

Bureau of Environmental Health

8930 Stanford Boulevard, Columbia, MD 21045

Main: 410-313-2640 | Fax: 410-313-2648

TDD 410-313-2323 | Toll Free 1-866-313-6300

www.hchealth.org

Facebook: www.facebook.com/hocohealth

Twitter: HowardCoHealthDep

Maura J. Rossman, M.D., Health Officer

MEMORANDUM

TO: Geoff Goins
Division of Zoning Administration and Public Service

FROM: Jeff Williams
Program Supervisor, Well & Septic Program
Bureau of Environmental Health

RE: **BA-16-036C&V, 10430 Shady Acres Lane**

DATE: January 20, 2017

The Health Department has reviewed the above referenced petition and has the following comments:

- There is no objection to the conditional use/variance as stated in the application in which it is stated that there will be no expansion in use or structures. Please note that the property is served by an onsite sewage disposal system and Health will require connection to the public sewer prior to approval of any future building permit for an expansion in use or structures (other than the fence as stated in the application).

JRL

Department of Planning and Zoning
Howard County, Maryland
Recommendations/Comments

Date: December 15, 2016

Hearing Examiner 02/06/17

Planning Board _____ Board of Appeals _____ Zoning Board _____

Petition No. BA-16-036 C&V Map No. _____ Block _____ Parcel _____ Lot _____

Petitioner: _____ Jonathan & Sonya Miller _____

Petitioner's Address: _____

Address of Property: _____

Return Comments by January 16, 2017 to Public Service and Zoning Administration

Owner: (if other than applicant) _____

Owner's Address: _____

Petition: SEE APPLICATION

To: _____ MD Department of Education – Office of Child Care
3300 N. Ridge Road, Ste. 190, EC, MD 21043 (Louis Valenti)
✓ Bureau of Environmental Health
_____ Development Engineering Division
_____ Department of Inspections, Licenses and Permits
_____ Department of Recreation and Parks
_____ Department of Fire and Rescue Services
_____ State Highway Administration
_____ Sgt. Karen Shinham, Howard County Police Dept.
_____ James Irvin, Department of Public Works
_____ Office on Aging, Terri Hansen (senior assisted living)
_____ Police Dept., Animal Control, Deborah Baracco, (kennels)
_____ Susan Fitzpatrick, Health Dept. (Nursing & Res. Care)
_____ Land Development - (Religious Facility & Age-Restricted
Adult Housing)
_____ Housing and Community Development
_____ Resource Conservation Division – Beth Burgess
_____ Route 1 Cases – DCCP – Kristen O'Connor
_____ Telecommunication Towers – (Comm. Dept.)
_____ Division of Transportation – Dave Cookson

COMMENTS:



For DPZ Office use only:

BA CASE NO.

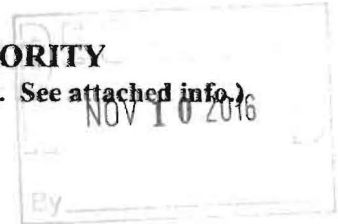
BA-16-036C+V

Date Submitted

11/10/16

**CONDITIONAL USE PETITION
TO THE HOWARD COUNTY HEARING AUTHORITY**

(This application will only be accepted after a pre-submission meeting. See attached info.)



1. Conditional Use Request

Conditional Use Category Home Based Contractors

Section 131.0.N. 28

Specific Use Requested Bring into compliance a family masonry business.

2. Name of Petitioner Miller Family Trust (Jonathan L. Miller & Sonya A. Miller, Trustees); and Shady Acres Lane, LLC

Trading as (If applicable) _____

Mailing Address 10430 Shady Acres Lane, Laurel, Maryland 20723

Phone Number(s) (301) 943-5093

E-Mail Address jon@millerci.com

Name of Principal Contact (If different) Jon Miller

3. Counsel for Petitioner William E. Erskine

Mailing Address 8171 Maple Lawn Boulevard, Suite 200, Fulton, Maryland 20759

Phone Number(s) (301) 575-0363

E-Mail Address werskine@offitkurman.com

4. Conditional Use Site Description

Address/Street for Property 10430 Shady Acres Lane and Shady Acres Lane, Laurel, Maryland 20723

Tax Map 47 Grid 7 Parcel 120 & 838 Lot _____

Department of Assessments and Taxation Account No. 436358 & 434185

Total Land Area of Property 2.9952 (X Acres) (_____ Square Feet) Check one.

Election District 6th Zoning of Property _____

Subdivision Name and Plat No. (If Applicable) None

Total Land Area of Use (If different than above) _____ (_____ Acres) (_____ Square Feet)

4. Petitioner's Interest in Subject Property

☒ OWNER (Including joint ownership)

☐ OTHER (Described and give name and address of owner)

Name of Owner _____

Mailing Address _____

If the Petitioner is not the owner, written authorization must be submitted from the owner.

5. Conditional Use Plan Requirements

If the petition is approved, the Conditional Use plan will be made a part of the Decision and Order, subject to modifications and conditions required by the Hearing Authority. The Conditional Use plan must be drawn to scale and must include the items listed below:

- ☒ (a) Courses and distances of outline boundary lines and the size of the property
- ☒ (b) North arrow
- ☒ (c) Zoning of subject property and adjoining properties
- ☒ (d) Scale of plan
- ☒ (e) Existing and proposed uses, structures, natural features and landscaping
- ☒ (f) Location and surface material of existing and proposed parking spaces, driveways, and points of access; number of existing and proposed parking spaces
- ☒ (g) Same as (e) and (f) above, of adjoining properties
- ☒ (h) Location of existing and/or proposed well and private septic easement area, if property is to be served by private water and septic facilities
- ☒ (i) Election District in which the subject property is located
- ☒ (j) Tax Map and Parcel Number(s) of the subject property
- ☒ (k) Name of local community in which the subject property is located or name of nearby community
- ☒ (l) Name, mailing address, telephone number (and e-mail address, if any) of the Petitioner
- ☒ (m) Name, mailing address, telephone number (and e-mail address, if any) of Counsel
- ☒ (n) Name, mailing address, telephone number of property owner
- ☒ (o) Floor area and height of structures, setback distances from property lines, and other numerical values necessary for the examination of the petition
- ☒ (p) Location of subject property in relation, by approximate dimension, to the center line of nearest intersection of two public roads
- ☒ (q) Ownership of abutting roads, right-of-way width, and existing pavement width
- ☒ (r) Any other information as may be necessary for full and proper consideration of the petition

7. Additional Information Requirements

- a. Information regarding noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions resulting from the use.
- b. Supporting documentation, such as traffic studies, market studies, and noise studies as may be required by the Department of Planning and Zoning or by the Zoning Regulations.
- c. For expansions and enlargements, previous case number(s) and information regarding compliance with previous requirements and conditions.

8. Summary of Request

The following items should be answered by summary statements. If additional space is needed, please attach a Supplement to this petition.

- a. The present use of the subject property residential and family masonry business, please see the attached Narrative, marked as Exhibit A for additional details relating to the present use of the property.
- b. Details of the proposed use, including, **where applicable:** types of indoor and outdoor activities; hours of operation; number of employees, occupants, and/or customers; quantity and types of vehicles or equipment used; outdoor lighting to be used; quantities and capacities of materials stored; etc. See attached Narrative and Conditional Use & Variance Plan, marked as Exhibit A and Exhibit B.
- c. Any additional information which will be useful in the evaluation of whether the Conditional Use complies with the specific criteria for the conditional use category within Section 131.0.N. See attached Narrative and Conditional Use & Variance Plan, marked as Exhibit A and Exhibit B.
- d. Will the Conditional Use generate any physical conditions such as noise, dust, fumes, odors, lighting, or vibrations which would be discernible from abutting and vicinal properties? See attached Narrative and Conditional Use & Variance Plan, marked as Exhibit A and Exhibit B.
- e. Will the number of parking spaces be appropriate to serve the use and will the parking areas, loading areas, driveways, and trash receptacle areas be appropriately located and buffered from public roads and residential areas? See attached Narrative and Conditional Use & Variance Plan, marked as Exhibit A and Exhibit B.

f. Will the ingress and egress driveway(s) provide safe access with adequate sight distance? _____

Please see the attached Narrative and Conditional Use & Variance Plan, marked as Exhibits A and B.

g. Are there any environmentally sensitive areas in the vicinity of the property and, if so, will the proposed use have any potential to affect such areas? See attached Narrative and Conditional Use & Variance Plan, marked as Exhibits A and B.

h. Are there any historic sites in the vicinity of the property and, if so, will the proposed use have any potential to diminish the character and significance of such sites? Please see the attached Narrative and Conditional Use & Variance Plan, marked as Exhibits A and B.

9. Prior Petitions

Has any petition for the same, or substantially the same, conditional use as noted above for the subject property been denied by the Hearing Examiner within twenty four (24) months of the date of this petition?

