



Bureau of Environmental Health

8930 Stanford Boulevard, Columbia, MD 21045

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www.hchealth.org

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Maura J. Rossman, M.D., Health Officer

MEMORANDUM

TO: Geoff Goins
Division of Zoning Administration and Public Service

FROM: Jeff Williams
Program Supervisor, Well & Septic Program
Bureau of Environmental Health

RE: **BA-18-033V**

DATE: January 17, 2019

The Health Department has reviewed the above referenced petition and has the following comments.

1. There is no sewage disposal area established for this property. The Health Department may require perc testing to establish a sewage disposal area prior to approval of any building permit. This may necessitate removal or relocation of certain structures or paved areas on the property.

Department of Planning and Zoning
Howard County, Maryland
Recommendations/Comments

Date: December 20, 2018

Hearing Examiner TBD
Planning Board _____ Board of Appeals _____ Zoning Board _____

Petition No. BA-18-033V Map No. _____ Block _____ Parcel _____ Lot _____

Petitioner: Kabler Dale Ashwell, Jr.

Petitioner's Address: _____

Address of Property: SEE PETITION

Return Comments by 01/14/18 to Public Service and Zoning Administration

Owner: (if other than applicant) _____

Owner's Address: _____

Petition: SEE APPLICATION

- To:
- _____ MD Department of Education – Office of Child Care
3300 N. Ridge Road, Ste. 190, EC, MD 21043 (Louis Valenti)
 - _____ Bureau of Environmental Health
 - _____ Development Engineering Division
 - _____ Department of Inspections, Licenses and Permits
 - _____ Department of Recreation and Parks
 - _____ Department of Fire and Rescue Services
 - _____ State Highway Administration
 - _____ Sgt. Karen Shinham, Howard County Police Dept.
 - _____ James Irvin, Department of Public Works
 - _____ Office on Aging, Terri Hansen (senior assisted living)
 - _____ Police Dept., Animal Control, Deborah Baracco, (kennels)
 - _____ Susan Fitzpatrick, Health Dept. (Nursing & Res. Care)
 - _____ Land Development - (Religious Facility & Age-Restricted
Adult Housing)
 - _____ Housing and Community Development
 - _____ Resource Conservation Division – Beth Burgess
 - _____ Route 1 Cases – DCCP – Kristen O'Connor
 - _____ Telecommunication Towers – (Comm. Dept.)
 - _____ Division of Transportation – Dave Cookson

see memo



SIGNATURE



DPZ Office use only:	
CASE NO.	<u>BA-18-033 V</u>
DATE FILED	<u>12/13/18</u>

**RESIDENTIAL DISTRICT VARIANCE PETITION
TO THE HOWARD COUNTY HEARING EXAMINER**

1. VARIANCE REQUEST

SECTION See Exhibit A of the Zoning Regulations (describe) _____
See Exhibit A attached. _____

2. PETITIONER'S NAME Kabler Dale Ashwell, Jr.

TRADING AS (IF APPLICABLE) _____

ADDRESS 2106 Leroy Drive, Woodbine, MD 21797

PHONE NO. (W) _____ (H) _____

EMAIL _____

3. COUNSEL FOR PETITIONER Jac E. Knust, The Collaborative Law Group

COUNSEL'S ADDRESS 5513 Twin Knolls Road, Suite 220, Columbia, MD 21045-3264

COUNSEL'S PHONE NO. 410-465-8900

EMAIL staff@jknust.com

4. PROPERTY IDENTIFICATION

ADDRESS OF SUBJECT PROPERTY 17380 Frederick Road, Mt. Airy, MD 21772

Owners: Kabler Dale Ashwell, Jr. and Denise A. Ashwell T/E

ELECTION DISTRICT 5th ZONING DISTRICT RC-DEO ACREAGE 4.98

TAX MAP # 0002 GRID # 0020 PARCEL # 0093 LOT # _____

SUBDIVISION NAME (if applicable) _____

PLAT NUMBER AND DATE _____

5. PETITIONER'S INTEREST IN SUBJECT PROPERTY

OWNER (including joint ownership)

OTHER (describe and give name and address of owner)

If the Petitioner is not the owner of the subject property, documentation from the owner authorizing the petition must accompany this petition.



