

TOWN OF MOUNT AIRY BOARD OF APPEALS

FINDINGS AND DECISION

CASE NO. MA-BOA-2024-04 VARIANCE APPLICATION HEARING DECEMBER 10, 2024 FOR 107 JIMMYS STREET, BRITTANY MANOR

Applicants: Kevin and Leslie McGowan (“Applicants”)
Location: 107 Jimmys Street, Mt. Airy; Lot 33, Brittany Manor (“the Property”)
Current Zoning: R-2 – Low/Medium Density Residential
Current Use: Residence
Proposed Variance: Rear set back under Section 112-61

WHEREAS, Applicant seeks approval of a rear set back (“the Application”); and

WHEREAS, the current zoning of the Property is Residential 2 (R2) – Low/Medium Density Residential District (hereafter “R2”), which pursuant to Section 112-25D(3)(e) of the Town Code requires a rear set back of forty (40) feet, but the subdivision was approved with rear setbacks of thirty (30) feet due to the cluster design of the subdivision which as designed in turn provided greater open space in the development; and

WHEREAS, Applicants seek to vary the set reduced to twenty (20) feet, amounting to a ten (10) foot variance, to permit construction of a 12’ x 22’ sunroom; and

WHEREAS, Town Staff recommended approval of the variance; and

WHEREAS, on December 10, 2024, the matter of the Application came before the Town’s Board of Appeals pursuant to the Town Code, §112-61; and

WHEREAS, the following members of the Board of Appeals were in attendance: Peter Helt (Chair), Sean Kelly, Patricia Washabaugh, Wade Gallagher, Roxanne Hemphill and Amy Witter, Alternate, who did not vote since no Board members were absent and there were no vacancies on the Board; and

WHEREAS, the following witnesses testified for the Applicant:

Kevin and Leslie McGowan (Applicants)

WHEREAS, no members of the public and nearby property owners testified:

WHEREAS, the witnesses/Applicants were duly sworn and the opportunity for cross examination was provided; and

WHEREAS, the Staff Report of John Breeding, Director of Planning and Zoning Administrator, and all attachments (Variance Application and Plat) thereto including but not limited to the Application, was read, summarized and/or entered into the record and is attached hereto as Exhibit 1; and

WHEREAS, in summary, and in part in response to questions from Board members, Applicants testified as follows:

Applicants introduced a prepared written “Statement of Justification” (attached as Exhibit 2) and letters from neighbors supported the proposed variance (attached as Exhibit 3) into the record. The Applicants planned to add a 12’ x 22’ sunroom addition, which they had had in their prior home and were interested in constructing. The need for a variance was brought about by the denial of application for building permits due to the Building Restriction Line (“BRL”) or rear set back, which as approved for this subdivision given its cluster design required a thirty (30) foot set back, and the proposed sunroom encroached into the BRL, requiring a variance of ten (10) feet, reducing the BRL or setback in the rear down to twenty (20) feet. The set back in the R2 District is normally 40 feet, but due to the cluster design of the subdivision, the plats and development plans were approved for this subdivision with a thirty (30) foot BRL or set back in the rear yard. Applicants thereupon applied for the variance of the rear set back and thus the rear BRL that is at issue here.

The proposed variance of the rear set back would align with a “bump out” in other homes in the subdivision. Applicants’ home backs up to a forest conservation easement, which cannot be developed, such that there will be no future neighbor to the rear of the Property. Neighbors have signed letters in support of the sunroom and variance (Exhibit 3). The sunroom will improve the existing living space.

Applicants addressed questions from Members of the Board of Appeals. Applicants stated that they were unaware of any opposition to the proposal. The larger footprint of Applicants’ particular model home was larger than other homes in the subdivision to accommodate a first-floor master bedroom, which may explain why their home in relation to others encroaches on the rear setback with the proposed addition. Lot sizes vary in this particular subdivision, and

Applicants' lot is smaller or more shallow than others. Applicants' home was constructed with a sliding glass door that did not lead to any addition or decking, as other homes in the subdivision have been able to build without encroachment on the rear BRL.

WHEREAS, the proceedings were video and audio recorded.

NOW, THEREFORE, the Board of Appeals, upon receiving the evidence and upon motion to approve the Application made by Board Chairman Peter Helt, and seconded by Member Roxanne Hemphill, unanimously voted (5 votes to zero) to approve the Application, and granted the ten (10) foot variance, reduced to twenty (20) feet, for the rear set back, finding that the Application met all of the following prerequisites under the Town Code, in addition to applicable provisions of State Code and law:

Town Code, Section 112-61:

* * *

- B. Standards for variances. Where there is unnecessary hardship or practical difficulty, the Board may grant a variance in the application of the provisions of this chapter provided that the following findings are made where relevant in a given case:
- (1) That there are unique physical conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship or practical difficulty is due to such conditions.
 - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (3) That such unnecessary hardship or practical difficulty has not been created by the applicant or the applicant's predecessor in title.
 - (4) That the variance, if authorized, will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
 - (6) No grant of a variance shall be authorized unless the Board specifically finds that the condition for which the variance is sought is not so general or recurrent a nature to make reasonably practicable the formulation of a general regulation for such

conditions.

