

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

APPLICANT: Timothy Alexander Eubank &
Timothy Ray Eubank

ASSESSMENT DISTRICT: 4th

CASE NUMBER: 2023-0229-V

COUNCILMANIC DISTRICT: 5th

HEARING DATE: March 5, 2024

PREPARED BY: Sara Anzelmo
Planner



REQUEST

The applicants are requesting a variance to allow two accessory structures (garage and storage building) to remain in the front yard of a nonwaterfront lot once a new dwelling is constructed on property located at 8521 Brauns Avenue in Severn.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 2.59 acres of land and is located with approximately 304 feet of frontage on the south side of Brauns Road, 400 feet east of Burns Crossing Road. It is identified as Parcel 136 in Block 13 on Tax Map 22.

The property is zoned R1 – Residential District, as adopted by the comprehensive zoning for Council District 5, effective January 29, 2012. The lot is not waterfront and is not located within the Chesapeake Bay Critical Area overlay. It is currently improved with a garage, a large storage building (measuring approximately 4,168 square feet), and a gravel driveway.

PROPOSAL

The applicant proposes to construct a single-family detached dwelling located to the southeast of the existing structures, both of which are intended to remain in place as accessory structures.¹

REQUESTED VARIANCES

§ 18-2-204(b) of the Anne Arundel County Zoning Ordinance provides that an accessory structure may not be located in the front yard of a nonwaterfront lot. While the garage and storage building already exist, a variance is required to allow those structures to remain as accessory structures in what would ultimately be considered the front yard once a new dwelling is constructed at the rear of the property.

¹ The footprint of the proposed dwelling is smaller than the existing storage building, and the site plan does not label the proposed number of stories. Therefore, it is unclear what the total floor area of the proposed dwelling would be. The applicant is advised that Section 18-2-301(d) provides that the area of an accessory structure may not exceed the floor area of the principal structure. A variance has not been requested. Therefore, if the locational variance is approved, the floor area of the proposed dwelling must exceed that of the storage building.

FINDINGS

The subject property is irregular in shape and far exceeds the minimum 40,000 square foot lot area and the minimum 150-foot lot width required at the front building restriction line in an R1 - Residential District. A review of the County 2023 aerial photograph shows that the surrounding neighborhood consists of a wide variety of lot shapes and sizes. The property to the southwest is heavily wooded. The historic County aerials show that the existing storage building was constructed sometime between 1990 and 1995² and that the existing garage was constructed sometime between 1995 and 1998.

The applicants' letter explains that site planning alternatives were considered; however, due to the existing floodplain area in the northwest corner of the site and the [proposed] septic system in the northeast corner, the proposed house could not be constructed in the remaining confined area. The applicants attest that there were five perc tests completed. For multiple reasons, based on those perc test results, the applicants concluded that the area to the rear of the storage building was the most suitable location to place a new structure.

The **Health Department** does not have an approved plan for this project, but has no objection to the proposed variance as long as a plan is submitted and approved by the Department.

For the granting of a zoning variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to or inherent in the particular lot or because of exceptional circumstances other than financial considerations, strict implementation of the Code would result in practical difficulties or an unnecessary hardship and would prevent development of the lot. It could be argued that some exceptional circumstances and practical difficulties exist due to the long-standing location of the existing structures on the site. However, that does not necessarily mean that the specific variance request is warranted.

Approval of the proposed variance would not alter the essential character of the neighborhood; the two structures that are the subject of this variance application have been in the same location since the early to mid 1990's, and their locations would remain exactly the same after the proposed residential development takes place. Similarly, approval of the variance would not substantially impair the appropriate use or development of adjacent property; both of the existing structures and the proposed dwelling exceed the minimum setbacks required in an R1 District. There is no evidence that the proposed variance would be detrimental to the public welfare.

The existing structures have been in place for many years, and the requested variance cannot be avoided without removing or relocating those structures. However, despite the applicants' assertion that the existing structures are "in excellent condition" and are both "useful" and "purposeful", they have provided no information about the prior, current, or intended future uses of the buildings, should they be allowed to remain in place. The 4,168 square foot storage building far exceeds that which would be typical for residential accessory use. The structures were built in the early to mid 1990's, prior to the keeping of computerized permit records. As such, it is unclear whether the existing structures were constructed with or without permits. Nevertheless, neither a garage nor a large storage building is allowed on a residentially zoned lot

² There was a smaller structure at this location visible on previous aerials, but the building was significantly expanded sometime between 1990 and 1995.

unless it serves as an accessory structure associated with a principal dwelling on that same lot or a principal dwelling on a contiguous lot under common ownership. Therefore, the prior use and any active/current use, be it commercial or residential, is not legal.

