IN RE: PETITION FOR ADMIN. VARIANCE
N/S of Adclaire Street, 275 ft. W
centerline of Woodside Avenue
13th Election District
1st Councilmanic District

(4509 Adclaire Street)

Joyce L. & Allan W. Miller, Sr. Petitioners BEFORE THE

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* CASE NO. 05-540-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, Joyce L. and Allan W. Miller, Sr. The administrative variance is requested for property located at 4509 Adclaire Street in the Halehorpe area of Baltimore County. The administrative variance request is from Section 400 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a garage and a new garage addition with a 19 ft. height in lieu of the maximum 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.

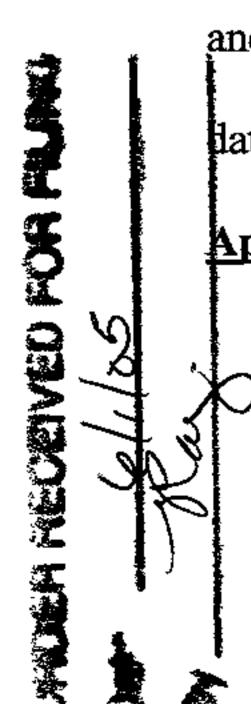
The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 2, 2005, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

### **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 lated May 2, 2005, 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 32-3-303 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, I find that the requested variance should be GRANTED.

THEREFORE, IT IS ORDERED, this \_\_\_\_ day of June, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 400 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a garage and a new garage addition with a 19 ft. height in lieu of the maximum 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. The Petitioners shall comply with the ZAC comments submitted by the Office of Planning dated May 2, 2005, a copy of which is attached hereto and made a part hereof;
- 3. When applying for a building permit, the site plan field must reference this case and set forth and address the restrictions of this Order.

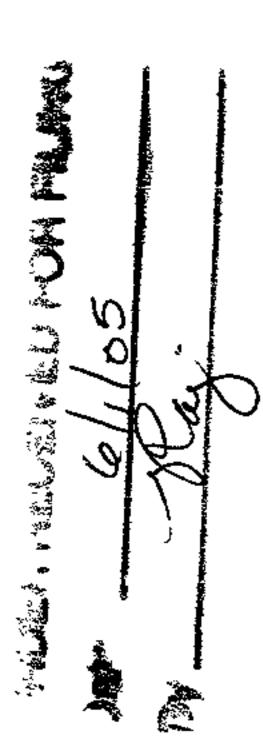
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHNW. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM: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

June 1, 2005

Mr. & Mrs Allan W. Miller, Sr. 4509 Adclaire Street
Baltimore, Maryland 21227

Re: Petition for Administrative Variance Case No. 05-540-A Property: 4509 Adclaire Street

Dear Mr. & Mrs. Miller:

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



RÉV 10/25/01

## Petition for Administrative Variance

## to the Zoning Commissioner of Baltimore County

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Estimated Posting Date \_\_\_\_\_

# 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	4509 ADCLAI	Rh 51.	<u> </u>
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STATE OF MARYLAND, COUNTY OF BALTIN	<del>-</del>		· <del></del>
I HEREBY CERTIFY, this 315th day of 1000 of Maryland, in and for the County aforesaid, per	rsonally appeared	2005 , before me, a N	otary Public of the State
AUGU W. MILLE SK	Joseph 1	TICCAL	
the Affiant(s) herein, personally known or satisfa	ctorily identified to me as	such Affiant(s).	·
AS WITNESS my hand and Notarial Seal	Shutter	Diana Co	ita
	Notary Public  My Commission	Expires 2/19/	D <b>9</b>

REV 10/25/01

# Affida Vit 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	4509 ADCLA Address	IRK ST.	
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STATE OF MARYLAND, COUNTY OF BALT	IMORE, to wit:		
HEREBY CERTIFY, this $3151$ day of $0$ 0 of Maryland, in and for the County aforesaid, p	ersonally appeared	, <u>8005</u> , before me, a N	lotary Public of the State
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the Amant(s) herein, personally known or satis	stactority totentified to me as	s such Amant(s).	
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REV 10/25/01

SHUTIC DIANA COATES
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires February 19, 2007



# Petition for Administrative Variance

for the property located at  $\frac{4509 \text{ ADCCAIRA ST.}}{\text{which is presently zoned}}$ 

## to the Zoning Commissioner of Baltimore County

This Petition shall be for owner(s) of the property	•• • • • •	· _						
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				Zoning	Commissione	er of Baltimore Co	yunty / /	<u> </u>
CASE NO.	5540	) A	Reviewed	By		Date	22/0	5
RÉV 10/25/01		•	Estimated	d Posting D	ate	5/01/04	<u>, , , , , , , , , , , , , , , , , , , </u>	

## ZONING DISCRIPTION FOR 4509 ADCLAIRE ST.

BRGINNING AT A POINT ON THE NORTH SIDE OF

ADCLAIRE STREET, WHICH IS 30FTR/W WIDE AT THE

DISTANCE OF 275 FT. WEST OF THE CENTERIUSE OF

THE NEAREST IMPROVED INTERSECTIVE STREET,

WOODSIDE AVE. WHICH IS 30 FT. R/W WIDE.

