FINDINGS AND RECOMMENDATION OFFICE OF PLANNING AND ZONING ANNE ARUNDEL COUNTY, MARYLAND

APPLICANT: Nicholas Nonn ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2024-0139-V COUNCILMANIC DISTRICT: 2nd

HEARING DATE: April 1, 2025 PREPARED BY: Donnie Dyott Jr.

Planner

REQUEST

The applicant is requesting a variance to allow an accessory structure (detached garage) with less setbacks than required and with greater floor area than the principal structure on property located at 8446 Elvaton Road in Millersville.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of approximately 1.95 acres of land (per SDAT records) and is zoned as R1 - Residential District. The property is identified as Parcel 295 in Block 21 on Tax Map 16. This property is located outside of the Chesapeake Bay Critical Area and is improved with a single family detached dwelling and associated facilities.

APPLICANT'S PROPOSAL

The applicant seeks to construct a one story detached garage measuring 30' X 70' (height 16') to the rear (south) of the existing dwelling. There are currently three other accessory structures that will be removed if the proposed accessory structure is constructed.¹

REQUESTED VARIANCES

§ 18-2-204 (d) of the Anne Arundel County Zoning Code states that the floor area of an accessory structure may not be greater than the floor area of the principal structure. The proposed detached garage will measure 30' X 70' and contain 2,100 square feet of floor area whereas the existing one story dwelling measures 24' X 32' and contains 768 square feet of floor area. As such, the detached garage would exceed the floor area of the principal structure and would necessitate a variance to this provision.

§ 18-4-701 of the Anne Arundel County Zoning Code stipulates that accessory structures eight feet in height or greater in an R1 - Residential District shall be set back a minimum of 15 feet from the side lot lines. As proposed, the garage will be located as close as 8 feet from the western side lot line, necessitating a variance of 7 feet.

¹ The site plan shows three existing accessory structures while the applicant's letter only references two as existing. The letter also explains that they will be removed and replaced with the new accessory structure. It is unclear to this Office if there are currently two or three existing accessory structures and which ones will be removed if this application is approved.

AGENCY COMMENTS

The **Health Department** commented that additional information is needed on the type and location of the on-site sewage disposal system and conducting perc tests to establish room of the two replacement septic disposal systems.

The **Recreation and Parks Department** commented that the B&A Trail lies to the north and on the opposite side of Elvaton Road from this parcel. The development shall not discharge to the County's property at a rate greater than existing conditions. The proposed development is consistent with the spirit of the Green Infrastructure Master Plan.

FINDINGS

The subject property is of adequate size and width for a lot in the R1 District. The State tax records indicate the dwelling was constructed in 1957. The applicant describes that the open portions of the site are being micro-farmed and the new structure will support that farm use. The new structure would replace the existing accessory structures that are not in good shape. The applicant also concedes that the site would allow for multiple accessory structures that would equal the square footage of the proposed building, but would entail additional costs.

