

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
JUSTIN ANTHONY PHENNEGER	*	CASE NO.: 3674
	*	
(Special Exception – NAR)	*	

\* \* \* \* \*

**OPINION**

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Justin Anthony Phenneger (the “Applicant”). Applicant seeks a special exception to permit a single-wide or double-wide trailer as a residence for an immediate family member due to hardship on property owned by Applicant and Carla E. Reeves located at 1824 Blue Ball Road, Elkton, Maryland 21921, designated as Parcel 872, Lot 1 on Tax Map 20 in the Third Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) in accordance with Article V, Part V, Sections 70 or 71 of the Cecil County Zoning Ordinance (the “Ordinance”).

Sections 70 and 71 of the Ordinance provide:

Section 70. Dwelling – Manufactured Home – Double Wide

1. Double-wide manufactured homes shall be permitted as a principal structure, tenant house, or guest house in the NAR, SAR, RR, LDR, ST, VR, UR, RM, RMU and MEA zones, provided:
  - a. The home has a length not less than 40 feet and a width not less than 24 feet;
  - b. The pitch of the home's roof has a minimum vertical rise of three (3) feet for each twelve (12) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction with a minimum four (4) inch roof overhang;
  - c. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
  - d. The home is enclosed by a continuous, permanent masonry foundation, unpierced except for required ventilation and access installed under the home; and

- e. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
2. Double-wide manufactured homes may be permitted as a Special Exception in the EMU, BG, BI, M1, M2 and MEA zones as on-site security provided that the unit is not on a permanent foundation.
3. Double-wide manufactured homes shall be permitted in the EMU, BL, BG, BI, MB, M1, and M2 zones provided that the unit is for the owner/operator or employee of an on-site business and the conditions set forth in 1.a. through 1.e above are met.
4. Double-wide manufactured homes may be permitted as a Special Exception in the NAR and SAR zones for an employee of an agricultural operation conducted on a parcel where the manufactured home is to be located, provided that the home is not on a permanent foundation.
5. Double-wide manufactured homes may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, or UR zones, when not on a permanent foundation, and in the MH zone provided that it is not on a permanent foundation and if a manufactured home presently exists on the property, provided the Board of Appeals finds that a hardship exists involving a member of the immediate family.

#### Section 71. Dwelling - Manufactured Home - Single-wide

1. A single-wide manufactured home may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, and UR zones provided that the manufactured home is for an employee of an agricultural operation conducted on the parcel where the manufactured home is to be located.
2. A single-wide manufactured home may be permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, and UR zones 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.
3. A single-wide manufactured home may be permitted as a Special Exception in the BL, BG, BI, EMU, M1, M2 and MEA zones provided that the manufactured home is for the purposes of providing security for a business or industry conducted on the parcel where the manufactured home is to be located.
4. A single wide manufactured may be permitted as a special exception in the MH zone provided that a manufactured home presently exists on the property and provided that the Board of Appeals finds that a hardship exists involving a member of the immediate family. For the purposes of this provision, "immediate family" shall only include a child, grandchild, parent or grandparent, step child or step parent.

In determining whether to grant an application for a Special Exception the Board must consider Section 311 of the Ordinance, which states:

No special exception shall be approved by the Board of Appeals after considering all facts in the case unless such Board shall find:

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 (1981).

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.

Article XVII, Part II, Section 311, Cecil County Zoning Ordinance.

Applicant testified that he is requesting a special exception to permit either a single or double-wide trailer on the Property due to his own financial hardship. Applicant and Carla Reeves, the co-owner of the Property, testified that each receives Supplemental Security Income and presented copies of documents from the Social Security Administration in support of their contentions. Applicant testified that he has a wife and child. He testified that he is unable to work. The Applicant and Ms. Reeves testified regarding the possible motivation of the neighbors who oppose their application for a special exception, none of which is germane to the Board's analysis in

this matter. Ms. Reeves presented a letter from her doctor regarding injuries that she received in 2010.

Numerous neighboring property owners testified in opposition to the application. Testimony indicated that 48 people had signed a petition in opposition to the application. The neighbors testified regarding concerns about activities currently taking place at the Property. Testimony in opposition was presented indicating that Ms. Reeves and the Applicant house numerous individuals at the Property and that neighbors have concerns regarding thefts that have been occurring in the area. Testimony in opposition was presented indicating concerns about the application having a negative effect on neighboring property values and on the health and general welfare of the neighborhood in general.