() Yes

(X) No

If yes, and six (6) months have elapsed since the last hearing, an affidavit must be attached which states the new and different grounds on which this re-submittal is based.

10. Additional Materials, Fees, Posting and Advertising Requirements

a. Supplemental pages may be attached to the petition. You must submit one original petition with original signatures, and one original of any other signed documents. The following number of sets including petitions, plans and supplemental pages must be submitted:

- *If the subject property adjoins a State road- original and 20 copies (application & plans)*
- *If the subject property adjoins a County road- original and 18 copies (application & plans)*

b. The Petitioner signing below hereby agrees to furnish such additional plats, plans, reports or other materials as may be required by the Department of Planning and Zoning and/or the Hearing Authority in connection with this petition.

c. The Petitioner hereby agrees to pay all costs in accordance with the current schedule of fees.

d. The Petitioner hereby agrees to properly post the property at least thirty (30) days immediately prior to the Hearing Examiner public hearing; to maintain the public notice posters until the public hearing is concluded; and to submit an affidavit of posting at, or before the time of the initial public hearing. The Petitioner also hereby agrees to advertise the public hearing by means of legal notices as prepared and approved by the Department of Planning and Zoning to be published one (1) time in at least two (2) newspapers of general circulation in Howard County, at least thirty (30) days prior to the Hearing Examiner public hearing, and to pay for such advertising costs; and agrees to submit two (2) approved certificates of the text and publication date(s) of the advertisement at or before the time of the hearing.

11. Signatures

The Petitioner hereby affirms that he/she has read the instructions on this form, filing herewith all of the required accompanying information, and affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

By: Jonathan L. Miller, Trustee

Jonathan L. Miller Trustee 11-8-16
Signature of Petitioner Date

Miller Family Trust, dated August 25, 2015

Print Name of Petitioner

By: Sonya A. Miller, Trustee

Sonya A. Miller Trustee 11-8-16
Signature of Petitioner Date

Miller Family Trust, dated August 25, 2015

Print Name of Petitioner

William E. Erskine 11-9-2016
Signature of Attorney Date

William E. Erskine

Print Name of Attorney

11. Signatures

The Petitioner hereby affirms that he/she has read the instructions on this form, filing herewith all of the required accompanying information, and affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

by: Jonathan Miller, Sole Member

Jonathan Miller sole member 11-8-16
Signature of Petitioner Date

Shady Acres Lane, LLC
Print Name of Petitioner

Signature of Petitioner Date

Print Name of Petitioner

William E. Erskine 11-9-2016
Signature of Attorney Date

William E. Erskine
Print Name of Attorney

General Standards for Conditional Uses

All requests for conditional uses must meet the following general standards set forth in Section 131.0.B. of the Zoning Regulations for approval:

1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.
2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.
3. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:
 - a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.
 - b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.
 - c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.
 - d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.
 - e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.
 - f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

In addition to the specific requirements of the appropriate subsection within Section 131.0.N of the Zoning Regulations, Conditional Uses within residential developments in the R-ED, R-SC, R-SA-8, R-H-ED, R-APT, R-A-15, R-MH or R-VH districts are subject to the standards enumerated in Section 131.0.C.

PETITIONER Miller Family Trust, dated August 25, 2015

ADDRESS 10430 Shady Acres Lane, Laurel, Maryland 20723

Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended:

The person(s) signing below hereby declare(s) that no officer or employee of Howard County, whether elected or appointed, has received prior hereto or will receive subsequent hereto, any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or award of the attached petition to the Hearing Examiner for a conditional use as requested.

I, we, do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my, our, knowledge, information and belief.

Jonathan L. Miller
Witness

By: Jonathan L. Miller, Trustee

Jonathan L. Miller Trustee 11-9-16
Signature Date

Jonathan L. Miller
Witness

By: Sonya A. Miller, Trustee

Sonya A. Miller, Trustee 11-9-16
Signature Date

Witness

Signature Date

Application Fee: \$500.00

Poster Fee: \$25.00 per sign/poster

Make check payable to: Director of Finance.

For DPZ use only:

Hearing fee: \$ _____
Poster fee: \$ _____
Total: \$ _____

Receipt No. _____

County Website: www.howardcountymd.gov

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION.

PETITIONER Shady Acres Lane, LLC

ADDRESS 10430 Shady Acres Lane, Laurel, Maryland 20723

Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended:

The person(s) signing below hereby declare(s) that no officer or employee of Howard County, whether elected or appointed, has received prior hereto or will receive subsequent hereto, any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or award of the attached petition to the Hearing Examiner for a conditional use as requested.

I, we, do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my, our, knowledge, information and belief.

By: Jonathan L. Miller, Sole Member

Robert H. King
Witness

Jonathan L. Miller sole member 11-9-16
Signature Date

Witness

Signature Date

Witness

Signature Date

Application Fee: \$500.00 Poster Fee: \$25.00 per sign/poster

Make check payable to: Director of Finance.

For DPZ use only:

Hearing fee: \$ _____
Poster fee: \$ _____
Total: \$ _____

Receipt No. _____

County Website: www.howardcountymd.gov

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION.

Please access the online application process for the pre-submission meeting by using the link below:

https://pdox.howardcountymd.gov/ProjectDox/workfloweforms/Anonymous_Form_C_Z_Presub.aspx

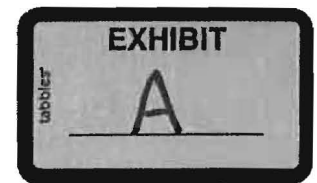
Pre-Submission Community Meeting

A pre-submission community meeting is required prior to the initial submittal of a petition for a Conditional Use subject to the same procedures for such meetings as specified in Section 16.128 of the Subdivision and Land Development Regulations.

Please use the following web address to access the community notification list

http://data.howardcountymd.gov/HOA_Register/GCommunityView_new.asp. You will be prompted to enter the three-digit sign code assigned to your development. Once your sign code has been entered, you will be provided with a list of community contacts that have requested information about your development.

T:\DPZ\Shared\Public Service and Zoning\Applications\Hearing Examiner\Conditional Use Application.doc REV 08/14



NARRATIVE IN SUPPORT OF PETITION FOR CONDITIONAL USE APPROVAL

8.a. The present use of the subject property.

The subject property consists of a total of two (2) parcels described as:

Tax Map 47, Parcel 120 (10430 Shady Acres Lane)

Tax Map 47, Parcel 838 (Shady Acres Lane)

Parcel 120 is the residence of Jon and Sonya Miller, which they originally purchased in May 1990 and in August 2015 they transferred the property into the Miller Family Trust to which they serve as Trustees. In 1990 when the Millers purchased Parcel 120 it consisted of approximately 4.046 acres. At the time that they purchased the property the Millers made an inquiry to the County about their ability to operate a contracting business from an existing garage located on the property and were advised that it was permitted. A short time after their purchase of Parcel 120 they were contacted by Baltimore Gas and Electric Company (BGE) regarding its intention to condemn a portion of their property in order to construct an electrical line, and in September of 1991 the Millers transferred approximately 1.3614 acres of land to BGE (please note that BGE has not placed anything on this acquired land but nevertheless still holds title). The Millers have lived at the property and operated a family owned masonry business from it since 1990 but were recently informed by Howard County Department of Planning and Zoning that the business use was not permitted as of right and that they needed to pursue a Conditional Use approval for home based contractors, if the contracting use were to remain.

Recently, the Millers were able to acquire Parcel 838 which is a strip of land that serves as part of the private road known as Shady Acres Lane. Title to Parcel 838 is held by Shady Acres Lane, LLC to which Jonathan and Sonya Miller are the only members.

8.b. Details of the proposed use.

The Petitioners have operated a family owned masonry business from the Subject Property for over 25 years, the business currently consists of five (5) employees, four (4) of which are family members, that is Jonathan and Sonya Miller and their two sons. The fifth employee is a gentleman that prepares the companies estimates and although he works from the Subject Property his work is performed indoors. The majority of the business' activities that take place at the Subject Property are office type work that occurs indoors, storage of equipment and materials, the loading and unloading of tools and equipment onto trucks or trailers to be taken to and from job sites, such as scaffolding, mortar mixers, etc. The actual masonry work is done at the job sites. The Petitioners do not propose to have specific hours of operation, and do not have customers or vendors that visit the subject property

The Petitioner will continue to work out of the existing garage located on the property and will have no more than three (3) commercial vehicles, one pick-up truck, one stake body truck and

one trailer on the Subject Property. There is no proposed outdoor lighting for the Conditional Use area, the Petitioners' home and personal garage have typical residential lighting. This proposed use does not include the construction of any new structures on the Subject Property other than a six (6) foot board on board noise mitigation fence to be located in the rear of the Subject Property that will help to separate the Conditional Use area from adjoining properties (please see attached the Conditional Use Plan, marked as Exhibit B).