Town Code, Section 112-71, defining variance as:

A modification by the Board of Appeals only of dimensional, density, bulk or area requirements of this chapter where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the results of any action taken by the applicant, a literal enforcement of the chapter would result in unnecessary hardship, or practical difficulty.

Maryland Code, Land Use Article, Section 4-206:

(b) Limitations. -- The modifications in a variance:

* * *

(2) may be only allowed where, owing to conditions peculiar to the property and not because of any action taken by the applicant, a literal enforcement of the zoning law would result in unnecessary hardship or practical difficulty as specified in the zoning law; and

(3) may not be contrary to the public interest.

The exhibit with attachments and sign-in sheet are attached if applicable.

ATTEST:

John Breeding,
Zoning Administrator
Community Planning Administrator
Town of Mt. Airy

Peter Helt, Chair
Town of Mount Airy
Board of Appeals

Findings and Decision for Application for Variance of Rear Set Back for 107 Jimmys Street, Mt. Airy (Lot 33, Brittany Manor) approved on this 10th day of July, 2025, as to form and legal sufficiency.

Thomas V. McCarron

Thomas V. McCarron, Town Attorney

**Town of Mount Airy, Maryland
Board of Appeals
Staff Report**

December 10, 2024

Setback Variance request to create an enclosed four-season room

**CASE MA-BOA-2024-04
107 Jimmy Street**

Applicant: Mr. Kevin & Mrs. Lesile McGowan
Location: 107 Jimmys Street, Mount Airy, Md.
Zoning: R2 – Residential

Applicant Request:

The Applicant requests a variance request for a rear yard setback under Code section §112-61 as submitted. (See Attached Code Section §112-61). The McGowans own 107 Jimmy Street; they request a setback variance of 10 ft. to allow a 12 x 22 sunroom enclosure. The current BRL is 30'-0" per the approved cluster subdivision of Brittany Manor, which is 10'-0" less than the normal setback in an R2 zoning of 40'-0". The applicant is requesting the rear yard setback for this lot down to 20'-0". This parcel backs up to an open space area, which will never be built on.

The applicant has provided a summary of their request for this variance along with a plot plan, rear elevation of the proposed deck, and enclosed addition. A variance would not be required if this enclosed area was a deck with a roof.

The applicant has also obtained adjoining property owners to sign a letter acknowledging the proposed addition.

Staff Recommendation:

Staff suggests that the Board of Appeals considers a favorable recommendation to grant this variance request to reduce the BRL to 20'-0" for the property located at 107 Jimmy Street for the enclosed addition.

Board of Appeals
Town of Mt. Airy
P. O. Box 50
Mount Airy, Maryland 21771

Case No: MA-BOA-2024-04
Zoned: R2-Residential
Date Filed: 10/24/2024
Date Hearing: TBD
Fee Paid: \$300.00

APPEAL FOR VARIANCE UNDER ZONING ORDINANCE

Appeal is hereby made for a variance from a requirement of the Zoning Ordinance, as follows:

Subdivision BRITANNY MANOR TWIN ARCH VILLAGE Lot 33 Block N/A
Location 107 JIMMYS STREET, MOUNT AIRY MD 21771 (EAST SIDE OF ROAD) 100' NORTH OF GRILLS LN
NSEW side of road: distance NSEW from nearest intersecting road

Appellant's present legal interest in above property: (Check One)
 Owner (including joint ownership) _____ Lessee
_____ Contact to lease or rent _____ Contract to purchase
_____ Other (Describe) _____

Ordinance section, and subsection if any, containing the requirement(s) from which variance is desired:

SECTION 112-25 (R2 DISTRICT) SUBSECTION D(3)(e) - REAR YARD SETBACK

Specify the particular requirement(s) from which a variance is desired, in that section or subsection:

30' REAR BUILDING SETBACK

Describe the nature and extent of the desired variance from such Ordinance requirement(s):

10' VARIANCE FOR SUNROOM RESULTING IN 20' REAR SETBACK

Check reason(s) why the Ordinance requirement(s) in question would result in peculiar and unusual practical difficulties to or exceptional or undue hardship upon the owner of the property due to exceptional:

- Narrowness
- Shallowness of the property, existing now and on the date of enactment
- Shape of the requirement(s) in question
- Extraordinary situation of the property. Describe briefly:

If exceptional narrowness, shallowness or shape of the property is claimed, give date of recording of plot of present subdivision if any: 2019; or if property is unsubdivided, give the date on which deed conveying the identically-bounded tract was first recorded _____

Briefly, describe the difficulty or hardship upon the owner by reason of the above narrowness, shallowness, shape, condition or situation of the property, if the request variance is not granted:

Has any previous petition or appeal involving this property been made to the Board: If so give Case Number(s)