12.10.18 (KS)

Municipal Code	Description
104.0.B&C & 128.0.A.12	Accessory structures exceed the maximum cumulative lot coverage of 2,200 square feet for a lot which is greater than 2 acres on a RC (Rural Conservation) zoned property.
104.0.E.4.b.(3).(c).1	Accessory structures do not meet the approved side setbacks on a RC (Rural Conservation) zoned property.

**PLEASE READ CAREFULLY
DATA TO ACCOMPANY PETITION**

6. VARIANCE PLAN

No application for a variance shall be considered complete unless the plan indicates the required setback or other requirement, and the requested variance from the subject setback or other requirement. The submitted plans shall be folded to approximately 8 ½ x 14 inches.

The plan must be drawn to scale and must include the items listed below:

- (a) Courses and distances of outline boundary lines and the size of the property
- (b) North arrow
- (c) Zoning of subject property and adjoining property
- (d) Scale of plan
- (e) Existing and proposed uses, structures, natural features and landscaping
- (f) Location and surface material of existing ~~and proposed~~ parking spaces, driveways, and points of access; number of existing ~~and proposed~~ parking spaces
- (g) Location of all building and use restriction lines
- (h) Same as (a) through (g) above, of any adjoining, confronting and vicinal properties as necessary for proper examination of the petition, or, if applicable, a copy of the subdivision plat for the community
- (i) Location of well and private sewerage easement area, if property is to be served by private water and sewer
- (j) Election District in which the subject property is located
- (k) Tax Map and parcel number on which the subject property is located
- (l) Name of local community in which the subject property is located or name of nearby community
- (m) Name, mailing address, telephone number (and e-mail address if any) of the petitioner
- (n) Name, mailing address, telephone number (and e-mail address if any) of attorney, if any
- (o) Name and mailing address of property owner
- (p) Floor area and height of structures, setback distances from property lines, and other numerical values necessary for the examination of the petition
- (q) Location of subject property in relation, by approximate dimension, to the center line of nearest intersection of two public roads
- (r) Ownership of affected roads
- (s) A detailed description of all exterior building materials for all ~~proposed~~ structures
- (t) Any other information as may be necessary for full and proper consideration of the petition

EXHIBIT ^D attached to Page 2 of Ashwell Variance Petition – 17380 Frederick Road, Mt. Airy, MD

Structure			Distance from Prop. Line	
			Front.	Side
1. Residence		25'X75'	150'	53'
2. Garage	261.7 sq.ft.	approx. 13'X20'		22.6'
3. Shed	310.1 sq.ft.	approx. 20'X15'		10.7'
4. Shed	1,401.8 sq.ft.	approx. 40'X35'		23.3'
5. Shed	1,578.6 sq.ft.	approx. 40'X40'		18.4'
6. Shed	676.8sq.ft.	approx. 21'X32'		15.4'
7. Shed	348.4sq.ft.	approx. 20'X17'		27.1'

All structures are one (1) story.