§ 18-2-204(b) of the Code anticipated the potential for new single-family dwellings to be constructed on lots with accessory structures already in place, but it only exempted existing barns on RA and RLD lots. Otherwise, an accessory structure, even an existing one, may not be located in the front yard of a nonwaterfront lot.

While this Office has no specific objection to a locational variance to allow a typical residential accessory structure to remain in place, we do have serious concerns over the existing and future use of the 4,168 square foot building in particular. The burden of proof is on the applicants to show that the variance is warranted and is the minimum necessary to afford relief. This Office supports a variance to keep the existing detached garage, a typical residential accessory structure (albeit larger than a standard two-car garage at 30' by 40'), in the front yard. However, we cannot support a variance to keep an excessively large storage building that dominates the lot in the front yard of this residentially zoned property, particularly given the lack of any justification relating to any current or proposed legal use of the building. With the proposed single-family dwelling and with a potential variance to keep the existing garage in the front yard, the applicants have not demonstrated that without a variance to allow the large storage building to remain they would be denied reasonable use of their residentially zoned property. The large storage building is not consistent with residential use or development and should be removed to allow room for construction of the new dwelling. It does not appear that any perc tests were performed in the areas near the storage building. Therefore, it appears that the rear of the lot is not necessarily the only potential location for construction of a new dwelling.

The applicants are advised that, if the variance is approved, the existing structures may only be used for personal (i.e. non-commercial) uses accessory to the principal residential use or for other uses allowed in the R1 - Residential District.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends ***conditional approval*** of a zoning variance to § 18-2-204(b) to allow the existing garage (measuring approximately 30' by 40') to remain in the front yard of a nonwaterfront lot once a new dwelling is constructed. However, this Office recommends ***denial*** of a variance to § 18-2-204(b) to allow the existing 4,168 square foot storage building to remain in the front yard of a nonwaterfront lot once a new dwelling is constructed. Any approval should be conditioned on any existing structure(s) to remain being used for accessory residential purposes only or for other uses allowed in the R1 District.

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.

December 5, 2023

Planning and Zoning
Zoning Division
2664 Riva Rd. 3rd Floor
Annapolis, MD 21401

Re: 8251 Brauns Ave.
Severn, MD 21144
T.A. 0400-90069853

To Whom It May Concern:

In order to recognize the Site Development as proposed, a Variance to Allow Existing Structures to Remain in a Front Yard will be necessary.

The Site is zoned R1 and therefore Minimum Setbacks for Accessory Structures are, front – 50ft., rear and side – 15ft. There are two (2) Existing Accessory Structures located on the Lot which will be considered the front yard. In accordance with Article 18-2-204(b), an Accessory Structure is not permitted in the Front Yard of a Non-Waterfront Lot.

The two (2) Existing Structures are an Existing Garage, to remain which has a front setback of 101.9 ft. and a side setback of 44 ft. The second structure is an Existing Storage Building with a front setback of 136.6 ft. and a side setback of 25.7 ft. Both structures meet the Required Setbacks of 50 ft. Front and 15 ft. Side for an Accessory Structure, except that they are located in the front yard due to house placement.

When reviewing the Development Plan, you will note that the proposed house is located to the rear of the Lot. Site Planning Alternatives were considered, however, due to the Existing Floodplain Area in the northwest corner of the Site and the Septic System in the northeast corner of the Site, the proposed house could not be constructed in the remaining confined area. There were five (5) Perc Tests completed. Numbers 1 and 4 were considered Failed Tests and required a 25ft. setback. Perc Number 5 required a Mound System which was not practical for the Site due to the proximity of failed Perc Number 4 and the Existing Garage to be removed. Therefore, the area to the rear of the Storage Building was most suitable to place a new structure. (See attached Health Department Results.)

