

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

OCT 1 2007

Case No. 5625
 Date Filed 9/19/07
 Hearing Date _____
 Receipt _____
 Fee \$450.00

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code _____

- Administrative Decision/Interpretation
- Special Exception
- Use Variance
- Change/Extension of Non-Conforming Use
- Minor Area Variance
- Area Variance
- Variance from Requirements of the Code
- Zoning Map/Drafting Correction

CASE 5625 MAP 56 TYPE Variance
 ELECTION DISTRICT 01 LOCATION 445 Fox Catcher Road, Bel Air 21015
 BY William Simpson and Christina Pappas
 Appealed because a variance pursuant to Sec. 267-26C (6) of the Harford County Code
to permit a retaining wall to be located within a recorded easement in the R2 district
requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Owner (please print or type)

Name William D. Simpson, Jr. Phone Number (410) 515-3730

Address 445 Fox Catcher Road Bel Air MD 21015
Street Number Street City State Zip Code

Co-Applicant Christina Pappas Phone Number (410) 515-3730

Address 445 Fox Catcher Road Bel Air MD 21015
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 445 Fox Catcher Road, Bel Air, MD 21015
Saddle Ridge Community

Subdivision Hunters Run Lot Number 59

Acreage/Lot Size 0.194 acres Election District 01 Zoning ~~Residential~~ R2

Tax Map No. 56 Grid No. 2E Parcel 581 Water/Sewer: Private _____ Public X

List ALL structures on property and current use: Single family dwelling; use is residential

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? No (see attached HOA letter)

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes X No _____

Is this request within one (1) mile of any incorporated town limits? Yes _____ No X

Request

Approval of retaining/landscaping wall within easement area

Justification

See attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

Justification:

Background: We constructed a retaining/landscaping wall in the backyard of our property in June and July of 2007. The retaining/landscaping wall is made of large stone pavers; the lowest point of the wall is 8 inches and the highest point of wall is 4 feet 11 inches [see attached drawing]. We dug out and leveled our backyard to install a swing set for our daughter and to ease the water run-off that was caused by the slope of the hill that existed in our backyard prior to leveling the backyard and construction of the wall. Prior to leveling the backyard, the backyard was unusable due to the slope of the hill.

We were unaware that a building permit was required for the wall until we were notified by Mr. Bob Grammer, Zoning Inspector with the Harford County Department of Planning and Zoning, after construction. We did review the Harford County website prior to construction to see if we needed a grading permit and determined that, due to the size of the area being disturbed, we did not need the permit. We also reviewed the website to see if we needed a building permit and did not see that a permit was required for a landscaping wall. Mr. Grammer indicated that a building permit was required, however, since the wall was located on an easement in our backyard, we would need to apply for a variance. We were unaware of the easement in our backyard. Prior to construction, we contacted Ms. Utility and the property was cleared by BGE (electric and gas), Comcast, Harford County Department of Public Works and Verizon [see attached printout from Ms. Utility].

A. By reason of the uniqueness of the property or topographical conditions, literal enforcement of the Code would result in practical difficulty or unreasonable hardship:

1. The backyard of our property was completely unusable due to the slope of the hill in the backyard prior to leveling the backyard and construction of the wall.
2. The water has been running off of the hill into our property since our purchase of the property in 1999. Since the leveling of the backyard and construction of the wall, the water drainage issue has improved significantly.

B. The variance will not be substantially detrimental to adjacent properties, or will not materially impair the purpose of the Code or public interest:

1. The adjoining property owners have no opposition to the wall [see attached letters]. Per the letters, the adjoining property owners at 441 Fox Catcher Road and 443 Fox Catcher Road have indicated that the drainage issue in their backyards has improved since construction of the wall.
2. The Saddle Ridge Home Owners Association has indicated that the wall does not violate the covenants or bylaws of the community association [see attached letter].
3. Mr. Nelson Allen, engineer for the Harford County Department of Public Works, has inspected the wall and indicated by telephone conversation with Christina Pappas (property owner) that he has no opposition to the wall. Mr. Allen indicated that there are no underground pipes or utilities in our backyard.

Conclusion: For the past eight years, we have been unable to use our yard. It has taken us a considerable amount of time and cost (approximately \$10,000) to complete this project. Prior to construction, we acted in good faith to determine if we needed any permits and have acted timely and responsively to all calls and letters that we have received from Harford County. We respectfully request that the variance be granted.



