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June 18, 2024
Ms. Sterling Seay, Zoning Administrator
Anne Arundel County
Planning & Zoning
2664 Riva Road
Annapolis, MD 21401

Re: Variance Application to Extend Timeframe
353 Leach Road (2022-0166-S)
Tax Map 77, Grid 24, Parcel 87
Explanation Letter

Dear Ms. Seay:

Attached for your review and processing is a variance application to extend the timeframe required to obtain a building permit for the above referenced Property. The subject site consists of approximately 73.88 acres of land with located approximately 2,860 feet of frontage on the south side of Leitch Road at the intersection of Town Point Road. It is identified as Parcel 87, Block 24 on Anne Arundel County Tax Map 77. The property is predominately zoned RA – Residential Agricultural District. The lot is a non-waterfront lot; however, the majority of the property lies within the Chesapeake Bay Overlay area and is designated as RCA (Resource Conservation Area). It is currently improved with a historic brick "mansion" various historic milk barns, grain silos, and stables; an in-ground swimming pool, an "owner cottage," a driveway and other associated facilities. The applicant is proposing to use the existing structure to operate a bed and breakfast inn in an RA Zone. No exterior structural improvements or woodland clearing is proposed.

The applicant's original Special Exception was approved on December 20, 2022 and in order to submit a building permit application, an approved Septic Site Plan was required. The applicant initially submitted the Septic Site Plan on 7/28/23 and resubmitted to address comments on 9/5/23, 11/3/23, 12/13/23/ and 2/1/24. The Septic Site Plan was subsequently approved on 2/14/24. The applicant started preparing the Building Permit documents to submit immediately thereafter and discovered that a modification to the PP/SDP process is required to secure the building permit approval. The applicant has diligently and continuously pursued the required approvals; however additional time is needed to secure the building permit as required by County Code. The applicant is requesting a one-year extension to obtain the approvals necessary to issue a building permit for the proposed use.

Specifically, the applicant is requesting the following variances:

1. A variance to Article 18-16-405(a) to extend the 18-month timeframe to obtain a building permit for a Special Exception by one year (as permitted under Article 18-16-405 (c)).



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Variance Application
353 Leitch Road
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We believe the proposed variance meets all applicable criteria in accordance with the Anne Arundel County Code. Specifically:

Requirements for all variances:

(c)(1) *The variance is the minimum variance necessary to afford relief.*

The Special Exception was approved on 12/20/22 and in order to submit a building permit application, an approved Septic Site Plan was required. The applicant initially submitted the Septic Site Plan on 7/28/23 and resubmitted to address comments on 9/5/23, 11/3/23, 12/13/23/ and 2/1/24. The Septic Site Plan was subsequently approved on 2/14/24. The applicant started preparing the Building Permit documents to submit immediately thereafter and found that a modification to the PP/SDP process is required to secure the building permit approval. The applicant has diligently and continuously pursued the required approvals; however additional time is needed to obtain the approvals necessary to issue a building permit for the proposed use. It is our belief that a one-year extension to obtain the building permit approval is an appropriate time extension and the variance is the minimum necessary to afford relief.

(c)(2) *The granting of a variance will not (i) alter the essential character of the neighborhood or district in which it is located; (ii) substantially impair the appropriate use or development of adjacent property; (iii) reduce forest cover in the limited development and resource conservation areas of the critical area; (iv) be contrary to acceptable clearing and replanting practices required for development in the critical area; nor (v) be detrimental to the public welfare.*

Granting of the variance will allow the Property to be used in a manner that is consistent with the approved Special Exception. It will have no impact on the use or development of adjacent properties and it will have no impact on forest cover or be contrary to acceptable clearing and replanting practices for development in the Critical Area. Granting of the variance will not be detrimental to the public health, safety, or welfare.

If there are any questions concerning this application, please do not hesitate to contact me.

Sincerely,
MESSICK GROUP, INC.
T/A MESSICK & ASSOCIATES


Timothy Brenza, Vice President

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER: 2022-0166-S

SUSAN ELIZABETH HOLLEY

EIGHTH ASSESSMENT DISTRICT

DATE HEARD: DECEMBER 13, 2022

ORDERED BY:

**DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER**

PLANNER: SARA ANZELMO

DATE FILED: DECEMBER 20, 2022

southeastern portion of the lot. The property comprises of 73.886 acres and is designated in the Chesapeake Bay Critical Area as resource conservation area (RCA).

