

**PRO. EXHIBIT#** 1  
**CASE:** 2023-0166-V  
**DATE:** 1/18/24

January 6, 2024

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

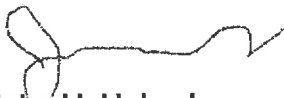
Third, land North of Brewer Road is designated as emerging wetlands. This significantly limited what I could do to just build a single-family home on my property. I did not see anything in the filing from the Maryland Department of the Environment approving the addition of a second home on the existing 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](mailto: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](mailto:John.h.helm.jr@gmail.com)



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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 ½ (.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.

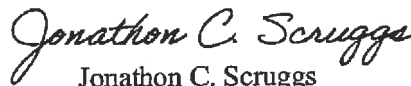
Further, the erection of said single family residence on Lot 2 will require deviation from the side lot set back requirement. Currently the combined side set back is established at 40 feet, with a minimum of 15 ft per set back. As indicated on the attached site plan, Ms. Brewer is requesting a downward 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  
Attorney at Law

cc: Client







**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      **BMA:** n/a      **or BUFFER:** 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:

1- SWM must meet ESD to the MEP based on the overall site. Based on COMAR criteria, the site is defined as continuous parcels 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 Article 18-16-305 (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 do 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:

**Project Information:** 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.

**Determination:** Due to the comments above, this office does not recommend approval of the variance.