Nos. 2 & 3 – Exteriors: Wood

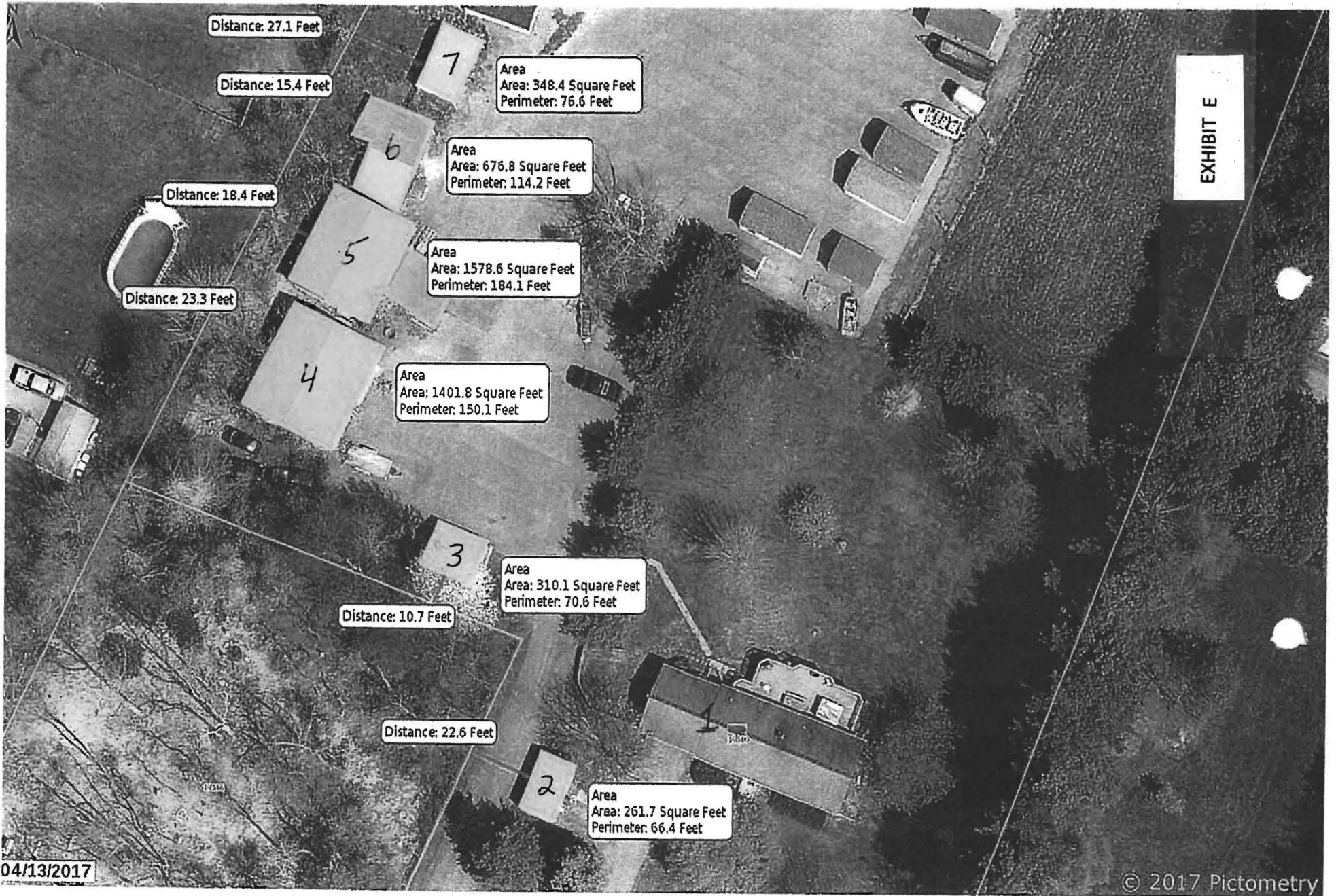
Nos. 4,5 &7 – Exteriors: Metal

No. 6 – Exterior: Wood and Metal

Local Community: Mt. Airy /Poplar Springs

Driveways are paved.

Entrance to property is approximately 125 feet from the intersection of Frederick Road and Pink Dogwood Court.