The Petitioner does not propose to expand the business operations, but seeks a home based contractor Conditional Use approval in order to come into compliance with the Howard County Zoning Regulations and to continue operating.

8.c. Compliance with HCZR Section 131.0.N.28.

As demonstrated below, this petition complies with the specific criteria for approval under HCZR Section 131.0.N.28.

a. The minimum lot size is three acres in the RC and RR Districts. The minimum lot size is 2.5 acres in the R-20 district and the lot shall abut an intermediate arterial highway, as designated in the General Plan.

The Subject Property consists of 3.3895 acres and is located in the R-20 district, additionally it abuts Rt. 216 which is designated as an intermediate arterial highway in the General Plan. The petition, therefore, satisfies this criterion.

b. The number of commercial vehicles parked on the site shall be limited to three commercial vehicles for lots up to six acres, and five commercial vehicles for lots larger than six acres and not more than 20 acres. On lots larger than 20 acres, the Hearing Authority may approve additional commercial vehicles, as is determined to be appropriate based upon the character of the property and its relation to the surrounding area.

The proposed Conditional Use will have no more than three commercial vehicles parked on the site, and therefore the petition satisfies this criterion.

c. On lots six acres or fewer, the area used for parking and storage of commercial vehicles, equipment and supplies, whether exterior or interior, shall be limited to no more than 50% of the area of the lot or 10,000 square feet, whichever is less. On lots larger than six acres, the area used for these purposes shall be limited to no more than 5% of the lot or one acre, whichever is less.

The proposed area used for the Conditional Use is 10,000 square feet as depicted on the Conditional Use Plan marked as Exhibit B and attached to this petition and therefore, satisfies this criterion.

d. In the RR and RC Districts, structures used for the Conditional Use shall be at least 50 feet from lot lines and all outdoor parking or storage areas shall be at least 100 feet from lot lines.

The Subject Property is zoned R-20, and therefore this criterion does not apply to the proposed Conditional Use.

e. In the R-20 district, structures for and uses of the home-based contractor Conditional Use shall be restricted as follows:

(1) The use shall not alter the residential appearance of the neighborhood.

The proposed Conditional Use does not propose any new structures to be constructed on the Subject Property except for a six (6) foot tall board on board noise mitigation fence which will not alter the residential appearance of the neighborhood, as this type of fence is permitted on residential properties. The petition, therefore, satisfies this criterion.

(2) The structures used for the Conditional Use shall be at least 100 feet from the nearest residential lot lines.

All structures on the Subject Property intended to be used for the proposed Conditional Use are located over 100 feet from the nearest residential lot lines. The petition, therefore, satisfies this criterion.

(3) Outdoor parking or storage areas shall be at least 75 feet from residential lot lines and screened from public streets and residential lots by solid walls, fences, or a tree buffer at least 25 feet wide.

The proposed Conditional Use Plan complies with this criterion, as the proposed parking and storage areas are more than 75 feet from the residential lot lines and a six (6) foot tall board on board noise mitigation fence, and White Spruce and Leland Cypress trees are proposed to be installed as further buffering.

f. The location and design of the operation shall be such that the use will not be a nuisance to residents of neighboring properties due to noise, dust or fumes. Particular consideration shall be given to the location of loading areas, parking and circulation areas, and driveways in relation to neighboring properties.

The proposed Conditional Use operation will not be a nuisance to neighboring properties, as no dust or fumes are not created by the use and the noise created is under the current limits imposed by law and will be further reduced by the proposed fencing and landscaping buffers. The petition, therefore, satisfies this criterion.

g. If the driveway providing access to the proposed site is shared with other properties, the petitioner shall demonstrate that the use will not result in damage to or deterioration of the shared driveway or in increased hazards to other users of the driveway.

The proposed home based contractor Conditional Use operation has actually been in existence for many years and has operated on a shared use-in-common private road without adverse effects, it has not caused damage to, deterioration of or increased hazard to other users of the shared private roadway that is Shady Acres Lane. The petition, therefore, satisfies this criterion.

h. Parking and storage areas shall be restricted as follows:

(1) Supplies shall be stored within a building, except that mulch, compost, soil, sand, stone and other natural materials may be stored outdoors. Supplies stored outdoors must be fully screened from surrounding properties and roads by vegetation, fencing or other appropriate means in accordance with the County Landscape Manual.

The proposed Conditional Use complies with this criterion. All supplies that are not natural materials will be stored within the existing buildings.

(2) Equipment shall be either stored within a building or screened from surrounding properties and roads by vegetation, fencing or other appropriate means in accordance with the Howard County Landscape Manual.

The proposed Conditional Use complies with this criterion. Equipment will be stored within the existing buildings. Proposed outdoor parking and storage areas are proposed to be screened by a six (6) foot high board on board noise mitigation fence and appropriate supplemental landscaping.

i. The Hearing Authority shall establish the maximum number of employees permitted on the lot and the maximum allowable number of employee trips per day.

The Petitioner proposes to have five (5) employees, four (4) of which are family members and two (2) of which live on the Subject Property. The Petitioner has not proposed a restriction on the maximum allowable number of employee trips per day, but will nevertheless comply with any reasonable maximum allowable number of employee trips per day that the Hearing Authority establishes.

j. The Hearing Authority shall establish the days and hours of operation.

The Petitioner is not proposing any specific days and hours of operation but will of course comply with any limitations that the Hearing Authority may establish.

k. New structures or additions to existing structures shall be designed to be compatible in appearance and scale with other residential or agricultural structures in the vicinity, as demonstrated by architectural elevations or renderings that shall be submitted with the petition.

The petition complies with this criterion, as no new structures or additions to existing structures are proposed other than a six (6) foot board on board noise mitigation fence, which is to be installed as screening of the proposed Conditional Use and will be compatible in appearance and scale with other residential structures in the vicinity.

l. Minor repairs to vehicles or equipment shall be permitted, provided such activities take place inside a building. Body work, engine rebuilding, engine reconditioning, painting and similar activities shall not be permitted.

The petition complies with this criterion, any minor repairs required for vehicles or equipment will be conducted within the existing metal sided garage.

m. Where two or more adjacent lots are under common ownership and used as a single homesite, home-based contracting uses may be located on a different lot than the principal dwelling, if the Hearing Authority determines that this will provide a more compatible location in relation to vicinal properties that effective screening will be provided by using existing site features, or that it will result in decreased impacts on neighboring lots.

This criterion does not apply to the proposed Conditional Use, as the principal dwelling is located on the same parcel/lot as the proposed Conditional Use Area.

n. *On an ALPP purchased or dedicated easement property, the following additional criteria are required:*

(1) *The use shall not interfere with the farming operations or limit future farming production.*

(2) *Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.*

The Subject Property is not subject to ALPP and therefore, this criterion does not apply to the proposed Conditional Use.

8.d. *Will the Conditional Use generate any physical conditions such as noise, dust, fumes, odors, lighting, or vibrations which would be discernible from abutting and vicinal properties?*

The proposed Conditional Use will not generate any physical conditions that would be discernible from abutting and vicinal properties. The abutting and vicinal properties will be well shielded from any physical conditions such as noise, dust, fumes, odors, lighting or vibrations by distance and/or the existing and proposed landscaping buffer along the boundary of the Subject Property as well as the proposed six (6) foot board on board noise mitigation fence and additional interior landscaping.

8.e. *Will the number of parking spaces be appropriate to serve the use and will the parking areas, loading areas, driveways, and trash receptacle areas be appropriately located and buffered from public roads and residential areas?*

The number of parking spaces will be appropriate to serve the proposed use. The petition does not propose any new driveways. Trash receptacle and loading/unloading areas will be located and buffered from public roads and residential areas.

8.f. *Will the ingress and egress driveway(s) provide safe access with adequate sight distance?*

This petition does not propose any new ingress and egress drives. Rather, the proposed Conditional Use will use the same access drives that have been approved for the residential use. The existing ingress and egress drives have safe and adequate sight distance.

8.g. *Are there any environmentally sensitive areas in the vicinity of the property, and, if so, will the proposed use have any potential to affect such areas?*

The Subject Property does not have any environmentally sensitive areas in its vicinity that would be impacted by the proposed Conditional Use.

8.h. *Are there any historic sites in the vicinity of the property, and, if so, will the proposed use have any potential to diminish the character and significance of such site?*

There are no historic sites in the vicinity of the Subject Property.

Compliance with General Criteria of Approval under HCZR Section 131.0.B

In addition, and as demonstrated below, the petition satisfies the general conditions of approval under HCZR Section 131.0.B.