The property is currently developed with a historic brick “mansion”; various historic milk barns, grain silos, and stables; an inground swimming pool, an “owner’s cottage”, a driveway, and other associated facilities.

THE PROPOSAL

The applicant proposes to expand the existing registered nonconforming use to operate a bed and breakfast inn in an RA district as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

THE ANNE ARUNDEL COUNTY CODE

The specific criteria by which a special exception for a bed and breakfast inn may be granted are set forth under § 18-11-108 of the County Zoning Ordinance. Additionally, all special exceptions are subject to the general standards contained in § 18-16-304.

The Relief Requested

The applicant seeks special exception approval to allow a bed and breakfast inn in an RA district on property located at 353 Leitch Road, Tracys Landing.

The Evidence Submitted At The Hearing

Sara Anzelmo, a zoning analyst with the Office of Planning and Zoning (OPZ), presented the following findings:

lodging of guests for no more than 14 consecutive days. The owner shall maintain a reservation log of the arrival and departure dates of all guests for inspection by the Office of Planning and Zoning. The inn will contain nine guest rooms; the maximum stay will be limited to 14 days; and, the applicant will maintain an online reservations system platform called "Think Reservations" with an online guest log that will reflect the name and number of guests and their length of stay.

- On a waterfront lot, one boat slip may be provided for each guest room with a maximum of one boat slip for every three guest rooms. The subject property is not waterfront; therefore, this provision does not apply.
- Guest rooms may not contain any cooking facilities, and food service shall be provided only for guests and only in a group dining area of the dwelling. The mansion contains two large dining rooms that are directly adjacent to each other that would be exclusively for the guests of the inn. Breakfast will be served in the dining rooms. There will be no cooking facilities in any of the guest rooms. There are two kitchens in the mansion that are connected to each other and adjacent to the two dining rooms.
- Exterior alterations may not be made for the purpose of providing the inn unless necessary to ensure the safety of the structure. No exterior alterations are necessary or anticipated. The mansion and its systems were well-designed for housing the number of guests that would be staying in the inn.
- If the lot is zoned R1, R2, or R5, it shall be located within the area shown

respectively. Plan2040 does not have recommendations that are specific to this site, and the proposal is generally consistent with the goals, policies and strategies of Plan2040. The site is within the Region 9 Planning Area; the region planning process for this area is anticipated to begin in December of 2022. The site is in the No Public Sewer Service category in the Rural Service Area and the No Public Water Service category in the Rural Water Pressure Zone. The proposal is consistent with the 2022 Water and Sewer Master Plan.

- The Cultural Resources Section commented that the subject property, Tocaro Farm, is a historic property and is listed on the Maryland Inventory of Historic Properties (AA-261). In addition, there are two recorded archaeology sites on the property, and the property is located on a designated (category 1) Scenic and Historic Road. The Office's previous pre-file comments noted that the site plan for the special exception indicated a pool and spa in an area that would not comply with Article 17-6-501(2), which requires that "new development shall be sited so that the layout does not impact the historic resource and shall be oriented so that the view of the historic property's primary facade from the public road is not impaired." It has since come to their attention that the pool may have already been constructed as it was approved under building permit B02407603 without review by their Office. While the Cultural Resources Section has no objection to the proposed special exception use as a Bed & Breakfast Inn, they want to take this opportunity to reiterate to the applicant that any improvement/ development of the property must comply with Article

Approval must be conditioned on an approved Site Development Plan and compliance with the Landscape Manual.

Testimony and Exhibits

The applicant testified that she wants to use the historic property she purchased as a bed and breakfast. Her neighbors (Deborah Bertolaccini, Christina Nigro, and Ralph Meadows) were in support of granting the special exception. An email was received from a neighbor who expressed concern about the impact of the large scale of two events held on the property this fall, although they were in favor of the B&B.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

DECISION

The law is settled that a special exception use is a use that the legislative body recognizes as compatible with permitted uses, subject to a public hearing to show compliance with the underlying standards. Schultz v. Pritts, 291 Md. 1 (1981); Peoples Council for Baltimore County, et al v. Loyola College in Maryland, in the Court of Appeals of Maryland 137, September Term 2007, (September 9, 2008). The standards the applicant has to meet and the findings for each are set forth below.

