

IN RE: PETITION FOR ADMIN. VARIANCE
S/S of Burke Road, 530 ft. E
centerline of Holly Tree Road
15th Election District
6th Councilmanic District
(1607 Burke Road)

Donna & Allen L. Himes, Sr.
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 05-288-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Donna and Allen L. Himes. The administrative variance is requested for property located at 1607 Burke Road in the eastern area of Baltimore County. The administrative variance request is from Section 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed accessory building (detached garage) with a height of 25 ft. in lieu of the minimum allowed 15 ft. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on December 12, 2004, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated January 18, 2005, a copy of which is attached hereto and made a part hereof. A ZAC comment was also received from the Department of Environmental Protection & Resource Management (DEPRM) dated January 10, 2005 stating that the Petitioners must comply with the

UNDER RECEIVED FOR FILING

DATE

By

1/20/05

Raj

Chesapeake Bay Critical Area Regulations, a copy of which is attached hereto and made a part hereof.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

“The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.”

The Petitioners have filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

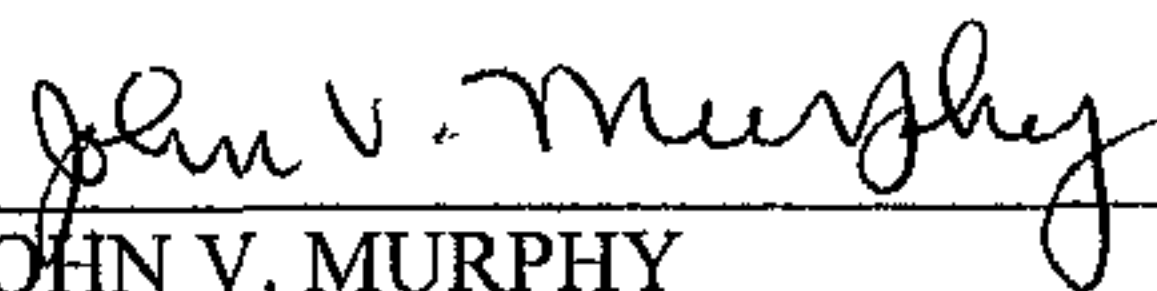
THEREFORE, IT IS ORDERED, this 20 day of January, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 400.3 of the Baltimore

ADULT RECEIVED FOR FILING
1/20/05
By [Signature]

County Zoning Regulations (B.C.Z.R.), to permit a proposed accessory building (detached garage) with a height of 25 ft. in lieu of the minimum allowed 15 ft., be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;
2. Compliance with the ZAC comments submitted by DEPRM dated January 10, 2005, a copy of which is attached hereto and made a part hereof;
3. Compliance with the ZAC comments submitted by the Office of Planning dated January 18, 2005, a copy of which is attached hereto and made a part hereof, in which they state that, the Petitioners or subsequent owners shall not allow or cause the accessory structure to be converted into a dwelling unit and/or apartment. There shall be no sleeping quarters, living area, kitchen or bathroom facilities in the structure. In addition, the accessory structure shall not be used for commercial purposes, the Petitioners shall provide elevations of the proposed garage to the Office of Planning for their review and approval, and the exterior of the garage shall be similar in materials and color as the existing dwelling.
4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER RECEIVED FOR FILING

Date 1/20/05
By Raj

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468



Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III, Zoning Commissioner

January 19, 2005

Mr. & Mrs. Allen L. Himes, Sr.
1607 Burke Road
Baltimore, Maryland 21220

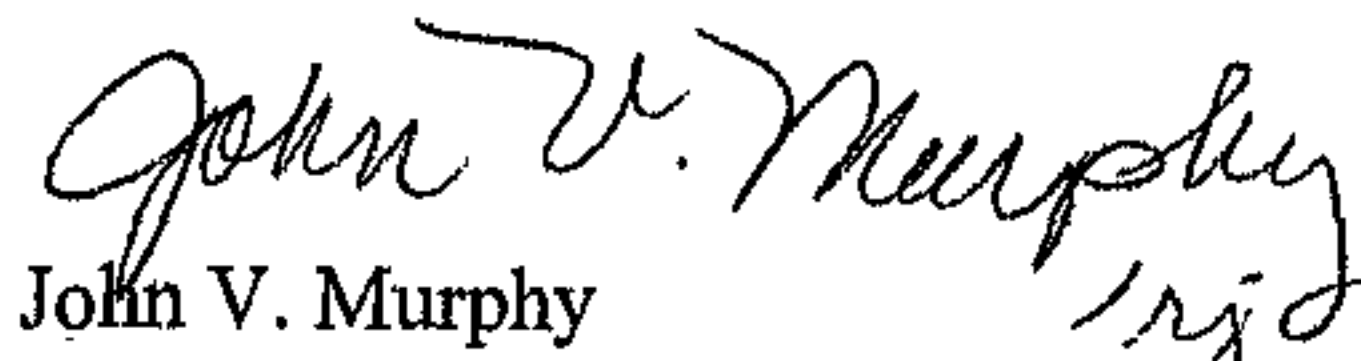
Re: Petition for Administrative Variance
Case No. 05-288-A
Property: 1607 Burke Road

