



# Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

[www.berlinmd.gov](http://www.berlinmd.gov)

Town of Berlin

Board of Appeals

May 7<sup>th</sup>, 2025 - 6:30 PM

Berlin Town Hall – Council Chambers

1. **Call To Order**
2. **Approval of Minutes** – April 2, 2025
3. **(Continuance) Case # BA-4-2-25-03:** 122 Tingle Road - Requesting a variance
4. **Case # BA-5-7-25-04:** Franklin Avenue & Route 113, Parcel 684, Tax Map 301 – Requesting to reduce applicable parking requirements for the proposed Microtel development.
5. **Comments from the Staff**
6. **Comments from the Board**
7. **Adjournment**

*Any persons having questions about the above-referenced meeting or any persons needing special accommodations should contact Kate Daub at 410-641-4002. Written materials in alternate formats for persons with disabilities are made available upon request. TTY users dial 7-1-1 in the State of Maryland or 1.800-735-2258 outside Maryland.*



Board of Zoning Appeals  
Meeting Minutes  
Wednesday, April 2, 2025

**Members Present:** Chairman Joe Moore, Vice-Chairman Woody Bunting, Jennie Allen, and Robert Palladino

**Staff Present:** Town Administrator Mary Bohlen, Acting Planning Director Ryan Hardesty, and Special Projects Administrator Kate Daub

This meeting was also broadcast live via Facebook. Chairman Joe Moore called the meeting to order at approximately 6:40 PM.

Chairman Moore began the meeting by requesting the approval of the minutes from February 19, 2025. Mr. Palladino made a motion to approve the minutes, which was seconded by Ms. Allen and unanimously approved.

The meeting then proceeded with elections for new leadership. Mr. Bunting nominated the incumbent, Mr. Joe Moore, for the position of chairman. Mr. Palladino made a motion to approve the nomination, which was seconded by Ms. Allen and passed unanimously. Following this, Chairman Moore nominated Mr. Bunting for Vice-Chairman, a motion seconded by Mr. Palladino and approved unanimously.

The next agenda item addressed a variance request concerning a public parking lot in an R-2 Residential District in town. Chairman Moore disclosed a potential conflict of interest, stating he was a trustee of the property-owning trust but had not participated in the project and felt impartial. The board accepted his continued role in the discussion.

Mr. David Gaskill, Attorney for the Town of Berlin, presented the request and explained that the town had leased property from the Esham family to develop a public parking lot. Although this use was permitted within the zoning district, he noted that several conditions required waivers, including buffer distances, landscaping, and paving requirements. Town of Berlin Mayor Zackery Tyndall was called to testify; he expressed gratitude to the board, emphasizing the rarity of his appearances in order to preserve the board's independence. He addressed Berlin's historical lack of planning for modern traffic and underscored the importance of expanding parking to support local businesses.

He continued by explaining that American Rescue Plan Act (ARPA) funds had been allocated for the lease, but federal guidance required a contract by December 2024, which prompted the town to act swiftly. Mr. Gaskill entered a concept plan into the record, showing a 20-foot buffer, though he clarified that a waiver was requested in case future changes to the plan necessitated a reduction. Mayor Tyndall estimated that the lot would provide approximately 101 parking spaces. Mr. Gaskill pointed out that there were already parking lots in town with smaller buffer zones, specifically between 13 and 15 feet. He mentioned that a larger version of the proposed plan had included buffers of up to 35 feet, which were initially intended for stormwater management. Chairman Moore suggested that the final plan should be made available to the public if the waiver were approved.

Ms. Allen asked for clarification on whether the setback would be removed or reduced. Mr. Gaskill confirmed that they were seeking flexibility, not removal. The board supported maintaining a 15-foot buffer, which was considered consistent. However, fencing and landscaping were also discussed. Although the lease specified a “split rail” fence, Chairman Moore expressed concerns about the style. Mayor Tyndall clarified that the intent was to select a fencing style that was more appropriate for the area.

Mayor Tyndall explained that the lease prohibited paving the lot and noted that the project was intended as a trial arrangement. He mentioned that paving would complicate future development options, so grass would be used initially, with the possibility of reconsidering paving at a later date. Mr. Gaskill highlighted the lease restriction as a hardship under the zoning code, which he believed justified the request for a waiver. Mayor Tyndall also acknowledged that a parking fee might be implemented in the future to ensure the project's sustainability.

Mr. Bunting expressed concerns about whether the waiver could later allow for the lot's expansion without adhering to zoning or stormwater regulations. The board discussed the possibility of conditioning the waiver to ensure compliance with stormwater requirements. Mr. Gaskill confirmed that compliance would be necessary and addressed during the Planning Commission review.

Chairman Moore opened the meeting to public comment at 7:07 PM.

Resident Carol Rose of Ann Drive voiced concerns about potential impacts on property values and the necessity for fencing. She suggested that the town's Horticultural Advisory Committee oversee the landscaping. In response, Chairman Moore explained that landscaping fell under the jurisdiction of the Planning Commission. Ms. Rose questioned the rationale for waiving landscaping if the Board of Appeals could not address it. Mayor Tyndall reiterated that the Public Works Department would maintain the lot and emphasized the town's commitment to keeping the area attractive.

Resident Betsy Love of Washington Street expressed concerns about increased traffic and potential environmental issues. Mayor Tyndall explained the planned entrance and exit routes designed to minimize residential traffic and mentioned grant initiatives aimed at environmental protection. Public Works Director Jimmy Charles emphasized that proper signage and parking lot layout would help reduce traffic in residential areas. He proposed a simple solution involving wooden posts and signs to define parking spaces. Mr. Charles also mentioned that the town planned to monitor the lot's usage before making any investments in infrastructure. Mayor Tyndall highlighted that this would be Berlin's first new parking lot in over thirty years, and the project was being treated as a valuable learning opportunity.

Residents Laura Stearns and Janelle Gerthofer expressed their support for the concept. Ms. Stearns appreciated that the development preserved the open skyline and sought clarification on the setbacks, which included sidewalks. She advocated for the addition of a buffer with trees and shrubs. Chairman Moore emphasized that the current vote focused on the waiver request, not the design details. Ms. Gerthofer felt that the conceptual plan aligned with zoning requirements and provided a solid foundation for Planning Commission oversight.

Mayor Tyndall emphasized that the project was still in its early stages and encouraged continued public input. Resident Sandra Kirkland, who lived on Washington Street, expressed concerns about the financial and legal aspects of the project. She questioned whether the lot could be classified as a vehicle storage yard and argued that the project was advancing too quickly. In response, Mayor Tyndall highlighted the importance of property values to the town, noting their impact on revenue.

Mr. Norman Bunting Jr., a member of the Esham family and Chairman of the town's Historic District Commission, clarified that he was not involved in the lease negotiations but referenced a successful precedent for grass lot parking in the area.

Planning Commission member Eric Pfeffer of West Street raised concerns about procedural order and questioned whether granting a waiver based on a concept plan was appropriate. Chairman Moore clarified that without the waiver, the Planning Commission would not be able to proceed with the site plan review.

Resident Ron Cascio from Walnut Hill expressed his concerns regarding the number of waivers being requested and urged the town to prioritize compliance. Mr. Gaskill emphasized that without a waiver for paving, the lease would have impeded the town's ability to move forward. Chairman Moore clarified that if the paving requirement were waived, compliance with setbacks and stormwater regulations would still be necessary during the site plan approval process. He stressed that the board was not approving the entire project but was considering a limited waiver to allow the planning process to proceed.