In accordance with Article 18-16-305; Variances:

The Site meets the requirements for Zoning Variances because Practical Difficulties and Hardships are created as follows:

1. The Site exhibits unique physical conditions because the structures are existing and useful. As previously stated, the house has been located in the most practical location on the Site which is behind the existing structures.
2. An unnecessary hardship exists because the buildings are existing, are in excellent condition and are purposeful.

Requirements for all Variances:

1. The Variance is the minimum necessary to avoid relief due to the location of two (2) existing structures.
2. The granting of a Variance will not:
 - (i). Alter the essential character of the neighborhood as the referenced structures are existing and the Site Planning maintains the character of the neighborhood.
 - (ii). The adjacent property to the left when viewed from Brauns Ave remains largely

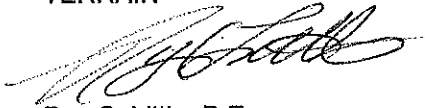
undeveloped and will not be impacted because the structures which are the subject of this Variance Request are existing. The property to the right is developed and will not be impacted because it currently exists and with the structures on the adjacent Lots.

- (iii). The development is not located in the Critical Area and is exempt from Forest Conservation Requirements because clearing is less than 20,000 SF. Clearing for this project has been minimized and is less than 20%.
- (iv). The Site is not located in a Bog Protection Area or Critical Area Designation.
- (v). The Site is being developed in accordance with County Regulations and will not be detrimental to Public Welfare.

The requested Variance allows orderly development of the Site and will not detrimental to surrounding properties. Therefore, we believe support of this Request is consistent with County Policy.

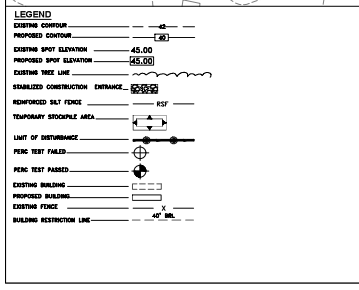
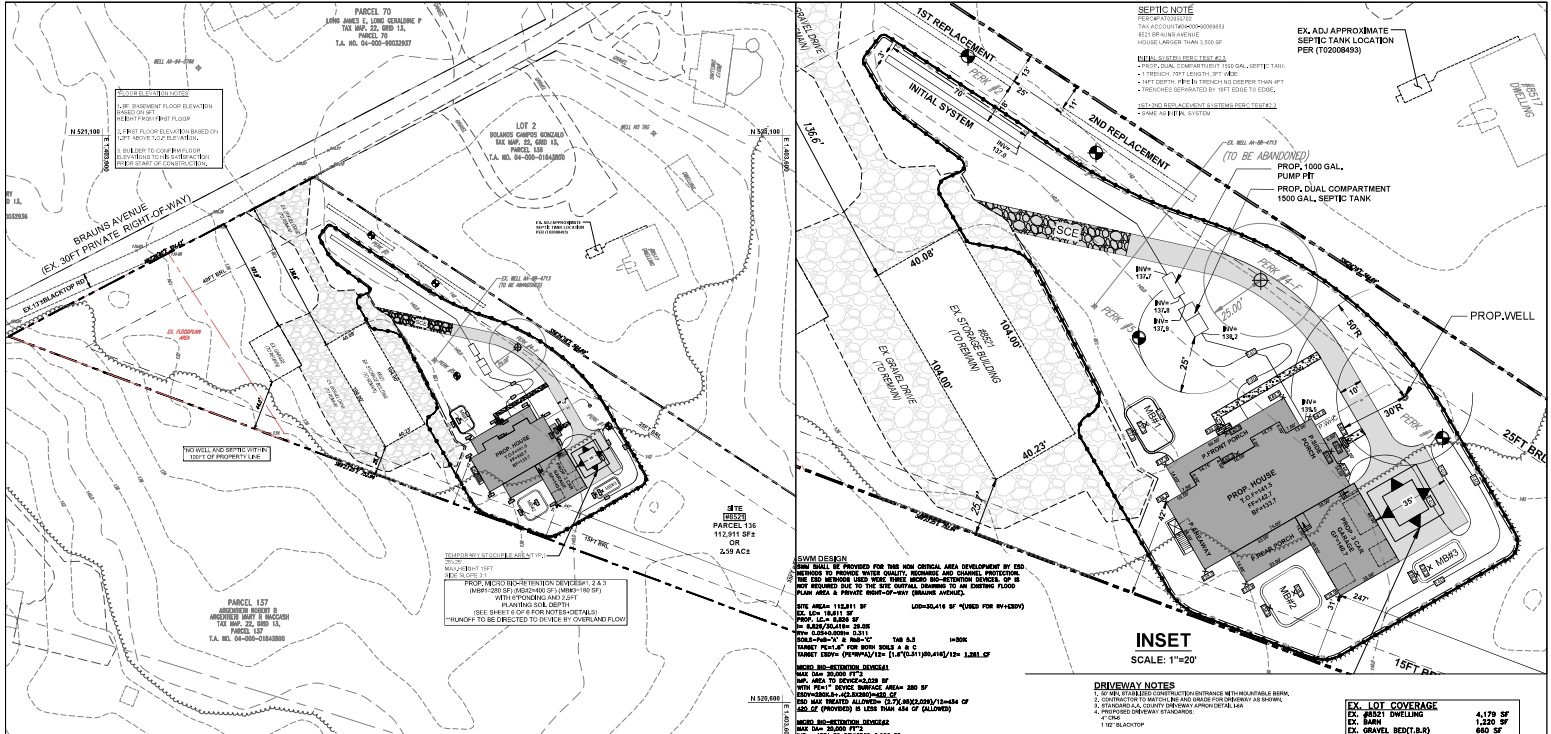
If you should have any questions or comments or need additional information, please do not hesitate to call our office at (410) 266-1160 or email terrain@terrainmd.com.

