PRO. EXHIBIT# | CASE: 2023 - 0160-1
DATE: /18/24

January 6, 2024

Holly Colby
Office of Administrative Hearings
Arundel Center, P.O. Box 2700
Annapolis, Maryland 21404-2700
Zhcolb22@aacoua subdivisionnty.org

Subject: Tonya Tennile Brewer - 2023-0166-V (AD 3, CD 5)

Dear Ms. Colby,

I received the notice for a hearing regarding 1422 Brewer Road, Annapolis, Maryland 21409 on Thursday January 18, 2024 at 11:00am. I will not be able to attend as I have a court case that I must be at on January 17 and 18, 2024 (C-02-CV-23-000083). I am submitting my objection to the approval of the variance, density, and setbacks that are required. If this letter is not satisfactory to have my concerns heard, then I am requesting the postponement of the hearing to a later date.

First and foremost, the addition of a second dwelling located towards the rear of the current lot will place a burden on my family. I purchased my current property to build my family home and to be able to hunt within the legal and ethical rules set forth by the Maryland Department of Natural Resources. I am a 100% disabled veteran. I cannot climb up tree stands, nor can I carry hunting equipment for long distances. This prevents me from hunting public land. I purchased the property to build a tree stand in the back of the property at the required 150 yards from any dwelling. The Brewer family is aware of this and allowed me to traverse their property to build the stand in 2020. I build the stand with the full understanding of the current building codes and regulations and knowing that another structure cannot be built within 150 yards of my location.

Second, I concur with the assessment by Hala Flores, Engineering Manager, Department of Inspections and Permits, that the addition of subdivision will further congest a very small road as well as put stress on the sewer system. There are currently two other undeveloped properties, 1418 Stepney Rd. and the 6-acre property that wraps around my property on Yorktown Rd, that could be developed at any time, putting more stress on both the small road and sewer system.

Third, land North of Brewer Road is designated as emerging wetlands. This significantly limited what I could do to just build a single-family home on my property. I did not see anything in the filing from the Maryland Department of the Environment approving the addition of a second home on the existing or new lot.

Fourth, there is an abundance of wildlife that makes the wooded areas behind the houses on Brewer Road home. I currently hunt the property, but I also enjoy observing the large number of animal species that live in the woods. The animals include but are not limited to whitetail deer, wild turkeys, foxes, coyotes, raccoons, opossums, snapping turtles, box turtles, spotted turtles, bald eagles, squirrels, ground hogs, and a large number of other bird species. I recommend that if development is approved, that both the Maryland Department of Natural Resources and the Maryland Department of the Environment conduct studies to determine the impacts and protection for the existing wildlife. I have attached a picture of the bald eagle that lives either in the woods or in Sandy Point State Park. I know there are regulations as to when you are able to do constructions within 660 feet of an eagle's nest.

Ms. Brewer and I have spoken about her proposed plan to build a house back on the property. I did express my concerns to her about my family and I hunting towards the back and my disabilities which prevent me from hunting public land. She did say that I would have permission to hunt even after the home is constructed, but due to the disturbance to the wildlife, proximity to the home, and the three small children that would be living at the house and in the area, it would be unethical and unsafe to hunt with a home there.

I currently have a good relationship with the neighbors on Brewer Road, including Ms. Brewer. I would like to keep that good relationship and am requesting that my name not be used, if possible, when expressing my concerns at the hearing.