Dear Mr. & Mrs. Himes:

Enclosed please find the decision rendered in the above-captioned case. The petition for administrative variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,


John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

Visit the County's Website at www.baltimorecountyonline.info





Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 1607 Burke Rd
which is presently zoned RCS

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.3, BC2R, to permit a proposed

accessory building (detached garage) with a height of 25 feet in lieu of the minimum allowed 15 feet.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

City

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Representative to be Contacted:

Name

Address

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this day of December, 2004, that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 05-288-A

Reviewed By JNP

Date 12/3/04

Estimated Posting Date 12/12/04

ORDER RECEIVED FOR FILING

1/20/05

RECEIVED 1/15/98

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at

Address 1607 Burke Rd
City Balto State md Zip Code 21220

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

Due to a death in the family, we recently got custody of 3 young children. This brings our family total to 7. We had to change our basement storage area into a bedroom, therefore losing all of our storage area. Therefore the second floor is needed for additional storage area.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Signature Allen L Himes Sr.

Name - Type or Print Allen L Himes Sr

Signature Donna Himes

Name - Type or Print Donna Himes

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 11 day of November, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

State of Maryland

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal

Date

11/18/04

Notary Public

Sherry Poppeston

My Commission Expires

May 17, 2006

ZONING DESCRIPTION

Zoning Description for 1607 Burke Road, Beginning at a point on the south side of Burke Road which is 50 feet wide at the distance of 530 feet east of the centerline of the nearest improved intersecting street Holly Tree Road, which is 50 feet wide. Being lot # 104, in the subdivision of Bowleys Quarters, as recorded in Baltimore County Plat Book # 9, Folio # 56 containing 23,300 square feet. Also known as 1607 Burke Road and located in the 15th Election District, 6th Councilmanic District.

05-288-A

MISCELLANEOUS RECEIPTS

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FOR: Vivienne (054)088-A

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STRENGTH

CERTIFICATE OF POSTING

RE: Case No.: 05-288-A

Petitioner/Developer: ALLEN &

DONNA HINES

Date of Hearing/Closing: 12/27/04

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:

1607 BURKE RD

The sign(s) were posted on 12/12/04
(Month, Day, Year)