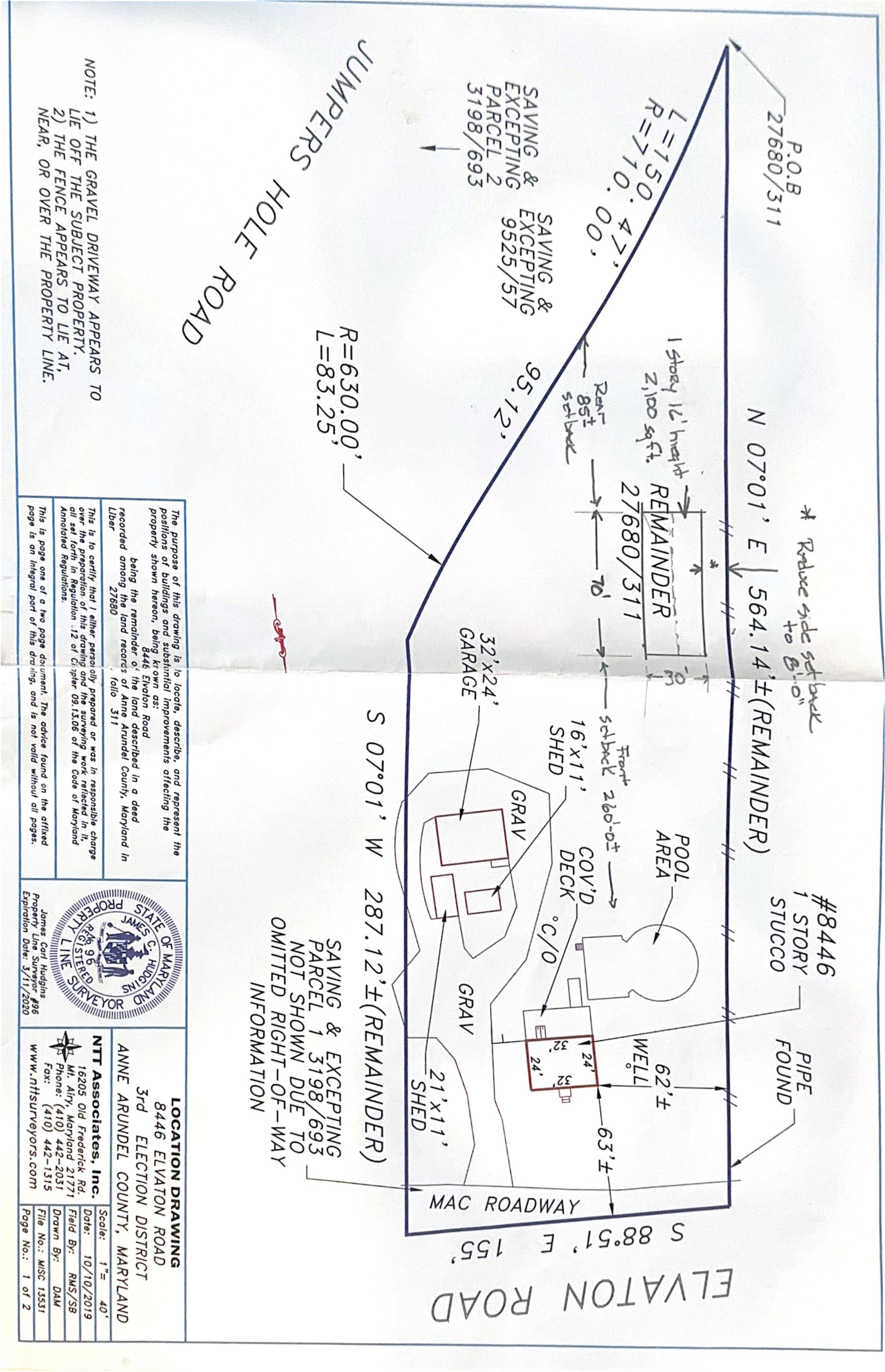
When analyzing the variance criteria there is no apparent feature or unique condition that would cause the applicant an unwarranted hardship or practical difficulty in the use of the lot. The site is of adequate size and width for the R1 District and there appears to be ample room to construct an accessory structure that complies with the Code. Additionally, there are several accessory structures on the site and those could be replaced either in-kind, or with several smaller structures to provide the desired amenity. The applicant contends that constructing multiple structures instead of one large structure would entail additional costs, however, the Code is clear that financial considerations cannot be used to justify a variance. As the applicant appears to have the ability to comply with the Code, no apparent hardship or practical difficulties exist and the variances are unwarranted.

There is no evidence that the proposed variance will alter the essential character of the neighborhood, be detrimental to the public welfare or impair the appropriate use or development of adjacent properties. However, this Office does not consider a variance for an accessory structure over 2,000 square feet that is more than double the square footage of the dwelling to be the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends *denial* of the zoning variance to allow the construction of the detached garage as shown on the site plan.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



Zoning/Planning

Nicholas Nonn 8446 Elvaton Rd Millersville Md 21108

Dear Zoning/Planning:

The proposed variance being requested is for the construction of a detached garage at 8446 Elvaton Rd Millersville 21108. The request is to allow for a 2,100 sq. ft. garage in lieu of the current restriction that would limit the size according to the sq. footage of the house. The variance is also being requested to reduce the right-side setback from 15ft to 8ft. The property is roughly 2 acres and surrounded by a nice border of vegetation and tree lined. The lot has very little topography variation. A large portion of the open space is being micro-farmed; the building purpose will support the farm.

