



County Commissioners Hearing Room

400 High Street
Chestertown, Maryland

AGENDA

Monday, July 17, 2023

5:00 p.m.

Members of the public are welcome to attend meetings in person or listen to the meeting via the audio-only phone number and conference identification number listed below.

1. Dial **1-872-239-8359**
2. Enter Conference ID: **496 403 880#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

MINUTES

April 17, 2023

APPLICATIONS FOR REVIEW:

23-39 Kent Manor Grain, LLC – Variance – Front, Rear, and Side Yard Setbacks
Map 14, Parcel 75 – Second Election District – Agricultural Zoning District (AZD)

GENERAL DISCUSSION

ADJOURN

APPLICANT OR REPRESENTATIVE MUST BE PRESENT

**APPLICANTS ARRIVING MORE THAN 10 MINUTES AFTER THE SCHEDULED HEARING WILL NOT BE HEARD
AND WILL BE RESCHEDULED AT THE APPLICANT’S EXPENSE.**

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Board of Appeals meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the members. Breaks are at the call of the Chairman. Meetings are subject to audio and video recordings.

All applications will be given the time necessary to assure full public participation and a fair and complete review of all projects. Agenda items are subject to change due to cancellations. Other business without assigned times may be discussed during the meeting.



Board of Zoning Appeals
Department of Planning, Housing, and Zoning

MINUTES

Meeting: Kent County Board of Zoning Appeals
 Date: April 17, 2023
 Time: 5:35 P.M.
 Location: County Commissioners Hearing Room, 400 High Street, Chestertown, Maryland

Agenda Item	Sitting for the Board	Action Taken	Vote
<p>23-15 Thomas and Susan Schwarzwaldner – Buffer Variance</p> <p>The applicants are requesting a variance to replace 88 feet of an existing 4-foot high fence in the buffer. The property is located at 9827 Breezecroft Lane, Chestertown.</p> <p>The in-kind replacement fence will follow the same configuration as the existing fence in the front yard of a waterfront property, will be 4 feet high, will include two gates, and will be set in concrete. A 2" x 4" wire fence is to be added and attached to the wooden structure.</p> <p>The Kent County Planning Commission forwarded a favorable recommendation to the Board of Appeals in regard to this application.</p> <p><u>Applicant/Representative</u> Thomas Schwarzwaldner, property owner, was sworn in and presented a summary of the case.</p> <p><u>Public Comment</u> No correspondence was received on this application.</p> <p><u>Planning Staff</u> Mark Carper, LEED Green Associate, Associate Planner, was sworn in.</p>	<p>Dr. Albert Townshend, Chairman</p> <p>Joan Horsey, Member</p> <p>John Massey, Member</p> <p>Mr. Christopher Drummond, Attorney for the Board</p> <p>Campbell Safian, Clerk</p> <p style="text-align: center; font-size: 2em; color: blue;">DRAFT</p>	<p>Ms. Horsey made a motion to grant a buffer variance to replace 88 feet of existing 4-foot high fence in the buffer area at 9827 Breezecroft Lane in the Sixth Election District, owned by Thomas and Susan Schwarzwaldner which is zoned Critical Area Residential (CAR). The variance is granted with the following conditions: the boundary line is to be located prior to the installation of the proposed fencing, a Buffer Management Plan for mitigating the impacts of installation is to be submitted to the Planning Department for review and approval before the fence is installed, a 3:1 mitigation ratio locating the plantings between the improvements and the shoreline, the variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.</p> <p>The motion was seconded by Mr. Massey; the motion passed with all in favor.</p>	<p>Unanimous Approval</p>

Agenda Item	Sitting for the Board	Action Taken	Vote
MINUTES: March 13, 2023		Dr. Townshend moved to approve the minutes. Mr. Massey seconded the motion; the motion passed with all in favor.	Approved
Adjourn	DRAFT	Mr. Massey made a motion to adjourn the meeting, and Ms. Horsey seconded the motion; the motion passed with all in favor. The meeting adjourned at 5:56 p.m.	Unanimous Approval

 Dr. Albert Townshend, Chairman

/s/ Campbell Safian
 Campbell Safian, Planning Specialist



Planning Commission
Department of Planning, Housing, and Zoning

July 10, 2023

Dr. Al Townshend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: Kent Manor Grain, LLC
Variances – Front, Side and Rear Yard Setback

Dr. Townshend:

At its meeting on July 6, 2023, the Kent County Planning Commission reviewed the application of Kent Manor Grain, LLC, requesting setback variances from the minimum 600-foot setback requirement in order to construct a 152-foot by 75-foot waste management structure. The proposed building will be located on a 20-acre parcel in the center of the larger farm on Augustine Herman Highway.

