



DPZ Office use only:
CASE NO. <u>BA 14-004 C+U</u>
DATE FILED <u>2-24-14</u>

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

FEB 24 2014

1. VARIANCE REQUEST

SECTION _____ of the Zoning Regulations (describe) _____
104.0.E.4.b.(4)(b) and 104.0.E.5 to reduce the required setbacks as described in the attached narrative supplement

2. PETITIONER'S NAME Homewood Properties, LLC

TRADING AS (IF APPLICABLE) _____

ADDRESS 11362 Homewood Road, Ellicott City, Maryland 21042

PHONE NO. (W) 410-530-8330 (H) _____

EMAIL _____

3. COUNSEL FOR PETITIONER Sang W. Oh, Talkin & Oh, LLP

COUNSEL'S ADDRESS 5100 Dorsey Hall Drive, Ellicott City, Maryland 21042

COUNSEL'S PHONE NO. 410-964-0300

EMAIL soh@talkin-oh.com

4. PROPERTY IDENTIFICATION

ADDRESS OF SUBJECT PROPERTY 14290 Triadelphia Road, Glenelg, Maryland 21737

ELECTION DISTRICT 4th ZONING DISTRICT RC-DEO ACREAGE 64,893 sf

TAX MAP # 21 GRID # 18 PARCEL # _____^{135** (See Narrative Supp.)} 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.



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OTHER (describe and give name and address of owner)

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**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

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: See attached narrative supplement.

2. The uniqueness of the property prevents me from making a reasonable use of the property because: See attached narrative supplement.

B) The intended use of the property, in the event the petition is granted: An interior design business.

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

D) Explain why the requested variance is the minimum necessary to afford relief: _____
See attached narrative supplement.

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: The Property is currently unoccupied; the establishment of the proposed business would be more intensive than the site as it currently exists.

H) If the requested variance is granted, would it increase traffic to or from the site? Y N if yes, explain: Customers and employees of the business would access the site.

I) Describe in detail all means of vehicular access onto the site (i.e. width, type of paving, etc.): _____
See attached narrative supplement.

J) Describe the topography of the site: The majority of the property is generally flat. Southern and western areas of the property fall approximately ten feet from northeast to southwest as shown on the accompanying Plan.

K) Will the existing or proposed structure be visible from adjacent properties? Y__N__; if yes, describe any proposed buffering or landscaping: See attached narrative supplement.

L) Describe any existing buffering or landscaping: See attached narrative supplement.

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.

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.

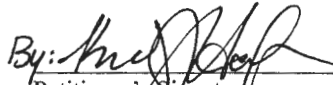
11. SIGNATURES

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.

Homewood Properties, LLC

Petitioner's Name (please print)

By: 
Petitioner's Signature
KIRK J. TALPIN, NOMINEE

2/20/2014
Date

Sang W. Oh, Talkin & Oh, LLP

Counsel's Name (please print)


Counsel's Signature

2/24/14
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 Homewood Properties, LLC
PROPERTY ADDRESS 14290 Triadelphia Road, Glenelg, Maryland 21737

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.

Michelle Johnson
Witness

By: Kirk J. Halpin 2/20/2014
Signature KIRK J. HALPIN, NOMINEE Date

Witness

Signature Date

Witness

Signature Date

HOW A REQUEST FOR A VARIANCE IS EVALUATED

All requests for variances are evaluated based upon the following criteria of Section 130.B.2.a.(1) through (5) of the Howard County Zoning Regulations:

- (1) That there are unique physical conditions, including irregularity, narrowness or shallowness of lot or shape, exceptional topography or other existing features peculiar to the particular lot; and that as a result of such unique physical conditions, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.
- (2) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.
- (3) That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
- (4) That within the intent and purpose of these regulations, the variance, if granted, is the minimum variance necessary to afford relief.
- (5) That no variance be granted to the minimum criteria established in Section 131 for special exception uses, except where specifically provided therein or in an historic district. Nothing herein shall be construed to prevent the granting of variances in any zoning district other than to the minimum criteria established in Section 131 except as provided therein.

To be approved, a variance request must comply with all of the criteria noted above. For a general explanation of what the criteria mean from a legal standpoint and how they are viewed by the Hearing Examiner, please read the attached Variances: The Exception to the Zoning Rule.

For an explanation of the official procedures that are followed in the processing, hearing and decision-making of a variance request, you may obtain a copy of the Rules of Procedure of the Hearing Examiner from the Department of Planning and Zoning.