1. *The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.*

The proposed Conditional Use Plan is in harmony with the land uses and policies of the General Plan for Howard County (the "General Plan"). The Subject Property is located in the Planned Service Area (PSA), and the granting of this proposed Conditional Use will be in harmony with the General Plan Policy 3.9 by reducing the employee travel miles, automobile dependency and traffic congestion on our highways. This proposed Conditional Use encourages diverse economic development within Howard County, according to General Plan Figure 5-2, construction jobs within Howard County decreased by 1,465 jobs (an 11% decrease) between 2001 and 2009; while at the same time, the total number of jobs in Howard County actually increased by 22, 112 positions (a 13% increase). These statistic provide a stark testimony to the fact that Howard County economic development policies, while very effective at creating high skilled employment positions often requiring advanced degrees, has not been as effective in creating job opportunities for non-degree holding workers in the essential trade industries, including but not limited to general contracting, home improvement, plumbing, electrical contracting, masonry, HVAC and the like. The absence of skilled essential tradesmen in Howard County undermines the quality of life in Howard County by increasing the difficulties in obtaining the essential services needed at a reasonably affordable rate.

Additionally, this proposed Conditional Use is in harmony with the General Plan goal of maintaining an adequate supply of affordable housing opportunities. This proposal takes advantage of the "location efficiencies" having the effect of reducing the total cost of housing (see, PlanHoward 2030 page 125); by allowing a smaller less intense home based contractor business to operate without the overly burdensome added cost of leasing or purchasing separate industrial or commercially zoned property.

2. *The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.*

The overall intensity and scale of the proposed use(s) are appropriate for the site given that most of the masonry activities take place off-site at job sites, the only outdoor activities are that of loading and unloading of equipment. The zoning of the Subject Property is eligible to petition for a home based contractor Conditional Use and the size of the site is appropriate for the scale

of the proposed Conditional Use. The Subject Property is located at the end of the private road known as Shady Acres Lane and Shady Acres Lane has safe and adequate access on to Scaggsville Road.

3. *The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:*

a. *The impact of the adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.*

The Petitioner does not believe that the proposed Conditional Use will create any appreciable adverse impacts on vicinal properties. However, to the extent that adverse impacts may exist at all, such impacts are typical of the kind of adverse impacts that one might expect to occur in relation to a home based contracting business regardless of where it might be located within the R-20 zoning district. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will not be greater at this proposed site than it would generally be elsewhere in the R-20 zoning district or other similar zoning districts. And, because a few interested community members and neighbors have expressed concerns about noise the petition proposes to install a six (6) foot board on board noise mitigation fence and additional landscaping to further dampen any noise potentially created by the proposed Conditional Use

b. *The location, nature and height of structures, walls and fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.*

The location, nature and height of the structures, walls and fences, and the nature and extent of the existing and proposed landscaping on the site are such that the use will NOT hinder or discourage the development and/or use of the adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.

c. *The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.*

The number of parking spaces will be appropriate to serve the proposed Conditional Use (please see Section 8.e. above).

d. The ingress and egress drive will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.

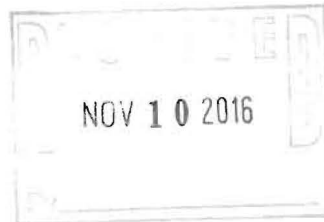
The petition does not propose the use of any new access drive. Rather, the existing ingress and egress will continue to serve the Subject Property (please see Section 8.f. above).

e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

The proposed Conditional Use will not disturb or have any impact on any environmentally sensitive areas (please see section 8.g. above).

f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

The proposed Conditional Use will not disturb or have any historic sites (please see section 8.h. above).



DPZ Office use only:

CASE NO. BA-16-036 C+V

DATE FILED 11/10/16

**RESIDENTIAL DISTRICT VARIANCE PETITION
TO THE HOWARD COUNTY HEARING EXAMINER**

1. VARIANCE REQUEST

SECTION 108.0.D.4.C(2) of the Zoning Regulations (describe) Requesting a reduction in the Bulk
Regulations 20' minimum use setback from lot lines.

2. PETITIONER'S NAME Miller Family Trust (Jonathan & Sonya Miller, Trustees) and Shady Acres Lane, LLC
TRADING AS (IF APPLICABLE) _____

ADDRESS 10430 Shady Acres Lane, Laurel, Maryland 20723

PHONE NO. (W) 301-943-5093 (H) _____

EMAIL jon@millercci.com

3. COUNSEL FOR PETITIONER William E. Erskine, Esq.

COUNSEL'S ADDRESS 8171 Maple Lawn Boulevard, Suite 200, Fulton, Maryland 20759

COUNSEL'S PHONE NO. 301-575-0363

EMAIL werskine@offitkurman.com

4. PROPERTY IDENTIFICATION

ADDRESS OF SUBJECT PROPERTY 10430 Shady Acres Lane and Shady Acres Lane, Laurel, Maryland 20723

ELECTION DISTRICT 6th ZONING DISTRICT R-20 ACREAGE 2.9952

TAX MAP # 47 GRID # 7 PARCEL # 120 & 838 LOT # N/A

SUBDIVISION NAME (if applicable) N/A

PLAT NUMBER AND DATE N/A

5. PETITIONER'S INTEREST IN SUBJECT PROPERTY

☒ OWNER (including joint ownership)

☐ OTHER (describe and give name and address of owner)

If the Petitioner is not the owner of the subject property, documentation from the owner authorizing the petition must accompany this petition.

**PLEASE READ CAREFULLY
DATA TO ACCOMPANY PETITION**

6. VARIANCE PLAN

No application for a variance shall be considered complete unless the plan indicates the required setback or other requirement, and the requested variance from the subject setback or other requirement. The submitted plans shall be folded to approximately 8 ½ x 14 inches.

The plan must be drawn to scale and must include the items listed below:

- ☒ (a) Courses and distances of outline boundary lines and the size of the property
- ☒ (b) North arrow
- ☒ (c) Zoning of subject property and adjoining property
- ☒ (d) Scale of plan
- ☒ (e) Existing and proposed uses, structures, natural features and landscaping
- ☒ (f) Location and surface material of existing and proposed parking spaces, driveways, and points of access; number of existing and proposed parking spaces
- ☒ (g) Location of all building and use restriction lines
- ☒ (h) Same as (a) through (g) above, of any adjoining, confronting and vicinal properties as necessary for proper examination of the petition, or, if applicable, a copy of the subdivision plat for the community
- ☒ (i) Location of well and private sewerage easement area, if property is to be served by private water and sewer
- ☒ (j) Election District in which the subject property is located
- ☒ (k) Tax Map and parcel number on which the subject property is located
- ☒ (l) Name of local community in which the subject property is located or name of nearby community
- ☒ (m) Name, mailing address, telephone number (and e-mail address if any) of the petitioner
- ☒ (n) Name, mailing address, telephone number (and e-mail address if any) of attorney, if any
- ☒ (o) Name and mailing address of property owner
- ☒ (p) Floor area and height of structures, setback distances from property lines, and other numerical values necessary for the examination of the petition
- ☒ (q) Location of subject property in relation, by approximate dimension, to the center line of nearest intersection of two public roads
- ☒ (r) Ownership of affected roads
- ☒ (s) A detailed description of all exterior building materials for all proposed structures
- ☒ (t) Any other information as may be necessary for full and proper consideration of the petition

7. VARIANCE

A) Describe why the application of the Zoning Regulations in question to your particular property would result in practical difficulties or unnecessary hardships in complying strictly with the bulk requirements:

1. The physical character of the property is different from the character of the surrounding properties because of its ☒ narrowness, ☐ shallowness, ☐ shape, ☐ topography,

☒ other; explain: The private road known as Shady Acres Lane is the only access from the Subject Property to the public road and it is approximately 20' wide. Also, there is an existing asphalt driveway that extends from Shady Acres Lane into the interior of Parcel 120.

2. The uniqueness of the property prevents me from making a reasonable use of the property

because: The 20' use setback cannot be accommodated along the private road access (which is the only access from the public road to the Subject Property) as the private road is itself only about 20' wide. Additionally, due to the conveyance of approximately 1.3614 acres +/- from the Petitioners to BGE under the threat of condemnation a portion of the existing asphalt driveway now falls within the 20' use setback of the new lot line with Parcel 1022 owned by BGE.

B) The intended use of the property, in the event the petition is granted: Continued Residential Use and continued Home Based Contractor Use.

C) Any other factors which the Petitioner desires to have considered: The reduction in the 20' use setback will apply only to the private road (which is the Subject Property's only available access to the public road), and a portion of the asphalt driveway located on Parcel 120 (the asphalt driveway existed prior to the conveyance of a portion of the parcel to BGE).

D) Explain why the requested variance is the minimum necessary to afford relief: The private road known as Shady Acres Lane is approximately 20' in width and therefore reducing the setback to zero is the minimum variance necessary to allow for the continued use of the existing private road as a means of ingress and egress to the Home Based Contracting Use.