Mr. Bunting proposed a motion to approve the waiver from the paving requirement, while ensuring a minimum 20-foot setback from the street to comply with the town code. Ms. Allen seconded the motion, and the board voted unanimously in favor.

Mr. Moore requested a ten-minute recess at about 7:53 PM. The meeting was reconvened at approximately 8:03 PM.

After the break, the board reviewed another variance request concerning 122 Tingle Road. Town Administrator Mary Bohlen explained that the town had inadvertently approved a zoning application for an accessory building that did not comply with corner lot regulations. She explained that the town was seeking retroactive approval for the variance to avoid penalizing the homeowner.

Ms. Bohlen clarified that the two-story building structure extended toward Upshur Lane rather than being positioned behind the primary building as required by the town code. Mr. Bunting raised concerns about the accuracy of the presented hand-drawn site plan included in the meeting packet and noted the lack of a certified survey. Ms. Bohlen confirmed that Mr. Rick Baldwin, the Planning and Zoning Department Consultant, had verified the setbacks, but she acknowledged Mr. Bunting's concerns.

Mr. Bunting mentioned that he had prepared the original site plan and offered to reverify the building's placement. Chairman Moore agreed to table the case until this confirmation could be obtained.



A neighboring resident, Ms. Sullar Barfield, expressed concerns about utility access and noted that she had submitted a letter to the town outlining her concerns. Chairman Moore confirmed the receipt of her letter but clarified that utility issues fell outside the board's jurisdiction.

Mr. Palladino moved to table the case until the measurements could be verified. Ms. Allen seconded the motion, which received unanimous approval. Chairman Moore thanked Mr. Bunting for his offer to assist, and the property owner, Ms. Tammy Clark, who was present at the meeting, granted Mr. Bunting permission for site access.

With no further business, Mr. Palladino made a motion to adjourn, which Ms. Allen seconded.

The meeting was officially adjourned at 8:16 PM.

Respectfully submitted,

*Kate Daub*

Kate Daub  
Special Projects Administrator



# STAFF REPORT

**TO:** Board of Appeals

**FROM:** Ryan Hardesty, Acting Planning Director

**MEETING DATE:** May 7, 2025

**SUBJECT:** 122 Tingle Rd. Variance Request

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## SUMMARY

In October 2023, Ms. Tammy Clark and Mr. Jeffrey Anderson, the property owners of 122 Tingle Road, submitted an application to construct an accessory structure on their property. The Town reviewed and approved the application, allowing the property owners to move forward with construction. However, upon a subsequent review of the site and related surveys, it was discovered that the site plan approval had been issued in error.

Specifically, the accessory structure does not meet the required setback as outlined in Town of Berlin Code Section 108-702(c), and as measured pursuant to Town of Berlin Code Section 108-706. While the structure is consistent with the boundary and siting information shown on the original survey (dated July 8, 2000) and the updated survey conducted by Woody Bunting of L.E. Bunting Surveys, Inc. (dated April 16, 2025), it remains out of compliance with the current Code's dimensional requirements.

As a corrective measure, the Town is requesting that a variance be granted for the subject property in accordance with Town of Berlin Code Section 108-160, subject to appropriate conditions as may be set by the Board of Appeals.

## CONSIDERATIONS

- The property owner received site plan approval in October 2023 based on a staff review.
- A review of recent survey data confirms the structure's current location but also reveals a nonconformance with the applicable setback standard in Code Section 108-702(c).
- Measurements were reviewed and confirmed using the methodology outlined in Code Section 108-706.
- The structure otherwise complies with general zoning and land use regulations.
- To remedy oversight and maintain regulatory compliance, a variance is required.

## RECOMMENDATION

Staff recommends that the Board of Appeals support the Town's request for a variance to be granted under Section 108-160 of the Town Code for the accessory structure located at 122

Tingle Road. This variance should be subject to any conditions deemed appropriate to ensure minimal impact on adjacent properties and continued compliance with the Town's zoning framework.

#### **OPTIONS FOR CONSIDERATION**

- Support the Town's request to pursue a variance and refer the matter to the Board of Appeals.
  - Decline to pursue a variance, requiring potential modification or removal of the noncompliant structure.
  - Request additional analysis or public input before taking action.
- 

#### **Attachments:**

- Original Site Plan & Survey (July 8, 2000)
- Updated Survey by Woody Bunting, L.E. Bunting Surveys, Inc. (April 16, 2025)
- 122 Tingle Rd. Variance Request Summary Sheet



# Mayor & Council of Berlin

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## BOARD OF ZONING APPEALS APPLICATION

ADDRESS OF PROPERTY: 122 Tingle Road DATE: 2/28/25

APPLICATION FOR: ☒ VARIANCE ☐ CONDITIONAL USE ☐ APPEAL

LOT # 17 LOT SIZE: 7,387 sq ft ZONING DESIGNATION: R-2 TAX MAP 0302 PARCEL 1001

APPELLANT NAME: Mary Bohlen, Town Administrator ADDRESS: Town of Berlin, 10 William St, Berlin, MD 21811

APPELLANT PHONE#: (410) 641-4314 APPELLANT EMAIL: mbohlen@berlinmd.gov

PLEASE PROVIDE A BRIEF DESCRIPTION OF THE GROUNDS FOR THE APPEAL. IF THE REQUEST IS FOR A VARIANCE, PROVIDE A DESCRIPTION OF THE LAND USE HARDSHIP. IF THIS IS A CONDITIONAL USE REQUEST, PROVIDE A BRIEF DESCRIPTION OF THE PROPOSED USE:

Property owner applied for and received approval to build an accessory structure on the property in October 2023. Research has indicated that site plan approval was likely in error in that the structure did not correctly align with the primary dwelling structure on the property per Town of Berlin Code 108-702 (c). Because the approval error was on the part of the Town and correcting the error would represent a significant hardship to the property owner because of the extent to which the building has been constructed to date, consideration by the Board of Appeals is being requested to prevent future corrective action by the Town or other agency.

PROPERTY OWNER: Tammy Clark and Jeffrey Anderson ADDRESS: 122 Tingle Road

PHONE #: (410) 251-0200 EMAIL: honfest1224@hotmail.com

OWNER SIGNATURE: Tammy Clark DATE: 3/3/25

### FOR OFFICE USE ONLY

CASE # 4-2-25-03 DATE APPLICATION RECEIVED 2/28/25

HEARING DATE 4/2/25 PROPERTY POSTED DATE 3-14-2025

FEES DUE 0 MAB FEES PAID \_\_\_\_\_

DECISION: \_\_\_\_\_

# Board of Zoning Appeals

Meeting April 2, 2025

**Applicant:** Town of Berlin, on behalf of property owners Tammy Clark & Jeffrey Anderson

**Property Location:** 122 Tingle Rd

**Zoning:** R-2

**Request:** Variance due to the error made by the Town giving approval to build an accessory structure that does not meet code requirements.

**PROPOSAL:** The Town is requesting that a variance be granted for the subject property under Town of Berlin Code Section 108-160 with the conditions set forth herein.

**BACKGROUND:** In October 2023, the property owner submitted an application for, and was granted approval, to construct an accessory structure on the property. However, upon further review, it has come to light that the site plan approval was issued in error, as the accessory structure is not setback as required by the Town of Berlin Code Section 108-702(c) as measured in accordance with Town of Berlin Code Section 108-706.

## **Sec. 108-702. Accessory buildings in residence districts.**

- (c) In any R District, where a corner lot adjoins in the rear a lot fronting on the side street and located in an R District, no part of any accessory building on such corner lot shall be nearer the side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot; and in no case shall any part of such accessory building be nearer to the common lot line than the least width of a side yard required for the principal building.