§ 18-11-108. Bed and breakfast inns. A bed and breakfast inn shall comply with all of the following requirements.

Breakfast Homes and Bed & Breakfast Inns in R1, R2, and R5 Zoning Districts”, dated August, 2005, adopted by Bill No. 55-05.

The property is zoned RA district. This section is inapplicable.

Based upon the evidence, I find that the applicant has complied with each of the specific criteria set forth in § 18-11-108.

In addition, § 18-16-304 requires that the Hearing Officer make affirmative findings that:

- (1) The use will not be detrimental to the public health, safety, or welfare;

The applicant has shown that she can meet this requirement.

- (2) The location, nature, and height of each building, wall, and fence, the nature and extent of landscaping on the site, and the location, size, nature, and intensity of each phase of the use and its access roads will be compatible with the appropriate and orderly development of the district in which it is located;

The applicant has shown that she can meet this requirement.

- (3) Operations related to the use will be no more objectionable with regard to noise, fumes, vibration, or light to nearby properties than operations in other uses allowed under this article;

I find that the operation of the B&B will be no more objectionable with regard to noise, fumes, vibration, or light to nearby properties than operations in other uses allowed under this article.

The applicant has presented sufficient evidence that the use will meet and be able to maintain adherence to the criteria for the specific use.

(10) The application will conform to the critical area criteria for sites located in the critical area; and

The application will conform to the critical area criteria for sites located in the critical area.

(11) The administrative site plan demonstrates the applicant's ability to comply with the requirements of the Landscape Manual.

The applicant plans to comply with the requirements of the Landscape Manual.

I find that the applicant has met the requirements of § 18-16-304.

ORDER

PURSUANT to the application of Susan Elizabeth Holley, petitioning for a special exception to allow a bed and breakfast inn in an RA-Rural Agricultural District on property with a street address of 353 Leitch Road, Tracys Landing; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **20th day of December, 2022;** and

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a special exception to operate a bed



Douglas Clark Hollmann
Administrative Hearing Officer

FINDINGS AND RECOMMENDATIONS
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND

CO. EXHIBIT#: 1
CASE: 2022-01166-S
DATE: 12/13/22

APPLICANT: Susan Elizabeth Holley

ASSESSMENT DISTRICT: 8th

CASE NUMBER: 2022-0166-S

COUNCIL DISTRICT: 7th

HEARING DATE: December 13, 2022

PREPARED BY: Sara Anzelmo
Planner

SLA

REQUEST

The applicant is requesting a special exception to allow a bed and breakfast inn in an RA – Rural Agricultural District on property located at 353 Leitch Road in Tracy’s Landing.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 73.886 acres of land and is located with approximately 2,860 feet of frontage on the south side of Leitch Road, 0 feet west of Town Point Road. It is identified as Parcel 87 in Block 24 on Tax Map 77. The property is predominantly zoned RA – Rural Agricultural District, but it contains a small area zoned OS – Open Space District in the southeastern portion of the lot. The zoning was adopted by the comprehensive zoning for Council District 7, effective October 7, 2011.

The lot is not waterfront; however, the majority of the property lies within the Chesapeake Bay Critical Area overlay and is designated as RCA – Resource Conservation Area. It is currently improved with an historic brick “mansion”; various historic milk barns, grain silos, and stables; an in-ground swimming pool, an “owner’s cottage”¹, a driveway, and other associated facilities.

PROPOSAL

The applicant proposes to operate a bed and breakfast inn in an RA – Rural Agricultural District.

SPECIAL EXCEPTION STANDARDS

The specific criteria by which a special exception for a bed and breakfast inn may be granted are set forth under § 18-11-108 of the Anne Arundel County Zoning Ordinance. Additionally, all special exceptions are subject to the general standards contained in § 18-16-304.