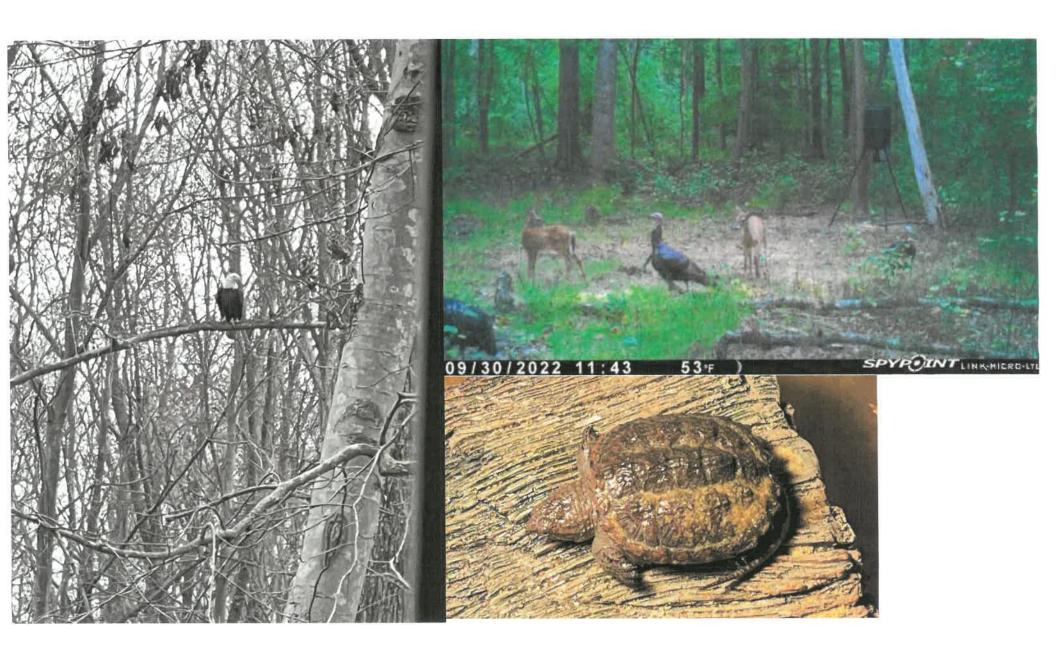
I can be reached at john.h.helm.jr@gmail.com, or (202) 360-5881.

John H. Helm Jr. 1430 Brewer Rd.

Annapolis, Maryland 21409

(202) 360-881

John.h.helm.jr@gmail.com





Matthew S. Evans, III Owner
Gary Damico Partner
Jonathon Scruggs Partner
Caterina Sorrento Associate
Jessica Chandler Paralegal
Geniya Seager-Gilliam Paralegal

113 Cathedral Street Annapolis, MD 21401 410.626.6009 msevanslaw.com

September 21, 2023

Via US Mail Anne Arundel County Department of Planning and Zoning 2664 Riva Road Annapolis, MD 21401

Re: Variance Application

Requested Deviation from Lot Size Req. and Side of Lot Setbacks

Letter of Explanation

Sir or Madam,

My office has been retained to assist Ms. Tonya T. Brewer with a request for a variance to the minimum lot size requirement of an R1 single family residential property, as well as a variance to side lot line setbacks to both sides of the property located at 1422 Brewer Road Lot #2 containing approximately .42 acres.

Specifically, the property herein referenced is identified as follows:

Lot 1 and Lot 2 (1.25) Acres County Lot 1

1422 Brewer Road,

Annapolis, MD 21409

Tax Map: 41 Grid: 13 Lot: 1 Parcel: 263

Legal Description Lot 2 1/2 (.42 acres)

County Lot 2

Brewer Rd

Annapolis, MD 21409

Tax Map: 41 Grid: 13 Lot: 2 Parcel: 78

By way of background the property located at 1422 Brewer Road is comprised of two lots. Lot 1 comprises roughly 1.25 acres whereas Lot 2 comprises roughly .42 acres. There is an existing

single family dwelling on Lot 1 which is the home of Mr. William Brewer and Mrs. Doris Brewer. Lot 2 runs vertically along the length of Lot 1.

Ms. Brewer intends to develop the existing lots and ultimately subdivide 1422 Brewer Road into new lots for the erection of a single family home. Ms. Brewer intends this to be her principal residence to assist with the needs of her elderly parents.

As indicated on the attached site plans, the indicated size of the proposed new Lot 1 shall be 32,825 sq ft. while the proposed square footage of the new Lot 2 will be 40,000 sq. ft. This requires a downward deviation of approximately 7,175 sq ft. for Lot 1 to comply with the 40,000 sq ft. minimum lot size requirement for an R1 zoned property. As stated previously there is an existing structure on what will be identified as the new Lot 1.

Further, the erection of said single family residence on Lot 2 will require deviation from the side lot set back requirement. Currently the combined side set back is established at 40 feet, with a minimum of 15 ft per set back. As indicated on the attached site plan, Ms. Brewer is requesting a downward deviation to the combined side set back to 36.54 ft at the rear of the proposed structure, and 36.45 ft at the front of the proposed structure. Moreover, Ms. Brewer is requesting a downward deviation of .24 ft. to the front right of the proposed structure.

The proposed variance is in keeping with the overall nature of the community, does not impose any hardship or undue imposition on the surrounding properties, and is the least restrictive measure to allow for the Applicant to proceed with her proposed construction.