(Code 1977, § 107-17; Ord. No. 2000-10, 9-25-2000)

## **Sec. 108-706. Measurement of front yard depth.**

Each front yard depth or setback specified herein shall be measured at right angles (or radial) from the nearest street right-of-way line, except that where the right-of-way of any existing street is less than 40 feet wide in the case of a minor street, or less than 60 feet wide in the case of a major street, the front yard or setback shall be measured from a line 25 feet or 30 feet, as the case may be, from the center line of the street. The foregoing rules shall apply also to the measurement of a side yard on the street side of a corner lot.

(Code 1977, § 107-21; Ord. No. 2000-10, 9-25-2000)

Town of Berlin Code Section 108-160 allows the Board of Appeals to hear and decide appeals where there is an alleged error in a determination made by an administrative official.

## **Sec. 108-160. Administration errors.**

The board of appeals shall have the power to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or any ordinance adopted under this chapter.

(Code 1977, § 107-69(A); Ord. No. 2000-10, 9-25-2000)

The structure is substantially complete and requiring the owner to correct the issue would impose undue hardship on the owner.

**REQUESTED RELIEF:** The Town respectfully requests that the Board of Appeals consider this matter subject to a requirement that the owner variance order specifically cite the structure cannot contain kitchen facilities or be utilized as rental unit, including as a short-term rental, under Town of Berlin Code Section 108-5. This would allow for a resolution that would prevent any further corrective action by the Town or any other relevant agency, and provide the Town assurances that the accessory structure will not be utilized in violation of the Town Code.



Real Property Data Search ( )  
Search Result for WORCESTER COUNTY

[View Map](#)
[View GroundRent Redemption](#)
[View GroundRent Registration](#)

Special Tax Recapture: None

Account Number: District - 03 Account Identifier - 148734

**Owner Information**

Owner Name: CLARK TAMMY LYNN Use: RESIDENTIAL  
ANDERSON JEFFREY LUKAS Principal Residence: YES  
Mailing Address: 122 TINGLE RD Deed Reference: /06557/ 00217  
BERLIN MD 21811-1435

**Location & Structure Information**

Premises Address: 122 TINGLE RD Legal Description: LOT 17 BLK E  
BERLIN 21811-0000 TINGLE RD  
BURLEY HEIGHTS

Map: GrId: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:  
0302 0008 1001 3040044.24 0000 E 17 2025 Plat Ref:  
Town: BERLIN

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
2001 1,701 SF 7,387 SF 000000

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements  
1 1/2 NO STANDARD UNITSIDING/4 2 full 2001

**Value Information**

	Base Value	Value	Phase-In Assessments	
		As of	As of	As of
		01/01/2025	07/01/2024	07/01/2025
Land:	101,300	101,300		
Improvements	203,600	292,200		
Total:	304,900	393,500	304,900	334,433
Preferential Land:	0	0		

**Transfer Information**

Seller: CLARK TAMMY LYNN Date: 05/08/2015 Price: \$0  
Type: NON-ARMS LENGTH OTHER Deed1: /06557/ 00217 Deed2:  
Seller: BERG JOSEPH R. & ALVINA D. BERG Date: 05/07/2004 Price: \$82,500  
Type: NON-ARMS LENGTH OTHER Deed1: SVH /04113/ 00381 Deed2:  
Seller: T.D.C., L.L.C. Date: 06/12/2000 Price: \$22,900  
Type: ARMS LENGTH IMPROVED Deed1: SVH /02868/ 00522 Deed2:

**Exemption Information**

Partial Exempt Assessments:	Class	07/01/2024	07/01/2025
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

**Homestead Application Information**

Homestead Application Status: Approved 12/09/2021

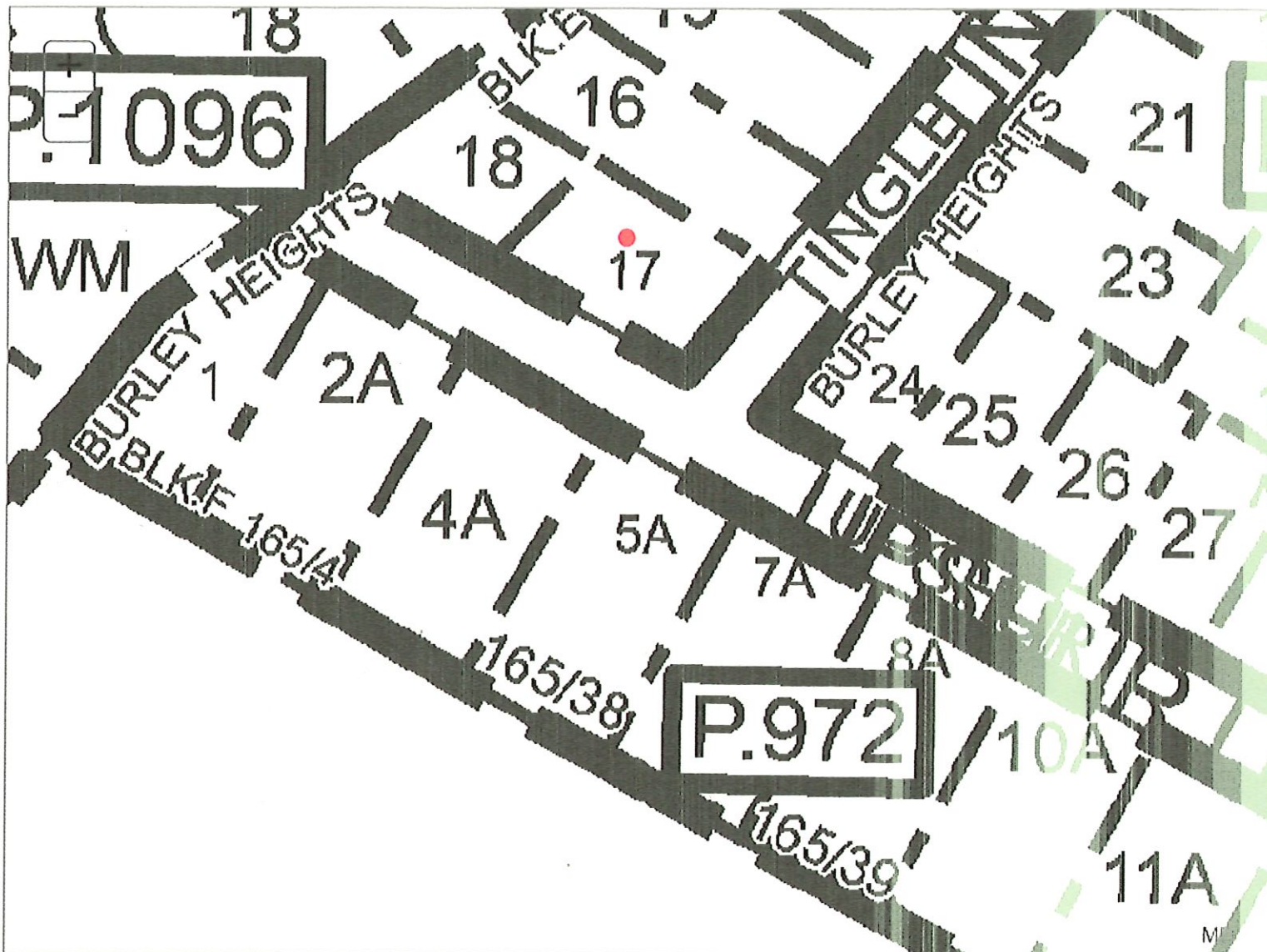
**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: Application Denied Date: 12/22/2024

