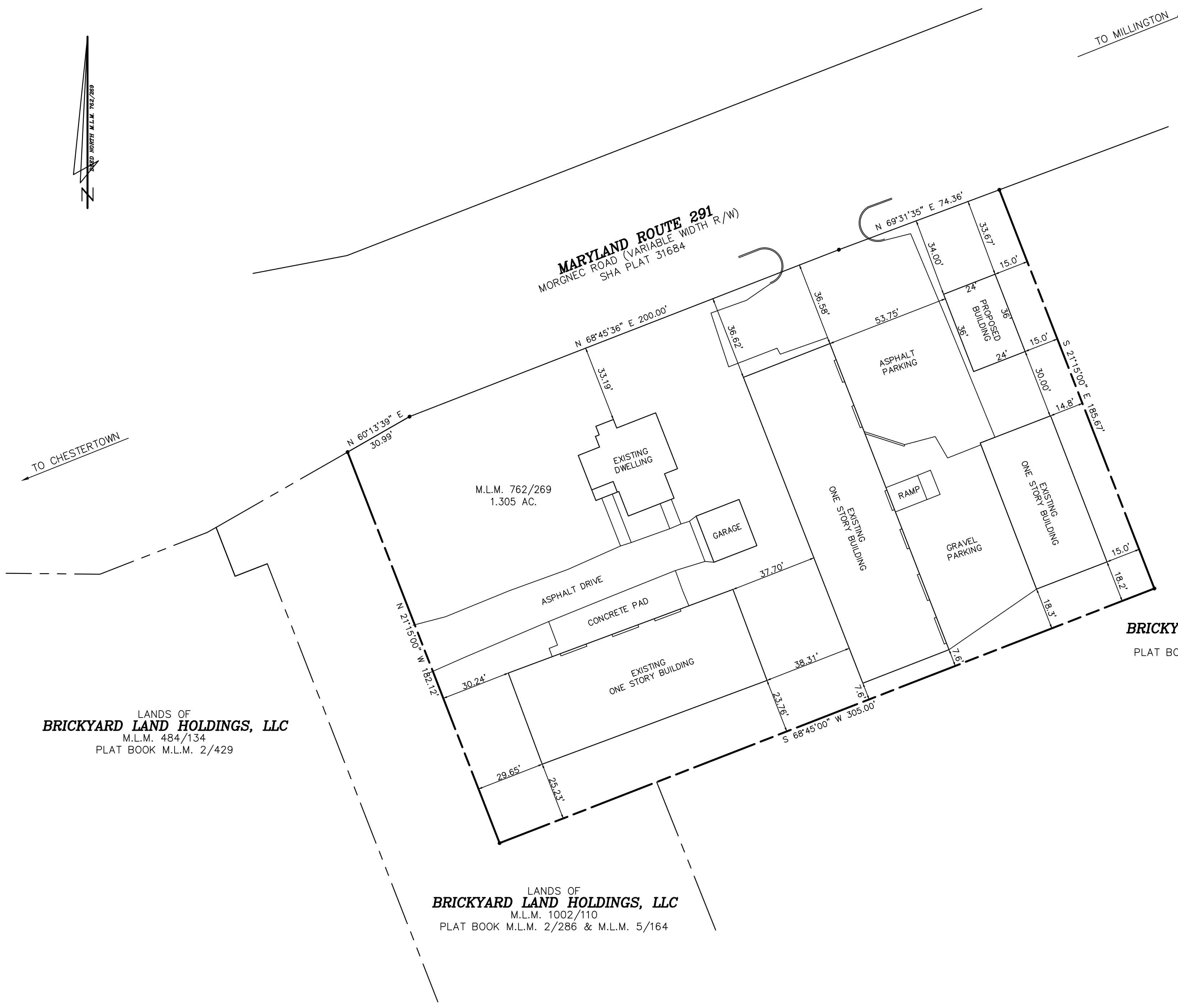
BY SIGNING THIS APPLICATION, I GRANT THE DEPARTMENT OF PLANNING, HOUSING AND ZONING THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION.

[Signature] Date Nov 22/22
Signature of Owner/Applicant/Agent or Attorney

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$200.00** filing fee made payable to the County Commissioners of Kent County. If you have any questions, contact the Kent County Department of Planning, Housing and Zoning.

NOTICE: The Department of Planning, Housing and Zoning is not required to make out this application. Application should be filled in by Applicant or its agent. If the Planning Department assists you, they cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.



LANDS OF
BRICKYARD LAND HOLDINGS, LLC
M.L.M. 484/134
PLAT BOOK M.L.M. 2/429

LANDS OF
BRICKYARD LAND HOLDINGS, LLC
M.L.M. 1002/110
PLAT BOOK M.L.M. 2/286 & M.L.M. 5/164

LANDS OF
BRICKYARD LAND HOLDINGS, LLC
M.L.M. 1002/110
PLAT BOOK M.L.M. 2/286 & M.L.M. 5/164

BUILDING PERMIT SKETCH

OF THE LANDS OF

FRANK B. RHODES, et ux

FOURTH ELECTION DISTRICT, KENT COUNTY, MARYLAND
FRANK B. RHODES

DATE	SCALE	1" = 30'
10/2022	DRAWN BY	JWB
JOB NO.	FOLDER REF	REVISION
7594	K-571	

MICHAEL A SCOTT INC.
400 S CROSS ST STE 3, CHESTERTOWN, MD 21620 (410)778-2310





Source: Kent County Department of Planning, Housing, and Zoning.
Aerial taken Spring 2019. Map prepared January 2023.

1 inch = 75 feet