Before you dig, every dig. It's the law.

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HOME

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FACILITY OWNERS

EXCAVATORS

TRAINING & SAFETY

HOMEOWNERS

CALL CENTER INFORMATION

CONTACT



IT'S THE LAW



PRINTER FRIENDLY

TELL A FRIEND



Know what's below. Call before you dig.

:: Search & Status

MISS UTILITY CENTER

[View Status](#)

Ticket No: 7213018

STANDARD

[NEW TICKET](#)

Update Of:

Update By:

Transmit	Date:	04/16/07	Time:	14:21	Op:	mdjanice
Original Call Date:		04/16/07	Time:	14:16	Op:	mdjanice
Work to Begin Date:		04/18/07	Time:	14:30		

State: MD County: HARFORD Place: BEL AIR
 Address: 445 Street: FOX CATCHER RD
 Nearest Intersecting Street: HUNTERS RUN

Type of Work: EXCAVATE TO INSTALL SWING SET & RETAINING WALL
 Extent of Work: LOC THE BACKYARD BEHIND THE HOUSE
 Remarks:

Work Being Done For: WILLIAM SIMPSON
 Explosives: N MPG: N

Company :	WILLIAM SIMPSON	Fax :	
Contact Name :	HOMEOWNER	Ext :	
Contact Phone :	(410)515-3730	Alt. Phone :	
Alt. Contact :			

Map: Page: Grid Cells:
 Map: HARF Page: 24 Grid Cells: A1

Districts Notified: BGE63 BGE63G HCPW01 MLV01 VHF

Facility Owner/Locator Contact Information



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List of States





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- ITIC
- FACILITY OWNERS
- EXCAVATORS
- TRAINING & SAFETY
- HOMEOWNERS
- CALL CENTER INFORMATION
- CONTACT

:: Search & Status

Miss Utility Ticket No: 7213018

[VIEW STATUS HISTORY](#)

Company Name	District Code	Status	Date	Time
BGE(ELEC)-UTILIQUEST	BGE63	1	20070417	17:18:32
BGE(GAS)-UTILIQUEST	BGE63G	1	20070417	17:18:33
COMCAST - UTILIQUEST	MLV01	1	20070417	17:18:34
HARFORD COUNTY	HCPW01	1	20070417	07:44:28
VERIZON - UTILIQUEST	VHF	1	20070417	17:18:33

Facility Owner/Locator Contact Information

CODE	DEFINITION
1	Clear/No Conflict.
2	Marked.
3	24-hour delay.
4	48-hour delay.
5	Not Complete/In Progress: Locator has spoken to excavator and they have agreed to this message.
6	Locate discrepancy.
7	Not Complete/In Progress: Dispute.
8	Utility Locator has not yet responded.
9	Marked up to privately owned utility.
10/A	Incorrect address information. Please call Miss Utility to reschedule.



PRINTER FRIENDLY

TELL A FRIEND



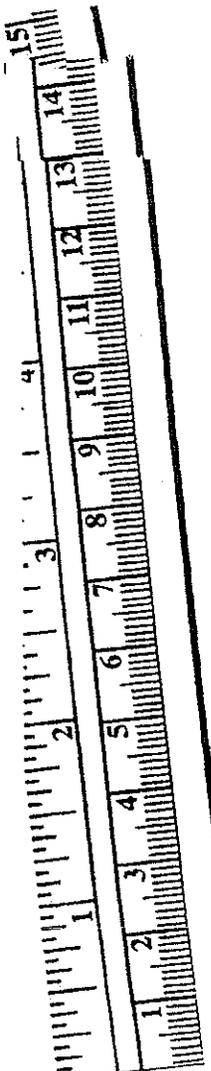
Know what's below. Call before you dig.