Worcester County

New Search (<https://sdat.dat.maryland.gov/RealProperty/>)

District: 03 Account Number: 148734



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

used for legal  
01.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at [www.plats.net](http://www.plats.net) (<http://www.plats.net>).

e Maryland State

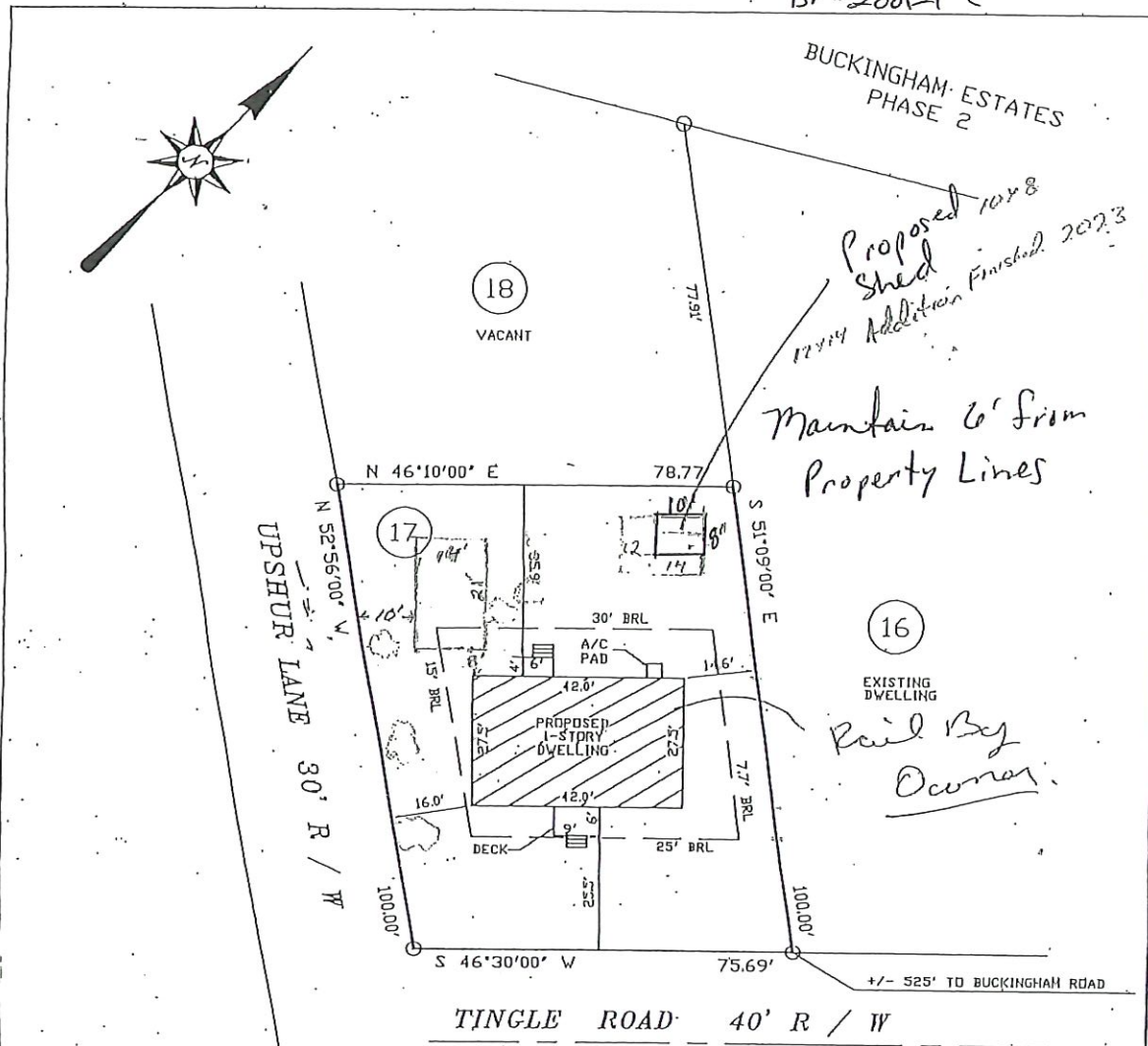
Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at <http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx> (<http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx>).

.aspx).



Approved  
9-4-01  
BP-2001-9-2



AREA OF LOT 17 = +/- 7,640. SQ. FT.

OWNER:

MARGARET W. EVANS, ETAL.

THIS LOT IS SITUATED WITHIN FLOOD HAZARD ZONE X, AS SHOWN ON FIRM MAP # 240141-0001-B, DATED 9-18-86.

DEED REFERENCE:

RHO 1924 / 574  
PARCEL # 1001 - LOT 17  
TAX MAP # 302

LEGEND:

○ DENOTES LOT CORNER

BUYER: CLARK

Town of Berlin.  
PROPERTY ZONED: R-2

L. E. Bunting Surveys, Inc.

MARYLAND & VIRGINIA  
LAND SURVEYING  
24 BROAD STREET  
BERLIN, MARYLAND 21811  
410-641-3313

REFERENCE PLAT:

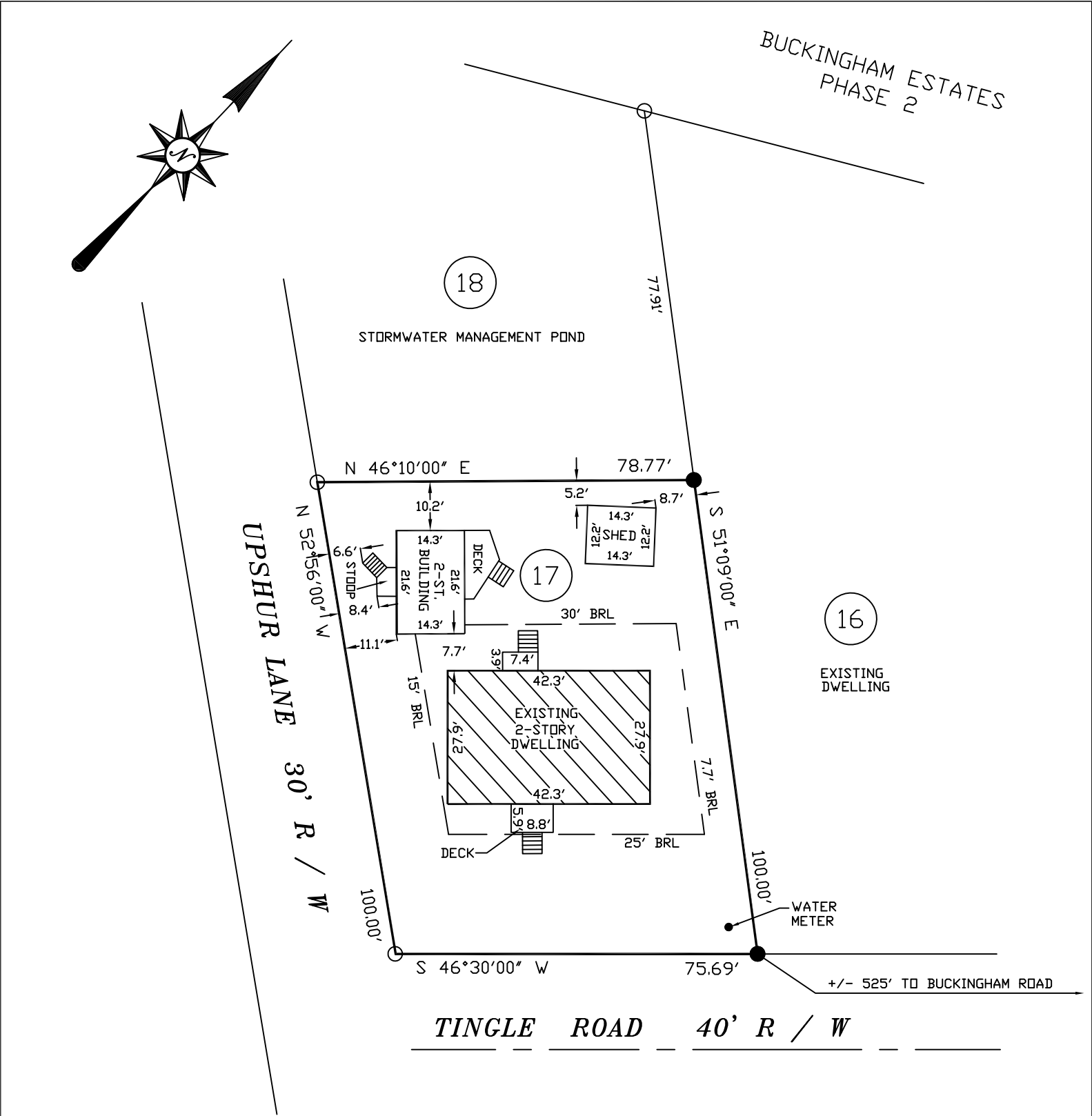
'Burley Heights'  
Plat Book JEB 1 / 57  
BY: WILLIAM D. PITTS  
FEB., 1947

