

REVISED



City of Havre de Grace

711 PENNINGTON AVENUE, HAVRE DE GRACE, MARYLAND 21078
WWW.HAVREDEGRACEMD.COM

410-939-1800

BOARD of APPEALS AGENDA

City Hall Council Chambers

March 7th, 2024

6:30 PM

1. Call to Order
2. Roll Call
3. Old Business
4. New Business

- a. To hear a request by the Board of Appeal for voting on Chairperson and Vice Chairperson for the 2024 calendar year.

- b. **BoA No.** 543
 - Location:** 1305 Currier Street
 - Owner:** Stephen Gamatoria Jr.
 - Applicant:** Stephen J. Gamatoria
 - Permit No:** 2024-0323
 - Parcel No:** 2002 (1.52+/- acres)
 - Zoning:** R1/Residential

Description:

2024-0323 – Stephen J. Gamatoria – 1305 Currier Street. To hear a request by the Applicant of 1305 Currier Street for two conditional use request and one variance request within the [R1/Residential](#) zoning district to allow for an Accessory Dwelling Unit (ADU) on Lot Specification Type ‘D’ as shown on Table-I in the zoning code. The proposed use as an ADU is a conditional use under [§205-18\(B\)](#) and Lot Specification Type ‘D’ is also a conditional use. The applicant will also be seeking a variance per [§205-9\(H\)\(4\)](#) for ADU square feet requirements. The applicant will need to show the request meets the findings under [§205-9\(H\)](#), [§25-17\(B\)](#) and [§25-17\(C\)](#)

- c. Any comments from the general public regarding 1305 Currier Street (3 minutes per speaker)

5. Adjournment

The public is invited to attend and observe the meeting. The meeting may be viewed live by visiting the City of Havre de Grace website at www.havredegracemd.com and click on the City YouTube Videos tab. The video will be available to view immediately following the meeting.

Revised Agenda Description on 03.05.2024



City of Havre de Grace

711 PENNINGTON AVENUE, HAVRE DE GRACE, MARYLAND 21078
WWW.HAVREDEGRACEMD.COM

410- 939-1800

March 5, 2024

DEPARTMENT OF PLANNING STAFF REPORT

BOARD OF APPEALS **Case No. 543**

PERMIT NO. **2024-0323**

PROJECT: Conditional Use & Variance – Accessory Dwelling Unit (ADU)

OWNER: Stephen Gamatoria Jr.
1305 Currier Street
Havre de Grace, Maryland 21078

APPLICANT: Stephen J. Gamatoria
719 South Union Avenue
Havre de Grace, Maryland 21078

LOCATION: 1305 Currier Street
Tax Map: 0603 / Parcel: 2002/ Lot: N/A

AREA: 1.51 acres total (66,211 square feet)

ZONING: R1/Residential

DATE FILED: February 15th, 2024

HEARING DATE: March 7, 2024 – Board of Appeals

APPLICANT'S REQUEST:

The Applicant is requesting a variance from the specific provisions of the zoning ordinance §205-9(H)(4) for constructing 3,300 square feet attached Accessory Dwelling Unit (ADU) with 1,650 square feet that's above grade/visible and considered. The applicant is also seeking a conditional use Lot Specification Type change from 'B' to 'D' in the R1/Residential zoning district per chapter 205 attachment 1-Table I, which would allow for the rear yard setback to be 25 feet. Furthermore, an ADU is a conditional use within the R1 zoning district that requires review and approval by the Board of Appeals.

LAND USE - EXISTING:

The subject property is about 1.5 acres in area with an approximately 2,101 square foot existing single-family detached residential dwelling within the Havre de Grace Heights subdivision. The subject property is bounded to the north by single family detached residential dwellings along Bayview Drive. Bounded on the southwest of the subject property by a residential neighborhood along Currier Street and Tydings

Road. Bounded to the southeast by more residential single-family detached dwellings also located in Havre de Grace Heights subdivision. The existing land use is consistent with what currently exists along Currier Street and Tydings Road. However, this specific parcel is a corner lot and is uniquely larger than the surrounding lots which are typically 75 feet wide by 200 feet long or some combination thereof per Lot Specification Type 'B'. Attached to this report is a 2023 aerial photograph and February 21st photographs of the subject property. (Attachments 1 and 2, respectively)

ZONING:

The subject property is zoned [R1/Residential](#) as shown on the attached copy of the 2024 Zoning Map. (Attachment 3) The zoning surrounding the property is all in the R1 zoning district. The adjacent lots are typically 15,000 square feet in total lot area in accordance with Lot Specification Type 'B' with a few larger atypical lots. Lot Specification Type 'D' is allowed in the R1 zoning as a conditional use with Board of Appeal approval.