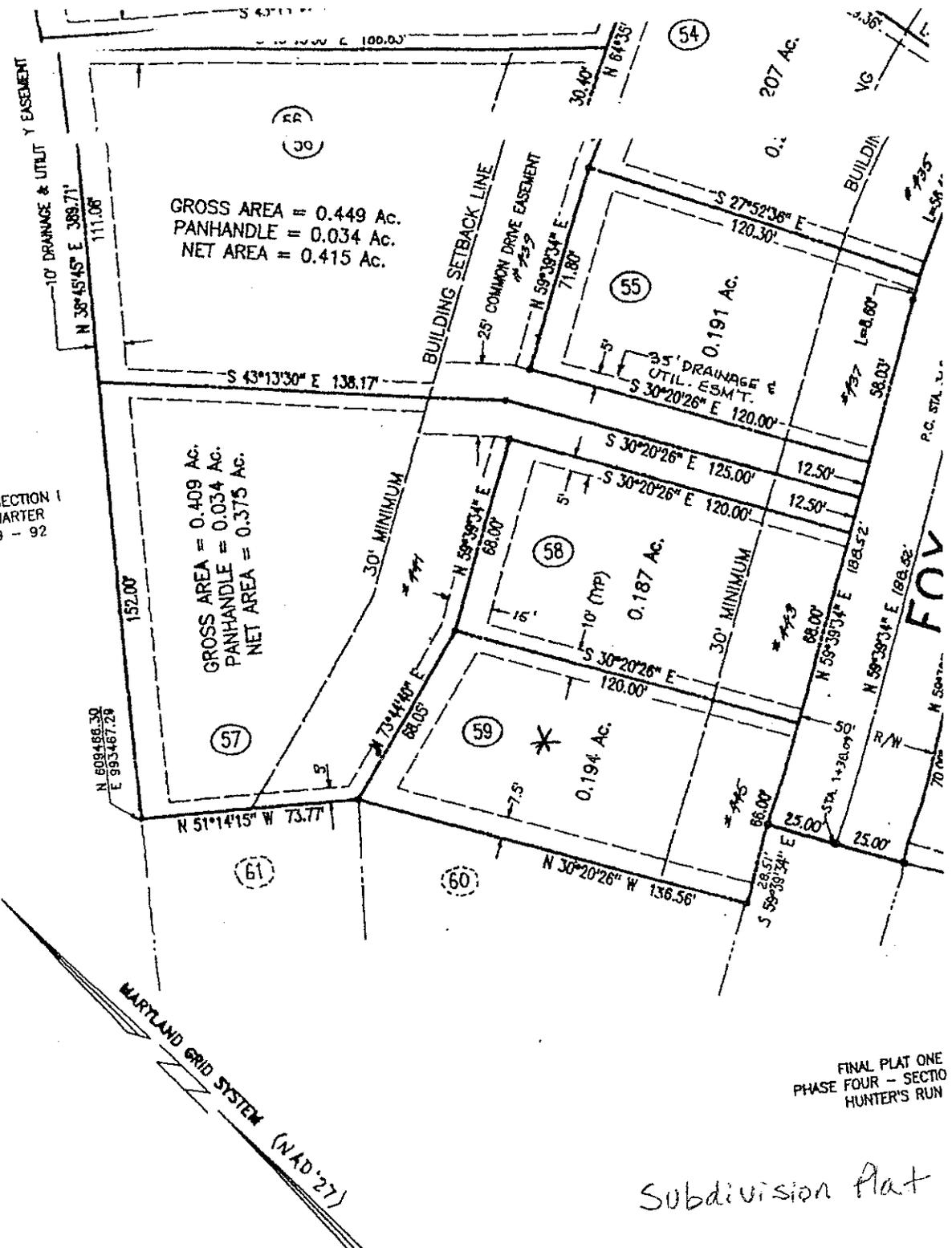
Find a State

List of States





PLAT III - SECTION I
KINGS CHARTER
C.G.H. 69 - 92



- SUBDIVISION DATA**
1. Number of Lots: 27
 2. Area of Lots: 6.037 Ac.
 3. Right of Way Area: 1.176 Ac.
 4. Open Space Area: 0.832 Ac.
 5. Total Enclosed Area: 8.045 Ac.
- Denotes House Number

FINAL PLAT ONE
PHASE FOUR - SECTION
HUNTER'S RUN

Subdivision Plat

Driveway entrance construct
to be approved by:



PROPERTY MANAGEMENT, INC.
MANAGERS OF CONDOMINIUMS, HOMEOWNER
ASSOCIATIONS, & COMMUNITY ASSOCIATIONS

September 05, 2007

William Simpson
445 Fox Catcher Road
Bel Air MD 21015

Re: Saddle Ridge Homeowners Association, Inc.;
Architectural Submittal: 445 Fox Catcher Road
Landscaping Wall

Dear William Simpson, Christina Pappas:

The Architectural Review Board has approved your plans as submitted for a landscaping wall subject to the following conditions:

- Receipt of any/all Harford County permits and approvals.
- Compliance with all Covenant and restrictions, setbacks, easements, right of ways, etc.
- All Approvals are valid from one year of being issued.