The existing structures include the primary residence a 2 story 32x24 house 24ft in height that sits 63ft back form the road. There are 2 accessory structures 21x11 and 16x11 that are 14 ft tall roughly 130ft back from the road. The building is planned in the rear of the property is roughly 280ft from the road and would replace the older dilapidated garage structures once completed. The additional sq. footage requested in the variance is similar to the area already served by these buildings. The zoning will allow for multiple accessory buildings that cumulatively would equal what is being requested, however this would equate to additional costs as well.

The property is adjacent to one residential zoned neighbor to the right that shares a 564 ft property line. The property is not that well-kept and the owner's house is no more than 8 ft from property line side. The proposed garage location would be set 280ft back from the front and parallel to the property line length ways. The reduced setback will allow a visual block while maximizing space in front for planting. The other property sidelines are adjacent to Jumpers Hole Rd and Elvaton with commercial zoning across the street.

Nicholas Nonn Property Owner Semi-Annual Payments 08-02-2019 LO

ACCT. 03-000-19315000 ALL LIENS ARE PAID AS OF 08-02-2019 A.A. COUNTY BY: LO

Anne Arundel Cty Finance Office County Transfer Tax \$2,640.00 County Recordation Tax \$1,848.00 08/02/2019 12:41 PM AG

Case No.:

3-11995-19

Title Insurer:

First American Title Insurance Company

Tax Account No.: 3-000-19315000

Universal Title 2105 Laurel Bush Road Suite 201 Bei Air, MD 21015

THIS DEED

BOOK: 33418 PAGE: 124

THIS DEED, made this 12th day of July, 2019, by and between Rocky Holdings LLC, party of the first part, and Nicholas J. Nonn party of the second part,

WITNESSETH, that for and in consideration of the sum of TWO HUNDRED SIXTY FOUR THOUSAND AND 00/100 (\$264,000.00), receipt of which is hereby acknowledged, and which the party of the first part certifies under the penalties of perjury as the actual consideration paid or to be paid, including the amount of any mortgage or deed of trust outstanding, the said party of the first part does grant and convey unto the party of the second part, in fee simple, all that property situate in Anne Arundel, State of Maryland, as described as follows:

BEGINNING FOR THE SAME at a point on the north 88 degrees west 137 1/2 perches line of the land described in a Deed from Nathan Pumphrey to James William Stallings dated December 30, 1981, and recorded among the Land Records of Anne Arundel County in Liber S.H. No. 18, folio 634 & c., at the distance of 1684.50 feet southeasterly from the end of said line; thence north 7 degrees 01 minutes east 567.80 feet to the center of the County Road leading from Crane Highway to Elvaton Station on the Baltimore & Annapolis Shore Line Railroad; thence south 88 degrees 51 minutes east binding thereon 155 feet; thence south 7 degrees 01 minutes west 574 feet to intersect the aforesaid north 88 degrees west 137 1/2 perches line; thence north 86 degrees 35 minutes west binding therein 155 feet to the place of beginning. Containing 2 acres, more or less.

SAVING AND EXCEPTING however therefrom, all those 2 parcels conveyed by Deed dated April 27, 1979 and recorded among the Land Records in Liber W.G.L. 3198, folio 693, by Otto K. Manthe to Anne Arundel County, Maryland (for Jumpers Hole Road).

EXCEPTING AND RESERVING all that parcel of land conveyed by Deed dated October 12, 1999, and recorded among the Land Records in Liber 9525, folio 57, by John R. Quinn, Jr. and Susan Quinn to Anne Arundel County, Maryland.

For informational purposes only: The improvements thereon being known as 8446 Elvaton Road.

Being the same property which by deed dated September 29, 2014, and recorded among the Land Records of Anne Arundel, Maryland on October 3, 2014, in Liber 27680, in Folio 311, was granted and conveyed by Kelly Farace as Personal Representative of the Estate of Joseph F. Farace, Jr. unto Rocky Holdings LLC, a Maryland Limited Liability Company.

SUBJECT to covenants, easements and restrictions of record.

TO HAVE AND TO HOLD said land and premises above described or mentioned and hereby intended to be conveyed, together with the buildings and improvements thereupon erected, made or being, and all and every title, right, privileges, appurtenances and advantages thereunto belonging, or in anywise appertaining, unto and for the proper use only and benefit forever of said party of the second part in fee simple.