One witness testified in favor of the application. John Noonan, a preacher and law student, testified that denying the application would violate the 13<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution as well as Article 24 of the Maryland Declaration of Rights.

Clifford Houston of the Cecil County Department of Planning and Zoning testified that the Office of Planning and Zoning recommended disapproval of the application for special exception.

Pursuant to Section 311 of the Ordinance, the Board finds as follows:

1. The special exception is not detrimental or an endangerment to the public health, safety, or general welfare. The proposed use would consist of the installation of either a single or double-wide trailer on the Property. The Board finds nothing in this proposed use that would constitute a danger to the public health, safety, or general welfare.

2. The use will be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, or substantially diminish or impair property values in the

neighborhood. Evidence was presented indicating that the presence of a trailer on the Property would be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood. The testimony in opposition indicated that concerns about the number of people residing at the Property already exist and that the nature of activities occurring at the property are having an injurious effect on neighboring property owners' peaceful use and enjoyment of their properties

3. The use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the zone. The Board does not find that the permission of a single or double-wide trailer is an impediment to the preservation of the character of the area or to the reasonable and orderly residential development permissible within the zone. The proposed use will not change the residential character of the Property or contribute to an increase in traffic that would alter the character of the neighborhood.

4. The proposed use will not overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. The Property is serviced by well and septic and the Applicant testified that the Health Department approved the site conditionally provided that upgrades are made to the septic system..

5. The continued use will not adversely affect critical natural areas or areas of ecological importance. The Property is not located in a Critical Area District.

6. The proposed use will not, in all other respects, conform to the applicable regulations of the zone in which it is located. The subject property is in an NAR zone. In order for the Board to grant a special exception allowing for either a single-wide or double-wide trailer to be permitted on the Property, it must first make a finding that a hardship has been

demonstrated in accordance with Sections 70 and/or 71 of the Ordinance. The Board finds that the Applicant has failed to carry his burden in this regard. The Applicant presented no evidence regarding the nature of any alleged disability. It is not known to the Board why Applicant is unable to work, as he alleges, or for how long he will be unable to do so. The Board finds that the Supplemental Security Income information provided is insufficient to establish on its own a *prima facie* showing of hardship.

7. The particular use proposed at the particular location proposed will not have any adverse effects above those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritz*, 291 Md. 1 (1981). The Board finds that, because of the residential density of the zone and the nature of the activities undertaken in the area, the impact of Applicant's proposed use in this particular area of the RR zone is no different than the impact of the operation of a home occupation in other areas of the RR zone.

8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. No evidence was presented evincing issues related to traffic and parking.

9. The use is not contrary to the objectives of the Comprehensive Plan for the County. The special exception is presumptively valid and the Board finds nothing in the record to indicate that the proposed use is contrary to the objectives of the Comprehensive Plan.

For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of Article XVII, Part II, Section 311, of the Ordinance have not been met and the application the special exception under Section 70 and/or 71 is therefore **DISAPPROVED**.

5/27/14  
Date

  
Mark Saunders, Acting Chairperson

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

DATE FILED: 2/21/14  
 AMOUNT PD: \$260.00 cash  
 ACCEPTED BY: JB

FEB 21 2014

**A. APPLICANT INFORMATION**

Justin Anthony Phennege  
 APPLICANT NAME - PLEASE PRINT CLEARLY  
1824 Blue Ball Rd. Elkton MD. 21921  
 ADDRESS CITY STATE ZIP CODE  
[Signature] 410.441.1763  
 APPLICANT SIGNATURE PHONE NUMBER

**B. PROPERTY OWNER INFORMATION**

John Anthony Phennege  
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY  
1824 Blue Ball Rd. Elkton MD. 21921  
 ADDRESS CITY STATE ZIP CODE  
[Signature] 410.441.1763  
 PROPERTY OWNER SIGNATURE PHONE NUMBER

**C. PROPERTY INFORMATION**

1824 Blue Ball Rd.  
 PROPERTY ADDRESS  
70 10 878 1 4.159 03 101495  
 TAX MAP # BLOCK PARCEL LOT # #ACRES ELECTION DIST. ACCT. NUMBER  
NAR  
 ZONE

**D. PURPOSE OF APPLICATION** - Indicate reasons why this application should be granted. (attach separate sheet if necessary)  
Special exception needed for single wide mobile home  
for workshop purposes or doublewide

**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? \_\_\_\_\_ 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.