Sincerely,

Robert Black 12/14/04
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

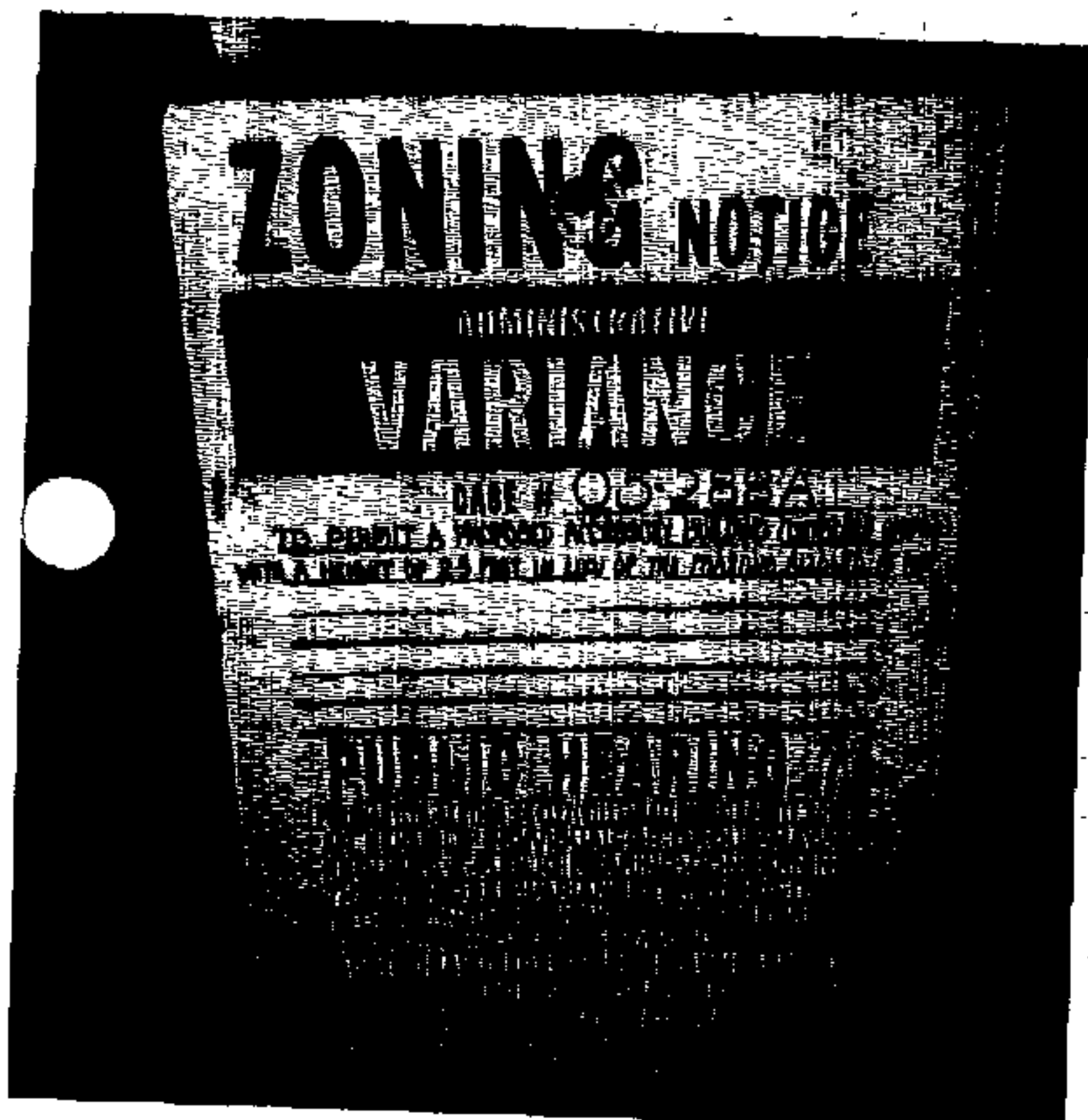
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 05- 288 -A Address 1607 BURKE ROAD

Contact Person: Jeffrey Perlow Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 12/3/04 Posting Date: 12/12/04 Closing Date: 12/27/04

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 05- 288 -A Address 1607 Burke Road

Petitioner's Name Allen & Donna Himes Telephone 410-335-8469

Posting Date: 12/12/04 Closing Date: 12/27/04

Wording for Sign: To Permit a proposed accessory building (detached garage) with a height of 25 feet in lieu of the maximum allowed 15 feet.

WCR - Revised 6/25/04

**Department of Permits
Development Management**

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204



Baltimore County

*James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director*

December 27, 2004

Allen L. Himes, Sr.
Donna Himes
1607 Burke Road
Baltimore, Maryland 21220

Dear Mr. and Mrs. Himes:

RE: Case Number: 05-288-A , 1607 Burke Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 3, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel

Visit the County's Website at www.baltimorecountyonline.info





**Baltimore County
Fire Department**

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

December 9, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: December 13, 2004

Item No.: 267, 277-290

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

6. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK
Fire Marshal's Office
PHONE 887-4881
MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: December 29, 2004

FROM:  Robert W. Bowling, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For December 20, 2004
Item Nos. 267, 278, 279, 280, 281,
284, 285, 288 and 289

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
PDM

FROM: John D. Oltman, Jr. JDO
DEPRM

DATE: January 10, 2005

SUBJECT: Zoning Item # 05-288
Address 1607 Burke Road (Himes Property)

Zoning Advisory Committee Meeting of December 13, 2004.

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Additional Comments:

This property must comply with the Limited Development Area Regulations including 15% Maximum Impervious Surface limits (or 5,445 SF with mitigation), and 15% Minimum Tree Cover (7 trees).