Anne Arundel Cty Cir Ctt

Anne Arundel Cty Cir Crt
IMP FD SURE \$40.00
RECORDING FEE \$20.00
TR TAX STATE \$660.00
TOTAL \$720.00
SAP LK
Aug 02, 2019 03:39 pm

AND said party of the first part does hereby covenant to warrant specially the property hereby conveyed; and to execute such further assurances of said land as it may be requisite or necessary.

WITNESS their/his/her hand and seal on the day and year first hereinbefore written.

Signed, sealed and delivered in the presence of,

Rocky Holdings LLC, a Maryland Limited Liability Company

Cary Rayle, Sole Member

STATE OF MARYLAND

COUNTY OF: HOWARD COUNTY

Sworn to and subscribed before me by Cary Rayle, Sole Member of Rocky Holdings LLC on this

12th day of July, 2019.

Signature of Notary Public

_(SEAL)

AMIN KHAKPOURI

NOTARY PUBLIC

BALTIMORE CITY

MARYLAND

MY COMMISSION EXPIRES OCT. 1, 2020

My Commission Expires:

After recording return to:

GRANTEE ADDRESS:

Universal Title 2105 Laurel Bush Road Suite 201 Bel Air MD 21015 (703) 354-2100

File No.: 3-11995-19

BOOK: 33418 PAGE: 127

ATTORNEY CERTIFICATION

I certify that this instrument was prepared under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland.

M. 9 June Michael Alexander Guy

2019

WH-AR

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1.	Transferor Information Name of Transferor Rocky Holdings LLC									
2.	Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers). 8446 Elvaton Road Millersville, MD 21108									
3.	Reasons for Exemption									
	Resident Status	As of the date this form i	As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.							
		(COMAR)03.04.12.02B(11	Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.							
	Princîpal Residence	Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.								
	Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.									
За.	. Individual Transferors									
	Witness		Name	**Date						
			Signature							
3b	. Entity Transferors									
	Witness/Attest		Rocky Holdings LLC Name of Entity Rocky Holdings LLC	2						
			By / Cary Rayle	7-(2-19						
			Sole Member							
			Title							

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 33418, p. 0128, MSA_CE59_33860. Date available 08/14/2019. Printed 07/15/2024.

^{**} Form must be dated to be valid.

AFFIDAVIT OF GRANTEE AS FIRST-TIME MARYLAND HOME BUYER

The undersigned state under oath and penalties of perjury that the following is true to the best of the knowledge, information, and belief of the individual:

- The undersigned is Grantee of residentially improved real property located at 8446 Elvaton Road, Millersville, MD 21108.
- The undersigned is first-time Maryland home buyer (defined as an individual who has never owned in the state residential real property that has been the individual's principal place of residence) who will occupy the property as Grantee's principal residence.

Nicholas J. Nonn

Or, the undersigned state under oath and penalties of perjury that the following is true to the best of the knowledge, information, and belief of the individual:

- The undersigned is Grantee of residentially improved real property located at 8446 Elvaton Road, Millersville, MD 21108.
- The undersigned is co-maker or guarantor of the purchase money mortgage or purchase money deed of trust as defined in §12-108(i) of the Tax Property Article on the property who will not occupy the property as Grantee's principal residence.

STATE OF MARYLAND

COUNTY OF: HOWARD COUNTY to wit:

Sworn to and subscribed before me by Nicholas J. Nonn on this 12th day of July, 2019.

(SEAL)

Signature of Notary Public

My Commission Expires MIN KHAKPOUR!

NOTARY PUBLIC
BALTIMORE CITY
MARYLAND
MY COMMISSION EXPIRES OCT. 1, 2020

Affidavit of Grantee - First-Time Home Buyer

File No 3-11995-19

Page 1 of 1

OWNER OCCUPANCY AFFIDAVIT

Nicholas J. Nonn the Grantees in the within Deed hereby certify under the penalties of perjury, as evidenced by the joiner herein, that the land conveyed in this Deed is residentially improved owner-occupied real property and that the purchasers intend to occupy the residence for at least seven (7) of the next twelve (12) months.

Nicholas J. Nonn

STATE OF MARYLAND

COUNTY OF: HOWARD COUNTY to wit:

Sworn to and subscribed before me by Nicholas J. Nonn on this 12th day of July, 2019.