Distance: 27.1 Feet

Distance: 15.4 Feet

Area
Area: 348.4 Square Feet
Perimeter: 76.6 Feet

Area
Area: 676.8 Square Feet
Perimeter: 114.2 Feet

Distance: 18.4 Feet

Area
Area: 1578.6 Square Feet
Perimeter: 184.1 Feet

Distance: 23.3 Feet

Area
Area: 1401.8 Square Feet
Perimeter: 150.1 Feet

Distance: 10.7 Feet

Area
Area: 310.1 Square Feet
Perimeter: 70.6 Feet

Distance: 22.6 Feet

Area
Area: 261.7 Square Feet
Perimeter: 66.4 Feet

EXHIBIT E

04/13/2017

© 2017 Pictometry



EXHIBIT F

7. VARIANCE

A) Describe why the application of the Zoning Regulations in question to your particular property would result in practical difficulties or unnecessary hardships in complying strictly with the bulk requirements:

1. The physical character of the property is different from the character of the surrounding properties because of its () narrowness, () shallowness, () shape, () topography, () other; explain: Please see Paragraph J) attached.

2. The uniqueness of the property prevents me from making a reasonable use of the property because: Not applicable.

B) The intended use of the property, in the event the petition is granted: Residential

C) Any other factors which the Petitioner desires to have considered: See Paragraph C) attached.

D) Explain why the requested variance is the minimum necessary to afford relief: Allowing the accessory structures to remain rather than costly removal would afford relief to the Petitioner/Owners.

E) Is the property connected to: public water?: Y N ; public sewer?: Y N

F) If the variance is granted, would it impact the water and/or septic/sewer on the site? Y N

G) If the variance is granted, would it increase the intensity of uses on the site? Y N if yes, explain: _____

H) If the requested variance is granted, would it increase traffic to or from the site? Y N if yes, explain: _____

I) Describe in detail all means of vehicular access onto the site (i.e. width, type of paving, etc.): Two paved driveways, one 15 feet wide, one 9 feet wide,

J) Describe the topography of the site: See Paragraph J) attached.

K) Will the existing or proposed structure be visible from adjacent properties? Y__ N__; if yes, describe any proposed buffering or landscaping: See Paragraphs K) and L) attached.

L) Describe any existing buffering or landscaping: See Paragraphs K) and L) attached.

8. PRIOR PETITIONS

Has any petition for the same variance, or substantially the same variance as contained herein, for the same property as the subject of this petition been disapproved by the Hearing Examiner within twenty four (24) months of the date of this petition? YES NO

If yes, and six (6) months have elapsed since the last hearing, an affidavit setting forth new and different grounds on which re-submittal is based must be attached.

9. ADDITIONAL MATERIAL, FEES, POSTING, AND ADVERTISING

- a) If desired, supplemental pages may be attached to the petition. The following number of petitions, plans and supplemental pages must be submitted:
 - *If the subject property adjoins a State road- original and 19 copies (application & plans)*
 - *If the subject property adjoins a County road- original and 16 copies (application & plans)*
- b) The undersigned agrees to furnish such additional plats, plans, reports or other material as may be required by the Department of Planning and Zoning and/or the Hearing Examiner in connection with the filing of this petition.
- c) The undersigned agrees to pay all costs in accordance with the current schedule of fees.
- d) The undersigned agrees to properly post the property at least fifteen (15) days prior to the hearing and to maintain the property posters as required, and submit an affidavit of posting at, or before the time of the hearing.
- e) The undersigned agrees to insert legal notices, to be published one (1) time in at least two (2) newspapers of general circulation in Howard County, as prepared and approved by the Department of Planning and Zoning, within at least fifteen (15) days prior to the hearing, and to pay for such advertising costs; and further agrees to submit two (2) approved certificates of the text and publication date(s) of the advertisement at or before the time of the hearing.

Paragraph C) When the subject property was purchased in 2006, the owners were unaware of any zoning violations. The variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not impair the appropriate use of adjacent property; and will not be detrimental to the public welfare.

The neighborhood/district is zoned RC DEO with lot sizes generally 3-5 acres. The density allows the residents great freedom to enjoy their property without the presence of commercial ventures. The owners have no plans to use the property for anything other than residential.

