

IN THE MATTER OF
THE APPLICATION OF
TIMOTHY POLUDNIAK

(Variance)

* BEFORE THE CECIL COUNTY
* BOARD OF APPEALS
* CASE NO.: 3630
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OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Timothy Poludniak (the “Applicant”). Applicant seeks a variance from the 900 square foot size restriction for an accessory apartment in the Critical Area and from the 100 foot distance from the primary dwelling requirement for an accessory apartment in the Critical Area at property located at 339 Bethel Cemetery, Chesapeake City, Maryland 21915, designated as Block 7 Parcel 46 on Tax Map 44, in the Second Election District of Cecil County (the “Property”). The Property is in an area zoned Southern Agricultural Residential (“SAR”) and is owned by the Applicant and his wife, Julie Poludniak.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

Applicant is an owner of the property and requests the variances in order to construct an accessory apartment on the property for the benefit of his parents. Applicant testified that his father has recently experienced medical issues and that it is his desire to construct a small unattached structure to be used by his parents as a residence in order to assist them and have them nearby. The Applicant testified that the parcel is 16.3 acres but that due to the shape of the parcel and the placement of the existing house on the parcel construction of the standalone apartment structure is not possible without a setback variance. Further, in order for the structure to be ADA compliant a variance is necessary from the 900 square foot size limitation. Applicant testified that the lot was perc tested. He further testified that he has been in contact with the Health Department and his current septic system was approved to handle the proposed additional use. Eric Sennstrom, Director of Planning and Zoning, testified that the Critical Area Commission does not oppose Applicant's request provided appropriate mitigation measures are put in place.

No one appeared in opposition to or in favor of the application.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. Although the Property is of sufficient size, the dimensions of the Property along with the position of the current structure render Applicant unable to construct the proposed accessory apartment without a variance. Other properties of the size of the Parcel are benefitted by apartments of this type and without a variance Applicant will not be able to install the new structure. Further, enforcement of the 900 square foot size limitation would result in a structure that does not meet the standards of the Americans with Disabilities Act.

2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved and that are not applicable to other lands, buildings, or structures in the same zone. Due to the shape of the parcel and the location of the existing structure the proposed structure cannot be built without the requested setback variance.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels of equal size to the Property are able to construct accessory apartments such as that proposed here.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

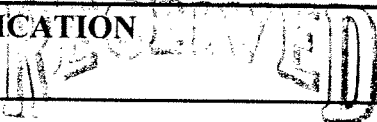
For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306.3 have been met, and the application is therefore **APPROVED**.

2/25/13
Date


Mark Saunders, Acting Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Jan. 2013
FILE NO. 3630



THIS REQUEST IS FOR:
SPECIAL EXCEPTION RENEWAL ()
SPECIAL EXCEPTION ()
VARIANCE (x)
APPEAL ()

DEC 17 2012

DATE FILED: 12/17/12
AMOUNT PD: \$200.00
ACCEPTED BY: SCA

CECIL COUNTY OFFICE OF
PLANNING & ZONING

CK # 2868

A. APPLICANT INFORMATION

Timothy Poludniak

APPLICANT NAME - PLEASE PRINT CLEARLY

339 Bethel Cemetery Rd. Chesapeake City MD 21915

ADDRESS

CITY

STATE

ZIP CODE

Timothy Poludniak

APPLICANT SIGNATURE

410 885 3515

PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Timothy and Julie Poludniak

PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

339 Bethel Cemetery Rd. Chesapeake City MD 21915

ADDRESS

CITY

STATE

ZIP CODE

Timothy Poludniak / Julie Poludniak

PROPERTY OWNER SIGNATURE

410 885 3515

PHONE NUMBER

C. PROPERTY INFORMATION

339 Bethel Cemetery Rd.

PROPERTY ADDRESS

2ND

2-015595

ELECTION DIST.