Sincerely,
TERRAIN



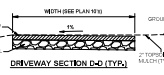
Roy C. Little, P.E.
Director of Engineering
RCL/II.3232





PLAN
SCALE: 1"=40'

INSET
SCALE: 1"=20'



EX. LOT COVERAGE	
EXIST. DWELLING	4,179 SF
EXIST. MAIN	1,220 SF
EXIST. DRIVE	1,220 SF
EXIST. TOTAL	15,811 SF

PROP. LOT COVERAGE	
PROP. HOUSE	3,825 SF
PROP. FRONT PORCH	631 SF
PROP. SIDE PORCH	72 SF
PROP. REAR PORCH	482 SF
PROP. DRIVEWAY	3,854 SF
PROP. TOTAL	8,874 SF

LOT COVERAGE	
SITE AREA	112,911 SF
EX. LOT AREA (6.58)	15,811 SF
PROP. LOT AREA (11.79)	8,874 SF
EX. DEVELOPED WOODLANDS	43,109 SF
PROP. CLEARING	7,789 SF

G. P. NO: XXXXXX

REVISION BLOCK		OWNER/APPLICANT
NO.	DATE	DESCRIPTION
1	-	-
2	-	-
3	-	-
4	-	-
5	-	-

TERRAIN
ENGINEERING • SURVEYING • ENVIRONMENTAL

63 OLD SOLOMONS ISLAND ROAD
SUITE 101
ANNAPOLIS, MARYLAND 21401
TEL: 410-266-1160 FAX: (410) 266-8129

DEVELOPMENT PLAN
GRADING, EROSION AND
SEDIMENT CONTROL PLAN

8501 BRAUNS AVENUE, SEVERN MD, 21144
COUNTY: ANNE ARUNDEL
LOT: N/A BLOCK: N/A
PBL: L2000-P07-040 PLAT NO: N/A
TAX MAP: 22 GRID: 13 PARCEL: 136
TAX ACCT: 04-000-008983 TAX DISTRICT: 4TH
ZONING DISTRICT: R1

DATE: 10-18-2023 DRAWN BY: D.J.B.
SCALE: 1"=40' & 1"=20' CHECKED BY: D.L.L.
SHEET: 4 OF 6 TERRAIN JOB NO: 3233



ANNE
ARUNDEL
COUNTY


MARYLAND
DEPARTMENT OF HEALTH

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: January 4, 2024

RE: Alexander Eubank
8521 Brauns Ave.
Severn, MD 21144

CASE
NUMBER: 2023-0229-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance request to allow a two accessory structures (garage and storage building) to remain in the front yard of a nonwaterfront lot once a new dwelling is contracted.

The Health Department does not have an approved plan for this project. The Health Department has no objection to the above referenced variance request as long as a plan is submitted and approved by the Health Department.

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

cc: Sterling Seay