E) Is the property connected to: public water?: Y ☒ N ☐; public sewer?: Y ☒ N ☐

F) If the variance is granted, would it impact the water and/or septic/sewer on the site? Y ☐ N ☒

G) If the variance is granted, would it increase the intensity of uses on the site? Y ☐ N ☒ if yes,

explain: If granted, the uses would not change. The Home Based Contracting Use has been in continuous existence since 1990.

H) If the requested variance is granted, would it increase traffic to or from the site? Y ☐ N ☒ if yes, explain: No changes to the existing uses are proposed.

I) Describe in detail all means of vehicular access onto the site (i.e. width, type of paving, etc.): The private road known as Shady Acres Lane which is approximately 20' wide and consists of asphalt paving; it is the the only means of vehicular access to the Subject Property.

J) Describe the topography of the site: Shady Acres Lane is relatively flat and straight from the public road back to the
Subject Property, which is where the private road ends and the existing asphalt driveway begins.

K) Will the existing or proposed structure be visible from adjacent properties? Y__ N X; if yes, describe
any proposed buffering or landscaping: This variance if granted will not effect the visibility of any existing or proposed
structures on the Subject Property. (Please see the attached Conditional Use & Variance Plan.)

L) Describe any existing buffering or landscaping: See attached Conditional Use & Variance Plan.

8. PRIOR PETITIONS

Has any petition for the same variance, or substantially the same variance as contained herein, for the same
property as the subject of this petition been disapproved by the Hearing Examiner within twenty four (24)
months of the date of this petition? ☐ YES ☒ NO

If yes, and six (6) months have elapsed since the last hearing, an affidavit setting forth new and different
grounds on which re-submittal is based must be attached.

9. ADDITIONAL MATERIAL, FEES, POSTING, AND ADVERTISING

- a) If desired, supplemental pages may be attached to the petition. The following number of
petitions, plans and supplemental pages must be submitted:
- *If the subject property adjoins a State road- original and 19 copies
(application & plans)*
 - *If the subject property adjoins a County road- original and 16 copies
(application & plans)*
- b) The undersigned agrees to furnish such additional plats, plans, reports or other material as
may be required by the Department of Planning and Zoning and/or the Hearing Examiner
in connection with the filing of this petition.
- c) The undersigned agrees to pay all costs in accordance with the current schedule of fees.
- d) The undersigned agrees to properly post the property at least fifteen (15) days prior to the
hearing and to maintain the property posters as required, and submit an affidavit of
posting at, or before the time of the hearing.
- e) The undersigned agrees to insert legal notices, to be published one (1) time in at least two
(2) newspapers of general circulation in Howard County, as prepared and approved by the
Department of Planning and Zoning, within at least fifteen (15) days prior to the hearing,
and to pay for such advertising costs; and further agrees to submit two (2) approved
certificates of the text and publication date(s) of the advertisement at or before the time of
the hearing.

10. PLANNING BOARD REVIEW

The Hearing Examiner may, at its discretion, refer a residential district variance petition to the Planning Board for review and a recommendation.

11. SIGNATURES

The undersigned hereby affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.

By: Jonathan L. Miller, Trustee

Miller Family Trust
Petitioners Name (please print)

Jonathan L. Miller Trustee 11-8-16
Petitioner's Signature Date

William E. Erskine
Counsel's Name (please print)

William E. Erskine 11.9.2016
Counsel's Signature Date

For DPZ office use only: (Filing fee is \$300.00 plus \$25.00 per poster.)
(Make checks payable to "Director of Finance")

Hearing fee: \$ _____
Poster fee: \$ _____
TOTAL: \$ _____

Receipt No. _____

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised: 07/12

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The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.

By: Sonya A. Miller, Trustee

Miller Family Trust
Petitioners Name (please print)

Sonya A. Miller, Trustee
Petitioner's Signature Date 11-8-16

William E. Erskine
Counsel's Name (please print)

William E. Erskine
Counsel's Signature Date 11-9-2016

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The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.

By: Jonathan Miller, Sole Member

Shady Acres Lane, LLC
Petitioners Name (please print)

Jonathan Miller Sole member 11-8-16
Petitioner's Signature Date

William E. Erskine
Counsel's Name (please print)

William E. Erskine 11-9-2016
Counsel's Signature Date

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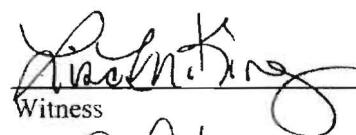
PETITIONER Miller Family Trust

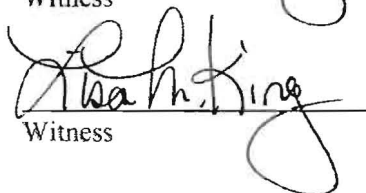
PROPERTY ADDRESS 10430 Shady Acres Lane, Laurel, Maryland 20723

Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended.


THE UNDERSIGNED DOES HEREBY DECLARE THAT NO OFFICER OR EMPLOYEE OF HOWARD COUNTY, WHETHER ELECTED OR APPOINTED, HAS RECEIVED PRIOR HERETO OR WILL RECEIVE SUBSEQUENT HERETO, ANY MONETARY OR MATERIAL CONSIDERATION, ANY SERVICE OR THING OF VALUE, DIRECTLY OR INDIRECTLY, UPON MORE FAVORABLE TERMS THAN THOSE GRANTED TO THE PUBLIC GENERALLY IN CONNECTION WITH THE SUBMISSION, PROCESSING, ISSUANCE, GRANT OR AWARD OF THE ATTACHED APPLICATION FOR A RESIDENTIAL DISTRICT VARIANCE AS REQUESTED FOR THE PROPERTY REFERENCED ABOVE.

I WE, DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE AFOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY, OUR, KNOWLEDGE, INFORMATION AND BELIEF.

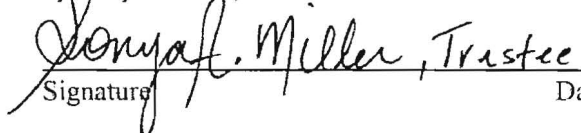

Witness


Witness

By: Jonathan L. Miller, Trustee

 Trustee 11-9-16
Signature Date

By: Sonya A. Miller, Trustee

 Trustee 11-9-16
Signature Date

Witness

Signature

Date

PETITIONER Shady Acres Lane, LLC

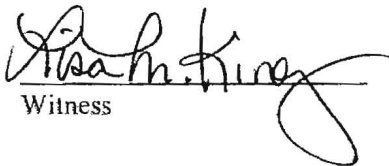
PROPERTY ADDRESS 10430 Shady Acres Lane, Laurel, Maryland 20723

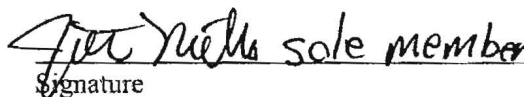
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By: Jonathan Miller, Sole Member


Witness

 sole member 11-9-16
Signature Date

Witness

Signature Date

Witness

Signature Date

HOW A REQUEST FOR A VARIANCE IS EVALUATED

All requests for variances are evaluated based upon the following criteria of Section 130.B.2.a.(1) through (5) of the Howard County Zoning Regulations:

- (1) That there are unique physical conditions, including irregularity, narrowness or shallowness of lot or shape, exceptional topography or other existing features peculiar to the particular lot; and that as a result of such unique physical conditions, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.
- (2) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.
- (3) That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
- (4) That within the intent and purpose of these regulations, the variance, if granted, is the minimum variance necessary to afford relief.
- (5) That no variance be granted to the minimum criteria established in Section 131 for special exception uses, except where specifically provided therein or in an historic district. Nothing herein shall be construed to prevent the granting of variances in any zoning district other than to the minimum criteria established in Section 131 except as provided therein.

To be approved, a variance request must comply with all of the criteria noted above. For a general explanation of what the criteria mean from a legal standpoint and how they are viewed by the Hearing Examiner, please read the attached Variances: The Exception to the Zoning Rule.

For an explanation of the official procedures that are followed in the processing, hearing and decision-making of a variance request, you may obtain a copy of the Rules of Procedure of the Hearing Examiner from the Department of Planning and Zoning.

Variances: The Exception to the Zoning Rule

by
Thomas P. Carbo

So, Mr. Joe Homeowner, you've finally decided to build that family room addition you've talked about. Your house just isn't big enough for your growing family. Since you can't afford to move, expansion is the only way to go.

You've decided that the best place for the addition is on the side of your house, because you put a deck on the back last year. Besides, who wants to use up more of that spacious back yard? You hire a contractor to draw up plans and he assures you that his work will meet all governmental requirements. Then, he tells you that you have one little problem – the planned family room will encroach into the side yard setback. Before he can get a building permit and start work, you'll have to get a zoning variance.

