

## BOARD OF APPEALS

April 16, 2025

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

### AGENDA

**AP2025-004:** An appeal was filed by Selena Wilkes for a variance from the rear setback requirement of 50 ft. to 18.5 ft. for proposed “still house” (distillery/alcohol production facility) previously approved use: appeal AP2019-025 on property owned by the appellant and located at 16311 Kendle Road, Williamsport, Zoned Residential Suburban.

**Annual Report for 2024**

**Annual Election for Chair and Vice-Chair for the Board of Appeals**

**Closed Session:** *(To discuss the term expiration of board members)*

---

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than April 7, 2025. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Tracie Felker, Chairman

Board of Zoning Appeals



## WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P: 240.313.2430 | F: 240.313.2431 | Hearing Impaired: 7-1-1

### ZONING APPEAL

**Property Owner:** Selena Wilkes  
16311 Kendle Road  
Williamsport MD 21795

**Appellant:** Selena Wilkes  
16311 Kendle Road  
Williamsport MD 21795

**Property Location:** 16311 Kendle Road  
Williamsport, MD 21795

**Description Of Appeal:** Variance from the rear yard setback of 50 ft. to 18.5 ft. for proposed "still house" (distillery/alcohol production facility) previously approved use: appeal AP2019-025.

**Docket No:** AP2025-005  
**Tax ID No:** 02007681  
**Zoning:** RS  
**RB Overlay:** No  
**Zoning Overlay:**  
**Filed Date:** 03/19/2025  
**Hearing Date:** 04/16/2025

**Appellant's Legal Interest In Above Property:**

<b>Owner:</b>	Yes	<b>Contract to Rent/Lease:</b>	No
<b>Lessee:</b>	No	<b>Contract to Purchase:</b>	No
<b>Other:</b>			

**Previous Petition/Appeal Docket No(s):** AP2004-169, AP2017-016, AP2018-006, AP2019-025

**Applicable Ordinance Sections:** Washington County Zoning Ordinance Section: 8.5 (a)

**Reason For Hardship:** See justification statement

**If Appeal of Ruling, Date Of Ruling:**

**Ruling Official/Agency:**

**Existing Use:** Bed & Breakfast and Reception Hall

**Proposed Use:** Alcohol Production Facility

**Previous Use Ceased For At Least 6 Months:**

**Date Ceased:**

**Area Devoted To Non-Conforming Use -**

**Existing:**

**Proposed:**

I hearby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

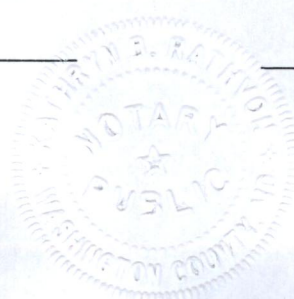
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 19 day of March, 20 25.

**Kathryn B Rathvon**  
NOTARY PUBLIC  
WASHINGTON COUNTY  
MARYLAND  
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public





# WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

## AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2025-005

State of Maryland Washington County, To Wit:

On 3/19/2025, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Kuczynski & Kuczynski and made oath in due form of law as follows:

Kuczynski & Kuczynski will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 04/16/2025, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 04/01/2025 and will remain until after the above hearing date.

Kuczynski & Kuczynski

Sworn and subscribed before me the day and year first above written.

Notary Public

Kathryn B Rathvon  
NOTARY PUBLIC  
WASHINGTON COUNTY  
MARYLAND  
MY COMMISSION EXPIRES NOVEMBER 07, 2025

My Commission Expires



Seal



## BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired:

7-1-1 WWW.WASHCO-MD.NET

### Appeal for Variance

Appeal is hereby made for a variance from a requirement of the Washington County Zoning Ordinance as follows:

Location 16311 Kendle Rd., Williamsport, MD 21795

Appellant's present legal interest in above property: (Check One)

☒ Owner (Including Joint Ownership) ☐ Lessee ☐ Contract to rent/lease  
☐ Contract to Purchase ☐ Other \_\_\_\_\_

Specify the Ordinance section and subsection from which the variance is desired:

Article 8, Section 8.5 - Soft rear set-back

Specify the particular requirement(s) from which a variance is desired in that section or subsection:

Seeking a variance from specified soft set-back (rear) to 18.5 feet

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:

Requesting a reduction of rear set-back (50') to allow back corner of proposed "still house" (distillery) to be 18.5 feet from property line.

Describe reason(s) why the Ordinance requirement(s) in question would result in peculiar and/or unusual practical difficulties to or would impose exceptional or undue hardship upon the owner of the property if the requested variance were not granted:

**Provide Detailed Explanation on Separate Sheet**

Has any previous petition or appeal involving this property been made to the Board?

☒ Yes ☐ No

If yes, list docket number(s): AP2019-025 ; AP2018-006

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

Selena Wilkes  
Signature of Appellant

16311 Kendle Rd., Williamsport, MD  
Address and of Appellant

SelenaWilkes@outlook.com  
Email of Appellant

240-707-1508  
Phone Number of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



Washington County

M A R Y L A N D

## BOARD OF ZONING APPEALS

### OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Edward L. Kuczynski  
is authorized to file an appeal with the Washington County Board of Appeals for  
Selena Wilkes on property  
located 16311 Kendle Rd. Williamsport, MD.  
The said work is authorized by Selena Wilkes  
the property owner in fee.

#### PROPERTY OWNER

Selena Wilkes  
Name  
16311 Kendle Rd.  
Address  
Williamsport, MD 21795  
City, State, Zip Code  
[Signature]  
Owner's Signature

Sworn and subscribed before me this 13<sup>th</sup> day of March, 2025.

[Signature]  
Notary Public

My Commission Expires: 03/24/2028

#### AUTHORIZED REPRESENTATIVE

Edward L. Kuczynski  
Name  
22 W. Salisbury St.  
Address  
Williamsport, MD 21795  
City, State, Zip Code  
[Signature]  
Authorized Representative's Signature

ed.kuczkw@gmail.com

Sworn and subscribed before me this 13<sup>th</sup> day of March, 2025.

[Signature]  
Notary Public

My Commission Expires: 03/24/2028

### **APPLICANT'S STATEMENT**

Selena Wilkes (the "Applicant") is the fee simple owner of the Property which is the subject of this appeal. The Property is zoned RS (Residential Suburban) and is the location of Elmwood Farm Bed and Breakfast. The Property is improved with an existing pre-civil war era historic farmhouse, barn and several accessory structures.

The surrounding area is predominantly rural in nature with the exception of the Elmwood Farms residential subdivision to the south and the industrial area along Governor Lane Boulevard directly to the west.

Attached hereto and incorporated herein, as **Exhibits A, B, C, D, E, F, G, H, I, and J** respectively are the Site Exhibit/BZA Exhibit, County Zoning Map, Tax Map of the Property and surrounding properties, SDAT Assessment Records for the Property and the fee simple Deeds.

The Property was previously before the Board in 2018 for a Special Exception, related dimensional and parking surface variance necessary for the Applicant to hold banquet/reception events on the Property in the existing Barn and patio area. The Decision of the Board is attached hereto and incorporated herein as **Exhibit K**.

In 2019 the Applicant sought and was granted a Special Exception to establish an alcohol production facility at the subject property. The Special Exception was granted. The Decision of the Board is attached hereto and incorporated herein as **Exhibit L**.

Recently the Applicant acquired 6.42 acres from Felix's Folly, LLC, the Developer of Elmwood Farms Subdivision. This acquisition has more than doubled the size of the Property.

As plans have moved forward in connection with the construction of the building that will house the Distillery that is necessary to bring the previously permitted alcohol production facility

fruition, it has been determined by MSB Architects and Fox and Associates that southernmost corner of the proposed structure will be 18.5 feet from the rear/south property line of the Property thereby necessitating a variance from the 50' setback required by the *Zoning Ordinance*.

Applicant contends that the following support her position that complying with the setback specified in the Ordinance constitutes practical difficulty and/are undue hardship:

1. The Distillery (aka Stillhouse) replaces and follows the footprint of an outbuilding at standing at the same location until approximately a year ago. That building had to be removed because of its dilapidated condition. The related silo remains standing and is intended to be incorporated into the new Stillhouse structure to help keep the newly constructed building in historical context.
2. Due to challenges presented by the parameters of the existing identified floodplain, the proposed location allows the Stillhouse to avoid major floodplain issues because the location requested will allow the foundation to be raised and constructed to meet Code and to avoid interference with the Flood Plain.
3. Placement in this location will allow the Applicant to utilize the shortest distance for the major hookups related to water, sewer, sprinklering, and 3 Phase electric. With this location, the Applicant will be able to connect from the existing "cap offs" located at the barn where the events occur and the tasing room will be located.
4. The Stillhouse from a functionality standpoint needs to be close to the tasting room. Also, the Stillhouse needs to be easily accessible for loading and unloading purposes associated with the alcohol production process. The requested/proposed location accomplishes and serves both purposes.

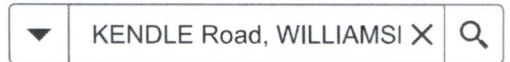
5. The Applicant believes that buffering the Stillhouse from the nearby residential subdivision would be beneficial for all interested parties. The property boundary at this location is the forestation area planted by the Developer of Elmwood which allows for an ideal buffer.



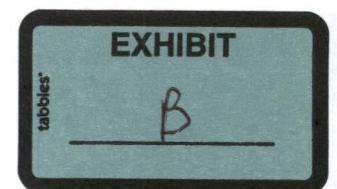
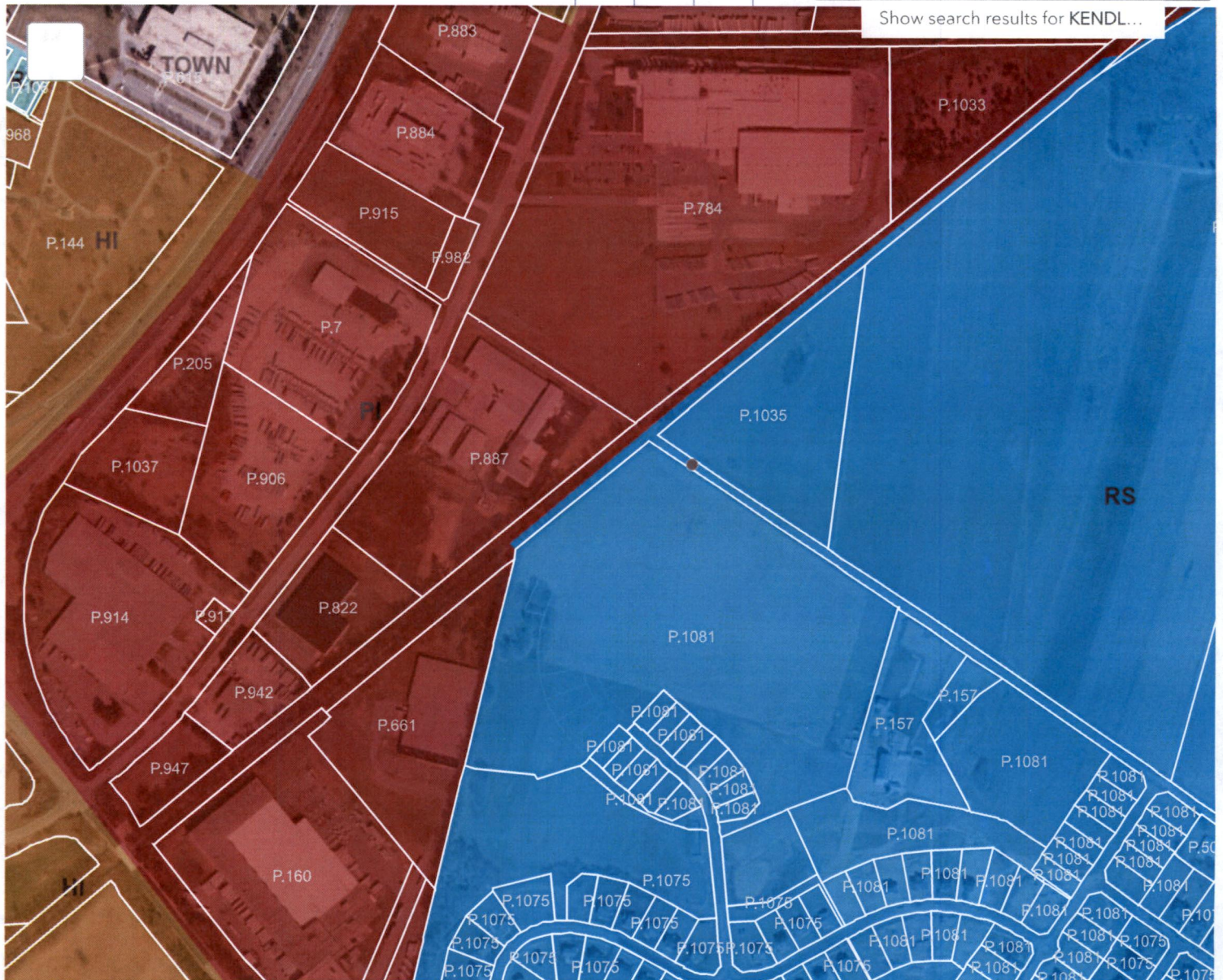


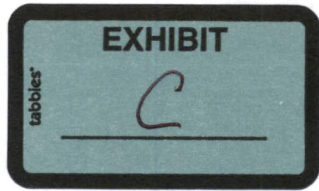
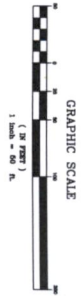


Wa

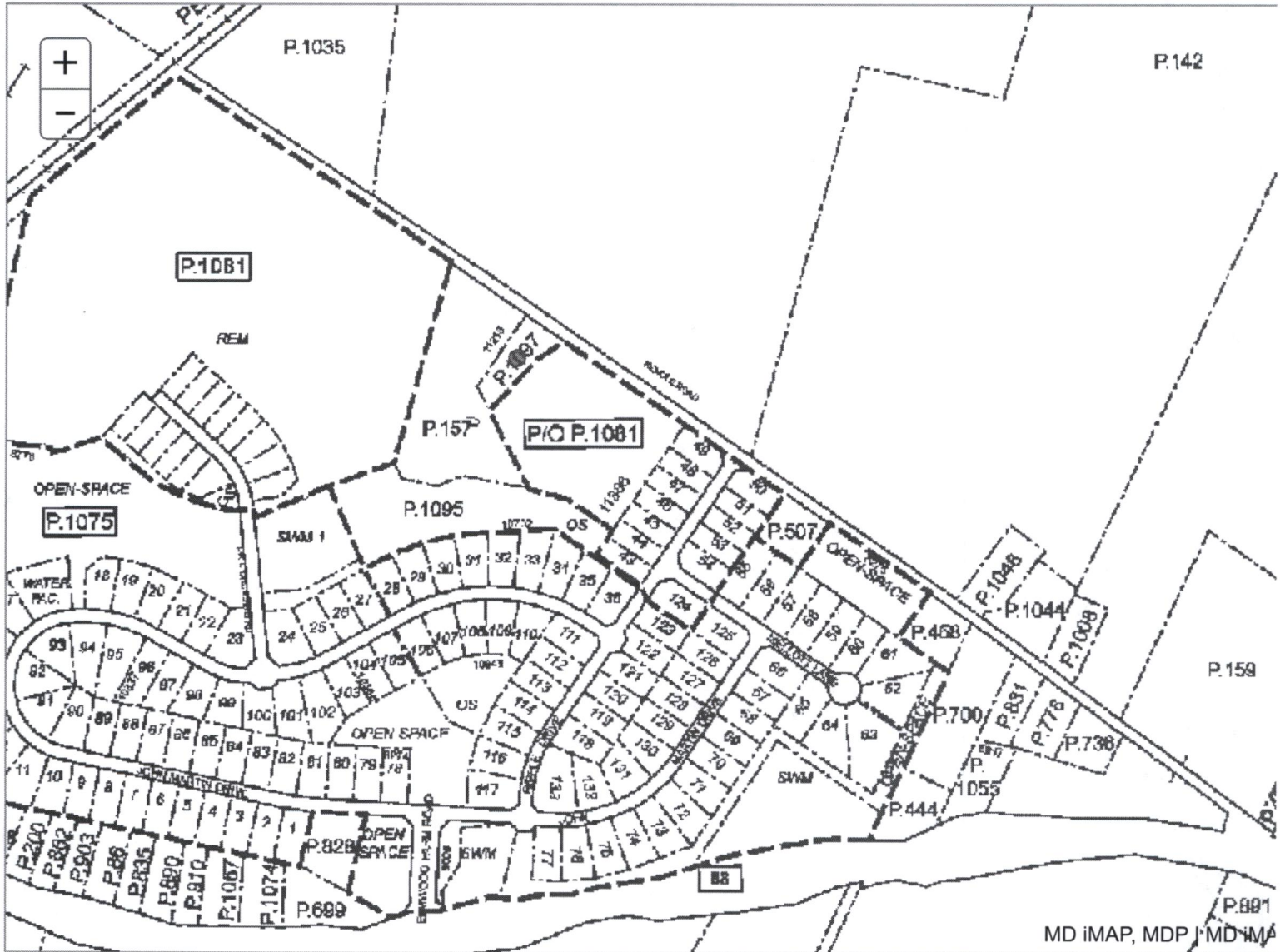


Show search results for KENDL...





District: **02** Account Number: **066660**

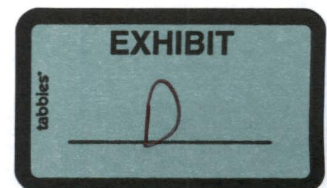


The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at [www.plats.net](http://www.plats.net) (<http://www.plats.net>).

Property maps provided courtesy of the Maryland Department of Planning.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at <http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx> (<http://planning.maryland.gov/Pages/OurProducts/OurProducts.aspx>).



Real Property Data Search ( )  
Search Result for WASHINGTON COUNTY

[View Map](#) [View GroundRent Redemption](#) [View GroundRent Registration](#)

Special Tax Recapture: AGRICULTURAL TRANSFER TAX

Account Number: District - 02 Account Identifier - 066660

**Owner Information**

Owner Name: WILKES TORY SELENA M Use: RESIDENTIAL  
Principal Residence:NO  
Mailing Address: 16311 KENDLE ROAD Deed Reference: /05143/ 00027  
WILLIAMSPORT MD 21795-0000

**Location & Structure Information**

Premises Address: 16413 KENDLE RD Legal Description: LOT A-1 .98 ACRES  
WILLIAMSPORT 21795-0000 16413 KENDLE ROAD

Map:Grid:Parcel:Neighborhood:Subdivision:Section:Block:Lot:Assessment Year:Plat No: 11215-11217  
0056 0021 1097 2010030.22 0000 A1 2024 Plat Ref:

Town: None

Primary Structure BuiltAbove Grade Living AreaFinished Basement AreaProperty Land AreaCounty Use  
0.9800 AC

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements  
/

**Value Information**

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2024	07/01/2024	07/01/2025
Land:	49,000	49,000		
Improvements	0	0		
Total:	49,000	49,000	49,000	49,000
Preferential Land:	0	0		

**Transfer Information**

Seller: TORY ANDREW &	Date: 01/11/2016	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /05143/ 00027	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

**Exemption Information**

Partial Exempt Assessments:Class	07/01/2024	07/01/2025
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00 0.00 0.00

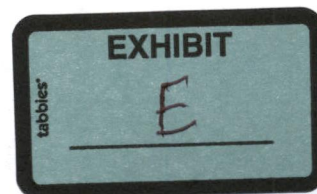
Special Tax Recapture: AGRICULTURAL TRANSFER TAX

**Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No Application Date:



5143 0027

CLERK OF THE CIRCUIT COURT  
WASHINGTON COUNTY

**D E E D**

THIS DEED, made on this 8<sup>th</sup> day of JANUARY, 2016, by ANDREW TORY and SELENA TORY, husband and wife, and hereinafter "GRANTORS" of Washington County, Maryland.

WITNESSETH; That in and for **NO TAXABLE MONETARY CONSIDERATION BUT FOR OTHER GOOD AND VALUABLE CONSIDERATION PURSUANT TO A MARITAL SEPARATION AND PROPERTY SETTLEMENT AGREEMENT** dated January 8, 2016, between ANDREW F. TORY and SELENA M. WILKES TORY, and in accordance with Section 12-108 (c) and (d) of the Tax-Property Article and Section 13-207(a)(3) of the Tax-Property Article of the Annotated Code of Maryland; We, the said Grantors, do hereby grant and convey unto SELENA M. WILKES (also known as Selena M. Wilkes Tory), hereinafter "GRANTEE" in fee simple, forever, in severalty, as the Grantee's separate property, all that lot or parcel of land, together with the improvements thereon and all the rights, ways, privileges and appurtenances thereunto belonging or in anywise appertaining, situate, lying and being in Washington County, Maryland, and being more particularly described as follows:

**Being all the lands shown on a Preliminary/Final Plat for Lot A, Elmwood Farms, recorded at Plat No. 8723 and containing 270,735 sq. ft. or 6.21 acres of land, more or less.**

**Being a Portion Only of the lands conveyed at Liber 3901, Folio 185.**

Said property is also known as 16311 Kendle Road, Williamsport, Maryland 21795.

Being the same property which was conveyed unto ANDREW TORY and SELENA TORY, his wife, by Deed from FELIX'S FOLLY, LLC, a Maryland Limited Liability Company, with its principal office in Frederick County, Maryland, by John Dallavalle, Managing Member, by Deed recorded in Liber 4133 folio 04388, among the Land Records of Washington County, Maryland.

The above-described property is conveyed subject to any and all rights of way, easements, restrictions, conditions, and reservations of record.

AND, We, the said Grantors, do hereby covenant that, subject to the aforementioned rights of way, easements, restrictions, streets, reservations and easements, we will warrant generally the property hereby conveyed and that we will execute such other and further assurances as may be requisite.



5143 0028

CLERK OF THE CIRCUIT COURT  
WASHINGTON COUNTY

WITNESS our Hands and Seals set forth below

WITNESS:

Terri A. Houbaker

Andrew Tory (SEAL)  
ANDREW TORY

Seena Tory

Seena Tory (SEAL)  
SELENA TORY

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this 8<sup>th</sup> day of January, 2016 before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared **ANDREW TORY**, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing Deed, and who acknowledged that he executed the same for the purposes therein contained, and that the consideration recited therein is true and correct.

WITNESS my Hand and Official Notarial Seal.

Terri A. Houbaker  
Notary Public

My Commission Expires: May 2, 2019

NOTARY PROVISION CONTINUED ON FOLLOWING PAGE

CLERK OF THE CIRCUIT COURT  
WASHINGTON COUNTY

## STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this 7<sup>th</sup> day of January, 2016  
before me, the subscriber, a Notary Public in and for the State and County aforesaid,  
personally appeared **SELENA TORY**, known to me or satisfactorily proven to be the  
person whose name is subscribed to the foregoing Deed, and who acknowledged that she  
executed the same for the purposes therein contained, and that the consideration recited  
therein is true and correct.

WITNESS my Hand and Official Notarial Seal.



My Commission Expires:

M. Lynn Williams  
Notary Public

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland. **No title examination was requested or performed by the undersigned.**

M. Lynn Williams  
M. Lynn Williams

## MAIL TO:

Selena M. Wilkes  
16311 Kendle Road  
Williamsport, Maryland 21795

5143 0030

CLERK OF THE CIRCUIT COURT  
WASHINGTON COUNTY

LR - Deed (No-Taxes)  
Recording Fee 20.00  
Grantor/Grantee Name:  
troy  
Reference/Control #:  
LR - Deed (No-Taxes)  
Surcharge 40.00  
=====  
SubTotal: 60.00  
=====  
Total: 60.00  
01/11/2016 04:03  
CC21-MAW  
#5426155 CC0403 -  
Washington  
County/CC04.03.01 -  
Register 01

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court**  
**Washington County, Maryland**  
Dennis J. Weaver, Clerk  
24 Summit Avenue  
Hagerstown, MD 21740  
301-790-7991

**For Clerks Use Only**

Improvement Fee	40.00
Recording Fee	20.00
County Transfer Tax	
Recordation Tax	
State Transfer Tax	
Non-Resident Tax	
<b>TOTAL</b>	<b>60.00</b>

State of Maryland Land Instrument Intake Sheet
Baltimore City County: WASGUBGTIB
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.
(Type or Print in Black Ink Only—All Copies Must Be Legible)

1 Type(s) of Instruments
2 Conveyance Type Check Box
3 Tax Exemptions (if applicable)
4 Consideration and Tax Calculations
5 Fees
6 Description of Property
7 Transferred From
8 Transferred To
9 Other Names to Be Indexed
10 Contact/Mail Information
11 Assessment Information

5143 0031

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

Space Reserved for Circuit Court Clerk Recording Validation

WASHINGTON COUNTY CLERK OF THE CIRCUIT COURT 5143 0031 DATE AVAILABLE 01/10/2010. LIMITED 03/10/2020.

Space Reserved for County Validation

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: AGRICULTURAL TRANSFER TAX

Account Number: District - 02 Account Identifier - 007681

### Owner Information

Owner Name: WILKES SELENA M Use: COMMERCIAL/RESIDENTIAL  
Principal Residence: YES  
Mailing Address: 16311 KENDLE ROAD Deed Reference: /07198/ 00189  
WILLIAMSPORT MD 21795-0000

### Location & Structure Information

Premises Address: 16311 KENDLE RD Legal Description: LOT A 5.30 ACRES  
WILLIAMSPORT 21795-0000 16311 KENDLE ROAD  
Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 11385-11391  
0056 0021 0157 30000.22 0000 A 2024 Plat Ref:  
Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
1886	4,016 SF		5.3000 AC	

Stories	Basement Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
2	YES	STANDARD UNIT BRICK/ 3	5 full/ 2 half	1 Detached	2014
		FRAME			

### Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2024	07/01/2024	07/01/2025
Land:	106,100	182,300		
Improvements	355,000	470,200		
Total:	461,100	652,500	524,900	588,700
Preferential Land:	0	0		

### Transfer Information

Seller: FELIXS FOLLY LLC	Date: 02/23/2023	Price: \$5,000
Type: ARMS LENGTH VACANT	Deed1: /07198/ 00189	Deed2:
Seller: TORY ANDREW &	Date: 01/11/2016	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /05143/ 00027	Deed2:
Seller: FELIXS FOLLY LLC	Date: 08/16/2011	Price: \$213,000
Type: ARMS LENGTH IMPROVED	Deed1: /04133/ 00438	Deed2:

### Exemption Information

Partial Exempt Assessments:	Class	07/01/2024	07/01/2025
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: AGRICULTURAL TRANSFER TAX

### Homestead Application Information

Homestead Application Status: No Application

### Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

Give Feedback



MAIL TO: Ms. Selena M. Wilkes  
16311 Kendle Rd.  
Williamsport, MD 21795

**THIS DEED**, Made this 9<sup>th</sup> day of January, 2023, by **FELIX'S FOLLY, LLC**, a Maryland Limited Liability Company, hereinafter referred to as "Grantor".

**WITNESSETH:** That for and in consideration of **FIVE THOUSAND (\$5,000.00) DOLLARS** the receipt of which is hereby acknowledged, the said Grantor does hereby grant unto **SELENA M. WILKES**, all that property known and designated as Parcel 'A', 2982 Sq. Feet to be added to T.M. 56/P157, prepared by Fox and Associates, Inc., entitled "Section 5A Final Plat Section 4 & 5A Elmwood Farm", recorded among the Land Records of Washington County, Maryland at Plat folio 11387.

**BEING** part of the property conveyed by Elmwood Realty, LLLP, a Maryland limited liability company to Felix's Folly, LLC a Maryland limited liability company, by Deed dated June 28, 2010, recorded among the Land Records of Washington County, Maryland at Liber 3901, folio 185.

The above described parcel of land is conveyed subject to and together with any and all covenants, conditions, easements, restrictions, reservations and rights of way of record applicable thereto, including but not limited to those set forth on the above referenced Section 5A Final Plat Section 4 & 5A Elmwood Farm, recorded among the Land Records of Washington County, Maryland at Plat folios 11385, 11386, 11387, 11388, 11389, 11390 and 11391.

The said, Grantor does hereby covenant that it will warrant specially the property hereby conveyed, and that it will execute such other and further assurances as may be requisite.

**WITNESS** the hand and seal of the Grantor herein.

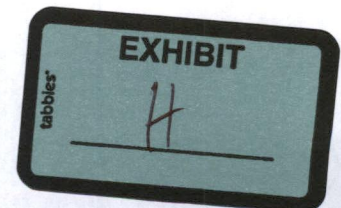
**WITNESS/ATTEST:**

**FELIX'S FOLLY, LLC**  
a Maryland limited liability company

BY: **Felix's Development Corporation**, a  
Maryland Corporation, its Co-Manager

*Donald J. [Signature]*

BY: *John F. Dallavalle* (SEAL)  
Name: John F. Dallavalle  
Its: President



000315

BY: Persimmon Tree Equities, Inc., a  
Maryland Corporation, its Co-Manager

Meagan Romero

BY: James E. Fitzgerald (SEAL)  
Name: James E. Fitzgerald  
Its: President

STATE OF MARYLAND, COUNTY OF Fredrick, To-wit

I hereby certify that on this 9<sup>th</sup> day of January, 2023, before me, the undersigned Notary Public, personally appeared John F. Dallavalle President, of Felix's Development Corporation, a Maryland Corporation, Co-Manager of Felix's Folly, LLC personally known to me (or satisfactory proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and also acknowledged that the consideration mentioned therein is true and correct.

My Commission Expires:

May 1, 2026

Claudia Alesson-Ritzky  
Notary Public

STATE OF MARYLAND, COUNTY OF Fredrick, To-wit

I hereby certify that on this 9<sup>th</sup> day of January, 2023, before me, the undersigned Notary Public, personally appeared James E. Fitzgerald, President, Persimmon Tree Equities, Inc., a Maryland Corporation, Co-Manager of Felix's Folly, LLC personally known to me (or satisfactory proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and also acknowledged that the consideration mentioned therein is true and correct.

My Commission Expires:

May 1, 2026

Claudia Alesson-Ritzky  
Notary Public

**I HEREBY CERTIFY**, That the above instrument was prepared by or under the supervision of an attorney admitted to practice law in the State of Maryland.

Michael H. Delauter  
\*\*\*\*  
Michael H. Delauter

MARYLAND  
FORM  
WH-AR

**Certification of Exemption from Withholding Upon  
Disposition of Maryland Real Estate Affidavit of  
Residence or Principal Residence**

**2023**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

**1. Transferor Information**

Name of Transferor Felix's Folly, LLC

**2. Description of Property** (Street address. If no address is available, include county, district, sub-district and lot numbers).

2982 Sq. Feet, Washington County, ED #2

**3. Reasons for Exemption**

**Resident Status**

☐

As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☒

Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

**Principal Residence**

☐

Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

**Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.**

**3a. Individual Transferors**

Witness

Name

\*\*Date

Signature

**3b. Entity Transferors**

Witness/Attest

Felix's Folly, LLC

Name of Entity

James E. Fitzgerald

Name

\*\*Date

President of Persimmon Tree Equities,

Title

\*\* Form must be dated to be valid.

**Note:** Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

**To the Clerk of the Court:** Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

MARYLAND  
FORM  
WH-AR

**Certification of Exemption from Withholding Upon  
Disposition of Maryland Real Estate Affidavit of  
Residence or Principal Residence**

**2023**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

**1. Transferor Information**

Name of Transferor Felix's Folly, LLC

**2. Description of Property** (Street address. If no address is available, include county, district, subdistrict and lot numbers).  
2982 Sq. Feet, Washington County, ED #2

**3. Reasons for Exemption**

**Resident Status**

☐

As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☒

Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

**Principal Residence**

☐

Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

**Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.**

**3a. Individual Transferors**

Witness

Name

\*\*Date

Signature

**3b. Entity Transferors**

Chandra H. Ritchey  
Witness/Attest

Felix's Folly, LLC

Name of Entity

John F. Dallavalle  
By

John F. Dallavalle

Name

\*\*Date

2/13/23

President of Felix's Development Corp

Title

\*\* Form must be dated to be valid.

**Note:** Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

**To the Clerk of the Court:** Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

LR - Deed (w Taxes)  
 Recording Fee - ALL 20.00  
 Name: Felix Folly LLC  
 Ref:  
 LR - County Transfer  
 Tax - linked 0.00  
 LR - Surcharge -  
 linked 40.00  
 LR - Recordation Tax -  
 linked 38.00  
 LR - State Transfer  
 Tax - linked 25.00  
 LR - NR Tax - 1kd 0.00  
 =====  
 SubTotal: 123.00  
 =====  
 Total: 173.00  
 02/23/2023 10:50  
 CC21-RD  
 #17009035 CC0403 -  
 Washington  
 County/CC04.03.01 -  
 Register 01

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court  
Washington County, Maryland**

Kevin R. Tucker, Clerk  
 24 Summit Avenue  
 Hagerstown, MD 21740  
 301-790-7991

**For Clerks Use Only**

Improvement Fee 40.00  
 Recording Fee 20.00  
 County Transfer Tax —  
 Recordation Tax 38.00  
 State Transfer Tax 25.00  
 Non-Resident Tax —  
**TOTAL**

Space Reserved for County Validation

Real Property Data Search ( )  
Search Result for WASHINGTON COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: None

Account Number: District - 02 Account Identifier - 066941

**Owner Information**

Owner Name: WILKES SELENA M Use: RESIDENTIAL  
Principal Residence:NO  
Mailing Address: 16311 KENDLE RD Deed Reference: /07612/ 00144  
WILLIAMSPORT MD 21795-

**Location & Structure Information**

Premises Address: RIPPLE DR Legal Description: 6.42 ACRES  
ELMWOOD FARM SECTION 4  
RIPPLE DRIVE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 11386-11391  
0056 0021 1081 2010081.22 0204 4 OS 2024 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use  
6.4200 AC

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements  
/

**Value Information**

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2024	07/01/2024	07/01/2025
Land:	127,100	127,100		
Improvements	0	0		
Total:	127,100	127,100	0	127,100
Preferential Land:	0	0		

**Transfer Information**

Seller: FELIXS FOLLY LLC	Date: 01/23/2025	Price: \$100,000
Type: NON-ARMS LENGTH OTHER	Deed1: /07612/ 00144	Deed2:
Seller: ELMWOOD HOA INC	Date: 01/05/2023	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /07173/ 00163	Deed2:
Seller: FELIXS FOLLY LLC	Date: 01/24/2022	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /06906/ 00007	Deed2:

**Exemption Information**

Partial Exempt Assessments: Class	07/01/2024	07/01/2025
County:	000	0.00
State:	000	0.00
Municipal:	000	0.00 0.00 0.00 0.00

Special Tax Recapture: None

**Homestead Application Information**

Homestead Application Status: No Application

**Homeowners' Tax Credit Application Information**

Homeowners' Tax Credit Application Status: No ApplicationDate:



Give Feedback

**DEED**

**THIS DEED** is made this 22<sup>nd</sup> day of January, 2025, by **FELIX'S FOLLY, LLC**, a Maryland limited liability company ("Grantor") unto **SELENA M. WILKES** ("Grantee").

**WITNESSETH:** That in consideration of the sum of One Hundred Thousand and No/100 DOLLARS (\$100,000.00), Felix's Folly, LLC, a Maryland limited liability company, does hereby grant and convey to Selena M. Wilkes, her personal representatives, heirs and assigns, in fee simple, the following described property, situate, lying and being in Washington County, State of Maryland:

BEING that area designated as "OPEN SPACE 279,675 Sq. Feet 6.42 Acres" as shown and designated on the plats entitled, "FINAL PLAT SECTION 4 & 5A ELMWOOD FARM", recorded among the Land Records of Washington County, Maryland ("Land Records") in Plat Nos. 11385-11391.

BEING a part of the same property which by Deed dated December 22, 2022, and recorded among the Land Records of Washington County, Maryland in Liber 7173, folio 163, was granted and conveyed by E-Wood HOA, Inc., a Maryland non stock corporation, unto the Grantor.

TOGETHER with all buildings and other improvements thereupon, if any, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described parcel of ground and premises to the Grantee and her personal representatives, heirs and assigns, in fee simple.

AND the Grantor hereby covenants that it will warrant specially the property hereby granted, and that it will execute such further assurances as may be requisite.

WITNESS the name and seal of the undersigned Grantor, by the President of its Authorized Member/Manager, on the day and year first above written.

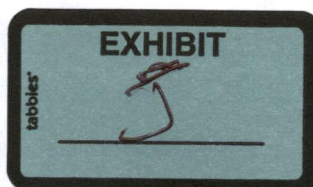
WITNESS:

FELIX'S FOLLY, LLC, a Maryland limited liability Company

BY: Felix's Development Corporation, a Maryland Corporation, Its Authorized Member/Manager

Kearne M. Riley

By: John F. Dallavalle president  
John F. Dallavalle, President



STATE OF MARYLAND, COUNTY OF Washington, TO WIT:

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of January, 2025, before me, a Notary Public of the State aforesaid, personally appeared John F. Dallavalle, personally known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and he did acknowledge that he is the President of Felix's Development Corporation, a Maryland corporation, which is an Authorized Member and Manager of Felix's Folly, LLC, a Maryland liability company, and made oath in due form of law that he, being authorized to do so, executed the same in such capacity on behalf of said limited liability company, and that he is authorized to make such acknowledgement, and he further certified that this conveyance is not part of a transaction in which there is a sale, lease, exchange or other transfer of all or substantially all of the property and assets of the said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last abovementioned.

Seamus M. Riley  
NOTARY PUBLIC

My Commission Expires:

10/15/2025

This instrument has been prepared under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Michael H. Delauter  
Michael H. Delauter, Attorney

Return to:  
Selena Wilkes  
16311 Kendal RD.  
Williamspat, MD 21795

Robert M. Breeding, Treasurer  
Taxes Paid 1-23-25 CB

LR - Deed (w Taxes)  
 Recording Fee - ALL 20.00  
 Name: Felix's Folly  
 Ref:  
 LR - County Transfer  
 Tax - linked 250.00  
 LR - Surcharge - linked 40.00  
 LR - Recordation Tax - linked 760.00  
 LR - State Transfer Tax - linked 500.00  
 LR - NR Tax - lkd 0.00  
 SubTotal: 1,570.00  
 Total: 1,670.00  
 01/23/2025 10:26  
 CC21-RZ  
 #18661421 CC0403 -  
 Washington  
 County/CC04.03.03 -  
 Register 03

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court  
Washington County, Maryland**

Kevin R. Tucker, Clerk  
 24 Summit Avenue  
 Hagerstown, MD 21740  
 301-790-7991

**For Clerks Use Only**

Improvement Fee 40.00  
 Recording Fee 20.00  
 County Transfer Tax 250.00  
 Recordation Tax 760.00  
 State Transfer Tax 500.00  
 Non-Resident Tax  
 TOTAL 1570.00

## State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Washington  
 Information provided is for the use of the Clerk's Office, State Department of  
 Assessments and Taxation, and County Finance Office Only.  
 (Type or Print in Black Ink Only—All Copies Must Be Legible)

<b>1 Type(s) of Instruments</b>		( ) Check Box if addendum Intake Form is Attached.)					
<input checked="" type="checkbox"/> Deed		<input type="checkbox"/> Mortgage		<input type="checkbox"/> Other		<input type="checkbox"/> Other	
<b>2 Conveyance Type Check Box</b>		<input type="checkbox"/> Improved Sale Arms-Length [1]		<input type="checkbox"/> Unimproved Sale Arms-Length [2]		<input type="checkbox"/> Multiple Accounts Arms-Length [3]	
<b>3 Tax Exemptions (if applicable)</b>		<input type="checkbox"/> Recordation		<input type="checkbox"/> State Transfer		<input type="checkbox"/> County Transfer	
Cite or Explain Authority							
<b>4 Consideration and Tax Calculations</b>		<b>Consideration Amount</b> Purchase Price/Consideration \$ 100,000.00 Any New Mortgage \$ Balance of Existing Mortgage \$ Other: \$ Other: \$ Full Cash Value: \$				<b>Finance Office Use Only</b> <b>Transfer and Recordation Tax Consideration</b> Transfer Tax Consideration \$ X ( ) % = \$ Less Exemption Amount - \$ Total Transfer Tax = \$ Recordation Tax Consideration \$ X ( ) per \$500 = \$ TOTAL DUE \$	
<b>5 Fees</b>		<b>Amount of Fees</b> Recording Charge \$ 20.00 Surcharge \$ 40.00 State Recordation Tax \$ 760.00 State Transfer Tax \$ 500.00 County Transfer Tax \$ 200.00 Other \$ Other \$		<b>Doc. 1</b> \$ \$ \$ \$ \$ \$		<b>Doc. 2</b> \$ \$ \$ \$ \$ \$	
<b>6 Description of Property</b>		District 02 Property Tax ID No. (1) 066941 Grantor Liber/Folio 7173/163 Map 0056 Parcel No. 1081 Var. L.O.G. (5) Subdivision Name Lot (3a) Block (3b) Sect/AR (3c) Plat Ref. 11386-11391 SqFu/Acreage (4) 6.42 Acres Location/Address of Property Being Conveyed (2) Ripple Dr., Williamsport, MD Other Property Identifiers (if applicable) Water Meter Account No. Residential or Non-Residential <input checked="" type="checkbox"/> Fee Simple or Ground Rent Amount: Partial Conveyance? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Description/Amt. of SqFu/Acreage Transferred: If Partial Conveyance, List Improvements Conveyed:					
<b>7 Transferred From</b>		Doc. 1 – Grantor(s) Name(s) Felix's Folly, LLC Doc. 1 – Owner(s) of Record, if Different from Grantor(s)		Doc. 2 – Grantor(s) Name(s) Doc. 2 – Owner(s) of Record, if Different from Grantor(s)			
<b>8 Transferred To</b>		Doc. 1 – Grantee(s) Name(s) Selena M. Wilkes New Owner's (Grantee) Mailing Address 16311 Kendle Rd., Williamsport, MD 21795		Doc. 2 – Grantee(s) Name(s)			
<b>9 Other Names to Be Indexed</b>		Doc. 1 – Additional Names to be Indexed (Optional)		Doc. 2 – Additional Names to be Indexed (Optional)			
<b>10 Contact/Mail Information</b>		Instrument Submitted By or Contact Person Name: Firm Kuczynski & Kuczynski, P.A. Address: 22 W. Salisbury St. Williamsport, MD 21795 Phone: (301) 791-9120				<input type="checkbox"/> Return to Contact Person <input type="checkbox"/> Hold for Pickup <input type="checkbox"/> Return Address Provided	
<b>11 Assessment Information</b>		<b>IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER</b> Yes <input checked="" type="checkbox"/> No Will the property being conveyed be the grantee's principal residence? Yes <input checked="" type="checkbox"/> No Does transfer include personal property? If yes, identify: Yes <input checked="" type="checkbox"/> No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).					
<b>Assessment Use Only – Do Not Write Below This Line</b>		Terminal Verification Agricultural Verification Whole Part Tran. Process Verification Transfer Number Date Received: Deed Reference: Assigned Property No.: Year 20 20 Geo. Map Sub Block Land Zoning Grid Plat Lot Buildings Use Parcel Section Occ. Cd. Total Town Cd. Ex. St. Ex. Cd.					
<b>REMARKS:</b>							

Space Reserved for County Validation

Space Reserved for Circuit Court Clerk Recording Validation

**BEFORE THE BOARD OF APPEALS  
FOR WASHINGTON COUNTY, MARYLAND**

**SELENA WILKES**

**Appeal No. AP2019-025**

**Applicant**

**OPINION**

Selena Wilkes (hereinafter "Applicant") apply for a special exception to establish an alcohol production facility at the subject property. The subject property is located at 16311 Kendle Road, Williamsport, Maryland; is owned by the Applicant; and is zoned Residential, Suburban (RS). The Board held a public hearing on the matter on December 11, 2019.

**Findings of Fact**

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Applicant is the owner of the subject property located at 16311 Kendle Road, Williamsport, Maryland. The subject property is zoned Residential Suburban, RS.
2. The property was the subject of a prior special exception request in Case No. AP2018-006. The Board granted Applicant's request for a special exception to establish a banquet and reception facility at the property, as well as requests for dimensional and parking surface variances. The Board also imposed conditions for hours of operation, capacity and usage, all of which were included in the final site plan approval for the property.



3. Since obtaining the prior special exception approval, Applicant has held thirty-nine (39) events, all of which have been conducted within the conditions imposed and without incident.

4. Applicant is seeking to establish a production operation for alcohol, which would include a craft distillery, small bottling facility and a tasting room.

5. Applicant has an existing two-level barn where the tasting room and retail floor space would exist for the use. The barn already has bathrooms for its use as event and banquet space.

6. Applicant has an existing milking barn that needs repair but would be converted into the manufacturing and bottling space for the use.

7. The property currently has parking capacity for 220 people.

8. Applicant expects approximately 25 to 50 customers for the tasting room space, but parking can accommodate both uses at the same time.

9. Applicant's proposes to be open on Wednesdays and Thursdays from 4:00 p.m. to 8:00 p.m., Fridays and Saturdays from 12:00 p.m. to 10:00 p.m. and Sundays from 12:00 p.m. to 6:00 p.m.

10. Applicant anticipates having a total of 10 to 20 employees.

11. There was no opposition presented at the hearing, although planning staff received correspondence both in support and expressing concerns for the project.

#### **Rationale**

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as "a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible

with the existing neighborhood." Article 28A. In the instant case, the Board is called upon to consider a special exception request to establish an alcohol production facility at an already existing banquet and event facility.

The testimony before the Board indicated that the proposed use and the existing use are a natural fit to be commingled at the property. The property already has the ability to host events and serve guests, and more capacity than necessary. Implementing a tasting room and locally produced alcohol only enhances the draw for tourism, bookings and events. Aside from the customers visiting for tours or the tasting room during the week, there will be very little observable change to the property. The proposed use will further utilize the existing barn and give purpose to the decaying milking barn at the property. The production process and related retail uses will not produce any odors, gas, noise, light or other adverse effects that would impact the surrounding area. The proposed use is great for economic development and tourism enhancement in Washington County. The Board finds there are no adverse impacts of this use on the surrounding area and that it is consistent with, if not a continuation of the spirit and vision of the Zoning Ordinance.

Accordingly, the request for a special exception to establish an alcohol production facility at the subject property is hereby GRANTED, by a vote of 3-1. The application is granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

BOARD OF APPEALS

By: Michael Zampelli, Co-Chair

Date Issued: January 3, 2020

**BEFORE THE BOARD OF APPEALS  
FOR WASHINGTON COUNTY, MARYLAND**

**Selena M. Wilkes**  
**Applicant**

**Appeal No. AP2018-006**

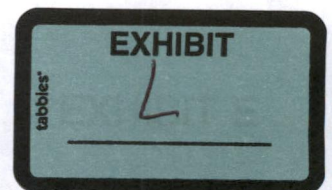
**OPINION**

This appeal is a request for a special exception to establish a banquet/reception facility, and for variances from the minimum 100' right side yard setback to 88', from the requirement to provide a durable, dustless surface for parking, and from the required 233 parking spaces to 110 spaces for said banquet/reception facility. The subject property is located at 16311 Kendle Road, Williamsport, Maryland; is owned by the Applicant; and is zoned Residential Suburban. The Board held a public hearing on the matter on February 21, 2018.

**Findings of Fact**

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. The Applicant seeks a special exception, with associated variance relief, to establish a banquet/reception facility on the subject property.
2. The property is an irregularly shaped parcel that is 6.35 acres in area.
3. The property was long used as a farm.
4. A portion of the farm was sold and has been and is being developed into the Elmwood Farm community.
5. The subject parcel was the original farmstead and is improved with a farmhouse dwelling and a barn.
6. The farmhouse is the Applicant's residence and is being used as the Elmwood Farm bed and breakfast facility.
7. The barn, and its patio (the former barnyard area), is proposed to be the



banquet/reception facility site.

8. The bank barn is 3,140 ft.<sup>2</sup> in area.
9. Receptions, banquets, and other events are proposed to be held in the barn.
10. Event capacity is 220 attendees.
11. Offsite caterers will provide food; no food for events will be prepared onsite.
12. The Applicant or her sister is present at each event and provides oversight.
13. Events typically occur on weekends, with there being approximately one event per weekend for four to five months of the year.
14. Many of these events are weddings, and wedding season is in the Spring and Fall.
15. Events must end, contractually, by 10:30 P.M.
16. Bands are always located in the back of the barn to minimize sound dispersion to surrounding properties.
17. Speakers serving the patio area are always directed towards the barn to minimize sound dispersion to surrounding properties.
18. Live Sound Co, LLC, and Jeremiah Leiter, a sound and audio professional, performed an acoustic analysis of the property. The test simulated a "typical outdoor event with amplified music" and took measurements of ambient noise at seven different locations in the neighborhood.
19. The study concluded that "amplified music generated at a constant level of 91.4 dBa, from the determined outdoor source location [where the speakers are normally placed during an event], cannot be measured above the ambient noise level outside of Elmwood's property at Point 5 [Ripple Drive], 6 [John Martin Drive near the entrance], and 7 [John Martin Drive, at the end closest to Elmwood Farm]."
20. Live Sound Co determined that the spillover of noise, if any, from Elmwood was no greater at the identified measured locations than was the ambient noise at those locations.
21. Leiter recommended that "Elmwood Farm purchases an SPL meter to ensure that

the level at the farm does not exceed a peak of 103 dBa at a distance of 6ft from the source." [sic]

22. Kendle Road has sufficient capacity, and is of adequate condition, to handle traffic frequenting the facility.

23. The use does not create excess dust or other environmental detriments.

24. Given the facility's capacity, the need for parking does not exceed 110 spaces.

25. Handicapped parking spaces will be paved.

26. Approximately one-half of the proposed parking spaces are on gravel or on a concrete pad; the remainder will be on a grassy area.

27. Neighboring property owners—including the Applicant's closest neighbor--cannot hear noise from events when they are inside their dwellings.

28. There is a demand for this type of facility in the area and it promotes economic development.

29. The banquet/reception use is an appropriate adaptive reuse of the agricultural property.

30. Most neighboring property owners do not identify traffic or noise as issues negative generated by this use.

31. This use is needed, promotes tourism and generates tax revenue, and is an asset to the community.

32. The Applicant is responsive to the concerns raised by residents in the neighborhood.

33. Greg Baisey, testifying in opposition to the appeal, noted that he was the first to buy in the Elmwood Farm development. He lives 400 yards from the subject property.

34. He expressed concerns about diminished property values, the incompatibility of the proposed use with surrounding residential properties, and the noise emanating from the facility.

35. He testified that the banquet/reception use was inappropriate to, and incompatible

with, the surrounding residential neighborhood.

36. Notwithstanding Mr. Baisey's assertions, the testimony and evidence clearly showed that the proposed use is compatible with the existing neighborhood given the lack of adverse effects affecting neighboring properties.

37. In particular, there was no probative evidence to show that the use generated inordinate adverse effects including noise, traffic, odors, lighting, or other adverse effects.

38. The Comprehensive Plan does not address banquet/reception facilities specifically, but it does encourage compatibility amongst uses and promotes business development within the Urban Growth Area, in which this parcel is located.

39. As we have found that the use is compatible with the existing neighborhood, we also find that the use conforms to the Plan.

### **Rationale**

#### ***The Special Exception***

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as "a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood." Article 28A.

The proposed use is a permitted special exception use in this zone, and the testimony clearly established that the banquet/reception use is a favored adaptive reuse of the farmstead enjoying broad community support. We acknowledge that this commercial use is found amongst a residential neighborhood and that some object to its presence, citing concerns about noise and property values. No probative evidence was presented that the use negatively affected property values, and the weight of the evidence clearly showed that the use did not negatively affect surrounding homeowners' use of their properties.

The property is of adequate size to accommodate the use and buffer it from surrounding residences, tempering the adverse effects inherent to a banquet/reception facility, including noise, odors, or lighting. Moreover, the evidence established that, so long as speakers were properly directed and controlled, the noise generated by the use cannot be measured above the ambient noise level found in the neighborhood at the measured points. This is important, as it does much to reduce the discord amongst differing uses that might otherwise be expected from such a facility.

Furthermore, the evidence established that the use was not generative of traffic problems on Kendle Road or unusual amounts of spillover lighting. Most neighbors testified that the use did not disturb their quiet enjoyment of their homes or otherwise negatively impact their lifestyle. Instead, they spoke of the value that the use provided to the neighborhood and their support for its continued presence, and urged that we grant the special exception. The evidence showed that the use conforms to the Plan and is compatible with the existing neighborhood. It further showed that the establishment of this special exception use at this site will have no greater "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Schultz v. Pritts*, 291 Md. 1, 15 (1981). Therefore, the special exception is GRANTED WITH CONDITIONS as set forth below by a vote of 4-0.

#### *Conditions upon Special Exception Use*

1. Patrons shall not exceed 220 persons at any event.
2. Events must end no later than 10:30 P.M.
3. Speakers must face towards the barn and not exceed a measured peak volume of 103 dBa at a distance of six feet from the source.

#### *The Variances*

This Board has authority to grant variances upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56. <sup>1</sup> "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

This property is unique due to its size and shape. Surrounding parcels are more regularly shaped and are generally of smaller size, and improved with dwellings. This parcel is irregularly shaped and is 6.35 acres in area. Its lot lines are not parallel or at right angles, but rather form an irregular polygon. Furthermore, the historic nature of the

---

<sup>1</sup> "When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

farmstead, which far predates adoption of zoning principles, is unusual in the neighborhood. Therefore, we consider the property eligible for variance relief.

The Applicant seeks variance relief from the mandated property line, from the requirement to provide a stable, dustless parking area, and from the proscribed number of parking spaces. The property line encroachment is caused by the interplay between the ride side property line and the historic location of the barn. Because the barn is not parallel with the right side yard property line, an encroachment is created. For these same reasons, a lesser variance is not feasible. There was no showing that the encroachment was offensive to any neighboring property owner, or that strict compliance would confer any additional benefit to a neighboring property owner.

The Ordinance requires a durable, dustless parking area for this use. The Applicant asks that the property be allowed to remain in its current condition, noting that handicapped spaces will be paved. Preservation of the property in its current condition maintains the rural character of the farmstead and is far more aesthetically pleasing than would be an impervious surface. A lesser relaxation is impracticable for this reason. The appropriateness of variance relief is further advanced by the fact that events are seasonal and generally occur only once per weekend. Thus, the natural surface will have time to recover from use, negating the risk that use will create a denuded area. Furthermore, the capacity limitation of the facility, and past usage, have shown that 110 spaces are adequate to serve the use. The number required by the Ordinance is derived from inclusion of the barnyard area, rather than the barn, which is the limiting factor of the site. For all the foregoing reasons, we conclude that the grant of the requested variance relief observes the spirit of the Ordinance and secures the public safety and welfare.

Accordingly, these requests for variances are hereby GRANTED by a vote of 4-0.

BOARD OF APPEALS

By: Neal R. Glessner, Chair

Date Issued: March 23, 2018



## BOARD OF ZONING APPEALS

### Annual Report Worksheet Year 2024

The Board shall approve an Annual Report for the Reporting Year 2024 as required under Board of Appeals of Washington County Amended Rules of Procedure Meetings (2) a. In addition, this Annual Report shall be provided to the Washington County Commissioners.

**Section I-** Appeals for the Calendar Year of 2024.

**Section II-** Ordinance Sections Appealed.

**Section III-** Appeals Granted, Granted with Conditions, or Denied.

**Section IV-** Continuances, Postponements, Withdrawals, and Voids.

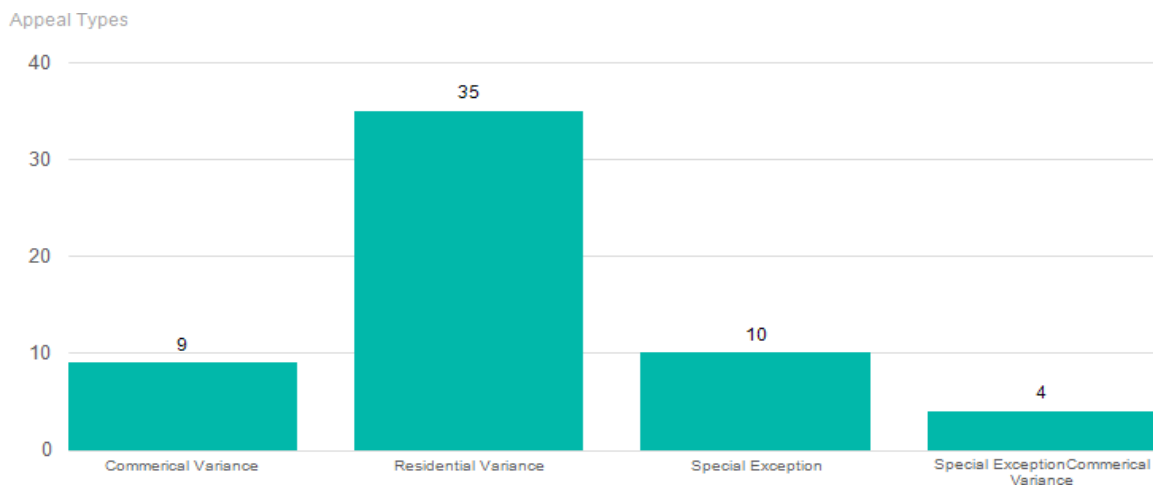
**Section V-** Appeals Filed to Circuit Court.

**Section VI-** Additional Items Completed by the Board.

---

#### Section I: Appeals for Calendar Year 2024

Total of 58 appeals were filed for 2024. Within each appeal there could be multiple request types i.e.: special exception with a variance(s).



747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | Hearing Impaired: 7-1-1

WWW.WASHCO-MD.NET

## Section II: Ordinance Sections Appealed

Ordinance Section	# of Appeals Filed
5A.5 & 5A.6 Residential Lot Size and Bulk Dimensions	11
7A.5 & 7A.6 Residential Lot Size and Bulk Dimensions	7
5C.5 & 5C.6 Residential Lot Size and Bulk Dimensions	6
22.12 (b) Parking	6
8.2 (e), 19.3 & 14.2 Special Exception Uses	6
22.94 (a) Animal Husbandry Setback Requirements	6
8.5 (a) & 8.5 (b) Residential Lot Size and Bulk Dimensions	5
3.3(1) Land Use Table Special Exception	4
Other Sections of the Ordinance where only one appeal was filed for Section	8

## Section III: Appeals Granted, Granted with Conditions, or Denied

(A) 44 Appeals were Granted by the Board with No Conditions.

(B) 11 Appeals were Denied by the Board.

Appeal	Appeal Type	Request
AP2024-011	Residential Variance	Variance from the lot area of 5,000 sq. ft. to 3,750 sq. ft. and lot width from 35 ft. to 25 ft. for proposed subdivision of residential lot into two lots for future semi-detached dwellings.
AP2024-018	Residential Variance	Variance from the required 15 ft. setback to 8 ft. for the side and rear yard for the proposed detached garage.
AP2024-019	Commercial Variance	Variance from the 75 ft. maximum height to 150 ft. for proposed high-bay cold storage warehouse.
AP2024-020	Special Exception	Special exception to establish a full service physicians' office in a new commercial building.
AP2024-025	Commercial Variance	Variance from the required 50 ft. side yard setback from a property zoned for or occupied by a Residential Land Use to 0 ft. from the North property line and 40 ft. from the East property line for lean to/gazabo to be used as bandshell/stage.
AP2024-032	Special Exception	Request to modify specific condition of a previously approved special exception AP2022-029.
AP2024-038	Residential Variance	Variance from required 100 ft. setback requirement for animal husbandry structures to 10 ft. from the rear property line, 17 ft. from the side property line, 87 ft. from side property line and 99 ft. from the front property line for the existing structures (chicken coop).
AP2024-041	Residential Variance	Variance from the 100 ft. setback requirement for animal husbandry structures to 6 ft. from the rear property line, 0 ft. from the left-side property line, and 44 ft. from the right-side property line for existing structures.
AP2024-048	Residential Variance	Variance from the required 15 ft. setback to 3 ft. from the rear property line for carport structure.

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | Hearing Impaired: 7-1-1

## Continuation

Appeal	Appeal Type	Request
AP2024-053	Special Exception	Special exception for a contractor's equipment and storage yard on undeveloped property.
AP2024-054	Residential Variance	Variance from the required 100 ft. setback for an animal husbandry structure to be 85 ft. from the right property line and 78 ft. from the left property line

## (C) 2 Appeals Granted with Conditions

Appeal	Appeal	Condition
AP2024-027	Variance for lot size requirements for two dwellings for future subdivision.	1. Proposed Lot 2 shall incorporate the private utility are shown as an easement of the Subdivision Concept Plan dated May 5, 2024 and prepared by Frederick, Seibert & Associates. 2. A general condition that the use is consistent with the testimony and evidence presented.
AP2024-052	Special exception for environmental conservation education and banquet/reception facility use.	1. Events are only to occur during the months of April-October with only one event a weekend. 2. Total occupancy to be 99 people including staff for the site. 3. No new buildings are to be constructed for this use, only the existing buildings are to be used for events. 4. Event music is to end by 9:30 p.m., and all activities to end by 10 p.m.

## (D) 8 Mixed Vote by the Board

Appeal	Vote Count	Appeal Summary
AP2024-009	4-1	Granted-Variance from the required 15 ft. setback to 5 ft. from the rear yard and 5 ft. from the right side yard for proposed detached storage building.
AP2024-011	4-1	Denied-Variance from the lot area of 5,000 sq. ft. to 3,750 sq. ft. for proposed subdivision of residential lot into two lots for future semi-detached dwellings.
AP2024-018	4-1	Denied-Variance from the required 15 ft. setback to 8 ft. for the side and rear yard for the proposed detached garage.
AP2024-019	4-1	Denied-Variance from the 75 ft. maximum height to 150 ft. for proposed high-bay cold storage warehouse was denied.
AP2024-020	3-2	Denied-Special exception to establish a full-service physicians' office in a new commercial building.
AP2024-025	3-1	Denied-Variance for bandshell to be 0 ft. from property line.
AP2024-027	3-1	Granted-Variance from the lot size requirements and setbacks for two single family dwellings in the Residential Suburban District on the same parcel for future subdivision.
AP2024-052	4-1	Granted-Special exception for banquet/reception facility use

#### Section IV: Continuances, Postponements, Withdrawals, Reconsideration, and Voids

(A) No Appeals Continued to Second Hearing

(B) No Appeals Postponed

(C) Appeal Withdrawn

Appeal	Who Made Request	Appeal Type
AP2024-021	Appellant	Variance from the required 12 ft. side yard setback to 8 ft. for proposed inground pool.

(D) No Appeals Were Filed For Reconsideration

(E) No Appeals Were Voided

#### Section V: Appeals Filed to Circuit Court

Appeal	Appeal Summary	Whom Filed to the Court	Status
AP2022-021	Appeal from the Planning Commission's determination of the proposed change to the Black Rock PUD as bring constituted as a minor change.	Appellant	Remanded back to the Board of Appeals to send to the Planning Commission
AP2023-029	Special exception to establish a general retail/merchandise store	Appellant	Pending in Appellante Court
AP2024-020	Special Exception for Physicians' Office	Appellant	Pending in Circuit Court
AP2024-038	Residential Variance for Animal Husbandry Setback	Appellant	Pending in Circuit Court

#### Section VI: Additional Items Completed by the Board

Workshops held for discussions on variance and special exception elements

Members completed the Open Meetings Act Training

Board appointed two new members and two alternates

2023 Annual Report

All Opinions Received in a Timely Manner

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | Hearing Impaired: 7-1-1

WWW.WASHCO-MD.NET

