

May 28, 2014

Boyers Mill Road Improvement Project

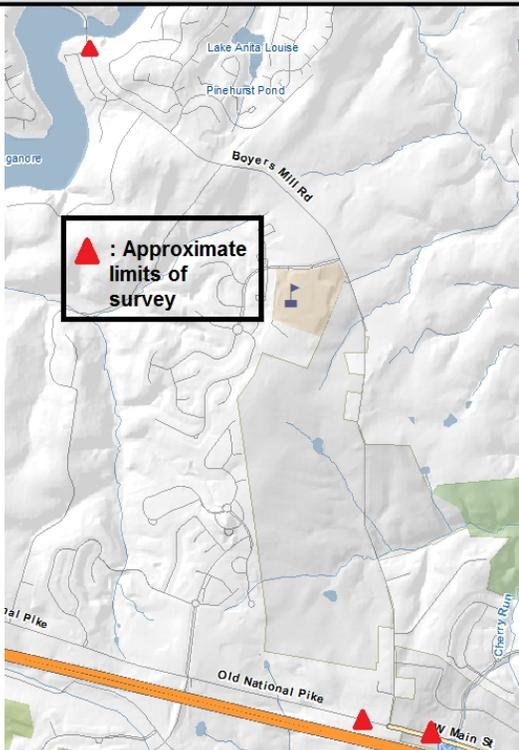
The Frederick County Office of Transportation Engineering through our consultant Wallace, Montgomery & Associates (WM) will be performing field surveys for the final design of the Boyers Mill Road Improvement Project from the southern limits of the Boyers Mill Road bridge replacement project to the intersection of Boyers Mill Road and Old National Pike (see map below).

The design consultant will have field personnel at the project site starting on or about June 1, 2015 and throughout the summer months.

In order to complete their design, field surveys and other investigations will be required, including geotechnical and environmental investigations, which may require hand augering of small holes to check soils or other environmental features. The staff of WM will be serving as agents of the County and will need to enter onto your property to collect the required data. The Annotated Code of Maryland, **§12-111** of the Real Property Article (see reverse), provides the privilege of entering onto your property for this purpose.

The staff of WM has been instructed to take every precaution to assure that your property is not damaged in any way during these studies. Any disturbances of the ground or vegetation will be restored to its existing condition. This work does not require anyone to be home when the surveys or investigations are conducted.

If you have any questions regarding the project and/or the survey work, please contact Samantha Passman at (301) 600-1806 or email spassman@FrederickCountyMD.gov. We will be happy to meet with you to resolve any problems and answer any questions. Thank you.



Frederick County
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§ 12-111. Rights and liabilities of civil engineers and surveyors; damaging or removing marker.

- (a) *Right of entry; right to set stakes.*- Civil engineers, land surveyors, real estate appraisers, and their assistants acting on behalf of the State or of any of its instrumentalities or any body politic or corporate having the power of eminent domain after every real and bona fide effort to notify the owner or occupant in writing with respect to the proposed entry may:
- (1) Enter on any private land to make surveys, run lines or levels, or obtain information relating to the acquisition or future public use of the property or for any governmental report, undertaking, or improvement;
 - (2) Set stakes, markers, monuments, or other suitable landmarks or reference points where necessary; and
 - (3) Enter on any private land and perform any function necessary to appraise the property.
- (b) *Order to permit entry.*- If any civil engineer, surveyor, real estate appraisers, or any of their assistants is refused permission to enter or remain on any private land for the purposes set out in subsection (a), the person, the State, its instrumentality, or the body politic or corporate on whose behalf the person is acting may apply to a law court of the county where the property, or any part of it, is located for an order directing that the person be permitted to enter on and remain on the land to the extent necessary to carry out the purposes authorized by this section.
- (c) *Damage to or destruction of property.*- If a civil engineer, surveyor, real estate appraiser, or any of their assistants enters on any private land under the authority of this section or any court order passed pursuant to it, and damages or destroys any land or personal property on it, the owner of the property has a cause of action for damages against the civil engineer, surveyor, real estate appraiser, or assistant and against the State, its instrumentality, or the body politic or corporate on whose behalf the person inflicting the damage was acting.
- (d) *Obliterating, damaging, or removal of stake or marker.*- Any landowner or other person who willfully obliterates, damages, or removes any stake, marker, monument, or other landmark set by any civil engineer, surveyor, or real estate appraiser or any of their assistants acting pursuant to this section, except if the stake, marker, monument, or other landmark interferes with the proper use of the property, is guilty of a misdemeanor and on conviction shall be fined not more than \$500.
- (e) *Obstructing a person acting under court order.*- Any person who has knowledge of an order issued pursuant to subsection (b) and who obstructs any civil engineer, surveyor, real estate appraiser, or any of their assistants acting under the authority of the order may be punished as for contempt of court.
- (f) *Entry to make test borings and soil tests in Anne Arundel or Montgomery counties, or Baltimore City.*- In Anne Arundel County, Montgomery County, or Baltimore City, an agent or employee, or one or more assistants of the jurisdiction, after real and bona fide effort to notify the occupant or the owner, if the land is unoccupied or if the occupant is not the owner, may enter on any private land to make test borings and soil tests and obtain information related to such tests for the purpose of determining the possibility of public use of the property. If an agent, employee, or assistant is refused permission to enter or remain on any private land for the purposes set out in this subsection, Anne Arundel County, Montgomery County, or Baltimore City may apply to a law court of the jurisdiction where the property or any part of it is located for an order directing that its agent, employee, or assistant be permitted to enter and remain on the land to the extent necessary to carry out the purposes authorized by this subsection. The court may require that the applying jurisdiction post a bond in an amount sufficient to reimburse any person for damages reasonably estimated to be caused by test borings, soil tests, and related activities. If any person enters on any private land under the authority of this section or of any court order passed pursuant to it and damages or destroys any land or personal property on it, the owner of the property has a cause of action for damages against the jurisdiction that authorized the entrance. Any person who knows of an order issued under this subsection and who obstructs any agent, employee or any assistant acting under the authority of the order may be punished for contempt of court.
- (g) *Entry by State Highway Administration employees to conduct environmental and engineering studies.*- The State Highway Administration, its agents, employees, and consultants may enter upon private property to conduct environmental and engineering studies, including soil boring and excavation, necessary to determine the suitability of the property for Administration use. Entry onto private property for these purposes shall not be undertaken without prior consent of the property owner. If, after real and bona fide effort, the consent of the property owner cannot be secured, the Administration may apply to a law or equity court where the property or any part of it is located for an order directing that entry be permitted. "Bona fide effort" shall include either 30 days advance notice in writing by certified mail return receipt requested to the last known address of the property owner or posting notice on the property not less than 30 days in advance, and such other requirements as the court may deem appropriate. The Administration, when removing, displacing, boring, or excavating soil under the provisions of this section, shall replace the topsoil in a manner which will approach the level of compaction and contour as when removed. The Administration shall reimburse the landowner or lessee who is farming the property for agricultural products destroyed or damaged by its agents, employees, or consultants. The Administration shall be responsible for any other damages that may be incurred as a result of such entry on private property.