

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED
 HARFORD COUNTY COUNCIL
 MAR - 2 2020
 ZONING BOARD OF APPEALS
 HARFORD COUNTY, MD

Case No. 5927
 Date Filed 3/2/20
 Hearing Date _____
 Receipt _____
 Fee \$450
 Type Variance

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning prior to filing any application to the Board of Appeals.

To schedule please call 410-638-3119.

Shaded areas for Office Use Only

Nature of Request and Section(s) of Code

CASE 5927 MAP 46 TYPE Variance
ELECTION DISTRICT 04 TAX ID 04-096940
LOCATION 2837 Moores Road, Baldwin 21013
BY Debra Schubert
Appealed because a variance pursuant to Sec. 267-26D(6) of the Harford County Code to permit tenant house on less than 11 acres (10.91 requested) in the RR district requires approval by the Board.

Owner (please print or type)

Name Debra G. Schubert Phone Number 410 838 5500

Address 2837 Moores Road Baldwin MD 21013
Street Number Street City State Zip Code

Co-Applicant N/A Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative Jacqueline A. Dehlsie Phone Number 410 838 5500

Address BROWN, BROWN & YOUNG PA
200 SOUTH MAIN ST. BEL AIR MD 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 2837 Moore's Road Baldwin Md 21013

Subdivision N/A Lot Number N/A

Acreage/Lot Size 10.91 Election District 04 Zoning RR Tax ID # 04-096940

Tax Map No. 40 Grid No. 2F Parcel 48 Water/Sewer: Private Public

List ALL structures on property and current use: _____

Estimated time required to present case: 45min. (w/o opposition)

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? Yes _____ No

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes No _____

Is this request within one (1) mile of any incorporated town limits? Yes _____ No

Request

See attached

Justification

See attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

SUPPLEMENTAL STATEMENT IN
SUPPORT OF VARIANCE

From § 267-26(D)(6) (to permit a Tenant House on less than the required eleven acres.)

Property: 2837 Moore's Road

Zoning RR

Tax Map 46

Parcel 48

The property subject to this application is a 10.91-acre parcel zoned 'Rural Residential (RR) (the "Property"); however, it is agriculturally used and assessed (see Exhibit 1 - SDAT Information Sheet). It is improved by a single-family residence, a barn, which was expanded by an addition completed in 2005 and other out buildings used for the storage of hay, straw and equipment utilized by the applicant in her equestrian business (see Exhibit 2 – Site Plan).

The initial modification of one of the barns on the Property was done in 2005 as a storage area. All work on the addition was completed under that valid building permit. At the time of its completion, the addition was intended for saddlery/tack and equine business related storage. The addition qualified for it's a use and occupancy permit in 2005. Subsequent to the issuance of that permit, a long-time farm manager (who has since separated from the Applicant's service) converted a portion of the second floor of the barn addition to residential use. The Applicant provided all authorizations to her farm manager to complete the construction and to secure all required approvals and permits. The farm manager then resided on the subject property for approximately twelve (12) years before leaving Applicant's employ. His current whereabouts are unknown. A review of the DILP records confirms that the Applicant has previously obtained applicable permits for all other structures on the subject Property; (see Exhibit 3 – Addition Permit).

Through the years since the departure of her original farm manager, the Applicant has engaged various individuals to help her work the horses and manage the farm duties. Her most recent equine manager was also permitted to provide equine training services to her own individual clients on the Applicant's property and resided on the subject Property. Following an economic dispute, that individual left Applicant's service in June, 2019. That individual contacted Harford County and advised that Applicant had a second residence on the Property, which the complainant "knew" from conversations "with a personal friend who was in construction", and which was alleged to have not been built in accordance with construction standards and "probably illegal."

Immediately after the former tenant/employee left the property, the Applicant engaged another individual to assist in the full-time operation of applicant's equine business. Following the Department of Planning and Zoning's receipt of the anonymous complaint by the discharged farm manager, the Department issued a notice of investigation (See Exhibit 4 – Violation Notice dated July 10, 2019).