The Commission opined that a practical difficulty was due to size and shape of the parcel. After discussion and consideration of the applicant's testimony, the Commission voted to make a favorable recommendation for the variance. The Commission's recommendation was based on the following findings of fact:

- Granting a variance will not cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The proposal is consistent with the Comprehensive Plan and the general intent of the Land Use Ordinance.

Sincerely,
Kent County Planning Commission

F. Joseph Hickman
Chair

FJH/cmj

cc: Gary Miller



To: Kent County Planning Commission
From: Carla Gerber, Deputy Director
Meeting: July 6, 2023
Subject: Kent Manor Grain, LLC
23-39: Setback Variance

Executive Summary

Request by the Applicant

Gary Miller of Kent Manor Grain, LLC, is requesting variances of 353 feet from the front yard setback, 200 feet from the side yard setback, and 310 feet from the rear yard setback in order to construct a 152-foot by 75-foot waste management structure.

Public Process

Per Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances. The Board of Appeals may authorize variances from the yard requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Summary of the Staff Report

The proposed waste management structure will be located on a 20-acre parcel in the center of the larger farm. The parcel was originally created to separate the commercial grain drying operation from the remainder of the farm in preparation for creating an agricultural preservation district in 1991. Although an easement was never placed on the property, the family has kept the commercial part of the operation separate. The Millers have used the proposed building site for temporary storage of manure. The proposed building is considered an agricultural best management practice and will allow for better management of manure storage throughout the year.

The proposed structure will not cause substantial detriment to neighboring properties or change the character of the district. The closest dwellings not owned by the Miller family are over 1,500 feet from the proposed building. The closest church or public building is over 4,000 feet away. The request is consistent with the Comprehensive Plan, which promotes Kent County as an agriculturally friendly county and promotes the use of best management practices. The practical difficulty is due to the size and shape of the parcel.

Staff Recommendation

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the setback variance.

PRELIMINARY STAFF REPORT

To: Kent County Planning Commission
From: Carla Gerber, Deputy Director
Subject: Kent Manor Grain LLC
23-39: Setback Variance
Date: June 29, 2023

Description of Proposal

Gary Miller of Kent Manor Grain, LLC, is requesting a variance of the setback requirements to enable construction of a waste management structure on a 20-acre parcel located on Augustine Herman Highway in the Second Election District. The 152-foot by 75-foot building will be 247 feet from the front property line, 400 feet from the east side property line, and 290 feet from the rear property line. It will be used for the storage of manure prior to application according to an approved nutrient management plan. The farm is zoned "AZD," Agricultural Zoning District. The parcel is improved with other agricultural buildings. The surrounding farm is also owned by Kent Manor Grain, LLC.

History

In 1991, C. Edward Miller separated his commercial grain-drying operation, which is in the center of the farm, from the remainder prior to establishing an Agricultural Land Preservation District. He was concerned about potential conflicts over the interpretation of the Maryland Agricultural Land Preservation Foundation's regulations regarding commercial operations. However, in order for the subdivision to be approved, he needed variances for several buildings on the remainder and for the grain tanks on the proposed parcel. The variances were granted upon finding that the proposed "use of his property for agricultural preservation purposes causes him to suffer a practical difficulty." A MALPF easement was never placed on the farm, and the district "expired" in 2012 when the State dropped the requirement for districts. In 2016, the 3.188-acre parcel was increased to 20 acres through a lot line adjustment.

