

IN THE MATTER OF
JAMES MARSHALL and
MARY ANN MARSHALL
(Special Exception - NAR)

BEFORE THE CECIL COUNTY
BOARD OF APPEALS
CASE NO.: 3594

OPINION

Application of James Marshall and Mary Ann Marshall (collectively, “Marshall” or the “Applicants”), for a special exception to locate a single-wide manufactured home for hardship purposes at property located at 936 Ebenezer Church Road, Rising Sun, Maryland 21911, being designated as Parcel 349 on Tax Map 18, in the Fifth Election District of Cecil County, in an area presently zoned Northern Agricultural Residential (NAR). The property is owned by James Marshall and Mary Ann Marshall.

This application is brought under the provisions of Article V, Part III, Section 71.2, and Section 54.4 Table of Permissible Uses 3.01.300 of the Ordinance, which permits a single-wide manufactured home as a Special Exception in the NAR zone provided that the Board of Appeals finds that a hardship exists involving a member of the immediate family. For purposes of this provision, “immediate family” shall only include a child, grandchild, parent or grandparent, step-child or step-parent.

Article XVII, Part II, Section 311 of the Ordinance specifies that no special exception shall be approved by the Board of Appeals after considering all facts in the case unless the following findings are made:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.
2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.

3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.

4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.

5. The use shall not adversely affect critical natural areas or areas of ecological importance.

6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

Applicants request a special exception to locate a single-wide manufactured home on the Property for hardship purposes. The Applicants had previously obtained a special exception for hardship purposes, and their mother and father resided in the manufactured home until the father passed. Since the father's passing, the mother has continued to

reside in the manufactured home, and the Applicants now desire that their son move into the manufactured home to help care for his grandmother, as well as to keep an eye on the school buses that are parked on the Property as part of the Applicants' business. The Applicants request that the 33-year old son be permitted to stay in the manufactured home after his grandmother passes. Marshall appeared and testified that there is one neighbor with property near the Applicants' Property, and that depending on how the school buses are parked, the manufactured home may be seen from the neighbor's property, but not well. The Applicants further testified that the rear end of the manufactured home may be seen from Bard Canyon Road, and that the manufactured home cannot be seen from Ebenezer Church Road.

No one spoke either in favor or against the application.

Cliff Houston, Zoning Administrator, Cecil County Department of Planning and Zoning, testified that the Planning Commission recommended approval of the application for as long as the Applicants' mother (grandmother) and son (grandson) reside in the mobile home.

From the evidence, the Board makes the following findings of facts pursuant to the requirements of Section 311:

1. That granting the special exception will not be detrimental to or endanger the public health, safety, or general welfare. There was no opposition to the application at the hearing or submitted to the Board in writing, and the Applicants have used the manufactured home for hardship purposes for almost ten years without incident.

2. There was no evidence indicating that the use will be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor was there any

evidence to demonstrate that such use will substantially diminish or impair property values in the neighborhood. The application for special exception was supported by competent testimony which demonstrates that the use will be consistent with the current use of the manufactured home for hardship purposes and in accordance with the requirements of Section 71.2 of the Ordinance. Additionally, as set forth above, the application was submitted and a hearing held without opposition to the Applicants' request..

3. There was no evidence indicating that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use.

4. There was no evidence indicating that the use will, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. Rather, the manufactured home has been used for hardship purposes, without incident, by two tenants until the Applicants' father passed away, the Applicants' mother has continued to reside in the manufactured home, without incident, since her husband's passing, and the proposed use will be consistent with the historical use of the manufactured home on this Property for hardship purposes. Further, the Board specifically finds that a hardship exists involving the Applicants' mother, a member of her immediate family and, further, that the manufactured home can serve the concomitant purpose of providing security for the Applicants' business.

5. The proposed use will not adversely affect critical natural areas or areas of

ecological importance. The Property is not in the Critical Area, the Critical Area Buffer, or the 100-year floodplain.