NO
I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

[Signature] 10-10-24 107 Jimmys St. Mt. Airy, MD 21771
Signature of Appellant(s) Address of Appellant(s)
Leslie S. McGowan 10-10-24

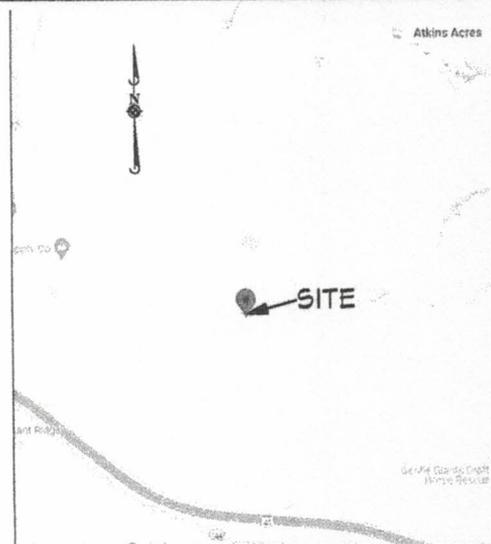
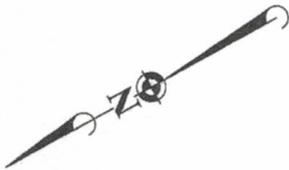
Sworn to and subscribed before me this 10th day of October

My Commission expires _____
Notary Public: **DAVID LOWELL KENYON**
NOTARY PUBLIC
HOWARD COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 17, 2028

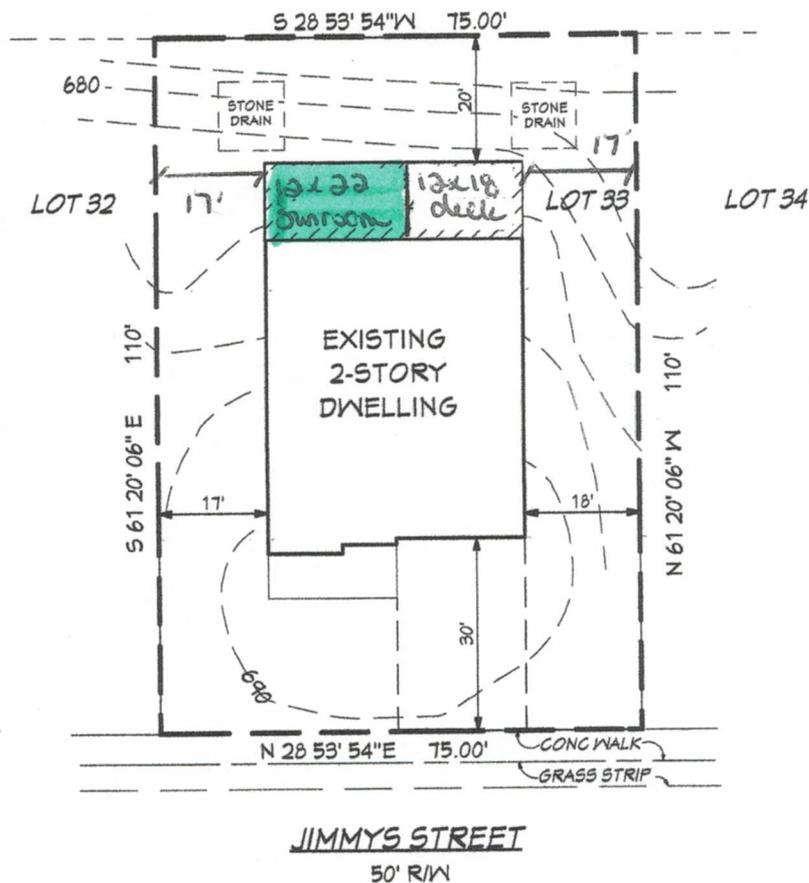
[Signature]



NOT A PROPERTY LINE SURVEY, ALL DATA CONTAINED HEREIN OBTAINED FROM "MY NEIGHBORHOOD" AND SUBDIVISION PLAT, NOT FIELD SURVEY



**VICINITY
MAP**
NOT TO SCALE



SITE PLAN

SCALE: 1" = 30'-0"

maureen copeland architects

603 East Court
Westminster, MD 21157
717-599-9590
chesapeake.designco@gmail.com

SITE DATA

ZONING: R-40
ACCNT NO: 433065
LOT AREA: 8,250 SF
EXISTING PUBLIC WATER AND SEWER

PLAT TO ACCOMPANY BUILDING PERMIT
107 JIMMYS ST, MT. AIRY, MD 21771
OWNER: KEVIN & LESLIE MCGOWAN

Date: 6/26/2024

DATA TABULATIONS:

- NUMBER OF BUILDING SITES: 30
- TOTAL AREA OF LOTS: 330,965 s.f. or 7.5979 AC±
- ACREAGE & LENGTH OF NEW STREETS DEDICATED TO TOWN OF MOUNT AIRY: 105,127 s.f. or 2.4134 AC± (2.050'±)
- ACREAGE OF COMMUNITY PARK DEDICATED TO TOWN OF MOUNT AIRY: 159,631 s.f. or 3.6646 AC±
- ACREAGE OF SWM FACILITIES DEDICATED TO TOWN OF MOUNT AIRY: 16,290 s.f. or 0.3741 AC±
- ACREAGE OF OPEN SPACE DEDICATED TO BRITANNY MANOR AT TWIN ARCH HOA: 306,726 s.f. or 7.0415 AC±
- TOTAL AREA OF SHEET ONE OF THREE: 916,747 s.f. or 21.0915 AC±

CURVE DATA

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	DELTA ANGLE	CHORD BEARING	TANGENT
C1	380.00	553.00	500.21	88°00'43"	S 04°10'23" W	347.72
C2	125.00	65.28	64.54	29°55'12"	S 09°32'47" E	33.40
C3	175.00	119.86	115.34	49°04'16"	N 04°01'45" E	79.89
C4	17.00	11.19	11.69	51°10'51"	S 02°52'22" W	6.14
C5	50.00	167.29	99.46	191°42'10"	N 73°14'09" E	0.00
C6	17.00	5.19	14.69	51°10'51"	N 36°30'13" W	6.14
C7	175.00	342.42	290.35	112°05'40"	S 00°35'16" E	258.89
C8	125.00	65.28	64.54	29°55'12"	N 49°25'52" E	3.46
C9	125.00	28.24	28.16	12°56'39"	N 55°54'07" W	14.10
C10	125.00	1107.06	103.81	49°04'16"	N 04°01'45" E	57.06
C11	175.00	311.39	190.35	29°55'12"	N 04°01'45" E	46.76
C12	125.00	244.59	207.39	112°05'40"	S 06°02'18" E	185.71
C13	175.00	27.10	27.07	6°52'21"	S 45°34'51" W	13.58