___(SEAL)

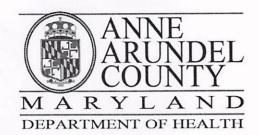
Signature of Notary Public

My Commission Expires:

AMIN KHAKPOURI
NOTARY PUBLIC
BALTIMORE CITY
MARYLAND
MY COMMISSION EXPIRES OCT. 1, 2020

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J. Howard Beard Health Services Building 3 Harry S. Truman Parkway Annapolis, Maryland 21401 Phone: 410-222-7095 Fax: 410-222-7294 Maryland Relay (TTY): 711 www.aahealth.org

Tonii Gedin, RN, DNP Health Officer

MEMORANDUM

TO:

Sadé Medina, Zoning Applications

Planning and Zoning Department, MS-6301

FROM:

Brian Chew, Program Manager

Bureau of Environmental Health

DATE:

February 11, 2025

RE:

Nicholas J. Nonn

8446 Elvation Road Millersville, MD 21108

NUMBER:

2024-0139-V

SUBJECT:

Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow an accessory structure (detached garage) with less setbacks than required and with greater floor area than the principal structure.

Based on a review of the above referenced request, additional information is needed by the Health Department on the type and location of the on-site sewage disposal system and conducting perc test(s) to establish room of the two replacement septic disposal systems.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc:

Sterling Seay



STEUART PITTMAN, COUNTY EXECUTIVE JESSICA LEYS, DIRECTOR RECREATION AND PARKS 1 HARRY S. TRUMAN PKWY ANNAPOLIS, MD 21401 AACOUNTY.ORG/RECPARKS



MEMORANDUM

TO: Sadé Medina, Zoning Division

Office of Planning and Zoning

FROM: Pat Slayton

Capital Projects Division

SUBJECT: Variance Case 2024-0139-V

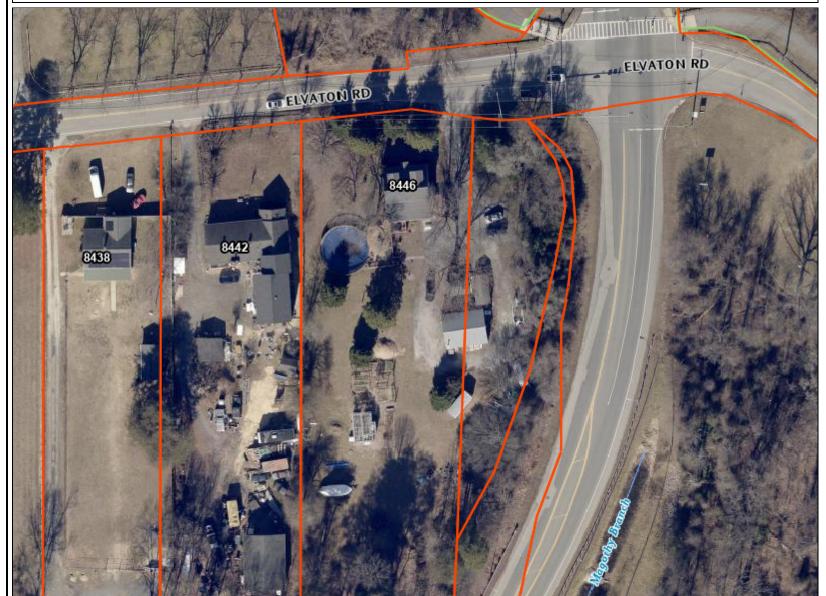
DATE: February 18, 2025

The Department of Recreation and Parks has reviewed the above plans to determine if there may be impacts to the Anne Arundel County Green Infrastructure Network, parks, and trails. Please note our recommendations according to those findings below.

- The B&A Trail lies to the north and on the opposite side of Elvaton Road from this parcel. This development shall not discharge runoff to the County's property at a rate greater than existing conditions.
- A portion of this site lies within the Anne Arundel County Green Infrastructure Network, a
 proposed preservation area considered in the Anne Arundel County Green Infrastructure
 Master Plan. The proposed development is consistent with the spirit of the Green
 Infrastructure Master Plan.

cc: File

Map Title





Legend

Foundation

Addressing

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Parcels



Parcels - Annapolis City



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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Notes



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THIS MAP IS NOT TO BE USED FOR NAVIGATION