BEING LOTES 57-61, BLOCK A IN THE

SUBDIVISION OF HALETHORPE TERROLA AS RECORDED

IN BALTIMORE CO. PLAT BOOK #7 FOLIO #72

CONTAINING, 40 ACRES AS SHOWN AS 4609 ADCLARE ST.

AND LOCATED IN THE 13TH RECTION DISTRICT,

1ST COMMERCED DISTRICT.

5

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# CERTIFICATE OF POSTING

	RE:Case No. 05-540-A  Petitioner/Developer: AUAN ©  Toyce Muer  Date of Closing/Hearing: 5/10/5
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue	
Attention:	
Ladies and Gentlemen:	
This letter is to certify under the penalti sign(s) required by law were posted corat	es of perjury that the necessary  espicuously on the property  ADCLAIRE ST.
This sign(s) were posted on	th, Day, Year

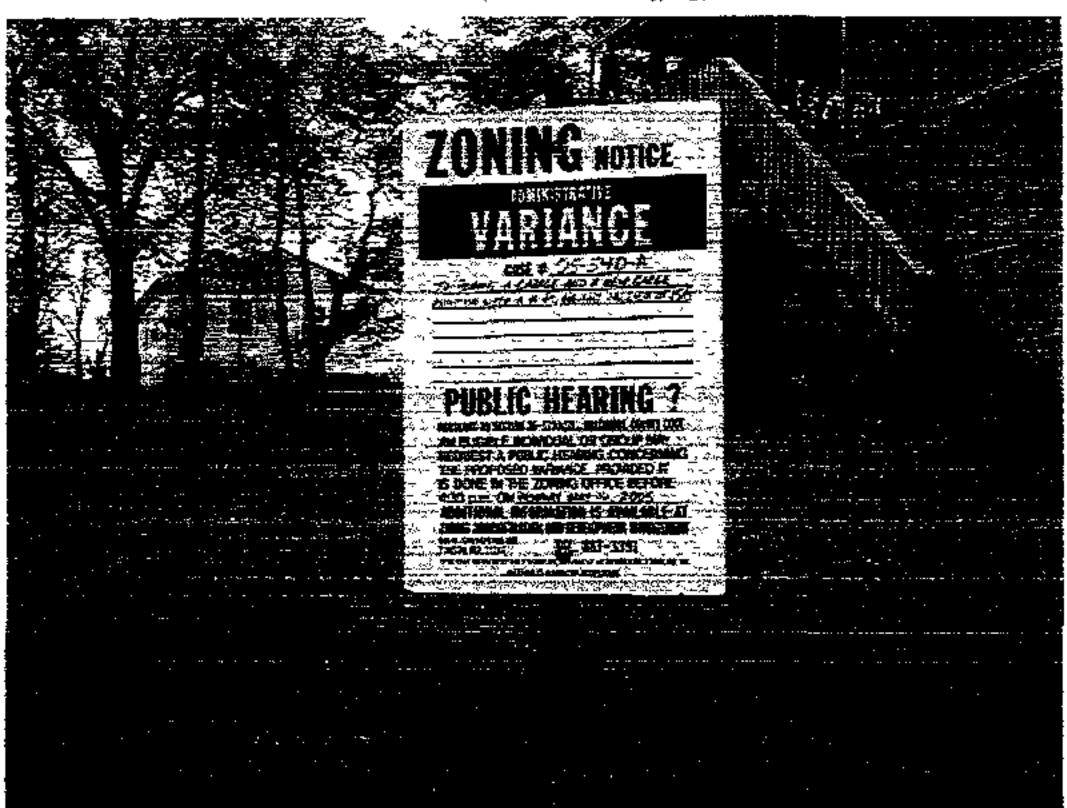
Sincerely,

Sign Poster and Date Martin Ogle

5016 Castlestone Drive Baltimore Maryland 21237

(443-629-3411)

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mathe 5/1/05

# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

## ZONING REVIEW

# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing

Zoning Review will ensure that the legal requirements for advertising are satisfied However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

	spaper Advertising:  Ober or Case Number 105-540-A
Petitioner	* AUAN WHIWKUSK
Address o	or Location. x 4509 ADCLAIRE ST
	FORWARD ADVERTISING BILL TO AUAN MIUM
Address	4509 ADCLAIRE ST. HALKTHURTE MA 21227
Telephone	e Number