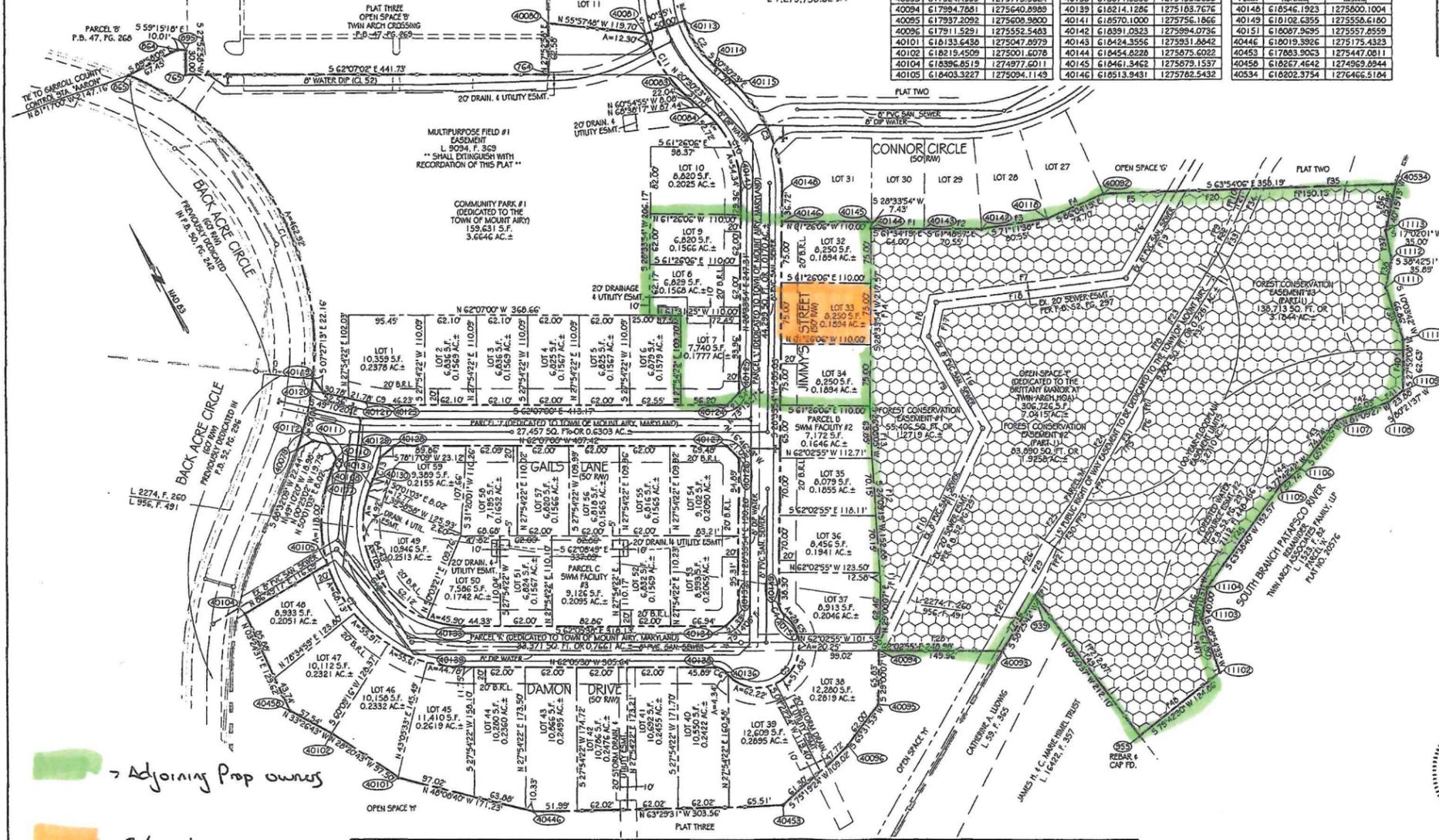
FOREST CONSERVATION EASEMENT #1

LINE	BEARING	DISTANCE	BEARING	DISTANCE	
F1	S 51°34'19" E	64.00	N 15°53'22" E	502.26	
F2	S 51°46'57" E	70.55	N 10°01'05" W	131.45	
F3	S 71°11'56" E	80.55	N 40°06'42" E	31.50	
F4	S 60°04'19" E	77.70	N 5°02'52" E	130.83	
F5	S 63°54'06" E	77.70	N 5°02'52" E	131.15	
F6	S 58°24'51" W	111.71	F20	S 63°44'06" E	70.10
F7	N 69°26'22" W	235.17	F21	S 32°13'29" E	39.95
F8	S 40°06'42" E	130.83	F22	S 54°54'11" E	131.19
F9	S 02°10'56" E	120.58	F23	S 60°20'58" W	131.62
F10	S 53°44'29" W	263.45	F24	S 57°45'57" W	172.70
F11	S 29°00'07" E	148.35	F25	S 30°45'11" W	35.89
F12	N 49°25'52" E	115.89	F26	S 56°32'40" W	53.95
F13	N 04°01'45" E	79.89	F27	S 56°32'40" W	53.95
F14	N 04°01'45" E	79.89	F28	S 56°32'40" W	53.95
F15	N 04°01'45" E	79.89	F29	S 56°32'40" W	53.95
F16	N 04°01'45" E	79.89	F30	S 56°32'40" W	53.95

LIMIT OF FLOODPLAIN EASEMENT

LINE	BEARING	DISTANCE
L1	N 62°55'42" E	37.55
L2	N 57°45'57" W	172.70
L3	N 73°14'09" E	0.00
L4	N 50°41'47" E	113.00
L5	N 26°32'41" E	35.37
L6	N 51°10'51" E	6.14
L7	N 36°30'13" W	6.14
L8	N 49°25'52" E	3.46
L9	N 55°54'07" W	14.10
L10	N 04°01'45" E	57.06
L11	N 04°01'45" E	46.76
L12	N 06°02'18" E	185.71
L13	N 45°34'51" W	13.58

THE BASIS OF BEARINGS FOR THIS PLAT IS THE MARYLAND COORDINATE SYSTEM (NAD 83/2007) AS PROJECTED BY CARROLL COUNTY (N65) SURVEY CONTROL STATIONS: WATKINS AZIMUTH: N 619.600.63 E 1,270,730.55 sft E 1,279,730.82 sft



Adjoining Prop owners
Subject Prop.

APPROVED:
MOUNT AIRY PLANNING COMMISSION
04/03/19 *Patricia Kempbell*
DATE CHAIRPERSON

APPROVED:
CARROLL COUNTY HEALTH DEPARTMENT
4/30/19 *Paul R. ...*
DATE APPROVING AUTHORITY

COMMUNITY WATER AND/OR SEWERAGE SYSTEMS ARE IN CONFORMANCE WITH THE CARROLL COUNTY MASTER PLAN FOR WATER AND SEWER.