"A variance," you ask, "what's that?" "Don't worry," he replies, "you fill out some forms, submit them to the County, they have a little hearing, and you've got your variance." Piece of cake, right?

Sorry, Joe, but it's not that easy. It is a common misconception that variance approvals flow from local zoning authorities like water. This may be because, once upon a time, they practically did. Recent Maryland case law, however, has instructed that the free-flow of variances is contrary to the letter and intent of the zoning laws.

A variance is an exception to the area requirements of the local zoning laws, such as front, side, or rear yard setbacks, height restriction, building size, lot widths, or the like. A variance must be reviewed and approved by the local Board of Appeals after a public hearing.

Maryland's courts have directed that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances. The reason for such stringency is rooted in the very purpose of the zoning laws. Zoning is the process whereby the local jurisdiction's comprehensive land use plan is put into effect. It divides an area into zones and defines, among other things, the permitted uses and area requirements of each zone. Zoning presumes that each district is peculiarly suitable for certain uses and, therefore, demands a high degree of uniformity within the zone. With respect to setback requirements, for example, zoning presumes that a certain amount of space between uses is necessary for the public benefit.

A variance on the other hand, allows that which is otherwise prohibited and is presumed to be detrimental to the public. Moreover, a variance erodes the uniformity of the zoning district. If variances were easily or lightly granted, the zoning ordinance would be emasculated and zoning

would be rendered meaningless.

Consequently, variances must be regarded as the exception rather than the rule. An applicant for a variance bears the burden of overcoming the presumption that the proposed use is unsuitable. That is done, if at all, by fully satisfying the statute authorizing the variance.

Howard County's variance criteria are typical of most zoning ordinances. Generally, a variance applicant must show that (1) the applicant's property is disproportionately impacted by the zoning restriction to the applicant's detriment, and (2) the variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

Many variance applications fail because they cannot meet the first of these tests. In order to show that a property is disproportionately impacted by the zoning regulations, the applicant must first prove that the lot is "unique" or "peculiar" – that is, the physical condition of the property, such as its size, narrowness, shallowness, topography, or environmental conditions, must be different from the nature of surrounding properties. Moreover, the uniqueness of the property must cause a "practical difficulty" in complying with the zoning restriction. In other words, the applicant must show that the peculiarity of the site prevents him from making a reasonable and permitted use of the property in compliance with the zoning regulations.

Zoning law includes several important caveats to the "disproportionate impact" test:

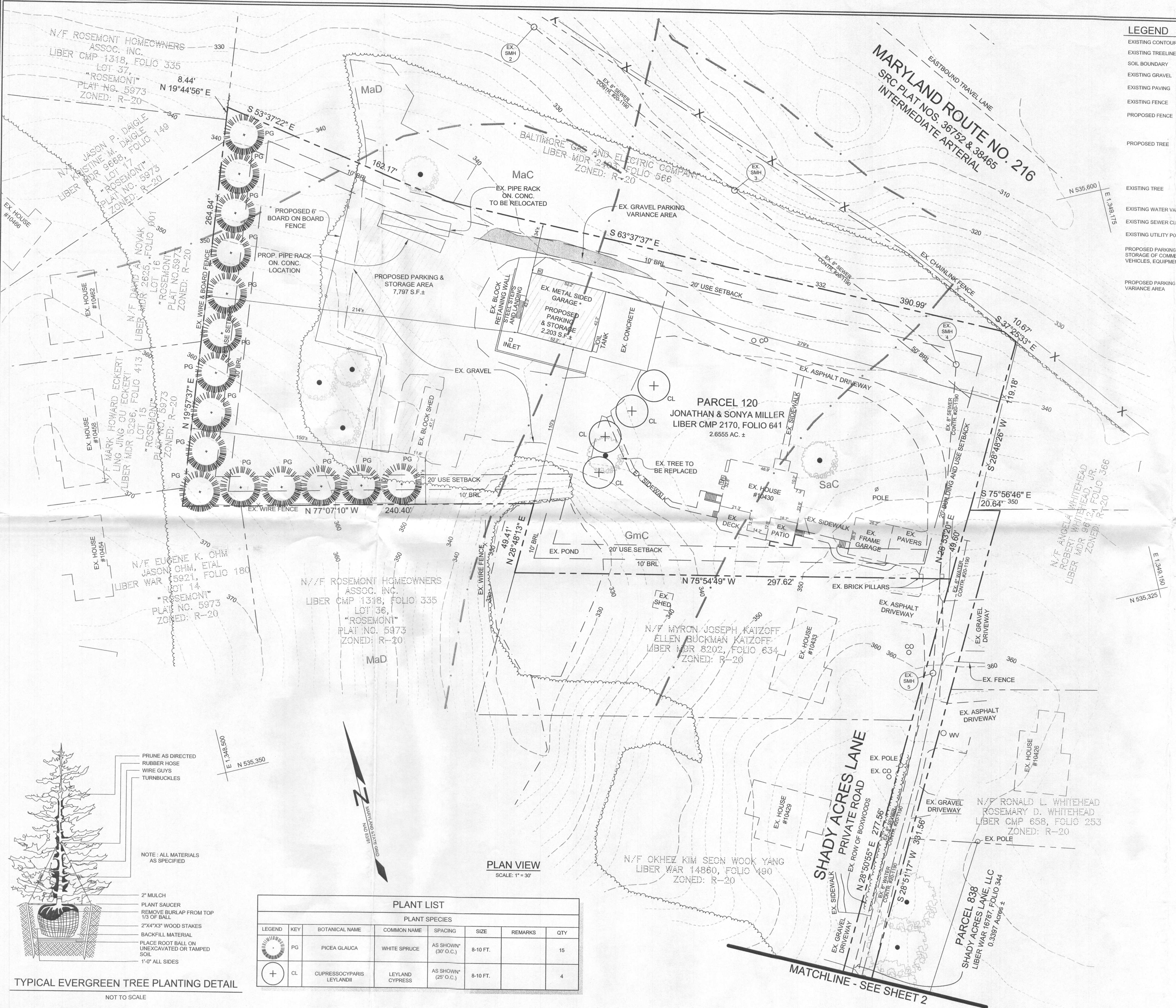
- The alleged hardship must relate to the land itself and not to the personal circumstances of the owner. Family or financial circumstances may not be taken into consideration.
- "Uniqueness" does not refer to the extent of the improvements upon the property – so that the location of a house restricting the buildable area on the land is not cause for a variance.
- Any claimed hardship cannot be "self-created." For example, an applicant (or a previous owner) may not erect an improvement within a setback and then claim that it would be a "practical difficulty" to remove the structure.
- The variance must be the minimum reasonably necessary to afford relief. This means that the encroachment must be minimized and the improvement must be of reasonable and customary size.

Joe Homeowner is not likely to get his variance. First, the fact that Joe has a growing family and "needs" a new family room is a personal consideration and not relevant to his variance request. Second, if he is not able to meet his burden of proving that his lot is different from others in the neighborhood – for example, that it is peculiarly narrow or small compared to others in his area – then the inquiry will end there. Even then, he must show that the peculiarity causes a practical

difficulty in erecting a reasonable addition to his house. Because his lot has ample room to build in the rear, however, it is not likely that he can establish the necessary hardship or that his variance is the minimum necessary to afford relief. What's more, he won't be able to argue that the location of the deck prevents him from building at the rear of the house because its prior construction will likely be regarded as "self-created" and not the type of "unique" condition warranting a variance.