This approval is granted only for this request as stated. Any change in design, dimensions, material, color or anything different than originally proposed must be re-submitted for further consideration. Failure to do so will cause this approval to be null and void.

This approval acknowledges, only, that the project does not violate the covenants or bylaws of the community association. The homeowner has total responsibility for the projects building design, materials and engineering integrity. In the event this construction fails for any reason, at any time, homeowner assumes total responsibility for all loss and damages as a result of such failure.

We hope your new addition provides you with many years of enjoyment.

Very truly yours,
MRA Property Management, Inc.

Barbara Flanagan, Property Manager
Agent for Saddle Ridge

cc: Board File
Architectural File

CORPORATE OFFICE

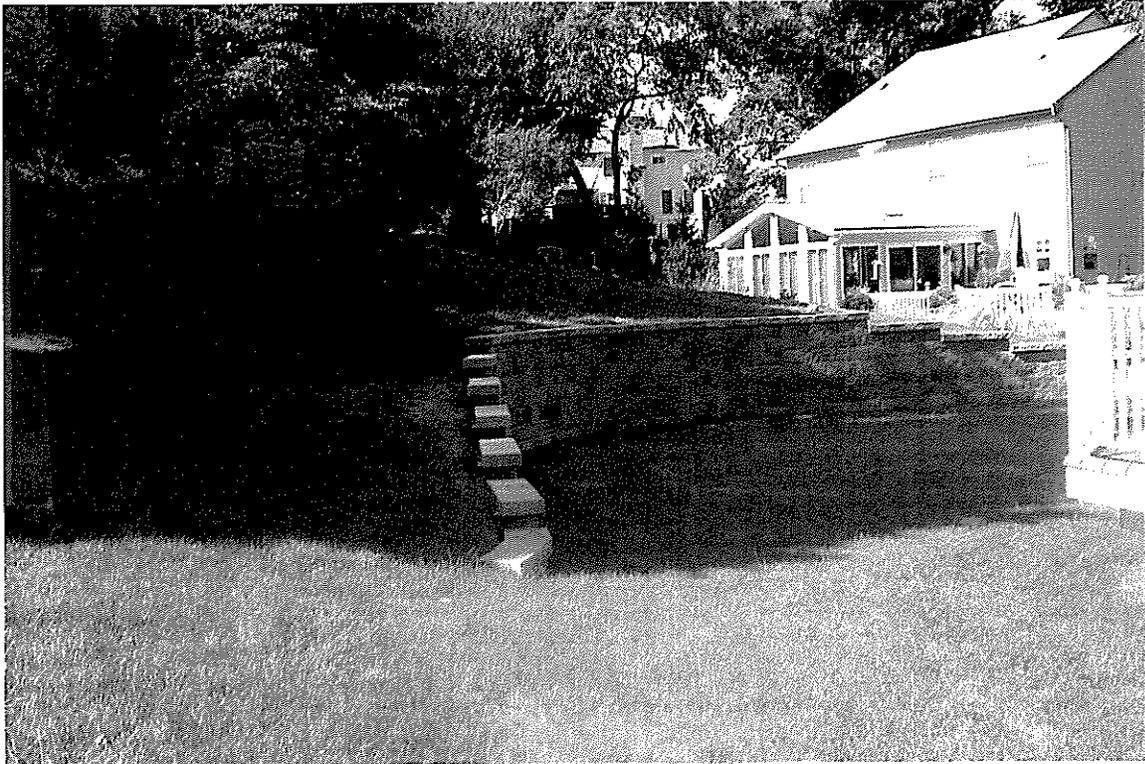
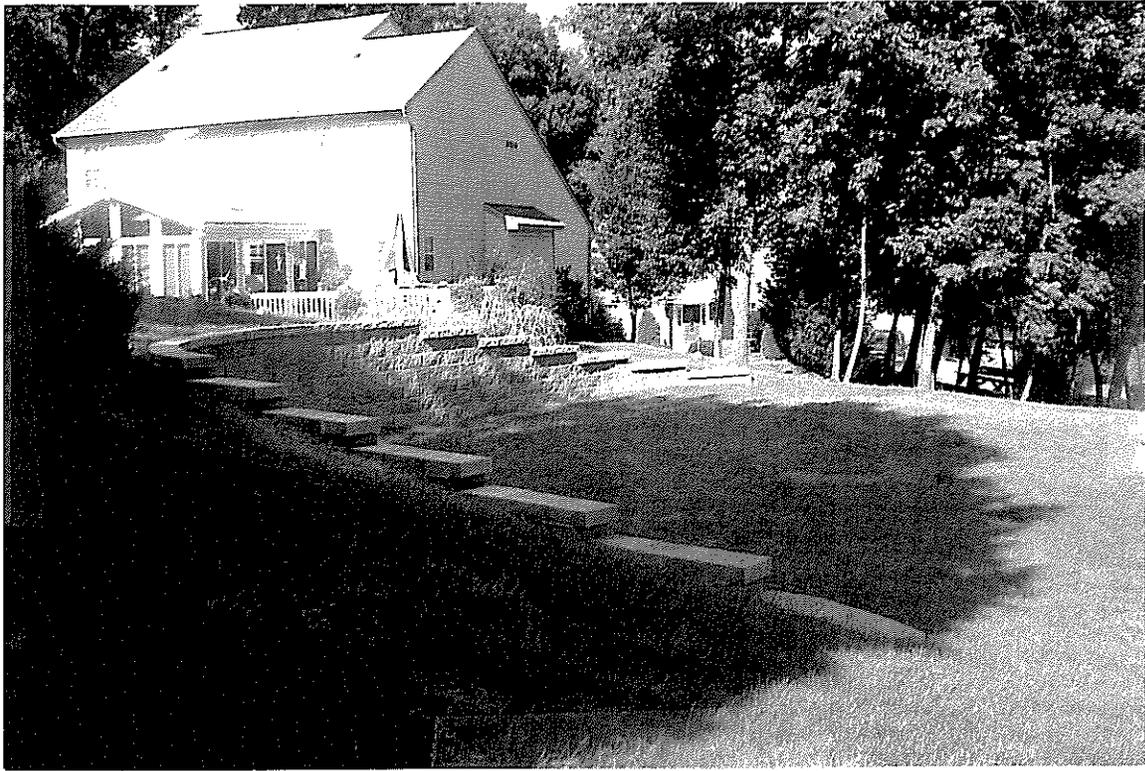
3435-G BOX HILL CORPORATE CENTER DRIVE
ABINGDON, MARYLAND 21009
410-515-7390 • FAX 410-515-7391 • 866-685-6557
E-MAIL: mrapmi@mragta.com