6. The proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. The particular use proposed at the particular location proposed, will not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. It is worth noting in this respect that the Property is presently used to house the Applicants' school buses, and that there is, therefore, ample parking, ingress and egress.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County. As stated above, the Board finds that the Applicants meet all applicable provisions of Article V, Part III, Section 71.2 of the Ordinance.

For the reasons stated, by unanimous vote, the Board is satisfied that the requirements of Article V, Part III, Section 71.2, Sections 3.01.300 and 311 of the Ordinance, as well as *Schultz v. Pritts*, 291 Md. 1 (1981) have been met, and the application is therefore **APPROVED FOR AS LONG AS THE APPLICANTS' MOTHER AND SON RESIDE IN THE MANUFACTURED HOME.**

5/29/2012
Date

David Willis
David Willis, Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Apr. 2012
 FILE NO. 3594

THIS REQUEST IS FOR:

SPECIAL EXCEPTION RENEWAL w/change
 SPECIAL EXCEPTION
 VARIANCE
 APPEAL

DATE FILED: 2/23/12
 AMOUNT PD: \$ 350.00
 ACCEPTED BY: CSH

A. APPLICANT INFORMATION

JAMES & MARY ANNE MARSHALL Marshall Bus Co. CK # 3074
 APPLICANT NAME - PLEASE PRINT CLEARLY
936 Ebenezer Church Rd Rising Sun MD 21911
 ADDRESS CITY STATE ZIP CODE
James Marshall Mary Anne Marshall
 APPLICANT SIGNATURE PHONE NUMBER 410-658-3358

B. PROPERTY OWNER INFORMATION

Same as above
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
936 Ebenezer Church Rd Rising Sun MD 21911
 ADDRESS CITY STATE ZIP CODE
James Marshall Mary Anne Marshall
 PROPERTY OWNER SIGNATURE PHONE NUMBER 410-658-3358

C. PROPERTY INFORMATION

936 EBENEZER CHURCH RD SE 05-091632
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
0018 16 0349 4 8.0407 NAR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

Please see attached.
Single wide MH for hardship purposes

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNINATION

Is property in the Critical Area? _____ YES NO
 If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: _____
 Is property in the 100 year Floodplain? _____ YES NO
 Is property an Agricultural Preservation District? _____ YES NO