FINDINGS

The subject property is irregular in shape and far exceeds the minimum lot area and width requirements for the RA District. A review of the County 2021 aerial photograph shows that the surrounding neighborhood consists of predominantly large rural lots with some smaller subdivided lots located across Town Point Road to the east.

¹ This Office notes that a bed and breakfast inn must be an owner or manager occupied single-family detached dwelling, and the applicant indicates that she will be residing in and operating the inn. § 18-4-102 provides that there may be only one single-family detached dwelling on a lot. There is no nonconforming use registration on file for a second dwelling, and there is no right to use the structure labeled “owner’s cottage” as a dwelling or a guest house.

The **Health Department** commented that additional information is needed regarding the type and location of the on-site sewage disposal system.

The **Long Range Planning Section** commented that Plan2040 places the site in the Rural and Agricultural Policy Area and the Rural Land Use Category. This site is along a Scenic and Historic Road. This site is not in the Priority Funding Area. Properties to the north, south, and west of the site are zoned Rural Agricultural and designated as Rural Land Use. Properties to the east are zoned R2 and Open Space with Residential Low Density and Rural Land Use, respectively. Plan2040 does not have recommendations that are specific to this site, and the proposal is generally consistent with the goals, policies and strategies of Plan2040. The site is within the Region 9 Planning Area; the region planning process for this area is anticipated to begin in December of 2022. The site is in the No Public Sewer Service category in the Rural Service Area and the No Public Water Service category in the Rural Water Pressure Zone. The proposal is consistent with the 2022 Water and Sewer Master Plan.

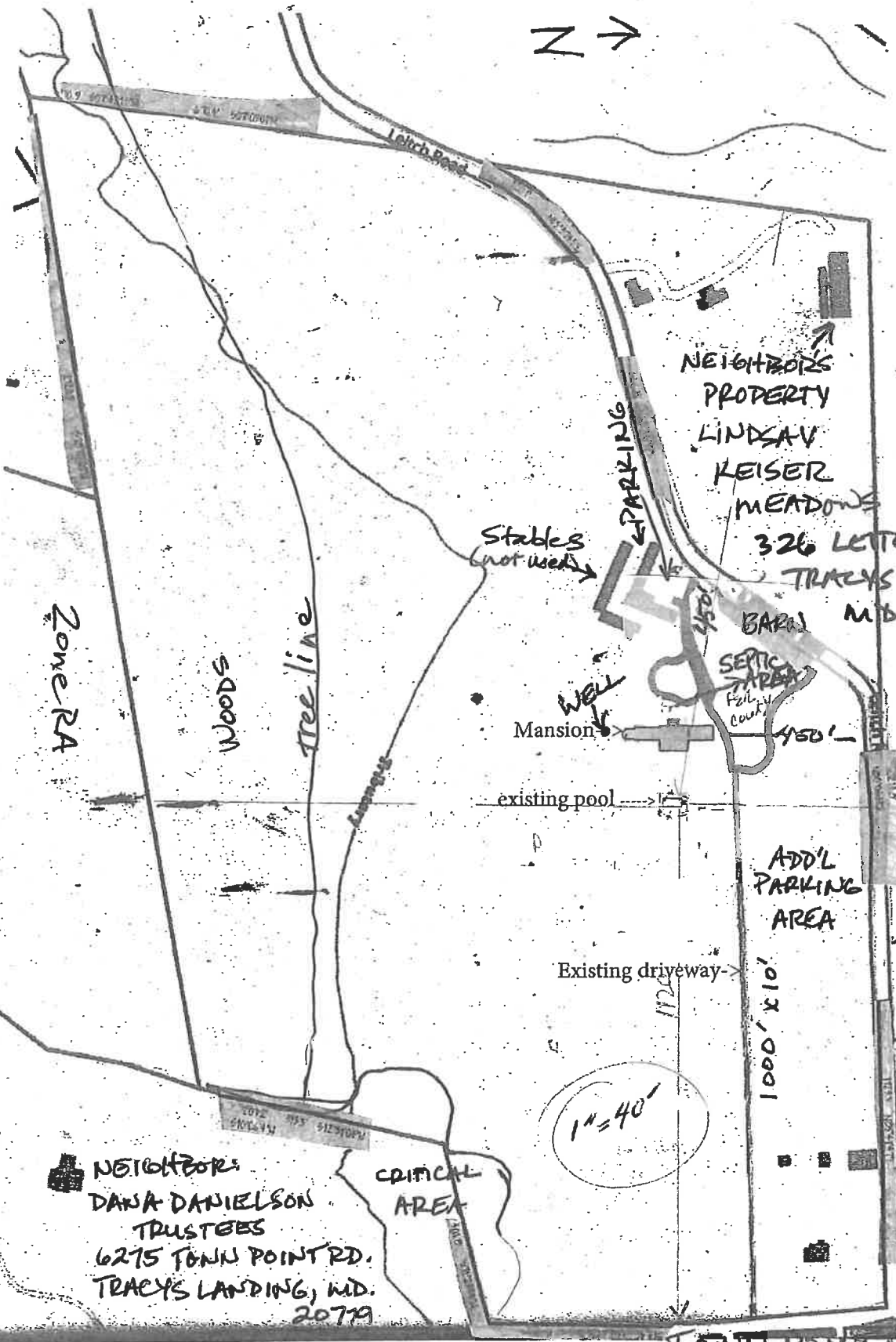
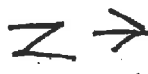
The **Cultural Resources Section** commented that the subject property, Tocaro Farm, is a historic property and is listed on the Maryland Inventory of Historic Properties (AA-261). In addition, there are two recorded archaeology sites on the property, and the property is located on a designated (category 1) Scenic and Historic Road. The Office's previous pre-file comments noted that the site plan for the special exception indicated a pool and spa in an area that would not comply with Article 17-6-501(2), which requires that "new development shall be sited so that the layout does not impact the historic resource and shall be oriented so that the view of the historic property's primary facade from the public road is not impaired." It has since come to their attention that the pool may have already been constructed as it was approved under building permit B02407603 without review by their Office. While the Cultural Resources Section has no objection to the proposed special exception use as a Bed & Breakfast Inn, they want to take this opportunity to reiterate to the applicant that any improvement/development of the property must comply with Article 17-6-501 to 17-6-504 of the County Code. They encourage historic property owners to consult with their Office prior to making an official application with the County to ensure compliance with these sections of Code ahead of time.