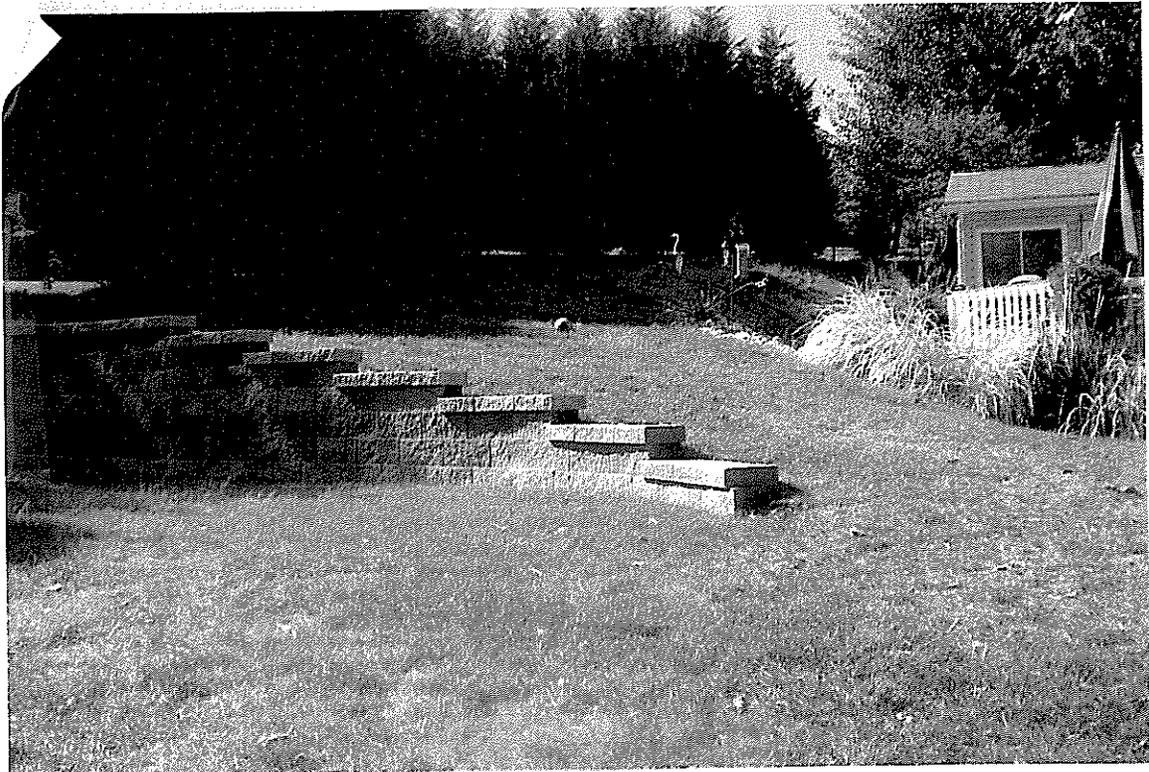
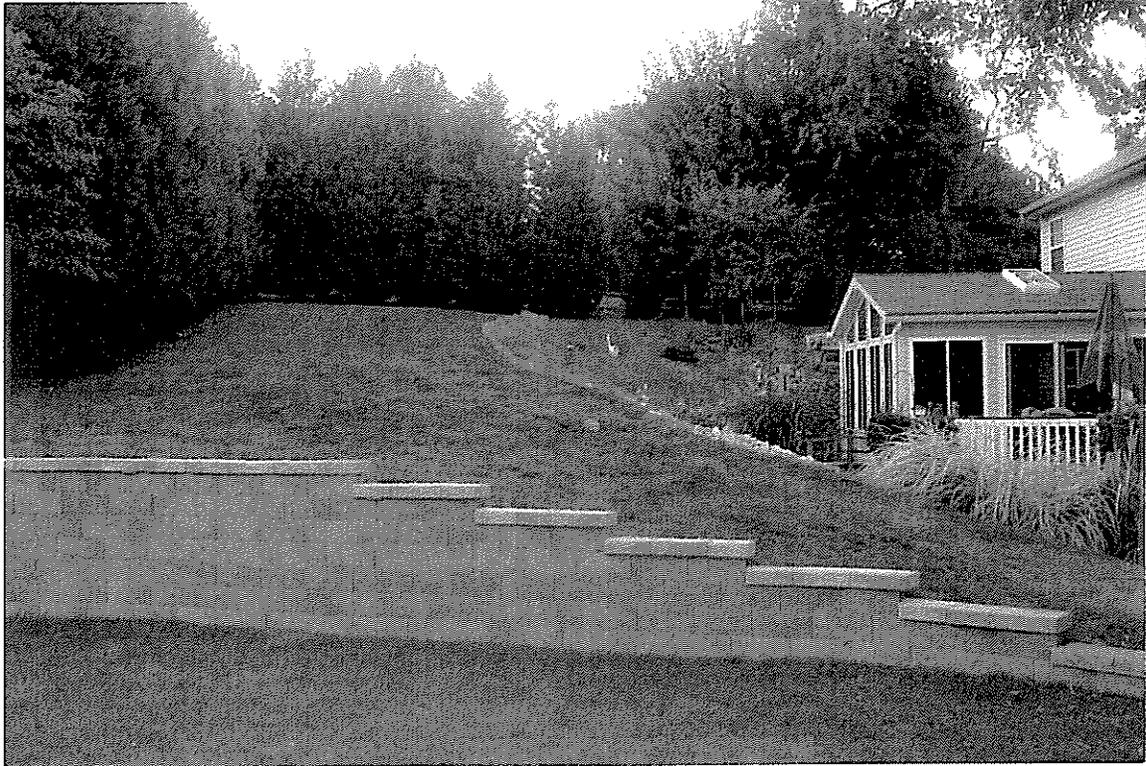
MEMBER OF
community
ASSOCIATIONS INSTITUTE