ACCT. NUMBER

0044

7

0046

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16.3±

SAR

TAX MAP #

BLOCK

PARCEL

LOT #

#ACRES

ZONE

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

See Attached - Variance to the setback requirement (100') from the existing home in the RCA for an accessory apartment. Variance from the 900 SF size limit for an accessory apartment in the Critical Area (RCA). (472 SF Variance)

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 DESIGNATION

Is property in the Critical Area? X YES NO

If yes, Pertinent provision of the Chesapeake Bay Critical Area Program:

Is property in the 100 year Floodplain? YES X NO

Is property an Agricultural Preservation District? YES X 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 193.3 and 22 - Section 306

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

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:

December 12, 2012

Dear Board of Appeals,

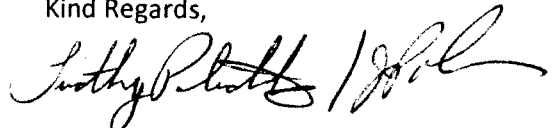
We are requesting a variance for an accessory structure to be located on our property located at 339 Bethel Cemetery Rd. in Chesapeake City. The accessory structure will be used for Norm and Sharon Poludniak which are Tim Poludniak's (owner) parents. Norm Poludniak was permanently disabled in a recent accident and is now confined to wheelchair. We are seeking an opportunity to provide additional assistance for his care. Our desire is to have a single bedroom accessory structure located near the primary dwelling.

We request a variance to Section 193 (Density Provisions), Item #3, articles a1 and a2.

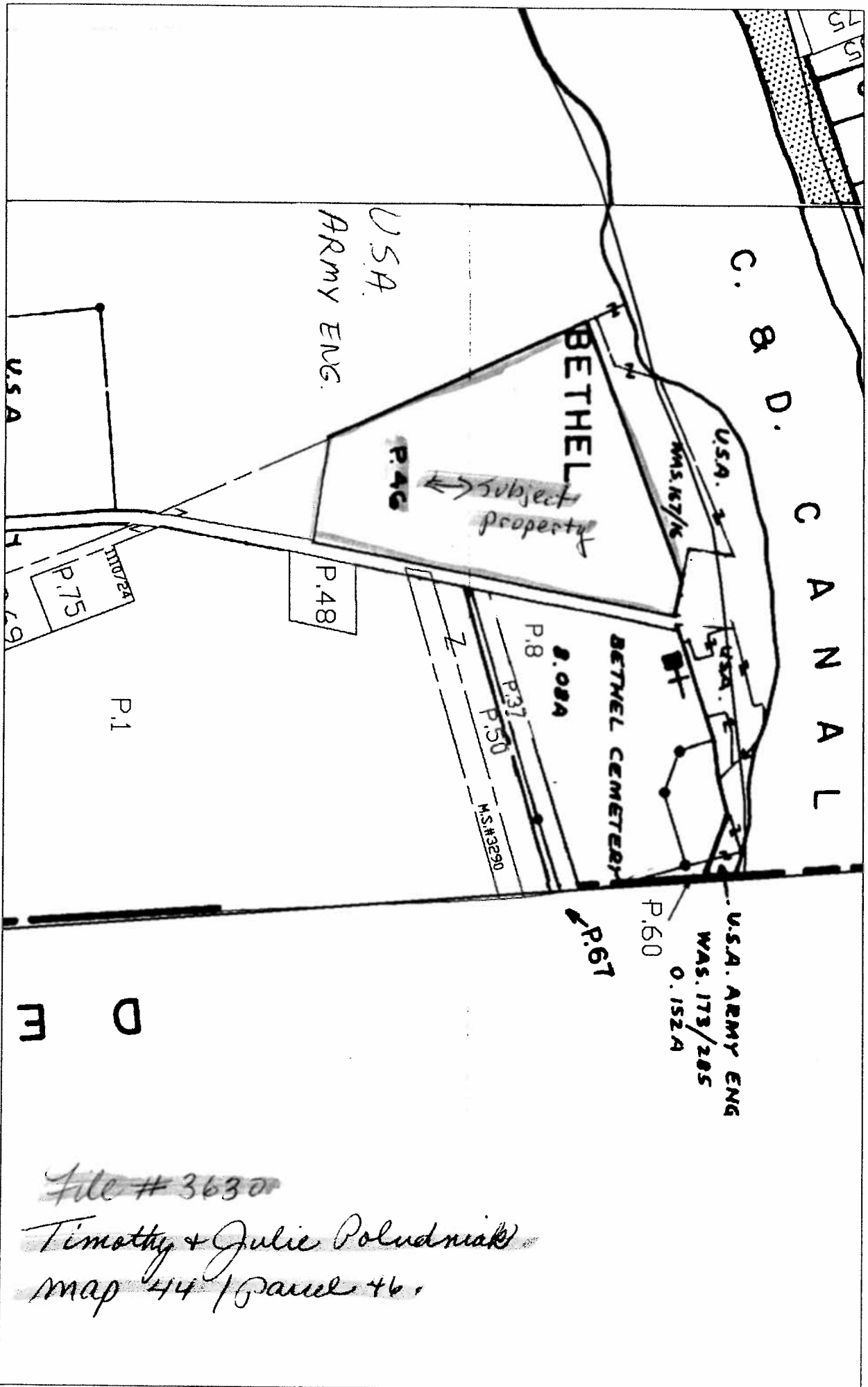
- Article a1 states that the entire perimeter of the accessory dwelling must be within 100 feet of the primary dwelling. Given the layout of the primary dwelling, garage, grading, and location to the property lines, there is not a practical location within 100 feet of the primary dwelling to locate an accessory structure that would provide proper access in addition to service to the same sewage disposal system. A proposed location is shown on the attached drawing.
- Article a2 notes a maximum square footage of 900 square feet in total. With my father's confinement to a wheelchair, the layout of a living space that will provide the proper bedroom, bathroom, and other ADA recommendations and requirements has resulted in a footprint that exceeds the 900 square feet total enclosed area.