SITE PLAN

BURLEY HEIGHTS  
BLOCK E, LOT 17  
THIRD TAX DISTRICT  
WORCESTER COUNTY, MARYLAND

SCALE: 1" = 30' DATE: 7/8/00  
JOB NO. 6771/00

25' front, 35' rear, 20' sum of sides  
w/ minimum 8'



AREA OF LOT 17 = +/- 7,640 SQ. FT.

OWNERS:

TAMMY LYNN CLARK  
JEFFREY LUCAS ANDERSON

DEED REFERENCE:

6557 / 0217  
PARCEL # 1001 - LOT 17  
TAX MAP # 302

Town of Berlin

PROPERTY ZONED: R-2

THIS LOT IS SITUATED WITHIN ZONE X  
AS SHOWN ON FIRM MAP # 24047C0153H  
DATED 7-16-2015.

LEGEND:

● DENOTES IRON PIPE, FOUND

ACCESSORY BUILDINGS  
ASBUILT SURVEY

BURLEY HEIGHTS  
BLOCK E, LOT 17  
THIRD TAX DISTRICT  
WORCESTER COUNTY, MARYLAND

SCALE: 1" = 30' DATE: 04/16/25  
5.0725183 - MapInfo Packet Page 14 of 24

L. E. Bunting Surveys, Inc.  
MARYLAND & VIRGINIA  
LAND SURVEYING  
24 BROAD STREET  
BERLIN, MARYLAND 21811  
410-641-3313

REFERENCE PLAT:  
"Burley Heights"  
Plat Book: JEB 1 / 57  
BY: WILLIAM D. PITTS  
FEB., 1947



# Mayor & Council of Berlin

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## BOARD OF ZONING APPEALS APPLICATION

ADDRESS OF PROPERTY: Franklin Ave., Berlin, Maryland DATE: 3-26-2025

APPLICATION FOR: ☒ VARIANCE ☐ CONDITIONAL USE ☐ APPEAL

LOT # \_\_\_\_\_ LOT SIZE: \_\_\_\_\_ ZONING DESIGNATION: B-3 TAX MAP 301 PARCEL 684

APPELLANT NAME: Mark Spencer Cropper as attorney for Tom and Angela Zambetis ADDRESS: 6200 Coastal Highway, Suite 200, Ocean City, Maryland 2182

APPELLANT PHONE#: (410) 723-1400 APPELLANT EMAIL: mcropper@ajgalaw.com

PLEASE PROVIDE A BRIEF DESCRIPTION OF THE GROUNDS FOR THE APPEAL. IF THE REQUEST IS FOR A VARIANCE, PROVIDE A DESCRIPTION OF THE LAND USE HARDSHIP. IF THIS IS A CONDITIONAL USE REQUEST, PROVIDE A BRIEF DESCRIPTION OF THE PROPOSED USE:

This is a request to reduce the required parking for a Microtel Hotel by 14 parking spaces as permitted by Sections 108-788(d)(4) and 108-163(a) of the Berlin Zoning Code. More details of this request are reflected in my letters to Ryan Hardesty, Berlin Zoning Administrator, dated 3/21/25 (with the filing fee) and 3/24/25 previously hand delivered.

PROPERTY OWNER: Angela Zambetis ADDRESS: C/O Mark Spencer Cropper/attorney

PHONE #: (410) 723-1400 EMAIL: mcropper@ajgalaw.com

OWNER SIGNATURE: Mark Spencer Cropper Digitally signed by Mark Spencer Cropper Date: 2025.03.26 10:31:05 -04'00' DATE: 03/26/2025

### FOR OFFICE USE ONLY

CASE # \_\_\_\_\_

DATE APPLICATION RECEIVED 3/26/2025

HEARING DATE 5/7/2025

PROPERTY POSTED DATE \_\_\_\_\_

FEES DUE \$ 445.00

FEES PAID 3/20/2025

DECISION: \_\_\_\_\_

Received 3/21/25

Case #: BA-5-7-25-04

Law Offices  
AYRES, JENKINS, GORDY & ALMAND, P.A.  
6200 COASTAL HIGHWAY, SUITE 200  
OCEAN CITY, MARYLAND 21842  
www.ajgalaw.com

GUY R. AYRES, III (1973-2019)  
JAMES W. ALMAND  
WILLIAM E. ESHAM, III  
MARK SPENCER CROPPER  
BRUCE F. BRIGHT  
HEATHER E. STANSBURY  
MAUREEN F. L. HOWARTH  
RYAN D. BODLEY  
BRADFORD F. KIRBY  
VICTORIA O'NEILL  
SPENCER AYRES CROPPER

EMAIL ADDRESS:  
mcropper@ajgalaw.com

(410) 723-1400  
FAX (410) 723-1861

March 21, 2025

OF COUNSEL  
HAROLD B. GORDY, JR.  
M. DEAN JENKINS  
ALVIN I. FREDERICK

Town of Berlin  
Attn: Ryan Hardesty, Zoning Administrator  
10 William Street  
Berlin, Maryland 21811

Re: Microtel/Parking Variance

Dear Mr. Hardesty:

Congratulations on your recent employment with the Town of Berlin ("Berlin") as its new Zoning Administrator. I enjoyed a great working relationship with your predecessor and look forward to the same with you.

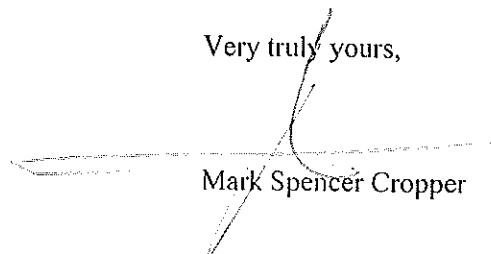
I represent Tom Zambetis and his wife, Angela Zambetis, with regard to the development of certain unimproved real property located near the intersection of Franklin Ave. and Route 113 in Berlin, Maryland, which is also identified as Tax Map 301, Parcel 684 (the "Property"). My clients wish to construct a Microtel (the "Project") on the Property which is well known to the Berlin Planning Commission ("Planning Commission") as well as the Mayor and Council. In fact, the Planning Commission has had the benefit of seeing this Project on several occasions in order to provide preliminary site plan approval and to also approve the building elevations.