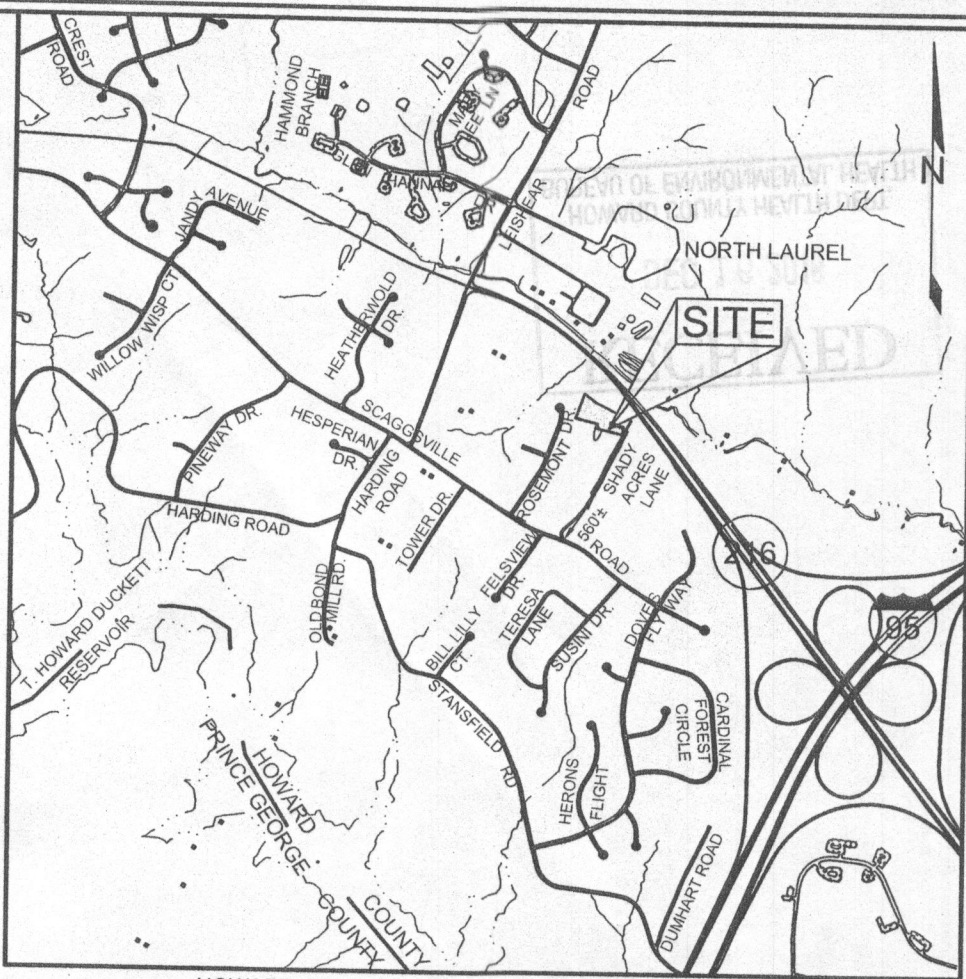
Unwary homeowners, like Joe, need to be made aware that Howard County's Board of Appeals is, for its part, attempting to follow the courts' lead and stem the tide of unwarranted variance approvals. While this trend is perhaps not to our friend Joe's liking, it is good news for the preservation of the County's comprehensive land use plans.





LEGEND

- EXISTING CONTOUR
- EXISTING TREELINE
- SOIL BOUNDARY
- EXISTING GRAVEL
- EXISTING PAVING
- EXISTING FENCE
- PROPOSED FENCE
- PROPOSED TREE
- EXISTING TREE
- EXISTING WATER VALVE
- EXISTING SEWER CLEANOUT
- EXISTING UTILITY POLE
- PROPOSED PARKING AND STORAGE OF COMMERCIAL VEHICLES, EQUIPMENT & SUPPLIES
- PROPOSED PARKING VARIANCE AREA



VICINITY MAP
SCALE: 1"=2000'

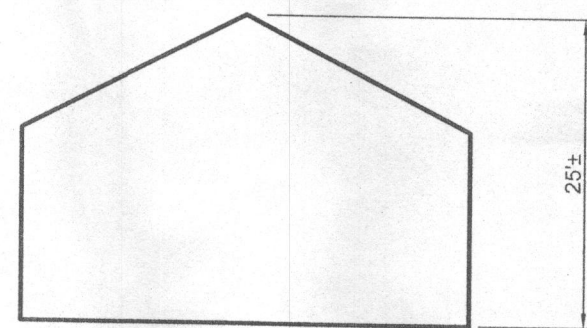
SOILS LEGEND

SYMBOL	NAME / DESCRIPTION	GROUP	'K' FACTOR
GmC	GLENVILLE SILT LOAM, 8 TO 15 PERCENT SLOPES	C	0.43
MaC	MANOR LOAM, 8 TO 15 PERCENT SLOPES	B	0.28
MaD	MANOR LOAM, 15 TO 25 PERCENT SLOPES	B	0.28
SaC	SASSAFRAS LOAM, 5 TO 10 PERCENT SLOPES	B	0.28

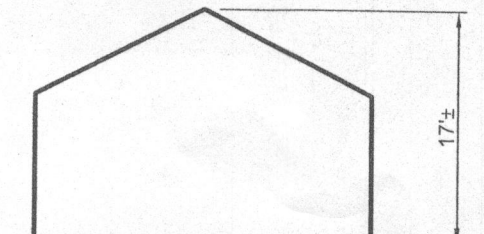
- NOTES:
- SOIL INFORMATION HAS BEEN TAKEN FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE WEB SOIL SURVEY.
 - HIGHLY ERODIBLE SOILS ARE THOSE SOILS WITH A SLOPE GREATER THAN 15 PERCENT OR THOSE SOILS WITH A SOIL ERODIBILITY FACTOR 'K' GREATER THAN 0.35 AND WITH A SLOPE GREATER THAN 5 PERCENT.

GENERAL NOTES

- SUBJECT PROPERTY ZONED R-20 PER 10/06/13 COMPREHENSIVE ZONING PLAN.
- AREA OF PROPERTY:
PARCEL 120 = 2.6555 AC.±
PARCEL 838 = 0.3397 AC.±
TOTAL = 2.9952.
- THIS PROPERTY IS ADJACENT TO THE HIGH RIDGE, TOWER ACRES AND LAKEVIEW COMMUNITY.
- PUBLIC WATER AND PUBLIC SEWER WILL BE USED WITHIN THIS SITE.
- THE BOUNDARY SHOWN HEREON IS BASED ON A FIELD RUN SURVEY PERFORMED BY PROFESSIONAL SURVEYS, LLC IN APRIL 29, 2016.
- NO 100 YEAR FLOODPLAIN ARE PRESENT ON THE SITE.
- PROPERTY ADDRESS: 10430 SHADY ACRES LANE
- REFERENCE:
PARCEL 120: LIBER CMP 2170, FOLIO 641
PARCEL 838: LIBER WAR 16787, FOLIO 344
- EXISTING USE: RESIDENTIAL
- PROPOSED USE: RESIDENTIAL AND HOME-BASED CONTRACTOR
- THE PETITIONER IS REQUESTING A ZONING VARIANCE TO REDUCE THE REQUIRED SETBACK UNDER HCZR SECTION 108.6 D.4 C(2) FROM 20 FEET TO 0 FEET ALONG BOTH SIDES OF THE USE IN COMMON DRIVEWAY.
- THE EXISTING PIPE RACK MEASURES 12".



EX. METAL SIDED GARAGE
NOT TO SCALE



EX. BLOCK SHED
NOT TO SCALE

OWNER / PETITIONER

PARCEL 120: JONATHAN AND SONYA MILLER
10430 SHADY ACRES LANE
LAUREL, MD 20723
EMAIL: JON@MILLERCI.COM
(301) 943-5093

ATTORNEY

OFFIT KURMAN ATTORNEY AT LAW
C/O WILLIAM ERSKINE
8171 MAPLE LAWN BOULEVARD, SUITE 200
MAPLE LAWN, MD 20759
EMAIL: WERSKINE@OFFITKURMAN.COM
(301) 575-1363

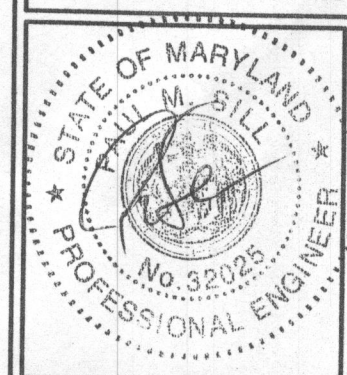
PARCEL 838: SHADY ACRES LANE, LLC.
C/O JONATHAN MILLER
10430 SHADY ACRES LANE
LAUREL, MD 20723
EMAIL: JON@MILLERCI.COM
(301) 943-5093