Reviewer: Martha Mickey

Date: January 10, 2005

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: January 18, 2005

RECEIVED

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

JAN 19 2005

SUBJECT: 5-288 – Administrative Variance

ZONING COMMISSIONER

The Office of Planning does not oppose the petitioner's request to permit an accessory structure with a height of 25 in lieu of the maximum permitted 15 feet provided the following conditions are met:

1. The petitioner or subsequent owners shall not convert the subject accessory structure into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
2. The accessory structure shall not be used for commercial purposes.
3. Provide elevations of the proposed garage to this office for review and approval. The exterior of the garage shall be similar in materials and color as the existing dwelling.

For further information concerning the matters stated herein, please contact David Pinning at 410-887-3480.

Prepared by: Mary A. Cunniff

Section Chief: John J. Farhan

AFK/LL: MAC

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*



Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

Date: 12.10.04

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 288 JMP

Dear Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

Donna Himes

From: John Joyce [jjoyce@mde.state.md.us]
Sent: Wednesday, November 24, 2004 3:13 PM
To: donna.himes@secumd.com
Subject: Garage variance

Donna:

For the purposes of enforcement of the floodplain management ordinance, we have always interpreted the footprint of the garage in the floodplain for meeting the restriction of the 600 or 900 foot requirement for a variance. The footprint only may be considered for this purpose, regardless of areas above which are elevated above the Flood Protection Elevation. I hope this clarifies that you may not need a variance for floodplain purposes.
John

John M. Joyce
Flood Mitigation Division
Water Management Administration
Maryland Department of the Environment
1800 Washington Blvd., 4th Floor
Baltimore, MD 21230-1718
Phone - (410) 537-3914
Fax - (410) 537-3751
E-mail - jjoyce@mde.state.md.us