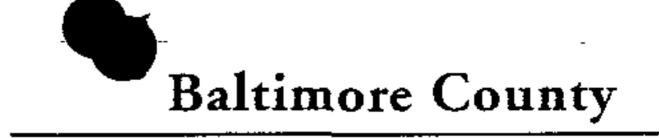
# ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 05- <u>540</u> -A Address <u>4509 AOCLAIRE</u> <u>ST</u>
Contact Person: John Vell 5 Planner, Please Print Your Name Phone Number: 410-887-3391
Filing Date: 4/22/05 Posting Date: 5/01/05 Closing Date: 5/16/05
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. <b>DEADLINE:</b> 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.
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.
(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- 540 -A Address 4509 ADCLAIRE ST.
etitioner's Name ALLAN & JOYCE MILLER Telephone 4.10-977-444C
osting Date:
Vording for Sign: To Permit ABARAGE AND A NEW GARAGE ADDITION
WITH A 19 FT. HEIGHT IN WEVOF 15 FT.
WCP Pavisod SIDEIOA

# Department of Permits and Development Management

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





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

May 16, 2005

Allan Miller, Sr.
Joyce Miller
4509 Adclaire Street
Halethorpe, Maryland 21227

Dear Mr. and Mrs. Miller:

RE: Case Number: 05-540-A, 4509 Adclaire Street

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 22, 2005.

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.

W. Calling yours.

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 Government Fire Department



700 East Joppa Road Towson, MD 21286-5500 Office of the Fire Marshal (410) 887-4880

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

May 5, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: May 5, 2005

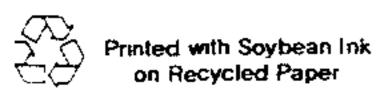
Item No.: 52

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.

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

Lieutenant J.D.Mezick Fire Marshal's Office 410-887-4881 MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: May 17, 2005

Department of Permits & Development

Management

FROM:

Dennis Kennedy, Acting Supervisor Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For May 9, 2005 Item No. 540

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

The minimum right of way for all public roads in Baltimore County is 40-foot. Setback shall be modified accordingly.

DAK:CEN:clw Cc: file

ZAC-ITEM NO 540-05172005.doc

# BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

PECENED

TO:

Tim Kotroco

FROM:

John D. Oltman, Jr

DATE:

May 24, 2005

MAY 2 5 2005

ZONING COMMISSIONER

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of May 2, 2005

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

05-530 - Dranted 5/26/05 05-531-BW (6/8) 05-532-Dranted 5/19/05 05-538-Dranted 5/19/05 05-538 (5/12 AV) 05-539 (5/12 AV) 05-540-Dranted 6/1 05-541-BW (6/7

Reviewers:

Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

## BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: 5-540 – Administrative Variance

**DATE:** May 2, 2005

RECEIVED

MAY 6 2005

ZONING COMMISSIONER

The Office of Planning does not oppose the petitioner's request to permit an accessory structure with a height of 19 feet 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.
- Submit elevations (all sides) of the proposed accessory structure to his office for review and approval prior to the issuance of any building permit.

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

Prepared by:

**Section Chief:** 

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

RE:

Date: 4.29.05

Baltimore Coun

Item No.

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

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

f. f. Smell

Engineering Access Permits Division

IPANY PETITION FOR ZONING X VARIAN( 509 ADCLAIRE ST. SEE PAGES 5 B 6 OF THE CHECKLIST  & 72 or #57-Mection #	SE SPECIAL HEARING FOR ADDITIONAL REQUIRED INFORMATION
TOYCK MILLER DATA-1/4/40 HOME 4/10-24/7-1	SWATELT PORTER TO STATE TO STA
TAX #13-13160000 51 ADDITIONAL PARCEL BY SAME OWNER	SPAINS SPAINS
PROPOSED WARESS'	VICINITY MAP SCALE: 1" = 1000'
99,770N 3, 21 2 7MX # 23000/2/45 39, 78 34 21 21 LEO + NANCY MILLER	CTION DISTRICT
12 2 - 12 - 12 - 12 - 12 - 12 - 12 - 12	I"=200 SCALE MAP # 5W 6-D ZONING - DR-2 LOT SIZE 40 SOUNTE FE
FROMT FROMT.	SEWER KINTE
10°, 00', 00', 00', 00', 00', 00', 00', 0	CHESAPEAKE BAY CRITICAL AREA 100 YEAR FLOOD PLAIN
57. M/4 "65770 - 275' ± TO & OF WOODSIDE AVE	HISTORIC PROPERTY/ BUILDING PRIOR ZONING HEARING
UNIMPROVED WOODED LOTS	REVIEWED BY ITEM # ONLY ITEM # ONLY
V MILLER SK. SCALE OF DRAWING: 1" = 50'	17 05 21