CONDITIONAL USE AND VARIANCE PLAN

MILLER PROPERTY
10430 SHADY ACRES LANE

TAX MAP 47 GRID 7
6TH ELECTION DISTRICT

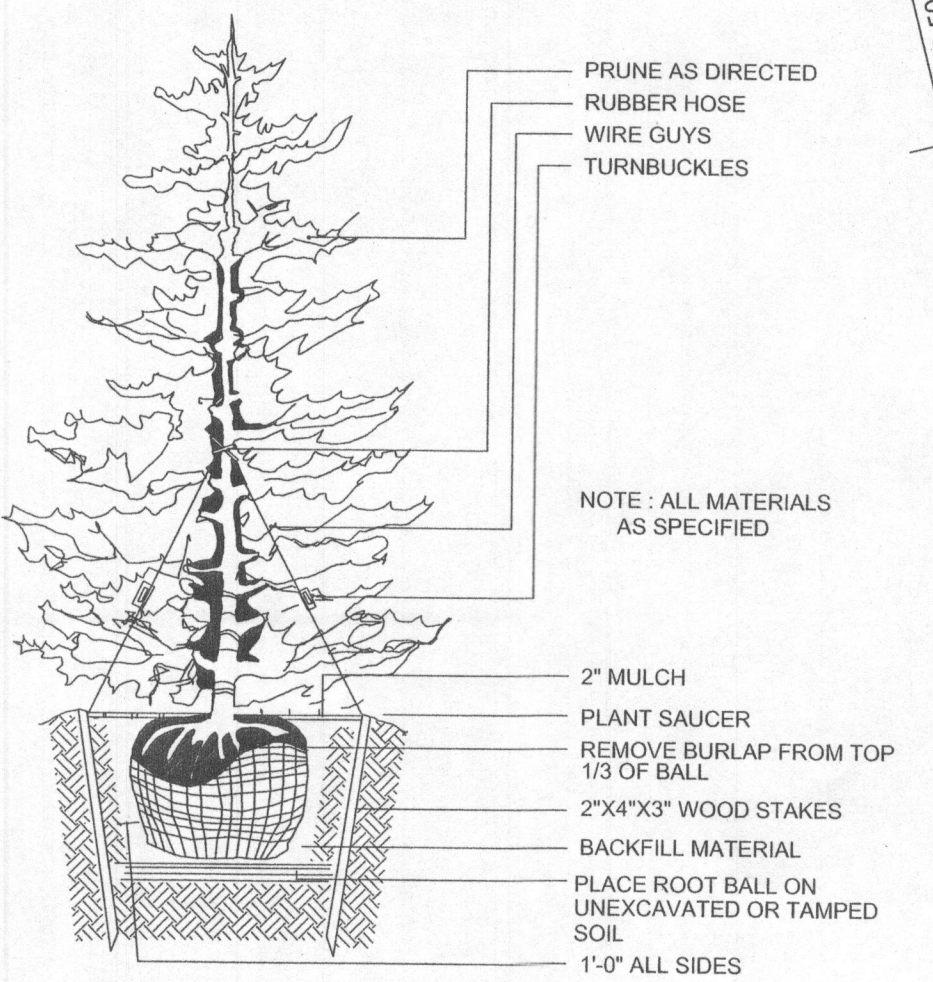
PARCELS: 120 & 838
HOWARD COUNTY, MARYLAND



SILL ENGINEERING GROUP, LLC
11130 Dovedale Court, Suite 200
Marriottsville, Maryland 21104
Phone: 443.325.5076
Fax: 410.696.2022
Email: info@sillingengineering.com
Civil Engineering for Land Development

DESIGN BY: PS
DRAWN BY: RA/AEA
CHECKED BY: PS
SCALE: AS SHOWN
DATE: NOVEMBER 9, 2016
PROJECT #: 15-047
SHEET #: 1 of 2

PROFESSIONAL CERTIFICATION: I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 32025, EXPIRATION DATE: JUNE 20, 2017



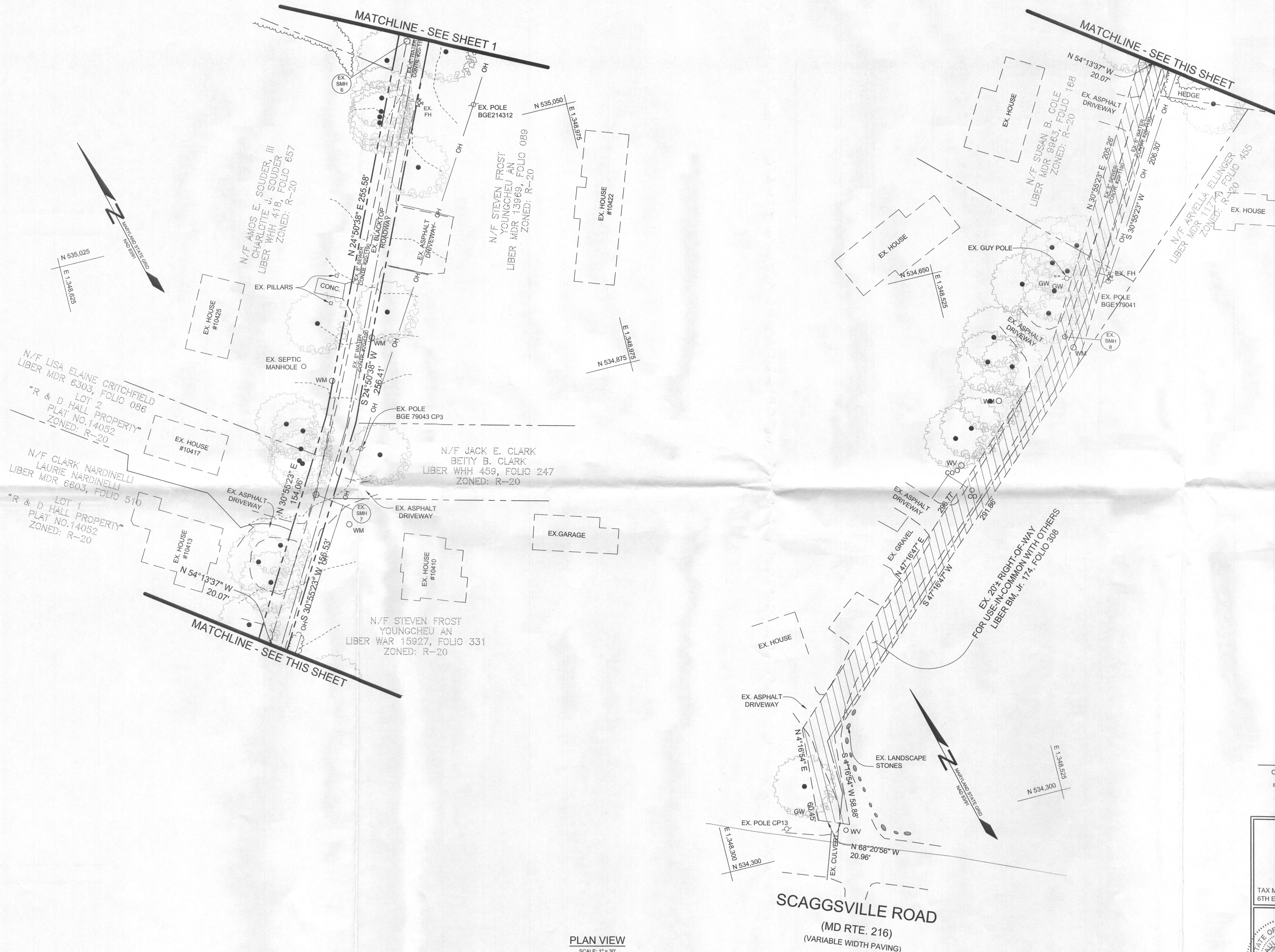
TYPICAL EVERGREEN TREE PLANTING DETAIL
NOT TO SCALE

PLANT LIST

LEGEND	KEY	BOTANICAL NAME	COMMON NAME	SPACING	SIZE	REMARKS	QTY
PG		PICEA GLAUCA	WHITE SPRUCE	AS SHOWN* (30" O.C.)	8-10 FT.		15
CL		CUPRESSOCYPARIS LEYLANDII	LEYLAND CYPRESS	AS SHOWN* (25" O.C.)	8-10 FT.		4

LEGEND

EXISTING CONTOUR	---
EXISTING TREELINE	~~~~~
SOIL BOUNDARY	---
EXISTING GRAVEL	---
EXISTING PAVING	---
EXISTING TREE	●
EXISTING FENCE	X
EXISTING WATER VALVE	○
EXISTING SEWER CLEANOUT	○
EXISTING UTILITY POLE	○



PLAN VIEW
SCALE: 1" = 30'

OWNER / PETITIONER

PARCEL 120: JONATHAN AND SONYA MILLER
10430 SHADY ACRES LANE
LAUREL, MD 20723
EMAIL: JON@MILLERCI.COM
(301) 943-5093
PARCEL 838: SHADY ACRES LANE, LLC
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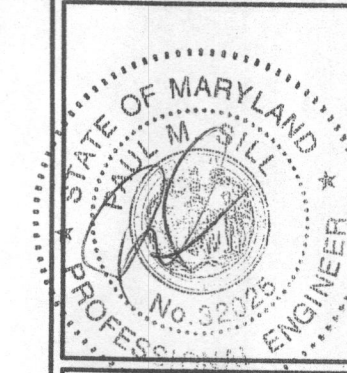
CONDITIONAL USE PLAN

MILLER PROPERTY

10430 SHADY ACRES LANE

TAX MAP 47 GRID 7
6TH ELECTION DISTRICT

PARCELS: 120 & 838
HOWARD COUNTY, MARYLAND



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CHECKED BY: PS
SCALE: AS SHOWN
DATE: NOVEMBER 9, 2016
PROJECT #: 15-047
SHEET #: 2 of 2

PROFESSIONAL CERTIFICATION: I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 32025, EXPIRATION DATE: JUNE 20, 2017.