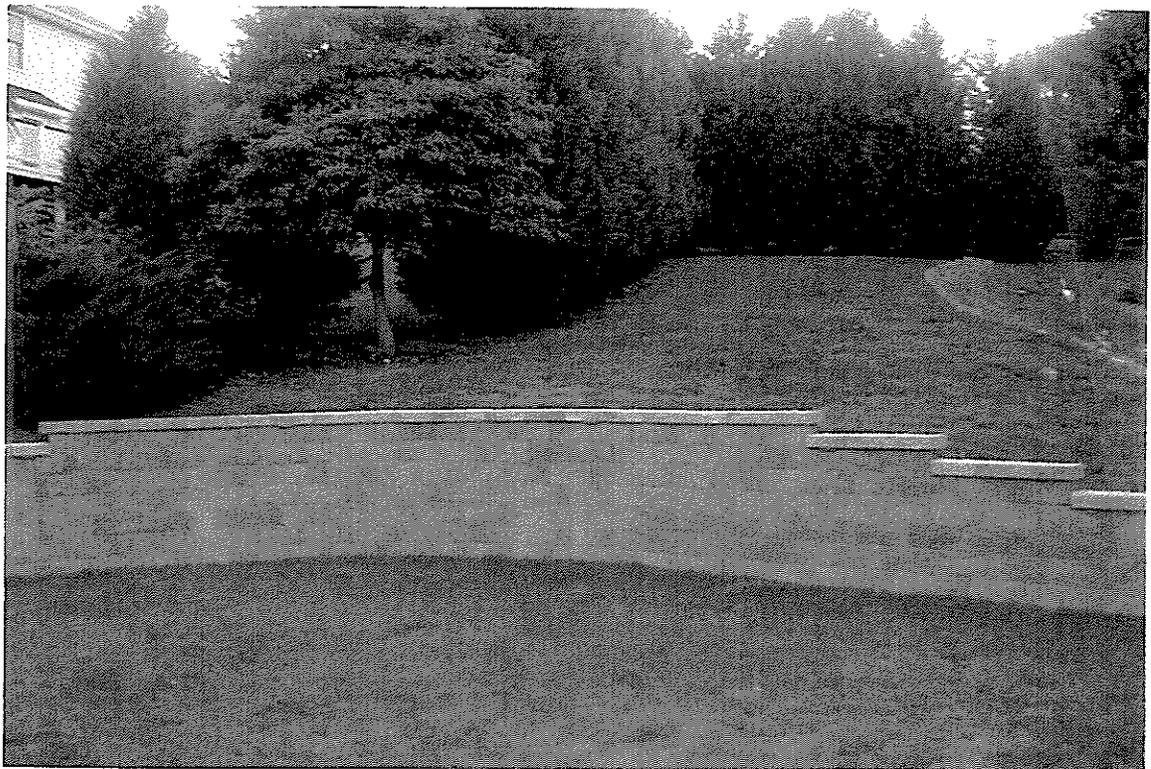


DELAWARE OFFICE

21133 STERLING AVENUE, UNIT 7
GEORGETOWN, DELAWARE 19947
TOLL FREE: 866-673-9434 • 302-856-7545







DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



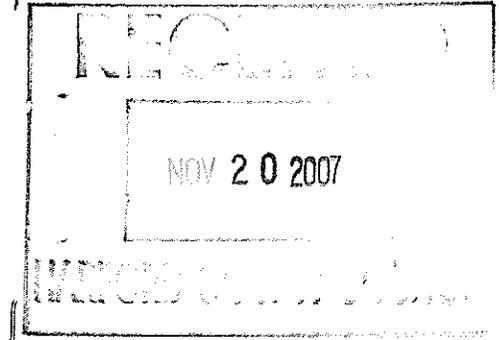
C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

November 5, 2007

STAFF REPORT



BOARD OF APPEALS CASE NO. 5625

APPLICANT/OWNER: William D. Simpson, Jr.
445 Fox Catcher Road, Bel Air Maryland 21015

Co-APPLICANT: Christina Pappas
445 Fox Catcher Road, Bel Air Maryland 21015

REPRESENTATIVE: Applicant

LOCATION: 445 Fox Catcher Road – Hunters Run Subdivision
Tax Map: 56 / Grid: 2E / Parcel: 581 / Lot: 59
District: One (1)

ACREAGE: 0.194 of an acre

ZONING: R2/Urban Residential District

DATE FILED: September 19, 2007

HEARING DATE: December 5, 2007

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

“Approval of retaining/landscaping wall within easement area.”

Preserving Harford's past; promoting Harford's future

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • www.harfordcountymd.gov

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

STAFF REPORT

Board of Appeals Case Number 5625

William Simpson & Christina Pappas

Page 2 of 4

Justification:

See Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-26C (6) of the Harford County Code to permit a retaining wall to be located within a recorded easement in the R2/Urban Residential District.