Concerning the general special exception standards of § 18-16-304, it is the opinion of this Office that the proposed bed and breakfast inn use would not be detrimental to the public health, safety, or welfare and that it would be compatible with the appropriate and orderly development of the RA District. The operations related to the facility would not be more objectionable with regard to noise, fumes, vibration, or light to nearby properties than operations in other uses allowed in the RA District. The use at the location proposed would not have any adverse effects above and beyond those inherently associated with the use irrespective of its location within the zoning district. There is no evidence to indicate that the proposed use will conflict with an existing or programmed public facility, public service, school, or road. The use would be consistent with the County General Development Plan. The applicant attests that the area contains very few hotels or inns and that there is a significant demand for short-term accommodations. If approved, the proposal will require a Site Development Plan, which will also require compliance with the requirements of the Landscape Manual.

RECOMMENDATION

Based upon the standards set forth in § 18-16-304 and § 18-11-108 of the Code under which a special exception for a bed and breakfast inn in an RA - Rural Agricultural District may be granted, the Office of Planning and Zoning recommends ***approval*** of the proposed special exception. Approval must be conditioned on an approved Site Development Plan and compliance with the Landscape Manual.

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.



NEIGHBOR'S
PROPERTY
LINDSAY
KEISER
MEADOWS
326 LEITCH RD.
TRACYS LANDING,
MD 20779

NEIGHBOR'S
DANA DANIELSON
TRUSTEES
6275 TOWN POINT RD.
TRACYS LANDING, MD.
20779

NEIGHBOR:
ROBERT SCHAFFER
416 - 440 LEITCH RD.

Susan Holley 353 Leitch Rd., Tracys Landing MD 20779
Tax Map # 0077 Parcel # 0087 Block # 0024 Tax ID: 8000-9001-8956

TOWN POINT RD