Relevant Issues

- I. Yard Requirements
 - A. Applicable Law: Article V, Section 1.4.A.10.5 of the Kent County Land Use Ordinance requires a 600-foot setback from all property lines for waste management structures.
 - B. Staff Comments: Variances of 353 feet, 200 feet, and 310 feet are needed.
- II. Variance
 - A. Applicable Law: Article IX, Section 2.2 of the Land Use Ordinance authorizes the Board of Appeals to grant variances of the yard requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance. Such granting of a *variance* shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

In order to grant a *variance*, the Board of Appeals must find all of the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
 - b. That the *variance* will not change the character of the neighborhood or district.
 - c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
 - d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the Critical Area.
 - e. That the practical difficulty or other injustice was not caused by the applicants' own actions.
- B. Staff Comments: The variances will not cause substantial detriment to neighboring properties or change the character of the district. The closest dwellings not owned by the Miller family are over 1,500 feet from the proposed building. The closest church or public building is over 4,000 feet away. The request is consistent with the Comprehensive Plan, which promotes Kent County as an agriculturally friendly county and promotes the use of best management practices.

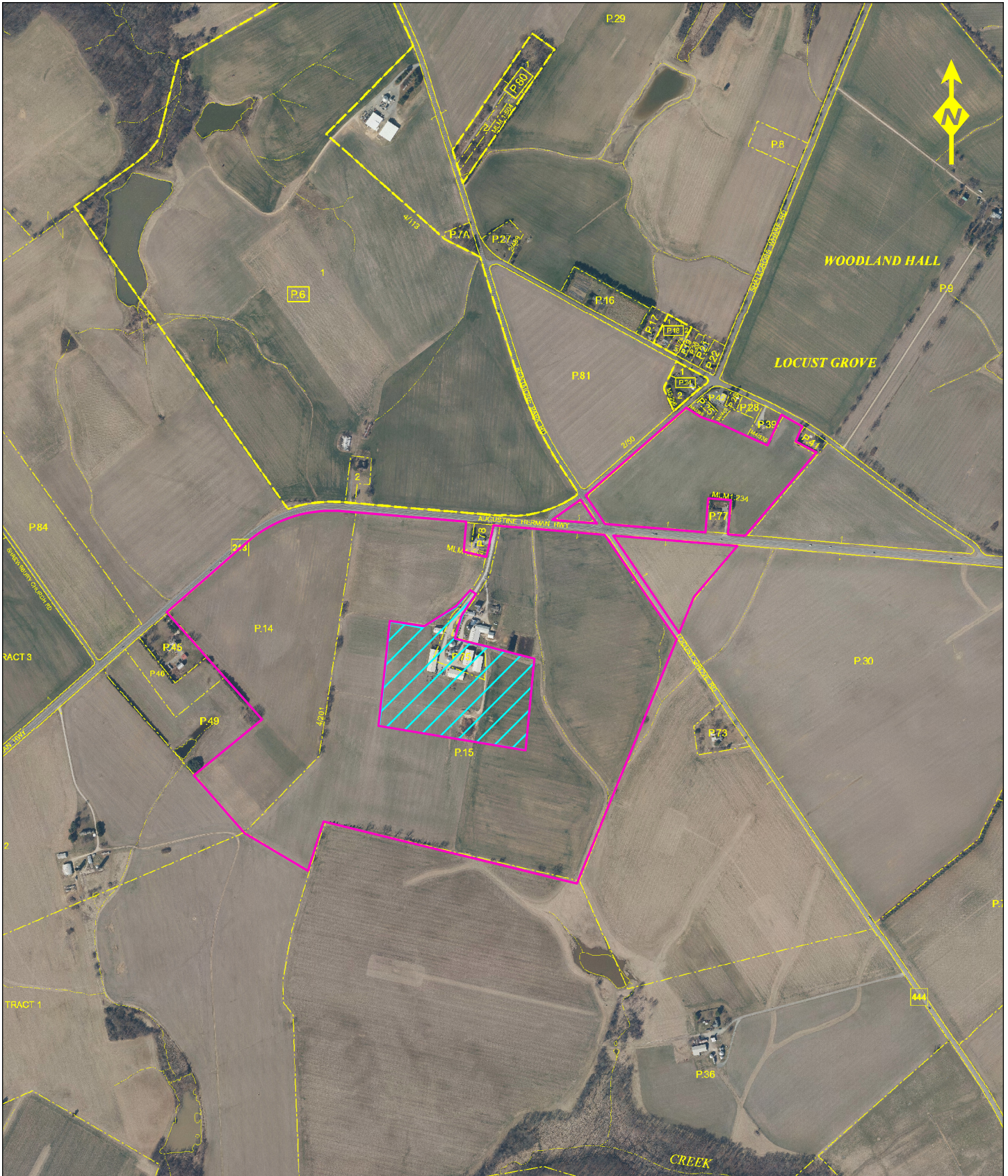
The practical difficulty is due to the size and shape of the parcel. The original 3.188-acre parcel was determined to be the most suitable lot configuration. The 1991 Board of Appeals decision notes:

[T]hat although it would have been easier to parcel out one piece of property from the road, that would have created a "zoning nightmare" with the residential units, existing farm structures, and the commercial operation; that Health Department regulations required that the subdivided parcel be at least three acres; that no animals are kept in the Applicant's cow barn; that agricultural preservation is a goal of the Comprehensive Plan; that the Planning Office tried to find the path of least resistance and this is what they proposed;...that this proposal would comply with the Agricultural Preservation requirements and the spirit of the Zoning Ordinance.

In 2016, the parcel was increased to 20 acres in order to meet the definition of a farm which allows for agricultural structures as accessory to a farm. The Millers have used the location of the proposed building for short-term storage of manure. The construction of a waste management structure is considered a best management practice and will allow for better management of manure storage throughout the year.

- C. Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the setback variance.

Kent Manor Grain, LLC



Source: Kent County Department of Planning, Housing, and Zoning.
Aerial taken Spring 2022. Map prepared July 2023.

1 inch = 1,000 feet

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:

(Name, Address and Telephone Number of Applicant)

Kent Manor Grain LLC
12797 Augustine Herman Hwy.
Kennedyville, MD 21645
410-348-5688

Email: the4msfarm@gmail.com

For Office Use Only:

Case Number/Date Filed: _____
Filed by: _____
Applicant: _____
Planning Commission: _____
Date of Hearing: _____
Parties Notified: _____
Notice in Paper: _____
Property Posted: _____

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: the4msfarm@gmail.com

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article IX Section 2.

of the Kent County Zoning Ordinance, as amended, request is hereby made for:

_____ Appealing Decision of Kent County Zoning Administrator Variance
_____ Special Exception _____ Non-conforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) S/S Harmony Corner - Loust Grove NE of Kennedyville

In the 02 Election District of Kent County.

Size of lot or parcel of Land: 20 acres
Map: 0014 Parcel: 0075 Lot #: _____ Deed Ref: 898/161

List buildings already on property: Shop, Straw Barn, Machine Shed, Machine Shed, 3 grain bins, pesticide barn and sale house.

If subdivision, indicate lot and block number: _____

If there is a homeowner's association, give name and address of association: _____

PRESENT ZONING OF PROPERTY: AZD

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) We would like to build a barn to store chicken manure to keep the manure out of weather and prevent excess runoff.

If appealing decision of Zoning Administrator, list date of their decision: _____

Present owner(s) of property: Kent Manor Grain LLC Telephone: 410-348-5688

If Applicant is not owner, please indicate your interest in this property: _____

Has property involved ever been subject to a previous application? _____

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Kent Manor Farm LLC

Owner(s) on the South: SAME

Owner(s) to the East: SAME

Owner(s) to the West: SAME

Homeowners Association, name and address, if applicable: _____

BY SIGNING THIS APPLICATION, I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.

Kent Grain L.L.C. by Gary Lee Miller
Signature of Owner/Applicant/Agent or Attorney

