

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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**Case No. A-6747
PETITION OF DUANE AND RACHEL EPPERLY**

OPINION OF THE BOARD
(Hearing Held on May 25, 2022)
(Effective Date of Opinion: June 3, 2022)

Case No. A-6747 is an application by Duane and Rachel Epperly (the "Petitioners") for two variances necessary to permit the proposed construction of an accessory structure. The proposed construction requires a variance of two hundred sixty-five (265) feet as it is within fifty (50) feet of the front lot line. The required setback is three hundred fifteen (315) feet, in accordance with Section 59-4.3.4.B.2.d of the Montgomery County Zoning Ordinance. In addition, the proposed construction requires a variance to be located forward of the rear building line. Section 59-4.3.4.B.2.d of the Montgomery County Zoning Ordinance requires that accessory structures be located behind the rear building line of the principal building.

Due to COVID-19, the Board of Appeals held a remote hearing on the application on Wednesday, May 25, 2022. All participation was done via Microsoft Teams. Petitioners Duane and Rachel Epperly participated in the hearing, assisted by architects Miche Booz and Emmett Van Riper.

Decision of the Board: **Variances GRANTED.**

EVIDENCE PRESENTED

1. The subject property is Parcel P311, 1782/511 Gittings HA Subdivision, located at 2240 Brighton Dam Road in Brookeville, Maryland, 20833, in the RC Zone.
2. The Petitioners' Statement of Justification ("Statement") describes the subject property as an 11+ acre farm that is the "historic core of the Grafton Holland Farm (Master Plan Site #23/82), also known as "Sunnymeade...." The Statement describes the various buildings on the property, noting that "the property includes a Farmhouse (the principal building and historic resource) constructed in the mid-nineteenth century and various adjacent outbuildings (historic setting), as well as the accessory Tenant House, located about 500 feet to the northwest on a separate driveway." See Exhibit 3.
3. The Petitioners are seeking variance relief needed to replace the existing Tenant House. Their Statement summarizes the proposed project, stating that:

The 2.5-story frame house known as the Tenant House was likely initially constructed in the early twentieth century, substantially damaged by fire in 1961 and repaired as a 1.5-story home, then substantially damaged by fire again in 2008 and neglected until the Petitioner purchased the property in 2021. The structure is currently uninhabitable and the Petitioner intends to rebuild the house approximately as it appeared in 1956 according to historic photographs and investigations.

See Exhibit 3. The Petitioners include photographs of the structure as it existed in 1956 with their submission, as well as elevations for the proposed reconstruction. See Exhibits 5(b), (d), (f), (h), and (o). The Statement goes on to provide the following detailed background information regarding the project:

The accessory dwelling (Tenant House) is located at the northwest corner of the site, approximately 50 feet from the nearest property line (a 953-ft radius arc) and 25 feet from the right of way for Brighton Dam Road which runs inside the northwest property boundary. This portion of the site is distinct from that of the Farmhouse complex; the driveway entrances are separated by about 300 feet and a sharp curve in Brighton Dam Rd. as well as a stream that bisects the property. The most useful agricultural land lies on either side of the stream and abuts [the] edge of the Tenant House site.

The Tenant House is a Farm Labor Housing Unit as defined in Montgomery County Zoning Ordinance Section 59.3.3.3.B and is accessory to the farm as defined in Section 59.3.7.4.B. As an FLHU in existence before 1958, the dwelling may be rebuilt and rented to a tenant other than an agricultural worker. However, the Petitioner and their family intend to occupy it while operating the farm, as well as observing the applicable covenants.

There is an approved Historic Area Work Permit (#958637) to demolish the existing Tenant House (and adjacent outbuilding), stipulating that the original stone house foundation be maintained. The Petitioner submitted a building permit application (#983187) to demolish the house and outbuilding, investigate and preserve the original foundation, and construct a new house atop it, approximating the original building as it was documented in 1956 (**Document 7 of 7, page G56 "Historic Conditions-Tenant House"**). The HPC staff (Rebecca Ballo) supports this approach and the Commissioners have approved a preliminary HAWP which describes the rehabilitation the Farmhouse and other buildings.

In November 2021 the Petitioner requested an interpretation of the Front and Rear yards from DPS zoning staff (Delvin Daniels) which revealed the nonconformance of the accessory dwelling location.

4. The Statement at Exhibit 3 asserts that the subject property satisfies all five of the "uniqueness" tests set forth in Sections 59.7.3.2.E.2.a.i through v of the Zoning Ordinance, elaborating of the reasons for each, as follows:

i. exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;

The topographical conditions of the farmland surrounding the stream isolate the relatively flat 0.5 acre site of the existing accessory structure and its adjacent well from the rest of the property. The structure is remote from the principal building, at a substantially lower elevation, and has no spatial relationship with it or other farm outbuildings. Due to the slopes, stream, and curved path of the road, there is no meaningful relationship of the accessory dwelling site to the "Front Yard" or "Rear Yard" of the principal dwelling.

ii. the proposed development uses an existing legal nonconforming property or structure;

The proposed dwelling utilizes the existing legal nonconforming stone foundation and basement as well as the arrangement of the driveway and would minimize land disturbance and avoid potential impact to adjacent farmland and **views** from the neighboring residence.

iii. the proposed development contains environmentally sensitive features or buffers;

The typology of the stream would require a 125-ft buffer which, in combination with restrictive slopes and side setbacks, precludes relocating the accessory dwelling to conform with the 80-ft front setback. Permitting the new dwelling to be sited on the existing foundation would minimize disturbance to soil and vegetation at this property adjacent to Hawlings River Stream Valley Park.

iv. the proposed development contains a historically significant property or structure; or

The existing damaged structure (found to be non-contributing to the Historic Resource) to be demolished sits atop a stone foundation which the HPC has stipulated is to be preserved; the best method of preservation is for it to be investigated, stabilized and utilized for the replacement dwelling. Any other potentially locations for this dwelling that do not reduce useable farmland would be in such proximity to the Historic Resource (Farmhouse) that the Historic Setting would be negatively impacted. Furthermore, the current location is indicative of the traditional agricultural site use of this **area**.

v. the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;

The proposed dwelling would occupy the historic location of the dwelling it is replacing, which conforms to the traditional relationship a "tenant house" (Farm Labor Housing) would have to the principal building. That is, the accessory dwelling on a farm property such as this would typically be visually remote and have separate access from the farmhouse complex, and not occupy useable

farmland or wooded slopes. By nature of its proximity to Brighton Dam Rd the existing house has been a familiar sight for generations. Other examples of small two-story houses and accessory dwellings sited in this way are common in the neighboring historic communities of Brookeville, Brighton, and Unity. The preservation of the house's relationship the road would benefit the historic character of the local context.

5. The Statement states that the conditions and circumstances that make the subject property unique and that necessitate the replacement of the Tenant House occurred prior to the Petitioners' purchase of the subject property in 2021. The Statement notes that "the proximity of the existing accessory dwelling to the front property boundary is the result of the boundary being delineated after the accessory was first constructed in the early-twentieth century (or earlier), as well as the adjacent road evolving from a dirt farm path to a wider paved surface," and that "[t]he location of the accessory dwelling in the 'front yard' of the principal building is the result of the historic type of accessory dwellings on farms (whether occupied by tenants, laborers, or family members) as well as the particular topography." See Exhibit 3.

6. The Statement explains that the requested variances are the minimum needed to overcome the practical difficulties that siting the reconstructed Tenant House in compliance with the Zoning Ordinance would entail, stating that compliance with the requirement that the structure be located behind the rear building line of the principal building would "displace the dwelling a minimum of 500 feet from the existing location, likely over 750 feet in order to avoid the immediate historic setting of the resource as well as other environmental features and setbacks," such that the accessory structure "would be located in potential farmland and extensive site disturbance would be necessary in order to provide access, well and septic to such a location." The Statement further explains that compliance with the front lot line setback would "displace the [accessory] dwelling from its historic location at least 40 feet, in the direction of other constraining existing site features such as the well + setback, stream + buffer, 25% slopes, existing trees, and the neighbor's rear yard." See Exhibit 3.

7. The Statement states that the requested variances can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan, noting that granting the requested variances would allow construction of the proposed accessory structure at the location of the existing structure, and accordingly "supports the integrity of the historic character of the general area as well as preserves the specific relationships of the historic resource at this property." See Exhibit 3.

8. Finally, the Statement at Exhibit 3 states that granting the requested variances will not be adverse to the use of abutting or confronting properties, as follows:

Granting the variance will allow the new structure to occupy the same location of the old, not changing the visual or functional relationship with the abutting properties. Demolition of the damaged dwelling and the (near) recreation of the house that historically stood there before earlier fire damage will improve the enjoyment of the abutting properties as well as the general public using Brighton Dam Road.

Without the variance any potential location the accessory dwelling structure could be relocated to would be adverse to the enjoyment of abutting properties as it would be immediately behind their homes and occupy their view which had previously been vegetation or farmland.

9. The Patuxent Watershed Protective Association, Inc. ("PWPA") submitted a letter stating that the PWPA did not want to be a party to the proceedings, but did want to advise the Board of certain "facts." See Exhibit 9. The PWPA letter states that the organization has "no environmental objection to the proposed construction" provided the septic fields are appropriately located, and specifies what the organization believes that would entail. Because the matter before the Board does not involve the location of the septic field(s), those details are not recounted here.

The PWPA letter states that the Tenant House is 50 feet from the property's front lot line, but is only approximately 20 feet from a "sharp curve" on Brighton Dam Road because the property line goes under the road to the other side. The letter states that it is the opinion of the PWPA that the "existing structure's location is dangerously close to the existing roadway and any right-of-way associated with the roadway," and that for this reason, "Mr. Epperly should be allowed to construct an historically accurate replica of this structure at an environmentally safe location of his choice elsewhere on this large property." The PWPA letter states that allowing Mr. Epperly to do so would "eliminate potential environmental dangers to the creek on the property, eliminate a clear danger to any inhabitants of the restored structure – particularly if any children were to reside or visit there – and remove the present eyesore from the view of the adjacent property." The letter states that relocating the structure may still entail variance relief, but suggests that the extent of such relief may be less, and encourages the Board to work with the HPC on the relocation option, stating that the "[s]trict literal interpretation of historic restoration rules should not override valid environmental concerns and safety matters." The PWPA includes a topographic map with their letter, and states that the pond on the neighboring property is the "source of the creek which flows generally from south to north through the Epperly property." See Exhibits 9 and 9(a).

10. Robert K. Sutton, Chair of the Montgomery County Historic Preservation Commission, submitted a letter dated May 19, 2022, supporting the grant of the requested variances. Mr. Sutton's letter indicates that the proposed construction will be on top of the historic stone foundations, and states that "[t]he HPC unanimously supported this proposal and instructed the applicant to proceed with obtaining any variances necessary to submit permit drawings." His letter further states that "[t]he HPC believes that the unique historic character of this site will be best served" by granting the requested variances, and that "[t]he HPC voted unanimously at its May 18, 2022 meeting to send this letter to your attention recommending approval of the variance[s]." Finally, Mr. Sutton's letter states that the HPC has reviewed the evidence and rationale put forward by the Petitioners in their variance application, and "supports each piece of evidence as presented." See Exhibit 10.

11. At the hearing, Emmett Van Riper testified that the subject property is the remainder of the historic Grafton Holland Farm, also known as "Sunnymeade," which

dates to the early 1800s. Mr. Van Riper testified that the entire property is on the historic inventory, and explained that the Farm House is the historic resource, and the rest of the property is part of its historic setting. He testified that the farmstead was used as a second home in the mid-1900s, and that it has essentially been abandoned for the last 40 years, during which time the property's caretaker, who lived in the Tenant House, was the property's only occupant. He testified that it was normal at the time this farm was developed for farmsteads to have additional houses and outbuildings on their properties, and stated that all of the structures on the subject property are in disrepair.

Mr. Van Riper recounted the more recent history of the Tenant House, including multiple fires, and testified that it is currently uninhabitable. He testified that the Tenant House is located approximately 50 feet from the north property line and has its own driveway, noting that the north property line is actually on the other side of Brighton Dam Road, which he characterized as a "small rural road" and later testified was originally used by farmers rather than common people. Mr. Van Riper testified that the HPC has determined that the front portion of the Tenant House foundation must be preserved, maintained, and investigated, and that the best way to do this is to build on top of it. He testified that the Petitioners intend to demolish the existing Tenant House structure, which was built in 1961, and rebuild it as it existed prior to that time. He showed the Board photographs of the Tenant House as it currently exists, and as it existed in 1956. See Exhibits 5(m)-(o). Mr. Van Riper testified that the relationship of the existing structure to the road will be maintained. Comparing the photographs of the prior house with the proposed elevations, Mr. Van Riper testified that the Petitioners were seeking to rebuild a structure that would closely but not exactly approximate the structure shown in the 1956 photographs, stating, for example, that the ceiling height would be raised to eight (8) feet where possible, but that the roof would be kept as low as possible, later stating that the roof of the two-story portion of the rear addition may be raised slightly to accommodate this ceiling height. See Exhibit 5 (elevations and photographs).

Mr. Van Riper testified that the topography of the subject property limits potential locations for the Tenant House. He further testified that the driveway also limits access and locations, explaining that there is a need for extensive driveway frontage to allow the site lines necessary to safely enter and exit the road. Mr. Van Riper testified that a stream runs through the property with a slope on either side, and stated that that area of the property is prime farming area. He testified that there are a 125-foot stream buffer and slope restrictions on the property which also limit placement of the Tenant House. Finally, Mr. Van Riper testified that in light of these factors, it would be difficult to relocate the structure to a place that was not immediately adjacent to the historic Farm House, which he testified would not be appropriate. He testified that that there are already handsome outbuildings in the area around the Farm House, and that the remaining land has a higher slope or is prime growing area. He testified that water table and perc tests were being done to locate appropriate areas for the septic field.

Mr. Van Riper testified that the proposed construction would not increase any load on the property's neighbors, explaining that the Tenant House was occupied until relatively recently, and that it will continue to be used as a single family dwelling. Mr. Van Riper testified that the proposed Tenant House will be two stories instead of the present-

day one-story structure, and that there is good tree screening from the closest neighbor's house.

Mr. Van Riper testified that the Statement further addresses the hardship to the Petitioners that having to relocate the Tenant House would pose, as well as the historic compatibility that favors allowing it to remain where it is. He testified that the proposed Tenant House and its location are typical for the area. In response to a Board question asking if he knew when the original Tenant House was built, Mr. Van Riper testified the original Tenant House was probably built around 1900, and was subsequently enlarged, noting again that the structure shown in the 1956 photograph was destroyed in a 1961 fire.

12. Duane Epperly testified, regarding the water issues raised by the PWPA, that their civil engineer has done two water table tests near the existing Tenant House structure, and that if the property percs there, they may move the well and relocate the septic field to that area.

Mr. Epperly testified that they have had good support from their neighbors, and that the owners of the house closest to the existing Tenant House are excited to have that structure gone. He testified that all of their abutting and confronting neighbors were notified about the requested variance, and no one objected.

13. Mr. Epperly testified that they had a mason inspect the stone foundation. He testified that the foundation is made of field stone, and is of the same construction as the historic Farm House, and as such, could date to the early to mid-1800s. Mr. Booz then testified that it would have been "highly likely" that construction of the original Tenant House would have accompanied construction of the other structures which were built in the 1860s. Mr. Van Riper testified that the historic portion of the Tenant House foundation corresponds to the 2-story portion of the house, and that based on the construction of the foundation of the rear portion of the house, that the location of the rear addition has changed over time. Mr. Epperly testified that the intent is to rebuild the Tenant House to the way it existed in the early 1900s to the best of their ability. Rachel Epperly testified that the plan is to remove the existing Tenant House, have a mason re-point the foundation, and then build a house appropriate to the time period that replicates the house shown in the photographs. Mr. Epperly then testified that the front portion of the proposed Tenant House will be precise in its replication, and that the rear will be as close as possible using modern construction technology.

FINDINGS OF THE BOARD

Based on the binding testimony and the evidence of record, the Board finds that the variances from the front lot line and from the requirement that accessory structures be located behind the rear building line of the principal building can be granted. The requested variances comply with the applicable standards and requirements set forth in Section 59-7.3.2.E as follows:

1. *Section 59.7.3.2.E.2.a. one or more of the following unusual or extraordinary situations or conditions exist:*

Section 59.7.3.2.E.2.a.i exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;

The Board finds, for the reasons set forth in the Statement and recounted in paragraph 4 under the heading "Evidence Presented," above, that the subject property's topography and other extraordinary conditions combine to constitute an extraordinary condition peculiar to the property, in satisfaction of this element of the variance test. See Exhibit 3.

Section 59.7.3.2.E.2.a.ii the proposed development uses an existing legal nonconforming property or structure;

The Board finds, based on the Statement and the building permit denial, and for the reasons set forth in the Statement and recounted in paragraph 4 under the heading "Evidence Presented," above, that the existing accessory structure is nonconforming, is in disrepair, and is uninhabitable. See Exhibits 3 and 6. The Board further finds, based on the Statement, the HPC letter, and the testimony of Mr. Van Riper, that the Montgomery County Historic Preservation Commission is requiring that the Petitioners retain the foundation of the existing accessory structure but is not requiring retention of the rest of the structure, which is non-contributing, and that the HPC has approved the Petitioners' plans to demolish the existing structure, except for its foundation, and to reuse that foundation in the construction of the proposed replacement structure. See Exhibits 3 and 10. Thus the Board finds that the proposed development uses an existing legal nonconforming structure, and satisfies this element of the variance test.

Section 59.7.3.2.E.2.a.iii the proposed development contains environmentally sensitive features or buffers;

The Board finds, for the reasons set forth in the Statement and recounted in paragraph 4 under the heading "Evidence Presented," above, and based on the testimony of Mr. Van Riper, that the subject property is encumbered with a stream and a 125-foot stream buffer, and that this limits the area available for construction and constitutes an environmentally sensitive feature or buffer, in satisfaction of this element of the variance test. See Exhibit 3.

Section 59-7.3.2.E.2.a.iv. - the proposed development contains a historically significant property or structure;

The Board finds, based on the Statement, the letter from the HPC, and the testimony of Mr. Van Riper, that the subject property is designated as a historic resource. The Board further finds that the HPC has required preservation of the stone foundation of the Tenant House, and that the HPC supports the Petitioners' proposed construction on top of the existing foundation. See Exhibits 3 and 10. Finally, the Board finds that the proposed development would preserve the historic foundation as well as the historic setting of the property, for the reasons set forth in the Statement and recounted in paragraph 4 under the heading "Evidence Presented," above. Accordingly, the Board finds that this element of the variance test is satisfied.

Section 59.7.3.2.E.2.a.v the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;

The Board finds, for the reasons set forth in the Statement and recounted in paragraph 4 under the heading "Evidence Presented," above, that the proposed dwelling would occupy the historic location of the Tenant House that it is replacing, and that this conforms to the traditional relationship that a "tenant house" (Farm Labor Housing) would have to the principal building on this type of property. The Board further finds that the siting of the proposed dwelling in this location is consistent with the location of similar tenant dwellings in neighboring historic communities. See Exhibit 3. Thus the Board finds that this element of the variance test is satisfied.

2. *Section 59.7.3.2.E.2.b the special circumstances or conditions are not the result of actions by the applicant;*

The Statement and testimony indicate, and the Board finds, that the nonconforming Tenant House accessory structure was part of the property at the time of its purchase by the Petitioners in 2021. See Exhibit 3. The Board further finds, based on the Statement, that the Petitioners are not responsible for their property's slope or for the presence of the stream and stream buffer. Similarly, the Board finds that the Petitioners are not responsible for the historic designation of the subject property, for the historic location of the Tenant House on that property, or for the historic placement of similar tenant dwellings in nearby historic communities. Thus the Board finds that the special circumstances or conditions applicable to this property are not the result of actions by the Petitioners, in satisfaction of this element of the variance test.

3. *Section 59.7.3.2.E.2.c the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;*

The Board finds, based on the Statement, that the requested variances are the minimum needed to overcome the challenges posed by the unique physical features of this property and to allow the proposed construction on the existing historic foundation of the non-conforming accessory structure. The Board further finds, based on the Statement and the testimony of Mr. Van Riper and the Petitioners, that the proposed construction is intended to approximate the original Tenant House as depicted in photographs, that the structure's current location "is indicative of the traditional agricultural site use of this area," and that moving the structure elsewhere on the property would negatively impact the historic setting of the historic resource (Farmhouse). See Exhibit 3. In addition, the Board finds that the HPC supports the grant of the requested variances and supports the proposed construction. See Exhibit 10. Thus the Board finds that the requested variances are the minimum needed to allow the proposed construction to use the historic foundation of the existing legal nonconforming structure, that the proposed construction would not be inconsistent with the history of the property, as indicated by the HPC's approval, and that the variances are therefore the minimum necessary to overcome the practical difficulties that would otherwise be imposed by full compliance with the restrictions of the Zoning Ordinance, in satisfaction of this element of the variance test.

4. *Section 59.7.3.2.E.2.d the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan;*

The Board finds, based on the Statement and the testimony of Mr. Van Riper, that the structure at issue is located on the historically designated Grafton Holland Farm (Master Plan Site #23/82), and that the proposed construction has been approved by the Historic Preservation Commission, as evidenced by the HPC's letter. See Exhibits 3 and 10. The Board further finds that the Olney Master Plan recognizes the importance of and seeks to protect historically designated resources within the Master Plan area. Thus, the Board finds that the variance can be granted without substantial impairment to the intent and integrity of the applicable plans, in satisfaction of this element of the variance test.

5. *Section 59.7.3.2.E.2.e granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.*


The Board finds that granting a variance to allow the proposed construction will not be adverse to the use and enjoyment of abutting or confronting properties, in satisfaction of this element of the variance test. In support of this, the Board notes that the replacement structure will be in the same location as the existing structure, and thus will maintain the visual and functional relationship of the existing structure (and its predecessor) to abutting properties, as well as to the historic Farmhouse and its historic setting. See Exhibit 3. In addition, the Board notes that the proposed construction, in the proposed location, is supported by the HPC. See Exhibit 10. Finally, the Board notes the testimony of Mr. Van Riper and Mr. Epperly that the proposed construction will not increase the burden on neighboring properties, and is welcomed by and somewhat screened from the most affected neighbor. The Board recognizes that the PWPA has expressed concerns about the proposed structure being so close to the road, but notes that a structure has been on this property, in this location, since at least the early twentieth century, and finds, per the Statement and testimony of Mr. Van Riper, that if the structure were to be moved to a location on the property that did not require variance relief, it would negatively affect the historic setting of this historic property, and would be adverse to the enjoyment of abutting properties because it would be immediately behind their homes and would occupy their view, which had previously been vegetation or farmland. See Exhibits 3 and 9.

Accordingly, the requested variances are **granted**, subject to the following conditions:

1. The Petitioners are bound by the testimony and exhibits of record; and
2. Construction shall be in accordance with Exhibits 4(a)-(b) and 5(b), (d), (f), and (h)-(l) (interior layout excluded).

Therefore, based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Richard Melnick, Vice Chair, with Caryn Hines and Roberto Pinero in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 3rd day of June, 2022.



Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-7.3.2.G.1 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.