

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



Case No.	5845
Date Filed	5/29/15
Hearing Date	
Receipt	
Fee	\$450.00
Type	Variance

*Shaded areas for Office Use Only*

**Information to be Submitted with Application**

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

**NOTE:**

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning prior to filing any application to the Board of Appeals.

To schedule please call 410-638-3119.

<p align="center"><b>Nature of Request and Section(s) of Code</b></p> <p><b>CASE 5845 MAP 51 TYPE Variance</b></p> <p><b>ELECTION DISTRICT 02 TAX ID 02057522</b></p> <p><b>LOCATION 720 Aldino Stepney Road, Aberdeen 21001</b></p> <p><b>BY Beverly R. King</b></p> <p><b>Appealed because a variance pursuant to Section 267-24B(1) of the Harford County Code to allow a fence to exceed the 4 feet height requirement (6 feet proposed) in the AG District requires approval by the Board.</b></p>
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**Owner (please print or type)**

Name BEVERLY R. KING Phone Number \_\_\_\_\_

Address 720 ALDINO STEPNEY ROAD, ABERDEEN, MARYLAND 21001

*Street Number Street City State Zip Code*

Co-Applicant \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_

*Street Number Street City State Zip Code*

Contract Purchaser \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_

*Street Number Street City State Zip Code*

Attorney/Representative ALBERT J.A. YOUNG Phone Number 410-838-5500

BROWN, BROWN & YOUNG, P.A.

Address 200 S. MAIN STREET, BEL AIR, MARYLAND 21014

*Street Number Street City State Zip Code*

**Land Description**

Address and Location of Property 720 Aldino Stepney Road  
Aberdeen, Maryland 21001

Subdivision NONE Lot Number NONE

Acreage/Lot Size 6.88 Election District 02 Zoning AG Tax ID # 057522

Tax Map No. 0051 Grid No. 1D Parcel 0106 Water/Sewer: Private  Public

List ALL structures on property and current use: One residence, one barn, two garages, small sheds, one metal storage building

Estimated time required to present case: ONE HOUR

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? Yes  No

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

If so, what is the Critical Area Land Use designations: N/A

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

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

**Request**

SEE ATTACHED

**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.)*

**HARFORD COUNTY BOARD OF APPEALS VARIANCE APPLICATION  
BEVERLY R. KING / ESD EAGLES REST, LC**

**Request**

King is requesting a variance from the requirements of Section 267-24(B)(1) of the Harford County Zoning Code (the "Code"), to permit a fence 6 feet in height above ground elevation in the required front yard, in lieu of the allowable 4 foot height, on the King Property.

**Factual Background**

Beverly R. King ("King"), is the owner of a parcel of land (identified as Parcel 0106, on Tax Map 0051), containing 6.88 acres of land, more or less, located at 720 Aldino Stepney Road, in Aberdeen, Maryland (the "King Property"). The King Property is improved with a residence and various garages and outbuildings.

ESD Eagles Rest, LC ("ESD") is the owner a residential subdivision, known as *Eagles Rest*, located across the street from the King Property (the "ESD Property").

In September 1979, the then owner of the King Property was granted a conditional use permit to construct a 6-foot chain link fence along the front of the King Property on Aldino Stepney Road for the purpose of screening and securing the Aldino Saw Mill (Case No. 2481). The King Property has not operated as a saw mill since approximately 1994.

Over the years, the fence erected on the King Property had rusted, collapsed, was weed infested, contained barbed wire, and had become unsightly. As such, the fence presented a health and safety threat to the families moving in to the new subdivision constructed by ESD across the street. In June 2011, to provide a more pleasing appearance along the entrance of the *Eagles Rest* subdivision, ESD, at ESD's sole cost and expense, cleared the unsightly weeds and debris, and caused a replacement 6-foot high white privacy fence to be constructed in the exact location, at the same height, as the original chain link fence. It was essentially a repair and improvement of the old existing fence. King granted ESD permission to enter onto the King Property and to construct the new fence.

At the time the fence was constructed in 2011, it was situated on a parcel separate from that parcel upon which the King residence sits. The fenced-parcel was owned by Ms. King and her now deceased husband, Mr. Clyde King, and was known as 726 Aldino Stepney Road (identified as Parcel 0092 on Tax Map 0051). The parcel was comprised of approximately 5.069 acres, and contained only a metal garage. As such, at the time the fence was built, there was no residential unit on the fenced property. It was not until December 2014, after Mr. King passed away, that Ms. King consolidated their residential property, comprised of 1.811 acres, with the fenced 5.069 acre property, to create the new 6.88 acre parcel, which deed is recorded among the Land Records of Harford County at Liber 10937, Folio 387.