All relevant documents, to include the application for variance, and the attendant site plan, list of adjoining properties, and the deed to the subject property have been attached for your review and reference.

Please direct all correspondence regarding this matter directly to my office at my attention.

Sincerely,

Jonathon C. Scruggs Jonathon C. Scruggs

Attorney at Law

cc: Client



GENERAL NOTES

- THE PROPERTIES HER THOMPRIAD.
 TAX MAP 41, GROD 13, PARCEL 263, TOTAL AREA = 56,222 SQ. FT. OR 1.270 AC.: DEED REF. 2574/596TAX MAP 41, GROD 13, PARCEL 75, TOTAL AREA = 18,443 SG. FT. OR 8.423 AC.: DEED REF. 10396/296
- EXISTING ZOMING OF THE BITE (6 RS (REGIDENTIAL DISTRICT)
- THE BITE ADDRESS IS: 1422 BREWER ROAD, ANNAPOLIS, NO 21409
- TAX ACCENT NO.: 03-000-02537700 / 60-000-90212937
- EXISTING BOUNDARY AND FEATURES SHOWN HERE TOOK YE'RE TAKEN FROM DEEDS AND PLATE OF RECORD ALOMENTED WITH GIS DATA. A FREID RIAN SOUNDARY/TOPOGRAPHICAL SURVEY WAS NOT PERFORMED AT THIFTIE.
- THE BITE IS NOT LOCATED WITHIN THE CHEBAPEAKE BAY CRITICAL AREA.

- WATER NO PUBLIC SERVICE PROVIDED (W-7, BROADNECK) SEWER EXISTING SERVICE (B-7, BROADNECK)

SURVEY CONTROL NOTE

THE COORDINATES AND ELEVATIONS BYOVEN HEREON AND DAYS ON FIT (BEAL THE NIBLANTO) CRESENATIONS. URELAND KEYNORE THE HORIZONTAL DATUM IS REFERENCED TO MAKIN AND STATE PLANE AND (\$304) AND THE WESTCAL DATUM IS REFERENCED TO MAKIN AND STATE PLANE AND (\$304) AND THE WESTCAL DATUM IS

EXISTING LOT COVERAGE SUMMARY				
DESCRIPTION	AMEA			
TOTAL BITE AREA	72,825 BO. FT. ± (1.672 AC. ±)			
MANNAM LOT COVERAGE ALLOWED (25%)	18.208 BQ. FT: 0 (0.417 AG. 0)			
EXISTING (MPERMIOUS AREA (ONLIGHTE ONLY)	16.702.8Q, FT. ± (0.360 AC ±)			
EX.DWELLING	3 726 SQ, FT. ± (0 006 AC, ±)			
EX PAVED DAY	9 719 5Q FT, 1 (9 220 AC 1)			
EX. GAZESO & SHEDS	542 BQ. FT ± (0.012 AC ±)			
EX CONC., BRICK, WALLS & WALKS	1.715 SQL FT. ± (0.039 AC ±)			
EXISTING DEVELOPED WOODLANDS (ON-SITE)	13 496 SQ, FT, ± (0 309 AC +)			
EXISTING DEVELOPES WOODLANDS - TRR (25 PM)	3 AM SQ. FT. ± (0.079 AC ±)			
REMAINING DEVELOPED WOCOLANDS (74.2%)	10 012 SQ FT. ± (0 230 AC ±)			