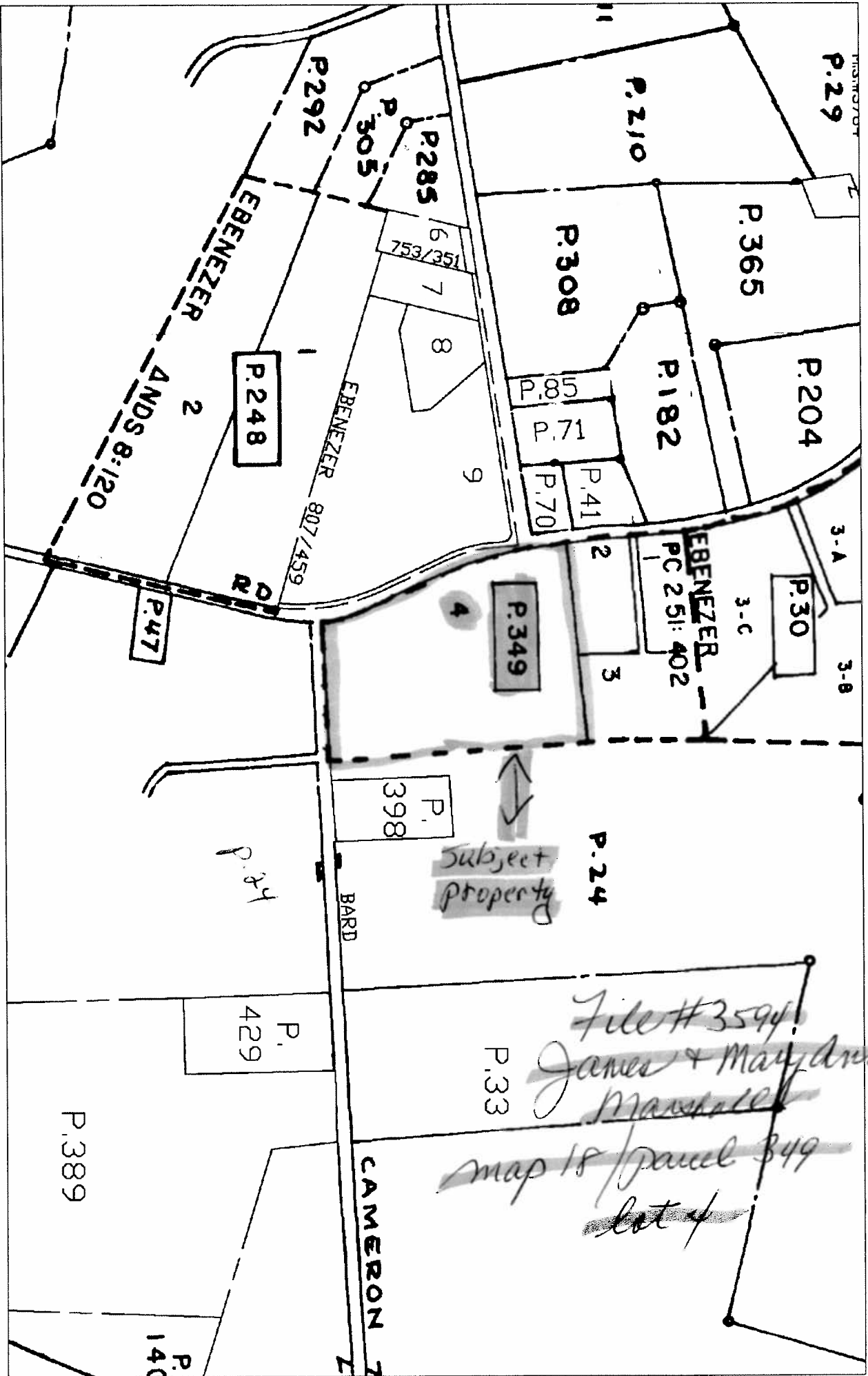
If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Section 71.2 ;

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: # 2963

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? If yes, distance: _____
 Will unit be visible from adjoining properties? If yes, distance: _____
 Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____
 Number of units on property at present time: _____



Subject Property

*File # 3594
James & Mary Ann
Maxwell
map 18 parcel 349
lot 4*

MARSHALL BUS COMPANY, L.L.C.

James. L. Marshall
936 Ebenezer Church Road
Rising Sun, MD 21911

410-658-3308
Fax - 410-658-3614
jlmbus@zoominternet.net

February 21, 2012

Cecil County Office of Planning & Zoning
200 Chesapeake Boulevard
County Administration Building, Room 2300
Elkton, MD 21921

Received

RE: Case #2963
936 Ebenezer Church Road
Rising Sun, MD 21911

FEB 28 2012

Cecil County Office
of Planning & Zoning

Dear Sir and/or Madam:

With reference to the above captioned special exception, We hereby respectfully request an indefinite extension and change from "medical/financial" hardship exception to same, plus a "security" exception as well.

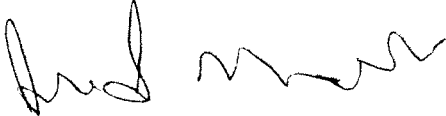
This exception was granted to us several years ago in order for my in-laws to reside. Since then, my father-in-law has passed, and my mother-in-law is experiencing additional health issues.

We do not expect these health issues to improve, therefore we are requesting this change in special exception due to the fact that our son will be moving in with his grandmother, not only to help out with her, but also to keep an eye on the lot, where we park our school route buses, due to an increase in break-ins in the last year alone, which is creating even more hardship. We feel this is a necessary change because when something does happen to my mother-in-law we would like to maintain the mobile home for security

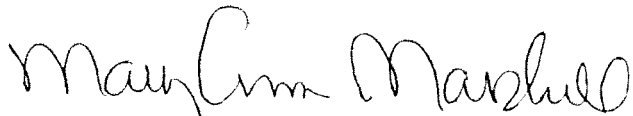
purposes. We only have the one neighbor close behind us, and from their property, my lot is not very visible, except the driveway, and we feel this mobile home being here will highly deter any security risks above what we deal with presently, when it is obvious someone resides there.