**Justification**

The variance sought is not a use variance but an area variance from a height provision. As such the Applicant must prove only the lesser variance standard of practical difficulty. In determining whether practical difficulties exist, the zoning board must consider three factors: 1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome, 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the

district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners, and 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. *Montgomery County. v. Rotwein*, 169 Md. App. 716, 729-30, 906 A.2d 959, 966 (2006).

First, by reason of the proximity of the entrance to the *Eagles Rest* subdivision to the King Property, the literal enforcement of the Code would result in practical difficulty if the applicant is required to remove the replacement fence. Strict compliance to the Code would unnecessarily burden King, who relies on the fence for privacy and as a shield for the substantial amount of litter and debris thrown from the road onto the King property. King believes that if the height of the fence is reduced, the litter and debris problem will become worse. Conformity with the fence height restriction would also prevent ESD from providing an aesthetically-pleasing entrance to the residential subdivision. Jointly, if ESD is required to remove the replacement fence, it would incur substantial cost and expense to replace the fence with a 4-foot fence to meet the Code requirement.

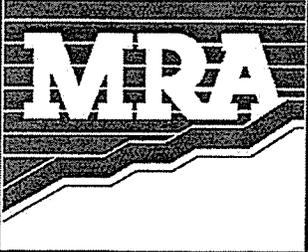
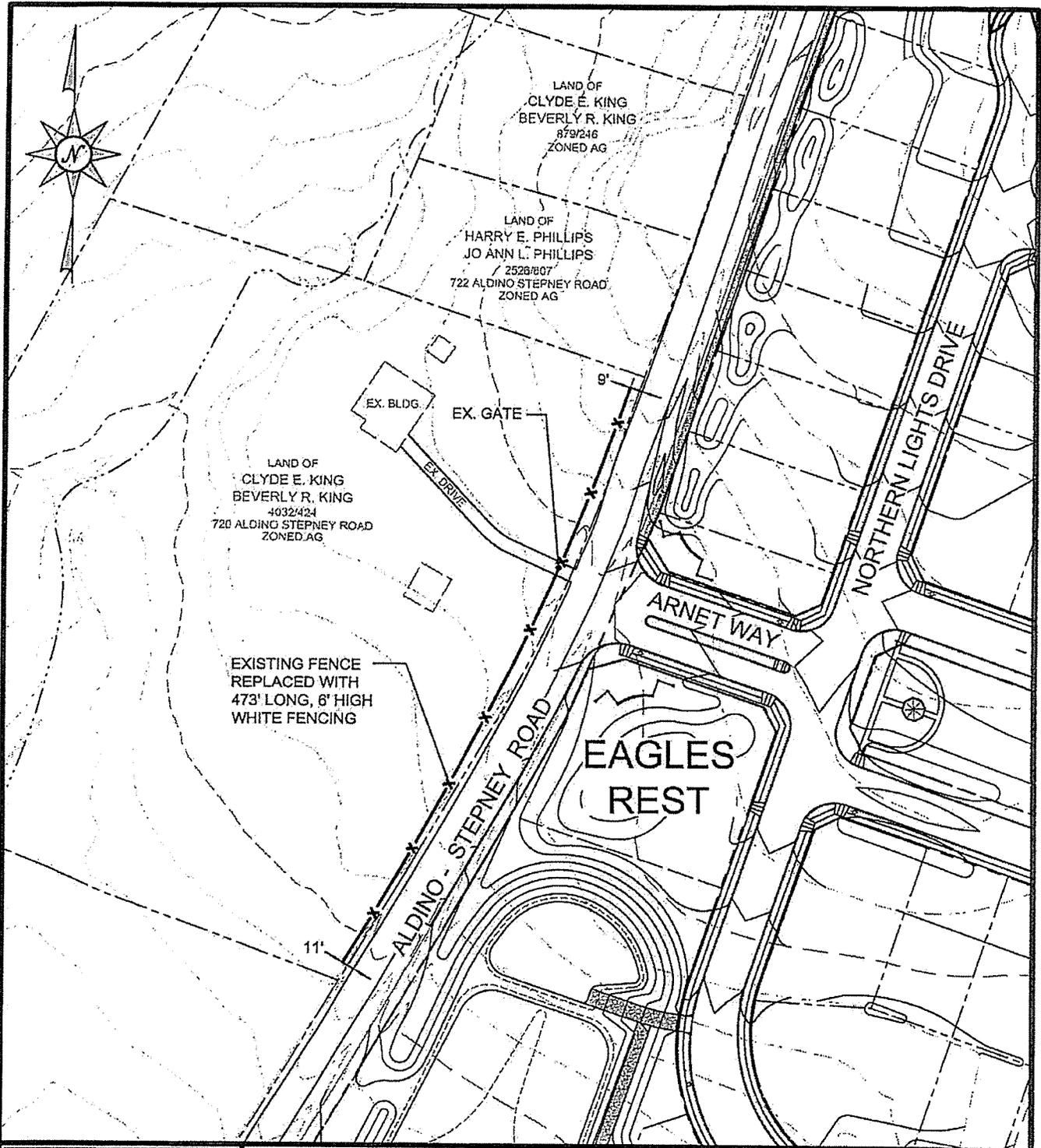
Second, granting the requested variance would provide the applicant substantial justice, since the new fence is simply an improved reconstruction of the former, permitted 6-foot chain link fence. Likewise, at the time the fence was constructed, it was not situated on a residential property. Section 267-24(B)(1) of the Code, at the time the fence was constructed and in its current status, applies a 4-foot fence height restriction only to "residential units." It is noteworthy that this provision does not refer to a residential zone, as the Code states in many other places. Accordingly, the applicant contends that the 4-foot height limitation did not apply to the fence when it was built, therefore granting the variance would provide substantial justice to the owner. The applicant also asserts that granting the requested variance will provide substantial justice to all other adjacent property owners, and anyone driving on Aldino Stepney Road, since the new fence, compared to the old fence, is more aesthetically pleasing and in closer harmony with the design of the new residential development.