- NOTES:**
- THE PROPERTY SHOWN HEREON IS OWNED BY TWIN ARCH ASSOCIATES FAMILY LIMITED LIABILITY PARTNERSHIP, c/o EMMETT FULL, BY DEED DATED OCTOBER 27, 1999 AND RECORDED AMONG THE LAND RECORDS OF CARROLL COUNTY IN LIBER 2274 AT FOLIO 260 AND EMMETT FULL AND AUDREY M. FULL (DECEASED) BY DEED DATED JUNE 20, 1996 AND RECORDED AMONG THE LAND RECORDS OF CARROLL COUNTY IN LIBER 956 AT FOLIO 491.
 - NO GRADING, FILLING OR CONSTRUCTION SHALL BE PERMITTED WHICH OBSTRUCTS OR INHIBITS THE SURFACE FLOW OF WATER WITHIN DRAINAGE AND UTILITY EASEMENTS AS SHOWN HEREON.
 - ANY MODIFICATION OR PLAT REASSEMBLY SHALL BE SUBJECT TO APPROVAL BY THE TOWN OF MOUNT AIRY PLANNING COMMISSION.
 - NOTHING SHOWN OR STATED ON THIS PLAT SHALL CREATE A COVENANT OR RESTRICTION OF TITLE.
 - TOWN OF MOUNT AIRY MASTER PLAN FOR WATER AND SEWER.
 - WATER, EXISTING SERVICE AREA, EXISTING SERVICE AREA, PUBLIC WATER AND SEWER WILL BE AVAILABLE, AND NO INDIVIDUAL WATER OR SEWER SYSTEMS SHALL BE PERMITTED.
 - A TEN FOOT PEDESTRIAN, LANDSCAPING, DRAINAGE AND UTILITY EASEMENT IS HEREBY RESERVED ALONG ALL STREET FRONTAGE LOT LINES AND A SIX FOOT DRAINAGE AND UTILITY EASEMENT ALONG ALL OTHER LINES.
 - ALL DRIVEWAYS SHALL BE PAVED ACCORDING TO TOWN OF MOUNT AIRY ZONING REGULATIONS AND SPECIFICATIONS.
 - THERE IS A 25 FOOT REVERSIBLE GRADING EASEMENT RESERVED ALONG ALL STREET FRONTAGE LOT LINES.
 - THE NEW ROAD DEDICATION SHOWN HEREON, GAILS LANE (PARCEL 1), 0.6303 AC±; JIMMY'S STREET (PARCEL 1), 0.170 AC±; AND DAMON DRIVE (PARCEL 1), 0.7451 AC± ARE TO BE CONVEYED TO THE TOWN OF MOUNT AIRY PURSUANT TO A PUBLIC WORKS AGREEMENT DETERMINED BY THE OWNERS AND THE TOWN OF MOUNT AIRY.
 - LOTS 1-36 & 49-72 CONTAIN PRIVATE STORMWATER MANAGEMENT FACILITIES. A "STORMWATER MANAGEMENT EASEMENT AND MAINTENANCE AGREEMENT" IS TO BE GRANTED TO THE TOWN OF MOUNT AIRY AS AN EASEMENT OF ACCESS FOR INSPECTION OF THE FACILITIES TO THE TOWN OF MOUNT AIRY OR AUTHORIZED REPRESENTATIVES BY A DEED INTENDED TO BE RECORDED SIMULTANEOUSLY HERewith.
 - THE AREA SHOWN HEREON AS PARCEL 10 CONTAINING 0.1646 ACRES± IS TO BE CONVEYED TO THE BRITANNY MANOR AT TWIN ARCH HOA UPON ACCEPTANCE OF THE STORMWATER MANAGEMENT FACILITY.
 - THE AREA SHOWN HEREON AS PARCEL 11 CONTAINING 0.2095 ACRES± IS TO BE CONVEYED TO THE BRITANNY MANOR AT TWIN ARCH HOA UPON ACCEPTANCE OF THE STORMWATER MANAGEMENT FACILITY.
 - COMMUNITY PARK #1 (16.6646 AC±) IS TO BE DEDICATED TO THE TOWN OF MOUNT AIRY.
 - FRONT 100-FOOT FLOODPLAIN EASEMENT RECORDED IN P.B. 52, PG. 287 HEREBY IS EXTINGUISHED AND NEW FLOODPLAIN LIMITS ESTABLISHED HEREBY BY RECORDED THIS PLAT, WITH EASEMENT ACREAGE OF 3.2710 AC± SHALL BE GRANTED TO THE CARROLL COUNTY COMMISSIONERS BY DEED INTENDED TO BE RECORDED SIMULTANEOUSLY HERewith.
 - OPEN SPACE, PARCEL 17, 0.1415 AC± IS TO BE DEDICATED TO THE BRITANNY MANOR AT TWIN ARCH HOA.
 - PARCEL M, 15' PUBLIC RIGHT OF WAY EASEMENT (0.2551 AC±) IS TO BE DEDICATED TO THE TOWN OF MOUNT AIRY.
 - THE AREA SHOWN HEREON AS FOREST CONSERVATION EASEMENT, WITH A TOTAL ACREAGE OF 6.3021 AC±, SHALL BE GRANTED TO THE CARROLL COUNTY COMMISSIONERS BY DEED INTENDED TO BE RECORDED SIMULTANEOUSLY HERewith.

SYMBOLS:

- IRON PIN SET
- CONC. MON.
- PROP. WATER LINE
- PROP. SAN SEWER
- FOREST CONSERVATION EASEMENT
- BOUNDARY / PROPERTY LINE
- EASEMENT, DR., ETC LINE

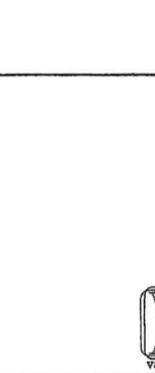
* UNLESS OTHERWISE NOTED

MINIMUM BUILDING RESTRICTION LINES

FRONT: 20'
REAR: 30'
SIDES: 10'