Thank you for your time,

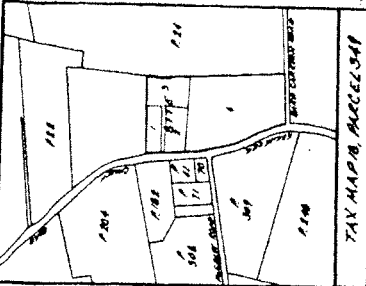
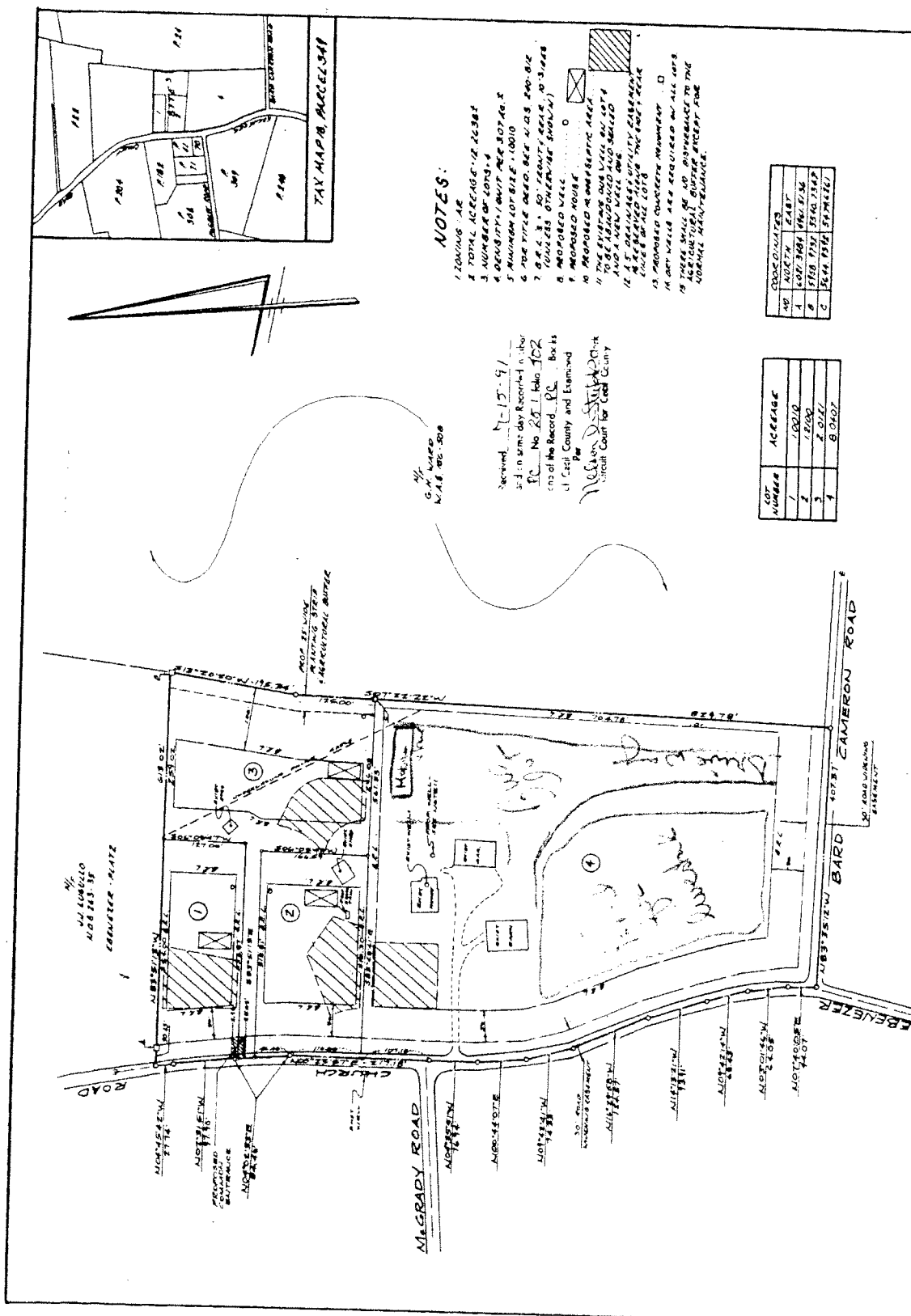
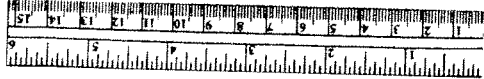
Sincerely,