Third, the applicant asserts that granting this variance will still allow for proper observance of the spirit of the Code, since the new fence does not change the nature or intensity of the use of either the King Property or the ESD Property, and it does not impact traffic or any of the Limitations, Guides or Standards set forth in Section 267-9(I) of the Code. There will be no change in use on either the King Property or the ESD Property and, therefore, no detriment to adjacent properties and no impairment of the purpose of the Code or the public interest. Furthermore, since the fence in its previous condition was rusted and contained barbed wire, it presented a health and safety threat to the families moving into *Eagles Rest*. Thus, the new fence better serves the interests of public safety and welfare, while also providing a very aesthetically pleasing element along Aldino Stepney Road.

### **Conclusion**

In sum, the replacement 6-foot, white fence is the same height and in the same location as the previously constructed chain link fence. This new fence is a major improvement in terms of quality, aesthetic value, and safety, its construction is in full compliance with all other provisions of the Code, and practical difficulties exist to sufficiently warrant the granting of an area variance.

For a detailed rendering of the old chain link fence and the replacement fence, see the attached Exhibit A (1 page) and Exhibit B (5 pages).



**MORRIS & RITCHIE ASSOCIATES, INC.**  
 ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS, & LANDSCAPE ARCHITECTS  
 3445-A BOX HILL CORPORATE CENTER DRIVE  
 ABINGDON, MARYLAND 21009  
 (410) 515-9000  
 FAX: (410) 515-9002

**KING PROPERTY  
 FENCE EXHIBIT**

SCALE: 1" = 100'