FYI

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

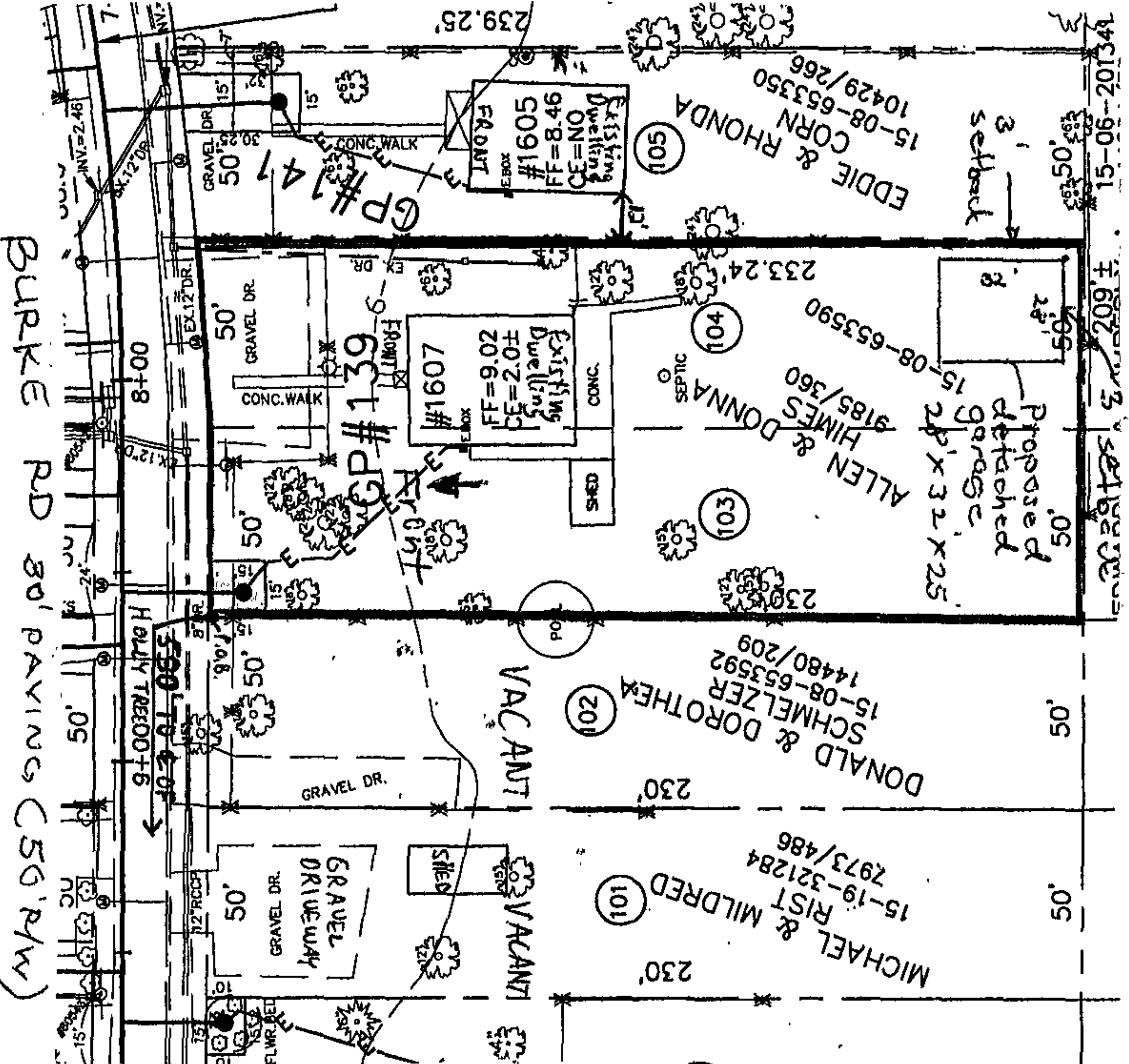
PROPERTY ADDRESS 1607 Burke Rd

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Bowleys Ctr

PLAT BOOK # 9 FOLIO # 56 LOT # 104 SECTION # ---

OWNER Allen L & Donna M Himes Sr



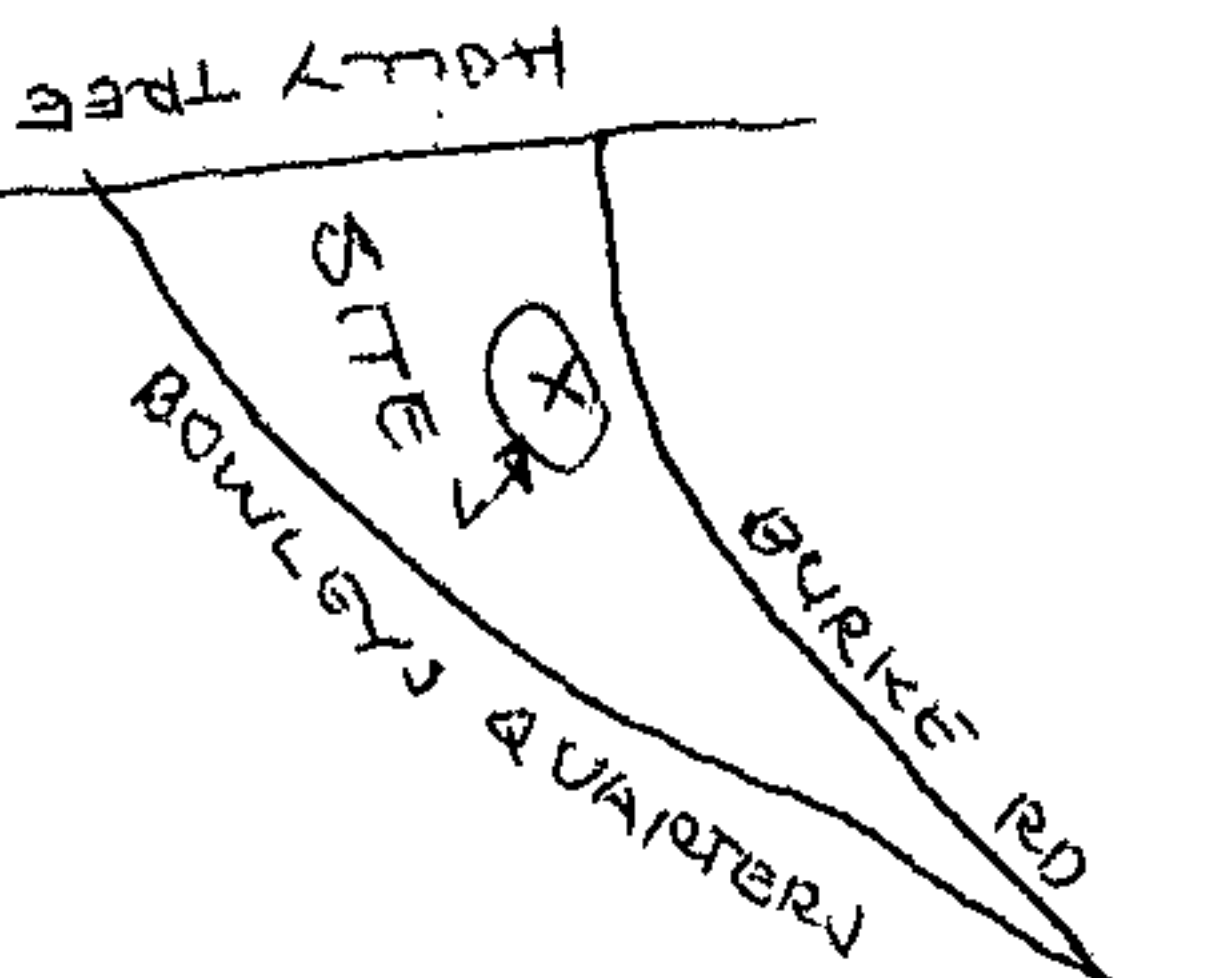
NORTH

PREPARED BY A.H.