IN RE:	*	BEFORE THE
HOMWOOD PROPERTIES, LLC	*	HOWARD COUNTY
REQUEST FOR VARIANCE	*	HEARING EXAMINER
	*	Case No: _____

***** *** ***** ** *

NARRATIVE SUPPLEMENT TO VARIANCE PETITION

1. Variance Request

The Petitioner requests variances from the following sections of the Zoning Regulations:

- (1) 104.0.E.4.b.(4)(b) to reduce the rear setback from lot lines for principal structures from 30 feet to 9.8 feet for a proposed deck and 21.9 feet for an existing building.
- (2) 104.0.E.5 to reduce the rear setback from lot lines for uses not accessory to farming or single-family detached dwellings from 30 feet to 3.7 feet for a paved drive aisle and parking area.

4. Property Identification

**The subject property (the "Property") consists of the property shown as Parcel 135 on Tax Map 21 (Tax Account No. 04-341376), as well as an adjoining triangular parcel consisting of approximately 22,444 square feet that is not identified on the tax map.

7(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 shape and other reasons; explain:

The Property is burdened by several unique physical conditions. First, the Property is irregularly shaped. Many other properties in the area are generally four sided, rectangular lots. The Property, however, is essentially six-sided. The Property's northern boundary juts thirty feet to the south in

the area immediately north of the proposed parking area, greatly reducing the usable area of the Property.

The Property is also unique in that it is situated adjacent to collector roadways both at its front and along its eastern side. Most other nearby properties are bordered on their sides by other residential properties, resulting in side setbacks of 10 feet. The Property, on the other hand, is bordered to the east by Sharp Road, resulting in a side setback of 75 feet for principal structures and 30 feet for other structures.

Also, while existing structures ordinarily may not be considered “unique” features of property, the existing principal structure on the Property is noncomplying to the bulk regulations of Section 104.0.E.4.b.(4)(b) of the Zoning Regulations. The existing paved loop driveway and parking area is also noncomplying to the use setback requirements of Section 104.0.E.5. See Zoning Regulations § 128.0.B.1. Noncomplying structures and uses do constitute unique physical conditions of the property. See, e.g., *In re Stratmann*, Board of Appeals Case Number BA 09-033V (Jan. 5, 2010), at 4 (Hearing Examiner Decision); *In re Vermillion*, Board of Appeals Case Number BA 08-052V (Dec. 10, 2008), at 4 (Hearing Examiner Decision); *In re Lynas*, Board of Appeals Case Number BA 08-024V (June 19, 2008), at 4 (Hearing Examiner Decision).

Additional arguments may be set forth at the hearing on this matter.

(2) The uniqueness of the property prevents me from making a reasonable use of the property because:

These unique physical conditions disproportionately impact the Property such that a practical difficulty arises in complying with the bulk regulations. The Property’s unique shape causes difficulties in developing a reasonable parking area on the Property. If the Property’s northern boundary continued in a straight line from west to east, the proposed parking area would be located more than 30 feet from that lot line. But for the unique shape of the property and the northern boundary line jutting south by 30 feet, the requested variance would not be necessary.

Furthermore, if the Property were adjoined on both sides by other residentially zoned properties, like the majority of other properties in the area, the Property would only be subject to a 10 foot side setback along its eastern lot line. Instead, the Property is disproportionately impacted because of its adjacency to both Triadelphia Road and Sharp Road and the corresponding 75 foot setbacks from both roadways. If the Property were burdened only by one setback from roadways, like the majority of other

properties in the vicinity, the developable area of the Property would be correspondingly larger. Instead, development of the principal structure was pushed to the northwest corner of the Property, creating practical difficulties in constructing a reasonably sized deck for the structure.

Additionally, the noncomplying nature of the principal structure causes practical difficulties regarding the proposed deck. "A practical difficulty is shown when the strict letter of the zoning regulation would 'unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.'" *In re David & Audrey Ogden*, Board of Appeals Case Number BA 11-017V (Aug. 9, 2011), at 5 (Hearing Examiner Decision) (citing *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 39, 322 A.2d 220, 226 (1974)).

Applying "the strict letter of the zoning regulation[s]" to the subject Property would be unnecessarily burdensome given the noncomplying nature of the principal structure. A deck such as the one proposed will necessarily be located to rear of the principal structure. If the principal structure complied with the Zoning Regulations and was not already located within the rear setback, constructing the proposed deck on the Property in compliance with the bulk regulations would not be unnecessarily burdensome. Instead, the noncomplying nature of the principal structure causes the most reasonable location for the deck to likewise be situated within the rear setback.

Additional arguments may be set forth at the hearing on this matter.