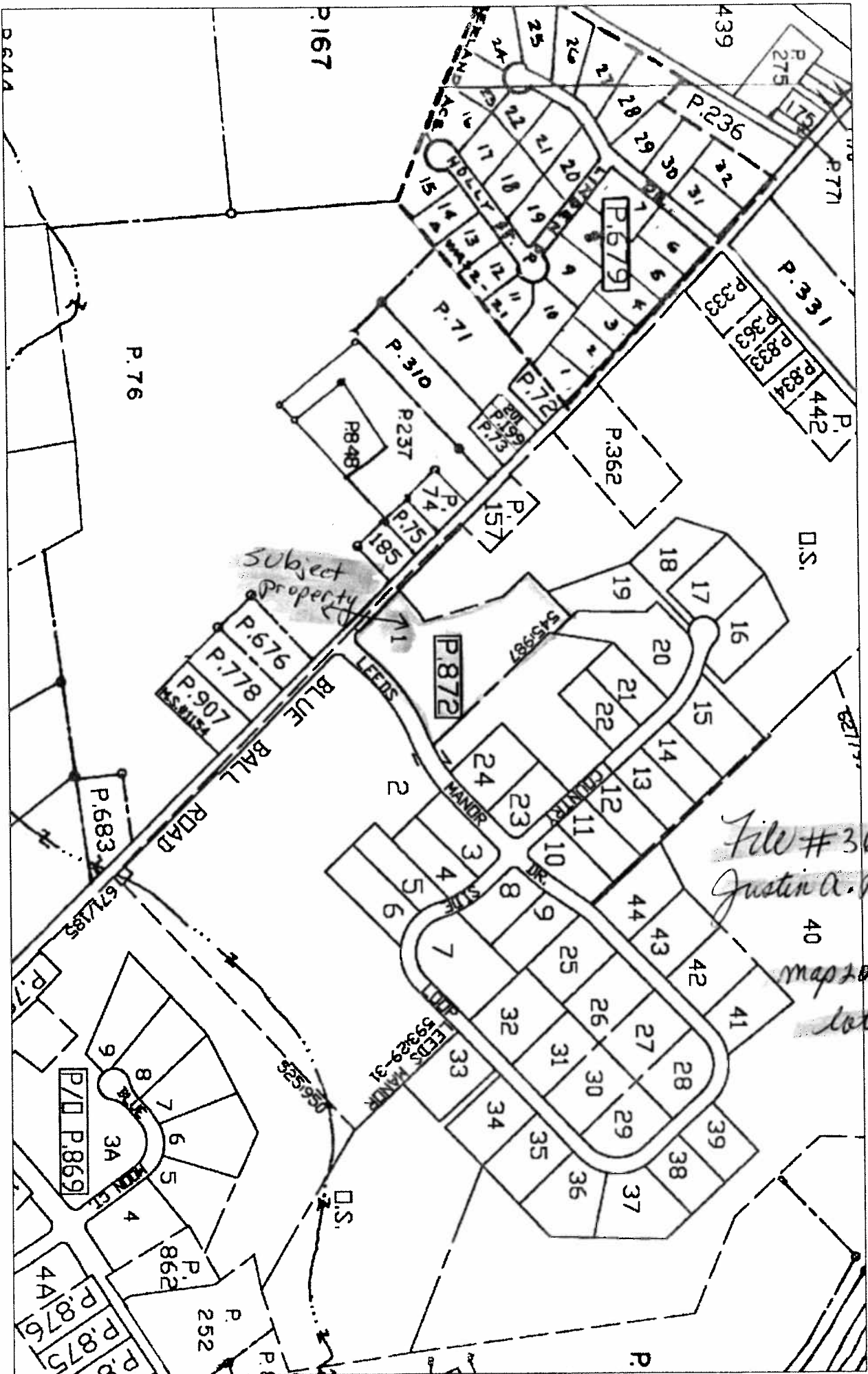
**G. PROVISION OF ZONING ORDINANCE:** Sec. 707/308, Sec. 71/70 (2x)