Upon her receipt of that notice, Applicant, through counsel, contacted the Departments of Planning and Zoning and Inspections, License and Permits to secure inspections of the Property and structure in order to ascertain the steps that she would need to take to be able to legitimize the existing use (the converted barn's use as an agricultural worker's tenant house) on the Property. At all times, the Applicant represents that she had understood that based on the Agricultural use assessment, a "tenant house"/residence was permitted to be maintained based on the duties of the tenant as a farm/agricultural equine business assistant.

The subject property is *10.9159 acres, which is 0.0841 acres less than the minimum requirement of 11 acres required under Harford County Code to permit a tenant dwelling required.* The Applicant is, therefore, requesting a variance to §267-26(D)(6) of the Harford County Code to permit a single tenant house/residence to be located entirely within an existing barn addition, on the subject Property, for a bona fide fam worker.

The denial of the requested variance would result in a severe and practical difficulty in that it would prohibit the longtime use of the property for its agriculture purposes. The Applicant, at the time of her acquisition of the property, intended to utilize it for equine related purposes as substantiated by the application for agricultural use filed at the time of that acquisition. Based on the Applicants other business, the size of the property and Applicant's increasing need to care for her aged mother, who now resides with the Applicant as part of her family unit in her main residence, the Applicant requires a residential farm worker on site in order to continue the farm/equine business. Although Applicant is able to provide temporary lodging for a farm worker within her residence, the need to also provide for her aged parent and the anticipated need for a resident home health care provider within that main residence renders the continuation of that temporary option impractical on a long term basis.

The Applicant acknowledges that a portion of the existing barn was converted to its existing residential use for the benefit of such a worker without applicable permit or approvals. The Applicant would ask the Hearing Examiner to consider that her original application and receipt of a satisfactory use and occupancy for the original addition as well as her application for other permits supports that she, at the time of conversion of the barn storage area authorized and understood that her then farm manager took the required steps in connection with the conversion of that barn addition to acquire all applicable permits. The Applicant fully acknowledges that naiveté or misplaced reliance on her prior farm manager, and her lack of vigilance (responsibility in verifying that these same approvals were obtained for the conversion) are regrettable.

Upon notification of the need to obtain the variance and other related approvals in connection with the construction, she acted promptly. Delays associated with evaluations of the structure by architects and construction companies needed to be completed before she could determine if the required adjustments to the interior could be accomplished under current

Building Code requirements. Additional delays ensued following the determination to perform speculation/well, survey and site plan requirements. Applicant's initial contract with a provider led to a three (3) month delay between initial contact and her receipt of a cost proposal. She terminated those services after an additional delay of two (2) months was projected for that firm to produce a site plan.

Section 267-26(D)(6) provides:

“Agricultural tenant house, including mobile homes, for bona fide farm workers when not more than one (1) such structure is provided on parcels of eleven (11) to fifty (50) acres, and not more than one (1) additional tenant house per fifty (50) acres thereafter.”

Section 267-11 provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The standard for granting a variance is whether the strict compliance with the zoning ordinance regulations would result in practical difficulty or unreasonable hardship. Variances should only be granted if in strict harmony with the spirit and intent of the zoning regulations, and only in such a manner as to grant relief without substantial injury to the public health, safety, and general welfare. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the Applicant. McLean v. Soley, 270 Md. App. 234 (1998).

Although the Applicant's property is not unique in shape, the lines of division for the property were originally set to track an existing fence line separating two agricultural uses in the base parcel, when it was agriculturally divided by the last owner, Stanley Lloyd, in 1998. The use of the fence line resulted in the parcel being 10.9159 acres +/-, rather than 11 acres (see Exhibit 5 – Deed). The parcel is surrounded by other property owned by the Applicant (a 3.11 acre parcel located across Moar's Road (Tax Map 46, parcel 15) and the state park. The subject parcel was not required to go through the subdivision process in 1998 based on its size. The eligibility for Agricultural use is recognized by the State Department of Assessments and Taxation. The uniqueness of the Property is that its size was created over 20 years ago with the intent of the subject parcel meeting minimum requirements to support as tenant house for agricultural operation; however, the use of the existing fence line, rather than a new line of division, *resulted in a discrepancy of 0.0841 acres.*

The Department supports the Applicant's request. The Board of Appeals has previously permitted similar variance on properties under circumstances wherein the existing agricultural use of the property, in some cases improved by existing structures such as here, would cause extreme hardship if denied.