As a result of the uniqueness of the Property, and other matters to be addressed at the hearing before the Board of Appeals (the "Board"), the Project necessitates a slight variance to the parking requirements of the Zoning Code of Berlin (the "Code"). The Code requires that a total of 83 parking spaces is necessary to accommodate this use, but site limitations will only allow my clients to accommodate a total of 69. Therefore, a variance of 14 parking spaces is necessary. This request is filed pursuant to Section 108-788 (d)(4) of the Code which states "[t]he board of appeals may authorize, subject to the provisions of sections 108-160 through 108-165, a modification, reduction or waiver of the foregoing requirements if it should find that in the particular case appealed the peculiar nature of the residential, business, trade industrial or other use, or the exceptional shape or size of the property or other exceptional situation or condition, would justify such modification, reduction or waiver." Not only do my clients believe that they meet these criteria, but they also believe that the requested variance is consistent with other local jurisdictions.

Being delivered with this request is the required filing fee of \$445.00 and 13 copies of the preliminary site plan for your review and consideration. Should you have any questions about this

request, please do not hesitate to give me a call. We look forward to working with you on this matter.

Very truly yours,



Mark Spencer Cropper

Enclosures



Law Offices  
AYRES, JENKINS, GORDY & ALMAND, P.A.  
6200 COASTAL HIGHWAY, SUITE 200  
OCEAN CITY, MARYLAND 21842  
www.ajgalaw.com

GUY R. AYRES, III (1973-2019)  
JAMES W. ALMAND  
WILLIAM E. ESHAM, III  
MARK SPENCER CROPPER  
BRUCE F. BRIGHT  
HEATHER E. STANSBURY  
MAUREEN F. L. HOWARTH  
RYAN D. BODLEY  
BRADFORD F. KIRBY  
VICTORIA O'NEILL  
SPENCER AYRES CROPPER

EMAIL ADDRESS:  
mcropper@ajgalaw.com

(410) 723-1400  
FAX (410) 723-1861

OF COUNSEL  
HAROLD B. GORDY, JR.  
M. DEAN JENKINS  
ALVIN I. FREDERICK

March 24, 2025

Town of Berlin  
Attn: Ryan Hardesty  
10 William Street  
Berlin, Maryland 21811

Re: Microtel/Reduction in Parking

Dear Ms. Hardesty:

It was a pleasure meeting you on March 21, 2025, when I submitted the application for a reduction in the required parking for the Microtel project described therein. As you know, I referenced Section 108-788 (d)(4) of the Berlin Zoning Code (the "Code") which provides the Berlin Board of Appeals ("Board") with the authority to grant such relief. While such requests are generally identified as variances, I would like to direct your attention to Section 108-163 (a) of the Code which reads "[t]he board of appeals shall have the power to hear and decide application for conditional uses or for decisions upon other special questions or exceptions on which the board is authorized by this chapter to pass. The board shall have the power to authorize on appeal in specific cases a variance from the terms of an ordinance. **All such applications shall be deemed to be for special exceptions authorized by Md. Ann. Code art. 66B, § 4.07**" (emphasis added).

Therefore, while referenced generally as a variance to the parking requirements, the Board shall review the matter pursuant to the criteria set forth in the Code for special exceptions, which you know are much different. Should you have any questions about this letter of clarification, do not hesitate to give me a call. I look forward to working with you on this and many other matters. Your anticipated cooperation is appreciated.

Very truly yours,

  
Mark Spencer Cropper

Enclosures

**Sec. 108-163. Conditional uses, variances and special exceptions.**

- (a) The board of appeals shall have the power to hear and decide application for conditional uses or for decisions upon other special questions or exceptions on which the board is authorized by this chapter to pass. The board shall have the power to authorize on appeal in specific cases a variance from the terms of an ordinance. All such applications shall be deemed to be for special exceptions authorized by Md. Ann. Code art. 66B, § 4.07.
- (b) In addition to permitting the conditional use and exceptions herein specified, the board shall have the power to permit the following conditional uses and special exceptions:
  - (1) A business use in any R District, next to a nonconforming business or industrial use or between two such uses.
  - (2) On a lot adjoining or in a building adjoining any nonconforming use, a use of the next higher classification.
  - (3) Within any district, the disposal of wastes by the sanitary landfill method.
  - (4) A sewage disposal plant in any district when such location is necessary and unavoidable and provided that all reasonable protection is afforded to adjacent properties by means of location, design, screening or otherwise.
  - (5) A business use in any R District on a lot that adjoins an M District on one side, but not extending more than 100 feet from the district line.
  - (6) A commercial parking lot for passenger vehicles only in any R District on a lot that sides upon a B District, but not extending more than 100 feet from the district line, provided that such lot shall be used only for free parking by patrons or employees of one or more establishments located in the adjacent B District, or as a municipal parking lot, in which case parking fees may be collected and subject to the regulations and provisions in sections 108-767(d) and 108-788.
  - (7) Special building-moving exceptions.
    - a. An exception to the prohibition against the moving of houses is permitted, provided that the board finds that the following conditions and standards are met:
      - 1. That the moving of said buildings will not adversely affect the uses of adjacent and neighboring property.
      - 2. That the character of the neighborhood to which the building is being moved will not be adversely affected.
      - 3. That the building being moved will not unduly adversely affect the value of neighboring properties in the area to which the building is being moved.
      - 4. That adequate off-street facilities are provided.
      - 5. That the sidewalks are constructed or will be constructed to the town specifications prior to the occupation of the building for any purpose, if determined necessary by the board.
      - 6. That all other zoning requirements that apply to new construction are being met.
      - 7. That a professional registered engineer or architect certifies that said building, as moved, will comply fully within the requirements of any building code in effect within the town at the time of the hearing before the board of appeals.
      - 8. That a professional registered engineer or architect certifies that the moving of such building will not cause any damage to municipally maintained streets.

9. That the building to be moved meets all standards set by the county fire marshal or inspector as to all fire safety factors. No building that does not meet all current fire safety standards shall be moved to a new or different location.
  - b. There shall be submitted, along with an application for special building-moving exception, a site plan showing the property to which the building is being moved. Said site plan shall show:
    1. The proposed location of the building to be moved.
    2. The location of all sidewalks.
    3. A parking plan that is in accordance with the parking requirements of this chapter.
    4. The location of buildings on all adjacent lots and their relation to the proposed building's location.
  - c. The applicant shall submit to the board of appeals a color photograph, not more than 60 days old, of the building that he proposes to move. He shall also provide the board with color photographs, not more than 60 days old, of all buildings located on the lots that abut the property and of all buildings on the opposite side of any street within 50 feet of the site to which the building is to be moved.
  - d. In granting a special building-moving exception, the board may specify appropriate conditions and safeguards as it sees fit, in its discretion.
  - e. All buildings moved pursuant to this article shall comply completely with all standards herein established and any conditions or safeguards specified by the board of appeals within 90 days of the issuance of any moving permit.
  - f. Any such house-moving exception so granted shall be contingent on the applicant's therefor depositing with the town a cash bond in an amount to be determined by the board of appeals, but in no event less than \$500.00, which said cash bond shall be forfeited to the town if the house or houses being moved pursuant to said exception remain on, or continue to traverse, any public way within the town for more than a total of two days.
  - g. Whenever an applicant for a special building-moving exception cancels or withdraws his application after an advertisement for a public hearing in connection with said application has been published, any rescheduling for a public hearing on said application or reapplication for the same exception shall be more than four months after the original public hearing was scheduled.
- (8) In the B-2 Shopping District or B-3 General Business District a special exception to allow a grain silo to be utilized as part of a brewery operation, but not exceeding 35 feet in height.
- (c) In considering an application for a conditional use or other exception, the board of appeals shall give due regard to the nature and condition of all adjacent uses and structures. In authorizing any such use or exception the board may impose such requirements and conditions as to location, construction, equipment, operation and maintenance, in addition to those expressly stipulated in this chapter for the particular use or exception, as the board may deem necessary to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise or other similar nuisances, and it may impose such other conditions and requirements as may be necessary in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become obnoxious or offensive. In authorizing a conditional use or exception, subject to compliance with certain conditions, the board may require, from the owners, lessees or tenants of the property for which the conditional use or exception is granted, such evidence, written agreement guaranty or bond as it may deem necessary to ensure that the conditions stipulated by the board are being and will be complied with. Any such written agreement may be required by the board to be recorded among the land records of the county at the expense of the applicant.