A handwritten signature in cursive script, appearing to read "James L. Marshall".

James L. Marshall

A handwritten signature in cursive script, appearing to read "Mary Ann Marshall".

Mary Ann Marshall



TAX MAP # 8, MARCELS 94

NOTES:

1. TOTAL ACRES: 12.2688
2. NUMBER OF LOTS: 4
3. RECORD: 1/10/17 REF: REC 80746.5
4. AMOUNT OF SITE: 1.0010
5. FOR TITLE INFO: SEE ALSO 240-012
6. FOR TITLE INFO: SEE ALSO 240-012
7. FOR TITLE INFO: SEE ALSO 240-012
8. PROPOSED WELLS: 0
9. PROPOSED MOBILE: 0
10. PROPOSED SEWERAGE: 0
11. THE PROPERTY OWNER AGREES TO BE ABANDONED AND A NEW WELL ONE
12. A SEWERAGE SYSTEM ONLY ASSUMED TO BE ABANDONED AND A NEW WELL ONE
13. PROPOSED CONCRETE PAVEMENT: 0
14. ALL WELLS ARE REQUIRED BY ALL APPLICANTS TO BE ABANDONED TO THE NORMAL NEAR SOURCE.

Received 11-15-91
 in duplicate Record in the
 Office of the Recorder, Cecil County
 and the Recorder, Cecil County
 Court for Cecil County

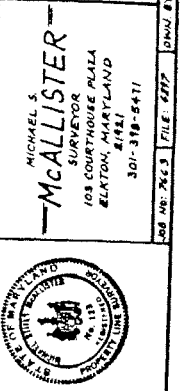
McGrady
 G.A. WARD
 W.A.S. REC. 508

COORDINATES	ACREAGE
40 NORTH EAST	1.0010
41 SOUTH WEST	1.0010
42 NORTH WEST	1.0010
43 SOUTH EAST	1.0010
44 SOUTH WEST	1.0010

LOT NUMBER	ACREAGE
1	1.0010
2	1.0010
3	1.0010
4	1.0010

OWNERS AND DEVELOPERS: MEL SCHUTZMAN
 936 EBENEZER CHURCH ROAD
 RISING SUN, MARYLAND 21111

MICHAEL S. McALLISTER
 SURVEYOR
 103 COURTHOUSE PLAZA
 ELKTON, MARYLAND 21921
 301-318-5411



SURVEYOR'S CERTIFICATE
 I, MICHAEL S. McALLISTER, A REGISTERED PROPERTY LINE SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE SUBDIVISION PLAN HAS BEEN LAID OUT AND THE PLAN THEREOF WAS PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW ACTS OF 1954, AND THE SUBDIVISION OF LAND ACTS OF 1961, AND THE AMENDMENTARY ACTS THEREOF, AND THAT THE SUBDIVISION PLAN WAS MADE AT MY DISCRETION.

DATE: 6/28/91

OWNER'S CERTIFICATE
 THE REQUIREMENTS OF THE ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND (BLACK BEAN COMPLIMENT), AS FAR AS THEY RELATE TO THE PREPARATION OF THE SUBDIVISION PLAN HAVE BEEN COMPLIED WITH. I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN HEREON AND THAT THIS SUBDIVISION PLAN WAS MADE AT MY DISCRETION.

DATE: 6/28/91

APPROVED DIRECTOR OF PLANNING
 DATE: 7-15-91

APPROVED: CECL COUNTY DEPARTMENT OF PUBLIC WORKS
 DATE: 7/16/91

51241-58