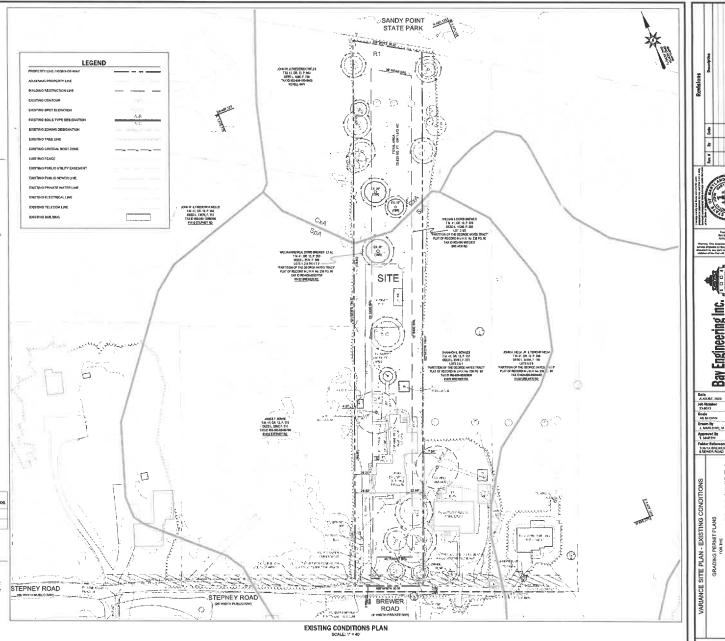
SOILS TABLE

SYMBOL	NAME	HYDROLOGIC SOIL TYPE	PERCENT COVERAGE	HYDRIC SOIL	HIGHLY ERODABLE SOIL
CuA	CLAMBERSTONE-MATTAPEX COMPLEX (9 TO 2% SLOPES)	10/01	34 7%	YES	NO
SpA	SHADYOAK-ELKTON COMPLEX (8 TO 5% SLOPES, FREQUENTLY PONDED)	ano.	66 2%	YES	NO

VARIANCE REQUEST

- 1. BY ATES IN PART THAT THE MINIMUM LOT GIZE IS 40,000 SIQUARE FEET 2. STATES IN PART THAT THE MAXIMUM COVERAGE BY STRUCTURES BHALL BE LIMITED TO 25% OF GROSS AREA FURTHER STATED IN PART. THAT THE MOXIMUM HET DESIGN IS ONE DWELLING UNIT PER 45 900 SQUARE FEET.
- 3. STATES IN PART THAT THE MINIMUM WIDTH AT FRONT BUILDING RESTRICTION LINE SHALL BE 125 FEET AND THAT THE BETBACKS FOR PRINCIPAL STRUCTURES SHALL BE 15 FEET MEASURED FROM THE SIDE LOT LINE





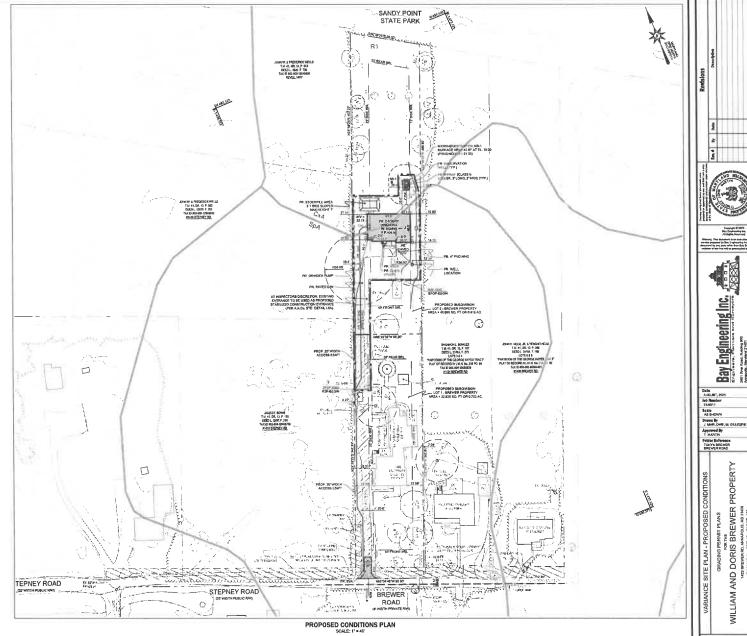
Bay Engineering Inc. 200 Inc.