**Sec. 108-788. Requirements.**

- (a) In all districts, unless otherwise specified, subject to the provisions hereof, every industrial, commercial, business, trade, institution, recreational dwelling and other use, space for parking and storage of vehicles off the streets shall be provided to accommodate its normal parking requirements, as determined by the planning director at the time of application for a zoning certificate, but in no case not less than the following:
- (1) Automobile sales and service garages: 50 percent of floor area.
  - (2) Banks, business offices and professional offices: 50 percent of floor area.
  - (3) Doctor's offices: 50 percent of floor area.
  - (4) Bowling alleys: five spaces for each alley.
  - (5) Churches and schools: one space for each four seats in a principal auditorium or one for each ten classroom seats, whichever is greater.
  - (6) Dance halls, assembly halls: 200 percent of floor area used for dancing or assembly.
  - (7) Dwellings.
    - a. Two spaces for each dwelling unit.
    - b. Limited dwellings: one space per unit.
  - (8) Furniture and appliance stores, household equipment or furniture repair shops with over 1,000 square feet of floor area: 100 percent of floor area.
  - (9) Funeral homes and mortuaries: four spaces for each parlor or one space for each 50 square feet of floor area, whichever is greater.
  - (10) Hospitals: one space for every two beds.
  - (11) Hotels, motels and lodginghouses: one space for each bedroom or unit, plus one additional space for each employee.
  - (12) Manufacturing plants: one space for each two employees on the maximum working shift or 25 percent of floor area, whichever is the greater.
  - (13) Restaurants, beer parlors and nightclubs: 200 percent of floor area.
  - (14) Retail stores, supermarkets, etc., under 2,000 square feet of floor area: 200 percent of floor area.
  - (15) Retail stores, shops, etc., over 2,000 square feet of floor area: 100 percent of floor area.
  - (16) Sports arenas and auditoriums other than in schools: one space for each three seats.
  - (17) Theaters and assembly halls with fixed seats: one space for each three seats.
  - (18) Commercial or club swimming pools: one space for each three members or each three persons of estimated maximum capacity.
  - (19) Wholesale establishments or warehouse: one space for each two employees or ten percent of floor area, whichever is greater.
- (b) In the case of any building, structure or premises the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is most nearly similar shall apply.
- (c) Except in the case of dwellings, no parking area provided hereunder shall be less than 1,000 square feet in area exclusive of necessary driveways, aisles or entrances. Each parking space shall be at least nine feet wide and 20 feet deep.

- (d) Every parcel of land hereinafter used as a public or private parking area, including a commercial parking lot, shall be improved and maintained in accordance with the following requirements:
- (1) Whenever possible, parking areas should be located to the rear of the building. Every off-street parking area for more than five vehicles shall be located at least 20 feet from any street line and from every residential lot line. The edges of the parking area shall be curbed or buffered, and the space between the parking area and the street or the lot line shall be landscaped and maintained in a slightly condition. Where adjoining a street, such landscaping shall consist of grass and low shrubs or ornamental trees. Where adjoining a residential lot, it shall include a hedge of sufficient type and height, not less than 30 inches, to protect and screen the adjoining property.
  - (2) For parking areas of three or more vehicles, the area not landscaped and so maintained, including driveways, shall be graded, surfaced with asphalt, concrete or other similar material and drained to the satisfaction of the planning director to the extent necessary to prevent dust, erosion excessive water flow across streets or adjoining property. Failure to keep parking areas in satisfactory condition, i.e., free from all holes, shall be considered a violation of this chapter. All off-street parking spaces shall be marked as to indicate their location. Parking areas shall be arranged and marked to provide safe and orderly circulation.
  - (3) Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to direct the light away from adjoining residential premises and from public streets. All lighting, except for security lights, shall be turned off after normal business hours.
  - (4) The board of appeals may authorize, subject to the provisions of sections 108-160 through 108-165, a modification, reduction or waiver of the foregoing requirements if it should find that in the particular case appealed the peculiar nature of the residential, business, trade industrial or other use, or the exceptional shape or size of the property or other exception situation or condition, would justify such modification, reduction or waiver.
  - (5) Joint use. Two or more uses may provide for their respective required parking in a common parking lot. The board of appeals may reduce the total number of spaces that this chapter would require the uses to have if it can be demonstrated to the board of appeals, as either a variance or a conditional use, that the hours and/or days of peak parking need for the uses will justify a reduction in the number of off-street parking spaces in the common parking lot.
  - (6) Mixed uses. Where a permitted use contains or includes more than one of the types of uses identified in subsection (a) of this section, the number of parking spaces required shall be the sum of the computed requirements for the separate types of uses.
  - (7) Location of parking spaces. A principal use's required off-street parking spaces shall be on the same lot or premises as the principal use unless this requirement cannot be met, in which case the required off-street parking shall be located within 300 feet of the principal use. This distance shall be measured from the two lot lines, (one from the principal use's lot and one from the lot on which the off-street parking area is located) that are closest to each other.
  - (8) Fractional spaces. Where the computation of required parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one.

(Code 1977, § 107-46(A)—(D); Ord. No. 2000-10, 9-25-2000; Ord. No. 2004-6, 6-14-2004)