We thank you in advance for your consideration of our request for this variance and if you should have any questions, please feel free to call me at (410)-885-3515 home or (443)-553-3200 cell.

Kind Regards,

A handwritten signature in black ink, appearing to read "Timothy and Julie Poludniak". The signature is written in a cursive, flowing style.

Timothy and Julie Poludniak



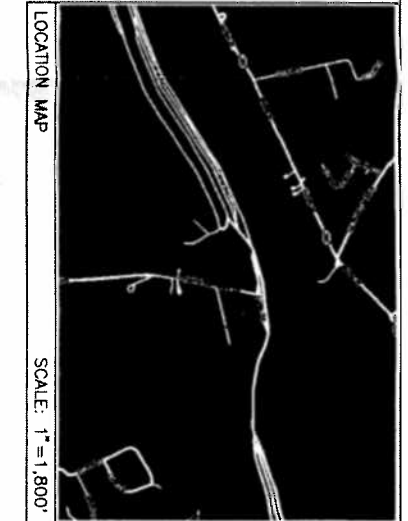


STATEMENT OF CERTIFICATION

I, the undersigned, being a duly licensed Professional Engineer in the State of Maryland, do hereby certify that the above described plans were prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer in the State of Maryland.

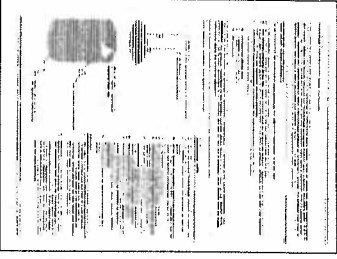
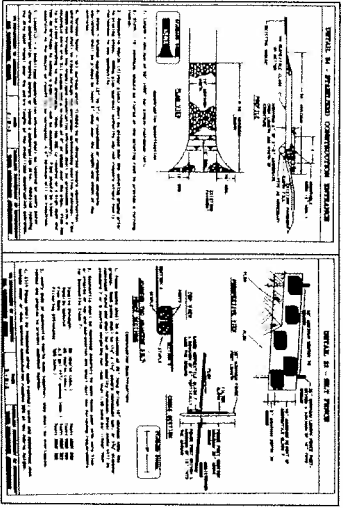
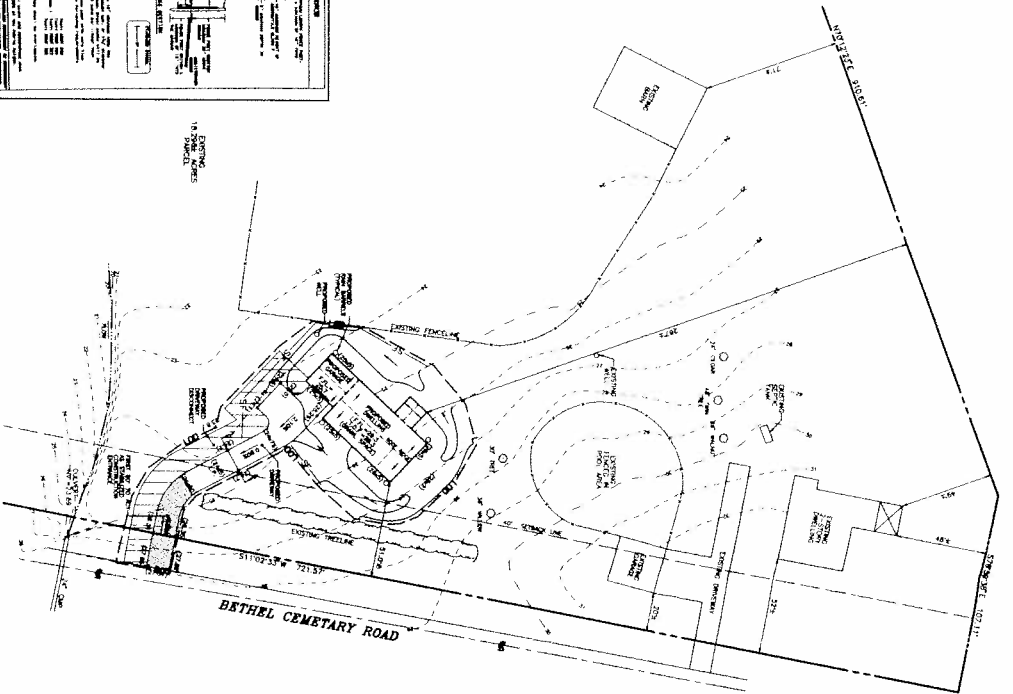
I hereby certify that the above described plans were prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer in the State of Maryland.

Professional Engineer



LOCATION MAP

SCALE: 1" = 1,800'



CEDIL COUNTY DEPARTMENT OF PUBLIC WORKS
FINAL LOT GRADING PLAN APPROVAL

DATE: _____

PLANNING CERTIFICATION

I, the undersigned, being a duly licensed Professional Planner in the State of Maryland, do hereby certify that the above described plans were prepared by me or under my direct supervision and that I am a duly licensed Professional Planner in the State of Maryland.