PROPOSED USE:

The Applicant is proposing to install 1,650 square feet of above living space as an attached ADU (Attachment 4) on an existing 2,101 square feet single-family detached dwelling for a total lot coverage of 5,431 square feet (which includes the 30 feet x 56 feet proposed detached garage) and makes up approximately eight percent of the total lot coverage. Lot Specification Type 'D' is a permitted conditional use with Board of Appeal review and approval in the R1 zoning district which consist of a maximum lot coverage for of 50 percent with a 25 feet rear yard setback. These conditional use lot requirements are within scale and proportion for the proposed attached ADU.

The Applicant is also requesting a variance for exceeding the 1,200 square feet floor area permitted by City code [§205-9\(H\)\(4\)](#). The proposed ADU is still within conditional use Lot Specification Type 'D' 50 percent lot coverage limitations and meets setback requirements.

REVIEW OF APPLICABLE CODE SECTIONS:

"Accessory Dwelling Unit" (ADU) is defined under §205-13, "Definitions" and applies to the applicant's request. In addition, Section [§205-9\(H\)](#) for ADU requirements, [§25-17\(B\)](#) for conditional use/special exception and [§25-17\(C\)](#) for variances of the City code are applicable to this request. The Department of Planning has reviewed said section and offers the responses found below.

Section 205-9(H)

Accessory Dwelling Unit (ADU). An ADU may be permitted by the Board of Appeals as a conditional use on a single lot in the R, R-1, R-2, RO and RB Districts, provided that the following provisions are met:

(1) *The lot owner occupies one of the two dwellings on the lot as a principal residence.*

The Applicants have stated in their application that the lot owner will reside in the main dwelling as their principal residence and the attached ADU will be used by family members (Applicant) only.

(2) *Occupants of the ADU shall park their vehicles off-street on the subject property; at least one off-street space shall be provided in addition to any off-street parking required for the main dwelling unit.*

One parking space is required on the subject property per City code 205-9(H)(2). Access to the parking spot will be provided via Currier Street and shall not impede existing parking access nor maneuverability. A three-car detached garage is also being proposed on the subject property and will provide additional parking opportunities.

- (3) *No separate address will be assigned to the Accessory Dwelling Unit.*

An address will not be assigned to the ADU by the City.

- (4) *Attached ADUs cannot exceed 1,200 square feet.*

The proposed ADU is 3,300 square feet in total which includes 1,650 square feet of above grade living space (see attachment 5 and 6). However, the ADU will only be approximately two-point five percent of the total lot coverage in a neighborhood that has a 40 percent limitation per Table I - Lot Specification Type 'B' for single family detached. The conditional use request to change the Lot Specification Type to 'D' would increase the total lot coverage to 50 percent with a 25 feet rear yard setback. (See attachment 4) The ADU regulations were mostly created to prevent smaller lots in the historic center from overbuilding where rules allowed people to occupy most of the lot (lot of record) and ADUs were the same size or larger than the primary structure. That being said, the proposed attached ADU would best fit the conditional use Lot Specification Type 'D' while maintaining the spirit of the ordinance in terms of proportion and scale.

- (5) *All ADUs must meet the height, lot and yard requirements of this chapter unless an existing accessory structure or existing part of the home is being converted to an ADU.*

The proposed construction (including existing single-family dwelling and detached garage) occupies approximately eight percent of the total lot area where 50 percent is the maximum lot coverage allowed in the R1 zoning district for Lot Specification Type 'D'. (see attachment 4) The proposed ADU will meet all height, lot and yard requirements upon approval of the conditional use for Lot Specification Type 'D'.

- (6) *Such other conditions that the Board of Appeals may deem appropriate to a particular case.*

The Department of Planning will make recommended conditions at the conclusion of this report. The Board may choose to adopt additional conditions should they grant the Conditional Use.

Section 25-17(B)

Special Exceptions. A Special Exception (aka Conditional Use) may be granted when the Board of Appeals finds from the evidence of record that the proposed use:

ADU and Lot Specification Type 'D':

- 1) Is a permissible Special Exception within the zone and that the petition complies with all procedural requirements set forth in this chapter;*

Yes, an Accessory Dwelling Unit / "In-law suite" is allowed as a Conditional Use (also referred to as a Special Exception under chapter 25 Article IV) in the R1 zoning district. Also, Lot Specification Type 'D'

is allowed in the R1 zoning as a conditional use with Board of Appeal review and approval. This request complies with all procedural requirements.

2) Complies with all standards and requirements specifically set forth for such use as may be contained in this chapter and the development standards for the zoning district within which the intended use will be located;

The rear yard setback requirement is 40 feet and the proposed attached ADU will encroach five 5 feet into that rear setback for Lot Specification Type 'B'. (See attachment 11) Therefore, Lot Specification Type 'D' is proposed to meet the reduced rear yard setback requirements of 25 feet.

The attached ADUs total above grade living spaces is 1,650 square feet and per City code the ADU cannot exceed 1,200 square feet. However, given the large lot is atypical and the proposed 50 percent lot coverage ratio, while taking into consideration the goal of the ADU ordinance, which is to make sure that the ADU is while taking into consideration the goal of the ADU ordinance, which is to make sure that the ADU is accessory to the main house and proportionate to the property. The total proposed lot coverage is eight percent

3) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; and will cause no objectionable noise, vibrations, fumes, odors, dust, toxicity, glare or physical activity;

The proposed attached ADU and Lot Specification Type 'D' development specifications should not have a detrimental impact on the surrounding neighborhood as the proposed use is consistent with the surrounding subdivisions. The attached ADU should also increase the property values of the subject property and not detrimentally affect the surrounding housing values. Since the attached ADU will be functioning as a 'in-law' suite, there should be minimal adverse environmental impacts in terms of physical activity beyond what's typical for a residential neighborhood.

4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structure or conversion of existing structures; as well as the intensity and character of activity, traffic and parking conditions and number of similar uses;

Staff believes that the proposed attached ADU on the subject property will have similar cohesiveness with the rest of the neighborhood both architecturally and in relation to scale (see attachment 5 and 6). The proposed attached ADU will be required to provide one off-street parking space on site per §205-9(H)(2) within the proposed two car driveway (see attachment 2) in addition to the proposed detached 3-car garage. The proposed uses will be consistent with what's typical for a residential neighborhood in terms of intensity, character, proportion and conditions.

5) Will be consistent with the comprehensive plan or other planning guides or capital programs for the physical development of the district;

The proposed ADU meets the Housing Vision and Goals set forth in chapter 12 of the City's 2010 Comprehensive Plan. The proposed use is also consistent with the current draft of the Comprehensive plan

Housing chapter to provide ADU's within existing residential lots as a method to "develop greater density from within" by utilizing pre-existing water and sewer infrastructure.

6) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area;

The requested attached ADU should not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area as the proposed attached ADU is for personal residential use which is consistent with the existing surrounding neighborhood.

7) Will be served by adequate public services and facilities, including police and fire protection, water and sanitary sewer, storm drainage, public roads and other public improvements; and

The subject property, including the proposed attached ADU, will be served by current public water, sewer, fire and police protection services. Also, the proposed attached ADU will be sprinkled as required to meet current fire safety code at the owner's expense.

8) Will consider the environmental impact, the effect on sensitive features and opportunities for recreation and open space.

There will be minimal increase to environmental impacts caused by the attached ADU. The existing building coverage is currently at three percent. With the proposed attached ADU and garage, the total lot coverage is approximately eight percent where the allowed maximum lot coverage is 50 percent for lot type 'D'. The ADU is contained within the existing lot and not within any floodplain or Chesapeake Bay Critical Area. There are steep slopes on the subject property, but they will not be affected by the proposed construction (See attachment 10). Recreation and open space are not considerations for this request as this property exist within the larger context of Havre de Grace Heights Subdivision.

9) Will consider the preservation of cultural and Historic Landmarks.

Not applicable for this application.

10) That the petitioner has demonstrated a need for the requested use.

The Applicant has expressed a need for an "in-law suite" so they can live interdependently of family members in the form of an attached ADU and has stated "this is not intended as a rental unit."

Section 25-17(C)

Variances. A variance from the terms of this article may be authorized by the Board of Appeals upon proof by the evidence of record. If a conflict between this statute and state law exists, the state law prevails. The Board shall not grant a request for a variance unless the Board finds:

Variance for ADU Square Footage:

- 1) Because of unique physical conditions, such as the irregularity, narrowness or shallowness of lot size and shape, or exceptional topographical conditions peculiar to and inherent in the particular*

lot, there is no reasonable possibility in pursuing the proposed use or developing the lot in strict conformance with zoning regulations; and:

The lot is exceptionally large 1.5 acres or 66,211 square feet, which is irregular for this zoning district. Additionally, Sensitive Areas in the form of steep slopes are environmental constraints and exist on site. Sloping considerably from the front of the house at approximately 210 feet to 180 feet elevation at Tydings Road for approximately a 30 feet difference. This peculiar slope condition (see attachment 10) shrinks the potential development opportunity of the property being confined to the side and rear yard area. The topographic change can be seen on attachment 6, 7 and 9. (Notice the front stone façade in the bottom right of the elevation plan) Lot Specification Type 'D' will be a better fit for the proposed attached ADU in relation to setback requirements. The defining attribute about the property is there are not many 1.5 acre lots in the R1 district with steep slopes, let alone the city as a whole.

- 2) *Because of exceptional circumstances other than financial considerations, the granting of a variance is necessary to avoid practical difficulties of unnecessary hardship, and to enable the applicant to pursue the proposed use or development of the lot; and:*

The large lot area and proposed above grade living space are within the spirit of the ADU ordinance. The proposed ADU will be in proportion to the lot and accessory to the main house. The ADU ordinance did not take into consideration the rare larger lot that exists in the city. Based on this, strict reading of the Section 205-9(H) would lead to an unnecessary hardship.

- 3) *The literal enforcement of the ordinance would result in practical difficulty or unreasonable hardship; and:*

ADUs are not one size fits all. The Applicant has demonstrated the need for above grade 1,650 square feet of living space. The Applicant would need to remove many functional amenities to meet the strict reading of this ordinance and redesign the property. It would be practically difficult and unnecessary for the Applicant to make these modifications

- 4) *Granting the relief requested would not do substantial injury to the public health, safety and general welfare and is the minimum relief to permit the petitioners' use or development of the lot.*

Per number six of the Conditional Use analysis provided above, an ADU constructed on the subject property will not negatively affect the surrounding neighborhood.

RECOMMENDATION & SUGGESTED CONDITIONS:

The Department of Planning recommends **APPROVAL** for the two conditional use requests: 1) an attached ADU on the subject property, and 2) modification from Lot Specification Type ‘B’ to ‘D’ per Table I in the zoning code. The Department of Planning also recommends **Approval** of the variance request from the strict reading of §205-9 of the zoning code.

However, should the Board of Appeal approve of the variance and conditional use requests, the Department of Planning recommends the minimum relief necessary for the applicant to maintain the intent of relevant City code in addition to the following conditions listed below:

1. The proposed attached ADU shall not exceed 1,650 square feet of above grade living area while maintaining development standards per Lot Specification Type ‘D’.
2. Capital Cost Recovery fees in the amount of \$18,500 for the ADU must be paid to the city per §196 of the city code.
3. The Conditional Use approval for an ADU is limited to the Owner and will expire upon sale or transfer of ownership of the property.

	03.05.2024
_____ Eric V. Lawrence Associate City Planner Department of Planning	Date


cc: Department of Planning Staff
Board of Appeal Members
Steven J. Gamatoria
Steven Gamatoria Jr.

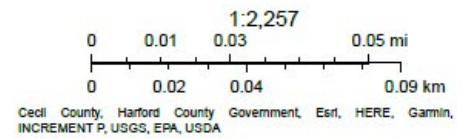
ATTACHMENT 1 – 2023 AERIAL

1305 Currier Street- 2023 Aerial



2/20/2024, 1:18:46 PM

-  Centerline
-  Cadastral
-  Harford County Boundary



ATTACHMENT 2 – 2024 SITE AERIAL

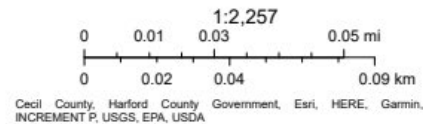


ATTACHMENT 3 – 2024 ZONING

1305 Currier Street- 2024 Zoning



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Esri, HERE, Garmin, FAO, USGS, EPA, NPS |

ATTACHMENT 4 – TABLE I – LOT SPECIFICATION TYPE DEVELOPMENT REQUIREMENTS

ZONING

205 Attachment 1

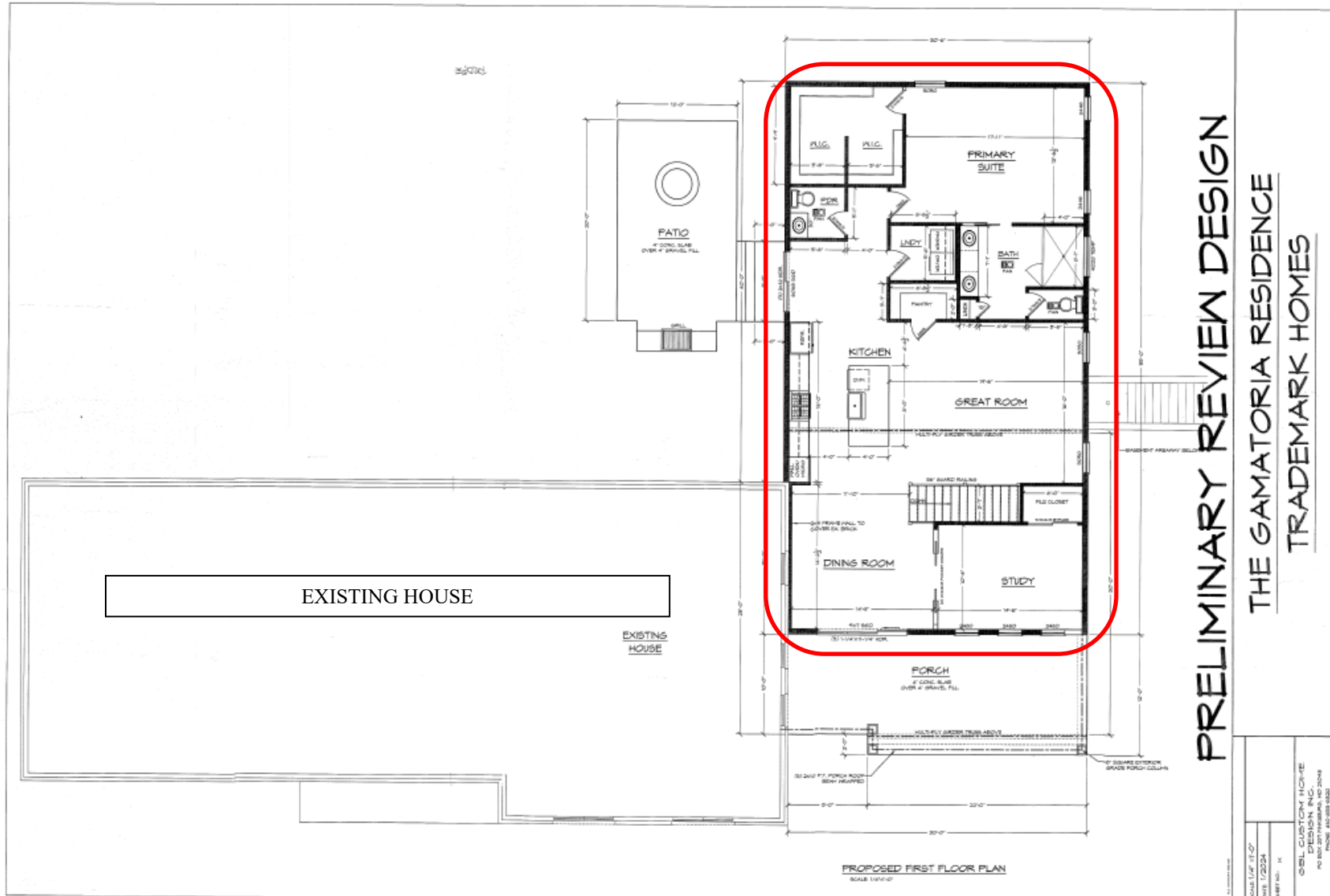
City of Havre de Grace

TABLE I

[Amended 5-4-2009 by Ord. No. 904; 7-16-2018 by Ord. No. 1007]

Permitted Uses (Residential)	Lot Type	Minimum Lot Area	Maximum Lot Coverage (percent)	Minimum Lot Width (feet)	Minimum Front Yard Setback (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Bldg. Height (feet)
Single-family, detached								
R	A	15,000 sq. ft.	40	100	25	15	40	40
R-1	B	10,000 sq. ft.	40	75	15	10	40	40
R-2, RO, RB	C	5,000 sq. ft.	40	50	15	5	25	40
Lane frontage RO, RB	CC	2,700 sq. ft.	50	30	15	5	25	40
Duplexes								
Over/under R-2, RO, RB	AA	6,000 sq. ft.	50	50	15	5	25	40
Side-by-side R-2	BB	8,000 sq. ft.	40	80	15	5	25	40
Side-by-side RO, RB	AA	6,000 sq. ft.	50	50	15	5	25	40
Semidetached								
R-2	DD	4,000 sq. ft.	40	40	15	6	25	40
RO, RB	EE	3,000 sq. ft.	50	25	15	6	25	40
Townhouses								
R-2, RO, RB	GG	1,920 sq. ft.	60	24	15	none ³	25	40
Conditional uses (residential) ¹								
Single-family, detached								
R	B	10,000 sq. ft.	40	75	15	10	40	40
R-1, R-2, RO, RB	D	5,000 sq. ft.	50	25	none	none	25	60 ²
Duplexes								
Over/under R-2, RO, RB	DD	4,000 sq. ft.	40	40	15	5	25	40
Side-by-side R-2	AA	6,000 sq. ft.	50	50	15	5	25	40
Side-by-side RO, RB	HH	5,000 sq. ft.	50	50	none	none	25	60 ²
Semidetached								
R-2	EE	3,000 sq. ft.	50	25	15	6	25	40
RO, RB	JJ	2,500 sq. ft.	50	25	none	none	25	60 ²

ATTACHMENT 5 – PROPOSED ATTACHED ADU FLOOR PLAN



ATTACHMENT 6 – PROPOSED ATTACHED ADU



ATTACHMENT 7 – SITE PHOTOGRAPHS



Facing North from Tydings Road



Facing East from Currier Street

ATTACHMENT 8 – SITE PHOTOGRAPHS



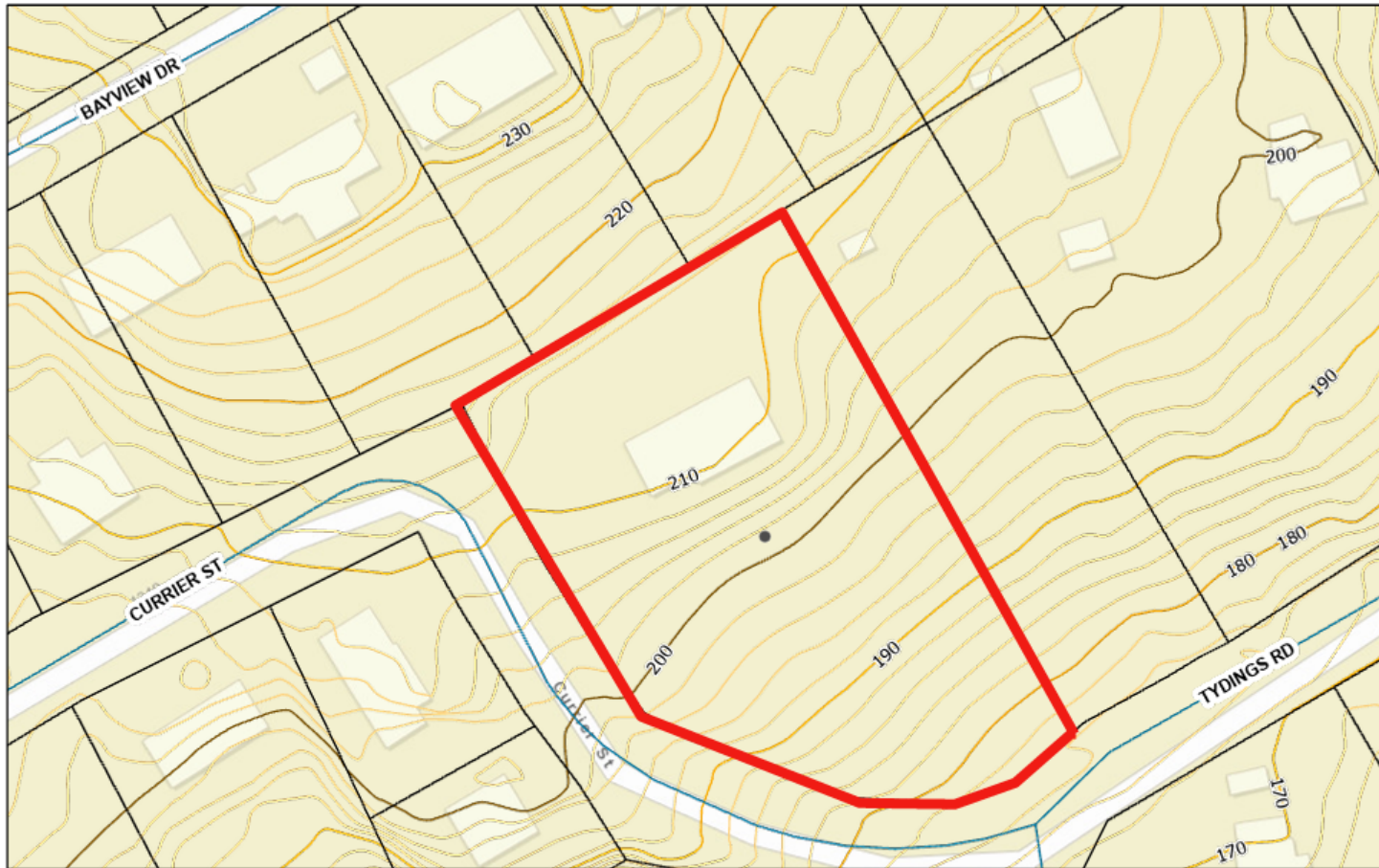
Facing South

ATTACHMENT 9 – SITE PHOTOGRAPHS



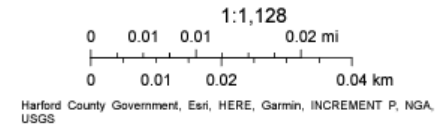
Facing North

ATTACHMENT 10 – SITE PHOTOGRAPHS 1305 Currier Street- Contour Map



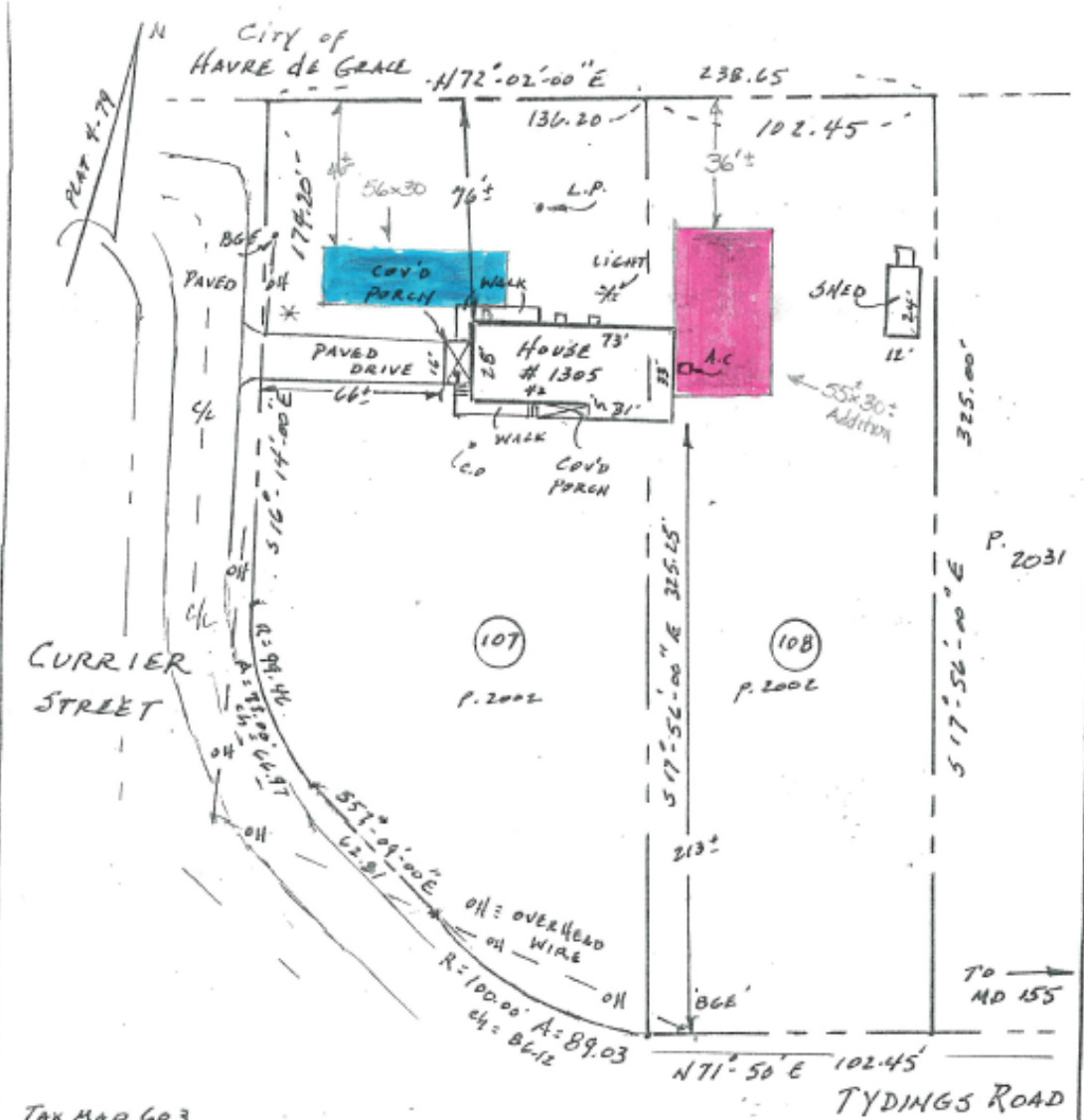
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- 2' Intermediate Contours
- 10' Index Contours
- 20' Index Contours
- 50' Index Contours
- Centerline
- Harford County Boundary
- Cadastral



Esri, HERE, Garmin, NGA, USGS, NPS |

ATTACHMENT 11 – SITE PLAN



Tax Map 603
PARCEL 2002

THIS LOCATION SURVEY IS OF BENEFIT TO THE CONSUMER ONLY INsofar AS IT IS REQUIRED BY THE LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH A CONTEMPLATED TRANSFER, FINANCING OR REFINANCING. THIS LOCATION SURVEY IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS. NO TITLE SEARCH PROVIDED.

THIS LOCATION SURVEY DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR FOR SECURING FINANCING OR REFINANCING. THE LEVEL OF ACCURACY COMPLIES WITH AT LEAST THE MINIMUM STANDARDS OF PRACTICE. 2 FT ±

I HEREBY CERTIFY THAT I HAVE EXAMINED THE FLOOD INSURANCE RATE MAP (FORM MAP NO. 24025C-0211 E) FOR THE PROPERTY THAT IS THE SUBJECT OF THE SURVEY AND THAT THE PROPERTY DESCRIBED HEREON DOES NOT LIE IN AN AREA IDENTIFIED BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT AS HAVING SPECIAL FLOOD OR MUDSLIDE HAZARDS. ZONE "X"

#1305 CURRIER STREET
HAVRE DE GRACE, MD.
DEED REF: 13288/304
PLAT REF: LOT 107 & 108
SECTION 2
"HAVRE DE GRACE HEIGHTS"
PLAT BOOK 4-79