DATE 07/19/19
REVISIONS

DATE	PER TOWN COMMENTS
11/20/18	PER TOWN COMMENTS
03/19/19	PER TOWN COMMENTS
03/25/19	PER TOWN COMMENTS



FINAL PLAT
SECTION FIVE
LOTS 1 THRU 73
BRITANNY MANOR AT TWIN ARCH VILLAGE
SITUATED ON BACK ACRE CIRCLE
TOWN OF MOUNT AIRY
MOUNT AIRY ELECTION DISTRICT #13
CARROLL COUNTY, MARYLAND
SCALE: 1"=100' JULY, 2018
SHEET ONE OF THREE

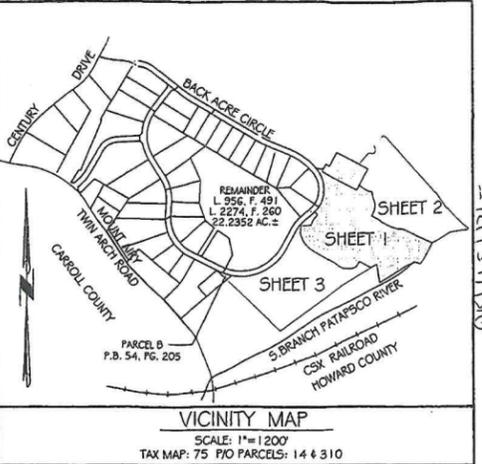
VANMAR ASSOCIATES, INC.
Engineers Surveyors Planners
310 South Main Street Mount Airy, Maryland 21771
(301) 829-2890 (301) 831-5015 (410) 549-2751
Fax (301) 831-5603 ©Copyright, Latest Date Shown

CC FILE NO. F-18-0052
3-29-19 MT



THE OWNERS HAVE SWORN TO AND SUBSCRIBED BEFORE ME THIS 26th DAY OF March 2019.
Deborah K. Van Sant
NOTARY PUBLIC
Deborah K. Van Sant
(PRINTED NAME OF NOTARY)
MY COMMISSION EXPIRES 2/21/23

DATE 07/19
PLAT BOOK D.B.S. NO. 55 PAGE 255



SURVEYOR'S CERTIFICATION

I hereby certify that the Final Plat shown herein is correct; that it is a subdivision of part of the lands conveyed by Twin Arch Associates, a Maryland General Partnership unto Twin Arch Associates Family Limited Liability Partnership by deed dated October 27, 1999 and recorded among the Land Records of Carroll County, Maryland in Liber 2274 at Folio 260; and part of the lands conveyed by Emmett Full and Audrey M. Full unto Emmett Full and Audrey M. Full (Deceased) by deed dated June 20, 1996 and recorded among the Land Records of Carroll County, Maryland in Liber 956 at Folio 491; and that the requirements of the Annotated Code of Maryland, Real Property Book, Title 5, Subtitle 3, Section 3-100, and its amended or amended so as it may concern the making of this plat and the setting of monuments and markers have been complied with. I hereby certify that the document was prepared by me or under my responsible charge, and that I am a duly licensed Professional Land Surveyor under the laws of the State of Maryland, License No. 21266, expiration date September 9, 2019, in accordance with COMAR 09.13.02.12

T. Michael Van Sant 3/26/2019
T. Michael Van Sant, Prof. Land Surveyor
Maryland Reg. No. 21266

OWNER'S CERTIFICATION AND DEDICATION

We, Twin Arch Associates Family Limited Liability Partnership and Emmett Full, owners of the property shown herein, consent to adopt the plan of subdivision, and in consideration of the approval of the Final Plat by the Planning Commission, establish the minimum building restriction lines; and dedicate the streets, walkways and other easements, to public use, unless otherwise noted on this plat.

We, certify that there are no suits, actions at law, leases, liens, mortgages, trusts, assignments, or rights-of-way affecting the property included in this plan of subdivision, except as herein indicated; a certain Deed of Trust held by Sandy Spring Bank, dated June 18, 2003 and recorded among the Land Records of Carroll County, Maryland in Liber 351 1: Folio 675 and that the requirements of the Annotated Code of Maryland, Real Property Code Book, Title 3, Subtitle 1, Section 3-100, and its amended or amended so far as it may concern the making of this plat and the setting of monuments and markers have been complied with.

Plans for community water and sewerage systems and for a point of discharge have been approved by the Maryland Department of the Environment. Public water and sewer will be available to all lots offered for sale.

Twin Arch Associates Family Limited Liability Partnership

By: Emmett Full, Owner
Cynthia Palmer 3/26/19
Sandy Spring Bank, Trustee
Emmett Full, Surviving Tenant of Entirety

CARROLL COUNTY CIRCUIT COURT (Subdivision Plats, CR) Plat Book HSD 55, pp. 255-257, MSA_51240_7362. Date available 2019/06/07. Printed 10/08/2024.