SCALE OF DRAWING: 1" = 50'



VICINITY MAP
SCALE: 1" = 1000'



LOCATION INFORMATION

ELECTION DISTRICT 15 TH

COUNCILMANIC DISTRICT 6 TH

1" = 200' SCALE MAP # NE 1-L

ZONING BC-S

LOT SIZE 0.534 AC. 23,300 2

ACREAGE SQUARE FEET

SEWER ☒ PUBLIC ☐ PRIVATE

WATER ☒

CHESAPEAKE BAY CRITICAL AREA ☒ YES ☐ NO

100 YEAR FLOOD PLAIN ☒ YES ☐ NO

HISTORIC PROPERTY/ BUILDING ☐ YES ☒ NO

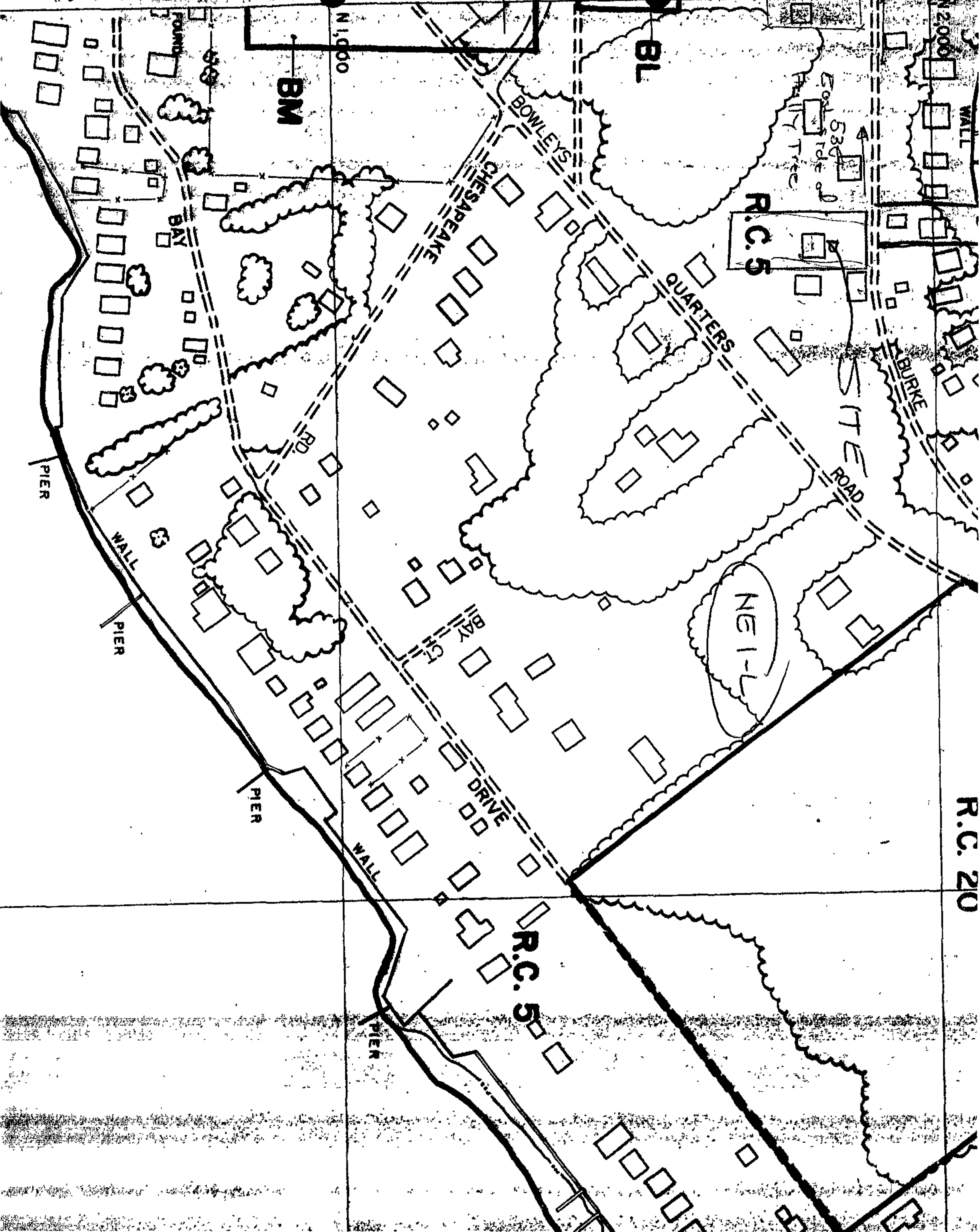
PRIOR ZONING HEARING NONE

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

JUP 288 05-288-4

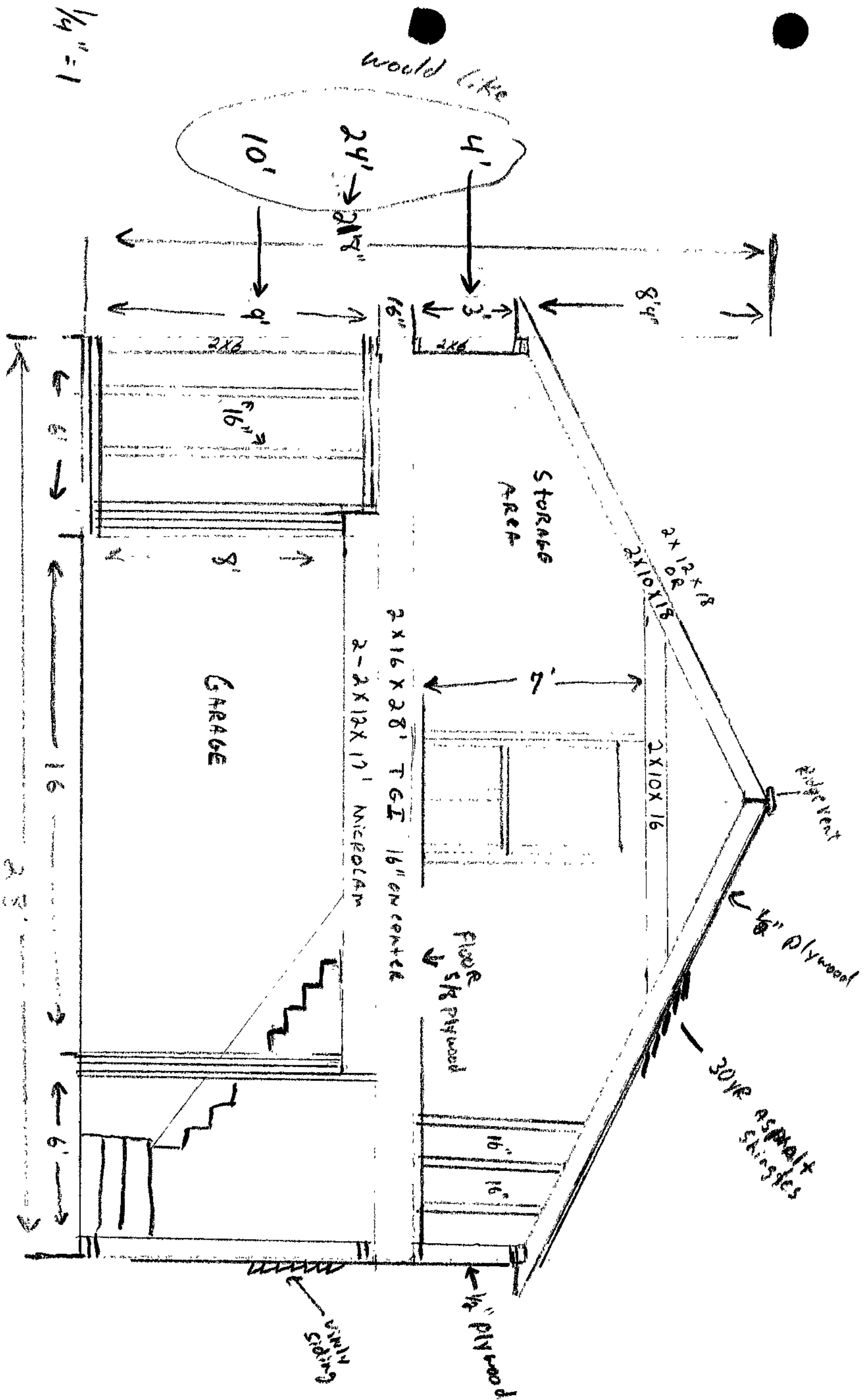
05-288-A

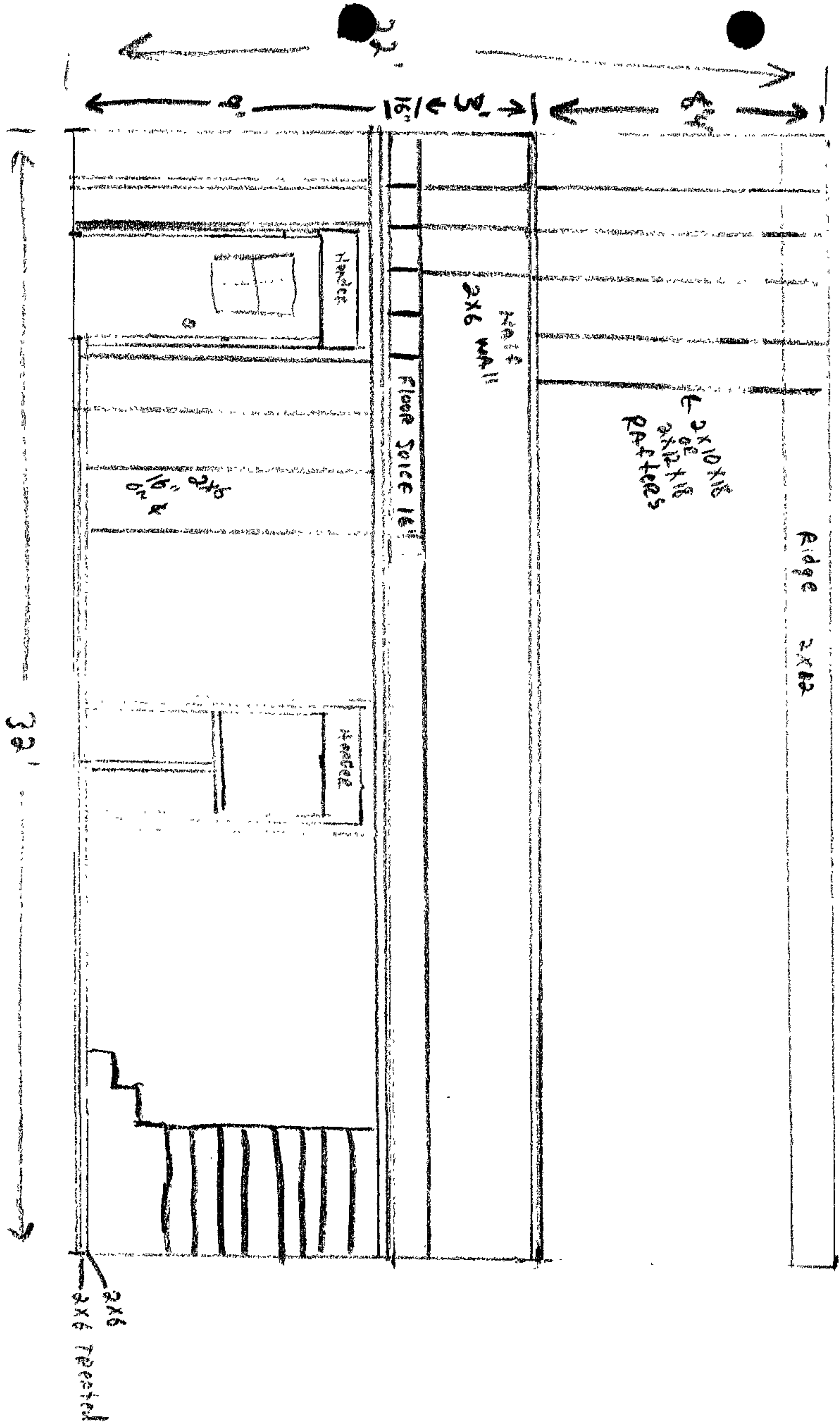
(SHEET NO. 1)



R.C. 20

05-288-A





05-288-A

28'

32'

TGF 16 on centers

Double
micro CAM

Double
micro CAM

05-288-A



part of
back yard area
in conjunction
to garage



Himes
1607 Burke Rd
410.335-8469

proposed site for detached garage
foundation poured & approved.



Himes
1607 BURKE Rd

Distance of house to
detached garage