Section 267-26C (6) of the Harford County Code reads:

(6) *No accessory use or structure, except fences, shall be located within any recorded easement area.*

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is located east of MD Route 924 in the development of Hunters Run. The property is situated east of Hunter Run Drive on the north side of Fox Catcher Road. A location map, a copy of the Applicant's site plan and copies of the record plats are enclosed with the report (Attachments 2, 3 and 4A & B).

The subject property is located within the development envelope. The predominant land use designations in this area include Low, Medium and High Intensities. The Natural features map reflects Stream Systems, and Sensitive Species Project Review Areas. The subject property is located in the Medium Intensity designation, which is defined as:

Medium Intensity - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, variety stores and other commercial uses are examples of some of the more intensive uses associated with this designation.

Enclosed with the report are the 2004 Land Use Map, the Natural Features Map and the Abingdon-Riverside-Emmorton Community Area Map (Attachments 5, 6 and 7).

Land Use – Existing:

The existing land uses generally conform to the overall intent of the Master Plan. Residential uses range from single family residences to garden apartments, townhouses, and condominiums. Commercial uses include single retail businesses, shopping centers, professional and personal services, restaurants, and automotive related businesses. Institutional uses include recreational facilities, churches, schools and park facilities. The topography for the area ranges from rolling

STAFF REPORT

Board of Appeals Case Number 5625

William Simpson & Christina Pappas

Page 3 of 4

to steep. Enclosed with report are copies of the aerial photograph and a topography map (Attachments 8 and 9).

The lot has frontage on the north side of Fox Catcher Road and is approximately 8,451± square feet or 0.194± of an acre in size. There are recorded easements on three sides of the lot. Improvements consist of a frame and stone 2-story dwelling with an attached 2-car garage, a double wide concrete driveway, a deck attached to the rear of the dwelling that extends across the full width of the house, and a block landscaping/retaining wall which is the subject of this case. The property is nicely landscaped and all improvements appear to be well maintained. Enclosed with the report are site photographs provided by the Applicant, photographs taken by the Department, aerial photographs and a topography map (Attachment 10, 11, 12 and 13).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning classifications include RO/Residential Office, R1, R2, R3 and R4/Urban Residential Districts. Commercial zoning consists of B1/Neighborhood Business, B2/Community Business, B3/General Business and CI/Commercial Industrial. The subject property is zoned R2/Urban Residential District as shown on the enclosed copy of the Zoning Map (Attachment 14).

Zoning Enforcement:

The request is the result of a Zoning Enforcement Investigation. This Department received a complaint on June 20, 2007, that a 6 foot retaining wall was under construction without a permit. The Department conducted a site inspection on June 25, 2007. A retaining wall was located in the rear yard. The Applicant was advised to talk to the Department of Public Works about a waiver before applying to the Board of Appeals. A letter was sent on July 23, 2007, discussing the findings of the inspection and possible relief from the Board of Appeals. A pre-application meeting was held on August 7, 2007 at which time the process for a variance from the Board of Appeals was discussed. Copies from the enforcement file are enclosed with the report for informational purposes only (Attachment 15).

SUMMARY:

The Applicants are requesting a variance pursuant to Section 267-26C (6) of the Harford County Code to permit a retaining wall to be located within a recorded easement in the R2/Urban Residential District.

Section 267-26C (6):

(6) No accessory use or structure, except fences, shall be located within any recorded easement area.

STAFF REPORT

Board of Appeals Case Number 5625

William Simpson & Christina Pappas

Page 4 of 4

Variations of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The Applicants contacted the Department of Public Works concerning the structure. In a letter dated September 25, 2007 (Attachment 16) the Department stated that they had reviewed the request and visited the property. Based on their inspection there are no utilities located in the easement and the wall will have no adverse impact on drainage. Therefore, they have no objection with the wall remaining in its present location.

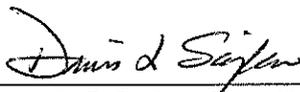
The Applicants have obtained letters from three neighbors that immediately abut the property, who have indicated that they have no objection to the retaining wall (Attachments 17).

Enclosed with the report is a letter from MRA Property Management, Inc. (Attachment 18) dated September 5, 2007, stating that the Architectural Review Board has approved the plans as submitted for a landscaping wall subject to a list of conditions.

The Department finds that the subject property is unique based on the topography. The retaining wall does not adversely impact the adjacent properties or the intent of the code.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department recommends that the requested variance be approved subject to the Applicants obtaining all necessary permits and inspections for the retaining wall.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf