

**MINUTES**

December 4, 2025

1:30 p.m.

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The Planning Commission met in regular session on Thursday, December 4, 2025, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. Members of the public were invited to attend in person or via conference call.

The following members were in attendance: Chair Joe Hickman, Vice Chair Paul Ruge, Jim Saunders, Sean Jones, Bill Crowding, and Jon Quinn.

Staff attending included Carla Gerber, AICP, Director; Rob Tracey, AICP, Associate Planner; Holly Baldwin, Associate Planner (attending virtually); and Beth Grieb, Office Manager, serving as Clerk.

Representatives for Brickwood Assisted Living, LLC included Jay Yerkes, Rosin Creek Collaborative.

Representatives for Henry R. Dierker, Jr. included Henry R. Dierker, Jr., property owner; and Buck Nickerson, LS, Extreme Measures, LLC.

Chair Hickman called the meeting to order at 1:30 p.m.

**MINUTES**

Paul Ruge moved to accept the minutes of the November 5, 2025, meeting as presented. Jon Quinn seconded. The motion passed unanimously.

**APPLICATIONS FOR REVIEW****25-22: Brickwood Assisted Living, LLC -- Special Exception -- Assisted Living Facility with 16 beds**

*Location: 5307 Elburn Lane, Rock Hall -- Fifth Election District -- Zoned CR and CAR*

**Staff Presentation by Rob Tracey:** Brickwood Assisted Living, LLC, is requesting concept site plan review and a special exception to expand their existing assisted living facility from 8 to 16 beds. The property is located at 5307 Elburn Lane near Rock Hall and is in the Critical Area Residential and Community Residential zoning districts. The property is improved by a single-family dwelling, a one-story assisted living facility, and a 40-foot by 60-foot metal pole barn. The applicant wishes to renovate the existing metal pole barn to accommodate an additional 8 assisted living beds and connect it to the existing facility through a connecting hall/addition.

Article 4, Section 1.3 of the Unified Development Ordinance outlines the major site plan standards. The surrounding area is primarily rural with a mix of open field and wooded lots with light residential development. The proposal is consistent with the Comprehensive Plan.

Adopted on January 8, 2026

The proposed parking improvements comply with Article 5, Section 2.4 of the Kent County Unified Development Ordinance, which requires one parking space for every 5 patient beds. The applicant has proposed a total of 7 parking spaces: 5 located in the gravel parking area to the west, north, and south of the metal pole barn, and 2 within the attached garage. Additionally, the applicant has designated a patient loading and unloading area at the northeast corner of the existing metal pole barn as well as a turnaround area in the southwest corner of the gravel driveway. These improvements appear to be adequate, providing sufficient on-site circulation and accommodating vehicular flow for the intended use.

The special exception requirements are found in Article 3, Section 2.34, which outline the specific findings the Board must make for assisted living facilities as a result of the zoning text amendment, and the general findings outlined in Article 4, Section 4.4.

The 8.68-acre property is served by public sewer. Based on the materials submitted by the applicant, the appearance of the proposed structure and the overall property will remain that of a residential use. According to the applicant, the facility has had 39 9-1-1 calls and 2 non-emergency private ambulance calls so far this year. There are no known impacts on community facilities or services. The proposed facility is not anticipated to generate inappropriate levels of traffic for the roadways and surrounding area. The proposed use is appropriate and consistent with the Comprehensive Plan and Unified Development Ordinance.

Staff recommends sending a favorable recommendation for the special exception to the Kent County Board of Appeals with the following condition: that the property's lot coverage does not exceed the grandfathered amount of 17,445 square feet.

No correspondence was received.

**Applicant Presentation:** Jay Yerkes of Rosin Creek Collaborative (7328 Churchill Road) testified after being sworn in. Mr. Yerkes explained that he has been developing this project with the applicant for some time. Once they get past this point, they are going to move on to complete construction documents and hopefully apply for a permit. The applicant is attempting to expand the facility as there is a big need for it in the area.

**Commission Discussion:** Planning Commission members asked questions regarding the outdoor fireplace and whether it would need to be relocated given its proximity to the renovated building. Mr. Yerkes clarified that the fireplace is not used. He explained that the previous owner put it in for the workshop and it has nothing to do with this design. Regarding the shared bathrooms shown in the preliminary plans, Mr. Yerkes explained that this facility uses guided bathing, where nursing staff assist residents at scheduled times, so one bathroom can serve several residents. The design is still preliminary and will be finalized by an architect after approval is granted.

Planning Commission members questioned whether the proposed parking would be adequate, particularly with the expansion doubling the number of beds and potentially doubling the number of visiting vehicles. Mr. Yerkes responded that the design provides 7 parking spaces total, which exceeds the code requirement of one space per 5 patient beds. The applicant has stated they never use nearly the parking spaces they have now and will still have adequate parking with this expansion, which includes a net reduction in lot coverage.

Commissioners also discussed concerns about emergency vehicle access and turnaround capabilities. Planning Commission members asked about sewer allocations, questioning whether the property has sufficient allocation for the expansion from 8 to 16 beds, and whether additional sewer allocations are available in the Rock Hall area. Mr. Yerkes indicated this has not come up yet but acknowledged it will need to be addressed if they receive the

special exception approval. Chair Hickman noted that if sewer allocation is not available, the project would stop until allocation becomes available.

**Public Comment:** No members of the public spoke on this application.

**Motion:** Bill Crowding moved to send a favorable recommendation to the Board of Appeals for Brickwood Assisted Living, LLC, located at 5307 Elburn Lane to expand from 8 beds to up to 16 beds, based on testimony finding that the nature of the proposed site is in keeping with adjoining properties; that there will be no increase in traffic and the traffic patterns presented seem sufficient; that performance standards will be in accordance with the surrounding properties; that it will not impact demands on community facilities and services; that it abides by the intent of the ordinances set forth in Article 2; that it meets the design, environmental, and other standards of the ordinance as set forth in Article 5; that it is the most appropriate use of the structure; that it is consistent with the Comprehensive Plan and this Ordinance; and that it is consistent with the Critical Area program and the Comprehensive Plan. Jim Saunders seconded. The motion passed unanimously.

Following the vote on the special exception, Planning Commission members discussed the concept site plan. Commissioners raised questions about road maintenance on Elburn Lane and whether there is a road maintenance agreement in effect for the private road serving multiple properties. Staff was not aware of one. Planning Commission members also noted that the Department of Public Works should be consulted regarding sewer allocations, as the expansion from 8 to 16 beds will likely require additional allocation. Staff indicated this was not discussed at the Technical Advisory Committee meeting. Chair Hickman suggested these issues could be addressed in the next round of review. The applicant and representatives thanked the Commission.

**25-55: Henry R. Dierker, Jr. -- Special Exception -- Cemetery with 2 burial plots**

*Location: 33969 Maryland Line Road, Massey -- First Election District -- Zoned AZD*

**Staff Presentation by Carla Gerber:** Associate Planner Holly Baldwin was unable to be present in person but participated virtually. Ms. Gerber presented the staff report on her behalf. This is a request for a special exception to create a 2-plot family cemetery on an 8-acre property located at 33969 Maryland Line Road in Massey. The property is zoned Agricultural Zoning District.

Mr. Dierker would like to create 2 plots, one for himself and one for his recently deceased wife, within a well-established garden that they created directly to the south of their home. The 8-acre residential property is surrounded by a larger 220-acre farm also owned by Mr. Dierker. The burial plots will be 819 feet from the road and 62 feet from the nearest property line.

The relevant issues for the special exception include specific standards related to cemeteries, most notably that burial plots need to be 10 feet from all property lines. There are also the standard findings that the Board of Appeals will need to make.

The nature of the immediate site is a residential property containing one dwelling and several farm buildings. It is surrounded by a larger farm. The applicant intends to adopt provisions in the deed that will preserve the cemetery in perpetuity and maintain access for future visiting. The burials will be surrounded by lush, well-established gardens and are completely screened from Maryland Line Road. There are no known dwellings, houses of worship, schools, public structures, or other places of public gathering within 500 feet. There are no known impacts on public facilities or services. There are no known impacts on cultural or historic landmarks, significant natural features, or trees. There is no known potential for noise or nuisance to impact other properties. There are no known conflicts with the intent of the ordinance.

The site plan that was submitted shows compliance with the setback condition that all burial plots be 10 feet from any property line. Conservation of property values has the potential to be negatively affected. The State of Maryland requires deeds to be updated to reflect preservation of family cemeteries. The Kent County Health Department has commented that burial plots must be a minimum of 100 feet from any well, and the applicant is in discussions with the Health Department about this requirement. There are no known impacts to fish, wildlife, or plant habitat. The Comprehensive Plan is neutral on this matter.

Staff recommends that the Planning Commission forward a favorable recommendation to the Board of Appeals for the creation of this 2-plot cemetery.

No correspondence was received.

**Applicant Presentation:** Henry R. Dierker, Jr. (33969 Maryland Line Road, Massey, Maryland 21650) and Buck Nickerson (23680 Ricauds Branch Road, Chestertown) testified after being sworn in. Mr. Nickerson explained that Mr. Dierker's deceased wife's last wish was to be buried in her rosary garden behind the house. The narrative includes pictures showing the religious statues, prayer bench, and the specific plantings that are involved with the rosary garden. Mr. Dierker confirmed the excellent narrative provided in the packet and had nothing further to add.

**Commission Discussion:** Chair Hickman expressed condolences for Mr. Dierker's loss. Planning Commission members asked about the Health Department requirement regarding distance from wells. Mr. Nickerson explained they are in discussions with the Health Department about this. The burial will use a 5,000-pound pressure composite vault that locks together and will not deteriorate like cement, providing protection that will last forever. Planning Commission members expressed strong support for honoring the deceased wife's wishes.

Mr. Dierker explained that his wife was a devout Catholic and that he has been working to carry out all of her wishes. One Planning Commission member stated he had read the application and found it moving, expressing that there should be no reason the County or anybody else would have any concern about where Mr. Dierker's wife wished to be buried, and that if she wanted to be buried there, then that should be respected. Mr. Dierker thanked the Commission for their thoughtfulness and support.

**Public Comment:** No members of the public spoke on this application.

**Motion:** Jim Saunders moved to forward a favorable recommendation to the Board of Appeals for the special exception for Henry R. Dierker, Jr. to create a 2-plot family cemetery on his 8.11-acre property located at 33969 Maryland Line Road, Massey, in the First Election District, zoned Agricultural Zoning District, with the following findings: The nature of the immediate site is a residential property on an 8.11-acre lot containing one dwelling and several farm buildings. The lot is surrounded by a 220-acre farm. All surrounding properties are agricultural in nature and all are zoned AZD. The applicant intends to adopt provisions in the deed of the land. This will preserve the cemetery in perpetuity and maintain access for future visits. The burials will be surrounded by lush, well-established gardens which are completely screened from Maryland Line Road. There are no dwellings, houses of worship, schools, public structures, or other places of public gathering within 500 feet. There are no impacts on public facilities or services. There are no known impacts on cultural and historical landmarks, significant natural features, or trees. There is no known potential for noise or nuisance to impact other properties. There are no known conflicts with the intent of this ordinance. The site plan submitted shows compliance with the setback condition that all burial plots be 10 feet from any property line. There are no known conflicts with the most appropriate use of the land. Conservation of property values has the potential to be negatively affected. The State

of Maryland requires deeds to be updated to reflect preservation of family cemeteries. The Kent County Health Department has commented that burial plots must be a minimum of 100 feet from any well. There are no known impacts on fish, wildlife, or plant habitat. The Comprehensive Plan is neutral on the matter. This is not within the Critical Area. Sean Jones seconded. The motion passed unanimously.

## **GENERAL DISCUSSION**

No items were discussed under General Discussion.

## **STAFF REPORTS**

**Board of Appeals Update:** Ms. Gerber reported that the Board of Appeals approved the special exception for Melissa Kidd to continue operation of her doggy daycare. The Board accepted the Planning Commission's recommended conditions on the maximum number of dogs on the property and hours of operation and included a third condition related to noise complaints. If more than 3 complaints are received from separate individuals within any 2-week period, it would be considered a violation and staff would inspect to assess the situation.

**January Meeting Date:** Staff confirmed the need to reschedule the January 2026 Planning Commission meeting. The regular meeting date would fall on January 1, 2026, and Planning Commission members agreed that January 8, 2026, would be the preferred alternative date. Several community solar facilities are expected to come before the Commission for site plan review at that meeting.

**Fox Hounds Update:** Planning Commission members inquired about the status of the fox hounds that were the subject of a previous application. Ms. Gerber reported that the property owner has decided to surrender their license and has until March 31, 2026, to find a new home for the fox hounds. She informed them that if they locate a property within an Agricultural Zoning District, it would be considered a commercial dog kennel and they would need to meet the requirements of that standard.

**Solar Project Construction Issues:** Planning Commission members raised concerns about conditions on Maryland Route 291 related to the Morgnec Solar construction. Commissioners noted that the road has been experiencing dust on dry days and becoming muddy on wet days due to construction traffic. Staff reported they conduct regular sediment control inspections and noted that they have been in communication with the solar company. At the direction of Robert Baldwin, the company was supposed to install tire washing equipment to help reduce the amount of dirt being tracked onto the road. Staff confirmed they are monitoring the situation and will provide updates if conditions change.

**Code Enforcement Process:** Planning Commission members asked about the code enforcement process and how complaints are handled. Ms. Gerber explained that the County has two code enforcement staff members. Most code enforcement is done on a complaint basis. If there is an issue with a property, residents can call the Planning and Zoning office to report it. Complaints can be made anonymously - the caller does not have to identify themselves, though they need to provide an address for staff to investigate. The complainant's information is not shared with the property owner.

Staff noted that for certain types of violations which are more significant (such as clearing in the Critical Area or building without permits), staff will follow up proactively if they observe the activity. However, for nuisance-type issues, the County relies on complaints from residents. Planning Commission members expressed concern that this complaint-based system puts neighbors in a difficult position when reporting violations.

Ms. Gerber addressed questions about abandoned or derelict houses, noting these are more difficult to address because they involve different regulations. It is very hard for the County to condemn a property and then take care of cleaning it up. However, in situations where the issue is significant enough, the County will take steps. For example, if an abandoned house has broken windows and there are safety concerns about people entering, Public Works has offered to board up the windows, though there may not be much more that can be done beyond that.

## **ADJOURN**

Chair Hickman called for a motion. Mr. Crowding moved to adjourn. Mr. Saunders seconded. The meeting adjourned at 2:25.

\_\_\_\_\_/s/  
Francis J. Hickman, Chair

\_\_\_\_\_/s/  
Carla Gerber, AICP, Director

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