DATE: SEPT. 9, 2011

DRAWN BY: AGD

DESIGN BY: AGD

REVIEW BY: PTM

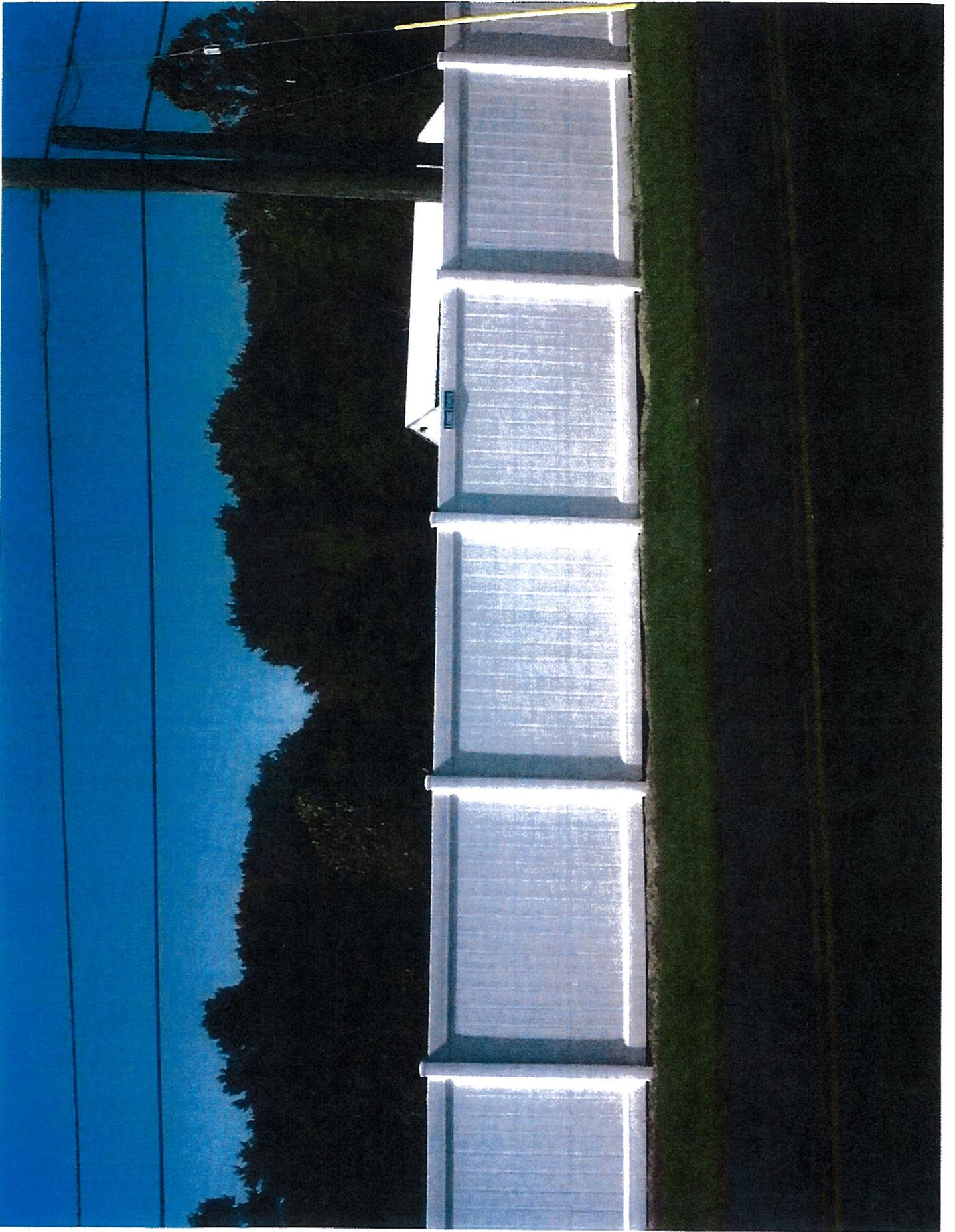
JOB NO. 18670

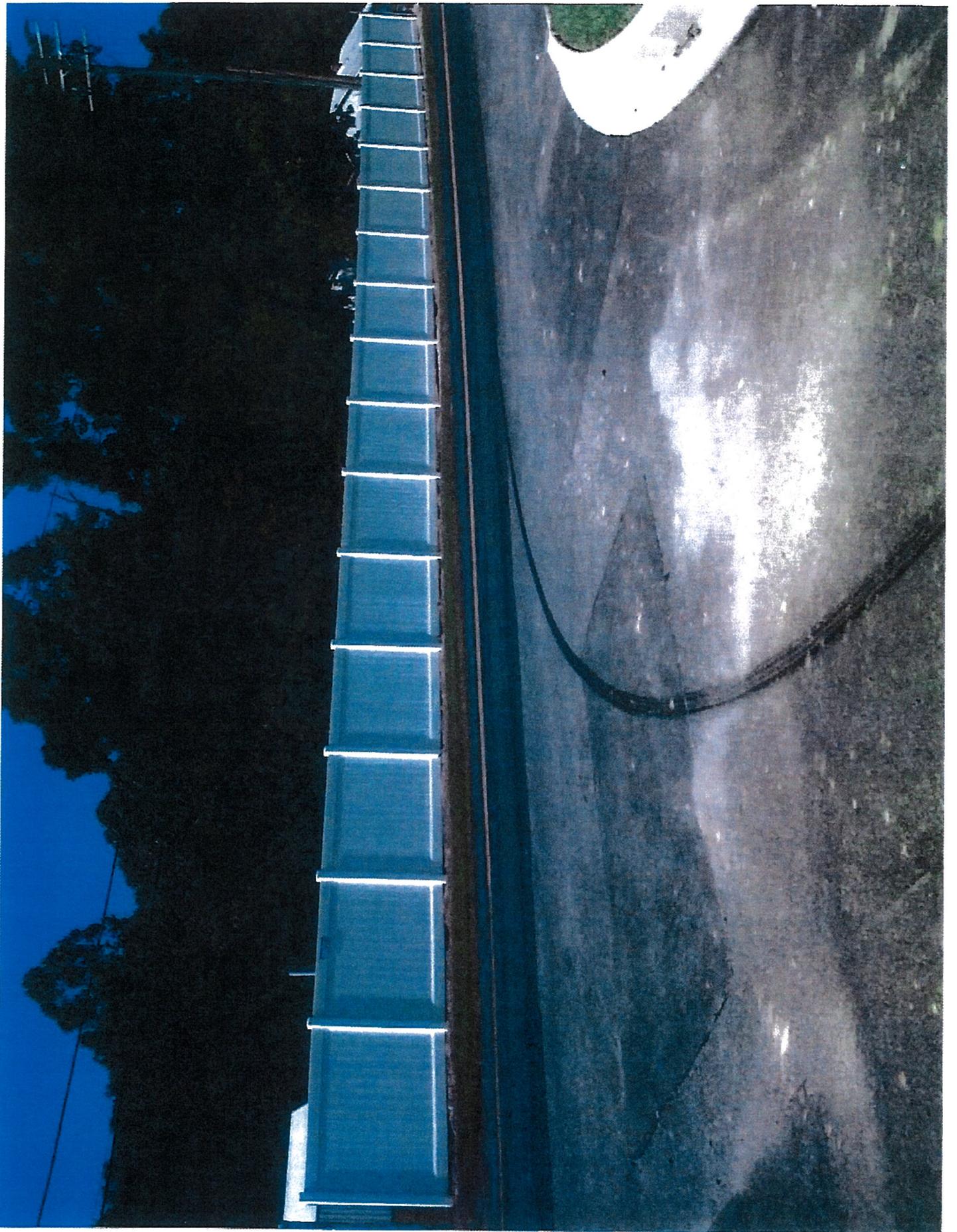
EXHIBIT A



EXHIBIT B













Google earth



SITE  
PLAN

**BARRY GLASSMAN**  
HARFORD COUNTY EXECUTIVE

**BILLY BONIFACE**  
DIRECTOR OF ADMINISTRATION



**BRADLEY F. KILLIAN**  
DIRECTOR OF PLANNING & ZONING

July 29, 2015

**STAFF REPORT**

**BOARD OF APPEALS CASE NO. 5845**

APPLICANT/OWNER: Beverly R. King  
720 Aldino Stepney Road, Aberdeen, Maryland 21001

REPRESENTATIVE: Albert J.A. Young  
Brown, Brown & Young, P.A.  
200 S. Main Street, Bel Air, Maryland 21014

LOCATION: 720 Aldino Stepney Road, Aberdeen, Maryland 21001  
Tax Map: 51 / Grid: 1D / Parcel: 106  
Election District: Second (2)

ACREAGE: 6.88+/- acres

ZONING: AG/Agricultural District

DATE FILED: May 29, 2015

HEARING DATE: August 12, 2015

**APPLICANT'S REQUEST and JUSTIFICATION:**

See Attachment 1.

**CODE REQUIREMENTS:**

The Applicant is requesting a variance pursuant to Section 267-24B(1) of the Harford County Code to permit a fence to exceed four feet in height (6-feet proposed) in the AG/Agricultural District.



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220 South Main Street, Bel Air, Maryland 21014

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST

**LAND USE and ZONING ANALYSIS:**

Land Use – Master Plan:

The Applicant's property is located on the west side of Aldino Stepney Road across from Arnet Way. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The subject property is located outside the Development Envelope. The City limits of Aberdeen are located on the east side of Aldino Stepney Road across from the subject property. The predominant land use designation in this area of the County is Agricultural. The Natural Features Map reflects Stream Systems and Agricultural Preservation Districts and Easements. The subject property is designated as Agricultural which is defined by the 2012 Master Plan as:

*Agricultural – Areas where agriculture is the intended primary land use. Residential development potential is limited and available at a density of 1.0 dwelling unit for every 10 acres. No new commercial or industrial uses are permitted except those intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.*

Enclosed with the report are copies of the 2012 Greater Aberdeen-Havre de Grace Map and the Natural Features Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses in the area generally conform to the overall intent of the 2012 Master Plan. Residential uses are generally single-family dwellings located within older subdivisions or large agricultural lots. The Eagles Rest single-family residential subdivision is currently being developed directly across from the subject property. Commercial uses are generally located along MD Route 22 in the City of Aberdeen and include shopping centers, hotels/motels, banks, restaurants, various retail establishments, and personal and professional service uses. The HEAT Center is located on the west side of MD Route 22. Institutional uses in the area include churches and cemeteries.