5/25/23
Date

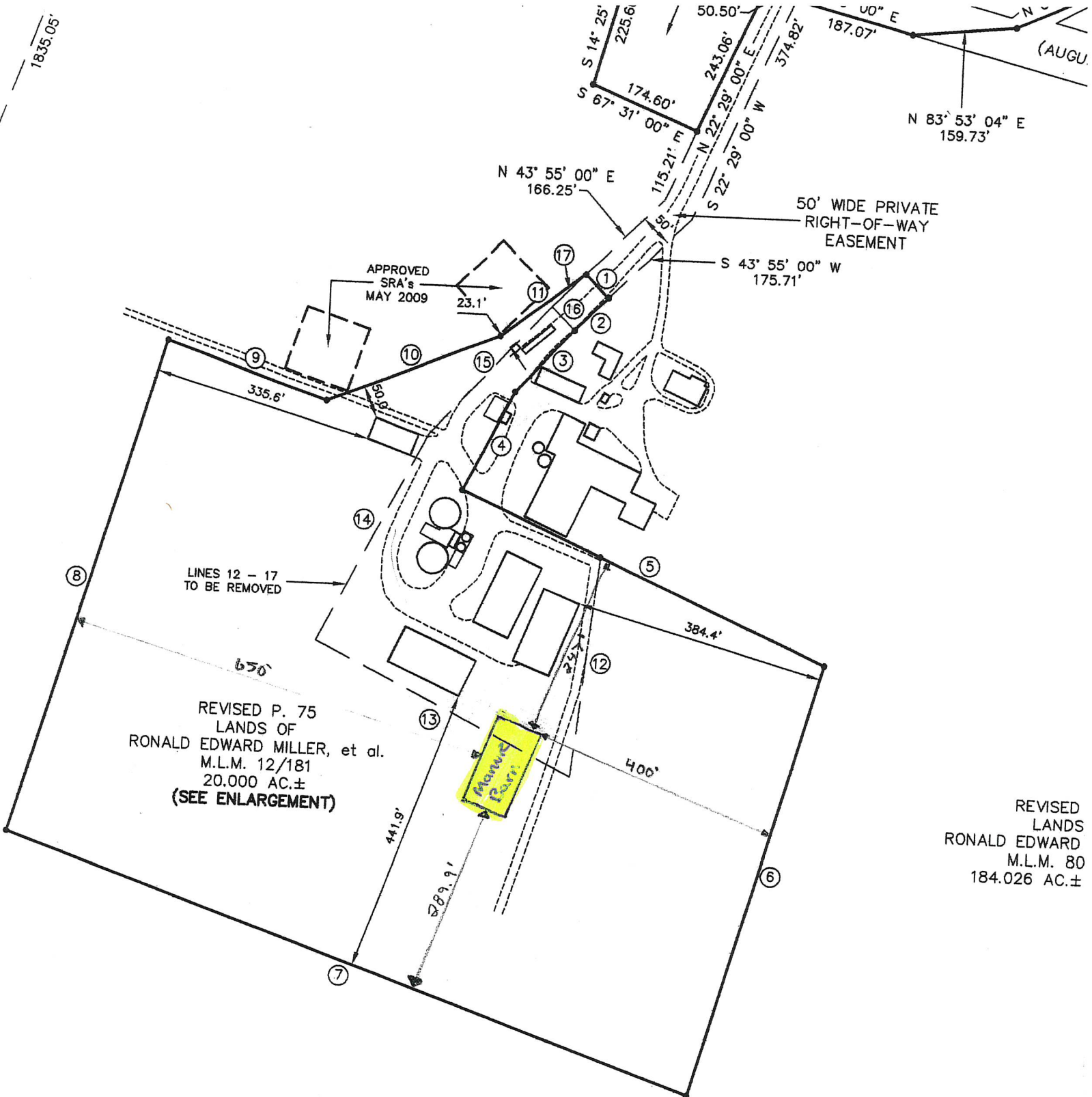
Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the **County Commissioners of Kent County**. If you have any questions, please contact the Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals nor the Planning Office is required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

We believe that this variance will not cause any hardships or substantial detriment to the adjacent neighboring property because the members of Kent Manor Grain LLC are the same members of Kent Manor Farm LLC. The variance will not cause a change in the character of the neighborhood district because manure is already being stockpiled outside this barn will just help inclose it. This variance is consistent with the Comprehensive Plan and follows the general intent of this ordinance.

Gay Joe Miller



REVISED P. 75
LANDS OF
RONALD EDWARD MILLER, et al.
M.L.M. 12/181
20,000 AC.±
(SEE ENLARGEMENT)

REVISED
LANDS
RONALD EDWARD
M.L.M. 80
184.026 AC.±

**REVISED PARCEL 75
COURSES & DISTANCES**

LINE	BEARING	DISTANCE
1	S 46° 05' 00" E	50.00'
2	S 43° 55' 00" W	72.18'
3	S 41° 52' 35" W	130.00'
4	S 26° 00' 00" W	170.93'
5	S 66° 25' 00" E	616.77'
6	S 15° 04' 43" W	689.79'
7	N 71° 04' 52" W	1117.46'
8	N 15° 42' 35" E	789.89'
9	S 71° 33' 15" E	259.04'
10	N 67° 13' 43" E	282.65'
11	N 51° 48' 30" E	161.36'