FOR THE MILLIAM AND DORIS BREWER PROPERTY 1422 BREWER TO ANNUABLE IN THE PROPERTY OF THE PROPE

1 OF 2

PROPOSED SUBDIVISION AREA TABULATION				
OFFICIALION	AREA			
TOTAL SITE AREA	72,828 SQ. FT ± (1.672 AC ±			
MARRIAGE ALLOWED (76%)	16,205 SQ FT, ± (7.417 AC ±			
PROPOSED ACCESS EASEMENT	4,823 SQ FT. ± (0 158 AC ±			
LOT 1+ PROPOSED LOT SIZE	82,625 SQ FT. ± (9 753 AC ±			
ALLOWABLE LOT COVERAGE (25%)	8,298 SQ FT. ± (8 156 AC ±			
1% LOT COVERAGE	328 SQ F7. y (8 057 AC 1)			
EXISTING LOT COVERAGE	18,000 SQ FT. ± (0-213 AC a			
EX DWELLING	3,726 SQ FT. ± (8 065 AC ±			
EX PAVED DW	5,317 BQ FT. a (9 122 AC s			
EX GAZEBO & SHED	242 SQ FT, 1 (6 005 AC, 1			
EX CONG, BRICK, WALLS & WALKS	1.715 BQ FT. x (0.036 AC x			
PROPOSED LOT COVERAGE	125 302 FT. 1 (F 021 AC 1			
PR, PAVED DAY	928 SO FT ± (0.001 AC ±			
TOTAL PROPOSED LOT COVERAGE	11,828 30 FT. ± (0.273 AC ±			
PROPOSED LIMIT OF DISTURBANCE	1,817 BQ FT. L (0941 AC s			
LOT 2 - PROPOSED LOT SIZE	40,000 SQ FT. ((9918 AC)			
ALLOWABLE LOT COVERAGE (15%)	10,000 SQ FT. t (0 229 AC. s			
THE LOT COVERAGE	400 BQ: FT, ± (0 009 AC ±			
EXISTING LOT COVERAGE	4,702 SQ. FT. ± (0 106 AC. ±			
6X PAVED DAY	4,402 SO F7, 6 (0 101 AC)			
EX SHED	300 SG. PT. ± (0 007 AG.)			
PROPOBED LOT COVERAGE	3,899 SQ FT. ± (0 097 AC.)			
PR DWELLING	2,336 BQ FT ± (0 063 AC			
PR, PAYED DW	1,696 SQ. FT. ± (0.036 AC +			
PR CONCRETE	84 SQ.FT. ± (0.001 AC.)			
TOTAL PROPOSED LOT COVERAGE	6,688 SD. F7. ± (0.199 AC. s			
PROPOSED LIMIT OF DISTURBANCE	13,822 SQ FT. ± (0-317 AC I			

LEGEND				
PROPOSED PROPERTY LINE				
ADJOINING PROPERTY LINE				
PROPOSED BUILDING RESTRICTION LINE				
EXISTING CONTOUR	145			
EXISTING SPOT ELEVATION	1.663			
EXISTING SQLS TYPE DESIGNATION	A+B			
EXISTING ZONING DESIGNATION	13			
EXISTING TREELINE				
EXISTING PENCE				
EXTRIPING PUBLIC UTILITY BASEMENT				
EXISTING PUBLIC BEWER LINE				
EXISTING PRIVATE WATER LINE				
EXISTING BUILDING				
PROPOSED SPOT ELEVATION	+ 5 00			
PROPOSED CONTOUR LINE	(8)			
PROPOSED LIMIT OF DISTURBANCE				
PROPOSED REINFORCED BILT FENCE				
PROPOSED ACCESS EASEMENT				
PROPOSED L'INLTY EABEMENT	2222			
PRÓPOSED BULDING				
PROPOSED BTABILIZED CONSTRUCTION ENTRANCE	38055			
PROPOSED DRIVEWAY				
PROPOSED STORIHMATER MANAGEMENT (M4)	MB-1			
PROPOSED PRIVATE WATER LINE				



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2 OF 2



OFFICE OF PLANNING AND ZONING

CONFIRMATION OF PRE-FILE

PRE-FILE #: 2023-0040-P DATE:

10/06/2023

OPZ STAFF: Joan A. Jenkins

Diane Windell I & P STAFF: Hala Flores

APPLICANT/REPRESENTATIVE: Jonathan Scruggs

EMAIL: jscruggs@msevanslaw.com

SITE LOCATION: 1422 Brewer Rd (P. 263) & P. 78

LOT SIZE: P. 263=1.25ac & P. 78=0.41 ac

ZONING: R1

CA DESIGNATION: n/a

or BUFFER: BMA: n/a

n/a

APPLICATION TYPE: Variance

DESCRIPTION

The applicant wishes to combine the two parcels and subdivide into two lots. There is an existing dwelling on proposed lot 1(40,000 sf). Lot 2 (32,825 sf) would be below the minimum lot size requirement for an R1 zoned property. Variances are required for lot size, lot width, density and setbacks as shown on the site plan for the proposed dwelling. In addition, the existing dwelling must meet the R1 setbacks when a subdivision is created. The existing dwelling does not meet the required setbacks and will require a variance as well.

COMMENTS

Residential Team: The Office of Planning and Zoning, Residential Division has no comment and defers to the Zoning Division with regard to this Variance.