Case #: BA-5-7-25-04  
\*plans submitted 3/21/25

PROJECT DATA  
PROPERTY: TAX MAP 301, PARCEL 684  
FRANKLIN AVENUE  
BERLIN, MD 21811  
OWNER: NEEV PROPERTIES, LLC  
31226 MEADOWVIEW SQUARE  
DELMAR, DE 19940  
DEVELOPER: A&M INVESTMENT PROPERTIES #4, LLC  
12516 SYCAMORE VIEW DRIVE  
POTOMAC, VA 20854  
DEED REFERENCE: 7468/125  
PLAT REFERENCE: 231/47 AND 251/12  
ZONING CLASSIFICATION: B-3 (GENERAL BUSINESS DISTRICT)  
\*ZONING LINE SHOWN IS BEST INTERPRETATION OF ZONING MAP  
SITE AREA: 5.131 ACRES  
BUILDING SETBACKS: (BEST INTERPRETATION OF WHAT ARE BACK AND REAR LOT LINES SHOWN)  
FRONT = 10'  
REAR = 15' (35' WHEN ADJACENT TO RESIDENTIAL DISTRICT)  
SIDE = 0' (25' WHEN ADJACENT TO RESIDENTIAL DISTRICT)  
NON-TIDAL WETLANDS: 25'  
MAXIMUM BUILDING HEIGHT PERMITTED: 45'  
BUILDING HEIGHT PROPOSED: 45'  
EXISTING CONDITIONS: EXISTING VACANT LOT.  
PROPOSED DEVELOPMENT: PROPOSED CONSTRUCTION OF A 4-STORY HOTEL (8,731 SF±/34,924 GFA±) INCLUDING 77 UNITS, AND ASSOCIATED SITE IMPROVEMENTS.  
STORMWATER MANAGEMENT: STORMWATER QUALITY AND QUANTITY WILL BE ADDRESSED THROUGH ESD FEATURE (SUBMERGED GRAVEL WETLAND) AS REQUIRED AND DETAILED IN CONCEPT SWM REPORT.  
REFUSE/TRASH: DUMPSTER AREA AND SCREENING AS SHOWN HEREON.  
SITE LIGHTING: ALL LIGHTING WILL BE SCREENED FROM VIEW OR DIRECTED DOWNWARD AND SHIELDED, AT A MAXIMUM HEIGHT OF 18' AND NOT EXCEED LEVELS GREATER THAN 1-FOOT CANDLE AT PROPERTY LINES.  
MDE AUTHORIZATION: MARYLAND DEPARTMENT OF THE ENVIRONMENTAL AUTHORIZATION FOR NON-TIDAL WETLAND BUFFER IMPACTS IS PENDING.

PARKING-CALCULATIONS  
TOTAL SITE PARKING REQUIRED: 1 SP/UNIT + 1 SP FOR EACH EMPLOYEE; 77 UNITS, 6 EMPLOYEES  
83 SPACES REQUIRED  
TOTAL SITE PARKING PROVIDED: 69 SPACES PROVIDED ON-SITE  
THE APPLICANT IS REQUESTING A VARIANCE OF 14 PARKING SPACES.

- PROJECT NOTES
- PROPERTY BOUNDARY AND EXISTING CONDITIONS SURVEYED BY LANE ENGINEERING, LLC ON FEBRUARY 1, 2024.
  - SITE TOPOGRAPHY AS SHOWN HEREIN WAS DERIVED FROM A FIELD SURVEY BY LANE ENGINEERING, LLC DATED FEBRUARY 1, 2024.
  - THE ELEVATIONS SHOWN HEREON ARE NAVD 1988 DATUM AS ESTABLISHED BY GPS METHODOLOGY TO CORS STATIONS MDOQ (NGS CERTIFICATE PENDING) AND MDSA (NGS CERTIFICATE PENDING).
  - THE COORDINATES SHOWN HEREON ARE BASED ON THE MARYLAND STATE PLANE COORDINATE SYSTEM NAD83 (2011), AS ESTABLISHED BY GPS METHODOLOGY TO CORS STATIONS MDOQ (NGS CERTIFICATE PENDING) AND MDSA (NGS CERTIFICATE PENDING). THE DISTANCES SHOWN HEREON ARE GROUND BASED.
  - THE PROPERTY SHOWN HEREON LIES ENTIRELY OUTSIDE OF THE COASTAL BAYS BAY CRITICAL AREA.
  - THE WETLANDS SHOWN HEREON WERE DELINEATED BY SEAN CALLAHAN, A QUALIFIED PROFESSIONAL WITH LANE ENGINEERING, LLC AND SURVEY LOCATED ON FEBRUARY 1, 2024.
  - THE TREELINE SHOWN HEREON WAS TAKEN FROM THE 2019 WORCESTER COUNTY AERIALS AND IS APPROXIMATE ONLY.
  - THE STREAM SHOWN HEREON WAS TAKEN FROM THE U.S.G.S. QUAD MAP "BERLIN".
  - THE PROPERTY SHOWN HEREON IS NOT LOCATED IN THE NATIONAL FLOOD INSURANCE PROGRAM (NAP) SPECIAL FLOOD HAZARD AREA (SFHA) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD. THE PROPERTY IS MAPPED IN THE "X" FLOOD ZONES(S) AS SHOWN ON THE FEDERAL INSURANCE RATE MAPS FOR COMMUNITY NO. 2404141, MAP NO. 24147C0154H FOR TOWN OF BERLIN, MARYLAND. THE 1% ANNUAL CHANCE FLOOD (100-YEAR FLOOD), ALSO KNOWN AS THE BASE FLOOD, IS THE FLOOD THAT HAS A 1% CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR. THE SFHA IS THE AREA SUBJECT TO FLOODING BY THE 1% ANNUAL CHANCE FLOOD. THE SFHA INCLUDE ZONES A, AE, AH, AO, AR, A99, V & VE. THE BASE FLOOD ELEVATION (BFE) IS THE WATER SURFACE ELEVATION OF THE 1% ANNUAL CHANCE FLOOD. FLOOD INSURANCE MAY BE REQUIRED FOR STRUCTURES LOCATED IN THE SPECIAL FLOOD HAZARD AREA.

FLOOD ZONE LEGEND  
ZONES A, AE, AH, AO, AR, A99, V & VE = 1% ANNUAL CHANCE FLOOD  
ZONE X (SHADED) = 0.2% ANNUAL CHANCE FLOOD  
ZONE X = AREA OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD  
THE FLOOD DATA SHOWN HEREON IS BASED ON AVAILABLE MAPPED AND/OR DIGITAL INFORMATION AND IS DEPICTED AS DIRECTED AND REQUIRED BY FEDERAL, STATE AND LOCAL REGULATIONS. IT IS SUBJECT TO DATA INACCURACIES AND REGULATORY CHANGE AND SHOULD BE VERIFIED PRIOR TO FINALIZING DEVELOPMENT OR IMPROVEMENT PLANS FOR THE SUBJECT LANDS.

EUEEQSE, SIAIEMem  
THE APPLICANT IS REQUESTING A VARIANCE OF 14 PARKING SPACES.  
REQUIRED PARKING: 1 SP/UNIT + 1 SPACE PER EMPLOYEE;  
77 UNITS + 6 EMPLOYEES  
83 TOTAL SPACES  
PROVIDED PARKING: 69 TOTAL SPACES

PLANS ARE  
ISSUED FOR  
REVIEW ONLY

PLANS ARE NOT  
APPROVED FOR  
CONSTRUCTION

REVISIONS TO APPROVED PLANS			
No.	DATE	DESCRIPTION	BY

WARNING!!  
THE LOCATIONS OF EXISTING UTILITIES AS SHOWN ON THIS PLAN ARE APPROXIMATE ONLY. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF EXISTING UTILITIES PRIOR TO BEGINNING CONSTRUCTION. THE QUANTITIES SHOWN ON THIS PLAN ARE FOR INFORMATIONAL AND PERMITTING PURPOSES ONLY. THE CONTRACTOR SHALL VERIFY ALL QUANTITIES TO HIS OWN SATISFACTION PRIOR TO BEGINNING CONSTRUCTION.

THE CONTRACTOR SHALL TEST PIT AND LOCATE EXISTING UNDERGROUND UTILITIES PRIOR TO THE BEGINNING OF ANY WORK ON-SITE. THE CONTRACTOR SHALL NOTIFY DEPT. OF PUBLIC WORKS OF ANY POSSIBLE CONFLICT AND REQUEST THE RELOCATION OF THE EXISTING UNDERGROUND UTILITIES BEFORE BEGINNING ANY WORK ON-SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY RELOCATION EXPENSE.



Lane Engineering, LLC

Established 1986  
Civil Engineers • Land Planning • Land Surveyors

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SCALE:		FILE No.	
AS NOTED		D414	

NAD 83 (2011)  
3D COORDINATE SYSTEM