**PARCEL 75
LINES TO BE REMOVED
COURSES & DISTANCES**

12	S 05° 28' 00" W	257.84'
13	N 64° 05' 20" W	440.96'
14	N 25° 54' 40" E	360.00'
15	N 41° 52' 35" E	269.87'
16	S 46° 05' 00" E	50.00'
17	N 43° 55' 00" E	72.18'

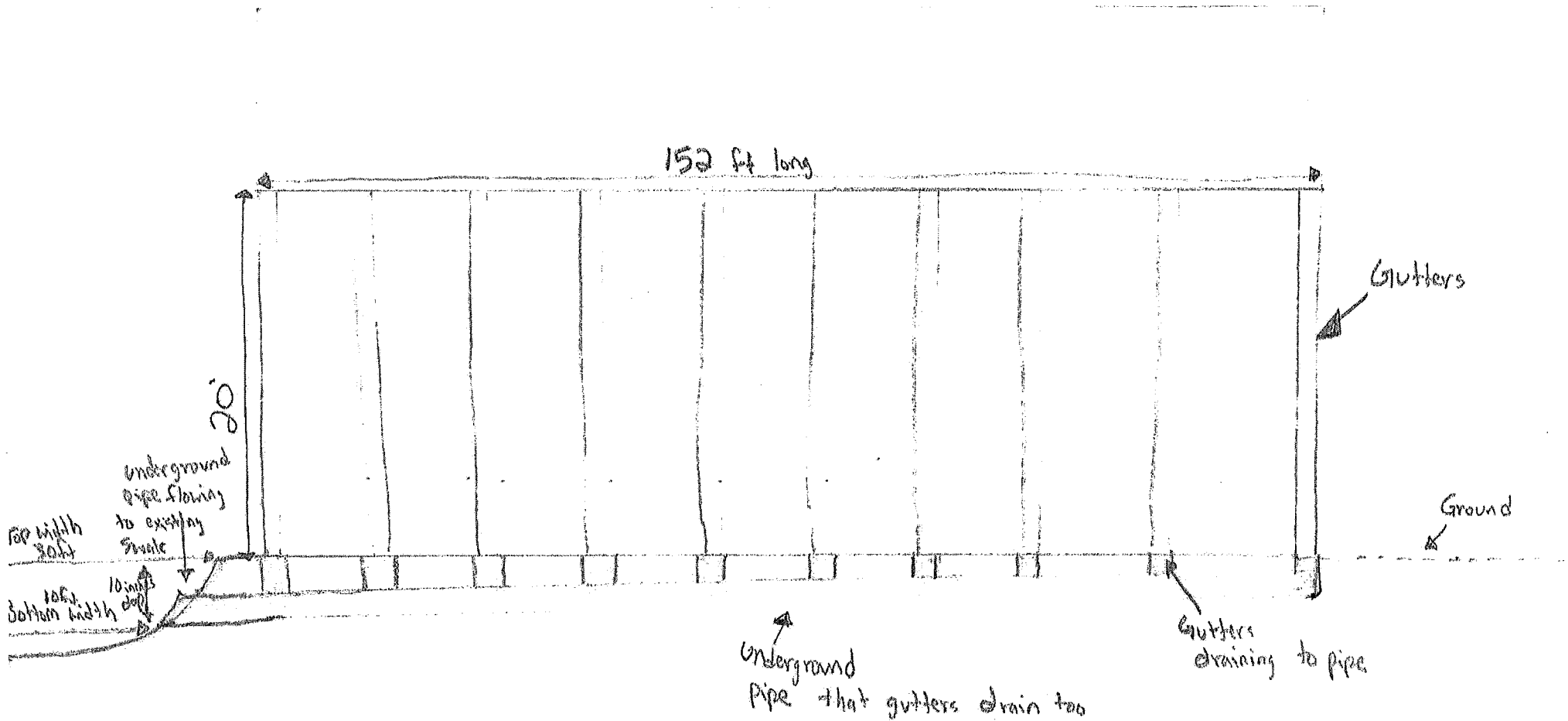
Kent Manor Grain, LLC

Manure Structure

150' X 75'

Gutter installation is being performed by Gede Insulation

West Side View



Kent Manor Grain, LLC

Manure Structure

152' x 75'

Roof Plan

Length of sides of
Roof : 37.5 ft.

Angle of Roof : 3.75 pitch