Please be aware that any future development, including a Minor Subdivision, must adhere to all applicable County Code requirements as referenced in Article 17-3, including, but not limited to access to the future lots, bulk restrictions, topography, environmental and forestation guidelines and adequate public facilities.

Engineering: This office has received the subject application and has the following comments that should be addressed with the formal variance application:

SWM must meet ESD to the MEP based on the overall site. Based on COMAR criteria, the site is defined as continuous 1parcels that are owned by the same entity or being considered as part of a development plan. The SWM report, which will be required to approve the new proposed lot reconfiguration, needs to provide site fingerprinting and explore conservation first, then minimization of imperviousness, then non-structural practices (alternative surfaces, disconnections, and sheet flow to the protected area". Reliance on micro-practices changes the sheet flow pattern and places a maintenance burden on future homeowners and should be avoided to the extent practical.

The site area is defined in COMAR Title 26, Part 3, Subtitle 17 02 Definitions as follows:

3) "Site" means any tract, lot, parcel of land, or combination of tracts, lots, or parcels of land that are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project.(34) "Site development plan" means the second of three required plan approvals that include the information necessary to allow a detailed evaluation of a proposed project.

Determination: This office cannot recommend approval of the variance until the prefile comment is addressed adequately with the variance application.

Zoning Administration Section:

- Site plan: Indicate the height of the proposed dwelling on the site plan in the area of the dwelling footprint.
- There is ample room on the proposed Lot 2 to locate a dwelling in compliance with the R1 District bulk regulations without requiring a variance to setbacks.
- The applicant must indicate in the letter of explanation how the proposal meets <u>Article 18-16-305</u> (a) and (c). In particular the letter should address the hardship in complying with the Code, the justification for the orientation of the dwelling as proposed, and how this application meets the minimum variance necessary.
- The applicant is reminded that if the variance is approved the site plan submitted becomes part of the decision. Any deviation from the site plan aside from changes made that are necessary by comments or requirements that arise during plan review or construction, provided those minor changes doe not exceed any variance granted, may require a new variance application.

INFORMATION FOR THE APPLICANT

Section 18-16-301 (c) Burden of Proof. The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence.

A variance to the requirements of the County's Critical Area Program may only be granted if the Administrative Hearing Officer makes affirmative findings that the applicant has addressed all the requirements outlined in Article 18-16-305. Comments made on this form are intended to provide guidance and are not intended to represent support or approval of the variance request.



Mark Wedemeyer, Director

Memorandum

TO: Sumner Handy, OPZ Zoning Division

FROM: Hala Flores, P.E., Engineer Manager, Department of Inspections and Permits

SUBJECT: 1422 Brewer Road

2023-0166-V

DATE: October 23, 2023

Engineering and Utility Review

The above-referenced pre-file has/have been reviewed for Engineering and Utility issues, and the following comments apply:

<u>Project Information:</u> The property is located at 1422 Brewer Road. The applicant is proposing to merge two lots and then re-subdivide. There is a single-family dwelling on Lot 1. Lot 2 runs vertically along the length of lot 1. The applicant intends to merge the two lots and subdivide them into two new lots for building a second single-family dwelling. The new lot to be created will be below the minimum lot size requirement for an R1-zoned property. The construction of a new single-family residence on lot 2 will require deviation from the side lot setback requirement from 40 feet to 36.54 feet at the rear of the proposed structure and from 40 feet to 36.45 feet at the front of the proposed structure.

This office provided comments during the pre-file phase. Additional comments are indicated below:

- The pre-file comments were not addressed. A SWM concept plan that addresses ESD to the MEP through site
 fingerprinting and reliance on conservation or nonstructural SWM practices for the entire site was not performed to
 show that the subdivision of the site can be achieved without reliance on micro-structural practices.
- A minor subdivision application is required for subdividing this lot. A minor subdivision would require frontage improvements/ROW dedication.
- This subdivision would create a private road that is in excess of 150 feet in length with no emergency/fire turnaround and does not meet the minimum standards for a private road.
- A low-pressure sewer system serves this property and proposes to discharge into a private low-pressure sewer connection. Capacity has not been verified. Further, if other properties in the area are granted the same variance to increase the density, the current 1.5-inch low-pressure sewer may not be adequate.

<u>Determination:</u> Due to the comments above, this office does not recommend approval of the variance.