7(C). Any other factors which the Petitioner desires to have considered:

Granting the requested variances would not alter the essential character of the neighborhood, would not substantially impair the appropriate use and development of adjacent properties, and would not be detrimental to the public welfare.

The variance request for the principal structure and deck are necessary to allow the existing structure, an historic structure that was constructed over 100 years ago, to remain in its current location with a reasonably sized deck that will be compatible with the historic nature of the Property. Given the existing and proposed landscaping onsite, these variances are unlikely to be noticeable from nearby properties. The variances will not alter the character of the neighborhood or impair the use or development of adjacent properties.

The variance request for the parking area likewise will not alter the essential character of the neighborhood or impair the use and development of adjacent properties. The proposed parking area will tie into the already noncomplying paved loop driveway and parking area. It will be well buffered from Sharp Road, Triadelphia Road, and nearby residential properties. The parcel to the north of the proposed parking area, Parcel 104 of Tax Map 21, is owned by Glenelg United Methodist Church (the "Church") and contains a cemetery. The Church's members have periodically used the proposed parking area on the Property for parking and access to Parcel 104. The Church and the Petitioner have been in discussions to formally convey rights to the Church to use the parking area on the Property, at times so as to not conflict with the use of the Property, for access to the cemetery. Given the Church's previous and potential future use of the Property and parking area, the parking area will not impair the use or development of Parcel 104.

Additionally, the proposed variances, if granted, would not generate excessive noise, odors, or other adverse effects that would negatively impact vicinal properties or be detrimental to the public welfare.

The practical difficulties in complying strictly with the Zoning Regulations are caused by the noncomplying nature of the existing principal structure and paved loop area and the Property's unique shape and adjacency to two collector roadways. The Petitioner did not subdivide the Property or otherwise create the practical difficulties necessitating this variance request.

Additional arguments may be set forth at the hearing on this matter.

7(D). Explain why the requested variance is the minimum necessary to afford relief:

The requested variances are necessary for the Petitioner to make reasonable use of the Property. The variances are reasonable in nature and size to meet existing conditions of both the noncomplying principal structure and the paved loop driveway and parking area. The requested variances are the minimum necessary to afford relief for the existing principal structure and a reasonably-sized and located deck and parking area.

Additional arguments may be set forth at the hearing on this matter.

7(I). Describe in detail all means of vehicular access onto the site (i.e. width, type of paving, etc.):

The Property currently contains a paved driveway that accesses both Triadelphia Road and Sharp Road. In the northeastern portion of the Property, the paved driveway makes a loop, which loop is proposed to be retained and tied into a parking area as shown on the accompanying Plan.

Currently, the driveway's access to Sharp Road is located just to the north of Sharp Road's intersection with Triadelphia Road. As shown on the Plan, the existing driveway access to Sharp Road will be abandoned. This point of access will be relocated to the north, away from the intersection of Sharp Road and Triadelphia Road, which will provide safer access to and from the Property.

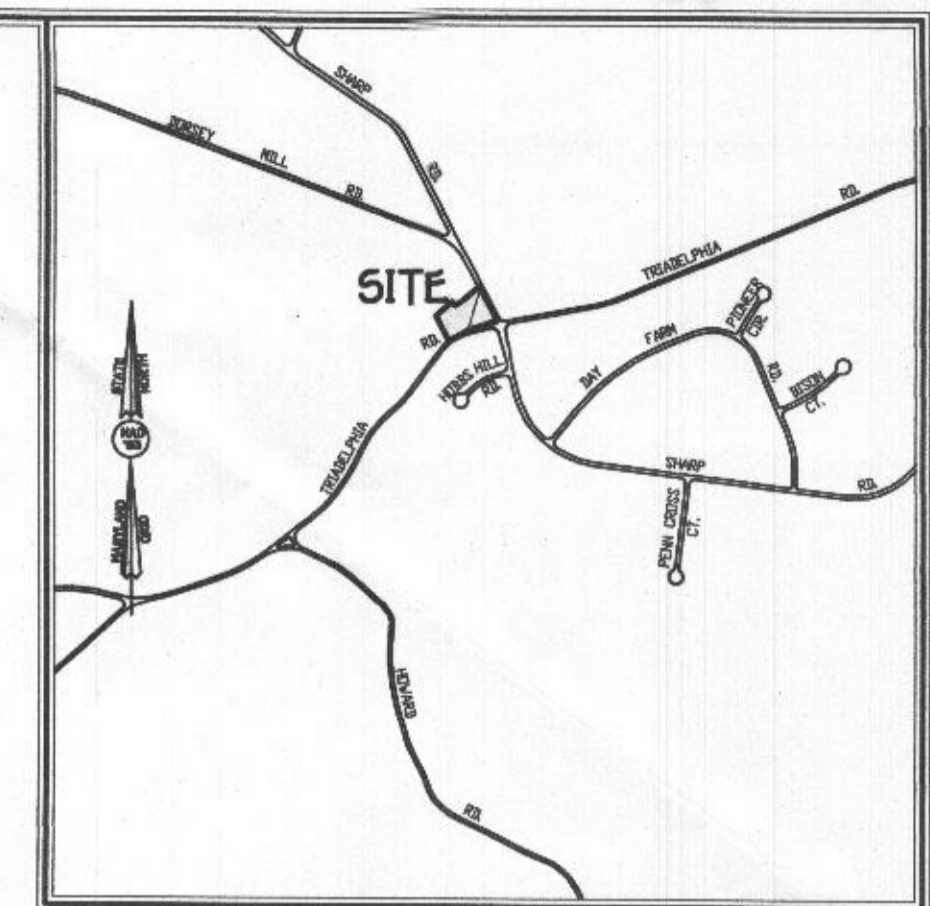
7(K). Describe any proposed buffering or landscaping:

As shown on the accompanying Plan, the Petitioner has proposed plantings to buffer the principal structure and parking areas from roadways and nearby residential properties.

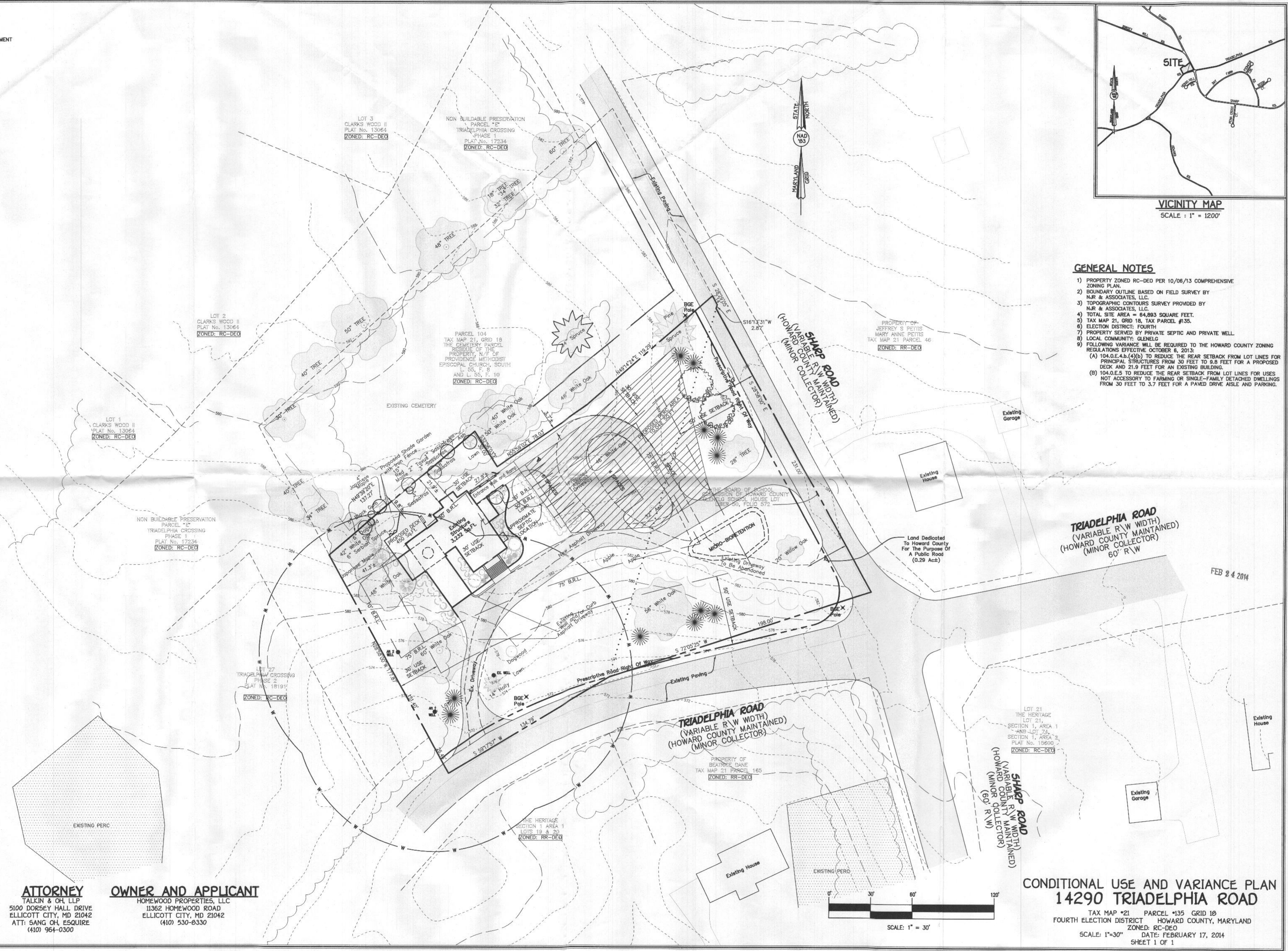
7(L). Describe any existing buffering or landscaping:

As shown on the accompanying Plan, many mature trees and plantings exist on the Property which, in combination with the proposed landscaping, will provide an effective and appropriate buffer.

- LEGEND**
- PRIVATE SEWERAGE EASEMENT
 - EXISTING PRIVATE SEWERAGE EASEMENT
 - BRL (BUILDING RESTRICTION LINE)
 - PROPERTY LINE
 - HOWARD COUNTY PRESRIPTIVE ROAD RIGHT OF WAY
 - EXISTING SHADE TREES
 - EXISTING EVERGREEN TREES
 - PROPOSED EVERGREEN TREES
 - PROPOSED SHADE TREES

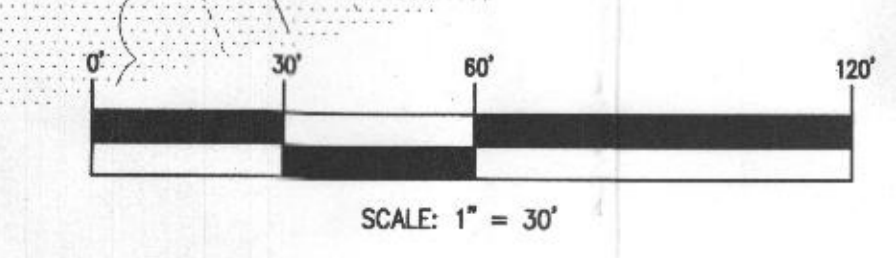


- GENERAL NOTES**
- 1) PROPERTY ZONED RC-DEO PER 10/06/13 COMPREHENSIVE ZONING PLAN.
 - 2) BOUNDARY OUTLINE BASED ON FIELD SURVEY BY NJR & ASSOCIATES, LLC.
 - 3) TOPOGRAPHIC CONTOURS SURVEY PROVIDED BY NJR & ASSOCIATES, LLC.
 - 4) TOTAL SITE AREA = 64,893 SQUARE FEET.
 - 5) TAX MAP 21, GRID 18, TAX PARCEL #135.
 - 6) ELECTION DISTRICT: FOURTH
 - 7) PROPERTY SERVED BY PRIVATE SEPTIC AND PRIVATE WELL.
 - 8) LOCAL COMMUNITY: GLENELG
 - 9) FOLLOWING VARIANCE WILL BE REQUIRED TO THE HOWARD COUNTY ZONING REGULATIONS EFFECTIVE OCTOBER 8, 2013:
 - (A) 104.0.E.4.(4)(b) TO REDUCE THE REAR SETBACK FROM LOT LINES FOR PRINCIPAL STRUCTURES FROM 30 FEET TO 9.8 FEET FOR A PROPOSED DECK AND 21.9 FEET FOR AN EXISTING BUILDING.
 - (B) 104.0.E.5 TO REDUCE THE REAR SETBACK FROM LOT LINES FOR USES NOT ACCESSORY TO FARMING OR SINGLE-FAMILY DETACHED DWELLINGS FROM 30 FEET TO 3.7 FEET FOR A PAVED DRIVE AISLE AND PARKING.



ATTORNEY
TALKIN & OH, LLP
5100 DORSEY HALL DRIVE
ELLCOTT CITY, MD 21042
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(410) 964-0300

OWNER AND APPLICANT
HOMWOOD PROPERTIES, LLC
11362 HOMEWOOD ROAD
ELLCOTT CITY, MD 21042
(410) 530-8330



CONDITIONAL USE AND VARIANCE PLAN
14290 TRIADDELPHIA ROAD

TAX MAP #21 PARCEL #135 GRID 18
FOURTH ELECTION DISTRICT HOWARD COUNTY, MARYLAND
ZONED: RC-DEO
SCALE: 1"=30' DATE: FEBRUARY 17, 2014
SHEET 1 OF 1

1:20131113034 (dwg) 13034 Smith Property Cond use plan.dwg, Model, 2/17/2014 3:20:39 PM, 1:30