The subject property is approximately 6.88+/- acres in size, and is assessed residentially. The property is irregularly shaped with a separately owned residential parcel dividing the Applicant's property nearly in two (2) sections. The site previously consisted of four (4) parcels which were consolidated by deed on October 7, 2014 and recorded in the Land Records of Harford County in Liber 10937, Folio 387. The dwelling is located in the northeast corner of the property. A pole barn appears to have been constructed on the subject property between 2000 and 2004 without the benefit of a building permit. Building permit applications have since been submitted for this structure as well as a second structure that appears to have been constructed between 1990 and 2000. These permits have not been issued. The subject property was the former site of the Aldino Sawmill and Lumber Company which has not been in operation for many years. There is

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Beverly R. King

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a gated entrance with a gravel driveway along Aldino Stepney Road. The subject property is a mixture of open field and forest. A stream traverses the middle of the property from the north to the south. The soil survey indicates the presence of non-tidal wetlands adjacent to the stream. The topography of the subject property is generally flat to gently sloping. A copy of the topography map, aerial photograph and site photograph are enclosed with the report (Attachments 6, 7 and 8).

### Zoning Enforcement:

A complaint was filed with the Department of Planning and Zoning in July of 2011 regarding a fence that was constructed without a zoning certificate. An inspection of the subject property confirmed the presence of a 6-foot fence that was constructed along Aldino Stepney Road without the issuance of a zoning certificate. The property owner subsequently submitted the application for a variance to the Board of Appeals on October 3, 2012 to allow the 6-foot fence to remain within the front yard setback. That application was later withdrawn by the Applicant. A new application for a variance to the Board of Appeals was submitted by the property owner on May 29, 2015 to allow the 6-foot fence to remain within the front yard setback.

### Zoning:

The zoning classifications in the area are generally consistent with the 2012 Master Plan as well as the existing land uses. The predominant zoning classifications in the area are AG/Agricultural and RR/Rural Residential Districts. Commercial zoning includes B3/General Business District which is located along MD Route 22. The HEAT Center, which is located on the west side of MD Route 22, is zoned LI/Light Industrial District. There is a mixture of residential and commercial zoning within the City of Aberdeen, which is located to the south and east of the subject property. The subject property is zoned AG/Agricultural District (Attachment 9).

### SUMMARY:

The Applicant is requesting a variance pursuant to Section 267-24B(1) of the Harford County Code to permit a fence to exceed four feet in height (6-feet proposed) in the AG/Agricultural District.

Variances 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.

Since the construction of the fence in 2011, the previously separate parcels have been combined into one (1) residential parcel. The property is unique in that the dwelling is disconnected from the larger portion of the property by a separate parcel and dwelling, (Parcel 812) as shown on the Applicants' site plan. The additional height of the fence provides some security for the

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Beverly R. King

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Applicants pole barn and remainder of the subject property, where the view from the King's residence is obscured.

The property is also unique in that although it is located in a rural area of the county, that is adjacent to the city limits of Aberdeen which are located directly across the street from the subject property. The Eagles Rest subdivision is located across the street and is being developed in accordance with the provisions of the City of Aberdeen. The fence serves as a transition and buffer between the two distinct areas. The density of the Eagles Rest subdivision is much greater than the existing developed lots on the west side of Aldino Stepney Road.

With the continued development of the Eagles Rest subdivision across the street, the change in topography has caused the 2-story homes built along Aldino Stepney Road to be constructed at a higher elevation than the subject property. The additional height of the fence does provide privacy from the homes that look down into the Applicants' property.

In addition, the new fence is the same height as the one previously approved for the site, and it is more aesthetically in line with the new neighborhood across the street. The new fence has been located onsite since approximately 2011 and has caused no apparent impacts to traffic or the adjacent properties.

**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends approval of the requested variance subject to the Applicant obtaining a permit for the fence.

  
\_\_\_\_\_  
Jennifer R. Wilson  
Planner, Development Review Section

  
\_\_\_\_\_  
Anthony S. McClune, AICP  
Chief, Current Planning

JW/ASM/jf