In order to eliminate the Code violations pertaining to the accessory structures, the owners would have to move or remove the structures. The cost of moving or removing the structures to afford relief of the violations would be a financial hardship on the owners. Granting of variance would result in eliminating the negative impact on the owners.

In addition, the owners intend to eventually sell the property. If the variance is not granted, it would be extremely difficult if not impossible to sell the property that is not in compliance with the Zoning Regulations.

The location and size of the accessory structures were in existence long before 2006. This situation is not self-inflicted by the owners. The impact of the zoning violations on the property is far greater than any perceived negative impact on the community.

Paragraph J). The topography of the lot is not in and of itself unique, however the existing accessory structures (sheds) are peculiar to the subject property in number and total square footage. Furthermore, the lot's location between I-70 and Route 144 (two main State roads) is peculiar to most residential properties.

Paragraphs K) and L) Landscaping can be added if required or desired, however, the accessory structures, with the exception of the garage, are not visible from Route 144 because of the heavily forested Stackhouse Family Cemetery and other trees and screens along the side property lines.

10. PLANNING BOARD REVIEW

The Hearing Examiner may, at its discretion, refer a residential district variance petition to the Planning Board for review and a recommendation.

11. SIGNATURES

The undersigned hereby affirms that all of the statements and information contained in, or filed with, this petition are true and correct.

The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.

Kabler Dale Ashwell Jr.
Petitioners Name (please print)

Kabler Dale Ashwell Jr. 12/19/18
Petitioner's Signature Date

Jac E. Knust
Counsel's Name (please print)

Jac E. Knust 12/10/18
Counsel's Signature Date

**For DPZ office use only: (Filing fee is \$300.00 plus \$25.00 per poster.)
(Make checks payable to "Director of Finance")**

Hearing fee: \$ _____
Poster fee: \$ _____
TOTAL: \$ _____

Receipt No. _____

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised: 07/12

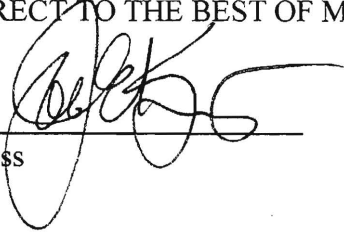
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PETITIONER Kabler Dale Ashwell Jr.
PROPERTY ADDRESS 17380 Frederick Rd., Mt. Airy, MD 21772

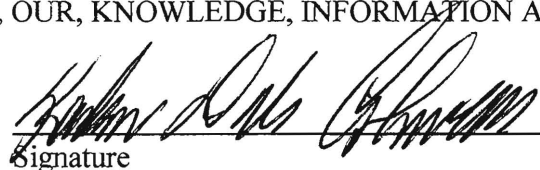
Affidavit made pursuant to the pertinent provisions of Title 22 of the Howard County Code as amended.

THE UNDERSIGNED DOES HEREBY DECLARE THAT NO OFFICER OR EMPLOYEE OF HOWARD COUNTY, WHETHER ELECTED OR APPOINTED, HAS RECEIVED PRIOR HERETO OR WILL RECEIVE SUBSEQUENT HERETO, ANY MONETARY OR MATERIAL CONSIDERATION, ANY SERVICE OR THING OF VALUE, DIRECTLY OR INDIRECTLY, UPON MORE FAVORABLE TERMS THAN THOSE GRANTED TO THE PUBLIC GENERALLY IN CONNECTION WITH THE SUBMISSION, PROCESSING, ISSUANCE, GRANT OR AWARD OF THE ATTACHED APPLICATION FOR A RESIDENTIAL DISTRICT VARIANCE AS REQUESTED FOR THE PROPERTY REFERENCED ABOVE.

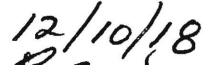
I WE, DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE AFOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY, OUR, KNOWLEDGE, INFORMATION AND BELIEF.



Witness



Signature


~~8-27-18~~

Date

Witness

Signature

Date

Witness

Signature

Date