Professional Planner

PROFESSIONAL CERTIFICATION

I, the undersigned, being a duly licensed Professional Engineer in the State of Maryland, do hereby certify that the above described plans were prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer in the State of Maryland.

Professional Engineer

LEGEND

EXISTING FENCELINE	Dashed line
EXISTING DRIVE	Double solid line
EXISTING BUILDING	Thick solid line
PROPOSED DRIVE	Thin solid line
PROPOSED BUILDING	Thin solid line with diagonal hatching
PROPOSED SIDEWALK	Thin solid line with cross-hatching
PROPOSED DRIVE	Thin solid line
PROPOSED DRIVE	Thin solid line
PROPOSED DRIVE	Thin solid line
PROPOSED DRIVE	Thin solid line

SCALE

1" = 12' 0"	1" = 6' 0"
1" = 12' 0"	1" = 6' 0"
1" = 12' 0"	1" = 6' 0"



FINAL LOT GRADING PLAN
FOR LANDS OF
339 BETHEL CEMETARY ROAD
CHESAPEAKE CITY, MD 21915

FOR
GREEN DIAMOND BUILDERS
ADD. MAP NO. 18, GRID 3-10
TAX PARCEL NO. MAP 0044, PARCEL 0046
2ND ELECTION DISTRICT
CEDIL COUNTY
MARYLAND

Clifton L. Baksh, Jr., Inc.
LAND SURVEYORS, ENGINEERS, & PLANNERS
4425 BETHEL ROAD, BETHESDA, MD 20814

REVISIONS

NO.	DATE	REVISION
1		
2		
3		

APPROVED BY: _____