07/19/2019 PM 2:26

P2 32 335

MSA 51240-7362-1

Statement of Justification

The property owners, Leslie and Kevin McGowan, of the residential single-family dwelling located at 107 Jimmys Street, Mount Airy MD 21771, are proposing to construct a 12' x 22' single-story sunroom addition on the rear of their existing dwelling. The dwelling is located in the Brittany Manor at Twin Arch Village subdivision and is otherwise known as Lot 33 containing 8,250 square feet. The lot is symmetrically rectangular with an overall width of 75' and a depth of 110'.

This property is located on the far eastern portion of the Town of Mount Airy, nearly at the border of the town limits. Getting to this neighborhood requires travelling through the Back Acre Circle area which is entirely zoned as industrial. On the north side of Back Acre Circle beyond the industrial area, a townhouse development was constructed known as Twin Arch Crossing and zoned R5 (medium density). At the end of that subdivision, as Back Acre curves back around into Industrial, this subdivision was constructed and changed into an R2 – Low Density zoning.

An R2 zoning typically requires a 40-foot rear setback from the dwelling to the property line. This subdivision reduced that setback to a 30-foot setback in the rear on the recorded subdivision plat which was reviewed and approved by the Planning Commission. This reduction allowed the developer to maximize dwelling size on what are clearly undersized lots. The existing dwelling in this case was constructed with only 32 feet to the rear property line. Thus, strict application of the setback requirements would relegate this property to only improve upon their dwelling by 2 feet in the rear without requiring a variance.

The exceptional shallowness of this lot creates the undue hardship requiring a variance application. According to the Mount Airy zoning code, the "R2 District is intended to encourage and promote the development of low-density residential neighborhoods that include some diversity of lot sizes and housing types, and certain other land uses that complement the residential community. The typical development should result in lot areas averaging approximately 16,000 square feet." Here we see that the intent of this zoning classification was for low-density but yet this subdivision was planned and approved to increase density. Furthermore, R2 lots are supposed to be at least 16,000 square feet, and yet this particular lot is almost half of that (at 8,250 square feet).

It is clear that this lot is undersized. Because of the size, there is no room in the rear for a setback to be met without a variance. This is absolutely not the case in nearly all other R2 properties throughout the town. Strict application to the setback requirement in this case not only creates unnecessary hardship on the owner, but also a practical difficulty that no improvement to their living space within their rear amenity area could be made. This is exacerbated by the fact that the developer constructed rear egress in an area that has no room for enclosed improvement.

Referring to Section 112-61 regarding variances, these unique physical conditions of the undersized lot and atypical shallowness are what have created the unnecessary hardship and practical difficulty. These physical circumstances and conditions render it impossible to develop the property in strict conformity with the provisions of the zoning chapter, and the authorization of the variance is therefore necessary to enable the reasonable improvement of the property. This

hardship was created at time of development and therefore has not been created by the applicant, nor the applicant's predecessor in title.

If the variance is authorized, this modest sunroom addition will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. Again, this is a modest sunroom addition on the rear of a residential dwelling. Several other properties even in this subdivision which have more room to the rear already have enclosed bump outs which are evidenced by included photographs. Furthermore, this property backs to platted forest conservation area which is not and cannot be developed. Absolutely no other property owner will be affected by the approval of this request.

As stated, the variance is to allow a 12' x 22' sunroom addition. This is the smallest practical size of an addition that makes sense for the owners to improve upon their home. As a sunroom, it is not a full addition, but yet only a space for the enjoyment of their rear amenity that is not an open deck which is open to the elements and restricts the use in inclement weather or certain times of the year. As such, this variance, if authorized, represents the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

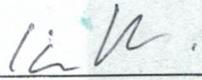
This condition for which the variance is sought is not so general or recurrent in nature to make reasonably practicable the formulation of a general regulation for such conditions. Actually, that general regulation was already made in the formation of the R2 district, but then constricted specifically in this subdivision at time of development. This case is the quintessential example of the need for a variance relief.

As a final point of order, it should also be noted that the immediate neighbor on both sides of this subject property have signed a statement of support for this approval. That statement is being provided in the submission documents. For all reasons contained herein, please find that all requirements for variance relief have been met and grant the approval for this proposal.

EXHIBIT 3 TO REAR SET BACK APPLICATION HEARING
107 JIMMYS STREET, MT. AIRY/LOT 33, BRITTANY MANOR

The purpose of this document is to approve of the sun room deck addition our neighbors, Kevin and Leslie McGowan, are planning to build off the back of their home.

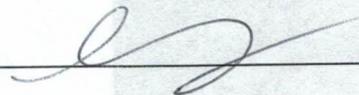
The property is located at 107 Jimmys St. in the Brittany Manor community in the town of Mt. Airy. The rendering of this addition can be found on the opposite side of this document.



Ian Marrero (105 Jimmys St.)

10/02/24

Date:



Evan Yoo (109 Jimmys St.)

10/10/24

Date:



MAUREEN
COPELAND
717.599.9590

ADDITION for the MCGOWAN FAMILY
107 JIMMYS STREET, MT. AIRY, MD 21771

PRELIM.
PLANS
5.16.24

SHEET

B4



3D VIEW
not to scale