Reference is made to case number 5024, wherein the total parcel was 4.528 acres, and case number 4787, where the Applicant successfully demonstrated that the granting of a variance to permit a second structure would not be materially detrimental to the purpose and intent of the Code. Reference is also made to BOA Case 3883, where, although the subject parcel in that case was much larger than the subject Property, the issue before the Hearing Examiner was identical; a request to permit an additional tenant structure on the property in excess of the number permitted by Code based on acreage.

The Applicant acknowledges that, in the event that the requested variance is granted, she will be required to meet all applicable building permits and Health Department requirements. The Department of Licenses and Permits is not in a position to accept her applications for such permits to remediate the conversion without granting of the variance as confirmed by the attached letter from the Department of Licenses and Permits.

Change/Extension of Non-Conforming Use Requirements

267-20(3) - When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.

267-21(d) - The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- (A) The proposed extension or enlargement does not change to a less restricted and more intense use.
- (B) The enlargement or extension does not exceed 50% of the gross square footage in use at the time of the creation of the nonconformity.

Special Exceptions Requirements (Article 267-87)

(a) Special exceptions require the approval of the Board of Appeals in accordance with 267-9 (Board of Appeals). The Board may impose such conditions limitations and restrictions as necessary to preserve harmony with adjacent uses, the purposes of this Code and the public health, safety and welfare.

- (b) A special exception grant or approval shall be limited to the Site Plan approved by the Board. Any substantial modification to the approved Site Plan shall require further Board approval.
- (c) Extension of any use or activity permitted as a special exception shall require further Board approval.
- (d) The Board may require a bond, irrevocable letter of credit or other appropriate guarantee as may be deemed necessary to assure satisfactory performance with regard to all or some of the conditions.
- (e) In the event the development or use is not commenced within 3 years from date of final decision, after all appeals have been exhausted, the approval for the special exception shall be void. In the event of delays, unforeseen at the time of application and approval, the Director of Planning shall have the authority to extend the approval for an additional 12 months or any portion thereof. (See Article 267-88 for specific requirements of Special Exception uses.)

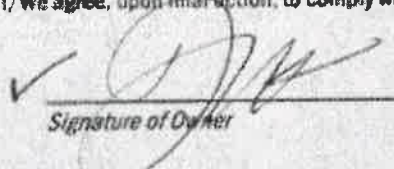
I/We agree to provide additional information as requested by the Department of Planning and Zoning or the Hearing Examiner.

I/We do hereby declare that no officer or employee of Harford 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 within application or petition.

I/We do solemnly declare and affirm under the penalties of perjury that this petition contains names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.


I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information and belief.

I/We agree, upon final action, to comply with all requirements or conditions imposed by the Board.