**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: \_\_\_\_\_





Subject Property

File # 3674  
 Justin A. Phenneger  
 40  
 maps@paul  
 lot #1

[Search Help](#)

Real Property Data Search (w4)

Search Result for CECIL COUNTY

<a href="#">View Map</a>	<a href="#">View GroundRent Redemption</a>	<a href="#">View GroundRent Registration</a>
<b>Account Identifier:</b> District - 03 Account Number - 101495		
Owner Information		
<b>Owner Name:</b>	REEVES CARLA E & PHENNEGER JUSTIN ANTHONY	<b>Use:</b> RESIDENTIAL <b>Principal Residence:</b> YES
<b>Mailing Address:</b>	1824 BLUE BALL RD ELKTON MD 21921-3305	<b>Deed Reference:</b> 1) /02517/ 00614 2)
Location & Structure Information		
<b>Premises Address:</b>	1824 BLUE BALL RD ELKTON 21921-0000	<b>Legal Description:</b> LOT 1 - 4.159 ACRES 1824 BLUE BALL ROAD LEEDS MANOR
<b>Map:</b> 0020	<b>Grid:</b> 0010	<b>Parcel:</b> 0872
<b>Sub District:</b>	<b>Subdivision:</b> 0000	<b>Section:</b> 1
<b>Block:</b>	<b>Lot:</b> 1	<b>Assessment Year:</b> 2014
<b>Plat No:</b>	<b>Plat Ref:</b> 0545/ 0987	
<b>Special Tax Areas:</b>	<b>Town:</b> NONE	<b>Ad Valorem:</b> 4
<b>Tax Class:</b>		
<b>Primary Structure Built</b>	<b>Above Grade Enclosed Area</b>	<b>Finished Basement Area</b>
1945	1,594 SF	4.1500 AC
<b>County Use</b>	000000	
<b>Stories</b>	<b>Basement</b>	<b>Type</b>
1.000000	YES	STANDARD UNIT
<b>Exterior</b>	<b>Full/Half Bath</b>	<b>Garage</b>
SIDING	1 full/ 1 half	1 Detached
Value Information		
	<b>Base Value</b>	<b>Value</b>
		As of 01/01/2014
<b>Land:</b>	113,200	123,200
<b>Improvements</b>	99,300	86,500
<b>Total:</b>	212,500	209,700
<b>Phase-in Assessments</b>		As of 07/01/2013
<b>Preferential Land:</b>	0	212,500
		As of 07/01/2014
		209,700
		0
Transfer Information		
<b>Seller:</b> VICTORIA ALICE HOUSE CHARITY	<b>Date:</b> 06/13/2008	<b>Price:</b> \$0
<b>Type:</b> NON-ARMS LENGTH OTHER	<b>Deed1:</b> WLB /02517/ 00614	<b>Deed2:</b>
<b>Seller:</b> PHENNEGER-REEVES, CARLA E GUARDIAN	<b>Date:</b> 03/08/2007	<b>Price:</b> \$0
<b>Type:</b> NON-ARMS LENGTH OTHER	<b>Deed1:</b> WLB /02306/ 00083	<b>Deed2:</b>
<b>Seller:</b> THE BARRY MONTGOMERY COMPANY, INC.	<b>Date:</b> 08/14/1995	<b>Price:</b> \$60,565
<b>Type:</b> NON-ARMS LENGTH OTHER	<b>Deed1:</b> WLB /00554/ 00268	<b>Deed2:</b>
Exemption Information		
<b>Partial Exempt Assessments:</b>	<b>Class</b>	07/01/2013
<b>County:</b>	000	0.00
<b>State:</b>	000	0.00
<b>Municipal:</b>	000	0.00 0.00
<b>Tax Exempt:</b>	<b>Special Tax Recapture:</b>	07/01/2014
<b>Exempt Class:</b>	HOMEOWNERS TAX CREDIT	
Homestead Application Information		
<b>Homestead Application Status:</b> Approved 12/31/2012		

1. This screen allows you to search the Real Property database and display property records.
2. Click [here](#) for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.