✓  _____
Signature of Owner Date 2/19/20

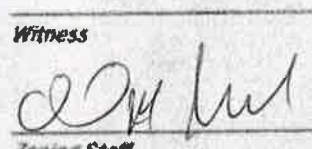
Witness Date

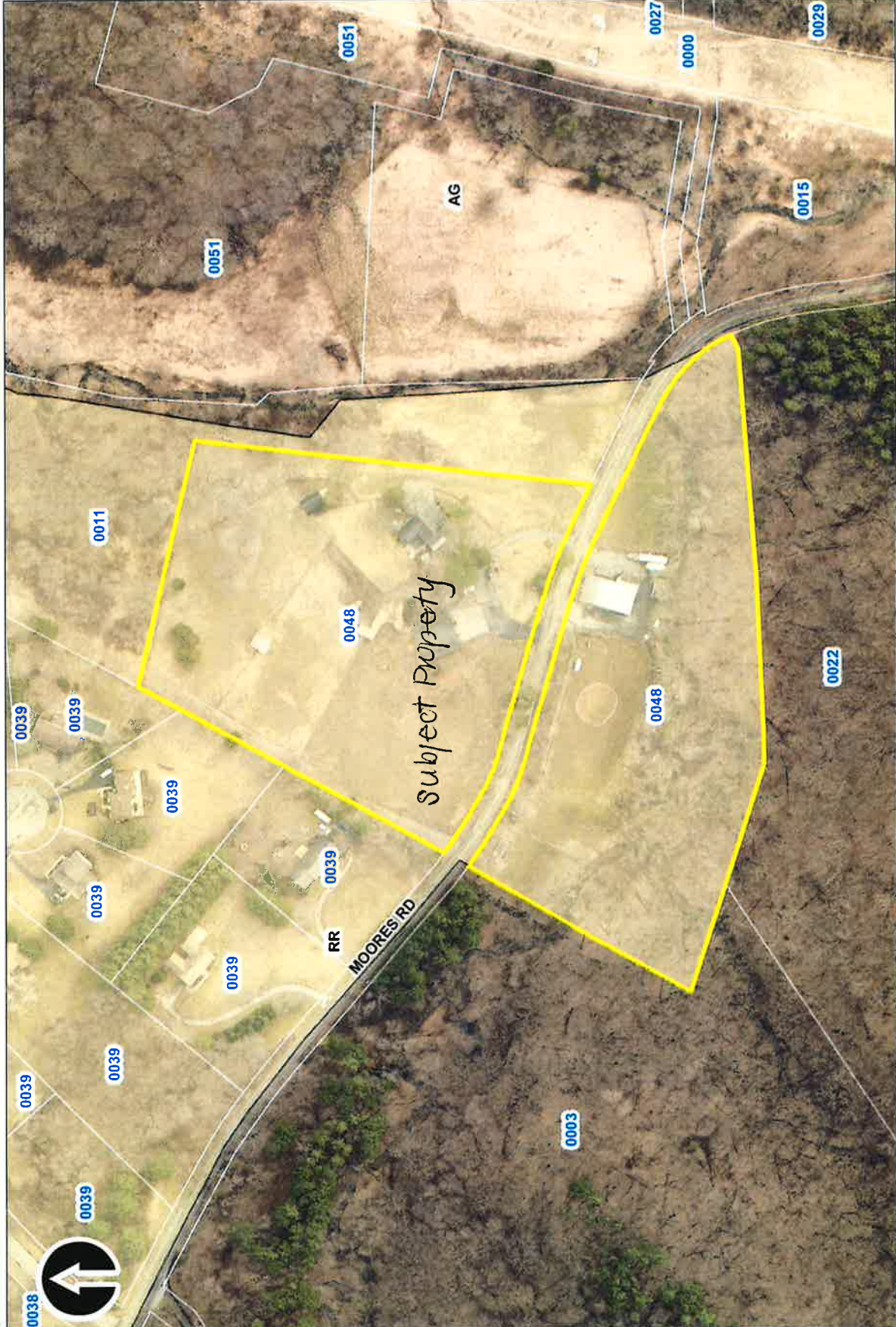
Signature of Co-Applicant Date

 _____
Signature of Attorney/Representative Date 2/19/2020

Witness Date

Director of Planning and Zoning Date

 _____
Zoning Staff Date 3-2-2020

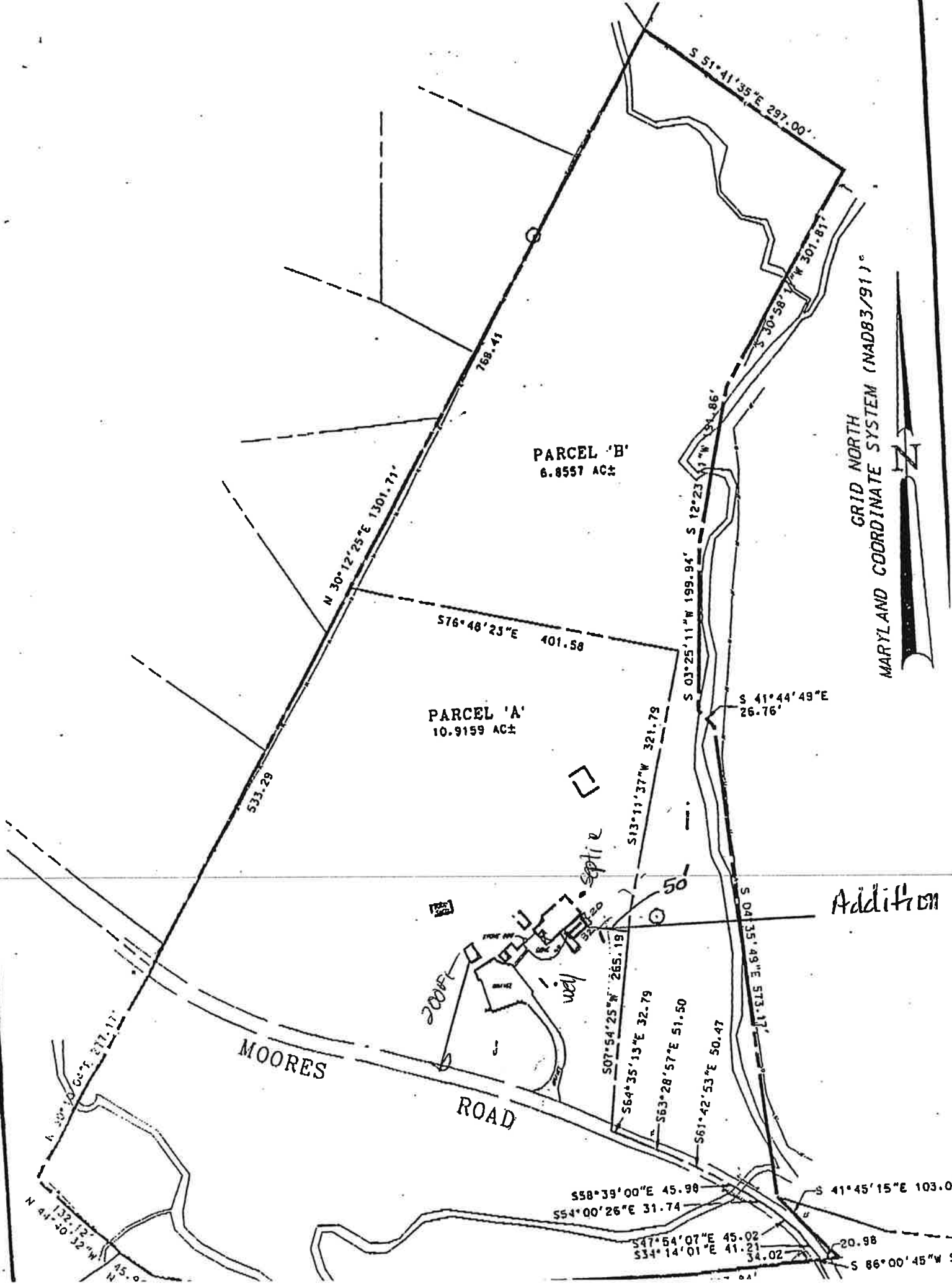


2017 ZONING
 2019 AERIAL PHOTOGRAPHY
 0 200 FEET



SCHUBERT PROPERTY
2837 MOORES ROAD

Source: Harford County Dept. of Planning & Zoning, February 2020



PARCEL 'B'
6.8557 AC±

PARCEL 'A'
10.9159 AC±

MOORES ROAD

Addition

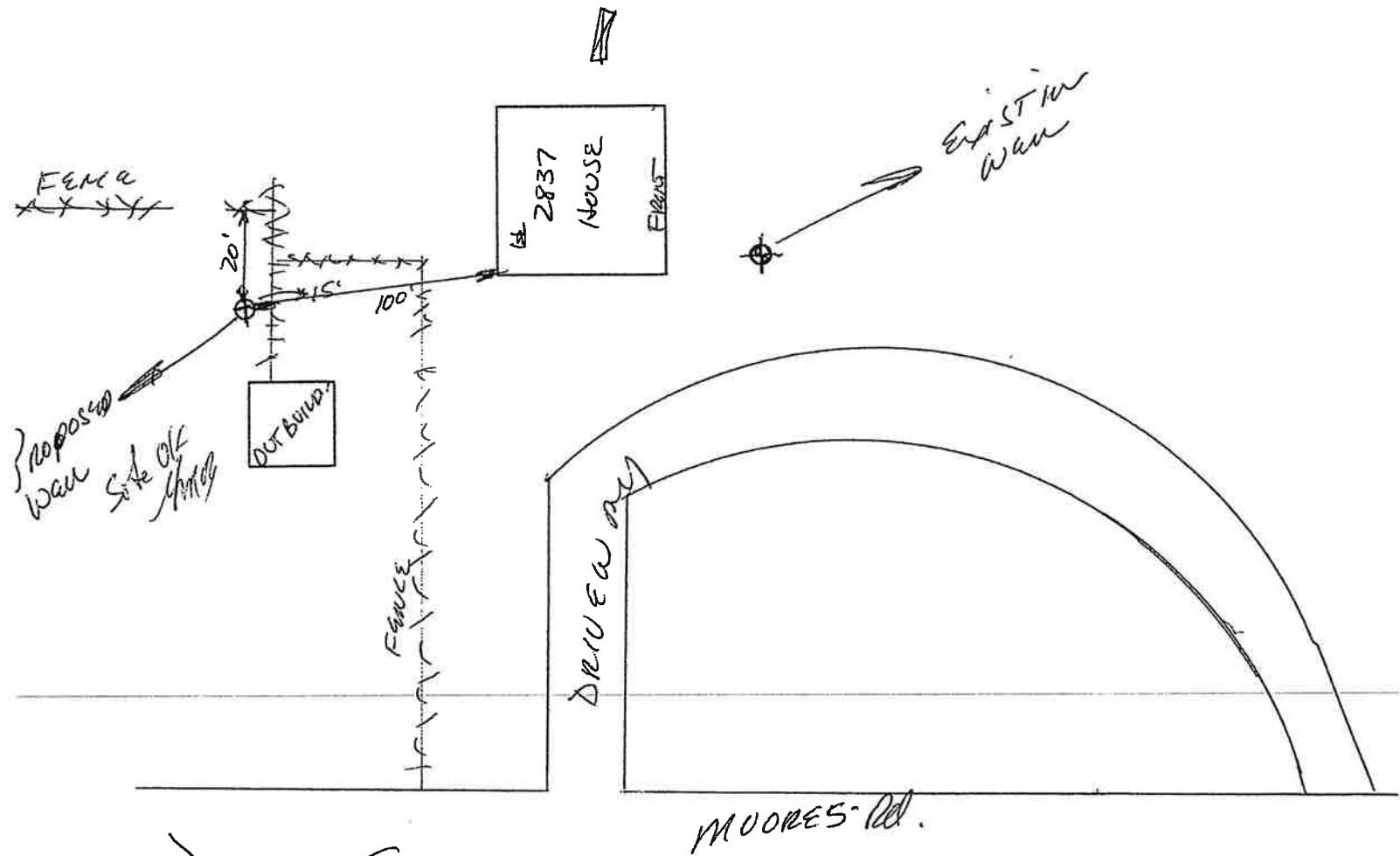
GRID NORTH
MARYLAND COORDINATE SYSTEM (NAD83/91)



533.29
769.41
576.48'23"E 401.58
S 03°25'11"W 199.94' S 12°23'11"W 31.86'
S 30°58'11"W 301.81'
S 41°44'49"E 26.76'
S 04°35'43"E 573.17'
S 41°45'15"E 103.01'
S 86°00'45"W 5
20.98
34.02
S 34°14'01"E 41.21
S 47°54'07"E 45.02
S 54°00'26"E 31.74
S 58°39'00"E 45.99
S 61°42'53"E 50.47
S 63°28'57"E 51.50
S 64°35'13"E 32.79
S 67°54'25"W 265.19
S 13°11'37"W 321.79
S 07°54'25"W 265.19



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Mrs. Debra Schubert
2837 Moores Rd.

410-692-0177